



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: August 28, 2008
To: Interested Person
From: Justin Fallon Dollard, Land Use Services
503-823-5276 / jfdollard@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 08-120592 AD

Related Case File: PR 08-120597 Lot Confirmation

GENERAL INFORMATION

Applicant: Troy Doty
16144 SW Hazeltine Ln
Tigard, OR 97224

Site Address: 831 NE ROSA PARKS WAY

Legal Description: LOT 13 BLOCK 20 E 1/2 OF LOT 14 BLOCK 20, WOODLAWN
Tax Account No.: R925802830
State ID No.: 1N1E14BC 08800
Quarter Section: 2331
Neighborhood: Woodlawn, contact Maureen Ray at 503-735-9475.
Business District: North-Northeast Business Assoc, contact Joyce Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, contact Robin Denburg at 503-823-4135.
Plan District: None
Other Designations: Woodlawn Conservation District
Zoning: R2.5h, Residential 2,500 with Aircraft Landing Overlay Zone
Case Type: AD, Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant requests an adjustment to the side setback standard stated in Section 33.110.220.B. for development in the R2.5 Single-Dwelling zone. The applicant requests to reduce the east and west side building wall setbacks by 1 foot on a narrow lot of record in order to build an infill house more compatible with the character defining house styles of the Woodlawn Conservation District. The side setbacks would therefore be reduced to 4 feet from the required 5 feet. The house proposed by the applicant would measure approximately 17 feet in width by 55 feet in length, excluding a covered porch at the rear. The applicant proposes to mitigate for the setback adjustment through window placement on the new house relative to adjacent properties and a 6 feet high cedar fence along the side lot lines.

A lot confirmation letter was issued by the City of Portland under PR 08-120597. Based on the deed produced by the applicant, a lot of record, WOODLAWN; E 1/2 OF LOT 14 BLOCK 20, was confirmed as 25'-0" in width and 100'-0" in length for a total of 2,500 square feet.

As the site is located within the Woodlawn Conservation District, the applicant will be required to meet the Community Design Standards, Chapter 33.218 at the time of permitting or apply for a discretionary Historic Design Review approval. The applicant intends to meet the Community Design Standards for Primary and Attached Accessory Structures in Single-Dwelling Zones as stated in Section 33.218.100 at the time of permitting.

The Community Design Standards require 1 foot-deep eaves (Section 33.218.100.M.) on the proposed house. The setback reduction must therefore also account for the eave projection. The eaves will be within 3 feet of the east and west property line. The Zoning Code allows minor features, such as eaves, to project into a required setback up to 20 percent of the depth of the setback. For a 4-foot setback, an eave may extend no closer than 3.2 feet to the property line. Therefore the Adjustment request must also consider standards for minor features of the building under Section 33.110.220.3.E. which are allowed to extend into the side setbacks.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

- Section 33.805.040 Adjustments Approval Criteria

ANALYSIS

Site and Vicinity: The site is a 25'-0" in width and 100'-0" in length lot of record for a total of 2,500 square feet. Existing development is limited to a detached garage formerly associated with 831 NE ROSA PARKS WAY to the east. The eastern abutting lot is a standard 50' X 100' lot and developed with a one story home. The western abutting lot is 75' X 100' and developed with a one story home and attached garage. The rear lot line abuts a 75' X 100' lot with a two story house and attached garage.

The residential architecture in the Woodlawn Conservation District neighborhood features early 20th Century Bungalows and Craftsman and turn-of-the-century Folk-Victorian style houses. The houses on the same block as the subject site are detached single dwelling with most built between 1898 and 1996. House styles include Cape Code, Ranch, Mock-Tudor, Bungalow, Craftsman, and Folk-Victorian (a vernacular variant of the Queen Anne Style).

A Folk-Victorian house, built in 1898, is across the street from the site under review. This particular Folk-Victorian house is classified as a contributing resource in the Woodlawn Conservation District. The house is one story tall with a finished attic. The house features a gable roof with dormers, a modest bay window, and side entry porch with a turned column. Victorian style ornamentation is limited, as is common on vernacular houses. The primary façade is asymmetrical with the entrance to one side and the bay window overlooking the street. The house is approximately 22 feet wide and 50 feet in depth.

