



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 14, 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 08-116125 AD

GENERAL INFORMATION

Applicant: Jorge Lopez-Macias
8801 SE Foster Rd
Portland, OR 97266-4748

Owner: Craig T Bauske
8801 SE Foster Rd
Portland, OR 97266-4748

Site Address: 14126 SE DIVISION ST

Legal Description: SECTION 11 1 S 2 E; TL 300 0.20 ACRES
Tax Account No.: R992112940
State ID No.: 1S2E11AA 00300
Quarter Section: 3344
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: CN2 (Neighborhood Commercial 2)
Case Type: AD (3 Adjustments)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

A parking lot was constructed behind this existing commercial business on SE Division Street and three Adjustments to standards of the Portland Zoning Code are required. The driveway which accesses the parking lot is 14.5 feet in width and Zoning Code regulations require that it be screened from the east property line by a 5-foot landscaped setback. In order to maintain an adequate width for the driveway, the applicant proposes one Adjustment to waive the required 5-foot landscaped setback and to instead allow a cedar fence to screen the driveway. The Zoning Code also requires a 5-foot landscaped setback around the perimeter of the parking area. This landscaped setback must be planted with trees, shrubs and ground cover. The existing depth of the landscaped setbacks on the south and west sides of the parking area

currently do not meet this standard and are proposed to be expanded. The landscaped setback along the east side of the parking area meets the 5-foot depth requirement; however, this area is already planted with approximately 15-foot tall laurel hedge. The applicant requests a second Adjustment to allow the laurel hedge to substitute for the trees, shrubs and ground cover required in the landscaped setback. The Zoning Code also requires an internal pedestrian connection to connect the parking lot and trash/recycling area with the main entrance of the building. When a pedestrian connection crosses or is parallel to a vehicle travel lane, it must be constructed of a different paving material or elevated. The applicant requests a third Adjustment to allow the pedestrian connection within the driveway and to be designated through striping rather than a different paving material.

Relevant Approval Criteria:

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

ANALYSIS

Site and Vicinity: The site is developed with a single-story commercial building used as a restaurant. Parking currently occurs in front of the building next to a fenced outdoor seating area and a parking area has been paved at the rear of the building. The parking area paving extends to approximately 2 feet from the west property line, 3.5 feet from the south property line and 5 feet from the east. Rows of juniper shrubs are planted within these unpaved areas along the east and the south property lines, however, approximately 30 percent of these shrubs are dead. An approximately 15-foot tall laurel hedge is growing within the unpaved area to the east of the parking area. There is no curb to separate the paved area from the area where landscaping has been planted. A fence is located along the west and south property lines except for a span where a detached garage on the neighboring site to the west is located.

The surrounding vicinity is developed with a mix of low-scale commercial buildings, single-dwelling development and low density multi-dwelling development. A restaurant is located to the east of the site and the laurel hedge serves to separate the parking area of that restaurant from the parking area of the subject site. The parking area of the restaurant to the west of the site has only limited landscaping. The lot to the west of the site is developed with a single-dwelling residence which is under the same ownership as the subject site.

Zoning: The site is zoned CN2 (Neighborhood Commercial 2). The CN2 zone is intended for small commercial sites and areas in or near less dense or developing residential neighborhoods. The emphasis of the zone is on uses which will provide services for the nearby residential areas, and on other uses which are small scale and have little impact. Development is expected to be predominantly auto accommodating, except where the site is adjacent to a transit street.

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 6, 2008**. The following Bureaus have responded:

- The Bureau of Environmental Services (BES) responded with information on sanitary services, stormwater management and water resources. The response initially stated that it was unclear how the proposed Adjustments would impact stormwater management and therefore BES could not support the proposed Adjustments until it was shown that the project could meet the requirements of the Stormwater Management Manual. Following additional materials submitted by the applicant and reviewed by Site Development an amended response was received which stated that BES has no objections to the proposed Adjustments. The response notes that stormwater management facilities will be reviewed in more detail at that time of building permit application (Exhibit E-1).
- The Site Development Section of BDS responded with some information about the drainage of the site, past permits and an Underground Injection Control facility. The response states

