



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

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: February 5, 2010
To: Interested Person
From: Rachel Whiteside, Land Use Services
503-823-7605 / rwhiteside@ci.portland.or.us

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

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

CASE FILE NUMBER: LU 08-182313 LDS GW

GENERAL INFORMATION

Applicant/Owner: Kathleen M Anderson
2916 N Willamette Blvd
Portland, OR 97217-4073

Site Address: Vacant lot at end of N Tyler Ave & N Bradford St

Legal Description: TL 2100 0.79 ACRES, SECTION 12 1N 1W
Tax Account No.: R961121350
State ID No.: 1N1W12DB 02100
Quarter Section: 2222
Neighborhood: Cathedral Park, contact Barbara Quinn at 503-289-6112.
Business District: St. Johns Business Boosters, contact Gary Boehm 503-286-1312.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Zoning: R5q – Single-dwelling Residential with a River Water Quality overlay zone

Other Designations: Potential Landslide Hazard Area
Case Type: LDP GW – Land Division and concurrent Greenway Review
Procedure: Type IIx, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to divide the 34,223 square foot site into two lots and two open space tracts. The proposed lots are each 8,500 square feet and are separated by a 16-foot wide deep space tract. The second open space tract is below (south) Lot 2 and contains several trees. Lot 1 has frontage and vehicle access from an existing private street. Lot 2 is a flag-like narrow lot with frontage on N Bradford Street. Vehicle access to Lot 2 is a private driveway supported by a pin pile retaining wall.

The applicant has proposed to direct stormwater from the lots to stormwater swales, which will infiltrate onsite. The applicant has provided a landslide hazard study, preliminary geotechnical report, and an infiltration study to address onsite stormwater disposal and the potential landslide hazard area.

Public water and sewer lines are available to serve the site in North Bradford Street and North Tyler Avenue. The applicant has proposed to pump up to the existing line in N Bradford.

This site is within the River Water Quality greenway overlay zone. A large section of the site riverward of the proposed lots has been placed into a 15,726 square foot open space tract. The site contains no river frontage and is roughly 200 feet from top of bank of the Willamette River.

This land division proposal is reviewed through the Type IIX land use review procedure because it is a land division for 2 lots within the Potential Landslide Hazard Area (See 33.660.110). For purposes of State Law, this land division is considered a Subdivision. To subdivide land is to divide land into 4 or more units of land (lots or tracts) within a calendar year (See ORS 92.010).

Relevant Approval Criteria:

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

- **33.660.120** Approval Criteria for Land Divisions in an Open Space or Residential Zone.
- **33.440.350** Approval Criteria for Greenway Review

SITE INFORMATION

Description of the Site: The site is a vacant property situated on the south side of N Bradford Street where Bradford intersects N Tyler Avenue. It is located in a neighborhood of detached single dwellings. North of N Crawford Street parcels average 5,000 square feet. Southeast of N Crawford lots are larger and range all the way up to .79 acres in area. The neighborhood is situated on a ridge in north Portland, with a steeply sloping hillside that ultimately slopes down to the Willamette River. The common development pattern around the subject site is homes on the uphill side of the ridge, or along the north side of N Bradford. There are only two homes built on the downhill side of the ridge.

The lot itself is 34,223 square feet in area and drops off steeply from N Bradford Street and the adjacent private street, dropping 80 feet in 187 feet from the road. This site is primarily a vegetated upland scrub/shrub mix. There are two big leaf maples and one Doug Fir at the top of the site along the private street and an assortment of fruit trees further down slope.

The site is connected to other natural resource areas including the city-owned open space to the west and the privately owned land riverward of the rail road tracks. Current habitat value for the site is moderately low due to a dominance of invasive plant species, such as blackberry, and low structural plant diversity. There is high potential for increased habitat value because of the close connection to other natural resources and habitats.

Infrastructure: There is a combined public sanitary and storm sewer in both the N Bradford Street and N Tyler Avenue rights-of-way, adjacent to the property. There is also a water main in both streets.

Both N Bradford and N Tyler end at the site, although both connect to other local service streets. N Willamette Boulevard is the nearest District Collector and Transit Street. N Bradford Street is a 15-foot wide paved street in a 60-foot wide right-of-way. N Tyler Avenue is a 15-foot wide paved street in a 60-foot wide right-of-way. The site also partially fronts on a 15-foot wide paved private street in a 20-foot wide tract that currently serves two homes to the east.

Greenway Resources: The greenway overlay zones protect, conserve, enhance, and maintain the natural, scenic, historical, economic, and recreational qualities of lands along Portland's rivers. The greenway regulations implement the City's Willamette Greenway responsibilities as required by ORS 390.310 to 390.368, as well as the water quality performance standards of

Metro's Title 3. The purpose of this land use review is to ensure compliance with the regulations of the greenway overlay zones.

The *Lower Willamette River Wildlife Habitat Inventory* identifies this upland slope as sites 7.1b and 7.2b. This property is right at the transition from a Rank IV to a Rank III classification. Site 7.1b received a Rank III designation for its medium degree of food and cover available for wildlife. Rank IV sites have some of the greatest potential for creative wildlife enhancement since these sites in their present state are not used by many species. The *Inventory* recommends that rehabilitation efforts focus on replanting native species of trees and shrubs which will better serve wildlife needs, be attractive in an urban setting, and meet maintenance objectives.

Zoning: The Single-Dwelling Residential (R5) zone is intended to create and maintain single-dwelling residential neighborhoods. The q-overlay is designed to protect the functional values of water quality resources by limiting or mitigating the impact of development in the greenway setback.

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

- **MP 107-79:** Approval of a Minor Partition.
- **S(P) 18-89:** Approval of a 3-lot partition (including this lot) and private street tract.
- **ZC 6870:** Approval of a Zone Change to residential zoning.

PUBLIC REVIEW COMMENTS

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on **June 19, 2009**.

1. Agency Review: Several Bureaus and agencies have responded to this proposal. Exhibits E contain additional details. The comments are addressed under the appropriate criteria for review of the proposal.

2. Neighborhood Review: Two written responses have been received from notified property owners in response to the proposal.

Comment: A neighbor wrote and suggested that the road entrance off N Bradford to the lower lot be lined up with N Tyler given the proximity to a vertical drop. The neighbor pointed out a height restriction agreement that was recorded for buildings on the property to be no higher than 18 feet to avoid river view problems for houses along N Bradford and Taylor.

BDS Response: *Portland Transportation has reviewed the proposed location of the private driveway and has no objections. The height restriction agreement is not a requirement of the City code. The City does not enforce private agreements.*

Comment: A neighbor expressed concern that the proposed driveway serving Lot 1 from the private street would infringe upon the private street which is owned in common. The neighbor mentioned a legal agreement relative to the private street which stipulates joint maintenance responsibilities for the private street.

BDS Response: *The applicant has demonstrated to be one of three equal ownerships of the private street from which the driveway access is proposed. It is up to the owners in common to revise the maintenance agreement to mutual satisfaction of all owners. This agreement may stipulate any terms and conditions relative to the maintenance and use of the private street. The City does not enforce agreements between private property owners.*

PROJECT ANALYSIS

Impact Analysis and Landscape Plan: The proposed development subject to Greenway review includes the two new homes, driveways, retaining wall, stormwater treatment facilities, utility

connections, any tree removal, and associated temporary impacts from construction such as grading or erosion control measures.

Proposed Construction Management Plan (CMP): The applicant proposes placement of erosion control wattles at the down slope edge of the site and tree protection fence around the root protection zones of all trees to be preserved as shown on the site plan prior to the commencement of construction activities. To the extent practical, all existing vegetation outside the limit of disturbance will be protected, excepting the removal of invasive species. Erosion control measures and construction fencing will remain in place until all the above mentioned construction activities are completed.

Applicant-Identified Development Impacts: The applicant has identified 17,000 square feet of area that will be permanently disturbed as part of future lots, approximately 500 square feet of additional temporary disturbance area, and removal of one tree, associated with the proposed development. The impact area is already partially disturbed, as it has previously been a fruit orchard and the site of yard debris dumping over the years. Although some native species are present, the applicant points out that groundcovers are dominated by invasive species.

Proposed Landscape Treatment: The applicant's proposed landscape measures are as follows:

- 1) Removal of invasive plants within open space tracts; and
- 2) Planting a mixture of native and non-native trees and shrubs within the open space tracts.

The proposed landscape treatment is intended to enhance the property as natural riverbank habitat. The property will be transformed from a field of invasive blackberry bushes to a landscape containing 150 native shrubs and 10 native trees. This is a vast improvement from the existing conditions, and far more enhanced than the abutting City-owned property to the west.

Also, the property is restricted by an eighteen foot height limitation (by agreement), which is a concern to neighbors to the east. Trees in the lower portion of the property would block neighboring views of the river. Fruit trees can be pruned to maintain neighboring views.

