



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**

FROM CONCEPT TO CONSTRUCTION

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**Date:** November 22, 2016  
**To:** Interested Person  
**From:** Stephanie Beckman, Land Use Services  
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**NOTICE OF A TYPE II<sub>x</sub> DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

**CASE FILE NUMBER: LU 16-213028 LDS**

**GENERAL INFORMATION**

**Applicant:** Jeff Shrope  
Renaissance Custom Homes, Llc  
16771 Boones Ferry Rd  
Lake Oswego, OR 97035

**Representative:** Monty Hurley 503-563-6151  
AKS Engineering & Forestry  
12965 SW Herman Rd, Ste 100  
Tualatin, OR 97062

**Owner:** David Snodgrass  
Ram Investments Llc  
7355 SE Johnson Creek Blvd  
Portland, OR 97206-9329

**Site Address:** 6025 SE Powell Blvd

**Legal Description:** TL 2900 2.10 ACRES, SECTION 07 1S 2E  
**Tax Account No.:** R992072800  
**State ID No.:** 1S2E07AD 02900  
**Quarter Section:** 3336

**Neighborhood:** South Tabor, contact Shemuel Harding at 503-679-9066.  
**Business District:** Eighty-Second Ave of Roses Business Association, contact Nancy Chapin at [nchapin@tsgpdx.com](mailto:nchapin@tsgpdx.com)  
**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010.

**Zoning:** R5a – Single Dwelling Residential 5,000, with Alternative Design Density ‘a’ Overlay Zone  
CGb – General Commercial with Buffer ‘b’ Overlay Zone

**Case Type:** LDS – Land Division (Subdivision)  
**Procedure:** Type IIX, an administrative decision with appeal to the Hearings Officer.

**Proposal:**

The applicant proposes to divide the 58,297 square foot site to create 10 lots for single dwelling development, a new public street, and a private street. The site is northern portion of the Seven Dee’s Nursery property, which has been separated from the southern portion of the nursery through a prior property line adjustment (PR 16-153436). The existing structures, which consist of a green house and shelters will be removed.

The proposed lots range in size from 3,608 to 4,907 square feet in area. The new public street will connect SE Haig Street and SE Franklin Street which both dead-end on the western border of the site. The new street will be improved with a paved roadway, sidewalks and planting strips on both sides. A private street (Tract A) is proposed in the northern portion of the site to provide vehicle access to Lots 2, 3 and 4. The private street tract is proposed to be 18 feet wide. The remainder of the lots will have vehicle access from the public street. Public water and sanitary sewer connections are proposed within the public street to serve the new lots. On-site infiltration of stormwater is proposed for the street improvements and individual lots by used of drywells. The applicant proposes to preserve 7 trees on the site along the northern and eastern perimeter. Mitigation with a payment into the tree fund is proposed because the minimum tree preservation standards are not met.

This subdivision proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; and (2) 10 or fewer lots are proposed (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines “lot” as a single unit of land created by a subdivision of land. The applicant’s proposal is to create 11 units of land (10 lots and 1 tract). Therefore, this land division is considered a subdivision.

**Relevant Approval Criteria:** In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

## FACTS

**Site and Vicinity:** This site is a rectangular lot, approximately 58,297 square feet in size. The site is the northern portion of a commercial nursery (Seven Dee’s) that will continue to operate from its frontage on SE Powell Blvd. The current configuration of the land division site was created through a recent Property Line Adjustment, PR 16-153436.

The site is relatively flat with average slopes of less than 1%. There are twenty-three trees on site, primarily located near the perimeters of the property and clustered near existing structures. An existing shed, greenhouse, shelters, retaining walls, and an old foundation are proposed for removal. Much of the site is currently cleared for outdoor storage.

South of the site, a mix of commercial and multi-family housing is zoned and developed along SE Powell Blvd. North of Powell, development is primarily single-dwelling homes with some additional multi-family housing. Nearby lots typically range from 4,300 to 7,000 square feet.

**Infrastructure:**

- **Streets** – SE Haig and SE Franklin both dead end at the west edge of the site. At this location, both SE Franklin and SE Haig are classified as Local Service Streets for all modes in the City’s Transportation System Plan. According to City database sources, both streets are within 50-foot wide rights-of-way with 24-foot wide roadways and 13-foot wide sidewalk corridors with a 6-5-2 configuration (planting strip, sidewalk, setback). Tri-Met provides transit service approximately 240 feet from the site on SE Powell Blvd via Bus 9.

SE Franklin has a tree in the right-of-way just prior to the property—an 18” DBH pine that Urban Forestry identifies as being in fair/poor condition.

- **Water Service** – There is an existing 2-inch water main in SE Franklin Street, and a 4-inch main in SE Haig Street.
- **Sanitary Service** - There is an existing 8-inch VSP public combination sewer line in both SE Franklin Street and SE Haig Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:**

The R5 (Residential 5,000) designation is one of the City’s single-dwelling zones, which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

The “a” (Alternative Design Density) overlay is intended to allow increased density that meets design compatibility requirements. It fosters owner-occupancy, focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division is not using any provisions of the “a” overlay.

A very small portion of the site, in the southwest corner, is within the CGb zone. The CG (General Commercial) zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. The zone allows a full range of retail and service businesses with a local or regional market. The “b” (Buffer) overlay is intended to provide additional buffering between nonresidential and residential zones.

The area within the CGb zone is entirely proposed for dedication to public right-of-way for extension of a public street through the site. Therefore, lot and development standards for this zone do not apply to this proposal.

**Land Use History:** City records indicate there are several prior land use reviews for this site:

- **PC 77998:** Zoning amendment from R5 to C2 for expansion; conditions applied to address neighbors’ concerns
- **PC 7276/ CU 78-82:** Amendment to the Comprehensive Plan Map designation and a zone change from R2 to C2 for eastern portion of the site, and Conditional Use for the remaining residentially zoned portion of the site for nursery use. All conditions from CU 59-77 remained in effect.
- **CU 59-77:** Conditional Use associated with nursery operations
- **CU 94-68:** Conditional Use associated with nursery operations

As noted above, there are a number of prior land use reviews related to the nursery use of the site. These reviews do not impact the current proposal because the R5 portion of the site will be converted to an allowed use in the zone (household living). The retail nursery is an allowed use in the CG zone.

A property line adjustment (**PR 16-153436 PLA**) was recently processed to create the current lot configuration of the site. That PLA rotated the line between taxlots 2900 and 2800 so that the portion of ownership in the CG zone became separate from the portion zoned R5.

