



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

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**Date:** March 23, 2018  
**To:** Interested Person  
**From:** Brandon Rogers, Land Use Services  
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## **NOTICE OF A TYPE II<sub>x</sub> 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 17-159950 LDS**

#### **GENERAL INFORMATION**

**Applicant:** Kevin Partain/Urban Visions  
223 NE 56th Ave  
Portland, OR 97213-3705  
503-421-2967 | [kevinp@gorge.net](mailto:kevinp@gorge.net)

**Owner:** B-W Construction Inc  
PO Box 66910  
Portland, OR 97290-6910  
[shimshim9@aol.com](mailto:shimshim9@aol.com)

**Site Address:** 2720 SE 84th Ave  
**Legal Description:** BLOCK 3 W 100' OF LOT 2, ANNABERG  
**Tax Account No.:** R030200450  
**State ID No.:** 1S2E09BB 05700  
**Quarter Section:** 3339  
**Neighborhood:** Powellhurst-Gilbert, contact at [pgnaboard@gmail.com](mailto:pgnaboard@gmail.com)  
**Business District:** Eighty-Second Ave of Roses Business Association, contact Nancy Chapin at [nchapin@tsgpdx.com](mailto:nchapin@tsgpdx.com)

**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

**Zoning:** Residential 2,000 (R2) with the "a" Alternative Design Density overlay zone.

**Case Type:** Land Division Subdivision (LDS)  
**Procedure:** Type II<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

#### **PROPOSAL:**

The applicant proposes to divide a 9,997 square-foot site into four lots for development of detached, single dwellings. The site is currently vacant. Street frontage improvements will be required along SE 84<sup>th</sup> Avenue. Water and sanitary sewer services will be provided by existing utilities located within SE 84<sup>th</sup> Avenue. The site contains trees subject to tree preservation standards.

This subdivision proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) four to ten dwelling units are proposed, not including accessory dwelling units (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines “lot” as a single unit of land created by a subdivision of land. The applicant’s proposal is to create 4 units of land. 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:** Topography of the vacant site is primarily level. The site contains two trees subject to the tree preservation standards; a 39-inch diameter at breast height (DBH) Western red cedar and a 23-inch Monkey puzzle tree. The vicinity of the site is developed with a mix of single-dwelling and multi-family dwelling development, with mixed commercial uses along the SE 82<sup>nd</sup> Avenue corridor. Harrison Park Elementary School/Harrison Park are located approximately 900-feet north of the site.

#### **Infrastructure:**

- **Streets** – At this location, SW 84th Ave is classified as a Local Service Street for all modes. Along the site frontage there is a 32-ft roadway lacking curbs and sidewalks.
- **Water Service** – There is an existing 6-inch water main located in SE 84<sup>th</sup> Avenue. The existing house is served by a 1-5/8 -inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch public sanitary sewer line located in SE 84th Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** R2 (Residential 2,000) with the “a” Alternative Design Density overlay zone. 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 fosters owner-occupancy, focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood.

**Land Use History:** City records indicate a previously approved land division at this site (LU 07-145731) which expired because a Final Plat application was not submitted within three years of the date of the City’s approval of the preliminary plan, April 18, 2008. Subparagraph 33.730.130.B.6.b states that final decisions on preliminary plans that became effective between May 27, 2006 and December 31, 2008 or between May 16, 2009 and June 30, 2011 expire if an application for approval of Final Plat has not been submitted by June 30, 2014. No Final Plat application was submitted, therefore the preliminary plan has expired.

**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 **June 27, 2017**. No written response has been received from the Neighborhood Association. One written response has been received from a notified property owner in response to the proposal.

**Staff Response:** Concerns expressed in the letter (Exhibit F.1) are related to building setbacks for proposed future development and the location of the existing driveway located on the neighbor's property. The preliminary plan illustrates the location of the neighbor's asphalt driveway and concrete curb, which encroach into the project site. At the time of development, the proposed single-family residence on Lot 4 will be required to meet setback requirements of the R2 zone, which requires a minimum 5-foot side setback. Encroachments of private development are a civil matter and there are no related approval criterion for land divisions. Therefore, the developer and property owner must work together to find a solution regarding the concrete curb and driveway encroachment issue.