The Sweet Gum and the Pacific Willow in front of the house in proposed Tract B will provide shade. They are fast growing deciduous trees and will aid in keeping the house cool in the summer. A smaller native tree, such as a Madrone is very slow growing, does not lose its leaves in the winter, and can only be transplanted as a very small sapling (under one foot) to survive. It would not be ideal for passive solar cooling. The Western Red Cedar was located in the upper open space to provide a year round screen between the two houses for privacy.

Proposed Monitoring Plan for Landscaping: The property owner has not proposed any monitoring of plantings. Monitoring of landscape areas is the ongoing responsibility of the property owner. Any dead or dying plants must be replaced in kind. Written proof that all specifications of Section 33.248.090 Mitigation and Restoration Plantings should be provided to BDS one year after planting is completed.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.610	Lots	Applicable - See findings below
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Applicable - See findings below.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Applicable - See findings below.
I	33.639	Solar Access	Not Applicable - All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot standards applicable in the RF through R5 zones. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints.

In this case, a street is not proposed or required, but the site is within the potential landslide hazard area. Therefore, the maximum and minimum density for this site is as follows:

Minimum = There is no minimum density in a landslide hazard area.

Maximum = $34,223 \text{ square feet} \div 5,000 \text{ square feet} = 6.84$ (which rounds down to a maximum of 6 lots, per 33.930.020.B)

The applicant is proposing 2 lots. The density standards are therefore met.

Lot Dimensions

The lot dimension standards ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not too large relative to the planned density; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in Table 610-2 of the Zoning Code):

	R5 Zone Requirement	Proposed Lot 1	Proposed Lot 2
Minimum Lot Area	3,000 sq. ft.	8,500	8,500
Maximum Lot Area	8,500 sq. ft.		
Minimum Lot Width*	36 ft.	100	30
Minimum Lot Depth	50 ft.	85	65
Minimum Front Lot Line	30 ft.	100	30

* Width is measured at the minimum front building setback line

Narrow Lots

Lot 2 is 30 feet wide — narrower than the standard minimum width for the R5 zone, as shown in the table above. Section 33.610.200.D of the Zoning Code, however, allows narrower lots if the future development can meet certain standards:

- **If the lot abuts an alley, then vehicle access is allowed only from the alley;**
- **If the lot does not have vehicle access from an alley, then there must be at least 15 contiguous feet of uninterrupted curb space on the abutting street for each lot being created under these provisions (lots that abut a pedestrian connection or common green are exempt from this standard).**
- **Lots must be configured so that at the time of development the length of the garage wall will be no more than 50% of the length of the street-facing building façade.**
- **Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development;**
- **When a driveway is proposed to provide vehicle access to more than two lots, it must be an alley; and**

The applicant has demonstrated that Lot 2 can meet the narrow lot standards for the following reasons:

- The site does not have access from an alley, so this standard does not apply.

- Exhibit C.2 shows that 15-feet of uninterrupted curb space is available for Lot 2 along North Bradford Street or the private street to the east. A condition of approval is required to assure that this curb space will continue to be preserved when the lots are developed or re-developed.
- The applicant has demonstrated, with Exhibit C.2 that each lot will be able to accommodate a garage that will occupy no more than 50 percent of the length of the street-facing building wall.
- The landscaping requirement does not apply because attached housing is not proposed.
- Each driveway is proposed to serve only one lot, so an alley is not required.

The findings above describe how the applicable lot standards can be met with conditions.

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

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.2). Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species, located partially off the property or located within 10 feet of an existing structure to remain on the property or partially within the environmental zone. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	Preserved?	RPZ (Root Protection Zone)
a	OR Broadleaf Maple	9	no	yes		
b	Douglas Fir	20	yes	no	yes	20' and as modified by arborist statement
c	OR Broadleaf Maple	14	no	no	yes	14' and as modified by arborist statement
d	Native Cherry	6	no	yes	no	
e	Redbud	4	no	yes	no	
f	Apple	8	no	yes	no	
g	Apple	6	no	yes	no	
h	Apple	6	no	yes	no	
i	Apple	16	no	no	no	
j	Native Cherry	6	no	yes	no	

The total non-exempt tree diameter on the site is 50" inches. The applicant proposes to preserve trees b and c which comprise of 34 inches of diameter, or 68 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C.4).

This criterion is met, subject to the condition that development on Lot 1 is carried out in conformance with the Tree Preservation Plan (Exhibit C.4) and the applicant's arborist report (Exhibit A.15).

- D. Potential Landslide Hazard Area. If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met.**

33.632.100 Landslide Hazard Area Approval Criterion

The following approval criterion must be met: Locate the lots, buildings, services and utilities on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site, is reasonably limited.

Determination of whether the proposed layout and design reasonably limits the risk of a landslide will include evaluation of the Landslide Hazard Study and will take into consideration accepted industry standards for factor of safety. Alternative development options including alternative housing types and reduced density may be required in order to limit the risk to a reasonable level.

Findings: The entire site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site is reasonably limited. In order to evaluate the proposal against this criterion, the applicant has submitted two geotechnical evaluation of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibits A.3 and A.4) and a subsequent email from Terra Dolce (Exhibit A.9) that addresses the access road specifically. The reports were evaluated by the Site Development Division of the Bureau of Development Services, the City agency that makes determinations regarding soil stability.

The applicant's geotechnical evaluation indicates that the risk of potential landslide hazard at the site is relatively low, given the soil composition, topography, and other risk factors. The proposed land division will result in lots, buildings, services, and utilities that may not significantly increase the risk of landslide potential on the site or other properties in the vicinity of the site. The geotechnical information addresses the driveway alignment that is situated on the western portion of the property, adjacent to a steep slope and recommends the driveway be supported by a pin-pile retaining wall.

In addition, supplemental geotechnical evaluation (Exhibit A.18) has concurred that the applicant's proposed method of stormwater disposal at the site will not have a significant detrimental impact on the slope stability on or around the site. This conclusion was reached because the soils will infiltrate to an acceptable level for the proposed drywells and the drywells are set far enough away from the steepest slopes at the west and south ends of the site.

Site Development has concurred with the findings of the applicant's geotechnical report, but notes that on-site infiltration of stormwater is limited to drywells only and any facilities my comply with Plumbing Code Appeal #6696. With this condition, this criterion can be met.

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

The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

33.635.100 – Clearing and Grading

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;**

- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;**
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and**
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.**

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

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

The proposed clearing and grading shown on Exhibit C.4 represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a driveway and level lot areas. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Following the recommendations of the Landslide Hazard Study will help to limit erosion and sedimentation concerns. Stormwater runoff from the new driveway and lots will be appropriately managed by a carefully placed drywell to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading proposed is sufficient for the construction of the new driveway and the preparation of the lots, without being excessive. The limits of disturbance shown on the applicant's plan allow for a reasonable maneuvering area for earth-moving equipment needed to level the driveway and an adequate area to stockpile excess material. In addition, no clearing and grading is proposed within the root protection zones of the trees on the site that are required to be preserved. The foundation for the house proposed on Lot 1 is 10-12 feet below the anticipated root depth of the trees to be preserved and has been reviewed by the applicant's arborist for impacts. The clearing and grading plan indicates areas of topsoil storage and general stockpiling are outside of the root protection zones of the trees on the site to be preserved.

As shown above the clearing and grading anticipated to occur on the site can meet the approval criteria. At the time of building permit submittal on the individual lots a clearing, grading and erosion control plan will be submitted to the Site Development Section of the Bureau of Development Services. Site Development will review the grading plan against the applicant's Landslide Hazard Study as well as any additional geotechnical information required at the time of permit submittal to assure that the grading will not create any erosion risks. In addition the plans will be reviewed for compliance with the applicant's tree preservation plan and arborist report. With the condition noted above requiring that the building permits for Lot 1 comply with the arborist report these criteria are met.

33.635.200 – Land Suitability

Where geologic conditions or historic uses of the site indicate a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

The site is currently vacant and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

33.636.100 Requirements for Tracts and Easements

A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:

- 1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;**
- 2. The Homeowners' Association for the area served by the tract;**
- 3. A public or private non-profit organization; or**
- 4. The City or other jurisdiction.**

Findings: The following tracts are proposed: (Tract A – a 1,500 square foot Open Space Tract located south of Lot 1 and; Tract B – a 15,728 square foot Open Space Tract located south of Lot 2). With the condition that Tract A is owned in common by the owners of Lots 1 and 2 and that Tract B is owned by the owner of Lot 2, this criterion can be met.

B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.

Findings: The following easements are proposed and/or required for this land division:

- A Private Storm Sewer Easement is required across the relevant portions of Tracts A and B, for a shared stormwater facility that will provide stormwater disposal for both lots.

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

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

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

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

The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.

33.641.020. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 40 feet of frontage on the dead end intersection of N. Bradford and North Taylor. Both streets are classified as local service streets for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service approximately 1045 feet from the site on N Willamette Blvd via bus 44. The site is vacant, and there are no existing off-street parking spaces on the site.

N Bradford and N Tyler are currently paved with no curbs or sidewalks at the intersection of the two streets. is fully improved with a paved roadway, curbs, planting strips, and sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided (see Exhibit E.2).

