Portland City Auditor
Hearings Office
1900 SW 4th Avenue, Room 3100, Portland, OR 97201 phone: 503.823.7307
www.portlandoregon.gov/hearings fax: 503.823.4347

DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File Number: LU 18-226914 LDS (Hearings Office 4190020)

Applicant and Property Owner: Eric Rystadt
Main Street Development Inc.
5331 SW Macadam Avenue #258 Pmb 208
Portland, OR 97239-3871

Applicant's Representative: Mark Dane
Mark Dane Planning
14631 SW Millikan Way #6
Beaverton, OR 97003

Hearings Officer: Kathryn Beaumont

Bureau of Development Services (BDS) Staff Representative: Shawn Burgett

Site Address: 6014 SW 18th Drive

Legal Description: BLOCK 1 LOT 1&2 TL 7500, HILLSDALE HTS; BLOCK 1 LOT 1&2 TL 7400, HILLSDALE HTS

Tax Account Numbers: R389000010, R389000020

State ID Numbers: 1S1E16CA 07500, 1S1E16CA 07400

Quarter Section: 3627

Neighborhood: Hillsdale

Business District: None

District Neighborhood Coalition: Southwest Neighborhoods Inc.

Zoning: R2.5d (Single Family Residential 2,500 sq. ft. with "d" design overlay zoning designation)

Land Use Review: Type III, LDS (Land Division Subdivison)

BDS Staff Recommendation to Hearings Officer: Approval with conditions.

Public Hearing: The hearing was opened at 8:32 a.m. on October 9, 2019, in the third floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 9:45 a.m. After hearing testimony from all persons who wished to testify, the record was held open until 4:00 p.m. on October 16, 2019 for the submission of new evidence, to 4:00 p.m. on October 23, 2019 for responses to new evidence, and to 4:00 p.m. on October 30, 2019 for the Applicant's final written argument.

The Hearings Office received four responses during the open record period: a letter from William Henrikson received on October 15, 2019 (Exhibit H-7), duplicates of a letter from Ella and Jon Gray with photos attached dated October 9, 2019 and received on October 16, 2019 (Exhibits H-8, H-12, and H-13), a letter with attachments from Colgan B. Smith dated and received October 16, 2019 (Exhibits H-9, H-9a, H-10, and H-11), and a letter from Jenny Biller dated and received on October 23, 2019 (Exhibit H-14). No other responses were received and the Applicant submitted no final written argument. The record was closed at 4:00 p.m. on October 30, 2019.

Testified at the Hearing:
Shawn Burgett
Mark Dane
Bob Haley
Stephanie Beckman
Meryl Redisch
Lance Johnson
Adam Light
Chris DesLauriers

Proposal: The Applicant proposes to divide a 46,511 square foot (SF) site into nine lots ranging between 2,100 to 2,500 SF in area. A new east-west oriented public pedestrian connection will be extended along the northern property boundary of the site from SW 18th Drive. It will serve as the street frontage for Lots 2 - 9 and no motorized vehicles will be allowed to use it. Lot 1 will be a corner lot and will have frontage along SW 18th Drive and the new public pedestrian connection. Vehicles will have access to the new lots via a Private Alley Tract along the southern property boundary of the site. The Applicant also proposes to protect a cluster of mature trees in a Tree Preservation Tract located between Lots 4 and 5. A 1,989 SF Private Stormwater Management Tract is proposed adjacent to and east of Lot 9. The existing house on the site will be demolished.

This proposal is considered to be a subdivision under state law because the Applicant proposes to create four or more lots on the site within a calendar year. (Oregon Revised

Statute [ORS] 92.010) Under the zoning code, this subdivision proposal must be reviewed through a Type III procedure because four or more lots are proposed in a Potential Landslide Hazard Zone and the site is in a residential zone. (Portland City Code [PCC] 33.660.110) In total, this proposal will create 12 units of land: nine lots and three tracts.

A Design (d) overlay applies to the site, which means future development must either be approved through Design Review under PCC Chapter 33.825 or satisfy the Community Design Standards under PCC Chapter 33.218. The Applicant intends that future development will comply with the Community Design Standards.

Relevant Approval Criteria: To be approved, the Applicant's proposal must comply with the *Approval Criteria for Land Divisions in Open Space and Residential Zones* contained in PCC 33.660.120.A through 33.660.120.L.

II. ANALYSIS

The BDS Staff Report and Recommendation (BDS Report) dated September 27, 2019 identifies and addresses the relevant approval criteria in PCC 33.660.120.A - L. In that report and recommendation, BDS makes thorough and affirmative findings that the Applicant's proposal complies with all of the relevant approval criteria and recommends conditions of approval. At the public hearing, the Applicant accepted those findings and expressed agreement with the BDS Report, including the recommended conditions of approval.

At the public hearing there was additional discussion concerning compliance with two of the approval criteria: PCC 33.660.120.B (Trees and Tree Preservation) and PCC 33.630.120.L (Stormwater). The discussion focused on what level of detail is necessary now and at the time of final plat or permitting to support a determination that these criteria are satisfied. To avoid confusion and provide clarity, the Hearings Officer supplements the BDS Report's discussion of these criteria with the findings below. The Hearings Officer also addresses several additional issues that were raised in correspondence received during the open record period.

A. PCC 33.660.120.B - Trees and Tree Preservation. This criterion requires the Applicant to meet the standards and approval criteria of PCC Chapter 33.630 (Tree Preservation). According to this chapter, the Applicant must select one of the six options listed in the Minimum Tree Preservation Standards in PCC 33.630.100 and satisfy the Tree Preservation Approval Criteria in PCC 33.630.200.A - C. If the Applicant is unable to comply with one of the minimum tree preservation standards, the Applicant must satisfy the mitigation criterion in PCC 33.630.200.D. That criterion provides options for replacing the functions of trees to be removed from the site. These options include preserving smaller diameter or native trees, permanently protecting trees in a tree preservation tract, planting trees, paying into the City's Tree Planting and Preservation Fund, or other actions that are consistent with the purpose of PCC Chapter 33.630. As outlined in PCC 33.630.010, tree preservation serves multiple

purposes including reducing erosion and stormwater runoff, providing visual screening, absorbing air pollutants, protecting privacy, and providing wildlife habitat.

The BDS Report explains the Applicant has not demonstrated compliance with the options and approval criteria in PCC 33.630.100 and 33.630.200.A - C because an insufficient number of nonexempt trees are eligible for protection. Instead the Applicant proposes to protect a group of eight trees near the center of the site in a Tree Preservation Tract. Five of these trees are eligible for protection (#239, 411, 412, 241, 242) and three are considered unhealthy or "exempt" from required preservation (240, 413, 414). Because these trees will be preserved as a group, the BDS Report concludes the Applicant's proposal satisfies the mitigation criterion in PCC 33.630.200.D. That is, protecting these trees will ensure the healthiest trees are better shielded from wind damage and will maintain the wildlife habitat function these trees serve.

The BDS Report proposes conditions of approval requiring a certified arborist to monitor excavation work near the trees in the Tree Preservation Tract and the submission of a site plan documenting the Alternative Root Protection Zones (ARPZ) for these trees (including an increased ARPZ for Tree #242). With these conditions, BDS concluded the Applicant's proposal maximizes tree preservation" to the extent practicable while allowing reasonable development and the proposed density (9 units)." (BDS Report, Exhibit H-2, page 7)

Two related issues concerning trees were discussed at the hearing: (1) the Option 6 tree preservation standard in PCC 33.630.100, and (2) Tree #400 located on the north edge of the site.

Option 6 tree preservation standard. Option 6 is one of the minimum tree preservation standards in PCC 33.630.100 an applicant may choose to demonstrate compliance with the approval criteria in PCC 33.630.200. That option reads: "If the site is larger than one acre, preserve at least 35 percent of the total tree canopy area on the site." The BDS Report states: "While the applicant did not pursue this option, the site is over an acre and based on a 2018 aerial of the site (Exhibit G.5) it's pretty evident that at least 35% of the tree canopy will likely be protected based on the current tree preservation plan." (BDS Report, Exhibit H-2, page 7) At the hearing, BDS staff explained they voluntarily suggested the Applicant might be able to meet this standard. The Applicant's representative, Mark Dane, testified that he believed the Applicant is able to satisfy Option 6, but did not submit the necessary aerial photo to demonstrate compliance before the BDS Report was issued. He submitted an aerial photo, in both black and white (Exhibit H-3) and color (Exhibit H-4) at the hearing and asserted the Applicant met Option 6.

On closer review of the aerial photos and in response to a direct question from the Hearings Officer, BDS staff concluded that the photos weren't clear and explicit enough to show the Applicant satisfies the 35 percent tree canopy protection standard in Option 6. After reviewing the aerial photos and in the absence of more detailed or conclusive evidence, the Hearings Officer agrees with BDS staff. The Hearings Officer finds the Applicant has not

demonstrated that it complies with the minimum tree preservation standards in PCC 33.630.100. Instead, the Hearings Officer finds the Applicant satisfies the mitigation criterion in PCC 33.630.200.D based on protection of the eight trees identified for inclusion in a Tree Preservation Tract.

Tree #400. The Applicant proposes to save Tree #400. As the BDS Report explains at page 6, the zoning code doesn't allow it to be counted toward meeting the tree preservation options because it is located within public right-of-way (the proposed public pedestrian path to be built along the north property line). Nevertheless, BDS staff concluded that saving that tree could help satisfy the mitigation requirement in PCC 33.630.200.D and recommended a condition that the Applicant either obtain confirmation from the City's Urban Forester that the tree can be saved or pay a fee in lieu equal to 11 caliper inches into the City's Tree Preservation and Planting Fund. (Condition 15) In BDS staff's view, this condition of approval gives the Applicant an option that will meet the intent of the mitigation criterion in the code.

At the hearing, a Portland Bureau of Transportation representative, Bob Haley, objected to the part of Condition 15 that includes an option allowing Tree #400 to remain. His objection focused on the long-term potential for converting the pedestrian path into a public street. If that happens, he asserted Tree #400 will be removed and the Applicant's proposed development will no longer comply with the tree preservation standards. In response, BDS staff clarified that the City's Urban Forester is the ultimate decision maker about whether Tree #400 can survive construction of either the public pedestrian path proposed as part of this development or a future street. If the Urban Forester concludes it cannot be saved, that will not mean the Applicant is in violation of this or any other land use approval. The Hearings Officer finds BDS staff's explanation persuasive and agrees that the option to preserve Tree #400 or pay a fee into the City's Tree Preservation Fund as proposed in Condition 15 is a reasonable way to address the mitigation criterion in PCC 33.630.200.D.

B. PCC 33.660.120.B - Stormwater. As the BDS Report states at pages 15-17, the Applicant proposes to dispose of stormwater to a public storm sewer located on the adjacent property to the east. To do so, the Bureau of Environmental Services (BES) indicated the Applicant will need to provide a recorded private sewer easement to allow the Applicant's stormwater facilities to travel across the adjacent property to the public storm sewer. Additionally, BES indicated the Applicant will need to obtain a plumbing code appeal to use this shared stormwater facility.

At the hearing, the Applicant and BDS discussed whether the Applicant had submitted a recorded easement and whether a plumbing code appeal was in fact necessary or appropriate. The Applicant stated that BES has agreed that it is feasible to provide access to public storm sewers to serve its proposed development. BDS confirmed that BES has made this determination and BES's evaluation also shows that to be the case. (Exhibit E-1) The precise mechanism for obtaining access to the public storm sewer, whether it is via a plumbing code appeal or an encroachment permit or other legal mechanism, is a technical

matter than must be addressed at the final plat stage and need not be finalized now in order for this land use review to be approved. As long as the Applicant has proposed a satisfactory method for stormwater management and BES and BDS agree that the Applicant's method is feasible, that is sufficient and substantial evidence to demonstrate compliance with the relevant approval criteria at this land use review stage. Based on this clarification by BDS staff, the Hearings Officer finds the Applicant's proposal complies with the stormwater requirements in PCC 33.660.120.L.

C. Impact of Private Alley Tract. Ella and Jon Gray, adjacent neighbors, submitted a letter and photographs, and raised numerous issues concerning the alley tract along the southern boundary of the site. This tract will provide vehicular access to the homes to be built on the nine lots created by this land division. Their concerns include run-off from this road draining onto their property, privacy, noise pollution, air pollution, loss of bird and animal habitat, and potential negative impacts on their property value from this development. (Exhibits H-8, H-12, and H-13) Colgan Smith, also an adjacent neighbor, raised similar concerns in his letter, and attached graphics and articles about the potential toxic effects of coal-based tar sealcoats used on driveways. (Exhibits H-9, H-9a, H-10, and H-11)

The Grays and Mr. Colgan fear that stormwater runoff and associated (and assumed) pollutants from the paved alley tract, will run off onto their properties. The Applicant proposes to handle stormwater from the alley tract by directing it into a vegetated flow-through planter in the stormwater management tract and from there to a public storm-only sewer on adjacent property to the east of the site. Stormwater generated on the adjacent public street will be managed by installing vegetated storm facilities in SW 18th Drive. BES has concluded these facilities provide a feasible method for addressing stormwater pollution and volume consistent with the Stormwater Management Manual (SWMM) and approved them as satisfying the stormwater management criteria and standards in PCC 33.653.020 and .030, and PCC 33.660.120.L. (Exhibit E-1) Based on BES's credible analysis, the Hearings Officer finds the Applicant proposes and BES has approved a stormwater disposal method that is designed to address the runoff and pollution concerns the neighbors raise and, in doing so, satisfies the stormwater management criteria in PCC 33.660.120.L.

