



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

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www.portlandonline.com/bds

Date: November 24, 2010
To: Interested Person
From: Lois Jennings, Land Use Services
503-823-2877

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 10-183612 AD

GENERAL INFORMATION

Applicant: Ron D Attaway
16126 NE Thompson St
Portland, OR 97230-5203
Telephone Number# 503-329-7720

Site Address: 16126 NE THOMPSON ST

Legal Description: BLOCK 2 LOT 3 EXC W 2', ROBINBROOK
Tax Account No.: R713900880
State ID No.: 1N2E25DA 09800
Quarter Section: 2847
Neighborhood: Wilkes Community Group, contact Alice Blatt at 503-253-6247.
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.

Zoning: R7- Medium Density Single Family Residential
Case Type: AD- Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant has converted the attached garage into a living area. The Zoning Code requires one on-site parking space for this site. If not in a garage, then the parking space must be 9 feet wide and 18 feet deep, located outside the required front building setback of 15 feet. Therefore, the paved area between the front property line and the building must be at least 33 feet deep to accommodate a parking space outside of the setback. In this case, the existing paved driveway area used for parking is 17 feet wide and 23 feet deep. Therefore the applicant requests this adjustment to the Zoning Code standard 33.266.120.C. to allow the required parking to extend 10 feet within front setback.

Relevant Approval Criteria:

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

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. This application was submitted on October 12, 2010 and determined to be complete on October 26, 2010.

ANALYSIS

Site and Vicinity: This property is at end of the City of Portland jurisdiction limits. The site is a corner lot which abuts NE Thompson Street and NE 162nd Avenue. NE Thompson Street is improved with sidewalks and curbs. NE 162nd Avenue is a Transit Street, which is within the City of Gresham's jurisdiction. Properties surrounding the site are developed predominantly with single story ranch style homes and some two-story single dwelling residences. South of this property is St. George's Church and then closer to NE Halsey street the development type is mostly multi-family mixed in with single family residences.

Zoning: The site is zoned R7- Medium Density Single Dwelling zone that allows a maximum density of 1 unit per 7,000 square feet. NE Thompson Street is considered the front lot line of this property. The required front building setback adjacent to NE Thompson is 15 feet.

Land Use History: City records indicate that prior land use reviews include the following: Multnomah County Case File (MCF) ZC 36-78: Approval of changing the zone from F-2 to R7 MCF 9-78: Approval to subdivide 12.85 acres into approximately 50, R7, Single Family lots.

Neighborhood and Agency Review: A Notice of Proposal in your Neighborhood was mailed on August 10, 2010. No written responses have been received from notified property owners in response to this proposal. The Neighborhood Association, Wilkes Community Group, did respond and have no particular reason to object to this adjustment request to allow the required parking to extend within the front setback. However, the neighborhood association would have concerns if in the future the property owner proposed to do a carport over the existing driveway and requested adjustments to Title 33 development standards.

The following Bureaus have responded with no issues or concerns.

- Bureau of Environmental Services
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks- Forestry Division

The Bureau of Transportation Engineering responded with the following comment:

Transportation has no objection to this adjustment proposal. There is no impact to the public transportation system and no work proposed in the public right-of-way. Improvements outside of this proposed adjustment request will be assessed at the time of submittal (building permit application, land use etc.). Exhibit E-2 contains additional details.

The Life Safety Section of BDS responded with the following comment:

A separate Building Permit is required for the conversion of the garage to living space. Exhibit E-7 contains additional details.

The Water Bureau responded with the following comment: The Water Bureau has no objections to the requested adjustment. However, at the time of the building permit application the Water Bureau will require a fixture count to determine the appropriate service and meter size for the property for which it will serve. All applicable costs will be the responsibility of the applicant. Exhibit E-3 contains additional details.

ZONING CODE APPROVAL CRITERIA**33.805.040 Approval Criteria**

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

Findings: The applicant requests an adjustment to allow the required parking space for this house to be within the front setback on the existing driveway. The purpose of the parking regulations for houses and duplexes is listed below:

- Section 33.266.120 Development Standards for Houses and Duplexes states the following: The size and placement of vehicle parking areas are regulated in order to enhance the appearance of the neighborhoods.

