



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

Ted Wheeler, Mayor
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: October 17, 2019
To: Interested Person
From: Kate Green, Land Use Services
503-823-5868 / Kate.Green@portlandoregon.gov

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 18-174826 LDP

GENERAL INFORMATION

Applicant: Sarah Radelet/Strata Land Use Planning
Po Box 90833, Portland OR, 97290
503-320-0273 / sarah@stratalanduse.com

Owners: Kuai Chan Leong
12235 SE 105th Drive, Happy Valley, OR 97086-7919

Katie Li Lin
5117 SE 136th Avenue, Portland, OR 97236

Lesley Yan
13490 SE Shannon View, Clackamas, OR 97015-7387

Site Address: **6730-6740 SE 64TH AVENUE**

Legal Description: BLOCK 24 W 90' OF S 99.24' OF LOT 6, BRENTWOOD & SUB
Tax Account No.: R099911670
State ID No.: 1S2E20BB 06300
Quarter Section: 3737

Neighborhood: Brentwood-Darlington, contact bdlanduse@gmail.com
Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010

Zoning: Single Dwelling Residential 2,500 (R2.5)
Alternative Design Density (a) overlay

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

Proposal: The applicant proposes a Land Division-Partition to divide an approximately 8,910 square-foot site into 3 parcels for detached houses. One of the existing houses (6730 SE 64th Avenue) is proposed remain on proposed Parcel 1. The other house (6740 SE 64th Avenue) will be removed.

Sanitary sewer service and water service will be provided from lines located in SE 64th Avenue and SE Cooper Street. A sanitary sewer extension is required within SE Cooper Street to serve Parcel 3. An individual drywell is proposed on each parcel to manage on-site stormwater.

Right-of-way dedications will be provided along the site's SE 64th Avenue and the SE Cooper Street frontages to accommodate new curbs, planters and sidewalks, as well as new driveways for each parcel.

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines "parcel" as a single unit of land created by a partition of land. The applicant's proposal is to create three units of land. Therefore, this land division is considered a partition.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant criteria are found in **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**.

FACTS

Site and Vicinity: The subject site is a relatively flat, rectangular-shaped property situated on the corner of SE 64th Avenue and SE Cooper Street. The site is developed with two detached houses, onsite parking, and yard area. A large Douglas fir tree straddles the north lot line.

The surrounding area, within 500 feet of the site, is entirely within the single dwelling zone and consists of lots of varying width and area, which are generally developed with one or two story single dwelling houses. Approximately 800 feet to the west, there is a public park, Brentwood Park, and just south of the park there is Lane Middle School.

In the vicinity, there is a well-developed north-south street pattern, with fewer east-west street connections. Many of the nearby streets have only a center strip of paving or gravel surface and no sidewalks.

Infrastructure:

- **Streets** – The site has approximately 99 feet of frontage on SE 64th Avenue and approximately 90 feet of frontage on SE Cooper Street. At this location, both streets are classified as a Local Service Street for all modes in the *Transportation System Plan (TSP)*. SE 64th Avenue has an approximately 22-foot wide paved roadway within a 50-foot right-of-way; and SE Cooper Street has an approximately 20-foot wide gravel roadway within a 50-foot right-of-way. Neither frontage has curbs or sidewalks. Parking is allowed on both sides of these streets. One of the existing houses is served by a driveway on SE 64th Avenue.

Tri-Met provides transit service approximately 800 feet north of the site along SE Duke via Bus Line 19 and approximately 1,800 feet south of the site along SE Flavel Avenue via Bus Line 71.

- **Water Service** – There is an existing water main in SE 64th Avenue. The existing houses are served by this main.
- **Sanitary Service** - There is an existing public 8-inch PVC sanitary-only sewer line in SE 64th Avenue. A public 8-inch PVC sanitary-only sewer is also located in SE Cooper, but is not within the site's frontage at this time.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. Public underground injection control (UIC) systems (“sumps”) infiltrate stormwater runoff from the public right-of-way in the vicinity of the site.

