



CITY OF
PORTLAND, OREGON

HEARINGS OFFICE

1900 S.W. 4th Avenue, Room 3100
Portland, Oregon 97201
Telephone: (503) 823-7307
FAX: (503) 823-4347
TDD (503) 823-6868

www.portlandonline.com/auditor/hearings

**DECISION OF THE HEARINGS OFFICER
ON APPEAL OF ADMINISTRATIVE DECISION**

I. GENERAL INFORMATION

File No.: LU 07-180149 LDP (HO 4080039)

Applicant: O'Pen Properties LLS
425 NW 10th Ave., Ste. 307
Portland, OR 98683

**Applicant's
Representatives:** Oscar Griffin
At Home Creations, Ltd.
1835 NE Fremont
Portland OR 97212

Lawrence Derr
Law Offices of Josselson & Potter
425 NW 10th Ave., Suite 306
Portland, OR 97209

Appellant: Jeremy Shrall
6373 SE Yamhill St.
Portland, OR 97215

Hearings Officer: Ian Simpson

Bureau of Development Services (BDS) Staff Representative: Paul Cathcart

Site Address: 6371 SE Yamhill St

Legal Description: TL 100 LOT H, BELMONT VILLA

Tax Account No.: R067900100

State ID No.: 1S2E05BC 00100

Quarter Section: 3137

Neighborhood: Mt. Tabor

Business District: Eighty-Second Avenue

District Coalition: Southeast Uplift

Zoning: Residential 5,000 (R5)

Land Use Review: Type IIX, Land Division Partition (LDP), an administrative decision with appeal to the Hearings Officer.

BDS Administrative Decision: Approval with conditions

Public Hearing: The hearing was opened at 1:30 p.m. on November 19, 2008, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland OR, and was closed at 3:14 p.m. The record was held until 4:30 p.m. on November 26, 2008 for new evidence, and held open until 4:30 p.m. on December 3, 2008 for applicant final response. The record was closed at that time.

Testified at the Hearing:

Paul Cathcart, Bureau of Development Services Staff Representative
Jeremy Shrall, 6373 SE Yamhill St., Portland OR 97215
Catherine Shrall, 6373 SE Yamhill St., Portland OR 97215
Lynette Doht, 6320 SE Yamhill St., Portland OR 97215
Stephen Slursarski, 6347 SE Yamhill St., Portland OR 97215
Larry Derr, O'Pen Properties, 425 NW 10th Ave., Ste. 306, Portland OR 97209
Oscar Griffin, 3527 NE 15th #135, Portland OR 97210

Proposal: The applicant proposes to divide the existing 18,849 square foot property identified above into three parcels. Parcel 1 would be 6,566 square feet and would contain the existing house. Parcel 2 would be 6,407 square feet and Parcel 3 would be 5,876 square feet. Parcel 2 and 3 would provide building area for new single-dwelling development. The project arborist identified 20 trees on the site, five of which are exempt from the City's tree preservation requirements. The applicant proposes to remove 10 of the 15 non-exempt trees and provided a tree preservation plan to meet the City's tree preservation requirements.

The applicant also proposes to divide the existing 9,898 square foot property to the south (State ID No.: 1S2E05BC 00200) into two parcels for detached development. That proposal is reviewed in LU 07-180154 LDP.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) three lots are proposed; and (3) the site is located within a potential landslide hazard area (Section 33.660.110). The land division is considered a partition under state law. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (ORS 92.010).

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Section 33.660.120, Approval Criteria for Land Divisions in an Open Space or Residential Zone.

II. ANALYSIS

Site and Vicinity: The site is located on Mt. Tabor and slopes to the west. It contains an existing house, garage, and 20 trees, primarily Douglas fir. The site is bounded on the east and west by SE Yamhill St., which loops down to the south, following the contours of the west side of Mt. Tabor. Surrounding residential development is characterized by one and two-story houses built from the 1920's through the 1980's.

Zoning: The R5 designation is one of the City's single-dwelling zones, which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the Comprehensive Plan policies and designations for single-dwelling housing.

Land Use History: City records indicate a property line adjustment (07-141633 PR) was approved between the subject property and the vacant property to the south (State ID No.: 1S2E05BC 00200).

Appeal Issues: The appellant, Mr. Shrall, stated in the Type II and IIX Appeal Form he filed that the proposed land division does not meet the purpose and standards of the following:

- Chapter 33.110 Single Dwelling Residential Zones
- Chapter 33.630 Tree Preservation
- Chapter 33.266 Parking and Loading

Section 33.730.025 Type IIX Procedure states:

I. When an appeal is filed. Appeals must comply with this subsection.

1. **Content of the appeal. The appeal must be submitted on forms provided by the Director of BDS. All information requested on the form must be submitted in order for the appeal form to be accepted. The appeal request must include:**
 - *A statement of which sections of the Zoning Code or which approval criteria the decision violates; and (italics added)*

Of the three Code chapters Mr. Shrall lists, only Chapter 33.630 Tree Preservation contains approval criteria that the staff believes are relevant in this case. The appellant's arguments concerning the tree preservation criteria are addressed below in the Tree Preservation section of this decision.

The appellant stated in his final submission (Exhibit H-12) that when he cited Chapter 33.266 Parking and Loading, and Chapter 33.110 Single Dwelling Zones, he had actually intended to address Chapter 33.641 Transportation Impacts, and Section 33.610.200 Lot Dimension Standards, respectively. The former two do not contain approval criteria that the staff believes are relevant in this case, while the latter two do contain relevant approval criteria addressed in the Bureau's decision. However, as per Section 33.730.025.I.1 cited above, neither the

transportation impacts chapter and lot dimension standards section, nor their approval criteria, were listed in the appeal form (Exhibit H-1), and so cannot be addressed in this decision. The appellant did not provide a persuasive argument for why the Hearings Officer should correct the appellant's mistake and allow him to address the approval criteria in Chapter 33.641 or Section 33.610.200.

In addition, the appellant discusses Chapter 33.653 Stormwater Management, and Chapter 33.632 Sites in Potential Landslide Hazard Areas, in his final submission (Exhibit H-12). Neither of these chapters, nor their approval criteria, were listed in the appeal form. The appellant did not provide a persuasive argument for why the Hearings Officer should allow either of these chapters to be addressed in this appeal.

The appellant states (Exhibit H-12) that all of his submitted comments are still relevant, and that just the references to the actual titles were incorrect. However, Section 33.730.025.I.1 clearly requires listing the Code sections or approval criteria the appellant is contesting, and rightly so. The appeal form must list which sections or approval criteria are in contention in order to provide all the parties proper notice.

The applicant suggests (Exhibit H-13) that Section 33.730.025.I.1 also requires an appellant to submit all the information requested on the appeal form with the appeal. The appeal form itself directs the appellant to "describe how the proposal meets or does not meet approval criteria", in addition to simply listing the criteria. The appellant listed three Zoning Code chapters without further explanation. The applicant suggests that this is an alternative basis for denying the appeal. The Hearings Officer agrees with the applicant's description of the very minimal information the appellant provided, which is less information than the appeal form asks for. The intent of the form is no doubt to give all parties a more complete picture of the issues the appellant is contesting. However, although the form serves to facilitate the Code, the Hearings Officer believes that the form may not place on an appellant a greater burden than the Code does. The appellant's satisfying Section 33.730.025.I.1 is sufficient.

