



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

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Date: December 19, 2008
To: Interested Person
From: Stephanie Beckman, Land Use Services
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NOTICE OF A TYPE IIX 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 08-155540 LDP

GENERAL INFORMATION

Applicant: Samuel Peia 503-310-1002
9347 SW 35th Ave
Portland, OR 97219

Representative: Deana Goldson 503-653-9093
4105 SE International Way, Suite 501
Milwaukie, OR 97222

Owner: Ovidiu & Emilia Gherasim
9343 SW 30th Ave
Portland, OR 97219-5561

Site Address: 9343 SW 30th Ave
Legal Description: EXC W 120' LOT 1, WERLOCK
Tax Account No.: R892300010
State ID No.: 1S1E29AC 00200 **Quarter Section:** 3926
Neighborhood: Markham, contact John Gibbon at 503-708-6708.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Zoning: R5 – Single Dwelling Residential 5,000
Other Designations: Potential Landslide Hazard Area
Case Type: LDP – Land Division Partition
Procedure: Type IIX, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing to divide the 21,400 square foot site to create 3 lots. The existing house will remain on Parcel 1 and will be 8,467 square feet. Parcel 2, proposed to be 6,845 square feet, and Parcel 3, proposed to be 6,174 square feet, will be available for new single-dwelling development. The existing driveway and garage will be removed and a new driveway is proposed for Parcel 1 from SW 30th Avenue. A shared driveway entry is proposed from SW Taylors Ferry for Parcels 2 and 3. Stormwater disposal from the site is proposed to SW Taylors Ferry. Sanitary sewer service is proposed from SW 30th via easement.

Relevant Approval Criteria:

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

33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

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). This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) two or three lots are proposed; and (3) the site is located within a Potential Landslide Hazard or Flood Hazard Area (see 33.660.110).

ANALYSIS

Site and Vicinity: The site is located at the intersection of SW 30th Avenue and SW Taylors Ferry Road. The area topography is flat to gently sloping and the surrounding neighborhood is characterized by single family residences on originally platted lots or on more recently subdivided properties.

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 October 28, 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.

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.

Criterion	Code Chapter	Topic	Applicability Findings
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 where the proposed density 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 on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
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 not proposed or required. The site is within the potential landslide hazard area, therefore there is no minimum density for the site. The maximum density for this site is as follows:

Maximum = 21,400 square feet ÷ 5,000 square feet = 4.28 (which rounds down to a maximum of 4 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):

	R5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2	Proposed Parcel 3
Minimum Lot Area	3,000 sq. ft.	8,467 sq.ft.	6,845 sq.ft.	6,174 sq.ft.
Maximum Lot Area	8,500 sq. ft.			
Minimum Lot Width*	36 ft.	60 ft.	64 ft.	41 ft.
Minimum Lot Depth	50 ft.	117 ft.	134 ft.	149 ft.
Minimum Front Lot Line	30 ft.	51 ft.	72 ft.	42 ft.

* Width is measured at the minimum front building setback line

With the conditions of approval described above, this criterion is therefore 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 and evaluates their condition (Exhibit A-3). Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species or are located partially off the property. The arborist has also reviewed and signed the tree preservation plan, which shows root protection zones for the trees to be preserved (Exhibit C.2). Please refer to the table in the Arborist report to identify the trees on the site.

The total non-exempt tree diameter on the site is 646 inches. The applicant proposes to preserve 13 trees, which comprise 233.5 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.

It should be noted that the building envelope is shown very close to tree protection fences on Parcel 3. Adequate space will need to be provided to allow for construction access, therefore that footprint may not be feasible. A note has been added to the plan.

This criterion is met, subject to the condition that development on Parcels 1, 2 & 3 be carried out in conformance with the Tree Preservation Plan (Exhibit C-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 criterion, the applicant has submitted a geotechnical evaluation of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A-2). 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 risk of potential landslide hazard at the site is relatively low, given the soil composition, topography, and other risk factors. 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. The geotechnical evaluation determined that the soils at the site are suitable for drywells or infiltration trenches as a method of stormwater disposal if professionally designed, however the Site Development Section of BDS does not recommend this due to soil type and setback issues. Otherwise, Site development found the report acceptable. 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 entire site is located in the Potential Landslide Hazard area. Therefore, the clearing and grading associated with preparation of the lots must occur in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed.

