



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** June 14, 2012  
**To:** Interested Person  
**From:** Marisol Caron, Land Use Services  
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**NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

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

**CASE FILE NUMBER: LU 12-114857 LDP**

**GENERAL INFORMATION**

**Applicant:** Kevin Partain,  
Urban Visions  
223 NE 56th Avenue  
Portland, OR 97213  
503-421-2967

**Owner (Primary):** Diane C Mcallister,  
1903 SE Harney St  
Portland, OR 97202

**Contract Purchasers:** Cat Mc Adam,  
1903 SE Harney Street  
Portland, OR 97202

Larry Sparks,  
1903 SE Harney Street  
Portland, OR 97202

**Site Address:** 1903 SE HARNEY STREET

**Legal Description:** BLOCK 98, LOT 10, SELLWOOD  
**Tax Account No.:** R752716750  
**State ID No.:** 1S1E23DD 8800  
**Quarter Section:** 3832

**Neighborhood:** Sellwood-Moreland, contact Ellen Burr at 503-234-2233.  
**Business District:** Sellwood-Westmoreland, contact Chuck Martin at 503-230-9401.  
**District Coalition:** Southeast Uplift, contact Leah Hyman at 503-232-0010.

**Plan District:** None

**Zoning:** R2.5ad: Single-dwelling Residential 2,500 (R2.5)  
Alternative Design Density Overlay Zone (a)  
Design Overlay Zone (d)

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

**Proposal:** The applicant proposes a land division to partition the existing 5,005 square-foot site into two parcels for detached housing. Both parcels are approximately 50 feet wide by 50 feet deep. Parcel 1 is proposed to be 2,507 square feet in area and Parcel 2 is proposed to be 2,498 square feet in area.

The existing house is proposed to remain on Parcel 1, maintaining frontage on SE 19<sup>th</sup> Avenue and SE Harney Street and retaining the existing water, sanitary sewer and vehicle access to the parcel. Proposed Parcel 2 will have frontage on SE Harney Street, with vehicle access, water and sanitary sewer services from this street. Vehicle access for the two parcels is proposed from the existing approach and curb cut on SE Harney Street. The site contains three trees that are subject to the land division tree preservation requirements. A tree preservation plan has been provided in which the applicant proposes to meet Option 1 of the Tree Preservation Standards, preserving at least 35 percent of the total non-exempt tree diameter on site. Specifically, a 17-inch cherry tree in the northwest corner of the site is proposed to be preserved. The applicant has proposed on-site stormwater infiltration for Parcel 2.

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units of land. 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**.

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. This application was submitted on February 24, 2012 and determined to be complete on April 25, 2012.

## **FACTS**

**Site and Vicinity:** The subject site is a 5,005 square foot corner lot at the intersection of SE 19<sup>th</sup> Avenue and SE Harney Street. Existing improvements consist of a single family dwelling that will be retained within proposed Parcel 1. The existing house faces SE Harney Street, which slopes down gently to the east. Six trees were identified within the land division site, three of which are subject to tree preservation standards.

The subject site is located one block east of SE 17<sup>th</sup> Avenue, a neighborhood scale commercial corridor. The surrounding area is characterized by primarily single-dwelling development in the immediate vicinity. The properties that abut SE Harney Street on this block consist of four single family homes, two duplexes and the Sellwood Community Garden is situated at the east end of the block. A triplex sits on the corner site diagonal from the subject site at SE 19<sup>th</sup> Avenue and SE Harney Street.

**Infrastructure:**

- **Streets** – The site has approximately 50 feet of frontage on SE 19th Avenue and 100 feet of frontage on SE Harney Street. There is one driveway from SE Harney Street that serves the existing house on the site. At this location, both streets are classified as a Local Service Streets for all modes in the TSP. Tri-Met provides transit service approximately 570 feet from the site at SE 17<sup>th</sup> Avenue via Bus 70.

