



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

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Date: April 2, 2013
To: Interested Person
From: Sean Williams, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The 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 12-211327 AD

GENERAL INFORMATION

Applicant: Richard Michaelson / KLK Consulting, LLC
906 NW 23rd Avenue / Portland, OR 97210

Owner: Don Caldwell / Union Pacific Railroad
1400 Douglas Street, Stop 1690 / Omaha, Nebraska 68179-1690

Optional Purchaser: Tri-Met
710 NE Holladay Street / Portland, OR 97232

Site Address: SE Lafayette Street approximately 100 feet east of the intersection with SE 18th Avenue.

Legal Description: SECTION 11 1S 1E, TL 201 1.43 ACRES, DEPT OF REVENUE
Tax Account No.: R991111670
State ID No.: 1S1E11D 201
Quarter Section: 3432
Neighborhood: Brooklyn Action Corps, contact Steve Schmunk at 503-998-4096.
Business District: Greater Brooklyn, contact David Weislogel at 503-239-9050.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Plan District: None
Zoning: General Industrial 1 (IG1)
Case Type: Adjustment (AD)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is requesting an adjustment to the interior parking lot landscaping requirements (33.266.130.G.3) for a Tri-Met parking lot (12-169656 CO) in order to maximize the number of parking spaces on land leased from Union Pacific Railroad. The applicant is proposing to mitigate for the approximately 9,045 square feet of required interior parking lot landscaping via providing 3,380 square feet of landscaping in a 4-foot strip adjacent to the west perimeter landscaping.

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 **33.805.040 A.-F., Approval Criteria for Adjustments.**

ANALYSIS

Site and Vicinity: The site is located between SE Lafayette Street and SE Center Street approximately 100 feet east of SE 18th Avenue. The surrounding vicinity is primarily composed of Industrial and Employment uses. A Portland General Electric maintenance facility is located to the west and a portion of the Union Pacific Brooklyn Yard is located to the east.

Zoning: The IG1 zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. IG1 areas generally have smaller lots and a grid block pattern.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **February 26, 2013**. All of the Service Bureaus have responded with no objections to the proposal (Exhibits E.1-E.4). However, the Bureau of environmental Services has provided some advisory comments regarding development requirements associated with the active building permit (Exhibit E.1).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 26, 2013. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA**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. They also 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.

33.805.40 Approval Criteria

The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met. Adjustments to the ground floor window requirements of this Title must also meet the additional requirements stated in the ground floor window sections in the base zones.

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

Findings: The purpose of setback and landscaping standards of the Parking and Loading chapter (33.266.130.A) is as follows:

- Improve and soften the appearance of parking areas;

- Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones;
- Provide flexibility to reduce the visual impacts of small residential parking lots;
- Direct traffic in parking areas;
- Shade and cool parking areas;
- Reduce the amount and rate of stormwater runoff from vehicle areas;
- Reduce pollution and temperature of stormwater runoff from vehicle areas; and
- Decrease airborne and waterborne pollution.

The applicant has proposed to eliminate the interior parking lot landscaping in order to increase the number of parking spaces available to this lot that serves trimet. Lightrail construction has recently depleted a parking lot in the vicinity that serves trimet employees. Maximizing the number of spaces in the proposed parking lot is critical to serving the demand of Trimet's Center Street headquarters office.

The applicant has proposed to mitigate for the required interior parking lot landscaping via providing approximately 3,380 square feet of landscaping in a 4-foot strip adjacent to the west perimeter landscaping. This will effectively create a 9 foot landscape buffer along the west property line that will be planted with substantially more trees than required by code, as demonstrated in the attached site plan (Exhibit C.1).

The proposed parking lot is very long and narrow (64' by 1,005') and is composed of only one aisle and two rows of parking spaces with the east and west perimeter landscaping. The unique dimensions of this parking lot in conjunction with the increased perimeter landscaping will improve and soften the appearance of the parking area. The surrounding vicinity is primarily composed of Industrial and Employment zoning with the nearest Residential zone located approximately 525 feet west of the site. The concentration of the west perimeter landscaping will reduce the visual impact of the parking lot from sidewalks, streets and the nearest residential area.

The presence of interior parking lot landscaping would not be necessary in assisting to direct traffic in the parking lot as there is only one aisle and two rows of spaces. The long and narrow dimensions of the parking lot means that the perimeter landscaping plays a more increased role in shade and cooling throughout the entire parking area. The Bureau of Environmental Services has indicated that stormwater facilities located within the perimeter landscape areas are sufficient to service the amount and rate of stormwater runoff generated from the vehicle area. The increased density of landscaping in the west perimeter aids in reducing the pollution and temperature of stormwater runoff as well as airborne pollution.

For the reasons described above, this criterion is met.

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

Findings: The subject property is industrial zoned (IG1) and located within the Brooklyn Neighborhood. The streets adjacent to the proposed parking lot are designated as Local Service in the Transportation System Plan (TSP). The desired character of the area is a mix of uses with a strong industrial orientation. The elimination of interior landscaping within the proposed parking lot will not detract from the desired character of the area and is consistent with the classification of adjacent streets. 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: Only one adjustment is being requested. Therefore, this criterion is not applicable.

