



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** November 18, 2011  
**To:** Interested Person  
**From:** Sue Donaldson, Land Use Services  
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**NOTICE OF A TYPE IIx 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 and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

**CASE FILE NUMBER: LU 11-153026 LDS AD**

**GENERAL INFORMATION**

**Applicant:** Everett Custom Homes Inc  
735 SW 158th Ave #180  
Beaverton, OR 97006-4952  
  
Neil Fernando,  
Emerio Design LLC  
6107 SW Murray Blvd, Ste #147  
Beaverton, OR 97008

**Representative:** Ryan O'Brien,  
Planning & Land Design  
1862 NE Estate Drive  
Portland OR 97124

**Site Address:** 6615 NE Grand Ave

**Legal Description:** BLOCK 1 LOT 26 and LOT 27, MAXWELL  
**Tax Account No.:** R545000340, R545000350  
**State ID No.:** 1N1E14BC 16200, 1N1E14BC 16300  
**Quarter Section:** 2331  
**Neighborhood:** Woodlawn, contact Anjala Ehelebe at 503-805-6325.  
**Business District:** North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-823-4575.  
**Plan District:** None  
**Zoning:** R1adh Multi-dwelling Residential 1,000 with Alternative Design Density, Design and Airport Landing overlays  
**Case Type:** LDS AD Land Division Subdivision with Adjustments  
**Procedure:** Type IIx, an administrative decision with appeal to the Hearings Officer.

**Proposal:**

The applicant proposes to divide a 9,990 square-foot site into four lots for single dwelling

residences. Accessory Dwelling Units and one garage parking space are proposed for each house. Two adjustments are requested. The first is to decrease the minimum lot width of Lots 2 and 3 from 25 feet to 24.5 feet. The lots will measure 25 feet at the front property line. The second adjustment request is to reduce side building setbacks on Lots 2 and 3. On Lot 2 the applicant proposes to reduce the side setback on the south side from 7 feet to 3 feet, with a 1-foot eave projection, and on the north side, from 7 feet to 6 feet. Proposed setbacks on Lot 3 are 3 feet on the north side, with a 1-foot eave projection, and 6 feet on the south side. Side setbacks are determined by the area of the plane of the building wall, which will be approximately 1,600 square feet, except for interior lots in the land division site that are at least 25 feet wide.

This subdivision proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) concurrent Adjustment reviews are required (*see 33.660.110*).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to *ORS 92.010*. *ORS 92.010* defines "lot" as a single unit of land created by a subdivision of land. The applicant's proposal is to create 4 units of land (4 lots). Therefore this land division is considered a subdivision.

### **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* and *33.805.040 Approval Criteria for Adjustments*

### **FACTS**

**Site and Vicinity:** The site is made up of two 4,995 square-foot lots located on the east side of NE Grand Avenue approximately 100 feet south of the intersection with NE Dekum Street. Existing development consists of a single dwelling house (to be demolished) on one of the lots. The second lot is vacant. The only trees on the site are Ailanthus (Tree of Heaven), which are listed as nuisance species. Development within the block on both sides is made up of older detached houses on lots that are approximately 5,000 square feet. Two larger lots at the south end of the block are developed with commercial buildings and parking. West of the site, lots face NE MLK Jr. Blvd and are developed with commercial uses, with the exception of two lots more or less in the middle of the block where older detached houses remain. Zoning in the area varies from commercial, mixed use and multi-dwelling residential.

### **Infrastructure:**

- **Streets** – NE Grand Avenue is designated as a Local Service Street for all transportation modes in the *City's Transportation System Plan*. The site frontage along this street is currently improved with 36-feet of paving within a 60-foot right-of-way. The existing sidewalk configuration includes a 4-foot wide planter, and a 6-foot wide sidewalk set back 2-feet from the property line (4-6-2 configuration).
  - NE Dekum Street is designated a Neighborhood Collector Street, a Transit Access Street, and a Local Service Street for all other modes in the City's Transportation System Plan.
  - Tri-Met provides frequent transit service (Bus Routes 6, 8 and 75) less than 200 feet from the site on NE Dekum and on NE MLK Jr. Blvd.
  - Parking is currently allowed on both sides of NE Grand Avenue.
- **Water Service** – There is a 6-inch DI water main in NE Grand Avenue. The existing house is served by a 5/8-inch metered service from the main.
- **Sanitary Service** - There is an 8-inch public combination sewer line in NE Grand Avenue.

**Zoning:** The R1 designation (Multi-dwelling Residential 1,000) is one of the City's multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses and row houses. The zone implements the Comprehensive Plan policies and designations for multi-dwelling housing.

The Alternative Design Density (*a*) Overlay zone 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 Design (*d*) Overlay Zone also promotes quality high-density development adjacent to transit facilities by requiring design review or compliance with the Community Design Standards. In addition, this ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

The *h* overlay (Aircraft landing) provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. At this location the maximum height allowed is between 270 and 280 feet, minus the airport base elevation of 18 feet, which equals 252 to 262 feet. The base zone height limit is more restrictive (35 feet) and therefore applies to the proposed development.

