



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: May 27, 2022
To: Interested Person
From: Diane Hale, Land Use Services
503-865-6431 / Diane.Hale@portlandoregon.gov

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

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

CASE FILE NUMBER: LU 20-220546 LDP

GENERAL INFORMATION

Applicant: Michael Susak, Susak Properties LLC / (503) 888-2333
6663 SW Beaverton Hillsdale Hwy #194 / Portland, OR 97225

Owner: Cornel Curea
6138 SE 136th Ave / Portland, OR 97236-4566

Site Address: 6138 SE 136TH AVE

Legal Description: LOT 13 TL 1000, LAMARGENT PK NO 2; LOT 13 TL 1100, LAMARGENT PK NO 2

Tax Account No.: R466204260, R466204290

State ID No.: 1S2E14DC 01000, 1S2E14DC 01100

Quarter Section: 3644

Neighborhood: Pleasant Valley, contact Steve Montgomery at foxtrotlove@hotmail.com & Powellhurst-Gilbert, contact at pgnaboard@gmail.com

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

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

Plan District: Johnson Creek Basin

Zoning: R5a - Single-dwelling residential 2,500 with an "a" Alternative Design Density overlay

Case Type: LDP – Land Division Partition Review

Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing a 2-parcel partition for this 15,100 square foot interior lot. Parcel 1 is a 45-foot-wide standard lot that is 7,123 sq feet in area. Parcel 2 is a flag lot that is

7,978 square feet in area with a 12-foot-wide pole abutting SE 136th Avenue. The existing house will remain on Parcel 1. Parcel 2 will be available for future residential development. The applicant is proposing to preserve the only tree on the site, a 24" douglas fir in the front yard of the existing house.

This partition is reviewed through a Type Ix land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines "parcel" as a single unit of land created by a partition of land. The applicant's proposal is to create 2 units of land (2 parcels). 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**.

FACTS

Site and Vicinity: The site is a 15,422 sq foot lot developed with a house constructed in 1974 and a detached garage. The area surrounding the site is generally zoned R5 and developed with single-family homes. SE Foster Road is ~300 feet to the south. The Springwater Corridor trail is ~1,000 feet to the north.

Infrastructure:

- **Streets –**
The site has approximately 57 feet of frontage on SE 136th Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, SE 136th Avenue is classified as a Neighborhood Collector, Transit Access Street, City Bikeway, City Walkway, Major Emergency Response Street, and a Local Service Street for all other modes. Based on GIS, the frontage is improved with a 12-ft wide sidewalk corridor that meets current City standards. Tri-Met provides transit service south of the site at SE 136th Avenue and Foster Road via bus #10.
- **Water Service –** There is an existing 16-inch water main in SE 136th Avenue. The existing house is served by a metered service from this main.
- **Sanitary Service –** There is an existing 8-inch PVC public sewer line in SE 136th Avenue.
- **Stormwater Disposal –** There is no public storm-only sewer currently available to this property.

Zoning: R5 Zone - The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing. Newly created lots in the R5 zone have a minimum area of 3,000 square feet and maximum density of 1 lot per 5,000 square feet of site area.

Johnson Creek Basin 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.

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 **August 20, 2022**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
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	No pedestrian connections are 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 15,102 square feet. The maximum density in the R5 zone is one unit per 5,000 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area.

The site has a maximum density of 3 units and a minimum required density of 2 units. The applicant is proposing 2 single dwelling 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)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
R5 Zone	3,000	8,500	36	50	30	40	40
Parcel 1	7,123		45.2	156.9	45.2	NA	NA
Parcel 2**	7,978 w/pole		NA	NA	NA	103	43

* 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.

** For flag lots: (1) width and depth are measured at the midpoint of the opposite lot lines in the "flag" portion of the lot; and (2) lot area calculations do not include the pole portion of the lot.

Flag Lots

When allowed

In this case the applicant is proposing 2 parcels, only one of which is a flag lot. The existing dwelling unit has been on the property for at least 5-years and is located so that it precludes a land division that meets minimum lot width standards. The minimum density standards are met. Therefore the thresholds for when a flag lot is allowed to be created have been met.

