



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

FROM CONCEPT TO CONSTRUCTION

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Date: December 19, 2013
To: Interested Person
From: Sylvia Cate, 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 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 13-212003 AD

GENERAL INFORMATION

Applicant: Matthew McCune
McCune Design
2812 NE 8th Avenue / Portland, OR 97212

Property-Owner: Bethany McCraw
2036 NW 21st Place / Portland, OR 97210

Site Address: 2036 NW 21st Place

Legal Description: Block 11 N 33 1/3' of W 67' of Lot 7, Blackstones Add
Tax Account No.: R080300880
State ID No.: 1N1E28CA 01900 **Quarter Section:** 2827
Neighborhood: Northwest District, contact John Bradley at 503-313-7574
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212
Plan District: Guilds Lake Industrial Sanctuary
Zoning: IG1 General Industrial 1
Case Type: Adjustment (AD)
Procedure: Type II, Administrative decision with appeal to Adjustment Committee

PROPOSAL

The applicant is proposing to establish an Accessory Home Occupation (a hair salon) in the basement level of the existing single-dwelling house on the site. A portion of the basement was historically used as a garage (8'7" in width by 21' in depth), and accessed from NW Wilson Street. The garage entrance is set back 8' from the property line along NW Wilson Street. As part of the proposal, the carriage doors that accessed the garage will be replaced by a door and a window. The driveway will be converted to a patio area, and the curb cut closed.

The Zoning Code requires one on-site parking space for single-dwelling residences (no parking is required for an Accessory Home Occupation). The applicant is requesting an Adjustment to waive the one required on-site parking space.

Relevant Approval Criteria:

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

- 33.805.040.A-F, Adjustments

ANALYSIS

Site and Vicinity: The site is a 2,233 square foot lot developed with a 1,408 square foot single dwelling home built circa 1906. The house is located at the northerly end of a block face that was developed with single dwelling homes circa 1906. Surrounding development to the north west and east is primarily industrial in character. South of the site are the flyover ramps from I-405 to US Hwy 30.

Zoning: The site is located in the IG1, General Industrial 1 zone. IG1 areas generally have smaller lots and a grid block pattern. The area is mostly developed, with sites having high building coverages and buildings which are usually close to the street. IG1 areas tend to be the City's older industrial areas.

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

Agency Review: A "Notice of Proposal" was mailed **October 17, 2013**. The following Bureaus have responded with no issues or concerns:

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

The Water Bureau responded with no concerns, but included comments pertinent to a building permit review.

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the Notice of 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 of the regulation to be Adjusted is found at 33.266.110.A., Purpose, which states:

A. Purpose. *The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking.*

The site is located within an IG1 zone, on a block face developed with single dwelling houses at the turn of the 20th century. Overtime, the zoning in the area changed [ZC 4684] making these home non-conforming residential uses. Because of the surrounding industrial development and uses, on-street parking pressures are limited due to the associated parking lots serving the industrial uses. The applicant also submitted a parking survey to document the number of available on street parking spaces in the immediate area. [Exhibit A-2]. The site is also within 690 feet of a transit stop, and the existing street grid provides connecting pedestrian facilities. Based on these facts, the proposed elimination of one on-site parking space equally meets the regulation as adequate on-street parking is available for visitors, residents and customers to the hair salon. For these reasons, 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 proposal will include the removal of the driveway and replacing it with a sitting area/patio which will improve the appearance of the streetscape as well as enhance the livability for the applicant and add to the existing character of this small pocket of residential development in this industrially-zoned and developed area. However, the site is not in a residential zone, it is within an Industrial zone. NW 21st Place is a one block long, ending in a cul de sac, and is designated a Local Service Street. The proposal will be consistent with this street classification. The request would result in the removal of one on-site parking space. Given this modest reduction in parking and the survey of available on street parking spaces, the proposal will have *de minimus* impact on the desired character of the area. For these reasons, 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: There are no discernible impacts that 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: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As 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

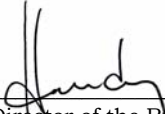
The applicant has requested an Adjustment to eliminate one on-site parking space [garage] in order to utilize the remodeled structure as an Accessory Home Occupation (a hair salon) in a portion of the basement of the house and existing garage. The proposal meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of:

- An Adjustment to 33.266.110.B. and Table 266-2, to eliminate one on-site parking space, per the approved site plans, Exhibit C-1, signed and dated December 13, 2013, subject to the following condition:
 - A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-212003 AD."

Staff Planner: Sylvia Cate

Decision rendered by:  **on December 13, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 19, 2013

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 October 2, 2013, and was determined to be complete on October 17, 2013.