The original area known as Woodlawn was platted in 1888 and offered for public sale by the Oregon Land and Investment Company, organized by George H. Durham, H.C. Straton, and Frank Dekum. The streets of Woodlawn were laid out in relation to the Portland and Vancouver Railway, which ran past the neighborhood, curving toward the northeast to a connection with the Columbia River Ferry. The city streetcar system also followed the same route past Woodlawn. Woodlawn was added to the City of Albina in 1887, and then Albina was annexed to Portland in 1891. In the same year, the first school was built in Woodlawn at the corner of NE Bryant Street and Union Avenue (now Martin Luther King, Jr. Boulevard). By 1897, Woodlawn boasted a thriving business district, with most activity concentrated along NE Dekum and Durham Streets. There was a post office, grocery store, drug store, and ice-cream parlor. The

neighborhood had wooden sidewalks and muddy streets until the area was graded and paved in the 1920s. In 1927, a new school was built at NE Buffalo Street and 12th Avenue. This is the present-day Woodlawn Elementary School. The neighborhood has undergone considerable change in the past several decades. In the late 1960s, Woodlawn participated in the federal government's Model Cities Program, which aimed to revitalize ailing neighborhoods and initiate neighborhood planning processes. As part of this program, Woodlawn's first neighborhood plan was written in 1968. In 1975, the 7.58-acre Woodlawn Park was established directly adjacent to Woodlawn Elementary. The second neighborhood plan was written and adopted in 1993.

Zoning: The single-dwelling R zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the Comprehensive Plan policies and designations for single-dwelling housing. The R2.5 zone is a single dwelling zone that in general is comprised of one dwelling unit per 2,500 square feet of site area.

The "h" overlay zone limits the height of structures and vegetation in the vicinity of the Portland International Airport; a height contour map is available for review in the Development Services Center. *This development proposal is consistent with the height contour map..*

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 **April 28, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Life Safety Review Section of BDS
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 28, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE DEVELOPMENT STANDARDS

33.110.220.B. Setbacks. The required setbacks for buildings and garage entrances are stated in Table 110-3.

Per Table 110-3 the required side setback, as measured from a from a side lot line is 5 feet.

Findings: The applicant proposes to build an infill house on a narrow lot of record that would be 17 feet wide. The side setback standard would require a house 15 feet in width. *Therefore, an adjustment to the side setback standard is required to permit the proposed development.*

ZONING CODE APPROVAL CRITERIA

Adjustment Review

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 either approval criteria A. through F. or approval criteria G. through I as stated in Section 33.805.040 have been met.

Staff has addressed criteria A through F as the applicable approval criteria for this Adjustment Request.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified:

Findings for A: Section 33.110.220.A of the Zoning Code describes the purpose of the setback standards:

- The setback regulations for building and garage entrance 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 neighborhood;
- 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.

The requested Adjustment is to reduce the required side building setback to 4 feet from 5 feet for the west and east side lot lines. The applicant submitted a site plan illustrating existing building footprints on the abutting lots. The site plan illustrates how the new house located on center of the lot will maximize separation between residences and minimize the risk of fire spread while providing access for fire fighting.

The context of the abutting development and the size/shape of the lot must be taken into consideration when determining if the purpose of the side setback requirement is equally met. This proposed home, in comparison to other nearby homes, will be similar or smaller in total square feet of floor area. Because the lot is so small, the setback reduction is necessary to create a 17 foot-wide house. The submitted floor plan shows that the rooms are modestly sized. The side setback Adjustments are not being proposed to max-out the building, but rather to create functional spaces. The proposed windows will break up the impacts of the tall, skinny walls. But, they are strategically located to reduce privacy impacts to the abutting homes.

The nearest neighboring building to the west is a single-story house with attached garage and located 8 feet from the common property line. This house has eaves of less than one foot in extension. There is no wall window facing into the applicant's lot and therefore privacy impacts would not be significant due to a one foot adjustment to the east side setback. Total distance between the building walls will be 12 feet which should be sufficient to provide adequate day light and air movement between the houses as well as providing separation for fire protection and access for fire fighting.

The nearest neighboring building to the east is a single-story house. The house is located at 6'-7" from the common property line. It has one window facing the subject site from the dwelling interior. There is also a smaller window with a view from an unfinished attic. A small back entry porch with shed roof extends 3 feet from the house. The house has abbreviated eaves and therefore no portion of the roof line extends toward the side setback. Total distance between the buildings will be 10'-7" feet. Although the reduction is relatively significant on the east property line, the characteristics of the site and design of the home make this proposal remain consistent with the intent of the setback requirement. The relative location of the new home and the abutting development does not restrict light, air and access for fire fighting. The east facing elevation of the proposed house contains three windows. The applicant has placed and sized these windows to protect the privacy of the existing house to the east and that of the future occupants of the new house. Two windows at the second floor level are designed for day light and ventilation and do not allow for extensive views to the property and house to the east. There is a larger first floor window situated toward the back end of the proposed house with no views in to neighboring house to the east.