Ms. Catherine Shrall raised a concern during the November 19, 2008 hearing in this case, that there are many bicyclists and pedestrians on SE Yamhill. The increased traffic caused from the development would increase the risk of accidents.

Ms. Lynette Doht also raised a concern that traffic on SE Yamhill St. is dangerous and parking is very limited.

Mr. Stephen Slusarski raised a concern during the hearing that if the garage was moved it would undermine the street. He stated that there is an erosion risk, and the driveway needs a retaining wall.

ZONING CODE APPROVAL CRITERIA

CHAPTER 33.660 REVIEW OF LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 Approval Criteria

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

Findings: Due to the site’s location and the nature of the proposal, staff determined that some of the criteria do not apply. The relevant approval criteria are below:

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

Findings: Chapter 33.610 Lots in RF through R5 Zones contains the density and lot standards applying to the R5 zone. The standards ensure that lots are consistent with each zone’s desired character while allowing lots to vary in size and shape provided each zone’s planned intensity is respected.

33.610.100 Density Standards

Findings: The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental or geophysical constraints. In this case, a street is not created, but the site is within a Potential Landslide Hazard area. Therefore, there is no minimum required density (Section 33.610.100.D.2). The formula to determine the site’s maximum density (Section 33.610.100.C.1) is:

The site’s square footage (18,849 square feet) ÷ Maximum density from Table 610-1 (5,000 square feet) = 3.76 Maximum number of lots allowed, which rounds down to a maximum of three lots (Section 33.930.020.B)

The applicant is proposing three lots. The Hearings Officer finds that the density standards criteria are met.

33.610.200 Lot Dimension Standards

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

	R5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2	Proposed Parcel 3
Minimum Lot Area	3,000 sq. ft.	6,566 sq.	6,407 sq.	5,876 sq.
Maximum Lot Area	8,500 sq. ft.	ft.	ft.	ft.
Minimum Lot Width*	36 ft.	90 ft.	36 ft.	88 ft.
Minimum Lot Depth	50 ft.	72.75 ft	144 ft.	72 ft.
Minimum Front Lot Line	30 ft.	90.33	36 ft.	35 ft.

* Width is measured at the minimum front building setback line

The Hearings Officer finds that the lot dimension standards criteria are met.

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

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. The arborist report (Exhibits A-6 and A-7) identifies twenty trees on the site. Five of the trees are exempt from the chapter's requirements, because they are either a nuisance species or located within ten feet of an existing structure to remain on the site.

The total non-exempt tree diameter for the site is 333.5 inches. The applicant proposes preserving Trees 10, 12, 13, 19 and 20, which comprise 139.75 inches of diameter, or 42 percent of the total non-exempt tree diameter. Staff determined that the proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the site's total tree diameter be preserved. The applicant provided a tree preservation plan indicating the preserved trees and their required root protection zones (Exhibit C.2).

The appellant states (Exhibit H-12) that the June 4, 2008 Bureau of Environmental Services (BES) response in this case, explains the value of preserving trees to minimize sewer overflows and for reducing landslide risk, and so recommends preserving as many trees as possible. The Hearings Officer finds that BES and the City Code explain in great detail the many benefits of the City's urban forest, and recommend preserving as many trees as is practical. However, aspirational recommendations do not take precedence over specific Code requirements. The Code specifically allows the applicant to satisfy the tree preservation approval criteria by saving 35% of the non-exempt tree diameter, as has been done here.

The appellant admits that the Code does not require the applicant to preserve Trees 7 and 18, while the neighbors and Neighborhood Association would like to have as many trees preserved as possible. The staff explains (Exhibit H-14) that Tree 7 is not part of the tree preservation plan, because its root protection zone is potentially within the construction area of a retaining wall for the new house's driveway on Parcel 3. If Tree 7 was preserved in the preservation plan and was damaged during construction, a tree violation would ensue and the applicant would be required to remedy the violation. It is generally the practice in developing tree preservation plans to not preserve trees near anticipated construction to avoid damaging trees and creating tree violations.

The appellant stated (Exhibit H-12) that to ensure proper adherence to the administrative decision, all maps should be updated to reflect final agreed upon root protection zones, tree preservation, and easements as required for each map. The appellant stated that BES and the Bureau of Development Services Site Development Section (Site Development) have asked the applicant to update the maps to show these.

Staff responded (Exhibit H-14) that the findings related to the approval criteria in Section 33.635.100 Clearing and Grading, noted that preserving Trees 8, 9, 11, 14 and 15 would provide a root system that would enhance the long-term stability of the site's slope, and better meet the criteria's purpose by maintaining existing contours, and limiting clearing and grading to those areas that are reasonably necessary. Although these five trees are not required to be preserved as part of the tree preservation plan, Condition of Approval D.2 below requires that they be retained unless they need to be removed due to poor health or on becoming a hazard. Removing any of these trees would require an approved zoning permit. Staff recommended that the tree preservation plans approved in this decision should not be updated to show these five trees as preserved, as this would require a tree review per Chapter 33.853.

Staff stated that protecting and preserving the 41-inch Douglas fir tree located in the public right-of-way northeast of the site is regulated by Title 20, Parks and Recreation. Since the tree is not on the site, it is not regulated by Title 33. Protecting the tree will be evaluated later during site development, and not as part of this land division. Myles Black of the Urban Forestry Division of the Bureau of Parks and Recreation, determined that removing the existing garage should be reviewed by the Urban Forestry Division in order to limit damage to the tree. Staff recommends that Condition of Approval D.5 be added to this decision, which would read: “The demolition permit for the existing garage shall include a geotechnical report. The City Forester shall review the demolition permit and geotechnical report, and determine if the existing retaining wall shall be retained until such time that a building permit is issued for the primary structure on Parcel 2.” The applicant accepts this proposed condition (Exhibit H-13).

The appellant states that the applicant’s arborist report indicates that 75% of DBH is how the protection fencing radius is calculated. Preserved Tree 10 has a DBH of 36.5”, and therefore, should have a fence at 27.4’ from its base. The maps show this fence at only 25’, and the corner of the proposed house will encroach upon this protection zone.

Staff responded that the updated tree preservation plan (Exhibit C-2) shows the correct root protection zones for the preserved trees. Section 33.630.200.B allows using a tree preservation plan as a tree preservation method. Section 33.248.065.C allows using an alternative tree preservation plan by an arborist if it will adequately preserve the tree. Tree 10 is 36.5 inches in diameter at DBH, which would require a 36.5 foot root protection zone. However, the project arborist indicated in the revised arborist report (Exhibit A-7) that a 25-foot root protection zone would be adequate. This is the root protection zone shown on Exhibit C-2. In addition, the building footprints shown on the plans are conceptual. When a building permit is applied for, the site plan submitted with the building permit will be evaluated against the root protection zone for every tree. The building footprint shown on the site plan of the building permit will not be allowed to encroach into the root protection zones.

The applicant responded that the appellant’s suggestion that the tree protection fencing radius for Tree 10 should equal in feet 75% of the DBH inches of the tree is just a rule of thumb. The Code requires that an arborist or landscape architect provide the tree preservation plan, and does not specify the radius of a tree protection fencing area.

The Hearings Officer finds that these criteria are met.

