



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

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Date: November 27, 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 17-193115 LDS

GENERAL INFORMATION

Applicant: Sarah Radelet | Strata Land Use Planning
Po Box 90833
Portland, OR 97290
503-320-0273 | Sarah@Stratalanduse.com

Nick Daniken | Greenwing Restorations LLC
11850 SW 67th Ave Suite 210
Portland OR 97223
541-778-9333 | Nick@Greenwingpdx.Com

Property Owner: Steve Edelman | Greenwing Restorations, LLC
11850 SW 67th Suite 210
Portland, OR 97223
503-502-5711 | Steve@Greenwingpdx.Com

Site Address: 5235 SE 72nd Ave

Legal Description: BLOCK 18 LOT 18, FIRLAND
Tax Account No.: R282503500
State ID No.: 1S2E17BD 03100
Quarter Section: 3537

Neighborhood: Mt. Scott-Arleta, contact Andrew Cecka at msanalandusechair@gmail.com

Business District: Eighty-Second Ave of Roses Business Association, contact Nancy Chapin at nchapin@tsgpdx.com

District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Plan District: None
Other Designations: None
Zoning: Multi-Dwelling Residential 1,000 (R1a), with Alternative Design Density Overlay (a).

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

Proposal:

The applicant is proposing to subdivide a 6,500 square foot property into 4 lots. The existing house will be removed, and the proposed lots will be built with attached housing. Onsite parking is proposed for each unit and will be accessed by a single curb-cut for Lots 1 and 2 and a single curb-cut for Lots 3 and 4. There is one large tree on site, a black walnut (*Juglans nigra*). This tree is subject to tree preservation requirements, and the applicant has proposed to retain the tree on site.

Water and sewer utilities are proposed via existing services in SE Mitchell Court for Lots 1 and 2 and SE 72nd Avenue for Lots 3 and 4. Separate drywells are proposed on each property to provide stormwater management.

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 4 units of land (4 lots). 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 approval relevant criteria are:

- Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

ANALYSIS

Site and Vicinity: The subject site is currently developed with a single-family residence and is located on the corner of SE Mitchell Court and SE 72nd Avenue. The topography of the site is predominantly flat. The distinguishing natural feature is a lone black walnut (*Juglans nigra*) in the NW corner of the site and several arborvitae hedges along the street facing property lines.

The zoning along SE 72nd Avenue to the east and west of the site includes a mixture of multi-dwelling and single-dwelling residential zones, with the property abutting a single dwelling residential 2,500 zone (R2.5). To the North, approximately 250-feet, the zoning transitions into General Commercial (CG) which runs along SE Foster Road. Likewise, approximately 440-feet south the zoning becomes Neighborhood Commercial (CN2).

Infrastructure:

• **Streets -**

The site has approximately 100 feet of frontage on SE 72nd Avenue and approximately 65 feet of frontage on SE Mitchell Court. There is one driveway entering the site at SE 72nd Avenue that serves the existing house on the site. The City’s Transportation System Plan (TSP) classifies SE 72nd Ave as a Neighborhood Collector, a Community Transit Street, A City Bikeway, A City Walkway, and a Community Corridor. The TSP classifies SE Mitchell Court as a Local Service Street for all modes. Tri-Met provides transit service approximately 430-feet from the site at SE Foster via Bus 14.

Based on City GIS information, SE 72nd Avenue has a 40-foot curb to curb paved surface within a 60-foot right-of-way with parking on both sides. Along the 100-foot frontage the pedestrian

corridor includes a 3-foot wide planter area, a curb, 6-foot sidewalk, and a 1-foot wide buffer at the back of the sidewalk (3-6-1 configuration).

Additionally, according to City GIS information, SE Mitchell Court has a 28-foot curb to curb paved surface within a 50-foot right-of-way. Along the 65-foot frontage the pedestrian corridor includes a 4-foot wide planter area, a curb, 6-foot sidewalk, and a 1-foot wide buffer at the back of the sidewalk (4-6-1 configuration).

