



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

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Date: January 13, 2015
To: Interested Person
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 14-152580 LDP

GENERAL INFORMATION

Applicant: Mike Coyle / Faster Permits
14334 NW Eagleridge Lane / Portland, OR 97229

Owner: Chris Sakys / West Coast Development Group Inc
1697 19th St / West Linn OR, 97068

Site Address: 7539 SW 35th Ave

Legal Description: BLOCK 4 E 4' OF LOT 11 LOT 12, QUEENSLAND
Tax Account No.: R681800670
State ID No.: 1S1E20BD 10600
Quarter Section: 3725
Neighborhood: Multnomah, contact James Peterson at 503-246-0725.
Business District: Multnomah Village, contact Michele Cassinelli at 503-244-1821.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Zoning: Residential 5,000 (R5)
Case Type: Land Division Partition
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes a land division of a 5,669 square foot site to create two narrow parcels; one 2,675 square foot parcel and one 2,574 square foot parcel for development of attached homes on a corner lot. A four-foot dedication of right of way for SW 35th Avenue reduces the site area by 420 square feet to 5,250 square feet. The project proposes to use the provisions of Portland Zoning Code subsection 33.110.240.E which allows additional unit of density to allow attached houses on corner lots. Access to Parcel 2 will be from SW Custer Street and access to Parcel 1 will be from SW 35th Avenue. The applicant proposes the Tree Mitigation Option. On-site treatment and conveyance to the existing stormwater system located in SW 35th Avenue is proposed for stormwater disposal.

This partition proposal is reviewed through a Type IIX 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 (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 characterized by an average slope of approximately 9 percent. A single family residence was removed from the site in February of 2014 (14-108439 RS) and the site is now vacant. The surrounding neighborhood is characterized by single family residential development, a well developed street grid with paved streets and areas with and without sidewalks. The site is located in close proximity to Multnomah Village, Gabriel Park and the Multnomah Arts Center.

Infrastructure:

- **Streets** – The site has approximately 54 feet of frontage on SW Custer Street and 105 feet of frontage along SW 35th Avenue. At this location, according to City GIS, SW 35th Ave is improved with 20-ft of center-strip paving within a 50-ft right of way with no curb or sidewalk. There is approximately 15-ft of right of way between the edge of pavement & property line. SW Custer Street is improved with 28-ft of paving & a curb located approx 12-ft from the centerline of the 50-ft wide right of way with no sidewalk. The City’s Transportation System Plan classifies SW 35th Ave as a Local Service (Traffic & Design modes) street, Community Transit Street, City Bikeway & City Walkway. The TSP classifies SW Custer as a Local Service street for all modes. Tri-Met provides transit service at SW 35th Avenue via Bus 45.
- **Water Service** – There is an existing 4-inch CI water main in SW Custer Street. There is an existing 6-inch CI water main in SW 35th Avenue.
- **Sanitary Service** - There is an existing 8-inch public sanitary gravity sewer line located in SW Custer Street.
- **Stormwater Disposal** – There is a 12-inch concrete public storm sewer that transitions to a 15-inch concrete public storm sewer located in SW 35th 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.

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **August 18th, 2014**. A written response has been received from the Multnomah Neighborhood Association (Exhibit F.1). The letter indicates opposition to the proposed partition because Section 33.110.240.E (Duplexes and attached houses on corners) is inconsistent with the Southwest Community Plan and the Comprehensive Plan.

BDS Response: The Portland Zoning Ordinance regulates land use and development and implements the city’s Comprehensive Plan. The Southwest Community Plan contains broad vision, goals and policies for the planning area, which are incorporated into the Comprehensive Plan and expressed in the Zoning Ordinance. Section 33.110.240.E of the Zoning Ordinance provides one extra unit of density for the creation of attached houses on corner lots when

certain standards are met. This provision applies city wide and there is no exception for the SW Community Plan area. Please refer to Criterion A Lots, below, for more information regarding how these standards are met.

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.
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 outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

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 maximum density is calculated at one unit per 5,000 square feet and minimum density is calculated at one unit per 5,000 square feet based on 80 percent

of the site area. The site has a maximum density of one unit. Because the site is within the potential landslide hazard area, the site has no minimum density. The applicant is proposing two 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 unit of density 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 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)
Original lot before division in R5 zone	4,500	NA	NA	NA	NA
Original lot before division	5,669				
New attached housing lots meet R2.5 Zone dimensions	1,600	NA	36	40	30
Parcel 1	2,574		23	105	23
Parcel 2	2,675		27	105	27

* 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.

