



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

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Date: April 24, 2018
To: Interested Person
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 15-277518 LDS

GENERAL INFORMATION

Applicant: Spring Kwong
Sunstone Homes
4835 Commercial Street SE
Salem, OR 97302

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

Representative: Kelli Grover
FDG - Firwood Design Group
39065 Pioneer Blvd, Suite 104
Portland, OR 97055

Site Address: 4804 SE 118th Avenue

Legal Description: TL 5700 0.77 ACRES, SECTION 15 1S 2E
Tax Account No.: R992152000
State ID No.: 1S2E15AA 05700
Quarter Section: 3542

Neighborhood: Powellhurst-Gilbert, contact Powellhurst-Gilbert at pgnaboard@gmail.com

Business District: Midway, contact Bill Dayton at 503-252-2017.

District Coalition: East Portland Neighborhood Office, contact Victor Salinas at 503-823-4550.

Plan District: Johnson Creek Basin
Zoning: Residential 2,000 (R2) w/ Alternative Design Density Overlay (a)
Case Type: Land Division Subdivision (LDS)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing to subdivide the subject property into 9 lots ranging in size from 1,822 to 3,270 square feet. Half public right-of-way improvements are required for SE Schiller Street and a private street tract is proposed for access to Lots 5-9.

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 10 units of land (9 lots and 1 tract). Therefore this land division is considered a subdivision.

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

FACTS

Site and Vicinity: The site is located on the southeast corner of SE Schiller Street and SE 118th Avenue. The site is void of any existing improvements and is relatively flat. 100-year floodplain overlay is located directly southeast of the site. A property line adjustment (14-205134 PR) was approved and recorded with the intent of removing the site from this overlay but was unsuccessful. The applicant subsequently received a Letter of Map Amendment (LOMA) from the Federal Emergency Management Agency effectively removing the site from the 100-year floodplain. The surrounding vicinity is developed with a mix of single family homes and multi-family structures. Raymond Park is located southwest of the site.

Infrastructure:

- **Streets** – The site has approximately 95 feet of frontage on SE 118th Avenue and 285 feet of frontage on SE Schiller Street. At this location, SE 118th Avenue and SE Schiller Street are classified as Local Service Streets for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 765 feet north of the site on SE Holgate Boulevard via Bus #17.

At this location, the site’s SE 118th Avenue frontage is improved with a 27-foot paved roadway surface and pedestrian corridor that consists of a 5-foot planter, 7-foot sidewalk, and 1-foot setback to private property (5-7-1 configuration) within a 50-foot wide right-of-way. SE Schiller Street is partially improved with an approximately 18-foot wide paved roadway, with no sidewalk or curb along the site’s frontage.

- **Water Service** – There is an existing 6-inch DI water main in SE 118th Avenue and a 4-inch DI water main in SE Schiller Street.
- **Sanitary Service** - There is an existing 8-inch PVC sanitary sewer main in SE 118th Avenue and Se Schiller Street.

Zoning: The R2 designation is one of the City’s multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It 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.

The Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. At certain locations, the density of development is limited by applying special regulations to new land division proposals. In addition, restrictions are placed on all new land uses and activities to reduce stormwater runoff, provide groundwater recharge, reduce erosion, enhance water quality, and retain and enhance native vegetation throughout the plan district. At other locations, development is encouraged and mechanisms are included that provide relief from environmental restrictions.

Land Use History: City records indicate the following prior land use reviews for this site:

- **LU 11-107574 LDS:** Proposal for a 10-lot subdivision with half public street (SE Schiller Street) and public alley improvements. This case was withdrawn.
- **LU 12-185228 LDS:** Proposal for a 9-lot subdivision with a half public street (SE Schiller Street) and a shared court private street tract. This case was withdrawn.

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 16, 2016**. Two written responses (Exhibits F.1 and F.2) have been received from notified property owners regarding the proposal. Concerns expressed in these responses relevant to the approval criteria for this review include those of density and traffic. As addressed in criterion A, Lots, the proposal for 9 lots is within the allowed density of the R2 zone, which allows one unit/lot per 2,000 square feet of site area. In regards to traffic concerns, under findings associated with Criterion K, Transportation Impacts, the Portland Bureau of Transportation has determined that the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area, subject to noted street improvements.

