



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

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**Date:** June 22, 2020  
**To:** Interested Person  
**From:** Clare Fuchs, Land Use Services  
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## **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 19-267610 LDP**

#### **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/  
Representative:** Francis Gaudette w/ Kimco Properties | FX Homes  
PO Box 1540 Sandy, OR 97055  
503-668-7075

**Site Address:** 8739 SE WASHINGTON ST

**Legal Description:** BLOCK 7 LOT 10, ALTAMEAD  
**Tax Account No.:** R019401220  
**State ID No.:** 1S2E04BA 16500  
**Quarter Section:** 3139

**Neighborhood:** Montavilla, contact Dylan Peerenboom at [dylan@montavillapdx.org](mailto:dylan@montavillapdx.org)  
**Business District:** Montavilla-East Tabor, contact at [montavilla.biz@gmail.com](mailto:montavilla.biz@gmail.com)  
**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010 x313

**Zoning:** R2a (Multi-Dwelling Residential – 2,000 with the Alternative Density Design Overlay)

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

#### **Proposal:**

The applicant proposes to divide this 5,000 square foot lot that currently contains a single detached dwelling and one detached garage into 2 lots. Parcel 1 is proposed to be 3,050 square feet and contain the existing house to remain. Parcel 2 is proposed to be 1,950

square feet. The garage is proposed to be demolished to make room for a new house. No off-street parking is proposed. The 5 street trees are proposed to remain.

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 2 units of land (2 lots). 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 approval criteria are:

- 33.660.120 Approval Criteria for Land Divisions in Open Space and Residential Zones.

## **ANALYSIS**

**Site and Vicinity:** The site contains one single detached dwelling that faces SE Washington Street and one detached garage that is accessed off of SE 88<sup>th</sup> Avenue. The housing west, east, and south of the subject site is predominately single dwelling detached homes on approximately 5,000 square foot lots. Due north of this property is the SE Stark Street commercial area. The SE 82<sup>nd</sup> commercial corridor is approximately .25 of a mile west of the subject site. I-205 is approximately .34 of a mile to the east of the property. Berrydale Park is approximately .25 of a mile southeast of the site.

#### **Infrastructure:**

- **Streets –**

The site has approximately 50 feet of frontage on **SE Washington Street**. At this location, SE Washington Street is classified as a Major City Traffic Street, Major Transit Priority Street, City Walkway, City Bikeway, and a Local Service Street for all remaining modes in Transportation System Plan (TSP). Tri-Met provides transit service approximately 420 feet from the site at the corner of SE Washington Street and SE 90<sup>th</sup> Avenue via Bus #15.

SE Washington Street has a 36-foot curb to curb paved surface within a 60-foot right-of-way with parking on one/both sides. Along the 50-foot wide site frontage the pedestrian corridor includes a 5-foot wide planter area, curb, 6-foot sidewalk and a 1-foot wide buffer at the back of the sidewalk (5-6-1 configuration).

The site has approximately 100 feet of frontage on **SE 88<sup>th</sup> Avenue**. At this location, SE 88<sup>th</sup> Avenue is classified as a Local Service Street for all remaining modes in Transportation System Plan (TSP). Tri-Met provides transit service approximately 181 feet from the site at the corner of SE Stark Street and SE 88<sup>th</sup> Avenue via Bus 15.

SE 88<sup>th</sup> Avenue has a 28-foot curb to curb paved surface within a 60-foot right-of-way with parking on one/both sides. Along the 100-foot wide site frontage the pedestrian corridor includes a 5-foot wide planter area, curb, 6-foot sidewalk and a 1-foot wide buffer at the back of the sidewalk (5-6-1 configuration).

There is one driveway entering the site off of SE 88<sup>th</sup> Avenue that will be closed upon redevelopment.

- **Water Service –** There is an existing 8-inch CI water main in SE 88<sup>th</sup> Avenue. 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 only line in SE Washington Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** Residential 2,000 – The R2 zone allows multi-dwelling residential development up to a maximum density of one unit per 2,000 square feet of site area, or up to one unit per 1,600 square feet with an inclusionary housing bonus, and requires a minimum density of one unit per 2,500 square feet of site area. Newly created lots in the R2 zone must be at least 4,000 square feet in area for multi-dwelling development, 1,600 square feet for development with attached or detached houses, and 2,000 square feet for development with duplexes. Minimum lot width and depth standards may apply.

**Overlay:** Alternative Design Density Overlay Zone (33.405) – The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood.

