



City of Portland, Oregon
Bureau of Development Services
Land Use Services

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Date: March 13, 2009
To: Interested Person
From: Crystal Hitchings, Land Use Services
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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 09-104322 AD

GENERAL INFORMATION

Applicant: Glen Miller
G A Miller Architecture
9 Monroe Pkwy, Suite 290
Lake Oswego, OR 97035

Property Owner: Ortiz-Edgar Properties, LLC
21740 SW 109th Terrace
Tualatin, OR 97062

Site Address: 2525 NE BROADWAY

Legal Description: N 1/2 OF LOT 5&6 BLOCK 4 EXC S 20' IN E BRDWY S 1/2 OF LOT 5&6 BLOCK 4, CARTERS ADD TO E P

Tax Account No.: R140200270

State ID No.: 1N1E25CC 06600

Quarter Section: 2833

Neighborhood: Irvington, contact Dean Gisvold at 503-284-3885.

Business District: None

District Coalition: Northeast Coalition of Neighborhoods, contact Lauren McCartney at 503-823-4135.

Zoning: CS, Storefront Commercial

Case Type: AD, Adjustment Review

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

Proposal:

The building located at 2525 NE Broadway has been vacant for some time. The new property owner is locating a dental business at the site. A number of site and structural upgrades will be completed in order to bring the nonconforming site into conformance with current development standards. However, some current standards cannot be met despite the upgrades. Therefore, the applicant is requesting Adjustments to three development standards

in order to construct new, one-story additions onto the existing one-story structure. The building will house two separate dentist offices. The proposal includes a larger addition to the west and south facades of the existing structure, and a smaller addition at the northeast corner of the existing structure. The larger addition has frontage on both NE Broadway and NE 25th Avenue, and is located 4 feet from the south property line along NE Broadway, and about 8.5 inches from the west property line along NE 25th Avenue. The smaller addition is located approximately 56 feet from NE Broadway. Four of the ten existing on-site parking spaces are retained, and landscaping is added along all four property lines and in the planter strips in the public right-of-way. New internal pedestrian walkways connect to the main entrances from the sidewalk along NE Broadway and from the north side of the on-site parking area.

The CS zone allows a maximum building setback of 10 feet, and requires that, on a transit street, at least 50 percent of the length of the ground level street-facing façade of a building must be within 10 feet of the street lot line. The larger addition onto the western portion of the lot brings the existing building into compliance with this standard. However, the smaller addition at the NE corner of the site moves the proposal out of compliance with the maximum building setback requirement. The overall length of the proposed street-facing façade is approximately 94.33 feet. The portion of the street-facing façade that is within 10 feet of the south property line is 43 feet, 9 inches, or approximately 46% of the overall length of the street-facing façade. Therefore, an Adjustment is required to zoning code **Section 33.130.215.C, Maximum Building Setbacks**, to allow the street-facing façade of the building located within 10 feet of the south property line to be 46% of the overall length of the street-facing façade rather than 50%.

The CS zone requires that, on sites with frontage on a transit street and with any floor area in non-residential use, at least one main entrance for each tenant space must be within 25 feet of the transit street, and must either face the transit street or be at an angle of up to 45-degrees from the transit street. The proposed structure contains two main entrances, both located on the inside corner of the “L” where the new addition meets the existing building. One main entrance faces south toward NE Broadway, and one main entrance faces 90-degrees away from the street to the east, toward the parking lot. The front entrances are both located approximately 42 feet from the front property line along NE Broadway. Therefore, an Adjustment to zoning code **Section 33.130.242, Transit Street Main Entrance**, is required to allow both of the proposed main entrances to be located 42 feet from the south property line along NE Broadway rather than a maximum of 25 feet, and to allow the main entrance on the east facade of the new addition to be oriented at a 90-degree angle to the street rather than at a 45-degree angle.

The CS zone does not allow vehicle areas to be located between a building and a street. Therefore, an Adjustment to zoning code **Section 33.266.130, Parking and Loading, and Table 266-3**, is required in order to allow four of the existing parking spaces to remain between the new addition in the northeast corner and NE Broadway.

Staff note: the size of the addition in the northeast corner of the site has been changed from the original proposal. The change includes extending the addition south toward the street approximately 8.5 feet to enclose the trash area and to bring the addition closer to meeting the 25-foot transit street setback.

Relevant Approval Criteria:

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

ANALYSIS

Site and Vicinity: The 8,000 square foot site is located at the northeast corner of the intersection of NE Broadway and NE 25th Avenue, with frontage on both the south and west

property lines. The site is developed with a 1,900 square foot retail building originally constructed in 1973, and associated on-site parking and vehicle access. The site is currently unoccupied. The existing retail building is located in the north half of the site, and parking is located to the south and west of the building, between the building and the adjacent streets. Several mature trees are located along the west property line.

NE Broadway is a Major City Traffic Street, a Major Transit Priority Street, a City Walkway, and a Local Service Bikeway. A frequent service bus route runs east and west along NE Broadway. NE 25th Avenue is a Local Service Street, a Local Service Bikeway, and a Local Service Walkway. Both NE Broadway and NE 25th are developed with a 4-foot planting strip, a 6-foot sidewalk, and an additional 2-foot public ROW behind the sidewalk.

Within 200 feet north, northeast and northwest of the subject site, there is a mixture of single- and multi-dwelling residential structures. Within 200 feet to the south, west, and east, development is a mixture of multi-dwelling residential, attached housing, offices, and retail. A church is located on the southeast corner of NE 24th and NE Broadway. Directly west of the site, across NE 25th, is a gas station. Directly east, adjacent to the site, is a parking lot serving the Youth Employment Institute. Directly north, adjacent to the site, is a single-dwelling residence. To the south, across NE Broadway, are a retail storefront and a restaurant/tavern.

Zoning: The site is zoned CS, Storefront Commercial. Sites immediately to the south, east, and west are also zoned CS. Sites immediately to the north are zoned R2a, Multi-dwelling Residential with an Alternative Design Density Overlay Zone. Sites to the northeast are zoned R2, Multi-dwelling Residential 2,000 and R5, Single-dwelling Residential 5,000. Sites half a block to the south, below NE Broadway, are zoned R2.5, Single-dwelling Residential 2,500.

