



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: May 15, 2008
To: Interested Person
From: Nan Stark, Land Use Services
503-823-7828 / nstark@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 08-117518 AD

GENERAL INFORMATION

Applicant/Owner: Adrien Ladum
534 SW 3rd Ave., #805
Portland, OR 97204

Site Address: SE 128th & Claybourne

Legal Description: TL 2302 LOT 23 SPLIT PLUS 46620-6670, LAMARGENT PK PLAT 2;
TL 2303 LOT 23 SPLIT PLUS 46620-6630, LAMARGENT PK PLAT 2

Tax Account No.: R466206630, R466206670

State ID No.: 1S2E23BA 02302, 1S2E23BA 02303

Quarter Section: 3743

Neighborhood: Pleasant Valley, contact Linda Bauer at 503-761-2941

District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: Johnson Creek Basin – South subdistrict

Zoning: R10a: Low-density residential 10,000 with 'a' Alternative Design
Density overlay zone

Case Type: AD, Adjustment

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

Proposal:

The owner of this vacant property plans to develop it with a house and attached three-car garage with living area above it. The proposed design situates the garage partially in front of the house, but with the garage doors facing the side lot line, not the street. The garage would be accessed by a 20-foot wide driveway running up to the front of the house, alongside the garage doors.

Section 33.110.253 F of the zoning code requires that the street-facing wall of a garage is either flush with or further back from the front property line than the longest street-facing wall of the house. As proposed, the longest wall of the house is 33 feet back from the front wall of the garage. The front door is flush with the longest street-facing wall of the house. The applicant requests this Adjustment to allow the garage to be closer to the front property line than the longest street-facing wall of the house.

Please refer to the attached site plan and elevation drawings, which further explain the proposal.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments.

ANALYSIS

Site and Vicinity: The site is 75 feet wide and 135 feet deep, for a total area of 9,750 square-feet. It is a vacant lot on the south side of Claybourne Street, where 128th Avenue ends. The neighborhood is characterized by fairly low density residential development built primarily in the latter half of the 20th century, but with a few original early 20th century cottages. There is a fairly eclectic pattern of housing styles and sizes, as well as location of houses and garages on the individual lots. The larger lots give a somewhat rural character to this neighborhood that is two blocks south of Foster Road.

Zoning: The site is zoned R10a. The R10 zone corresponds to the Comprehensive Plan map designation of Low Density Single-dwelling, which is typically found in outlying areas of the City where there may be constraints to development.

The site is in the South subdistrict of the Johnson Creek Plan District. This plan district is intended to provide for the safe, orderly and efficient development of lands subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers and water services. The standards of this district are placed on all new land uses to reduce stormwater runoff, provide groundwater recharge, reduce erosion, enhance water quality, and retain and enhance native vegetation.

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 **April 14, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Water Bureau
- Life Safety Review Division of BDS

The Bureau of Environmental Services and the Site Development Section of BDS commented with no objections to the Adjustment, and noted that the existing sanitary gravity main must be extended to serve the property. It was also noted that the Stormwater Management Manual requires that stormwater be managed on-site through surface infiltration facilities to the maximum extent practicable. This will be reviewed during the building permit review process.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed **on April 14, 2008**. No written responses have been 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 to provide 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 standards for garages (33.110.253 A) is to:

- Ensure that there is a physical and visual connection between the living area of the residence and the street, together with the window and main entrance standards;
- Ensure that the location and amount of living area of the residence, as seen from the street, is more prominent than the garage;
- Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;
- Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and
- Enhance public safety by preventing garages from blocking views of the street from inside the residence.

The applicant proposes a design that places the garage wall and second floor above it closest to the street property line. The front door and remainder of the house are 54 feet from the front property line; the garage wall is 20 feet from it. From the street perspective directly facing the structure, the garage does not come across as a garage, because there is a large three-section window on the street-facing side. Above it on the second floor is a smaller, but still substantial set of three windows.