**Agency Review:** Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits “E” contain the complete responses.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on October 4, 2016. Four written responses have been received from notified property owners in response to the proposal (see Exhibits F.1-F.4). Several concerns were raised about adequate root protection for existing trees on neighboring properties east of the site, as well as the preservation of fences and shrubs separating the neighboring properties.

**Staff Response:** Off-site trees are addressed on the tree preservation plan and in the arborist notes (Exhibits C.9 and C.10). Fencing is shown 9 to 10 feet from the east property line on Lots 3, 6 and 7. The applicant was asked to provide additional rationale from the arborist about the protection proposed for both on and off-site trees. The arborist statement (Exhibit A.6) noted that for some trees, the encroachments into standard root protection zones meet the prescriptive path allowance in Title 11, the City's Tree Code. In addition, the arborist noted that the trees in question are in good health and healthy trees can generally sustain the loss of up to 1/3 of their root system. Based on this and additional detail in the statement, the arborist concluded:

*In my opinion, based on typical arboriculture practices and specific tree species, sizes, locations, conditions, proposed construction related impacts, etc., proposed root zone protections (as defined by the area within the tree protection fence) should be sufficient to adequately protect trees proposed for preservation.*

Tree protection fencing will be required to be installed prior to demolition or other construction activities starting on the site.

The applicant did not respond to the concerns raised about potential damage to fences and hedges. It is the applicant/contractor's responsibility to ensure they do not damage adjacent property, however if a fence or hedge extends over the property line, it can be removed. The existing conditions and demolition plan shows some hedges to be retained, some to be removed and it doesn't specify for others. Staff recommends that neighbors contact the owner or their representative directly about specific concerns with regard to retaining hedges along the property line.

Additional discussion of tree preservation can be found under Criterion B, Trees.

## ZONING CODE APPROVAL CRITERIA

### APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

**33.660.120 The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.**

Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	All of the proposed lots are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site.

	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

**Applicable Approval Criteria are:**

**A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.**

**Findings:** Chapter 33.610 contains the density and lot dimension requirements applicable in the R5 zones.

When a street is proposed, and there are no other physical constraints due to landslide hazard, flood, or environmental areas, as in this case, the maximum density is based on 85 percent of the site area divided by 5,000; and the minimum density is based on 68 percent of the site area divided by 5,000.

Based on this, the 58,297 square foot site has a maximum density of 10 units and a minimum density of 8 units. The applicant is proposing 10 lots for single dwelling development, so the density provisions are met.

The lot dimensions required and proposed are shown in the following table:

	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>
<b>R5 Zone</b>	3,000	8,500	36	50	30
Lot 1	4,907		37	101	31
Lot 2	3,945		50	77	80
Lot 3	4,198		52	77	64
Lot 4	3,944		33	101	30
Lot 5	3,608		36	94	30
Lot 6	3,658		39	94	39
Lot 7	3,658		39	94	39
Lot 8	3,658		39	94	39
Lot 9	4,221		45	94	45
Lot 10	3,812		40	94	41

\* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

### Narrow Lots

Lot 4 is 33 feet wide — narrower than the minimum width for the R5 zone, as shown in the table above. The Zoning Code, however, allows narrower lots if the future development can meet the regulations of Section 33.610.200.D.2. This section is address below:

***a. On balance, the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations.***

The purpose of Lot Dimension regulations are stated in 33.610.200 as follows:

The lot dimension regulations ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The applicant has demonstrated that the proposed Lot 4 is consistent with the purpose of lot dimension regulations for the following reasons:

- Lot 4 is 3,944 square feet and has regular dimensions of approximately 39 feet x 100 feet, although it narrows to 33 feet at the 10 foot front setback line. The size and shape of the lot will provide room for a reasonably-sized house and garage, private outdoor space. No issues have been identified for meeting the development standards of the zoning code.
- Lot 4 is not large enough to be further divided.
- Lot 4 is somewhat smaller in area and narrower than most other existing single-dwelling lots in the surrounding area, which tend to be in the 4,300 to 7,000 range and 43 to 50 feet wide. However, there are lots to the north that front on a cul-de-sac that narrow to approximately 24 feet at the street. In addition, Lot 4 will be consistent in size and shape with the other lots in this subdivision, which all meet the lot dimension standards, with the exception that Lot 4 narrows slightly at the street.
- Lot 4 has adequate width and is of a regular shape, which will allow development to orient to the street. It narrows to 30 at the front lot line and is 33 feet wide at the front setback line. This would allow a 23 foot wide house at the front setback line. However, the garage entrance is required to be setback at least 18 feet, at which point it is 36 feet wide, allowing for a 26 foot wide house. Lot 4 does not narrow to an unbuildable width close to the street.
- The applicant has provided preliminary utility and street plans showing that Lot 4 will have access for utilities and services and driveway access will be from the private street.
- Lot 4 has frontage on both the public and private street, therefore is not landlocked.

***b. The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet***

Lot 4 is 33 feet wide. This regulation is met.

***c. If the lot abuts a public alley, then vehicle access is allowed only from the alley.***

The site does not abut an alley. This regulation does not apply.

***d. Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development;***

Lot 4 is 33 feet wide at the front setback line (10 feet from the front lot line). It widens out to 39 feet approximately 20 feet from the front lot line. A 29 foot wide house could be built on the 39 foot wide portion of the lot, assuming it complied with the 5 foot side setback requirement on both sides. A standard one-car garage typically includes a 9-foot wide garage door with 2 feet

of structural support on either side, resulting in a 13 foot wide garage. A 29 foot wide house could have a garage wall up to 14.5 feet long and still comply with the 50% garage wall limitation standard. Therefore, it can be assumed that any new house on the lot could provide at least a one-car garage and still comply with the 50% garage wall limitation.

***e. Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and front building line can be landscaped at the time of development;***

Lot 4 will be developed with a detached house. This regulation does not apply.

***f. If parking is not required, alley access and garage limitation requirements do not have to be met if a covenant is provided.***

As described above, there is no alley access and the garage limitation standard can be met on Lot 4. The applicant indicates that parking will be provided. This regulation does not apply.

As described above, the regulation of 33.610.200.D.2 are met, therefore Lot 4 can be approved as a narrow lot. Therefore, all applicable density and lot dimension standards are met. This criterion is met.

**B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.**

**Findings:** The regulations of Chapter 33.630 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees.

To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development considering the intensity of development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets.

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites.

Some trees are exempt from the requirements of this chapter, if they are unhealthy, a nuisance species, within 10 feet of a building to remain on the site, within an existing right-of-way, or within an environmental zone.