Narrow Lots:

Parcels 1 and 2 are 23 and 27 feet wide — narrower than the minimum width for the R2.5 zone, as shown in the table above. Narrow lots were proposed in order to orient the parcels towards SW Custer Street where sanitary sewer services are located. There are no sanitary sewer services located in SW 35th Avenue. The Zoning Code allows narrower lots if the future development can meet the regulations of 33.611.200.C, as discussed below:

Consistent with the Purpose of Lot Dimension Regulations

The purpose of Lot dimension regulations are as follows:

The lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; and (9) lots are compatible with existing lots while also considering the purpose of this chapter.

The applicant has demonstrated that the proposed Parcels 1 and 2 are consistent with the purpose of lot dimension regulations (Exhibit A.2) for the following reasons:

- The applicant has provided an example of building footprints that meet all applicable setback requirements and is oriented towards the street. Therefore they have demonstrated that the proposed lots can accommodate reasonably sized houses and garages while meeting the development standards of the zoning code.
- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services. Each parcel has a large back yard, approximately 40-foot deep, for private outdoor areas.
- The proposed lots are compatible with existing lots and other new residences since the proposed parcels support two attached homes in accordance with the development and density standards of Chapter 33.611. The development is located on a corner designed with only one vehicle and pedestrian access on each street. Additionally, after required 5-foot side yard setbacks, total building width is only 40-feet, which is similar to other homes in the neighborhood. Therefore, impacts from traffic and building scale are limited and compatible with existing lots.

- The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street
- The parcels are 2,675 and 2,574 square feet in size, which would not allow for further division.

The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet

- The lots will be developed with attached houses; therefore, this standard does not apply.

If the lot abuts an alley, then vehicle access is allowed only from the alley

- The site does not have access from an alley, so this standard does not apply.

Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development

- The applicant has demonstrated, with the Proposed Improvements Plan (Exhibit C.2) that Parcel 2 will be built with a house that is 22 feet in width and that will be able to accommodate a garage that will occupy no more than 50% of the length of the street facing façade. The garage for Parcel 2 is located at the rear of the house, with driveway access to SW 35th Avenue. The garage limitation standards of Subsection 33.110.253.E can be met.

60 percent landscaping requirement for attached houses

- Parcels 1 and 2 will have individual driveways that are approximately 9 feet wide. Parcel 2 will have a driveway accessing SW Custer Street with a lot width of 27 feet. A 9-foot wide driveway is proposed. The area between the front lot line and the building setback line is 270 square feet, 60 percent of this area is 162 square feet. The driveway encompasses 90 square feet, leaving 180 square feet of area that will be landscaped. Therefore, this standard is met for Parcel 1. Parcel 2 will have a garage located at the rear of the house, with a driveway accessing SW 35th Avenue. Therefore, 100% of the area between the front lot line and the front building line can be landscaped. Therefore, this standard is met for Parcel 2.

If parking is not required, alley access and garage limitation requirements do not have to be met if a covenant is provided.

- Parking is required. Therefore, alley access and the garage limitation requirements described above must be met.

Attached Houses on Corner Lots:

Parcels 1 and 2 are smaller than would normally be allowed in the R5 zone. As described above, these lots are being created through a provision that allows attached houses on corner lots. To use this code provision the original lot before the division must be at least 4,500 square feet. As shown in the table above (Page 4), taken together (before the division), the required lot dimension requirements are met. Therefore, the corner lot may be divided to create Parcels 1 and 2 as proposed.

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 provided 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 states that the site contains six trees, five of which have been determined to be exempt because two are a nuisance species and three are unhealthy. Therefore, one tree is subject to the preservation requirements of this chapter, an 11-inch Sato cherry. The arborist has determined that this tree is not able to be preserved at the site due to its location within the proposed building envelope of Parcel 2. Therefore, the arborist has proposed the tree mitigation option. The total non-exempt tree diameter on the site is 11 inches. The proposal does not meet any of the tree preservation options in 66.630.100. The applicant proposes, instead, to

use the mitigation options of 33.630.300. The 11-inch tree is located within the building footprint of Parcel 2 and the arborist has determined that it cannot be preserved. Therefore, the applicant has met Criterion A, because as many trees as possible will be preserved.