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

33.632.100 Landslide Hazard Area Approval Criterion

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

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

Findings: The entire site is located within a Potential Landslide Hazard Area. Site Development evaluated the applicants' geotechnical report (Exhibits A-2). Site Development determined that, given the soil composition, topography, and other risk factors, the risk of Potential Landslide Hazard at the site can be managed through construction management techniques. The proposed land division will result in parcels, buildings, services, and utilities that will not significantly increase the risk of landslide potential on the site or other properties in the site's vicinity, if certain precautions are taken in excavating for new construction. In addition, the applicant's proposed method of stormwater disposal at the site concurs with the geotechnical evaluation and will not have a significant detrimental impact on slope stability on or around the site. This is because stormwater will not be disposed on the site itself. Stormwater will be treated in flow through planters and discharged into an extension of the public combined sewer.

Site Development determined that the criterion is met. The Hearings Officer concurs with staff and finds that the criterion is met.

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

33.635.100 Clearing and Grading Approval Criteria

The Preliminary Clearing and Grading Plan must meet the following approval criteria:

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;**
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;**
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and**
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.**

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

The site has steep grades (over 20%) in some areas, and is located in a Potential Landslide Hazard Area. Therefore, the clearing and grading associated with preparing the lots must occur in a way that will limit erosion concerns, and assure that the preserved trees on the site will not be disturbed.

Both the applicant's geotechnical engineer and arborist recommend that the amount of grading work on the site be minimized as much as possible. It is anticipated that the grading will primarily involve excavating for the foundations and driveways of the new houses on Parcels 2 and 3 and trenching for the utilities. The landslide hazard report recommends stripping those areas of the site that will receive structural fill, pavement, and structures to remove organic topsoil. A condition of approval has been added to ensure that site grading is limited to these areas. Following the report's recommendations will help to limit erosion and sedimentation concerns by installing erosion control devices before earth moving equipment enters the site. Stormwater runoff from the lots will be appropriately managed by flow-through planters that overflow to an extension of the City's combined sewer in SE Yamhill St. to the west. This will assure that the runoff will not adversely impact adjacent properties. No clearing and grading will be permitted within the root protection zones of the site's preserved trees. Preserving these trees will help limit erosion by assuring that the tree roots will help to hold the soil in place. Topsoil storage and general stockpiling on the site should only occur if it will not create any additional erosion concerns as recommended by the geotechnical engineer.

The applicant's grading and erosion control plan (Exhibit C-2) indicates a limits of disturbance line. Outside of the disturbance area, but within the tree protection fence in the northwest corner of the site, are five trees identified for removal. Three of these trees (9, 11, and 14) are nuisance species and therefore, are exempt from the tree preservation standards of Section 33.630.100. The other two trees (8 and 15) are not exempt. These trees are not needed to meet the tree preservation criteria. However, retaining them would provide a root system that would enhance the long-term stability of the site's slope. This would also better meet the purpose of the Clearing and Grading criteria by maintaining existing contours and limiting the clearing and grading of the site to those areas that are reasonably necessary. Future removal of Trees 8, 9, 11, 14, or 15 by the property owners of Parcels 2 and 3 will only require a zoning permit with an arborist report that indicates that the tree should be removed for reasons of tree health or hazard. A tree review per Chapter 33.853 will not be required to remove these trees.

When building permits are applied for the individual lots a clearing, grading and erosion control plan will be submitted to the Site Development. Site Development will review the grading plan against the applicant's landslide hazard study, as well as any additional geotechnical information required to assure that the grading will not create any erosion risks. In addition, the plans will be reviewed for compliance with the applicant's tree preservation plan and arborist report.

Staff determined that with the conditions noted above requiring that the building permits for Parcels 2 and 3 show the preservation of additional trees also noted above, and to comply with the recommendations of Landslide Hazard Study and arborist report, the criteria are met. The Hearings Officer concurs with staff and finds that the criteria are met.

33.635.200 – Land Suitability

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

The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site slopes, in some areas steeply, downward to the west and contains no known geological hazards. Therefore, there are no anticipated land suitability issues, and staff determined that the new lots can be considered suitable for new development. The Hearings Officer finds this criterion is met.

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

33.636.100 Requirements for Tracts and Easements

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

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

- An easement over Parcel 3 is proposed to allow access, landscaping, slope easement, private sanitary sewer and private storm sewer to Parcel 2 of LU 07-180154 LDP.
- A private utility easement is required across the relevant portions of Parcel 3, for sanitary and storm sewer lateral connections that will serve Parcels 1 and 2 and Parcel 1 of LU 07-180154 LDP.
- A private sanitary sewer easement is required across the relevant portions of Parcel 1 for a sanitary sewer lateral that will serve Parcel 2.

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

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

Staff determined that with the conditions of approval discussed above, this criterion is met. The Hearings Officer concurs with staff and finds that this criterion is met.

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

33.641.010 Purpose

The regulations of this chapter allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects. The purpose of a transportation impact study is to assess the effects of routing or volume of traffic in the vicinity of the site on traffic conditions, transit, pedestrian and bicycle movement, and neighborhood livability.

33.641.020 Approval Criterion

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

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

Findings: Parcels 1 and 2 have approximately 126 feet of combined frontage on SE Yamhill St., and Parcel 3 has approximately 35 feet of frontage on SE Yamhill St. SE Yamhill St. is classified as a Local Service Street for all modes in the Transportation Element of the Comprehensive Plan. TriMet does not provide frequent transit service within 500 feet of the site. Parking is not currently allowed on SE Yamhill St. There is one driveway entering the site from the lot to the south (Tax Lot 200) that provides access to off-street parking for the existing house.

Parcel 3's SE Yamhill St. frontage is currently improved with curbs and a six-foot sidewalk in a 12-foot pedestrian corridor. The frontage for Parcels 1 and 2 has five-foot sidewalks in an 11-foot pedestrian corridor.

Portland Transportation notes that the proposed land division would generate approximately 20 new daily trips, which is not expected to have a significant effect on the transportation system. Each proposed parcel will provide, or will be required to provide, off-street parking. Parcel 3's proposed driveway will need to be modified to show a slope of 2:1 in the right-of-way. The

retaining wall's location on the south side of the driveway for Parcel 3 will need to be evaluated when a building permit is applied for, to ensure adequate sight distance to SE Yamhill St. Portland Transportation determined that two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

The Hearings Officer finds that these criteria are met.

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

33.651.020 Water Service Standard

Water service must meet the standard of this section. Adjustments are prohibited. The Water Bureau or District and the Fire Bureau have verified that water facilities with adequate capacity and pressure are available to serve the proposed development.

Findings: An existing 6-inch water main is available in SE Yamhill Street. Parcel 1 has an existing water service. Water is available to serve Parcels 2 and 3 from the water main in SE Yamhill Street. As a result of the proposed land division, the water line that provides service to the existing home on Parcel 1 will no longer be located entirely on the same lot as the home. Title 21 requires that the water service connection be located along the frontage of the lot to be served. Water service connections are not allowed by means of an easement. Therefore, before final plat approval, the water service for the existing home must be relocated so that the service connection will be located along the frontage of Parcel 1.

The Hearings Officer finds that with the above condition, this criterion is met.

33.652.020 Sanitary Sewer Disposal Service Standards

Sanitary sewer disposal service must meet the standards of this section. Adjustments are prohibited.

