



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

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Date: December 27, 2017
To: Interested Person
From: Shawn Burgett, City Planner
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 16-273029 LDS

GENERAL INFORMATION

Applicant: Kelli Grover
Firwood Design Group LLC
359 E Historic Columbia River Hwy
Troutdale, OR 97060
503-668-3737/kg@firwooddesign.com

Owner: Kenneth Kwong & Chun Xia Kwong
3035 SE 92nd Ave
Portland, OR 97266

Site Address: 3340 SE 144th Ave

Legal Description: BLOCK 1 LOT 15, POWELL VILLAGE
Tax Account No.: R673400750
State ID No.: 1S2E12BC 09500
Quarter Section: 3345
Neighborhood: Centennial, contact Tom Lewis at 503-347-5715.
Business District: Midway, contact info@midwaybusiness.org.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: Johnson Creek Basin

Zoning: R2a (Multi-Family Residential 2,000 sq. ft. with "a" alternative design density overlay)

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

Proposal:

The applicant is proposing a 4-lot land division and a new private street tract. Lot 1 will measure approximately 4,486 sq. ft. and accommodate the existing house on the site. Lots 2-4 will measure between approximately 2,594 and 2,783 sq. ft. in area. The applicant is proposing detached dwelling units on these lots.

Relevant Approval Criteria:

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

This subdivision proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) four to ten lots 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 5 units of land (4 lots and 1 tract). Therefore this land division is considered a subdivision.

RELEVANT APPROVAL CRITERIA: IN ORDER TO BE APPROVED, THIS PROPOSAL MUST COMPLY WITH THE APPROVAL CRITERIA OF *TITLE 33*. THE RELEVANT CRITERIA ARE FOUND IN **SECTION 33.660.120, APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES.**

FACTS

Site and Vicinity: The site is located on an interior lot with frontage along SE 144th Avenue. The house on the site was built in 1948. A church abuts the property along its northern and eastern property lines. The development surrounding the site to the south, west and east is primarily made up of single family and multi-family residential type development.

Infrastructure:

Streets – The site has approximately 100 feet of frontage on SE 144th Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, SE 144th Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 250 feet from the site at SE 144th Avenue via Bus 9.

SE 144th Avenue has a 24-foot paved surface within a 50-foot right-of-way with parking on both sides. The street frontage does not include a planter area, curb or sidewalk

Water Service – There is an existing 4-inch CI water main in SE 144th Avenue. The existing house is served from this main.

Sanitary Service - There is an existing 8-inch sanitary sewer line in SE 144th Avenue.

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

Zoning: The R2 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.

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

The Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural

resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services.

Land Use History: City records indicate there are no relevant land use reviews for this site. It should be noted that MCF 126-79 appears to have received preliminary land division approval to create 2 lots on this site, but was never platted as proposed and is therefore void.

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 **May 31, 2017**. One written response has been received from a notified property owners in response to the proposal.

Neighborhood response: The representative of the abutting church provided comments (Exhibit F.1) associated with several requests they had in regard to development on the subject site. The Church requested that property lines are surveyed and clearly defined, fences are constructed along common property lines utilizing wood instead of chain link. The letter also indicated that they did not want to be utilized for construction purposes, and if access over church property is desired, the owner shall make a written request. In addition, the Church requested that construction activities are limited on weekends when services are held at the church. The remainder of the concerns are not applicable to the land division approval criteria. The owner is encouraged to work with the Church to address their concerns.

BDS Response: The letter (exhibit F.1) was forwarded to the owner of the subject site. It should be noted that the owner has submitted a survey that was professionally prepared by a surveyor.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The proposed density is less than 40 units.
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 outside of environmental zones.

L	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.D - Common Greens	No common greens are 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.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 3 single family lots and one lot that will be required to accommodate 2 units if redeveloped in the future (Lot 1) which will be allowed to have either a duplex or a single-family home and Accessory Dwelling Unit (ADU).

