



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: June 19, 2014
To: Interested Person
From: Stephanie Beckman, Land Use Services
503-823-6979 / Stephanie.Beckman@portlandoregon.gov

NOTICE OF A TYPE II_x 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 13-184148 LDS AD

GENERAL INFORMATION

Applicant: Mike Coyle | Faster Permits | 503-680-5497
14334 NW Eagleridge Lane | Portland, OR 97229

Owner: Vic Remmers | Everett Custom Homes Inc
735 SW 158th Avenue, #180 | Beaverton, OR 97006

Site Address: 2512 SE 58th Avenue

Legal Description: TL 6500 0.28 ACRES, SECTION 07 1S 2E
Tax Account No.: R992072420
State ID No.: 1S2E07AA 06500
Quarter Section: 3236
Neighborhood: South Tabor, contact Eric Lozano at 503-721-6266.
Business District: Division-Clinton Business Association, contact Darice Robinson at 503-233-1888.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Plan District: None
Zoning: Residential 2,500 (R2.5) w/ Alternative Design Density Overlay (a)
Case Type: Land Division Subdivision (LDS) w/ Adjustment (AD)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing to subdivide the subject property into four equally sized lots of approximately 3,000 square feet. The house located on the lot was recently removed. A concurrent adjustment review is requested to reduce the internal side yard setbacks for the new homes to be constructed on the site. The request is to reduce internal setbacks on Lots 1 and 4 from 5 to 3-feet (eaves within 2-feet) and on Lots 2 and 3 from 5 to 4-feet (eaves within 3-feet).

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

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

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant criteria are found in:

- **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**
- **33.805.040 A.-F., Approval Criteria for Adjustments.**

FACTS

Site and Vicinity: The site is located on the east side of SE 58th Avenue approximately 160-feet south of the intersection with SE Division Street. The site had been developed with a single family home that was recently removed. Surrounding properties are primarily developed with single-family homes. Atkinson Elementary School and Clinton Park are located nearby and are accessed via SE Division and SE Clinton.

Infrastructure:

- **Streets** – The site has approximately 120-feet of frontage on SE 58th Avenue. There was one driveway entering the site that served the house that was recently demolished. At this location, SE 58th Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). SE 58th Ave is improved with 28 ft of paving and with an 11-foot wide pedestrian corridor that includes a planter area, curb, sidewalk and a buffer at the back of the sidewalk (4-6-1 configuration). Tri-Met provides transit service approximately 160-feet north of the site on SE Division Street via Bus #4.
- **Water Service** – There is an existing 8-inch CI water main in SE 58th Avenue. The existing house was served by a 1-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch clay combination sewer main in SE 58th Avenue.

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 **November 26, 2013**. One written response was received in response to the proposal (Exhibit F.1). The

response was regarding the street tree located at the northern end of the site frontage. The response indicates that the tree was likely planted without a permit and does not appear to be an approved species. The tree is growing quickly and lifting the sidewalk. There is a request for the tree to be removed and replaced along with other trees on the site.

Staff Response: The City Foresters Office indicates that the tree appears to be a dead or dying Eucalyptus tree and agreed that it should be replaced. However, replanting should be done after development of the site in conjunction with planting of other street trees along the frontage of the site. See Exhibit E.6.

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 Connections	There are no pedestrian connections proposed or 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. The applicant is proposing four narrow lots for detached houses. The minimum and maximum density for the site is as follows:

Minimum = $(11,998 \text{ square feet} * .80) \div 5,000 \text{ square feet} = 1.91$ (which rounds up to a minimum of 2 lots, per 33.930.020.A)

Maximum = $11,998 \div 2,500 \text{ square feet} = 4.79$ (which rounds up to a maximum of 5 lots, per 33.930.020.B)

The required and proposed lot dimensions 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)
R2.5 Zone	1,600	NA	36	40	30
Lot 1	3,000		30	100	30
Lot 2	3,000		30	100	30
Lot 3	3,000		30	100	30
Lot 4	3,000		30	100	30

* 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 1-4 are 30-feet wide, which is narrower than the minimum width of 36-feet for the R2.5 zone, as shown in the table above. The Zoning Code, however, allows the minimum lot width to be reduced below the minimum dimension stated above, if all of the following regulations are met (33.611.200.C.2):

- a. On balance, the proposed lots will have dimensions that are consistent with the purpose of this section;

Findings: The purpose of the Lot dimension regulations stated in 33.611.200 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 the proposed lots are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of building footprints with reasonably sized detached houses that are oriented to the street. These preliminary plans meet all development standards, with the exception of reduced interior side setbacks that will be discussed further under the Adjustment approval criteria. The reduced setbacks will allow for slightly wider houses with attached garages. The reduced setbacks are in conformance with minimum building code requirements and because they are internal to the site will not negatively impact adjacent properties. In addition, these lots could also be developed with attached houses, which would have no setback between units. The site plan also shows space for private outdoor area on each lot that complies with outdoor area requirements. Therefore, the applicant has demonstrated that the proposed lots can accommodate a reasonably sized house that is oriented to the street, while meeting the development standards of the zoning code.
 - The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services
 - The proposed lots do not appear to be further dividable, are not landlocked, and they do not narrow to an unbuildable width close to the street.
 - The proposed lots are smaller than most of the other lots within the two block vicinity of the site. Most lots within the same R2.5 zone are 4,000 to 5,000 square feet. There are some smaller 2,800 – 3,200 square foot lots further to the east on SE 61st. There are also a number of larger properties similar to the subject site. Given the development potential of these larger properties, they may redevelop over time with smaller lots similar to that proposed for the subject site. While the proposed lots are generally smaller than other lots in the area, they are consistent with planned intensity of the R2.5 zone.
- b. The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet;