**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 **September 19, 2011**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

## 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. **Some of the criteria are not applicable. The reasons noted in the table below.** Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section & Topic	Findings:
<i>B</i>	33.630 – Tree Preservation	No significant trees or trees in excess of 6 inches in diameter are located fully on the site
<i>C</i>	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
<i>D</i>	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
<i>E</i>	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.
<i>F</i>	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
<i>H</i>	33.636 - Tracts and Easements	No tracts or easements have been proposed or

		will be required.
<i>I</i>	<i>33.639 - Solar Access</i>	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
<i>J</i>	<i>33.640 - Streams, Springs, and Seeps</i>	No streams, springs, or seeps are evident on the site outside of environmental zones.
<i>L</i>	<i>33.654.110.B.2 - Dead end streets</i>	No dead end streets are proposed.
	<i>33.654.110.B.3 - Pedestrian connections in the I zones</i>	The site is not located in an Industrial zone.
	<i>33.654.110.B.4 - Alleys in all zones</i>	No alleys are proposed or required
	<i>33.654.120.C.3.c - Turnarounds</i>	No turnarounds are proposed or required
	<i>33.654.120.D - Common Greens</i>	No common greens are proposed or required
	<i>33.654.120.E - Pedestrian Connections</i>	There are no pedestrian connections proposed or required
	<i>33.654.120.F - Alleys</i>	No alleys are proposed or required
	<i>33.654.120.G - Shared Courts</i>	No shared courts are proposed or required
	<i>33.654.130.D - Partial rights-of-way</i>	No partial public streets are proposed or required

**A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.**

**Findings:** Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing four lots for detached housing. When single dwelling or duplex development is proposed for all or part of the site in a multi-dwelling zone, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in *Table 120-3*. Minimum density in the R1 zone, for sites less than 10,000 square feet, is one unit per 2,000 square feet (per *33.120.205.C.2*) and the maximum density is one unit per 1,000 square feet. The total site area shown on the applicant's survey is 9,990 square feet. Therefore, the site has a minimum required density of 6 (5.9 rounded up) units and a maximum density of 10 (9.99 rounded up) units.

The applicant proposes to develop the lots with detached houses. Each house will have an accessory dwelling unit (ADU). In multi-dwelling zones ADU's count towards minimum density, but not toward maximum density (*per 33.205.040 Density*). For the purposes of calculating minimum density, 8 units (4 houses and 4 ADU's) are proposed. This exceeds the minimum density by 2 units. For the purposes of calculating maximum density, only 4 units are proposed (ADU's are excluded). The proposed lots could also be developed with duplexes in order to meet density requirements. They are not large enough to be developed with multi-dwelling structures. If the lots were developed with duplexes the maximum density that could be achieved on the proposed lots is 8 units, (2 units less than the maximum of 10 units). The proposed lots, if developed with detached single-dwelling houses, each with an ADU, can meet the minimum density requirement and do not exceed the maximum density. The lots could also meet minimum density requirements if they were developed with duplexes.

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid further division of lots in the future that could result in non-compliance with the overall density

requirements of the site as it exists in this proposal. The minimum density for the site is 6 units. Therefore, if the lots are developed with detached houses at least two of the houses must have ADU's. As noted in preceding paragraph the maximum density of 10 units cannot be achieved on the site. The lots are not large enough to be developed with multi-dwelling structures. If the lots were developed with duplexes, the maximum density that could be achieved is 8 units.

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

<b>R1</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>Detached Houses</b>	none	25	none	25
<b>Duplexes</b>	None	None	none	10
Lot 1	2,550	25.50	100	25
Lot 2	2,450	24.50	100	25
Lot 3	2,450	24.50	100	25
Lot 4	2,550	25.50	100	25

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

Lots 2 and 3 are less than 25 feet wide. The applicant has applied for an adjustment review to reduce the minimum lot width requirement in order to allow detached houses. Findings for the adjustment review are discussed at the end of the report. Duplexes could be built on Lots 2 and 3 without an adjustment because the minimum front lot line width for duplexes is 10 feet.

The findings above show that the applicable lot dimension standards are met for duplex development or can be met for detached housing development with approval of an adjustment to lot width for Lots 2 and 3 and with a condition of approval specifying the minimum and maximum density for each lot.

With the above condition of approval and approval of adjustments, this criterion is met.

**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 and there are no trees to be preserved. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, no trees are required to be preserved that would conflict with potential development. 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. The applicant has proposed to remove the existing house and redevelop the site. There is no record of an old septic system that needs to be decommissioned. 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, as well as utilities and rights of way. The criteria and standards are met as shown in the following table:

**33.651 Water Service standard** - *See Exhibit E-3 for detailed bureau comments.*

The water standards of 33.651 have been verified and noted at the beginning of this report. The 5/8-inch metered service line for the existing house may be used for the new house on Lot 3. The 6-inch main in NE Grand Avenue can serve all the lots. *Title 21* requires that the water service connection be located along the frontage of the lot to be served and within the public right-of-way.

**33.652 Sanitary Sewer Disposal Service standards** - *See Exhibit E-1 for detailed comments.*

The sanitary sewer standards of 33.652 have been verified and noted at the beginning of this report.

The lateral that serves the existing house (to be demolished) appears to be located at or near the property line between Lots 3 and 4. The applicant has designated it to serve Lot 4. Connection requirements will have to be met at the time of building permits. The applicant should be aware that, based on field location, BES may require the lateral to serve Lot 3 rather than Lot 4.

