



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

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Date: July 18, 2019
To: Interested Person
From: Timothy Novak, Land Use Services
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NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision.

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

CASE FILE NUMBER: LU 19-130029 LDP

GENERAL INFORMATION

Representative: Danelle Isenhardt, Emerio Design
6445 SW Fallbrook Pl #100, Beaverton OR, 97008
(503) 746-8812, danelle@emeriodesign.com

Applicant: Erik Ostmo, Ostmo Construction
1750 SW Skyline Blvd #110, Portland OR, 97221

Owners: Mark & Maria Raleigh
5407 SE 47th Ave, Portland, OR 97206-5711

Site Address: 5407 SE 47TH AVE

Legal Description: BLOCK 6 INC PT VAC ST ACCR ORD 114315 LOT 1&2, AVONIA
Tax Account No.: R048800510
State ID No.: 1S2E18BD 09200
Quarter Section: 3535

Neighborhood: Woodstock, contact at sage.wna@gmail.com
Business District: Woodstock Community Business Association, contact at norberg@myexcel.com
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Plan District: None
Zoning: R5 – Single-Dwelling Residential 5,000
Case Type: LDP - Land Division Partition
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

To divide the existing 12,512 square foot lot into two parcels for detached single-family dwellings. The existing house will remain on Parcel 2, proposed to be 8,311 square feet. The existing pool will be removed and filled. The new parcel (Parcel 1) is proposed to be 4,201 square feet. Tree protection is proposed for the 24" Japanese maple in the SW corner of the lot and for the two Western Red Cedar trees near the north property line at the rear of the adjacent lot to the north; the 35" Norway maple at the north end of the site is classified as a nuisance tree in the Portland Plant List and is exempt from tree preservation requirements. Existing on-site parking will be retained for the existing house and a conceptual plan shows a new driveway and parking for development on the new parcel.

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

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

ANALYSIS

Site and Vicinity: The site and vicinity is predominately residential in nature, with the notable exception of Woodstock Park directly to the East of the site and Woodstock School to the SE of the site. The area has minimal slope (i.e. is quite flat). The street pattern is a standard N/S - E/W grid with fair-to-good connectivity. Most right-of-way is developed with sidewalks, including SE 47th Avenue at and in the vicinity of the subject site.

Infrastructure:

- **Streets** – Include the Transportation Element designation of all abutting streets. Describe the condition of the street – does it have curbs, sidewalks, street trees? Or is it just a center strip of paving with gravel shoulders? Is there an alley?
Can insert from PBOT response: The site has approximately 125 feet of frontage on SE 47th Avenue. There is one driveway entering the site that serves the existing house on the site and a second, unused curb cut on the frontage that doesn't lead to vehicle area on the site. At this location, SE 47th Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 340 feet from the site at SE Steele Street via Bus 10.

SE 47th Avenue has a 36-foot curb to curb paved surface within a 60-foot right-of-way with parking on both sides. Along the 125-foot wide site frontage the pedestrian corridor includes an 8-foot wide planter area, curb, 6-foot sidewalk and a 2-foot wide buffer at the back of the sidewalk (8-6-2 configuration).

- **Water Service** – There is an existing 8-inch water main in SE 47th Avenue. The existing house is served by a 1-inch metered service from this main.

- **Sanitary Service** - There is an existing 8-inch CSP public combination sewer line in SE 47th Avenue.
- **Stormwater Disposal** – Public underground injection control (UIC) systems (“sumps”) infiltrate stormwater runoff from the public right-of-way in the vicinity of the site. There is no public storm-only sewer currently available to this property.

