



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Inspection Services - Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner  
Paul L. Scarlett, Director  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** September 16, 2015  
**To:** Interested Person  
**From:** Marguerite Feuersanger, Land Use Services  
503-823-7619 / [Marguerite.Feuersanger@portlandoregon.gov](mailto:Marguerite.Feuersanger@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 15-149222 AD**

#### **GENERAL INFORMATION**

**Applicant & Owner:** George T Bolster  
2435 N Bryant Street  
Portland, OR 97217

**Site Address:** 2435 N Bryant Street

**Legal Description:** BLOCK 1 LOT 1&2, FIRST ELECTRIC ADD  
**Tax Account No.:** R283800010  
**State ID No.:** 1N1E16AB 11700  
**Quarter Section:** 2328  
**Neighborhood:** Arbor Lodge, contact Nate Young at 503-679-9929.  
**Business District:** None  
**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

**Zoning:** R5a, Single-Dwelling Residential 5,000 Zone, Alternative Design Density Overlay Zone (a)

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

**Proposal:** The applicant proposes to replace the on-site parking space for the existing house. A new driveway, consisting of pervious pavers, is proposed with access from N Delaware Avenue. Separately, the applicant has applied for a Lot Confirmation and Property Line Adjustment, to create a second buildable lot identified as "Tract 2" on the attached site plan. The existing detached garage is located on Tract 2 and will be removed. The existing house and proposed driveway are located on Tract 1.

The replacement parking space for the house must be at least 9 feet wide and 18 feet long and located outside the required 10-foot front setback. The proposed driveway is approximately 22 feet in length, and does not meet current requirements. The applicant is requesting an

Adjustment to allow the required on-site parking space to be located within the front building setback at N Delaware Avenue (Section 33.266.120.C, Parking Area Locations for Houses).

The attached site plan illustrates the proposed improvements and proposed Lot Confirmation and Property Line Adjustment.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in Section 33.805.040.A. through F.

## ANALYSIS

**Site and Vicinity:** The site is a corner lot, 5,000 square feet in area, and contains an existing single-dwelling house and detached garage. The neighborhood surrounding the site, north of N Bryant Street, is predominantly single-dwelling houses on similar 5,000 square foot sites. South of the site adjacent to N Bryant Street is Chief Joseph Elementary School and Arbor Lodge Park.

**Zoning:** The site is within the Single-Dwelling Residential 5,000 Zone (R5). This zone is intended to accommodate single-dwelling development, with an average of one unit per 5,000 square feet of site area. Housing types are limited in the single-dwelling zones to maintain the overall image and character of the City's single-dwelling neighborhoods.

Each lot is required to have at least one on-site parking space, measuring at least 9 feet by 18 feet. The parking space must be located outside the required building setbacks. The allowed percentage of paving for driveways, parking spaces and maneuvering areas is limited to 40 percent of the front yard area and 20 percent of the side yard area for corner lots.

**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 **August 21, 2015**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E-1)
- Transportation Engineering (Exhibit E-2)
- Water Bureau (Exhibit E-3)
- Site Development Section of BDS (Exhibit E-4)
- Life Safety Plans Examiner of BDS (Exhibit E-5)
- Fire Bureau (Exhibit E-6)

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the mailed "Notice of 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 applicant requests an Adjustment to allow the on-site parking space for the existing house to be within the front setback, at N. Delaware. The purpose of the parking standards for houses and duplexes states:

*The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.*

Generally, the intent of the regulation is to allow for open, visually pleasing front yards that are not cluttered by parked vehicles. The proposed parking area is 9 feet wide by 22 feet deep. It is long enough to ensure that a parked vehicle will not block the sidewalk. Instead of asphalt or concrete paving, the applicant proposes to install decorative, pervious pavers which will give the appearance of a front yard patio. Current regulations allow a driveway up to 20 feet in width for this 50-foot-wide lot. Compared to this maximum amount of paved area, the proposed parking area is modest in size at only 9 feet in width. It will be suitable for one parked vehicle. Because only one space is proposed, vehicle paving is minimized. Although a parked vehicle will be located partially within the front setback, the small amount of paved area and use of decorative pavers will negate any resulting impacts on neighborhood appearance.

The applicant recently planted Magnolia trees within the landscape strip of N. Delaware Street. The trees will obscure views of vehicles parked in the driveway. Based on the above information, the proposal is consistent with the purpose of the regulation. With the condition that decorative pervious pavers be used for the new driveway, this approval 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 site is located within a residential zone. On-site parking for the existing house is proposed to be relocated from a detached garage at N Bryant Street to a new 9-foot by 22-foot driveway accessed from N Delaware Street. The detached garage will be removed, in preparation for a new 36-foot-wide buildable lot.