The CS zone allows full build-out (100% building coverage). The zone imposes a maximum building setback of 10 feet, and requires that, on a transit street, at least 50 percent of the length of the ground level, street-facing façade of a building must be within 10 feet of the street lot line. The CS zone also requires that, on sites with frontage on a transit street and with any floor area in non-residential use, at least one main entrance for each tenant space must be within 25 feet of the transit street, and must either face the transit street or be at an angle of up to 45-degrees from the transit street.

Land Use History: City records indicate there are no prior land use reviews for this site.

Summary of Applicant's Statement: In response to neighborhood concerns raised regarding potential impacts of the proposal on pedestrian safety, one of the property owners made the following statement:

"I too live nearby in the neighborhood and have two children age 6 and under and walk over to all the shops on Broadway. I would never allow anything to create an unsafe pedestrian situation. Because we live so close, my wife and young kids and I will be walking to the new office all the time. We plan to be very active and caring new neighbors. We feel so fortunate to have the opportunity to relocate our business to this location and we are trying to create an attractive and functional building that will further enhance the availability of services to Broadway and Irvington neighbors."

Agency Review: A "Request for Response" was mailed on February 4, 2009. A second "Request for Response" identifying an additional Adjustment was mailed on February 27, 2009. The following Bureaus have responded with no issues or concerns (Exhibits E.1-E.4):

- Life Safety Bureau
- Fire Bureau
- Water Bureau
- Bureau of Parks-Forestry Division

The following Bureaus have submitted additional comments:

- The **Site Development Section of BDS** (Exhibit E.5): Site Development has no objection to the proposed Adjustments. Building permit 08-190379-CO is under review and Site Development has determined that a drywell will be acceptable for on-site infiltration.
- The **Bureau of Environmental Services** (Exhibit E.6): BES has no objection to the proposed Adjustments, and provided information regarding sanitary and stormwater services to assist the applicant with the building permit process.
- The **Bureau of Transportation Engineering** (Exhibit E.7): PBOT has no objection to the proposed Adjustments, and advised the applicant that the proposed parking area must be designed for forward motion in and out of the site. PBOT noted that the minimum curb cut width is 20 feet and the maximum curb cut width, based on site frontage, is 30 feet.
- **Tri-met** (Exhibit E.8) noted that the bus zone sign associated with the bus stop to the west of the site is located on an existing city pole. Tri-met requested that the location of this bus zone sign be retained.

Neighborhood Review: A “Notice of Proposal in Your Neighborhood” was mailed on February 4, 2009. A second “Notice of Proposal in Your Neighborhood” identifying an additional Adjustment was mailed on February 27, 2009. Eleven written responses were received from notified property owners and the neighborhood association in response to the proposal. Nine of these responses were written in opposition to the proposal. One response raised concerns but generally supported the proposal to locate a dentist office on the site. One response was received from an adjacent neighbor who had originally expressed opposition, and stated that she’d met with the property owner and her concerns with the proposal had been resolved.

The one letter raising concerns and offering general support questioned whether sufficient parking were provided and hoped the development wouldn’t cause a surge of traffic on nearby streets.

One respondent in opposition cited property values and parking problems as the issues behind their opposition.

Staff Note: The Adjustment review process takes into consideration public comments regarding the specific review criteria relevant to the proposal. All comments directly related to the review criteria are addressed in detail in the Administrative findings below. The property owner has been informed of neighborhood concerns and advised to personally contact the neighborhood association and concerned neighbors to discuss concerns not relevant to this Adjustment process.

The potential affect of a proposal on property values is not a review criterion. Extenuating site circumstances is not a review criterion. Parking is not required to be provided on this site, and concerns related to a lack of on-site parking cannot be considered as a part of this land use review. However, 4 of the 10 existing on-site spaces are being retained, and bicycle parking is added. (The CS zone does not require on-site parking. Additionally, section 33.266.110, Parking and Loading/ Minimum Required Parking Spaces, provides an exception to required parking for all properties located within 500 feet of a bus line providing 20-minute weekday peak hour service.)

A second respondent in opposition cited safety concerns due to the proximity of the building to NE 25th and the potential that sight lines from the respondent’s driveway, which is to the rear of the subject site, will be reduced to the point that she can’t safely use her driveway. This respondent summarized her opposition by requesting that the design be modified by increasing the setback on NE 25th Avenue in order to maintain visual access from her driveway, provide for safety for sidewalk users, and maintain sunlight and visual space on her lot. Additionally, the respondent requested that the blank area on the north wall be reduced, as it is a violation of the zoning law and a hostile visual obstruction not consistent with the character of the neighborhood, and that the north setback be landscaped and maintained. The respondent stated that the applicants should make the Broadway side more pedestrian friendly by having more of the building near the sidewalk. ***This respondent later submitted a statement that she had met with the property owner to discuss her concerns, and that these concerns have been resolved.***

Staff note: The zoning code does not require windows or doors along the rear building façade. The proposed building exceeds the minimum glazing requirements on the street-facing facades. Although not shown on the originally submitted site plan, the 5-foot setback along the north property line will be landscaped to meet the required L3 standards. The adequacy of sight lines along NE 25th is not relevant to the requested Adjustments and cannot be considered through this review process. The applicant is aware of the neighborhood concerns and has proposed that, should visibility be hindered at the neighbor's driveway immediately north of the site, a reflective 180-degree mirror may be installed where appropriate.

A third letter in opposition stated that “the proposed design is not sensitive to the neighboring residential and commercial areas, does not create a pedestrian-friendly environment, and is not a transit-oriented development.” The response included 12 pages of discussion and photographs of commercial development in the neighborhood to support this statement, and requested that the design be modified to meet code requirements. In summary of this information, the following concerns were noted:

1. The surface parking and lack of “building-scape” along the south sidewalk do not provide the required “pedestrian orientation” or “built-up streetscape.” The emphasis of the primary façade is on the car and not on pedestrians.
2. “Visual access” to the building is impaired. The building being set back from the sidewalk yields little visual interest, does not provide windows for pedestrians to look into, decreases the level of activity on the sidewalk, and makes the area feel less secure with less opportunity for having “eyes on the street.”
3. Main entrances are not visible, don't have adequate signage, physical access is difficult, and their location discourages their use.
4. The wider curb cut, driveway, and parking lot do not encourage safe pedestrian use and the driveway provides a barrier to pedestrian and transit users.

