



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

FROM CONCEPT TO CONSTRUCTION

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Date: February 3, 2014
To: Interested Person
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NOTICE OF A TYPE Ix 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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 775 Summer St NE, Suite 330, Salem, OR 97301-1283. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 13-201698 LDP

GENERAL INFORMATION

Applicant: Rob Humphrey / Faster Permits
14334 NW Eagleridge Lane / Portland, OR 97229

Owner: Vic Remmers / Everett Custom Homes Inc
735 SW 158th Avenue, Suite 180 / Beaverton, OR 97008

Site Address: 5830 SE Taylor Street

Legal Description: LOT 6, EDGEWOOD **Tax Account No.:** R238500160
State ID No.: 1S2E06AD 03300 **Quarter Section:** 3136
Neighborhood: Mt. Tabor, contact Stephanie Stewart at 503-230-9364.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Zoning: Residential 5,000 (R5)
Case Type: Land Division Partition (LDP)
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing to partition the subject property into two parcels and one open space tract of approximately 8,498 (Parcel 1), 6,474 (Parcel 2) and 1,028 (Tract A) square feet in size.

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

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

The applicant's proposal is to create 3 units of land (2 lots and 1 tract). Therefore this land division is considered a partition.

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

FACTS

Site and Vicinity: The site is located on the south side of SE Taylor Street approximately 320-feet west of the intersection with SE 60th Avenue. Existing development consists of a single family residence, designated as a historic landmark (Herman Vetter House), that will be retained within Parcel 1. The site is relatively flat and is situated above the existing street grade by approximately 3 to 5-feet. A Giant Sequoia, designated as a heritage tree (#307), is located on adjacent property to the west, addressed 5810 SE Taylor Street. The surrounding vicinity is primarily composed of single family homes with an R5 zoning designation. Mt Tabor Park is located approximately 1,000 feet east of the site.

Infrastructure:

- **Streets** – The site has approximately 100-feet of frontage on SE Taylor Street. There is one driveway entering the site that serves the existing house. At this location, SE Taylor Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 320-feet east of the site on SE 60th Avenue via Bus #71. At this location, SE Taylor Street is improved with a 32-foot paved roadway surface and pedestrian corridor that consists of an 8-foot planter, 6-foot sidewalk, and 2-foot setback to private property (8-6-2) within a 64-foot right-of-way.
- **Water Service** – There is an existing 6-inch CI water main in SE Taylor Street. The existing house is served by a 5/8-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch PVC public combination sewer main in SE Taylor Street. According to 1911 connection records the existing house is connected to the sewer through a lateral located 352-feet from the manhole to the west.

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 the following prior land use history for this site:

- **14-107486 CC:** The applicant applied for a zoning permit to install a replacement parking space for Parcel 1 prior to this decision being rendered. The permit was never approved to issue and the applicant started the work, which prompted a code compliance case. The proposed parking space does not trigger compliance with the regulations of the Historic Resource Overlay zone (33.445). As of the date of this decision, the applicant has achieved issuance for the permit and may proceed with the work.

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits "E" contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **October 31, 2013**. 15 written responses have been received from the Neighborhood Association or notified property owners in response to the proposal (F.1-F.15). The primary, relevant concerns expressed in the responses pertain to the historic designation of the property and a heritage tree located on the adjacent property to the west. Following is staff's response to the neighborhood concerns.

Staff Response:Historic Designation

The land division site is designated as a historic landmark (Herman Vetter House). Such designations are typically applied to the boundaries of the property in which the historic landmark resides. A division of the site to create a new parcel of land does not result in the alteration of the historic landmark boundary designation. Further, there is no land division approval criteria applicable to historic resources. Therefore, new development on proposed Parcel 2 would be subject to the regulations of the Historic Resource Overlay Zone (33.445) or the historic landmark boundary designation would need to be altered with the appropriate jurisdiction.

Heritage Tree

A Giant Sequoia, designated as a heritage tree (#307), is located on adjacent property to the west, addressed 5810 SE Taylor Street. As a result, the Urban Forestry division of Portland Parks and Recreation has required specific construction methods for new development on Parcel 2 in order to reduce any potential impacts to this tree. See findings associated with Clearing and Grading approval criteria in this report and Exhibit E.6 for further details.

