



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

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Date: August 1st, 2019
To: Interested Person
From: Diane Hale, Land Use Services
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 18-176457 LDS

GENERAL INFORMATION

Applicants: Sarah Radelet, Strata Land Use Planning (503) 320-0273
Po Box 90833 / Portland OR 97290

Larry Krause, Chalet Homes
8733 SE Division St #201 / Portland OR 97266

Samson Cheung, AAV One
8733 SE Division St, # 201 / Portland OR 97266

Owner: Wing Gun Lam
10727 SE Jason Ln. / Happy Valley, OR 97086-6276

Site Address: 3845 N/SE 136th Avenue
Legal Description: BLOCK 2 LOT 1&2&3 TL 4700, SILVER PARK
Tax Account No.: R770000660
State ID No.: 1S2E11DB 04700
Quarter Section: 3444
Neighborhood: 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: R2a (Multi-dwelling Residential 2,000 with "a" Alternative Design Density Overlay Zone)

Case Type: LDS (Land Division Subdivision)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

PROPOSAL:

The applicant is proposing an 8-lot subdivision with a new private street for this 25,148 square foot interior lot. The existing development on the site will be removed. Lots will range from 2,028 to 2,618 square feet in area. Detached single family housing is proposed for the future

lots. Off-street parking is proposed for the new homes, and four on-street parking spaces are proposed for the new private street. Frontage improvements (curb, sidewalk and planter strip/stormwater facility) are required to be installed along SE 136th Avenue. There are no regulated trees on the site (all trees are considered nuisance species).

Although the current zoning on the site is R5 (single-family residential 5,000), the land division will be processed under the R2 multi-dwelling zoning that was in place at the time of the land use review application, per Zoning Code 33.700.080.

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

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines “lot” as a single unit of land created by a subdivision of land. The applicant’s proposal is to create 9 units of land (8 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 approval criteria can be found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

FACTS

Site and Vicinity: The site is a 25,148 sq ft interior lot that is mostly vacant. There are a few outbuildings located on the site associated with the house on the abutting property. The surrounding area is a mix of single and multi-dwelling residential development. Highway 26/SE Powell Blvd is located ~ 1/4 mile to the north of the site, and Powell Butte Park is located ~1/2 mile to the southeast of the site.

Infrastructure:

- **Streets –**
The site has approximately 93 feet of frontage on SE 136th Avenue. SE 136th Ave is classified as a Neighborhood Collector, Transit Access Street, City Bikeway, City Walkway, Major Emergency Response Street, and a Local Service Street for all other modes. Based on City GIS, the frontage lacks curbs and sidewalks. Tri Met Bus Line #9 is available to serve the site ¼ mile away at Powell/136th, and the #17 ½ mile away at Holgate/134th Drive.
- **Water Service –** There is an existing 10-inch CI water main in SE 136th Avenue.
- **Sanitary Service -** There is an existing 8-inch PVC public combination sewer line in SE 136th Avenue.
- **Stormwater Disposal –** There is no public storm-only sewer currently available to this property.

Zoning: The R2 designation is one of the City’s multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

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

The Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. At certain locations, the density of development is limited by applying special regulations to new land division proposals. In addition, restrictions are placed on all new land uses and activities to reduce stormwater runoff, provide groundwater recharge, reduce erosion, enhance water quality, and retain and enhance native vegetation throughout the plan district. At other locations, development is encouraged and mechanisms are included that provide relief from environmental restrictions.

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

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **March 27, 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:
B	33.630 – Tree Preservation	All trees on the site in excess of 6 inches in diameter are nuisance species and therefore exempt. See Exhibit A.1 for the arborist report.
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	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared Courts	No shared courts are proposed or required
	33.654.130.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-ways	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 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing 8 lots for detached single family housing.

Single-dwelling or duplex development is proposed for all of the site, therefore the applicant must demonstrate how the proposed lots meet the minimum density and not exceed the maximum density stated in Table 120-3 at the time of the preliminary plan review.

