

City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

Date: July 19, 2012 **To:** Interested Person

From: Emily Sandy, Land Use Services

503-823-7828 / Emily.Sandy@portlandoregon.gov

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 the version located on the BDS website http://www.portlandonline.com/bds/index.cfm?c=46429. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 12-149676 AD GENERAL INFORMATION

Applicant: Nicole L Lennol

1160 NE Lenore St / Portland, OR 97211

Site Address: 1160 NE LENORE ST

Legal Description: BLOCK 29 LOT 7&8, WOODLAWN

Tax Account No.: R925803920 **State ID No.:** 1N1E14BD 02800

Quarter Section: 2331

Neighborhood: Woodlawn, contact Anjala Ehelebe at 503-805-6325.

Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321. **District Coalition:** Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-

823-4575.

Zoning: R5h, Single Dwelling Residential 5,000 sq. ft., with an "h" Aircraft

Landing overlay zone

Case Type: AD, Adjustment

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

Committee.

The site has an administrative application currently under review for a lot confirmation and property line adjustment (12-138165 PR) to relocate a property line parallel to NE Bellevue Avenue and enable a building site on the corner of NE Lenore Street and NE Bellevue Avenue. The existing garage will be demolished. No parking is required on the site because it is located within 500' of a transit street with 20-minute peak hour service. In order to meet the minimum lot width of the R5 zone, 36', the relocated property line will be located 3.3' from the side of the existing house. The required minimum building setback from side lot lines in R5 zone is 5'. Therefore, the existing house will not meet the minimum side building setback. An adjustment to side setback from the existing house to the relocated property line from 5' to 3.3' is required. The lot confirmation and property line adjustment application is not the subject of this land use review. Rather, only the reduced setback for the existing house to the relocated property line is the subject of this land use review.

ANALYSIS

Site and Vicinity: The area is zoned and developed primarily with single family houses that vary in building age, style, and number of stories. Lots are fairly consistently sized at 5,000 square feet (50' x 100'), with the occasional property made up of two 5,000 square foot lots for a 10,000 square foot property (100' x 100'). The subject site is currently made up of two 5,000 square foot lots for at total of 10,000 square feet. The subject site is developed with a single-dwelling, one-story ranch style house located mostly on the southwest part of the lot (on the right side of the lot, if facing the house). The larger side yard at the corner of NE Lenore and NE Bellevue is developed with a one-story detached garage which will be demolished prior to the future lot confirmation and property line adjustment.

Zoning: The site is zoned R5, Single-dwelling residential with an average density of one lot per 5,000 square feet. Individual lots may be 3,000 square feet and 36' wide. Smaller lots are allowed in some cases on vacant sites. The property also has an "h" overlay zone, which 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 adjustment does not include proposals for new development.

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 **June 21, 2012**. The following Bureaus have responded with no issues or concerns:

- Bureau of Parks-Forestry Division
- Fire Bureau
- Site Development Section of Bureau of Development Services
- Bureau of Environmental Services-Pollution Prevention
- Bureau of Environmental Services-Watershed

The Bureau of Environmental Services-Development Review responded with the following comment: Exhibit E-1 contains additional details.

Although the property line adjustment (PLA) currently under review is not the subject of this land use review, BES stormwater requirements could be impacted by this Adjustment Review (refer to #12-138165-PR). As identified under PLA #12-138165, it is not clear where the storm system for the existing house is located in relation to the proposed adjusted property line (on the east side of the house). BES needs information regarding what type of system exists for the house (i.e., a drywell system or downspouts are connected to the public combined sewer system) and where it is located in relation to the eastern property line in order to determine what BES stormwater requirements apply and where a stormwater system will be located in relation to the proposed adjusted property line on the east side of the house. In order for BES to support this land use review, stormwater information would need to be provided prior to land use review approval. However, BES has no specific approval criteria related to Adjustments.

