



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

FROM CONCEPT TO CONSTRUCTION

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Date: December 5, 2013
To: Interested Person
From: Amanda Rhoads, 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 13-216527 AD

GENERAL INFORMATION

Applicant: Fred Winter / Sellwood Remodeling & Management
PO Box 82081 / Portland, OR 97282

Owner: Patrick Kessi / PHK NM LLC
PO Box 10163 / Portland, OR 97296

Site Address: 4731 N WILLAMETTE BLVD

Legal Description: BLOCK 1 LOT 14, COLLEGE CREST **Tax Account No.:**R169200180
State ID No.: 1N1E17BB 15500 **Quarter Section:** 2325
Neighborhood: University Park, contact Andrew Noethe at 503-679-2347.
Business District: North Portland
District Coalition: North Portland Neighborhood Serv, Mary Jaron Kelley at 503-823-4099.

Zoning: R5s – Residential 5,000 with Scenic Resources Overlay Zone
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant has proposed to convert the existing attached garage into living space. The conversion of the garage into living area moves the parking pad on the site out of conformance with the Zoning Code's setback standards. Zoning Code section 33.266.120.C.1.a states that required parking spaces are not allowed within the first ten feet from a front lot line or in a required front setback. In this case the front setback required is ten feet. Zoning Code section 33.266.120.D.1 states that a parking space must be at least 9 feet wide by 18 feet in depth.

The Zoning Code allows a garage with an associated driveway to be set back 18 feet from a front property line in this zone. However, if a garage is not located at the end of a driveway, the Zoning Code requires the 18-foot-deep parking pad to be located entirely outside of the required 10 ft. front setback. This standard requires driveways not leading to garages to be at least 28 feet in depth.

In this case, the applicants' driveway is 25 feet 6 inches long between the front property line and the proposed living area. The applicant has requested an Adjustment to allow car parking in 2.5 feet of the ten-foot required front setback.

Note: The applicant's driveway only measures 25 feet 6 inches long along the western edge of the driveway to the property line. The house angles away from the street, meaning the driveway is 2 feet 2 inches longer measured on the east side of the driveway. The applicant is requesting the largest Adjustment needed, 2.5 feet into the front setback, to ensure the entire driveway is in compliance.

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.

Relevant Approval Criteria:

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, have been met.

ANALYSIS

Site and Vicinity: The site is a 5,730 square foot site on the north side of Willamette Blvd., overlooking the Willamette River, Swan Island and parts of Forest Park. It is located only a block from the University of Portland campus and about a third of a mile from both Columbia Park and Portsmouth Park. The property is developed with a single-dwelling residential structure built in 1951. The surrounding houses were are similar in scale and were all built in the 1940s and 1950s.

N. Willamette Blvd. is a City Bikeway and Walkway and a Transit Access Street. The street in this area has a large area of right-of-way (ROW), with 30 feet of dedicated land between the current edge of the boulevard and the beginning of the property, 12 feet of which is between the sidewalk and the property line. This means that the driveway has an additional 12' of length in the ROW.

The land on the opposite side of the street all along N. Willamette is undeveloped, zoned Open Space and is owned by the City of Portland. A recreational corridor runs along the south side of N. Willamette Boulevard. Sites to the west and south of the open space are industrially developed.

Zoning: The Residential 5,000 (R5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

The Scenic Resource Zone "s" overlay is intended to protect Portland's significant scenic resources as identified in the Scenic Resources Protection Plan; enhance the appearance of Portland to make it a better place to live and work; create attractive entrance ways to Portland and its districts; improve Portland's economic vitality by enhancing the City's attractiveness to its citizens and to visitors; and implement the scenic resource policies and objectives of Portland's Comprehensive Plan. The purposes of the Scenic Resource zone are achieved by establishing height limits within view corridors to protect significant views and by establishing additional landscaping and screening standards to preserve and enhance identified scenic resources.