The applicant submitted a Preliminary Grading Plan (Exhibit C-3) that shows grading necessary for public street improvements and driveway installation. However, it has not been updated to match the revised tree protection plan. The Tree Protection Plan (Exhibit C-2) designates areas on the site where grading should not occur in order to protect the roots of the trees on the site that will be preserved. Additional trees may be protected on the clearing and grading plan, however certain conflicts such as the location of utility corridors must be accurately reflected. To ensure consistency at the permit stage, the grading plan needs to be updated to match the tree protection plan prior to final plat approval.

It is anticipated that the grading will primarily involve excavating for the foundations of the new houses, trenching for the utilities, and for the new driveways. No specific erosion concerns have been identified. A more specific erosion control plan in compliance with Title 10 will be required at the time of permit review. Stormwater runoff from the lots will be appropriately managed by flow through planters to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report). No clearing and grading will be permitted within the root protection zones of the trees on the site that are required to be preserved.

As shown above the clearing and grading anticipated to occur on the site can meet the approval criteria. At the time of building permit submittal, clearing, grading and erosion control plan will need to be submitted. The permit plans will be reviewed against the applicant's Landslide Hazard Study as well as any additional geotechnical information required at the time of permit submittal to assure that the grading will not create any erosion risks. In addition, the plans will be reviewed for compliance with the applicant's tree preservation plan and arborist report. With the condition that an updated clearing and grading plan that matches the final tree preservation be provided with the final plat, 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. The existing house is required to connect to the public sanitary sewer system and decommission the septic tank and drainfield. To ensure that the new lots are suitable for development, this work must take place prior to final plat approval. With this condition, 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 Reciprocal Access Easement is proposed to allow shared use of a driveway that will straddle the proposed lot line between Parcels 2 and 3;
- A Private Sanitary Sewer Easement is proposed across Parcels 1 and 2 for sanitary sewer lateral connections that will serve Parcels 2 and 3.

As stated in Section 33.636.100 of the Zoning Code, maintenance agreement 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 the 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 (easement name) has been recorded as document no. _____, Multnomah County Deed Records."

With the condition 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 166 feet of frontage on SW Taylors Ferry Road and 110 feet of frontage on SW 30th Avenue. SW Taylors Ferry Road is classified as a neighborhood collector,

community transit street, city bikeway, city walkway and major emergency response street in the Transportation System Plan. SW 30th is a local service street for all modes. Tri-Met provides transit service approximately 15 feet from the site on SW Taylors Ferry Road via bus 43. Parking is limited on SW Taylors Ferry Road because of roadside ditches. There is one driveway entering the site that currently provides access to off-street parking for the existing house.

Both SW Taylors Ferry Road and SW 30th Avenue are improved with a paved roadway. There are no curbs, planter strips, or sidewalks in this area. 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.

SW 30th Avenue: Because none of the other frontages have been improved on this street and there is limited development potential, Portland Transportation has determined that an isolated improvement at this location would not be meaningful. If the street is to be improved, it would be more appropriate to complete the improvements as one LID project. Therefore, the applicant will be required to sign street and storm sewer waivers of remonstrance for SW 30th (for participation in future street and storm sewer improvements) prior to final plat approval.

SW Taylors Ferry Road: Due to the classification of the street, pedestrian and bicycle improvements are needed to facilitate safe routes of travel for those modes. Portland Transportation has determined that under a separate street job permit, the applicant will be required to construct a 6-foot wide concrete pedestrian path separated from the roadway along SW Taylors Ferry Road adjacent to the site frontage. Permitting for this improvement must be initiated and contract/bond provided prior to final plat approval.