Findings: The lots will be developed with detached houses and the proposed width is 30 feet. Therefore, this regulation is met.

- c. If the lot abuts a public alley, then vehicle access must be from the alley. This requirement will be imposed as a condition of approval of the land division;

Findings: The site does not have access from an alley, so this regulation does not apply.

- d. 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;

Findings: The applicant proposes houses that are 22 feet wide, therefore an attached garage is allowed. The proposed 11-foot wide garages comply with the regulation limiting the garage to no more than 50% of the length of the street facing façade. In order to construct a 22-foot wide house, the applicant is requesting Adjustments to internal side yard setbacks. Provided the Adjustment request is approved, the garage limitation standards of Subsection 33.110.253.E can be met.

- e. Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development; and

Findings: The proposed lots will be developed with detached houses, so this regulation does not apply.

- f. In areas where parking is not required by this Title, lots may be proposed that will not accommodate on-site vehicle access and parking. Such lots do not have to meet the

requirements of subparagraphs 2.c and d. As a condition of approval of the land division, the property owner must execute a covenant with the city. The covenant must:

- (1) State that the owner will develop the property without parking, and that a driveway for access to on-site parking may not be created in the future, unless it is in conformance with regulations in effect at the time;
- (2) Meet the requirements of Section 33.700.060, Covenants with the City; and
- (3) Be attached to, and recorded with the deed for the new lot.

Findings: The applicant proposes to provide on-site parking, therefore this regulation does not apply.

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 applicant has submitted an arborist report that inventories the trees within the land division site and evaluates their condition (Exhibit A.5 (a) and (b)). There are four trees on the site that are subject to the preservation requirements of this chapter. No trees have been exempted.

The total tree diameter on the site is 105 inches. The applicant proposes to preserve tree #3, a 12-inch evergreen magnolia, which comprises 11 percent of the total tree diameter. The arborist recommends a 10' radius root protection zone (RPZ), however there are encroachments within the RPZ, including a deck and stairs. The arborist recommends that the tree protection fence remain in place until the deck and fence are constructed and that an arborist be on site to supervise hand excavation for the posts. The arborist recommends that the tree also be pruned to remove broken branches.

The proposal to preserve this one 12-inch tree does not meet any of the tree preservation options in 66.630.100. The applicant proposes, instead, to use the mitigation options of 33.630.300.

The site is less than 15,000 square feet in area. The applicant wishes to divide the site for detached housing, which is an allowed housing type in the R2.5 zone. The location of the existing trees on the site would prevent a land division that would result in a practicable arrangement of lots that could each contain a reasonable building area and still be able to meet the development standards of the R2.5 zone. Criterion C.4 is met.

There are four trees on the site. Tree #1 and 2 are large trees that would significantly reduce the development potential of the site if they were preserved. Tree #4, a 12-inch flowering dogwood is located at the rear of the lot, however due to its condition it is not a good candidate for preservation. The arborist report indicates that it was topped at 8 feet and even though it does not qualify as exempt, does not recommend preservation of the tree. As noted above, tree #3 will be preserved. Development on Lot 3 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.2) and the applicant's arborist report (including requirements for arborist supervision and pruning) (Exhibit A.5(b)). In addition, 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 Land Use Condition at the time of final plat.

With the conditions described above, the applicant has met Criterion A, because as many trees as possible will be preserved.

The applicant has submitted a mitigation plan that proposes to plant three 3-inch caliper trees in the backyard of each lot. The proposed lots are 3,000 square feet each. Zoning Code section 33.248.020.H, known as the T1 tree planting standard, requires trees to be planted on new lots

as part of the approval of future building permits. The T1 tree standard requires the planting of at least 3 inches on lots that are 3,000 square feet or smaller, which would result in 3 inches of new trees planted for each of the proposed lots. Because of the small size of the lots it is not practical for additional trees beyond the T1 standard to be planted without jeopardizing the overall health of the trees on the site. Therefore, offsite mitigation in the form of payment into the City Tree Fund is more appropriate for this proposal.

Providing a payment into the tree fund for the equivalent of 25 inches of tree diameter will provide for approximately the same caliper inches as Option 1 of the Tree Preservation Chapter. Option 1 would require that 35% or 37 inches of the existing non-exempt tree diameter on site be preserved. The applicant will preserve 12 inches, leaving 25 inches that need to be mitigated for. Payment into the Tree Fund will contribute to the general beauty, natural heritage and environmental health of the City, if not directly on the site. Criterion B is met with a condition of approval requiring a payment into the tree fund for 25 inches of tree diameter prior to final plat approval.