SE 19<sup>th</sup> Avenue has a 32-foot curb to curb paved surface within a 60-foot right-of-way with parking allowed on both sides of the street. Along the 50-foot wide site frontage, the pedestrian corridor includes a 6-foot wide curb-tight sidewalk and an 8-foot wide frontage zone at the back of the sidewalk (0-6-8 configuration), for a total width of 14 feet.

SE Harney Street has a 24-foot curb to curb paved surface within a 60-foot right-of-way with parking allowed on both sides of the street. Along the 100-foot wide site frontage, the pedestrian corridor includes an 11-foot wide curb and planter frontage zone, a 5-foot wide sidewalk and an 2-foot wide frontage zone at the back of the sidewalk (11-5-2 configuration), for a total width of 18 feet.

- **Water Service** – There is an existing 6-inch CI water main in SE Harney Street. The existing house is served by a 5/8-inch metered service from the main.
- **Sanitary Service** - There is an existing 30-inch RCP public combination sewer line in SE 19<sup>th</sup> Avenue and a 15-inch CSP public sanitary-only sewer located in SE Harney.

**Zoning:** The R2.5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

The "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is not using any of the provisions of the "a" overlay.

The "d" overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development must meet the Community Design Standards (Chapter 33.218) or is subject to design review.

**Land Use History:** City records indicate there are no prior land use reviews for this site.

**Agency Review:** Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Please see Exhibits "E" for details.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **May 1, 2012**. One written response was received from a notified property owner in response to the proposal. The letter expressed concern that, although density goals are met, the proposed future development of Parcel 2 will not take neighborhood scale and character into consideration, with particular reference to a towering effect, disregard of sight-lines and solar access. The letter included images of recent development in the neighborhood by the builder to illustrate her concerns.

*Staff response:* The applicable approval criteria for this partition are addressed below. While the applicant is not required to provide specific building plans at the land division stage, the applicant has provided a conceptual building footprint for Parcel 2 that demonstrates that the Zoning Code required building setbacks can be met. At the time of building permit submittal for future development on Parcel 2, the permit plans must demonstrate that all of the development standards for the R2.5 zone are met, including height, setbacks and outdoor areas. Additionally, because the site is located within a design

overlay zone (d-overlay), development will need to be designed to meet the objective design standards of 33.218, Community Design Standards, or be reviewed through the design review (land use review) process.

## 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: <u>Not applicable</u> 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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supersedes 33.639).
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.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 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. The applicant is proposing 2 parcels, suitable for detached single-family residential development.

Density Standards: 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, no street is being created and the site is not within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for this site is as follows:

Maximum = 2 units, based on the following:  
 $5,005 \text{ square feet (site area)} \div 1 \text{ unit}/2,500 \text{ square feet} = 2$

Minimum = 1 unit, based on the following:  
 $5,000 \text{ square feet (site area)} * (.80) \div 1 \text{ unit}/5,000 \text{ square feet} = .8 \text{ units (which rounds to a minimum of 1 unit, per 33.930.020.A)}$

The applicant is proposing 2 parcels. The density standards are therefore met.

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

	<b>R2.5 Zone Requirement</b>	<b>Proposed Parcel 1</b>	<b>Proposed Parcel 2</b>
Minimum Lot Area (square feet)	1,600	2,507	2,498
Maximum Lot Area (square feet)	NA		
Minimum Lot Width* (feet)	36	50.10	49.90
Minimum Lot Depth (feet)	40	50.04	50.06
Minimum Front Lot Line (feet)	30	50.10	49.90

\* 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.

An arborist report was submitted that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.4). Trees 193, 194 and 196 have been exempted because they either a nuisance species or are located within 10 feet of an existing structure to remain on the property. Tree number 195 is proposed to be retained to meet tree preservation requirements.

The total non-exempt tree diameter on the site is 31 inches. The applicant proposes to preserve tree number 195, which is 17 inches in diameter, or 55 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved tree and the required root protection zone (Exhibit C.1).

