



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

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Date: July 15, 2019
To: Interested Person
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NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 19-106042 LDS

GENERAL INFORMATION

Applicant: Chris Deslauriers | WDY Structural-Civil Engineers (Engineers Inc)
6443 SW Beaverton-Hillsdale Hwy, Ste 210 | Portland, OR 97221
503-203-8111 | Chris@wdyi.com

Owner/Owner's Representative: Roderick Isham | Zig Development LLC
14523 Westlake Drive | Lake Oswego, OR 97035

Site Address: 12946 SE RAMONA ST

Legal Description: E 1/2 ACRE OF N 1 ACRE OF W 2 ACRES OF LOT 5, LAMARGENT PK NO 2

Tax Account No.: R466201690
State ID No.: 1S2E14CA 05500
Quarter Section: 3643

Neighborhood: Pleasant Valley, contact Steve Montgomery at foxtrotlove@hotmail.com., Powellhurst-Gilbert, contact at pgnaboard@gmail.com

Business District: Midway, contact info@midwaybusiness.org.
District Coalition: East Portland Community Office, contact Victor Salinas at 503-823-6694.

Plan District: Johnson Creek Basin

Zoning: R5a (Single Family Residential 5,000 sq. ft. with "a" alternative design density overlay).

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

Proposal:

The applicant is proposing a 3-lot land division and a new private street tract on the 21,767 sq. ft. site. Lots 1-3 will measure between 4,628 sq. ft.-6,780 sq. ft. in area. The existing house is proposed to remain on Lot 1. The applicant is proposing to protect a cluster of large trees (3-Douglas Fir trees between 20-24" in diameter) located along the southern property boundary of the site on Parcel 3 in order to meet the Tree Preservation criteria in the Zoning Code (33.630). In addition, the applicant is proposing to protect 44" diameter Douglas Fir located on Parcels 1 and 2 near the western property boundary.

This subdivision is reviewed through a Type Ix land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines "lot" as a single unit of land created by a subdivision of land. The applicant's proposal is to create 4 units of land (3 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 relatively flat and has one existing single-family home constructed in 1946. The area north of the site is made up of predominately detached single family dwelling units while the property directly west and south of the site has an existing mobile home park. An elementary school (Gilbert Park) is located approximately 220 ft. east of the site.

Infrastructure:

- **Streets** –The site has approximately 79 feet of frontage on SE Ramona St. There is one driveway entering the site that serves the existing house on the site. At this location, SE Ramona St. is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 1,600 feet east from the site at SE 136th Avenue via Bus 10.

SE Ramona St has a 22-foot paved roadway (curb located on south side of street adjacent to subject site, no curb is located on the north side of street) within a 40-foot right-of-way with parking both sides. Along the 79-foot wide site frontage the pedestrian corridor includes a curb and a 7-foot sidewalk (0-7-0 configuration).

- **Water Service** – There is an existing 12-inch CI water main in SE Ramona Street. The existing house is served by metered service from this main.
- **Sanitary Service** - There is an existing 12-inch PVC sanitary sewer line in SE Ramona St.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is not using any of the provisions of the “a” overlay.

The Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services.

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 **March 22, 2019**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.

Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site 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.D - Common Greens	No common greens are proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets	No public dead-end streets or pedestrian connections exist that must be extended onto the

	and pedestrian connections	site.
	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 21,767 square feet. The maximum density in the R5 zone is one unit per 5,000 square feet.

A new street is proposed; therefore, the maximum density is based on 85 percent of the site area and minimum density is based on 68 percent of the site area.

The site has a maximum density of 3 units and a minimum required density of 2 units.

The applicant is proposing 3 single dwelling lots. 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)
R5 Zone	3,000	8,500	36	50	30
Lot 1	5,428 sq. ft.		57.88’	93’	57.88’
Lot 2	4,668 sq. ft.		80’	58.34’	80’
Lot 3	6,800 sq. ft.		70’	57’	61’

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

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

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

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

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

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include

trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites.

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

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

Based on this information, 12 trees, which provide a total of 240 inches of tree diameter, are subject to the preservation requirements of this chapter. 8 trees on the site are 20 or more inches in diameter.

The following trees are proposed for preservation based on tree number: 3 (44" Douglas Fir), 13 (20" Douglas Fir), 14 (20" Douglas Fir) and 15 (24" Douglas Fir). All of these trees are in good condition and are native/non-nuisance species. The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R5 zone and will not conflict with any existing utility easements, proposed services or site grading.

