City of Portland
Bureau of Development Services
Land Use Services Division

1900 SW Fourth Ave. Suite 5000
Portland, Oregon 97201
Telephone: 503-823-7300
TDD: 503-823-6868
FAX: 503-823-5630
www.portlandonline.com/bds

Date: June 6, 2008

To: Interested Person

From: Matt Wickstrom, Land Use Services
503-823-7840 / WickstromM@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 07-165547 AD

GENERAL INFORMATION

Applicant: Deb Scott
Oh Planning and Design
837 SW First Ave
Portland OR 97204

Property Owner Contact: Cyrus Yamin
Multnomah County Facilities and Property Management
401 N Dixon Street
Portland, OR 97227

Site Address: 5305 NE M L KING BLVD

Legal Description: EXC PT IN ST LOT 1 BLOCK 9 LOT 2-7 BLOCK 9 80% NONTAXABLE, WALNUT PK; BLOCK 9 LOTS 8-13 LOT 14 EXC PT IN ST, WALNUT PK
Tax Account No.: R877302030, R877302040
State ID No.: 1N1E22AA 00101, 1N1E22AA 00100
Quarter Section: 2530

Neighborhood: King, contact Erik Emerick at 503-504-0401
Business District: North-Northeast Business Assoc, contact Joyce Taylor at 503-445-1321
District Coalition: Northeast Coalition of Neighborhoods, contact Willie Brown at 503-253-7811

Zoning: CGdh (General Commercial with a "d" Design overlay and an "h" Aircraft Landing Zone overlay

Case Type: AD (Adjustment)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:
In 2005 the property owner executed a covenant with the City stating that certain nonconforming items such as perimeter parking lot landscaping, bicycle parking and interior parking lot landscaping would be brought into conformance with current Zoning Code standards within 2 years. Plans have been submitted which show that perimeter parking lot landscaping and bicycle parking standards will be met and the applicant has requested an Adjustment to reduce the required amount of interior parking lot landscaping. Based on the number of parking spaces in the parking lot, the Zoning Code requires a total of 4,455 square feet of interior parking lot landscaping. The applicant has requested to reduce this required amount of interior parking lot landscaping to the current level found in the parking lot. One adjustment is requested to reduce the amount of required interior parking lot landscaping from 4,455 square feet to 1,850 square feet.

Relevant Approval Criteria:
In order to be approved, this proposal must comply with the approval criteria of 33.805.040 A-F, Adjustments, cited below:

ANALYSIS

Site and Vicinity: The approximately 73,000 square foot site is developed with a two-story office building which houses many social service agencies as well as a surface parking lot with approximately 96 parking spaces. The parking lot is designed with entrances and exits from NE Emerson Street and NE Killingsworth Street. The parking lot contains two circulation aisles and functions with long rows of parking stalls accessed at an angle from the circulation aisles. The surrounding vicinity is developed with a mix of commercial uses and single-dwelling residential development. The commercial uses are primarily located to the east across NE Martin Luther King Jr. Boulevard from the site as well as to the north and south. The single-dwelling residential development is primarily located to the west of the site.

Zoning: The site is zoned CGdh. The CG zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. The zone allows a full range of retail and service businesses with a local or regional market. The "d" overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. The "h" overlay limits the height of structures and vegetation in the vicinity of the Portland International Airport. Neither the "d" or "h" overlays apply to the proposal.

Land Use History: City records indicate that no relevant land use have occurred at this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **October 23, 2007**. The following Bureaus have responded with no issues or concerns:

- The Site Development Section of BDS provided a response which referenced the original Notice of Proposal for the Adjustment request as well as an April 25, 2008 Stormwater Report provided by the applicant. The response states that infiltration testing results confirm that on-site infiltration of stormwater is feasible at this location. "The conceptual stormwater design for installation of filtered catch basins with overflow to the stormwater infiltration chambers is acceptable". The response notes that additional details and information may be required at the time of building permit review (Exhibit E-1).
- The Bureau of Environmental Services responded with support of the proposed Adjustments "with the caveat that the applicant disconnect from the City-owned combination gravity main and manage the stormwater on the site". The response states that the applicant's proposed on-site infiltration system will detain and treat stormwater in accordance with the Stormwater Management Manual. The response requests that a Zoning Permit be required to document fulfillment of these requirements. The response also contains further information on sanitary service, stormwater management and water resources (Exhibit E-2).
- The Life Safety Section of BDS responded that based on the information provided, there appears to be no conflicts between the proposal and applicable building codes (Exhibit E-3).