Zoning: This review is based on the zoning designation that was in effect at the time this land use application was submitted, **Single Dwelling Residential 2,500 (R2.5)**. Since that time, the zoning on the site and surrounding area has changed to Single Family Residential 5,000 (R5). Each of the single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households.

The site is also within the **Alternative Design Density (a) overlay** zone, which aims to encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. *The applicant has not elected to use the a-overlay options.*

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

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

Neighborhood Review: A *Notice of Proposal in Your Neighborhood* was mailed on **November 19, 2018**. One written response has been received, which notes concerns about changes in zoning, infill development, density, traffic, road improvements, privacy and affordability.

Staff response: The zoning on the property and surrounding area was changed from R2.5 to a lower density residential zone, R5, on May 24, 2018, as part of the 2035 Zoning Map and Comprehensive Plan Map Update (Ordinance #187832). This land use application was submitted on May 21, 2018, so it is reviewed under the regulations in effect at that time, in accordance with 33.700.080, *Regulations that apply at the time of an application*. The lot size and density requirements for the R2.5 zone are addressed in Criterion A, below. Though this application is being reviewed under the R2.5 zone regulations, the R5 zone regulations would also allow for 3 parcels to be established, using a provision that allows for additional density on corner lots, 33.110.240.E. The primary difference between the R2.5 and R.5 lot allowances are that the R5 corner lot provisions require attached houses, whereas the R2.5 regulations allow detached or attached houses. In this case, the applicant has proposed detached houses for each parcel.

Issues related to traffic impacts and right-of-way improvements are addressed in Criteria K and L, below. Portland Bureau of Transportation (PBOT) determined the project will not generate significant traffic impacts and new roadway, curb, frontage zone and sidewalk improvements will be required along both frontages of the subject property.

Privacy and affordability are not specifically addressed in the land division criteria; though, the development standards that will apply to the new houses are intended to *promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities* (33.110.010.B-excerpt).

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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
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 add if site has e-zoning outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.
	33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

Applicable Approval Criteria are:

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

Findings: Chapter 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. The maximum density in the R2.5 zone is one unit per 2,500 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area.

Based on the applicant's survey, the site area is 8,910 square feet, so the site has a maximum density of 3 units and a minimum required density of 1 unit. The applicant is proposing 3 single dwelling parcels, so the density standards are 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)
R2.5 Zone	1,600	NA	36	40	30
Parcel 1 (existing house to remain)	3,249		59	55	59
Parcel 2	2,043		37	55	37
Parcel 3	3,079		32	96	32

* 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.

As shown in the table above Parcels 1 and 2 meet the minimum lot dimensions; however, Parcel 3 is proposed to be 32 feet wide, which is narrower than the minimum width for the R2.5 zone. The Zoning Code allows narrower lots, if the proposal can meet the regulations of 33.611.200.C.2, which are as follows:

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

The lot dimension regulations ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; (9) lots are compatible with existing lots while also considering the purpose of this chapter; and (10) lots are regularly shaped.

The applicant has demonstrated that proposed Parcel 3 is consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a building footprint that meets applicable setback requirements and is oriented towards the street. The proposed parcel can accommodate a reasonably sized house, garage, and outdoor area while meeting the development standards of the zoning code.
- The applicant has provided a preliminary utility plan that demonstrates how access for utilities and services will be provided for Parcel 3.
- Parcel 3 is compatible with existing lots considering there are lots ranging from 25 feet to 100 feet in width, within 2-blocks of the site; and the lot dimension requirements allow for lots of varying size and shape, which respect the planned intensity of the zone.
- Parcel 3 is regularly shaped; it is not landlocked nor does it narrow to an unbuildable width close to the street.

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

- Parcel 3 is at least 25 feet wide.

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

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

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

- At 32 feet in width, Parcel 3 will be able to accommodate a house that is 22 feet in width, which will allow for a garage that will occupy no more than 50% of the length of the street facing façade. The garage limitation standards of Subsection 33.110.253.D can be met.

60 percent landscaping requirement for attached houses.

