

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 11, 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 08-130325 AD

GENERAL INFORMATION

Applicant: Dean Zarosinski

Zaronski Engineering And Design, Inc.

1400 NW 155th Circle Vancouver, Wa 98685

Owner: PMI Properties LLC

ATTN: Justing Baseler 10100 NE Marx St

Portland, OR 97220-1162

Site Address: 10100 NE MARX ST

Legal Description: LOT A BLOCK 88, PARKROSE & RPLT; LOT B BLOCK 88, PARKROSE

& RPLT

Tax Account No.: R647318430, R647318480

State ID No.: 1N2E21AA 00100, 1N2E21AA 00200

Quarter Section: 2541

Neighborhood: Parkrose Association of Neighbors, contact Marcy Emerson-Peters at

503-254-3794

Business District: Columbia Corridor Association, contact Land Use at 503-287-8686

District Coalition: East Portland Neighborhood Office, contact Richard Bixby at

503-823-4550

Plan District: Columbia South Shore - Southern Industrial

Zoning: IG2hs (General Industrial 2 with an Aircraft Landing Zone overlay and

a Scenic Resource Zone overlay)

Case Type: AD (Adjustment)

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

Committee.

Proposal:

The applicant has submitted plans for an approximately 1,536 square foot, two-story addition to an existing building on this site. The site is zoned IG2 and in this zone buildings are required to be set back a minimum of 25 feet from the street property line. The existing building is set back this distance from the street property line and the applicant desires for the

front of the addition to be constructed in-line with that building. However, as the street is angled in relation to the site, approximately 323 square feet of the footprint of the addition would be located within the 25-foot setback with the closest portion 12.5 feet from the street property line. The applicant requests one Adjustment to reduce the minimum street setback for the addition from 25 feet to 12.5 feet.

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 approximately 75,000 square foot site is located on NE Marx Street which is to the north of the site. Railroad tracks are located to the south of the site. The site is developed with a small office building located close to the NE Marx Street frontage but just outside of the 25-foot minimum setback and a larger industrial building located in the center of the site. The eastern side of the site is developed with surface parking. The surrounding vicinity is primarily developed with other industrial uses. A RV/Manufactured Home Park is located to the southwest of the site on the other side of the railroad tracks.

Zoning: The site is zoned IG2hs (General Industrial 2 with an Aircraft Landing Zone overlay and a Scenic Resource Zone overlay). The IG2 zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. IG2 areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street. The "h" overlay limits the height of structures and vegetation in the vicinity of the Portland International Airport. The "s" overlay zone is intended to protect Portland's significant scenic resources. The "h" and the "s" overlays do not apply to the proposal.

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 **June 10, 2008**. No issues related to the service agencies are present with the proposal to reduce the street setback for the building addition. Portland Transportation advises that there may be street improvements associated with the building permit but has no issues related to the Adjustment request.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 10, 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

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.

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 minimum street setback for the addition from 25 feet to 12.5 feet for an approximately 1,536 square foot, two-story addition to an existing building on this site. The purpose for the setback requirement is listed below:

Purpose 33.140.215 Setbacks

The setback standards promote different streetscapes. The EG2 and IG2 zone setbacks promote a spacious style of development. The EG1, IG1, and EX zone setbacks reflect the generally built-up character of these areas. The IH zone requires only a minimal setback to separate uses from the street. The setback standards are also intended to ensure that development will preserve light, air, and privacy for abutting residential zones. In the EG2 and EX zones, the setback requirements along transit streets and in Pedestrian Districts create an environment that is inviting to pedestrian and transit users.

The proposal to add an approximately 1,536 square feet of building space along the street frontage will not interfere with the spacious style of development desired in the IG2 zone. This is especially evident as only 323 square feet of the building floor area is proposed to be within the 25-foot minimum building setback. The site has over 230 feet of street frontage and the existing building with the proposed addition only occupy about 90 feet of street-frontage; this preserves a large amount of undeveloped street frontage to provide the sense of a spacious style of development. The other, larger building on the site is set back 70 feet from the rear of the proposed addition which further preserves this spacious style of development. There are no abutting residential zones for the site; therefore, the proposed setback Adjustment will not interfere with the availability of light, air or privacy. Based on this information, 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 fronts on NE Marx Street. In this location, the Transportation System Plan classifies NE Marx Street as a Neighborhood Collector, a Local Service Transit Street, a Local Service Bikeway, a Local Service Walkway, a Local Service Truck Street, a Minor Emergency Response Street and a Local Street. The PDOT reviewer examined the proposal for conformance with these street designation and found no issues or conflicts with the proposed Adjustment.