D. Landslide Hazards. Jenny Biller expressed concerns about the geotechnical stability of developing nine lots and the access tract on the Applicant's steeply sloped site. She questioned whether and how the "existing contours and drainage patterns of the site will be left intact wherever practicable" and how alterations to existing drainage patterns will avoid significantly increasing the volume or runoff or erosion from the site. (Exhibit H-14)

The Applicant submitted landslide hazard studies prepared by a Certified Engineering Geologist and a Geotechnical Engineer. (Exhibit A.2 - A.5) The Site Development Section of BDS analyzed these studies and agreed with their authors that the site is suitable for development with appropriate safeguards in place. These safeguards include assuring the clearing and grading for the alley tract, stormwater facilities, the public pedestrian path, and

public improvements along SW 18th Drive occurs "in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed." (BDS Report, Exhibit H-2, page 9) Specifically, BDS staff noted that the Applicant's Preliminary Clearing and Grading Plan (Exhibit C.2) shows proposed grade changes and identifies trees proposed for preservation that correspond to the recommendations in the Applicant's geotechnical report. BDS recommended the plan be bolstered to show root protection zones for the trees located in the tree preservation tract. The Site Development Section also stated that this site triggers a requirement for an erosion control plan prepared by a certified professional in erosion control or registered professional engineer under City Code Title 10. This plan must be submitted at the time the Applicant applies for a site development permit.

BDS concluded the Applicant has satisfactorily addressed the potential landslide hazard and land suitability criteria in PCC 33.660.120.D and G so long as conditions of approval are imposed that will ensure the Applicant submits a final clearing and grading plan that is consistent with the preliminary plan and includes tree protection measures. These measures will ensure safe development of the site and limit erosion. In the absence of any evidence to the contrary, the Hearings Officer finds the Applicant's submittals and BDS's comments are credible. They constitute substantial evidence to support BDS's findings that the approval criteria in PCC 33.660.120.D and G are satisfied.

E. Other issues. The Hearings Officer acknowledges that this new development and the accompanying access road represents a change for adjacent neighbors and will necessarily result in the loss of some vegetation that has provided habitat and privacy screening. The Applicant's proposal attempts to mitigate these concerns by preserving a group of eight trees in an alley tract, protecting the largest tree (#400) in the new public pedestrian path, and planting additional street trees along SW 18th Drive and the alley tract. In doing so, the Applicant is satisfying the requirements of the City's zoning, tree preservation, and other relevant and applicable regulations. Additionally, the Applicant will plant trees and landscaping that will help resolve these concerns over time.

Neighbors have also raised other concerns, such as increased air pollution (dust and truck fumes) from demolition of the existing house and residential construction on the new lots, noise pollution, and the potential negative effect on their property values. These are not issues addressed directly by the approval criteria in PCC 33.660.120 and are not a basis for denying the Applicant's proposal. There may be other avenues for resolving some of these concerns if problems materialize during construction--such as working with the City's Noise Control Officer to ensure construction noise does not exceed the maximum noise limits in Title 18.

III. CONCLUSIONS

The Hearings Officer concludes that the affirmative findings in the BDS Staff Report and Recommendation, as supplemented with the findings above, show the Applicant's proposal

to divide the site into nine lots, a public pedestrian path, and three tracts (for tree preservation, stormwater management, and private alley access) can satisfy or satisfies all relevant approval criteria provided the Applicant complies with all of the recommended conditions of approval. The Hearings Officer adopts and incorporates as her own the affirmative findings in the BDS Staff Report and Recommendation, attached to this decision, as supplemented with the findings above. Based on the evidence the Applicant submitted in support of its application, the BDS Staff Report and Recommendation, and the supplemental findings above, the Hearings Officer finds the Applicant's proposal satisfies the approval criteria in PCC 33.660.120.A - L.

IV. DECISION

Approval of a Preliminary Plan for a 9-lot subdivision that will result in six standard lots and three narrow lots, a private alley tract, stormwater management tract, tree preservation tract, and a public pedestrian connection, as illustrated on Exhibits C.1, C.2, and C.3, subject to the following conditions:

A. The final plat must show the following:

1. The Applicant shall meet the street dedication requirements of the City Engineer for SW 18th Drive and a new public pedestrian connection. The required right-of-way dedications must be shown on the final plat.

2. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the private alley tract to the satisfaction of the Fire Bureau.

3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions B.11-13 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

4. The Tree Preservation Tract shall be noted on the plat as "Tract C: Private Tree Preservation Tract." A note must also be provided on the plat indicating that the tract will be commonly owned and maintained by the owners of Lots 1 through 9; or Lots 4 and 5 which abut the tract.

5. The Private Alley Tract shall be noted on the plat as "Tract A: Private Alley Tract." A note must also be provided on the plat indicating that the tract will be commonly owned and maintained by the owners of Lots 1 through 9.

6. The Private Stormwater Management Tract shall be noted on the plat as "Tract C: Private Stormwater Management Tract." A note must also be provided on the plat indicating that the tract will be commonly owned and maintained by the owners of Lots 1 through 9.

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

Streets and Alleys

1. The Applicant shall meet the requirements of the City Engineer for right-of-way improvements along the site's street frontage and for a new public pedestrian connection. 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 improvements.

2. The Applicant shall submit an application for a Site Development Permit for mass grading and construction of the private alley 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.1-C.5 and the *Private Street Administrative Rule*. The plans must show root protection zones of the trees to be preserved on the final Tree Preservation Plan per condition B.14 below. The plan must also show soil stockpile area. The private alley improvements shall also include fire apparatus access, no parking signs, and driving surfaces to the satisfaction of the Fire Bureau.

3. The Applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private alley 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.

Utilities

4. The Applicant shall meet the requirements of the Bureau of Environmental Services for extending a public sewer main in the new public pedestrian connection. Prior to final plat approval, the Applicant must complete one of the following to the satisfaction of the Bureau of Environmental Services:

a. Through a Public Works Permit, submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, provide any necessary easements, and provide a signed permit document; or
b. Construct the public sewer and pay associated fees under a Bureau of Environmental Services Simplified Permit.

5. Prior to final plat approval, the Applicant must submit a private stormwater management plan that meets the Bureau of Environmental Services standards and that does not necessitate Plumbing Code Appeals and/or Encroachment Permits or must complete the following related to the proposal submitted for a private stormwater management system:

   a. Submit documentation of an approved Plumbing Code Appeal for the proposed shared stormwater facility; and
   b. Submit documentation of an approved Encroachment Permit for the proposed private storm line crossing public right-of-way.

6. The Applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in the new public pedestrian connection.

7. Prior to final plat approval, the Applicant must obtain a private sewer easement from the property to the east that meets applicable Bureau of Environmental Services standards in order to access the public storm sewer located in a public sewer easement on this property. Alternatively, the Applicant must submit a private stormwater management plan that meets Bureau of Environmental Services standards and that does not necessitate an easement.

8. 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 to final plat approval.

9. The Applicant must meet the requirements of the Fire Bureau and demonstrate the site has adequate Fire Hydrant spacing. If required, the Applicant shall meet the requirements of the Fire Bureau for installing a new fire hydrant. The Applicant must contact the Water Bureau, Development Services Department at 503-823-7368, for fee installation information related to the purchase and installation of fire hydrants. The Applicant must purchase the hydrant and provide verification to the Fire Bureau that the Water Bureau will be installing the required fire hydrant, with the required fire flow and pressure.

Existing Development

10. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. The site plan for the demolition and decommissioning permit must show all trees to be preserved and root protection zones as shown in Exhibit A.12. The demolition permit for removal of the existing house shall include decommissioning of the existing on-site sewage disposal system unless the applicant obtains final approval of decommissioning permits.

Required Legal Documents

11. The Applicant shall execute a Maintenance Agreement for the Private Alley Tract, Private Stormwater Management Tract, and the Private Tree Preservation Tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1-9 (or Lots 4-5 for the Tree Preservation Tract) and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area.

    The agreement must also acknowledge all easements granted within the alley tract, the beneficiaries of those easements (such as the Fire Bureau requires an Emergency Vehicle Access Easement). 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.

12. If the Fire Bureau requires the Applicant to execute an Acknowledgement of Special Land Use conditions for internal fire suppression sprinklers on Lots 1-9, the acknowledgement shall be referenced on and recorded with the final plat.

13. The Applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to the Tree Preservation Tract and impact construction on Lots 4, 5, and the Private Alley Tract. A copy of the final approved Tree Preservation Plan (see condition B.14) must be included as an exhibit to the acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

Other requirements

14. The Applicant must submit a final Tree Protection Plan showing the trees required to be protected and the alternative root protection zone required by the Applicant's arborist per Exhibit A.12. This site plan must be exhibited in correlation with the Acknowledgement of Tree Preservation Land Use Conditions required under condition B.13 above and reflected on the site development permit required above under condition B.2.

15. The Applicant must meet one of the following tree mitigation options prior to final plat approval:

    Option 1) Prior to final plat approval, provide written documentation from Urban Forestry that tree #400 will be preserved within the new Public Pedestrian Path; Option 2) Prior to final plat approval, the applicant must pay into the City Tree Preservation and Planting Fund [Private Property Trees – Planting and Establishment, fee in Lieu (per inch)] the amount equivalent to 11 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau. Payment must be completed prior to any tree removal, or prior to Final Plat approval, whichever would occur first.

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

1. Development on the site shall be in conformance with the Final Tree Preservation Plan (per Condition B.14) and the Applicant's Arborist Report (Exhibit A.12). This requirement will impact new development proposed adjacent to the Tree Preservation Tract on Lots 4 and 5 and construction of the Private Alley Tract.

   Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the prescriptive path allowances of 11.60.030 or is under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones beyond the allowances of 11.60.030 is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his/her supervision as indicated in Exhibit A.12.

2. The private alley must be substantially complete prior to issuance of any permits for residential construction.

3. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new private alley.

4. Final approval of the Site Development permit for the private alley shall be required prior to final approval of the permits for the houses on the lots abutting the private alley.

5. 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.

6. The Applicant must post the private alley with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the signs must be shown on the development permit.

7. If required by the final plat approval report, the Applicant will be required to meet any requirements identified through a Fire Code Appeal or exception to Fire Code requirements allowing installation of residential sprinklers.

8. Vehicle access to Lots 1-9 is required from the Private Alley Tract.

Kathryn S. Beaumont

Kathryn Beaumont, Hearings Officer

November 14, 2019
Date

Application Determined Complete:	February 20, 2019
Report to Hearings Officer:	September 27, 2019
Decision Mailed:	November 14, 2019
Last Date to Appeal:	4:30 p.m., December 2, 2019
Effective Date (if no appeal):	December 3, 2019

Conditions of Approval. 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.

Appeal of the decision. ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE FILED AT 1900 SW 4TH AVENUE, PORTLAND, OREGON 97201. Appeals can be filed at the 5th floor reception desk, Monday through Friday between 8:00 a.m. and 4:30 p.m. **An appeal fee of $5,000.00 will be charged (one-half of the application fee for this case, up to a maximum of $5,000.00).** Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

Who can appeal: You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

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

EXHIBITS

Not Attached Unless Indicated

A. Applicant's Statement
   1. Applicants Narrative
   2. Geotechnical report dated 3/30/18
   3. Infiltration test results dated 12/31/18
   4. Landslide Hazard study dated 1/9/19
   5. Engineering Geologic Reconnaissance and Landslide Hazard Study dated 1/11/19
   6. 245-day extension to 120-day clock
   7. Stormwater Drainage calculations
   8. Memo from applicant dated 3/1/19
   9. Deed info
   10. Early Neighborhood Notification documentation
   11. Retaining wall detail received 9/11/19
   12. Arborist report
   13. Plan set submitted 8/24/18
   14. Revised Plan set received 7/2/19
   15. Revised clearing and grading plan received 9/11/19
B. Zoning Map
C. Plans and Drawings
   1. Site Plan
   2. Clearing and Grading Plan
   3. Utility Plan
   4. Existing conditions plan
   5. Full Plan set
D. Notification information
   1. Request for response
   2. Posting letter sent to applicant
   3. Notice to be posted
   4. Applicant's statement certifying posting
   5. Mailing list
   6. 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 Bureau of Development Services
   6. Bureau of Parks, Forestry Division
F. Letters

1. Adam Light, e-mail received 2/15/19 from adam.light@gmail.com, copied on correspondence to applicant

G. Other
1. Original LUR Application
2. Incomplete Letter dated 9/23/19
3. Pre-application summary memo (EA 17-283095)
4. E-mail correspondence between applicant, city staff and arborist
5. 2018 aerial photo of site
6. E-mail to applicant dated 7/2/19 requesting Root Protection zone on site plan

H. Received in the Hearings Office
1. Notice of Public Hearing - Burgett, Shawn
2. Staff Report - Burgett, Shawn **(attached)**
3. Aerial map - Dane, Mark
4. Color aerial map - Burgett, Shawn
5. PowerPoint presentation printout - Burgett, Shawn
6. Record Closing Information - Hearings Office
7. Letter - Henrikson, William
8. Letter and Picture of a tree (3 pages) - Gray, Ella and Jon
9. Letter with attachments - Smith, Colgan B.
   a. Aerial maps - Smith, Colgan B.
10. 4/27/16 Oregon State University article "Coal-tar based sealcoats on driveways, parking lots far more toxic than suspected" - Smith, Colgan B.
11. USGS Coal-Tar-Based Pavement Sealcoat, PAHs, and Environmental Health - Smith, Colgan B.
12. 10/9/19 letter from Ella and Jon Gray - Smith, Colgan B.
13. Photos - Smith, Colgan B.
14. Letter in Response to New Evidence - Biller, Jenny

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

STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER

CASE FILE: LU 18-226914 LDS
PC # 17-283095
REVIEW BY: Hearings Officer
WHEN: October 9, 2019 at 8:30am
WHERE: 1900 SW Fourth Ave., Suite 3000
Portland, OR 97201

REC'D HEARINGS OFFICE
FR,SEP27'19AM9:58

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this proposal.

