



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

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

Date: April 11, 2018
To: Interested Person
From: Diane Hale, Land Use Services
503-823-7705 / Diane.Hale@portlandoregon.gov

NOTICE OF A TYPE IX 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 17-246838 LDP

GENERAL INFORMATION

Applicant: Kevin Partain, Urban Visions
223 NE 56th Ave / Portland, OR 97213 / (503) 421-2967

Surveyor: Michael Manwell, Professional Land Surveyor
2847 SE 18th Circle / Gresham, OR 97080

Owner: Gary K Flaming / 16635 NW Lakeridge Ct / Beaverton, OR 97006

Site Address: 3320 SE 67TH AVE
Legal Description: TL 11700 0.39 ACRES, SECTION 08 1S 2E
Tax Account No.: R992080480
State ID No.: 1S2E08BD 11700
Quarter Section: 3337
Neighborhood: South Tabor, contact John Carr at jcarrpdx@gmail.com.
Business District: Eighty-Second Ave of Roses Business Association, contact Nancy Chapin at nchapin@tsgpdx.com
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Plan District: None
Zoning: R5a (Single Family Residential 5,000 with "a" Alternative Density Design Overlay Zone)
Case Type: LDP (Land Division Partition)
Procedure: Type IX, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing a 3-parcel partition for detached housing for this 16,928 square foot interior lot. Parcels 1 and 2 will be standard lots at ~4,500 square feet each. Parcel 3 will be a 7,888 square foot flag lot. The existing house will be retained on Parcel 1. Off-street parking is proposed for all three parcels. The applicant is proposing to preserve 4 trees on

the site: a 23” English Walnut, a 36” Doug Fir, a 42” Incense Cedar and a 24” Coast Redwood.

This partition is reviewed through a Type 1x land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

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

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

FACTS

Site and Vicinity: This 16,928 square foot interior lot is developed with a house built in 1912 and two outbuildings. The area directly surrounding the site is zoned and developed with single-family residential houses. SE Powell Blvd is 1 block to the south, and contains a mix of higher density residential and commercial development. Kellogg Middle School is 2 blocks to the east.

Infrastructure:

- **Streets** –At this location, the City’s Transportation System Plan (TSP) classifies SE 67th as a Local Service Street for all modes. According to City GIS, SE 67th is improved with a 30-ft paved roadway and 9-ft sidewalk corridor, within 48-ft of public right-of-way. There is one driveway entering the site that serves the existing house on the site. Tri-Met provides transit service approximately 265 feet from the site at SE Powell Blvd via Bus #9.
- **Water Service** – There is an existing 8-inch water main in SE 67th Avenue. The existing house is served by a metered service from this main.
- **Sanitary Service** - There is an existing 8-inch PVC public combination sewer line in the eastern and western portion of SE 67th Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning:

The R5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits “E” contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on December 22, 2017. Eight written responses have been received from the Neighborhood Association or notified property owners in response to the proposal (see Exhibits F). The comments expressed the following concerns:

- Development on the flag lot will impact privacy and sunlight of adjacent yards/homes;
- New development will negatively impact the quality of life of adjacent lots;
- The proposal reduces the availability of on-street parking and lead to tree removal;
- The proposal is over development of the area caused by landowner greed;
- Single-family homes are preferred over multi-dwelling development to protect property values; and
- Allowing this land division will set a precedent for other new development that doesn't fit the character of the neighborhood;

Staff response:

The land division proposal is subject to the approval criteria listed below, and future development will be required to meet development standards or receive an approved adjustment to the standards at the time of development. Topics such as protecting surrounding property values, limiting the profit of landowners and *general* quality of life issues are not addressed through the approval criteria and development standards in the zoning code. Therefore, comments on these topics cannot be addressed through this review. Multi-family development is not allowed outright in the R5 zone and is not proposed with this land division.

Privacy and access to light are addressed through the setback (buffer from property lines) and height standards in the zoning code. The setback for a flag lot is 10 feet, and a 5-foot landscape buffer with trees, 6-foot tall shrubs and groundcovers is required within the setback area. These measures help ensure that flag lot development is set back from existing back/side yards, privacy is somewhat preserved and noise is buffered by the required landscaping. The site will also be required to have an outdoor area that is at least 12 by 12 feet and 250 square feet in area, per 33.110.235.