- The applicant has indicated that Parcel 3 will be developed with a detached house; therefore, this requirement does not apply.

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

- Parking is required. As noted above, the alley access does not apply and the garage limitation requirements can be met.

Based on these factors, 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.

The tree preservation regulations apply to trees that are at least 6-inches in diameter and where a tree trunk is partially on the land division site, it is considered part of the site. 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 this case, the applicant's narrative indicated there were no regulated onsite trees. However, the project survey shows trees within 15 feet of the site and within the right-of-way, and one of those trees, a 30-inch diameter Douglas fir, appears to straddle the north lot line of the subject site. As noted above, when a portion of the trunk is on the site, that tree is subject to these regulations. In response to discussions between city staff and the applicant, the applicant submitted an arborist report (Exhibit A.5.a), which outlines recommendations to avoid impacts to the 30-inch diameter Douglas fir tree during the right-of-way improvements along SE 64th Avenue, further discussed in Criterion L, below. No additional details were provided about the other trees.

The arborist investigated for roots between the trunk to the area where the sidewalk construction is proposed and noted that no roots were observed in the excavated area. The arborist recommends root protection fencing be installed along a 30-foot portion of the frontage of Parcel 1 to protect the tree (which city staff have labeled as Tree 1 on the Proposed Plat Plan-Exhibit C.1) during the right-of-way improvements and also calls for the project arborist to be onsite during any excavation required near the 30-inch diameter Douglas fir tree. To ensure the fencing is in place before and throughout the street construction activities, the applicant must obtain a BDS Permit to install the tree protection fencing, prior to final plat approval or the right-of-way construction, whichever occurs first.

The arborist report also indicates the standard, 30-foot radius Prescriptive Path root protection zone (RPZ) should apply to Tree 1 and no ground disturbance can occur within 30-feet of the tree without an additional arborist report to address the proposed disturbance.

This plan will provide measures, which the project arborist indicates will afford effective protection of the single regulated tree, a native tree over 20 inches in diameter. As such, the proposal complies with the following minimum standard:

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

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

In order to ensure that future owners of Parcel 1 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 Parcel 1 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.4).

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

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

Findings: 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 make the new lots developable. Erosion will be limited by controls that will be applied as part of the permits for the right-of-way construction and any other grading on the parcels. Additionally, as discussed in Criterion B, Tree Preservation, above, measures will be provided to protect a 30-inch diameter Douglas fir tree (Tree 1) on the north lot line of Parcel 1. Overall, protecting Tree 1 and employing erosion control measures will help to protect water quality. With the previously noted condition for tree protection, this criterion will 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 at least one cesspool on the site. The City has no record that the on-site sewage disposal system(s) was ever decommissioned. Therefore, Site Development notes a condition is needed to ensure the on-site sewage system(s) is decommissioned under a Septic Evaluation(SE) permit, prior to approval of the final plat.

Additionally, the applicant has proposed to remove one of the existing houses to redevelop the site. To ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of that structure and sewer capping prior to final plat approval.

With conditions requiring final inspection for a decommissioning permit and the demolition of the house to be removed, the new lots can be considered suitable for new development, and this criterion will be 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 requests a Land Division to divide one parcel into three parcels. The applicant proposes to retain the existing dwelling on Parcel 1, replace a second dwelling, and construct a third dwelling. Therefore, the proposed development will increase the number of dwellings on the subject parcel by one. The applicant provided a narrative that addresses the transportation approval criteria. According the ITE Trip Generation Manual, 9th Edition one new single-family dwelling is expected to generate nearly ten vehicle trips per day, including less than one additional trip during the morning peak hour and less than one additional trip during the evening peak hour. The proposed development is therefore not expected to significantly impact safety, street capacity, or level-of-service. The existing street network at this location is gridded and provides connectivity and circulation; the applicant proposes to construct improvements on both street frontages, which will increase connectivity for pedestrians, bicyclists, and vehicles and will increase the availability of pedestrian and bicycle networks. The narrative also states that a bus stop for the # 19 is located less than 1,000 ft from the proposed development; therefore sufficient transit availability is sufficient to serve the proposed development. The narrative states that driveways will be provided on Parcel 1, Parcel 2, and Parcel 3 that are at least 18-ft deep; the narrative specifies amounts of on-street parking that will be preserved; on-street parking is sufficient to serve loading needs for the proposed development.

