



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

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

Date: March 5, 2020
To: Interested Person
From: Diane Hale, Land Use Services
503-823-7705 / Diane.Hale@portlandoregon.gov

NOTICE OF A TYPE IX DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 19-132133 LDS

GENERAL INFORMATION

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

Owner: Hao P Tran / 14537 SE Rhine St / Portland, OR 97236-2525

Site Address: 14537 SE RHINE ST

Legal Description: BLOCK 1 LOT 14, POWELL VILLAGE
Tax Account No.: R673400710
State ID No.: 1S2E12BC 09400
Quarter Section: 3345

Neighborhood: Centennial, contact at <https://www.eastportland.org/centennial>.
Business District: Midway, contact at info@midwaybusiness.org.
District Coalition: East Portland Community Office, contact at 503-823-4550.

Plan District: Johnson Creek Basin
Other Designations: None
Zoning: R5a - Single Family Residential 5,000 with an "a" Alternative Design Density Overlay
Case Type: LDS – Land Division Subdivision
Procedure: Type IX, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing a 3-lot subdivision for this 20,000 square foot interior site, with 3 standard lots served by a new private street. The existing house will remain on Lot 1. Off-street parking is proposed for all three homes. The private street will also have off-street parking. The applicant is required to install frontage improvements along SE Rhine Street,

including a curb, planter strip and sidewalk. There are 5 regulated trees on the site. The applicant is proposing to preserve two of these trees, a 31" Grand Fir and a 17" Juniper.

This subdivision 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 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 4 units of land (3 lots and 1 tract). Therefore, this land division is considered a subdivision.

Relevant Approval Criteria:

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

FACTS

Site and Vicinity: The site is an interior lot developed with single family house built in 2012. The area directly adjacent to the site is a mix of single-dwelling and multi-dwelling development. Highway 26/SE Powell Blvd is located ~260 feet to the north. Powell Butte Park is located ~1/3 mile to the south.

Infrastructure:

- **Streets –**
The site has approximately 100 feet of frontage on SE Rhine Street. There is one driveway entering the site that serves the existing house on the site. At this location, SE Rhine St is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 270 feet from the site at SE Powell Blvd via Bus #9. SE Rhine St has a 32-foot paved surface within a 50-foot right-of-way. There are no curbs or sidewalks at this location.
- **Water Service –** There is an existing 4-inch CI water main in SE Rhine Street. The existing house is served by a 3/4-inch metered service from this main.
- **Sanitary Service –** There is an existing 8-inch PVC public sanitary sewer line in SE Rhine Street.
- **Stormwater Disposal –** There is no public storm-only sewer 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 Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. At certain locations, the density of development is limited by applying special regulations to new land division proposals. In addition, restrictions are placed on all new land uses and activities to reduce stormwater runoff, provide groundwater recharge, reduce erosion, enhance water quality, and retain and enhance native vegetation throughout the plan district. At other locations, development is

encouraged and mechanisms are included that provide relief from environmental restrictions.

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

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **September 6, 2019**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
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.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.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 19,882 square feet. A new street is proposed, therefore the maximum density in the R5 zone is one unit per 5,000 square feet, based on 85 percent of the site area. Minimum density is one unit per 5,000 square feet based 68 percent of the site area.

The site has a maximum density of 3 units and a minimum required density of 3 units. If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore, in this case the minimum density is reduced to 2 units. The applicant is proposing 3 single dwelling lots. 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
Lot 1	5,413		68	77	71
Lot 2	5,890		39	82	30
Lot 3	5,306		36	94	31

* 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.

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.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.7) 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.

There are 8 trees on the site. Three of these trees are exempt from the preservation requirements because they are nuisance species. Five trees, which provide a total of 96 inches of tree diameter, are subject to the preservation requirements of this chapter. Two of the regulated trees are over 20" in diameter.

The applicant proposes to preserve tree #4, a 17" Juniper, and tree #6, a 31" Grand fir. This represents 50% percent of the trees that are 20 or more inches and 48 inches (50%) of the total tree diameter, so the proposal complies with Option 3 of the preservation standards:

Option 3: Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site.

