



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

FROM CONCEPT TO CONSTRUCTION

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Date: April 18, 2014
To: Interested Person
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The 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 13-199789 LDS AD UNINCORPORATED MULTNOMAH COUNTY GENERAL INFORMATION

Applicant: Mark Dane Planning Inc
13630 SW Butner Rd / Beaverton OR 97005

Owner: Robert A Berselli
02113 SW Military Rd / Portland, OR 97219-8428

Site Address: 02113 SW Military Rd

Legal Description: INC 1/2 VAC ST LOT 27, ABERNETHY HTS
Tax Account No.: R001101450
State ID No.: 1S1E35BC 00600
Neighborhood: None
District Coalition: None
Other Designations: Unincorporated Multnomah County, Potential Landslide Hazard Area
Zoning: R20 – Low Density Single Dwelling Residential
Case Type: LDS AD, Land Division (subdivision) with Adjustment
Procedure: Type IIX, an administrative decision with appeal to the Hearings Officer.

Quarter Section: 4131, 4231
Business District: None
Plan District: None

Proposal:

The applicant proposes to divide the 3.05-acre site into 3 lots and an open space tract (Tract A). The existing single-family residence is to be retained on Lot 1. Lots 2 and 3 are 12,110 and 12,081 square feet in area and proposed for detached, single-family homes with a shared driveway access off of SW Military Road. Tract A is 19,270 square feet and contains 36 trees. Additional canopy area is identified for preservation outside of the Tract on Lot 1.

The applicant has indicated that sanitary sewer and water are available in SW Military Road. A landslide hazard study prepared by GeoPacific Engineering indicates that onsite infiltration for stormwater is not recommended. Therefore, the applicant proposes to use flow-through planters for treatment and detention with disposal offsite.

Proposed Lot 1 exceeds the maximum lot size of 34,500 square feet in the R20 zone. The applicant's proposal includes an Adjustment request to increase the maximum lot size for Lot 1 to 89,407, allowing the site to achieve the maximum density in the future.

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines "lot" as a single unit of land created by a subdivision of land. The applicant's proposal is to create 4 units of land (3 lots and 1 tract). Therefore this land division is considered a subdivision.

This subdivision proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) two or three lots are proposed; and (3) the site is located within a Potential Landslide Hazard (see 33.660.110).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

- **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**
- **Section 33.805.040.A-F, Approval Criteria for Adjustments.**

FACTS

Site and Vicinity: The site slopes from downward from west to east. It is developed with a single-family home and detached garage, set well away from SW Military Road on the flattest part of the site. Slopes on the site are steeper west of the existing home and near the street. A majority of the site contains a dense tree canopy. Trees within the area proposed for Lots 2 and 3 are predominately deciduous with a few species of evergreens.

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. Across the street to the west is Riverdale Grade School. On the west side of the school, there are some smaller lots and new construction.

Infrastructure:

- **Streets** – The site has approximately 372 feet of frontage on SW Military Road. There is one driveway entering the site that serves the existing house on the site. At this location, SW Military Road is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 635 feet from the site at SW Riverside Drive via Buses #35 and 36.

At this location, SW Military Road has an unknown width of paving within a 50-foot right-of-way. There are no curbs or sidewalks.

- **Water Service** – There is an existing 8-inch water main in SW Military Road. The existing house is served by a metered service from this main.
- **Sanitary Service** - There is an existing 8-inch concrete sewer line in SW Military Road.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. A road-side ditch collects runoff from SW Military Road along its western edge.

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

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits “E” contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **February 21, 2014**. Three written responses (Exhibits F.1-3) have been received from notified property owners in response to the proposal. The following issues were raised, with the City response following in *Italics*:

- Support for the appeal to waive sidewalk requirements.

A public works appeal (13-234779 PW) was approved December 18, 2013. The Public Works Administrative Committee supported maintaining the existing configuration along SW Military Road as there are significant topographic and storm water constraints that make frontage improvements impractical or infeasible to construct.

- Opposition to the small lot size.

