

To:



City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

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

Date: September 7, 2016

From: Andrew Gulizia, Land Use Services

Interested Person

503-823-7010 / Andrew.Gulizia@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 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 16-208618 AD

GENERAL INFORMATION

Applicant: Karin Wohlert

SERA Design, LLC 338 NW 5th Ave. Portland, OR 97217

Property Owner: Lee Novak

Fore Property Co.

1741 Village Center Cir. Las Vegas, NV 89134

Site Address: 4940 SW Landing Dr.

Legal Description: LOT 2, PARTITION PLAT 2003-77

Tax Account No.: R649833060 **State ID No.:** R51E15BA 00602

Quarter Section: 3529

Neighborhood: South Portland NA., contact Jim Gardner at 503-227-2096

Business District: South Portland Business Association, contact Kevin Countryman at

503-750-2984

District Coalition: Southwest Neighborhoods Inc., contact Sylia Bogert at 503-823-4592

Plan District: Macadam

Zoning: CSdg – Storefront Commercial base zone with Design ("d") and River

General ("g") overlay zones

Case Type: AD – Adjustment Review

Procedure: Type II, an administrative decision with appeal to the Adjustment

Committee

Proposal: Three levels of garage parking are included within an apartment building under construction on this site (Building "A"). The parking spaces in the garage are required to be at least 8 feet, 6 inches wide, per Zoning Code Section 33.266.130.F (Table 266-4). The applicant submitted a revision to the approved building permit which shows columns in the garage

encroaching into some of the parking spaces. In order for this revision to be approved, the applicant is requesting approval of an Adjustment to reduce the minimum width of 78 of the 158 garage parking spaces from 8 feet, 6 inches to 7 feet, 10 inches. No reduction in the number of parking spaces is proposed.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Section 33.805.040.A-F of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The 1.17-acre site is located along the west bank of the Willamette River, just north of the Heron Pointe Condominiums along SW Landing Drive. The site is bisected by a rail right-of-way and an adjacent multi-use trail segment. SW Macadam Avenue is approximately 300 feet west of the site, and the Ross Island Bridge is approximately one mile north. Two new apartment buildings are under construction on the site, one on each side of the rail right-of-way and trail.

Zoning: The site is designated with the CS (Storefront Commercial) base zone. Commercial zones generally seek to promote uses and developments that will enhance the economic viability of both the City and neighborhood, and a wide variety of uses are allowed. The CS zone in particular is intended to preserve and enhance older commercial districts that have a storefront character, and to encourage pedestrian-oriented development. Multi-dwelling residential use is allowed outright in the CS zone.

Though the associated regulations do not affect the Adjustment proposal, the site is also designated with the Design ("d") and River General ("g") overlay zones, and is within the Macadam plan district.

The "d" overlay zone is intended to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural values.

The "g" overlay zone is intended to allow uses and development consistent with the base zoning, which allows for public use and enjoyment of the waterfront, and which enhance the river's natural and scenic qualities.

The Macadam plan district implements the Macadam Corridor Study and contains a set of regulations designed to preserve and promote the unique character of the Macadam area. In addition to special development standards for the district, the regulations restrict auto-oriented uses and development, limit signs, allow for future light rail, and provide view corridors to the Willamette River.

Land Use History: City records indicate that prior land use reviews for this site include the following:

- <u>LU 14-184450 GW</u>: 2014 approval of a Greenway Review for the two new apartment buildings under construction on this site.
- <u>LU 06-135556 DZM GW</u>: 2006 approval of a Design Review and Greenway Review for a mixed-use development on this site. (The development approved in LU 06-135556 DZM GW was never constructed, and the approval has expired.)
- <u>LUR 01-00207 GW</u>: 2001 approval of a Greenway Review for the Southwest Parallel Interceptor (SWPI) sewer project, which included this site.
- <u>LUR 95-00180 DZ</u>: 1995 approval of a Design Review for a new sign.
- <u>CU 5-88/DZ 5-88/GP 1-88</u>: 1988 approval of a Conditional Use Review, Design Review, and Greenway Review for a deck addition and a new floating dock.

