



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

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Date: December 12, 2022
To: Interested Person
From: Timothy Novak, Land Use Services
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 21-108262 PUD EN AD

GENERAL INFORMATION

Legal Owners: Dogwarts, LLC (7908 NW Gales Ridge Ln & Tract "B" Common Open Area)
2321 NW Thurman St | Portland, OR. 97210

Dorren Intill, LLC (7910 NW Gales Ridge Ln & Tract "B" Common Open Area)
2321 NW Thurman St | Portland, OR. 97210

Applicant: William Rasmussen | Miller Nash Graham & Dunn LLP
3400 US Bancorp Tower
111 SW 5th Ave | Portland, OR. 97204

Representative: Margo Rettig | Urban Patterns, LLC
2326 SE Morrison St, Ste A | Portland, OR. 97214
margo@urbanpatterns.com | (971) 242-9102

Site Address: 7908 NW Gales Ridge Ln & Commonly-Owned Open Space Tract "B"

Legal Description: LOT 1 INC UND INT TRACTS A & B, PARTITION PLAT 2000-92
Tax Account No.: R649803650
State ID No.: 1N1W25CA 02701
Quarter Section: 2821

Neighborhood: Forest Park, contact Jerry Grossnickle at landuse@forestparkneighbors.org

Business District: NONE
District Coalition: Neighbors West/Northwest, contact Darlene Urban Garrett at darlene@nwnw.org

Q Plan District: Northwest Hills - Balch Creek and Skyline Subdistricts
Other Designations: Resource Site #84, *Balch Creek Watershed Protection Plan (1991)*; *Regulatory Landslide Hazard Area*; *Wildlands Fire Hazard*

Zoning: Residential Farm/Forest (RF)
Environmental Protection (p)
Environmental Conservation (c)

Case Type: Review of Changes to an Approved Plan Unit development (PUD);
Environmental Review (EN);
Adjustment Review (AD)

Procedure: Type IIX, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to reconfigure the shared property line between 7908 NW Gales Ridge Lane and the Open Space Tract, which is commonly owned between Lots 1 and 2 of Partition Plat No. 2000-92. The reconfiguration will move the shared property line to better match the location of a revised driveway configuration to improve safety between the private street (Tract "A") and the body of the parcel. The reconfiguration will also revise the location of the lot lines on the buildable portion of the site to align with a proposed new house and garage; the existing house and garage will be removed. New stormwater management facilities will be installed, including a stormwater planter and associated outfalls, within the open space tract (Tract "B"), adjacent to the driveway; stormwater and water quality management facilities are allowed in the open space tract per the subdivision's CC&Rs (Exhibit A.1.b, page 19 of 614).

The reconfiguration of the shared property lines will not change the site area of Parcel 1 (26,272 sq. ft.) and thus will not result in a reduction in the amount of open area. Therefore, per 33.668, the proposed changes to the property line configuration(s) qualifies as a minor change to the originally-approved PUD that created the parcels (LUR 98-00882 PU SU EN) and can be processed through a Type IIX procedure.

In order to reconfigure the property line boundaries and associated disturbance area the applicant must modify the prior Environmental Review approval (LUR 98-00882 PU SU EN). This requires a new Type II Environmental (EN) Review per 33.730.140. The proposal includes mitigation and restoration of existing disturbance area, both approved and unapproved, that will revert to natural area in the Open Space Tract.

Finally, the proposal includes the following Adjustment Review requests:

- Reduce minimum building setbacks on the south and west sides of the proposed primary structure (house) from 10 to 5 feet (33.110.220);
- Reduce minimum side building setbacks on the north and east sides of the proposed accessory structure (detached garage) from 10 to 5 feet (33.110.220);
- Increase the maximum building height for the proposed primary structure (house) from 30 feet to 39 feet (33.110.215);
- Increase the maximum building height for the proposed accessory structure from 20 feet to 28 feet (33.110.245).
- Increase the maximum building coverage from the previously approved coverage of 4,926 square feet* to 10,350 square feet (33.110.255). **(Via an approved Adjustment to maximum building coverage in LUR 98-00882 PU SU EN.)*

Relevant Approval Criteria:

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

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

- **33.563.120** Additional Approval Criterion (Balch Creek Subdistrict of NW Hills Plan District).
- **33.668.200** Approval Criteria for changes to an approved PUD.
- **33.805.040** Adjustment Review Approval Criteria

ANALYSIS

Site and Vicinity: The site, including both the buildable lot and the open space tract, is located in a two-lot Planned Unit Development located off the west side of NW Skyline Blvd, a little more than a half mile from the intersection of NW Skyline Blvd and NW Cornell Rd. To the west of the site is a series of larger subdivisions on the west-facing slope of the Tualatin Mountains (the West Hills). To the north is highly-forested, sparsely developed large-acreage parcels. The parcels east of the site are undeveloped, heavily forested parcels under the jurisdiction of Multnomah County; Forest Park begins beyond those properties, about 0.6 miles to the east of the subject site. As the Tualatin Mountains are oriented on a NW/SE axis, the vicinity to the south of the site is a mixture of the two characterizations described above.

The buildable parcels of the site appear to be on a ridgeline that slopes moderately downward from west to east. The land slopes steeply downward to both the north and the south, with tributary streams of Balch Creek on each side of the buildable parcels.

The buildable portion of the parcel subject to this review, Lot 1, is approximately 140 horizontal feet from the nearest point of Lot 2 and about 20 vertical feet lower. The nearest lots beyond Lot 2 are at a minimum 450 horizontal feet and 60 vertical feet away from Lot 1, with most of the area in between heavily forested.

Existing development at 7908 NW Gales Ridge Lane and the associated clearing and grading significantly encroaches into the open space tract to the southwest of the house and pool and significantly downhill, to the west of the site.

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

The project site is mapped within the *Balch Creek Resource Protection Plan (1991)*, as part of Site #84.

Resource Site 84 has a wildlife habitat assessment score of 80. It is approximately 45 acres and is composed primarily of second growth, although the forest on Site 84 has many conifers topping the hardwoods, and some remnant first growth fir remain. As mentioned above, this site is also the headwaters of the Thompson Road stem of Balch Creek. This stem contains some of the best trout spawning beds in the watershed. This is another site with steep forested ravines. Site 84 has high fish and wildlife values. The forest on this site also provides scenery from Thompson Road and Skyline Boulevard, both of which have scenic corridor status in the vicinity of the resource site. The steeply forested slopes, ravines, and streams on Site 84 are of the highest quality.

Zoning: The zoning on the site includes a single-dwelling 'RF' base zone designation, with Environmental Conservation 'c' and Protection 'p' zone overlays. The site is in the Balch Creek and Skyline subdistricts of the Northwest Hills Plan District (see zoning on Exhibit B).

The RF base zone designation is intended for agricultural and forested areas in the city which are presently deficient in public services. Agriculture, forestry, and extremely low-density single-dwelling residential will be primary uses.

Environmental Overlay Zones ('c' & 'p') protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental

regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site's protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less sensitive. The purpose of this land use review is to ensure compliance with the regulations of the environmental zones.

The Northwest Hills Plan District protects sites with sensitive and highly valued resources and functional values. The portions of the plan district that include the Balch Creek Watershed and the Forest Park Subdistrict contain unique, high quality resources and functional values that require additional protection beyond that of the Environmental overlay zone. The plan district also promotes the orderly development of the Skyline subdistrict while assuring that adequate services are available to support development. These regulations provide the higher level of protection necessary for the plan district area.

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

- **CU 90-88 / S 45-88:** Approval of a Subdivision and Planned Unit Development (PUD) for Lots 1-9 (Phase 1) and Lot 10 (Phase 2) of Gales Ridge. (The subject site is located within Lot 10 of Phase 2.)
- **CU 39-90:** Approval of a PUD amendment to Gales Ridge to reduce side setbacks on several lots and increase the side setback on Lot 10 to 500 feet.
- **LUR 91-00492 EN:** Approval of an Environmental (EN) Review to establish supplementary development standards for the future development of Lots 1-7, 9, and 10.
- **LUR 96-00165 SU PU EN:** Voided application for 2-lot partition of Gales Ridge, Lot 10. Applicant failed to submit required information within 180-day timeline.
- **LUR 97-00906 EN:** Approval of an Environmental Violation Review for violating the approved construction management plan associated with the construction of a new residential dwelling on Lot 10. (This is the existing dwelling at 7908 NW Gales Ridge Lane that is to be removed under this proposal.)
- **LUR 98-00882 SU EN AD:** Approval of a PUD and Subdivision of Lot 10 into two residential lots, a private street tract, and an open space tract. In addition, approval of an Adjustment to increase the allowed building coverage at Lot 1 (the primary subject site) from 10% of the lot area to 18.75%. ***This is the decision being amended by this current request.***
- **LUR 00-00613 PU SU EN:** Withdrawn application for PUD amendment and Adjustment to increase maximum building coverage on Lot 2.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 13, 2022**. Multiple bureaus and sections within BDS provided responses, including:

- Bureau of Environmental Services
- Portland Bureau of Transportation
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks, Urban Forestry Division
- Water Bureau

The complete responses can be found in the "E" Exhibits.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 13, 2022. One written response was received. The response was sent by the Forest Park Neighborhood Association's (FPNA) Land Use Committee via their Chair, Jerry Grossnickle.