• The Development Review Section of Portland Transportation as well as the Fire, Parks and Water Bureaus responded with no concerns (Exhibit E-4).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on October 23, 2007. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Title 33.805.10 Purpose of 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 code's regulations would preclude all use of the site. Adjustment reviews provide flexibility for unusual situations and to 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.

33.805.40 Adjustment Approval Criteria
Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below are met.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant requests one Adjustment to reduce the required amount of interior parking lot landscaping from 4,455 square feet to 1,850 square feet. The purpose of the parking lot landscaping regulations is listed below:

Purpose 33.266.130 Development Standards for All Other Uses – Parking Lot Landscaping

The parking area layout standards are intended to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas, and provide for convenient entry and exit of vehicles. The setback and landscaping standards:

- *Improve and soften the appearance of parking areas;*
- *Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones;*
- *Provide flexibility to reduce the visual impacts of small residential parking lots;*
- *Direct traffic in parking areas;*
- *Shade and cool parking areas;*
- *Reduce the amount and rate of stormwater runoff from vehicle areas;*
- *Reduce pollution and temperature of stormwater runoff from vehicle areas; and*
- *Decrease airbourne and waterbourne pollution.*

Based on the dual access points of the parking lot from both NE Emerson Street and NE Killingsworth, the parking lot has adequate access and allows drivers a choice of which street to enter or exit from. The two access points allows safer conditions for pedestrians because less vehicle queuing will occur as compared to a parking lot of this size with only one access point. In addition, the parking lot is designed with long rows of angled parking spaces which are accessed from two interior circulation aisles. The simple layout allows drivers wishing to park in the lot to readily comprehend its configuration which further promotes safe circulation. The dimensions of the parking spaces and the aisle widths meet the standards of the Portland Zoning Code.

The applicant has worked with City staff from BES and Site Development to provide adequate documentation of the stormwater infiltration potential for the site. After reviewing the stormwater report provided by the applicant, Site Development provided comments which state that the conceptual stormwater design for installation of filtered catch basins with overflow to the stormwater infiltration chambers is acceptable. BES responded with support of the proposed Adjustment with the caveat that the applicant disconnect from the City-owned combination gravity main and manage the stormwater on-site. These two responses are important components of this land use review because were additional interior parking lot landscaping required, stormwater generated by the development on the site would be better able to be managed on-site and have less impact on the public system. However, as noted in the BES and Site Development responses, the applicant has provided sufficient documentation to show that on-site infiltration is feasible without additional interior parking lot landscaping. In order to ensure the alterations to the current system of stormwater management are made in accordance with the stormwater report provided, this land use review contains a condition of approval which requires that the applicant obtain a Zoning Permit so that adequate review and inspection may occur. As on-site infiltration of stormwater and the installation of filtered catch basins is incorporated into the design, the proposal adequately addresses issues related to pollution and reductions to the temperature of stormwater runoff.

The parking lot meets the perimeter landscaping requirements of the Portland Zoning Code which requires a 5-foot landscaped setback around the perimeter of the parking lot. This setback is planted with trees and shrubs which adequately soften views of the parking lot from surrounding properties, residential development, the public sidewalk and right-of-way. This landscaping as well as the trees and shrubs contained within the current 1,850 square feet of interior parking lot landscaping provide adequate shading and cooling of the parking lot and help to reduce airbourne pollution.

Based on this information including the condition of approval that the applicant obtain a Zoning Permit to ensure that alterations comply with the stormwater report provided to the BES and Site Development reviewers, 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 site has frontage on four streets: NE Martin Luther King Jr. Boulevard, NE Killingsworth Street, NE Emerson Street and NE Garfield Avenue. In this location NE Martin Luther King Jr. Boulevard is classified by the Transportation element as a Major City Traffic Street, Major Transit Priority Street, City Bikeway, City Walkway, Minor Truck Street, Major Emergency Response Street and Regional Main Street. NE Killingsworth Street is classified as a District Collector, a Major Transit Priority Street, a Local Service Bikeway, a City Bikeway, a Local Service Truck Street, a Major Emergency Response Street and a Community Main Street. NE Emerson Street and NE Garfield Avenue are classified as a local street for all categories. The reviewer from the Development Review Section of Portland Transportation reviewed the Adjustment proposal and stated no concerns.