This location is not required to have off-street parking because of its proximity to a frequent transit bus line on SE Powell Blvd (#9); see 33.266.110.B for more information. However, in order to address concerns about off-street parking capacity, and to better meet the approval criteria in 33.641, Transportation Impacts, the Bureau of Transportation is requiring off-street parking for all three proposed parcels and a shared curb-cut/driveway to serve Parcels 1 and 3. This will preserve curb space for additional on-street parking capacity.

The tree preservation proposal meets the tree preservation requirements for a land division proposal. Please see section B, Tree Preservation, below for more information.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33. 610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Based on the applicant's survey, the site area is 16,928 square feet. The maximum density in the R5 zone is one unit per 5,000 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area.

The site has a maximum density of 3 units and a minimum required density of 2 units. The applicant is proposing 3 single dwelling parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
R5 Zone	3,000	8,500	36	50	30	40	40
Parcel 1	4,526		40.05	113	40.05	NA	NA
Parcel 2	4,514		39.95	113	39.95	NA	NA
Parcel 3	7.888 (6,532 w/out pole)		NA	NA	NA	92	71

* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

** For flag lots: (1) width and depth are measured at the midpoint of the opposite lot lines in the "flag" portion of the lot; and (2) lot area calculations do not include the pole portion of the lot.

Flag Lots

When allowed

In this case the applicant is proposing 3 parcels, only one of which is a flag lot. The existing dwelling unit has been on the property for at least 5-years and is located so that it precludes a land division that meets minimum lot width standards. The minimum density standards are met. Therefore, the thresholds for when a flag lot is allowed to be created have been met.

Dimensions

The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum lot area, width and depth standards.

Vehicle Access

Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.

In this case, the flag portion of Parcel 3 will provide off street parking access for Parcels 1 and 3. The shared vehicle access minimizes the need for additional curb-cuts along the street and the impervious area resulting from paved surfaces for vehicle access. A private access easement will be placed over the entirety of the pole to allow shared access.

Parcel 3 has met the thresholds for when a flag lot is allowed. Therefore, Parcel 3 is allowed.

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

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

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

To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental

and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. 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 C.2) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.6) 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.

There are 18 trees over 6" located on the site. Two of these trees are exempt due to their status as a nuisance species (sweet cherry, #s 30 and 31) and one is exempt because it is planted in a container (#44, a 6" Japanese maple). 15 trees, which provide a total of 258 inches of tree diameter, are subject to the preservation requirements of this chapter. Six of the regulated trees are 20" or more in diameter.

The applicant proposes to preserve 4 of the trees on the site, all of which are over 20" in diameter, with the noted root protection zones (RPZ):

#26 – 23" English Walnut (18' RPZ)

#34 – 36" Douglas Fir (27' RPZ)

#35 – 24" Coast Redwood (18' RPZ)

#36 – 42" Incense Cedar (21' RPZ to the west, 32' RPZ to the north, 16' RPZ to the east and arborist supervision within 32' of the tree, per arborist report).

The trees proposed for preservation are in good condition, include native/non-nuisance species, and are 20 or more inches in diameter. The proposed root protection zones for the trees to be preserved, as shown on Exhibit C.1, will allow for the type of development anticipated in the R5 zone and will not conflict with any existing utility easements, proposed services or site grading. The preservation proposal preserves 66% of the trees that are over 20" in diameter and 48% of the total on-site tree diameter. The proposal complies with the following tree preservation standard:

Option 3: Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site.

Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

In order to ensure that future owners of parcels 1 through 3 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 Parcels 1 through 3 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.6).

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

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

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

Findings:**Clearing and Grading**

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

In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, the arborist evaluated the trees on site and proposed root protection zones which limit disturbance to the trees to be preserved on the site (see Exhibit C.1). Clearing and grading is not allowed within the root protection zones for trees required to be preserved on the site, and arborist supervision is required for any disturbance within 32' of tree #36, a 42" Incense Cedar. This criterion is met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the outbuildings on the site to allow for redevelopment of Parcels 2 and 3. In order to ensure that the new lots are suitable for development, permits must be obtained and finalized for demolition of all accessory structures on the site. With this condition, the new lots can be considered suitable for development, and this criterion is met.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

Findings: No tracts are proposed or required for this land division, so criterion A does not apply.

