



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

FROM CONCEPT TO CONSTRUCTION

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Date: March 7, 2014
To: Interested Person
From: Kathy Harnden, Land Use Services
503-823-7318 / Kathy.Harnden@portlandoregon.gov

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 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 14-102471 TR

GENERAL INFORMATION

Applicant: Dmitri and Marina Yudin
12904 SE Knapp St / Portland, OR 97236

Site Address: 12904 SE KNAPP ST

Legal Description: TL 2200 0.24 ACRES, SECTION 23 1S 2E
Tax Account No.: R992231680
State ID No.: 1S2E23BD 02200 **Quarter Section:** 3743
Neighborhood: Pleasant Valley, contact Linda Bauer at 503-761-2941.
District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550.
Plan District: Johnson Creek Basin - South
Other Designations: Environmental Conservation Overlay Zone
Zoning: Residential 10,000 (R10) with a small corner of Environmental Conservation (c) overlay (R10c)

Case Type: Tree Review (TR)
Procedure: Type II, an administrative decision with appeal to the Hearings Officer

The applicants have requested a tree review to remove two trees from the proposed drainfield area for a new house under construction on their property. A new septic drainfield is required that is sized to fit the disposal needs of the new structure, as there is no public sewer available to serve this site. The septic drainfield will be installed behind and south of the house. The lot is approximately 70 feet wide by 150 feet deep. The new house will occupy approximately the first 80 feet of the site, and the septic tank, drainfield and reserve drainfield will occupy the remainder. The drainfield will be approximately 35 feet wide by 50 feet long.

A 41-inch Douglas fir tree is located within the proposed drainfield area. A 27-inch fir tree is located just outside the boundary of the drainfield, and the applicants would like to remove both of these trees. Three other large Douglas fir trees will remain on the site.

This site is located in the Johnson Creek Basin Plan District, which contains standards for removal of trees (Ch.33.537.125, Portland Zoning Code). Because this proposal does not meet these standards, a Tree Review is required to determine whether the trees may be removed.

Relevant Approval Criteria:

To be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in **Ch. 33.853.040**.

ANALYSIS

Site and Vicinity: This quarter-acre site is adjacent to, and south of, SE Knapp Street. Most of the properties in the vicinity are two to three times larger than the subject site, which is bordered by a 1.4-acre site to the west and a 1.75-acre site to the east. Most of the adjacent sites to the west and north are developed with large, single dwellings. To the east and south are large, undeveloped forested areas that lie within the environmental conservation and protection zones. A north flowing tributary to Johnson Creek flows through the protection zone to Johnson Creek, which is about 800 feet to the northeast. The entire area is located in the Johnson Creek Watershed.

The southeast corner of the property contains a small, approximately 200-square-foot triangle of environmental conservation zone. None of the proposed tree removal or drainfield installation or work areas is located within the environmental zones.

The subject site slopes generally to the east with a slope of approximately 12 percent. This 10,902 square-foot site is currently developed with an older, single dwelling near the front. Behind the house are five, fairly large fir trees, which range in size from about 24 to 48 inches in diameter.

Zoning: The site is zoned R10c. The R10 zone is a low density, single-dwelling zone. The R10 zone allows attached and detached single dwelling structures and duplexes.

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

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **January 30, 2014**. The Site Development section of BDS noted that the applicant is responsible for maintaining all required erosion control facilities required for the proposal (Exhibit E.1). No other Bureau comments were received.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on January 30, 2014. One written comment was received from a notified property owner in response to the proposal. This comment stated that a smaller house would require a smaller drainfield and thus the two trees could remain on the site.

Staff Response: *This comment is addressed below in the approval criteria section.*

ZONING CODE APPROVAL CRITERIA**APPROVAL CRITERIA FOR TREE REVIEW****33.853.010 Purpose**

The tree review process evaluates whether mitigation proposed for tree removal is both appropriate and adequate, considering the purpose of the regulations that limit removal. Tree review also evaluates whether changes to tree preservation plans are appropriate, and determines the appropriate mitigation for trees lost due to violations of tree regulations. The review allows flexibility for unusual situations and allows for the purpose of the tree regulations to be met using creative or innovative methods.

