



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** March 5, 2015  
**To:** Interested Person  
**From:** Sylvia Cate, 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 mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 14-251615 AD**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Petro N Muntyan  
824 SE 135th Ave/ Portland OR 97233

**Site Address:** A vacant lot near NE 136<sup>th</sup> & NE Schuyler

**Legal Description:** LOT 2, BRUYN  
**Tax Account No.:** R112500100  
**State ID No.:** 1N2E26DC 03800  
**Quarter Section:** 2844  
**Neighborhood:** Russell, contact Ron Glanville at 503-341-1402.  
**Business District:** Gateway Area Business Association, contact Fred Sanchez at 503-256-3910.  
**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.  
**Plan District:** Glendoveer  
**Zoning:** R7h, Single Dwelling Residential 7,000  
**Case Type:** AD, Adjustment  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:**

The applicant proposes to build a new house on this vacant lot. The applicant has designed the house to meet all of the required setbacks except for the 30-foot front setback required by the Glendoveer Plan District. The applicant notes that due to the curve of the cul de sac 'bulb' the front lot line is also curved and as a result the setback of the new home will vary from 18 feet to 28 feet. Therefore the applicant requests an Adjustment to reduce the front setback from 30 feet to 18 feet.

During the public comment period, the applicant met with the Russell Neighborhood Association and after discussing the setback, the applicant modified the proposal to push the proposed new home further back on the lot in order to provide a larger front setback. With this

revision, the applicant requests an Adjustment to the front setback from 30-feet to 27 feet 11 inches; and to the rear setback from the required 15 feet to 10 feet. Hence two Adjustments are requested. Attached to this Decision is a zoning map and site plan depicting the proposal.

**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 12,700 square foot vacant lot at the terminus bulb of NE 136<sup>th</sup> Avenue. The lot is not a rectangle, but is slightly wedge shaped, with a front lot line defined by the curve of the terminus bulb of NE 136<sup>th</sup> Avenue, which is a cul-de-sac. Lots and parcels in all directions from the site are zoned R7h and developed with residential uses. The majority of the homes in the area are one story, ranch-style, interspersed with two story homes built more recently.

**Zoning:** The site lies in the R7, Single Dwelling Residential 7,000 with an 'h' Aircraft Landing overlay zone. The R7 zone is one of several residential zones implementing the Comprehensive Plan for single dwelling residential.

The Aircraft Landing overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation.

The site is also within the Glendoveer Plan District. The regulations of the Glendoveer Plan District are intended to ensure that the special development patterns fostered by Ascot zoning and succeeding zoning provisions established by Multnomah County are protected and continued under City zoning regulations following annexation.

**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 **January 30, 2015**. The following Bureaus have responded:

- Bureau of Environmental Services: has no objections to the requested Adjustment. BES notes that an 8-inch sanitary sewer in NE 136<sup>th</sup> Avenue can serve the proposed development. There is not existing stormwater sewer; at time of building permit review, the development are subject to the requirements of the Stormwater Management Manual in effect at time of submittal. Exhibit E.1. contains additional information.
- Bureau of Transportation Engineering: has no concerns or objections to the Adjustment request.
- Fire Bureau: has no concerns and notes all applicable Fire Code requirements will apply at the time of building permit review.
- Site Development Section of BDS: notes no concerns.
- Portland Water Bureau responded with no concerns, but noted that there is no existing water service to the property, but is available via a 4-inch CI water main in NE 136<sup>th</sup> Avenue. At time of building permit review, the Water Bureau will review the fixture count in order to determine the appropriate size of the water service and meter for the proposed development.
- Bureau of Parks-Forestry Division: responded with no objections, but noted that the proposal will require street trees along the public frontage, depending on planting conditions and will be reviewed by the City Forester during building permit review.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on January 30, 2015. A total of four written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. Comments include:

- A notified neighbor noted strong objections to the reduced front setback and the overall size of the home. [Exhibit F.1]
- After the proposal was amended, this neighbor wrote again noting that the revision resulted in a larger and more open front yard, which was more satisfactory. The neighbor reiterated that although the proposed home meets all other development standards, 'it will dwarf the existing homes and look completely out of place in this very small cul de sac.' [Exhibit F.2]
- A notified neighbor wrote that they live one lot away and reviewed the public notice carefully. The neighbor notes no objections and stated they are 'quite pleased to have such a nice looking building which fits in nicely into the neighborhood.' [Exhibit F.3]
- The Russell Neighborhood Association noted objections to the originally proposed significant reduction to the front setback. The applicant met with the Neighborhood Association and presented the revised plans that pushes the new home further back from the front lot line. No further objections were received from the Neighborhood Association. [Exhibit F.4]

## 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

**Findings:** The purpose for the Glendoveer Plan District special setbacks is found at 33.530.010, Purpose, which states:

*The regulations of the Glendoveer plan district are intended to ensure that the special development patterns fostered by Ascot zoning and succeeding zoning provisions established by Multnomah County are protected and continued under City zoning regulations following annexation.*

The primary development standards applicable in the Glendoveer are larger setbacks on larger lots [the minimum lot size is 7,500 square feet]. After receiving public comments and concerns regarding the proposed reduced front setback, the applicant revised the proposal which pushes the house away from the front lot line with a setback of 27 feet 11 inches. With the house pushed back, the rear setback of 15 feet is reduced to 10 feet. By repositioning the house on the lot, the appearance of a larger front setback is achieved and further emphasized by the generous setback from the north [side] lot line that is closest to the terminus bulb of NE 136<sup>th</sup> Avenue. The modest reduction to the rear setback from 15 feet to 10 feet is not visible from NE 136<sup>th</sup>

Avenue nor will it be visible from NE Halsey Street. The adjacent home abutting the rear property line is oriented toward NE Halsey Street and is over 60 feet from the rear property line. In addition, significantly sized trees on both lots screen and buffer the proposed new home from the back yard immediately to the south. As a result, the proposal is consistent with the appearance of the surrounding neighborhood with a slight reduction in both the front and rear setbacks that are required via the Glendoveer Plan District. For these reasons, 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 proposed setback Adjustments will result in a new residential home that will be consistent with the appearance of the surrounding residential neighborhood, characterized by larger lots and larger setbacks as required by the Glendoveer Plan District. There are no anticipated impacts to the livability of the residential neighborhood resulting from the proposal. For these reasons, 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:** Two Adjustments are requested, to reduce the front setback from 30 feet to 27 feet 11 inches, and reduce the rear setback from 15 to 10 feet. By locating the home on this irregularly shaped lot, the characteristic appearance of a large, open front yard is maintained, while the slight reduction to the rear property line will not be visible from any nearby street frontage and yet the nearest home to the south will be separated by over 65 feet. For these reasons, this criterion is met.

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

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

- 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 Adjustments, as long as sufficient vegetative screening is maintained along the rear property line. Therefore, a condition of approval is warranted, that at time of building permit review, the applicant will preserve as many existing trees adjacent to the south [rear] lot line as feasible. With this condition, the 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:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). As 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

The applicant requests two Adjustments, to reduce the front building setback from 30 feet to 27 feet 11 inches, and to reduce the rear building setback from 15 to 10 feet. With a condition of approval, the proposal meets all of the applicable approval criteria and therefore should be approved.

## ADMINISTRATIVE DECISION

Approval of:

- Adjustment [33.530.040., *Setbacks*] to reduce the required front setback from 30 feet to 27 feet 11 inches; and
- Adjustment [33.530.040., *Setbacks*] to reduce the required rear setback from 15 to 10 feet, per the approved site plan, Exhibit C-1, signed and dated March 2, 2015, subject to the following conditions:
  - A. As part of the building permit 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 14-251615 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
  - B. At time of building permit review, the applicant will preserve as many existing trees adjacent to the south [rear] lot line as feasible.

