



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

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Date: June 1, 2018
To: Interested Person
From: JP McNeil, Land Use Services
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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 17-204504 LDS

GENERAL INFORMATION

Applicants/Owners: Brett Grantham | Greenworks Contractors Llc
10121 SE Sunnyside Rd #300
Clackamas, OR 97015

Applicant: Jeffrey West | Providence Real Estate & Construction
4400 NE Halsey St, Bldg 2, Suite 190
Portland, OR 97213

Representative: Anne Marie Skinner | PBS Engineering and Environmental
4412 SW Corbett Ave | Portland, OR 97239
annemarie.skinner@pbsusa.com | 503-248-1939

Site Address: 13035 NE Oregon Street

Legal Description: BLOCK 1 LOT 3 EXC SLY 414', ESPEDAL; BLOCK 1 LOT 3 TL 9300, ESPEDAL

Tax Account No.: R256500100, R256500150

State ID No.: 1N2E35BD 07300, 1N2E35BD 09300

Quarter Section: 2943

Neighborhood: Hazelwood, contact Arlene Kimura at 503-252-9429.

Business District: Gateway Area Business Association, contact info@gabanet.com

District Coalition: East Portland Neighborhood Office, contact Victor Salinas at 503-823-6694.

Zoning: R5a/R2a: Residential 5,000 and Residential 2,000 with an 'a' Alternative Design Density Overlay

Case Type: LDS- Land Division Subdivision

Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA)

Proposal: The applicant is proposing a three (3) lot subdivision with a Private Access Tract (Tract A) on this 29,208-square foot site. There are a number of trees on the site, five (5) of

which will be preserved. The applicant will be required to provide a 36-foot wide cul-de-sac turnaround at the terminus of NE Oregon Street.

The northern portion of the site is currently occupied by a single dwelling home, which will be removed. This portion of the site will be made available for three (3) new single dwelling homesites. The southern portion of the site (Tract A) is a paved, private driveway that provides access to a Providence Health medical facility to the south and east of the site and also to a residence bordering on the southwest portion of the site along NE Glisan Street. Tract A will continue to function as a driveway to the adjacent properties taking access from that tract.

The northern portion of the site and Tract A are under separate ownership and also have different zoning designations, with multi-dwelling R2 zoning on Tract A and single-dwelling R5 zoning on the northern portion of the site. Tract A was improperly separated and sold off from the northern portion of the site through a deed conveyance in 1986. This Land Division will remedy that situation. Due to its configuration and current use as an accessway and parking area for the Providence medical facility, it is not practicable to develop this site for housing in its current configuration. For this reason, Tract A will continue its current vehicle access function and will remain available for future development if the Providence site were to redevelop.

Because the area of proposed Tract A is located in the R2 zone, it has a minimum required density of four (4) units. This proposal originally included an Adjustment to reduce the minimum density to zero (0); however, Section 33.612.100.B states that, for development other than single-dwelling or duplex housing, density requirements must be met at the time of development. It was therefore determined that the Adjustment to density was unnecessary at this time.

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.**

This partition is reviewed through a Type Ix 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 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 four (4) units of land (three (3) lots and one (1) tract). Therefore, this land division is considered a subdivision.

FACTS

Site and Vicinity: The site is comprised of two component parts under separate ownership: the northern portion of the site, where the three lots are proposed, is referred to here as Tax Lot 7300; and the southern portion of the site, which is the long and narrow “flagpole” portion of the site, comprising Tract A, is referred to here as Tax Lot 9300. Tax Lot 7300 is approximately 19,824 square feet in size and is located in the R5a zone. It is currently occupied by a one-story single dwelling unit with frontage on NE Oregon Street. There are a number of trees on that portion of the site. Tax Lot 9300 is approximately 9,384 square feet in size, ranges from 18 to 25 feet in width and 414 feet in length and is zoned R2a. Tax Lot 9300 provides access from its frontage on NE Glisan Street to the adjacent Providence Health medical and to the home located at 13043 NE Glisan Street, to which access is provided over a private access easement. As such, Tax Lot 9300 is paved over much of its length with a sidewalk running along the western edge. There is a fence along the boundary between Tax Lots 7300 and 9300, blocking access to the northern portion of the site. There is also a private sewer line running underneath Tax Lot 9300 that serves the Providence facility.