A. Availability of sanitary sewer.

- 1. The Bureau of Environmental Services has verified that sewer facilities are available to serve the proposed development; or**
- 2. BDS has approved the use of a private on-site sanitary sewage disposal system.**

B. Public sanitary sewage disposal. Where public sewer facilities are available to serve the proposed development, the Bureau of Environmental Services has preliminarily approved the location, design, and capacity of the proposed sanitary sewage disposal system. The approval is based on the Sewer Design Manual; and

C. Private sanitary sewage disposal. Where private on-site sanitary sewage disposal is proposed, BDS and Environmental Services have preliminarily approved the location, design, and capacity of the proposed sanitary sewage disposal system.

Findings: There is an existing eight-inch VSP combination gravity main in SE Yamhill St., west of the site. The existing house is served by a sanitary lateral that connects to the current extension of the sanitary sewer main in SE Yamhill St. There is no public sanitary sewer available in SE Yamhill St. to serve Parcels 2 and 3. The nearest available sewer is located in SE Yamhill St., 118 feet from the site. Staff noted (Exhibit H-14) that BES suggested (Exhibit E-1.d) requiring extending the combination sewer in SE Yamhill to be completed before final plat approval.

As a result of the proposed land division, the existing sewer connection that serves the house on Parcel 1 will cross over Parcel 3 and Parcel 2 in LU 07-180154 LDP to reach the sewer main in SE Yamhill St. The applicant proposes to install a new lateral to serve Parcel 1. To do so, the applicant must obtain a plumbing permit to cap the existing sewer connection and establish a new service for the house located entirely on Parcel 1. All plumbing permits must receive final inspection approval before Final Plat approval (Exhibit E-1).

The Hearings Officer finds that with the above conditions these criteria are met.

33.653.020 Stormwater Management Approval Criteria

Stormwater management must meet the following approval criteria:

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

Findings: No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's *Stormwater Management Manual*. The applicant has proposed the following stormwater management methods (Exhibits C-2, C-3 and C-4), and agencies responded as follows (Exhibits E-1 and E-5):

- **Parcels 2 and 3:** Stormwater from these lots will be directed into flow-through planters that remove pollutants and suspended solids. The water will drain from the planters to an extension of the existing storm sewer in SE Yamhill St. Each parcel has sufficient size for individual planter boxes as shown on the conceptual development plan on Exhibit C.3. BES has indicated that the treated water can be directed to an extension of the existing combination sewer in SE Yamhill St., although the combination sewer in SE Taylor Ct. is preferred.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain into underground pipes. Site Development has noted that these pipes are directed to the combination sewer in SE Yamhill St. This is not acceptable without treatment to remove pollutants and suspended solids. Before final plat approval, the applicant must modify the stormwater system for the existing house to include a flow-through planter to Site

Development specifications and obtain finalized plumbing permits for the modifications before final plat approval. Discharge of the flow-through planter to the extension of the combined sewer in SE Yamhill St. must be shown in a private sanitary sewer easement over Parcel 3.

The Hearings Officer finds that with the above conditions these criteria are met.

33.654.110 Connectivity and Location of Rights-of-Way

B. Approval criteria.

- 1. Through-streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through-streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:**
 - a. Through-streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through-street and pedestrian connections should generally be at least 200 feet apart;**
 - b. Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;**
 - c. Characteristics of the site, adjacent sites, and vicinity, such as:**
 - (1) Terrain;**
 - (2) Whether adjacent sites may be further divided;**
 - (3) The location of existing streets and pedestrian connections;**
 - (4) Whether narrow frontages will constrain creation of a through-street or pedestrian connection;**
 - (5) Whether environmental overlay zones interrupt the expected path of a through-street or pedestrian connection; and**
 - (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through-street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through-streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through-street or pedestrian connection is not created;**
 - d. Master street plans for the area identified in Goal 11B of the Comprehensive Plan;**

- e. Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.**

Findings: SE Yamhill St. fronts on a small portion on the western side of the site. The street runs north-south on the site's east side. The street loops south to follow the topography adjacent to Mt. Tabor, approximately 250 feet south of the site. There is approximately 600 feet between SE Yamhill St. south of the site, and SE Belmont St. north of the site. There is sufficient width to allow continuing SE Yamhill St. through the site. Given that the criterion above recommends that through-streets be no more than 530 feet apart, there should be an east-west through-street provided in the site's vicinity. However, the site's steep grades prevent such an extension.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

The site's steep grades also prevent a new pedestrian connection through the site. SE Yamhill St. has existing sidewalks. However, the alignment of SE Yamhill St., following the topography of Mt. Tabor, prevents a straight-line connection on which users can see the ending of the pedestrian route from the entrance.

The Hearings Officer finds that these criteria are met.

33.654.130 Additional Approval Criteria for Rights-of-Way

- A. Utilities. Utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. Utility easements up to 15 feet in width may be required adjacent to rights-of-way.**

Findings: Any easements that may be needed for private utilities that cannot be accommodated within the right-of-way can be provided on the final plat. Staff determined that no specific utility easements adjacent to the right-of-way have been identified as being necessary.

The Hearings Officer finds that this criterion is met.

The Hearings Officer finds that the Services and Utilities criteria are met.

ADDITIONAL CONDITIONS

33.800.070 Conditions of Approval

The City may attach conditions to the approval of all discretionary reviews. However, conditions may be applied only to ensure that the proposal will conform to the applicable approval criteria for the review or to ensure the enforcement of other City regulations.

Findings: The following development and technical standards apply to this proposal. Conditions of approval based on these standards are included in this decision.

33.700.015 Review of Land Divisions

A. Adjustment review required for existing development

- 1. Conforming development. If a proposed land division will cause conforming development to move out of conformance with any regulation of the Zoning Code, and if the regulation may be adjusted, the land division request must include a request for an adjustment. If an adjustment to the regulation is prohibited, the land division is prohibited.**

Findings: The site's existing development will remain after the land division and be located on Parcel 1. Dividing the property may not cause the structure to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Chapter 33.110 Table 110-2 contains the setback standards for development in the R5 zone. The existing house to remain on the site must meet the required setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines to conform with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be five feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the existing building's location relative to the adjacent new lot lines.

In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on Parcel 2 must be removed before final plat approval. Demolition permits are required. The applicant must provide documentation before final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.

In this zone, one parking space per dwelling unit is required. A garage provides this required parking for the existing house on Parcel 2. As a result of the land division, the required parking space for the existing house will be located on a different parcel. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Parcel 1 before final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required before final plat approval. In addition, the required access easement over Parcel 1 of LU 07-180154 LDP will need to be recorded with Multnomah County before final plat approval.

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

Fire Bureau Standards

The applicant must meet Fire Bureau requirements concerning water flow from the nearest fire hydrant. It has been determined that the flow does not meet the minimum requirements. Therefore, the applicant must record an Acknowledgement of Special Land Use Conditions that

requires providing internal fire suppression sprinklers on Parcels 2 and 3. Additionally, the applicant must meet Fire Bureau requirements to provide information about the grade of SE Yamhill St., and must have a successful Fire Code appeal for grades that exceed 18%. These requirements are based on the standards of Title 31 Fire Regulations.

Urban Forestry Standards

The applicant must meet Urban Forestry requirements for street tree planting in the existing planter strip adjacent to Parcel 1 before final plat approval. This requirement is based on the standards of Title 20 Parks and Recreation.

