

City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

Date: August 23, 2011 **To:** Interested Person

From: Kathleen Stokes, Land Use Services

503-823-7843 / Kathleen.Stokes@portlandoregon.gov

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 11-143885 AD

GENERAL INFORMATION

Applicant: Melissa Mccall, Melissa Mccall Design LLC

6534 NE 17th Ave Portland, OR 97211

David Lipkind, Shelbyville Properties, LLC

1239 NE Sumner St Portland Oregon 97211

Alice Orleman, property owner

3443 NE 17th Ave Portland OR 97212

Site Address: 5279 NE 21ST AVE

Legal Description: BLOCK 15 E 40' OF LOT 16, VERNON

Tax Account No.: R860703130 **State ID No.:** 1N1E23AA 07500

Quarter Section: 2532

Neighborhood: Vernon, contact Shawn Furst at 503-407-3537.

Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321. **District Coalition:** Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-

823-4575.

Zoning: R2.5 ah (R2,500, Attached Single-Dwelling Residential with an

Alternative Design Density Overlay and a Portland International Airport

Aircraft Landing Overlay)

Case Type: Adjustment Review

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

Proposal: The property owner is proposing construction of an addition to the house on this site that would require removal of the existing on-site parking space. The Portland Zoning Code, Title 33, generally requires each household to have one on-site parking space. Some

exceptions are allowed by right and some exceptions to this regulation require approval through

an Adjustment Review. Adjustments are approved when all of the relevant approval criteria are met or if the criteria can be met through conditions of approval. Therefore, the applicants are requesting approval of an adjustment to Code Section 33.266.110 to waive the required on-site parking space for this site.

ANALYSIS

Site and Vicinity: The applicant's site is a 2,000 square-foot lot that is located on the southwest corner of the intersection of NE 21st Avenue and NE Emerson Street. The property is developed with a one-story, single-dwelling residence that was constructed in 1904. The surrounding area consists of a mixture of uses. Single-dwelling residential properties are predominant, but there are also some duplexes and a church is located at the northwest corner of the intersection of NE 22nd Avenue and NE Sumner Street. A parking lot for the church fronts onto the east side of NE 21st Avenue, midway down the block from the applicant's site. Vernon, a public elementary school, is located across the street from the site, on the north side of NE Emerson Street. North of the school site there is a City of Portland public open space, Alberta Park.

Zoning: This site is zoned R2ah (R2,000 or Low Density Multi-dwelling Residential, with an Alternative Design Density Overlay and an Aircraft Landing Overlay). The R2 zone allows approximately 21.8 dwelling units per acre. The major type of new development will be duplexes, townhouses, rowhouses and garden apartments. These housing types are intended to be compatible with adjacent houses. Generally, R2 zoning will be applied near neighborhood collector and district collector streets, and local streets adjacent to commercial areas or major streets.

The "a" or Alternative Design Density Overlay Zone provides the opportunity for additional residential density in some situations, when design standards are met. The "h" or Aircraft Landing Overlay Zone limits the height of structures within the aircraft landing approach patterns for the Portland International Airport. The provisions of these overlay zones are not applicable to this proposal.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 22, 2011**. The following Bureaus have responded with no issues or concerns and provided written comments regarding permit review requirements:

- Environmental Services provided information on sanitary sewers and storm water management requirements (Exhibit E-1).
- Transportation Engineering stated that there are no issues with approval of the requested Adjustment and noted that removal of the driveway apron and curb cut will be required as part of building permit approval (Exhibit E-2).
- Water Bureau advised that a review for fixture count will need to be completed by the applicant at the time of submittal of the building permit, and reviewed by the Water Bureau, to appropriately size the water service and meter for this property. If a water service and or meter upsize is required, all applicable costs will be the responsibility of the applicant (Exhibit E-3).

The following agencies responded electronically to indicate that there were "no concerns"

- Fire Bureau
- Site Development Section of BDS
- Life Safety Plan Review Section of BDS
- Portland Parks, Urban Forestry Division

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 22, 2011. One written response was received from notified property owners, expressing support for approval of the requested Adjustment. The neighbors stated that no problems were expected from waiving the on-site parking requirement, as the previous owners of the property never parked their cars on site (Exhibit F-1).

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. stated below, have been met.