Minimum density in the R2 zone is one unit per 2,500 square feet and the maximum density is one unit per 2,000 square feet. The total site area shown on the applicant's survey is 25,148 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. Street area, including private and public street dedication, totals 7,327 square feet. Therefore the resulting lot size for calculating density is 17,821 square feet. The site has a minimum required density of 7 units and a maximum density of 9 units. The applicant is proposing 8 units.

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

R2	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Detached Houses	1,600	25	none	25
Lot 1	2136	38	NA	38
Lot 2	2026	36	NA	36
Lot 3	2028	36	NA	36
Lot 4	2030	36	NA	36
Lot 5	2145	38	NA	38
Lot 6	2377	34	NA	> 34
Lot 7	2461	32	NA	> 32
Lot 8	2618	34	NA	34

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

The findings above show that the applicable density and lot dimension standards are met. Therefore, 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: 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 primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to construct the new private street and make the new lots developable. As shown on the applicant's Preliminary Clearing and Grading Plan (Exhibit C.3), some minor site excavation will be necessary for the installation of the new street and associated stormwater system and a new public sanitary sewer extension. The plan shows sediment fencing will be installed around the perimeter of the site, which is also the limits of disturbance for the site. The clearing and grading plan does not indicate topsoil storage or a stockpile area, but 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 indicate the location of stockpile areas. The limits of disturbance will also allow for one or more detached accessory structures to be removed. There are no trees required to be preserved on the site.

As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street. The permit application must include a final clearing and grading plan that is consistent with the preliminary clearing and grading plan approved with the land division, and shows the location of stockpile areas. With the conditions noted above, this criterion is met.

Land Suitability: The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

Findings: The following tracts are proposed:

- Tract A: Private Street

With a condition that the proposed tract be owned in common by the owners of Lots 1 to 8 or a Homeowner's Association, this criterion can be met.

Several easements are required within the street tract, including:

- A Sanitary Sewer Easement to City of Portland is required over the public sewer main that will be extended in the new private street.
- A Public Access Easement is required over the sidewalk portion of the private street.
- An Emergency Vehicle Access Easement to City of Portland is required over the roadway portion of the private street.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the tract described above and facilities within that area. The maintenance agreement must acknowledge the required easements within the tract area. 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 Private Street Tract has been recorded as document no. _____, Multnomah County Deed Records."

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

I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.

Findings: The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

All of the proposed lots are on the north and south side of an east-west oriented street. Lot 1 will be on the corner, and will be wider than the other lots. This criterion is therefore met.

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

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area.

Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts: the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes. Mitigation may be necessary to reduce impacts. The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

Street Capacity and Levels of Service

The proposal will result in an increase of 8 single-family residences. These residences can be expected to generate 80 daily vehicle trips with 8 trips occurring in each of the AM and PM Peak Hours. This small increase in peak hour vehicles will not have significant impact on intersection levels of service or street capacity. No mitigation is needed.

Connectivity

The site is less than 100-ft south of east/west SE Bush St. Connectivity standards are not applicable.

Vehicle Access/Loading

The new lots will have driveways to provide access to parking and loading.

On-Street Parking Impacts

The new lots will have at least one on-site parking space with potentially an additional space in front of the garage. Impacts to the on-street parking supply should be minimal.

Availability of Transit

Tri Met Bus Line #9 is available to serve the site ¼ mile away at Powell/136th, and the #17 ½ mile away at Holgate/134th Dr.

Neighborhood Impacts

The site is being developed with net increase of 8 new single-family residences in compliance with the pre-existing R2 zoning. The zoning was updated after the application was submitted to R5. This application is vested in the previous zoning designation. In addition, standard frontage improvements including sidewalks will reduce the potential for conflicts between pedestrians and vehicles.

Safety for All Modes

New sidewalks along the site frontage will provide adequate pedestrian facilities. With the curb located 18-ft from the ROW centerline, adequate roadway width will exist for a future bike lane once more adjacent properties redevelop.

