



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

1900 SW 4th Avenue, Suite 5000  
Portland, Oregon 97201  
503-823-7300  
Fax 503-823-5630  
TTY 503-823-6868  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** February 23, 2010  
**To:** Interested Person  
**From:** Sheila Frugoli, Land Use Services  
503-823-7817 / [frugolis@ci.portland.or.us](mailto:frugolis@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 10-103965 AD**

#### **GENERAL INFORMATION**

**Applicant:** Donna Keough  
BW Construction  
508 West 44th St  
Vancouver, WA 98660

**Owners:** Jim Kosta  
P.O. Box 66910  
Portland, OR 97290

Gary and Ginger MacDuffee  
417 Ogden Dr.  
Oregon City, OR 97045

**Site Address:** 16010 NE FLANDERS ST

**Legal Description:** LOT 2 INC UND INT TRACT A, FLANDERS COURT  
**Tax Account No.:** R285450100  
**State ID No.:** 1N2E36DA 03802  
**Quarter Section:** 3046

**Neighborhood:** Glenfair, contact Frank Rinella at 503-256-5399.  
**Business District:** Gateway Area Business Association, contact Fred Sanchez at 503-256-3910.  
**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

**Plan District:** East Corridor  
**Zoning:** R2.5a, Single-Dwelling Residential 2,500 zone with the a, Alternative Design Density overlay zone

**Case Type:** AD, Adjustment Review

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

**PROPOSAL:**

The applicant is requesting an Adjustment to reduce the required on-site parking space (in the proposed garage) from the required 18-foot depth to 17 feet, 5 inches. The applicant intends to develop the 1,736 square foot lot with a 1,353 square foot, 2-story house. This lot (Lot 2) was created with 8 other lots through a recently approved subdivision review—LU 06-142844 LDS AD.

**RELEVANT APPROVAL CRITERIA:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. 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

## ANALYSIS

**Site and Vicinity:** This 1,736 square foot corner lot is located on the west side of NE 160<sup>th</sup> Avenue. It is currently occupied by an existing single-family residence and small shed. The existing house will be demolished so that this lot and the adjacent lot will can be developed with new houses. The lot is bordered to the north by multifamily development and to the south, west and east across NE 160<sup>th</sup> Avenue by single family residential development.

**Zoning:** The R2.5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. This zone allows a density of 1 dwelling unit per 2,500 square feet.

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood.

**Land Use History:** City records indicate that this lot (Lot 2) was created with 8 other lots through a recently approved subdivision review—LU 06-142844 LDS AD.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed January 28, 2010. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Life Safety Plan Review Section of BDS

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on January 28, 2010. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.010 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 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.

### **33.805.040 Adjustment 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 intends to construct a new house with attached garage on the recently created 1,736 square foot lot. The proposed parking space in the garage cannot meet the standard-size parking space dimensions of 9 feet by 18 feet. The applicant is requesting an Adjustment to Section 33.266.120.C.1, to reduce the required on-site parking space to approximately 17.5 feet in length.

The purpose of the regulation is described under Section 33.266.120.A, as follows: "The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods."

The modest reduction in the length of the parking space will not be noticeable for the surrounding residences. A 17.5 foot deep parking space will accommodate most passenger vehicles. The space will be within an enclosed garage and the garage entrance will be set back 18 feet from the front property line, as required by the Zoning Code. The requested Adjustment will not detract from the appearance of the neighborhood.

- 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 within a residential zone. As noted in the above findings, the reduction of the parking space by seven inches will not significantly detract from the appearance of the residential area and will not create parking conflicts that impact the livability of the surrounding residents. 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:** Only one adjustment is being requested; therefore, this criterion is not applicable.

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

**Findings:** The site does not contain City-designated scenic or historic resources. This criterion is not applicable.

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

**Findings:** No impacts are anticipated from this Adjustment. Therefore, no mitigation is needed. This approval criterion is satisfied.

- 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. Therefore, 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


Based on the findings of this report, the approval criteria are met. Therefore this requested Adjustment to modify the size of the on-site parking space should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the required on-site parking space (in the proposed garage) from the required 18-foot depth to 17 feet, 5 inches [Zoning Code Section 33.266.120.D], per the approved floor plan, Exhibits C.1, signed and dated February 19, 2010, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-103965 AD."

**Staff Planner: Sheila Frugoli**

**Decision rendered by:**  **on February 19, 2010**

By authority of the Director of the Bureau of Development Services

**Decision mailed: February 23, 2010**

**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 19, 2010, and was determined to be complete on January 25, 2010.

*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 19, 2010.

*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. Unless further extended by the applicant, **the 120 days will expire on: May 25, 2010.**

**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 9, 2010** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, 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](http://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 10, 2010 – (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.