that the proposal to waive the required 5-foot landscaped setback along the driveway has the potential to eliminate area needed for stormwater management. The respondent, Mary King, notes that on-site infiltration of stormwater is feasible at the site however, the use of infiltration planters or vegetated swales may be impractical. Therefore, Ms. King states that Site Development would not object to the use of a stormwater catch basin connected to a new or existing soakage trench or drywell. The response requests that a site plan be submitted which shows an acceptable stormwater management system before Site Development can support the proposed Adjustments. Following the submittal of additional materials by the applicant Site Development issued an amended response which stated that the information provided was acceptable and Site Development has no objections to the proposed Adjustments provided that a condition of approval is included to require the applicant to obtain final approval of a commercial building permit and associated plumbing permit for the parking lot and stormwater facilities. Additional information will be required at the time of building permit review. The response also advises the applicant that Underground Injection Control facility registration with the Oregon Department of Environmental Quality may be required for the soakage trench (Exhibit E-2).

- The Development Review Section of Portland Transportation (PDOT) responded with no objections to the proposed Adjustments provided the fence proposed along the west property line to screen the driveway is no more than 42 inches in height within the first 10 feet from the street property line (Exhibit E-3).
- The Life Safety Section of BDS as well as the Fire, Water and Parks Bureaus all responded with no concerns (Exhibit E-4).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 6, 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.

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 three Adjustments associated with the paving of the parking area behind the existing commercial building. The first Adjustment request is to waive the required 5-foot landscaped setback along the driveway which leads to the parking area. The second Adjustment request is to allow the large laurel hedge to the east of the parking area to substitute for the trees, shrubs and ground cover which are required to be planted within the 5-foot perimeter landscaped setback. The third Adjustment request is to allow the pedestrian connection which is required to connect the parking area with the main entrance of the restaurant to be located within the driveway and to be designated through striping rather than a different paving material. The purpose of these 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*

Purpose 33.130.240 Pedestrian Standards

The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between abutting streets and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible.

Adjustments 1 and 2 – Perimeter Parking Lot Landscaping

The applicant has requested to allow a fence and the wall of a detached garage to substitute for a 5-foot landscaped setback required to be located to the west of the driveway and along a portion of the parking area. As noted in the purpose statements above, the parking area layout standards are intended to promote the safe circulation of vehicles. In this situation, installing the required 5-foot landscaping along the edge of the driveway would reduce the driveway width from 14.5 feet to 9.5 feet. This scenario would not promote safe vehicle circulation because the driveway would be too narrow for vehicles to both enter and exit the parking area. The Site Development and BES reviewers noted that the 5-foot landscaped setback could potentially provide area for the on-site treatment of stormwater. However, after reviewing a revised stormwater management plan which shows the flow of stormwater in the parking lot, the location of a soakage trench and the installation of a replacement catch basin, both reviewers responded with no objections. The BES reviewer noted that the stormwater management facility will be reviewed in more detail at the time of building permit. In order to ensure that stormwater management requirements of BES and Site Development are met and to allow changes which still meet the hierarchy of the Stormwater Management Manual, a condition of approval has been added to this review. The condition states that a permit is required for the driveway and parking area and as part of this permit stormwater management requirements must be met, as determined by Site Development and/or BES.

The existing fence and detached garage help to soften the appearance of the driveway from the west despite the request to waive the 5-foot landscaped setback in that location; however, the fence does not extend all the way to the street property line. Considering this information, the comment from PDOT which requests to limit the height of a fence within the first 10 feet of the site and the need for vehicles to safely enter and exit the site, a second condition of approval has been added to this review. This condition requires that a 42-inch high wooden fence be installed along the remainder of the west property line extending from the existing fence to the street property line.

It is also important to offset the request to waive 5-foot landscaped setback along the driveway and a portion of the parking area with additional landscaping elsewhere on the site. For this reason a third condition of approval is included with this review. This condition requires that an additional 290 square feet of landscaped area be created in the southeast corner of the site as shown on the attached site plan. This landscaped area must be planted with a minimum of one tree and eight evergreen shrubs with the remainder of the area planted with ground cover.