- **Water Service** – There is an existing 6-inch CI water main in SE Mitchell Court and an 8-inch main in SE 72nd Avenue. Lot 1 is served by a 5/8-inch metered service from the main in SE Mitchell Court. The estimated static water pressure for this location is 66-83 psi.
- **Sanitary Service** - There is an existing 18-inch concrete combined sewer in SE 72nd Avenue (BES as-built #1181) and an 18-inch concrete combined sewer in SE Mitchell Court (BES as-built #1181).
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. The public underground injection control (UIC) systems (“sumps”) infiltrate stormwater runoff from the public right-of-way in the vicinity of the site. Stormwater from private development cannot be discharged to public UICs.

Zoning: The site is located in the **Multi-Dwelling Residential 1,000 (R1)** zone. *The R1 zone is a medium density multi-dwelling zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses. Generally, R1 zoning is applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.*

The site is also located in the **Alternative Design Density Overlay (a)** zone. *The purpose of the Alternative Design Density Overlay Zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods.*

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 **September 5th, 2017**. **Four** written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

Four separate email responses were received on **September 21, 2017** from a Mr. Robert Bartus (Exhibit F.1). The email correspondence to the Bureau of Development Services have been summarized below:

1. Accuracy of the property survey as it pertains to the location of the black walnut. The assertion that the existing tree and new residences will block the sunlight. Request for the black walnut to be removed.
2. Request that the height of new houses not exceed 30-feet in height to reduce blocking the sunlight.
3. The presence of radon gas in the foundation of the existing structure.
4. The assertion that the existing residence was used as a drug lab.
5. Acceptance of 3 Lots vs. 4.
6. Request that all utilities be run from 72nd Avenue and not SE Mitchell Court.
7. Nowhere to park and not enough roads to drive on.

The Applicant provided a response to Mr. Bartus’ concerns (A.11). Where appropriate Staff has provided additional responses:

1. Applicant Response: *Tree - The neighbor noted that the tree extends onto his property and is affecting his fence, the tree drops toxic walnuts, causes moss to grow, and blocks sun. Our arborist initially found that the trunk of the existing tree had been buried and would eventually cause the tree to not be viable. And that the tree had been overly trimmed on the western side (over the adjacent neighbor's property) creating an unbalanced tree. Our preference would be to remove the tree at this time prior to its failing at some point in the future.*

Staff Response: According to information provided by the applicant (A.7) *Tree Preservation Revised Narrative, Pg.2*, the tree is, "located on the north side of the house, two feet away from a wooden fence on the north side and less than one foot from the west fence". The submitted Existing Conditions Plan (Exhibit C.2), supports these findings and shows the black walnut entirely on the applicant's property. Mr. Bartus has not provided any materials that contradict this information.

Based on the applicant's findings for Tree Preservation pursuant to Chapter 33.630 (Exhibit A.7), information provided by the applicant's arborist (Exhibit A.9), and early consultation with Portland Parks & Recreation, Urban Forestry Division (Exhibit G.5) the black walnut will be required to be preserved and has not been approved for removal through this land division. Please see the section of this report pertaining to standards and approval criteria of Chapter 33.630, Tree Preservation for specific details.

2. Applicant Response: *Height of new structures – The applicant proposed to build 2-story attached townhomes. The site is located within the R1 zone, which allows a maximum height of 45 feet. The proposal is to be much less than maximum height, however the development is allowed by right to be a maximum height of 45 feet. The proposed development will meet all height restrictions of the zoning code.*

Staff Response: Additional information about height restrictions at the time of development can be found in Chapter 33.120.215.

3. Applicant Response: *Radon - Any radon encountered on the site will be addressed per the permitting requirements for new construction.*
4. Applicant Response: *Drug House – The demolition of the house will follow all permitting requirements for demolitions per the City of Portland Regulations.*

Staff Response: Interested parties can learn more about demolition requirements for residential dwellings at the Bureau of Development Services website here: <https://www.portlandoregon.gov/BDS/38150>

5. Applicant Response: *Number of Units – Given the zoning of R1, the maximum density on the 6,300 square foot site is 6 units. Only 4 units are proposed. This is within the maximum allowed density and is allowed by the zoning code.*

Staff Response: The applicant has demonstrated compliance with density requirements for the R1 zone. Please see the section of this report pertaining to the standards and approval criteria of Chapters 33.605 through 33.612 for specific details.

