



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

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

Date: September 30, 2021
To: Interested Person
From: Timothy Novak, Land Use Services
503-823-5395 / Timothy.Novak@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 20-135368 LDP

GENERAL INFORMATION

Applicant: Michael Susak | Susak Properties, LLC
6663 SW Beaverton Hillsdale Hwy #194
Portland OR97225

Owner: DK Homes, LLC
Po Box 90277
Portland, OR 97290

Site Address: 2719 SE 103RD AVE

Legal Description: BLOCK 10 LOT 5 EXC W 85' N 10' OF LOT 6 EXC W 85', PITTOCK GROVE

Tax Account No.: R660603270

State ID No.: 1S2E10BB 04500

Quarter Section: 3340 & 3341

Neighborhood: Powellhurst-Gilbert, contact at pgnaboard@gmail.com

Business District: Midway, contact info@midwaybusiness.org.

District Coalition: East Portland Community Office, contact at 503-823-4550.

Plan District: Johnson Creek Basin

Zoning: Single Dwelling Residential 5,000 (R5)

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 the 16,830 square foot corner lot into three parcels. Parcels 1 and 2 are proposed at 5,503 square feet and Parcel 3, the future corner lot, is proposed at 5,939 square feet. The existing house and detached garage are both proposed to be demolished.

The partition will include frontage improvements along SE Clinton Street; the applicant proposes paying the Local Transportation Infrastructure Charge [\(LTIC\)](#) in lieu of constructing improvements on SE 103rd Avenue.

The applicant is proposing to retain two of the three trees on the site: an 18-inch English Walnut and an 18-inch Flowering dogwood; the third tree is an English Holly, which is classified as a nuisance species and is proposed for removal.

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 three units of land (three 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 criteria are found in **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

ANALYSIS

Site and Vicinity: The site is a 16,830 square foot corner lot within the Johnson Creek Plan District. It is generally a flat lot with a large lawn for most of the yard. Development in the vicinity is primarily single-family dwellings on a mixture of smaller to larger lots. To the north development begins to include multi-dwelling and commercial development as you approach SE Division St, which is about 570 feet north of the subject site and is a major east-west traffic and transit corridor for the area. The most prominent natural feature in the vicinity is Kelly Butte Natural Area, which is about 450 feet to the south and southeast of the site; SE 103rd Ave enters directly into the park just south of the subject site and provides the only vehicle access into the natural area.

Infrastructure:

- **Streets** - At this location, SE 103rd Ave is improved with approximately 28-feet of paved roadway. No curb or sidewalk exist in the lot frontage. SE Clinton St is improved with a 28-ft paved roadway with a curb within the site’s frontage. The Transportation System Plan classifies SE Clinton St as a City Bikeway, Neighborhood Walkway, and Local Service for all other modes. SE 103rd Ave is classified as a City Bikeway and Local Service for all other modes. The site is not within a Pedestrian District.
- **Water Service** – There is an 8-inch main in SE 103rd Ave that is available for future use by Parcel 3. There is a 6-inch main in SE Clinton St that is available for use by future development on all three parcels.
- **Sanitary Service** - There is a Public 8-inch PVC sanitary sewer in SE Clinton St (BES as-built # 4458) and a public 8-inch PVC sanitary sewer in SE 103rd Ave (BES as-built # 4458). Both are available for future development on the parcels to connect to.

- **Stormwater Disposal** – There are no public storm-only sewers available to this property. Public underground injection control (UIC) systems (“sumps”) infiltrate stormwater runoff from the public right-of-way in the vicinity of the site. Stormwater from private development cannot be discharged to public UICs.

Zoning:

- **Base Zone** - 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.
- **Plan District** - 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. The “E” Exhibits contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **June 22, 2021**. One written response was received from a notified property owner in response to the proposal. Below is a summary of his comments with a response from Transportation. The full letter from the neighbor is available as Exhibit F.1.

Summary of comments:

1. Additional density will add traffic, noise, and congestion.

Staff response: PBOT has reviewed the traffic impacts (see Exhibit E.2 and Criterion K, below). The amount of proposed housing is allowed by zoning code chapters 33.610 and 33.110. If noise levels from the new development are not in compliance with the applicable city code, then the issue can be addressed through code compliance; it is not appurtenant to the applicable approval criteria for land divisions.

2. Additional residences will lead to on-street parking that will constrict the traffic lane and prevent him from being able to back his trailer into his lot.

