



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

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Date: March 26, 2018
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 17-266513 LDP

GENERAL INFORMATION

Applicant: Ben Altman, Pioneer Design Group
9020 SW Washington Sq Rd #170 / Portland, OR 97223
(503) 708-6258 / baltman@pd-grp.com

Owner: HT Remodeling and Design LLC
21271 Rock Rd / Beaverton, OR 97006

Site Address: 10645 SW 41st Ave

Legal Description: TL 8600 0.72 ACRES, SECTION 29 1S 1E
Tax Account No.: R991291800
State ID No.: 1S1E29CC 08600
Quarter Section: 4025
Neighborhood: West Portland Park, contact contact-wwp@swni.org
Business Association: None
District Coalition: Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.
Zoning: R7- Single-Dwelling Residential
Case Type: LDP- Land Division Partition
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

PROPOSAL:

The applicant is proposing to divide a 31,343-square foot site into three parcels. Lot sizes range from 9,756 square feet to 11,686 square feet. The applicant is proposing a driveway easement to access all three parcels from a single driveway off of SW 41st Avenue. Six trees that are 20-inches or over are proposed to be preserved and protected, in addition to 17 trees that are also proposed for retention. The applicant has proposed to pay the Local Transportation Infrastructure Charge in lieu of providing frontage improvements. The applicant has submitted a Public Works permit to extend a public sanitary sewer line from SW Galeburn Street down SW 41st Avenue to provide utility access for the proposed parcels.

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 three 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 subject site is sloped from the rear of the site at the west to the front of the site at the east along SW 41st Avenue. The site contains an existing house which is proposed for removal. There are several very large trees on the southern and western portion of the site. SW 41st is a minimally improved right-of-way along the frontage of the subject site. Access to the east of this site is limited by an elementary school. The housing in the vicinity is composed primarily of single dwelling structures.

Infrastructure:

- **Streets** – The site has approximately 199 feet of frontage on SW 41st Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, SW 41st Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately ¼ mile from the site at SW Capitol Highway via Bus #44.

SW 41st Avenue is improved with approximately 10-13 feet of paving with no curb or sidewalk within a 60-foot right-of-way.

- **Water Service** – There is an existing 8-inch CI water main in SW 41st Avenue. The existing house is served by a 3/4-inch metered service from this main.

- **Sanitary Service** - There is an existing 8-inch CSP public sanitary-only sewer line in SW 41st Avenue approximately 50 feet north of the site. There is an existing 8-inch CSP public sanitary-only sewer line in SW 41st Avenue approximately 90 feet south of the site.

- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R7 zone 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 **December 15, 2017**. Two written responses have been received from the Neighborhood Association or notified property owners in response to the proposal. The following comments were considered. Staff response is in *italics*:

- Concern about utility extensions in SW 41st Avenue.
Work within the right-of-way is allowed in order to provide utility services to legal lots.
- Disruption to neighborhood safety because of construction.
Construction required for development is generally considered temporary and is managed with required erosion control measures. IF there are erosion control concerns during construction, neighbors can contact Site Development at (503) 823-6892.
- Concerns about increased traffic
Transportation impacts are addressed later in this decision under Section K.
- Concerns about slope stability and stormwater management.
The applicant is required to provide analysis showing how their proposal will manage on-site stormwater and maintain slope stability for the proposed homes. In this case, stormwater is being treated and directed into the public system as discussed later in this decision. The Site Development section of BDS has reviewed to applicant's submitted landslide hazard study and determined that because no on-site infiltration is proposed

and standard erosion control measures will be taken during construction, slope stability will be maintained. Tree removal is required to be done in such a way as to limit the impact on the slope stability of the site. Please see Section G. of this report for more information.

- Concern about the impact on wildlife.
The applicant has proposed tree preservation that meets the approval criteria for tree preservation on land division sites. There are no specific approval criteria which considers the wildlife impacts of land divisions. However, the purpose of the tree preservation criteria is in part to provide wildlife habitat. The applicant has proposed to preserve several large trees beyond what is required by the approval criteria. These large trees will maintain wildlife habitat while also allowing reasonable building footprints for development.
- A request for a 120-day response time for the proposal to allow a longer Neighborhood Association review period
The 120-day timeline is the maximum amount of time allowed to review a proposal and issue a decision, unless extended by the applicant. A public comment period takes places within that 120-day review period. Additionally, because this is a Type IIx review, the applicant met with the neighborhood association to gather feedback about the proposal in May of 2017.