With the implementation of the standard sidewalk improvements along the site's frontages, as discussed in more detail in Criterion L, below, PBOT has determined the transportation system will be capable of supporting the proposed development, in addition to the existing uses in the area; and no mitigation is necessary.

Based on the foregoing, 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 Exhibits E.3 and E.4

The Water Bureau and Fire Bureau have reviewed the proposal and provided details about the existing and required water services and fire flow.

The Water Bureau provided the following:

- *Parcel 1: The existing house may continue to use the existing service in SE 64th Avenue.*
- *Parcel 2: The existing 5/8" metered domestic service from SE 64th Avenue may be used to serve Parcel 2. At the time of building permit submission, the meter size will be reviewed, if the meter is found to be inadequate it will be resized at the expense of the applicant.*
- *Parcel 3: No water service is available to Parcel 3. Therefore, the applicant must make arrangements to extend a new water main in SE Cooper to ensure service is available to Parcel 3. To meet the standards of 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to the Water Bureau prior to final plat approval.*

The Water Bureau has also noted the following:

- *At the time of application for the water main extension, the applicant must provide a copy of the site utility plan for Parcel 3 detailing all proposed and existing utilities and street trees.*
- *At the expense of the applicant, the Water Bureau will design and construct a water main to the point of connection the applicant chooses. The point must be a minimum of 5' inside of Parcel 3.*

The Fire Bureau indicates the applicant must provide verification that the minimum fire-flow and water supply requirements are met, prior to final plat approval. The Fire Bureau notes this information can be obtained from the Water Bureau at wbfireflow@portlandoregon.gov.

With the noted conditions, the water service standards of 33.651 will be verified.

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

The Bureau of Environmental Services has reviewed the proposal for consistency with the sewer service standards and provided the following comments:

Existing Development: According to City records, the existing dwelling to remain on proposed Parcel 1 is currently connected to the sanitary-only sewer in SE 64th Ave via a lateral located approximately 295 feet south of the manhole in 64th Ave. This places the lateral approximately 50 feet from the north property line.

Proposed Development: Parcel 2 will be served by a new connection to the sanitary-only sewer in SE 64th Ave within its frontage.

In order to provide an individual service connection for Parcel 3 the applicant must extend the public sewer in SE Cooper St.

BES notes that the applicant has obtained approval of the Public Works Permit 30% Concept Development plans on August 15, 2019 (see reference file #EP499, permit #18-263748-WE). Therefore, with a condition that the applicant must obtain a public works permit to extend the public sewer to this site prior to final plat approval, the sanitary sewer service standards of 33.652 will be met.

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

No stormwater tract is proposed or required. BES evaluated the proposal and provided information regarding the proposed stormwater management methods:

Onsite Stormwater Management: Stormwater runoff from this project must comply with all applicable standards of the Stormwater Management Manual (SWMM) and the Source

Control Manual (SCM) and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. As outlined in the BES response, based on the information provided by the applicant, the site has sufficient infiltration rates and space to accommodate setbacks for the downspouts on the existing house to remain on Parcel 1 and the drywells proposed on Parcels 2 and 3. At the time of development, detailed site utility plans will be required to demonstrate the SWMM and SCM are met.

Public Right-of-Way Stormwater Management: Stormwater runoff from public right-of-way improvements as required by the City of Portland Bureau of Transportation (PBOT) must be managed according to the standards of the SWMM and the Sewer and Drainage Facilities Design Manual. BES notes that the applicant has obtained approval of the Public Works Permit 30% Concept Development plans on August 15, 2019 (see reference file #EP499, permit #18-263748-WE).

