

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: July 10, 2008

To: Interested Person

From: Dave Skilton, Land Use Services

503-823-0660 / dave.skilton@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 08-127011 DZM – NEW CONSTRUCTION OF FOUR RESIDENTIAL UNITS

GENERAL INFORMATION

Applicant: Glen B Garner, Owner

3322 Lawson Drive Pearland, TX 77584

Representative: Grant Garner, Designer (503-515-3842)

P O Box 5733

Portland, OR 97228-5733

Site Address: 7116 E/N Burlington Street

Legal Description: SLY 1/2 OF LOT 5&6 BLOCK 28, JAMES JOHNS 2ND ADD

Tax Account No.: R426001670 **State ID No.:** 1N1W12BA 01600

Quarter Section: 2121

Neighborhood: St. Johns, contact Lorelei Juntunen at 503-516-3579.

Business District: St. Johns Business Boosters, contact Gary Boehm at 503-286-1312. **District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at

503-823-4099.

Plan District: St. Johns

Zoning: R1d, Residential 1,000, with design overlay.

Case Type: DZM, Design Review with request for modifications.

Procedure: Type II, an administrative decision with appeal to the Design

Commission.

Proposal:

The applicant is seeking Design Review for a four unit residential development, two stories of dwelling units above partially below-grade parking and storage. The lot is 50' x 100' and the

proposed building footprint is approximately 40' x 75'. Overall height to the top of the hipped roof will be approximately 32' above grade; cladding will be a cementitous board material, applied as a rainscreen system, in horizontal and board and batten patterns; and the windows will be of tan-colored vinyl. Entry to the garage is at street grade through a single door, and utilizes an existing curb cut.

Proposals for new development within a design overlay zone that do not meet the Community Design Standards require Design Review.

Modification through Design Review:

33.266.130 G Parking area setbacks and landscaping. – Applicant is seeking a modification of parking area setback standards because a 44" wide paved fire exiting path must pass through a required 5' wide landscape area between a driveway and a property line abutting residential zoning. A modification of site-related development standards is allowed in lieu of an adjustment, within the Design Review process.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The relevant criteria are:

Community Design Guidelines

■ 33.825.040 Modification through Design Review

ANALYSIS

Site and Vicinity: St. Johns is a part of Portland which, until annexation in 1915, was an independently incorporated city. As such it still displays many characteristics of a small town. The subject property is located in a residential neighborhood immediately adjacent to the commercial core of St Johns, and this area, near the north end of the St Johns Bridge, can support higher density because it is very well served by public and private infrastructure. However, it developed historically mostly with single family dwellings. Hence the proposed four-unit complex must achieve a balance between the density allowed by its base zoning, and the existing character in its vicinity.

Zoning: R1d, Residential 1,000, with design overlay

Residential 1,000 zone. The R1 zone is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses. Generally, R1 zoning will be applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

<u>Design Overlay zone</u>. The Design Overlay Zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The Design Overlay Zone also promotes quality high-density development adjacent to transit facilities. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review or compliance with the Community Design Standards. In addition, design review or compliance with the Community Design Standards ensures that certain types of infill development will be compatible with the neighborhood and enhance the 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 27, 2008**. The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Fire Bureau

The Site Development Section of the Bureau of Development Services and the Bureau of Environmental Services initially raised concerns about the proposed location of a drywell for storm water management, but the issue was resolved through a successful Plumbing Code appeal, and both agencies now support the proposal.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on May 27, 2008. One written response was received from notified property owners in response to the proposal. Cord Wilkey and Rochelle Low, owners of property sharing a rear lot line with the side lot line of the development site, wrote in general support of the proposal but with concerns about the proposed treatment of the side setback area. Specifically they requested that the setback be planted as a buffer and not include a paved access/egress pathway. Concerns about the paving were that it would drain more water into their back yard and that foot traffic there would impinge on their privacy.

Staff Response: Staff contacted Mr. Wilkey and discussed the case. It became evident early in the conversation that Mr. Wilkey thought the landscape requirement that applies only to the area between the driveway and the property line, and for which a modification is being sought, applied to the entire side yard. Upon clarification he withdrew his objection. Staff suggested that Mr. Wilkey, Ms. Low, and the applicant meet to discuss ways in which grading and side yard plantings could be carried out to mutual benefit. The same suggestion was offered to the applicant.

ZONING CODE APPROVAL CRITERIA

Chapter 33.825 Design Review Section 33.825.010 Purpose of Design Review

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

Section 33.825.055 Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

Findings: The site is designated with design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site's location, the applicable design guidelines are the Community Design Guidelines.