While the ground-floor windows of the garage do not offer a connection between actual living area in the residence and the street, they offer an element—windows—that typically connotes areas of activity. The garage will not be a significant area of activity, but the windows will allow views both into and out of it that do provide a connection between that part of the site and the street. Additionally, the fact that a second floor is above the garage with living area in it and with windows facing the street, will indeed provide a living area where, while not at ground level, will still provide opportunities for connection between the street and the residence.

From the west perspective, the three-car garage will be fairly prominent. This lot is one lot from the west end of Claybourne Street, and consequently the west perspective will be less prominent from most of the neighboring properties. Drivers entering the street from the nearest intersection where 128th terminates into Claybourne Street will almost directly face the front of the house, and thus will see the fairly prominent front porch while turning and momentarily facing the garage entrance. Upon turning onto Claybourne Street, drivers as well as pedestrians will not face the garage doors for the most of the time passing the site, but rather the north (front) and east (rear) side of the garage.

The site plan shows a landscaping bed in front of the street-facing garage wall, which will further add interest to that façade. There is over 12 feet between the east (rear) wall of the garage and the east property line which will also provide landscaping area, and at a minimum a tree and a few shrubs in that east side of the site will also add visual interest from the street. Consequently, a condition will be required to fully meet this criterion that at least one tree is planted adjacent to the east side of the garage, and at least three shrubs between the front property line and the front (north side) of the garage. Because the site is in the Johnson Creek Basin Plan District, the required tree and shrubs must be native species. The tree and shrubs can be of any size as desired by the owner/applicant. With this condition, this criterion will be 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 residential area is characterized generally by a lower-density development pattern on larger lots. The subject lot is fairly typical, though narrower than those abutting it on either side. Most of the houses in the area have garages, and several of those garages are fairly dominating from the street perspective, whether situated close to the street or back further than the house.

The proposed design creates a strong street and pedestrian orientation due to the substantial amount of windows facing the street, and the prominent front entry area with a covered porch. In addition, a second-floor deck is above the garage doors, further adding an element of activity area that helps to de-emphasize the garage's prominence.

The design elements, particularly the windows along the street-facing façade of the garage, greatly diminish the auto orientation that is proposed. The front entrance to the house can be emphasized even more with a sidewalk that is clearly differentiated from the driveway. The applicant indicated in his written response that the walkway leading to the front door will be of a different paving material than the driveway. This will strengthen the visual cue to the front door, which is important in satisfying this criterion. Therefore, a condition will require that the 5-foot walkway leading to the front entrance is paved with either a dyed and stamped concrete that is of a contrasting color from the concrete driveway, or with paving stones that are natural or manufactured, and that are of a contrasting color from the driveway. With this condition, this criterion will be 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: Staff envisions that the likely impact of the adjustment is that vehicles will often be parked in front of rather than inside of the garage. This will, unfortunately, obscure the front door and result in a vehicle-dominated appearance. However, weighed against other options, including a driveway leading to garage doors facing the street, the proposed design is the preferred option, especially when vehicles are not parked on the driveway but rather appropriately parked inside the garage. The applicant has submitted a design with a strong street orientation, even though the front entrance is set back a considerable distance from the part of the dwelling that is closer to the street. With a second floor above the garage, there is living area that is as close to the front property line as the garage wall. The strong front entry, emphasized with double doors, columns and a covered porch, will be at least partly visible when cars are parked in front of it. By creating a more prominent entry with differentiated paving for the walkway, the front door will be further emphasized and possibly drivers will be less inclined to park over it.

The conditions stated above to satisfy criteria A and B will serve to further support this criterion as well. With those conditions for a tree and shrubs, and paving for the walkway that is different from the driveway, 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, which is designated on the zoning map by either a "c" or "p" overlay. Therefore, 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 owner/applicant has proposed a house design for this lot that brings the garage wall closer to the street than the majority of the house. With a second floor above the garage, there is active living space that will ensure a connection between the street and the closest part of the house. The fairly large windows proposed on the garage wall facing the street further provide visual interest and the opportunity for views both into and out of the structure. The main entrance to the dwelling is set back from the garage wall, but is made prominent by several important design features. Conditions of approval requiring the walkway of a contrasting color from the driveway, and a tree and shrubs, will fully satisfy the approval criteria by emphasizing the main entrance and providing interest at the pedestrian level.