The CG zone is intended to allow auto-accommodating commercial development in areas already predominately built in this manner and in most newer commercial areas. The proposed Adjustment to interior parking lot landscaping will not restrict the ability of the site to continue to provide auto-accommodating commercial development. Furthermore and based on the BES and Site Development responses and the condition of approval described above, the parking lot will continue to provide as much vehicle parking as possible but, with alterations, in a manner which is much more conducive to on-site stormwater management.

Based on this information, this criterion is met.

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

Findings: The applicant has provided a stormwater report which adequately demonstrates the ability for on-site stormwater management. Through the condition of approval that the applicant apply for and receive approval of a Zoning Permit to document compliance with alterations recommended by the report, Site Development and BES, adequate mitigation for the reduction in interior parking lot landscaping will occur. Further mitigation is not necessary as the site already complies with the perimeter parking lot landscaping standards of the Portland Zoning Code and has a large number of mature trees and shrubs which soften the appearance of the parking lot when viewed from surrounding areas. Based on this information, this requirement 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
D. City designated scenic resources and historic resources are preserved; and
F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resources and resource value as is practical.

Findings: Only one adjustment is requested, the site does not contain any identified scenic or historic resources and the site is not located in an environmental zone; therefore, these criterion are 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 proposes one Adjustment associated with nonconforming upgrade requirements and the interior parking lot landscaping standards of the Portland Zoning Code. As noted in this report, the proposal is able to meet the Adjustment approval criteria with approval granted based on the stormwater report provided to BES and Site Development reviewers which shows that on-site infiltration of stormwater is feasible. Approval is also granted based on the condition of approval that the applicant receive a Zoning Permit to document the disconnection of the parking lot from the combination gravity main and alterations to the current stormwater management system in accordance with the stormwater report and BES and Site Development requirements. With approval requiring that permit drawings substantially conform with the site plan attached, the request meets the applicable criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code standard 33.266.130.G.3.a to reduce the required amount of interior parking lot landscaping from 4,455 square feet to 1,850 square feet, per the approved site plan, Exhibits C-1, signed and dated June 4, 2008, subject to the following conditions:

A. As part of the zoning permit application submittal, the following development-related condition (B) 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 07-165547 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

B. The applicant must obtain a Zoning permit which documents that the parking lot has been disconnected from the combination gravity main and installation of the on-site stormwater management system as described in the April 25, 2008 stormwater report has occurred, as determined by BES.

Decision rendered by: _____ **on June 4, 2008**
By authority of the Director of the Bureau of Development Services

Decision mailed: June 6, 2008

Staff Planner: Matt Wickstrom

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 September 27, 2007, and was determined to be complete on October 18, 2007.

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 September 27, 2007.

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 waived the 120-day review period, as stated with Exhibit #A-1.

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 June 20, 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. 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. 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 **June 23, 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 503-823-0625.

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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

