



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

Amanda Fritz, Commissioner
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www.portlandoregon.gov/bds

Date: March 11, 2015
To: Interested Person
From: Andrew Gulizia, Land Use Services
 503-823-7010 / Andrew.Gulizia@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 mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 14-230190 AD

GENERAL INFORMATION

Applicant: Wesley Johnson / Remodeling By Wesley
 6106 NE Rodney Ave / Portland, OR 97211

Property Owner: Muslim Community Center
 PO Box 12214 / Portland, OR 97212

Site Address: 5325 N Vancouver Ave.

Legal Description: BLOCK 2 LOT 6&9, WALNUT PK
Tax Account No.: R877300420
State ID No.: 1N1E22AB 01800
Quarter Section: 2530
Neighborhood: Humboldt, contact Brian Murtagh at 503-962-9194
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032
District Coalition: Northeast Coalition of Neighborhoods, contact info@necoalition.org
Zoning: CS – Storefront Commercial
Case Type: AD – Adjustment Review
Procedure: Type II administrative decision with appeal to the Adjustment Committee

Proposal: The applicant proposes to construct a one-story, 1,800 square-foot prayer center on this site. The applicant is requesting an Adjustment to the 10-foot maximum building setback requirement from the street lot line. The applicant proposes to set the building between 18 feet and 22 feet from the angled street lot line.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Section 33.805.040.A-F of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The site is a 7,100-square-foot lot located on the west side of N Vancouver Avenue, between N Killingsworth Street and N Emerson Street. The site is currently vacant and paved with asphalt. The surrounding neighborhood is characterized by a variety of architectural styles and a mix of commercial, institutional, and residential uses.

Zoning: The site is designated with the CS (Storefront Commercial) zone. Commercial zones generally seek to promote uses and developments that will enhance the economic viability of both the City and neighborhood, and a wide variety of uses are allowed. The CS zone in particular is intended to preserve and enhance older commercial districts that have a storefront character, and to encourage pedestrian-oriented development.

Note: The adjacent lot to the south is under the same ownership, and is designated with the R1 multi-dwelling residential zone. Uses accessory to the Religious Institution use on the subject site may not encroach into the R1 zone unless approved through Conditional Use Review. Also, any tree removal on the R1-zoned lot may require separate permits from the Portland Parks & Recreation Bureau's Urban Forestry Department.

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

Agency Review: A "Notice of Proposal" was mailed February 11, 2015. The following Bureaus have responded with no concerns about the proposal:

- Bureau of Environmental Services;
- Fire Bureau;
- Site Development Section of BDS;
- Life Safety Review Section of BDS; and
- Bureau of Parks-Forestry Division.

The Bureau of Transportation Engineering responded with no concerns about the Adjustment requested, but noted that sidewalk improvements and a 3-foot dedication will be required as a condition of building permit approval unless a Public Works Alternative Review can be approved (Exhibit E-2).

The Water Bureau responded with no concerns about the Adjustment request, but noted issues related to water service for the proposed development (Exhibit E-3).

Neighborhood Review: A neighboring business owner and a neighboring property owner responded in writing to the mailed "Notice of Proposal." Both expressed support for the development as a whole, but expressed concern that no on-site parking is proposed. These respondents noted that on-street parking in the area is already limited, particularly since a Portland Community College campus is nearby.

The Humboldt Neighborhood Association submitted a letter stating they do not oppose the proposed Adjustment, but requesting that staff verify compliance with the "ground floor windows" standard of Zoning Code Section 33.130.230, and requesting that the applicant explore a parking agreement with an underutilized parking lot in the area.

Staff response: The Zoning Code does not require on-site parking for this type of use in the CS zone (Zoning Code Section 33.266.110), and none is proposed for this site. However, this Adjustment application relates only to the proposed location of the new building in relation to the street lot line, and not to factors that would impact the demand for parking in the neighborhood. Without this Adjustment, the applicant could construct the same building closer to the street lot line without any land use review. Therefore, staff finds insufficient nexus between the specific Adjustment requested and on-street parking issues to either deny the Adjustment or to impose conditions of approval related to parking.

