



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: June 9, 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 14-144278 AD

GENERAL INFORMATION

Applicants: Gilbert and Teresa Colistro
3925 SE Lexington St / Portland, OR 97202-7924

Christopher and Cynthia Leland
3911 SE Lexington St / Portland, OR 97202

Site Address: 3925 SE LEXINGTON ST

Legal Description: BLOCK 30 E 20' OF LOT 19 LOT 20&21, BERKELEY
Tax Account No.: R070908330
State ID No.: 1S1E24DA 05600
Quarter Section: 3834
Neighborhood: Woodstock, contact Terry Griffiths at 503-771-0011
Business District: Woodstock Community BA, Sean Daugherty at 503-754-2636
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010
Zoning: R5 (Residential 5,000)
Case Type: AD (Adjustment Review)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicants propose one Adjustment to the maximum lot size standards in the Portland Zoning Code. Lots in the R5 zone are required to be between 3,000 and 8,500 square feet in area (with some exceptions). The applicants, next door neighbors and neighboring property owners, propose to move the property line separating their lots 21.5 feet to the west, resulting in one lot sized 4,494 square feet and the other lot sized 9,236 square feet. The rationale for moving the property line is to provide a larger backyard for the home at 3925 SE Lexington Street and to remove the potential for another house to be built between the two homes. Moving this property line will require demolition of the garage and carport at 3911 SE Lexington Street; however, the driveway is proposed to remain. Through this Adjustment Review, the applicants propose to increase the maximum allowed lot area by 736 square feet, from 8,500 square feet to 9,236 square feet for the site at 3925 SE Lexington.

Relevant Approval Criteria:

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

- 33.805.040 Adjustments Approval Criteria

ANALYSIS

Site and Vicinity: The two lots involved in this land use review are both developed with single-story houses with detached garages. The home at 3925 SE Lexington is located on a 6,990 square foot lot. The home at 3911 SE Lexington is located on a 6,740 square foot lot. The vicinity (approximately a 400 foot radius around the sites) is primarily developed with other single-dwelling residences on lots ranging in size from 2,500 square feet to 10,000 square feet. Most lots in this vicinity are between 5,000 square feet and 7,500 square feet.

Zoning: Both lots are zoned R5 (Residential 5,000). The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. The maximum lot area in the R5 zone is 8,500 square feet. Newly created lots must have a maximum density of 1 lot per 5,000 square feet of site area. Previously platted lots as small as 2,400 square feet and with a minimum width of 25 feet can be developed with a single-dwelling residence provided the lot has not had a dwelling unit on it for the last 5 years and is not located in an environmental overlay zone.

Land Use History: City records indicate there are no prior land use reviews for the two lots which are the subject of this review.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **May 2, 2014**. The following Bureaus have responded:

- The Bureau of Environmental Services responded with information on sanitary service and stormwater management. The response notes no objections to the proposed Adjustment (Exhibit E-1).
- The Site Development Section of the Bureau of Development Services (BDS) responded with information on septic systems and noted that decommissioning of the cesspool which once served the home at 3911 SE Lambert will be required before the property line adjustment can be approved. The response also notes that a demolition permit for the existing detached garage at 3911 SE Lambert will be required prior to the approval of the property line adjustment (Exhibit E-2).
- The Water Bureau responded with information on water service (Exhibit E-3).
- The Life Safety Section of BDS responded with information on obtaining a demolition permit for the detached garage and carport (Exhibit E-4).
- The Fire Bureau, Portland Bureau of Transportation and Parks Bureau responded with no concerns (Exhibit E-5).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on May 2, 2014. One written response was received from the Woodstock Neighborhood Association Land Use Committee. The response states that the Adjustment proposal meets the approval criteria and points out that the larger (9,236 square feet) is consistent with existing lots in the vicinity (Exhibit F-1).

ZONING CODE APPROVAL CRITERIA**Title 33.805.040 Adjustments**

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicants request one Adjustment to increase the maximum allowed lot area in the R5 zone from 8,500 square feet to 9,236 square feet for the lot at 3925 SE Lexington Street.