## 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	All of the proposed lots are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead-end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared Courts	No shared courts are proposed or required
	33.654.130.B - Existing public dead-end streets	No public dead-end streets or pedestrian connections exist that must be extended onto the

	and pedestrian connections	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 four single-family lots for development of detached houses.

Single-dwelling or duplex development is proposed for some or all of the site, therefore at the time of preliminary plan review, the applicant must demonstrate how the proposed lots meet the minimum density and do not exceed the maximum density stated in Table 120-3.

Minimum density in the R2 zone is calculated at one unit per 2,500 square feet of site area and the maximum density is calculated at one unit per 2,000 square feet of site area. The total site area shown on the applicant's survey is 9,997 square feet.

Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. A one-foot street dedication for SE 84<sup>th</sup> Avenue is required that totals 100 square feet. Therefore, the resulting lot size for calculating density is 9,897 square feet. Based upon the calculations for minimum and maximum density described above, the site has a minimum required density of 4 units and a maximum density of 5 units.

Based on the information above, the applicant's proposal meets the minimum required density and does not exceed the maximum density of the site. The required and proposed lot dimensions are shown in the following table:

<b>R2</b>	<b>Minimum lot area (square feet)</b>	<b>Minimum lot width (feet)</b>	<b>Minimum lot depth (feet)</b>	<b>Minimum front lot line (feet)</b>
<b>Detached Houses</b>	1,600	25	none	25
Lot 1	2,474	25	N/A	25
Lot 2	2,474	25	N/A	25
Lot 3	2,474	25	N/A	25
Lot 4	2,474	25	N/A	25

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

The findings above show that the applicable density and lot dimension standards are met. Therefore, this criterion is met.

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

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

To satisfy these requirements, the applicant must provide a tree plan demonstrating, 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.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.8) 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.

The tree inventory (Exhibit A.1) states that the site contains three trees; Tree #2, a 39-inch DBH Western red cedar; Tree #3, a 14-inch Sweet cherry; and Tree #4, a 23-inch Monkey puzzle tree. Of these three on-site trees, Tree #3 is exempt because it is classified as a nuisance species by the Portland Plant List. Therefore, Tree #2 and Tree #4 are subject to the preservation standards of this section. These trees have a total diameter of 62-inches.

Specifically, the applicant proposes to retain all of the trees measuring 20 or more inches in diameter (Tree #2, 39-inch Western red cedar) and 39 inches of the total tree diameter (63-percent of total tree diameter), so the proposal complies with: **Option 1: Preserve all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site.**

The tree proposed for preservation is a native, non-nuisance species, and measures 20 or more inches in diameter. The proposed root protection zone for the tree to be retained allows for the type of development anticipated in the R2 zone. The protection plan has been designed to reduce conflicts with proposed utility services and frontage improvements.

The arborist proposes the performance path of tree protection for Tree #2. The applicant revised the original development proposal to move the driveway for Lot 4 to the north, reducing impacts to the root protection zone of the tree. The applicant completed the Public Works Alternative Review process to modify the required sidewalk corridor to support preservation and protection of the tree (Exhibit G.3). Additionally, the arborist report requires special construction techniques for utility lines and driveways on Lots 3 and 4, including providing arborist supervision during work. The driveway and any other pavement must be built on grade without excavation, including right of way improvements. Tree protection fencing is required. Utilities on Lot 4 must be tunneled, or if trenching is proposed, must be done by hand with arborist supervision. The house on Lot 4 must be set back 24-feet from the tree trunk. Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on lots 3 and 4 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.8). With the implementation of the noted condition, the approval criteria will be met.

At the time of development, the individual lots must also meet the Title 11-Tree Code provisions, which require a specific amount of site area for tree planting based on the size of the property and the scale of the development. The tree to be retained on Lot 4 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 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. Standard erosion control requirements are applicable as part of the work authorized under the Public Works Permit for frontage improvements. In addition, the tree required to be preserved in the areas where new development on the site is anticipated will be protected at the time of right of way improvements, utility construction and construction of the proposed residence, as discussed in Section B, *Trees*. This criterion is met.

