



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

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**Date:** March 26, 2019  
**To:** Interested Person  
**From:** Leah Dawkins, Land Use Services  
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**NOTICE OF A TYPE II<sub>x</sub> 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 18-218364 LDP**

**GENERAL INFORMATION**

**Applicant:** Michelle Jeresek | Ivon Street Studio  
 1028 SE Water Ave #260 | Portland, OR 97214  
 (503) 702-4442

**Owner:** RNR Homes LLC  
 PO Box 752 | Wilsonville, OR 97070

**Site Address:** 12436 SW Boones Ferry Rd

**Legal Description:** LOT 2, ALTO PK AC  
**Tax Account No.:** R020900040  
**State ID No.:** 1S1E33CC 05400  
**Quarter Section:** 4227

**Neighborhood:** Arnold Creek, contact at [contact@arnoldcreek.org](mailto:contact@arnoldcreek.org)  
**Business District:** None  
**District Coalition:** Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.

**Zoning:** R10- Single Dwelling Residential  
**Case Type:** LDP- Land Division Partition  
**Procedure:** Type I<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

**PROPOSAL:**

The applicant is proposing to divide the subject site into 3 parcels. The site is 29,185 square feet in size. The proposed parcels range in size from 7,558 square feet to 12,550 square feet. Parcel 3 is proposed to be a flag lot. Parcels 1, 2, and 3 will share driveway access via the “pole” portion of Parcel 3. Parcels 1 and 2 are “narrow” lots which do not meet the minimum lot width dimension of 50 feet in the R10 zone. Parcels 1 and 2 will be approximately 45 feet in width.

The site is located within the potential landslide hazard area. The applicant is proposing to preserve a 37-inch Douglas fir tree on Parcel 2 to meet tree preservation requirements. The

applicant is required to provide transportation improvements along the frontage of SW Boones Ferry Road. Improvements include a 5-foot dedication of property to the public right-of-way and sidewalk improvements along site frontage.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) two or three lots are proposed; and (3) the site is located within a Potential Landslide Hazard or Flood Hazard Area (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 3 units of land. 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 subject site is located in the Arnold Creek neighborhood of SW Portland. There is an existing house on the site. The site is heavily vegetated with shrubs and some large trees. The site slopes up from SW Boones Ferry Road toward the northeast corner of the property.

The surrounding area consists primarily of single dwelling structures on larger lots. The existing street grid provides reasonable connectivity to and from the site along SW Boones Ferry Road.

### Infrastructure:

- **Streets** –The site has approximately 144 feet of frontage on SW Boones Ferry Road. There is one driveway entering the site that serves the existing house on the site. At this location, SW Boones Ferry Road is classified as a District Collector, Traffic Access Street, City Bikeway, City Walkway, Truck Access, Major Emergency Response, and Community Corridor in the Transportation System Plan (TSP). Tri-Met provides transit service adjacent to the site on SW Boones Ferry Road via Bus 38.

SW Boones Ferry Road has 35 feet of paving with curb and sidewalk along the north side of the roadway within a 60-foot right-of-way. Along the 144-foot wide site frontage there are no pedestrian improvements and no curb.

- **Water Service** – There is an existing 8-inch CI water main in SW Boones Ferry Road. The existing house is served by a 5/8-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch PVC sanitary-only sewer line in SW Boones Ferry Road.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** The R10 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.

**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 16, 2018**. Two written responses have been received from notified property owners in response to the proposal. The following summarized comments were submitted and are followed by the staff response in *italics*:

