



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

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Date: May 26, 2023
To: Interested Person
From: Diane Hale, 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 21-111048 LDP

GENERAL INFORMATION

Consultant: Chris Fischborn, ZTEC Engineers (503) 235-8795
3880 SE 8th Ave, Suite 280 / Portland, OR 97202

Owner/Applicant: Natividad Rios / 6221 SE 46th Ave / Portland, OR 97206

Site Address: 6221 SE 46TH AVE
Legal Description: BLOCK 133 LOT 2, WOODSTOCK
Tax Account No.: R928912230
State ID No.: 1S2E18CC 08700
Quarter Section: 3635
Neighborhood: Woodstock, contact Thatch Moyle or Les Szigethy at luc@woodstockpdx.org

Business District: Woodstock Community Business Association, contact at <http://www.woodstockbiz.com>

District Coalition: Southeast Uplift, contact Matchu Williams at matchu@seuplift.org

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:

The applicant is proposing to partition this 10,000 square foot corner lot into 2 parcels. Each parcel will be 4,800 square feet after a required 4-ft right-of-way dedication along SE 46th Avenue. The existing house will remain on Parcel 2. In order to show feasibility of providing services and meeting other criteria, the applicant has provided a conceptual development plan showing a single dwelling house on Parcel 1 and on-site parking for both parcels. However, please note that the proposed parcels qualify for additional density under the Residential Infill Options of 33.110.265 and on-site parking is not required (33.266.110). There are 3 trees on the site and the applicant is proposing to preserve two of the trees, including the large Giant Sequoia tree near SE 46th Avenue.

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 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 2 units of land (2 parcels). Therefore, this land division is considered a partition.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant criteria are found in **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**.

FACTS

Site and Vicinity: The site is a 10,000 square foot corner lot with a house that was constructed in 1908 and a detached garage. The house has recently undergone a major remodel. The area surrounding the site is zoned R5 and is generally developed with single family detached houses. The Woodstock Blvd commercial corridor is 3 blocks to the north.

Infrastructure:

- **Streets** – The site has approximately 100 feet of frontage on SE 46th Avenue and 100 feet of frontage on SE Tolman Street. There is one driveway entering the site from SE Tolman Street that serves the existing house on the site. The site is within proximity to two bus lines: Route 19-Woodstock is 3 blocks north, and Route 75-Cesar Chavez Blvd has a stop one block south on SE 46th Ave.

At this location, SE Tolman is classified as a City Bikeway and Minimum Emergency Response Street, and a Local Service Street for all other modes. The design classification is Local Street. Based on City GIS, SE Tolman is a 60-ft wide ROW with a dirt surface lacking curbs and sidewalks.

SE 46th Ave is classified as a Neighborhood Collector, Major Transit Priority Street, City Bikeway, Major City Walkway, secondary Emergency Response Street, and a Local Service Street for all other modes. The design classification is Community Corridor. Based on City GIS, the site’s frontage is improved with an 8-ft sidewalk corridor with a 0-7-1 configuration.

- **Water Service** – There is an existing 8-inch water main in SE 46th Avenue. The existing house is served by a metered service from this main.
- **Fire Hydrants** The nearest fire hydrant is located north of SE Carlton St in SE 46th Avenue, with a hydrant flow of 2400 gpm and a minimum pressure of 20 psi. A second fire hydrant is located north of SE Henry St in SE 46th Avenue with a hydrant flow of 2400 gpm with a minimum pressure of 20 psi. The combined flow is 4400 gpm.
- **Sanitary Service** - There is an existing 8-inch clay public combination sewer line in SE 46th Avenue and a 12-inch clay public combination sewer line in SE Tolman Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: Single dwelling residential 5,000 (R5). The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing and provide options for infill housing that is compatible with the scale of the single-dwelling neighborhood. The maximum lot density in the R5 zone is one lot per 5,000 sq feet of site area.

Land Use History: City records indicate there are 2 prior land use reviews for this site.

- **LUR 08-141848:** Approval of a 3-parcel partition. The final plat was not completed; therefore, this approval is expired.
- **LUR 09-172817 AP:** Approval of an amendment to LU 08-141848 LDP. The final plat was not completed; therefore, this approval is expired.