The “ground floor windows” standard is met in the plans the applicant submitted for this Adjustment review. Compliance will also be verified in the building permit review and inspection process. Staff will forward the Neighborhood Association’s parking agreement request to the applicant.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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 the 10-foot maximum setback requirement from the street lot line. The purpose of setback regulations in commercial zones is stated in Zoning Code Section 33.130.215.A:

***Purpose.** The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial zones. The CN1, CM, CS, and CX setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial development that will maintain light, air, and the potential for privacy for adjacent residential zones. The setback requirements along transit streets and in Pedestrian Districts create an environment that is inviting to pedestrians and transit users.*

Based on the statement above, the 10-foot maximum setback requirement from the street lot line is intended to foster a built-up, pedestrian-oriented streetscape and an inviting environment. Although the applicant proposes to site the new building further than 10 feet from the street lot line, the area between the building and the sidewalk will be improved with new grass, trees, shrubs, and decorative paving (Exhibit C-3). A 6-foot-wide pedestrian walkway lined with boxwood hedges will link the front door to the public sidewalk.

This lot is currently vacant and almost entirely paved with asphalt. The applicant’s original proposal, before working with City staff on this Adjustment, was to simply place the new modular building on the existing asphalt pad. The front yard landscaping improvements illustrated in Exhibit C-3 will create a more inviting environment for pedestrians. Furthermore, the modular building proposed for this site, while meeting zoning requirements, will be fairly low and plain. Placing this building within 10 feet of the street lot line would eliminate the need for this Adjustment, but would allow less room for plants or decorative paving and would not necessarily create a more built-up, inviting environment compared to the applicant’s current proposal.

For these reasons, the Adjustment equally meets the intent of the maximum setback regulation 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, 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: Because the site is located in the CS zone, the applicant must demonstrate that the proposal will be consistent with the classifications of the adjacent street and the desired character of the area.

Street Classifications

The site fronts on N Vancouver Avenue. The classifications of this street, as identified in the Transportation Element of the Comprehensive Plan, are as follows:

Traffic	Transit	Bikeway	Pedestrianway	Freight
Neighborhood Collector	Transit Access Street	City Bikeway	Local Service	Local Service

The proposed Adjustment to the maximum setback requirement will not affect the type or intensity of the use, and the increased setback will result in no changes to traffic levels or demand for transit, bike, pedestrian, or freight facilities. Therefore, the proposal is consistent with the street classifications.

Desired Character of Area

The “desired character” of an area is defined in Zoning Code Section 33.910.030 as the preferred or envisioned character based on the purpose statement or character statement of the base zone and any adopted area plans. The subject site is located within the CS base zone and within the boundaries of the Albina Community Plan and the Humboldt Neighborhood Plan.

The character statement for the CS zone in Section 33.130.030.F reads:

The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. Industrial uses are allowed but are limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

As mentioned in the response to criterion A, the modular building proposed for this site, while meeting zoning requirements, is fairly low and plain. Arguably, this building will contribute less to the traditional character envisioned for the CS zone than many of the older or more traditionally-styled buildings in the area. Staff finds the applicant’s proposal to site the building more than the required 10 feet from the street lot line, but to improve the area between the building and the street lot line with plants and decorative paving (Exhibit C-3), will make a more positive contribution to a pedestrian-oriented, storefront character than meeting the maximum setback standard outright. Therefore, staff finds the proposal is consistent with the desired character of the CS zone described above.

The site is within the boundaries of the Albina Community Plan and the Humboldt Neighborhood Plan. The applicant’s Adjustment proposal is found to be consistent with the following Plan objectives:

Albina Community Plan: Policy C (A Pattern of Green)

- Objective 1: Increase the amount of green and open space in the district.
- Objective 5. Emphasize plant materials rather than hard surface treatments when developing public open spaces and in providing landscaping as part of development projects.
- Objective 6: Provide landscaping and street trees with new development and major remodeling projects.

Humboldt Neighborhood Plan: Policy 5 (Urban Design and Historic Preservation)

- Objective 2: Enhance the neighborhood through the establishment of community art, open space and greenery.

The applicant's front yard landscaping plan (Exhibit C-3) will enhance the public view of this lot with new trees and greenery. This lot is currently almost entirely paved with asphalt. Before working with City staff on this Adjustment application, the applicant was planning to place the new building on top of the existing asphalt pad without front yard landscaping. Without this Adjustment, the applicant would have to place the building closer to the street lot line, but no new front yard landscaping could be required by the City.