Therefore, with the conditions noted above, the criteria are met.

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.

Findings:

Clearing and Grading

The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant grading will be required on the site to make the new lots developable. As described above, the applicant proposes to preserve one tree and provided a plan showing the 10 foot radius root protection zone recommended by the arborist. Encroachments within the root protection zone for construction of the rear deck will be supervised by an arborist as described above. This criterion is met.

Land Suitability

The site was in residential use until recently, and there is no record of any other use in the past. The applicant has removed the existing house under permit 14-111865 RS, which has received final inspection approval. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

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 submitted a Transportation Impact Analysis (TIA) to address the evaluation factors of this approval criterion (Exhibit A.7). PBOT's Analysis (Exhibit E.2) is quoted, in part, as follows:

Street capacity and level-of-service

Findings: Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors.

Using the evaluation factors listed in this code section, the applicant should provide a narrative and all necessary plans and documentation to demonstrate that the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area. The applicant included a professionally prepared Traffic Impact Study (TIS) to adequately address the above referenced approval criterion. The following discussion is based on PBOT's assessment of the submitted TIS and transportation impacts for this proposal.

The proposed land division will create 4 parcels from the current lot in order to accommodate 4 new detached single- homes (the existing single-family detached house on the site will be raised). Referring to the ITE Trip Generation Manual, 9th Edition, there will be 2 new AM peak hour trip and 3 additional PM peak hour trip (28 additional total new daily trips) that may result from the development proposal on the site.

The applicant's traffic consultant conducted observations at the following several nearby intersections during the morning, afternoon and even peak hours to determine existing levels of service and to project the capacity of the intersections in relation to the proposed development:

<u>Intersection</u>	<u>Existing LOS</u>	<u>Projected LOS</u>
SE 58 th Ave/SE Division	C	C
SE 58 th Ave/SE Clinton	A/B	A/B
SE 58 th Ave/SE Woodward	A/B	A/B
SE 58 th Ave/SE Tibbets	A	A
SE 58 th Ave/SE Franklin	A	A
SE 58 th Ave/SE Powell	C	C

Aside from the conducted observations that showed minimal-to-no delays at most of the referenced intersections, and acceptable delays with significant remaining capacity at the more significant intersections at SE 58th with SE Division and with SE Powell, the site is located within a neighborhood made up of a robust and gridded street pattern that allows for broader connectivity to area arterial roadways. This is important to note because residents of the proposed new homes will have a variety of direction of travel (trip distribution) in which to access the broader transportation network. Accordingly, it is not anticipated that one of the area intersections (including those analyzed herein), will experience more site related trips than another. Therefore, as found by the applicant's traffic consultant, site generated vehicle trips will have negligible impacts to the capacity of nearby intersections.

Vehicle access and loading

Findings: Vehicles will access the proposed lots directly via SE 58th Ave. On-street parking is available along both sides of the street. Loading can occur along the street or within the individual driveways that will serve each of the proposed lots.

On-street parking impacts

PBOT staff expressed initial concerns related to the proposed subdivision request in association with this specific evaluation factor. Accordingly, the applicant's traffic consultant was directed to focus his efforts on supplying a thorough parking analysis for PBOT's consideration.

The applicant's traffic consultant conducted several observations to develop an accurate assessment of existing on-street parking supply and demand in relation to the nearby uses in the

area, including the predominantly single-family residential element in vicinity of the site, but also, the adjacent elementary school use directly across the street from the subject site.

The available parking supply area was identified as both sides of SE 58th Ave between SE Division and SE Clinton as well as along SE Division between SE 57th and SE 60th Avenues. Within this survey area, the applicant's traffic consultant estimated (since on-street parking spaces are unmarked) that there are 63 total on-street parking spaces. During the various parking observations that were made, the period that was determined to have the highest demand for on-street parking (not surprisingly) was during morning and afternoon periods corresponding to the start of and end of the nearby Atkinson Elementary School. However, even during these two brief periods of the day, there were still 20 available on-street parking spaces within the supply area.

The parking demand that will be generated as a result of the proposed project is estimated using rates from the Institute of Transportation Engineers (ITE), Parking Generation Manual, 4th Edition, 2010. The data utilized to determine the parking demand for the one additional dwelling unit on the site was for land use #210, Single-Family Detached Housing. Based upon this data, the 85th percentile peak parking demand for the 3 additional dwelling units are 6 parking spaces. These 6 total spaces can be accommodated on each new parcel since there will be sufficient area on the individual driveways and garages for each lot that are shown on the submitted plans. However, even if the expected increase in parking demand (6 spaces) all occurred off-site, as demonstrated above, there is sufficient remaining supply during the periods of highest demand, to accommodate the additional parking needs of the proposed subdivision (also taking into account the 3 approximate spaces that will be lost due to the construction of the new curb cuts/driveways). Adequate on-street parking exists, and will remain (after the new houses are constructed), to serve the existing and proposed uses in the area.