This criterion is met.

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

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

- The water standards of 33.651 have been verified. An existing 6- inch water main is available in N Bradford and N Tyler streets to serve the proposed development. See Exhibit E.3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There are existing public 15-inch CSP combined sewers in N Tyler Avenue and N Bradford Street. The applicant has submitted and BES has reviewed a plan showing two additional lateral connections to the existing manhole that meet BES' rules of Connection and the standards of the City of Portland's Sewer and Drainage Facilities Design manual. BES has requested that permits be obtained and finalized prior to final plat approval to construct two dry sewer connections to the manhole at the intersection of North Tyler and Bradford Streets. The applicant may instead obtain a permit and construct a short sewer extension prior to final plat. See Exhibits E.1, E.11 and E.14 for more details.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

33.653.020 Stormwater Management Approval Criteria

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and**
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.**

Findings: Tract B is identified as an Open Space and Stormwater Tract. Therefore criterion A is applicable and addressed below.

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

The Stormwater Management Manual contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the Stormwater Management Manual, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed the following stormwater management methods (Exhibits C.2 and C.3), and the Bureaus have responded as follows (Exhibits E.1, E.5, E.8, E.9, and E.11-E.14):

- **Lots 1 and 2:** Stormwater from these lots will be directed to a shared bioswale that will treat the water and slowly infiltrate it into the ground through a drywell to be located in Tract B. Tract B has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from two reasonably-sized homes and the driveway serving Lot 2. Site Development has indicated conceptual approval of the facility with the condition that on-site infiltration of stormwater is limited to drywells only and any facilities must comply with Plumbing Code Appeal #6696.

With the condition of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities criteria are met.

33.440.350 GREENWAY REVIEW APPROVAL CRITERIA

The approval criteria for a greenway review have been divided by location or situation. The divisions are not exclusive; a proposal must comply with all of the approval criteria that apply to the site. A greenway review application will be approved if the review body finds that the applicant has shown that all of the approval criteria are met.

- A. For all greenway reviews.** The Willamette Greenway design guidelines must be met for all greenway reviews.

Findings: The Willamette Greenway Design Guidelines address the quality of the environment along the river and require public and private developments to complement and enhance the riverbank area. The Design Guidelines are grouped in a series of eight Issues:

(Note: A complete description of the Design Guidelines and their applicability is provided in pages 45-81 in the Willamette Greenway Plan.)

Issue A. Relationship of Structures to the Greenway Setback Area: This issue “applies to all but river-dependent and river-related industrial use applications for Greenway Approval, when the Greenway Trail is shown on the property in the *Willamette Greenway Plan*.” These guidelines call for complementary design and orientation of structures so that the greenway setback area is enhanced:

Issue B. Public Access: This issue “applies to all but river-dependent and river-related industrial use applications for Greenway Approval, when the Greenway Trail is shown on the property in the *Willamette Greenway Plan*.” These guidelines call for integration of the Greenway Trail into new development, as well as the provision of features such as view points, plazas, or view corridors:

Issue F. Alignment of Greenway Trail: This issue “applies to all applications for Greenway Approval with the Greenway Trail shown on the property in the *Willamette Greenway Plan*.” These guidelines provide direction for the proper alignment of the greenway trail, including special consideration for existing habitat protection and physical features in the area of the proposed alignment.

Issue G. Viewpoints: This issue “applies to all applications for Greenway Approval with a public viewpoint shown on the property in the *Willamette Greenway Plan* and for all applications proposing to locate a viewpoint on the property”. These guidelines provide direction about the features and design of viewpoints, as required at specific locations.

Issue H. View Corridors: This issue “applies to all applications for Greenway Approval with a view corridor shown on the property in the *Willamette Greenway Plan*”. These guidelines provide guidance in protecting view corridors to the river and adjacent neighborhoods.

Findings: The *Willamette Greenway Plan* does not identify the greenway trail, any viewpoints, or view corridors on this site. These guidelines do not apply.

Issue C. Natural Riverbank and Riparian Habitat: This issue “applies to situations where the river bank is in a natural state, or has significant wildlife habitat, as determined by the wildlife habitat inventory.” These guidelines call for the preservation and enhancement of natural banks and areas with riparian habitat:

Findings: As noted on pages 3-4 of this report, the project area does not contain significant wildlife habitat. However, the riverbank adjacent to the site is in a natural state and the riparian area would benefit from appropriate upland plantings.

The applicant has proposed a landscape plan that includes removal of invasive species and replanting with a mixture of native shrubs, non-native fruit bearing shrubs, native trees, and non-native fruit trees. The applicant has noted that they want the ability to use the open space tract for fruit trees and garden area in addition to native plantings.

The City’s priority for landscape treatments in the open space tract is to enhance the travel corridor at the south end of the site and to tie into the existing open space to the west of the site. The City has created a revised landscape plan that shows enhancement plantings clustered in this area, but at a slightly more dense planting ratio. This will give native plants a greater chance of establishment and result in a better buffer.

In an effort to recognize the private interests in this same open space, Tract A and the first 20 feet around Tract B have been identified as "No Planting Restriction" areas on the City's revised landscape plan. The property owner would be allowed to use these areas for a garden, fruit trees, or other non-native species, as desired. No planting restrictions are proposed on the individual lots. Planting of nuisance or prohibited plants is not allowed anywhere on the site. A Zoning Permit, issued prior to final plat approval, will ensure that the proposed landscape improvements comply with Exhibit C.5.

Monitoring was not proposed, but should conform to Section 33.248.090 Mitigation and Restoration Plantings, as described on page 4.

Removal of invasive blackberries and replacing with native trees and shrubs will help to stabilize the steep slope on this site as well as provide habitat for wildlife in the area. With conditions for a Zoning Permit for plantings in conformance with Exhibit C.5 and monitoring, this guideline is satisfied.

Issue D. Riverbank Stabilization Treatments: This Issue "applies to all applications for Greenway Approval." This guideline promotes bank treatments for upland developments that enhance the appearance of the riverbank, promote public access to the river, and incorporate the use of vegetation where possible:

Findings: The riverbank adjacent to the site is in a natural state. Any form of engineered wall or similar solution would not be appropriate for this site. This guideline does not apply.

Issue E. Landscape Treatments: This Issue "applies to all applications for Greenway Approval which are subject to the landscape requirements of the Greenway chapter of Title 33 Planning and Zoning of the Portland Municipal Code." This Issue calls for landscaping treatments that create a balance between the needs of both human and wildlife populations in the Greenway Setback area or riverward of the Greenway Setback.

Findings: The project site is not subject to the landscape requirements of the Greenway chapter. Therefore, this guideline does not apply.

Summary of Issue Findings: The design guidelines in Issues A, B, and E-H are not applicable and Issues C and D are met. Therefore, this criterion is met.

- B. River frontage lots in the River Industrial zone.** In the River Industrial Zone, uses that are not river-dependent or river-related may locate on river frontage lots when the site is found to be unsuitable for river-dependent or river-related uses. Considerations include such constraints as the size or dimensions of the site, distance or isolation from other river-dependent or river-related uses, and inadequate river access for river dependent uses.

Findings: The project site does not have river frontage, nor does it have a River Industrial designation. This criterion is not applicable.

C. Development within the River Natural zone.

D. Development on land within 50 feet of the River Natural zone.

Findings: The site does not have a River Natural designation and is not within 50 feet a River Natural designation. These criteria do not apply.

- E. Development within the greenway setback.** The applicant must show that the proposed development or fill within the greenway setback will not have a significant detrimental environmental impact on Rank I and II wildlife habitat areas on the riverbank. Habitat rankings are found in the Lower Willamette River Wildlife Habitat Inventory.

F. Development riverward of the greenway setback. The applicant must show that the proposed development or fill riverward of the greenway setback will comply with all of the following criteria:

1. The proposal will not result in the significant loss of biological productivity in the river;
2. The riverbank will be protected from wave and wake damage;
3. The proposal will not:
 - a. Restrict boat access to adjacent properties;
 - b. Interfere with the commercial navigational use of the river, including transiting, turning, passing, and berthing movements;
 - c. Interfere with fishing use of the river;
 - d. Significantly add to recreational boating congestion; and
4. The request will not significantly interfere with beaches that are open to the public.

