



City of Portland, Oregon
Bureau of Development Services
Land Use Services

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: November 4, 2010
To: Interested Person
From: Rachel Whiteside, Land Use Services
503-823-7605 / rwhiteside@ci.portland.or.us

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

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 10-169428 LDP

GENERAL INFORMATION

Applicant: Steve Buckles
Repetto And Associates Inc
12730 SE Stark St
Portland OR 97233

Owner: Frederick Shervey
PO Box 86320
Portland, OR 97286-0320

Site Address: 4918 SE 99TH AVE

Legal Description: BLOCK 1 LOT 6&7 TL 10501, FAXON PK
Tax Account No.: R273000726
State ID No.: 1S2E16AA 10501
Quarter Section: 3540

Neighborhood: Lents, contact David Hyde at 503-772-1376.
Business District: Midway, contact Bill Dayton at 503-252-2017.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: Johnson Creek Basin
Zoning: R5a – Single-Family Residential w/ the Alternative Design Density (a) Overlay Zone
Case Type: LDP – Land Division Partition
Procedure: Type I – Administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposes to divide the 19,237 square foot site into three parcels and a private street tract. The site is currently vacant. Proposed parcels are intended for detached, single-family homes and range in size from 4,228 to 4,445 square feet. The proposed private

street is 28 feet wide which includes a 20-foot roadway and parking on the north side. Stormwater from individual lots will be treated and disposed of on-site through drywells. A vegetated infiltration basin is proposed for the private street. The applicant proposes to preserve three of the four trees on the property, exceeding the 35% minimum tree diameter.

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 3 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 flat and contains four trees around the perimeter. The development on either side of the site is detached, single-family homes. Across NE Killingsworth there is both detached, single-family development and attached, multi-dwelling development. One block east is Bloomington Park. One block west is Lents Elementary School.

Infrastructure:

- **Streets** – The site has approximately 125 feet of frontage on SE 99th Avenue. There is one driveway entering the site that previously served the house on the abutting site to the north. At this location, SE 99th Avenue is classified as a Local Service Street for all modes in the TSP. Tri-Met provides transit service approximately 1,200 feet from the site at SE Harold Street via Bus #10 and via MAX in the I-205 corridor. Parking is currently allowed on both sides of SE 99th Avenue.

Southeast 99th Avenue has a 30-foot curb to curb paved surface within a 50-foot right-of-way with parking on both sides. Along the 125-foot wide site frontage the pedestrian corridor includes a curb, 3-foot wide planter area, 5-foot sidewalk and a 1.5-foot wide buffer at the back of the sidewalk (3-5-1.5 configuration).

- **Water Service** – There is an existing 6-inch CI water main in SE 99th Avenue. There are currently no active services to this location.

- **Sanitary Service** - There is an existing 8-inch VSP public sanitary sewer line in SE 99th Avenue.

Zoning: The R5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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

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. The existing site configuration was achieved through the administrative process of a Lot Confirmation/Property Line Adjustment (PR 10-144072 PLS).

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Please see Exhibits “E” for details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **September 27, 2010**. 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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
	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	The street is less than 300 feet long and services less than 4 units. 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.D - Partial rights-of-way	No partial public streets are proposed or required.
	33.654.130.E – Ownership of Alleys	No alleys are proposed or required.

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. Maximum density in the R5 zone is one unit per 5,000 square

feet. The site has a minimum required density of 3 units and a maximum density of 3 units. If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 2.

The applicant is proposing 3 parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	4,445 (after dedication)		50.50	70.49	50.92
Parcel 2	4,229		60.00	70.48	60.00
Parcel 3	4,228		60.00	70.48	60.00

* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

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

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

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.2). Trees 2-4 are proposed to be retained.

The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Dogwood	12 (double stem)	No	No	N/A
2	Spruce	8.5	No	Yes	8' radius to existing fence on north
3	Cherry	29 (double stem)	No	Yes	20' radius to existing fences
4	Douglas Fir	33.5	No	Yes	18' radius to sidewalk & south property line

The total non-exempt tree diameter on the site is 82.5 inches. The applicant proposes to preserve trees 2, 3, and 4, which comprise of 70.5 inches of diameter, or 85.5 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C.1).

In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat.

This criterion is met, subject to the condition that development on Parcels 1, 3 and Tract A be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.2) and an acknowledgement of tree preservation requirements is recorded with the final plat.

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

Findings:

Clearing and Grading

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.

