



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

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Date: December 2, 2019
To: Interested Person
From: Timothy Novak, Land Use Services
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NOTICE OF A TYPE I_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision.

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

CASE FILE NUMBER: LU 19-184538 LDP

GENERAL INFORMATION

Applicant: Peter F Fry,
303 NW Upton Terrace #1b
Portland, OR. 97210

**Owner/
Representative:** Eric Paine *for*
Lido Investment Group
3416 Via Oporto #301
Newport Beach, CA. 92663

Site Address: 4515 NE 118TH AVE

Legal Description: BLOCK 2 E 125.26' OF LOT 10, SANDY ROAD VILLAS
Tax Account No.: R744700670
State ID No.: 1N2E22AD 01600
Quarter Section: 2542

Neighborhood: Parkrose Neighborhood Assoc., contact at parkroseneighbors@gmail.com.
Business District: Parkrose Business Association, contact parkrosebusinessassociation@gmail.com, Historic Parkrose Business Association, contact at 503-964-7807.

District Coalition: East Portland Community Office, contact Victor Salinas at 503-823-6694.

Zoning: Single-Dwelling Residential 5,000 (R5), Aircraft Landing Overlay Zone (h), Portland International Airport Noise Impact Overlay Zone (x)

Case Type: Land Division Partition (LDP)

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

Proposal:

No new development is proposed at the site. The proposal is to divide the existing 13,152 square-foot lot into two parcels for detached single-family dwellings. There are two existing houses on the lot. The proposal is to divide the lot so that each house is on its own lot. Proposed Parcel 1, which will be the corner lot, will be 7,506 square feet in area. Proposed Parcel 2, which will have frontage on NE 118th Avenue, will be 5,646 square feet in area. The applicants propose to retain all existing trees on the property that are 6" or greater in diameter. There are 3 trees along the west property line and 1 tree at the south end of a large hedge on the northern parcel that are proposed for preservation. Parking is proposed to remain unchanged, with an access easement allowing the driveway for the house on Parcel 2 to cross over Parcel 1.

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

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

Relevant Approval Criteria:

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

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. This application was submitted on June 26, 2019 and determined to be complete on August 27, 2019.

ANALYSIS

Site and Vicinity: The project site is a 13,125 square-foot corner lot at the NW corner of the intersection of NE Prescott Street and NE 118th Avenue. To the south, across NE Prescott Street, are athletic fields and Parkrose High School. The remainder of the vicinity is primarily developed with single-family residential, with commercial and industrial uses stemming off NE Sandy Blvd, which is the next intersection to the north, about 600 feet away. In the nearby residential areas there is a well-developed north-south grid pattern with many cul-de-sacs and private streets interspersed throughout.

The topography of the area is relatively flat, generally sloping gently to the north, towards the Columbia slough and the Columbia River, which is a little less than a mile away.

Trees on the property are concentrated along the western property line and in a hedge to the north and west of the house on Parcel 2. There are nine trees 12" or greater in diameter on the site, six of which are part of the hedge. There is one tree with a diameter of at least 20" in the hedge. None of the trees on the site are nuisance species. Four are proposed for preservation, including the 20" tree; no trees are proposed for removal at this time.

Infrastructure:

- **Streets - TSP Classifications:** At this location, the City's Transportation System Plan (TSP) classifies NE Prescott as a Neighborhood Collector, Major Transit Priority, City Walkway, City Bikeway, Secondary Emergency Response, and Community Corridor for Design; whereas NE 118th is classified as Local Service for all modes. - **Existing Conditions:** At this location, NE Prescott is improved with an approximate 28-ft wide paved roadway within an approximate 60-ft wide ROW, which is lacking a curb and sidewalk. NE 118th is improved with a 22-ft wide paved roadway within a 50-ft wide ROW, which is also lacking a curb and sidewalk.
- **Water Service** – Based on City GIS resources, the northern house is served by an existing 6-inch water main in NE 118th Avenue by a 3/4-inch metered service. The southern house is served by an existing 16-inch water main in NE Prescott Street by a 3/4-inch metered service.
- **Sanitary Service** - There is an existing 8-inch PVC sanitary-only sewer line in NE 118th Avenue and an existing 8-inch PVC sanitary-only sewer line in NE Prescott Street (BES as-built #5045).
- **Stormwater Disposal** – There are no public storm-only sewers currently available to this property.