Additionally, the respondent cited two additional Adjustments she believed to be required. One regarded required screening of the trash area. The second regarded the lack of landscaping in the setback along the north property line.

Staff note: The site plan originally included a CMU with brick veneer trash enclosure with a metal roof and sanitary drain, and a pergola style, therefore the trash area was enclosed and did not require an Adjustment. However, in response to neighborhood concerns, the plan has been revised to incorporate the trash area inside of the addition in the northeast corner of the site. Not only does this solution fully hide the trash area, it also extends the building slightly closer to the street, bringing it more into compliance with the required maximum setback than previously proposed. Zoning Code section 33.140.215, Setbacks, subsection B.2 requires that a 5-foot deep landscaped area must be provided on lot lines that abut a residential zone. Although it is not shown on the site plan, the property owner stated in their narrative that they do intend to landscape the 5-foot setback along the north property line. As noted in the section below titled “Development Standards”, this proposal does not have to meet all the development standards in order to be approved during this review process, but plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 will be met, or have received an Adjustment via a land use review. The required landscaped area is noted on the approved site plan, and conformance with this requirement will be confirmed during the building permit process.

A fourth letter of opposition was received from the Irvington Community Association (ICA). The ICA noted that due to timing of their meetings not corresponding with the review period for this proposal, the committee members had not officially met to discuss or vote on the proposal. However, their Rapid Response Team had noted several concerns, which essentially summarized the concerns raised by other respondents, and noted above. The response suggested that the design should be revised to meet the code requirements, and again cited pedestrian safety due to the 34-foot curb cut along NE Broadway and minimal setback from NE 25th Avenue, lack of pedestrian orientation due to the increased distance of the main entrance from NE Broadway and due to having less than 50% of the street-facing façade within 10 feet of NE Broadway, and the lack of landscaping on the north property line.

*Staff note: The reduced site plans did contain text that may have been difficult to read, and it should be noted that the proposed curb cut is only **24-feet wide** with two 6-foot wings, not 34-feet wide. Per Portland Bureau of Transportation standards, the minimum required width is 20 feet and maximum allowed for this site is 30 feet (based on length of frontage).*

A fifth letter of opposition was received in response to the request to allow parking between the building and the street, as the need for this Adjustment was determined after the initial Notice of Proposal was sent (the review period was extended by 1 week to allow responses to this additional required Adjustment). This response was received from a neighbor who had already responded to the original requested Adjustments. The respondent expressed concern that a fence could further endanger pedestrians by obstructing visibility between the sidewalk and the vehicle areas, and could create a less pedestrian-friendly environment by decreasing visibility between the building and the street.

Staff note: The proposed fence is of an open, visually permeable wrought-iron design not to exceed the maximum allowance of 3.5 feet in height, and therefore will not create a visual obstruction between the vehicle and pedestrian area nor between the building and the sidewalk. The location and dimensions of the fence are shown on the approved site plan.

A sixth letter of opposition was received from a respondent who had already responded in opposition to the proposal. This response again reiterated safety concerns regarding the potential for sightlines along NE 25th to be impaired by the proposed location of the building. The response stated that the proposed building would obstruct vision and not meet the most minimal standards for a clear vision triangle from the adjacent driveway to the north of the site.

Staff note: This letter was forwarded to PDOT, with a request for response regarding concerns about safety and visibility along NE 25th.

A seventh letter of opposition was received from a nearby neighbor. The response generally expressed concern about how the expansion would affect livability, enjoyment, and safety of the neighborhood. Specific concerns regarded the potential safety and visibility impacts from the proposed setback along NE 25th Avenue, and how the removal of trees along NE 25th could compromise the neighborhood feel.

Staff note: The three street trees are shown on the site plan to be replaced with three new trees.

An eighth letter of opposition was received from the Irvington Conservation Association (ICA) in response to the fourth Adjustment to retain existing parking between the building and NE Broadway. Again, the ICA noted that, due to timing of their meetings not corresponding with the review period for this proposal, the committee members had not officially met to discuss or vote on the proposal. However, their Rapid Response Team had reviewed the request and noted concerns. The ICA stated that the proposed design does not equally or better meet the purposes of the relevant code sections, and said that the design provides less protection and does not create an inviting environment. The parking, access and the overall site design are not pedestrian friendly, and require that pedestrians and transit users fend for themselves when accessing the site entrance. The cumulative Adjustments do not protect pedestrians, and do not create an inviting environment for transit users.

The ICA questioned whether or not the applicant could legally make changes to their site plan once the land use review had begun, and wondered how those changes would be enforced. The ICA also made comments on some of those changes. Specific to the requested Adjustments, those comments were that proposing a fence adjacent to the parking area and bringing the northeast addition closer to compliance were not enough to justify Adjustments to these requirements.

Staff note: Applicants commonly make changes to proposals in response to neighborhood concerns raised during the public review process, either to mitigate potential impacts or to bring a proposal closer to compliance, and this is an integral part of a land use review. Approved changes

are typically noted on the approved site plan and/or included as conditions of approval. Changes to the proposal that are not relevant to the requested Adjustments and that are allowed by right can occur at any time during the process with no public or administrative review.

A ninth letter of opposition from a nearby neighbor expressed concerns about the removal of the three mature trees on NE 25th and concerns about safety due to a high wall along NE 25th potentially providing a place for people to hide and potentially creating a blind spot for the driveway on the adjacent lot to the north.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (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 zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

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

Findings: The applicant is requesting Adjustments to three development standards.

Adjustment 1: Section 33.130.215, Setbacks. The purpose statement for this regulation is as follows:

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial zones. The CS setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements along transit streets and in Pedestrian Districts create an environment that is inviting to pedestrians and transit users.

The proposed new addition to the west and south facades of the existing structure add substantial new storefront very close to both NE Broadway and NE 25th Avenue. The NE Broadway façade will be only 4 feet from the front property line, and the NE 25th façade is no more than 2 feet, 8.5 inches from the side property line, and only 8.5 inches for a distance of about 23.5 feet. Therefore, this will bring the most significant and visible portion of the structure into a close relationship with the pedestrian corridors at both frontages of the corner lot. The proposed street-facing facades of the building will be articulated with varying wall heights, brick and concrete siding (the brick is laid out in varying patterns), large windows with decorative fabric awnings above, wall-sconce lighting, and new landscaping. A bicycle rack will be situated near the main entrances and visible from the street.

