



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](http://www.portlandonline.com/bds)

**Date:** June 18, 2008  
**To:** Interested Person  
**From:** Sheila Frugoli, Land Use Services  
503-823-7817 / [frugolis@ci.portland.or.us](mailto:frugolis@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 08-126797 AD**

**GENERAL INFORMATION**

**Applicant:** Donna Keough  
508 W 44th Street  
Vancouver, WA 98660

**Owner:** Jim Kosta  
BW Construction Inc  
P.O. Box 66910  
Portland, OR 97290-6910

**Site Address:** 3730 SE 136TH AVE

**Legal Description:** TL 1500 0.38 ACRES, SECTION 11 1S 2E  
**Tax Account No.:** R992114180  
**State ID No.:** 1S2E11DB 01500  
**Quarter Section:** 3444

**Neighborhood:** Powellhurst-Gilbert, contact James Chasse at 503-762-0863.  
**Business District:** Midway, contact Donna Dionne at 503-252-2017.  
**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

**Plan District:** Johnson Creek Basin  
**Zoning:** R2a, Multi-Dwelling Residential 2,000 zone with the "a" Alternative Design Density overlay zone

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

**Proposal:** The applicant is requesting an Adjustment to reduce the parking area setback from 5 feet to 3 feet. The setback applies to parking spaces as well as driveways/aisles that lead to the parking spaces. The parking will serve additional dwelling units proposed on the site. The applicant intends to retain the existing house on the lot and add three new dwelling units.

Because this site is zoned R2 which allows one dwelling unit per 2,000 square feet of site area, the additional dwellings are allowed. The applicant intends to meet the landscape requirement, between the parking area and the south property line, by planting a hedge that will provide a tall visual screen.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria have been met.

## ANALYSIS

**Site and Vicinity:** This 16,559 square foot lot is currently developed with a single-story house and large garage that is located in the northeast corner of the site. The site is surrounded by single dwelling residences. There are a few multi-dwelling residential developments on the west side of SE 13<sup>th</sup> Avenue, north of the site.

**Zoning:** R2, Multi-Dwelling Residential 2,000. This zone allows a one residential dwelling unit per 2,000 square feet of site area.

**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 **May 19, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Environmental Services
- Parks Bureau, City Forester

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on May 19, 2008. No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

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

**Findings:** The applicant is requesting a reduction in the required setback between the parking driveway and the property line from 5 feet to 3 feet. The applicant intends to plant the setback area consistent with the required L3, High Screen landscaping standard. The intent for the parking lot perimeter landscaping, as stated in Section 33.266.130.A (Purpose) of the Zoning Code, is as follows:

*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;*
- *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 airborne and waterborne pollution.*

The applicant is proposing to plant a row of shrubs—Arborvitae and 5 deciduous trees along an approximate 130-foot length, separating the new driveway from the southern property line. Even though the separation between the driveway and property line will be reduced by 2 feet, the 3-foot wide area is adequate. A continuous row of tall shrubs and small trees that will provide adequate visual separation and will provide area for stormwater infiltration and will serve to reduce airborne and waterborne pollution. This approval criterion is satisfied.

- 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:** This site is residentially zoned. The proposed row of tall shrubs and trees will create adequate separation from the driveway and the abutting residential property. The setback reduction will not significantly detract from the livability or appearance of the residential area. This criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Only one adjustment has been requested. Therefore, this criterion does not apply.

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

**Findings:** This site is not located within the scenic overlay zone nor is it designated as a historic landmark or resource. Therefore, this criterion is not applicable.

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

**Findings:** There will be no significant impacts created by reducing the setback area between the driveway and the property line. No mitigation is necessary. This approval criterion is satisfied.

- 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:** This site is not located within an environmental resource overlay zone. 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.

**NOTE: Section 33.248.020.C. requires 6-foot tall row of evergreen shrubs, one small tree for every 15 lineal feet and ground cover. Section 33.248.030.D.3 requires a variety of**

**trees and shrubs to be used. To be approved for permits, these standards (as well as other applicable standards) must be shown to be met on the submitted building permit plans.**

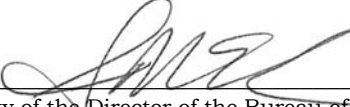
## CONCLUSIONS

The applicant has demonstrated that the approval criteria have been met. The requested setback Adjustment will not adversely impact the livability or appearance of the residential area. The three-foot wide landscape strip will be adequate to support the vegetation and serve to reduce stormwater impacts. Therefore the Adjustment should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the parking area setback from 5 feet to 3 feet. [Zoning Code Section 33.33.266.130.G/Table 266-5], per the approved site plan, Exhibits C.1 signed and dated June 16, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans must reflect the information and design approved by this land use review as indicated in Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-126797 AD."

