



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

Chloe Eudaly, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** January 5, 2017  
**To:** Interested Person  
**From:** Brandon Rogers, Land Use Services  
503-823-7597 / [Brandon.Rogers@portlandoregon.gov](mailto:Brandon.Rogers@portlandoregon.gov)

## **NOTICE OF A TYPE Ix 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 16-187782 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Danelle Isenhart/Isenhart Consulting, LLC  
PO Box 2364  
Beaverton, OR 97075

**Owner:** Aleksander Koval/Classic Image Homes, LLC  
PO Box 302  
Marylhurst, OR 97036

**Site Address:** 8604 SE 19TH AVE  
**Legal Description:** BLOCK 101 LOT 13, SELLWOOD  
**Tax Account No.:** R752717340  
**State ID No.:** 1S1E26AA 04300  
**Quarter Section:** 3932  
**Neighborhood:** Sellwood-Moreland, contact David Schoellhamer at 916-752-2208.  
**Business District:** Sellwood-Westmoreland, contact Emily Pinkstaff at [emily.pinkstaff@newseasonsmarket.com](mailto:emily.pinkstaff@newseasonsmarket.com)

**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010.  
**Zoning:** Residential, 2,500 (R2.5) with the "a" Alternative Design Density and the "d" Design overlay zones.

**Case Type:** Land Division Partition (LDP)  
**Procedure:** Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

#### **Proposal:**

The applicant proposes to divide the 5,000 square foot, corner-lot site into three parcels. Parcels 1 and 2 are proposed to be developed with attached houses; Parcel 3 is proposed to be developed with a detached house. Access to Parcel 1 will be provided from SE 19<sup>th</sup> Ave, access for Parcels 2 and 3 are provided from SE Clatsop Street. Sanitary sewer service must be extended in SE Clatsop Street to serve Parcels 2 and 3. Parcel 1 will be served by existing services located in SE 19<sup>th</sup> Ave. Water Service will be provided to Parcel 1 from existing

services located in SE 19<sup>th</sup> Ave, Parcels 2 and 3 will be served by existing services located in SE Clatsop Street. The site contains trees subject to the Tree Preservation approval criteria of Chapter 33.630. The existing house is proposed to be removed.

This partition is reviewed through a Type Ix land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create three units of land. Therefore, this land division is considered a partition.

**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:** The corner lot site is developed with a single dwelling built in 1904 (Multnomah County Assessor) that is proposed to be removed from the site. The surrounding neighborhood is developed primarily with single dwellings, with mixed commercial development to the west along SE 17<sup>th</sup> Avenue. Johnson Creek Park and Johnson Creek are located at the end of the block to the east. Sellwood Middle School is located in the vicinity.

### Infrastructure:

- **Streets** – The site has 50 feet of frontage on SE 19<sup>th</sup> Avenue and 100 feet of frontage on SE Clatsop Street. There is no existing curb cut or driveway access on either street. At this location, SE Clatsop and SE 19<sup>th</sup> Ave as Local Service streets for all modes in the Transportation System Plan (TSP). Tri Met Bus 70 provides service along SE 17<sup>th</sup> Avenue approximately 500 feet to the west of the site. The existing site conditions and 4-6-2 sidewalk corridors along both frontages site satisfy Administrative Rule TRN-1.22.
- **Water Service** – There is an existing 12-inch water main in SE 19<sup>th</sup> Ave and an 8 inch water main located in SE Clatsop Street. The existing house is served by a 3/4-inch metered service from the water main located in SE 19<sup>th</sup> Ave.
- **Sanitary Service** - There is an existing 8-inch public combination sewer line located in SE 19<sup>th</sup> Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** Residential 2,500 (R2.5) with the “a” Alternative Design Density and the “d” Design overlay zones. The R2.5 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” 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.

The “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.

**Land Use History:** City records indicate there are no prior land use reviews for this site.

**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 **July 21, 2016**. Written responses have been received from six notified property owners in response to the proposal and a response was received from the Selwood Moreland Improvement League Land Use Committee (see Exhibits F1-F7). Issues and concerns raised in the response letters are listed below, including responses from staff.

