



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

FROM CONCEPT TO CONSTRUCTION

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

Date: February 7, 2014
To: Interested Person
From: Matt Wickstrom, Land Use Services
503-823-6825 / Matt.Wickstrom@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 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 13-231289 NE

GENERAL INFORMATION

Applicant: Dennis R Parrish, 358 SW Eastman Pkwy, Gresham, OR 97080

Site Address: 6040 NE 42ND AVE

Legal Description: INC PT VAC ST W OF & ADJ LOT 34, STOKES TR
Tax Account No.: R796501200
State ID No.: 1N2E18CB 05100
Quarter Section: 2435

Neighborhoods: Concordia, contact Garlynn Woodsong at 510-913-5472
Cully, contact David Sweet at 503-493-9493

Business District: Forty-Second Avenue, contact Clarence Larkins at 503-736-8111

District Coalitions: Northeast Coalition of Neighborhoods, contact Claire Adamsick at 503-388-9030
Central Northeast Neighbors, contact Ronda Johnson at 503-823-3185

Zoning: R2h (Residential 2,000 with an Airport Landing Overlay zone)

Case Type: NE (Nonconforming Status Review)

Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant requests a Nonconforming Status Review to allow for the continued operation of an Industrial Service use at this site. This review determines if a use has legal nonconforming rights, sometimes called "grandfather rights", in this case at the former ABC Fuel site. Nonconforming rights will be certified if the review finds that the nonconforming use (a fuel oil distribution business) would have been allowed when it was established, and the use has continued over time without a lapse exceeding three consecutive years.

The applicant had previously applied for an administrative review of the nonconforming Industrial Service rights at the site. The administrative review is based on standard evidence (documents such as phone book listings, utility bills and business licenses). The requested

Nonconforming Status Review expands the documents allowed to demonstrate nonconforming rights. It is also processed as a land use review rather than an administrative review – this provides an opportunity for public comment on the proposal as well as a local appeal. As part of this Nonconforming Status Review, the applicant has submitted the following information:

- Affidavit from previous property owners;
- Letters from various contractors and professionals who visited the site;
- City of Portland Revenue Bureau business license record;
- Utility and Department of Environmental Quality statements; and
- Photographs.

In addition to records submitted as part of the administrative review, the above documents will help determine whether nonconforming Industrial Service use rights have been retained. The applicant intends to operate a construction company, also an Industrial Service use, from the site. This would consist of an office, and a place where company vehicles, materials and equipment are stored and picked up for use.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in 33.258.075:

1. The legal status of the nonconforming situation will be certified if the review body finds that:
 - a. The nonconforming situation would have been allowed when established; and
 - b. The nonconforming situation has been maintained over time.
2. The review body will determine, based on the evidence, what the current use is, the definitions in Chapter 33.910 and the use categories in Chapter 33.920.

ANALYSIS

Site and Vicinity: The roughly 15,000 square foot site is located at the southeast corner of NE 42nd Avenue and NE Ainsworth Street about 2 blocks from NE Portland Highway. The site is flat and currently undeveloped aside from a large retaining wall and a storage container. Previously the site was developed with a single-story industrial service building with a small office and three vehicle bays. That building collapsed in January 2012. Access to the site came from three separate driveways which have been consolidated to one access driveway. The immediate vicinity is developed with single-dwelling residences. The home to the east sits at an elevation 15-20 feet higher than the site. Fernhill Park is located about 2 blocks from the site. Commercial businesses and other industrial service businesses are located about 3 blocks south.

Zoning: The site is zoned R2h (Residential 2,000 with an Airport Height Overlay zone). The R2 zone allows multi-dwelling residential development up to a maximum density of one unit per 2,000 square feet of site area, and requires a minimum density of one unit per 2,500 square feet of site area. The “h” overlay limits the height of structures and vegetation in the vicinity of the Portland International Airport. The height limit for this site is 180 feet above the PDX airport landing strip elevation of 18 feet above sea level. In this situation the 40 foot height limit allowed by the R2 zone is more restrictive than the “h” overlay.

