



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

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Date: January 22, 2019
To: Interested Person
From: Shawn Burgett, City Planner
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 18-170826 LDS

GENERAL INFORMATION

Applicant/Owner: Daniel Silvey | DBS Group LLC
PO Box 205 | Tualatin, OR 97062
E-mail: DANIELSILVEY@KNIPEREALTY.COM

Representative: Danelle Isenhardt | Emerio Design
6445 SW Fallbrook Pl. Suite #100 | Beaverton, OR 97008

Site Address: 8521 N St. Louis Ave

Legal Description: BLOCK A LOT 15-20 TL 600, GENERAL COMPSONS ADD
Tax Account No.: R311400170
State ID No.: 1N1W01CD 00600
Quarter Section: 2021

Neighborhood: St. Johns, contact Sheryl Lyons at sjnalu@gmail.com
Business District: None
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Plan District: St. Johns

Zoning: R1d (Multi-Family Residential 1,000 sq. ft. with "d" design overlay)
Case Type: LDS (Land Division Subdivision)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant has proposed a 6-lot land division and Common Green (Private street tract) on the 6,644 sq. ft. site for attached houses. The existing house on the site was demolished. Proposed Lots 1-3 will measure between 731 sq. ft. and 867 sq. ft. and will accommodate attached dwelling units. Proposed Lots 4-6 will measure between 704 sq. ft. and 916 sq. ft. and will also accommodate attached dwelling units.

Lots 1-6 will be served by the Common Green, which is a type of Private Street tract that will provide the only street frontage for Lots 2-5. The common green may also function as a community yard. Hard and soft landscape features will be included in the common green, such as groundcover, trees, shrubs and a surfaced path. Lot 1 and 6 will also abut N St. Louis Ave. Common Greens are not designed to accommodate motor vehicle access and must have a paved path for pedestrians. No parking is proposed on Lots 1-6.

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

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines “lot” as a single unit of land created by a subdivision of land. The applicant’s proposal is to create 7 units of land (6 lots and 1 tract). Therefore this land division is considered a subdivision.

RELEVANT APPROVAL CRITERIA: IN ORDER TO BE APPROVED, THIS PROPOSAL MUST COMPLY WITH THE APPROVAL CRITERIA OF *TITLE 33*. THE RELEVANT CRITERIA ARE FOUND IN **SECTION 33.660.120, APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES.**

FACTS

Site and Vicinity: The site is currently vacant. The area surrounding the site includes a mixture of single family detached homes and multi-unit apartment buildings.

Infrastructure:

- **Streets** –The site has approximately 72.5 feet of frontage on N St Louis Ave. At this location, N St. Louis Ave is a Neighborhood Collector, Major Transit priority street, City Bikeway, City Walkway in the Transportation System Plan (TSP). Tri-Met provides transit service along N St. Louis Ave via Bus 4.

Based on GIS mapping, N St. Louis Ave has an estimated 52-foot curb to curb paved surface within an estimated 70-foot right-of-way with parking on both sides. Along the site’s frontage is a 9-foot wide pedestrian corridor that includes a 3-foot wide planter area, curb, and 6-foot sidewalk. (3-6-0 configuration).

- **Water Service** – There is an existing 12-inch CI water main in N St. Louis Ave.
- **Sanitary Service** - There is an existing 8-inch public combination sewer line in N St Louis Ave. This sewer ends approximately 15’ into the site’s northeastern frontage. There is also an existing 8-inch public combination sewer across the right of way from the development.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R1 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 “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.

The St. Johns plan district provides for an urban level of mixed-use development including commercial, employment, office, housing, institutional, and recreation uses. Specific objectives of the plan district include strengthening St. Johns’ role as the commercial and civic center of the North Portland peninsula. This plan district stimulates business and economic vitality; promotes housing and mixed-use development; discourages auto-oriented uses and

development; enhances the pedestrian environment and the character of buildings; and supports the Willamette greenway and opportunities to celebrate the Willamette River as a unique element of the urban environment.

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

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **November 2, 2018**. One written response has been received from a notified property owner in response to the proposal.

Neighbor response: The owner of the house (8515 N St. Louis Ave) abutting the site expressed concerns regarding future development on the site based on prior issues he experienced during the demolition of the house that was located on the subject site which resulted in his detached garage being torn down.

