



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: May 13, 2014
To: Interested Person
From: Stephanie Beckman, Land Use Services
503-823-6979 / stephanie.beckman@portlandoregon.gov

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

The Bureau of Development Services has **approved** a proposal in your neighborhood. The 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 13-191304 LDP

GENERAL INFORMATION

Applicant: Mike Coyle / Faster Permitd / 503-680-5497
14334 NW Eagleridge Lane / Portland, OR 97229

Owner: Dreambuilder Custom Homes Inc / 503-880-7132
6700 SW 105th Avenue, #216 / Beaverton, OR 97008-8825

Site Address: 4260 SW Carson Street

Legal Description: BLOCK 2 LOT 4 TL 7900, LUNALILO
Tax Account No.: R515500610
State ID No.: 1S1E20CC 07900
Quarter Section: 3825
Neighborhood: Multnomah, contact Susan Rudloff at 503-358-2316.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Other Designations: Potential Landslide Hazard
Zoning: Residential 7,000 (R7)
Case Type: Land Division Partition (LDP)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is requesting to divide the subject property into two parcels. This request is being reviewed under the alternative development option that allows one extra unit of density on corner lots by developing attached houses (33.110.240.E). The proposed parcels are approximately 4,619 (Parcel 1) and 4,718 (Parcel 2) square feet in size. The existing house and garage were recently removed.

A 14.5 foot street dedication and improvements are shown on SW 43rd Ave. Street improvements are also shown on SW Carson Street. Three mature Douglas fir trees are proposed to be preserved in the southeast corner of the site.

This partition proposal is reviewed through a Type II_x procedure because: (1) the site is in a residential zone; (2) two or three lots are proposed; and (3) the site is located within a Potential Landslide Hazard or Flood Hazard Area (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. 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 located on the southeast corner of the intersection of SW Carson Street and SW 43rd Avenue. A house and garage were recently removed and the site is now vacant. Surrounding development primarily consists of single dwelling development.

Infrastructure:

- **Streets** – The site has approximately 70-feet of frontage on SW Carson Street and 165-feet of frontage on SW 43rd Avenue, which are both classified as a Local Service Streets for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 580-feet north of the site on SW Garden Home Road via Bus #45.

At this location, SW Carson Street is improved with a 32-foot paved roadway surface with a curb only (no sidewalk) within a 60-foot wide right-of-way. SW 43rd Avenue is improved with an unknown width of paving within a 25-foot wide right-of-way (no curb or sidewalk).

- **Water Service** – There is an existing 8-inch DI water main in SW Carson Street and a 4-inch DI water main in SW 43rd Avenue. The existing house was served by a 5/8-inch metered service from the main in SW Carson Street.
- **Sanitary Service** - There is an existing 8-inch concrete public sanitary sewer main in both SW Carson Street and SW 43rd Avenue. The existing house was served by a lateral from the main in SW Carson Street.

Zoning: The R7 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.

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 **September 27, 2013**. One written response was received from notified property owners in response to the proposal raising the following concerns (see Exhibit F.1 for more details). A staff response to each point is provided in *italics*.

- Multi-story buildings blocking sun to vegetable garden
Staff Response: *New development on the lots will be required to comply with the height limit of the R7 base zone, which is 30 feet. There are no regulations or approval criteria that protect solar access on adjacent properties.*
- New home or landscaping blocking view from driveway access onto SW Carson
Staff Response: *As condition of the partition, the applicant is required to improve the street frontage of both SW Carson and SW 43rd. Installation of a planting strip and sidewalk where there is currently vegetation will help with visibility on SW Carson.*

- Lack of on-site parking

Staff Response: *The proposed development includes a garage and driveway for each home, which will result in two on-site parking spaces for each lot. This exceeds the minimum parking, which is one space per lot.*

- Stormwater management

Staff Response: *Stormwater from the new homes will be directed to Westside soakage trenches (or similar facility such as stormtech chambers), which are underground facilities that hold the water and allow it to slowly infiltrate into the ground. The applicant's geotechnical report found that on-site infiltration was acceptable and the Site Development Section of BDS and the Bureau of Environmental Services accepted this approach. Stormwater from the street improvements on SW Carson (new curb, planting strip, sidewalk and widened roadway) will be directed to a flow through planter that contains and filters the water. Overflow from the planters will go to the public street and enter the public storm system downstream. The applicant has submitted a public works permit for this work and received conceptual approval (30% design) for their street improvement design.*

