



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** March 3, 2014  
**To:** Interested Person  
**From:** Rachel Whiteside, Land Use Services  
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## **NOTICE OF A TYPE II<sub>x</sub> 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. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 13-168165 LDS**

#### **GENERAL INFORMATION**

**Applicant:** Kevin Partain / Urban Visions  
223 NE 56th Ave / Portland, OR 97213

**Owners:** Charles and Toni Stalsberg, Robert Schroeder, & Laurie Wall  
1441 SE 58th Ave / Portland, OR 97215-2729

**Site Address:** 5901 SE Belmont St, 5843 SE Belmont St

**Legal Description:** TL 7800 0.35 ACRES, SECTION 06 1S 2E; TL 7900 0.41 ACRES, SECTION 06 1S 2E

**Tax Account No.:** R992060950, R992060960 **Quarter Section:** 3136

**State ID No.:** 1S2E06AA 07800, 1S2E06AA 07900

**Neighborhood:** Mt. Tabor, contact Stephanie Stewart at 503-230-9364.

**Business District:** Belmont Business Association, contact Katie Meyer at 503-360-7814.

**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.

**Zoning:** R5 – Single-Dwelling Residential, R2 – Multi-Dwelling Residential

**Case Type:** LDS – Land Division (Subdivision)

**Procedure:** Type II<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant is proposing to subdivide the split-zoned 32,670-square foot site into 5 lots and a shared court within a private street tract. Proposed lots range in size from 4,550 square feet to 6,872 square feet. The street tract includes a turnaround, open area, tree wells, and alternative paving material that acts as a shared vehicle and pedestrian zone.

A utility plan was provided that shows the location of all utilities. There are existing water and sanitary sewer mains in SE Belmont Street that can serve the site. Individual connections to these mains are proposed within the private street, Tract A. Stormwater from the roofs of future homes will be disposed onsite in individual drywells. The shared court will be constructed of a pervious material to allow stormwater to infiltrate into the ground. The applicant notes that emergency overflow from the shared court will be to SE Belmont Street where stormwater is currently direct to the public storm system.

Two existing homes are located at the front of the project site. These are proposed to remain on Lots 4 and 5. Much of the remaining site was covered in unmanaged landscaping and trees. The property owners were recently cited for a tree cutting violation by the Urban Forester. The remaining trees on site vary in size and quality. A total of 151 inches of tree diameter are subject to the preservation requirements. The applicant proposes to meet Tree Preservation Option 1 by preserving at least 35 percent of the non-exempt tree diameter. Any mitigation trees required by the Urban Forester are not subject to this review, but also may not be approved for removal by this review.

This subdivision proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) four to ten dwelling units are proposed, not including accessory dwelling units (see 33.660.110).

**RELEVANT APPROVAL CRITERIA:**

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. 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 SE Belmont Street between SE 58<sup>th</sup> and 60<sup>th</sup> Avenues. The site is comprised on two lots, each currently developed with a single-family house and detached garage near the fronts of the lots. The uphill rear portion of the site contains many trees. The area generally slopes downhill to the north and west.

The site is split-zoned with multi-dwelling R2 zoning at the front along SE Belmont and single-family R5 at the back. The surrounding area includes a mixture of single-family, multi-dwelling, and small commercial/office development. Multi-family development is more prominent along the arterial streets – SE Belmont and 60<sup>th</sup> Avenue, with more single-dwelling development further away from this intersection. There is a group living skilled nursing care facility located southeast of the site at SE 60<sup>th</sup> and Belmont. A YMCA preschool facility is located roughly 340 feet to the north at SE 60<sup>th</sup> and Stark. Mt. Tabor Park is approximately 1,000 feet to the southeast.

**Infrastructure:**

- **Streets** – The site has approximately 143 feet of frontage on SE Belmont Street. There are two driveways entering the site that serve the existing homes. At this location, SE Belmont is classified as a Neighborhood Collector, Major Transit Priority Street, City Bikeway, City Walkway, Major Emergency Response Street, and a Local Service Street for all other modes. It is a 60-foot wide right-of-way improved with a 36-foot roadway and 12-foot sidewalk corridors along both sides. The 4-6-2 configuration includes a 4-foot planter, 6-foot sidewalk, and 2-foot reserve.

Tri-Met provides transit service on SE Belmont Street via Bus #15 and along SE 60<sup>th</sup> Avenue via Bus #71.

- **Water Service** – There is an existing 8-inch CI water main in SE Belmont Street. The existing houses are served by separate 5/8-inch metered services from this main.
- **Sanitary Service** - There is an existing 10-inch VSP public combination sewer line in SE Belmont Street. Both existing houses connect to this main.

