



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

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Portland, Oregon 97201
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www.portlandonline.com/bds

Date: June 24, 2009
To: Interested Person
From: Jacob Brostoff, Land Use Services, 503-823-7198 / BrostoffJ@ci.portland.or.us

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 this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 09-126650 AD

GENERAL INFORMATION

Applicant: Michele E & Scott W Collins
1300 NE 49th Ave
Portland, OR 97213-2112
Site Address: 1300 NE 49TH AVE
Legal Description: LOT 9 BLOCK 7, EUCLID HTS & ANX
Tax Account No.: R258301180
State ID No.: 1N2E31BA 04400
Quarter Section: 2935
Neighborhood: Rose City Park, contact Ed Gorman at 503-425-1611.
Business District: Hollywood Boosters, contact Jan Tolman at 503-281-5497.
District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.
Zoning: R5—Single-dwelling Residential 5,000
Case Type: AD—Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal:

Applicants propose to move a common property line with their neighbors to the north, to add 4,838 sq. ft. to the applicants' property. The process to move a common property line is called a Property Line Adjustment, or PLA. The applicants' lot is currently 5,000 sq. ft. in area. The neighbors' lot is currently 9,838 sq. ft. in area. In the R5 zone, the maximum lot size for newly created lots is 8,500 sq. ft. The method by which to waive or modify a standard in the Zoning Code is the Adjustment process.

PLAs may only be approved if they result in lots that meet all of the standards of the Zoning Code, or if Adjustments to standards that are not met are approved. **Because the proposed Property Line Adjustment would result in a lot that is larger than the maximum allowed lot size for the R5 zone, an Adjustment to maximum lot size is required.**

Relevant Approval Criteria:

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 subject site is located on NE 49th Ave., in an urban residential neighborhood, just north of Interstate 84. There is a high level of street connectivity, and the streetscape is urban, with sidewalks and street trees. Single-dwelling homes are common in this neighborhood.

The site is comprised of two parcels, each of which is developed with a single-dwelling house.

Zoning: The site is zoned R5—Single-dwelling Residential 5,000.

The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Newly created lots must have a maximum density of 1 lot per 5,000 square feet of site area.

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 **May 26, 2009**. The Water Bureau responded with no issues or concerns.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on May 26, 2009. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Title 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. have been met.

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

Findings: The purposes of the single-dwelling zone lot dimension standards (33.610.200.A) are to ensure that:

- Each lot has enough room for a reasonably-sized house and garage;
- Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;
- Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;
- Each lot has room for at least a small, private outdoor area;
- Lots are compatible with existing lots;
- Lots are wide enough to allow development to orient toward the street;
- Lots don't narrow to an unbuildable width close to the street
- Each lot has adequate access from the street;
- Each lot has access for utilities and services; and
- Lots are not landlocked.

The property being exchanged is entirely in the rear of both properties.

Both lots are already developed with single-dwelling homes and front-loaded garages.

After the Property Line Adjustment, both lots and their associated development will continue to meet all applicable development standards.

Together, the two lots comprise an area of 14,840 square feet. If no street were created, prior to the Property Line Adjustment, maximum density would be 2.97 lots, which rounds up to 3 lots per the Zoning Code's rounding regulations (33.930.020.B.2). After the Property Line Adjustment, the maximum density for both lots combined would still be 3 lots.

Both lots will continue to have generous private outdoor areas after the Property Line Adjustment.

There are other lots of similar size in the neighborhood, so both lots will continue to be compatible with other existing lots.

There will be no change in lot width for either lot, and both lots are currently developed with single-dwelling houses oriented to the street. Therefore, after the Property Line Adjustment, they will both continue to be wide enough to allow development oriented toward the street.

Neither lot's width near the street will change per the Zoning Code lot width measurement methodology (33.930.100).

Access to the street will not change for either lot, both of which already have adequate access.

Property Line Adjustments cannot be approved if access to services changes. In this case, both lots have access to services. The proposed Property Line Adjustment will not change access to services for either lot.

After the proposed Property Line Adjustment, neither lot will be landlocked.

This criterion can be 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 requested Adjustment is for a site in a residential zone that allows a variety of lot sizes, lot configurations, and housing types. The Zoning Map (Exhibit B) provides some evidence of the lot configurations in the area. Since the existing houses on both lots will likely remain and be largely unchanged when viewed from the street, the requested Adjustment will have little impact on the appearance or livability of this residential area.

This criterion can be 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; therefore, this criterion is not applicable.

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

Findings: There are no such resources on the site; this criterion is not applicable.

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

Findings: For the purpose of the requested lot size adjustment there will be no resulting impact. No mitigation is required.

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: The site is not in 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 proposed Property Line Adjustment, which shifts land from one property's back yard to another, meets all of the Adjustment approval criteria.

The Adjustment to maximum lot size in order to allow the proposed Property Line Adjustment equally meets the purpose of the maximum lot size standard. The livability and appearance of the residential area will be unchanged. There will be no impacts due to the Property Line Adjustment.

The Adjustment can be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to maximum lot size to allow a Property Line Adjustment, per the approved survey, Exhibit C. signed and dated June 24, 2009.

Staff Planner: Jacob Brostoff

Decision rendered by:  **on June 24, 2009.**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 24, 2009.

