



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

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Date: April 28, 2015
To: Interested Person
From: Marguerite Feuersanger, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The 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 15-125970 AD

GENERAL INFORMATION

Applicant: Kevin Partain / Urban Visions
223 NE 56th Ave / Portland, OR 97213

Owner: Arthur R Anderson
P. O. Box 189 / Boring, OR 97009-0189

Site Address: Vacant lot, south of 9304 N. Macrum Avenue

Legal Description: LOT 21 INC UND INT TRACT A THRU G, CALVERT FARMS
Tax Account No.: R128480630
State ID No.: 1N1E07AB 08721
Quarter Section: 2124

Neighborhood: St. Johns, contact Josh Leslie at 503-505-8495.
Business District: St. Johns Business Boosters, contact John Englund at 503-247-9113.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Zoning: R2.5, Single-Dwelling Residential 2,500 Zone
Case Type: AD, Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

A new house with attached garage is proposed for this vacant triangle-shaped site, which is currently vacant of structures. An adjustment to reduce the minimum front building setback from 10 feet to 5 feet is requested. A 1.5-foot eave and gutter overhang is proposed within the 5 foot setback. The lot was created through a land division (#2005-142902 LDS).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in **33.805.040 A.-F., ADJUSTMENTS**.

ANALYSIS

Site and Vicinity: The vacant site is triangular in shape. It has a long street frontage on N. Macrum Avenue, a 70-foot wide platted right-of-way which is developed on the east side with a wide landscape strip and sidewalk. These improvements were created with the Calvert Farms land division, which includes this site. Several of the subdivision lots have been developed with 2-story single dwelling houses, but most of the 21 lots are currently undeveloped. Alleys and green streets are a focal point of this land division and the new houses are oriented toward the new “green streets” instead of N Macrum. The surrounding residential area is single dwelling in character, and contains a significant amount of new infill development, mostly single dwelling detached structures. Across the street are new narrow detached houses on approximately 2,500 square-foot lots.

Adjacent to the north of the site is the Union Pacific Railroad right-of-way, informally referred to as “the cut”, a significant and historic human-made landscape feature that runs diagonally across the North Portland peninsula, from the Willamette River north to N Columbia Blvd. The rail line is almost 60 feet below the grade of adjacent properties. The slopes are thickly vegetated. The “Peninsula Crossing Trail,” a bicycle/walking route, is located along the opposite, easterly side of the railroad right-of-way.

Zoning: The site and surrounding properties are located in an R2.5, Single-Dwelling Residential 2,500 zone. The regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The development standards work together to preserve the character of neighborhoods, and promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

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

2005-142902 LDS. Conditional approval for 21-lot subdivision with common greens and alleys within tracts. The subject site is Lot 21 of this approval.

2006-117950 AD. Approval of an Adjustment to allow the required outdoor area for Lots 2-6 and 8-19 of the Calvert Farms Subdivision to be located in the front yard setback. *The subject site is Lot 21 of the original subdivision site. However, Lot 21 was not granted an adjustment to the outdoor area location.*

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **March 24, 2015**. The following Bureaus have responded with no issues or concerns:

The Bureau of Environmental Services responded that they have no concerns regarding the setback adjustment review, but the proposed drywell does not meet their requirements due to slope issues. See Exhibit E-1.

The Bureau of Transportation Engineering responded with that they have no objection to the proposal. However, the current configuration of right-of-way improvements adjacent to the site is: 10-6-10 (10-foot landscape strip and curb, 6 foot sidewalk, 10 foot unimproved buffer behind sidewalk). See Exhibit E-2.

The Water Bureau has no concerns but provides additional information about water service. See Exhibit E-3.

The Site Development Section of BDS has no object to the proposed adjustment request but does not support the proposed drywell location. Please see Exhibit E-4 for additional details.

The Life Safety Plans Examiner of BDS requests that the proposed north setback measurement be added to the site plan. *The applicant indicates the proposed setback is 5 feet.*

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 24, 2015. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.040 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 for modifying the front setback is listed below. Each statement will be responded to separately.

