



**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](http://www.portlandoregon.gov/bds)

**Date:** May 13, 2015  
**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 mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 15-108229 LDS AD**

#### **GENERAL INFORMATION**

**Applicant:** Carrie Strickland / Works Partnership Architecture  
524 E Burnside Street, Suite 320 / Portland, OR 97214

**Owner:** WPA Holdings LLC  
524 E Burnside Street / Portland, OR 97214

**Site Address:** 5711 E Burnside Street

**Legal Description:** BLOCK 8 LOT 1&2, SUNSET PK & ADD 2  
**Tax Account No.:** R812601330  
**State ID No.:** 1N2E31DB 02500  
**Quarter Section:** 3036  
**Neighborhood:** North Tabor, contact Beth Sanders at 503-821-9891.  
**Business District:** None  
**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.  
**Plan District:** None  
**Zoning:** Residential 1,000 (R1)  
**Case Type:** Land Division Subdivision (LDS) w/ Adjustments (AD)  
**Procedure:** Type II<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant is proposing to subdivide the subject property into 5 lots for attached houses that will range in size from 900 to 1,322.5 square feet. Two concurrent adjustments are requested for future development that is depicted in the attached elevations. An adjustment is requested to exceed the 25 foot height limit within the first 10 feet of the front property line in the R1 zone (33.120.215.B.1). An additional adjustment is requested to the allowed building coverage for the entire attached housing project from 3,145.5 to 3,202 square feet (33.120.270.C.5). Lots 2-4 are also requested to exceed the building coverage for an individual lot by 23 square feet.

This subdivision proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) four to ten dwelling units are proposed, not including accessory dwelling units; 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 5 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;**
- **Section 33.805.040.A-F, Approval Criteria for Adjustments.**

## FACTS

**Site and Vicinity:** The site is located on the northeast corner of E Burnside Street and NE 57<sup>th</sup> Avenue. Existing development consists of a nonconforming retail use that will be removed. No trees are located within the site subject to preservation standards. A mix of commercial and multi-dwelling zoning is present along this stretch of E Burnside Street. Development in the vicinity is primarily composed of multi-dwelling structures and retail commercial uses.

**Infrastructure:**

**Streets** – The site has approximately 50 feet of frontage on NE 57<sup>th</sup> Avenue and 114 feet of frontage on E Burnside Street. There is a curb cut on both streets that serves the existing commercial use. At this location, E Burnside Street is classified as a District Collector, Transit Access, City Bikeway, City Walkway, Major Emergency Response, and Local Service Street for all other modes (freight) in the Transportation System Plan (TSP). NE 57<sup>th</sup> Avenue is classified as a Local Service Street for all modes. Tri-Met provides frequent transit service on E Burnside Street via Bus #20.

At this location E Burnside is improved with approximately 43-feet of paved roadway surface and a pedestrian corridor that consists of a curb, 3-foot wide planter, 4-foot sidewalk, and a 1-foot setback to private property (3-4-1). NE 57<sup>th</sup> Avenue is improved with approximately 28-feet of paved roadway surface and a pedestrian corridor that consists of a curb, 1.75-foot wide planter, 5-foot sidewalk, and a 1-foot setback to private property (1.75-5-1).

**Water Service** – There is an existing 8-inch CI water main in both NE 57<sup>th</sup> Avenue and E Burnside Street. The existing retail use is served by a 5/8-inch metered service from the main in NE 57<sup>th</sup> Avenue.

**Sanitary Service** - There is an existing 8-inch CSP public combination sewer main in NE 57<sup>th</sup> Avenue. According to 1951 City plumbing and connection records the existing structure at 5711 E Burnside Street is connected to the sewer main in NE 57<sup>th</sup> through a lateral located 49 feet from the manhole in Burnside. There is no sewer available in E Burnside Street along the frontage of the site.

**Zoning:** The R1 designation is one of the City’s multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

**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 **February 25, 2015**. 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.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
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.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
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 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing 5 lots for attached housing. Single-dwelling or duplex development is proposed for some or the entire site, therefore the proposed lots must meet minimum density and not exceed the maximum density stated in Table 120-3.

Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. A street dedication is required that totals approximately 378 square feet. Therefore the resulting lot size for calculating density is 5,344 square feet. The site has a minimum required density of 4 units and a maximum density of 5 units.

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid further division of lots in the future that could result in non-compliance with the overall density requirements of the site as it exists in this proposal.

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

<b>R1</b>	<b>Minimum lot area (square feet)</b>	<b>Minimum lot width (feet)</b>	<b>Minimum lot depth (feet)</b>	<b>Minimum front lot line (feet)</b>
<b>Attached Houses</b>	none	15	none	15
Lot 1	1,200	29.75	47.35	29.75
Lot 2	900	19	47.35	19
Lot 3	900	19	47.35	19
Lot 4	900	19	47.35	19
Lot 5	1,322.5	27.90	47.35	27.90

\* Width is measured from the midpoints of opposite lot lines.

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. This criterion is met.

***Land Suitability***

The site is currently occupied by a nonconforming retail use, and there is no record of any other use in the past. The applicant has proposed to remove the existing commercial structure

and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

**H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;**

**Findings:** No tracts are proposed or required for this land division, so criterion A does not apply. The following easements are proposed for this land division:

- A Reciprocal Access Easement is proposed over the rear of lots 1-5 to allow shared use of a driveway that will access rear loaded garages.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easement described above and facilities within this area. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block, substantially similar to the following example:

*“A Declaration of Maintenance agreement for Reciprocal Access Easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

With the conditions of approval discussed above, 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. PBOT's Analysis (Exhibit E.2) is quoted, in part, as follows:

**Street Capacity and Levels of Service**

The proposal will not result in an increase of vehicle that would be allowed outright by the R1 base zone through a building permit application for a 5 unit apartment building. No mitigation is needed.

**Connectivity**

The site is a corner lot, connectivity standards do not apply.

**Vehicle Access/Loading**

The new lots will have a shared driveway within an easement providing access to parking and loading.

**On-Street Parking Impacts**

The new lots will have one on-site parking space. Impacts to the on-street parking supply should be minimal.

**Availability of Transit**

Tri Met Bus Lines #12, 20, and 15 is available to serve the site.

**Neighborhood Impacts**

The site is being developed with 5 new attached single-family residences in compliance with the existing R1 zoning. In addition, standard frontage improvements including sidewalks will reduce the potential for conflicts between pedestrians and vehicles.

**Safety for All Modes**

New sidewalks along the site frontage will provide adequate pedestrian facilities. Given the low vehicle speeds and volumes on NE 57th Ave, cyclists can safely share the roadway. NE Everett three blocks north of Burnside is designated a Neighborhood Greenway and is a prime east/west bikeway.

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that sidewalk improvements must be made on both the sites NE 57<sup>th</sup> Avenue and E Burnside Street frontages in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements additional right-of-way must be dedicated along both frontages of the site. With these improvements, the proposed development can be safely served by this existing street without having any significant impact on the level of service provided. 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:** 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:

<b>33.651 Water Service standard – See Exhibit E.3</b>
The Water Bureau has indicated that service is available to the site from the 8-inch CI water mains in both NE 57 <sup>th</sup> Avenue and E Burnside Street, as noted on page 2 of this report. The existing lateral that serves the commercial use on the site may potentially be used to provide water to the new house on Lot 1. The water service standards of 33.651 have been verified. This criterion is met.
<b>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1</b>
The Bureau of Environmental Services has indicated that service is available to Lot 1 from the existing 8-inch CSP public combination sewer main in NE 57 <sup>th</sup> Avenue, as noted on page 2 of this report. There is no public sanitary sewer available in E Burnside Street to serve Lots 2-5. Therefore, the applicant must obtain a public works permit to extend the public sewer to serve Lots 2-5 prior to final plat approval. With the condition of approval described above, this criterion is met.
<b>33.653.020 &amp; .030 Stormwater Management criteria and standards – See Exhibit E.1</b>
<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.2) and has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> <li>• <b>Shared driveway (easement):</b> The applicant has proposed to construct the driveway with pervious pavers/pavement that will allow stormwater to infiltrate into the ground. BES has indicated conceptual approval of this method of stormwater management for the shared driveway.</li> <li>• <b>Lots 1-5:</b> Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. BES has indicated conceptual approval of the drywells based on Simplified Approach infiltration test results of 1.65 and 2.91 inches per hour at 12 feet deep. The applicant applied for multiple plumbing code appeals (#11573, #11582, and #11583) to allow the use of a shared drywell system for the proposed development. However, these appeals were all denied. BES</li> </ul>

