



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

Chloe Eudaly, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: December 1, 2017
To: Interested Person
From: Leah Dawkins, Land Use Services
503-823-7830 / Leah.Dawkins@portlandoregon.gov

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 17-195517 LDP AD

GENERAL INFORMATION

Applicant: Roseann Johnson, Bluestone Homes, Inc.
16081 S Moore Rd / Oregon City, OR 97045
(971) 221-6734 / roseann@bluestonehomes.net

Owner: Richard Kassebaum, Dawn Kassebaum
16081 S Moore Rd / Oregon City, OR 97045

Surveyor: Joe H Ferguson, Ferguson Land Surveying, Inc
646 SE 106th Ave / Portland, OR 97216

Site Address: 3604 SE Haig St

Legal Description: BLOCK 42 W 10' OF LOT 27 LOT 28, WAVERLEIGH HTS
Tax Account No.: R885307860
State ID No.: 1S1E12AC 03100
Quarter Section: 3334

Neighborhood: Richmond, contact Matt Otis at matt.otis@gmail.com
Business District: Greater Brooklyn, contact David Weislogel at 503-872-9320.
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Zoning: R1- Multi-Dwelling Residential
Case Type: LDP AD- Land Division Partition with Adjustment Reviews
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing a 3-parcel land division in the R1 zone and concurrently requesting Adjustments to Development Standards. The site is 5,500 square feet in size. The divided parcels will range from 1,350 square feet to 2,750 square feet in size. The existing house is proposed to be retained on Parcel 1. A 25-inch diameter Cherry tree and a 12-inch diameter Dogwood tree are proposed to be removed from the site.

The adjustments requested are to reduce the rear building setback for Parcel 1 from five feet to three feet in order to accommodate the existing garage; and to reduce the side building setback on Parcel 2 from five feet to four feet.

This partition proposal is reviewed through a Type II_x procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent review (Adjustment) is required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 3 units of land. Therefore, this land division is considered a partition.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in:

- **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**
- **Section 33.805.040, Approval Criteria for Adjustments**

FACTS

Site and Vicinity: The subject site is flat and contains an existing house and garage. There are two trees on the site and some significant shrubs along the south side of the property. The surrounding neighborhood consists primarily of moderately sized single dwelling structures. There is good connectivity to and from the site and the site is surrounded by a complete street grid. SE Powell Boulevard, a major transportation corridor, is one block south of the site.

Infrastructure:

- **Streets** –The site has approximately 50 feet of frontage on SE Haig Street and approximately 110 feet of frontage along SE 36th Avenue. There is one driveway entering the site that serves the existing house on the site and one curb cut that is unused. At this location, SE Haig Street and SE 36th Avenue are classified as Local Service Streets for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 290feet from the site at SE Powell Blvd via Bus #9.

SE Haig Street has a 28-foot curb to curb paved surface within a 60-foot right-of-way with parking on both sides. Along the 50-foot wide site frontage the pedestrian corridor includes an 8-foot wide planter area, curb, 6-foot sidewalk and a 2-foot wide buffer at the back of the sidewalk (8-6-2 configuration).

SE 36th Avenue has a 36-foot curb to curb paved surface within a 60-foot right of way with parking on both sides. Along the 110-foot wide site frontage the pedestrian corridor includes a 4-foot wide planter area, curb, 6-foot sidewalk and a 2-foot wide buffer at the back of the sidewalk (4-6-2 configuration).

- **Water Service** – There is an existing 8-inch CI water main in SE 36th Avenue and an existing 6-inch DI main in SE Haig Street. The existing house is served by a 3/4-inch metered service from this main.

- **Sanitary Service** - There is an existing 12-inch concrete public combination sewer line in SE 36th Avenue. There is an existing 10-inch concrete public combination sewer line in SE Haig Street.

- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R1 designation 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.

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 29, 2017**. One written response has been received from the notified property owners in response to the proposal. The following comments were submitted. Staff response is in *italics*:

- The proximity of the home on Parcel 3 will violate the privacy and block light from the existing home on the adjacent lot to the south.
The structure proposed for Parcel 3 will be required to meet the height and setback requirements for the R1 zone. The structure on Parcel 3 will be required to have at least a

5-foot setback from the south property line. The height in the R1 zone can be up to 45 feet. However, given the width of Parcel 3 and the fact that single-dwelling residential structures are proposed, it is unlikely that the structures will be this tall.

