Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: August 26, 2011
To: Interested Person

From: Sue Donaldson, Land Use Services
503-823-7618 / Sue.Donaldson@portlandoregon.gov

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 11-147524 LC

GENERAL INFORMATION

Applicant: Couch Davis Apartments LLC
5845 Jean Rd
Lake Oswego, OR 97035

Representative: Cami Walker,
3105 NE Weidler St
Portland OR 97232

Site Address: 521-537 NE COUCH ST *

Legal Description: BLOCK 115 N 35' OF LOT 6 LOT 7&8, EAST PORTLAND
Tax Account No.: R226507740, R226507730
State ID No.: 1N1E35CB 04300, 1N1E35CB 04200
Quarter Section: 3031

Neighborhood: Kerns, contact Mike Whitmore at 503-233-0305.
Business District: Central Eastside Industrial Council, contact Juliana Lukasik at 503-287-5886.
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.

Plan District: Central City - Central Eastside

Zoning: EXd Central Commercial with Design overlay (d)

Case Type: LC Lot Consolidation
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

The applicant proposes to consolidate historic lot lines within Block 115 of the East Portland plat in order to create one 20,000 square-foot parcel. There are two existing parcels on the site made up from portions of the originally platted lots. One parcel contains Lot 5 and the

South 15 feet of Lot 6 of Block 115. The other parcel contains the North 35 feet of Lot 6, Lot 7 and Lot 8 of Block 115. This lot consolidation will result in a new plat for the consolidated site. The site is now vacant. A four and five-story mixed use residential/commercial building was recently approved on the site (11-018266 DZM – Design Review with Modifications).

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* ***33.675.300, Lot Consolidation Standards.***

ANALYSIS

Site and Vicinity: The site takes up the east side of a 200 by 200 foot city block bounded by NW Davis, NW Couch Streets and NE 6th Avenue. The south end of the site has been redeveloped as the Burnside-Couch Couplet. NW Couch is now a one-way street going west. The area around the site is developed with a combination of low-scale commercial and industrial buildings, as well as single and multi-family housing. A few new mid-rise mixed-use buildings have been constructed farther to the south on East Burnside Street. The area is attracting local retailers and the many restaurants and bars have helped to create an active nightlife.

Zoning: The EX (Central Employment) zone allows mixed uses and is intended for areas in the center of the City that have predominantly industrial-type development. The intent of the zone is to allow industrial and commercial uses with need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area.

Land Use History:

05-168566 ZC – Approval of a Zoning Map Amendment from General Industrial 1 (IG1) to Central Employment (EX), with a Design overlay zone (d).

06-155182 ZC - Zone change in compliance with the Comprehensive Plan for six properties from IG1 to EXd. No specific development is proposed. Properties are located generally between NE Everett & Couch and NE Grand & 6th Avenue.

11-108266 DZM - Design Review for new 5-story mixed use retail and apartment building, with 3 modifications to parking lot landscaping and ground floor windows.

Agency and Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **July 7, 2011**.

1. Agency Review: Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.

2. Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

LOT CONSOLIDATIONS

33.675.010 Purpose

This chapter states the procedures and regulations for removing lot lines within a site to create one lot. The regulations ensure that lot consolidation does not circumvent other requirements of this Title, and that lots and sites continue to meet conditions of land use approvals. The lot consolidation process described in this chapter is different from (and does not replace) the process used by the county to consolidate lots under one tax account. A tax consolidation does not affect the underlying platted lots. A lot consolidation results in a new plat for the consolidation site.

33.675.050 When These Regulations Apply

A lot consolidation may be used to remove lot lines within a site. The applicant may also choose to remove such lot lines through a land division. A lot consolidation may be required by other provisions of this Title.

33.675.100 Review Procedure

A. Generally. Lot consolidations are reviewed through Type I procedure.

B. Sites in PUDs or PDs. If any portion of the site is within a Planned Unit Development (PUD) or Planned Development (PD), an amendment to the PUD or PD is also required. The amendment to the PUD or PD must be reviewed concurrently with the lot consolidation.

Findings: The site is not involved in any past or proposed Planned Unit Development or Planned Developments. Therefore, the requested lot consolidation review has been reviewed under the Type I procedure.