6. Applicant Response: *Utilities – All utilities must meet the requirements of the service providers. For example sewer and water must each come from the mains located immediately in front and adjacent to the proposed house/lot.*

Staff Response: The applicant has demonstrated that the site has access to existing utilities including, water and sanitary sewer disposal and can meet requirements for stormwater management. Please see the section of this report pertaining to the

regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities.

7. **Applicant Response:** *Parking – Per the zoning code, parking is not technically required on this site because the site is located close to transit with frequent service. However, each lot is proposed to have onsite parking. Driveways will be paired to maximize on-street parking. All parking regulations will be met.*

Staff Response: On street parking impacts have been addressed by the Portland Bureau of Transportation. Please see the section of this report pertaining to the approval criteria of Chapter 33.641, Transportation Impacts.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
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	No dead-end street or pedestrian connections are proposed or required.

	connections	
	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 R1 zone.

Single-dwelling development is proposed for all of the site, therefore the applicant must demonstrate how the proposed lots meet the minimum density and not exceed the maximum density stated in Table 120-3 at the time of the preliminary plan review. This site is in the R1 (Multi-Dwelling Residential 1,000) zone and attached houses are proposed with a shared driveway for each attached housing unit.

Maximum density in the R1 zone is one unit per 1000 square feet and the minimum density is one unit per 1,450 square feet. The total site area shown on the applicant's survey is 6,500 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. A street dedication is required that totals 200 square feet. Therefore the resulting lot size for calculating density is 6,300 square feet. The site has a minimum required density of 4 units and a maximum density of 6 units.

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. In some cases, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid development on the site or further division of lots that would result in non-compliance with the overall density requirements of the site; however, since the applicant has elected to construct attached houses on the site, the lots will not be further dividable beyond 4 units and therefore will not result in non-compliance with the overall density requirements.

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

R1	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Attached Houses	none	15	none	15
Lot 1 - attached	1,575	31.5	50	31.5
Lot 2 - attached	1,575	31.5	50	31.5
Lot 3 - attached	1,575	25	63	25
Lot 4 - attached	1,575	25	63	25

* 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, 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 an existing conditions plan (Exhibit C.2) that shows the location and size of trees (over 6-inches in diameter) on and adjacent to the site. The applicant also provided an initial arborist report (Exhibit A.6) and a subsequent revised report and tree preservation plan (Exhibit A.9) that identifies each tree, its condition, and suitability for preservation and specifies a root protection zone and tree protection measures for the tree to be preserved.

Arborist Information and Urban Forestry Review of On Site Tree:

According to the applicant's original arborist report (Exhibit A.6) the only tree on site, a 35-inch black walnut (*Juglans nigra*), was initially determined to be exempt from tree preservation requirements. The report concludes that the tree was declining due to grade change, which was anticipated to effect the tree's ability to function normally. However, prior to the land division proposal, a Tree Removal and Replanting Permit (Exhibit G.4) to remove the black walnut was denied by Urban Forestry on January 20, 2017. At that time the Urban Forester assigned to the case indicated that the black walnut not was not permitted for removal because walnut did not meet Title 11 tree removal criteria and review factors. Urban Forestry conducted a follow-up visit to the site in July of 2017 at the request of the Bureau of Development Services and confirmed that the tree is not dead, dying or dangerous and is therefore not exempt from preservation (Exhibit G.5). This information was presented to the applicant in writing in an Incomplete Letter (Exhibit G.2) sent by the Bureau of Development Services on June 25, 2017. In response to that letter, the applicant submitted a revised tree preservation narrative (Exhibit A.7) and a revised arborist report and tree protection plan (E.9). In the arborists report they indicate that the prescriptive path cannot be used because of the proposed location of a drywell on Lot 4 and proposed a dig line running 15 feet from the tree. The proposed alternative protection measures requires an air spade along the proposed dig lines and in the vicinity of the drywell to expose any interfering roots so they can be pruned by a certified arborist.

