



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

Dan Saltzman, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** October 19, 2012  
**To:** Interested Person  
**From:** Sean Williams, Land Use Services  
503-823-7612 / [Sean.Williams@portlandoregon.gov](mailto:Sean.Williams@portlandoregon.gov)

## **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 12-149990 LDP PD**

#### **GENERAL INFORMATION**

**Applicant:** Gary Whitehill-Baziuk / GARBOB LLC  
2011 NE 13<sup>th</sup> Avenue / Portland OR, 97212

**Owner:** Robert Spitzer / GARBOB LLC  
01643 SW Radcliffe Court / Portland, OR 97219-7967

**Site Address:** NE 45<sup>th</sup> Avenue

**Legal Description:** BLOCK 29 LOT 11, ROSE CITY PK  
**Tax Account No.:** R723101830  
**State ID No.:** 1N2E30CB 15701  
**Quarter Section:** 2835  
**Neighborhood:** Grant Park, contact Ron Laster at 503-282-9923.;  
Hollywood, contact Doug Hamilton at 503-249-5839.

**Business District:** Hollywood Boosters, contact Christine Azar at 971-570-8011.  
**District Coalition:** NE Coalition of Neighborhoods, Chris Lopez at 503-823-4575. Central  
Northeast Neighbors, contact Alison Stoll at 503-823-3156.

**Plan District:** Hollywood - Subdistrict B  
**Other Designations:** None  
**Zoning:** Residential 2,500 (R2.5)  
**Case Type:** Land Division Partition (LDP) w/ Planned Development (PD)  
**Procedure:** Type II<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant is requesting to partition the subject property into two equally sized parcels of approximately 2,426 square feet with a concurrent Planned Development review to construct attached houses with a garage as a part of the front façade of each unit. Both parcels are considered narrow lots as the proposed width is less than the minimum standard for the zone. An attached garage is not allowed as part of the façade if the width of the street facing unit is less than 22 feet wide (33.110.253.E.3.b). For new narrow lots, this standard must be modified through a Planned Development Review.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

- **Section 33.660.120, Approval Criteria Land Divisions in Open Space and Residential Zones.**
- **Section 33.665.300, Approval Criteria in General**
- **Section 33.665.310, Approval Criteria for Planned Developments in All Zones**
- **Section 33.665.320, Additional Approval Criteria for Modifications of Site-Related Development Standards**

**FACTS**

**Site and Vicinity:** the site is located on the east side of NE 45<sup>th</sup> Avenue approximately 100 feet north of the intersection with NE Tillamook Street. The site is unimproved and does not contain any trees subject to preservation standards. The site is bordered by commercial zoning (CO1) to the south and east and zoning north of the site is Single-Dwelling (R5/R2.5).

**Infrastructure:**

- **Streets** – The site has approximately 50 feet of frontage on NE 45<sup>th</sup> Avenue. At this location, NE 45<sup>th</sup> Avenue is classified as a local service street for all modes in the Transportation System Plan (TSP). Tri-Met provides *frequent* transit service approximately 230 feet south of the site on NE Sandy Boulevard via Bus #12. Parking is currently allowed on both sides of NE 45<sup>th</sup> Avenue.

At this location, NE 45<sup>th</sup> Avenue is improved with a 24 foot paved roadway surface and pedestrian corridor that consists of a 7.5 foot planter, 6 foot sidewalk and 2 foot setback to private property (7.5-6-2) within a 55 foot wide right-of-way.

- **Water Service** – There is an existing 8-inch CI water main in NE 45<sup>th</sup> Avenue. There are no existing water services to this property.
- **Sanitary Service** - There is an existing 8-inch VSP public combination sewer main in NE 45<sup>th</sup> Avenue. According to City as-builts there is an existing lateral along the sites frontage located approximately 146 feet from the manhole within the intersection of NE 45<sup>th</sup> and Tillamook.

**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 Hollywood plan district provides for an urban level of mixed-use development including commercial, office, housing, and recreation. The plan district strengthens Hollywood’s role as a commercial and residential center, and promotes the use of light rail, bus transit, and walking. The site is within Subdistrict B of this plan district.

**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. Please see Exhibits “E” for details.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **August 31, 2012**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

**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.

<b>Criterion</b>	<b>Code Chapter/Section and Topic</b>	<b>Findings: Not applicable because:</b>
B	33.630 – Tree Preservation	No significant trees or trees in excess of 6 inches in diameter are located fully on the site or outside of the environmental zone on the site.
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.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 attached housing parcels. The minimum and maximum density for the site is as follows:

Minimum = (4,852 square feet \* .80) ÷ 5,000 square feet = 0.77 (which rounds up to a minimum of 1 lot, per 33.930.020.A)

Maximum = 4,852 ÷ 2,500 square feet = 1.94 (which rounds up to a maximum of 2 lots, per 33.930.020.B)

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

	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>
<b>R2.5 Zone</b>	1,600	NA	36	40	30
Parcel 1	2,426		25	97.05	25
Parcel 2	2,426		25	97.05	25

\* 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

Parcels 1 and 2 are 25 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 are met (33.610.200.D.2):

- a. **On balance, the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations;**

**Findings:** 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 provided site plans and elevations (Exhibits C.1-C.6) that depict building footprints which meet all applicable setback requirements and are oriented towards the street. Therefore, they have demonstrated that these lots can accommodate a reasonably sized house and garage while meeting the development standards of the Residential 2,500 (R2.5) zone. These plans also show existing and proposed water and sanitary sewer services that demonstrate Parcels 1 and 2 have access for utilities and services. The proposed parcels are not landlocked nor do they narrow to an unbuildable width close to the street. Proposed Parcels 2 and 3 are compatible with existing lots in the vicinity as demonstrated by an attached housing development west of the site at NE 39<sup>th</sup> Avenue and NE Cesar E Chavez Blvd. that includes 8 lots less than 25 feet in width.

On balance, proposed Parcels 2 and 3 have dimensions that are consistent with the purpose of lot dimension regulations as demonstrated by the preceding findings. Therefore this standard is met.

- 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 attached houses; therefore, this standard does not apply.

- 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 standard 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 has requested a modification to the garage limitation standard of subsection 33.110.253.E through Planned Development Review as addressed later in this decision.

- 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:** Parcels 1 and 2 will have individual driveways that are approximately 9 feet wide. Each parcel is 25 feet wide, which will still allow for the 60% standard to be met in the area not devoted to driveway pavement.

- 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:** Parking is not required for this site. However, the applicant's proposed dwelling units will have attached garages. Therefore, alley access and the garage limitation requirements described above must be met.