**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. The R2 designation is one of the City's multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

**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. Exhibits “E” contain the complete responses.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **September 17, 2013**. One written response has been received from a notified property owner in response to the proposal. This letter (Exhibit F.1) raised concerns about additional rental properties in the neighborhood and impacts to on-street parking and traffic. *Traffic and on-street parking impacts have been addressed by the Portland Bureau of Transportation (PBOT) later in this report. The City does not regulate owner-occupancy, nor is this a requirement for a land division.*

## 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	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
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.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.D - Common Greens	No common greens are 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.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:** This site is split-zoned R2 and R5. Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. And Chapter 33.610 contains

the requirements applicable in the RF through R5 zones. Single-dwelling development is proposed for the entire site, therefore the proposed lots in the R2 portion of the site must meet minimum density and not exceed the maximum density stated in Table 120-3. Minimum density in the R2 zone is one unit per 2,500 square feet and the maximum density is one unit per 2,000 square feet. Site area devoted to streets is subtracted from the total R2 site area in order to calculate the minimum and maximum density. A new street is proposed in a tract that includes 2,543 square feet in the R2 zone. Therefore the resulting area for calculating density on the R2 portion is 11,633 square feet. The R2 portion of the site has a minimum required density of 5 units and a maximum density of 5 units.

The R2 portion of the site is currently developed with 2 units, making it a nonconforming residential density. Reducing the site area by creating a street tract through the R2 zone brings the site closer to conformance with density requirements. As documented in the table, below, proposed Lots 4 and 5 are large enough to accommodate the additional allowed density and still meet the dimensional requirements for a duplex or multi-dwelling lot. Density will be applied at the time of redevelopment based upon the lot sizes.

For single-dwelling zones, 15 percent of the site area is removed before calculating density, regardless of the size of the street tract. The area within the R5 zone is 19,112 square feet. Therefore, maximum density on the R5 portion is 3 units. Where minimum density is equal to maximum density, minimum density is automatically reduced by one. Therefore, the minimum density is 2 units on the R5 portion of the site. The applicant is proposing 3 single family lots in the R5 zone. The density standards are therefore met.

The R2 lot dimensions required and proposed are shown in the following table:

<b>R2</b>	<b>Minimum lot area (square feet)</b>	<b>Minimum lot width (feet)</b>	<b>Minimum lot depth (feet)</b>	<b>Minimum front lot line (feet)</b>
<b>Multi Dwelling</b>	4,000	33	70	30
<b>Attached Houses</b>	1,600	15	none	15
<b>Detached Houses</b>	1,600	25	none	25
<b>Duplexes</b>	2,000	33	50	30
Lot 4 – existing detached house	6,476	64.9	99.7	64.9
Lot 5 – existing detached house	5,166	51.7	99.8	51.7

\* Width is measured from the midpoints of opposite lot lines.

The R5 lot dimensions required and proposed are shown in the following table:

	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>
<b>R5 Zone</b>	3,000	8,500	36	50	30
Lot 1	4,606		48	96	48
Lot 2	4,320		45	96	45
Lot 3	6,594		49	96	52.85

\* 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 arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.2). Five trees have been exempted because they are unhealthy or a nuisance species. Ten trees are subject to the preservation requirements of this chapter.

An additional 10 trees are identified in the arborist report (M1-M10) that are mitigation trees required by the City Forester in response to a tree cutting violation that occurred prior to receipt of this land division request. These trees are too small to qualify for preservation under Chapter 33.630, however they are still required to be preserved to meet the resolution of the tree cutting violation under City Code 20.42 and should be shown on the Tree Preservation Plan.

The total non-exempt tree diameter on the site is 151 inches. The applicant proposes to preserve Trees 207, 209, 210, 221 and 228, which comprise of 73 inches of diameter, or 48.3 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 Tree Preservation/Removal 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. A final Tree Preservation plan must be supplied at the time of final plat that identifies all trees to remain on the site (Trees 207, 209, 210, 221, 228, and M1-M10).

This criterion is met, subject to the condition that development on Lots 1-3 and 5 be carried out in conformance with the applicant's arborist report (Exhibit A.2) and a final Tree Preservation Plan to be supplied at the time of final plat 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 has moderate slope (approximately 7-12%). Extensive grading is required for a new private street and slope stabilization measures. 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 has submitted a Preliminary Clearing and Grading Plan (Exhibit C.2) that depicts the proposed work, including existing and proposed elevation contours, soil stockpile areas, and sediment control measures. The plan fails to accommodate the root protection zones of trees to be preserved, per the applicant's Tree Preservation Plan. The applicant's arborist report also fails to provide construction management recommendations for the trees on the site that will be preserved. For these reasons, the applicant must provide a Final Clearing and Grading Plan at the time of final plat review that includes tree protection measures for all trees to remain on site. Additionally, the applicant must provide an arborist report that specifically addresses root protection measures, activities prohibited within recommended root protection zones, and any allowed exceptions.