Zoning: R5 – Single-Dwelling Residential 5,000

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 **May 15, 2019**. One written response has been received from a notified property owner in response to the proposal. The following is a summary of their comments, followed by the applicant’s response in *italics*:

- The large tree at the north of the property that is proposed for removal during future development is a valuable contributor of shade to adjacent property and beauty to the neighborhood. It should be preserved and protected. *The maple tree is a Norway maple tree per the arborist report. This is a nuisance species in the City of Portland and is proposed for removal for the proposed new dwelling access and unit. Mitigation is not required for removal of a nuisance species. Per our survey the tree is fully on the project site. Staff Note: The applicant is correct that Norway maple is classified as a nuisance species in the Portland Plant List and is not subject to tree preservation standards.*
- There is an arborvitae hedge along the north property line of the subject site that provides privacy between neighbors; it is supported by a cement brick wall with historical value. It doesn’t appear that there has been any consideration of damage to the wall and hedge from excavation work. *Since arborvitae are not a tree and are a shrub species, we don’t have the location on the survey. Removal of the pool and pool decking/ concrete should have a major impact on the arborvitae. This can be monitored during the demo phase. The owner will continue to work with the neighbor to provide the best solution during demo and construction of the site. Staff Note: The applicant is correct that Arborvitae is considered a shrub and not subject to tree preservation standards. That said, Site Development will require measures to avoid impacts to the existing grade on adjacent property during the work to demolish the pool, concrete deck, and cement block wall, all of which are on the subject property.*

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES 33.660.120
The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land	A phased land division or staged final plat has not

	Division or Staged Final Plat	been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	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, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	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.
	33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Based on the applicant's survey, the site area is 12,512 square feet. The maximum density in the R5 zone is one unit per 5,000 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area.

The site has a maximum density of 2 units and a minimum required density of 2 units. Per 33.610.100.E, if the minimum required density is equal to the maximum allowed density, then the minimum is automatically reduced by one. Therefore, the site has a maximum density of 2 units and a minimum required density of 1 unit. The applicant is proposing 2 single-dwelling parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	4,200		42	100.01	42
Parcel 2	8,311		83.08	100	83.08

** 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. The site has a 25-foot public utility easement located vacated right-of-way at the northern portion of the site. The available lot width on parcel 1 that will be available without encroaching into the easement or side setback is 12 feet. In order to provide an adequate footprint for future development on parcel 1, prior to final plat approval, the applicant must work with PBOT’s Acquisitions and Vacations Section to release the easement. Staff has received correspondence from PBOT confirming that there are no issues with releasing the easement (Exhibit G.3). BES has also indicated that they have no assets in the easement and have no objections to releasing the easement (Exhibit E.1). With release of the easement prior to final plat approval as a condition of approval, 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 an existing conditions plan (Exhibit C.2) that shows the location, species, and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.2) 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, 2 trees, which provide a total of 37 inches of tree are subject to the preservation requirements of this chapter. The applicant proposes to preserve tree #7, a 24-inch Japanese maple. The tree proposed for preservation is in good condition, is a non-nuisance species, and is the only non-nuisance tree on site 20 or more inches in diameter. The proposed root protection zone for the tree to be retained is on the site with the existing house, well away from the location of future development anticipated on parcel 1. Retaining it will not restrict development on parcel 1 and will not conflict with any existing utility easements, proposed services or site grading.

Specifically, the applicant proposes to retain all of the non-exempt trees that are 20 or more inches and 24 inches/73% of the total tree diameter, so the proposal complies with:

Option 1: Preserve all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site.

In addition, the applicant's arborist report has also identified 2 trees on the adjacent site to the north that are within 15 feet of potential disturbance area on the proposed parcels. In order to protect the off-site trees from construction impacts, the arborist recommends a phased tree protection plan during the filling of the in-ground pool and during the demolition of the concrete decking around the pool. Stage 1 is reflected on the Existing Conditions and Demolition Plan (Exhibit C.2); stage 2 is reflected on the Preliminary Grading & Erosion Control Plan (Exhibit C.5) and the Preliminary Site/Utility Plan (Exhibit C.4).

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 Parcel 2 must preserve Tree #7, the 24-inch Japanese maple in accordance with 11.60.030 Tree Protection Specifications.

With the above conditions, this approval criterion is met.

At the time of development or redevelopment, the individual parcels must also meet the Title 11-Tree Code provisions, which require a specific amount of site area for tree planting based on the size of the property and the scale of the development. The trees to be retained as part of this review may be applied toward meeting those Title 11 requirements.