At times parking within the front setback can potentially create negative visual impacts depending upon the surrounding neighborhood and site specifics. In this case, there is no change in appearance since the driveway exists and the resident and those who visit the residents of this house would park their vehicle within the driveway. A majority of the residents within the surrounding area of this site park their vehicles on their driveways and not within the garage. Therefore the appearance of the neighborhood will not be impacted by allowing this existing driveway to be the required parking space for the existing residence. Existing landscaping softens the impacts of vehicle parking within the front setback from the abutting properties. There is no change in appearance in the neighborhood, 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 a 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: This site is zoned –R7 – Medium Density Residential and has frontage along NE Thompson Street and NE 162nd Avenue. The applicant provided pictures showing that a large vehicle (standard size truck) can park in the existing driveway and not overhang on to the public sidewalk. The existing driveway is greater than 25 feet from the corner intersection of NE Thompson and NE 162nd. Therefore, Transportation has no safety issues with this proposal of utilizing the existing driveway for the required parking space.

A vehicle being parked within a driveway in front of existing garage is a common appearance within this neighborhood. There is not a visual impact to the livability or appearance of the residential neighborhood since the driveway is there and is what is being utilized for the required on-site parking space. The Zoning Code currently allows vehicles to park in the setback if behind a required parking space (which currently is within the garage, which is being converted to living space).

The Adjustment request does not conflict with the desired character of the Residential (R7) Zone, which preserves land for housing and to provide housing opportunities for individual households. There will be on-site parking, which will allow parking on the street for those who visit people in the neighborhood. 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 is not located within the scenic overlay zone nor is it designated as a historic landmark or resource. Therefore, this criterion is not applicable.

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

Findings: The applicant did not propose any mitigation for allowing the required parking to be within the front setback, since landscaping exists currently. This existing landscaping softens the impact to abutting neighbors. An arborvitae hedge screens the vehicles from the neighbor to the west and low shrubs provide screening from NE 162nd Avenue. There is no visual impact along the street frontage of NE Thompson Street. 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, which is designated on the zoning map by either a “c” or “p” overlay. Therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

This land use review is specifically for allowing the required parking space to be within the front setback area of the existing driveway. A building permit is still required to convert the garage to living space. At the time of building permit application to convert the garage into living space other bureaus have specific codes that will be required to be met.

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Appropriate Water Service/meter size *Fixture Count	503-823-7368 www.portlandoregon.gov/water
Transportation	Title 17, Transportation System Plan	Potential Impacts upon Transportation Services	503-823-7002 http://www.trans@portlandoregon.gov
Life Safety Section of BDS	Oregon Residential Specialty Code, Oregon Mechanical Specialty Code, Oregon Structural Specialty Code	Building Permit required to convert garage to living area	503-823-1456 www.portlandonline.com/bds

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

By converting the existing garage into living space the required parking space will be eliminated. Therefore the applicant is requesting an adjustment to allow the required parking

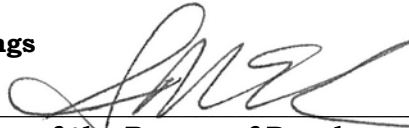
space to be located on the existing driveway (17 ft x 23 ft) and within the front building setback of 15 feet. As noted in this report, the proposal meets the Adjustment approval criteria.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Portland Zoning Code Section 33.266.120.C.1.a. Parking area location, in order to allow the required parking space to be within the front building setback (15 feet) for this house. This required parking space is to be located within the existing driveway as shown on approved site plan, Exhibit C.1 and dated November 24, 2010, subject to the following condition:

- 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 Exhibits C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-183612 AD.

Staff Planner: Lois Jennings

Decision rendered by:  **on November 22, 2010**
By authority of the Director of the Bureau of Development Services

Decision mailed: November 24, 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 October 12, 2010, and was determined to be complete on October 26, 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 October 12, 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: February 23, 2011.**

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 December 8, 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 **December 9, 2010**.
- 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.