- Concern about lot width of Parcels 1 and 2.  
*The narrow lot width approval criteria are addressed later in this decision under section A. Allowing the lots to be narrow does not allow reduced building setbacks.*
- The height of the proposed units will not be compatible with the existing homes in the neighborhood.  
*This site is located in the R10 zone. The maximum allowed height for primary structures in the R10 zone is 30 feet. The applicant is allowed to conform to this height limit without additional restrictions, the same as any new homes or additions to existing homes.*
- Removal of existing trees will diminish wildlife habitat and food.  
*In order to develop the site and provide frontage improvements, some tree removal is required to make space for reasonable building footprints and sidewalks. Other trees are allowed to be removed because they are on the nuisance tree list, such as the Hawthorn trees. The 37-inch Douglas fir proposed for preservation is required to be preserved as a condition of land use approval. The tree preservation requirements are addressed in detail in Section B of this decision.*
- Concern that the neighborhood contact requirement was not met or did not adequately inform the neighborhood of the proposal.  
*In this case, the applicant sent letters to the Arnold Creek Association, the Southwest Neighbors Incorporated office, and Portland Public Schools. Each group had 14 days to respond to the proposal letter to ask for a meeting with the applicant about the proposal. In this case, the neighborhood association met with the builder in April of 2018.*  
  
*Neighbors within 150 feet of the site received the formal BDS notice of the proposal. It is assumed that the 30-day public notification period will allow neighbors directly affected by the proposal to adequately review and respond to the proposal.*
- Concern about increased traffic from this development and others in the neighborhood.  
*Transportation impacts of this proposal are addressed in detail in Section K of this decision. All new land divisions are subject to the transportation impacts approval criteria.*

## 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.
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	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards

		express no lot configuration preference.
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.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.
	33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

**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. Based on the applicant's survey, the site area is 29,185 square feet. The maximum density in the R10 zone is one unit per 10,000 square feet. Because the site is within the potential landslide hazard area there is no minimum density. The site has a maximum density of 3 units. The applicant is proposing 3 single dwelling parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
<b>R10 Zone</b>	6,000	17,000	50	60	30	40	40
Parcel 1	9,210		45	165	62	-	-
Parcel 2	7,558		45	202	63	-	-
Parcel 3	10,098 w/out pole 12,550 w/pole		-	-	-	105	85

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

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

### Narrow Lots

Parcels 1 and 2 are 45 feet wide — narrower than the minimum width for the R10 zone, as shown in the table above. The Zoning Code, however, allows narrower lots if the lots and future development can meet the regulations of Section 33.610.200.D.2

### ***On balance, the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations.***

The purpose of Lot dimension regulations are as follows:

The lot dimension regulations ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The applicant has demonstrated that the proposed Parcels 1 and 2 are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a building footprints that meets all applicable setback requirements and are oriented towards the street. Therefore, they have demonstrated that the proposed lots can accommodate a reasonably sized house and garage while meeting the development standards of the zoning code.
- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services.
- The proposed lots are compatible with existing lots because the proposed lots are only 9% smaller than the required minimum width. The applicant notes that the *proposal gives the visual impression of standard 50-foot wide lots for Parcel 1 and 2 due to the staggered layout and filtered views of the houses that are on lots which are further separated from each other by a 14-foot wide shared driveway. From this perspective, a perceived width of 45 feet rather than 50 feet should be difficult to detect. In addition, several nearby subdivisions contain properties with narrow lots... seven properties with frontages of 30 feet or less were found within 1,000 feet of this property.* (Exhibit A.2) The proposed lots will not be perceived as narrow lots and are thus compatible with the surrounding neighborhood.
- The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street.

### ***The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet***

- The lots will be developed with detached houses, and the proposed parcels are 45 feet wide.

### ***If the lot abuts an alley, then vehicle access is allowed only from the alley***

- The site does not have access from an alley, so this standard does not apply.

### ***Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.D at the time of development***

- The applicant has demonstrated, with Exhibit C-2 that each lot will be built with a house that is greater than 22 feet in width and will be able to accommodate a garage that will occupy no more than 50% of the length of the street facing façade. However, because a flag lot is proposed, Parcels 1 and 2 are required to share a single driveway access. Parcels 1 and 2 are proposing to have garages at the rear of the proposed homes. Parcels 1 and 2 still have adequate width so that the garage limitation standards of Subsection 33.110.253.D can be met.