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

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

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

Clearing and Grading: In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lot developable. The applicant's arborist report identifies 2 trees on the adjacent site to the north that are within 15 feet of potential disturbance area on the proposed parcels: Tree #8 is a 16-inch Western Red cedar, tree #9 is an 18-inch Western Red cedar. In order to protect these

off-site trees from construction impacts, the arborist recommends a phased tree protection plan during the filling of the in-ground pool and during the demolition of the concrete decking around the pool. Stage 1 is reflected on the Existing Conditions and Demolition Plan; stage 2 is reflected on the Preliminary Grading & Erosion Control Plan and the Preliminary Site & Utility Plan. These protection measures must be carried out during construction on Parcel 1. With protection of the off-site trees as shown on the above-mentioned plan sheets, 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 relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. Site Development requires that the swimming pool be demolished in its entirety prior to final plat approval (Exhibit E.5). A Special soil inspection will be required for the excavation backfill placement and compaction. With a condition of approval requiring that the demolition of the pool be conducted under a building permit that ensures compliance with site development requirements, 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 supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced and measures to mitigate impacts may be necessary.

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

The applicant provided a written narrative addressing the transportation approval criteria above. The applicant proposes a 2-lot partition, retaining the existing home on an 8,300 square foot lot, with a new 4,200 square foot lot to the north; both fronting onto SE 47th Ave. Based upon trip generation estimates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition, the additional lot is projected to generate one additional morning and evening trip, for approximately ten daily trips for the new parcel. The net addition of one single-family residence added to the transportation system resulting from the development will not adversely impact the operations of area intersections and is consistent with the zoning of the property. Therefore, the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area. The applicant is proposing off-street parking for each parcel, retaining the existing curb cut for the remaining home, and one new 9-ft wide driveway proposed at the north end of the parcel. The existing lot has a non-conforming curb cut placed near the existing sidewalk, which will be required to be closed, maximizing available on-street parking adjacent to the site. The site is well served by transportation options to reduce impacts to the neighborhood and provide safety for all modes, including four Tri-Met bus services in vicinity of the site; # 10-Harold to the north, # 71-60th to the east, # 19-Woodstock/Glisan to the south, and # 75-Cesar Chavez/Lombard to the west. The neighboring street SE 46th is an identified City Bikeway, which provides safe routes to other areas in the City on surrounding low volume traffic streets throughout Portland. And the existing sidewalk corridor presently exceeds City standards and will remain, providing access to a well-connected pedestrian network in the area. Therefore, the resulting proposed development will not negatively impact transit access or other transportation modes and will enhance pedestrian environment and improve pedestrian safety.

PBOT has reviewed and concurs with the information supplied and available evidence. No mitigation is necessary for the transportation system to be capable of supporting the proposed development in addition to the existing uses in the area.

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. Applicable 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 and, as noted on page 3 of this report have no concerns or issues with this partition. 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 bureau comments.</p>
<p>The Bureau of Environmental Services has indicated that service is available to the site and, as noted on page 3 of this report have no concerns or issues with this partition.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1 for detailed bureau comments.</p>
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <ul style="list-style-type: none"> • Parcel 1: Stormwater from this parcel will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. The parcel 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 drywell. • Parcel 2 (with the existing house): The existing house has downspouts that drain onto the ground. BES has noted no issues or concerns with the existing stormwater management on this parcel.
<p>33.654.110.B.1 Through streets and pedestrian connections – See Exhibit E.2 for detailed bureau comments.</p>
<p>Findings: The site is located approximately mid-block, in which the streets north and south of the lot meets our connectivity standard with the surrounding street network being generally complete, with many redundant connections surrounding the property. Therefore, additional connections are not practical at this location.</p>
<p>33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)</p>
<p>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.</p>

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all requirements of Title 11 can

be met, and that all development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review, prior to the approval of a building or zoning permit.