The surrounding area is a mix of development types. The area to the north and east of the site is comprised of one and two-story, midcentury, single dwelling homes. Glendoveer Golf Course is one block east of the site. The area along NE Glisan Street is a mix of multidwelling, single dwelling, and institutional development.

Infrastructure:

- **Streets** – The site has approximately 98 feet of frontage on NE Oregon Street and 18 feet of frontage on NE Glisan Street. There is a driveway entering the site from NE Oregon that serves the existing house. There is also a paved driveway providing access from NE Glisan Street to two properties adjacent to the site. At this location, NE Oregon Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). NE Glisan Street is classified as a District Collector for Traffic, Community Transit Street, City Bikeway, City Walkway, and Community Corridor. Tri-Met provides transit service adjacent to the site at NE Glisan Street via Bus Line 25.

NE Oregon Street has a 32-foot curb-to-curb paved surface within a 50-foot right-of-way with parking on both sides. NE Oregon dead ends adjacent to the site. There are no sidewalks along this segment of NE Oregon. NE Glisan Street has a 66-foot curb to curb paved surface within an 80-foot right-of-way with parking on the north side of the street. There is a 6-foot sidewalk corridor adjacent to the site along NE Glisan.

- **Water Service** – There is an existing 4-inch CI water main in NE Oregon Street and a 6-inch DI water main in NE Glisan Street. The existing house is served by a metered service from the NE Oregon main. There is also a 2-inch service to the Providence care facility to the south from this main, which crosses over a portion of Tax Lot 7300 (future Lot 3). A 1-inch water service from the main in NE Glisan Street that serves the Providence facility appears to run over a portion of Tax Lot 9300 (future Tract A).

- **Sanitary Service** - There is an existing 8-inch PVC sanitary sewer line approximately 45 feet west of the site in NE Oregon Street. There is also a 12-inch CSP sanitary sewer in NE Glisan Street.

- **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 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.

Land Use History: City records indicate there is one prior land use review for this site.

- **LU 16-287542 LDP:** A Land Division – Partition application was withdrawn and replaced by this application. During the review of the withdrawn application, it was discovered that Tax Lot 9300 had never been legally separated from Tax Lot 7300. Inclusion of Tract A with this application aims to remedy that situation.

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 October 26, 2017 and on March 20, 2018. One written response has been received from a notified property owner in response to the proposal.

- A neighbor objected to the proposal based on concerns that the added density on the street (two additional dwellings) would generate a dangerous increase in traffic on NE Oregon Street.

Staff Response: The Portland Bureau of Transportation (PBOT) reviewed this proposal for transportation impacts (Section K, below) and estimates the two new dwellings would generate approximately twenty additional vehicle trips daily. PBOT finds that this level of traffic would not create a significant impact on the surrounding neighborhood streets. See Section K, Transportation Impacts for further discussion of how this proposal may affect the surrounding transportation network.

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.
J	33.640 - Streams, Springs, Seeps, and Wetlands	No streams, springs, seeps, or wetlands 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.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.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the R5 through R5 and Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. Based on the applicant's survey, the site area is 29,208 square feet, of which 19,824 square feet is located in the R5 zone and 9,384 square feet is located in the R2 zone. Density and lot dimension standards for each zone must be met on the portion of the site that is located within that zone.

The maximum density in the R5 zone is one unit per 5,000 square feet and minimum density is one unit per 5,000 square feet based on 80 percent of the site area. The R5 portion of the site has a maximum density of four (4) units and a minimum required density of three (3) units. The applicant is proposing three (3) single dwelling lots. The density standards are therefore met.

In the R2 zone, minimum density is one unit per 2,500 square feet and the maximum density is one unit per 2,000 square feet. The total site area in the R2 zone as shown on the applicant's survey is 9,384 square feet. This entire area will be placed in Tract A – Private Access Tract. No lots are proposed. In the R2 zone, when development other than single-dwelling or duplex development is proposed, minimum and maximum density must be met at the time of development; therefore, density and lot dimension standards don't apply on the R2 portion of the site.

