



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: June 28, 2019
To: Interested Person
From: Morgan Steele, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The 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 18-137518 ENM

GENERAL INFORMATION

Applicant/Owner: Larry Cowlshaw | Method Construction, Inc.
PO Box 33822 | Portland, OR 97292

Owners: JDJD Property, LLC
11905 NW West Road | Portland, OR 97229

Telma Isayan
1436 W Glenoaks Boulevard | Glendale, CA 91201

Site Address: [No Situs: SW View Point Terrace south of SW Iowa Street](#)

Legal Description: BLOCK 12 LOT 3, SOUTHPORT; BLOCK 12 LOT 4, SOUTHPORT;
BLOCK 12 LOT 5, SOUTHPORT; BLOCK 12 LOT 6, SOUTHPORT;
BLOCK 12 LOT 7, SOUTHPORT; BLOCK 12 LOT 8, SOUTHPORT;
BLOCK 12 LOT 9, SOUTHPORT

Tax Account No.: R781204370, R781204380, R781204390, R781204400, R781204410,
R781204420, R781204430

State ID No.: 1S1E15CC 00901, 1S1E15CC 00902, 1S1E15CC 00903, 1S1E15CC
00904, 1S1E15CC 00905, 1S1E15CC 00906, 1S1E15CC 00907

Quarter Section: 3629

Neighborhood: South Portland NA., contact Jim Gardner at 503-227-2096.
Business District: South Portland Business Association, contact
info@southportlanddba.com.

District Coalition: Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.

Plan District: None

Other Designations: Resource Site 115 – George Himes Park, *Southwest Hills Resource Protection Plan*; Landslide Hazard Area; Wildfire Hazard Area

Zoning: *Base Zone:* Residential 5,000 (R5)
Overlay Zone: Environmental Conservation (c)

Case Type: ENM – Environmental Review with Modifications
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to construct four new single-family residences on existing platted lots along a partially improved section of SW View Point Terrace in Southwest Portland. In addition, the applicant proposes to improve the public right-of-way to allow access to these lots. As is shown on the attached combined site plan, the applicant proposes to develop Lots 3 thru 6, as well as to construct right-of-way improvements extending to Lot 9. The proposed residences have been designed for the steeply sloping site and placed with reduced front setbacks to lessen impacts to the resource area of the Environmental Conservation overlay zone and meet the development standards of Chapter 33.430 Environmental Zones.

Portions of the project site are located within the Environmental Conservation overlay zone. Because of this, certain standards must be met to allow work to occur by right. Although the right-of-way improvements are proposed along the entire extent of the right-of-way adjacent to Lots 1-9, 33.430.080.D.2 exempts public street and sidewalk improvements within existing public right-of-way used by truck or automobile traffic; therefore, the requirements of Chapter 33.430, Environmental Zones, apply to only the portion of right-of-way improvements in undeveloped right-of-way (Lots 7-9). The disturbance area required to construct the proposed right-of-way improvements exceed the 3,300 square foot threshold (33.430.175.B.3); therefore, environmental review is required. Mitigation has been proposed to meet all applicable revegetation and enhancement standards as well.

Furthermore, although the proposed new residences meet all applicable development standards in 33.430.140, to reduce their disturbance areas to meet standards, the applicant is requesting to modify the base zone standards to increase building height; the proposed height modifications are as follows:

- Lot 3: increase from 30 feet to 35 feet, 4 inches
- Lot 4: increase from 30 feet to 34 feet, 10 inches
- Lot 5: increase from 30 feet to 35 feet, 4 inches
- Lot 6: increase from 30 feet to 34 feet

These modifications are considered as part of this Environmental Review.