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 **April 6, 2023**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
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	No pedestrian connections are 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 10,000 square feet. The maximum density in the R5 zone is one lot per 5,000 square feet. Minimum density is one lot 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. If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore, in this case the minimum density is reduced to 1 lot. The applicant is proposing 2 single-dwelling parcels. The density standards are therefore met.

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

Zone	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5	3,000	8,500	36	50	30
Parcel 1	4,800		50	96	50
Parcel 2	4,800		50	96	50

* 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.

As shown, the parcels meet the required minimum lot dimensions. Additionally, each of the parcels has straight lot lines and the side lot lines are perpendicular to the street.

Overall, as outlined above, the applicable density standards and lot dimension regulations are met. Accordingly, 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.

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.

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.9) 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.

There are four trees located on or partially on the site. One of these trees, a 70" Giant Sequoia, is located partially in the right-of-way, and is therefore regulated by Urban Forestry as a street tree. Another tree (8' Dogwood) is dead, and therefore is exempt from these regulations. There are 2 trees that are subject to the requirements of this chapter, a 11" pear tree and a 28" port-orford cedar, which provide a total of 39 inches of tree diameter.

The applicant proposes to preserve the 28" port-orford cedar (tree #4), which represents 100% of the on-site regulated trees that are 20 or more inches and 72% of the total tree diameter, so the proposal complies with Options 1, 2 and 3 of the preservation standards of 33.630.100:

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.

Option 2: Preserve at least 75 percent of the trees that are 20 or more inches in diameter and at least 25 percent of the total tree diameter on the site.

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.

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

The arborist identified a root protection zone and location for tree protection fencing for tree #4, as shown on Exhibit C.1 (Tree Preservation and Proposed Site Plan). The garage that crosses the lot line between Parcels 1 and 2 will be removed prior to final plat approval; the arborist has included the following special instructions for garage demolition so that the ground disturbance doesn't harm tree #4 (28" port orford cedar):

Tree #4 can be protected by placing the fencing one-foot north of the existing garage wall and foundation footing. The fencing shall run from the existing wood fence to the edge of the new deck and then north to the existing fence (see appendix C for details). The project arborist shall be present during the ground disturbing activities associated with the demolition of the existing garage. The exterior of the garage must be demolished in a manner that ensures that the building materials remain in the footprint of the existing garage. Concrete materials shall be removed by carefully lifting the individual pieces without disturbing the soil surrounding the material. It is recommended to use an excavator with a toothless bucket and a hydraulic clamp to allow for the materials to be gently removed within the tree protection zone of the tree.

A signed arborist contract will be required with the garage demolition permit to ensure that these special instructions are applied to the ground disturbance.

The tree proposed for preservation is in good condition and is 20 or more inches in diameter. The proposed root protection zone for the tree to be retained will allow for the type of development anticipated in the R5 zone and will not conflict with any existing utility easements, proposed services or site grading.

In order to ensure that future owners of parcel 2 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 be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.9).

Tree #1 is a 71" Giant Sequoia, that is located partially in the right-of-way, therefore it is a street tree and is subject to Urban Forestry review rather than the regulations of 33.630. Urban Forestry has reviewed and approved the proposed protection plan outlined in the arborist report (Exhibit A.9) and as shown on Exhibit C.1. Tree #1 is required to be preserved according to this plan, unless Urban Forestry approves a revised protection plan or removal.

With the implementation of the noted conditions, the approval criteria will be met.

At the time of development, 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 lots developable. There are two trees that will be preserved on the site, one of which is a street tree. The applicant's arborist report (Exhibit A.9) has indicated areas on the site where new development can take place and methods for tree protection, as shown on Exhibit C.1, so the trees to be preserved will not be harmed by the new development. 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. Although the site is currently connected to the public sanitary sewer, there is an old cesspool on the site. The City has no record that this facility was ever decommissioned. Prior to final plat approval the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. Site Development has noted generally in the past that if the decommissioning conflicts with the tree preservation requirements, the decommissioning may be waived. With a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new development, and this criterion is met. If the decommissioning is not waived but conflicts with tree preservation, a Tree Review may be required to establish a new protection plan prior to final plat approval. Tree protection fencing is required to be installed prior to ground disturbance.