Existing development that will remain after the land division. With the exception of the in-ground pool and associated concrete decking that will be demolished, the existing development on the site will remain and be located on parcel 2. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks (33.110.220) – The existing house and existing detached accessory structure identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot line. The existing house will be approximately 6.9 feet from the new property line and the existing detached accessory structure will be approximately 5.6 feet from the new property line. Therefore, the applicable and required 5-foot side setback is being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines. Additionally, the survey must call-out the setback of eaves and building walls to the new property line.
- Maximum Building Coverage (33.110.225) – The existing house and detached accessory structure will remain and be located fully on parcel 2. The combined building coverage of the two structures is 2,739.63 square feet. The maximum building coverage for the site is 2,746.65. Therefore, the building coverage standard is being met.
- Required Outdoor Areas (33.110.235) – The existing house that will remain on parcel 2 is required to maintain an outdoor area of at least 250 square feet that is shaped so that a 12 ft by 12 ft square can fit entirely in it. The required outdoor area may extend into the required side and rear building setback, but may not be located in the front building setback. Parcel 2 will have sufficient space to accommodate the required outdoor area in both side yards. Therefore this standard is being met.
- Title 11 Tree Density Standard – This site has a minimum tree density requirement per 11.50.050 that is currently met on the site. Due to the land division, and associated tree removal, parcel 2 with the existing house will no longer meet this standard. Parcel 2 is 8,311 square feet, which requires 3,324.4 square feet of tree area. The Japanese maple that is being preserved provides 2,000 square feet worth of tree canopy area. Prior to final plat approval, the applicant must meet this requirement by either planting trees on parcel 2 equal to 1,324.4 square feet of canopy area or by making the equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized Zoning Permit.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority and Topic
Development Services/503-823-7300 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:

Transportation – The northern curb cut in the frontage of parcel 2 must be removed prior to final plat approval. This requirement is based on the standards of Title 17.

Fire Bureau - 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; & fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1. **Staff Note: The applicant provided Fire Flow Information that demonstrates that the applicable fire flow requirements are met with 2,100gpm from the nearest hydrant. The Fire Bureau will verify this at the time of final plat.*

Urban Forestry – The applicant must pay into the City Tree Preservation and Planting Fund [*Street Trees – Fee in Lieu of Planting and Establishment (per inch)*] an amount equivalent to 1.5 inches of trees. This is required for lost street tree planting spaces. Payment required prior to final Plat approval. This requirement is based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the preliminary plat (Exhibit C.3) and in the attached Preliminary Site/Utility 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 and protection and demolition of the in-ground pool and associated decking. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a two-parcel partition that will result in two single-dwelling lots, per Exhibits C-1 through C-5, subject to the following conditions:

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

- Any buildings or accessory structures on the site at the time of the final plat application, with the setbacks of those structures to the new property line dimensioned on the plan;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A recording block for the acknowledgement of special land use conditions as required by Condition C.3 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Tree Preservation Land Use Conditions has been recorded as document no. _____, Multnomah County Deed Records."

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

Existing Development

1. The applicant must obtain a finalized demolition permit for removal of the in-ground pool and associated decking on parcel 1. Prior to removal of these structures, tree protection must be installed in accordance with the approved Arborist Report, per Condition D.1.
2. The applicant must meet Title 11 Tree density requirements by either planting trees on parcel 2 or making the equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized Zoning Permit.

Required Legal Documents

3. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to parcels 1 & 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

Other requirements

4. The utility easement over the vacated right-of-way portion of the site must be released by PBOT.
5. The applicant must pay into the City Tree Preservation and Planting Fund [*Street Trees – Fee in Lieu of Planting and Establishment (per inch)*] the amount equivalent to 1.5 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.
6. To meet PBOT requirements, a finalized permit must be obtained to remove the northern-most curb cut in the frontage of parcel 2.

7. To maintain compliance with Title 11 Tree Density requirements, the applicant must either plant trees equal to 1,324.4 square feet of canopy area on parcel 2 or make an equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized Zoning Permit.

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

1. Future development on parcel 2 shall preserve Tree #7, a 24-inch Japanese maple. Preservation measures must be in accordance with 11.60.030 Tree Protection Specifications.
2. Tree #8, 16-inch Western Red cedar, and Tree #9, an 18-inch Western Red cedar, must be protected from construction impacts during demolition of the in-ground pool & associated concrete decking, and during construction of new development on parcel 1. Protection shall be per the arborist report (Exhibit A.2) and as shown on the Existing Conditions and Demolition Plan (Exhibit C.2) and on the Preliminary Grading & Erosion Control Plan (Exhibit C.5).
3. The applicant must meet the addressing requirements of the Fire Bureau (see Exhibit E.4) for parcel 1. The location of the sign must be shown on the building permit.
4. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Timothy Novak

Decision rendered by:  **on July 18, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 22, 2019

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 March 8, 2019, and was determined to be complete on May 7, 2019.

