



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

FROM CONCEPT TO CONSTRUCTION

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Date: September 22, 2014
To: Interested Person
From: Mark Walhood, City Planner
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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 14-173592 AD

GENERAL INFORMATION

Applicant: Susan F. Limprecht
 2002 NE 11th Ave / Portland OR 97212-4026

Property Owners: Susan F. and Rodney T. Limprecht
 2002 NE 11th Ave / Portland OR 97212-4026

Site Address: 2002-2004 NE 11TH AVE

Legal Description: BLOCK 124 LOT 5, WEST IRVINGTON
Tax Account No.: R893604250, R893604250
State ID No.: 1N1E26CD 03700, 1N1E26CD 03700
Quarter Section: 2831
Neighborhood: Irvington, contact Dean Gisvold at 503-284-3885.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032.
District Coalition: Northeast Coalition of Neighborhoods, contact Claire Adamsick at 503-388-9030.

Zoning: **R1a** (R1/Multi-Dwelling Residential 1,000 base zone with a/Alternative Design Density overlay zone), **Albina Community Plan District, Irvington Historic District**

Case Type: **AD** (Adjustment Review)
Procedure: **Type II**, an administrative decision with appeal to the Adjustment Committee.

PROPOSAL: During a landscaping project in 2013, the owners of the duplex at 2002 NE 11th Avenue removed a 9'-0" wide by 46'-0" deep on-site driveway and parking space for two cars, without benefit of the required Zoning Permit and Adjustment. The curb cut in the right-of-way for the old driveway & parking remains in place. Removing the two parking spaces took the site out of conformance with the minimum required on-site parking standard in the Zoning Code, which is 1 space per unit at this location (more than 500'-0" from a transit street with 20-minute peak hour bus service). Subsequently, a neighbor complained in July 2013 and a City of Portland Code Compliance case was started (13-157405 CC).

In order to resolve the Code Compliance case, the applicant has requested the necessary Adjustment to reduce the minimum required on-site parking for a duplex from two to zero spaces (33.266.110.B.1/Tables 266-1 & 266-2).

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at **33.805.040.A-F**, *Adjustment Approval Criteria*.

ANALYSIS

Site and Vicinity: The site is a rectangular parcel of 4,820 square feet, situated on the east frontage of NE 11th Avenue between NE Tillamook and Hancock Streets. The site is developed with an existing duplex, to the south is a single-family home, and a newer condominium development is located immediately to the north of the site. The street frontage is improved with a paved roadway, planter strip with street trees, and concrete public sidewalk. The paved former curb cut to the driveway and on-site parking area, located between the roadway curb and the sidewalk, is still in place.

Zoning: The R1 base zone is a medium density multi-dwelling zone. The zoning allows one dwelling unit for every 1,000 square feet of land area, although bonus options can increase that amount by up to 50 percent. There is a minimum density of one dwelling unit per 1,450 square feet of site, which is why the current duplex cannot be legally converted back into a single-family home.

The Alternative Design Density (a) overlay zone provides options for increased density, provided additional design standards or review are completed. The Albina Community plan district implements specific policy objectives of the Albina Community Plan. Neither has any impact on the current proposal.

The Irvington Historic District designation triggers a Historic Resource Review for new developments and most exterior alterations on the site. Historic Resource regulations in the City of Portland are intended to preserve, enhance and protect significant parts of the region's heritage.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 28, 2014**. The following Bureaus have responded:

The *Site Development Section of the Bureau of Development Services* has reviewed the proposal and provided informational comments, but no objections or concerns regarding the requested on-site parking Adjustment (Exhibit E.1).

The *Water Bureau* has reviewed the proposal and provided informational comments regarding water service, but no objections or concerns regarding the requested Adjustment (Exhibit E.2).

The *Development Review Section of Portland Transportation* has reviewed the proposal and responded with no objection to the proposal subject to the following condition: The applicant must apply to PBOT for a permit to close their share of the existing driveway approach in NE 11th Avenue. The PBOT staff recommend that this be accomplished through a Zoning Permit, which will also document for zoning purposes the legalization of no on-site parking for the property. Additional details of the PBOT review and staff contact information is found in Exhibit E.3.

The following bureaus have responded with neither comment nor concern (Exhibit E.4):

- The *Life Safety Section of the Bureau of Development Services*;
- The *Fire Bureau*; and
- The *Bureau of Development Services*.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 28, 2014. A total of four written responses have been received. Three nearby neighbors wrote in supporting the proposal (Exhibits F.1-F.3). The Irvington Neighborhood Association wrote a neutral letter, understanding that the parking was removed to provide additional screening from the Tanzamook development, and with the caveat that normally they would oppose an application in this area to remove on-site parking.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of Adjustment Reviews

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 to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment 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

Findings: The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis.

At this site, two parking spaces are required, one per each of two dwelling units. The site is located approximately 660 feet north of NE Broadway, or about 160 feet beyond the area where no minimum parking would be required for a duplex under current regulations. Northeast Broadway has a variety of transit lines operating on the street, and the public pedestrian network in the neighborhood is extensive. The only nearby property owners to comment were in full support of the proposal.

