



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: April 29, 2013
To: Interested Person
From: Douglas Hardy, Land Use Services
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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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 13-128202 ZE

GENERAL INFORMATION

Applicant: City of Portland Bureau of Development Services
Land Use Services Division
1900 SW 4th Avenue, Suite 5000 / Portland, OR 97201

Property Owner: SFP-E LLC
P.O. Box 5350 / Bend, OR 97708

Business Owner: David Gibson, Corporate Counsel for Les Schwab Tire Centers
P.O. Box 5350 / Bend, OR 97708

Representative: Steven Abel, Attorney / Stoel Rives
900 SW Fifth Avenue, Suite 2600 / Portland, OR 97204

Site Address: 1804 NW Northrup Street/1210 NW 19th Avenue

Legal Description: COUCHS ADD, BLOCK 208, LOT 4&5&8; COUCHS ADD, BLOCK 208, LOT 6&7, LAND ONLY, SEE R646455 (R180218851) FOR IMPS ONLY; COUCHS ADD, BLOCK 209, LOT 2&3&6, S 3' OF W 41.45' OF LOT 7, LAND ONLY, SEE R646453 (R180218991) FOR IMPS ONLY

Tax Account No.: R140994, R140995, R141001
State ID No.: 1N1E33AB 06400, 1N1E33AB 6300, 1N1E33AB 6200
Quarter Section: 2928
Neighborhood: Northwest District, contact John Bradley at 503-313-7574
Business District: Nob Hill, contact Mike Conklin at 503-226-6126
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212
Plan District: Northwest
Existing Zoning: EXd (Central Employment with a Design overlay zone)
RHd (High Density Residential with a Design overlay zone)

Case Type: Zoning Map Error Correction (ZE)
Procedure: Type II, Administrative decision with appeal to the Hearings Officer.

Proposal:

The Bureau of Development Services is initiating a Zoning Map Error Correction to change the zoning on the southern one-third of the site (located at the southwest corner of NW Northrup and NW 18th) from RHd (High Density Residential with a Design overlay zone) to EXd (Central Employment with a Design overlay zone). This process is necessary because the current zoning line bisects an industrial building that was permitted and constructed in 1967, resulting in a building that is now zoned both Employment and Residential.

In 1967, the site in its entirety was zoned M3, a zoning designation that allowed commercial and industrial uses. When the Comprehensive Plan was adopted in 1980, the property was split-zoned, with the M3 zone mapped on the northern 100 feet of the site and the RH zone mapped on the southern 50 feet of the site. A later map update process in 1991 changed the M3 zoning on the northern 100 feet of the site to Central Employment with a Design overlay zone (EXd), consistent with the remapping criteria for that legislative project.

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 Zoning Code Section 33.855.070 (Corrections to the Official Zoning Maps).

ANALYSIS

Site and Vicinity: The portion of the site subject to the Zoning Map Error Correction is located at the southwest corner of the NW Northrup Street and NW 18th Avenue. This portion of the site consists of a 15,000 square foot tax lot that is developed with a one-story building located on the southerly two-thirds of the lot, with surface parking located between the building and NW Northrup Street. The building is currently occupied with a Vehicle Repair (tire sales and mounting) use. The portion of the site immediately west of this tax lot (located at the southeast corner of NW Northrup Street and NW 19th Avenue) is 10,000 square feet in area, and developed with a surface parking lot that is used by the same Vehicle Repair business. A third portion of site is located across NW Northrup Street, at the northeast corner of NW Northrup Street and NW 19th Avenue. This portion of the site is also developed with a one-story building occupied by the same Vehicle Repair use, with a surface parking lot fronting NW 19th Avenue.

The surrounding area within a block radius of the subject site is developed with a variety of uses built at differing densities. Lots fronting NW Northrup Street (west of the subject site) are developed with both single and multi-dwelling uses ranging in height from one and one-half to four stories. This development is interspersed with accessory surface parking lots. Development fronting NW Northrup Street to the east of the subject site includes lower-density commercial and light industrial uses. Development along the adjacent NW 18th and 19th Avenues, and NW Marshal Street, ranges from two-story commercial uses, to single- and multi-dwelling uses that vary from two to five stories in height.