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. |
| 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. |
| I | 33.639 - Solar Access | The proposed development is for something other than single-dwelling detached homes. |
| J | 33.640 - Streams, Springs, and Seeps | No streams, springs, or seeps are evident on the site. |
| L | 33.654.110.B.2 - Dead end streets | No dead end streets are proposed. |
| | 33.654.110.B.3 - Pedestrian connections in the I zones | The site is not located within an I zone. |
| | 33.654.110.B.4 - Alleys in all zones | No alleys are proposed or required. |
| | 33.654.120.C.3.c - Turnarounds | No turnarounds are proposed or required. |
| | 33.654.120.D - Common Greens | No common greens are proposed or required. |
| | 33.654.120.E - Pedestrian Connections | There are no pedestrian connections proposed or required. |
| | 33.654.120.F - Alleys | No alleys are proposed or required. |
| | 33.654.120.G - Shared | No shared courts are proposed or required. |

| | | |
|--|--|---|
| | Courts | |
| | 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. |

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. The applicant is proposing two parcels for attached houses. The minimum and maximum density for the site is as follows:

Minimum = (11,763 square feet * .80) ÷ 7000 square feet = 1.34 (which rounds down to a minimum of 1 lot, per 33.930.020.A)

Maximum = 11,763 ÷ 7,000 square feet = 1.68 (which rounds down to a maximum of 1 lot, per 33.930.020.B)

The applicant is proposing 2 parcels, which exceeds the maximum density normally allowed for the site. However, Parcels 1 and 2 are proposed for attached houses under the provision in 33.110.240.E, which allows one extra unit in conjunction with attached houses on corner lots. Therefore, an additional lot is allowed provided Parcels 1 and 2 are developed with attached houses. With a condition of approval limiting the development on Parcels 1 and 2 to attached houses, the density standards are met.

The required and proposed lot dimensions 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) |
|--|------------------------------------|------------------------------------|-------------------------------|--------------------------|-----------------------------------|
| R7 Zone | 4,200 | 12,000 | 40 | 55 | 30 |
| Original lot before division must meet base zone | 11,763 | | 70 | 165 | 70 |
| New attached housing lots meet R2.5 Zone dimensions | 1,600 | NA | 36 | 40 | 30 |
| Parcel 1 | 4,619 | | 55 | 82 | 55 |
| Parcel 2 | 4,718 | | 83 | 55 | 86 |

* 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 applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.3). The arborist report identifies 17 trees, of which 8 are off-site trees and therefore exempt from the regulations. One additional tree is exempt because it is a nuisance species. Thus, 8 non-exempt trees are subject to the preservation requirements of this chapter. These non-exempt trees comprise 154 inches in total diameter.

The applicant proposes to preserve trees #11 (22" Douglas-fir), #12 (20" Douglas-fir) and #13 (24" Douglas-fir), which comprise 66 inches of diameter, or 42 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 non-exempt tree diameter on the site be preserved. The arborist indicates that a 16' radius root protection zone will be adequate to protect the trees during construction. The trees to be preserved and the required root protection zones are shown on the applicant's Tree Preservation Plan (Exhibit C.2).

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 Land Use Conditions at the time of final plat.

This criterion is met, subject to the condition that development on Parcel 2 be carried out in conformance with the tree preservation plan (Exhibit C.2 and the applicant's arborist report Exhibit A.3) and an Acknowledgement of Tree Preservation Land Use Conditions is recorded with the final plat.

D. Potential Landslide Hazard Area. If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met.

Findings: The entire site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site is reasonably limited.

In order to evaluate the proposal against these criteria, the applicant has submitted a geotechnical evaluation of the site and proposed land division (Exhibit A.4). That report was evaluated by the Site Development Division of the Bureau of Development Services, the City agency that makes determinations regarding soil stability.

The applicant's geotechnical evaluation indicates that the risk of potential landslide hazard at the site is relatively low, given the soil composition, topography, and other risk factors. The proposed land division will result in lots, buildings, services, and utilities that will not significantly increase the risk of landslide potential on the site or other properties in the vicinity of the site. In addition, the geotechnical evaluation has concurred that the applicant's proposed method of stormwater disposal at the site will not have a significant detrimental impact on the slope stability on or around the site. This conclusion was reached because the soils and slopes at the site indicate that on-site disposal with Westside soakage trenches are acceptable. These facilities are oversized to accommodate for the slower infiltration of the soils in this area.