One letter pointed out that R20 should mean 20,000 square foot lots (minimum) and that the average lot size in the neighborhood is closer to 30,000 square feet. A discussion of lot size is included in this report under Criterion A and the Adjustment request for maximum lot size. The Portland Zoning Code allows for a range of lot sizes in each zone to encourage tree preservation and site appropriate development.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site 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	There are no pedestrian connections proposed or

	Connections	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. Maximum density is one unit per 20,000 square feet in the R20 zone. At 132,868 square feet, the maximum density is 6 units. Because the site is within a potential landslide hazard area, the site has no minimum required density. The applicant is proposing 3 single family lots and a tree preservation tract. 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
Lot 1	89,407**		~178	~316	~179.83
Lot 2	12,110		~112	~152	~116.54
Lot 3	12,081		~67	~200	~75.46

* 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.

** Findings for the requested maximum lot size Adjustment are found later in this report.

The requirements of Chapter 33.610 allow lots to vary in size and shape provided that in the planned intensity of each zone is respected. This flexibility respects the character of an area while allowing development to take into consideration site conditions and existing development. In as much as the maximum lot size Adjustment meets the applicable approval criteria, the findings above show that the applicable density and lot dimension standards are met. Therefore, this criterion is met.

B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. For sites over one acre in size, the applicant has the option to preserve a percentage of the total tree canopy rather than inventorying each tree on the lot. When calculating the amount of tree canopy on the site, the total canopy area is based on the most recent aerial photograph available.

The applicant has indicated that they are choosing to exercise the canopy option (Tree Preservation Option 5) and provided a plan that includes the existing conditions and surveyed tree locations layered over an aerial photo. Using this plan (Exhibit C.3), City aerial photos from 2013 (Exhibit C.4), and site reconnaissance conducted on April 3, 2013 to exclude shrubs from the canopy area, staff determined that area outside of the tree canopy is approximately 18,750 square feet. This means roughly 85.8% of the site, or 114,118 square feet, is canopy area. Therefore, to satisfy Option 5, the applicant must protect at least 39,941 square feet of canopy, or 0.91 acres.

The applicant has identified a 0.94-acre Tree Protection Area on the Preliminary Plan (Exhibit C.2), satisfying Option 5. As shown on Exhibit C.3, there are many trees near the boundary of the Tree Protection Area. To ensure these trees are adequately protected, an additional 25-foot setback from the edge of the Tree Protection Area is necessary for all structures and ground disturbing activities. Tree protection fencing is required along the 25-foot setback during construction on Lot 1. 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 tree setback may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the tree setback 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 supervision.

In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat.

This criterion is met, subject to the condition that development on Lot 1 be carried out in conformance with the Tree Preservation Plan/Preliminary Land Division Plan (Exhibit C.2) and the 25-foot tree setback and an Acknowledgement of Tree Preservation Requirements is recorded with the final plat.

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 the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site is reasonably limited. 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.4). 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, provided that the recommendations of the report are incorporated into the design and construction phases of the project.

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 stormwater will not be disposed on the site itself, it will be treated and discharged into an existing drainage ditch.

Site Development has concurred with the findings of the applicant's geotechnical report, but notes that a soils report with recommendations for design of foundations and retaining walls as

well as recommendations for setbacks from slopes will be required for specific building plans at the time of construction plan review. With this condition, this criterion is met.

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

Findings:

Clearing and Grading

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

In this case, the site has steep grades (over 20%), and is located in the Potential Landslide Hazard area. Therefore, the clearing and grading associated with preparation of the lots must occur in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed.

A Landslide Hazard Report (Exhibit A.4) was submitted with the land division application that describes how clearing and grading should occur on the site to minimize erosion risks. The Preliminary Clearing and Grading Plan (Exhibit C.6) identifies the limits of clearing grading as well as the tree canopy protection area. It is anticipated that the grading will primarily involve excavating for the foundations of the new houses, grading for the shared driveway and trenching for the utilities, but will not include mass grading of the site to alter the existing contours.

The project area meets the criteria specified in City Code 10.30.030 as a Special Site with additional requirements for erosion, sediment and pollution control. An erosion control plan prepared by a Certified Professional in Erosion and Sediment Control (CPESC) or State of Oregon registered professional engineer (P.E.), and special inspections by the CPESC or P.E. during construction, may be required at the time of building permit application. Erosion control requirements found in Title 10, apply to both site preparation work and development.