33.853.040 Approval Criteria**A. Trees in the Scenic Overlay Zone, Johnson Creek Basin plan district, or Rocky**

Butte plan district, A request to remove trees in the Scenic Overlay Zone, Johnson Creek Basin plan district, or Rocky Butte plan district will be approved if the review body finds that the applicant has shown that either criterion A.1 or A.2 is met and criterion A.3 is met:

- 1. The removal is necessary to allow for reasonable development of the site, including access to the site for construction, required parking, pedestrians, and utilities, and considering the allowed uses and characteristics of the area. Alternative locations and construction methods for structures, utilities and paved areas must be considered to maximize preservation of trees, with emphasis on preservation of trees that are 20 or more inches in diameter and tree groves; or**
- 2. For sites within the Scenic overlay zone or Rocky Butte plan district, the removal is to create or enhance a public view from public property, or from a public right-of-way. Consultation with the City Forester is required; and**
- 3. The proposal will continue to meet the purpose of the relevant tree preservation or removal standards. Replacement plantings within the Scenic overlay zone must consist of approved vegetation listed in the Scenic Resources Protection Plan appendix.**

Findings: This proposal is subject to Criterion A.1. and A.3, above. The site is not located in a Scenic overlay zone or within the Rocky Butte Plan District, so Criterion A.2 does not apply.

The 41-inch Douglas fir is located within the proposed drainfield area, and must be removed in order for the drainfield to function properly. The 27-inch Douglas fir is located only one foot from the drainfield boundary and about 10 feet from the septic tank and house foundation. This tree will be impacted by construction activity for the house as well as for the drainfield. The applicant requests permission to remove both of these trees due to their proximity to the house and drainfield construction areas and the potential damage that these activities will cause to these trees that would affect their continued stability.

The proposed house must meet the City's building coverage and setback requirements. The applicant has not requested or been required to make adjustments to these regulations in order to construct the proposed house on this site. The building footprint for the house is approximately 2,697 square feet, which, along with the parking area, patio, and walkway, will cover approximately 30 percent of this 10,509 square-foot site. This proposed footprint meets both building coverage regulations for the site as well as minimum setback requirements. Further, this footprint is comparable to other building footprints in the neighborhood which range from around 2,200 to over 4,000 square feet. The proposed development will be located as close to the front of the site as possible in order to preserve as many trees on the site as possible. Therefore, the proposed house is a reasonable development for the site and Criterion 1 is met.

The site is not located within the Scenic overlay or the Rocky Butte plan district. Therefore, Criterion 2 is not applicable.

There are 172 inches of tree diameter on the site that are subject to this review. The applicant proposes to remove 68 inches, the 41-inch and 27-inch Douglas firs described above, leaving 104 inches tree diameter to be preserved. Tree preservation requirements call for 60.2 inches of tree diameter to be preserved. The proposal exceeds this requirement.

The septic drainfield requires approximately 1600 square feet in order to include room for both the required primary and secondary drainfield lines. The applicant has designed and located the drainfield to preserve as many of the five trees in the backyard area as possible. Further, the applicant has tried to minimize impacts to the remaining trees by bending the drainfield rather than laying it out in a straight line. The drainfield will bend around the two Douglas fir

trees that are lower down on the west side of the site, and away from the large fir located in the southeast corner.

Although the applicant could propose a smaller house on the site, with a resulting smaller drainfield, it is unlikely that impacts to any trees on the site would be lessened to any great degree, because the three trees to be preserved are large enough that their root zones cover almost the entire backyard area. The root zones of the two trees to be removed extend well into the footprint of the proposed house and foundation excavation would have large impacts on their roots, which could potentially cause the trees to die and become hazards on the site. Further, any proposed drainfield would be located within the root zones of all the trees on the site.

