



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** April 16, 2015  
**To:** Interested Person  
**From:** Amanda Rhoads, Land Use Services  
503-823-7837 / [Amanda.Rhoads@portlandoregon.gov](mailto:Amanda.Rhoads@portlandoregon.gov)

## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has **approved** a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision, 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 15-105590 AD**

#### **GENERAL INFORMATION**

**Applicant:** Mike Coyle / Faster Permits  
14334 NW Eagleridge Lane / Portland, OR 97229

**Owners:** Kirk & Cathie McNeil  
7300 SW Garden Home Rd / Portland, OR 97223

**Site Address:** 7300 SW GARDEN HOME RD

**Legal Description:** NICHOLS ADDITION NO.2 TO GARDEN HOME Lot:16  
**Tax Account No.:** W220237  
**State ID No.:** 1S124DC03001  
**Quarter Section:** 3822  
**Neighborhood:** Ashcreek, contact Jack Klinker at 503-246-7872.  
**Business District:** None  
**District Coalition:** None  
**Plan District:** None  
**Zoning:** R1d – Multi-Dwelling Residential 1,000 with a “d” Design Overlay Zone  
**Case Type:** AD – Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant is proposing to build a new, 8-unit multi-dwelling structure on the 7,875-square-foot subject site using Community Design Standards. The current design meets all relevant development standards except one: the landscape strip between the parking area and the adjacent R1 site is only 3 feet, 6 inches. The minimum parking lot landscaping requirements call for 5 feet of landscaping to the L3, or high screen, standard along a lot line abutting an R zone. Therefore, the applicant proposes an Adjustment to reduce the perimeter parking lot landscaping required in Zoning Code Section 33.266.130.G.2.d and Table 266-5 from 5 feet to 3 feet, 6 inches. The applicant proposes to plant this reduced landscape area to the L3 standard.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

**ANALYSIS**

**Site and Vicinity:** The 7,875-square-foot site is currently developed with a veterinary clinic (now closed) and parking lot along SW Garden Home Rd. The site has commercially-zoned and developed properties to the north and west, and more multi-dwelling development to the east and south. Washington County has jurisdiction over this stretch of right-of-way. Mature trees are located on adjacent properties to the south and southwest of the site.

**Zoning:** The Residential 1,000 (R1) is a medium-density, multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouse, and rowhouses. Generally, R1 zoning will be applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets. Newly created lots in the R1 zone must be at least 10,000 square feet in area for multi-dwelling development. There is no minimum lot area for development with detached or attached houses or for development with duplexes. Minimum lot width and depth standards may apply.

The “d” or Design Overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development are subject to design review. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. This project is eligible to use the Community Design Standards as a prescriptive path rather than going through a Design Review process.

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

**Public Review:** A “Notice of Proposal in Your Neighborhood” was mailed **March 5, 2015**.

**Agency Review:** The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4);
- Site Development Section of BDS (Exhibit E.5); and
- Life Safety (Building Code) Plans Examiner (Exhibit E.6).

The Bureau of Transportation responded with the following comment (Exhibit E.2.b):

After speaking with our right-of-way acquisitions group, this location is out of our jurisdiction for requiring standards for the right-of-way and dedication. We recommend that no dedication is taken and the curb-line to property line width remain as-is with the pedestrian corridor configuration being set at 4.5-6-1.5 (6” curb, 4’ furnishing zone, 6’ sidewalk, and a 1.5’ frontage zone. The City of Portland cannot implement these standards or take dedication and can only recommend that Washington County accepts our recommendation.

Washington County stated, “The County is deferring the dedication requirements to the City’s TSP standards for this section of SW Garden Home Road.” Included in the response were conditions that the applicant receive a right-of-way permit from Washington County and submit a sightline study completed by a registered engineer prior to obtaining a building permit (Exhibit E.7). While these conditions are not directly related to the Adjustment request at hand, and will not be added as conditions of approval to this decision, the content of the letter will be reflected at the end of this document directly following this decision, so that the permit reviewer will be notified of Washington County’s requirements.

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.010 Purpose (Adjustments)

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 providing certainty and rapid processing for land use applications.

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

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

**Findings:** The relevant purpose statement for parking lot landscaping is stated within the purpose for all vehicle areas. The statements that apply to this particular standard are copied below.

### 33.266.130 Development Standards for All Other Uses

*The parking area layout standards are intended to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas, and provide for convenient entry and exit of vehicles.*

*The setback and landscaping standards:*

- *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 proposal is for a reduced landscaping setback on the east side of the property. The reduction in landscaping will allow the applicant to maintain minimum drive aisle widths and parking stall depths with the proposed building width and “backyards” for residents on the west side of the site. As mitigation, the applicant proposes to add 2 feet of groundcover plantings between the parking stalls and the pedestrian path on

the east side of the building.

The reduced planting width on the east side will still accommodate the density of tree and shrub plantings required by the L3 standard. These plantings over time will improve and soften the appearance of the parking area on this site, along with the other landscape areas on the site. This density of plantings will be assured by a condition of approval that the L3 standard is met.