In this case, the site is relatively flat, and is not located within the Potential Landslide Hazard Area. However a new street and associated stormwater system is proposed as part of the land division, which will require grading on the site. The applicant has submitted a Preliminary Clearing and Grading Plan (Exhibit C.4) that depicts the proposed work, including existing and proposed elevation contours, soil stockpile areas, undisturbed areas consistent with the root protection zones of trees to be preserved, per the applicant's Tree Preservation Plan, and the overall limits of disturbed area.

The proposed clearing and grading shown on Exhibit C.4 represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level street surface. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new street and lots will be appropriately managed by a vegetated infiltration basin to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The limits of disturbance shown on the applicant's plan includes grading of the street areas, as well as the lots, to allow the applicant to conduct the majority of the clearing and grading on the site at one time. This will help manage erosion and sedimentation concerns, assure that the necessary tree protection measures are in place before the grading begins and limit the disturbance on the adjacent properties. In addition, no clearing and grading is proposed within the root protection zones of the trees on the site that are required to be preserved.

The clearing and grading plan indicates areas of topsoil storage and general stockpiling that are located directly adjacent to the new street tract/right of way, and outside of the root protection zones of the trees on the site to be preserved.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street. The permit application must include a final clearing and grading plan, that must be consistent with the preliminary clearing and grading plan approved with the land division. With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan, this criterion is met.

Land Suitability

The site was previously in a residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards.

Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

Findings: The following tracts are proposed:

- Tract A: Private Street and Stormwater Tract

With a condition that the proposed tract be owned in common by the owners of Parcels 1 through 3, this criterion can be met.

The following easements are proposed and/or required for this land division:

- A Public Walkway Easement is required over the sidewalk portion of the private street.
- An Emergency Vehicle Access Easement is required over the access drive.

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

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

With the conditions of approval discussed above, this criterion is met.

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.

In this case, the site is on a corner, and fronts on both SE 99th Avenue and the new proposed private street tract. All of the proposed lots are on the south side of an east-west oriented street. Lot 1 will be on the corner, and will be wider than the other lot(s). This criterion is therefore met.

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

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

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. 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 standards of 33.651 have been verified. Water is available to serve the proposed development from the water 6-inch main in SE 99th Avenue.

The Water Bureau objects to the alignment of the proposed service lines for Parcels 2 and 3. Service lines may not run in any way parallel to, or with the right-of-way, as shown on Exhibit C.3, Preliminary Street and Utility Plan. Prior to final plat approval, the applicant must provide a revised development plan showing the service lines for Parcels 2 and 3 perpendicular to the right-of-way, all of the way to the private property line, and within the frontage of Tract A. For Parcel 1, City Code 21.12.010 will require a service meter installed within the public right-of-way within the specific property boundary for which it will serve.

33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.

The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary sewer located in SE 99th Avenue that can serve the sanitary needs of the proposed lots. The applicant proposes a new connection to the public main for each of the new proposed parcels. The Bureau of Environmental Services finds this configuration acceptable.

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

BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

Stormwater will be managed within the private street tract (Tract A). The method used to determine the size and location of the stormwater facility is discussed below.

The applicant has proposed the following stormwater management methods:

- **Private Street:** Stormwater will be directed to a 264-square foot vegetated infiltration basin located within the street tract. The applicant has submitted stormwater calculations and soil test results that indicate the size of the proposed swale can accommodate the volume of stormwater runoff from the impervious areas of the street. The Bureau of Environmental Services has indicated conceptual approval of the proposed basin location and size.
- **Parcels 1-3:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. The Bureau of Environmental Services has indicated conceptual approval of the drywells.

33.654.110.B.1 -Through streets and pedestrian connections**33.654.130.B - Extension of existing public dead-end streets & pedestrian connections****33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections**

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is located does not meet the noted spacing requirements. Therefore, there should be an east-west through street provided in the vicinity of the site. While the site contains sufficient width to allow the creation of a public east-west through street, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. Additionally the location of a school and City park east and west of the subject site would further prevent connectivity opportunities. So, although the optimum spacing criteria would indicate the need for an east-west through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan. For the reasons described above, this criterion is met.

As discussed under the findings for 33.654.110.C, adjacent sites to the east of the site are already developed and may not be further divided. There is no practicable opportunity to provide a through connection from the site, so there is no need to extend the proposed street

to the eastern boundary of the site. This criterion is met.

