Portland City Auditor

Hearings Office

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DECISION OF THE HEARINGS OFFICER ON APPEAL OF ADMINISTRATIVE DECISION

I. GENERAL INFORMATION

File Number: LU 17-150354 EN (Hearings Office 4180034)

Applicant: Andrew Burton
Creekside Homes
PO Box 315
McMinnville, OR 97128

Property Owner: Kevin Krietemeyer
14121 SW Meridian Street
Beaverton, OR 97005

520 NW Lost Springs Terrace, #301
Portland, OR 97229-6656

Appellant: Forest Park Neighborhood Association
Attn: Gerald Grossnickle
13510 NW Old Germantown Road
Portland, OR 97231

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Staff Representative: Morgan Steele

Site Address: 7318 NW Penridge Road

Legal Description: LOT 3 TL 3500, PARTITION PLAT 1992-83

Tax Account Number: R49724980

State ID Number: 1N1W36AC 03500

Quarter Section: 2921

Neighborhood: Forest Park

Business District: None

District Coalition: Neighbors West/Northwest

Plan District: Northwest Hills - Skyline

Other Designations: Unincorporated Multnomah County; Landslide Hazard Area; *Multnomah County Project* – Resource Site 111A-Sylvan

Zoning: *Base Zone*: Residential 20,000 (R20)
Overlay Zone: Environmental Conservation (c)

Land Use Review: Type II, EN – Environmental Review

BDS Administrative Decision: Approval with conditions.

Public Hearing: The hearing was opened at 9:00 a.m. on January 30, 2019, in the third floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 11:40 a.m. The record was closed at that time.

Testified at the Hearing:
Morgan Steele
Gerald/Jerry Grossnickle
Joan Strong Buell
Charles Mauro
Teos Abadia
Chris Larson
Randy Carlson
Bob Sallinger
Jason Nims
Daniel Mathews
Kevin Krietemeyer
Genevieve Krietemeyer
Andrew Burton
Edgar Diaz
Lindsey Reschke

Proposal:
The Applicant proposed to construct a new single-family residence with associated stormwater management system (vegetated swale, soakage trench, and level spreader), septic system and septic drainfield, and driveway on a currently undeveloped 50,965 square-foot project site described above (the Subject Property). Due to various constraints (topography, soils, parcel shape, etc.) at the Subject Property, the Applicant proposed the single-family residential structure to be located within the resource area of the Environmental Conservation overlay zone ("EC Zone").

The Applicant proposed, in its preferred alternative (see discussion below related to Alternatives Analysis), that there would be approximately 3,348 square feet of permanent

disturbance area and 1,240 square feet of temporary disturbance area within the resource area of the EC Zone. In addition, 20 trees are proposed for removal from the EC zone (19 in the resource area and one in the transition area). Tree removal that occurs outside of the EC Zone will be subject to the regulations of Title 11, Tree Code, at the time of building permit review.

The Applicant indicated that additional tree removal may occur within the EC Zone because of septic drainline installation. The Applicant proposed additional mitigation in conformance with regulations in Zoning Code Section 33.430.140.J if more than 20 native trees were removed. City of Portland BDS Staff proposed that such mitigation, for the removal of additional trees, be reviewed and approved by BDS Staff through a revised Zoning Permit during construction.

As mitigation for permanent impacts to the resource area of the EC Zone, the Applicant proposed to plant 37 Douglas fir and 37 Pacific dogwood trees, in addition to 114 shrubs consisting of snowberry, salal, Indian plum, and Oregon grape. In all areas proposed for mitigation plantings, invasive species would be removed prior to planting. Further, the Applicant proposed to replant all temporary disturbance areas with a total of 60 native shrubs and 20 groundcovers.

The Subject Property is in the EC Zone; therefore, certain standards must be met to allow work to occur by right. In this case, the proposed development exceeds the general development standards for maximum disturbance area (33.430.140.A), maximum front setbacks (33.430.140.O), and tree removal (33.430.140.J). For these reasons, Environmental Review is required for these components of the project.

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

- Section 33.430.250.A Public safety facilities, rights-of-way, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments.
- Section 33.430.250.E Other development in the Environmental Conservation zone or within the Transition Area only.

II. ANALYSIS

Site and Vicinity: The Subject Property is currently an undeveloped residential parcel in Unincorporated Multnomah County in northwest Portland. The Subject Property is located on the west side of NW Penridge Road, a narrow, private residential street. The approximately 51,000 square foot lot slopes steeply to the north and is densely vegetated with a mostly coniferous forest, with some deciduous trees scattered throughout, with an understory that includes a mix of native shrubs, sword fern, trillium, and invasive English Ivy. The surrounding neighborhood is developed with single-family homes.

Zoning: The R20 base zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 12,000 square feet. Newly created lots must have a minimum density of one lot per 20,000 square feet of site area. The regulations of this zone are not specifically addressed through this Environmental Review; all regulations will have to be met at the time of building permit.

Environmental Conservation and Environmental Protection overlay zones protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to preserve a site's protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less significant. The purpose of this land use review is to ensure compliance with the regulations of the environmental zones.

The Northwest Hills Plan District protects sites with sensitive and highly valued resources and functional values. These regulations provide the higher level of protection necessary for the plan district area. BDS Staff, in its December 7, 2018 Notice of a Type II Decision on a Proposal in Your Neighborhood ("BDS Decision"), indicated that none of the standards or additional approval criteria from this plan district apply to this proposal.

Environmental Resources: The application of the environmental overlay zones is based on detailed studies that have been carried out within separate areas throughout the City. Environmental resources and functional values present in environmental zones are described in environmental inventory reports for these respective study areas.

The Subject Property is mapped within the *Inventory of Natural, Scenic and Open Space Resources for Multnomah County Unincorporated Urban Areas* as Resource Site #111-A, Sylvan. The plan includes the following description of Site #111-A: *The site straddles the Tualatin Mountain ridge-top, with portions of the site draining east to the Willamette River and others draining west to the Tualatin River. From its high point along the ridge at 1, 275 feet msl, the site drops east and west along stream corridors to 600 feet msl.*

The identified resources on the Subject Property are native forest (comprised mostly of Douglas fir with scattered red alder and big leaf maple), wildlife, and open space; while the functional values include wildlife habitat, slope stabilization/soil anchoring, and groundwater recharge.

Alternatives Proposed by the Applicant: The Hearings Officer quoted the Staff Decision summary of the Applicant's proposed alternative locations/designs in the Preliminary Findings. The Applicant's narrative discussion of its proposed alternatives can be found in Exhibit A.10 and shown in map form on Exhibits C.4, C.7, C.8, C.9, and C.10.

Construction Management Plan: As described in Exhibit A.10 (page 14) and shown on Exhibit C.3, Construction Management Plan, the Applicant proposed a combination of temporary tree protection and construction fencing to protect trees and other onsite

resources in areas to be left undisturbed. Sediment fencing was proposed to be installed prior to construction to prevent downslope erosion and control sediments. The Construction Management Plan also designated areas for stockpiling and equipment staging outside of the Environmental Zone.

Unavoidable Impacts: The Applicant proposed to disturb a total of 4,588 square feet of the EC Zone for the construction of all elements of the proposal. Of these 4,588 square feet, 3,348 square feet would be permanently disturbed, while the remaining 1,240 square feet would be temporarily disturbed and replanted as laid out in the proposed Mitigation Plan. In conjunction with the proposed disturbance, the Applicant also proposed to remove 20 trees from within the EC Zone (both transition and resource area) that would be replaced as shown on the Mitigation Plan (Exhibit C.5), described below. Additional unavoidable impacts include the loss of vegetative cover in the disturbance areas, increased impervious surfaces, and an increase in the potential for surface runoff and erosion.

Proposed Mitigation: As described in the Applicant's narrative (Exhibit A.10) and as shown on Exhibit C.5, Mitigation Site Plan, the Applicant proposed to mitigate the tree removal and permanent disturbance area by planting 37 Douglas fir, 37 Pacific dogwood (the Applicant agreed to substitute a different shrub/tree instead of the Pacific dogwood), and 114 shrubs throughout the entirety of the Subject Property. In addition, the Applicant proposed to replant all temporary disturbance areas within the resource area with a diverse selection of native shrubs in addition to removing nuisance plants throughout the entirety of the Subject Property. The proposed plantings consisted of native species found on the *Portland Plant List*. The mitigation measures are described as follows:

1) Removal of nuisance plants throughout the subject site;
2) Planting of native trees and shrubs within the Environmental Zone; and
3) Placement of some of the removed tree logs into open areas to provide dead wood habitat.

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

- MC 1-81 (Multnomah County Review) – Denial of an 11-foot wide street along NW St. Helens Avenue;
- MC 1-83 (Multnomah County Review) – Approval of eight lot subdivision and private street (Penridge Estates); and
- LD 17-92: Approval of a three-lot land division. As part of this land division, the Subject Property (Lot 3) was created as a 50,965 square-foot lot.

Previous land use reviews have no effect on the current proposal.

Agency Review: A "Notice of a Type II Proposal in Your Neighborhood" was mailed on November 6, 2017. The following bureaus responded with no issues or concerns:

- Site Development Review Section of BDS
- Portland Bureau of Transportation (PBOT).

The Bureau of Environmental Services ("BES") responded with the following comment (Exhibit E.1):

> "The submitted site plans indicate that the proposed project will add 4102 SF of impervious area. The applicant provided a stormwater report that has been revised to manage the proposed amount of impervious area. Based on this additional information, BES has determined that sufficient information has been provided to demonstrate a feasible stormwater management plan for this project."

The Septic Sanitation Review Section of BDS responded with the following comment (Exhibit E.3):

> "In summary, the septic drainfield layout revision received on 10/28/18 for the proposed 5-bedroom development, along with the previously displayed proposed development shown on the August 31, 2018, revision can be supported by Septic Sanitation for **general layout only**. There appears to be sufficient space on the property with the proposed development to support 320 lineal feet of viable primary and repair drainfield area for the proposed 5-bedroom development on slopes less than 30% that meet setback criteria in OAR 340-071-0220 (Table 1). A Septic Installation Permit is required prior to Building Permit Issuance."

The Life Safety Review Section of BDS responded with the following comment (Exhibit E.4):

> "Building Permit 16-285611-RS has been applied for and is currently under review. Please refer to correspondence from the Life Safety plans examiner for building code-related comments."

The Multnomah County Transportation Program responded with comments/concerns to earlier versions of the stormwater management system, details of which can be found in Exhibit E.6. However, no comments were received in response to updated stormwater management plans and/or reports. This proposal has all stormwater being discharged onsite; no stormwater is being directed towards the street.

