



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** October 6, 2016  
**To:** Interested Person  
**From:** Brandon Rogers, Land Use Services  
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## **NOTICE OF A TYPE II<sub>x</sub> 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 15-242264 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Gabe Headrick/Steelhead Architecture  
2800 NW Thurman St  
Portland, OR 97210

**Owners:** Diana M Kirk, Steven J Dopp  
4245 SW Alfred St  
Portland, OR 97219

**Site Address:** 4245 SW Alfred St  
**Legal Description:** BLOCK 4 LOT 14, HUBER TR  
**Tax Account No.:** R406401380  
**State ID No.:** 1S1E29CB 04700  
**Quarter Section:** 4025  
**Neighborhood:** West Portland Park, contact Vick Johnson at [cvmmjohns@comcast.net](mailto:cvmmjohns@comcast.net)  
**District Coalition:** Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.  
**Zoning:** Residential 7,000 (R7)  
**Case Type:** Land Division Partition (LDP)  
**Procedure:** Type II<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

**Proposal:** The applicant proposes to divide the 14,521 square foot site into two parcels; a 7,825 square foot parcel that will contain the existing house and a 6,696 square foot flag lot, which will be vacant and developed with a detached single family residence. Stormwater will be managed on-site for the proposed flag lot driveway. Sanitary sewer, stormwater and water services will be provided by existing utilities located in SW Alfred Street. Access will be provided by the existing driveway and a new driveway connection to SW Alfred Street. The site contains trees subject to tree preservation requirements of Title 33 and Title 11.

This partition proposal is reviewed through a Type II<sub>x</sub> 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 Area (see 33.660.110).

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

## FACTS

**Site and Vicinity:** The site is developed with a single family residence and accessory structure and is characterized by trees and sloped topography. The site elevations range from 636 to 618 feet, with an average slope of approximately 11 percent, sloping down to the north. The surrounding neighborhood is similar in character, including several flag lots on the block. There are commercial uses in the vicinity of the site along SW Barbur Blvd. Jackson Middle School and Markham Elementary School are located in the vicinity, as well as Woods Memorial and Ash Creek Natural areas. The street grid is comprised of long blocks, including mostly paved streets with and without curbs, gutters and sidewalks.

### Infrastructure:

- **Streets** – The site has approximately 94 feet of frontage on SW Alfred Street. There is one loop driveway entering the site that serves the existing house on the site. At this location, the City's Transportation System Plan classifies SW Alfred as a Local Service street for all transportation modes. Tri-Met provides transit service approximately 360 feet from the site at SW Capital Highway via Bus 44. SW Alfred Street is a 32-ft wide paved roadway within a 50-ft right-of-way. There is an existing curb but no sidewalk along the site’s frontage.
- **Water Service** – There is an existing 8-inch water main in SW Alfred Street. The existing house is served by a 3/4-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch public combination sewer line in SW Alfred Street.
- **Stormwater Disposal** – There is an 18-inch public storm-only sewer currently available to this property located in SW Alfred Street.

**Zoning:** The R7 zone designation is one of the City’s single-dwelling zones intended to preserve land for housing and to promote housing opportunities for individual households. The R7 zone implements 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 **December 15, 2015**. One written response has been received from a notified property owner in response to the proposal. No response was received from the Southwest Neighborhoods Coalition or the West Portland Park Neighborhood.

**Staff Response:** The neighbor’s response (Exhibit F.1) expresses concerns regarding stormwater management and slope stability; development standards such as setbacks, height limitations, building coverage and privacy. Information regarding these issues may be found in sections D *Potential Landslide Hazard Area*, section G *Grading and Land Suitability* and section L *Services and Utilities*; Stormwater Management section. Regarding development standards for the proposed flag lot, the R7 flag lot development standards require building setbacks of 10 feet

along all lot lines and a 5-foot deep landscaped area around the perimeter of the flag lot to buffer the flag portion from surrounding lots; however the pole and internal lot lines are exempt from this requirement. The landscaping standard is the L3, high screen standard which achieves visual separation with groundcover, evergreen shrubs and trees to form a 6-foot tall screen. Alternatively, a 6-foot high masonry wall may be substituted for the shrubs. Building height and coverage requirements are outlined in Chapter 33.110 and are not subject to this review. The neighbor advised the City that they sold the property in May and relocated. The neighbor did not provide a mailing address for the City to mail a response.