BDS response: This is viewed as a civil issue between the two property owners. The correspondence was passed onto the property owner who indicated the following via an e-mail:

“There was no garage on the property when we purchased it last year. The previous owner had been fined by the city for doing some un-permitted demo work prior to our purchase. This must have been when they took out the neighbor's garage. I will follow up with Dustin (the adjacent owner) and let him know the situation.”

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	Detached homes are not proposed; therefore these standards are not applicable.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	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.E - Pedestrian Connections	There are no stand-alone pedestrian connections proposed or required.

	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

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

Findings: Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing six lots for attached houses that will be served by a Common Green (private street). Single-dwelling development is proposed for the entire site; therefore the proposed lots must meet minimum density and not exceed the maximum density stated in Table 120-3. Site area devoted to streets is typically subtracted from the total site area in order to calculate minimum and maximum density. However, the area used for common greens is not subtracted from the total site area to calculate maximum density. Additionally, the minimum density for lots accessed by a Common Green in the R1 zone is 1 unit per 2,000 square feet, per 33.120.270.E.2.

The total site area shown on the applicant's survey is 6,644.5 square feet. A 3' right-of-way dedication is required along N St. Louis Ave which equals 217.5 sq. ft. Therefore, the resulting lot size for calculating density is 6,427 square feet. The site has a minimum required density of 3 units and a maximum allowed density of 6 units. The proposal for 6 single dwelling lots complies with the density standards.

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

R1	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Attached Houses	None	15	none	15
Lot 1	817 SF	27.75'	29.44'	27.75'
Lot 2	731 SF	26.33'	27.75'	26.33'
Lot 3	867 SF	31.35'	27.75'	31.35'
Lot 4	916 SF	34.14'	26.75'	34.14'
Lot 5	704 SF	26.33'	26.75'	26.33'
Lot 6	780 SF	23.19'	30.93'	23.19'

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

SF=Square feet

The findings above show that the applicable density and lot dimension standards are met. 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 arborist report (Exhibit A.4) that identifies each tree, its condition and suitability for preservation or its exempt status.

Based on this information, two trees, which provide a total of 24 inches of tree diameter are subject to the preservation requirements of this chapter. It should be noted that one of the trees (tree #2 an 8" diameter fruiting plum) is listed as in "poor" condition in the Arborist report. In addition, other trees on the site (which are considered exempt) are nuisance species or deemed hazardous by the project arborist. The second tree, a 16" diameter Fruiting apple is listed in "Fair condition" and is located where Lot 5 is proposed. Due to the small size of the lots it is not feasible to protect this tree in correlation with new development on this site.

In this case, both of these trees are located in an area that is not suitable for preservation, based on the location of the trees and the configuration of the property and the scale of the development proposed in the R1 zone which limits options to retain trees in accordance with these regulations, so it is reasonable to consider mitigation options that will replace the functions of the trees to be removed.

The applicant has proposed to mitigate for the removal of the two trees by providing a payment into the City's Tree Planting and Preservation Fund. The tree preservation standards require up to 35 percent of the total non-exempt tree diameter on the site be preserved. This amounts to 8 inches on this site. With the condition that a payment equivalent to 8 inches be paid to the City Tree Planting and Preservation Fund prior to final plat approval, tree removal will be adequately mitigated.

This mitigation will be consistent with the purpose of the tree preservation regulations, since it will provide for the installation of other trees that will contribute to the general beauty and natural heritage of the City, if not directly on the site, and

- Help to absorb air pollutants and contamination;
- Provide buffering from noise and wind;
- Provide visual screening from the adjacent properties;
- Reduce energy demand and urban heat island impacts;
- Filter stormwater runoff and the reduce the possibility for erosion;
- Help with slope stabilization;
- The native trees will provide habitat to support wildlife;
- The edible species will provide food for people and wildlife.

In order to ensure the mitigation is provided, prior to final plat approval the applicant must make a payment to Tree Planting and Preservation Fund for 8 inches of tree diameter

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

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

Findings:

Clearing and Grading

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

In this case, the site is 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, there are no trees required to be preserved and the construction of the common green will take minimal grading since it only involves the installation of utility laterals and a new sidewalk. This criterion is met.