III. CONCLUSIONS

The appellant stated that the land division approved by the Bureau of Development Services does not meet the purpose and standards of:

- Chapter 33.110 Single Dwelling Residential Zones
- Chapter 33.630 Tree Preservation
- Chapter 33.266 Parking and Loading

The Hearings Officer has examined the appellant's arguments and found that only the approval criteria in Chapter 33.630 Tree Preservation may be addressed in this appeal. The Hearings Officer finds that the applicant has met their burden of proof in satisfying the tree preservation approval criteria.

IV. DECISION

The Appellant did not prevail in this appeal.

Approval of a Preliminary Plan for a 3-lot partition that will result in three standard lots as illustrated with Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan for review by BDS LUS shall be submitted with the final plat survey. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site during the final plat application.
- Any driveways and off-street vehicle parking areas on the site during the final plat application.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A note describing the 497 square foot Access Easement shall be shown and labeled on the final plat, over Parcel 3 to benefit Parcel 2 of LU 07-180154 LDP, as shown on Exhibit C.1. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. The following private sanitary sewer easements shall be shown and labeled on the final plat: for the benefit of Parcel 2, over the relevant portions of Parcel 1; for the benefit of Parcels 1 and 2, over the relevant portions of Parcel 3.
3. The following private storm sewer easements shall be shown and labeled on the final plat: for the benefit of Parcel 2, over the relevant portions of Parcel 1; for the benefit of Parcels 1 and 2, over the relevant portions of Parcel 3.
4. A recording block for each of the Maintenance Agreements and the acknowledgement of special land use conditions as required by Condition C.10 and C.11 below. The recording blocks shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records" and "Acknowledgement of Special Land Use Conditions for Parcels 2 and 3 has been recorded as document no. _____, Multnomah County Deed Records".

C. The following must occur before final plat approval:

Streets

1. The applicant shall meet Fire Bureau requirements to provide information regarding the existing grade of SE Yamhill St. and provide any required Acknowledgement of Special Land Use Condition or have a successful Fire Code appeal for grades that exceed 18%.

Utilities

2. The applicant shall meet BES requirements to extend a public sewer main in the SE Yamhill St. The public sewer extension must be completed before final plat approval. In addition, the applicant must provide engineered designs and performance guarantees for the sewer extension to BES before final plat approval.
3. The applicant shall meet Water Bureau requirements concerning relocating the water service connection to the existing home.

Existing Development

4. A finalized permit must be obtained for capping the existing sanitary sewer connection for the house to remain on Lot 1 and re-establishing a connection to the sanitary sewer main extension in SE Yamhill St.
5. The applicant must obtain a finalized demolition permit for removing the garage on Parcel 2. Alternately, the applicant can execute a covenant with the City stating that the

structure will be removed if a primary structure has not received final inspection on the lot with the accessory structure, within two years of final plat approval. The covenant must be recorded with Multnomah County before final plat approval.

6. An access easement over Parcel 1 of LU 07-180154 LDP for the benefit of Parcel 1 in this review shall be recorded with Multnomah County.
7. A parking space shall be installed on Parcel 1, in conformance with the applicable requirements of the City of Portland Zoning Code. A copy of the final inspection approval of a Zoning Permit shall be submitted, documenting that the parking space has been installed within the area to become Parcel 1. The new parking space must also be shown on the supplemental plan. An application for a Land Use Review to waive or modify parking requirements may be submitted. If granted, a copy of the approved Land Use Review decision must be submitted prior to final plat.
8. The applicant shall obtain a finalized plumbing permit to install a flow-through planter and overflow to the sanitary sewer main extension in SE Yamhill St. for the existing house to remain on Parcel 1. The applicant shall also obtain any required permits to remove the existing deck on the west side of the existing house.
9. The applicant must plant three street trees in the planter strip on SE Yamhill St. adjacent to Parcel 1. Tree size requirements for residential sites are to be 2-inch caliper. Urban Forestry must inspect and approve the newly planted trees before final plat approval.

Required Legal Documents

10. A Maintenance Agreement shall be executed for the Access, Private Sanitary Sewer, Stormwater Management Easement area described in Condition B.2-4 above. The agreements shall include provisions assigning maintenance responsibilities for the easement areas and any shared facilities within those areas, consistent with the purpose of the easements, and all applicable City Code standards. The agreement must be approved by the City Attorney and the Bureau of Development Services before final plat approval.
11. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcels 2 and 3 and any redevelopment of Parcel 1 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.

D. The following conditions applicable to site preparation and developing individual lots:

1. Development on Parcels 1, 2, and 3 shall conform to the Tree Preservation Plan (Exhibit C-2) and the applicant's arborist report (Exhibit A-6 and A-7). Specifically, trees numbered 10, 12, 13, 19 and 20 must be preserved, with the root protection zones indicated on Exhibit C-2. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist,

explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his or her supervision.

2. Trees 9, 11, 14, and 15 on Parcel 2 and Tree 8 on Parcel 3 shall be retained by the property owners of these parcels unless they need to be removed due to poor health or hazard. Removing these trees will require approval of a zoning permit. The zoning permit application must include an arborist report that indicates that the tree to be removed should be removed for reasons of tree health or hazard. A tree review per Chapter 33.853 will not be required to remove these trees.
3. The applicant is required to install residential sprinklers in the new houses on Parcels 2 and 3 to the satisfaction of the Fire Bureau. If an appeal is granted to satisfy Condition C.1, requirements of that appeal must be met.
4. Clearing and grading shall be limited to the Limits of Disturbance noted on Exhibit C-2.
5. The demolition permit for the existing garage shall include a geotechnical report. The City Forester shall review the demolition permit and geotechnical report and determine if the existing retaining wall shall be retained until such time that a building permit is issued for the primary structure on Parcel 2.

Ian Simpson, Hearings Officer

Date

Application Deemed Complete: December 28, 2007
Report to the Hearings Officer: November 7, 2008
Decision Mailed: December 16, 2008
Last Date to Appeal: January 6, 2009

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 before any work. Contact the Development Services Center at 503-823-7310 for information about permits.

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

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

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

- an appellant before LUBA must have presented testimony (orally or in writing) as part of the local hearing before the Hearings Officer; and
- a notice of intent to appeal be filed with LUBA within 21 days after the Hearings Officer’s decision becomes final.

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

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

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittals
 - 1. Response findings to Land Division Approval Criteria
 - 2. Memo from Oscar Griffin to Paul Cathcart dated December 24, 2007 regarding response to LU 07-180149 LDP 6371 SE Yamhill House
 - 3. E-mail from Oscar Griffin to Paul Cathcart dated February 5, 2008 waiving the 120-day deadline
 - 4. Landslide Hazard Reconnaissance Report dated May 1, 2007
 - 5. Subsurface Exploration, Infiltration Testing, and Geotechnical Evaluation prepared by Chinook GeoServices Inc. dated February 29, 2008
 - 6. Arborist Report prepared by Lloyd's Arboricultural Consulting, LLC dated August 9, 2007
 - 7. Addendum to Arborist Report date March 31, 2008
 - 8. Letter from Lawrence Derr to Paul Cathcart, dated August 12, 2008
 - 9. Plumbing Code Appeal 5564 dated September 10, 2008
- B. Zoning Map (**attached**)
- C. Plans/Drawings:
 - 1. Site Plan date stamped September 24, 2008 (**8 ½ X 11 attached**)
 - 2. Grading and Erosion Control Plan and Tree Preservation Plan September 24, 2008 (**8 ½ X 11 attached**)
 - 3. Utilities Feasibility Plan September 24, 2008
 - 4. Utility Sections September 24, 2008
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - a. Land Use Response dated February 1, 2008
 - b. Land Use Response dated June 4, 2008
 - c. Land Use Response dated September 10, 2008
 - d. Land Use Response dated September 24, 2008
 - 2. Bureau of Transportation Engineering and Development Review
 - a. Land Use Response dated June 4, 2008
 - b. Land Use Response dated September 23, 2008
 - 3. Water Bureau
 - 4. Fire Bureau
 - a. Land Use Response dated June 5, 2008
 - b. E-mail dated September 22, 2008
 - 5. Site Development Review Section of Bureau of Development Services
 - a. Land Use Response dated January 25, 2008
 - b. Land Use Response dated June 2, 2008
 - c. Land Use Response dated September 23, 2008
 - d. Land Use Response dated September 24, 2008
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Section of Bureau of Development Services