Neighborhood Review: A Notice of a Type II Proposal in Your Neighborhood was mailed on November 6, 2017. Written responses were received from the Neighborhood Association and notified parties in response to the proposal. On December 20, 2018, the Forest Park Neighborhood Association ("Forest Park NA") filed an appeal regarding the BDS Decision (Exhibit H.2). The Forest Park NA took exception to a number of sections of the BDS Decision. An appeal hearing was held on January 30, 2019 (the "Hearing"). Gerald Grossnickle ("Grossnickle"), Chair of the Forest Park NA Land Use Committee, and others supporting the Forest Park NA appeal, testified at the Hearing in support of the Forest Park NA. The Hearings Officer addressed the Forest Park issues/exceptions in the Preliminary Findings and the specific findings for the relevant approval criteria below.

Hearings Officer Note: BDS Staff, in the Staff Decision, stated the following: "Also, in their response above, the applicant noted the property line to be in the middle of the private street. To be more precise, the southeastern portion of the property line is located approximately 8 feet into the private street." The Hearings Officer considered this to be a true and accurate statement.

ZONING CODE APPROVAL CRITERIA

Preliminary Findings:
The Hearings Officer, based upon a review of the record in this case and also the testimony offered at the Hearing, found that three appeal issues raised by the Forest Park NA warranted particular consideration. In summary, the three issues relate to the following:

1. **Does Portland City Code (PCC) 33.430.140.J, or any other relevant PCC section, place a 225-inch absolute limit on native tree removal in the EC Zone?**
2. **Does PCC 33.430.280 apply to Applicant's proposal in this case?**
3. **Did Applicant meet the PCC 33.430.250 "alternatives analysis" tests?**

1. Does PCC 33.430.140.J, or any other relevant PCC section, place a 225-inch absolute limit on native tree removal in the EC Zone?

Grossnickle, in Exhibit H.28, set forth the Appellant's argument that the Applicant proposal and BDS Staff approval improperly allowed the removal of more than 225 diameter inches of native trees from the Subject Property. Grossnickle argued that removal of more than 225 inches of native trees exceeded the PCC 33.430.140J.1.b "limit." (See also, Appeal summary, Exhibit H.2, pages 1 and 2 and Larson comments, Exhibit H.55, page 3). Grossnickle stated, in Exhibit H.28, the following:

> "The Code allows removal of native trees in a resource zone, but only to a maximum total diameter of 225 inches. [footnote reference omitted]. The applicant proposes to remove far more, despite the Code's unqualified prohibition. The Decision approves a mitigation plan that uses the Table 430-3 [foot not omitted] (Tree Replacement in Environmental Overlay Zone) as if the Code allows a mitigation plan to supersede the limitation of 225-inch maximum removal. It is clear that Table 43-3 applies to removal and replacement of trees up to a maximum of 225 inches. If this were not the case, the prohibition against removing more than 225 inches would be meaningless."

BDS Staff, in Exhibit H.3, responded to the Appellant's "225-inch maximum tree removal" argument as follows:

> "It is also important to note that a very pertinent consequence of not meeting the maximum tree removal standard of 225-inches diameter breast height (33.430.140.J.1.b) is that it triggers discretionary Environmental Review, with its

> associated burden of a required alternatives analysis, a detailed construction management plan, and a thorough mitigation plan, all of which must demonstrate that the applicant's proposal has the least impact of other practicable alternatives, protects remaining environmental resources, and adequately mitigates unavoidable impacts. It effectively forces the applicant to justify, not only removal of trees, but all aspects of the proposal that result in the removal of trees, providing much more intense scrutiny than merely meeting the 225-inch standard through an objective plan-check process."

The Hearings Officer takes note of PCC 33.430.120.A which, in part, states the following:

> "Compliance with the development standards of this chapter is required for all development in the environmental zones and is determined as part of the building permit or development permit application process. ***For proposals that cannot meet all of the standards, Environmental Review is required.*** Where a proposal can meet all the standards, the applicant may choose to go through the discretionary environmental review process, or to meet the objective standards of this chapter." [bolding and italics added by the Hearings Officer]

The Hearings Officer also takes note of the introductory language of PCC 33.430.250 Approval Criteria which, in part, states:

> "When environmental review is required because a proposal does not meet one or more of the development standards of Section 33.430.140 through .190, then the approval criteria will only be applied to the aspect of the proposal that does not meet the development standard or standards."

The Hearings Officer finds the above-quoted section of PCC 33.430.250 supports an interpretation that City Council, when drafting the environmental review code, intended that if one or more of the PCC 33.430.140 through .190 development standards were not met (i.e. exceeded), then the PCC 33.430.250 approval criteria applied. Restated, the Hearings Officer finds the introductory language of PCC 33.430.250 is further support that the development standards found in PCC 33.430.140 through .190 are not absolute limits but act as a trigger mechanism for environmental review.

The Hearings Officer finds that PCC 33.430.140.J.1.b does establish a maximum limit of tree removal. Similarly, the Hearings Officer finds PCC 33.430.140.A sets a disturbance standard and PCC 33.430.140.F sets a setback standard. The Applicant, in this case proposed to exceed the development standards of PCC 33.430.140.A, O, and J (See Exhibit H.4, page 2). PCC 33.430.120.A clearly states that the consequence of not meeting a development standard is that an Applicant may choose to undertake the Environmental Review process described in PCC 33.430.210-.280.

The Hearings Officer finds the language of PCC 33.430.120.A clearly and unequivocally provides that an applicant proposing to exceed a development standard, such as those found

in PCC 33.430.140.A, O, and J, may do so if the proposal meets all of the relevant approval criteria of PCC 33.430.210 -.280. The Hearings Officer finds the 225-inch reference in PCC 33.430.140.J.1.b is a "trigger" (to undertake Environmental Review or meet the standards) and not an "absolute limit" to the number of inches of native tree diameter than can be removed in an environmental resource/transition zone. The Hearings Officer rejects the Appellant's argument that the Applicant's proposal must be denied because the Applicant proposed (and BDS Staff approved) the removal of more than 225 inches of diameter of native trees; the Applicant is given the opportunity to attempt to the meet the relevant Environmental Review criteria.

2. Does PCC 33.430.280 apply to Applicant's proposal in this case?

PCC 33.430.280 states the following:

> "Modifications That Will Better Meet Environmental Review Requirements. The review body may consider modifications for lot dimension standards or site-related development standards as part of the environmental review process. The review body may not consider modifications to standards for which adjustments are prohibited. Modifications are done as part of the environmental process and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor-area ratios, intensity of use, size of the use, number of units, or concentration of uses) are subject to the adjustment process of Chapter 33.805. In order to approve these modifications, the review body must find that the development will result in greater protection of the resources and functional values identified on the site and will, on balance be consistent with the purpose of the applicable regulations. For modifications to lot dimension standards, the review body must also find that the development will not significantly detract from the livability or appearance of the area."

The Appellant argues that PCC 33.430.280 is an applicable approval criterion for this case (Exhibit H.2, page 2). The Appellant stated, in Exhibit H.2, page 2, the following:

> "33.430.280 includes mandatory approval criteria that were not addressed in the decision or listed in the public notice. As relevant here, the criteria require that modification of a development standard in environmental review 'will result in **greater** protection of the resources and functional values identified on the site and will, on balance be consistent with the purpose of the applicable regulations.' The BDS notice for this application dated November 6, 2017 indicates that Environmental Review is required because development standards are not met for maximum disturbance area (**33.430.140 A**) and tree removal (**33.430.140J**)." (bolding added by the Appellant in Exhibit H.2)

BDS Staff responded to the Appellant's PCC 33.430.280 argument as follows:

> "Zoning Code Section 33.430.20, *Modifications*, applies only to site-related development standards (e.g. height, setbacks, etc., typically presented in base zone chapters of the Zoning Code), not Environmental Overlay Zone Standards presented in 33.430.140. For example, a modification may be made to the base zone height standard if the applicant can show the increased height (and reduced footprint) will result in greater protection of the resources. Environmental Development Standards of 33.430 are <u>not</u> subject to 33.430.280, as proposals that do not meet environmental standards are processed through an Environmental Review and will be subject to applicable approval criteria 33.430.250.A through G. If no site-related standards are being modified, as is the case with this proposal, Section 33.430.280 does not apply, and the applicant is not required to address or meet the approval criteria. See 33.430.120, *Procedure* and 33.430.220, *When Environmental Review is Required* for details on Environmental Review triggers, and 33.430.250 for which Approval Criteria apply when Standards 33.430.140 through 33.430.190 are not met."

PCC 33.430.280 allows a review body, such as the Hearings Officer, to consider "modifications for lot dimension standards or site-related development standards" as part of the environmental review process. The Hearings Officer agrees with BDS Staff, as set forth above (Exhibit H.2), that the "lot dimension standards or site-related development standards" referenced in PCC 33.430.280 are not the Environmental Zones "General Development Standards" set forth in PCC 33.430.140.

The Hearings Officer finds that when a PCC 33.430.140 development standard is not met, an applicant may seek to use the Environmental Review process. The Hearings Officer finds that making an applicant meet the relevant PCC 33.430.250 approval and also meet the requirements of PCC 33.430.280 would be redundant.

While not independently sufficient to find that PCC 33.430.280 does not apply in this case, the Hearings Officer notes that PCC 33.430.280 requires an applicant for a Modification to demonstrate to the review body "that the development will result in greater protection of the resources and functional values identified on the site and will, on balance, be consistent with the purpose of the applicable regulations." The Hearings Officer notes that PCC 33.430.140 General Development Standards do not contain "purpose" sections and lot dimension standards and site-related development standards (i.e. PCC 33.110) do contain "purpose" sections.

The Hearings Officer considered the textual language and the context of the textual language of PCC 33.430.280 to that found in PCC 33.430, PCC 33.110, and PCC 33.805 and finds PCC 33.430.280 is not a required and/or relevant approval criterion in this case. The Hearings Officer finds the PCC 33.430.250 approval criteria subsume and/or are more extensive than the PCC 33.430.280 requirements.

3. Did the Applicant meet the PCC 33.430.250 "alternatives analysis" tests?

The Hearings Officer finds that an "alternatives analysis" is required to be conducted by the Applicant under PCC 33.430.250.A.1.a and PCC 33.430.250.E.2. The Hearings Officer finds that each of these sections of the PCC requires an Applicant to address a number of common questions. In this section of the Preliminary Findings the Hearings Officer addresses those common questions. The Preliminary Findings that follow shall also be considered additional findings for PCC 33.430.250.A.1.a and PCC 33.430.250.E.1 and E.2.

