



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

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Date: August 2, 2019
To: Interested Person
From: Shawn Burgett, City Planner
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 18-277372 LDS

GENERAL INFORMATION

Applicant: Nancy Lee
8328 SE Clatsop St. / Portland OR 97086
(971) 285-0730

Owner: Mei To Tam
3721 SE 79th Ave / Portland, OR 97206-2323

Representative: Tracy Brown, Tracy Brown Planning Consultants, LLC
17075 Fir Dr / Sandy, OR 97055

Site Address: 3004 SE 85th Ave

Legal Description: BLOCK 5 LOT 26 EXC E 70', JOHNSTON AC
Tax Account No.: R432102010
State ID No.: 1S2E09BC 04400
Quarter Section: 3339

Neighborhood: Powellhurst-Gilbert, contact at pgnaboard@gmail.com
Business District: Eighty-Second Ave of Roses Business Association, contact Frank Harris at info@82ndave.org
District Coalition: East Portland Community Office, contact Victor Salinas at 503-823-6694.

Zoning: R2a- Multi-Dwelling Residential with "a" Alternative Design Density Overlay
Case Type: LDS- Land Division Subdivision
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing to subdivide the 10,752 square foot site into four lots. The lots range in size from 1,887 square feet to 3,436 square feet. There is an existing house on the site that

is proposed to be retained on Lot 4. There are two trees on the site and one is proposed to be preserved as part of this land division (21" diameter Norway Spruce).

Please note, the Public notice sent out on April 19, 2019 indicated that the applicant was also requesting an Adjustment to the side building setback for the existing house. The adjustment was proposed to reduce the required 5-foot building setback to 3.2 feet along the southern property line of Lot 1. Per Zoning Code section 33.120.270.D, for land divisions that include lots for detached houses, where the lots are 25 feet wide, the detached house may have their side setback reduced to 3 feet on the lot line internal to the land division site. Therefore, the Adjustment is not necessary.

This partition proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent review (Adjustment) is required (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines "lot" as a single unit of land created by a subdivision of land. The applicant's proposal is to create 4 units of land (4 lots). Therefore, this land division is considered a subdivision.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

- **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**

FACTS

Site and Vicinity: The subject site is relatively flat with one large spruce tree on the lot. There is an existing residential structure on the site. The housing in the surrounding area consists of smaller single-dwelling structure and multi-dwelling developments. The existing street grid provides good connectivity to the site from in all directions.

Infrastructure:

- **Streets** – The site has approximately 95 feet of frontage on SE 85th Avenue and 112 feet of frontage on SE Brooklyn Street. There is one driveway entering the site off of SE 85th Avenue that serves the existing house on the site. At this location, both streets are classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 935 feet from the site at SE 82nd Avenue via Bus 72 and approximately 955 feet from the site at SE Powell Blvd. via Bus 9. SE 85th Avenue and SE Brooklyn Street both have a 30-32-foot curb to curb paved roadway within an existing right of way with no sidewalks or planter strips.
- **Water Service** – There is an existing 6-inch CI water main in SE Brooklyn Street and an 8-inch CI water main in SE 85th Avenue. The existing house is served by a 3/4-inch metered service from the SE 85th main.
- **Sanitary Service** - There is an existing 10-inch CSP public combination sewer line in SE Brooklyn Street and an 8-inch PVC combination sewer line in SE 85th Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R2 designation is one of the City's multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It fosters owner-occupancy, focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division is not using any provisions of the “a” overlay.

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

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **April 19, 2019**. One written response has been received from a notified property owners in response to the proposal. The following issue was raised in the response, with staff response in *italics*:

- Concern that the existing house on the site is not properly managed as a rental and that new development on the site will be improperly managed.
The approval criteria for land divisions does not specifically address ownership of the lots that are created. The city does not require the applicant to provide information about specific development or ownership plans for the lots after the lots have been created. Staff recommends that neighbors contact the applicant to receive more information about whether the lots will be sold or retained by the current owner after the lots are created.

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	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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site.

L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.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 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing 4 single family lots.

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. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. A street dedication is required that totals 319 square feet. Therefore, the resulting lot size for calculating density is 10,434 square feet. The site has a minimum required density of 4 units and a maximum allowed density of 5 units.

