



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

1900 SW 4th Avenue, Suite 5000  
Portland, Oregon 97201  
503-823-7300  
Fax 503-823-5630  
TTY 503-823-6868  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** December 1, 2008  
**To:** Interested Person  
**From:** Nan Stark, Land Use Services  
503-823-7828 / [nstark@ci.portland.or.us](mailto:nstark@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 08-100087 AD**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Samuel Peia  
9347 SW 35th Ave Portland, OR 97219

**Additional Owners:** Michael Chung, Taco Time property owner  
4839 SE 174<sup>th</sup> Ave Portland, OR 97236

Emilia Gherasim  
9347 SW 35<sup>th</sup> Ave Portland, OR 97219

**Site Address:** 9451 SW BARBUR BLVD

**Legal Description:** TL 4000 BLOCK 1, BRUGGER VIEW; TL 3900 BLOCK 1, BRUGGER VIEW

**Tax Account No.:** R111000220, R111000250

**State ID No.:** 1S1E29BD 04000, 1S1E29BD 03900

**Quarter Section:** 3925

**Neighborhood:** Multnomah, contact Mary Verghies at 503-244-3553

**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592

**Zoning:** CGb, General Commercial with 'b' Buffer overlay zone

**Case Type:** AD, Adjustment Review

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

**Proposal:** The applicant plans to develop this vacant site with a residential care facility. The lot is 21,000 square-feet in area with a narrow street frontage of 12.5 feet. In the notice for this proposal sent in January, it was stated that the applicant was proposing a 25-foot wide vehicle and pedestrian access through an easement with the Taco Time site to the west. Since the notice, the proposal has changed, primarily because the Oregon Dept. of Transportation (ODOT) was not able to approve a new access from Barbur Blvd, as proposed. Consequently, the applicant worked with ODOT and the owner of the Taco Time property to create access by an easement through the existing Taco Time driveway to the subject property. The resulting configuration moves the parking spaces on Taco Time's site closer to their eastern property line, allowing a 20-foot access easement, with a 30 feet aisle between parking stalls. The 5-foot landscape setback buffering the parking spaces from the subject site, as required by code on the

Taco Time site, is proposed to be partially on the subject site, alongside the new 6-foot sidewalk that will run the length of the 125-foot “pole” which will allow pedestrian access to the site. The proposed configuration provides the 5-foot landscape setback along the west side of the sidewalk, of which 2 feet is on the subject site and 3 feet is on the Taco Time site. The east side of the sidewalk will also be landscaped, and a retaining wall will run within 1 foot of the east property line, along the top of the slope that separates the pole of the subject site from the Wendy’s site to the east.

Originally four Adjustments were necessary, but with the revised configuration, two of those have been eliminated because new vehicle area is not being created in the pole area, and consequently the required pedestrian path from Barbur Blvd will be able to be built at the full width of 6 feet, as the code requires. The remaining Adjustments are to:

1. Increase the street building setback from 10 feet, the maximum allowed on transit streets, to approximately 180 feet. The pole portion of the lot is 125 feet long and is not wide enough for a building. Barbur Blvd is a transit street, and development on transit streets is subject to a maximum setback of 10 feet for at least 50 percent of the building façade (Zoning Code section 33.130.215 C).
2. Reduce the landscape setback along the east perimeter of the Taco Time parking area from the required 5 feet to 3 feet (33.266.130 G). The full 5 feet of landscaping will be provided, but with 2 feet of it on the subject site and 3 feet on the Taco Time site.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the relevant approval criteria of 33.805.040 A.-F., Adjustments.

## ANALYSIS

**Site and Vicinity:** The site is a 21,000 square-foot lot on the north side of Barbur Blvd, with a 12.5-foot wide by 126-foot long “pole” that runs between two commercial properties extending to the street. The developable portion of the site is approximately 19,425 square-feet in area, and is set back from the street the length of the pole. The site is presently a vacant grassy field behind the two commercial properties, which are both developed with fast-food restaurants: Taco Time to the west of the site and Wendy’s to the east. The site does not have frontage or access from the adjacent streets of Baird Street and 35<sup>th</sup> Avenue to the west and north. The surrounding area to the north and west is primarily a single-dwelling residential area. Barbur Blvd near the site consists of primarily commercial development, interspersed with some multi-dwelling development.