PBOT has reviewed and concurs with the information supplied and available evidence. With the new sidewalk along the site frontage (see criterion L. 33.654) the transportation system will be capable of safely supporting the proposed development in addition to the existing uses in the area. These criteria are met.

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

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

<p>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p>
<p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified. This criterion is met.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p>
<p>The Bureau of Environmental Services has indicated that service is available for Lot 1 from the existing sanitary sewer in SE 136th Avenue, as noted on page 2 of this report.</p> <p>There is no public sanitary sewer available to serve Lots 2 to 8. The applicant must obtain a public works permit to extend the public sewer in the proposed private street to serve lots 2 to 8 prior to final plat approval and grant an easement over the public sewer to the City of Portland. BES has indicated that the public works permit (EP530) has received 30% concept approval. With these conditions, the sanitary sewer service standards of 33.652 have been verified. This criterion is met.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1</p>
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods</p> <ul style="list-style-type: none"> • Private Street: Stormwater will be directed to a trapped catch basin and drywell facility 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: Stormwater from these new impervious areas will be directed to the existing public sump system in SE 136th Avenue. BES has indicated conceptual approval of this approach. • Lots 1 to 8: 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. <p>These criteria and standards are met.</p>
<p>33.654.110.B.1 Through streets and pedestrian connections 33.654.130.C Future extension of proposed dead-end streets & pedestrian connections</p>
<p>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.</p> <p>The site is located ~175 feet south of the nearest east/west street (SE Bush St.). The nearest north/south streets are located ~350 feet to the west and directly abutting the site to the east. While the vicinity could warrant a new north/south connection, the abutting properties to the south and east are fully developed and are not further dividable. Therefore there is there is no practicable opportunity to provide a connection at this location through the land division.</p> <p>The site is within the Portland Master Street Plan for the Far SE District, but the master plan</p>

does not call for a new connection in this location. Therefore, the proposal is consistent with the master street plan.

For the reasons described above, this criterion is met.

As discussed above, the adjacent sites are already developed and the sites to the south and east are not further dividable. There is no practicable opportunity to provide a through connection from the site, so there is no need to extend the proposed dead-end street to the boundary of the site. 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 street tract. As discussed under the findings for through streets above, a new public through street is not required for this proposal. The private dead-end street will serve only 8 dwelling units and it is approximately 185 feet in length from the frontage along SE 136th Avenue to the west end of the new private street. This criterion is met.

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

In reviewing this land division, PBOT 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.

SE 136th Ave is classified as a Neighborhood Collector, Transit Access Street, City Bikeway, City Walkway, Major Emergency Response Street, and a Local Service Street for all other modes. Based on City GIS, the frontage lacks curbs and sidewalks. The applicant shall be required to construct a curb located 18-ft from ROW centerline and a 12-ft wide sidewalk corridor consisting of a new 0.5-ft curb, 4-ft furnishing zone, 6-ft wide pedestrian through zone, and a 1.5-ft frontage zone. Public sumps will be used for stormwater. In order to provide adequate ROW width for these improvements, a 4-ft dedication shall be required. The applicant has received approval of 30% public works concept plans (TH0849). The dedications and street improvements shall be conditions of final plat approval. With these improvements, 8 additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

The *Administrative Rules for Private Rights of Way* are the standards that govern the construction of private streets. The applicant has proposed that a private street tract of variable width (36.5-foot wide where a mix of mountable and vertical curbs are used, 36-foot wide where mountable curbs are used, and 44-foot wide at the turnaround), terminating in an 18-foot radius turn-around is sufficient to accommodate the expected users. This width will provide room for the construction of a 28-foot wide paved roadway that allows two travel lanes and parking on one side, a 7-foot wide sidewalk with 4 by 4 tree wells on one side of the street, and a 1-foot setback between the street improvements and outer boundary of the land division site. A mountable curb is proposed along the north edge of the roadway and a mix of mountable and vertical curbs is proposed for the south edge of the roadway. A public access easement is required over the sidewalk. In this proposal, the applicant will be disposing of stormwater from the private street to a drywell facility. The proposed tract width is sufficient to accommodate the elements of a street that are adequate for 8 lots by the *Administrative Rules* governing private streets.