**60 percent landscaping requirement for attached houses**

- The applicant has indicated that the lots will be developed with detached houses; therefore, this requirement does not apply.

***If parking is not required, alley access and garage limitation requirements do not have to be met if a covenant is provided.***

- Parking is required. Therefore, alley access and the garage limitation requirements described above must be met.

Based on these findings, the narrow lots can be approved.

Flag Lots

***When allowed***

In this case the applicant is proposing 3 parcels, only one of which is a flag lot. The site has dimensions which preclude a land division that meets the minimum lot width standard for 3 lots. The minimum density standards are met. Therefore, the thresholds for when a flag lot is allowed to be created have been met.

***Dimensions***

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

***Vehicle Access***

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

In this case, the flag portion of Parcel 3 will provide off street parking access for all the parcels. The shared vehicle access minimizes the need for additional curb-cuts along the street and the impervious area resulting from paved surfaces for vehicle access. An access easement will be placed over the entirety of the pole to allow shared access. To ensure future development continues to comply with the requirements to share access, a condition is necessary to restrict vehicle access to Parcels 1 and 2.

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

The findings above show that the applicable density and lot dimension standards are met. Therefore, with the condition described above, 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.4) 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, 5 trees, which provide a total of 151 inches of tree diameter, are subject to the preservation requirements of this chapter, 3 of which are 20 inches or greater in diameter.

In this case, two of these trees, 48-inch and 37-inch Douglas firs, are located in future right-of-way dedication area. The requirements of the Transportation Office to provide frontage improvements along the site 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. Additionally, the configuration of the site does not allow for preservation of an 18-inch Spruce tree because of the placement of the "pole" portion of the flag lot, which provides shared access to all three parcels.

The applicant proposes to mitigate for tree removal by paying into the City Tree Preservation and Planting Fund for the full inch-for-inch removal of the 48-inch Douglas fir tree. Title 11 tree density standards will require that trees be planted on the lots at the time of building permit. Based on the size of the proposed lots, 4-17 trees will be required to be planted on each lot, depending on the type of trees chosen by the applicant. Given the required tree planting, there is not sufficient room on the lots for additional tree planting to mitigate for tree removal without jeopardizing the overall health of the trees as they mature. Therefore, offsite mitigation in the form of payment into the City Tree Preservation and Planting Fund is more appropriate for this proposal.

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.

The tree preservation standards requires 50 percent of large trees (20 inches or more in diameter) and at least 35 percent of the total non-exempt tree diameter on the site be preserved. This would require either tree #1 or tree #2 to be preserved in addition to tree #3. The applicant has proposed to mitigate 48 inches of tree diameter, equivalent to tree #2.. With the conditions that a payment equivalent to 48 inches be paid to the City Tree Planting and Preservation Fund prior to final plat approval; and that tree #3, a 37-inch Douglas fir, be preserved, tree removal will be adequately mitigated.

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

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

**D. Potential Landslide Hazard Area. If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met.**

**Findings:** The entire site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on parts of the site that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site.

In order to evaluate the proposal against this criteria, the applicant has submitted a Landslide Hazard Study of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.5).

Site Development, the division of Development Services that makes determinations regarding soil stability, has evaluated the Landslide Hazard Study and concurred with the recommendations. The report indicates that the site is suitable for development and the proposal reasonably limits the risk of landslide potential on the site and other properties in the vicinity given the soil composition, topography, and other risk factors.

Based on these factors, this criterion is 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 located in the Potential Landslide Hazard area. Therefore, the clearing and grading associated with preparation of the lots must occur in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed.

The applicant submitted a Landslide Hazard Report (Exhibit A.5) that describes how clearing and grading should occur on the site to minimize erosion risks in addition to a Preliminary Clearing and Grading Plan. The applicant also provided a Tree Protection Plan (Exhibit C.4) that designates areas on the site where grading should not occur in order to protect the roots of the trees on the site that will be preserved, and an arborist report (Exhibit A.4) that discusses tree preservation. It is unclear how the off-site trees along the east property line will be protected during construction. Prior to final plat approval, the applicant will need to indicate how utility lines will be constructed to avoid impacting the neighboring trees.