BUREAU OF DEVELOPMENT SERVICES STAFF: SHAWN BURGETT / SHAWN.BURGETT@PORTLANDOREGON.GOV

GENERAL INFORMATION

Applicant/Owner: Eric Rystadt | Main Street Development Inc
5331 SW Macadam Ave #258 Pmb 208 | Portland, OR 97239-3871

Representative: Mark Dane | Mark Dane Planning
14631 SW Millikan Way #6 | Beaverton, OR 97003
Markdaneplanning@gmail.com

Site Address: 6014 SW 18TH DR

Legal Description: BLOCK 1 LOT 1&2 TL 7500, HILLSDALE HTS; BLOCK 1 LOT 1&2 TL 7400, HILLSDALE HTS
Tax Account No.: R389000010, R389000020
State ID No.: 1S1E16CA 07500, 1S1E16CA 07400
Quarter Section: 3627

Neighborhood: Hillsdale, contact at contact@hna-pdx.com.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.

Plan District: Hillsdale
Zoning: R2.5d (Single Family Residential 2,500 sq. ft. with "d" design overlay zoning designation)
Case Type: LDS (Land Division Subdivison)
Procedure: Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

Proposal:
The applicant is proposing a 9-lot land division for detached dwelling units on this 46,511 square foot (SF) site. The existing house is proposed to be demolished. The proposed lots measure between 2,100 SF to 2,500 SF in area. The applicant is proposing street frontage for Lots 2-9 off a new east-west orientated public pedestrian connection extended from SW 18th Dr.

CITY OF PORTLAND
HEARINGS OFFICE
Exhibit #H-2
Case # 4190020
Bureau Case # 18-226914 LDS

located along the north property boundary of the site. Lot 1 will be a corner lot and have frontage along SW 18th Dr. and the new public pedestrian connection. The public pedestrian path will serve the same purpose as a typical public street; however motorized vehicles will be prohibited. The public pedestrian path will likely be extended to SW Sunset Blvd. in the future if the properties to the east of the subject site are ever re-developed. The applicant is also proposing a 1,168 SF Tree Preservation Tract between Lots 4 and 5 in order to protect a cluster of mature trees at this location on the site. Vehicle access to the new lots is proposed via a Private Alley Tract along the southern property boundary of the site. In addition, the applicant is proposing a 1,989 SF Private Stormwater Management Tract adjacent to Lot 9.

This subdivision proposal is reviewed through a Type III procedure because: (1) the site is in a residential zone; and (2) four or more lots are proposed within the Potential Landslide Hazard Area (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 12 units of land (9 lots and 3 tract). Therefore, this land division is considered a subdivision.

Additionally, to meet the Design (d) overlay requirements that apply to the property, the applicants indicate the future development on the lots will be designed to meet the Community Design Standards (33.218). If the Community Design Standards are not met at the time of permit review, then the future development will be subject to Design Review (33.825).

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 approximately 46,511 square feet, and slopes from the northwest down to the southeast. The site is developed with a single-family home built in 1949. There are mature trees located across the property.

Properties adjoining the site to the north, east, south and west across SW 18th Drive are all developed with one or two-story residences on large lots. Some townhouse style development is located south of the site as the neighborhood transitions to higher density residential and commercial zoning along SW Hillsdale Highway.

Infrastructure:

- **Streets –** The site has approximately 146 feet of frontage on SW 18th Drive. SW 18th Drive is a 60-foot wide right of way with a paved roadway lacking curb and sidewalk. At this location, SW 18th Drive is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). The site is within the Hillsdale Pedestrian District and the Hillsdale Town Center Plan. The nearest Tri-Met transit service are approximately 250 feet east of the site at SW Sunset Boulevard via Bus #55 and approximately 600 feet south of the site along SW Capital Highway via Bus #56. Additional Tri-Met transit services are located within ½ mile of the site via Bus Lines 1, 39, 44, 45 and 54.

- **Water Service –** There is an existing 6-inch DI water main in SW 18th Drive. An existing 5/8-inch metered service provides water to the site from this main. A new public main must be provided in the proposed public pedestrian connection to serve the proposed Lots 2-9.

- **Sanitary Service –** There is an existing 8-inch CSP public sanitary-only sewer located in SW 18th (BES project # 1834). A sanitary sewer extension must be provided in the proposed public pedestrian connection to serve Lots 2-9.

- **Stormwater Disposal –**There is a public 10-inch NCP storm-only sewer located in SW 18th Drive that terminates in a manhole in the intersection with SW Iowa (BES as-built #4786). The

manhole is about 10 feet deep. In addition, there is a public 12-inch concrete storm-only sewer (BES as-built #1834) within a 5-foot wide City of Portland easement (easement Ordinance #95016) that runs across the properties to the east.

Zoning: The site is located in a **Single Dwelling Residential 2,500 (R2.5)** zone. The single-dwelling zones are intended to preserve land for housing and to promote housing opportunities for individual households.

The site also has a **Design (d)** overlay designation, which promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. *Future development on the subject site must meet the Community Design Standards (Chapter 33.218) or it will be subject to Design Review.*

The site is within the **Hillsdale Plan District**, which aims to promote compatibility between existing and new residential and commercial development and support the Hillsdale Town Center. *There are no specific requirements applied to sites within the R2.5 zone however.*

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

Agency Review: A *Request for Response* was mailed **July 19, 2019**. 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 a Public Hearing on a Proposal in Your Neighborhood* was mailed on **September 18, 2019**. No written responses have been received. Please note, staff was copied on one letter (Exhibit F.1) that was sent to the applicant.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

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

Findings: Chapter 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. Density calculations are based on the following factors: original site area; whether a street will be created [connections solely for pedestrians and bicyclists are not considered streets when calculating density (33.611.100.D)]; and if the site has a landslide hazard, flood hazard, or environmental designation.

In this case, the applicant's survey shows the site area is 46,511 square feet; a pedestrian connection will be created; and the site has a landslide hazard designation. Therefore, the maximum density is one unit per 2,500 square feet or 19 units; and there is no minimum density. The applicant is proposing 9 lots for single dwelling units, which is within the allowable range.

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

	Minimum Lot Area (square feet)	Maximum Lot Area (square feet)	Minimum Lot Width* (feet)	Minimum Depth (feet)	Minimum Front Lot Line (feet)
R2.5 Zone	1,600	NA	36	40	30
Lot 1	2,500		36	61	33.52
Lot 2	2,100		35**	60	35
Lot 3	2,100		35**	60	35
Lot 4	2,100		35**	60	35
Lot 5	2,400		40	60	40
Lot 6	2,400		40	60	40
Lot 7	2,276		40	60	40
Lot 8	2,276		40	60	40
Lot 9	2,391		36.59	60	36.59

* 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.
**This lot is considered a "narrow lot" and addressed in the findings below

Narrow Lots

Lots 2-4 are 35 feet wide — narrower than the minimum width for the R2.5 zone, as shown in the table above. The Zoning Code, however, allows narrower lots if the future development can meet the regulations of 33.611.200.C.

On balance, the proposed lots will have dimensions that are consistent with the purpose of this section.

The lot dimension requirements 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; and (9)lots are compatible with existing lots while also considering the purpose of this chapter.

The applicant has demonstrated that proposed Lots 2-4 are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a development plan that meets all applicable setback requirements and is oriented towards the street. Therefore, they have

demonstrated that the proposed lot(s) can accommodate a reasonably sized house and garage while meeting the development standards of the zoning code.

- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services
- The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street
- The proposed narrow lot are compatible with existing lots because they provide for a reasonably sized new detached home in an area in an area made up of detached homes on individual lots. Many of the lots in the surrounding area have significant development potential and while oversized now are expected to develop in the future to the planning intensity of the R2.5 zone. In addition, the property directly north of the site (addressed 5920 SW 18th Dr.) recently received preliminary land use approval (final plat has not been approved) for a development layout very similar to the development proposed on the subject site under LU_17_116867. This land division approved 7 lots with a private alley tract and a Public Pedestrian connection that will abut the connection currently proposed in correlation with this land division proposal. In addition, several narrow lots are located in close proximity to the site at the corner of SW 18th Dr. and SW Iowa St and near the intersection of SW 18th Dr. and SW Carolina St. as shown on the Zoning Map (exhibit B).

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

- Lots 2-4 are all over 25 feet wide and will be developed with a detached house.

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

- The proposal includes a private alley and the applicant has proposed (and will be required) to provide vehicle access to Lots 2-4 from the alley.

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

- The applicant has proposed access from the alley, therefore the limitation of Zoning code section 33.110.253.D can be met.

60 percent landscaping requirement for attached houses

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

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

- Parking is required. Therefore, alley access requirements described above must be met.

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

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

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

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

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites.

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

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.4 and A.12) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.12) that identifies each tree, its condition and suitability for preservation or its exempt status and specifies a root protection zone and tree protection measures for each tree to be preserved.

The applicant's arborist report (Exhibit A.12) had indicated that the proposal meets option 3 of Zoning Code section 33.630.100 by preserving half of the trees 20" in diameter or greater trees non-exempt trees on the site and 49% of the overall non-exempt tree dimeter on the site.

However, this calculation included the preservation of tree #400 a 33" Western Red Cedar that will be located in the new public pedestrian right of way and cannot be formally protected to meet the requirements of Zoning Code section 33.630.100. Therefore, since tree #400 cannot be counted toward meeting the preservation standard the applicant's proposal does not meet options 1-5 of Zoning Code section 33.630.100 and must meet Zoning Code section 33.630.200.D.

One of the options for meeting this criterion is permanent preservation of trees within a tree preservation tract. The applicant has proposed a 1,168 sq. ft. tree preservation tract between lots 4 and 5 as reflected on Exhibit C.1

The 8 trees proposed for protection within the Tree Preservation Tract include 5 healthy Lodgepole Pine trees (labeled 239, 241, 242, 411 and 412) and 3 trees considered as exempt from the preservation standards (labeled 240, 413 and 414). The arborist report (Exhibit A.12) has recommended protecting trees 240, 413 and 414 within the grove of trees being protected within the tract. The arborist states in his report: "The lodgepole pines are a better option for preservation. The majority of them are in good health and condition with the three exceptions, tree 414 is dead, and trees 413 and 240 are suppressed and have dead tips and considerable lean to the east. However, these are also the smallest trees within the tract are adequately protected by the preservation zone established for the large trees and are not large enough to impact prospective structures. I recommend keeping them to minimize changes in wind loading for the stand and retain the function of dead trees as wildlife habitat."

The preservation of all the trees within the tree preservation tract as recommended by the arborist meets the objective of the tree preservation requirement noted above since all the trees within the tract will be protected. This will allow the site to protect 35 percent of the total non-exempt tree dimeter on the site. Due to the public improvements required along SW 18th Dr. and the new

east-west oriented Public Pedestrian connection it was not feasible to protect 3 of the sites 4 trees over 20" diameter under this criterion.

It should be noted that at the direction of planning staff (see exhibit G.4) the applicant's arborist (exhibit A.12) explored protecting two of the larger diameter trees over 20" (trees number 178 and 145) located near the site's frontage along SW 18th Dr. However, as indicated above due to the public street frontage improvements required along SW 18th Dr. and the configuration of the site layout with a public pedestrian path along the site's north property boundary and a private alley tract proposed along the sites southern property boundary it was determined that it would not be feasible to preserve these trees.

The following trees will be protected in the proposed tree preservation tract:

Tree 239 (17.5 Lodgepole Pine), tree 240 (6.3" Lodgepole Pine), tree 241 (18" Lodgepole Pine), tree 242 (20" Lodgepole Pine), tree 411 (17" Lodgepole Pine), tree 412 (16" Lodgepole Pine), 413 (7.7 Lodgepole Pine) and 414 (8.3" Lodgepole Pine).