The proposed west façade along NE 25th includes 6 windows with fabric awnings above, each offering about 18 square feet of glazing, and a glass entry door near the southwest corner with signage above. The proposed south façade along NE Broadway contains 6 windows with fabric awnings above, 4 of which offer about 23 square feet of glazing, one of which offers about 30 square feet of glazing, and one of which offers about 10 square feet of glazing, a set of storefront windows offering about 42 square feet of glazing, and a glass main entry door, also with signage and an awning above, near the center of the façade. The east façade of the building is highly

visible to pedestrians and transit users coming from the east along NE Broadway, and includes a number of windows and a glass entry door with fabric awnings above.

A raised concrete sidewalk will lead directly from the public sidewalk on NE Broadway to the main entrance along the east façade of the building, which is also highly visible from NE Broadway and which also contains a large amount of glazing, awnings, decorative wall lighting, signage, and a glass main entry door. Pedestrians and transit users whose destination is the dentist office will enter the site along the internal pedestrian walkway, which is directly adjacent to the east façade of the building, and which has numerous storefront windows. Thus, the pedestrian experience to and from the main entrance will be enhanced.

All of these features contribute to a structure that reinforces the pedestrian orientation and built-up streetscape of the entire southwest portion of this corner site, and contribute to a development that appears inviting to pedestrian and transit users along both NE 25th and NE Broadway.

The percentage of the entire south or transit-street-facing façade that is within 10 feet of the south property line is 46% of the total south facade. The small new addition at the northeast corner of the site throws the equation out of conformance. This addition holds the trash area, mechanical equipment, and an employee break room. This addition is located approximately 56 feet back from the property line, behind the parking area, and is not intended to be included in the public realm of the site. Indicated on the site plan in front of that small addition is a screen wall with plantings & landscape features. This landscaped area screens about half of the façade of the small addition, further diminishing its prominence on the site. Only about 8 feet of that addition is clearly visible from the street, making the perceived percentage of street-facing façade that is within 10 feet of the property line about 56%.

The smaller addition at the northeast corner of the site is minimally visible from the street. The larger addition on the south and west of the site is very prominent to the street, and is 10 feet longer than the remaining façade of the existing building, which is the next most prominent feature of the proposed building. Because the new addition on the south and west is larger than the façade of the existing structure, and because the new addition in the northeast corner is minimally visible from the public realm, the development has the appearance of having more than 50% of its transit street-facing façade within 10 feet of the south property line. Architectural features along the south and west façades of the new addition will include large windows, awnings, wall sconces, varying siding materials, signage, and added landscaping. This will create a prominent, inviting corner storefront adjacent to the pedestrian realm along both NE 25th and NE Broadway.

The request to allow 4% of the street-facing façade to be more than 25 feet from NE Broadway still results in a proposal that has a built-up streetscape and pedestrian orientation, and that is inviting to pedestrians and transit users. The purpose statement for this standard is equally met.

Adjustment 2: Section 33.140.242, Transit Street Main Entrance. The purpose statement for this regulation is as follows:

Locating the main entrance to a use on a transit street provides convenient pedestrian access between the use and public sidewalks and transit facilities, and so promotes walking and the use of transit.

The two proposed main entrances are located adjacent to each other, approximately 42 feet from the transit street, adjacent to each other, and the entrance on the east façade is oriented at a 90-degree angle to the street and therefore is not visible when approaching the site from the west, but is visible to pedestrians approaching from the east. The main entrance on the south façade of the existing building is visible to pedestrians approaching from the east and south. The pedestrian walkway is raised 6 inches above the vehicle entrance, and is of a different paving material than the vehicle entrance, and so is easily differentiated from and is physically separated from the vehicle entrance. The pedestrian walkway is located in the center of the NE Broadway frontage, and so will be visible to pedestrians from all along that frontage in several directions. The transit-street or south-facing façade of the existing building retains the existing storefront windows

adjacent to the main entry, and signage and an awning are located above the south-facing door. A 5-foot wide, direct, straight-line pedestrian connection is proposed from the sidewalk along NE Broadway to the main entrance doors. Landscaping along the south façade helps direct the eye to the walkway entrance. The bus stop is just to the east of the site, and the main entrances will be easily visible to transit users and pedestrians coming to the site. Landscaping along the portion of the structure that is adjacent to the NE Broadway sidewalk directs pedestrians coming from the west to the on-site pedestrian walk leading to the main entrances. Prominent architectural features such as awnings, signage, large windows, and the landscaping and sidewalk direct people to the main entrance.

The proposal to locate the main entrances an additional 17 feet beyond the 25-foot maximum and to orient the entrance on the east-facing façade at a 90-degree angle from the street still results in a development with main entrances that are visible and accessible to pedestrians and transit users. Convenient pedestrian access between the use and the sidewalk and nearby transit facilities is provided. The purpose statement for this standard is equally met.

Adjustment 3: 33.266.130 Development Standards for All Other Uses. The purpose statement for this regulation is as follows:

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 these 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.*

Retention of on-site parking is important to this busy neighborhood which mixes commercial and residential uses, and a concern over lack of adequate parking was expressed during the public comment period. Parking is not required in the CS zone, however, 4 of the existing 10 on-site parking spaces are being retained by the proposed development. The small addition in the NE corner of the site triggers a need for an Adjustment to allow parking between a building and a street. The addition will be partially screened from public view by landscaping, and the use of the addition is for garbage, mechanical, and staff use only, and is not part of the public realm. The public will not need to access this addition, and therefore will not need to cross through the parking area. Pedestrian walkways provide access alongside the parking area to the main entrances and public realm of the building.

Currently, the entire street frontage and interior of the site not developed with a building consists of paved vehicle area, and provides little visual or physical separation to protect or encourage pedestrians and little landscaping to soften or screen the site. The proposed new development reduces the parking area to half of the street frontage along NE Broadway, while retaining 4 on-site parking spaces, including one handicapped accessible space. A 3-foot wide continuous detectable warning path is included in the handicapped parking area to facilitate safe movement to the east/west sidewalk along the south façade of the building. The existing curb cut is moved further east from the intersection of NE Broadway and NE 25th, providing greater sight distance for vehicles entering and exiting the site, and thus increasing safety for pedestrians and vehicles alike. The curb cut was widened to 24-feet to accommodate 2-way vehicle traffic, which is only 4 feet wider than the minimum requirement, thereby providing plenty of maneuvering room for vehicles while not imposing a wider than necessary vehicle area for pedestrians and bicyclists to cross. The on-site pedestrian walkway will be visually separated from the vehicle area by being constructed of a different material, and will be physically separated by being raised 6 inches above the surface of the vehicle area and by being located adjacent to the building. A bicycle rack will be located in front of the main entrances, adjacent to the pedestrian walkway and at the furthest distance away from the vehicle area.

