



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

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Date: July 31, 2017
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NOTICE OF A TYPE II_x 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 16-286857 LDS

Applicant: Kevin Partain/Urban Visions
223 NE 56th Ave
Portland, OR 97213

Owner: Jay Webster Rentals LLC
9230 SE Clay St
Portland, OR 97216

Contract Purchaser: Clint Weiler/Ground Breakers Construction & Development, Inc
6045 SE Stark St
Portland OR 97215

Site Address: 12004, 12008, 12010, 12040 SE Mill Ct
Legal Description: LOT 11, TL 4800, 4900, 5000, D & O LITTLE HMS SUB 1.
Tax Account No.: R202501680, R202501700, R202501720
State ID No.: 1S2E03DA 04800, 04900, 05000.
Quarter Section: 3242
Neighborhood: Mill Park, contact Doug Reed at doughomes@aol.com.
Business District: Midway, contact info@midwaybusiness.org.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Zoning: Residential 3,000 (R3) with the "a" Alternative Design Density overlay zone.

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

Proposal: The applicant proposes to divide the 35,519 square foot site into nine lots for development of detached, single family homes. Access to each lot is proposed from SE Mill Ct. Sanitary sewer and water services will be provided from existing mains located in SE Mill Ct. On-site storm water management will be provided by individual drywells. The site contains trees subject to tree preservation standards and approval criteria. The proposal will require removal of all existing development at the site, including three houses and one detached accessory structure.

This subdivision proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) four to ten dwelling units are proposed, not including accessory dwelling units (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 9 units of land. 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: The topography of the site is primarily level, with a change in elevation of approximately two feet across the site. The site is comprised of three separate parcels, each is developed with a single family residence and accessory structures. All existing development is proposed to be removed from the site. SE Mill Ct is paved at the site, with a curb, but no sidewalks. SE Mill Ct is a dead end street that is approximately 747 feet long. The site contains trees subject to tree preservation.

Infrastructure:

- **Streets** – The site has approximately 236 feet of frontage on SE Mill Ct. There are three driveways entering the site serving the existing residences at the site. At this location, the City’s Transportation System Plan (TSP) classifies SE Mill as a Local Service Street for all modes. SE Mill has a 28-ft paved roadway, 0.5-ft curb, and no sidewalk, within a 50-ft right-of-way (ROW). Tri Met provides bus service approximately 220 feet east of the site at SE 122nd Avenue via bus route 73.
- **Water Service** – There is an existing 4-inch water main located in SE Mill Ct. The existing houses are served by 5/8-inch metered services from this main.
- **Sanitary Service** - There is an existing 8-inch sanitary gravity main located in SE Mill Ct.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: Residential, 3,000 (R3) with the “a” Alternative Design Density overlay zone. The R3 zone is one of the City’s multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-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.

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 **February 22, 2017**. No written responses have been received from the Neighborhood Association in response to the proposal. One written response has been received from a notified property owner in response to the proposal.

Staff Response: The neighbor’s response expresses concerns regarding tree preservation and the Oregon Slender Salamander, a Federally listed Species of Concern. Tree preservation is discussed below in Criterion B Trees. The site is not located within an Environmental overlay zone and there are no relevant approval criteria regarding special status species in the Approval Criteria for Land Divisions in Single Dwelling Zones. However, the neighbor’s letter was forwarded to Tom Murtagh, a biologist with the State of Oregon Department of Fish and Wildlife (Exhibit G.2).

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	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site
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 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing nine lots for development of detached, single-family dwellings. Because single-dwelling development is proposed for all of the site, at the time of the preliminary plan review the applicant must demonstrate how the proposed lots meet the minimum density and do not exceed the maximum density stated in Table 120-3.