ZONING CODE 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.*

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 criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.

	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

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 dimension requirements applicable in the RF through R5 zones. The applicant is proposing a 2-parcel partition that will result in two standards lots for detached houses. The minimum and maximum density for the site is as follows:

Minimum = (15,999 square feet * .80) ÷ 5000 square feet = 2.55 (which rounds up to a minimum of 3 lots, per 33.930.020.A)

Maximum = 15,999 ÷ 5,000 square feet = 3.19 (which rounds down to a maximum of 3 lots, per 33.930.020.B)

Per 33.610.100.E.1, if the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 2.

The required and proposed lot dimensions are shown in the following table:

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	8,498		58	160	58
Parcel 2	6,474		42	160	42

* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

The findings above show that the applicable density and lot dimension standards are met. Therefore, this criterion is met.

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

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.2). The arborist report has identified 34 trees, of which, 10 trees have been exempted as they are

either too small, a nuisance species, dead, or diseased in a manner that threatens continued viability. Thus, 24 non-exempt trees are subject to the preservation requirements of this chapter. These non-exempt trees comprise 319 inches in total diameter.

The applicant proposes to preserve trees #1 (37" western red-cedar), #5 (24" western red-cedar), #6 (10" western red-cedar), #7 (9" western red-cedar), #8 (21" western red-cedar), and #9 (10" western red-cedar), which comprise of 111 inches of diameter, or 35 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 non-exempt tree diameter on the site to be preserved. The trees to be preserved and the required root protection zones are shown on the applicant's arborist report (Exhibit A.2) and the Preliminary Site/Utility Plan (Exhibit C.4).

In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat.

This criterion is met, subject to the condition that development on Parcel 1 be carried out in conformance with the Preliminary Site/Utility Plan (Exhibit C.4) and the applicant's arborist report (Exhibit A.2) and an Acknowledgement of Tree Preservation Requirements is recorded with the final plat.

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

Findings:

Clearing and Grading

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 primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. Trees proposed for preservation are located on the east side of the existing house to remain on Parcel 1 outside of any areas where new development will occur. In addition, Urban Forestry has required specific construction methods in order to limit impacts to a Giant Sequoia, designated as a heritage tree (#307), that is located on adjacent property to the west, addressed 5810 SE Taylor Street (Exhibit E.6). These methods include:

- Locating the new single family residence on Parcel 2 40-feet south of the base of the heritage tree that is located on the adjacent property;
- All access for construction purposes must use the existing driveway on Parcel 2. Before equipment enters Parcel 2 a 12-18 inch layer of mulch or wood chips must be placed upon the length of the driveway;
- Chain link construction fencing shall be placed at the top of the slope on the eastern side of the existing driveway;
- All utilities associated with new development on Parcel 2 must be bored under the root system of the heritage tree;
- A tree protection plan, prepared by a Certified Arborist, must be submitted prior to Final Plat approval;
- All activities during construction shall be monitored by a privately hired Certified Arborist.

Subject to the conditions noted above, this criterion is met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new development, and this criterion is met.

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

Findings: The proposal includes an Open Space tract. The tract may be owned by the owners of the proposed lots or any other individual or group of people, a Homeowners Association, a public or private non-profit organization or the City or other jurisdiction. In this case, the applicant has proposed that the Open Space tract be owned by the owner of Parcel 1.

As stated in Section 33.636.100 of the Zoning Code, maintenance agreements will be required describing maintenance responsibilities for the tracts described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for (Open Space Tract) 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,

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services. PBOT's Analysis (Exhibit E.2) is quoted, in part, as follows:

The proposed land division will create 2 parcels from the current lot in order to accommodate 1 new detached single-dwelling residential home (the existing house on the site will be retained on Proposed Parcel 1). Referring to the ITE Trip Generation Manual, 9th Edition, there will be 1 new AM peak hour trip and 1 additional PM peak hour trip (10 additional total new daily trips) that may result from the development proposal on the site. The new peak hour trips will have minimal impacts to the area's nearby intersections and do not warrant any mitigation to said intersections. The intersections will continue to operate at current levels without further degradation from the vehicle trips generated by the proposed project factored into the analysis.

