



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

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Date: October 10, 2018
To: Interested Person
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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 17-252291 LDP

GENERAL INFORMATION

Applicant: Kym Nguyen | Concept Design & Associates LLC
PO Box 8464 | Portland OR 97207-8464
(503) 515-7418

Owner: Sino International Industry USA LLC
10670 SE Sunset View Ct. | Happy Valley, OR 97086

Site Address: 13717 SE RHONE ST

Legal Description: LOT 27, O'CONNOR PK
Tax Account No.: R623801100
State ID No.: 1S2E11DA 02700
Quarter Section: 3444

Neighborhood: Powellhurst-Gilbert, contact at pgnaboard@gmail.com
Business District: Midway, contact info@midwaybusiness.org.
District Coalition: East Portland Neighborhood Office, contact Victor Salinas at 503-823-6694.

Plan District: Johnson Creek Basin
Zoning: R5a- Single Dwelling Residential with "a" Alternative Design Density Overlay
Case Type: LDP- Land Division Partition
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing a 3-parcel land division with a public pedestrian path that will provide legal frontage for Parcels 1 and 2. The parcels will be between 4,402 square feet and

7,726 square feet in size. The public pedestrian path will be 18-feet wide and cross the site adjacent to the east property line. The existing home on the site is proposed to remain. The applicant is proposing to preserve one 21-inch Douglas fir tree. Several nuisance species trees will be removed. The Portland Bureau of Transportation will require an 8-foot property dedication for the purposes of sidewalk improvements along SE Rhone Street.

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 partition. 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 3 units of land. Therefore, this land division is considered a partition.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant 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 relatively flat and contains several trees and an existing residential structure. Surrounding development consists primarily of moderately sized single dwelling structures. There are several multi-dwelling developments west of the site along SE 136th Avenue. North-south connectivity in the area is limited.

Infrastructure:

- **Streets** – The site has approximately 97 feet of frontage on SE Rhone Street. There is one driveway entering the site that serves the existing house on the site. At this location, SE Rhone Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 400 feet from the site at 136th Avenue via Bus 17.

SE Rhone Street has a 25-foot paved surface within a 30-foot right-of-way with parking on both sides. Along the 97-foot wide site frontage the pedestrian corridor includes curbs, but no sidewalks. There is a curb-tight sidewalk along the south side of SE Rhone Street.

- **Water Service** – There is an existing 6-inch CI water main in SE Rhone Street. The existing house is served by a 3/4-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch PVC public combination sewer line in SE Rhone 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 “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 there are no prior land use reviews for this site.

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

Neighborhood Review: Notices of Proposal in Your Neighborhood was mailed on **May 2, 2018** and **September 7, 2018**. Two written responses have been received from the Neighborhood Association or notified property owners in response to the proposal. The following issues were addressed in the responses. Staff response is in *italics*:

- Concern about the height of proposed structures and privacy impacts of the development on the lot to the north of the site.
Staff Response: *The maximum allowed building height in the R5 zone is 30 feet. Side and rear setbacks for structures are a minimum of 5 feet in order to decrease the impact of new development on adjacent properties.*
- Concern about additional traffic, noise, and diminished property value by allowing new development on lots smaller than the surrounding lots.
Staff Response: *This proposal meets the maximum allowed density for the site and the lot dimension standards required by the R5 zone, as addressed under Section A. later in this decision. Traffic impacts are taken into consideration when reviewing land divisions and are addressed later in this decision under Section K. Lots will be accessed via a shared driveway along the west side of the property, so vehicle impacts are expected to be minimal.*

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.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).

J	33.640 - Streams, Springs, 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.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. The maximum density in the R5 zone is one unit per 5,000 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area. The site has a maximum density of 3 units and a minimum required density of 2 units. The applicant is proposing 3 single dwelling parcels. The density standards are therefore met.

