



City of Portland
Bureau of Development Services
Land Use Services Division

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Portland, Oregon 97201
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Date: August 28, 2008
To: Interested Person
From: Rachael Hoy, Land Use Services
503-823-0646 / RachaelH@ci.portland.or.us

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

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-123895 TR

GENERAL INFORMATION

Applicant: Corey Larner
Springwater Development, LLC
1527 SW 57th Ave,
Portland, OR 97221

Site Address: 13018 SE RAYMOND ST
Legal Description: TL 800 3.78 ACRES, SECTION 14 1 S 2 E; LOT 11 INC UND INT TRACT A, RAYMOND MEADOWS
Tax Account No.: R992140080, R692400550, R692400700, R692400750
State ID No.: 1S2E14BD 00800, 1S2E14BD 00811, 1S2E14BD 00814, 1S2E14BD 00815
Quarter Section: 3543
Neighborhood: Powellhurst-Gilbert, contact James Chasse at 503-762-0863.
Business District: Midway, contact Donna Dionne at 503-252-2017.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.
Plan District: Johnson Creek Basin
Zoning: R5a- Residential 5,000 with an 'a' overlay for Alternative DesignDensity Overlay
Case Type: TR – Tree Review
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing to modify the original tree preservation plan approved under land use case no. 06-126124. Under that plan Trees no. 1, 6, 12, 17, and 23 were to be saved. See Exhibit C.1 for original tree preservation plan. The applicant is proposing to remove tree no. 1 which is a 18 inch Filbert tree. He requested to replace the Filbert tree with a 12.2 inch Douglas Fir tree that is located on Lot 11 on the site. This tree was missed by the arborist and not counted in the original tree preservation calculations. The applicant cannot use this tree as a replacement tree because it falls within a public storm sewer easement area. As a result,

the applicant must mitigate for the loss of the Filbert tree by planting at least 11 inches (dbh) of new trees in order to meet Option 1 of the tree preservation standards.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are: **33.853.040 Approval Criteria for Tree Reviews**

ANALYSIS

Site and Vicinity: This site and the surrounding area consists of lots that are consistent with the R5 zoning. Lots to the west, in the R10 zoning are larger in size. To the east of the site the zoning is R2. The houses in this area are predominantly one- and two-stories and are of various ages.

Zoning: The site is zoned R5, which allows detached single-family dwellings at a density of one dwelling unit per 5,000 square feet. Lot sizes may range from 3,000 to 8,500 square feet

Land Use History: City records indicate that prior land use reviews include the following:

- LU 06-126124 LDS: Approval of a Preliminary Plan for a 28-lot subdivision that will result in 28 standard single-dwelling lots, three public streets, and a public stormwater tract and easement

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **July 23, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Bureau of Transportation Engineering
- Bureau of Parks-Forestry Division

The Site Development Section of BDS has no objection to the proposed mitigation planting plan which requires the planting of 12 inches of new trees. They have recommended that the building permits, where plantings will occur, should include inspection memos to ensure that Site Development inspectors are aware of the tree planting/protection requirements.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 23, 2008. One written response has been received from a notified property owner in response to the proposal.

Neighborhood Response: The neighbor objects to the proposed planting of a 5-6 foot Western Red Cedar in the NE corner of Lot 28. He feels it is too close to an existing Gravenstein apple tree on his property and that the root structures could undermine an existing 6 foot wooden fence on his property. He would like to see this tree moved elsewhere on the lot or another lot. He also would prefer to see that the Western Red Cedar in the SE corner be planted elsewhere, but he does not feel as if this tree will directly compete for space with any of the other trees on his property.

BDS Response: The applicant has agreed to move the proposed Western Red Cedar from the NE corner of lot 28. The applicant has suggested that a 2-inch Quaking Aspen will be planted on lot 4 instead of the Western Red Cedar in the NE corner of lot 28. Staff does not have an issue with the movement of the mitigation planting to a new lot, or the change in the type of tree to be planted.

ZONING CODE APPROVAL CRITERIA

Tree Review

33.853.010 Purpose

The tree review process evaluates whether mitigation proposed for tree removal is both appropriate and adequate, considering the purpose of the regulations that limit removal. Tree review also evaluates whether changes to tree preservation plans are appropriate, and determines the appropriate mitigation for trees lost due to violations of tree regulations. The review allows flexibility for unusual situations and allows for the purpose of the tree regulations to be met using creative or innovative methods.