PBOT response (Exhibit F.1.a): *I would specifically like to address his concern that the additional lots will make it difficult for him to maneuver a trailer into his existing driveway. He requested that the City install no parking signs on SE Clinton St. for a distance of 100-feet centered on his driveway. Mr. Morris appears to be concerned that adding more lots to the neighborhood will produce a situation where there is an increase in demand for on-street parking to the point that he will not have adequate maneuvering room to back a truck and trailer into his driveway.*

There may be an increase in on street parking from the additional lots, though it is anticipated to be small. The proposal includes on-site parking for all four dwellings including both units of the proposed duplex. The tentative development plan shows each unit having a garage and a

driveway of adequate depth to park a car in front of the garage door. It is anticipated the day to day parking needs of the new dwelling units will primarily be met by that on-site parking. With that said, there is nothing that would prevent residents or visitors to the new lots from parking in the street. This is an expected use of the public right-of-way.

Currently, on street parking is allowed on both sides of the subject block of SE Clinton St. The curb to curb roadway width is 28-feet. The PBOT Development Review Manual contains the City's standards for local service street widths. For a local service street in an R5 zone, the required street width to allow on-street parking on both sides is 26-feet. Mr. Morris' letter notes, "The street is not wide enough to provide parking because it reduces the street to single vehicle passage." This is by design. A parked vehicle usually takes 8-feet of width. Allowing parking on both sides of a 26-ft wide or wider street means there will be points where the available travel width is as narrow as 10-feet. Designing streets so that moving cars must occasionally yield between parked cars before moving forward is an intentional traffic calming measure. There is not an expectation that the full street width should be available for vehicle maneuvering at all times. While there are City policies which allow the removal of on street parking in industrial districts to facilitate maneuvering of heavy vehicles such as tractor trailers, there are no similar City policies for single family zoned areas or residential driveways. The City's policy is to keep the public on-street parking supply available for the public to use. Restricting parking on a public street to preference the maneuvering area for a single residential driveway is not supported City policy or code.

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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.

	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.
	33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Based on the applicant's survey, the site area is 16,945 square feet. The maximum density in the R5 zone is one lot per 5,000 square feet. Minimum density is one lot per 5,000 square feet based on 80 percent of the site area.

The site has a maximum density of 3 lots and a minimum required density of 3 lots. Under 33.610.100.E.1, when the minimum and maximum density are equal, the minimum density is reduced by 1. So, in this case, the maximum density is 3 and the minimum density is 2. The applicant is proposing 3 parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	5,503		50	110	50
Parcel 2	5,503		50	110	50
Parcel 3	5,939		53.95	110	53.95

* 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.

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

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

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

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

development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets.

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

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

In order to identify which trees are subject to these requirements, the project arborist provided a tree inventory with the arborist report (Exhibit A.6.a). The arborist report includes a tree inventory, a tree survey with tree protection, and a tree protection plan that together show the location and size of trees on and adjacent to the site (Exhibit A.6.a and Exhibits C.3 & C.4) and detail measures to preserve and protect those trees during ground disturbance and development. The arborist report and tree inventory furthermore identify the condition and suitability for preservation or exempt status as well as a specified root protection zone and tree protection measures for each tree to be preserved.

Based on this information, 2 trees (#s 2 & 4), which provide a total of 36 inches of tree diameter, are subject to the preservation requirements of this chapter. Tree #2 is an 18-inch English walnut; Tree #4 is an 18-inch Flowering dogwood.

The applicant proposes to preserve both Tree #2 and Tree #4. The trees proposed for preservation are in good condition and are non-nuisance species. The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R5 zone and will not conflict with any existing utility easements, proposed services or site grading. Per the arborist report (Exhibit A.6.a): “T2 is a young, vigorous tree that will have good tolerance to construction stress.” The tree [T4] is mature for its species and has adapted well to...[existing] stress. This indicates that T4 will have a good tolerance to construction stress and will likely respond well to mitigation measures.”

Specifically, the applicant proposes to preserve both of the 2 non-exempt trees on the site, so the proposal complies with:

Option 4: Where all trees are less than 20 inches in diameter, preserve at least 35 percent of the total tree diameter on the site;

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

The Tree Protection Plan includes two phases: Phase 1 applies to the demolition of the existing structures and to any clearing and grading needed to prepare the site for new development.

In order to ensure that the future owners of Parcels 2 & 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 Parcels 2 and 3 must be carried out in conformance with the Arborist Report (Exhibit A.6.a), the Tree Protection Plan for Phase 2 (Exhibit C.4), and with PCC 11.60.030 Tree Protection Specifications to preserve trees identified within the arborist report as Tree #2, an 18-inch English walnut, and Tree #4, an 18-inch Flowering dogwood.