Zoning: The R5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The Aircraft Landing ("h") overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. The Portland International Airport Noise Impact overlay zone ("x") reduces the impact of aircraft noise on development within the noise impact area surrounding the Portland International Airport. The zone achieves this by limiting residential densities and by requiring noise insulation, noise disclosure statements, and noise easement. These regulations must be shown to be met at the time of building permit.

Land Use History: City Records indicate that there are two prior land use reviews for this site:

- **LU 97-014868 MP** – Approval of a minor partition to create two parcels. Similar to this application, it was intended to place each house on its own lot. No Final Plat was submitted and the approval was voided.
- **LU 98-015701 AD** – Approval of a reduction to the side setback of the southern house on the property in order to allow for the location of the proposed lot line approved under LU 97-014868 MP.

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **September 3, 2019**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES 33.660.120

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.B - Non-local street standard	With no proposed increase in trips, no abutting ROW improvements will not be required at this time.
	33.654.120.C.2 - Configuration of elements within ROW	With no proposed increase in trips, no abutting ROW improvements will not be required at this time.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.
	33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

Applicable Approval Criteria are:**A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.**

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Based on the applicant's survey, the site area is 13,152 square feet. The maximum density in the R5 zone is one unit per 5,000 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area.

Based on the lot size, the site has a maximum density of 2 units and a minimum required density of 2 units. Per exception 33.610.100.E.1, if the minimum required density is equal to the maximum allowed density, then the minimum is automatically reduced by one. Therefore, the minimum density for the site is one unit. The applicant is proposing 2 single dwelling parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	7,506		58	125.26	58
Parcel 2	5,646		47	125.26	47

* 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.

33.610.200.G Regular lot lines, requires that as far as is practical, all lot lines must be straight and the side lot lines of a lot or parcel must be at right angles to the street on which it fronts. The proposed lot line to divide the parcels is straight but for a 5-foot jog in it 77 feet east of the lot line abutting NE 118th Avenue. The step is required for the existing development to maintain required side setbacks. Providing a straight lot line without the jog would require physical modifications to a least one of the existing houses to remove portions encroaching into the required side setback. The length of the proposed side lot line is only 4% longer than a completely straight lot line at the location and the overall regular and rectangular shape of the proposed parcels continues to be compatible with nearby lots. The proposed configuration maintains the developability of each parcel with a house and garage and space for outdoor area. As such, the jog is both consistent with the applicable purpose statement and more practical than requiring physical alterations to existing structure(s).

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

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

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

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

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

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

In order to identify which trees are subject to these requirements, the applicant provided an arborist report (Exhibit A.4) that identifies each tree, its condition, and its suitability for preservation or exempt status. A tree survey is included in the arborist report that shows the location and size of trees on and adjacent to the site.

Based on this information, 4 trees, which provide a total of 78 inches of tree diameter, are subject to the preservation requirements of this chapter.

The trees proposed for preservation are in good condition, include native/non-nuisance species, and include the only tree on the site that is 20 or more inches in diameter. As stated above, the site is already fully developed and no new development is proposed. As such, no specific root protection zones have been proposed. Trees will need to be protected in accordance with 11.60.030 Tree Protection Specifications, if and when future improvements on either parcel are proposed. Using the prescriptive path to establish root protection zones will allow for the type of development anticipated in the R5 zone and will not conflict with any existing utility easements, proposed services or site grading.

Specifically, the applicant proposes to retain the only tree that is 20 or more inches in diameter and 78 inches of the total tree diameter, which is 26.7% of the total tree diameter on the site of 292 inches, so the proposal complies with:

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

In order to ensure that future owners of the parcels are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.4) and the Arborist Report (Exhibit A.3).

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

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

Findings: The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

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

Clearing and Grading. In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. The existing driveways and houses are to be retained and no new development is proposed, so no grading plan has been provided. If and when new improvements are proposed, minimal clearing or grading will be required. Trees required to be preserved are located so that grading for new development is possible while still meeting tree protection specifications to preserve those trees. This criterion is met.

Land Suitability. The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there are old cesspools on the site, that served each of the houses. The City has no record that these facilities were ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the facilities. With a condition requiring final inspection for decommissioning permit(s), the new lots can be considered suitable for new development, and this criterion is met.

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

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

The following easement is proposed for this land division:

- A private access easement on Parcel 1 is required for a portion of the driveway serving Parcel 2.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easement 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 with a recording block for the 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 condition of approval discussed above, this criterion is met.

