



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** January 16, 2014  
**To:** Interested Person  
**From:** Rachel Whiteside, Land Use Services  
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## **NOTICE OF A TYPE II<sub>x</sub> 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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 13-206702 LDS**

#### **GENERAL INFORMATION**

**Applicant:** Kevin Partain / Urban Visions  
223 NE 56th Ave / Portland, OR 97213

**Owner:** Clint Weiler / Ground Breakers Construction And Development  
6045 SE Stark St / Portland, OR 97215

**Site Address:** 6550 SE 63rd Ave

**Legal Description:** BLOCK 25 N 50' OF LOT 8 S 1/2 OF LOT 9, BRENTWOOD & SUB  
**Tax Account No.:** R099912170  
**State ID No.:** 1S2E20BB 08100 **Quarter Section:** 3737  
**Neighborhood:** Brentwood-Darlington, contact Cory Tyler at [corguyydx@yahoo.com](mailto:corguyydx@yahoo.com)  
**Business District:** 82<sup>nd</sup> Ave of Roses BA, contact Frank Harris at 503-774-2832.  
**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.  
**Zoning:** R2.5a – Single-Dwelling Residential with an Alternative Design Density Overlay

**Case Type:** LDS – Land Division (Subdivision)  
**Procedure:** Type II<sub>x</sub> – an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant proposes to subdivide the 13,700 square foot site into four lots ranging in size from 3,116 to 3,714 square feet. The existing development will be demolished and replaced with four detached houses. Two of the seven trees onsite are proposed for preservation.

Public water and sanitary sewer are available to the site from SE 63<sup>rd</sup> Avenue. Stormwater from the new development will be managed onsite through new drywells. A 3-foot right-of-way dedication is required to accommodate frontage improvements, including curb, stormwater planter, and sidewalk.

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 four units of land (four lots). Therefore this land division is considered a subdivision.

This subdivision proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; and (2) four to ten dwelling units are proposed, not including accessory dwelling units (see 33.660.110).

**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.**

## FACTS

**Site and Vicinity:** The lot and vicinity are generally flat. Older development in the area is characterized by small one-story homes. Newer development on the block and in the area is typically modest sized two-story homes. The zoning in all directions is single-dwelling residential. Brentwood City Park is one block southwest of the site between 62<sup>nd</sup> and 60<sup>th</sup> Avenues in the OS zone. South of the park is Joseph Lane School and to the west is the Community Transition Center.

### Infrastructure:

- **Streets** – The site has approximately 137 feet of frontage on SE 63<sup>rd</sup> Avenue. At this location, SE 63<sup>rd</sup> Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). It is a 50-foot wide right-of-way improved with approximately 28 feet of roadway, but no curbs or sidewalks. Tri-Met provides transit service approximately 230 feet from the site at SE Duke Street via Bus #19.
- **Water Service** – There is an existing 6-inch DI water main in SE 63<sup>rd</sup> Avenue. The existing house is served by a 5/8-inch metered service from this main which may potentially be used to provide service to a future lot.
- **Sanitary Service** - There is an existing 8-inch PVC public sanitary sewer line in SE 63<sup>rd</sup> Avenue. The existing house is served by a lateral which may potentially be used to provide service to a future lot.

**Zoning:** The R2.5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The "a" overlay 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.

**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. Exhibits "E" contain the complete responses.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **December 3, 2013**. A written response has been received from the Neighborhood Association that includes an attachment signed by six surrounding property owners in response to the proposal (Exhibit F.1); one additional letter was received from a notified property owner regarding tree removal (Exhibit F.2); and an email was received asking to be included in the mailing list (Exhibit F.3).

The letter from the Brentwood-Darlington Neighborhood Association (BDNA) and neighbors raised four issues (*with the City response following in Italics*):

- The intensity of the infill development is uncharacteristic of the neighborhood and two homes would be more appropriate.

*While the west side of SE 63<sup>rd</sup> Avenue does have a larger lot pattern, that is not true of the neighborhood as a whole. Within 3 blocks in each direction there are many examples of development at the R2.5 density and with similar lot sizes. For example, the lots directly east of the site on the back side of the block (SE 64<sup>th</sup> Avenue) are smaller than those proposed in this application*

- Design of the proposed development “fitting in” with the existing development.