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

**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 standards of 33.651 have been verified and noted earlier in this decision. Water is available to serve the proposed development from the water main in NE 45<sup>th</sup> Avenue. Therefore, this criterion is met.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> - See Exhibit E.1 for detailed comments.</p> <p>The sanitary sewer standards of 33.652 have been verified and noted earlier in this decision. The public combination sewer main located in NE 45<sup>th</sup> Avenue can serve the sanitary needs of the proposed development. An existing lateral is present along the frontage of Parcel 2 and may be used for future development on this lot. Therefore, this criterion is met.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b>– See Exhibits E.1 &amp; E.5</p> <p>BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> <li>• <b>Parcels 1 and 2:</b> Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. The Bureau of Environmental Services (BES) has reviewed the Applicant’s Simplified Approach infiltration test (Exhibit A.2), dated 8/25/12, with results of 3 inches per hour. 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 Bureau of Environmental Services has indicated conceptual approval of the drywells. Therefore, this criterion is met.</li> </ul>
<p><b>33.654.110.B.1 -Through streets and pedestrian connections</b>  <b>33.654.130.B - Extension of existing public dead-end streets &amp; pedestrian connections</b>  <b>33.654.130.C - Future extension of proposed dead-end streets &amp; pedestrian connections</b></p> <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>No street connections have been identified in the vicinity of this</p>

property in the Portland Master Street Plan document. The 530-ft spacing goal for public through streets and the 330-ft spacing goal for pedestrian connections is satisfied in the surrounding area/blocks in the north-south direction. However, only the public through street spacing goal is also satisfied in the east-west direction since the subject block and surrounding blocks are on average, approximately 500-ft in length. The subject block is representative of the block pattern in the general area in terms of orientation and length. Further, as with other blocks in the area, the subject block is primarily built out with the type and density of the expected housing for the area's zoning. No further street or pedestrian connections are physically possible without impacting existing development on the subject block and beyond. Providing any further connectivity elsewhere on the subject block would lead to no other connection points, again, given the existing, long established development pattern throughout this area. Portland Transportation has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition.

For the reasons described above, this criterion is met.

**33.641 - Transportation Impacts - 33.641.020 and 33.641.030**  
**33.654.120.B & C Width and elements of the street right-of-way**  
**33.654.130.D Partial Rights of way**

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. Small land divisions involving only a few dwelling units generally do not require a formal transportation impact study, even though such a study will usually be required for larger projects (Title 17 includes technical standards describing when a more formal study is required). The Portland Bureau of Transportation/Development Review (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services. PBOT's Analysis (Exhibit E.2) is quoted, in part, as follows:

The proposed land division will create two parcels which are proposed to be developed with two new attached single-family residential units. According to data from the manual *TRIP GENERATION, Eighth Edition*, published by the Institute of Transportation Engineers (ITE), an estimated 2 AM peak hour trips and 2 PM peak hour trips (20 total daily trips) potentially may result from the development proposal on the site. Said increase in peak hour trip generation is insignificant and does not warrant any mitigation to nearby intersections. The impacts to the area's intersections most likely to be effected by the additional project-related trip generation will be negligible. The stop controlled intersections at NE 45<sup>th</sup>/NE Tillamook (south of the subject site) and at NE 45<sup>th</sup>/NE Thompson (north of the site) appear to be currently operating at acceptable levels related to the City's performance measures and will continue to operate at acceptable levels with the vehicle trips generated by the proposed project factored into the analysis. Given the opportunities north and south of the site for trips that will be generated by the proposed partition to be disbursed throughout the broader transportation system, impacts to one intersection in particular will be minimized.

Aside from concerns relative to the on-street parking impact evaluation factor, no significant negative impacts are expected to occur in relation to any of the other evaluation factors. The site is served by nearby transit service along NE Sandy south of the site (via Tri-Met route #12 Barbur-Sandy Blvd) and along NE 42<sup>nd</sup> Ave west of the site (via Tri-Met route #75 Cesar Chavez/Lombard). There are existing sidewalk corridors throughout the vicinity, including along the site frontage that facilitate pedestrian travel. There are identified bike facilities (Portland Bike/Walk Map) in the area including shared roadways along NE Brazee and NE 50<sup>th</sup> Ave to the north and east of the site and striped bike

lanes along NE Tillamook to the west of the subject site.

Regarding potential impacts to on-street parking, it appears as though there is a high demand for on-street parking in the vicinity of the subject site, even though most, if not all of the homes in the area, have at least one on-site parking space for vehicle storage. The applicant is showing two on-site parking spaces for each of the proposed attached homes via a driveway and a garage for each unit. Regardless of the orientation of the driveways (separated or in tandem), because of the narrowness of the subject site, there will be a loss of two on-street parking spaces [assuming the conventional and conservative 25-ft dimension for an on-street parking stall].

The applicant was requested to conduct an on-street parking survey to submit data for City staff to analyze with respect to this issue. The applicant provided information from observations that were made on several days and at several different times frames. Between NE Thompson and NE Tillamook, along NE 45<sup>th</sup> Ave, the applicant observed the most number of vehicles (5) parked on the street during a weekday morning at 7:15 am (a time where residential parking and commuter parking is at a high demand). There were 4 cars parked on the west side of the street and only 1 car on the east side of the street (same side as the subject site). Although the applicant did not estimate the total number of on-street parking spaces in the overall supply for this segment of NE 45<sup>th</sup> Ave, the maximum 5 cars observed during the various survey periods, represents a small percentage of the overall on-street parking supply. This data was confirmed by PBOT staff during an independent survey conducted during the early morning weekday period when residential parking is at a high demand; PBOT staff also observed only 5 total vehicles (3 vehicles parked on west side of NE 45<sup>th</sup>/2 vehicles parked on east side of NE 45<sup>th</sup> (including 1 car-share vehicle). These cars were parked primarily along the northern end of the street, away from the subject site. It should also be noted that on many of the surrounding lots, at least 2 cars were observed parked on driveways suggesting that the property owners in the area largely utilize their respective on-site parking spaces to store their vehicles, which also confirms that there is less of a demand for on-street parking. Accordingly, though the proposed project will result in the loss of a couple of on-street parking spaces, a) the proposed development will include on-site parking opportunities for 2 vehicles on each lot and, b) there is less of demand for on-street parking than initially anticipated by PBOT staff. On-street parking impacts related to the proposed partition are therefore expected to be minimal. With 4 potential on-site parking spaces, the applicant has demonstrated that impacts to on-street parking will be mitigated. It should be noted that during the course of the public notice period for this project, City staff did not receive any letters of interest/support/opposition to the proposed partition request from nearby neighbors related to this, or any of the other evaluation factors.