The Appellant, in Exhibit H.2 (December 20, 2018 letter from the Appellant to the Hearings Officer) summarized its arguments related to approval criteria PCC 33.430.250.A.1.c and PCC 33.430.250.E.1 and E.2 as follows:

> "these subsections require minimizing impact on environmental resources and the functional value of those resources 'consistent with allowing those uses generally permitted or allowed in the base zone without land use review.' The term 'use' in the context of the zoning code refers to the basic function of the development, e.g., a single-family dwelling, but the decision impose that it refers to the various parameters of a use, e.g., building coverage. Consequently, the decision wrongly finds compliance with the development standards to support approval of the environmental review. It has not been established that practicable alternatives (alternatives that either comply with the standards, or exceed them by lesser amounts) cannot be found. An application will be approved under Environmental Review only if the applicant shows that the criteria are met or that there are not practicable alternatives."

BDS Staff, in Exhibit H.3, responded to the Appellant's comments, as quoted above, by stating (in part):

> "...the main reason for resource impacts at this specific site is the septic drainfield. As noted in the December 7, 2018, Administrative Decision for LU 17-150354 EN, to allow the intended use for this site, a single-dwelling residence, a septic system is necessary. State regulations slopes and setbacks to property lines, road, and structures. This dictated the location of the house and other development on the site. The house is located as close to the street as possible while maintaining the minimum setback to the septic system."

Chris Larson ("Larson"), an opponent of the Application, also raised issues related to the Applicant's alternatives analysis. Larson, in Exhibit H.55 (page 2), stated that:

> "alternatives listed in the Decision Notice (12/7/18) that did meet the setback requirement were rejected for the stated reason that the septic field would be placed on a steep slope. However, **steep slope fields are allowable** per OAR 340-071-0290.2.f. The Septic Sanitarian Section, in a Land Use Review Response (4/27/18), stated this fact and suggested that placing the septic field in the steep slope of Environmental Conservation Zone may be possible.
>
> Several alternatives meeting setback requirements were also disqualified because the site location would require the relocation of a Portland General

> Electric transformer. While this is a valid concern, it does not constitute a compelling reason to push development into an Environmental Conservation Zone.
>
> Under Environmental Zone Approval Criteria (33.430.250. A.1.a), the proposed development must demonstrate the least significant detrimental impact to identified resources and functional values of other practical and significantly different alternatives including alternatives outside the resource area of the environmental zone.
>
> Given the information above, I respectfully ask that BDS require, as a condition of approval, the additional due diligence necessary to find a less detrimental alterative that **pulls the proposed development out of the environmental zone. At a minimum, that effort should include considering alternate home locations, home sizes, septic treatment options, drainfield locations, and transformer relocation." (bolding added by Larson in Exhibit H.55)**

The Hearings Officer finds it necessary to review, generally, the Environmental Review approval criteria in order to adequately address the "alternatives analysis" issues raised by the Appellant and supporters of the Appellant's arguments. The Hearings Officer agrees with the Appellants that the PCC Environmental code provisions are focused on protecting environmental resources and functional values. However, the Hearings Officer also recognizes that the PCC Environmental code provisions do not preclude development within an Environmental resource or transition zone.

Relevant Environmental Review criteria for this case required the Applicant to consider alternative locations, designs, and construction methods for the purpose of selecting an alternative that has the least significant detrimental impacts upon the identified resources and functional values. The Hearings Officer finds that the "alternatives analysis" requires the Applicant to consider alternatives that are significantly different from one another and whether the significantly different alternatives are practicable.

The Hearings Officer finds that the PCC Environmental Review "alternative analysis" approval criteria do not set forth, in clear and objective terms, who selects the alternative locations, alternative designs, and alternative construction methods. The Hearings Officer also finds that the "alternatives analysis" approval criteria do not establish how many alternatives are to be considered. The Hearing Officer finds that the phrase "significantly different" is not defined in the PCC zoning code. The Hearings Officer finds that the statement that an applicant must consider alternatives outside the resource area of the environmental zone does not anticipate the possibility where an entire site or practically most of a site is within the environmental resource/transition zone.

The Hearings Officer finds that the "alternatives analysis" approval criteria require, as an absolute minimum, two alternatives; a preferred alternative and a minimum of one other alternative. The Hearings Officer finds more than two alternatives infers a good faith attempt by an applicant to truly find an alternative that addresses the PCC 33.430.010 Purpose

statement goal to allow environmentally sensitive urban development (PCC 33.430.017). In this case, the Applicant provided five alternatives which, subject to the findings below, the Hearings Officer considers an adequate number of alternatives.

The "alternatives analysis" requires the consideration of proposed alternative(s) to determine if the proposed alternatives are significantly different and are "practicable." "Practicable" is defined by the PCC (PCC 33.910.030). The PCC 33.910.030 definition of "practicable" is, "Capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes."

The Hearings Officer finds that the Environmental Review "alternatives analysis" is not a prohibition to development within an environmental zone. Rather, the "alternatives analysis" is among many tools (approval criteria) used to ensure an applicant carefully considers the environmental resources and functional values when proposing a use that is allowed in the base zone applicable to the property. In this case, the Hearings Officer finds the Subject Property is zoned R20. The R20 zone allows, as a matter of right, a single-family dwelling. The Hearings Officer finds the "alternatives analysis" approval criteria do not dictate the specific location, size, or design of proposed development. The "alternatives analysis" approval criteria require an applicant to compare significantly different alternatives and determine if one or more of the selected alternative(s) is/are practicable.

The PCC 33.910.030 definition of "practicable" includes the phrase "in light of overall project purposes." The Hearings Officer finds that "overall project purposes" refers to the applicant's goals for a project. The Hearings Officer acknowledges that the applicant's "overall project purposes" are limited by, among other sections of the PCC Zoning Code, the base zone requirements and general development standards. However, the Hearings Officer finds the applicant may exercise subjectivity when determining its "overall project purpose." In this case, the Hearings Officer finds the Applicant's "overall project purpose" is to construct a single-family dwelling to serve the Applicant's family.

In *Mackenzie v. City of Portland*, LUBA No. 2010-096 (2011), the Oregon Land Use Board of Appeals ("LUBA") addressed the City of Portland's Environmental Review "alternatives analysis." LUBA, in *Mackenzie*, accepted the applicant's proposed building location, size and design because it had been approved by Multnomah County.[1] In *Mackenzie*, the applicant selected the location, size, and design of the proposed residential structure.

The Hearings Officer finds the Applicant, in this case, may propose the size and design of his/her/their desired single-family residence (while considering zoning, development standards, and other relevant City and State limitations).[2] The "alternatives analysis" sections

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[1] The property subject to the *Mackenzie* LUBA decision was located partly in Multnomah County (the location of the proposed residence) and partly in the City of Portland (the location of the proposed accessway). The accessway to the proposed residence was the subject of the City of Portland environmental review case that was ultimately appealed to LUBA.

[2] An example of a PCC zoning and development standard would be soil conditions. Applicant's choice of locations may be limited by a site that is designated earthquake susceptible or a site where the specific soil conditions would result in making siting a structure unsafe.

of the Environmental Review approval criteria do not independently mandate a particular size, design, or construction method.

The PCC 33.910.030 definition of "practicable" requires some sort of showing that an alternative "is capable of being done after taking into consideration cost, existing technology and logistics." The definition of "practicable" does not describe the level of detail an applicant must consider when determining if an alternative is too costly or whether existing technology will facilitate a proposed improvement or what logistical matters are to be considered.

LUBA, in *Mackenzie*, addressed the definition of "practicable." LUBA stated that whether or not an alternative is "practicable" is determined by several factors such as cost, existing technology, and logistics in light of the overall project purposes. The Hearings Officer finds that an applicant need not "meet" all of the listed evaluation factors. For example, if the cost of an alternative is excessive, in light of the overall project purposes, then the Hearings Officer believes the alternative is not practicable. Preferably an applicant would address all of the evaluation factors (cost, technology, and logistics) but the Hearings Officer finds that it is possible to find an alternative is not "practicable" if just one or two of the evaluation factors are addressed.

The level of detail or analysis required to be presented by an applicant for the "practicable" evaluation factors is not described in the PCC 33.910.030 definition. A City Hearings Officer discussed the level of detail required for the "cost" factor in *Mackenzie* (footnote 3). The Hearings Officer finds that the evaluation of "practicable" evaluation factors should be done on a case by case basis. The Hearings Officer finds an applicant must provide "substantial evidence" to demonstrate that an alternative is, or is not, "practicable."

The Hearings Officer finds the term "significantly" (in the context of significantly different alternatives – i.e. PCC 33.430.250.A.1.a) is not defined by the PCC zoning code. PCC 33.700.070.D.1 states:

> "Words used in the zoning code have their dictionary meaning unless they are listed in Chapter 33.910, Definitions. Words listed in the Definitions chapter have the specific meaning stated, unless the context clearly indicates another meaning."

"Significantly" is defined, in the Merriam-Webster online dictionary, as "in a significant manner." "Significant" is defined, in the Merriam-Webster online dictionary (https://www.merriam-webster.com/dictionary/significant), as "having meaning especially, having or likely to have influence or effect, of a noticeably or measurably large amount." The Hearings Officer finds, for the purpose of interpreting the "alternatives analysis" sections of the Environmental Review approval criteria, that "significantly" means "a meaningful and apparent difference."

The Hearings Officer finds the "alternatives analysis" language "including alternatives outside of the resource area of the environmental zone" cannot be reasonably interpreted to mean that every applicant in every case must consider an alternative outside the resource area on a

specific site/property. For example, if a site was entirely zoned with an environmental overlay resource zone designation, the property owner would not be required to commit to purchase a different site/property and propose his/her/its desired development on the physically separate property. The Hearings Officer reiterates that the Environmental Review approval criteria anticipate the use of a property, even if zoned within an environmental resource area, to be developed with a use consistent with the base zone. The Hearings Officer finds the "outside of resource area" language does not require an applicant to consider, in all cases, an alternative outside the property boundary of the property owned by the applicant. In this case, the area of the Subject Property located outside of the resource area is not of sufficient size to develop the Applicant's desired residence.

The Hearings Officer agrees with BDS Staff (Exhibit H.3) that the allowed use at the Subject Property is a single-dwelling (subject to R20 zone development standards, other relevant PCC Zoning Code requirements, and Environmental Review standards). The Hearings Officer agrees with BDS Staff that a single-dwelling improvement must have sanitary and stormwater systems on the Subject Property. The Hearings Officer finds the Applicant's proposal includes single-dwelling improvements, including but limited to, sanitary and stormwater systems.

Based upon the findings above, the Hearings Officer reviewed the five alternatives presented by the Applicant (Exhibits A.10, C.4, C.7, C.8, C.9, and C.10). The Hearings Officer quotes below the BDS Staff summary, Exhibit H.4, of the Applicant's proposed alternatives.