The applicant also proposes a 6 feet high cedar fence adjacent the side lot lines to mitigate limited impacts on the privacy to the neighboring houses. **As a condition of approval that proposed cedar fence meet the F2, fully sight-obscuring fence standard stated in Section 33.248.020.G, this criterion can be met.**

The Community Design Standards require 1 foot-deep eaves (Section 33.218.100.M.) on the proposed house. The setback reduction must therefore also account for the eave projection. The eaves will be within 3 feet of the east and west property line. The Zoning Code allows minor features, such as eaves, to project into a required setback up to 20 percent of the depth of the setback. For a 5-foot setback, an eave may extend no closer than 4 feet to the property line. The requested Adjustment to allow the eaves to extend into the side setbacks equally meets the relevant points of the purpose statement. The eave will not significantly reduce light and air to the eastern and western abutting lots. The building code requires "one-hour fire rated construction", when the eave will be closer than 3 feet to the property line. Therefore, compliance with applicable building code requirements for the eave on the east side of the home will address fire separation requirements. The eave overhang will not affect the privacy of abutting residences.

For the reasons described above, and the required condition of approval, Approval Criterion A 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.

Findings for B: The proposed house borrows architectural elements from a Folk-Victorian house across the street to enhance the desired character of the Woodlawn Conservation District. These elements include the gable roof, a side entry porch, and an asymmetrical primary façade composition. As noted in the site and vicinity analysis above, the Folk-Victorian house is approximately 22 feet wide and 50 feet in depth. The applicant's proposed house would measure 17 feet wide by 55 feet in depth. The side setback adjustment therefore allows for a house design that is more similar to a contributing resource within the Woodlawn Conservation District in terms of proportions and massing.

As explained under criterion A, the new house will be separated from the abutting residences spatially and visually. The reduction of the building setback along the east property line will not detract from the livability of the residents at 831 NE ROSA PARKS WAY as the applicant has designed the house so that the east facing windows are located to minimize direct views into the adjacent houses. Additionally, the six feet high cedar fence

along the side lot lines provides additional visual privacy. **As a condition of approval that proposed cedar fence meet the F2, fully sight-obscuring fence standard stated in Section 33.248.020.G, this criterion can be met.**

For the reasons described above, and the required condition of approval, Approval Criterion B 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.

Findings for C: Only one adjustment is being requested. *This criterion does not therefore apply.*

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

Findings for D: Neither the site nor the existing development are City-designated scenic resources or historic resources. *This criterion does not therefore apply.*

E. Any impacts resulting from the adjustment are mitigated to the extent practical.

Findings for E: As explained under criterion A and B, so that the reduced side setback will not significantly impact the privacy and livability of adjacent properties, a condition will require that the proposed fencing along the side lot lines be fully site obscuring.

Through compliance with this condition, Criterion E 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 for F: The site is not in an environmental zone. *This criterion does not therefore apply.*

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 requested Adjustment to the side setback standards in 33.110.220.B. Setbacks will result in a development that is more compatible with contributing resources in the Woodlawn Conservation District. The reduced setback still allows for adequate air movement and day light, fire protection, and access for fire fighting. The applicant has designed the proposed house and placed and sized windows so that reduction of the side setbacks to 4 feet from 5 feet will not significantly impact the privacy of the neighboring houses. The use of a 6 feet high cedar fence along the side lot lines further mitigates limited impacts on the privacy of the adjoining properties. The requested Adjustment to allow the eaves to extend into the side setbacks equally meets the relevant points of the purpose statement. The eave will not significantly reduce light and air to the eastern and western abutting lots.

Based on the findings of this report, the applicable approval criteria are met or will be met through compliance with conditions of approval.

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.110.220.B. Setbacks, for the side setback standard per Table 110-3 to 4 feet from 5 feet for the east and west building walls and to 3 feet for the eaves, per the approved site plan, building plans, and building elevations, Exhibits C-1 through C-3, signed and dated August 26, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) 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 08-120592 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A cedar fence along the entire length of the side lot lines, six-feet in height, is required and must meet the F2, fully sight-obscuring fence standard stated in Section 33.248.020.G.