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

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

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

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

The applicant provided a written narrative addressing the transportation approval criteria above. The subject site is an existing non-confirming parcel with two single-family residences on a one lot. The northern home, built in 1928, fronts onto NE 18th; while the larger, ranch-style home constructed in 1957 fronts onto NE Prescott. There is no development proposed on either of the two proposed lots, the request proposes to simply separate the two homes on their individual parcels. Based upon trip generation estimates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition, an additional parcel is projected to generate one additional morning and evening trip, for approximately ten daily trips for the new parcel. However, as noted above, with the two existing homes remaining, the net impact will be negligible and will not adversely impact the operations of area intersections. Therefore, the transportation system is capable of safely supporting the current development in addition to existing uses in the area. The existing homes will utilize their established driveways, which will continue to provide off-street parking for each proposed parcel, in which neighborhood impacts would be negligible due to the existing homes remaining. The site is well served by transportation options to reduce impacts to the neighborhood and provide safety for all modes, including Tri-Met bus service #73-122nd and #21-Sandy is located within half mile of the site. NE Prescott is an identified City Bikeway, which provides safer, dedicated routes to other areas in Portland, including to NE 122nd which recently received pedestrian and bicycle safety improvements. And while the abutting pedestrian corridor lacks a curb and sidewalk, the relative low-volume provides safe access within the surrounding neighborhood to more developed surrounding pedestrian network. Therefore, with the existing homes to remain and no proposed development, the partition request will not negatively impact the neighborhood, transportation modes, and connectivity.

Based on PBOT's finding above, no mitigation is necessary for the transportation system to be capable of supporting the proposed development in addition to the existing uses in the area. These criteria are met.

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

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

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

The Water Bureau has indicated that service is available to the site, as noted on page 3 of this report. The water service standards of 33.651 have been verified.

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

The Bureau of Environmental Services (BES) has indicated that service is available to the site, as noted on page 3 of this report. The sanitary sewer service standards of 33.652 have been verified.

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

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

The Bureau of Environmental Services (BES) reviewed the stormwater management provided for the existing houses and provided the following comments:

BES notes that per information the applicant submitted, stormwater from the existing house to remain on Parcel 2 discharges to a combination of soakage trenches and drywells, which appear to meet setback requirements to the proposed new property lines. No additional information is required related to stormwater disposal on Parcel 2.

BES notes that for Parcel 1, the submitted information indicates that stormwater disposal from two downspouts discharge into the house sanitary sewer system, which discharges into a sanitary-only sewer in NE Prescott Street. Stormwater discharge into the sanitary-only sewer is not permitted. In addition, drain #4 discharges to the ground surface but does not appear to meet setback requirements to the existing house or proposed new property line. Therefore, prior to final plat approval, the applicant must retrofit drains 1, 3, and 4 on Parcel 1 so that stormwater discharges meet SWMM requirements, to the satisfaction of BES.

With the condition that stormwater disposal on Parcel 1 by modified to meet SWMM requirements prior to final plat, the stormwater management standards of 33.653.020 & 030 are met.

33.654.110.B.1 Through streets and pedestrian connections

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

The site is located on a corner, in which the surrounding street networks is generally complete, with many redundant connections surrounding the property. The subject site is located at an intersection of established rights-of-way, therefore additional connections are not warranted at this location.

For the reason described above, this criterion is met.

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

The existing frontages along both NE Prescott Street and NE 118th Avenue lack curb and sidewalk and do not meet City Standards. In reviewing this land division, PBOT relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new parcels.

As noted above, the subject site is an existing non-confirming parcel with two single-family residences on a one lot; the northern home built in 1928, and the larger, ranch-style constructed in 1957. The proposed two-lot partition brings the subject property into conformance by providing a separate lot for each of the single-family residences. With no proposed increase in trips, no abutting ROW improvements will be required at this time. ROW requirements will be required to bring the frontage into conformance with City Standards if and when new development is proposed on the parcels.

Based on the foregoing, for purposes of this review, this criterion is met.

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

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

DEVELOPMENT STANDARDS

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

The proposed lots are currently developed and no new improvements are proposed. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment.

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

Title 11 Tree Density Standard – This site has a minimum tree density requirement per 11.50.050 that is currently met on the site. Due to the land division, Parcel 1 will no longer meet this standard. Parcel 1 is 7,506 square feet, therefore 3,002.4 square feet of tree canopy is required. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Parcel 1 or making the equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized Zoning Permit.