Site Development has concurred with the findings of the applicant's geotechnical report. This criterion is met.

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

Findings:
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 located in the Potential Landslide Hazard area and has slopes of approximately 10 percent. Therefore, the clearing and grading associated with preparation of the lots must occur in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed.

A Preliminary Clearing and Grading Plan was not submitted with the land division application however, the applicant did submit a Landslide Hazard Report (Exhibit A.4) that finds that no special design or construction provisions are needed to address slope issues on the site. The report notes that homes on a slope require maintenance to maintain vegetation on the slope and to control surface water with appropriate stormwater facilities to reduce the potential of minor sloughing and erosion.

The applicant also provided a Tree Protection Plan (Exhibit C.2) that designates areas on the site where grading should not occur in order to protect the roots of the trees on the site that will be preserved, and an arborist report (Exhibit A.3) that discusses tree protection on the site. The arborist report also discusses the presence of 5 mature Douglas fir trees located off the site along the eastern property line of proposed Parcel 2. The arborist recommends special construction measures to avoid trenching within 20 feet of the trees along the property line in order to avoid damaging their roots. Because these trees are not on the subject site, the applicant is not required to show protection, however the applicant is encouraged to take measures recommended by the arborist to protect the off-site trees.

At the time of building permit submittal on the individual lots a clearing, grading and erosion control plan will be submitted to the Site Development Section of the Bureau of Development Services. Site Development will review the grading plan against the applicant's Landslide Hazard Study as well as any additional geotechnical information required at the time of permit submittal to assure that the grading will not create any erosion risks. In addition the plans will be reviewed for compliance with the applicant's tree preservation plan and arborist report. 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. The applicant recently removed the house and garage that occupied the site under permits 14-111584 RS and 14-111589 RS, which has been finalized. This included sewer capping and decommissioning of the old septic system. Because this work has been completed, the new lots can be considered suitable for development, and this criterion is met.

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

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services. PBOT's Analysis (Exhibit E.2) is quoted, in part, as follows:

The proposed land division will create two new parcels (from the existing lot) in order to accommodate two new attached homes (the existing house on the site will be demolished). Referring to the ITE Trip Generation Manual, 9th Edition, there will be 1 new AM peak hour trip and 1 additional PM peak hour trip (10 additional total daily trips) that may result from the development proposal on the site. The new peak hour trips are insignificant and do not warrant any mitigation to nearby intersections. The impacts to the area's intersections most likely to be effected by the additional project-related trip generation will be negligible. The intersections will continue to operate at current levels without significant degradation from the vehicle trips generated by the proposed project factored into the analysis.

No significant negative impacts are expected to occur in relation to any of the other evaluation factors. The site is served by nearby transit bus service east of the subject site along SW Capitol Hwy (via Tri-Met bus route #44/Capitol Hwy/Mocks Crest). Pedestrian facilities are not readily found throughout the

general area, though there is an existing sidewalk corridor along one of the lots east of the subject site. The pedestrian environment will be improved as a result of required sidewalk corridor construction along the site frontages. There are identified bike facilities (Portland Bike/Walk Map) in the area including Shared Roadways along SW Carson, SW 45th Ave and SW Capitol Hwy, west and east, respectively, from the subject site.

With regard to impacts to on-street parking, the new residences that will be constructed on the new parcels will include on-site parking opportunities for at least one vehicle. There will be an additional curb cut/driveway associated with the proposed project. There will remain ample frontage along the subject site frontage to accommodate some on-street parking. Based on review of Google-Street view, the homes along at least SW Carson appear to be served by driveways and garages that can accommodate at least 2 vehicles. With at least one on-site parking space being provided on both proposed parcels, the impacts to on-street parking should be negligible.

Given the area in which the site is located, the minimal increase in vehicle trips that will be generated by the proposed partition, and the classification of the street within the transportation system, PBOT expects that the transportation system will be able to support the existing development in the area as well as the proposed development.

PBOT has noted that the proposed driveway for Parcel 1 does not meet the requirement to be 25' from the intersection. This issue can be addressed at building permit with either a modified driveway or a design exception to allow the driveway as proposed.