Following the recommendations of the Landslide Hazard Study will help to limit erosion and sedimentation concerns by implementing the project erosion control plan, which includes judicious use of straw bales and silt fences. Avoiding exposure to moisture by quickly re-vegetating areas requiring permanent stabilization or temporary protection with mulch and/or erosion control netting/blankets could prevent more costly measures necessary when wet soil conditions exist. Additionally, stormwater runoff from the lots will be managed by flow-through facilities that discharge offsite. To assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report), BES has requested additional information at the time of final plat review. In addition, no clearing and grading is proposed within the root protection zones of the trees on the site that are required to be preserved. Mature trees intercept at least 30% of the precipitation that falls on the canopy, filter stormwater, help prevent erosion, and provide shade which cools the air and stormwater runoff.

As shown above, the clearing and grading anticipated to occur on the site can meet the approval criteria. At the time of building permit submittal on the individual lots a clearing, grading and erosion control plan will be submitted to the Site Development Section of the Bureau of Development Services. Site Development will review the grading plan against the applicant's Landslide Hazard Study as well as any additional geotechnical information required at the time of permit submittal to assure that the grading will not create any erosion risks. In addition the plans will be reviewed for compliance with the applicant's tree preservation plan and arborist report. 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 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.

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

Findings: A 19,270 square foot Common Open Space Tract (Tract A) is proposed along the westerly property line. The applicant has not indicated preferred ownership, nor does the code dictate a particular ownership for a general common open space tract.

A Private Access Easement over Lot 2 for the Benefit of Lot 3 is proposed to allow a shared driveway with a single point of access to SW Military Road.

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

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

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

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

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

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

<p>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p> <p>The Palatine Hill Water District has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibits E.1 & E.7 for comments.</p> <p>The Dunthorpe-Riverdale Service District has indicated that service is available to the site, as noted on page 2 of this report. However, the applicant has not provided a plan showing the location of the existing sanitary service lateral that serves the existing residence as requested. Therefore, prior to final plat approval the applicant must either demonstrate that the service lateral for the existing house will be located on the lot that it serves, or cap the existing lateral and establish a new service lateral located entirely on Lot 1. To accurately determine the location of the existing private sewer lateral relative to proposed property lines, BES requires that documentation such as a report and site plan from a professional utility locate service be provided for review. In addition, the location of the lateral must be included on a revised survey. For capping and establishing new service, the work must be completed and permits finalized prior to final plat approval. The conditions of approval identified assure these standards are met.</p>

33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1, E.5, & E.8

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

BES reviews stormwater management facilities on private property for the feasibility of infiltration, pollution reduction, flow control, and off-site discharges. The Site Development Section of BDS determines if stormwater infiltration on private property is feasible when slopes on or near the site present landside or erosion related concerns, or where proximity to buildings might cause structural problems. BES has provided the following on-site stormwater management comments:

- *Existing Development:* The applicant has not provided a plan showing the location of existing stormwater utilities serving the existing residence. Therefore, prior to final plat approval the applicant must provide a revised supplemental plan showing existing stormwater utilities to the satisfaction of BES. If it cannot be demonstrated that they are located within proposed Lot 1 alone, the applicant may be required to modify the systems or provide easements over the utilities on the final plat.
- *Infiltration Feasibility:* The applicant has submitted a *Geotechnical Engineering Report and Landslide Hazard Study (LHS)* from GeoPacific dated October 4, 2013, as required by BDS Site Development. The LHS included the results of on-site infiltration testing, which indicate the native soils do not infiltrate adequately to allow for infiltration facilities such as drywells. Therefore BES finds off-site discharge of stormwater runoff from future development, provided treatment and detention is provided on-site, will be acceptable.
- *Future Development:* Because improvements to the public right-of-way are not required, a Simplified Approach stormwater report will be acceptable to show that future residential development on Lots 2 & 3 will meet Stormwater Management Manual (SWMM) standards, versus the more rigorous type of report requested in completeness comments. At this time, staff has not received any stormwater report to review, nor do the submitted plans indicate the location of proposed stormwater management facilities or off-site discharge locations. Although a Certification of Stormwater Service was provided, it defers Multnomah County review of the stormwater plan to future building permit review. To ensure that future development on Lots 2 & 3 can meet SWMM requirements, prior to final plat approval the applicant must submit a Simplified Approach stormwater report and preliminary utility plan showing adequately sized stormwater facilities and an appropriate off-site discharge location.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is located does not meet the noted spacing requirements, however there are no conventional blocks throughout the broader area due to topographic, geologic, and other natural features in the vicinity. These natural features, combined with area street configurations, unusual lot layouts, large lot sizes and non-existent blocks result in impracticable application of the above referenced connectivity goals. PBOT, therefore, has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division. Additionally, no street connections have been identified in the vicinity of this property in the Portland Master Street Plan document.