The following easements are proposed for this land division:

- A Private Access Easement is required over the flag pole of Parcel 3 to provide a shared access serving Parcels 1 and 3.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block for each agreement, substantially similar to the following example:

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

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

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

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

The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

The applicant provided a written statement sufficient for completeness purposes. The applicant states that the proposal is a “three lot partition to be developed with detached single-family dwellings.” The proposed development increases the proposed number of dwellings by two, given the existing dwelling on the parcel. According the ITE Trip Generation Manual, 9th Edition, 2 new single-family (detached) dwelling are expected to generate approximately twenty trips per day, including two additional trips during the morning peak hour and two additional trips during the evening peak hour. Based on that information, the proposed development will not significantly impact street capacity or level-of-service. An existing 9-ft sidewalk corridor provides pedestrian access to the subject site, and the existing street provides auto, truck, and bicycle access.

As a condition of Final Plat approval, the applicant is required to provide access to Parcel 1 and Parcel 3 through one flag-pole driveway, as proposed, and provide access to Parcel 2 through no more than 1 additional driveway. Additionally, as a condition of Building Permit approval: 1) The applicant is required to provide driveways that, as proposed, are no greater than 9-ft in width. 2) The applicant is required to provide at least one on-site parking space on each proposed parcel. With the two driveways proposed and the requirement for one on-site parking space on each proposed parcel, three on-street parking spaces and three on-site parking spaces will be provided. These factors considered, PBOT finds that this quantity of parking and loading is sufficient to provide for three single-family dwellings. Specifically, the on-street parking approval criterion is met. Based on the narrative submitted by the applicant and confirmed by PBOT, the Powell bus (#9) runs approximately 265-ft from the proposed development; the proposed development site provides sufficient availability of transit service and facilities. The proposed development will not negatively impact transit service or safety for any mode.

PBOT reviewed the eight letters submitted by neighbors prior to January 23, 2018. Four of the letters addressed parking supply, which is related to the on-street parking transportation approval criterion. As noted above, PBOT finds that, given the on-site and on-street parking proposed, the proposed on-street parking is sufficient to provide for the proposed dwellings.

PBOT has reviewed and concurs with the information supplied and available evidence. With the conditions outlined above, the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area. 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:

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.

The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.

33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.

The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.

As a result of the proposed land division, the existing sewer connection that serves the house on Parcel 1 will cross over Parcel 2 to reach the sewer main in SE 67th Avenue. The applicant must cap the existing sewer connection and establish a new service for the house located entirely on Parcel 1. All required plumbing permits must receive final inspection approval prior to Final Plat approval. With this condition, the sanitary sewer service standards of 33.652 have been verified.

33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1 & E.5

No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The applicant has proposed the following stormwater management methods:

- **Parcels 2 and 3:** Stormwater from these 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.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts. BES has noted that there are no City records indicating where the pipes are directed. 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

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

The subject parcel is less than 93-ft from SE Franklin and ~260 feet from SE Powell Blvd, and therefore does not require a connection based on the pedestrian and street connection spacing standards. Neither a pedestrian nor street connection is required in relation to the proposed development.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. For the reasons described above, this criterion is met.

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

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development.

At this location, the City's Transportation System Plan (TSP) classifies SE 67th as a Local Service Street for all modes. According to City GIS, SE 67th is improved with a 30-ft paved roadway and 9-ft sidewalk corridor, within 48-ft of public right-of-way. According to the Pedestrian Design Guide, standard improvements at this location on SE 67th include an 11-ft sidewalk corridor, to consist of a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk corridor, and 0.5-ft frontage zone.

Although the existing pedestrian corridor does not meet the required standards, on January 23, 2018, PBOT approved of a Public Works Alternative (PWA 18-110868) to allow the existing sidewalk corridor to remain at this location and does not require a property dedication. Therefore, the applicant is not required to reconstruct the corridor. However, the applicant is required to reconstruct segments of sidewalk corridor that are damaged or in disrepair as a condition of Building Permit approval.

Portland Transportation has indicated that the existing street is currently improved in a manner that is sufficient to serve the expected users. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met.