Due to the high traffic level on SW Taylors Ferry Road, Portland Transportation indicates that all vehicular ingress and egress must be in a forward motion. In addition vehicular access to Parcel 1 is limited to SW 30th Avenue. The applicant has provided a driveway plan for Parcels 2 and 3 that uses a shared driveway and turnaround area on each lot. This plan will require a reciprocal access easement to be shown on the plat. This criterion is met, with the conditions described 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 4-inch water main is available in SW Taylors Ferry Road to serve Parcels 2 and 3. Parcel 1 has an existing water service from a main in SW 30th that can continue. See Exhibit E-3 for more details.
- City plumbing records indicate that the existing house is connected to an onsite septic system and drainfield. The applicant must obtain a decommission permit and a plumbing permit to establish a new connection to the public sanitary sewer system prior to final plat. BDS Site Development and BES have reviewed the proposal for sanitary sewer service from SW 30th to Parcels 2 and 3 via easement over Parcels 1 and 2 and have raised no objections.
- 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.

The applicant has proposed the following stormwater management methods (Exhibit C-1), 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 install a separated pedestrian path on SW Taylors Ferry Road (discussed earlier in this report). BES has indicated that typically a pedestrian path can be constructed so this is slopes toward a vegetated area, but that a final determination regarding how stormwater will be managed must be made during the public works permitting process.
- **Parcels 1, 2 & 3:** BDS Site Development indicates that the storm system for the existing house to remain on Parcel 1 disposes water to ground and is unacceptable. A stormwater retrofit permit must be obtained and finalized to install a flow-through planter with disposal to the roadside ditch prior to final plat approval. As recommended by Site Development, stormwater from Parcels 2 and 3 will be directed to individual flow-through planters that will detain and treat the water prior to disposal to the roadside ditch on SW Taylors Ferry Road. Site Development has indicated conceptual approval of the flow-through planters. Bureau of Environmental Services has indicated that stormwater from the lots can only be directed to the existing ditch if ditch and culvert improvements are installed. These improvements include a culvert under SW 30th and ditch improvements along the north side of Taylors Ferry. These improvements must be done under a public works permit with plans and financial assurances (bond) provided 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.

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	Not applicable- No new dead-end street are proposed.
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	Not applicable – The proposal includes a common green/shared court/pedestrian connection instead of a traditional street.
33.654.120.C.3.c	Turnarounds	Not applicable – No turnarounds are proposed or required.
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	Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable – No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable – No partial public streets 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 on SW 30th Avenue, which is a north-south street that has the distance of approximately 260 feet and ends as a dead end street adjacent to U.S. Highway I-5, and SW Taylors Ferry Road, an east-west through street. There is no opportunity for a north-south through connection through this site due to the I-5 freeway located north of the site. The site is within the Portland Master Street Plan for the Southwest District. The Southwest Portland Master Street Plan shows no street connections or pedestrian connections for SW 30th Avenue. For the reasons described above, 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: Utilities are defined in the Zoning Code as telephone, cable, natural gas, electric, and telecommunication facilities. At this time no specific utility easements adjacent to the street tract or right-of-way have been identified as being necessary. Therefore, this criterion is 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.

Among the various development standards that will be applicable to these lots, the applicant should take note of:

- **Front yard paving:** A maximum of 40% of the area between the front lot line and front building line may be paved for vehicle areas (33.266.120.C.3)

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. 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 Zoning Code standard that relate to existing development on the site:

- Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. A paved parking pad/garage provides this required parking for the existing house on Parcel 1. In order to ensure that parking requirements continue to be met, a new parking space for the new houses must be constructed on Parcel 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of the new parking spaces will be required prior to final plat approval.
- Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, the accessory structure on Parcel 2 must be removed prior to final plat. Demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.

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 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 Policy B-1	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.