The complete response can be found under Exhibit F.1. Below is a summary of the concerns listed in their response, followed by staff's response to those concerns in italics.

FPNA comments: The FPNA objects to granting of the requested Adjustments to minimum building setbacks, height, and maximum building coverage. In particular, the author suggests that the proposal doesn't meet approval criterion 33.805.040.F, which requires that the proposal have as few significant detrimental environmental impacts on resources and resource values as is practicable.

Staff response: *The proposal does not increase the amount of disturbance area on the site and the site plan has been modified in the course of this review to utilize existing disturbance, approved and unapproved (from previous owner), and avoid impacts to resources, especially trees. See the findings for the Adjustment approval criteria, below, for a more detailed analysis of these project elements and how the relevant approval criteria are met.*

ZONING CODE APPROVAL CRITERIA

33.430.250 Approval Criteria for Environmental Review *(The approval criteria listed below are those from the Zoning Code in effect at the time this application was submitted, November 19, 2021. It is worth noting that in addition to some of the code language changing since that time, the environmental overlay boundary locations have changed since then too).*

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

Findings: The approval criteria applicable to the proposed development are found in Sections 33.430.250.A & E. Section 33.430.250.A contains the criteria for the driveway improvements and for the outfall(s). Section 33.430.250.E contains the criteria for all development within the site other than the driveway and outfall. The applicant has provided findings for these approval criteria. BDS Land Use Services staff has referenced and when needed updated or revised these findings or added conditions as necessary to meet the approval criteria.

In many instances, the approval criteria in Section A and in Section E are nearly or actually identical. In these cases, staff may write one set of findings that address the criterion from both sections. All findings will be preceded by which criterion or criteria they are addressing.

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

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

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

Findings: The purpose of this criterion is to recognize that some form of development is allowed, consistent with the base zone standards. Impacts of the proposed development are measured relative to the impacts associated with the development normally allowed by the base zone. In this case, the applicant has taken significant measures to site the proposed structures and outdoor area within existing disturbance area in order to minimize the loss of resources and functional values, while still meeting their project goals and accommodating

space for vehicle maneuvering. For example, the original proposal sited the house 22 feet west of its current location. The applicant's team had intended to integrate into the new house's foundation the large retaining wall that starts along the south side of the driveway as it approaches the house and retains the primary yard of the existing residence. By moving the house eastward 22 feet into area already disturbed and cleared, they reduced tree removal by over 50% (from 30 trees/428 diameter inches to 14 trees/212 diameter inches) and only one eight-inch Douglas fir is proposed for removal as part of the new house. In fact, of the 14 trees currently proposed for removal, eight are a direct result of installing infrastructure to manage stormwater and five are part of the driveway safety improvements.

There is no current stormwater management for the driveway and stormwater from the existing house and garage directs water onto the adjacent slopes, which has resulted in slope instability, as detailed in the geotechnical report (Exhibit A.3.e) and as evidenced by a landslide that occurred just to the north of the lot in December of 2015 (16-100473 SC/16-181382 RS) and the need for emergency stabilization of the house's foundation that same year (16-181380 RS). In other words, the loss of 8 of the 14 total trees proposed for removal is to provide crucial stormwater management that in the long run will better protect the site's resources and functional values by preventing future detrimental impacts resulting from slope instability and landslides.

It should be noted that while the size of the house proposed is substantially larger than the existing house, there is no proposed expansion of the total disturbance area (i.e. the open space tract is not getting smaller and canopy coverage is increasing). As well, as noted in the findings for the Adjustment to maximum building coverage, the zoning and size of the parent lot is such that the proposed development, even at its large size, would otherwise be allowed without Adjustments, if not for the limitations placed by the Plan District and the Environmental Zoning (i.e. all area outside the approved limits of disturbance must be placed in a protected resource tract and be closed forest canopy; see Exhibit G.4, pages 24 & 28, see also 33.563.110.D).

Furthermore, aerial imagery shows that previous owner(s) of the site cleared areas in the open space tract well beyond the approved limits of disturbance and in violation of 33.430 and the approved PUD. By shifting the house 22 feet to the east, the proposal utilizes those areas already cleared, minimizing the amount of currently undisturbed and native soils that are impacted.

As demonstrated in the findings above and in the application materials, the proposed development minimizes impacts to resources and functional values, consistent with what the base zone would otherwise allow without a land use review.

Therefore, *this criterion is met.*

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

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

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

Findings: The findings below are provided in three sections, based on the specified improvement(s): The driveway, the outfall, and the house, yard, and garage.

DRIVEWAY. The applicant submitted a report regarding the safety issues associated with the current driveway configuration and measures recommended to remedy those safety issues Exhibit A.3.c). The proposed driveway reconfiguration is consistent with those recommendations. The applicant provided the following findings in their narrative:

The proposed driveway safety upgrades aim to reduce driveway slope and prevent vehicle slippage into the existing steeply sloped drainageways downhill of the driveway. In valuating driveway improvements, substantial regrading would significantly impact the p overlay zone. To avoid that impact, it is proposed to lower the building pad elevation within the disturbed area of the site to reduce the steepest grade at the end of the driveway. In order to prevent future occurrences of vehicles skidding off the paved driveway, into the protected drainageway, a 12-foot driveway with a curb and wood post guard rail is proposed. The width of the parcel along the driveway is proposed at 13 feet, increased by 1 foot to accommodate the proposed safety infrastructure. The increased driveway width of 1 foot will extend into the conservation zone, avoiding impact to the protection zone. [Planner note: the increase in width results in a slight reduction in the size of the buildable portion of the lot so that the area of the open space tract is not reduced.]

In addition to the alternative approach to grading mentioned above, the applicant has chosen alternative construction methods that will better preserve trees. Specifically, as detailed in the Arborist Report (Exhibit A.6.c), all earthwork within the root protection zones of trees to be protected will occur by hand, with the arborist on-site to ensure that roots are cut in accordance with arboricultural best practices. While more time-consuming, and likely more expensive, this alternative approach to creating the new re-alignment better protects trees and other resources, compared to methods that use mechanical equipment for earthwork, which is inherently less precise when being scrupulous about preserving and carefully pruning tree roots.

A no-change alternative is also a possible approach, but the applicant's argument is that it is not practicable when considering the safety risks associated with it and staff takes no exception to this stance, having been on site and driven down the driveway.

A condition of approval will require that the guardrail along the driveway be split-rail fencing or an equivalent to ensure that wildlife passage is not inhibited by the safety improvements.

OUTFALL. During the initial phases of this review, Site Development, BES, and LUS staff had extensive discussions with the applicant's team about the least impactful, most effective methods to manage stormwater on the site. As noted in the findings for 33.430.250.E.1, the site has a history of slope instability and poorly managed, minimal stormwater facilities. In those discussions and in the Geotechnical Report (Exhibit A.3.e), it is clear that alternatives for managing stormwater are very limited by the site conditions. The report states that all stormwater must be discharged at existing natural drainages, at locations with the lowest slope gradients (pg 4). Within these parameters, the one alternative, aside from the preferred and proposed alternative, that was considered was to have multiple, smaller diameter outfalls, possibly discharging into the adjacent drainageways at different locations. This alternative was quickly ruled out because of the inefficiency and greater impacts to resources that would result from multiple lines, even if smaller than the recommended single 6-to-8-inch pipe.

The outfall location chosen utilizes the existing culvert at the drainageway/stream that runs under the driveway. As can be seen in the topographical maps found in the Geotechnical Report, there are few locations where the gradient is low enough to meet the Geotech's recommendations. The proposal meets those recommendations by placing the outfall on the uphill side of the driveway and culvert.

