



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

FROM CONCEPT TO CONSTRUCTION

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

Date: September 8, 2016
To: Interested Person
From: Leah Dawkins, Land Use Services
503-823-7830 / Leah.Dawkins@portlandoregon.gov

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

The Bureau of Development Services has approved a proposal in your neighborhood. The 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 16-116497 LDP AD UNINCORPORATED MULTNOMAH COUNTY

GENERAL INFORMATION

Applicants: Trisha Clark, NW Land Planning
PO Box 230121 / Portland, OR 97281
(503) 330-2019

John Tercek, Stoneridge Custom Development LLC
480 5th Street / Lake Oswego, OR 97034

Site Address: 01411 SW Military Rd

Legal Description: TL 1300 1.66 ACRES, SECTION 34 1S 1E
Tax Account No.: R991340320
State ID No.: 1S1E34AD 01300
Quarter Section: 4130

Neighborhood: None (This site is in Multnomah County.)
Other Designations: Unincorporated Multnomah County

Zoning: R20-Single Dwelling Residential
Case Type: LDP AD- Land Division Partition with 3 Adjustment Reviews
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing a two parcel land division. Parcel 1 will be 22,645.6 square feet. Parcel 2 will be 49,596 square feet. There is an existing single family residence on the site which will be retained on Parcel 2. Parcel 2 will take access off of SW Aventine Circus. Parcel 1 will take access off of SW Military Road.

The applicant is also requesting an adjustment to maximum lot size for Parcel 2 from 34,500 square feet to 49,596 square feet. Additionally, the applicant is proposing an adjustment to

maximum building coverage for the existing home on Parcel 2 from 6,725.4 square feet to 9,572 square feet; and an adjustment to front building setbacks is proposed to accommodate the existing garage which will be along the new front property line on SW Aventine Circus. The setback adjustment would be from 20 feet to 10 feet.

There are several existing trees on the site. The applicant is proposing to preserve 100% of the non-exempt trees on the site that are 20 inches or over in diameter.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent review (Adjustment) is 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. 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** and **Section 33.805.040, Approval Criteria for Adjustments**.

FACTS

Site and Vicinity: The site is developed with a large single-family dwelling that was previously used as the Japanese Consulate. The house is set well back from SW Military Road and is currently accessed via a large parking area just to the north of the subject site. The site is relatively flat in the center, but slopes upward toward SW Military Road and SW Aventine Circus. The site contains many trees and is formally landscaped throughout.

The site is in the Dunthorpe-Riverdale area, which is an unincorporated area of Multnomah County that is part of an Intergovernmental Agreement for the City to provide zoning and other services. Dunthorpe is a low-density residential neighborhood that is characterized by large lots, many of which are irregular in shape. The street pattern in the vicinity is dictated by the topography. Many lots are served by shared driveways or private roadways in easements.

Infrastructure:

- **Streets** –The site has approximately 100 feet of frontage on SW Military Road and 517 feet of frontage on SW Aventine Circus. There is one driveway entering the site from SW Military Road that serves the existing house on the site. At this location, SW Military Road is a City-maintained roadway in the Transportation System Plan (TSP). SW Aventine Circus is a non-City maintained roadway. Tri-Met provides transit service approximately 2,323 feet from the site at SW Riverside and SW Palatine Avenue.

SW Military Road has center-strip paving within a 50-foot right-of-way with no curbs or sidewalks and parking on both sides. SW Aventine Circus has center-strip paving within a 50-foot right-of-way with no curbs or sidewalks.

- **Water Service** – There is an existing 8-inch water main in SW Aventine Circus serviced by the Palatine Hill Water District. The existing house is served by metered service from a main in SW Military Road.

- **Sanitary Service** - There is an existing 8-inch CSP sanitary only sewer line in SW Aventine Circus owned by the Dunthorpe-Riverdale Service District. There is also an 8-inch CSP sanitary-only sewer in an easement to the east of the subject property owned by the Dunthorpe-Riverdale Service District.