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

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **November 5, 2013**. The following Bureaus have responded with no issues or concerns:

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 5, 2013. One written response in support of the proposal has been received from a notified property owner.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (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 providing certainty and rapid processing for land use applications.

33.805.040 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
- 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 purpose of the standards for parking and loading related to the development of houses and duplexes is explained 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 proposed adjustment will not detract from the livability or appearance of the area. At 25.5 feet in length, plus another 12 feet of right-of-way to the sidewalk, there is more than adequate room to allow the existing driveway to continue to function as a parking space without the risk of cars overhanging into the sidewalk.

Currently, when viewed from N. Willamette Blvd., the garage door is a prominent element on the front façade. Allowing this garage door to be converted to windows will provide a better connection between the home and the public street and improve the appearance of the residential area.

Because the applicant is converting the existing garage to living space, the existing on-site parking space will be maintained in between the converted garage and the front

property line. The home is not getting any closer to the right of way, and the driveway will remain its existing length (25.5 feet) so light, air, separation for fire protection and access for fire fighting will be maintained. The Fire Bureau has no objection to this request. The general building scale and placement will also be maintained.

- 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 part of the N. Willamette Blvd. Scenic Corridor. The Adjustment, which maintains an existing driveway that has no height and does not block any view, has no impact on any view corridors. There are also no designated scenic vistas within the vicinity of the site. The scenic resource of the N. Willamette Blvd. Scenic Corridor is preserved.

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

Findings: There are no discernible impacts that would result from granting the requested 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 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

All of the approval criteria have been met for the requested Adjustment. The proposed adjustment will not detract from the livability of the neighborhood because additional residential use of the garage will not reduce the amount of on-site parking provided. At the same time, the conversion of the garage to living area will enhance the home's connection to the public street and improve the overall appearance and livability of the neighborhood.

For these reasons, the Adjustment should be approved.

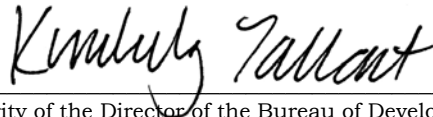
ADMINISTRATIVE DECISION

Approval of Adjustment to front setback requirement for a parking pad (33.266.120.C.1.a), from ten feet to seven feet six inches, per the approved site plans, Exhibits C.1 through C.2, signed and dated December 2, 2013, 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 Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-216527 AD."

Staff Planner: Amanda Rhoads

Decision rendered by:  **on (December 2, 2013.)**

By authority of the Director of the Bureau of Development Services

Decision mailed: December 5, 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 October 29, 2013, and was determined to be complete on November 1, 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 October 29, 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: March 1, 2014.**

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 19, 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 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 775 Summer St. NE, Suite 330, 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 20, 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.

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;