has no specific objection to the use of a shared system if a plumbing code appeal were to be granted. Therefore, if a plumbing code appeal were to be approved, a storm sewer easement(s) would be required across the relevant portions of the lots for a shared stormwater system. If an easement is provided, a Maintenance Agreement for the easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat.

BES recommends that the applicant provide a supplemental site utility plan prior to final plat approval to demonstrate stormwater management for the shared driveway as well as any potential changes to the proposed disposal point for the roof runoff. Subject to the conditions noted above, this criterion is met.

### **33.654.110.B.1 Through streets and pedestrian connections**

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):

The site is a corner lot, connectivity standards do not apply.

For the reasons described above 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 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 is requesting an adjustment to allow the proposed attached houses to exceed the 25 foot height limit within the first 10 feet of the front property line in the R1 zone (33.120.215.B.1). The height standards serve several purposes:

- *They promote a reasonable building scale and relationship of one residence to another;*
- *They promote options for privacy for neighboring properties; and*
- *They reflect the general building scale of multi-dwelling development in the City's neighborhoods.*

The minimum front building setback in the R1 zone is 3-feet and the maximum height is 45 feet, except on the portion of a site within 10 feet of a front property line, where the maximum height is 25 feet. The applicant is proposing attached houses that are approximately 32.41-feet in height and setback 3-feet from the front property line. There are numerous examples of zero lot line development on E Burnside Street with heights up to, and in excess of, 25-feet within the vicinity of the site. Therefore, the proposed attached houses represent a reasonable building scale in the context of surrounding development. The proposed height adjustment will not impede the privacy of adjacent neighboring properties as the development is more oriented towards the adjacent streets and setback further from residences to the north and east.

An additional adjustment is requested to the allowed building coverage for the entire attached housing project from 3,145.5 to 3,202 square feet (33.120.270.C.5). Lots 2-4 are also requested to exceed the building coverage for an individual lot by 23 square feet. The alternative development options provide increased variety in development while maintaining the residential neighborhood character. The options are intended to:

- *Encourage development which is more sensitive to the environment, especially in hilly areas;*
- *Encourage the preservation of open and natural areas;*
- *Promote better site layout and opportunities for private recreational areas;*
- *Allow for greater flexibility within a development site while limiting impacts to the surrounding neighborhood;*
- *Promote more opportunities for affordable housing; and*
- *Allow more energy-efficient development.*
- *Reduce the impact that new development may have on surrounding residential development.*
- *Allow a greater sense of enclosure within common greens and shared courts; and*
- *Ensure adequate open area within common greens.*

The standards for attached houses are more specifically addressed under the Alternative Development Options for Multi-Dwelling zones. However, the purpose statement associated with these standards does not specifically speak to building coverage. For this reason, the purpose statement of the Building Coverage (33.120.225.A) standard is also considered, as follows:

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

The maximum building coverage of the base zone applies to the entire attached housing project and the maximum building coverage for an individual lot is 5 percent more than the base zone allowance. The entire attached housing project is only 57 square feet over the maximum allowance and Lots 2-4 exceed the allowance for an individual lot by 23 square feet. Each attached house includes a 36 square foot uncovered deck projecting from the second story that serves as the minimum required outdoor area. If these decks were eliminated from the design the project would be in compliance with the maximum building coverage for the entire attached housing project as well as the maximum building coverage for an individual lot. The minimal increase in building coverage, as well as the allowance to have taller units within the first 10-feet of the front property line, does not contribute to an overly bulky structure that overwhelms adjacent development. This segment of E Burnside Street already represents a well built-up neighborhood and the proposed attached housing project will contribute to this character. 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 site is in a residential zone and is located within the North Tabor Neighborhood. The residential area considered is defined as shown on the Zone Map (Exhibit B). Properties within the vicinity of the site with frontage on E Burnside Street are composed of multi-dwelling and commercial zones with varying development types. The proposed attached housing project will not detract from the livability or appearance of the area due to the presence of more intensive commercial uses in the vicinity. Therefore, 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:** Two adjustments are being requested. The cumulative effect of the adjustments is consistent with the purpose of the zone to provide housing opportunities for individual households while also promoting desirable residential areas. This criterion is met.