The non-exempt trees protected in the tree preservation tract comprise over 35 percent of the total tree diameter on the site. The arborist report also identifies alternative root protection zones (ARPZ) for these trees through the performance path and indicates a 7-foot ARPZ will effectively protect the noted trees along the western edge of the tree tract. The arborist report noted (Exhibit A.12) "Paramount for preservation of this this stand disturbance is limited to only the compression side of the trees. The Building envelope for lot 4 is 5' from tree 242, this is the closest the building comes to any tree in the preservation tract. Although the 5' distance meets the acceptable guidelines for maintaining stability I recommend increasing that distance to 7' to ensure stability and provide additional soil resource for this stand. The design of the house may be cantilevered over the foundation without effecting tree preservation. The excavation of the foundation on this lot as well as alley frontage along the tree preservation tract will required arborist oversight and cooperation." The arborist added "At the time of excavation the project arborist will be on site with an airspade to ensure roots are properly pruned".

Therefore, as a condition of approval, prior to any new development on the site the applicant will be required to submit a letter from a certified arborist noting that they have been hired to monitor any excavation work near the trees within the Tree Preservation Tract.

The applicant did not submit a conceptual development plan that depicted the ARPZ required by the arborist per Exhibit A.12 as requested (Exhibit G.6). Therefore, as a condition of approval, prior to final plat approval the applicant will be required to submit a site plan depicting conceptual development on the site and clearly documenting the ARPZ for all the trees protected in the Tree Preservation Tract as recommended per Exhibit A.12. The final clearing and grading plan submitted with the site development permit required will also need to consistent with the arborist recommendations.

The applicant's proposal is consistent with the minimum requirements of Option 6 of 33.630.100. which requires 35% of the total tree canopy to be protected on a site that is larger than an acre. While the applicant did not pursue this option, the site is over an acre and based on a 2018 aerial of the site (exhibit G.5) it's pretty evident that at least 35% of the tree canopy will likely be protected based on the current tree preservation plan.

However, since the applicant did not pursue the tree canopy option noted above and the current tree preservation proposal is based on protecting tree #400 (a 33" western red cedar) located in the new Public Pedestrian path (which cannot be formally protected to meet Zoning Code section 33.630.100).

Therefore the applicant has the following two options to meet the criteria of Zoning Code section 33.630.200.D: Option 1) Prior to final plat approval provide written documentation from Urban

Forestry that tree #400 will be preserved within the new Public Pedestrian Path; Option 2) Prior to final plat approval make payment into the tree fund for the equivalent of 11" (equal to approximately 35% the diameter of tree #400).

Overall, tree preservation is maximized to the extent practicable while allowing reasonable development and the proposed density of 9 units (maximum density is 19 units).

Therefore, based on the applicant's proposal to protect 5 non-exempt trees and 3 additional exempt trees (as recommended by the arborist) within the tree preservation tract and the option to either ensure preservation of tree #400 in the Public Pedestrian path or path a fee in lieu, this criterion can be met.

Additionally, to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Lot 4 and 5 must be carried out in conformance with the final Tree Preservation Plan and updated Arborist Report.

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

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

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

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

To address this criterion, the applicant submitted a Landslide Hazard Study of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibits A.2-A.5).

Site Development, the division of Development Services that makes determinations regarding soil stability, has evaluated the Landslide Hazard Study and provided the following:

The site is located in the Potential Landslide Hazard Area. Site Development has reviewed the Landslide Hazard Study by Earth Engineers, Inc. dated January 9, 2019 and the Engineering Geologic Reconnaissance and Landslide Hazard Study by R. Warren Krager dated January 11, 2019. The reports conclude the site is suitable for the proposed development. The information provided is acceptable and satisfies the approval criterion of Section 33.632.100

Based on these factors, this criterion is met.

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

Findings: 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 in order to make the lots suitable for their intended uses and the provision of services and utilities.

Clearing and Grading: In this case, the site has steep grades (over 20%), is located in the Potential Landslide Hazard area and requires grading for a new private alley and stormwater facility, and for a new public pedestrian connection and public improvements along SW 18th Drive. To meet this criterion, the clearing and grading associated with those improvements must occur in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed.

The applicant's geotechnical evaluations from Earth Engineers Inc dated 1/9/19 (Exhibit A.4) indicates "the entire lot is developable provided exposed slopes are properly vegetated and stormwater discharge is controlled".

The applicant's Preliminary Clearing and Grading Plan (Exhibit C.2) depicts the proposed grade changes, including existing and proposed elevation contours, and identifies trees proposed for preservation (as discussed in Criterion B, above). The plan shows grades that correspond to the gradients recommended in the geotechnical report. This preliminary plan demonstrates erosion control measures will be installed to avoid impacts to water quality. However, the clearing and grading plan does not call out the Root Protection Zones (RPZ's) of the trees proposed for protection within the Tree Preservation Tract. This information will be required at the time of Site Development permit submittal.

Site Development also reviewed the Preliminary Clearing and Grading Plan and indicates:

Erosion prevention and sediment control requirements found in Title 10 apply to both site preparation work and development. The project area meets the criteria specified in city code 10.30.030 as a special site with additional requirements for erosion, sediment and pollution control. An erosion control plan prepared by a Certified Professional in Erosion and Sediment Control (CPESC) or State of Oregon registered professional engineer will be required at the time of Site Development permit application

Further, Site Development notes: A site development permit is required for the mass grading, private alley construction, and utility installation pursuant to Section. 24.70.020 B.9. A site development permit application must be made prior to final plat approval. While it's not necessary for the permit to be issued prior to final plat approval, site development will not support releasing the plat until the permit submittal is in an approvable state.

Based on these factors, with a condition that the Site Development Permit application, required above, must include a final clearing and grading plan, tree protection measures, which is consistent with the preliminary clearing and grading plan and final tree preservation plan approved with the land division, this should ensure the clearing and grading is conducted in a manner consistent with the protection of onsite trees and controls will be provided to limit erosion. In addition, the final clearing and grading plan should show soil stockpiling. With a condition requiring such, 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. The applicant has proposed to remove the existing house and garage and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. In addition, Historic plumbing records indicate the existing structure was served by a

septic system prior to connection to the public sewer. There do not appear to be any records showing the system was decommissioned at the time the building was connected to public sewer. Therefore, the septic system must be decommissioned. Prior to final plat approval, the applicant must obtain final approval of septic decommissioning either as part of the demolition permit or under separate decommissioning permit.

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

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

Findings: The following tracts are proposed:

- Tract A: Private Alley Tract and Public Utility Easement
- Tract B: Private Stormwater Management Tract
- Tract C: Private Tree Preservation Tract

With a condition that the proposed tracts A and B be owned in common by the owners of Lots 1 through 9 or a Homeowner's Association, this criterion can be met.

In addition, with a condition that Tract C be owned in common by either the owners of Lots 1 through 9; a Homeowner's Association; or the owners of Lots 4 and 5 (abutting lots) this criterion can be met.

The following easements are proposed and/or required for this land division:
- An Emergency Vehicle Access Easement to the City of Portland may be required over the roadway portion of the private alley.

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

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

With the conditions discussed above, this criterion will be 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.

Lot 1 is a corner lot on the south side of the east-west pedestrian connection; and Lots 2-9 are interior lots on the south side of the east-west pedestrian connection.

Given the configuration of the lots and the pedestrian connection, the solar access regulations call for the corner lot (Lot 1) to be the widest lot. Lot 1 is slightly wider than the other three adjacent lots (lots 2-4); its width is consistent with the solar standards.

In this case, several other factors affected the opportunity for lot size variations, including the need to provide the pedestrian connection, per 33.654, and to preserve on-site trees, per 33.630.

In situations where the site layout necessary to meet 33.654 or 33.630 conflicts with the solar access criteria, those other requirements supersede 33.639. In this proposal, therefore, the solar access criteria do not apply. Therefore, this criterion is met.

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

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

Evaluation factors include: safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced and measures to mitigate impacts may be necessary.

The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

Street Capacity and Level-of-Service
The surrounding transportation system is currently and is also projected to continue to meet the City of Portland's operational standards, regardless of the addition of site trips from the proposed development. The 9-lots can be expected to generate approximately 90 daily vehicle trips with 9-trips occurring in each of the AM and PM Peak Hours. This relatively small amount of Peak Hour trips is not anticipated to have any significant impacts on area intersections level of service.

The area streets and intersections have sufficient capacity to safely serve the proposed use in addition to the existing uses in the site vicinity while maintaining acceptable levels of service. No mitigation is necessary or recommended.

Vehicle Access and Loading
Vehicle access to/from the site will be provided via a proposed private alley tract A that will take access to SW 18th Drive. Vehicle access to/from the project site is well-connected by a network of local, collector, and arterial streets in the general vicinity of the project site. The primary east/west connection to numerous north/south corridors is OR-10 to the south, which may be accessed via the nearby roadways of SW 18th Drive or SW Sunset Boulevard. From OR-10, other major roadways including, but not limited to, SW Barbur Boulevard, SW Bertha Boulevard, SW Scholls Ferry Road, and OR-217 may be accessed. The aforementioned roadways will remain as the primary routes serving the site throughout the Portland Metro Area.

Vehicles performing loading operations at the proposed development may utilize individual driveways provided for each lot. Larger delivery vehicles to the site may utilize on-street parking provided along SW 18th Drive.

The proposed project site has adequate vehicle access and loading opportunities. No mitigation is recommended.

On-Street Parking Impacts
The late evening and early morning hours typically reflect peak parking demand for residential land-uses. The surrounding area is predominately residential; therefore, the chosen timeframe when

observations were conducted is sufficient to capture the peak on-street parking demand of existing land-uses in the site vicinity.

A recent parking study prepared for the subdivision abutting the northern property line determined that at peak residential demand 60-62% of the on-street parking supply were available. PBOT does not consider having to pro-actively manage the on-street parking supply until occupancy rates exceed 85%. With each lot having a garage and a parking space in front of the garage, the impact to on-street parking will be minimal.

Transit Availability
The project site is located near nine bus lines that have stops within a half-mile walking/biking distance.

TriMet bus line #1 – *Vermont* provides service between the Maplewood/Hayhurst Neighborhoods of Portland and Portland City Center, with notable stops near Alpenrose Park, Gabriel Park, Mittleman Community Center, Wilson High School, Himes Park, and Pioneer Square MAX station. The nearest bus stops to the project site are located along SW Vermont Street between SW 19th Avenue and SW Bertha Boulevard. Weekday service is scheduled from approximately 6:00 AM to 6:45 PM and has headways of approximately 30 minutes during the morning and evening peak periods.

TriMet bus line #39 – *Lewis & Clark* provides service between the Hillsdale Neighborhood and Lewis & Clark College, with notable stops near Northwestern School of Law, Riverdale High School, and Wilson High School. The nearest bus stop to the project site is located along OR-10 just east of SW Bertha Court. Weekday service is scheduled from approximately 6:15 AM to 7:15 PM and has headways of approximately 30 to 60 minutes.

TriMet bus line #44 – *Capitol Hwy/Mocks Cress* provides service between the Portland Community College (PCC) Sylvania Campus to Pier Park in the St. Johns Neighborhood of Portland, with notable stops near Capitol Hill Library, Barbur Boulevard Transit Center, Multnomah Center, Mittleman Community Center, Wilson High School, Hillsdale Library, Duniway Park, Pioneer Square MAX station, Rose Quarter Transit Center, Convention Center, Moda Center, Memorial Coliseum, Legacy Emanuel Hospital, Rosa Parks MAX Station, PCC Cascade Campus, and University of Portland. The nearest bus stop to the project site is located along OR-10 just east of SW Bertha Court. Weekday service is scheduled from approximately 5:30 AM to 10:45 PM and has headways of approximately 10 to 30 minutes. Weekend service is scheduled from approximately 6:30 AM to 10:15 PM and has headways of approximately 30 to 50 minutes.

TriMet bus line #45 – *Garden Home* provides service between Tigard Transit Center and Portland City Center, with notable stops near Fowler Jr. High School, Washington Square Transit Center, Multnomah Center, Mittleman Community Center, Wilson High School, City Hall/SW 5th & Jefferson MAX Station, and Goose Hollow/SW Jefferson Street MAX Station. The nearest bus stop to the project site is located along OR-10 just east of SW Bertha Court. Weekday service is scheduled from approximately 5:30 AM to 9:30 PM and has headways of approximately 10 to 60 minutes. Saturday service is schedule from approximately 7:00 AM to 7:30 PM and has headways of approximately 60 to 65 minutes. Sunday service is scheduled from approximately 10:30 AM to 7:45 PM and has headways of approximately 80 minutes.

TriMet bus line #54 – *Beaverton Hillsdale Hwy* provides service between Beaverton Transit Center and Portland City Center, with notable stops near Wilson High School and Pioneer Square MAX Station. The nearest bus stop to the project site is located along OR-10 just east of SW 18th Drive. Weekday service is scheduled from approximately 4:45 AM to 12:30 AM and has headways of

approximately 20 to 30 minutes and 60 minutes during the late evening hours. Saturday service is scheduled from approximately 6:00 AM to 12:30 AM and has headways of approximately 30 to 60 minutes. Sunday service is scheduled from approximately 7:00 AM to 12:30 AM and has headways of approximately 30 to 60 minutes.