> "Alternative #1 – 0-Foot Setback
> The applicant first considered an alternative that would have placed the home at a zero-foot setback. The southeastern property line is located approximately eight feet into the pavement of the existing private street in addition to a six-foot public utility easement located along the edge of the property line. This alternative was rejected for several reasons: 1) it would have placed the house over an existing Portland General Electric transformer, 2) it would have required substantial retaining walls to allow for a driveway big enough to turn around in, and 3) it placed the home over the approved site for the septic drainfield. Due to the topography and soils located on the subject site, the drainfield could not realistically be placed anywhere else.
>
> Alternative #2 – 20-Foot Setback
> Next, the applicant considered placing the house at a 20-foot setback to reduce disturbance within the resource area; however, this alternative was not practicable and was rejected for similar reasons to Alternative #1, most importantly, it would have placed the house over the approved location for the septic drainfield.
>
> Alternative #3 – Accessory Dwelling Unit
> Due to the applicant's project purpose (stated above), the original design of the house included an attached Accessory Dwelling Unit (ADU) for the purpose of housing a set of aging parents. However, given the state mandated

requirements for length of drainlines needed for an ADU, this alternative was rejected as it would have necessitated longer drainlines than the preferred alternative and for those drainlines to be placed on overly steep slopes (>30%).

Alternative #4 – 85-Foot Setback (Preferred Alternative)
This alternative meets the project purpose, is the most practicable, and minimizes impacts to the Environmental Zone and thus was selected as the Preferred Alternative. Due to site constraints such as the shape of the parcel, steep slopes, and shallow soils, the most practicable and approvable location for the drainfield was in the southeast corner of the site, forcing the house to be located behind the septic system, 85 feet from the edge of the private street. This layout also forces the stormwater management system which includes a vegetated swale, soakage trench, and level spreader into the resource area of the Environmental Zone; however, to minimize impacts, the installation of the system will be hand-dug and temporary disturbance restored with native plantings.

After the exploration of multiple layouts and designs, this alternative allows the applicant to satisfy the project purpose while maintaining the least amount of impact out of all practicable options.

Alternative #5 – Alternative Building Location
The applicant explored placing the home to the north of the approved septic location and closer to the road. While less impactful to the resource area, this alternative was deemed impracticable due to the steepness of the site in that area. The steep slope would require significant fill or seismic applications for the foundation and would place the home so far below the street that it would not allow access to the garage. Further, this location would place the house just a few feet from the existing deck of the neighbor to the east. For these reasons, this alternative was rejected."

Based upon the review of Exhibits A.10, C.4, C.7, C.8, C.9, and C.10 and the BDS Staff summary above, the Hearings Officer finds the five alternatives submitted by the Applicant for consideration meet the "significantly different" test. The Hearings Officer finds each alternative proposed by the Applicant has at least one meaningful and apparent difference from the other proposed alternatives. The Hearings Officer finds, for example, evidence in the record that there are locational differences between Alternatives #1, #2, #4, and #5. The Hearings Officer finds there is evidence in the record that Alternative #3 has a different design.

The Hearings Officer next addresses the "practicability" of the Applicant's proposed alternatives. The Hearings Officer, as noted above, found that an applicant must address at least one (preferably more) of the evaluation factors (cost, existing technology, and logistics) in its determination of whether or not an alternative is, or is not, practicable. The Hearings Officer summarized, based upon a review of Exhibit A.10 and Hearing testimony of the

Applicant's representative Andrew Burton ("Burton"), the following **evaluation factors** for each of the Applicant's proposed alternatives.

Alternative #1:

- Locating the residence immediately adjacent to NW Penridge Road creates risks to the safety of vehicles during inclement (icy) weather (risk of vehicles sliding down the sloped NW Penridge Road into the residence); and
- Locating the residence immediately adjacent to NW Penridge Road will increase noise and light (vehicle headlights) impacts on the residence; and
- A Portland General Electric (PGE) transformer will need to be relocated; and
- The lack of room for a driveway creates problems in designing safe access to the garage and increases the likelihood of on-street vehicle parking on NW Penridge Road; and
- Require the construction of retaining walls to create turnaround area for vehicle maneuverability; and
- Additional costs associated with relocating the "approved" location for the septic and possibility that septic approval of a location other than that "approved" is uncertain.

Alternative #2:

- Locating the residence immediately adjacent to NW Penridge Road will increase noise and light (vehicle headlights) impacts on the residence; and
- Additional costs associated with relocating the "approved" location for the septic and possibility that septic approval of a location other than that "approved" is uncertain.
- There will be limited room for a driveway creating increased vehicle parking on NW Penridge Road.

Alternative #3:

- Proposed ADU unit required larger footprint for septic field; and
- Proposed locations of the ADU interfered with design of main residence; and
- Require re-application for septic approval.

Alternative #4:

- Locates residence and septic fields in locations acceptable to the Applicants; and
- Locates septic drainfield in location that can be approved; and

Alternative #5:

- Close proximity to neighbor's house; and
- No access to garage from NW Penridge; and
- Steepness of the site necessitating "significant fill or seismic applications for the foundation" (quote from Exhibit H.4, page 4); and
- Residence located "in a hole that doesn't allow proper ventilation, etc."

The Hearings Officer finds, as discussed above, that the "practicality" evaluation factors are cost, technology, and logistics. The Hearings Officer finds that "cost" refers to the economic consequences of a proposed alternative. The Hearings Officer finds that "existing

technology" refers to current building techniques or methods. The Hearings Officer finds "logistics" means, consistent with the Merriam-Webster dictionary definition, the "handling of the details of an operation."

The Hearings Officer finds that all of the Applicant's proposed alternatives are capable of being done with existing building techniques or methods. The "existing technology" evaluation factor is satisfied by all five of the Applicant's proposed alternatives.

The Hearings Officer next addresses the "cost" evaluation factor. The Hearings Officer quotes from the *Mackenzie* case (footnote 3), as follows:

> "...an appropriate method of determining if an alternative is financially feasible is a representation by an applicant that one or more alternative(s) is/are not economically feasible ('too expensive'); preferably, but not required would be an economic analysis supporting an applicant's not feasible representation. Record 23)"

While not controlling in this case, the Hearings Officer finds the quoted footnote provides insight into both LUBA's and the City of Portland interpretative perspective of the "cost" evaluation factor. The quoted footnote indicates that an applicant must, at the bare minimum, represent that one or more of its alternatives is/are "too expensive." The Hearings Officer, in this case, believes that an applicant's simple statement that is "too expensive" must have some evidentiary support. As noted in the footnote, some sort of economic analysis would provide that "evidentiary support." The Hearings Officer reviewed the evidentiary record and found that the Applicant provided no specific cost estimates for any of its proposed alternatives.

The Hearings Officer found no numerical cost comments related to Alternative #1. The Applicant did reference "additional costs" would be associated with relocating the "approved" location of the septic system. The Hearings Officer finds there is no evidence in the record that a "final" approval of a septic system has been granted by Multnomah County and/or the City of Portland. Further, the Hearings Officer finds that even if a septic system had been approved, that fact by itself would be irrelevant. Evidence that an approved location was the "only possible" septic system location on a site would be relevant. The Hearings Officer found no credible evidence in the record stating that the Applicant's "approved" septic system location was the "only possible" location.

The Hearings Officer finds the location of a septic system is part of the environmental review process that is the subject of this decision. The Hearings Officer finds locating the septic system is a key variable in the "alternatives analysis" and one location that may have been partly, or even finally, approved by Multnomah County is irrelevant to determining if the "cost" evaluation factor has been met. The Hearings Officer finds the appropriate analysis would include comparing the cost of locating the septic system at various proposed alternative locations. The Hearings Officer finds no evidence of such comparative cost of septic systems in various locations can be found in the record of this case.

The Applicant, with reference to Alternative #1, also stated that a retaining wall would be required. The Hearings Officer finds no substantial evidence in the record detailing the nature and extent of a possible retaining wall for Alternative #1. The Hearings Officer may not infer or speculate as to costs associated with a retaining wall for Alternative #1.

The Hearings Officer finds that the Applicant, once again, made reference to the possibility of additional costs that would be incurred (if Alternative #2 or #3 were selected) associated with locating a septic system in a different location that the one already "approved." The Hearings Officer incorporates findings related to Alternative #1 as additional findings related to the "cost" evaluation factor for Alternative #2 or #3. The Hearings Officer finds that the Applicant provided no numerical evidence of "costs" associated with Alternative #2 or #3.

The Hearings Officer finds that the Applicant provided no numerical evidence of "costs" associated with its preferred alternative (Alternative #4). The Hearings Officer finds the Applicant provided no evidence of "costs" associated with Alternative #5. The Hearings Officer finds that the Applicant somehow determined Alternative #4 was "practicable" from a "cost evaluation" factor.

The Hearings Officer finds that the Applicant provided no numerical evidence that the "cost" evaluation factor made any of its proposed alternatives not practicable. The Hearings Officer finds that it may be possible to "infer" that Alternative #1 is not practicable because of additional costs associated with the relocation of the PGE transformer and construction of a retaining wall. However, the Hearings Officer finds that the evidentiary record is devoid of an objective numerical basis to say so.

The last "practicable" evaluation factor is "logistics." The Hearings Officer found that the Applicant's Alternative #5 referenced the "logistical" difficulty of accessing vehicles to a garage from NW Penridge Road. The Hearings Officer finds Alternative #5 is not practicable because the overall project purpose, a single -family home with a garage, would be frustrated by the logistical inability to access that garage.

The Hearings Officer considered, from a "logistical" perspective, the Applicant's argument that under Alternatives #1, #2, and #3 the septic system would have to be relocated from its "approved" location. The Applicant did suggest, in Alternative #1, that if that Alternative was selected, the re-located septic system would be located on "steeper" ground. The Applicant did not explain why the "steeper" ground was "logistically" more problematic. The Applicant did suggest a septic system on "steeper" grounds would be more expensive. The expense aspect would be appropriately considered under the "cost" evaluation factor and not (without additional evidence in the record) the "logistics" evaluation factor. The Hearings Officer finds references to relocating the septic system do not make Alternatives #1, #2, or #3 not practicable under the "logistics" evaluation factor.

The Hearings Officer acknowledges that the Applicant raised vehicular safety, noise impacts, light impacts, and driveway length as reasons why one or more of its proposed alternatives were not "practicable." The Hearings Officer finds the clear language of the PCC 33.910.030 definition of "practicable" make it challenging to include the vehicular safety, noise impacts,

light impacts, and driveway length as fitting into the cost, existing technology, or logistics evaluation factors. While the Hearings Officer tends to agree philosophically with the Applicant on this matter, the Hearings Officer is not permitted to add language to a code section even when it may seem logical.