33.853.040 Approval Criteria

The approval criteria consist of three criteria (A-C). The site is not located in the Scenic Overlay Zone or Rocky Butte plan districts therefore Criterion A does not apply. The applicant has not violated the approved tree preservation plan; therefore Criterion C does not apply. Therefore only Criterion B is applicable and addressed below.

B. Changes to tree preservation or mitigation methods. The approval criteria for changes to tree preservation or mitigation methods, including a tree preservation plan, tree preservation, tree preservation tract, or mitigation plan are:

1. If the tree preservation or mitigation method was approved under the provisions of Chapter 33.630, the requested change will be approved if the review body finds that the applicant has shown that the revised method will continue to meet Chapter 33.630, Tree Preservation.

2. If the tree preservation or mitigation method was not approved under the provisions of Chapter 33.630, the requested change will be approved if the review body finds that the applicant has shown that the revised method better meets the purpose of Chapter 33.630, Tree Preservation, stated in Section 33.630.010.

Findings: The City's approval of LU 06-126124 LDS included the approval of a tree preservation plan. Under that plan Trees no. 1, 6, 12, 17, and 23 were to be saved to meet Option 1 of the tree preservation requirements of Chapter 33.630. See Exhibit C.1 for the original tree preservation plan. The applicant is proposing to amend the approved tree preservation plan by removing tree no. 1, which is a 18-inch Filbert tree. The applicant provided a letter from a certified arborist (Exhibit A.2) who evaluated the health of the Filbert tree at the applicant's request in April 2008. The arborist concluded that the Filbert tree was dead or dying most likely because of utility installation inside the root protection zone. The applicant's mitigation plan proposes to plant 12 new inches of trees to address the loss of the Filbert tree.

Originally, the applicant proposed to remove the Filbert tree and replace it with a 12.2 inch Douglas Fir tree that is located on Lot 11 on the site. This tree was missed by the arborist and not counted in the original tree preservation calculations. The applicant cannot use this tree as a replacement tree because it falls within a public storm sewer easement area. The applicant is eligible to use the mitigation option, 33.620.300 and has proposed to plant 12 inches of new trees in order to meet Option 1 of the tree preservation standards.

Option 1 of the tree preservation standards requires that at least 35% of the original, non-exempt tree inches be preserved on the site. The total non-exempt inches from the original tree preservation plan equaled 396.7. (This includes the 12.2-inch Douglas Fir that was missed by the arborist during the original land use review). In order to preserve 35 percent of the total non-exempt tree inches the applicant must preserve at least 138.8 inches. The applicant continues to meet Option 1 by proposing to plant 12 new inches of trees to bring the total of inches preserved and planted to 139.5.

The applicants proposed plantings are as follows (see Exhibit C.2):

- Lot 4 – 1, 2” Quaking Aspen (SE Corner)
- Lot 12 – 2, 2” Quaking Aspen (Rear of lot)
- Lot 23 – 1, 5-6 ft. Western Red Cedar and 1, 5-6 ft. Douglas Fir (both to be planted at the rear of the lot)
- Lot 28 – 1, 5-6ft. Western Red Cedars (SE Corner) (Conifer trees at 5 feet in height are equivalent to a 2-inch diameter Broadleaf tree- 33.248.030C.1)

Total mitigation inches to be planted = 12

The 12 inches of new trees are required to be planted on the lots described above at the time of building permit. BDS staff will place inspector memos in each permit to insure that Site Development inspectors are aware of the tree planting requirements. The applicant will still be required to meet T1 tree-planting requirements on each of these lots at the time of building permit, in addition to these mitigation plantings.

It is important to note that tree # 17 was one of the trees to be preserved in the original tree preservation plan. Since the submittal of this application, that tree has failed due to natural causes, most likely during a windstorm. The City Forester, who came to this conclusion, evaluated the tree in early July 2008. The applicant will be required to replace the tree as per tree replacement standards, 33.248.030 when a building permit for Lot 18 is submitted. The failure of tree #17 has no impact on the mitigation plan proposed for this tree review.