Land Use History: City records indicate there are no prior land use reviews for this site. Previously, the applicant applied for an administrative determination of nonconforming rights for the site. That request was denied based on “anecdotal evidence” gathered from nearby residents and property owners alleging that the property has been vacant for many years. The Nonconforming Status Review is an available option for applicants who are not able to prove nonconforming rights through an administrative procedure.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **December 20, 2013**. The following Bureaus have responded with no issues or concerns:

- The Bureau of Environmental Services replied with no objections. The response also provides information on stormwater management for future development (*Exhibit E-1*).
- The Portland Bureau of Transportation responded with no objections and provided information on right-of-way improvements required with a future building permit (*Exhibit E-2*).
- The Water Bureau replied with no concerns about the proposal and provided information on water service (*Exhibit E-3*).
- The Fire Bureau replied that at time of development any applicable Fire Code requirements must be met (*Exhibit E-4*).
- The Site Development section of the Bureau of Development Services (BDS) noted a potential septic tank on the site and that decommissioning may be required with a future construction proposal (*Exhibit E-5*).
- The Life Safety section of BDS responded that a building permit is required for future development (*Exhibit E-6*).

Neighborhood Review: A total of seven written responses have been received from either the Neighborhood Association or notified property owners in response to the Notice of Proposal.

- The first letter, signed by 10 neighbors, requests denial of the Nonconforming Status Review on the basis that excavation work contributed to the collapse of the building and that work was initially done without a permit. The neighbors also note that the site is zoned residential not industrial and express concern that the industrial use reduces nearby property values. The neighbors request conditions to apply if the Nonconforming Status Review is approved (*Exhibit F-1*).

Staff response: The excavation work and the collapse of the building are addressed as part of the approval criteria below. The nature of the Nonconforming Status Review is that the underlying zoning would not allow the use and whether nonconforming rights remain, therefore, the residential zoning is not applicable to this review. Perceived impacts on property values are not part of the approval criteria and therefore cannot be considered as part of this review. Suggested conditions were shared with the applicant and are addressed in this review.

- The next letter came from a neighbor who lives adjacent to the site. The letter contends that the unpermitted excavation and construction of a retaining wall led to the collapse of the building and therefore nonconforming rights are lost because this was “intentional destruction” as defined by the Portland Zoning Code Section 33.258.050.D.3. The letter also disputes some elements of the evidence submitted by the applicant (*Exhibit F-2*).

Staff response: These topics are addressed as part of the approval criteria below. This decision did not rely on the pieces of disputed evidence.

- The next letter came from nearby neighbors and states that bulldozers and heavy equipment are not in conformance with surrounding residential uses, could create safety issues and could negatively impact surrounding property values. The letter concludes with a list of requested conditions should the Nonconforming Status Review be approved (*Exhibit F-3*).

Staff response: Please see the Applicant’s Response to Letters below for more information on the intended use of the property. Perceived impacts on property values are not part of the approval criteria and therefore cannot be considered as part of this review. Suggested conditions were shared with the applicant and are addressed in this review.

- Two letters were identical. They stated that the three nuisance cases over the past 12 years illustrate that the site was vacant with no business activity. The neighbors ask why the site would have been zoned residential if the industrial service use existed in 1954 (*Exhibits F-4 and F-5*).

Staff response: Staff researched the nuisance cases – one for an abandoned vehicle and the other for illegal dumping do not indicate the site was vacant. The third for trash and debris lists the site as vacant but doesn’t give any explanation. Rationale for the residential zoning on the site is not part of the approval criteria.

- Another letter expresses concerns about hours of operation, perimeter lighting, and types of heavy equipment that may access the site (*Exhibit F-6*).
Staff response: Please see the Applicant's Response to Letters below.
- The final letter received from the Chair of the Concordia Neighborhood Association Land Use & Transportation Committee, states that the site does not appear to be in use currently, or for some time. It states a preference for the site to be redeveloped as mixed use development (*Exhibit F-7*).
Staff response: The approval criteria address the continued use of the site. The Nonconforming Status Review considers whether nonconforming rights have been maintained, it does not allow for consideration of other potential or desired uses of the site.

Applicant's Response to Letters: The applicant provided responses to all the letters with a focus on how the construction company business would function. Employees typically work off-site at these locations rather than on-site, visiting the site one or two times per day. The office is typically open from 8 am to 4 pm. Traffic is generally related to three company cars and one truck. Contracts are generally with government agencies such as the US Department of Veterans Affairs. No heavy equipment such as bulldozers or backhoes will be on site. Delivery of materials would occur approximately once per month, however materials are generally picked up using the company truck (*Exhibit A-20*).