	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
Parcel 1	4,402		56	78.61	56
Parcel 2	4,953		62.94	78.69	62.94
Parcel 3	7,726		78.79	98.06	78.79

* 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 an existing conditions 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.3) 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, an Englemann spruce and a Douglas fir, which provide a total of 35 inches of tree diameter, are subject to the preservation requirements of this chapter.

The Douglas fir proposed for preservation is in good condition, is a native species, and is 20 or more inches in diameter. The proposed root protection zone for the tree 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 root protection zone has been reduced from the standard root protection zone under the direction of the applicant's arborist. The arborist verified through email correspondence (Exhibit A.3) that the root protection zone can be reduced to 5 feet on the south side of the Douglas fir. The applicant chose to provide a 10-foot root protection zone on the south side of the Douglas fir as shown on Exhibit C.3. The spruce tree will not be preserved because the root system is next to proposed sidewalk improvements which could not be engineered in a way appropriate for the preservation of the spruce. However, the applicant is still able to meet one of the tree preservation options.

Specifically, the applicant proposes to retain the only tree that is 20 or more inches and 21 inches of the total tree diameter, so the proposal complies with:

Option 1: Preserve all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site.

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

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

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

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

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 root protection zone for the Douglas fir to be preserved will not conflict with anticipated site work. 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. Although the site is currently connected to the public sanitary sewer, there is an old cesspool on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new development, and this criterion is met

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

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

The following easement is proposed and/or required for this land division:

- A Private Access, Utility, and Storm Sewer Easement is required across the relevant portions of Parcels 2 and 3, for shared use of a driveway and related stormwater disposal serving Parcels 1-3; and sanitary sewer lateral connections that will serve Parcels 1 and 2.

As stated in Section 33.636.100 of the Zoning Code, maintenance agreements will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that maintenance agreements are prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreements 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 applicant is proposing a 3-lot land division with a public pedestrian path. The existing house on site is proposed to remain on Parcel 3. Accordingly, the project will result in a net increase in 2 new single-family homes. Based upon trip generation estimates obtained from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 9th Edition, the project is estimated to generate two additional trips during both the morning and evening peak hours (20 additional trips in total each day). The small number of trips that will be added into the transportation system as a result of the proposed development will not adversely impact the operations of area intersections.

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

There are existing transit facilities in the vicinity with the nearest TriMet bus stop is located at SE 136th & Rhone approximately 265-ft from the site. The proposed partition will not have any effect on transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

PBOT has reviewed and concurs with the information supplied and available evidence. Standard sidewalk corridor improvements and public pedestrian path improvements will be required to serve the proposed development (see criterion L. 33.654). No additional 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:

<p>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to Parcel 3, as noted on page 2 of this report.</p> <p>There is no existing water service available to Parcels 1 and 2. The nearest water service is located in SE Rhone Street. The applicant must make arrangements to extend a new water main in the public pedestrian connection to ensure service is available to Parcels 1 and 2. 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.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The applicant proposes to serve Parcels 1 and 2 via an easement over Parcels 2 and 3. BES has indicated this route of service is acceptable. The easement must be shown on the final plat. With this condition, the sanitary sewer service standards of 33.652 have been verified.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> • Parcels 1 and 2: Stormwater from these lots and the shared driveway 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. A private easement for the proposed shared drywell to serve the shared driveway must be shown and labeled over the relevant portions of the site.

- **Parcel 3 (the lot with the existing house):** BES has noted that there are no City records indicating where the pipes are directed. Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of BES. The applicant must modify the stormwater system for the existing house as necessary to comply with Stormwater Management Manual prior to final plat approval. Any required plumbing permits must have final inspection approval.

33.654.110.B.1 Through streets and pedestrian connections

33.654.130.C Future extension of proposed dead-end streets & pedestrian connections

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

The block on which the subject property is approximately 1,300 feet in length, and therefore warrants a new public connection. Based upon the surrounding development pattern and existing residential development, The Bureau of Transportation has required an 18-foot north/south public pedestrian walkway adjacent to the proposed development. The pedestrian connection will require an 18-foot property dedication and a public works permit prior to final plat.