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, per the attached Letter of Map Amendment (Exhibit A.6).
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	Requirements for street improvements limits new parcel configuration (33.654 supercedes 33.639).
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site.

	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.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

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

Minimum density in the R2 zone is one unit per 2,500 square feet and the maximum density is one unit per 2,000 square feet. The total site area shown on the applicant's survey is 33,617 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. Half street improvements are required for SE Schiller Street and a new private street tract is proposed, which totals approximately 9,633 square feet. Therefore the resulting lot size for calculating density is 23,984 square feet. Based on this area, the site has a minimum required density of 10 units and a maximum allowed density of 12 units.

As shown below, the applicant is proposing 9 lots. In this zone, accessory dwelling units are included in the minimum density calculations, but are not included in the maximum density calculations (33.205.050). Based on the minimum required density of 10 units, the applicant has proposed to develop Lot 6 with an accessory dwelling unit in order to meet the minimum required density.

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

R2	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Detached Houses	1,600	25	none	25
Lot 1	2,630	38	69	38
Lot 2	3,270	48	68	48
Lot 3	3,167	48	67	48
Lot 4	2,602	48	56	39
Lot 5	1,822	34.5	53	34.5
Lot 6	2,446	42	54	25
Lot 7	2,730	45	49	≈95
Lot 8	2,500	35	68	36
Lot 9	2,817	35	77	38

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

The findings above show that the applicable lot dimension standards are met. Subject to a condition requiring Lot 6 to be developed with an accessory dwelling unit, the density standards can be met. Therefore this criterion is met.

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

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

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

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

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

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

Based on this information, 6 trees, which provide a total of 114 inches of tree diameter, are subject to the preservation requirements of this chapter. The applicant has proposed to retain Tree #13 (18-inch Big leaf maple) on Lot 6, which doesn't meet any of the Minimum Tree Preservation Standards (33.630.100). Of the remaining 5 non-exempt trees, 3 are located within the area of the proposed private street tract and 2 are located within the future development footprint of Lot 7. As such, it is not feasible to preserve these trees and provide services to the site under chapters 33.651 through 33.654 and provide for reasonable development of the site. Therefore, the applicant has proposed mitigation in the form of payment into the City's Tree Preservation and Planting fund.

The Title 11 tree density standards will require that trees be planted on the lots at the time of building permit. Based on the average size of the proposed lots, 2-4 trees will be required to be planted on each lot, depending on the type of trees chosen by the applicant. Given the required tree planting, there is not sufficient room on the lots for additional tree planting to mitigate for tree removal without jeopardizing the overall health of the trees as they mature. Therefore, offsite mitigation in the form of payment into the City Tree Preservation and Planting Fund is more appropriate for this proposal.

The tree preservation standards require up to 35 percent of the total non-exempt tree diameter on the site be preserved. Minus the one tree to be preserved, this amounts to 34 inches on this site. With the condition that a payment equivalent to 34 inches be paid to the City Tree Planting and Preservation Fund prior to final plat approval, tree removal will be adequately mitigated.

In order to ensure that future owners of Lot 6 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 Lot 6 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.2).

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 limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

In this case, the site is relatively flat, and is not located within the Potential Landslide Hazard Area. However a new half public street (SE Schiller Street) and private street tract, with associated stormwater systems, is proposed as part of the land division, which will require grading on the site.

The applicant has submitted a Preliminary Clearing and Grading Plan (Exhibit C.4, sheet 6) that depicts the proposed work, including existing and proposed elevation contours, soil stockpile areas, undisturbed areas consistent with the root protection zones of trees to be preserved, per the applicant's Tree Preservation Plan, and the overall limits of disturbed area.

The proposed clearing and grading shown on Exhibit C.4 represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level street surface. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new street and lots will be appropriately managed by infiltration facilities to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading proposed is sufficient for the construction of the new streets without being excessive. The limits of disturbance shown on the applicant's plan does not extend more than 15-feet outside of the area proposed for the streets, which will allow for a reasonable maneuvering area for earth-moving equipment needed to level the street and an adequate area to stockpile excess material. In addition, no clearing and grading is proposed within the root protection zone of the one tree on the site that is required to be preserved.