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	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
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 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. Based on the applicant’s survey, the site area is 31,333 square feet. The maximum density in the R7 zone is one unit per 7,000 square feet. Minimum density is one unit per 7,000 square feet based on 80 percent of the site area. However, because the site is within the potential landslide hazard area there is no minimum density. The site has a maximum density of 4 units. The applicant is proposing 3 single dwelling parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R7 Zone	4,200	12,000	40	55	30
Parcel 1	9,891		62	157	62
Parcel 2	9,756		62	157	62
Parcel 3	11,686		75	157	62

* 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 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees.

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

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

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

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.2) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.4) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, 23 trees, which provide a total of 520 inches of tree diameter are subject to the preservation requirements of this chapter.

The trees proposed for preservation are in good condition, include native/non-nuisance species, and six of the trees are 20 or more inches in diameter. The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R7 zone and will not conflict with any existing utility easements, proposed services or site grading.

Specifically, the applicant proposes to retain 60 percent of the trees that are 20 or more inches and 200 inches of the total tree diameter, so the proposal complies with:

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

The applicant will be required to preserve Trees numbered 7, 10, 14, 16, 26, and 30, as indicated on the Preliminary Site Plan (Exhibit C.4) and in the submitted arborist report (Exhibit A.4). Additionally, the applicant has proposed to retain 17 other trees within the proposed root protection zones on Exhibit A.4. These trees are primarily nuisance species or are in poor condition. The applicant can optionally retain or remove these trees if the trees required for preservation are not affected by any removal as shown by an arborist report.

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

In order to ensure that future owners of the parcels are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcels 1-3 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.4) and the Arborist Report (Exhibit A.4).

With the implementation of the noted conditions, the approval criteria will 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 parts of the site that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site.

In order to evaluate the proposal against this criteria, the applicant has submitted a Landslide Hazard Study of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.5).

Site Development, the division of Development Services that makes determinations regarding soil stability, has evaluated the Landslide Hazard Study and concurred with the recommendations. The report indicates that the site is suitable for development and the proposal reasonably limits the risk of landslide potential on the site and other properties in the vicinity given the soil composition, topography, and other risk factors, provided the recommendations in the report are implemented. Site Development notes that further geotechnical evaluation may be required for specific building plans at the time of construction plan review.

Based on these factors, 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 has steep grades (over 20%), 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 and assure that the preserved trees on the site will not be disturbed.

The applicant submitted a Preliminary Clearing and Grading Plan (Exhibit C.3) and a Landslide Hazard Report (Exhibit A.5) that describes how clearing and grading should occur on the site to minimize erosion risks. The applicant also provided a Tree Protection Plan (Exhibit C.4) 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.4) that further discusses grading on the site. These reports generally recommend that there should be no grading, cut and fill, or other site work within the root protection areas of preserved trees, non-native and non-engineered fill should be removed from the site, and wet weather work should be limited and performed in small areas to limit erosion.

Both the applicant's geotechnical engineer and arborist recommend that the amount of grading work occurring on the site be minimized as much as possible. It is anticipated that the grading 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. Following the recommendations of the Landslide Hazard Study will help to limit erosion and sedimentation concerns by limiting wet weather work to small areas of the site, quickly revegetating the site, and staging construction such that large areas of the project site area not denuded and exposed at the same time. Stormwater runoff from the lots will be appropriately managed by treating stormwater runoff in lined vegetated planters and discharged to the public system via a pipe to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report). In addition, no clearing and grading will be permitted within the root protection zones of the trees on the site that are required to be preserved. Preserving these trees will help limit erosion by assuring that the tree roots will help to hold the soil in place. Topsoil storage and general stockpiling on the site should only occur if it will not create any additional erosion concerns as recommended by the geotechnical engineer.

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 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. These criteria are met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing house and garage and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

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

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

The applicant is proposing a retaining wall which will cross property lines and easements over the wall. For the purposes of providing shared access and maintenance of the driveway and retaining walls, the following easements are proposed and/or required for this land division:

- A Reciprocal Access Easement is proposed to allow shared use of a driveway and retaining wall that will straddle proposed lot lines;
- A Private Storm Sewer Easement is required across the relevant portions of Parcels 1-3 for a shared flow-through planter that will provide stormwater disposal for the driveways of all three parcels.