For the reasons described above, this criterion is met.

33.641 – Transportation Impacts – 33.641.020 and 33.641.030**33.654.120.B & C Width & elements of the.654.130.D Partial Rights of way**

The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes. The following discussion is based on PBOT's assessment of the transportation impacts for this proposal (see Exhibit E.2):

The proposed land division will create three lots from the current site in order to accommodate two new detached single-family homes. Referring to the ITE Trip Generation Manual, 9th Edition, there will be two new AM peak hour trips and two additional PM peak hour trips (20 total new daily trips) that may result from the development proposal on the site. The new peak hour trips will have minimal impacts to nearby intersections and do not warrant any mitigation to said intersections. The intersections will continue to operate at current levels without further degradation from the vehicle trips generated by the proposed project factored into the analysis.

No significant negative impacts are expected to occur in relation to any of the other evaluation factors. The site is served by nearby transit service along SW Riverside Drive (via Tri-Met route #36 – South Shore). There are minimal pedestrian facilities throughout the vicinity that facilitate pedestrian travel. Those that exist are primarily around the nearby Riverdale Grade School. The wider gravel shoulder on the east side of SW Military is where pedestrians are able to walk along the street. There are no identified bike facilities (Portland Bike/Walk Map) in the area, bicyclists are expected to share the roadway.

With regard to impacts to on-street parking, the new residences that will be developed on the new lots will include on-site parking opportunities for multiple vehicles on each parcel, given the sizes of said parcels. Further, though not prohibited, on-street parking along SE Military Road at the site's frontage, is challenging if not impossible, without cars extending well into the abutting travel lane due to the minimal shoulder and restricting sloped area that abuts the roadway. Additionally, it appears that there will only be one new point of access from SW Military Rd that will serve proposed Lots 2 and 3.

The parking demand that will be generated as a result of the proposed project is estimated using rates from the Institute of Transportation Engineers (ITE), Parking Generation Manual, 4th Edition, 2010. The data utilized to determine the parking demand for the one additional dwelling unit on the site was for land use #210, Single-Family Detached Housing. Based upon this data, the 85th percentile peak parking demand for the 2 additional dwelling units are 4 parking spaces. These 4 total spaces will be easily accommodated on each new parcel.

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. The proposed development on the subject site typically triggers the need to construct right-of-way improvements. This requirement was identified earlier during this land use process and the applicant appealed said frontage improvement requirements through the City's Public Works Appeal process. In December of last year, the City's Public Works Administrative Appeals Committee approved the applicant's request to waive the identified frontage improvements (13-234779 PW). Accordingly, there will be no frontage improvements or property dedication associated with the proposed land division.

Given the area in which the site is located, the minimal increase in vehicle trips that will be generated by the proposed partition, and the classification of the street within the transportation system, PBOT expects that the transportation system will be able to support the existing development in the area as well as the proposed development. These criteria are 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. Therefore, this criterion is met.

33.805.040 Approval Criteria

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

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

Findings: The maximum lot size in the R20 zone is 34,500 square feet. Lot 1 is proposed to be 89,407 square feet. The lot dimension regulations ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) 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; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

Granting the adjustment will equally meet the stated purposes of the lot dimension standards because:

- Lot 1 is already developed with a house, driveway with off-street parking, outdoor area, and related accessory structures. Existing development is oriented towards SW Military Road;
- As noted under the density findings above, the maximum density for this site is 6 units. This proposal creates 3 lots and an open space tract. At 89,407 square feet, Lot 1 would be eligible for a maximum density of 4 units should it be redeveloped in the future. Therefore, Lot 1 is not so large as to allow maximum density to be exceeded in the future.
- The size of Lot 1 is more consistent with the surrounding development pattern than the proposed lots that meet the minimum lot size;
- Lot 1 will maintain its existing driveway access from SW Military, with plenty of width at the street for utility connections or redevelopment in the future; and
- Lot 1 is not landlocked.