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

Zoning: The R20 zone designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

Land Use History: City records indicate there 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 **April 1, 2016**. One written response has been received from the notified property owners in response to the proposal. The following issues were raised, with the City response in *italics*:

- Concern about the adjustment to increase lot coverage for the existing house and the potential to add a second story to the home.

The requested adjustment must meet Adjustment Approval Criteria. This adjustment request is addressed later in this decision. At this time the applicant has not indicated that an additional story is going to be added to the existing house. However, any additions to the height of the existing structure are regulated by height limitations in the R20 zone.

- Concern about the adjustment to increase maximum lot size for Parcel 1, with the existing home.

The requested adjustment must meet Adjustment Approval Criteria. This adjustment request is addressed later in this decision.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.

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

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. The maximum density is one unit per 20,000 square feet. Minimum density is one unit per 20,000 square feet based on 80 percent of the site area. Because the site is within the landslide hazard area, the site has a no minimum required density and a maximum density of 3 units. 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)
R20 Zone	12,000	34,500	60	60	30
Parcel 1	22,645.6		100	226	100
Parcel 2	49,560		291	138	291

* 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 for Parcel 1. The applicant has requested an adjustment to maximum lot size for Parcel 2. This adjustment is addressed later in this decision. Therefore, this criterion is met provided the approval criteria for the adjustment to maximum lot size are met for Parcel 2.

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. If the site is in an overlay zone that has additional environmental resource protection requirements, the tree plan must demonstrate that the benefits from trees are maximized for the site as a whole.

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

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

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.6) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.5) 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, 55 trees, which provide a total of 788 inches of tree diameter, are subject to the preservation requirements of this chapter.

The trees proposed for preservation are in good condition, include native/non-nuisance species, and eight trees which are 20 or more inches in diameter. The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R20 zone and will not conflict with any existing utility easements, proposed services or site grading.

Specifically, the applicant proposes to retain all of the trees that are 20 or more inches in diameter, which is 242 inches of tree diameter, or 30% of non-exempt tree diameter. The applicant is proposing to retain a total of 659 inches of tree diameter. This 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.

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

In order to ensure that future owners of the parcels are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.4) and the Arborist Report (Exhibit A.5).

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

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

Findings: The entire site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on parts of the site that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site.

In order to evaluate the proposal against this criteria, the applicant has submitted a geotechnical evaluation of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.6 and A.7). That report was evaluated by the Site Development Division of the Bureau of Development Services, the City agency that makes determinations regarding soil stability.

The applicant's geotechnical evaluation indicates that the risk of potential landslide hazard at the site is relatively low, given the soil composition, topography, and other risk factors. The proposed land division will result in lots, buildings, services, and utilities that will not significantly increase the risk of landslide potential on the site or other properties in the vicinity of the site. In addition, the geotechnical evaluation has concurred that the applicant's proposed method of stormwater disposal at the site will not have a significant detrimental impact on the slope stability on or around the site. This conclusion was reached because the soils and slopes at the site indicate that an on-site method of disposal such as the proposed Storm-Tech chambers is acceptable.

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

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

Findings:

Clearing and Grading

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

In this case, the site is located in the Potential Landslide Hazard area. Therefore, the clearing and grading associated with preparation of the lots must occur in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed.

A Preliminary Grading and Erosion Control Plan (Exhibit C.4) was submitted with the land division application. The applicant submitted a Landslide Hazard Report (Exhibit A.6) that describes how clearing and grading should occur on the site to minimize erosion risks. The applicant also provided a Tree Protection Plan (Exhibit C.4) that designates areas on the site where grading should not occur in order to protect the roots of the trees on the site that will be preserved, and an arborist report (Exhibit A.5) that further discusses grading on the site. These reports generally recommend that foundations and retaining walls should be designed to withstand forces from soil creep and lateral loads from earthquakes and the designs should be reviewed by a qualified engineer. The arborist recommends on-site and visual monitoring of any grading within or near critical root areas of trees.