Dimensions

The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a “pole” at least 12 feet wide that connects to a street, and as shown above, meets the minimum lot area, width and depth standards.

Vehicle Access

Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.

In this case, the flag portion of Parcel 2 will provide off street parking access for both the parcels. The shared vehicle access minimizes the need for additional curb-cuts along the street and the impervious area resulting from paved surfaces for vehicle access. A private access easement will be placed over the entirety of the pole to allow shared access.

Parcel 2 has met the thresholds for when a flag lot is allowed. Therefore, Parcel 2 is allowed.

Overall, the findings above show that the applicable density and lot dimension standards are met. Additionally, the lot lines are straight and side lot lines are perpendicular to the street.

Accordingly, 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.

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.

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.2) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.7) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, 1 tree, A 24" Douglas Fir, is subject to the preservation requirements of this chapter. The applicant proposes to preserve this tree, therefore the proposal complies with Options 1, 2 and 3 of the tree preservation standards:

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.

Option 2: Preserve at least 75 percent of the trees that are 20 or more inches in diameter and at least 25 percent of the total tree diameter on the site.

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

The tree proposed for preservation is in good condition, includes a native species, and is 20 or more inches in diameter. The proposed root protection zone for the tree, 24 feet, 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. The applicant shall obtain a Zoning Permit to install tree protection for disturbance associated with the plumbing permit to relocate the sanitary sewer lateral (condition C.1) and decommissioning the existing cesspool (condition C.5), in conformance with the tree preservation plan (Exhibit C.1), to ensure that this work does not encroach into the root protection zone of tree #1.

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

In order to ensure that future owners of Parcel 1 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 Parcel 1 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.7).

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

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

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

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

Clearing and Grading: In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. Tree #1 will be preserved in the front yard of the existing house to remain. Although no disturbance around this tree is anticipated, tree protection fencing will be required at a distance of 24 feet from the tree in the instance of future disturbance, as noted above in Section B. Trees. 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 cesspool 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. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on Parcel 2 prior to final plat approval. With a condition requiring final inspection for a decommissioning permit, and removal of the structures on Parcel 2, the new lots can be considered suitable for new development, and this criterion is met.

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

Findings: No tracts are proposed or required for this land division, so criterion A does not apply.

The following easement is proposed and/or required for this land division:

- A Private Access Easement is required over the flag pole of Parcel 2 to provide a shared access serving Parcels 1 and 2.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easement described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block for each agreement, substantially similar to the following example:

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

With the conditions of approval discussed above, 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 lots are on the east side of a north-south oriented street, and are considered interior lots (not on a corner). In this context there is no preference that any one lot be wider or narrower than the other lots. This criterion is therefore met.

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

Findings: The transportation system must be capable of supporting the proposed development in addition to the existing uses in the area.

Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced and measures to mitigate impacts may be necessary.

The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

Safety

PBOT is not aware of any significant safety issues in the vicinity of the site. The site is located in a low density (R7) single-family neighborhood where local streets have low volumes of traffic and low speeds. Note: the site is in the R5 single dwelling residential zone.

Street Capacity and Levels of Service

The proposal will result in an increase of 1 single-family residences. This residence can be expected to generate 10 daily vehicle trips with 1 trip occurring in each of the AM and PM Peak Hours. This small increase in peak hour vehicles will not have significant impact on intersection levels of service or street capacity. No mitigation is needed.

Connectivity

The site is approximately 300-ft north of SE Foster. There are better locations with lots with more development potential just north and east of this site for a future east/west connection to a future north/south SE 137th.

Availability of Transit

Tri Met Bus Line #10 is available to serve the site at Foster & 136th.

Availability of Pedestrian and Bicycle Networks

Bicycle networks in the vicinity include bike lanes on SE Foster, SE Powell, and the Springwater Corridor. There are unfunded plans for SE 136th. The main arterial streets mostly have completed sidewalks. The Local Traffic Streets in the area offer shared facilities for pedestrians and cyclists with low traffic volumes and speeds.

On-Street Parking Impacts

The new lots will have at least one on-site parking space with potentially an additional space in front of the garage. Impacts to the on-street parking supply should be minimal.