The applicant's geotechnical engineer recommends that the amount of grading work occurring on the site be minimized as much as possible. It is anticipated that the grading will primarily involve excavating for the foundations of the new houses and trenching for the utilities but will not include mass grading of the site to alter the existing contours. Following the recommendations of the Landslide Hazard Study will help to limit erosion and sedimentation concerns by removing non-native fill; workings during dry weather or following wet weather construction recommendations; and placing structural fill on the site where necessary.

Stormwater runoff from the lots will be appropriately managed by following the erosion control measures of the City to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report). In addition, no clearing and grading will be permitted within the root protection zones of the tree on the site that is required to be preserved. Preserving the large Douglas fir tree will help limit erosion by assuring that the tree roots will help to hold the soil in place. Topsoil storage and general stockpiling on the site should only occur if it will not create any additional erosion concerns as recommended by the geotechnical engineer.

### ***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 septic system 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.

In addition, the applicant has proposed to remove the existing house and garage and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval.

With these conditions, the new lots can be considered suitable for development, and this criterion is met.

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

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

The following easements are proposed and/or required for this land division:

- A Private Access Easement and a private sewer easement is required over the flag pole of Parcel 3 to provide a shared vehicle access benefitting Parcels 1-3, sanitary service for Parcels 1 and 2, and storm sewer management for Parcel 2.
- A Private Storm Sewer Easement is required across the relevant portions of Parcels 1 and 3, for a shared stormwater planter that will provide stormwater disposal for both parcels.

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 a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

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

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

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

**Findings:** The transportation system must be capable of 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 provided a written narrative addressing the transportation approval criteria above. The application proposes to demolish the existing home and detached garage, then divide the property into three lots including one flag lot, in which the 'pole' will provide access for all three lots. The applicant has initiated a Public Works Permit (18-153985 | TH0704) for frontage improvements along SW Boones Ferry. The applicant proposes a 14-ft wide throat with 5-ft wings, which maximizes on-street parking with approximately 50-ft of available curb adjacent to the site, while minimizing potential conflicts. The proposed partition is projected to generate approximately 10 trips for each new parcel. The small number of trips added into the transportation system resulting from the development will not adversely impact the operations of area intersections and is consistent with the zoning of the property. The applicant's narrative indicates the surrounding area's street capacity satisfies City standards and will pose a minimal impact to immediate and surrounding neighborhoods. The site is served by sufficient transportation facilities to reduce impacts to the neighborhood and provide safety for all modes, including Tri-Met bus service #38; and Boones Ferry being a Shared Roadway for bicycling. Therefore, the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area. The proposed development will not negatively impact transit service or safety for any mode.*

PBOT has reviewed and concurs with the information supplied and available evidence. The proposed dedication and improvements to SW Boones Ferry Road, described in greater detail later in this decision, will be sufficient mitigation to allow the transportation system to be capable of supporting the proposed development in addition to the existing uses in the area. With the condition that the proposed right-of-way dedications are shown on the final plat and improvements are constructed to the satisfaction of the City Engineer, 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:

<b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.
The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report.
<b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.
The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The applicant proposes to serve Parcel 1 via an easement over Parcel 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.
<b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1
No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The applicant has proposed the following stormwater management methods:

- **Parcels 1-3** Stormwater from these lots will be directed into flow-through planters that remove pollutants and suspended solids. The water will drain from the planters to the existing storm sewer in SW Boones Ferry Road. Each lot has sufficient size for individual planter boxes.

The stormwater runoff from the driveway of Parcel 3, which is shared by all three lots, will be directed into a flow-through planter on Parcel 1. In order to ensure the availability of a stormwater discharge point for the shared driveway, a private easement must be shown over the shared facility on the final plat.