The proposed clearing and grading shown on Exhibit C.2 includes grading of the street areas, as well as the lots, to allow the applicant to conduct the majority of the clearing and grading on the site at one time. This will help manage erosion and sedimentation concerns, assure that the necessary tree protection measures are in place before the grading begins and limit the disturbance on the adjacent properties. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater will be appropriately managed by individual drywells on the vacant lots and pervious pavement in the private street. BES has indicated that an engineered design to accommodate under-pavement water retention will be necessary to avoid ponding of stormwater at the base of the street. This design will be reviewed with the Site Development permit for the private street prior to final plat approval.

As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street and mass grading. The permit application must include a final clearing and grading plan, that must be consistent with the preliminary clearing and grading plan approved with the land division. With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan except where modifications are necessary to accommodate tree preservation, 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 only has moderate slopes and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

**Findings:** One tract is proposed for the private street – Tract A: Private Street (Name of Street) and Public Utility Easement. No easements are proposed and/or required for this land division.

With a condition that the proposed tract be owned in common by the owners of Lots 1 through 5 or a Homeowner's Association, Criterion A can be met.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the tract 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 (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."*

With the condition of approval discussed above, Criterion B is met.

### **I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.**

**Findings:** The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

Lots 1-3 are on the north side of an east-west oriented T-shaped turnaround and are considered interior lots (not on a corner). In this context there is no preference that any one lot be wider or narrower than the other lots. Lots 4 and 5, while currently developed with single-

dwelling development are sized for redevelopment as multi-dwelling lots which are not subject to this criterion. This criterion is therefore 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 (PBOT) reviews 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.

The applicant provided a traffic analysis prepared by Main Street Engineering (Exhibit A.7) documenting that transportation facilities are adequate to serve the new lots in addition to existing uses in the area. PBOT has reviewed and concurs with the information supplied, the methodology, assumptions and conclusions made by the applicant's traffic consultant. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. These criteria are 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:

<b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.
The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.
<b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for bureau comments.
The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The applicant has proposed to provide individual sanitary connections for Lots 1-3 through Tract A. BES has no objection to this configuration as long as the final plat identifies that the private sanitary laterals will share the private street Tract. With such a condition, the sanitary sewer service standards of 33.652 have been verified.
<b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1 & E.5
No stormwater tract is proposed or required. Therefore, criterion A is not applicable.
BES reviews stormwater management facilities on private property for the feasibility of infiltration, pollution reduction, flow control, and off-site discharges. The Site Development Section of BDS determines if stormwater infiltration on private property is feasible when slopes on or near the site present landside or erosion related concerns, or where proximity to buildings might cause structural problems.
The applicant provided a Presumptive Approach infiltration test report from Rapid Soil Solutions (Exhibit A.14). The report includes tested infiltration rates of 6-inches per hour at 4 feet and 14-inches per hour at 8 feet deep. BES has reviewed this report and made the following comments regarding the proposed onsite infiltration by means of drywells for each new house and pervious pavement from the private street:
<ul style="list-style-type: none"> <li>▪ <b>Proposed Lots:</b> The drywells are shown to be constructed on the steepest portion of the lot (4:1 slope) and just south of the private street. At time of building permit, per the requirements of the Stormwater Management Manual (SWMM), the applicant will be required to provide a geotechnical report that provides recommendations from the geotechnical engineer regarding the location and depth of the proposed infiltration facilities. Deep excavation may be necessary for the construction of the drywells. The</li> </ul>

Oregon Department of Environmental Quality (DEQ) regulates underground injection control (UIC) facilities to protect groundwater. Drywells and soakage trenches are examples of UICs. It is the applicant's responsibility to register all on-site UICs with DEQ, as appropriate.

- **Private Street:** The pervious pavement is proposed to be on a 5% slope down the length of the 130-foot private street. To avoid ponding of stormwater at the base of the street, the applicant will be required to provide an engineered design, per the SWMM, to accommodate under-pavement water retention.
- **Lots with existing development:** Based on the provided plans, downspouts from the houses and garage are either connected to the combination sewer or infiltrate in the vicinity of the downspout. The provided plan is consistent with the City of Portland plumbing records. The proposed property lines do not appear to conflict with the existing houses/lots being able to meet current infiltration setbacks.

BES has no objections to the proposed stormwater management approach for the purposes of land use review; these criteria are met.