Given the area in which the site is located, the minimal increase in vehicle trips that will be generated by the proposed partition, and the classification of the streets within the transportation system, PBOT expects that the transportation system will be able to support the existing development in the area as well as the proposed development.

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. Based on the preceding analysis, Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that the development can be safely served by this existing street without having any significant impact on the level of service provided. Therefore, this criterion is met.

**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. Therefore, this criterion is met.

**APPROVAL CRITERIA FOR PLANNED DEVELOPMENT REVIEW****33.665.300 Approval Criteria in General**

The approval criteria for Planned Developments are stated below. Planned Developments in all zones must meet the criteria in Section 33.665.310. Some proposals must also meet additional approval criteria, as follows:

- A.** Proposals to modify site-related development standards must meet the criteria in Section 33.665.320.
- B.** Proposals for commercial uses in residential zones must meet the criteria in Section 33.665.330.
- C.** Proposals that do not include a land division must meet the criteria in Section 33.665.340.

A request for a Planned Development will be approved if the review body finds that the applicant has shown that all of the approval criteria have been met.

**33.665.310 Approval Criteria for Planned Developments in All Zones**

Configure the site and design development to:

- A.** Visually integrate both the natural and built features of the site and the natural and built features of the surrounding area. Aspects to be considered include:
  1. Orienting the site and development to the public realm, while limiting less active uses of the site such as parking and storage areas along the public realm;

**Findings:** The proposed attached housing development will be oriented to the public realm and will include prominent features of wide, open front porches with stairs providing a direct connection to the adjacent public pedestrian corridor. Less active uses of the site such as parking are visually minimized as the garage doors are recessed under the front porches, which project approximately 8 feet beyond the plane of the doors. In addition, the proposed development will be built into the natural grade of the site, which is slightly elevated above the public street, allowing for tuck under garages that will further minimize the presence of the garage doors.

To help minimize the visual impact of the vehicle area, the width of the driveway on each lot must be reduced from the proposed 10 feet to 9 feet. With a condition requiring a maximum 9-foot wide driveway, this will reduce the amount of the site frontage occupied by vehicle areas.

Storage areas will not be visible from the public realm as they will be located underneath the entry stairway as exemplified in the attached photographs of comparable development (Exhibit A.3).

With a condition requiring each lot to have no more than a 9-foot wide driveway, this criterion can be met.

2. Preservation of natural features on the site, such as stands of trees, water features or topographical elements;

**Findings:** There are no distinctive natural features to preserve on the parent parcel. The site is relatively flat and void of any trees subject to preservation standards. Therefore, this criterion is met.

3. Inclusion of architectural features that complement positive characteristics of surrounding development, such as similar building scale and style, building materials, setbacks, and landscaping;

**Findings:** The site is located within the Grant Park/Hollywood Neighborhood. The development style of this area may be characterized by turn of the century craftsman and bungalow style homes that contain large open front porches, accentuated main entrances and highly detailed architectural patterns as exemplified by photographs submitted by the applicant of homes on NE 45<sup>th</sup> Avenue within the vicinity of this site (Exhibit A.4). The applicant has indicated that the proposed building will include decorative brackets, exposed rafters, porches with ornamental columns, vertical windows, authentic hardware (exterior doors, lights etc.) horizontal cedar siding, reflecting the designs of the surrounding early 20<sup>th</sup> century homes. The applicant has used a variety of architectural features to complement the most positive characteristics of surrounding development. The buildings are set back approximately 18 feet from the street property line, which is in keeping with the older development in the vicinity.

The development is in keeping with the character and design of many of the older buildings in the neighborhood. Therefore, this criterion is met.

4. Mitigation of differences in appearance through means such as setbacks, screening, landscaping, and other design features;

**Findings:** Differences in appearance include two attached buildings, garage doors located in the front of the units with driveways in front yards. In order to mitigate for these differences, the building design uses materials and features common in the area, such as gable roofs, front entries with large porches, horizontal siding with wide trim, and large windows. As previously discussed, the proposed development will include garages along the street facing facade, which will differ from the predominant style of the established development, but will be tempered with measures to minimize the visual and physical appearance of the vehicle area and garage elements on the front facade. Therefore, this criterion is met.

5. Minimizing potential negative effects on surrounding residential uses; and

**Findings:** Potential negative effects from having garages along the street facing facade of the proposed 20-foot wide attached houses include: a reduction in on-street parking; a decrease in the visual connection between the residence and the street; and street facing facades that are dominated by garages. As noted in the preceding findings, the proposed development incorporates design elements that will temper any potential detrimental effects on surrounding residential uses. In addition, a condition will be implemented requiring a reduction in driveway widths. Therefore, this criterion is met.

6. Preservation of any City-designated scenic resources; and

**Findings:** There are no City-designated scenic resources on the site. Therefore, this criterion does not apply.

- B.** Provision of adequate open area on sites zoned RF through R2.5 where proposed development includes attached houses, duplexes, attached duplexes, or multidwelling structures. Open area does not include vehicle areas.

**Findings:** The applicant's Site/Erosion Control Plan (Exhibit C.2) illustrates an outdoor area at the rear of each parcel of approximately 650 square feet in size, measuring 26 feet by 25 feet. This area is well in excess of the minimum required outdoor area for attached houses of 200 square feet and minimum dimensions of 10 feet by 10 feet. Therefore, this criterion is met.

### **33.665.320 Additional Approval Criteria for Modifications of Site-Related Development Standards**

The following criteria apply to modifications of site-related development standards, including parking standards. These modifications are done as part of a Planned Development review and do not have to go through the adjustment process. The modification will be approved if the following approval criteria are met:

- A. Better meets approval criteria.** The resulting development will better meet the approval criteria of Section 33.665.310, above; and

**Findings:** The applicant has requested one modification to allow a garage on the front façade of two attached houses that are each less than 22 feet wide. The R2.5 zone allows attached housing development. A garage would have been allowed if the houses were two feet wider, so the visual effect of the doors will not be obtrusive relative to what the base zone allows generally. The findings above demonstrate that the proposal will better meet the approval criteria. Therefore, this criterion is met.

- B. Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standards for which a modification is requested.

**Findings:** The purpose of Garage Standards (33.110.253.A) in Single-Dwelling zones is as follows:

- Together with the window and main entrance standards, ensure that there is a physical and visual connection between the living area of the residence and the street;
- Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;
- Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;
- Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and
- Enhance public safety by preventing garages from blocking views of the street from inside the residence.