Availability of transit service and facilities and connections to transit

The site and area are served by nearby frequently served transit via Tri-Met route #4 (Division/Fessenden) which travels along SE Division, approximately 160-ft north of the subject site. An existing and well connected system of sidewalk facilities provide excellent access to this bus line.

Impacts on the immediate/adjacent neighborhoods

As analyzed above, the impact of the proposed project's generated vehicle trips on area intersections and streets will be minimal and the operations of the transportation system will continue to be acceptable. Currently, there is sufficient on-street parking to serve the demand of the existing uses in the area. As demonstrated above, adequate on-street parking opportunities will remain after the construction of the proposed subdivision. From a transportation perspective, these noted areas (transportation system and parking impacts) are impacts that can adversely affect neighborhoods. These issues are not expected to negatively impact the immediate or adjacent neighborhoods in question.

Safety for all modes

Traffic volumes along SE 58th Ave within the immediate vicinity of the site are moderately low and travel speeds are limited by the 25 mph statutory residential speed limit as well as by speed humps that are located along the street. Low traffic volumes are also conducive to accommodating shared uses of the roadway with bicyclists. There are also identified bike facilities (Portland Bike/Walk Map) in the area, including a Neighborhood Greenway/Signed & Marked Route along SE Woodward, south of the subject site. Continuous pedestrian facilities exist on both sides of the streets in the area, as well as signalized and marked pedestrian crossings (including with flashing beacons) in the area to facilitate pedestrian passage. The existing streets and infrastructure in the site vicinity are sufficient to provide safe access for all travel modes.

Based on this analysis, 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.

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:

33.651 Water Service standard – See Exhibit E.3
<p>The Water Bureau has indicated that service is available to the site from the 8-inch CI water main in SE 58th Avenue, as noted on page 2 of this report. The existing water service serving the site may be used to serve one of the new lots, however it must be clearly in the frontage on one of the lots. Currently, it is shown on the property line between Lot 2 and Lot 3. To determine which lot can be served by this line, the Water Bureau will require that a signed survey be provided showing the location of the existing water service in relation to the proposed lot lines prior to final plat approval. With the condition, that the status of the existing water service be addressed prior to final plat approval, the water service standards of 33.651 have been verified. Therefore, as conditioned, this criterion is met.</p>
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1
<p>The Bureau of Environmental Services has indicated that service is available to the site from the 8-inch clay combination sewer main in SE 58th Avenue, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified. Therefore, this criterion is met.</p>
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant submitted a Simplified Approach stormwater report to address this approval criterion (Exhibit A.4) and has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> • Lots 1-4: 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. The applicant's stormwater report demonstrates an infiltration rates of 4 inches per hour at a depth of 4-feet, which is adequate for on-site infiltration through drywells. Therefore, the Bureau of Environmental Services has indicated conceptual approval of the proposed method of stormwater management. This criterion is met.
33.654.110.B.1 Through streets and pedestrian connections – See Exhibit E.2
<p>Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal (Exhibit E.2):</p> <p><i>No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The subject site, as it is situated along SE 58th Ave between SE Division and SE Woodward, is not located such that providing any opportunity for further connectivity through the site would be of great benefit; the subject site is only 160-ft south of SE Division. SE Clinton, south of the subject site, and north of SE Woodward, is the next east-west street that affords motorists and pedestrians with connectivity further to the east (connectivity towards the west from SE 58th Ave is precluded by the adjacent Atkinson Elementary and Franklin High Schools). PBOT therefore has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division request.</i></p> <p>For the reasons described above, this criterion is met.</p>
33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)
<p>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</p>

easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

APPROVAL CRITERIA FOR ADJUSTMENTS

33.805.010 Purpose

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

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. stated below, have been met.

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

Findings: The applicant proposes to divide the site to create four 30-foot wide lots for single-dwelling development. The applicant has requested a reduction to the internal side yard setbacks in order to build slightly wider houses that are more consistent with neighboring development and that can accommodate an attached garage for off-street parking.

The setback regulations for buildings and garage entrances serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of houses in the city's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
- They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.

The request is to reduce the internal setbacks on Lots 1 and 4 from 5 to 3-feet (eaves within 2-feet) and on Lots 2 and 3 from 5 to 4-feet (eaves within 3-feet). This proposal is in conformance with minimum building code requirements which require a 3 foot setback (2 feet to eaves). Space between buildings will be at least 7 feet which provides adequate separation for light, air, fire protection and access for fire fighting.

The proposed setbacks are smaller than typically found in the neighborhoods, however the site could be developed with attached units with no setbacks between units. The proposed detached units are more consistent with the development pattern of the surrounding neighborhood and the provision of on-site parking will contribute to neighborhood compatibility by reducing the parking impact of the new development.

The minimum 5 foot setback will be retained from adjacent properties so the privacy of those sites will not be negatively impacted by the reduced setbacks. The privacy of the lots within the land division will have only minor reduction in setback which is not expected to have a significant impact on privacy within the homes. In addition, the lots all have backyards which

may be fenced for privacy if the owners choose to do so. The backyards exceed the minimum outdoor requirements.

