



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

Ted Wheeler, Mayor  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** December 9, 2019  
**To:** Interested Person  
**From:** Clare Fuchs, Land Use Services  
503-823-7843 / [Clare.Fuchs@portlandoregon.gov](mailto:Clare.Fuchs@portlandoregon.gov)

## **NOTICE OF A TYPE II 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 19-219065 AD**

#### **GENERAL INFORMATION**

**Applicant:** Kevin Partain, Urban Visions  
223 NE 56th Ave Portland OR 97213  
**503-421-2967** [kevinp@gorge.net](mailto:kevinp@gorge.net)

**Owner/Owner's Agent:** Columbia Redevelopment LLC. Greg Perrin  
12131 113th NE #201 Kirkland, WA 98034  
**greg@columbiaredevelopment.com**

**Site Address:** **7035 SE NEHALEM ST**

**Legal Description:** BLOCK 1 W 53' OF LOT, 4 E 1/2 OF LOT 5, 72ND ST ADDITION & PLAT 2

**Quarter Section:** 3837

**State ID No.:** 1S2E20CA 09400

**Tax Account No.:** R755700130

**Neighborhood:** Brentwood-Darlington, contact [bdlanduse@gmail.com](mailto:bdlanduse@gmail.com).

**Business District:** None

**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010 x313.

**Zoning:** R5, Single-dwelling Residential 5,000

**Overlay:** "a" overlay Alternative Design Density Overlay Zone

**Case Type:** Adjustment (AD)

**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **PROPOSAL:**

In anticipation of reconfiguring the subject site into 2 separate properties (Tract 1 and Tract 2) through a separate lot confirmation and property line adjustment process (19-225482-PR), the applicant is requesting an Adjustment to the maximum lot size in the R5 zoning district. Zoning Code Section 33.610.200.C, Table 610-2, allows R5 lots to be a maximum of 8,500 square feet. The applicant requests an Adjustment to allow one of the reconfigured properties

(Tract 1) to be a 10,733 square foot lot. The lot confirmation and property line adjustment are not a part of this review.

**RELEVANT APPROVAL CRITERIA:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are: 33.805.040.A-F, Approval Criteria for Adjustments.

## ANALYSIS

**Site and Vicinity:** The subject site is 17,219 square feet. The western portion of the site, which the applicant proposes to configure as Tract 1, is developed with a single dwelling and a detached garage. The eastern portion, which the applicant proposes to configure as Tract 2, is vacant. The surrounding area is predominately developed with other single dwellings on lots ranging from approximately 4,000 to 19,000 square feet. There are also some apartment buildings to the north and east. Whitman Elementary School is located approximately 530-feet to the northeast. Commercial (CM1) and Multi-dwelling (R2a) zoning districts are approximately 50-feet to the east, and higher density single dwelling (R2.5a) and multi-dwelling (R2a) zoning districts abut the site to the north.

**Zoning:** The site is zoned R5 (Residential 5,000). The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. The maximum lot area in the R5 zone is 8,500 square feet. Newly created lots must have a maximum density of 1 lot per 5,000 square feet of site area.

The site also contains the “a” overlay zone which is the Alternative Design Density Overlay Zone. The purpose of the “a” overlay zone is focus development on vacant sites, preserve existing housing, and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

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

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **October 28, 2019**. The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- The Life Safety Section of BDS

**The Bureau of Environmental Services responded with the following comment:** *A safe stormwater disposal location that does not impact adjacent properties and/or structures must be shown at the time of building permit submittal. BES does not object to the requested adjustment. Please see Exhibit E1 for further details.*

**The Bureau of Transportation Engineering responded with the following comment:** PBOT has no opposition to the Adjustment. However, the applicant should note dedication and frontage improvements or payment into the Local Transportation Improvement Charge (LTIC) will be required during development of Tract 2. Please see Exhibit E2 for details.

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met.