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 R2 zone is one unit per 2,500 square feet and the maximum density is one unit per 2,000 square feet. The total site area shown on the applicant's survey is 19,658 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. A new street is proposed in a tract that totals 6,854 square feet. As indicated later under private street discussion, an addition 6"-1' of private street tract width will be required to accommodate a 3' planter strip along the southern edge of the private street tract (discussed later in report). Typically, the exact dedication amount would need to be determined prior to issuance of the land use decision because it can impact overall density. However, in this case, the density will not be impacted if the private street is widened in the 6"-1' range (which would result in an additional 97-194 sq. ft. of private street tract area for a total of approximately 6,951-7,048 square feet).

Therefore, the resulting lot size for calculating density is between 12,610 or 12,707 square feet which both equal the same minimum and maximum density amount in the R2 zone. The site has a minimum required density of 5 units and a maximum density of 6 units.

Because Lots 2 through 4 will each be developed with one dwelling unit, the remainder of the minimum density for the site as a whole must be met on Lot 1 at the time of re-development. The proposed area of Lot 1 would trigger a minimum density requirement of 2 if redeveloped. A condition is necessary to ensure that the density requirements of the land division site will be met on Lot 1.

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

R2	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Detached Houses	1,600	25	none	25

Duplexes	2,000	33	50	30
Lot 1 – detached/duplex	4,486 sq. ft.	66.75'	67.18'	66.75'
Lot 2-detached	2,763 sq. ft.	42'	66.75'	66.75'
Lot 3-detached	2,759 sq. ft.	42'	42'	66.75'
Lot 4-detached	2,595 sq. ft.	44'	54'	56'

* 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, with the condition described above.

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

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

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

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

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

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit A.9) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibits A.8 and A.9) that identifies each tree, its condition and suitability for preservation or its exempt status.

Based on this information, 3 trees provide a total of 79 inches of tree diameter are subject to the preservation requirements of this chapter.

In this case, the only 3 non-exempt trees (trees number 4,5 and 6) are located in the southern portion of the site in the only feasible location to extend the private street tract due to the preservation of the existing home on site and are therefore not suitable for preservation. In addition, one of trees listed in the arborist report as non-exempt (tree number 1 a 20" European Birch) is already located in the dedicated right of way and is a nuisance specie, so this tree is exempt from these standards.

The applicant has not proposed a mitigation plan (see exhibit A.1, A.8 and A.9) therefore staff will condition a mitigation requirement that meets the applicable approval criteria based on equaling or better meeting the tree preservation requirements of Zoning Code 33.630.100 (minimum tree preservation standards) with payment into the City tree fund.

The tree preservation standards require up to 35 percent of the total non-exempt tree diameter on the site be preserved. This amounts to 28 inches on this site. With the condition that a

payment equivalent to 28 inches be paid to the City Tree Planting and Preservation Fund prior to final plat approval, tree removal will be adequately mitigated.

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

- help to absorb air pollutants and contamination;
- provide buffering from noise and wind;
- provide visual screening from the adjacent properties;
- reduce energy demand and urban heat island impacts;
- filter stormwater runoff and the reduce the possibility for erosion;
- help with slope stabilization;
- the native trees will provide habitat to support wildlife;
- the edible species will provide food for people and wildlife.

In order to ensure the mitigation is provided, the applicant must make a payment to Tree Planting and Preservation Fund for 28 inches.

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

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

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

Findings:

Clearing and Grading

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

In this case, the site is relatively flat, and is not located within the Potential Landslide Hazard Area. However, a new street and associated stormwater system is proposed as part of the land division, which will require grading on the site.

The applicant has not submitted a Preliminary Clearing and Grading Plan that depicts the proposed work, including existing and proposed elevation contours, soil stockpile areas and the overall limits of disturbed area. However, since the site is flat and not located in a landslide hazard area, staff will require this information prior to final plat approval (prior to new development on the site) which will allow this criterion to be met.

