



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

FROM CONCEPT TO CONSTRUCTION

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Date: October 12, 2016
To: Interested Person
From: Matt Wickstrom, 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 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 15-261236 AD

GENERAL INFORMATION

Applicant: Matthew W Stein
8531 N Edison St
Portland, OR 97203-5311

Architect: Corey Omev
Ernest R Munch Architects Urban Planning LLC
111 SW Oak St Ste 300
Portland, OR 97204

Site Address: 8527-8531 N EDISON ST

Legal Description: LOT 1, BRIDGE VIEW ROWHOUSES; LOT 2, BRIDGE VIEW ROWHOUSES

Tax Account No.: R102250050, R102250100

State ID No.: 1N1W12BD 01201, 1N1W12BD 01202

Quarter Section: 2121

Neighborhood: Cathedral Park, contact Pat Haynes at dattahaynes@gmail.com
Business District: St. Johns Business Boosters, contact Mike Johnson at 503-206-8633.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Plan District: St. Johns

Zoning: R1d (Multi-dwelling Residential 1,000 with a Design Overlay Zone)

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

Proposal:

The applicant proposes to renovate and add additional floor area to the existing two row houses on this site. The applicant also proposes to add an accessory dwelling unit behind each row house. In Portland's multi-dwelling zones, side and rear setback requirements are based on the size (or plane) of the building wall. The applicant proposes to reduce the setbacks of various building wall planes as part of the renovation and addition project.

Building walls between 1,000 and 1,300 square feet require a 6-foot setback. The plane of the existing west and east building walls measure 1,018 square feet and are set back approximately 4 feet 11 inches from these property lines. The applicant proposes energy efficiency upgrades (a rainscreen and insulation) which will reduce this setback by an additional 2-3 inches. The applicant also proposes to extend this building plane vertically for the upper floor addition and remove the solid railing on the balconies. Overall, the plane of the building wall will increase to 1,294 square feet. The applicant proposes a 4-foot 8-inch setback for these building walls.

Building walls between 1,601 and 1,900 square feet require an 8-foot setback. The east and west walls of the ADUs, the primary wall of the residences and a wall of the balcony measure 1,628 square feet. The applicant proposes a 7-foot 2-inch setback for the side walls of the balconies.

In summary, the applicant proposes two Adjustments to reduce the side setbacks for the proposed renovation and expansion of the row houses as follows:

1. To reduce the west side setbacks from 6 feet to 4 feet 8 inches for the primary building wall and from 8 feet to 7 feet 2 inches for the balcony wall; and
2. To reduce the side east setbacks from 6 feet to 4 feet 8 inches for the primary building wall and from 8 feet to 7 feet 2 inches for the balcony wall.

Staff note: The applicant has revised a previous proposal mailed on February 11, 2016 by removing the upper floor of the proposed renovation and expansion of the row houses, setting the upper floor of the ADUs and the uppermost balconies for the row homes back from the sides of the structure, and incorporating a green roof into the project design.

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 composed of two 2,000 square foot lots that are 20 feet wide and 100 feet deep. It is developed with two three-story attached houses with balconies with solid railing facing N Edison Street. The lot to the east is developed with a three-story wood framed apartment building. It is approximately 10 feet from the existing attached houses on the site. A two-story single-dwelling house is located to the west of the site. It is approximately 15 feet from the attached houses on the site. Another two-story house is located across N Edison Street from the site. Single-dwelling houses and small multi-dwelling buildings are located behind the site to the northeast. These structures are at a higher elevation than the site. The greater vicinity is primarily developed with residential uses. A mix of houses, 2-4 story apartments and row houses are located to the west of the site. The remainder of the development in other directions from the site is commonly single-dwelling houses, duplexes and row houses.