Based on the revised information submitted by the applicant, 1 tree, which provides a total of 35 inches of tree diameter is subject to the preservation requirements of this chapter. The tree proposed for preservation is in good condition, includes a non-nuisance species, and is the only tree 20 or more inches in diameter. The proposed root protection zone for the tree to be retained will allow for the type of development anticipated in the R1 zone and will not conflict with any existing utility easements, proposed services or site grading.

Specifically, the applicant proposes to retain the only tree onsite, which is 20 or more inches for a total of 35 inches which equals the total tree diameter on site, so the proposal complies with:

Option 1: Preserve all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site.

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 tree to be retained as part of this review may be applied toward meeting those Title 11 requirements.

This criteria is 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. One tree, a 35-inch black walnut (*Juglans nigra*), is proposed for preservation on Lot 4. The applicant's arborist provided a description of tree protection measures (Exhibit A.9) with specific recommendations for preservation.

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. 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 this condition, the new lots can be considered suitable for development, and this criterion is met.

Although the site is currently connected to the public sanitary sewer, there is an old septic system (cesspool) on the site. The City has no record that this facility was ever 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 this facility. According to the Site Development Section of BDS (Exhibit E.5) the septic decommissioning can be completed as a part of a demolition permit for the existing house or as a stand-alone decommissioning permit.

With this condition, 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:

- Two separate Reciprocal Access Easements are required across the relevant portions of Lot 1 and Lot 2 and Lots 3 and 4, to allow for the shared use of driveways that will straddle the proposed lot lines;

The size of the easement must be sufficient to serve the intended purpose, which includes vehicle maneuvering. This element is evaluated in more detail in the findings for Criterion K, Section 33.641, and Transportation Impacts.

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 for *each* agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for Reciprocal Access Easement has been recorded as document no. _____, Multnomah County Deed Records.”

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

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

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

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: 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. To address the approval criteria, the applicant submitted a narrative prepared by Strata Land Use Planning.

On-site parking is being proposed that will provide a minimum of one space per lot. Additionally, the applicant has proposed shared driveways which will preserve the amount of full height curb available along each frontage thereby maximizing on-street parking opportunities. Specifically, there will continue to be sufficient space along SE 72nd to accommodate on-street parking for approximately 4 vehicles and 2 on-street parking spaces will be retained along SE Mitchell. Given the on-site parking opportunities to be provided and the shared driveway design, on-street parking in the area will not be adversely impacted by the proposed development.

There are existing transit facilities in the vicinity and the site is located approximately 430-ft from SE Foster, a designated transit street with frequent service during peak hours. The applicant will be required to improve the sidewalk on SE 72nd and reconstruct the corner to meet ADA standards. These improvements will help connect residents to transit opportunities and facilitate a safe environment for various modes of travel.

Driveways and Curb Cuts. Code/Title 17 Requirements (Section 17.28)

The applicant also applied for a Driveway Design Exception (DDE No. TR 17-256359) from PBOT to request three specific exceptions for on-site driveways:

1. Allow the shared driveway on SE Mitchell Court to be located 21.5 feet from the lot corner at the intersection.
2. Waive the requirements for forward motion egress onto SE 72nd Avenue.
3. Allow shared, 20-foot driveways between Lots 1 and 2 and Lots 3 and 4, as opposed to the required 14-foot driveway.

The DDE was approved by PBOT (attached to Exhibit E.2) and provides analysis that pertains to vehicle access, loading, and on-street parking impacts. In response to the three requests above, PBOT provided the following findings:

1. *Given that most passenger vehicles are 15-16 feet long and can maneuver this driveway without inhibiting the intersection operations, this request is approved.*
2. *As previously documented in TR 17-228327, there has not been any documented crashes related to this driveway. In addition, the off-street parking would be a relief to the over-parked nature of SE 72nd Avenue.*
3. *As stated above, the garage setback of five feet restricts the use of the driveway taper, and it is not feasible to have a 14-foot, tapered driveway. Therefore, a 20-foot, shared driveway is approved.*

As described above, the evaluation of parking impacts is based on the applicant’s proposal for attached houses with shared driveways. Therefore, a condition is needed to restrict development type to attached houses.

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. With the condition to require attached houses, these criteria are met.