Summary

Because the Adjustment proposal is consistent with the street classifications, the desired character of the CS zone, and with the adopted area plans, 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: As only one Adjustment is being requested, this criterion is not applicable.

- D.** City-designated scenic resources and historic resources are preserved; and

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case "s," and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

Findings: As discussed in the findings for approval criteria A and B, any impacts from placing the new building more than 10 feet from the street lot line will be mitigated by the new landscaping, walkway, and decorative paving in the front of the lot (Exhibit C-3). 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 there are no environmental overlay zones mapped on the site, 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 proposed Adjustment to the maximum setback requirement equally meets the intent of the setback regulation and is consistent with the desired character of the area. The new

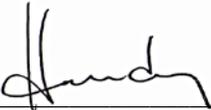
landscaping, walkway, and decorative paving in the front of the lot will enhance the appearance of the site. The applicant has demonstrated that the applicable approval criteria are met. Since the approval criteria are met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum setback from the transit street lot line from 10 feet to between 18 and 22 feet from the angled street lot line (Zoning Code Section 33.130.215.C.1), per the approved site plan, building elevations, and landscaping plan, Exhibits C-1 through C-3, signed and dated March 9, 2015, subject to the following condition:

- A. As part of the building permit application submittal, each of the required site plans and building elevations must reflect the information and design approved by this land use review as indicated in Exhibits C-1 and C-2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-230190 AD."
- B. A landscaping plan must be submitted with the building permit application which reflects the landscaping design approved in Exhibit C-3, except that at least one of the shrub varieties for each of the planters near the front of the building must be changed to an evergreen variety. The two new Japanese maple trees must be labeled to be at least 1.5 inches in caliper when planted. The landscaping plan must be labeled, "Proposal and design as approved in Case File # LU 14-230190 AD."
- C. The fence along the street lot line must be no more than 3.5 feet tall and must be wood, metal, masonry, or other permanent material, and must not be chain-link. The fence material and height must be labeled on the landscaping plan submitted with the building permit.

Staff Planner: Andrew Gulizia

Decision rendered by:  **on March 9, 2015**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 11, 2015

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 24, 2014, and was determined to be complete on February 3, 2015.

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 24, 2014.

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 extended by the applicant, **the 120 days will expire on: June 3, 2015.**

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 March 25, 2015**, at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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 **March 26, 2015**.
- 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.