***Land Suitability***

The site was previously in residential use, and there is no record of any other use in the past. City records indicate there is an old septic system located on the site that was not decommissioned at the time the house was demolished. 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.

**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): **Street Capacity and Levels of Service:** The proposal will result in an increase of 4 single-family residences. These residences can be expected to generate 40 daily vehicle trips with 4 trips occurring in each of the AM and PM Peak Hours. This small increase in peak hour vehicles will not have significant impact on intersection levels of service or street capacity. No mitigation is needed. **Connectivity:** The site is 100-ft south of east/west SE Clinton Street. Connectivity standards are not applicable. **Vehicle Access/Loading:** The new lots will have driveways to provide access to parking and loading. **On-Street Parking Impacts:** The new lots will have at least one on-site parking space with potentially an additional space in front of the garage. Impacts to the on-street parking supply should be minimal. **Availability of Transit:** Tri Met Bus Line #9 is available to serve the site at SW Powell and SE 82nd Ave. **Neighborhood Impacts:** The site is being developed with net increase of 4 new single-family residences in compliance with the existing R2 zoning. In addition, standard frontage improvements including sidewalks will reduce the potential for conflicts between pedestrians and vehicles. **Safety for All Modes:** New sidewalks along the site frontage will provide adequate pedestrian facilities. Vehicle counts and speeds are low enough on this section of SE 84th that bicycles can share the roadway.

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. Requirements for future

right of way improvements are described in the findings associated with Chapter 33.654. below. These criteria are met.

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

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

<p><b>33.651 Water Service standard</b> – 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 Bureau has indicated an existing service is located at the site, and has requested the location to be surveyed. This will be required prior to approval of the Final Plat. With a condition of approval requiring a supplemental survey prior to approval of the final plat, the water service standards of 33.651 have been verified.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – 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><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1</p>
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <ul style="list-style-type: none"> <li>• <b>Public Street Improvements:</b> As a condition of this land use approval, the Bureau of Transportation requires the applicant to improve the street frontage of the site to City standards (discussed earlier in this report). A new curb, planter strip and sidewalk are required. BES has indicated that the public street improvements may direct stormwater to an existing public sump located to the south of the site, which meets the requirements of the Stormwater Management Manual. Through the Public Works Permit (PWP), BES Development Engineering determined that the existing stormwater management system is sufficient to manage the developed impervious area within the right-of-way.</li> <li>• <b>Lots 1, 2, 3 and 4:</b> Stormwater from all 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. The drywell on Lot 4 must be located behind the residence.</li> </ul> <p>The stormwater management criteria and standards of 33.653.020 and .030 are verified.</p>
<p><b>33.654.120.B &amp; C Width &amp; elements of the right-of-way</b> – See Exhibit E.2 for bureau comment</p>
<p>At the project site, SE 84<sup>th</sup> Avenue is an unimproved roadway, with no sidewalk, curb or paving. Street improvements terminate at the north property line of the site.</p> <p>In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that curb and sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development.</p> <p>City standards per the requirements of the City Engineer shall be conditions of final plat approval. PBOT has approved a Public Works Alternative Review (Exhibit G.3), permitting an alternative sidewalk corridor designed to reduce impacts to an on-site tree to be preserved. The improvements must include additional paving as needed; curb 16-ft from ROW</p>

centerline, 6-ft sidewalk, and 0.5-ft frontage zone. Adjacent to the tree to be preserved, the sidewalk is curb-tight.

To accommodate these improvements, one-foot of additional right-of-way must be dedicated along the frontage of the site. With those improvements, four dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that curb and sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

## **DEVELOPMENT STANDARDS**

Development standards that are not relevant to the land division review, have not been addressed in the review. Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 11 can be met, and those of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

### **Future Development**

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

- 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 site is currently vacant, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R2 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

## **OTHER TECHNICAL REQUIREMENTS**

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary subdivision proposal.