*The design of future development is not an approval criterion. Lots must be compatible with existing lots, which is discussed in the findings under Criterion A.*

- Tree removal; and

*Tree removal/preservation is discussed under Criterion B, below.*

- Increased number of vehicles parked on the street.

*The applicant provided a complete Transportation Analysis by a licensed traffic engineer (Exhibit A.7). This report was reviewed by the Portland Bureau of Transportation (PBOT), whose findings are provided under Criterion K.*

## 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. The following table summarizes the criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian	There are no pedestrian connections proposed or

	Connections	required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. Minimum density in the R2.5 zone is 80% of one unit per 5,000 square feet and the maximum density is one unit per 2,500 square feet. The site has a minimum required density of 2 units and a maximum density of 5 units. The applicant is proposing 4 single family lots. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
<b>R2.5 Zone</b>	1,600	NA	36	40	30
Lot 1	3,117		32	97.4	32
Lot 2	3,409		35	97.38	35
Lot 3	3,116		32	97.37	32
Lot 4	3,714		38.16	97.36	38.16

\* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

Narrow Lots

Lots 1-3 are narrower than the minimum width for the R2.5 zone, as shown in the table above. The Zoning Code, however, allows narrower lots if the future development can meet the regulations of 33.611.200.C for R2.5.

• **Consistent with the Purpose of Lot Dimension Regulations**

The purpose of Lot dimension regulations are as follows:

The lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are wide enough to allow development to orient toward the street;

(6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; and (9) lots are compatible with existing lots while also considering the purpose of this chapter.

The applicant has demonstrated that proposed Lots 1-3 are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a building footprint that meets all applicable setback requirements and is oriented towards the street. Therefore, they have demonstrated that the proposed lots can accommodate a reasonably sized house and garage while meeting the development standards of the zoning code;
- The applicant has provided a preliminary utility plan that demonstrates each lot has access for utilities and services;
- The proposed lots are compatible with existing lots because there are several other projects within three blocks in all directions that have development at the R2.5 density and lots less than 36 feet wide; and
- The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street

- ***The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet***

The lots will be developed with detached houses; however, the proposed lots are at least 25 feet wide.

- ***If the lot abuts an alley, then vehicle access is allowed only from the alley***

The site does not have access from an alley, so this standard does not apply.

- ***Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development***

The applicant has demonstrated, with Exhibit C.1 that each lot can be built with a house that is at least 22 feet in width and will be able to accommodate a garage that will occupy no more than 50% of the length of the street facing façade. The garage limitation standards of Subsection 33.110.253.E can be met.

- ***60 percent landscaping requirement for attached houses***

The applicant has indicated that the lots will be developed with detached houses; therefore, this requirement does not apply.

- ***If parking is not required, alley access and garage limitation requirements do not have to be met if a covenant is provided.***

As noted under the Facts section of this report on page 2, Lots 1-3 are exempt from minimum parking requirements due to their location within 500 feet of a transit street with 20-minute service. In this case, the applicant has chosen to demonstrate that the Lots can meet the garage limitation standards. Therefore, a covenant is not required.

The findings above show that the applicable density and lot dimension standards are met. Therefore, this criterion is met.

**B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.**

**Findings:** The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.5). Four trees have been exempted because they are unhealthy or a nuisance species. A site visit by City staff showed that Tree #71 is also unhealthy and is not a viable preservation option. It also showed that Tree #67 is mostly on the adjacent property to the west, although this tree was already exempted as a nuisance tree. A revised inventory follows:

Tree #	Species	Diameter (inches)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
65	Boxelder Maple	15	Hazard	Optional*	
66	Western Flowering Dogwood	17	Hazard	Optional*	
67	Tree-of-Heaven	12	Nuisance & Offsite*	Offsite*	
68	Douglas Fir	14		Yes	10' North & West, 14' East
69	Douglas Fir	14	Hazard	No	
70	Sycamore Maple	22		No	
71	Fruiting Pear	8	Diseased*	Optional*	6' North & West, 10' South & East

\*Alterations recommended by staff.

With the noted corrections, the total non-exempt tree diameter on the site is 36 inches. The applicant proposes to preserve Trees 68 and 71, which comprise 22 inches of diameter. Eliminating Tree #71 reduces the total to 14 inches, or 38.8 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total non-exempt tree diameter on the site to be preserved. The trees to be preserved and the required root protection zones are shown on the applicant's Preliminary Land Division Plan (Exhibit C.1).