Zoning: The site is zoned R1d (Multi-dwelling Residential 1,000 with a Design Overlay Zone). The Multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling structures. The "d" overlay promotes the conservation and

enhancement of areas of the City with special historic, architectural or cultural value. In this location, new development and exterior modifications to existing development are subject to Design Review or may elect to meet Community Design Standards in lieu of Design Review. In this situation the applicant has elected to meet Community Design Standards found in Portland Zoning Code Section 33.218.130.

Land Use History: City records indicate the following land use review for this site:

- 99-00165 SU AD – 1999 approval of a 7 lot land division for an 11,500 square foot site. Four Adjustments were approved as part of the land use review; however, none of the Adjustments applied to the site reviewed as part of this proposal.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **August 22, 2016**. The following Bureaus have responded:

The Bureau of Environmental Services (BES) responded with no objections to the proposed Adjustment and noted that approval of this land use review does not alter BES requirements identified under the submitted building permits (Exhibit E-1).

The Water Bureau responded with information on water service. The response states no concerns with the requested Adjustments (Exhibit E-2).

The Life Safety Section of the Bureau of Development Services (BDS) responded with information about obtaining a building permit and specific information about rowhouses (Exhibit E-3).

The Fire Bureau responded that the applicant shall meet applicable Fire Code requirements prior to approval of the development (Exhibit E-4).

The Site Development Section of BDS responded with no objection to the requested Adjustment and stated that due to the slope of the site, the applicant will be required to provide a complete geotechnical investigation prior to building permit issuance (Exhibit E-5).

The Portland Bureau of Transportation responded with no concerns (Exhibit E-6).

Neighborhood Review: A total of 10 written responses have been received from either the Neighborhood Association or notified property owners in response to the Notice of Proposal. Responses labeled as Exhibits F-1 through F-7 were received in response to the first Notice of Proposal. Responses labeled as Exhibits F-8 through F-10 were received in response to the second Notice of Proposal after modifications were made to the project.

The first response came from a neighbor who lives to the northeast of the site. The response states that the neighbor’s livability would be impacted by the proposed development. The response points to a lack of conformity of the proposed development with the surrounding area and the height of the proposed ADUs. The neighbor questions whether the project meets the building coverage and landscaping requirements of the R1 zone. The neighbor comments that private views of the river will be lost. The response states that the reduced setbacks will decrease access for fire-fighting. The response also states that the proposed height of the ADUs will block sun and light for his and other surrounding properties. The neighbor asks whether ADUs are allowed for attached houses and states that no on-site parking is provided (Exhibit F-1).

Staff response: The proposal has been modified since receipt of this letter. The applicant has provided information verifying that building coverage requirements are met. The project is exempt from minimum landscaping standards because it is developed with attached houses (Portland Zoning Code Sections 33.120.235.B and 33.120.235.C.1). The Portland Zoning Code does not protect private views and therefore a potential loss of views associated with the project cannot be evaluated as part of the staff findings below. ADUs that are attached to a primary structure are

subject to the height limits of the base zone, in this case R1 (Residential 1,000) which has a 45-foot height limit. An ADU may be added to a house, attached house or manufactured home in the R1 zone (Portland Zoning Code Section 33.205.020). The project provides one garage parking space per attached house; no on-site parking is required for ADUs (Portland Zoning Code Section 33.205.040.C.2). Concerns about the availability of light and air are addressed as part of the findings below.

The second response came from the Cathedral Park Neighborhood Association which expressed strong opposition to the proposed development. Following modifications to the proposal and mailing of a Revised Notice of Proposal, the neighborhood association withdrew its opposition to the proposal (Exhibits F-2 and F-9).

Neighbors who live in the multi-dwelling building next door wrote in opposition to the original proposal stating that it would impact privacy and the proposed ADU would be too close to their front door and cut off light to their home. The neighbors requested that the project including the ADU be reduced in height and size so that it is more characteristic of the neighborhood (Exhibit F-3)

Staff response: Following the public comment period associated with the first Notice of Proposal, the applicant revised to proposal to reduce the height of the attached houses and scale back the ADUs.