<b>Bureau</b>	<b>Code Authority and Topic</b>
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual



Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 11 – Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 – Water availability

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal:

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

## CONCLUSIONS

The applicant has proposed a four-lot subdivision, as shown on the attached preliminary plan (Exhibit C.2) and illustrated on the Proposed Improvements/Tree Preservation Platn (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: water service lateral location, public right of way improvements, tree preservation and septic system decommissioning. With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a four-lot subdivision, that will result in four single dwelling lots for development of detached homes as illustrated with Exhibits C.1 and C.2, subject to the following conditions:

**A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for review and approval by the Portland Water Bureau and the Land Use Services section of BDS. 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:

- The reduced side setbacks allowed under 33.120.270.D;
- The location of the existing 1-5/8 metered domestic water service;
- Any other information specifically noted in the conditions listed below.

**B. The final plat must show the following:**

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 84<sup>th</sup> Avenue. The required right-of-way dedication must be shown on the final plat.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.4 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “An Acknowledgement of special land use conditions for tree preservation 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.

**Utilities**

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

**Existing Development**

3. 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.

**Required Legal Documents**

4. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lots 3 and 4. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

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

1. Development on Lots 3 and 4 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.8). Specifically, tree number 2 (39-inch Western Red Cedar) is required to be preserved, with the root protection zones indicated on Exhibit C.1. Tree protection fencing is required along the root protection zone of the tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. The applicant shall meet the requirements of subparagraph 11.60.030.C.2 to provide a copy of the arborist contract prior to permit issuance and a final report from the arborist documenting the inspections and verifying the viability of the tree prior to the City's final inspection. Driveway and right of way improvements must be built on grade without excavation other than removal of the loose organic matter at the surface. Right of way improvements must be setback a minimum of 4.8 feet from the tree trunk. The residence on Lot 4 must be setback a minimum of 24-feet from the trunk of the tree. Within the RPZ, utilities must be tunneled at least 3-feet under the ground, or may be laid in trenches with arborist supervision and must be hand dug. Roots up to 2-inches in diameter may be cut, roots larger than 3-inches must be retained. Development on Lot 4 requires the drywell to be located behind the residence.
2. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

**Staff Planner: Brandon Rogers****Decision rendered by:**  **on March 21, 2018**

By authority of the Director of the Bureau of Development Services

**Decision mailed March 23, 2018**

**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 April 25, 2017, and was determined to be complete on June 21, 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 April 25, 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 245 days. Unless further extended by the applicant, **the 120 days will expire on: June 18, 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 April 6, 2018** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> 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](http://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.