Access Restrictions

There are no access restrictions on SE 136th Ave.

Neighborhood Impacts

The site is being developed with net increase of 1 new single-family residence in compliance with the existing R5 zoning. The addition of one residence will not result in any significant impacts to the neighborhood.

Impacts on Pedestrian, Bicycle, and Transit Circulation

The addition of one residence will not result in any impacts or changes to the pedestrian, bicycle, and transit circulation in the vicinity of the site.

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.

Since the impacts associated with the addition of a one single-family residence will be negligible, no mitigation measures are needed.

Vehicle areas must be designed to allow vehicles forward ingress and egress to SE 136th Avenue.

No objection to approval subject to the applicant demonstrating with turning templates that vehicle access to both lots is provided with forward ingress and egress prior to final plat approval.

PBOT has reviewed and concurs with the information supplied and available evidence. With a condition requiring that the applicant demonstrate forward motion ingress and egress for both lots prior to final plat approval, 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 and Exhibit E.4</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report.</p> <p>The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report.</p> <p>BES reviewed the proposed improvement and utility plan and the response is summarized below:</p> <p>BES determined the applicant’s proposal for sanitary service acceptable for the purpose of reviewing the preliminary land division application against the sanitary sewer disposal standard and approval criterion. As a result of the proposed land division, the existing sewer connection that serves the house on Parcel 1 will cross over Parcel 2 to reach the sewer main in SE 136th Avenue. The applicant must cap the existing sewer connection and establish a new service for the house located entirely on Parcel 2, outside of the root protection zone of tree #1 to be preserved. All required plumbing permits must receive final inspection approval prior to Final Plat approval. Because the disturbance may be within the vicinity of tree #1 to be preserved, a Zoning Permit will also be required to verify that the required tree protection fencing has been installed prior to sewer installation. With these conditions, the sanitary sewer service standards of 33.652 have been verified. This criterion is met.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1</p>

BES reviewed the applicant's proposed improvement and utility plan and Simplified Approach Form against the stormwater management approval criteria and standards, and determined that a stormwater management system can be designed that will provide adequate capacity and disposal for the expected amount of stormwater, as summarized below:

No stormwater tract is proposed or required.

The applicant has proposed the following stormwater management methods:

- **Parcel 2:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Stormwater from the driveway/turnaround will be managed by adjacent lawn/landscaping and a center filter strip. BES has indicated conceptual approval of the proposal.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain into underground pipes that route the water to a drywell located ~15 feet from the SE corner of the house. The location meets setbacks to the proposed property lines.

BES determined the proposal is acceptable for reviewing the land division against the stormwater management approval criteria and standards. This criterion is met.

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 site is approximately 300-ft north of SE Foster. The site could be a reasonable location for an east/west connection given the location and configuration of streets in the vicinity, however the existing house that will remain on the site precludes dedication and development of a new connection as there is not enough room on the site outside of the house footprint to accommodate a street or pedestrian connection. There are also better locations with more development potential just north and east of this site for a future east/west connection to a future north/south SE 137th.

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

For the reasons described above, this criterion is met.

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

33.644.120.H Street Trees – See Exhibit E.6

The width of the local street right-of way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.

For public streets, PBOT reviews the configuration of elements within the street right-of-way for consistency with city standards and specifications, and Urban Forestry addresses the retention and installation requirements for street trees.

For private streets, the Bureau of Development Services reviews the configuration of elements within the street right-of-way for consistency with the standards in *Administrative Rules for Private Rights of Way*.

PBOT has indicated that the existing street is currently improved to City standards. PBOT has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

Urban Forestry evaluated the provision of street trees and planting areas for the public right-of-way and determined that prior to lot division there is room for 2 street trees and after the proposed lot division there will only be room for 1 tree. A fee for the permanent loss of one available planting space is required. Currently, \$675 (\$450 per inch x 1.5" required size).

Based on the foregoing, the width of the right-of-way will be sufficient to accommodate the expected users. With the conditions of approval described above, this criterion is met.