- The adjustment requests violate the setback requirements and push development toward the adjacent lot to the south.
The requested setback adjustments are addressed in detail later in this decision. The setback adjustment requests are for reduced setbacks along the north property line of Parcel 2 and will not change the required setbacks for Parcel 3.
- The proposal will eliminate two large trees from the property and remove a hedge that provides privacy.
The applicant is required to meet tree preservation standards or provide appropriate mitigation if they cannot meet standards due to site constraints. In this case, the applicant has proposed to remove the two trees and mitigate for the removal in the form of payment into the Parks Tree Fund and by planting two trees on site, in addition to trees planted at the time of development. Tree preservation is addressed in detail in Section B. of this decision. The applicant is not required to preserve landscaping on the site other than trees.
- The proposal is too dense for the site. The site could be divided into two lots instead of three and still meet minimum density requirements.
The maximum allowed density for this site is five units and the minimum required density is three units. The applicant has proposed three units which meets the minimum density requirements of Title 33.

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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
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 -	No turnarounds are proposed or required

	Turnarounds	
	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 three single family parcels, one for the existing detached house and two attached housing parcels.

Single-dwelling or duplex development is proposed for some or 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.

Minimum density in the R1 zone is one unit per 1,450 square feet and the maximum density is one unit per 1,000 square feet. Because the site is less than 10,000 square feet in size, the minimum density is one unit per 2,000 square feet. The total site area shown on the applicant's survey is 5,500 square feet. The site has a minimum required density of 3 units and a maximum density of 5 units. A total of 3 parcels are proposed for this site.

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, 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. Parcel 1 could be developed with a duplex in the future. Parcels 2 and 3 would be restricted to attached house as proposed. This would result in a maximum of four units, which complies with density standards.

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
Detached Houses	none	25	none	25
Duplexes	none	none	none	10
Parcel 1 – detached/duplex	2,750	50	55	50
Parcel 2 - attached	1,350	27	50	27
Parcel 3 - attached	1,350	28	50	28

* 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 a site plan (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.2) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, two trees, which provide a total of 37 inches of tree diameter, are subject to the preservation requirements of this chapter.

In this case, the larger tree, a 25-inch cherry tree, is located in the center of proposed Parcels 2 and 3, which does not feasibly allow for reasonable development of the site, particularly for attached homes. The 12-inch dogwood is very close to the neighboring home and requires a root protection zone and does not allow reasonable development of the site given the scale of development anticipated in the R1 zone. Additionally, the requirement to install drywells for stormwater management limits the preservation potential of the dogwood.

The applicant originally proposed to mitigate for tree removal by planting four trees on the site and planting additional street trees. The Title 11 tree density standards will require that trees be planted on the lots at the time of building permit. Based on the size of the proposed lots, at least one tree will be required to be planted on each lot, depending on the type of trees chosen by the applicant. Given the required tree planting to meet Title 11, there is only sufficient room on the Parcels 2 and 3 for one additional 1.5-inch caliper tree planted the purposes of mitigation for tree removal. Any additional planting would jeopardize the overall health of the trees as they mature. Therefore, most of the required mitigation taking place offsite in the form of payment into the City Tree Preservation and Planting Fund is more appropriate for this proposal. Three inches of tree diameter can be provided on-site through tree planting.

The tree preservation standards require non-exempt trees that are 20 inches or more in diameter to be preserved. This amounts to 25 inches on this site. With the conditions that a payment equivalent to 22 inches be paid to the City Tree Planting and Preservation Fund prior to final plat approval, and that two 1.5-inch caliper trees be planted on Parcels 2 and 3 (one tree on each parcel) at the time of development, tree removal will be adequately mitigated.

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

At the time of development, the individual parcels 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.