The lot dimensions required in the R5 zone and those 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)
R5 Zone	3,000	8,500	36	50	30
Lot 1	7,781		37	140	34
Lot 2	6,634		40	125	32
Lot 3	5,091		42	124	41

* 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.

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

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

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

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

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

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

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.4) 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, 12 trees, which provide a total of 179.5 inches of tree diameter, are subject to the preservation requirements of this chapter.

The trees proposed for preservation are in good condition, include native and non-nuisance species, and two (2) of the trees are 20 or more inches in diameter. Specifically, the applicant proposes to retain 67% percent of the trees that are 20 or more inches and 92.5 inches (52%) of the total tree diameter, so the proposal complies with:

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.

The proposed root protection zones for the trees to be retained 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 applicant's arborist notes that the performance path approach for tree preservation will be used for Trees 3 and 6, which will allow the root protection zones for those trees to be reduced below what is allowed under the prescriptive path to allow for development activities. The arborist further notes that the driveway on Parcel 3, which will encroach into the root protection zone for those trees, must be constructed on grade without excavation and that an arborist must be present on the site when the fencing for those trees is moved to allow for said construction activity to occur.

Also pertinent to tree protection measures is that the applicant submitted a clearing and grading plan that shows grading occurring on the lots within the root protection zones of trees; however, the applicant states that any clearing and grading on the site will occur with the building permits on the individual lots and will not take place in the root protection zones of any trees, with the exceptions of Trees 3 and 6, as noted above.

In addition, the applicant's arborist report has also identified seven (7) trees on adjacent sites that are within 15 feet of potential disturbance area on the proposed lots (Lots 1-3). In order to protect the off-site trees from construction impacts, the arborist recommends tree protection fencing for the portion of the root protection zones that extend onto the site, which is reflected on the tree preservation plan.

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

In order to ensure that future owners of the lots and tract are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Lots 1-3 and within Tract A must be carried out in conformance with the Tree Preservation Plan (Exhibit C.4) and the Arborist Report (Exhibit A.2).

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

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

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

Findings:

Clearing and Grading

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

In this case, the site is 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 applicant's arborist has identified the protective measures that will be taken to protect the trees from damage during clearing, grading, and construction activities on the site. Please note that the applicant submitted a clearing and grading plan (Exhibit C.6) that shows grading occurring on the site within the root protection zones; however, the applicant states that clearing and grading will occur under the building permits for the new homes on the individual lots. Site Development noted the discrepancy between what is shown on the clearing and grading plan (Exhibit C.6) and the applicant's narrative (Exhibit A.5), and states that clearing and grading can occur with the building permits. Otherwise, a Site Development permit would be required. 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. The applicant has proposed to remove the existing house and garage and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site, decommissioning any existing septic system, and sewer capping prior to final plat approval. 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: The following tracts are proposed:

- Tract A – Private Access Tract

Tract A is currently a separate tax account (Tax Lot 9300) and under separate ownership from the portion of the site comprising Lots 1-3 (Tax Lot 7300). Tract A is presently owned by Providence Health and Services Oregon and serves as the point of access off NE Glisan for the medical facility on the property to the west of Tract A (Tax Lots 9100 and 9200), which is also owned by Providence. This Land Division will remedy the situation that was created when Tract A was sold off by deed in 1986 but did not receive approval of a Land Division or Property Line Adjustment that would have allowed it to be sold off separately. Following approval of this Land Division, Tract A will continue to be owned by Providence Health and Services Oregon. With a condition that proposed Tract A remain under the same ownership as the site it serves (Tax Lots 9100 and 9200), this criterion can be met.

The following easements are proposed:

- Private Sanitary Sewer Easement over Tract A providing service to the Providence site (Tax Lot 9200) to the satisfaction of BES.

There are also two existing easements over Tract A. One easement provides access to Lot 3 of the original Espedal Subdivision (Lots 1-3 of this application) and the other provides access to Lot 2, Block 2, Fairway Terrace, which is the lot just to the east of Tract A along NE Glisan Street.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for Tract A and the Private Sanitary Sewer

Easement described above and facilities within those areas. This agreement(s) should recognize the two private access easements referenced above. 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 maintenance agreement 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 condition 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 revised narrative to address a 3-lot land division. The narrative sufficiently addresses the transportation approval criteria. The narrative states that one single-family dwelling is on the existing lot. That dwelling is proposed to be removed and replace with three dwellings. Therefore, the proposed development increases the total number of dwellings on the subject parcel by two.

