



City of Portland
Bureau of Development Services
Land Use Services Division

1900 SW Fourth Ave. Suite 5000
Portland, Oregon 97201
Telephone: 503-823-7300
TDD: 503-823-6868
FAX: 503-823-5630
www.portlandonline.com/bds

Date: July 3, 2008
To: Interested Person
From: Stephanie Beckman, Land Use Services
503-823-7056 / BeckmanS@ci.portland.or.us

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

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

CASE FILE NUMBER: LU 07-124213 LDS AD

GENERAL INFORMATION

Applicant: Michael & Frances Barth
6020 SW 48th Ave
Portland, OR 97221

Representative: Ken Sandblast, 503-684-1020
Planning Resources, Inc
7160 SW Fir Loop #201
Portland OR 97223

Site Address: 6020 SW 48th Ave
Legal Description: LOT 1, PARTITION PLAT 1992-65
Tax Account No.: R649723860
State ID No.: 1S1E18DA 08600 **Quarter Section:** 3624
Neighborhood: Hayhurst, contact Lillie Fitzpatrick at 503-892-9921.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Other Designations: Potential Landslide Hazard Area

Zoning: R7c – Medium Density Single Dwelling Residential, with Environmental Conservation “c” Overlay Zone on a portion of the site.
Case Type: LDS AD – Land Division (Subdivision) and Adjustment
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to divide this 47,804 square foot site to create 3 lots, which will be accessed via a private street (Tract B), an environmental resource tract (Tract A), and an open space tract (Tract C). The existing home will be retained on Lot 2, proposed to be 13,295 square feet in area. Lot 1 is proposed to be 9,386 square feet and Lot 3 is proposed to be 13,289 square feet. The applicant has requested an Adjustment to exceed the maximum lot size of 12,000 square feet in the R7 zone for Lots 2 and 3.

The environmental resource tract (Tract A) is proposed to meet the requirement to place the resource area and non-disturbance areas within the environmental overlay zone within a tract.

Dedication and street frontage improvements are proposed on SW 48th Avenue. Stormwater from this improvement is proposed to be managed with a swale between the curb and sidewalk with overflow to the existing ditch. Stormwater from the private street will be directed to a swale within the private street tract that overflows to the existing storm sewer that crosses the site within an easement. Flow-through stormwater planters are proposed to manage stormwater on the individual lots. Water and sanitary sewer service to the lots is proposed from the existing mains in SW 48th Avenue.

This subdivision proposal is reviewed through a Type IIX procedure because: (1) 3 lots are proposed in a potential landslide hazard area; and (2) a concurrent review (Adjustment) is requested (see 33.660.110). For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year (See ORS 92.010).

Relevant Approval Criteria:

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

- **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones; and**
- **33.805.040, Approval Criteria for Adjustments**

ANALYSIS

Site and Vicinity: The site is currently developed with a house and detached garage located in the northeast corner of the property. There is a gravel driveway connecting to SW 48th, which is also gravel in this area. The site is relatively flat with a slight rise in elevation from west to east. There is a public stormwater pipe in an easement that crosses the site in a diagonal from southeast to northwest. The pipe daylights in the northwest corner within the environmental zone and flow off of the site. There is also a private storm pipe in an easement serving the property to the south that outfalls to the drainageway. There are a number of trees scattered throughout the site.

Zoning: The site is zoned R7 and has Environmental Conservation “c” Overlay zone over a portion of the site. The R7 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. The “c” overlay is intended to conserve important environmental features and resources while still allowing compatible development. New development and exterior modifications to existing development must meet environmental standards or are subject to environmental review.

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

- LUR 91-00810 – Land division which created the existing lot and the adjacent lot to the south. Included in this decision was the condition that this lot be created in such a manner as to be available for further division.
- LUR 97-00218 ZC – Zoning map correction to the Environmental Conservation zone line on the site to conform to the intended designation of the zone and actual location of significant resources.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on **October 24, 2007**.

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.

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.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.610	Lots	Applicable - See findings below.
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Applicable - See findings below.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required when the minimum density for the site is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Applicable - See findings below.
I	33.639	Solar Access	Not Applicable – Maintaining existing development and restrictions related to existing services on site and environmental zoning limits new lot configuration (33.610 and 33.653 supersede 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the portion of the site that is outside of the environmental zone.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

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

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

Density Standards

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

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

In this case, a street is proposed or required, a portion of the site is within an environmental zone, and the entire site is located within a potential landslide hazard area. Therefore, the maximum and minimum density for this site is as follows:

Minimum = Not applicable. There is no minimum required density for properties located within a potential landslide hazard area (33.610.100 D.2).

Maximum = $47,804 \text{ square feet} * .85 \div 7,000 \text{ square feet} = 5.8$ (which rounds up to a maximum of 6 lots, per 33.930.020.B)

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):

	R7 Zone Requirement	Proposed Lot 1	Proposed Lot 2	Proposed Lot 3
Minimum Lot Area	4,200 sq. ft.	9,386sq.	13,295 sq.	13,289 sq.
Maximum Lot Area	12,000 sq. ft.	ft.	ft.	ft.
Minimum Lot Width*	40 ft.	81 ft.	49 ft.	56 ft.
Minimum Lot Depth	55 ft.	148 ft.	91 ft.	131 ft.
Minimum Front Lot Line	30 ft.	92 ft.	45 ft.	48 ft.

* Width is measured at the minimum front building setback line

The findings above describe how the applicable lot standards are met, with the exception of the maximum lot size for Lots 2 and 3. Provided the concurrent adjustment request for Lot 2 and 3 is approved, the applicable lot standards and this criterion will be 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 and tree calculation that inventories the trees within the land division site, evaluates their condition and indicates which tree will be preserved (Exhibit A.2). Some trees have been exempted because they are either too small, unhealthy, a nuisance species, located partially off the property, located within 10 feet of an existing structure to remain on the property or located within the environmental zone.

The total non-exempt tree diameter on the site is 371 inches. The applicant proposes to preserve 14 trees which comprise 135 inches of diameter, or 36 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C.2).

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

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

33.632.100 Landslide Hazard Area Approval Criterion

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

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

Findings: The entire site is located within the Potential Landslide Hazard Area. In order to evaluate the proposal against this criteria, the applicant has submitted a landslide hazard area addressing the proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.3). That report was evaluated by the Site Development Division of the Bureau of Development Services, the City agency that makes determinations regarding soil stability.

The applicant's geotechnical evaluation indicates that the development is geotechnically feasible, provided the recommendation of the report are followed, and that the potential for slope instability are very low due to the gentle slope. Based on this information, the proposed land division will result in lots, buildings, services, and utilities that will not significantly increase the risk of landslide potential on the site or other properties in the vicinity of the site. In addition, the geotechnical evaluation notes the potential for perched, shallow groundwater, which supports the proposal for disposal of stormwater to the storm pipe that crosses the site,

as discussed later in this report under the findings for "Stormwater Management Approval Criteria."

Site Development has raised no objections with the findings of the applicant's geotechnical report (see Exhibit E.5). This criterion is met.