Approval Standards for a Lot Consolidation
33.675.300 Standards
A lot consolidation must meet the following standards:

A. Lots. Consolidated lots must meet the standards of Chapters 33.605 through 33.615, with the following exceptions:

1. Lot dimension standards.

a. Minimum lot area. If the area of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum lot area requirements;
b. Maximum lot area. If any of the lots within the lot consolidation site are larger than the maximum lot area allowed, the lot consolidation site is exempt from maximum lot area requirements;
c. Minimum lot width. If the width of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum lot width requirements;
d. Minimum front lot line. If the front lot line of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum front lot line requirements;
e. Minimum lot depth. If the depth of the entire lot consolidation site is less than that required of new lots, the lot consolidation site is exempt from minimum lot depth requirements.

Findings: The proposed site is in the EX zone. Approval standards 1.a through 1.e are related to the required lot dimensions and creation of a consolidated parcel that will either meet the lot dimension standards of the zone or meet the listed exceptions. In the EX zone each lot must have a front lot line that is at least 10 feet long. There are no other required minimum lot dimensions for lots in this zone. The table below shows the lot dimension standards for the EX zone and for the proposed consolidated lot (*see 33.614.100 minimum Lot Dimension* Standards)

	EX Zone Requirement	**Lot 1 (after consolidation)**
Minimum Lot Area	n/a	20,000 square feet
Maximum Lot Area	n/a	
Minimum Lot Width*	n/a	100 feet
Minimum Front Lot Line	10 feet	100 feet
Minimum Lot Depth	n/a	200 feet

** Width is measured at the minimum front building setback line*

The proposed consolidated lot meets the minimum front lot line standard of 10 feet.

2. **Maximum density. If the consolidation brings the lot consolidation site closer to conformance with maximum density requirements, the consolidation does not have to meet maximum density requirements;**

Findings: There is no minimum or maximum residential density in the EX zone, therefore this standard does not apply.

3. **Lots without street frontage. If the lot consolidation consolidates lots that do not have street frontage with a lot that has street frontage, the consolidation does not have to meet minimum density and maximum lot area requirements;**

Findings: Both lots in the lot consolidation site have street frontage, therefore this standard does not apply.

4. **Through lots. If any of the existing lots within the lot consolidation site are through lots with at least one front lot line abutting an arterial street, then the consolidated lot may be a through lot;**

Findings: The proposed consolidated Lot 1 will be a through lot, but the existing lots within the lot consolidation site are not through lots. Therefore this standard does not apply.

5. **Split zoning. If any of the existing lots within the lot consolidation site are in more than one base zone, then the consolidated lot may be in more than one base zone.**

Findings: This site contains only one zoning designation, therefore the consolidated lot will not have split zoning. This standard does not apply.

B. Conditions of land use approvals. Conditions of land use approvals continue to apply, and must be met.

Findings: There are conditions of approval related to the building approved through 11-108266 DZM. These conditions will continue to apply when new development is proposed.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant proposes to consolidate historic lot lines within Block 115 of the East Portland plat in order to create one 20,000 square-foot parcel.

As discussed above, the requested lot consolidation has been reviewed and shown to be able to meet all the required standards for lot consolidations as laid out in *Section 33.675.300*.

ADMINISTRATIVE DECISION

Approval of a Lot Consolidation to create one parcel of historic Lot 5 and the South 15 feet of Lot 6 of Block 115 and the North 35 feet of Lot 6, Lot 7 and Lot 8 of Block 115 into one parcel, as illustrated by Exhibit C.1, signed and dated August 23, 2008.

Staff Planner: Sue Donaldson

Decision rendered by: _____ **on August 23, 2011**

By authority of the Director of the Bureau of Development Services

Decision mailed August 26, 2011

About this Decision. This land use decision is **not a permit** for development. 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 10, 2011, and was determined to be complete on July 5, 2011.

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 10, 2011.

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, **the120 days will expire on: October 3, 2011**

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.

Recording the final decision.