The applicant’s proposal to replace the Filbert tree with 3 conifers and 3 deciduous trees, that will be planted on 4 lots within the subdivision is adequate mitigation for the loss of the Filbert tree that was failing in health according to the arborist report. In addition, the applicant continues to meet the tree preservation standards of Chapter 33.630 by proposing to replant the appropriate number of inches to continue to meet Option 1.

This criterion is met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant has requested to change an approved tree preservation plan under LU 06-126124 by replacing tree no. 1, an 18 inch Filbert tree, with 12 new inches of trees. The applicant continues to meet Option 1 of the Tree Preservation Standards of Chapter 33.630 with this mitigation proposal.

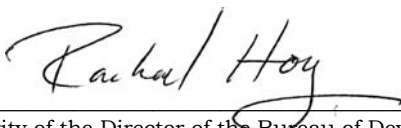
ADMINISTRATIVE DECISION

Approval of a Tree Review to modify the original tree preservation plan approved under land use case no. 06-126124, per the approved site plans, Exhibits C-1 through C-2, signed and dated August 25, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings for lots 12, 23, 28, and 4 must reflect the mitigation planting information approved by this land use review as indicated in Exhibits C.1-C.2. The sheets

on which this information appears must be labeled, "Mitigation Proposal as approved in Case File # LU 08-123895 TR . No field changes allowed." The applicants proposed plantings are as follows (see Exhibit C.2):

- Lot 4 – 1, 2” Quaking Aspen
- Lot 12 – 2, 2” Quaking Aspen
- Lot 23 – 1, 5-6 ft. Western Red Cedar and 1, 5-6 ft. Douglas Fir
- Lot 28 – 1, 5-6ft. Western Red Cedars (Conifer trees at 5 feet in height are equivalent to a 2-inch diameter Broadleaf tree- 33.248.030C.1)

Decision rendered by:  **on August 25, 2008**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 28, 2008

Staff Planner: Rachael Hoy

About this Decision. This land use decision is **not a permit** for development. 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 April 22, 2008, and was determined to be complete on July 21, 2008.

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 April 22, 2008.

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

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 11, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 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.

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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after **September 12, 2008**
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision 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
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

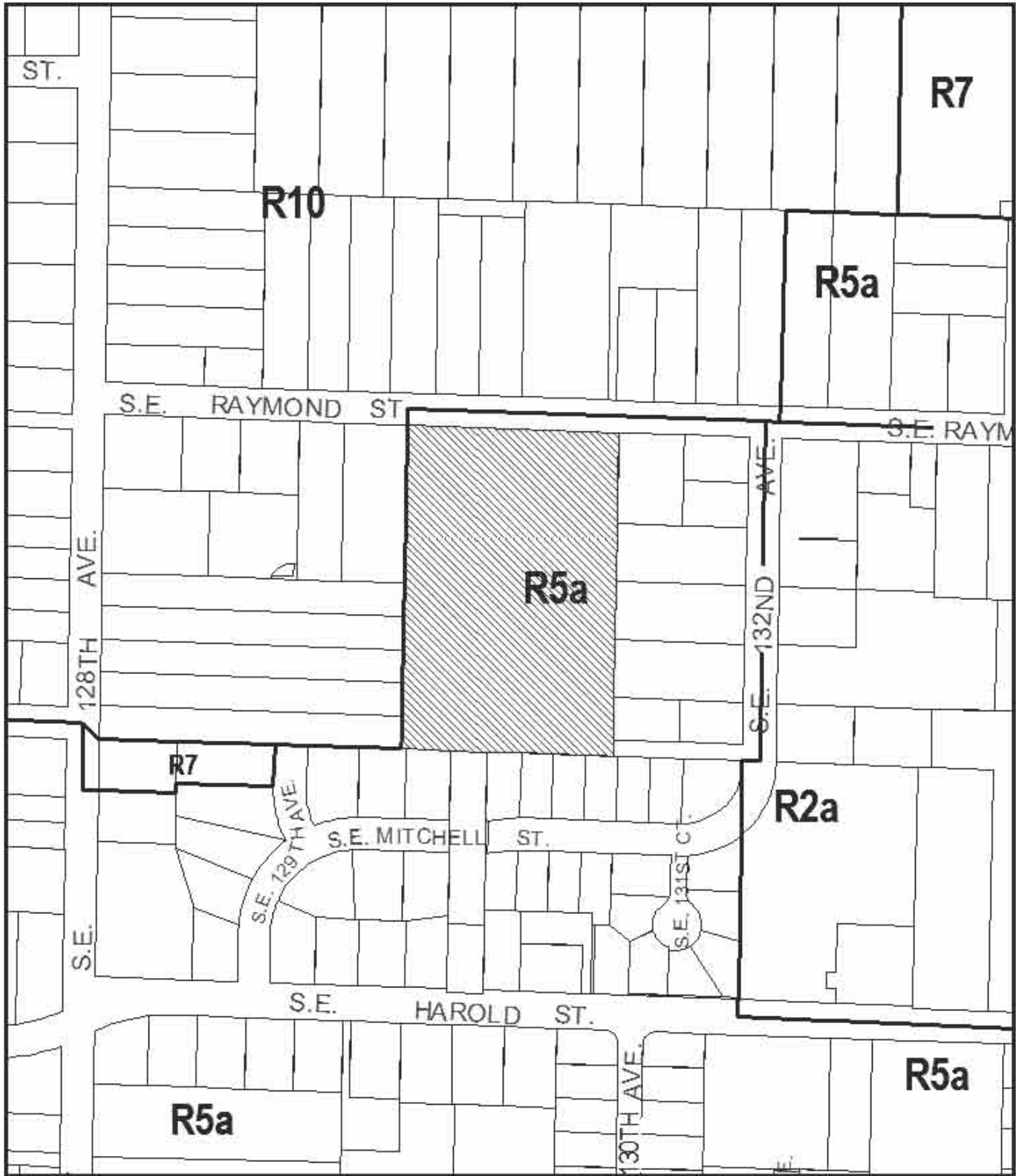
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Arborist Addendum
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Original Tree Preservation Plan (attached)
 - 2. Mitigation Plantings Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Scott Sawtelle, August 13, 2008, opposition to location of one mitigation tree.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete letter

