



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: April 15, 2015
To: Interested Person
From: Sylvia Cate, Land Use Services
503-823-7771 / Sylvia.Cate@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 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 14-252041 AD

GENERAL INFORMATION

Applicant: Curtis Eschman, Representative
Mark Dane Planning / 12725 SW Glenhaven St / Portland, OR 97225

Owner: Jesse T Nobile, Listed Property Owner
4120 N Missouri Ave / Portland, OR 97217-3144

Site Address: 4120 N MISSOURI AVE

Legal Description: BLOCK 10 S 1/2 OF LOT 12 LOT 14, MULTNOMAH
Tax Account No.: R591901500
State ID No.: 1N1E22CB 00700
Quarter Section: 2629
Neighborhood: Boise, contact Stephen Gomez at 503-819-8268.
Business District: Historic Mississippi, contact Trevin Miller at 503-708-7763.
District Coalition: Northeast Coalition of Neighborhoods, contact info@necoalition.org.
Plan District: None
Zoning: R2a: Multi-Dwelling Residential 2,000 with Alternative Design Density 'a' overlay. This site is within the Mississippi Conservation District
Case Type: AD: Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes a Lot Confirmation and Property Line Adjustment that is under review via Case File Number 14-252036 PLA. The Zoning Code allows each lot to be re-established providing that both properties remain in compliance with all applicable zoning standards, including lot size, building coverage, density, etc. In order to establish the southern lot, an Adjustment is necessary because the existing home on the northerly lot does not meet the required south side setback of 5 feet. Therefore, the applicant requests an Adjustment to reduce the required setback from 5 feet (per 33.120.220, *Setbacks*, and Table 120-2) to 3.9 feet for the building wall, and the eave at 2.4 feet, from the southern [side] property line.

Attachments to this Notice include a zoning map, site plan, and elevation which graphically depict 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 parcel 7,500 square feet in area, developed with a 1,548 square foot house built circa 1925. The immediately surrounding area is developed with residential uses in various styles and ages. The block that contains the site is split by an alleyway and of the 20 lots that make up the block, there are 5 'narrow' lots as well as an additional 4 lots that are substandard for size. The I-5 Freeway right of way just west of the site contributes to undersized lots in the immediate area.

Zoning: The site is zoned R2a, Multi Dwelling Residential 2,000 with the 'a', Alternative Design Density overlay zone. The site is also located within the Mississippi Conservation District; the existing house is considered a 'contributing structure' to this District.

The R2 zone is a low density multi-dwelling zone. It allows approximately 21.8 dwelling units per acre. Density may be as high as 32 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to three story buildings, but at a slightly larger amount of building coverage than the R3 zone. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments. These housing types are intended to be compatible with adjacent houses. Generally, R2 zoning will be applied near Major City Traffic Streets, Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

The purpose of the Alternative Design Density Overlay Zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

Mississippi Conservation District: This type of resource is a collection of individual resources that is of historical or cultural significance at the local or neighborhood level. Information supporting a specific district's designation is found in the City's Historic Resource Inventory or the local evaluation done in support of the district's designation.

Land Use History: City records indicate there are no prior land use reviews for this site; prior land use applications were withdrawn in 2006 and 2014 without a decision rendered. These applications are deemed void/withdrawn and have no bearing on this application.

A "Notice of Proposal in Your Neighborhood" was mailed March 19, 2015.

Agency Review: The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Life Safety Plans Examiner notes that fire protection will be required for the eave. This work has been approved and completed as part of the building permit review, 15-114958 RS.

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

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 of the regulation to be modified is found at 33.120.220.A., Setbacks, which states:

The building setback regulations serve several purposes:

- *They maintain light, air, separation for fire protection, and access for firefighting;*
- *They reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The proposed setback Adjustment is relatively minor, because the decreased setback will occupy roughly 17 feet of the overall 100 foot lot depth. Additionally, the house foundation will be, on average, 4 feet instead of the required 5 feet from the south [side] property line. The eave extends 2.4 feet from the property line, which has been upgraded to meet building code requirements for fire protection. The Fire Bureau notes no concerns; the modest setback Adjustment will not impinge on light, air, separation for fire protection, and access for firefighting.