In order to identify which trees are subject to these requirements, the applicant provided a tree map (Exhibit C.9) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.4) that identifies each tree, its condition and suitability for preservation or its exempt status. This information is also provided on Exhibit C.10, as well as arborist notes regarding tree preservation and tree pruning/removal. Root protection zones for trees to be preserved, as well as fencing locations, are graphically shown on Exhibit C.9. Additional information was provided by the project arborist explaining why the reduced root protection zones are adequate to protect the trees to be preserved on and off-site (Exhibit A.6).

The inventory includes 32 trees, 10 of which are off-site trees in adjacent rights-of-way or properties. An additional 9 trees have been identified as exempt by the applicant's arborist

because they are nuisance species or because of their condition. Insufficient information has been provided to clearly identify the status of Tree #11176, a 14-inch Maple species. Staff first requested additional information about the actual species of this tree because there are two maple species (Norway and Sycamore) that are designated as nuisance species. Subsequently, staff requested additional information about the health of this tree because very little foliage was on the tree at the time of site visit in late August 2016. The applicant's reassessed the tree in November 2016 and indicated the lack of foliage was not conclusive due to the time of year. Given the lack of definitive information, Tree #11176 will not be considered exempt.

Based on this information, 13 trees, which account for a total of 271 inches of tree diameter, are subject to the preservation requirements of this chapter. The applicant proposes to preserve 6 trees. However, as described above, the suitability of Tree #11176 for preservation due to its health is in question. Therefore it should not be counted as a preserved tree. This leaves 5 trees to be preserved that make up 99 inches of tree diameter or 36.5% of the total non-exempt tree diameter on the site. The applicant proposes to preserve 2 of the 7 trees that are 20 or more inches in diameter. This proposal does not meet any of the tree preservation standard options because less than 50% of the trees 20 or more inches are being preserved. Mitigation will be required as described below.

The applicant has provided information explaining how the tree preservation plan maximizes the preservation of healthy, non-nuisance trees to the greatest extent practicable. Four of the 7 trees that are 20 or more inches in diameter are in the path of the new public street that will be extended through the site and therefore must be removed. The one other tree that is 20 inches or greater is Tree #11410, a 25-inch Lodgepole Pine. While this tree potentially could be preserved it would have a significant impact on the development footprint of Lots 7 and 8 and the tree is described as being in only fair health and structure. Given its health and the impact to the development of the site, Tree #11410 is not considered a high priority for preservation.

All of the other non-exempt trees on the site, with the exception of Tree #11176 (14" maple) discussed above, are located on the perimeter of the site and are proposed for preservation. The arborist indicates that the trees proposed for preservation are in good or fair health and structure.

In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that site grading and development on Lots 1-3, 6 and 7 must be carried out in conformance with the Tree Preservation Plan (Exhibits C.9 and C.10).

Based on the information described above, the tree preservation approval criteria 33.630.200.A-C are met.

As described above, the applicant's tree preservation plan does not meet tree preservation standards because not enough large trees (20 or more inches in diameter) are to be preserved. To meet the standard, at least 50% or 4 trees would need to be preserved. The applicant proposes to preserve 2, therefore mitigation for the removal of two large trees is needed. Given that the removal of the trees is the result of the public street and utility improvements to serve the site, maximum mitigation rates of inch-per-inch will not be required. Instead, a mitigation rate of 5 trees per each tree removed beyond the standard will be required. At 2 inches for each replacement tree, the total requirement for mitigation will be 20 inches. Because of limited room to plant trees on the new lots beyond the standard Title 11 tree density requirement that will apply at the time of building permit, mitigation will take the form of a payment into the City's Tree Preservation and Planting Fund.

This mitigation will be consistent with the purpose of the tree preservation regulations, since it will provide for the planting and/or preservation of other trees that will contribute to the replacement of the environmental and aesthetic benefits of trees within the City, if not directly



on the site. With the condition that the payment described above be made prior to final plat approval, the tree preservation approval criterion 33.630.200.D is met.

In addition, the applicant's arborist report and plans identify several trees on adjacent sites that are within 15 feet of potential disturbance area on the proposed lots or street construction. In order to protect the off-site trees from construction impacts, the arborist recommends tree protection fencing and arborist observation of removal of other trees within the fencing, as reflected on the tree preservation plan.

With the implementation of the noted conditions, the approval criteria will be met.

**G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.**

**Findings:**

***Clearing and Grading***

The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

In this case, the site is relatively flat, and is not located within the Potential Landslide Hazard Area. However, a new public and private street and public sewer and water mains are proposed as part of the land division, which will require grading on the site. The applicant has submitted a Preliminary Clearing and Grading Plan (Exhibit C.6) that depicts the proposed work, including existing and proposed elevation contours, temporary soil stockpile and construction staging areas, and tree protection fencing consistent with the tree preservation plan. The entire site is proposed to be disturbed with the exception of tree protection areas.

The proposed clearing and grading represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level street surface and uniform lots that slope very gently toward the new public street. The contour changes proposed should not increase runoff or erosion because the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new streets and lots will be collected and infiltrated on the site with sumps and drywells to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

As described above, the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street and for mass grading and utility construction in the new public street right-of-way. The permit application must include a final clearing and grading plan, that is consistent with the preliminary clearing and grading plan approved with the land division and must be at an approvable state prior to final plat approval. With these conditions, this criterion is met.

***Land Suitability***

The site is currently in use as a plant nursery, which appears to have been in place since the 1960s based on historic aerial photos. No other uses are documented. As indicated above, the site is relatively flat and contains no known geological hazards.

The applicant has proposed to remove the existing structures and redevelop the site. In order to ensure that the new lots are suitable for development, permits must be obtained and finalized for demolition of all structures on the site prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

**H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;**

**Findings:** A private street tract (Tract A) is proposed. With a condition that the proposed tract be owned in common by the owners of Lots 2, 3 and 4 or a Homeowner's Association, the ownership requirements for the private street can be met.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the tract described above and facilities within that area. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block, substantially similar to the following example:

*"A Declaration of Maintenance agreement for Tract A: Private Street has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."*

With the conditions of approval discussed above, this criterion is met.

**K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,**

**Findings:** The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts: the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes. Mitigation may be necessary to reduce impacts.

To address the approval criteria, the applicant submitted a professionally prepared transportation analysis (Exhibit A.2). The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2 for details):

The small number of site trips added as a result of the proposed land division and property development will not significantly affect the performance of any study intersection. All vicinity intersections are projected to meet the City of Portland and ODOT standards following the land division and eventual construction of ten single-family dwellings. The capacities of SE Powell Boulevard, SE 59th Avenue, SE Franklin Street, SE Haig Street, and other area roads and intersections are ample to support the proposed land division as well as the existing uses in the site vicinity.