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:

- Flag Lots-- special standards apply to flag lots in the RF-R2.5 zone. These standards apply to Parcel 2. The zoning code in effect at the time of building permit will apply to future development on Parcel 2. Currently, the flag lot standards are in 33.110.255.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are 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 8.3 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.
- Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on Parcel 2 must be removed prior to final plat. The garage is over 200 sq feet in area, therefore the applicant must

provide documentation prior to final plat approval that the required demolition permit has received final inspection approval. The shed is less than 200 square feet in size, therefore a demolition permit is not required. The applicant must submit before and after photos to document removal of the structure.

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 https://www.portland.gov/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 https://www.portland.gov/bes	Title 17 – Sewer Improvements Stormwater Management Manual
Fire Bureau/503-823-3700 https://www.portland.gov/fire	Title 31 – Fire Regulations Portland Fire Code
Transportation/503-823-5185 https://www.portland.gov/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 https://www.portland.gov/parks	Title 11 –Trees
Water Bureau/503-823-7404 https://www.portland.gov/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 the Portland Fire Code. The applicant has indicated that Parcel 2 can meet the exception for fire apparatus access roads that do not exceed 250 feet in length, and proposes to install sprinklers in the development on Parcel 2 accordingly. The applicant will be required to record an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2 with the final plat.

CONCLUSIONS

The applicant has proposed a 2-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 related to utilities, removal of existing structures from Parcel 2, tree preservation and easements.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition that will result in one standard lot (Parcel 1) and one flag lot (Parcel 2) as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. An additional supplemental plan shall be submitted with the final plat survey for Land Use review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the following:

- The surveyed location of any buildings or accessory structures on the site at the time of the final plat application;
- The surveyed location of any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A Private Access Easement over the “flag pole” portion of Parcel 2 for the benefit of Parcel 1 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
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.6 to C.8 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:

Utilities

1. The applicant shall obtain finalized plumbing permits for capping the existing sanitary lateral connection to the house on Parcel 1 and providing a new lateral connection serving the house from the sanitary sewer main in SE 136th Ave that is located entirely on Parcel 1. Tree protection per Condition C.2 must be installed prior to any ground disturbance.
2. The applicant shall obtain a Zoning Permit to install tree protection for disturbance associated with the plumbing permit to relocate the sanitary sewer lateral (condition C.1) and decommissioning the existing cesspool (condition C.5), in conformance with the tree preservation plan (Exhibit C.1).

Existing Development

3. The applicant must obtain a finalized demolition permit for removing the garage on Parcel 2.
4. The applicant must remove the shed on Parcel 2. The applicant must submit before and after photos of the removal (with the same perspective).
5. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the cesspool on the site. Tree protection per Condition C.2 must be installed prior to any ground disturbance. Tree protection may be installed under the demolition permit if the decommissioning will occur under that permit.

Required Legal Documents

6. A Maintenance Agreement shall be executed for the Private Access Easement described in Condition B.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards.

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

7. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.
8. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 1. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

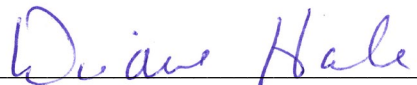
Other requirements

9. The applicant must demonstrate forward motion ingress and egress for Parcels 1 and 2 prior to final plat approval.
10. The applicant must pay into the City Tree Preservation and Planting Fund [Street Trees – Fee in Lieu of Planting and Establishment (per inch)] the amount equivalent to 1.5 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

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

1. Development on Parcel 1 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.7). Specifically, tree #1 is required to be preserved with the root protection zones indicated on Exhibit C.1. Tree protection fencing is required along the root protection zone of the trees to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Tree Protection Specifications of 11.60.030.
2. The applicant will be required to install residential sprinklers in the new house on Parcel 2 to the satisfaction of the Fire Bureau.
3. Vehicle access to Parcel 1 must be from the flag pole of Parcel 2. A driveway is not allowed along the frontage of Parcel 1.

Staff Planner: Diane Hale

Decision rendered by:  **on May 25, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed May 27, 2022

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 2, 2020, and was determined to be complete on May 28, 2021.