The IG2 zone is intended for industrial development which is usually set back from the street. The proposal will not conflict with the use of the site for industrial purposes. Although the street setback is reduced as part of this land use review, a 12.5-foot setback between the front of the addition and the street will still be provided. In addition, considering the angle of the street and clear desire to continue the existing building wall, the reduced setback is appropriate. This criterion is met.

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

Findings: The Scenic Resource Zone overlay limits building height to 140 feet in this location in order to preserve views. The proposed building height is well under 140 feet therefore this criterion is met.

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

Findings: No impacts are expected to result from the proposed Adjustment. The proposal will continue the front building line of the existing building; however, since NE Marx Street is angled in relation to the site, 323 square feet of building floor area will be within the 25-foot minimum building setback – a minimal amount which should not result in negative impacts. Furthermore, a large amount of street frontage will remain undeveloped which will still give the impression of a spacious style of development. Based on this information, 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.
- **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 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 plans for a two-story addition to an existing accessory office building at this site. As noted in this report, the proposal is able to meet the Adjustment Review approval criteria with approval granted based on the minimal amount of building floor area proposed within the setback, the 12.5-foot setback proposed and the angled street in relation to the site and existing accessory office building. With approval requiring that the permit drawings substantially conform with the site plan attached, the request meets the applicable criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of one Adjustment to 33.140.215 to reduce the minimum building setback from 25 feet to 12.5 feet for the proposed two-story addition to the existing accessory office building, per the approved site plan, Exhibits C-1, signed and dated July 10, 2008, subject to the following condition:

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-C.XX. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-130325 AD."

Decision rendered by: _____ on July 9, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: July 11, 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 May 19, 2008, and was determined to be complete on June 2, 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 19, 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 25, 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 July 28, 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

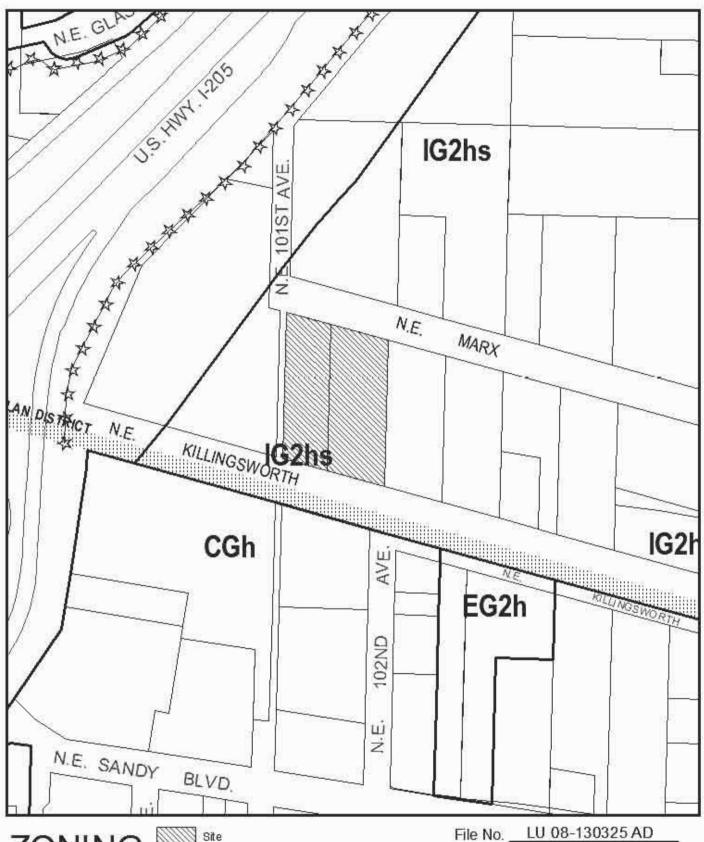
• All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawing (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses: None received
- F. Correspondence: None received
- G. Other: 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

2540,2541 1/4 Section

1 inch = 200 feet Scale. 1N2E21AA 100

State_Id В (Jun 09,2008) Exhibit