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

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

33.635.100 – Clearing and Grading

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

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

In this case, the site is located in the Potential Landslide Hazard area, however it has gentle slopes of approximately 6 percent. The geotechnical report identified undocumented fill that will need to be removed in locations where development is proposed. In addition, the soils on the site is moderately susceptible to erosion. There are also tree that must be protected on the site. Therefore, the clearing and grading associated with site preparation must occur in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed.

The applicant has submitted a Preliminary Clearing and Grading Plan (Exhibit C.3) that depicts the proposed work, including existing and proposed elevation contours for construction of the private street serving the lots and the public street improvements on SW 48th.

The proposed clearing and grading shown represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level street surface and to ensure that the street drainage will flow as planned. Erosion control measures will be required at the time of development and will be reviewed in detail during permit review. Stormwater runoff from the new street and lots will be appropriately managed by stormwater swales and planters with overflow to the existing storm pipe which daylight on the property, assuring that runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading proposed is sufficient for the construction of the new street without being excessive, however there is no limit of disturbance, stockpile/staging area, or tree protection shown on the applicant's plan. There do not appear to be conflicts with the tree preservation plan and there is ample room on the site to locate soil stockpiles on Lot 1 or Lot 3. A condition of approval will require the clearing and grading plan submitted with the Site

Development permit to show tree protection and removal and indicate the location of stockpile areas. A limit of disturbance must also be shown that includes the stockpile areas.

With conditions, the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street. The permit application must include a final clearing and grading plan, that must be consistent with the preliminary clearing and grading plan approved with the land division. With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan with the changes noted above, this criterion 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.

Findings: 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 gradually and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

33.636.100 Requirements for Tracts and Easements

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

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

Findings: The following tracts are proposed: Tract A is a 3,518 square foot Environmental Resource Tract, Tract B is a 4,215 square foot Private Street Tract, and Tract C is a 3,132 square foot Open Space Tract. Tracts A and B are required to be owned in common by the owners of Lots 1 through 3 by Zoning Code Sections 33.430.160.E and 33.654.150.B.3. Tract C may be owned by any of the parties noted above. The ownership of the tracts must be noted on the plat.

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

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

- A Private Storm Sewer Easement is required across the relevant portion of Lot 1 for a storm pipe draining the private street swale.
- A Private Access Easement over the relevant portion of Lot 1 to provide access to Tract A by Lots 2 and 3. Alternatively, the applicant has the option to expand the boundary of Tract A so that it has frontage on the public street, where all owners can gain access.

As stated in Section 33.636.100 of the Zoning Code, maintenance agreements will be required describing maintenance responsibilities for the tracts and easements described above and facilities within those areas. This criterion can be met with the condition that 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.”

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 110 feet of frontage on SW 48th Avenue, which is classified as a local service street for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service approximately 615 feet from the site on SW 45th via bus #1. Opportunities for parking are limited on SW 48th because of the narrow width of the street and improvements. There is currently one driveway entering the site that provides access to off-street parking for the existing house.

SW 48th is an unimproved gravel dead-end street approximately 450 feet long. There is currently no constructed turnaround and only half of the right-of-way for the cul-de-sac has been dedicated. 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 street improvements, including paving, curb, planting strip/swale and sidewalk must be made in order to facilitate safe travel to and from the proposed development. To accommodate the

improvements, additional right-of-way must be dedicated along the frontage of the site, including a minimum of 8 feet along the straight portion (12 feet with swale) and 3 feet along the bulb portion. With those improvements, two additional dwellings can be safely served by this existing street without having a significant impact on the level of service provided.

The Fire Bureau also has access requirements, including improved street width and turnaround requirements. The applicant has obtained a Fire Code Appeal (ID # 4713) to allow a reduced street width and an alternative turnaround, provided fire suppression sprinklers and installed in the new homes (see Exhibit A.6). The proposed turnaround is partially located within an existing access/road easement on the adjacent property to the east. PDOT has confirmed that this portion of the improvement can be included in the public street improvement permit. The details of the street improvement will be determined at the pre-design meeting.

This criterion is met, with the conditions noted above.

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 the SW 48th Avenue right-of-way. Lot 2 has an existing water service. Water is available to serve Lots 1 and 3 from the water main in SW 48th Ave. The service for Lot 3 must be located within the private street tract. 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 SW 48th Avenue that can serve the sanitary needs of the proposed lots. Lot 2 has an existing service, however there is no information about its current location. Additional information is requested about how the private street will be constructed without damaging the lateral. If needed, a new lateral must be installed for the house. BES also indicates that the current utility plan does not meet spacing criteria for lateral connections to the sewer main. Due to constraints on the site, BES requests a revised utility plan with the final plat showing how all utilities will be accommodated in the private street tract. 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.

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.

Due to poor infiltration, on-site infiltration of stormwater is not recommended in this area. There is an existing public storm sewer that runs through the site in an easement and daylights to in the northwest corner of the site in the environmental conservation zone. The applicant has provided a utility plan (Exhibit C.4) and a stormwater report (Exhibit A. 4) outlining the stormwater management proposal described below. BDS Site Development and the Bureau of Environmental Services have reviewed the proposal and have provided conceptual approval (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, with paving, curbs and sidewalks (discussed earlier in this report). Stormwater from these new impervious areas will be directed into an 8-foot wide swale located between the curb and the new sidewalk. Because of limited infiltration in this area, overflow from the swale will be directed to the existing ditch to the north of the property. Some level of ditch improvement may be necessary to ensure proper conveyance downstream. BES has provided conceptual approval of this proposal. The applicant is required to meet BES requirements for the street improvement, including dedication to accommodate the swale and engineered designs and financial guarantees of performance prior to final plat approval.
- **Private Street:** Stormwater from the private street will be directed to a 5-foot wide swale located within the street tract. Overflow from the swale will be piped to the existing public storm sewer that crosses the site. An easement is proposed to allow the new private street drainage pipe to cross Lot 1. The applicant has submitted a stormwater report with calculations that indicate the size of the proposed swale can accommodate the volume of stormwater runoff from the impervious areas of the street. The Site Development Section has indicated conceptual approval of the proposed swale location and size.
- **Lots 1, 2 and 3:** Lots 1 and 3 will be available for new residential development. 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 the existing storm sewer that crosses the site. Each lot has sufficient size for individual planter boxes, and the Bureau of Environmental Services has indicated that the treated water can be directed to the storm sewer. The applicant also proposes to install a flow-through planter on Lot 2 (the lot with the existing house) with connection to the public storm sewer. A plumbing permit must be obtained and finalized for this work before permits are issued for construction on the newly created lots.

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.

Right of Way Approval Criteria

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site, and the type of street that is proposed, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Code Section	Topic	Applicability Findings
33.654.110.B.1	Through streets and pedestrian connections	Applicable - See findings below
33.654.110.B.2	Dead end streets	Applicable - See findings below.
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.
33.654.110.B.4	Alleys in all zones	Not applicable – No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Applicable - See findings below.
33.654.120.C.3.c	Turnarounds	Applicable - See findings below.
33.654.120.D	Common Greens	Not applicable – No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable – There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable – No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable – No shared courts are proposed or required.
33.654.130.A	Utilities	Applicable - See findings below.
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Applicable - See findings below
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Applicable - See findings below
33.654.130.D	Partial rights-of-way	Not applicable – No new partial rights-of-way are proposed or required.