This required landscaping along the property line has as its primary purpose to buffer the adjacent residential property from the vehicle area. In this case, the adjacent property to the east, also zoned R1, has a long parking garage located on its west side, so the proposed landscaping will, for most of the length of the property, serve mainly to beautify the subject site, rather than buffer the adjacent property. In this case, adding the required density of plantings to the L3 standard will suffice to equally meet the purpose of reducing the visual impact of the parking area from the adjacent residential lot.



View of existing landscape strip along east property line, with garage structure on adjacent property in background.

The Bureau of Environmental Services (BES) has reviewed the permit plans for stormwater and pollution concerns and approved the permit as meeting BES requirements on March 11, 2015. The stormwater from the new building is being managed with new flow-through planters. The parking lot will maintain its existing stormwater facilities. Whether the landscape strip along the east property line is allowed at the reduced 3.5 feet or not, the reuse of this existing parking lot for the new building would not trigger a requirement to direct stormwater into parking lot planting areas, so the reduction in width for this screening landscaping will have no impact on stormwater management for the site.

The reduced landscaping width on the east side will still help delineate where the vehicle areas are on the site, and will reduce the visual impact of the parking area from the street by providing a pleasant set of plantings to look at instead of the residential lot, especially at maturity.

For these reasons, the purpose of the regulation is equally met and the criterion is therefore 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:** This proposal moves the residentially-zoned land from a nonconforming commercial use (veterinary clinic) to a use in line with current zoning (multi-dwelling development). In this way, the development will better add to the livability and appearance of the residential portion of the area. The request to reduce the width of the east landscape strip from 5 feet to 3.5 feet will not significantly detract from the livability or appearance of the residential area primarily because the density of the plantings will remain the same as required: the plantings will meet the L3 high screen standard with shrubs and trees. The difference in width will result in fewer groundcover plants but not a significant difference in density of plantings. The landscaping will contribute to the appearance of the area and will improve current conditions, where currently there is a parking area in the same location with limited perimeter landscaping. This condition is met.

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

**Findings:** Only one adjustment is requested. This criterion is not applicable.

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

**Findings:** City designated resources are shown on the zoning map by the ‘s’ overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

**Findings:** There are few if any discernible impacts that would result from granting the requested Adjustment. However, the applicant is using a provision in the Zoning Code to use up to the front 2 feet of the parking stall to provide groundcover plantings instead of additional paving. This replaces the 1.5 feet of landscaping depth lost to the Adjustment on the east side, while also providing some green buffer between the main pedestrian path and the parking area. Further, with a condition of approval requiring the density of plantings to meet the L3 standard, including a continuous, 6-foot-tall screen of shrubs plus a number of trees, on this east property line will ensure the landscaping, even at its reduced depth, will be a functional, attractive landscaped buffer. This criterion is met.

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

**Findings:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As the site is not within an environmental zone, 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 reduction in landscape depth along the east side will maintain the density of plantings required; is made up for by adding groundcover plantings along the pedestrian path in the first

2 feet of the parking stalls; and will not negatively impact the adjacent residential property, since a multi-car garage stretches along most of the length of the shared property line. The proposal meets all relevant approval criteria and should be approved.

### ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the perimeter parking lot landscaping required in Zoning Code Section 33.266.130.G.2.d and Table 266-5 from 5 feet to 3 feet, 6 inches, per the approved plans, Exhibits C.1 through C.2, signed and dated April 14, 2015, subject to the following conditions:

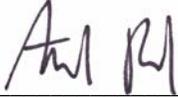
- A. As part of the building permit application submittal, the following development-related condition B must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 15-105590 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The plantings in the reduced landscape area along the east property line must meet the required L3 standard for trees and shrubs, as defined in Zoning Code Section 33.248.020.C.

**Staff Note Regarding Washington County Requirements:** Prior to issuance of building permits by the City of Portland, the applicant must submit the following to the Washington County Operations Division:

1. Right-of-Way Permit application and fee;
2. Copy of City of Portland land use review decision
3. Preliminary certification of adequate sight distance for the access point to SW Garden Home Road, in accordance with County Code, prepared and stamped by a registered professional engineer; and
4. Three sets of 11 x 17-inch plans, including site plan and traffic control plan (if required), for any work within the public ROW.

Finally, prior to occupancy, a final certification of adequate sight distance in accordance with County Code, prepared and stamped by a registered professional engineer, must be submitted to Naomi Vogel, Associate Planner, Washington County (503-846-7639). See Exhibit E.7 for more information.

**Staff Planner: Amanda Rhoads**

**Decision rendered by:**  **on April 14, 2015**

By authority of the Director of the Bureau of Development Services

**Decision mailed: April 16, 2015**

**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 January 15, 2015, and was determined to be complete on **February 23, 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 15, 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 23, 2015.**

**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 30, 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 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 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 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](http://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 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 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 **May 1, 2015 – the day following the last day to appeal**.
- 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.