Relevant Approval Criteria:

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

- **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**
- **33.430.280 Modifications Which Will Better Meet Environmental Review Requirements**

ANALYSIS

Site and Vicinity: The project site is in southwest Portland at the intersection of SW Iowa Street and SW View Point Terrace. It is comprised of seven platted lots along the east frontage of SW View Point Terrace. SW View Point Terrace, which runs north to south, is partially improved extending south from SW Iowa Street approximately 250 feet and services development to the east; the remainder of SW View Point Terrace is undeveloped. West of SW View Point Terrace are vacant lots which slope steeply upwards towards Interstate 5. The lots are currently undeveloped with dense vegetation consisting mainly of native trees choked by extensive English ivy. Development north, east, and south of the subject site generally consists of single-family residences.

Zoning: The site is mapped within the Residential 5,000 (R5) Base Zone and the Environmental Conservation (c) overlay zone.

The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet. Newly created lots must have a minimum density of 1 lot per 5,000 square feet of site area. Modifications to base zone height standards are being considered as part of this Environmental Review.

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 the 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.

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 project site is mapped within the *Southwest Hills Resource Protection Plan* as Resource Site #115 – George Himes Park. The plan includes the following description of Site #115: *This 472-acre site includes a portion of the Willamette River as well as uplands. The site is bisected east and west by Interstate 5 and Barbur Boulevard. This site has the greatest diversity of land uses. The resources are typically intermingled with developed residential areas or open space designated areas. There is, however, an approximately 20-acre resource area located west of Barbur. The western half of the site is generally developed with residential neighborhoods on hillsides made up with single-family homes built in the 1950's.*

The identified resources for the Resource Site #115 and specific to the project site include wildlife habitat, forest, scenic, groundwater recharge and open space.

Impact Analysis and Mitigation Plan: A full description of the proposal was provided on page two of this report. The following discusses development alternatives that were considered by the applicant. The following additionally describes the proposed construction management plan and mitigation proposal.

Development Alternatives: The proposed right-of-way improvements within the Environmental Zone are a requirement of Title 17 triggered by the proposed development. The steep slope crossing the right-of-way from west to east leaves only one practicable design option for the street. This option controls impacts by using a retaining wall to minimize grading and Local Improvement District (LID) street and turnaround standards to minimize disturbance area.

Further, the northern portion of the right-of-way is currently partially improved, leaving few alternatives to consider for the placement of the new right-of-way. The new right-of-way, beginning at the intersection of SW Iowa Street, will be constructed west of the existing right-of-way and will utilize a retaining wall to create a split street. The new right-of-way, which will be constructed to Lot 9, will slope upwards to service lots to the west. The existing right-of-way will remain to provide continued access to existing lots to the east.

As described above, the site topography and existing development leaves no alternatives for new right-of-way placement. Through the Public Works Process, the applicant has worked with the Portland Bureau of Transportation (PBOT) to design a street that allows access to remain for current development while providing access to proposed and future development.

Construction Management Plan: As is shown on Exhibits C.7 and C.8, Construction Management Plan, the applicant proposes temporary tree protection fencing to protect trees in areas to be left

undisturbed. Sediment fencing will be installed prior to construction to prevent downslope erosion and control sediments. The Construction Management Plan also designates areas for stockpiling and equipment staging keeping these areas isolated from onsite resources.

Unavoidable Impacts: The applicant is proposing to disturb a total of 4,929 square feet of the Environmental Zone for the purposes of right-of-way improvements. Of these 4,929 square feet, 2,801 square feet will be permanently disturbed, while the remaining 2,128 square feet will be temporarily disturbed and replanted as laid out in the proposed Mitigation Plan. In conjunction with the proposed disturbance, the applicant also proposes to remove 14 trees, totaling 190 inches diameter breast height (dbh), from within the Environmental Conservation overlay zone that will be replaced as shown on the Mitigation Plan (Exhibit C.10), described below. Additional unavoidable impacts will include the loss of vegetative cover in the permanent disturbance areas, increased impervious surfaces, and an increase in the potential for surface runoff and erosion.

Proposed Mitigation: As shown on Exhibit C.10, Mitigation Plan, the applicant proposes to mitigate tree removal and permanent disturbance area by planting 19 trees and 27 shrubs throughout Lots 7, 8, and 9. Further, in addition to invasive species removal, the applicant proposes to replant all temporary disturbance areas within the resource area with a diverse selection of native shrubs and groundcovers. The proposed plantings consist of native species found on the *Portland Plant List*.

