



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

Date: December 16, 2022
To: Interested Person
From: Diane Hale, Land Use Services
503-865-6431 / Diane.Hale@portlandoregon.gov

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 mailed copy of this document is only a summary of the decision. 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 22-145694 AS AD

GENERAL INFORMATION

Applicant: Kym Nguyen, Concept Design And Associates LLC
522 NW 23rd Ave Suite F/ Portland, OR 97210 (503) 515-7418

Owners/Applicant: Daniel Skoro, Ivan Skoro Tr, and Karolina Skoro Tr
13030 SE Wiese Rd / Damascus, OR 97089-8346

Site Address: 3 vacant lots east of 3345 SE Waverleigh Blvd

Legal Description: Daniel Place, lots 2 to 4

Tax Account No.: R196920100, R196920150, R196920200

State ID No.: 1S1E12AC 17802, 1S1E12AC 17803, 1S1E12AC 17804

Quarter Section: 3333 & 3334

Neighborhood: Richmond, contact Heather Flint Chatto at richmond.pdx.lutc@gmail.com

Business District: Greater Brooklyn, contact at greaterbrooklynba@gmail.com

District Coalition: Southeast Uplift, contact Matchu Williams at matchu@seuplift.org

Zoning: Residential Multi-dwelling 2 (RM2)

Case Type: Subdivision Amendment (AS) and Adjustment (AD)

Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is requesting a Subdivision Amendment (AS) to remove Condition A of LUR 00-00011 SU AD, which was a land division processed in 2000 that created 4 lots with Adjustments (AD) related to lot dimensions and maximum density. Lot 1 of this subdivision contains an existing house at 3340 SE Franklin and is not part of this land use review. Lots 2 to 4 are vacant lots that front on SE Waverleigh Blvd, east of 3363 SE Waverleigh Blvd. Lots 2 to 4 were zoned R1 (multi-dwelling) at the time of the land division in 2000 and have subsequently been re-zoned to RM2 (multi-dwelling). Condition A requires that the standard rear setback for lots 2 to 4 be increased by 6 feet to mitigate the impact of reducing the depth of lot 1 by 6 feet (lot 1 did not meet the minimum lot depth requirement for the R5 zone in 2000). Lots 1 to 4 meet the zoning code standards for lot area/depth/width at this time. However, the AD was required in order to approve the land division in 2000; therefore, in order

to change the condition of approval, a Subdivision Amendment (AS) is required per PZC 33.660.310.B.9.

The applicant is also requesting an Adjustment to the building coverage standard for the RM2 zone for the proposed attached house on Lot 3 (middle lot). The allowed building coverage for this lot is 728 sq feet; the applicant is proposing to increase the building coverage for this lot by 34 feet, to 762 square feet.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria for the Subdivision Amendment are found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

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. The purpose statement of the standard to be modified is located at PZC 33.120.225.A.

FACTS

Site and Vicinity: The site is comprised of 3 vacant lots in the middle of a block. The surrounding zoning and development is largely residential, with a range of densities including detached single-family homes and larger apartment buildings. SE Powell Blvd/Hwy 26 is located ~600 feet to the south. The Cleveland High School athletic fields are located about 1 block to the west of the site.

Zoning: RM2 – Residential multi-dwelling 2. The RM2 zone is a medium-scale multi-dwelling zone that is generally applied in and around a variety of centers and corridors that are well-served by transit. Allowed housing is characterized by buildings of up to three or four stories with a higher percentage of building coverage than in the RM1 zone, while still providing opportunities for landscaping and outdoor spaces that integrate with residential neighborhood characteristics. The major types of new housing development will be a diverse range of multi-dwelling structures and other compact housing that contribute to the intended urban scale of centers and corridors, while providing transitions in scale and characteristics to lower-scale residential neighborhoods.

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

- **LUR 00-00011 SU AD:** Approval of a land division creating four lots, with approved adjustments for lot depth and area for lot 1. This review amends the original land division approval.

