



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

FROM CONCEPT TO CONSTRUCTION

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**NOTICE OF FINAL FINDINGS, CONCLUSIONS AND DECISION
OF THE CITY OF PORTLAND REVIEW BODY ON AN
APPEALED ADMINISTRATIVE DECISION
(Type II Process)**

CASE FILE: LU 13-203896 AD
LOCATION: 12140 SE Foster Road

The administrative decision for this case, published on March 25, 2014, was appealed to the Adjustment Committee by the property owner, Aris Paguio. The Adjustment Committee upheld the administrative decision of denial, thereby denying the requested Adjustment as proposed.

A public hearing was held on May 6, 2014. The original administrative analysis, findings and conclusions were adopted by the Adjustment Committee. The administrative decision can be found on line at: <http://www.portlandonline.com/bds/index.cfm?c=46429>

GENERAL INFORMATION

Applicant: Thomas Burton / 503-875-6563 / Burton Engineering
8401 NE Halsey St #104 / Portland, OR 97220

Owner/Appellant: Aris Paguio / Senior Haven Residential Care Facility
12140 SE Foster Rd / Portland, OR 97266

Site Address:	12140 SE Foster Rd
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Legal Description: LOT 24 EXC PT IN ST, FOSTER VILLAGE
Tax Account No.: R293801550
State ID No.: 1S2E15DD 03000
Quarter Section: 3642, 3643
Neighborhood: Pleasant Valley, contact Linda Bauer at 503-761-2941.
Business District: Foster Area, contact Seth Richardson at 503-771-1737.
District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550.
Plan District: Johnson Creek Basin – South Subdistrict
Zoning: CG – General Commercial
Case Type: AD – Adjustment Review
Procedure: Type II administrative decision with appeal to the Adjustment Committee

Proposal:

This site is located within the South Subdistrict of the Johnson Creek Basin Plan District, where no more than 50% of any site may be developed with impervious surface (Zoning Code Section 33.537.140.D). The property is developed with a residential care facility that was completed in 2012. After construction was completed, it was found that 71.5% of this site is covered with impervious surface. The applicant requested an Adjustment to increase the maximum impervious surface limit for this site from 50% to 71.5%.

Approval Criteria:

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805.040.A-F of the Portland Zoning Code.

CONCLUSIONS

As reflected in the findings, this proposal does not meet the approval criteria. The increased impervious surface coverage on this site does not equally or better meet the purpose of the regulation and is not consistent with the desired character of the area as expressed in the Pleasant Valley Neighborhood Plan. Also, the proposal includes no mitigation for the impacts of the increased impervious surface coverage. Therefore, the adjustment should not be approved.

REVIEW BODY DECISION

Deny the appeal and uphold the administrative decision of denial.

Denial of an Adjustment to increase the maximum impervious surface limit for this site from 50% to 71.5% (Zoning Code Section 33.537.140.D).

Staff Planner: Andrew Gulizia

The original staff findings, conclusions and decision were adopted by the Adjustment Committee on May 6, 2014.

By: 

Adjustment Committee
Roger Alfred – Chair

Date Final Decision Effective/Mailed: May 13, 2014
120th day date: June 20, 2014

Procedural Information. The application for this land use review was submitted on September 11, 2013, and was determined to be complete on February 20, 2014.