Land Use History: No relevant land use history exists for this project site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed September 21, 2018. The following Bureaus have responded with no issues or concerns:

- PBOT
- Water Bureau
- Urban Forestry

The Fire Bureau and Life Safety have stated requirements for the time of building permit application; details can be found in Exhibits E.4 and E.6, respectively.

The Bureau of Environmental Services responded with the following comment. Please see Exhibit E.1 for additional details.

The submitted storm report proposes to treat stormwater runoff with an individual lined planter for each lot. BES understands that although permeable pavers were previously shown on plans, they are not proposed.

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

The Site Development Review Section of BDS responded with the following comment. Please see Exhibit E.5 for additional details.

This land use review includes environmental review for the right-of-way improvements and modifications to the maximum height and outdoor areas of the lots. This land use review does not include geotechnical review of the proposed construction on residential lots and should not be construed as conceptual approval of the proposed construction on residential lots. Geotechnical review of the proposed new single-family residences will occur at the time of building permit application.

The Life Safety Review Section of BDS responded with the following comment. Please see Exhibit E.4 for additional details.

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.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on September 21, 2018. Written responses have been received from the Neighborhood Association and notified parties in response to the proposal. The details of these responses have been abridged for brevity; however, the full responses can be found in Exhibit F. Further, the applicant has offered responses to pertinent concerns and are included below. The responses have been edited for clarity and can be found in full in Exhibit A.8.

- 1. Christine Carocci, Neighbor, September 25, 2018:** Neighbor Carocci expressed concerns about the construction, noise and traffic that would potentially occur as a result of the proposed development. Neighbor Carocci does not support the proposal.
- 2. James Gardner, Chair of South Portland Neighborhood Association, October 11, 2018:** James Gardner, on behalf of the South Portland Neighborhood Association (SPNA), expressed concerns on several issues. These issues include 1) limited on-street parking spaces 2) the slope and general stability and need for large retaining walls 3) impacts to the Environmental Conservation overlay zone, and 4) building height. In summary, the SPNA Committee, on a divided vote, decided to neither support nor oppose the proposal.

Applicant's Response: 1) Parking - Each house does have a two-car garage and a parking space between houses. This will help offset some of the parking concerns.

2) Height - As part of the environmental review, we are requesting a height modification of 5 feet. Greg Creighton (architect) showed the profile of five houses with the same roof height. We are currently in for a building permit for lot 2 and no height modification has been necessary. Gregg has managed to ensure that all houses have a unique look but have similar heights. He showed how our requested modification of 5 feet does not show when all houses are viewed together in front profile. This image was shown at our meeting to demonstrate the uniqueness of each house and the similar heights. Positive comments were provided during the meeting. There are no houses behind our project, I-5 is above this project.

3) Slope development and site stability - We have hired professionals (Geotechnical Engineer, Civil Engineer, Surveyor, Arborist, Architect, and Structural Engineer) in their areas of expertise as part of our development team and they have validated that indeed there is a good basis for development. Also, as part of the development we will be doing several things to ensure that each building site is safe from any earth movement (i.e. retaining walls, pile walls, and helical screws).

4) Tree Removal - We plan to only remove the trees that are required for the home footprints. We also plan to remove damaged or diseased trees and ivy that covers the site.

5) Public Works and Storm Water - We plan to follow recommendations as approved and directed by the City.

- 3. Lynelle Garcia, Neighbor, October 17, 2018:** Neighbor Garcia expressed concerns on several issues. These issues include 1) the stability of the subject site and surrounding areas – specifically I-5 2) increased traffic brought on by the proposed development, and 3) costs incurred from the proposed right-of-way improvements.

Applicant's Response: 1) Hillside stability from development. I have talked to your husband Toni on several occasions about your house. He said that its built on solid rock and your house has been stable over the last 30 years. As far as my project goes, I have hired professionals (Geotechnical Engineer, Civil Engineer, Surveyor, Arborist, Architect, and Structural Engineer) as part of our development team and they have validated that indeed there is a good rock base for development. Also, as part of the development we will be doing several things to ensure that each building site is safe from any earth movement (i.e. retaining walls, pile walls. and helical screws).