The subject site provides adequate access for motor vehicles as well as other modes. Vehicle access and loading space at this location are sufficient to accommodate the existing uses as well as the proposed project.

The proposed project will minimally increase the demand for on-street parking and based on observations, the area will be able to accommodate the existing and new parking needs. The subject site is well served by transit via the frequent-service bus line #9, and both eastbound and westbound bus stops are accessible to residents and visitors.

The impacts associated with the ten added single-family dwellings that the proposed land division will allow are expected to be minor, and primarily consist of a small increase in vehicular traffic associated with the new residences. Thus, the detailed parking observations and capacity analysis described previously were conducted to assess the impacts to the neighborhood. These added trips will not have a significant effect on efficiency or safety of the nearby street system, and the parking supply in the neighborhood is adequate to serve this increased demand. The proposed development keeps with the residential character of the existing neighborhood. The development will therefore have minimal impacts felt by the neighborhood.

No significant existing safety concerns were identified in the vicinity of the proposed residential land division. Safety in the site vicinity will not be adversely affected by the proposed land division and subsequent construction of ten new homes.

As described above, PBOT finds that the transportation system is capable of safely serving the proposed development in addition to the existing uses in the area. No mitigation, beyond improving the proposed street to City standards as discussed in this report, is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. These criteria are met.

**L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.**

**Findings:** Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

<p><b>33.651 Water Service standard</b> – See Exhibit E.3 and E.4 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 3 of this report.</p> <p>In order to serve the new lots, a water main extension is required within the new public street from the existing mains in SE Franklin St and SE Haig St. The applicant must make arrangements to extend a new water main in the new public street to ensure service is available to Lots 1-10. The existing mains may need to be upsized if adequate fire flow cannot be obtained. A new fire hydrant is also required per the Fire Bureau response</p> <p>In order to meet the standards of 33.651, the technical requirements of Title 21, and the Portland Fire Code, appropriate plans and assurances must be provided to the Water Bureau prior to final plat approval.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 3 of this report.</p> <p>There are no public sewers directly available to the proposed new lots. BES reviewed the applicant’s public works permit concept plans for the sewer extension and finds that sanitary sewer can be made available to Lots 1-10. However, the public works plans are inconsistent with plans submitted for the proposed land division. Prior to final plat approval, BES requires a supplemental plan showing sewer service to the lots that is consistent with the public works permit. In addition, the applicant must meet the BES requirements to submit plans, financial guarantee and fees for the public works permit to extend the public sewer to this site prior to final plat approval. With these conditions, the sanitary sewer service standards of 33.652 have been verified.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods:  <b>Private Street:</b> The applicant has proposed to infiltrate runoff from the private street tract with a drywell. BES has indicated that prior to final plat approval, the applicant must clearly show a sedimentation manhole in the street in order to provide pollution reduction and spill control prior to underground injection.  <b>Public Street Improvements:</b> Stormwater from these new impervious areas will be directed into a public sump systems proposed on both ends of the new public street. BES</p>

Development Engineering approved the Concept Development plans (i.e. 30% design) for the right-of-way stormwater improvements on 10/7/16 through the public works permit process; therefore BES finds that public stormwater facilities can be constructed as shown on the applicant's Preliminary Site Utility Plan. Prior to final plat approval BES will require approved plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document.

**Lots 1-10:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells, but recommends that they should be moved to the front of the lots to provide a safe escape route that will not impact adjacent properties.

With the conditions described above, BES has preliminarily approved the stormwater management plan and the the applicant has demonstrated that there is sufficient area and capacity for the stormwater management methods proposed. These criteria and standards are met.

**33.654.110.B.1 Through streets and pedestrian connections**

**33.654.130.B Extension of existing public dead-end streets & pedestrian connections**

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart.

The block on which the subject property is located does not meet the noted spacing requirements in either the north/south or east/west direction. Due to existing development to the east of the site, it is not possible to provide connections to the east. The applicant proposes a through street extension in the north/south direction to connect the two dead-end streets that abut the western boundary of the site. It is not feasible to extend the new public street to the north due to existing single-dwelling development abutting the site. An extension of the street to the south would conflict with the existing nursery building that is to remain, and is also not desired due to the status of SE Powell Blvd as a state highway.

For the reasons described above, this criterion is met.

**33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones.**

**33.654.130.C Future extension of proposed dead-end streets & pedestrian connections**

The proposal includes a private dead-end street, which will be located in Tract A. As discussed under the findings for through streets above, the adjacent sites to the east and north of the site are already developed. There is no practicable opportunity to provide a through connection from the site in those directions.

The private dead-end street will serve 3 dwelling units and it is approximately 115 feet in length from the frontage along the proposed new public street. These criteria are met.

**33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment**

**Public Street**

SE Franklin and Haig Streets abut the west boundary of the site. At this location, both streets are classified as Local Service Streets for all modes in the City's Transportation System Plan. Extension of these two streets with a loop road is required. The new street will require a minimum of a 48-foot wide dedication to be improved with a 26-foot wide roadway, with 11-ft sidewalk corridors to accommodate curbs, planting strips and sidewalks on both sides. PBOT indicates that the final street plans, including driveway locations, must be in conformance with the approved 30% public works concept plans. This will ensure adequate fire access and parking is retained on the public street. With the dedication and improvements described above, the proposed development can be safely served by the existing and proposed street system without having any significant impact on the level of

service provided. Requirements for the public street improvements must be met to the satisfaction of PBOT, including plans, fees and financial guarantee, prior to final plat approval.

### **Private Street**

The expected users of the private street are the residents of Lots 2, 3 and 4, their visitors and occasional delivery and service vehicles coming to and from the homes on those lots. The applicant has proposed an 18-foot wide private street tract, which will provide room for construction of a 16-foot wide roadway and two 1-foot wide mountable curbs (see Exhibit C.4). Stormwater from the private street will be disposed to a drywell within the street tract, which has been conceptually approved by BES. Street trees will be provided on Lots 2 and 3, within 5 feet of the street tract, as shown on Exhibit C.11.