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

At the time of development, the individual parcels/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.

Clearing and Grading: In this case, the site is relatively flat. The site is not located within the Potential Landslide Hazard Area. Therefore, only minor grading and no significant clearing will be required on the site to make the new parcels developable. The applicant's Arborist Report (Exhibit A.6.a) addresses tree protection for the two trees on the neighboring parcel to the west that are within 15 feet of the subject site. The tree protection measures will ensure that any clearing and grading on future Parcel 1 will not result in those trees being damaged and becoming hazardous. To ensure that the tree protection measures detailed in the arborist report are carried out, a condition of approval will require that permit(s) for future development on Parcel 1 shall provide tree protection for Tree #5, a 24-inch Norway maple, and Tree #6, a 34-inch Austrian black pine, in accordance with 11.60.030, the Tree Protection Plans for Phase 1 (demolition of existing structures and site preparation, Exhibit C.3) and Phase 2 (new development, Exhibit C.4), and the Arborist Report (Exhibit A.6.a).

In addition, Urban Forestry noted that Tree #1 is a high value tree that should be protected (Exhibit E.6). The root protection zone of Tree #1 is in close proximity to on-site locations where clearing and grading are likely to occur. As such, a condition of approval will be included that requires Tree #1, a street tree, be protected in accordance with Urban Forestry requirements during demolition and site preparation (Phase 1) and during development on Parcel 3 (Phase 2).

With the noted conditions, this criterion can be 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 and the records associated with the permit to connect to public sewer indicate that the owner at the time signed a deferral of the decommissioning of the septic system. 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 a condition requiring final inspection for a decommissioning permit, the new parcel(s) can be considered suitable for new development.

This criterion is met.

I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.

Findings: The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

All of the proposed parcels are on the south side of an east-west oriented street (SE Clinton St). Parcel 3 will be on the corner, and will be wider than the other parcels.

This criterion is therefore met.

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

Findings:

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):

A. 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; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated as required by 33.641.020.B.

Safety

The site is on the southwest corner of the intersection of SE Clinton St. and SE 103rd Ave. SE 103rd Ave. is improved with approximately 28-feet of paved roadway. No curb or sidewalk exist in the lot frontage. SE Clinton St. is improved with a 28-ft paved roadway with a curb within the site's frontage. The Transportation System Plan classifies SE Clinton St. as a City Bikeway, Neighborhood Walkway, and Local Service for all other modes. SE 103rd Ave. is classified as a City Bikeway and Local Service for all other modes. The site is not within a Pedestrian District.

Based on information in the City's database on Portland Traffic Deaths and Injuries since 2008, there have been no fatal or injury accidents on SE 103rd Ave. south of Division St. or SE Clinton St. between its westerly terminus and SE 115th Ave.

Street capacity/Level of Service

At this location, both rights-of-way are local service streets for which traffic count data is not available. Both rights-of-way have a paved roadway surface which accommodates two-way vehicle travel. Neither has separated sidewalks within the frontage of the site. Due to the local service classifications and low volumes the roadways also currently serve as shared bicycle facilities. To staff's knowledge, PBOT has not identified any level of service concerns with either segment in the TSP or other planning documents. It is believed both segments function well for vehicular and bicycle travel modes and have capacity to absorb the anticipated 10-daily vehicle trips from one additional residential lot. Adding additional pedestrian trips to an area with an incomplete sidewalk network will have an incremental negative impact.

Connectivity

The subject site is at the intersection of two established rights-of-way. The connectivity standards are met.

Transit Availability

The subject site has access to transit. Bus transit is available on SE Division St. one block (approximately 550 feet) north of the site. While sidewalks do not exist and are not proposed for SE 103rd Ave. within the site's frontage, the block of SE 103rd north of the site has separated sidewalks on both sides of the street allowing for protected pedestrian movement to the transit line. SE Division St. has curb tight sidewalks on the south side of the street. There is a bus stop

directly at the intersection allowing access for east bound buses. Crossing Division St. to access the transit route going westbound is challenging at this location and this time.

It is worth noting that Tri-Met is currently in the process of building the [Division Transit Project](#) which will improve service on SE Division St. Service is anticipated to start in 2022. This project will allow Tri-Met to operate longer busses with 60 percent more rider capacity at intervals of 12-minutes or less. PBOT also has safety improvements underway in the [Outer Division Multimodal Safety Project](#), which is currently under construction as well. This project will be installing a signalized crossing of Division St. at SE 104th Dr, which is 1 block east of SE 103rd Ave. Additionally, the [East Portland Access to Employment and Education](#) project is currently under construction. This project will create the 100's Neighborhood Greenway from SE Powell Blvd. to SE Knott St. along local service streets including SE 107th/109th Ave. just east of the subject site. This project includes sidewalk infill, improved crossings, and signalization of some intersections. Neighborhood greenways are low-traffic and low-speed streets where we give priority to people walking, bicycling, and rolling. Neighborhood greenways form the backbone of the city's Safe Routes to School network and connect neighborhoods, parks, schools, and business districts.