As proposed, construction of the stormwater planter associated with the outfall requires that two larger, native trees be removed. The planter has been sized to manage runoff for

the whole driveway rather than just for the new impervious surface associated with the re-alignment and grading. Per the BES reviewer's addendum (Exhibit E.1.a):

The proposed stormwater planters on this site will meet pollution reduction and flow control requirements of the SWMM to help mitigate environmental impacts of development. The planter will remove pollutants from runoff to ensure that cleaner water is discharged to natural stream channels. In addition, added impervious areas during development increase the volume and rate of stormwater runoff to streams, which can cause downstream erosion and flooding. The planters proposed will help mitigate this impact by slowing runoff to mimic pre-development conditions, thereby decreasing impacts to the natural stream system.

As such, there is a long-term benefit to the stream by treating the whole of the driveway (4,083 square feet) rather than only the 2,630 square feet that technically triggers SWMM requirements. Furthermore, based on the original LUR that approved the PUD and development of the lots, treating the stormwater from the driveway has been an unfulfilled requirement, as evidenced in the Hearings Officer's findings (Exhibit G.5, pages 22, 27 & 28), and as conditioned by City Council under Condition of Approval 16 (Exhibit G.4). The condition was put in place so that the development would meet Standard 33.563.110.A, which requires that post-development stormwater flows not exceed pre-development flows; this standard is still in effect in the Balch Creek Subdistrict of the NW Hills Plan District.

Therefore, the proposal to manage stormwater from the whole of the driveway is consistent with the findings and conditions of the original LUR that this review is amending and Standard 33.563.110.A, which cannot be modified through EN review per 33.563.110.

To provide additional protections and minimize impacts, per the Arborist Report, the arborist is to be on-site during the groundwork to construct the stormwater planter and outfall. All digging is to be done by hand to avoid damaging the root system of the other native trees close to the work area.

Finally, because of the sensitive nature of the stream, coupled with the logistical reality of working on undeveloped steep slopes, the installation of additional armoring/rip-rap at the downstream end of the culvert will be done using equipment staged on the driveway; only a limited number of workers on foot will be allowed to support the installation and planting of the additional rip-rap below the driveway on the undeveloped slope.

HOUSE, YARD, AND GARAGE. As noted in the findings for 33.430.250.E.1, the original proposal was for a practicable and significantly different placement of the house that failed to utilize the full extent of existing cleared areas and would have resulted in more than twice the tree removal, most of the additional trees that were proposed for removal being removed directly for the alternative placement of the house. The current proposed alternative only has one eight-inch tree being removed in relation to the house. Furthermore, the stormwater management of the structures, despite their large relative size, has been designed to minimize impacts. Rather than consolidate or construct larger stormwater planters, the preferred alternative utilizes stormwater planters that are narrow and hug the structures so that they are within the 5-foot buffer required by Standard 33.430.140.G.

Finally, as noted in the applicant's narrative (Exhibit A.6.a),

Another aspect of the siting was evaluation of the optimal floor elevation of the proposed home to reduce grading impacts. One option studied was to set the ground level of the proposed residence at the current elevation of the existing home slab on grade. This option did not allow for reduction of the steeply sloped driveway grade without adverse grading impacts to the environmental protection and was therefore not selected. Additionally, this floor elevation would require fill at west landscaped area, impacting the surrounding resource area. Another option studied was to lower the proposed floor elevation by 7 feet relative to existing in order to significantly reduce the driveway slope

to approximately 5%, and to align the second-floor elevation of the proposed residence with existing grade at west landscaped area of the existing home. This option was found to result in a substantial net volume of cut, approximately 4,800 cubic yards, which would need to be hauled off site.

The selected configuration sets the finish floor elevation approximately 4 feet below existing floor elevation, and improves driveway safety by reducing a portion of the driveway slope to 11.5 percent, reduces the net cut volume on site to less than 100 cubic yards, and results in less grading on average around the perimeter of the proposed home as compared with the other options.

As detailed above, the applicant considered significantly different alternatives to the current proposed development's locations, foundation designs, grading plan, and construction methods. Of those alternatives, the current proposal will have the least significant detrimental impact to identified resources and functional values.

With the above-noted conditions, *these approval criteria can be met.*

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

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

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

The Construction Management Plan (page 31 of Exhibit A.11.a and Exhibit C.4), in combination with the arborist report (Exhibit A.11.c), together outline how impacts from the project, including those elements subject to these approval criteria, will be limited to the approved temporary and permanent disturbance areas.

The Construction Management Plan will be effective because it provides realistic limits to disturbance while containing the necessary elements (e.g., sediment fencing, tree protection fencing, arborist supervision) to effectively protect resources and functional values outside of designated disturbance areas. The applicant's team, in collaboration with staff, have assessed the potential impacts of construction activities on the property and established construction methods and practices, including those listed below, to ensure that impacts are limited to the approved disturbance area and trees designated for protection are not adversely impacted by the construction.

1. Installation of 4' orange construction fencing around the entire site. Per the arborist report, because of the steep topography of the site in most of the locations where potential impacts could occur, temporary construction fencing will serve sufficiently for the tree protection fencing. The fencing shall be placed in the locations shown on the Construction Management Plan (Exhibit C.4) and shall occur prior to all ground disturbing activities.

Temporarily relocating or removing the fencing requires approval from the project arborist.

It should be noted that there are two locations on the plans where the location of the tree protection fencing is not in accordance with the Arborist Report. Staff has marked up the relevant plans and added notes to clarify where the correct location(s) are. Observance of these revised locations and the associated construction management techniques noted on the plans and in these findings will be required as a condition(s) of approval.

2. Construction of stormwater planter (at top of stream) and retaining wall extension.

Both activities are within the critical RPZ of tree #885, a 40-inch Western red cedar.

Installation of the stormline connecting the stormwater planter at the southwest corner of the house to the line in the driveway will be done by directional boring. The boring should be at least 3 feet below grade to avoid impacts to the trees' roots, including both Tree #885 and Tree #1115.

All excavation in the stormwater facility will be hand dug to avoid impacting trees to be protected. The planter can be formed during construction to minimize impacts on adjacent trees.

The project arborist shall be on-site during the construction of both the retaining wall extension and the stormwater planter to supervise the work so that smaller roots can be properly pruned and roots 4-inches and larger can be avoided and protected.

3. Procedures for Tree Removal within the tree protection zones. Tree removals should be done by an ISA certified arborist who makes a work plan to avoid damage to any protected trees. Trees that need to be removed should be done so using rigging, rather than falling. Additionally, no spurs should be used on trees that are being preserved and minimal walking with a limited number of people should be done in the root zones of the protected trees to avoid compaction. Avoid stump grinding on any of the trees that are being removed to protect existing root zones. The fence can temporarily be removed to allow access for tree removal under supervision of ISA certified arborist.

4. Driveway asphalt removal. At areas where existing driveway pavement is to be removed, handheld motorized equipment will be used to break up portions of the existing driveway. All staging will occur on the portion of the driveway to remain in place.

The arborist has provided recommendations to further support the health of certain trees noted above, as follows (Exhibit A.11.c, pages 2 and 4):

- Trees #885 and #1115 should be watered 1x a month deeply during drought periods since this species has been going into decline due to drought conditions. Also, 4" of mulch should be spread inside the trees' RPZs.

The mitigation plan, including nuisance species removal and the planting of native species, will result in some limited ground disturbance, but this work will be required to be conducted by hand.

With conditions requiring that the arborist's recommendations be followed, that tree protection fencing be placed within and at the limits of disturbance, that all mitigation work be done using only hand-held equipment, and that erosion control be installed in conformance with applicable City Code, *these criteria can be met.*

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

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

Findings: This criterion requires the applicant to assess unavoidable impacts and propose mitigation that is proportional to the impacts, as well as sufficient in character and quantity to replace lost resource functions and values. Impacts of the proposal include:

- Converting 1,775 square feet of undisturbed area to permanent disturbance area;
- 12,950 square feet of temporary disturbance area (most of which is unpermitted existing disturbance area);

- Removal of 14 trees with a total diameter of 212 inches.

To compensate for these impacts, the proposed Mitigation Plan includes the following:

- The reversion to naturalized resource area of 3,767 square feet of permanent disturbance area approved for the existing development;
- The reversion to naturalized resource area of approximately 22,105 square feet of unpermitted disturbance area within the Open Space tract.
- The planting of 150 trees, 1,106 shrubs, and 1,626 groundcover plants over approximately 35,300 square feet of mitigation area(s) (Exhibits C.9, 10 & 11).
- Nuisance species removal, as required by 33.430.140.L and 33.248.090.D, in and within 10 feet of the mitigation area(s), equating to approximately 46,128 square feet of nuisance species removal on the site.