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 on the site. 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. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. 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):

Findings: *The minimal expected added vehicle trips (2 AM peak hour trip/2 PM peak hour trip/20 total new daily trips) will not adversely impact the operations of area intersections. There appears to be little demand for on-street parking in the area – existing lots along SE Haig and SE 36th Ave have on-site parking opportunities and both streets have sufficient on-street parking opportunities on both sides to accommodate the additional 4-space demand expected to be generated by the proposed development. The proposed partition will not have any effect to transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.*

The applicant has proposed and PBOT has approved an alternative shared driveway design. In order to comply with this design at the time of development, Parcels 2 and 3 must be developed with 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. These criteria are met, with the condition noted above.

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:

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments. The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments. 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.
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1 No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The applicant has proposed the following stormwater management methods:

- **Parcels 2 and 3:** Stormwater from these parcels will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground and into an existing connection to the combined sewer from one downspout and to rain barrels. The downspouts that currently drain to barrels and then splash blocks on the south side of the house will be located too close to the new south property line after the land division to meet setback requirements. Modifications will be needed to redirect this and any other downspout that falls within the required setbacks. The applicant has proposed to reconnect the southern downspouts. This work must be completed prior to final plat approval. Any required permits must be finalized prior to final plat approval, and documentation such as photos must be submitted showing that it has been completed.

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 block on which the subject property is located meets the noted spacing requirements. In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

For the reasons described above, this criterion is met.

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

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided. This criterion is met.

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.

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated that approval criteria A through F, below, have been met.

- A.** Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant is requesting Adjustments to the minimum five-foot rear and side setback requirements for structures in the R1 zone. The applicant is specifically requesting an adjustment to the rear setback of the existing garage on Parcel 1 to be reduced from five feet to three feet. The applicant is also requesting an adjustment to reduce the side setback on Parcel 2 from five feet to four feet. The purpose of the setback requirement is stated in Zoning Code Section 33.120.220.A:

Purpose. *The building setback regulations serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*

- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

Findings: Garage Setback request

The rear portion of the existing garage remaining on Parcel 1 will be seven feet from the nearest corner of the neighboring structure to the south. This will maintain a reasonable physical relationship between residences and adequate space for light, air, and fire protection. The garage will maintain the three-foot setback required for Life Safety to maintain safety between structures.

Retaining the existing garage will maintain the space in front of the garage to allow for a car to park in front of the garage door without overhanging the street or sidewalk. Retention of the garage will not alter the scale of the existing home, so it will remain compatible with the surrounding neighborhood. Because this setback is at the rear of the existing structure, the reduced setback will not impact the relationship between the structure and the public realm. Additionally, because the structure is a garage, privacy will not be impacted by allowing the reduced setback.

Parcel 2 Setback request

The side building setback for Parcel 2 will maintain at least a 16-foot setback from the majority of the nearest neighboring structure on Parcel 1 (seven feet to the corner of the garage). This will maintain a reasonable physical relationship between residences and adequate space for light, air, and fire protection. The 16-foot separation will allow each home to maintain privacy.

Allowing the one foot reduction in the side setback will improve the compatibility of the proposed attached homes by allowing for a home that is slightly wider and slightly shorter, thus more in keeping with the homes in the surrounding neighborhood. Because the proposed parcels are small, the setback reduction allows more flexibility in the design of the homes.

Based on these reasons, the proposed Adjustments equally meet the intent of the regulation and this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: Because the site is located in a multi-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area.

Maintaining the existing garage will increase the livability of the residential area by retaining on-site parking for the existing home on Parcel 1 and avoiding increasing the on-street parking demand in a multi-dwelling zone. The setback reduction at the rear of the garage will be imperceptible from the public realm.

The side setback reduction on Parcel 2 will not significantly detract from the appearance of the residential area. Reducing the side setback on Parcel 2 will allow for the attached homes on Parcels 2 and 3 to be wider and less tall, which will be more in keeping with the surrounding neighborhood and be closer in scale with the attached homes on adjacent lots. Reducing the setback will increase livability of the attached home units by allowing for more space within the new homes.

With Condition B being met, there will be no significant negative impacts to neighborhood livability or appearance. This criterion is met.