G. Development within the River Water Quality overlay zone setback. If the proposal includes development, exterior alterations, excavations, or fills in the River Water Quality overlay zone setback the following approval criteria must be met:

1. Streets, right-of-way dedications, driveways, walkways, outfalls, and utilities. For streets, right-of-way dedications, driveways, walkways, outfalls, and utilities, the applicant's impact evaluation must demonstrate that all of the following are met:
 - a. Proposed development or right-of-way (ROW) locations, designs, and construction methods have the least significant detrimental impact to the functional values of the water quality resource area than other practicable and significantly different alternatives including alternatives outside the River Water Quality overlay zone setback;
 - b. The location, design, and construction method of any outfall or utility proposed within a River Water Quality overlay zone has the least significant detrimental impact to the functional values of the water quality resource area than other practicable alternatives including alternatives outside the River Water Quality overlay zone setback;
 - c. Water bodies are crossed only when there are no practicable alternatives with fewer significant detrimental impacts. Where a water body is crossed, the location, design, and construction method of that crossing has the least significant detrimental impact to the functioning of the water body and considering practicable alternatives;
 - d. There will be no significant detrimental impact on functional values in areas designated to be left undisturbed within the River Water Quality overlay zone setback;
 - e. All significant detrimental impacts on functional values that cannot be avoided will be mitigated by meeting the requirements of Subsection 33.440.350.H; and
 - f. The mitigation plan ensures that the proposed development will not contribute to a cumulative loss of functional values over time.
4. Public recreational facilities. Public recreational trails, rest points, view points, and interpretative facilities will be approved if the applicant's impact evaluation demonstrates that all of the following are met:
 - a. Proposed development locations, designs, and construction methods have the least significant detrimental impact to the functional values of the water quality resource area than other practicable and significantly different alternatives including alternatives outside the River Water Quality overlay zone setback;
 - b. Water bodies are crossed only when there are no practicable alternatives with fewer significant detrimental impacts. Where a water body is crossed, the location, design, and construction method of that crossing has the least significant detrimental impact to the natural functioning of the water body, considering practicable alternatives;
 - c. The public benefits of the proposal outweigh all significant detrimental impacts;

- d. Areas disturbed during construction that do not contain permanent development will be restored with native vegetation appropriate to the site conditions and found on the *Portland Plant List*;
- e. There will be no significant detrimental impact on functional values in areas designated to be left undisturbed within the River Water Quality overlay zone setback;
- f. All significant detrimental impacts on functional values that cannot be avoided will be compensated for through a mitigation plan meeting the requirements of Subsection 33.440.350.H; and
- g. The mitigation plan ensures that the proposed development will not contribute to a cumulative loss of functional values over time.

Findings: No development, excavation, or fill is proposed within or riverward of the Greenway or River Water Quality setback. The proposed lots and homes are over 100 feet landward and uphill of the Greenway setback. These criteria are not applicable.

H. Mitigation or remediation plans. Where a mitigation or remediation plan is required by the approval criteria of this chapter, the applicant's mitigation or remediation plan must demonstrate that the mitigation will occur on-site or as close to it as possible; that the applicant owns the mitigation site; and that the mitigation plan contains a construction timetable as well as monitoring and maintenance plans

Findings: There are no applicable approval criteria that require a mitigation or remediation plan, therefore, this criterion does not apply.

DEVELOPMENT STANDARDS

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

Approval criteria, such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Narrow Lots – development on Lot 2 will be subject to the following standards at the time of development permitting:

- Height of the structures will be limited to 1.2 times the width of the structure, per 33.110.215.B.2; and
- Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.250.E.4.c (1)

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use

actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 -27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements and the recording of an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Lots 1 and 2 per Fire Code Appeal 5834 (Exhibits E.4 and E.11). These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a subdivision for 2 standard lots and 2 open space tracts, as shown on the attached preliminary plan (Exhibit C.2). All proposed lots and development are well beyond the greenway setback and the site does not have river frontage or a greenway trail designation. As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: stormwater management, fire access, tree preservation, and greenway landscape improvements. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of Greenway Review for two lots with associated single-dwelling development, a driveway with retaining wall, stormwater facilities, and landscape improvements as shown on Exhibit C.2.

Approval of a Preliminary Plan for a 2-lot subdivision, that will result in one standard lot, one narrow lot, and two open space tracts as illustrated with Exhibit C.2, subject to the following conditions:

A. The final plat must show the following:

1. A private storm sewer easement, for the benefit of Lots 1 and 2, shall be shown and labeled over the relevant portions of Tracts A & B.

2. The two Open Space Reserve tracts shall be noted on the plat as "Tract A: (Open Space Tract A)" and "Tract B: (Open Space and Stormwater Facility Tract B)". A note must also be provided on the plat indicating that the tract ownership and maintenance.
3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions B.3 & B.4 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

Utilities

1. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire accessway for Lots 1 and 2. Per Fire Code Appeal 5834, the applicant will be required to install residential sprinklers in the new houses on Lots 1 and 2. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.
2. The applicant must complete one of the options listed below to the satisfaction of the Bureau of Environmental Services:
 - a. Finalize permits to construct two dry sewer connections to the manhole at the intersection of N Tyler Avenue and N Bradford Street.
 - b. Obtain a permit for a short sewer extension through BES Development Engineering's sewer upgrade program and have a licensed and bonded contractor obtain finalized permits for the construction of the public sewer extension.

Required Legal Documents

3. A Maintenance Agreement shall be executed for the Private Stormwater Management Easement area described in Condition A.1, above, and the open space tracts. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement shall also list the applicable planting restrictions within the tracts. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
4. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Lot 1 and 2 to contain internal fire suppression sprinklers, per Fire Bureau Appeal 5834. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

Other

5. A Zoning Permit shall be obtained showing a total of 12 trees and 150 shrubs, selected from the Portland Plant List, in substantial conformance with Exhibits C.5 Landscape Plan.
 - a. Plantings shall be installed between October 1 and March 31 (the planting season).
 - b. Prior to installing required plantings, non-native invasive plants shall be removed from all areas within 10 feet of mitigation plantings, using handheld equipment.
 - c. All proposed 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. All tape shall be a

contrasting color that is easily seen and identified.

- d. The Zoning Permit must receive final inspection prior final inspection of the new homes on Lots 1 and 2.
6. The land owner shall monitor the required plantings for one year to ensure survival and replacement as described below. The land owner is responsible for ongoing survival of required plantings beyond the designated one-year monitoring period. The landowner shall:

Provide a letter (to serve as the monitoring and maintenance report) to the Cathedral Park Neighborhood Association and to the Land Use Services Division of the Bureau of Development Services (Attention: Environmental Review LU 08-182313 LDS GW) containing the monitoring information described below. The letter must be submitted 12 months following approval of the Zoning Inspection of the required mitigation plantings.

- a. A count of the number of planted trees and shrubs that have died. One replacement tree or shrub must be planted for each dead tree or shrub(replacement must occur within one planting season).
- b. A list of replacement plants that were installed.
- c. Photographs of the mitigation area and a site plan, in conformance with approved Exhibit C.5 Landscape Plan, showing the location and direction of photos.
- d. A description of the method used and the frequency for watering mitigation trees, shrubs, and groundcovers for the first two summers after planting. All irrigation systems shall be temporary and above-ground.
- e. An estimate of percent cover of invasive species (English ivy, Himalayan blackberry, reed canarygrass, teasel, clematis) within 10 feet of all plantings. Invasive species must not exceed 20 percent cover during the monitoring period.

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

1. Development on Lot 1 shall be in conformance with the Tree Preservation Plan (Exhibit C.4) and the applicant's arborist report (Exhibit A.15). Specifically, trees labeled "b" and "c" are required to be preserved, with the root protection zones indicated on Exhibit C.2 and as allowed by the arborist in Exhibit A.15. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision. The report from an arborist and any revisions to permit plans reflecting new root protection zones must be submitted and approved by Planning and Zoning prior to any working occurring in the root protection zone. If work is conducted in the RPZ and Planning & Zoning approval is not obtained before the work begins and the tree subsequently falls, it may result in a violation.
2. The applicant must meet the addressing requirements of the Fire Bureau for Lots 1 and 2.
3. The applicant will be required to install residential sprinklers in the new houses on Lots 1 and 2 to the satisfaction of the Fire Bureau.
4. Lot 2 must maintain 15 feet of uninterrupted curb space at the time of development.
5. Height of the structures on Lot 2 will be limited to 1.2 times the width of the structure.
6. The garage may be no wider than 50% of the width of the front façade of the house on Lot 2.

7. On-site infiltration of stormwater shall be limited to drywells only, and shall comply with the conditions of Plumbing Code Appeal 6696.
8. Plantings shall be in substantial conformance with Exhibit C.5 Landscape Plan.

Staff Planner: Rachel Whiteside

Decision rendered by:  **on February 2, 2010**
By authority of the Director of the Bureau of Development Services

Decision mailed February 5, 2010

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on December 8, 2008, and was determined to be complete on June 8, 2009.

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 December 8, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended the maximum 245 days, as stated with Exhibit A.13.