**A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and**

**Findings:** The applicant requests one Adjustment to increase the maximum lot area in the R5 zone for proposed Tract 1 from 8,500 square feet to 10,733 square feet. The purpose of the zoning standards related to lot dimensions in single-dwelling residential zones is found in 33.610.200.A and states:

*The lot dimension regulations ensure that:*

- *Each lot has enough room for a reasonably-sized house and garage;*
- *Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;*
- *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;*
- *Each lot has room for at least a small, private outdoor area;*
- *Lots are compatible with existing lots;*
- *Lots are wide enough to allow development to orient toward the street;*
- *Lots don't narrow to an unbuildable width close to the street*
- *Each lot has adequate access from the street;*
- *Each lot has access for utilities and services; and*
- *Lots are not landlocked; and*
- *Lots are regularly shaped.*

The proposal to exceed the maximum lot area by 2,233 square feet equally or better meets the purpose of the lot dimension requirements. The proposed Tract 1 will have enough room for a reasonably-sized house and garage. The proposed Tract 1 maintains a uniform shape and development meets setback and building coverage requirements, including an adequately sized outdoor area. The proposed Tract 1 will be large enough to divide, but it will not exceed the maximum allowed density of the site in the future.

Lots in the area (within 500 feet of the site) range from approximately 4,000 square feet to 19,000 square feet. The most common lots sizes are approximately 6,500 square feet and 8,000 square feet. Proposed Tract 1 at 10,733 square feet will not be larger than the largest lots in the vicinity or smaller than the smallest lots in the vicinity; therefore compatibility with surrounding lots is maintained. Development on Tract 1 will continue to orient to the street and provide adequate access from the street. The front lot line width is maintained from the street to the rear of the tract and the tract is regularly shaped. The tract will not be landlocked and will maintain access for utilities and services.

Based on the information above, this criterion is met.

**B. If in a residential zone, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and**

**Findings:** Because the subject site is in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. The residential area considered for evaluation is the area approximately 500 feet surrounding the site. Increasing the area of Tract 1 by 2,233 square feet will not detract from the livability or appearance of the residential area as there are a variety of lot sizes in the area with lots both smaller and larger than the proposed Tract 1. Also, as discussed in Criterion A, the site will maintain adequate space to meet development standards, the adjustment will not allow the site to exceed density requirements, the tract is regularly shaped and not landlocked, has adequate access from the street and space for

utility connections. Allowing the increase in size will allow for the retention of the existing house built in 1938, which will help maintain the historic character of the area. No new development is proposed on Tract 1 at this time. Therefore, the livability and appearance of the surrounding residential area will be maintained.

Based on the information above, Criterion B is met.

**C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and**

**Findings:** The applicant has requested only one Adjustment, therefore, this criterion is not applicable.

**D. City-designated scenic resources and historic resources are preserved; and**

**Findings:** There are no City-designated scenic or historic resources on the site. Therefore, this criterion is not applicable.

**E. Any impacts resulting from the adjustment are mitigated to the extent practical; and**

**Findings:** There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

**F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;**

**Findings:** The site is not within an environmental zone, therefore this criterion is not applicable.

## **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.

## **CONCLUSIONS**

The request for an Adjustment to increase the maximum lot size (33.610.200.C, Table 610-2) for proposed Tract 1 from 8,500 to 10,733 square feet will not impact the livability or appearance of the residential area. The Adjustment also equally or better meets the purpose of the maximum lot size requirements in 33.610.200.A. Therefore, the Adjustment request should be approved.

## **ADMINISTRATIVE DECISION**

Approval of an Adjustment to increase the maximum lot size required by 33.610.200.C, Table 610-2, for proposed Tract 1 from 8,500 square feet to 10,733 square feet per the approved site plan, Exhibit C1, signed and dated December 5, 2019.

**Staff Planner: Clare L. Fuchs**

**Decision rendered by:**  **on December 5, 2019**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: December 9, 2019**

**About this Decision.** This land use decision is **not a permit** for development. 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 August 29, 2019, and was determined to be complete on October 23, 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 29, 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: February 20, 2020.**

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

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

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

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

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on December 23, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please 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](http://www.portlandonline.com).

