



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

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Portland, Oregon 97201  
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TDD: 503-823-6868  
FAX: 503-823-5630  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** August 15, 2008  
**To:** Interested Person  
**From:** Crystal Hitchings, Land Use Services  
503-823-7583 / [Crystal.Hitchings@ci.portland.or.us](mailto:Crystal.Hitchings@ci.portland.or.us)

## **NOTICE OF A TYPE II 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 08-144624 AD**

#### **GENERAL INFORMATION**

**Applicant:** Yoram Ariel  
2014 SW Luradel St  
Portland, OR 97219-6310

**Site Address:** 12519 SW ORCHARD HILL RD

**Legal Description:** PARTITION PLAT 2006-21, LOT 1  
**Tax Account No.:** R649860810  
**State ID No.:** 1S1E33CC 02501  
**Quarter Section:** 4227

**Neighborhood:** Arnold Creek, contact Nancy Hand at 503-452-9483.  
**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

**Zoning:** R10, Residential 10,000

**Case Type:** AD, Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant is proposing to shift an existing common property line between two lots (rear lot line for the subject site, north side for the adjacent lot) through a separate review, 08-144604-PR. The northeast corner of the common property line will be shifted 24.41 feet to the north, to align with the boundary of the adjacent properties to the east and west. The shift brings the new property line back to its originally platted configuration. Both the subject site (parcel 1 on the site plan) and the adjacent lot to the rear (south) have homes located on them. No material changes will occur as a result of this lot line shift, however, the rear building setback for the existing home on the subject site will be reduced on the southeast corner to 8.7 feet (the setback on the southwest corner will be 10.7 feet), and the associated eave will be located 7.7 feet from the property line at the southeast corner. The lot area of the subject site will be

reduced from 9,219 square feet to 8,519 square feet, and the lot area of the adjacent site to the rear will increase from 8,844 to 9,544 square feet.

The R10 zone requires a rear setback of 10 feet from the property line, and allows eave projections to extend into the setback up to 20% of the setback, which in this case would allow the eave to be located at 8 feet from the property line. Therefore, an Adjustment is required to allow the rear building setback for the existing home on the subject site (parcel 1) to be reduced to 8.7 feet, and to allow the associated eave to be located at 7.7 feet from the rear property line.

**RELEVANT APPROVAL CRITERIA:**

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

## **ANALYSIS**

**Site and Vicinity:** The 9,219 square foot subject site is located south of SW Orchard Hill Road, two lots west of SW Boones Ferry Road. The site is developed with a duplex originally built in 1980. The site is characterized by an open yard with a number of densely-planted trees located along the rear, west, and southeast sides of the building, and less dense/less mature trees located along the side and front property lines. A wooden fence is located to the rear of the dwelling, along the proposed new property line. The site is accessed off of SW Orchard Hill Road, which is a local access street developed with a curb only.

The vicinity within 200 feet is residentially developed; lots vary greatly in size, orientation, and configuration.

**Zoning:** The R10, Residential 10,000 zone is a Low density single dwelling zone with average density of one unit per 10,000 square feet of site area. Minimum lot area is 6,000 square feet. The R10 zone requires a rear building setback of 10 feet.

**Land Use History:** City records indicate that prior land use reviews include the following: PC 6681 ZC (90-024944)—The following ordinances were included in the original case file: A City initiated ordinance (Ord. No. 145795) annexing an R10 City zone in Tract Block 8b; and another (Ord. No. 146686) annexing an R10 zone lying substantially within the area bounded by SW30th Ave, SW Stephens RD, SW Boones Ferry Road, and the Clackamas county line, and declaring an emergency.

LU 04-049567 PR—Approved a Property Line Adjustment to shift the southeast corner of the common lot line between tax lot 2500 and 2700 to the south by 21.41 feet to achieve an additional 200 square feet of lot area.