There is a second lateral further south, along the frontage of Tax lot 192, which the applicant has designated to serve Lot 1. New lateral connections will be required in order to serve the remaining two lots. This criterion is met.

**33.653.020 & .030 Stormwater Management criteria and standards**— *See Exhibits E.1 & E.5*

There is no public storm-only sewer available to serve the site. BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

For all four lots, the applicant has proposed the following:

- Stormwater from these lots will be directed to drywells that will treat the water and slowly infiltrate it into the ground. Each lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. The Bureau of Environmental Services has indicated conceptual approval of the drywells.

The applicant is advised that drywells are underground injection control facilities that are regulated by Oregon Department of Environmental Quality (DEQ) and that all such facilities must be registered with DEQ.

**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**

Generally, the City's spacing requirements for through streets is no more than 530 feet apart and at least 200 feet apart. Spacing for pedestrian connections is a maximum of 330 feet.

In the vicinity of the site, no street connections have been identified in the *Portland Master Street Plan*. The site is close to the intersection of NE Grand and NE Dekum Street (approximately 40-feet). The spacing requirements for public through streets are generally met in the area. Spacing requirements of pedestrian connections are satisfied along NE Grand Avenue in the north-south direction. An east-west connection is needed in the vicinity but not at the site, which is near an intersection. Based on the criteria outlined above, no additional connectivity is required or requested.

Street improvements will not be required along the site's frontage.

For the reasons described above, this criterion is met.

### **33.641 – Transportation Impacts – 33.641.020 and 33.641.030**

#### **33.654.120.C Width and Design of the street right-of-way**

The applicant was required to submit information to analyze impacts of the development and to demonstrate that the transportation system is capable of safely supporting the proposed development (Exhibit A.9). Based on the information supplied, PBOT concurs with the methodology, assumptions and conclusions of the submitted Traffic Impact Study (TIS – Exhibit A.9). Following is a summary of the primary evaluation factors, which are discussed in detail in Exhibit E.2

#### **Street Capacity & level of Service**

It is expected the proposed development will generate a total of 52 additional daily trips. Four trips are expected to be generated during the morning peak hours and five during the evening peak hour, based on information in *Institute of Transportation Engineers – Trip Generation Manual* (8<sup>th</sup> Edition). The site is located with a well-connected street grid and, based on observations and analysis, the streets and intersections in the area are currently operating acceptably and are projected to operate at the same level upon completion of the project.

**Vehicle access-** NE Grand Avenue has sufficient width to accommodate vehicles entering and leaving the four proposed driveways.

**On-street parking** – The proposed development will result in a loss of 3 of the available 39 parking spaces nearby, due to construction of three additional curb cuts (in addition to the one for the existing house). The eight dwelling units are expected to generate a need for 12 to 13 additional parking spaces during the peak night-time hours. Each of the four houses will have a garage and enough space in front of the garage to accommodate 2 vehicles. It is expected that approximately 29 of the 36 available on-street spaces on NE Grand Avenue will be used during peak conditions. Therefore, PBOT has concluded that the available parking supply is sufficient to accommodate the proposed development.

**Transit availability** – Bus stops for three bus routes (#6, #8, and #75) are within 200 feet of the site.

**Neighborhood impacts** – Five or fewer additional trips through the area intersections during the peak hours are projected to have no noticeable impacts in the immediate area.

**Safety for all modes** – There are no significant horizontal or vertical obstructions to sight distance along the site frontage or nearby intersections. NE Grand and nearby roadways have sidewalks on both sides of the roadway. NE Grand Avenue has a speed limit of 25 mph and low traffic volumes. The existing roadways and sidewalks are sufficient to allow for continuous travel paths for all travel modes.

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that seven additional dwelling can

be safely served by this existing street without having any significant impact on the level of service provided.

There is an existing curb cut and driveway serving the existing house to be demolished. The proposed development on the site includes 4 separate driveways. PBOT may require the existing 12-foot wide sidewalk corridor along the site frontage to meet *Pedestrian Design Guide's* recommended width and configuration. Street trees and lighting may be required. No property dedication will be triggered. The applicant is advised that the proposal must meet *Community Design Standards*, which require 18 feet between single or paired driveways (see 33.218.110.H). Final determination about improvements will be made at the time of building permit review.

In summary PBOT has determined that the transportation system can safely accommodate the proposed development and has no objections to the proposed subdivision. These criteria are met.

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

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

## **ADJUSTMENTS**

**33.805.010 Purpose of Adjustments.** *The Comprehensive plan and the regulations of the zoning code apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code.*

The applicant is requesting two adjustments:

1. Reduce lot width for Lots 2 and 3 from 25 feet to 24.5 feet (33.612.200 Table 612-1)
2. Reduce interior side building setbacks for Lots 2 and 3 (33.120.220.B) as follows:
 

LOT 2	North side	from 7 feet to 6 feet
	South side	from 7 feet to 3 feet, with a 1-foot eave projection,
LOT 3	North side	from 7 feet to 3 feet, with a 1-foot eave projection,
	South side	from 7 feet to 6 feet

### **Adjustment #1**

Reduce the minimum lot width of Lots 2 and 3 from 25 feet to 24.5 feet. The lots will measure 25 feet at the front lot line.