The purpose of the zoning standards related to lot dimensions, including maximum lot area, in single-dwelling residential zones is found in 33.610.200.A and states:

The lot dimension regulations ensure that:

- *Each lot has enough room for a reasonably-sized house and garage;*
- *Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;*
- *Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;*
- *Each lot has room for at least a small, private outdoor area;*
- *Lots are compatible with existing lots;*
- *Lots are wide enough to allow development to orient toward the street;*
- *Lots don't narrow to an unbuildable width close to the street*
- *Each lot has adequate access from the street;*
- *Each lot has access for utilities and services; and*
- *Lots are not landlocked.*

The proposal equally or better meets the purpose of the lot dimension requirements. Each lot will still have enough room for a reasonably-sized house and garage. In fact, both homes will remain and although one will lose its detached garage and carport, there is still room for a single-car garage to be built on that lot if the property owner ever desires a garage. The lots maintain a uniform shape and development meets setback and building coverage requirements. Neither lot would be of such a size that it could be further divided; however, the previously platted 25-foot by 100-foot lot could still be confirmed and developed even though this is not the intention of the owner of the home at 3925 SE Lexington. Both lots maintain an adequately sized outdoor area. Neither lot will be larger than the largest lots in the vicinity and neither lot will be smaller than the smallest lots in the vicinity; therefore compatibility with surrounding lots is maintained. Development on both lots will continue to orient to the street and both lots continue to provide adequate access from the street. Width is maintained from the street to the rear of the lots. No lot will be landlocked.

Each lot will maintain access for utilities and services. However, the Site Development Section of BDS reported that "City records indicate that the residence at 3911 SE Lexington Street was constructed in 1912 and connected to the public sewer in 1946. There is at least one cesspool located off the NE corner of the residence. Cesspool decommissioning is required because the future property line adjustment will cause the cesspool(s) to be separated from the property at 3911 SE Lexington Street and located on the property at 3925 SE Lexington Street". In order to ensure that the cesspool is decommissioned prior to approval of the property line adjustment, a condition of approval is added to this land use review. The condition states that a finalized permit for decommissioning of the cesspool must be received prior to approval of the property line adjustment.

Based on the information above and with the condition of approval to decommission the cesspool, this criterion is met.

- 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 proposal is located in a single-dwelling residential zone. It will not detract from the livability or appearance of the residential area. The outcome of the proposal to increase the maximum lot size from 8,500 square feet to 9,236 square feet for the lot at 3925 SE Lexington will not result in substantial visible changes to the lots, aside from the necessary demolition of the detached garage and carport. Demolition of the detached garage and carport would be allowed by right without a land use review because although

on-site parking is required for these lots, the parking is not required to be in a garage or carport. The existing driveway meets size and setback requirements for on-site parking. Based on this information, this criterion is met.

- 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 being requested therefore this criterion does not apply.

- D.** City-designated scenic resources and historic resources are preserved;

Findings: There are no scenic or historic resources at this site therefore this criterion does not apply.

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

Findings: No impacts are expected to result from the Adjustment, so no mitigation is warranted. This criterion is not applicable.

- 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 located in an environmental zone; therefore 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

The applicants propose one Adjustment to increase the maximum allowed lot in the R5 zone from 8,500 square feet to 9,236 square feet for the lot at 3925 SE Lexington Street. The proposal is consistent with the intent of the lot dimension regulations and is also consistent with the sizes of surrounding lots. No impacts to the livability or appearance of the residential area are anticipated. The proposal meets the relevant approval criteria and should be approved.

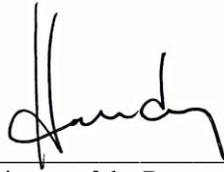
ADMINISTRATIVE DECISION

Approval of one Adjustment to increase the maximum lot size (33.610.200.C) from 8,500 square feet to 9,236 square feet for the property at 3925 SE Lexington Street as a result of a Property Line Adjustment (14-162736 PLA), per the approved site plan, Exhibits C-1, signed and dated June 3, 2014, subject to the following conditions:

- A. As part of the property line adjustment application submittal, the following development-related conditions (B) 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 14-144278 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

B. A finalized permit for decommissioning of the cesspool must be received prior to approval of the property line adjustment

Staff Planner: Matt Wickstrom



Decision rendered by: _____ **on June 4, 2014**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 9, 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 April 18, 2014, and was determined to be complete on April 29, 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 April 18, 2014.