The owner of a dwelling in the building to the west wrote that the increased density associated with the ADUs will reduce privacy and natural light. The owners ask for the ADUs to be denied (Exhibit F-4).

Staff response: Houses, attached houses and manufactured homes are allowed to provide an ADU by right in certain zones including the R1 (Residential 1,000) zone and therefore the presence of ADUs is not addressed as part of this land use review. Issues related to privacy and natural light are addressed as part of the findings below.

The owner of the home behind the site to the north wrote that the proposed ADUs will significantly reduce privacy and access to light for the homes to the north. The response also states that no mitigation is proposed (Exhibit F-5).

Staff responses: The applicant is requesting an Adjustment to the setback for the primary structure (the attached houses), not the ADUs. Comments about privacy and access to light are addressed in the findings below.

The co-owner of the property to the north wrote that the proposal is out of scale and context with the neighborhood. The response requests denial of the proposed Adjustment. The letter points to a statement in the Portland Zoning Code that states “the allowed density is not a special right that justifies adjusting other development standards”. The response states that the ADUs are attached to the row houses on the site only to avoid development standards associated with non-ADUs. The respondent refers to an overall purpose statement for ADUs which is not addressed as part of the approval criteria for this land use review. The respondent questions whether building coverage and landscaping requirements are met and states that although the proposed building meets height requirements, it is out of scale with the neighborhood. The response states that switching the railing from solid to cable doesn’t mitigate because the cable railings meet the minimum requirement of the Portland Zoning Code. The response notes that areas where the building setbacks are greater than the minimum required cannot be referred to as mitigation because these larger setbacks would be necessary to meet building coverage requirements. The respondent states that aligning yard space with neighboring properties does not mitigate either because the balconies of the ADU will provide views into neighbors’ yards. The respondent states that many of the ADU windows look into neighbors’ yards. The co-owner of the property states that there are other means to upgrade energy efficiency rather than adding 3 inches of depth to the walls and that increasing

the setbacks don't "reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods". The respondent disagrees with a claim in the applicant's narrative that the proposal will provide more open space than a max build out development because the proposal is to build to the maximum possible zoning code allowances with the exception of the requested setback Adjustments. The letter concludes that the proposal does not equally or better meet the purpose of the regulations requested to be modified and will block light, air and views for neighbors (Exhibit F-6).

Staff response: The proposal is not requesting to increase allowed density. Portland Zoning Code Section 33.205.050 states that in multi-dwelling zones, ADUs "are included in minimum density calculations, but are not included in maximum density calculations". This land use review cannot speculate the reason the ADUs are attached to the primary dwellings, we can only apply the correct Portland Zoning Code regulations to the proposal. As mentioned previously, the project is exempt from minimum landscaping standards because it is developed with attached houses (Portland Zoning Code Sections 33.120.235.B and 33.120.235.C.1). The applicant provides a diagram showing that building coverage requirements are met. The ADU setbacks are not subject to the Adjustment request and therefore impacts related to the ADU decks or windows cannot be considered as part of this land use review. The approval criteria do not require the applicant to show whether other means to increase energy efficiency for the structure have been evaluated. The final points made by the respondent in relation to mitigation, the purpose statement and the availability of light and air are addressed as part of the findings below.

A neighbor who lives directly behind the site requested the proposal be denied. The neighbor states that a letter received from the property owner with regards to the property was inaccurate. The neighbor also states that approval of the setback Adjustments will not maintain access to light and airflow and that the proposal will block light and air for one neighbor at all hours of the day. The neighbor also states that the project is out of scale with the buildings that surround it. The neighbor also states that the project will reduce options for privacy for adjacent neighbors (Exhibit F-7).

Staff response: The proposal has been modified since receipt of the neighbor's letter; however, it is important to note that the proposed ADUs are no longer located in the setback. Concerns about scale and the availability of light and air are addressed as part of the findings below.