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

The proposal includes a private dead-end street, which will be located in the new street tract. As discussed under the findings for through streets above, a new public east-west through street is not required for this proposal. The private dead-end street will serve only 3 dwelling units and it is approximately 150 feet in length, therefore this criterion is met.

33.641 – Transportation Impacts – 33.641.020 and 33.641.030

33.654.120.C Width & Elements of the street right-of-way

The proposed three residential units will generate vehicular trips into the surrounding transportation system. To account for these new residential units, estimates are noted below of the expected increase in average daily and weekday a.m. and p.m. peak hour vehicle trip ends, based on empirical observations at other similar developments. These observations are summarized in the standard reference manual, *Trip Generation, 8th Edition*, published by the Institute of Transportation Engineers (Reference 4). The proposed land division will create three total lots to accommodate three new detached single-family residential units. The proposed land division is expected to generate approximately 30 daily vehicle trips and 3 new trips into the surrounding transportation system during the morning and afternoon peak hours of travel. The additional peak hour trips will initially distribute in a north-south direction to connect to the broader transportation network in the area, including via SE Holgate which connects to other City arterial streets to the north and via SE Foster, to the south which also connects to I-205 Freeway. Given the numerous opportunities to connect to major arterial streets and a major freeway, it is expected that trips generated by the proposed subdivision will distribute evenly throughout the broader transportation system; not one of the area's intersections is anticipated to receive the majority of the three new project generated trips during the AM or PM peak hour of travel.

PBOT identifies the intersections of SE 99th/SE Harold, SE 99th/SE Steele, SE 99th/SE Long, SE 99th/SE Pardee and SE 99th/SE Holgate as the area's intersections most likely to be impacted by vehicle trips expected to be generated by the proposed partition. It is noted that each of the intersections identified above are stop controlled, (but unsignalized). As stop controlled intersections, the City's established performance measures recognizes that these types of intersections inherently have greater capacity given the lack of a signal which typically results in greater delay associated with multiple conflict points and signal cycle lengths. Each of the noted intersections is controlled by a stop sign in one directional approach only (none of the intersections is a four-stop controlled intersection). Accordingly, there are two legs at each of these intersections that allow through traffic with no stop, therefore no conflict and no capacity limitation. At four of these five intersections, the stop control is along the north/south approaches along SE 99th Avenue. Southeast 99th Avenue, as it exists at 30-ft in width (paved section), exceeds the City standard 26-ft width for a newly created Local Service street in the R5 zone district. (**NOTE:** It is important to recall that the City of Portland has no performance measures for "street" capacity; only for intersections).

The noted intersections are therefore not expected to drop below the City's performance standards with the addition of the 3 peak hour trip in the morning and afternoon, since the peak trips are likely to distribute towards more than one of the identified intersections. Daily variations in traffic volumes have far more significant impacts on the transportation system than the potential impacts of the development. Further, given the street classifications of the identified streets and the recognized capacity of said intersections, the minimal traffic added into the transportation system will not noticeably impact the available intersection or street capacity.

With regard to vehicle access and loading, the proposed private street, with one driveway entrance from SE 99th, will facilitate access to the new homes and will be built to City Right-of-Way standards (for private streets). The proposed single-access point along SE 99th Ave, onto a Local Service street with low traffic volumes and low speeds is preferred over multiple curb cuts. Adequate sight distance, as measured by using industry standards, exists in both

directions along SE 99th Avenue from the proposed private street. On-site parking will be required on each proposed lot and the private street is designed to accommodate on-street parking on one side of the street. With the single access point onto SE 99th Avenue, the proposed on-site parking (including along the private street) will minimize impacts to on-street parking.

The current low traffic volumes in the local transportation system are not expected to change significantly by the few vehicle trips expected to be generated by the proposed subdivision. Since the area roadways and intersections are not currently operating at capacity, the addition of a minimal number of trips will have negligible impacts to the immediate and surrounding neighborhoods. The SE 99th Avenue frontage of the site is improved with curb and sidewalk and upon completion of new sidewalk along the site's private street, pedestrian passage throughout the area will be enhanced. Bicyclists are expected to share the roadway with vehicles, and with low volume streets in the area, bicycle travel can be accommodated.

Considering the aforementioned evaluation factors, PBOT has concluded that the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area.