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 May 6, 2009, and was determined to be complete on May 20, 2009.

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 May 6, 2009.

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 October 16, 2009.**

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 July 8, 2009** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., 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. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 503-823-7967 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 **July 9, 2009**.
- 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. Proposed Property Line Adjustment survey
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses: Water Bureau
- F. Other: Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).



ZONING



Site

File No. LU 09-126650 AD

1/4 Section 2935

Scale 1 inch = 200 feet

State_Id 1N2E31BA 4400

Exhibit B (May 07, 2009)



NORTH

- | | |
|--------|---|
| ● | MONUMENTS FOUND AS NOTED |
| ○ | DENOTES 5/8" IRON ROD WITH YELLOW CAP STAMPED "ZTEC LS 1944" AND SET ON 5-01-09 |
| I.R. | IRON ROD |
| I.P. | IRON PIPE |
| F.D. | FOUND |
| (M) | MEASURED |
| — SA — | EXISTING SEWER |
| — ST — | EXISTING STORM |
| — W — | EXISTING WATER |
| — | EXISTING CONCRETE SIDEWALK |
| ○ | EXISTING LIGHT POLE |
| ○ | EXISTING POWER POLE |
| WM □ | EXISTING WATER METER |
| ○ | EXISTING TREE |
| PLAT | PLAT OF "EUCOLD HEIGHTS" |

RECEIVED

MAY 19 2009

City of Portland
Bureau of Development Services

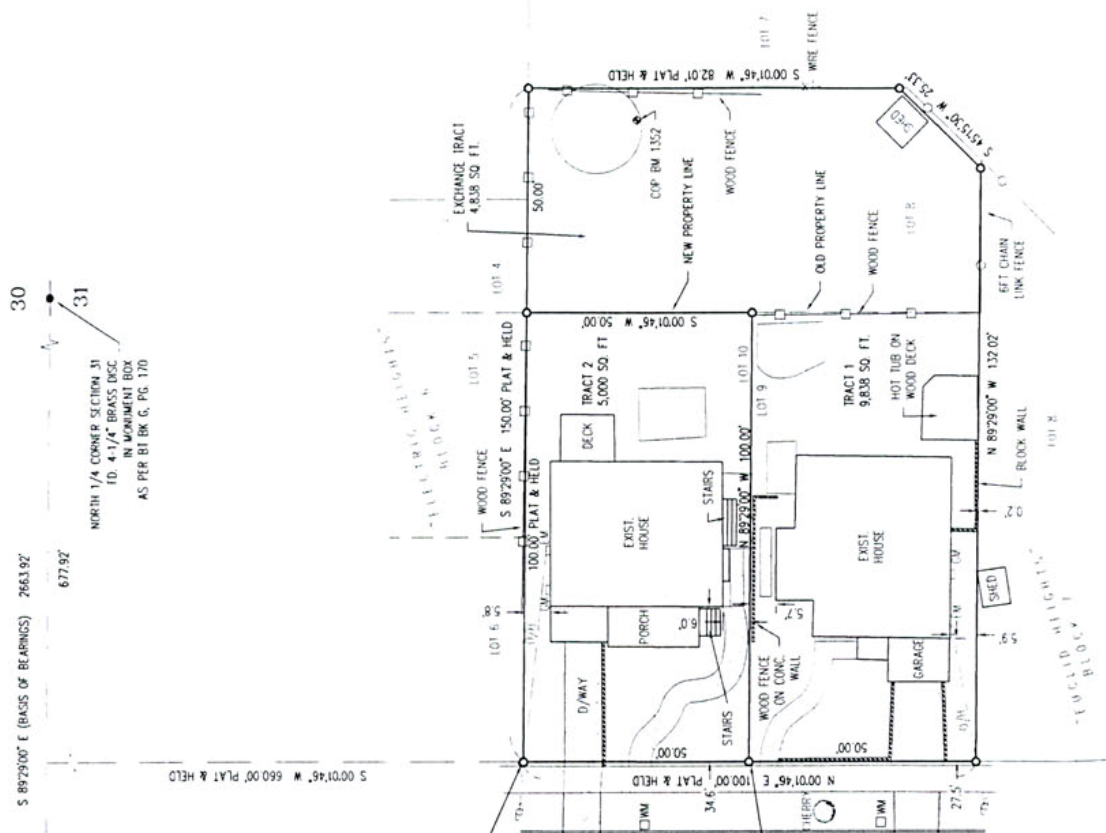
Planner

Date 6/22/09

* This approval applies only to the reviews requested and is subject to a conditions of approval.

Additional zoning requirements may apply.

N.E. 49TH ST.



GRAPHIC SCALE
(IN FEET)
1 INCH = 20 FEET

ZTEC ENGINEERS INC.

3737 S.E. 8TH AVE., PORTLAND, OREGON 97202
PH: (503) 235-8795 FAX: (503) 233-7889

LOCATED IN THE NW 1/4 OF SECTION 31,
T. 1N, R. 2E., W.M., IN THE CITY OF PORTLAND,
MULTNOMAH COUNTY, OREGON

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Chili Trail

REGION
Y 17, 1981

RENEWAL DATE: 1/1/2010

SCOTT COLLINS

PROPERTY LINE ADJUSTMENT