## 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.

<b>Criterion</b>	<b>Code Chapter/Section and Topic</b>	<b>Findings: Not applicable because:</b>
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	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 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	No partial public streets are proposed or required.

	rights-of-way	
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**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Based on the applicant's survey, the site area is 14,521 square feet. The maximum density is calculated one unit per 7,000 square feet. Therefore the site has a maximum density of two units. Because the entire site is within the potential landslide hazard area, there is no minimum density. The applicant is proposing two single dwelling parcels. The density standards are therefore met. The required and proposed lot dimensions are shown in the following table:

	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>	<b>Min. Flag Lot Width** (feet)</b>	<b>Min. Flag Lot Depth** (feet)</b>
<b>R7 Zone</b>	4,200	12,000	40	55	30	40	40
Parcel 1	7,825		50	94	50	X	X
Parcel 2 (flag lot)	5,952		X	X	Exempt	94	55

\* 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.

\*\* For flag lots: (1) width and depth are measured at the midpoint of the opposite lot lines in the "flag" portion of the lot; and (2) lot area calculations do not include the pole portion of the lot.

Flag Lots

***When allowed***

In this case the applicant is proposing two parcels, one of which is a flag lot (Parcel 2). The existing dwelling unit and attached garage have been on the property for at least 5-years and are located so that a land division meeting the minimum lot width standards is not possible. There is no minimum density because the site is located entirely in the Landslide Hazard area, therefore the minimum density standards are met. Therefore, the thresholds for when a flag lot is allowed to be created have been met.

***Dimensions***

The proposed flag lot (Parcel 2) meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and meets the minimum lot area, width and depth standards, as illustrated in the above table.

***Vehicle Access***

Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.

In this case, the flag and driveway portion of Parcel 2 will be located to south of the existing driveway and garage. Due to the location of the existing house, attached garage and the existing driveway connection to SW Alfred Street, shared access is not feasible. No other alternatives beyond the proposed location were suitable for the additional vehicle access to Parcel 2.

Parcel 2 has met the thresholds for when a flag lot is allowed. Therefore, Parcel 2 is allowed.

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 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees. To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development considering the intensity of development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets.

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites. Some trees are exempt from the requirements of this chapter, if they are unhealthy, a nuisance species, located 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.2) illustrating the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.8) identifying each tree, evaluating its condition and suitability for preservation or its exempt status, and specifying a root protection zone and tree protection measures for each tree to be preserved. Based on this information, seven trees, which provide a total of 270 inches of tree diameter, are subject to the preservation requirements of this chapter.

The trees proposed for preservation are in good condition and include native, non-nuisance species. Five of the trees measure 20 inches Diameter at Breast Height (DBH) or greater (Trees 339, 340, 341, 342, 343-350). The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R7 zone and will not conflict with any existing utility easements, proposed services or site grading.

The applicant proposes to retain three (60 percent) of the trees that are 20 or more inches in diameter and 140 inches (51 percent) of the total tree diameter, so the proposal complies with the following Tree Preservation option:

**Option 3:** *Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site.*

The findings above show that the applicable tree preservation standards are met. Therefore, this criterion is 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 proposed land division against this criteria, the applicant has submitted a Landslide Hazard Study of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.3 and addendums in Exhibits A.5, A6 and A.8). 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 geotechnical evaluation submitted by the applicant 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 concluded 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 support an on-site stormwater disposal for the flag lot driveway and off-site disposal (connection to the public storm only sewer line located in SW Alfred Street) for stormwater from the existing and proposed buildings. Site Development and BES support these methods of stormwater disposal for the project.

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, while limiting the impacts of erosion and sedimentation and protecting water quality and aquatic habitat.

In this case, the entire site is located within 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 and landslide concerns and assure that the preserved trees on the site will not be disturbed.

A Preliminary Clearing and Grading Plan (Exhibit C.2) and a Landslide Hazard Report Exhibit A.3 with addendums in Exhibits A.5, A.6 and A.8) were submitted by the applicant. The Landslide Hazard Report describes how grading and tree removal should occur on the site to minimize erosion risks. The Geotechnical Engineer and Consulting Engineering Geologist state that the proposed tree removal would not pose a detrimental impact to the stability of slopes specific to this site and surrounding property, based on the existing site grades along the tree removal areas (Exhibit C.1).