- Driveways for lots and off street parking, on street parking. Traffic, intersection visibility, impacts to bike route. *Staff Response:* Transportation impacts are discussed below in Sections K and L.
- Residential Density. *Staff Response:* Residential density is discussed below in Section A.
- Height of proposed structures, housing styles, neighborhood character, compatibility of infill development, 33.110.240.E standards, setback for Parcel 1. *Staff Response:* Development standards, including height, building coverage and setbacks are regulated by the R2.5 zoning designation. The maximum height allowed within the R2.5 zone is 35-feet for attached and detached houses. Section 33.110.240.E contains development standards for attached houses to ensure compatibility with surrounding houses. There are no approval criteria regarding housing style, neighborhood character and compatibility of infill development within the Approval Criteria for Land Division in Open Space and Residential Zones. Note: Portland’s Residential Infill Project is underway and is designed to address the scale and design of new houses and home additions. More information can be found here: <http://www.portlandoregon.gov/bps/article/533961>
- Crowding of Parks and Schools. *Staff Response:* There are no approval criteria regarding crowding of parks and schools within the Approval Criteria for Land Division in Open Space and Residential Zones. However, Systems Development Charges will be assessed at the time of building permit issuance, which partially fund parks and schools.
- Residential Demolition. *Staff Response:* Residential demolitions are regulated at the time that a permit for demolition is issued, per City Titles 17 and 24. These regulations include demolition delay, asbestos and lead based paint certification as well as utilities and erosion control. Additionally, information regarding the City’s Deconstruction Ordinance for homes built in 1916 or earlier may be found in the report below, under Development Standards. There are no approval criteria regarding residential demolitions within the Approval Criteria for Land Division in Open Space and Residential Zones. However, the approval criteria for Land Suitability is discussed in section G, below.
- Earthquake, earth movement. *Staff Response:* The site is not located within any recognized Landslide Hazard zone. Clearing, Grading and Land Suitability is discussed below in Section G.
- Stormwater management, Johnson Creek watershed. *Staff Response:* Stormwater management is discussed below in Section L.
- Tree Preservation, neighbor’s trees and utility trenching. *Staff Response:* Tree preservation is discussed below in Section B.

## 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.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	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.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections 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 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. Based on the applicant's survey, the site area is 5,000 square feet. The maximum density is calculated at one unit per 2,500 square feet of site area. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area. Therefore, the site has a maximum density of 2 units and a minimum required density of 1 unit.

The applicant is proposing 3 parcels, which exceeds the maximum density normally allowed for the site. However, Parcels 1 and 2 are proposed to be developed with attached houses under the provision in 33.110.240.E (Alternative Development Options, Duplexes and Attached Houses on Corners), which allows one extra unit of density in conjunction with attached houses on corner lots, when certain standards are met. The alternative development options are allowed by right, and must comply with all applicable development standards. This provision allows new duplexes and attached houses in locations where their appearance and impact will be compatible with the surrounding houses. Duplexes and attached houses on corner lots can be designed so each unit is oriented towards a different street. This gives the structure the overall appearance of a house when viewed from either street.

The applicant's proposal qualifies for the attached house on a corner lot, because it is a corner lot, the original lot before land division is at least 3,000 square feet in area. Therefore, an additional lot is allowed provided Parcels 1 and 2 are developed with attached houses. The development standards of 33.110.240.E.4 are designed to ensure that the two units have compatible elements. Compliance with these standards is required to be illustrated at the time of building permit submittal and verified at the time of construction. The standards include requirements for the location of main entrances, height, exterior finish materials, roof pitch, eaves, trim and windows.

With a condition of approval limiting future development on Parcels 1 and 2 to attached houses only, the density standards can be met.

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

<b>DETACHED HOUSE STANDARDS</b>	<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>R2.5 Zone</b>	1,600	NA	36	40	30
Parcel 3	1,994		40	50	40

<b>ATTACHED HOUSES ON CORNER LOT STANDARDS</b>	<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>Original lot before division in R2.5 zone</b>	3,000	NA	NA	NA	NA
Original lot before division	3,000 / 5,000				
<b>New attached housing lots</b>	<b>No minimum lot dimension standards</b>				
Parcel 1	1,500		30	50	30
Parcel 2	1,500		30	50	30

\* 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.