The Hearings Officer finds Alternative #5 is ***not*** practicable (logistics). The Hearings Officer finds that the Applicant failed to provide substantial evidence that Alternatives #1, #2, and #3 were ***not*** practicable based upon the cost, technology, and logistics evaluation factors. The Hearings Officer finds the Applicant did not clearly meet even the minimal "cost" evaluation standard referenced in the *Mackenzie* decision that one or more of the proposed alternatives were "too expensive." The Hearings Officer finds the Applicant merely referenced the possibility of additional costs associated with one or more of the alternatives; to demonstrate an alternative is not practicable, the Applicant is required to demonstrate that an alternative is ***not*** "capable of being done after taking into consideration cost, existing terminology, and logistics in light of overall project purposes."

The Hearings Officer finds the Applicant's proposed Alternatives #1, #2, #3, and #4 ***are*** "practicable." The Hearings Officer finds Alternatives #1, #2, #3, and #4 meet the "significantly different" test.

The Hearings Officer next addresses the alternatives analysis question: Does the selected alternative have the least significant detrimental impacts to the identified resources and functional values?

The Hearings Officer recreated a chart prepared by the Applicant in Exhibit A.10 (page 10) below (footnote references not included). The Hearings Officer finds this chart provides assistance in answering the "least significant detrimental impacts" question.

	Alternative One 0-foot Setback	**Alternative Two 20-foot Setback**	**Alternative Three Different Building Design**	**Preferred Alternative 85-foot Setback**	**Alternative 5**
Number of Trees to be Removed	14	14	18	20	10
Total Diameter (in inches) of trees to be removed	232	272	405	453	209
Total (in square feet) of environmental disturbance within the resource area	477	519	880	3,348	1,023

	Alternative One 0-foot Setback	Alternative Two 20-foot Setback	Alternative Three Different Building Design	Preferred Alternative 85-foot Setback	Alternative 5
Total (in square feet) of temporary disturbance area within the resource area	1,690	1,727	1,800	1,240	200

The Hearings Officer finds the removal of native trees from the resource area is a significant detrimental impact to the identified resources and functional values located on the Subject Property. The Hearings Officer repeats, based upon the findings above, that the Applicant's proposed Alternatives #1, #2, #3, and #4 are practicable and significantly different. Based upon the Applicant's chart, recreated by the Hearings Officer above, Alternatives #1 and #2 will remove 14 trees in the resource area, Alternative #3 will remove 18, and the Applicant's preferred alternative will remove 20. The Hearings Officer finds the Applicant's preferred Alternative (#4) will ***not*** have the least significant detrimental impact to identified resources and functional values of other practicable and significantly different alternatives.

The Hearings Officer finds that the total diameter of native trees (in inches) to be removed is a reasonable and appropriate measure of detrimental impacts to the identified resources and functional values on the Subject Property. Based upon the Applicant's chart above, Alternative #1 will remove 232 inches of tree diameter and the Applicant's preferred Alternative #4 will remove 453 inches. The Hearings Officer finds the Applicant's preferred Alternative (#4) will ***not*** have the least significant detrimental impact to identified resources and functional values of other practicable and significantly different alternatives.

The Hearings Officer finds the total area of permanent disturbance in the resource area of the Subject Property is a reasonable and appropriate measure of detrimental impacts to the identified resources and functional values on the Subject Property. Based upon the Applicant's chart above, Alternative #1 will permanently impact 477 square feet of resource area and the Applicant's preferred Alternative #4 will impact 3,348 square feet of the Subject Property resource area. The Hearings Officer finds the Applicant's preferred Alternative (#4) will ***not*** have the least significant detrimental impact to identified resources and functional values of other practicable and significantly different alternatives.

The Hearings Officer finds the total area of temporary disturbance within the Subject Property's resource area is a reasonable and appropriate measure of detrimental impacts to the identified resources. Based upon the Applicant's chart above, Alternative #1 will temporarily impact 1,690 square feet, Alternative #2 will temporarily impact 1,727 square feet, Alternative #3 will temporarily impact 1,800 square feet, and the Applicant's preferred Alternative #4 will temporarily impact 1,240 square feet. The Hearings Officer finds, when considering temporary impacts on the Subject Property, the Applicant's preferred Alternative

#4 ***will*** have the least significant detrimental impacts to identified resources and functional values of other practicable and significantly different alternatives.

33.430.250 Approval Criteria for Environmental Review
An environmental review application will be approved if the review body finds that the applicant has shown that all of the applicable approval criteria are met. When environmental review is required because a proposal does not meet one or more of the development standards of Section 33.430.140 through .190, then the approval criteria will only be applied to the aspect of the proposal that does not meet the development standard or standards.

Findings: The approval criteria applicable to the proposed development include those found Section 33.430.250.A and Section 33.430.250.E. The Applicant did address these approval criteria by proposing findings (Exhibit A.10). BDS Staff modified the Applicant's proposed findings and added conditions of approval where it believed appropriate (Staff Decision – Exhibit H.4). The Hearings Officer addressed the "alternatives analysis" related approval criteria in the Preliminary Findings above. The Hearings Officer incorporates the Preliminary Findings as additional findings for PCC 33.430.250.A and E. The Hearings Officer notes that the approval criteria and findings for Subsections A and E are combined where they are similar.

33.430.250 A. Public safety facilities, rights-of-way, <u>driveways</u>, walkways, <u>outfalls</u>, <u>utilities</u>, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments. Within the resource areas of environmental zones, the applicant's impact evaluation must demonstrate that all of the general criteria in Paragraph A.1 and the applicable specific criteria of Paragraphs A.2, 3, or 4, below, have been met:

Note that since this activity is not a Public Safety Facility, Land Division, Planned Development, or Planned Unit Development and does not require a Property Line Adjustment, the criteria in Sections 33.430.250.A.2 and A.4 do not apply and are not included.

33.430.250.E. Other development in the Environmental Conservation zone or within the Transition Area only. In Environmental Conservation zones or for development within the Transition Area only, the applicant's impact evaluation must demonstrate that all the following are met:

E.1 Proposed development minimizes the loss of resources and functional values, consistent with allowing those uses generally permitted or allowed in the base zone without a land use review;

Findings: The purpose of this criterion is to recognize that some form of development is allowed, consistent with the base zone standards. Impacts of the proposed development are measured relative to the impacts associated with the development normally allowed by the base zone; in this case, the R20 base zone would allow 6,822 square feet of the project site to be covered by buildings, according to Table 110-4 of the Zoning Code.

The footprint of the Applicant's proposed residential structure will result in approximately 2,338 square feet of building coverage, which is well below what would be allowed without the EC Zone overlay. However, due to the nature of the Subject Property (topography and soils), the entirety of the house is proposed, by the Applicant, to be placed within the resource area of the EC Zone to allow for the placement of the septic drainfield.

BDS Staff noted that the Applicant proposed a rather extensive setback. No public sewer exists within the vicinity, thus to allow the use (single-dwelling) intended for the Subject Property to be developed, the installation of a septic system/drainfield is necessary. As noted above, the Applicant represented that the steepness of the Subject Property, in addition to shallow soils, limited the area where the septic drainfield could be installed. Multnomah County Sanitarian, Lindsey Reschke ("Reschke"), testified that the system approved at the Subject Property is a non-standard and/or sand treatment system which results in a septic system of the smallest size (compared to a standard system). Reschke stated that Oregon Administrative Rules ("OAR's") included provisions related to steep slope sand filter or treated systems with a 30-inch or greater water table depth. (citing OAR 340.071.290.2.f) Based upon the Applicant's proposed location of a septic system, the proposed residence had to be placed approximately 85 feet from the edge of the private street. The Hearings Officer is not convinced, based upon the evidence in the record, that the "only" approvable location for the septic system is the one proposed by the Applicant in Alternative #4.

Despite the findings in the preceding paragraph, the Hearings Officer finds that the proposed development will result in the loss of 3,348 square feet of EC Zone area, the overall impacts of the project have been shown to be minimized to the extent practicable and consistent with allowing those uses generally permitted or allowed in the base zone (6,822 square feet) without a land use review.

Based upon the above, the Hearings Officer finds that the Applicant's preferred Alternative (#4) meets this approval criterion.

A.1. General criteria for public safety facilities, rights-of-way, <u>driveways</u>, walkways, <u>outfalls</u>, <u>utilities</u>, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments;

A.1.a. Proposed development locations, designs, and construction methods have the least significant detrimental impact to identified resources and functional values of other practicable and significantly different alternatives including alternatives outside the resource area of the environmental zone;

E.2. Proposed development locations, designs, and construction methods are less detrimental to identified resources and functional values than other practicable and significantly different alternatives;

Findings: This criterion requires the Applicant to demonstrate alternatives were considered during the design process and that there are no practicable alternatives that would be less detrimental to the identified resources and functional values located onsite. According to the

Inventory of Natural, Scenic and Open Space Resources for Multnomah County Unincorporated Urban Areas, this Subject Property is mapped as Inventory Site 111-A, Sylvan; identified resources on the Subject Property are native forest (comprised mostly of Douglas fir with scattered red alder and big leaf maple), wildlife, and open space; while the functional values include wildlife habitat, slope stabilization/soil anchoring, and groundwater recharge.

The Applicant-identified purpose of the project is to provide a single-family residence for their nuclear family in addition to two sets of aging parents. The Hearings Officer, in the Preliminary Findings (issue 3), reviewed the relevant "alternatives analysis" approval criteria. The Hearings Officer incorporates the Preliminary Findings (issue 3) as additional findings for these approval criteria.

The Hearings Officer finds the Applicant failed to provide adequate evidence in the record to persuade the Hearings Officer that there was only one practicable alternative. The Hearings Officer found four alternatives were practicable (#1, #2, #3, and #4). The Hearings Officer found that the Applicant's preferred alternative (#4) did not have the least significant detrimental impact to the identified resources and functional values on the Subject Property.

The Hearings Officer finds these approval criteria (PCC 33.430.250.A.1.a and E.2) are not met.

A.1.b. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;

E.3. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;

Findings: These approval criteria require the protection of resources outside of the proposed disturbance area from impacts related to the proposal, such as damage to vegetation, erosion of soils off the Subject Property, and downstream impacts to water quality and fish habitat from increased stormwater runoff and erosion off the site.

The Construction Management Plan and Mitigation Plan are described on Page 5 of this Hearings Officer decision and shown on Exhibits C.2 and C.5, respectively. The Construction Management Plan will be effective because it provides realistic limits to disturbance while containing the necessary elements (e.g. sediment fencing, gravel construction entrance, tree protection fencing) to effectively protect resources and functional values outside of designated disturbance areas. The Applicant proposed to minimize the potential impacts of construction activities on the Subject Property by, for example, constructing the stormwater management facility by hand (as opposed to machinery) construction.