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 March 8, 2019.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: September 4, 2019.**

Some of the information contained in this report was provided by the applicant.

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

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

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

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

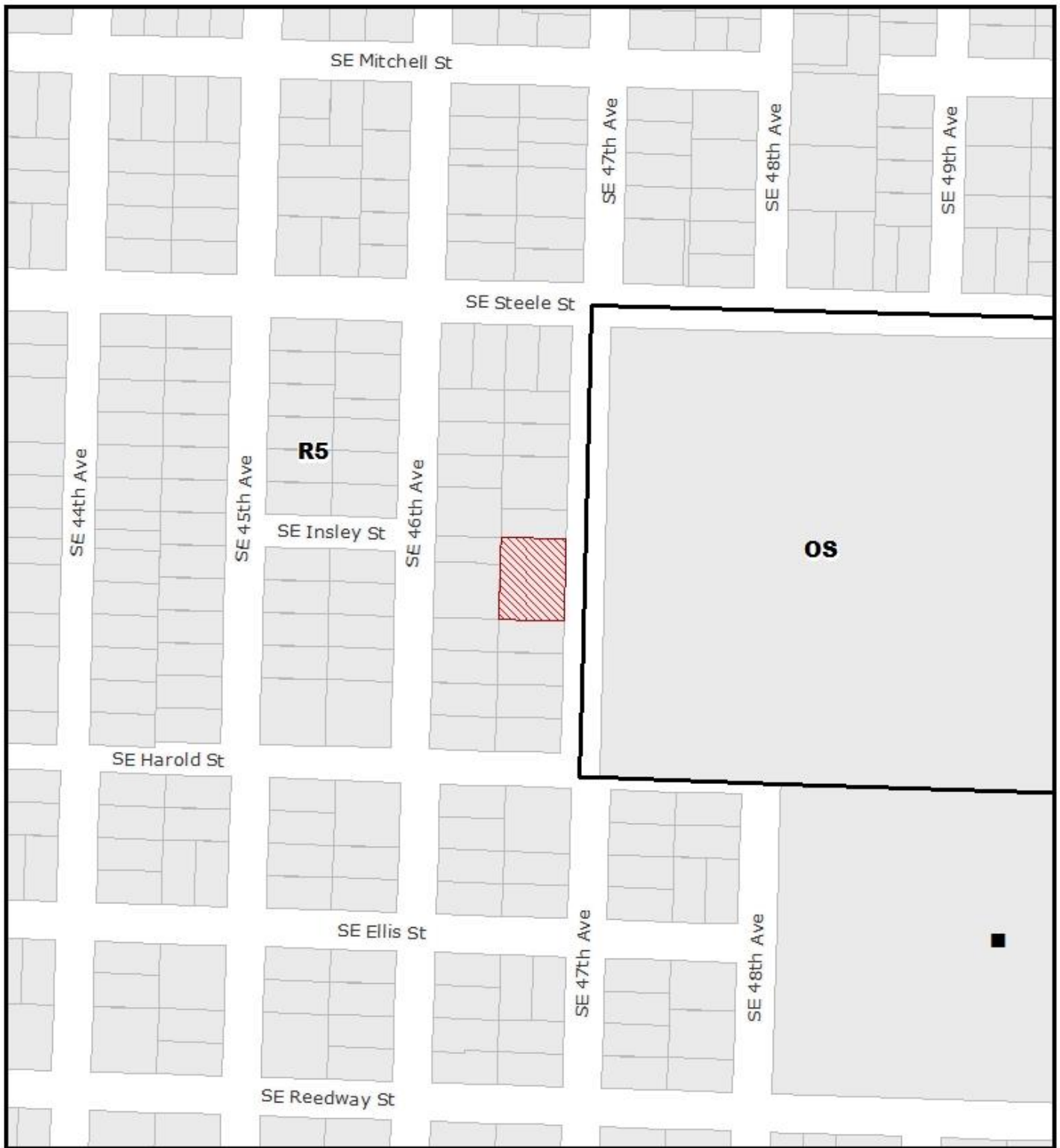
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant Materials
 - 1. Applicant's Narrative
 - 2. Final Arborist Report, Submitted 6/24/2019
 - 3. Revised Arborist Report, Submitted 5/7/2019
 - 4. Original Arborist Report, Submitted 3/8/2019
 - 5. WB Fire Flow Information
 - 6. Revised Plan Set, submitted 5/7/2019 (*excludes sheets 1/5 & 3/5, which weren't revised in later submittal and are in approved set as Exhibits C.1 & C.3*)
 - 7. Original Plan Set, Submitted 3/8/2019
 - 8. Stormwater Management Simplified Approach Form, Submitted 5/7/2019
 - 9. Title Report, Submitted 5/7/2019
 - 10. Property Deeds, Submitted 3/8/2019
 - 11. Infiltration Testing Results, Submitted 3/8/2019
 - 12. Expedited Land Division Acknowledgement, Submitted 3/8/2019
 - 13. Applicant Response to Incomplete Letter, Submitted 5/7/2019
- B. Zoning Map (attached)
- C. Approved Plans/Drawings:
 - 1. Cover Sheet, submitted 5/7/2019
 - 2. Existing Conditions and Demolition Plan, submitted 6/24/2019 (attached)
 - 3. Preliminary Plat, submitted 5/7/2019
 - 4. Preliminary Site/Utility Plan, submitted 6/24/2019 (attached)
 - 5. Preliminary Grading & Erosion Control Plan, submitted 6/24/2019
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Review Section of BDS
- F. Correspondence:
 - 1. Carrie Fagerstrom, 6/14/2019, Tree preservation & grading concerns.
 - 2. Applicant's Response, dated 6/26/2019
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter
 - 3. E-mail correspondence with Dee Walker from PBOT