The findings above show that the applicable density and lot dimension standards are met. Therefore, 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 survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.2) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved. Based on this information, two trees which provide a total of 21 inches of tree diameter, are subject to the preservation requirements of this chapter.

The trees (Tree #1, 12-inch Diameter at Breast Height (DBH) Blue Spruce; Tree #2, 9-inch DBH Flowering Dogwood) are in good condition, are non-nuisance species and none of the trees are 20 or more inches in diameter. Option 4 is the only tree preservation option applicable to the site, and applies when all of the trees measure less than 20 inches in diameter and when at least 35 percent of the total tree diameter is preserved (equal to 8-inches tree of preservation).

However, the applicant's arborist has stated that Tree #1 and Tree #2 would be damaged during construction, which would prevent their preservation (Exhibit C.1), because the trees are located five-feet from the existing house which is proposed to be removed from the site. Additionally, setting foundation forms at the time of construction would damage the trees. Based upon the location of the trees and the configuration of the property, the scale of the development proposed and anticipated in the R2.5 zone, options to retain these trees in accordance with these regulations are limited, so it is reasonable to consider mitigation options that will replace the functions of the trees to be removed.

The applicant has proposed to mitigate for the removal of Trees 1 and 2 by planting five, 1 ½ inch diameter trees on the site. However, the site must also meet the Title 11 tree density on-site planting requirements at the time of development. Based upon the Title 11 tree density requirements, Parcels 1 and 2 each require 600 square feet of tree area and Parcel 3 requires 797 square feet of tree area to be satisfied. Parcels 1 and 2 are each proposed at 1,500 square feet in area. On-site tree planting as mitigation is not recommended for these parcels, based upon the parcel size and the proposed development. Parcel 3 is proposed to be 1,994 square feet, which would have adequate area to plant one, small size tree to count towards mitigation in addition to the Title 11 tree density requirements. Based upon the proposed development plan and the minimum planting area required by Table 50-2 of Title 11, Parcel 3 has adequate area to meet both the Title 11 density requirements and the planting of one, 1.5 – inch, small canopy tree as mitigation. The remaining 6.5 inches will be mitigated by providing a payment into the City's Tree Planting and Preservation Fund.

This mitigation will be consistent with the purpose of the tree preservation regulations, since it will provide for the planting of other trees that will contribute to the general beauty and natural heritage of the City, if not directly on the site, and

- help to absorb air pollutants and contamination;
- provide buffering from noise and wind;
- provide visual screening from the adjacent properties;
- reduce energy demand and urban heat island impacts;
- filter stormwater runoff and the reduce the possibility for erosion;

- help with slope stabilization;
- the native trees will provide habitat to support wildlife;

In order to ensure the mitigation is provided, conditions of approval require the applicant to obtain a Zoning Permit to document planting of one small tree on Parcel 3 at the time of development, and to make a payment to Tree Planting and Preservation Fund for 6.5 inches of trees prior to approval of the final plat.

The original development plan proposed sanitary sewer lines at the south property line, and the arborist report indicated that two, off site trees had the potential to be damaged, since the trees are located within 15-feet of proposed construction. However, the proposed development plan has changed, with sanitary sewer laterals connecting to a new public sanitary sewer line to be located within SE Clatsop Street. Relocation of the sewer laterals

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 primarily flat and is not located within the Potential Landslide Hazard Area. The applicant's narrative (Exhibit A.1) states that grading will be designed to be the minimum necessary to allow for adequate grades for the proposed driveways, building pads and drainage. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. This criterion is met.

***Land Suitability***

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing house and garage and redevelop the site. A permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. Although the site is currently connected to the public sanitary sewer, there is an old cesspool on the site. The City has no record that this facility was ever decommissioned. In order to ensure that the new lots are suitable for development, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility prior to approval of the final plat. With conditions requiring final inspection of a demolition permit and a decommissioning permit, the new lots can be considered suitable for development, and this criterion can be met.