F. Correspondence:

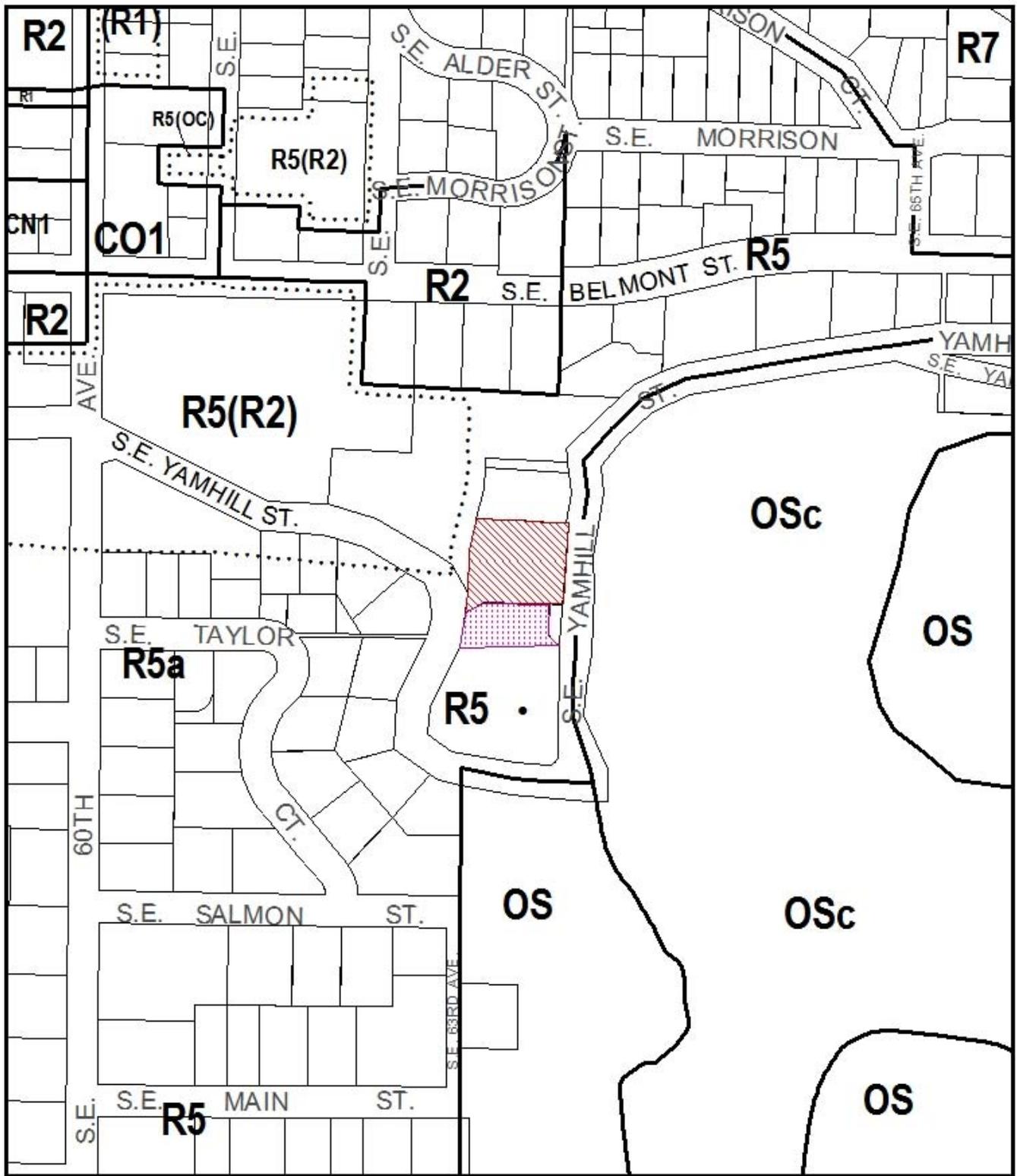
1. Mt. Tabor Neighborhood Association, (represented by Dave Hilts and Jerry Shrall), Letter dated January 24, 2008, regarding opposition to the land division proposed at 6371 SE Yamhill Street
2. Bruce Treat, 5834 SE Lincoln St., Portland, OR 97215 and Jerry Shrall, 6373 SE Yamhill St. Portland, OR 97215, Letter dated May 26, 2008, regarding opposition to land division proposed at 6371 SE Yamhill Street
3. Nancy Lapaglia, 6347 SE Yamhill St., Portland, OR 97215, E-mail dated May 25, 2008, regarding 6371 SE Yamhill case file # LU 07-180149 LDP
4. Patricia Morgan, patanddaisy@comcast.net, E-mail dated June 3, 2008, regarding review of proposed development at 6371 SE Yamhill St.
5. Lynette and Dennis Doht, 6320 SE Yamhill St., Portland, OR 97215, Letter dated January 31, 2008, regarding case file number: LU 07-180149 LDP
6. Lynette and Dennis Doht, 6320 SE Yamhill St., Portland, OR 97215, Letter dated May 31, 2008, regarding case file number: LU 07-180149 LDP
7. Alice Powell, alicepowell@comcast.net E-mail dated June 2, 2008, regarding concerns about the property at 6371 SE Yamhill
8. Alice and Michael Powell, 6115 SE Salmon St., Portland, OR 97215, Letter dated January 28, 2008, regarding Case File # LU 07.180149 LDP
9. Stephen Slusarski and Nancy LaPaglia, 6347 SE Yamhill St., Portland OR, 97215, Letter dated January 24, 2008, regarding Case File # LU 07-180149 LDP
10. Mark Bartlett, mbart@pacifier.com, E-mail dated January 22, 2008, regarding 6371 SE Yamhill Street

G. Other:

1. Original LU Application
2. Site History Research
3. Incomplete Letter

H. Received in the Hearings Office:

1. Appeal form - Cathcart, Paul
2. Staff report - Cathcart, Paul
3. Hearing Notice - Cathcart, Paul
4. Copy of email from Jerry Shrall w/3 pages attached - Cathcart, Paul
5. Updated copy of Exh. H-4 - Cathcart, Paul
6. Copy of email from Myles Black - Cathcart, Paul
7. Responses to Appellant's Objections (6 pgs) - Cathcart, Paul
8. PDOT response letter dated 11/13/08 - Cathcart, Paul
9. PowerPoint presentation - Cathcart, Paul
10. 7 page narrative w/maps - Shrall, Jeremy
11. Copy of email from Jamie Jeffrey – Derr, Larry
12. Copy of email from Jeremy Shrall to Cathcart - Cathcart, Paul
13. Letter to Hearings Officer dated 11/26/08 - Derr, Larry
14. Memo to Hearings Officer dated 11/26/08 - Cathcart, Paul
15. Letter dated 12/3/08 - Derr, Larry
16. Letter dated 12/3/08 - Derr, Larry - Submitted After Record Closed