The clearing and grading plan must show existing contours and drainage patterns of the site to provide for a level street surface. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new street and lots will be appropriately managed by *drywells* to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading plan must also show topsoil storage, or a stockpile area. There is ample room on the site to locate soil stockpiles. A condition of approval will require the clearing and grading plan submitted with the Site Development permit to not only show the existing and proposed contours of the site, but indicate the location of stockpile areas and the limits of disturbance be extended to include these areas.

As shown above, with a condition of approval requirement the Preliminary Clearing and Grading Plan to be submitted prior to final plat approval, the approval criteria can be met. As

discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street. The permit application must include a final clearing and grading plan, that must identify the elements described above.

With a condition of approval that the applicant submit a final clearing and grading plan prior to final plat approval showing existing contours and drainage patterns of the site along with topsoil storage, or a stockpile area and overall limits of disturbance this criterion can be met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there is an old septic system 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. 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: The following tracts are proposed:

- Tract A: Private Street (Name of Street)

With a condition that the proposed tract be owned in common by the owners of Lots 1 through 4 or a Homeowner's Association, this criterion can be met.

The following easements are proposed and/or required for this land division:

- A Public Access Easement is required over the sidewalk portion of the private street.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the tracts 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 (name of feature) 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.

The applicant is proposing a 4-lot land division with a new private street tract. The existing home on the site will be retained on Lot 1. Accordingly, the proposed project will result in a net increase of 3 new single-family homes. Based upon trip generation estimates obtained from the Institute of Transportation Engineers (ITE) *Trip Generation Manual, 9th Edition*, the project is estimated to generate three additional trips during both the morning and evening peak hours (30 additional trips in total each day). *The small number of trips that will be added into the transportation system as a result of the proposed development will not adversely impact the operations of area intersections.*

At least one on-site parking space will be provided on each lot. The surrounding area has an established residential development pattern that includes single-family homes on lots that accommodate one, and in some cases, multiple on-site parking spaces thereby reducing the demand for on-street parking in this area. Given the on-site parking opportunities that will be provided with the new development, on-street parking in the area will not be adversely impacted by the proposed new dwelling units.

There are existing transit facilities in the vicinity with the nearest TriMet bus stop is located approximately 370-ft away at SE Powell & SE 145th. The proposed partition will not have any effect on 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.

Based on the findings above, this criterion is met.

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

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

<p>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.</p> <p>Water Service to Lots 2 – 4 must be installed within the private street. The meters will reside in the right-of way in SE 144th Avenue.</p> <p>The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.</p> <p>The applicant will do individual connections to the existing sewer in SE 144th Ave. The sanitary sewer service standards of 33.652 have been verified.</p> <p>With this condition, the sanitary sewer service standards of 33.652 have been verified.</p>

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:

Private Street: Stormwater will be directed to a sedimentation manhole located in the private street that will remove suspended solids, and from there to a drywell facility, also located in the street tract, that will infiltrate the water into the ground. BES has indicated conceptual approval of the proposed location and size of these facilities.

Public Street Improvements: Stormwater from these new impervious areas will be directed into a sump located between the curb and the new sidewalk. BES has indicated that surface infiltration is the preferred method of public stormwater disposal at this site. The agency has confirmed that the planter strip or sump will be of a size and proposed design that is adequate to provide infiltration for the quantity of water generated from the new impervious areas.

BES requires a Public Works Permit for the construction of such a sump. The applicant must provide engineered designs and financial guarantees of performance prior to final plat approval.

Lots 2-4: Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells.

Lot 1 (the lot with the existing house): Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of BES. The applicant must modify the stormwater system for the existing house as necessary to comply with Stormwater Management Manual prior to final plat approval. Any required plumbing permits must have final inspection approval.

33.654.110.B.1 Through streets and pedestrian connections**33.654.130.C Future extension of proposed dead-end streets & pedestrian connections**

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

The block on which the subject property is located meets the noted spacing requirements at the subject site. The site is located on SE 144th Avenue which provides a north-south through street connection in front of the site. In addition, the site is located 260 feet south of SE Powell Blvd. (nearest east-west through street to the north) and 200 feet north of SE Rhine St. (nearest east-west through street to the south). The distance between these two east-west oriented through streets is approximately 560 ft. which is in substantial conformance with the spacing standard noted above.