**Please note:** The site is currently zoned RM1 (Residential Multi-Dwelling 1). The land use application was submitted prior to the change in zoning; therefore this application is being reviewed against the R2 zoning designation as described above for the purposes of this review.

**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.

- Exhibit E1, Bureau of Environmental Services
- Exhibit E2, Bureau of Transportation Engineering and Development Review
- Exhibit E3, Water Bureau
- Exhibit E4, Fire Bureau
- Exhibit E5, Site Development Review Section of BDS
- Exhibit E6, Bureau of Parks, Forestry Division
- Exhibit E7, Life Safety Section of BDS

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **February, 28, 2020**. One written response has been received from a notified property owner in response to the proposal.

**Neighbor Comments/Concerns (Exhibit F.1):**

**Expressed concern regarding lack of on-street parking:** Please see the findings in this staff report (page 7) under 33.641 (Transportation Impacts) for additional information. This parcel is not required to have off-street parking per the Zoning Code since the parcel is within a .25 mile of frequent transit service. In addition, the applicant has proposed to close the existing curb cut which will provide another on-street parking space. The new house is expected to add one additional car to the on-street parking demand. PBOT has determined that the impact to neighborhood on-street parking is negligible.

**Location not ideal for a new house:** The property is zoned for multi-dwelling residential development. This property is zoned have 2 dwelling units. The approval criteria for this land use decision are in Zoning Code Section 33.660.120. The surrounding uses, the height of new house, surrounding amenities, and the current economy are not issues that can be addressed through the applicable approval criteria.

**Tree Preservation:** One tree was removed legally through 19-237899-UF last year (an Urban Forestry Tree Removal Permit). A new tree will need to be planted in its place. No other trees are currently on the property.

**Street Trees:** A City Arborist has been out to the site 3 times in the last 2.5 years. The City Arborist has determined that the 5 existing street trees are in fair condition and are able to be retained. If the resident wishes to prune the street trees, a permit can be obtained here: <https://www.portlandoregon.gov/trees/65396>. Also, sidewalk maintenance including the heaving from existing street tree is the responsibility of the abutting property owner. If you would like to report unsafe sidewalk sections in your neighborhood you can do so here: <https://www.portlandoregon.gov/transportation/article/441632>

**Alley:** The applicant is not proposing any curb cuts or other access to Parcel 2 at this time from the existing public alley north of the site.

## 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:
B	33.630 – Tree Preservation	No trees in excess of 6 inches in diameter are located fully or partially on the site, or the trees are nuisance species or exempt due to poor condition.
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	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. 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 supersedes 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, existing public alley is not proposed or required to be modified with this application.
	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, existing public alley is not proposed or required to be modified with this application.
	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 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 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing 2 detached single dwelling parcels.

Single-dwelling or duplex development is proposed for some or all of the site, therefore the applicant must demonstrate how the proposed lots meet the minimum density and not exceed the maximum density stated in Table 120-3 at the time of the preliminary plan review.

Minimum density in the R2 zone is one unit per 2,500 square feet and the maximum density is one unit per 2,000 square feet. The total site area shown on the applicant's survey is 5,000 square feet. The site has a minimum required density of 2 units and a maximum density of 2 units.

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

<b>R2</b>	<b>Minimum lot area (square feet)</b>	<b>Minimum lot width (feet)</b>	<b>Minimum lot depth (feet)</b>	<b>Minimum front lot line (feet)</b>
<b>Detached Houses</b>	1,600	25	none	25
Parcel 1	3,050 sf	50'	61'	50'
Parcel 2	1,950 sf	39'	50'	39'

\* Width is measured from the midpoints of opposite lot lines.

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

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

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

Additionally, where geologic conditions or historic uses of the site indicate that a hazard may exist, the applicant must show that the proposed land division will result in lots that

are suitable for development. The applicant may be required to make specific improvements to make the lots suitable for their intended uses and the provision of services and utilities.