ZONING

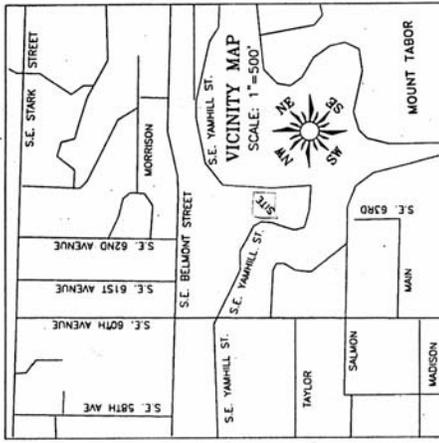
-  Site
-  Also Owned



File No. LU 07-180149 LDP
 1/4 Section 3137
 Scale 1 inch = 200 feet
 State_Id 1S2E05BC 100
 Exhibit B (Sep 30, 2008)

SITE PLAN

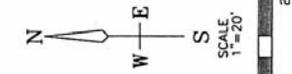
FOR PROPOSED LAND DIVISION IN "BELMONT VILLA"
 LOCATED IN THE NW 1/4 S.5 AND NE 1/4 S.6, T.1N., R.2E., W.M.
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
 DATE: JUNE, 2008



- SYMBOLS**
- ◆ POWER POLE
 - WATER METER
 - GAS METER
 - ⊕ ELECTRIC METER
 - ⊖ WATER VALVE
 - ⊗ MANHOLE
 - OIL FILL
 - ⊗ CATCH BASIN
 - ⊗ FIRE HYDRANT
 - ⊗ DOWN SPOUT
 - ⊗ CLOSURE
 - ⊗ WATER LINE
 - ⊗ GAS LINE
 - ⊗ ELECTRIC LINE
 - ⊗ SAN. SEWER
 - ⊗ EMBANKMENT
 - ⊗ DRIVEWAY
 - ⊗ CONC. DRIVE
 - ⊗ ASPHALT DRIVE
 - ⊗ BITUMINOUS TREE
 - ⊗ CONIFEROUS TREE
 - ⊗ KNOT PROTECTION ZONE

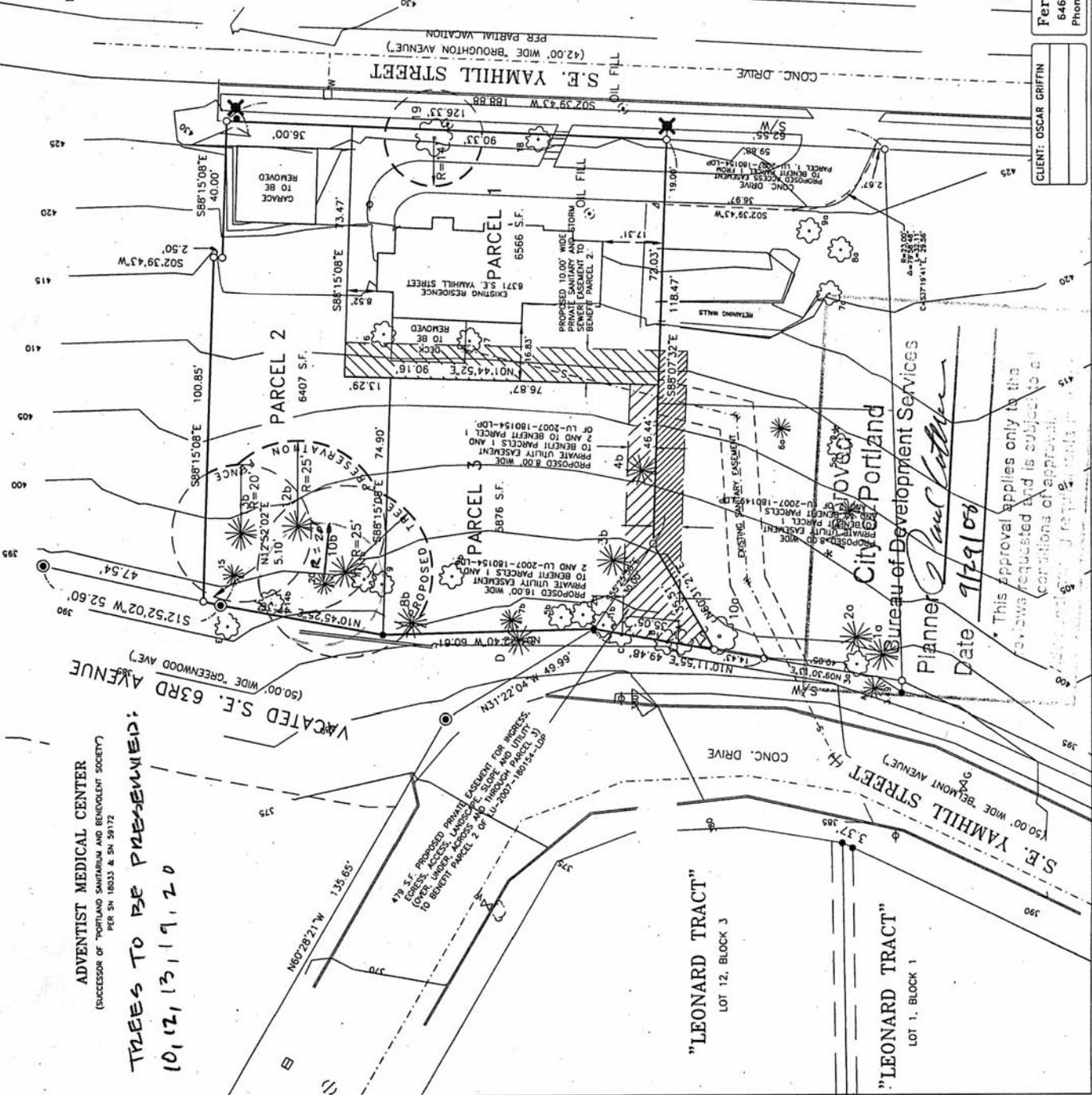
ZONE IS R5
 FOR TREE INFORMATION SEE TREE REPORT BY LOTO'S ARBORECLURAL INC.
 UTILITIES ARE DRAWN FROM MAPPING PROVIDED BY CITY
 ELEVATIONS ARE BASED ON CITY OF PORTLAND BENCHMARK NO. 1877, CENTER CIRC S. OF 6347 S.E. YAMHILL
 ELEVATION 422.76'

CASE NO. 1207-130149-04
EXHIBIT C-1



REGISTERED PROFESSIONAL LAND SURVEYOR
 OREGON
 JULY 25, 1980
 JOE H. FERGUSON
 2445
 RENEWAL DATE 12/31/09
 I CERTIFY THAT THIS MAP WAS PREPARED USING HP PRODUCT #51610A ON WMF-1824 FILM

SHEET NO. 1 OF 1
 JOB NO. 07-083 SM
 DRAFTED 06/13/08 JS
 Ferguson Land Surveying, Inc.
 546 SE 106TH AVE. PORTLAND, OR 97216
 Phone (503) 408-0601 Fax (503) 408-0602



ADVENTIST MEDICAL CENTER
 (SUCCESSOR OF PORTLAND SANITARIUM AND BEWEGENT SOCIETY)
 PER SN 18033 & SN 59172

TREES TO BE PRESERVED:
 10, 12, 13, 17, 20

City of Portland
 Bureau of Development Services
 Planner Paul Kottler
 Date 7/29/08

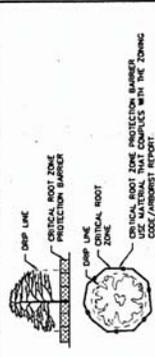
This approval applies only to the systems requested and is subject to conditions of approval.

