City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
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Date: December 20, 2013

To: Interested Person

From: Matt Wickstrom, Land Use Services
503-823-6825 / Matt.Wickstrom@portlandoregon.gov

NOTICE OF A TYPE II PROPOSAL IN YOUR NEIGHBORHOOD

Development has been proposed in your neighborhood. The proposed development requires a land use review. The proposal, review process, and information on how to respond to this notice are described below. A copy of the zoning map is attached. I am the staff person handling the case. Please call me if you have questions regarding this proposal. Please contact the applicant if you have questions regarding any future development on the site.

Because we must publish our decision within 28 days, **we need to receive your written comments by 5 p.m. on January 10, 2014**. Please mail or deliver your comments to the address at the bottom of the page, and include the Case File Number, LU 13-231289 NE, in your letter. It also is helpful to address your letter to me, Matt Wickstrom.

CASE FILE NUMBER: LU 13-231289 NE

Applicant/Owner: Dennis R Parrish
358 SW Eastman Pkwy
Gresham, OR 97080

Phone: 503-709-9535

Site Address: 6040 NE 42ND AVE

Legal Description: INC PT VAC ST W OF & ADJ LOT 34, STOKES TR
Tax Account No.: R796501200
State ID No.: 1N2E18CB 05100
Quarter Section: 2435

Neighborhood: Concordia, contact Garlynn Woodsong at 510-913-5472.
Business District: Forty-Second Avenue, contact Clarence Larkins at 503-736-8111
District Coalition: Northeast Coalition of Neighborhoods, contact Claire Adamrick at 503-388-5004.

Zoning: R2h (Residential 2,000 zone with an Airport Landing overlay zone)

Case Type: NE (Nonconforming Status Review)
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:
The applicant requests a Nonconforming Status Review to allow for the continued operation of an Industrial Service use at this site. This review determines if a use has legal nonconforming rights, sometimes called "grandfather rights", in this case at the former ABC Fuel site.

Nonconforming rights will be certified if the review finds that the nonconforming use (a fuel oil distribution business) would have been allowed when it was established, and the use has continued over time without a lapse exceeding three consecutive years.

The applicant had previously applied for an administrative review of the nonconforming Industrial Service rights at the site. The administrative review is based on standard evidence (documents such as phone book listings, utility bills and business licenses). The Nonconforming Status Review that is being requested expands the documents allowed to demonstrate nonconforming rights It is also processed as a land use review rather than an administrative review – this provides an opportunity for public comment on the proposal as well as a local appeal. As part of this Nonconforming Status Review, the applicant has submitted the following information:

- Affidavit from previous property owners;
- Letters from various contractors and professionals who visited the site;
- City of Portland Revenue Bureau business license record;
- Utility and Department of Environmental Quality statements; and
- Photographs.

In addition to records submitted as part of the administrative review, the above documents will help with determining whether nonconforming Industrial Service use rights have been retained.

The applicant intends to operate a construction company, also an Industrial Service use, from the site. This would consist of an office, and a place where construction vehicles, materials and equipment are stored and picked up for use.

Relevant Approval Criteria:
In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in 33.258.075.D and states:

1. The legal status of the nonconforming situation will be certified if the review body finds that:
    a. The nonconforming situation would have been allowed when established; and
    b. The nonconforming situation has been maintained over time.
2. The review body will determine, based on the evidence, what the current use is, the definitions in Chapter 33.910 and the use categories in Chapter 33.920.

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. This application was submitted on November 22, 2013 and determined to be complete on December 16, 2013.

DECISION MAKING PROCESS
The Bureau of Development Services will make a decision on this proposal.
We will consider your comments, and

- Approve the proposal.
- Approve the proposal with conditions.
- Deny the proposal.

The neighborhood association listed on the first page of this notice may take a position on this application. They may also schedule an open meeting prior to making their recommendation to the Bureau of Development Services. Please contact the person listed as the neighborhood contact to determine the time and date of this meeting.

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 extended at the request of the applicant.

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.

APPEAL PROCESS

If you disagree with the Bureau of Development Services administrative decision, you can appeal the decision to the Hearings Officer. This review body will hold a public hearing for the appeal. When the decision is mailed, the criteria used to make the decision and information on how to file an appeal will be included. If you do not send any comments, you can still appeal the decision. There is a 14-day deadline to file an appeal beginning on the day the decision is mailed. The reason for the appeal must be specifically defined in order for the review body to respond to the appeal. If an appeal is filed, you will be notified of the time and location of the appeal hearing.