As shown above the clearing and grading anticipated to occur on the site can meet the approval criteria. At the time of building permit submittal on the individual lots a clearing, grading and erosion control plan will be submitted to the Site Development Section of the Bureau of Development Services. Site Development will review the grading plan against the applicant's Landslide Hazard Study to assure that the grading will not create any erosion risks. In

addition the plans will be reviewed for compliance with the applicant's tree preservation plan and arborist report. This criteria 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 septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. 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.

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

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services.

PBOT has provided the following findings (see Exhibit E.2):

The applicant is proposing this partition in order to develop the subject site with a new single-family residence. The existing single-family residence on the site will be retained. Therefore, the project will result in a net addition of one new single-family home. Based upon trip generation estimates, ITE Trip Generation Manual, 9th Edition, the new home is projected to generate one additional trip during both the morning and evening peak hours (10 additional trips in total each day). The small number of trips that will be added into the transportation system as a result of the proposed development will not adversely impact the operations of area intersections.

Consistent with the ITE Parking Generation Manual, 4th Edition, the average parking demand for a single-family detached dwelling unit is 2 spaces per unit. The applicant has indicated that sufficient space will be provided on each lot to accommodate at least 2 off-street parking spaces. Accordingly, the lots are proposed to be developed in a manner that is expected to accommodate the estimated parking demand generated by the proposed development thereby minimizing any potential on-street parking impacts.

There are existing transit facilities in the vicinity with the nearest bus stop is located at SW Riverside & SW Palatine approximately 2,323 feet from the site. The proposed partition will not have any effect on transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

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

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

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

33.651 Water Service standard – See Exhibit E.10 for Service Provider comments

The Palatine Hill Water District has indicated that service is available to the site, as noted on page 2 of this report. Currently, the water service for Parcel 2 extends over Parcel 1. As a condition of Final Plat approval, the water service for Parcel 2 must be extended from SW Aventine Circus to avoid crossing the property line of Parcel 1. The water service standards of 33.651 have been verified.

33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.6 for Service Provider comments

The Dunthorpe-Riverdale Service District has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified. Sanitary service for the existing house is currently located entirely on Parcel 2. Any new connections to serve the one new proposed lot will be required to meet current City of Portland Bureau of Environmental Services standards.

33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1 for bureau comments

No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The applicant has proposed the following stormwater management methods:

- **Parcel 1:** Stormwater from this lot will be directed to StormTech infiltration chambers that will treat the water and slowly infiltrate it into the ground. This lot 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 StormTech facility.

Parcel 2 (the lot with the existing house): The existing house has downspouts that drain onto an existing drywell, which does not appear to conflict with the proposed new property line. No modifications to the downspouts are required for the existing house.

The supplemental geotechnical report includes an additional infiltration test which was completed on Parcel 2 in the approximately area of the proposed driveway addition. The additional infiltration test resulted in a tested infiltration rate of 1.2 inches per hour. Stormwater from the driveway addition will be directed to an infiltration planter sized using the Presumptive Approach. The proposed facility appears to meet minimum setbacks as established in the facility design standards and Exhibit 2-1 of the SWMM. Additional stormwater management information may be required at the time of permit review if the proposed additions to the existing house trigger the requirements of the SWMM.

Based on this additional information, BES has determined that sufficient information has been provided to demonstrate a feasible conceptual stormwater management plan for this project. BES has no further objections to approval of the preliminary land division application.

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

SW Military Road and SW Aventine Circus are improved with paved roadways of an undetermined width within a 50-foot right-of-way. There are no curbs, planter strips, or sidewalks along SW Military Road. SW Aventine Circus is a non-city maintained roadway that has an existing curb along the west side of the roadway and no curb along the site's frontage. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Because none of the other frontages have been improved on SW Military or SW Aventine Circus, Portland Transportation has determined that an isolated improvement at this location would not be meaningful. If the streets are to be improved, it would be more appropriate to complete the improvements as one LID project. Therefore, the applicant will be required to dedicate 2 feet of property for right-of-way purposes along SW

Military Road and sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval.