All adjacent streets are fully improved with curbs and sidewalks. The streetcar line runs along this portion of NW Northrup Street.

Zoning: The majority of the site is located in a Central Employment (EX) zone, with a Design ("d") overlay zone. The exception is the southerly 50 feet of the site (Tax Lots 4, 5 and 8, Block 208) which is located in a High Density Residential (RH) zone, and in a Design overlay zone. The entire site is also located in the Northwest Plan District.

The EX zone implements the Central Employment map designation of the Comprehensive Plan. The zone allows mixed-uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area. The

development standards are intended to allow new development which is similar in character to existing development.

The RH zone is a high density multi-dwelling zone. The maximum size of buildings and intensity of use is regulated by floor area ratio (FAR) limits and other site development standards. Generally the density will range from 80 to 125 units per acre. Allowed housing is characterized by medium to high height and a relatively high percentage of building coverage. The major types of new housing development will be low, medium, and high-rise apartments and condominiums. Generally, RH zones will be well served by transit facilities or be near areas with supportive commercial services.

The Design overlay zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The Design Overlay Zone also promotes quality high-density development adjacent to transit facilities. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review or compliance with the Community Design Standards. In addition, design review or compliance with the Community Design Standards ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

The Northwest plan district implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this plan district:

- promote housing and mixed-use development;
- address the area's parking scarcity while discouraging auto-oriented development;
- enhance the pedestrian experience;
- encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment; and
- minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary.

Land Use History: City records indicate there are no prior land use reviews for the portion of the site subject to this Zoning Map Error Correction.

Agency Review: The original Notice of Proposal was mailed March 22, 2013, with a revised Notice of Proposal mailed April 3, 2013. The following City bureaus have responded with no issues or concerns regarding the requested land use review:

- Bureau of Environmental Services;
- Portland Bureau of Transportation;
- Water Bureau;
- Fire Bureau;
- Bureau of Development Services Site Development Section;
- Bureau of Development Services Life Safety Plans Examiner; and
- Portland Parks & Recreation/Urban Forestry Division.

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.855.070 Corrections to the Official Zoning Maps

The Director of BDS may initiate and approve a review following the Type II procedure for the types of discretionary corrections to the Official Zoning Maps listed below. Nondiscretionary corrections to the Official Zoning Maps may be initiated by the Director of Planning as described in Section 1.01.037 of the Portland City Code.

A. Mapping errors. The correction may be made for mapping errors such as:

1. A map line that was intended to follow a topographical feature does not do so. Topographical features include the tops and bottoms of hillsides, the banks of water bodies, and center lines of creeks or drainage ditches; or

Findings: The request for the zoning map error correction is not based on topographical features. Therefore, this criterion does not apply.

2. There is a discrepancy between maps and on balance there is sufficient evidence of legislative intent for where the line should be located.

Findings: For purposes of this criterion, the “site” is identified as the tax lots located at the southwest corner of NW Northrup Street and NW 18th Avenue, legally described as Lots 4, 5 and 8, Block 208, Couchs Addition.

The Official Zoning Map shows that prior to December 31, 1980, the subject site in its entirety was located in an M3 zone (Light Manufacturing), with an “S” or Signboard Control zone (Exhibit A.2). The M3 zone allowed a variety of uses including retail, office, vehicle repair, institutional, wholesale, industrial service, warehouse and light industrial. While the map identifying the zone placed on the site in 1981 is not available, a March 1985 zoning map identifies the M3S zone being retained on the northern two-thirds of the site, with the southern one-third of the site mapped with an RHS zone (Exhibit A.3). Development in the RH zone was limited to single and multi-dwelling uses. A subsequent legislative zone change in 1991 shows the northern two-thirds of the site being mapped with the EXd zone, and the southern one-third retaining the RH zone (Exhibit A.4).

The 1981 mapping not only split an existing ownership between two different zones, but also resulted in the northern one-half of the existing one-story commercial building being located in the M3 zone, with the southern one-half of this building being located in the RH zone. It is clear from building permit records that the one-story, 10,000 square foot building on the site pre-dated the 1981 zone map change (Exhibit A.5). Given the 1981 zone change split not only an ownership between two zones, but also an existing building (making the southern one-half of the industrial building nonconforming in the RH zone), the mapping of the RH zone on the southern one-third of this site was done in error.