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

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

<p>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 3 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 3 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</p> <p>Public Street Improvements: As a condition of this land use approval, the Bureau of Transportation requires the applicant to improve the frontage on SE 72nd Avenue to City standards. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area and/or planting street trees, which meets the requirements of the Stormwater Management Manual.</p> <p>Lots 1-4: Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. The Bureau of Environmental Services has provided</p>

the following comments regarding the proposed onsite stormwater management facilities:

Stormwater runoff from this project must comply with all applicable standards of the SWMM and the SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. Staff reviewed the project's stormwater report from Sarah Radelet (06/23/2017) that describes Simplified Approach infiltration test results of above 20 inches per hour on this site. The applicant proposes to infiltrate runoff from the development onsite via drywells.

- a. *The drywells for Lot 1 and Lot 2 shown on the preliminary plan do not meet minimum setbacks as established in the facility design standards and Table 2-1 of the SWMM*
- b. *Revise the plan to show conceptual development footprints and stormwater facilities that can meet all SWMM requirements including setbacks*

Staff finds the applicant's proposed stormwater management plan acceptable for the purpose of reviewing the preliminary land division application against the stormwater management approval criterion.

To ensure an allowable onsite stormwater management facilities are implemented the following conditions will be applied: prior to final plat approval the applicant must submit a revised supplemental plan that depicts how the onsite stormwater management requirements discussed will be addressed.

With the application of the conditions above, this criterion will be met.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart. The subject property is on a corner in an area with a developed street grid and no additional through street or pedestrian connections were identified at this location. As such, this criterion is met

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

Street Classification:

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. In this case Portland Transportation has determined that curb and sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible to the proposed development as described below.

SE Mitchell Court:

SE Mitchell Court is improved with 28-feet of paving and a 4-6-1 pedestrian corridor within a 50-foot wide right-of-way. The SE corner does not meet current ADA requirements; however, the sidewalk on SE Mitchell Court meets the infill provision of TRN 1.22 *"Infill Development on Streets with an Existing Sidewalk Corridor"*. Accordingly, the existing sidewalk corridor configuration will be accepted as the standard sidewalk configuration for the blocks length.

SE 72nd Avenue:

SE 72nd is improved with 40-feet of paving and a 3-6-1 pedestrian corridor within a 60-foot right-of-way. The sidewalk on SE 72nd does not meet the standards of the Pedestrian Design Guide and does not meet the provisions of TRN 1.22. The applicant will be required to dedicate 2-feet of property to reconstruct the pedestrian corridor along the site frontage to

City standards with a 4-foot wide planting strip between an 0.5—inch curb and a 6-foot sidewalk with a 1.5-foot buffer at the back of the sidewalk next to the property line. This will be required as a condition of development for the required Lots. City records indicate the applicant has initiated the required Public Works process for these improvements through submittal of 17-171353-WT.

Any necessary property dedication shall occur prior to Final Plat approval and Public right-of-way improvements must be completed or bonding/contract, as identified in the Public Works Concept Review, must be submitted prior to Final Plat approval. Accordingly, these criteria are met, with the condition that curb and sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

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.

Future Development. Among the various development standards that will be applicable to this lot, the applicant should take note of:

Development Standards in the Base Zone – Section 33.120 includes the zoning code requirements in multi-dwelling zones. In addition to the standards of this chapter the specific references below are also applicable to this proposal.

Street-Facing Facades – Section 33.120.232.B of the Zoning Code requires that at least 15 percent of the area of each façade that faces a street lot line must be windows or main entrance doors. Windows used to meet this standard must allow views from the building to the street. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard. To count toward meeting this standard a door must be at the main entrance and facing the street property line.

Attached Houses – Section 33.120.270.C of the Zoning Code provides development standards for attached housing and includes specific requirements for: density, building setbacks, building coverage, maximum building length, and appearance.

Existing Development. 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 R1 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.