The clearing and grading plan submitted (exhibit C.3) did not indicate where soil would be stored, however there is room on the site to locate soil stockpiles. A condition of approval will require the clearing and grading plan submitted with the Site Development permit indicate the location of stockpile areas and the limits of disturbance be extended to include these areas. In addition, construction access to the site must be shown.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed common green (Private Street). The permit application must include a final clearing and grading plan, that must show the location of proposal stockpile areas and limits of disturbance. With a condition of approval that the applicant's final clearing and grading plan required for the Site Development Permit for construction of the common green includes the location of stockpile areas and limits of disturbance. 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 house on the site was demolished under permit 17-168910 RS which has been finalized. The septic system was also decommissioned in correlation with the demolition of the house. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

Findings: The following tracts are proposed:

- Tract A: Common Green and Public Utility Easement

With a condition that the proposed tract be owned in common by the owners of Lots 1 through 6 or a Homeowner's Association, this criterion can be met.

-A 2.5' Private Storm sewer easement has been proposed across lots 4-6 which will provide access to a shared drywell in the Common Green (Tract A) which will provide stormwater disposal for Lots 5 and 6. Since the easement was less than 5' in width the applicant was granted a Plumbing Code appeal (exhibit G.3) to allow the easement width as proposed.

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

“A Declaration of Maintenance agreement for (Common Green) 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: safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced and measures to mitigate impacts may be necessary.

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 proposes a six-lot land division to replace an existing single-family home. The applicant provided a written statement sufficient to address the relevant approval criteria. According to the *ITE Trip Generation Manual, 9th Edition*, five new single-family dwellings are expected to generate 48 trips per day, including five additional trips during the morning peak hour and five additional trips during the evening peak hour. The proposed development is located on a Neighborhood Collector that has the capacity to support a greater number of vehicle trips. Approximately 50-ft of on-street parking is to be retained that is sufficient to be adequate to provide for loading. The proposed development is therefore not expected to significantly impact street capacity or level-of-service. Stops for the #44 and #75 bus are located approximately 0.2 miles from the proposed development and a stop for the #4 is 170-ft from the development site; therefore, access to transit service and facilities is provided. St. Louis at this location has bicycle lanes that provide access to the site. Existing sidewalk corridors to be replaced by 12-ft sidewalks to current City standards provide pedestrian access and safety. The proposed development is expected to result in relatively few impacts on the transportation system, and few negative impacts on immediate and adjacent neighborhoods.

TSP Classifications: At this location, the City’s Transportation System Plan (TSP) classifies N. Saint Louis as a Neighborhood Collector, Major Transit Priority Street, City Bikeway, City Walkway, Neighborhood Main Street (design mode) and Local Service Street (freight).

Existing Conditions: According to City GIS, at this location N. Saint Louis is improved with a paved roadway of approximately 52-ft and a 9-ft sidewalk corridor, within a ROW of approximately 70-ft.

Standard Improvements: According to the *Portland Pedestrian Design Guide*, standard improvements at this location on N. Saint Louis include a 12-ft sidewalk corridor, to consist of a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and 1.5-ft frontage zone.

As discussed later in the report, as a condition of Building Permit approval, the applicant is required to construct 12-ft sidewalk improvements behind the curb to comply with current City standards. As a condition of Final Plat, the applicant is required to dedicate at least 3-ft on N. Saint Louis, to provide for the standard sidewalk corridor.

The applicant proposes a common green; no driveway or onsite parking is proposed. As a condition of Building Permit approval, the applicant is also required to close curb cuts/driveways that do not provide access to a legal parking or loading space.

RECOMMENDATION

PBOT has no objection to the requested land division subject to the dedication discussed above.

This criterion is 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 the site, as noted on page 2 of this report. 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.</p> <p>Lots 1-6 will be served by a new connection to the required sewer main extension in the Common Green (private street tract) adjacent to each lot.</p> <p>Currently there are no public sewers directly available to Lots 1-6; therefore, the applicant proposes to extend a public sewer to provide individual connection locations. Under Public Works Permit (PWP) #18-233471 WE, BES Development Engineering approved (with corrections) the Concept Development plans (i.e. 30% design) for the sewer extension on November 2, 2018; therefore, BES finds that sanitary sewer can be made available to Lots 1-6 as shown. Prior to final plat approval, BES will require approved plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document. Note that the public sewer will be in a public sewer easement. Public sewer easements are exclusive and private structures such as the proposed trash enclosures aren't allowed, except as approved through Public Works or through an Encroachment Agreement.</p> <p>With the conditions noted above, 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>BES Staff reviewed the project's stormwater report from Richard Caffall (May 17, 2018) that describes Simplified Approach infiltration test results of 5.25 inches per hour on this site. The applicant proposes to infiltrate runoff from the development onsite via a drywell that can meet minimum setbacks as established in the facility design standards and Table 2-1 of the SWMM.</p> <p>The applicant has proposed the following stormwater management methods:</p> <p>Common Green: The limited amount of stormwater runoff from the sidewalk within the common green will be directed to the landscape areas adjacent to the sidewalk that are required as part of the common green. BES has indicated conceptual approval of this proposal.</p> <p>Lots 1-6: Stormwater from these lots will be directed to shared drywell within the Common</p>

Green that will treat the water and slowly infiltrate it into the ground. The Common Green has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards and accommodate water from homes on Lots 1-6. BES has indicated conceptual approval of the shared drywell.

