



City of Portland
Bureau of Development Services
Land Use Services Division

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Portland, Oregon 97201
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www.portlandonline.com/bds

Date: July 2, 2008
To: Interested Person
From: Douglas Hardy, Land Use Services
503-823-7816 / dhardy@ci.portland.or.us

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved with conditions 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 08-130210 AD

GENERAL INFORMATION

Applicant: Donald E. Pollock, property-owner
1834 SW 58th Avenue #202
Portland, OR 97221

Darryl Abe, applicant representative
WB Wells & Associates
4290 NE Fremont Street
Portland OR 97213

Site Address: 5003-5005 SW VIEW POINT TERRACE

Legal Description: TL 8300, BLOCKS 13&14, TERWILLIGER HMSTD
Tax Account No.: R825803360
State ID No.: 1S1E15BB 08300
Quarter Section: 3529

Neighborhood: South Portland, contact Jim Davis at 503-248-9820
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592

Plan District: None
Other Designations: None

Zoning: R1 – Multi-Dwelling Residential 1,000

Case Type: Adjustment Review (AD)
Procedure: Type II, Administrative decision with appeal to Adjustment Committee

PROPOSAL

The applicant proposes to construct five rowhouse units on the vacant, sloped site. Regulations of the R1 zone require that the garage wall be placed no closer to the front lot line than the longest street-facing wall of the dwelling unit. On Lots 1 through 4, the garage wall will be five feet closer to the front lot line than the longest street-facing façade of the dwelling

unit. A deck, accessed by glass doors, is proposed on the portion of the garage that extends beyond the longest street-facing wall of the dwelling unit.

The applicant is requesting an Adjustment to allow the garage wall on Lots 2 through 4 to extend five feet beyond the longest street-facing facade of the dwelling unit. (Because Lot 1 has a slope from front to back that exceeds 20%, the standard does not apply, and no Adjustment is required for this lot.)

RELEVANT APPROVAL CRITERIA

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

ANALYSIS

Site and Vicinity: The irregular shaped, 7,475 square foot site is located on the east side of SW View Point Terrace, near its northern terminus at SW Richardson Street. The site slopes down to the east and south, at first more steeply adjacent to Interstate-5, which borders the site to the west, and then more gently eastward. The site most recently was developed with a triplex, including an attached two-car garage. A permit was issued for the demolition of the triplex (CO 03-158059).

The SW View Point Terrace right-of-way is approximately 60 feet in width and fully improved, with a 24 foot wide paved roadway and five foot wide sidewalks on each side. Development on surrounding lots that front SW View Point Terrace (and SW Richardson Street) consists of a mix of attached rowhouses, multi-dwelling structures, and older single-dwelling homes.

While parking is currently allowed on both sides of SW View Point Terrace, on-street parking is reduced by numerous existing curb-cuts and two fire hydrants on the eastern side of the street. Parking is allowed only on the south side of SW Richardson Street, which has been designed to accommodate angled on-street parking. A "No Parking" sign on the northwestern side of the SW View Point Terrace and SW Richardson Street intersection limits parking on the northern side of SW Richardson Street.

Zoning: The site, and surrounding properties within a one-block radius, are zoned R1 – Multi Dwelling Residential 1,000. The R1 zone is a medium density, multi-dwelling zone that allows one dwelling unit per 1,000 square feet of site area, or approximately 43 units per acre. The zone allows a variety of housing types, including multi-dwelling development, duplexes and single-dwelling attached and detached homes. Generally, R1 zoning is applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

Land Use History: Records indicate the following previous City land use reviews for this site:

- V 8-80: Approval in 1980 of a Street Vacation for portions of SW Richardson Street and SW View Point Terrace.
- LU 02-113848 MP AD: Approval in 2002 of a three-lot partition, with an Adjustment to lot width and area for proposed Parcel 1, and maximum allowed vehicle area in front yard. The final plat was never submitted and the approval expired.
- LU 05-100186 LDS: Approval with conditions in 2005 of a Preliminary Plan for a five-lot Subdivision. The final plat for this land division was approved in 2008 under 05-100186 FP.

- LU 05-171007 AD: Approval with conditions in 2005 of an Adjustment to increase the maximum building setback for a five-unit, attached housing development from 10 feet to 18 feet.