2) Extra traffic / congestion based on four new houses. Each house will have a two-car garage and one parking area between each house. This should handle each residence and manage the additional congestion / parking. I am in the area often and noticed that a house across the street

from you was torn down and two new houses were built. I do not see additional traffic / congestion from the addition of those two houses and hope that our project would produce similar results.

3) Right-of-Way Improvements. You are concerned that you will be responsible for this cost. All ROW improvements related to this project will be funded by this project.

ZONING CODE APPROVAL CRITERIA

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 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 33.430.280. The applicant has provided findings for these approval criteria and BDS Land Use Services staff revised these findings or added conditions, where necessary to meet the approval criteria.

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. 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.

A.1. General criteria for public safety facilities, rights-of-way, driveways, walkways, outfalls, utilities, 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;

Findings: As described in the Development Alternatives section on page 3, proposed development locations, designs and construction methods are extremely limited when working within a 60-foot wide right-of-way that has a steep cross-slope, and where half of the northern right-of-way is already improved. Resource conservation opportunities are further limited because the right-of-way must accommodate a variety of public street improvements required by City public works bureaus. However, the design of these improvements succeeded in meeting all but one of the environmental development standards.

The existing northern right-of-way and steep topography severely limit options for the new right-of-way needed to service the proposed and future development. The new right-of-way, beginning at the intersection of SW Iowa Street, will be constructed west of the existing right-of-way and will utilize a retaining wall to create a split street. The new right-of-way, which will be constructed to Lot 9, will slope upwards to service lots to the west. The existing right-of-way will remain to provide continued access to existing lots to the east.

The steep slope crossing the right-of-way from west to east leaves only one practicable design option for the street. This option controls impacts by using a retaining wall (to minimize grading) and LID street and turnaround standards (to minimize disturbance area). Through these steps, the permanent disturbance was reduced to approximately 2,800 square feet and tree removal was reduced to 14 trees, all of which are younger bigleaf maples. Further impact minimization is provided by a detailed (best management) Construction Management Plan.

One of the goals of the project is to enhance the site's disturbed resource condition through the removal and management of the invasive species. These actions combined with the proposed new native plantings will offset unavoidable impacts to forest and habitat resources. For these reasons, the proposed alternative has the least significant detrimental impact to identified resources and functional values and is the only practicable right-of-way alternative.

For the reasons stated above, *this criterion is met.*

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

Findings: Resources located outside the disturbance area will be protected as described on Page 3 and shown graphically on the Construction Management Plan (Exhibits C.7 and C.8). Trees to remain adjacent to disturbance areas will be temporarily protected with tree protection fencing as determined by the project arborist (Appendix A.6). All equipment operation and maneuvering, staging and stockpiling will occur within designated disturbance areas, or within existing paved streets. Sediment and erosion control devices will be installed and maintained throughout the construction process to prevent erosion or sedimentation from leaving the site.

Also, although the proposed mitigation plan includes extensive planting and invasive species removal from the entirety of the site, this work will be required to be conducted by hand. In addition, the removal of extensive English ivy in addition to diverse native plantings is expected to improve the resources and functional values of this site following the completion of the proposal.

With conditions for handheld equipment only outside of the designated disturbance areas, *this criterion can be met by the proposal.*

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

Findings: The Mitigation Plan described on Page 5 and shown graphically on Exhibit C.10 demonstrates how the impacts to resources and functional values will be fully mitigated. The unavoidable impacts of the project – such as the removal of 14 trees - will be offset by the new native plantings. To offset the forest and habitat impacts, 19 trees and 27 shrubs, as required by Table 430-3, will be planted on Lots 7 through 9, and invasive species will be removed from approximately 1,450 square feet of disturbed area within the undeveloped portion of right-of-way. These actions will enhance forest and habitat conditions by increasing species and structural diversity, improving forest health, and enhancing forage and cover habitat on the undeveloped lots.