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 2, 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 by 245 days (Exhibit A.8). **The 120 days will expire on May 28, 2022.**

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 staff report. The planner can provide some information over the phone or via email. Only digital copies of material in the file are available. A digital copy of the Portland Zoning Code is available on the internet at <https://www.portland.gov/code/33>.

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City’s approval of the preliminary plan.**

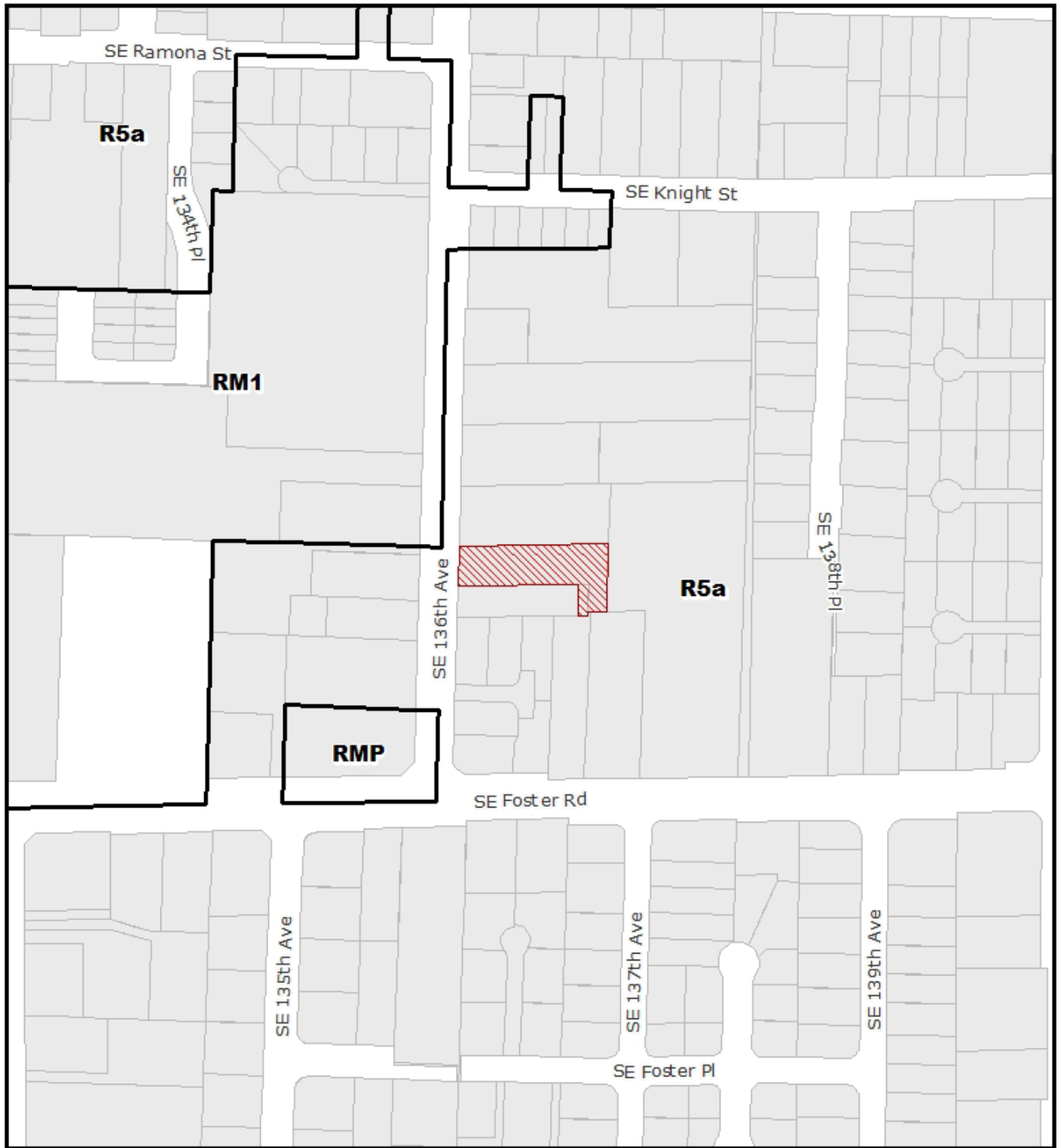
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1. Applicant’s original submittal and plans
 - 2. Applicant’s response, May 28, 2021
 - 3. Applicant’s response, June 14, 2021
 - 4. Applicant’s response, April 15, 2022