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

**Findings:** No tracts are proposed or required for this land division, so criterion A does not apply. A Private Storm Sewer Easement is proposed across the relevant portions of Parcel 2 and to serve Parcels 1 and 2.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat

must reference the recorded maintenance agreement(s) with a recording block, substantially similar to the following example:

*“A Declaration of Maintenance agreement for a private storm sewer easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

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

**I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.**

**Findings:** The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties. This criterion is applicable only to Parcel 3, since attached homes are proposed for Parcels 1 and 2.

Parcel 3 is on the south side of an east-west oriented street, and is considered an interior lot (not on a corner). In this context there is no preference that any one lot be wider or narrower than the other lots. This criterion is therefore met.

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

**Findings:** The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services. PBOT has provided the following findings (see Exhibit E.2):

*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.*

*The minimal expected added vehicle trips (approximately 2 AM peak hour trip/2 PM peak hour trip/ 20 total new daily trips) will not adversely impact the operations of area intersections. On-street parking demand appears to be minimal along either SE 19th Ave or SE Clatsop given the make-up of the existing right of way, which accommodates parking along the both sides of the street and because the lots along the street are served by lengthy driveways sufficient to accommodate multiple vehicles. There appears to be an abundance of on-street parking opportunities here that will not be adversely impacted by the proposed driveways. The proposed partition will not have any effect to transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.*

PBOT has reviewed and concurs with the information supplied and available evidence. No mitigation 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:



<b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.
The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.
<b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.
There is no public sanitary sewer available in SE Clatsop Street to serve Parcels 2 and 3. The nearest available sewer is located in SE Clatsop Street, approximately 32-feet east of the site. With a condition of approval requiring the applicant to obtain a public works permit to extend the public sewer to this site prior to final plat approval, this standard is verified.
<b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1
The applicant has proposed the following stormwater management methods: Stormwater from Parcels 1, 2 and 3 will be directed to a shared drywell which will be located on Parcel 3. The shared drywell will treat the water and slowly infiltrate it into the ground. BES has responded that the site contains appropriate area to support an adequately sized, shared stormwater facility meeting setback standards and accommodating storm water from proposed homes on Parcels 1, 2 and 3. BES has indicated conceptual approval of the shared drywell. A Plumbing Code Appeal (Appeal ID 14288) has been approved by BDS (Attachment G.4) in support of the proposed, shared drywell.
<b>33.654.110.B.1 Through streets and pedestrian connections</b>
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 dimensions of the block on which the subject property is located are 451 feet by 200 feet, which meets the noted spacing requirements. In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. For the reasons described above, this criterion is met.
<b>33.654.120.B &amp; C Width &amp; elements of the right-of-way</b> – See Exhibit E.2 for bureau comment
In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has indicated that the existing street is currently improved in a manner that is sufficient to serve the expected users. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided. This criterion is met.
<b>33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)</b>
Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, 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.

### Deconstruction Ordinance

Note that the Multnomah County Tax Records reflect that the residence located on the site was built in 1904. Single-dwelling structures (houses and duplexes) in all zones are subject to a new Deconstruction Ordinance (City Code Chapter 17.106) if:

- The structure was built in 1916 or earlier; or

- The structure is a historic resource subject to Demolition Delay (Title 24.55.200) or Demolition Delay Review (Title 33.445).

The Deconstruction Ordinance, effective October 31, 2016, requires the following:

- Structures must be fully deconstructed in order to maximize the salvage of material for reuse
- Work must be completed by a Certified Deconstruction Contractor
- The Certified Deconstruction Contractor must submit a complete Pre-Deconstruction Form as part of the demolition permit application. (Form available to certified deconstruction contractors via login and password.)
- All receipts and weight tickets for materials sold/donated/recycled must be maintained
- The Certified Deconstruction Contractor must complete and submit a Post-Deconstruction Form along with the documentation above before the demolition permit can be finalized. (Form available to certified deconstruction contractors via login and password.)