ZONING CODE APPROVAL CRITERIA

Title 33.258.075 Determination of Legal Nonconforming Status Review

This review will determine if a use or site has legal nonconforming situation rights. In addition, it will determine what the current legal use is, based on the use categories in Chapter 33.920.

1. The legal status of the nonconforming situation will be certified if the review body finds that:
 - a. The nonconforming situation would have been allowed when established; and

Findings: There are no City building permit records that legally establish the fuel oil distribution company on the site (ABC Oil Distributors). However, Sanborn Insurance maps dating back to the 1950's note that the building on the site was a "private garage" and that a fueling pump existed on the site. An affidavit from the original property owners states that the building was constructed in 1952 (*Exhibit A-5*). This pre-dates Multnomah County zoning which was first applied in 1955. Therefore, the Industrial Service use pre-dated the zoning on the site and would have been allowed when established. This criterion is met.

- b. The nonconforming situation has been maintained over time.

Findings: As part of the administrative review of nonconforming rights at 6040 NE 42nd Avenue, the applicant submitted standard evidence (phone directory listings) from 1957 to 2012 showing a continuous use of the site as a fuel oil distributor (ABC Oil Distributors and ABC Oil Inc) (*Exhibit A-1*). The applicant also submitted a letter from the City of Portland Office of Management and Finance (*Exhibit A-1 and Exhibit A-11*). The letter states that records indicate "this location was continuously used as ABC Oil Distributors Inc from August 31, 1966 until September 2012".

As part of this Nonconforming Status Review, the applicant submitted an affidavit from the owners of ABC Oil Distributors (*Exhibit A-5*). The affidavit states that their family constructed a warehouse on the property in 1952 and operated a business from 1952 until November 2012. The affidavit states that "at no point during this period did we cease to occupy the office and warehouse. At all times we had an active City of Portland Business License, commercial telephone listing and number, electrical service and public water service. At all times we stored our companies' tools, oil tanker trucks, office equipment and records on site.

Additionally, we continually used the on-site underground tanks to store the oil that was used for heating oil.” The applicant also submitted a letter from a broker who visited the site in November 2013 testifying that the building housed two full size oil delivery trucks, many tools used for service calls, a complete office with furniture and files, “everything necessary to operate a business” (*Exhibit A-7*). Another letter from NW Tank Lining & Inspections, Inc. states that they were contracted to remove five underground fuel storage tanks and that the “building was used for office space, record storage and housing of vehicles and equipment” (*Exhibit A-8*).

Neighbors, a 2009 nuisance case for trash and debris and the previous administrative determination for nonconforming rights, called into question whether the nonconforming situation was maintained over time. However, the phone book listings, the business license records, the affidavit from the owners of ABC Oil Distributors, as well as observations by professionals who visited the site, demonstrates that a functioning business was maintained over time. It is important to note the approval criteria does not require the business to be flourishing, just that it be maintained. A site with a current business license, phone book listings, utilities and vehicles and equipment, is still a maintained business.

Letters from neighbors questioned whether the applicant had lost nonconforming rights at the site, referring to a clause in the Portland Zoning Code which states “when a structure containing a nonconforming use is intentionally damaged by fire or other causes within the control of the owner, the re-establishment of the nonconforming use is prohibited”. In order to demonstrate that the structure was not intentionally damaged, the applicant provided letters from his real estate broker and an architect. The real estate broker described the applicant’s search for a “close-in warehouse style building”. This description matches that of the ABC Oil building (*Exhibit A-6*). The letter from the architect details communications with the applicant concerning improvements he wanted to make to the ABC Oil building (*Exhibit A-15*). The letter also detailed how “soil from the bank behind the structure had ‘sluffed’ over time against the east wall” and that the wall was not designed to retain the bank.

Although work without a permit cannot be condoned, it is not surprising that an eager new owner of a building with soils sluffed against an exterior wall would make attempts to correct the situation. Mistakes or lack of foresight are not the same as intentional destruction. By all accounts, the applicant valued the ABC Oil building and did not intentionally destroy it; therefore, nonconforming rights were not lost due to the collapse of the building.

Based on the information provided, the nonconforming use was maintained over time. This criterion is met.

2. The review body will determine, based on the evidence, what the current legal use is, using the definitions in Chapter 33.910 and the use categories in Chapter 33.920.