The properties to the north of the site appear to have potential to further divide under current zoning, and they are not currently developed in a manner that would preclude the extension of a pedestrian connection from the site. The proposed pedestrian connection will terminate at a location on the site boundary that will allow it to be further extended to serve those properties if they further develop in the future. With the above conditions of approval, this criterion is met.

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

SE Rhone Street is improved with a paved roadway with curb, but no sidewalk, along the site's frontage. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that curb and sidewalk improvements must be made in order to meet City standards and ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, approximately 8-feet of right-of-way must be dedicated along the frontage of the site. The applicant will be required to construct an 11-foot wide sidewalk corridor behind the curb. 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.

Portland Transportation has also required a north/south public pedestrian walkway adjacent to the development area of the site in order to meet connectivity requirements. This connection will also serve as street frontage and primary pedestrian access for the parcels. In order to accommodate this improvement, the applicant will be required to dedicate 18 feet of property to right-of-way. Within this area, the applicant will be required to construct a 6-foot wide sidewalk and provide associated trees/lighting per City requirements. All improvements will need to be designed an Oregon licensed civil engineer and constructed under a Public Works Permit. Public right-of-way improvements must be completed, or bonding/contract must be submitted, prior to Final Plat approval.

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

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

Findings: The proposed pedestrian connection is 18-feet wide. This width will accommodate a 6-foot sidewalk and associated lighting and trees as required by the City Engineer, as well

as accommodating a public water main, as required by the Water Bureau. The connection will be a straight-line connection without obstructions to movement or visibility. The pedestrian connection will have to meet all requirements of Public Works design review which will determine the required elements of the pedestrian connection. The feasibility of the connection and design has been established by Transportation. The criterion is met.

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

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

DEVELOPMENT STANDARDS

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

Future Development

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

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 3. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are two Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be approximately 15 feet from the new property lines. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.
- Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. A paved parking pad/garage provides this required parking for the existing house on Parcel 3. As a result of required frontage improvements, the existing parking space for Parcel 3 may no longer be accessible. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Parcel 3 prior to final plat approval, or evidence of the retention of access to the existing parking space must be provided. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.

- Title 11 Tree Density Standard – This site has a minimum tree density requirement per 11.50.050 that is currently met on the site. Due to the land division, and associated tree removal, Parcel 3 with the existing house will no longer meet this standard. Parcel 3 is 7,733 square feet in size, therefore 3,093 square feet of tree density is required. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Parcel 3, making the equivalent payment into the City Tree Preservation and Planting Fund, or retaining existing trees on Parcel 3. Tree #94, a Sycamore maple, can also be retained to meet tree density. Tree planting used to meet this standard must be documented with a finalized Zoning Permit.

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

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 –Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 1 and 2; and aerial fire apparatus access 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 (Exhibit E.6) for payment in lieu of planting required for lost street tree planting spaces prior to final plat approval. This requirement is based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 3-parcel partition, as shown on the attached preliminary plan (Exhibit C.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: tree preservation, stormwater management, and provision of a public pedestrian connection.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-parcel partition, that will result in 3 standard lots as illustrated with Exhibit C.1-C.4, 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 and Bureau of Environmental Services review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE Rhone Street and the north/south public pedestrian connection. The required right-of-way dedication must be shown on the final plat.
2. A 13-foot wide Private Access and Utility Easement shall be shown and labeled on the final plat, extending from SE Rhone Street and adjacent to the rear lot lines of Parcels 2 and 3 as shown on Exhibit C.3. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for; a private sanitary sewer easement for the benefit of Parcels 1 and 2; and private storm sewer management for the benefits of Parcels 1 and 2.
3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions C.7-C.9 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.