The proposal includes new landscaping along the east perimeter of the parking area, which softens and screens the parking area from the approach from the east. Although not on-site, the proposal also includes new landscaping in the planting strip in the public right-of-way directly in front of

the parking area, and new street trees in the planting strip between the sidewalk and the street (this area is currently concrete). Additionally, the applicant proposes the installation of a decorative wrought-iron fence along the south property line, between the parking area and the sidewalk, from the east corner westward the length of the parking stall. The proposed fence is of an open, decorative wrought iron style and will be at least 2.5 feet tall but no higher than the allowed 3.5 feet, and so will not be visually obstructive. The fence serves as a physical barrier between the pedestrian and vehicle realm and creates a feeling of separation from vehicles for the pedestrian while adding an aesthetic element to the pedestrian realm, therefore creating a more inviting environment along the sidewalk adjacent to the parking area, both visually and safety wise. The fence was not indicated on the final site plan and shall therefore be required as a condition of approval.

In response to concerns about the width of the curb cut potentially creating a barrier for pedestrians and encouraging high vehicle speeds while entering and exiting the site, Portland Bureau of Transportation (PBOT) noted that the minimum curb cut width is 20 feet and the maximum allowed curb cut width, based on site frontage, is 30 feet. The proposed curb cut is 2-ft wider on either end than the minimum that is allowed by Title 17. Access to the parking lot is from NE Broadway, a classified Major City Traffic street with a significant volume of vehicles. Therefore, PBOT determined that it is highly unlikely that patrons entering or exiting the site via the proposed curb cut will be doing so at accelerated speeds, and that the additional width is not likely to result in a barrier to safe and attractive pedestrian use.

The proposal to allow the existing parking area to remain located between the building and the street on the eastern portion of the property still results in a development that provides pedestrian access that is protected from auto traffic; and creates an environment that is inviting to pedestrians and transit users. The purpose statement for this standard is equally met.

With the condition that a low wrought-iron fence be installed along the edge of the parking area, each purpose statement is equally met by the proposal, and therefore this criterion is met.

B. 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: NE Broadway is classified as a Major City Traffic Street, a Major Transit Priority Street, a City Walkway, and a Local Service Bikeway. NE 25th is classified as a Local Service Street. Portland Transportation/Engineering and Development reviewed the proposal for conformance with adopted transportation policies, Title 17, and Title 33 approval criteria, as well as conformance with street designations, and has no objections to the requested Adjustments.

The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. New development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk, especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged. For the reasons described in the findings under Criterion A above, the proposed development provides a predominantly built-up corner lot, with the entire western facade of the building located within 2 feet, 8.5 inches from the property line, and with 46% of the southern facade of the building located 4 feet from the property line. Both proposed street-facing facades will provide a storefront character accented by architectural details, storefront windows, landscaping, and a pedestrian walkway that are oriented towards the streets and toward pedestrians. The requested Adjustments involve structural design and site layout details focused on the NE Broadway facing portion of the site, and thereby do not affect the character of the residentially zoned area to the north of the site.

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: Adjustments are requested to three zoning code Sections: 33.130.215.C, Maximum Building Setbacks; 33.130.242, Transit Street Main Entrance; and 33.266.130, Parking and Loading/Development Standards for All Other Uses.

The overall purpose of the CS Zone is to preserve and enhance older commercial areas that have a storefront character, and ensure that new development in these areas will be compatible with this desired character. The standards of the CS zone ensure that sites are predominantly built-up, with buildings close to and oriented towards the sidewalk, especially at corners. Development should be pedestrian-oriented, and buildings with a storefront character are encouraged. The proposed development provides a building with prominent storefront character including numerous large windows with decorative awnings and strong architectural articulation that is located close to the street along both frontages of the corner lot and that is pedestrian oriented along both street-facing facades. The proposed development remains consistent with the overall purpose of the CS zone. This criterion is met.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: The proposed development mitigates for potential impacts resulting from the Adjustments in several ways. The south and west facades of the new addition pull the building close to the sidewalk along the street corner, and provide multiple opportunities for pedestrians to view the interior of the structure from the sidewalk. The small addition at the northeast corner which throws the street-facing façade out of conformance will be minimally visible from the street, and so the perception from the public realm will be that at least 50% of the structure is close to the sidewalk. Landscaping along NE Broadway and NE 25th add to the attractiveness of the public realm. A pedestrian walkway that is physically and visually separated from vehicle areas provides easy access to the main entrances from NE Broadway, and another walkway provides safe access from the handicapped parking area to the main entrance. Signage and an awning at the main entrances visually direct attention to the location of the main entrances, both of which are visible to approaching pedestrians from many vantage points, including the transit stop. The curb cut was moved further east to provide a greater line of sight for vehicles, thereby protecting pedestrians. A decorative fence and landscaping at the southeast corner of the site help screen the parking lot and physically and visually separate it from the pedestrian realm. Because of this proposed mitigation, no discernable impacts are anticipated from granting the requested Adjustments. This criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not within an environmental zone. This criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The proposal to allow the main entrances to be located more than 25 feet from the transit street; to allow one entrance to be oriented 90-degrees to the street; to allow less than 50% of the transit street-facing façade to be within the maximum setback; and to allow parking to be retained between the northeast addition and the street, still results in a development that reinforces a pedestrian orientation and built-up streetscape on a corner lot, creates an environment that is safe and inviting to pedestrians and to transit users, and provides safe and convenient pedestrian access between the use and public sidewalks and transit facilities. All applicable review criteria are met, and therefore the requested Adjustments should be approved.