Applicable Approval Criteria are:

33.654.110.B.1 Approval criterion for 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: The site is located between SW 48th Avenue and SW 47th Place (north-south streets), which have a distance between them of approximately 400 feet, and between SW Flower Ct/Pl and SW Iowa (east-west streets), which have a distance between them of approximately 960 feet. The distance between the east-west through streets indicates that an additional connection is needed, however it is not feasible to provide such a connection through this site. Relevant factors include: 1) the site is only 220 feet north of SW Iowa, which indicates that if provided a through street should be provided further to the north; 2) there is an open drainage/stream on this site (and the site to the north) which constrains developable area and area available for streets; and 3) properties to the east are fully developed with single family homes and are not further dividable so a connection to SW 47th Place would not be feasible. SW 48th currently dead-ends in a partial cul-de-sac along the frontage of the site. Based on this configuration, it appears unlikely that this street will be extended to connect to SW Iowa. Because the site only fronts on the street, it cannot impact this situation.

The site is within the Portland Master Street Plan for the Southwest District. Street connection needs are identified in the vicinity of this site, however PDOT has not identified need or opportunity related to this proposal.

For the reasons described above, this criterion is met.

33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones. In OS, R, C, and E zones, dead-end streets may be provided where through streets are not required. Dead-end streets should generally not exceed 200 feet in length, and should generally not serve more than 18 dwelling units. Public dead-end streets should generally be at least 200 feet apart.

Findings: The proposal includes a private dead-end street, which will be located in the new street tract. As discussed under the findings for through streets above, a new public east-west through street is not feasible for this proposal. The private dead-end street will serve only 3 dwelling units and it is approximately 170 feet in length. The existing public street, SW 48th Avenue, is an existing dead-end street, extending approximately 750 feet from the nearest connecting through street. With this land division, the dead-end segment of the street would serve approximately 23 dwellings. This situation already exists and will not be significantly exacerbated by the addition of two lots for single dwellings. This proposal complies with the Fire Bureau standards for the number of dwelling units that can be served on a dead-end street, but does not meet turnaround requirements. An appeal was granted as discussed under the section "K. Transportation Impacts" of this report. This criterion is met.

33.654.120.C.1 Approval criterion for width of the right-of-way. The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.

Findings: The new private street will serve 3 lots. The applicant has proposed that a 21-foot wide tract, with a wider section to accommodate a 5-foot wide stormwater swale. The Administrative Rules for Private Rights of Way are the standards that govern the construction of private streets. These rules recommend a width of 22 feet for dead-end streets less than 300 feet long, serving 3 or fewer lots. The applicant proposes a slightly modified design that will have a 20-foot wide paved roadway and a 1-foot wide setback on the south. The design appears to eliminate the setback on the north side of the street adjacent to Lot 1. This proposal is acceptable to BDS Site Development because of the relatively flat site and the limited number of vehicles that will use the street. Site Development does note that mountable curbs will be required (not currently shown), but they can be included in the tract width shown.

The Fire Bureau indicates that adequate turning radius must be provided from the public to the private street to provide emergency vehicle access the site. This could result in a wider street tract where it connects to the public street. The details will be determined during permit review and if needed any changes to the street tract must be shown on the plat.

With the condition noted above, the proposed tract width is sufficient to accommodate the elements of a street that is adequate for 3 lots. This criterion is met.

33.654.120.C.3.c. Approval criterion for turnarounds. The turnaround must:

- **Be of a size to accommodate expected users, taking into consideration the characteristics of the site such as existing structures, natural features, the length of the street, and the number of housing units served by the street;**
- **Minimize paved area;**
- **Provide adequate area for safe vehicular movement; and**
- **Provide adequate area for safe and convenient movement by bicyclists and pedestrians traveling on the street or traveling from the street to a pedestrian connection.**

Findings: No turnaround is required for the private street because it serves only 3 lots. Due to the length of the public dead-end street a turnaround is required. There is only a partial right-of-way dedicated, which makes up one-half of the cul-de-sac. The applicant is required to improve its portion of the frontage. The Fire Bureau indicated that a turnaround is required or the applicant would need to obtain an approved fire code appeal in order to create additional lots. The applicant obtained an appeal (#4713) that proposed a modified turnaround and to install fire suppression sprinklers in the new homes. This configuration will serve as a temporary turnaround until such time as full turnaround is constructed. With the condition that the applicant comply with the Fire Bureau requirements to provide the modified turnaround with the public street improvement, install sprinklers and record the related Acknowledgement of Special Land Use Conditions with the plat, the proposed turnaround will adequately serve the expected users and this criterion is met.

Utility Location, Extension of Streets, Partial Rights of Way

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: The applicant is showing a Public Utility Easement along the frontage of the public street that should accommodate any utility needs in that area. Any easements that may be needed for private utilities that cannot be accommodated within the proposed 21-foot width of the private street tract can be provided on the final plat. At this time no specific utility easements adjacent to the street tract have been identified as being necessary. Therefore, this criterion is met.

B. Extension of existing public dead-end streets and pedestrian connections. Existing public dead-end streets and pedestrian connections adjacent to the site must be extended onto the site as needed to serve the site.

Findings: There is no need to extend the existing north-south dead-end street onto this site to serve the site. If the street were extended, it would be more logical to extend it to the south to connect to SW Iowa. As previously discussed, a future extension appears unlikely.

C. Future extension of proposed dead-end streets and pedestrian connections. Where the land division site is adjacent to sites that may be divided under current zoning, dead-end streets and pedestrian connections must be extended to the boundary of the site as needed to provide future access to the adjacent sites. The following factors are considered when determining if there is a need to make provisions for future access to adjacent sites. A need may exist if:

- 1. The site is within a block that does not comply with the spacing standards or adopted street plan of the Transportation Element of the Comprehensive Plan; or**
- 2. The full development potential of adjacent sites within the block will not be realized unless a more complete street system is provided to improve access to those sites.**

Findings: Adjacent sites to the east and south of the site are already developed and cannot be further divided under current zoning. The property to the north is a large property that could be further divided. However, it has frontage on three public streets and does not need service from this site in order to be developed. In addition, there is environmental zoning in the southwest corner of the site to the north, which makes that portion of the site less likely to be developed. Street service from the north or east appears to be a more logical approach for development of the site to the north. This criterion is met.

APPROVAL CRITERIA FOR ADJUSTMENTS

33.805.010 Purpose

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

Request: The applicant has requested an Adjustment to the maximum lot size for Lots 2 and 3. The standard maximum lot size in the R7 zone is 12,000 square feet. Lot 2 is proposed to be 13,295 square feet and Lot 3 is proposed to be 13,289 square feet.

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below, have been met.

