



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: September 16, 2008
To: Interested Person
From: Matt Wickstrom, 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 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 08-151780 AD

GENERAL INFORMATION

Applicant: Glenn E Hamberg
Kingdom Hall of Jehovah's Witnesses
8710 SE 57th Avenue
Portland, OR 97206

Property Owner: Mt Scott Congregation of Jehovah's Witnesses
8710 SE 57th Avenue
Portland, OR 97206

Site Address: 9309 SE MT SCOTT BLVD

Legal Description: TL 1400 1.12 ACRES, SECTION 21 1S 2E
Tax Account No.: R992210310
State ID No.: 1S2E21DB 01400
Quarter Section: 3840
Neighborhood: Lents, contact Judy Welch at 503-771-4667
Business District: Eighty-Second Avenue, contact Nancy Chapin at 503-774-2832
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550

Plan District: Johnson Creek Basin
Zoning: EG2cp (General Employment 2 with an Environmental Conservation overlay and an Environmental Protection overlay)
Case Type: AD (Adjustment)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant plans to construct a 6-foot tall wrought iron fence with 6.5-foot tall brick veneer columns within 2 feet of the SE Mt. Scott Boulevard property line of this site. The fence is proposed to have two electric entry gates for vehicle entrance to the on-site parking areas as well as one pedestrian entry gate. As the SE Mt. Scott Boulevard property line is considered a front property line, the Zoning Code limits the height of the fence to 3.5 feet for the area within 10 feet of that property line (the front setback). The applicant proposes one adjustment to the

fence height standards of the Portland Zoning Code to increase the maximum allowed height of the fence from 3.5 feet to 6 feet (6.5 feet for the columns) within the front setback along SE Mt. Scott Boulevard.

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 one-acre plus site is developed with a single-story church and a surface parking lot. It is located on a cul-de-sac where Mt. Scott Boulevard dead ends at I-205. The site is across the street from a lot developed with a self-service storage use. The Springwater Corridor Trail and Johnson Creek are immediately north of the site. Other surrounding uses include another self-service storage use, industrial buildings and a convenience store.

Zoning: The site is zoned EG2cp (General Employment with Environmental Conservation and Environmental Protection overlays). The EG2 zone allows a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zone is on industrial or industrially-related uses. Religious Institutions are an allowed use in the EG2 zone. The “c” overlay is intended to conserve important environmental features and resources while still allowing compatible development. The “p” overlay provides the highest level of protection to the most important environmental resources and functional values. The proposed fence is not located within the “p” overlay and extends 25 feet into the “c” overlay which is allowed by the Portland Zoning Code.

Land Use History: City records indicate the following prior land use review for this site:

LUR 95-00203: Approval of a Conditional Use for 4,500 square foot church, with up to 70 accessory parking spaces, per the approved site plan and the approved drainage plan. Approval for an amendment to the environmental zone boundary, to relocate the boundary from 60 feet south of the northern property line, to 25 feet south of the northern property line.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **August 15, 2008**. The following Bureaus have responded:

- The Bureau of Environmental Services, the Site Development Section of BDS as well as the Parks and Water Bureaus responded with no concerns (Exhibit E-1).
- The Development Review Section of Portland Transportation responded with no objections provided that the gates of the fence do not swing into the public right-of-way. The response also notes that no encroachment into the pedestrian corridor is allowed and materials and spacing of columns must remain consistent with the proposal to provide a reasonable level of visibility (Exhibit E-2).
- The Fire Bureau responded that all current Fire Code requirements apply and are required to be met. The response also includes conditions of approval regarding the gate. The response states that the minimum unobstructed width shall be 16 feet, or two 10-foot sections with a center post or island. Gates shall be set back a minimum of 30 feet from the intersecting roadway and shall be of the swinging or sliding type. The response notes that manual operation shall be capable by one person, locking devices must be approved by the Fire Department, and electric gates must be equipped with a means for operation by fire department personnel. The response also states that “within boundaries of Portland Fire and Rescue, where no turning movement is required within 30 feet of either side of the gate, the minimum width may be reduced to 14 feet” (Exhibit E-3).
- The Life Safety Section of BDS responded that there appears to be no conflict with the proposal and applicable building codes. The response also notes that a separate building permit is required for the project (Exhibit E-4).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on August 15, 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

Title 33.805.10 Purpose of 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 code's regulations would preclude all use of the site. Adjustment reviews provide flexibility for unusual situations and to 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.

33.805.40 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below are met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant requests one Adjustment to increase the maximum allowed height for a wrought iron fence within the front setback along SE Mt. Scott Boulevard of this site from 3.5 feet to 6 feet (6.5 feet for the columns). The purpose of the fence regulations is listed below:

Purpose 33.110.255 Fences

The fence standards promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance decrease the sense of community, hinder emergency access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.