The applicant proposes to plant 5 new 3-inch diameter, native trees on the site. The species will include red alder, Douglas fir, and western red cedar. These native species are appropriate for this site as it is located within the Johnson Creek Plan District and is adjacent to environmental zones associated with Johnson Creek and its tributary. However, the proposed coniferous trees may have mature sizes that are too large for this small site. Therefore, the applicant should be able to select other native trees from the Portland Plant List: Native Plant List through a condition listed below.

The above findings show that the proposed development, which complies with the City's building coverage, setback and tree preservation requirements, is a "reasonable development" on the site; that the applicant has not requested a house inconsistent with other development in the area; and that the front of the site provides the best development area in order to preserve trees further away from the proposed house.

Based on the above analysis, the removal of two trees, in order to site a drainfield that is required for an allowed single dwelling, is the minimum amount of tree removal necessary to permit a reasonable development on the site. Further, with a condition to plant five native species trees on the site, these criteria are met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

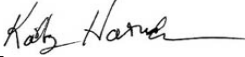
The applicants propose to remove two trees in order to redevelop this site with a new house, which requires a new drainfield in order to meet current septic system design requirements. The only location on the site for the proposed drainfield is in the rear of the site where five large fir trees are located. The applicants have designed a drainfield that bends around trees to avoid as many trees as possible, and to plant five trees on this small site. As discussed in this report, the proposal meets the approval criteria for tree removal as it is the minimum necessary to allow reasonable development of the site and to plant five new native trees upon completion of the construction activity.

ADMINISTRATIVE DECISION

Approval of a Tree Review to allow for the removal of two 27" and 41" Douglas fir trees located on the site.

- A. The five replacement trees shall be selected from the Portland Plant List: Native Plant List and shall be a minimum of 3-inches in diameter. These trees must be installed prior to finalization of building permit 13-230731RS.

Staff Planner: Kathy Harnden

Decision rendered by:  **on March 4, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 7, 2014

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 January 8, 2014, and was determined to be complete on January 30, 2014.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on January 30, 2014.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: May 31, 2014.**

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. 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 March 21, 2014** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. 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 must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, the final decision may be recorded on or after **March 24, 2014**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision 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
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 of 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;

