



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

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**Date:** May 8, 2008  
**To:** Interested Person  
**From:** Nizar Slim, Land Use Services  
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## **NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 07-181728 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Julie Livingston,  
Acme Design Lab  
420 NW 11th Ave #515  
Portland, OR 97209

Brent Carpenter,  
1606 SE 34th Ave  
Portland, OR 97214

Deepika Reddy,  
1606 SE 34th Ave  
Portland, OR 97214

**Site Address:** 6109 SE TAYLOR CT

**Legal Description:** TL 500 & 600 LOT 9 BLOCK 3; TL 300 LOT 11 BLOCK 3, LEONARD

**Tax Acct No.:** R490300730, R490300750, R490300810

**St ID No.:** 1S2E06AD 00300, 500, 600      **Qtr Sect:** 3136

**Neighborhood:** Mt. Tabor, contact Dave Hilts at 503-780-0826.

**Business District:** Eighty-Second Avenue, contact Nancy Chapin at 503-774-2832.

**District Coalition:** Southeast Uplift, contact Gary Berger at 503-232-0010.

**Zoning:** R5 – Residential 5,000

**Case Type:** LDP - (Land Division, Partion)

**Procedure:** Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

#### **Proposal:**

The applicant proposes to “divide” an assembly of four lots totaling 15,033 square feet into three standard lots sized at 3,500 sq. ft. (Parcel 1), 3,505 sq. ft. (Parcel 2) and 8,028 sq. ft. (Parcel 3). Currently, the site has a detached house and two sheds with one larger, mature

cedar tree located on proposed Parcel 2. The house, sheds and tree will remain as part of the land division and will be addressed in the review process.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in section **33.660.120 Approval Criteria for Land Divisions in Open Space and Residential zones.**

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010).

## ANALYSIS

**Site and Vicinity:** The site has a notable slope gradually rising from SE Taylor Ct. to the rear of the property which abuts SE Yamhill St. A single-family house and two detached sheds are situated near the southwest corner of the property. There is a large and mature Cedar Tree that sits toward the rear of the proposed Parcel 2. The adjacent streets SE Yamhill Street (to the rear) and SE Taylor Court (in the front) are both developed with curbs and some form of sidewalk as well as a paved roadway. Parking was observed on both sides.

The surrounding area has well-established residential development consisting of mostly Single-dwelling houses, ranging in “older” architectural designs and number of stories.

**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 there are no prior land use reviews for this site.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on **February 25, 2008.**

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

**2. Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## APPROVAL CRITERIA-

### APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

<b>Criterion</b>	<b>Code Chapter</b>	<b>Topic</b>	<b>Applicability Findings</b>
<b>A</b>	33.610	Lots	<b>Applicable</b> - See findings below
<b>B</b>	33.630	Trees	<b>Applicable</b> - See findings below.
<b>C</b>	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
<b>D</b>	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
<b>E</b>	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
<b>F</b>	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
<b>G</b>	33.635 .100	Clearing and Grading	<b>Applicable</b> - See findings below.
<b>G</b>	33.635 .200	Land Suitability	<b>Applicable</b> - See findings below.
<b>H</b>	33.636	Tracts and Easements	<b>Applicable</b> - See findings below.
<b>I</b>	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
<b>J</b>	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
<b>K</b>	33.641	Transportation Impacts	<b>Applicable</b> - See findings below
<b>L</b>	33.651 - 33.654	Services and Utilities	<b>Applicable</b> - See findings below

**Applicable Approval Criteria are:**

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

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

Density Standards

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

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

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

Minimum = (15,033 square feet \* .80) ÷ 5,000 square feet = 2.40 (which rounds down to a minimum of 2 lots, per 33.930.020.A)

Maximum = 15,033 square feet ÷ 5,000 square feet = 3.

The applicant is proposing 3 lots. The density standards are therefore met.