Agency Review: A Notice of Proposal was mailed June 2, 2008. The following Bureaus have responded with no issues or concerns regarding the requested land use review:

- Portland Office of Transportation;
- Portland Parks & Recreation/Urban Forestry Division;
- Water Bureau;
- Fire Bureau/Fire Prevention Division; and
- Bureau of Development Services/Life Safety.

The Bureau of Development Services/Site Development Section and Bureau of Environmental Services did not make a recommendation on the Adjustment request. Site Development will be reviewing the proposal at time of building permit application to determine conformance with stormwater management, geotechnical, erosion control and tree protection requirements. Bureau of Environmental Services will be reviewing the proposal at time of building permit application to determine conformance with stormwater and sanitary facilities.

Neighborhood Review: Two letters were received from area property-owners, and a third from a representative of an area property-owner in response to the Notice of Proposal. One property-owner expressed opposition to the project as it will block views from their duplex. [BDS Comment: The requested Adjustment is unrelated to the issue of blocking views. There is no scenic view corridor mapped across this property that would limit building height, and the applicant is not requesting to increase the building height beyond the 45 foot maximum allowed in the R1 zone.]

A second area property-owner and a representative of an area property-owner both objected to the proposal on the grounds that the five rowhouse units would exacerbate the parking and traffic conditions, and related safety issues, along SW View Point Terrace. [BDS Comment: There is no nexus between the requested Adjustment and traffic or parking conditions along the adjacent street frontage. The applicant is not exceeding the allowed density of development (i.e. number of dwelling units), and is meeting or exceeding the number of on-site required parking spaces. Each dwelling unit is required to have one on-site parking space. The applicant is proposing one parking space in the garage on each lot; additionally, the applicant requested an Adjustment in 2005 to allow to the rowhouse units to be placed farther from the street in order to accommodate a second parking space between the garage and the street.]

The property-owner representative also requested that if approved, two conditions be placed on the project: 1) Applicant be required to repair or replace a retaining wall between the subject site and the adjacent site; and 2) Applicant be required to replace all trees that have been, or will be, damaged by demolition or construction activities. [BDS Comment: Again, there is no nexus between the proposed Adjustment and the requested conditions. However, Zoning Code standards will require that all minimum building setbacks be landscaped to the L1 landscape standard, which requires the equivalent of one large tree per 30 linear feet, one medium tree per 22 linear feet, or one small tree per 15 linear feet.]

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose

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 applicant is requesting an Adjustment to allow the garage wall on Lots 2 through 4 to extend five feet beyond the longest street-facing wall of the dwelling units. The purpose for the regulation requiring that the garage wall not be closer to the street lot line than the longest street-facing wall of the dwelling unit, as stated in Section 33.120.283.A (Purpose) of the Zoning Code, is as follows:

- Together with the window and main entrance standards, ensure that there is a physical and visual connection between the living area of the residence and the street;
- Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;
- Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;
- Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and
- Enhance public safety by preventing garages from blocking views of the street from inside the residence.

The Adjustment request equally meets the stated purpose of the regulation. The purpose for extending the garage wall up to five feet in front of the longest street-facing wall of the respective dwelling units is to allow a deck on the front façade. Each deck will be accessed from the dwelling unit via a double wide glass door. These decks, and the glass doors, help to activate the front facades by providing an outdoor “room” from which residents can view the street and surrounding neighborhood. The front of the decks will be brought to the face of the garage wall below, which will bring what is essentially a living area closer to the street, thereby reducing the prominence of the first floor garage. Placing this outdoor living area close to the street also will increase opportunities for residents to interact with neighbors and pedestrians on the adjacent street. The glass doors that access the decks will be approximately seven and a half feet in height by five feet in width, and provide additional opportunities for both a visual and physical connection between residents of the individual units and the street. As such, the proposed location of the garage wall will not prevent views from the dwelling unit to the street.

The proposed location of the garage wall will not obscure the main entrance for the respective dwelling units. The main entrance on the units subject to this Adjustment will be accessed by stairs, which extend at least to the face of the garage wall. The stairs help announce the location of the main entrances. Additionally, each main entrance will face the street, and be within at least eight feet of the longest-street-facing wall of the dwelling unit.