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and**
- B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and**

- C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and**
- D. City-designated scenic resources and historic resources are preserved; and**
- E. Any impacts resulting from the adjustment are mitigated to the extent practical; and**
- F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;**

Findings: Only one adjustment is requested and there are no City designated resources on or near the site, therefore criteria C and D are not applicable.

The purposes of the lot dimension standards per 33.610.200.A, including maximum lot size, are listed below. Applicable portions of the purpose statement for this request are highlighted in **bold** text.

- Each lot has enough room for a reasonably-sized house and garage;
- Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;
- **Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;**
- Each lot has room for at least a small, private outdoor area;
- **Lots are compatible with existing lots;**
- Lots are wide enough to allow development to orient toward the street;
- Lots don't narrow to an unbuildable width close to the street;
- Each lot has adequate access from the street;
- Each lot has access for utilities and services; and
- Lots are not landlocked.

The proposed lot area for Lots 2 and 3 are 13, 295 and 13,289 square feet. These lot sizes do not allow the lots to be further divided, therefore there is no issue with the lots appearing to be dividable in a manner that is not feasible or that would exceed the maximum density for the site.

The residential area considered in this review is generally the properties abutting the site and with access from the lower segment of SW 48th (south of SW Pendleton). The existing development pattern is a mix of platted lots that are generally consistent with the R7 zone (7,000 to 10,000 square foot lots) and oversized lots (1.5 to 2.5 acres) with development potential. Given the mix of development in the area, the slightly oversized lots proposed will not appear out of character with the existing lots in the area. This proposal will not detract from the livability or appearance of the residential area. The larger lots are in part necessary because the applicant has opted to propose fewer lots than are allowed. This should contribute to environmental resources by reducing the number of homes and overall impervious surface runoff that is directed to the stream. No adverse impacts from the requested adjustment have been identified. Criteria A, B, E and F are met, therefore the requested adjustment may be approved.

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 2. 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 R7 zone (Please see section on Other Technical Standards for Building Code standards.)

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

- Minimum Setbacks – The existing house identified to remain on Lot 2 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 approximately 19 feet from the new south property line and 30 feet from the new front street lot line. The existing garage will be 5 feet from the new west property line and approximately 40 feet from the new street lot 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 location of the existing building relative to the adjacent new lot lines.
- Accessory Structures – In this zone, accessory structures are not allowed on a lot or tract without a primary structure. Therefore, in order for the proposed new lots to meet this standard, the accessory structure on Lot 3 must be removed prior to final plat. Based on the size of the structure, it appears as though a demolition permit would not be required. Documentation of removal of the shed can be provided on the supplemental plan. To ensure that this standard is met, a condition of approval is necessary.

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

Standards that apply to the land division. In this case, there are several Zoning Code standards that apply to the proposed land division. The standards of Section 33.430.160 Standards for Land Divisions and Planned Developments apply to the proposal. Conditions have been included for requirements that apply at the time of final plat and at the time of development. The applicant has demonstrated that the standards of Section 33.430.160 have been met. The standards listed below can be met with conditions of approval:

- Resource areas outside designated disturbance areas must be placed entirely within environmental resource tracts. The resource tract must be owned in common by all of the owners of the land division site, by a Homeowners' Association, by a public agency, or by a non-profit organization (33.430.160.E).
- Disturbance area must be setback at least 30 feet from the centerline of an identified water body (33.430.140.C.3). This non-disturbance area within the environmental zone must be placed in the resource tract.
- Trees cut are replaced as shown on Table 430-3 (33.430.140.K). Tree # 9 and 11 are proposed to be removed within the transition area. Tree #9 is exempt from the mitigation requirements because it is a nuisance species (English Hawthorne). Mitigation is required for Tree #11, a 15-inch Black Cottonwood. Mitigation plantings must occur within the resource tract according to Table 430-3 (3 trees or 1 tree and 3 shrubs) and must be shown on the Site Development permit.

- All vegetation planted in a resource area must be native and listed on the Portland Plant List. Plants listed on the Portland Nuisance Plant List or Prohibited Plant List are prohibited (33.430.140.L)
- For Lot 1, the front building or street setback of the base zone is the maximum building setback for primary structures and the minimum front and street building setback and garage entrance setback of the base zone may be reduced to any distance between the base zone minimum and zero (33.430.140.M and N).
- Fences are allowed only within the disturbance area (lots) (33.430.140.O).

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The Bureau of Environmental Services requires an encroachment agreement for the proposed private facilities that will cross the existing 15-foot wide storm sewer easement. These facilities include the private street and private sanitary sewer and water laterals. The applicant provided preliminary information to determine that crossing the existing pipe will be feasible. An encroachment agreement must be obtained from BES prior to issuance of the Site Development permit. See Exhibit E.1 for additional details.
- The applicant must meet the requirements of the Fire Bureau in regards to:
 - Posting of "No Parking" signs in the private street;
 - Installing a new hydrant with adequate flow;
 - Providing an Emergency Vehicle Access Easement over the private street tract;

- Adequate turning radius from the public street to the private street;
- Construction of modified turnaround and installation of fire suppression sprinklers in new homes per Fire Code Appeal # 4713; and
- Recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on new residential structures on Lots 1, 2 and 3, per the Fire Code Appeal.

These requirements are based on the technical standards of Title 31 and the Fire Code.

- The applicant must meet the requirements of Urban Forestry for street tree planting in conjunction with the public street improvements. See Exhibit E.6. This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 3 lot subdivision with private street, open space and environmental resource tracts, 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. An adjustment was also requested to allow Lots 2 and 3 to exceed the maximum lot size in the R7 zone. The primary issues identified with this proposal are: Provision of services across the public storm sewer, and fire access and turnaround. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-lot subdivision, that will result in three standard lots, a private street tract, environmental resource tract and open space tract, as illustrated with Exhibit C.1 – C.7; and

Approval of an Adjustment to allow Lots 2 and 3 to be 13,295 and 13,289 square feet, which exceed the maximum lot size of the R7 zone;

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;
- 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 SW 48th Avenue. The required right-of-way dedication must be shown on the final plat.
2. The environmental resource tract shall be named and noted on the plat as “Tract A: Open Space (Environmental Resource and Drainage Reserve).” A note must also be provided on the plat indicating that the tract will commonly owned and maintained by the owners of Lots 1 through 3.
3. A Private Access Easement over the relevant portion of Lot 1 to provide access to the environmental resource tract (Tract A) by Lots 2 and 3. Alternatively, the applicant has the option to expand the boundary of Tract A so that it has frontage on the public street, where all owners can gain access.

4. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract B: Private Street *name of street*." A note must also be provided on the plat indicating that the tract will commonly owned and maintained by the owners of Lots 1 through 3.
5. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the relevant portion of the private street to the satisfaction of the Fire Bureau.
6. The open space tract shall be named and noted on the plat as "Tract C: Open Space." The ownership must be noted on the plat.
7. A private storm sewer easement shall be shown over Lot 1 for the storm sewer connection from the private street.
8. A recording block for each of the legal documents such as maintenance agreement(s) and acknowledgement of special land use conditions, as required by Condition C.7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records" and "An Acknowledgement of Special Land Use Conditions has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of SW 48th Avenue. The applicant shall provide plans and financial assurances to the satisfaction of the Bureau of Transportation Engineering and Development Review, Bureau of Environmental Services and Fire Bureau for required street frontage improvements. Compliance with the turnaround requirements of the Fire Code Appeal ID#4713 (Exhibit C.7) must be met on the street improvement permit.
2. The applicant shall submit an application for a Site Development Permit for construction of the private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The permit must address the following requirements:
 - a. The design for the private street must include a driveway approach and a curb cut in a location that can provide access to the new parking space required on the lot with the existing house that will remain;
 - b. A final clearing and grading plan that substantially conforms to the Preliminary Clearing and Grading Plan approved with this decision (Exhibit C.3) with the following additions:
 - Show trees to be removed and protected, including root protection zones of the trees to be preserved on the Tree Preservation Plan (Exhibit C.2);
 - Show stockpile/staging areas; and
 - Show a clear limit of disturbance.
 - c. Fire Bureau requirements for turning radius and no parking signs; and
 - d. Mitigation plantings within the environmental resource tract for removal of Tree #11 on Lot 1 in accordance with the tree replacement standards of Table 430-3. Trees must be at least 1-inch in diameter; shrubs must be in at least a 2-gallon container or the equivalent ball and burlap. All trees and shrubs must be selected from the Portland Plant List. The Site Development Permit shall not be finalized until the required plants are installed and inspected.
 - e. Per condition D.2, BES encroachment permit is required prior to issuance of the Site Development permit.
3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the

private street and all required site development improvements. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.

Utilities

4. The applicant shall meet the requirements of the Fire Bureau for installing a new fire hydrant with adequate flow. The applicant must contact the Water Bureau to purchase the hydrant and obtain flow information. Verification of the purchase and fire flow must be provided to the Fire Bureau before Final Plat approval.
5. The applicant shall provide a supplemental site utility plan for review and approval by the Bureau of Environmental Services and BDS Site Development showing existing and proposed sewer and water lines, existing and proposed stormwater facilities, existing buildings and conceptual footprints and all existing and proposed easements. The plan must include documentation that the private street can be constructed over the existing sewer lateral for the existing house or a new lateral must be installed (see Condition D.3).

Existing Development

6. The applicant must remove the accessory structure (shed) in the open space tract (Tract C). Documentation of removal must be shown on the required supplemental plan.

Required Legal Documents

7. Maintenance Agreements shall be executed for the following tracts and easements:
 - Private Street Tract (Tract B). The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1, 2 and 3 and must also acknowledge all easements granted within the street tract, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies.
 - Open Space (Environmental Resource and Drainage Reserve) Tract (Tract A). The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1, 2 and 3 and include a description of allowed/prohibited activities consistent with Chapter 33.430.
 - Open Space Tract (Tract C). The agreement shall describe the purpose of the tract as open space (no structures allowed) and describe the tree preservation requirements.
 - Private Storm Sewer Easement on Lot 1 (draining the private street).
 - Private Access Easement on Lot 1, if shown on the plat.

In addition, the agreements shall include provisions assigning maintenance responsibilities for the tract and easement areas and any shared facilities within those areas, consistent with the purpose of the tract or 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.

9. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring new residential development on Lots 1, 2 and 3 to contain internal fire suppression sprinklers, per Fire Bureau Appeal no 4713. The acknowledgement shall be referenced on and recorded with the final plat.

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

1. Site development activities and development on Lots 1, 2 and 3 shall be in conformance with the Tree Preservation Plan (Exhibit C.2) and the applicant's arborist report (Exhibit A.2). Specifically, 14 trees are required to 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 supervision.

2. Prior to issuance of the Site Development permit for the private street, the applicant must obtain an encroachment permit from the Bureau of Environmental Services for private improvements located within the existing public storm sewer easement.
3. Prior to issuance of any permits for residential construction, the following must occur:
 - The first lift of paving for the private street shall be installed;
 - A plumbing permit for the stormwater facility for the existing house on Lot 2 must be finalized; and
 - If required, a plumbing permit for installation of a new sanitary sewer lateral for the existing house on Lot 2 must be finalized.
4. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
5. The private street shall be posted with "No Parking" signs to the satisfaction of the Fire Bureau.
6. Residential sprinklers are required in new residential structures on Lots 1, 2 and 3 to the satisfaction of the Fire Bureau (see Fire Code Appeal #4713).
7. For Lot 1, the front building or street setback of the base zone is the maximum building setback for primary structures and the minimum front and street building setback and garage entrance setback of the base zone may be reduced to any distance between the base zone minimum and zero.
8. Fences are not allowed within the environmental resource tract (Tract A).
9. In resource areas of environmental zones, all vegetation planted must be native and listed on the Portland Plant List. Plants listed on the Portland Nuisance Plant List or Prohibited Plant List are prohibited.

Decision rendered by: Stephanie Beckman **on July 1, 2008**
By authority of the Director of the Bureau of Development Services

Decision mailed July 3, 2008

Staff Planner: Stephanie Beckman

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 April 20, 2007, and was determined to be complete on October 15, 2007.

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 April 20, 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 requested that the 120-day review period be extended 28 weeks or 196 (Exhibit A.8).

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

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

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

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on July 17, 2008** at 1900 SW Fourth Ave. Appeals may be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