As noted in the findings above, the tuck under garages will be several feet behind the front building wall, and entry porches will project from the front façade by approximately 8 feet. This effect helps to ensure a physical and visual connection between the large open front porches of the units and the street, limiting the presence of the garages. A large staircase provides direct access from the public pedestrian corridor to the main entrance of the units. The entrance of the staircase is 18 feet in front of the garage doors which projects a more visually prominent entrance for pedestrians, rather than automobiles. As previously addressed, the driveways may not exceed the minimum requirement of 9 feet and each parcel is required to 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. These requirements together will prevent the garage and vehicle areas from dominating the views of the neighborhood from the sidewalk. The garages are recessed behind the front porches and living area of the units and will therefore not block views of the street from inside the residence.

On balance, the proposal will be consistent with the purpose of garage standards as demonstrated by the preceding findings. Therefore this criterion is met.

## **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 Parcels 1 and 2 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

**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.

## 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	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>
Development Services	Titles 24 -27, Admin Rules for Private Rights of Way Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>

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, aerial fire department access roads and ensuring adequate hydrant flow from the nearest fire hydrant. These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E-4).

## CONCLUSIONS

The applicant has proposed a 2 parcel partition in conjunction with a planned development review to modify garage standards for new narrow lots (33.110.253.E.3.b), as shown on the attached preliminary plans and elevations (Exhibits C.1-C.6). As noted in this report, the project is able to meet the adjustment approval criteria based on substantial conformance with applicable standards and established situations in the surrounding neighborhood. With

approval requiring that the permit drawings substantially conform to the site plan and elevation drawings attached, the request meets the applicable criteria and should be approved.

## **ADMINISTRATIVE DECISION**

**Approval** of a Preliminary Plan for a 2-parcel partition, that will result in two narrow lots for attached housing, as illustrated with Exhibit C.1.

**Approval** of a Planned Development Review with a modification to allow attached garages as a part of the front facade of the proposed attached housing units that are less than 22-feet long, per the approved site plan and elevations (Exhibit C.2-C.6), subject to the following conditions:

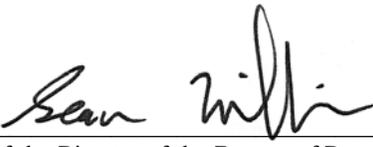
**A. The following must occur prior to Final Plat approval:**

1. 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.

**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 any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.2-C.6. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File LU 12-149990 LDP PD. No field changes allowed."
2. 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 measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
3. The driveway on each parcel may not exceed a width of 9-feet.

**Staff Planner: Sean Williams**

**Decision rendered by:**  **on October 17, 2012**

By authority of the Director of the Bureau of Development Services

**Decision mailed: October 19, 2012**

**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 June 13, 2012, and was determined to be complete on **August 29, 2012**.

*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 June 13, 2012.

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: December 27, 2012.**

**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 November 2, 2012** 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the 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 Planned Development. This other concurrent approval 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 this concurrent land use review. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions on or after **November 5, 2012**, 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 a Planned Development. 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 Planned Development Review was voluntarily included with the land division application. Therefore, this concurrent approval expires 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. Narrative
  - 2. Simplified Approach Infiltration Test
  - 3. Photographs of comparable development
  - 4. Photographs of surrounding development
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Topography, Supplemental and Existing Conditions Survey (attached)
  - 2. Site/Erosion Control Plan (attached)
  - 3. Front Elevation (attached)
  - 4. Left Elevation (attached)
  - 5. Right Elevation (attached)
  - 6. Rear Elevation (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services

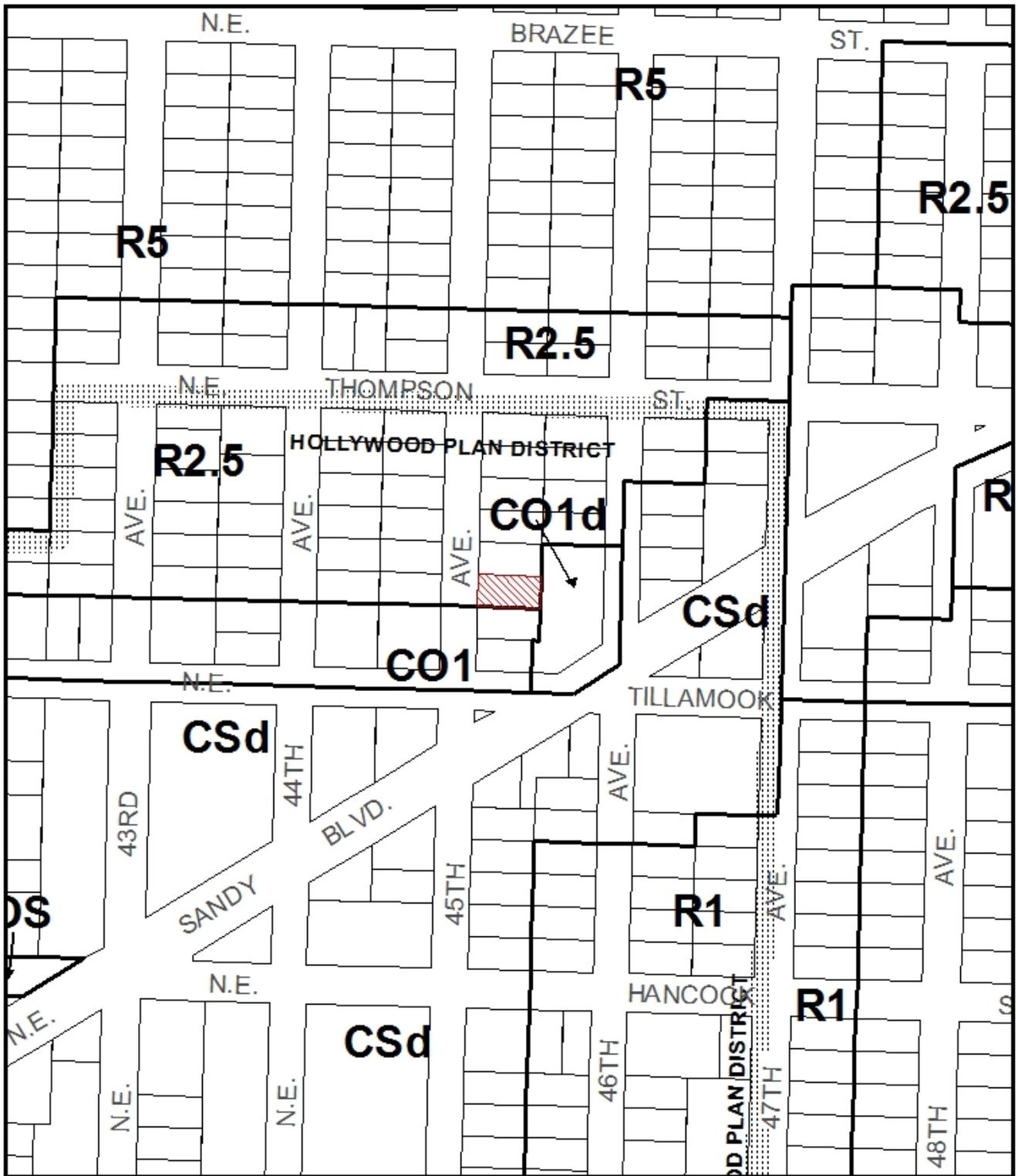
2. Bureau of Transportation Engineering and Development Review
3. Water Bureau
4. Fire Bureau
5. Site Development Review Section of BDS
6. Bureau of Parks, Forestry Division
7. Life Safety Plans Examiner