While the Construction Management Plan includes sediment fencing, it does not include all disturbance (e.g. trees to be removed). The Plan also does not include exclusionary fencing for the purposes of delineating work boundaries. Had this application been approved, the Hearings Officer would have required a condition to ensure that all soils are kept onsite and mechanized equipment stays within the approved disturbance limits, sediment fencing in addition to orange construction fencing will be required to be installed at the limits of

disturbance (sediment fencing inside orange construction fencing). Further, a condition would have been required to ensure all fencing be installed prior to the commencement of construction and no mechanized equipment will be allowed outside of the designated disturbance areas.

Further, had the application been approved, the Hearings Officer would have included a condition requiring the Applicant to avoid tree loss within the septic drainfield installation area by hand-digging around trees and field fitting the drainlines to the extent feasible. The Hearings Officer would have also conditioned any approval of the application requiring the Applicant planting and invasive species removal be done by hand (not by mechanized machinery).

The Hearings Officer finds, with conditions of approval, these approval criterion could have been met.

A.1.c. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;

E.4. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;

Findings: These approval criteria require the Applicant to assess unavoidable impacts and propose mitigation that is proportional to the impacts, as well as sufficient in character and quantity to replace lost resource functions and values. The proposed Mitigation Plan is described on Page 6 of the Hearings Officer's decision and Exhibit A.5. The Applicant's Mitigation Plan is intended to offset 3,348 square feet of permanent disturbance area and mitigate the removal of 20 native trees (19 from the resource area and one from the transition area).

BDS Staff, in the Staff Decision (page 10) determined that the Applicant's Mitigation Plan was also intended to compensate for impacts on the Subject Property for the following reasons:

- "Mitigation plantings will be installed in temporary disturbance areas in addition to throughout the majority of the site.
- The mitigation plantings will increase species diversity to improve wildlife habitat in areas that have minimal native vegetation.
- The plantings will aid with pollution and nutrient retention and removal, sediment trapping and erosion control.
- Invasive species will be removed from the entire subject site."

The Hearings Officer notes that the Applicant's Mitigation Plan was directly related to the removal of 20 trees within the Environmental Zone. The Hearings Officer is aware that BDS Staff considered the possibility of additional trees being removed if drainfield construction is larger than proposed by the Applicant. BDS Staff, in the Staff Decision, included a condition of approval addressing the possibility of the removal of more than 20 native trees (Staff Decision – see Approval bullet point 5 and Condition C). The Hearings Officer, because of the findings

for PCC 33.430.250.A.1.a and E.2, is not required to address the possibility of removing even more native trees. However, the Hearings Officer is skeptical that BDS Staff Decision Condition C is appropriate. The Hearings Officer finds the precise number of additional native trees to be removed would need to be considered at the time of Environmental Review; including but not limited to the "alternatives analysis" in PCC 33.430.250.A.1.a and E.2.

BDS Staff noted, in the Staff Decision (Exhibit H.4, page 10) that the Applicant's proposed Mitigation Plan would be installed and maintained under the regulations outlined in Section 33.248.040.A-D (Landscaping and Screening). To confirm installation of the required plantings, BDS Staff included a condition of approval requiring the Applicant to have the plantings inspected upon installation. Further, BDS Staff conditioned its Staff Decision approval to require the Applicant to confirm maintenance of the required plantings for the initial establishment period and to have the plantings inspected two years after plantings are installed.

The Hearings Officer finds that with conditions recommended by BDS Staff in the Staff Decision (not including Condition C which the Hearings Officer finds is not legally justified), the Applicant's Mitigation Plan can meet the requirements of these approval criteria.

A.1.d. Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and

E.5. Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and

A.1.e. The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.

E.6. The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.

Findings: Mitigation for significant detrimental impacts will be conducted on the Subject Property (same site) and the Applicant owns the proposed onsite mitigation area.

The Hearings Officer finds these approval criteria can be met.

A.3. Rights-of-way, <u>driveways</u>, walkways, <u>outfalls</u>, and <u>utilities</u>;

A.3.a. The location, design, and construction method of any outfall or utility proposed within the resource area of an environmental protection zone has the least significant

detrimental impact to the identified resources and functional values of other practicable alternatives including alternatives outside the resource area of the environmental protection zone;

Findings: No outfalls or utilities are proposed within the resource area of an Environmental Protection overlay zone. The Hearings Officer finds this approval criterion does not apply.

A.3.b. There will be no significant detrimental impact on water bodies for the migration, rearing, feeding, or spawning of fish; and

Findings: There are no water bodies within or near the development area. While there is a stream channel approximately 180 feet downslope from the Subject Property, proposed construction management measures are expected to prevent sediment or erosion during construction. In addition, all stormwater from new impervious surfaces will be treated via a stormwater management system before being discharged onsite. The Hearings Officer finds that if this approval criterion does apply (which based upon the above findings, it may not) it can be met.

A.3.c. Water bodies are crossed only when there are no practicable alternatives with fewer significant detrimental impacts.

Findings: No water bodies will be crossed by the proposed development. The Hearings Officer finds this approval criterion does not apply.

III. CONCLUSIONS

The Applicant proposed to construct a single-family residence (including a septic/drainage system) at the Subject Property. The Subject Property is, for the most part, within a City environmental overlay zone. The Applicant's proposal did not meet three environmental zone development standards and therefore was required to process this environmental review application.

The Applicant provided, as required by PCC 33.430.250, five development alternatives. PCC 33.430.250.A.1.a and PCC 33.430.250.E.1 and E.2 required the Applicant to provide substantial evidence in the record that each of the proposed alternatives must be analyzed to determine which, if any, of the alternatives are "substantially different" and are "practicable." Ultimately the Applicant was required to demonstrate that the Applicant's preferred alternative causes the least significant detrimental impacts to the identified resources and environmental functional values of other practical and significantly different alternatives.

The Hearings Officer found that the Applicant failed to demonstrate that its preferred alternative satisfied the requirement of PCC 33.430.250.A.1 and PCC 33.430.250.E.1 and E.2. The Hearings Officer concluded the Applicant's request for this Environmental Review must be denied.

IV. DECISION

The Appellant prevailed in this appeal.

Denial of the Applicant's Environmental Review (per Exhibits C.3, C.4, and C.5) at the Subject Property.

Gregory J. Frank, Hearings Officer

February 13, 2019
Date

Application Determined Complete:	October 5, 2017
Staff Decision to Hearings Officer:	January 16, 2019
Decision Mailed:	February 13, 2019
Last Date to Appeal:	March 6, 2019

Conditions of Approval. 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. The Hearings Officer's decision is final and takes effect on the day the notice of decision is mailed. The decision may not be appealed to City Council, but may be appealed to the Oregon Land Use Board of Appeals (LUBA), as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that:

- an appellant before LUBA must have presented testimony (orally or in writing) as part of the local hearing before the Hearing's Officer; and

- a notice of intent to appeal be filed with LUBA within 21 days after the Hearings Officer's decision becomes final.

Please contact LUBA at 1-503-373-1265 for further information on filing an appeal.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement
   1. Applicant's Original Site Plan and Narrative, April 2017
   2. Applicant's Revised Site Plan, July 2017
   3. Applicant's Revised Site Plan, October 2017
   4. Applicant's Revised Site Plan, March 2018
   5. Applicant's Revised Site Plan, April 2018
   6. Applicant's Revised Site Plan, June 2018
   7. Applicant's Revised Site Plan, August 2018
   8. Applicant's Revised Site Plan, September 2018
   9. Applicant's Unofficial Revised Site Plans, 2017-2018
   10. Applicant's Revised Narrative, November 2018
   11. Geotechnical Report (includes revisions)
   12. Stormwater Management Report (includes revisions)
   13. Arborist Report & Tree Plan
   14. 120-Day Extension Forms & Waiver
B. Zoning Map **(attached)**
C. Plans/Drawings
   1. 0.0 Tree List
   2. 0.1 Existing Conditions Plan
   3. 0.2 Construction Management Plan (attached)
   4. 0.3 Proposed Development Plan
   5. 0.4 Mitigation Plan (attached)
   6. 0.5 Detail Sheet
   7. Alternative #1
   8. Alternative #2
   9. Alternative #3
   10. Alternative #5
D. Notification information
   1. Mailing list
   2. Mailed notice
E. Agency Responses: **Please note responses may include multiple addendums**
   1. Bureau of Environmental Services
   2. Site Development Review Section of BDS
   3. Septic Sanitation Review Section of BDS
   4. Life Safety
   5. PBOT
   6. Multnomah County Transportation Program
F. Correspondence
   1. Randall Carlson, Neighbor, November 9, 2017
   2. Forest Park Neighborhood Association, November 26, 2017
G. Other

1. Original LU Application
2. Incomplete Letter

H. Received in the Hearings Office
1. Notice of Appeal Hearing On A Proposal In Your Neighborhood - Steele, Morgan
2. Type II and IIx Decision Appeal form - Forest Park Neighborhood Association
3. Memo dated 1/15/18 - Steele, Morgan
4. Notice Of A Type II Decision On A Proposal In Your Neighborhood dated 12/7/18 - Steele, Morgan
5. 1/18/19 letter - Scambly Schott, Penelope
6. 1/25/19 letter from Daniel Mathews - Steele, Morgan
7. Letter dated 1/23/19 from Carrie Akers to Land Use Hearings Officer c/o Morgan Steele - Steele, Morgan
8. Letter from Marilou Reinikka to Morgan - Steele, Morgan
9. 1/29/19 letter from Renee Myers - Steele, Morgan
10. 1/28/19 letter from Ian Sinks - Steele, Morgan
11. 1/28/19 letter from Jason Nims - Steele, Morgan
12. 1/25/19 letter from Daniel Mathews - Steele, Morgan
13. 1/26/19 letter from Randall S. Carlson - Steele, Morgan
14. 1/27/19 letter form Charles Mauro - Steele, Morgan
15. 1/23/19 letter from Carrie and Josh Akers - Steele, Morgan
16. 1/27/19 letter form Tulip Larson - Steele, Morgan
17. Letter from Debby Jo Blank - Steele, Morgan
18. 1/25/19 letter from Daniel Mathews - Steele, Morgan
19. 1/26/19 letter from Lynn and Blake Osmundsen - Steele, Morgan
20. 1/27/19 letter from Brian and Kate Solodky - Steele, Morgan
21. 1/27/19 letter from Kathleen and Ken Goldberg - Steele, Morgan
22. Letter from Steve Lyford - Steele, Morgan
23. 1/18/19 letter from Penelope Scambly Schott - Steele, Morgan
24. Letter from Liz and Scott Kay - Steele, Morgan
25. Letter from Marilou Reinikka - Steele, Morgan
26. 1/26/19 letter from Laura Korman - Steele, Morgan
27. Letter from Lou and Kathy Jaffe - Steele, Morgan
28. 1/30/19 letter - Grossnickle, Gerald/Jerry
29. 1/27/19 letter - Mauro, Charles
    a. Photos - Mauro, Charles
30. 1/29/19 letter from Bob Sallinger/Audubon Society of Portland - Abadia, Teos
31. 1/28/19 letter from Ian Sinks/Columbia Land Trust - Abadia, Teos
32. 1/29/19 letter from Renee Myers/Forest Park Conservancy - Abadia, Teos
33. 1/30/19 letter - Abadia, Teos
34. 1/27/19 Memo from Chris Larson - Abadia, Teos
35. 1/23/19 letter from Carrie and Josh Akers - Abadia, Teos
36. 1/27/19 letter from Charles Mauro - Abadia, Teos
37. 1/25/19 letter from Daniel Mathews - Abadia, Teos
38. 1/26/19 letter from Lynn and Blake Osmundsen - Abadia, Teos
39. 1/28/19 letter from Jason Nims - Abadia, Teos
40. 1/27/19 letter from Brian and Kate Solodky - Abadia, Teos