Minimum density in the R3 zone is calculated at one unit per 3,750 square feet of site area and maximum density is calculated at one unit per 3,000 square feet of site area. The total site area shown on the applicant’s survey is 35,519 square feet. Therefore, the site has a minimum required density of 9 units and a maximum density of 12 units. No new streets are proposed and no street dedications are required for SE Mill Court. The applicant proposes nine lots for single dwelling development, therefore the density standards are met. The required and proposed lot dimensions are shown in the following table:

R3	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Lot Standards for Detached Houses	1,600	25	none	25
Lot 1	3,951	26.37	150	26.37
Lot 2	3,946	26.31	150	26.31
Lot 3	3,946	26.31	150	26.31
Lot 4	3,946	26.31	150	26.31
Lot 5	3,946	26.31	150	26.31
Lot 6	3,946	26.31	150	26.31
Lot 7	3,946	26.31	150	26.31
Lot 8	3,946	26.31	150	26.31
Lot 9	3,946	26.31	150	26.31

* Width is measured from the midpoints of opposite lot lines.

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, located within 10 feet of a building to remain on the site, located within an existing right-of-way, or within an environmental zone.

To identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.2) illustrating the surveyed location and size of trees measured for Diameter at Breast Height (DBH) on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.2, as revised) that identifies each tree by size and species, identifies exempt trees, evaluates tree condition and health, determines suitability for preservation and specifies a root protection zone and tree protection measures for trees to be preserved.

A review of this information indicates that the site contains 24 trees measuring 6-inches DBH or greater in size. Of these 24 trees, 8 are exempt because they are nuisance species and one is exempt because it is dead. The remaining 15 trees are subject to the tree preservation requirements, comprising 240 inches of non-exempt tree diameter. Three of the 15 trees measure 20 inches DBH or greater. Fourteen of these trees are Douglas Fir trees and one is a Shore Pine.

The applicant's original submittal proposed to preserve trees located at the south-western portion of the site, adjacent to Mill Park. The arborist report proposed to preserve these trees within a Tree Grove. However, the Zoning Code definition of Tree Grove states that groves are generally non-linear. The applicant's tree survey (Exhibit C.2) shows that the trees identified by the survey are positioned in a linear pattern. The Urban Forestry division of The City of Portland Parks Bureau reviewed the arborist report, visited the site and responded (Exhibit E.6) that the trees do not constitute a grove because the row of trees is linear, the spacing of the trees is inappropriate for the species assemblage, tree spacing appears to be unnaturally uniform in design and there are no understory plants except for invasive nuisance species. Based on the Urban Forestry response, the trees are not located in a grove and therefore Option 5 of the tree preservation standards is not an acceptable tree preservation option.

In response to the Urban Forestry response, the applicant revised the arborist report and tree preservation proposal (Exhibit A.2) to include preservation of Tree #74, a 45-inch DBH Douglas Fir Tree. The trees originally proposed for preservation at the south west portion of the site adjacent to Mill Park are also proposed to be preserved. The applicant revised the proposed development plan (Exhibit C.1) to relocate the sanitary sewer and water service laterals to the east and proposes a driveway constructed of permeable pavers for Lot 1 to preserve Tree #74.

The prescriptive path of tree protection is proposed for the trees located at the south portion of the site (Trees #84 – 97, excluding tree #90, which is a nuisance species). The applicant proposes the Performance Path of tree protection for Tree #74, which allows for alternative tree protection measures and modification of the prescriptive root protection zone, as allowed under Title 11.

The arborist proposes the Performance Path of tree protection for Tree#74, to reduce the Root Protection Zone (RPZ) and allow limited, supervised encroachment for construction of utilities and permeable driveway surfacing for Lot 1. Section 11.60.030.C.2, the Performance Path for tree protection, allows alternative measures to modify the prescriptive root protection zone, when certain standards contained in 11.60.030.C.2.a through f can be met. These standards are listed and addressed in the table below, using information from the applicant's revised arborist report. The proposed Performance Path RPZ meets these standards, and the report states that the proposed RPZ will adequately protect Tree #74.