F. Correspondence: NONE

G. Other:

1. Original LU Application
2. Site History Research
3. Incomplete Letter/RFC Responses

**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



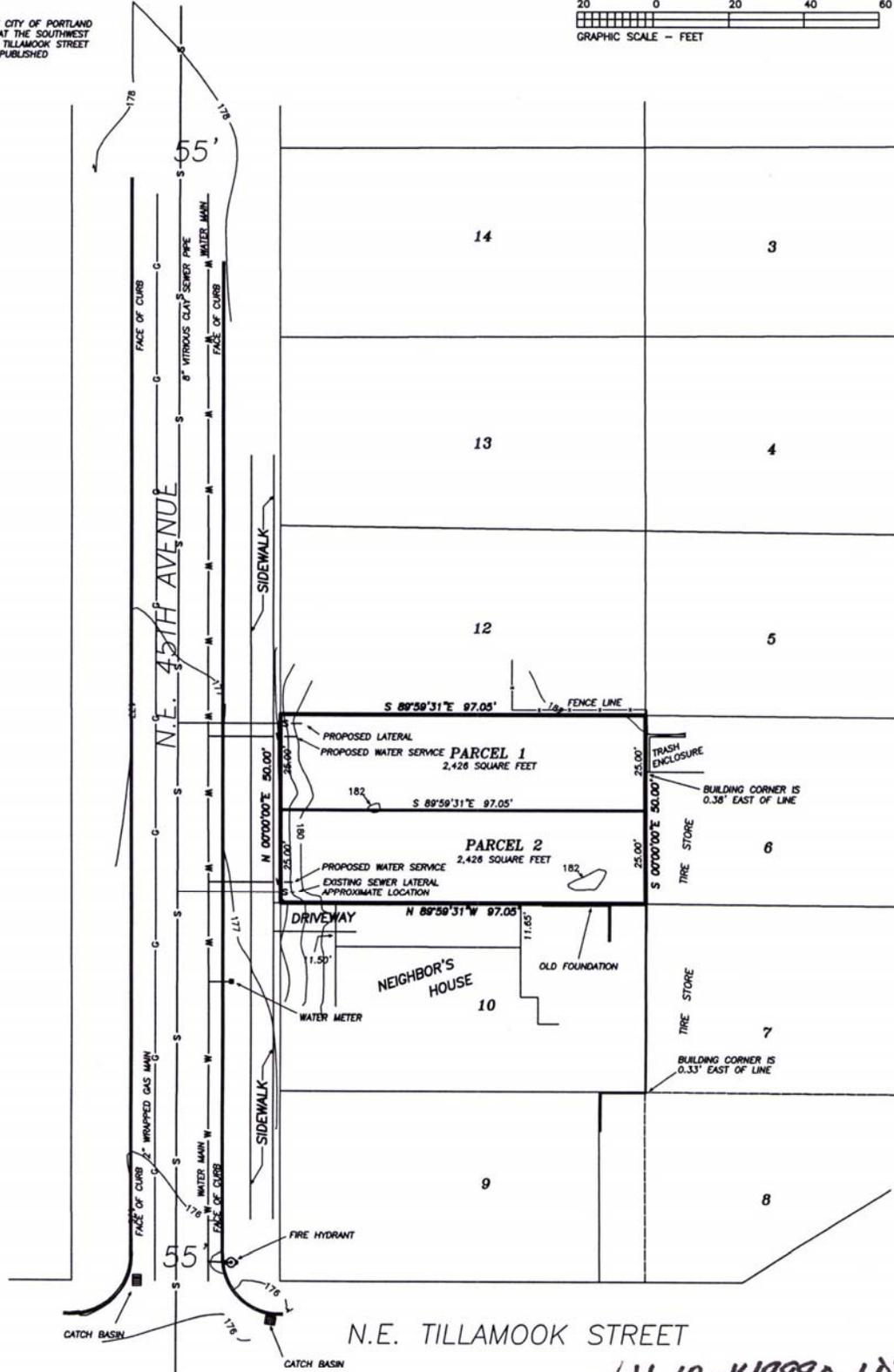
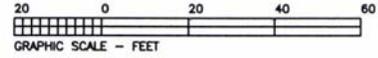
This site lies within the:  
HOLLYWOOD PLAN DISTRICT

File No.	LU 12-149990 LDP
1/4 Section	2835
Scale	1 inch = 200 feet
State_Id	1N2E30CB 15701
Exhibit	B (Jun 21, 2012)

**NOTES:**

CONTOUR INTERVALS ARE EVERY FOOT.

THE VERTICAL DATUM IS BASED ON THE CITY OF PORTLAND BENCHMARK NO. 3583, A BRASS DISK AT THE SOUTHWEST CORNER OF THE INTERSECTION OF N.E. TILLAMOOK STREET AND N.E. 44TH AVENUE, WHICH HAS A PUBLISHED ELEVATION OF 174.299'.