Decision rendered by:  **on August 26, 2008**

By authority of the Director of the Bureau of Development Services

Decision mailed: August 28, 2008

Staff Planner: Justin Fallon Dollard

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 April 7, 2008, and was determined to be complete on April 24, 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 April 7, 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 extended the 20-day review period by 60 days as stated in Exhibit G-4.*

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 9/11/08** 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 **9/12/08 – (the next business 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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

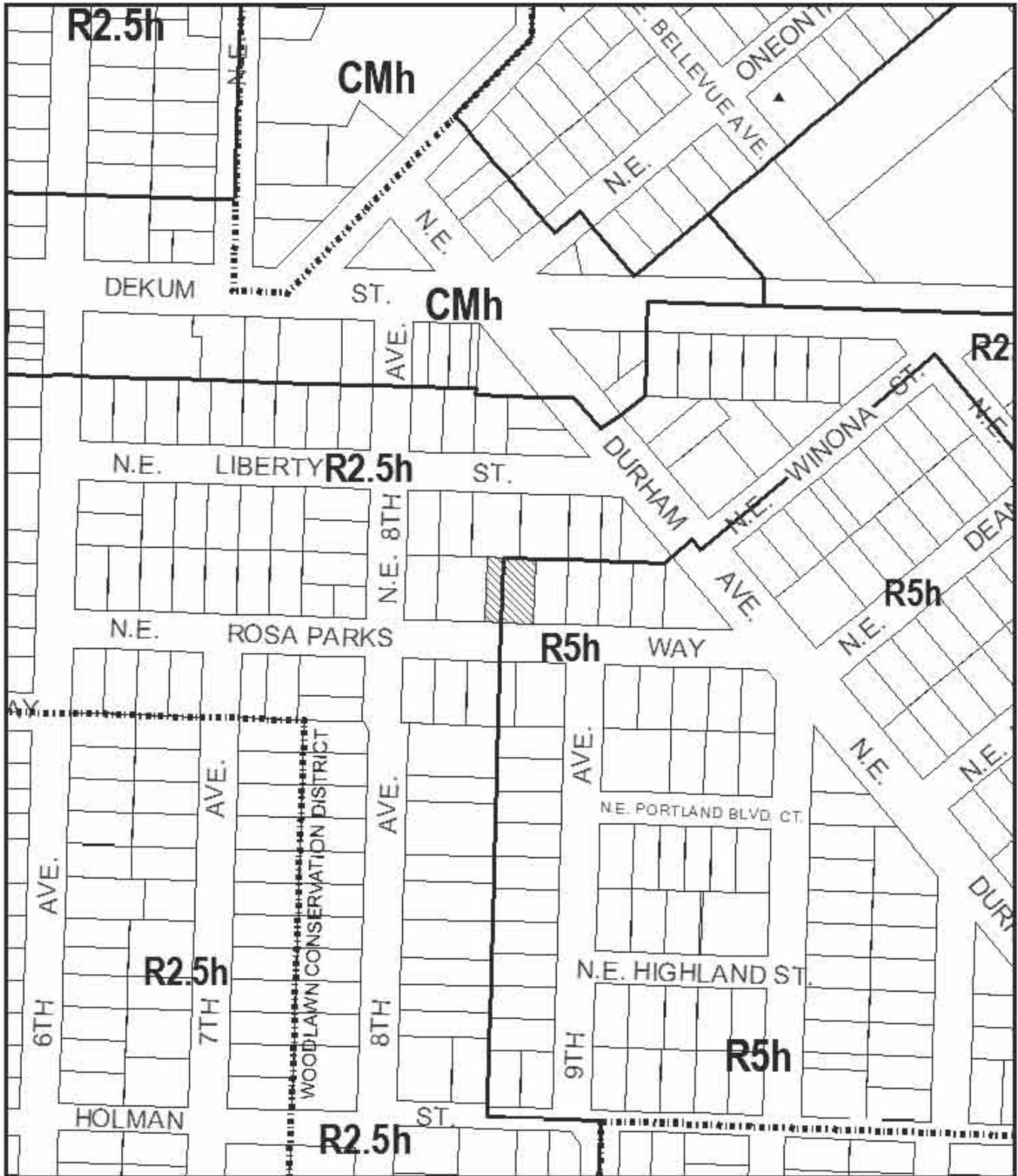
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Building Elevations and Front Perspective (attached)
 - 3. Building Plans
- 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. Life Safety Review Section of BDS
 - 6. Site Development Review Section of BDS
 - 7. Bureau of Parks, Forestry Division
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Lot Confirmation Letter
 - 4. Request to Extend Review Timeline by 60 Days

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).