At this location, *according to City records*, SE 99th Avenue is improved with 30-ft of paving within a 50-ft right-of-way. The frontage is also improved with a 3-5-2 sidewalk corridor, the prevailing sidewalk corridor along both sides of SE 99th Ave. However, based on the submitted surveyed site plan, the existing sidewalk corridor is configured as a 3-5-1.5 corridor.

For a site zoned R5 and located along a Local Service street, the City's Pedestrian Design Guide recommends an 11-ft wide pedestrian corridor comprised of a 0.5-ft curb, 4-ft planter area, 6-ft sidewalk and 0.5-ft setback to the property line. The existing sidewalk corridor does not meet this recommended configuration. The applicant will be required to dedicate the above referenced 1.5-ft of property across the frontage of the site (excluding the triangle portion of the right-of-way) prior to Final Plat approval. Frontage improvements will not be required along the site's frontage.

The applicant has proposed a 35-foot wide private street tract. The Administrative Rules for Private Rights of Way are the standards that govern the construction of private streets. These rules recommend a minimum tract width of 26 feet for dead-end streets less than 300 feet long, serving 3 or fewer lots. The applicant is proposing a wider tract in order to accommodate on-street parking, tree wells, and a sidewalk. The proposed width will provide room for the construction of a 20-foot wide paved roadway that allows two travel lanes, parking on one side with parking lane tree wells, two 6-inch curbs, a 5-foot wide sidewalk on one side of the street, and a 1-foot setback between the street improvements and private property. In this proposal, the applicant will be disposing of stormwater from the private street within a vegetated infiltration basin located in at the east end of the tract. The proposed tract width is sufficient to accommodate the elements of a street that are adequate for 3 parcels by the *Administrative Rules* governing private streets.

This criterion is met, with the condition that the required right-of-way dedication on SE 99th Avenue 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, but will have to be met at the time that each of the proposed lots is developed.

The site is currently vacant, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. Therefore, 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	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 www.portlandonline.com/transportation
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 www.portlandonline.com/bds

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

- The applicant is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements, posting of "No Parking" signs in the private street, providing an Emergency Vehicle Access Easement over the private street tract, and documenting turning radius for the fire access lane. 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 in SE 99th Avenue, adjacent to Parcel 1 at the time of development. This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 3-parcel partition with a private street tract, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: tree preservation, private street requirements, dedication of additional public right-of-way, and fire access.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-parcel partition, that will result in 3 standard lots and one private street tract 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 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 fire access lane with a turning radius of 28 feet inside, 48 feet outside.
- The water service lines for Parcels 2 and 3 perpendicular to the right-of-way, all of the way to the private property line, and within the frontage of Tract A.
- 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 99th Avenue. The required right-of-way dedication must be shown on the final plat.
2. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the relevant portions of the private street tract to the satisfaction of the Fire Bureau.
3. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street *name of street*".
4. A public walkway easement must be shown over the sidewalk portion(s) of the street tract.
5. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions C.4 and C.5 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 submit an application for a Site Development Permit for construction of the private street, mass grading and utility construction for the new private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibit C.3 and the Private Street Administrative Rule. In addition the street shall include the following:
 - The pedestrian walkway must be a minimum of 5 feet in width.
2. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private street and all required site development improvements. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.

3. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private street and mass grading described in Condition C.1. The clearing and grading plan must substantially conform to the Preliminary Clearing and Grading Plan approved with this decision (Exhibit C.4).

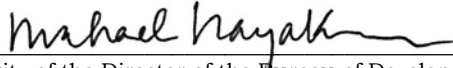
Required Legal Documents

4. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Parcels 1-3 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
5. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcels 1, 3, and Tract A. 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 Parcels 1 and 3 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.2). Specifically, trees numbered 2, 3, and 4 are required to be preserved, with the root protection zones indicated on Exhibit A.2. 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 under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The first lift of paving for the private street shall be installed prior to issuance of any permits for residential construction.
3. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
4. The applicant must post the private street with "No Parking" signs on the south side of the street to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit.
5. The applicant must meet the addressing requirements of the Fire Bureau for Parcels 2 and 3 and the private street. The location of the sign must be shown on the building permit.
6. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Rachel Whiteside

Decision rendered by:  **on November 1, 2010.**
By authority of the Director of the Bureau of Development Services

Decision mailed November 4, 2010.

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 August 24, 2010, and was determined to be complete on September 23, 2010.

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 August 24, 2010.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: January 21, 2011.**

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. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone.

Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

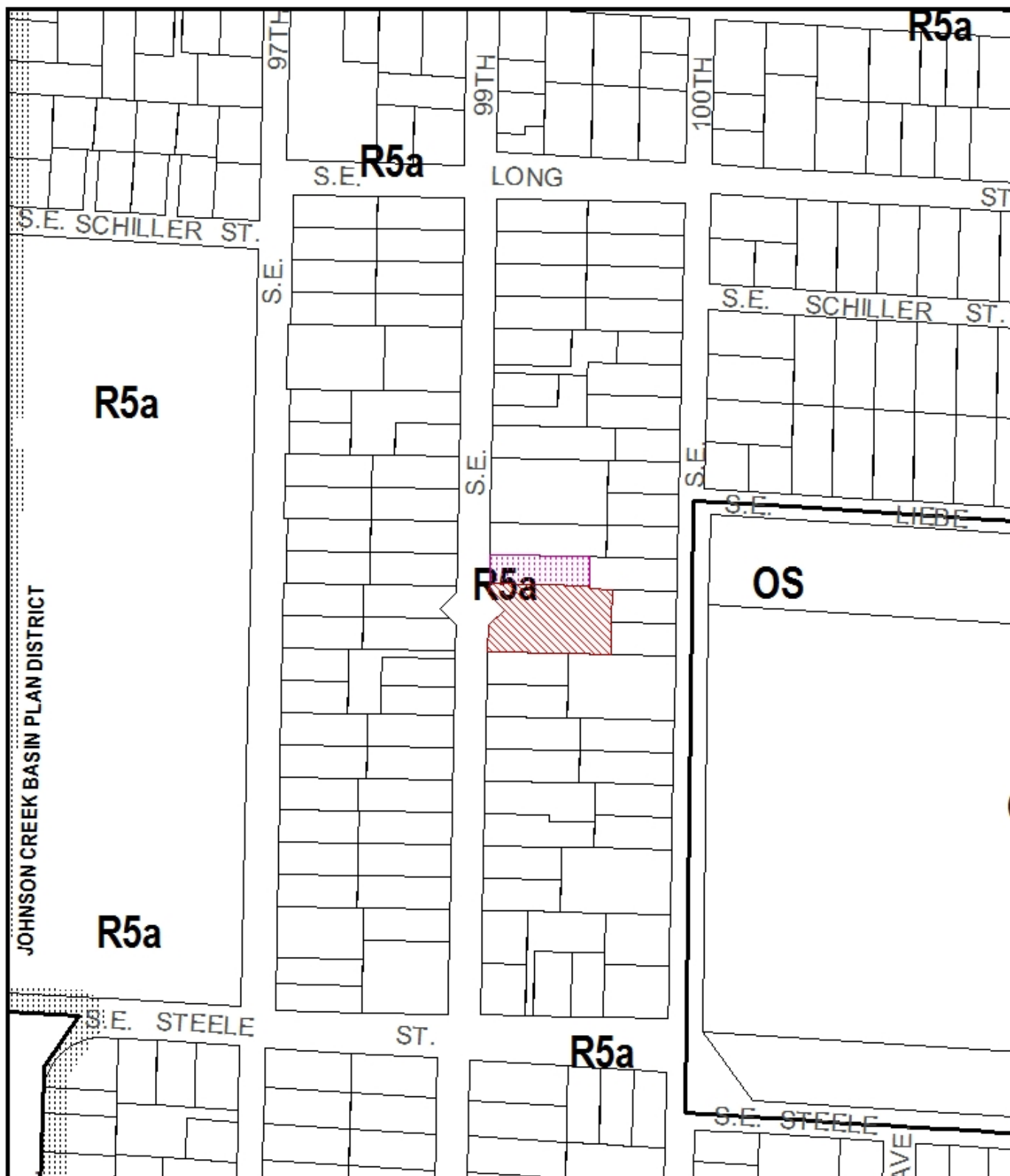
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Original Narrative
 - 2. Arborist Report
 - 3. Stormwater Calculations
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan (Existing Conditions, Tree Survey, & Lot Layout) - attached
 - 2. Site Plan (Proposed House Envelopes & Setbacks)
 - 3. Preliminary Private Street and Utility Plan - attached
 - 4. Preliminary Grading and Erosion Control Plan - attached
- 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 Review Section of BDS
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Neighborhood Contact
 - 4. 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

-  Site
-  Also Owned



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No. LU 10-169428 LDP
 1/4 Section 3540
 Scale 1 inch = 200 feet
 State_Id 1S2E16AA 10501
 Exhibit B (Sep 23,2010)

