



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

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Date: July 14, 2009
To: Interested Person
From: Marty Stockton, Land Use Services
503-823-3493 / Marty.Stockton@ci.portland.or.us

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has 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 09-130364 AD

GENERAL INFORMATION

Applicant/Owner: Patricia M Rolin
1936 N Alberta St
Portland, OR 97217

Owner: David B Rolin
1936 N Alberta St
Portland, OR 97217

Site Address: 1936 N. ALBERTA STREET

Legal Description: W 52.5' OF LOT 1 BLOCK 6 W 52.5' OF N 40' OF LOT 2 BLOCK 6,
RIVERSIDE ADD

Tax Account No.: R709602440

State ID No.: 1N1E21AD 02200

Quarter Section: 2528

Neighborhood: Overlook, contact David Chott at 503-320-1234.
Business District: North Portland Business Assoc, contact Jim Schaller at 503-517-9915.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Plan District: Albina Community

Zoning: R5, Single-dwelling residential

Case Type: AD, Adjustment land use review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is requesting an adjustment to waive the on-site parking requirement for the house at 1936 N. Alberta Street (see attached site plan). The applicant owns this corner lot

house and the adjacent southern lot. In 2000 through a building permit, the former grocery store and later hobby store at this site was converted to a single dwelling residence with accessory parking on the southern lot. The Portland Zoning Code requires one on-site parking space, which is being provided by the parking area on the adjacent southern lot. When the applicant sells the adjacent southern lot separately, the parking area will be eliminated, and consequently the site will no longer comply with the parking requirement. The owner wishes for the residence to stay in compliance, and is requesting an Adjustment to waive standard 33.266.110 B, which requires one on-site parking space.

Relevant 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.

ANALYSIS

Site and Vicinity: The house at 1936 N. Alberta Street sits on a lot with an area of 4,680 square feet. The applicant owns this house and the adjacent 5,100 square foot southern lot, which is located on the southeast corner of N Alberta Street and N. Denver Avenue. The site is developed with a 4,680 square-foot; single-story former commercial building that was constructed in 1921. The residence is located on the corner and a parking area is located to the south of the building. The site abuts residential development in all directions.

Zoning: The site is zoned R5. The R5 zone corresponds to the Medium-Density Single-Dwelling designation of the Comprehensive Plan, which allows new lots with an average size of 5,000 square feet.

Land Use History: City records indicate that prior land use reviews include the following:

PC 4814 ZC (90-023043): A 1990 ordinance that denied zone change from R5 to C2, but approved a revocable permit to construct 20 foot by 38 foot addition to the building on N. Alberta Street and to construct a parking area on the south 10 feet of Lot 2 located south of the existing building.

PC 6103 C (90-024353): A 1990 ordinance granting a revocable permit to conduct a hobby shop on the property, with a paved and screened parking area.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **June 16, 2009**. The following Bureaus have responded with no issues or concerns:

- Life Safety Division of the Bureau of Development Services
- Water Bureau of Buildings
- Bureau of Transportation Engineering

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 16, 2009. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.10 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 to provide certainty and rapid processing for land use applications.

33.805.40 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 applicable purpose of minimum required parking spaces is stated below:

33.266.110 Minimum Required Parking Spaces

Purpose: The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.

One off-street parking space is required on single-dwelling properties that are more than 500 feet from a bus or MAX line. Interstate Max runs approximately 1,190 feet from the subject property to the east. Because the MAX Yellow Line runs at a frequency of 20 minutes or less during peak hour, if it was less than 500 feet, then parking would not be required on the subject site.

A visit to the site showed that there is ample space alongside the roadway for parking in front of the house. The roadway can accommodate two cars, as the public right-of-way is 60 feet wide, leaving 18 feet on either side of it for on-street parking. Most of the homes within the vicinity of the site have off-street parking. There is no evidence of a lack of available on-street parking. The site has approximately 140 feet of street frontage without any curb cuts. The Bureau of Transportation did not indicate any concern with the requested Adjustment to waive the required parking space. Their response to such requests is generally based on the parking demand in an area. Therefore, this criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: According to city records, in 2000 through a building permit, the former grocery store and later hobby store on this site was converted to a single dwelling residence. The Portland Zoning Code requires one on-site residential parking space, which is being provided by the parking area on the adjacent southern lot.

As indicated in criterion A above, there does not appear to be a high demand for on-street parking along N. Alberta Street and N. Denver Avenue that would be generated by something other than the residences on it.

The conversion from commercial to residential was done in 2000, and the neighborhood is accustomed to the house's existing appearance. The requested adjustment does not change that appearance, only the function of on-street parking for vehicles associated with the dwelling, once the southern lot is sold and eventually redeveloped. Consequently, the proposal does not detract from either the livability or appearance of this residential area. Therefore, this criterion is met.

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

Findings: Only one adjustment is requested. This criterion is not applicable.

- B.** 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 designed by a large dot, and by historic and conservation districts. There are no such resources present on the site. There fore, this criterion is not applicable.