Together, these improvements will make transit access substantially more meaningful for this site. Sidewalk facilities within the site's frontage and within the larger neighborhood will, however, remain incomplete.

Availability of pedestrian and bicycle networks.

Separated sidewalk facilities do not exist for many of the streets in the subject area, though most do have paved roadway surfaces which operate as shared facilities. The addition of two lots to the neighborhood is anticipated to increase trips via all modes. As discussed above, both the Outer Division Multimodal Safety Project and the East Portland Access to Employment and Education project are currently under construction to improve pedestrian and bicycle access throughout the larger neighborhood. While these projects will make system wide movement easier, neither will provide frontage improvements within the frontages of the subject site. Adding additional pedestrian trips to an area where pedestrian facilities are not currently built to City standard will have an incremental negative impact.

Like much of the far east side of Portland, east/west connectivity is limited to area collectors. A paved network of local service street can be used to access collectors such as SE Division St, SE Powell Blvd, and SE Market St. For north/south travel, many more options exist with multiple paved local service streets. With the addition of signals as part of the Outer Division Multimodal Safety Project as well as sidewalk infill and improved crossings through the East Portland Access to Employment and Education project, walking and rolling will become safer and more convenient through this area.

On street parking impacts

On street parking is available on both sides SE Clinton St. and SE 103rd Ave. There appears to be little demand for on-street parking in this area currently. All of the homes in the area appear to include driveways and garages that accommodate multiple vehicles. The existing home and attached garage are proposed to be removed from the site. The applicant's narrative states the proposed new homes will all have a driveway and on-site parking. It is anticipated there will be few impacts to on-street parking from the addition of the proposed two lots.

Access restrictions

Both SE Clinton St. and SE 103rd Ave. are paved local service streets. The roadways appear to be straight with good sight distance. No access restrictions are warranted.

Neighborhood impacts

The proposed development is anticipated to add a small number of trips from all modes into the neighborhood system. All three lots are proposed to have on-site vehicle parking. Additional pedestrian trips will have an incremental negative impact, however it is anticipated there will be few overall impacts to the neighborhood from the additional two lots.

Impacts on pedestrian, bicycle, and transit circulation

There is transit service available on SE Division St. which is currently being modified to allow longer buses with 60% more capacity for riders to serve this route. The addition of two single family lots to the neighborhood is not anticipated to have any impact on the transit circulation on nearby collector streets. A network of paved streets provides bicycle connections from this neighborhood to the larger City. The sidewalk network is incomplete in this area. The addition of two residential lots to the neighborhood is not anticipated to have a substantial impact on area circulation. However, adding additional trips to area where the pedestrian circulation system is not to City standards will have an incremental negative effect.

B. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements.

Findings:

The impact of the development is small enough that asking the property owner to provide off-site improvements to the transportation system would be out of proportion to the development request. Asking the property owner to construct or to fund the City's standard separated sidewalks along the site's frontages will allieviate a portion of the need for pedestrian system improvements in the area.

The applicant has proposed construction of a standard sidewalk corridor on SE Clinton St. and payment of the LTIC on SE 103rd Ave. as explained below.

Since a curb already exists on SE Clinton St, that frontage is not eligible for payment of the Local Transportation Infrastructure Charge (LTIC). Eleven feet of right-of-way currently exists between the face of curb and the property line on SE Clinton St. The City's standard sidewalk corridor for an R5 zoned lot on a local service street outside of a Pedestrian District is an 11-foot corridor consisting of a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and 0.5-ft frontage zone. No dedication is needed on SE Clinton St. A Public Works Permit will be needed to install the improvements including an ADA accessible corner.

The frontage on SE 103rd Ave. does not currently have a curb, making it eligible for payment of the Local Transportation Infrastructure Charge in lieu of constructing improvements. The applicant has proposed payment of the LTIC for SE 103rd Ave. BES has indicated that the additional 4-feet of right-of-way typically needed to manage stormwater is not necessarily when applicants pay LTIC. As such, the existing ROW on SE 103rd Ave. is sufficient to accommodate standard improvements.