The *Administrative Rules for Private Rights of Way* are the standards that govern the construction of private streets. The proposed street meets the requirements for a street serving 3 lots that is not a fire access road. The applicant indicates that fire access to Lots 2 and 3 will be from the new public street, therefore fire sprinkler systems will be required for Lot 3 and possibly Lot 2 as described under "Other Technical Requirements." Because the street will serve only 3 lots, a sidewalk, turnaround and on-street parking are not required. When a turnaround is not provided, the Private Street Rule requires that the private street width and driveway locations allow vehicles to exit the public street in a forward motion. The applicant has provided turning diagrams to show how this can be accomplished for the lots served by the private street (Exhibit C.12). While the diagram for Lot 4 shows it is feasible to make the turning movement shown, the driveway configuration and required width of the garage door (12 feet) makes the feasibility of constructing the layout shown while meeting zoning code requirements that limit garage width and front yard paving questionable. The applicant was asked to address this concern and provided a narrative explaining that a garage could be constructed with special 1.25 foot wide supports or the house could be pushed back to provide more space to maneuver (Exhibit A.6). Additional options would be to construct a parking pad with no garage either in front of or to the rear of the home, construct a detached garage to the rear of the home (18-foot garage entrance setback may be difficult to meet), or provide no on-site parking due to the proximity to frequent transit on SE Powell. Given all of these options, staff finds that it is likely that a turning movement meeting both the private street rule and the Zoning Code can be achieved. However, because a clear way to do this has not been provided by the applicant, a condition of approval is needed to show that the proposed configuration of the house, garage and driveway at the time of building permit on Lot 4 will provide for adequate turning movement from/to the private street for a passenger design vehicle.

Planting trees on the lots instead of within the street tract requires a covenant be recorded with the final plat stating that the trees are street trees and must be retained. A condition is also needed for street tree planting in conjunction with building permits on the lots.

With the conditions noted above, the proposed tract width and street design is sufficient to accommodate the elements of a street that are adequate to serve 3 lots as outlined by the *Administrative Rules* governing private streets.

With the conditions of approval described above for the public and private street, this criterion is met.

### **33.654.120.H – Standard for Street Trees (see Exhibit E.6 for bureau comment)**

The applicant provided an inventory of existing trees that included one tree within the right-of-way adjacent to the site and a street tree planting plan (Exhibit C.4 and C.9). Urban Forestry reviewed the plans and raised no concerns with the removal of the existing street tree, provided it is replaced as shown. Urban Forestry noted that the street tree planting plan does not meet standards because there are no trees proposed on the frontage of Lots 1, 4 and 5. One street tree is required on the frontage of each of these lots. A payment in lieu of planting may be allowed if there isn't adequate space for planting. These requirements will be

addressed through the public works permit for the new street and the building permits on the individual lots.

### **33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)**

The applicant has proposed a 6-foot wide public utility easement (PUE) adjacent to the proposed public street that will be available to accommodate utilities outside of the public right-of-way. A 6-foot PUE is also proposed adjacent to the private street on Lots 2 and 3, which may result in a conflict with the requirement to plant trees within 5 feet of the private street tract on those lots. The applicant indicates that the utilities can be located within the private street tract if necessary, but that the PUE is being retained in order to accommodate any above-ground utility pedestals that may be required. This criterion is met.

## **DEVELOPMENT STANDARDS**

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

### **Future Development**

Among the various development standards that will be applicable to these lots, the applicant should take note of the following (see Zoning Code for actual code language):

- Narrow Lots - Lot 4 is a new narrow lot and will be subject applicable standards at the time of building permit, including a height limit of 1.2 times the width of the structure, per 33.110.215.B.2.
- Garage width - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.D.
- Parking area and vehicle paving limits – Parking within the front setback is only allowed in a driveway directly behind a legal parking space; vehicle paving is restricted to 40% of the area between the front lot line and front building line, and on a corner lot 20%, per 33.266.120.

**Existing development that will remain after the land division.** The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

## **OTHER TECHNICAL REQUIREMENTS**

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

<b>Bureau</b>	<b>Code Authority and Topic</b>
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access

Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 11 –Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 – Water availability

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

- The applicant is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a Site Development permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau as described in Exhibit E.4. Many of the requirements stated in the Fire response apply only if the private street will serve as a fire access to Lots 2 and 3. The applicant has indicated that the private street is not a fire access and that sprinklers will be installed as needed. Therefore, a fire code is not needed for this proposal and the requirements that apply include:
  - Installing a new fire hydrant to serve the development with adequate fire flow. The hydrant must be shown on the plans for the public water improvement and approved by the Water Bureau prior to final plat approval. In addition, the applicant must provide documentation of fire flow from the new hydrant to the Fire Bureau prior to final plat approval;
  - Recording an Acknowledgement of Special Land Use Conditions with the final plat that requires the provision of internal fire suppression sprinklers on Lot 3 because the furthest point of the home will be more than 150 feet from the new public street. Additionally, because it is not clear whether this requirement will be met on Lot 2, a condition is needed to demonstrate compliance with fire access within 150 feet at the time of building permit.
  - Aerial fire department access requirements for buildings exceeding 30 feet in height measured from the fire access route.
  - Addressing requirements.
 These requirements are based on the technical standards of Title 31 and 2016 Portland Fire Code.

## CONCLUSIONS

The applicant has proposed a 10 lot subdivision, as shown on the attached preliminary plan (Exhibit C.3). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: requirements for public improvements to serve the new lots, private street improvements and tree protection. With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a subdivision that will result in 9 standard lots, 1 narrow lot, a public street, and a private street tract, as illustrated with Exhibits C.1 – C.12, subject to the following conditions:

### A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for the new public street. The required right-of-way dedication must be shown on the final plat.

2. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street *name of street*".
3. The ownership of the private street shall be noted on plat as common ownership by Lots 2, 3 and 4 or a Homeowner's Association.
4. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions B.8 - B.11 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A (name of document) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

**B. The following must occur prior to Final Plat approval:**

**Streets:**

1. The applicant shall meet the requirements of the City Engineer for right of way improvements for the new public street. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street and related stormwater management improvements.
2. The applicant shall submit an application for a Site Development Permit for mass grading, utility installation, private street construction and related site development improvements and be at an approvable state prior to final plat approval. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibit C.4 (Street Plan), C.6 (Grading Plan), C.9 and C.10 (Tree Preservation) and C.11 (Street Tree Plan) and the Private Street Administrative Rule.
3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private street and all required site development improvements. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.

**Utilities**

4. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in the new public street. The public sewer extension requires a Public Works Permit, which must be initiated and at a stage acceptable to BES prior to final plat approval. As part of the Public Works Permit, the applicant must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.
5. The applicant must submit a supplemental plan for review and approval by BES showing how sanitary sewer service will be provided to the site. The plan must be consistent with Public Works Permit concept approval.
6. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension to serve the proposed development. These plans must include a new fire hydrant with adequate fire flow and pressure meeting Fire Bureau requirements.