To ensure that the proposed design is consistent with the stated intent of the regulation being adjusted, a condition of approval will require that each rowhouse on Lots 2 through 4 have a second-story deck, at least ten feet in width, that extends to face of the garage wall below. Each deck will be required to be accessed by a glass door. With the condition of approval, the request will meet the intent of the regulation, and 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 requested Adjustment will not result in a proposal that detracts from the livability or appearance of the surrounding residential area. The design is generally consistent with a type of rowhouse design seen throughout the city, and is similar in design to an existing six-unit rowhouse development on the adjacent SW Richardson Street. As indicated above, the proposed design will promote opportunities for interaction between residents of the units and pedestrians on the adjacent street, and still allow for “eyes on the street.” As the proposed, the 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: As 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 identified on the Official Zoning Maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. Because there is neither a scenic nor historic resource designation on the site, this criterion is not applicable.

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

Findings: As indicated in response to Approval Criterion A, to ensure that the proposal is consistent with the intended purpose of the regulation being adjusted, a condition of approval will require that the rowhouse units subject to this Adjustment, on Lots 2 through 4, have a second-story deck, at least ten feet in width, that extends to the face of the garage wall below, with the deck being accessed by glass doors. This condition will mitigate for any potential impacts the Adjustment request may have by ensuring both physical and visual connections between residents of the units and the adjacent street. With this condition, any impacts resulting from the Adjustment request will be mitigated to the extent practical. 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). As there are no environmental overlay zones mapped on site, this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building permit must demonstrate that all development standards of Title 33, including any nonconforming upgrades required by Section 33.258.050, can be met or have received an Adjustment prior to the approval of a building permit. **The plans submitted for a building permit must also demonstrate that all conditions of approval from previous land use reviews are met.**

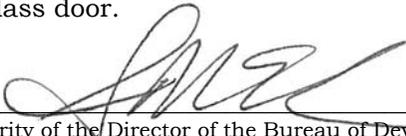
CONCLUSIONS

The applicant has demonstrated that, with a condition of approval, the relevant criteria are met. The request to allow the garage wall for units on Lots 2 through 4 to be located up to five feet closer to the street lot line than the longest street-facing façade of the respective dwelling units will still be consistent with the intent of the regulation being adjusted, and will have no significant adverse impacts on the livability or appearance of the surrounding residential neighborhood. The condition of approval requiring outdoor living area in the form of a deck to extend out over the first floor garage, with each deck accessed by a glass door ensures that any impacts of the proposal will be mitigated to the extent practical.

ADMINISTRATIVE DECISION

Approval of an Adjustment to allow the garage wall on Lots 2 through 4 to extend five feet beyond the longest street-facing facade of the dwelling unit (33.120.283.F), subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition must be noted on each of the four 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 08-130210 AD ." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Each rowhouse on Lots 2 through 4 shall have a second-story deck, at least ten feet in width, that extends to the face of the garage wall below. Access from the dwelling unit to the deck must be via a glass door.

Decision rendered by:  on June 30, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: July 2, 2008

Staff Planner: Douglas Hardy

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 19, 2008, and was determined to be complete on June 2, 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 May 19, 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 extended at the request of the applicant. In this case, the applicant did not 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 July 16, 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.

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 17, 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:

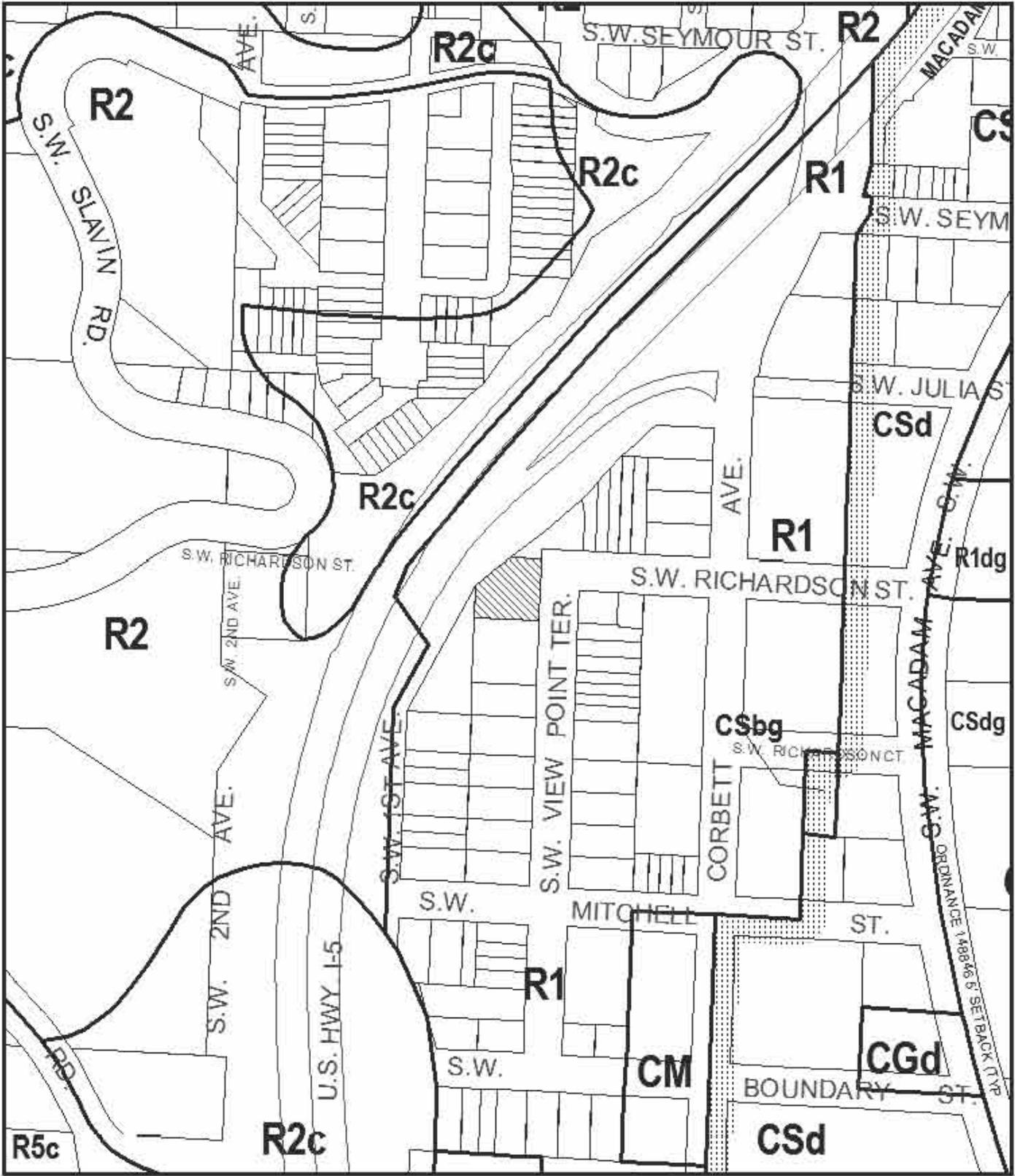
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Building Elevation (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Office of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Bureau of Development Services/Site Development
 - 6. Bureau of Parks, Forestry Division
 - 7. Bureau of Development Services/Life Safety
- F. Correspondence:
 - 1. MaryBeth and Solomon Cruz, June 5, 2008, in opposition
 - 2. Kay and Richard Miller, June 20, 2008, in opposition
 - 3. Robert Glasgow, June 23, 2008, in opposition
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

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).