The development on Lot 1 currently meets all development standards of the R20 zone and will continue to meet the standards for a standard lot following the land division, except for the existing detached garage. The detached garage is too large to automatically qualify for an exception in the code that allows for detached garage in a side or rear setback. At the time of Final Plat review the applicant may choose to relocate the garage outside of the setback, demolish the garage, or increase the size of Lot 1 enough to accommodate the required 10-foot setback. With a condition to address the existing detached garage, the adjustment will equally meet the purpose of the lot dimension standards and this criterion is met.

- 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 site is in the Dunthorpe-Riverdale area, which is in 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. Across the street to the west is Riverdale Grade School. On the west side of the school, there are some smaller lots and new construction.

The size of Lot 1 is more consistent with the surrounding development pattern than the proposed lots that meet the lot size standards because most of the existing residential area is out of conformance with the current zoning. Findings above show that Lot 1 meets all of the

purpose statements of the lot dimension standards. Proposed Lot 1 is developed with a single-family home and associated accessory structures. For these reasons, the proposal 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: Only one adjustment is requested. This criterion is not applicable.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: There are no discernible impacts that would result from granting the requested adjustment. 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;

Findings: The site is not within a mapped environmental zone, shown on the official zoning maps with a 'c' or 'p' designation. Therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

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

Existing development that will remain after the land division. The existing development on the site will remain and be located on Lot 1. 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 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 25.5 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 survey showing the location of the existing building relative to the adjacent new lot lines.
- **Accessory Structure** – The existing detached garage on proposed Lot 1 does not meet the required side setback in the R20 zone or qualify for the exception to locate in a side/rear setback. Therefore, prior to final plat approval, the accessory structure must be removed, relocated or the location of the side lot line for Lot 1 altered enough to accommodate the required setback 10-foot setback. A demolition permit is required to remove the structure. A building permit is required to relocate the building. The applicant must provide

documentation prior to final plat approval that all required permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.

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 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- The applicant must meet the requirements of the Lake Oswego Fire Department in regards to fire apparatus access (503.2.1).

CONCLUSIONS

The applicant has proposed a 3-lot and 1-tract subdivision, as shown on the attached preliminary plan (Exhibit C.2). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: tree preservation, stormwater disposal, and existing development. A concurrent adjustment was requested to increase the maximum lot size of Lot 1. The lot size may need to increase incrementally at the time of platting to accommodate the existing detached garage.

With conditions of approval that address the relevant standards and approval criteria this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a subdivision, that will result in three standard lots and one open space tract; and

Approval of an Adjustment to increase the maximum lot size of Lot 1 to 89,407 square feet, as illustrated with Exhibit C.2, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use, BES, and Site Development 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;
- All existing and proposed sanitary and stormwater utilities, including the as-built locations of such if modifications must be made; and
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A Private Access Easement shall be shown and labeled on the final plat, over Lot 2 for the benefit of Lot 3. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. The open space tract shall be noted on the plat as "Tract A: Open Space. A note must also be provided on the plat indicating who will own and maintain the tract.
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 Conditions C.6-C.7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

Utilities

1. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system on the site.
2. The applicant must demonstrate to the satisfaction of BES that the sanitary service lateral for the existing structure is located on proposed Lot 1, or cap the existing lateral for possible future use on either Lot 2 or 3 and establish a new service later for the existing structure. Permits for all required work must be obtained and finalized prior to plat approval.
3. The applicant must submit a Simplified Approach stormwater report and preliminary utility plan showing adequately sized stormwater facilities and an appropriate off-site discharge location for future development on Lots 2 and 3.

Existing Development

4. The applicant must obtain a finalized demolition permit for removing the garage on Lot 1 or a finalized building permit to relocate or modify the garage. Prior to any construction or demolition work on site, tree protection must be installed in accordance with the approved Tree Preservation Plan, per Condition D.1. Alternately, the applicant can modify the dimensions of Lot 1 enough to accommodate the required 10-foot setback.
5. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Bureau of Environmental Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the

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 August 30, 2013, and was determined to be complete on **February 14, 2014**.

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 August 30, 2013.