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

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

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

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final

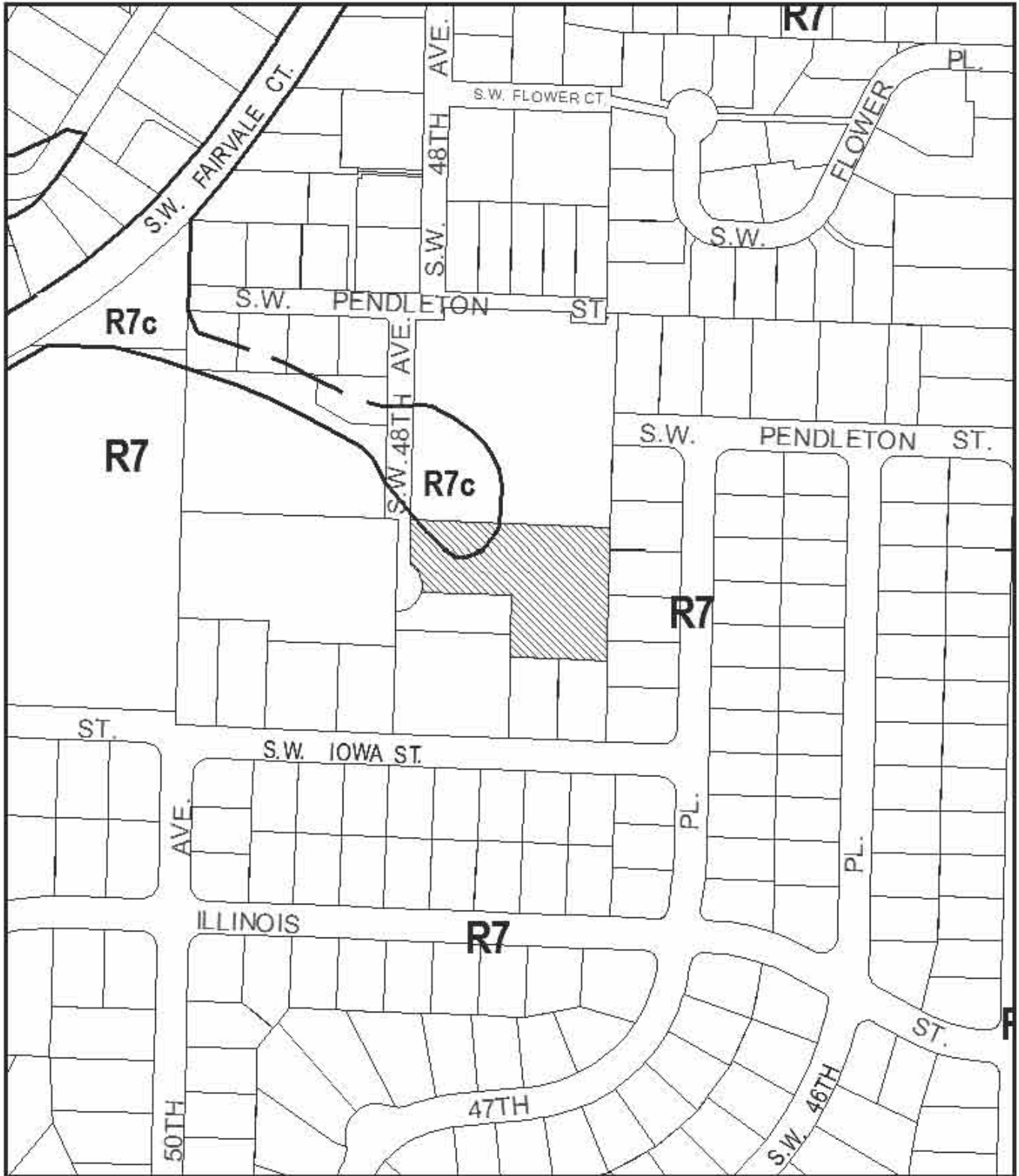
plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative (a&b)
 - 2. Tree Report
 - 3. Landslide Hazard Study
 - 4. Stormwater report
 - 5. Information regarding utility crossings
 - 6. Approved Fire Code Appeal
 - 7. Neighborhood contact letters
 - 8. 120-day extensions
 - 9. Existing access easement on neighboring property
 - 10. Prior submittals (a-c)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan (attached)
 - 2. Tree Preservation Plan (attached)
 - 3. Clearing and Grading Plan
 - 4. Utility Plan (attached)
 - 5. Site Plan
 - 6. Existing Conditions
 - 7. Fire Turnaround Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services (a&b)
 - 2. Bureau of Transportation Engineering and Development Review (a&b)
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS (a&b)
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Section of BDS
- F. Correspondence from interested parties (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).