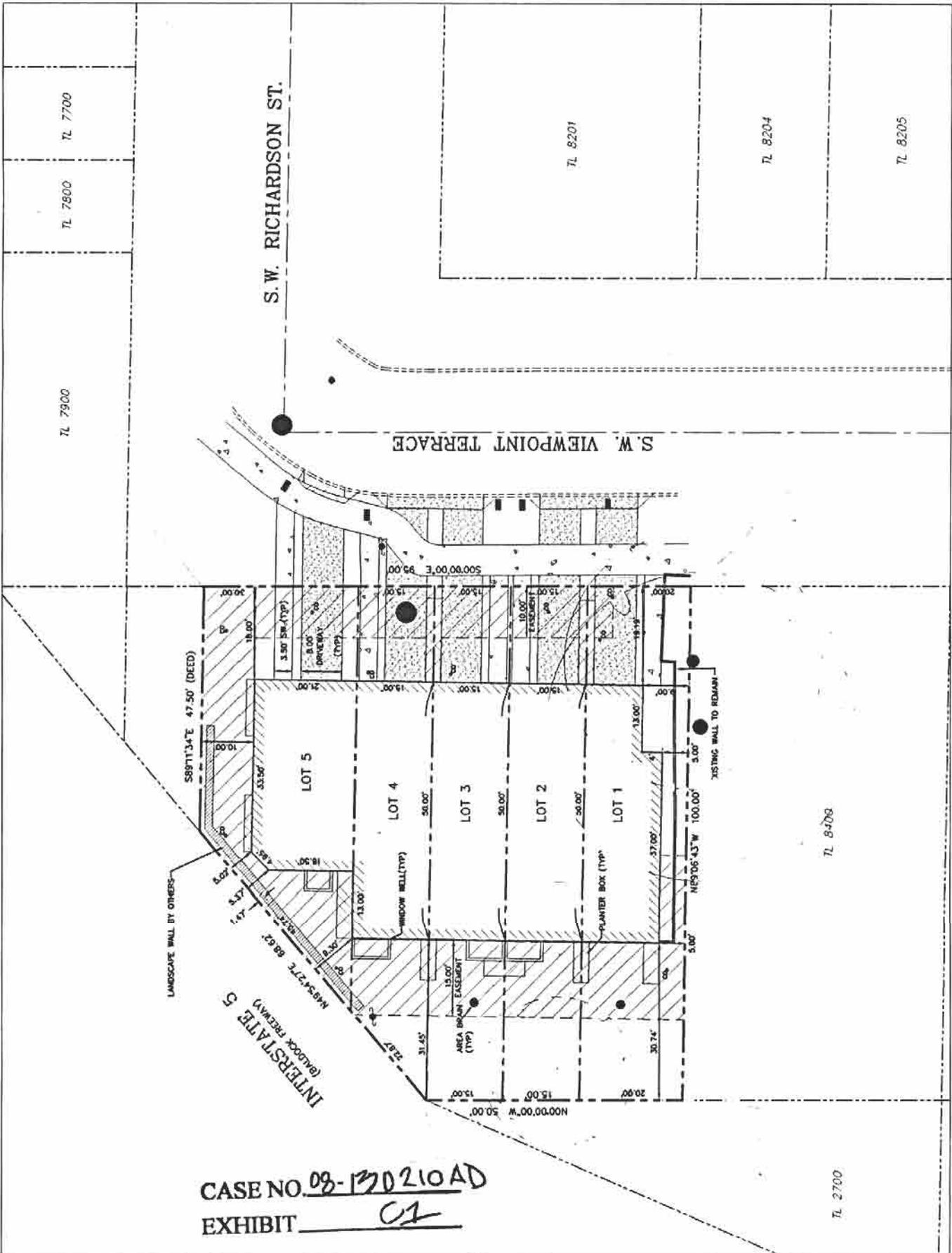


ZONING

 Site



File No.	LU 08-130210 AD
1/4 Section	3529
Scale	1 inch = 200 feet
State Id	1S1E15BB 8300
Exhibit	B (May 23, 2008)