Note: some of the information contained in this report was provided by the applicant. As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on February 19, 2010** at 1900 SW Fourth Ave. Appeals may be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for

property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-0625 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.ci.portland.or.us.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of a Greenway Review. These other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of a Greenway Review. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: Greenway Review. This approval expires if:

- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement:

1. Original Narrative
2. Arborist Report
3. Landslide Hazard Report, dated November 13, 2008
4. Geotechnical Report, dated June 20, 2007
5. Revised Narrative, received June 8, 2009
6. Geotechnical and Landslide Hazard Report, dated November 14, 2008
7. 120-day Extension Request, dated June 10, 2009
8. Infiltration Test Report, dated February 9, 2009
9. Email from Geotechnical Engineer, received June 16, 2009
10. Simplified Stormwater Forms, received June 16, 2009
11. Fire Code Appeal, received June 16, 2009
12. Revised Arborist Report, received June 8, 2009
13. Full 120-day Extension Request, dated July 17, 2009
14. Narrative Update, received August 31, 2009
15. Revised Arborist Report, dated August 12, 2009
16. Ownership Information
17. Stormwater Presumptive Approach, received October 19, 2009
18. Addendum to Landslide Hazard Report for Stormwater, dated October 2, 2009

B. Zoning Map (attached)

C. Plans/Drawings:

1. Existing Conditions Plan
2. Site Plan (attached)
3. Grading & Utility Plan (attached)
4. Tree Preservation Plan (attached)
5. Landscape Plan (attached)

D. Notification information:

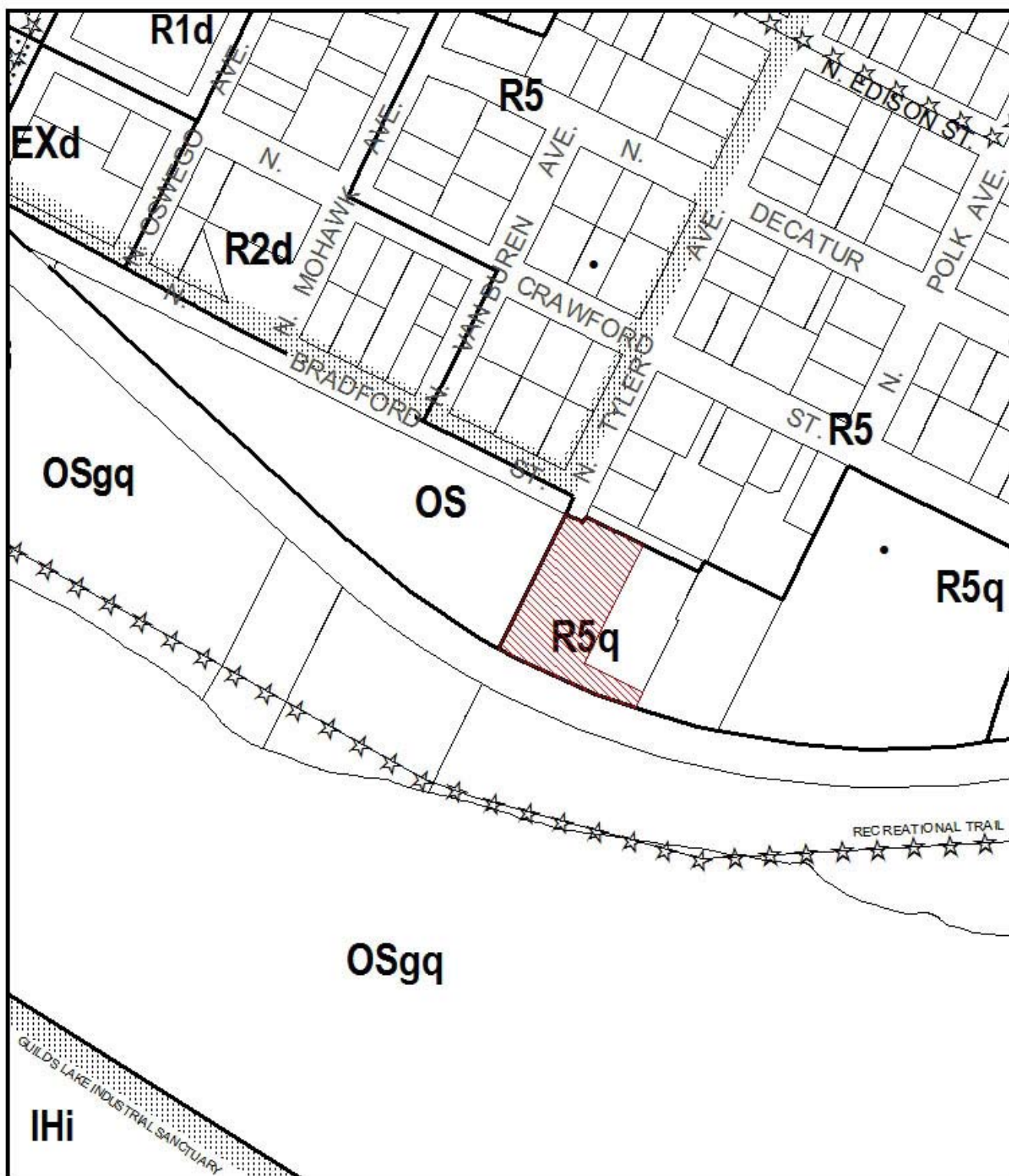
1. Mailing list
2. Mailed notices
3. Record of neighborhood notification prior to application submittal

E. Agency Responses:

1. Bureau of Environmental Services
2. Bureau of Transportation Engineering and Development Review
3. Water Bureau
4. Fire Bureau

5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division (no comments)
 7. Life Safety Review Section of BDS
 8. Revised Site Development Response, dated September 4, 2009
 9. Addendum to BES Response, dated September 8, 2009
 10. Supplement to Water Bureau Response, dated September 8, 2009
 11. Addendum to BES Response, dated November 2, 2009
 12. Addendum to Site Development Response, dated November 20, 2009
 13. Addendum #2 to Site Development Response, dated January 14, 2010
 14. Addendum #2 to BES Response, dated January 21, 2010
- F. Correspondence:
1. G. Don Letson received July 16, 2009, letter noting geotechnical concerns and height easement.
 2. Sabra Meyers received July 30, 2009, letter noting concerns regarding driveway serving Lot 1 from Private Street
- G. Other:
1. Original LU Application
 2. Site History Research
 3. Incomplete Letter, sent December 29, 2008
 4. Expiration Warning Letter, sent May 11, 2009
 5. Outstanding Issues, sent July 20, 2009
 6. Revised Outstanding Issues, sent September 8, 2009

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).



ZONING



Site



Historic Landmark



NORTH

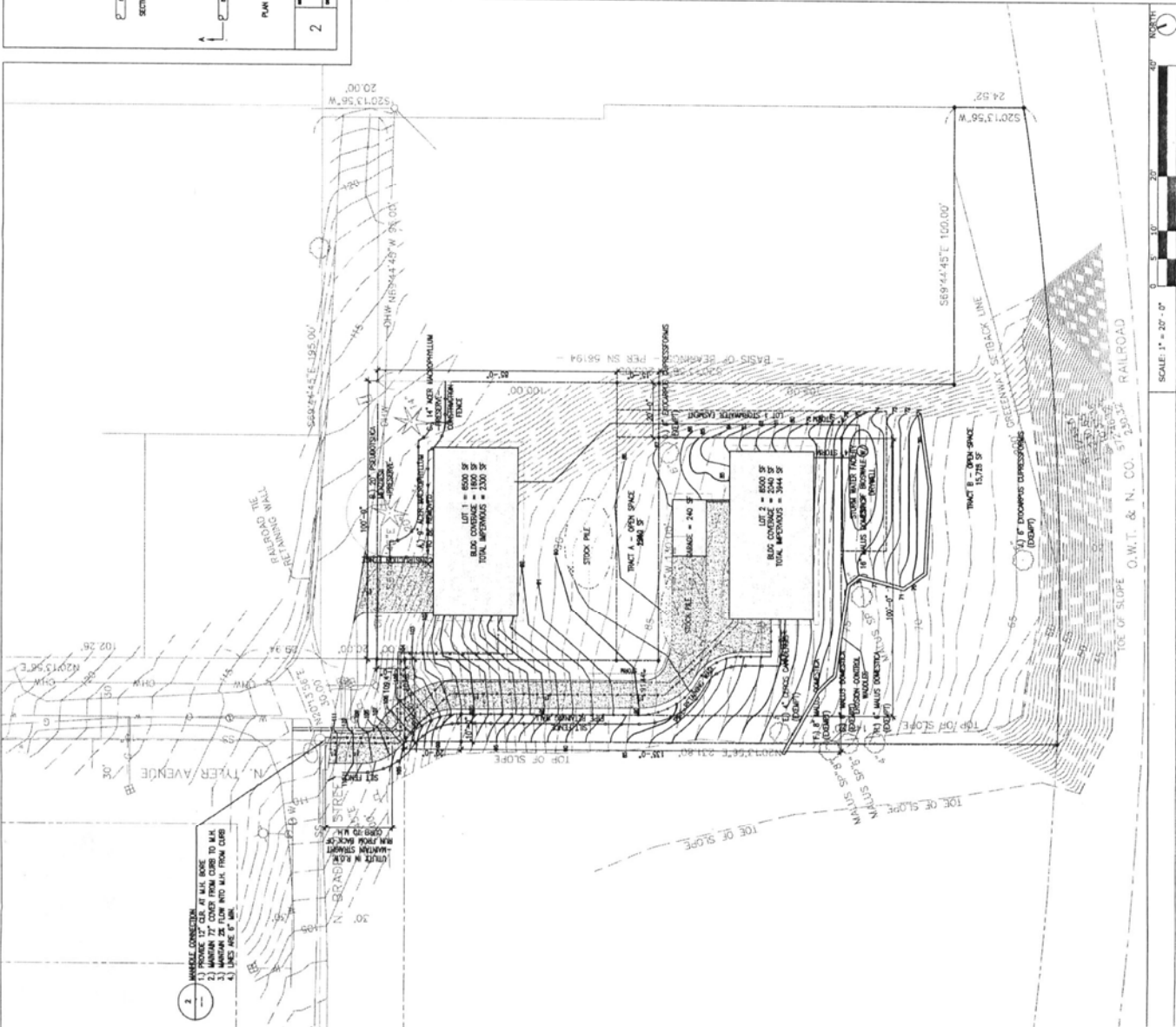
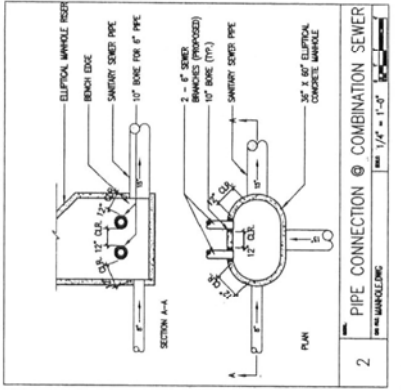
File No. LU 08-182313 LDS GW