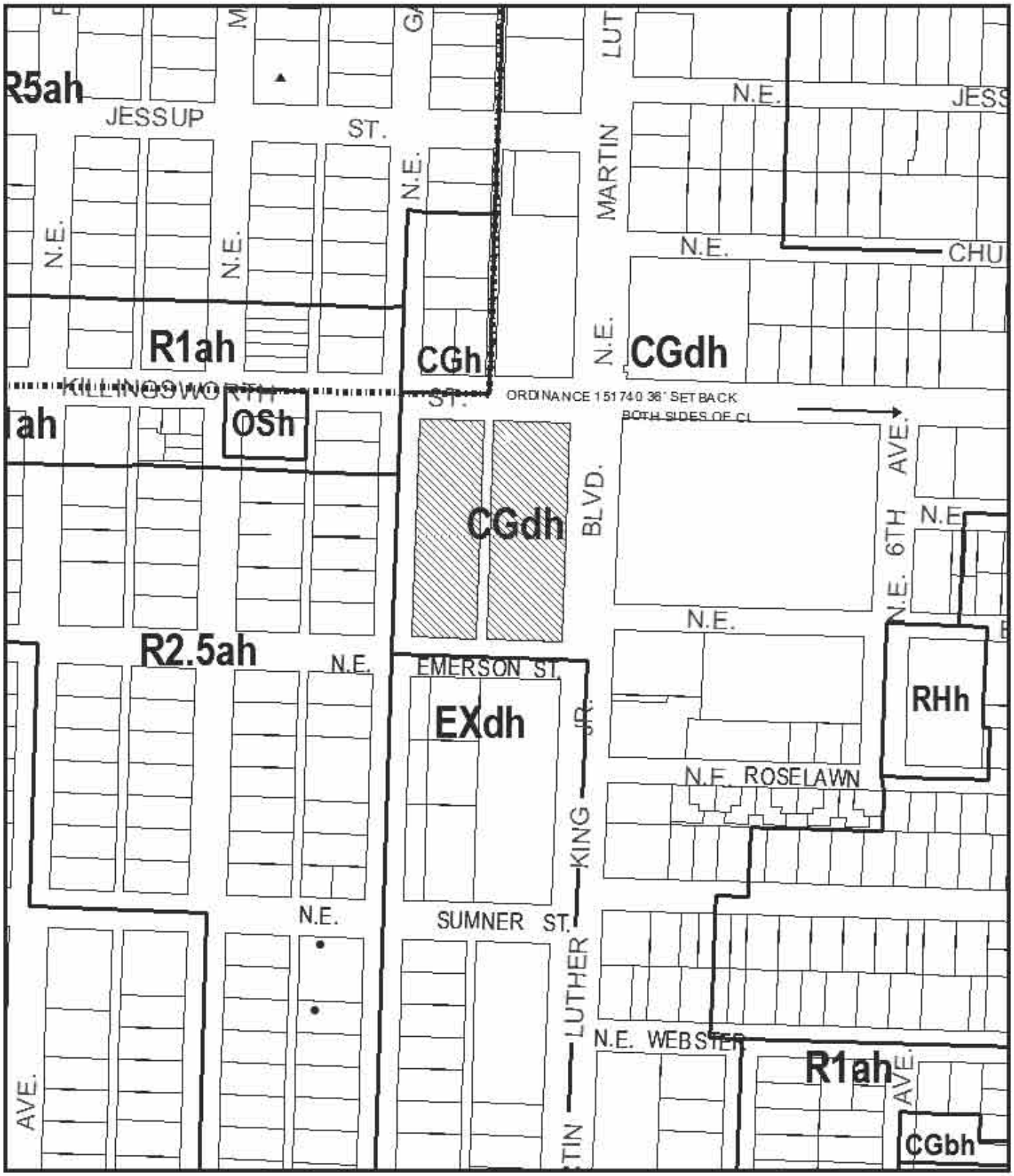
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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 and Original LU Application
   1. Email request from Deb Scott dated November 13, 2007 to put application on hold
   2. Supplemental submittal received May 2, 2008
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Site Plan (attached)
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. Life Safety Section of BDS
   4. Summary sheet of Bureau responses
F. Correspondence: None received
G. Site History Research

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).