In order to ensure that future owners of Parcel 1 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 Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.4) 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 parcels developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. 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. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

**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:

<p><b>33.651 Water Service standard</b> - See Exhibit E.3 for detailed bureau comments.</p> <p>The water standards of 33.651 have been verified. Water is available to serve the proposed development from the water main in SE Harney Street. Parcel 1 has an existing water service from that main.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> - See Exhibit E.1 for detailed comments.</p> <p>The sanitary sewer standards of 33.652 have been verified. There is an existing 30-inch public sanitary sewer located in SE 19<sup>th</sup> Avenue that can serve the sanitary needs of Parcel 1. Parcel 1 has an existing sewer service from that main. There is an existing 15-inch public sanitary sewer located in SE Harney Street that can serve the sanitary needs of Parcel 2.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibit E.1 for detailed comments.</p> <p>BES has verified that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods</p> <ul style="list-style-type: none"> <li>• <b>Parcel 2:</b> Stormwater from this lot will be directed to an individual soakage trench 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. BES has indicated conceptual approval of the soakage trench.</li> <li>• <b>Parcel 1 (the parcel with the existing house):</b> The existing house has downspouts that</li> </ul>

discharge to the combination sewer in SE 19<sup>th</sup> Avenue. Per BES analysis, stormwater runoff from Parcel 1 will not affect Parcel 2.

**33.654.110.B.1 -Through streets and pedestrian connections**  
**33.654.130.B - Extension of existing public dead-end streets & pedestrian connections**  
**33.654.130.C - Future extension of proposed dead-end streets & pedestrian connections**  
 See Exhibit E.2 for detailed comments.

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. This is a corner lot location and the block on which the subject property is located meets the noted spacing requirements.

**33.641 – Transportation Impacts – 33.641.020 and 33.641.030**  
**33.654.120.B & C Width and elements of the street right-of-way**  
**33.654.130.D Partial Rights of way**  
 See Exhibit E.2 & E.7 for detailed comments.

Based on the available evidence, PBOT estimates that the increase in daily trips will be less than 10 total trips per day (based on the eventual addition of one new dwelling unit), with the majority of trips occurring during non-peak hours (according to *Institute of Transportation Engineers – Trip Generation Manual, 8th ed.*). Other considerations in determining potential impacts include the overall area being substantially improved with sidewalks in all directions, as well as the availability of alternative modes of transportation (Tri-Met) located less than 600-feet from the subject property. In consideration of the limited increase in traffic which is anticipated to result from this proposal, and the availability of alternative routes and modes of access to and from the subject site, it is reasonably anticipated by PBOT staff (including registered traffic engineers), that the minimal increase to the existing transportation system facilities and capacity from this proposed minor partition will not create a significant impact. A Transportation Study is not required at this time.

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case, Portland Transportation has determined that the existing sidewalk corridors along SE 19th Avenue and SE Harney Street do not meet the recommended Portland Pedestrian Design Guidelines. However, due to the large fir trees within the SE Harney Street planter area and the length of frontage for transition back into the existing sidewalk pattern on SE 19th Avenue, the applicant requested a Public Works Administrative Appeal for relief from meeting the recommended City Standards for frontage improvements. The appeal, PW 12-122877, was granted with the condition that the applicant plant street trees in the public right-of-way behind the existing sidewalk located on SE 19th Ave, per the City Forester's recommendation. The City Forester evaluated the site conditions and right-of-way configuration on SE 19th Avenue and has determined no street trees will be required along the SE 19th Avenue right-of-way, due to crowding from existing trees that will be preserved on site and on the SE Harney Street right-of-way. As such, no additional street trees will be required along the SE 19th Avenue right-of-way.

**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.

## **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 Parcel 2, the applicant should take note of:

- Design overlay zone – new development within the design overlay zone must either be designed to meet the Community Design Standards of Section 33.218, or must be reviewed via a Design Review land use review.