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

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

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:

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F). These standards apply to Parcel 3.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 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 building wall of the existing house will be 6.27 feet from the new property line to the south and 3.51 feet from the new property line to the north. Therefore, the required setbacks for the building walls are being met.

The existing eaves of the house do not meet the required setbacks to the new property lines. The applicant has indicated that they will modify the existing house prior to final plat to meet the setback requirements. Eaves must be 2 feet from the north property line and 4 feet from the south property line. Bays must be 3 feet from the north property line and 4 feet from the south property line.

To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines at the closest distance. Eaves and bays must be specifically called out with dimensions to the new lot lines. All permits for required alterations to meet setbacks to the new lot lines must receive final approval prior to final plat.

- Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on Parcels 2 and 3 must be removed prior to final plat. If the structure is over 200 sf, the applicant must provide documentation prior to final plat approval that the required demolition permits have received final inspection approval. If the structure is less than 200 sf in size, a demolition permit is not required. The applicant must submit before and after photos to document removal of the structure.
- Title 11 Tree Density Standard – This site has a minimum tree density requirement per 11.50.050 that is currently met on the site. Due to the land division and associated tree removal, Parcel 1 with the existing house will no longer meet this standard. Parcel 1 is 4,526 square feet, therefore 1,811 square feet of tree area is required. The applicant is preserving tree #26, a 23" English Walnut, which provides a credit of 1,500 square feet of tree area. Prior to final plat approval, the applicant must meet the remainder of this requirement by either planting tree(s) on Parcel 1 or making the equivalent payment into the City Tree Preservation and Planting Fund for 311 square feet of tree area. Tree planting must be documented with a finalized Zoning Permit.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- There are no street trees in the frontage of the site. The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Parcel 1 prior to final plat approval. Street tree planting for Parcel 2 will be required through the standard building permit review; no condition is required. Prior to the land division the site has room for 3 street trees. After the land division the site will only have room for 2 street trees. Due to the loss of a street tree planting location the applicant must pay into the Tree Fund the equivalent of 1.5” of trees (currently \$487.50, subject to future change) prior to final plat approval. These requirements are based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 3 parcel partition, 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. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-parcel partition, that will result in 2 standard lots (Parcels 1 and 2) and 1 flag lot (Parcel 3) as illustrated with Exhibit C.1, subject to the following conditions:

- A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review and BES review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan **must show the surveyed location** of the following:
- Any buildings or accessory structures on the site at the time of the final plat application;
 - The surveyed location of the building walls and eaves/other projections of the existing house relative to the new lot lines after required alterations are made;
 - Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
 - Any other information specifically noted in the conditions listed below.
- B. The final plat must show the following:**
1. A Private Access Easement over the “flag pole” portion of Parcel 3 for the benefit of Parcel 1 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.

2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions C.6, C.7 and C.8 below. The recording block(s) shall, at a minimum, include language substantially similar to the following examples:

An Acknowledgement of Special Land Use Conditions has been recorded as document no. _____, Multnomah County Deed Records.”

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

An Acknowledgement of Tree Preservation Land Use Conditions has been recorded as document no. _____, Multnomah County Deed Records.”

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

Utilities

1. Prior to final plat approval the applicant must cap the existing lateral for the future use of development on Parcel 2 and establish a new service connection from the existing structure on Parcel 1 to a public sewer. The applicant must obtain finalized plumbing permits for this work prior to final plat approval.
2. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcel 3, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new house on Parcel 3, 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

3. The applicant must obtain a finalized demolition permit for removing the accessory structures on Parcels 2 and 3. Prior to removal of these structures, tree protection must be installed in accordance with the approved Tree Preservation Plan, per Condition D.1. If the structure is under 200 sf, the applicant may document removal with before and after photos of the area. If the structure is over 200 sf, a demolition permit is required.
4. The applicant must obtain a finalized building permit for modifications to the existing house that will remain on proposed Parcel 1 that demonstrate compliance with the standards listed below in relation to the proposed new lot lines. The permit plans must include the note: *This permit fulfills requirements of Condition C.4 of LU 17-246838.* The applicant may use a Zoning Permit to fulfill the parking space requirement if that is preferred.
 - 33.110.220 Setbacks--specifically, the permit must show removal of sufficient portions of the eaves to meet the side setback. Eaves must be 2 feet from the north property line and 4 feet from the south property line. Bays must be 3 feet from the north property line and 4 feet from the south property line. If a no-build easement is required by life/safety to meet this condition, the easement must be shown on the plat and associated legal documents and plat notes are required.
 - A parking space shall be installed on Parcel 1 in conformance with the applicable requirements of the Portland Zoning Code. The parking space must be a minimum of 9' x 18' and be located out of the new front setback for the lot with the existing house. In addition, it must be in a location that can be accessed from the flag pole of Parcel 3.

