



City of Portland, Oregon
Bureau of Development Services
Land Use Services

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Date: June 2, 2009
To: Interested Person
From: Crystal Hitchings, Land Use Services
503-823-7583 / Crystal.Hitchings@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 09-123672 AD

GENERAL INFORMATION

Applicants: Bruce Howard and Charles Stone
Palazzo Custom Homes, LLC.
211 NE Weidler Street
Portland OR 97232

Interested Party: RWI Inc.
16155 NW Jenne Lake Ct
Beaverton, OR 97006

Site Address: Lot to south of 3427 N Gantenbein Avenue

Legal Description: TL 2700 0.07 ACRES, SECTION 27 1 N 1 E
Tax Account No.: R941270100
State ID No.: 1N1E27AB 02700
Quarter Section: 2730

Neighborhood: Boise, contact Christopher Sahli at 503-807-7905;
Eliot, contact Mike Warwick at 503-284-7010

Business District: North-Northeast Business Assoc, contact Joice Taylor at
503-445-1321; North Portland Business Assoc, contact Jim Schaller at
503-517-9915.

District Coalition: Northeast Coalition of Neighborhoods, contact Lauren McCartney at
503-823-4135.

Plan District: Albina Community

Zoning: R1a, Multi-dwelling Residential with an Alternative Design Density
Overlay Zone

Case Type: AD, Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment
Committee.

Proposal:

The applicant is requesting an Adjustment to minimum density requirements in order to construct a new single-dwelling residential structure on a 3,240 square foot lot. In the R1 zone, if the site is less than 10,000 square feet in area, the minimum density is 1 unit per 2,000 square feet. Minimum density is calculated by dividing 3,240 by 2,000. The minimum density for this site is 1.62 units, and the number must be rounded to the next whole number, which results in a minimum required density of 2 dwelling units. Therefore, an **Adjustment to Zoning Code Section 33.120.205.C and Table 120-3, Minimum Density**, must be approved in order to construct 1 dwelling unit on this site.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The 3,240 square foot site is located on the west side of N. Gantenbein Avenue, four lots south of N. Fremont Street. The site is currently undeveloped.

Within 200 feet of the subject site, development is a mixture of residential, commercial, and institutional, but predominantly consists of single-dwelling homes. To the south are residentially developed sites (including one multi-dwelling residence), a parking lot associated with the American Red-Cross office/medical use located nearby, undeveloped land, and an Interstate 5 ramp with access to N Cook Street and N Kerby Avenue. Further to the south is Emanuel Hospital. To the north are single-dwelling residentially developed sites and undeveloped land. To the west are the Open Door House of Prayer, other land associated with the church, the Boise-Eliot Community Garden, and single-dwelling residentially developed sites. To the east, across N. Gantenbein, are single-dwelling residences, and along N Vancouver Avenue are vacant commercially developed sites.

Zoning: The site is zoned R1a, Multi-dwelling Residential 1,000 with an Alternative Design Density Overlay Zone. The multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The R1 zone is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses.

The purpose of the Alternative Design Density (“a”) Overlay Zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements. The R1 zone requires a minimum density of 1 unit per 2,000 square feet of site area. The application does not take advantage of the additional density allowances provided by the “a” overlay zone, and therefore the standards of this zone are not applicable to the proposal.

Nearby zoning is multi-dwelling, employment, and commercial. Properties to the north and west are also zoned R1a, properties to the east are zoned EXd (Central Employment with a Design Overlay Zone), and properties to the south are zoned CG (General Commercial). Properties further to the southeast are zoned RX (Central Residential, and properties further to the northwest are zoned R2.5a (Single-dwelling Residential with an Alternative Design Density Overlay Zone).

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A “Request for Response” was mailed on May 4, 2009. The following Bureaus have responded with no issues or concerns (Exhibits E.1-E.7):

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

Neighborhood Review: A “Notice of Proposal in Your Neighborhood” was mailed on May 4, 2009. No written responses were 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 providing 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 **Section 33.120.205, Density**. The purpose statement for this regulation is as follows:

The number of dwellings per unit of land, the density, is controlled so that housing can match the availability of public services and the availability of support commercial areas. The standards also allow the housing density to be matched with the carrying capacity of the land. In addition, the density standards are used as one type of control of overall building bulk. In areas with the highest level of public services, the minimum density standards ensure that the service capacity is not wasted and that the City's housing goals are met.