5. Applicant's response, May 11, 2022
 6. Applicant's response, May 13, 2022
 7. Arborist Report
 8. Extension Form
 9. Stormwater Information
- B. Zoning Map (attached)
- C. Plans/Drawings:
1. Proposed Site Plan (attached)
 2. Existing Conditions Survey
- D. Notification information:
1. Mailing list for proposal
 2. Mailed proposal notice
- E. Agency Responses:
1. Portland Bureau of Environmental Services
 2. Portland Bureau of Transportation Engineering and Development Review
 3. Portland Water Bureau
 4. Fire Department
 5. Site Development Review Section of BDS
 6. Life Safety Section of BDS
 7. Urban Forestry
- F. Correspondence: None
- G. Other:
1. Original LU Application and Expedited Land Division Form
 2. Incomplete Letter

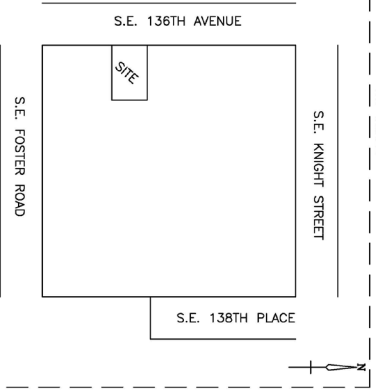
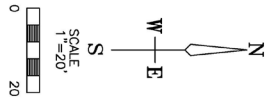
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
 NORTH
 JOHNSON CREEK PLAN DISTRICT



File No.	LU 20 - 220546 LDP
1/4 Section	3644
Scale	1 inch = 200 feet
State ID	1S2E14DC 1000
Exhibit	B Dec 02, 2020



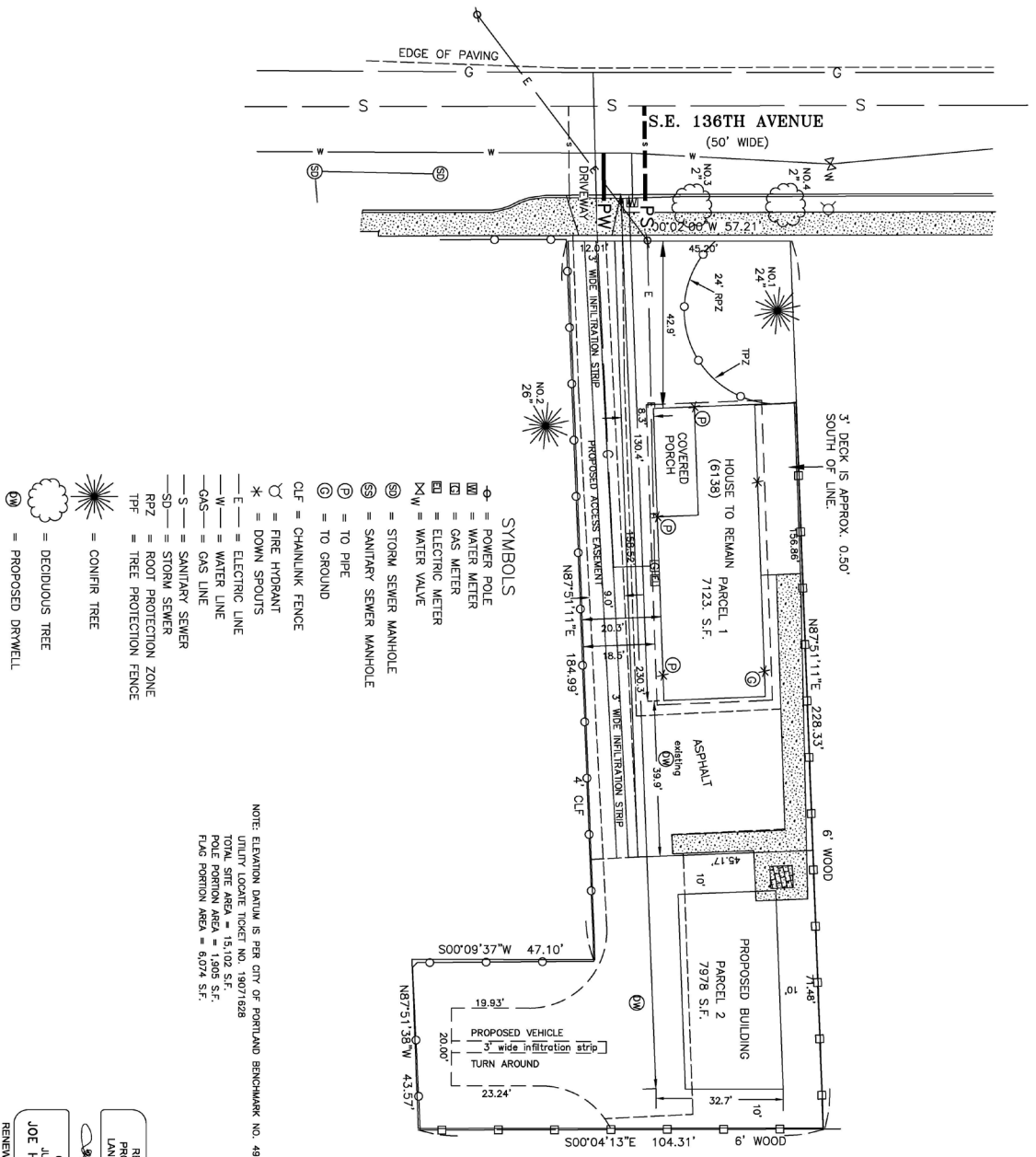
Ferguson Land Surveying, Inc.
 646 SE 106TH AVE. PORTLAND, OR 97216
 Phone (503) 408-0601 Fax (503) 408-0602
 www.FergusonLandSurveying.com