ADMINISTRATIVE DECISION

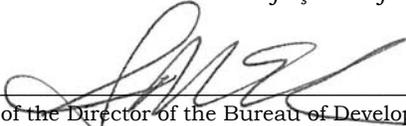
Approval of the following:

1. An Adjustment to zoning code **Section 33.130.215.C, Maximum Building Setbacks**, to allow the south, transit-street-facing façade of the building located within 10 feet of the property line to be 46% of the overall length of the street-facing façade rather than 50%; and
2. An Adjustment to zoning code **Section 33.130.242, Transit Street Main Entrance**, to allow two main entrances to be located 42 feet from the south, property line along NE Broadway rather than 25 feet, and to allow the main entrance on the east facade of the new addition to be oriented at a 90-degree angle to the transit street (NE Broadway) rather than at a 45-degree angle; and
3. An Adjustment to zoning code section **33.266.130, Parking and Loading, and Table 266-3**, in order to allow four of the existing parking spaces to remain located between the new addition at the northeast corner of the site and NE Broadway;

in *significant conformance with the approved plans, Exhibits C-1 through C-2: signed and dated **March 11, 2009**, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions B must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 09-104322 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A decorative, open-style wrought-iron fence shall be located along the south property line, between the parking area and the sidewalk, from the east corner of the site westward the length of the parking stall. The proposed fence shall be at least 2.5 feet in height but no higher than 3.5 feet

**Significant conformance means: the inclusion of awnings along the entire south and the east façades of the new addition (excluding the northeast addition); installation of large windows along the south and east facades (excluding the northeast addition); the inclusion of new landscaping along the south façade of the new addition, adjacent to the main entrances, and along the southeastern property line; the installation of a decorative fence on the south property line adjacent to the parking area; and the installation of pedestrian walkways along the east façade of the new addition and the south façade of the existing building.*

Decision rendered by:  **on March 11, 2009.**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 13, 2009

Staff Planner: Crystal Hitchings

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 January 23, 2009, and was determined to be complete on February 2, 2009.

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 January 23, 2009.

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 requested that the 120-day review period be extended by 10 days, as stated with Exhibit G.5.

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 March 27, 2009** 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 **March 30, 2009 – (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

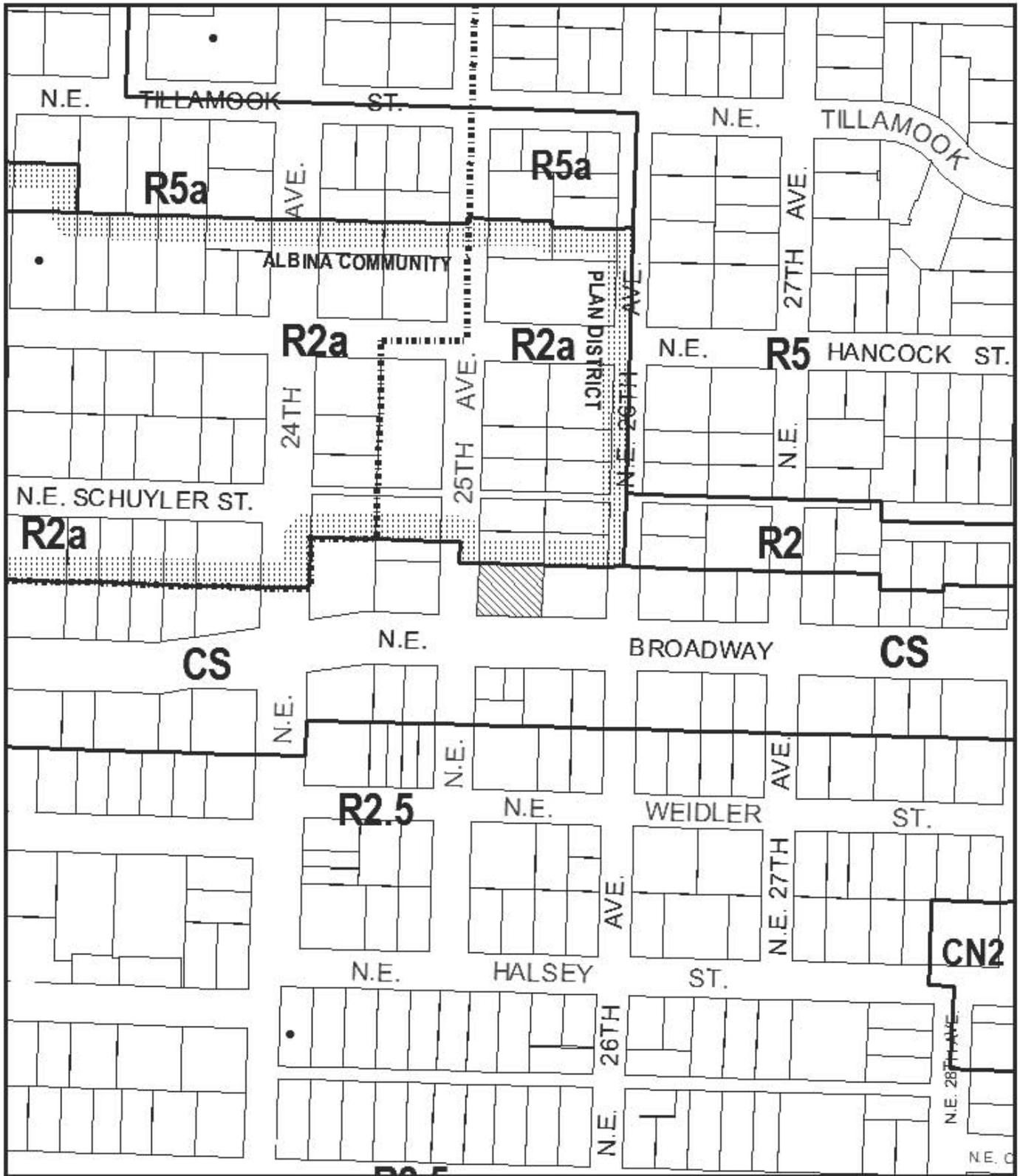
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations (south & east only) (attached)
 - 3. Fence specifications (sample of proposed style)
 - 4. Elevation (north)
 - 5. Elevations (south, east, west)
 - 6. Photos, existing structure (from applicant)
 - 7. Original site plan and elevations
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
 - 3. Re-notification mailing list
 - 4. Mailed re-notice
- E. Agency Responses:
 - 1. Life Safety Bureau
 - 2. Fire Bureau
 - 3. Water Bureau
 - 4. Bureau of Parks, Forestry Division
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Environmental Services
 - 7. Bureau of Transportation Engineering and Development Review
 - 8. Tri-met
- F. Correspondence:
 - 1. Nick Ruess; February 20, 2009; opposition concerning property values, parking, & traffic
 - 2. Mary Silveira; February 22, 2009; general support of dentist office, concern about sufficient parking and additional traffic
 - 3. Margaret Brown; February 24, 2009; opposition regarding safety for pedestrian and transit users, sunlight, & aesthetics
 - 4. Caryn Urata; February 25, 2009; opposition regarding safety and approval criteria
 - 5. Dean Gisvold, Irvington Community Association; February 25, 2009; opposition regarding safety for pedestrian and transit users, and adequate setbacks/landscaping
 - 6. Caryn Urata; March 3, 2009; opposition to parking lot location for safety reasons
 - 7. Margaret Brown; March 5, 2009; opposition to proposed setback on NE 25th Ave.
 - 8. Helen Gramates; March 5, 2009; opposition regarding pedestrian safety on NE 25th
 - 9. Dean Gisvold, Irvington Community Association; March 6, 2009; opposition to parking lot location because it does not create a safe or inviting pedestrian environment
 - 10. Steve Wilmart; March 6, 2009; opposition to proposal based on safety and aesthetics along NE 25th Avenue
 - 11. Margaret Brown; March 8, 2009; statement that her safety concerns are resolved
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Title 33 Team Meeting Notes, January 22, 2009
 - 4. Letter to Planning and Zoning describing non-conforming upgrades, January 20, 2009
 - 5. Emailed request to extend the 120-day clock by 10 days, received February 26, 2009.