The applicant has proposed to remove the existing 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 the garage prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

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

Findings: The transportation system must be capable of 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):

Parcel 2 (northern lot) will contain the existing home; whereas Parcel 1 (corner lot) will be available for future development. In accordance with Title 33.266, on-site parking is not required. For Parcel 1, the applicant proposes one on-site parking space at the rear of the lot accessed off of SE Tolman Street. For Parcel 2, the applicant's site plan identifies an on-site parking space along the north property line, accessed off of SE 46th Ave. However, as proposed, the space does not meet TRN 10.40.D.4 which requires forward motion ingress and egress due to the high classification of SE 46th Ave. In order to have an on-site parking space at this location, the applicant must be able to demonstrate that a vehicle is able to enter and exist the site in a forward motion via turning movements using no more than a three-point turn and prepared by an Oregon-licensed Engineer according to AASHTO's Policy on Geometric Design of Highways and Streets standards with a minimum of an 18-foot centerline turning radius, or have an approved Driveway Design Exception (DDE) prior to issuance of the Minor Improvement Permit (MIP) for frontage improvements. Or the applicant may choose not to have on-site parking as there is ample on-street parking directly in front of the lot. With retaining the existing home and ROW conditions, PBOT finds the neighborhood livability will be maintained and the impact on on-street parking is expected to be negligible.

The proposed development adds negligible trips to the transportation network compared to existing volumes in the area and will not adversely impact intersection operations as the established street network provides redundant routes for multiple modes 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 and capable of maintaining acceptable levels of service.

The site is within proximity to two bus lines: Route 19-Woodstock is 3 blocks north, and Route 75-Cesar Chavez Blvd has a stop one block south on SE 46th Ave. For bicycles, SE 46th Ave is a City bikeway with a bike lane in the roadway, whereas the streets of SE Henry, SE Glenwood, and SE Knight are shared roadways are low-volume streets that provide alternative routes to other nearby bicycle paths and designated greenways. For pedestrians, the sidewalk infrastructure in the area is incomplete on the lower classified street, and generally present on the higher classified streets. The remaining streets are low volume which provides a safe area to walk to nearby destinations. Therefore, PBOT finds the resulting proposed development will not negatively impact transit access or other transportation modes and will improve upon the established pedestrian environment.

PBOT has reviewed and concurs with the information supplied and available evidence. Frontage improvements will be required to serve the proposed development (see criterion L. 33.654). 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:

33.651 Water Service standard – See Exhibit E.3 and Exhibit E.4
<p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report.</p> <p>The Fire Bureau has reviewed the fire flow and determined the nearest fire hydrant has adequate capacity.</p> <p>The water service standards of 33.651 have been verified.</p>
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1
<p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report.</p> <p>BES reviewed the proposed improvement and utility plan and provided the following response:</p> <p><i>Parcel 2: According to City records, the existing structure on proposed Parcel 2 is currently connected to the combined sewer in SE 46th Avenue via a lateral located near the northeast property corner, which does not conflict with the proposed new property line.</i></p> <p><i>Parcel 1: Parcel 1 will be served by a new connection to the sewer in SE Tolman within its frontage.</i></p> <p>BES determined that the applicant’s proposal for sanitary service is acceptable for the purpose of reviewing the preliminary land division application against the sanitary sewer disposal standard and approval criterion.</p> <p>The sanitary sewer service standards of 33.652 have been verified. This criterion is met.</p>
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1
<p>BES reviewed the applicant’s proposed improvement and utility plan and Simplified Approach Form against the stormwater management approval criteria and standards, and determined that a stormwater management system can be designed that will provide adequate capacity and disposal for the expected amount of stormwater, as summarized below:</p> <p>No stormwater tract is proposed or required.</p> <p>BES reviewed the applicant’s proposed stormwater management methods and provided the following response:</p> <ul style="list-style-type: none"> • Parcel 2: <i>Per the submitted supplemental plan, stormwater runoff from the existing house discharges to the ground surface via splashblocks to landscaped areas. Per the submitted supplemental plan, the downspouts discharge 6 ft minimum from the basement wall and 5 feet from the property line. These locations appear to meet SWMM setbacks and are adequate as shown.</i> • Parcel 1: <i>Staff reviewed the project’s Simplified Approach stormwater report (4/5/23), which includes Simple Pit infiltration test results of 8.5 inches per hour on this site. The applicant proposes to infiltrate runoff from the development onsite via a drywell that can meet minimum setbacks as established in the facility design standards and Table 2-1 of</i>

the SWMM.