33.110.220 Setbacks

Purpose: The building setback regulations serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire-fighting;
 - They reflect the general building scale and placement of houses in the City's neighborhoods;
 - They promote a reasonable physical relationship between residences;
 - They promote options for privacy for neighboring properties;
 - They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
 - They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
 - They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.
- *They maintain light, air, separation for fire protection, and access for fire-fighting;*

The proposal is to reduce the minimum 10-foot front building setback to 5 feet, for a new house on a 4,142 square foot lot. The frontage N. Macrum Avenue right-of-way is 70 feet in width, which is 10 feet wider than a typical local service residential street. This additional public right-of-way width is located "behind the sidewalk," referring to the area between the front property line and the edge of the sidewalk. Because of this additional undeveloped right-of-way, there will be 15 feet of clearance from the edge of the sidewalk (5 foot setback plus 10 feet of undeveloped right-of-way) to the front exterior wall of the house. Also note that minimum side and rear building setbacks will be met for the remaining building walls of the house.

Because of the conditions cited above, light and air, along with separation for fire protection and access for fire-fighting will be maintained on all sides of the house.

- *They reflect the general building scale and placement of houses in the City's neighborhoods;*

While proposed development on the lot to the north is subject to the minimum 10 foot front setback, existing houses north of the site at 9316 and 9322 N Macrum are built five feet from N. Macrum. This is because the lots are corner lots, having a platted green street as the frontage street and N. Macrum as the side street, requiring only a 5-foot setback. Two additional undeveloped lots have the same

condition. Narrow detached houses across the street are set back 18 feet, aligned with attached garages. However, this westerly side of N. Macrum does not have the extra 10 feet of right-of-way as the does the easterly side, adjacent to the site. Because of these conditions, the placement of the proposed house reflects the general scale and placement of existing and planned houses in the immediate neighborhood area.

- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*

The reduced setback request is for the street-facing front setback only (minimum 5-foot side and rear setbacks will be met for this lot and house). Because the N. Macrum right-of-way is 70 feet in width, a reasonable physical relationship between residences located across the street will be maintained even with the reduced 5 foot front setback. Privacy will not be impacted due to the width of the right-of-way. Other adjacent residences will not be affected as side and rear setbacks will meet minimum spacing distances.

- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*

Because of the 70-foot-wide right-of-way, only about 32 feet of which is currently paved for vehicles, the site's front yard will appear deeper than actual 5-foot front building setback.

- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*

The reduction of the front setback from 10 feet to 5 feet will not impact the site's compatibility with the neighborhood, as described above. The site conditions are constrained: the lot is relatively small at 4,142 square feet and shaped like a triangle, becoming very narrow at the south. The steep downward slope of the railroad cut along the east portion of the site further limits the available building area and is in part a reason for the reduced front setback request. Outdoor area is provided on the site south of the house and meets minimum code requirements.

- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The garage and driveway are on located at the north part of the house. The minimum 18-foot garage entrance setback is provided, and an additional 10 feet of driveway length will be constructed within the public right-of-way, providing 28 feet between the sidewalk and the garage door. Adequate area is available for driver visibility and for a vehicle to park in front of the garage without blocking the street or sidewalk.

As described above, the proposed 5-foot front setback will result in development that continues to meet the purpose of the minimum setback regulations. 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: As described above, the house will fit in with the surrounding neighborhood in scale and placement on the site. It will not compromise appearance, since the proposed home will be compatible with other new homes on this street. It will not

detract from the privacy of neighboring properties, nor compromise livability in any other way. Therefore, this criterion is met.

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

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

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

Findings: City designated scenic 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 expected impacts resulting from granting the requested adjustment. 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). The site is not within an environmental zone so 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

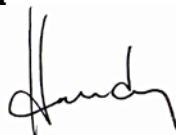
The existing lot is narrow shape and has a steep slope at the east property line. A reduced front setback, from 10 feet to 5 feet, will result in a new single dwelling detached house that fits with the character of existing development along N. Macrum. The N. Macrum right-of-way is 70 feet in width, 10 feet of which is undeveloped and located behind the sidewalk. Therefore the house will appear to have a deeper front setback. For these reasons, the reduction requested adjustment will meet the purpose of the front setback standard and will not negatively impact other properties or the surrounding neighborhood. The approval criteria are met and the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.110.220.B Required Setbacks to allow a reduction of the front building setback from 10 feet to 5 feet with a 1.5 foot eave, per the approved site plan, Exhibit C.1, signed and dated April 23, 2015.

As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-125970 AD. No field changes allowed."

Staff Planner: Marguerite Feuersanger



Decision rendered by: _____ **on April 23, 2015.**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 28, 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 February 27, 2015, and was determined to be complete on **March 19, 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 February 27, 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.

