



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

Date: March 9, 2010
To: Interested Person
From: Sean Williams, Land Use Services
503-823-7612 / sean.williams@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 09-178304 AD

GENERAL INFORMATION

Applicant: Ralph Fullerton
Central City Homes, Llc
6426 SW Beaverton Hillsdale Hwy.
Portland OR, 97221

Representative: Mark Person
W.B. Wells & Associates, Inc.
4230 NE Fremont Street
Portland, OR 97213

Site Address: 5008 SW Taylors Ferry Road

Legal Description: TL 100 1.04 ACRES, SECTION 30 1S 1E, TL 100 1.04 ACRES
Tax Account No.: R991300410
State ID No.: 1S1E30DB 00100
Quarter Section: 3924
Neighborhood: Crestwood, contact John Prouty at 503-246-7366.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Plan District: None
Other Designations: Potential Landslide Hazard
Zoning: Residential 7,000 (R7)
Case Type: Adjustment (AD)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is requesting an adjustment to the maximum lot size of Parcel 2 of partition plat 2009-81 from 12,000 square feet to approximately 20,142 square feet in preparation for a property line adjustment (09-177503 PR).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section **33.805.040 A.-F., Approval Criteria for Adjustments.**

ANALYSIS

Site and Vicinity: The subject property is located on the south side of SW Taylors Ferry Road approximately 200 feet east of SW 52nd Avenue. There are no existing improvements within the subject property with the exception of a driveway that provides access to a single family dwelling located on the adjacent parcel to the east, for which an access easement is present on the subject property. Two trees, with associated root protection zones, are located on the site that were preserved as a part of the previous land division approval described below. The vicinity is primarily comprised of single dwelling zoning and associated development.

Zoning: The R7 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.

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

- **LU 06-120709 LDS:** Approval of a 5 lot subdivision with a private street tract. A final plat was never pursued and a subsequent land division was requested and approved which replaced this decision.
- **LU 08-101826 LDP AD:** Approval of a 3 lot partition with concurrent approval for adjustments to the maximum lot size of Parcels 2 and 3. A final plat was approved and the survey was platted (Partition Plat 2009-81). This adjustment request is applicable to Parcel 2 of the approved and platted land division.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **January 5, 2010**. The Water Bureau, Urban Forestry and Fire Bureau all have no concerns regarding the adjustment proposal (Exhibit E-5). The following Bureaus have responded with comments:

Bureau of Environmental Services: BES has no objection to approval of the adjustment per submitted utility plans and previous permitted work for stormwater facilities. However, an existing access and utility easement burdening Parcel 2 must be modified prior to approval of the subsequent property line adjustment. See Exhibit E-1.

Bureau of Transportation: "Transportation has no objection to this proposal - contributions towards improvements were made with previous LDP. See 08-101826 for further details, forward motion requirement is still applicable." See Exhibit E-2.

Site Development Section of BDS: Site Development has no objection to approval of the adjustment per the utility plan provided by the applicant, which demonstrates that no change in sanitary or stormwater services will result from the subsequent property line adjustment. Advisory notes were provided regarding the need to address the existing easement and maintenance agreement on Parcel 2 as a result of the property line adjustment. See Exhibit E-3.

Life Safety Plans Examiner: "No structures are shown on the survey. If any property lines are relocated such that an existing exterior wall will be less than three feet to the property line, it will need to be improved so that it is one-hour fire-rated with no openings in it. Roofs and eaves may project not closer than two feet to a property line. Eaves located between two and three feet to a property line must be protected on the underside as required for one-hour fire-rated construction. ORSC R302." See Exhibit E-4.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on January 5, 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

APPROVAL CRITERIA FOR ADJUSTMENTS

33.805.010 Purpose

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

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

Findings: The applicant is requesting an adjustment to the maximum lot size of 12,000 square feet in the Residential 7,000 (R7) zone to facilitate a property line adjustment to allow the subject property to be enlarged from 19,119 to 20,142 square feet in size. The purpose of the lot dimension standards for lots in the RF through R5 zones (33.610.200) ensure that:

- **Each lot has enough room for a reasonably-sized house and garage;**
- **Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;**
- **Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;**
- **Each lot has room for at least a small, private outdoor area;**
- **Lots are compatible with existing lots;**
- **Lots are wide enough to allow development to orient toward the street;**
- **Lots don't narrow to an unbuildable width close to the street**
- **Each lot has adequate access from the street;**
- **Each lot has access for utilities and services; and**
- **Lots are not landlocked.**

The subject property is currently 19,119 square feet and was created through a land division (LU 08-101826 LDP AD) in which an adjustment was approved to the maximum lot size for this parcel. An adjustment review is necessary because the property was created through a maximum lot size adjustment and is now proposed to move further out of conformance with the maximum lot area standard for the zone. The subject property will gain approximately 10.23 feet of additional street frontage which will facilitate the future division of this site to create standard lots in the future.

The subject property currently contains enough room and is of a size and shape to accommodate a reasonably sized house and garage that can meet the development standards of the zoning code and the addition of approximately 1,023 square feet of site area will not preclude the ability to do so. In accordance with density standards for lots in RF through R5 zones, the subject property contains a maximum density of 2 parcels. The maximum density for the subject property will not change as a result of the proposed property line adjustment

and increase to maximum lot size and is therefore not so large as to create an appearance to be able to be further divided to exceed maximum allowed density in the future. Additional lot width will be gained which results in a configuration that contains more than enough room to allow for development to orient towards the street. As mentioned above, the property line adjustment will result in the subject property containing 80 feet of street frontage, which will allow for the division of the site to create 2 lots that can meet the minimum width standard of 40 feet in the R7 zone. Therefore, the allowance for an increase to maximum lot size through the proposed property line adjustment will result in a lot configuration that may facilitate a land division in the future that will better meet the purpose of the lot dimension regulations.

Lots south of SW Taylors Ferry Road are generally of a larger size and lower density zoning designation that lends toward larger lot sizes in this area. A number of lots within the immediate vicinity are the same size or larger than the subject site after the property line adjustment. Therefore, the compatibility of the subject property will not be compromised as a result of the increase in maximum lot size and property line adjustment. The subject property contains adequate access from SW Taylors Ferry Road that contains services and utilities that may accommodate future development. The property line adjustment will not result in a landlocked property nor will it preclude the ability to allow for a reasonably sized outdoor 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: The subject property is zoned for single dwelling use and is located within the Crestwood neighborhood. Residential development within the vicinity of the site is primarily comprised of single dwelling development. The result of adding approximately 1,023 square feet to the site will not generate any negative visual impacts to the area. As discussed previously, the proposal will enhance the livability for future development potential through creating a lot that contains enough room to facilitate a land division that will result in lots that may meet the dimension standards of the zone. 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 requested. This criterion is not applicable.

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

Findings: The site does not contain any scenic or historic resource designations. This criterion is not applicable.

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

Findings: As addressed in the preceding findings, there are no discernable impacts that will result from the proposed adjustment. 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 overlay 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 applicant proposes one adjustment to maximum lot size for a tract of land associated with a property line adjustment. As noted in this report, the proposal to allow property identified as Parcel 2 of partition plat 2009-81 to exceed the maximum lot size for the R7 zone is able to meet the adjustment approval criterion based on substantial conformance with applicable standards and established situations on the site and in the surrounding neighborhood.

ADMINISTRATIVE DECISION

Approval of an adjustment to the maximum lot area standard of the R7 zone (33.610.200) from 12,000 square feet to 20,142 square feet as the result of a planned property line adjustment per the approved site plan (Exhibit C-1).

Staff Planner: Sean Williams

Decision rendered by:  **on March 5, 2010**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 9, 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 December 17, 2009, and was determined to be complete on December 30, 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 December 17, 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 March 23, 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.