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

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

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

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

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: 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. Mitigation may be necessary to reduce impacts.

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

The minimal expected added vehicle trips (2 AM peak hour trip/2 PM peak hour trip/20 total new daily trips) will not adversely impact the operations of area intersections. There appears to be little demand for on-street parking in the area – existing lots along SW 41st Ave have on-site parking opportunities and further, the proposed lots will include on-site parking spaces expected to accommodate the additional demands for parking (4-spaces) related to the proposed development. The proposed partition will not have any effect on transit service or any other mode of travel. It should be noted that the applicant voluntarily submitted a Traffic Impact Study (TIS) to address this approval criterion. PBOT reviewed the TIS and is supportive of the findings/conclusions provided therein. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

*The applicant has shown one point of access from SW 41st Ave to serve the proposed lots (with an access easement crossing Lots 1-3). PBOT is supportive of this concept. **However, the driveway shown on the submitted plan is at an angle to SW 41st Ave. At the time of Building Permit review for Parcel 1, the driveway will need to intersect SW 41st Ave perpendicularly.***

PBOT has reviewed and concurs with the information supplied and the methodology, assumptions and conclusions made by the applicant’s traffic consultant. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. These criteria are met.

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

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

<p>33.651 Water Service standard – See Exhibit E.3 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 Exhibit E.1 for detailed comments.</p> <p>There is no public sanitary sewer available in SW 41st Avenue to serve Parcels 1-3. The nearest available sewer is located in SW 41st Street, 50 feet from the site. Therefore, the applicant proposes to extend a public sewer to provide individual connection locations. Under Public Works Permit (PWP) #EP410, BES Development Engineering approved the Concept Development plans (i.e. 30% design) for the sewer extension on January 17, 2018. Therefore, BES finds that sanitary sewer can be made available to Parcels 1-3 as shown. Prior to final plat approval, BES will require approved plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document. Parcels 1-3 will be served by new connections to a new public sanitary sewer that will be extended in SW 41st Avenue within its frontage (refer to BES Public Works Permit project #EP410). With this condition, these standards are met.</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.</p> <p>The applicant has proposed the following stormwater management methods:</p> <p>Parcels 1-3: Stormwater from these lots will be directed into flow-through planters that remove pollutants and suspended solids. The water will drain from the planters to a new public storm sewer in SW 41st Avenue. Each lot has sufficient size for individual planter boxes. Under Public Works Permit (PWP) #EP410, BES Development Engineering approved the Concept Development plans (i.e. 30% design) for the sewer extension on January 17, 2018. Therefore, BES finds that an offsite discharge location can be made available to Parcels 1-3 as shown. Prior to final plat approval BES will require approved plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document.</p> <p>Driveways for Parcels 1-3: Stormwater runoff from the private driveway will cross all three parcels and be directed to private stormwater facilities that are located on adjacent parcels. The applicant must provide legal access across the parcels as needed; per BDS, access should be provided through a private sewer easement or covenant for future easement. BES will review site plans showing the easement location. Per the BDS Private Sewer Easements Code Guide, private sewer easements should be a minimum of 10 feet in width unless specific criteria are met allowing a reduction to 5 feet, as determined by BDS. The applicant is encouraged to contact BDS Plumbing directly with questions related to private easements and plumbing code appeals: (503)-823-7388 for residential projects, and (503) 823-7302 for commercial projects. Please be aware that BES will require proof of legal access prior to issuance of sewer connection permits.</p> <p>With the above conditions, these standards and criteria are met.</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 pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart.</p> <p>The block on which the subject property is located does not meet the noted spacing requirements. However, considering topographical constraints and surrounding development, the location of the subject site within its block is not appropriate location to provide a new public street or pedestrian connection through the block.</p> <p>In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.</p> <p>For the reasons described above, this criterion is met.</p>
<p>33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment and Exhibit A.9 for LTIC confirmation</p> <p>SW 41st Avenue is improved with a paved 10-13-foot-wide roadway with no curb or sidewalk within a 60-foot right-of-way. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing</p>

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 improvements must be made in order to meet City standards ensure that safe pedestrian travel is possible within the proposed development. Although it would be a typical requirement for PBOT to require frontage improvements in association with the proposed development on the site given the current non-standard conditions of the street, the project qualifies under Code Section 17.88.090 as implemented by Administrative Rule TRN-1.26, for the applicant to pay the Local Transportation Impact Charge (LTIC). Payment of the LTIC will exempt the property from requirements of PCC 17.88.020.B and future applications of the LTIC. The LTIC is based on the total number of linear feet of unimproved street frontage (post property dedication - ***in this case there is no property dedication required***). The current fee is \$600/lineal foot of qualifying street frontage. This charge will be collected, in this case, prior to Final Plat approval. In addition to paying the LTIC, the applicant will also be required to submit executed/completed Street and Storm Sewer Waivers of Remonstrance.