Utilities

2. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in the public pedestrian connection serving Parcels 2 and 3.
3. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

Existing Development

4. The applicant must meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 3. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
5. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the cesspool on the site.
6. A parking space shall be installed on Parcel 3 in conformance with the applicable requirements of the Portland Zoning Code, or evidence shall be provided that access to the existing parking space is being retained. The applicant must obtain a finalized Zoning Permit for installation of a new parking space. The permit plans must include the note: *This permit fulfills requirements of Condition X.X of LU XX-XXXXXX*. The new parking space must also be shown on the supplemental plan.
7. The applicant must meet the tree density standard of 11.50.050 on Parcel 3 with the existing house by either planting trees on the lot, retaining existing trees, or making the equivalent payment into the City Tree Preservation and Planting Fund. A finalized Zoning Permit must be obtained to document tree planting prior to final plat approval.

Required Legal Documents

8. Maintenance Agreements shall be executed for the Private Access, Sewer, and Stormwater Management Easements described in Conditions B.2-B.4 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
9. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 1 and 2 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.
10. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

Other requirements

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

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.3) arborist report (Exhibit A.3). Specifically, the Douglas fir numbered 99 is required to be preserved, with the root protection zones indicated on Exhibit C.3. 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 must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
3. If required, the applicant will be required to meet any requirements identified through to install residential sprinklers in the new dwelling units on Parcels 1 and 2. Please refer to the final plat approval report for details on whether or not this requirement applies.

Staff Planner: Leah Dawkins

Decision rendered by: Leah M. Dawkins **on October 8, 2018**
By authority of the Director of the Bureau of Development Services

Decision mailed: October 10, 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 October 6, 2017, and was determined to be complete on March 23, 2018.

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 October 6, 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 waived the 120-day review period, as stated with Exhibit A.5. Unless further extended by the applicant, **the 120 days will expire on: March 23, 2019.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