TREE TABLE

TREE NO.	DIAMETER	SPECIES	COMMENTS
T1	12"	DOGWOOD	REMOVE
T2	9"	SPRUCE	RETAIN
T3	29"	CHERRY	RETAIN
T4	34"	FIR	RETAIN

PRELIMINARY PLAN

EXISTING CONDITIONS, TREE SURVEY AND LOT LAYOUT

A PORTION OF LOTS 6 AND 7, BLOCK 1, FAXON PARK, SITUATED IN THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

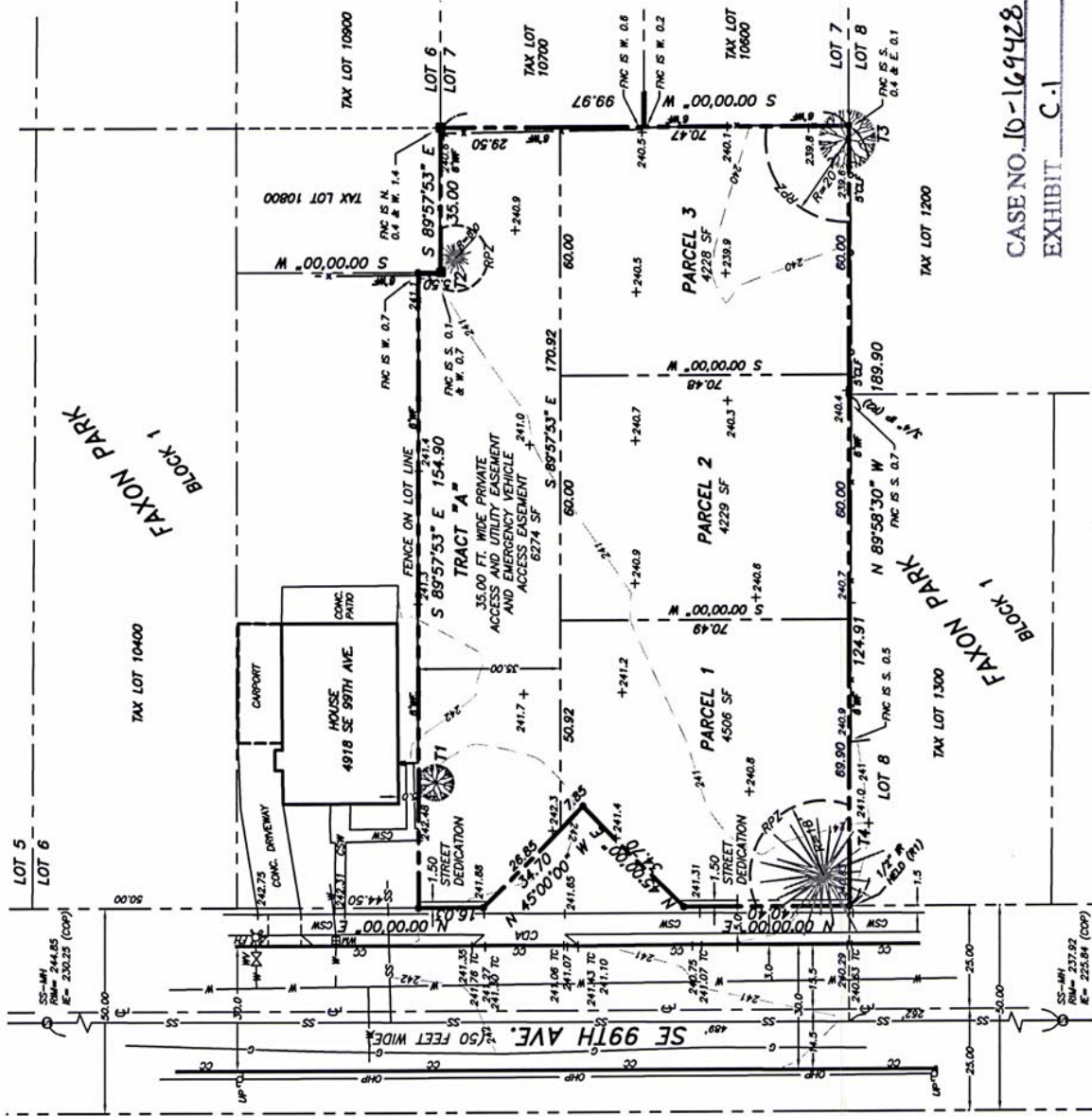
DATE: AUGUST 4, 2010 SCALE: 1"=20'± (COP)
FOR: RICK SHERVEY