The site is within the Portland Master Street Plan for the Outer Southeast District. No through street connections are shown in this vicinity. Therefore, the proposal is consistent with the master street plan.

For the reasons described above, this criterion is met.

As discussed above, there is no need for this site to extend a street to the east property boundaries. This criterion is met.

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

The proposal includes a private dead-end street and pedestrian connection, which will be located in the new private street tract. As discussed under the findings for through streets above, a new public east-west through street is not required for this proposal. The private dead-end street will serve only 4 dwelling units and it is approximately 192 feet in length from the frontage along SE 144th Avenue to the radius of the radius turn-around. This criterion is met.

33.654.120.B & C Width & elements of the right-of-way – See Exhibits E.2 and E.5 for bureau comment

Public Street:

The City's Transportation System Plan (TSP) classifies SE 144th as a Local Service Street for all modes. According to City GIS information, SE 144th is a 50-ft wide ROW currently improved with approximately 24-ft of center paving lacking curbs or sidewalks abutting the site.

For a Local Service Street, abutting an R2 zoned site, the City's public right-of-way document requires a 62-ft wide ROW to accommodate a 32-ft wide paved roadway, a curb 16-ft from centerline, and two 15-ft wide sidewalk corridors consisting of a 0.5-ft curb, 8-ft public stormwater facility, 6-ft sidewalk, and a 0.5-ft frontage zone. If BES determines that a public stormwater facility is not required within the sidewalk corridor, a 4-ft furnishing zone is required.

The proposed development will trigger the requirement for half-street improvements to include a curb 16-ft from centerline, additional paving if necessary, and the 15-ft wide sidewalk corridor. The ROW improvements will need to be designed by an Oregon licensed civil engineer and constructed under a Public Works Permit, which is separate from the Building Permit that will be necessary for construction of the proposed project.

The applicant has initiated the Public Works process through the submittal of 17-126699 WT and 17-129009 WE and received 30% Concept approval.

Curb cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of building permits. The applicant received approval of a Driveway Design Exception (17-109882-TR) to permit more than one driveway along the site's frontage. This will allow the existing driveway to serve the existing home to be retained and the private drive to serve lots 2-4.

PBOT has no objection to the proposed land division subject to the following:

1. Public ROW improvements must be completed or bonding/contract, as identified in the Public Works Concept Review, must be submitted prior to Final Plat approval.

Private street:

The applicant has proposed that a 33-foot wide private street tract, terminating in an 18-foot radius turn-around is sufficient to accommodate the expected users. It should be noted, an additional 6" to 1' of private street tract width will be required to be shown at final plat since the planter strip along the south side of the private street is only 2.5' in width (required to be 3 ft. in width) and the abutting curb is shown as 6". In order to ensure room for either a 6"-12' curb and a 3' planter area the width of private street will be required to be 33.5-34 ft.

The *Administrative Rules for Private Rights of Way* are the standards that govern the construction of private streets. These rules recommend a width from 29 to 34 feet for dead-end streets less than 300 feet long, serving 4 or more lots. This width will provide room for the construction of a 24-foot wide paved roadway that allows two travel lanes, parking on one side, one 6-inch mountable curb and a 5-foot wide sidewalk on one side of the street, and a 6-inch curb and 3-foot planter between the street improvements and private property to south. The applicant will be disposing of stormwater from the private street within a sedimentation manhole/drywell system in the private street. The applicant will be required to plant street trees within the 3-foot planter area along the south side of the private street

per the technical rule in the Private street standards which allows street trees to be planted in a 3' planter strip when the planting strip abuts the outer boundary of the private right of way. One street tree is required every 30 feet. Therefore, 6 new trees will be required within this planter strip which will need to be spaced evenly.

The proposed tract width is sufficient to accommodate the elements of a street that are adequate for 4 lots by the *Administrative Rules* governing private streets.