This criterion is met, with the condition that the required LTIC payment is made and waivers are signed prior to final plat approval.

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-way can be provided on the final plat. The applicant has proposed a 6-foot utility easement adjacent to the SW 41st Avenue. 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.

Existing development that will remain after the land division. The applicant is proposing to remove all 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 11 –Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; and 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 3-parcel partition, as shown on the attached preliminary plan (Exhibit C.4). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: tree preservation, shared access, stormwater management, and frontage improvements.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-parcel partition, that will result in three standard lots as illustrated with Exhibit C.4, subject to the following conditions:

A. The final plat must show the following:

1. A private Stormwater Management Easement, for the benefit of Parcels 1-3 shall be shown and labeled over the relevant portions of Parcel 1-3.
2. A 12-18-foot wide Reciprocal Access Easement shall be shown and labeled on the final plat, extending from SW 41st Avenue, crossing Parcels 1-3, as shown on Exhibit C-4. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for and for maintenance of the retaining wall.
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 Condition B.7 and B.8 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall pay the Local Transportation Infrastructure Charge prior to final plat approval. At a rate of \$600.00/lineal foot of property frontage and a 199-foot long frontage, the fee will amount to \$119,400.00.
2. The applicant shall complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms and instructions will be provided to the applicant during the final plat review process.

Utilities

3. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in SW 41st Avenue. The public sewer extension requires a Public Works Permit, which must be initiated and at a stage acceptable to BES prior to final plat approval. As part of the Public Works Permit, the applicant must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.
4. 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.
5. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcels 1-3 as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new homes on Parcels 1-3 if applying the exception. An Acknowledgement of Special Land Use Conditions

describing the sprinkler requirement must be referenced on and recorded with the final plat.

Existing Development

6. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. Additionally, the City's Deconstruction ordinance applies to houses built in 1916 or earlier and/or designated historic resources.

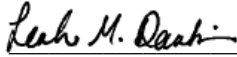
Required Legal Documents

7. Maintenance Agreements shall be executed for the Reciprocal Access and Stormwater Management Easements described in Conditions A.1 and A.2 above. The agreements 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 agreements must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
8. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1-3. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.
9. If shown on the final plat, the applicant is required to provide a Maintenance Agreement for the existing retaining wall structure crossing Parcels 2 and 3.

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

1. Development on Parcels 1-3 shall be in conformance with the Tree Preservation Plan (Exhibit C.4) and the applicant's arborist report (Exhibit A.4). Specifically, trees numbered 7, 10, 14, 16, 26, and 30 are required to be preserved, with the root protection zones indicated on Exhibit C.4. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it is under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones beyond the allowances of 11.60.030 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/her supervision.
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. For the purposes of site access, one curb cut is allowed for the site as shown on Exhibit C.4. At the time of building permitting review for Parcel 1, the driveway must intersect with SW 41st perpendicularly.
4. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling units on Parcels 1-3. Please refer to the final plat approval report for details on whether or not this requirement applies.

Staff Planner: Leah Dawkins

Decision rendered by:  **on January 26, 2018**

By authority of the Director of the Bureau of Development Services

Decision mailed January 31, 2018

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 November 6, 2017, and was determined to be complete on December 11, 2017.

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 November 6, 2017.