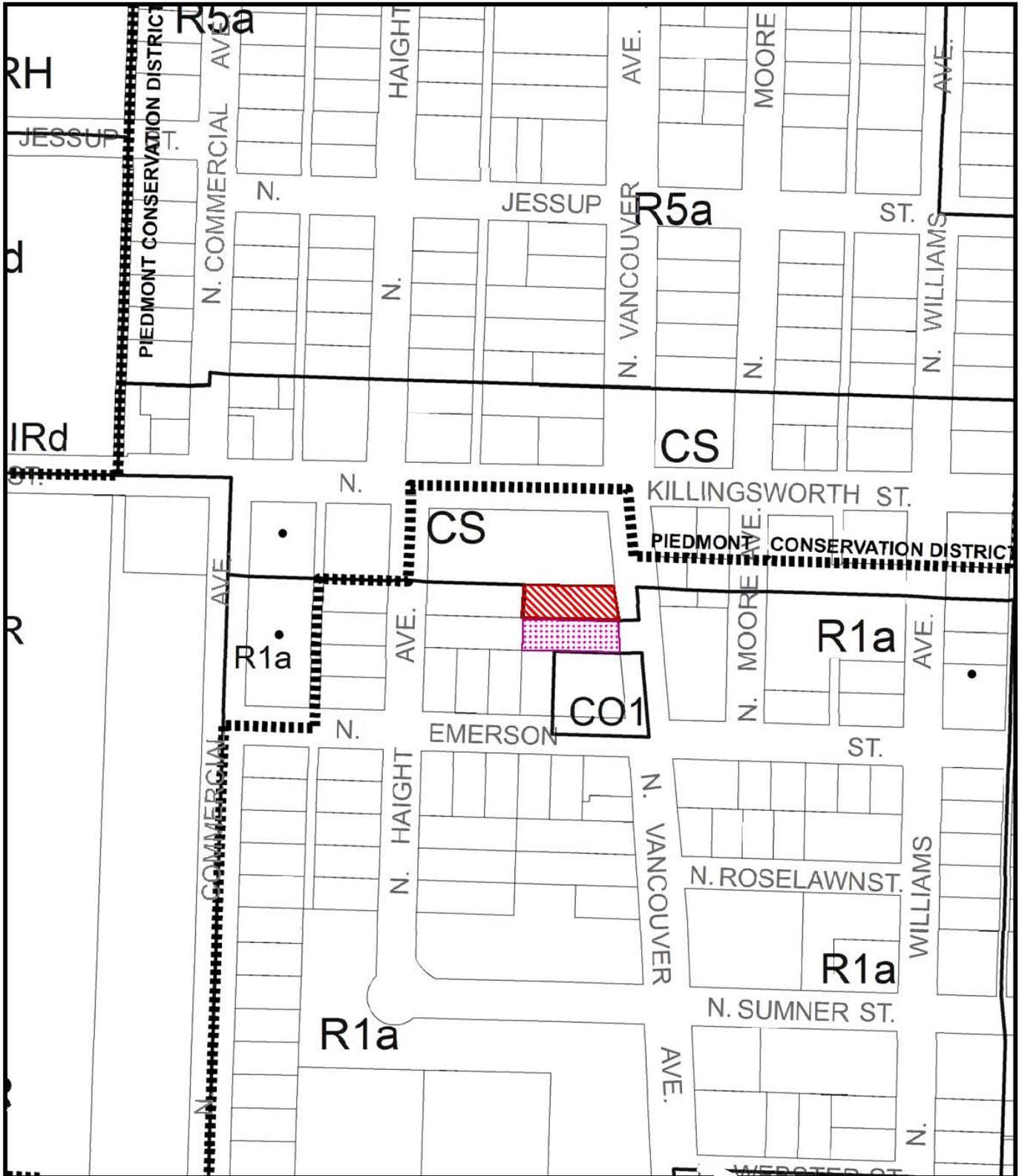
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
 - 1. Approval criteria responses
 - 2. Response to incompleteness determination letter, dated November 19, 2014
 - 3. Applicant's supplemental information, dated February 2, 2015
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. Building elevations (attached)
 - 3. Front landscaping plan (attached)
 - 4. Floor plan
 - 5. Renderings of building (3 pages)
 - 6. Structural plans (5 pages)
 - 7. Large, scalable site plans (3 pages)
- 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. Life Safety Review Section of BDS
 - 7. Bureau of Parks, Forestry Division
- F. Correspondence
 - 1. E-mail from Shelda Holmes, received March 3, 2015
 - 2. E-mail from Laura Hunt, received March 4, 2015
 - 3. Letter from Humboldt Neighborhood Association, received March 4, 2015
- G. Other:
 - 1. Original LU application form and receipt
 - 2. Incompleteness determination letter, dated November 12, 2014

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).