This criterion is met.

33.654.120.C.3.c. Approval criterion for turnarounds.

A radius turn-around is proposed at the terminus of the private street tract. The configuration of the turn-around has been reviewed by the Site Development Section of the Bureau of Development Services. Site Development has indicated that the size and configuration of the turn-around are adequate to provide safe vehicular and bicycle movement for the 4 new lots that will use private street. A sidewalk is required along one side of the street that extends all the way around the top of the turn-around, which will provide for safe and convenient pedestrian access along the private street and from the interior of the land division to the abutting sidewalk along the frontage of SE 144th Avenue. The proposed street tract has been sized to provide adequate room for the turn-around. This criterion is met.

33.654.120.E. Approval criterion for the width of pedestrian connections.

Findings: The 5-foot side sidewalk proposed along the northern edge of the private street tract provides a straight-line connection from lots 1-4 to the existing public sidewalk along SE 144th Avenue. A public walkway easement is required over the sidewalk. 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. The applicant has proposed an 6-foot utility easement adjacent to the proposed private street. 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

- Detached Houses- Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**

Existing development that will remain after the land division. The existing development on the site will remain and be located on Lot 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 R2 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 5-5.5 feet from the new property line depending on whether the private street is expanded 6”-1’ as required. Therefore, the required setbacks are being met. To ensure this standard 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 building relative to the adjacent new lot lines.
- Off-Street Parking –A paved parking pad/garage provides parking for the existing house on Lot 1. It should be noted that lot 1 is not required to have off street parking. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service approximately 260 feet from the site on SE Powell Blvd via bus number 9. Bus number 9 provides peak-hour service meeting this requirement.
- Main Entrances -- In this zone, the main entrance of a house must face a street, or open onto a porch that faces the street. The main entrance for the existing house that will remain on Lot 1 currently faces SE 144th Avenue which complies with Zoning Code standards.
- 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, Lot 1 with existing house will no longer meet this standard. Lot 1 is 4,486 square feet; therefore 1,794 square feet of tree area is required. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Lot 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
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As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

- The applicant is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The private street is approximately 194 feet in length and is not intended to serve as a Fire apparatus access road. Fire apparatus roads are required to be within 150' of each lot unless the applicant applies the fire code exception, which allows this distance to be extended up to 250'. SE 144th Ave, the abutting public street will provide fire apparatus access to lots 1 and 2 since both lots are within 150' of SE 144th Ave. Lots 3 and 4 are both between 150' to 250' from SE 144th Ave, and will therefore be required to apply the exception in the Fire Code that allows a Fire apparatus road to be within 250' of a lot if the new home on this lot has fire suppression sprinklers unless a fire code appeal to this standard is granted prior to final plat approval.

The applicant must meet the requirements of the Fire Bureau in regard to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Lots 1-4; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1. It should be noted, that the applicant submitted Fire Flow information (exhibit A.14) that shows 600 GPM. The Fire Bureau has indicated that the minimum fire flow requires are 1,000 GPM, which can be reduced up to 50% if the new homes have an automatic sprinkler system. Prior to final plat approval the applicant will be required to submit an acknowledgement of special land use conditions requiring sprinklers on the new homes on Lots 1-4 or get an approved fire code appeal to this requirement.

- The applicant must meet the requirements of Urban Forestry. Prior to the land division there is room for four street trees. After the proposed land division, there will only be room for three street trees. The proposed new private street tract will eliminate one potential planting space along SE 144th Ave. A fee for a 1.5" tree is required for the permanent loss of available planting space. In addition, street trees will be required to be planted through 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: stormwater management, private street design, public street improvements along SE 144th Ave and mitigation for tree removal.