The treated stormwater from Parcel 2 will be directed over the “pole” portion of Parcel 3 to the existing storm sewer in SW Boones Ferry Road. In order for Parcel 2 to access the public storm sewer in SW Boones Ferry Road, the applicant must provide a private sewer easement over the relevant portions of Parcel 3 on the final plat.

The Bureau of Environmental Services has indicated that the treated water can be directed to the existing combination sewer in SW Boones Ferry Road. With the conditions that easements are provided over Parcels 1 and 3 for the benefits of Parcels 3 and 2 and shown on the final plat, these criteria and standards are 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 does not meet the noted spacing requirements because of the limited access to through streets in this neighborhood. The applicant has noted that the site is less than 200 feet from SE 19<sup>th</sup> and approximately 300 feet from SW Orchard Hill Road, both improved streets with existing pedestrian corridors. Given that the subject property is located on the City’s urban-rural fringe, combined with the low density surrounding development, additional connections are not practical at this location.

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

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

SW Boones Ferry Road is improved with a paved roadway and a gravel shoulder on one side. There are no curbs, planter strips, or sidewalks adjacent to the subject site. 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 to and from the proposed development. To accommodate these improvements, additional right-of-way must be dedicated along the frontage of the site. With those improvements, two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that curb and sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

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

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

## DEVELOPMENT STANDARDS

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

### Future Development

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

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone. This standard will apply to Parcel 3.
- Narrow Lots-- development on Lots 1 and 2 will be subject to the following standards at the time of development permitting:
  - Height of the structures will be limited to 1.2 times the width of the structure, per 33.110.215.B.2; and
  - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.D.3.a. Garage not allowed on street facing façade less than 22 feet wide

**Existing development that will remain after the land division.** The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R10 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 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 11 –Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	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 and spacing 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 Parcels 1-3; and fire apparatus access, including aerial access. The applicant must meet the requirements of Fire Code Appeal 19024 requiring the new home on Parcel 3 to be protected with an approved fire sprinkler. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for a Fee in Lieu of planting for the loss of one street tree planting space. 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.2). 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: narrow lots, flag lots, tree preservation, and frontage improvements.

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 one flag lot and two narrow lots as illustrated with Exhibit C.2-C.4, subject to the following conditions:

### A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SW Boones Ferry Road. The required right-of-way dedication must be shown on the final plat.
2. A private sanitary sewer easement, for the benefit of Parcel 1, shall be shown and labeled over the relevant portions of Parcel 3.
3. Private storm sewer easements shall be shown and labeled for the following:
  - For the benefit of Parcels 2 and 3 for the shared driveway storm facility over the relevant portions of Parcel 1;
  - For the benefit of Parcel 2 over the relevant portions of Parcel 3.
4. A 14-foot wide Private Access Easement shall be shown and labeled on the final plat over the “pole” portion of Parcel 3 for the benefit of Parcels 1 and 2. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
5. 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.6-B.8 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”

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

#### 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 Fire Bureau for ensuring adequate hydrant flow and spacing. The applicant must provide verification to the Fire Bureau that the Fire Code is met, an exception is used, or provide an approved Fire Code Appeal prior final plat approval.
3. The applicant will be required to install residential sprinklers in the new house on Parcels 1 and 2, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.
4. The applicant will be required to provide information describing how offsite trees will be protected during utility installation. If necessary, the applicant shall submit an updated arborist report describing how utilities can be installed while protecting offsite trees.

### **Existing Development**

5. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. Additionally, the City's Deconstruction ordinance applies to houses built in 1916 or earlier and/or designated historic resources.
6. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site.

### **Required Legal Documents**

7. Maintenance Agreements shall be executed for the Private Access, Private Sanitary Sewer, and Private Storm Sewer Easements described in Conditions A.2-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.
8. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 3 to contain internal fire suppression sprinklers, per Fire Bureau Appeal no 19024. The acknowledgement shall be referenced on and recorded with the final plat.
9. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 3. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

### **Other requirements**

10. 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 48 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.

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.