It should be noted, Lots 5 and 6 are utilizing a 2.5' storm sewer easement over lots 4 and 5 to access the shared drywell within the Common Green. The applicant received approval of a Plumbing code appeal (ID#18827) to reduce the storm sewer easement below 5' (exhibit G.3).

With condition for easement, the standards and criterion is met.

33.654.110.B.1 Through streets and pedestrian connections

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

The block on which the subject property is located meets the noted spacing requirements, NE Hudson St. is located approximately 90 feet northeast of the subject site while N Central St. is located 90 feet southeast of subject site.

The site is within the Portland Master Street Plan for the North District and is consistent with the master street plan.

For the reasons described above, this criterion is met.

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

33.654.130.C Future extension of dead-end street and pedestrian connections.

The proposal includes a private dead-end street, which will be located in the new street tract. As discussed under the findings for through streets above, a new public north-south through street is not required for this proposal. The private dead-end street will serve only 6 dwelling units and it is approximately 90 feet in length from the frontage along N St. Louis Ave to the end of the street tract. In addition, based on the existing site conditions, the new private street tract and pedestrian connection with the private street will not be extended in the future.

This criterion is met.

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

At this location, the City's Transportation System Plan (TSP) classifies N. Saint Louis Ave as a Neighborhood Collector, Major Transit Priority Street, City Bikeway, City Walkway, Neighborhood Main Street (design mode) and Local Service Street (freight).

Based on City GIS the frontage is improved with a 9-ft sidewalk with a 3-6-0 configuration.

According to PBOT per the *Portland Pedestrian Design Guide*, standard improvements at this location on N. Saint Louis include a 12-ft sidewalk corridor, to consist of a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and 1.5-ft frontage zone.

As a condition of building permit approvals for lots 1-6, the 9 ft. wide sidewalk corridor along N St. Louis Ave must be reconstructed to a 4-6-1.5 configuration which includes a 6" curb.

Per Title 17, these improvements will be required at the time of building permits.

A 3 ft. dedication is required by Transportation (PBOT) as a condition of approval in order to accommodate these improvements to the Pedestrian corridor. In addition, as a condition of Building Permit approval, the applicant is required to close curb cuts/driveways that do not provide access to a legal parking or loading space.

With the condition of approval for dedication described above, this criterion is met.

33.654.120.D. Approval criteria for common greens.

The applicant has proposed a common green to provide pedestrian access and street frontage to each lot. The common green is proposed to be within a 18-foot wide tract and includes over 400 square feet of grassy area at western end. The *Administrative Rules for Private Rights of Way* are the standards that govern the construction of private streets. These rules recommend a width of 15 feet for common greens and the zoning code requires at least 400 square feet of outdoor area. The proposed width 18' wide Common Green proposed will provide room for the construction of a 5-foot wide sidewalk and landscaping, including the required grassy area and the new sewer main located in the Common Green along with the private water laterals serving each lot.

To assure that the improvements in the common green tract (the sidewalk and landscaping) are constructed a Site Development permit will be required to be submitted prior to final plat. In addition, new residential construction on Lots 1-6 will not receive final inspection approval until the common green is completed. The common green must be shown on the site plan for all of these permits. Access to the lots during the construction of the houses will come from the common green. Therefore, the common green should be built following the majority of construction activities are complete for the attached houses on Lots 1-6. As indicated earlier, prior to final occupancy approval of building permits for the new units on Lots 1-6, the Site Development permit for the construction of the common green must be final.

In this proposal, the applicant will be disposing of stormwater from the sidewalk in the landscaped portions of the green. This amount of runoff from the sidewalk is anticipated to be minimal, so this is acceptable.

In addition, the applicant has proposed trash enclosures within the Common Green (exhibit C.2). It should be noted, that BES has indicated that trash enclosures will not be allowed over the required public sewer easement without approval from BES for the encroachment.