41. 1/27/19 letter from Kathleen and Ken Goldberg - Abadia, Teos
42. Letter from Marilou Reinikka - Abadia, Teos
43. 1/26/19 letter from Randall S. Carlson - Abadia, Teos
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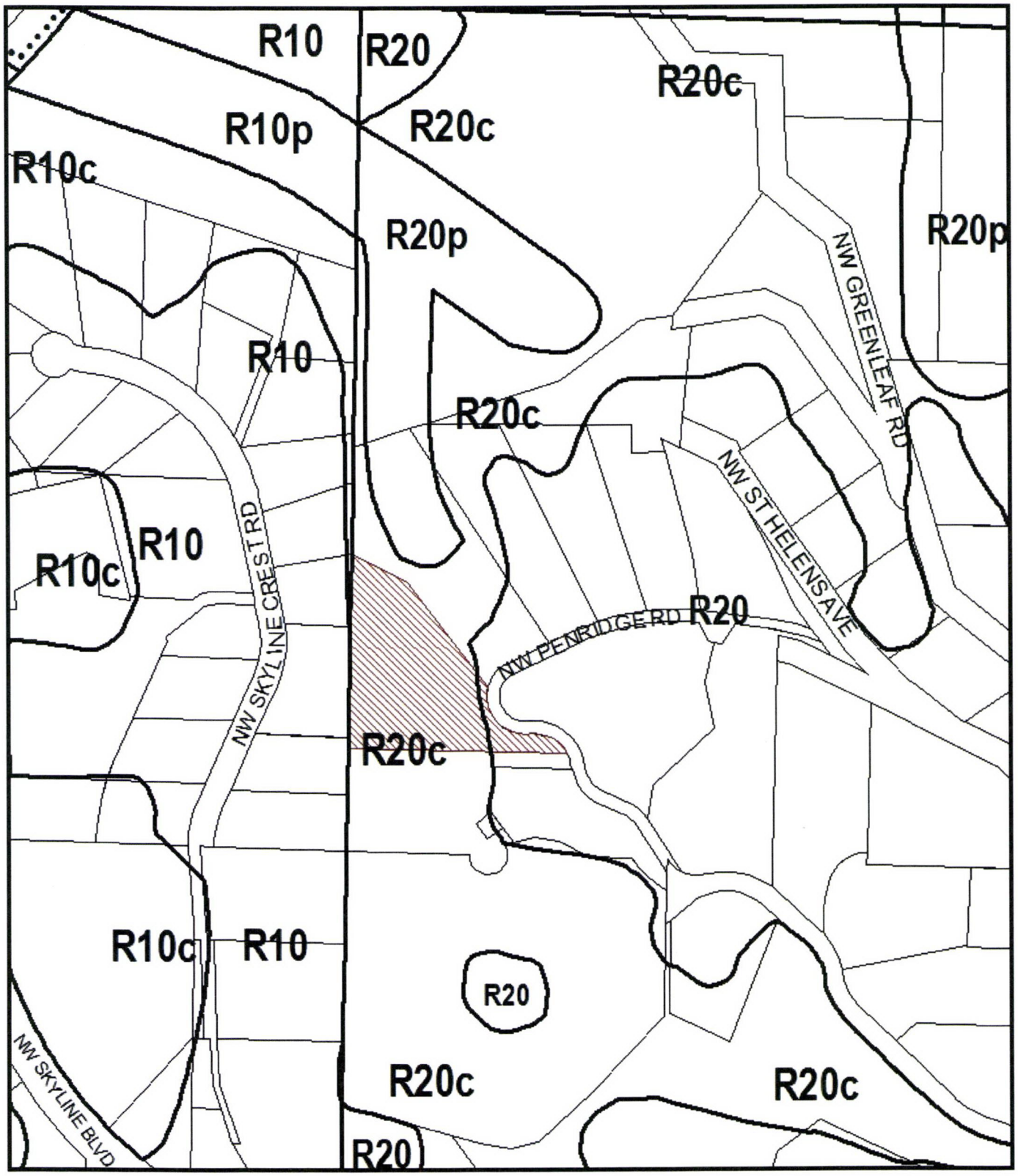
45. 1/27/19 letter from Tulip Larson - Abadia, Teos
46. Letter from Daniel Pool - Abadia, Teos
47. 1/18/19 letter from Penelope Scambly Schott - Abadia, Teos
48. Letter from Liz & Scott Kay - Abadia, Teos
49. Letter from Debby Jo Blank - Abadia, Teos
50. Letter from Lou and Kathy Jaffe - Abadia, Teos
51. 1/28/19 letter from Mark and Karen Ingalls - Abadia, Teos
52. 1/26/19 letter from Laura Korman - Abadia, Teos
53. 1/27/19 letter from Peter and Marie Roome - Abadia, Teos
54. 1/23/19 letter from Amy Risch - Abadia, Teos
55. 1/27/19 letter - Larson, Chris
56. Record Closing Information - Hearings Office



ZONING

Site

This site lies within the:
NORTHWEST HILLS PLAN DISTRICT
SKYLINE SUB DISTRICT

NORTH

File No. LU 17-150354 EN
1/4 Section 2921 2922
Scale 1 inch = 200 feet
State_Id 1N1W36AC 3500
Exhibit B (Apr 12, 2017)

"Approved"
City of Portland - Bureau of Development Services
LU # 17-150354 GM
Planner [illegible] Date 12.5.18
* Approval for Environmental Review only. Not a building permit. Additional zoning requirements may apply.

limits of disturbance

4-foot high orange construction fence shall be placed along the limits of construction disturbance.

- sediment fencing shall be placed inside of the approved limits of construction disturbance, but outside all approved disturbance.

CONSTRUCTION MANAGEMENT

TEMPORARY CONSTRUCTION FENCING TO BE INSTALLED AROUND PERIMETER OF DISTURBANCE AREA.
SEE PLAN 0.3 FOR BEST PRACTICE MEASURES: SILT FENCING FOR EROSION CONTROL, MATERIAL AND EQUIPMENT STAGING AND CONSTRUCTION ACCESS.

CALCULATED AREA OF DISTURBANCE FOR ALL WORK ON SITE:
PERMANENT DISTURBANCE:
HOUSE FOOTPRINT = 2,338 SQ. FT.
DRIVEWAY AND PARKING = 1,864 SQ. FT.
4,207 SQ. FT.

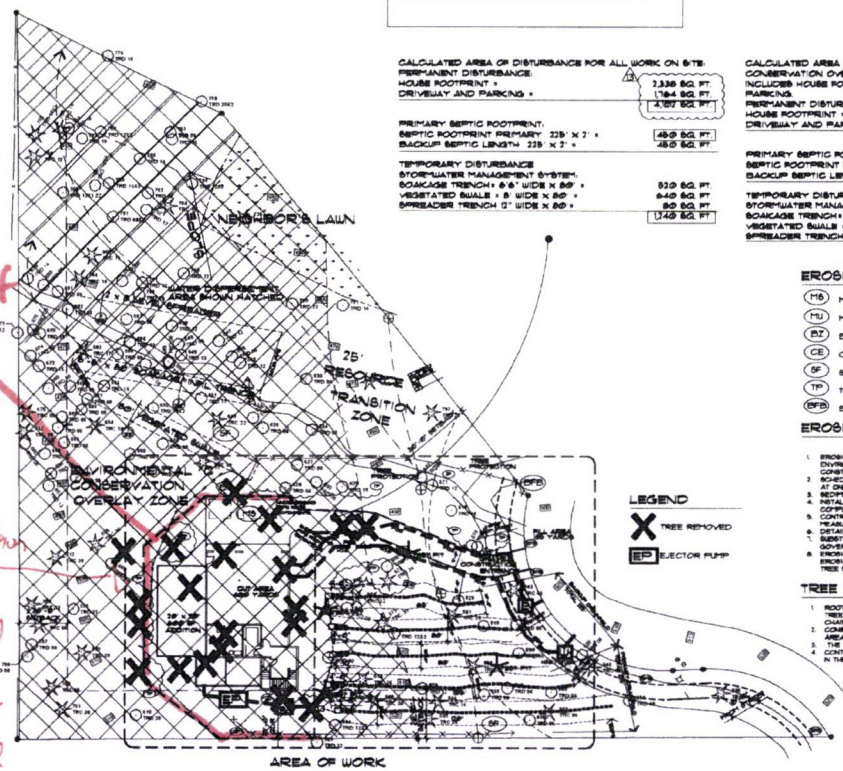
PRIMARY SEPTIC FOOTPRINT:
SEPTIC FOOTPRINT PRIMARY: 228' X 2' = 480 SQ. FT.
BACKUP SEPTIC LENGTH 228' X 2' = 480 SQ. FT.

TEMPORARY DISTURBANCE
STORMWATER MANAGEMENT SYSTEM:
SOAKAGE TRENCH = 8'-6" WIDE X 80' = 820 SQ. FT.
VEGETATED SWALE = 8' WIDE X 80' = 640 SQ. FT.
SPREADER TRENCH 12" WIDE X 80' = 80 SQ. FT.
1,540 SQ. FT.

CALCULATED AREA OF DISTURBANCE IN ENVIRONMENTAL "C" CONSERVATION OVERLAY ZONE
INCLUDES HOUSE FOOTPRINT, FUTURE ADU AND DRIVEWAY AND PARKING.
PERMANENT DISTURBANCE:
HOUSE FOOTPRINT = 2,338 SQ. FT.
DRIVEWAY AND PARKING = 1,010 SQ. FT.
3,348 SQ. FT.