**Decision rendered by:**  **on June 16, 2008**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: June 18, 2008**

**Staff Planner: Sheila Frugoli**

**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 May 5, 2008, and was determined to be complete on May 19, 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 May 5, 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 July 2, 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](http://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 **July 3, 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.

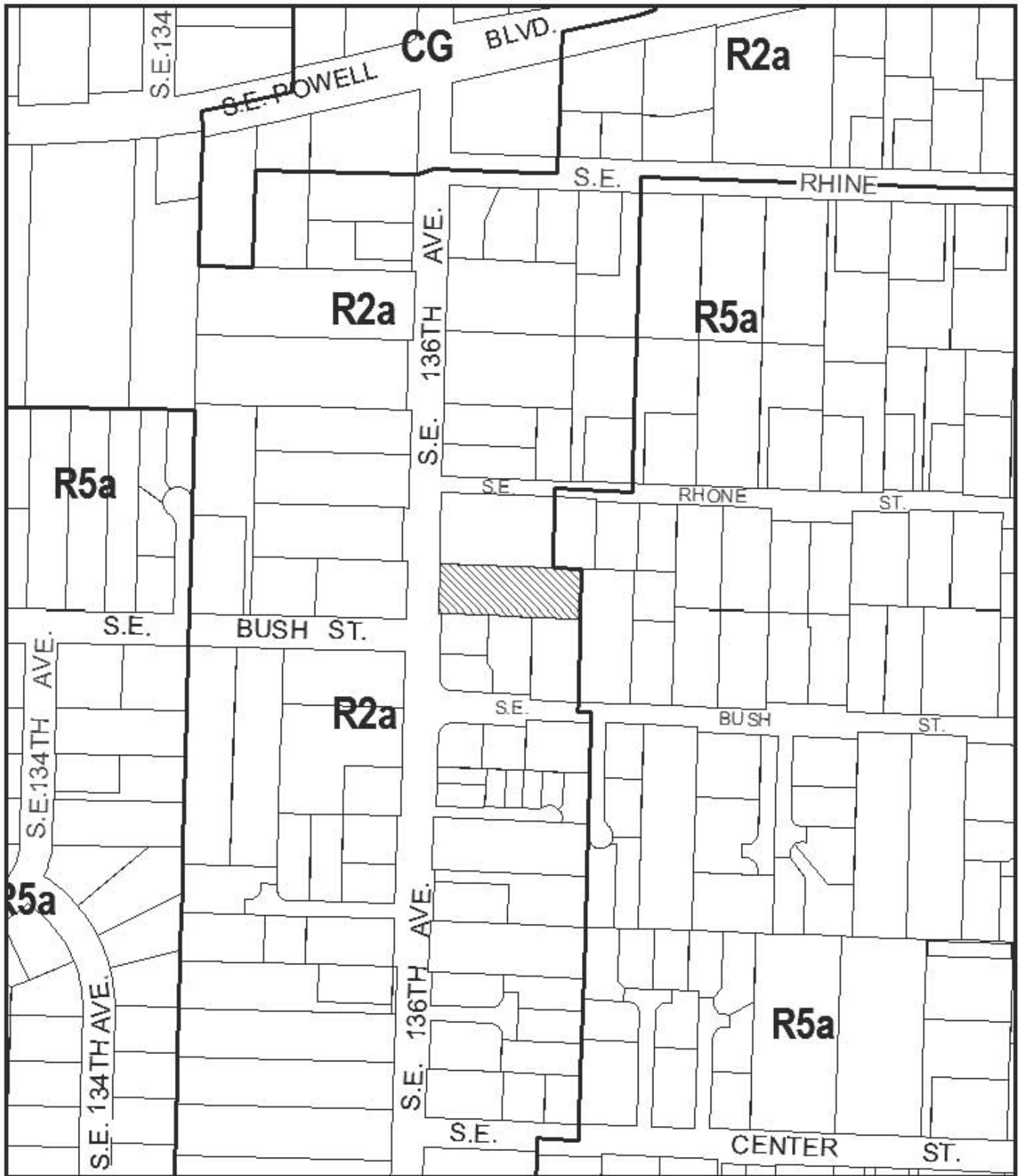
**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. TRACS Print-out of Bureau Comments
    - a. Bureau of Environmental Services
    - b. Bureau of Transportation Engineering and Development Review
    - c. Water Bureau
    - d. Fire Bureau
    - e. Site Development Review Section of BDS
    - f. Bureau of Parks, Forestry Division
- F. Correspondence - None
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research



# ZONING



This site lies within the:  
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	<u>LU 08-126797 AD</u>
1/4 Section	<u>3444</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E11DB 1500</u>
Exhibit	<u>B</u> (May 06,2008)