In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat. Additionally, because grading has occurred on site without proper tree protection in place, an updated arborist report must be provided at the time of final plat.

This criterion is met, subject to the condition that development on Lot 4 is carried out in conformance with the Preliminary Land Division Plan (Exhibit C.1), the applicant provides an updated arborist report, and an Acknowledgement of Tree Preservation Requirements is recorded with the final plat.

**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. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. 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 garage and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

**K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,**

**Findings:** The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services.

The applicant has provided a complete Transportation Analysis by a licensed traffic engineer (Exhibit A.7). PBOT has reviewed and concurs with the information supplied, the methodology, assumptions and conclusions made by the applicant's traffic consultant. No mitigation beyond standard frontage improvements is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. These criteria are met.

**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, utilities and rights of way. The criteria and standards are met as shown in the following table:

<p><b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods</p> <ul style="list-style-type: none"> <li>• <b>Lots 1-4:</b> Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots 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. BES has indicated conceptual approval of the drywells.</li> <li>• <b>Public Street Improvements:</b> Stormwater from these new impervious areas will be directed into an infiltration swale located between the curb and the new sidewalk, meeting the standards of the Stormwater Management Manual (SWMM) and the Sewer and Drainage Facilities Design Manual. BES has indicated that surface infiltration is the preferred method of public stormwater disposal at this site. To accommodate this stormwater facility within the public right-of-way, a dedication along the frontage of the site must be provided on the final plat.</li> </ul> <p>BES requires a Public Works Permit for the construction of such a swale. The applicant must provide engineered designs and financial guarantees of performance prior to final plat approval. With conditions of approval for the right-of-way dedication, plans, and financial guarantee, this criterion is met.</p>
<p><b>33.654.110.B.1 Through streets and pedestrian connections</b></p> <p>Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is located does not meet the noted spacing requirements – there should be an east-west through street provided in the vicinity</p>

of the site.

The site contains sufficient width to allow the creation of a public east-west through street. However, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for an east-west through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

The only new through pedestrian connections included in the proposal are new sidewalks along the frontage of the site along SE 63<sup>rd</sup> Avenue. This is a straight-line connection on which users will be able to see the ending of the pedestrian route from the entrance.

For the reasons described above, this criterion is met.

**33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment**

Southeast 63<sup>rd</sup> Avenue is improved with a paved roadway, and a gravel shoulder on both sides. There are no curbs, planter strips, or sidewalks. 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. In this case Portland Transportation has determined that curb and sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, as well as an associated stormwater facility discussed earlier in this report, additional right-of-way must be dedicated along the frontage of the site. With those improvements, the proposed four dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that curb and sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

**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.

## 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.

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

- Narrow Lots-- development on Lots 1-3 will be subject to the following standards at the time of development permitting:
  - Height of the structures will be limited to 1.2/1.5 times the width of the structure, per 33.110.215.B.2; and
  - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.3.a
  - Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.E.3.b\_Detached dwelling units are not permitted on lots that are less than 25 feet in width.



**Existing development that will remain after the land division.** The site is currently vacant, 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 R2.5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

## 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
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 – Water availability

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 applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate residential hydrant spacing and flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

## CONCLUSIONS

The applicant has proposed a 4-lot subdivision, as shown on the attached preliminary plan (Exhibit C.1). 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: frontage improvements and the associated public works permit and dedication, tree preservation, and Fire Code requirements.

With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 4-lot subdivision, that will result in one standard lot (Lot 4) and three narrow lots (Lots 103) as illustrated with Exhibit C.1, subject to the following conditions:

**A. The final plat must show the following:**

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 63<sup>rd</sup> Avenue. The required right-of-way dedication must be shown on the final plat.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition B.5, below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Tree Preservation Requirements has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

**B. The following must occur prior to Final Plat approval:****Streets**

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.

**Utilities**

2. 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 provide an approved Fire Code Appeal prior final plat approval.
3. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate residential hydrant spacing. The applicant must provide verification to the Fire Bureau that Appendix C of the Fire Code is met or purchase a hydrant and provide verification to the Fire Bureau that the Water Bureau will be installing the required fire hydrant, with the required fire flow and pressure.
4. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Lots 1-4, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new houses on these lots, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

**Required Legal Documents**

5. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Lot 4. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

**Other**

6. The applicant shall provide an updated arborist report that addresses the health of trees to be preserved, specifically Tree #68.