Where a turnaround is required, the sidewalk is required to extend around the entire perimeter of the turnaround, per Section H of the *Administrative Rules*. The proposal does not currently show the sidewalk extending around the entire turnaround, although the applicant submitted conceptual sketches demonstrating that it is feasible to meet this requirement with minimal changes to the proposal. The Site Development permit for the new private street must show the sidewalk extending around the entire perimeter of the turnaround. Variation in the proposed lot dimensions and area for lots 5, 6, 7 and 8 is allowed to accommodate the required sidewalk as long as the proposed lots continue to meet the

minimum lot dimensions for the R2 zone.

The proposal also shows the sidewalk narrowing below 5 feet in front of Lot 1 where the private street meets SE 136th Avenue. The Site Development permit for the new private street must show the sidewalk meeting the minimum 5-foot width standard per Section H of the *Administrative Rules*.

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

33.654.120.C.3.c. Approval criterion for turnarounds.

A radius turn-around (not a fire turnaround) is proposed at the terminus of the private street tract. The configuration of the turn-around has been reviewed by the Site Development Section of the Bureau of Development Services and the Fire Bureau. Site Development and the Fire Bureau have indicated that the size and configuration of the turn-around are adequate to provide safe vehicular and bicycle movement for the 8 new lots that will use private street. A sidewalk is required along one side of the street that extends to the end of the turn-around. As noted above, the Site Development permit will show the sidewalk extending around the entire perimeter of the turnaround, which will provide for safe and convenient pedestrian access along the private street and from the interior of the land division site to the abutting sidewalk along the frontage of SE 136th Avenue. The proposed street tract has been sized to provide adequate room for the turn-around. 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. 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:

- Detached Houses- Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**

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 R2 zone. Therefore, this land division proposal can meet the requirements of 33.700.015. A condition of approval is required to ensure that the removal happens.

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 regards to addressing requirements; posting "No Parking" signs on one side of the private street; providing an Emergency Vehicle Access Easement over the private street tract; and fire apparatus access, including aerial access. The Fire Bureau indicated that the conceptual plans for the private street meet the requirements for fire apparatus access, however they will verify that again prior to final plat approval. If the street does not meet apparatus access requirements the applicant will be required to record an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on all lots with development that would not meet the fire access requirements from SE 136th Avenue. 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 mitigation payment for loss of street tree planting area. This requirement is based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed an 8-lot subdivision with a 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. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for an 8-lot subdivision, that will result in 8 single dwelling lots and a private street tract, as illustrated with Exhibit C.1 to C.6, subject to the following conditions:

A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 136th Avenue. The required right-of-way dedication must be shown on the final plat.
2. A public sanitary sewer easement, granted to the City of Portland, shall be shown over the relevant portions of the private street, to the satisfaction of the Bureau of Environmental Services. The easement must be labeled as "Public Sewer Easement to COP".
3. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the relevant portions of the private street to the satisfaction of the Fire Bureau.
4. 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*".
5. A Public Access Easement must be shown over the sidewalk portion(s) of the street tract.
6. A recording block for each of the legal documents such as maintenance agreements, acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions B.8, B.9 and B.10 below. The recording blocks 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."
7. Variation in lot sizes for lots 5, 6, 7 and 8, beyond what is allowed in 33.663, is allowed to accommodate the expanded sidewalk around the turnaround as long as the lots continue to meet the lot dimension standards for the R2 zone.