**Zoning:** The site is zoned CGb. The CG zoning represents the General Commercial zone, which is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner. It allows a full range of retail and service businesses with a local or regional market. The ‘b’ represents the Buffer overlay zone, which is typically applied between commercial and residential zones to ensure adequate separation between residential and nonresidential uses, by restricting motor vehicle access and requiring larger landscape setbacks. The ‘b’ overlay extends over the west and north sides of the site, prohibiting vehicle access through that part of it. Consequently, an option that the applicant wished to pursue for access to the site by using the west side of the Taco Time site from Baird Street was not possible, due to the ‘b’ overlay zoning on that side of it.

**Land Use History:** The site was part of two minor partitions in 1981: MP 120-81 and MP 94-81. The partitions appear to have divided the original Lot 5 into three lots including the subject site and the two abutting properties on Barbur that have subsequently been developed for fast-food establishments. The site was part of an annexation from Multnomah County in 1978, for the area on Barbur Blvd between SW 30<sup>th</sup> and 40<sup>th</sup> Avenues, and the zoning was subsequently changed to corresponding City zoning, through case file PC 6782.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **January 15, 2008**. The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Bureau of Parks-Forestry Division

The Bureau of Environmental Services responded that this proposal does not identify a stormwater management method and that it is unclear whether the proposed Adjustments will impact stormwater management requirements. A revised site plan and stormwater report that demonstrate compliance with the Stormwater Management Manual must be provided at the time of building plan review.

The Site Development Section of BDS responded that insufficient information has been provided to determine whether the proposed Adjustments will allow the proposal to comply with requirements for stormwater treatment and disposal. The applicant must identify a method of treatment and flow control for driveway runoff prior to discharge to the public storm sewer system.

*Staff notes that the applicant is aware of these issues and is working with the respective bureaus to ensure their resolution during the building permit review phase.*

The Fire Bureau responded with various conditions of approval and informational comments that relate to fire apparatus access roads, parking allowances, sign requirements, turning radius, and fire apparatus access to buildings. The Fire Bureau has reviewed the proposed easement and is satisfied with it with minor additions.

The Bureau of Transportation Engineering responded with concerns about the location of the proposed driveway because of its proximity to other adjacent driveways. The response also notes that ODOT will need to approve the location of the driveway. *Staff notes that the revised proposal is in response to ODOT’s determination that a new access in this area of Barbur Blvd would not be allowable; consequently, the applicant has negotiated an access by easement through the abutting Taco Time property to the west. That easement has been reviewed by and deemed acceptable to ODOT.*

The Life Safety Section of BDS responded the location of the new building with respect to property lines may require fire-rated exterior walls and opening protection. A complete Life Safety plan review will occur at the time of building permit submittal.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on January 15, 2008. Staff received one letter from notified property owners in response to the proposal, who expressed the following concerns: the number of parking spaces proposed may be inadequate for the size of the building; stormwater management could be a problem, as it has been with development of a nearby property; the information provided does not address the height or appearance of the building, which could affect the livability of the residential area behind it, and the proposed setbacks could have negative impacts on the livability of the residential area.

*Staff comments:* The latter concerns regarding impacts to livability will be addressed in the analysis in the following section, under criterion E, relating to impacts. Staff notes that the allowed height in the CG zone is 45 feet, allowing four stories; the R1 zone to the west has the same height limit, and the R7 zone to the north has a 30-foot height limit. The proposed building is two stories in height except adjacent to the north side, where it is one story along that side.

With regard to parking, the site is on Barbur Blvd, which is serviced by bus line #12; this line has frequent (20-minute or less) peak hour service. Parking is not required on sites such as this, that are within 500 feet of a bus line with frequent service during the peak hours. Seven parking spaces are proposed. If parking were required (i.e. if the site was not in close proximity to

frequent transit service), then 4 spaces would be required (1 space per 4 residents). Regarding stormwater management, compliance with the City's Stormwater Management Manual is required and will be reviewed during the building permit phase of the review for this project.