The Bureau of Planning and Sustainability's ExploreDecon.com webpage contains additional information about the Deconstruction Ordinance, associated Administrative Rules, and a list of Certified Deconstruction Contractors

### **Future Development**

Among the various development standards that will be applicable to Parcels 1 and 2, the applicant should take note of:

- **Attached Houses on Corner Lots**-- special requirements apply to development on new lots created using the provisions of Section 33.110.240.E.
  1. The address and main entrance of each house must be oriented to a separate street frontage.
  2. Development on Parcel 1 must be oriented toward SE 19<sup>th</sup> Ave and development on Parcel 2 must be oriented toward SE Clatsop Street.
  3. The height of the two units must be within 4 feet of each other
  4. The exterior finish material must be the same, or visually match in type, size and placement.
  5. The predominant roof pitch must be the same.
  6. Roof eaves must project the same distance from the building wall.
  7. Trim must be the same in type, size and location.
  8. Windows must match in proportion and orientation.

**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 R2.5 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

Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Administrative Rules for Private Rights-of-Way 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 must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

## CONCLUSIONS

The applicant has proposed a three parcel partition as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issue identified with this proposal is: tree mitigation, shared stormwater easement and maintenance agreement, sewer main extension, cesspool decommissioning. With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a three-parcel partition that will result in two lots for attached houses on a corner lot and one standard lot for a detached house, as illustrated with Exhibit C.1, subject to the following conditions:

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

1. A private storm sewer easement, for the benefit of Parcels 1 and 2, shall be shown and labeled over the relevant portions of Parcels 2 and 3.
2. 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 Condition B.5 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for private storm sewer easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”

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

#### Utilities

1. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main within SE Clatsop 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.

2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

#### **Existing Development**

3. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. Additionally, the City's Deconstruction Ordinance is applicable to houses built in 1916 or earlier and/or designated historic resources.
4. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the cesspool on the site.

#### **Required Legal Documents**

5. A Maintenance Agreement shall be executed for the Private Stormwater Easement described in Condition A.1, above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

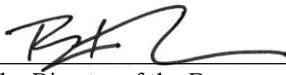
#### **Other requirements**

6. The applicant must pay into the City Tree Preservation and Planting Fund the amount equivalent to 6.5 inches of trees. 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. Development on Parcel 3 shall include planting of one, small, 1.5-inch tree to satisfy the tree mitigation requirements of 33.630.200.D. The tree must be shown on the building permit plans and receive final inspection. The permit plans must include the note: *This permit fulfills requirements of Condition D.1 of LU 16-187782 LDP.* This tree is in addition to trees required by the tree density standards of Title 11.
2. Parcels 1 and 2 may only be developed with attached houses meeting the development standards of Section 33.110.240.E.
3. 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.

**Staff Planner: Brandon Rogers**

**Decision rendered by:**  **December 30, 2016**  
By authority of the Director of the Bureau of Development Services

**Decision mailed January 5, 2017**

**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 June 14, 2016, and was determined to be complete on July 15, 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 June 14, 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 requested that the 120-day review period be extended by 75 days. Unless further extended by the applicant, **the 120 days will expire on: January 26, 2017.**

**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.

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 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.portlandonline.com](http://www.portlandonline.com).

