



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

1900 SW 4th Avenue, Suite 5000  
Portland, Oregon 97201  
503-823-7300  
Fax 503-823-5630  
TTY 503-823-6868  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** May 11, 2009  
**To:** Interested Person  
**From:** Jacob Brostoff, Land Use Services 503-823-7198 / [BrostoffJ@ci.portland.or.us](mailto:BrostoffJ@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 09-116224 AD**

#### **GENERAL INFORMATION**

**Applicant:** Clark A Foerster  
3555 SE 67th Ave  
Portland, OR 97206

**Site Address:** 3555 SE 67TH AVE

**Legal Description:** LOT 22 BLOCK 5, LAURELWOOD PK

**Tax Account No.:** R480801470

**State ID No.:** 1S2E08CB 00700

**Quarter Section:** 3437

**Neighborhood:** Foster-Powell, contact Ken Pliska at 503-775-9101.

**Business District:** Eighty-Second Avenue, contact Ken Turner at 503-484-6225.

**District Coalition:** Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.

**Zoning:** R2

**Case Type:** AD-Adjustment Review

**Procedure:** Type II, administrative decision with appeal to Adjustment Committee.

#### **Proposal:**

The applicant proposes to redevelop this site with a single-dwelling house. The site is zoned for multi-dwelling development and has a required minimum density of two dwelling units.

Because the minimum density for the site is two dwelling units and only one dwelling unit is proposed, an **Adjustment to minimum density is required**. The proposed single-dwelling house meets all other development standards.

#### **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 4,000 sq. ft. site is flat, on an urban residential street, and abuts an alley. It is surrounded by mostly single-dwelling homes. There are several large Douglas Fir

trees on the site. The applicant's proposed site configuration locates the proposed house far back on the lot in order to preserve these trees. The proposed house sits approximately 1 foot from the alley, taking advantage of the Zoning Code provision that allows side, rear and garage entrance setbacks to be reduced to zero from a lot line that abuts an alley (**33.110.220.D.8**).

The site lies a half block south of SE Powell Boulevard, which is a very busy, wide street and state highway, with frequent transit service (bus #9). There is a mix of multi-dwelling residential and commercial zoning and uses on SE Powell Boulevard.

**Zoning:** R2-Medium-density multi-dwelling. The R2 zone allows multi-dwelling residential development up to a maximum density of one unit per 2,000 square feet of site area, and requires a minimum density of one unit per 2,500 square feet of site area. Newly created lots in the R2 zone must be at least 4,000 square feet in area for multi-dwelling development, 1,600 square feet for development with attached or detached houses, and 2,000 square feet for development with duplexes.

The minimum density calculation is  $4000 / 2500 = 1.6$  dwelling units. Due to the rounding rules in the Zoning Code (**33.930.020.A.2**), the minimum density on this site without an Adjustment is 2 units.

**Land Use History:** City records indicate that there is one prior land use review for this site:

- PC 4030: 1990 Zone change from R5 to A2.5.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **April 6, 2009**. The Water Bureau responded with no issues or concerns.

The Site Development Section of BDS responded with comments that any changes to the stormwater management system approved at building permit review may require revisions. Exhibit E-2 contains additional details.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on April 6, 2009. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### Title 33.805.040 Adjustment Approval Criteria

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

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

**Findings:** The multi-dwelling zone density standards have the following purposes:

The number of dwellings per unit of land, the density, is controlled so that housing can match the availability of public services and the availability of support commercial areas. The standards also allow the housing density to be matched with the carrying capacity of the land. In addition, the density standards are used as one type of control of overall building bulk. In areas with the highest level of public services, the minimum density standards ensure that the service capacity is not wasted and that the City's housing goals are met.

Per the service bureau comments, adequate public services are available to serve a single-dwelling development at this site. Nearby portions of SE Powell Boulevard have commercial zoning that can support a single-dwelling, Household Living use at this site.

The applicant's site configuration, designed specifically to preserve the large Douglas Fir trees on the site, helps match the proposed single-dwelling home with the carrying capacity of the land. The proposed building is within building coverage and height standards, and overall building bulk is not excessive given the surrounding single-dwelling houses.