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 **August 10, 2022**. One written response, signed by 5 different neighbors, has been received from the Neighborhood Association or notified property owners in response to the proposal (Exhibit F.1). The response expressed support for the proposed development as the proposed development will be compatible with existing development, and the existing vacant site has been a fire hazard and source of other nuisances (e.g. trash) in the immediate vicinity of the site. The letter also expressed support for new/additional housing in the City of Portland to address the existing housing shortage/state of emergency.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.320 Approval Criteria

Changes to an approved Preliminary Plan will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met:

A. Approval criteria for changes listed in Subsection 33.660.310.B. Changes to the Preliminary Plan that are listed in Subsection 33.660.310.B must meet the approval criteria of Subsection 33.660.120, Approval Criteria.

Findings: The applicant is proposing to eliminate condition A of LUR 00-00011 SU AD. This change is processed through the same procedure type as was used for the preliminary plan (Type II) in accordance with 33.660.310.B.9. Therefore, the approval criteria of 33.660.120, Approval Criteria are addressed below:

33.660.120 Approval Criteria

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. Only those criteria that are relevant to eliminating condition A of LUR 00-00011 SU AD, which required the rear setback of lots 2, 3 and 4 to be increased by 6 feet, are applicable. The applicable approval criteria are:

Criterion	Code Chapter	Topic	Applicability of Criteria
A	33.612	Lots	Applicable - See findings below
B	33.630	Tree Preservation	Not Applicable – No change
C	33.631	Flood Hazard Area	Not applicable - The site is not within the special flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable
F	33.634	Required Recreation Area	Not applicable
G	33.635	Clearing, Grading and Land Suitability	Not applicable – No change
H	33.636	Tracts and Easements	Not applicable - No tracts or easements are affected or will be required as part of this review.
I	33.639	Solar Access	Not applicable – No change
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps evident on the site.
K	33.641	Transportation Impacts	Not applicable- No change
L	33.651	Water Service	Not applicable – No change
L	33.652	Sanitary Sewer Disposal Service	Not applicable – No change
L	33.653	Stormwater Management	Applicable – see findings below
L	33.654	Rights-of-Way	Not applicable- No change

Criterion	Code Chapter	Topic	Applicability of Criteria
	33.655	School District Enrollment Capacity	Not applicable - The proposal is for less than 11 lots

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

Findings: Chapter 33.612 contains the lot dimension and density standards that apply to the multi-dwelling and IR zones. The density and lot dimension requirements are based on the type of development proposed. When single-dwelling or duplex development is proposed for some or all of the site, the applicant must show how the minimum density standards can be met; and the site area devoted to streets is deducted for the density calculations. Density for all other development must be met at the time of development. The proposed amendment does not affect the density calculations for the site, and the site will continue to meet minimum density standards.

Minimum Lot Dimensions:

Lot 1 of the original subdivision (Daniel Place) is not subject to this review; however, the reason that Condition A was included in the decision for LUR 00-00011 is because Lot 1 didn't meet the minimum lot depth requirement at the time of the review. Lot 1 currently meets all lot dimension and area requirements for the R5 zone, as shown in the table below.

R5 Zone (Table 610-2)	Minimum Lot Area (square feet)	Maximum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Lot Line (feet)
House (detached)	3,000	8,500	36	50	30
Lot 1 (not part of this review)	4,888		65	74	65

Lots 2 to 4 meet all of the lot dimension and area requirements for attached houses in the RM2 zone, as shown in the table below.

RM2 Zone (Table 612-1)	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Lot Line (feet)
Attached Houses	none	15	none	15
Lot 2 -Attached house	1,575	23	66	23
Lot 3 -Attached house	1,120	18	62	18
Lot 4 -Attached house	1,345	23	57	23

Based on these factors the applicable lot standards are met, therefore the additional setback required by Condition A of the original land division approval is not necessary. Therefore, this criterion is met.