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

R2	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Detached Houses	1,600	25	none	25
Lot 1	3,236	42.86	75.5	42.86
Lot 2	1,887	25	75.5	25
Lot 3	1,887	25	75.5	25
Lot 4	3,436	37	93	37

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

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

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

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

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

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

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

In order to identify which trees are subject to these requirements, the applicant provided an existing conditions survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.2) that identifies each tree, its condition and suitability for preservation or its exempt status and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, one Norway Spruce, which provides a total of 21 inches of tree diameter, is subject to the preservation requirements of this chapter.

Specifically, the applicant proposes to retain the single 21-inch Norway Spruce, so the proposal complies with:

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

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

The applicants site plan shows a new parking pad being installed on Parcel 1 near the existing house within the Root Protection zone of the tree proposed for protection. The applicant's arborist report (Exhibit A.2) noted that the Root Protection Zone (RPZ) of this tree will be reduced to 14 ft. in all sizes which the arborist report noted "which is approximately the drip-edge of the tree." The arborist added that the reduced RPZ will be "mulched 4 inches deep in woody chips to protect native soil and bolster tree health." The arborist noted that they will be onsite during installation of the new parking pad within the reduced RPZ of Tree 1 in order to ensure the recommendations in the arborist report are followed during installation of the new parking.

Therefore, as a condition of approval. Arborist oversight is required in correlation with any encroachments within the Root Protection zone (RPZ) of this tree for installation of the parking pad on Lot 1 as shown on Exhibit C.1. A certified arborist must provide a letter and contract

specifying that they will be onsite during the installation of the new parking pad meet the recommendations of the applicant's arborist report (Exhibit A.2)

In addition, arborist oversight is required on Lot 3 if new development is proposed within the RPZ of tree number 3 as specified in the Arborist report (A.2) located on the property adjacent to the site as shown on Exhibit C.1

Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Tree Protection Specifications of 11.60.030.

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

At the time of development, the individual lots must also meet the Title 11-Tree Code provisions, which require a specific amount of site area for tree planting based on the size of the property and the scale of the development. The trees to be retained as part of this review may be applied toward meeting those Title 11 requirements.

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

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

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

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, root protection fencing will be required during development of Lots 1 and 4 to protect the Norway spruce required to be preserved. In addition, the applicant will be required to monitor encroachments into the root protection zone of tree 3 (located off site) in correlation with new development on Lot 3 as specified in exhibit A.22. 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.

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):

The applicant is proposing a 4-lot land division with the existing house on site proposed to remain on Lot 1. Based upon trip generation estimates obtained from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition, the 3 new homes expected to be built with this project are estimated to generate 3 additional vehicle trips during both the morning and evening peak hours and 30 additional total daily trips. The minor number of vehicle trips that will be added into the transportation system as a result of the proposed subdivision will not adversely impact the operations of area intersections.

The surrounding area has an established residential development pattern that includes single-family homes on lots that accommodate one, and in some cases, multiple on-site parking spaces thereby reducing the demand for on-street parking in this area. On-street parking is currently allowed along both sides of SE 85th Ave and SE Brooklyn and it is not evident that there is a large demand for said on-street parking supply. Given the on-site parking opportunities that will be provided with each new home that will be built in relation to the proposed subdivision, on-street parking in the area won't be adversely impacted.

There is an existing Tri-Met transit route west and south of the subject site via Tri-Met route #72 (SE 82nd Ave) and route #9 (SE Powell), respectively. The proposed partition will not have any effect on transit service or any other mode of travel. The Portland Bike/Walk Map identifies SE 85th Ave and SE Brooklyn as "Neighborhood Greenways/signed and marked routes" while SE 87th Ave is designated as a "Shared Roadway". These bicycle facilities will not be adversely impacted by the proposed development. Pedestrian travel will be improved by the requirement of the construction of new sidewalks along both of the site's frontages.

"The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area" – this criterion is met.

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: As noted above, the applicant will be required to construct standard sidewalk corridors along both of the site's frontages. Construction of said standard sidewalk corridors will satisfy this approval criterion.

These criteria are met.