- **Public rights-of-way:**

SE 46th Avenue: The sidewalk improvements in SE 46th Avenue will occur through a Minor Improvement Permit, therefore no stormwater management is required.

SE Tolman: The applicant has elected to pay the Local Transportation Infrastructure Charge (LTIC) for SE Tolman. At this location and based on current available information, BES does not require additional dedication for future construction of stormwater management facilities.

BES determined the proposal is acceptable for reviewing the land division against the stormwater management approval criteria and standards. This criterion is met.

33.654.110.B.1 Through streets and pedestrian connections

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.

The site is a corner lot located near an intersection of established rights-of-way, within the typical grid pattern of an established neighborhood and many redundant connections surrounding the property, therefore additional connections are not needed nor practical at this location.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

For the reasons described above, this criterion is met.

33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2

33.644.120.H Street Trees – See Exhibit E.6

The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.

For public streets, PBOT reviews the configuration of elements within the street right-of-way for consistency with city standards and specifications; and Urban Forestry addresses the retention and installation requirements for street trees.

SE Tolman is classified as a City Bikeway and Minimum Emergency Response Street, and a Local Service Street for all other modes. The design classification is Local Street. Based on City GIS, SE Tolman is a 60-ft wide ROW with a dirt surface lacking curbs and sidewalks, which does not meet City standards. The applicant has elected to pay the Local Transportation Infrastructure Charge instead of installing the required frontage improvements for SE Tolman Street.

SE 46th Ave is classified as a Neighborhood Collector, Major Transit Priority Street, City Bikeway, Major City Walkway, secondary Emergency Response Street, and a Local Service Street for all other modes. The design classification is Community Corridor. Based on City GIS, the site's frontage is improved with an 8-ft sidewalk corridor with a 0-7-1 configuration. To meet City standards, the applicant would need to dedicate 4-ft and construct a 12-ft sidewalk corridor with a 4.5-6-1.5 configuration. There is a 70" diameter Giant Sequoia tree located in the right-of-way of the site's frontage along SE 46th Avenue. Staff initiated an Internal Public Works Alternative Review (23-037886 PW), to evaluate alternative frontage improvements that could allow this street tree to be retained. The applicant must dedicate 4 feet along SE 46th Avenue, reconstruct the northern 25 feet of Parcel 2 to City standards, also removing the existing stairs within the right-of-way, and transition the improvements to the existing curb-tight sidewalk for the remainder of the frontage. Improvements will be reviewed through a Minor Improvement Permit (MIP), which must be completed and

inspected prior to approval of the Final Plat. With those improvements, one additional dwelling can be safely served by the existing streets without having any significant impact on the level of service provided.

Urban Forestry will evaluate the provision of street trees and planting areas for the public right-of-way and determined street tree planting for SE 46th during the minor improvement permit process. The existing 71” Giant Sequoia street tree shall be protected through all phases of construction, to the satisfaction of Urban Forestry.

With the conditions of approval described above, and the required right-of-way dedication shown on the Final Plat, this criterion is met.

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

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

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review have not been addressed in the review. 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 development standards of Title 11 can be met, and those 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. 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 – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 11.8 feet from the new property line. Therefore, the required setbacks are 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.
- Accessory Structures – Structures are not allowed to remain on a proposed lot line. Therefore, in order for the proposed new lots to be approved, the accessory structure that straddles the line between proposed Parcels 1 and 2 must be removed prior to final plat. Demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.
- Floor Area Ratio (FAR) – In the R5 zone, the floor area of a structure is limited to 0.5 sq ft of the site area when there is 1 dwelling unit on the site; the limit is 0.6

sq ft of the site area when there are 2 dwelling units on the site. Parcel 2 will be 4,800 sq feet after final plat approval, therefore the FAR limit for development with 1 dwelling unit on Parcel 2 will be 2,400 sq feet. The existing house contains 2,529 sq feet of floor area, which exceeds this limit. The applicant has proposed to convert the basement to an Accessory Dwelling Unit (ADU) prior to final plat approval. The FAR limit would be 2,880 sq feet for Parcel 2 with 2 dwelling units. Prior to final plat approval, the applicant must convert the basement of the existing house to an ADU; all permits must receive final inspection approval.