This approval criterion can be met with the following conditions of approval:

- Prior to Final Plat approval, the applicant shall pay the Local Transportation Infrastructure Charge (SE 103rd Ave. frontage) and execute street and stormwater waivers of remonstrance.*
- Prior to Final Plat approval, concept approval of a Public Works Permit and financial guarantees for the frontage improvements on SE Clinton St. shall be obtained to the satisfaction of Public Works.*

PBOT has reviewed and concurs with the information supplied and available evidence. Sidewalk corridor improvements along SE Clinton St will be required to serve the proposed development (see criterion L. 33.654, below). With the conditions noted above, 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:

<p>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p> <p>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.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on pages 2 & 3 of this report. The sanitary sewer service standards of 33.652 have been verified.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> <p>Public Street Improvements: As noted in BES’ response:</p> <p>SE Clinton St: <i>PBOT requires construction, expansion or replacement of sidewalk behind the existing curb in SE Clinton street, which qualifies for payment of an offsite management fee-in-lieu of building public stormwater facilities. Therefore, public stormwater facilities will not be required to be built for the qualifying frontage. Payment of the off-site management fee will be due prior to Public Works Permit issuance. However, there may be an existing sedimentation manhole and sump system that meets SWMM requirements and has sufficient capacity to manage the triggered impervious area in the right-of-way. If the sump system is in adequate condition and has sufficient capacity, the offsite discharge fee will not be required, and no additional stormwater management requirements apply for the required right-of-way improvements.</i></p> <p>SE 103rd St: <i>BES understands that the applicant has elected to pay the Local Transportation Infrastructure Charge (LTIC) for SE 103rd Ave; therefore, public ROW improvements will not be constructed on 103rd Ave. At this location and based on current available information, BES does not require additional dedication for future construction of stormwater management facilities. Refer to PBOT comments for additional information regarding LTIC and dedication requirements.</i></p> <p>Private Property: Per BES’ response:</p> <p><i>Stormwater runoff from this project must comply with all applicable standards of the SWMM and the SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director’s designee. Staff reviewed the project’s Simplified Approach stormwater report (6/24/2020), which includes Simple Pit infiltration test results of 2.25 inches per hour on this site. The applicant proposes to infiltrate runoff from the development onsite via drywells that can meet minimum setbacks as established in the facility design standards and Table 2-1 of the SWMM.</i></p> <p>Based on the findings above, the stormwater management systems proposed are acceptable. These standards and criteria are met.</p>
<p>33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for complete bureau response</p>

Per PBOT's Response:

This section requires approval by PBOT for the elements within the right-of-way. In this case, the only new element will be a sidewalk behind the existing curb line on SE 103rd Ave. Typically, PBOT does not request concept approval of a public works permit for a street which already has a curb line as there is little chance of the public works permit affecting the sizes of the lots being divided. This standard is met.

With the improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that applicant pay into LTIC for SE 103rd Ave and that curb and sidewalk improvements are made on SE Clinton St.

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

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

DEVELOPMENT STANDARDS

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

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. Therefore, with a condition of approval requiring that the existing structures be removed prior to final plat approval, 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	Title 11 –Trees

www.portlandonline.com/parks	
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 3-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: Tree preservation and protection, stormwater management, right-of-way improvements, and demolition of the existing structures.

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

ADMINISTRATIVE DECISION

Approval of a three-parcel partition for three standard size lots, per the approved Preliminary Plat Plan, Proposed Development Plan, and phased Tree Protection Plan, Exhibits C.1- C.4, subject to the following conditions:

A. The final plat must show the following:

1. A recording block for the legal document ‘Acknowledgement of Tree Preservation Land Use Conditions’, as required by Condition B.5, below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “An Acknowledgement of Tree Preservation Land Use Conditions has been recorded as document no. _____, Multnomah County Deed Records.”

B. 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 SE Clinton St 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 pay the Local Transportation Infrastructure Charge and complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements on SE 103rd Ave) as required by the City Engineer. Waiver forms and instructions will be provided to the applicant during the final plat review process.

Existing Development

3. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site.
4. A finalized permit must be obtained for demolition of the existing residence and detached garage on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. Additionally, the City’s Deconstruction ordinance applies to houses built in 1940 or

earlier and/or designated historic resources. The site plan for the demolition permit(s) must show all trees to be protected and root protection zones in accordance with the applicant's arborist report (Exhibit A.6.a) and the Tree Protection Plan for Phase 1 (Exhibit C.3). All demolition work must be in conformance with Urban Forestry requirements for Tree #1 and the recommendations in the aforementioned arborist report and Phase 1 Tree Protection Plan for Trees #2, #4, #5, and #6.