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:

- Required pedestrian path and stormwater improvements; and
- Tree preservation

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 standard lots as illustrated with Exhibits C.1-C.3, 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. A Private Reciprocal Access Easement shall be shown and labeled on the final plat to accommodate the shared driveway on Parcel 2 and Parcel 3. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. A Private Sanitary Sewer Easement, shall be shown over the relevant portions of Parcel 1 and Parcel 2 for the benefit of Parcels 2 & 3.
3. A recording block for each of the maintenance agreements required by Condition C.8 below. The recording blocks shall, at a minimum, include language substantially similar to the following example: *“A Declaration of Maintenance Agreement for the (name of easement) 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 sign street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) for SW 30th Avenue as required by the City Engineer. Waiver forms will be provided to the applicant during the final plat review process.
2. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of SW Taylors Ferry Road. The applicant shall provide plans and financial assurances to the satisfaction of the Bureau of Transportation Engineering and Development Review and the Bureau of Environmental Services for the required street frontage improvements.

Utilities

3. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for connecting the existing house to remain on Parcel 1 to the public sanitary sewer and decommissioning the existing septic system on the site. A plumbing

permit and decommissioning permit for this work must be finalized prior to final plat approval.

4. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the stormwater system for the house to remain on Parcel 1. A stormwater retrofit permit must be obtained and finalized to install a flow-through planter with disposal to the roadside ditch prior to final plat approval.

Existing Development

5. The applicant must obtain a finalized demolition permit for removing the garage on Parcel 2. Alternately, the applicant can execute a covenant with the City stating that the structures will be removed if a primary structure has not received final inspection on the lot(s) with the accessory structure(s) within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.
6. A parking space shall be installed on Parcel 1, in conformance with the applicable requirements of the Portland Zoning Code. A copy of the final inspection approval for a Zoning Permit shall be submitted, documenting that the parking space has been installed within the area to become Parcel 1 and the new parking space must also be shown on the supplemental plan. An application for a Land Use Review to waive or modify parking requirements may be submitted at the Development Services Center. If granted, a copy of the approved Land Use Review decision must be submitted prior to final plat.

Required Legal Documents

7. Maintenance Agreements shall be executed for the Private Reciprocal Access Easement and Private Sanitary Sewer Easement described in Conditions B.1 and B.2 above. The agreements shall include provisions assigning maintenance responsibilities for the easement areas 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.

Other

8. The applicant shall provide a clearing and grading plan that has been updated to be consistent with the approved tree protection plan (Exhibit C.2). Additional trees beyond those required to be preserved on Exhibit C.2 may be protected on the clearing and grading plan.

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

1. Development on Parcels 1, 2 & 3 shall be in conformance with the Tree Preservation Plan (Exhibit C.2). Specifically, 13 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. All vehicular ingress and egress from Parcels 2 and 3 shall be in a forward motion. Driveway access to the lots shall be constructed within the reciprocal access easements to be shown on the final plat.
3. Vehicular access to Parcel 1 is limited to SW 30th Avenue.

Decision rendered by: SBEEKMAN on December 16, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed December 19, 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 August 15, 2008, and was determined to be complete on October 20, 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 August 15, 2008.

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

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 January 9, 2009** 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. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. 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.**