**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 addressed in the preceding findings, there are no discernible impacts that will result from the proposed adjustments. This criterion is satisfied.

**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 ("c" or "p") 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.

**Existing development that will remain after the land division.** The applicant is proposing to remove 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 R1 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 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740	Title 17 – Sewer Improvements

<a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	2008 Stormwater Management Manual
Fire Bureau/503-823-3700	Title 31 Policy B-1 – Emergency Access
<a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	
Transportation/503-823-5185	Title 17 – Public Right-of-Way Improvements
<a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Transportation System Plan
Urban Forestry (Parks)/503-823-4489	Title 20 – Street Trees and other Public Trees
<a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	
Water Bureau/503-823-7404	Title 21 – Water availability
<a href="http://www.portlandonline.com/water">www.portlandonline.com/water</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 fire flow/water supply, addressing of structures, and aerial fire department access roads. These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E.4).
- The applicant must meet the requirements of Urban Forestry for street tree planting in the NE 57<sup>th</sup> Avenue and E Burnside Street sidewalk corridors to be reconstructed. The street tree planting must either be shown on individual building permits or the public works permit and must be planted prior to final inspection of residential building permits. This requirement is based on the standards of Title 11 (Exhibit E.6).

## CONCLUSIONS

The applicant has proposed a 5-lot subdivision with concurrent adjustment reviews to building coverage and height, as shown on the attached preliminary plans (Exhibits C.1-C.9). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: easements, transportation impacts, services/utilities, and adjustments to building coverage and height. With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of an Adjustment to maximum height within the first 10-feet of the front property line in the R1 zone (33.120.215.B.1) from 25-feet to 32.41-feet, per Exhibit C.8;

**Approval** of an Adjustment to the allowed building coverage for the entire attached housing project from 3,145.5 to 3,202 square feet (33.120.270.C.5) with Lots 2-4 also exceeding the building coverage for an individual lot by 23 square feet, per Exhibit C.2;

**Approval** of a Preliminary Plan for a 5-lot subdivision that will result in five lots for attached houses, as illustrated with Exhibit C.2, subject to the following conditions:

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

1. The applicant shall meet the street dedication requirements of the City Engineer for NE 57<sup>th</sup> Avenue and E Burnside Street. The required right-of-way dedication must be shown on the final plat.
2. A Reciprocal Access Easement shall be shown and labeled on the final plat, extending from NE 57<sup>th</sup> Avenue and adjacent to the rear lot lines of Lots 1-5, as shown on Exhibit C.2. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions,

and Restrictions (CC&Rs) as required by Condition B.6 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

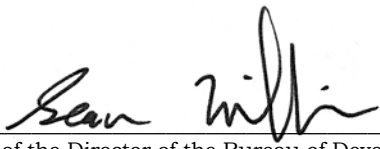
**B. The following must occur prior to Final Plat approval:**

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's NE 57<sup>th</sup> Avenue and E Burnside Street frontages. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.
2. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in E Burnside Street. The public sewer extension requires a Public Works Permit, which must be initiated and at a stage acceptable to BES prior to final plat approval. As part of the Public Works Permit, the applicant must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.
3. 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.
4. A finalized permit must be obtained for demolition of the existing commercial building on the site and capping the existing sanitary sewer connection.
5. If a plumbing code appeal is granted to allow a shared drywell system to serve the attached houses then the applicant must provide a supplemental plan showing changes to the proposed disposal point for the roof runoff and a storm sewer easement(s) must be provided on the final plat to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
6. A Maintenance Agreement shall be executed for the Reciprocal Access Easement described in Condition A.2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

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

1. Lots 1-5 may only be developed with single family attached houses.
2. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

**Staff Planner: Sean Williams**

**Decision rendered by:**  **on May 11, 2015**

By authority of the Director of the Bureau of Development Services

**Decision mailed: May 13, 2015**

**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 January 21, 2015, and was determined to be complete on **February 20, 2015**.