Specifically, the applicant proposes to retain 50 percent of the trees that are 20 or more inches and 108 inches of the total tree diameter (45% of overall non-exempt tree diameter), so the proposal complies with:

Option 3: Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site.

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

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

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

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

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

Findings: 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.

Additionally, where geologic conditions or historic uses of the site indicate that a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements to make the lots suitable for their intended uses and the provision of services and utilities.

Clearing and Grading:

In this case, the site is relatively flat, and is not located within the Potential Landslide Hazard Area. However, a new street and associated stormwater system is proposed as part of the land division, which will require grading on the site.

The applicant has submitted a Preliminary Clearing and Grading Plan (Exhibit C.3) that depicts the proposed work consistent with the root protection zones of trees to be preserved, per the applicant's Tree Preservation Plan, and the overall limits of disturbed area.

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

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

With a condition of approval that the applicant submit a final clearing and grading plan prior to final plat approval showing existing contours and drainage patterns of the site along with topsoil storage, or a stockpile area and overall limits of disturbance, this criterion can be met.

Land Suitability:

The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there is an old 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. With a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new development, and this criterion is met.

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

Findings: The following tracts are proposed:

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

With a condition that the proposed tract be owned in common by the owners of Lots 1 through 3 or a Homeowner's Association, this criterion can be met.

The following easements are proposed for this land division:

- A Private Access Easement is required over the Private street tract to provide shared access serving the adjacent property to the east (addressed 13016 SE Ramona St.) if that property is ever divided via the land division process. The easement would allow the private street tract to be expanded to also serve that neighboring property. (please see findings later in report for details).
- An Emergency Vehicle Access Easement is required over the entirety of the private street.

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

must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

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

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

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

Findings: The transportation system must be capable of 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 a three-lot partition retaining the existing home, with the two new parcels located behind (south) of the existing home. The applicant proposes a single private drive accessing the new lots, which maximizes on-street parking with approximately 57-ft of available curb adjacent to the site while minimizing potential conflicts. Based upon trip generation estimates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition, each proposed parcel is projected to generate one additional morning and evening trip, for approximately ten daily 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 #10-Harold and #73-122nd within a half mile from the site. SE Ramona is a Local Service roadway, which provides access to numerous bicycling routes on surrounding low volume traffic streets. And the sidewalk corridor in the immediate vicinity is complete and provides routes to the surrounding neighborhoods. 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. Standard sidewalk corridor improvements will be required to serve the proposed development (see criterion L. 33.654). These criteria are met.

L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.

The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.

Water Service to Lots 2 and 3 must be installed within the private street. The meters will reside in the right-of way in SE Ramona St.

The water service standards of 33.651 have been verified.

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

The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.

The applicant will do individual connections to the existing sewer in SE Ramona St. The sanitary sewer service standards of 33.652 have been verified.

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

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

The applicant has proposed the following stormwater management methods:

- **Private Street:** Stormwater will be directed to a sedimentation manhole located in the private street that will remove suspended solids, and from there to a drywell facility, also located in the street tract, that will infiltrate the water into the ground. BES has indicated conceptual approval of the proposed location and size of these facilities
- **Public Street Improvements:** As a condition of this land use approval, PBOT requires the applicant to improve the frontage of the site to City standards (discussed earlier in this report). A new sidewalk is required, but the curb already exists. BES will require that the sidewalk must be constructed so that it will slope towards the new planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.
- **Lots 2-3:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells.
- **Lot 1 (the lot with the existing house):** The existing house on Parcel 1 manages stormwater runoff with existing downspouts that discharge to lawn/landscaped areas. These downspouts will remain and appear to meet setbacks to the new proposed property lines.

Based on these factors, the stormwater management standards and criteria are met.

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

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

The block on which the subject property is located does not meet the noted spacing requirements. The nearest north-south through street to the west (SE 128th Ave) is located approximately 460 ft. from the site. In addition, the nearest north-south through street to the east (SE 136th Ave) is located approximately 1,600 ft. from the site for a total distance

between these two streets of approximately 2,100 ft.

Therefore, there should be a new north-south through street provided in the vicinity of the site. The site contains sufficient width to allow the creation of a partial public north-south through street. However, the properties adjacent to the portion of the site where the street would terminate (to the south) is developed with a large Mobile Home Park, and not configured in a manner that would easily allow the further extension of a new public street from the site.