**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,

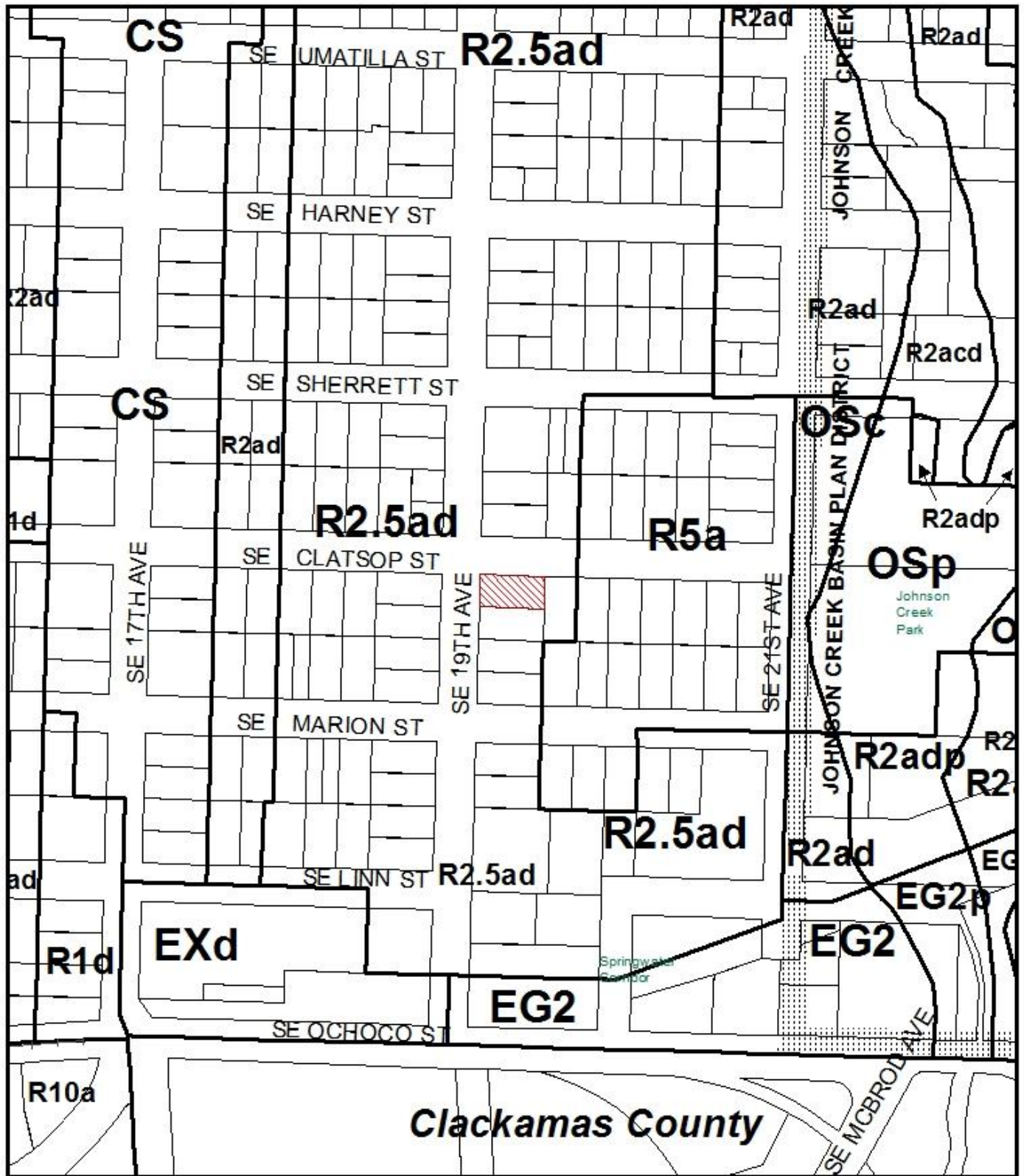
and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Applicant's Narrative / Original Submittal
  - 2. Applicant's Arborist Report
  - 3. Simplified Approach Stormwater Report and Infiltration Testing
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions Plan, Preliminary Plan (attached)
- 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:
  - 1. Rachel Bristol, August 19, 2016
  - 2. Jennifer Grebil, August 5, 2016
  - 3. Angela Long, August 11, August 18, 2016
  - 4. Renate Powell, Selwood Moreland Improvement League Land Use Committee, August 21, 2016
  - 5. Michelle Reynolds, August 22, 2016
  - 6. Carra and Brian Sahler, August 18, 2016
  - 7. Jason Vega, August 21, 2016
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter
  - 3. 120-Day Extension Requests (09/27/2016, 12/12/2016).
  - 4. Approved Plumbing Appeal #14288