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: August 27, 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 June 23, 2014** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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 97301-1283, 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 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 **June 24,**
- 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;

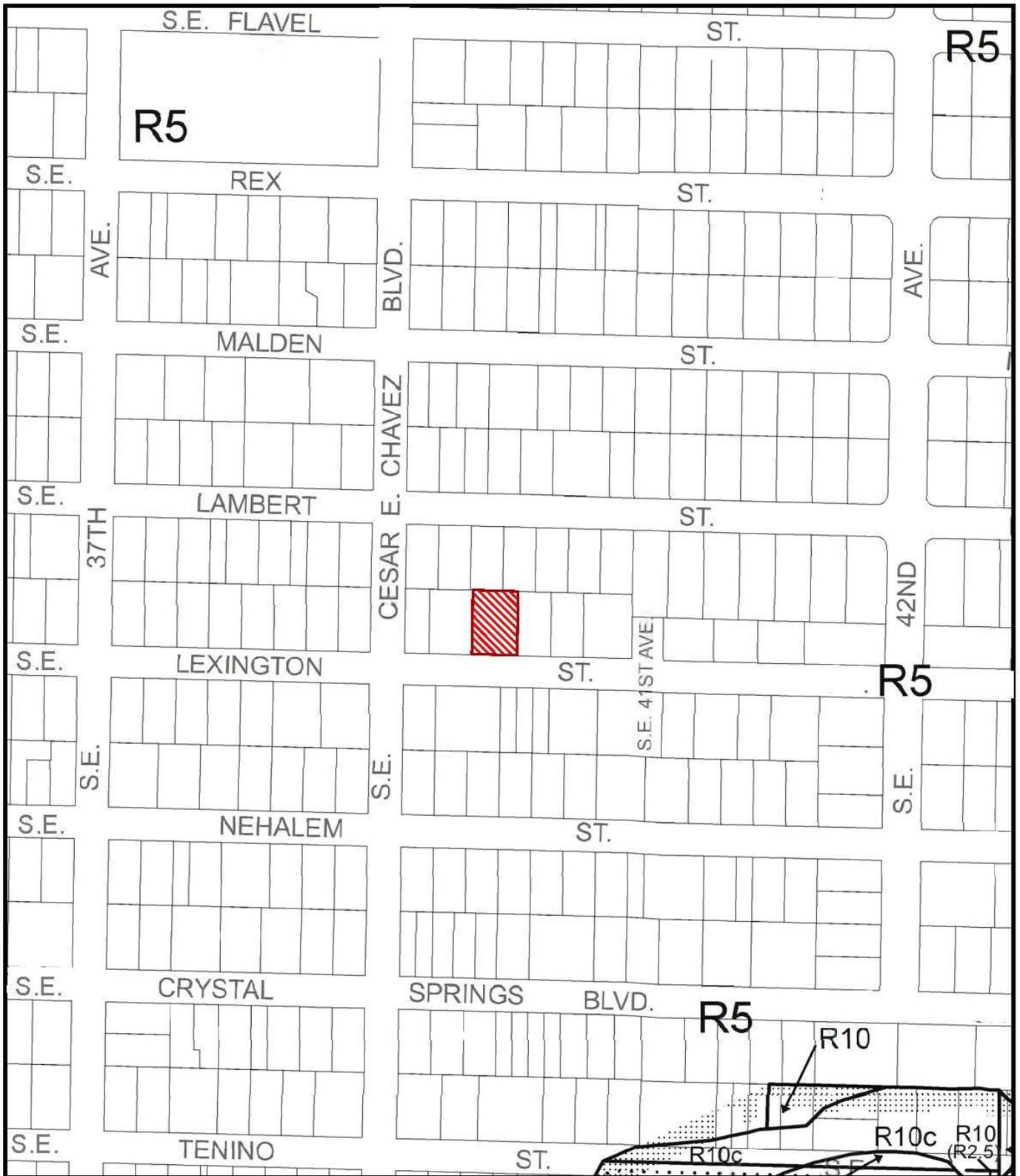
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
- 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. Site Development Review Section of BDS
 - 3. Water Bureau
 - 4. Life Safety Section of BDS
 - 5. Summary Sheet of Agency Responses
- F. Correspondence:
 - 1. Terry Griffiths, Chair, Woodstock Neighborhood Association Land Use Committee, May 23, 2014, proposal meets the approval criteria.

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



File No. LU 14-144278 AD
 1/4 Section 3834
 Scale 1 inch = 200 feet
 State_Id 1S1E24DA 5600
 Exhibit B (Apr 22, 2014)