Minimum Setbacks – The existing houses to remain on the site must meet the required Zoning Code setbacks from the proposed new lot line; the minimum side setback in the R5 zone is 5 feet. As noted above, the applicant has proposed a slight jog in the proposed shared lot line to meet this requirement. The existing house on Parcel 1 will have a minimum side setback from the new property line of 5.5 feet; the existing house on Parcel 2 will have a minimum side setback from the new property line of 8.3 feet. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot line.

Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. As a result of this land division the existing required on-site parking for Parcel 2 will be located partially on Parcel 1. To address the issue, the applicant proposes a parking and driveway easement to allow

Parcel 2 to continue utilizing the portion of its driveway and parking space that will be located on Parcel 1. Alternatively, the applicant can choose to relocate the driveway and parking space for Parcel 2 to the north side of the existing house, completely on the property. Prior to approval of the Final Plat, one of the two options below must be completed:

1. The Final Plat must show the easement and a maintenance agreement for the area of the easement must be recorded with the plat; OR
2. The applicant must obtain and finalize a Zoning Permit to remove the existing driveway and parking space for Parcel 2 and move it to the north side of the house.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant must meet the requirements of Urban Forestry for loss of street tree planting area and street tree planting in the existing planter strip adjacent to Parcel 1 prior to final plat approval. These requirements are based on the standards of Title 11.
- The applicant must obtain final approval of decommissioning permits for the cesspools that served each house prior to Final Plat approval.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions related to driveway easement and parking for Parcel 2, stormwater management for Parcel 1, cesspool decommissioning, and trees.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in 2 standard lots for single dwelling development as illustrated with Exhibits C.1 – C.4, subject to the following conditions:

- A. Supplemental Plan.** Two copies of an additional supplemental plan shall be submitted with the final plat survey for review and approval by Land Use. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
- Any buildings or accessory structures on the site at the time of the final plat application;
 - Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
 - Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A recording block for each of the legal documents such as maintenance agreement(s), easements, acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.3 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “An Acknowledgement of Special Land Use Conditions has been recorded as document no. _____, Multnomah County Deed Records.”
2. The location of the parking and access easement on Parcel 1 for the benefit of Parcel 2. Alternatively, the applicant may relocate the driveway and parking space for Parcel 2 to the north side of the house, fully on the subject property, if a finalized permit for the new parking space is obtained, per Condition C.4.

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

Existing Development

3. The applicant must obtain final approval of a decommissioning permit for the cesspools that served the existing houses to the satisfaction of the Site Development section of the Bureau of Development Services.
4. The applicant must meet the tree density standard of 11.50.050 on Parcel 1 with the existing house by either planting trees on the lot sufficient for 1,003 square feet of additional tree canopy (*2,000 square feet is existing and being preserved*) or by making the equivalent payment into the City Tree Preservation and Planting Fund. A finalized Zoning Permit must be obtained to document tree planting prior to final plat approval.
5. The applicant must modify the stormwater disposal system serving the existing structure on Parcel 1 according to BES and SWMM requirements. Obtain finalized permits as necessary prior to final plat approval.
6. If the on-site parking space for Parcel 2 is moved to the north side of the house so that no easement is required, the applicant is required to obtain and finalize a zoning permit for the new driveway and parking space.

Required Legal Documents

7. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 & 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.
8. If the existing driveway for Parcel 2 is to remain in place, the applicant shall submit a covenant to record future maintenance agreement easement for an access and parking easement to allow a portion of the driveway for Parcel 2 to cross over Parcel 1.

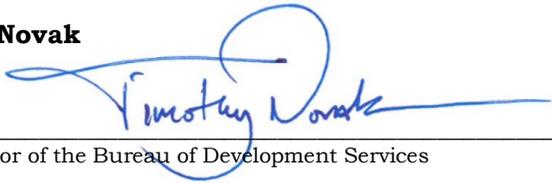
Other requirements

9. The applicant must pay into the City Tree Preservation and Planting Fund [Street Trees – Fee in Lieu of Planting and Establishment (per inch)] the amount equivalent to 1.5 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

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

10. Development on Parcels 1 & 2 shall be in conformance with the approved tree preservation plan, as shown on the Preliminary Land Division Plan (Exhibit C.4) and as detailed in the applicant's arborist report (Exhibit A.3). Specifically, trees numbered 1, 2, 3, and 14 are required to be preserved in accordance with the Tree Protection Specifications of 11.60.030.