Based on the PBOT analysis, this criterion is 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: 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:

| |
|--|
| <p>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site from the existing 8-inch DI water main in SW Carson Street and 4-inch DI water main in SW 43rd Avenue, as noted on page 2 of this report. The water service standards of 33.651 have been verified. Therefore, this criterion is met.</p> |
| <p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site from the 8-inch concrete public sanitary sewer main in both SW Carson Street and SW 43rd Avenue, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified. Therefore, this criterion is met.</p> |
| <p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1 & E.5</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> • Public Street Improvements: Stormwater from the required street improvements on SW 43rd will be directed into a flow through planter located between the new curb and sidewalk. Overflow from the planters will be directed to the public street and will enter the public storm system downstream from the site. The applicant has completed the concept review (30% design) phase of the public works permitting process (City permit #: TH0017, EP007D) and staff has verified an approvable stormwater facility plan. For future review of the plat, an approved engineering design (as determined by BES |

Development Engineering staff), financial guarantee (e.g. bond), and engineering fees will be required by BES prior to final plat approval.

- Parcels 1 and 2:** Stormwater from these lots will be directed to individual infiltration facilities that will treat the water and slowly infiltrate it into the ground. The applicant proposed Westside soakage trenches as shown on the preliminary utility plan and BES and Site Development have indicated conceptual approval of the soakage trenches. However, the applicant also expressed concerns about the size of the facility and the ability to fit them on the lots. Stormtech chambers were suggested by BES staff because they have a structural element and therefore can be placed under driveways. BES staff has also indicated that switching to a flow-through planter with off-site disposal would likely be problematic because of lack of a developed public storm system to connect to and could require additional public improvements. To ensure that the stormwater management solution for this site is clear to all parties before the land division is complete, the applicant will be required to provide an updated conceptual development plan that shows the house footprints (meeting setbacks for the R7 zone), driveways, appropriately sized stormwater facilities and tree preservation for review and approval by BES. With this condition, the stormwater management standards and criteria are met.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal (Exhibit E.2):

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The subject block is representative of the block pattern in the general area (between SW Garden Home Rd-SW Capitol Hwy) in terms of orientation and width/length. Said blocks satisfy the above referenced spacing goals in an east-west direction, but not in the north-south direction. As with other blocks in the area, the subject block is primarily built out with the type and density of the expected housing for the area's zoning. No further street or pedestrian connections are physically possible without impacting existing development on the subject block and beyond. PBOT has no concerns relative to connectivity or locations of rights-of-way associated with the proposed land division partition.

For the reasons described above, this criterion is met.

33.654.120.C.1 & 2 Width & elements of the right-of-way – See Exhibit E.2 for detailed comments

At this location, SW Carson is improved with 32-ft of paving & a curb only (no sidewalk) within a 60-ft wide right-of-way (r.o.w.). SW 43rd Ave is improved with an unknown width of paving within a 25-ft wide r.o.w. (no curb or sidewalk). In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case, Portland Transportation has determined that frontage improvements must be made in order bring the streets up to current city standards and adequate serve the proposed development.

On SW Carson, sidewalk corridor improvements are required. There is sufficient r.o.w. along the Carson frontage to accommodate the 10-ft wide standard sidewalk corridor. Improvements on SW 43rd Ave require that the right-of-way be widened to accommodate a 14-ft wide sidewalk corridor and at least 20-ft of paved roadway to facilitate 2-way vehicular travel. A 14.5-ft property dedication will be required.

With the improvements and the dedication described above, PBOT finds that the local street rights-of-way will be able to accommodate expected users and approves the elements in the right-of-way. With the condition that the dedication be shown on the final plat and the

applicant provide a performance guarantee and contract as required by the City Engineer prior to final plat approval, 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, but will have to be met at the time that each of the proposed lots is developed.

Future Development

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

- Attached Houses on Corner Lots-- special requirements apply to development on new lots created using the provisions of Section 33.110.240.E.
 1. The address and main entrance of each house must be oriented to a separate street frontage.
 2. Development on Parcel 1 must be oriented toward the SW Carson Street and development on Parcel 2 must be oriented toward SW 43rd Avenue.
 3. The height of the two units must be within 4 feet of each other
 4. The exterior finish material must be the same, or visually match in type, size and placement.
 5. The predominant roof pitch must be the same.
 6. Roof eaves must project the same distance from the building wall.
 7. Trim must be the same in type, size and location.
 8. Windows must match in proportion and orientation.
- Building Setbacks – The land division site is within the R7 zone, which has a minimum 15' front setback and 5' side and rear setbacks. Because Parcels 1 and 2 will be separate lots, the required front setback will need to be met on each lot. The applicant has been notified that their conceptual development plans do not comply with this setback on Parcel 2.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R7 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 |
|---|---|
| Development Services/503-823-7300 www.portlandonline.com/bds | Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way |
| Environmental Services/503-823-7740 www.portlandonline.com/bes | Title 17 – Sewer Improvements 2008 Stormwater Management Manual |