The applicant has submitted a tree mitigation plan that proposes onsite planting for mitigation. However, the site must also meet the tree density standards of Title 11 at the time of development, which also requires on-site tree planting based on a formula of lot area and tree canopy size. Title 11 also requires a minimum tree planting area for each required tree. Because of the small size of the parcels and the proposed storm drain easement and storm water planters, and based on the proposed development plan, it is not practical for additional trees beyond the Title 11 standard to be planted without jeopardizing the overall long term health of all of the trees on the site. Therefore, offsite mitigation in the form of payment into the City Tree Fund is more appropriate for this proposal. The mitigation plan provides for the same caliper inches as Option 1 of the Tree Preservation Chapter. Option 1 would require that 35%, or 4 inches of the existing non-exempt tree diameter on site be preserved. Payment into the Tree Fund will contribute to the general beauty and natural heritage of the City, if not directly on the site.

Criterion B is met with a condition of approval requiring a payment into the City Tree Fund the amount equivalent to 4 inches of trees prior to final plat approval.

The site is less than 15,000 square feet in area. The applicant wishes to divide the site for attached housing, which is an allowed housing type in the R5 zone. The parcels must be oriented to SW Custer Street in order to take advantage of the existing sanitary sewer line, as there is no sewer line in SW 35th Avenue. The location of the one existing, non-exempt tree on the site would prevent a land division that would result in a practicable arrangement of lots that could each contain a reasonable building area and still be able to meet the development standards of the R5 zone. Therefore, Criterion C.4 is met

Therefore, with the conditions noted above for mitigation, the criteria can be met.

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 this criterion, the applicant has submitted a geotechnical evaluation of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.4). The 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 stormwater will not be disposed on the site itself, it will be treated and discharged into the public storm sewer. 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 gently sloped and is located in the Potential Landslide Hazard area. Therefore, the clearing and grading associated with preparation of the lots must occur in a way that will limit erosion concerns.

The applicant has submitted a Preliminary Clearing and Grading Plan with the land division application (Exhibit C.3) showing the areas to be graded and a soil stockpile location. The applicant's statement indicates that the existing contours and drainage patterns will be left intact at the site. Grading at the site will primarily involve excavating for the foundations of the new houses and trenching for the utilities, but will not include mass grading of the site to alter the existing contours. Stormwater runoff from the lots will be appropriately managed by flow through planters which discharge into the public storm drain system.

As shown above the clearing and grading anticipated to occur on the site can meet the approval criteria. 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 to assure that the grading will not create any erosion risks. 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. As indicated above, the site is gently sloped and contains no known geological hazards. The Site Development section of BDS has determined that an old septic system has been properly decommissioned at the site with a demolition permit for a single family residence (permit 14-108439 RS). 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: No tracts are proposed or required for this land division, so criterion A does not apply. The following easements are proposed and/or required for this land division:

- A Private Storm Sewer Easement is required across the relevant portion of Parcel 1, for a shared, private storm sewer pipe that serves Parcels 1 and 2 of this land division. The applicant also proposes to extend the easement across parcel 2 to serve the adjacent parcel located at 3515 SW Custer Street (R251102).

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the stormwater easement 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, substantially similar to the following example:

"A Declaration of Maintenance agreement for private storm sewer easement has been recorded as document no. _____, Multnomah County Deed Records."

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

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

Findings: The Development Review Section of the Portland Bureau of Transportation 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 has provided the following findings (see Exhibit E.2):

The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-

of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

The proposed land division will create 2 parcels from the current lot in order to accommodate 2 attached homes (the previous single-family detached house on the (larger) site has been 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 new daily trips) that may result from the development proposal on the site. The new peak hour trips will have minimal impacts to the areas nearby intersections and do not warrant any mitigation to said intersections. The intersections will continue to operate at current levels without further 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 direct transit service along SW 35th Ave via Tri-Met route #45 [Garden Home]. There are few existing sidewalk corridors throughout the vicinity to facilitate pedestrian travel; pedestrians will be better accommodated via the required sidewalk improvements that will be constructed along the site's frontages. There are identified bike facilities (Portland Bike/Walk Map) in the area including Shared Roadways along SW 35th Ave and SW Canby (south of the subject site).

The parking demand that is expected to be generated as a result of the proposed project is estimated using rates from the Institute of Transportation Engineers (ITE), Parking Generation Manual, 4th Edition, 2010. The data utilized to determine the parking demand for the one additional dwelling unit on the site was for land use #230, Residential Condominium / Townhouse. Based upon this data, the 85th percentile peak parking demand for the one additional dwelling unit is 2 parking spaces.