No significant negative impacts are expected to occur in relation to any of the other evaluation factors. The site is served by nearby transit service east of the subject site along SE 60th Ave (via Tri-Met route # 71 [60th Ave/ 122nd Ave]. There are existing sidewalk corridors throughout the vicinity that facilitate pedestrian travel. There are identified Shared Roadway bike facilities (Portland Bike/Walk Map) in the area along SE Yamhill, north of the subject site, SE Salmon, south of the subject site and along SE 55th Ave, west of the subject site.

With regard to impacts to on-street parking, the new residences that will be developed on the site will include on-site parking opportunities for at least one vehicle; a new parking

pad will be created on Proposed Parcel 1 to serve the existing house. A parking analysis was not prepared to determine existing and future on-street parking supply and demand in the area. However, the homes along SE Taylor are served by driveways/garages that accommodate on-site parking for at least one vehicle/lot. Further, there does not appear to be a current high demand for on-street parking in the immediate vicinity. There will continue to be numerous on-street parking spaces available to support the existing and proposed uses in the area, even with the new curb cut/driveway that will be necessary to serve as access for Proposed Parcel 2. With on-site parking opportunities for at least one vehicle on each of the proposed lots, on-street parking impacts will be minimized.

Given the area in which the site is located, the minimal increase in vehicle trips that will be generated by the proposed partition, and the classification of the street within the transportation system, PBOT expects that the transportation system will be able to support the existing development in the area as well as the proposed development.

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided. Therefore, this criterion is met.

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

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. Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

33.651 Water Service standard – See Exhibit E.3
The Water Bureau has indicated that service is available to the site from the 6-inch CI water main in SE Taylor Street, as noted on page 2 of this report. The water service standards of 33.651 have been verified. Therefore, this criterion is met.
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1
The Bureau of Environmental Services has indicated that service is available to the site from the 8-inch PVC public combination sewer main in SE Taylor Street, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified. Therefore, this criterion is met.
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant submitted a Simplified Approach stormwater report to address this approval criterion (Exhibit A.3) and has proposed the following stormwater management methods:
<ul style="list-style-type: none"> • Parcel 1 (the parcel with the existing house): The existing house has downspouts that discharge to splashblocks. The Bureau of Environmental Services has indicated that the existing splashblocks on the western elevation of the house meet required setbacks from the proposed property line. • Parcel 2: Stormwater from this lot will be directed to a drywell that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. The Bureau of Environmental

Services has indicated conceptual approval of the drywell based on infiltration test results of 3-inches per hour.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal (Exhibit E.2):

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The subject block is not consistent with the majority of the blocks in the immediate area that satisfy the aforementioned public street and pedestrian connection goals. The subject block is lengthier in the east-west direction and therefore does not meet the dimensional goals. However, providing a north-south public street or pedestrian connection would necessitate the demolition of one or more existing homes the have frontage along SE Salmon (back side of the subject site). These impacts do not make further connectivity through the subject site or block feasible. PBOT therefore has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition.

For the reasons described above, this criterion is met.

33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

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.

Future Development

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

- **Historic Resource:** The land division site is designated as a historic landmark. Such designations are typically applied to the boundaries of the property in which the historic landmark resides. A division of the site to create a new parcel of land does not result in the alteration of the historic landmark boundary designation. Therefore, new development on proposed Parcel 2 would be subject to historic resource review or the historic landmark boundary designation would need to be altered with the appropriate jurisdiction.

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. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (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 the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively,

existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 5 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.

- **Required Off-Street Parking** – In this zone, one parking space per dwelling unit is required. An unpaved driveway provides this required parking for the existing house on Parcel 1. As a result of this land division, the required parking space for the existing house will be located on a different lot. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Parcel 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.

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 and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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 must meet the requirements of the Fire Bureau in regards to fire flow/water supply, addressing of structures, and aerial Fire Department access roads. These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E.4).
- The applicant must meet the requirements of Urban Forestry regarding protection of a Giant Sequoia, designated as a heritage tree (#307), that is located on adjacent property to the west, addressed 5810 SE Taylor Street. This requirement is based on the standards of Title 20 (Exhibit E.6).