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING

 Site



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	<u>LU 08-123895 TR</u>
1/4 Section	<u>3543</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S2E14BD 800</u>
Exhibit	<u>B (Apr 23, 2008)</u>

LEGEND

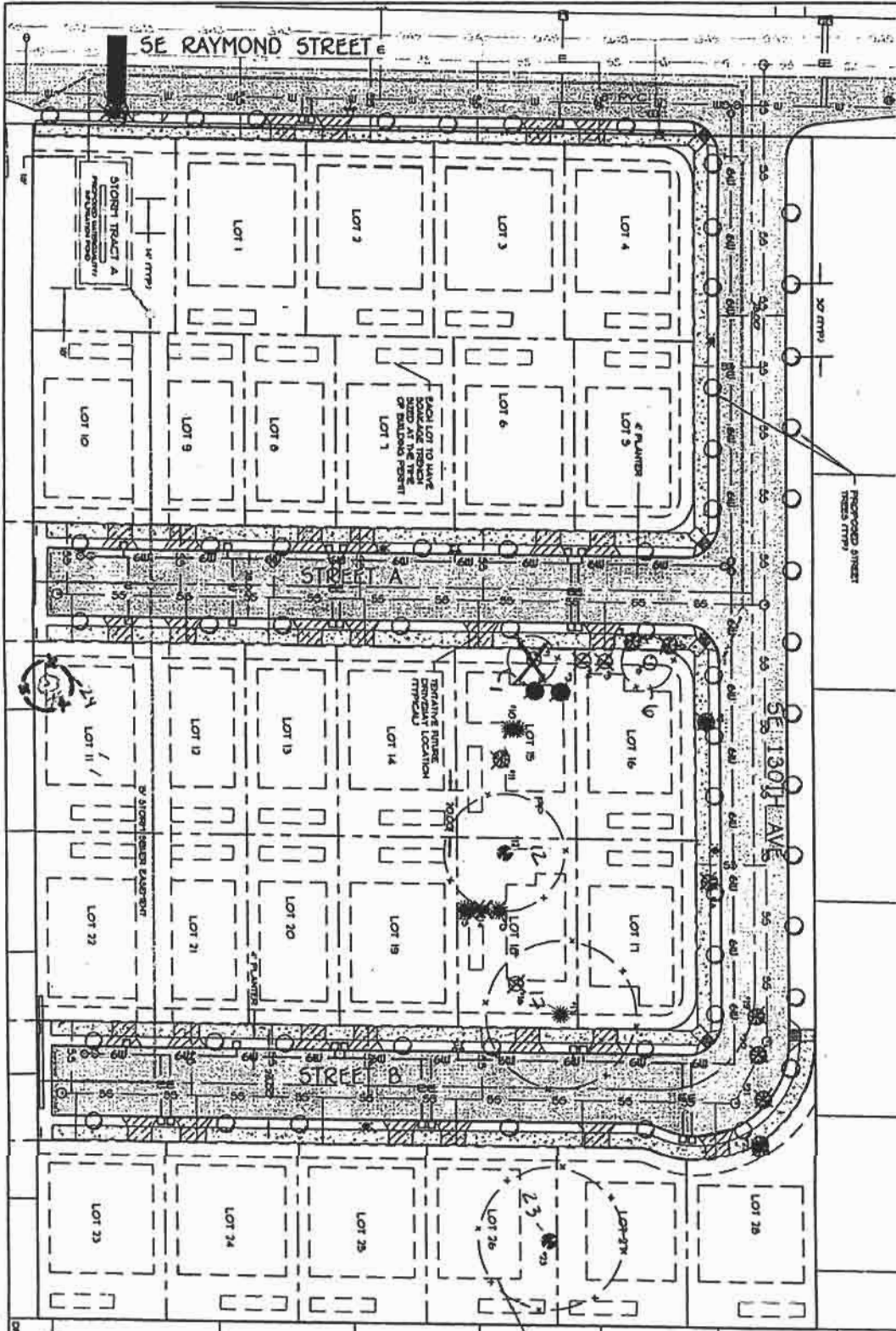
- PROPOSED STREET TREE
- EXISTING TREE TO PRESERVED
- ✕ EXISTING TREE TO REMOVED