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, however they responded to a request for additional information on April 7, 2014. Unless further extended by the applicant, **the 120 days will expire on: June 14, 2014**.

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 May 2, 2014** at 1900 SW Fourth Ave. Appeals may be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on Mondays, 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.

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 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.**

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of an Adjustment. 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 an Adjustment. 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 Adjustment was necessary for the land division to be approved. Therefore, this approval 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.

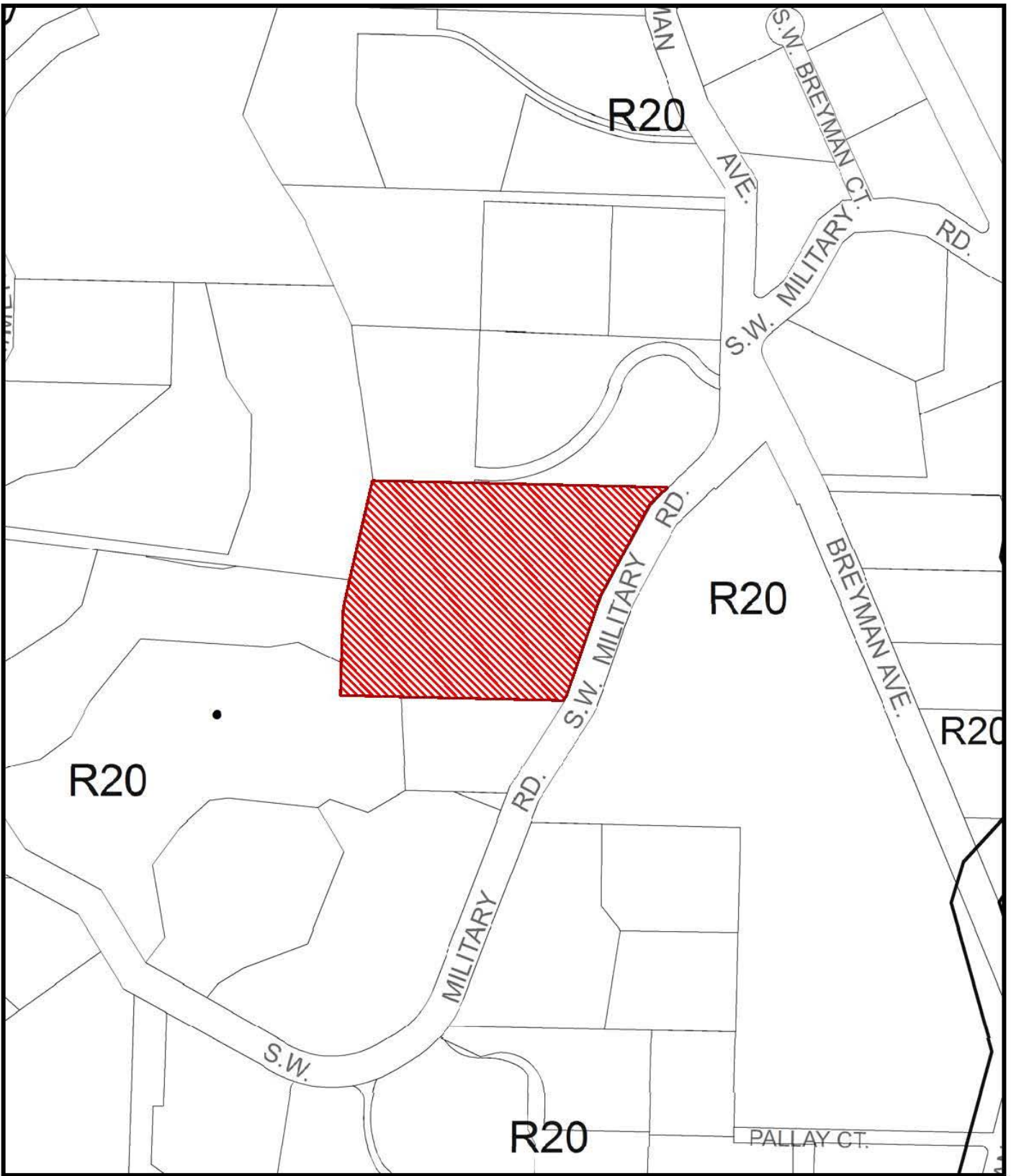
All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Original Narrative
 - 2. Arborist Report
 - 3. Revised Narrative, received January 14, 2014
 - 4. Landslide Hazard Study
 - 5. Adjustment Narrative, received April 7, 2014
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Plan
 - 2. Preliminary Site Plan (attached)
 - 3. Aerial Photo/Tree Plan provided by Applicant
 - 4. City GIS Aerial Photo
 - 5. Stamped Survey
 - 6. Preliminary Grading and Utility Plan
- 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. Palatine Hill Water District
 - 4. Lake Oswego Fire Department
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
 - 7. Dunthorpe-Riverdale Service District No. 1
 - 8. Multnomah County Certification of Stormwater Service
- F. Correspondence:
 - 1. Leslie Gross, November 27, 2013, email in opposition to right-of-way improvements
 - 2. Gayle and Larry Cable, November 27, 2013, email in opposition to right-of-way improvements
 - 3. Todd Gooding, December 1, 2013, email in opposition to right-of-way improvements and lots sizes of Lots 2 and 3
- G. Other:
 - 1. Original LU Application
 - 2. Neighborhood Contact
 - 3. Incomplete Letter, sent October 3, 2013
 - 4. Public Works Appeal Decision