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder. A building or zoning permit will be issued only after the final decision is recorded. The final decision may be recorded on or after **August 26, 2011** The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permitees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement
   1. Narrative
   2. Legal Description
   3. Title Report
   4. Assessor information
   5. Original Plat
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Site Plan (attached)
   2. Existing Conditions
   3. Proposed Plat – final review copy
D. Notification information:
   1. Mailing list
   2. Mailed notice
E. Agency Responses:

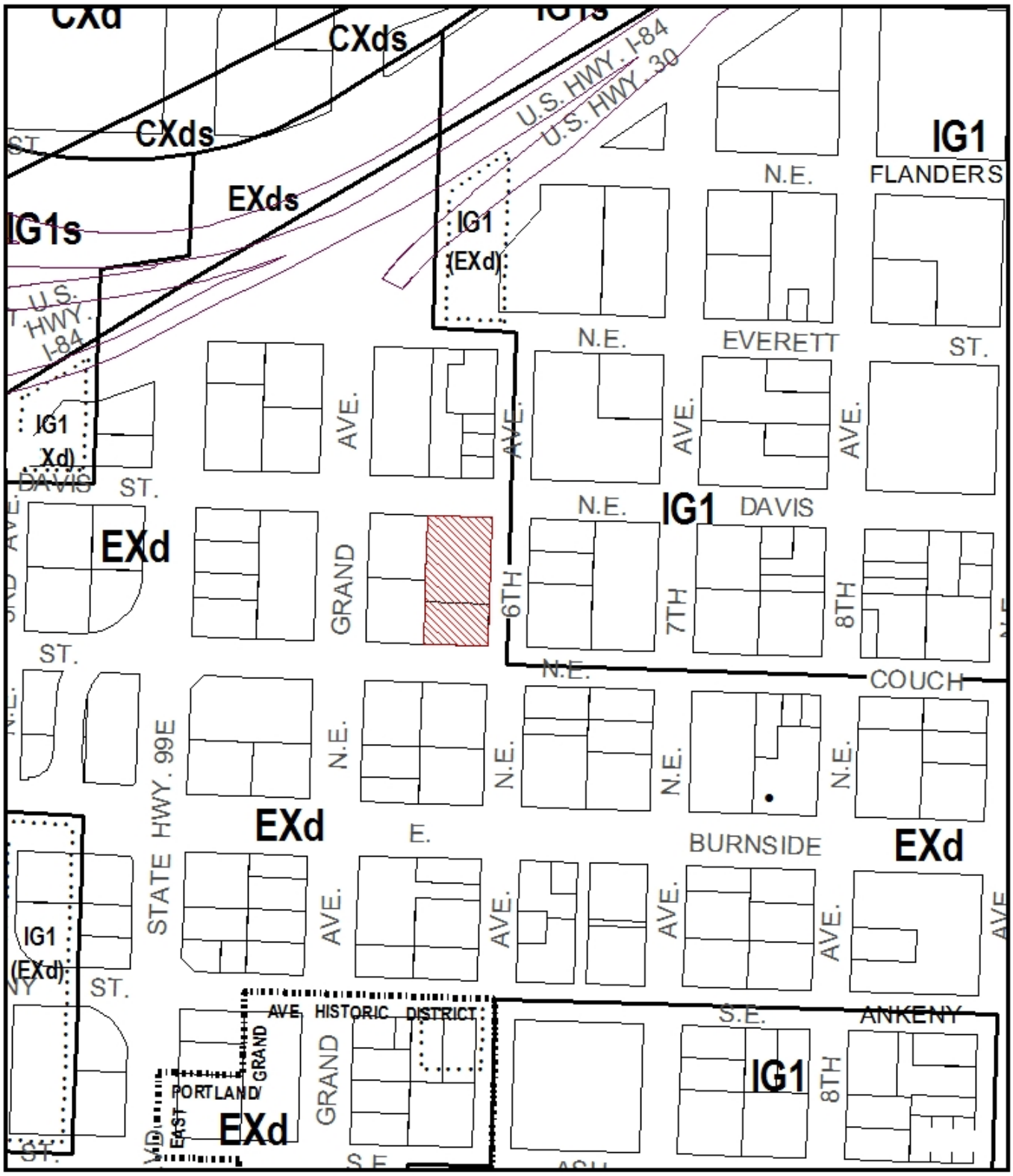
1. Bureau of Environmental Services – no concerns
2. Bureau of Transportation Engineering and Development Review
3. Water Bureau –
4. Fire Bureau
5. Site Development Review Section of BDS – no concerns
6. Bureau of Parks, Forestry Division- no concerns
7. Life Safety Plans Examiner