Additionally, the site is within the Portland Master Street Plan for the Southeast District which does not show a through street connection in this vicinity. Although the optimum spacing criteria would indicate the need for a new north-south through public street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

PBOT (exhibit E.2) had the following comment:

The applicant's narrative discussed the City's connectivity goals in conjunction with the proposed development, noting that while the subject site is positioned approximately at the 530-ft spacing threshold, the large manufactured home park immediately adjacent to the south is not expected to develop or rezone in the foreseeable future, therefore applicant is not proposing a new public street. However, due to the adjacent property to the east has the ability to develop similarly as the subject property, the proposed private drive is designed to be widened and shared with the adjacent lot if/when redevelops, setting the stage for a new connection to the south if the adjacent manufactured home park does redevelopment in the future.

Therefore, since the property to the east of the site (addressed 13016 SE Ramona St.) appears to have potential to further divide under current zoning into a maximum of 5 lots (with a future street extension) and is not currently developed in a manner that would preclude the extension of the proposed private street to serve this adjacent lot. The applicant agreed (exhibit A.11) to allow the proposed private street to be utilized in the future by the adjacent property to the east. The street would be required to be expanded (sidewalk, turnaround and on street parking) in order to serve more than 3 lots. This opportunity will help to avoid creating a situation with two side by side private streets in the future.

Since the private street will be privately owned the applicant has agreed to grant an access easement over the private street that would allow the adjacent property to utilize the street which if the adjacent property is ever subdivided. This expansion is feasible because the private street will terminate at a location on the site boundary that will allow it to be easily extended into the adjacent property to the east if its divided in the future. It would also not foreclose the opportunity to extend a pedestrian connection to serve the property to the south.

It should be noted that the Private Street standards allow a maximum of 8 lots to abut a private street tract. Therefore, if the adjacent property develops to the maximum density allowed under the current Zoning Code (5 lots) the private street serving the subject site could be expanded (as noted above), to also serve the adjacent property to the east and not exceed the total maximum number of lots allowed on a private street tract.

Therefore (in order to meet this criterion), as a condition of approval, the applicant will be required to grant an access easement over the proposed private street tract prior to final plat approval that allows the adjacent property to the east (addressed 13016 SE Ramona St.) to utilize the private street and expand this street onto its site in the future in order to allow it to serve a maximum of 8 lots. The maintenance agreement required for the private street tract will be required to verify future maintenance responsibilities within the easement area if the adjacent property ever expands the private street tract to serve additional lots as proposed.

With the condition noted above, this criterion is met.

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

The proposal includes a private dead-end street, which will be located in the new private 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 3 dwelling units and it is approximately 213 feet in length from the frontage along SE Ramona Street to the end of the street along the frontage of Lot 3. This criterion is met.

33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 and E.5 for bureau comments

Public Street:

For *Local Service* streets in an R5 zone, the City's *Pedestrian Design Guide* requires a 11-ft pedestrian corridor consisting of a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and 0.5-ft frontage zone. Therefore, an approximate 4-ft dedication will be required prior to Final Plat and reconstruct frontage to meet City Standards above.

The Applicant submitted an Alternative Review (19-135684 PW) to retain the current curb tight sidewalk and provide a 5-ft dedication and new sidewalk behind the curb. In reviewing the case, the Committee was not supportive of the applicant's alternative, noting that the proposal does not meet the specified configuration of the City's *Pedestrian Design Guide* or PBOT's standard for a separated sidewalk (P551), and would result in a seam within the pedestrian through zone that has the potential to impact accessibility. Therefore, it is expected that the sidewalk be brought into compliance at time of development and consistent with the authority granted under 17.88.020.

RECOMMEDATION

PBOT has no objection to the proposed Land Division, subject to the following conditions:

- a. A minimum 4-ft property dedication abutting the entire parent parcel shall be completed to accommodate frontage improvements along SE Ramona;
- b. A minimum 11-ft wide pedestrian corridor, consisting of a 0.5-ft curb, 4-ft wide furnishing zone, 6-ft wide sidewalk, and a 0.5-ft frontage zone, shall be constructed abutting Proposed Parcel 1 (existing home) to the satisfaction of the City Engineer.

Therefore, conditions will be applied that sidewalk improvements must be made and the required right-of-way dedication must be shown on the Final Plat

Private street:

The applicant has proposed that a 21-foot wide private street tract which is sufficient to accommodate the expected users.