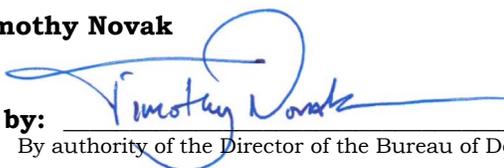
Required Legal Documents

5. The applicant must record an Acknowledgement of Tree Preservation Land Use Conditions at the time of final plat. The acknowledgement must identify that development on Parcels 2 and 3 must be carried out in conformance with the Arborist Report (Exhibit A.6.a) and with PCC 11.60.030 Tree Protection Specifications to preserve trees identified within the arborist report as Tree #2, an 18-inch English walnut and Tree #4, an 18-inch Flowering dogwood.

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

1. Trees #2 and #4, as noted in Condition C.5, are required to be preserved. Trees #5 (24-inch Norway Maple) and #6 (34-inch Austrian black pine), both located on the lot to the west of Parcel 1, are required to be protected during development on Parcel 1. As part of any ground disturbing development on Parcels 1, 2, and 3, the applicant shall demonstrate that Trees #2, #4, #5, and #6, as identified in the arborist report (Exhibit A.6.a), and as located on the Tree Protection Plans for phases 1 and 2 (Exhibits C.3 & C.4), are protected in accordance with the arborist report recommendations and 11.60.030 Tree Protection Specifications.
2. Tree #1, an 18-inch Port Orford cedar that is located in the right-of-way, shall be protected in accordance with Urban Forestry requirements during site preparation (Phase 1) and during development (Phase 2) on Parcel 3.
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.

Staff Planner: Timothy Novak

Decision rendered by:  **on 9/28/2021**

By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) 9/30/2021

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 April 6, 2020, and was determined to be complete on October 1, 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 April 6, 2020.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended 245 days, as stated in Exhibit G.5. Unless waived by the applicant, **the 120 days will expire on: October 1, 2021.**

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 paper 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>.

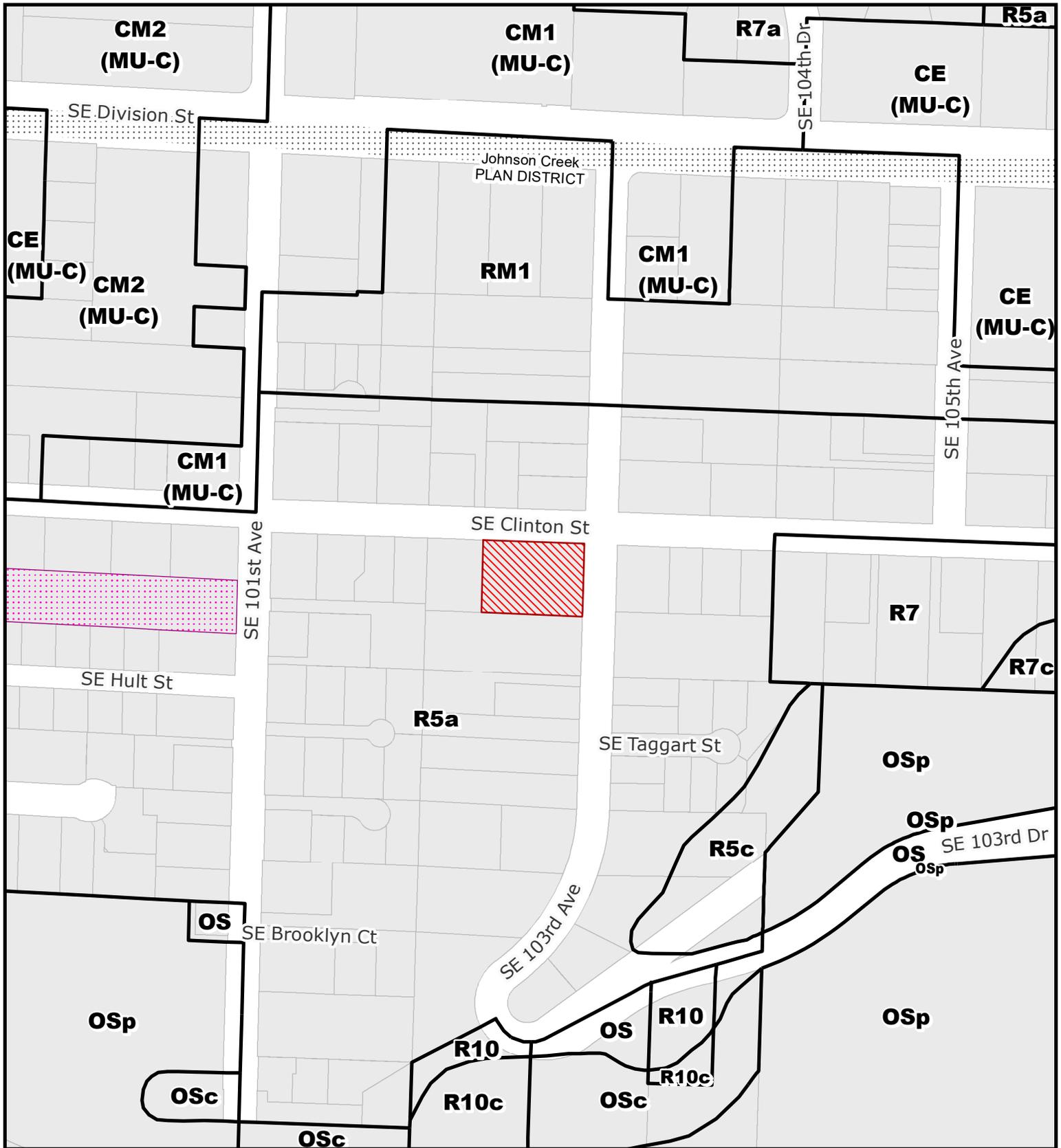
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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.**