*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 January 21, 2015.

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: June 20, 2015**.

**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 May 27, 2015** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7617 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal

to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.ci.portland.or.us](http://www.ci.portland.or.us).

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

**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.

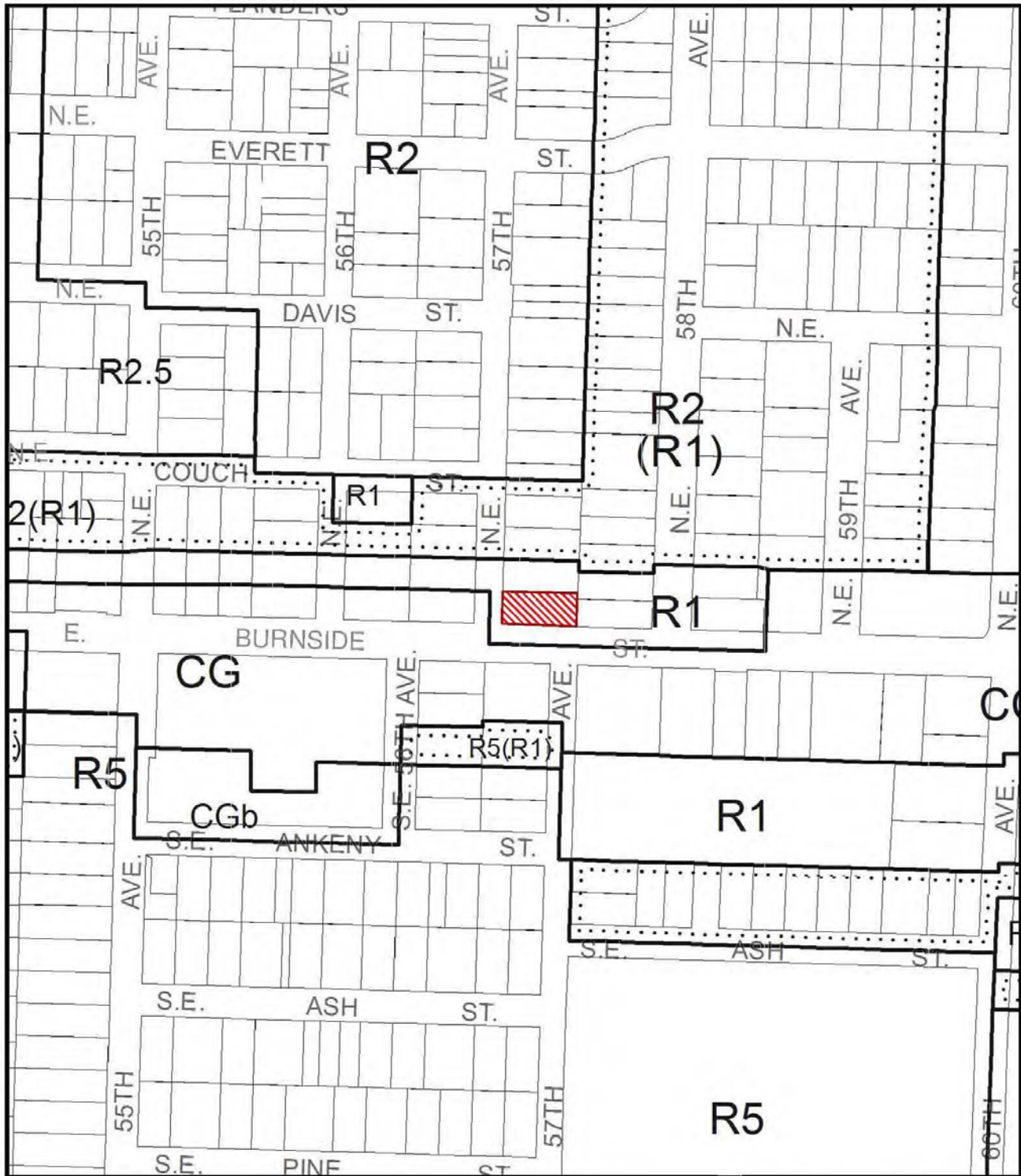
For further information on recording, please call the County Recorder at 503-988-3034.