## **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 to provide 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 for adjustment to increase maximum building setback:** The applicant is requesting an adjustment to increase the maximum building setback for the development of a residential care facility. The purpose for the maximum required building setbacks, as stated in Section 33.130.215 A (Purpose) of the Zoning Code, is as follows:

*The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial zones. The setback requirements along transit streets and in Pedestrian Districts create an environment that is inviting to pedestrians and transit users.*

The site is on Barbur Blvd, which is a Major City transit street. There is a maximum setback of 10 feet from the street property line for buildings along transit streets. The proposed residential care facility will be set back approximately 180 feet from the front property line along SW Barbur Boulevard, a designated transit street.

The configuration of the subject site leaves little opportunity to place the proposed facility closer to the street lot line along SW Barbur Boulevard. There is a narrow street frontage of 12.5 feet, which extends 125 feet from Barbur until the property widens into a buildable area of about 113' x 150'. The 12.5-foot width at the street frontage would limit a building that meets the maximum 10-foot setback standard to 12.5 feet in width. Instead, the applicant is proposing to use that "pole" portion of the lot for a pedestrian path that will lead directly to the building. This of itself will make the site more inviting to pedestrians and transit users. Additionally, a new planting strips along both sides of the pedestrian path will separate the sidewalk from the adjacent parking area to both sides of it, that serve the fast-food restaurants on either side of the pole, in front of the site.

The new sidewalk will lead to the southeastern corner of the proposed building. The design of the east elevation of the building, which includes a staggered front facade, numerous ground-floor windows, entryway, and covered porch area, clearly identifies it as the front of the structure and the destination for pedestrians who will access the building from the street. Although it will be set back, the building will be fairly visible from Barbur beyond the adjacent fast-food parking areas.

The requested adjustment to the maximum building setback will have no impact on the ability of development on the site to accommodate a wide range of retail and service businesses as intended by the CG zone. This zone, as characterized by the zoning code, is also intended to

allow auto-accommodating commercial development. The configuration of the site, with its narrow and long access area, leaves virtually no opportunity for commercial development to be closer to the street lot line. The site is located along a corridor that is primarily auto-accommodating; the applicant's proposal continues to accommodate the safe, efficient circulation and parking of vehicles on the site, while still addressing the needs of pedestrians and transit users. As proposed, there will be a well-defined, direct, and safe pedestrian connection from the street to the proposed building, with the pedestrian connection being located proximate to an existing bus stop at the corner of SW Baird Street and SW Barbur Boulevard.

As for consistency with the classification of the adjacent streets, SW Barbur Boulevard is classified in the Transportation Element of the Comprehensive Plan as Major City Traffic Street, Regional Transitway and Major City Transit Street, City Bikeway and City Walkway. The provision of a direct pedestrian connection from the street to the building supports these transit classifications that allow for and encourage alternative modes of travel. This criterion is met.

**Findings for adjustment to reduce required perimeter parking lot landscaping on Taco**

**Time site:** The purpose of the parking lot layout standards is to promote safe circulation with the parking area, provide for effective management of stormwater runoff from vehicle areas, and 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 adjacent residential zones;
- Provide flexibility to reduce the visual impacts of small residential parking lots;
- Direct traffic in and provide shade and cooling to parking areas;
- Reduce the amount and rate of stormwater runoff, pollution and temperature of runoff from vehicle areas, and decrease airborne and waterborne pollution.

The applicant is proposing to provide a direct pedestrian access to the site through the narrow "pole" portion of the lot which leads to the larger site area, over 125 feet from the Barbur Blvd frontage. Alongside that sidewalk will be landscaping that will screen and separate it from the eastern-most row of approximately 10 parking spaces on the Taco Time property. Due to the easement that will be provided to allow access to the subject site through Taco Time site, those parking spaces are being moved close to their east property line, leaving inadequate space for the full 5 feet of required landscaping on the Taco Time site. Consequently, 3 feet of landscaping is proposed on the Taco Time property and 2 feet on the subject site, which will for all intents and purposes meet the code, except that the landscaping will not be on the same property as the parking spaces. Because the two properties will be fitting together to create a workable access that eliminates the need for a new driveway on Barbur Blvd, the placement of the landscape setback on the subject site effectively solves part of the puzzle created by the narrow street frontage of the subject site.