Community Design Guidelines

The Community Design Guidelines consist of a set of guidelines for design and historic design cases in community planning areas outside of the Central City. These guidelines address the unique and special characteristics of the community plan area and the historic and conservation districts. The Community Design Guidelines focus on three general categories: **(P) Portland Personality,** which establishes Portland's urban design framework; **(E) Pedestrian Emphasis,** which states that Portland is a city for people as well as cars and other movement systems; and **(D) Project Design,** which assures that each development is sensitive to both Portland's urban design framework and the users of the city.

Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.

P1. Community Plan Area Character. Enhance the sense of place and identity of community plan areas by incorporating site and building design features that respond to the area's unique characteristics and neighborhood traditions;

Findings: The proposal speaks directly to the desired characteristics and traditions of the Hillside Neighborhood of the St Johns/Lombard Plan Area by providing housing which: a) includes fully enclosed, below-grade parking accessed via a minimally-sized portal with an operable door; b) is similar in height and massing to its neighbors; c) incorporates architectural and site design elements common in the area; and d) has a strong connection between the sidewalk and entrances. *This Guideline is therefore met.*

- **E2. Stopping Places.** New large-scale projects should provide comfortable places along pedestrian circulation routes where people may stop, visit, meet, and rest.
- **E3.** The Sidewalk Level of Buildings. Create a sense of enclosure and visual interest to buildings along sidewalks and pedestrian areas by incorporating small scale building design features, creating effective gathering places, and differentiating street level facades.

Findings: By juxtaposing the shared main entry stair and the bicycle parking at the sidewalk edge, the proposal creates a node where a number of pathways intersect. This offers a good public opportunity for person-to-person interactions. *These Guidelines are therefore met.*

- **D1. Outdoor Areas.** When sites are not fully built on, place buildings to create sizable, usable outdoor areas. Design these areas to be accessible, pleasant, and safe. Connect outdoor areas to the circulation system used by pedestrians;
- **D3.** Landscape Features. Enhance site and building design through appropriate placement, scale, and variety of landscape features.

Findings for D1 and D3: As is traditional in this neighborhood, the site is leveled several feet above the sidewalk grade. This characteristic is maintained in the proposal, and enhanced by design elements such as a low retaining wall, the bicycle parking stall, sloping planted areas, the branching main entry stair, and the secondary stairways to the rear units, all of which relate strongly to the sidewalk. The opening through the bank to the below-grade garage is minimized. *These Guidelines are therefore met.*

D2. Main Entrances. Make the main entrances to houses and buildings prominent, interesting, pedestrian accessible, and transit-oriented.

Findings: The front doors to the two forward units face the street and are marked with small porticos featuring bracket-supported pediment elements within an otherwise hipped roof system. The main entry stairs also give access to generous covered porches for the forward units which overlook the street. *This Guideline is therefore met.*

D4. Parking Areas and Garages. Integrate parking in a manner that is attractive and complementary to the site and its surroundings. Locate parking in a manner that minimizes negative impacts on the community and its pedestrians. Design parking garage exteriors to visually respect and integrate with adjacent buildings and environment.

Findings: Parking is integrated by enclosing it fully below grade, under the building. The garage is accessed via a minimally sized portal with a door that is set well back from the sidewalk under one of the porch decks. Due to the incorporation of well-designed interior maneuvering room, garage exiting will be by forward motion. In mitigation for the presence of a required exit-way in the required landscape setback, the driveway is also screened from view at its northerly edge by a three-foot high fence at the podium grade, and a pergola with vines. *This Guideline is therefore met.*

D5. Crime Prevention. Use site design and building orientation to reduce the likelihood of crime through the design and placement of windows, entries, active ground level uses, and outdoor areas.

Findings: All four yards are well overseen by windows in the dwelling units, as is the adjacent street, owing to the elevated character of the first floor. *This Guideline is therefore met.*

D8. Interest, Quality, and Composition. All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.

Findings: The massing, height, scale, palette of materials, and detailing of the building place it squarely within the tradition of smaller multi-unit housing developments in Portland. Each unit is given its own presence but within a cohesive overall structure under a single roof. *This Guideline is therefore met.*

33.825.040 Modifications That Will Better Meet Design Review Requirements:

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. These modifications are done as part of design review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- **A. Better meets design guidelines.** The resulting development will better meet the applicable design guidelines; and
- **B. Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

The following modification is requested:

33.266.130 G Parking area setbacks and landscaping. – Applicant is seeking a modification of parking area setback planting standards because a 44" wide paved fire exiting path must pass through a required 5' wide landscape area between a driveway and a property line abutting residential zoning. The area requiring the modification is approximately ten feet in length.

The proposal is to use the remaining open soil, a 1'-4" x 12'-0" bed, for a planting of climbing vines which will be trained onto a 3'-0" tall fence/trellis adjacent to the driveway.

Purpose: The development standards promote vehicle areas which are safe and attractive for motorists and pedestrians. Vehicle area locations are restricted in some zones to promote the desired character of those zones. Together with the transit street building setback standards in the base zone chapters, the vehicle area restrictions for sites on transit streets and in Pedestrian Districts:

- Provide a pedestrian access that is protected from auto traffic; and
- Create an environment that is inviting to pedestrians and transit users.