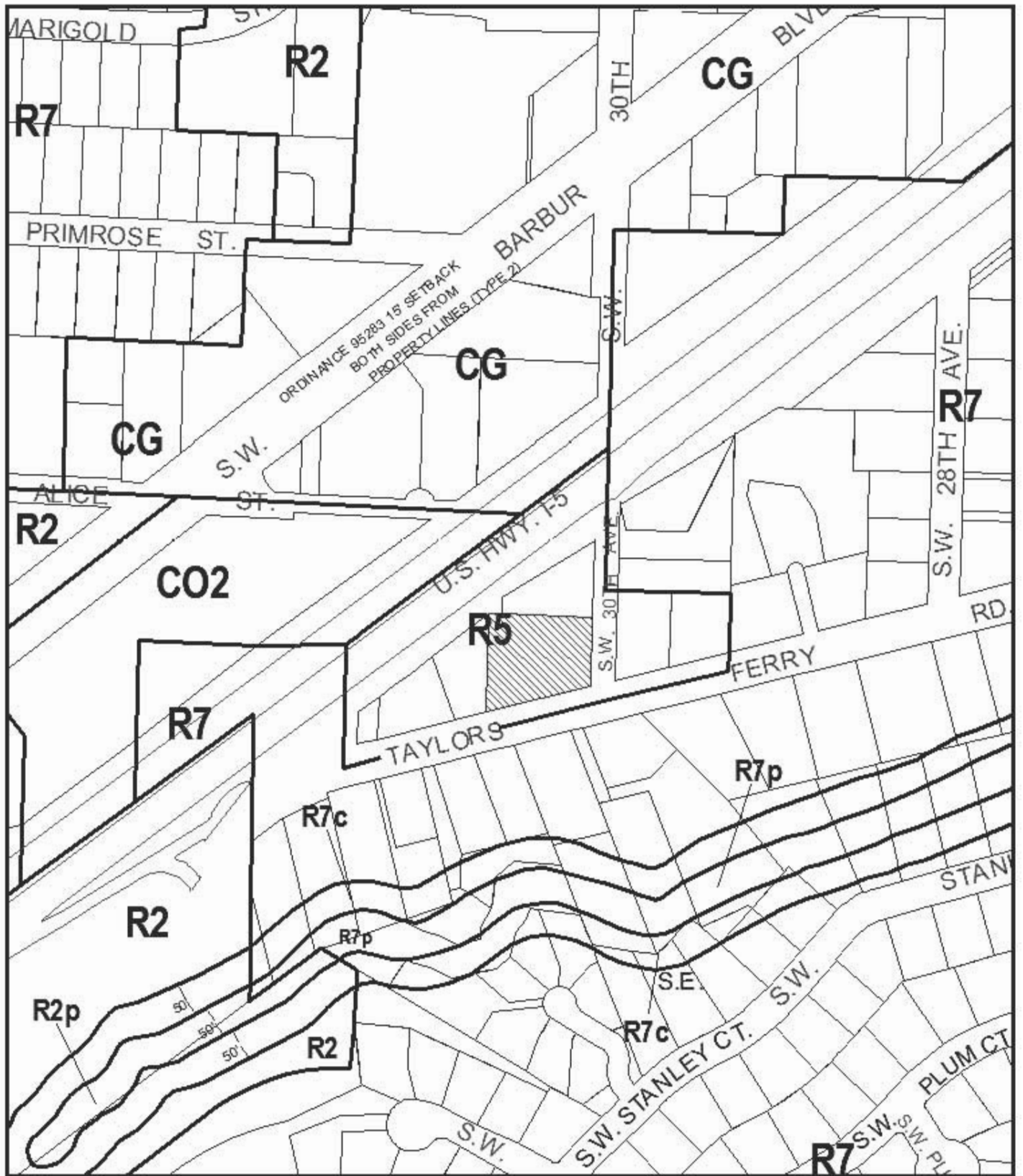
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative (dated 10/20/08)
 - 2. Landslide Hazard Study (dated 10/13/08)
 - 3. Arborist Report (inventory dated 3/1/08)
 - 4. Revised tree narrative and 12/18/08 email regarding tree preservation plan
 - 5. Original submittal
 - 6. 10/20/08 submittal
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Condition/Site Plan (attached)
 - 2. Tree Preservation Plan, 2 pages (attached)
 - 3. Utility and Grading 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
 - 8. ODOT
- F. Correspondence from interested parties (none received)
- G. Other:

1. Original LU Application
2. Incomplete Letter
3. Early Assistance summary

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).