Staff Planner: Timothy Novak

Decision rendered by:  **on 11/26/2019**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 2, 2019

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

Procedural Information. The application for this land use review was submitted on June 26, 2019 and was determined to be complete on August 27, 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 June 26, 2019.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: December 25, 2019.**

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

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

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

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

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

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

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

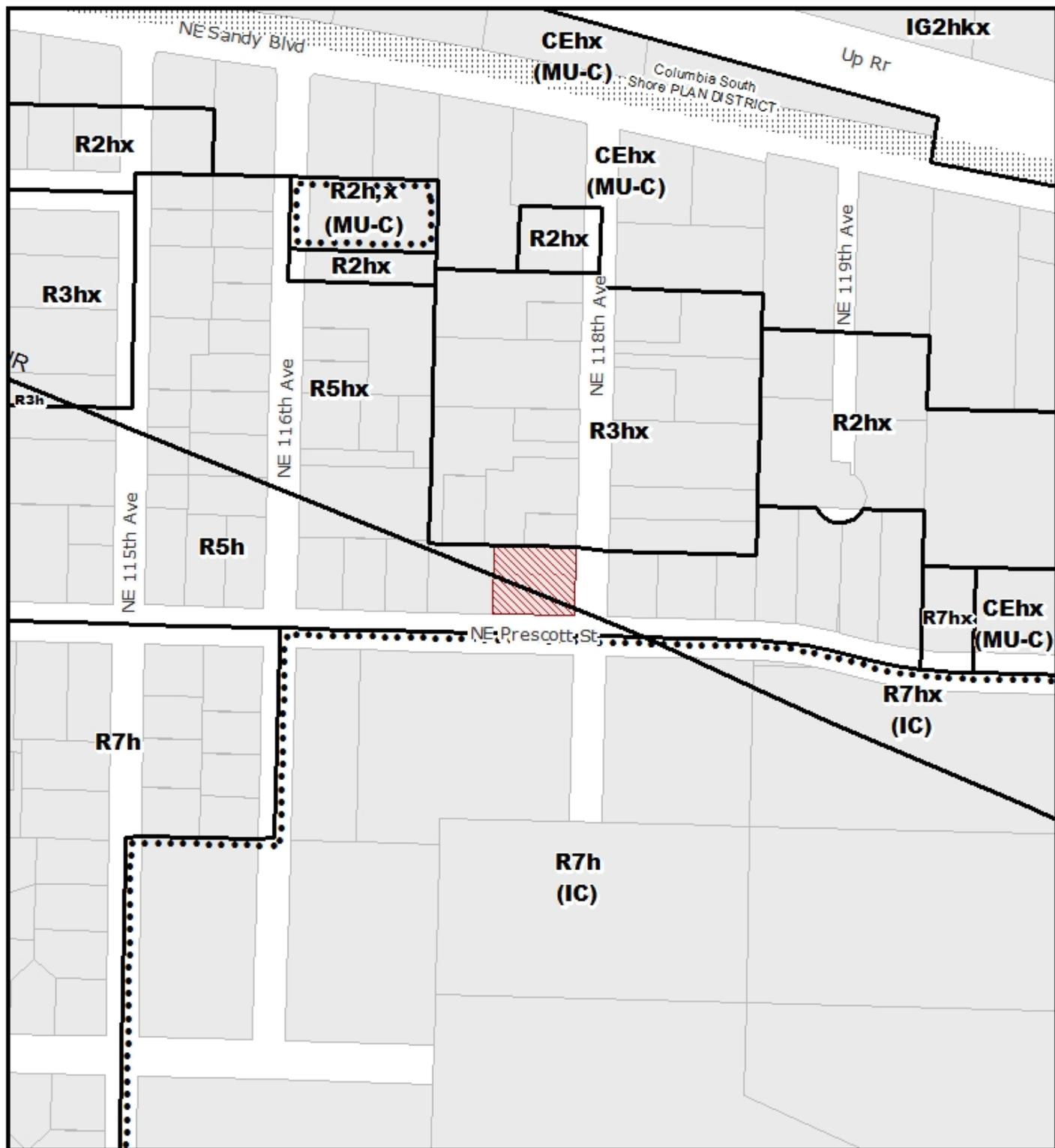
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1. Applicant’s Narratives
 - a. Dated June 26, 2019
 - b. Amended August 21, 2019
 - c. Amended November 5, 2019
 - 2. Existing Utilities Plan with photos, amended version dated Oct. 18, 2019
 - 3. Arborist Report with Tree Survey, amended version dated Oct. 15, 2019
 - 4. Plan Sets
 - a. Original submittal, received June 26, 2019
 - b. Revised drawings, received August 21, 2019
- B. Zoning Map (attached)