Clearing and Grading: In this case the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. 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 is an old septic system on the site. The City has no record that this facility was 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 this facility. With this condition, 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 easements are proposed and/or required for this land division:

A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 1, for a sanitary sewer lateral connection that will serve 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 tracts and easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”

With the conditions 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 safely 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):

***Finding:*** *The applicant provided a written narrative addressing the transportation approval criteria above.*

*The application proposes to divide the existing 5,000 square foot property into two lots; a 3,050 sq. ft. corner lot (proposed Parcel 1) with the existing house to remain and a 1,950 sq. ft. lot*

*(northern lot) between Parcel 1 and the alley. The proposed land division has chosen to take advantage of the transit provision not to provide on-site parking for either of the two proposed parcels, therefore, the existing curb cut along SE 88<sup>th</sup> is to be removed at time of Building Permit for proposed Parcel 2. Both abutting streets are fully improved with paved roadway and established pedestrian corridors which generally meet City standards.*

*Based upon trip generation estimates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10<sup>th</sup> Edition, the new proposed parcel is projected to generate one additional morning and one evening trip, for approximately ten daily trips. The net addition of one single-family residence added to the transportation system resulting from the development will not adversely impact the operations of area intersections, as the proposed development adds few trips to the transportation network compared to existing volumes in the area and is consistent with the zoning of the property. Given the high classification of SE Washington, access to proposed Parcel 1 is not permitted from SE Washington. However, the applicant has opted not to provide on-site parking for either proposed parcels. Therefore, the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area and capable of maintaining acceptable levels of service.*

*The subject site is located between the SE Stark/Washington couplet, which served by TriMet frequent bus service line 15-Belmont/NW 23<sup>rd</sup>, which both stops are within 100 feet of the site; in addition to the MAX Green Line within a mile of the site to the east. For bicycles, the site is within close proximity to two identified bikeways; SE 86<sup>th</sup> two blocks to the west, and SE Yamhill three blocks to the south, both provides for safe and comfortable riding conditions to connect to other bicycle networks throughout the city. The existing sidewalk network in the area is complete and provides safe passage to locations within the immediate vicinity and to local transit stops. Therefore, the resulting proposed development will not negatively impact transit access or other transportation modes and will maintain the existing pedestrian environment.*

*In accordance with 33.266.110.B, sites which are within 500 feet of a frequent transit service are not required to provide on-site parking. The subject property meets this provision; therefore, the applicant has elected to not provide on-site parking for either of the proposed parcels. Both SE Washington and SE 88<sup>th</sup> has on-street parking available directly abutting the site. With the applicant's proposal to close the existing curb cut on SE 88<sup>th</sup> ave, approximately 150-ft of abutting curb is available for on-street parking. With the minimal addition of two vehicles added to the current demand for on-street parking, the demand for additional on-street parking is expected to be negligible.*

PBOT has reviewed and concurs with the information supplied and available evidence. No mitigation is necessary for the transportation system to be capable of safely 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:

<b>33.651 Water Service standard</b> – 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.
<b>33.652 Sanitary Sewer Disposal Service standards</b> – 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. The sanitary sewer service standards of 33.652 have been verified.
There is no public sanitary sewer available in SE 88 <sup>th</sup> Avenue. Sanitary sewer is available in SE Washington St.
Parcel 1 (existing house): According to City records, the existing structure on proposed Parcel 1 is currently connected to the sanitary-only sewer in SE Washington St.

Parcel 2: The applicant proposes to serve Parcel 2 via an easement over Parcel 1 in order to access the existing sewer in SE Washington St. BES has indicated this route of service is acceptable. The easement must be shown on the final plat and a maintenance agreement for the easement must be executed.

With this condition, the sanitary sewer service standards of 33.652 have been verified.

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

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

The applicant has proposed the following stormwater management methods

- **Parcel 2:** Stormwater from this lot will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. This lot 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.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground that appear to meet the setbacks required by the Storm Water Management Manual (SWMM). This criterion is met.

**33.654.110.B.1 Through streets and pedestrian connections** See Exhibit E.2 for bureau comment

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. PBOT had these findings for this criterion:

*The site is located at an intersection of established rights-of-way, within the typical grid pattern of an established neighborhood and many redundant connections surrounding the property, therefore additional connections are not practical at this location.*

This site meets the spacing standards for through streets and pedestrian connections.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

For the reasons described above, this criterion is met.

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

In reviewing this land division, PBOT relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. PBOT has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

PBOT had the following comments:

- *For SE Washington, a City Walkway street within an R-2 zone, the City's Pedestrian Design Guide recommends a 12-ft pedestrian corridor comprised of a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and 1.5-ft frontage zone. The existing pedestrian corridor meets City standards in terms of width, but not configuration. However, an Internal Public Works Alternative (19-203809 PW) has been approved to maintain the existing configuration along SE Washington.*



- For SE 88<sup>th</sup>, a Local Service street within an R-2 zone, the City's Pedestrian Design Guide recommends an 11-ft pedestrian corridor comprised of a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and 0.5-ft frontage zone. The existing pedestrian corridor exceeds City standards.