The *Administrative Rules for Private Rights of Way* are the standards that govern the construction of private streets. These rules recommend generally recommend a width from 16 to 20 feet for dead-end streets less than 300 feet long, serving 3 or less lots. This width will provide room for the construction of an 18-foot wide paved roadway that allows two travel lanes, two 12-inch mountable curbs (one on each side of the street) and a 1-foot setback between the street improvements and private property to east. The applicant will be disposing of stormwater from the private street within a sedimentation manhole/drywell system in the private street. The applicant will be required to plant street trees on each lot within 5' of the street tract along the south side of the private street per the technical rule in the Private Street standards. One street tree is required every 30 feet. Therefore, 7 new trees will be required. As a condition of approval, the applicant will be required to execute a covenant prior to final plat approval with the City that requires the planting and continued maintenance of seven trees on Lots 1-3 within 5 feet of the private street tract. The covenant must meet the requirements of section 33.700.060 and must be referenced on and recorded with the plat

The proposed tract width is sufficient to accommodate the elements of a street that are

adequate for 3 lots by the *Administrative Rules* governing private streets.

With the conditions noted above, this criterion is met.

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

Findings: The reconfigured 5-foot side sidewalk required along SE Ramona St. will provide a connection to the existing sidewalk along the south side of Se Ramona St. 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. 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:

- Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.D.3.a
- No more than 40 percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. In addition, on corner lots, no more than 20 percent of the land area between the side street lot line and the side street building line may be paved or used for vehicle areas.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Lot 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

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

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 3.35 feet from the new east property line adjacent to the private street tract which is allowed per Zoning Code section 33.110.220.D.7.a. In addition, the existing house is approximately 9 ft. from its new rear (south) property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.

- Accessory Structures – Structures are not allowed to remain on a proposed lot line. Therefore, in order for the proposed new lots to be approved, the accessory structures (detached garage and shed) must be removed prior to final plat. Demolition permits are required for the detached garage. The applicant must provide documentation prior to final plat approval that the demolition permit has received final inspection.
- Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. A paved parking pad/garage provides this required parking for the existing house on Lot 1. As a result of this land division, the required parking space for the existing house will be no longer located on the same lot. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Lot 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.
- Street-Facing Facades in R10 through R2.5 Zones -- In this zone, street-facing facades of residential structures are required to have windows that comprise at least 15 percent of the façade area. It is unclear if the existing house that will remain on Lot 1 currently meets this standard on the side of the house, which is oriented toward the new private street tract. After the land division, the house will also have frontage on the new private street. Prior to final plat approval, the applicant must demonstrate that the existing house has enough windows along the east facing façade to meet the 15 percent requirement noted above or finalize a building permit to make modifications to the house that will remain on Lot 1 to demonstrate compliance with 33.110.232.C.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regard to addressing requirements; posting of "No Parking" signs in the private street; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; providing an Emergency Vehicle Access Easement over the private street tract; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

It should be noted that the private street provides a 20' roadway (18' wide paved roadway with 1' mountable curb on each side) which allows this street to serve as a fire apparatus access street since 20' driving lane is provided. In addition, the applicant submitted Fire Flow information (exhibit A.7) which shows 2,500 Gallons Per Minute (GPM).

- The applicant must meet the requirements of Urban Forestry for street tree planting in the new planter strip adjacent to Lot 1 prior to final plat approval. This requirement is based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 3-lot subdivision and private street tract as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: Tree Preservation, construction of new private street tract and sidewalk improvements along SE Ramona St.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-lot subdivision, that will result in three standard lots and a private street tract as illustrated with Exhibit C.1, subject to the following conditions:

- A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
- Any buildings or accessory structures on the site at the time of the final plat application;
 - Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
 - The fire access lane with a turning radius of 25 feet inside, 45 feet outside, from both directions.
 - Any other information specifically noted in the conditions listed below.
 - Street trees required along the private street tract on Lots 1-3.
- B. The final plat must show the following:**
1. The applicant shall meet the street dedication requirements of the City Engineer for SE Ramona St. The required right-of-way dedication must be shown on the final plat.
 2. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the entirety of the private street to the satisfaction of the Fire Bureau.

3. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street *name of street*."
4. A Private Access Easement over the entirety of the private street for the benefit of adjacent property to the east (addressed 13016 SE Ramona St.) shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a private street would be typically used for if the adjacent property to the east is ever subdivided and the private street is expanded to serve this adjacent property.
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 Condition C.13-15 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage. The applicant must obtain an approved Right Of Way permit from the Portland Bureau of Transportation to install the required sidewalk corridor. The improvements along the frontage of Lot 1, where the existing house will be retained, must be constructed prior to final plat approval.

In addition, the applicant must also meet the requirements of Urban Forestry to plant street tree(s) in the planter strip on SE Ramona Street adjacent to Lot 1.