Fire Bureau:

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; fire apparatus access, including aerial access. Residential fire sprinklers are approved in lieu of meeting aerial access for single family dwellings. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

Urban Forestry:

- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Lots 1 - 4 prior to building permit approval for the new lots or as part of the Public Works permit. This requirement is based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 4 lot subdivision, 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
- Street Improvements and Driveway design
- Stormwater Management
- Reciprocal Access Easement and Maintenance Agreement

With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 4-lot subdivision, that will result in 4 single dwelling lots for attached houses, as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review and BES approval. Using the final plat as a base map, the supplemental plan must show the location of the following:

- The proposed general location of future building footprints and stormwater facilities meeting the storm water management manual requirements for each of the vacant lots.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 72nd Avenue. The required right-of-way dedication must be shown on the final plat.

2. A Reciprocal Access Easement shall be shown and labeled on the final plat, centered on the common property line between Lot 1 and Lot 2 and over the driveway access and shall in substantial conformance with Exhibit C.2. Likewise, a Reciprocal Access Easement shall also be shown and labeled on the final plat, centered on the common property line between Lot 3 and Lot 4 and over the driveway access and shall be in substantial conformance Exhibit C.2. Both easements shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
3. 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 C.4 and C.5 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: An "Acknowledgment of Tree Preservation Land Use Condition" has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's SE 72nd Avenue frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.

Existing Development

2. 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 applies to houses built in 1916 or earlier and/or designated historic resources.
3. 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

4. A Maintenance Agreement shall be executed for the Reciprocal Access Easements described in Condition B.2 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.
5. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lot 3 and Lot 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.

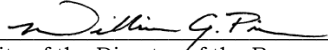
D. The following conditions are applicable to site preparation and the development of individual lots:

1. Development on Lots 3 and 4 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.9). Specifically, tree number 1 shall be preserved, with a 15-foot root protection zones as indicated on Exhibit C.1. The proposed dig line around the tree must be air-spaded for any interfering roots so that they can be properly pruned by a Certified Arborist as noted in Exhibit A.9. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence

must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Fencing shall include appropriate signage marking the protection zone that stating that penalties will apply for violations, and that provides the contact information for the arborist. Because the applicant has proposed a reduced root protection zone to ensure tree preservation, encroachment into the RPZ is not allowed.

2. Lots 1 & 2 and 3 & 4 must be developed with attached dwelling units.
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: William Piro

Decision rendered by:  **on (November 20, 2017)**
By authority of the Director of the Bureau of Development Services

Decision mailed November 27, 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 26, 2017, and was determined to be complete on June 26, 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 June 26, 2017.

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 14 days (Exhibit A.12) Unless further extended by the applicant, **the 120 days will expire on: January 3, 2017.**

Note: some of the information contained in this report was provided by the applicant. As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

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

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

use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on December 11, 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. Narrative and Plans – June 26, 2017
 - 2. Neighborhood Meeting Request and Certified Mailed Receipts – June 26, 2017
 - 3. First Post Neighborhood Meeting Letter and Certified Mailed Receipts – June 26, 2017
 - 4. Second Post Neighborhood Meeting Letter and Certified Mailed Receipts – June 26, 2017
 - 5. Simplified Approach Form – June 26, 2017
 - 6. Arborist Report – June 26, 2017
 - 7. Revised Narrative Addressing PZC 33.630 – August 22, 2017
 - 8. Revised Plans – August 22, 2017
 - 9. Revised Arborist Report (Tree Protection Plan) – August 22, 2017
 - 10. Revised Preliminary Plat and Tree Preservation Plan – October 14, 2017
 - 11. Applicant Response to Neighbors Comments – October 16, 2017
 - 12. Request for Extension of 120-Day Review Period – October 14, 2017.
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat and Tree Preservation Plan (attached)
 - 2. Existing Conditions Plan

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 (includes Driveway Design Exception Approval)
3. Water Bureau
4. Fire Bureau
5. Site Development Review Section of BDS
6. Bureau of Parks, Forestry Division
7. Life Safety