L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met. Note that only 33.653 is applicable in this case.

Findings:

33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1

The applicant demonstrated conformance with stormwater management requirements at the time of the original land division review. However, the requested change (reduce rear setback to current standard) allows variation in the size and location of the proposed structures,

therefore these criteria need to be evaluated again to determine that they can be met.

No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The applicant has proposed the following stormwater management methods (see Exhibit A.5):

Lots 2 - 4: Stormwater from these lots will be directed to stormwater planters that remove pollutants and suspended solids. The water will either be infiltrated into the ground or drain from the planters to the existing combined sewer in SE Waverleigh Blvd. The Bureau of Environmental Services has indicated conceptual approval of the general management method, and noted that technical details will be worked out during the building permit review after infiltration testing is conducted.

Removal of the condition requiring a larger rear setback will not impact the ability to comply with stormwater management requirements. These standards and criteria are met.

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. stated below are met.

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

Findings: The applicant is requesting an Adjustment to the building coverage standard for the RM2 zone for the proposed attached house on Lot 3 (middle lot). The allowed building coverage for this lot is 728 sq feet (see Table 120-3 and 33.120.270.C.4); the applicant is proposing to increase the building coverage for this lot by 34 feet, to 762 square feet. The purpose of the building coverage standard for the RM2 zone is found in 33.120.225.A:

33.120.225.A. Purpose. The building coverage standards, along with the height and setback standards, limit the overall bulk of structures. They assure that larger buildings will not have a footprint that overwhelm adjacent development. The standards help define the character of the different zones by determining how built-up a neighborhood appears.

The surrounding vicinity contains a range of residential development types. Several attached, three-story residential structures are located to the west of the site; much of the property directly to the east of the site is vacant. Across the street from the site contains a mix of one- and two-story single-family homes, duplexes, and multi-family apartment buildings. Lower density single family houses are located directly behind the site to the north, consistent with the R5 zoning located directly to the north of the site.

The proposed increase in building coverage is quite small (34 square feet), will be limited to the center lot of the development and therefore will arguably not be noticeable when the project is complete. The proposed attached houses meet all other development standards for the RM2 zone, including the height limit (35 feet) and setbacks, and the proposed building coverage of the project as a whole is below the overall limit for the site (see Exhibits C.1, C.2 and C.3). Although the proposed homes will be larger than the single-family homes to the north, they will not be so large as to overwhelm that existing development, and are generally consistent with the other development in the vicinity and what is envisioned for the RM2 zone. This criterion is met.

B. If in a residential, CI or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I or CI2 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 located within the RM2 residential zone, which is intended to be a medium-scale multi-dwelling zone applied around centers and corridors that are well-served

by transit. Allowed housing is characterized by buildings of up to three or four stories with a higher percentage of building coverage than the RM1 zone, while still providing opportunities for landscaping and outdoor spaces. New housing will be a diverse range of multi-dwelling structures and other compact housing that contribute to the intended urban scale of centers and corridors, while providing transition in scale and characteristics to lower-scale residential neighborhoods.

The area surrounding the site contains a mix of medium density multi-dwelling residential and commercial development, primarily to the south of the site along SE Powell Blvd., and lower density single family homes along nearby local neighborhood streets to the north of the site. The proposal will not significantly detract from the livability or appearance of the residential area because the site will be developed with a household living use that is compatible with the surrounding residential uses. The new development will be subject to all other development standards that apply in the RM2 zone, including required setbacks and height standards; the negligible increase in building coverage for Lot 3 (34 square feet) will not impact the ability of the proposed development to blend into the surrounding neighborhood and therefore will be consistent with the appearance of the residential area. 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: The applicant has requested only one Adjustment, therefore this criterion does not apply.

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

Findings: There are no City-designated scenic or historic resources on the site. Therefore, this criterion is not applicable.