This proposed tract width is sufficient to accommodate the elements of the common green and serve the expected users. This criterion is met.

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

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

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Future Development:

- **Building Coverage:** Zoning Code section 33.120.270.E.6 states that when a land division proposal includes a common green, maximum building coverage is calculated based on the entire land division site, rather than each lot. The combined building coverage of all buildings and structures in the common green may not exceed 15 percent. Any amount of building coverage remaining from the calculation for the area of the common green will be allocated evenly to all of the lots within the land division, unless a different allocation of the building is approved through the land division decision. The building coverage allocated to the lots will be in addition to the maximum allowed for each lot.

In this case, the applicant did not propose any structures within the Common Green that would impact building coverage. The common green is 1,612 sq. ft. in area. 60% of the

common green would equal 967.2 sq. ft. Maximum building coverage in the R1 zone is 60%. Therefore, for the purpose of determining maximum building coverage on Lots 1-6 at the time of future development, each lot can utilize 161.2 sq. ft. of the site area within the Common Green (Tract A) for the purpose of calculating maximum building coverage for each lot per Zoning Code section 33.120.270.E.6. Based on this distribution, the applicant would be allowed to add a 161.2 sq. ft. of building coverage to each lot in addition to the maximum amount allowed based on the lot size.

- **Parking:** The applicant has not proposed to provide off street parking on Lots 1-6. Per Zoning Code section 33.266.110.D, sites located less than 500 feet from a transit street with 20-minute peak hour transit service are not required to provide off street parking. In this case, Tri-Met provides frequent transit service adjacent to the site along N. St Louis Avenue via Bus 4. The applicant provided transit documentation to demonstrate compliance with this allowance (Exhibit A.10).
- **Future Development standards:** Since the site is located in the “d” design overlay zone, future development on the site is eligible to meet the Community Design standards in Zoning Code section 33.218.100 as an alternative to Design review. It is highly recommended that the applicant review this code criteria to ensure whether design review is triggered based on the future development proposed.

In addition, Lots 1 and 6 will be considered corner lots and must face the public street (N St. Louis Ave) per Zoning Code section 33.120.231.B.3.

Existing development that will remain after the land division. The site is currently vacant, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R1 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant is required to make improvements to the proposed common green. Several conditions are required, including provision of plans, initiating a building

permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 24.

- The applicant must meet the requirements of the Fire Bureau in regard to addressing and aerial fire department access roads (exhibit E.4).

CONCLUSIONS

The applicant has proposed a 6-lot subdivision and Common Green (Private Street tract), as shown on the attached preliminary plan (Exhibits C.1-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: the installation of utilities within the common green (meeting spacing requirements).

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 6-lot subdivision and Common Green (Private Street), that will result in six lots for attached houses as illustrated with Exhibits C.1-C.4, subject to the following conditions:

A. The final plat must show the following:

1. The common green tract shall be noted on the plat as Tract A: Private Street (Common Green). In addition, a note on the plat must be included that reads "Tract A is a common green, a private pedestrian and bicycle access way for ingress and egress to Lots 1-6. Motorized vehicles are not permitted on Tract A."
2. The applicant shall meet the street dedication requirements of the City Engineer for N St. Louis Ave. The required right-of-way dedication must be shown on the final plat.
3. A Public Access Easement must be shown over the sidewalk portion(s) of the street tract.
4. A private storm sewer easement, for the benefit of Lots 4 and 5, shall be shown and labeled over the relevant portions of Lots 5-6.
5. A public sanitary sewer easement, granted to the City of Portland, shall be shown over the relevant portions of the private street to the satisfaction of the Bureau of Environmental Services. The easement must be labeled as "Sewer Easement to COP".
6. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions B.4-B.5 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (Tract A, Common Green) has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall submit an application for a Site Development Permit for construction of the common green and utility construction for the new private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibit C.2 and the Private Street Administrative Rule. In addition, the street shall include the following:

- The common green/pedestrian connection must meet the tree and landscaping standards in Section I of the Private Street Administrative Rule.
 - 5 ft. wide sidewalk is required
2. The applicant shall provide a clearing and grading plan with the Site Development permit required for the common green described in Condition B.1. The clearing and grading plan must show the following:
- It must show stockpile areas;
 - It must note that topsoil must be stockpiled on site and re-used to the extent practicable.
 - Construction access

Utilities

3. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in the private street tract. Prior to final plat approval, the applicant must complete one of the following to the satisfaction of BES:
- a. Through a Public Works Permit submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.
 - b. Construct the public sewer and pay associated fees under a BES Simplified Permit.