- <u>DZ 54-84</u>: 1984 approval of a Design Review for a deck addition.
- <u>DZ 46-82</u>: 1982 approval of a Design Review for unidentified improvements.
- <u>CU 88-72</u>: 1972 approval of a Conditional Use Review for riverbank fill which included this site.

Agency Review: A "Notice of Proposal" was sent August 11, 2016. The following Bureaus have responded with no concerns about the proposed Adjustment:

- Bureau of Environmental Services (Exhibit E-1);
- Portland Bureau of Transportation (Exhibit E-2);
- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4);
- Site Development Section of BDS (Exhibit E-5); and
- Life Safety Review Section of BDS (Exhibit E-6).

Neighborhood Review: A "Notice of Proposal" was mailed August 11, 2016, to neighboring property owners and to the neighborhood association. Three written responses were received. One neighbor argued the reduction in parking space widths could increase demand for pedestrian and bike facilities, and that a traffic study should be completed (Exhibit F-1). Another neighbor stated she was uncertain whether 7'10" was wide enough to comfortably park a car (Exhibit F-2). The South Portland Neighborhood Association, while concerned about other aspects of the project, expressed support for the Adjustment so that the maximum number of parking spaces could be provided (Exhibit F-3).

<u>Staff response</u>: The project includes more than twice the number of on-site parking spaces required for development in the CS zone (Zoning Code Section 33.266.110.B.1, Table 266-1). Therefore, staff does not find that requiring additional public improvements or a traffic study would be proportional to the Adjustment request. The usability of the narrower parking spaces is discussed below in the findings for approval criterion A.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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 applicant is requesting an Adjustment to Zoning Code Section 33.266.130.F (Table 266-4) to reduce the minimum width of 78 of the 158 garage parking spaces from 8 feet, 6 inches to 7 feet, 10 inches. The purposes of the parking standards are stated in Zoning Code Section 33.266.130.A:

Purpose. The development standards promote vehicle areas which are safe and attractive for motorists and pedestrians. Vehicle area locations are restricted in some zones to promote the desired character of those zones. Together with the transit street building setback standards in the base zone chapters, the vehicle area restrictions for sites on transit streets and in Pedestrian Districts:

- Provide a pedestrian access that is protected from auto traffic; and
- Create an environment that is inviting to pedestrians and transit users.
- 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 proposed Adjustment will only affect the widths of certain parking spaces within an interior parking garage. The Adjustment will have no impacts on pedestrian access to the building, landscaped areas, the location of the garage entrance, or the location of vehicle area on the site. The site is not located in a Pedestrian District or adjacent to a transit street. Therefore, the only aspect of the purpose statement above which is relevant to this Adjustment is:

"The parking area layout standards are intended to promote safe circulation within the parking area."

The applicant notes that all parking spaces will be assigned to individual tenants, and that the parking garage will not be open to the public (Exhibit A-2). This will allow tenants of the new building to choose vehicles and/or maneuver their vehicles according to the available clear space in their assigned parking space. Staff notes a typical compact vehicle is narrower than 7'10"; for instance, the mirror-to-mirror width of the 2016 Toyota Corolla is 5'10". Somewhat wider vehicles may still use the 7'10"-wide parking spaces by maneuvering carefully past the columns at the entrance to the parking space. The columns will make the *entrance* to some parking spaces narrower (7'10" wide), but once parked, vehicles using these spaces will still have the standard 8'6" of width for opening doors (Exhibits C-1 through C-5). Staff further notes that all of the drive aisles in the parking garage will meet the minimum 20-foot width for two-way aisles, and some will be wider than required. Therefore, the overall circulation within the parking area will be as anticipated by the Zoning Code. The Portland Bureau of Transportation reviewed the Adjustment proposal and raised no objections (Exhibit E-2). For these reasons, staff finds the proposed Adjustment equally meets the purpose of the regulation. 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: Because the site is located in the CS zone, the applicant must demonstrate that the proposal will be consistent with the classifications of adjacent streets and with the desired character of the area.