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).



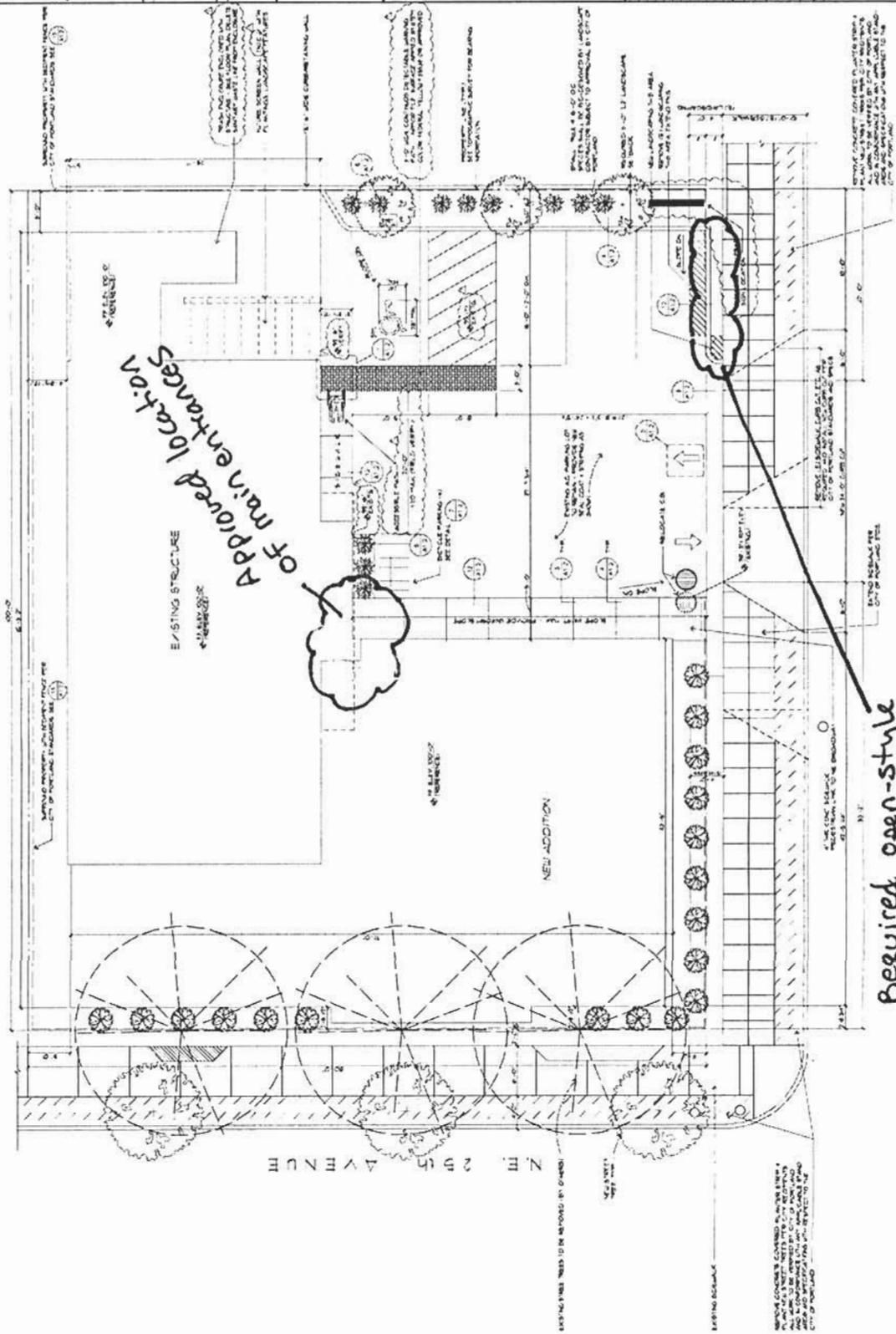
ZONING

 Site



File No.	LU 09-104322 AD
1/4 Section	2833
Scale	1 inch = 200 feet
State_Id	1N1E25CC 6600
Exhibit	B (Jan 26, 2009)

Approved
 City of Portland - Bureau of Development Services
 Planner *Crystal Hitching* Date *3-11-09*
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.