**Existing Development**

7. Finalized permits must be obtained for demolition of the existing structures on the site. The site plan for the demolition permits must show all trees to be preserved and root protection zones as shown on Exhibit C.9. All demolition work must be in conformance with the recommendations in the applicant's arborist notes on Exhibit C.10.

**Required Legal Documents**

8. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 2, 3, and 4, and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
9. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Lot 3 to contain internal fire suppression sprinklers due to the distance the home will be from the fire access (the new public street). The acknowledgement shall be referenced on and recorded with the final plat.
10. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lots 1-3, 6 and 7. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.
11. The applicant shall execute a covenant with the City that requires the planting and continued maintenance of one tree in the front yard of Lot 2 and two trees in the front yard of Lot 3 within 5 feet of the private street tract. The covenant must meet the requirements of section 33.700.060 and must be referenced on and recorded with the plat.

**Other requirements**


12. The applicant must pay into the City Tree Preservation and Planting Fund the amount equivalent to 20 inches of trees using the Planting and Establishment, Fee in Lieu (per inch), or equivalent. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

**C. The following conditions are applicable to site preparation and the development of individual lots:**

1. Site grading, private street construction and development on Lots 1-3, 6 and 7 shall be in conformance with the Tree Preservation Plan and Arborist Notes (Exhibit C.9 and C.10). Specifically, trees numbered 11174, 11175, 11177, 11178, 11181 located on the site are required to be preserved, with the root protection zones indicated on Exhibit C.9. Protection of off-site trees is also required per Exhibits C.9 and C.10. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Prescriptive Path allowances of 11.60.030 or is under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones beyond the allowances of 11.60.030 is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his/her supervision.
2. The first lift of paving for the private street shall be installed prior to issuance of any permits for residential construction.
3. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.

4. Street trees must be installed on Lots 2 and 3 within 5 feet of the private street tract in substantial conformance with Exhibit C.11. One tree is required on Lot 2 and two trees are required on Lot 3. The trees must meet the minimum planting size of Title 11. The required tree planting must be shown on the building permit plans for each lot and installed prior to final inspection approval.
5. At the time of building permit on Lot 4, the applicant must provide a plan for review by BDS Land Use Services showing how the proposed configuration of the house, garage and driveway will provide for adequate turning movements for a passenger design vehicle from/to the private street to a parking space meeting the requirements of 33.266.
6. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
7. The applicant must install residential sprinklers to the satisfaction of the Fire Bureau as follows:
  - Sprinklers are required in the new house on Lot 3.
  - Documentation showing how fire access requirements are met for Lot 2 based on the actual location of buildings at the time of building permit must be provided. If buildings are proposed more than 150 feet from the new public street, fire sprinklers will be required.
  - When applicable, the building permit must include sprinkler plans for review by BDS.

**Staff Planner: Stephanie Beckman**

**Decision rendered by:**  **on 11/18/16**  
By authority of the Director of the Bureau of Development Services

**Decision mailed 11/22/16**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on July 28, 2016, and was determined to be complete on September 28, 2016.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on July 28, 2016.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: January 26, 2017.**

**Note: some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has

independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on 12/6/16** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7617 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.ci.portland.or.us](http://www.ci.portland.or.us) .

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 or phone 1-503-373-1265 for further information.

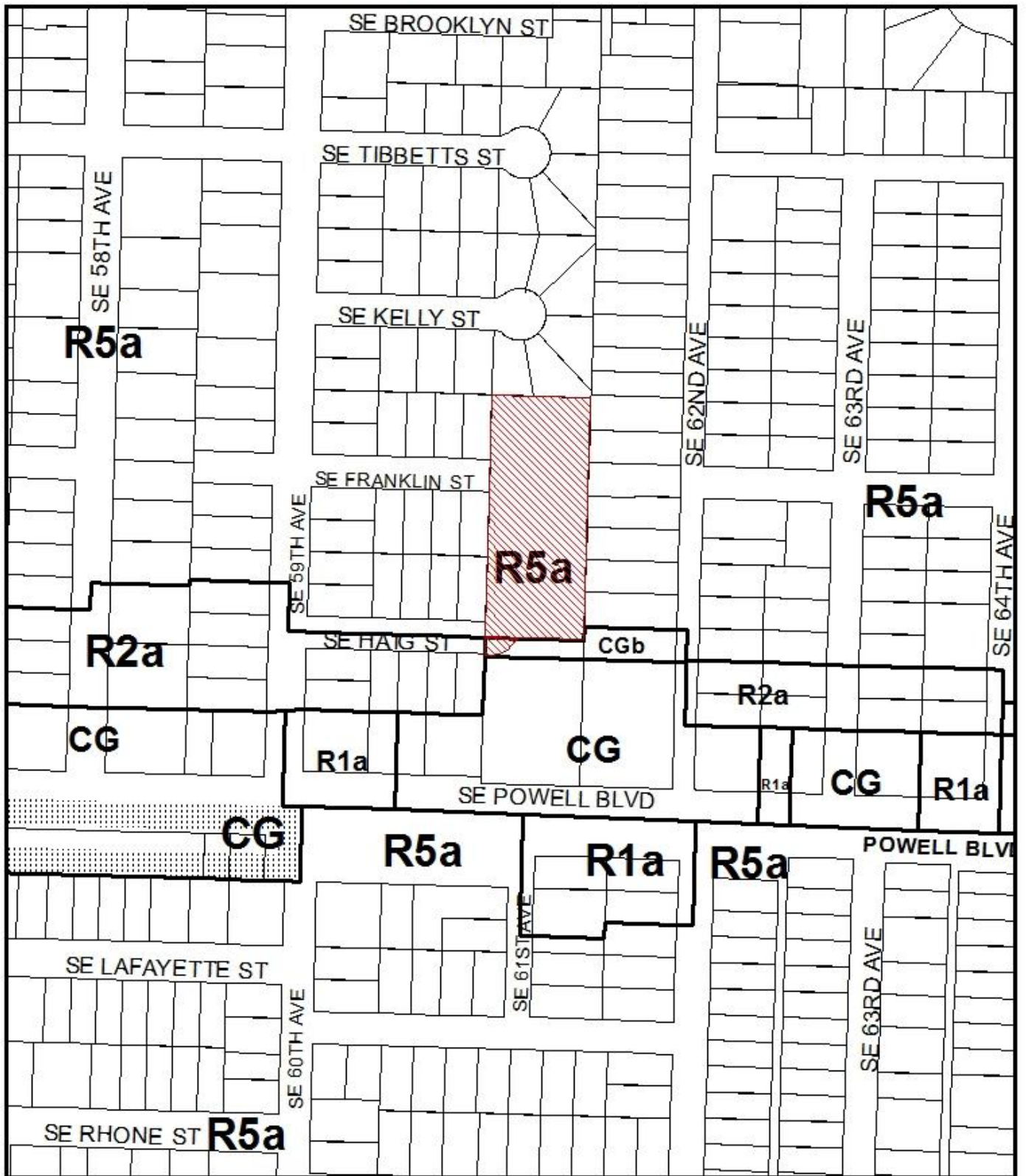
Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City’s approval of the preliminary plan.**