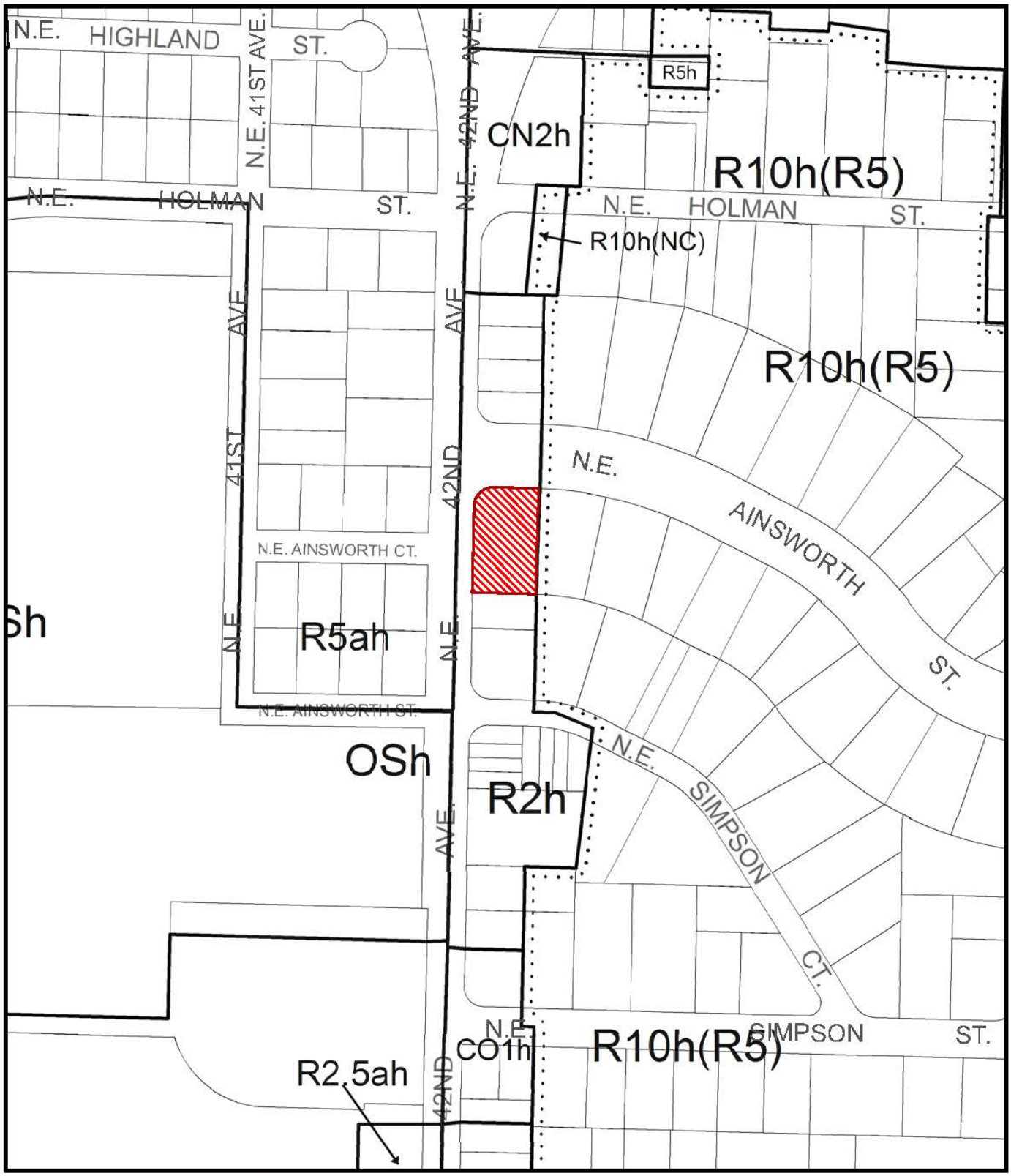
There is a fee charged for appeals. Recognized neighborhood associations may qualify for an appeal fee waiver.

APPEAL OF THE FINAL CITY DECISION

After an appeal hearing, the review body decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283. The phone number for LUBA is 1-503-373-1265. Issues that may provide the basis for an appeal to LUBA must be raised prior to the comment deadline or prior to the conclusion of the hearing if a local appeal is requested. If you do not raise an issue with enough specificity to give the Bureau of Development Services an opportunity to respond to it, that may also preclude an appeal to LUBA on that issue.

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).

Enclosures:
Zoning Map



ZONING

Site

NORTH

File No.	LU 13-231289 NE
1/4 Section	2435
Scale	1 inch = 200 feet
State_Id	1N2E18CB 5100
Exhibit	B (Nov 27, 2013)