Based on the foregoing, with a condition that the applicant must obtain a public works permit for the frontage improvements and associated stormwater facilities, prior to final plat approval, the stormwater management approval criteria and standards of 33.652 will be met.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart. Additionally, connections should also be provided in locations noted in the Portland Master Street Plan.

The subject property is located on a corner, where the block pattern meets the noted spacing requirements for north-south connections, but not for east-east connections. Therefore, there should be an east-west through connection provided in the vicinity of the site. However, given the location and size of the site, a new connection is not warranted. There is also no adopted Master Street Plan for the surrounding area. As such, no connections are required at this location. Based on these factors, this criterion is met.

33.654.120.B, C and H Width & elements of the right-of-way and Street Trees – See Exhibits E.2 and E.6

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.

PBOT has reviewed the proposal and provided the following comments:

Existing Conditions: *At this location, SE 64th is improved with a ~22-ft paved roadway, no sidewalks, and no curb, in a 50-ft ROW. SE Cooper is improved with a gravel roadway that is 20-ft in width, no sidewalks and no curb, in a 50-ft ROW.*

Standard Improvements: *For Local Service Streets in an R-2.5 zone, the Portland Pedestrian Design Guide recommends a 26-ft paved roadway and 15-ft sidewalk corridor to consist of a 0.5-ft curb, 8-ft stormwater facility, 6-ft sidewalk, and a 0.5-ft frontage zone.*

PBOT has determined that paved roadways, curbs, furnishing zones, and sidewalk improvements must be installed along both street frontages to meet City standards and ensure that safe vehicle, bicycle and pedestrian travel is possible to and from the proposed development. To accommodate these improvements, as well as an associated stormwater facility discussed previously, PBOT recommends the following:

- *As a condition of Final Plat approval, property dedication necessary to accommodate public improvements shall be completed to the satisfaction of the City Engineer. It is anticipated this will be 3 feet on SE 63rd Ave. and 3 feet on SE Cooper St. PBOT notes the width of the stormwater facility may be reduced as directed by BES, and the precise amount of dedication will be based on the approved Public Works design, and once the applicant's civil engineer proposes an appropriately sized and designed*

stormwater facility. The amount of dedication therefore may vary.

- *As a condition of Final Plat approval, a Public Works performance guarantee for the required ROW improvements must be completed to the satisfaction of Public Works.*

Street Trees: Urban Forestry requirements call for one street tree to be planted or retained for each full increment of 25 linear feet and street trees must be planted at a minimum 1.5 caliper inches. Urban Forestry determined that the land division will result in the loss of one available planting area along the SE 64th Avenue frontage, so a fee will be required for the permanent loss of available planting space (equivalent to 1.5 inches of trees) along that frontage.

With the conditions described above, this criterion will be met.

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

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

- Narrow Lots: Development on Parcel 3 will be subject to the following standards at the time of development permitting:
 - Height of the structures will be limited, per 33.110.215.B.2;
 - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.D.3.a; and
 - Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.D.3.b.

Existing development: One of the existing houses on the site is proposed to remain on Parcel 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 R2.5 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 to remain on Parcel 1 will be over 5 feet from the new property lines. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.

- **Required Off-Street Parking** – In this zone, one parking space per dwelling unit is required. Each of the existing houses has a paved parking area. The paved area for the house on Parcel 1 (6730 SE 64th Avenue), was proposed to be changed when a 2015 permit (15-242863 RS) was approved to convert the garage to living space. The parking space does not appear to have been changed to match the approved plan and the parking location approved in that 2015 permit will no longer be an allowable location for parking due to the new lot configuration. Therefore, to ensure that parking requirements are met, a new parking space for the existing house must be constructed on Parcel 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.

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.