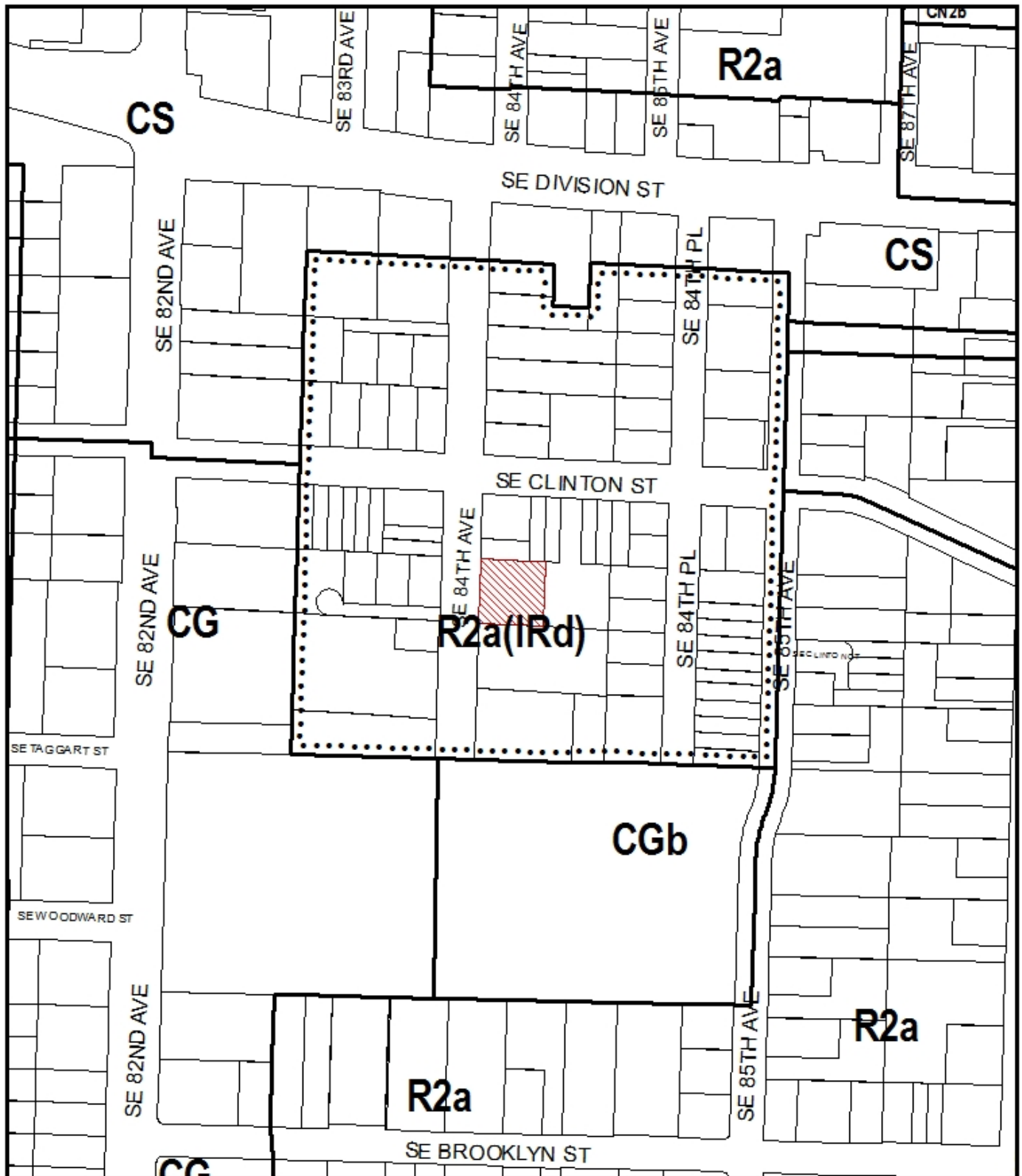
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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 Submittal
  - 1. Original Submittal
  - 2. June 21, 2017 Revised Proposed Improvements Plan and Cover Letter
  - 3. Applicant's January 30, 2018, and June 21, 2017 Revised Information Cover Letters
  - 4. Early Neighborhood Contact
  - 5. 120-Day Extension (August 9, 2017)
  - 6. 120-Day Extension (November 13, 2017)
  - 7. 120-Day Extension (December 19, 2017)
  - 8. Applicant's Revised Arborist Report (January 30, 2018 and February 9, 2018)
  - 9. Stormwater Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Proposed Improvement, Tree Preservation Plan (January 30, 2018)
  - 2. Preliminary Land Division Plan (June 21, 2017)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services, and Addendum
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Section of BDS
- F. Correspondence:
  - 1. Sylvia La Course, July 25, 2017
- G. Other:
  - 1. Original LU Application
  - 2. Land Division Acknowledgement Form
  - 3. Public Works Alternate Review (17-274792)
  - 4. Completeness 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

 Site



NORTH

File No. LU 17-159950 LDS  
 1/4 Section 3339  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E09BB 5700  
 Exhibit B (Apr 27, 2017)



**PROPOSED IMPROVEMENT PLAN  
FOR A PROPOSED SUBDIVISION,  
WEST 100.0' OF LOT 2, BLOCK 3, ANNABERG,  
PER DOCUMENT NO. 2007-053954**

SITUATED IN THE N.W. 1/4 OF SECTION 9, T.1S., R.2E., W.M.  
MULTNOMAH CO., OREGON

MARK ASSOCIATES  
18615 E. BURNSIDE STREET  
PORTLAND, OR 97233  
TEL: 503-667-5550  
FAX: 503-666-8866  
EMAIL: DALE@MARKASSOCIATES.NET