This criterion is met, with the condition that dedication is shown on the final plat and the required waivers are signed prior to final plat approval. The right-of-way dedication will change the lot size and dimensions of Parcel 1. This is acceptable as the lot will not drop below minimum lot dimension and area requirements.

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. The applicant has indicated an 8-foot public utility easement on the preliminary plat plan. Therefore, this criterion is met.

APPROVAL CRITERIA FOR ADJUSTMENT REVIEW

Three Adjustments have been proposed on this site. The first is an adjustment to maximum lot size for Parcel 2 from 34,500 square feet to 49,596 square feet. Additionally, the applicant is proposing an adjustment to maximum building coverage for the existing home on Parcel 2 from 6,725.4 square feet to 9,572 square feet; and an adjustment to the front building setback is proposed to accommodate the existing garage which will be along the new front property line on SW Aventine Circus. The setback adjustment would be from 20 feet to 10 feet.

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Maximum Lot Size (33.610.200.C)

Findings: Chapter 33.610 contains the lot dimension standards for approval of a Preliminary Plan for a Land Division in the RF through R5 zones. These standards ensure that lots are consistent with the desired character of each zone while allowing lots to *vary in size and shape* provided the planned intensity of each zone is respected.

The purpose of the Lot Dimension Standards 33.610.200.A in single-dwelling zones is as follows:

33.610.200 Lot Dimension Regulations

Purpose. The lot dimension regulations ensure that:

- *Each lot has enough room for a reasonably-sized house and garage;*
- *Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;*
- *Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;*
- *Each lot has room for at least a small, private outdoor area;*
- *Lots are compatible with existing lots;*
- *Lots are wide enough to allow development to orient toward the street;*
- *Lots don't narrow to an unbuildable width close to the street*
- *Each lot has adequate access from the street;*
- *Each lot has access for utilities and services; and*
- *Lots are not landlocked.*

The primary purpose of the maximum lot size standard is to ensure that *lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future*. In this case, Lot 1 is proposed to be 49,596 square feet, which is further dividable into two lots. However, because the maximum density across the entire subject site is three units, if Parcel 1 was divided in the future, the overall density across the site will not exceed

the allowed maximum density of three units. Additionally, the applicant is proposing other adjustments for the purpose of increasing the building coverage for the existing house and maintaining the existing garage, which indicates an intention to maintain the existing residence. Allowing an increase in maximum lot size does not render the lot incompatible with the surrounding neighborhood, which consists of single dwelling homes on very large lots. Parcel 1 will maintain its existing outdoor area, continue to meet development standards for the R20 zone and maintain adequate street and utility access.

A response from a notified property owner expressed concern about the potential for a 2nd story to be added to the home and requested that the lot not be allowed to be further divided. While a 2nd story is not proposed at this time, the existing read and side setbacks exceed minimum requirements and would limit the impact should a 2nd story be added in the future. Furthermore, any future additions to the home or reduction in site area by further dividing that could increase the building coverage beyond this adjustment request would trigger another adjustment review. A condition will note this. This criterion is met for the adjustment to maximum lot size.

Building Coverage (33.110.225)

Findings: Chapter 33.110 contains standards for building coverage in Single-Dwelling Zones. The purpose of the Building Coverage standard is as follows:

33.110.225 Building Coverage

Purpose. The building coverage standards, together with the height and setback standards control the overall bulk of structures. They are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site.

The primary purpose of limiting building coverage is to ensure that the massing and bulk of a structure does not overwhelm adjacent homes. In this case, the proposed increase in building coverage is limited to portions of the existing house which are already developed as outdoor living area. These areas are proposed to be enclosed, thus increasing the building coverage of the structure as defined by the Zoning Code. However, the modifications to the structure to enclose these outdoor spaces will not markedly change the existing footprint of the structure. The overall massing of the home and garage will be very similar to what is currently on the site. Furthermore, all existing setbacks from adjacent properties will be maintained as they currently exist, limiting the overall impact of an increase in building coverage. No additional height is being added to the structure, so the overall increase in massing will not affect neighboring homes. The requested Adjustment continues to meet the intent of limiting building coverage, because the structure will not be increased in height or overall footprint. This criterion is met for the adjustment to building coverage.