The trees proposed for preservation are in good condition and include native species. The proposed root protection zones (RPZ) for the trees to be retained will allow for the type of development anticipated in the R5 zone and the project arborist has provided detailed recommendations where tree protection may conflict with construction activities on site. In addition to the tree protection fencing to be installed along the noted RPZ for tree #6 (31" Grand Fir), the arborist notes the following additional requirements (See Ex A.7):

The Preliminary Plat (Ex. C.1) depicts a no entry RPZ designed to maximize the area where roots will be fully protected. The Preliminary Plat also depicts areas where soil compaction avoidance measures will be implemented. Soil and root protection measures include:

1. applying 6 to 12 inches of wood chip mulch to the area; or
2. laying ¾-inch minimum thickness plywood, beams, commercial logging/road mats over a 4+inch thick layer of wood chip mulch; or
3. applying 4 to 6 inches of gravel over a taut, staked geotextile fabric, which should be removed by hand after the construction activities are completed.

Furthermore, the driveways should be constructed with minimal excavation – no more than 6" of excavation and compaction below existing grade is allowed. If greater excavation is required, reinforced concrete must be used for the driveway.

The applicant must indicate which soil protection measure will be used with each permit, and whether excavation will be limited to 6" below grade, or reinforced concrete will be used for the driveways, subject to Planning and Zoning approval at the time of permit.

The applicant's arborist report has also identified 4 trees on adjacent sites that are within 15 feet of potential disturbance area on the proposed lots (trees 7, 10, 11 and 12). The arborist notes that the existing fences on the site are sufficient protection for trees 10 and 11, and the proposed work in the right-of-way will be far enough away from tree 12 such that no additional protection is required. Tree #7, a Norway Maple, is located on the west property line. This tree is a nuisance species, and the applicant provided a letter from the property owner to the west that states it is ok if the tree is not protected, therefore no protection for that tree is required. Please see Exhibit A.7 for more information.

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

In order to ensure that future owners of Lots 2 and 3 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 Lots 2 and 3 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.7). The applicant must also indicate which soil protection measure will be used with each permit, and whether excavation will be limited to 6" below grade, or reinforced concrete will be used for the driveways, subject to Planning and Zoning approval at the time of permit.

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

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.

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.

In this case the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to construct the new private street and make the new lots developable. As shown on the applicant's Erosion Control and Tree Protection Plan (Exhibit C.3), some minor site excavation will be necessary for the installation of the new street and associated stormwater system (drywells). The plan shows sediment fencing will be installed around the perimeter of Lots 2, 3 and the private street, which is also the limits of disturbance for the site. The existing house will be retained on Lot 1, which is not within the limits of disturbance. The plan indicates an area for topsoil stockpiling and storage area.

The clearing and grading proposed is sufficient for the construction of the new street without being excessive. In addition, no clearing and grading is proposed within the root protection zones of the trees on the site that are required to be preserved. The arborist has noted a performance path protection plan for tree #6, a 31" Grand Fir located near the lot line between Lots 2 and 3. The clearing and grading plan does not show the soil compaction avoidance areas adjacent to the root protection zone of tree #6, as shown on Exhibit C.1. A condition of approval will require the clearing and grading plan submitted with the Site Development permit to indicate the soil compaction avoidance areas and which method of additional protection will be applied (see section B above for information about the choices).

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. The Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street. With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan and shows the additional tree preservation information as outlined above, this criterion is met.

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

Findings: The following tract is proposed:

- Tract A: Private Street

With a condition that the proposed tract be owned in common by the owners of Lots 1 to 3 or a Homeowner's Association, this criterion can be met.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the tract described above and facilities within those areas. This criterion can be met with the condition that a maintenance

agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block substantially similar to the following example:

“A Declaration of Maintenance agreement for Tract A: Private Street has been recorded as document no. _____, Multnomah County Deed Records.”

With the conditions 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 minimal expected added vehicle trips (2 AM peak hour trip/ 2 PM peak hour trip/ 20 total new daily trips) resulting from the proposed development will not adversely impact the operations of area intersections. There appears to be little demand for on-street parking in the area –lots in the area have on-site parking opportunities via driveways and garages that can accommodate multiple vehicles. The submitted site plan shows a private street to serve the new homes on Proposed Lots 2 and 3. With the retention of the existing driveway for the house that will be retained on Proposed Lot 1 there will be remaining curb length to accommodate at least one on-street parking space along the site frontage. The resulting additional parking demand expected to be generated by the project (4 spaces) can be accommodated on-site therefore on-street parking impacts will be minimized.