This criterion is met.

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

Findings: The subject property is in the R2.5 zone, which is a higher density single-dwelling residential zone. Properties to the north of the site fronting on SE Division, a neighborhood arterial, are zoned for multi-dwelling development and commercial use. Atkinson Elementary School and Clinton Park are also within close proximity to the site. For the purposes of this criterion, the residential neighborhood considered are the R2.5 zoned properties fronting on SE 58th (within approximately 150 feet of the site) and those adjacent to the rear of the site.

The requested reduction in side yard setbacks is for internal setbacks so it will not directly impact adjacent properties. In addition, the reduction in setbacks will allow the homes to have attached garages that will provide on-site parking, contributing the general livability of the area. The side elevations of the homes will include lap siding, trim at each floor and windows, which are consistent with other homes in the area. To further contribute the appearance of the area and help mitigate for the reduced setbacks, the applicant should be required to plant trees in the front yards where the setbacks are reduced. With this condition, this criterion is met.

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

Findings: Only one adjustment is requested, therefore this criterion does not apply.

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

Findings: The site is not located within a scenic or historic overlay zone. Therefore, this criterion is not applicable.

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

Findings: As described above, the applicant proposes to use lap siding, trim at each floor and windows on the side elevations of the homes to help mitigate for the reduced side yard setbacks. Additional mitigation can be provided in the form of tree planting to help screen the view of the sides of the homes. Three trees should be planted in the front yards on Lots 2, 3 and 4 to screen the reduced side setbacks. The general location of the required trees are shown on Exhibit C.2. These trees must be shown on the building permit plans and planted prior to final inspection approval. With this condition, 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 located within an environmental overlay zone. Therefore, this criterion is not applicable.

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 1-4 will be subject to the following standards at the time of development permitting:
 - Height of the structures will be limited to 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.

Existing development that will remain after the land division. The applicant has removed all of the existing structures on the site so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R2.5 zone. Therefore, 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 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	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 fire flow/water supply, fire hydrant spacing, addressing, and aerial fire department access roads. These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E.4).

CONCLUSIONS

The applicant has proposed a 4 lot subdivision for new narrow lots, as shown on the attached preliminary plan (Exhibit C.1). An adjustment to internal side yard setbacks between the new

homes is also requested. 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 relate to mitigation for tree removal and the reduced side yard setbacks. 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 four narrow lots, as illustrated with Exhibit C.1 – C.4, subject to the conditions below.

Approval of an Adjustment to reduce internal side building setbacks on Lots 1 and 4 from 5 to 3-feet (eaves within 2-feet) and on Lots 2 and 3 from 5 to 4-feet (eaves within 3-feet), per the approved plans, Exhibits C.2 and C.4, signed and dated June 17, 2014, subject to Condition B.1 below.

A. The following must occur prior to Final Plat approval:

Utilities

1. The applicant shall meet the requirements of the Water Bureau to provide a signed survey documenting the location of the existing water service in relation to the proposed new lot lines.
2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow and hydrant spacing.

Required Legal Documents

3. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lot 3. 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 Requirements

4. The applicant must pay into the City Tree Fund the amount equivalent to 25 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

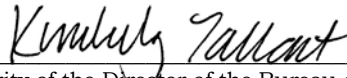
B. The following conditions are applicable to site preparation and the development of individual lots:

1. As part of the building permit application submittal, each of the 4 required site plans and building elevations must reflect the information and design approved by this land use review as indicated in Exhibits C.2 and C.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-184148 LDS AD."
 - a. The side elevations of the homes must be in substantial conformance with Exhibit C.4. Addition of window area is allowed.
 - b. One tree shall be planted in the front yard of Lots 2, 3 and 4. The approximate planting location is shown on Exhibit C.2.
2. Development on Lot 3 shall be in conformance with the Tree Preservation Plan (Exhibit C.2) and the applicant's arborist report (Exhibit A.5(b)). Specifically, Tree #3, a 12-inch evergreen magnolia is required to be preserved, with the root protection zone indicated on Exhibit C.2. Tree protection fencing is required along the root protection zone of the 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 root protection zone for construction of the deck and stairs shall occur under the supervision of a certified arborist. Tree #3 must also be pruned to remove broken branches. See Exhibit A.5(b) for specific instructions.

Planning and Zoning approval of any additional development in the root protection zone 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/her supervision.

3. The applicant must meet the Fire Bureau requirements for addressing and aerial fire 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: Stephanie Beckman

Decision rendered by:  **on June 17, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: June 19, 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 July 24, 2013, and was determined to be complete on November 22, 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 July 24, 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 requested that the 120-day review period be extended, as stated with Exhibit A.8. Unless further extended by the applicant, **the 120 days will expire on: August 23, 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 July 3, 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.