TriMet bus line #55 – *Hamilton* provides service between the Raleigh Hills Neighborhood of Portland and Portland City Center, with notable stops near Wilson High School, SW 5th and Madison MAX Station, and Goose Hollow/SW Jefferson Street MAX Station. The nearest bus stop to the project site is located at the intersection of SW Sunset Boulevard at SW 18th Drive. Weekday morning service to Portland City Center is scheduled from approximately 7:00 AM to 8:40 AM and has headways of approximately 5 to 25 minutes. Weekday evening service to Raleigh Hills is scheduled from approximately 4:00 PM to 6:00 PM and has headways of approximately 5 to 15 minutes.

TriMet bus line #56 – *Scholls Ferry Rd* provides service between Washington Square Transit Center and Portland City Center, with notable stops near Wilson High School and Pioneer Square MAX Station. The nearest bus stop to the project site is located along OR-10 just east of SW 18th Drive. Weekday service is scheduled from approximately 5:30 AM to 1:00 AM and has headways of approximately 20 to 30 minutes and 60 minutes during the late evening hours. Saturday service is scheduled from approximately 5:30 AM to 1:00 AM and has headways of approximately 30 to 60 minutes. Sunday service is scheduled from approximately 7:30 AM to 1:00 AM and has headways of approximately 30 to 60 minutes.

TriMet bus line #61 – *Marquam Hill/Beaverton* provides service between Beaverton Transit Center and Oregon Health & Science University (OHSU), with notable stops near Veterans Hospital and Shriners Hospital. The nearest bus stop to the project site is located along OR-10 just east of SW 18th Drive. Weekday morning service to OHSU is scheduled from approximately 6:15 AM to 8:45 AM and has headways of approximately 15 to 20 minutes. Weekday evening service to Beaverton Transit Center is scheduled from approximately 3:30 PM to 6:15 PM and has headways of approximately 15 to 30 minutes.

TriMet bus line #64 – *Marquam Hill/Tigard* provides service between Tigard Transit Center and OHSU, with notable stops near Barbur Transit Center, Veterans Hospital, and Shriners Hospital. The nearest bus stop to the project site is located along OR-10 just east of SW 18th Drive. Weekday morning service to OHSU is scheduled from approximately 5:45 AM to 8:30 AM and has headways of approximately 15 to 30 minutes. Weekday evening service to Tigard Transit Center is scheduled from approximately 3:45 PM to 6:45 PM and has headways of approximately 30 to 45 minutes.

The available transit service is sufficient to meet the needs of the proposed development in addition to the existing land-uses in the site vicinity.

Neighborhood Impacts

The daily activities as a result of the trips generated from the proposed development are expected to minimally impact the local neighborhood. The operational analysis of nearby major intersections during the morning and evening peak periods and the on-street parking study during a peak parking period indicate that the surrounding neighborhood is capable of accommodating the growth associated with the proposed development.

Since the proposed development is residential in nature and surrounded by other residential uses, the proposed use will not substantially alter travel patterns or vehicle types in the site vicinity.

No mitigation is recommended.

Safety for All Modes
No significant safety hazards were identified at any of the study intersections. Additionally, based on on-site observations no design deficiencies which would impact the safety of the area roadways and intersections were noted.

Five major on-street bicycle routes exist in the site vicinity. The primary east/west routes are OR-10, Capitol Highway, and SW Vermont Street while the primary north/south routes are SW Sunset Drive and SW Bertha Boulevard. Dedicated bicycle lanes are provided along both sides of OR-10, Capitol Highway, and SW Vermont Street and generally along both sides of SW Bertha Boulevard in the site vicinity. SW Sunset Boulevard has a dedicated northbound bicycle lane on the east side of the roadway between SW Dewitt Street and SW 18th Drive while sharrows are marked on both northbound and southbound travel lanes between SW Dewitt Street and OR-10. The neighborhood streets in the immediate site vicinity, such as SW 18th Drive, are low-stress neighborhood roads that provide connections to OR-10 and SW Sunset Boulevard.

Sidewalks are provided along the east side and partially along the west side of SW Sunset Boulevard, both sides of OR-10 east of SW 18th Drive, and intermittently along both sides of SW 18th Drive south of SW Dewitt Street. Area roadways typically have either posted or statutory residential speeds of 20 mph to 30 mph in the site vicinity which provide a comfortable and safe walking environment for pedestrians. In addition, for local residential roadways without sidewalks pedestrians may utilize the shoulder or share the roadway with motorized traffic safely due to low-speed and low-volumes of vehicular traffic. The proposed development will construct curbs and sidewalks along the west side of SW 18th Drive along site frontage, whereby pedestrian safety and connectivity in the immediate vicinity will be maintained and improved.

As noted in the *Transit Availability* section, the nearest bus stops that could reasonably serve transit users of the proposed development and nearby existing land-uses are located along SW Vermont Street between SW 19th Avenue and SW Bertha Boulevard, along OR-10 just east of SW Bertha Court, along OR-10 just east of SW 18th Drive, and at the intersection of SW Sunset Boulevard at SW 18th Drive. Complete sidewalks on major roadways, low vehicular traffic on local streets, adequate crossing measures along OR-10 and SW Sunset Boulevard, and relatively low vehicular speeds on area roadways allow for safe travel for transit users between the proposed development and the nearby transit stops.

Based on the analysis, the transportation system is capable of safely supporting the proposed development in addition to the existing uses with regards to all modes. In addition, the proposed development will enhance the pedestrian environment by constructing frontage improvements including sidewalks along the east side of SW 18th Drive.

Based on the foregoing, Portland Transportation determined that with the required improvements the transportation system is capable of safely supporting the proposed development in addition to the existing uses with regards to all modes. As such, this criterion is met.

In addition, the proposed development will enhance the pedestrian environment by constructing frontage improvements including sidewalks along the east side of SW 18th Drive and a new public pedestrian connection that may eventually provide improved connectivity for the site and surrounding area, as further discussed in Criterion L, below. Details about the right-of-way designs are addressed in the findings for 33.654.120, Design of Rights-of-Way, below.

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

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

33.651 Water Service standard – See Exhibit E.3
The nearest water service is located in SW 18th Dr. The applicant must make arrangements to extend a new water main in the new Public Pedestrian connection to ensure service is available to Lots 2-9. In order 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. With this condition, the water service standards of 33.651 have been verified.
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1
The Bureau of Environmental Services (BES) has evaluated the proposed sanitary services and finds the following: Currently there are no public sewers directly available to Lots 2-9; therefore the applicant proposes to extend a public sewer to provide individual connection locations. Although Lot 1 currently has a sewer within its frontage, the applicant is proposing a connection from that lot to the new public sewer extension along with Lots 2-9. Under Public Works Permit (PWP) #EP521, BES Development Engineering approved the Concept Development plans (i.e. 30% design) for the sewer extension on September 18, 2019; therefore BES finds that sanitary sewer can be made available to Lots 1-9 as shown. Prior to final plat approval, BES will require approved plans, a financial guarantee, receipt of all outstanding fees, any necessary easements, and a signed permit document With the implementation of the noted conditions, sanitary services will be available to serve the proposed lots. As such, the sanitary sewer service standards of 33.652 have been verified.
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1
A stormwater tract (Tract B) is proposed. The method used to determine the size and location of the stormwater tract is discussed below in order to meet criterion B. *Proposed Stormwater Management Plan:* The applicant submitted a stormwater report from WDY (August 23, 2019) and a Landslide Hazard Study (LHS) from Earth Engineers, Inc (January 9, 2019). The LHS includes infiltration test results of 0.01 – 0.04 inches per hour and recommends against infiltrating post-development stormwater runoff onsite. Therefore, the applicant proposes to discharge runoff offsite to the public storm sewer located in a public easement on the property to the east of the subject site. The applicant proposes to collect runoff from each lot as well as the private street and then meet pollution reduction and flow and volume control standards with a shared vegetated planter and flow control manhole designed using the performance approach. The proposed orifice is smaller than the minimum standard in the SWMM, however appropriate measures (such as pre-treatment and designing for maintenance access) are proposed in order to ensure functionality. Additional detail may be required with

the permit application.

Private Storm Sewer Easement: In order to access the public storm sewer in a public sewer easement located on the property east of the subject site, the applicant must obtain legal access across that private property; per BDS, access should be obtained through a private sewer easement or covenant for future easement. Per the BDS Private Sewer Easements Code Guide, private sewer easements should be a minimum of 10 feet in width unless specific criteria are met allowing a reduction to 5 feet, as determined by BDS. The applicant is encouraged to contact BDS Plumbing directly with questions related to private easements and plumbing code appeals: (503)-823-7388 for residential projects, and (503) 823-7302 for commercial projects.

Shared Private Stormwater Systems: Per current BDS policy, in order to comply with Oregon Plumbing Specialty Code, proposals to share stormwater systems across property lines must be approved through a Plumbing Code Appeal. The applicant is encouraged to contact BDS Plumbing directly with questions related to private easements and plumbing code appeals: (503)-823-7388 for residential projects, and (503) 823-7302 for commercial projects. Documentation of an approved Plumbing Code Appeal has not been submitted and will be required prior to final plat approval

Encroachment Permit: In order to cross the public right-of-way (the proposed ped path) with a private storm line, Portland Bureau of Transportation (PBOT) will require the applicant to obtain an encroachment permit. More information is available on PBOT's website. Please contact PBOT directly for more information. Documentation of an approved Encroachment Permit has not been submitted and will be required prior to final plat approval.

Private Alley: Stormwater will be directed to a flow through planter in the stormwater management tract (Tract B) located at the eastern terminus of the private alley tract and then into an existing public storm only sewer located adjacent to the southeast corner of the site . The applicant has submitted stormwater calculations and soil test results that indicate the size of the proposed stormwater management tract can accommodate the volume of stormwater runoff from the impervious areas of the street. BES has indicated conceptual approval of the proposed stormwater management location and size.

Public Street Improvements: PBOT requires the construction of public frontage improvements, which trigger public stormwater management improvements per the standards of the SWMM and the Sewer and Drainage Facilities Design Manual. Per Public Works Permit (PWP) #EP521, stormwater from the public right-of-way will be managed with installation of vegetated storm facilities in SW 18th Dr. BES Development Engineering approved the Concept Development plans (i.e. 30% design) for the right-of-way stormwater improvements on September 18, 2019; therefore, BES finds that public stormwater facilities can be constructed as shown on the applicant's Preliminary Site Utility Plan. Prior to final plat approval BES will require approved plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document.

Lots 1-9: Stormwater from these lots will be directed to the private alley and then to a flow through planter in the stormwater management tract (Tract B) located at the eastern terminus of the private alley tract and then into an existing public storm only sewer located adjacent to the southeast corner of the site . The applicant has submitted stormwater calculations and soil test results that indicate the size of the proposed stormwater management tract can accommodate the volume of stormwater runoff from the impervious areas of the street. BES has indicated conceptual approval of the proposed stormwater management location and size.

Therefore, this criterion can be met with the following conditions of approval:

1.The applicant is required to construct a sanitary sewer to provide service to the proposed development. Prior to final plat approval, the applicant must complete one of the following to the satisfaction of BES:

a. Through a Public Works Permit, submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, provide any necessary easements, and provide a signed permit document; or

b. Construct the public sewer and pay associated fees under a BES Simplified Permit.

2.The applicant is required to construct public stormwater facilities within the site's frontages. Prior to final plat approval, the applicant must complete the following to the satisfaction of BES: through the Public Works Permit submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.

3.Prior to final plat approval, the applicant must submit a private stormwater management plan that meets BES standards and that does not necessitate Plumbing Code Appeals and/or Encroachment Permits or must complete the following related to the proposal submitted for a private stormwater management system:

a. Submit documentation of an approved Plumbing Code Appeal for the proposed shared stormwater facility; and

b. Submit documentation of an approved Encroachment Permit for the proposed private storm line crossing public right-of-way.

4. Prior to final plat approval, the applicant must obtain a private sewer easement from the property to the east that meets applicable BES standards in order to access the public storm sewer located in a Public sewer easement on this property. Alternatively, the applicant must submit a private stormwater management plan that meets BES standards and that does not necessitate an easement.

Based on the conditions noted above, this criterion is met.

33.654.110.B.1 Through streets and pedestrian connections
33.654.120.B & C Width & elements of the right-of-way
33.654.120.E. Approval criterion for the width of pedestrian connections
33.654.130.C Future extension of proposed dead-end streets & pedestrian connections

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

The Master Street Plan-Southwest District (Map 11.11.6) for the area shows the block on which the subject property is located does not meet the noted spacing requirements. The site contains sufficient width to allow the creation of a public east-west through street or pedestrian connection. In this case, given the size of the adjacent properties to the east, further extension of a pedestrian connection appears more feasible than extension of a through street.

It should be noted that the property located directly north of the subject site received preliminary land division approval under LU_17_116867 LDS for a 7-lot land division with a private alley tract and 18' wide public pedestrian connection that would run adjacent to the public pedestrian path proposed under this review.