According to the ITE Trip Generation Manual, 9th Edition, two new single-family detached dwellings 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. The proposed parcels will take access from NE Oregon Street. The applicant proposes off-street parking to be located on each of the proposed parcels, to include a garage on each parcel. The proposed on-street vehicle access and loading area for the residential use at this location is sufficient to accommodate two additional dwellings. The proposed development is approximately 0.8 mile from the MAX Blue Line, 0.6 miles from a stop for the #77 bus, 0.7 miles from the #73, and 0.3 miles from a stop for the #25 bus. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area. The proposed development will not negatively impact transit service or safety for any mode.

PBOT has reviewed and concurs with the information supplied and available evidence. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. These criteria are met.

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 3 of this report.

There is a 2-inch water meter located on Lot 3 that serves the Providence medical facility located on Tax Lot 9200. Title 21 requires that the water service connection be located in the right-of-way immediately adjacent to the property it serves. Therefore, prior to final plat approval the water service for Tax Lot 9200 must be relocated so that the service connection will be located along the frontage of that property. Additionally, the Water Bureau notes that there is a 1-inch water service located on Tract A, which serves the Providence medical facility on Tax Lot 9100, that must be modified or removed to the satisfaction of the Water Bureau prior to final plat approval. With these conditions, 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 3 of this report.

There is no public sanitary sewer available in NE Oregon Street to serve Lots 1-3. The nearest available sewer is located in NE Oregon Street, 45 feet from the site. The applicant must obtain a public works permit to extend the public sewer to this site prior to final plat approval.

As noted above, a private sewer lateral runs down Tract A to serve the adjacent property to the west of Tract A (Tax Lot 9200). BES has indicated that a private sanitary sewer easement must be shown on the final plat to the satisfaction of BES.

With the conditions noted above, the sanitary sewer service standards of 33.652 have been verified.

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

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

The applicant has proposed the following stormwater management methods

Public Street Improvements: As a condition of this land use approval, the Bureau of Transportation requires the applicant to improve the frontage of the site to City standards (as discussed below). A new sidewalk is required, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.

Lots 1-3: 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.

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

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

The site contains sufficient width to allow the creation of a public east-west through street. However, the properties adjacent to the portion of the site where the street would terminate

are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for an east-west through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

There is an existing dead-end street adjacent to the site; however, it would not be practical to extend the street to serve the site or neighboring properties.

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, and turnarounds – See Exhibit E.2 for bureau comment

NE Oregon Street is a dead-end street improved with a paved roadway with curbs on both sides. There are no planter strips or sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that a reduced cul-de-sac must be installed and sidewalk improvements must be made in order to meet City standards to ensure that safe vehicle and pedestrian travel is possible to and from the proposed development. In consultation with the Portland Fire Bureau, appeals were granted that allow for a 36-foot diameter cul-de-sac, which is smaller than the standard width for a cul-de-sac at the end of a dead-end street. To accommodate these improvements additional right-of-way must be dedicated along the frontage of the site. With those improvements, two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided. PBOT is also requiring dedication of approximately 7 feet along the site's NE Glisan Street frontage to accommodate future right-of-way improvements.

With the conditions of approval described above, 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.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, 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 R5 or R2 zone. The applicant will be required to receive final inspection approval of a demolition permit for the existing structures on the site prior to final plat approval.

With the condition 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 regard to addressing requirements; installing a new hydrant with adequate flow; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Lots 1-3 per appeal 16341; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for street tree planting in the proposed new planter strip adjacent to Lots 1-3 at the time of building permit. This requirement is based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 3-lot subdivision with a Private Access Tract (Tract A), as shown on the attached preliminary plan (Exhibit C.4). 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:

- Right-of-way dedication and improvements
- Tracts and easements
- Public sewer main extension
- Water service
- Fire Bureau requirements
- Demolition of existing structures
- Septic system decommissioning
- Tree preservation

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-lot subdivision with a Private Access Tract (Tract A), that will result in three (3) standard lots and one (1) Private Access Tract as illustrated with Exhibits C.1-C.6, subject to the following conditions:

A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for NE Oregon Street and NE Glisan Street. The required right-of-way dedication must be shown on the final plat.
2. A private sanitary sewer easement, for the benefit of Tax Lot 9200 (13033 NE Glisan Street), shall be shown and labeled over the relevant portions of Tract A.
3. The private access tract shall be noted on the plat as "Tract A: Private Access Tract. A note must also be provided on the plat indicating that the tract will be owned and maintained by the owners of Tax Lots 9100 and 9200 (13007 & 13033 NE Glisan Street).
4. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition B.8 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."