#### Lot Dimensions

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

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

	<b>R5 Zone Requirement</b>	<b>Proposed Parcel 1</b>	<b>Proposed Parcel 2</b>	<b>Proposed Parcel 3</b>
Minimum Lot Area	3,000 sq. ft.	3,500 s.f.	3,505 s.f.	8,028 s.f.
Maximum Lot Area	8,500 sq. ft.			
Minimum Lot Width*	36 ft.	42 feet	42 feet	78 feet
Minimum Lot Depth	50 ft.	85 feet	87 feet	129 feet
Minimum Front Lot Line	30 ft.	60 feet	58 feet	58 feet

\* Width is measured at the minimum front building setback line

The findings above describe how the applicable lot standards 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. Certain trees are exempt from the requirements of this chapter.

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A-2). The inventory identifies a Western Red-Cedar with a DBH (diameter at breast height) of 25 inches, the only eligible tree on site (two other undersized trees exist but are exempt due to a less than 6-inch DBH).

Therefore, the total non-exempt tree diameter on the site is 25 inches. The applicant proposes to preserve this cedar which represents 100 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved tree and the required root protection zone of 22 radial feet (Exhibit C-2).

This criterion is met, subject to the condition that development on Parcel 2 be carried out in conformance with the Tree Preservation Plan (Exhibit C-2) and the applicant's arborist report (Exhibit A-2).

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

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

**33.635.100 – Clearing and Grading**

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

**Findings:** The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site has a gentle slope towards SE Taylor Court, and is not located within the Potential Landslide Hazard Area. In addition to the limited trenching that would occur with preparing the site for building foundation and utilities, there is only some focused boring to be done in conjunction with the Tree Preservation Plan (see Arborist report A-2). Therefore, no significant clearing or grading will be required on the site to make the new lots developable. This criteria is 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 has only a mild slope and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

**33.636.100 Requirements for Tracts and Easements**

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

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

**Findings:** No tracts are proposed or required for this land division, so criterion A does not apply.

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

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

- A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 3, for a sanitary sewer lateral connection that will serve both Parcel 1 and 2.

This was the best possible configuration for Parcel 1 and 2 to maximize an efficient gravity flow to the sewer main in SE Taylor Ct.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) 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 a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block, substantially similar to the following example:

*"A Declaration of Maintenance agreement for Private Sanitary Sewer Easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."*

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

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

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

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

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

**Findings:** The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation

impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 58 feet of frontage on SE Taylor Court and 118 feet of frontage on SE Yamhill Street. Both streets are classified as local service streets for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 450 feet from the site on SE Belmont via bus 15. Parking is currently allowed on both SE Taylor and Yamhill, on both sides. There is one driveway entering the site from SE Taylor Ct. that provides access to off-street parking for the existing house.

SE Taylor Court is improved with a paved roadway, curbs, and sidewalks. The only parcel that would be accessed off of SE Taylor Ct. is proposed Parcel 3 (retaining the existing house). In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that the existing dwelling and its newly configured parcel can continue to be safely served by this existing street. Although, there are no improvements being sought at this time or in the near future, a dedication is being required in order to provide a uniform street if improvements were necessitated.

SE Yamhill Street is improved with a paved roadway, partial sidewalks and curbs. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case, Portland Transportation has determined that sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development. With those improvements, two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that sidewalk improvements are made to SE Yamhill Street, and the required right-of-way dedication to SE Taylor Court is shown on the Final Plat.

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

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

- The water standards of 33.651 have been verified. An existing 6-inch water main is available in SE Taylor Ct., and an 8-inch main in SE Yamhill Street. Water is available to serve the proposed development on parcels 1 and 2 from the water main in SE Yamhill Street. Parcel 3 has an existing water service from the main on SE Taylor. Additional water service must be paid for by the applicant. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch public sanitary sewer located in both SE Taylor and SE Yamhill that can serve the sanitary needs of the proposed lots. Parcel 3 has an existing sewer service from the main located in SE Taylor Ct.