- **Fire Bureau:** The applicant must meet the requirements of the Fire Bureau for fire flow/water supply; addressing of structures; and aerial fire department access. These requirements are based on the 2016 Portland Fire Code and the technical standards of Title 31 and Fire Bureau Policy B-1.
- **Urban Forestry:** The applicant must meet the requirements of Urban Forestry for street tree planting and the loss of street tree planting spaces, per Exhibit E.6. These requirements are based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 3-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). The primary issues identified with this proposal are:

- Right-of-way dedication and frontage improvements
- Sanitary sewer extension and water main extension
- Septic decommissioning
- Removal of an existing house

- Tree protection
- Narrow Lot standards

As discussed in this report, with conditions that address these requirements, the relevant standards and approval criteria will be met. Accordingly, this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-parcel partition, that will result in two standard lots (Parcel 1 and Parcel 2) and one narrow lot (Parcel 3), as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Two 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;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 64th Avenue and SE Cooper Street. The required right-of-way dedication must be shown on the final plat.
2. 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.9 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Tree Preservation Land Use Conditions" 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 frontages. 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, the Bureau of Environmental Services, and Urban Forestry for required street frontage improvements. Prior to ground disturbing activity related to the public works permit, the applicant must obtain an approved tree protection inspection for the BDS Permit required by Condition C.2.
2. The applicant shall obtain a BDS Permit to install tree protection consistent with Condition D.1, prior to final plat approval or the right-of-way construction, whichever occurs first. A tree protection inspection must be approved prior to the start of ground disturbing activity for the right-of-way improvements. The project arborist must be onsite during any excavation near the protected tree (Tree 1, 30-inch diameter Douglas fir). The fencing must remain in place throughout the street construction activities or as directed by Urban Forestry.

Utilities

3. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in SE Cooper Street. 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.

4. The applicant shall meet the requirements of the Water Bureau for the water main extension in SE Cooper Street, including all fees and plans for existing and proposed utilities and street trees for Parcel 3.
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.

Existing Development

6. A finalized permit must be obtained for demolition of the existing residence (6740 SE 64th Avenue) and capping the existing sanitary sewer connection for that house. All demolition work must be in conformance with the recommendations in the applicant's arborist report (Exhibit A.4.a). *Note that Title 24 requires a 35-day demolition delay period for most residential structures. Additionally, the City's Deconstruction ordinance applies to houses built in 1916 or earlier and/or designated historic resources.*
7. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the cesspool(s) on the site.
8. A parking space shall be installed on Parcel 1, in conformance with the applicable requirements of the Portland Zoning Code. 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.8 of LU 18-174826 LDP.* The new parking space must also be shown on the supplemental plan.

Required Legal Documents

9. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 1. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

Other requirements

10. The applicant must pay into the City Tree Preservation and Planting Fund the amount equivalent to 1.5 inches of trees. Payment must be made to the Bureau of Development Services, which administers the fund for the Parks Bureau.

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

1. Development on Parcel 1 and right-of-way improvements shall be in conformance with the Proposed Plat Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.5.a). Specifically, tree number 1 is required to be preserved, with the root protection zone indicated on Exhibit C.1. 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 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.

Staff Planner: Kate Green



Decision rendered by: _____ **on October 15, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed October 17, 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 21, 2018, and was determined to be complete on November 7, 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 21, 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 waived the 120-day review period (Exhibit A.3) Unless further extended by the applicant, **the 120 days will expire on: November 7, 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.