CONCLUSIONS

The applicant has proposed a 2 parcel partition and Open Space Tract, as shown on the attached preliminary plans (Exhibits C.1-C.5). 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: heritage tree and historic landmark designation. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition that will result in two standard lots and an Open Space Tract, as illustrated with Exhibits C.1-C.5, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use review and approval. 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;
- Compliance with the requirements of Urban Forestry, per conditions C.6 and D.3;
- The as-built location of a replacement parking space for Parcel 1, per condition C.3;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The Open Space tract shall be noted on the plat, substantially similar to the following example: "Tract A: Open Space. A note must also be provided on the plat indicating ownership and maintenance of the tract.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions C.4 and C.5 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."

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

1. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system on the site.
2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
3. 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 of a Zoning Permit shall be submitted, documenting that the parking space has been installed within the area to become Parcel 1. The new parking space must also be shown on the supplemental plan.
4. The applicant shall execute a Maintenance Agreement for the Open Space tract described in Condition B.1 above. The agreements shall include provisions assigning maintenance responsibilities for the tracts and any shared facilities within these areas, consistent with the purpose of the tracts, and all applicable City Code standards. The

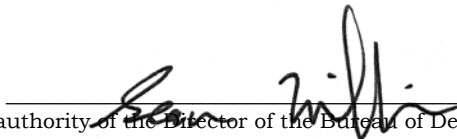
agreements must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

5. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcel 1. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.
6. The applicant shall submit a tree protection plan, prepared by a Certified Arborist, to the satisfaction of Urban Forestry.

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

1. Development on Parcel 1 shall be in conformance with the Preliminary Site/Utility Plan (Exhibit C.4) and the applicant's arborist report (Exhibit A.2). Specifically, trees #1 (37" western red-cedar), #5 (24" western red-cedar), #6 (10" western red-cedar), #7 (9" western red-cedar), #8 (21" western red-cedar), and #9 (10" western red-cedar) are required to be preserved, with the root protection zones indicated on Exhibit C.4. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.
3. The applicant shall meet the following requirements of Urban Forestry for development on Parcels 1 and 2:
 - Locating the new single family residence on Parcel 2 40-feet south of the base of the heritage tree that is located on adjacent property to the west (5810 SE Taylor Street);
 - All access for construction purposes must use the existing driveway on Parcel 2. Before equipment enters Parcel 2 a 12-18 inch layer of mulch or wood chips must be placed upon the length of the driveway;
 - Chain link construction fencing shall be placed at the top of the slope on the eastern side of the existing driveway;
 - All utilities associated with new development on Parcel 2 must be bored under the root system of the heritage tree;
 - All activities during construction shall be monitored by a privately hired Certified Arborist.
4. Development on Parcel 2 is subject to the regulations of the Historic Resource Overlay Zone (33.445) or the historic landmark boundary designation would need to be altered with the appropriate jurisdiction to remove the property from the designation boundary.
5. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2. The location of the sign must be shown on the building permit.

Staff Planner: Sean Williams

Decision rendered by:  **on January 30, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: February 3, 2014

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 September 6, 2013, and was determined to be complete on October 28, 2013.

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 September 6, 2013.

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. Unless further extended by the applicant, **the 120 days will expire on: February 25, 2014.**

Some of the information contained in this report was provided by the applicant.

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

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

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

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, 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.portlandonline.com.