### **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 block on which the subject property is located does not meet the noted spacing requirements in the east-west direction by 10 feet. However, there are significant obstacles to creating a new north-south through street in the vicinity of the site. There is a large apartment complex in the middle of the block north of the subject site. On the far north of the block, there is a private north-south street mid block. For these reasons, a new north-south public street is not feasible.

The block also does not meet the noted spacing requirement in the north-south direction. A pedestrian connection across the north end of the site would be ideal, but again, there are significant obstacles to an east-west connection in the vicinity of the site. Lots at the east and west edges of the block may be further divided unless a dedication for a public street or pedestrian connection is required. Then both sites are below the size required to divide. There are large, well-maintained homes at 736 SE 58<sup>th</sup> Avenue and 805 SE 60<sup>th</sup> Avenue that would affect a direct alignment of a pedestrian connection in the vicinity of the project site. In this case, a pedestrian connection at the north end of the site would just barely meet the recommended minimum spacing and would likely not be completed to the east and west directions for the reasons stated above. Therefore, a new east-west public connection is not practicable.

Finally, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. For the reasons described above, this criterion is met.

### **33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones.**

### **33.654.130.C Future extension of proposed dead-end streets & pedestrian connections**

The proposal includes a private dead-end street and pedestrian connection, which will be located in the new private street tract. As discussed under the findings for through streets above, a new public north-south through street is not required for this proposal. The private dead-end street will serve only 5 dwelling units (with a maximum potential of 8 units) and it is approximately 115 feet in length from the frontage along SE Belmont Street to the center of the T-shaped turn-around. This criterion is met.

There is no practicable opportunity to provide a through connection from the site, so there is no need to extend the proposed street to the northern boundary of the site. The properties to the west and east of the site appear to have potential to further divide under current zoning. The site to the west has sufficient frontage on an existing street to provide access to the interior of the property. Therefore, there is no need for this site to extend a street to the west property boundary. The site to the east would not be eligible to further divide once area was subtracted out to extend a street or turnaround onto the site. Therefore, it is not necessary to extend a street to the east property boundary. For the reasons state, this criterion is met.

### **33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for comments**



**Public right-of-way:** The applicant has provided a limited traffic study prepared by Main Street Engineering (Exhibit A.7) documenting that transportation facilities are adequate to serve the new lots in addition to existing uses in the area. The current City standard for a City Walkway is a 4.5-6-1.5 configuration. As noted on page 2 of this report, the existing pedestrian corridor along SE Belmont Street is within one foot of this standard. The furnishing zone is only 3.5 feet instead of the required 4 feet. New administrative rules allow the existing sidewalk corridor to remain if all the elements are within one foot of the current standards.

As discussed below, a new private street is proposed to run up the middle of the site. The curb cut serving existing development on Lot 5 does not meet the minimum 25-foot setback from property lines abutting an intersection. Therefore, as a condition of approval, Lot 5 must take vehicle access from the new private street. A driveway providing access to the new private street from Lot 5 must be shown on the plans for the private street site development permit. These plans must also show the closing of the existing driveway for Lot 5 on SE Belmont Street. This condition can only be amended if the applicant obtains approval of a PBOT Design Exception prior to final plat approval.

**Private right-of-way:** The *Administrative Rules for Private Rights of Way* are the standards that govern the construction of private streets. These rules recommend a roadway width of 28 feet for dead-end streets less than 300 feet long, serving 4 or more lots. This width will provide room for two travel lanes and parking on one side. Additional tract width is required to accommodate a sidewalk, street trees, stormwater facilities, and setbacks. The applicant has proposed a 25.5-foot wide tract, terminating in a T-shaped turn-around, as sufficient to accommodate the expected users.

In this case, the applicant has proposed on-street parking in a bay at the end of the hammerhead turnaround. This allows the roadway width to be reduced to 20 feet for a street that serves as a fire access road. The Fire Bureau also accepts the proposed 18-foot roadway with 1-foot mountable curbs as an alternative to 20 feet with standard curbs. The applicant received approval through a building code appeal (ID 10335) to reduce the setbacks at the edges of the street improvements based upon the fact that the street is internal to the site, so construction will not impact adjacent properties.

A 5-foot sidewalk, meeting pedestrian walkway planning rule and standard is proposed to extend up the west side of the street and around the hammerhead, connecting the parking bay to the lots. Only one parking space is required because the site is located within 500 feet of frequent service transit, as noted on page 2 of this report. The applicant has only proposed one parking space, however the tract width would allow for two parking space at the west end of the turnaround. One possible conflict to providing a second parking space may be the location of trees to be preserved. BDS would support two parking spaces within the private street tract, if the arborist determined that a second space could be accommodated without causing damage to trees identified for preservation. With a revised arborist report documenting there would not be a conflict, a second parking space may be added at the time of permit review for the private street.