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Original submittal
  - 2. Revised submittal (9/13/16)
  - 3. Revised submittal (9/28/16)
  - 4. Arborist report
  - 5. Expedited Land Division Acknowledgement
  - 6. Applicant response to staff questions and neighborhood letters (11/9/16)
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Cover Sheet
  - 2. Existing Conditions and Demolition Plan
  - 3. Preliminary Subdivision Plat
  - 4. Preliminary Street and Site Plan (attached)
  - 5. Preliminary Fire Hydrant and Hose Length Plan
  - 6. Preliminary Clearing and Grading Plan
  - 7. Preliminary Onsite Utility Plan
  - 8. Preliminary Offsite Utility Plan
  - 9. Preliminary Tree Preservation and Removal Plan (attached)
  - 10. Preliminary Tree Preservation and Removal Table (and Arborist Notes)
  - 11. Street Tree Plan (private street)
  - 12. Private Street Turnaround Diagrams (3 pages)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Section of BDS
- F. Correspondence from interested parties:
  - 1. Mary Jane and Jim Copeland, 10/19/16, concerns about fence, shrubs on property line
  - 2. Darlene Zimbardi and Allen Maertz, 10/19/16, concerns about neighbor's tree and fence near property line
  - 3. Anne Storrs and Michael McCallister, 10/20/16, concerns about tree near property line
  - 4. Andrew Locke, 10/24/16, concerns about neighbor's tree near property line
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete letter
  - 3. Approved PLA, 16-153436 PR

**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



**ZONING** ↑  
NORTH

 Site

File No. LU 16-213028 LDS  
 1/4 Section 3336  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E07AD 2900  
 Exhibit B (Aug 01, 2016)



**RENAISSANCE AT SOUTH TABOR**  
 PORTLAND OREGON  
 LANDSCAPE ARCHITECTURE  
 FORESTRY - PLANNING - LANDSCAPE ARCHITECTURE

**PRELIMINARY STREET AND SITE PLAN**

DATE: 09/27/2024  
 DRAWN BY: [ ]  
 CHECKED BY: [ ]  
 SCALE: AS SHOWN  
 JOB NUMBER: 4965  
 SHEET: 04

**SITE DESCRIPTION:**  
 ADJUSTED TAX LOT 2900 MULTNOMAH COUNTY  
 TAX ASSESSOR'S MAP NUMBER 15-2E-07AD.

**SITE ADDRESS:**  
 6025 SE POWELL BOULEVARD  
 PORTLAND, OR 97206

**EXISTING LAND USE:**  
 PORTION OF A COMMERCIAL NURSERY SITE  
 ZONING: SINGLE DWELLING ZONE, R50  
 LOT 10000 (10000 SQ FT)  
 COMPREHENSIVE PLAN DESIGNATION:  
 HIGH DENSITY SINGLE DWELLING  
 AND GENERAL COMMERCIAL

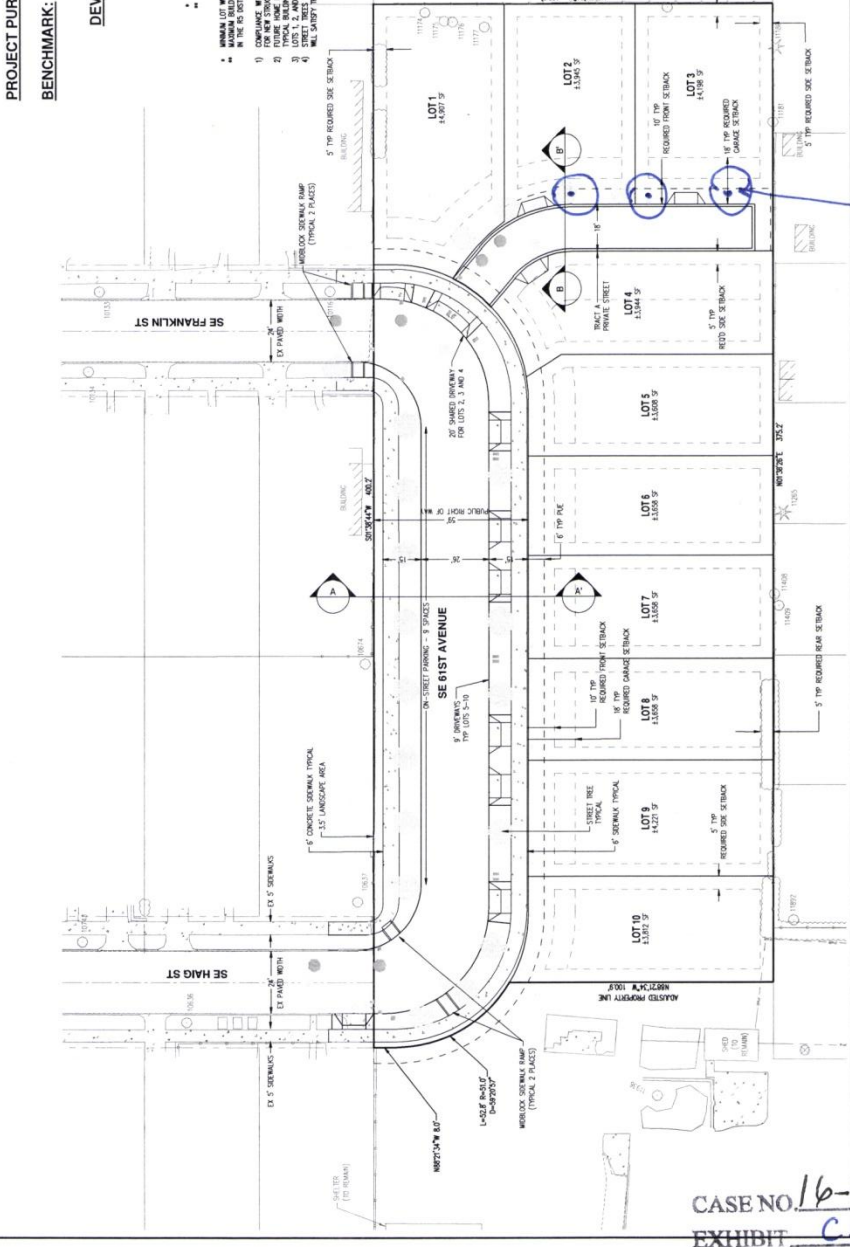
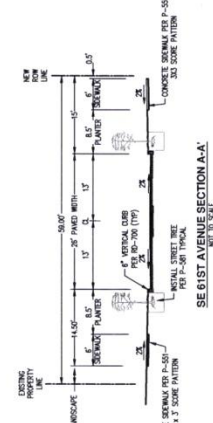
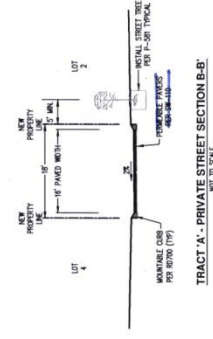
**TOTAL SITE AREA:**  
 56,297 SF± (1.338 ACRES±)