SCALE: 1" = 20'

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

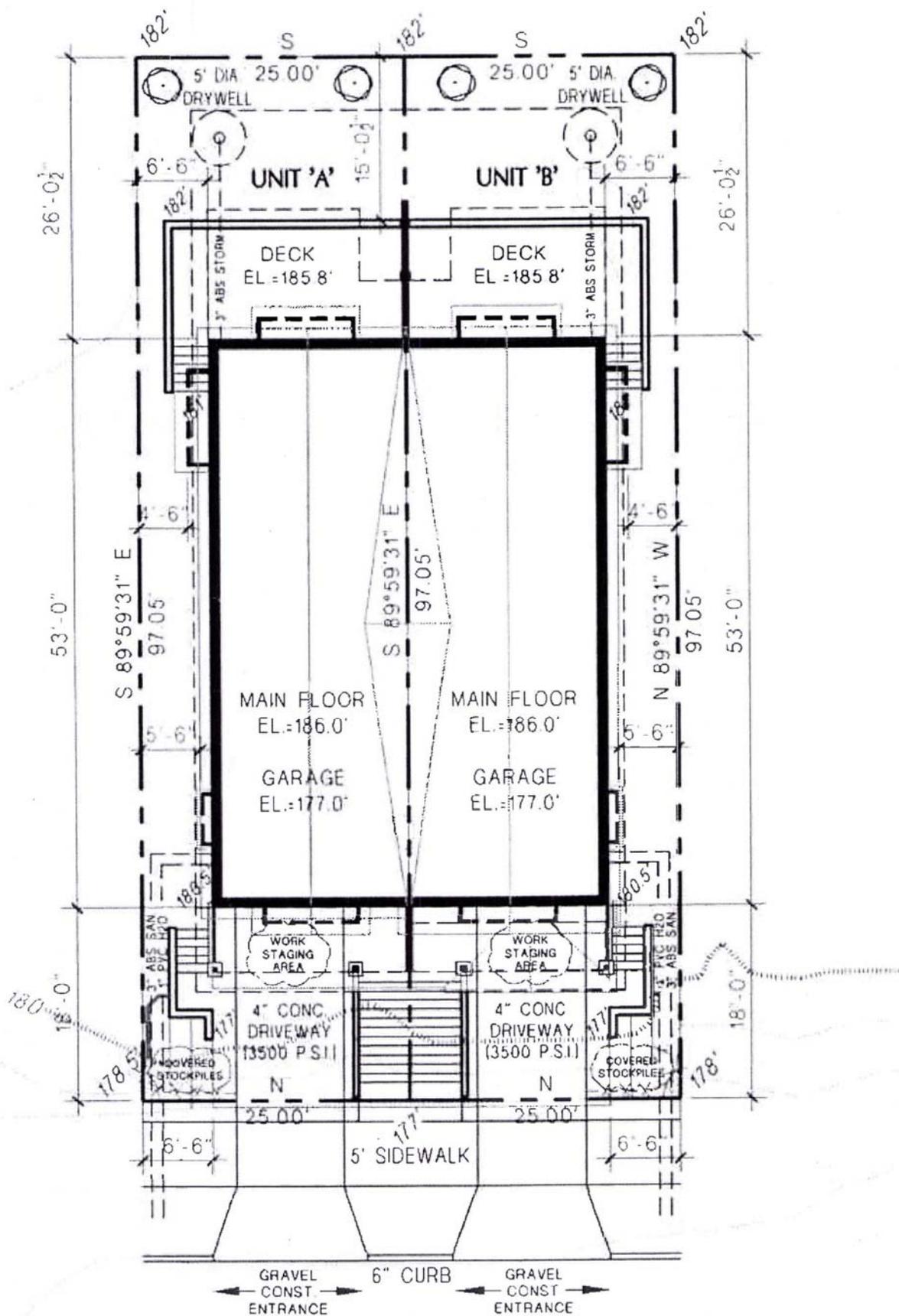
OREGON  
JULY 11, 2006  
LEE A. SPURGEON  
65603LS  
EXPIRES 6/30/12

N.E. TILLAMOOK STREET

LU 12-149990 LDP

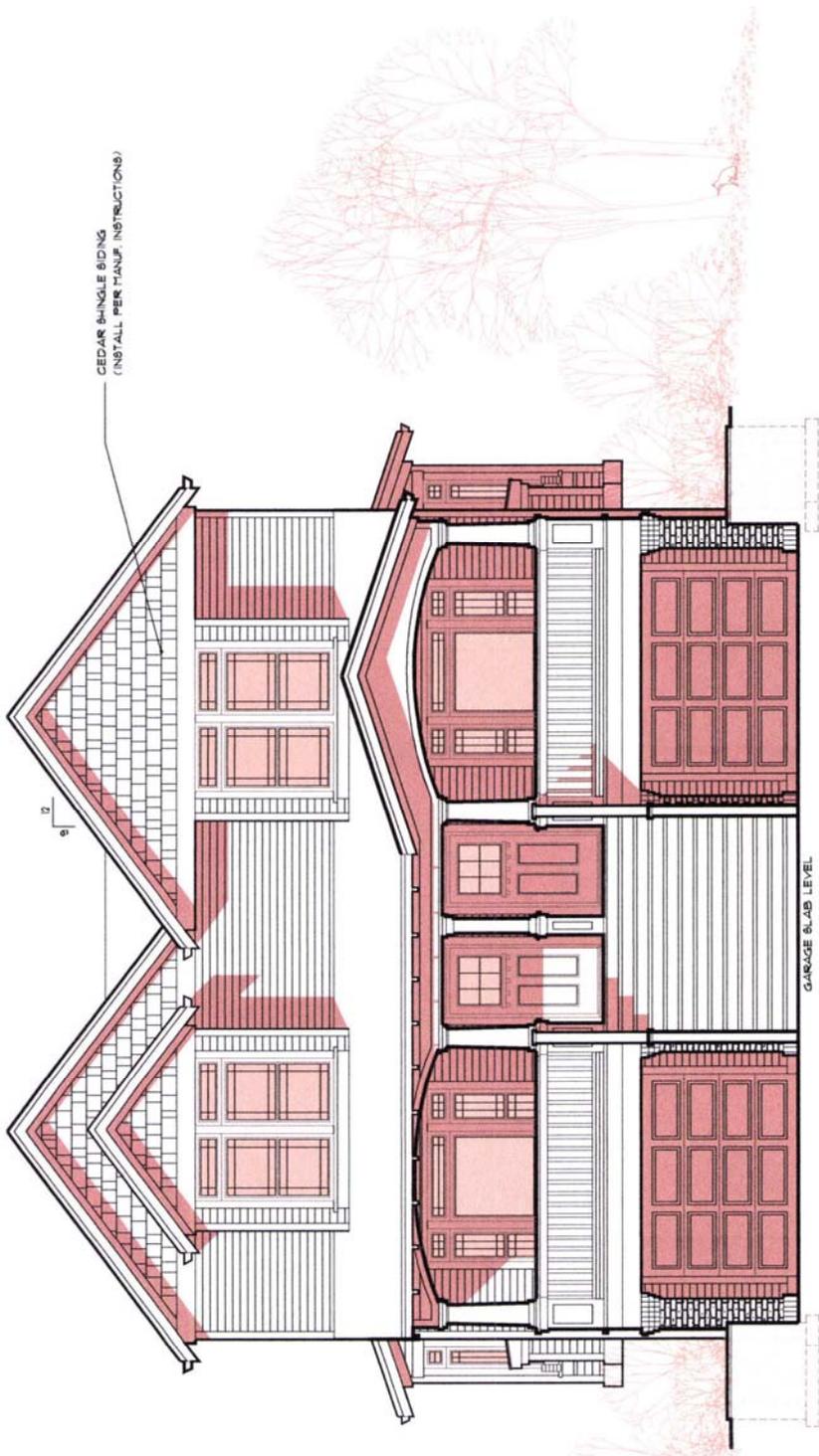
PROJECT: TOPOGRAPHY SUPPLEMENTAL AND EXISTING CONDITIONS MAP	
LOCATION: SW 1/4 OF SECTION 30, T.1N., R.2E., W.M. CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON	
CLIENT: GARY WHITEHILL-BAZUUK	DATE: APRIL 5, 2012
SCALE: 1" = 20'	
JOB NUMBER: 12-6041	
TOWNSHIP SURVEYS, L.L.C. 1415 WASHINGTON STREET, OREGON CITY, OR 97045 (503)-858-4915	