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 https://www.portland.gov/bds	Title 24 – Building Code, Flood Hazard, Clearing and Grading Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way OAR 340-071 and OAR 340-073 – Onsite Wastewater Treatment Systems
Environmental Services/503-823-7740 https://www.portland.gov/bes	Title 17 – Sewer Improvements Stormwater Management Manual
Fire Bureau/503-823-3700 https://www.portland.gov/fire	Title 31 – Fire Regulations Portland Fire Code
Transportation/503-823-5185 https://www.portland.gov/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 https://www.portland.gov/parks	Title 11 –Trees
Water Bureau/503-823-7404 https://www.portland.gov/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 and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and the Portland Fire Code.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached Tree Preservation and Proposed Site Plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions related to the existing development, frontage improvements and tree protection.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in 2 standard lots as illustrated with Exhibits A.9 and C.1, subject to the following conditions:

A. Supplemental Plan. An additional supplemental plan (existing conditions survey) 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 following:

- The surveyed location of any buildings or accessory structures on the site at the time of the final plat application;
- The surveyed location of 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. The applicant shall meet the street dedication requirements of the City Engineer for SE 46th Avenue. The required right-of-way dedication must be shown on the final plat.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.6 below. The recording block shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Tree Preservation Land Use Conditions has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's SE 46th Avenue street frontage. The applicant must obtain an approved Right of Way permit from the Portland Bureau of Transportation to install the required sidewalk corridor, in accordance with 23-037886 PW. The improvements must be constructed prior to final plat approval. Any proposed driveway on SE 46th Ave shall demonstrate compliance with Title 17.28.110 and TRN 10.40. Specially, TRN 10.40.D.4 requiring forward motion, or receive an approved Driveway Design Exception prior to issuance of the MIP.
2. The applicant shall meet Bureau of Transportation requirements related to the LTIC charge for SE Tolman Avenue.

Existing Development

3. The applicant must obtain a finalized building permit to convert the basement of the existing house on Parcel 2 to an Accessory Dwelling Unit so the existing development remains in conformance with the Floor Area Ratios standard in the R5 zone (33.110.210). The permit plans must include the note: *This permit fulfills requirements of Condition C.3 of LU 21-111048.*
4. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for decommissioning the on-site septic system at the site. Tree protection fencing must be installed prior to ground disturbance related to septic decommissioning. At the discretion of the Multnomah County Sanitarian, a waiver of septic decommissioning may be granted if the on-site septic system conflicts with tree preservation.

5. The applicant must obtain a finalized demolition permit for removing the garage that crosses the lot line between Parcels 1 and 2. Prior to removal of these structures, tree protection must be installed in accordance with the approved Tree Preservation Plan, per Condition D.1.

Legal Documents

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

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

1. Development on Parcel 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.9). Specifically, tree #4 is required to be preserved, with the root protection zones indicated on Exhibit C.1. Tree protection fencing is required along the root protection zone of the trees 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 meets the Tree Protection Specifications of 11.60.030.
2. Tree #1 is required to be preserved in conformance with the Tree Preservation Plan (Exhibit C.1) and the arborist report (Exhibit A.9), unless Urban Forestry approves a revised protection plan or removal.
3. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height 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.

Staff Planner: Diane Hale

Decision rendered by:  **on May 24, 2023**

By authority of the Director of the Bureau of Development Services

Decision mailed May 26, 2023

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 December 2, 2021, and was determined to be complete on May 31, 2022.

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 December 2, 2021.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended by 245 days. **The 120 days will expire on May 31, 2023.**

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.