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 airborne and waterborne pollution.

Findings: Locating the parking in a fully enclosed basement meets *Guideline D4 - Parking and Garages*, but creates an edge condition where the driveway is especially visible from the elevated rear yard to the north. Using a fence and climbing plants rather than low plants creates a more effective screening of the driveway. The proposal is consistent with the purpose of the standard because it protects pedestrians using the path through the setback by providing a barrier at a significant grade change, and it makes the pathway more attractive through the introduction of climbing plant materials. Although the driveway is not a parking area (it accesses an enclosed garage) the fence and planting will effectively screen it from view from the adjoining residential back yard because of the grade change and the height of the fence.

The approval criteria are therefore met.

CONCLUSIONS

This proposed multi-unit development represents a good balance between the density foreseen in the R1 zoning of the area and the need to fit new construction comfortably into an established single-family dwelling context. The project will provide four substantial dwellings in a building that continues the long tradition of moderately sized attached housing in the City. This has been accomplished by designing a single two-story structure that nonetheless clearly allows the expression of the individual units. Careful thought to materials and detailing also contributes to a neighborly approach. The proposal is approved.

ADMINISTRATIVE DECISION

Approval of a four-unit residential development with below grade parking per the approved site plans, Exhibits C-1 through C-3, signed and dated July 7, 2008.

Approval of a modification to <u>33.266.130 G Parking area setbacks and landscaping</u> for a 1'-4" wide by 12'-0" long bed and 3'-0" tall by 12'-0" long fence/trellis with climbing vines, adjacent to the driveway in the side yard setback, in lieu of L1 plantings.

Approval subject to the following conditions:

A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C-1 through C-3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-127011 DZM . No field changes allowed."

Decision rendered by: ______ on July 7, 2008.

By authority of the Director of the Bureau of Development Services

Decision mailed: July 10, 2008

Staff Planner: Dave Skilton

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 6, 2008, and was determined to be complete on **May 20, 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 6, 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 Design Commission, which will hold a public hearing. Appeals must be filed by 4:30 PM on July 24, 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 Design Commission 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 Design Commission 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 25, 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:

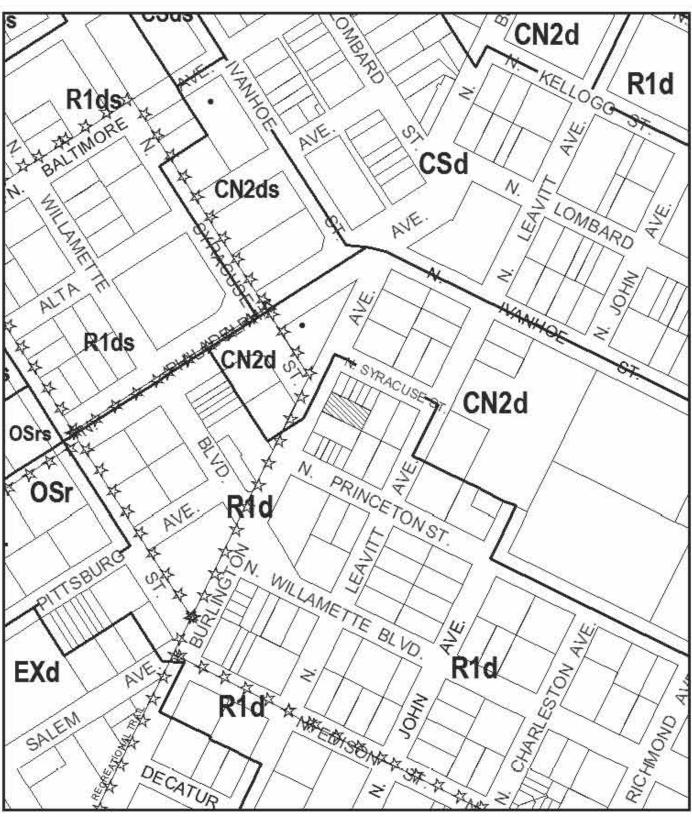
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. West and East Elevations (attached)
 - 3. North and South Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Site Development Section of BDS Response
 - 2. Bureau of Environmental Services Response
- F. Correspondence:
 - 1. Cord Wilkey and Rochelle Low, June 18, 2008, generally in support of proposal but would prefer entire side yard adjacent to property to north planted to preserve privacy.
- G. Other:
 - 1. Original LU Application
 - 2. Case Contact Log.

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



Historic Landmark



This site lies within the: ST. JOHN S PLAN DISTRICT File No. LU 08-127011 DZM

1/4 Section 2121

Scale 1 inch = 200 feet

State_Id 1N1W12BA 1600

Exhibit B (May 08,2008)