As a result of the proposed land division, the applicant has requested that sewer connections to Parcels 1 and 2 be made from the main located in SE Taylor Ct., the public right-of-way abutting the south side of the site, instead of Yamhill Street. This may allow better gravity flow from the proposed houses which would sit above the main in Taylor. As a result, private sewer service lines would cross Parcel 3 (see Exhibit C-2)

and; therefore, would require an easement across Parcel 3. The easement must be shown on the Final Plat. See Exhibit E-1 and E-5 for more details.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. However, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. As result, the remaining standards and approval criteria related to street connectivity, location, and design are not applicable.

### **33.653.020 Stormwater Management Approval Criteria**

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

**Findings:** 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. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

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

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

The applicant has proposed the following stormwater management methods (Exhibit C-2), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Public Street Improvements:** As a condition of this land use approval, the Office of Transportation requires the applicant to improve the frontage of the site to City standards (discussed earlier in this report). A new sidewalk is required on SE Yamhill Street, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip (when installed as part of the improvement), allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.



- **Parcels 1 and 2:** Stormwater from Parcel 1 will be directed to individual soakage trench type infiltration gallery (“Storm-tech” infiltration chambers) that will treat the water and slowly infiltrate it into the ground. Parcel 2 will be directed into a deeper drywell. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the infiltration gallery and drywell.
- **Parcel 3 (the lot with the existing house):** The existing house has downspouts that are connected to undetermined locations. Site Development has noted that there are no City records indicating where the pipes are directed. Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of Site Development. If the stormwater disposal system for the existing house will not be fully located on the parcel it serves after the land division, then appropriate easements must be provided on the final plat. Alternately, the applicant must modify the stormwater system for the existing house to the specifications of Site Development and obtain finalized plumbing permits for the modifications prior to final plat approval.

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

## DEVELOPMENT STANDARDS

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

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

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

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 3. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there is one/are several Zoning Code standard/standards that relate to existing development on the site:

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 43 feet from the new property line at the nearest point. 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 location of the existing building relative to the adjacent new lot lines.

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

## OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

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

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

## CONCLUSIONS

The applicant has proposed a 3-lot partition, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are:

- Tree Preservation
- On-Site Stormwater Disposal
- Existing House to Remain
- Easement for Private Sanitary Sewer

With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 3-lot partition, that will result in three regular lots while retaining the existing house on Parcel 3 and the mature cedar on Parcel 2 as illustrated with Exhibit C-1, subject to the following conditions:

**A. Supplemental Plan.** Three copies of an additional supplemental plan 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 at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Location of All Existing and Proposed Utilities, including Sewer, Water and Stormwater Disposal;
- Any other information specifically noted in the conditions listed below.

**B. The final plat must show the following:**

1. The applicant shall meet the street dedication requirements of the City Engineer for SE Taylor Court. The required right-of-way dedication must be shown on the final plat.
2. IF any portion of the sanitary sewer goes beyond the lot it serves, a private sanitary sewer easement, for the benefit of Parcel 1 and 2 shall be shown and labeled over the relevant portions of Parcel 3.
3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C-2 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: *“A Declaration of Maintenance Agreement for Private Sanitary Sewer has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

**C. The following must occur prior to Final Plat approval:**

**Existing Development**

1. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Site Development Section of the Bureau of Development Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Parcel 3 (the lot with the existing home), then the applicant must meet one of the following:
  - Provide private stormwater easements on the final plat as necessary to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area; or
  - Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.

**Required Legal Documents**

2. A Maintenance Agreement shall be executed for the Private Sanitary Sewer (& Stormwater, if required) Management Easement area described in Condition B-2 (and C-2, if required) above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

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

1. Development on Parcel 2 shall be in conformance with the Tree Preservation Plan (Exhibit C-2) and the applicant's arborist report (Exhibit A-2). Specifically, the 25-inch

Western –red cedar is required to be preserved, with a 22-foot 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 supervision.

2. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of SE Yamhill Street. The applicant must obtain an approved Right Of Way permit from the Bureau of Transportation Engineering and Development Review to install the required sidewalk and planter strip. The improvements along the frontage of Parcel 2 may be constructed with new development on that lot.