The owner of a dwelling unit in the building east of the site wrote that the applicant's proposal will decrease the neighbors' livability and enjoyment of their home. The neighbor requested the proposed Adjustments be denied (Exhibit F-8).

Neighbors who live in the building to the east of the site wrote to encourage approval of the requested Adjustments (Exhibit F-10).

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 two Adjustments associated with plans to renovate and expand two existing row houses including adding two attached ADUs. The two Adjustments are located on each side of the row house structures. The Adjustment requests involve two reductions to the side setbacks. The first Adjustment request is to reduce the west side setback of the primary wall from 6 feet to 4 feet 8 inches and reduce the west side setback for the balcony wall from 8 feet to 7 feet 2 inches. The second Adjustment request is to reduce the east side setback of the primary wall from 6 feet to 4 feet 8 inches and reduce the east side setback for the balcony wall from 8 feet to 7 feet 2 inches. The purpose of the setback regulations in multi-dwelling zones is found in Portland Zoning Code Section 33.120.220.A and states:

The building setback regulations serve several purposes:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *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 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;*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users; and*
- *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 applicant has revised the overall project so that it is more consistent with the purpose of the setback regulations. This includes increasing the setbacks of the ADUs so the side walls no longer require Adjusting as part of this land use review, setting the upper floor of the ADUs and the uppermost deck back from the stories below, and incorporating a green roof into the structure design.

Specific to the request to reduce the side setbacks from 6 feet to 4 feet 8 inches (and the setback for a balcony wall from 8 feet to 7 feet 2 inches), the proposal will not block access for fire-fighting because the proposed setback is the same as the current setback. The Fire Bureau also responded with no objections, indicating that fire access is adequate. The proposal also provides adequate separation for fire protection as indicated by the comments provided by the Life Safety section of BDS.

The majority of the comments regarding the proposal blocking light and air had to do with the ADU portions of the row houses. The ADU portions are no longer located in the setback and therefore are no longer subject to this land use review. The setback of the rowhouse portion of the structure decreases by 4 inches for the existing wall area so that weatherization can be incorporated into the design. This amount of decreased setback should not have an apparent impact on the availability of light and air. The wall height is proposed to increase so that an additional floor with partially vaulted ceiling can be added. This increases the height of the side walls by between 4 and 9 feet with a total wall area increase of 188 square feet (excluding the extension of the ground floor wall). This represents an approximately 18 percent increase in wall area height within the side setbacks; however because this area is dispersed along the 36-foot long existing side wall and never contributes to more than approximately 4 to 9 feet in additional wall height, the availability of light and air for adjacent properties should be maintained.

The area is developed with single-dwelling homes, rowhouses and multi-dwelling development. Single-dwelling homes and rowhouses are found in both high density single-dwelling zones and multi-dwelling zones. The typical side setback in a single-dwelling zone is 5 feet. Older homes in multi-dwelling zones were also commonly built with a 5 feet (or less depending on the era of development) setback. The proposed 4-foot 8-inch setback is comparable to a 5-foot setback because the difference is only 4 inches which would not be apparent to passerby. The proposal will result in the west wall of the rowhouses to be approximately 15 feet from the house to the west and 10 feet from the multi-dwelling building to the east. As side setbacks are generally less than front or rear setbacks, this amount of separation between the rowhouses and the adjacent development is reflective of the general building scale and placement of multi-dwelling development in Portland's neighborhoods. This also promotes a reasonable physical relationship between residences especially considering that residences on the north side of N Edison orient toward the river and not toward the side.