Setbacks

Findings: Chapter 33.110 contains standards for setbacks in Single-Dwelling Zones. The purpose of Setbacks is as follows:

33.110.220 Setbacks

Purpose. The setback regulations for buildings and garage entrances serve several purposes:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the city's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*

- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The applicant is requesting an adjustment to front setbacks for an existing detached accessory garage structure. This adjustment is necessary because the front lot line of Parcel 2 has been re-oriented to SW Aventine Circus. The garage is set back 10 feet from the property line, which meets current side setback standards for the R20 zone. The existing setback will still maintain light, air and separation from SW Aventine Circus and from the closest structures on the west side of the street. While the existing setback will not create a large front yard area, the residence is set well back from the street and has established landscaping surrounding the house and garage. The garage entrance will maintain the required 18-foot setback because the entrance to the garage is facing away from the street on the other side of the garage. Because the location of the existing structure is not changing, the overall effect of reducing the setback will be minimal. This criterion is met for the adjustment to setbacks.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The residential area under consideration for this review is shown on Exhibit B and is generally consisting of large lots that exceed the maximum lot size with large homes. The adjustments to lot size, building coverage and setbacks will not significantly detract from the livability or appearance of the residential area because the adjustments are requested to accommodate existing structures which are not changing significantly. Changes to the existing home will not alter the appearance of the house or the garage, therefore impact on the livability and appearance of the site and neighborhood will be limited. Neighboring homes range in size from 5,000 to 9,800 square feet, so the additional footprint for this house will not be out of scale with existing homes. The adjustment to maximum lot size is consistent with surrounding lots which are also oversized and further dividable. The proposed increase in lot size is consistent with the sizes of surrounding lots, so the size of Parcel 1 will not detract from the appearance of the residential area. This criterion is met.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: The purpose of the R20 zone is to preserve land for housing and to promote housing opportunities for individual households. The proposed adjustments will not have a negative effect on the preservation of land for housing because allowing the adjustments will help maintain an existing home. The overall effect of the adjustments will actually minimize the impact to the neighborhood by maintaining the existing house and garage with limited changes to the house while promoting housing opportunities by allowing for the creation of an additional lot. This criterion is met.

D. City-designated scenic resources and historic resources are preserved; and

Findings: There are no city-designated scenic resources or historic resources on the site. This criterion does not apply.

E. Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: Any negative impacts from the proposed adjustments would be related to the lot appearing overly large and not fitting in with the surrounding area, and containing a house that was not in scale with the lot or the neighborhood. However, many of the existing lots surrounding the subject site are further dividable, ranging generally from 43,000 square feet to

116,000 square feet in size; and contain very large homes, ranging from 5,000 to 9,800 square feet in building coverage. The impacts from the adjustments will be minimal within the context of the surrounding neighborhood. Existing landscaping on Parcel 2 will be maintained, which will continue to enhance privacy for surrounding homes and buffer the existing house from its neighbors, making any increase in building coverage less impactful. This criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable; or

Findings: This site is not located within an environmental zone. This criterion does not apply.

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Future Development

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

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 R20 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 is one Zoning Code standard that relates to existing development on the site:

- Minimum Setbacks – The existing house and garage 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 91 feet from the new property line. Therefore, the required setbacks for the house are being met. The existing garage will be 10 feet from the new front lot line. An adjustment to decrease the front setback for the garage to 10 feet is included in this application. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. A garage provides this required parking for the existing house on Parcel 2. As a result of this land division, the access to the required parking space for the existing house will be located on a different lot. In order to ensure that parking requirements continue to be met, a new driveway access for the existing house must be constructed on Parcel 2 and the previous access must be closed prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat 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 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