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

Utilities

1. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in the NE Oregon Street. 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.
2. The applicant shall meet the requirements of the Water Bureau concerning relocating or removing the water service connections that are located on Lot 3 and Tract A serving Tax Lots 9100 and 9200 (13007 and 13033 NE Glisan Street).
3. The applicant shall meet the requirements of the Fire Bureau for installing a new fire hydrant with adequate fire flow. The applicant must contact the Water Bureau, Development Services Department at 503-823-7368, for fee installation information related to the purchase and installation of fire hydrants. The applicant must purchase the hydrant and provide verification to the Fire Bureau that the Water Bureau will be installing the required fire hydrant, with the required fire flow and pressure.

Existing Development

4. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. Additionally, the City's Deconstruction ordinance applies to houses built in 1916 or earlier and/or designated historic resources. The site plan for the demolition permit must show all trees to be preserved and root protection zones as shown on Exhibit C.4. All demolition work must be in conformance with the recommendations in the applicant's arborist report (Exhibit A.2).

5. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site.

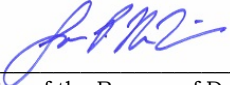
Required Legal Documents

6. A Maintenance Agreement shall be executed for the Private Sewer Easement and the Private Access Tract described in Condition A.4 above. The agreement shall include provisions assigning maintenance responsibilities for the tract and 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 also include a statement about redevelopment of Tract A consistent with condition C.5, below. 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. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Lots 1-3 to contain internal fire suppression sprinklers, per Fire Bureau Appeal No. 16341. 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 Lots 1-3 and Tract A. 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.

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

1. Development on Lots 1-3 and Tract A shall be in conformance with the Tree Preservation Plan (Exhibit C.4) and the applicant's arborist report (Exhibit A.2). Specifically, trees numbered 3, 6, 17, 19, and 22 are required to be preserved, with the root protection zones indicated on Exhibit C.4. 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 their supervision.
2. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of Lots 1-3.
3. 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.
4. The applicant must install residential sprinklers in the new houses on Lots 1-3 to the satisfaction of the Fire Bureau.
5. If development of a primary structure is proposed on Tract A as part of a redevelopment plan with the adjacent site (Tax Lots 9100 and 9200), Tract A must be re-platted as a developable lot.

Staff Planner: Jason P. McNeil

Decision rendered by:  _____ **on May 29, 2018**
By authority of the Director of the Bureau of Development Services

Decision mailed June 1, 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 August 21, 2017, and was determined to be complete on October 13, 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 August 21, 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 120 days (Exhibits G.4 and G.5). Unless further extended by the applicant, **the 120 days will expire on: June 11, 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.**