**RAYMOND MEADOWS
TREE PRESERVATION PLAN**
Original
LOCATED IN THE NW 1/4 OF SECTION 14, T. 15, R. 2E W. 1/4,
CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
JUNE 2008



NOTE:
THE TOTAL PRESERVATION REQUIREMENT
103% OF TOTAL TREE DIAMETER FOR THIS
SITE IS 134.5 INCHES.
THE PROPOSED PRESERVATION PLAN WILL
MAINTAIN 145 INCHES TO FEET AND
EXCEED THIS CRITERIA.

TREE #	SPECIES	DIA @ 4'7"	FENCE RADIUS
1	FILBERT	18"	10 FEET
4	FILBERT	20"	11 FEET
10	HIR	20"	25 FEET
11	CEDAR	40"	31 FEET
23	PIR	31 1/2"	30 FEET
24	PIR	12.5"	10 FEET



55' ZONING SETBACKS
FRONT • 10'
GARAGE ENTRANCE •
SIDE • 5'
REAR • 5'

REAR YARD SETBACKS
TO BE MAINTAINED
17 FEET OF BALCONY FRONT
AND FOLIATION TREE TO
MAINTAIN TREE ROOT PROTECTION
TREE ROOT PROTECTION

LU 06-126124 LOTS
(ORIGINAL CASE # 126124)
Exhibit C.1

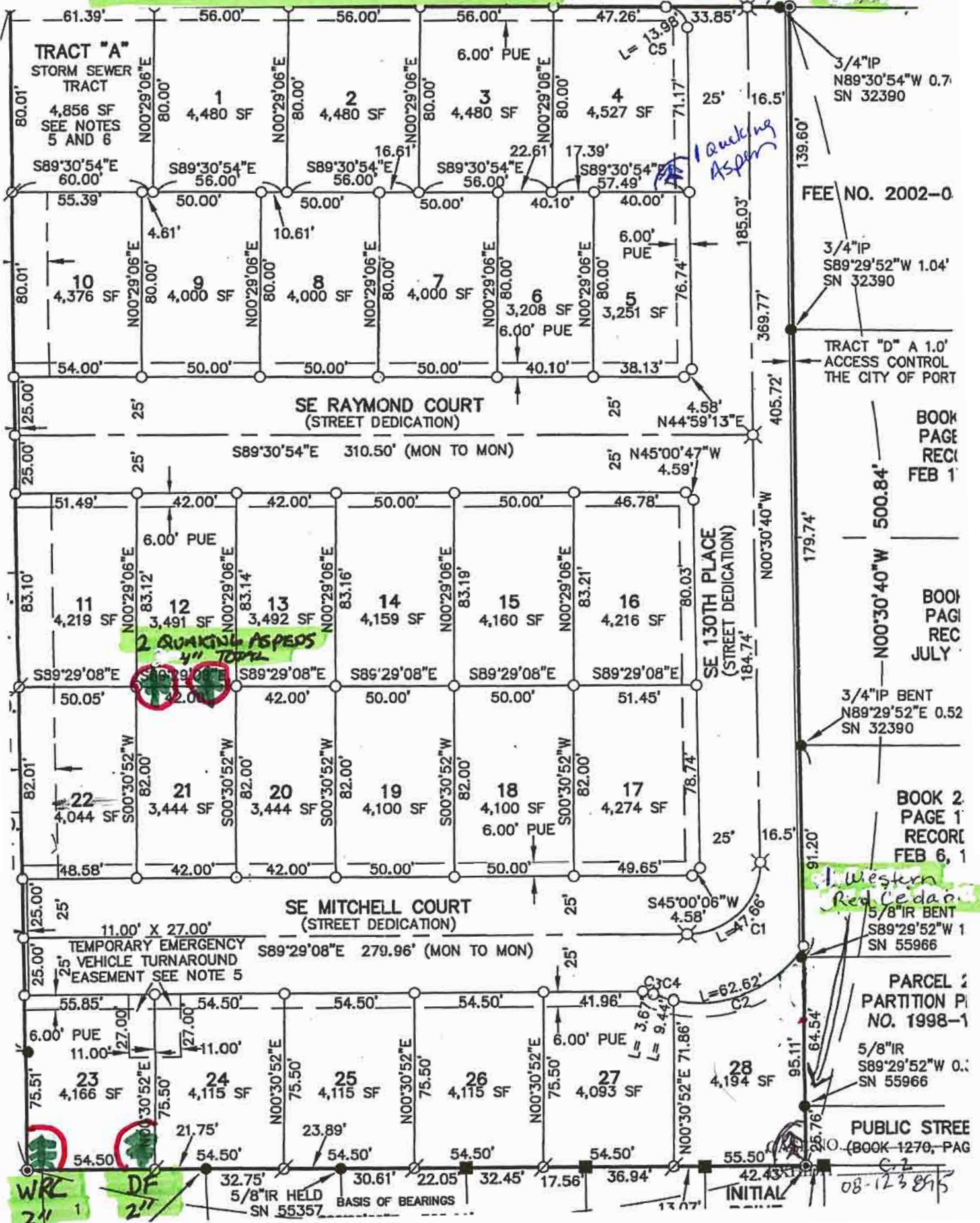
NOTE:
THIS DRAWING IS SCALED