*With no on-site parking provided, the existing curb cut on SE 88<sup>th</sup> Ave. shall be closed at time Building Permit for Proposed Parcel 2.*

With the condition of approval described above, this criterion is met.

## DEVELOPMENT STANDARDS

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

### Future Development

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

- Development Standards: Please note that future development on this site will be subject to the RM1 zoning standards per section 33.120. This site was vested in the former R2 zoning for the purpose of this review. However, these R2 zoning standards will no longer apply at building permit.
- Detached Houses- Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 2. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2 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 standard that relates to existing development on the site:

- Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on Parcel 2 must be removed prior to final plat. Because the structure is less than 200 square feet in size, a demolition permit is not required. The applicant must submit before and after photos to document removal of the structure. Alternatively, the applicant may choose to execute a covenant with the City to retain the accessory structure for up to two years without a primary structure. The covenant must meet the requirements of 33.700.600 and be executed prior to or with the Final Plat.

- Required Off-Street Parking - A garage provides parking for the existing house on Parcel 1. As a result of this land division, the parking space for the existing house will be located on a different lot, and will no longer be available to Parcel 1. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service approximately 181 feet from the site on SE 88<sup>th</sup> Avenue via bus number 15. Bus number 15 provides peak-hour service meeting this requirement. As a result, no replacement parking is required for Parcel 1.
- Title 11 Tree Density Standard – This site has a minimum tree density requirement per 11.50.050 that is not currently met on the site as a 16-inch tree was removed through an Urban Forestry permit in 2019. Due to the land division, and tree removal, Parcel 1 with existing house will no longer meet this standard. Parcel 1 is 3.050 square feet, therefore 1,220 square feet of trees are 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.

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 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 11 – Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	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 the Fire Bureau in regard to addressing requirements and aerial access at the time of development. In addition, prior to final plat approval the applicant must ensure adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

## CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions.

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 single dwelling lots as illustrated with Exhibit C.1, 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 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 reduced side setbacks allowed under 33.120.270.D;
- Any other information specifically noted in the conditions listed below.

**B. The final plat must show the following:**

1. A 10-foot wide private sanitary sewer easement, for the benefit of Parcel 2, shall be shown and labeled over the relevant portions of Parcel 1.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C4 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for The Private Sanitary Sewer Easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

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

1. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system/cesspool on the site.
2. 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 or making the equivalent payment into the City Tree Preservation and Planting Fund. In addition to meeting the tree density standards, a replacement tree for 19-237899-UF shall be planted on-site. A finalized Zoning Permit must be obtained to document tree planting prior to final plat approval.
3. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate dwelling addressing and hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
4. A Maintenance Agreement shall be executed for the Private Sewer Easement described in Condition B1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code

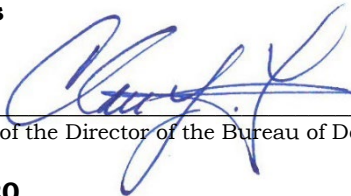
standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

5. The applicant must remove the garage on Parcel 2. The applicant must submit before and after photos of the removal (with the same perspective). Alternately, the applicant can execute a covenant with the City stating that the structures will be removed if a primary structure has not received final inspection on the lot(s) with the accessory structure(s) within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.

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

1. The driveway and curb cut for Parcel 2 off SE 88<sup>th</sup> Avenue shall be closed with building permit.
2. In addition to the tree density requirements for Parcel 2, a replacement tree for 19-237899-UF shall also be planted if it was not already planted on Parcel 1 in addition to Parcel's 1 Title 11 tree density requirements prior to final plat.
3. 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.
4. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling unit on Parcel 2. Please refer to the final plat approval report (condition C.3) for details on whether or not this requirement applies.

**Staff Planner: Clare L. Fuchs**

**Decision rendered by:**  **on June 17, 2020**  
By authority of the Director of the Bureau of Development Services

**Decision mailed June 22, 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 December 20, 2019, and was determined to be complete on February 24, 2020.

*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 December 20, 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: June 23, 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.

If you are interested in viewing information in the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that due to COVID-19 and limited accessibility to files, only digital copies of material in the file are available for viewing. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <https://www.portlandoregon.gov/citycode/28197>.