**Staff Planner: Sylvia Cate**



**Decision rendered by:** \_\_\_\_\_ **on March 2, 2015**

By authority of the Director of the Bureau of Development Services

**Decision mailed: March 5, 2015**

**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 December 19, 2014, and was determined to be complete on **January 26, 2015**.

*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 December 19, 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: May 26, 2015.**

**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 March 19, 2015** 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 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> 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](http://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 **March 20, 2015 – (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.

**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:

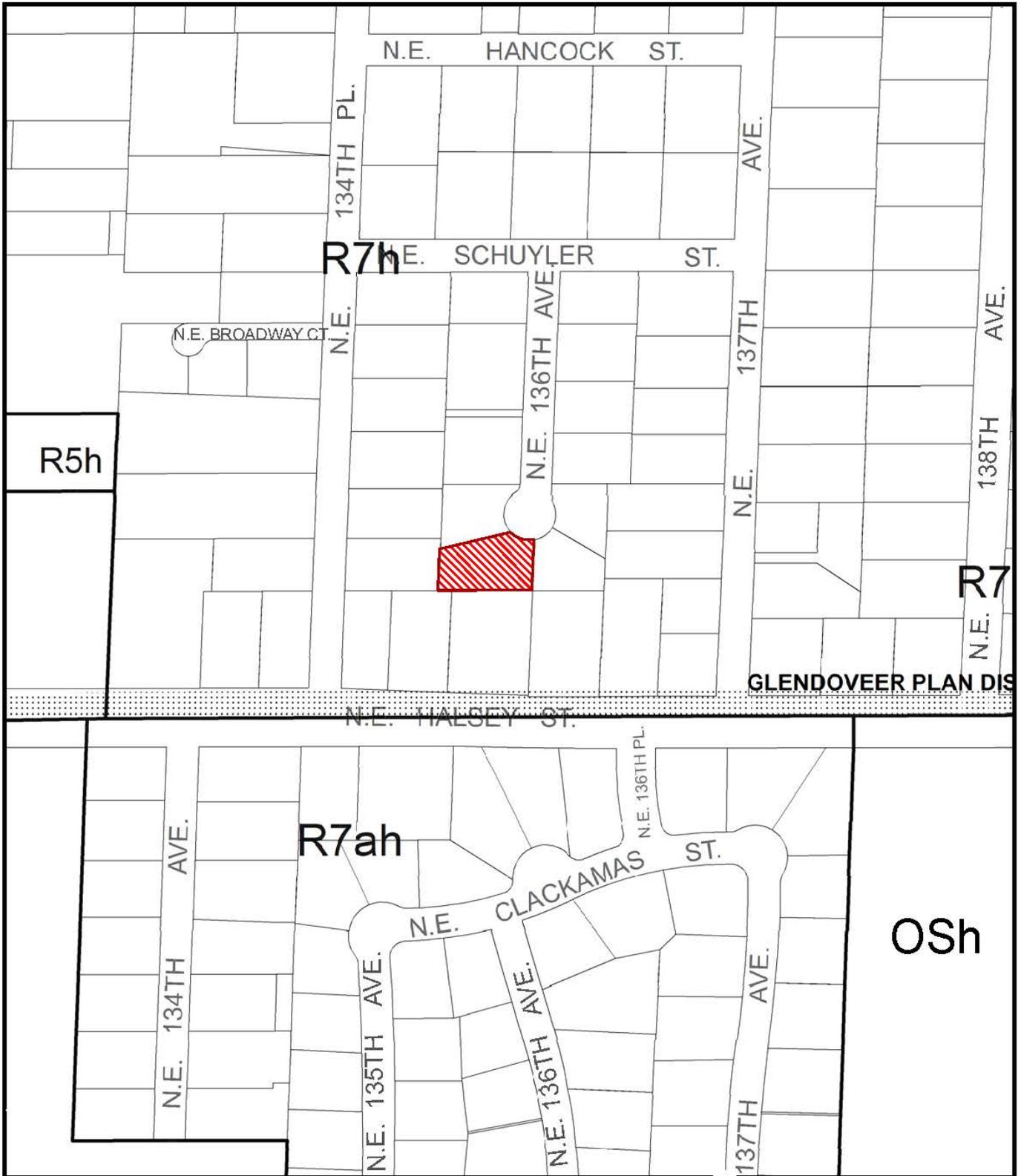
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- |   |  |
|---|--|
| A. Applicant's Statement  | 7. Life Safety/Plans Examiner Review<br>Section of BDS                             |
| B. Zoning Map (attached)  |  |
| C. Plans/Drawings:  | F. Correspondence:   |
| 1. Site Plan (attached)   | 1. N. K. Clevinger, February 3, 2015; Strong<br>objections                         |
| 2. Elevations   | 2. N. K. Clevinger, February 11, 2015;<br>Revision is more satisfactory            |
| D. Notification information:                                      | 3. N. Chiapuzio, February 10, 2015; in<br>support                                  |
| 1. Mailing list   | 4. Russell Neighborhood Association,<br>February 4 and February 12, 2015; concerns |
| 2. Mailed notice  | G. Other:  |
| E. Agency Responses:  | 1. Original LU Application   |
| 1. Bureau of Environmental Services                               | 2. Incomplete letter to applicant, January 7,<br>2015; need additional information |
| 2. Bureau of Transportation Engineering<br>and Development Review |  |
| 3. Water Bureau   |  |
| 4. Fire Bureau  |  |
| 5. Site Development Review Section of BDS                         |  |
| 6. Bureau of Parks, Forestry Division                             |  |