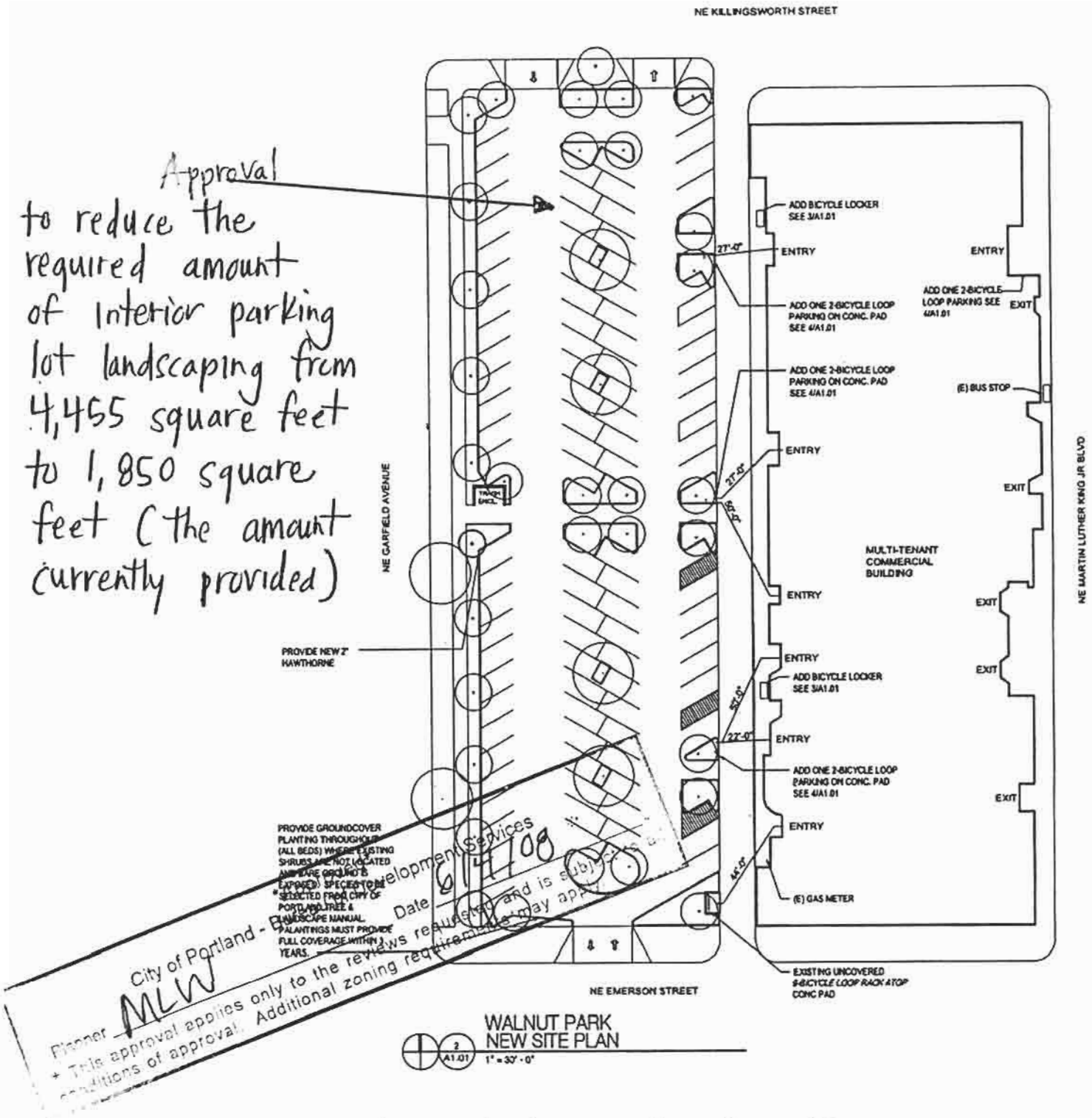
ZONING

Site

NORTH

File No.	LU 07-165547 AD
1/4 Section	2530,2531
Scale	1 inch = 200 feet
State_Id	1N1E22AA 100
Exhibit	B (Oct 05,2007)

Approval to reduce the required amount of interior parking lot landscaping from 4,455 square feet to 1,850 square feet (the amount currently provided)



WALNUT PARK
NEW SITE PLAN
2 A1.01 1" = 30' - 0"

PROVIDE GROUNDCOVER PLANTING THROUGHOUT (ALL BEDS) WHERE EXISTING SHRUBS ARE NOT LOCATED AND BARE GROUND IS EXPOSED. SPECIES TO BE SELECTED FROM CITY OF PORTLAND TREE & LANDSCAPE MANUAL. PLANTINGS MUST PROVIDE FULL COVERAGE WITHIN 3 YEARS.

City of Portland - Bureau of Development Services
Date 6/4/08
Planner MLW
This approval applies only to the reviews requested and is subject to the conditions of approval. Additional zoning requirements may apply.

* Site improvements will be made to add bike parking and ground cover within landscaped areas

5305 NE M L King Boulevard
07-165547 AD