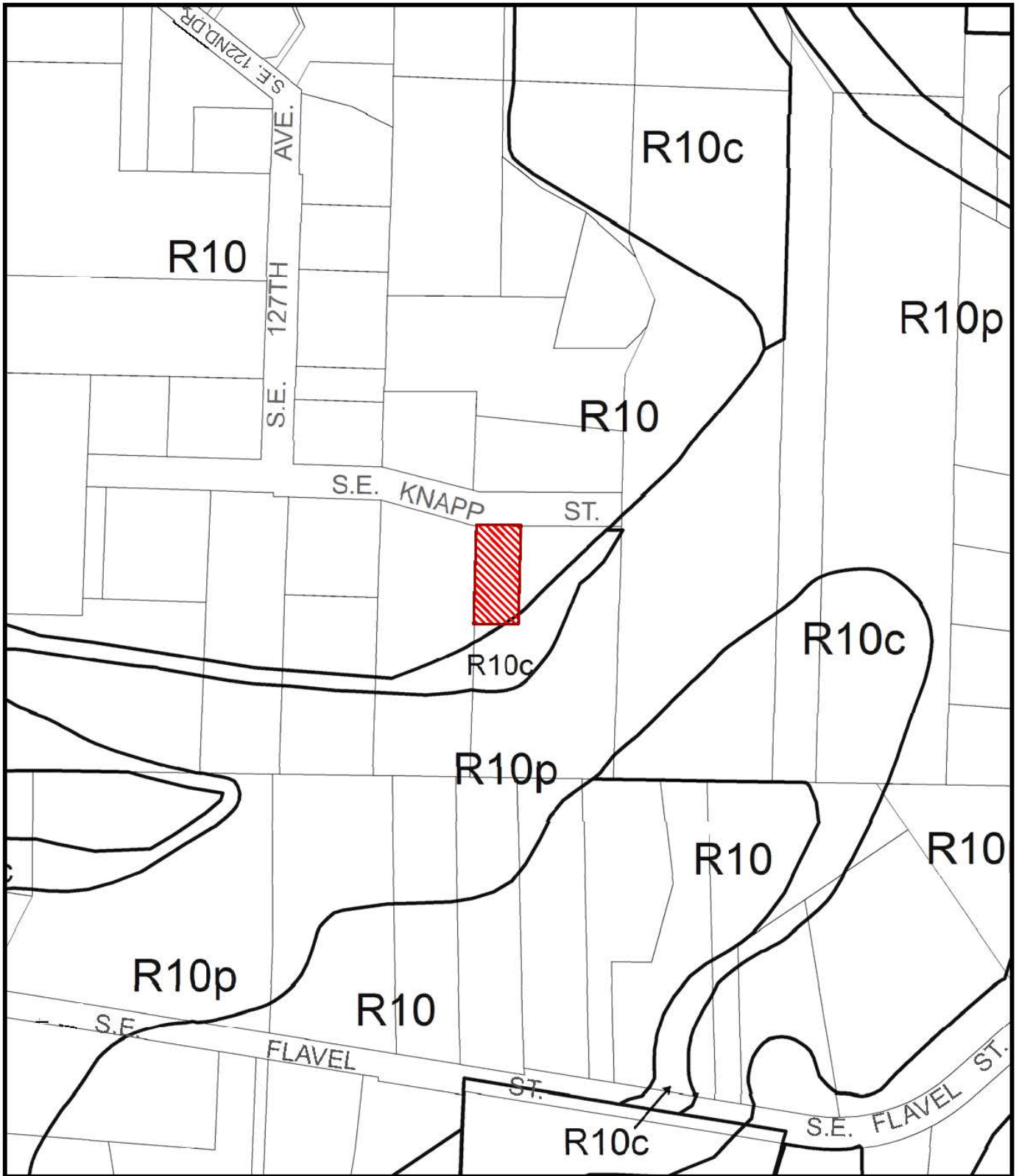
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Project Proposal
 - 2. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Site Development Review Section of BDS
 - 2. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Patrick Riordan and Jane Mackinnon w/attachment
- G. Other:
 - 1. Original LU Application
 - 2. Email correspondence between staff Sean Williams and City arborist Myles Black

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



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT
SOUTH SUBDISTRICT

File No. LU 14-102471 TR
 1/4 Section 3743
 Scale 1 inch = 200 feet
 State_Id 1S2E23BD 2200
 Exhibit B (Jan 09,2014)

Land Use Review

12904 SE KNAPP ST

RETAINING WALL
TOW 1000
BOW 975

40' R.O.W.

4x6 DRYWELL

N 59°40'42"W 70.00'

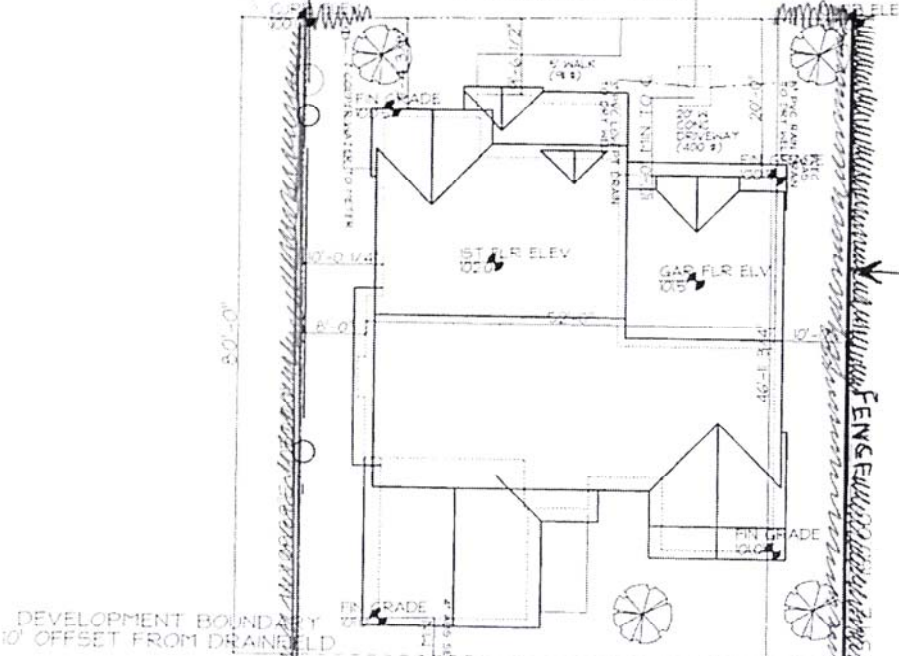
LEGAL DESCRIPTION
T18R2E5EC23BD
TAX LOT 2200