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 45 days as stated with Exhibit A.17. Unless further extended by the applicant, **the 120 days will expire on: May 25, 2018.**

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 April 9, 2018** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

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

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that

issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

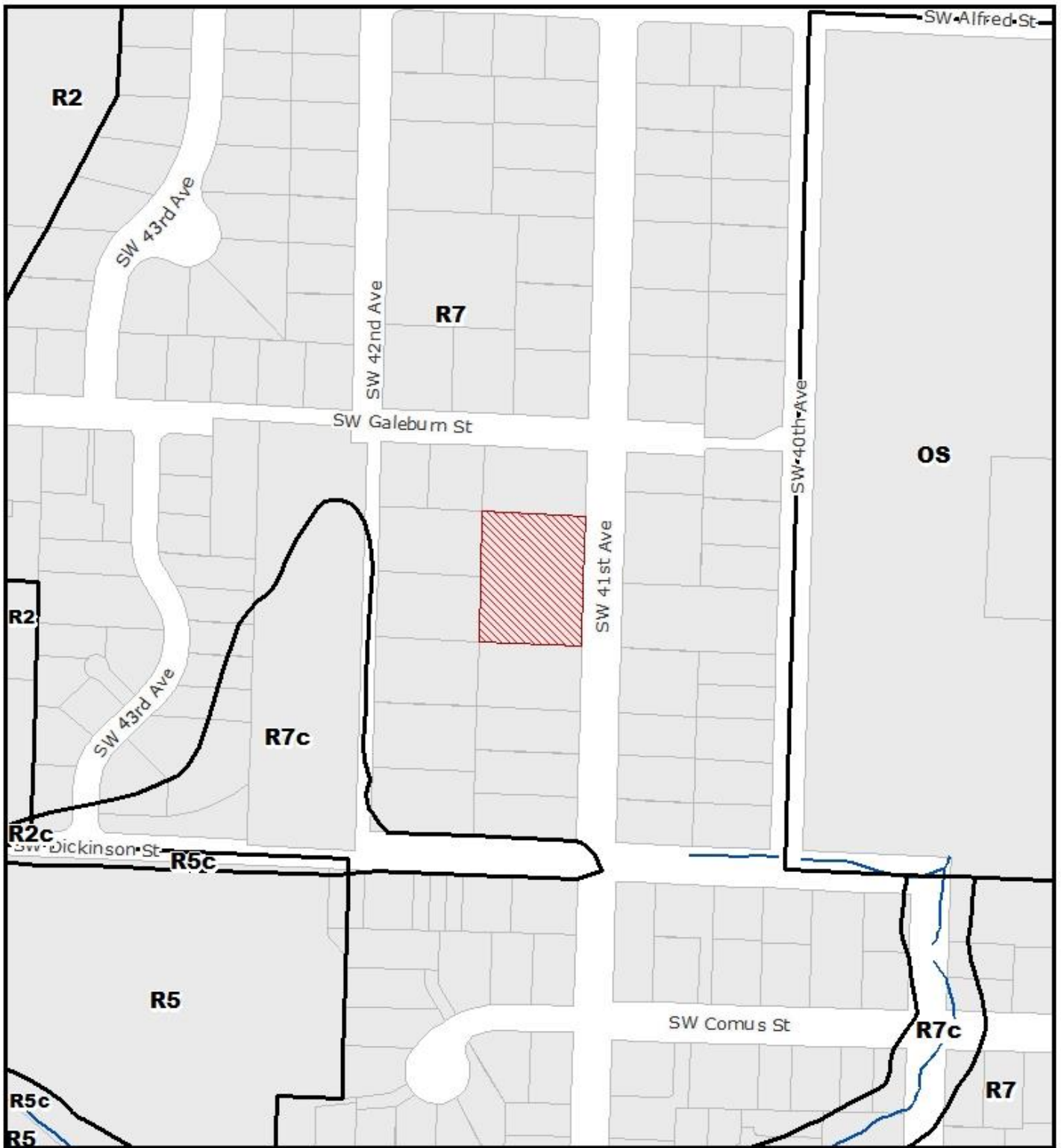
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant Narrative
 - 2. Applicant Resubmittal Memo
 - 3. Original Arborist Report-5/10/17
 - 4. Revised Arborist Report-12/08/17
 - 5. Landslide Hazard Study and Geotechnical Engineering Report
 - 6. Original Stormwater Management Report- 06/27/17
 - 7. Revised Stormwater Management Report- 12/08/17
 - 8. Transportation Impact Analysis
 - 9. Applicant LTIC Letter
 - 10. Neighborhood Meeting Letter and Notes
 - 11. Transit Schedule
 - 12. Title Report
 - 13. Applicant generated Zone Map
 - 14. Pre-Application Conference Notes
 - 15. Original Site Plan Submittal
 - 16. Fire Code Appeal
 - 17. 120-Day Extension Request
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat Map
 - 2. Existing Conditions Survey
 - 3. Grading Plan
 - 4. Preliminary Site, Utility and Tree Preservation Plan (attached)
 - 5. Aerial Photo
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Section of Bureau of Development Services
- F. Correspondence:
 - 1. West Portland Park Neighborhood Association, 12/21/17, request for timeline extension
 - 2. Michael Wolfson and Regina Pruss, 01/15/18, concerns about the proposal
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Acknowledgement
 - 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 
NORTH