The applicant also provided a Tree Protection Plan (Exhibit C.2) 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.8) that further discusses grading on the site.

Grading will primarily involve placing compacted fill for the foundation of the new house and flag lot driveway and trenching for underground utilities, but will not include mass grading of the site to alter the existing contours. Following the recommendations of the Landslide Hazard Study at the time of development will help to limit erosion and sedimentation concerns by implementing methods from the Erosion Control Manual. The Site Development section of BDS will review the grading plan and Landslide Hazard Report at the time a grading permit is submitted by the applicant.

The grading plan and Landslide Hazard Report have been designed to provide on-site stormwater management for the proposed flag lot driveway. Stormwater runoff from the lots will be appropriately managed with onsite infiltration for the proposed flag lot driveway with a filter strip and structural fill, while stormwater from the existing and proposed houses will be collected, treated on site and piped to the public stormwater utility located in SW Alfred Street. Additionally, the applicant's narrative states that runoff will not be directed towards neighboring lots. These stormwater management methods will assure that the stormwater runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

In addition, no clearing and grading will be permitted within the root protection zones of the trees on the site that are required to be preserved. Preserving these trees will help limit erosion by assuring that the tree roots will help to hold the soil in place. Topsoil storage and general stockpiling on the site should only occur if it will not create any additional erosion concerns as recommended by the geotechnical engineer. The Arborist Report (Exhibit A.8) contains specific protection measures for disturbance within the root protection zone of tree #341 (40" Douglas fir). These protection measures will be implemented at the time of the removal of the existing driveway paving.

The site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for site grading. The permit application must include a final clearing, grading and erosion control plan that must be consistent with the preliminary grading plan approved with the land division. 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. As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan, 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.

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

**Findings:** 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 regulations of section 33.641 allow the traffic impacts caused by dividing and developing land to be identified, evaluated, and mitigated if necessary. The following approval criterion applies to all land divisions in all zones: 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 applicant is proposing this flag lot partition in order to develop the subject site with one new single-family residence. An existing single-family dwelling on the property will remain. Therefore, the project will result in a net addition of one new single-family home which will

have one on-site parking space. The minimal expected added vehicle trips – One AM peak hour trip/One PM peak hour trip for a total of 10 total new daily trips, ITE Trip Generation Manual, 9th Edition, - will not adversely impact the operations of area intersections. On-street parking will not be adversely impacted given the on-site parking opportunities being provided on the new lot. The proposed land division will not have any effect to 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:

<p><b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.</p> <p>The Water Bureau 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. Title 21 requires that the water service connection be located along the frontage of the lot to be served. Water service connections are not allowed by means of an easement. Therefore, prior to final plat, the location of the water service for the existing home must be verified. If the water service for Parcel 1 is located within the frontage of Parcel 2, it must be relocated, so that the service connection will be located along the frontage of the Parcel 1</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services 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.</p> <p>As a result of the proposed land division, the existing sewer connection that serves the house on Parcel 1 will cross over the pole portion of Parcel 2 to reach the sewer main in SW Alfred Street. The applicant must either obtain a plumbing permit to cap the existing sewer connection and establish a new service for the house located entirely on Parcel 1 or provide an easement for the sewer line on the Final Plat. All plumbing permits must receive final inspection approval prior to Final Plat approval.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1 &amp; E.5</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:</p> <p><b>Flag Lot Driveway:</b> Stormwater from the flag lot driveway will be managed with a filter strip and infiltration to engineered structural fill and shallow native soils.</p> <p><b>On Site Stormwater Parcels 1 and 2:</b> Stormwater from roofs of structures will be directed to flow through planters and then discharged to the storm-only sewer located in SW Alfred Street. Based on the topography of the site, on-site stormwater management for the individual parcels is not recommended by BES due to the steep slopes located at the north portion of the property. BES has indicated conceptual approval of this proposal. BES requires the existing house to be retrofitted to meet the Stormwater Management Manual requirements prior to approval of the final plat.</p>
<p><b>33.654.120.B &amp; C Width &amp; elements of the right-of-way</b> – See Exhibit E.2 for bureau comment</p> <p>In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for</p>



motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development.