| | |
|---|---|
| Fire Bureau/503-823-3700 www.portlandonline.com/fire | Title 31 Policy B-1 – Emergency Access |
| Transportation/503-823-5185 www.portlandonline.com/transportation | Title 17 – Public Right-of-Way Improvements Transportation System Plan |
| Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks | Title 20 – Street Trees and other Public Trees |
| Water Bureau/503-823-7404 www.portlandonline.com/water | Title 21 – Water availability |

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

- The applicant must meet the requirements of the Fire Bureau in regards to fire hydrant spacing; ensuring adequate hydrant flow from the nearest fire hydrant; and fire apparatus access, including aerial access. The applicant has provided information about the location of two hydrants within the required 600 feet. Additional information about fire flow will be needed prior to final plat approval. The applicant is being required to widen SW 43rd, which will provide for fire access to Parcel 2 provided there is at least 20 feet of paving per the Fire Bureau. Parcel 1 can be served from SW Carson which currently over 20 feet wide. The applicant will need to demonstrate compliance with Fire Bureau requirements for addressing and aerial access at the time of development on the lots. These requirements are based on the technical standards of Title 31 and Oregon Fire Code (see Exhibit E.4).

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. The primary issues identified with this proposal are the street improvement requirements and stormwater management. With conditions that requirement dedication and street improvements and updated stormwater information with the final plat, this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in lots for attached houses as illustrated with Exhibit C.1 and C.2, subject to the following conditions:

A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SW 43rd Avenue. The required right-of-way dedication must be shown on the final plat.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition B.3 below. The recording block shall, at a minimum, include language substantially similar to the following example: “An Acknowledgement of Tree Preservation Land Use Conditions has been recorded as document no. _____, Multnomah County Deed Records.”

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site’s street frontages. The applicant shall provide plans and financial assurances for the Public Works Permits to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.

Utilities


2. The applicant shall provide an updated conceptual development plan that shows footprints for the attached houses that meet setbacks for the R7 zone, driveways, tree preservation and appropriately sized stormwater facilities for review and approval by the Bureau of Environmental Services.
3. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

Required Legal Documents

4. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 2. 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 Parcel 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.2) and the applicant's arborist report (Exhibit A.3). Specifically, Douglas fir trees numbered 11, 12, and 13 are required to be preserved, with the root protection zones indicated on Exhibit C.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. Parcels 1 and 2 must be developed with attached houses meeting the development standards of Section 33.110.240.E.
3. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Stephanie Beckman**Decision rendered by:**  **on May 9, 2014**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 13, 2014

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 9, 2013, and was determined to be complete on **September 25, 2013**.

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 9, 2013.

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 for 160 days (Exhibit A.6). Unless further extended by the applicant, **the 120 days will expire on: July 2, 2014.**

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

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

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

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 27, 2014** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 or phone 1-503-373-1265 for further information.