PRIMARY SEPTIC FOOTPRINT (IN "C"):
SEPTIC FOOTPRINT PRIMARY "B" X 2' = 150 SQ. FT.
BACKUP SEPTIC LENGTH 58' X 2' = 116 SQ. FT.

TEMPORARY DISTURBANCE
STORMWATER MANAGEMENT SYSTEM:
SOAKAGE TRENCH = 8'-6" WIDE X 80' = 820 SQ. FT.
VEGETATED SWALE = 8' WIDE X 80' = 640 SQ. FT.
SPREADER TRENCH 12" WIDE X 80' = 80 SQ. FT.
1,540 SQ. FT.



LEGEND
X TREE REMOVED
EP EJECTOR PUMP

EROSION PREVENTION LEGEND

- MS MATERIAL STAGING
- MU MULCH
- BZ BUFFER ZONE
- CE CONSTRUCTION ENTRANCE
- SF SILT FENCE
- TP TREE PROTECTION/ ROOT PROTECTION ZONE
- BFB BIO FILTER BAG

EROSION PREVENTION / SEDIMENT CONTROL MEASURES

1. EROSION CONTROL MEASURES TO BE INSTALLED TO BEST PRESERVE, REDUCE OVERALL ENVIRONMENTAL IMPACT AND MAINTAIN EXISTING SITE CONDITIONS PRIOR TO DISTURBANCE DUE TO CONSTRUCTION.
2. SCHEDULE CONSTRUCTION OPERATIONS SO THAT THE LEAST AMOUNT OF PROJECT AREA IS DISTURBED AT ONE TIME.
3. NEIGHBOR CONTROL MEASURES SHOULD BE IN PLACE BEFORE LAND CLEARING AND GRADING BEGINS.
4. INSTALL TEMPORARY OR PERMANENT SURFACE STABILIZATION MEASURES IMMEDIATELY AFTER COMPLETING LAND GRADING.
5. CONTRACTOR TO OBSERVE AND MAINTAIN WET WEATHER MEASURES ON SITE INCLUDING COVER MEASURES OVER EXPOSED SOIL.
6. DETAILS OF INSTALLATION CAN AND MAY VARY DUE TO SITE CONDITIONS.
7. SUBSTITUTION OF EPP'S AT EQUIVALENT OR SUPERIOR PERFORMANCE ALLOWED IF APPROVED BY GOVERNING AGENCY UPON REVIEW OF SITE CONDITIONS.
8. EROSION CONTROL MEASURES TO INCLUDE BUT NOT BE LIMITED TO DUST CONTROL, SOIL COVERING, EROSION FENCING AT LOW END OF SLOPE TO BE DISTURBED, CONSTRUCTION ENTRANCE PROTECTION, TREE PROTECTION (WHERE REQ'D.) CHECK DAMS (WHERE REQ'D.) AND CATCH BASIN FILTER BAGS.

TREE PROTECTION NOTES

1. ROOT PROTECTION FOR EXISTING TREE PER THE PRESCRIPTIVE PATH METHOD, CITY OF PORTLAND TREE PROTECTION MANUAL (www.portlandoregongov/trees/article/420361) 8'-0" METAL POSTS, 6'-0" CHAIN LINK FENCE.
2. CONSTRUCTION ACTIVITIES MAY ENCROACH NO MORE THAN 25% OF THE ROOT PROTECTION ZONE AREA.
3. THE ENCROACHMENT MAY NOTE BE CLOSER THAN ONE HALF OF THE ROOT PROTECTION ZONE RADIUS.
4. CONTRACTOR SHALL POST TREE ROOT PROTECTION ZONE NOTIFICATION TO FENCING AND DESCRIBED IN THE TREE PROTECTION MANUAL (www.portlandoregongov/trees/article/53461)

GRADE TO REMAIN UNCHANGED EXCEPT IN DRIVEWAY AND HOUSE FOOTPRINT.
FOR CONTOUR LINES SEE SHEET C1
* TREES ARE BEING REMOVED. THIS IS 18% OF TOTAL TREES ON SITE.

SITE PLAN ABBREVIATIONS
FH FIRE HYDRANT
PP POWER POLE
WM WATER METER
OH OVERHEAD POWER LINES

CONSTRUCTION MANAGEMENT

1/C3 1" = 20'-0"

STORMWATER AND SEPTIC NOTES

1. STORMWATER ITEMS WILL BE FIELD FIT TO AVOID ANY IMPACTS ON TREES OR SLOPE.
2. SEPTIC ITEMS WILL BE FIELD FIT TO AVOID ANY IMPACTS ON TREES OR SLOPE.

DATE
NOVEMBER 3, 2016
REVISIONS
1 OCTOBER 29, 2017
2 FEBRUARY 2, 2018
3 MARCH 14, 2018
4 APRIL 3, 2018
5 APRIL 6, 2018
6 APRIL 12, 2018
7 APRIL 18, 2018
8 MAY 2, 2018
9 JUNE 28, 2018
10 JULY 11, 2018
11 AUG. 6, 2018
12 AUG. 31, 2018
13 SEPT. 20, 2018

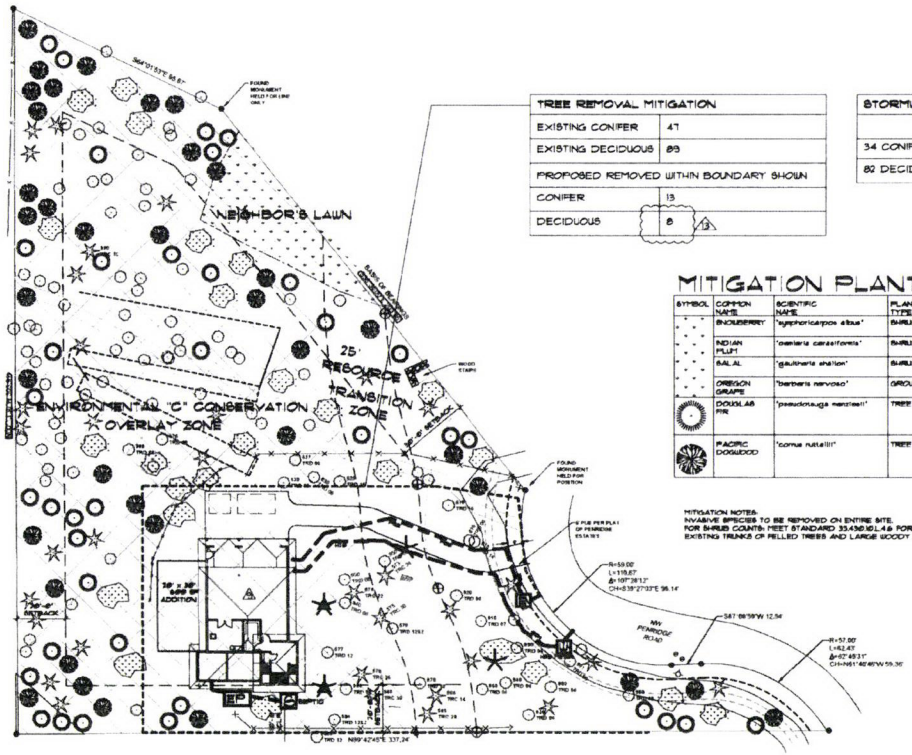
SARAH SPAFFORD DESIGN
2736 SE ANDERSON STREET
PORTLAND, OREGON 97202
PH 503-234-7486 FX 866-874-8274
sara@spaffordarchitect.net

KRIETEMEYER RESIDENCE
PENRIDGE, PORTLAND, OREGON
EAST & NORTH ELEVATIONS

PROJECT NO. C5-400
KRIETEMEYER HOUSE
SHEET 0.2
OF 8

CASE NO. 17-150354 GM
EXHIBIT C.3

"Approved"
City of Portland - Bureau of Development Services
LU # 17-150354 EN
Planner [illegible] Date 12-5-18
* Approval for Environmental Review only. Not a building permit. Additional [illegible] may apply.



TREE REMOVAL MITIGATION	
EXISTING CONIFER	47
EXISTING DECIDUOUS	89
PROPOSED REMOVED WITHIN BOUNDARY SHOWN	
CONIFER	13
DECIDUOUS	8

STORMWATER CREDIT: TREES	
	6" OR LARGER
34 CONIFER REMAIN ON SITE	15,600 SQ. FT.
82 DECIDUOUS REMAIN	31,600 SQ. FT.

MITIGATION PLANTING

SYMBOL	COMMON NAME	SCIENTIFIC NAME	PLANT TYPE	SIZE	SPACING O.C.	PLANTS
	INDOUBERRY	"symphoricarpos albus"	SHRUB	1 GAL	5' CLUSTERS	149
	INDIAN PLUM	"oemleria cerasiformis"	SHRUB	1 GAL	SCATTERED	149
	SALAL	"gaultheria shallon"	SHRUB	1 GAL	5' CLUSTERS	149
	OREGON GRAPE	"berberis nervosa"	GROUNDCOVER	1 GAL	SCATTERED	74
	DOUGLAS FIR	"pseudotsuga menziesii"	TREE	1/2" CALIPER	10'	57
	PACIFIC DOGWOOD	"cornus nuttallii"	TREE	1/2" CALIPER	10'	57

MITIGATION NOTES:
INVASIVE SPECIES TO BE REMOVED ON ENTIRE SITE.
FOR SHRUB COUNTS: MEET STANDARD 33.430.140.L.4.b FOR AREA OF INVASIVE SPECIES REMOVED.
EXISTING TRUNKS OF FELLED TREES AND LARGE WOODY DEBRIS TO REMAIN ON SITE.

NORTH

MITIGATION PLAN

1 / 0.4
1" = 20'-0"

STORMWATER AND SEPTIC NOTES

1. STORMWATER ITEMS WILL BE FIELD FIT TO AVOID ANY IMPACTS ON TREES OR SLOPE.
2. SEPTIC ITEMS WILL BE FIELD FIT TO AVOID ANY IMPACTS ON TREES OR SLOPE.

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11 AUG. 6, 2018
12 AUG. 31, 2018
13 SEPT. 20, 2018

SARAH SPRAFFORD DESIGN
1208 SE HARRISON STREET
PORTLAND, OR 97214
503-233-3471 / 845-5721
sarahsprafford@comcast.net

KRIETEMEYER RESIDENCE
PENRIDGE, PORTLAND, OREGON
EAST & NORTH ELEVATIONS

CS-1200
KRIETEMEYER HOUSE
SHEET 0.4
OF 6

CASE NO. 17-150354 EN
EXHIBIT C.5