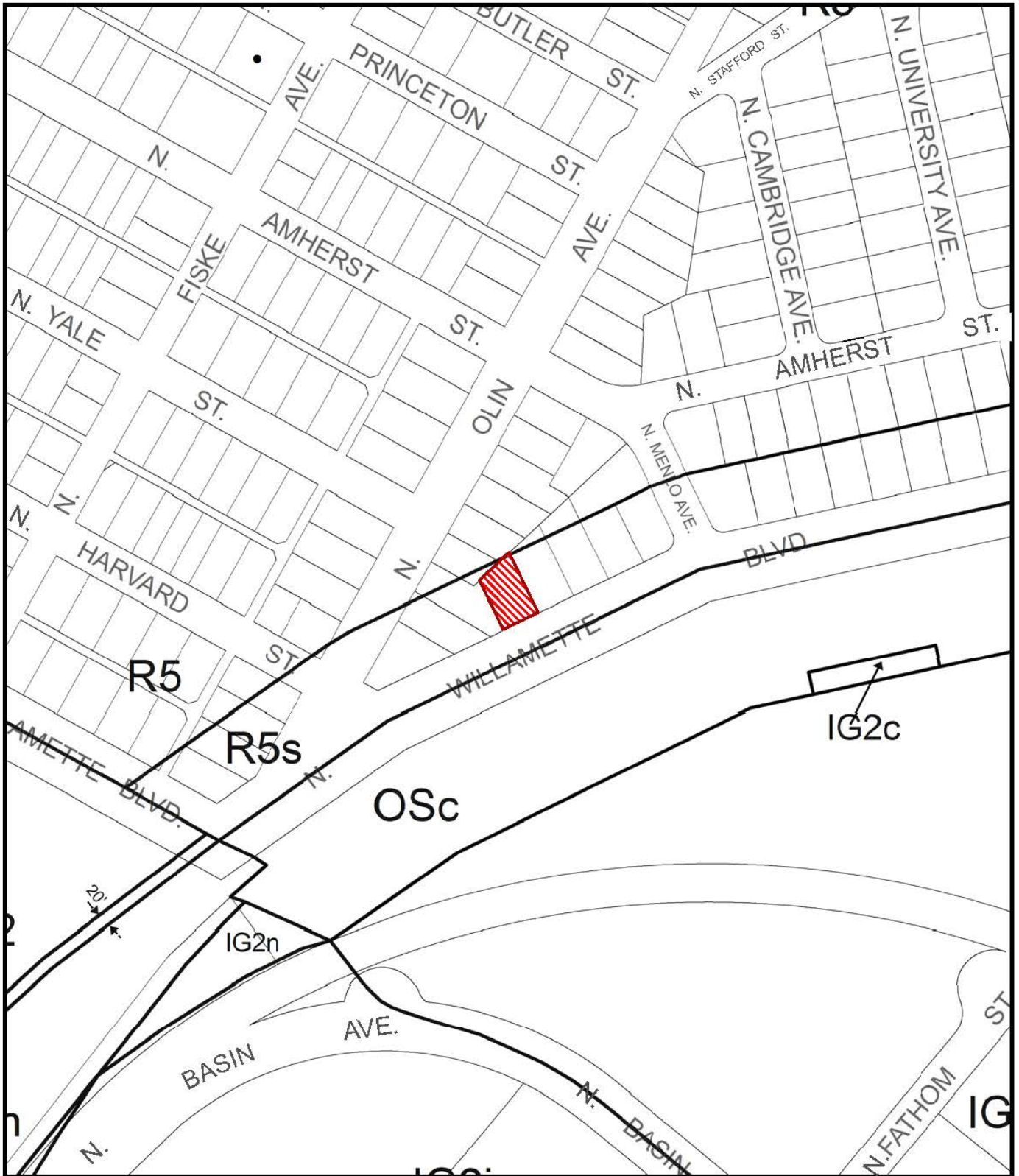
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Site Plan detail (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 (no response)
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Charles Walker, November 13, 2013, in support
- G. Other:
 - 1. Original LU Application

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



Historic Landmark



File No. LU 13-216527 AD
 1/4 Section 2325
 Scale 1 inch = 200 feet
 State_Id 1N1E17BB 15500
 Exhibit B (Oct 22, 2013)

4731 N. Willamett

Approved
City of Portland
Bureau of Development Services
Planner AM PM
Date 12/2/13
* This approval applies only to the reviews requested and is subject to all conditions of approval.
Additional zoning requirements may apply.

15'6" proposed parking pad

10' front setback

12' right-of-way

6' SIDEWALK

CASE NO. CU 13-216527 A1
EXHIBIT C.1

1/8" = 1 FT

Approved
 City of Portland
 Bureau of Development Services
 Planner And M
 Date 12/2/13

* This approval applies only to the reviews requested and is subject to a conditions of approval.

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PROPOSED
PARKING - PAD
ADJUSTMENT

15'6"

4731 N. WILLAMETTE BLVD

10'

12'

SIDEWALK

6'

PARKING STRIP

12'

WILLAMETTE BLVD

CASE NO. LU 13-216527 AD
EXHIBIT C.2