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

Findings: There are no discernible impacts that would result from granting the requested adjustment to increase the building coverage of Lot 3 by 34 square feet. Lot 3 is an interior lot that will be developed as the center unit of a three-unit attached house project. The proposed development will meet all other development standards, including height and setback standards, thereby limiting impacts to surrounding development. 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: The site is not within an environmental zone, therefore 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 applicant has proposed a Subdivision Amendment with concurrent Adjustment review to eliminate condition A of LUR 00-00011 SU AD, and increase the building coverage limit of Lot 3 by 34 square feet, to 762 square feet. As discussed in this report, the applicable criteria can be

met with a condition for the Adjustment Review that the proposed development matches the development reviewed in this land use review (Exhibits C.1 and C.2).

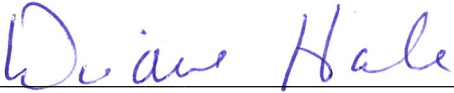
ADMINISTRATIVE DECISION

Approval of a subdivision amendment to eliminate condition A of LUR 00-00011 SU AD;

Approval of an Adjustment to increase the building coverage limit for Lot 3 to 762 square feet, as illustrated with Exhibits C.1-C.2, signed and dated December 14, 2022, subject to the following condition:

1. As part of the building permit application submittal, each of the required plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 22-145694 AS AD. No field changes allowed."

Staff Planner: Diane Hale

Decision rendered by:  **on December 14, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed December 16, 2022

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 May 23, 2022 and was determined to be complete on July 29, 2022.

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 May 23, 2022.

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 requested that the 120-day review period be extended by 99 days. Unless further extended by the applicant, **the 120 days will expire on March 5, 2023.**

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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on December 30, 2022. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIx decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

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 final decision.

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **December 30, 2022** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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