The 5 feet of landscaping that will be provided between the two properties will meet the code standard through an alternative that enhances both properties and also provides the stormwater and pollution reduction benefits that the standards are intended to do. With a condition requiring that the western 2 feet of the subject property is landscaped with the 3-foot setback on the Taco Time property as one integrated 5-foot setback that meets the L3 landscape standard, 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 proposal is in the CG, General Commercial zone. This zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. Development is expected to be generally auto-

accommodating, except where the site is adjacent to a transit street, and is intended to be aesthetically pleasing for motorists, transit users, pedestrians and the businesses themselves.

As described in the *Southwest Community Plan* (adopted by City Council in 2004), Barbur Blvd is a corridor that serves businesses and housing. Improvements to the streetscape and the transit system attract a growing number of pedestrian oriented businesses and services, as well as a variety of housing opportunities.

As indicated in the previous finding, Barbur Blvd is a designated by the Transportation System Plan as a multi-modal street with high service classifications in all modes: it is a Major City Traffic Street, Regional Transitway and Major City Transit Street, City Bikeway and City Walkway. The proposal to increase the building setback and provide a landscaping alternative to meet the parking lot setback standards supports the street classifications and the Community Plan. It is a new development with a strong pedestrian element, utilizing a constrained site that is between and behind two auto-oriented establishments. The proposed pedestrian path leading directly to the site will enhance the site for those arriving by foot, transit or bicycle, creating a completely separate path buffered by landscaping from the two adjacent parking lots. The easement through the Taco Time site provides vehicle access to it without creating an auto-oriented emphasis; rather it utilizes an existing vehicle area. Consequently, the proposal is consistent with the classifications of the adjacent streets and the desired character of the area. A condition of approval will require recording of the easement between the two properties. With this condition, 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:** The commercial zones implement the commercial policies and plan map designations of the Comprehensive Plan. The zones are for areas of the City designated for commercial uses, with different zones reflecting the diversity of commercial areas. The CG, General Commercial zones are generally intended for a community or regional, rather than solely neighborhood, market area. Development will mostly have an auto-orientation, but in the case of Barbur Blvd and other streets with high quality transit service, development is also expected to be oriented to pedestrians, bicycles and transit. The applicant has proposed a development which, although the building is situated a distance from the street, the constrained size of the front of the lot does not allow for development in close proximity to it. A strong pedestrian link from the street to the building will be obvious to any users arriving to the site by means other than a motor vehicle, and the new 5-foot wide strip of landscaping alongside the sidewalk will buffer the pedestrians from the abutting vehicle-oriented developments. Thus, the proposal supports the purpose of the zone, satisfying this criterion.

- 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 no discernible impacts that would result from granting the requested adjustments to increase the building setback from the street, and to allow an alternative configuration for the perimeter landscaping along the parking area of the abutting Taco Time site. Property owners from an adjacent property expressed concern about impacts to the livability and appearance of the residential area. The site is intended for development as a care facility for approximately sixteen residents. Access by vehicles will be limited through the Taco Time site, and the sidewalk will provide access for those arriving by other means. Consequently, the main entrance is oriented generally to Barbur Blvd, behind the Wendy's site. The property nearest the main entrance and parking area is in a residential zone is to the east, facing 35<sup>th</sup>

Avenue, and that property is owned by the applicant. The other adjacent properties to the north will face the rear of the subject site, and are separated from it by the 'b' Buffer overlay zone which prohibits motor vehicle access and consequently prohibited the creation of access to the site from Baird Street through the west side of the Taco Time site. Consequently, the majority of activity on the site will occur at its front side, adjacent to the two fast-food establishments where a significantly greater amount of vehicle activity, as well as other noise, potential litter and other impacts are generated. The adjustments requested were necessary to allow a reasonable use of the buildable area on the site without creating impacts. 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:** The site is not within an environmental zone, which is designated on the zoning map by either a "c" or "p" overlay. 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 has proposed two adjustments which will allow for the development of this lot that is constrained by minimal street frontage. Its location on Barbur Blvd between two lots developed with fast-food restaurants does not allow an additional curb cut by the state (ODOT). Consequently, following several months of working with ODOT and the neighboring property owner, the applicant gained access by easement. As a result, the two necessary adjustments allow the building to be sited in the buildable portion of the lot, and allow the landscape buffer for the parking on the Taco Time site adjacent to the subject property to be shared by both properties. The Adjustment to the transit street setback supports all of the relevant approval criteria and allows a building that can serve the intended use without that fits in with the adjacent residential area to the north and west, without creating impacts. The alternative landscape buffer for the parking area meets the 5-foot setback standard, but because it straddles two properties, the adjustment was necessary. The cooperation of the two property owners has created a very reasonable solution to this site that is challenged by its narrow street frontage, allowing development that meets the intent of the zoning code standards.