2. The applicant shall submit an application for a Site Development Permit for construction of the private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibit C.1 and the Private Street Administrative Rule.
3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private street and all required site development improvements. The design for the private street must include a driveway approach and curbs cuts in a location that can provide access to the new parking space required on the lot with the existing house that will remain. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.
4. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private street described in Condition C.2. The clearing and grading plan must substantially conform to the Preliminary Clearing and Grading Plan approved with this decision (Exhibit C.3) with the following additions:
 - It must show root protection zones of the trees to be preserved on the Tree Preservation Plan;
 - It must show stockpile areas;
 - It must note that topsoil must be stockpiled on site and re-used to the extent practicable.

Utilities

5. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
6. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers 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.

Existing Development

7. The applicant must obtain a finalized demolition permit for removing the existing detached garage.
8. The applicant must remove the existing shed. The applicant must submit before and after photos of the removal (with the same perspective).
9. 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.
10. The applicant must demonstrate that the existing house on Lot 1 meets street facing façade requirements along its east facing façade based on the new street frontage along the private street tract.

Alternatively, the applicant must obtain a finalized building permit for modifications to the existing house that will remain on proposed Lot 1 that demonstrate compliance with the standards listed below in relation to the proposed new lot lines. The permit plans must include the note: *This permit fulfills requirements of Condition C.10 of LU 19-106042.*

- 33.110.232.C (standards for Street-Facing Facades in the R10-R2.5 Zones);

11. A parking space shall be installed on Lot 1. The parking space must be a minimum of 9' x 18' and located out of the required setbacks for the lot with the existing house. In addition, it must be in a location that can be accessed from the new street. The applicant does not need to connect the new parking space to the existing street with a paved driveway to meet this condition. (A connecting driveway can be provided after the new street has been constructed) The applicant must obtain a finalized Zoning Permit for installation of the parking space. The permit plans must include the note: *This permit fulfills requirements of Condition C.11 of LU 19-106042.* The new parking space must also be shown on the supplemental plan.
12. Street trees must be installed on Lot 1 within 5 feet of the private street tract in substantial conformance with the Private Street standards. The trees must meet the minimum planting size of Title 11. The required tree planting must be shown on the supplemental survey and installed prior to final inspection approval of the zoning permit required under condition C.11 above.

Required Legal Documents

13. 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 1-3 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those

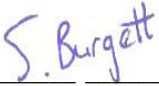
easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

14. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lots 1-3. 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.
15. The applicant shall execute a covenant with the City that requires the planting and continued maintenance of seven trees on Lots 1-3 within 5 feet of the private street tract. The covenant must meet the requirements of section 33.700.060 and must be referenced on and recorded with the plat.

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

1. Development on Lots 1-3 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.2). Specifically, trees numbered 3, 13, 14 and 15 are required to be preserved, with the root protection zones indicated on Exhibit A.2. Tree protection fencing is required along the root protection zone of the trees to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Tree Protection Specifications of 11.60.030.
2. The first lift of paving for the private street shall be installed prior to issuance of any permits for residential construction.
3. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
4. Street trees must be installed on Lots 2-3 within 5 feet of the private street tract in substantial conformance with the Private street standards. The trees must meet the minimum planting size of Title 11. The required tree planting must be shown on the building permit plans for each lot and installed prior to final inspection approval.
5. The applicant must post the private street with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit.
6. 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.
7. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers in new dwelling units. Please refer to the final plat approval report for details on whether or not this requirement applies.

Staff Planner: Shawn Burgett

Decision rendered by:  **on July 11, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed July 15, 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 January 14, 2019, and was determined to be complete on March 19, 2019.

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 January 14, 2019.

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 did not waive or extend the 120-day review period. **The 120 days will expire on: July 17, 2019.**