DATE DRAWN: JUNE 14, 2017  
DRAWING NO. 17005PP  
ACCOUNT NO. 17005  
REVISED: JANUARY 24, 2018  
REVISED: JANUARY 26, 2018



ZONING: R7-RESIDENTIAL 2000

SITE SIZE: 9.897 SQUARE FEET

PARCEL DATA: WEST 100.0' OF LOT 2, BLOCK 3, ANNABERG, PER DOCUMENT NO. 2007-053954

BENCH MARK: BRASS DISC, 8" DIA., 4" HIGH, SW CORNER OF LOT 1, 10' FROM N. PROPERTY LINE AND 10' FROM W. PROPERTY LINE

NOTES & LEGEND:

1. DEPICTS WATER METER

2. DEPICTS POWER POLE

3. DEPICTS 1.5" x 2.5" CURB INLET

4. DEPICTS SANITARY SEWER MANHOLE

5. DEPICTS FIRE HYDRANT

123.456" DENOTES GROUND ELEVATION (ELEVATION IS AT DECIMAL POINT)

123.45(2) DENOTES GROUND ELEVATION AT (ITEM NOTED) (ELEVATION IS AT DECIMAL POINT OF TOP CURB)

123.45(1) DENOTES TOP CURB ELEVATION (ELEVATION IS AT DECIMAL POINT)

101.400" DENOTES CENTERLINE ELEVATION (ELEVATION IS AT DECIMAL POINT)

123.45(2) DENOTES GUTTER ELEVATION (ELEVATION IS AT DECIMAL POINT)