The immediate area and broader neighborhood do not include continuous pedestrian facilities in any direction. There is a sidewalk along the frontage of the abutting property to the east, but according to City GIS, there are no other sidewalks along SE Rhine between SE 144th and 148th Aves. However, the applicant will be constructing standard sidewalk corridor improvements along the site frontage which will enhance the pedestrian environment in the area.

The neighborhood is made up of multiple bicycle facilities in proximity to the subject site as identified by the Portland Bike/Walk Map including a “Bike lane” (painted) along SE Powell to the north and “Shared Roadways” along SE Bush and SE 148th Ave (south and east of the site, respectively). Project-related impacts to area intersections and to on-street parking can be construed as neighborhood impacts. Since intersection operations are not expected to be affected by the proposed development and loss of on-street parking opportunities will be minimized, neighborhood impacts are not anticipated. The proposed partition will not have any effect on transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

On April 13, 2016, the Portland City Council adopted the Local Transportation Infrastructure Charge (LTIC) via approval of Ordinance 187681. The LTIC was developed to provide property owners abutting qualifying unimproved streets, such as SE Rhine, with an alternative to full standard roadway improvements. The subject site meets the specified criterion to qualify for the LTIC. Instead of paying the LTIC, the applicant has elected to construct standard right-of-way improvements along the site’s SE Rhine frontage. The applicant submitted the associated

Public Works Permit (TF0090) for the standard improvements and has received Concept Development Phase (30% plans) approval.

PBOT has reviewed and concurs with the information supplied and available evidence. Standard sidewalk corridor improvements will be required to serve the proposed development (see criterion L. 33.654). 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 2 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 has indicated that service is available to the site, as noted on page 2 of this report. As a result of the proposed land division, the existing sewer connection that serves the house that will remain on Lot 1 may cross over the private street to reach the sewer main in SE Rhine Street, which is not allowed. Prior to final plat approval, the applicant must either demonstrate that the service lateral for the existing house does not cross proposed lot lines, or the applicant must cap the existing sewer connection and establish a new service for the house located entirely on Lot 1. All required plumbing permits must receive final inspection approval prior to Final Plat approval. The new homes will be served by sanitary laterals located in the private street.
With the condition noted above, 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 applicant has proposed the following stormwater management methods:
<ul style="list-style-type: none"> • Private Street: Stormwater will be directed to a sedimentation manhole located in the private street that will remove suspended solids, and from there to a drywell facility, also located in the street tract, that will infiltrate the water into the ground. BES has indicated conceptual approval of the proposed location and size of these facilities. • Public Street Improvements: Stormwater from these new impervious areas will be managed with the existing public sump near the intersection of SE Rhine and SE 144th Avenue. BES Development Engineering approved 30% concept development plans as a standard utility check (#EP552). • Lots 2 and 3: Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells. • Lot 1 (the lot with the existing house): The existing house has downspouts that drain into underground pipes to a drywell that meets BES requirements.
These criteria and standards are met.

33.654.110.B.1 Through streets and 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 nearest north/south streets are located ~195 feet to the west (SE 144th Ave.) and ~625 feet to the east (SE 148th Ave.) of the site. The nearest east/west streets are located ~275 feet to the north and directly abutting the site to the south. While the vicinity could warrant a new north/south connection, the abutting properties are fully developed and this particular location in the block is not an ideal location for a through connection. Therefore, there is no practicable opportunity to provide a connection at this location through the land division and there is no need to extend the proposed dead-end street to the boundary of the site.

The site is located in the Far Southeast and Outer Powell Master Street Plans, but the plans do not identify a required connection at the site. Therefore, the proposal is consistent with the master street plans.

For the reasons described above, this criterion is met.

33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones.

The proposal includes a private dead-end street, which will be located in the new street tract. As discussed under the findings for through streets above, a new public through street is not required for this proposal. The private dead-end street will serve only 3 dwelling units and it is approximately 107 feet in length from the frontage along SE Rhine Street to the north end of the street tract. This criterion is met.