Furthermore, had the correct M3 zoning been mapped on the southern one-third of the site, the zoning on the site in its entirety would have changed from M3 to EXd as part of the citywide legislative zone changes that occurred in 1991 as part of the *Proposed Commercial and Manufacturing Zone Remapping Report*. The purpose of this study was to convert existing commercial and industrial zones to equivalent new zones that were being established as part of the 1990 Zoning Code rewrite. The project included specific criterion that were used when converting zones. The criterion used to convert existing M3 zones to the new EX zone stated such conversions would occur in “Inner-city mixed use areas containing industrial or industrially-related uses”, and “For areas with housing or strong housing development potential as well as relatively intense commercial and/or industrial activity” (page 16, Table 4) (Exhibit A.6). As described above, because the southern one-third of the site was intended to have been previously mapped with the M3 designation, and given the industrial development and use on this portion of the site is located in an inner-city mixed use area, as well as in an area with strong housing development potential, the EXd zone should have been mapped on this portion of the site as well in 1991.

Based on these findings, there is sufficient evidence that the correct zoning for the site in its entirety is EXd, and this criterion is met.

B. Movement of the reference item for the map line. The correction may be made when it can be clearly shown that a map line is based on the location of a reference item that has since been moved. Reference items are rights-of-way, tentative rights-of-way, utility easements and similar type items. Map line changes in these cases must not be more than a trivial change to the map pattern and must not result in any significant impacts to abutting lots.

Findings: In this specific instance, the Zoning Map error is not the result of the original zone line being based on a reference point that has since been moved. Therefore, this criterion is not applicable.

C. Land within the Urban Growth Boundary. The correction may be made when it involves the removal of the Future Urban overlay zone from properties that are now within the Urban Growth Boundary.

Findings: As this situation does not involve the removal of the Future Urban 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.

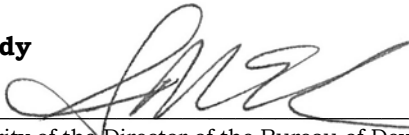
CONCLUSIONS

Information in the record demonstrates that there was a Zoning Map error in placing the RH zone on the southern one-third of the subject site. The mapping of the RH zone on this portion of the site bisected an existing ownership and industrial building, making a portion of the existing use and development nonconforming. The basis for replacing the former M3 zoning on the site with the EXd, as established by the *Proposed Commercial and Manufacturing Zone Remapping Report*, equally applies to the portion of the site that was incorrectly zoned to RH. Based on this information, sufficient evidence exists that the property in its entirety was intended to be in a nonresidential zone.

ADMINISTRATIVE DECISION

Approval of a Zoning Map Error Correction (33.855.070) to change the zoning from RHd (High Density Residential with a Design overlay zone) to EXd (Central Employment with a Design overlay zone) for the southern one-third of the subject site (Lot 4, Block 208, Couchs Addition), as identified in Exhibit B.2.

Staff Planner: Douglas Hardy

Decision rendered by:  **on April 26, 2013.**

By authority of the Director of the Bureau of Development Services

Decision mailed: April 29, 2013

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 March 15, 2013, and was determined to be complete on March 21, 2013.

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 March 15, 2013.

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 July 19, 2013.**

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 Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 13, 2013**, 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 Hearings Officer 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 Hearings Officer 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 **May 14, 2013**.
- 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. Written narrative from applicant
 - 2.
- B. Zoning Map (attached)
- C. Site Plan (attached)

D. Notification information:

1. Mailing list, for notice dated March 22, 2013
2. Mailed notice, dated March 22, 2013
3. Mailing list, for revised notice dated April 3, 2013
4. Revised mailed notice, dated April 3, 2013