1/4 Section 2222

Scale 1 inch = 200 feet

State_Id 1N1W12DB 2100

Exhibit B (Feb 4, 2010)



NOTES:

CONDITIONS OF USE:

INFORMATION CONTAINED WITHIN THIS DOCUMENT AND ASSOCIATED SPECIFICATIONS IS PROPERTY OF LAND AND ASSOCIATES, LANDSCAPE ARCHITECTURE. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT PRIOR WRITTEN PERMISSION FROM LAND AND ASSOCIATES. THIS DOCUMENT IS NOT TO BE REPRODUCED AND/OR MODIFIED IN ANY WAY, NOR SHALL ANY REPRODUCTION OCCUR WITHOUT PRIOR WRITTEN PERMISSION FROM LAND AND ASSOCIATES. THE INFORMATION CONTAINED HEREIN IS FOR THE PROPOSED AND/OR FIELD WORK AND DOES NOT NECESSARILY REPRESENT AS-BUILT OR EXISTING CONDITIONS. THE LANDSCAPE ARCHITECT DOES NOT WARRANT, IN ANY WAY, THE ACCURACY OF THIS INFORMATION AND SHALL NOT BE RESPONSIBLE FOR ANY DISCREPANCY BETWEEN THIS DOCUMENT AND EXISTING CONDITIONS.

NOTES:

SITE NOTES:

- 1) THIS RESOLUTION PLAN IS BASED ON FIELD MEASUREMENTS AND AS-BUILT INFORMATION PROVIDED BY THE CLIENT. THE CONTRACTOR IS TO VERIFY EXISTING CONDITIONS PRIOR TO CONSTRUCTION. NOTIFY THE CLIENT OR CLIENT REPRESENTATIVE OF ANY DISCREPANCIES FOUND. REFER TO TREE PROTECTION NOTES SHEETS TO BE SAVED WILL BE TAGGED IN THE FIELD BY THE LANDSCAPE ARCHITECT.
- 2) REMOVE TREES AND STUMPS TO 36" BELOW GRADE.
- 3) EXPOSED OF MATERIAL OFF SITE.
- 4) EXISTING CONDITIONS AND MEASUREMENTS MUST CONFORM TO CITY OF PORTLAND REGULATIONS.
- 5) EROSION CONTROL (ESC) IS REQUIRED ON THIS PROJECT. IMPLEMENTATION OF THE ESC AND THE PROTECTIVE MEASURES ARE THE RESPONSIBILITY OF THE CONTRACTOR UNTIL ALL CONSTRUCTION IS COMPLETED AND APPROVED.
- 6) PROVIDE SILT FENCE AT ALL DOWNHILL EDGES OF LIMIT WORK AREA.
- 7) PROVIDE CATCH BASIN PROTECTION TO DOWNSTREAM INLETS FROM THE SITE PER THE EROSION CONTROL MANUAL.
- 8) PROVIDE CONSTRUCTION ENTRANCE PER THE EROSION CONTROL MANUAL.
- 9) CONTRACTOR IS TO SUPPLY A 'SOLID WASTE AND RECYCLING PLAN' TO THE CLIENT, AND CITY OF PORTLAND. THE PLAN MUST INCLUDE THE VOLUME OF MATERIAL MOVED OFF-SITE AND THE MATERIAL'S RECYCLER OR RECYCLING DEPOT.

TREE PROTECTION NOTES:

TREES NOTED TO BE SAVED ABOVE SHALL BE PROTECTED PER TITLE 33.248.000 TREE PROTECTION REQUIREMENTS:

- 1) A CONSTRUCTION FENCE MUST BE PLACED AROUND EACH TREE TO BE SAVED. THE FENCE MUST BE PLACED BEFORE CONSTRUCTION STARTS AND REMAIN IN PLACE UNTIL CONSTRUCTION IS COMPLETE. THE FENCE MUST BE 6 FOOT HIGH ORANGE PLASTIC AND BE SECURED TO THE GROUND WITH 8-FOOT METAL POSTS. FOLLOWING DEVELOPMENT IS NOT ALLOWED:
- A. NEW BUILDINGS
- B. GRADE CHANGE OR CUT AND FILL DURING OR AFTER CONSTRUCTION
- C. PLANTING OF TREES OR SHRUBS
- D. UTILITY OR STORAGE FIELD PLACEMENT
- E. STAGING OR STORAGE OF MATERIALS AND EQUIPMENT DURING CONSTRUCTION
- F. VEHICLE MANEUVERING AREAS DURING CONSTRUCTION
- G. ANY OTHER ACTS THAT COULD CAUSE DAMAGE TO THE TREE
- H. ANY ACTS THAT COULD CAUSE DAMAGE TO THE FORESTED PORTION OF THE PARCEL (BUREAU 503.053.4469)
- I. PRIOR TO ANY EXCAVATION ADJACENT TO TREES, A TREE INSPECTION MUST BE MADE BEFORE CUTTING ANY ROOTS.
- J. RETAIN AN ARBORIST TO VERIFY THE HEALTH AND SURVIVAL OF EXISTING TREES TO BE SAVED. REFER TO ARBORIST'S CONSTRUCTION TRAILER PRESENTATION.
- K. CONSTRUCTION TRAILER PRESENTATION
- L. FERTILIZE AND PRUNE 2-3 MONTHS PRIOR TO CONSTRUCTION
- M. FENCE AROUND TREE AT DRIP LINE
- N. FENCE AROUND TREES AND EQUIPMENT OFF OF ROOT ZONE (WITH 100% LIFT)
- O. HAND DIG WHEN AND IF ROOTS ARE HIT.
- P. CONSULT ARBORIST WHEN ROOTS ARE EXPOSED FOR ADVICE ON CLIPPING ROOTS BACK.