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

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

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.
The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.
The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. 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:

- **Lots 2-4:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells.
- **Lot 1 (the lot with the existing house):** BES has noted that there are no City records indicating where the stormwater from the existing house currently discharges. Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of BES. The applicant must modify the stormwater system for the existing house as necessary to comply with Stormwater Management Manual prior to final plat approval. Any required plumbing permits must have final inspection approval.

33.654.110.B.1 Through streets and pedestrian connections

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

The block on which the subject property is located meets the noted spacing requirements. In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. Therefore, the proposal is consistent with the master street plan.

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

SE Brooklyn Street and SE 85th Avenue are improved with a paved roadway and curbs on both sides. In reviewing this land division, PBOT relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case PBOT has determined that sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible to and from the proposed development. To accommodate these improvements additional right-of-way must be dedicated along the SE Brooklyn Street and SE 85th Avenue frontage of the site. With those improvements, three additional dwellings 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 sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

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

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

DEVELOPMENT STANDARDS

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

Future Development

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

- 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 Lot 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the 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 several Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be located 9.3 ft. from the new rear property boundary abutting lot 4 and 3.2 feet from the new side property line abutting Lot 2 as allowed under Zoning code section 33.120.270.D.

Per Zoning Code section 33.120.270.D, for land divisions that include lots for detached houses, where the lots are 25 feet wide, the detached house may have their side setback reduced to 3 feet on the lot line internal to the land division site. Based on the existing conditions survey (Exhibit C.2) the existing house has an eave the encroaches 1 ft. into this 3 ft. setback.

To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.

- Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. A parking pad provides this required parking for the existing house on Lot 1. As a result of this land division, the required parking space for the existing house will be located on a different lot. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Lot 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.
- Title 11 Tree Density Standard – This site has a minimum tree density requirement per 11.50.050 that is currently met on the site. Due to the land division, and associated tree removal, Lot 1 with existing house will no longer meet this standard. Lot 1 is 3,236 square feet, therefore 1,295 square feet of tree are is required. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Lot 1 or making the equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized Zoning Permit.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regard to addressing requirements, including aerial access; ensuring adequate hydrant flow from the nearest fire hydrant or applying the Fire Code exception and recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Lots 2-4 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.
- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Lot 1 prior to final plat approval and in association with the building permit for new development on Lots 2-4. This requirement is based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 4-Lot subdivision, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: Sidewalk improvements along the public streets, tree preservation and replacement parking with the existing house

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 4-lot subdivision, that will result in 4 lots for detached dwelling units 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 BES review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- The location of stormwater facilities for the existing house;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application; including the replacement parking pad on Lot 1
- The reduced side setbacks allowed under 33.120.270.D; required for the existing house on Lot 1;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE Brooklyn St. and SE 85th Ave. The required right-of-way dedication must be shown on the final plat.
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 C.7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements. The improvements required along the frontage of Lot 1 must be designed and approved to the satisfaction of the City Engineer prior to final plat approval. Street Trees will be required to the satisfaction of Urban Forestry.

Utilities

2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate 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.

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 parking space shall be installed on Lot 1, in conformance with the applicable requirements of the Portland Zoning Code. The parking space must be a minimum of 9' x 18' and located out of the new side setback for the lot with the existing house.

Arborist oversight is required in correlation with the installation of the parking pad within the Root Protection Zone of Tree 1 as required under condition D.1 below. A certified arborist must provide a letter and contact specifying that they will be onsite during the installation of the new parking pad meeting the recommendations of the applicant's arborist report (Exhibit A.2)

The applicant must obtain a finalized Zoning Permit for installation of the parking space. The permit plans must include the note: *This permit fulfills requirements of Condition C.4 of LU 18-277372.* The new parking space must also be shown on the supplemental plan.

5. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Bureau of Environmental Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Lot 1 (the lot with the existing home), then the applicant must meet one of the following:
 - Obtain approval of a plumbing code appeal from PBDS to provide private stormwater easements on the final plat as necessary to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area; or
 - Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.
6. The applicant must meet the tree density standard of 11.50.050 on Lot 1 with the existing house by either planting trees on the lot or making the equivalent payment into the City Tree Preservation and Planting Fund. A finalized Zoning Permit must be obtained to document tree planting prior to final plat approval.