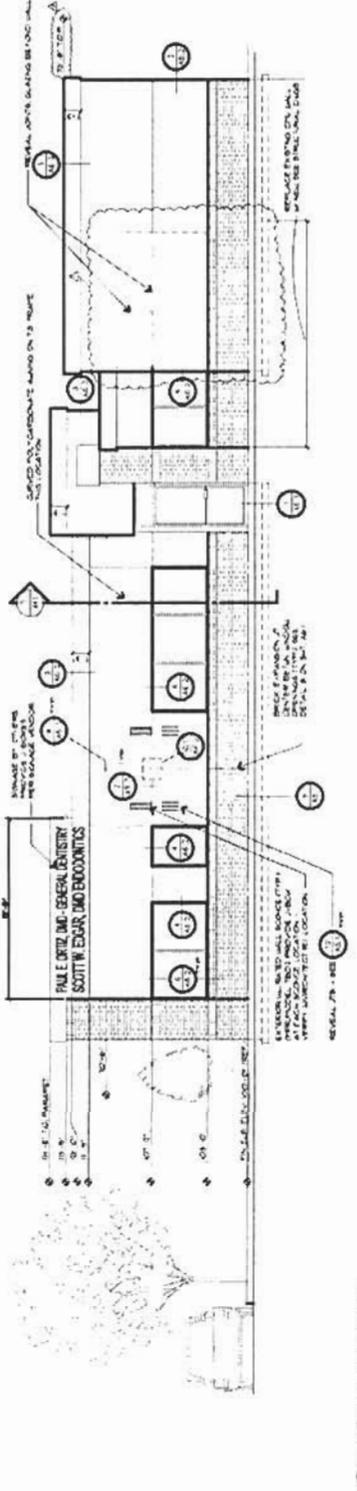
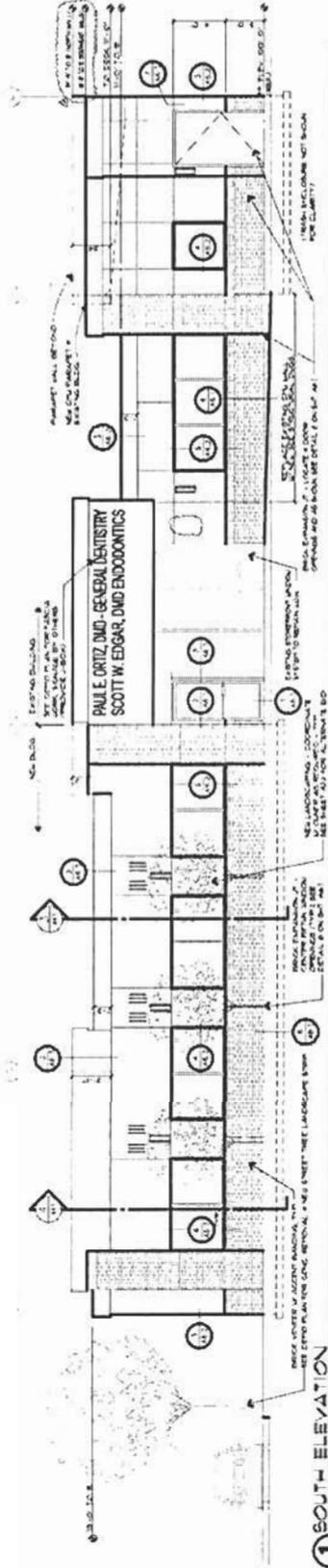
Required open-style
 metal fence location;
 must be at least 2.5
 feet but no more than 3.5 feet
 in height. Design as per Exhibit C-3

GAMA EA MILLER ARCHITECTURE PC 10000 NE ALBERTA ST. SUITE 100 LAKE OREGON, OREGON 97036 503.638.1979 503.638.1978 FAX: 503.638.1978 www.gama.com	MOYING STRUCTURAL ENGINEERS 10000 NE ALBERTA ST. SUITE 100 LAKE OREGON, OREGON 97036 503.638.1979	B+K CONSTRUCTION 10000 NE ALBERTA ST. SUITE 100 LAKE OREGON, OREGON 97036 503.638.1979		CRITZ-EDGAR DENWITS BLDG. 2525 NE BROADWAY ST. PORTLAND, OREGON	OWNED CRITZ-EDGAR PROPERTIES LLC TUALATIN, OREGON	PROJECT NO. 09-0000-01 DATE: 03/11/09 SHEET NO. 1 TOTAL SHEETS: 1	SITE PLAN	A 1.1

LU 09-104322 AD

Exhibit C.1

BAMA SA MILLER ARCHITECTURE PC 8 SOURCE PARKWAY SUITE 200 LAKE OSWEGO, OREGON 97031 503.670.8888 • FAX 503.670.8889 www.bamaarch.com		REGISTERED ARCHITECT STATE OF OREGON 0418/00001																					
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BIKK CONSTRUCTION 1000 NE 10TH AVE PORTLAND, OREGON 97232 503.255.1111		OWNER: ORTIZ EDGAR PROPERTIES LLC TUALATIN, OREGON																					
<table border="1"> <tr><td>DATE</td><td>03/11/09</td></tr> <tr><td>BY</td><td>SA MILLER</td></tr> <tr><td>FILE NO.</td><td>09-104322-1</td></tr> <tr><td>PROJECT</td><td>ORTIZ EDGAR DENTIST BLDG.</td></tr> <tr><td>SCALE</td><td>AS SHOWN</td></tr> <tr><td>DATE</td><td>03/11/09</td></tr> <tr><td>BY</td><td>SA MILLER</td></tr> <tr><td>FILE NO.</td><td>09-104322-1</td></tr> <tr><td>PROJECT</td><td>ORTIZ EDGAR DENTIST BLDG.</td></tr> <tr><td>SCALE</td><td>AS SHOWN</td></tr> </table>				DATE	03/11/09	BY	SA MILLER	FILE NO.	09-104322-1	PROJECT	ORTIZ EDGAR DENTIST BLDG.	SCALE	AS SHOWN	DATE	03/11/09	BY	SA MILLER	FILE NO.	09-104322-1	PROJECT	ORTIZ EDGAR DENTIST BLDG.	SCALE	AS SHOWN
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<h1>A 3.1</h1>																							
SHEET 1 OF 4																							



Approved

City of Portland - Bureau of Development Services

Planner *Crystal Hitching* Date **3-11-09**

* This approval applies only to the reviews requested and is subject to the conditions of approval. Additional zoning requirements may apply.

All designs, drawings, specifications, and data submitted on these documents are the property of SA Miller Architecture PC and shall remain confidential, and no part of any design, drawing, specification, or data shall be used for any other project without the prior written consent of SA Miller Architecture PC.

LU 09-104322 AD

Exhibit C.2