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

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street. The permit application must include a final clearing and grading plan, that must be consistent with the preliminary clearing and grading plan approved with the land division. With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan with the changes noted above, 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.

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

Findings: The following tract is proposed:

- Tract A: Private Street (Name of Street) and Public Utility Easement

With a condition that the proposed tract be owned in common by the owners of Lots 4 through 9 or a Homeowner's Association, this criterion can be met. The following easements are proposed and/or required for this land division:

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

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

"A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

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

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes. Mitigation may be necessary to reduce impacts. The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

The proposed land division site is zoned for multi-family residential development, with min/man density requirements. The applicant is not seeking to development any more single-family residential homes on the site than would otherwise be allowed with multi-dwelling development on the site. Accordingly with no additional impacts related to intersection capacity/operations, PBOT did not require the applicant to prepare a Transportation Impact Study (TIS) to address the above referenced approval criterion. The following Administrative Rule also addresses instances where no further degradation of an intersection's operation is expected:

Transportation Capacity Implications

The City of Portland Administrative Rule TRN 10.27 - Administrative Rules for Traffic Capacity Analysis in Land Use Review Cases provides standards for traffic impact studies required in the course of land use review or development. These include:

1. *For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.*
2. *For stop-controlled intersections, adequate level of service is LOS E. Level of service for two-way stop-controlled intersections is based on individual vehicle movement, and all-way stop controlled intersections is based on a weighted average of vehicle delay for the intersection.*
3. *An amendment or other land use application that requires analysis of traffic capacity and allows development that either (1) may cause a transportation facility to perform below the standards established in sections 1 and 2, or (2) adds vehicle trips to a facility that is already performing below the standards established in sections 1 and 2 may be approved if:*
 - a. *Development resulting from the amendment or other land use application will mitigate the impacts of the amendment or other land use application in a manner that avoids further degradation to the performance of the facility by the time of development through one or more of the following:*
 - (i) **the development is limited to result in no net increase in vehicle trips over what is allowed by the existing zoning; OR**
 - (ii) *one or more combination of transportation improvements or measures are imposed to mitigate the transportation impacts of the amendment or other land use application in a manner that avoids further degradation to the performance of the facility by the time of any development."*

The relative street capacity/level of service evaluation factor is satisfied based the **underlined/bolded/italicized** statement above.

On-street parking will not be impacted - in-fact on-street parking will be enhanced by the required construction of the remaining section of SE Schiller along the site's frontage. Further, it appears that the neighborhood in vicinity of the subject site is made up of homes with garages/driveways that accommodate multiple vehicles. The proposed partition will not have any negative effect to transit service or any other mode of travel. The required sidewalk corridor construction along SE Schiller will enhance the area's pedestrian environment. The transportation system is accordingly, "*capable of safely supporting the proposed development in addition to existing uses in the area*".

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 street improvements are identified under section 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:

33.651 Water Service standard – See Exhibit E.3

There is no water service available to serve Lots 4 through 9. The nearest water service is located in SE Schiller Street. The applicant must make arrangements to extend a new water main in private street tract to ensure service is available to Lots 4 through 9. In order to meet the standards of 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to the Water Bureau prior to final plat approval. With this condition, the water service standards of 33.651 have been verified and this criterion can be met.

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

There is no public sanitary sewer available in to serve Lots 4 through 9. The nearest available sewer is located in SE Schiller Street. Under Public Works Permit (PWP) #EP223, BES Development Engineering approved the Concept Development plans (i.e. 30% design) for a sewer extension within the new private street tract. Therefore, prior to final plat approval, the applicant must complete one of the following to the satisfaction of BES: through a Public Works Permit submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document. In addition, a sewer easement, granted to the City of Portland, must be located over the relevant portions of the private street tract. With these conditions, the sanitary sewer service standards of 33.652 have been verified and this criterion can be met.