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 May 12, 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 5th floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all

information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 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 13, 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:

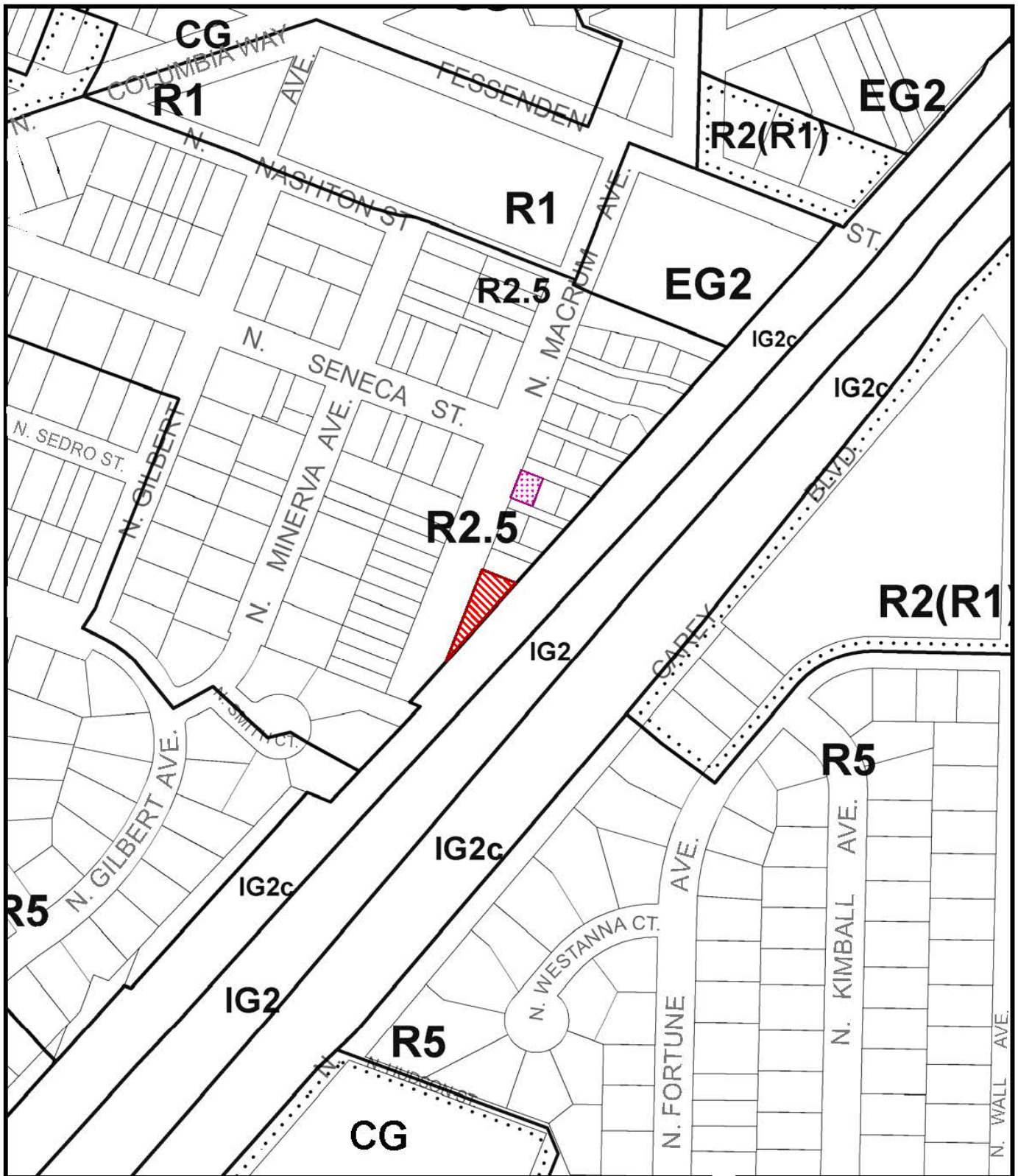
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Revised Site Plan (attached)
 - 2. House Elevations
 - 3. Main Floor Plan
 - 4. Upper Floor Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Site Development Review Section of BDS
- F. Other:
 - 1. Original LU Application and Site Plan
 - 2. Incomplete Application Letter to Applicant, March 5, 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
-  Also Owned



File No. LU 15-125970 AD
 1/4 Section 2124
 Scale 1 inch = 200 feet
 State_Id 1N1E07AB 8721
 Exhibit B (Mar 03, 2015)

- (S) 3" SEWER
 (W) 1" WATER
 (G) GAS
 (P) POWER
 ---- RAIN DRAIN