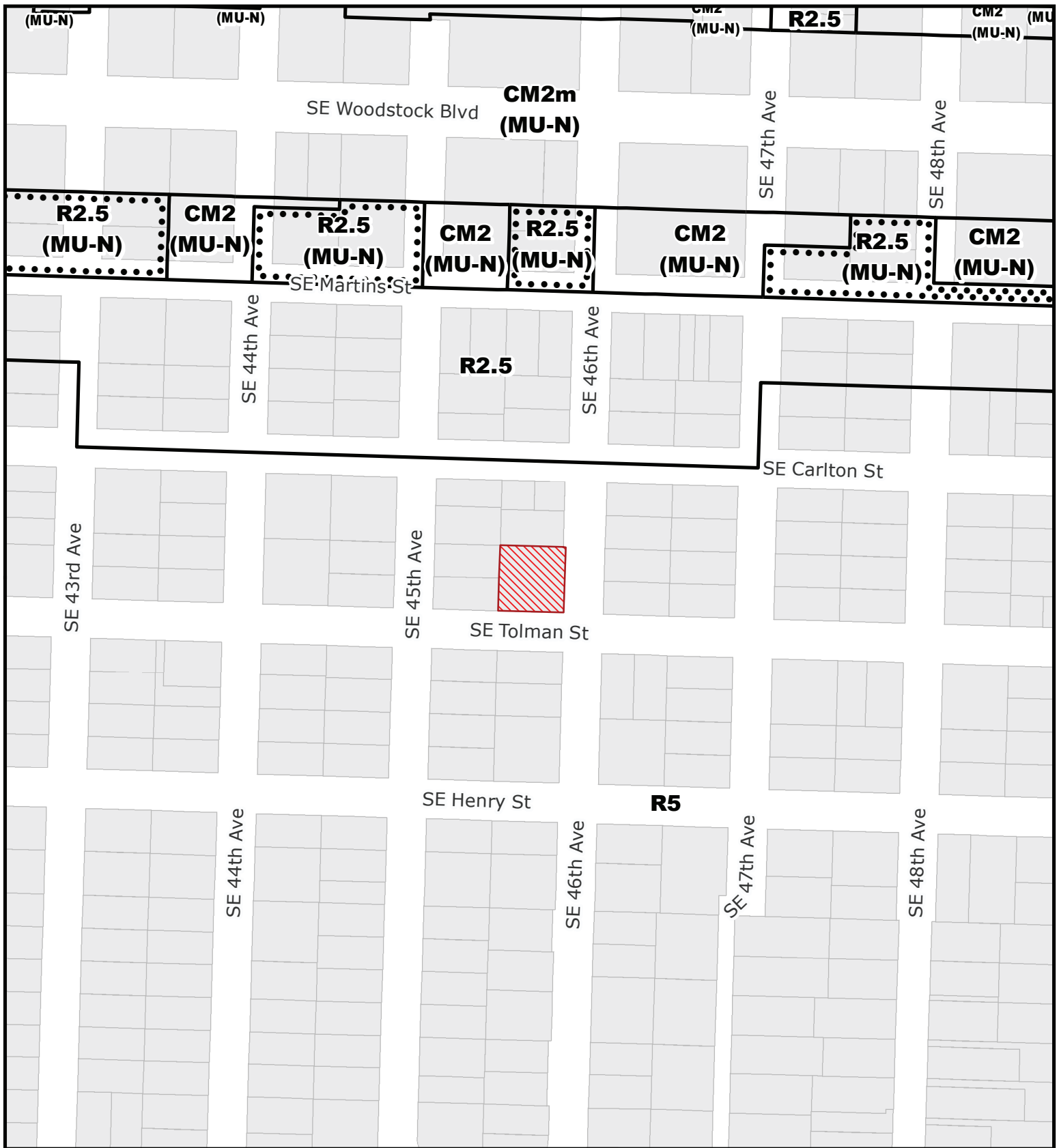
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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's Statement
 - 1. Original Submittal
 - 2. Applicant's Submittal, May 26, 2022
 - 3. Applicant's Submittal, March 21, 2023
 - 4. Applicant's Submittal, April 3, 2023
 - 5. Applicant's Submittal, April 5, 2023
 - 6. Applicant's Submittal, April 13, 2023
 - 7. Applicant's Submittal, May 8, 2023
 - 8. Applicant's Submittal, May 10, 2023
 - 9. Arborist Report
 - 10. Extension Form
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Tree Preservation and Proposed Site Plan (attached)
 - 2. Existing Conditions Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Section of BDS
 - 7. Urban Forestry
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application and Expedited Land Division Form
 - 2. 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