The proposed setback will allow the site to become two lots, with the southerly lot vacant and ready for development. This reconfirmed lot will match five other so called skinny lots on the same block as the site. The Adjustment request will allow new construction that is consistent with the immediately surrounding residential development patterns and will result in a reasonable physical relationship between the existing house and surrounding residences. The relatively modest reduction in the setback is not anticipated to have any impacts on privacy to other properties.

The proposal has no effect on the front setback, nor does the site have frontage on a Transit Street. The site is relatively flat and has no topography that would affect future development; however, the Adjustment, if approved, will allow for adequate flexibility to site a building so that it may be compatible with the neighborhood. 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 side setback reduction is not anticipated to have any impacts on the livability of the surrounding residential area. As there are no exterior changes proposed to the existing house, there will be no change in appearance. Building a new structure in a Conservation District requires historic resource review, or conformance with the Community Design Standards, to ensure the resource's historic value is considered prior to or during the development process. Therefore, any future development on the confirmed lot to the south will require a review, thus ensuring that the development will be compatible with the historic elements of the Mississippi Conservation District. 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: Only one adjustment is requested. This criterion is not applicable.

- 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.

As noted earlier, the site is within the Mississippi Conservation District and the subject house is deemed a 'contributing structure' to the historic aspects of the District. However, no exterior changes are proposed to the existing house and any new development on the southerly lot will require historic resource review, or conformance with the Community Design Standards, to ensure the resource's historic value is considered prior to or during the development process. The proposal will not destroy any historic resources, and therefore this criterion is met.

- 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 adjustment. 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: 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

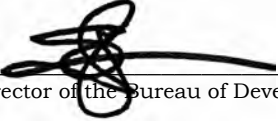
The applicant requests an Adjustment to reduce the side setback for a portion of the existing house on the site. The proposal meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of:

- An Adjustment to 33.120.220, for a reduced south side setback for existing house from 5 feet to 3.9 feet and an eave at 2.4 feet, per the approved site plans, Exhibits C-1 through C-2, signed and dated April 13, 2015, subject to the following conditions:
 - A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-252041 AD."

Staff Planner: Sylvia Cate

Decision rendered by:  **on April 13, 2015**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 15, 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 **March 16, 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: July 14, 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 April 29, 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 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 **April 30, 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:

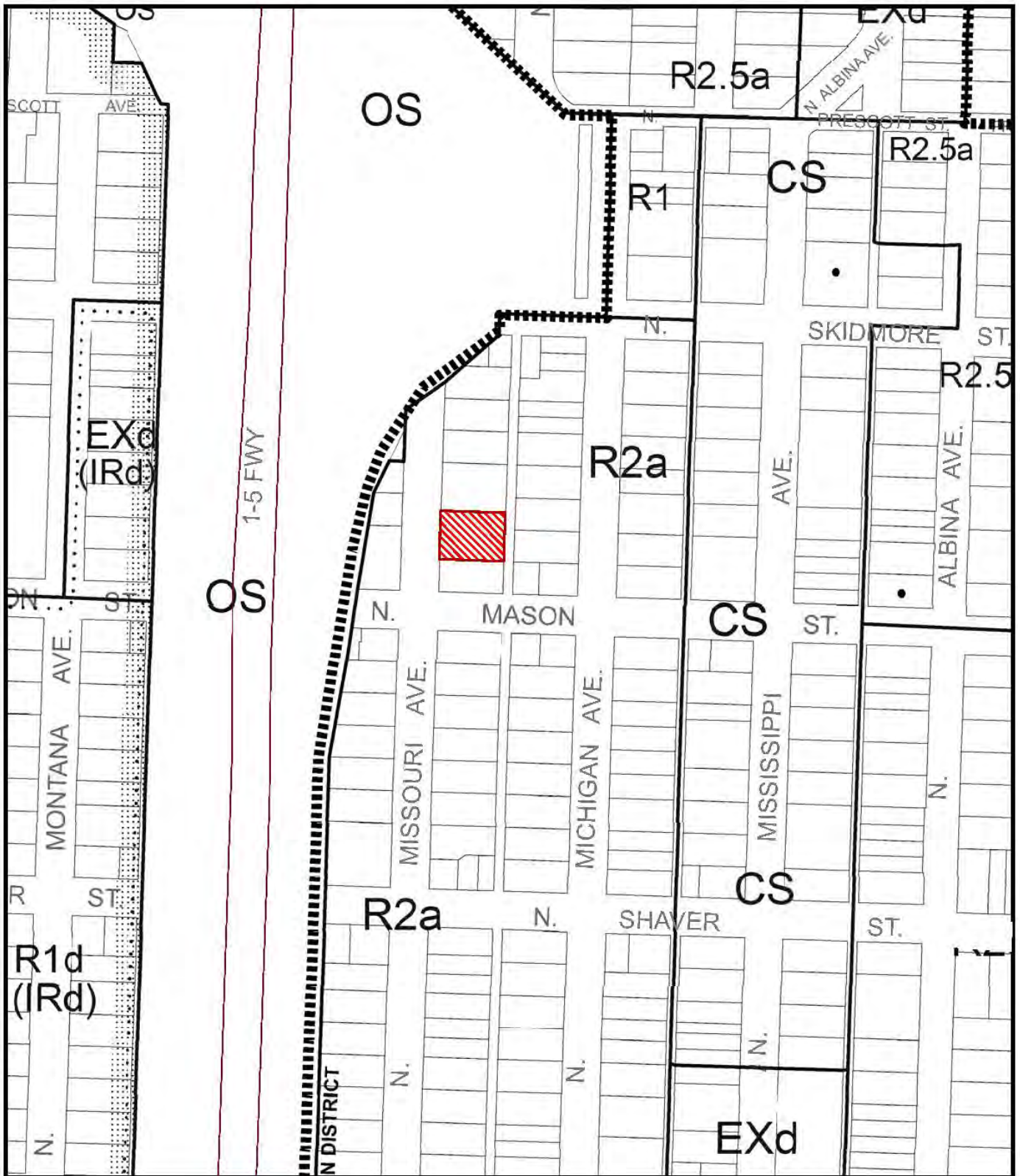
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. South Elevation
- 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. Bureau of Parks, Forestry Division
- F. Correspondence: *None received*
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete letter to applicant, January 21, 2015