Portland Transportation (exhibit E.2) has reviewed the proposed public pedestrian connection and determined:

The site is located in the middle of large triangular block bordered by SW Capitol Hwy on the south, SW 18th Drive on the west, and SW Sunset Blvd on the east. The block is approximately

1,300 feet long along the W 18th and SW Sunset frontages without any east/west public connections. A variety of public street connections were seriously explored. The steep slopes in the center of the site and the existing development patterns along SW Sunset made planning for a full future street connection infeasible. The lots along SW Sunset are likely to develop with flag lots. All five of the lots on SW Sunset in proximity to the subject site would have to redevelop together with 3 new lots fronting the street connection gaining only one new single-family lot over what existed now.

However, it was determined that the potential for a through pedestrian connection will be feasible and therefore required.

Additionally, since the abutting properties to the east are further dividable, the pedestrian connection must be extended to the boundary of the land division site to provide future access to the adjacent sites. At this time, the proposed pedestrian connection will terminate at a location on the site boundary that will allow it to be further extended to serve those properties if they further develop in the future.

Portland Transportation found that presently, SW 18thDrive is a 60-foot wide right of way with a paved roadway lacking curb and sidewalk. A 2-ft dedication along SW 18th Drive will be required to provide adequate ROW width for the following improvements: additional paving as needed, curb located 16-ft from the ROW centerline, 8-ft swale, 6-ft sidewalk, and a 1.5-ft frontage zone between the back of the sidewalk and the property line. With these improvements, the required width and elements will be provided on SW 18th Drive.

The applicant is proposing a private alley for vehicle access at the rear of the lots. This will help to maintain on-street parking along the public street. Details about the alley design are addressed in the findings for Alleys, below.

The width of the public pedestrian connection right-of-way must be sufficient to accommodate expected users and provide a safe environment, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, natural features, and total length of the pedestrian connection. As much as is possible, the users should be able to stand at one end of the connection and see the other end. Portland Transportation and the Water Bureau initially have noted via Public Works Review that a 20-foot wide right-of-way dedication would be required for the public pedestrian connection and would allow sufficient space for the required walkway and utilities. The pedestrian connection is straight and will allow for visual surveillance from one end of the walkway to the other.

Based on these factors, and with the application of the conditions for the dedications and improvements, these criteria will be met.

33.654.110.B.4 Approval criterion for alleys in all zones
33.654.120.C.3.c. Approval criterion for turnarounds.
33.654.120.F. Approval criterion for the width of alleys
33.654.130.E Ownership of Alleys

The proposed alley must satisfy the noted Zoning Code provisions, and the *Administrative Rules for Private Rights of Way* are the standards that govern the construction of alleys.

These factors are addressed in the following table:

Street Design	Proposed	Findings
Street Type	Private dead-end alley	The proposed alley will reduce the number of driveways crossing sidewalks, provide alternative locations on the site for parking, and maintain on-street parking in accordance

		with the location of rights-of-way provisions in 33.654.110.B.4.
Width (33.654.120.F and Private Street Rule: Section III.E)	The width of the alley includes a 20-foot wide travel lane and a hammerhead turnaround between lots 7 and 8.	The Private Street Rule allows for a minimum vehicle roadway width of 16 feet. The proposed roadway width is 20 feet and includes 6-8" curbs on either side of the roadway. This width will be sufficient to accommodate expected users.
Turnaround configuration (33.654.120.F.3 and Private Street Rule: Section III.F)	A hammerhead turnaround is proposed near the terminus of the private alley tract. The turnaround will provide a means for construction equipment and delivery and maintenance (recycling, garbage) vehicles to service the lots and as a fire apparatus access and turnaround.	The configuration of the turn-around has been reviewed by Site Development, and Site Development noted no objections to the size and configuration of the turnaround.
Parking (Private Street Rule: Section III.G/Figure 2)	None proposed within the alley tract.	PBOT has determined that the on-street parking that will be available along the SW 18th Drive frontage as well as the proposed on-site parking on each lot will be sufficient to serve the anticipated parking demand from the future homes, so no parking will be required in the alley.
Stormwater management (Private Street Rule: Section III.J)	A stormwater facility is proposed within the stormwater management tract.	As discussed in the stormwater findings, above, BES has reviewed the proposed stormwater facility and found it to be acceptable, with the application of conditions related to off-site disposal.
Structures (Private Street Rule: Sections III.M, N, and O)	The project plans do not show the location of street signs, no parking signs or retaining walls.	The applicant will be required to install street signs in accordance with the Private Street Rule and no parking signs per the Fire Bureau. With conditions requiring such, these requirements will be met.
Utilities: telephone, cable, natural gas, electric, etc (Private Street Rule: Section IV.E)	Shown on plans along frontage of lots 1-9.	Any easements that may be needed for private utilities that cannot be accommodated within the adjacent rights-of-ways can be provided on the final plat.
Performance Guarantee (Private Street Rule: Section VII.A)	The applicant acknowledges performance guarantees must be provided for the alley construction.	As noted in the Site Development response, a condition must be applied requiring the provision of plans and financial assurances for the alley tract, prior to final plat approval.
Ownership (33.654.150.B.7 and 9)	The applicant indicates the alley will be owned in common by the owners of the property within the land division site or a Homeowner's Association. Additionally, since the neighboring properties have potential to further develop under current zoning, the applicant has indicated that the alley could also serve the properties abutting the other	The alley is private and will serve 9 lots, so it must be owned in common by the owners of property within the land division site or the Homeowners' Association and it must be in a tract. As proposed, and with a condition allowing for future use of the alley by abutting properties, this criterion will met.

	side of the alley when that property further develops. The applicant has proposed to include a provision in the maintenance agreement to accommodate potential future users.	
Maintenance (33.654.150.C and Private Street Rule: Section VI.A)	The applicant indicates the owners of the alley will be responsible for its on-going maintenance.	A maintenance agreement must be recorded that commits the owner to maintain all elements of the alley right-of-way. With a condition requiring such, this requirement will be met.

Based on the foregoing, the size, configuration, and ownership of the alley will meet these requirements with the application of the noted conditions. As such, this criterion will be 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 or private alley tract can be provided on the final plat. At this time a utility easement is shown adjacent to Public Pedestrian the right-of-way. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

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

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

- Design (d) overlay: New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or the development or modifications will be subject to Design Review.

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 R2.5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access

Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 –Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- Private Alley: The applicant is required to make improvements to the proposed private alley. Several conditions are required, including provision of plans and financial assurances, initiating a Site Development 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.

- Fire Bureau: The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; posting of "No Parking" signs in the private alley; angles of approach and departure; turning radius; driving surface; fire hydrant spacing; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; providing an Emergency Vehicle Access Easement over the private alley tract and including Fire Bureau requirements within the maintenance agreement for the private alley; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers if necessary; fire apparatus access, including aerial access. These requirements are based on 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 in the new east-west public right of way. In addition, one street tree must be planted or retained for each full increment of 25 linear feet (11.50.060.C.1). Street trees must be planted at a minimum 1.5 caliper inches. Trees will be required to be planted through the Public Works Permit. This requirement is based on the standards of Title 11

CONCLUSIONS

The applicant has proposed a 9-lot subdivision, as shown on the attached preliminary plan (Exhibit C.1). The primary issues identified with this proposal are:

- Tree preservation
- Private alley improvements
- Stormwater management and disposal
- Public right-of-way dedication and improvements
- Sanitary sewer services
- Water services
- Fire Bureau requirements
- Urban Forestry requirements

Overall, as discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. Accordingly, this proposal can be approved.

TENTATIVE STAFF RECOMMENDATION

Approval of a Preliminary Plan for a 9-lot subdivision that will result in 6 standard lots and 3 narrow lots, a private alley tract, stormwater management tract, tree preservation tract and a

public pedestrian connection, as illustrated on Exhibits C.1, C.2, and C.3, subject to the following conditions:

A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SW 18th Drive and a new public pedestrian connection. The required right-of-way dedications must be shown on the final plat.

2. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the private alley tract to the satisfaction of the Fire Bureau.

3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions B.11-13 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

4. The Tree Preservation tract shall be noted on the plat as "Tract C: Private Tree Preservation Tract. A note must also be provided on the plat indicating that the tract will commonly owned and maintained by the owners of lots 1 through 9; or lots 4 and 5 which abut the tract.

5. The private alley tract shall be noted on the plat as "Tract A: Private Alley Tract. A note must also be provided on the plat indicating that the tract will commonly owned and maintained by the owners of lots 1 through 9.

6. The private Stormwater Management tract shall be noted on the plat as "Tract C: Private Stormwater Management Tract. A note must also be provided on the plat indicating that the tract will commonly owned and maintained by the owners of lots 1 through 9.

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

Streets and Alleys

1. The applicant shall meet the requirements of the City Engineer for right-of-way improvements along the site's street frontage and for a new public pedestrian connection. 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 improvements.

2. The applicant shall submit an application for a Site Development Permit for mass grading and construction of the private alley 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.1-C.5 and the *Private Street Administrative Rule*. The plans must show root protection zones of the trees to be preserved on the final Tree Preservation Plan per condition B.14 below. The plan must also show soil stockpile area. The private alley improvements shall also include fire apparatus access, no parking signs, and driving surfaces to the satisfaction of the Fire Bureau.

3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private alley 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.

Utilities

4. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in the new public pedestrian connection. Prior to final plat approval, the applicant must complete one of the following to the satisfaction of BES:

   a. Through a Public Works Permit, submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, provide any necessary easements, and provide a signed permit document; or

   b. Construct the public sewer and pay associated fees under a BES Simplified Permit.

5. Prior to final plat approval, the applicant must submit a private stormwater management plan that meets BES standards and that does not necessitate Plumbing Code Appeals and/or Encroachment Permits or must complete the following related to the proposal submitted for a private stormwater management system:

   a. Submit documentation of an approved Plumbing Code Appeal for the proposed shared stormwater facility; and

   b. Submit documentation of an approved Encroachment Permit for the proposed private storm line crossing public right-of-way.

6. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in the new public pedestrian connection.

7. Prior to final plat approval, the applicant must obtain a private sewer easement from the property to the east that meets applicable BES standards in order to access the public storm sewer located in a Public sewer easement on this property. Alternatively, the applicant must submit a private stormwater management plan that meets BES standards and that does not necessitate an easement.

8. 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.

9. The applicant must meet the requirements of the Fire Bureau and demonstrate the site as adequate Fire Hydrant spacing. If required, the applicant shall meet the requirements of the Fire Bureau for installing a new fire hydrant. The applicant must contact the Water Bureau, Development Services Department at 503-823-7368, for fee installation information related to the purchase and installation of fire hydrants. The applicant must purchase the hydrant and provide verification to the Fire Bureau that the Water Bureau will be installing the required fire hydrant, with the required fire flow and pressure.

Existing Development

10. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition

delay period for most residential structures. The site plan for the demolition and decommissioning permit must show all trees to be preserved and root protection zones as shown indicated in Exhibit A.12. The demolition permit for removal of the existing house shall include decommissioning of the existing on-site sewage disposal system unless the applicant obtains final approval of decommissioning permits.

Required Legal Documents

11. The applicant shall execute a Maintenance Agreement for the private alley tract, private stormwater management tract and the private tree preservation Tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1-9 (or lots 4-5 for the tree preservation tract) and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area.

    The agreement must also acknowledge all easements granted within the alley tract, the beneficiaries of those easements (such as the Fire Bureau requires an Emergency Vehicle Access Easement). 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.

12. If the Fire Bureau requires the applicant to execute an Acknowledgement of Special Land Use conditions for internal fire suppression sprinklers on Lots 1-9, the acknowledgement shall be referenced on and recorded with the final plat.

13. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to the Tree Preservation Tract and impact construction on Lots 4, 5 and the private alley tract. A copy of the final approved Tree Preservation Plan (see condition B.14) must be included as an exhibit to the acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

Other requirements

14. The applicant must submit a final Tree Protection Plan showing the trees required to be protected and the alternative root protection zone (ARPZ) required by the applicant's arborist per Exhibit A.12. This site plan must be exhibited in correlation with the Acknowledgement of Tree Preservation Land Use Conditions required under condition B.13 above and reflected on the site development permit required above under condition B.2.

15. The applicant must meet one of the following Tree Mitigation options prior to final plat approval:

    Option 1) Prior to final plat approval provide written documentation from Urban Forestry that tree #400 will be preserved within the new Public Pedestrian Path; Option 2) Prior to final pat approval the applicant must pay into the City Tree Preservation and Planting Fund [Private Property Trees – Planting and Establishment, fee in Lieu (per inch)] the amount equivalent to 11 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau. Payment must be completed prior to any tree removal, or prior to Final Plat approval, whichever would occur first.

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

1. Development on the site shall be in conformance with the Final Tree Preservation Plan (per Condition B.14) and the applicant arborist report (Exhibit A.12). This requirement will impact

new development proposed adjacent to the tree preservation tract on Lots 4 and 5 and construction of the private alley tract.

Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Prescriptive Path allowances of 11.60.030 or is under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones beyond the allowances of 11.60.030 is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his/her supervision as indicated in Exhibit A.12.