The only street adjacent to the site is SW Landing Drive, a private roadway which is classified in the Transportation Element of the Comprehensive Plan as a Local Service street for all modes. As the Adjustment to the widths of some garage parking spaces does not increase the density or intensity of the residential use, staff finds the proposed Adjustment is consistent with the classifications of the adjacent street. The Portland Bureau of Transportation reviewed the Adjustment proposal and raised no objections (Exhibit E-2).

The "desired character" of an area is defined in Zoning Code Chapter 33.910 as the preferred or envisioned character based on the purpose statement or character statement of the base zone, overlay zone, or plan district, and any adopted area plans. The site is designated with the CS base zone and is within the boundaries of the Macadam plan district.

The character statement for the CS zone in Zoning Code Section 33.130.030.F reads:

The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. Industrial uses are allowed but are limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

The purpose statement for the Macadam plan district in Zoning Code Section 33.550.010 reads:

The Macadam plan district implements the Macadam Corridor Study. The plan district contains a set of regulations designed to preserve and promote the unique character of the Macadam area. In addition to special development standards for the district, the regulations restrict auto-oriented uses and development, limit signs, allow for future light rail, and provide view corridors to the Willamette River.

The proposed Adjustment to the widths of garage parking spaces has no affect on the exterior of the building, and has no affect on the type of land use or the design of the site or building. Therefore, staff finds the proposed Adjustment is consistent with the "desired character" for the CS zone and the Macadam plan district as expressed in Zoning Code Sections 33.130.030.F and 33.550.010.

The site is also designated with the "d" and "g" overlay zones, and is within the boundaries of the adopted Southwest Community Plan. However, none of the associated regulations or policies are relevant to this Adjustment request.

Since the proposed Adjustment will have no impact on the classifications of the adjacent street or the "desired character" or the area, staff finds approval criterion B 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: As only one Adjustment is being requested, this criterion is not applicable.

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

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case "s," and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

Findings: As discussed in the findings for approval criterion A, no adverse impacts which would require mitigation are anticipated. Therefore, staff finds this criterion is not applicable.

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 there are no environmental overlay zones mapped on site, 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 proposal to reduce the required widths of some of the garage parking spaces equally meets the intent of the regulation and is not inconsistent with the desired character of the area. The applicant has demonstrated that the applicable approval criteria have been met. Since the approval criteria are met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.266.130.F (Table 266-4) to reduce the minimum width of 78 garage parking spaces from 8 feet, 6 inches to 7 feet, 10 inches per the approved floor plans, Exhibits C-2 through C-5, signed and dated September 2, 2016, subject to the following condition:

A. As part of the building permit application submittal, each of the required floor plans must reflect the information and design approved by this land use review as indicated in Exhibits C-2 through C-5. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-208618 AD."

Staff Planner: Andrew Gulizia

on September 2, 2016. Decision rendered by: By authority of the Director of the Bureau of Development Services

Decision mailed: September 7, 2016

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 July 20, 2016, and was determined to be complete on August 5, 2016.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the

application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on July 20, 2016.

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 extended by the applicant, **the 120 days will expire on: December 3, 2016.**

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 September 21, 2016,** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 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 September 22, 2016.
- 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.