With regard to impacts to on-street parking, the new attached residences that will be developed on the site will include on-site parking opportunities for at least one vehicle (on each lot), with access via separate driveways located along each site frontage. There will be sufficient remaining uninterrupted curb length along the site's SW Custer frontage to accommodate some on-street parking. Although some segments of SW 35th Ave have restrictions to on-street parking, the subject block is not similarly limited. However, it is not likely that on-street parking is in high demand along the SW 35th Ave block wherein the subject site is located given the speeds and volumes of traffic on the street as well as the limited shoulder width. Further, a survey of the surrounding area indicates that the majority of the homes along both streets include driveways and/or garages to accommodate at least one on-site parking space on the lots. The proposed partition will have minimal impacts to on-street parking in the area. (NOTE: to ensure safe egress from the Proposed Parcel 1 and promote safety for all modes, PBOT will require that the applicant provide sufficient turn-around area on the site to allow for forward-motion vehicle egress from the parcel, as shown on the City's official public notice for this project.) 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. 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: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

<p>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p>
<p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibits E.1 for detailed comments.</p>
<p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1</p>
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:</p> <p>Public Street Improvements: Public street improvements are required to be made to SW Custer Street and SW 35th Avenue. Stormwater from these new impervious areas will be directed into a flow through planter located between the curb and the new sidewalk adjacent to SW 35th Avenue with a connection to the public stormwater system. BES requires a Public Works Permit for the construction of such a swale. The applicant must provide engineered designs and financial guarantees of performance prior to final plat approval. The applicant has received approval of the 30% conceptual design of the street and stormwater improvements (permit 14-203618 WT).</p> <p>Parcels 1 and 2: Stormwater from these lots will be directed to individual flow through planters that will treat the water and direct it to the public stormwater system. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the flow through planters and connection to the public stormwater system. The stormwater from Parcel 2 will be directed to a shared pipe that crosses Parcel 1 and then enters the public storm sewer. An easement is required. A plumbing code appeal was approved for the shared system (14-218401 BD).</p>
<p>33.654.110.B.1 Through streets and pedestrian connections</p>
<p>Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. PBOT has indicated no street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The subject block and others in the vicinity satisfy the above referenced public street and pedestrian connection spacing goals. PBOT therefore has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition. The site is located on a corner; therefore this criterion is not applicable.</p>
<p>33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment</p>
<p>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 curb and sidewalk frontage improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development.</p> <p>At this location, the City’s Transportation System Plan classifies SW 35th Ave as a Local Service (Traffic & Design modes) street, Community Transit street, City Bikeway & City Walkway. The TSP classifies SW Custer as a Local Service street for all modes. According to City GIS, SW 35th Ave is improved with 20-ft of center-strip paving within a 50-ft right of way with no curb or sidewalk. There is approximately 15-ft of right of way between the edge of pavement & property line. SW Custer is improved with 28-ft of paving and a curb only, no sidewalk, located approx 12-ft from the centerline of the 50-ft wide right of way.</p>

For City Walkway classified streets (SW 35th Ave) abutting R5-zoned sites, the City's public right of way standards document requires a 58-ft right of way width to accommodate a 26-ft roadway width (which would allow parking along both sides) & two 16-ft wide sidewalk corridors (0.5-ft curb, 8-ft stormwater management facility, 6-ft sidewalk & 1.5-ft frontage zone). The new curb shall be located 13-ft from the right of way centerline & paving extended to the new curb. To accommodate the above referenced right of way improvements along SW 35th Ave, a 4-ft dedication of property will be required (this assumes the standard 8-ft stormwater management facility will be appropriate for this site; dedication may vary depending on site specific stormwater management design).

For Local Service streets (SW Custer) abutting R5-zoned lots, the City's Pedestrian Design Guide recommends an 11-ft wide sidewalk corridor (0.5-ft wide curb, 4-ft wide frontage zone, 6-ft wide sidewalk, 0.5-ft wide frontage zone). In relation to the proposed development on the site, this standard sidewalk corridor will need to be constructed along the site's SW Custer frontage. Because both site frontages must be improved to current City standards, the applicant is also advised that the corner (at SW 35th/SW Custer) must also be constructed to ADA standards.