The planting plan, in addition to meeting the tree removal and replacement requirements of 33.430.140.J and the replanting requirements for temporary disturbance in 33.430.140.H and I, brings the property back into conformance with 33.563.110.C and D, which requires that 90% of the site (the PUD site) be retained or established in closed forest canopy and that all of the required closed forest canopy be within an environmental resource (open space) tract. As noted already, the previous owners cleared significant area within the open space tract in violation of these standards and the conditions of approval of LUR 98-00882 PU SU EN AD; this proposal will remedy that violation.

Furthermore, in addition to the above mitigation, the applicant shall be required by conditions to:

- Plant the upgraded rip-rap at the downstream-end of the culvert in accordance with 33.430.180.F.
- Seed areas under new canopy and those along the perimeter of existing canopy with a mix that includes a minimum 20% pollinator-friendly, flowering forbes. The mix shall include a milkweed variety native to the Willamette Valley to provide food for Monarch butterflies, whose populations are in decline and who rely on milkweed for survival at multiple stages of their life cycle (See Exhibit G.6). *(This condition may be amended by written direction of the project Geotechnical Engineer, as needed, to ensure sufficient erosion control for slope stability.)*
- Retain all portions of removed trees 12" and greater in diameter on the site to serve as downed woody debris for wildlife habitat and soil enhancement.
- Plant areas in the 10 feet of nuisance species removal beyond the designated planted areas, as required by 33.248.090.D and as shown on Exhibits C.10 and C.11, with a seed mix that includes a minimum 20% pollinator-friendly, flowering forbes, including milkweed, as noted in the bullet above.

In total, the site will see a gain of 11,147 square feet of undisturbed/naturalized resource area compared to the current conditions, all of which will be planted to provide closed canopy forest cover, which will enhance the current canopy at the site in terms of area, species diversity, and thus scenic value. The plan provides a diverse range of native species that will provide habitat for native invertebrates, birds, and mammals and in combination with the much-improved stormwater management systems at the site, improve water quality and reduce siltation of spawning areas downhill and downstream, thus better protecting important fish habitat.

To confirm installation of the required plantings, the applicant will be required to apply for a Zoning Permit to have the plantings inspected upon installation. To confirm maintenance and establishment of the required plantings for an initial three-year establishment period, the applicant will be required to submit annual monitoring and maintenance reports over a three year monitoring period.

With conditions to ensure that all required plantings are installed, maintained, and monitored, *these criteria are met.*

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

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

Findings: Mitigation is proposed within the open space tract that is part of the subject site. The subject parcels are under common ownership (dba different LLCs) with the applicant representing said owner(s) as legal counsel. Furthermore, the CC&Rs and Maintenance Agreement for the subdivision, that were reviewed and approved during the Final Plat review for the Subdivision state that Tract B (the open space tract) shall be preserved as a natural area, with improvements limited, but including landscaping and resource enhancement activities (Exhibit A.3.c, page 19 of 601). Therefore, *this criterion is met.*

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

- a. The location, design, and construction method of any outfall or utility proposed within the resource area of an environmental protection zone has the least significant detrimental impact to the identified resources and functional values of other practicable alternatives including alternatives outside the resource area of the environmental protection zone;

Findings: The only outfall-related work in the environmental protection zone is the adding of rocks to the existing rip-rap below the existing culvert, where it enters the streambank just below the driveway. All work to enhance the existing armoring will be done by mechanized equipment staged on the existing driveway pavement. Disturbance within the environmental protection zone will be limited to temporary disturbance from workers on foot, who will be providing the equipment operator with guidance. The topographical constraints of the outfall area helps to ensure that this construction management approach will be followed.

Therefore, *this criterion is met.*

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

Findings: The location of the outfall is at an existing culvert under the driveway and is at a location on the stream that is upstream from viable fish habitat. Regarding impacts on fish habitat downstream of the area affected by the outfall, the proposal adds stormwater management facilities for the driveway runoff, which was previously sheet flowing untreated downhill into stream and stream-adjacent locations. By collecting and treating stormwater before it enters the stream and by engineering and planting rip-rap at the outfall, water quality in the stream will be protected from potentially harmful contaminants, including man-made chemicals from vehicles and roof run-off and from siltation, all of which can detrimentally impact spawning grounds and overall fish health. As such, the proposal not only avoids significantly, negatively impacting water quality in the site's streams, but in fact will have a positive impact on fish habitat.

Therefore, *this criterion is met.*

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

Findings: There is an existing driveway approved under LUR 98-00882 PU SU EN AD that crosses the upper-most portion of a natural drainageway. The current proposal will continue to use the existing driveway and culvert under it. All driveway re-grading and re-alignment work is proposed above top-of-bank, with erosion control fencing installed to prevent erosion into the streambed.

Since no new crossings of the drainageway are proposed, *this criterion is met.*

33.563.120 Additional Approval Criterion (in the Balch Creek Subdistrict of the NW Hills Plan District). In addition to the applicable approval criteria of Section 33.430.250, an environmental review application will be approved if the review body finds that the location, quantity, and quality of forest and contiguous forest cover will be sufficient to provide habitat for deer and elk and to provide for the passage of deer and elk between Forest Park and Pittock Acres Park.

Findings: As noted by the Hearings Officer of LUR 98-00882 PU SU EN AD, the original review,

The site is not directly between Forest Park and Pittock Acres Park, so does not serve for deer and elk passage between the two. However, forest habitat for deer and elk must be provided for on-site. Development standards of the Skyline Plan District [now of the NW Hills Plan District], particularly the requirement for 90 percent of the site to be retained in closed canopy forest cover and that it be within the common open area, ensure this criterion will be met.

Staff asserts that the same assessment applies to the present-day findings and that with conditions that ensure that all area outside of the development parcel and in the open space be planted to achieve 90% closed canopy forest cover, *this criterion will be met.*

33.668.200 Approval Criteria for changes to an approved PUD.

Requests for changes to an approved PUD will be approved if the review body finds that the applicant has shown that all of the following criteria are met:

A. On balance, compared to the approved PUD, the change will equally or better meet the following:

- 1. Promote an attractive and safe living environment in residential zones;**
- 2. Provide for efficient use of services and improvements;**
- 3. Minimize site grading;**
- 4. Provide energy efficient development;**
- 5. Allow for conservation of natural features;**
- 6. Provide an opportunity for innovative and creative development;**
- 7. Be integrated into the neighborhood; and**
- 8. Where the PUD includes commercial uses, promote attractive and functional business environments in nonresidential zones which are compatible with the development intended for the zone and neighborhood; and**

A.1 Promote an attractive and safe living environment in residential zones;

Findings: The proposed reconfiguration of the open space tract and Lot 1 maintains a building site that is visually isolated from the nearest neighboring properties on NW Ramsey Drive by topography and forest cover. As detailed below in relation to the request for an Adjustment to maximum height, visual buffering between the two lots in the PUD will be maintained and enhanced through a condition requiring that trees be planted that have a mature height sufficient to buffer the line of site between the two houses. These elements of the site and the proposal promote the continued attractiveness of the living environment of the residential zone and nearby neighborhood equally, if not better than the original PUD.

The driveway realignment and regrading is designed to minimize changes to the lot lines while achieving needed safety improvements, as assessed by the project's engineering team in their Site Safety Evaluation Report (see Exhibit A.3.c, pages 527-536). Furthermore, by treating all of the stormwater on site and by doing so in a manner that meets the current requirements of the SWMM, the proposal is improving safety by improving slope stability compared to the current system, which discharges directly onto adjacent slopes outside of the site's drainageways. The Fire Bureau has reviewed and approved two appeals by the applicant to the Fire Code and both have been approved based on the proposed development and adjusted lot dimensions meeting fire safety requirements by incorporating fire sprinklers and non-combustible and fire-resistant building materials into the construction (see Exhibit A.3.c, pages 594-596), consistent with requirements of Portland City Code Chapter 24.51 Wildfire Hazard Zones. Together, the driveway improvements, improved stormwater management, and fire safety building measures promote a safe living environment in this residential zone equally or better than the existing development and lot line configuration associated with the original PUD.