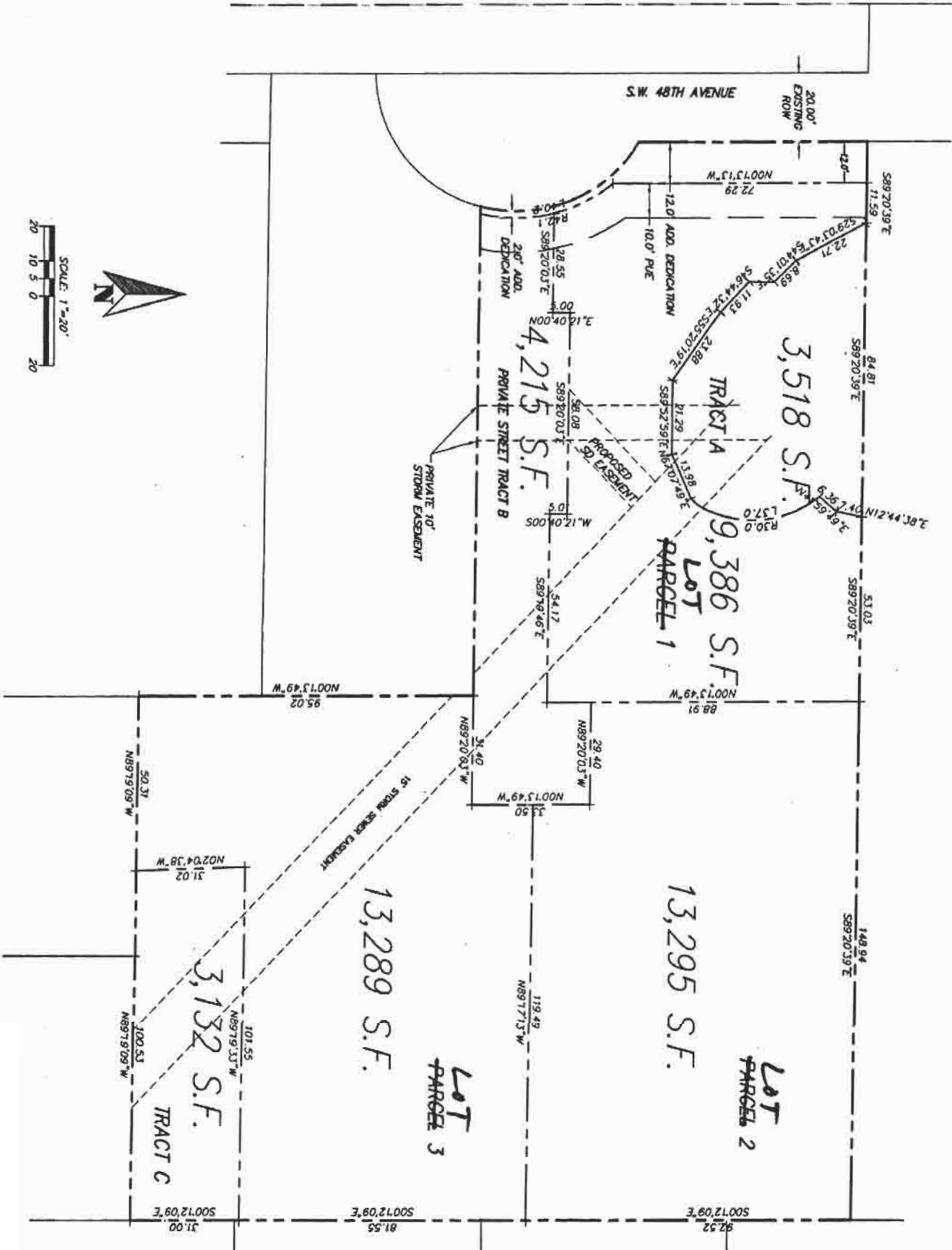
ZONING

 Site



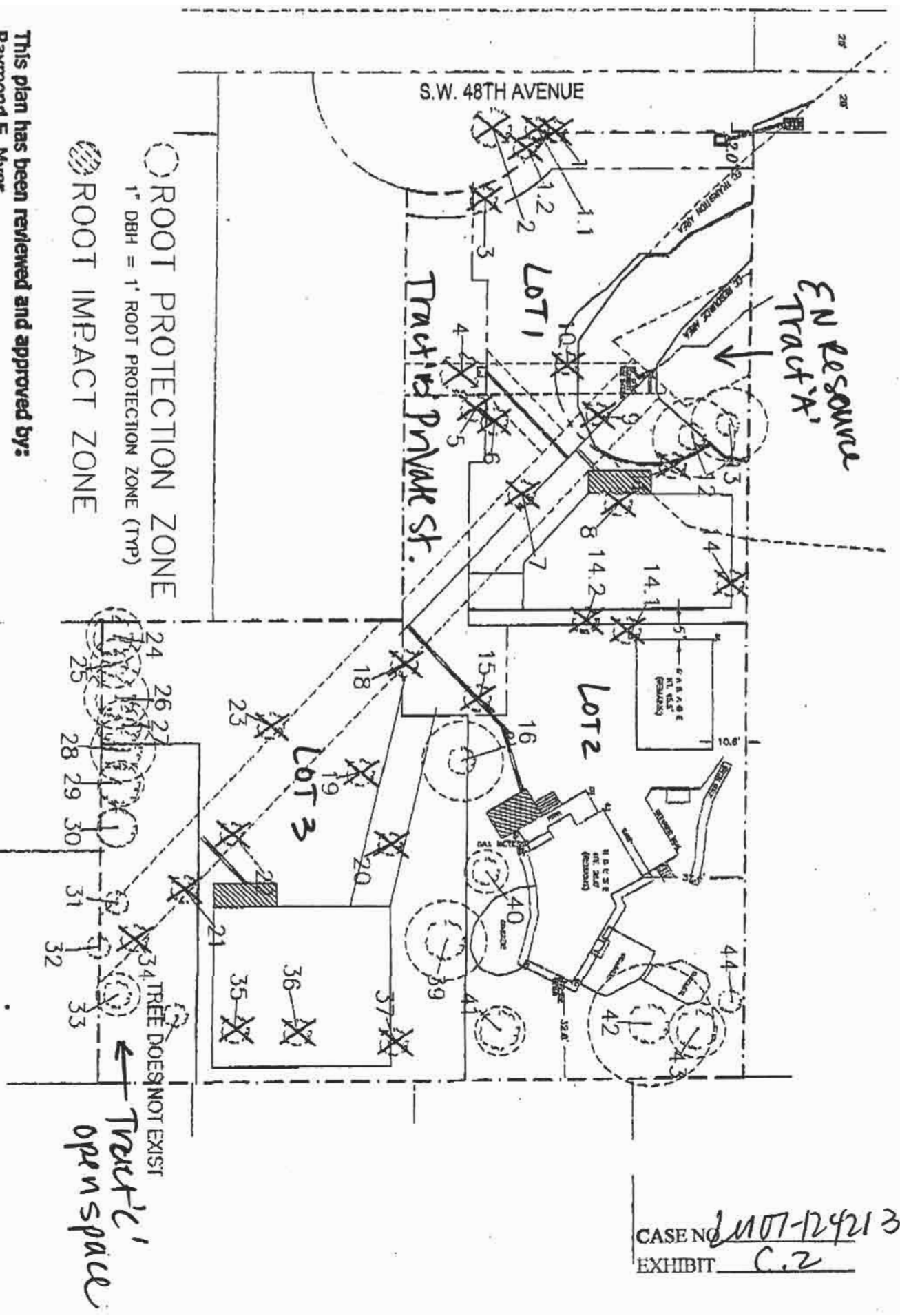
File No.	<u>LU 07-124213 LDS AD</u>
1/4 Section	<u>3624</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S1E18DA 8600</u>
Exhibit	<u>B (Oct 22, 2007)</u>

SCALE: 1"=20'