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

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

**Recording the final decision.**

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **December 23, 2019** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

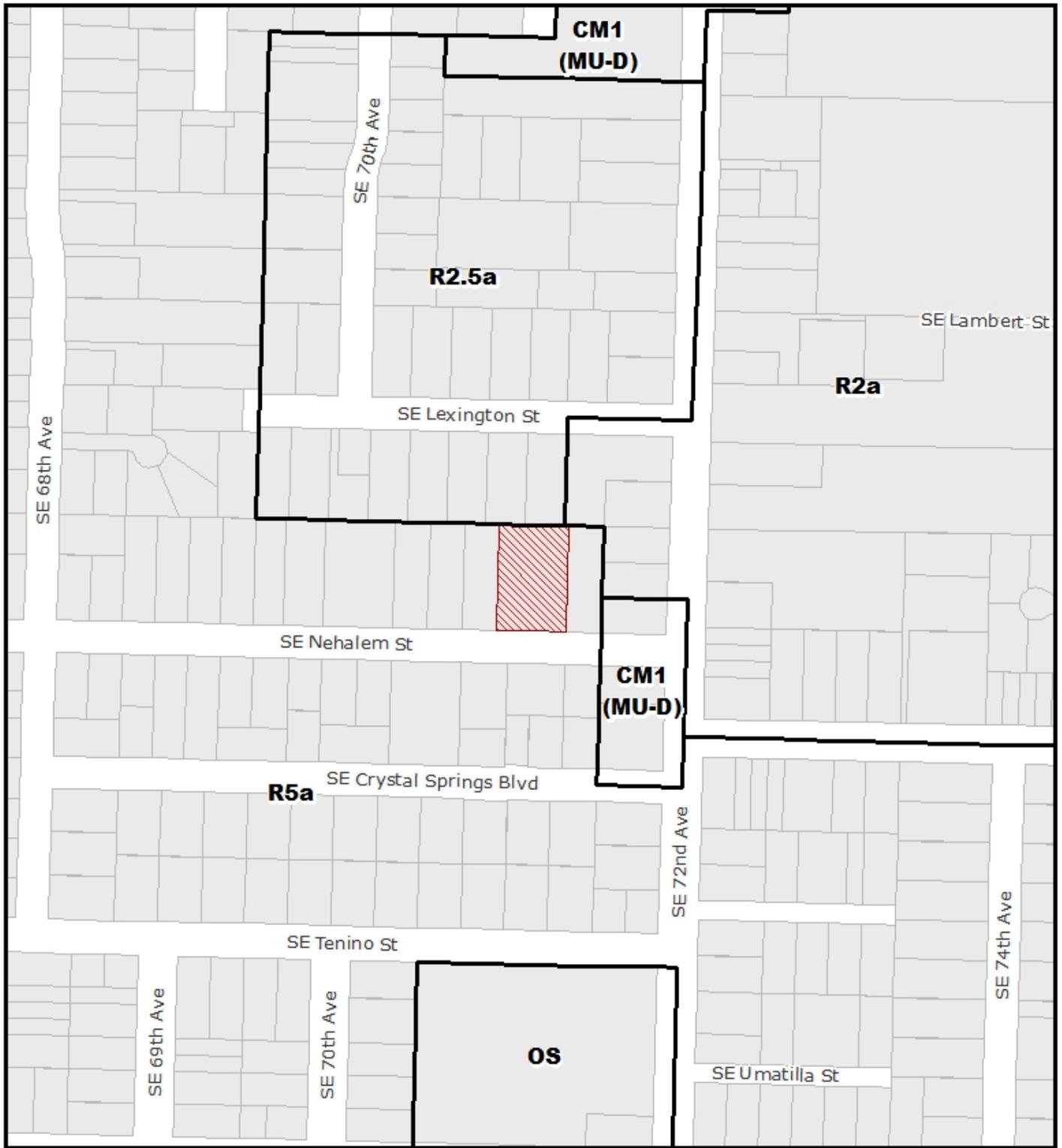
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Narrative
  - 2. Lot of Record Deed
  - 3. August 29, 2019 Site Plan
  - 4. October 8, 2019 Site Plan
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. October 23, 2019 Site Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
- F. Correspondence: None
- G. Other:
  - 1. Original LU Application
  - 2. First Notice of Incomplete Application
  - 3. Second Notice of Incomplete Application