- C.** If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Two setback adjustments are being requested. The requested adjustments affect the same area of the site, the space between the structures on Parcels 1 and 2. The full setback reduction between the two parcels will be a total of 3 feet. The cumulative effect of these adjustments will be consistent with the purpose of the R1 zone by allowing increased density but still allowing for reasonable building footprints and outdoor area for single dwelling structures. This criterion is met.

- D.** City-designated scenic resources and historic resources are preserved; and

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

- E.** Any impacts resulting from the Adjustment are mitigated to the extent practical; and

Findings: The proposed adjustments create a minimal impact. The distance between the structures on Parcels 1 and 2 is seven feet at a minimum. The setback reduction does not require any specific mitigation. As discussed under Criterion A, the requirements of Fire and Life Safety will continue to be met for each lot. Therefore, this criterion is not applicable.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on site, this criterion is not applicable.

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 existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R1 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site:

- **Minimum Setbacks** – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be five feet from the new property line, after the removal or modification of the patio cover on the south side of the existing home. The existing garage will be three feet from the new property line, as described in the Adjustment Review. Therefore, the required setbacks are being met or have been adjusted. To ensure these standards continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing buildings relative to the adjacent new lot lines. The patio cover must also be

removed or modified to meet setbacks. Building coverage standards for Parcel 1 must be met if the patio cover is retained and modified.

- **Title 11 Tree Density Standard** – This site has a minimum tree density requirement per 11.50.050 that is currently met on the site. Due to the land division, and associated tree removal, Parcel 1 with existing house will no longer meet this standard. Parcel 1 is 2,750 square feet, therefore 1,100 square feet of tree are is required. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Parcel 1 or making the equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized Zoning Permit.

With the conditions noted above, 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 Life Safety related to the existing house to be retained on Parcel 1. The patio cover must be removed or altered to meet the requirements of Life Safety for structural setbacks. Alternatively, the applicant can apply for and obtain an approved Building Code appeal and provide a no-build easement on the final plat in order to retain the patio covering.
- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Parcel 1 prior to final plat approval and in the planter strip adjacent to Parcels 2 and 3 prior to finalizing building permits. This requirement is based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 3-parcel partition with two setback adjustments, 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 mitigation, reduced setbacks, and building code conformance.

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

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce a rear building setback for the garage on Parcel 1 from 5 feet to 3 feet.

Approval of an Adjustment to reduce a side building setback on Parcel 2 from 5 feet to 4 feet.

Approval of a Preliminary Plan for a 3-parcel partition, that will result in one lot for single dwelling or duplex development and two lots for attached housing, 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, BES, and Life Safety review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures (including patio cover) on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Any other information specifically noted in the conditions listed below.

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

Utilities

1. 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

2. The applicant must obtain a finalized building permit for modifications to the patio cover at the rear of the existing house that will remain on proposed Parcel 1 that demonstrate compliance with Zoning Code and Life Safety requirements in relation to the proposed new lot lines. The permit plans must include the note: *This permit fulfills requirements of Condition C.2 of LU 17-195517.*
3. The applicant must meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
4. The applicant must meet the requirements of Urban Forestry to plant or retain street tree(s) in the planter strip on SE Haig Street and SE 36th Avenue adjacent to Parcel 1. The applicant must contact Urban Forestry at 503-823-TREE (8733) prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit.
5. The applicant must meet the tree density standard of 11.50.050 on Parcel 1 with the existing house by either planting trees on the lot or making the equivalent payment into the City Tree Preservation and Planting Fund. A finalized Zoning Permit must be obtained to document tree planting prior to final plat approval.

Other requirements

6. The applicant must pay into the City Tree Preservation and Planting Fund [Private Property Trees – Planting and Establishment, fee in Lieu (per inch)] the amount equivalent to 22 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

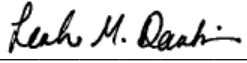
D. The following conditions are applicable to site preparation and the development of individual lots:

1. The minimum and maximum density for the lots in this land division are as follows:

Parcel	Minimum Density	Maximum Density
1	1	2
2	1	1
3	1	1

2. Parcels 2 & 3 must be developed with attached dwelling units.
3. In order to meet tree removal mitigation requirements, the applicant must plant one 1.5-inch caliper tree on Parcels 2 and 3, as indicated on Exhibit C.1. This is in addition to any trees planted in order to meet Title 11 Tree Density standards.
4. 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: Leah Dawkins

Decision rendered by:  **on November 29, 2017**

By authority of the Director of the Bureau of Development Services

Decision mailed December 1, 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 July 24, 2017, and was determined to be complete on September 19, 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 July 24, 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 by 14 days. Unless further extended by the applicant, **the 120 days will expire on: January 31, 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 December 15, 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.**

Recording concurrent approvals.