The site is a corner lot, with frontage on N Delaware and N Bryant Streets. The front setback is applied to the shortest street frontage, N Delaware Street. The front door of the house, however, faces N Bryant Street. Because of this existing orientation to the side yard, the new driveway, as viewed from the street, will appear to be located within the side yard of the house. Further, the driveway is set back more than 30 feet from N Bryant Street and will not interrupt the landscaped front yard or the view of the front of the house. Decorative pavers will be installed for the new driveway.

For the above reasons, the proposal will not significantly detract from the livability or appearance of the residential area. 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, therefore this criterion does not apply.

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

**Findings:** City-designated scenic resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation district boundaries. The site does not contain City-designated scenic or historic resources. Therefore, this criterion does not apply.

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

**Findings:** There are no impacts expected from granting the requested adjustment. The proposal fits with the surrounding residential development due to the relatively small amount of new vehicle paving and use of decorative, pervious pavers. 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 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.

NOTE ABOUT FENCE HEIGHT. The existing conditions survey submitted with the Adjustment application shows an existing 4-foot-tall fence along N Bryant and a 6-foot-tall fence along N Delaware. The fences were recently installed but exceed maximum fence heights of the Zoning Code. It's recommended that the owner review the fence height standards of Section 33.110.255, and amend the existing fences to comply with the requirements.

## CONCLUSIONS

The owner proposes to replace parking for the existing house. Separately, a Lot Confirmation and Property Line Adjustment are proposed to create a new 36-foot-wide lot at the east part of the site. The existing detached garage will be removed, and parking for the house will be established on a new driveway from N. Delaware. Since the main entrance to the house faces N Bryant, the new driveway will appear to be located within the side yard.

The new on-site parking space will be 9 feet in width and 22 feet in length, improved with decorative, pervious pavers. It will be compatible with the surrounding residential development and should be approved.

## ADMINISTRATIVE DECISION

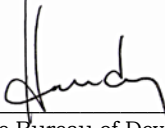
Approval of an Adjustment to allow parking within the front setback (Section 33.266.120.C), per the approved site plan, Exhibits C-1, signed and dated September 30, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related Condition 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 15-149222 AD." All requirements

must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

B. The new 9-foot by 22.8-foot driveway must be surfaced with decorative, pervious pavers.

**Staff Planner: Marguerite Feuersanger**

**Decision rendered by:**  **on September 14, 2015**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: September 16, 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 April 14, 2015, and was determined to be complete on **August 19, 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 April 14, 2015.

*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.

**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 September 30, 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 **October 1, 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)
- 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
- F. Correspondence: None
- G. Other:
  - 1. Original LU Application

**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



NORTH

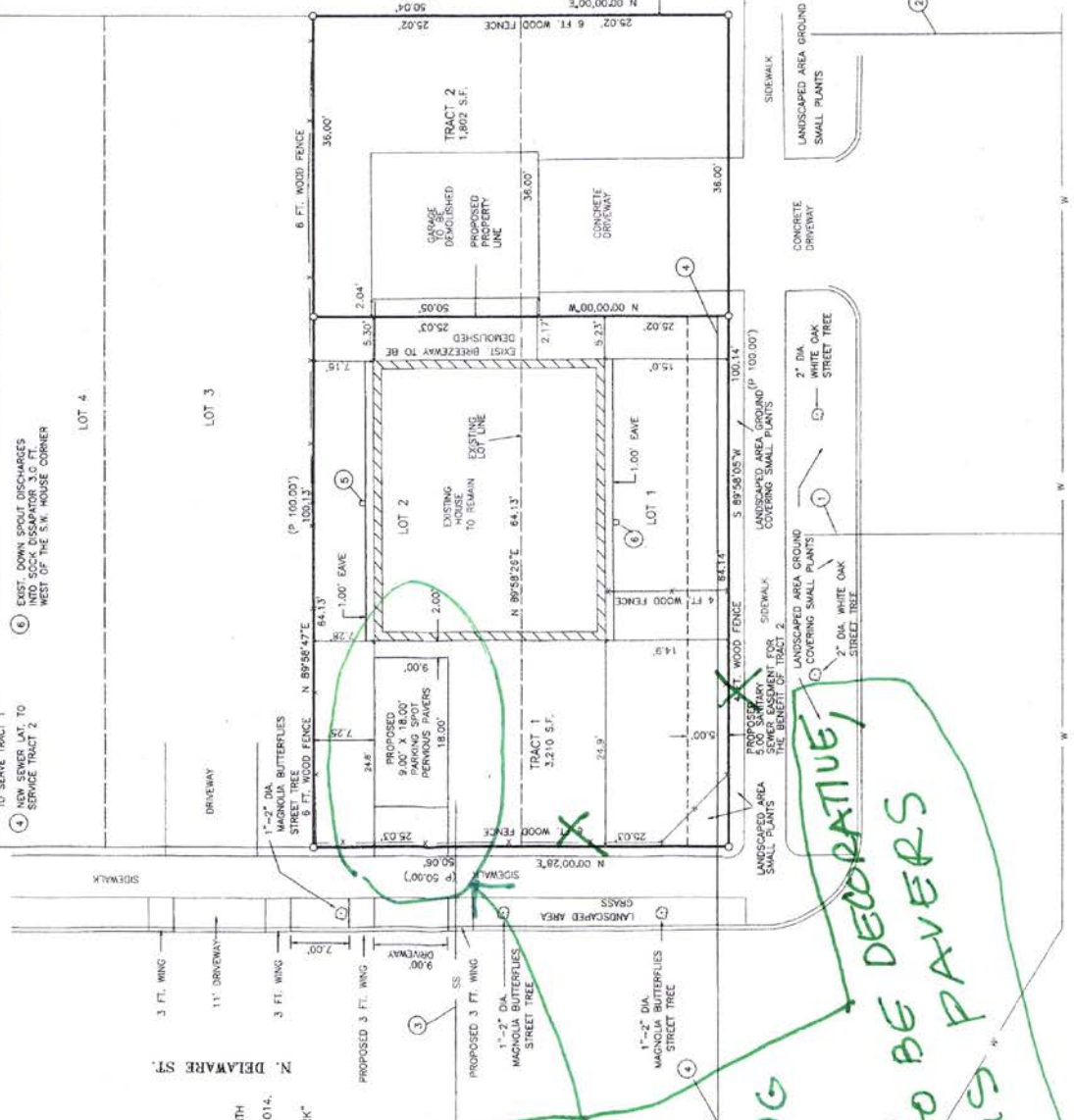
File No. LU 15-149222 AD  
 1/4 Section 2328  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E16AB 11700  
 Exhibit B (Apr 15, 2015)