The applicant has proposed using pervious pavement for the entire length of the private street. This eliminates the need for a linear swale next to the road surface, but also eliminates a potential location for required street trees. The applicant has proposed to utilize the exception to planting street trees when trees are planted in the front yard of each lot, within 5 feet of the street tract. A covenant or similar legal mechanism must be recorded with the final plat guarantee trees will be planted at the time of development. Because two of the proposed lots have existing development, trees on these lots will need to be shown on the Site Development permit for the private street and installed prior to final inspection.

The proposed tract width is sufficient to accommodate the elements of a street that are adequate for 5 lots by the *Administrative Rules* governing private streets. With the conditions of approval described above, this criterion is met.

**33.654.120.C.3.c. Approval criterion for turnarounds.**

A hammer-head turnaround is proposed at the terminus of the private street tract. In this case, the hammer-head is more of a T-shape to accommodate a parking bay at the west end of the turnaround. The configuration of the turnaround has been reviewed by the Site Development Section of the Bureau of Development Services. Site Development has indicated that the size and configuration of the turn-around are adequate to provide safe vehicular and bicycle movement for the 5 new lots that will use private street. A sidewalk is required along one side of the street that extends all the way around the turn-around, which will provide for safe and convenient pedestrian access along the private street and from the interior of the land division to the abutting sidewalk along the frontage of SE Belmont Street. The proposed street tract has been sized to provide adequate room for the turn-around. 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.

**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.

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Lots 4 and 5. 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 R2 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:

- Minimum Setbacks – The existing houses and detached garages 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 garage at 5843 SE Belmont Street will be 5 feet from the new property line, with the house further west. The existing house at 5901 SE Belmont Street will be 5 feet from the new property line, with a detached garage further east. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.

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

**OTHER TECHNICAL REQUIREMENTS**

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

<b>Bureau</b>	<b>Code Authority and Topic</b>
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	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 is required to make improvements for the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; posting of "No Parking" signs in the private street; ensuring hydrant spacing and adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; providing an Emergency Vehicle Access Easement over the private street tract; recording a maintenance agreement for the private street that details the responsible parties for maintenance and "no parking" signs; fire apparatus access, including aerial access; and documenting the private street meets grade limitations and driving surface requirements at the time of permit review. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Lots 4 and 5 prior to final plat approval. One street tree will be required adjacent to Lot 4 and two street trees adjacent to Lot 5. The curb is marked with white paint for tree placement. Street trees should be chosen from the City's approved street tree list for 3.5-foot planting strips. Trees must be 2 caliper inches at the time of planting. This requirement is based on the standards of Title 20.

## CONCLUSIONS

The applicant has proposed a 5-lot subdivision on a split-zoned site with 3 lots for detached single-family homes in the R5 zone and 2 multi-dwelling lots in the R2 zone, as shown on the attached preliminary plan (Exhibits C.1-4). The 3 lots at the rear of the site will be served by a new private street tract. 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 those related to the private street and tree preservation. With conditions of approval that address these issues, related technical requirements, and future development standards this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 5-lot subdivision, that will result in 3 single dwelling lots, 2 multi-dwelling lots, and a private street tract as illustrated with Exhibits C.1-4, 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 Fire – 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;
- The location of the nearest fire hydrant;
- The fire access lane with a turning radius of 28 feet inside, 48 feet outside; and
- Any other information specifically noted in the conditions listed below.

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

1. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street *name of street*".
2. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the relevant portions of the private street to the satisfaction of the Fire Bureau.
3. A Public Access Easement must be shown over the sidewalk portion(s) of the street tract.
4. 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.8-9 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 must match name on plat) 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 submit an application for a Site Development Permit for construction of the private street, mass grading, and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibit C.1 and the *Private Street Administrative Rule*. In addition the street plans shall include the following:
  - The private street is required to be designated as a fire department access lane with an emergency vehicle access easement. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and vertical clearance of not less than 13 feet 6 inches for buildings or portions of building that do not exceed 30 feet in height above the lowest level of fire department vehicle access;
  - The location of "No Parking – Fire Lane" signs;
  - Grade for the private street, including the transition at the driveway approach;
  - A pervious pavement protection plan;
  - The location of utility laterals serving Lots 1-3;
  - A minimum of one parking space and up to two spaces at the west end of the private street tract;
  - A driveway approach and curb cut to serve Lot 5 to the new private street and elimination of the public curb cut; and
  - The location of trees planted on Lots 4 and 5 in lieu of street trees.
2. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private street and all required site development improvements. The applicant shall provide

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

3. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private street and mass grading described in Condition C.1. The clearing and grading plan must substantially conform to the Preliminary Clearing and Grading Plan approved with this decision (Exhibit C.2) with the following additions:
  - It must show root protection zones of the trees to be preserved as shown on a revised Tree Preservation Plan and arborist report required under Conditions C.11 and C.12.