 Site
 Stream

File No.	LU 17-266513 LDP
1/4 Section	4025
Scale	1 inch = 200 feet
State ID	1S1E29CC 8600
Exhibit	B Nov 07, 2017

LEGEND

- ADJACENT PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- PROPOSED LOT LINE
- EASEMENT LINE
- BUILDING SETBACK LINE
- PROPOSED DRIVEWAY
- PROPOSED SIDEWALK AND MANHOLE
- PROPOSED PRIVATE STORM LINE
- PROPOSED SANITARY LINE AND MANHOLE
- PROPOSED WATER MEASUR AND LATERAL
- PROPOSED IRIG PROTECTION FENCE
- FLOW THROUGH PLANTER BUILT WITH DRIVEWAY
- FLOW THROUGH PLANTER BUILT WITH HOUSE
- EXISTING TREE TO REMAIN
- CONCEPTUAL BUILDING FOOTPRINT (APPROX)
- PROPOSED DRIVEWAY
- PROPOSED ROBERT WALL
- PROPOSED BLOCK WALL

STORMWATER NARRATIVE

THE PROPOSED DEVELOPMENT WILL BE CONSTRUCTED WITH THE FOLLOWING STORMWATER MANAGEMENT STRATEGIES TO REDUCE THE IMPACT OF DEVELOPMENT ON THE ADJACENT WATERSHED AND TO MAINTAIN THE QUALITY OF THE RECEIVING WATERBODIES:

1. **ROOF RUNOFF:** ROOF RUNOFF FROM THE THREE PROPOSED BUILDINGS WILL BE COLLECTED AND TREATED ON EACH INDIVIDUAL LOT IN THE DEVELOPMENT. THE ROOF RUNOFF WILL BE TREATED BY THE PROPOSED PLANTERS AND THE TREATED WATER WILL BE REUSED FOR IRRIGATION AND OTHER NON-POTABLE USES.

2. **DRIVEWAY RUNOFF:** DRIVEWAY RUNOFF WILL BE COLLECTED AND TREATED ON EACH INDIVIDUAL LOT IN THE DEVELOPMENT. THE DRIVEWAY RUNOFF WILL BE TREATED BY THE PROPOSED PLANTERS AND THE TREATED WATER WILL BE REUSED FOR IRRIGATION AND OTHER NON-POTABLE USES.

3. **LANDSCAPE RUNOFF:** LANDSCAPE RUNOFF WILL BE COLLECTED AND TREATED ON EACH INDIVIDUAL LOT IN THE DEVELOPMENT. THE LANDSCAPE RUNOFF WILL BE TREATED BY THE PROPOSED PLANTERS AND THE TREATED WATER WILL BE REUSED FOR IRRIGATION AND OTHER NON-POTABLE USES.

4. **STORMWATER INFILTRATION:** STORMWATER WILL BE INFILTRATED INTO THE GROUND THROUGH PERMEABLE PAVING AND OTHER INFILTRATION TECHNIQUES.