**Decision rendered by:** NJS **on May 5, 2008**

By authority of the Director of the Bureau of Development Services

**Decision mailed: May 8, 2008**

**Staff Planner: Nizar Slim**

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

**Procedural Information.** The application for this land use review was submitted on December 10, 2007, and was determined to be complete on February 21, 2008.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on December 10, 2007.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did waive the 120-day review period (see Exhibit A-3).

**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.

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at [www.portlandonline.com](http://www.portlandonline.com).

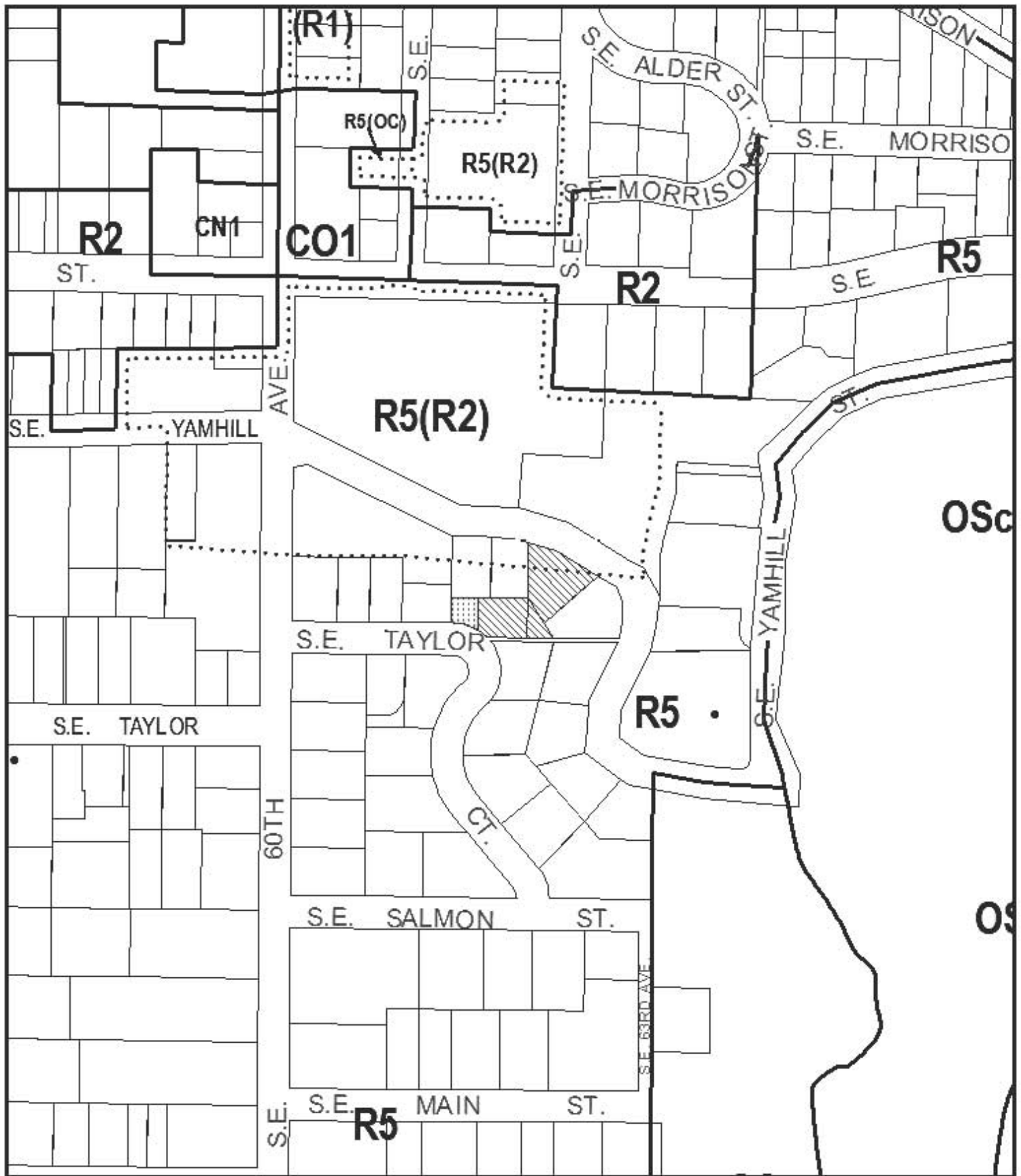
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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 Statement
  - 1. Narrative
  - 2. Arborist Report
  - 3. 120-Day Waiver
  - 4. Infiltration rate testing
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Utility and Tree Preservation Plan
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety, BDS
- F. Correspondence:
  - 1. None.
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Incomplete Letter