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

1. Development on Lot 4 shall be in conformance with the Proposed Subdivision Plan (Exhibit C.1) and the applicant's updated arborist report. Specifically, Tree #68 is required to be preserved, with the root protection zones indicated in the arborist report. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The applicant must meet the addressing requirements of the Fire Bureau for Lots 1-4. The location of the address sign must be shown on the building permit.
3. If required by conditions above, the applicant must meet any requirements identified through a Fire Code Appeal. Please refer to the final plat approval report for details on whether or not this requirement applies.
4. 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.

**Staff Planner: Rachel Whiteside**

**Decision rendered by:**           *R Whiteside*           **on January 13, 2014**  
By authority of the Director of the Bureau of Development Services

**Decision mailed January 16, 2014.**

**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 September 18, 2013, and was determined to be complete on November 27, 2013.

*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 September 18, 2013.

*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: March 27, 2014.**

**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 January 30, 2014** 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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 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.**

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
  - 1. Original Narrative

2. Original Arborist Report
  3. Simplified Approach Form
  4. Response to Incomplete Letter, dated November 26, 2013
  5. Revised Arborist Report
  6. Revised Narrative
  7. Transportation Analysis
- B. Zoning Map (attached)
- C. Plans/Drawings:
1. Proposed Subdivision Plan (attached)
- 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 Review Section of BDS
  6. Bureau of Parks, Forestry Division
  7. Life Safety Review Section of BDS
- F. Correspondence:
1. Cory Tyler, Land Use Chair Brentwood-Darlington Neighborhood Association, received January 2, 2014, Letter in opposition on behalf of neighbors on the 6500 & 6600 blocks of SE 63<sup>rd</sup> Avenue
  2. Nancy Butler, email received January 5, 2014, request regarding tree preservation
  3. Jan Osborn and Matt Kincaid, request to be included on mailing list.
- G. Other:
1. Original LU Application
  2. Neighborhood Contact
  3. Incomplete Letter, sent October 7, 2013

**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 13-206702 LDS  
 1/4 Section 3737  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E20BB 8100  
 Exhibit B (Sep 20, 2013)



# PROPOSED SUBDIVISION

FOR GROUNDBREAKERS CONSTRUCTION AND DEVELOPMENT INC.  
 A PORTION OF LOTS 8 AND 9, BLOCK 25, "BRENTWOOD"  
 IN THE NW 1/4 OF THE NW 1/4 OF SECTION 20, T. 1 S., R. 2 E., W.M.  
 CITY OF PORTLAND  
 MULTNOMAH COUNTY  
 SCALE 1" = 20'