Further, the proposed Mitigation Plan will be installed and maintained under the regulations outlined in Section 33.248.090.A-G (Mitigation and Restoration Plantings). To confirm installation of the required plantings, the applicant will be required to have the plantings inspected upon installation. Then, to confirm maintenance of the required plantings for the initial establishment period, the applicant will be required to have the plantings inspected two years after plantings are installed.

With conditions to ensure that plantings required for this Environmental Review are installed, maintained, and inspected, *this criterion can be met.*

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

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.

Findings: All mitigation will occur on site, within the same watershed (Willamette River) and same subwatershed (Carolina-Terwilliger) as the proposed development. The applicant owns the mitigation site.

These criteria are met.

A.3. Rights-of-way, driveways, walkways, outfalls, and utilities;

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 right-of-way improvements are proposed within the resource area of an Environmental Protection overlay zone; *this 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 the project site. The streams located on the slopes west of I-5 within George Himes Park do not support fish. In any event, there are no anticipated impacts to local streams or downstream fish habitat. Furthermore, to the extent that approval criterion A.1.b. "There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed," is met, *this criterion is also 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. *This criterion does not apply.*

33.430.280 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 review 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.

Findings: The proposal is to modify base zone building heights as follows:

- Lot 3: increase from 30 feet to 35 feet, 4 inches
- Lot 4: increase from 30 feet to 34 feet, 10 inches
- Lot 5: increase from 30 feet to 35 feet, 4 inches
- Lot 6: increase from 30 feet to 34 feet

The applicant requests a Modification to increase the maximum allowed height of the buildings on Lots 3 through 6. To reduce environmental impacts and disturbance area on the site, the applicant proposes to construct four-story residences. Taller buildings allow for reduced building footprint on the sites, while simultaneously meeting the stated use (single-dwelling).

The first portion of the modification approval criterion requires that the modifications result in greater protection of resources and functional values. An increase in the maximum height limit on

the lots allows for a smaller footprint, resulting in less permanent impact area. A larger building footprint would result in greater disturbance area (both permanent and temporary), vegetation removal and an increase in impervious surface area on the site. A structure with a larger building footprint, that meets the maximum allowed building height would have greater impacts on resources at the site. Instead, allowing the height to be exceeded, results in a smaller footprint, having less environmental impact. In fact, the increase in height allows proposed development on each lot to meet environmental standards of 33.430.140.

In addition to the modifications resulting in better protection of resources and functional values at the site, the proposal must also on balance, be consistent with the purpose of the applicable regulations.

The purposes of height standards (33.110.215) are:

- They promote a reasonable building scale and relationship of one residence to another;
- They promote options for privacy for neighboring properties; and
- They reflect the general building scale and placement of houses in the city's neighborhoods.

Lot 3:

This home has a highly articulated façade utilizing positive and negative space to reduce the visual impact of its mass.

Lot 4:

This home has low-slope hip roof with a rectangular mass. It has two covered balconies that are "removed" space from the mass. This will create interesting light patterns on the façade at various times of day.

Lot 5:

This home has a steeply pitched gable roof with the main ridgeline running front to back as opposed to side to side. Most of the upper floor area is tucked inside the steep roofline. The vaulted balcony at the top floor is 21 feet wide and 5 feet deep. This element, along with the expansive windows at level 3, will be a very dramatic home.

Lot 6:

This home is five feet narrower than the others due to a sewer easement at the left side of the lot. It has a combination of offset gables and shed roofs. The highest ridgeline runs front to back. On the side elevations, there are two dormers that contain the egress windows for the bedrooms. There are two covered balconies at the upper right side.