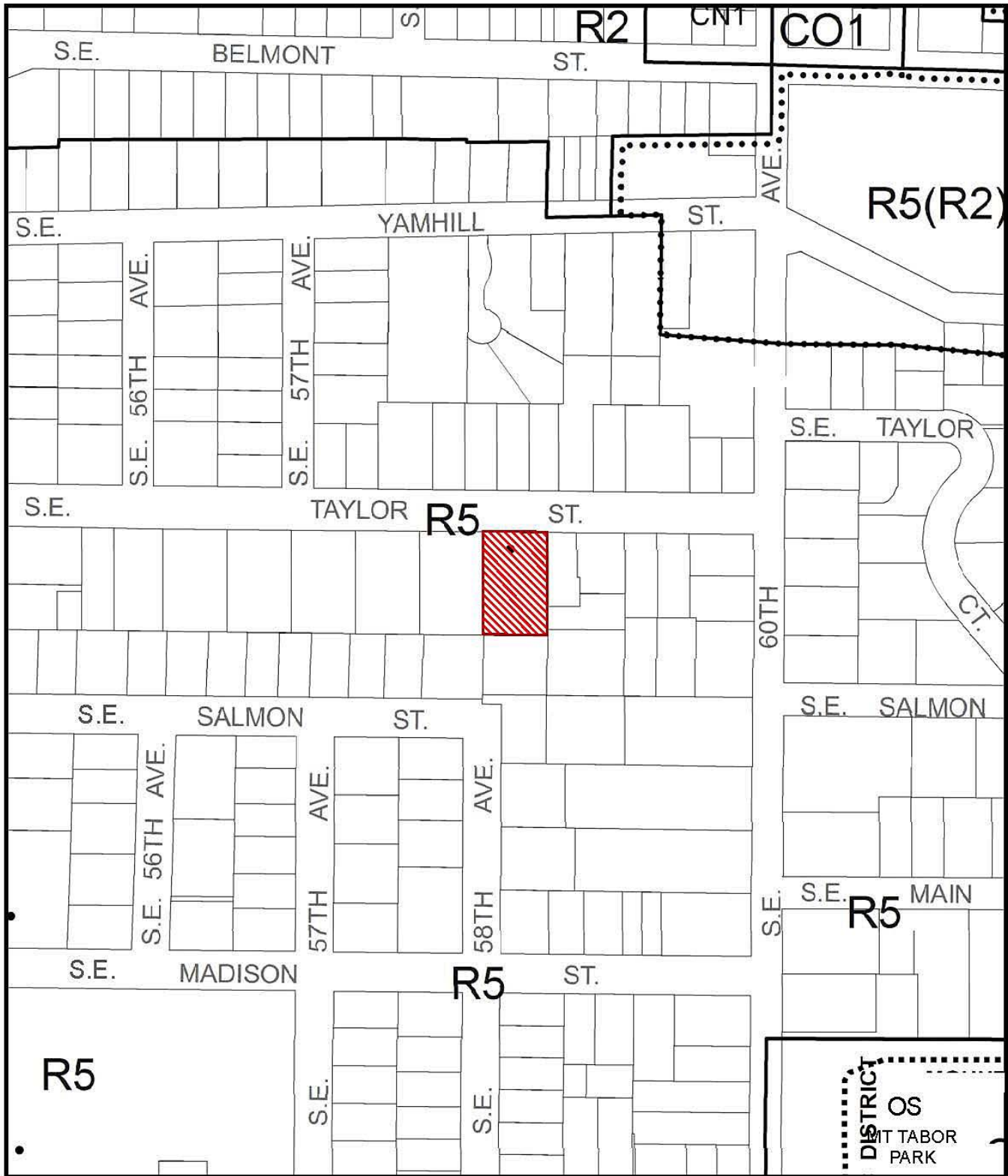
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Application narrative
 - 2. Arborist report
 - 3. Simplified approach stormwater report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Cover Sheet
 - 2. Existing Conditions
 - 3. Preliminary Plat (attached)
 - 4. Preliminary Site/Utility Plan (attached)
 - 5. Preliminary 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 Plans Examiner
- F. Correspondence:
 - 1. Stephanie Stewart, MTNA LU Chair
 - 2. Dennis & Ann McCarthy
 - 3. Midge Pierce
 - 4. Todd Kuhns & Margaret Bichteler
 - 5. Ruth Heller & Suzanne Stockard
 - 6. Elizabeth Johnston
 - 7. Sarah Booth
 - 8. Michael & Jeanne Pulscak
 - 9. Jackie Dela Cruz & Cuong Nguyen
 - 10. John Cava
 - 11. John Gaddis
 - 12. Art Balk
 - 13. Lisa Cox
 - 14. Melissa Gaddis
 - 15. Patrick B Johnston
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter w/ RFC Responses