Required Legal Documents

7. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lot 1 and 4 with a Root Protection Zone (RPZ) that crosses onto Lot 1. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

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

1. Development on Lots 1 and 4 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.2). Specifically, tree number 1 located on Lot 4 with a Root Protection Zone (RPZ) that also extends onto Lot 1 is required to be preserved, with the root protection zones indicated on Exhibit A-2.

Arborist oversight is required in correlation with any encroachments within the Root Protection zone (RPZ) of this tree for installation of the parking pad on Lot 1 as shown on Exhibit C.1. A certified arborist must provide a letter and contract specifying that they will be onsite during the installation of the new parking pad meet the recommendations of the applicant's arborist report (Exhibit A.2)

In addition, arborist oversight is required on Lot 3 if new development is proposed within the RPZ of tree number 3 as specified in the Arborist report (A.2) located on the property adjacent to the site as shown on Exhibit C.1

Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Tree Protection Specifications of 11.60.030.

2. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of Lots 2-4. The applicant constructed improvements with development on the lot. Street Trees will be required to the satisfaction of Urban Forestry.

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 units on Lots 2-4. Please refer to the final plat approval report for details on whether or not this requirement applies.

Staff Planner: Shawn Burgett

Decision rendered by: S. Burgett on July 30, 2019

By authority of the Director of the Bureau of Development Services

Decision mailed August 2, 2019

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

Procedural Information. The application for this land use review was submitted on December 12, 2018, and was determined to be complete on April 16, 2019.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on December 12, 2018.

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 60 days (Exhibit A.7). **The extension will expire on: October 13, 2019.**

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

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

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

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on 8/16/19** at 1900 SW Fourth Ave.

Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7617 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.ci.portland.or.us .

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

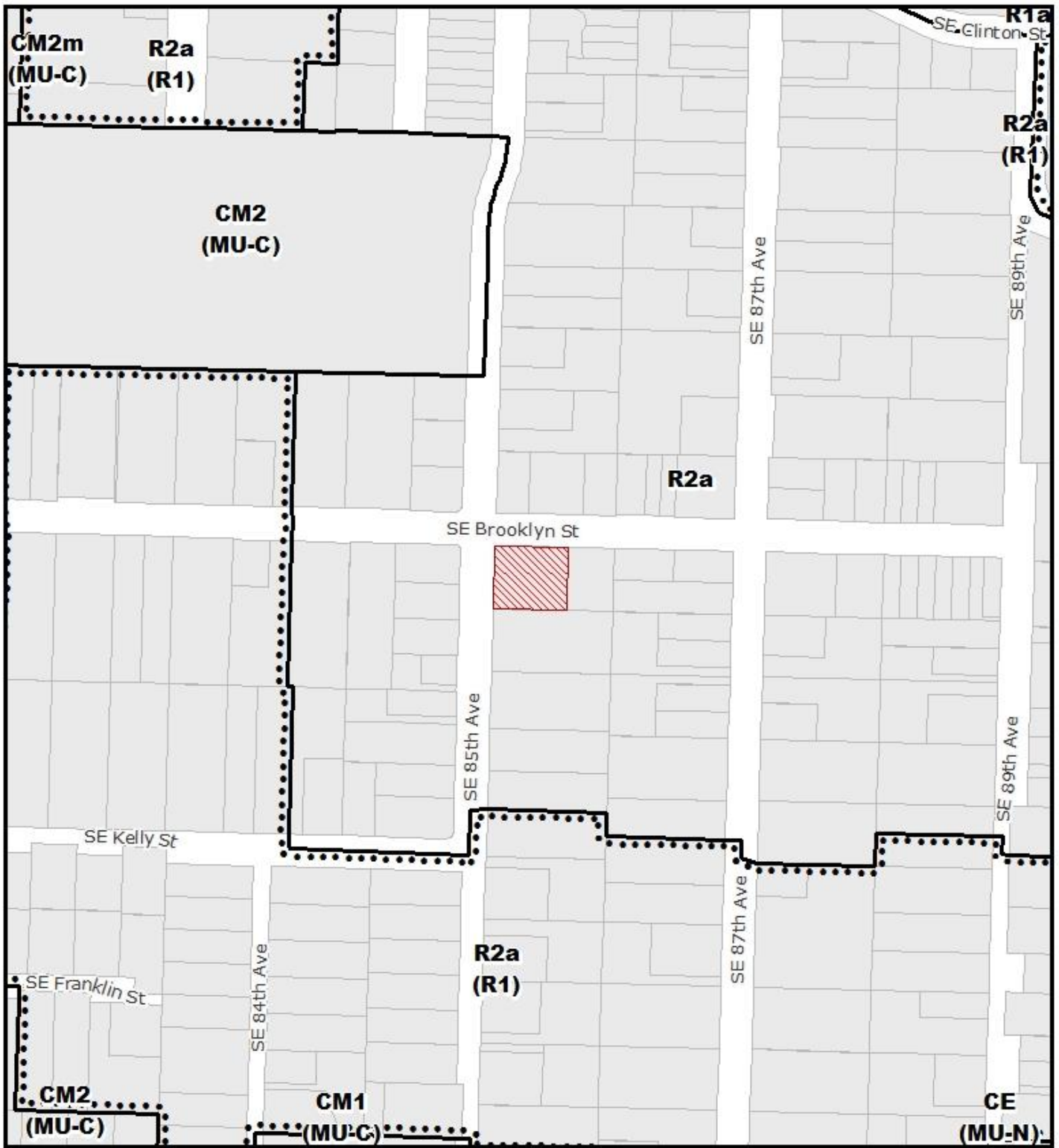
Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity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