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

SE Rhine Street is improved with a 32-foot paved roadway within a 50-foot right-of-way. There are no curbs, planter strips, or sidewalks directly abutting the site. In reviewing this land division, PBOT relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case, PBOT has determined that curb and sidewalk improvements must be made in order to meet City standards to ensure that safe pedestrian travel is possible to and from the proposed development. To accommodate these improvements, additional right-of-way must be dedicated along the frontage of the site consisting of a small area in the SE corner of the site for sidewalk transition. The applicant has submitted Public Works Permit TF0090/EP552 and has received 30% concept approval. With these improvements, two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

The applicant has proposed that a 31-foot wide dead-end private street tract is sufficient to accommodate the expected users (Ex. C.4). The *Administrative Rules for Private Rights of Way* are the standards that govern the construction of private streets. These rules recommend a width of 18 feet for dead-end streets less than 300 feet long, serving 1 to 3 lots. The applicant has proposed a 31-foot wide tract that will provide room for the construction of a 20-foot wide paved roadway that allows two travel lanes, parking on one side of the tract in part of the street, two 6-inch curbs and a 1-foot setback on both sides of the tract. Street trees will be provided in trees wells in the parking lane. The applicant has proposed to voluntarily provide parking in the private street, in addition to the required features (roadway, curbs, setbacks). The proposed tract width is sufficient to accommodate the elements of a street that are adequate for 3 lots by the *Administrative Rules* governing private streets.

This criterion is met, with the condition that public curb and sidewalk improvements are made, the required right-of-way dedication is shown on the Final Plat, and private street plans remain in substantial conformance with those proposed.

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

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

Existing development that will remain after the land division. The existing development on the site will remain and be located on Lot 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the 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 (Please see section on Other Technical Standards for Building Code standards.)

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

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be at least 15 feet from the new property lines. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.
- 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, Lot 1 with existing house will no longer meet this standard. Lot 1 is 5,413 square feet; therefore 2,165 square feet of tree area is required. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Lot 1 or making the equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized Zoning Permit.

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 is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Lots 2 and 3; and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- Prior to the land division the site has 100 feet of frontage on SE Rhine Street, allowing for 4 street trees. Following the land division Lot 1 will have 67 feet of frontage, allowing for 2 street trees. The remaining site frontage will be the private street. The applicant must pay an in-lieu fee for loss of street tree planting area for 2 trees (3 inches) prior to final plat approval. This requirement is based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 3-lot subdivision, 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 public and private streets, utilities, existing development and tree preservation. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-lot subdivision, that will result in 3 standard lots and a new private street, as illustrated with Exhibits C.1-C.4, subject to the following conditions:

- A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review and BES review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
- Any buildings or accessory structures on the site at the time of the final plat application;

- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The field-located, existing location of the sewer lateral service the existing house on Lot 1; and
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE Rhine Street. The required right-of-way dedication must be shown on the final plat.
2. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street *name of street*".
3. A note must be provided on the plat indicating that the private street tract will commonly owned and maintained by the owners of lots 1 through 3 or a homeowners' association.
4. 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 7, 8 and 9 below. The recording blocks shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.
2. The applicant shall submit an application for a Site Development Permit for construction of the private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibit C.4 and the Private Street Administrative Rule.
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 street and all required site development improvements. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.
4. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private street described in Condition C.5. The clearing and grading plan must substantially conform to the Preliminary Clearing and Grading Plan approved with this decision (Exhibit C.3) with the following additions:
 - It must show the soil compaction avoidance area as shown on Exhibit C.1 and indicate which soil protection measure will be used. The arborist report (Ex. A.7) provides 3 options.

Existing Development

5. The applicant must meet the tree density standard of 11.50.050 on Lot 1 with the existing house by either planting trees on the lot or 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.

6. The applicant must meet BES requirements to demonstrate that the service lateral for the existing house is located on the lot that it serves by locating the lateral relative to the proposed property lines, or capping the existing lateral and establishing a new service lateral for the existing house on Lot 1. To accurately determine the location of the existing lateral, it must be field located and shown on the surveyor's supplemental plan (survey). For capping and establishing new service, the work must be completed and the applicant must obtain finalized plumbing and connection permits prior to final plat approval.