The project and existing conditions maintain privacy at the ground level by typical features such as a wooden fence and vegetation. Privacy is maintained on the upper levels of the rowhouses due to existing conditions as well. The building to the east does not have windows on its west side so therefore, the proposal will have no impacts to privacy on that side. The house to the west is set back from N Edison further than the rowhouses and therefore privacy impacts from side windows in the reduced setback are decreased. Furthermore, because the rowhouses orient toward the river, the applicant is not proposing a significant amount of window area on the west side. In the provided narrative, the applicant also points out that "the existing and proposed decks of the (west rowhouse) are pushed closer to the street than the neighboring single family house to the northwest, disconnecting it visually from the adjacent neighbor's porch and balcony, which are setback farther from the street with privacy from landscaping, height off the sidewalk, and distance from the proposed semi-private decks". The rowhouse roof decks are pulled out of the setback and separated from the side building wall by the greenroof. This helps block views from the roof deck to the house to the west, although it is important to note that since these decks are not located within the setback and therefore are not subject to this land use review.

The site slopes upward from the street and the rowhouses and ADUs are incorporated into the topography; however, the proposal to reduce the side setbacks is not overtly impacted by the topography except that some of the garage level walls are located within the setback, but below grade. Despite the reduced setbacks, both the rowhouses and the ADUs will have several ground-level and deck-level options for outdoor areas. As mentioned previously, the reduced setbacks are compatible with single and multi-dwelling zoned neighborhoods. In this location, the overall project is taller than other structures in the immediate vicinity; however, it is not as tall as the R1 (Residential 1,000) zone allows by right.

Based on the information above, this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The proposal will not significantly detract from the livability or appearance of the residential area. The findings above under approval Criterion A note that the ADUs are no longer located in the setback and therefore are not subject to this land use review. The multi-dwelling structure to the east of the site does not have side windows so privacy will not be adversely impacted for that development. The house to the west of the site is situated further back from N Edison than the rowhouses and therefore impacts resulting from side windows and deck location pose less impact to privacy. Findings under Criterion A also discuss impacts on the availability of light and air and note that the height of the structure only increases between 4 and 9 feet with

approximately 188 square feet of additional wall height. This amount of additional height should not significantly detract from livability in terms of the availability of light and air. The additional 4 inches of wall depth due to the incorporation of weatherization features on the lower (existing) portions of the rowhouse walls also will not pose significant impacts to livability. Setting the rooftop deck in 5 feet and more from the east and west sides of the structure helps reduce impacts to privacy because some views from the rooftop decks toward neighboring properties will be obscured. The introduction of greenroofs or eco-roofs helps soften the appearance of the rowhouses. In addition, the replacement of the existing solid balcony railings with open wire railing provides a more aesthetically appealing appearance and better highlights the differing depths and features of the structure.

Based on the information above, 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. The first to reduce the setback on the west side of the structure and the second to reduce the setback on the east side of the structure. The purpose of the R1 (Residential 1,000) zone is to provide land for urban housing and to provide opportunities for multi-dwelling housing. The proposed Adjustments do not conflict with the potential to provide housing opportunities on this site at a density appropriate for the size of the site and the R1 zone. The development standards of the multi-dwelling zones work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The reduction in setbacks for the two sides of the structure are in part due to weatherization and energy efficiency improvements. In this way, the proposal to reduce the setbacks is consistent with the development standards of the zone. The remaining development standards in the zone are met for the overall project. Based on this information, this criterion is met.

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

Findings: No City designated scenic or historic resources are located on this site; therefore, this criterion is not applicable.

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

Findings: Impacts resulting from the Adjustment are mitigated to the extent practical. In the submitted narrative, the applicant states that “after receiving neighbors’ comments on the previous design dated January 20, 2016 and presenting the current design to the neighbors at a neighborhood meeting, I found that the biggest concern was the height and potential to block views. The reduced building height below the allowed maximum height is mitigation for the requested setback”. The proposal also reduces for impacts by providing a lower sloped vegetated roof that minimizes height while providing habitat for pollinators and a softer appearance than a traditional roof with asphalt shingles. In order to ensure the green roof is included in the project, a condition of approval is necessary. The condition states that a green roof as shown in Exhibit C-5 is required and must be maintained. The applicant has also mitigated by pulling the top floors of the ADUs and the upper balconies of the primary structures in from the sides of the building thus reducing the scale and impacts of these features. A portion of the Adjustment request is to reduce the setback to provide better weatherproofing and energy efficiency for the existing rowhouses which can be viewed as mitigation as well due to reduced environmental impacts. Based on this information, 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.