CASE NO. 12-149990  
EXHIBIT C-1



N.E. 45TH AVENUE

CASE NO. 12-149990  
 EXHIBIT 6-2



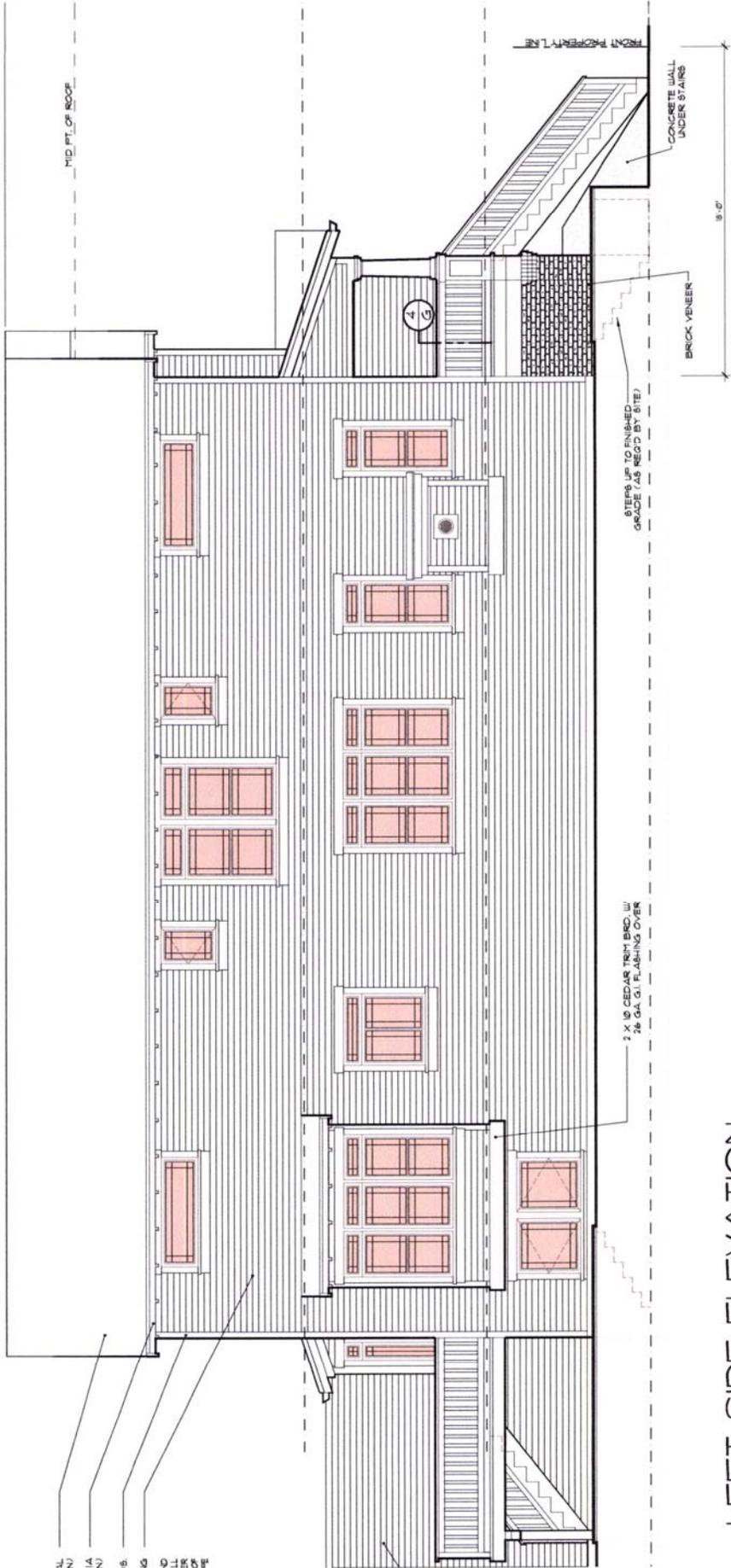
CEDAR SHINGLE SIDING  
(INSTALL PER MANUF. INSTRUCTIONS)