Recording the 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. Applicants Narrative
 - 2. Arborist Report
 - 3. Early Neighborhood Notification documentation
 - 4. Deed Info
 - 5. SIM test
 - 6. Site Plan submitted 12/12/18
 - 7. 60-day extension
 - 8. Memo from applicant dated 4/12/19
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Existing conditions survey
- 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
- F. Correspondence:
 - 1. Daniel and Annette Weaver Yett; danielyett@gmail.com
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter

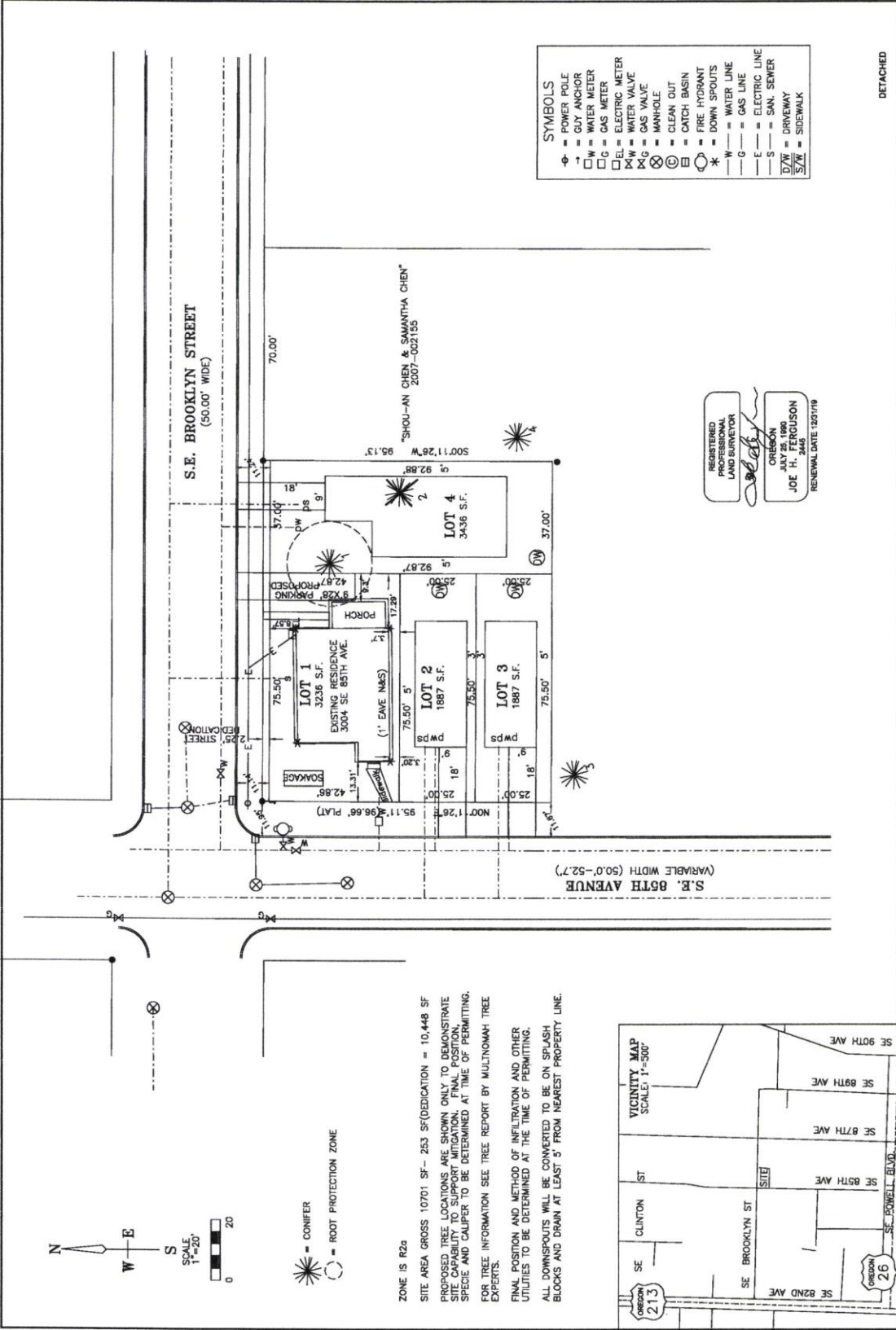
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING  NORTH