NOTES

1. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS.
2. THIS MAP AND SURVEY IT IS BASED ON ARE REPRESENTATIVE OF THE CONDITIONS AS THEY EXISTED ON JULY 15, 2010. THE DATE THE FIELD WORK WAS COMPLETED.
3. THE ZONING OF THE SUBJECT PROPERTY IS RS, RESIDENTIAL.
4. NO STRUCTURES EXIST ON THE SUBJECT PROPERTY. THE PROPERTY IS A VACANT LOT AND IS RELATIVELY FLAT.
5. ELEVATIONS BASED ON CITY OF PORTLAND BENCH MARK NO. 4591, A BRASS DISK IN THE CURB IN FRONT OF HOUSE NO. 4913 SE 99TH AVE., ELEVATION 242.93, CITY OF PORTLAND DATUM.
6. ALL LOT AND TRACT DIMENSIONS AND AREAS SHOWN ON THIS SURVEY ARE TO THE EXISTING RIGHT OF WAY LINE.

LEGEND

- FOUND 5/8" IR WITH A YELLOW PLASTIC CAP
- STAMPED REPPETO & ASSOC. INC. UNLESS NOTED OTHERWISE
- FOUND 1-1/8" BRASS DISK STAMPED REPPETO & ASSOC. UNLESS NOTED OTHERWISE
- +100.00 = CONCRETE CURB OR FLOWLINE UNLESS NOTED OTHERWISE
- CC = CONCRETE DRIVEWAY APPROACH
- CLF = CHAIN LINK FENCE
- CO = CLEAN OUT
- COP = CONCRETE
- COP = CITY OF PORTLAND RECORD DATA
- CSW = CONCRETE SIDEWALK
- IR = IRON PIPE
- IR = IRON ROD
- OHP = OVERHEAD POWER
- OU = ORIGIN UNKNOWN
- M.C.D.R. = MULTNOMAH COUNTY DEED RECORDS
- R1 = SN 14743
- R2 = SN 14789
- P1 = PLAT OF FAXON PARK
- SD = STORM DRAIN
- SW = SANITARY SEWER
- SF = SQUARE FEET
- SN = SURVEY NUMBER, MULTNOMAH COUNTY
- UP = UTILITY POLE
- W/ = WITH
- W = WATER LINE
- WF = WOOD FENCE
- YPC = YELLOW PLASTIC CAP
- () = RECORD INFORMATION



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 17, 1988
STEVEN P. BUCKLES
2331
RENEWABLE 12/31/11