GARAGE SLAB LEVEL

# FRONT ELEVATION

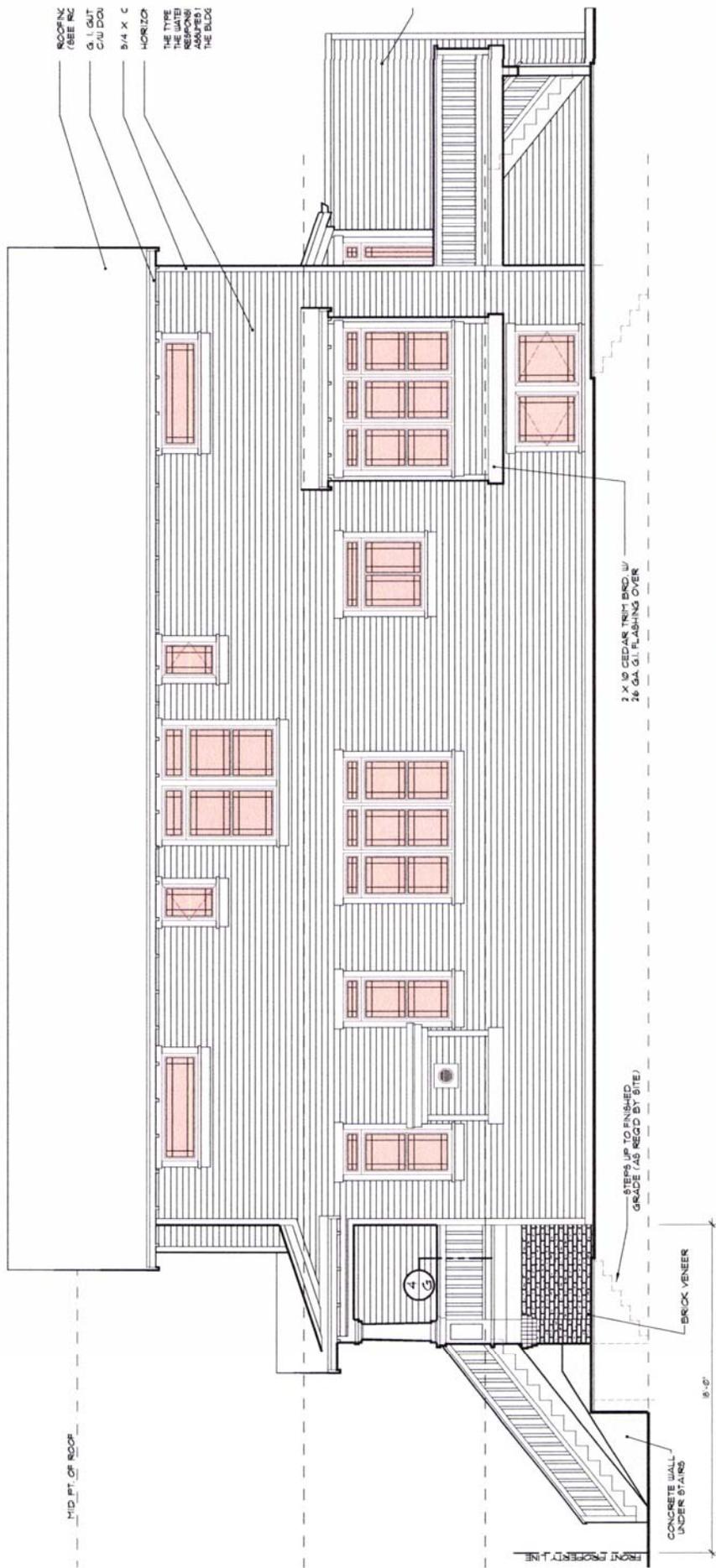
SCALE 1/8" = 1'-0"

CASE NO. 12-149990  
EXHIBIT C-3



LEFT SIDE ELEVATION

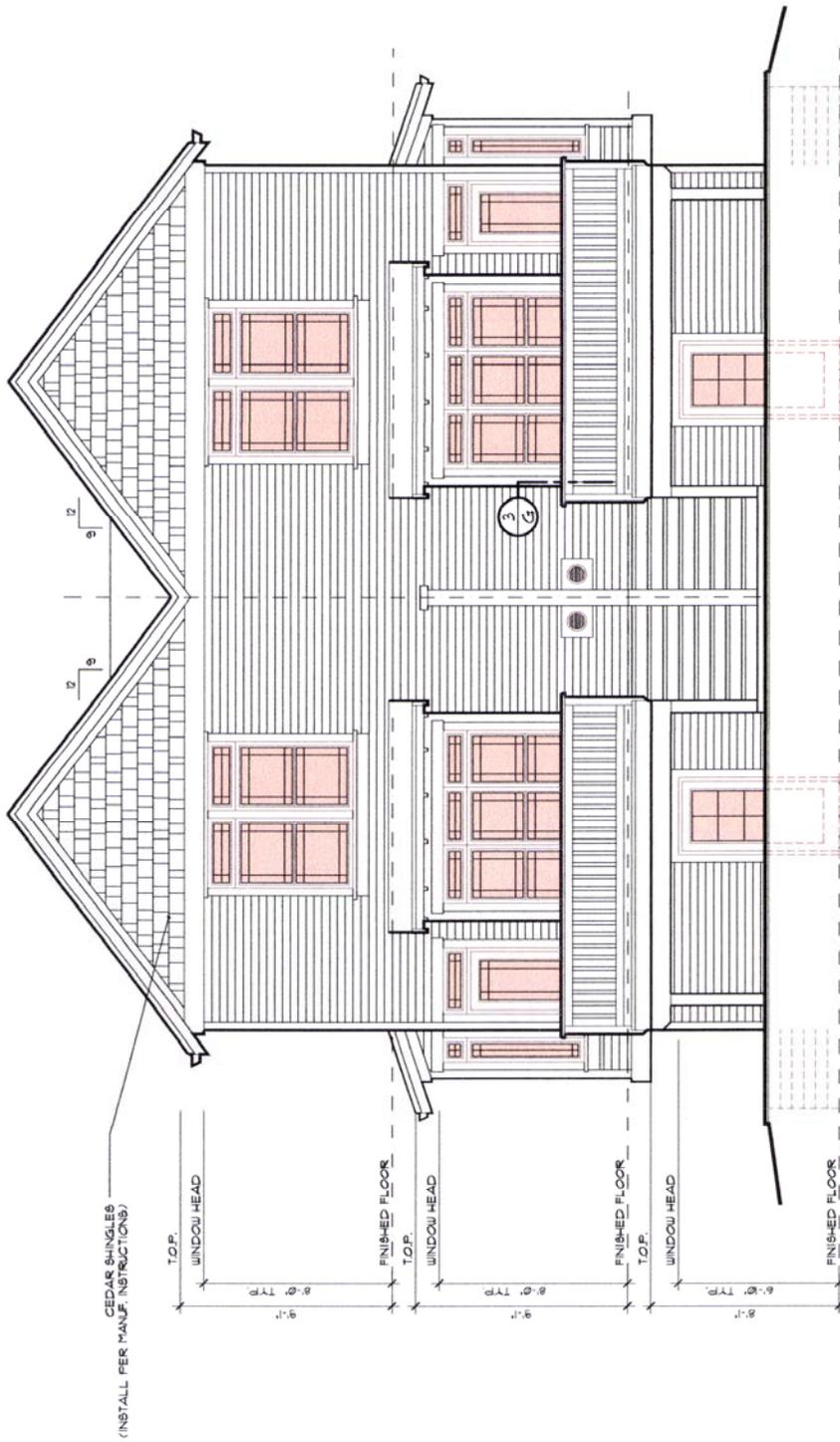
CASE NO. 12-149990  
 EXHIBIT 6.4



RIGHT SIDE ELEVATION

SCALE 1/4" = 1'-0"

CASE NO. 12-149990  
 EXHIBIT C-5



REAR ELEVATION  
 SCALE: 1/8" = 1'-0"

CASE NO. 12-149990  
 EXHIBIT C.6