Proposing a single dwelling unit on this site does not preclude its redevelopment with multi-dwelling development in the future. Part of the single-dwelling house could be converted to another dwelling unit or an accessory dwelling unit (ADU). Alternately, floor area could be added in order to create a new dwelling unit or ADU. Since both dwelling units and ADUs are included in the minimum density calculation for multi-dwelling-zoned sites, this would satisfy the multi-dwelling density standard. Given the proposed floor plan, there is ample room to convert part of the house to another dwelling unit or ADU. There is also additional building coverage available on the site to add floor area through new building footprint.

Because another dwelling unit that would be included in minimum density calculations can easily be added to the site, the minimum density standard can still be met in the future. Although only one dwelling unit is proposed at this time, the floor plan of the proposed house does not preclude, and in fact could easily accommodate, another dwelling unit. The site configuration could potentially accommodate another dwelling unit through the expansion of building coverage, but the large trees on the lot limit to some extent where the expansion could occur. Similarly, a future land division with reasonable building sites could be limited by the location of the large trees.

With a condition of approval that trees may be removed if they preclude future multi-dwelling or duplex development that results in the expansion of building coverage, or a land division that would bring the site into conformance with the minimum density standard, this approval 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 site is in a residential zone. The proposed development is a single-dwelling house. Although the design is more contemporary than surrounding houses, the development type is identical to surrounding development. A single-dwelling house at this location will continue the pattern of single-dwelling houses and Household Living uses in this residential area. There will be no negative impacts to livability from this single-dwelling house, and the preservation of the large Douglas Fir trees on the site will continue to provide an amenity for neighbors.

However, a condition of approval linking the preservation of the trees to the development of a single-dwelling house on the site is warranted, to ensure that the preservation of the trees does not preclude future multi-dwelling or duplex development or a land division that would bring the site into conformance with the minimum density standard.

With a condition of approval that trees may be removed if they preclude future multi-dwelling or duplex development that results in the expansion of building coverage, or a land division, this approval 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 requested. This approval criterion is not applicable.

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

**Findings:** There are no scenic or historic 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 proposal is for a single-dwelling house, in a neighborhood that is predominantly developed with single-dwelling houses. Large Douglas Fir trees will be preserved. There will be no impacts due to this Adjustment.

This approval criterion is not applicable.

**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:** The site is not within an environmental zone, which is designated on the zoning map by either a "c" or "p" overlay. Therefore, this approval 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 proposed development of a single-dwelling house, with the potential to add another dwelling unit in the future, meets all of the Adjustment approval criteria. Because an additional dwelling unit that could meet minimum density could be added in the future, the proposal is consistent with the purposes of the density standards. The livability and appearance of the residential area will be preserved. Due to the site configuration, large Douglas Fir trees will be protected, keeping a significant amenity for neighbors. There will be no impacts due to the development of a single-dwelling house. The Adjustment can be approved.

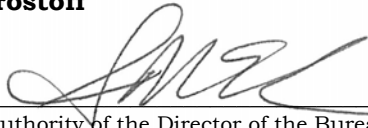
## **ADMINISTRATIVE DECISION**

Approval of an Adjustment to waive the minimum density requirement for this site, per the approved site plans, Exhibits C-1 through C-2, signed and dated May 7, 2009, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 09-116224 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Trees 001, 002, 003, and 004 shown on Exhibit C.1 must be preserved unless:
  - A building permit is issued for an addition that adds a dwelling unit and increases building coverage;
  - A final plat is approved and recorded for a land division that creates at least one additional lot; or

- The tree is determined by an arborist to be dead or diseased and needs to be removed, or it constitutes an immediate hazard to life or property.

**Staff Planner: Jacob Brostoff**

**Decision rendered by:**  **on May 11, 2009**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: May 11, 2009**

**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 March 27, 2009, and was determined to be complete on April 6, 2009.

*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 March 27, 2009.