**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 with any development standard applicable in the R2.5 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 is one Zoning Code standard that relates 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 currently provides this required parking for the existing house on Parcel 1. As a result of this land division, a portion of the required parking space for the existing house would be located on Parcel 2. In order to ensure that parking requirements continue to be met, the existing parking space must be reconfigured so that the required on-site parking space is located entirely on Parcel 1, per 33.266.120.D, prior to final plat approval. As shown on the Preliminary Plan, an access easement over Parcel 2 for the benefit of Parcel 1 is required and must be shown on the final plat. Permits must be obtained to construct the parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.

With the condition 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.

<b>Bureau</b>	<b>Code Authority and Topic</b>	<b>Contact Information</b>
Water Bureau	Title 21 - Water availability	503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements, ensuring adequate hydrant flow from the nearest fire hydrant, and aerial fire department access roads. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1. *See Exhibit E.4 for detailed comments.*
- The applicant must meet the requirements of Urban Forestry for protection of existing street trees in the existing planter strip adjacent to Parcel 1. A written permit is required to remove, destroy, cut, break or injure any tree of any size in or upon any street, park, or public area. This requirement is based on the standards of Title 20. *See Exhibit E.7 for detailed comments.*

## CONCLUSIONS

The applicant has proposed a 2-parcel 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:

- Reconfiguration of on-site parking for Parcel 1
- On-site tree preservation
- Preservation of street trees on SE Harney Street

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 parcels, as illustrated with Exhibit C.1, subject to the following conditions:

### A. The final plat must show the following:

1. An Access Easement to provide driveway access to Parcel 1 shall be shown and labeled on the final plat, extending over the driveway area located on Parcel 2 to benefit Parcel 1. The easement shall allow use of this area for all of the purposes that a driveway would be typically used for.
2. A recording block for each of the legal documents, a maintenance agreement and an Acknowledgement of Tree Preservation Requirements, as required by Conditions B.3 and B.4 below. The recording blocks shall, at a minimum, include language substantially similar to the following examples:

“A Declaration of Maintenance Agreement for an Access Easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”, and

“An Acknowledgement of Tree Preservation Requirements has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”

### B. The following must occur prior to Final Plat approval:

#### Utilities

1. 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.

**Existing Development**

2. 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.

**Required Legal Documents**

3. A Maintenance Agreement shall be executed for the Access Easement described in Condition A.1, above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
4. 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.

**C. 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 Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.4). Specifically, tree numbered 195 is required to be preserved, with the root protection zone indicated on Exhibit C.1. 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 meet the addressing requirements of the Fire Bureau for Parcel 2. The location of the sign must be shown on the building permit.
3. 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.
4. All right-of-way trees must be protected. A written permit from the City Forester is required to remove, destroy, cut, break or injure any tree of any size in or upon any street, park, or public area as detailed in Title 20.40.090.D.

**Staff Planner: Marisol Caron****Decision rendered by:**  **on June 8, 2012.**

By authority of the Director of the Bureau of Development Services

**Decision mailed on June 14, 2012.****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 February 24, 2012, and was determined to be complete on April 25, 2012.

*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 February 24, 2012.

*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: August 23, 2012.**

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

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

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

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

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

The file and all evidence on this case 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](http://www.portlandonline.com).