Therefore, with the noted condition, *this criterion can be met.*

A.2 Provide for efficient use of services and improvements;

A.3 Minimize site grading;

A.4 Provide energy efficient development;

Findings: The proposed development and adjusted lot lines have been designed to maximize use of the existing driveway and other existing disturbance areas, improvements, and grades within the constraints of the project goals and the need for safety improvements. By doing so, the existing culvert and utility corridors for water, sewer, and electricity can continue to be used and grading can be minimized, maintaining the efficiencies of the existing improvements developed within the lot and tract configurations of the approved PUD. Utilizing existing development increases the overall efficiency of the project and ultimately of the overall energy signature of the proposed development. The applicant provides further evidence that existing improvements are being utilized and site grading is being minimized on page 17 of their narrative (Exhibit A.3.c),

- *Various alternative siting options were assessed to establish the finish floor elevations that would result in the least impact to grading of native soils, and minimize cut and fill volumes. See detailed discussion in the impact narrative section that follows.*
- *The proposed reconfigured parcel line boundary is also located within previously disturbed area. Of the 26,272 sf of proposed permanent disturbance area, 1,775 sf will impact native, undisturbed soils. This area represents 7% of the proposed disturbance area and 0.32% of the overall site area. All other site disturbance is limited to areas that have been disturbed through prior activities on site.*
- *Grading of native soils is focused on the driveway safety improvements, reference attached drawings [Exhibit C.6].*
- *The proposed home reuses existing large scale site retaining wall along south end of driveway and the existing home's full story foundation wall at the west elevation to minimize grading impacts.*

Furthermore, [Chapter 11 of the 2021 Oregon Residential Specialty Code](#) requires that numerous and significant energy efficient materials and construction strategies be incorporated into the design the house, including in the HVAC system, in the insulation value of windows and doors and in wall and roof insulation, in solar capacity, electrical fixtures, and plumbing systems.

By utilizing existing disturbance area and site improvements the proposed changes to the approved PUD equally or better provide solar access to future development. It provides for

efficient use of services and improvements and equally or better minimize site grading within the context of the project goals and in balance with the other criterion. Finally, application of current building code requirements ensures that all future development will incorporate significant energy efficiencies equal to or better than those required for the existing house.

Therefore, *these criteria are met.*

A.5 Allow for conservation of natural features;

Findings: As detailed in the findings for 33.430.250, above, the applicant has designed the project to conserve and enhance natural features by siting the proposed development and adjusted lot configuration to maximize use of the existing disturbance areas, without any loss in the area of the PUD dedicated to the open space tract.

This criterion is met.

A.6 Provide an opportunity for innovative and creative development;

A.7 Be integrated into the neighborhood; and

Findings: The current development is configured so that much of the outdoor area, including the in-ground pool, are oriented away from the eastern views of Mt Hood and the East Buttes and Terraces. The adjusted lot lines provide an opportunity for a creative development approach that re-orient development on the site towards the valued views to the east. The proposal does so with minimal adjustments to the location of the existing lot lines, relative to the site area, and in doing so maintains the relationship of the existing vehicle access and view corridors to the surrounding neighborhood.

As detailed in the findings for the Adjustment requests, below, and as noted above, the proposed changes to the approved PUD will equally or better integrate the development into the neighborhood and do so while providing equal or better opportunity for innovative and creative development.

Therefore, *these criteria are met.*

A.8 Where the PUD includes commercial uses, promote attractive and functional business environments in nonresidential zones which are compatible with the development intended for the zone and neighborhood; and

Findings: The PUD does not include commercial uses. *Therefore, this criterion is not applicable.*

B. Any significant adverse impacts caused by the change are mitigated.

Findings: Possible significant adverse impacts that could result from the changes could be to the site's resources and functional values, including scenic views from neighboring properties upslope from the subject lot. These potential impacts are being avoided and mitigated for by implementing conditions to ensure continued visual buffering within the view corridor(s) and by conditions requiring implementation of the approved mitigation plan (Exhibits C.9 through C.11).

By conditioning approval of this request with the conditions noted above, *this criterion can be met.*

33.805.040 Adjustment Review Approval Criteria

The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.

For sake of simplifying the findings, the Adjustment Requests will each be assigned as number, as follows:

- Reduce minimum building setbacks on the south and west sides of the proposed primary structure (house) from 10 to 5 feet (33.110.220); **ADJUSTMENTS 1 & 2**
- Reduce minimum side building setbacks on the north and east sides of the proposed accessory structure (detached garage) from 10 to 5 feet (33.110.220); **ADJUSTMENTS 3 & 4**
- Increase the maximum building height for the proposed primary structure (house) from 30 feet to 39 feet (33.110.215); **ADJUSTMENT 5**
- Increase the maximum building height for the proposed detached accessory structure from 20 feet to 28 feet (33.110.245). **ADJUSTMENT 6**
- Increase the maximum building coverage from the previously approved coverage of 4,926 square feet* to 10,350 square feet (33.110.255). **(Via an approved Adjustment to maximum building coverage in LUR 98-00882 PU SU EN.)* **ADJUSTMENT 7**

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings for Adjustments 1 through 4: The purpose statement for setbacks in single-dwelling zones is found in subsection 33.110.220.A and is as follows:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of residences in the city's single-dwelling neighborhoods;*
- *They foster a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

As explained in the site and vicinity description above, the buildable portion of the parcel subject to this review, Lot 1, is approximately 140 horizontal feet from the nearest point of Lot 2 and about 20 vertical feet lower. The nearest lots beyond Lot 2 are at least 450 horizontal feet and 60 vertical feet from Lot 1, with most of the area in between heavily forested.

As such, even with the significant size of the proposed improvements, the reduced setbacks requested will have little to no impact on light, air, and separation for fire protection between the neighbors, nor on their privacy, or on the physical relationship between residences. Therefore, the requested setback Adjustments will allow for the proposed house and detached garage to equally or better meet points 1, 3, & 4 of the purpose statement.

Furthermore, because of the distance between the Lot 1 and the closest lots, coupled with the fact that Lot 1's vehicle access is down a forested aisle composed of a 415-foot long, private street and then a 290-foot-long driveway, the configuration associated with the requested setbacks will have no visual impact from a publicly accessible street, thereby equally or better meeting points 5 and 7 of the purpose statement.

Regarding point 2 of the purpose statement, if the proposed house and detached garage were located on a lot that abutted other buildable lots, or if there were not extensive closed forest canopy between the subject lot and those nearest to it, staff would agree that this point of the purpose statement would be difficult to equally or better meet with the proposal, but because of the distance and the vegetation, both existing and proposed, the requested reduction to allow the structures to be 5 feet closer to the property lines has no practical impact on the building scale and placement of the residence in relation to neighboring residences. To that point, the five-foot reduction is the difference between 160 feet and 155 feet between the minimum rear setback line on Lot 2 and the setback line on Lot 1 without and with the Adjustment. That is just over a 3% difference in the relationship between the subject site and the nearest buildable lot; the difference is even less to the nearest lots outside the subdivision. As such, the requested setback adjustments have no impact on the scale and placement of the buildings in their relation to the nearest single-dwelling neighborhood up on NW Ramsey Dr.

Finally, as it pertains to equally or better meeting point #6 of the purpose statement, the requested adjustments are specifically to allow an architectural design that accommodates the required outdoor area within a large courtyard at the center of the house. The overall design of the house is intended to orient the outdoor area and indoor living area towards the forested views to the east, i.e. taking into account the site's topography and location within the larger context of its placement in the region.

Therefore, *this criterion is met for Adjustments 1 through 4.*

Findings for Adjustment 5: The purpose statement for height in single-dwelling zones is found in subsection 33.110.215.A and is as follows:

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

As has been observed and detailed in other findings within this decision, the subject property and proposed house are isolated from neighboring residences by physical distance, both horizontal and topographical (vertical) and by dense forest. For additional context, the nearest house, 7910 NW Gales Ridge, will be 125 feet away from the proposed house. The building site at 7910 NW Gales Ridge is about 20 feet higher than the building site of the proposed residence. This means that the proposed 39-foot-high structure will appear as a 20-foot-high structure to residents at 7910. It also means that 50-foot-high trees along the nearest perimeter of the building site of the proposed structure will completely obscure it from view for 7910 (Exhibit G.3). The current planting plan includes trees listed as small in the Portland Plant List along the property line(s) closest to 7910. In order for visual impacts of the proposed building height to be mitigated, a condition of approval will require that the planting plan be revised to provide trees between the two parcels that have a mature height of at least 50 feet*.