CONCLUSIONS

The applicant has proposed a 2 parcel partition, as shown on the attached preliminary plan (Exhibits C.3 and 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: adjustments to lot size, building coverage and setbacks; and tree preservation. Any future land division of Parcel 2 will require an Adjustment Review to change the allowed building coverage on a smaller lot.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in one standard lot and one oversized lot as illustrated with Exhibits C.3 and C.4;

Approval of an Adjustment to maximum lot size from 34,500 square feet to 49,596 square feet (Zoning Code Section 33.610.200.C);

Approval of an Adjustment to maximum allowed building coverage on Parcel 2 from 6,725.4 square feet to 9,572 square feet (Zoning Code Section 33.110.225); and

Approval of an Adjustment to front setbacks from 20 feet to 10 feet, subject to the following conditions (Zoning Code Section 33.110.220):

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;
- 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 SW Military Road. The required right-of-way dedication must be shown on the final plat.
2. Due to the street dedication, Parcel 1 may exceed the allowed variations of Section 33.663.200.A, provided the minimum lot area and dimension standards are met.
3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.4 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Special Land Use Conditions for Tree Protection 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 complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms and instructions will be provided to the applicant during the final plat review process.

Utilities

2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site.
3. The applicant shall relocate the water connection for the existing house on Parcel 2 to be within its new front lot line along SW Aventine Circus.

Required Legal Documents

4. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 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.

Existing Development

5. A new driveway access shall be installed on Parcel 2, in conformance with the applicable requirements of the Portland Zoning Code and the previous access shall be closed. The applicant must obtain a finalized Zoning Permit for installation of the driveway. The permit plans must include the note: *This permit fulfills requirements of Condition C.5 of LU 16-116497.* The new parking space must also be shown on the supplemental plan.

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

1. Development on Lots 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.4) and the applicant's arborist report (Exhibit A.5). Specifically, trees numbered #1, #4, #20, #21, #28, #34, #35 and #42 are required to be preserved, with the root protection zones indicated on Exhibit C.4. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his/her supervision.

2. Further division of Parcel 2 will require an adjustment review to building coverage if the existing house is retained. As an alternative, the house can be remodeled to comply with current maximum building coverage regulations.

Staff Planner: Leah Dawkins

Decision rendered by: Leah M. Dawkins **on (September 6, 2016)**
By authority of the Director of the Bureau of Development Services

Decision mailed September 8, 2016

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 February 4, 2016, and was determined to be complete on March 29, 2016.

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 February 4, 2016.

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 135 days. Unless further extended by the applicant, **the 120 days will expire on: December 9, 2016.**

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

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

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

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on September 22, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails.

Appeal fee waivers. Multnomah County may cover the appeal fees for their recognized associations. An appeal filed by a recognized association must be submitted to the City with either the appropriate fee or the attached form signed by the County. Contact Multnomah County at 503-988-3043, 1600 SE 190th, Portland, OR 97233.

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

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

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

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

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of adjustments. These other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of adjustments. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: Adjustments. These approvals expires if:

- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

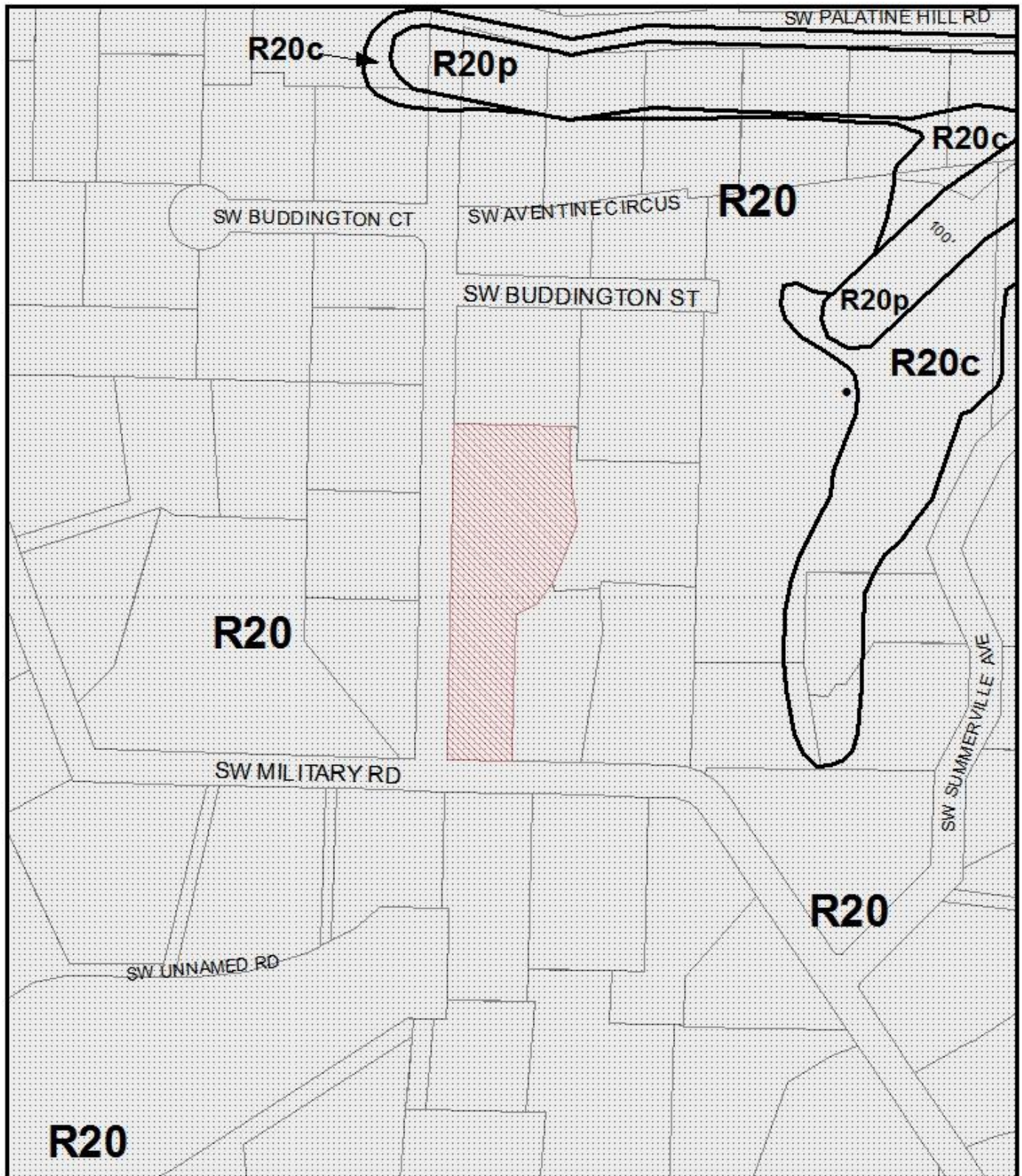
All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. February 4, 2016 Original Applicant Submittal Narrative and Plans
 - 2. March 29, 2016 Plan and Narrative Resubmittal
 - 3. June 10, 2016 Stormwater Report and Plan Resubmittal
 - 4. Tree Inventory
 - 5. Arborist Report
 - 6. Landslide Hazard Study
 - 7. Geotechnical Report and Infiltration Testing
 - 8. Stormwater Management Report
 - 9. 120-Day Timeline Extension Requests
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Cover Sheet
 - 2. Existing Conditions
 - 3. Preliminary Plat Plan (attached)
 - 4. Site, Utility and Tree Preservation Plan (attached)
 - 5. Preliminary Grading Plan
 - 6. Tree Inventory Map
- 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. Site Development Review Section of BDS
 - 5. Life Safety
 - 6. Service Provider Letter- Public Sewer Service, Dunthorpe-Rivedale Sanitary Service District
 - 7. Service Provider Letter- Certification of Stormwater Service- Multnomah County
 - 8. Service Provider Letter- Lake Oswego Fire Department
 - 9. Service Provider Letter- Riverdale School District
 - 10. Service Provider Letter- Palatine Hill Water District
- F. Correspondence:
 - 1. Rose Laughlin, 5/02/16, opposition to adjustments
- G. Other:
 - 1. Original LU Application
 - 2. Incompleteness Letter