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

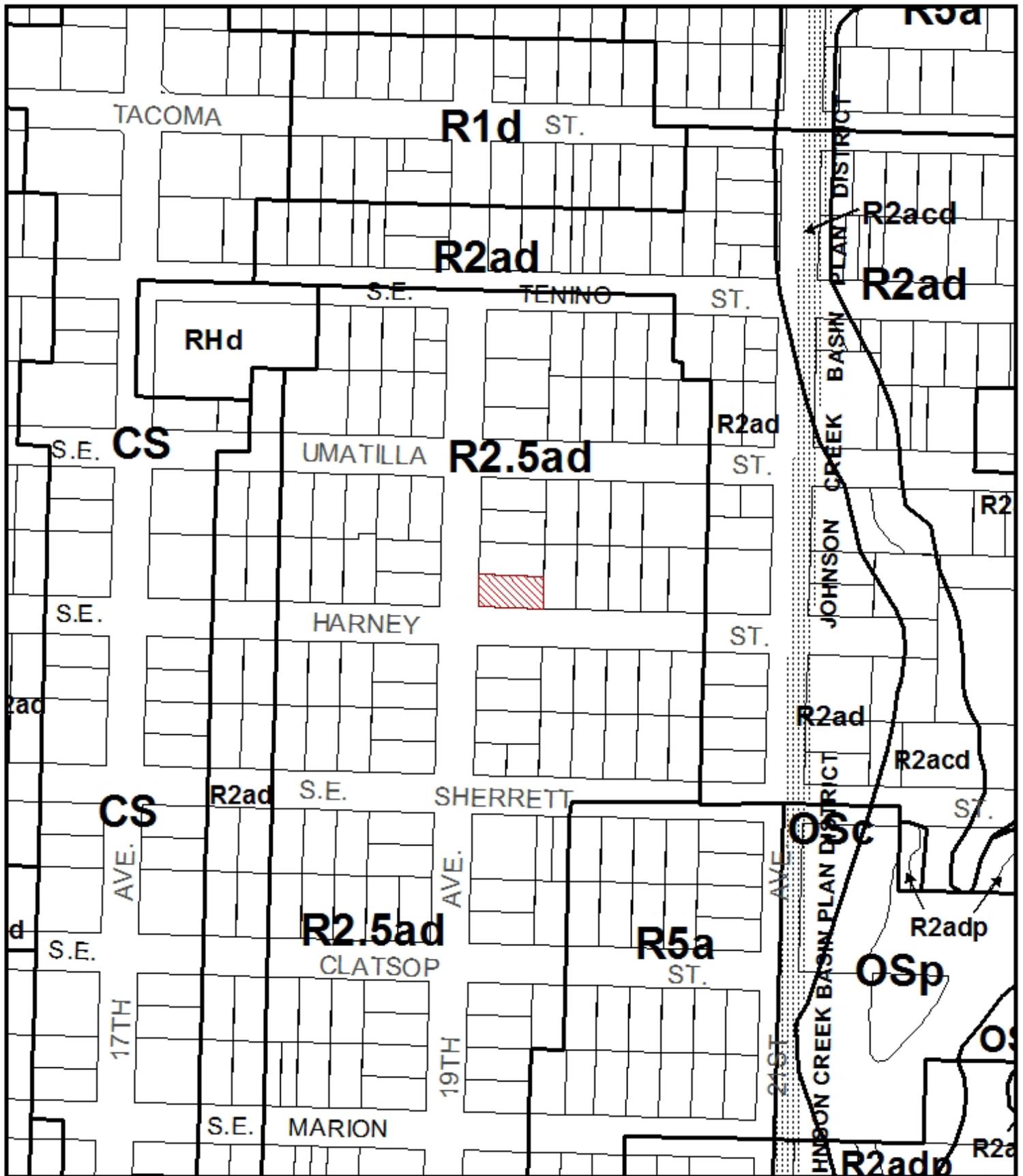
**a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. February 24, 2012 – Narrative and original submittal
  - 2. April 12, 2012 - Response to Incomplete Letter
  - 3. Stormwater Report
  - 4. Arborist Report
  - 5. April 19, 2012 – Response and revised plan
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions and Preliminary Plan (attached)
  - 2. Utility 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. Life Safety Review Section of BDS
  - 7. Bureau of Parks, Forestry Division
- F. Correspondence:
  - 1. Linda Silver, May 31, 2012, concerns regarding future development that will not be in keeping with neighborhood scale and character.
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Incomplete Letter

**The Bureau of Development Services is committed to providing equal access to information and hearings. 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



NORTH

File No.	LU 12-114857 LDP
1/4 Section	3832
Scale	1 inch = 200 feet
State_Id	1S1E23DD 8800
Exhibit	B (Feb 28, 2012)