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

This site is located within:
Unincorporated Multnomah County



NORTH

File No. LU 13-199789 LDS,AD
 1/4 Section 4131.4231
 Scale 1 inch = 200 feet
 State_Id 1S1E35BC 600
 Exhibit B (Sep 04,2013)

PROJECT NO.	BER-001
FILE NO.	64-13
DATE	08/13/13
PROJECT NAME	SW MILITARY ROAD
PROJECT LOCATION	SW MILITARY ROAD
DATE OF SURVEY	08/13/13
DATE OF PLAT	08/13/13
DATE OF RECORDING	08/13/13
DATE OF SALE	08/13/13
DATE OF CONVEYANCE	08/13/13
DATE OF RECORDING	08/13/13
DATE OF SALE	08/13/13
DATE OF CONVEYANCE	08/13/13
DATE OF RECORDING	08/13/13
DATE OF SALE	08/13/13
DATE OF CONVEYANCE	08/13/13

NOTES:
 1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
 2. THIS SURVEY IS MADE FOR THE GENERAL PURPOSES OF THE SURVEY ONLY.
 3. THIS SURVEY IS MADE FOR THE GENERAL PURPOSES OF THE SURVEY ONLY.
 4. THIS SURVEY IS MADE FOR THE GENERAL PURPOSES OF THE SURVEY ONLY.
 5. THIS SURVEY IS MADE FOR THE GENERAL PURPOSES OF THE SURVEY ONLY.
 6. THIS SURVEY IS MADE FOR THE GENERAL PURPOSES OF THE SURVEY ONLY.
 7. THIS SURVEY IS MADE FOR THE GENERAL PURPOSES OF THE SURVEY ONLY.

PREPARED BY:
 ANDY PARR AND ASSOCIATES, INC.
 18027 BOONVILLE TERRY ROAD
 PORTLAND, OREGON 97224
 PH: 503-536-3341

FULL SITE TOPOGRAPHIC/SITE SURVEY

TOPOGRAPHIC/SITE SURVEY
 FOR: BETH BERSELLI
 PORTION OF S.W. SOMMERVILLE AVENUE
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
 JUNE 24, 2013 TAX MAP 15-1E-358C