ADMINISTRATIVE DECISION

Approval of an Adjustment to zoning code section 33.110.253 F to allow the garage to be closer to the front property line than the longest street-facing wall of the house. This approval is subject to the approved site plan and north elevation drawing, Exhibits C-1 and C-2, signed and dated May 9, 2008, and to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B and C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 08-117518 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The following plantings are required: at least one tree adjacent to the east side of the garage, and at least three shrubs between the front property line and the front (north side) of the garage. Because the site is in the Johnson Creek Basin Plan District, the required tree and shrubs must be native species. The tree and shrubs can be of any size as desired by the owner.
- C. The 5-foot walkway leading to the front entrance must be paved with either a dyed and stamped concrete that is of a contrasting color from the concrete driveway, or with paving stones that are natural or manufactured, that are of a contrasting color from the driveway.

Decision rendered by:  **on May 9, 2008**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 15, 2008

Staff Planner: Nan Stark

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 March 24, 2008, and was determined to be complete on April 9, 2008.

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 March 24, 2008.

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.

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 May 29, 2008** 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. Recognized neighborhood associations are not subject to the appeal fee. 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 **May 30, 2008 – (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 503-823-7967.

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, or
- In situations involving only the creation of lots, the land division has been recorded.

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

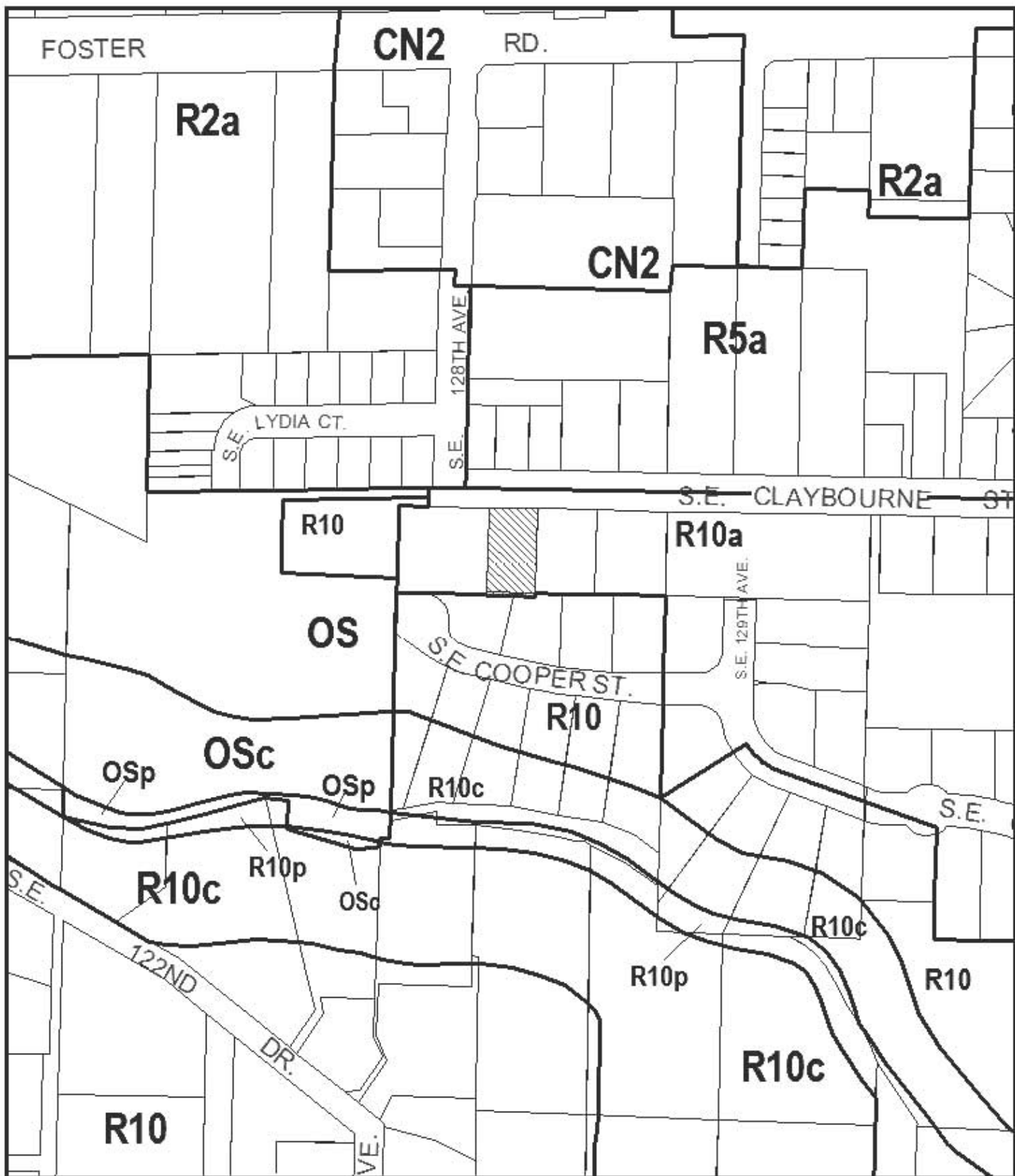
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. North and south elevation drawings (north attached)
 - 3. East and west elevation drawings
 - 4. Main floor plan
 - 5. Second floor plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Site Development Review Section of BDS
 - 3. Bureau of Transportation Engineering and Development Review
 - 4. Water Bureau
 - 5. Life Safety Plan Review Section of BDS
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING

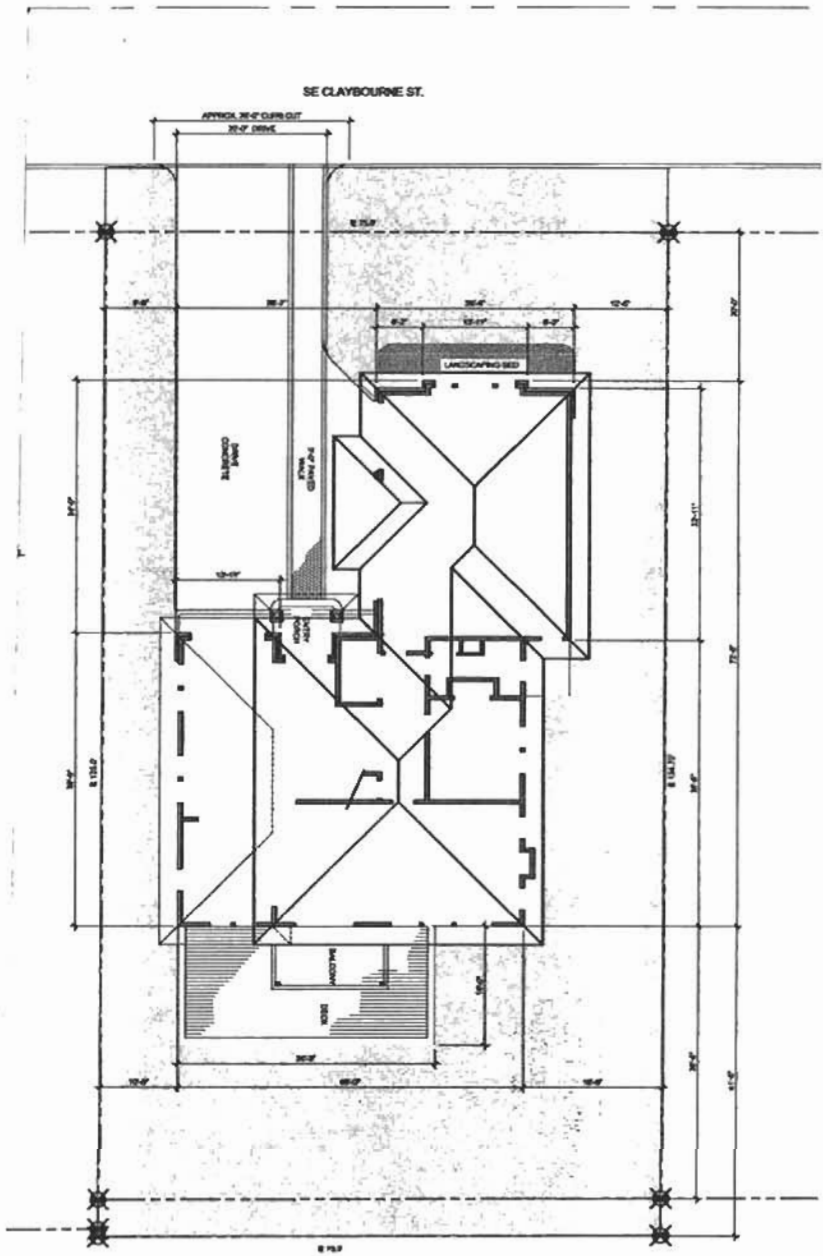
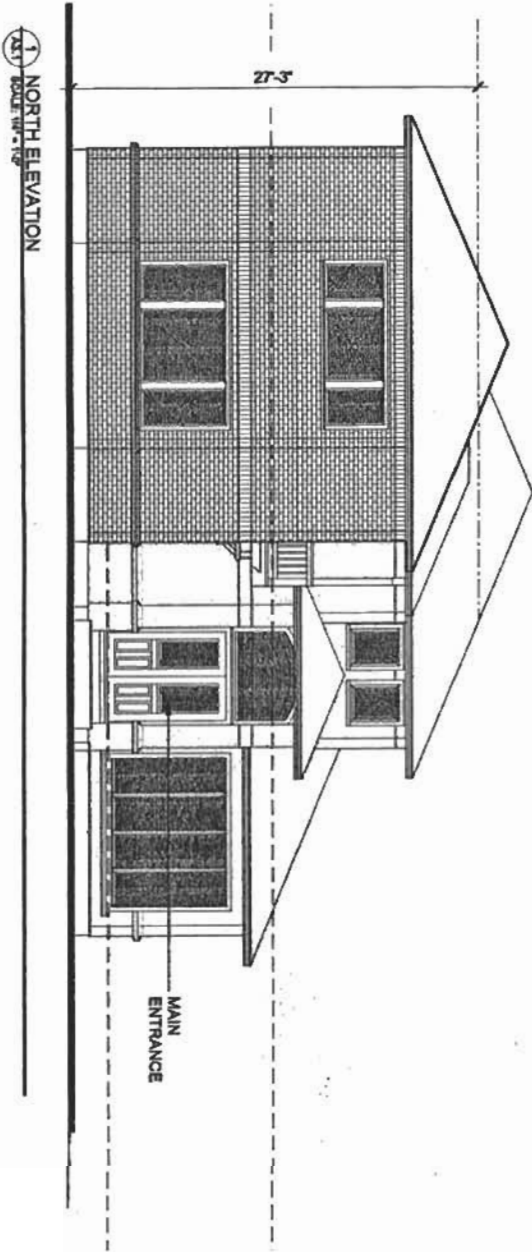
 Site



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No. LU 08-117518 AD
 1/4 Section 3743
 Scale 1 inch = 200 feet
 State Id 1S2E23BA 2303
 Exhibit B (Mar 25, 2008)

Approved
 City of Portland - Bureau of Development Services
 Planner N. Frank Date May 9-2008
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



1 SITE PLAN / ROOF PLAN-ZONING
 SCALE: 1/8" = 1'-0"

1/2 SCALE

Exhibits C-1 and C-2

<p>Project No. A1.1 Date: May 24, 2008 City of Portland</p>	<p>PROJECT Mitchell Project Portland, OR</p> <p style="font-size: 2em; font-weight: bold;">NOT FOR CONSTRUCTION</p>	<p>Doc. 0003 Mitchell Project</p>
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LU 08-117518 AD