11.60.030.C.2 Performance Path Tree Protection Standards.		
	Standard:	Arborist Report Response:
a	The alternative root protection zone is prepared by an arborist who has visited the site and examined the specific tree's size, location, and extent of root cover, evaluated the tree's tolerance to construction impact based on its species and health, and identified any past impacts that have occurred within the root zone	The arborist visited the site on November 28, 2017. Arborist report states size of tree measures 45 inches DBH and the tree location has been surveyed. The report states that the tree health is fair, and identifies past encroachments within the RPZ as a sidewalk, gravel driveways and SE Mill Street.

b	The arborist has prepared a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site visit described above	The arborist report states that the health of the tree is fair, the tree species is tolerant to root pruning, less than 23% of the root zone will be impacted, an existing gravel driveway exists in the approximate location of the proposed driveway, states that driveway excavation is anticipated to be 2 to 4 inches and observation of excavation will be conducted by the arborist.
c	The protection zone shall be marked with signage, stating that penalties will apply for violations, and providing contact information for the arborist	Signage will be provided to the applicant and required to be displayed on the RPZ fencing at the time of demolition and construction.
d	If the alternative methods require the arborist be on site during construction activity, the applicant shall submit a copy of the contract for those services prior to permit issuance and a final report from the arborist documenting the inspections and verifying the viability of the trees prior to the City's final inspection	A contract for services has been provided by the arborist. A final report will be required after construction on Lot 1 as a condition of approval of this land division.
e	If the alternative tree protection method involves alternative construction techniques, an explanation of the techniques and materials used shall be submitted	Permeable pavers are required for the driveway proposed on Lot 1, with an excavation of 2 to 4 inches.
f	The arborist shall sign the tree preservation and protection plan and include contact information	The arborist has signed the report and provided contact information.

The trees proposed for preservation are in good condition and include native/non-nuisance species. The proposed root protection zones for the trees to be preserved allow for the type of development anticipated in the R3 zone and will not conflict with any existing utility easements, proposed services or site grading. The applicant's tree preservation plan meets the preservation standards of Option 3 as follows:

Option 3: Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site. The applicant's proposed tree preservation provides preservation of 66 percent of the trees measuring 20 or more inches in diameter (two 20-inch trees) and 85 percent of the total tree diameter on the site (205 preserved inches).

At the time of development, the individual lots must also meet the Title 11-Tree Code provisions, which require a specific amount of site area for tree planting based on the size of the property and the scale of the development. The trees to be preserved as part of this review may be applied toward meeting those Title 11 requirements.

To meet the standards of the Performance Path of tree protection proposed on Lot 1 for Tree #74, a condition of approval requires the builder to provide a final arborist report for development on Lot 1 documenting the inspections and verifying the viability of the tree #74 prior to the City's final inspection of the building permit for Lot 1.

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 development on Lots 1, 2, 3 and 4 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.2).

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. 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. As indicated above, the site is relatively flat and contains no known geological hazards. Although the site is currently connected to the public sanitary sewer, there are old septic systems located on the site. The City has no record that these systems have been decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of these facilities. The applicant has proposed to remove all existing buildings at the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. With these conditions of approval, the new lots can be considered suitable for new development, and this criterion is 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. The following easements are proposed and/or required for this land division:

- Reciprocal Access Easements are required to allow shared use of driveways sharing a single, shared driveway approach for Lots 1&2, Lots 3&4, Lots 5&6, Lots 7&8.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easement areas described above and facilities within those areas. This criterion can be met with the condition that maintenance agreements are 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:

“Declaration of Maintenance agreements for shared driveways has been recorded as document no. _____, Multnomah County Deed Records.”

With this condition 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.

All of the proposed lots are on the south side of an east-west oriented street, and are classified as interior lots (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, 33.654.120.B & C Width & elements of the right-of-way must be met.

Findings: 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):

The regulations of this Chapter allow the traffic impacts caused by dividing and developing land to be identified, evaluated, and mitigated if necessary. The following approval criterion applies to all land divisions in all zones: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: (1) street capacity and level-of-service; (2) vehicle access and loading; (3) on-street parking impacts; (4) the availability of transit service and facilities and connections to transit; (5) impacts on the immediate and adjacent neighborhoods; and (6) safety for all modes.