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Original Plan Set
 - 2. Legal Lot of Record Documentation
 - 3. 09/03/2020 Submittal Package
 - a. Applicant's Narrative
 - b. Plan Set
 - c. Arborist Report & Tree Inventory
 - d. Simplified Approach Form (SWMM)
 - 4. 06/14/2021 Submittal Package
 - a. Narrative
 - b. Plan Set
 - c. Arborist Report & Tree Inventory
 - d. Simplified Approach Form (SWMM)
 - 5. Arborist Report 08/25/2021
 - 6. 09/07/2021 Submittals
 - a. Arborist Report, Tree Inventory, & Phased Tree Protection Plan(s)
 - b. Surveyor's 1st Rendition of Phased Tree Protection Plans
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat
 - 2. Proposed Development & Utility Plan (attached)
 - 3. Tree Protection Plan, Phase 1
 - 4. Tree Protection Plan, Phase 2
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering & Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Review Section of BDS
- F. Correspondence:
 - 1. Gary Morris, 7/13/2021 (gem2750@msn.com)
 - a. PBOT Response to letter of comment from Gary Morris
- G. Other:
 - 1. Original LU application
 - 2. Incomplete Letter, 04/15/2020
 - 3. Expedited land division form(s)
 - 4. 2nd Incomplete Letter, 9/7/2020
 - 5. E-mail directing staff to deem application complete
 - 6. Extension Request to 120-day review period

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).