**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

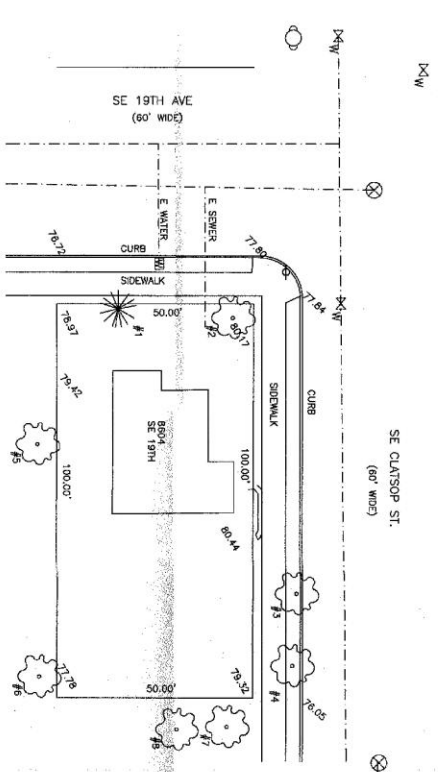
 Site



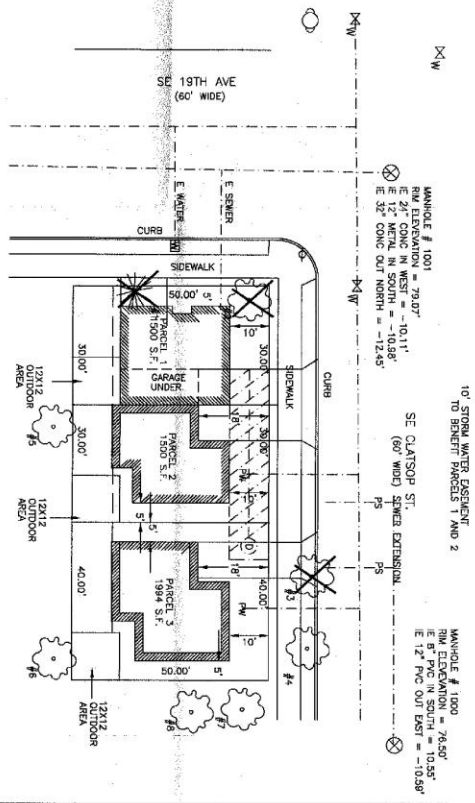
NORTH

File No.	<u>LU 16-187782 LDP</u>
1/4 Section	<u>3932</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S1E26AA 4300</u>
Exhibit	<u>B</u> (Jun 17, 2016)

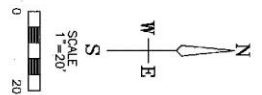
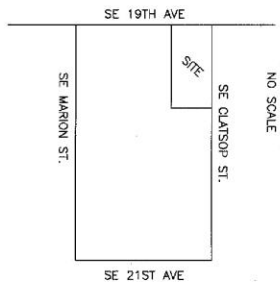
EXISTING CONDITIONS



PROPOSED CONDITIONS



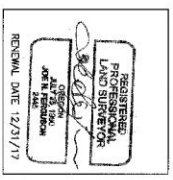
VICINITY MAP  
NO SCALE



- NOTES:  
1. ELEVATION DATA COP # 4778.  
2. HOUSE TO BE REBUILT PER TREE REPORT.

SYMBOLS

- ⊕ = POWER POLE
- ⊙ = GUY ANCHOR
- ⊗ = WATER METER
- ⊘ = GAS METER
- ⊚ = ELECTRIC METER
- ⊛ = WATER VALVE
- ⊜ = GAS VALVE
- ⊝ = MANHOLE
- ⊞ = CLEAN OUT
- ⊟ = CATCH BASIN
- ⊠ = FIRE HYDRANT
- W — = WATER LINE
- FW — = PROPOSED WATER
- G — = GAS LINE
- E — = ELECTRIC LINE
- S — = SAN. SEWER
- PS — = PROPOSED SEWER
- ☼ = DECIDUOUS
- ☿ = CONIFER



**Ferguson Land Surveying, Inc.**

646 SE 106TH AVE. PORTLAND, OR 97216  
Phone (503) 408-0601 Fax (503) 408-0802  
www.fergusonlandsurveying.com

SITE PLAN

LOT 13, BLOCK 101 "SILWOOD"  
IN THE NE 1/4 SECTION 26 T15S, R1E, W1M,  
CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

CLIENT: CLASSIC IMAGE HOMES

DATE: JUNE 9, 2016	JOB NO. 16-063
REVISIONS:	DRAFTED 6/1/16
REVISIONS:	SHEET 1 OF 1

CASE NO. 16-07292 COP  
EXHIBIT C1