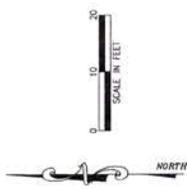


ZONING

-  Site
-  Also Owned
-  Historic Landmark



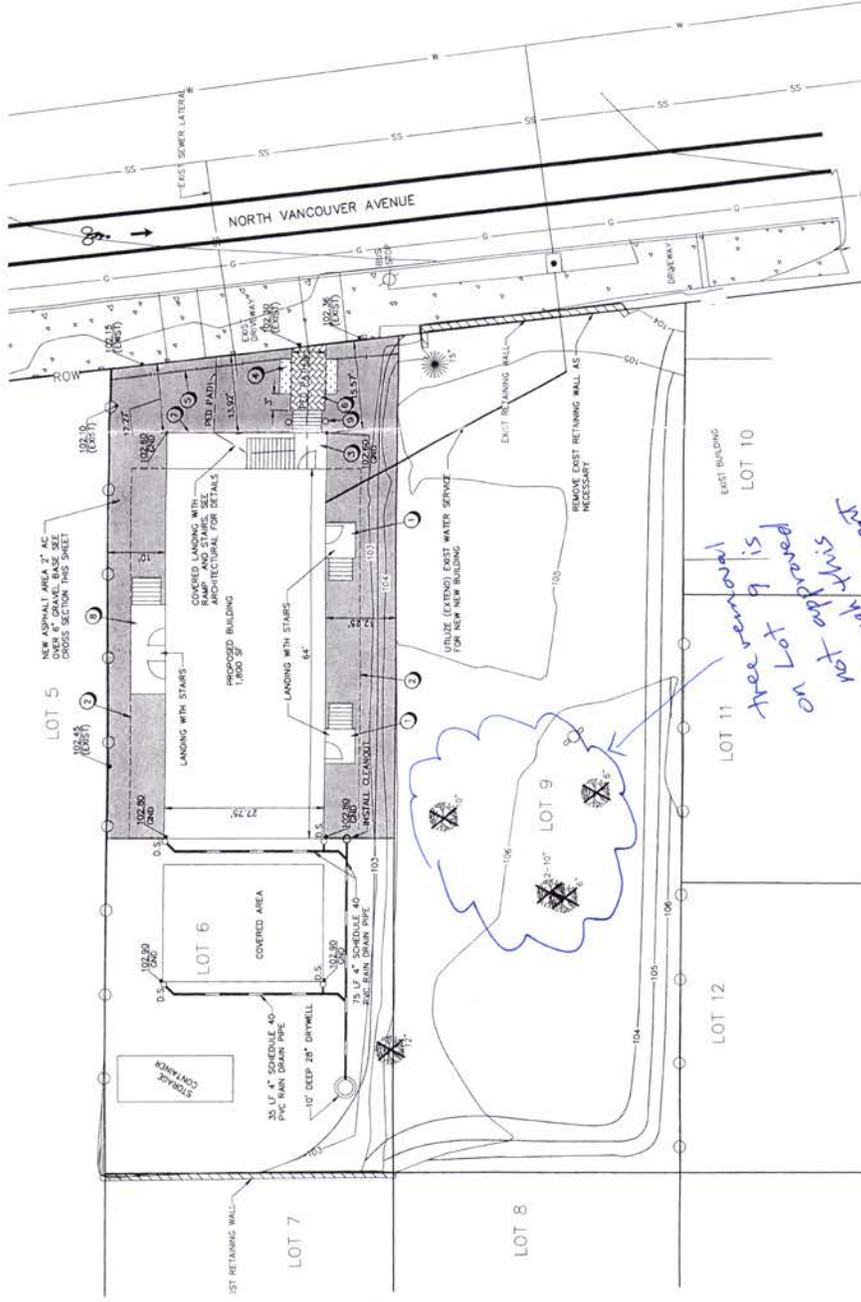
File No. LU 14-230190 AD
 1/4 Section 2530
 Scale 1 inch = 200 feet
 State_Id 1N1E22AB 1800
 Exhibit B (Nov 14, 2014)



ESTIMATED QUANTITIES:
 SITE SCRAPING (ASSUMED 6" DEPTH, INCLUDES AC AND GRAVEL BASE) = 260 CY
 SITE SCRAPING TO FINISH GRADE (IN PLACE) = 240 CY CUT
 160 CY FILL
 TOTAL EXCAVATION: 500 CY
 NOTE: ESTIMATED QUANTITIES ARE IN PLACE AND DO NOT REFLECT FLUFF OR RE-COMPACTED AMOUNTS

PROPOSED LEGEND

- PLANTER BOX
- STAMPED CONCRETE
- ASPHALT
- APPROXIMATE FINISH GROUND ELEVATION
- PEDESTRIAN (PED) ACCESS PATHWAY
- O.S. DOWN SPOUT
- STORM PIPE
- CLEANOUT
- DRYWELL



- NOTES**
1. 5' WIDE X 6' LONG PLATFORM WITH STEPS AND HANDRAILS
 2. 6' X 6' ATTACHED COVERED ENTRY ON FRONT
 3. 6' X 6' ATTACHED COVERED ENTRY ON SIDE
 4. 6' X 15' DECK WITH RAILING AND STEPS
 5. 5' WIDE X 6' LONG PLATFORM WITH STEPS AND HANDRAILS AND ADA RAMP
 6. PLANT IN VASE 1 EACH SIDE OF STEPS
 7. PLANTER BOXES
 8. 3' FENCE FROM EDGE OF PLANTER TO PROPERTY LINE
 9. 3' FENCE FROM EDGE OF PLANTER TO SIDEWALK TO STAIRS

Approved
 City of Portland - Bureau of Development Services
 Planner *A. Gulliza* Date *3/9/15*

This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

Not approved through this review. Approval is on lot 9 removal.