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

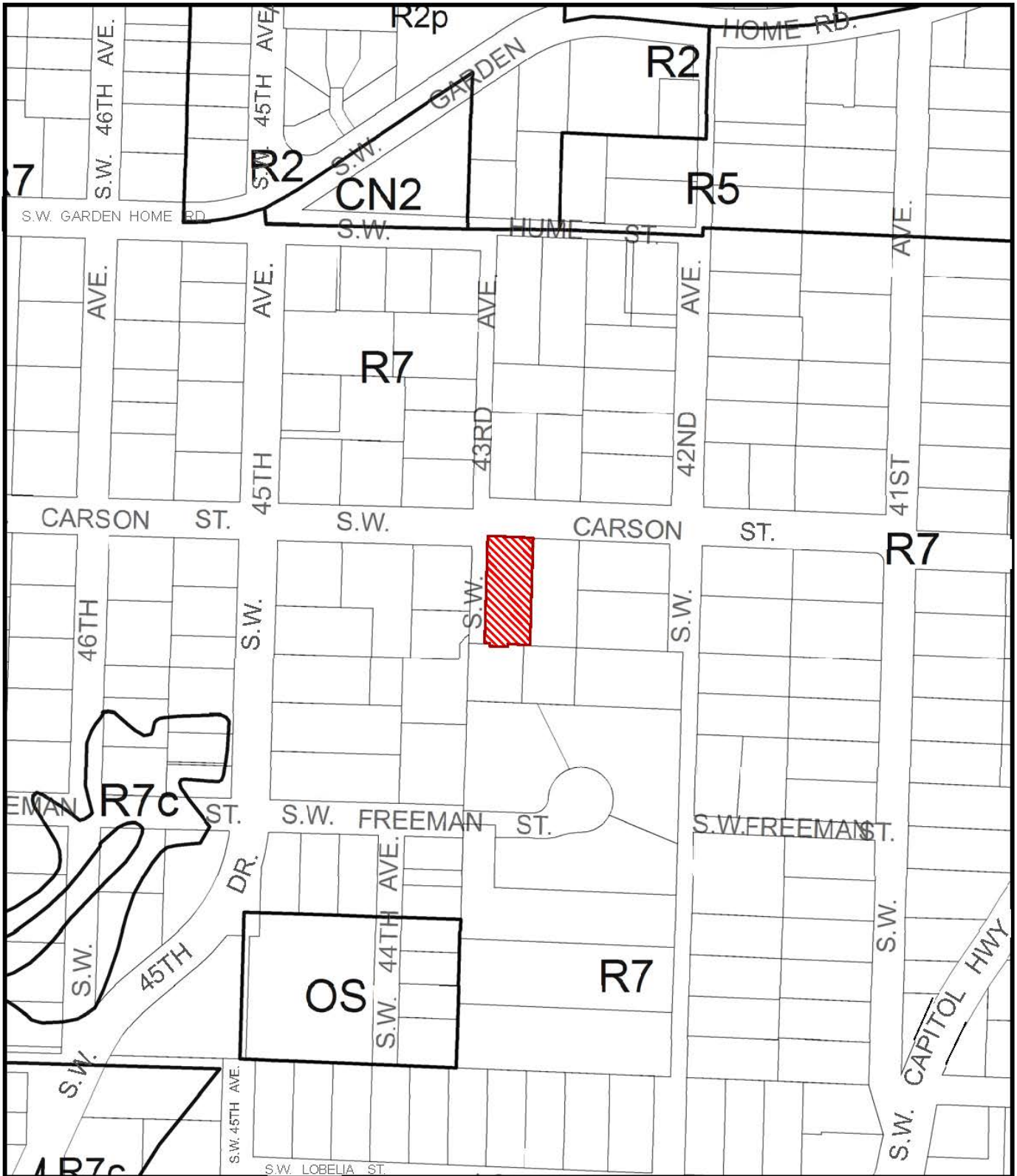
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Original submittal
 - 2. Revised submittal
 - 3. Arborist Report
 - 4. Infiltration Testing and Landslide Hazard Study
 - 5. Stormwater Simplified Approach Report
 - 6. 120-day extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat (attached)
 - 2. Preliminary Site/Utility/Tree Preservation Plan (attached)
 - 3. Existing Conditions and Demolition Plan
 - 4. Existing Condition Map (Survey)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Plan Review Section of BDS
- F. Correspondence:
 - 1. Pat Stoneking and Deborah Scarbrough, 4232 SW Carson, Portland, OR 97219
- G. Other:
 - 1. Original LU Application
 - 2. Neighborhood contact documentation
 - 3. 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