Portland Transportation (PBOT) has reviewed the proposal for potential impacts to the public transportation network and safety for all modes (pedestrian, bike, auto, freight, etc.). The PBOT reviewed photos provided by the applicant showing the majority of on-street parking spaces in the vicinity are available to serve the residents of the neighborhood. Most of the properties on this block also have on-site parking available. The site's 50-foot frontage provides room for two on-street parking spaces. The PBOT staff recommends approval of the proposal subject to the following condition: The applicant must apply to PBOT for a permit to close their share of the existing driveway approach in NE 11th Avenue. The PBOT staff recommends that this be accomplished through a Zoning Permit, which will also document for zoning purposes the legalization of no on-site parking for the property.

Therefore, with a condition of approval requiring a Zoning Permit be obtained to close their existing driveway approach in NE 11th Avenue as recommended by PBOT, 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: For the reasons discussed above under findings for criterion A, with the condition of approval requiring a Zoning Permit to remove the old driveway approach, the proposal will not significantly detract from the livability or appearance of the nearby residential area. Therefore, 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 has been requested. This criterion does not apply.

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

Findings: There are no city-designated scenic resources on the site. The site is located within the Irvington Historic District, but no changes to the site or other significant elements of the historic resources of the district are proposed. Therefore, this criterion is met.

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

Findings: For the reasons discussed above under findings for criterion A, and with the noted condition for removal of the old driveway approach, there are no impacts resulting from the request that require further mitigation. Therefore, 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 in an environmental overlay zone. Therefore, this criterion does not apply.

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

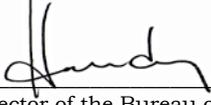
The applicant seeks to legalize the removal of two required on-site parking spaces for the duplex at 2002 NE 11th Avenue. Three neighbors have written letters of support for the proposal. With a condition of approval that the existing curb cut be removed via Zoning Permit, the request is able to meet the relevant criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce minimum on-site parking spaces for the duplex at 2002 NE 11th Avenue from two spaces to zero (33.266.110.B.1). This approval is granted based on the approved site plan, Exhibit C.1, signed and dated September 18, 2014, and subject to the following conditions:

- A. As part of the zoning permit application submittal, the following development-related conditions (B) must be noted on each of the 4 required site plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 14-173592 AD ."
- B. The applicant shall obtain and receive final inspection on a Zoning Permit to remove the existing driveway approach (between the roadway curb and sidewalk), and to document the removal of all on-site parking from the property.

Staff Planner: Mark Walhood

Decision rendered by:  **on September 18, 2014.**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 22, 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 June 23, 2014, and was determined to be complete on **July 23, 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 June 23, 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 November 19, 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 October 6, 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 **October 7 , 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; **OR**
- **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:

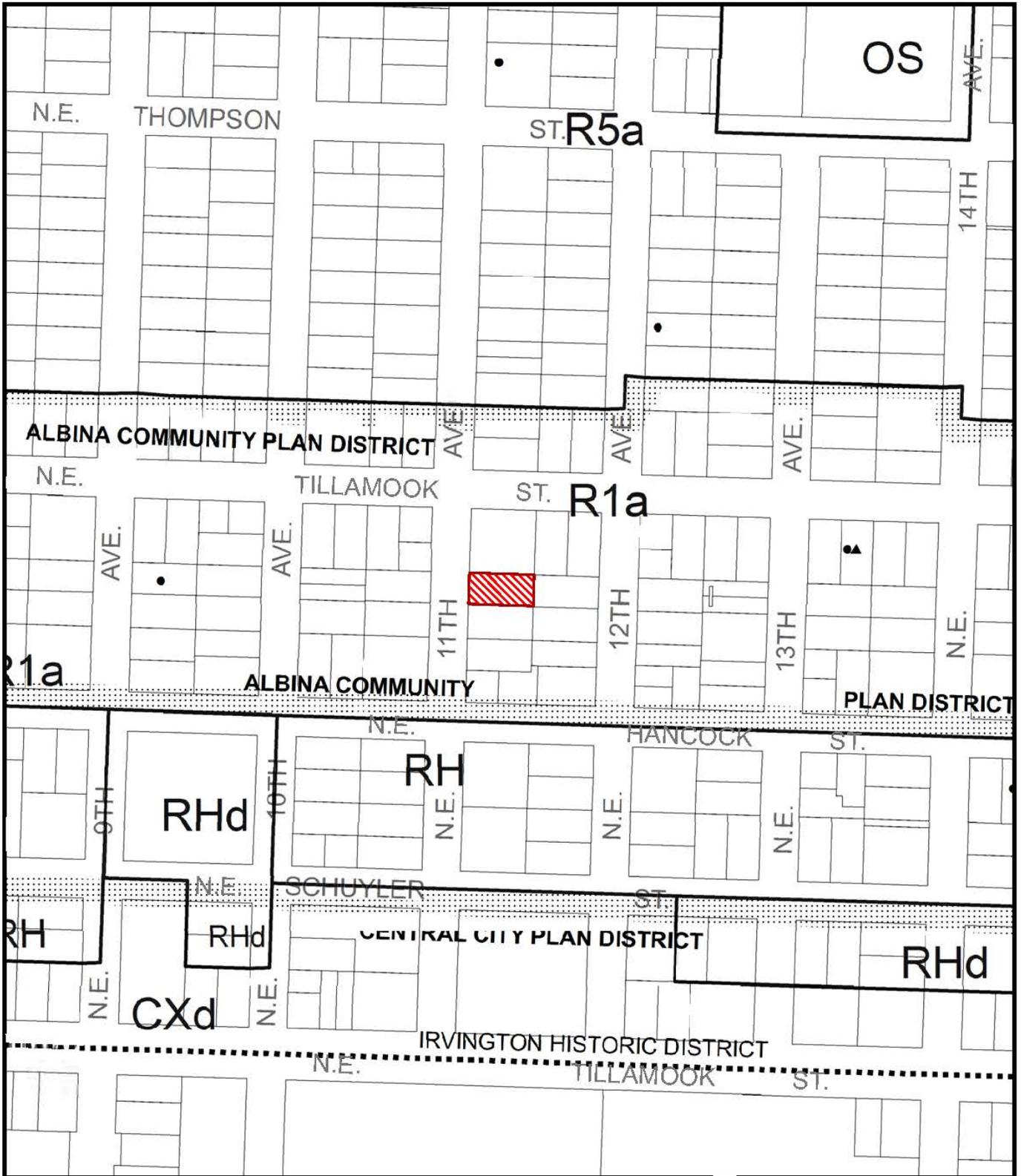
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
 - 1. Original narrative and supporting documents
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Site Development Section of the Bureau of Development Services
 - 2. Water Bureau
 - 3. Portland Transportation
 - 4. Consolidated responses from Life Safety Section of the Bureau of Development Services, Fire Bureau, and Bureau of Environmental Services
- F. Correspondence:
 - 1. E-mail comments from Holly Howard, rec'd. 7/29/14
 - 2. E-mail comments from Dylan Parkins, rec'd. 8/1/14
 - 3. E-mail comments from Barbara Grundle, rec'd. 8/6/14
 - 4. E-mail comments from Dean Gisvold (Irvington NA), rec'd. 8/19/14
- G. Other:
 - 1. Original LU Application Form and Receipt
 - 2. Photos of site

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

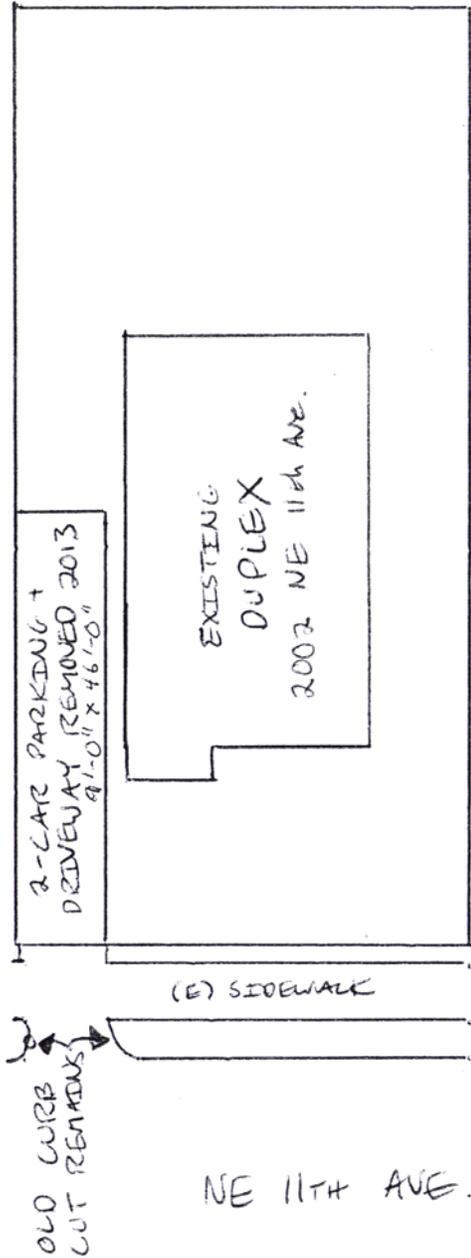


Historic Landmark

This site lies within the:
IRVINGTON HISTORIC DISTRICT
ALBINA COMMUNITY PLAN DISTRICT



File No. LU 14-173592 AD
 1/4 Section 2831
 Scale 1 inch = 200 feet
 State_Id 1N1E26CD 3700
 Exhibit B (Jun 25, 2014)



ADJUSTMENT: REDUCE MINIMUM REQUIRED ON-SITE PARKING FROM TWO TO ZERO SPACES (33 266.110.B.1 / T. 266-1 + 266-2)

Approved
City of Portland - Bureau of Development Services
Planner MARK WALTON Date SEPT. 18, 2014
This approval applies only to the reviews requested and is subject to the terms and conditions of approval. Additional zoning requirements may apply.

LU 14-173592 AD
Exhibit C.1