### **33.805.040 Approval Criteria**

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

- A.** *Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and*

**Findings:** The purpose of the lot dimension standards in the multi-dwelling zone (33.612.010) is to ensure that:

- Each lot has enough room for development that meets all the requirements of the zoning code;



- Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible.
- The multi-dwelling zones can be developed to full potential; and
- Housing goals for the City are met

The applicant is proposing to develop the site with four detached houses, each with an ADU. The site is 100 feet wide at the street lot line, which would allow four 25-foot lots. However the applicant wishes to reduce the width of the two interior lots (Lots 2 and 3) to 24.5 feet in order to allow enough space for a 7-foot setback on Lots 1 and 4 and to have enough room to have projections on the sides of the buildings. Reducing the width of two lots by 6 inches does not in itself preclude development that meets all the zoning code requirements.

The front entrances of the houses face the street. The entrances to the ADU units cannot be on the same façade, so will be located on the side of the houses. A walkway between Lots 2 and 3 will make a direction connection from the street to the ADU's. Similarly the ADU entrances on Lots 1 and 4 will be connected to the street via walkways located within the 7-foot side setbacks of those lots.

The site will be developed at its full potential, taking into consideration that the site cannot be developed with a multi-dwelling structure because it is less than 10,000 square feet. Single dwelling units and duplexes are allowed in the R1 zone and the maximum number of units that can be developed with these housing types is 8 units. Four duplexes could be built, or four single dwelling units each with an ADU. City housing goals are met because more than the minimum density is proposed and the ADU units add variety in type of housing.

For the above reasons, this criterion is satisfied.

**B.** *If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in a C, E, or I zone, the proposal will be consistent with the desired character of the area; and*

**Findings:** The site is in the Residential 1,000 zone, which intended for medium density multi-dwelling development. A reduction of 6 inches in lot width will not impact the livability or appearance of the residential area because the small difference in lot width will not be discernable from the street. The front property line will be 25 feet and then narrow by 6 inches at the front building line (3 feet). This criterion is therefore met because the impacts on livability and appearance will be negligible, and the site, which is underdeveloped for its R1 zoning, will be redeveloped to meet R1 standards.

**C.** *If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and*

**Findings:** Two adjustments are required. The cumulative impacts are discussed in the findings for adjustment #2, below.

**D.** *City-designated scenic resources and historic resources are preserved; and*

**Findings:** There are no such resources present on the site. Therefore, this criterion is not applicable.

**E.** *Any impacts resulting from the adjustment are mitigated to the extent practical; and*

**Findings:** Due to minor modification requested and because of the benefits derived from the project, there will be no adverse impacts if the adjustment is approved. For this reason, mitigation is not necessary and this criterion is met.

**F.** *If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;*

**Findings:** This criterion is not applicable because the site is not in an environmental zone.

## **Adjustment #2 -**

**33.805.040 Approval Criteria**

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

The applicant is seeking an adjustment to reduce the side setbacks on both Lot 2 and Lot 3, as follows:

LOT 2	North side	from 7 feet to 6 feet
	South side	from 7 feet to 3 feet, with 1-foot eave projection,
LOT 3	North side	from 7 feet to 3 feet. with 1-foot eave projection,
	South side	from 7 feet to 6 feet

A. *Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and*

**Findings:** Building setbacks serve several purposes. Those relevant to this proposal are:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;

For the following reasons, the proposed development meets the relevant purposes of the minimum setback requirement:

The setback adjustments on Lots 2 and 3 are requested in conjunction with requests to reduce the width of both lots by 6 inches, from 25 feet to 24.5 feet. In multi-dwelling zones, side and rear setbacks are based on the area of the plane of the building wall (33.120.220, Tables 120-3 and 120-4). There is an exception to this requirement for land divisions when lots are created for detached houses. The side setbacks may be reduced to 3 feet on lot lines internal to the land division site (33. 120.270.D.1), if the lots are at least 25 feet wide. Because Lots 2 and 3 are less than 25 feet wide their side setbacks are those of the base zone. According to Table 120-4 for building walls between 1,301 to 1,600 square feet, the side setback is 7 feet.

The applicant has chosen to reduce the lot width to less than 25 feet by a small amount in order to add 6 inches to the width of Lots 1 and 4, allowing these lots to meet setback requirements. Doing so resulted in changing the side setback requirements for Lots 2 and 3. As noted above, for land divisions in multi-dwelling zones, 3 foot internal setbacks are allowed because of the more intense development expected in these zones. The applicant is proposing 6-foot setbacks between Lots 2 and 3, where a shared walkway to the ADU's on both lots will be located. This is 3 feet wider than would be required if the lots were 25 feet wide. The reduced setback will allow for bay windows and other projections. Community Design Standards require the buildings to have 12 eaves. With a 3 foot setback, the eaves will be 2 ½ feet from the property line. The setbacks will maintain light and air and allow sufficient space between the buildings for fire separation and fire fighting. Compliance with all Fire and Life-safety requirements will be required at the building permit stage. The building code allows eaves to extend to within 2 feet of the property line, but if they extend further than 3 feet they must be protected on the underside as required for one-hour fire-rated construction (*per ORSC R302.1*).