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.**

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of Adjustments. These other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

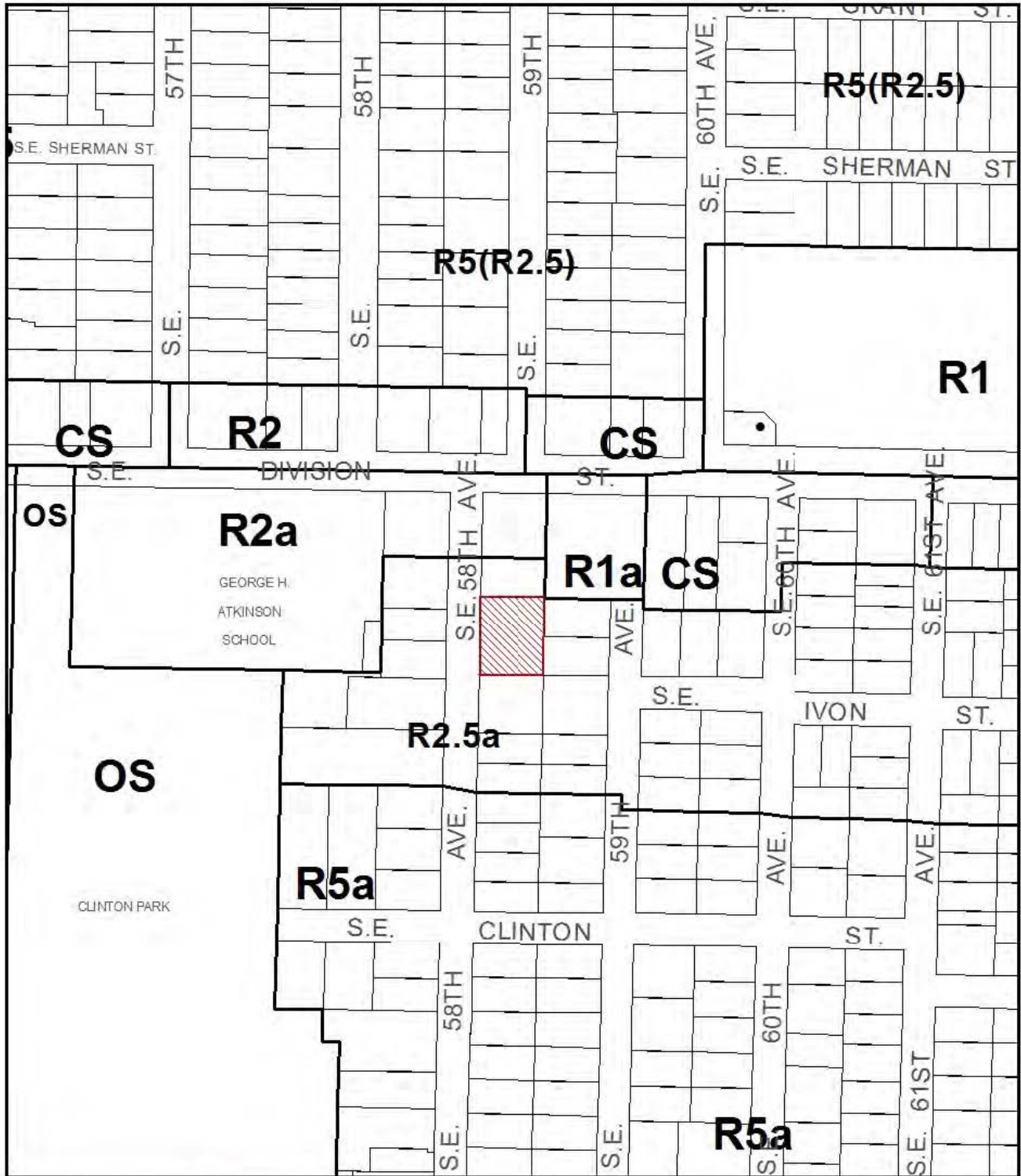
Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of Adjustments. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application. The concurrent approvals requested with this application were voluntary. Therefore, these other concurrent approvals expire three years from the date the decision is rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Original submittal (7/24/13)
 - 2. Incomplete letter response and additional information (9/18/13)
 - 3. Adjustment Review submittal (11/5/13)
 - 4. Stormwater Simplified Approach Report
 - 5.a Arborist Report and Tree Mitigation Plan (7/15/13)
 - 5.b Revised Arborist Report (5/29/14)
 - 6. Parking Study
 - 7.a Transportation Analysis Letter (3/11/14)
 - 7.b Revised Transportation Analysis Letter (4/2/14)
 - 8. 120-Day Review Extension
 - 9. Applicant Submittal (5/16/14)
 - 10. Applicant Submittal (6/5/14)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat (attached)
 - 2. Preliminary Site/Utility/Tree Preservation Plan (attached)
 - 3. Existing Conditions Survey
 - 4. House Elevations (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. Gary Cameron, via email
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



Site



Historic Landmark



NORTH

File No. LU 13-184148 LDS AD
 1/4 Section 3236
 Scale 1 inch = 200 feet
 State_Id 1S2E07AA 6500
 Exhibit B (June 18,2014)