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

1. Development on Parcels 1 and 3 shall be in conformance with the Tree Preservation Plan (Exhibit C.4) and the applicant's arborist report (Exhibit A.4). Specifically, tree number 3, a 48-inch Douglas fir, is required to be preserved, with the root protection zones indicated on Exhibit C.4. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur 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. The applicant will be required to install residential sprinklers in the new house on Parcel 3 to the satisfaction of the Fire Bureau, and in the new homes on Parcels 1 and 2 if applying an exception.
4. Vehicle access to Parcels 1 and 2 must be from the flag pole of Parcel 3. Driveways are not allowed along the frontages of Parcels 1 and 2.

**Staff Planner: Leah Dawkins**

**Decision rendered by:**  **on March 21, 2019**

By authority of the Director of the Bureau of Development Services

**Decision mailed (within 5 days of dec. date) March 26, 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 August 10, 2018, and was determined to be complete on November 13, 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 August 10, 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 requested that the 120-day review period be extended 90 days, as stated with Exhibit A.10. Unless further extended by the applicant, **the 120 days will expire on: June 11, 2019.**

**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 April 9, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> 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](http://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.

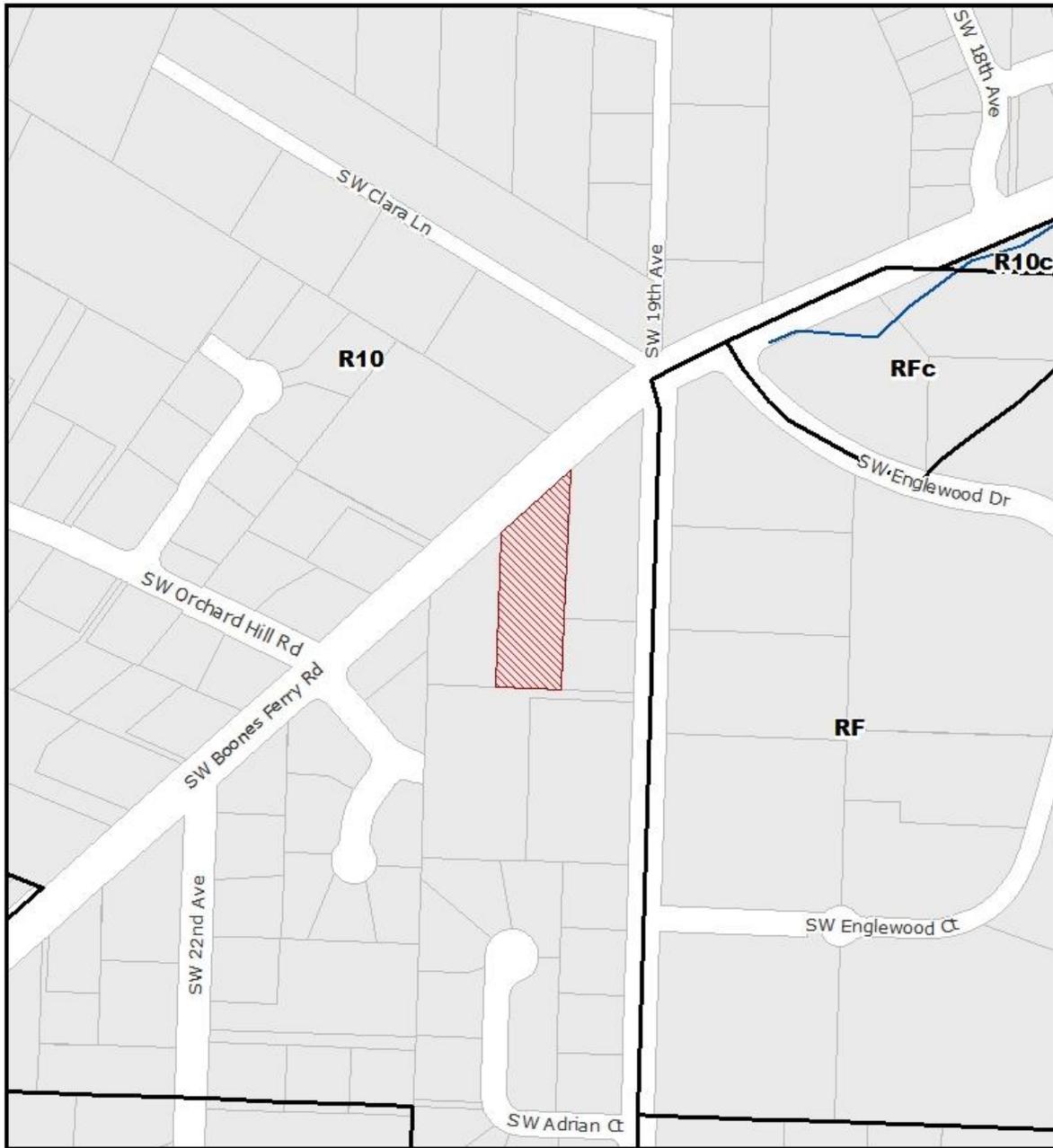
Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity 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. Applicant's Original Narrative
  - 2. Revised Narrative (11/9/18)
  - 3. Original Arborist Report
  - 4. Revised Arborist Report (11/9/18)
  - 5. Geotechnical Report
  - 6. Simplified Approach Form
  - 7. Resubmittal Memo
  - 8. Neighborhood Contact Letters
  - 9. Original Plan Submittal
  - 10. 120-Day Extension Requests
  - 11. Fire Code Appeal 19024
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions Survey
  - 2. Site Plan (attached)
  - 3. Clearing and Grading Plan
  - 4. Tree Preservation 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
- F. Correspondence:
  - 1. Carol and Andy Gauthier, 12/17/18, concerns with development and tree removal
  - 2. Dan Hanna Jr., 12/12/18, concerns about fire access and narrow lots
- G. Other:
  - 1. Original LU Application
  - 2. Expedited Land Division Acknowledgement
  - 3. Incomplete Letter