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

1. The applicant shall submit an application for a Site Development Permit for construction of the 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 Exhibits C.4 and C.5 and the Private Street Administrative Rule. The plans must show a sidewalk extending around the entire perimeter of the turnaround and all locations of the sidewalk must meet the minimum width dimensions.
2. 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 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.
3. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private street described in Condition B.1. 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:

- Stockpile areas; and
 - A note that topsoil must be stockpiled on site and re-used to the extent practicable.
4. 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

5. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in the private street tract. The public sewer extension requires a Public Works Permit, which must be initiated and at a stage acceptable to BES prior to final plat approval. As part of the Public Works Permit, the applicant must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.
6. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Lots 1 to 8, including installation of no parking signs, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new houses on any lot that does not meet fire access requirements from SE 136th Avenue, 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 remove the accessory structures on the site (covered deck, kennels). The structures are less than 200 sf in area, therefore a building permit is not required. The applicant must submit before and after photos of the removal with the same perspective.

Required Legal Documents

8. 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 to 8 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area, including the required no parking signs. 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 (Fire and BES). 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.
9. If required per Condition B.6, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on lots that do not meet fire access from SE 136th Ave to contain internal fire suppression sprinklers. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

Other requirements

10. 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 for loss of street tree planting area. 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. The first lift of paving for the private street shall be installed prior to issuance of any permits for residential construction.
2. 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.
3. Prior to the issuance of certificate of occupancy and final inspection approval of residential building permits on Lots 1 to 7, sidewalks within the private street tract must be constructed.
4. 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.
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. If required, the applicant will be required to install residential sprinklers in the new dwelling units on Lots 2 to 8. Please refer to the final plat approval report for details on whether or not this requirement applies.

Staff Planner: Diane Hale

Decision rendered by: _____ **on July 30, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed August 1st, 2019

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on May 23, 2018, and was determined to be complete on November 19, 2018.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on May 23, 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 by 245 days, as stated with Exhibit G.3. Unless further extended by the applicant, **the 120 days will expire on November 19, 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 August 15** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

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

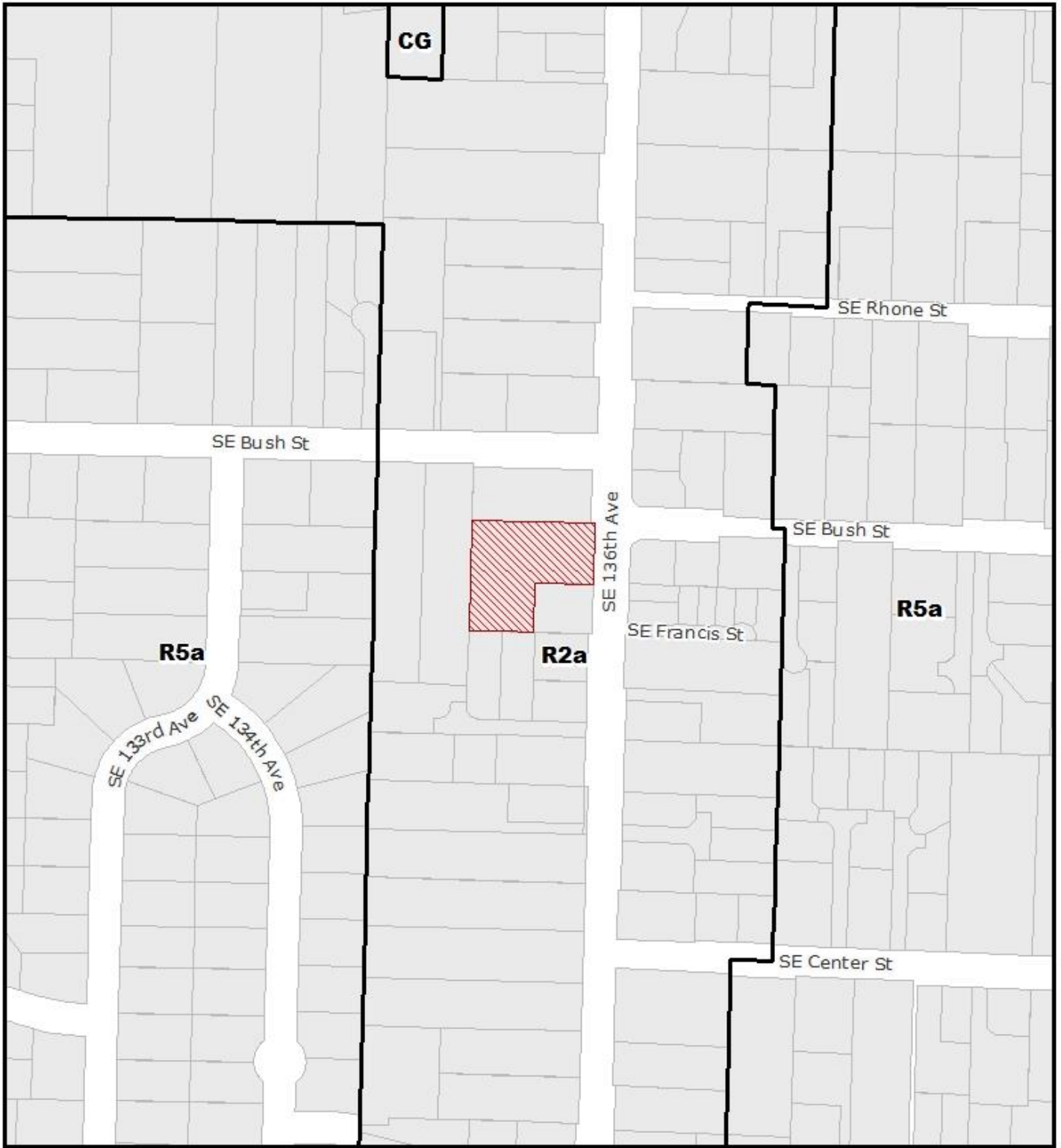
Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity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