EMERIO
Designs
6107 SW MURRAY BLVD, SUITE 147
BEAVERTON, OREGON 97008
PH: (503) 515-5528

NO.	DATE	DESCRIPTION

PRELIMINARY PLAT

2512 SE 58TH AVENUE
TAX MAP T1S R2E 07AA
TAX LOT 6500
MULTNOMAH COUNTY, OREGON

CASE NO. 13-184148
EXHIBIT C.1

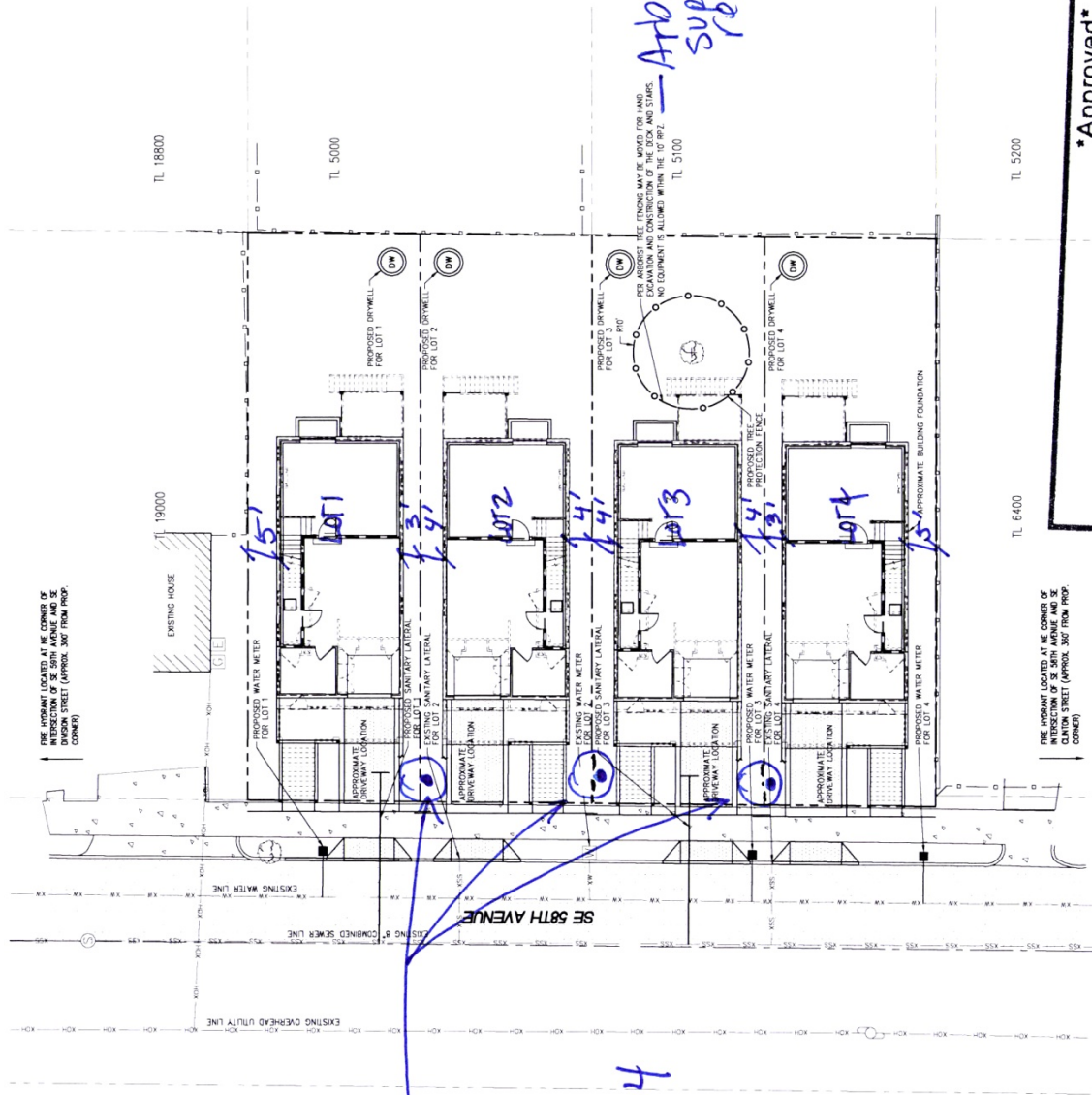


LEGEND
--- PROPERTY LINE
--- ADJACENT/ADJOINING LOT LINE
--- CENTER LINE R/W
--- SETBACK LINE



JUN 05 2014

1 Tree required to be planted in front of yards of Lots 2, 3, & 4



Arbort
supervision & pruning
required

13-184148 C.2 EXHIBIT CASE NO.