**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).**



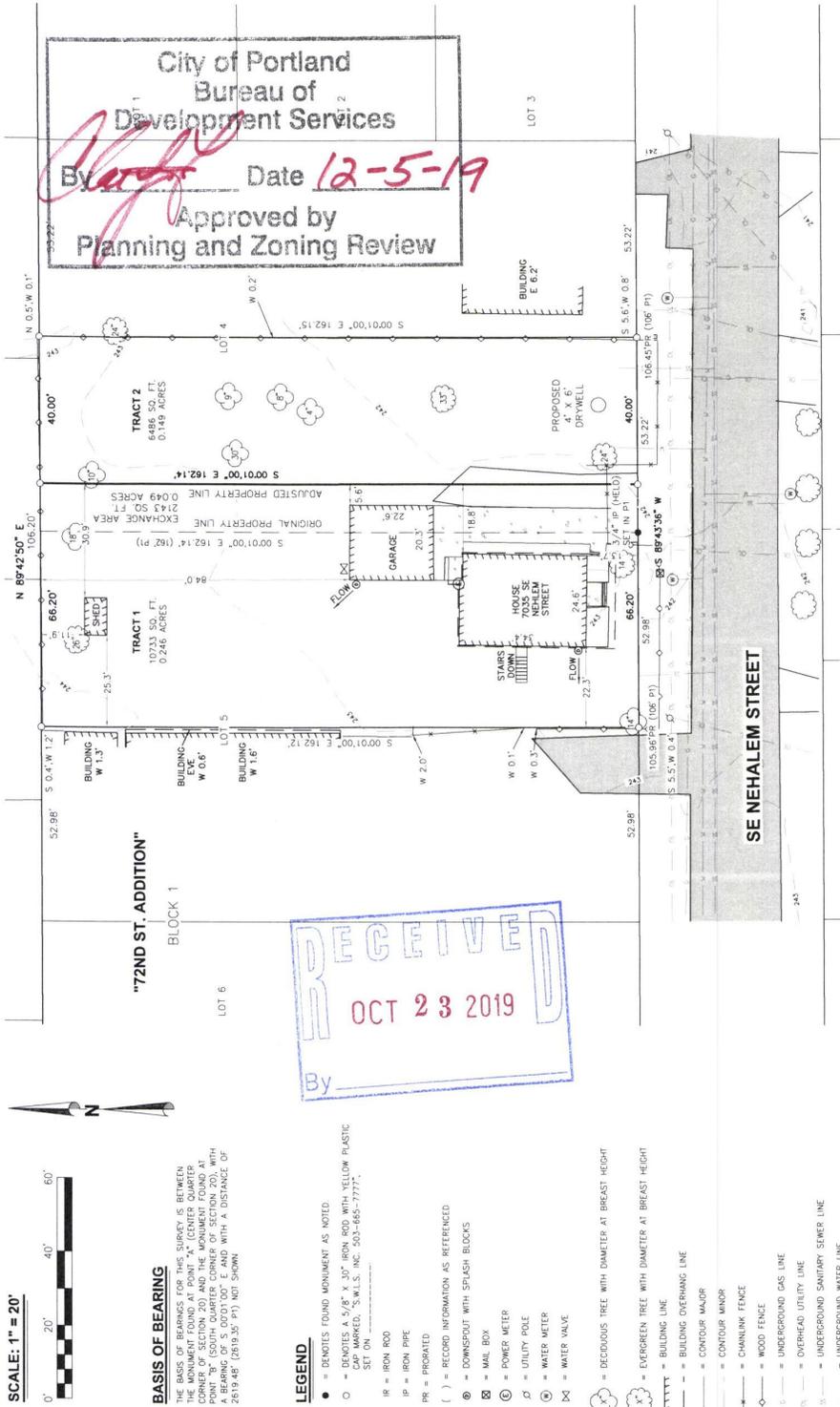
**ZONING**   
NORTH

 Site

File No.	LU 19 - 219065 AD
1/4 Section	3837
Scale	1 inch = 200 feet
State ID	1S2E20CA 9400
Exhibit	B Sep 05, 2019

# SUPPLEMENTAL SURVEY / SITE UTILITY PLAN

FOR LOT SIZE ADJUSTMENT BETWEEN LOT 4, AND LOT 5, BLOCK 1, "72ND ST. ADDITION", SITUATED IN THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON.  
LAND USE FILE NO. 19-219065 AD



SCALE: 1" = 20'



### LEGEND

THE BASIS OF BEARINGS FOR THIS SURVEY IS BETWEEN THE MONUMENT FOUND AT POINT "A", (CENTER QUARTER CORNER OF SECTION 20) AND THE MONUMENT FOUND AT POINT "B", (SOUTH QUARTER CORNER OF SECTION 20), WITH AN AZIMUTH OF 2619.48' (2519.35' P1) NOT SHOWN.

