

City of Portland

Bureau of Development Services

Land Use Services Division

1900 SW Fourth Ave. Suite 5000 Portland, Oregon 97201 Telephone: 503-823-7300 TDD: 503-823-6868

www.portlandonline.com/bds

FAX: 503-823-5630

Date: April 21, 2008

To: Interested Person

From: Nan Stark, Land Use Services

503-823-7828 / 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 08-113296 AD

GENERAL INFORMATION

Applicant/Owner: Justin Wood, Fish Construction NW

Trillium Homes

1834 SW 58th Ave #102 Portland, OR 97221

Site Address: N Boston & N Bryant

Legal Description: FIRST ELECTRIC ADD, BLOCK 1, LOT 47&48 TL 1801

Tax Account No.: R610395

State ID No.: 1N1E16AB 11801

Quarter Section: 2328

Neighborhood: Arbor Lodge; contact Christine Duffy at 503-285-6440.

District Coalition: North Portland Neighborhood Services; contact Tom Griffin-Valade at

503-823-4513.

Zoning: R5a: High-density single-dwelling 5,000 with 'a' Alternative Density

Design overlay zone

Case Type: AD, Adjustment

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

Committee.

Proposal:

The owners wish to develop this recently created lot with a two-story house and attached single-car garage. The lot is 2,503 square-feet in area. The proposed house meets the development standards for setbacks, height and lot coverage. However, the owners request this Adjustment to zoning code standard 33.110.235, Required Outdoor Areas, because the minimum dimensions for the outdoor area of 12' x 12' cannot be met with the proposed design. The minimum outdoor area must be in the side or rear setback; it is not allowed in the front setback. The request is to reduce the minimum outdoor area dimension from the required 12 feet to 9.93 feet for the width of the outdoor area, which is the distance from the east side of

the house to the east property line. The 12-foot dimension for the depth, and the overall required minimum area of 250 square-feet are met.

Relevant Approval Criteria:

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

ANALYSIS

Site and Vicinity: The site is a 2,503 square-foot vacant lot, adjacent to the alley between Delaware and Boston Ave. It was established through the lot confirmation process and a Property Line adjustment approved last year (07-138181 PLS).

The vicinity is composed primarily of early to mid-century single dwellings. Chief Joseph Elementary School is across Bryant Street from the site, and adjacent to it to the west is Arbor Lodge Park. The area is defined by Willamette Blvd and the river to the west, and Denver Ave to the east, both collector streets.

Zoning: The site is zoned R5a. The R5 zone corresponds to the High Density single-dwelling zone of the City's Comprehensive Plan, found in many close-in residential areas. The 'a' represents the Alternative Design Density overlay zone, which allows options for additional density on vacant lots. The subject site did not use the provisions of the 'a' overlay, but rather the Lot Confirmation process which allows the re-establishment of originally platted lots.

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 **March 21, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

The Bureau of Transportation Engineering responded with no concerns regarding the Adjustment, but noted that specific requirements must be met at the time of building permit review.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 21, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue 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: The purpose of the outdoor area standards is to assure opportunities for outdoor relaxation or recreation. The standards work with the maximum building coverage standards to ensure that some of the land not covered by buildings is of an adequate size and shape to be usable for outdoor recreation or relaxation. The location requirements provide options for private or semiprivate areas. The requirement of an outdoor area serves in lieu of a large rear setback requirement and is an important aspect in addressing the livability of a residential structure.

The site contains three contiguous open areas: the rear, side, and front yard areas between the property lines and the house and garage. The east side is proposed as the area to fulfill the outdoor area requirement. At just under 10 feet in width, and 28 feet deep, there is an area that is of adequate size to accommodate active play for children as well as more passive activities such as outdoor cooking and lounging. Additionally, the rear and front yards are connected to the side yard, potentially offering continuous area for active and passive use by the residents of the house. Aside from these factors, it is important to note that Arbor Lodge Park is across the street from the site, one-half block to the west. The park is connected to Chief Joseph elementary school directly across from the subject site. Consequently, residents will also have this very close park amenity for recreational opportunities.

While the width of the side yard is two feet narrower than what the code requires, it allows the placement of a modest home and single-car garage on a small lot. The zoning code allowed the original property lines to be placed in the configuration they are in, resulting in a small lot on which to accommodate infill development. The resulting outdoor area upholds the intent of the outdoor area standard, which is the only standard not met with the proposed dwelling. Therefore, 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 reduction of two feet in the width of the outdoor area will be fairly indiscernible from the street. The side setback of just under ten feet, as well as a rear setback of seven feet, allows a reasonable separation of the dwelling to the property lines and the adjacent properties. The house's footprint of 938 square-feet, including the single-car garage, is of a size appropriate to this smaller lot, and is well under the allowed building coverage of 1,250 square-feet.

The overall outdoor area on the lot, with opportunities in the rear, side and front yards for passive and active recreation, ensures an adequate area for the residents of the site to enjoy outdoor living. As such, the reduction of two feet to the width of the outdoor area will not detract from the livability or appearance of the residential area. 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 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 adjustment. The reduction of two feet to one dimension in the outdoor area standard is adequately made up for by the overall outdoor area on the lot. In addition, the depth of the outdoor area in the side yard of 28 feet is significantly greater than the minimum requirement of 12 feet. Likewise, the total outdoor area in the side and rear yard, which does not include the front yard area, is more than twice the minimum required area of 250 square-feet.

In addition to these factors, the location of the site in very close proximity to a public park ensures even greater opportunity for active recreational opportunities for children and adults who will reside at the subject site. This area of the city is well served by large and small public parks and recreational facilities, and the site is less than one-half mile from the recreation trail along the bluff above Swan Island and the Willamette River. These factors do not fully mitigate for the reduced width of the outdoor area on the site, but will contribute to the livability of the future residents and thus do have value as mitigation. For all these reasons, 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 reduction in the width of the outdoor area, from 12 feet to 10 feet, can support all of the relevant Adjustment approval criteria. The overall outdoor area on the site will adequately provide opportunities for active and passive outdoor recreation. The width of 10 feet is adequate to support various types of leisure activities for both adults and children, particularly when combined with the depth of the side yard of 28 feet. The combined footprint of the house and garage allow for a dwelling of an appropriate size for this small lot, with a reasonable outdoor area on three sides. In addition, the site is well located for future residents desiring outdoor recreation, as it is one-half block from Arbor Lodge park and fairly close to other parks and recreation areas.

ADMINISTRATIVE DECISION

Approval of an Adjustment to zoning code standard 33.110.235, Required Outdoor Areas, to reduce the minimum outdoor area dimension from the required 12 feet to 9.93 feet for the width of the outdoor area. This approval is subject to the approved site plan, Exhibit C-1, signed and dated April 16, 2008, and to the following condition:

A. As part of the building permit application submittal, each of the 4 required site plans 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 08-113296 AD."

Decision rendered by:

on April 16, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: April 21, 2008

Staff Planner: Nan Stark

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 March 5, 2008, and was determined to be complete on March 19, 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 March 5, 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 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 5, 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. Recognized neighborhood associations are not subject to the appeal fee. 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 May 6, 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 503-823-7967.

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, or

• In situations involving only the creation of lots, the land division has been recorded.

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. Site Plan (attached)
 - 2. Elevation drawings
- 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. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete letter, March 13, 2008

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING Site



LU 08-113296 AD File No. 2328 1/4 Section 1 inch = 200 feet Scale 1N1E16AB 11801 State_Id В (Mar 10,2008) Exhibit