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

No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:

- **Private Street (Tract A):** Stormwater will be directed to a sedimentation manhole located in the private street that will remove suspended solids, and from there to a drywell facility, also located in the street tract, that will infiltrate the water into the ground.
- **Public Street (SE Schiller Street):** Stormwater from these new impervious areas will be directed into an infiltration swale located between the curb and the new sidewalk. BES has indicated that surface infiltration is the preferred method of public stormwater disposal at this site. Under Public Works Permit (PWP) #EP223, BES Development Engineering approved the Concept Development plans (i.e. 30% design) confirming the proposed swale is of a size and proposed design that is adequate to provide infiltration for the quantity of water generated from the new impervious areas. Therefore, prior to final plat approval, the applicant must complete one of the following to the satisfaction of BES: through a Public Works Permit submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.
- **Lots 1-9:** Stormwater for Lots 1, 2, and 4-6 is proposed to be directed to individual drywells and Lots 3 and 7-9 are proposed to be directed to individual soakage trenches, both of which will treat the water and slowly infiltrate it into the ground. BES has noted that 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. However, the soakage trenches for Lots 7-9 are shown to be located under proposed driveways, which is not allowed by the *Stormwater Management Manual*. Therefore, prior to final plat approval, the applicant must submit a revised supplemental plan and revised Simplified Approach stormwater report that describes how the stormwater management requirements for Lots 7, 8, and 9 will be addressed.

BES has indicated conceptual approval of the proposed method of stormwater management. Subject to the conditions of approval noted above, this criterion can be met.

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

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal (Exhibit E.2):

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The location of the subject site is within an area of the City (area annexed from Multnomah County) not generally satisfying the above referenced connectivity goals. The subject site is not situated within the context of a large block to further the connectivity goals.

As mentioned previously, the applicant will be constructing/completing SE Schiller (currently a partially improved public r.o.w.) to the extent of including a sidewalk along the site frontage, which will facilitate pedestrian travel. In as far as extending any public street or pedestrian connection through the subject site, this could not be achieved without compromising/demolishing existing development (in all directions from the subject site). PBOT therefore does not have any concerns related to this approval criterion.

For the reasons described above, this criterion is met.

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

The proposal includes a private dead-end street and pedestrian connection, which will be located in the new street tract. As discussed under the findings for through streets above, a new public north-south through street is not required for this proposal. The private dead-end street will serve only 6 dwelling units and it is approximately 100 feet in length from the frontage along SE Schiller Street. This criterion is met.

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

The land division site currently has frontage on SE 118th Avenue, which is fully improved and SE Schiller Street, which consists of half street improvements. The applicant will be expected to construct the remaining section of the SE Schiller public street in order to serve the lots in the land division. The street is anticipated to serve vehicles, pedestrians and bicyclists accessing these lots. The street dedication is proposed to be approximately 25-feet wide, to provide room for the construction of half-street paving, a 6-inch curb, 8-foot stormwater swale, and 6-foot sidewalk. The applicant will be disposing of stormwater from the street in an infiltration swale located in the area where the standard planter strip would be located. As discussed previously in this report, the proposed swale has been sized to accommodate this stormwater facility. The Office of Transportation has indicated that the proposed street width (dedication) and improvements are sufficient to serve these expected users. The applicant must provide plans and financial assurances for the construction of this street prior to final plat approval. In addition the right-of-way dedication necessary to accommodate the new public street must be shown on the final plat.

The applicant has proposed a standard private street tract, beginning at the terminus of SE Schiller Street, that will be approximately 34-feet in width, just over 100-feet long, and will serve/about 6 lots. The Administrative Rules for Private Rights of Way are the standards that govern the construction of private streets. These rules recommend a vehicle roadway width of 24-feet (with on-street parking on one side) for dead-end streets less than 300-feet long that will serve 4 or more lots. The applicants proposed tract width will provide room for the construction of a 25-foot wide paved roadway that allows two travel lanes, parking on one side, two 6-inch curbs, a 5-foot wide sidewalk on one side of the street, and a hammerhead turnaround.

The applicant requested an exception for the sidewalk to not extend the full length around the turnaround (Exhibit A.7). This exception is being requested based on the irregularly shaped land division site making it difficult to provide a turnaround at the terminus of the private street. The turnaround is proposed in the area of Lot 7. The addition of a sidewalk around the entire perimeter of the turnaround would further encumber this already small lot. Therefore, staff finds this exception acceptable as all other relevant land division standards will be met.