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

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

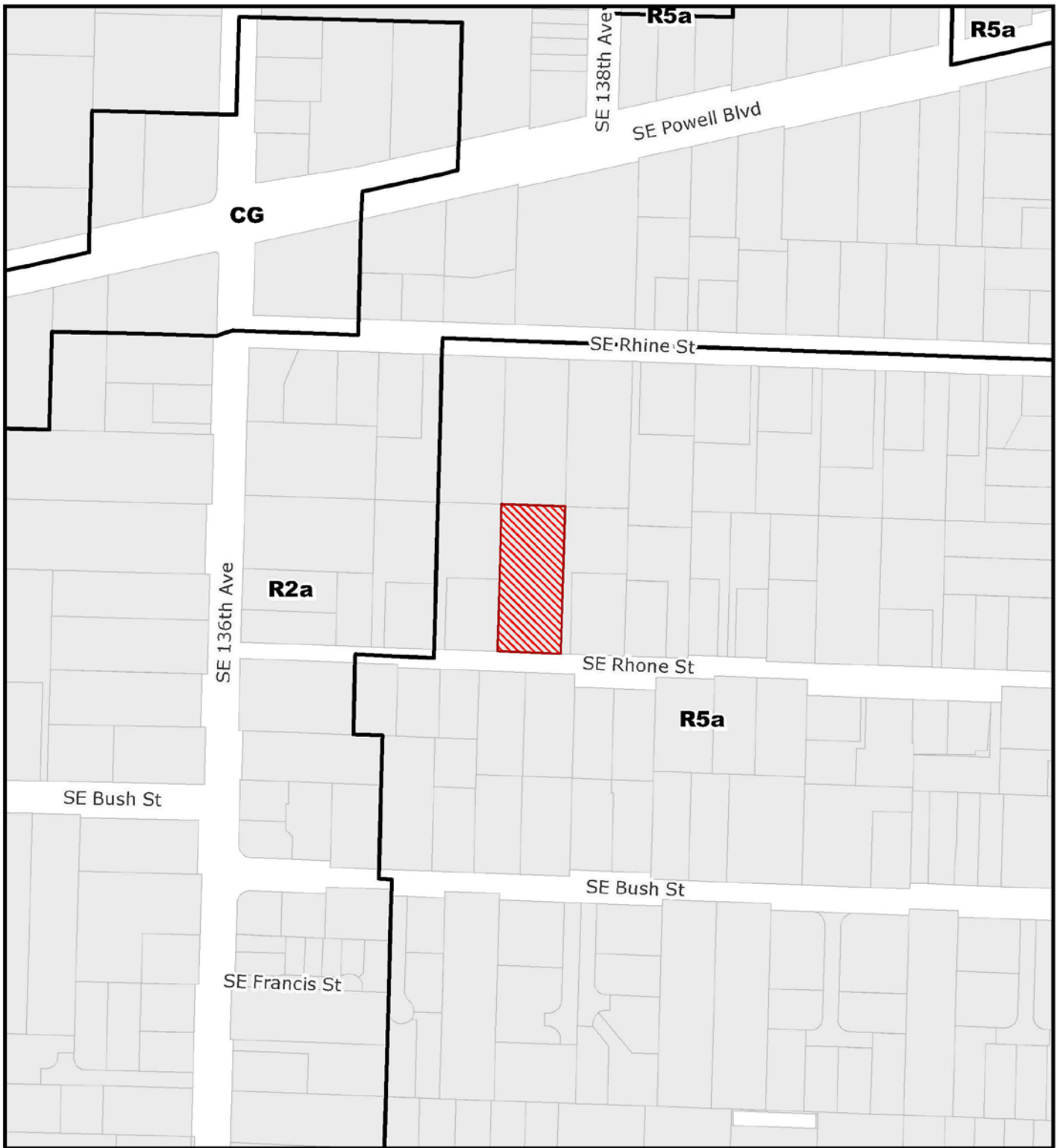
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant Narrative
 - 2. Stormwater Reports
 - 3. Revised Final Arborist Report and Arborist Correspondence
 - 4. Original Arborist Report Submittal- 3/27/18
 - 5. Title Information
 - 6. 120-Day Extension Request
 - 7. Original Site Plan Submittal
 - 8. Revised Site Plans-3/27/18
 - 9. Revised Site Plans- 4/25/18
 - 10. Revised Site Plans- 7/25/18
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Plan
 - 2. Private Driveway and Public Street Improvement Plan
 - 3. Site Plan and Tree Preservation Plan (attached)
 - 4. Utility Plan
- D. Notification information:
 - 1. First Mailing list
 - 2. First Mailed notice
 - 3. Second Mailing list
 - 4. Second Mailed notice- MISSING
- 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 Section of Bureau of Development Services
- F. Correspondence:
 - 1. Violet Schildan, 05/09/18, concerns about building height and privacy
 - 2. Staci and Eric Price, 05/30/18, concerns about traffic impacts and privacy
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Acknowledgement
 - 3. Incomplete Letter
 - 4. Correspondence with Urban Forestry