Purpose #1: Building Scale & Relationship

Each of the homes seeks a modification to height of approximately five feet. Due to the extreme topography of the project site, the rear elevations have an average of 4 to 10 feet of house projecting out of the grade. Due to the site topography, without the added height, the roofs would be nearly at grade. Humans and animals would be able to step right onto the roofs creating a safety hazard. Having the rooflines so close to grade (or below grade) is both a safety concern and a water control problem. The homes will look very similar in height after construction and are expected to be visually appealing because of the nicely articulated facades. While the homes will be taller in comparison to the older homes across the street, this is largely a result of the extreme slopes in the project area. Lastly, they are in character with the new construction of similar homes on nearby SW Corbett Avenue.

Statement #2: Privacy

The floor levels of the proposed designs will be substantially above those across the street (SW View Point Terrace). When looking towards the homes across the street, the view will be looking down at a sharp angle. Due to site topography, occupants on either side of the SW View Point Terrace will not have a line of sight into rooms on the opposite side of the street. Privacy from adjacent lots is more of an issue and will be handled with window coverings much like that of a townhome development. The window placement for each home is as follows:

For Lot 3, the bedroom windows face the front/rear on two of the three bedrooms. Only one bedroom has its window facing the side.

For Lot 4, the bedroom windows face the side for bedrooms front/rear on two of the three bedrooms. Only one bedroom has its window facing the side.

For Lot 5, the windows at the secondary bedrooms face the side. The master windows face the front.

For Lot 6, the windows at the secondary bedrooms face the side. The master windows face the front. There is a balcony off the master bedroom at right side.

Statement #3: Neighborhood Context

These homes will be similar in scale and height to the newer homes built on SW Corbett Avenue just south of SW Nebraska Street (approximately two blocks south). The difference being these homes have a more refined articulation of the façade. Differing rooflines, using the height modification, were utilized to provide variety in design and uniqueness to each house. The intent was to provide a lively streetscape both in style and height. While the proposed homes will be a few feet taller than the homes on SW Corbett Avenue, the actual elevation of the proposed rooflines above the adjacent ground elevations is in character with many of the homes we see in the city's neighborhoods.

The proposed modifications allow for the minimization of physical impact on the ecological values of the subject site. Considering the characteristics of surrounding development and the physical constraints of the subject site, the proposed buildings are, on balance, consistent with the purposes of the height regulations, *and this criterion is met.*

DEVELOPMENT STANDARDS

Base Zone development standards that apply to this proposal are found in Zoning Code chapter 33.110, *Single-Dwelling*. All these standards must be shown to be met at building permit review or have received an Adjustment or Modification. In addition, the regulations of Title 11 will apply and will need to be met. Trees specifically approved for removal by the land use review are exempt from Title 11 Section 11.50.040 Tree Preservation Standards (11.50.040 B.5). Trees, outside the Environmental Zone, not approved for removal will be subject to Title 11 at the time of building permit review. All the environmental development standards in Zoning Code Sections 33.430.140 through 33.430.180 must continue to be met for lots 3, 4, 5, and 6, or be modified through Environmental Review.

CONCLUSIONS

The applicant proposes to construct right-of-way improvements along Lots 7, 8, and 9, and construct four houses (Lots 3 through 6) that exceed the base zone height limit. As noted, in BDS Site Development's staff response copied above, this land use review does not include Site Development approval of the proposed residential lot construction. Therefore, and the applicant is aware, that any additional disturbance, resulting from geotechnical review requirements may trigger additional land use reviews.

However, the applicant has shown that through increasing the height of the houses, impacts to identified onsite resources have been lessened and that unavoidable impacts to resources resulting from right-of-way improvements will be mitigated in full. The applicant and the above findings have shown that the proposal meets the applicable approval criteria with conditions. Therefore, this proposal should be approved, subject to the conditions described below.