5. The applicant must meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.

Required Legal Documents

6. A Maintenance Agreement shall be executed for the Private Access Easement described in Condition B.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
7. If required, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 3 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.
8. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1, 2 and 3. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

Other requirements

9. 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.
10. The applicant must plant trees on Parcel 1 to fulfill 311 square feet of tree area, or pay into the City Tree Preservation and Planting Fund [Private Property Trees – Planting and Establishment, fee in Lieu (per inch)] the amount equivalent to 311 square feet of tree area. If the applicant chooses to plant, it can be included with the RS permit noted in condition B. above, or completed through a separate Zoning Permit. Final approval of the permit must be provided prior to final plat approval. If the applicant chooses to pay into the fund, payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau. Payment must be completed prior to any tree removal, or prior to Final Plat approval, whichever would occur first.

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

1. Development on Parcels 1, 2 and 3 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.6). Specifically, trees numbered 26, 34, 35 and 36 are required to be preserved, with the root protection zones indicated on Exhibit C.1:
 - #26 – 23” English Walnut (18’ RPZ)
 - #34 – 36” Douglas Fir (27’ RPZ)
 - #35 – 24” Coast Redwood (18’ RPZ)
 - #36 – 42” Incense Cedar (21’ RPZ to the west, 32’ RPZ to the north, 16’ RPZ to the east and arborist supervision within 32’ of the tree, per arborist report).

Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with

8-foot metal posts driven into the ground. Further encroachment into the root protection zones is not allowed.

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.
3. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal (install residential sprinklers) in the new dwelling unit on Parcel 3. Please refer to the final plat approval report for details on whether or not this requirement applies.
4. Vehicle access to Parcel 1 must be from the flag pole of Parcel 3. A driveway is not allowed along the frontage of Parcel 1. The width of the shared driveway is limited to 9 feet at the curb (plus wings).
5. No more than 1 curb cut is allowed along the frontage of Parcel 2, and the width is limited to 9 feet (plus wings) at the curb.

Staff Planner: Diane Hale

Decision rendered by: _____ **on April 9, 2018.**

By authority of the Director of the Bureau of Development Services

Decision mailed April 11, 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 September 26, 2017, and was determined to be complete on December 7, 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 September 26, 2017.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended by 30 days. Unless further extended by the applicant, **the 120 days will expire on May 6, 2018.**

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.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 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.portlandonline.com.