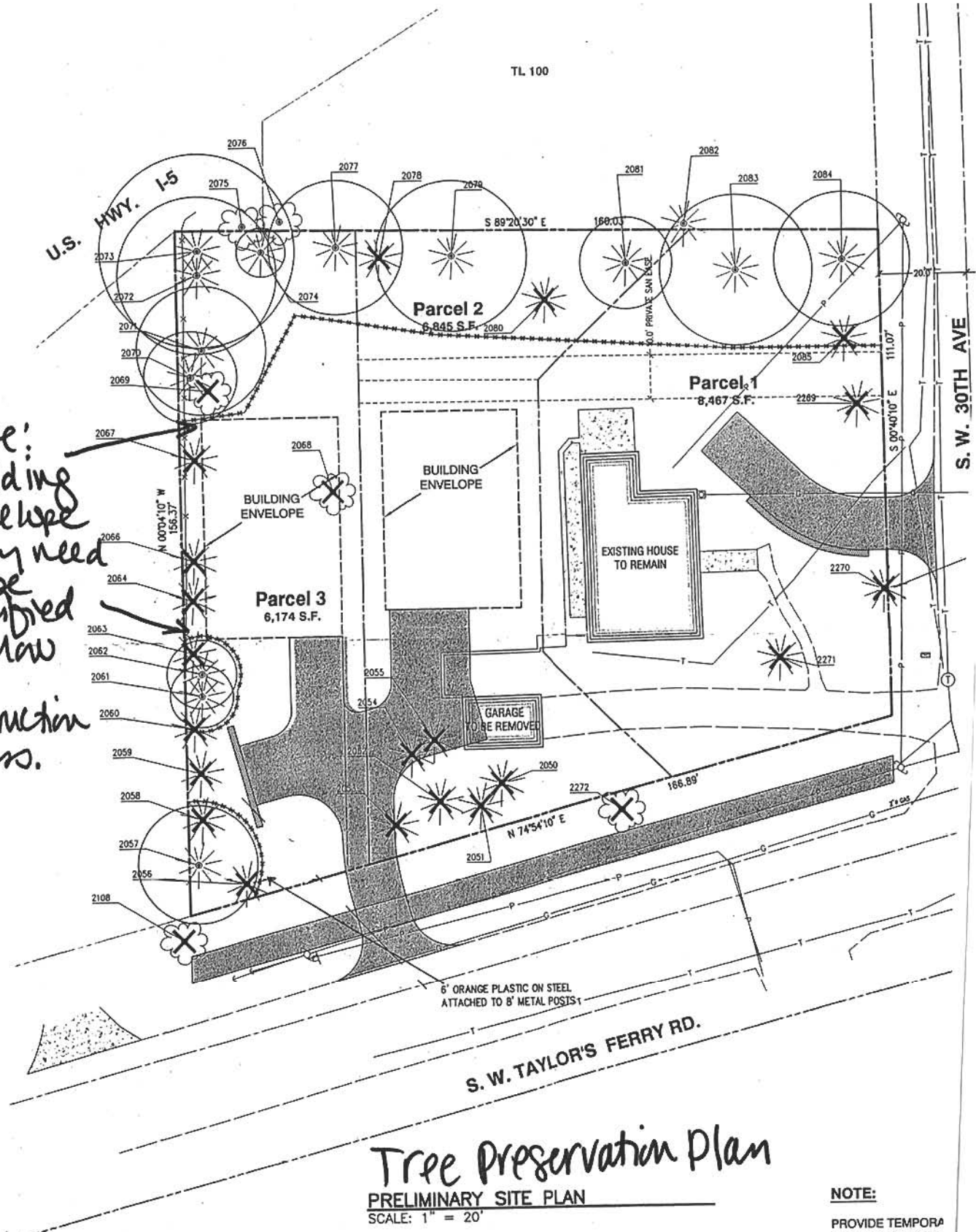
ZONING

 Site



File No.	<u>LU 08-155540 LDP</u>
1/4 Section	<u>3926</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E29AC 200</u>
Exhibit	<u>B</u> (Aug 20, 2008)

Note:
 Building
 envelope
 may need
 to be
 modified
 to allow
 for
 construction
 access.



Tree Preservation Plan

PRELIMINARY SITE PLAN
 SCALE: 1" = 20'

LM08-155540
 Ex. 6.2 (pg. 1)

NOTE:
 PROVIDE TEMPORARY
 OTHER PLANTS W/OUT
 CLEARING AND DEED
 TO TREES AND OTHER
 PRACTICAL, BUT IN
 LIMITS. FENCE SHOULD
 BE PLACED NO FURTHER
 FROM THE PROPERTY
 LINE THAN THE
 FENCE MAY BE USED