On-street parking in the multi-dwelling zones is evaluated on a case by case basis. In this instance the applicants proposal to provide 2 on street parking spaces within the private street tract is sufficient based on the additional SE Schiller Street frontage that will be made available for on-street parking for the lots within the land division site.

In this proposal, the applicant will be disposing of stormwater from the private street within a sedimentation manhole. The proposed tract width is sufficient to accommodate the elements of a street that are adequate for 6 lots by the *Administrative Rules* governing private streets.

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

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

A hammer-head turn-around is proposed at the terminus of the private street tract. The configuration of the turn-around has been reviewed by the Site Development Section of the Bureau of Development Services. Site Development has indicated that the size and configuration of the turn-around are adequate to provide safe vehicular and bicycle movement for the 6 new lots that will use private street. The proposed street tract has been sized to provide adequate room for the turn-around. 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, but will have to be met at the time that each of the proposed lots is developed.

Future Development

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

Existing development that will remain after the land division. The 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 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 is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regards to fire apparatus access, fire flow/water supply, fire hydrant spacing, addressing, turning radius, driving surfaces, installing no parking signs in private street, and aerial fire department access roads. These requirements are based on the technical standards of the 2016 Portland Fire Code (Exhibit E.4).
- The applicant must meet the requirements of Urban Forestry for street tree planting as a part of public works and building permit applications within the new SE Schiller half street improvements. This requirement is based on the standards of Title 11 (Exhibit E.6).

CONCLUSIONS

The applicant has proposed a 9-lot subdivision for detached houses with half public street improvements (SE Schiller Street) and a new private street tract (Tract A), as shown on the attached preliminary plans (Exhibits C.1-3). 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: density, tree preservation, and services/utilities. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 9-lot subdivision, that will result in 9 lots for detached houses, with half public street improvements (SE Schiller Street) and a new private street tract (Tract A) as illustrated with Exhibits C.1-3, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review, BES, and Fire Bureau 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 driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The reduced side setbacks allowed under 33.120.270.D, if eligible;
- The proposed general location of future building footprints and stormwater facilities for each lots;
- The fire access lane with a turning radius of 28 feet inside, 48 feet outside, from both directions.
- The nearest fire hydrant; and
- 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 Schiller Street. The required right-of-way dedication must be shown on the final plat.
2. A public sanitary sewer easement, granted to the City of Portland, shall be shown over the relevant portions of the private street, to the satisfaction of the Bureau of Environmental Services. The easement must be labeled as "Public Sewer Easement to COP".
3. If required by the Fire Bureau, an Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the entirety of the private street.
4. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street *name of street*".
5. A Public Access Easement must be shown over the sidewalk portion(s) of the street tract.
6. 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.10-12 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's SE Schiller Street frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.
2. The applicant shall submit an application for a Site Development Permit for construction of the private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibit C.3 and the Private Street Administrative Rule.
3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private street and all required site development improvements. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance

shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.

4. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private street described in Condition C.2, above. The clearing and grading plan must substantially conform to the Preliminary Clearing and Grading Plan approved with this decision (Exhibit C.4, sheet 6) with the following additions:
 - It must show root protection zones of the trees to be preserved on the Tree Preservation Plan;
 - It must show stockpile areas;
 - It must note that topsoil must be stockpiled on site and re-used to the extent practicable.

Utilities

5. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in the private street tract. The public sewer extension requires a Public Works Permit, which must be initiated and at a stage acceptable to BES prior to final plat approval. As part of the Public Works Permit, the applicant must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.
6. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in the private street tract.
7. The applicant must submit a Simplified Approach stormwater report that describes how the stormwater management requirements for Lots 7, 8, and 9 will be addressed to the satisfaction of the Bureau of Environmental Services.
8. 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.
9. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Lots 5-7, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new homes on Lots 5-7, 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.

Required Legal Documents

10. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 4-9 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
11. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lot 6. 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.

12. The applicant shall execute a covenant with the City that requires the planting and continued maintenance of one tree in the front yard of Lots 4-9 within 5 feet of the private street tract. The covenant must meet the requirements of section 33.700.060 and must be referenced on and recorded with the plat.