The applicant's plans show that the separation between buildings on these sides will be at least 7 feet, allowing for light and air and adequate fire separation. Fire fighting access will be from an aerial position for the street and fire bureau has indicated that this access will be ensured through building permit review. The projections will add interest to the buildings without creating a fire hazard or an excessive sense of enclosure between them. The proposed setbacks will allow reasonable separation and privacy and the development overall will be less intense than the R1 zone allows. For these reasons, this criterion is satisfied.

- B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in a C, E, or I zone, the proposal will be consistent with the desired character of the area; and*

**Findings:** The site is in the Residential 1,000 zone, which intended for low density multi-dwelling development. The requested side setbacks will not significantly detract from the livability and appearance of the residential area, given the intended character and intensity of the R1 zone. There will be less separation between buildings than exists in the vicinity. However, the surrounding development is made up of older detached houses on lots that are approximately 5,000 square feet and not developed at the level allowed by the R1 or R2.5 zones.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Two adjustments are required. The cumulative effect of reducing the width of two lots and reducing the side setbacks for Lots 2 and 3 to 3 feet and 6 feet will not affect the overall purpose of the zone which is the allow one to four story buildings and a high percentage of building coverage. Typical buildings types include apartments, townhouses and attached housing, in addition to detached single dwellings. The purposes of the lot and setback standards are met with negligible visual impact, given the allowed intensity in the R1 zone. Even with the two adjustments, the proposed development will appear to be less dense and built-up than the zone allows. Therefore this criterion is met.

- D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** There are no such resources present on the site. Therefore, this criterion is not applicable.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** The reduced setbacks requested will not have negative impacts because the resulting building separation will be the same or slightly wider than would be allowed in the R1 zone for detached houses. Therefore, this criterion is met and mitigation is not required.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** This criterion is not applicable because the site is not in an environmental zone.

## **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 applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R1 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

### **Future Development**

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

- **Community Design Standards –**  
33.218.110.H.5 requires 18 feet between single or paired driveways.

33.218.110.P *Roof Eaves*. Roof eaves must project from the building wall at least 12 inches on all elevations. Buildings that take advantage of the cornice option are exempt from this standard.

## OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic	Contact Information
Water Bureau	<i>Title 21</i> - Water availability	503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>
Environmental Services	<i>Title 17</i> ; 2008 <i>Stormwater Manual</i> Sewer availability & Stormwater Management	503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>
Fire Bureau	<i>Title 31 Policy B-1</i> - Emergency Access	503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>
Transportation	<i>Title 17, Transportation System Plan</i> Design of public street	503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>
Development Services	<i>Titles 24 -27, Admin Rules for Private Rights of Way</i> 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 Water Bureau has verified that there is 1,900 gpm available from the fire hydrant located at 6800 NE Grand Avenue. This is sufficient for structures up to 4,800 square feet. Should larger structures be proposed, the flow requirements outlined in the *Fire Code* must be met. Alternatively, the applicant may obtain an approved Fire Bureau appeal to this requirement and aerial fire department access. These requirements are based on the technical standards of *Title 31* and *Oregon Fire Code*. See Exhibit E-4 for further details.
- **Life Safety Requirements:** Exterior walls less than three feet to a property line shall be one-hour fire-rated with no openings allowed. Roofs and eaves may project not closer than two feet to a property line. Eaves less than three feet to a property line must be protected on the underside as required for one-hour fire-rated construction. *ORSC R302.1*

## CONCLUSIONS

The applicant has proposed a 4-lot subdivision, as shown on the attached preliminary plan, Exhibit C.1. The proposal includes two adjustments; (1) reduce lot width on Lots 2 and 3, and (2) reduce side setbacks on Lots 2 and 3, as shown on Exhibit C.2. 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: density, adjustments for side setbacks, adjustment for lot width and traffic impacts.

**ADMINISTRATIVE DECISION**

Approval of an Adjustment to 33.612.200.B

- to reduce the minimum width on Lots 2 and 3 from 25 feet to 24.5 feet.

Approval of an Adjustment to 33.210.220.B

- to reduce side building setbacks for **Lot 2** as follows:
  - from 7 feet to 3 feet on the south side, with 1-foot eave projection
  - from 7 feet to 6 feet on the north side
- to reduce side building setbacks for **Lot 3** as follows:
  - from 7 feet to 3 feet on the north side, with 1-foot eave projection
  - from 7 feet to 6 feet on the south side

as illustrated in Exhibit C.2.

**Approval** of a Preliminary Plan for a subdivision, that will result in 4 lots as illustrated with Exhibit C.1, 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. 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 proposed general location of future building footprints and stormwater facilities for each of the vacant lots including dimensions showing conformance with approved Adjustments
- Interior side building setbacks on Lots 2 and 3 and dimensions of building walls and projections from the property lines.
- Building elevations showing eaves meeting Community Design Standards

**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 a Fire Code Appeal has been approved prior final plat approval.

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

1. The minimum and maximum density for the lots in this land division are as follows:

<b>Lot</b>	<b>Minimum Density</b>	<b>Maximum Density</b> ( <i>with duplex development only</i> )
<b>1</b>	2 units ( <i>single dwelling with ADU or duplex</i> )	2 units

<b>2</b>	1 unit	2 units
<b>3</b>	1 unit	2 units
<b>4</b>	2 units ( <i>single dwelling with ADU or duplex</i> )	2 units