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 3 single dwelling lots; one lot (Lot 1) will be required to accommodate a minimum of 2 units (duplex or single family home/ADU) and a private street tract 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, Site Development, Fire review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the following:

- Surveyed location of any buildings or accessory structures on the site at the time of the final plat application;
- Surveyed location of any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The reduced side setbacks allowed under 33.120.270.D; if utilizing this provision;
- The location of stormwater facilities for the existing house on Lot 1 as described under condition C.9.
- 3 ft. planter strip along south side of private street tract with street trees evenly spaced every 30 ft. as described under condition C.2.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street *name of street*."
2. A Public Access Easement must be shown over the sidewalk portion(s) of the street tract.
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 Condition * below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) 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 street 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.
2. The applicant shall submit an application for a Site Development Permit for construction of the private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibit C.1 and the Private Street Administrative Rule. In addition, the street shall include the following:
 - The planter strip along the southern boundary of the private street must be a minimum of 3 feet in width, one tree is required every 30' linear feet and must be spaced evenly;
 - The design for the private street must include a driveway approach and curbs cuts in a location that can preserve on-street parking along the north end of the private street as shown on exhibit C.1
3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private street and all required site development improvements as described in condition C.2. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.

4. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private street described in Condition C.2. The clearing and grading plan must show the following:
 - It must show stockpile areas;
 - It must note that topsoil must be stockpiled on site and re-used to the extent practicable.
 - Limits of disturbance
 - Existing and proposed elevation contours

Utilities

5. 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.
6. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new houses if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Existing Development

7. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site.
8. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Bureau of Environmental Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Lot 1 (the lot with the existing home), then the applicant must meet one of the following:
 - Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.
9. The applicant must meet the tree density standard of 11.50.050 on Lot 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.

Required Legal Documents

10. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1-4 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
11. If required per conditions C.5-C.6 above, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development to contain internal fire suppression sprinklers. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

Other requirements

12. 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 28 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.
13. The applicant must pay into the City Tree Preservation and Planting Fund [Street Trees – Fee in Lieu of Planting and Establishment (per inch)] the amount equivalent to 1.5 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:

Lot	Minimum Density	Maximum Density
1	2*	2*
2	1	1
3	1	1
4	1	1

*The required number of units on Lot 1 may be met with a duplex or a single dwelling unit/ADU

2. The first lift of paving for the private street shall be installed prior to issuance of any permits for residential construction.
3. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
4. Prior to the issuance of certificate of occupancy and final inspection approval of residential building permits, sidewalks within the private street tract must be constructed.
5. 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.
6. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal and install residential sprinklers in the new dwelling units identified in the Fire Code Appeal process. Please refer to the final plat approval report for details on whether or not this requirement applies.

Staff Planner: Shawn Burgett

Decision rendered by: S. Burgett **on December 22, 2017**
 By authority of the Director of the Bureau of Development Services

Decision mailed December 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 November 14, 2016, and was determined to be complete on May 15, 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 November 14, 2016.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended 150 days (exhibit A.6) Unless further extended by the applicant, **the 120 days will expire on: 2/9/2018**

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 1/10/18** 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.