The 290 square feet of additional landscaping is roughly proportional with the approximately 350 square feet of landscaping which would otherwise have been required along the western edge of the driveway.

In addition to softening the appearance of parking lots, landscaping requirements are also intended to shade and cool parking areas, reduce pollution and temperature of stormwater runoff and decrease airbourne and waterbourne pollution. The Zoning Code requirement that parking areas be set back 5 feet from the edge of the site to provide a landscaped buffer helps ensure that these priorities are addressed. Therefore, it is necessary for the existing landscaped setbacks which do not meet the 5-foot depth requirement to be expanded so that these areas are large enough to plant required trees, shrubs and ground cover. Therefore, a fourth condition of approval has been added to this review. This condition states that the unpaved areas along the west and south sides of the parking area which are currently planted with juniper shrubs must be expanded to 5 feet in depth and planted with trees, shrubs and ground cover which meet the L3 standard of the Portland Zoning Code. The applicant has indicated that medium sized trees will be planted in these landscaped setbacks. Based on this information, three trees are required within both the west and south landscaped setbacks. A total of 18 shrubs are required within the west landscaped setback and 13 shrubs are required within the south landscaped setback. All dead juniper shrubs must be removed; however those which have survived may remain and count toward the required number of shrubs. The remainder of the landscaped area must be planted with ground cover. All landscaping must be native and drought tolerant. A 100 percent survival rate is required and regular watering during the first year after planting is crucial to ensure survival.

The existing landscaped setback along the east edge of the parking area measures approximately 5 feet in depth and is planted with an approximately 15-foot tall laurel hedge which straddles the property line. A hedge of this height provides positive benefits by shading the parking area, separating the parking area on this site from the parking area on the neighboring site, and screening views of the neighboring parking area from some of the nearby residential lots. Planting the required trees within this landscaped setback would involve removing much of the laurel hedge which in the short-term would create more negative impacts than positive impacts. Based on this information and considering the positive benefits of the laurel hedge, this review allows the hedge to substitute for the required L3 landscaping in the landscaped setback along the east side of the parking area. Due to the expanse of the hedge, no ground cover is necessary in this area as well. Considering that the hedge may or may not be located entirely on the applicant's site and could potentially be removed in the future, a condition of approval has been added to this review. This condition states that if the laurel hedge is removed, the 5-foot landscaped setback must be replanted with landscaping meeting the L3 standard of the Portland Zoning Code.

Two other conditons are necessary to ensure the safe functioning of the parking area and the survival of the landscaping. The first is that the parking spaces must be painted which helps ensure the safe and efficient functioning of the parking area. The parking spaces and circulation area must meet the minimum size requirements found in Table 266-4 of the Portland Zoning Code. The second is the need to install a minimum 4-inch tall curb around the edge of all landscaped areas. This helps ensure that vehicles are adequately separated from the landscaping so that it is not harmed by vehicles when they enter or exit parking spaces.

Based on the information above and the conditions of approval included with this review, this criterion is met.

Adjustment 3 – Pedestrian Connection

The Portland Zoning Code requires that the main entrance of the building be connected to the parking area by a 6-foot hard surfaced pedestrian circulation system which if adjacent to a driveway must be constructed of a different paving material. As there is no rear entrance to the building for customers, the pedestrian connection must pass adjacent to the driveway to

connect to the front entrance and considering the narrow width of the driveway, achieving the required 6-foot width for the pedestrian connection would be problematic. The applicant has requested that the pedestrian connection be located within the existing driveway and painted instead of constructed of a different paving material. Based on the size of the building and the limited number of parking spaces in the parking area, the amount of vehicle traffic entering and exiting the site should be relatively minor. Furthermore, the building is set back 28 feet from the street property line which allows the pedestrian connection to depart from the driveway at a reasonable distance from the street to allow a vehicle to stop and wait for pedestrians before proceeding into the parking area. In addition, vehicles leaving the parking area are provided a straight-line visual connection and an adequate distance for which to see pedestrians before exiting the parking area.