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

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a

new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

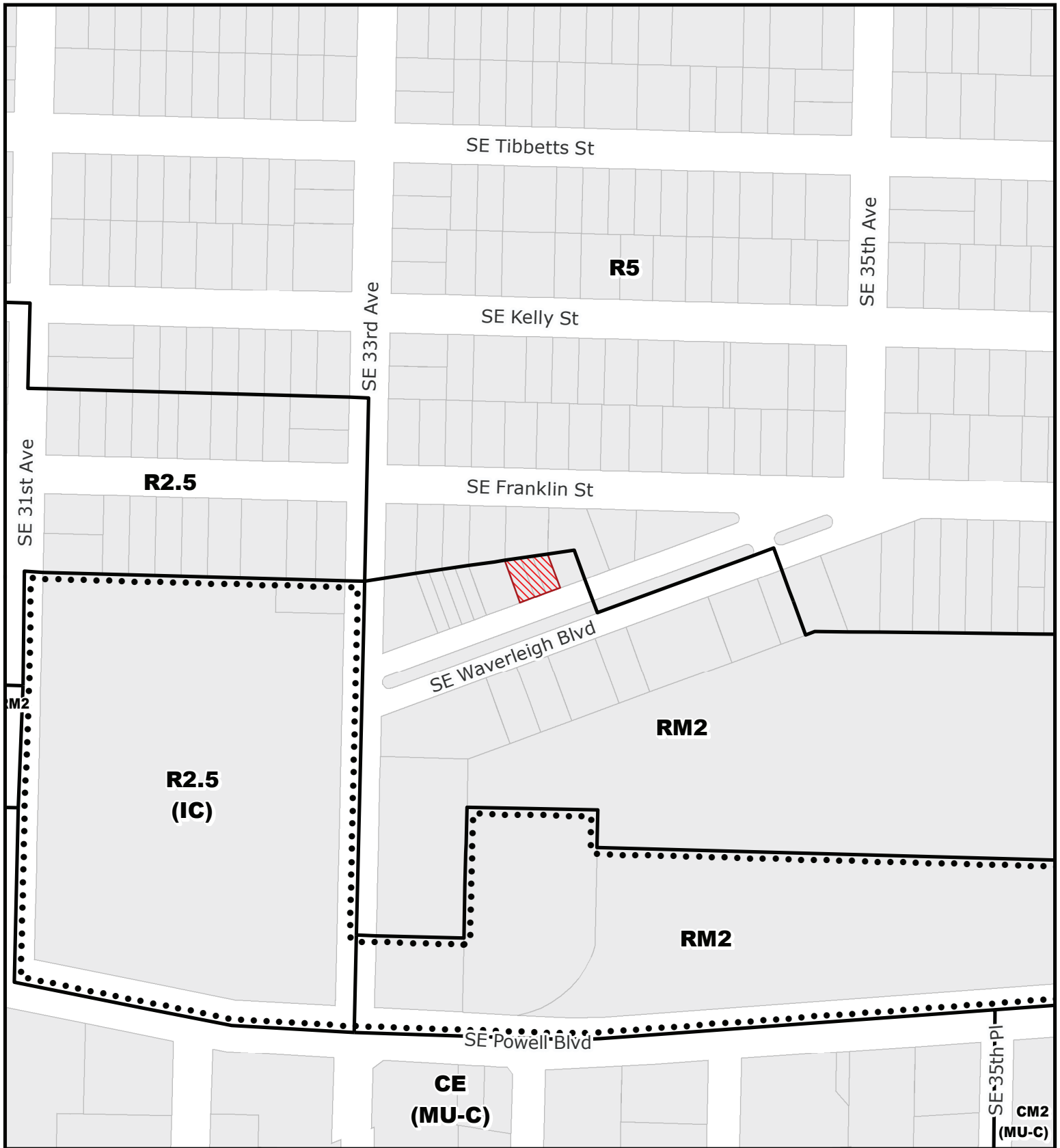
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Original Submission
 - 2. Applicant's submittal 07/05/2022
 - 3. Applicant's submittal 08/05/2022
 - 4. Applicant's submittal 11/02/2022
 - 5. Stormwater proposal
 - 6. Extension form
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations
 - 3. Floor Plans
- 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. Life Safety Review Section of BDS
 - 4. Fire Bureau / Site Development Review Section of BDS / Water Bureau
- F. Correspondence:
 - 1. August 23, 2022 signed by the following neighbors:
 - a. Jessica Hartman – 3345 SE Waverleigh Blvd
 - b. Chunlin Xie – 3367 SE Waverleigh Blvd
 - c. Soledad Melendez – 3351 SE Waverleigh Blvd
 - d. Brian Votaw and Melissa Toledo – 3323 SE Waverleigh Blvd
- G. Other:
 - 1. Original LU Application

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

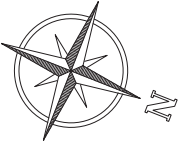


For Zoning Code in effect Post August 1, 2021

File No.	LU 22-145694 AS AD
1/4 Section	3333,3334
Scale	1 inch = 200 feet
State ID	1S1E12AC 17803
Exhibit	B May 23, 2022

DEVELOPMENT PROPOSAL SITE PLAN

SCALE 1/8" = 1'-0"



Lot area:	Lot 2 1,575	Lot 3 1,120	Lot 4 1,345
Building coverage allowable: (60% max)	945.00	672.00	807.00
Proposed Building coverage:	785.00	762.00	708.00