Other requirements

13. The applicant must pay into the City Tree Preservation and Planting Fund the amount equivalent to 34 inches of trees. 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 Lot 6 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.2). Specifically, tree #13 (18-inch Big leaf maple) 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 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. Encroachment into the specified root protection zones may only occur if it meets the Prescriptive Path allowances of 11.60.030 or is under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones beyond the allowances of 11.60.030 is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his/her supervision.
2. Lot 6 must be developed with an accessory dwelling unit.
3. The first lift of paving for the private street shall be installed prior to issuance of any permits for residential construction.
4. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
5. Prior to the issuance of certificate of occupancy and final inspection approval of residential building permits, sidewalks within the private street tract must be constructed.
6. Street trees must be installed on Lots 4-9 within 5 feet of the private street tract. The trees must meet the minimum planting size of Title 11. The required tree planting must be shown on the building permit plans for each lot and installed prior to final inspection approval.
7. The applicant must post the private street with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit.
8. 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.
9. If required, the applicant shall install residential sprinklers in the new dwelling units on Lots 5-7. Please refer to the final plat approval report for details on whether or not this requirement applies.

Staff Planner: Sean Williams

Decision rendered by:  **on April 20, 2018**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 24, 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 December 15, 2015, and was determined to be complete on June 13, 2016.

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 December 15, 2015.

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 to waive all time limits and rights under ORS 227.178, as stated with Exhibit A.10.

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 May 8, 2018** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7617 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal

to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.ci.portland.or.us.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Approval criteria narrative
 - 2. Arborist report
 - 3. Stormwater report
 - 4. Geotechnical report
 - 5. Transportation impact study
 - 6. FEMA LOMR
 - 7. Private street exceptions
 - 8. Applicant correspondence
 - 9. Neighborhood contact
 - 10. Extension(s) of 120-day review period
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing conditions plan
 - 2. Site Plan (attached)
 - 3. Private street plan
 - 4. Original plan set
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner

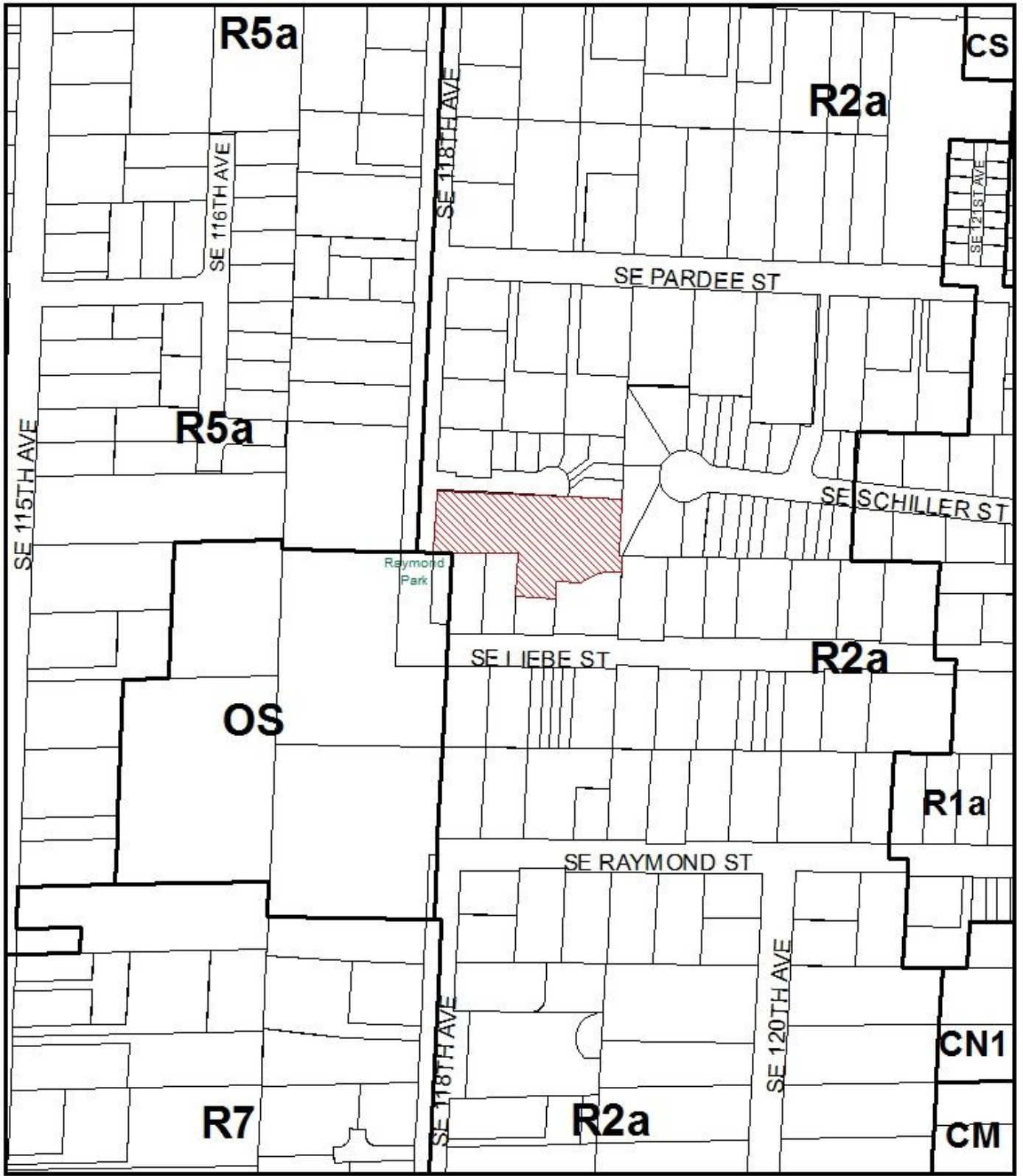
F. Correspondence:

1. Rita Taylor (6/5/16)
2. Tracy Quintero (6/19/16)

G. Other:

1. Original LU Application
2. Incomplete 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).



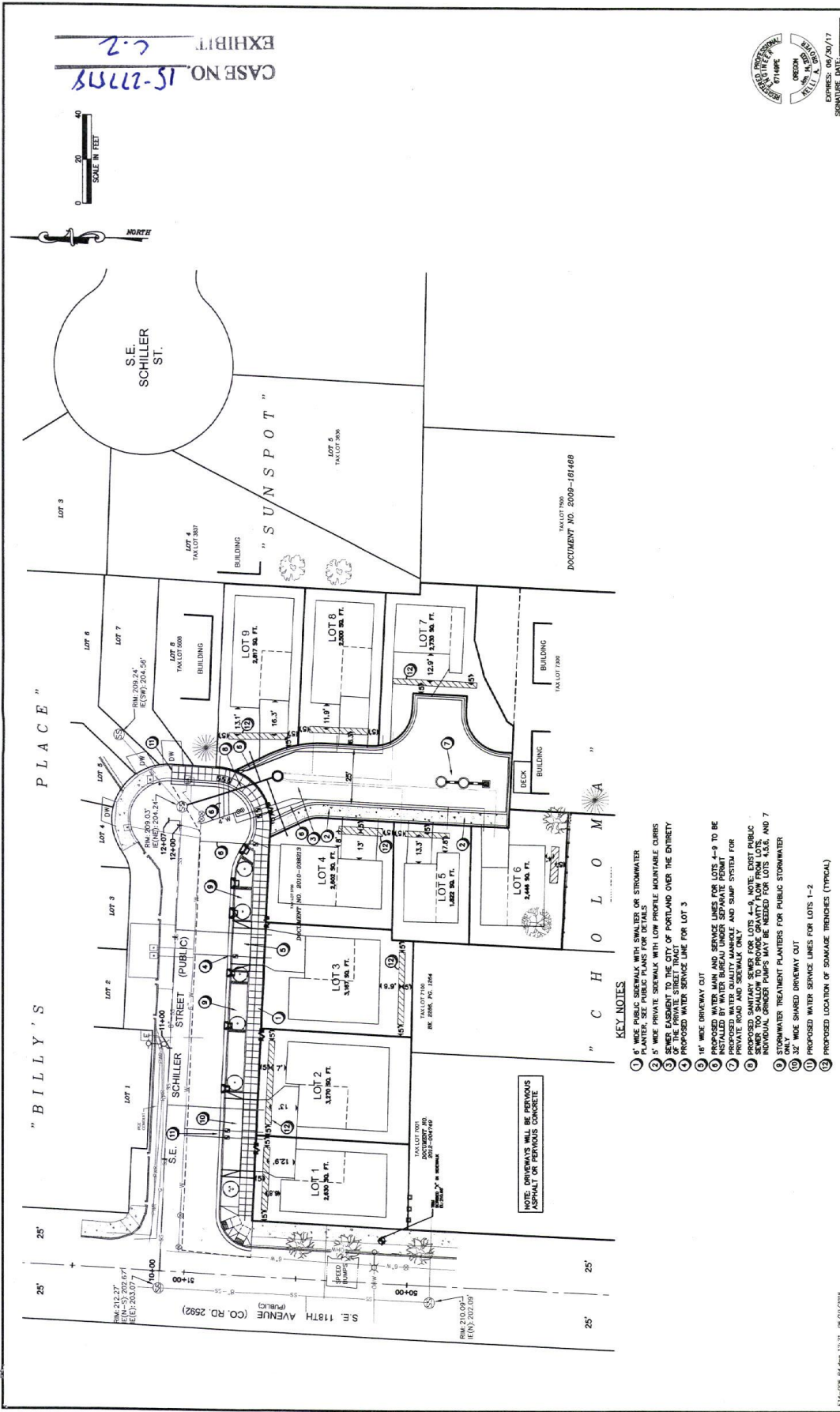
ZONING



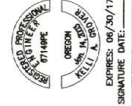
This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

Site

File No. LU 15-277518 LDS
 1/4 Section 3542
 Scale 1 inch = 200 feet
 State_Id 1S2E15AA 5700
 Exhibit B (Dec 16, 2015)



CASE NO. 15-27759
EXHIBIT C-2



EXPIRES: 06/30/17
SIGNATURE DATE:

COMPOSITE SITE PLAN
SE SCHILLER ONSITE IMPROVEMENTS
4804 SE 118TH AVE., PORTLAND, OREGON

SPRING KWONG
4835 COMMERCIAL ST SE
SALEM, OR 97302

FDG
3000 PIONEER BLVD, SUITE 104
PORTLAND, OREGON 97208
PHONE: (503) 253-7777 FAX: (503) 253-7778
WWW.FDGARCHITECTS.COM
ARCHITECTS • ENGINEERS • PLANNERS

DATE	NO.	REVISION

- KEY NOTES**
- 1/2" WIDE PUBLIC SIDEWALK WITH SWALLOW OR STORMWATER CURB