PROPOSED PLAT
 A PORTION OF LOT 13, "LARGENT PARK",
 SITUATED IN THE SE 1/4 OF SECTION 14, T15S, R2E, WM,
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

CLIENT: FIVE STAR PLUMBING
 CUREA CORNEL
 6138 SE 136TH AVENUE
 PORTLAND, OR 97236

DATE: SEPTEMBER 24, 2020
 REVISED 3/9/2022 PER CITY OF PORTLAND COMMENTS
 REVISED 4/15/2022
 REVISED 5/13/2022

JOB NO. 19-037
 DATED 12.19.19
 SHEET 1 OF 1



- SYMBOLS**
- ⊕ = POWER POLE
 - ⊕ = WATER METER
 - ⊕ = GAS METER
 - ⊕ = ELECTRIC METER
 - ⊕ = WATER VALVE
 - ⊕ = STORM SEWER MANHOLE
 - ⊕ = SANITARY SEWER MANHOLE
 - ⊕ = TO PIPE
 - ⊕ = TO GROUND
 - ⊕ = CHAINLINK FENCE
 - ⊕ = FIRE HYDRANT
 - ⊕ = DOWN SPOUTS
 - ⊕ = ELECTRIC LINE
 - ⊕ = WATER LINE
 - ⊕ = GAS LINE
 - ⊕ = SANITARY SEWER
 - ⊕ = STORM SEWER
 - ⊕ = ROOT PROTECTION ZONE
 - ⊕ = TREE PROTECTION FENCE
 - ⊕ = CONIFER TREE
 - ⊕ = DECIDUOUS TREE
 - ⊕ = PROPOSED DRIVEWELL

NOTE: ELEVATION DATUM IS PER CITY OF PORTLAND BENCHMARK NO. 493
 UTILITY LOCATE TICKET NO. 19071828
 TOTAL SITE AREA = 15,102 S.F.
 POLE PORTION AREA = 1,805 S.F.
 FLAG PORTION AREA = 6,074 S.F.

REGISTERED PROFESSIONAL LAND SURVEYOR
 OREGON
 JULY 25, 1980
 JOE H. JOHNSON
 2445
 RENEWAL DATE 12/31/23