Therefore, *this criterion is met for Adjustment 5.*

*It is worth noting that the plan does include Oregon ash in the area at issue and that Oregon ash has a mature height of up to 75 feet (Portland Plant List, pg 3.2-2). Unfortunately, the first confirmed siting of the Emerald ash borer in Oregon recently occurred in Forest Grove. This insect has decimated Ash populations in other parts of North America and it is anticipated to do much the same here in Oregon. As such, an alternative species needs to be planted to ensure longevity of the screening being required along this property line.

Findings for Adjustment 6: The purpose statement for Detached and Connected Accessory Structures in single-dwelling zones is found in subsection 33.110.245.A and is as follows:

This section regulates detached and connected structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards limit the height and bulk of these structures, promote compatibility of

design for larger structures, provide for necessary access around larger structures, help maintain privacy between abutting lots, and maintain open front setbacks.

The proposed detached garage, when contextualized with the request for an increase to the maximum height for the house (Adjustment 5), will continue to be subservient to the house. The ratio of allowed maximum height for a detached covered accessory structure to allowed maximum height for a primary structure is 20 to 30 or 0.66; the requested Adjustments results in a ratio of 0.71. As has been already noted, the subject property and proposed development are isolated from neighboring residences by physical distance, both horizontal and topographical (vertical) and by dense forest. For this reason, the small increase in the ratio of heights between the two structures, will not affect the house clearly being the predominant element on the site, nor will it negatively impact their compatibility from a design perspective. Furthermore, because of the site's physical and visual isolation from neighboring properties, the detached garage will not negatively impact privacy between abutting lots. The setbacks for the structure are not applicable to this particular Adjustment request.

Therefore, *this criterion is met for Adjustment 6.*

Findings for Adjustment 7: The purpose statement for maximum building coverage in single-dwelling zones is found in subsection 33.110.225.A and is as follows:

The building coverage standards limit the footprint of buildings and work together with the height, setback, and floor area ratio standards to control the overall bulk of structures. They are intended to ensure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site.

The parent site (Lot 10, Gales Ridge) from which the subject parcel, Parcel 2, the private street, and the open space tract were divided from was 12.76 acres (552,080 square feet). The Open Space tract was created in lieu of dividing that area up between Parcels 1 and 2 as a requirement of the Environmental Review. As is the case now, 33.430.160 EN standards for LDs and PUDs requires that all portions of the site that are within the resource area and outside of the approved limits of disturbance be placed entirely within an environmental resource tract. Were this not the case, the two parcels that compose the PUD would each have been well over 250,000 square feet in area and per Table 110-5 each would be allowed over 24,000 square feet of building coverage. This fact, in the context of the subject parcel's visual isolation from neighboring properties, particularly with the condition of approval noted in the findings for the height adjustments, allows for the proposed building coverage to occupy the proposed disturbance area without overwhelming adjacent houses or impacting the character of adjacent neighborhoods. As such, *this criterion is met for Adjustment Request # 7.*

As noted above, with the specified condition(s) of approval, the proposed development can equally or better meet the purpose statements of each of the relevant subsections and as such, with conditions, *this criterion can be met for Adjustments # 1 - # 7.*

B. If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The distance and topography between the subject site and neighboring development, combined with existing and proposed vegetation, provides a natural screen that softens and hides development on the property. Thus, even with the proposed size of the house, its impact on the appearance of the surrounding residential area will be minimal to null. The proposed development is a single-dwelling structure and livability impacts related to traffic, trash, open space, walk and bike-ability, etc, will be consistent with other household living uses in the area. *Therefore, this criterion is met for Adjustments 1 through 7.*

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: The purpose statement for the single-dwelling zones is found in section 33.110.010 and is as follows:

The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing and provide options for infill housing that is compatible with the scale of the single-dwelling neighborhood.

A. Use regulations. The use regulations are intended to create, maintain and promote single-dwelling neighborhoods. They allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood.

B. Development standards. The development standards preserve the character of neighborhoods by providing six different zones with different densities and development standards. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed. The development standards are generally written for houses on flat, regularly shaped lots. Other situations are addressed through special regulations or exceptions.

The adjustment requests proposed do not affect the use at the site, which is household living, consistent with the purpose of the zone(s). Furthermore, as noted above, while the adjustments do allow for a larger than normal house, when looking at the overall mass of the house in relation to the size of the site and considering that the development will be physically distant and visually buffered from the neighboring residences by the surrounding forest and topography, the proposal is able to maintain compatibility with the overall scale of the adjacent single-dwelling neighborhood by avoiding any visual impacts to it. As such, *this criterion is met for Adjustments 1 through 7.*

D. City-designated scenic resources and historic resources in Historic, Conservation and National Register Districts and within the boundaries of Historic, Conservation and National Register Landmarks are preserved; and

Findings: As stated in the description of Resource Site 84, the forest on this [larger resource] site provides scenery from Thompson Road and Skyline Boulevard, both of which have scenic corridor status in the vicinity of the resource site.

That said, NW Thompson Rd is north, cross slope, and over a third of a mile away from the subject site, with densely forested slopes between the two. NW Skyline Blvd is much closer at 0.15 miles from the site, but views from Skyline to the subject site are blocked by topography, with an increase in elevation of around ten feet occurring immediately to the east of the scenic drive and residential development and the forested open space tract further separating the two.

As described, the proposed development will not be visible from either scenic resource and thus, *this criterion is met by the proposal for Adjustments 1 through 7.*

E. Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: As noted throughout the findings for Adjustment requests #1 through #7, the physical separation between the proposed development and neighboring residences, combined with the topography and dense forest canopy around the proposal's location, along with the

mitigation plan for environmental impacts and the condition requiring a minimum mature height of planting along the western end of the proposed development all contribute to minimizing and avoiding any potential impacts that a development of this size might otherwise have in different circumstances.

With conditions ensuring that the mitigation is carried out and that trees of a sufficient height are planted to ensure that the development is visually buffered from adjacent properties, the proposal will fully mitigate for any potential impacts resulting from the Adjustments. Therefore, *this criterion is met for Adjustments 1 through 7.*

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable; or

Findings: As detailed in the findings for 33.430.250, above, the applicant has taken significant steps to adjust the proposal to minimize and avoid significant detrimental impacts to the environmental resources and functional values on site as is practicable within the scope of the project goals. The applicant's team has worked with staff to alter the location of the house and garage significantly since the original proposal in order to fully utilize the areas of the site that are already developed or cleared. As a result, the amount of tree removal has been decreased from 29 native trees/406 total diameter inches (Exhibit A.1.c, page 4) to 16 native trees/247 total diameter inches (Exhibit A.6.b, page 4). Half of the current trees proposed for removal are associated with the re-alignment of the driveway, which as detailed in the Site Safety Evaluation Report prepared for the applicant by the project civil engineers (identified as "Exhibit L" in Exhibit A.3.c), is being proposed to respond to existing safety issues associated with the steep slopes, poor line-of-sight, and others. Additionally, and again as detailed in the findings for 33.430.250, above, the applicant has proposed mitigation that will compensate for the unavoidable impacts of the project, further minimizing long-term detrimental impacts associated with the proposal.

Therefore, *this criterion is met for Adjustments 1 through 7.*

G. Application of the regulation in question would preclude all reasonable economic use of the site; and

H. Granting the adjustment is the minimum necessary to allow the use of the site; and

I. Any impacts resulting from the adjustment are mitigated to the extent practical.

Findings: The Adjustments requested are able to meet Approval Criteria A through F, therefore, *Approval Criteria G through H are not applicable to Adjustments 1 through 7.*

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 requirements of Title 11 can be met, and that all development standards of Title 33 can be met or have received an Adjustment, such as those requested in this review, or a Modification via a land use review, prior to the approval of a building or zoning permit.

That said, it is pertinent to address how the request is meeting the additional development standards of 33.563.110 in the Balch Creek Subdistrict of the NW Hill Plan District.

A. Stormwater runoff. Post-development stormwater flows from a site must not exceed pre-development stormwater flows from that site. Stormwater systems shall meet Bureau of Environmental Services and BDS design and construction standards.

Findings: As detailed above and as verified in BES' addendum (Exhibit E.1.a), the proposed stormwater management system will treat all the post-development flows to mimic pre-development flows.

As such, *the proposal meets this standard.*

B. Soil erosion.

1. All cleared areas which are not within a building footprint or a graveled entranceway must be covered with mulch, matting, or other effective erosion control features within 15 days of the initial clearing.
2. Temporary erosion control features must be removed by October 1 of the same year the development was begun; and
3. All permanent vegetation must be seeded or planted by October 1 of the same year the development was begun, and all soil not covered by buildings or other impervious surfaces must be completely vegetated by December 1 of the same year the development was begun.