Through the design and materials of the fence and gate, the positive benefits of fences are met without negatively impacting the community or endangering public or vehicle safety. The fence is proposed to be constructed of wrought iron, an aesthetically superior material when compared to chain link fences. The wrought iron design which includes generous spacing between the vertical elements of the fence will not restrict views into the site from the surrounding area. This is an important factor in maintaining a sense of community and continuing to allow police and community surveillance of the site. Because the fence and gate will not diminish views into the site from the street and surrounding properties, the proposal will not result in the creation of a "street wall". A street wall would be created were the fence proposed to be constructed of solid, sight obscuring materials. Emergency access to the site will be maintained as well. The Fire Bureau reviewer provided a list of requirements for gates to meet Fire Code standards. To ensure that these standards are met, a condition of approval has been included with this review which requires that the gate meet Fire Code requirements as determined by the Fire Bureau. The fence will be located on private property and therefore will not inhibit the safe movement of pedestrians using the sidewalk or accessing the Springwater Corridor Trail north of the site. In order to ensure the safe movement of pedestrians, a condition of approval has been added to this review which states that the gate of the fence may not swing out into the public right-of-way. As the property owner is able to leave

the gate open during church services and other on-site activities, the fence and gate also should not hinder the safe movement of vehicles. Based on this information, 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 site is located on SE Mt. Scott Boulevard. The Transportation System Plan classifies SE Mt. Scott Boulevard in this location as a local street in all classifications. The reviewer from PDOT responded with no objections to the proposal and noted that the gate cannot swing out into the public right-of-way. A condition of approval has been added to this review to ensure that the gate is designed in such a manner that it will not conflict with the public right-of-way. With this condition, this criterion is met.

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

Findings: No impacts from the requested Adjustment are expected. The fence is well designed and will be constructed of aesthetically superior materials when compared to chain link fences. The design of the fence and gate will still allow views of the site and from the site which limits impacts. In addition, two conditions of approval are included with this review to further ensure that no negative impacts occur. The operation and design of the gate of the fence is required to meet requirements of the Fire Code as determined by the Fire Bureau. The gate is also not allowed to extend out over the public right-of-way and must either be sliding or a gate which swings inward. Based on this information, 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.
- D.** City designated scenic resources and historic resources are preserved; and
- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resources and resource value as is practical.

Findings: Only one adjustment is requested, the site does not contain any identified scenic or historic resources and the site is not located in an environmental zone; therefore, these criterion are not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

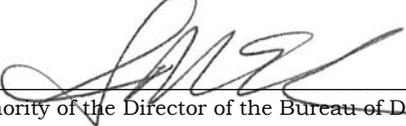
CONCLUSIONS

The applicant proposes one Adjustment associated with the planned construction of a 6-foot tall fence (6.5 feet to the top of the columns) and entry gate along the south property line of this site. As noted in this report, the proposal is able to meet the Adjustment approval criteria with approval granted based on the materials and design of the fence which preserves views of the site and from the site, as well as two conditions of approval which require that the gate meet Fire Code requirements and does not swing out into the public right-of-way. With approval requiring that the permit drawings substantially conform with the elevation drawing and site plan attached, the request meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.140.275.C.1.a to increase the maximum allowed height of a wrought iron fence within the front setback along the SE Mt. Scott Boulevard property line from 3.5 feet to 6 feet (6.5 feet to the top of the columns), per the approved site plan and elevation drawing, Exhibit C-1, signed and dated September 12, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) 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 08-151780 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The operation and design of the gate of the fence must meet requirements of the Fire Code as determined by the Fire Bureau.
- C. The building permit site plan must note that the gate is not allowed to extend out over the public right-of-way and must either be a sliding gate or a gate which swings inward.

Decision rendered by:  **on September 12, 2008**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 16, 2008

Staff Planner: Matt Wickstrom

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 August 1, 2008, and was determined to be complete on August 12, 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 August 1, 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 September 30, 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 **October 1, 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.

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:

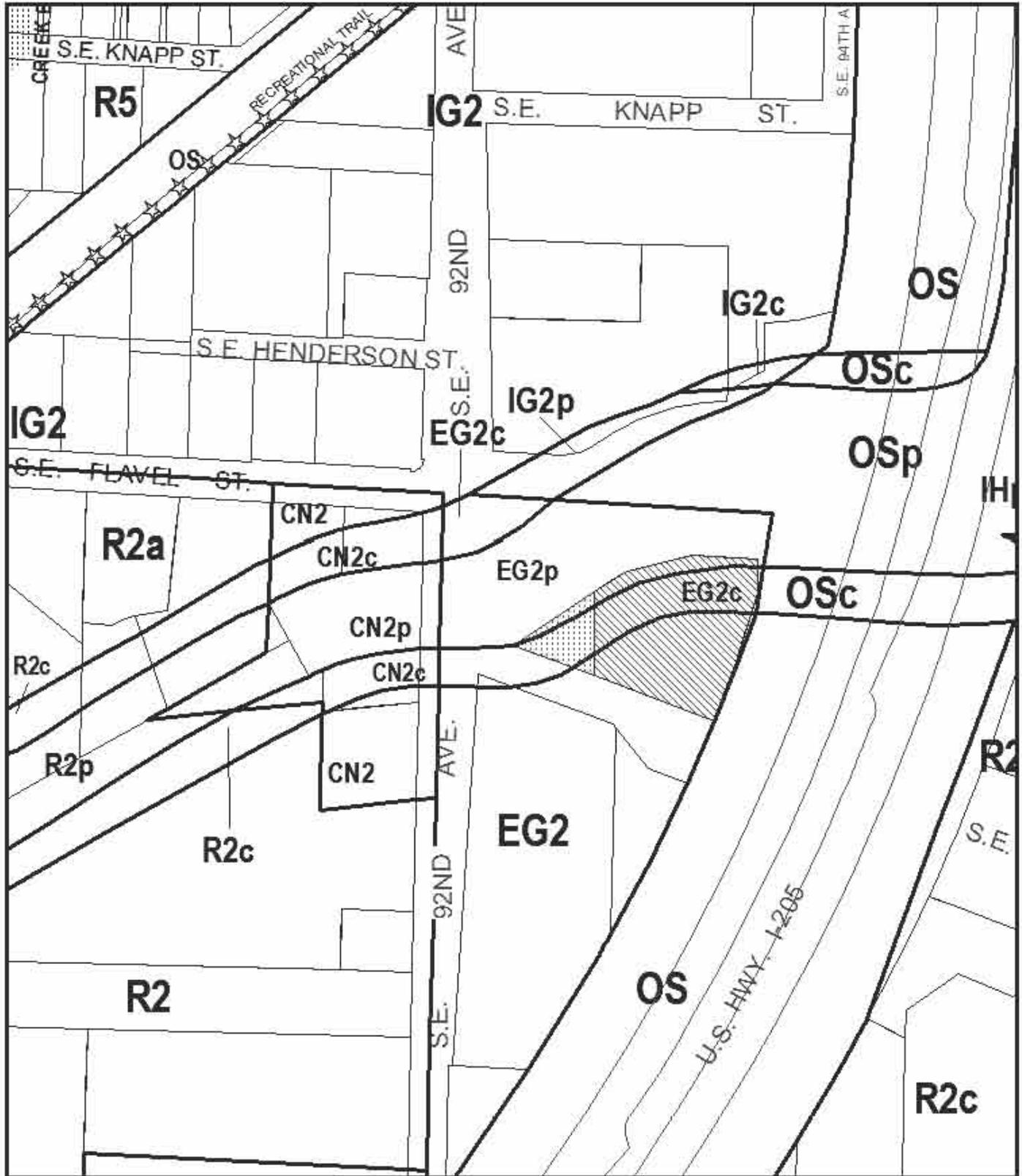
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan and Elevation Drawing (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Summary Sheet of Bureau Responses
 2. Development Review Section of Portland Transportation
 3. Fire Bureau
 4. Life Safety Section of BDS
- F. Correspondence: None received
- G. Other: 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
-  Also Owned