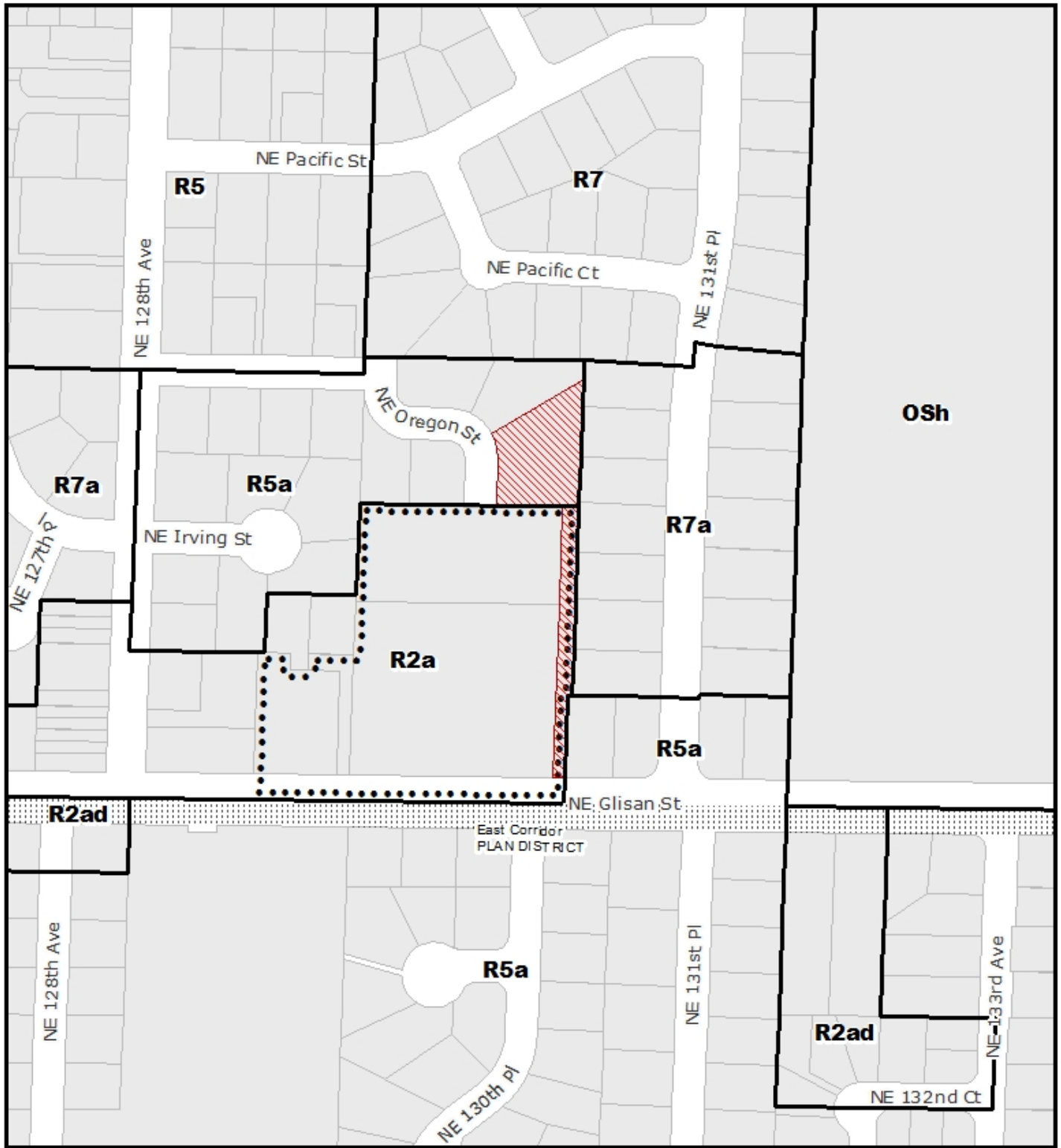
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's submittal
 - 1. Applicant narrative
 - 2. Arborist report
 - 3. Simplified Approach Stormwater Form
 - 4. Revised narrative 10/13/17
 - 5. Revised narrative 3/8/18
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Plan
 - 2. Site Plan 8/21/17
 - 3. Revised Site Plan 10/13/17
 - 4. Revised Site and Tree Preservation Plan 3/8/18 (attached)
 - 5. Utility and Stormwater Plan
 - 6. Grading Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice 10/26/18
 - 3. Revised notice 3/20/18
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - a. Original response 11/27/17
 - b. Revised response 4/19/18
 - c. Revised response 5/16/18
 - 3. Water Bureau
 - 4. Fire Bureau
 - a. Original response 12/26/17
 - b. Revised response 4/28/18
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Valentin and Svetlana Lysenko, 4/14/18, concerns about traffic impacts on NE Oregon
- G. Other:
 - 1. Original LU application
 - 2. Expedited Land Division Acknowledgement Form
 - 3. Incomplete letter
 - 4. 60-Day Extension Form 1/16/18
 - 5. 30-Day Extension Form 3/2/18