CASE NO. 2107-124213
 EXHIBIT C.1

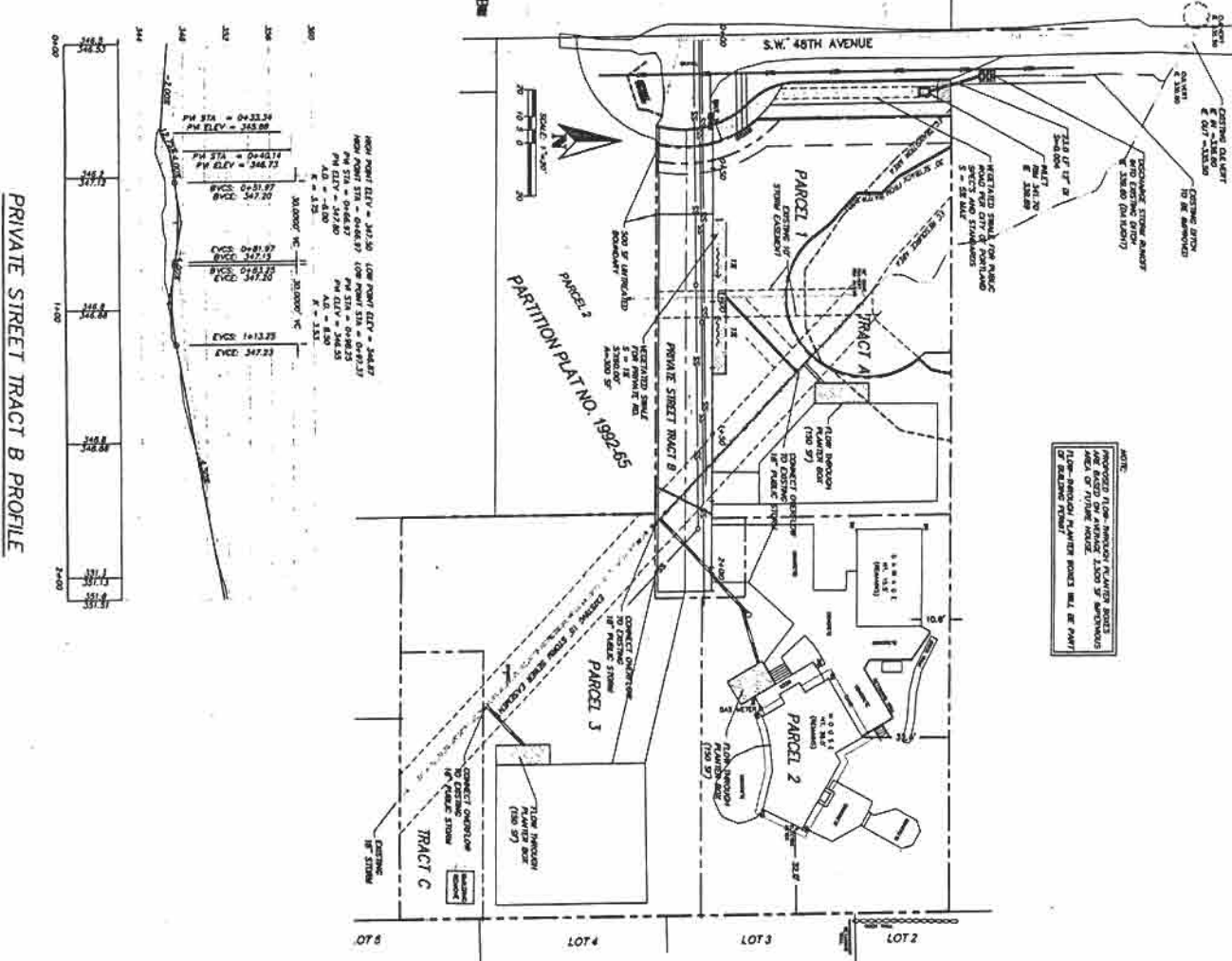
CASE NO 2107-124213
EXHIBIT C.2



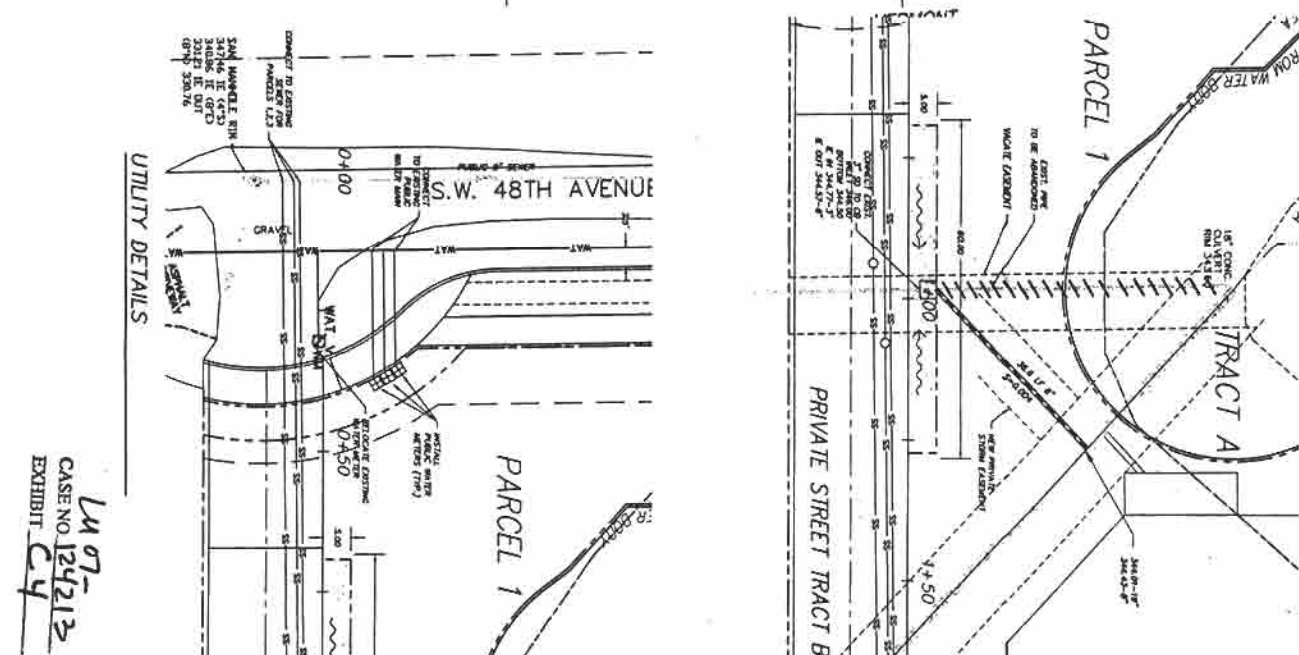
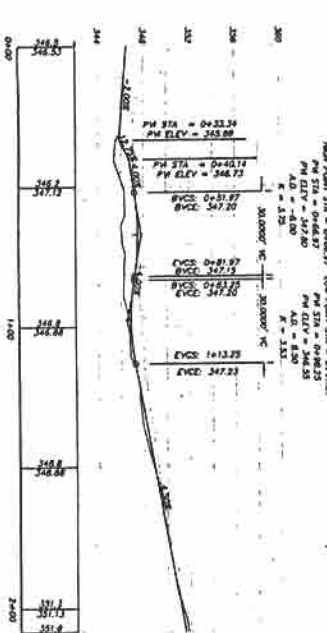
This plan has been reviewed and approved by:
Raymond E. Myer
ISA Certified Arborist, PN-01160
Tree Care & Landscapes Unlimited, Inc.
PO Box 1566, Lake Oswego, OR 97035
503-635-3165
Dated 5/28/08

05.27.08

1. ALL UTILITIES SHOWN ARE BASED ON RECORD DRAWINGS AND FIELD SURVEY.
 2. THE LOCATION AND DEPTH OF UTILITIES ARE SUBJECT TO CHANGE.
 3. THE DESIGNER ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THE UTILITIES SHOWN.
 4. THE DESIGNER ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THE UTILITIES SHOWN.
 5. THE DESIGNER ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THE UTILITIES SHOWN.



PRIVATE STREET TRACT B PROFILE



CASE NO. 07-124213
 EXHIBIT C4

	6020 SW 48TH AVE CITY OF PORTLAND, OREGON																																							
	PRELIMINARY UTILITY PLAN CASE NO. 07-124213 EXHIBIT C4																																							
<table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> </tr> <tr> <td>10/23/07</td> <td>REV</td> <td>MM</td> </tr> <tr> <td>11/22/07</td> <td>REV</td> <td>MM</td> </tr> <tr> <td>1/23/08</td> <td>REV</td> <td>MM</td> </tr> <tr> <td>1/23/08</td> <td>REV</td> <td>MM</td> </tr> <tr> <td>1/23/08</td> <td>REV</td> <td>MM</td> </tr> </table>	NO.	DATE	BY	10/23/07	REV	MM	11/22/07	REV	MM	1/23/08	REV	MM	1/23/08	REV	MM	1/23/08	REV	MM	<table border="1"> <tr> <th>PROJECT NUMBER</th> <td>071001</td> </tr> <tr> <th>DATE</th> <td>11-27</td> </tr> <tr> <th>DESIGNED BY</th> <td>MM</td> </tr> <tr> <th>CHECKED BY</th> <td>MM</td> </tr> <tr> <th>DATE</th> <td>11-27</td> </tr> </table>	PROJECT NUMBER	071001	DATE	11-27	DESIGNED BY	MM	CHECKED BY	MM	DATE	11-27	<table border="1"> <tr> <th>PROJECT NUMBER</th> <td>071001</td> </tr> <tr> <th>DATE</th> <td>11-27</td> </tr> <tr> <th>DESIGNED BY</th> <td>MM</td> </tr> <tr> <th>CHECKED BY</th> <td>MM</td> </tr> <tr> <th>DATE</th> <td>11-27</td> </tr> </table>	PROJECT NUMBER	071001	DATE	11-27	DESIGNED BY	MM	CHECKED BY	MM	DATE	11-27
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