Required Legal Documents

7. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1, 2 and 3 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. 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.
8. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Lots 2 and 3 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.
9. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lots 2 and 3. A copy of the approved Tree Preservation Plan and the applicant's arborist report (Ex. C.1 and A.7) must be included as Exhibits to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

Other requirements

10. The applicant must pay into the City Tree Preservation and Planting Fund [Street Trees – Fee in Lieu of Planting and Establishment (per inch)] the amount equivalent to 3 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 site preparation and the development of individual lots:

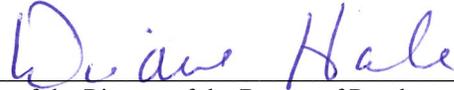
1. Development on Lots 2 and 3 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.7). Specifically, trees #4 and #6 are required to be preserved, with the root protection zones indicated on Exhibit C.1. Tree protection fencing is required along the root protection zone of the trees to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Tree Protection Specifications of 11.60.030.

The applicant must indicate which soil protection measure will be used with each permit, and whether excavation will be limited to 6" below grade, or reinforced concrete will be used for the driveways, subject to Planning and Zoning approval at the time of permit.

2. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
3. The private street shall be substantially complete prior to the issuance of any permits for residential construction.

4. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
5. The applicant will be required to install residential sprinklers in the new houses on Lots 2 and 3 to the satisfaction of the Fire Bureau.

Staff Planner: Diane Hale

Decision rendered by:  **on March 3, 2020**
By authority of the Director of the Bureau of Development Services

Decision mailed March 5, 2020

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 March 13, 2019, and was determined to be complete on August 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 March 13, 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 requested that the 120-day review period be extended by 76 days, as stated with Exhibit G.4. Unless further extended by the applicant, **the 120 days will expire on March 6, 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.

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.

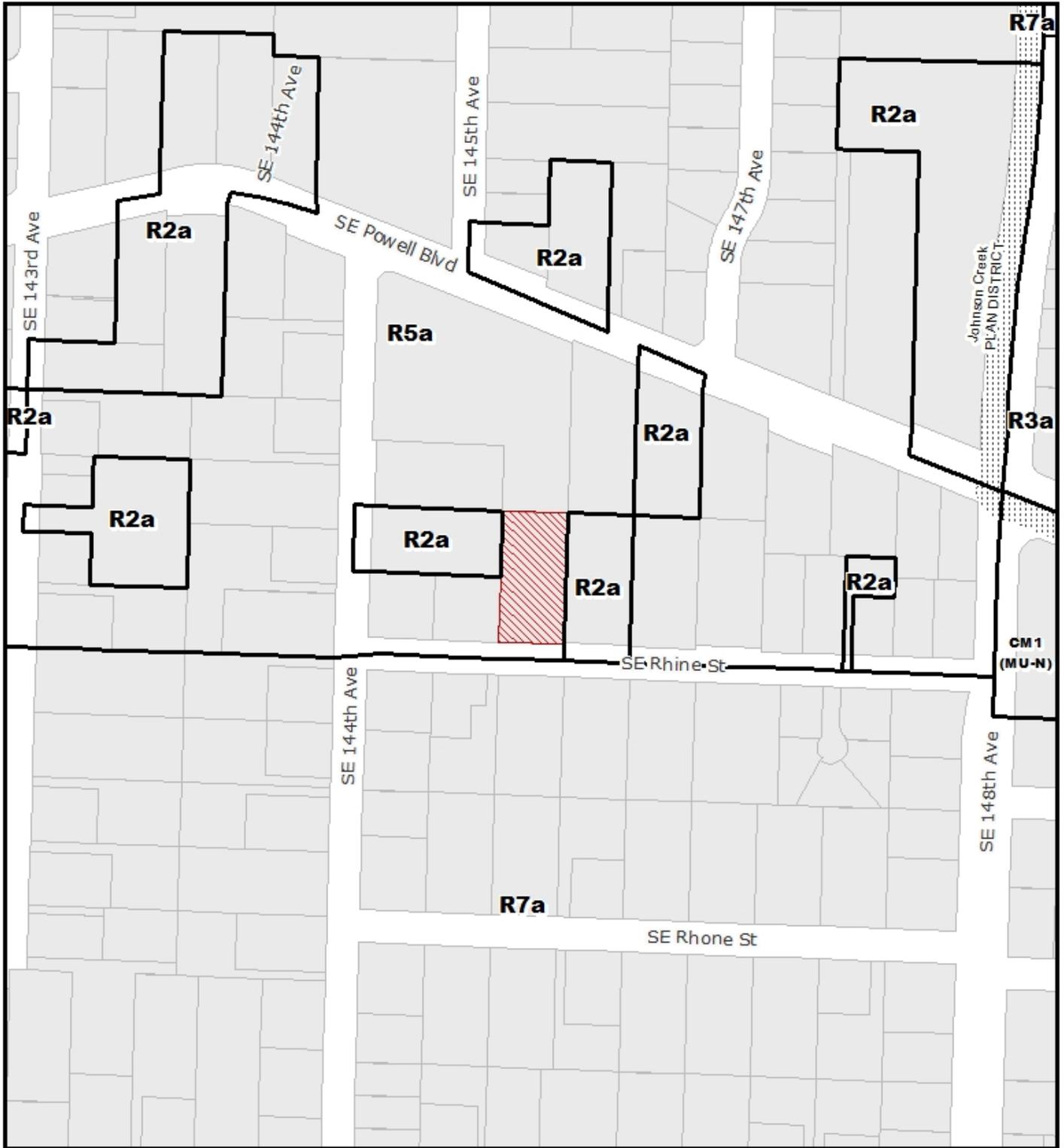
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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 original submittal and plans
 - 2. Applicant's response, August 23, 2019
 - 3. Applicant's response, January 7, 2020
 - 4. Applicant's response, February 15, 2020
 - 5. Applicant's response, February 25, 2020
 - 6. Stormwater calculations
 - 7. Arborist report and tree narrative
 - 8. Neighbor letter regarding shared tree
 - 9. Applicant acknowledgement to install sprinklers
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan Map (attached)
 - 2. Existing Conditions Map
 - 3. Erosion Control and Tree Protection Plan (Clearing and Grading Plan)
 - 4. Private Street Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Section of BDS
 - 7. Parks Urban Forestry
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Form
 - 3. Incomplete Letter
 - 4. Extension Forms