**EXISTING CONDITIONS, TREE SURVEY AND TENTATIVE PLAN FOR PROPOSED PARTITION PLAT LOT 10, BLOCK 98, TOWN OF SELLWOOD PER DOCUMENT NO. 1997-113466**

SITUATED IN THE SE 1/4 OF SECTION 23, T.1S., R.1E., W.M. CITY OF PORTLAND MULTNOMAH CO., OREGON

**MARY ASSOCIATES**  
18615 E. BURNSIDE STREET  
PORTLAND, OR 97233  
TEL: 503-667-5550  
FAX: 503-666-8666  
EMAIL: DALE@MARYASSOCIATES.NET

DATE DRAWN: FEBRUARY 7, 2012  
DRAWING NO. 120075XC2  
ACCOUNT NO. 12007  
REVISED: MARCH 15, 2012  
REVISED: APRIL 10, 2012  
REVISED: APRIL 24, 2012

**PARCEL DATA**  
LOT 10, BLOCK 98, TOWN OF SELLWOOD, MULTNOMAH COUNTY PLAT RECORDS  
RECORDED AS DOCUMENT NO. 1997-113466

**BRANCH MARKS**  
"M" DENOTES EXISTING WATER LINE  
"W" DENOTES PROPOSED WATER LINE  
"P" DENOTES PROPOSED SEWER LINE  
"S" DENOTES EXISTING SANITARY SEWER LINE  
"SS" DENOTES EXISTING STORM SEWER LINE  
"W" DENOTES EXISTING WATER LINE  
"P" DENOTES PROPOSED WATER LINE  
"S" DENOTES PROPOSED SEWER LINE  
"M" DENOTES WATER METER  
"P" DENOTES POWER POLE  
"M" DENOTES MANHOLE  
"S" DENOTES 1.5" x 2.5" CLWB INLET  
"S" DENOTES EXISTING SANITARY SEWER LINE  
"SS" DENOTES EXISTING STORM SEWER LINE  
"W" DENOTES EXISTING WATER LINE  
"P" DENOTES PROPOSED WATER LINE  
"S" DENOTES PROPOSED SEWER LINE  
"M" DENOTES WATER METER  
"P" DENOTES DOWNPOUT THAT CONNECTS TO COMBINATION SEWER