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

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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Original Narrative
  - 2. Response to Incomplete Letter, February 23, 2015
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Landscape Plan (attached)
  - 3. North and West Building Elevations
  - 4. South and East Building Elevations
  - 5. Full-Sized, Scaled Site Plan
  - 6. Full-Sized, Scaled Landscape Plan
  - 7. Full-Sized, Scaled Elevations
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice

E. Agency Responses:

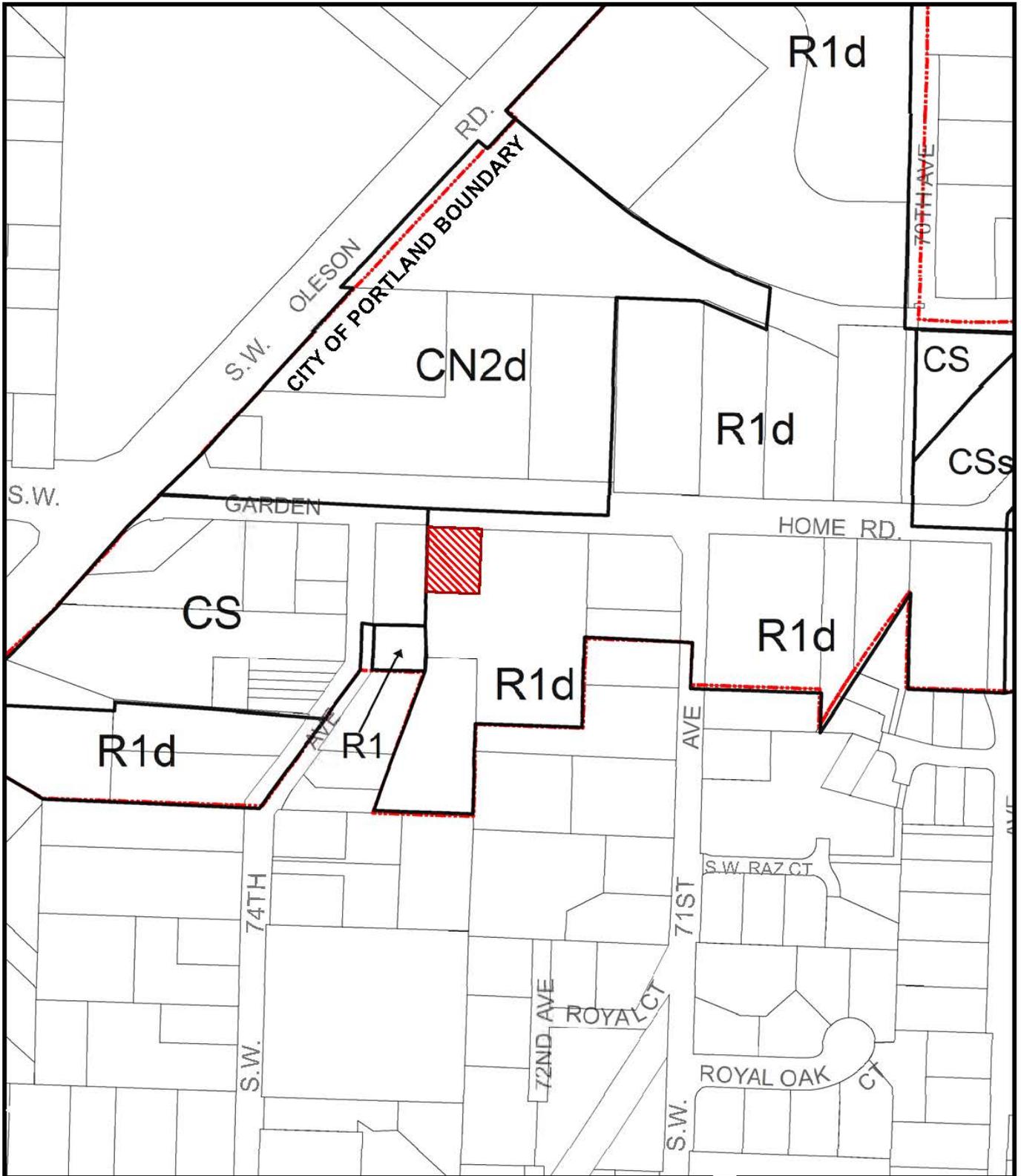
1. Bureau of Environmental Services
2. Bureau of Transportation
  - a. Initial Response, March 5, 2015
  - b. Follow-Up Response noting Washington County's jurisdiction in right-of-way, March 27, 2015
3. Water Bureau
4. Fire Bureau
5. Site Development Review Section of BDS
6. Life Safety (Building Code) Plans Examiner
7. Washington County Land Use and Transportation, Operations and Maintenance Division

F. Correspondence: none received

G. Other:

1. Original Land Use Application and Receipt
2. Incomplete Letter, February 11, 2015

**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



City of Portland Boundary



File No. LU 15-105590 AD  
 1/4 Section 3822  
 Scale 1 inch = 200 feet  
 State\_Id 1S124DC03001  
 Exhibit B (Jan 16, 2015)