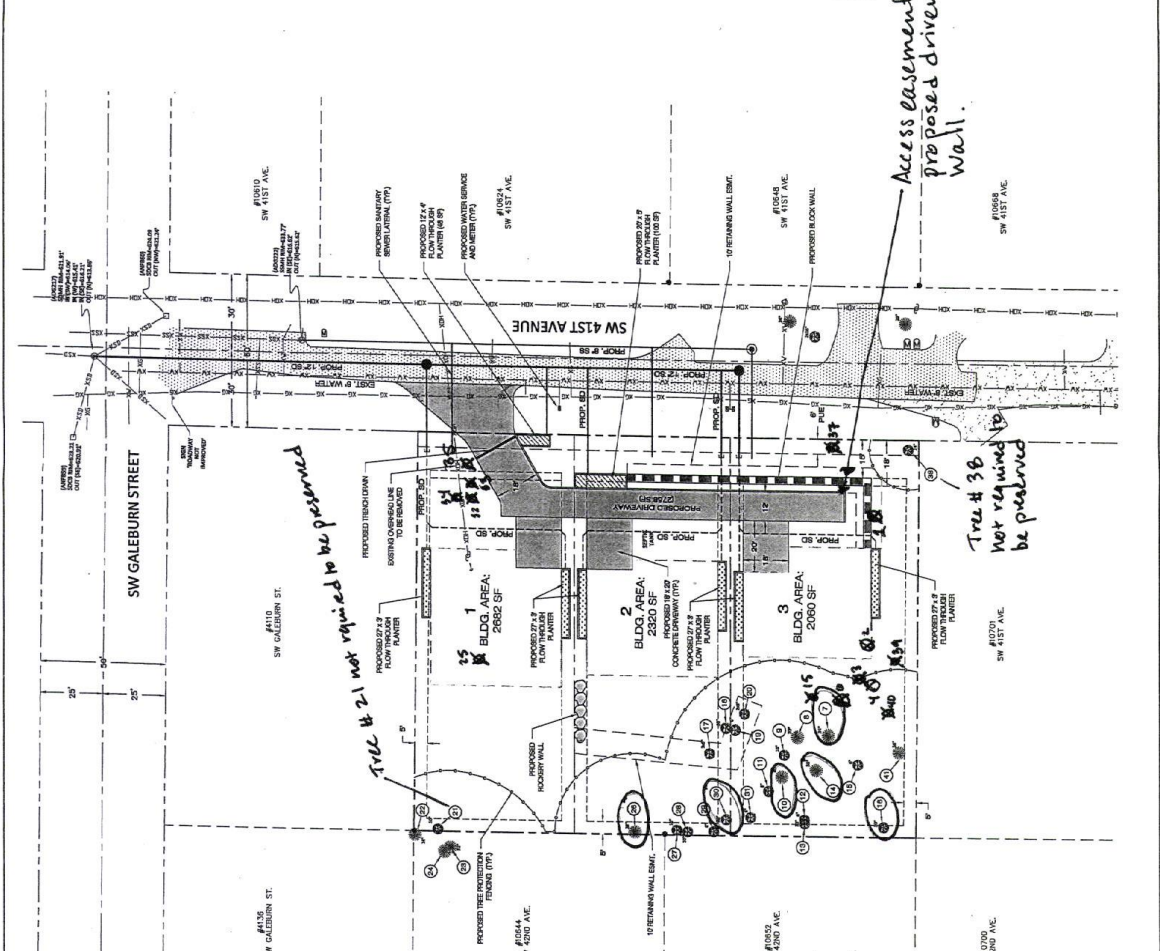
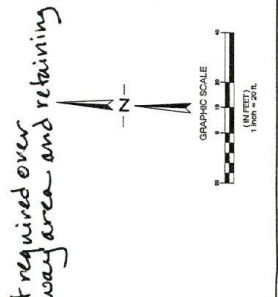
5. **STORMWATER STORAGE:** STORMWATER WILL BE STORED IN STORAGE TANKS AND OTHER STORAGE FACILITIES TO BE RELEASED AT A LATER DATE.

6. **STORMWATER TREATMENT:** STORMWATER WILL BE TREATED BY THE PROPOSED PLANTERS AND OTHER TREATMENT FACILITIES.

7. **STORMWATER MONITORING:** STORMWATER WILL BE MONITORED TO ENSURE THAT IT IS BEING TREATED AND MANAGED PROPERLY.

IMPERVIOUS AREA CALCULATIONS

LOT NO.	APPROX. ROOF AREA	NON-ROOF AREA	TOTAL
LOT 1	2,862 SF	1,180 SF	4,042 SF
LOT 2	2,202 SF	1,135 SF	3,337 SF
LOT 3	2,000 SF	939 SF	2,939 SF



***STAFF NOTE:**

#	Species	DBH
7	Douglas fir	34
10	Douglas fir	46
14	Douglas fir	38
16	Big leaf maple	28
20	Douglas fir	31
30	Pin oak	23

Most other trees within root protection zones are nuisance species or are in poor health. These trees can be optionally retained or removed.

☒ = Trees to be removed

Tree # 21 not required to be preserved

Tree # 38 not required to be preserved

Access easement required over proposed driveway area and retaining wall.