The applicant has appealed the above referenced frontage improvements and property dedication requirements through the City's Public Works Appeal process. Each of the various appeal bodies has denied the applicant's requests for relief, including and most recently, the final Public Works Appeal Board. Accordingly, the above referenced frontage improvements and property dedication requirements remain in effect. The applicant has since filed the appropriate Public Works Permit (14-203618 WT) and initiated the Concept Review (30%) phase of the process.

With the required street improvements, the two proposed dwellings can be safely served by this existing street without having any significant impact on the level of service provided. This criterion is met, with the condition that curb and sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

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

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

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review, 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:

- Narrow Lots-- development on Parcels 1 and 2 will be subject to the following standards at the time of development permitting:
 - Height of the structures will be limited to 1.2 times the width of the structure, per 33.110.215.B.2; and
 - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.3.a
 - Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.E.3.b. Detached dwelling units are not permitted on lots that are less than 25 feet in width.
 - The main entrances must be located within 4 feet of grade.
- 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 2 must be oriented toward SW Custer Street and development on Parcel 1 must be oriented toward SW 35th 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.

Existing development that will remain after the land division. 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
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 addressing requirements; ensuring adequate hydrant spacing and flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 2 parcel partition proposing narrow lots for development of attached houses on a corner lot 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: stormwater management, restricting future development to attached houses and compliance with the narrow lot standards. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-parcel partition that will result in two narrow lots for

development of attached houses on a corner 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 35th Avenue. The required right-of-way dedication must be shown on the final plat.
2. A private storm sewer easement, for the benefit of Parcel shall be shown and labeled over the relevant portions of Parcels 1. The easement may be shown on Parcel 2 to serve the adjacent property (R251102).
3. 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.2 and C.3 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for a private storm sewer easement has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage on SW 35th Avenue and SW Custer Street. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.

Utilities

2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow and spacing 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

3. A Maintenance Agreement shall be executed for the private storm sewer easement described in Condition A.2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

Other requirements

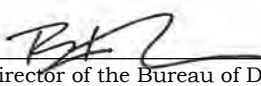
4. The applicant must pay into the City Tree Fund the amount equivalent to 4 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

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

1. Parcels 1 and 2 may only be developed with attached houses meeting the development standards of Section 33.110.240.E.
2. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

3. Sufficient maneuvering area on Parcel 1 shall be provided to ensure forward egress and safety for all modes from the parcel.

Staff Planner: Brandon Rogers

Decision rendered by:  **on January 9, 2015**
By authority of the Director of the Bureau of Development Services

Decision mailed January 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 May 5, 2014, and was determined to be complete on August 13, 2014.

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 May 5, 2014.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended by 245 days. Unless further extended by the applicant, **the 120 days will expire on: May 5, 2015.**

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 January 27, 2015** 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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 or phone 1-503-373-1265 for further information.