ADMINISTRATIVE DECISION

Approval of an Environmental Review for:

- Improvement of 35 lineal feet of right-of-way;
- 2,128 square feet of temporary disturbance and 2,801 square feet of permanent disturbance;
- Removal of 14 trees;

Approval of Environmental Modifications for:

- Increase maximum allowed building height on Lot 3 from 30 feet to 35 feet, 4 inches;
- Increase maximum allowed building height on Lot 4 from 30 feet to 34 feet, 10 inches;
- Increase maximum allowed building height on Lot 5 from 30 feet to 35 feet, 4 inches; and
- Increase maximum allowed building height on Lot 6 from 30 feet to 34 feet

all within the Environmental Conservation overlay zone, and in substantial conformance with Exhibits C.6-C.8, C.10-C.18, C.20, C.26, C.32, and C.36, as approved by the City of Portland Bureau of Development Services on **June 26, 2019**. Approval is subject to the following conditions:

- A. A BDS Zoning Permit is required for inspection of required mitigation plantings, and a separate BDS construction permit may be required for development.** The Conditions of Approval listed below, shall be noted on appropriate plan sheets submitted for permits (building, Zoning, grading, Site Development, erosion control, etc.). Plans shall include the following statement, ***"Any field changes shall be in substantial conformance with approved LU 18-137518 ENM Exhibits C.6-C.8, C.10-C.18, C.20, C.26, C.32, and C.36."***

Building or construction Permits shall not be issued until a BDS Zoning Permit is issued.

Building Permits shall not be finalized until the BDS Zoning Permit for inspection of mitigation plantings required in Condition C below is finalized.

- B.** All measures provided for sediment control, including sediment fencing, shall be placed inside of the approved "Limits of Construction Disturbance," as shown on Exhibits C.7 and C.8, Construction Management Plan.
1. No mechanized construction vehicles are permitted outside of the approved "Limits of Construction Disturbance." All planting work, invasive vegetation removal, and other work to be done outside the Limits of Construction Disturbance, shall be conducted using hand held equipment.
 2. Trees shall be protected according to tree protection measures provided in Title 11 Tree Code, Chapter [11.60.030 Tree Protection Specifications](#), or as specifically depicted on Exhibits C.7 and C.8 Construction Management Plan.
- C.** The applicant shall obtain a BDS Zoning Permit for approval and inspection of a Mitigation Plan for removal of 1,448 square feet of invasive species and planting a total of 19 trees, 87 shrubs, and 290 groundcovers in substantial conformance with Exhibit C.10 Mitigation Plan. Any plant substitutions shall be selected from the *Portland Plant List* and shall be substantially equivalent in size to the original plant. Conifers must be substituted with conifers.
1. Permit plans shall show:
 - a. Permit plans shall show the general location of the trees, shrubs and ground covers required by this condition to be planted in the mitigation area and labeled as "new required landscaping". The plans shall include a 40-foot by 40-foot "typical", scalable planting layout for each planting zone, and shall illustrate a naturalistic arrangement of plants and should include a planting table listing the species, quantity, spacing and sizes of plants to be planted.
 - b. The applicant shall indicate on the plans selection of either tagging plants for identification or accompanying the BDS inspector for an on-site inspection.
 2. Plantings shall be installed between October 1 and March 31 (the planting season).
 3. Prior to installing required mitigation plantings, non-native invasive plants shall be removed from all areas within the Environmental Zone, using handheld equipment.
 4. All trees removed for construction of this project, with trunks greater than 12 inches in diameter, shall be retained on the site and within the resource area of the Environmental Zone.
 5. If plantings are installed prior to completion of construction, a temporary bright orange, 4-foot high construction fence shall be placed to protect plantings from construction

activities.

6. All mitigation and remediation shrubs and trees shall be marked in the field by a tag attached to the top of the plant for easy identification by the City Inspector; or the applicant shall arrange to accompany the BDS inspector to the site to locate mitigation plantings for inspection. If tape is used it shall be a contrasting color that is easily seen and identified.
7. After installing the required mitigation plantings, the applicant shall request inspection of mitigation plantings and final the BDS Zoning Permit.