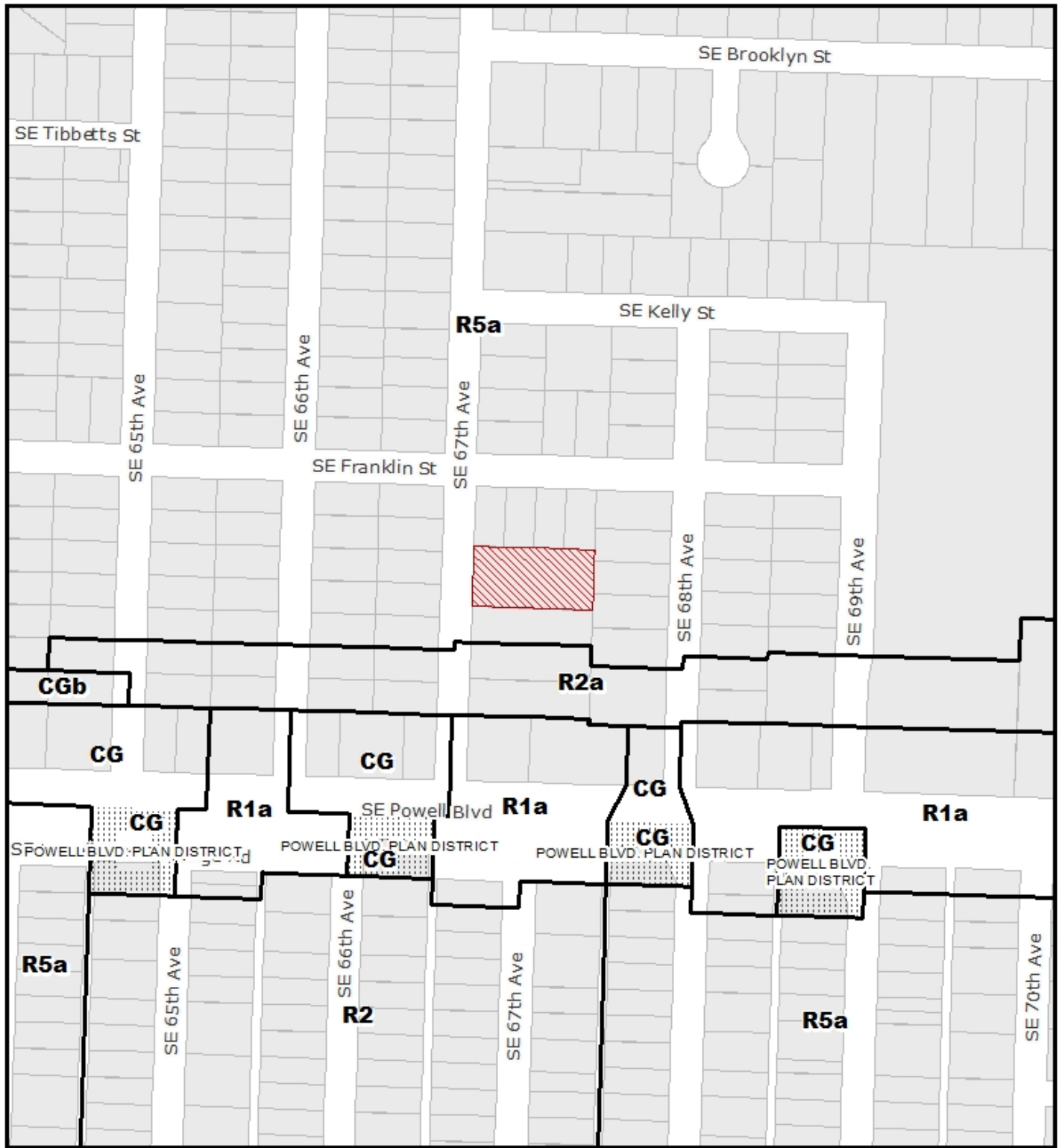
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Applicant's original submittal and plans
 - 2. Applicant's response, December 7, 2018
 - 3. Applicant's response, December 20, 2018
 - 4. Applicant's response, February 22, 2018
 - 5. Stormwater Management Manual Simplified Approach Form,
 - 6. Arborist Report and Supplemental Information, February 22, 2018
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Development Plan (attached)
 - 2. Existing Conditions Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Section of BDS
 - 7. Parks Urban Forestry
 - 8.
- F. Correspondence:
 - 1. Amy Mundackal and Caitlin Aronin, 6724 SE Franklin St, December 30, 2017
 - 2. William Welch, 3327 SE 68th, December 31, 2017
 - 3. Anna Brusco, 3320 SE 67th, January 2, 2018
 - 4. Margueritt Ehlers, 6740 SE Franklin St, January 16, 2018
 - 5. Colleen Lindsay-Bradley, 6675 SW Peach Ln, Beaverton, 97008, January 18, 2018
 - 6. Nora Wetzel, 9839 SE Grant Ct, Portland, 97216, January 22, 2018
 - 7. Jeanne Loyning, 9125 SE 64th, Portland, 97206, January 22, 2018
 - 8. Teresa and James Stegmiller, 3415-3425 SE 68th Ave, January 22, 2018
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Form
 - 3. Incomplete Letter
 - 4. Extension Form

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



ZONING



File No.	LU 17-246838 LDP
1/4 Section	3337
Scale	1 inch = 200 feet
State ID	1S2E08BD 11700
Exhibit	B Sep 29, 2017