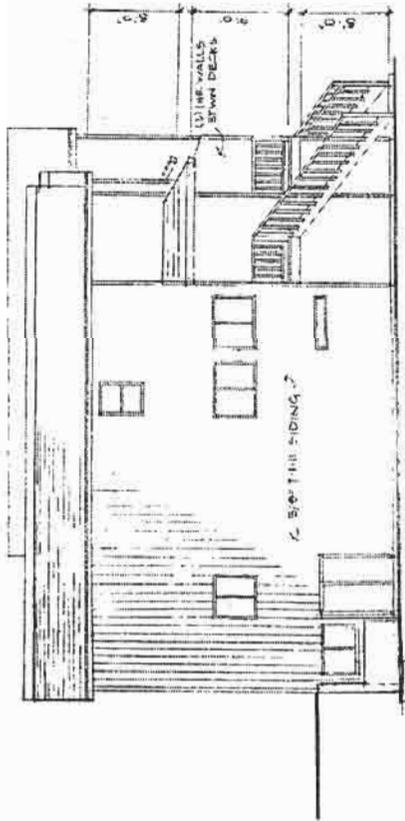
CASE NO. 08-130210AD
 EXHIBIT 01

NOTE:
 RECIPROCAL PRIVATE
 STORM SEWER EASEMENT

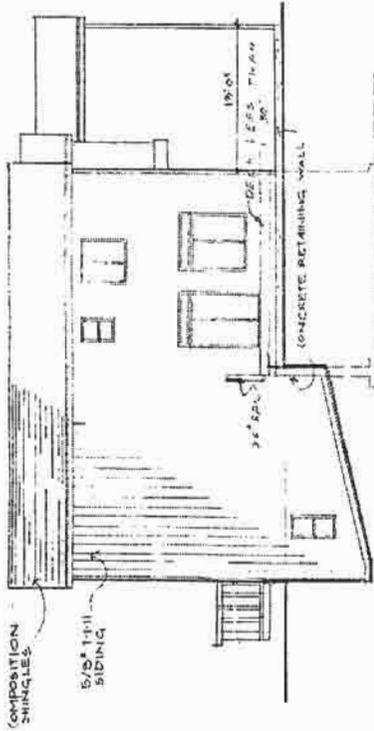


SITE PLAN

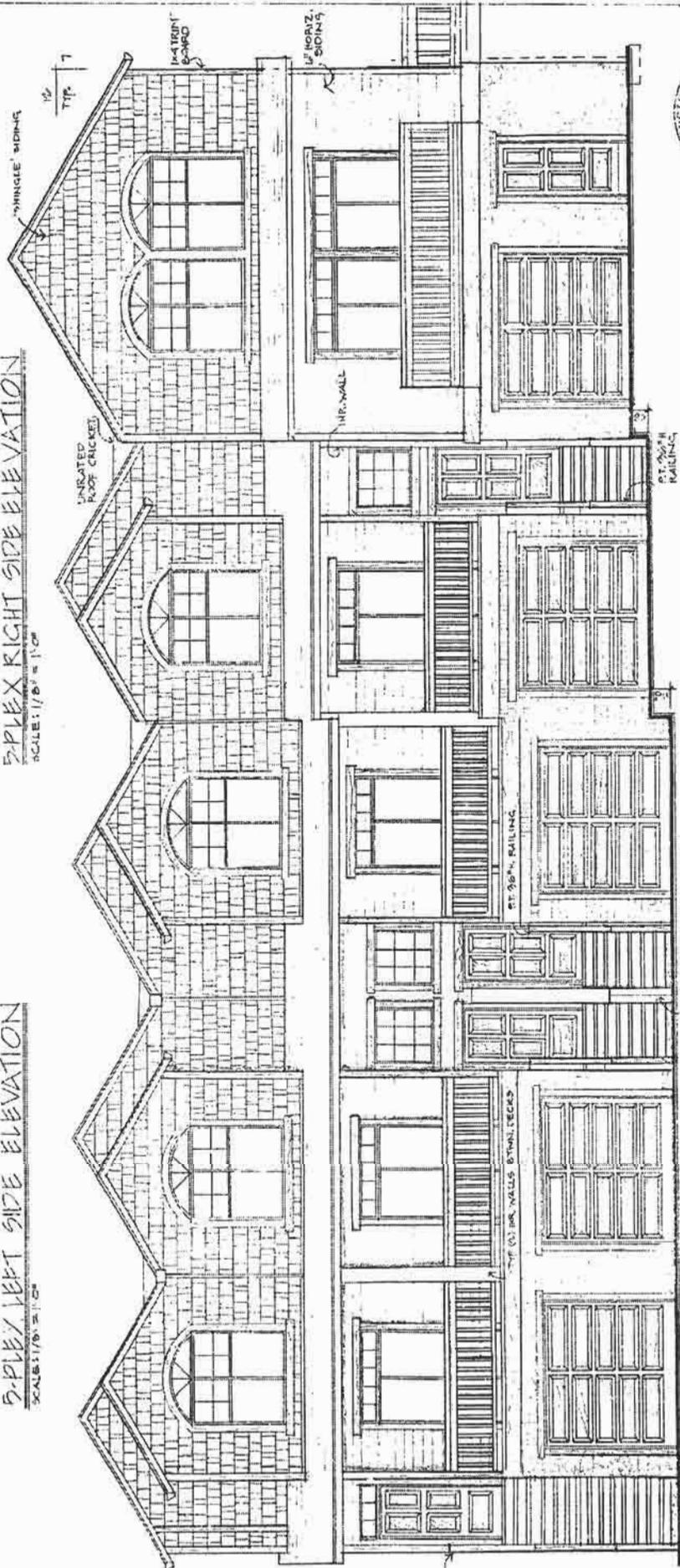
LU 08-130210 AD



5-PLEX LEFT SIDE ELEVATION
SCALE: 1/8" = 1'-0"



5-PLEX RIGHT SIDE ELEVATION
SCALE: 1/8" = 1'-0"



5-PLEX FRONT ELEVATION
SCALE: 1/4" = 1'-0"

NOTE: CRT BRICK PA STONE 3' PL



CASE NO. 08-170210 AD
EXHIBIT 02

LU 08-130210 AD