## ADMINISTRATIVE DECISION

Approval of two Adjustments:

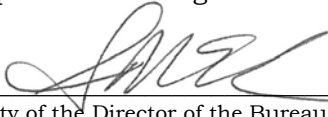
1. To Zoning Code standard 33.130.215 C to increase the street building setback from 10 feet to approximately 180 feet;
2. To Zoning Code standard 33.266.130 G to reduce the landscape setback along the east perimeter of the Taco Time parking area from the required 5 feet to 3 feet (33.266.130 G).

This approval is subject to the approved site plan, Exhibit C-1, signed and dated November 26, 2008, and to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions 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 08-100087 AD." All requirements must be

graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

- B. Prior to issuance of building permits, the final easement and maintenance agreement between the subject site and Taco Time property must be reviewed by the BDS Land Use Services staff and the City Attorney, and recorded with Multnomah County, and must run with the land.
- C. Both the western 2 feet of the subject property and the 3-foot setback on the Taco Time property must be landscaped as one integrated 5-foot wide setback that meets the L3 landscape standard.

**Decision rendered by:**  **on November 26, 2008**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: December 1, 2008**

**Staff Planner: Nan Stark**

**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 2, 2008, and was determined to be complete on January 11, 2008.

*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 2, 2008.

*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 requested that the 120-day review period be extended for various periods at three different times, and then fully waived the 120-day review period, as stated with Exhibit G-3.

**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 December 15, 2008** 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](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 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 **December 16, 2008 – (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.