PROPOSED LOT LINE ADJUSTMENT SURVEY  
 LOTS 1 AND 2, BLOCK 1,  
 FIRST ELECTRIC ADDITION,  
 SITUATED IN THE NE 1/4 OF SECTION 16,  
 TOWNSHIP 1 NORTH, RANGE 1 EAST, W.M.,  
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON  
 DATE: JULY 9, 2015 SCALE: 1" = 10'

TENTATIVE KEY NOTES:

1. EXIST. WATER METER TO SERVE TRACT 1
  2. PROPOSED WATER SERVICE TO SERVE TRACT 2
  3. EXIST. SEWER LAT. TO SERVE TRACT 1
  4. NEW SEWER LAT. TO SERVE TRACT 2
  5. EXIST. DOWN SPOUT TO BE DISCONNECTED FROM UNDERGROUND PIPING AND SPASHBLOCK INSTALLED MIN. 3 FT. FROM PROPERTY LINE
  6. EXIST. DOWN SPOUT DISCHARGES INTO SOCK DISSIPATOR 3.0 FT. WEST OF THE S.W. HOUSE CORNER
1. THE GROUND FLOOR SQUARE FOOTAGE OF THE EXISTING HOUSE IS APPROXIMATELY 1,800 SQUARE FEET OF NON PREVIOUS AREA FOR LANDSCAPING ETC ON TRACT 1 OR 688.  
 2. THERE ARE NO TREES 6 INCH DIAMETER OR ABOVE ON SITE.



**REQUIRED:**  
 PROPOSED  
 ON-SITE  
 VEHICLE  
 SPACE  
 FOR EXISTING  
 HOUSE!  
 9' X 22.8'  
 PAVING TO BE PERVIOUS\*

SITE PLAN

ORIGINAL AREAS:  
 LOT 1 2,506 SQ. FT.  
 LOT 2 2,506 SQ. FT.

TRANSFER AREAS:  
 E. 38.00' LOT 1 901 SQ. FT.  
 TO E. 36.00' LOT 2  
 LOT 2 EXCEPT E. 36.00' 1,805 SQ. FT.  
 TO LOT 1 EXCEPT E. 36.00'

ADJUSTED AREAS:  
 TRACT 1\* 3,210 SQ. FT.  
 TRACT 2\* 1,802 SQ. FT.

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR  
*Michael Lee Manwell*  
 OREGON  
 LICENSE NO. 57148  
 MICHAEL LEE MANWELL  
 57148  
 REVIEWS: 12-31-14

**MICHAEL LEE MANWELL**  
 Professional Land Surveyor  
 2847 SE 18TH CIRCLE  
 GRESHAM, OREGON 97080  
 (503) 661-5270  
 Email: mmanplis@aol.com

MAP JOB NO. 14-50074M DATE: 7/9/2015

15.149222 AD

EXHIBIT C-1