### **Utilities**

4. The applicant shall meet the requirements of the Fire Bureau for residential hydrant spacing. The applicant must provide verification to the Fire Bureau that Appendix C of the Fire Code is met.
5. 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.
6. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Lots 1-3, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new houses on Lots 1-3, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

### **Existing Development**

7. The applicant must plant 1 street tree in the planter strip on SE Belmont Street adjacent to Lot 4 and 2 street trees adjacent to Lot 5. Street trees will be chosen from the City's approved street tree list for the 3.5- foot planting strip. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

### **Required Legal Documents**

8. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1-5 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
9. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lots 1-3, 5, and Tract A. 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.

10. The applicant shall execute a covenant with the city that one tree will be planted in the front yard on the Lots 1-3 within 5 feet of Tract A. Such covenant must meet the requirements of section 33.700.060 and must be attached to and recorded with the deed for the new lot.

**Other requirements**

11. The applicant must provide an arborist report that specifically addresses root protection measures, activities prohibited within recommended root protection zones, and any allowed exceptions at the time of final plat. The report should also address any changes to development within Tract A.
12. The applicant must provide a final Tree Preservation plan at the time of final plat that identifies all trees to remain on the site (Trees 207, 209, 210, 221, 228, and M1-M10).

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

1. Development on Lots 1-3, 5, and Tract A shall be in conformance with the Final Tree Preservation Plan and revised arborist report submitted at the time of final plat. Specifically, trees numbered 207, 209, 210, 221, 228, and M1-M10 are required to be preserved, with the root protection zones indicated on the Final Tree Preservation Plan. 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. Pervious pavement for the private street shall be installed and a pervious pavement protection plan approved by Site Development prior to issuance of any permits for residential construction.
3. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
4. Applications for residential building permits on Lots 1-5 must include the Site Development approved pervious pavement protection plan.
5. Vehicle access to Lot 5 must be from Tract A, the private street, unless an approved PBOT Design Exception is obtained.
6. The applicant must post the private street with "No Parking – Fire Lane" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit.
7. The applicant must meet the addressing requirements of the Fire Bureau for Lots 1-3 and the private street. The location of the sign must be shown on the building permit.
8. If required, the applicant must meet any conditions identified through a Fire Code Appeal, which could include installation of residential sprinklers in the new dwellings on Lots 1-3. Please refer to the final plat approval report for details on whether or not this requirement applies.
9. 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.

**Staff Planner: Rachel Whiteside**

**Decision rendered by:**     *R. Whiteside*     **on February 27, 2014**  
By authority of the Director of the Bureau of Development Services

**Decision mailed March 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 June 18, 2013, and was determined to be complete on September 13, 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 June 18, 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 requested that the 120-day review period be extended for an additional 120 days. Unless further extended by the applicant, **the 120 days will expire on: May 11, 2014.**

**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 March 17, 2014** at 1900 SW Fourth Ave. Appeals may be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on Mondays, 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 503-823-7617 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.ci.portland.or.us](http://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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 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. Original Narrative
2. Arborist Report
3. Infiltration Report
4. Response to Incomplete Letter, received September 11, 2013
5. Revised Narrative
6. Storm Water Drainage Report
7. Traffic Analysis
8. Response to Incomplete Letter, received September 13, 2013
9. Extension to 120-Day Review Period, dated October 28, 2013
10. Extension to 120-Day Review Period, dated December 6, 2013
11. Building Code Appeal of Private Street Admin Rule
12. Extension to 120-Day Review Period, dated January 16, 2014
13. Revised Narrative, received January 21, 2014
14. Revised Infiltration Report, dated January 2, 2014