For Zoning Code in effect Post August 1, 2021

File No.	LU 21 - 111048 LDP
1/4 Section	3635
Scale	1 inch = 200 feet
State ID	1S2E18CC 8700
Exhibit	B Dec 02, 2021

LEGEND:

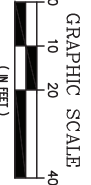
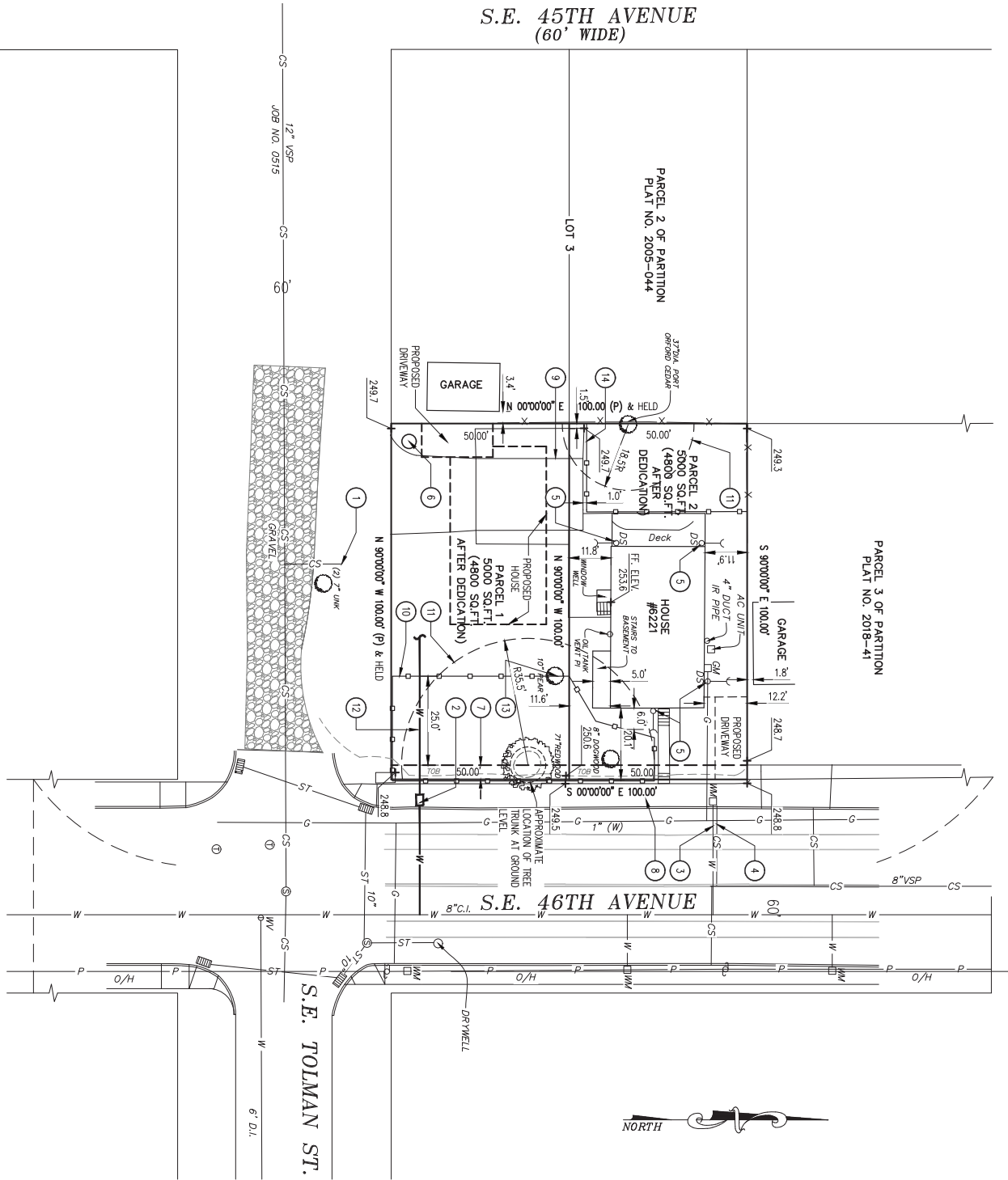
- ⊗ EXISTING FIRE HYDRANT
- ⊠ EXISTING CATCH BASIN
- ⊙ EXISTING STORM MANHOLE
- ⊕ EXISTING SANITARY MANHOLE
- ⊛ EXISTING LIGHT POLE
- ⊚ EXISTING POWER POLE
- ⊖ EXISTING STORM MANHOLE
- ⊗ EXISTING WATER VALVE
- ⊘ EXISTING WATER METER
- ⊙ EXISTING GAS METER
- ⊚ EXISTING GAS VALVE
- ⊛ EXISTING STREET SIGN
- X EXISTING FENCE
- CS EXISTING COMBINED SEWER
- W EXISTING WATER
- G EXISTING GAS
- P EXISTING POWER
- W PROPOSED WATER
- TOB TOP OF BANK

