

1 Opinion by Hanna.

2 **DISCUSSION**

3 Petitioner appeals a decision of the city hearings
4 officer denying petitioner's application for a cluster
5 subdivision. The application describes the proposed
6 subdivision as consisting of three lots and a private access
7 street. The proposal depends on use of the square footage
8 of the private access street as "semi-private open space"
9 for purposes of calculating the total square footage of the
10 lots in the subdivision.

11 The hearings officer determined that: (1) the proposal
12 does not have the required four lots to qualify as a cluster
13 subdivision; and (2) the private street cannot be considered
14 open space for purposes of calculating the square footage
15 required. Thus, the hearings officer denied the application
16 on two bases: it did not qualify as a subdivision and it did
17 not meet the cluster subdivision square footage
18 requirements.

19 Petitioner argues that the city hearings officer erred
20 when: (1) he determined that the proposal has only three
21 subdivision lots because the private street does not qualify
22 as a subdivision lot; (2) he determined that the proposal
23 did not qualify as a subdivision because it involved fewer
24 than the required four lots; (3) he did not consider
25 petitioner's equal protection claim concerning the city
26 planning director's alleged approval of other cluster

1 subdivisions with fewer than four lots; (4) he did not
2 consider petitioner's equal protection claim of the city
3 planning director's alleged approval of other cluster
4 subdivisions using a private street as open space; (5) he
5 determined that a private street is not open space for
6 purposes of meeting open space cluster subdivision
7 requirements; and (6) he rejected petitioner's argument that
8 state law requires any further division of a subdivision lot
9 to be classified as a subdivision.

10 To support denial of a land use permit, a local
11 government need only establish the existence of one adequate
12 basis for denial. See Horizon Construction, Inc. v. City of
13 Newberg, 28 Or LUBA 632, 635 (1995). The hearings officer's
14 determination that a private street does not qualify as open
15 space is reasonable and correct. McCoy v. Linn County, 90
16 Or App 271, 752 P2d 323 (1988); Jackson County Citizen's
17 League v. Jackson County, ___ Or LUBA ___ (LUBA No. 96-050,
18 November 27, 1996). We need not reach the hearings
19 officer's other bases for denial.

20 The city's decision is affirmed.