B. Zoning Map (attached)

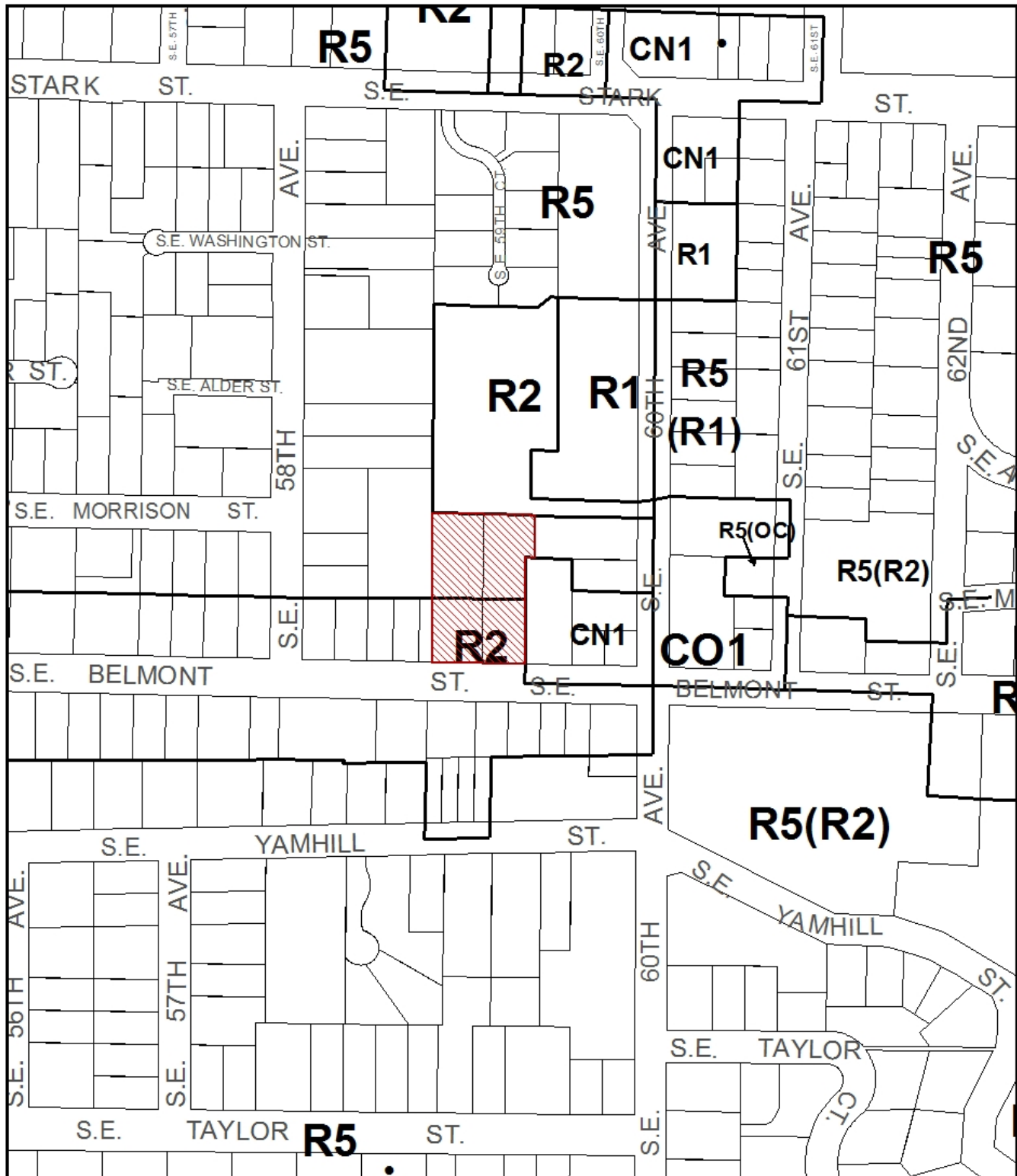
C. Plans/Drawings:

1. Preliminary Site Dimension Plan (attached)
2. Preliminary Site Grading Plan
3. Preliminary Site Utility Plan
4. Preliminary Tree Removal Plan (attached)



5. Tentative Plan
  6. Existing Conditions 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 Review Section of BDS
- F. Correspondence:
1. Ken Wright, received October 16, 2013, letter raising transportation concerns & opposition to additional rental housing
- G. Other:
1. Original LU Application
  2. Neighborhood Contact
  3. Incomplete Letter, sent July 10, 2013
  4. Communication with applicant