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

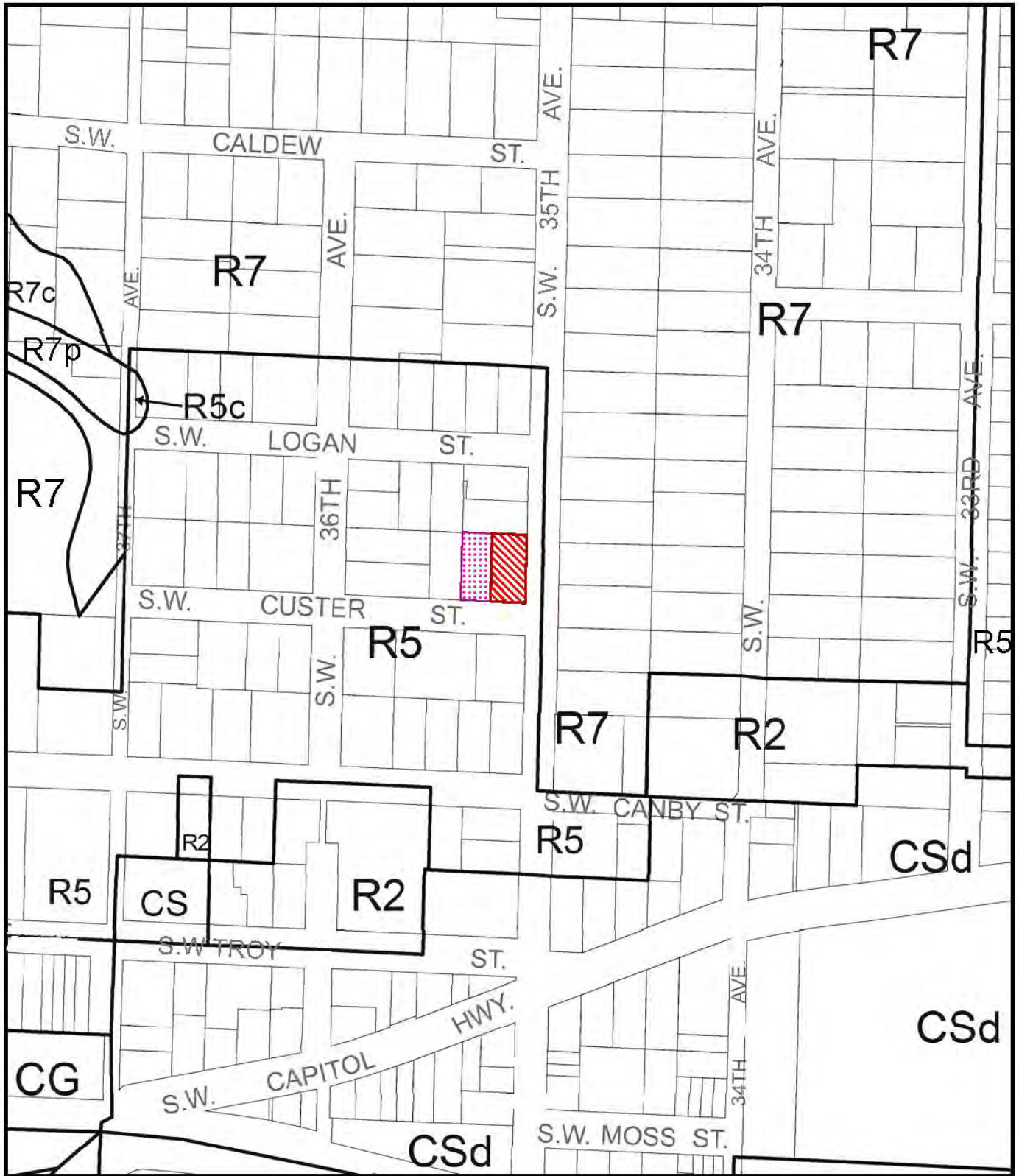
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessor's Office after it is signed by the Planning Director 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 Report
 - 5. Stormwater Simplified Approach Report
 - 6. 120-Day Extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan (attached)
 - 2. Proposed Improvements Plan (attached)
 - 3. Preliminary Grading Plan
 - 4. Stormwater Plan
 - 5. Existing Conditions Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services and Addendum
 - 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
- F. Correspondence:
 - 1. Multnomah Neighborhood Association Response
- G. Other:
 - 1. Original LU Application
 - 2. Neighborhood Contact Information
 - 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
-  Also Owned



File No. LU 14-152580 LDP
 1/4 Section 3725
 Scale 1 inch = 200 feet
 State_Id 1S1E20BD 10600
 Exhibit B (May 29, 2014)