If the preliminary land division approval also contains approval of other land use decisions (examples include adjustments, conditional uses, and environmental reviews), these other approvals will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **December 15, 2017** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of Adjustment Reviews. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: Adjustments. These approvals expire if:

- The final plat is not approved and recorded within the time specified above, or

- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

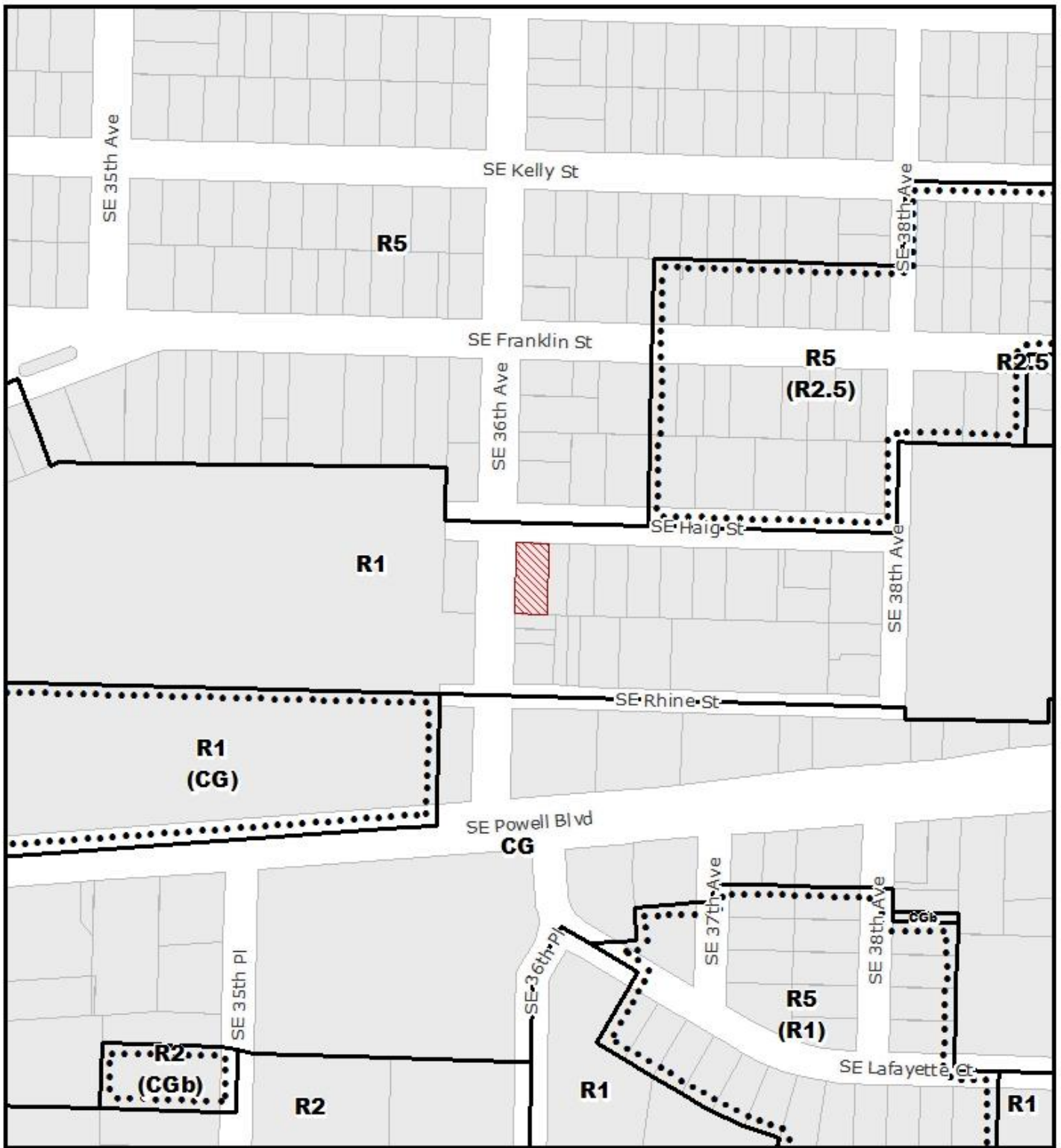
All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Applicant Narrative
 2. Arborist Report
 3. Revised and original SIM Form
 4. Neighborhood Notification Letter
 5. Driveway Design Exception Decision
 6. Original Site Plan Submittal
 7. 120-Day Extension Request
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
 7. Life Safety Section of Bureau of Development Services
- F. Correspondence:
 1. Vonda and Walter Moberg, 10/23/17, concerns about proposal
- G. Other:
 1. Original LU Application
 2. Expedited Land Division Acknowledgement
 3. Incompleteness Letter