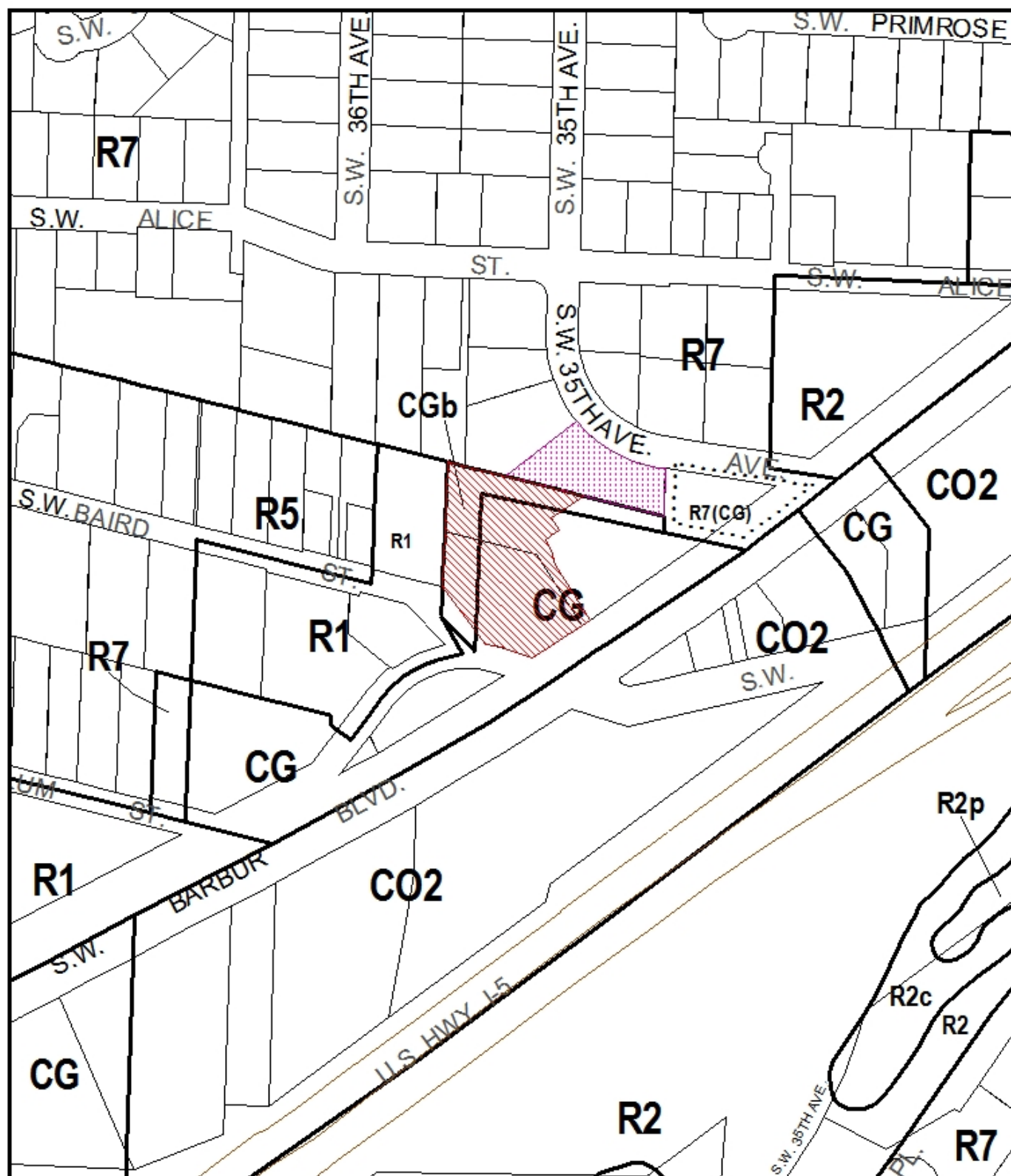
**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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. 1. Applicant's Statement
- 2. Draft access easement and maintenance agreement
- 3. Existing easement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan, revised, with driveway/sidewalk section drawing, dated 11/24/08 (attached)
  - 2. Site utility plan
  - 3. Grading and erosion control plan
  - 4. Easement area survey
  - 5. Elevation drawings
  - 6. Floor plans
  - 7. Original site plan
  - 8. Existing conditions plan
  - 9. Photos
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Site Development Section of BDS
  - 3. Fire Bureau
  - 4. Bureau of Transportation Engineering and Development Review
  - 5. Life Safety Section of BDS
  - 6. Oregon Dept. of Transportation
- F. Correspondence:
  - 1. J. Polk and J. O'Halloran, February 5, 2008, concerns
  - 2. M. Chung, Taco Time site property owner
  - 3. Scott Jensen, attorney for applicant, draft easement and maintenance agreement
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Extensions of 120-day decision to Jan. 1, 2009
  - 4. Various email communications between Stark and Peia and representatives, January through November, 2008