Findings: These standards will be applied at time of building permit application. A condition of approval will require that application materials demonstrate that these standards will be met.

C. Forest cover. Ninety percent of the portion of the site in the environmental zones must be retained or established in closed canopy forest with the following exceptions:

1. Sites less than 30,000 square feet in area may have up to 3,000 square feet of unforested area.
2. Parks and Open Areas and Agriculture uses are exempt from this standard.

Findings: The exceptions do not apply. At the time of application, the whole of the parent site (both tracts and both lots) was located in the environmental zones. The applicant's mitigation plan, as seen on Exhibit's C.10 and C.11, demonstrates that existing trees and the proposed tree plantings will provide closed forest canopy for the entirety of the site's open space tract under the proposed configuration. The area of the open space tract will continue to contain 90% of the parent site's total area.

As such, *this standard will be met with this proposal.*

D. Land divisions. All required closed canopy forest areas in land divisions and Planned Developments must be within an environmental resource tract.

Findings: The original PUD and land division met this standard. The applicant's mitigation plan, as seen on Exhibit's C.10 and C.11, demonstrates that existing trees and the proposed tree plantings will provide closed forest canopy for the entirety of the site's open space tract under the proposed configuration (after a PLA). The area of the open space tract will continue to contain 90% of the parent site's total area. To ensure that this standard continues to be met, the applicant must complete the property line adjustment (PR 21-108288 PLA) that will finalize the proposed reconfiguration of the open space tract and Lot 1 prior to issuance of development permits for the improvements to the driveway and those for and associated with the new residence.

With the understanding that PR 21-108288 PLA must be approved and finalized before the issuance of building permits for new development at the site, *this standard will continue to be met.*

CONCLUSIONS

The applicant proposes to amend LUR 98-00882 PU SU EN AD, to adjust the location of the shared lot line(s) between Lot 1 (7908 NW Gales Ridge Ln) the commonly owned open space tract (Tract "B"), Partition Plat #200-92) in order to construct a new single-dwelling residence,

detached garage and associated development as well as to allow for the reconfiguration and regrading of the existing driveway to improve safety conditions on it. The proposal also includes the development of stormwater management facilities to treat stormwater from the driveway and the new structures. The facilities are located on both on Lot 2 and in Tract "B", as allowed by the subdivision's CC&Rs (Exhibit A.1.b, page 19 of 614). At the time of application, the whole of the site was within the Environmental Zones. The applicant considered alternative locations and designs to determine that the proposed grading, foundation design and house placement were both practicable and would minimize impacts to the environmental resources and functional values on the site and, in the case of the stormwater management plan and planting plan, will remedy existing outstanding issues and enhance the site's resources and functional values. Further, the mitigation and planting plan that has been proposed, along with conditions of approval, are sufficient in quantity and quality to mitigate for both temporary and permanent disturbance. The applicant and the above findings have shown that the proposal meets either the applicable development standards of 33.430.140, 33.430.180, and 33.563.110, will meet them with conditions, or meets the applicable approval criteria with conditions.

The applicant has also requested Adjustments to height, setbacks, and maximum building coverage to construct the proposed residence and garage. The findings above show that in the context of the proposed development site, the requests are consistent with the purpose statements of the applicable code sections, and with a condition of approval, will not impact nearby residentially-zoned development and therefore meet or will meet the applicable approval criteria.

Therefore, this proposal should be approved, subject to the conditions described below.

ADMINISTRATIVE DECISION

Approval of:

- Amendments to LUR 98-00882 PU SU EN AD to allow for:
 - The adjusting of the common lot line between Lot 1 and the commonly-owned open space tract.
 - 26,272 sf of permanent disturbance area, 1,775 sf of which will impact native, undisturbed soils, and the following improvements within that permanent disturbance area:
 - Reconfiguration and regrading of the driveway and associated safety and stormwater management improvements;
 - Development of a single-dwelling residence, detached garage, and associated outdoor area and improvements;
- Environmental Review for:
 - Stormwater Management Facilities within the permanent disturbance area of Lot 1 and within the Open Space tract, including stormwater planters, outfall(s) upstream of the driveway, and upgrades to the rip-rap below the existing culvert under the driveway;
 - The removal of 14 trees;
- Approval of Adjustments to:
 - Reduce minimum building setbacks on the south and west sides of the proposed primary structure (house) from 10 to 5 feet (33.110.220);
 - Reduce minimum side building setbacks on the north and east sides of the proposed accessory structure (detached garage) from 10 to 5 feet (33.110.220);
 - Increase the maximum building height for the proposed primary structure (house) from 30 feet to 39 feet (33.110.215);
 - Increase the maximum building height for the proposed accessory structure (detached garage) from 20 feet to 28 feet (33.110.245).

- Increase the maximum building coverage from the previously approved coverage of 4,926 square feet* to 10,350 square feet (33.110.255). **(Via an approved Adjustment to maximum building coverage in LUR 98-00882 PU SU EN.)*

Per the approved plans, Exhibits C.1 through C.7 and C.10, C.11, C.13, & C.14, dated, December 07, 2022, subject to the following conditions:

- A. A BDS Zoning Permit is required for inspection of required nuisance species removal and mitigation plantings; and a separate BDS building permit will be required for development.** The Conditions of Approval listed below, shall be noted on appropriate plan sheets submitted for permits (building, Zoning, grading, Site Development, erosion control, etc.). Plans shall include the following statement, **"Any field changes shall be in substantial conformance with approved LU 21-108262 PUD EN AD, Exhibits C.1 through C.7 and C.10, C.11, C.13, & C.14."**

The BDS building permit application(s) must demonstrate that Standards 33.563.110.B.1-3, addressing soil erosion prevention, will be met.

Building Permits shall not be issued until a BDS Zoning Permit is issued. Note: The Property Line Adjustment to reconfigure Lot 1 must also be complete.

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

- B.** Temporary construction fencing and erosion control measures shall be installed prior to any ground-disturbing activities and in accordance with the tree protection measures in Title 11 Tree Code, Chapter 11.60, and as specified in the Arborist Report (Exhibit A.11.c). The fencing shall be placed within and along the Limits of Disturbance, as depicted and revised by staff on Exhibit C.4 Construction Management Plan.
1. No mechanized construction vehicles are permitted outside of the approved "Limits of Disturbance" delineated by the temporary construction fence, except as necessary to place downed wood (Condition C.4, below) in the restoration area east of the building site, which may only be done under supervision of the project arborist to ensure that fencing is relocated correctly afterwards and that placement of the wood and operating of the equipment do not encroach into the RPZs of nearby trees. All planting work, tree removal, invasive vegetation removal, and other work to be done outside the Limits of Disturbance, shall be conducted using hand-held equipment.

Tree Removal

2. All Tree removal (excepting Tree 65, an 8-inch Douglas fir in the permanent disturbance area east of the house) shall be done by an ISA certified arborist to avoid damage to any protected trees. Removal of trees shall be done using rigging, rather than falling. Additionally, no spurs shall be used on trees that are being preserved and the number of people and foot traffic in the root zones of the protected trees shall be limited to avoid compaction. There shall be no stump grinding on any of the trees that are being removed to protect existing root zones.
3. If tree removal occurs after the tree protection fencing is installed, the fencing can only be temporarily removed under supervision of ISA certified arborist to allow access for tree removal work.
4. All portions of removed trees 12" and greater in diameter shall be left on the site to serve as downed woody debris for wildlife habitat and soil enhancement.

Additional Tree & Resource Protection Measures

5. A certified arborist must be on-site for work within the root protection zone of any trees to be preserved, including during ground disturbance for construction of the retaining

walls and stormwater planters at the garage and driveway, as well as during grading work along the south end of the house and along the driveway, east of the drainageway.

6. While on-site, the arborist will supervise to properly prune smaller roots and ensure that roots 4-inches and larger are avoided and protected.
7. All digging associated with constructing the stormwater planter at the driveway shall be done by hand.
8. Driveway pavement removal. At areas where existing driveway pavement is to be removed, handheld motorized equipment will be used to break up portions of the existing driveway. All staging will occur on the portion of the driveway to remain in place.
9. 4-inches of mulch shall be spread inside the root protection zones of Trees #885 and #1115. Additionally, these trees shall be watered 1x a month deeply during drought periods.
10. Installation of the stormline connecting the stormwater planter at the southwest corner of the house to the line in the driveway shall be done by directional boring. The boring shall be at least 3 feet below grade to avoid impacts to trees' roots, including both Tree #885 and Tree #1115.
11. The installation of additional armoring/rip-rap at the downstream end of the culvert must be done using equipment staged on the driveway; workers supporting the installation and planting of the additional rip-rap will access the area only on-foot.