It is important to note that unpermitted vehicle parking is occurring in front of the building. The Zoning Code does not allow parking in this location because it mandates forward ingress and egress from SE Division Street. Parking in this location would also interfere with the safe movement of pedestrians in front of the building. Therefore, a condition of approval has been added to this review which clarifies that no parking is allowed in front of the building and vehicle access to this area must be restricted by installing a minimum 4-inch curb along the east edge of the driveway at a distance of 14.5 feet from the west property line. The curb shall stop at a point 6 feet from the front of the building as to not interfere with the pedestrian connection.

Concerning aesthetics, the pedestrian connection will not be seen from surrounding sites based on the location of the building which will screen it from the east and the existing fence which will screen it from the west. The proposed pedestrian connection will also be useable as it is the only way to enter the site from the parking lot. A paved concrete pedestrian connection currently connects the main entrance of the building to the sidewalk. Based on this information, the proposal to allow the pedestrian connection to be contained within the driveway and to paint the connection rather than construct it of a different paving material equally meets the purpose of the regulation, therefore this criterion is met. In order to ensure that the pedestrian connection is painted as described above, a condition of approval is included with this review which states that a 6-foot wide pedestrian connection must be painted on the existing asphalt as shown on the attached site plan.

- 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 is located on SE Division Street. In this location, the Transportation Element classifies SE Division Street as a District Collector, a Major Transit Priority Street, a City Bikeway, a City Walkway, a Major Truck Street, a Major Emergency Response Street and a Community Corridor. The PDOT reviewer examined the proposal for conformance with these street designations and stated no objections to the proposed Adjustments. Furthermore, the condition of approval which requires the installation of a curb along the east edge of the driveway to restrict vehicles from parking in front of the building and then likely backing out onto SE Division Street helps support these street classifications and the need for all vehicles to exit the site in a forward motion. In addition, the proposal involves a new parking area which is located behind the existing building on the site. This placement of vehicle parking is more consistent with the desired character of the area because vehicle parking is not occurring between a building and a transit street. 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; and

Findings: The CN2 zone is intended for small commercial sites and areas in or near less dense or developing residential neighborhoods. Development is expected to be predominately auto accommodating, except where the site is adjacent to a transit street or in a Pedestrian District.

The Adjustment request to waive the perimeter landscaping requirement along the driveway and a portion of the parking area, the request to allow the laurel hedge to substitute for required landscaping within the landscaped setback along the eastern edge of the parking area and the request to alter the internal pedestrian connection standards do not conflict with the overall purpose of the zone. The Adjustment requests do not restrict the site from providing a small commercial use in the less dense area and allows for auto-accommodating development while not separating the building from the transit street with vehicle parking, instead vehicle parking is located behind the building. Based on this information, this criterion is met.

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

Findings: Conditions of approval included with this land use review adequately address potential impacts associated with the Adjustment requests. Many conditions require improvements so that the parking area meets the standards of the Portland Zoning Code. These improvements include increasing the landscaped setbacks, installing curbs, restricting the parking in front of the building and the planting of required trees, shrubs and ground cover within the west and south landscaped setbacks. The condition of approval which requires that the applicant obtain a building permit and possible plumbing permit to show that conditions are met and to allow BES and/or Site Development to further evaluate stormwater management facilities ensures that stormwater runoff is properly addressed. The conditions to construct a 42-inch tall wooden fence along the west edge of the driveway mitigates for the request to waive the required 5-foot landscaped setback along the driveway as does the requirement to plant additional landscaping in the southwest corner of the parking area. No impacts are expected from the Adjustment request to allow the existing laurel hedge to substitute for required trees, shrubs and ground cover in the landscaped setback to the east of the parking area or modifications to the pedestrian connection standards. Based on this information, this criterion is met.

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: The site does not contain any identified scenic or historic resources and the site is not located in an environmental zone; therefore, these criteria 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.

Parking has not been approved to occur between the building and the street and based on the manner in which parking is occurring, it would be necessary for vehicles to back out onto SE Division Street which is not allowed by the Portland Zoning Code section 33.266.130.F.1.b.