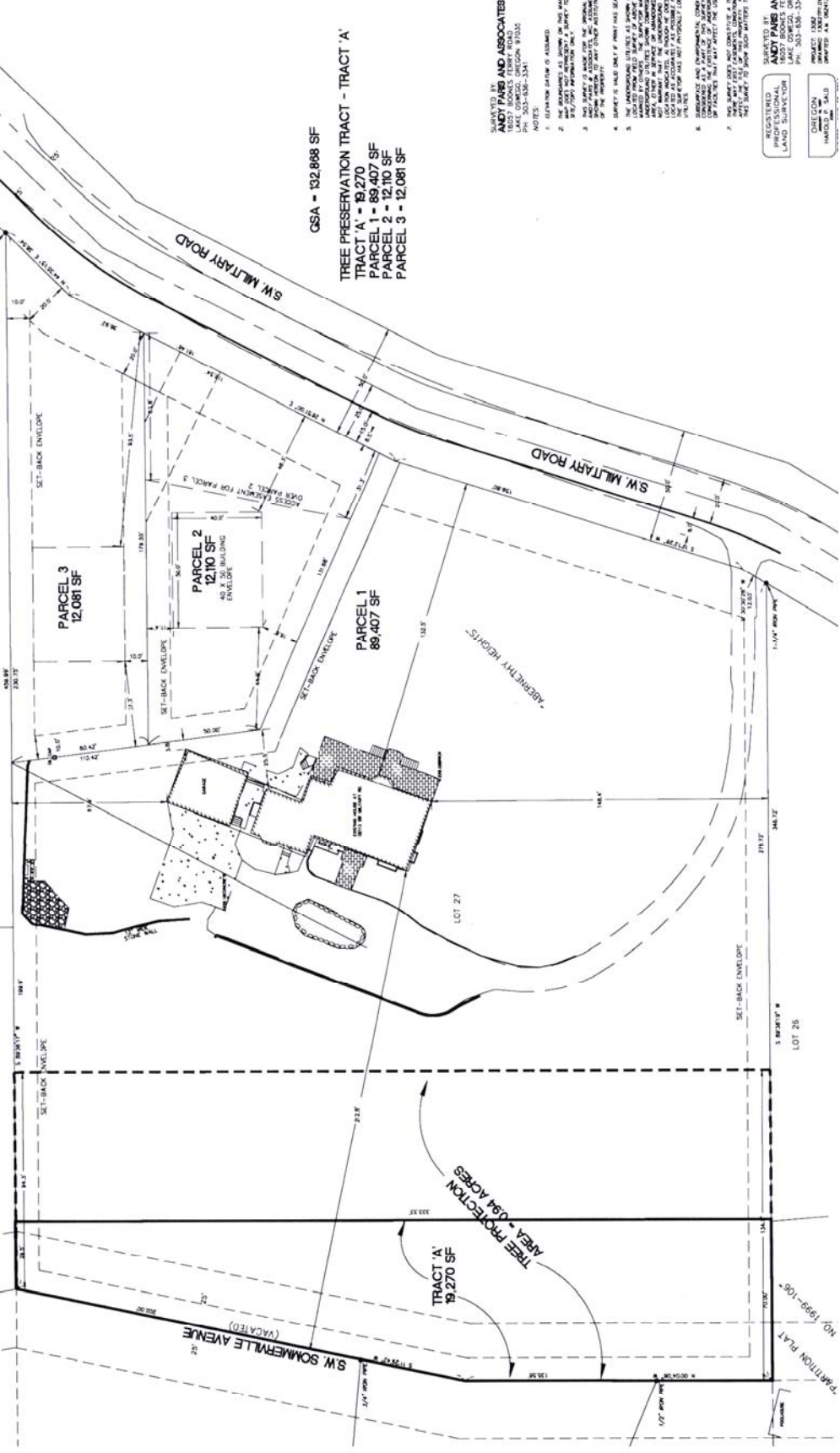
APPLICANT:
 BETH BERSELLI C/O
 PORTLAND, OREGON 97218-8482

OWNER:
 BETH BERSELLI
 18027 BOONVILLE TERRY ROAD
 PORTLAND, OREGON 97224
 PH: 503-536-3341

PLANNER:
 MARK DANE PLANNING, INC.
 1840 SW BUTLER ROAD
 PORTLAND, OREGON 97224
 PH: 503-536-3341

LAND SURVEYOR:
 ANDY PARR AND ASSOCIATES, INC.
 18027 BOONVILLE TERRY ROAD
 PORTLAND, OREGON 97224
 PH: 503-536-3341

APPROBATOR:
 MULTNOMAH COUNTY CLERK
 1000 NE MULTNOMAH AVENUE
 PORTLAND, OREGON 97232
 PH: 503-536-3341



GSA - 932,868 SF
TREE PRESERVATION TRACT - TRACT 'A'
TRACT 'A' - 19,270 SF
PARCEL 1 - 89,407 SF
PARCEL 2 - 12,110 SF
PARCEL 3 - 12,081 SF

LU 13-199789 LDS AD
 EX. C.2