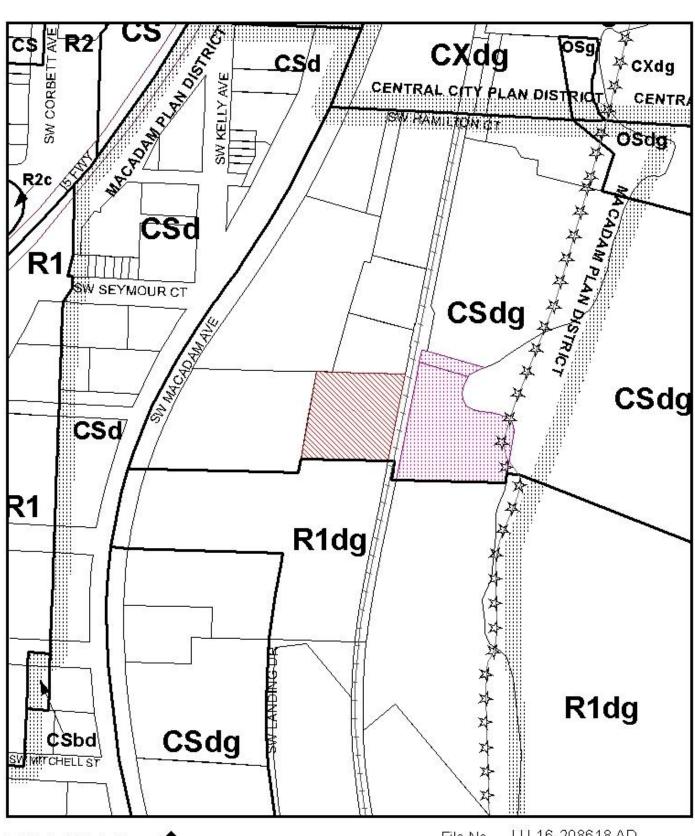
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Approval criteria responses
 - 2. Revised approval criteria responses, received August 5, 2016
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. Parking level 1 floor plan (attached)

- 3. Parking level 2 floor plan (attached)
- 4. Parking level 3 floor plan (attached)
- 5. Large, scalable floor plan set (3 pages)
- D. Notification Information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence:
 - 1. Letter from Sallie Aldape, dated August 14, 2016
 - 2. E-mail from Ilze Choi, dated August 15, 2016
 - 3. E-mail from South Portland Neighborhood Association, dated August 17, 2016
- G. Other:
 - 1. Original LU application form and receipt
 - 2. Incompleteness determination letter, dated August 2, 2016

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

NO RTH

This site lies within the: MACADAM PLAN DISTRICT Site

III Also Owned Parcels

★ Recreational Trails

File No. LU 16-208618 AD

1/4 Section 3529

Scale 1 inch = 200 feet

State_Id 1S1E15BA 602

Exhibit B (Jul 22, 2016)

This approval applies only to the reviews recu Planner A Guhiza GENERAL NOTES - SITE PLAN

A the consequence of the control of the *Approved*
City of Portland - Bureau of Development Services SOLDER MONTOS S.W. LANDING DRIVE PARCEL II
(BUILDING A)
GROUND LEVEL
ELSS. Date parking garage Building ents may apply BASEMENT PARKING LEVEL 3 EL 22.5 BASEMENT PARKING LEVEL 2 EL 32.5' proposed RAILROAD PARCEL I
(BUILDING B)

GROUND LEVEL
EL 35.0° PARCEL III W16-208618 AD ExMbit C-1 SITE PLAN WILLAMETTE RIVER MACADAM APARTMENTS A051 DECRETACION DECRETACIONE DERA

DOTTOR

DOTTOR 1302015 11-628-89 11-628-89

GMP

* This approval applies only to the reviews requested and is subject to all conditions of applies Additional Edwing real in the paper and apply of a conditions of applications of application (E) City of Portland - Bureau of Development Services (F) 9 *Approved* 2,000 (a) (4) (0) (48.6 B 18 (4a)3a.2 A Constant (3) LU 16-208618 AD (2a) 1a.8 1 (3) (3) PARKING LEVEL 1 (3) (B_B) (a) (a) width of part spaces columns that NOTES - PARKING FLOOR PLANS Exhibit C-2 MACADAM APARTMENTS FLOOR PLAN
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LEVEL 1

A100

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-BLIDG A-PARKING
-BLIDG Annur navar SERA NEEDS NEEDS NEEDS NEEDS NEEDS NEEDS NEEDS