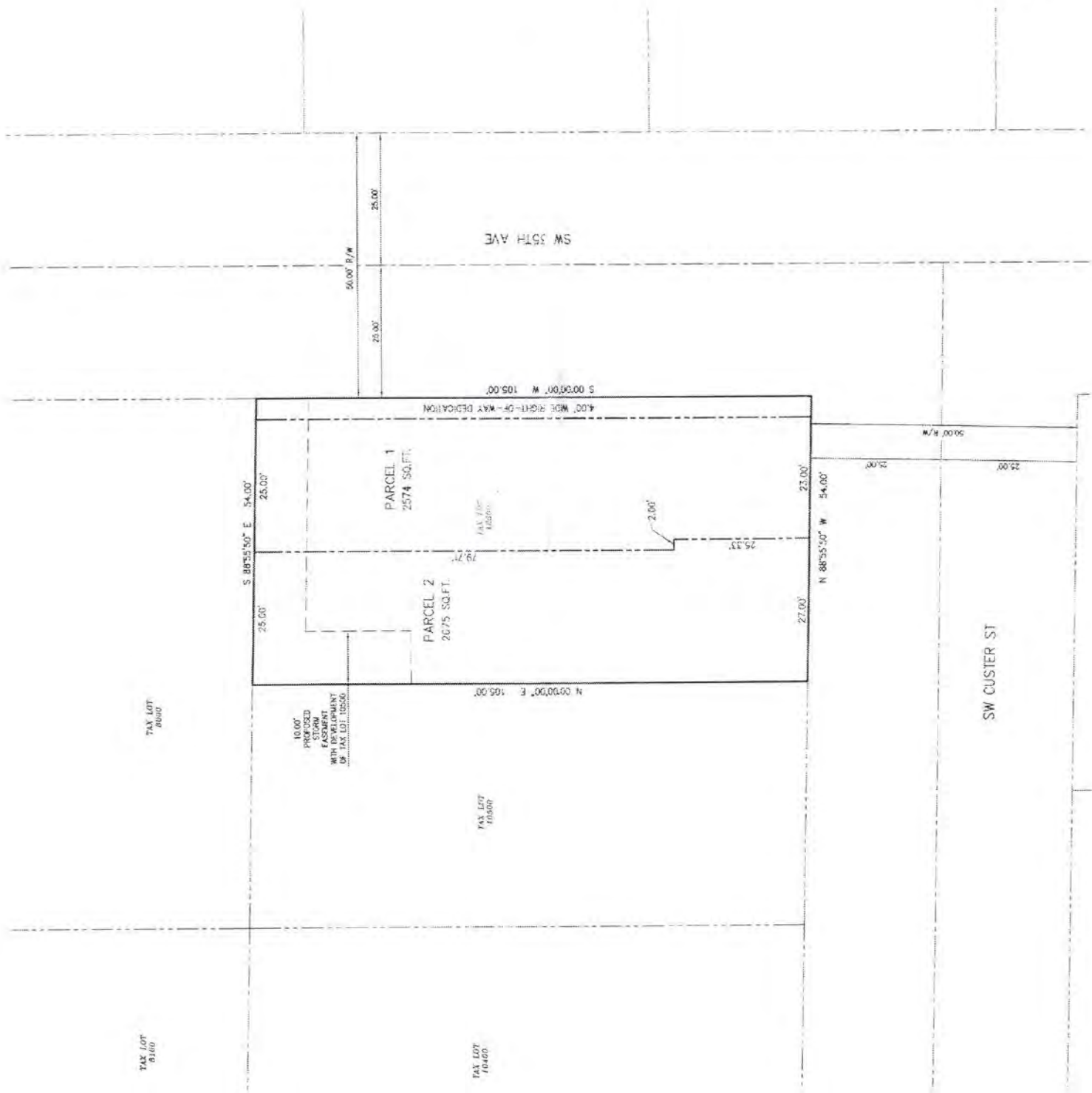
DESIGNED	
DRAWN	
REVIEWED	
SUBMITAL	

1	DATE	
2	BY	
3	REVISION	
4		
5		
6		
7		

SW 35TH AVENUE
 2-PARCEL PARTITION
 NO272
 PRELIMINARY LAND DIVISION
 PLAT

FOR: WEST COAST DEVELOPMENT
 CHRIS SKAYS
 1697 19TH STREET
 WEST Linn, OR 97068
 ATEL: TAY MAP 151E2080
 TAX LOT 10600
 CITY OF PORTLAND, OREGON

MW ENGINEERS
 Engineering & Planning
 3025 SW 10th Street
 Portland, OR 97205
 503.251.8124
 503.251.8127