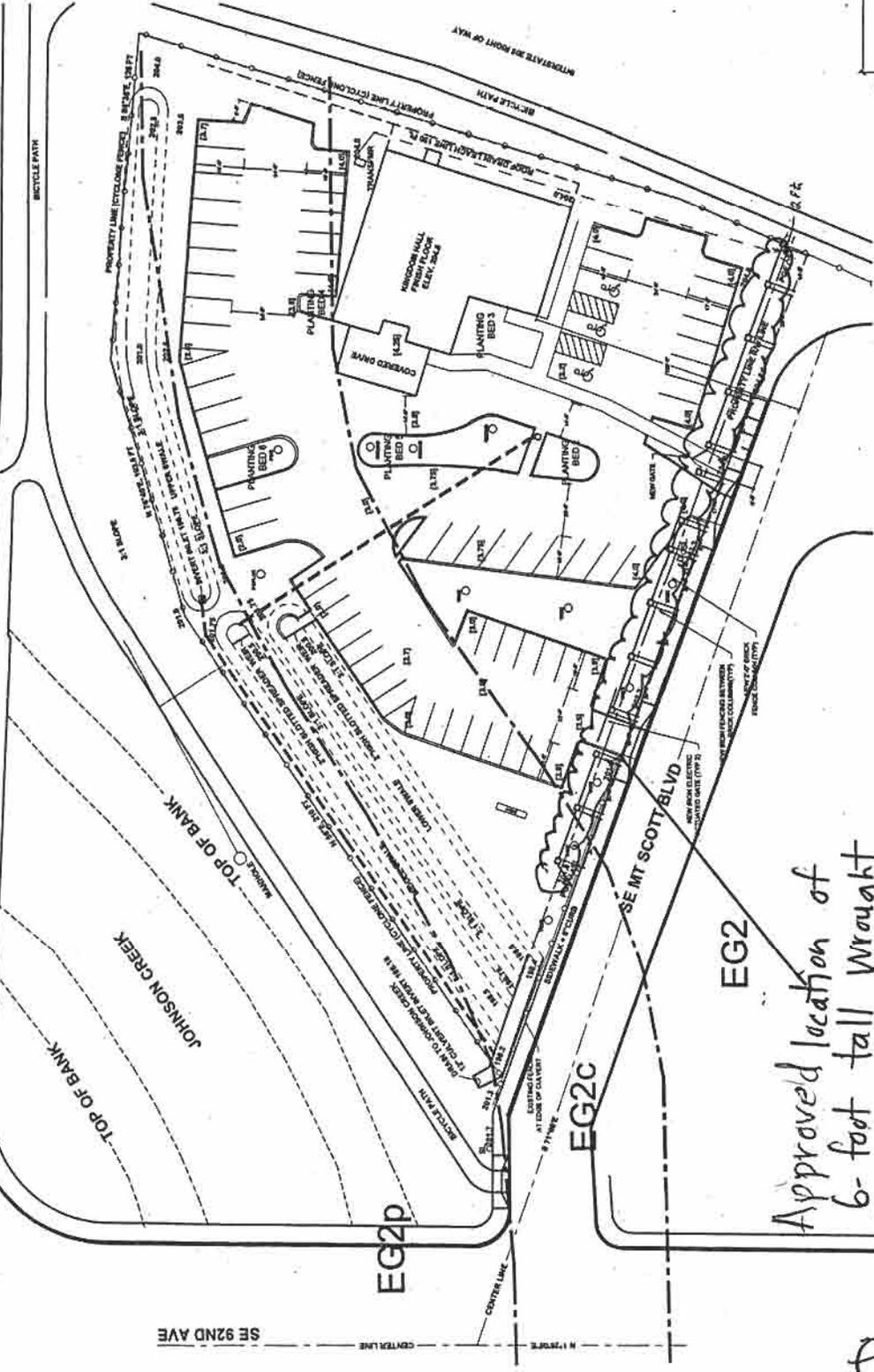


This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	LU 08-151780 AD
1/4 Section	3840
Scale	1 inch = 200 feet
State Id	1S2E21DB 1400
Exhibit	B (Aug 04, 2008)

Approved Adjustment to allow 6-foot tall fence within front setback where fence height is limited to 3.5 feet.

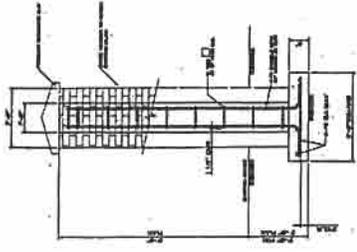
- 1. METAL POST BRACE FOURTY AND SIXTY FENCE WITH SELECTED ADJUSTED METAL ALONG BOUNDARY LINE IS FOR PROPERTY LINE AND COLUMN BRACE FOR POWER POLE NEAR SOUTHWEST ENTRANCE.
- 2. PRIMARY HOME IS OUTSIDE OF ENVIRONMENTAL ZONING BOUNDARY EGIN WHICH IMPOSES THE NEAREST SIDE OF PROPERTY. HOME WORKS 25 FEET OF EGIN LIMITS ARE ALLOWABLE FOR EGIN.
- 3. GENERAL NOTES:
 1. FENCE CITY OF FORTWORTH DESIGN MAP 2008.
 2. GATE OPERATOR AND BLADE SIZE CLEARANCES ARE TO BE INSTALLED PER CODE REQUIREMENTS SUCH AS:
 - 2.1. A. BLADE SIZE OPERATOR TO NOT BE LESS THAN 18" CLEARANCE TO BE MAINTAINED OR 18" CLEARANCE FROM ADJACENT PARALLEL DRIVEWAYS.



1. PROPOSED SITE PLAN
SCALE: 1/8" = 1'-0"

Approved location of 6-foot tall wrought iron fence with 6.5-foot tall columns located within 2 feet of front property line along SE Mt. Scott Blvd.

Exhibit C-1



3. TYPICAL COLUMN
SCALE: 1/4" = 1'-0"



2. TYPICAL FENCE SECTION
SCALE: 1/4" = 1'-0"

08-151780 AD