**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

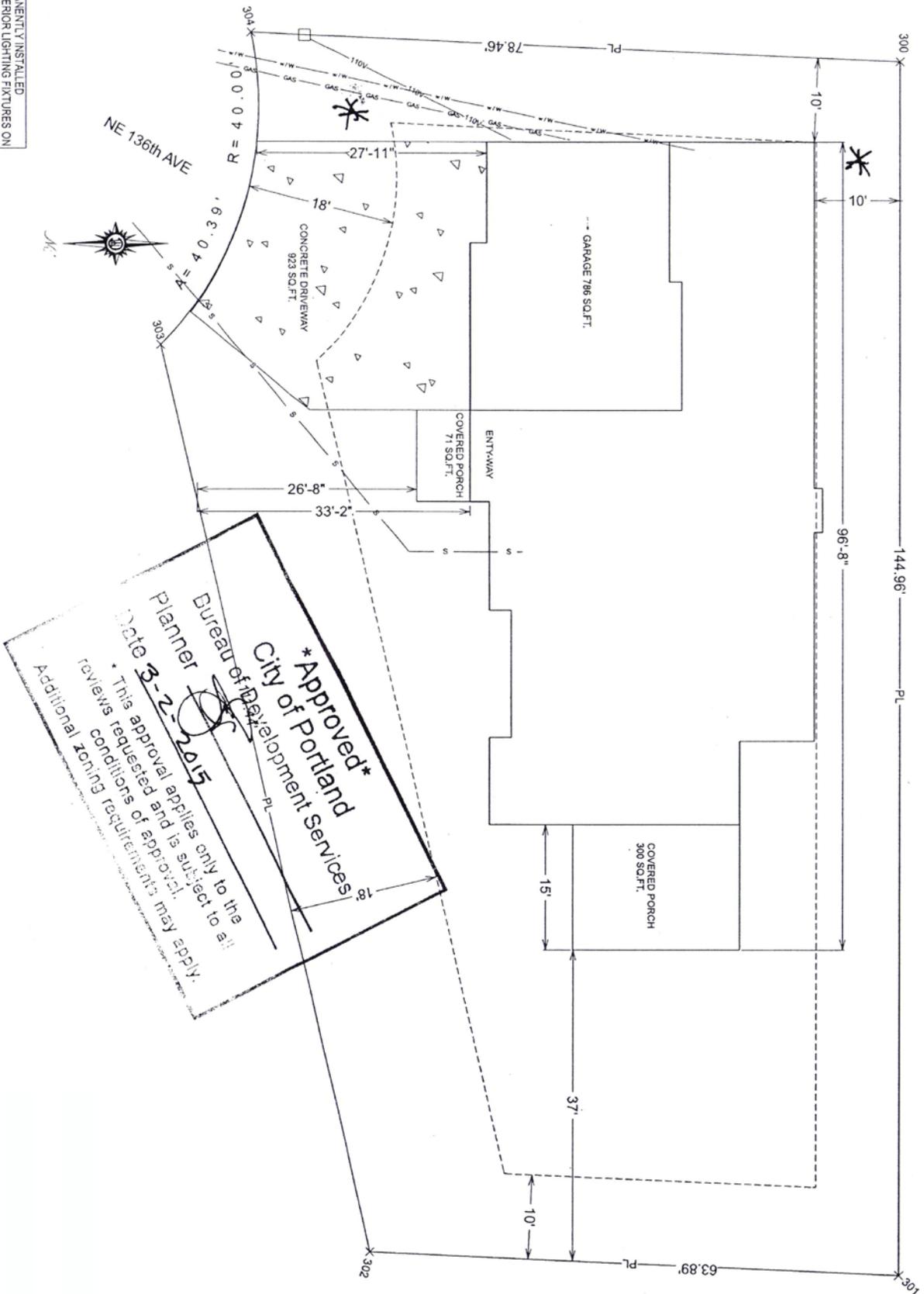


This site lies within the:  
**GLENDOVEER PLAN DISTRICT**

|             |                          |
|-------------|--------------------------|
| File No.    | <u>LU 14-251615 AD</u>   |
| 1/4 Section | <u>2844</u>              |
| Scale       | <u>1 inch = 200 feet</u> |
| State_Id    | <u>1N2E26DC 3800</u>     |
| Exhibit     | <u>B (Dec 22, 2014)</u>  |

50% OF ALL PERMANENTLY INSTALLED INTERIOR AND EXTERIOR LIGHTING FIXTURES ON THE BUILDING CONTAIN HIGH EFFICIENCY LAMPS (MINIMUM 40 LUMENS PER WATT), AND 50% APUE GAS-FIRED FURNACE OR BOILER, TYVEK DRAIN WRAP, HOUSE WRAP AND BUILDING ENVELOPE

PETER MUNTJAN  
503-841-1127



**\* Approved \***  
City of Portland  
Bureau of Development Services  
Planner  
Date **3-2-2015**  
This approval applies only to the reviews requested and is subject to all additional zoning requirements that may apply.

SITE PLAN/ EROSION CONTROL PLAN  
SCALE: 1/8" = 1'-0"

|                    |               |        |         |       |  |  |              |   |
|--------------------|---------------|--------|---------|-------|--|--|--------------|---|
| SHEET:<br><b>1</b> | 3/15" = 1'-0" | SCALE: | 03/2013 | DATE: | MAIN FLOOR 2,368 SQ. FT.<br>UPPER FLOOR 1,427 SQ. FT.<br>TOTAL AREA 3,795 SQ. FT.<br>UNFINISHED BONUS RM. 307 SQ. FT.<br>GARAGE AREA ± 781 SQ. FT. | PROJECT DESCRIPTION:<br><b>MUNTJAN<br/>SINGLE FAMILY</b> | SHEET TITLE: | SITE ADDRESS:<br>PORTLAND, OR             |
|                    |               |        |         |       |  |  |              | BUILDER:<br>PETER MUNTJAN<br>503-841-1127 |

LU 14-251615AD EXHIBIT C-1