Adjacent to the project site, SW Alfred Street is improved with a paved roadway and curbs, but no sidewalks. In this case Portland Transportation has determined that sidewalk improvements must be made in order to meet City standards ensure that safe pedestrian travel is possible. To accommodate these improvements one foot of additional right-of-way must be dedicated along the frontage of the site. With those improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that curb and sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

### **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.

## **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:

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F). These standards apply to Parcel 2.

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 1. A detached accessory structure must be removed prior to approval of the final plat, because it would be the only structure on Parcel 2, where no primary structure is located. 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 R7 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 relating 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 approximately 11 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 Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this

standard, all accessory structures on proposed Parcel 2 must be removed prior to final plat. A Demolition permit is required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.

- Paved Vehicle Area – The applicant must meet the requirements of BDS to reduce the paved area of the existing driveway for Parcel 1 so that it does not exceed the maximum allowed paving area between the front lot line and front building line. Chapter 33.266 requires no more than 40 percent of the area between the front lot line and front building line to be paved or used for vehicle area. The drive through driveway is proposed to be removed. A zoning permit is required to change driveway configurations.

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.

<b>Bureau</b>	<b>Code Authority and Topic</b>
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 11 –Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; addressing, fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

## CONCLUSIONS

The applicant has proposed a two parcel partition, as shown on the attached preliminary plan (Exhibit C.1). 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: grading and stormwater management, tree preservation, sidewalk improvements, removal of the existing accessory structure. With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a two-parcel partition, that will result in one standard lot and one flag lot as illustrated with Exhibit C.1, subject to the following conditions:

**A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review and Water Bureau 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.
- The correct spacing of water service lateral and sanitary sewer lateral per OAR 333 as required by the Portland Water Bureau.

**B. The final plat must show the following:**

1. The applicant shall meet the street dedication requirements of the City Engineer for SW Alfred Street. The required right-of-way dedication must be shown on the final plat.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.10 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for Tree Preservation has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

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

**Streets**

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage. The applicant must obtain an approved Right Of Way permit from the Portland Bureau of Transportation to install the required sidewalk corridor. The improvements along the frontage of Parcel 1, where the existing house will be retained, must be constructed prior to final plat approval. The improvements along the frontage of Parcel 2 shall be constructed at the time of development.

**Utilities**

2. The applicant shall meet the requirements of the Water Bureau concerning relocation of the water service connection to the existing home if it is found to not be within the frontage of Parcel 1.
3. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
4. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access road and apparatus access. Alternately, the applicant will be required to install residential sprinklers in the new house on Parcel 2 if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

5. Prior to approval of the final plat, the applicant shall obtain and have finalized plumbing permits for capping the existing sanitary lateral connection to the house on Parcel 1 and providing a new lateral connection to serve Parcel 1.

### **Existing Development**

6. The applicant must obtain a finalized demolition permit for removing the accessory structure on Parcel 2. Prior to removal of these structures, tree protection must be installed in accordance with the approved Tree Preservation Plan, per Condition D.1.
7. The applicant must obtain a finalized zoning permit to reconfigure the existing driveway to bring the driveway on Parcel 1 into conformance with 33.266.120.C.3, which limits the area of paving between the front lot line and the front building line. Tree preservation must be in accordance with Condition D.1, below.
8. 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.

### **Required Legal Documents**

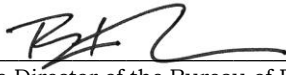
9. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced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

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.2) and the applicant's arborist report (Exhibit A.8). Specifically, trees numbered 339, 340, 341 and 462 are required to be preserved, with the root protection zones indicated on Exhibit C.2. 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. The applicant must meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
3. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
4. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal. Please refer to the final plat approval report for details on whether or not this requirement applies.
5. The applicant shall meet the requirements of the Portland Bureau of Transportation for frontage improvements for Parcel 2. The applicant shall obtain an improved right of way permit for frontage improvements to be constructed at the time of development.

- The fire access lane shall have a turning radius of 28 feet inside, 48 feet outside, from both directions.

**Staff Planner: Brandon Rogers**

**Decision rendered by:**  **on October 4, 2016**

By authority of the Director of the Bureau of Development Services

**Decision mailed October 6, 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 September 25, 2015, and was determined to be complete on December 14, 2015.