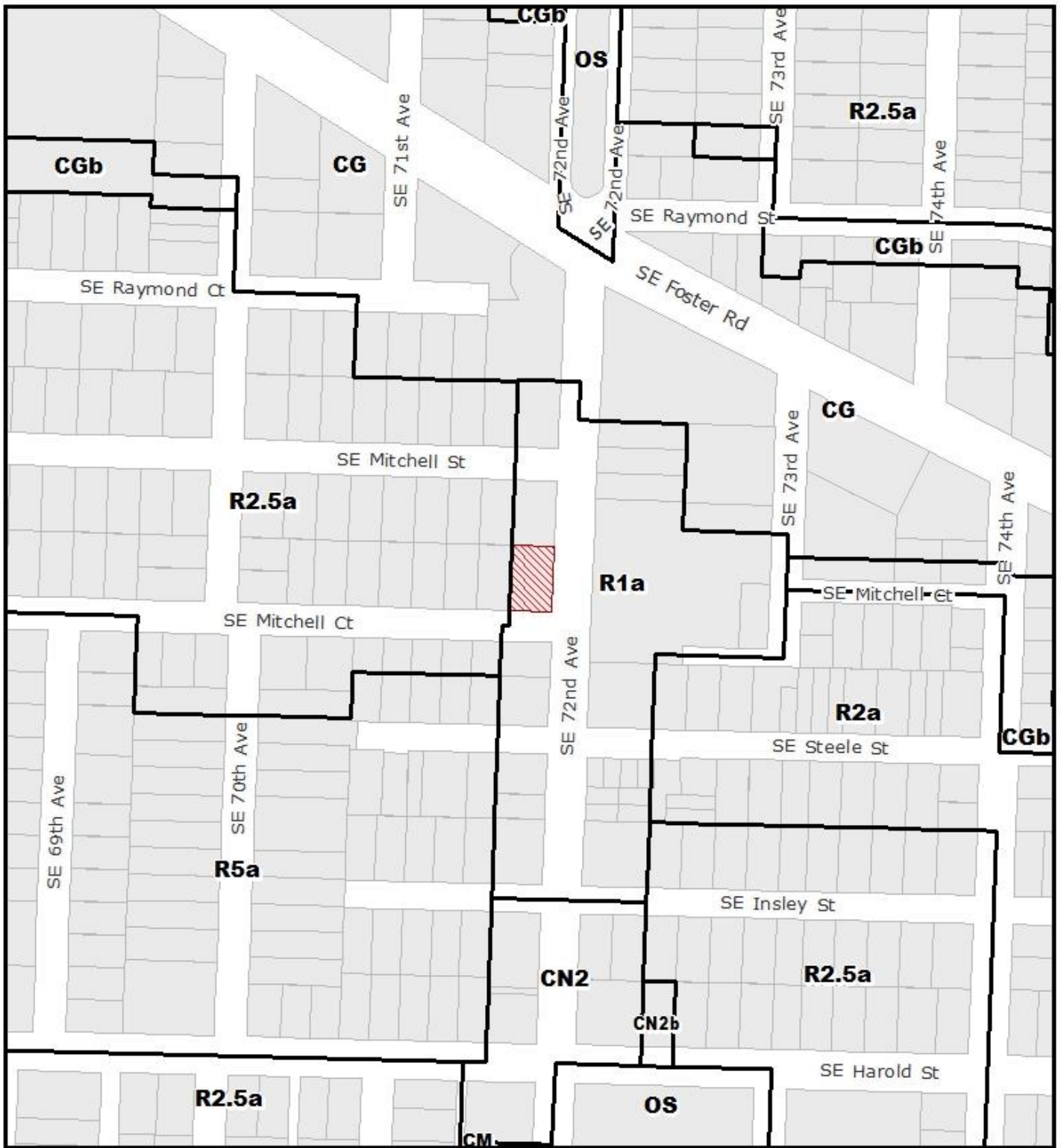
F. Correspondence:

1. Robert Bartus, September 21, 2017, Comments on Proposal (Emails 1 – 4)

G. Other:

1. Original LU Application
2. Incomplete Letter
3. Expedited Land Division Acknowledgment
4. Tree Removal and Replanting Permit
5. Urban Forestry Early Consultation Response

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



ZONING  NORTH

 Site

File No.	LU 17-193115 LDS
1/4 Section	3537
Scale	1 inch = 200 feet
State ID	1S2E17BD 3100
Exhibit	B Jun 27, 2017