 Site

File No.	LU 18-277372 LDS
1/4 Section	3339
Scale	1 inch = 200 feet
State ID	1S2E09BC 4400
Exhibit	B Jul 30, 2019



SYMBOLS

- ⊕ POWER POLE
- ⊙ GUY ANCHOR
- ⊖ WATER METER
- ⊕ GAS METER
- ⊕ ELECTRIC METER
- ⊕ WATER VALVE
- ⊕ GAS VALVE
- ⊕ MANHOLE
- ⊕ CLEAN OUT
- ⊕ CATCH BASIN
- ⊕ FIRE HYDRANT
- ⊕ DOWN SPOUTS
- ⊕ WATER LINE
- ⊕ GAS LINE
- ⊕ ELECTRIC LINE
- ⊕ SAN SEWER
- ⊕ DRIVEWAY
- ⊕ SIDEWALK

REGISTERED PROFESSIONAL LAND SURVEYOR
 JOE H. FERGUSON
 OREGON JULY 2, 1980
 #2465
 RENEWAL DATE 12/7/19

SCALE: 1"=20'
 0 20

☀ = CONIFER
 ○ = ROOT PROTECTION ZONE

ZONE IS R20
 SITE AREA GROSS 10701 SF - 253 SF(DEDICATION) = 10,448 SF
 PROPOSED TREE LOCATIONS ARE SHOWN ONLY TO DEMONSTRATE
 SITUATION. THE EXACT LOCATION, HEIGHT, CALIPER, SPECIES,
 SPEED AND CALIPER TO BE DETERMINED AT TIME OF PERMITTING.
 FOR TREE INFORMATION SEE TREE REPORT BY MULTNOMAH TREE
 EXPERTS.
 FINAL POSITION AND METHOD OF INFILTRATION AND OTHER
 UTILITIES TO BE DETERMINED AT THE TIME OF PERMITTING.
 ALL DOWNSPOUTS WILL BE CONVERTED TO BE ON SPLASH
 BLOCKS AND DRAIN AT LEAST 5' FROM NEAREST PROPERTY LINE.



PRELIMINARY PLAT A TRACT OF LAND IN SECTION 8, T.1E., R.2E., CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON	CLIENT: NANCY LEE	DATE: NOVEMBER 1, 2018 JOB NO. 18-090 DRAFTED 10.29.18
	DETACHED	SHEET 1 OF 1

Ferguson Land Surveying, Inc.
 646 SE 106TH AVE. PORTLAND, OR 97216
 Phone (503) 408-0601 Fax (503) 408-0602
 www.FergusonLandSurveying.com

LW 18-277372 LDS AD

CASE NO 18-277372
 EXHIBIT C-1