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

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant's original submittal and plans
 - 2. Applicant's response, March 19, 2019
 - 3. Applicant's response, June 19, 2019
 - 4. Neighborhood Contact materials
 - 5. Stormwater Calculations, March 19, 2019
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Proposed Improvement Plan (attached)
 - 2. Existing Conditions Survey
 - 3. Preliminary Clearing and Grading Plan
 - 4. Preliminary Private Street Plan and Profile
 - 5. Preliminary Private Street Section and Details
 - 6. Preliminary Utility 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. Life Safety Section of BDS
 - 7. Parks Urban Forestry
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Form
 - 3. Incomplete Letter
 - 4. Extension Form

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

File No.	LU 18-176457 LDS
1/4 Section	3444
Scale	1 inch = 200 feet
State ID	1S2E11DB 4700
Exhibit	B May 25, 2018



Client: SUNLIGHT ENGINEERING LLC
 8733 SE Division St, SU
 PORTLAND, OR 97266

Subscribed at:
 13211 AVE AND SE
 PORTLAND, OR



EXPIRES: 06/30/2019
 600 COMMERCIAL
 9000 SW 10TH AVE
 PORTLAND, OR 97205
 REVISION SCHEDULE:
 REVISION NO. 1: 03/04/2019

SHEET TITLE:
**PROPOSED
 IMPROVEMENT
 PLAN**

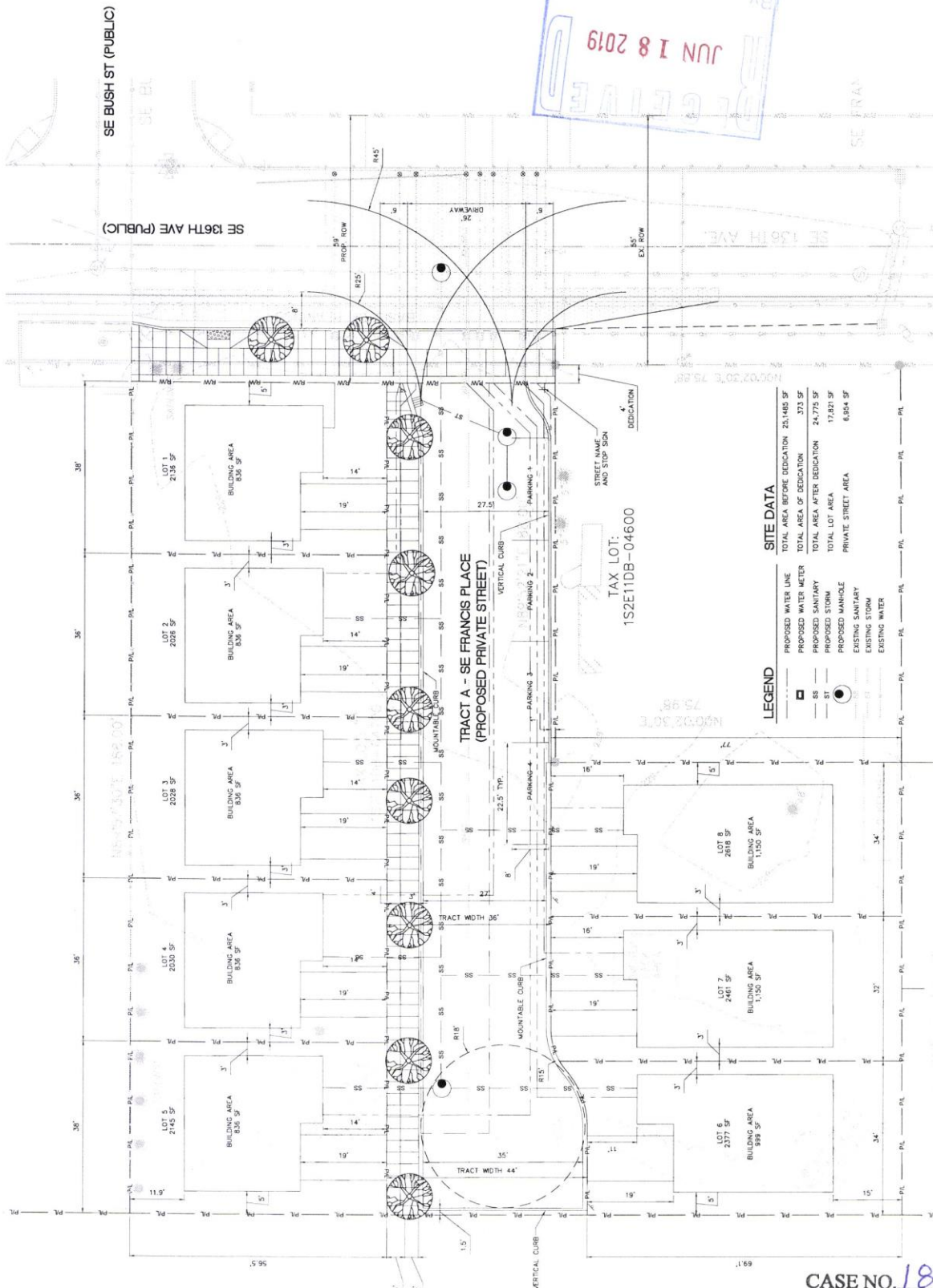
DRAWN BY: JMH
 APPROVED BY: JMH
 SHEET:

C10

JOB NO.:

18-023

SUBMITTED FOR REVIEW - MARCH 2019



SITE DATA

PROPOSED WATER LINE	TOTAL AREA BEFORE DEDICATION	25,148 SF
PROPOSED WATER METER	TOTAL AREA OF DEDICATION	373 SF
PROPOSED SANITARY	TOTAL AREA AFTER DEDICATION	24,775 SF
PROPOSED STORM	TOTAL LOT AREA	17,821 SF
PROPOSED MANHOLE	PRIVATE STREET AREA	6,884 SF
EXISTING SANITARY		
EXISTING STORM		
EXISTING WATER		

LEGEND

—	PROPOSED WATER LINE
—	PROPOSED WATER METER
—	PROPOSED SANITARY
—	PROPOSED STORM
—	PROPOSED MANHOLE
—	EXISTING SANITARY
—	EXISTING STORM
—	EXISTING WATER



CASE NO. 18-176457
 EXHIBIT C.1