1" = 20' WHEN PLOTTED ON
18" X 24" AND 1" = 40'
WHEN PLOTTED AS 8 1/2" X
11" PAPER.
ALLEN, SPECTATOR ENVIRONMENTAL

Surveyors & Planners, Inc.
Surrey Engineering and
Civil Engineering
710. Box 915 Sandy, OR 97055
Phone: (503) 668-4151
Fax: (503) 668-4150

CASE NO. 09-123045
EXHIBIT C.1

LU08-123895 TR
Exhibit C.1

PROPOSED MITIGATION PLANTINGS Lots 12, 23, & 28, 4



3/4"IP
N89°30'54"W 0.7'
SN 32390

FEE NO. 2002-0

3/4"IP
S89°29'52"W 1.04'
SN 32390

TRACT "D" A 1.0'
ACCESS CONTROL
THE CITY OF PORT

BOOK
PAGE
REC
FEB 1

BOOK
PAGE
REC
JULY

3/4"IP BENT
N89°29'52"E 0.52
SN 32390

BOOK 2
PAGE 1
RECORD
FEB 6, 1

1 Western
Red Cedar
5/8"IR BENT
S89°29'52"W 1
SN 55966

PARCEL 2
PARTITION P
NO. 1998-1

5/8"IR
S89°29'52"W 0.1
SN 55966

PUBLIC STREET
(BOOK-1270, PAG

INITIAL
08-12-89

WRC
2 1

DF
2 1

5/8"IR HELD
SN 55357
BASIS OF BEARINGS

INITIAL