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).



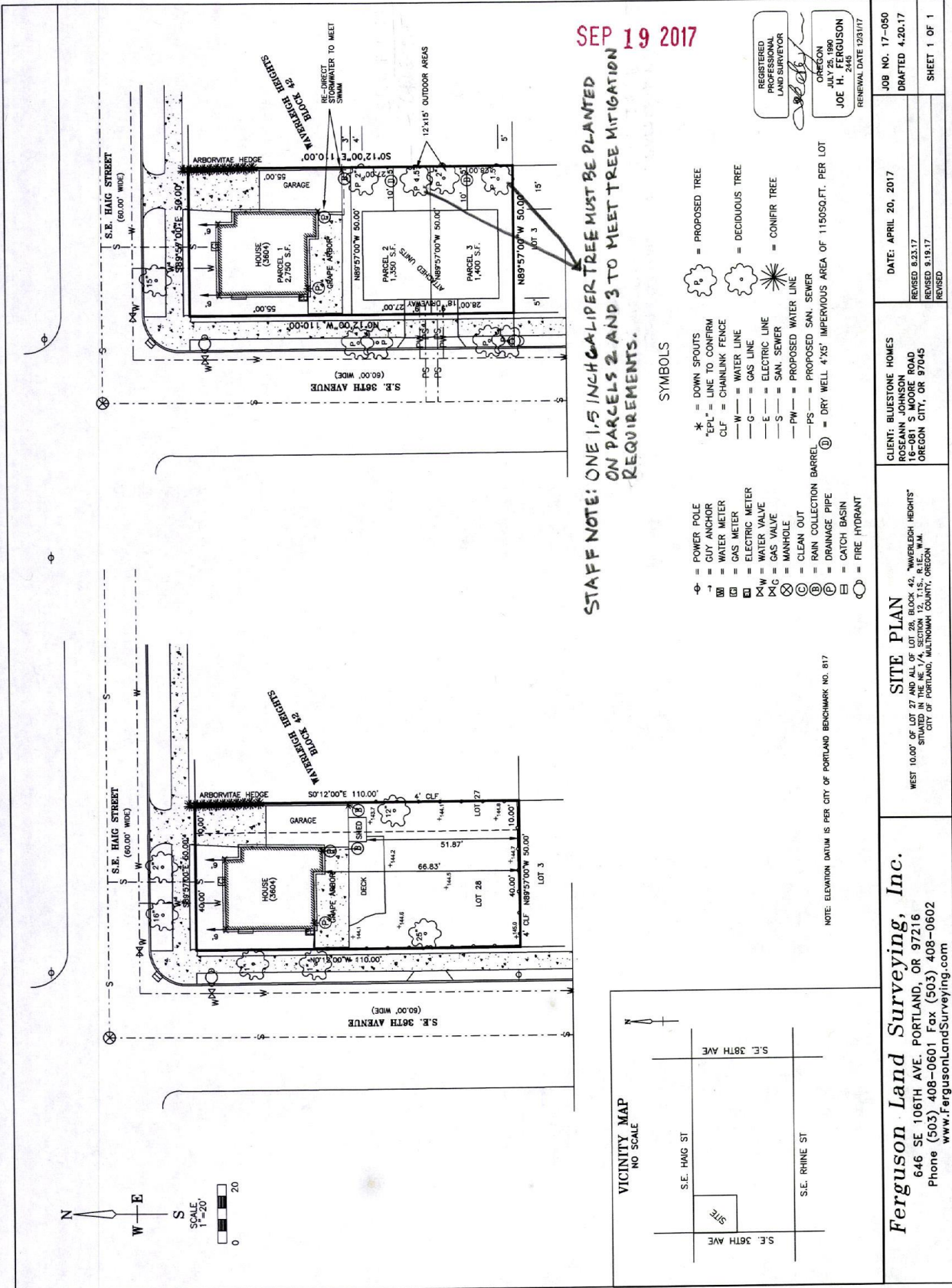
ZONING  NORTH

 Site

File No.	LU 17-195517 LDP AD
1/4 Section	3334
Scale	1 inch = 200 feet
State ID	1S1E12AC 3100
Exhibit	B Jul 25, 2017

RECEIVED

SEP 19 2017



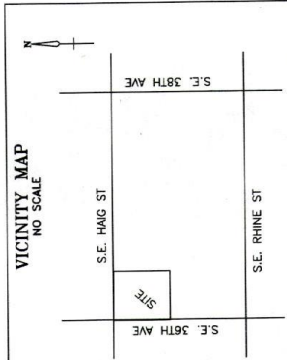
STAFF NOTE: ONE 1.5 INCH CALIPER TREE MUST BE PLANTED ON PARCELS 2 AND 3 TO MEET TREE MITIGATION REQUIREMENTS.

SYMBOLS

- ⊕ = POWER POLE
- ⊙ = GUY ANCHOR
- ⊞ = WATER METER
- ⊞ = GAS METER
- ⊞ = ELECTRIC METER
- ⊞ = WATER VALVE
- ⊞ = GAS VALVE
- ⊞ = MANHOLE
- ⊞ = CLEAN OUT
- ⊞ = RAIN COLLECTION BARREL
- ⊞ = DRAINAGE PIPE
- ⊞ = CATCH BASIN
- ⊞ = FIRE HYDRANT
- * = DOWN SPOUTS
- *EPL* = LINE TO CONFIRM
- CLF = CHAINLINK FENCE
- W = WATER LINE
- G = GAS LINE
- E = ELECTRIC LINE
- ⊞ = SAN. SEWER
- ⊞ = PROPOSED WATER LINE
- ⊞ = PROPOSED SAN. SEWER