LU 05-114731 LDP—Approval of a Preliminary Plan for a two-lot Partition (for the subject site and the adjacent lot to the east), subject to specific submissions required prior to final plat approval, and subject to the condition that development on Lots 1 & 2 shall be in conformance with the Tree Preservation Plan and applicant's arborist report, and that encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning were required to approve development in the root protection zones subject to receipt of a report from an arborist, explaining that the arborist approved the specified methods of construction, and that the activities would be performed under his supervision.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed on July 21, 2008. The following Bureaus have responded with no issues or concerns (Exhibits E.1-E.5):

- Life Safety
- Fire Bureau
- Bureau of Transportation Engineering
- Water Bureau
- Bureau of Parks-Forestry Division

The following Bureaus responded with additional comments:

- The **Site Development Section of BDS** (Exhibit E.6): gave no objection to the proposed Adjustment, and referred to their comments under 08-144604-PR. Comments indicated that Final Plat 05-114731-FP showed that permit 05-159849-PT for sanitary sewer replacement was finalized on 10/15/05. The condition of approval requiring a new sewer connection to the sanitary sewer in SW Orchard Hill Rd was satisfied. Site Development file notes for 05-114731-LDP indicate that stormwater is pumped to the curb in SW Orchard Hill Rd. Based on this information, the proposed PLA will not result in a change in stormwater services.
- The **Bureau of Environmental Services** (Exhibit E.7): gave no objection to the proposed Adjustment, and referred to their comments and Site Development's comments under 08-144604-PR. Under this review, BES responded with no concerns. Comments included a summary of the information about sanitary and stormwater systems available for the site. BES noted that there was no information given on the location of the sanitary connection for parcel 1, and that the sanitary services do not cross the proposed property lines. (Information from 05-114731-LDP). Additionally, the current stormwater management disposal system for Parcels 1 was not shown on the site plan submitted.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on July 21, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations 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. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

### 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.

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

**Findings:** The request is for an Adjustment to Section 33.110.220 Setbacks. The Purpose of this regulation states that:

*The building setback regulations serve several purposes:*

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of houses in the City's neighborhoods;

- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The proposed Adjustment to reduce the rear building setback will allow for a shift to a common lot line between two properties with existing development back to the originally platted configuration of that common lot line. No further development will result from this proposal, and none of the existing physical characteristics of these lots will change. In fact, an existing fence is located along the originally platted lot line and, with the line shift, will once again physically demarcate the actual property line and better describe the physical relationship between the properties. No changes will occur to the physical relationship between the residential structures.

The existing light, air, fire separation and access, privacy options, building scale and placement, and physical relationships between buildings are compatible with the R10 residential zone, and will not be changed by this proposal. The fence and abundant trees and shrubs provide privacy between the subject site and the adjacent lot to the rear (south). The proposal to reduce the rear building setback for the existing structure on the subject site, at the southeast corner of the site, to 8.7 feet, and to locate the associated, existing eave at 7.7 feet from the rear property line, allows adequate flexibility to site future, R10 compatible development on both the subject site (parcel 1) and the adjacent lot to the south. For these reasons, the purpose statement for Setbacks is equally or better met by the proposal. Therefore, this criterion is met.

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

**Findings:** The proposal is to reduce the rear building setback, for the existing structure, at the southeast corner of the subject site from 10 feet to 8.7 feet and allow the associated, existing, eave to be located at 7.7 feet, in order to shift the rear lot line of the subject site back to its originally platted configuration. The proposal does not propose any new development, does not alter any existing physical characteristics between the subject site and adjacent sites, and does not impede future improvements to the subject site or adjacent sites. For these reasons, the proposal does not detract from the livability or appearance of the residential area, and therefore this criterion is met.

- 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:** Only one Adjustment is being requested, therefore this criterion is not applicable.

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

**Findings:** There are no such City-designated resources on this site. This criterion is not relevant.

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

**Findings:** There are no discernable impacts that would result from this proposal. 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 site is not within an environmental zone. This criterion is not applicable.

## DEVELOPMENT STANDARDS

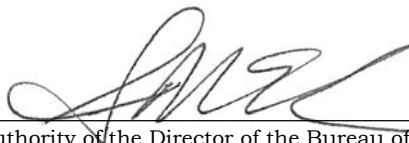
Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be 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 proposal is for an Adjustment to reduce the rear building setback on the subject site in order to allow the shift of a common lot line between two lots with existing structures, from the existing configuration to the originally platted common lot line configuration, with no additional development proposed. There are no changes to the physical characteristics of the site that would affect livability or appearance. All approval criteria are met and this proposal should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the rear building setback of the subject site (parcel 1), for the existing structure, along the southeast corner of the rear property line to 8.7 feet, and the associated, existing eave to be located at 7.7 feet from the southeast corner of the rear property line, for the purpose of allowing a Property Line Amendment (08-144604-PR), per the approved plans and Exhibits C-1 through C-2, signed and dated August 12, 2008.