The availability of public services is adequate to serve the proposed use of the land as a single-dwelling site. Several bus stops are located in the nearby vicinity. The stop on N. Vancouver and N. Ivy, which is approximately 265 feet away from the site, is served by routes #4, #33, and #44. Martin Luther King Jr. Boulevard, which is located less than a half mile away, is served by the #6 busline, which is a frequent service transit option. The #6 and #4 busses offer 15-minute or better service all day, every day. On weekdays, the #33 bus offers 20-minute or better service during peak hours only. N. Vancouver and N. Williams Streets, and a portion of N. Cook Street, are classified as Neighborhood Collectors. The I-5 ramp is located approximately 500 feet to the south. Streets in the area are typically developed with curbs and sidewalks, and most streets also have planting strips. The Legacy Emanuel Hospital is located approximately 900

feet to the south of the site. Within ½ mile of the site, there are 5 parks, 1 community garden, and 1 middle school.

Although a number of commercially and industrially developed lots exist within 1,000 feet of the subject site, many of these lots are vacant, left boarded up and rundown. Other lots zoned for commercial, employment, and high-density mixed-use residential are undeveloped. Within 1,000 feet from the subject site, operating commercial uses include a pizza shop, a Hostess retail store, a window covering supplier, a soul food restaurant, a Christian center, a dry cleaner, and two small commercial complexes with office, retail, and food service uses. More substantial and consistent commercial areas begin at NE Martin Luther King Jr. Boulevard, about 1,850 feet to the east; at N. Mississippi Avenue, about 1,580 feet to the west; and along N. Williams Avenue, beginning about 2,570 feet to the south, with the closest commercial node being along N. Williams Avenue, beginning about 850 feet to the north. At this time, the commercial capacity of the area is under-utilized.

The majority of the residential area within 1,000 feet of the subject site is developed with single-dwelling homes, with some multi-dwelling developments, and zoning is both single- and multi-dwelling. About 1/3 of the residentially-zoned lots within 200 feet of the subject site are undeveloped.

The multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. Housing is goal #4 of the Portland Comprehensive Plan, and this includes 15 goals related to housing, with an overarching goal to enhance Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs, and locations that accommodate the needs, preferences, and financial capabilities of current and future households. The proposal to build a single-dwelling home on a multi-dwelling zoned lot does not preclude these goals. Opportunities for multi-dwelling housing are still preserved, both on the subject site and in the nearby area. The proposed two-story home has a footprint of approximately 1,313 square feet, and the rear yard is approximately 2,125 square feet in area. This means that in the future, the single-dwelling home could be converted into a modest duplex, added on to and converted into a larger duplex or a triplex, or a smaller, detached home or ADU could potentially be constructed on the site. The site is only 340 square feet larger than a site that would be allowed to be developed with a single-dwelling home by right, and therefore, although the capacity of the land to contain multi-dwelling housing does exist, the capacity of the site is not significantly greater than the proposed use of the site.

Compared to the larger neighborhood, the area within 1,000 feet of the subject site does not contain "the highest level" of public services or supporting commercial uses, and so the service capacity is not wasted. However, the available services are adequate to serve the proposed use. The carrying capacity of the land is not significantly underutilized by the proposal to construct a single-dwelling home. Should commercial development rebound in the area, and vacant commercial sites be re-developed, and should increased housing demands arise from this re-development, the opportunity to construct multi-dwelling housing on the subject site at a later date is not precluded by the current proposal to construct a single-dwelling home. Additionally, duplex and multi-dwelling potential exists on other lots in the immediate vicinity. Therefore, the purpose statement for minimum density is equally met 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; and

Findings: The request is for a single-dwelling residential home in an area that is predominantly developed with single-dwelling residential homes and contains

undeveloped or vacant lots. The proposed house is consistent with the appearance and character of the surrounding residential neighborhood. The proposed house and remaining outdoor area on the site retain the capacity for multi-dwelling housing to be developed on the site if future commercial and residential growth in the nearby area demands additional housing opportunities on the site. 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: The development of a single-dwelling home on this site does not preclude future opportunities for increased density on this site, and provides an immediate housing opportunity on an undeveloped site in an underdeveloped neighborhood. No discernible impacts would result from granting the requested adjustment. This criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not within an environmental zone. 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 request to develop the subject site with a single-dwelling home rather than a duplex results in a proposal that provides immediate single-dwelling housing opportunities without precluding future increases in density. All approval criteria are met, and this Adjustment should be approved.

ADMINISTRATIVE DECISION

Approval of an **Adjustment** to Zoning Code **Section 33.120.205.C and Table 120-3, Minimum Density**, to allow a single-dwelling unit to be constructed on the subject site.