**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



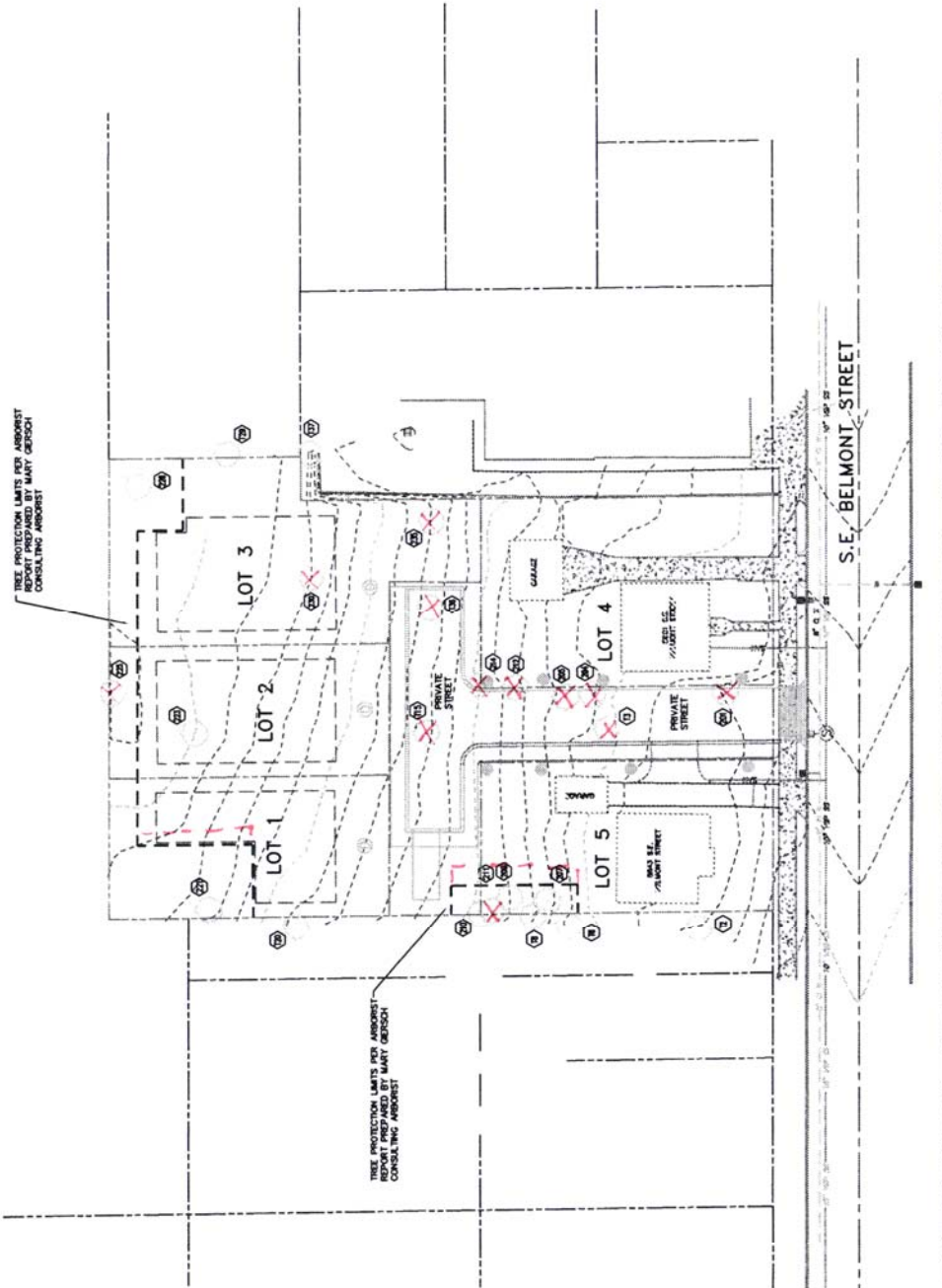
NORTH

File No.	LU 13-168165 LDS
1/4 Section	3136
Scale	1 inch = 200 feet
State_Id	1S2E06AA 7800
Exhibit	B (Jun 21, 2013)



**STORM WATER MANAGEMENT:**

**STORM WATER MANAGEMENT:**  
THE APPLICANT PROPOSES TO CONSTRUCT THE PRIVATE STREET INCLUDING THE ADJACENT 5' SIDEWALK OUT OF A PERMANENT MATERIAL. THE PRIVATE STREET WILL BE CONSTRUCTED WITH PERMANENT PAVED SIDEWALKS. WHILE THE SIDEWALK WILL BE CONSTRUCTED WITH PERMANENT CONCRETE, THESE CONSTRUCTION TECHNIQUES WILL MEET THE REQUIREMENTS OF THE STORM WATER MANAGEMENT MANUAL.



TREE PROTECTION LIMITS PER ARBORIST  
REPORT PREPARED BY MARY OERSON  
CONSULTING ARBORIST

TREE PROTECTION LIMITS PER ARBORIST  
REPORT PREPARED BY MARY OERSON  
CONSULTING ARBORIST



LU 13-162165 LDS

TREE REMOVAL PLAN

SHEET NO.  
Ex. C4

PRELIMINARY SITE  
TREE REMOVAL PLAN

S.E. BELMONT STREET

PRELIMINARY PLAT PLANS  
PREPARED FOR:  
RENAISSANCE DEVELOPMENT  
16771 BOONES FERRY ROAD  
LAKE OSWEGO, OR 97035



DESIGNED BY  
J. STORMO  
CHECKED BY  
J. STORMO  
DATE  
1-20-2014



NO.	DATE	DESCRIPTION	BY