- C.** Any impacted resulting from the adjustment are mitigated to the extent practical; and

Findings: There are no discernible impacts that would result from granting the requested adjustment. The request allows for the residence to stay in compliance once the southern lot is sold, and consequently there is no physical change to the house or to the parking situation to which the neighborhood is accustomed, until the time the southern lot is sold and eventually redeveloped.

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.

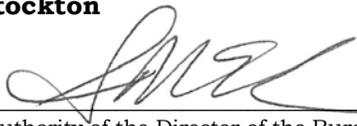
CONCLUSIONS

The proposal to waive the off-street parking would allow the owners to sell the southern lot and its parking area separately from the house at 1936 N. Alberta Street. The physical appearance is not changing as a result of the adjustment. The site is on the corner of N. Alberta Street and N. Denver Avenue where parking demand is primarily from the residences of these two streets, and is not generated by any other nearby use. There is adequate on-street parking to meet the demand for the residents of this house without creating impacts to the neighborhood. The proposal satisfies all of the relevant adjustment approval criteria.

ADMINISTRATIVE DECISION

Approval of an Adjustment to waive the required on-site parking space, per zoning code standard 33.266.110.B., signed and dated July 9, 2009.

Staff Planner: Marty Stockton

Decision rendered by:  **on July 9, 2009.**

By authority of the Director of the Bureau of Development Services

Decision filed: July 10, 2009.

Decision mailed: July 14, 2009.

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on May 21, 2009, and was determined to be complete on June 12, 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 May 21, 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 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, 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.

Appeal fee waivers. Multnomah County may cover the appeal fees for their recognized associations. An appeal filed by a recognized association must be submitted to the City with either the appropriate fee or the attached form signed by the County. Contact Multnomah County at 503-988-3043, 1600 SE 190th, Portland, OR 97233.

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, 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 503-823-7967.

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, or
- In situations involving only the creation of lots, the land division has been recorded.

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the City Planning Director, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final**

plat is submitted within three years of the date of the City's approval of the preliminary plan.

Recording other land use decisions. If the preliminary land division approval also contains approval of other land use decisions (examples include adjustments, conditional uses, and environmental reviews), these other approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

The applicant, builder, or their representative may record the final decisions on these other land use decisions 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.

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- In situations involving only the creation of lots, the land division has been recorded.

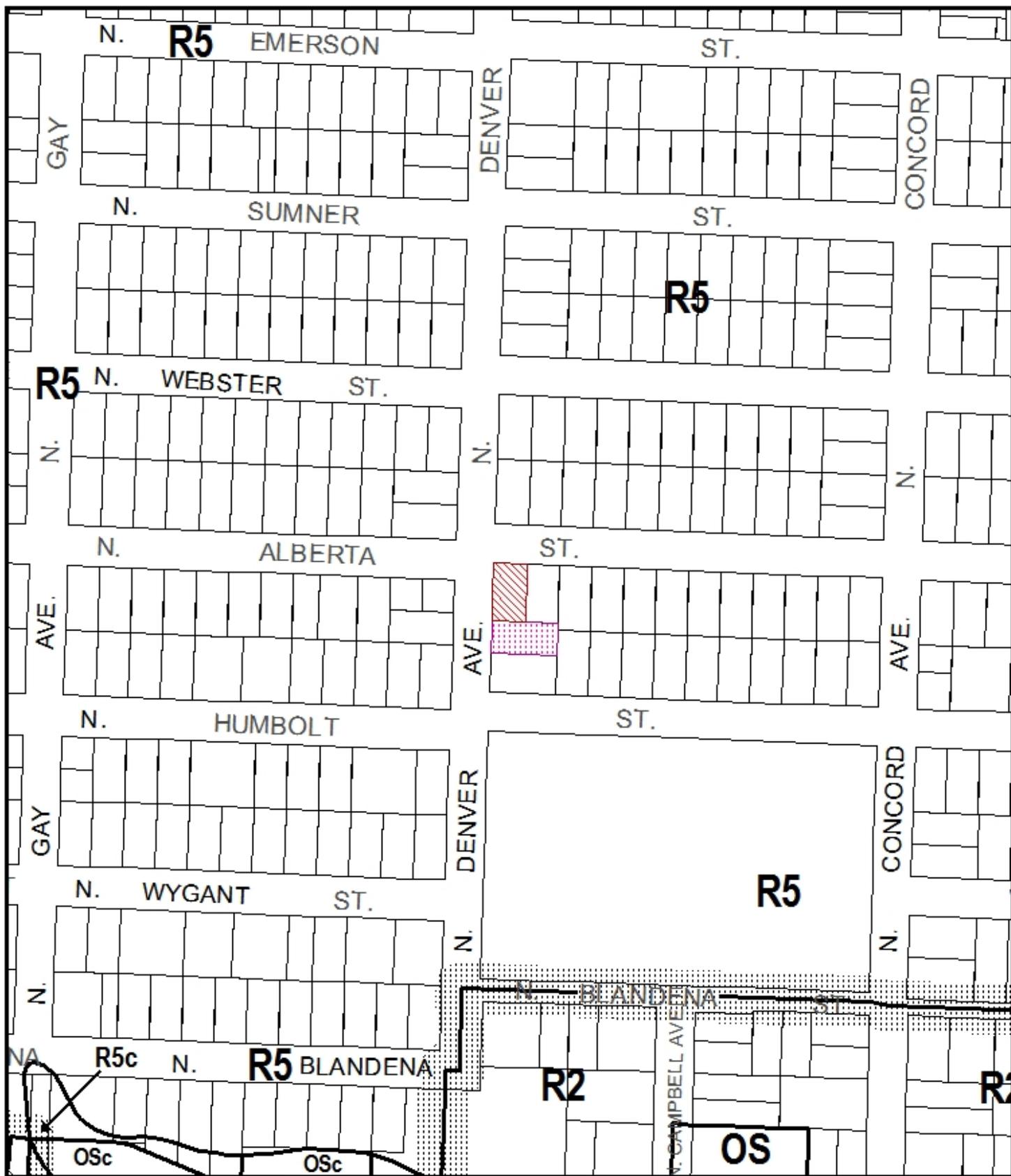
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Division of Bureau of Development Services
 - 2. Water Bureau
 - 3. Bureau of Transportation Engineering and Development Review
- F. Other:
 - 1. Original LU Application
 - 2. Site History Research