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 October 2, 2013.

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: February 14, 2014.**

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 January 2, 2014** 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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, 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 **January 3, 2013**.
- 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.

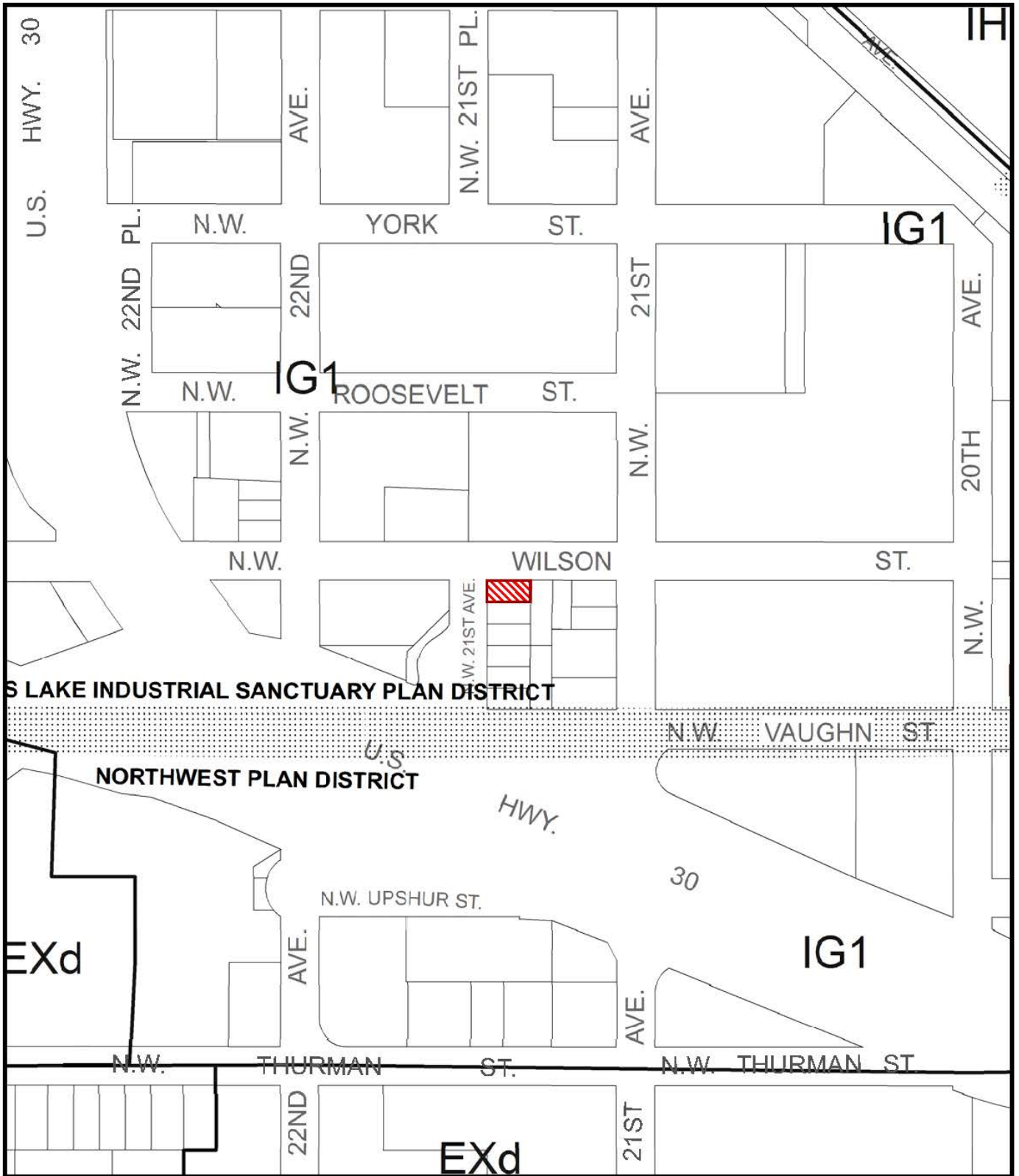
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Floor Plan
- 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. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
- F. Correspondence: None received
- 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).



ZONING



Site



This site lies within the:
GUILD'S LAKE INDUSTRIAL SANCTUARY PLAN DISTRICT

File No. LU 13-212003 AD
 1/4 Section 2827
 Scale 1 inch = 200 feet
 State_Id 1N1E28CA 1900
 Exhibit B (Oct 09,2013)