*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: September 2, 2009.**)

**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 May 26, 2009** 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 **May 27, 2009 – (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:

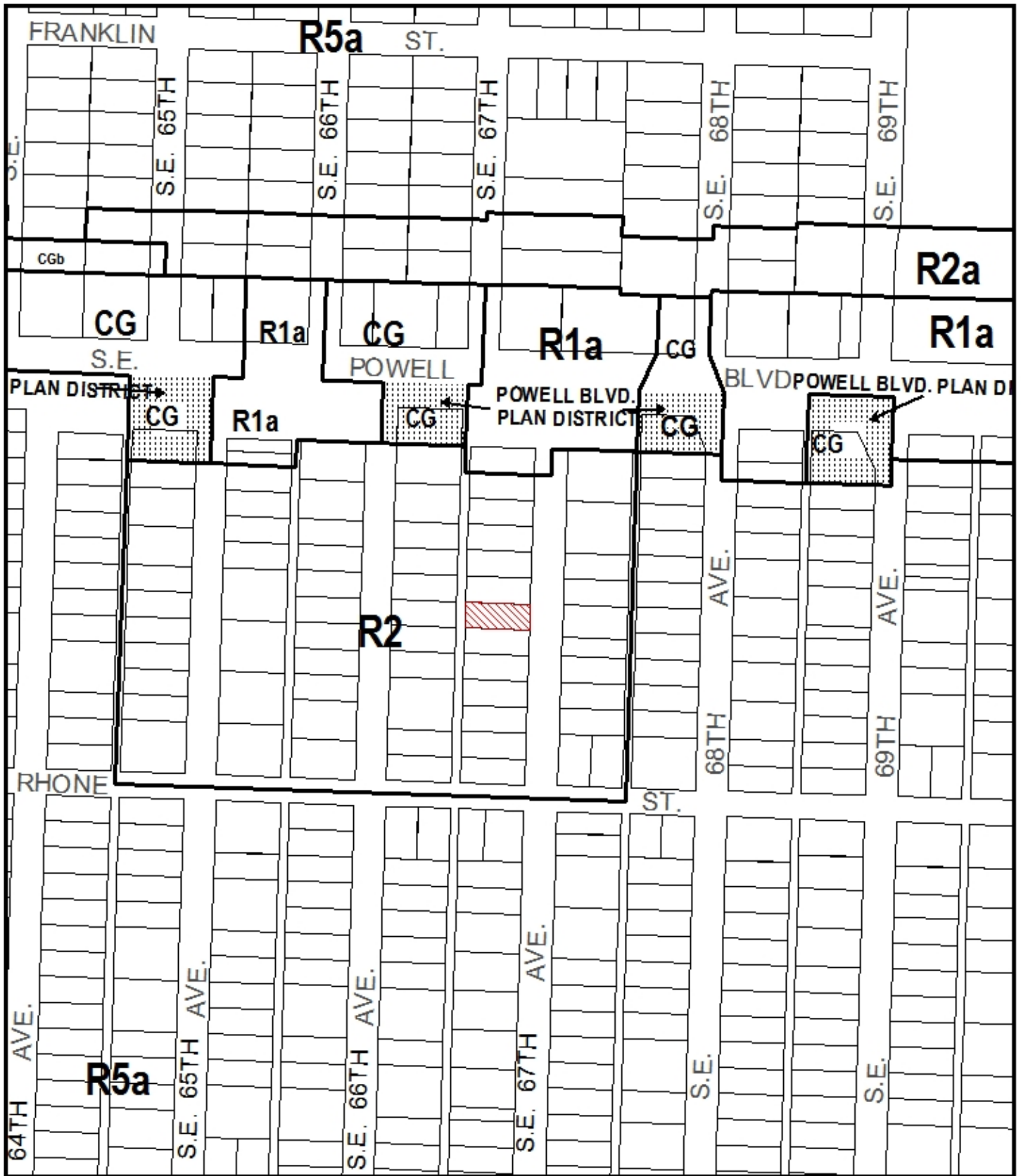
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Building Elevations (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Water Bureau
  - 2. Site Development Review Section of BDS
- F. Other:
  - 1. Original LU Application
  - 2. Site History Research