- C. Plans/Drawings; approved set, received November 6, 2019:
 - 1. Preliminary Partition Plan (*Attached*)
 - 2. Existing Conditions Plan
 - 3. Preliminary Land Division Plan (no improvements shown)
 - 4. Preliminary Land Division Plan (improvements and tree preservation shown) (*Attached*)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - a. Original Response, dated October 18, 2019
 - b. Addendum, dated November 15, 2019
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Site Development Review Section of BDS
 - 5. Bureau of Parks, Forestry Division
 - 6. Fire Bureau
 - a. Original Response, dated September 20, 2019
 - b. Revised Response via TRACS, October 11, 2019
 - 7. Life Safety
 - a. Original Response, dated September 23, 2019
 - b. Revised Response via e-mail, November 26, 2019
- F. Correspondence: None
- G. Other:
 - 1. Original LUR Application
 - 2. Incompleteness Letter
 - 3. Expedited Land Division Acknowledgement

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



ZONING  NORTH

 Site

File No.	LU 19-184538 LDP
1/4 Section	2542,2642
Scale	1 inch = 200 feet
State ID	1N2E22AD 1600
Exhibit	B Jul 01, 2019

PARTITION PLAT NO.

A REPLAT OF A PORTION OF LOT 10, BLOCK 2, "SANDY ROAD VILLAS" SITUATED IN THE N.E. 1/4 SECTION 22, TOWNSHIP 1 NORTH, RANGE 2 EAST, W.M. MULTNOMAH COUNTY, OREGON MAY 13, 2019