CONCLUSIONS

The applicant proposes three Adjustments associated with the construction of a parking lot to the rear of an existing building which did not meet several development standards of the Portland Zoning Code. As noted in this report, the proposal is able to meet the Adjustment Review approval criteria with approval granted based on the findings and conditions of approval outlined above. With approval requiring that permit drawings substantially conform with the site plan attached, the request meets the applicable criteria and should be approved.

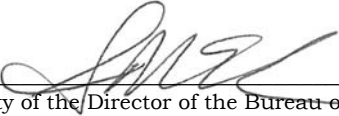
ADMINISTRATIVE DECISION

Approval of three Adjustments to 33.266.130.G and 33.130.240.B.1.b to:

- Waive the required 5-foot landscaped setback along the west side of the driveway;
 - Allow the existing laurel hedge located in the east landscaped setback to substitute for required trees, shrubs and ground cover; and
 - Allow the pedestrian connection to be located within the driveway and designated through stripping rather than an alternative paving material,
- per the approved site plans, Exhibit C-1, signed and dated July 10, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through J) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 08-116125 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A commercial building permit and a possible plumbing permit are required for the driveway and parking area. As part of this permit stormwater management requirements must be met as determined by Site Development and/or BES.
- C. A 42-inch high wooden fence must be installed along the remainder of the west property line between the existing fence and the street property line.
- D. An additional 290 square feet of landscaped area is required in the southeast corner of the site as shown on the attached site plan. This landscaped area must be planted with a minimum of one tree and eight evergreen shrubs with the remainder of the area planted with ground cover. Installation of landscaping may be deferred until the time period between October 1st and March 31st – the planting season.
- E. The unpaved areas along the west and south sides of the parking area must be expanded to 5 feet in depth and planted with trees, shrubs and ground cover which meet the L3 standard of the Portland Zoning Code. Three medium-sized trees are required within both the west and south landscaped setbacks. A total of 18 shrubs are required within the west landscaped setback and 13 shrubs are required within the south landscaped setback. All dead juniper shrubs must be removed; however those which have survived may remain and count toward the required number of shrubs. The remainder of the landscaped area must be planted with ground cover. All new landscaping must be native and drought tolerant. A 100 percent survival rate is required and regular watering during the first year after planting is crucial to ensure survival. Installation of landscaping may be deferred until the time period between October 1st and March 31st – the planting season.
- F. If the laurel hedge located along the eastern edge of the parking area is removed, the 5-foot landscaped setback must be replanted with landscaping meeting the L3 standard of the Portland Zoning Code.
- G. Parking spaces and circulation area must meet the minimum size requirements of Table 266-4 of the Portland Zoning Code and parking spaces must be stripped.
- H. Curbs of a minimum of 4 inches in height must be installed around all landscaped areas.
- I. No parking is allowed in front of the building and vehicle access to this area must be restricted by installing a minimum 4-inch curb along the east edge of the driveway at a distance of 14.5 feet from the west property line. The curb shall stop at a point 6 feet from the front of the building as to not interfere with the pedestrian connection.

J. A 6-foot wide pedestrian connection must be painted on the existing asphalt as shown on the attached site plan.

Decision rendered by:  **on July 10, 2008**
By authority of the Director of the Bureau of Development Services

Decision mailed: July 14, 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 March 17, 2008, and was determined to be complete on June 4, 2008.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 17, 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 28, 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 29, 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:

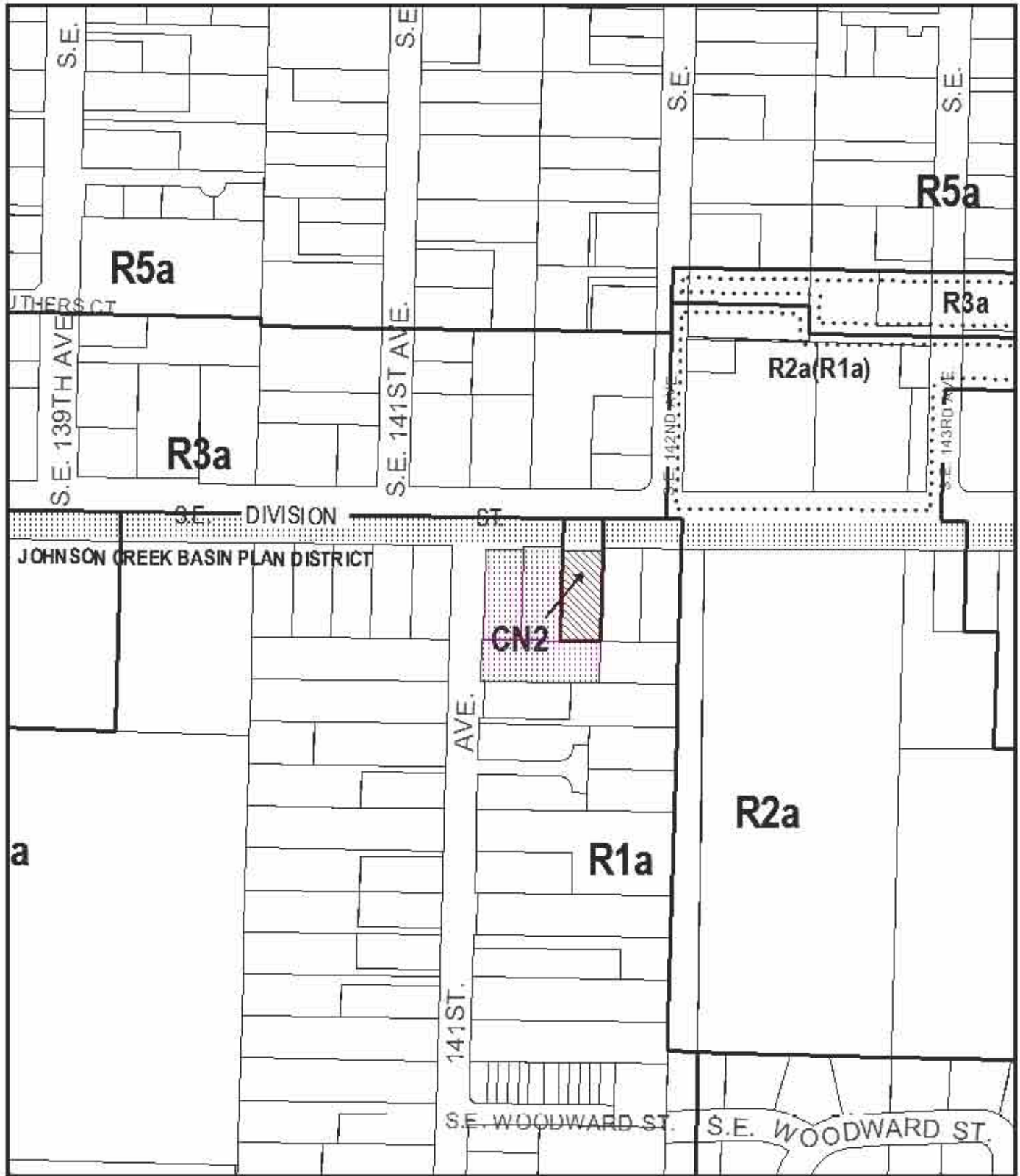
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
 - 1. Incomplete letter from Matt Wickstrom to Jorge Macias dated April 1, 2008
 - 2. Supplemental submittal dated May 11, 2008
 - 3. Supplemental submittal received June 4, 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. Development Review Section of Portland Transportation
 - 4. Summary sheet of Bureau responses
- 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