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

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

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

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

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

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

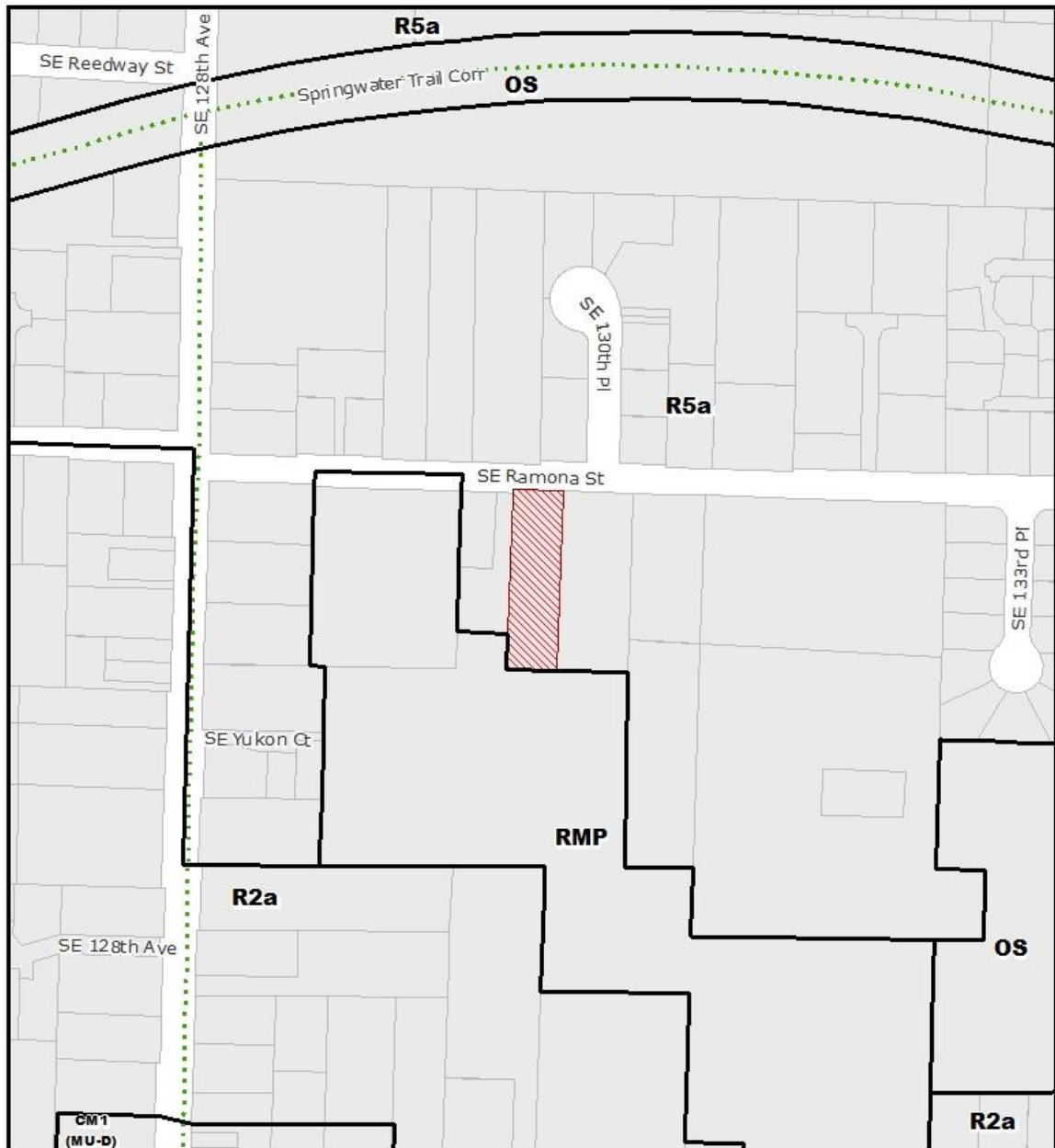
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicants Narrative
 - 2. Arborist report
 - 3. SIM form dated 1/10/19
 - 4. Expediated Land Division Acknowledgement
 - 5. Site Plans submitted 1/14/19
 - 6. SIM Form dated 3/5/19
 - 7. Fire Flow
 - 8. Permit info 19-137314 SE
 - 9. Site Plan set submitted 3/11/19
 - 10. Applicant response to incomplete letter dated 3/11/19
 - 11. E-mail from applicant regarding easement over private street for adjacent property
 - 12. Summary Infiltration testing dated 4/19/19
 - 13. Preliminary Storm Drainage calculations 4/25/19
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. ESC and Tree Protection Plan
 - 3. Clearing and Grading Plan
 - 4. Utility Plan
 - 5. Existing conditions survey
 - 6. Private street profile
 - 7. Complete Plan set
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety
- F. Correspondence: (None received)
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete letter dated 2/13/19

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
 THIS SITE LIES WITHIN THE:
 JOHNSON CREEK PLAN DISTRICT

 Site
 Recreational Trails

File No.	LU 19-106042 LD
1/4 Section	3643
Scale	1 inch = 200 feet
State ID	1S2E14CA 5500
Exhibit	B Jan 17, 2019