*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 September 25, 2015.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended by 245 days (90, 60, and 95 day extensions.) Therefore, **the 120 days will expire on: December 13, 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 October 18<sup>th</sup>** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> Avenue Monday through Friday between 8:00 am and 4:30 pm. **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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 503-823-7617 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](http://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.**

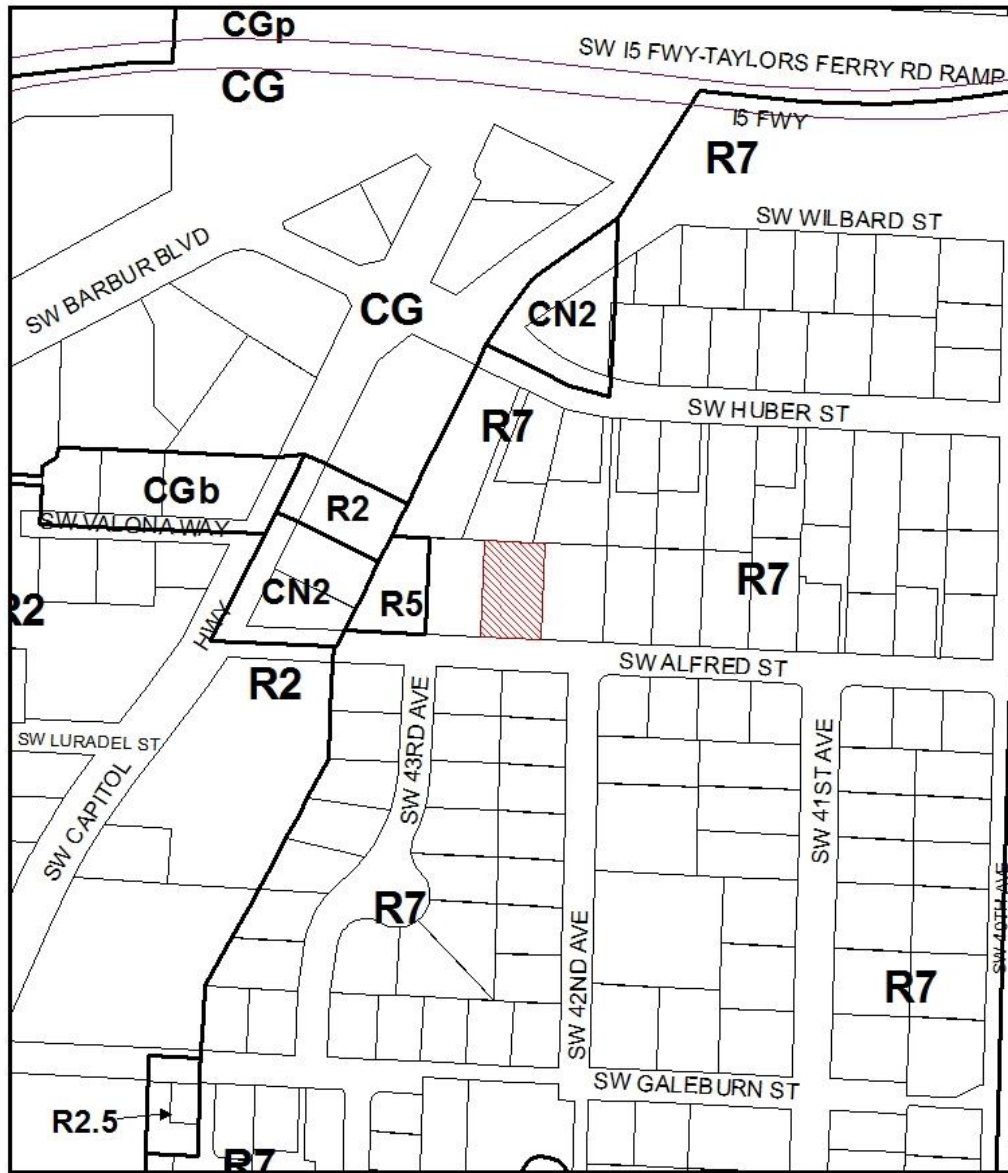
#### EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Original Submittal, Narrative and Plans (09/25/2015)
  - 2. Response to Incomplete Letter (12/14/2015)
  - 3. Revised Landslide Hazard Report (12/22/2015)
  - 4. Revised Plans (07/01/2016)
  - 5. Revised Narrative (07/2/2016)
  - 6. Addendum to Revised Landslide Hazard Report (09/13/2016)
  - 7. Revised Stormwater Report (09/15/2016)
  - 8. Revised Arborist Report and Landslide Hazard Report (09/27/16)
  - 9. Request for 60-day Extension
  - 10. Request for 90-day Extension
  - 11. Request for 95-day Extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Land Division Plan, Site Improvements, Stormwater Plan (attached)
  - 2. Grading, Tree Preservation and Erosion Control Plan (attached)
  - 3. Existing Conditions 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. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Life Safety Section of BDS
- F. Correspondence:
  - 1. David Clardy, January 12, 2016
- G. Other:

- 1. Original LU Application
- 2. Incomplete Letter

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



# ZONING



 Site

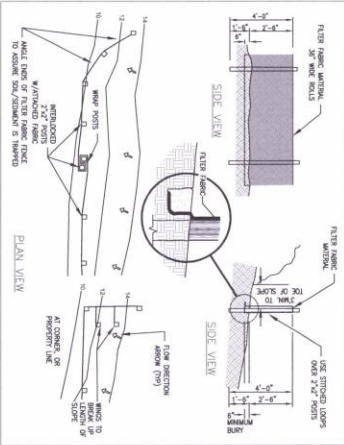
File No. LU 15-242264 LDP  
1/4 Section 4025  
Scale 1 inch = 200 feet  
State\_Id 1S1E29CB 4700  
Exhibit B (Sep 30, 2015)



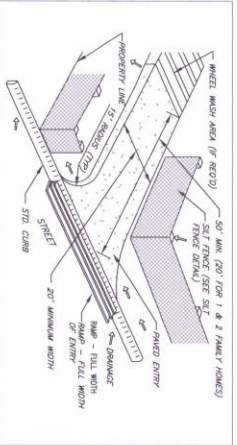


**TREE DENSITY CREDITS:**  
 THE NEW WASHINGTON LOT SHALL BE TREATED AS A  
 2,000 SF  
 1.5 INCH DBH  
 4 FEET TALL  
 1.5 INCH DBH  
 4 FEET TALL  
 1.5 INCH DBH  
 4 FEET TALL  
 1.5 INCH DBH  
 4 FEET TALL

**THE PRESERVATION - OPTION 3:**  
 ON THE BASIS OF THE TREE DENSITY CREDITS  
 PROVIDED IN THIS PLAN, THE PRESERVATION  
 OPTION IS THE MOST APPROPRIATE FOR  
 THIS SITE.