2. The private alley must be substantially complete prior to issuance of any permits for residential construction.

3. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finaled for the new utility lines that will be constructed beneath the paved surface of the new private alley.

4. Final approval of the Site Development permit for the private alley shall be required prior to final approval of the permits for the houses on the lots abutting the private alley.

5. 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.

6. The applicant must post the private alley with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the signs must be shown on the development permit.

7. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal or exception to Fire Code requirements allowing installation of residential sprinklers. Please refer to the final plat approval report for details on whether or not this requirement applies.

8. Vehicle access to Lots 1-9 is required from the Private Alley Tract.

PROCEDURAL INFORMATION

The application for this land use review was submitted on August 24, 2018 and was determined to be complete on Feb 20, 2019.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on August 24, 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 245 days as stated with (Exhibit A.6). T**he 365 days will expire on: 2/20/20.**

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 recommendation 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 report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case. This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at www.portlandonline.com. On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

Appeal of the decision. The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Who can appeal: You may appeal the decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/applicant. Appeals must be filed within 14 days of the decision. **Appeals must be filed within 14 days of the decision. An appeal fee of $5,000 will be charged (one-half of the BDS application fee, up to a maximum of $5,000).**

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type

III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

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.**

Planner's Name: Shawn Burgett
Date: September 27, 2019

EXHIBITS
NOT ATTACHED UNLESS INDICATED

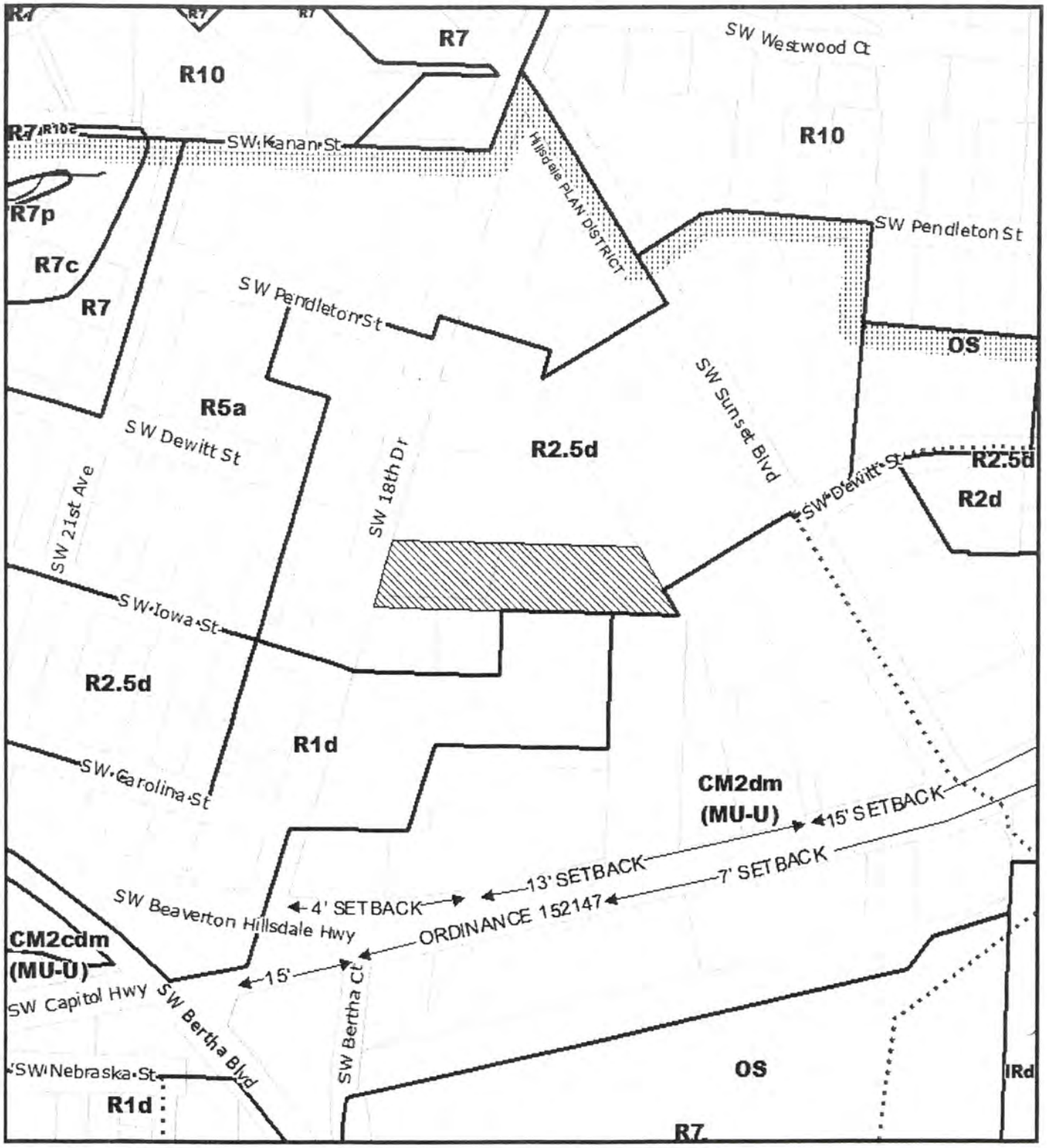
A. Applicant's Statement:
   1. Applicants Narrative
   2. Geotechnical report dated 3/30/18
   3. Infiltration test results dated 12/31/18
   4. Landslide Hazard study dated 1/9/19
   5. Engineering Geologic Reconnaissance and Landslide Hazard Study dated 1/11/19
   6. 245-day extension to 120-day clock
   7. Stormwater Drainage calculations
   8. Memo from applicant dated 3/1/19
   9. Deed info
   10. Early Neighborhood Notification documentation
   11. Retaining wall detail received 9/11/19
   12. Arborist report
   13. Plan set submitted 8/24/18
   14. Revised Plan set received 7/2/19
   15. Revised clearing and grading plan received 9/11/19
B. Zoning Map (attached):
C. Plans & Drawings:
   1. Site Plan (attached)
   2. Clearing and Grading Plan (attached)
   3. Utility Plan (attached)
   4. Existing conditions plan
   5. Full Plan set
D. Notification information:
   1. Request for response
   2. Posting letter sent to applicant
   3. Notice to be posted
   4. Applicant's statement certifying posting
   5. Mailing list
   6. 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 Bureau of Development Services

6. Bureau of Parks, Forestry Division

F. Letters:
1. Adam Light, e-mail received 2/15/19 from adam.light@gmail.com, copied on correspondence to applicant

G. Other:
1. Original LUR Application
2. Incomplete Letter dated 9/23/19
3. Pre-application summary memo (EA 17-283095)
4. E-mail correspondence between applicant, city staff and arborist
5. 2018 aerial photo of site
6. E-mail to applicant dated 7/2/19 requesting Root Protection zone on site plan

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

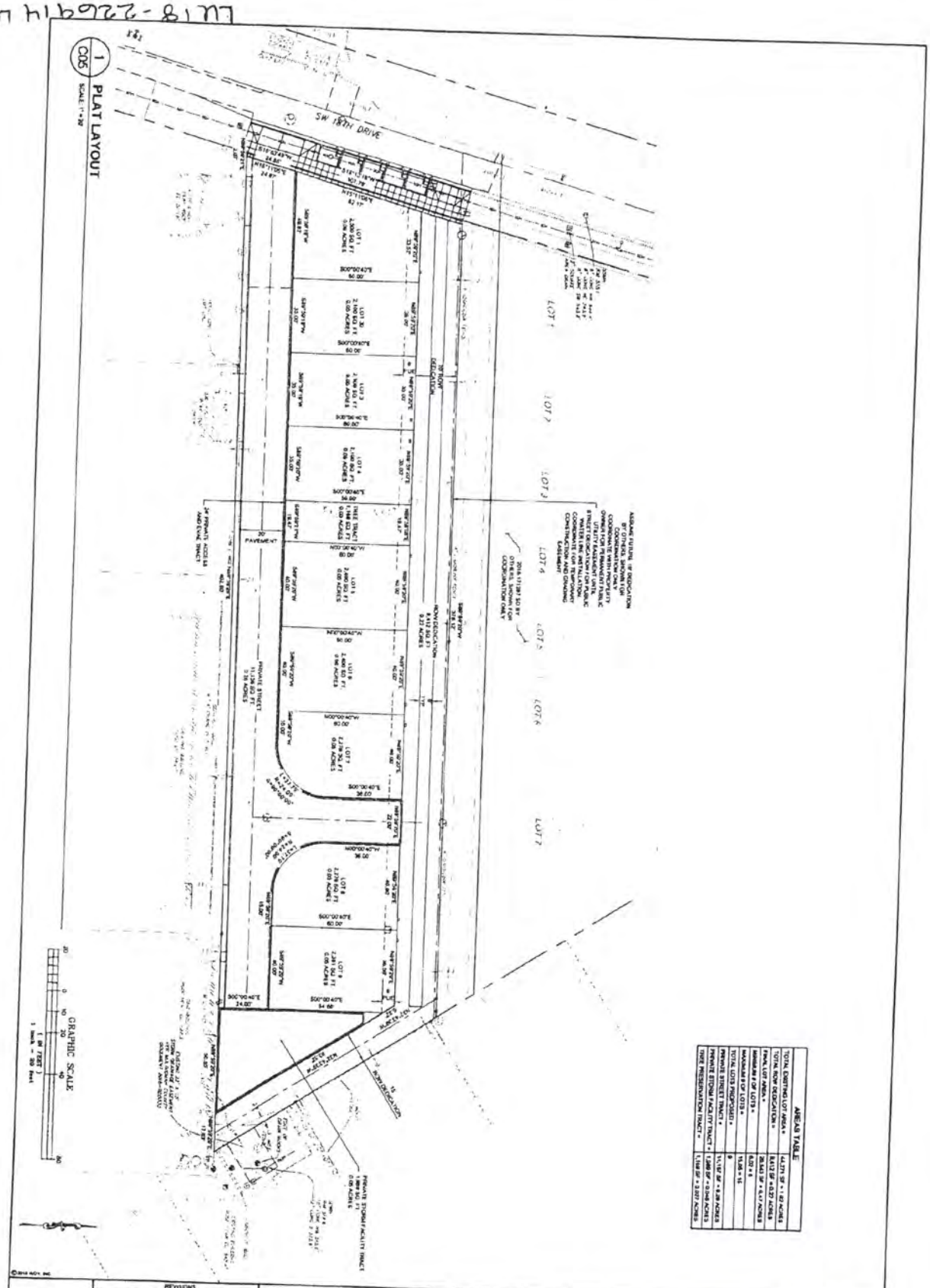
NORTH

THIS SITE LIES WITHIN THE:
HILLSDALE PLAN DISTRICT

Site
Stream
Recreational Trails

File No.	LU 18-226914 LDS
1/4 Section	3627
Scale	1 inch = 200 feet
State ID	1S1E16CA 7400
Exhibit	B Jul 17, 2019