D. The land owner shall maintain the required plantings to ensure survival and replacement. The land owner is responsible for ongoing survival of required plantings during and beyond the designated two-year monitoring period. After the 2-year initial establishment period, the landowner shall:

1. Obtain a Zoning Permit for a final inspection at the end of the 2-year maintenance and monitoring period. The applicant shall arrange to accompany the BDS inspector to the site to locate mitigation plantings for inspection. The permit must be finalized no later than 2 years from the final inspection for the installation of mitigation planting, for the purpose of ensuring that the required plantings remain. Any required plantings that have not survived must be replaced.
2. All required landscaping shall be continuously maintained, by the land owner in a healthy manner, with no more than 15% cover by invasive species. Required plants that die shall be replaced in kind.

E. Failure to comply with any of these conditions may result in the City's reconsideration of this land use approval pursuant to Portland Zoning Code Section 33.700.040 and /or enforcement of these conditions in any manner authorized by law.

Staff Planner: Morgan Steele

Decision rendered by:  on June 26, 2019
By authority of the Director of the Bureau of Development Services

Decision mailed: June 28, 2019

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on March 20, 2018, and was determined to be complete on September 12, 2018.

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 March 20, 2018.

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 completely waived the 120-day review period, as stated within Exhibit A.9. **The 120-day timeline does not apply.**

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 July 12, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 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.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 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 final decision.

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **July 12, 2019** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

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

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

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

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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Original Narrative & Site Plans, March 2018
 2. Revised Site Plans, September 2018
 3. Revised Site Plans, February 2019
 4. Stormwater Management Report, December 2017
 5. Geotechnical Reports (includes revisions), April 2007, March/April/May 2019
 6. Tree Protection Plan, March 2018
 7. Applicant's Response to Incomplete Items, September/November 2018, February 2019
 8. Applicant's Responses to Neighborhood Concerns
 9. Extension of the 120-Day Review Period & ORS 227.178 Waiver
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Combined Site Existing Conditions Plan
 2. Combined Site Proposed Development Plan (attached)
 3. ROW Existing Conditions Plan – North
 4. ROW Existing Conditions Plan – South
 5. ROW Proposed Development Plan – North
 6. ROW Proposed Development Plan – South
 7. ROW Construction Management Plan – North
 8. ROW Construction Management Plan – South
 9. ROW Mitigation Plan – North
 10. ROW Mitigation Plan – South (attached)
 11. Lot 3 Existing Conditions & Proposed Development Plan
 12. Lot 3 Construction Management & Mitigation Plan
 13. Lot 4 Existing Conditions & Proposed Development Plan
 14. Lot 4 Construction Management & Mitigation Plan
 15. Lot 5 Existing Conditions & Proposed Development Plan
 16. Lot 5 Construction Management & Mitigation Plan
 17. Lot 6 Existing Conditions & Proposed Development Plan
 18. Lot 6 Construction Management & Mitigation Plan
 19. Erosion Control Details
 20. Lot 3 Front Elevation
 21. Lot 3 Right Side Elevation
 22. Lot 3 Rear Elevation
 23. Lot 3 Left Elevation

24. Lot 3 Floor Plan
 25. Lot 3 Floor Plan Continued
 26. Lot 4 Front Elevation
 27. Lot 4 Left Elevation
 28. Lot 4 Rear Elevation
 29. Lot 4 Right Elevation
 30. Lot 4 Floor Plan
 31. Lot 4 Floor Plan Continued
 32. Lot 5 Front & Right Elevation
 33. Lot 5 Rear & Left Elevation
 34. Lot 5 Floor Plan
 35. Lot 5 Floor Plan Continued
 36. Lot 6 Front & Right Elevation
 37. Lot 6 Rear & Left Elevation
 38. Lot 6 Floor Plan
 39. Lot 6 Floor Plan Continued
- 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. Bureau of Transportation
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Life Safety
 7. Bureau of Parks, Forestry Division
- F. Correspondence:
1. Christine Carocci, Neighbor, September 25, 2018
 2. Janes Gardner, SPNA Chair, October 11, 2018
 3. Lynelle Garcia, Neighbor, October 11, 2018
- 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
- Stream
- Recreational Trails

File No.	LU 18-137518 ENM
1/4 Section	3629
Scale	1 inch = 200 feet
State ID	1S1E15CC 901
Exhibit	B Jun 20, 2019