F. Correspondence: none

G. Other:

1. Original LU Application
2. Site History Research
3. Mixed use development approved through LU 11-108266 DZM

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



ZONING

Site

Historic Landmark

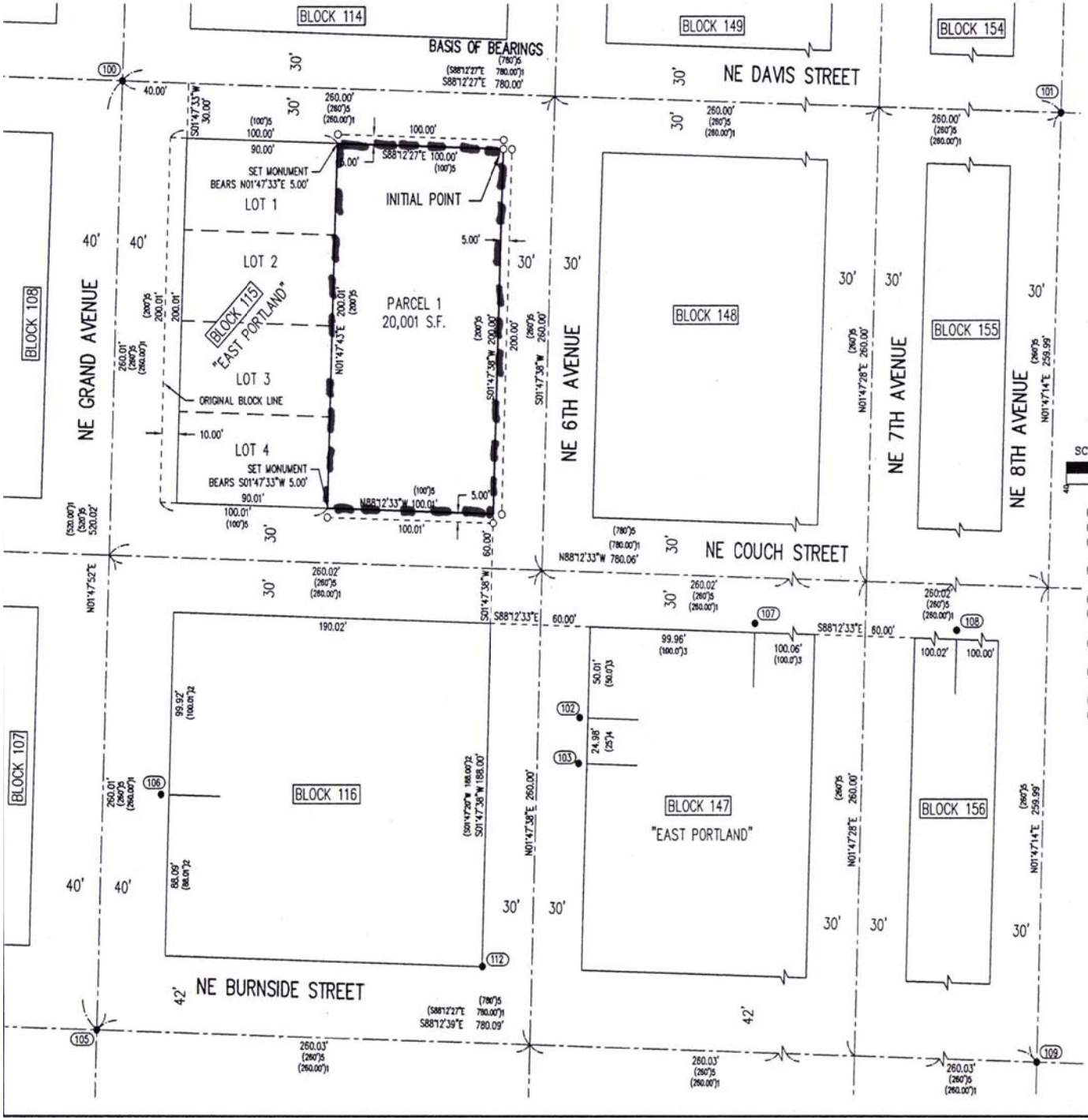
NORTH

This site lies within the:
CENTRAL CITY PLAN DISTRICT

File No.	LU 11-147524 LC
1/4 Section	3031
Scale	1 inch = 200 feet
State_Id	1N1E35CB 4300
Exhibit	B (Jun 21,2011)