CONCLUSIONS

The applicant proposes two Adjustments associated with plans to renovate the existing rowhouses on this site and add additional floor area. The first Adjustment request is to reduce the west side setback of the primary wall from 6 feet to 4 feet 8 inches and reduce the west side setback for the balcony wall from 8 feet to 7 feet 2 inches. The second Adjustment request is to reduce the east side setback of the primary wall from 6 feet to 4 feet 8 inches and reduce the east side setback for the balcony wall from 8 feet to 7 feet 2 inches. The proposal maintains a reasonable physical relationship between residences. It also maintains privacy because the building to the east has no side facing windows and the home to the west is located further forward on its lot. The proposal properly mitigates for impacts through the inclusion of a green roof and increased setbacks for the upper floor of the ADUs and the top floor balcony on the rowhouses. The proposal meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of two Adjustments to:

1. To reduce the west side setbacks from 6 feet to 4 feet 8 inches for the primary building wall and from 8 feet to 7 feet 2 inches for the balcony wall (33.120.220.B.1); and
2. To reduce the side east setbacks from 6 feet to 4 feet 8 inches for the primary building wall and from 8 feet to 7 feet 2 inches for the balcony wall (33.120.220.B.1),

per the approved site plans, Exhibits C-1 through C-5, signed and dated October 10, 2016, 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 15-261236 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A green roof as shown in Exhibit C-5 is required and must be maintained.

Staff Planner: Matt Wickstrom

Decision rendered by:  **on October 10, 2016**
By authority of the Director of the Bureau of Development Services

Decision mailed: October 12, 2016

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 November 5, 2015, and was determined to be complete on January 20, 2016.

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 November 5, 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 requested that the 120-day review period be extended by 245 days, as stated with Exhibit A-4. Unless further extended by the applicant, **the 120 days will expire on: January 20, 2017.**

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 26, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 27, 2016 – (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 and Original LU Application
 1. Incomplete letter from Matt Wickstrom to Matt Stein dated November 23, 2015
 2. Supplemental submittal received January 20, 2016
 3. Supplemental submittal dated March 11, 2016
 4. Email from Corey Omev requesting to extend 120-day decision deadline
 5. Supplemental submittal dated July 29, 2016

6. Supplemental submittal showing building coverage dated September 22, 2016
 7. Supplemental submittal dated September 23, 2016
 8. Supplemental submittal dated August 10, 2016
 9. Supplemental submittal dated October 7, 2016
- B. Zoning Map (attached)
- C. Plans/Drawings:
1. Site Plan (attached)
 2. West Elevation Drawing (attached)
 3. East Elevation Drawing (attached)
 4. Elevation Drawings (attached)
 5. Roof Plan (attached)
- D. Notification information:
1. Mailing list dated February 11, 2016
 2. Mailed notice dated February 11, 2016
 3. Mailing list revised Notice of Proposal dated August 22, 2016
 4. Mailed notice revised Notice of Proposal dated August 22, 2016
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Water Bureau
 3. Life Safety Section of BDS
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Summary sheet of agency responses
- F. Correspondence:
1. Kevin Jeray, February 22, 2016, opposition
 2. Hilary Smith, Cathedral Park Neighborhood Association, February 23, 2016, opposition
 3. Sasha Meyer, February 28, 2016, opposition
 4. Rose Meyer, February 29, 2016, opposition
 5. Seth Nickell, March 2, 2016, opposition
 6. Ben Hagenhofer-Daniell, March 3, 2016, opposition
 7. Andrew Pizzolato, March 3, 2016, opposition
 8. Rose Meyer, August 26, 2016, opposition
 9. Doug Larson, Cathedral Park Neighborhood Association, September 8, 2016, withdraw of opposition
 10. Leslie Smith, September 12, 2016, support

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).