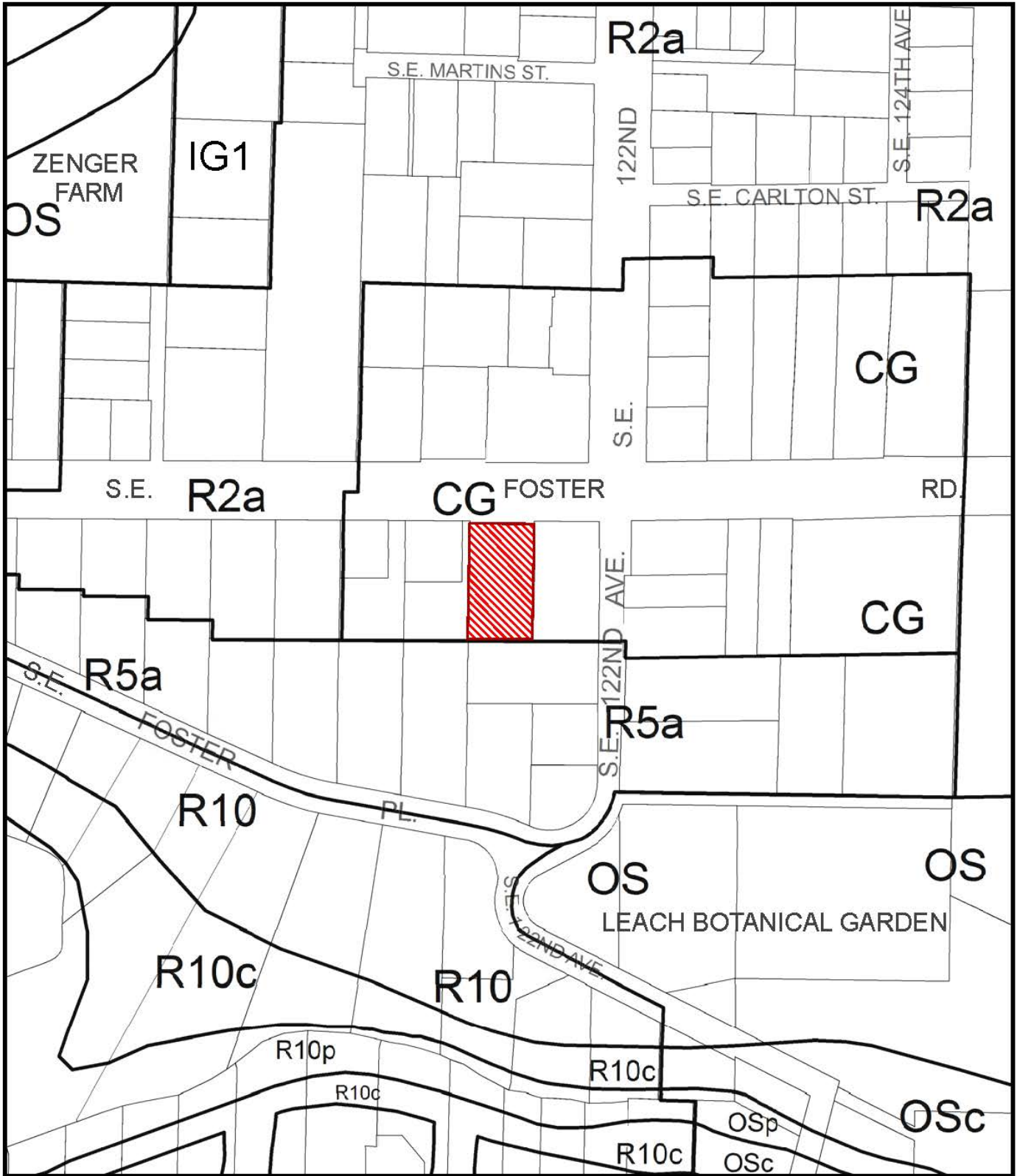
Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on September 11, 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.

Appeal of this Decision. This decision is final and becomes effective the day the notice of decision is mailed (noted above). This decision may not be appealed to City Council; however, it may be challenged by filing a "Notice of Intent to Appeal" with the State Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed, pursuant to ORS 197.0 and 197.830. A fee is required, and the issue being appealed must have been raised by the close of the record and with sufficient specificity to afford the review body an opportunity to respond to the issue. For further information, contact LUBA at 775 Summer St NE, Suite 330, Salem, OR 97301-1283. [Telephone: (503) 373-1265]

EXHIBITS NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Correspondence in opposition from Linda Bauer, received 3/15/2014
 - 2. Correspondence in opposition from East Portland Land Use and Transportation Committee, received 3/18/14
- G. Other:
 - 1. Original LU application
 - 2. Incompleteness determination letter, dated 9/23/2013
- H. Appeal:
 - 1. Appeal submittal
 - 2. Appealed decision
 - 3. Notice of Appeal Hearing
 - 4. Notice of Appeal Hearing mailing list
 - 5. Committee Appeal Packet memo
 - 6. Correspondence in opposition from Lents Neighborhood Association, received 4/15/14
 - 7. Staff PowerPoint presentation, Andrew Gulizia
 - 8. Testimony read into Record, Linda Bauer, Pleasant Valley NA, 5-6-14



ZONING



Site



NORTH

This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT SOUTH

File No. LU 13-203896 AD

1/4 Section 3642,3643,3742,3743

Scale 1 inch = 200 feet

State_Id 1S2E15DD 3000

Exhibit B (Sep 13,2013)