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).**



# ZONING

-  Site
-  Also Owned
-  Historic Landmark



File No. LU 07-181728 LDP  
 1/4 Section 3136  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E06AD 300  
 Exhibit B (May 07, 2008)







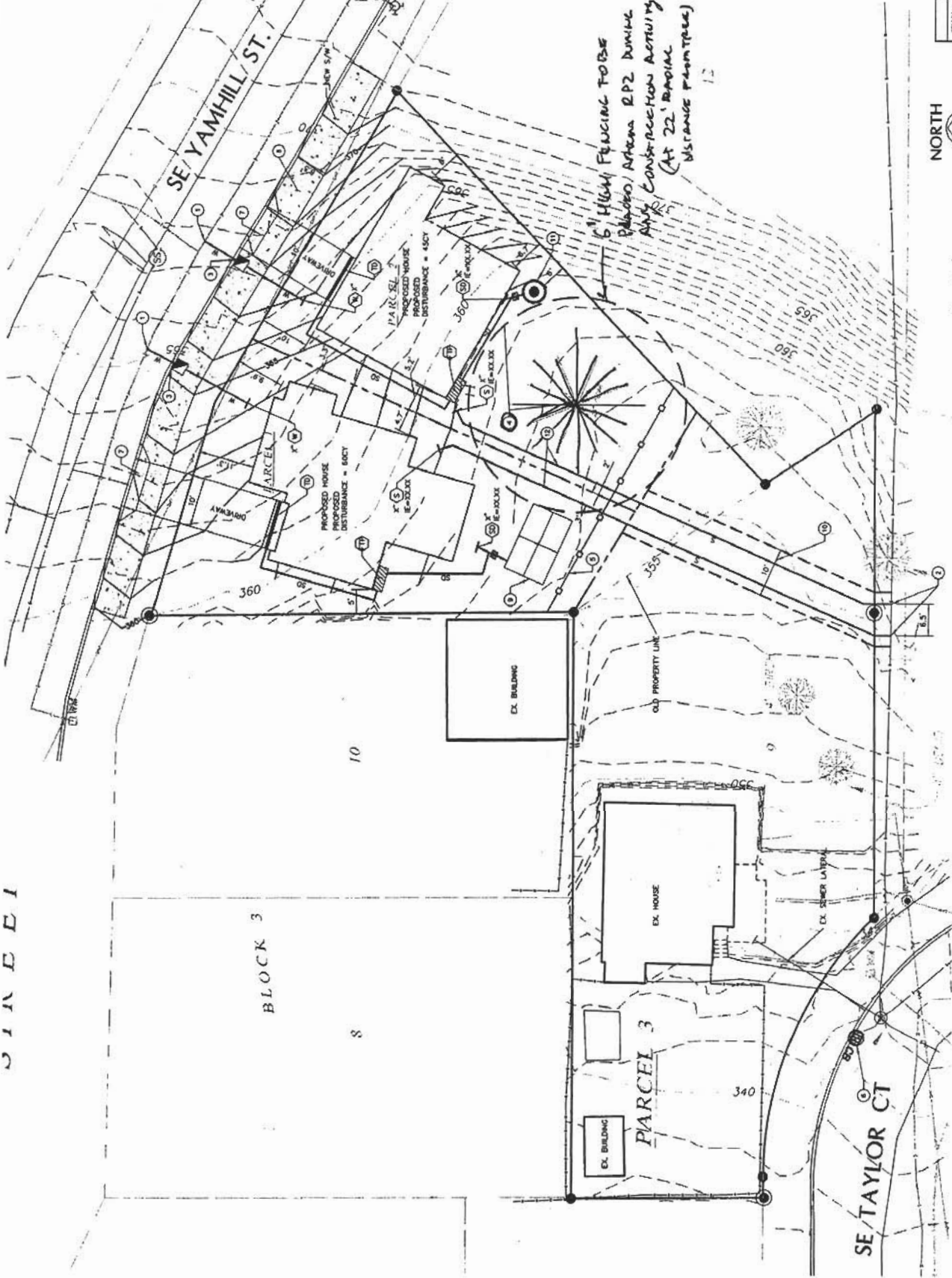
JAN 2011

**KEY NOTES:**

- 1 CONNECT TO PUBLIC WATER LINE
- 2 CONNECT TO PUBLIC SANITARY SEWER
- 3 WATER METER
- 4 TREE TO BE SAVED. DO NOT EXPOSE EXISTING OR NEW ROOT PROTECTION ZONE UNLESS SPECIFICALLY APPROVED BY ARBORIST. 25' OAK WESTERN-ASO CLAW
- 5 SEDIMENT FENCE
- 6 EROSION CONTROL STORM INLET PROTECTION
- 7 NEW DRIVEWAY WITH CURB CUT
- 8 NEW SIDEWALK
- 9 INFILTRATION STORM CHAMBERS
- 10 10" WIDE SANITARY EASEMENT
- 11 8" MINIMUM DEPTH ORTMELL
- 12 DIRECTIONALLY BORED (CANA TUNNELED) SEWER LINE THROUGH TREE PROTECTION ZONE AT 5' MINIMUM BELOW SURFACE. SEE PLAN FOR ARBORIST'S ADDENDUM TO TREE PRESERVATION PLAN

**LEGEND:**

- EXISTING:**
- IRON PIPE MONUMENT - FOUND
  - IRON PIN MONUMENT - FOUND
  - EXISTING CONTOURS