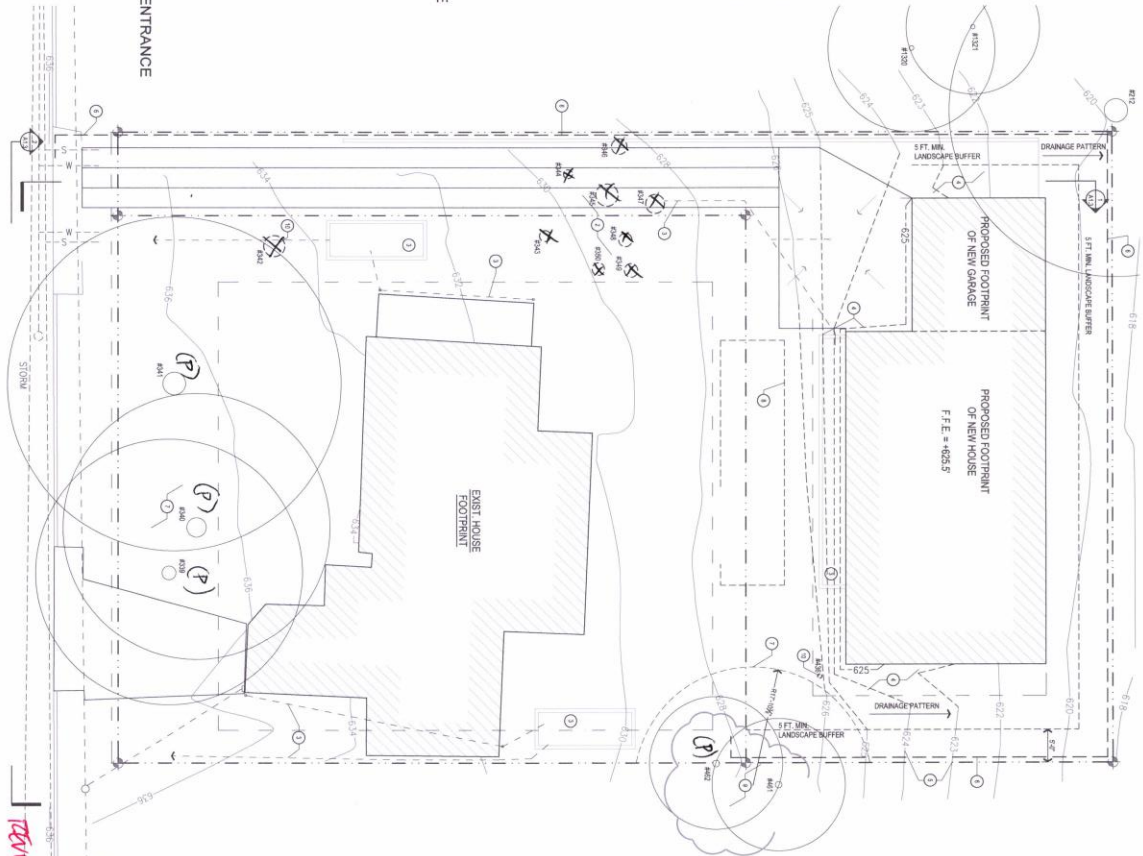


2. EROSION CONTROL MANUAL. TEMPORARY SEDIMENT FENCE  
 SCALE: NTS



3. EROSION CONTROL MANUAL. TEMPORARY CONSTRUCTION ENTRANCE  
 SCALE: NTS

1. GRADING + TREE PRESERVATION / PLANTING  
 SCALE: 1/8"=1'-0" ON 22X34 1/16"=1'-0" ON 11X17



(P) preserve tree  
 X mark tree

**SHEET NOTES:**  
 1. ALL DIMENSIONS ARE IN FEET AND INCHES.  
 2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.  
 3. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.  
 4. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.  
 5. EXIST' GRADE NOT TO BE DISTURBED.  
 6. EXIST' GRADE NOT TO BE DISTURBED.  
 7. (D) TREES TO BE PRESERVED.  
 8. (P) TREES TO BE PRESERVED.  
 9. (X) TREES TO BE REMOVED.  
 10. TREE TO BE REMOVED.

**EROSION CONTROL (SIMPLE SITE):**  
 THE SITE IS A SIMPLE SITE. ALL OF THE EROSION CONTROL MEASURES TO BE INSTALLED SHALL BE AS SHOWN ON THIS PLAN.

**TREE INVENTORY:**  
 THE TREES INCLUDED IN THIS TREE INVENTORY ARE THOSE THAT ARE LOCATED ON THIS PLAN WITHIN THE PROPOSED FOOTPRINT OF THE NEW HOUSE AND GARAGE. THE TREE INVENTORY IS A SUMMARY OF THE TREE INVENTORY DATA FOR THE PROPOSED DEVELOPMENT. THE TREE INVENTORY DATA IS AS FOLLOWS:

TREE ID	DBH (IN)	TALL (FEET)	HEALTH	REMARKS
P1	4.5	12	Good	Preserve
P2	4.5	12	Good	Preserve
P3	4.5	12	Good	Preserve
X1	4.5	12	Good	Remove
X2	4.5	12	Good	Remove
X3	4.5	12	Good	Remove
X4	4.5	12	Good	Remove
X5	4.5	12	Good	Remove
X6	4.5	12	Good	Remove
X7	4.5	12	Good	Remove
X8	4.5	12	Good	Remove
X9	4.5	12	Good	Remove
X10	4.5	12	Good	Remove

CASE NO. 17-24724-L-00  
 EXHIBIT C-2  
 REVISED RECD 09/27/16

LAND USE REVIEW  
 SEPT 19, 2015  
 REV 7/8/16  
 REV 9/8/16  
 REV 9/26/16  
 A1.2

GRADING, TREE PRESERVATION AND  
 EROSION MANAGEMENT PLAN  
 SW ALFRED LOT SPLIT  
 4245 SW W ALFRED ST  
 PORTLAND, OREGON 97210



REGISTERED ARCHITECT  
 STATE OF OREGON  
 LICENSE NO. 12345  
 STEELHEAD ARCHITECTURE  
 107 SE WASHINGTON, STE. 234, PORTLAND, OR 97214