# ZONING

Site  
 Also Owned



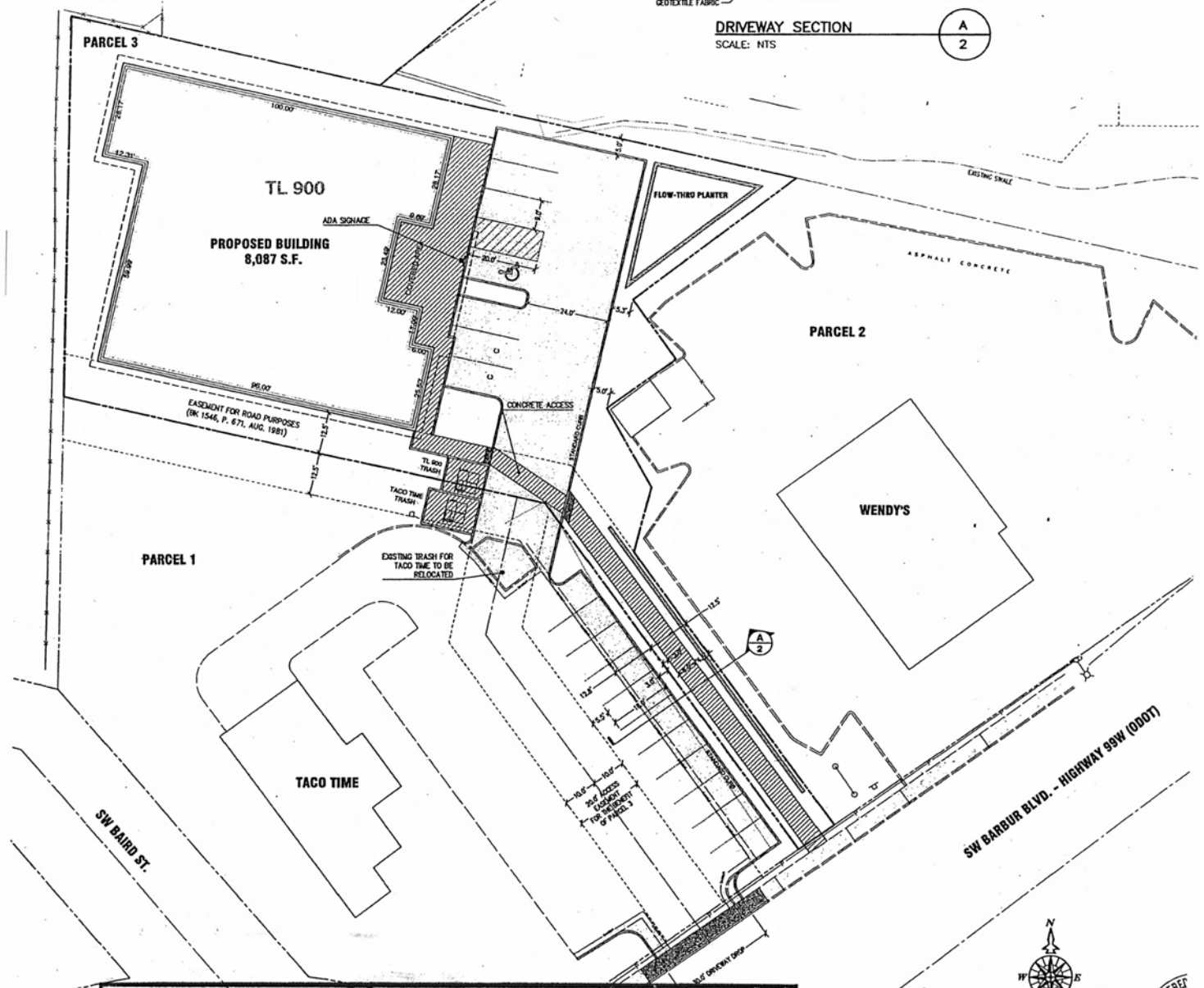
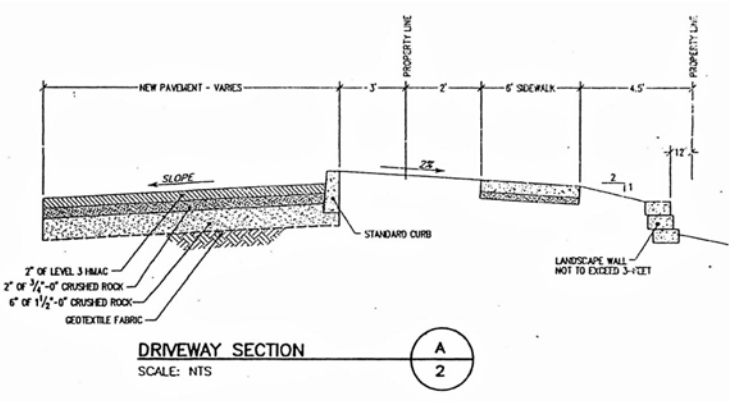
File No. LU 08-100087 AD

1/4 Section 3925

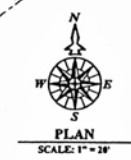
Scale 1 inch = 200 feet

State\_Id 1S1E29BD 4000

Exhibit B (Jan 10, 2008)



**\*Approved\***  
 City of Portland - Bureau of Development Services  
 Planner SW TAYLOR'S FERRY Date NOV 26 2003  
 \* This approval is only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



**EXHIBIT C-1**  
**LU 08.100087 AD**  
**Site Plan - Op**

<b>IG</b> IING PHONE FAX	<b>SP Construction and Remodeling</b> 9347 SW 35th Avenue Portland, Oregon 97219 503-310-1002	<b>9451 SW Barbur Blvd.</b> TL 3900, T.1S., R.1E., SECTION 29 Portland, Oregon
-----------------------------------	--	--