PROJECT ADDRESS
2904 SE KNAPP ST
PORTLAND, OR 97236

6" foot solid
cedar fence
150 ft long along
east side of the
proposed develop-
ment site



36" silt fence

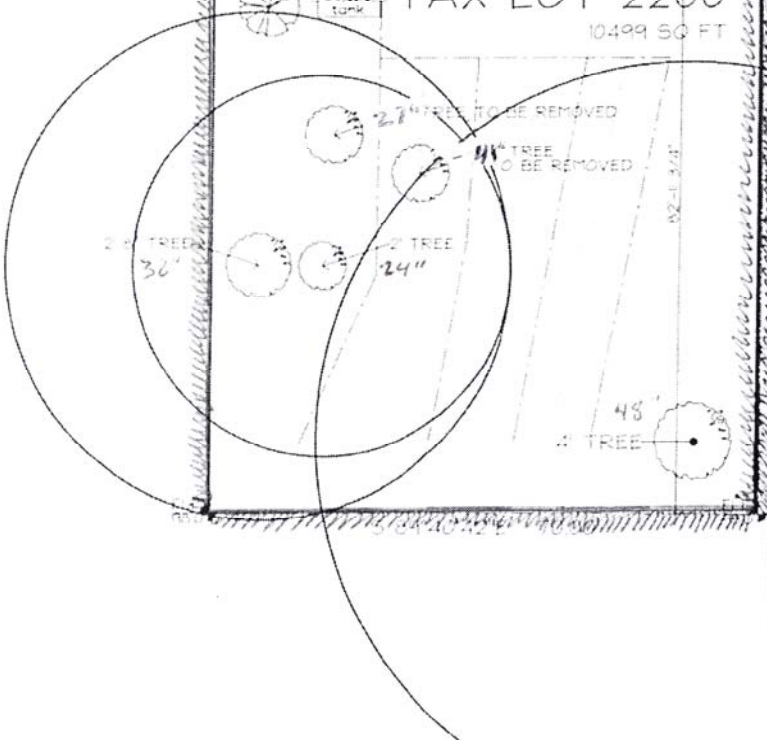


TAX LOT 2200
10,499 SQ FT

SITE PLAN

SCALE 1" = 23' 0"

- (5) PROPOSED 3' MIN. TREES
- ROOT PROTECTION ZONE (8' HIGH CHAIN LINK FENCE) AROUND EXISTG TREES 1 1/2' DIAMETER
- PRIMARY DRAINFIELD
- SECONDARY DRAINFIELD



LOT AREA	10,499 SQ FT
IMPERVIOUS AREA	
DRIVEWAY	400 SQ FT
PATIO	73 SQ FT
WALK	91 SQ FT
ROOF AREA (INCL OVERHANG)	3051 SQ FT
TOTAL	3615 SQ FT
BUILDING COVERAGE	29.69%
BUILDING FOOTPRINT	2697 SQ FT

PLAN NO MARINA		Greg Larson DRAFTING & DESIGN 805 Liberty St. #2, #4 Salem, Oregon 97302 Phone (503) 324-8577 Fax (503) 324-3250 E-MAIL: g.larson@earthlink.net	DATE 11B-13
SHEET 11 OF 13	RESIDENCE FOR: DMITRI YUDIN ADDRESS: 12904 SE KNAPP ST CITY, STATE: PORTLAND, OR 97236		GLL

Exhibit C.1
LU14-102471 TR