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

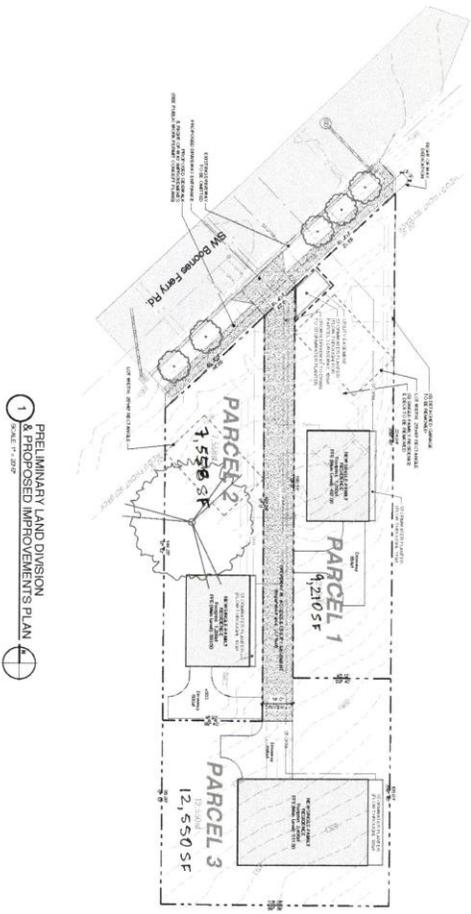


**ZONING**   
NORTH

 Site  
 Stream

File No.	LU 18-218364 LDP
1/4 Section	4227
Scale	1 inch = 200 feet
State ID	1S1E33CC 5400
Exhibit	B Aug 13, 2018

RECEIVED  
NOV 9 2018



BETONTE LAND DIV.  
& ARCHITECTS  
ARCHITECTS  
A1  
11.08.18

Betonte Land Division  
12436 SW Boones Ferry Rd., Portland, Oregon

IVON  
STREET  
STUDIO

CASE NO. 18-218364  
EXHIBIT C.2