**Decision rendered by:**  **on August 12, 2008.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: August 15, 2008**

**Staff Planner: Crystal Hitchings**

**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 July 10, 2008, and was determined to be complete on July 16, 2008.

*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 July 10, 2008.

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.

**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 Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on August 29, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., 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. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://www.portlandonline.com).

**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 Adjustment Committee 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 Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **August 30, 2008 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**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, permittees 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 of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

**EXHIBITS**

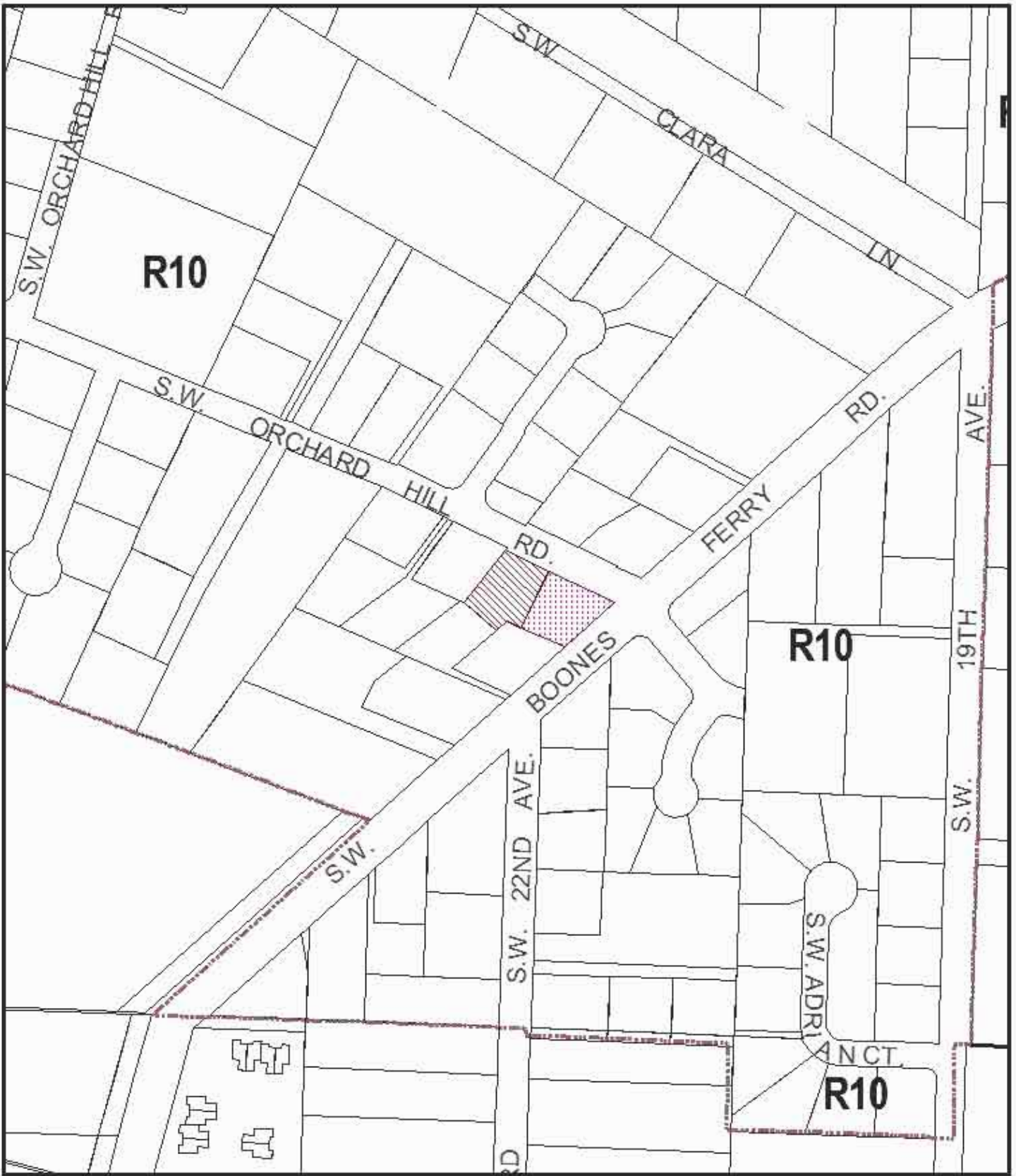
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Site Detail (attached)
  3. Lot Configurations
- D. Notification information:

1. Mailing list
  2. Mailed notice
- E. Agency Responses:
1. Life Safety
  2. Fire Bureau
  3. Bureau of Transportation Engineering and Development Review
  4. Water Bureau
  5. Bureau of Parks, Forestry Division
  6. Site Development Review Section of BDS
  7. Bureau of Environmental Services
- F. Correspondence:
- None Received
- G. Other:
1. Original LU Application
  2. Site History Research
  3. Tax Map
  4. Multnomah County Property Record

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).**





# ZONING

-  Site
-  Also Owned



File No. LU 08-144624 AD  
 1/4 Section 4227  
 Scale 1 inch = 200 feet  
 State Id 1S1E33CC 2501  
 Exhibit B (Jul 14, 2008)

DESIGNED	198
RESOLVED	198
DRAWN	DKM
DATE	4/1/2008
SCALE	1" = 50'
FILE NO.	04-226
REVISED	

**PROPERTY LINE ADJUSTMENT SURVEY**  
 FOR ASPEN YU, LLC  
 IN THE SW 1/4 OF SECTION 33, T.1S., R.1E., W.M.  
 CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON

**W.B. WELLS**  
 ENGINEERS SURVEYORS PLANNERS  
 4230 NE FREMONT STREET  
 PORTLAND, OREGON 97213  
 PHONE (503) 284-8535 FAX(503) 284-8530  
 e-mail address: info@wbwells.com



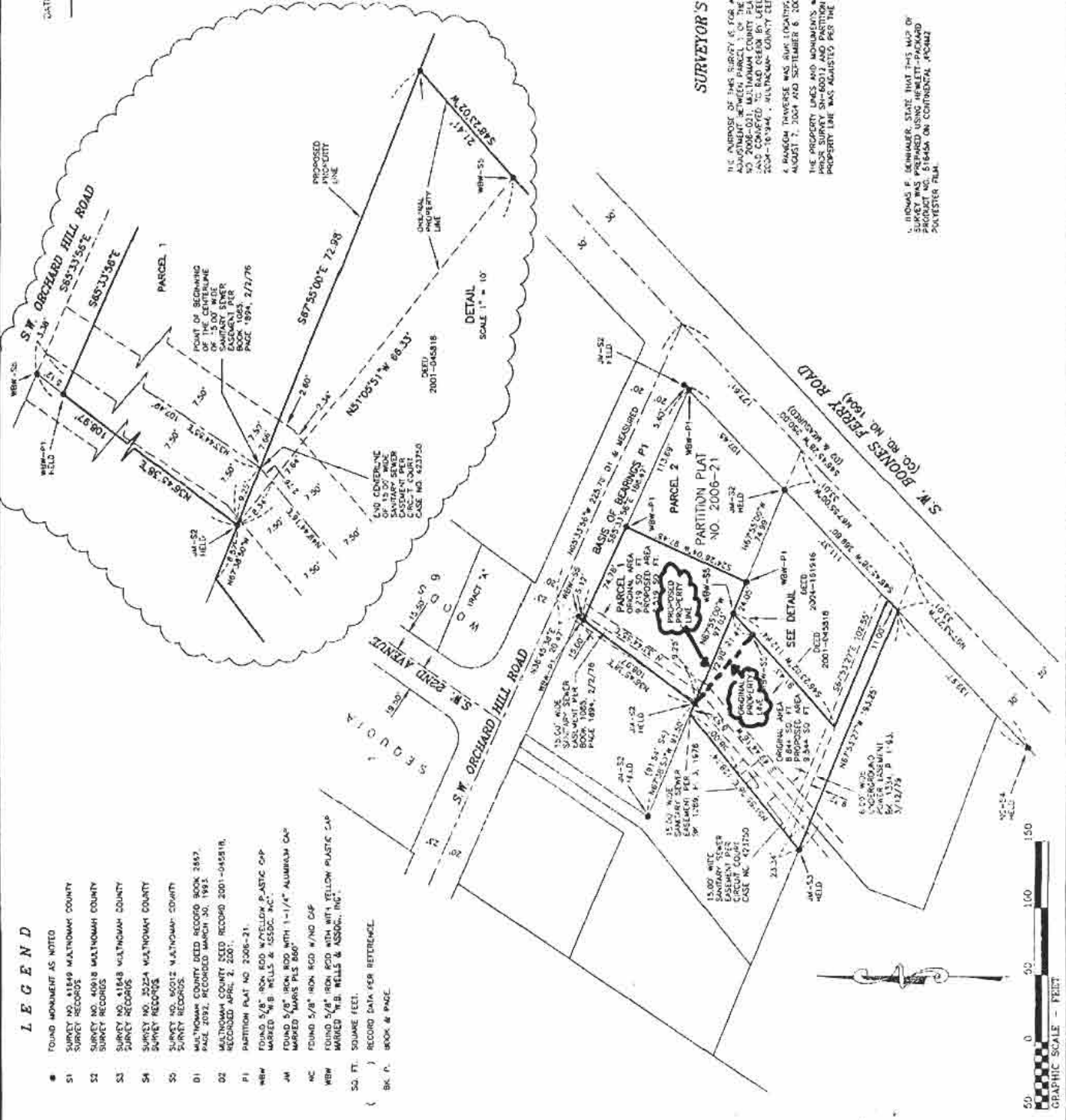
**\*Approved\***  
 City of Portland - Bureau of Development Services  
 Planner *Christal Hickling* Date *August 12, 2008*  
 \* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply to MULTNOMAH COUNTY SURVEY RECORDS.