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



Historic Landmark

File No.	LU 19-130029 LDP
1/4 Section	3535
Scale	1 inch = 200 feet
State ID	1S2E18BD 9200
Exhibit	B Mar 12, 2019

5407 SE 47TH AVENUE
 2-LOT PARTITION
 TAX MAP T1S R2E 188D
 TAX LOT 9200
 PORTLAND, OREGON

PRELIMINARY
 SITE/UTILITY PLAN

EMERIO
Design
 6445 SW PALMBOOM PLACE, SUITE 100
 PORTLAND, OREGON 97223
 TEL: (503) 744-1412
 FAX: (503) 744-1414
 www.emeriodesign.com

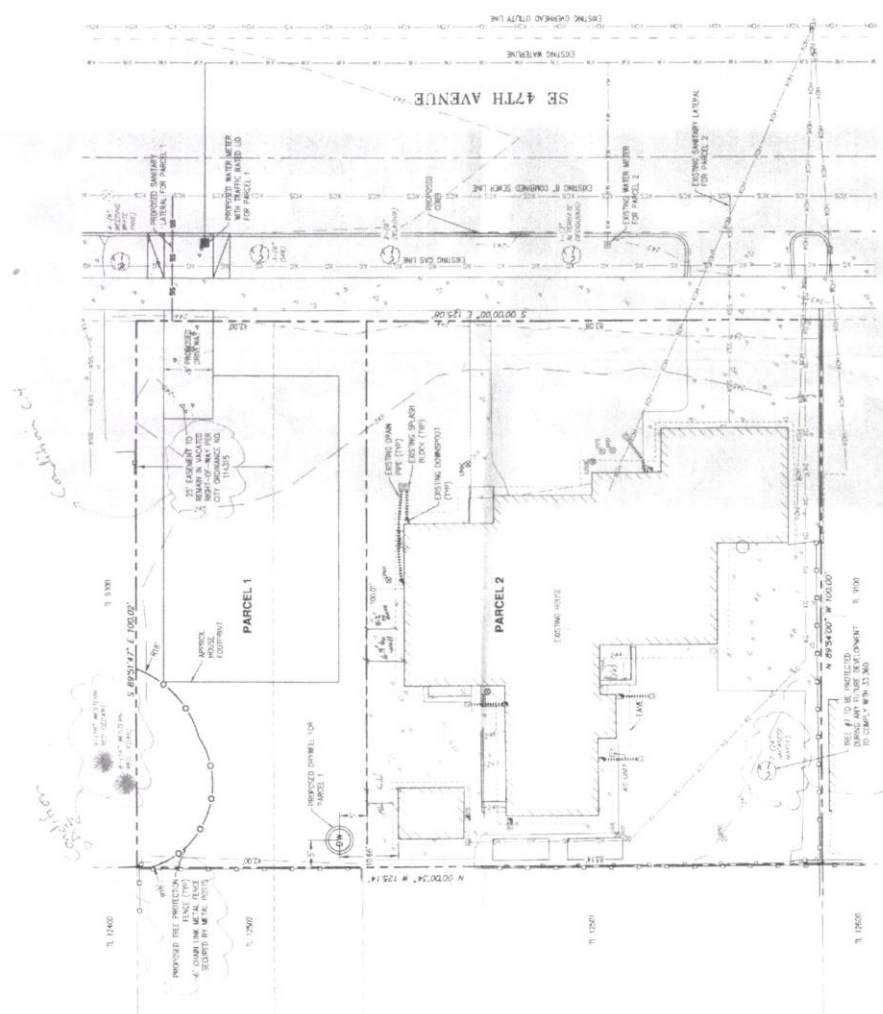
SHEET
 4 OF 5



- LEGEND**
- PROPERTY LINE
 - ADJACENT ADJOINING LOT LINE
 - EXISTING UTILITY LINE
 - EXISTING 1" CONTROLLER LINE
 - EXISTING 2" CONTROLLER LINE
 - EXISTING WATER MAIN
 - EXISTING SANITARY SEWER MAIN
 - EXISTING WATER MAIN
 - EXISTING UTILITY POLE
 - EXISTING SANITARY SEWER LINE
 - EXISTING SANITARY SEWER LINE
 - EXISTING SANITARY SEWER LINE
 - EXISTING GAS LINE
 - EXISTING OVERHEAD UTILITY LINE
 - EXISTING FENCE
 - PROPOSED SANITARY LATERAL
 - PROPOSED WATER MAIN

OBJECT FOR EASEMENT IS LOCATED AT THE
 NORTHEAST CORNER OF THE INTERSECTION OF SE
 47TH AVENUE AND SE HAROLD STREET
 APPROXIMATELY 250' FROM THE PROPERTY CORNER

Received 6/24/19
 Exhibit C.H
 LU 19-130029 LDP



LU 19-130029 LDP

5407 SE 47TH AVENUE
 2-LOT PARTITION
 TAX MAP T1S R2E 188D
 PORTLAND, OREGON

EXISTING CONDITIONS &
 DEMOLITION PLAN

NO.	DESCRIPTION
1	EXISTING OVERHEAD UTILITY LINE
2	EXISTING OVERHEAD UTILITY LINE
3	EXISTING OVERHEAD UTILITY LINE
4	EXISTING OVERHEAD UTILITY LINE
5	EXISTING OVERHEAD UTILITY LINE
6	EXISTING OVERHEAD UTILITY LINE
7	EXISTING OVERHEAD UTILITY LINE
8	EXISTING OVERHEAD UTILITY LINE
9	EXISTING OVERHEAD UTILITY LINE
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49	EXISTING OVERHEAD UTILITY LINE
50	EXISTING OVERHEAD UTILITY LINE