789C" DENOTES CHAINLINK FENCE

789E" DENOTES BOARD FENCE

789F" DENOTES PICKET FENCE

789G" DENOTES WATER LINE

789H" DENOTES PROPOSED WATER LINE

789I" DENOTES PROPOSED SEWER LINE

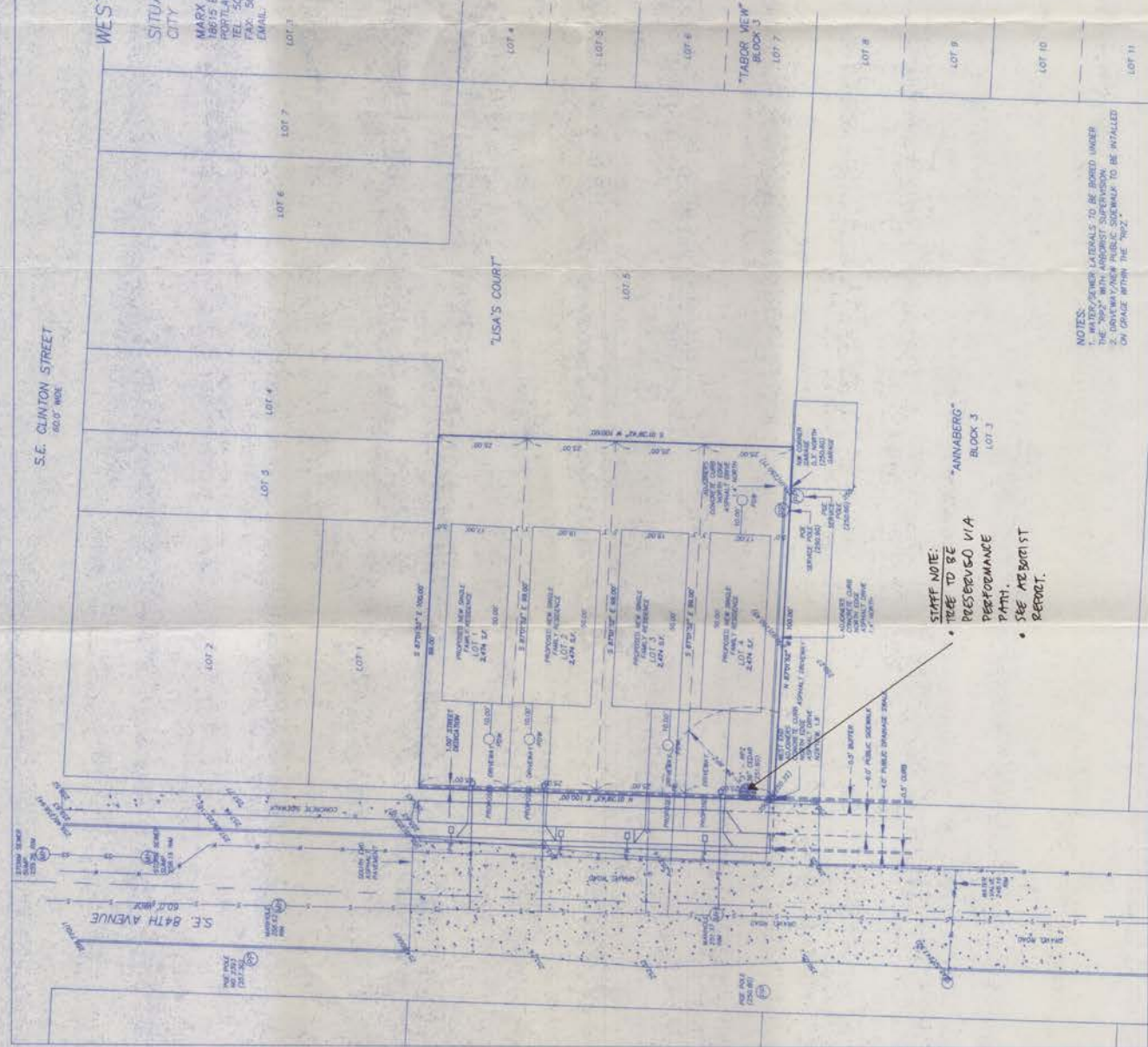
789J" DENOTES PROPOSED STORM SEWER LINE

789K" DENOTES PROPOSED DRYWELL

789L" DENOTES ROOT PROTECTION ZONE

789M" DENOTES TO BE REMOVED

NOTE: UTILITIES ARE LOCATED AS SHOWN IN FIELD LINES OR COPY OF BLUEPRINTS. ALL UTILITIES SHOULD BE FIELD VERIFIED BEFORE CONSTRUCTION.



START NOTE:  
TRACE TO BE  
PROCESSED VIA  
PERFORMANCE  
TRAIL.  
SEE ARCHITECT  
REPORT.

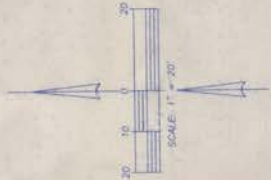
NOTES:  
1. PROPOSED UTILITIES TO BE BORED UNDER THE "X" WITH APPROPRIATE SUPERVISION.  
2. DRIVEWAY/NEW PUBLIC SIDEWALK TO BE INSTALLED ON GRADE WITHIN THE "R2Z".