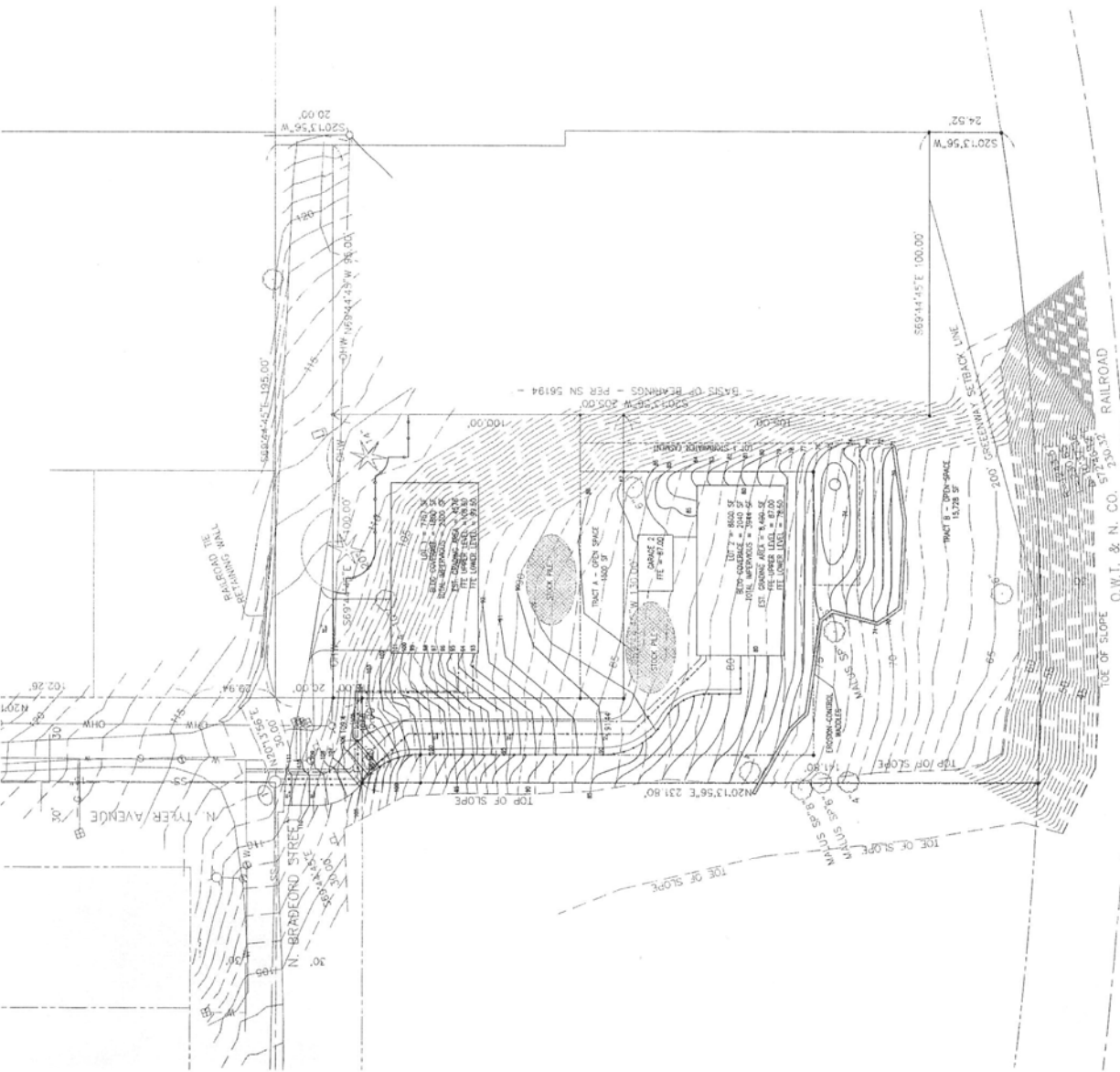
CASE NO. 08-162313 LPS C-44
EXHIBIT C-2

L2.0

SITE PLAN

LAND USE REVIEW

LAND AND ASSOCIATES, landscape architecture
400 SW 4th Avenue, Portland, Oregon 97204 | 503.233.6600



CONDITIONS OF USE

INFORMATION CONTAINED WITHIN THIS DOCUMENT AND ASSOCIATED SPECIFICATIONS IS PROPERTY OF LANDO AND ASSOCIATES, LANDSCAPE ARCHITECTURE, INC., AND IS NOT TO BE USED IN WHOLE OR PART FOR ANY OTHER PROJECT. ANY REPRODUCTION OR MODIFICATION OF THIS DOCUMENT WITHOUT PRIOR CONSENT FROM LANDO AND ASSOCIATES, LANDSCAPE ARCHITECTURE, INC., IS PROHIBITED. THIS DOCUMENT HAS BEEN PREPARED TO DESCRIBE PROPOSED AND/OR FIELD WORK AND DOES NOT NECESSARILY REPRESENT THE FINAL DESIGN. LANDSCAPE ARCHITECTURE, INC., AND ASSOCIATES, LANDSCAPE ARCHITECTURE, INC., SHALL NOT BE RESPONSIBLE FOR DISCREPANCY BETWEEN THIS DOCUMENT AND EXISTING CONDITIONS.

- NOTES:
- GRADING NOTES
- 1.) THIS GRADING PLAN IS BASED ON OBSERVATIONS IN THE FIELD AND THE LANDSCAPE ARCHITECT OF ANY DISCREPANCIES FOUND.
 - 2.) PROTECT ALL TREES AND SHRUBS INDICATED TO REMAIN.
 - 3.) ROUGH AND FINE GRADING SHALL BE REVIEWED AND APPROVED BY LANDSCAPE ARCHITECT PRIOR TO PLANTING.
 - 4.) SET BACKS SHALL BE MAINTAINED BETWEEN ELEVATIONS UNLESS OTHERWISE NOTED.
 - 5.) VERIFY AND ENSURE POSITIVE DRAINAGE AWAY FROM BUILDING AT 0.01 SLOPE MINIMUM.
 - 6.) MATCH EXISTING ELEVATIONS WHERE NEW PAVING ABUTS EXISTING PAVING.
 - 7.) PROTECT EXISTING UTILITIES. SEE GENERAL NOTES.
 - 8.) PROVIDE CROSS SLOPE OF 1% MINIMUM ON ALL PAVING.

ANDERSON RESIDENCE

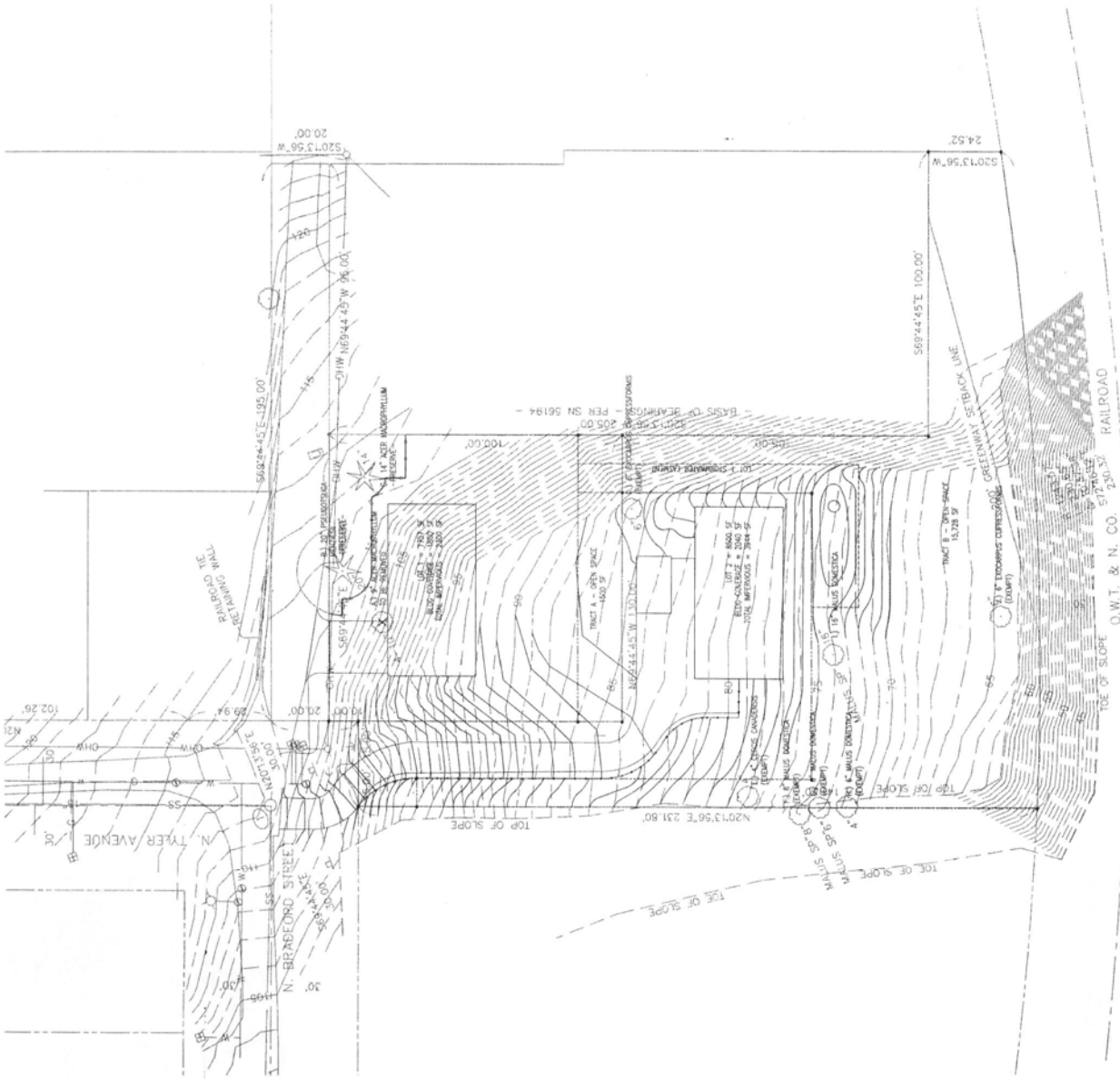
N. BRADFORD STREET AND N. TYLER AVENUE
PORTLAND, OR 97203

GRADING & UTILITY PLAN

L3.0

CASE NO. 18-182313 LD3 G.W.
EXHIBIT C-3





SCALE: 1" = 20' - 0"