Required Legal Documents

4. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1-6 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
5. A Maintenance Agreement shall be executed for the Stormwater Management Easement described in Condition A.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.

Other requirements

6. The applicant must pay into the City Tree Preservation and Planting Fund [Private Property Trees – Planting and Establishment, fee in Lieu (per inch)] the amount equivalent to 8 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau. Payment must be completed prior to any tree removal, or prior to Final Plat approval, whichever would occur first.

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

1. The Site Development Permit for the construction of the common green must receive final inspection approval before the permits for the house on lots 1-6 can receive final occupancy and final inspection approval.

2. Prior to finalizing the Site Development permit for the common green (private street); a plumbing permit must be obtained and finalized for the new utility lines that will be constructed within the common green.
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. Development on Lot 1-6 can each utilize 1/6 of the site area within the Common Green (Tract A) for the purpose of calculating additional maximum building coverage for each lot per Zoning Code section 33.120.270.E.6.

Staff Planner: Shawn Burgett

Decision rendered by:  _____ **on January 17, 2019**
By authority of the Director of the Bureau of Development Services

Decision mailed January 22, 2019

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 May 14, 2018, and was determined to be complete on October 24, 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 May 14, 2018.

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 extended the 120-day review period for an additional 30 day (attachment A.7). **The 120 days will expire on: 3/23/19**

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

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

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the

use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on 2/5/19** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7617 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.ci.portland.or.us .

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

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

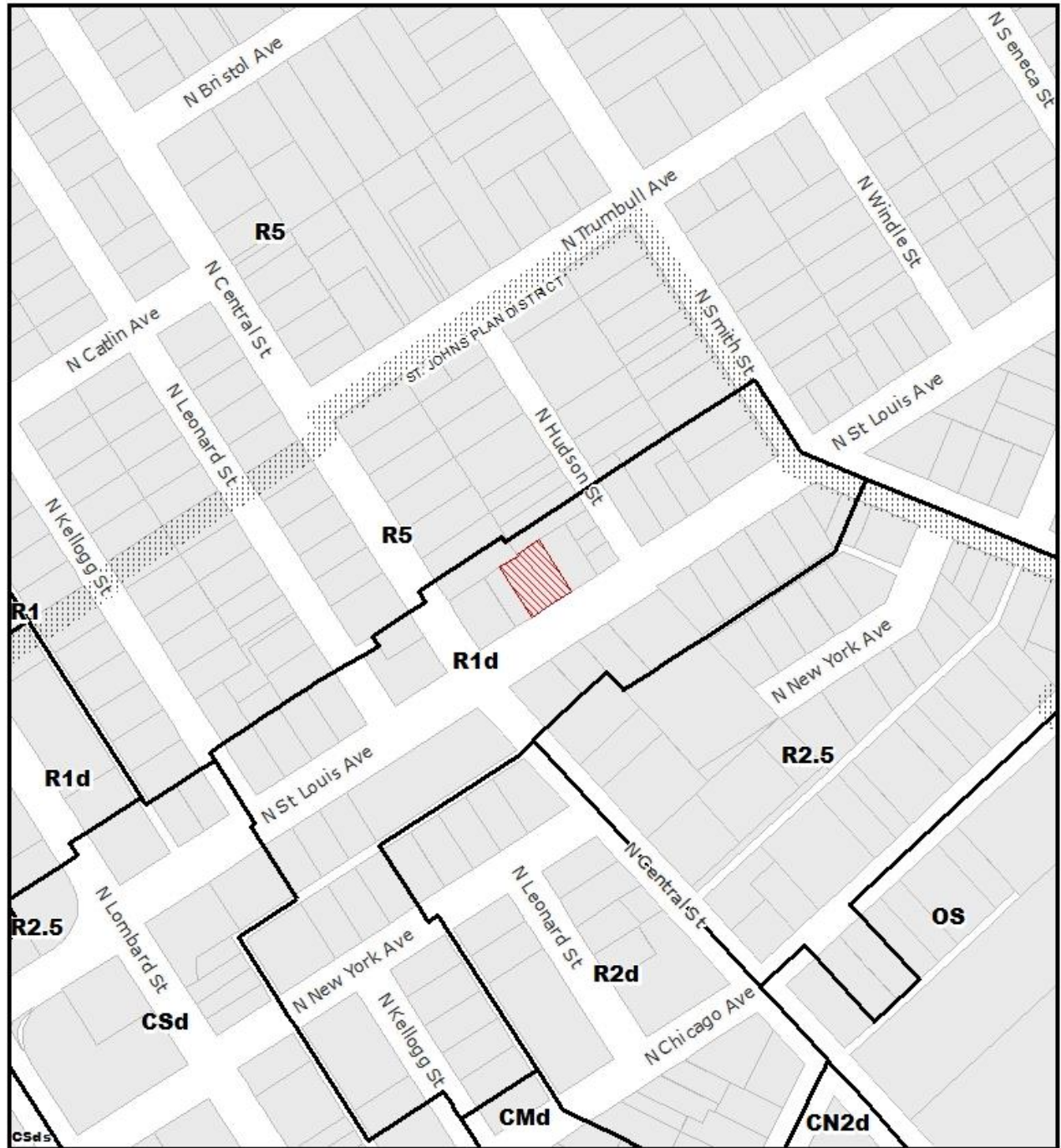
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicants narrative
 - 2. Fire Flow
 - 3. SIM Form (stormwater)
 - 4. Arborist report
 - 5. Deed history
 - 6. Early Neighborhood Notification documentation
 - 7. 30-day extension to 120-day clock
 - 8. Plan set submitted 5/14/18
 - 9. Memo from applicant dated 10/23/18
 - 10. Tri-met bus #4 schedule
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Utility Plan (attached)
 - 3. Grading Plan
 - 4. Existing Conditions Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety
- F. Correspondence:
 - 1. Dustin Kelly, 11/17/18, owner of house addressed 8515 N St. Louis Ave. e-mail: dustincharleskelly@gmail.com
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter
 - 3. Plumbing code appeal (ID#18827)