PELIMINARY PLAT FOR A PROPOSED SUBDIVISION,  
WEST 100.0' OF LOT 2, BLOCK 3, ANNABERG,  
PER DOCUMENT NO. 2007-053954

SITUATED IN THE N.W. 1/4 OF SECTION 9, T.1S., R.2E. W.M.  
MULTNOMAH CO., OREGON  
CITY OF PORTLAND

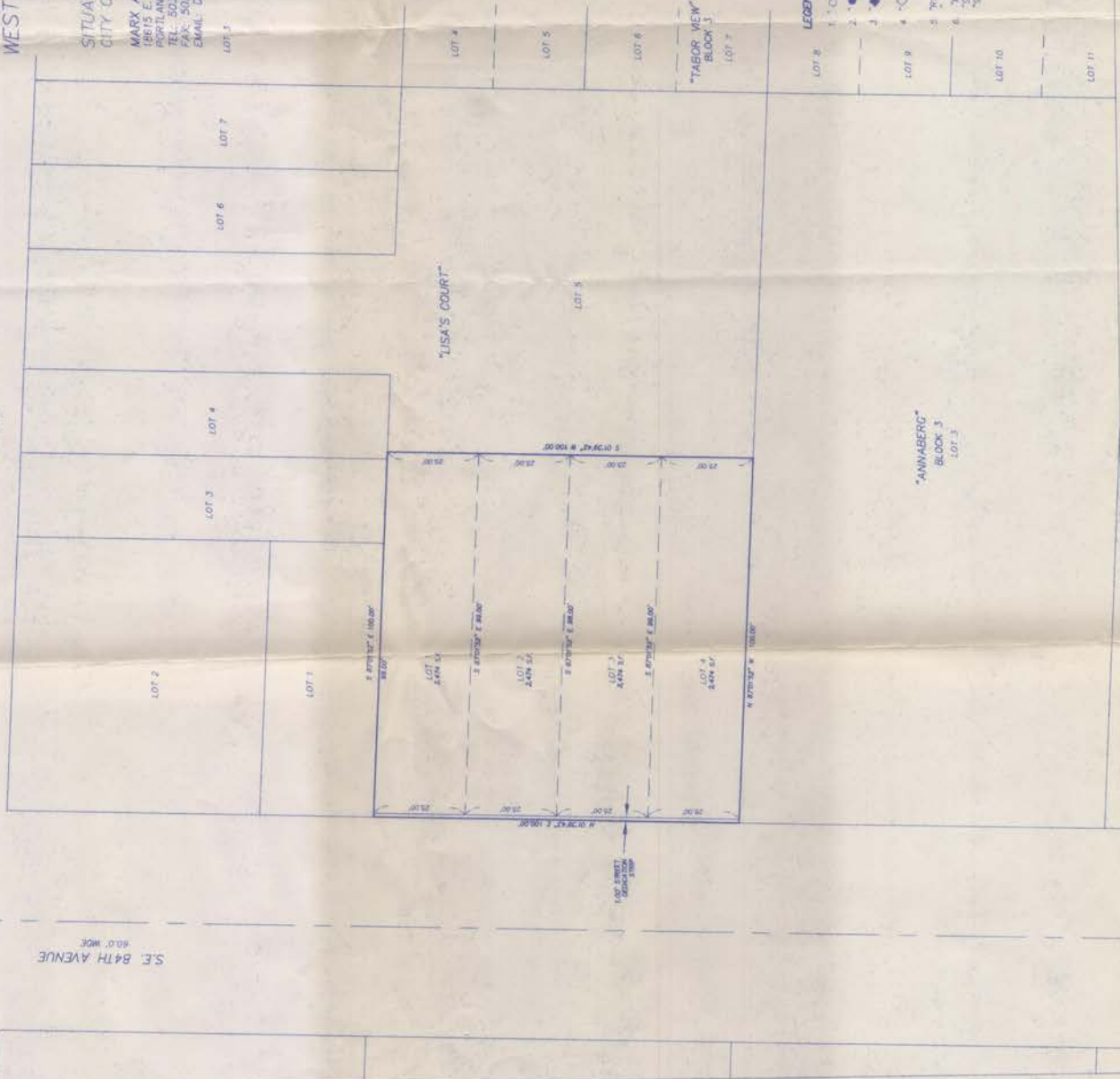
DATE DRAWN: JUNE 14, 2017  
DRAWING NO: 17005SUB  
ACCOUNT NO: 17005

MARY ASSOCIATES  
18615 E. BURNSIDE STREET  
PORTLAND, OR 97233  
TEL: 503-885-3866  
FAX: 503-885-3866  
EMAIL: DALE@MARYASSOCIATES.NET



S.E. CLINTON STREET  
60.0' WIDE

S.E. 84TH AVENUE  
60.0' WIDE



LEGEND:

- 1. "O" DENOTES A 5/8" x 30" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "MARY ASSOC'S" SET ON
- 2. "●" MONUMENTS FOUND, RED AND HELD AS SHOWN AND NOTED
- 3. "◆" DENOTES 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "MARY ASSOC'S" FOUND, RED AND HELD PER SURVEY RECORDS
- 4. "◇" DENOTES A 5/8" x 30" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "MARY ASSOC'S" TO BE SET DURING REMAINING MONUMENTATION SET ON
- 5. "N" DENOTES VALUES PER SURVEY RECORDS
- 6. "M" DENOTES MEASURED VALUES
- 7. "S" DENOTES COULMBE FEET
- 8. "SM" DENOTES SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS

5/2/17