**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.**

**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:

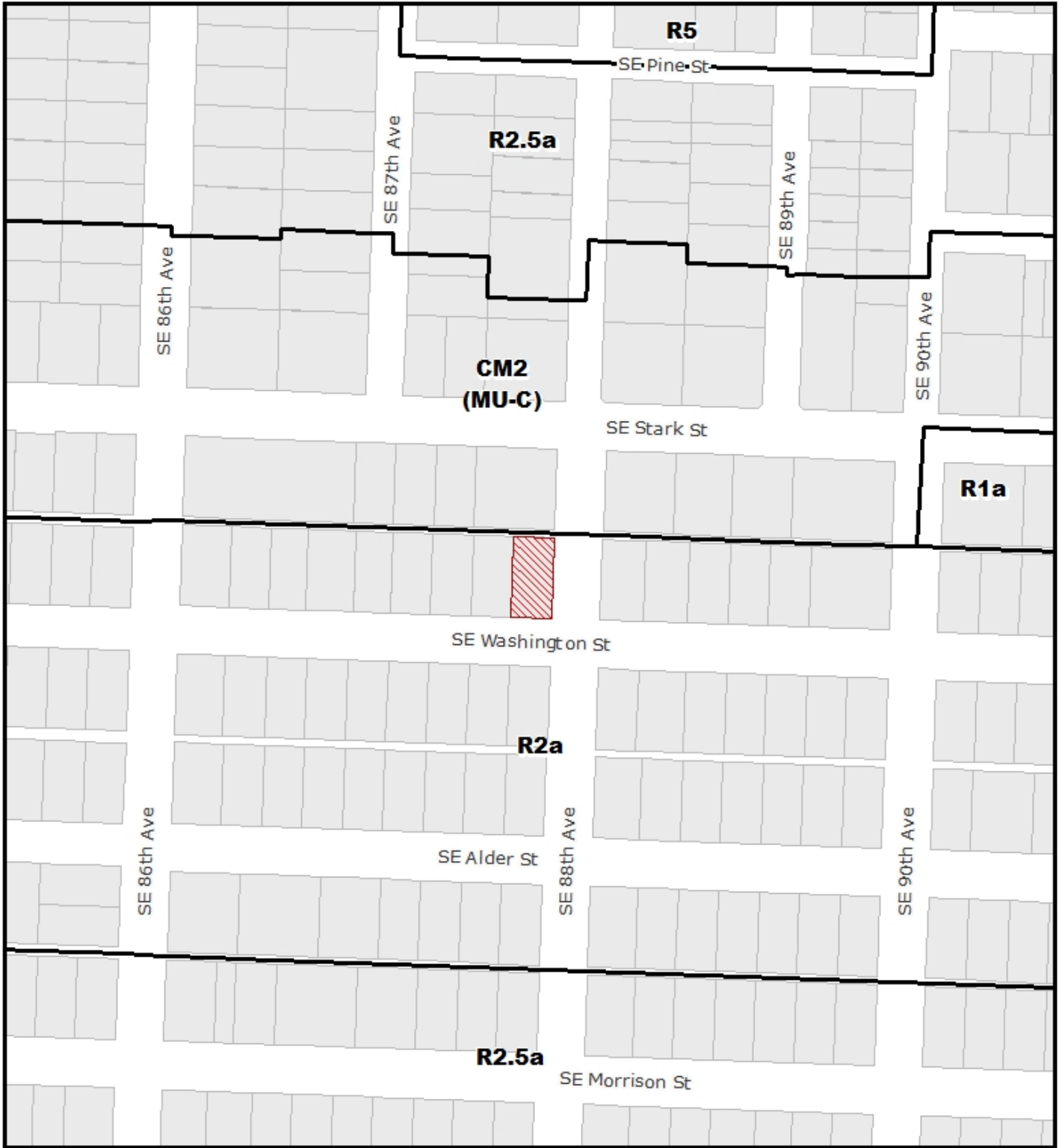
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Narrative
  - 2. Existing Conditions Plans (Full and Reduced Size)
  - 3. Older Site Plans (Full and Reduced Size)
  - 4. Downspout and other Storm Water Photos
  - 5. Stormwater Report and Simplified Approach Form
  - 6. February 21, 2020 Resubmittal Memo
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. 8.5 X 11 Site Plan (attached), Full Size Site 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. Bureau of Parks, Forestry Division
  - 7. Life Safety Section of BDS
- F. Correspondence:
  - 1. Jackie Hoyt, 8729 SE Washington St. March 20, 2020, Opposed to the Proposal. E-mail received from: jackiesuehoyt@gmail.com
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letters
  - 3. Interagency Responses to Request for Completeness