On January 6, 2017, PBOT provided a Review for Completeness response that addressed requirements related to the land division transportation criteria, requested a draft TIS scope/observational analysis, and required the applicant to submit materials to show shared driveways with 14-ft throats. On February 16, 2017, the applicant provided a Transportation Impact Analysis without a scope, conducted by Lancaster Engineering and dated December 31, 2016, to which PBOT requested minor adjustments including raw data and a site plan to show shared driveways. In Spring 2017, the applicant provided a site plan that showed shared driveways with 14-ft throats, as requested by PBOT. On May 6, 2017, Lancaster Engineering provided a revised TIA (Exhibit A.5) that updated the section on page 8 regarding "Proposed Driveway Configuration," included a site plan with shared driveways, and provided raw observational data. PBOT finds that TIA sufficient to demonstrate that the proposed development meets the approval criteria. Note; the applicant made an application for a Driveway Design Exception which was denied by PBOT (Exhibit G.5).

The TIA states that the proposed development will result in a 'net increase of six homes.' Study intersections selected in the TIA include SE Market and 122nd, and SE Mill Court and 122nd. The applicant used land use code 210, Single-Family Detached Housing from the ITE Trip Generation Manual, 9th Edition to estimate the trips that will be generated by the proposed development. The TIS estimated the increased number of trips to be generated to be 5 in the morning peak hour, 6 in the evening peak hour, and 58 additional weekday trips, with the majority of trips traveling to/from the south along SE 122nd Ave. Based on the information contained within the TIA, PBOT finds that the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area in relation to street capacity and level-of-service.

The TIA addresses vehicle access and loading, and on-street parking impacts, using the manual Parking Generation to estimate on-street parking impacts. The proposed configuration with shared driveways preserves on-street parking and loading, and provides vehicle access sufficient to comply with the on-street parking approval criteria. Therefore, with a condition of Building Permit approval that the applicant provide shared driveways with 14-ft throats, as proposed in one of the site plans provided, the proposed development satisfies the on-street parking approval criteria.

The TIA states that bus #4, #20, #73, and the MAX blue line provide transit access sufficient to meet the needs of the proposed development, in addition to the existing land uses in the site vicinity. The proposed land division will not have any effect to transit service in the proposed development area.

PBOT agrees with the methodologies, analyses, assumptions, findings and conclusions within the TIA that address transit availability, neighborhood impacts, safety for all modes. The proposed shared driveways, each with a 14-ft throat will preserve a continuous sidewalk corridor and provide on-street parking that will reduce the speeds at which vehicles travel on SE Mill. Additionally, as a condition of Building Permit approval the applicant is required to provide an 11-ft sidewalk corridor that is constructed to comply with current City standards.

PBOT has reviewed and concurs with the information supplied, available evidence and the methodology, assumptions and conclusions made by the applicant’s traffic consultant. 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. With conditions of approval requiring shared driveways with 14-foot throats and construction of an 11-foot sidewalk corridor to be constructed to current City standards, these criteria can be 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>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p>
<p>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.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – 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 2 of this report. The sanitary sewer service standards of 33.652 have been verified.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1</p>
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:</p>
<p>Public Street Improvements: As a condition of this land use approval, the Bureau of Transportation requires the applicant to improve the frontage of the site to City standards (discussed earlier in this report). A new sidewalk corridor is required, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards a vegetated area and/or planting street trees, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.</p>
<p>Lots: Stormwater from each lot will be directed to individual, on-site 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.</p>
<p>For the reasons described above, these criteria and standards are met.</p>
<p>33.654.110.B.1 Through streets and pedestrian connections</p>
<p>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.</p>
<p>The block on which the subject property is located does not meet the noted spacing requirements. Therefore, there should be a north-south through street provided in the vicinity of the site. However, Mill Park Elementary School and Mill Park occupy the land to the west of the site (where SE Mill Ct ends) and to the south of the site. Due to the location of the school and park, development of through streets is not practicable. Mill Park and the school site connects to SE Mill Court, providing an informal pedestrian connection to the south to SE Lincoln Street and to the west to SE 117th Avenue.</p>
<p>Although the optimum spacing criteria would indicate the need for a north-south through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division. In addition, the site is not within an area that has an adopted</p>

Master Street Plan, so criterion d. does not apply. Therefore, the proposal is consistent with the master street plan. For the reasons described above, this criterion is met.