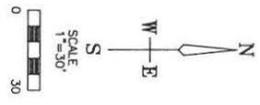
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
 NORTH
 THIS SITE LIES WITHIN THE:
 JOHNSON CREEK PLAN DISTRICT

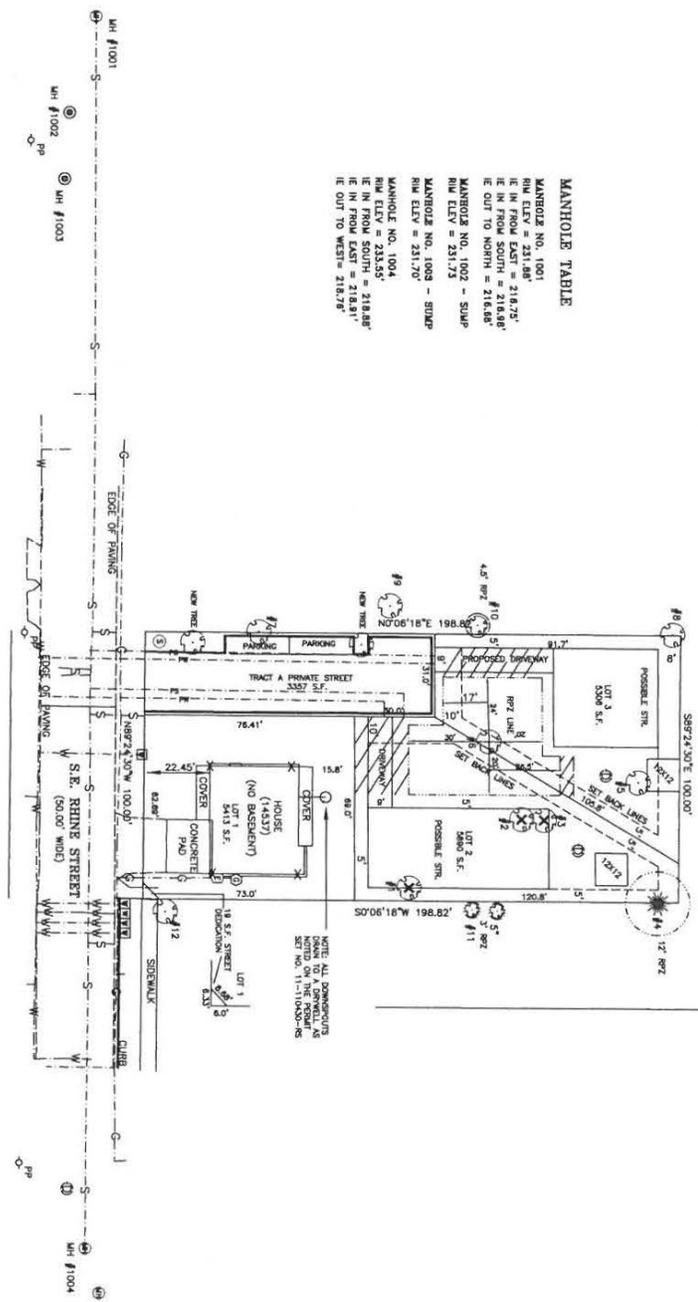
 Site

File No.	LU 19-132133 LDS
1/4 Section	3345
Scale	1 inch = 200 feet
State ID	1S2E12BC 9400
Exhibit	B Apr 15, 2019



MANHOLE TABLE

MANHOLE NO. 1001	IN ELEV. = 231.58
IE IN FROM EAST = 216.25'	
IE IN FROM SOUTH = 216.88'	
IE OUT TO NORTH = 216.88'	
MANHOLE NO. 1003 - SUMP	
RIW ELEV = 231.73	
MANHOLE NO. 1005 - SUMP	
RIW ELEV = 231.70	
MANHOLE NO. 1004	
RIW ELEV = 233.55	
IE IN FROM SOUTH = 216.88'	
IE IN FROM WEST = 216.88'	
IE OUT TO WEST = 216.28'	



- NOTES:**
1. ELEVATION DATUM IS PER CITY OF PORTLAND BENCHMARK NO. 3838
 2. UTILITY NOTIFICATION TICKET NO. 1812786
 3. ALL DOWNSPOUTS ON EXISTING HOUSE WILL BE CONVERTED TO SPLASH BLOCKS.

SYMBOLS

- ⊕ = POWER POLE
- ⊙ = GUY ANCHOR
- ⊖ = ELECTRIC METER
- ⊗ = GAS METER
- ⊕ = GAS VALVE
- ⊖ = SANITARY MANHOLE
- ⊗ = CLEAN OUT
- ⊕ = WATER METER
- ⊖ = WATER VALVE
- ⊗ = FIRE HYDRANT
- ⊕ = CATCH BASIN
- ⊖ = CHAINLINK FENCE
- ⊗ = STORM MANHOLE
- ⊕ = DOWN SPOUTS
- ⊖ = WATER LINE
- ⊗ = GAS LINE
- ⊕ = ELECTRIC LINE
- ⊖ = SAN. SEWER
- ⊗ = STORM LINE
- ⊕ = DECIDUOUS TREE
- ⊖ = CONIFER TREE
- ▨ = SOIL COMPACTION AVOIDANCE AREA

VICINITY MAP
NO SCALE

Ferguson Land Surveying, Inc.
646 SE 106TH AVE. PORTLAND, OR 97216
Phone (503) 408-0801 Fax (503) 408-0802
www.fergusonlandsurveying.com

PRELIMINARY PLAT
SITUATED IN THE NW 1/4 OF SECTION 12, T.1S., R.2E., W.4M.
CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

CLIENT:
HMO TEAM
14537 SE RHINE STREET
PORTLAND, OR 97236

DATE: AUGUST 22, 2018
REVISIONS:
REVISION 1/21/2020
REVISION 8/21/2019
REVISION 12/27/2018

JOB NO. 18-114
DRAWN: 08.22.18
SHEET 1 OF 1

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
JULY 25, 1990
JOE H. FERGOUSON
RENEWAL DATE 03/1/21

44 19-132133 LDS
EXH. C.1