- **A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- **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
- **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
- **D.** City-designated scenic resources and historic resources are preserved; and
- **E.** Any impacts resulting from the adjustment are mitigated to the extent practical.
- **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 AND CONCLUSIONS

The applicants' proposal meets all of the relevant approval criteria: *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.*

The existing on-site parking for this property consists of a paved area at the end of a narrow steep driveway on the south edge of the site. Neighbors have stated that the previous owners did not use the driveway, parking on the street instead. It appears that the on-site parking in the driveway would be inconvenient to use and so it is not likely that the new owner would choose to use it either. Instead, the applicant is proposing to build an addition onto the house that would extend into the area where the driveway is located. The bank where the driveway cuts up the slope from the sidewalk will be filled with new landscaping. This approach will enhance the appearance of the site from the street edge. The curb cut and driveway apron are also proposed to be removed, ensuring that one parking space is added back to the adjacent street on NE 21st Avenue. This means that the approval of the request to waive the requirement for one on-site parking space will equally meet the purpose of the regulation, because there will be no net change in the number of spaces. It also means that there will be no impacts to the livability of the residential area, by placing any impact on the supply of on-

street parking that is available. There will be an improvement in the appearance of the residential area, due to the additional landscaping that is proposed. Therefore, Criteria A and B are met.

Only one adjustment has been requested; there are no scenic or historic resources on the site; no impacts are expected to occur from waiving the requirement for an onsite parking space, and the site is not located in an environmental zone. Therefore, Criteria C, D, E and F do not apply. The requested Adjustment can be approved, in general compliance with the proposed site plan, indicating that the curb cut will be closed and additional landscaping will be added to the area where the driveway is currently located.

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.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Code Section 33.266.110, to waive the required on-site parking space for this site, in general compliance with the approved site plan, Exhibit C-1, signed and dated August 19, 2011, 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 11-143885 AD."

Staff Planner: Kathleen Stokes

Decision rendered by: ______ on August 19, 2011

By authority of the Director of the Bureau of Development Services

Decision mailed: August 23, 2011

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 May 31, 2011, and was determined to be complete on **July 20, 2011**.

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 31, 2011.

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 by the applicant, **the 120 days will expire on: November 17, 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 September 6, 2011** 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 **September 7, 2011 (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.

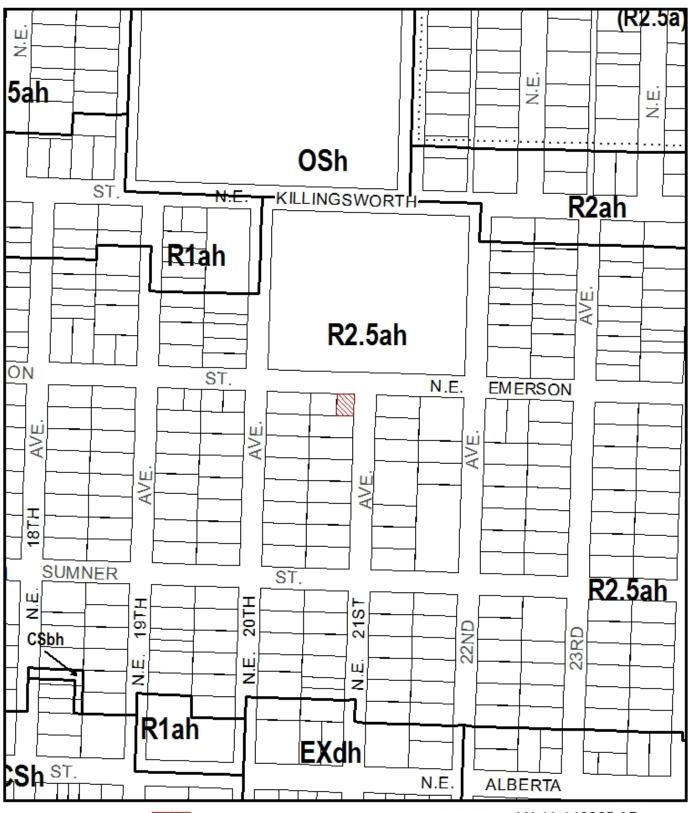
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
 - 1. Application and original plans and narrative
 - 2. Addendum, received July 5, 2011
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings
- 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. Summary of electronic responses from City agencies
- F. Correspondence:
 - 1. Faith Danforth and Felix Roth
- G. Other:
 - 1. Letter from Kathleen Stokes to Melissa McCall, June 23, 2011



ZONING

Site

File No. LU 11-143885 AD

1/4 Section 2532

Scale 1 inch = 200 feet

State_Id 1N1E23AA 7500

Exhibit B (Jun 06,2011)