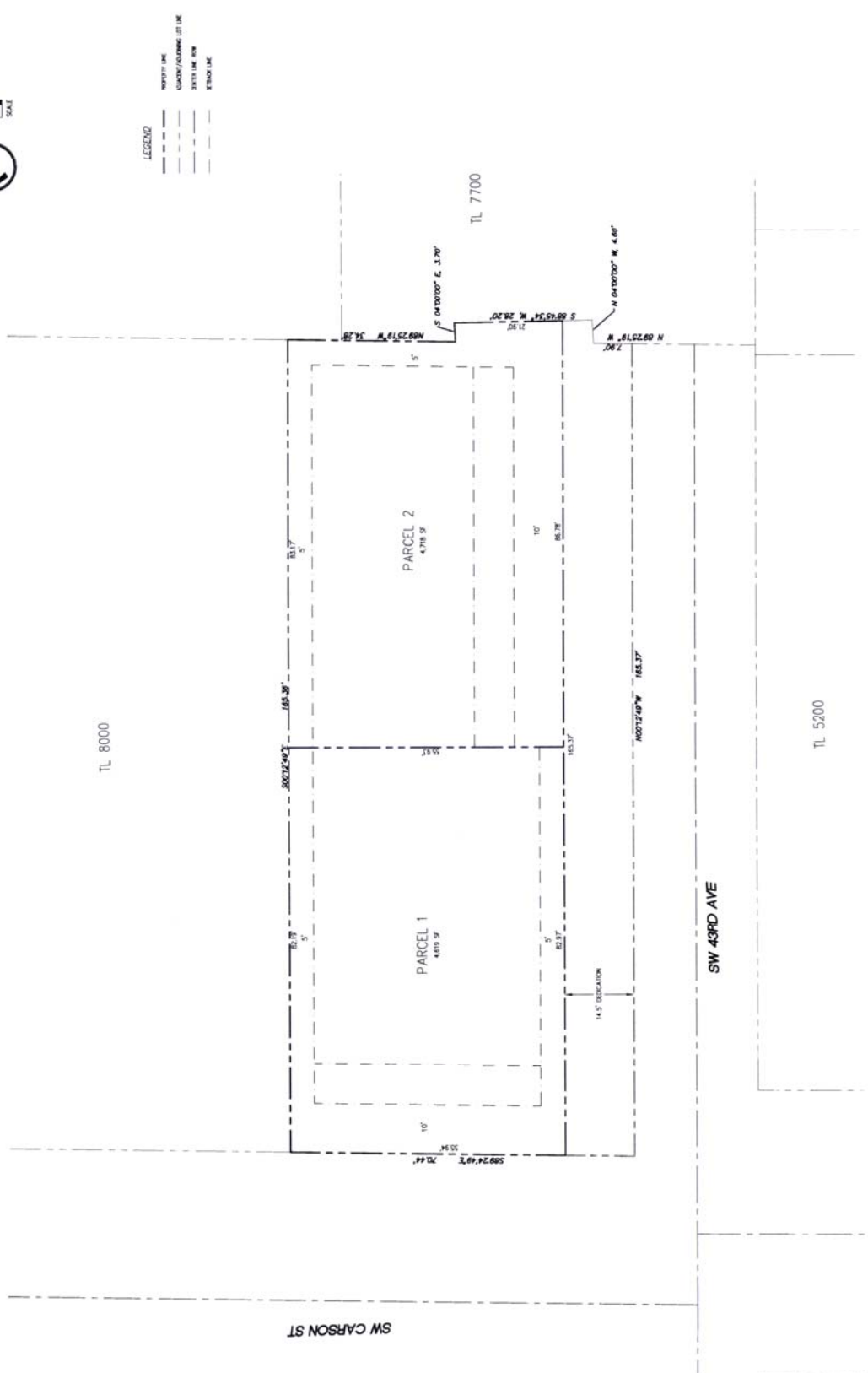


File No. LU 13-191304 LDP
 1/4 Section 3825
 Scale 1 inch = 200 feet
 State_Id 1S1E20CC 7900
 Exhibit B (Aug 14, 2013)

| NO. | DATE | DESCRIPTION |
|-----|------|-------------|
| | | |
| | | |

PRELIMINARY PLAT

4260 SW CARSON
 TAX MAP T1S R1E 20CC
 PORTLAND, OREGON



- LEGEND
- PROPERTY LINE
 - UNADJUSTED/ADJUSTED LOT LINE
 - SETBACK LINE PER
 - SETBACK LINE



CASE NO. LM 13-191304
 EXHIBIT C.1 LOP



- LEGEND**
- BOUNDARY LINE
 - - - ADJACENT/ADJOINING LOT LINE
 - CENTER LINE ROW
 - EXISTING TREE
 - EXISTING SANITARY SEWER MANHOLE
 - EXISTING WATER VALVE
 - EXISTING WATER METER
 - EXISTING GAS VALVE
 - EXISTING GAS LINE
 - EXISTING SANITARY SEWER LINE
 - EXISTING STORM DRAIN LINE
 - EXISTING WATER LINE
 - PROPOSED SANITARY LATERAL
 - PROPOSED WATER METER
 - PROPOSED TREE PROTECTION FENCE