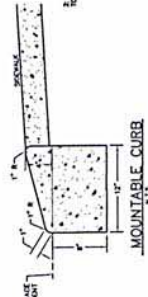
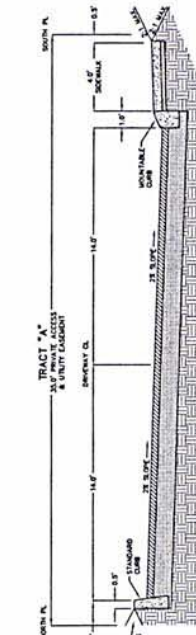
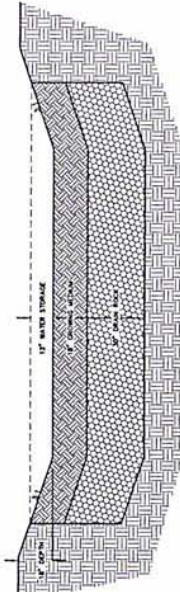
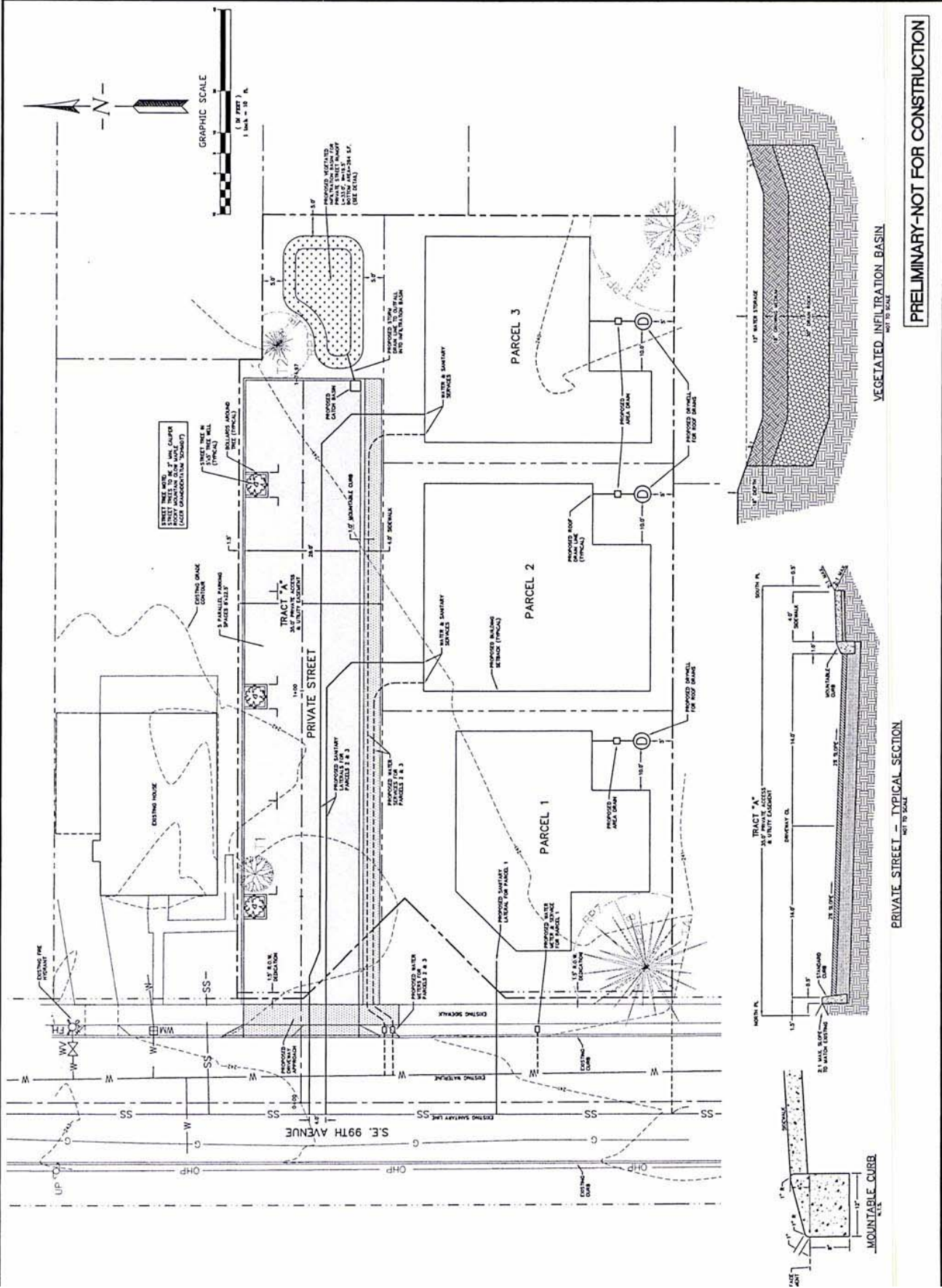
CASE NO. 10-169428 LDR
EXHIBIT C-1

REVISED: SEPT. 21, 2010 PER CITY COMMENTS
REPPETO & ASSOCIATES, INC. LAND SURVEYORS
Phase 125, Building G 12730 SE Stark Street Portland, Oregon 97233 Phone: (503) 408-1507 Fax: (503) 408-2370
DATE: AUGUST 4, 2010 FILE: S10035-PP.DWG DRAWN BY: SD/SB JOB NO. S10035

REVISIONS	BY	DATE
1	AS	10-10-03
2	AS	10-10-03
3	AS	10-10-03
4	AS	10-10-03
5	AS	10-10-03
6	AS	10-10-03
7	AS	10-10-03
8	AS	10-10-03
9	AS	10-10-03
10	AS	10-10-03

PARITION ON SE 99TH AVE.
Preliminary Private
Street & Utility Plan
RICK SHERVEY

SSISUL ENGINEERING
775 PORTLAND AVENUE
CLATSOP, OREGON 97027
(503) 857-0188
FAX: 503-10-0335
DATE: AUGUST 2010
SHEET: 1 OF 2
PROJECT: 10-10-03



CASE NO. 10-169428 LDP
EXHIBIT C.3