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:
MISSISSIPPI CONSERVATION DISTRICT

File No. LU 14-252041 AD
 1/4 Section 2629
 Scale 1 inch = 200 feet
 State_Id 1N1E22CB 700
 Exhibit B (Dec 24, 2014)

4120 N MISSOURI LOT CONFIRMATION AND PLA

TOPOGRAPHICAL SURVEY

LOT 14 & PART OF LOT 12 BLOCK 10 "MULTNOMAH"
IN THE SW 1/4 SECTION 22, T.1N., R.1E., W.M.
CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON



GRAPHIC SCALE
1 INCH = 10 FEET

SIGNED ON:
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 16, 1967
WADE G. DONOVAN III
2276

VALID THROUGH DECEMBER 31, 2007

SURVEYOR

700 MOLALLA AVENUE, OREGON CITY
OREGON CITY, OR 97045
503-650-0188 / NOBILE -5346

PLANNER

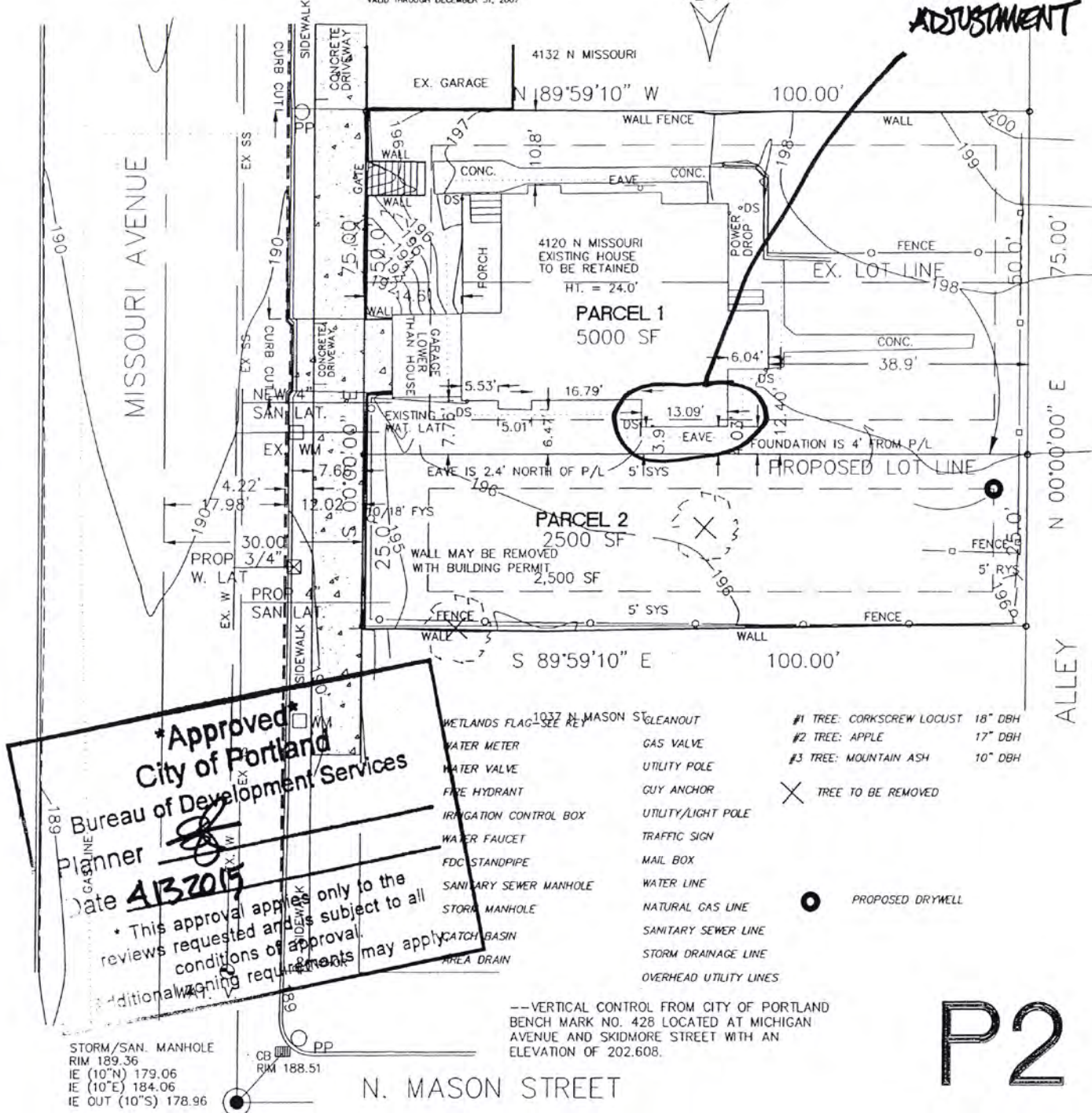
13630 SW BUTNER ROAD
BEAVERTON OR 97005
PH: 503-332-7167



**AREA OF
ADJUSTMENT**

PRODUCED BY AN AUTODESK EDUCATIONAL PRODUCT

PRODUCED BY AN AUTODESK EDUCATIONAL PRODUCT



Approved
City of Portland
Bureau of Development Services