### LEGEND

- = DENOTES FOUND MONUMENT AS NOTED
- = DENOTES A 5/8" X 10" IRON ROD WITH YELLOW PLASTIC CAP MARKED, "S.W.L.S. INC. 503-665-7777". SET ON \_\_\_\_\_
- IR = IRON ROD
- IP = IRON PIPE
- PR = PREPARED
- ( ) = RECORD INFORMATION AS REFERENCED
- ⊙ = DOWNSPOUT WITH SPLASH BLOCKS
- ⊠ = MAIL BOX
- ⊕ = POWER METER
- ⊖ = UTILITY POLE
- ⊗ = WATER METER
- ⊘ = WATER VALVE
- ⊙ = DECIDUOUS TREE WITH DIAMETER AT BREAST HEIGHT
- ⊙ = EVERGREEN TREE WITH DIAMETER AT BREAST HEIGHT
- = BUILDING LINE
- = BUILDING OVERHANG LINE
- = CONTOUR MAJOR
- = CONTOUR MINOR
- = CHAINLINK FENCE
- = WOOD FENCE
- = UNDERGROUND GAS LINE
- = OVERHEAD UTILITY LINE
- = UNDERGROUND SANITARY SEWER LINE
- = UNDERGROUND WATER LINE
- = ASPHALT SURFACE
- = CONCRETE SURFACE
- = GRAVEL SURFACE

### AREA TABLE

SQ. FT.	ACRES
EAST 1/2 LOT 5	0.197
PROPOSED TRACT 1	0.240
WEST 1/2 LOT 4	0.198
PROPOSED TRACT 2	0.149
EXCHANGE AREA =	0.099

### NOTES

- 1) CONTOURS ARE AT 1' INTERVALS AND ARE COMPUTER GENERATED.
- 2) ALL MANHOLES WERE LOCATED AT CENTRINE OF RM.
- 3) UTILITIES SHOWN ON THE SURVEY HEREON WERE BASED UPON GROUND/VISUAL OBSERVATIONS ONLY, THERE MAY BE UTILITIES ON THE SITE THAT WERE NOT VISIBLE THEREFORE, THEY ARE NOT SHOWN, THE ACTUAL LOCATION OF THE UNDERGROUND UTILITIES MAY VARY.
- 4) UTILITIES ON TRACT 2 ARE PROPOSED AND WILL MEET ALL SETBACK/SPACING REQUIREMENTS WHEN INSTALLED/CONNECTED.
- 5) DRYWELL ON TRACT 2 IS PROPOSED, EXACT LOCATION TO BE DETERMINED AT BUILDING PERMIT STAGE.
- 6) ALL DEVELOPMENT ON TRACT 1 IS TO REMAIN.



City of Portland  
Bureau of  
Development Services  
By *[Signature]* Date 12-5-19  
Approved by  
Planning and Zoning Review

REVISION:	SCALE: 1" = 20'	JOB NUMBER: 2019-247
REVISION:	DRAWN DATE: 8/26/2019	DRAWN: K.D.C.
REVISION:	REVIEW DATE: 8/27/2019	REVIEWED: G.D.S.
REVISION:	SURVEY DATE: 8/20/2019	SHEET: 1 OF 1

STATEWIDE LAND SURVEYING INC.  
CLIENT: FISH CONSTRUCTION NW  
WEB: WWW.STATEWIDESURVEYING.COM  
EMAIL: SURVEY@STATWIDESURVEYING.COM  
F: 503-665-7988  
43 NW AVE GRESHAM, OR 97030

REGISTERED PROFESSIONAL LAND SURVEYOR  
*[Signature]*  
EXPIRES: 06/30/20

CASE NO. 19-219065  
EXHIBIT C1