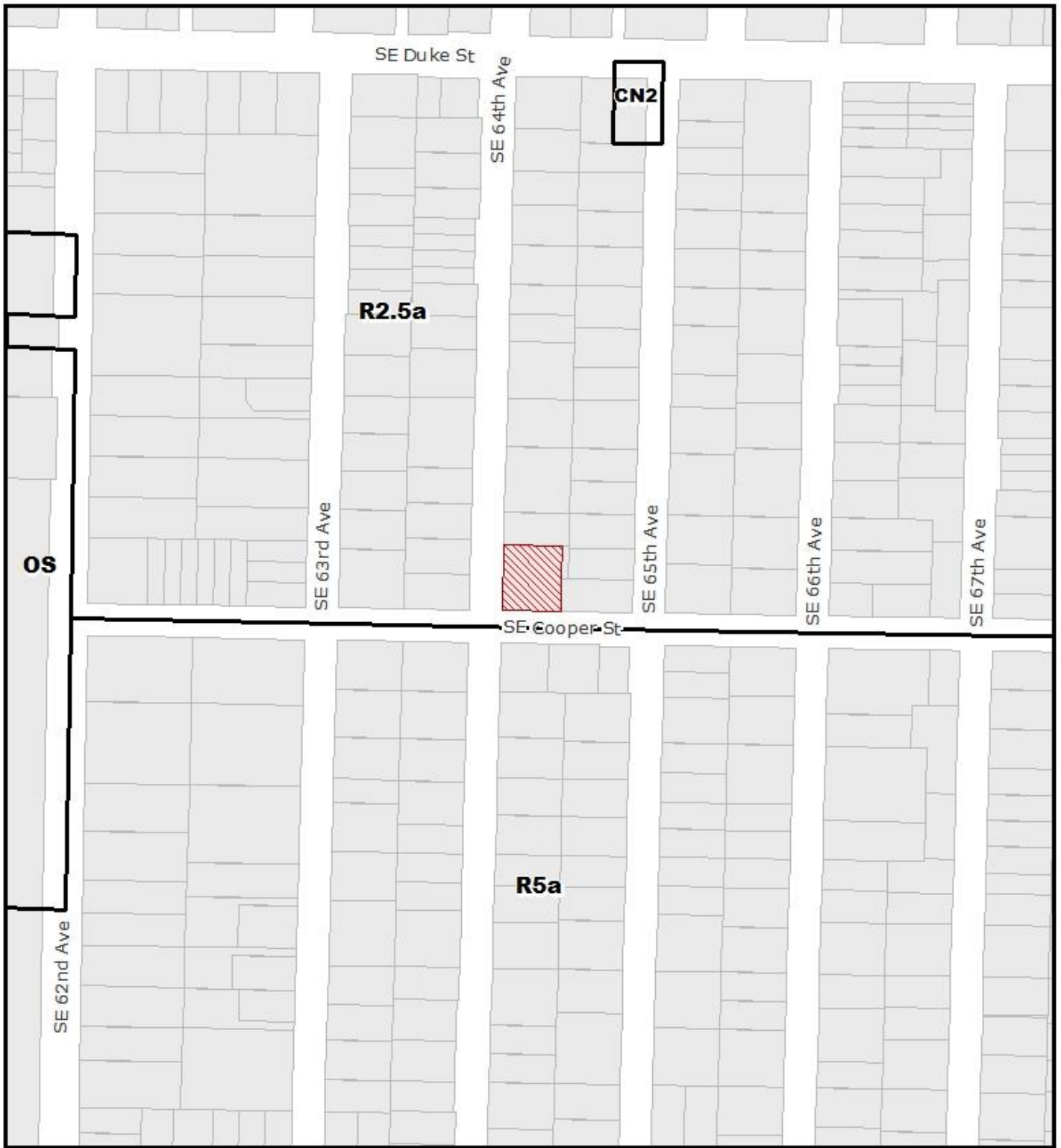
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Initial Submittal, received May 21, 2019 and supplemental materials, received May 29, 2019
 - 2. Revised Submittal, received November 7, 2018
 - 3. Timeline Extension, received March 7, 2019
 - 4. Amended Submittal, received September 13, 2019
 - 5. Supplemental Narrative, received September 30, 2019
 - a. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Proposed Plat (attached)
 - 2. Existing Conditions
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development, BDS
 - 6. Urban Forestry, Parks
 - 7. Life Safety, BDS
- F. Correspondence:
 - 1. Lindsay Williams, November 28, 2018, re: concerns about zoning, density, traffic, rights-of-way, privacy and affordability
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Acknowledgement
 - 3. Letter to applicant re: incomplete application
 - 4. Correspondence to/from applicant
 - 5. Permit record 15-242863 RS

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



ZONING 
NORTH

 Site

File No.	<u>LU 18-174826 LDP</u>
1/4 Section	<u>3737</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1S2E20BB 6300</u>
Exhibit	<u>B May 24, 2018</u>