CASE NO. 08-182313 LPS GW
EXHIBIT C-4

L4.0

TREE PRESERVATION PLAN

TREE ID	DESCRIPTION	STATUS
A	6" MAPLE	EXEMPT
B	9" MAPLE	PRESERVE
C	14" DOUG. FIR	EXEMPT
D	6" CHERRY	EXEMPT
E	4" RED BUD	EXEMPT
F	6" MALUS	EXEMPT
G	6" MALUS	EXEMPT
H	15" MALUS	EXEMPT
I	6" MALUS	EXEMPT
J	39" TOTAL NON EXEMPT	
	23" TOTAL PRESERVED	
	55%	

LEGEND

- ROOT PROTECTION ZONE
- AREAS REQUIRING ARBORIST OVSIGHT
- TREES TO BE REMOVED
- NEIGHBORING TREES
- PROPOSED DWELLING UNIT

- 1.) A CONSTRUCTION FENCE MUST BE PLACED AROUND EACH TREE AT THE EDGE OF THE ROOT PROTECTION ZONE. THE FENCE MUST BE 6 FOOT HIGH ORANGE PLASTIC AND BE SECURED TO THE GROUND WITH 8-FOOT METAL POSTS.
- 2.) WITHIN THE ROOT PROTECTION ZONE OF EACH TREE, THE FOLLOWING ACTIVITIES ARE NOT ALLOWED:
 - A. NEW BUILDINGS
 - B. GRADE CHANGE OR CUT AND FILL DURING OR AFTER CONSTRUCTION
 - C. TREE REMOVAL SURFACES
 - D. STORAGE OF MATERIALS AND EQUIPMENT DURING CONSTRUCTION
 - E. VEHICLE MANEUVERING AREAS DURING CONSTRUCTION
 - F. TREE ROOT EXPOSURE REQUIRED FOR THE PROTECTION OF THE TREE
 - G. EXCAVATION ADJACENT TO TREES. A TREE INSPECTION MUST BE MADE BEFORE CUTTING ANY ROOTS.
 - H. RETAIN AN ARBORIST TO VERIFY THE HEALTH AND SURVIVAL OF EXISTING TREES TO BE SAVED. REFER TO ARBORIST'S CONSTRUCTION WITHIN THE ROOT ZONE.
 - I. CONSTRUCTION TRAILER PREVENTION
 - J. FERTILIZE AND PRUNE 2-3 MONTHS PRIOR TO CONSTRUCTION
 - K. FENCE AROUND TREE AT DRIP LINE
 - L. KEEP HEAVY VEHICLES AND EQUIPMENT OFF OF ROOT ZONE
 - M. HAND DIG WHEN AND IF ROOTS ARE HIT
 - N. CONSULT ARBORIST WHEN ROOTS ARE EXPOSED FOR ADVICE ON CLIPPING ROOTS BACK.

TREE PROTECTION NOTES

THINGS NOTED TO BE SAVED ABOVE SHALL BE PROTECTED PER TITLE 33.248.068 TREE PROTECTION REQUIREMENTS:

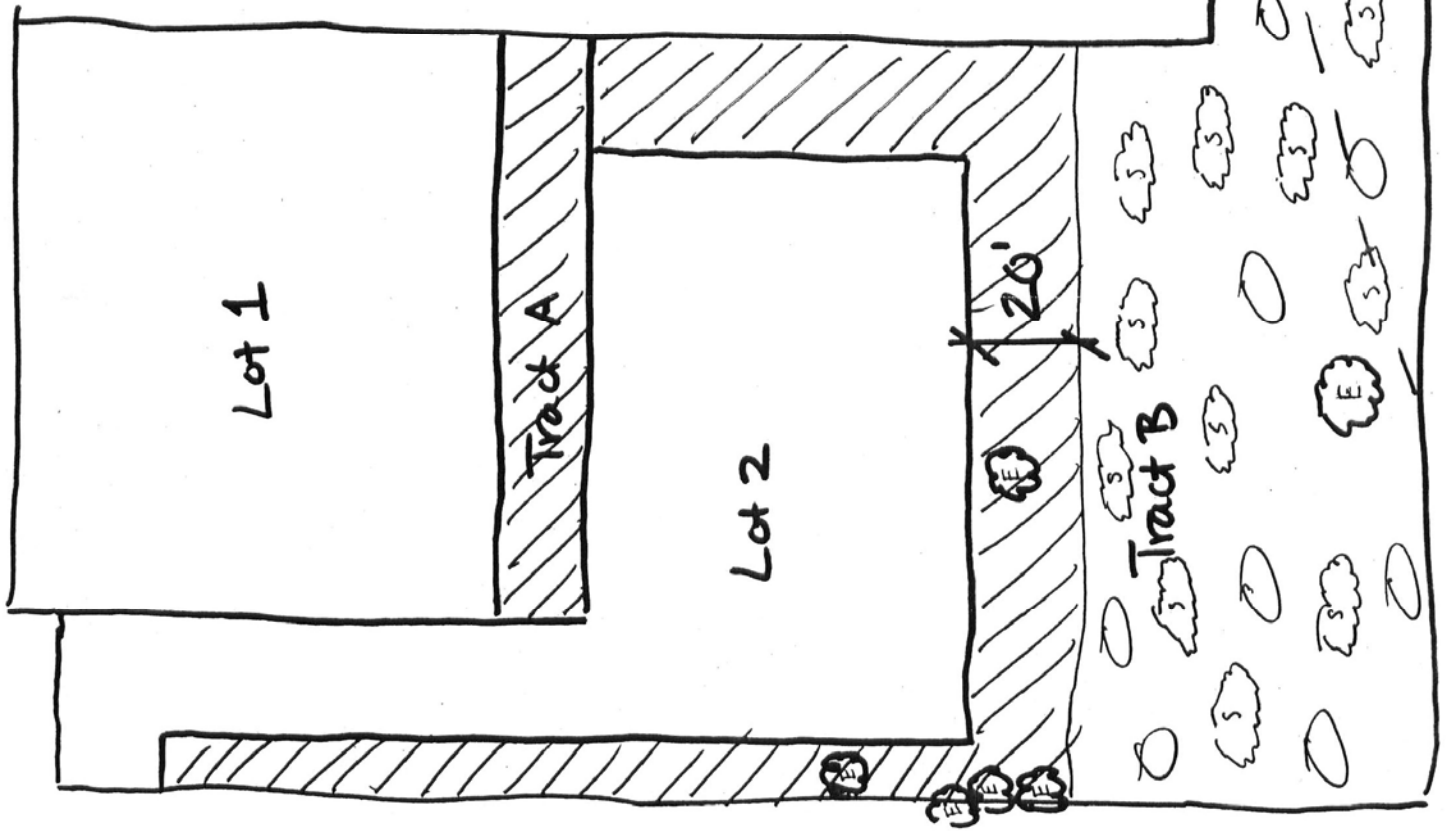
1.) A CONSTRUCTION FENCE MUST BE PLACED AROUND EACH TREE AT THE EDGE OF THE ROOT PROTECTION ZONE. THE FENCE MUST BE 6 FOOT HIGH ORANGE PLASTIC AND BE SECURED TO THE GROUND WITH 8-FOOT METAL POSTS.

2.) WITHIN THE ROOT PROTECTION ZONE OF EACH TREE, THE FOLLOWING ACTIVITIES ARE NOT ALLOWED:

- A. NEW BUILDINGS
- B. GRADE CHANGE OR CUT AND FILL DURING OR AFTER CONSTRUCTION
- C. TREE REMOVAL SURFACES
- D. STORAGE OF MATERIALS AND EQUIPMENT DURING CONSTRUCTION
- E. VEHICLE MANEUVERING AREAS DURING CONSTRUCTION
- F. TREE ROOT EXPOSURE REQUIRED FOR THE PROTECTION OF THE TREE
- G. EXCAVATION ADJACENT TO TREES. A TREE INSPECTION MUST BE MADE BEFORE CUTTING ANY ROOTS.
- H. RETAIN AN ARBORIST TO VERIFY THE HEALTH AND SURVIVAL OF EXISTING TREES TO BE SAVED. REFER TO ARBORIST'S CONSTRUCTION WITHIN THE ROOT ZONE.
- I. CONSTRUCTION TRAILER PREVENTION
- J. FERTILIZE AND PRUNE 2-3 MONTHS PRIOR TO CONSTRUCTION
- K. FENCE AROUND TREE AT DRIP LINE
- L. KEEP HEAVY VEHICLES AND EQUIPMENT OFF OF ROOT ZONE
- M. HAND DIG WHEN AND IF ROOTS ARE HIT
- N. CONSULT ARBORIST WHEN ROOTS ARE EXPOSED FOR ADVICE ON CLIPPING ROOTS BACK.

CONDITIONS OF USE

ANDERSON RESIDENCE



No planting restrictions* on lots

No planting restrictions*
(Garden, Fruit Trees, etc allowed)

Existing Tree

12 native* trees, planted ~25' a.c.,
clustered at south and west
edges of site

15 clusters of native* shrubs, clusters to include
10 plants each

* Planting of nuisance or prohibited plants is
not allowed.

+ Native plants must be selected from the
Portland Plant List.