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

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.

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 R3 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.

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 – Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	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; installing a new hydrant; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; and aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1. The applicant made a request for a Fire Bureau Appeal (Exhibit G.4) which was approved by the Portland Fire Bureau, which requires fire sprinklers in the proposed homes. The applicant shall record an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Lots 1-9.
- The applicant must meet the requirements of Urban Forestry in regards to street tree planting. The applicant has provided a conceptual street tree planting plan. One street tree must be planted or retained for each full increment of 25 linear feet (11.50.060.C.1). Street

trees must be planted at a minimum 1.5 caliper inches. Trees will be required to be planted through the public works permit.

CONCLUSIONS

The applicant has proposed a 9-lot subdivision for development of detached houses 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 issues identified with this proposal are: tree preservation, fire bureau requirements for access and hydrants, demolition of existing development at the site, decommissioning septic systems and shared driveway approaches with driveway easements. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 9-lot subdivision that will result in single dwelling lots as illustrated with Exhibit C.1, subject to the following conditions:

A. The final plat must show the following:

1. Reciprocal Access Easements shall be shown and labeled on the final plat, as necessary to provide shared driveway access for Lots 1&2, Lots 3&4, Lots 5&6, Lots 7&8, as illustrated on Exhibit C-1. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
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 Conditions B5, B6 and B7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for reciprocal access easements has been recorded as document no. _____, Multnomah County Deed Records" and "Acknowledgement of Tree Preservation Land Use Conditions has been recorded as document no. _____, Multnomah County Deed Records" and "Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Lots 1-9 has been recorded as document no. _____, Multnomah County Deed Records"

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

Utilities

1. If required, the applicant shall meet the requirements of the Fire Bureau for installing a new fire hydrant. The applicant must contact the Water Bureau, Development Services Department at 503-823-7368, for fee installation information related to the purchase and installation of fire hydrants. The applicant must purchase the hydrant and provide verification to the Fire Bureau that the Water Bureau will be installing the required fire hydrant, with the required fire flow and pressure.
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 all structures at 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 applies to houses built in 1916 or earlier and/or designated historic resources.

The site plan for the demolition permit must show all trees to be preserved and root protection zones as shown on Exhibit C.1. All demolition work must be in conformance with the recommendations in the applicant's arborist report (Exhibit A.2).

4. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic systems on the site.


Required Legal Documents

5. A Maintenance Agreement shall be executed for the reciprocal access easements described in Condition A.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement areas and any shared facilities within those areas, 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.
6. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lots 1, 2, 3 and 4. 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.
7. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcels 1-9 to contain internal fire suppression sprinklers, per Fire Bureau Appeal no 14975. The acknowledgment shall be referenced on and recorded with the final plat.

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

1. Development on Lots 1, 2, 3 and 4 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.2). Specifically, the trees numbered 74, 84, 85, 86, 87, 88, 89, 91, 92, 93, 94, 95, 96, 97 are required to be preserved, with the root protection zones indicated on Exhibit C.1. Tree protection fencing is required along the root protection zone of the tree grove 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. Nuisance species trees as identified in the arborist report are not required to be preserved.
2. Development on Lot 1 shall meet the following requirement to meet the standards of the Performance Path of tree protection for Tree #74. The builder shall provide a final arborist report for development on Lot 1 documenting the arborist inspections specified in Exhibit A.2 and verifying the viability of the tree #74 after construction is substantially complete and prior to the City's final inspection of the building permit for Lot 1.
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.
4. The applicant shall meet the requirements identified through approved Fire Code Appeal #14975 requiring installation of residential sprinklers in the new dwelling units, roofing and siding and any other conditions required by the Fire Code Appeal.
5. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of Lots 1-9. This shall include shared driveways with 14-ft throats for Lots 1 and 2; 3 and 4; 5 and 6; 7 and 8.

Staff Planner: Brandon Rogers

Decision rendered by:  **on July 27, 2017**
By authority of the Director of the Bureau of Development Services

Decision mailed July 31, 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 December 15, 2016, and was determined to be complete on February 16, 2017.