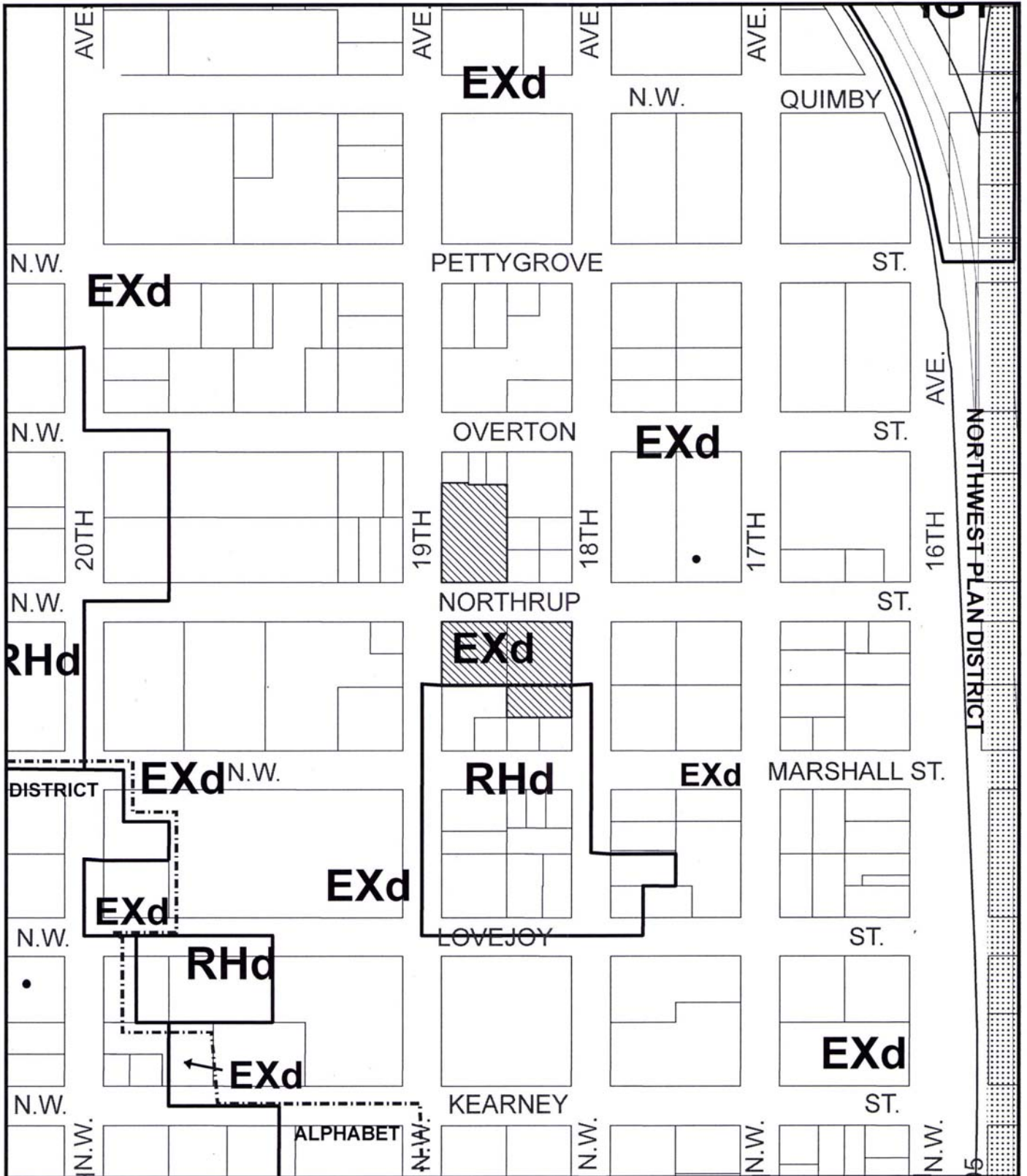
E. Agency Responses:

1. Bureau of Environmental Services
2. Portland Bureau of Transportation
3. Water Bureau
4. Fire Bureau
5. BDS Site Development Review Section
6. BDS Life Safety Plans Examiner
7. Portland Parks & Recreation/Urban Forestry Division

F. Correspondence (none)

G. Other (none)

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).