SE WAVERLEIGH BLVD DEVELOPMENT

May 23, 2022

ClearWater Homes

Project address:
SE Waverleigh Blvd, Portland, OR

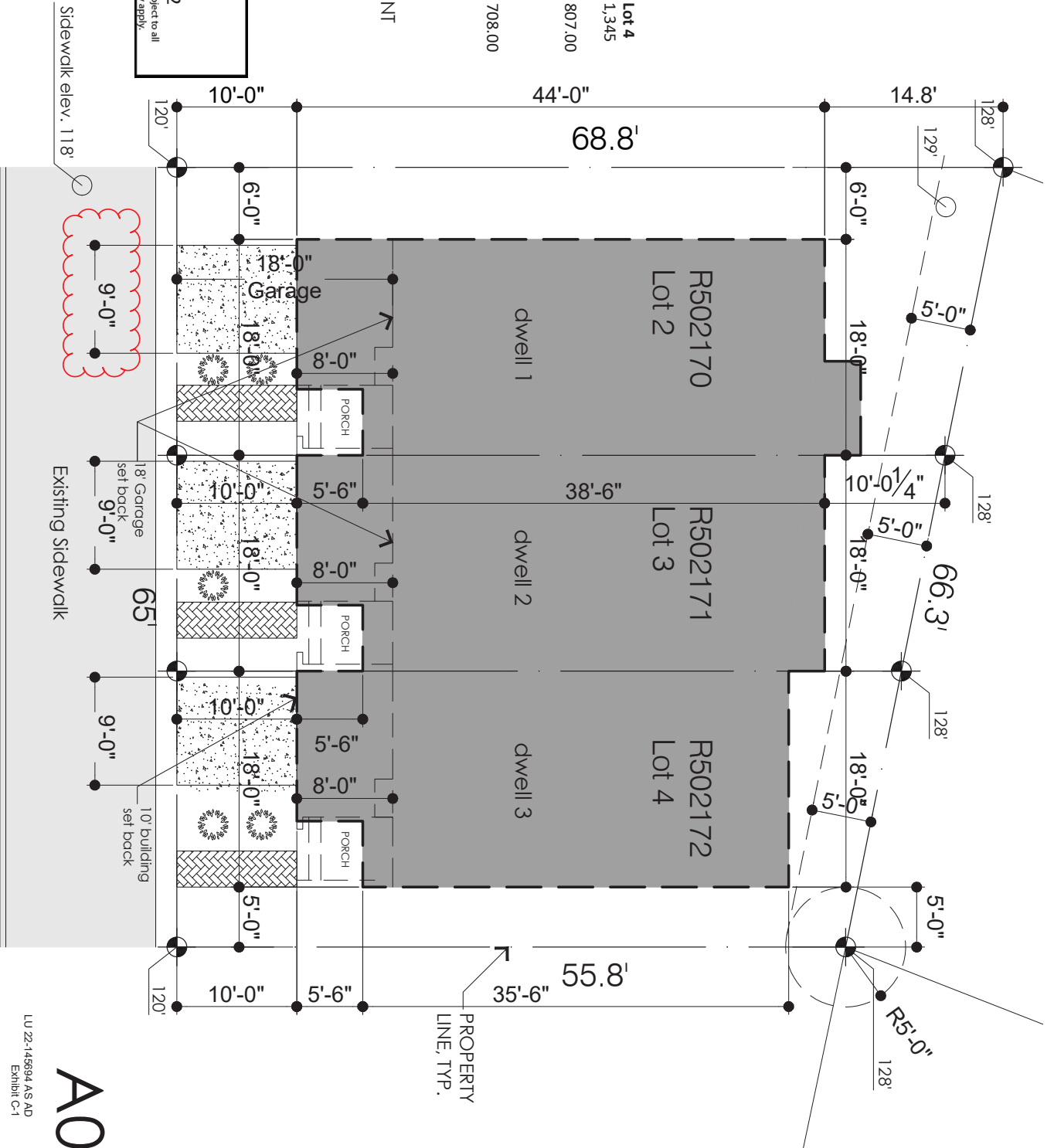
Approved
City of Portland
Bureau of Development Services
Planner: **D Hale**
Date: **12/14/2022**

*This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

CONCEPT
Design & Associates

522N W 3rd Ave, Suite F - PORTLAND - OREGON 97210
PHONE: (503) 515-7418

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A0

LU 22-14694 AS AD
Exhibit C-1