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

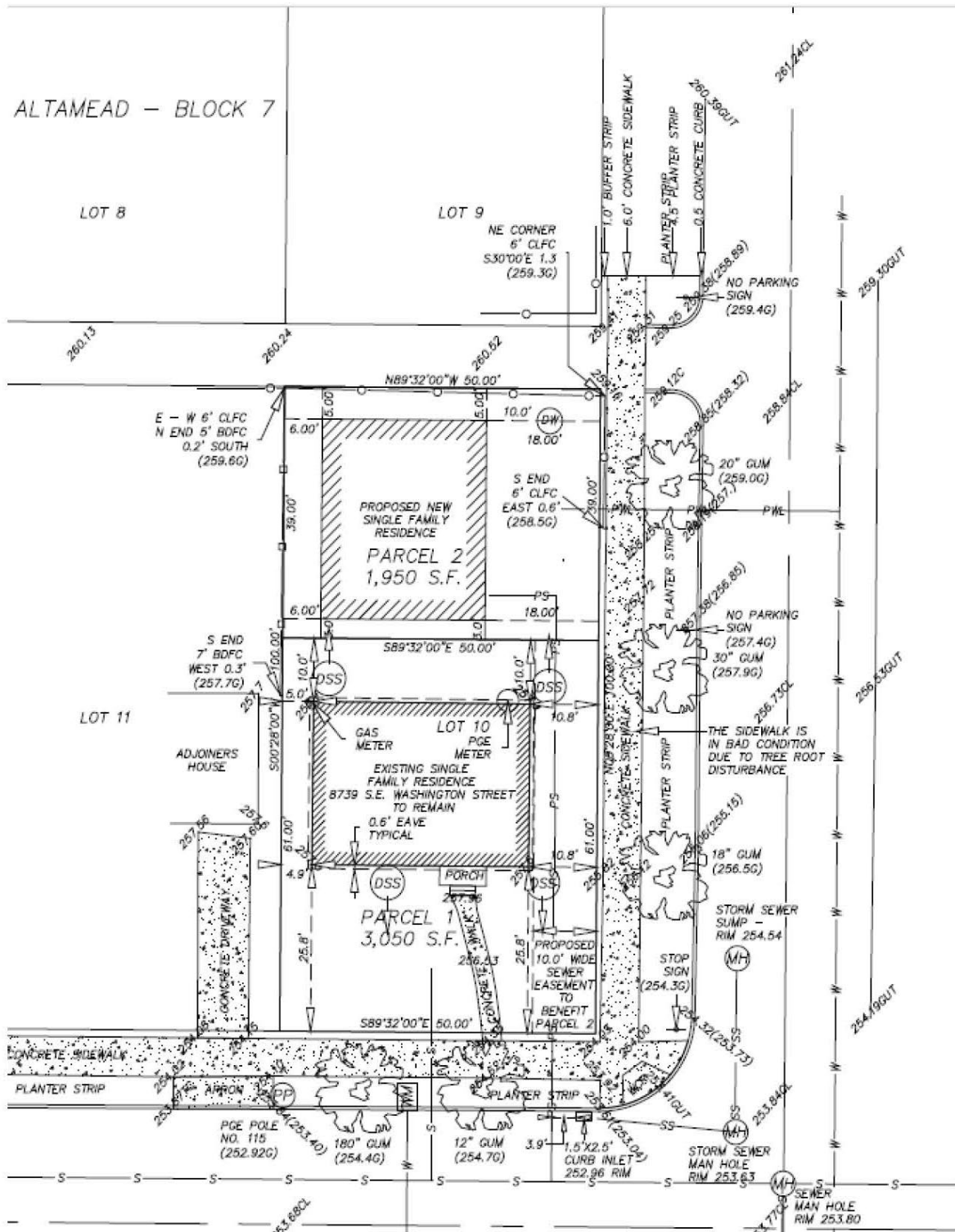


**ZONING**   
NORTH

 Site

File No.	<u>LU 19 - 267610 LDP</u>
1/4 Section	<u>3139</u>
Scale	<u>1 inch = 163 feet</u>
State ID	<u>1S2E04BA 16500</u>
Exhibit	<u>B      Dec 26, 2019</u>

ALTAMEAD - BLOCK 7



19-267610-LDP

Exhibit C1