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 December 15, 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 245 days (Exhibit G.8). Unless further extended by the applicant, **the 120 days will expire on: February 16, 2018.**

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 August 14, 2017** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th 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

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.

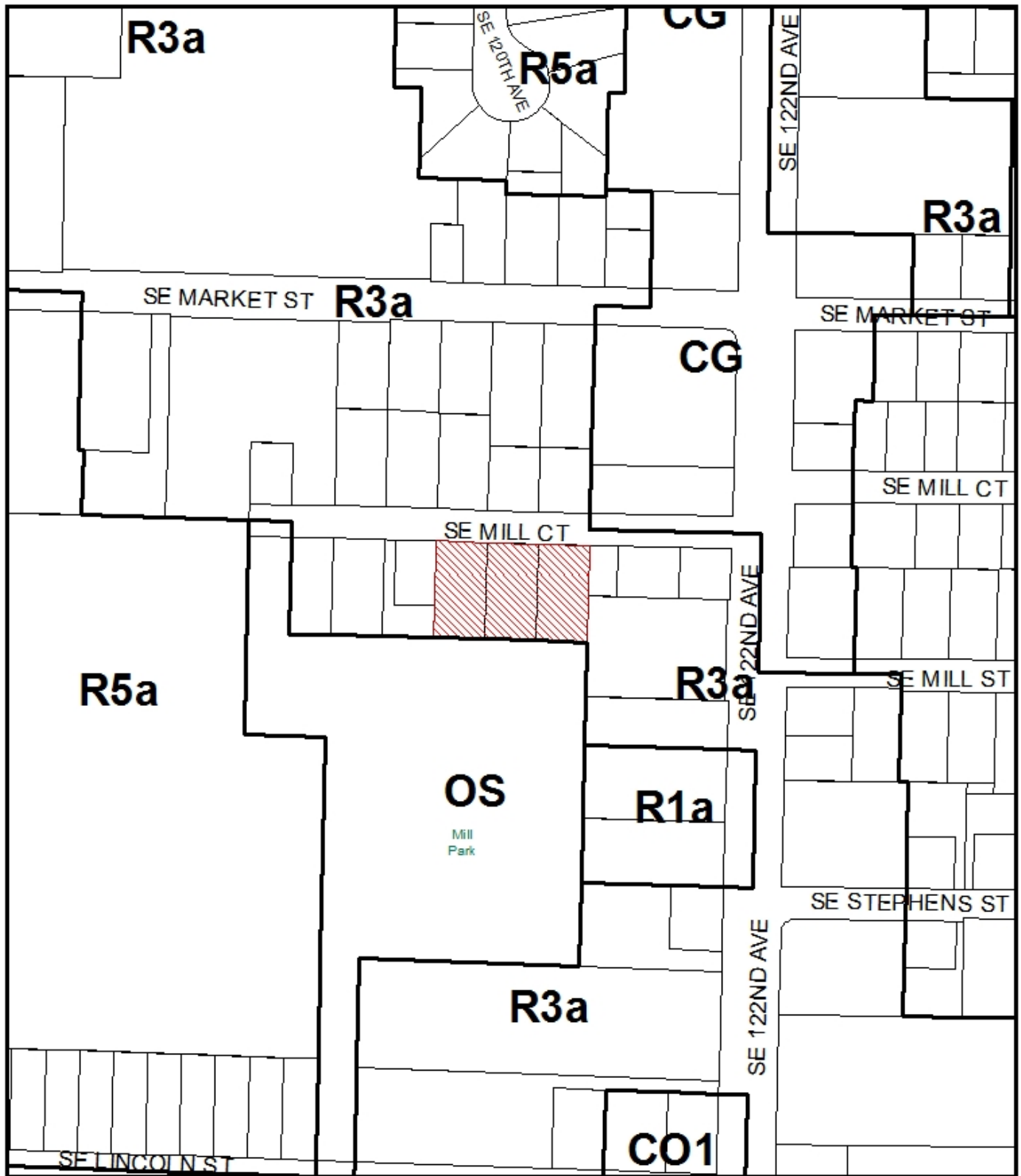
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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, Revised Preliminary Land Division Plan (02/16/17)
 - 2. Applicant's Arborist Report (revised 07/21/17)
 - 3. Applicant's Revised Narrative (revised 02/16/17)
 - 4. Stormwater Report
 - 5. Applicant's Transportation Impact Analysis
 - 6. Early Neighborhood Contact
 - 7. Applicant's Response to Completeness Letter
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Land Division, Proposed Development Plan, Tree Preservation plan (revised 04/26/17) (attached)
 - 2. Existing Conditions Plan and Tree Survey (revised 02/16/2017)
- 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. Neighbor Letter from Danielle Miles, 04/17/2017
- G. Other:
 - 1. Original LU Application
 - 2. Email to Tom Murtagh, Oregon Department of Fish and Wildlife
 - 3. Correspondence with Applicant's Representative Regarding Tree #74
 - 4. Approved Fire Code Appeal
 - 5. Denied PBOT Driveway Design Exception
 - 6. Expedited Land Division Acknowledgement Form
 - 7. Completeness Letter
 - 8. 120-Day Review Period Extension Form