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).**

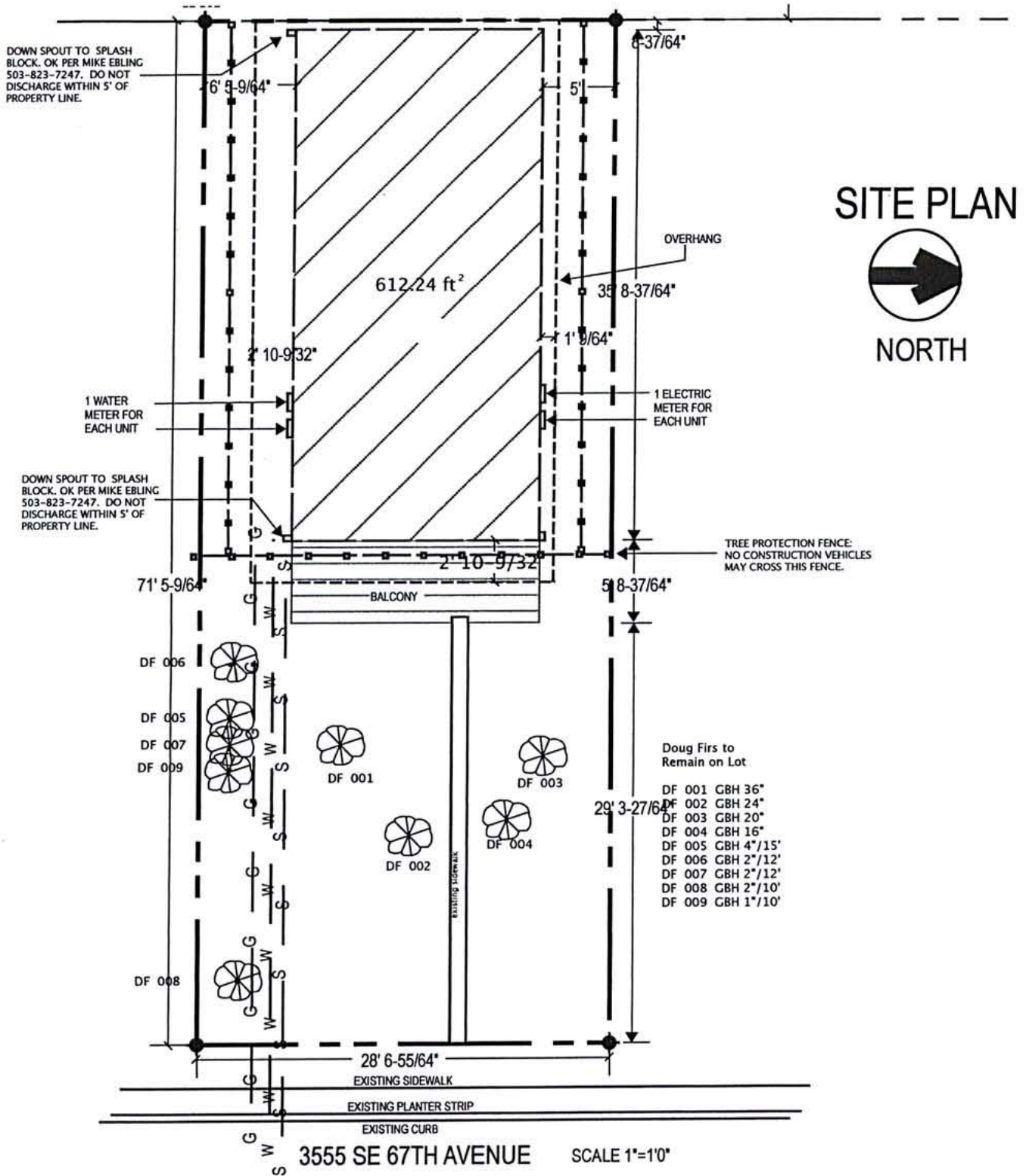


# ZONING

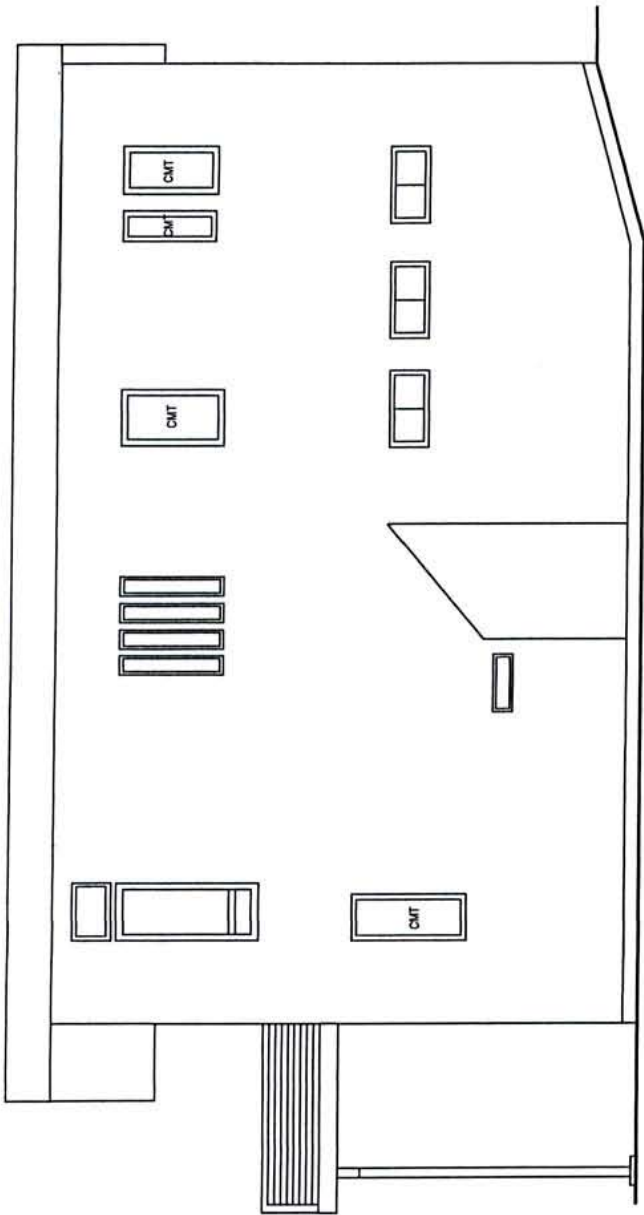


File No.	<u>LU 09-116224 AD</u>
1/4 Section	<u>3437</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S2E08CB 700</u>
Exhibit	<u>B</u> (Apr 02,2009)