PRELIMINARY
SITE/UTILITY PLAN

REL VISIONS	DESCRIPTION

EMERIO
Design
6107 SW MURRAY BLVD., SUITE 147
BEAVERTON, OREGON 97008
PH: (503) 515-5528

City of Portland - Bureau of Development Services

Planner Bethman Date 6/17/14

* Approved *

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

JUN 05 2014

EMERIO
Design
6107 SW NEALY BLVD, SUITE 147
BILALIMON, OREGON 97008
ph (503)-744-8812
fax (503) 639-9592

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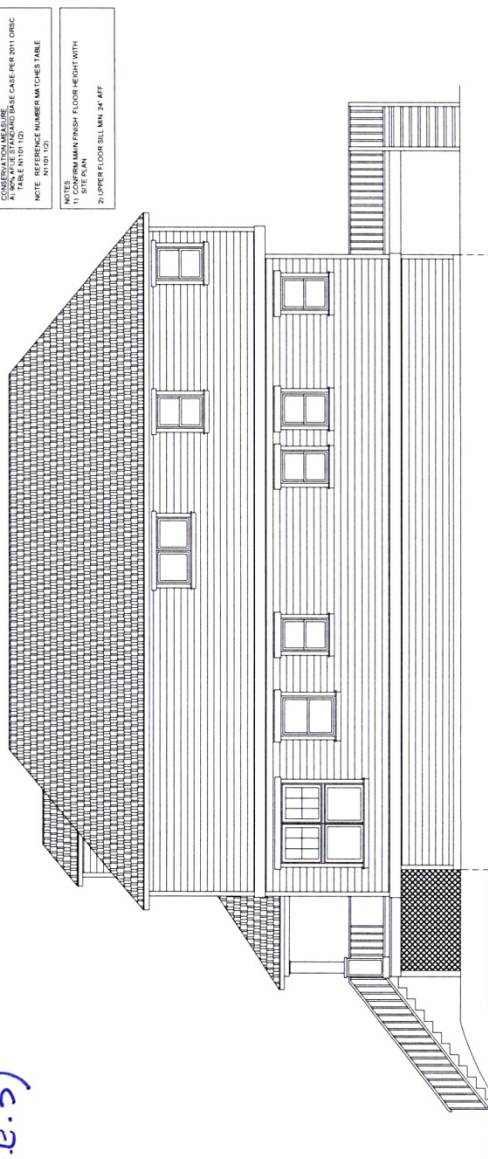
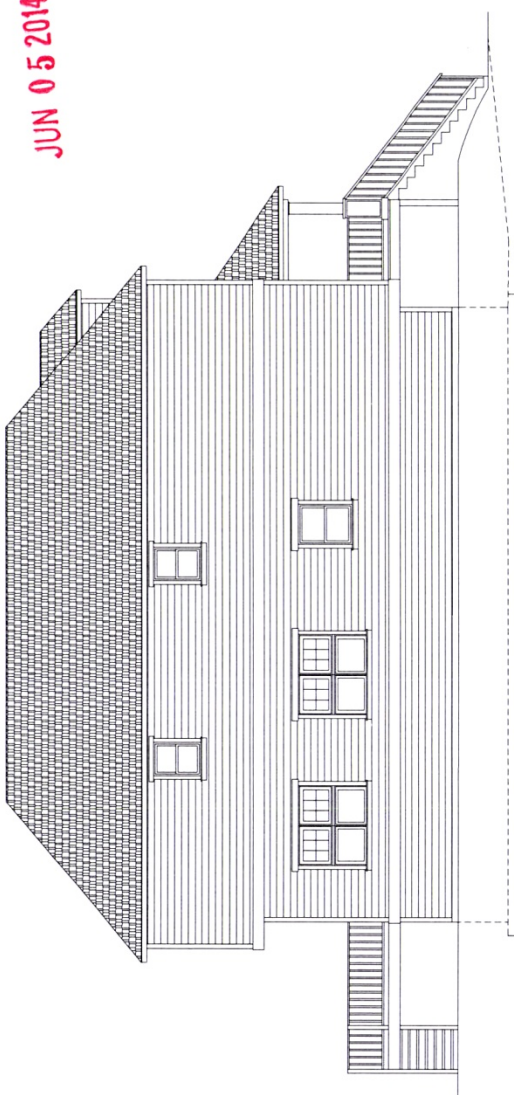
CASE NO. _____
EXHIBIT _____

SE 58TH PORTLAND, OR
FOR: EVERETT CUSTOM HOMES

TABOR - GARAGE UNDER

[illegible]

D1



<p>ENERGY OPTIONS</p> <p>ENVELOPE ENHANCEMENT MEASURE</p> <p>5) DWELLING WILL BE BLOWER TESTED FOR AIRTIGHTNESS AND LEAKAGE WILL BE LESS THAN 6.0 AIR CHANGES PER HOUR</p> <p>CONSERVATION MEASURE</p> <p>A) BASED ON BASE CASE PER 2011 CBRC TABLE N101.101</p> <p>NOTE: REFERENCE NUMBER MATCHES TABLE N101.102</p>	<p>NOTES</p> <p>1) CONFIRM MIN FINISH FLOOR HEIGHT WITH SITE PLAN</p> <p>2) UPPER FLOOR SILL MIN 24" AFF</p>
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NOTES

1) CONFIRM MAIN FINISH FLOOR HEIGHT WITH
SITE PLAN

2) UPPER FLOOR SILL MIN. 24" AFF

City of Portland - Bureau of Development Services

10/17/01

Beckman

Planner

* This approval is only valid under the conditions of application.

max to meet
50% garage limit
(33.110.253.E.3)