Staff Planner: Crystal Hitchings



Decision rendered by: _____ **on May 29, 2009.**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 2, 2009

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 23, 2009, and was determined to be complete on April 30, 2009.

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 23, 2009.

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. Unless further extended by the applicant, **the 120 days will expire on: August 25, 2009.**

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 June 16, 2009** 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 **June 17, 2009 – (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:

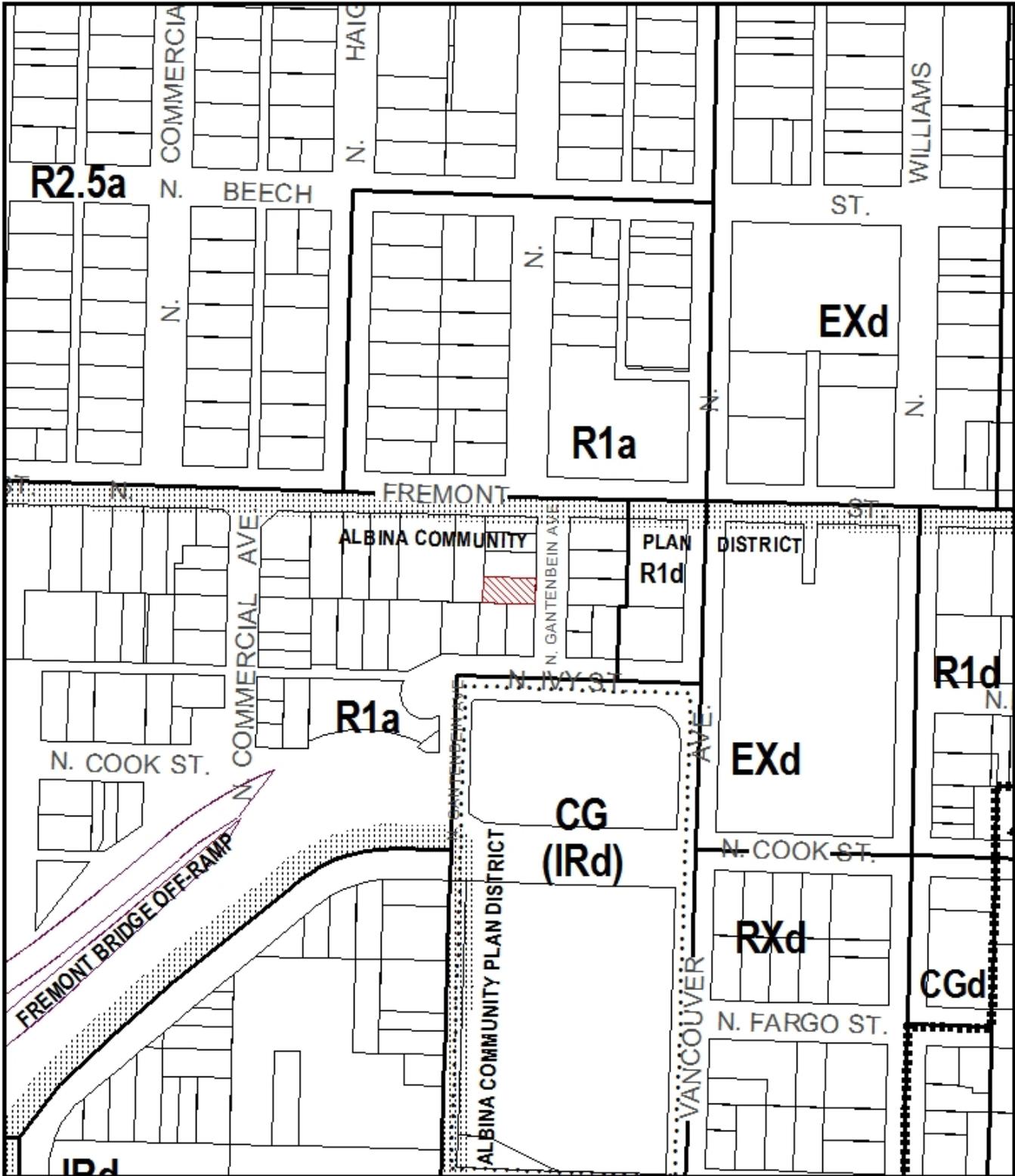
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Site Development Review Section of BDS
 - 2. Life Safety Bureau
 - 3. Fire Bureau
 - 4. Bureau of Environmental Services
 - 5. Bureau of Transportation Engineering and Development Review
 - 6. Water Bureau
 - 7. Bureau of Parks, Forestry Division
- F. Correspondence:
 - None Received
- 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 503-823-7300 (TTY 503-823-6868).