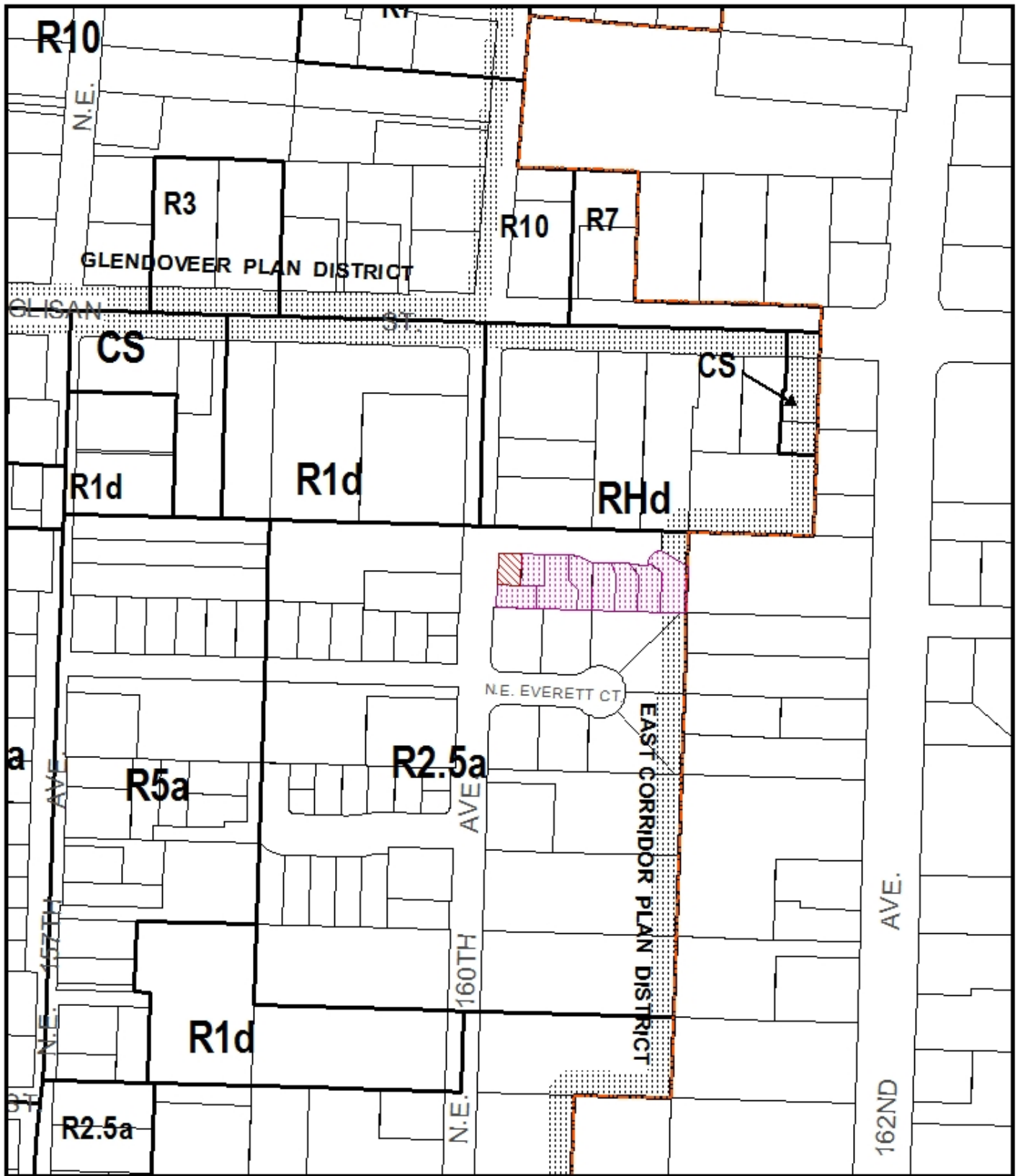
**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Main & Second Floor Plan (attached)

2. Site Plan
  3. Exterior Elevations
- D. Notification information:
1. Mailing list
  2. Mailed notice
- E. Agency Responses:
1. Water Bureau
  2. Site Development Review Section of BDS
  3. TRACS Printout – Bureaus Response of “No Concerns”
- F. Correspondence: None
- G. Other:
1. Original LU Application
  2. Site History Research

**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



# ZONING

-  Site
-  Also Owned



This site lies within the:  
EAST CORRIDOR PLAN DISTRICT

File No.	<u>LU 10-103965 AD</u>
1/4 Section	<u>3046</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N2E36DA 3802</u>
Exhibit	<u>B (Jan 22,2010)</u>