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



File No. LU 16-286857 LDS
 1/4 Section 3242
 Scale 1 inch = 200 feet
 State_Id 1S2E03DA 4800
 Exhibit B (Dec 22, 2016)

PROPOSED PLAT

of "COLLEEN'S HOMES"

FOR GROUND BREAKERS CONSTRUCTION & DEVELOPMENT
IN LOT 11 "DELUSHMITT & OATMAN'S LITTLE HOMES"
IN THE SE 1/4 OF SECTION 3, T. 1S, R. 2E, W.M.
MULTNOMAH COUNTY, OREGON
SCALE: 1"=20' NOVEMBER 17, 2016



SANITARY MH (144-98.33)
RIM=303.19'
IE (10)-239.91'

**CASWELL/
HERTEL**
SURVEYORS INC.
3500 NE 11TH AVE
PORTLAND, OREGON 97008
(503) 644-3179

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Benjamin Stacy
OREGON
JANUARY 14, 2003
BENJAMIN S. STACY
57191
RENEWS: 6/30/2018

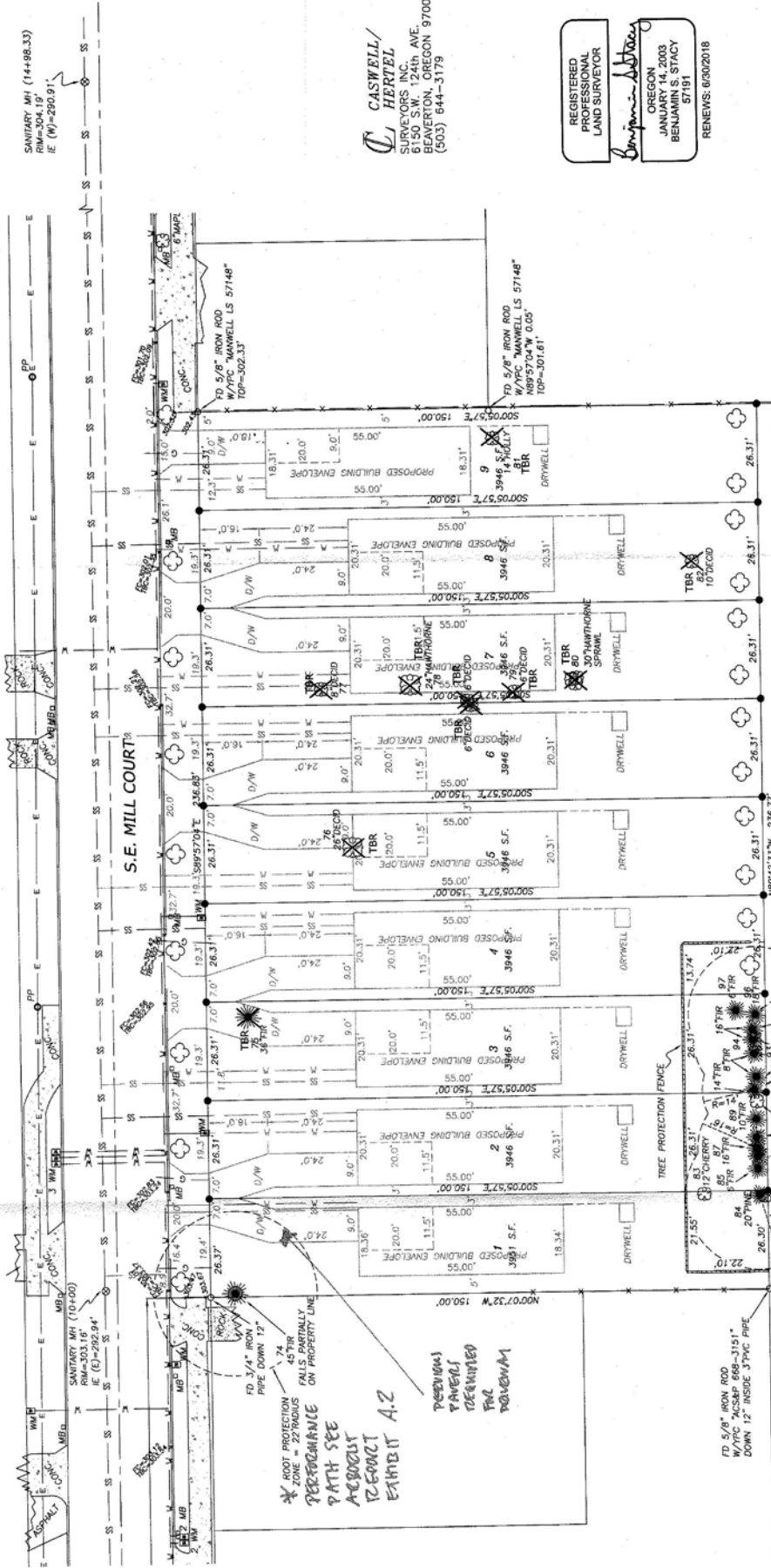
REVISIONS:
01/20/2017 - ADDED ARBORIST TREE NUMBERS, NOTE 4 AND LABELED TREES TO BE REMOVED (TBR), ADDED TREES TO BE PLANTED, REVISED UTILITIES
04/19/2017 - REVISED DRYWELL LOCATIONS
07/11/2017 - REVISED PROTECTION ZONES PER ARBORIST REPORT