ZONING

 Site



This site lies within the:
ALBINA COMMUNITY PLAN DISTRICT

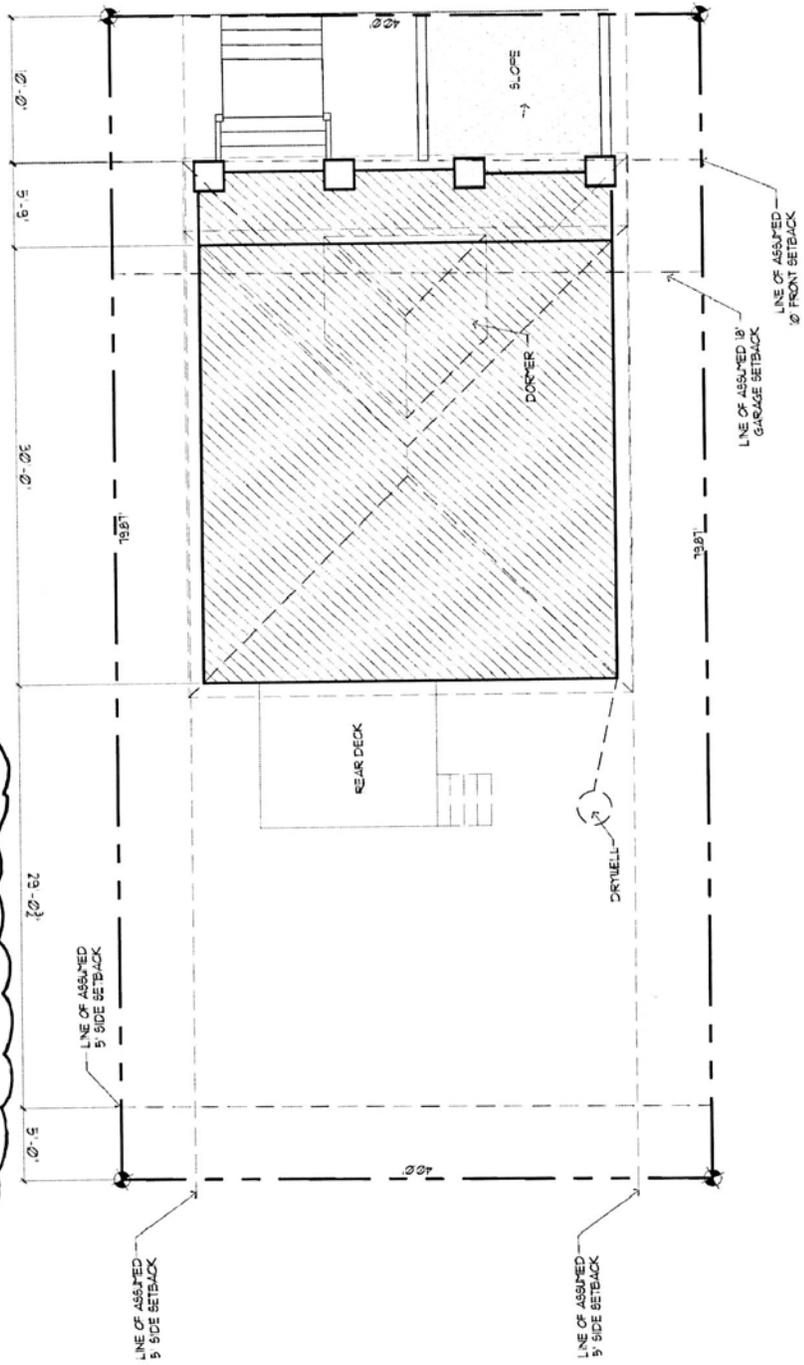
File No.	LU 09-123672 AD
1/4 Section	2730
Scale	1 inch = 200 feet
State_Id	1N1E27AB 2700
Exhibit	B (Apr 28, 2009)

SUBMISSION INFORMATION	
DATE:	
SCALE:	
JOB NUMBER:	
OWNER:	
DESIGNER:	
CHECKED BY:	

SHEET INFORMATION	
SHEET NUMBER:	C0.01
SHEET TOTAL:	

± OF N GANTENBEIN AVENUE, A 50'-0" ROW

*Conceptual Site Plan.
 Actual development may vary.*



SITE PLAN
 SCALE: 1" = 10'-0"

09 - 123672AD