Planner
Date **4/3/2015**
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

- WETLANDS FLAG-SEE KEY
- WATER METER
- WATER VALVE
- FIRE HYDRANT
- IRRIGATION CONTROL BOX
- WATER FAUCET
- FDC STANDPIPE
- SANITARY SEWER MANHOLE
- STORM MANHOLE
- CATCH BASIN
- AREA DRAIN
- CLEANOUT
- GAS VALVE
- UTILITY POLE
- GUY ANCHOR
- UTILITY/LIGHT POLE
- TRAFFIC SIGN
- MAIL BOX
- WATER LINE
- NATURAL GAS LINE
- SANITARY SEWER LINE
- STORM DRAINAGE LINE
- OVERHEAD UTILITY LINES

- #1 TREE: CORKSCREW LOCUST 18" DBH
- #2 TREE: APPLE 17" DBH
- #3 TREE: MOUNTAIN ASH 10" DBH
- X TREE TO BE REMOVED

● PROPOSED DRYWELL

--VERTICAL CONTROL FROM CITY OF PORTLAND
BENCH MARK NO. 428 LOCATED AT MICHIGAN
AVENUE AND SKIDMORE STREET WITH AN
ELEVATION OF 202.608.

P2

Approved
City of Portland
Bureau of Development Services
Planner 

Date 4/13/2015

This approval applies only to the views requested and is subject to all conditions of approval. Planning requirements may apply.