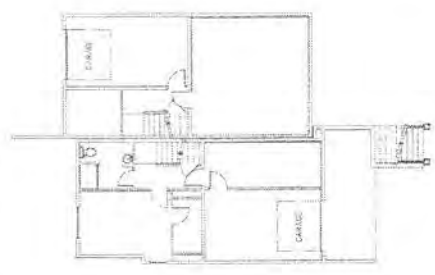
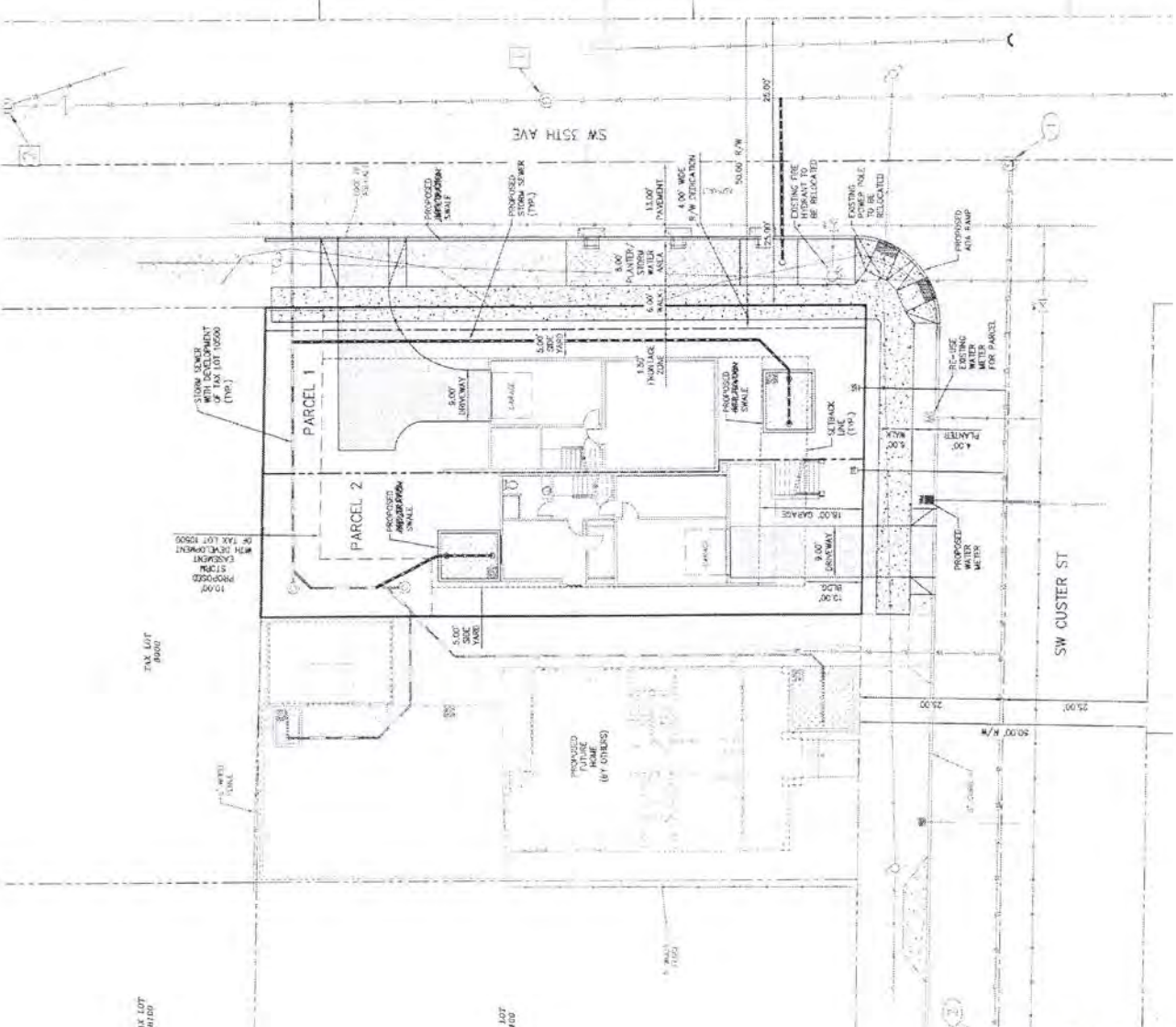


CASE NO LU 14-152580
 EXHIBIT C-1

NO.	REVISION	BY	DATE
1	ISSUE FOR PERMITTING COMMENTS	CS	07-20-18
2			
3			
4			
5			
6			
7			

DESIGNED	DRAWN	REVIEWED	SUBMITTED

- LEGEND.**
- EXISTING DIPOLOUS TRUNK W/ TRUNK DIAMETER (INCHES)-(CLUSTER)
 - EXISTING CONCREDS TREE W/ TRUNK DIAMETER (INCHES)-(CLUSTER)
 - EXISTING POWER POLE
 - EXISTING OVERHEAD POWER LINES
 - EXISTING FIRE HYDRANT
 - EXISTING WATER METER
 - EXISTING WATER VALVE
 - EXISTING UNDERGROUND WATER
 - EXISTING CATCH BASIN
 - EXISTING CONCRETE CULVERT
 - EXISTING SANITARY MANHOLE
 - EXISTING STORM MANHOLE
 - EXISTING SANITARY SEWER LINE
 - EXISTING STORM SEWER LINE
 - EXISTING FENCE
 - EXISTING CONCRETE COLUMN
 - EXISTING GRAVEL
 - EXISTING CONCRETE
 - EXISTING ASPHALT



MAIN FLOOR
 SCALE 1"=10'

LOWER FLOOR
 SCALE 1"=10'