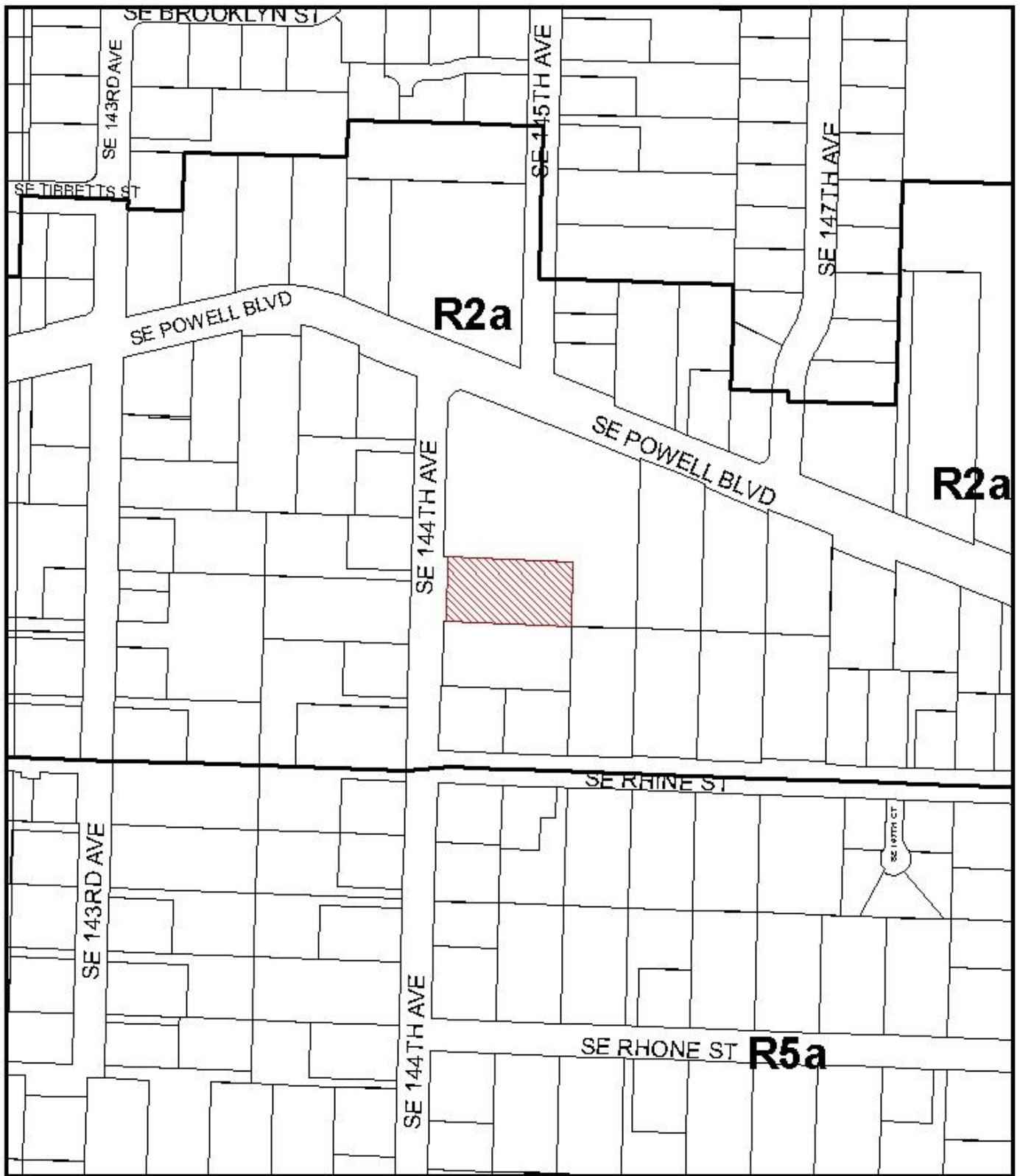
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Applicants Narrative
 - 2. Site Plan submitted 11/14/16
 - 3. Geotechnical report and infiltration testing dated 4/15/16
 - 4. Onsite stormwater management report dated 11/9/16
 - 5. Expedited Land Division Acknowledgment
 - 6. 150-day extension to 120-day clock
 - 7. Early Neighborhood notification documentation
 - 8. Arborist report dated 1/11/16
 - 9. Arborist report addendum dated 5/2/17
 - 10. Stormwater Management Report dated 2/20/17
 - 11. Stormwater Management Report dated 10/31/17
 - 12. Geotechnical report and infiltration testing dated 4/15/16 (re-submitted 11/6/17)
 - 13. Site Plan set
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Existing conditions survey
- 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 Plans Examiner
- F. Correspondence:
 - 1. Pastor Jennifer M. Beil, St. Timothy Lutheran Church, 14500 SE Powell Blvd. Portland, OR 97236 Letter received via e-mail on 6/20/17.
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter
 - 3. Land Use History

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



ZONING

 Site



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	<u>LU 16-273029 LDS</u>
1/4 Section	<u>3345</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E12BC 9500</u>
Exhibit	<u>B (Nov 18, 2016)</u>