ED (TYP.)
OR
POWER LINE

Tree no.	Species	Diameter	Remove	Save	Significant
2050	DOUGLAS FIR	21.5"	X		X
2051	DOUGLAS FIR	23.0"	X		X
2052	DOUGLAS FIR	EXEMPT	X		EXEMPT
2053	DOUGLAS FIR	29.5"	X		X
2054	WESTERN LARCH	EXEMPT	X		EXEMPT
2055	WESTERN RED CEDAR	18.0"	X		X
2056	WESTERN RED CEDAR	EXEMPT	X		EXEMPT
2057	WESTERN RED CEDAR	18.0"		X	X
2058	DOUGLAS FIR	24.5"	X		X
2059	DOUGLAS FIR	22.5"	X		X
2060	WESTERN RED CEDAR	15.5"	X		X
2061	WESTERN RED CEDAR	9.5"		X	X
2062	WESTERN RED CEDAR	10.5"		X	X
2063	WESTERN RED CEDAR	32.0"	X		X
2064	WESTERN RED CEDAR	20.0"	X		X
2066	WESTERN RED CEDAR	16.0"	X		X
2067	DOUGLAS FIR	29.5"	X		X
2068	SWEETGUM	11.0"	X		X
2069	VARIEGATED ENGLISH HOLLY	EXEMPT	X		EXEMPT
2070	WESTERN RED CEDAR	14.0"		X	X
2071	DOUGLAS FIR	19.5"	X	X	X
2072	DOUGLAS FIR	24.0"		X	X
2073	WESTERN RED CEDAR	29.5"		X	X
2074	WESTERN RED CEDAR	7.5"		X	X
2075	BLACK CHERRY	EXEMPT		X	EXEMPT
2076	BLACK CHERRY	EXEMPT		X	EXEMPT
2077	DOUGLAS FIR	20.5"		X	X
2078	DOUGLAS FIR	EXEMPT	X		EXEMPT
2079	DOUGLAS FIR	23.0"		X	X
2080	DOUGLAS FIR	35.0"	X		X
2081	DOUGLAS FIR	14.0"		X	X
2082	DOUGLAS FIR	ex-17.5" off-site		X	X
2083	DOUGLAS FIR	23.0"		X	X
2084	DOUGLAS FIR	20.5"		X	X
2085	WESTERN RED CEDAR	29.5"	X		X
2108	ENGLISH LAUREL	EXEMPT	X		EXEMPT
2269	WESTERN RED CEDAR	40"	X		X
2270	WESTERN RED CEDAR	EXEMPT	X		EXEMPT
2271	BULL PINE	45.0"	X		X
2272	ENGLISH HOLLY	EXEMPT	X		EXEMPT

DS AS REQUIRED TO PROTECT TREES AND
3E. ERECT PRIOR TO COMMENCEMENT OF
AFTER ALL WORK POTENTIALLY INJURIOUS
ALL BE PLACED AS FAR FROM TREES AS IS
OT BEHIND REQUIRED CONSTRUCTION
CHAIN LINK FENCE ON STEEL POSTS
AND IN PLACE THROUGHOUT THE
-IE PCA. FOUR FOOT VISIBILITY PLASTIC
CTION, ON STEEL POSTS SIX FEET APART.

ORAGE, VEHICLE PARKING AND DRIVING
CE AREA. PROTECT ALL GROWTH
M: DUMPING OF REFUSE, CHEMICALLY
LS IN SOLUTION AND CONTINUAL

COMPACTION OF SOIL OVER ROOT SYSTEM.

as per consulting arborist.

362
646 Total
OPTION 1:
OF THE TOTAL TREE DIAMETER ON
THE SITE TO BE PRESERVED
13 trees preserved
233.5 inches
362

12/9/08 Per
Robert Manzany
RPZ shown on
plan were
reviewed and
approved.

Robert Manzany
ASCA
AMERICAN SOCIETY OF
CONSULTING ARBORISTS
Registered Consulting Arborist #133

11/10/08

PRINTED
NOV 10 2008

Tree Protection Plan

Three Lot Partition
9343 SW 30th Ave. - TL 200 T.1S., R1E., 29AC
Portland, Oregon

3
3

LM 08-155540 EX. C.2 (pg. 2)