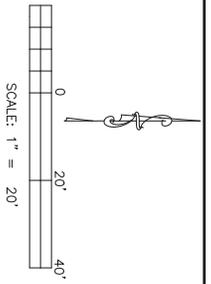
ZONING

↑ NORTH

JOHNSON CREEK PLAN DISTRICT

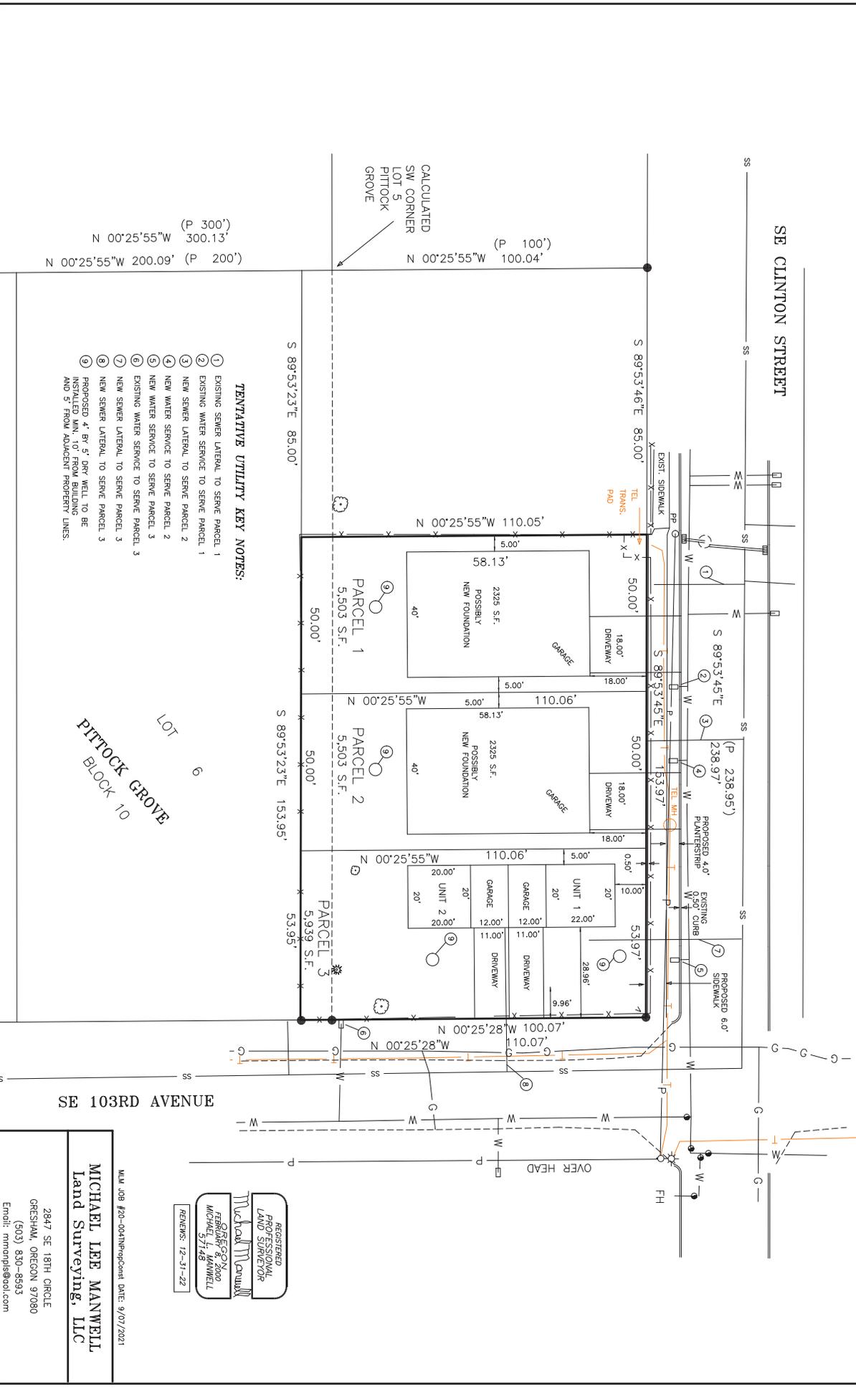
-  Site
-  Also Owned Parcels

File No.	LU 20 - 135368 LDP
1/4 Section	3340,3341
Scale	1 inch = 200 feet
State ID	1S2E10BB 4500
Exhibit	B Apr 20, 2020



**TENTATIVE PROPOSED DEVELOPMENT
AND UTILITY PLAN**

A REPLAT OF PORTIONS OF LOT 5 AND 6,
BLOCK 10, PITTOCK GROVE
LOCATED IN THE NW 1/4 OF SECTION 10,
AND THE NE 1/4 OF SECTION 9,
TOWNSHIP 1 SOUTH, RANGE 2 EAST, W.M.,
MULTNOMAH COUNTY, OREGON
DATE: SEPTEMBER 7, 2021 SCALE: 1" = 20'



TENTATIVE UTILITY KEY NOTES:

- ① EXISTING SEWER LATERAL TO SERVE PARCEL 1
- ② EXISTING WATER SERVICE TO SERVE PARCEL 1
- ③ NEW SEWER LATERAL TO SERVE PARCEL 2
- ④ NEW WATER SERVICE TO SERVE PARCEL 2
- ⑤ NEW WATER SERVICE TO SERVE PARCEL 3
- ⑥ EXISTING WATER SERVICE TO SERVE PARCEL 3
- ⑦ NEW SEWER LATERAL TO SERVE PARCEL 3
- ⑧ NEW SEWER LATERAL TO SERVE PARCEL 3
- ⑨ PROPOSED 4" BY 5" ORV WELL TO BE INSTALLED MIN. 10' FROM BUILDING AND 5' FROM ADJACENT PROPERTY LINES.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael Manwell

OREGON
FEBRUARY 8, 2000
MICHAEL MANWELL
5/1/18

REVIEWS: 12-31--22

MMA 009 #20-0041NRegCont. DATE: 9/07/2021

MICHAEL LEE MANWELL
Land Surveying, LLC

2847 SE 18TH CIRCLE
GRESHAM, OREGON 97080
(503) 830-8893
Email: mmanpls@ol.com