PARTITION PLAT NO. _____

A REPLAT OF LOTS 5-8 INCLUSIVE,
BLOCK 115 OF "EAST PORTLAND",
LOCATED IN SOUTHWEST 1/4 OF SECTION 35,
TOWNSHIP 1 NORTH, RANGE 1 EAST, WILLAMETTE
MERIDIAN, CITY OF PORTLAND, MULTNOMAH
COUNTY, OREGON.
DATE: JUNE 9, 2011
SHEET 1 OF 2



PREPARED FOR

COUCH DAVIS APARTMENTS, LLC
5845 JEAN ROAD
LAKE OSWEGO, OR 97035

LEGEND

- ○ SET 1-5/32" COPPER DISK WITH A PUNCH MARK, STAMPED "STUBBS LS 55469", SET IN CONCRETE SIDEWALK
- ● FOUND MONUMENT, AS NOTED IN MONUMENT NOTES
- SN SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS
- ( )1 RECORD INFORMATION PER SN 61665
- ( )2 RECORD INFORMATION PER SN 56866
- ( )3 RECORD INFORMATION PER SN 43756
- ( )4 RECORD INFORMATION PER SN 51286
- ( )5 RECORD INFORMATION PER PLAT OF "EAST PORTLAND", PLAT BOOK 1, PAGE 54

SCALE 1" = 40 FEET

(100) COPPER PLUG IN LEAD, IN MONUMENT BOX; PER SN Y 5/10; HELD
(101) COPPER PLUG IN LEAD, IN MONUMENT BOX; PER SN Y 5/10; HELD
(102) BRASS SCREW, NO WASHER; PER SN43756; BEARS N88°12'22"W 5.04' FROM EASTERLY RIGHT-OF-WAY LINE OF NE 6TH AVENUE
(103) BRASS SCREW, NO WASHER; PER SN 51286; BEARS N88°12'22"W 5.02' FROM EASTERLY RIGHT-OF-WAY LINE OF NE 6TH AVENUE
(105) COPPER PLUG IN LEAD, IN MONUMENT BOX; PER SN Y 5/10; HELD
(106) BRASS SCREW WITH 3/4" BRASS WASHER STAMPED "PLS 1856"; PER SN 56866; BEARS N88°12'08"W 4.94' FROM EASTERLY RIGHT-OF-WAY LINE OF NE GRAND AVENUE
(107) BRASS SCREW, NO WASHER; PER 43756; BEARS N01°47'27"E 5.02' FROM SOUTHERLY RIGHT-OF-WAY LINE OF NE COUCH STREET
(108) BRASS SCREW, NO WASHER; ORIGIN UNKNOWN; BEARS N01°47'27"E 5.01' FROM SOUTHERLY RIGHT-OF-WAY LINE OF NE COUCH STREET
(109) COPPER PLUG IN LEAD, IN MONUMENT BOX; PER SN Y 5/10; HELD
(112) 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "HERTEL PLS 1896"; PER SN 56866; BEARS N66°38'17"E 0.21'

I, CLINTON H. STUBBS JR., PLS NO. 55469LS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND EXACT COPY OF THE ORIGINAL PLAT

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JANUARY 18, 2002
CLINTON H. STUBBS JR.
55469LS
RENEWAL DATE: 06/30/12

JOB NAME:	FOWLER COUCH ST
JOB NUMBER:	604
DRAWN BY:	CHS
CHECKED BY:	SFF
DRAWING NO:	604 PLAT

BOUNDARY TOPOGRAPHIC CONSTRUCTION CADASTRAL
NORTHWEST SURVEYING, Inc.
1815 NW 169th PLACE, SUITE 2090
BEAVERTON, OR 97006
PHONE: 503-848-2127 FAX: 503-848-2179
www.nwsrvy.com