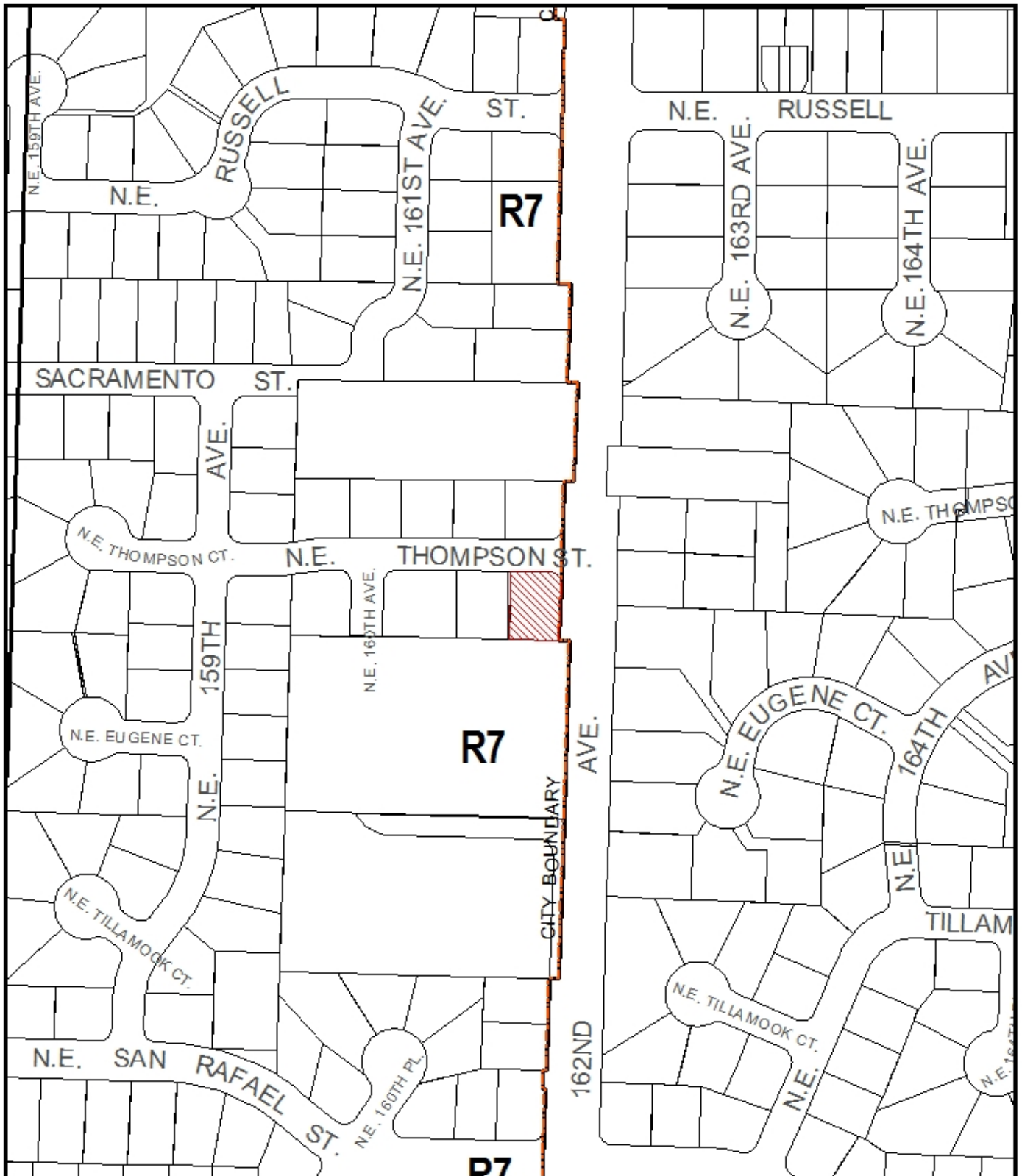
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
 - 1. Narrative Addressing Approval Criteria
 - 2. Pictures
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Section of BDS
- F. Correspondence:
 - 1. Alice Blat, Wilkes Community Group, November 19, 2010, No Objections
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter sent to applicant dated



ZONING

 Site



File No.	<u>LU 10-183612 AD</u>
1/4 Section	<u>2847</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N2E25DA 9800</u>
Exhibit	<u>B (Oct 14, 2010)</u>