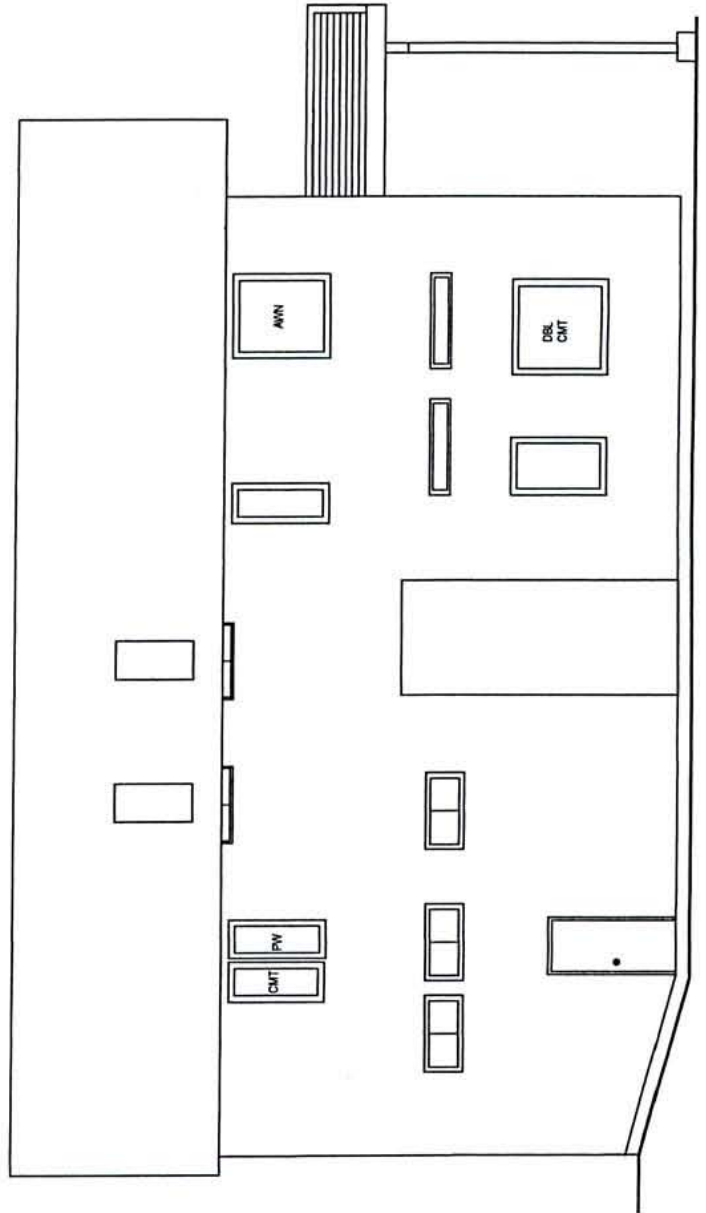




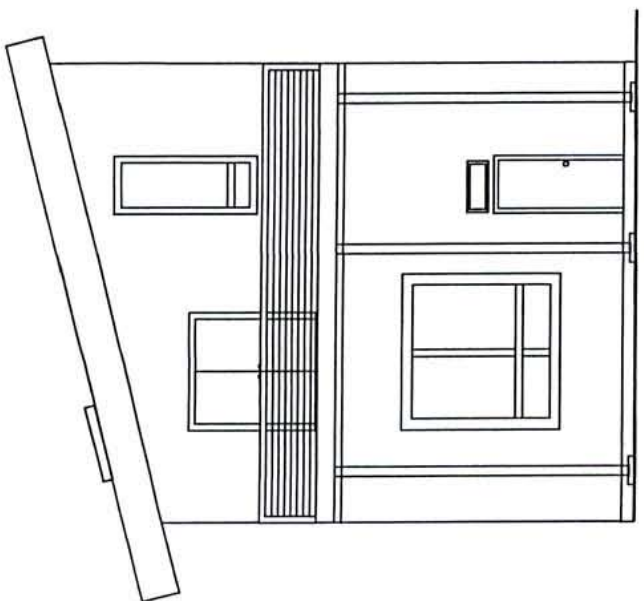
	<p>CONSTRUCTION ENTRANCE</p> <p>COVERED STOCK PILE</p> <p>WORK MATERIAL STORAGE</p>	<p>— S — S — 3" ABS SEWER LINE</p> <p>— W — W — 3/4" PVC WATER LINE</p> <p>— G — G — GAS LINE</p> <p>— [ ] — [ ] — SILT FENCE</p> <p>— [ ] — [ ] — TREE PROTECTION FENCE</p>	<p>PROPERTY ID R204862</p> <p>COUNTY MULTNOMAH COUNTY</p> <p>STATE ID 1S2E08CB 700</p> <p>ALT ACCOUNT # R480801470</p> <p>LOT SIZE 4,000' SQ FT</p> <p>MAJN 1200' SQ FT</p>