  - ADJUSTED PROPERTY LINE
  - BOUNDARY LINE
  - CENTERLINE
  - FENCELINE, CHAIN LINK
  - WATER LINE
  - SANITARY SEWER LINE
  - OVERHEAD POWER LINE
  - POWER POLE
  - WATER VALVE
  - SANITARY SEWER MANHOLE
- PROPOSED:**
- X E-XXXXX CONNECT SEWER TO WASTE LINE. SEE PLUMBING PLANS FOR CONTINUATION.
  - W X STORM DRAIN SUBROUT FOR BUILDING. SLOPE=0.020 FT/FT (MIN.) (U.S.I.C.). SEE PLUMBING PLAN FOR CONTINUATION.
  - W X STORM DRAIN SUBROUT FOR CONTINUATION. SLOPE TO OLD WATER SYSTEM SIZE AS NOTED. SEE PLUMBING PLANS FOR CONTINUATION.
  - TRENCH DRAIN
  - FLOW THROUGH PLANTER
  - PROPOSED CONTOURS
  - PROPOSED WATER LINE
  - PROPOSED STORM DRAIN
  - PROPOSED SANITARY SEWER
  - SEDIMENT FENCE
  - SEDIMENT TRAP
  - STORM INLET PROTECTION



NORTH

CASE NO. 07-18728 WOP

EXHIBIT C-2

(E) UTILITIES & TREE PRESERVATION PLAN

SCALED PLOT: 1"=20'  
SCALE: 1" = 10 FEET

REVISION	DATE	DESCRIPTION
1	07/13	SE YAMHILL PROPERTY PROPOSED IMPROVEMENTS
DESIGNED BY:	EE	
DRAWN BY:	LR	
CHECKED BY:	AA	
SCALE:	1" = 10 FEET	
DATE:	04/23/2008	

C1