**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 approved adjustments were voluntary and not necessary for the land division to be approved. These concurrent approvals expire three years from the date 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 stormwater report
  - 3. Neighborhood contact
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Topographic survey
  - 2. Lot plan, grading and utilities (*attached*)
  - 3. First floor plan
  - 4. South elevation
  - 5. South elevation (screen removed)
  - 6. North elevation
  - 7. East elevation (screen removed) & West elevation
  - 8. Adjustment request (*attached*)
  - 9. East & West elevation
- 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. Incomplete letter w/ 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



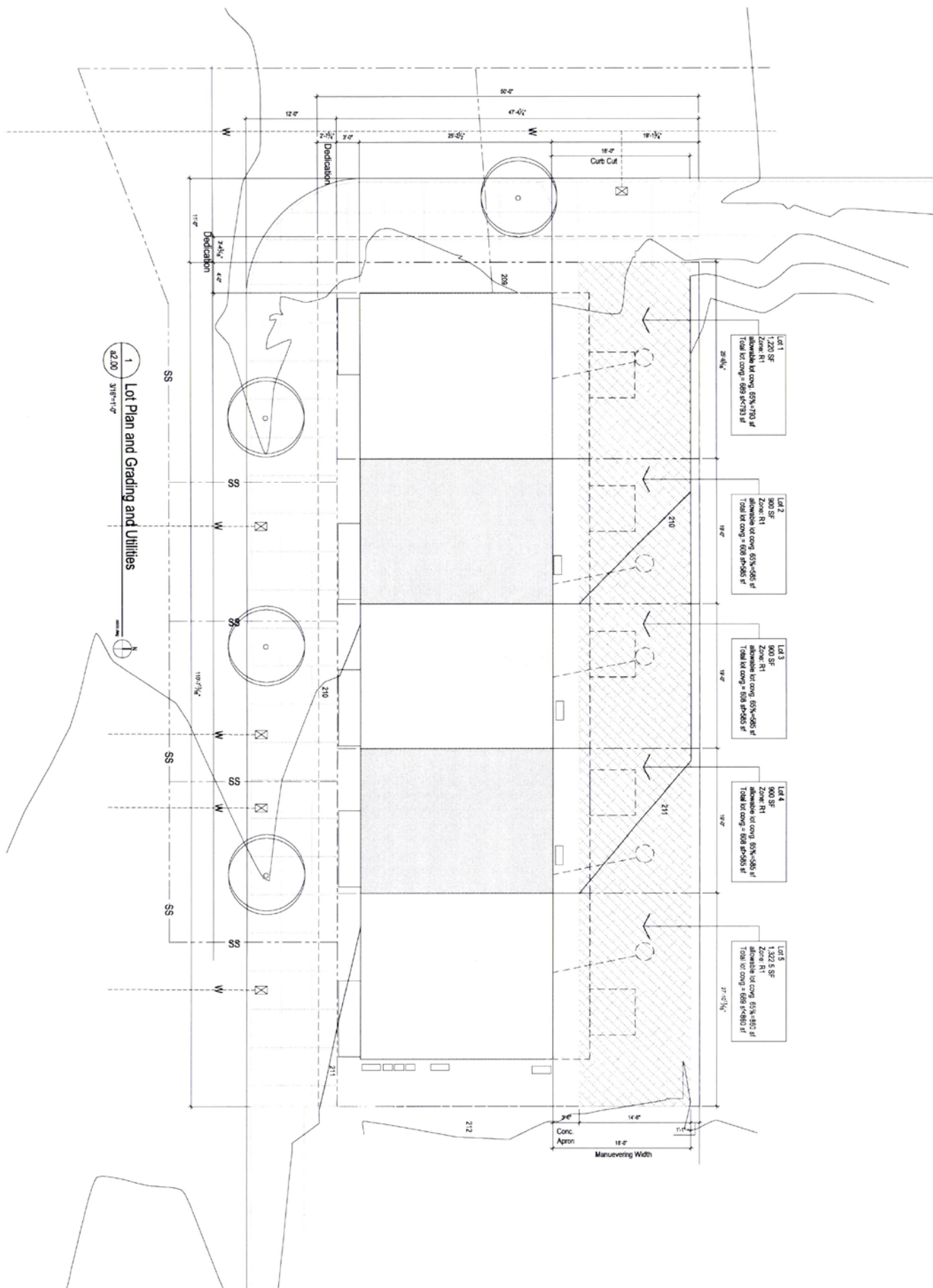
Site



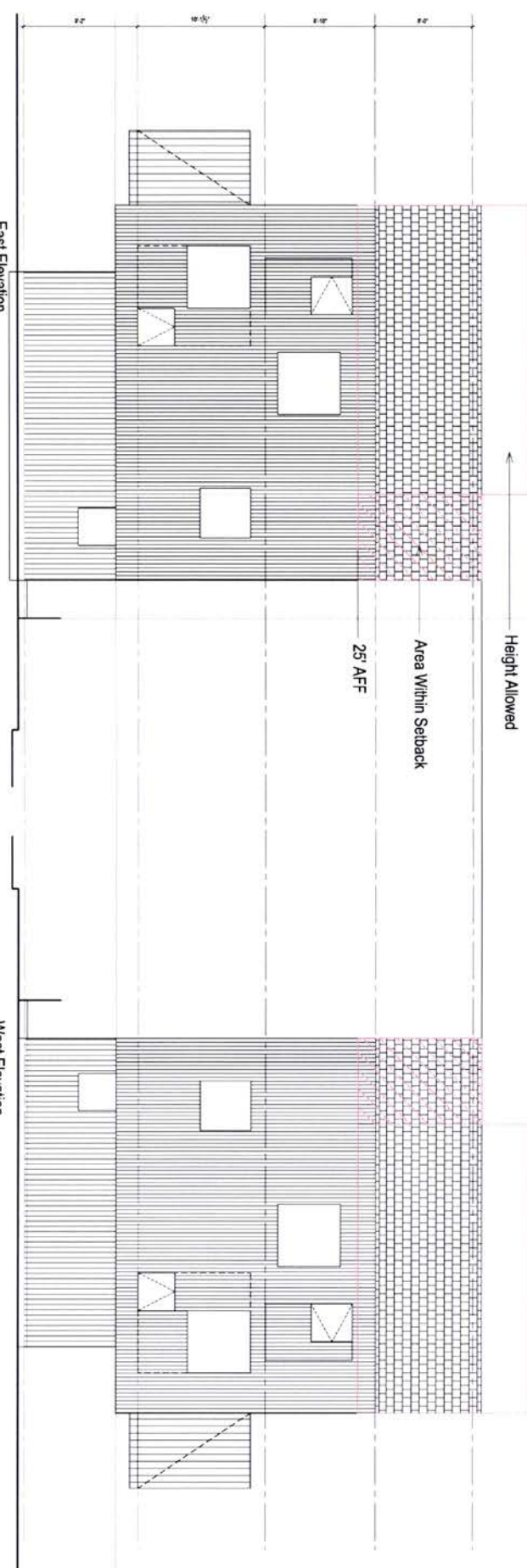
NORTH

File No. LU 15-108229 LDS, AD  
 1/4 Section 3036  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E31DB 2500  
 Exhibit B (Jan. 22, 2015)









Sheet Title:  
Adjustment Request

Revisions:

Date	Issue

© 2017 works partnership architecture LLC  
ALL RIGHTS RESERVED  
These drawings are the property of  
works partnership architecture LLC and  
are not to be used or reproduced in any  
manner without prior written permission.

**Burnside Rowhouses**  
5711 E Burnside Street  
Portland, OR 97214  
WPA job number: 1150

**W.P.A**  
works partnership architecture LLC  
524 e burnside street suite 320 portland, or 97214  
503.234.2945 tel  
503.234.6583 fax  
worksarchitecture.net

CASE NO. 15-108229

EXHIBIT C.8

XXX