Findings: The Industrial Service use category in the Portland Zoning Code describes the characteristics of such uses and lists examples. One example listed is “fuel oil distributors”. Many pieces of information (phone directory listings, business license records and an affidavit from the owners of ABC Oil Distributors Inc.) have been provided documenting the former use of the site as a fuel oil distribution business. Therefore, and based on the findings above, the site has nonconforming rights to an Industrial Service use. Contractors who store equipment on site are also included in the Industrial Service use category.

In order to make the Industrial Service use at the site more palpable to neighbors who are concerned about impacts, the applicant has voluntarily agreed to two conditions of approval as part of this land use review. The first is that no heavy equipment such as bulldozers or backhoes will be stored at the site following the construction of a replacement building. The second is that hours of operation will be limited to times between 7 am and 7 pm.

Based on this information, this criterion is met.

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 has requested a Nonconforming Status Review to determine if nonconforming Industrial Service rights exist at this site. All applicable approval criteria are met, and therefore nonconforming rights to an Industrial Service use at this site have been established though February 4, 2017 (three years from the date of this decision). Use of the site as Industrial Service must continue in order to maintain rights beyond February 10, 2017.

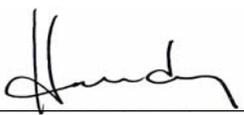
ADMINISTRATIVE DECISION

Approval of nonconforming Industrial Service rights, per the attached zoning map, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 13-231289 NE." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Hours of operation are limited to 7 am to 7 pm.
- C. No heavy equipment such as backhoes or bulldozers may be stored at the site following the construction of a replacement building.

Note: Per 33.258.050.D.2 reestablishment of the nonconforming use is prohibited if the replacement cost is more than 75 percent of the assessed value of the previous structure.

Staff Planner: Matt Wickstrom

Decision rendered by:  **on February 4, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: February 7, 2014

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 November 22, 2013, and was determined to be complete on December 16, 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 November 22, 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 requested that the 120-day review period be extended for 21 days, as stated with Exhibit A-19. Unless further extended by the applicant, **the 120 days will expire on: June 28, 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 Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on February 21, 2014** 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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, 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 **February 24, 2014 – (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

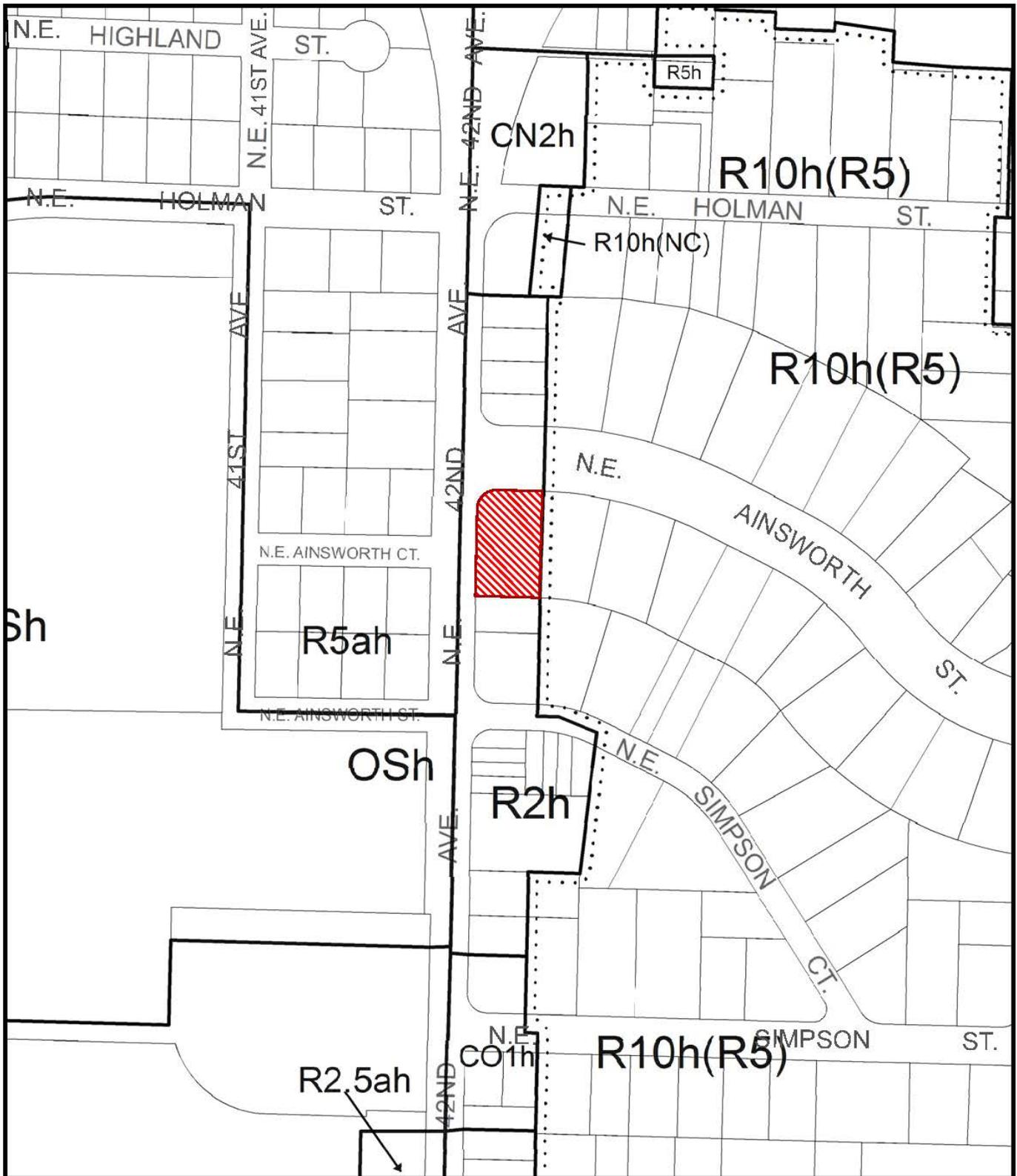
NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement

1. Documenting a Nonconforming Situation Application and standard evidence (administrative review)
2. History of ABC Oil Distributors at 6040 NE 42nd, Portland OR and Purchase and use

3. Letter from City of Portland employee Jill Grenda regarding Documenting a Nonconforming Use at 6040 NE 42nd Avenue dated July 11, 2013
 4. Notice of Dangerous Structure and Order to Demolish sent from the Bureau of Development Services Inspection Services dated January 25, 2013
 5. Affidavit and All-Purpose Acknowledgement from Richard Lear and William Lehr dated November 21, 2013
 6. Letter from John Stafford, broker for the applicant, dated November 20, 2013
 7. Letter from Phil Gamelgard, listing brokerage firm, dated November 20, 2013
 8. Letter from John R Woods, NW Tank Lining and Inspections Inc., dated September 3, 2013
 9. Report from Environmental Compliance Northwest regarding soil sample analytical results, dated December 14, 2012
 10. Report from NW Tank Lining & Inspection, Inc. regarding underground storage tank decommissioning, December 17, 2012
 11. Letter from City of Portland Office of Management and Finance regarding business license, dated August 12, 2013
 12. Department of Environmental Quality Invoice for 2012 Annual Fee for Underground Storage Tanks dated January 17, 2012
 13. Pacific Power bill dated October 1, 2012
 14. Photo of site dated December 13, 2012
 15. Letter from Winn Architecture LLC dated December 10, 2013
 16. Letter from GeoDesign Inc. dated December 10, 2013
 17. Email from City of Portland employee Mike Hayakawa dated September 26, 2013
 18. Various email and photos from applicant, December 2013 and January 2014
 19. Email from applicant extending review timeline by 3 weeks dated January 8, 2014
- B. Zoning Map (attached)
- C. Plans/Drawings: None
- 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. Life Safety Section of BDS
- F. Correspondence:
1. Letter from 10 neighbors, January 6, 2014, opposition to proposal
 2. Matthew Skroch and Cassandra Scheffman, January 7, 2014, opposition to proposal
 3. Byron Spice and Kathryn Hansman-Spice, January 7, 2014, concerns about safety
 4. Barbara J Miller, January 9, 2014, nonconforming rights
 5. Peter B. Miller, January 9, 2014, nonconforming rights
 6. Larry Snell, January 9, 2014, concerns about impacts
 7. Garlynn Woodsong, Chair of the Concordia Neighborhood Association Land Use & Transportation Committee, opposition to proposal
- 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



NORTH

File No. LU 13-231289 NE
 1/4 Section 2435
 Scale 1 inch = 200 feet
 State_Id 1N2E18CB 5100
 Exhibit B (Nov 27, 2013)