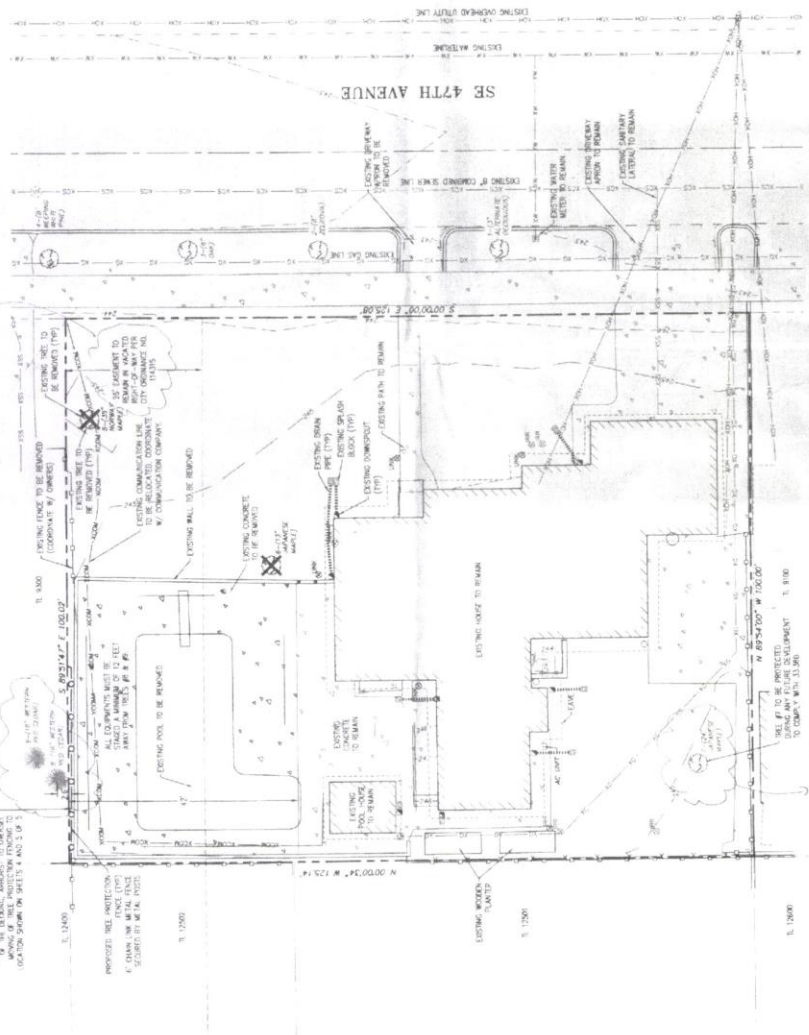


SITE INFORMATION:
 SITE ADDRESS: 5407 SE 47TH AVENUE
 TAX MAP: T1S R2E 188D
 TAX LOTS: 8200
 CROSS AREA: 12,517 SF
 ZONING: OS

NEAREST FIRE HYDRANT IS LOCATED AT THE
 NORTHEAST CORNER OF THE INTERSECTION OF SE
 47TH AVENUE AND SE HAROLD STREET
 APPROXIMATELY 200' FROM THE PROPERTY CORNER

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR
 STATE OF OREGON
 NO. 10245
 EXPIRES 12/31/22

Received 6/14/19
 Exhibit C-2
 LU 19-130029 LDP



PROPOSED DEMOLITION
 OF CHIMNEY AND FURNACE
 LOCATED AT 111' AL. POINT
 TO BE DEMOLISHED AS SHOWN
 ON SHEETS 1 AND 2 OF 5

EXISTING POOL TO BE REMOVED
 AS SHOWN ON SHEETS 1 AND 2 OF 5

EXISTING CHIMNEY TO BE REMOVED
 AS SHOWN ON SHEETS 1 AND 2 OF 5

EXISTING WOODEN FLOORED
 TO BE REMOVED AS SHOWN
 ON SHEETS 1 AND 2 OF 5

EXISTING ROOF TO BE REMOVED
 AS SHOWN ON SHEETS 1 AND 2 OF 5

EXISTING WALL TO BE REPAIRED
 AS SHOWN ON SHEETS 1 AND 2 OF 5

EXISTING BLOCK (IPS)
 TO REMAIN AS SHOWN
 ON SHEETS 1 AND 2 OF 5

EXISTING CONCRETE
 TO BE REMOVED AS SHOWN
 ON SHEETS 1 AND 2 OF 5

Condition C-1
 Condition C-2
 Condition D-1