CLIENT: OSCAR GRIFIN

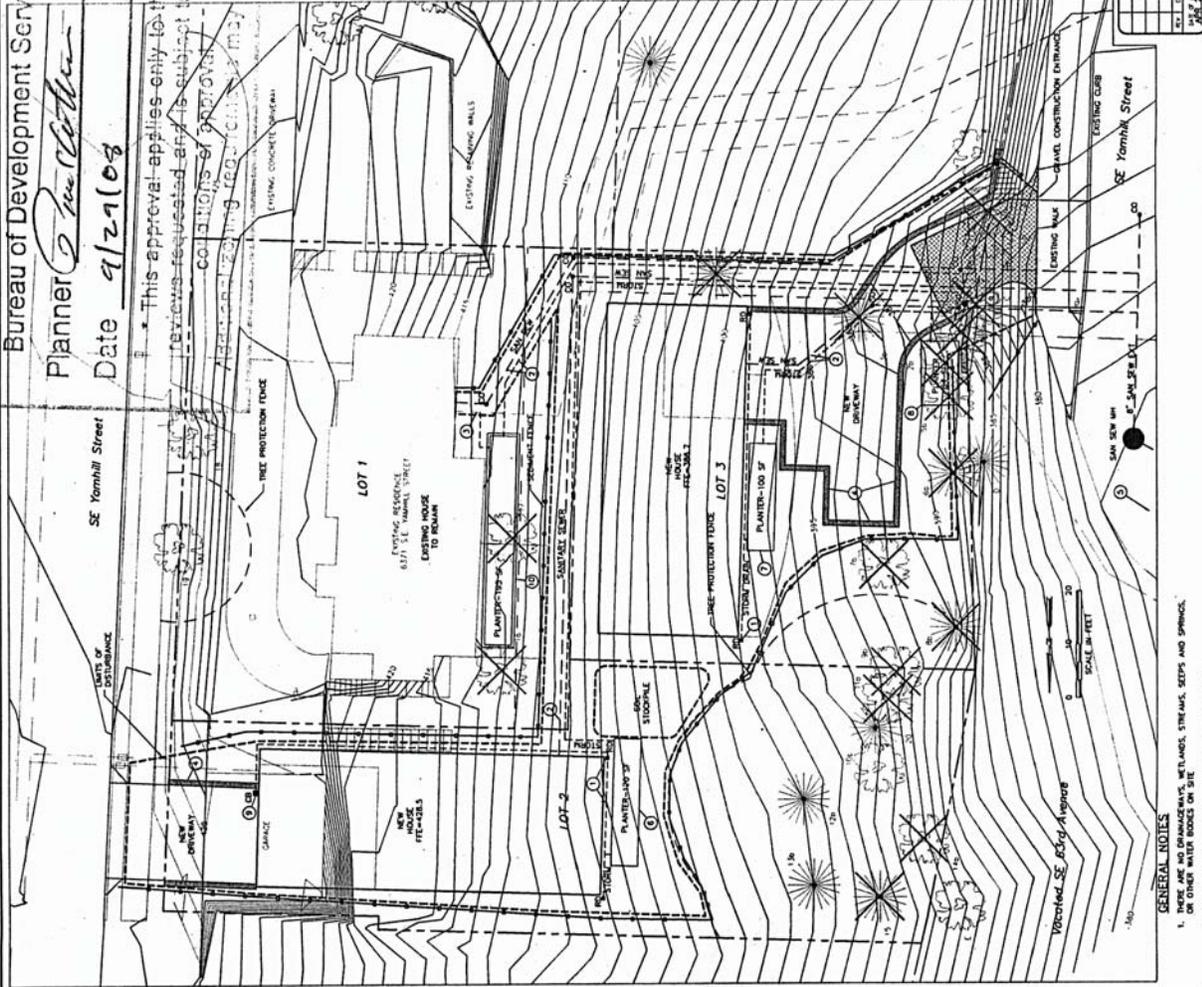
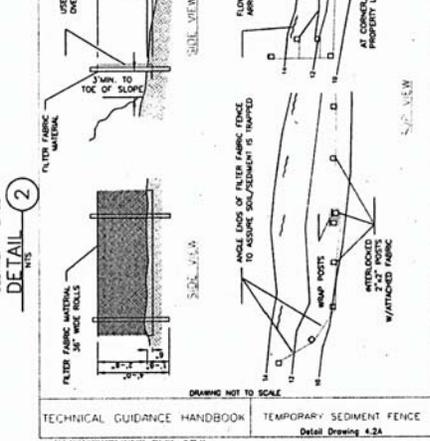
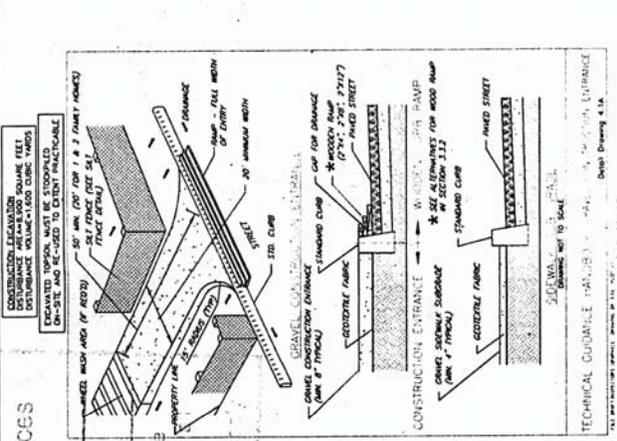
* Approved*
City of Portland

Bureau of Development Services
Planner *[Signature]*
Date 9/21/08

This approval applies only to the reviews requested and is subject to conditions of approval.



CONSTRUCTION NOTES
 1. INSTALL 1/2\"/>



GENERAL NOTES
 1. THERE ARE NO DRAINAGES, WETLANDS, STREAMS, SEEPS AND SPRINGS ON OTHER WATER BODIES ON SITE.
 2. THE SITE IS NOT WITHIN AN ENVIRONMENTAL OVERLAY ZONE.

LABOR GRADING 1.9/23/08
 DRAWING NO. 1
 PROJECT NO. GRADING AND EROSION CONTROL PLAN

AT HOME CREATIONS, LTD
 3-Lot PARTITION
 18015 SW 10th
 PORTLAND, OREGON 97224
 TR ENGINEERING, INC.
 18015 SW 10th
 PORTLAND, OREGON 97224
 FAX (503) 234-7303

TREES TO BE RETAINED:
 10, 12, 13, 19, 20
 TREES TO BE RETAINED:
 9, 7, 11, 14, 15
 SEE CONDITION D.2

EXHIBIT C.2
 CASE NO. LU 07-KS-14A-LDP
 TREE PRESERVATION PLAN