Staff Comment: The approval criteria for adjustments do not refer to the availability of services such as stormwater management facilities. Therefore, there is no nexus to require information regarding stormwater management in association with this adjustment request. However, the approval standards for Property Line Adjustments (PCC 33.667) specifically refer to maintaining availability of services, which includes stormwater management. Prior to the approval of the Property Line Adjustment (12-138165 PR), BES' concerns regarding stormwater management must be addressed. However, the concerns do not pertain to this adjustment to reduce the side setback, specifically, and do not need to be addressed at this time.

The Bureau of Transportation Engineering responded with no objections to the adjustment. The response advised that at the time of building permit on future Tract 1, the existing driveway apron will need to be closed, or an alternate on-site parking space provided where the driveway throat is a minimum of 25' from the intersection is provided: Exhibit E-2 contains additional details.

The Water Bureau responded with comments but no concerns: Exhibit E-3 contains additional details.

The Life Safety section of the Bureau of Development Services responded with comments but no concerns: Exhibit E-4 contains additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 21, 2012. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

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.

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 purpose statement for setback regulations follows:

33.110.220 Setbacks

Purpose: The building setback regulations 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 neighborhoods;
- 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 potential impact of the reduced side setback is two-fold; one to the existing development which will have a reduced distance to the property line, and one to the future vacant corner lot which will have abutting development (the existing house) with a reduced setback. The setback reduction is minimal, 1.7' causing little if no effect on the applicable purposes of the setback regulations. With a distance of 8.3' between buildings, coupled with the fact that the existing development is one-story, the reduced setback provides equal potential for light, air, fire protection, privacy, and physical relationship between residences. The reduced setback will allow the future Tract 1 to meet the minimum lot width of 36' for adjusted lots which will provide for flexibility of site planning, adequate front yard and other outdoor areas. The building scale and placement of the future development will either need to meet zoning code standards or be reviewed through design review or adjustment review at a future date. This criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The reduction in side setback by just over 1.5' is a minimal adjustment request and will have no significant effects on the livability or appearance of the neighborhood as 8.3' of distance between buildings will be maintained. Future development on future Tract 1 will need to meet the 5' setback, or be reviewed under a separate adjustment application that will address that development future development specifically. 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: The site is located within the Woodlawn Conservation District. Conservation districts are designated by the City of Portland. This designation is applied to an area that contains a concentration of related historic resources. The level of historic significance is generally "lower" than for historic districts; they are generally important at the local or neighborhood level rather than at the state, region, or national level. A distinction between "contributing" and "non-contributing" resources is also made in these districts. Conservation districts are located in North and Northeast Portland and were created as part of the Albina Community Plan in 1993.

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. Other styles include Cape Cod, Ranch and Mock-Tudor. The existing house at the subject site is listed as non-contributing building in the conservation district. Thus, the reduced side setback does not have an impact on the preservation of historic resources in the district. This criterion is met.

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

Findings: The existing house with the reduced setback will have minimal impact on light, air, and privacy on the future Tract 1--mitigated by the fact that the existing house with the reduced setback is just one-story. The setback for development on future Tract 1 must either meet the standard setback of 5', or go through an adjustment process to evaluate the appropriateness of the specific proposal. Thus, the impact on the existing house will be evaluated at a future date, if an adjustment is requested. Therefore, 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 adjustment request equally or better meets the purpose of setback regulations, does not detract from the livability or appearance of the neighborhood, and does not affect the preservation of historic resources.

ADMINISTRATIVE DECISION

Approval of an adjustment to PCC 33.110.220 to reduce the side setback for the building wall from 5' to 3.3' (and eaves to 2.3') resulting from a lot confirmation and property line adjustment, per the approved site plan, Exhibit C-1, signed and dated July 17, 2012.

Staff Planner: Emily Sandy

Decision rendered by:

By authority of the Director of the Bureau of Development Services

On July 17, 2012.

Decision mailed: July 20, 2012

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 June 12, 2012, and was determined to be complete on **June 19, 2012**.

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 June 12, 2012.

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: October 10, 2012.**

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 August 3, 2012,** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, 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 August 4, 2012.
- 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. Northeast Side Elevation
- 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. Life Safety Section-Bureau of Development Services
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