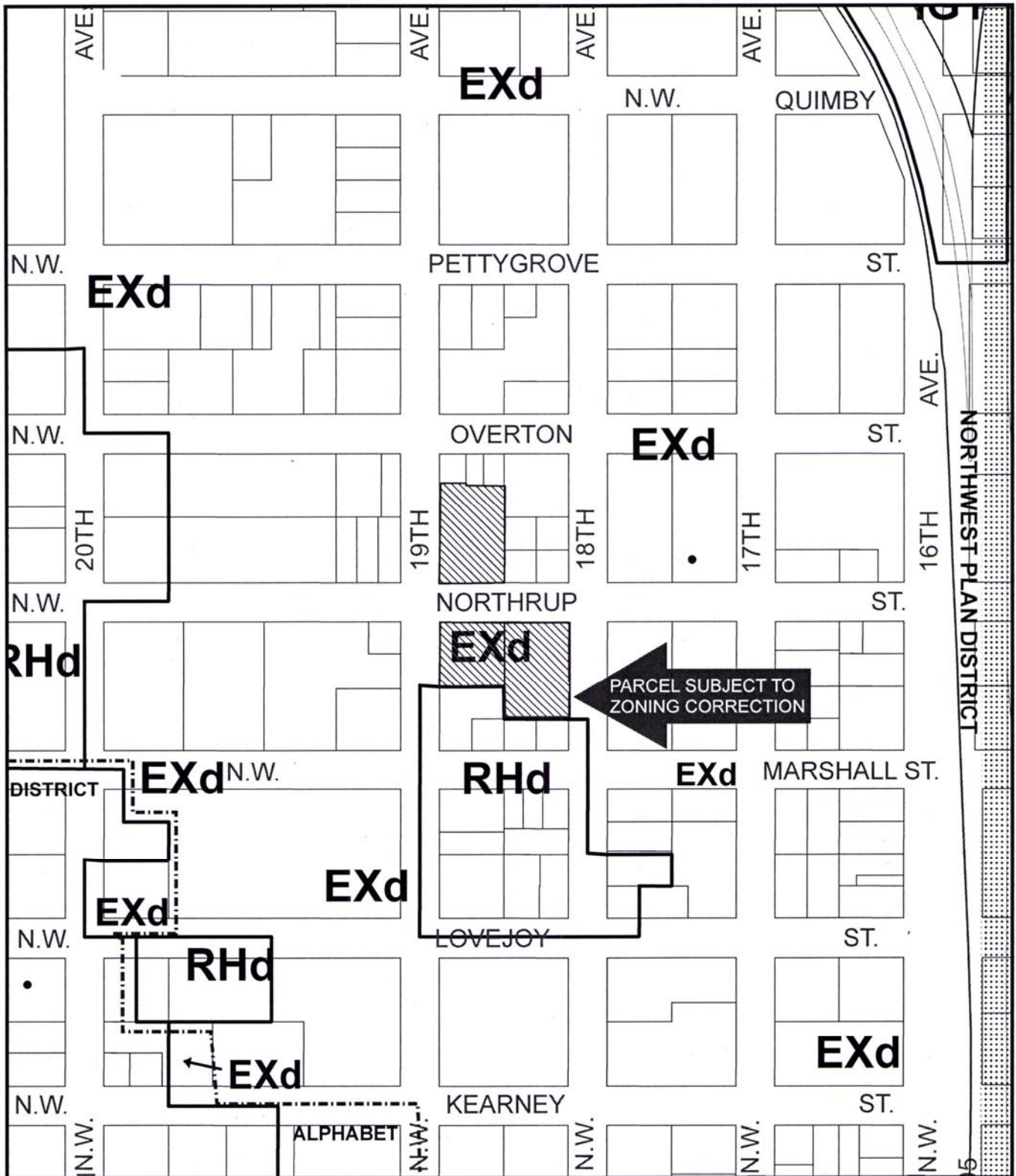
ZONING EXISTING

-  Site
-  Historic Landmark



This site lies within the:
NORTHWEST PLAN DISTRICT

File No. LU 13-128202 ZE
 1/4 Section 2928
 Scale 1 inch = 200 feet
 State_Id 1N1E33AB 6400
 Exhibit B1 (Apr 01,2013)



ZONING PROPOSED

-  Site
-  Historic Landmark



This site lies within the:
NORTHWEST PLAN DISTRICT

File No. LU 13-128202 ZE
 1/4 Section 2928
 Scale 1 inch = 200 feet
 State_Id 1N1E33AB 6400
 Exhibit B2 (Apr 01,2013)