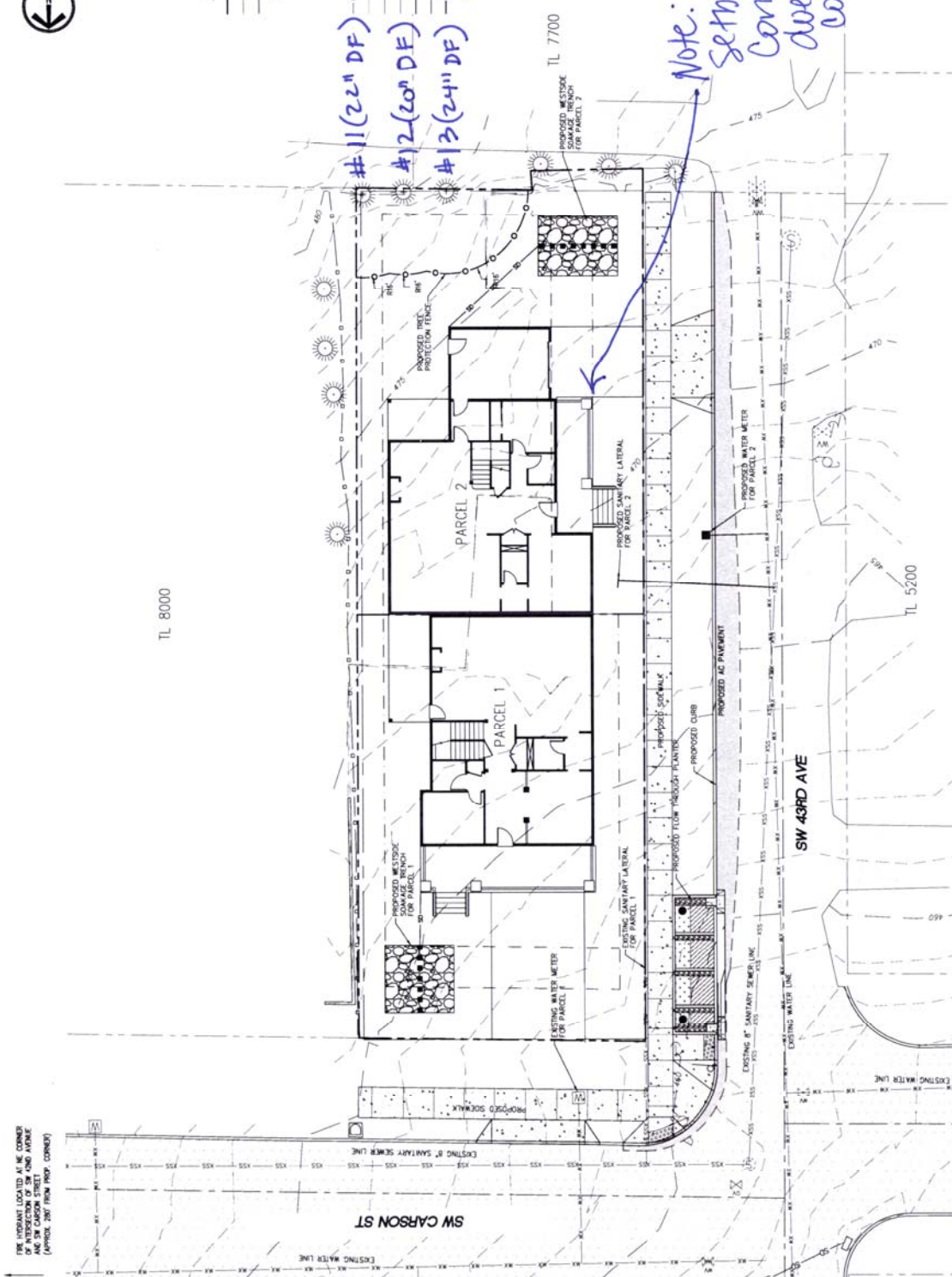
DF Douglas Fir

#11(22" DF)
#12(20" DF)
#13(24" DF)

Note: Min. Front Setback = 15' Conceptual Plan does not comply.

FIRE HYDRANT LOCATED AT THE CORNER OF INTERSECTION OF SW 43RD AVENUE AND SW CARSON STREET (APPROX. 200' FROM PROP. CORNER)

FIRE HYDRANT LOCATED AT SW CORNER OF INTERSECTION OF SW 43RD AVENUE AND SW CARSON STREET (APPROX. 200' FROM PROP. CORNER)



CASE NO. *2213-191304*
 EXHIBIT *C.2* *LOP*