<p>SHEET 1 OF 15</p>	<p>CLARK FOERSTER, OWNER, APPLICANT, DESIGNER</p> <p>3555 SE 67TH AVE</p> <p>PORTLAND, OR 97206</p> <p>805-459-5595</p> <p>Application #08 132 599 RS</p> <p>piano@lifola.org</p>	<p>REVISED 06/24/08</p> <p>REVISED 07/16/08</p> <p>REVISED 10/29/08</p>	



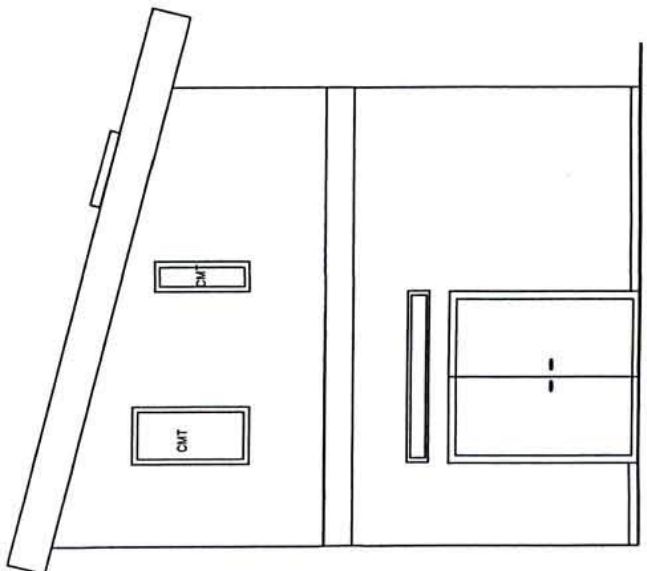
RIGHT ELEVATION (NORTH)



LEFT ELEVATION (SOUTH)



FRONT ELEVATION (EAST)



BACK ELEVATION (WEST)