07/11/2017 - RELOCATED PROPOSED LOT 1 WATER LINE AND SEWER LATERAL

DRAWN BY: BENJAMIN STACY CHECKED BY: JOB NUMBER 9533

CASE NO. 14-286857-0-01
EXHIBIT C.

LEGEND
PROPOSED TREE PLANTING

- NOTES**
- VERTICAL DATUM: CITY OF PORTLAND, BASED FROM CITY OF PORTLAND BENCHMARK 1449, LOCATED IN THE WEST CURB OF SE 12TH AVE, ON THE CENTERLINE EXTENSION OF S.E. MILL STREET, ELEV=303.93'
 - THE WATER LINE LOCATION WAS ESTABLISHED BY SCALING THE AS-BUILT MAP OBTAINED FROM THE CITY OF PORTLAND WEBSITE.
 - ALL UNDERGROUND UTILITIES SHOULD BE FIELD VERIFIED FOR EXACT LOCATIONS.
 - ALL TREES OUTSIDE OF THE ROOT PROTECTION ZONE ARE TO BE REMOVED (NOTED AS "TBR")



* ROOT PROTECTION ZONE = 22' RADIUS FALLS PARTIALLY ON PROPERTY LINE
PERFORMANCE PATH SEE ARBORIST REPORT EXHIBIT A.2

TREES TO BE REMOVED
TBR

FD 5/8" IRON ROD W/PC MANWELL LS 57148 DOWN 12" INSIDE 3" PVC PIPE

ROOT PROTECTION ZONE

DRAWN BY: BENJAMIN STACY CHECKED BY: JOB NUMBER 9533

CASE NO. 14-286857-0-01
EXHIBIT C.