- ⊞ = DRY WELL 4'x5' IMPERVIOUS AREA OF 1150SQ.FT. PER LOT
- ⊞ = PROPOSED TREE
- ⊞ = DECIDUOUS TREE
- ⊞ = CONIFER TREE

REGISTERED PROFESSIONAL LAND SURVEYOR
 JOE H. FERGUSON
 OREGON JULY 25, 1990
 RENEWAL DATE 12/31/17

<p>CLIENT: BLUESTONE HOMES ROSEANN JOHNSON 1145 W. WYOMING ROAD OREGON CITY, OR 97045</p>	<p>DATE: APRIL 20, 2017</p> <p>REVISED 8.23.17 REVISED 9.19.17 REVISED</p>	<p>JOB NO. 17-050 DRAFTED 4.20.17 SHEET 1 OF 1</p>
<p>SITE PLAN WEST 10.00' OF LOT 27 AS SHOWN ON PLAT OF LOT 28, BLOCK 45, "WATERLEIGH HEIGHTS" SITUATED IN THE NE 1/4, SECTION 12, T.15S., R.1E., W.M. CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON</p>	<p>FERGUSON Land Surveying, Inc. 646 SE 106TH AVE. PORTLAND, OR 97216 Phone (503) 408-0601 Fax (503) 408-0602 www.FergusonLandSurveying.com</p>	



NOTE: ELEVATION DATUM IS PER CITY OF PORTLAND BENCHMARK NO. 817

LU 17-195 S17 LDP A BASE NO 17-195 S17 EXHIBIT C.1