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).



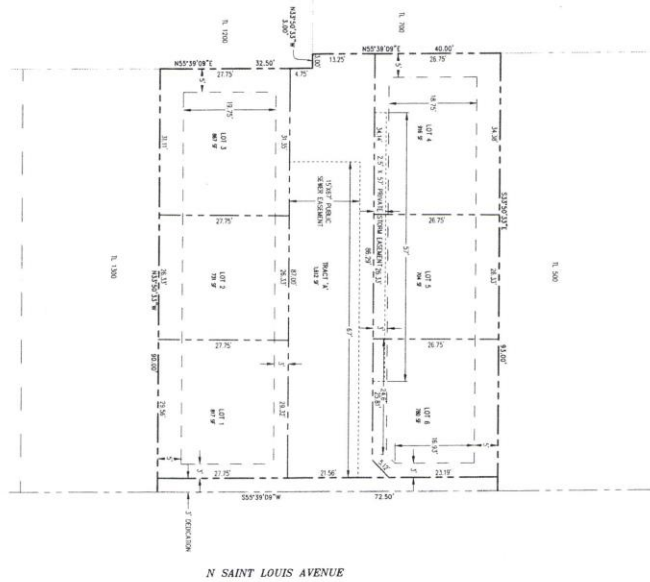
ZONING



THIS SITE LIES WITHIN THE:
ST. JOHNS PLAN DISTRICT

File No.	<u>LU 18-170826 LDS</u>
1/4 Section	<u>2021</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1N1W01CD 600</u>
Exhibit	<u>B May 17, 2018</u>

PREP: 1472-08 8521 N Saint Louis Ave [Map] 1472-08_03.dwg; Layout: PLAT; Plot Date: 10/23/2018 9:29 AM; by: Kyung Han



SETBACKS (Minimum)
 FRONT: 3 FT. (20' MAX)
 REAR: 5 FT. (15' FT.)
 SIDE: 5 FT.