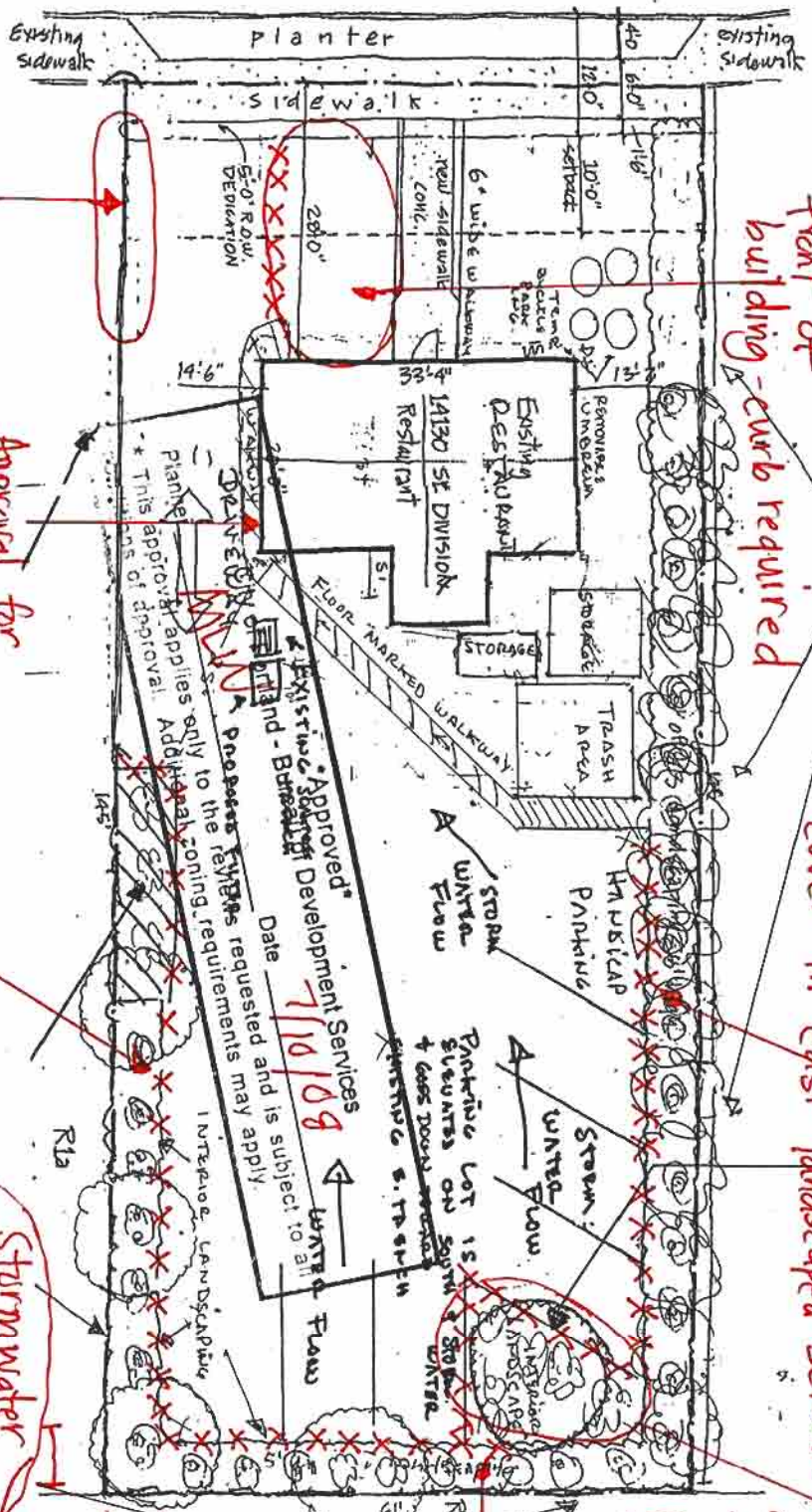
-  Site
-  Also Owned



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	<u>LU 08-116125 AD</u>
1/4 Section	<u>3344</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E11AA 300</u>
Exhibit	<u>B (Mar 21, 2008)</u>

S.E. DIVISION ST.



No parking allowed in front of building - curb required

Building permit required

Approval for existing laurel hedge to substitute for trees, shrubs and ground cover in east landscaped setback

Additional 290 square feet of landscaped area required to be planted with one tree + eight shrubs

Three medium sized trees and 13 shrubs required within south landscaped setback

Increase depth of landscaped setbacks to 5 feet

Stormwater requirements must be met as determined by site development and/or RES
XXX = 4" inch curb required

Three medium-sized trees and 18 shrubs required within west landscaped setback

Approval for ped. connection to be located within driveway + designated with striping

Location where wooden fence no more than 42 inches in height is required

Approved Development Services
Date 7/10/08
Prepared by [signature]
requirements requested and is subject to all applicable zoning requirements and is subject to all applicable zoning requirements.