LU 18-226914 LDS



CASE NO. 18-226914

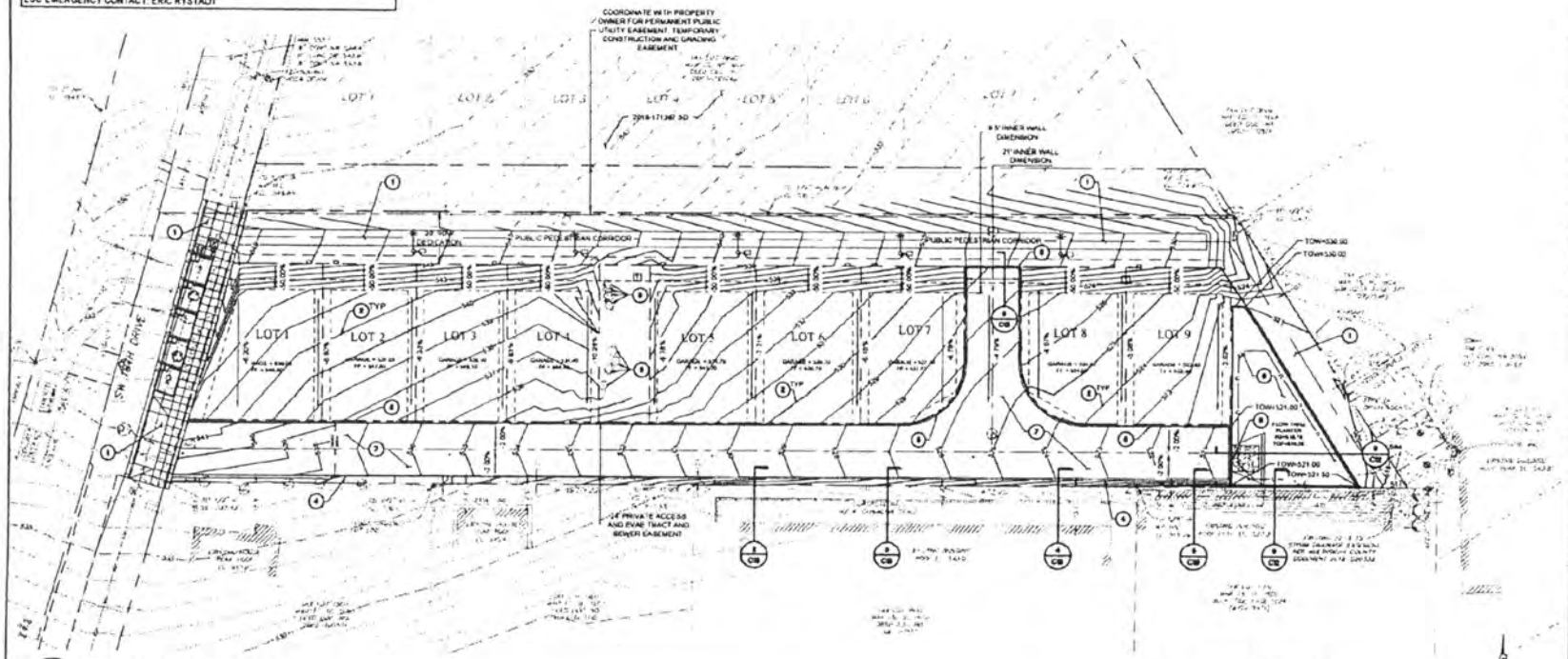
EXHIBIT C-1

KEYNOTES FOR THIS SHEET

MARK	DESCRIPTION
1	PUBLIC IMPROVEMENTS TO BE INSTALLED UNDER PSOT PERMIT #TH0046 AND SES PERMIT #EP521, TYP.
2	PROPOSED CONTOURS FOR TEMPORARY OVER LOT GRADING, TYP.
3	INSTALL CONCRETE SITE RETAINING WALL FOR FIRE TRUCK TURN AROUND PER DETAIL 6/C12. PROVIDE BIDDER DESIGN FALL PROTECTION.
4	INSTALL TALL CURB WALL ALONG SOUTH DRIVEWAY EDGE. SEE DETAIL 7/C12. SEE SHEET C09 FOR PLAN AND PROFILE.
5	INSTALL STANDARD CURB ALONG NORTH DRIVEWAY. SEE DETAIL 08/C12. SEE SHEET C09 FOR PLAN AND PROFILE. COORDINATE WITH BUILDING DWGS OR PLOT PLANS FOR ONSITE CURB CUTS AND DRIVEWAYS PRIOR TO INSTALLING.
6	INSTALL PRIVATE STORM PLANTER PER DETAIL 9/C12. PROVIDE BIDDER DESIGN FALL PROTECTION.
7	INSTALL PRIVATE STREET PAVEMENT PER DETAIL 6/C12.
8	PROTECT EXISTING TREES TO REMAIN. NO MASS GRADING TO OCCUR ON THIS TRACT WITHOUT SUPERVISION BY PROJECT ARBORIST.
9	INSTALL CURB CUT IN PLANTER WALL. SEE DETAIL 10/C12.

TOTAL CUT = 836.25 CU. YD.
TOTAL FILL = 1554.83 CU. YD.
NET TOTAL = 724.58 CU. YD. (FILL)

NOTE:
THIS PROJECT IS REQUIRED TO OBTAIN AND MANAGE A DEQ 1200C PERMIT. ALL EROSION AND SEDIMENT CONTROL MEASURES FOR THIS PROJECT ARE DESIGNED AND SHOWN ON THE 1200C PERMIT DRAWINGS. CONTRACTOR IS REQUIRED TO MANAGE ALL EROSION AND SEDIMENT CONTROL MEASURES DURING CONSTRUCTION AND UNTIL PERMANENT ESC MEASURES ARE SUBSTANTIALLY ESTABLISHED.
ESC EMERGENCY CONTACT: ERIC RYSTADT



1 / C07 OVERALL GRADING PLAN
SCALE 1" = 20'

GRAPHIC SCALE
20 0 10 20 40 80
(IN FEET)
1 inch = 20 feet

Preliminary
09/11/2019

WDY

18TH DRIVE SUBDIVISION
6014 SW 18TH DR
PORTLAND, OR 97239
OVERALL GRADING PLAN

REVISIONS

DATE	DRAWN	CHECKED
09/13/2019	ALM	CJD

JOB NUMBER 18215

SHEET
C07

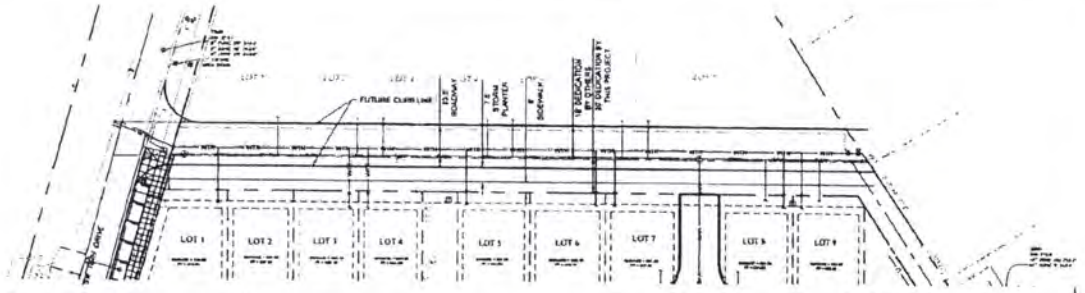
7 OF 13

CASE NO. 18-2269H
EXHIBIT C-2

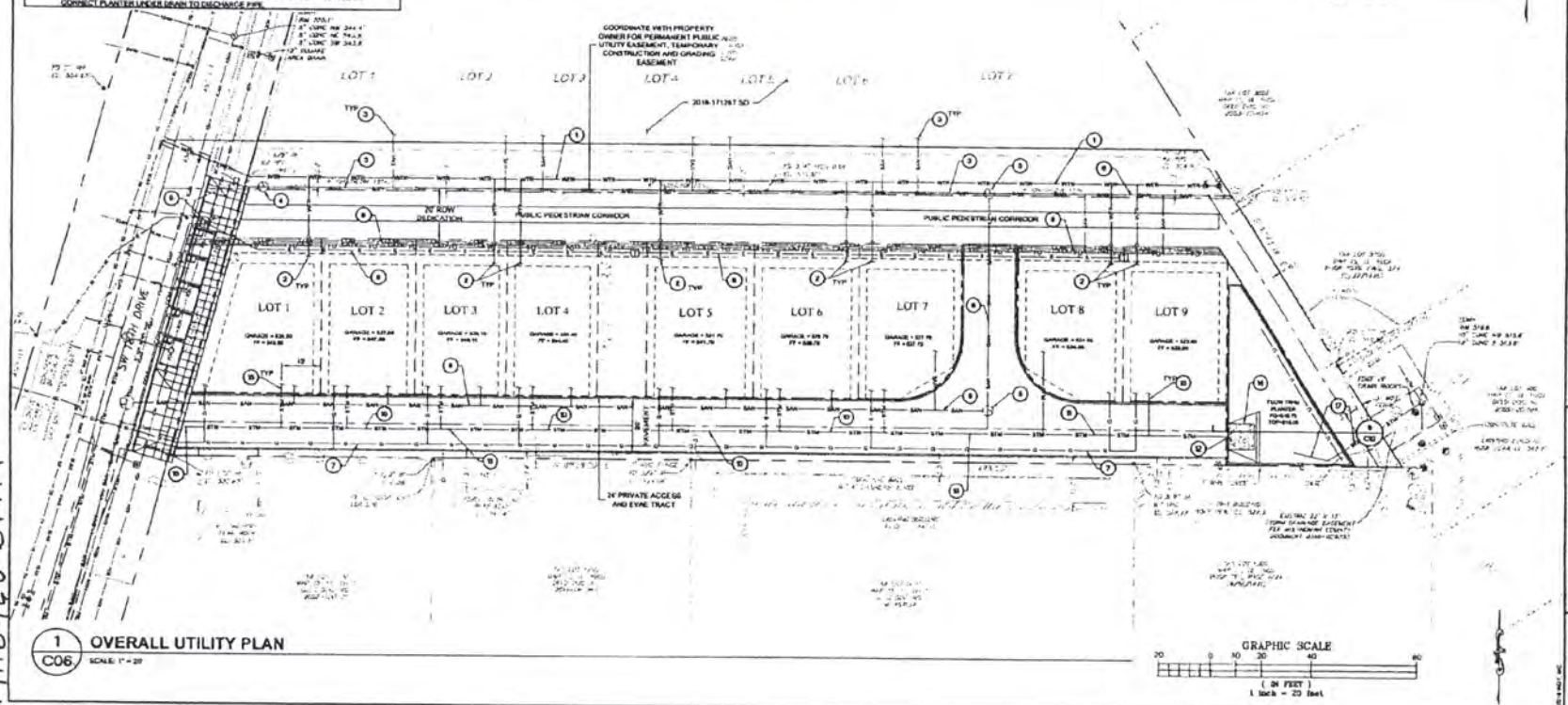
CASE NO. 18-226914
EXHIBIT C-3

KEYNOTES FOR THIS SHEET

MARK	DESCRIPTION
1	NEW WATER MAIN TO BE INSTALLED BY PORTLAND WATER BUREAU UNDER SEPARATE PERMIT IN PUBLIC UTILITY EASEMENT OR PUBLIC RIGHT OF WAY.
2	NEW DOMESTIC WATER SERVICE LATERALS AND METERS TO BE INSTALLED BY PORTLAND WATER BUREAU (TYP).
3	FUTURE PUBLIC SANITARY SEWER MAIN AND LATERALS TO BE INSTALLED FOR THE NORTH PROPERTY UNDER SEPARATE PERMIT BY OTHERS.
4	FUTURE SANITARY MANHOLE TO BE INSTALLED BY OTHERS.
5	NEW PUBLIC SANITARY MANHOLE TO BE INSTALLED UNDER SEPARATE PERMIT. SEE BES PERMIT #EP400
6	NEW PUBLIC SANITARY MAIN AND LATERAL S TO BE INSTALLED UNDER SPERATE PERMIT. SEE BES PERMIT #EP400
7	COORDINATE WITH SERVICE PROVIDER FOR NEW GAS SERVICE MAIN AND LATERALS TO EACH LOT. PROVIDE INFORMATION TO E.O.R FOR COORDINATION, TYP.
8	COORDINATE WITH SERVICE PROVIDERS FOR INSTALLATION OF NEW UNDERGROUND DRY UTILITIES FOR DATA, COAX, TELE, AND FIBER OPTIC. PROVIDE INFORMATION TO E.O.R FOR COORDINATION, TYP.
9	COORDINATE WITH SERVICE PROVIDERS FOR INSTALLATION OF POWER DISTRIBUTION PROVIDE INFORMATION TO E.O.R FOR COORDINATION, TYP.
10	INSTALL 8" DIA. HDPE STM PIPE AT 0.5% SLOPE FOR CONVEYANCE OF PRIVATE LOT STORM RUNOFF TO STORM PLANTER. SEE SHEET C08 AND C10 PLAN AND PROFILE.
11	INSTALL 8" DIA. HDPE STM PIPE AT 0.5% SLOPE. IE AT PLANTER = 516.75. SEE SHEET C08 AND C10 PLAN AND PROFILE.
12	PROVIDE ROUND BLOCK OUT AT PLANTER WALL FOR PIPE PENETRATION. GROUT SEAL HDPE PIPE IN PLACE WITH NON SHRINK GROUT. PIPE TO EXTEND 12" INTO PLANTER.
13	INSTALL 8" CLEAN OUT ON STM AT 100' O.C. PER DETAIL. SEE SHEET C08 AND C10 PLAN AND PROFILE.
14	INSTALL 10' x10' 12" THICK CLASS 100 RIP-RAP UNDERLAIN WITH GEOTEXTILE FABRIC.
15	INSTALL 8" DIA. HDPE STM LATERAL TO EACH LOT AT 1.0% SLOPE. PROVIDE TEMPORARY CAP AND 2x4 TO EXTEND 2 FEET ABOVE FINISH GRADE PAINTED GREEN WITH BLACK LETTERING "STM" AT END OF STUB OUT.
16	INSTALL FLOW THRU STORM PLANTER SIMILAR TO DETAIL #C12. SEE GRADING PLAN FOR TOP OF WALL AND FINISH GRADE ELEVATIONS.
17	INSTALL 8" DIA. PVC ASTM D3034, DR-35 STM LINE FROM OVER FLOW RISER AND CONNECT TO EXISTING PUBLIC MANHOLE PER CITY SPECIFICATIONS. PROVIDE 4" X 8" TEE TO CONNECT PLANTER UNDER DRAIN TO DISCHARGE PIPE.



2 C06 PROPOSED FUTURE STREET LAYOUT
SCALE: 1" = 30'



1 C06 OVERALL UTILITY PLAN
SCALE: 1" = 20'

REGISTERED PROFESSIONAL ENGINEER
OREGON
CHRIS J. DEGLAUFFENRIED
REVIEWS: 10-31-2019

WDY

18TH DRIVE SUBDIVISION

6014 SW 18TH DR
PORTLAND, OR 97239

OVERALL UTILITY PLAN

REVISIONS		
DATE	09/16/2019	DRAWN AJM
JOB NUMBER	18213	CHECKED CJD

SHEET C06

6 OF 12

LU 18-226914 LDS