ZONING

-  Site
-  Also Owned

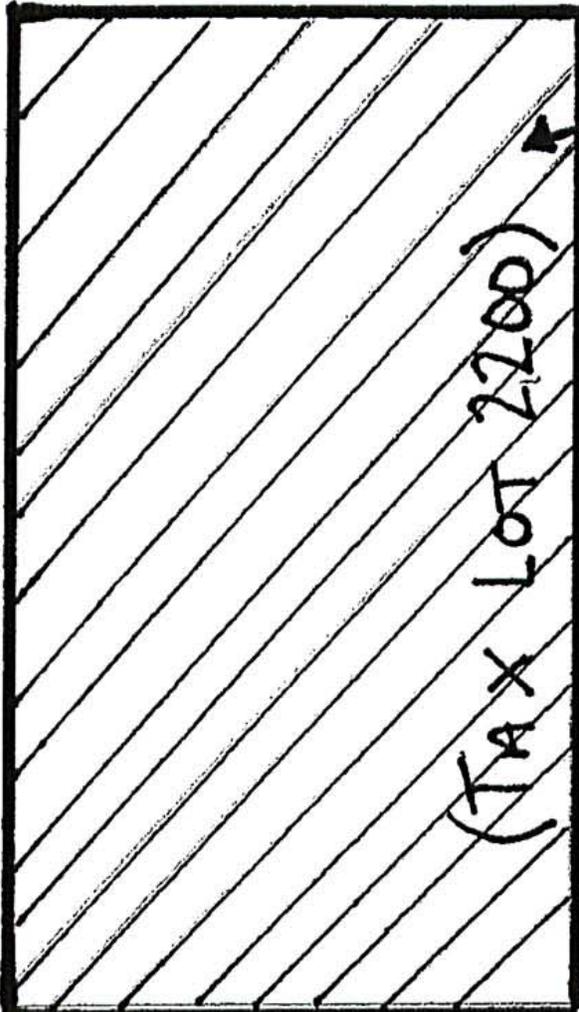
File No. LU 09-130364 AD
 1/4 Section 2528
 Scale 1 inch = 200 feet
 State_Id 1N1E21AD 2200
 Exhibit B (May 28, 2009)



This site lies within the:
ALBINA COMMUNITY PLAN DISTRICT

N ALBERTA ST

N DENVER AVE



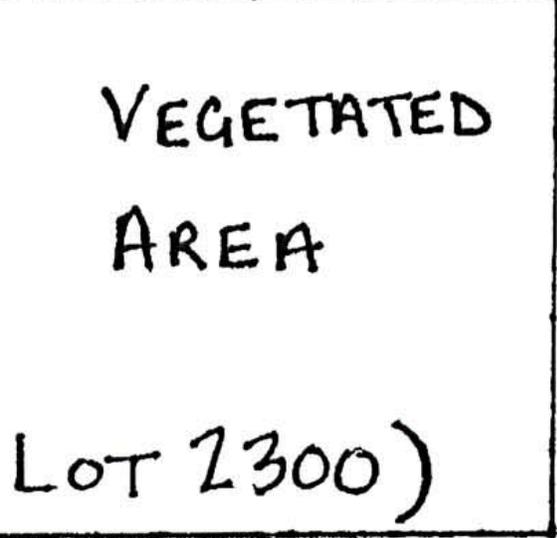
(TAX LOT 2200)

HOUSE AT
1936 N. ALBERTA



PAVED
PARKING
AREA

(TAX LOT 2300)



VEGETATED
AREA

Approved

City of Portland - Bureau of Development Services

Planner Marcy B. Stock Date 7/09/09

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