LEGEND
 PROPERTY LINE
 ADJACENT PROPERTY LINE
 OPEN END LINE
 SETBACK LINE

CASE NO. 18-170826
 EXHIBIT C-1

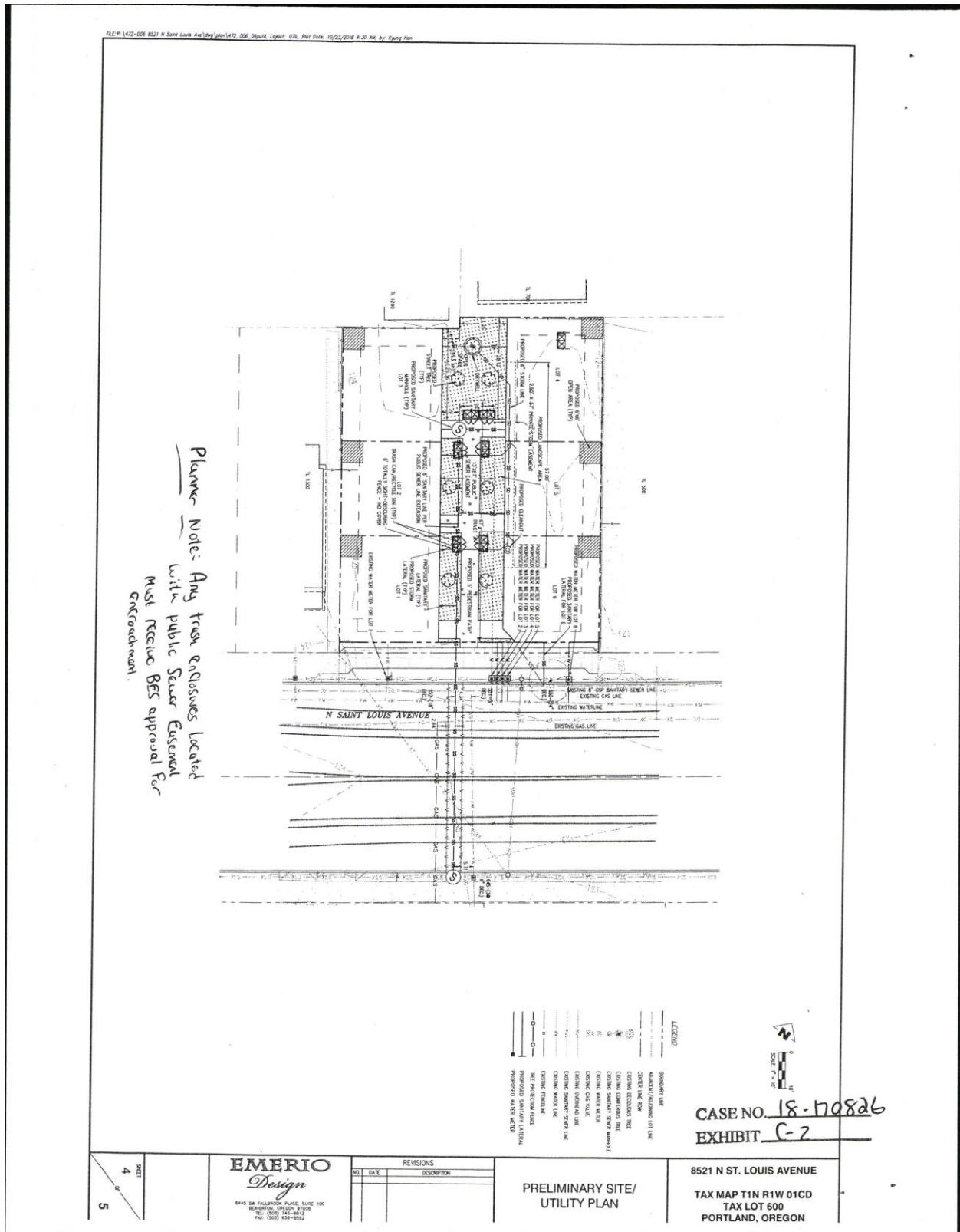
3
 5

EMERIO
Design
 6445 SW FALLBROOK PLACE, SUITE 100
 BEAVERTON, OREGON 97008
 TEL: (503) 744-8812
 FAX: (503) 638-8562

REVISIONS	
NO.	DESCRIPTION

PRELIMINARY PLAT

8521 N ST. LOUIS AVENUE
 TAX MAP T1N R1W 01CD
 TAX LOT 600
 PORTLAND, OREGON



Planner Note: Any trash enclosures located with public sewer Easement must receive BES approval for encroachment.

CASE NO. 18-170826
 EXHIBIT C-2

8521 N. ST. LOUIS AVENUE
 TAX MAP T1N R1W 01CD
 TAX LOT 600
 PORTLAND, OREGON

EMERIO
Design
 8445 SW FALLBROOK PLACE, SUITE 100
 BEAVERTON, OREGON 97008
 TEL: (503) 744-8844
 FAX: (503) 639-8952

REVISIONS	
NO.	DESCRIPTION

PRELIMINARY SITE/
 UTILITY PLAN

SHEET
 4
 OF
 5