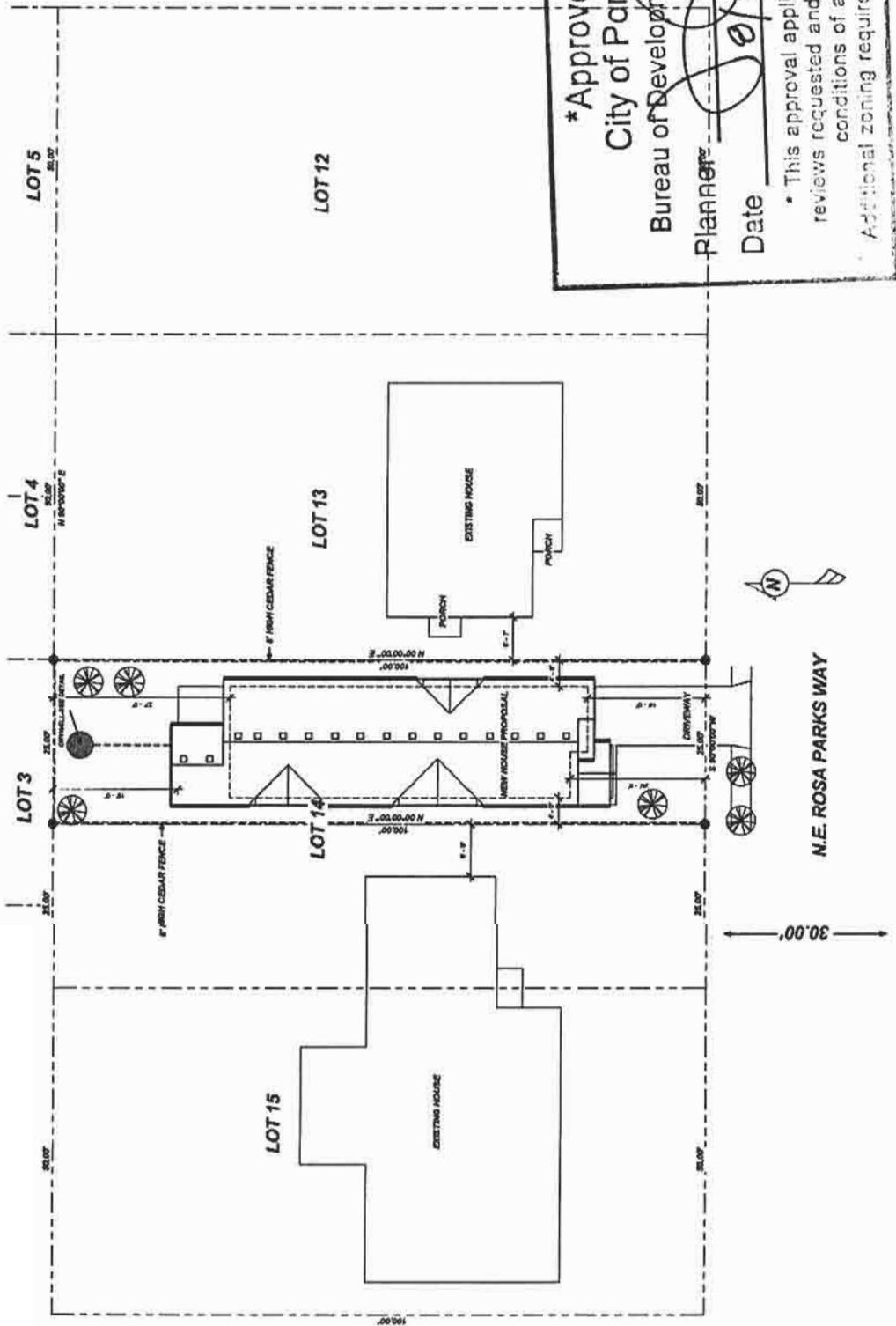


ZONING



This site lies within the:
WOODLAWN CONSERVATION DISTRICT

File No.	LU 08-120592 AD
1/4 Section	2331
Scale	1 inch = 200 feet
State_Id	1N1E14BC 8800
Exhibit	B (Apr 24, 2008)



Approved
 City of Portland
 Bureau of Development Services
 Planner: [Signature]
 Date: 09/26/08

* This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.

CASE NO. 08-120592 AD
 EXHIBIT C-1