2. The applicant must meet the addressing requirements of the Fire Bureau for all units. 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. The applicant must meet Life Safety requirements for eaves that less than three feet to a property line. Eaves must be protected on the underside as required for one-hour fire-rated construction, per *ORSC R302.1*

**Staff Planner: Sue Donaldson**

**Decision rendered by:** Michael Nayak **on November 16, 2011**  
By authority of the Director of the Bureau of Development Services

**Decision mailed November 18, 2011**

**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 29, 2011, and was determined to be complete on **September 15, 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 29, 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, **the 120 days will expire on: January 13, 2011**

**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 December 2, 2011** 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 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.**

**Recording concurrent approvals.** The preliminary land division approval also includes concurrent approval of:

1. an adjustment to the minimum lot width requirement from 25 feet to 24.5 feet on Lots 2 and 3.
2. an adjustment to the minimum side setbacks for Lots 2 and 3 as follows:
  - **Lot 2** from 7 feet to 3 feet on the south side, with 1-foot eave projection from 7 feet to 6 feet on the north side
  - **Lot 3** from 7 feet to 3 feet on the north side, with 1-foot eave projection from 7 feet to 6 feet on the south side

These other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with the concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions 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.

**Expiration of concurrent approvals.** The preliminary land division approval also includes concurrent approval of two adjustments. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: adjustments to minimum lot width and to minimum side setback requirements for Lots 2 and 3. These approvals expire if:

- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

## **EXHIBITS**

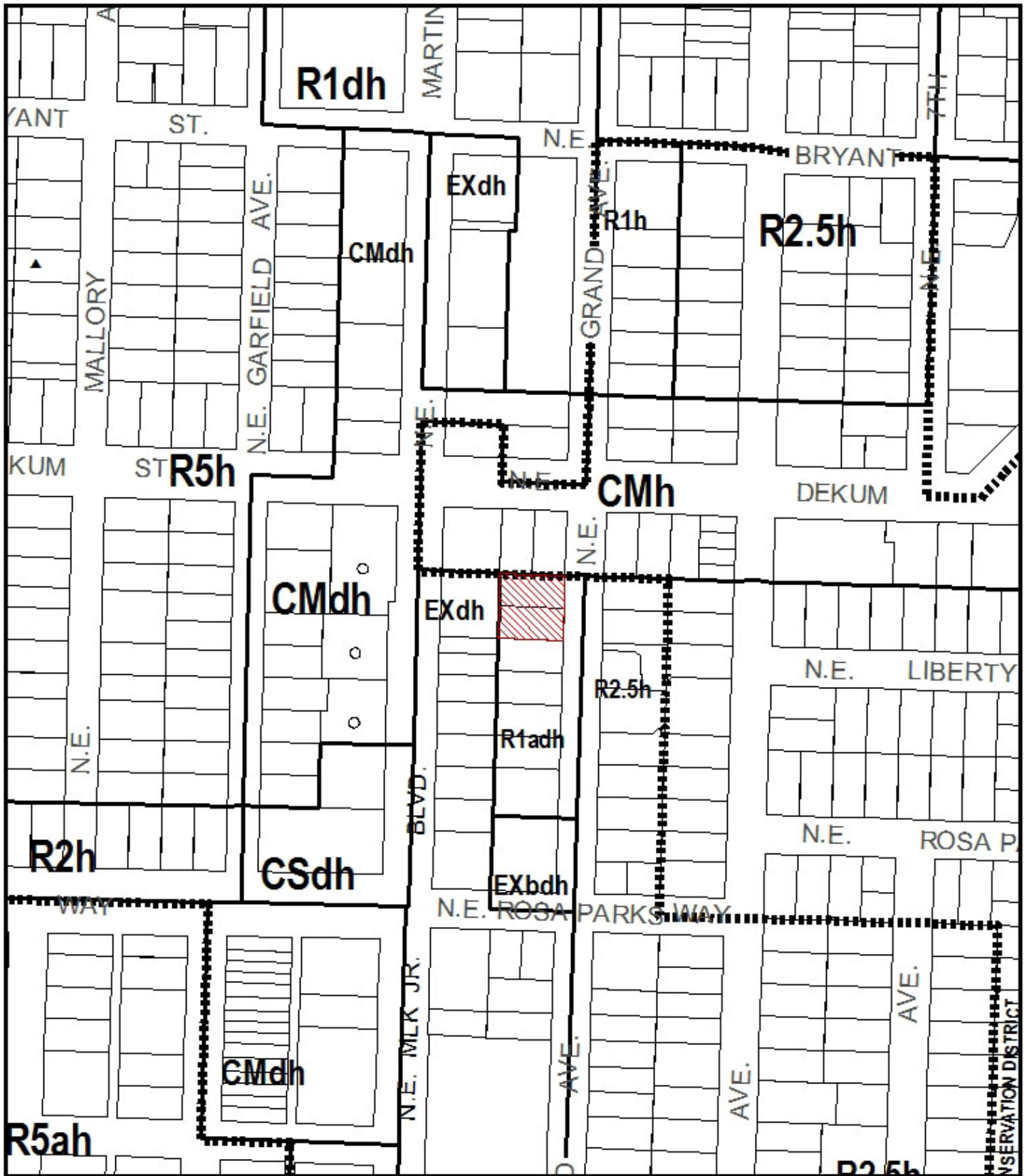
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  1. Approval criteria
  2. Neighborhood contact information
  3. Arborist report
  4. Title report
  5. Infiltration Tests
  6. Transit information
  7. Photograph of vacant lot
  8. Photograph of existing house on site
  9. Traffic Impact Study
  - 10 Adjustment approval criteria
- B. Zoning Map (attached)
- C. Plans/Drawings:



1. Preliminary plan (attached)
  2. Approved Side Setbacks
  3. Existing Conditions
  4. Proposed building elevations
- 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, Bureau of Development Services
  6. Bureau of Parks, Urban Forestry – no issues
  7. Life Safety Section, Bureau of Development Services
- F. Correspondence:
1. None
- 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).**



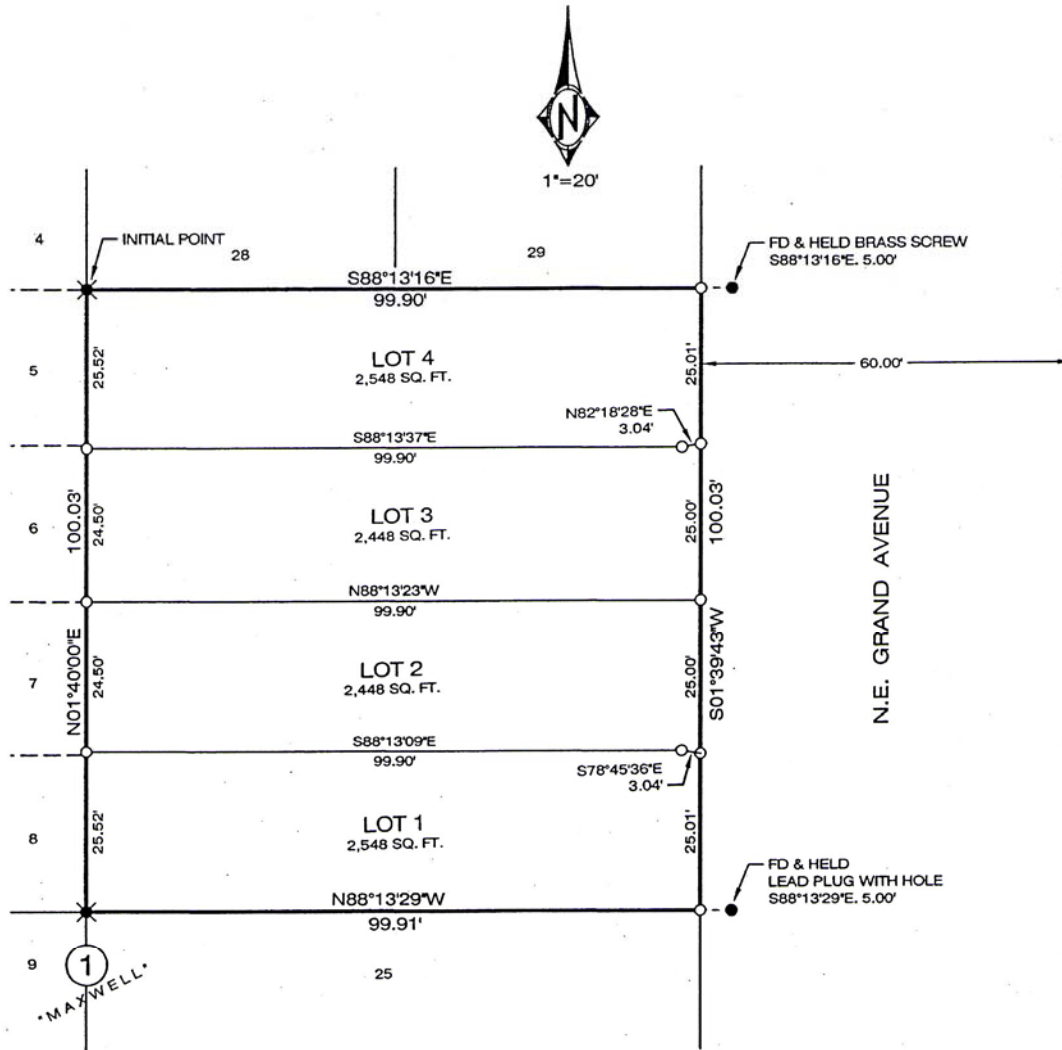
# ZONING

 Site



NORTH

File No. LU 11-153026 LDP  
 1/4 Section 2331  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E14BC 16300  
 Exhibit B (Aug 31, 2011)



**LEGEND:**

- DENOTES MONUMENT FOUND AS NOTED.
- ✕ DENOTES FOUND 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP INSCRIBED "SUMMIT LS59999".
- DENOTES SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP INSCRIBED "SUMMIT LS59999".
- FD DENOTES "FOUND"
- W/YPC DENOTES "WITH YELLOW PLASTIC CAP"
- IR DENOTES "IRON ROD"
- SQ. FT. DENOTES SQUARE FEET