 - 1/2" WIDE PRIVATE SIDEWALK WITH SWALLOW OR STORMWATER CURB
 - 1/2" WIDE PRIVATE SIDEWALK WITH SWALLOW OR STORMWATER CURB
 - SEWER FLASHTO THE CITY OF PORTLAND OVER THE ENTIRETY OF THE PRIVATE STREET TRACT
 - PROPOSED WATER SERVICE LINE FOR LOT 3
 - 16" WIDE DRIVEWAY CUT
 - PROPOSED WATER MAIN AND SERVICE LINES FOR LOTS 4-9 TO BE INSTALLED BY WATER BUREAU UNDER SEPARATE PERMIT
 - PROPOSED SANITARY SEWER AND SERVICE LINES FOR LOTS 4-9 TO BE INSTALLED BY WATER BUREAU UNDER SEPARATE PERMIT
 - PROPOSED SANITARY SEWER AND SERVICE LINES FOR LOTS 4, 5, 6, 7, 8 AND 9 TO BE INSTALLED BY WATER BUREAU UNDER SEPARATE PERMIT
 - STORMWATER TREATMENT PLANTERS FOR PUBLIC STORMWATER ONLY
 - 1/2" WIDE SHARED DRIVEWAY CUT
 - PROPOSED WATER SERVICE LINES FOR LOTS 1-2
 - PROPOSED LOCATION OF SOMAGE TRENCHES (TYPICAL)

NOTE: DRIVEWAYS WILL BE PERVIOUS ASPHALT OR PERVIOUS CONCRETE

L15-277518 LDS C-2