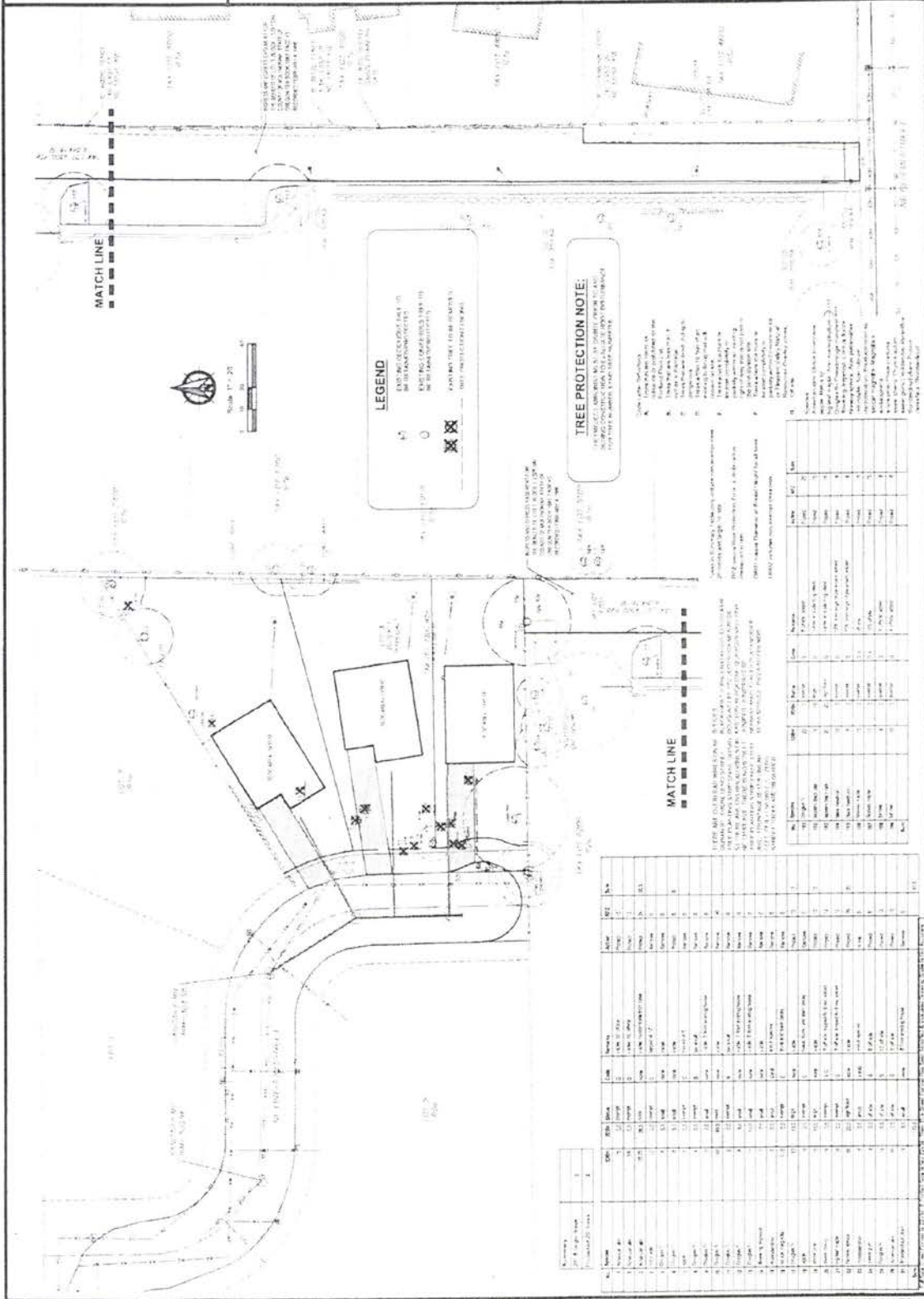
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
NORTH

 Site

File No.	<u>LU 17-204504 LDS</u>
1/4 Section	<u>2943</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1N2E35BD 7300</u>
Exhibit	<u>B</u> <u>May 31, 2018</u>



Tree ID	Tree Species	DBH (in)	Height (ft)	Health	Protection Method	Notes
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CASE NO. 14 17-204504 LOS
 EXHIBIT C.4

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 EXHIBIT C.4