C. The applicant shall obtain a BDS Zoning Permit for approval and inspection of a Mitigation Plan for:

- The Nuisance species removal in and within 10 feet of the mitigation area(s) shown on Exhibits C.10 & C.11, equating to approximately 46,128 square feet.
- The planting of 150 trees, 1,106 shrubs, and 1,626 groundcover plants over approximately 35,300 square feet of mitigation area(s) (Exhibits C.9, 10 & 11).
- Plant the upgraded rip-rap at the downstream-end of the culvert in accordance with 33.430.180.F.
- Seed areas under new canopy, those along the perimeter of existing canopy, and areas in the 10 feet of nuisance species removal beyond the designated planted areas with a native groundcover mix that includes a minimum 20% pollinator-friendly, flowering forbes. The mix shall include a milkweed variety native to the Willamette Valley to provide food for Monarch butterflies, whose populations are in decline and who rely on milkweed for survival at multiple stages of their life cycle. *(This condition may be amended by written direction of the project Geotechnical Engineer, as needed, to ensure sufficient erosion control for slope stability.)*

Any plant substitutions shall be selected from the *Portland Plant List* and shall be substantially equivalent in size to the original plant. Species diversity may not be reduced below that shown on Exhibits C.10 & C.11.

Permit plans shall show:

- a. The general location of the trees, shrubs and ground covers required by this condition to be planted in the mitigation area and labeled as "new required landscaping."
- b. A "typical," scalable planting layout for each planting zone, illustrating a naturalistic arrangement of plants and should include a planting table listing the species, quantity, spacing and sizes of plants to be planted. The species composition of the seed mix shall be listed on the plans as well.

- c. The location where downed wood from tree removal will be placed to provide additional habitat enhancement.
2. Nuisance species shall be removed using handheld equipment prior to installing required mitigation plantings.
3. Plantings shall be installed between October 1 and March 31 (the planting season).
4. To mitigate potential visual impacts of the adjusted height of the house, the planting plan on Exhibits C.10 and C.11 shall be revised to provide trees with a mature height of at least 50 feet along the property line of Lot 1 west of the proposed house.

To ensure longevity of the required screening being required, the planting plan revisions must also remove Oregon Ash from the planting palette in this location. *(The presence of the Emerald Ash Borer has recently been confirmed in the region. The insect has decimated Ash populations in other regions and is anticipated to have a deleterious impact on Oregon Ash populations as well.)*

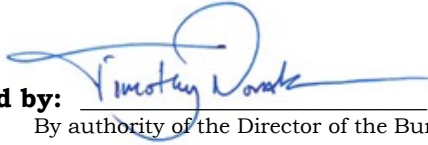
5. All mitigation shrubs and trees shall be marked in the field by a tag attached to the top of the plant for easy identification by the City Inspector; or the applicant shall arrange to accompany the BDS inspector to the site to locate mitigation plantings for inspection. If tape is used it shall be a contrasting color that is easily seen and identified.
6. The guardrail along the driveway shall be split-rail fencing or an equivalent to ensure that wildlife passage is not inhibited by the safety improvements.
7. After installing the required mitigation plantings and split rail fencing, the applicant shall request inspection of the fencing and mitigation plantings and final the BDS Zoning Permit.

D. The landowner shall monitor the required plantings for three years to ensure survival and replacement as described below. The landowner is responsible for ongoing survival of required plantings beyond the designated three-year monitoring period. The landowner shall:

1. Prior to issuance of the BDS Zoning Permit, the applicant must submit and pay fees for review of the Landscape Monitoring Reports required below.
2. After installation and inspection of the initial mitigation plantings, the land owner must submit three annual monitoring and maintenance reports for review and approval to the Land Use Services Division of the Bureau of Development Services containing the monitoring information described below. Submit the first report within 12 months following the final inspection approval of the initial Zoning Permit required under Condition A. Submit a second report 12 months following the date of the first monitoring report, and submit a third report 12 months following the date of the second monitoring report. Monitoring reports shall contain the following information:
 - a. A count of the number of planted trees that have died. One replacement tree must be planted for each dead tree (replacement must occur within one planting season).
 - b. The percent coverage of native shrubs and ground covers. If less than 80 percent of the mitigation planting area is covered with native shrubs or groundcovers at the time of the annual count, additional shrubs and groundcovers shall be planted to reach 80 percent cover of shrubs and 100 percent cover of groundcovers (replacement must occur within one planting season).
 - c. A list of replacement plants that were installed.
 - d. Photographs of the mitigation area and a site plan, in conformance with approved Exhibits C.10 & C.11, Mitigation Plans, showing the location and direction of photos.
 - e. An estimate of percent cover of nuisance species (e.g. English ivy, Himalayan blackberry) within 10 feet of all plantings. Invasive species must not exceed 15 percent cover during the monitoring period.

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

Staff Planner: Timothy Novak



Decision rendered by: Timothy Novak **on December 7, 2022**

By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec. date) December 12, 2022

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 November 19, 2021, and was determined to be complete on May 16, 2022.

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 November 19, 2021.

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 a total of 156 days (Exhibits A.2, 4, 5, 8, 9, 10, & 12).. Unless further extended by the applicant, **the 120 days will expire on: February 16, 2023.**

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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on**

December 27, 2022. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision. If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 or phone 1-503-373-1265 for further information.

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

Recording the final decision.

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

- *Unless appealed*, the final decision will be recorded after **December 27, 2022** by the Bureau of Development Services.

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

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

Expiration of the approval. Generally, land use approvals (except Comprehensive Plan and Zoning Map Amendments) expire three years from the date of the final decision unless one of the actions below has occurred (see Zoning Code Section 33.730.130 for specific expiration rules):

- A City permit has been issued for the approved development,
- The approved activity has begun (for situations not requiring a permit), or
- In situations involving only the creation of lots, the final plat has been submitted.

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

- All conditions imposed herein;

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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Original Submittals
 - a. Narrative
 - b. Exhibits to Narrative
 - c. Drawings
 2. 120-Day Extension Request #1
 3. Response to incomplete letter (Submittal package - 07/01/2022)
 - a. Revised LUR Application
 - b. Narrative, rev1
 - c. Exhibits to Narrative, rev1
 - d. Drawings, rev1
 - e. Geotechnical Report
 - f. Arborist Report
 - g. CC&Rs and Maintenance Agreements
 - h. Fire Code Appeal approval
 4. 120-Day Extension Request #2
 5. 120-Day Extension Request #3
 6. List of Submittals and Response Memo (Submittal package – 09/19/2022)
 - a. Narrative, rev2
 - b. Drawings, rev2
 - c. Arborist Report, rev1
 7. Arborist Report, rev2
 8. 120-Day Extension Request #4
 9. 120-Day Extension Request #5
 10. 120-Day Extension Request #6
 11. List of Submittals and Response Memo (Submittal package – 11/04/2022)
 - a. Narrative, rev3
 - b. Drawings, rev3
 - c. Arborist Report, rev3
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Existing Conditions and Proposed Development – Overall Site Plan
 2. Development Plan and Zoning Summary (*Attached*)
 3. Disturbance Area Diagrams
 4. Construction Management Plan
 5. Driveway Layout Plan
 6. Grading and Erosion Control Plan
 7. Utility Plan
 8. Stormwater Details
 9. Mitigation Site Plan – Overall
 10. Mitigation Plan – House & Garage (*Attached*)
 11. Mitigation Plan – Driveway
 12. Building Mass and Roof Plans with Site Photos
 13. Building Elevations (West and South) (*Attached*)
 14. Building Elevations (East and North) (*Attached*)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:

1. Bureau of Environmental Services
 - a. BES Addendum
 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
 7. Life Safety Review Section of BDS
- F. Correspondence:
1. Forest Park Neighborhood Association Land Use Committee, *Jerry Grossnickle – Chair.*
- G. Other:
1. Original LU Application
 2. Incomplete Letter
 3. Line of Site Study (for Height AD)
 4. LUR 98-00882 PU SU EN AD City Council Decision (approved on appeal)
 5. LUR 98-00882 PU SU EN AD Hearing Officer Decision (denial)
 6. Monarch Species Status Assessment Report, Sept. 2020. US Fish and Wildlife

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).