DATE	NO.	REVISION

DRAWN	DESIGNED	CHECKED
SCALE AS SHOWN	DATE: JANUARY 2014	
PROJECT NO. E13-013		

FDG
 FUNDAMENTAL DESIGN GROUP, LLC
 3900 HOOPER BLDG. SUITE 104
 PORTLAND, OREGON 97205
 TEL: (503) 288-3377 FAX: (503) 288-3778

PACIFIC MOBILE: TONI PINKSTON
 13970 FIR STREET
 OREGON CITY, OREGON 97045

GRADING AND DIMENSION PLAN
 5327 NORTH VANCOUVER AVENUE
 PORTLAND, OREGON 97217

EXP. DATE: 06/30/15
 SHEET NO. 3/3

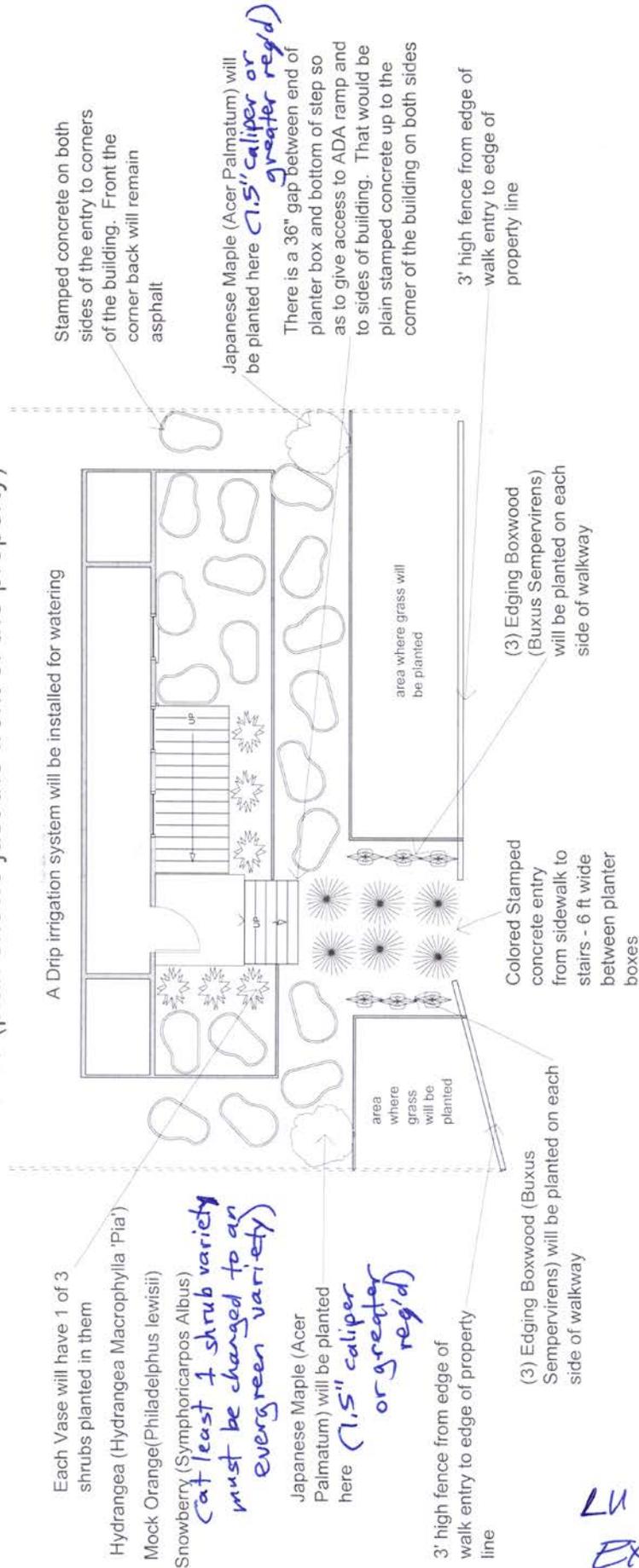
LU 14-2 30190 AD Exhibit C-1

Approved
 City of Portland - Bureau of Development Services

Planner A. Gultzig Date 3/9/15

This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

Complete landscaping plan for front of building as of 2-25-15 (plan shows just the front of the property)



*LU 14-230190 AD
 Exhibit C-3*