CASE NO. LU 11-153026 LDSAD  
 EXHIBIT C.1  
 Detail

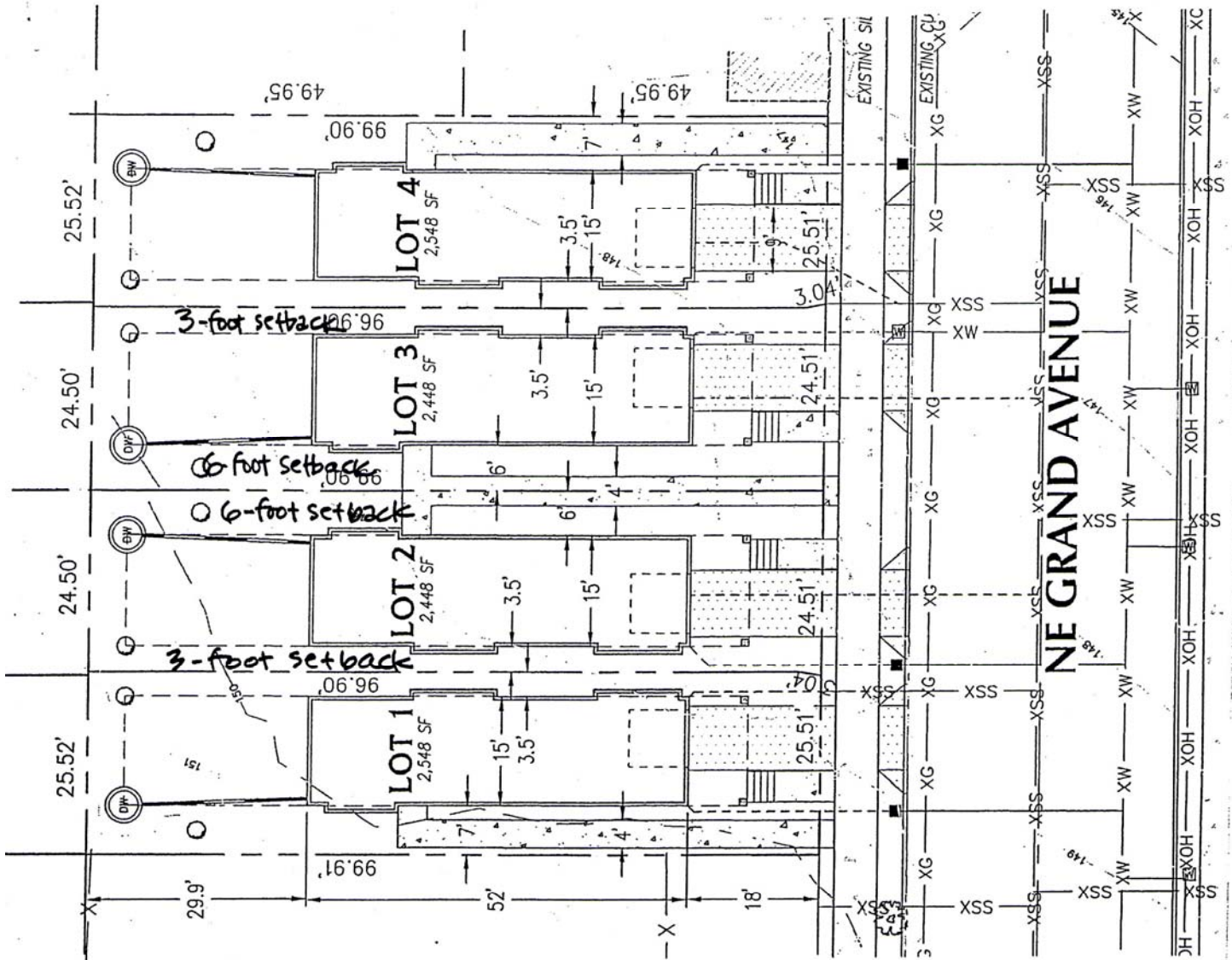
I HEREBY CERTIFY THIS TO BE A TRUE AND EXACT COPY OF THE ORIGINAL PLAT.

JOHN R. WADE P.L.S. 59999

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

OREGON  
 FEBRUARY 06, 2000  
 JOHN R. WADE  
 59999 LS  
 EXPIRES: 06/30/12

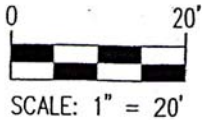
**SUMMIT**  
 LAND SURVEYORS  
 12562 SW MAIN STREET, SUITE 240  
 TIGARD, OR 97223  
 PHONE & FAX: 503.928.5589  
 WWW.SUMMITLANDSURVEYORS.COM



Side Setbacks approved for Lots 2 and 3 as follows:

- Lot 2 from 7 feet to 3 feet on the south side  
from 7 feet to 6 feet on the north side
- Lot 3 from 7 feet to 3 feet on the north side  
from 7 feet to 6 feet on the south side

Note: 1-foot Eave projections allowed



Approved Side Setbacks

CASE NO. 11-153026/05 AD  
EXHIBIT. C.2

6615 NE GRAND AVE  
Portland, OR 97211

TAX LOT 16200 & 16300  
SW 1/4 NW 1/4, SECTION 14, T.1N R.1E  
CITY OF PORTLAND, MULTONMAH COUNTY, OREGON

EMERIO  
Design

6107 SW MURRAY BLVD. SUITE 147  
BEAVERTON, OREGON 97008  
TEL: (503) 515-5528  
FAX: (503) 639-9592  
www.emeriodesign.com