**SURVEYOR'S NARRATIVE**

THE NUMBER OF THIS SURVEY IS FOR A PROPOSED PROPERTY LINE ADJUSTMENT BETWEEN PARCEL 1 OF THE JULY RECORDED PARTITION PLAT NO. 2008-011, MULTNOMAH COUNTY PLAT RECORDS AND THAT TRACT OF LAND CONFERRED TO RAO DEED BY JUDICIAL RECORDS IN DOCUMENT NO. 2004-10344, MULTNOMAH COUNTY DEED RECORDS.  
 A PARAGON TRAVERSE WAS RUN LOCATING THE MONUMENTS SHOWN ON AUGUST 7, 2004 AND SEPTEMBER 6, 2005.  
 THE PROPERTY LINES AND MONUMENTS WERE HELD AS ESTABLISHED IN THE PRIOR SURVEY SH-60013 AND PARTITION PLAT NO. 2008-021. THE PROPERTY LINE WAS ADJUSTED PER THE CLIENT'S DIRECTION.

REGISTERED PROFESSIONAL LAND SURVEYOR  
 OREGON  
 JAY L. ISM  
 THOMAS J. BEAUMER  
 LICENSE NO. 12-11-09

IT BEING THE UNDERSIGNED STATE THAT THIS MAP OR SURVEY WAS PREPARED USING HERETOFOR-ESTABLISHED PROCEDURES AND IS TRUE TO THE ORIGINAL POLYESTER FILM.



**LEGEND**

- FOUND MONUMENT AS NOTED
- S1 SURVEY NO. 11849 MULTNOMAH COUNTY SURVEY RECORDS
- S2 SURVEY NO. 14018 MULTNOMAH COUNTY SURVEY RECORDS
- S3 SURVEY NO. 41648 MULTNOMAH COUNTY SURVEY RECORDS
- S4 SURVEY NO. 20224 MULTNOMAH COUNTY SURVEY RECORDS
- S5 SURVEY NO. 60012 MULTNOMAH COUNTY SURVEY RECORDS
- D1 MULTNOMAH COUNTY DEED RECORD BOOK 2857 PAGE 2032, RECORDED MARCH 30, 1983.
- D2 MULTNOMAH COUNTY DEED RECORD 2001-04581R, RECORDED APRIL 2, 2001.
- P1 PARTITION PLAT NO. 2008-21.
- WBW FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "W.B. WELLS & ASSOC., INC."
- JM FOUND 5/8" IRON ROD WITH 1-1/4" ALUMINUM CAP MARKED "MARS PLS 860"
- MC FOUND 5/8" IRON ROD W/NO CAP
- WBW FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "W.B. WELLS & ASSOC., INC."
- SQ. FT. SQUARE FEET.
- BRK. P. BRACKEN & PACE.
- ( ) RECORD DATA FOR REFERENCE.