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



Site



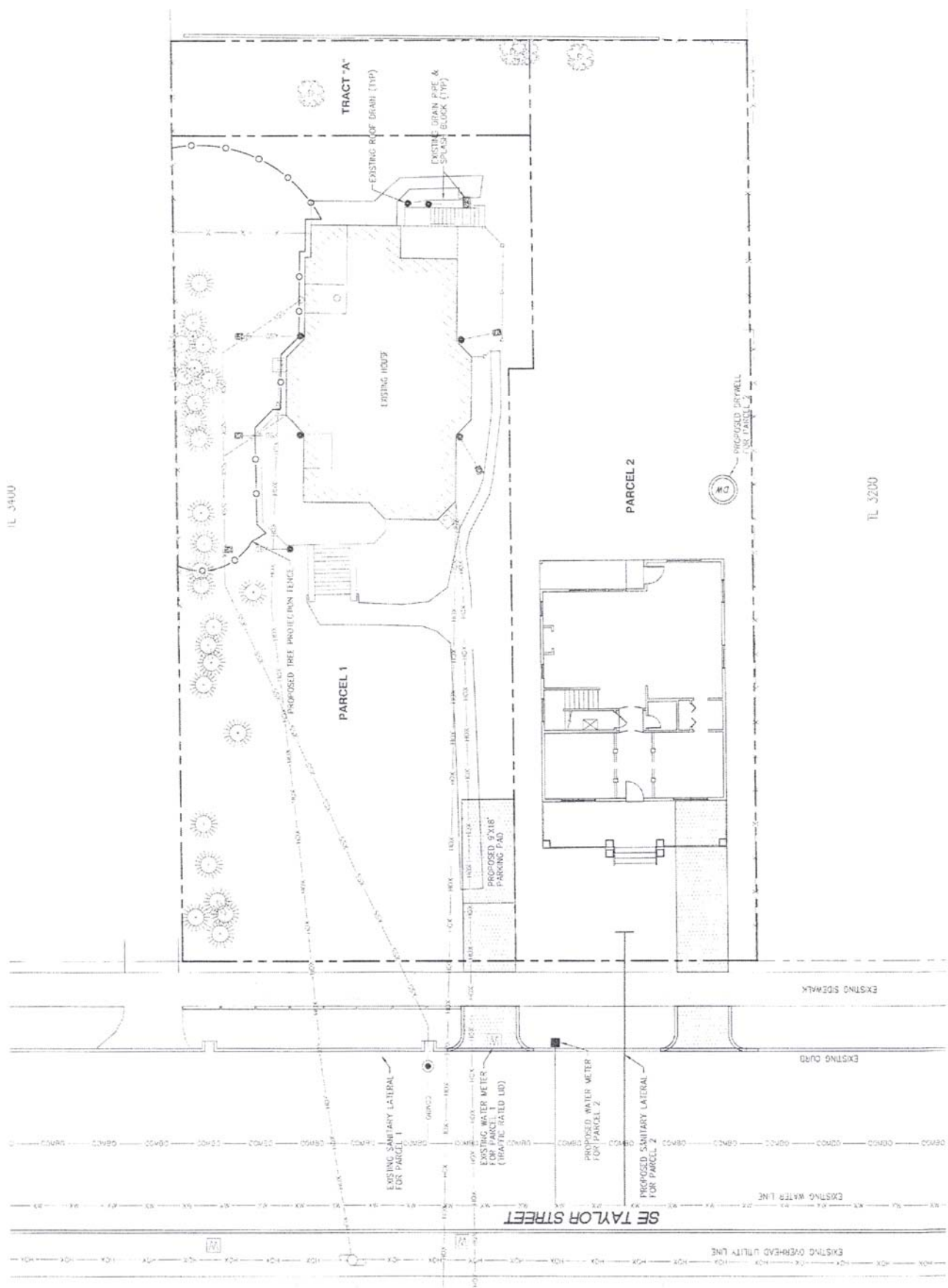
Historic Landmark



File No. LU 13-201698 LDP
 1/4 Section 3136
 Scale 1 inch = 200 feet
 State_Id 1S2E06AD 3300
 Exhibit B (Sep 11, 2013)

IL 3400

IL 3200



CASE NO. 13-201698
 EXHIBIT C.4