**PROJECT PURPOSE:**  
 10-LOT SUBDIVISION - FUTURE DETACHED HOMES

**BENCHMARK:**  
 ELEVATIONS ARE BASED ON CITY OF PORTLAND  
 BENCHMARK NO. 2001, ELEVATION = 224.925

**DEVELOPMENT STANDARDS CHART**

STANDARD	REQUIREMENT
SEWERAGE	1" TYP
WATER	1" TYP
STORM	1" TYP
SEWERAGE	1" TYP
WATER	1" TYP
STORM	1" TYP
SEWERAGE	1" TYP
WATER	1" TYP
STORM	1" TYP



*Street Trees - see c.11*

CASE NO. 16-213028  
 EXHIBIT C4



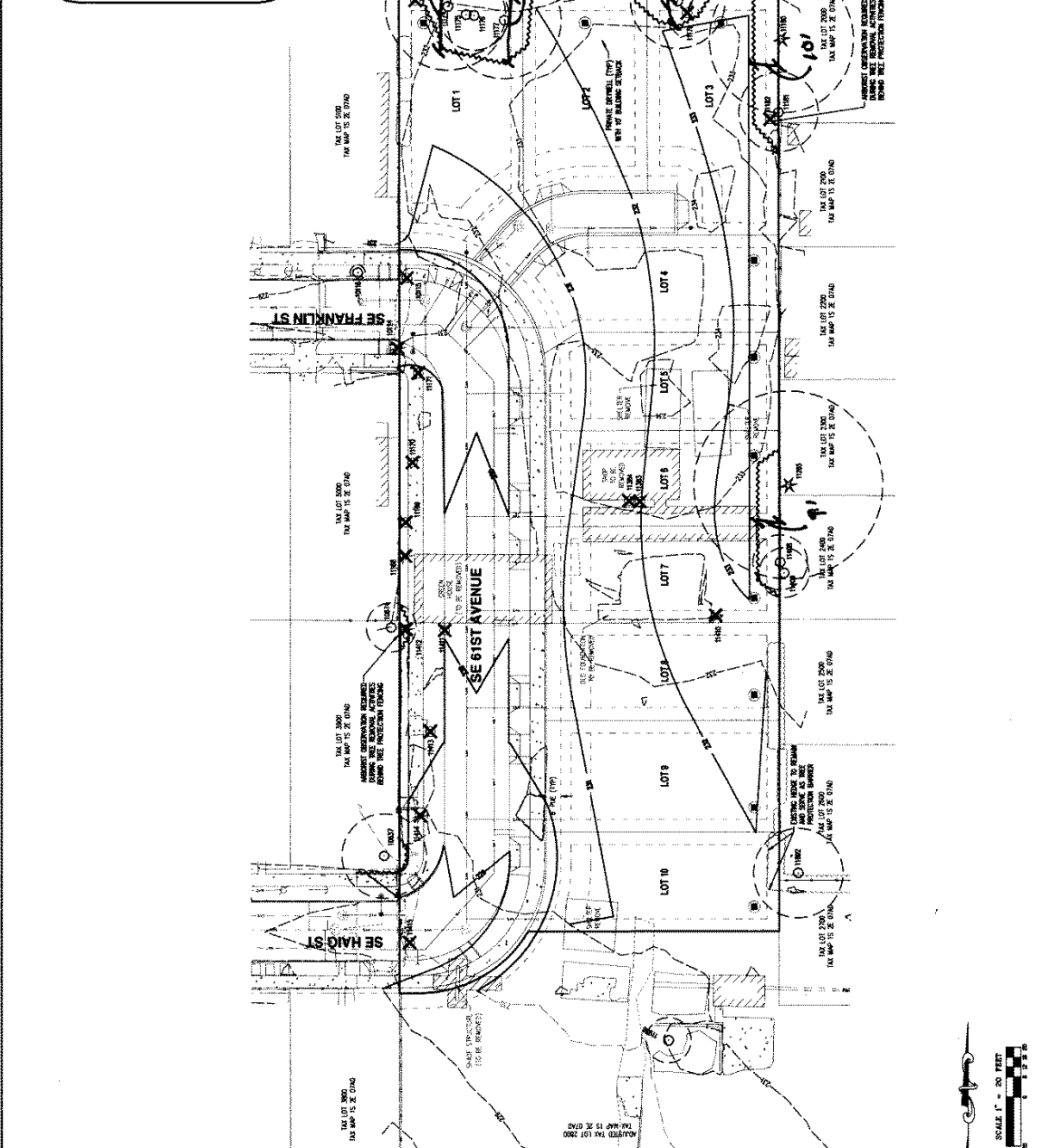
ENGINEERING & CONSTRUCTION, LLC  
 1200 SW 10TH AVENUE, SUITE 100  
 PORTLAND, OREGON 97204  
 PHONE: 503.241.1234  
 FAX: 503.241.1235  
 WWW.AKS-OR.COM  
 FORESTRY - PLANNING - LANDSCAPE ARCHITECTURE  
 ENGINEERING - SURVEYING - NATURAL RESOURCES

**LEGEND**

- EXISTING GRADE CONTOUR (0 FT)
- EXISTING GRADE CONTOUR (5 FT)
- EXISTING GRADE CONTOUR (10 FT)
- EXISTING GRADE CONTOUR (15 FT)
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- EXISTING GRADE CONTOUR (1000 FT)

TREE REMOVAL  
 TREE PROTECTION CONSTRUCTION FENCE  
 TREE PROTECTION AREA  
 OPTIMAL TREE ABOUT ONE  
 (1-17) FEET FROM TRUNK (18" DBH)

NOTE: SEE COVER SHEET FOR GENERAL PLAN LEGEND



CASE NO. 16-213028  
 EXHIBIT C.9