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



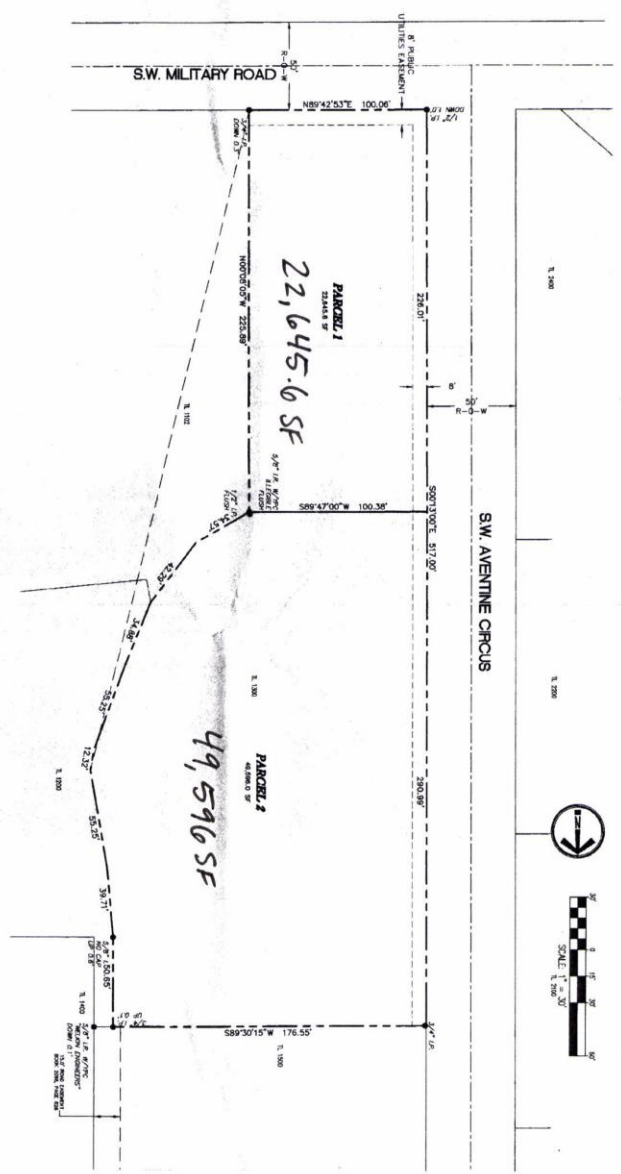
ZONING



- Site
- Historic Landmark
- Unincorporated Pockets

File No. LU 16-116497 LDP AD
 1/4 Section 4130
 Scale 1 inch = 200 feet
 State_Id 1S1E34AD 1300
 Exhibit B (Feb 08, 2016)

CASE NO. 16-116493
EXHIBIT C.3



PROPERTY DATA

ZONE:	R20
SETBACKS:	(MINIMUM)
FRONT:	20'
REAR:	10'
SIDE:	10'

LEGEND

---	EXISTING BOUNDARY LINE
---	PROPOSED LOT LINE
---	EXISTING EASEMENT LINE

CARROLL BLADE
REGISTERED L.S.

3 of 5

EMERIO Design
8285 SW NIMBUS AVE, SUITE 180
BEAVERTON, OREGON 97008
PH: (503)-746-8812

REVISIONS	
NO.	DESCRIPTION

PRELIMINARY PLAT

1411 SW MILITARY ROAD
TAX MAP T1S R1E 34AD
TAX LOT 1300
MULTNOMAH COUNTY, OREGON



- ### INFILTRATION PLANTER NOTES



#42-22 CEDAR

INC

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