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 24, 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

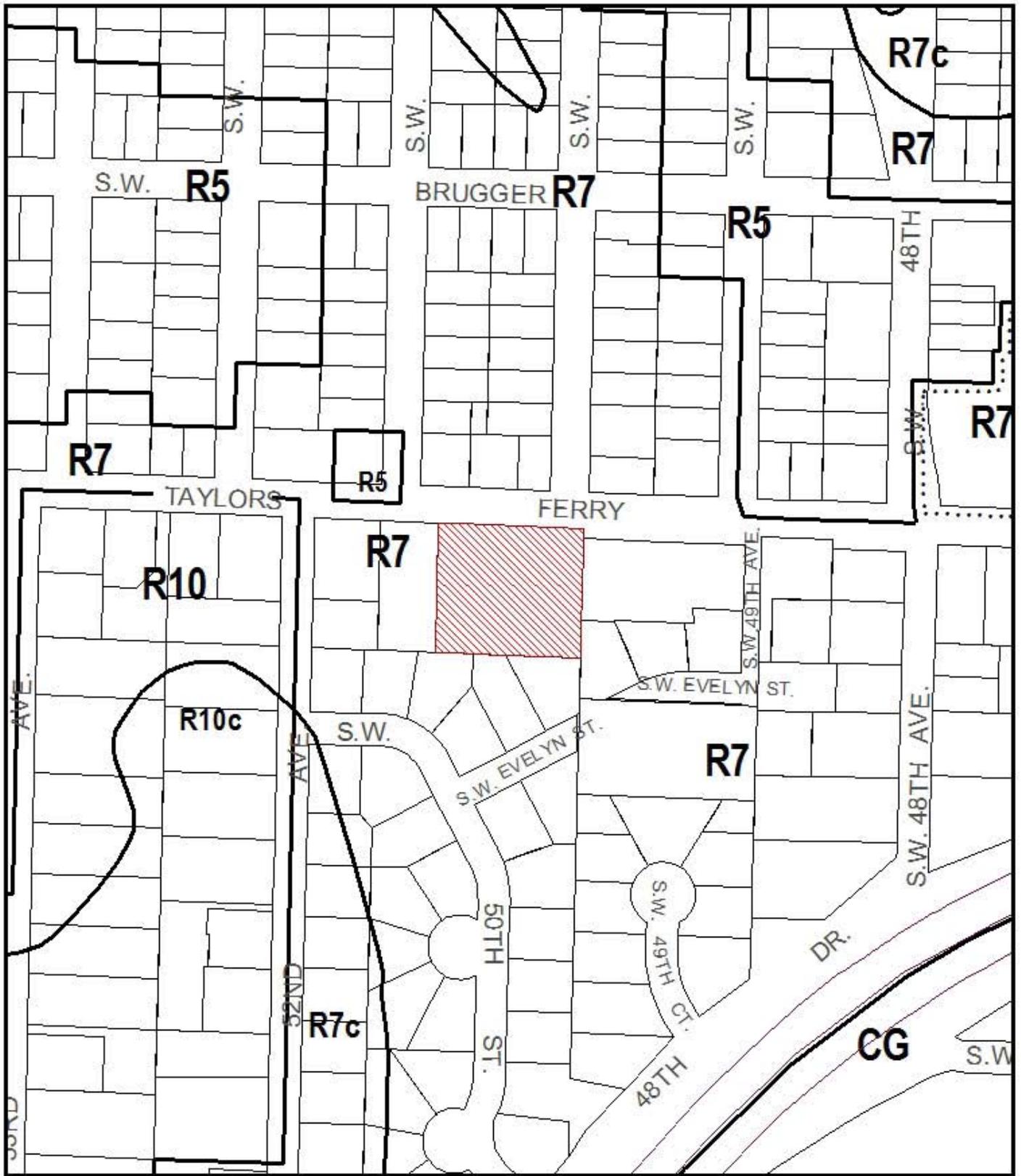
- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services w/ addendum
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Site Development Review Section of BDS w/ addendum
 - 4. Life Safety Plans Examiner
 - 5. Bureau of Parks, Forestry Division; Fire Bureau; Water Bureau

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



File No.	LU 09-178304 AD
1/4 Section	3924
Scale	1 inch = 200 feet
State Id	1S1E30DB 100
Exhibit	B (Dec 18, 2009)