OREGON  
 AUGUST 13, 2013



REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

*Albert Herzel* 11-11-13

OREGON  
 JULY 19, 1980  
 ALBERT HERZEL  
 1896

RENEWAL DATE 6/30/15

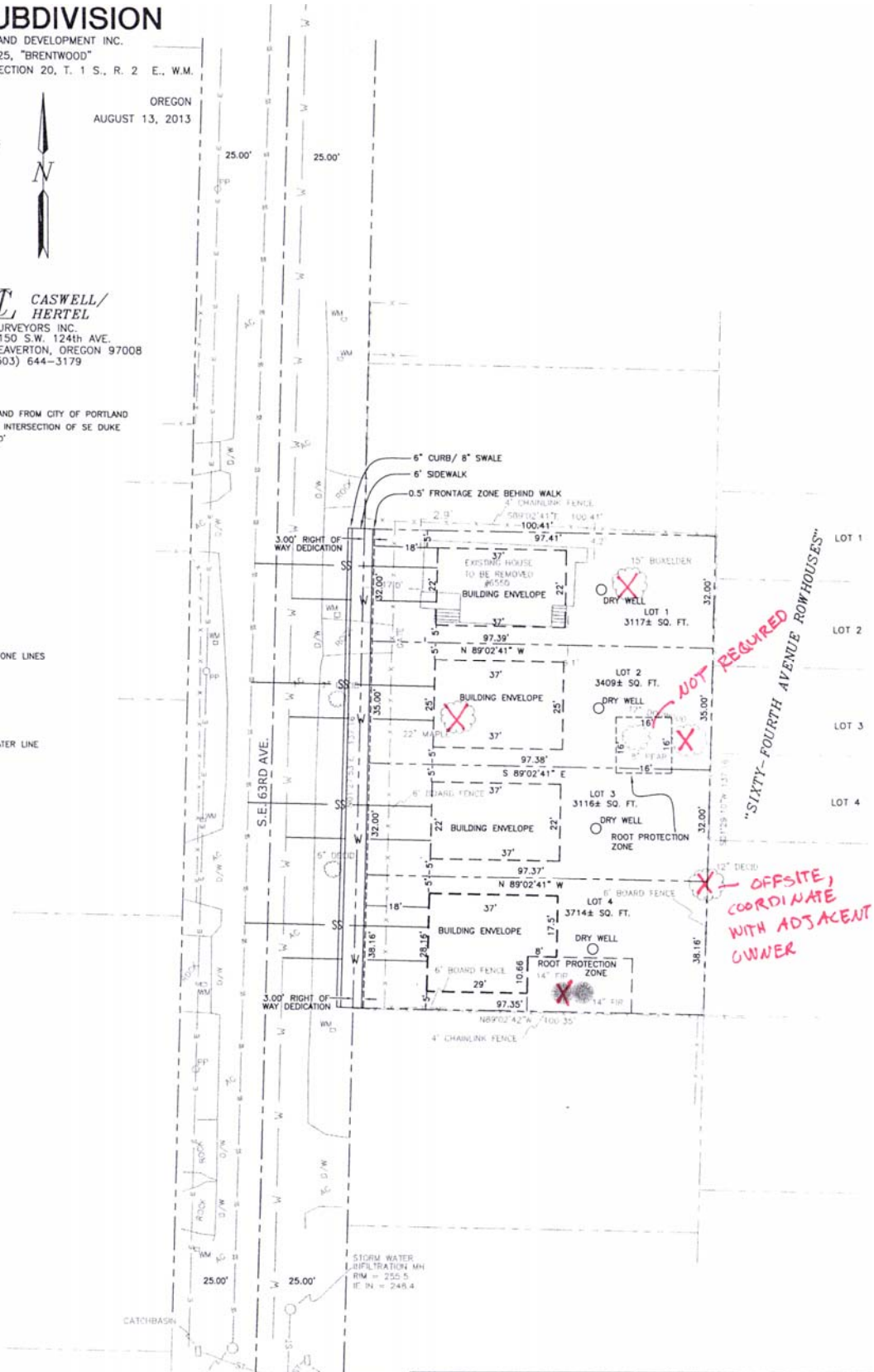
**CASWELL/  
 HERTEL**  
 SURVEYORS INC.  
 6150 S.W. 124th AVE.  
 BEAVERTON, OREGON 97008  
 (503) 644-3179

## NOTES

1. VERTICAL DATUM = CITY OF PORTLAND FROM CITY OF PORTLAND BENCH MARK NUMBER 768 AT THE INTERSECTION OF SE DUKE AND SE 62ND, ELEVATION = 254.20'
2. ONE FOOT CONTOUR INTERVAL

## LEGEND

- AC ASPHALTIC CONCRETE
- CL CENTER LINE
- D/W DRIVEWAY
- DECID DECIDUOUS TREE
- GR GAS RISER
- IE INVERT ELEVATION
- MH MANHOLE
- PP POWER POLE
- WV WATER VALVE
- WM WATER METER
- SS- SANITARY SEWER
- ST- STORM SEWER
- E- OVERHEAD ELECTRICAL/TELEPHONE LINES
- X FENCE LINE
- - - PROPERTY LINE
- 26.8 SPOT ELEVATION
- W - APPROXIMATE LOCATION OF WATER LINE (FIELD VERIFY)



## REVISIONS:

1. 09/12/2013 ADDED BUILDING ENVELOPES, SEWER, WATER CONNECTIONS AND DRY WELLS.
2. 10/28/2013 ADDED PEAR TREE, ADJUSTED LOT 2,3,4 SIZES, BUILDING ENVELOPES, & BUILDING SETBACKS
3. 11/11/2013 ADDED ROOT PROTECTION ZONE FOR PEAR TREE  
 ADDED 3.00' RIGHT OF WAY DEDICATION  
 ADDED NEW STREET FRONTAGE IMPROVEMENTS  
 REDUCED DEPTH OF BUILDING ENVELOPE BY 3.00'

DRAWN BY:

CHECKED BY:

JOB NUMBER B247