NOTE:

1. ELEVATIONS ARE TO CITY OF PORTLAND DATUM, BASED ON CORNER 771, BRASS DISC IN CURB AT S.E. 44th & HENRY ELEV. = 248.20

- 1 FIELD LOCATE EXISTING 6" SEWER LATERAL (9' +/- DEEP) EXTEND TO R.O.W. LINE BY SEPARATE BES PERMIT PWB PERMIT.
- 2 PROPOSED WATER SERVICE FOR PARCEL 1 BY SEPARATE PWB PERMIT.
- 3 EXISTING WATER SERVICE TO PARCEL 2
- 4 EXISTING SEWER LATERAL TO PARCEL 2
- 5 EXISTING DISCONNECTED DOWNSPOUT LANDSCAPE SURFACE DISCHARGE, 6" MIN. FROM BASEMENT WALL, 5' MIN. FROM PROPERTY LINE
- 6 PROPOSED 4" DIA. DRYPWELL FOR FUTURE BUILDING STORM WATER DISPOSAL TO BE LOCATED 5' MIN. FROM PROPERTY LINES AND 10' MIN. FROM BUILDING FOUNDATION.
- 7 PROOT REQUIRED 4" WIDE RIGHT OF WAY DEDICATION.
- 8 EXISTING CURB TIGHT CONC. SIDEWALK
- 9 EXISTING GARAGE TO BE REMOVED
- 10 INSTALL TREE PROTECTION FENCE, 6' HIGH STEEL FENCING ON CONCRETE BLOCK OR 6" METAL FENCING SECURED TO THE GROUND WITH 8 FOOT METAL POSTS, FENCING TO WITHIN PUBLIC RIGHT OF WAY MAY BE 3.5' TALL ORANGE PLASTIC CONSTRUCTION FENCING.
- 11 MIN. CONSTRUCTION SETBACK ARC
- 12 ON-SITE WATER SERVICE TO BE INSTALLED IN BORING WITHIN TREE PROTECTION FENCED AREA
- 13 PEAN TREE TO BE REMOVED
- 14 TREE PROTECTION FENCE TO BE IN PLACE PRIOR TO REMOVAL OF GARAGE

S.E. 45TH AVENUE
(60' WIDE)



ZTEC ENGINEERS INC.
3690 S.E. 8TH AVE., SUITE 280, PORTLAND, OR 97202
PH: (503) 235-8795 FAX: (503) 233-7899

Job#: 20-4380-1
DATE: 7-6-20
SCALE: 1" = 20'
DRAWN: SAM
CHKD: CCF

A REPLAT OF LOT 2, BLOCK 133 OF "SECOND AMENDED PLAT OF WOODSTOCK", W.M., IN THE CITY OF PORTLAND, MULTNOMAH COUNTY OREGON

REGISTERED PROFESSIONAL LAND SURVEYOR
Chris Carlson
OREGON JULY 17, 1989
CHRIS CARLSON
1924
RENEWAL DATE: 1/1/2024

RAMON LOPEZ
6221 S.E. 46TH AVENUE
SUPPLEMENTAL SURVEY