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

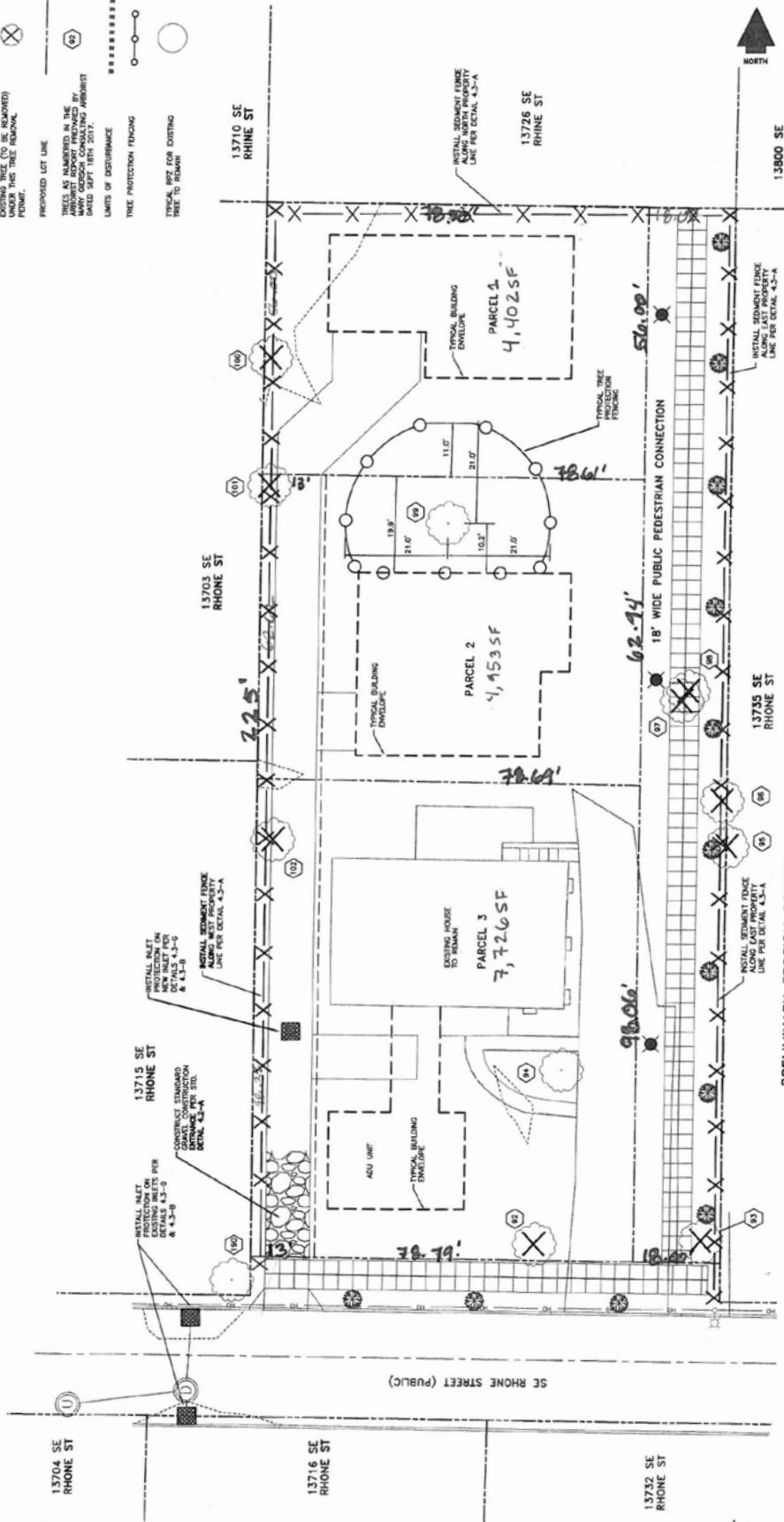


THIS SITE LIES WITHIN THE:
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	LU 17-252291 LDP
1/4 Section	3444
Scale	1 inch = 200 feet
State ID	1S2E11DA 2700
Exhibit	B Sept. 4, 2018

LEGEND

- DISTING CONTOUR
- DISTING TREE (TO REMAIN)
- DISTING TREE (TO BE REMOVED)
- PROMISED LOT LINE
- TREES AS NUMBERED IN THE APPROVED REPORT PREPARED BY: [Name] DATED SEPT 18TH 2017.
- LIMITS OF DISTURBANCE
- TREE PROTECTION FENCING
- TYPICAL SIGN FOR EXISTING TREE TO REMAIN



PRELIMINARY EROSION CONTROL & TREE PROTECTION PLAN
SCALE: 1/4" = 10'

<p>PRELIMINARY PLAT PLANS PREPARED FOR: SINO-US INVESTMENTS LLC (503) 750-6786 10670 SE SUNSET VIEW CT HAPPY VALLEY, OR 97086</p>		<p>13717 SE RHONE STREET</p>	<p>PRELIMINARY SITE EROSION CONTROL & TREE PROTECTION PLAN</p>
<p>DESIGNED BY: J. STOVARD CHECKED BY: A. STOVARD DATE: 7/24/2018</p>		<p>13735 SE RHONE ST</p>	<p>SHEET NO. C2</p>

CASE NO 17-25-2291 LDP
EXHIBIT C.3