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: There are no discernable impacts as a result of the proposed adjustment. Therefore, no mitigation is necessary.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not within an environmental overlay zone. Therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

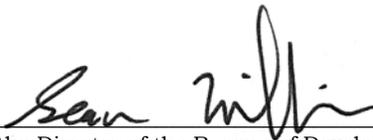
The applicant is requesting an adjustment to the interior parking lot landscaping requirements (33.266.130.G.3) for a Tri-Met parking lot (12-169656 CO) in order to maximize the number of parking spaces. As noted in this report, the proposal is able to meet the adjustment approval criteria based on substantial conformance with applicable standards and established situations in the surrounding neighborhood. With approval requiring that the permit drawings substantially conform to the attached site plan, the request meets the applicable criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to eliminate the required interior landscaping for a proposed parking lot (12-169656 CO) and instead provide a 4 foot landscape buffer adjacent to the west perimeter landscaping, per the approved site plan (Exhibit C.1), signed and dated March 29, 2013, subject to the following condition:

- A. 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-211327 AD. No field changes allowed."

Staff Planner: Sean Williams

Decision rendered by:  **on March 29, 2013**

By authority of the Director of the Bureau of Development Services

Decision mailed: April 2, 2013

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on December 4, 2012, and was determined to be complete on February 20, 2013.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on December 4, 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: June 20, 2013.**

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 Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 16, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 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.portlandonline.com.

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 Adjustment Committee 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 Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **April 17, 2013**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision 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
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun. Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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

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

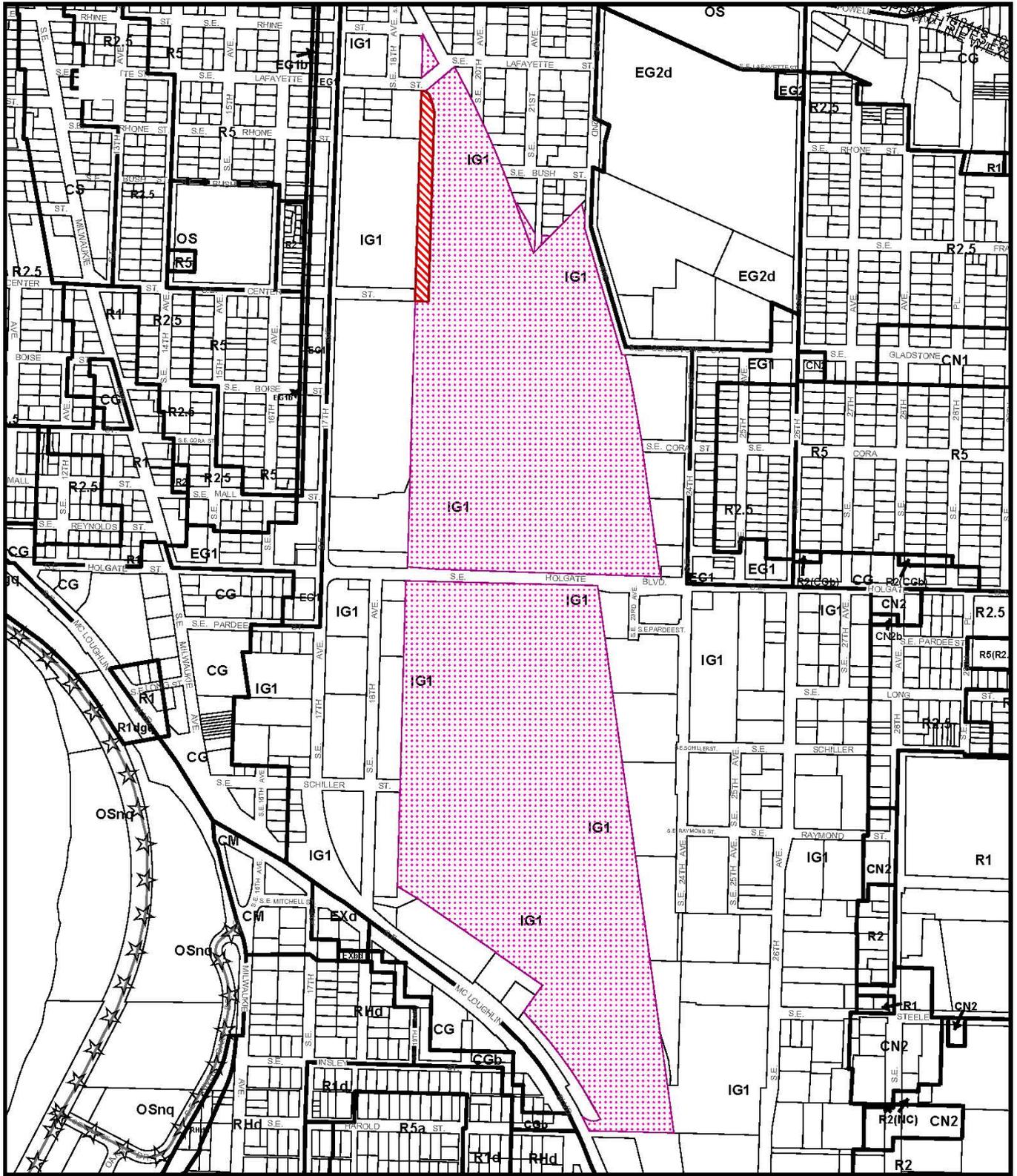
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)

- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau; Site Development Review Section of BDS; Bureau of Parks, Forestry Division; and Life Safety Plans Examiner
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application

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



ZONING

-  Site
-  Also Owned



File No. LU 12-211327 AD
 1/4 Section 3432,3532
 Scale 1 inch = 600 feet
 State_Id 1S1E11D 200
 Exhibit B (Feb 25, 2013)