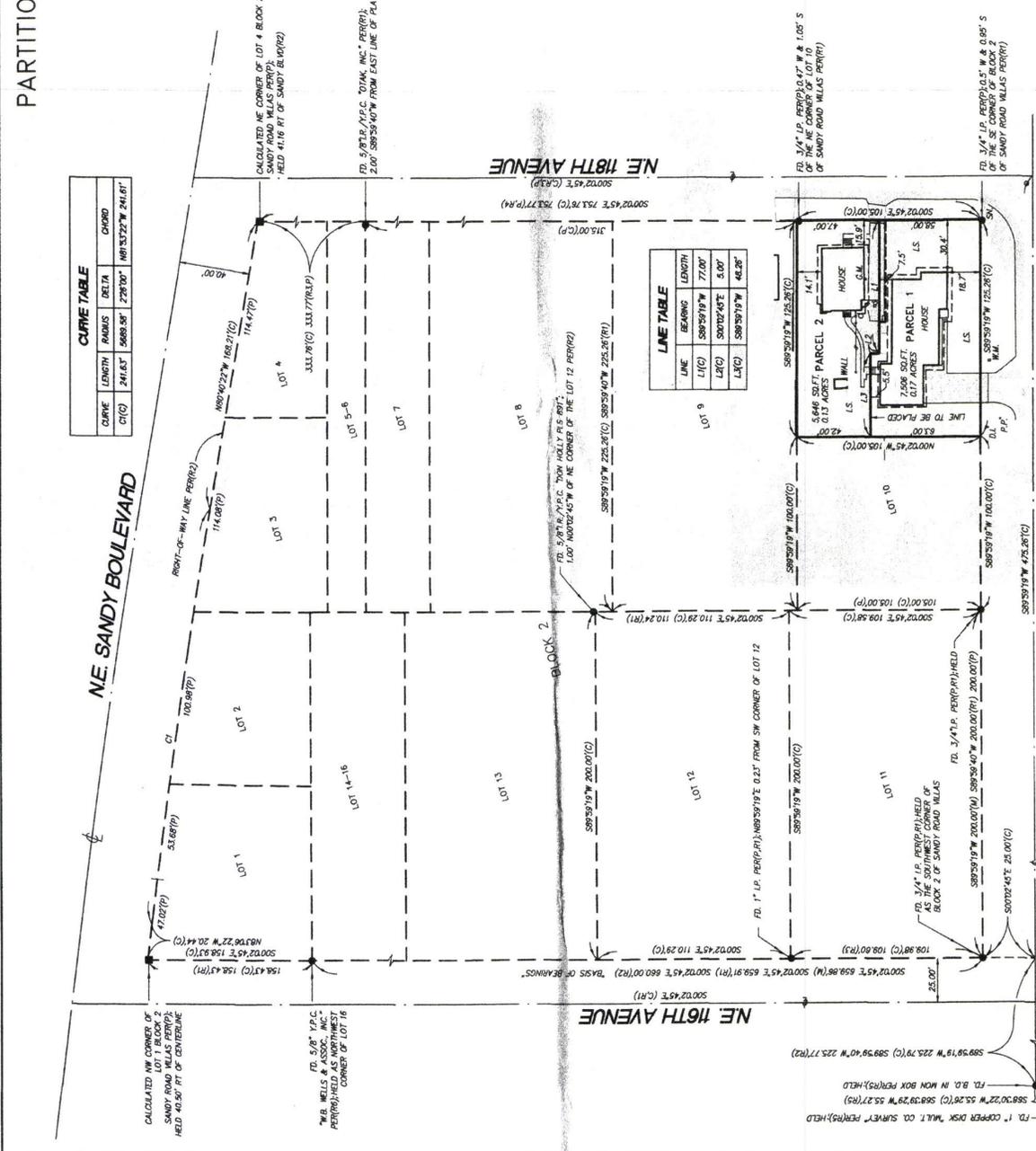
LEGEND

- (C) CALCULATED DATA
- D.L. DRAIN INLET
- L.S. LANDSCAPE
- I.P. IRON PIPE
- P.P. POWER POLE
- (P) SAND ROAD VILLAS BK 821 PG 44
- (R) SANDY ROAD VILLAS BK 821 PG 44
- (R2) EAST STREET FLAT PLAT BOOK 1240 PAGE 7
- (R3) SURVEY NO. 20961 1989-37
- (R4) CORNER REPORT BOOK 14 PAGE 645
- (R5) SURVEY NO. 28316
- (R6) WATER METER
- W.M. YELLOW PLASTIC CAP
- Y.P.C. Y.P.C.

NOTES

- THE IMPROVEMENTS TO THIS SURVEY IS TO PARTITION A PORTION OF LOT 10 OF BLOCK 2 OF THE SANDY ROAD VILLAS PLAT RECORDED UNDER BOOK 21 PAGE 44, IN THE OFFICE OF THE MULTNOMAH COUNTY SURVEYOR STATE OF OREGON, AT THE REQUEST OF LEO INVESTMENT GROUP.
- THE BEARINGS AND DISTANCES ARE BASED ON THE WEST LINE OF BLOCK 2 AS SURVEYED BY MICHAEL A. HEFTMANN, REGISTERED LAND SURVEYOR, STATE OF OREGON, BEING NORTH 02°24'45" WEST.
- AN EASEMENT FOR THE BENEFIT OF PARCEL 2 FOR DRIVE-WAY ACCESS PURPOSES BEING THE NORTH 3.5 FEET OF THE EAST 39 FEET OF PARCEL 2 AS SHOWN HEREON, RECORDED _____ 20____ AS INSTRUMENT # _____.
- DATE OF LAST REVISION: OCTOBER 31, 2019.

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1(C)	241.61	5688.98'	278°30'
C2(C)	241.61	5688.98'	101°30'



LINE TABLE			
LINE	BEARING	LENGTH	CHORD
L1(C)	S89°59'19"W	77.00'	77.00'
L2(C)	S00°02'45"E	5.00'	5.00'
L3(C)	S89°59'19"W	46.26'	46.26'



I HEREBY CERTIFY, THIS IS A TRUE AND EXACT COPY OF ORIGINAL PARTITION PLAT OF ORIGINAL PARTITION PLAT

REGISTERED LAND SURVEYOR

MICHAEL A. HEFTMANN

EXPIRES 30 JUNE, 2021



DATE: 10/24/2019
 SCALE: 1" = 40'
 JOB NO. 20193896
 DRAWN BY: JLT
 CHECKED BY: MAH
 SHEET: 1 OF 4



Exhibit C.1
 LV 19-184538 LDP