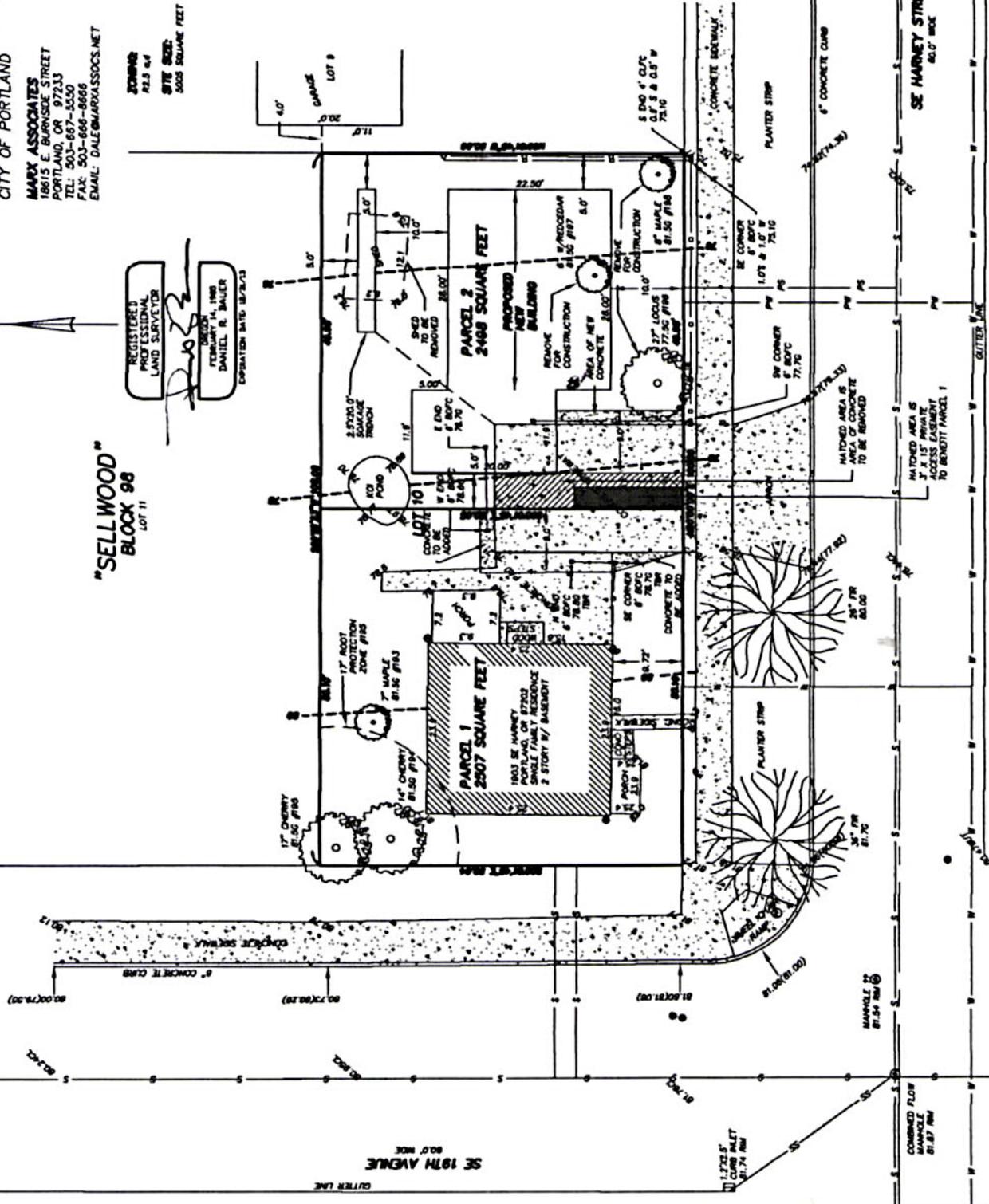
"123.45" DENOTES SPOT ELEVATION (ELEVATION IS AT DECIMAL POINT OR TIP OF LEADER)  
"123.450" DENOTES GROUND ELEVATION AT OBJECT  
"123.45(123.05)" DENOTES TOP OF CURB ELEVATION (GUTTER ELEVATION) (ELEVATION IS AT DECIMAL POINT OF TOP OF CURB OR TIP OF LEADER)  
"123.450" DENOTES CENTERLINE ELEVATION (ELEVATION IS AT DECIMAL POINT)  
"123.450(1)" DENOTES GUTTER ELEVATION (ELEVATION IS AT DECIMAL POINT)  
"BVC" DENOTES BOARD FENCE  
"E" DENOTES BOARD FENCE  
"C/L" DENOTES CHAIN LINK FENCE  
"O" DENOTES CHAIN LINK FENCE  
"TM" DENOTES TO BE REMOVED

NOTE: UTILITY LINE LOCATIONS ARE FROM CITY OF PORTLAND AS-BUILT ACTUAL LINE LOCATIONS SHOULD BE FIELD LOCATED BEFORE CONSTRUCTION DOWNSPOUTS CONNECTED TO COMBINATION SEWER CROSSING OTHERWISE ON PARCEL 2 OUTSIDE OF PROPOSED ACCESS EASEMENT WILL BE REMOVED

SCALE 1"=10'

REGISTERED PROFESSIONAL LAND SURVEYOR  
DANIEL R. BAUER  
OPERATION DATE: 10/28/13

"SELLWOOD"  
BLOCK 98  
LOT 11



LV12-114857 LDP

Exhibit C.1