



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

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Date: April 12, 2017
To: Interested Person
From: David Besley, 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 17-122513 AD

GENERAL INFORMATION

Applicant: Brenda Gunderson
Po Box 820008
Portland OR 97282

Site Address: 1103 SE SPOKANE ST

Legal Description: BLOCK 51 W 1/2 OF LOT 10&11, SELLWOOD
Tax Account No.: R752706040
State ID No.: 1S1E23CA 09000
Quarter Section: 3831

Neighborhood: Sellwood-Moreland, contact David Schoellhamer at d.dchoellhamer@comcast.net

Business District: Sellwood-Westmoreland, contact Emily Pinkstaff at emily.pinkstaff@newseasonsmarket.com

District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010

Zoning: R2.5ad (Single Dwelling Residential 2,500 with Alternative Design Density and Design Overlay Zones)

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

Proposal:

The applicant is proposing to go through a concurrent Lot Confirmation and Property Line Adjustment which would result in one lot becoming two lots - "Tract 1" to the south with an existing house, and "Tract 2" to the north which is vacant. The existing parking space is located on what will be Tract 2. Due to site constraints, a parking space on Tract 1 with the existing house is not proposed. The Portland Zoning Code states that one parking space is required per residential unit (Section 33.266.110, Table 266-1, Table 266-2). An Adjustment is therefore

necessary to reduce minimum required parking space from one space to zero spaces for Tract 1.

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 5,000 square-foot site is on the east side of SE 11th Avenue between SE Spokane Street and SE Nehalem Street. The site is relatively flat and developed with a two-story 1,628 square-foot residence. As noted in the Proposal above, the applicant is proposing to go through a Lot Confirmation and Property Line Adjustment which would result in one lot becoming two lots - "Tract 1" to the south with an existing house, and "Tract 2" to the north which is vacant. The surrounding vicinity is developed with mix of single-dwelling residences, multi-dwelling residential units, and commercial uses and buildings.

Zoning: The R2.5 zone is a single-dwelling zone that is intended to preserve land for housing, and to provide housing opportunities for individual households. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. Regulations of the "a" zone overlay (Alternative Design Density Zone) and "d" zone overlay (Design Zone) are not applicable to the Adjustment proposal.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 20, 2016**. The following Bureaus have responded with the following information:

- The Portland Bureau of Transportation (PBOT) responded with no concerns and noted that, as indicated by a required traffic study, half of the on-street parking spaces within the study area boundary would be available to serve the site. In addition, the southern parcel could park at least two cars along its SE 11th and SE Spokane frontages without having to park along a neighbor's frontage (Exhibit E-1);
- The Bureau of Environmental Services responded with no concerns and provided information on stormwater disposal (Exhibit E-2); and
- The Life Safety section of the Bureau of Development Services (BDS) responded with Building Code information but no concern regarding approvability of the Adjustment. They also noted that if the deck is to remain, any guardrail within three feet of the property line must be protected with a one-hour fire rating (Exhibit E-3).

The following Bureaus have responded with no concerns (Exhibit E-4):

- The Water Bureau; and
- The Site Development Section of BDS.

Neighborhood Review: Five written responses were received in opposition to the proposal. One response was received from the Sellwood-Moreland Improvement League (SMILE) and four responses were received from neighboring property owners. Concerns, which for the most part are shared by all neighbors, are summarized below:

- There are concerns that the removal of a required parking space will further reduce the availability of on-street parking in an area that already has limited parking and is close to a 30-unit apartment building is being constructed.
- The applicants have not mitigated the loss of a required parking space.

Staff Response: Concerns are addressed in the Zoning Code Approval Criteria findings below.

ZONING CODE APPROVAL CRITERIA

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant has requested an Adjustment to reduce the required parking space from one to zero spaces as a result of a lot line adjustment and resulting site constraints. The purpose for the vehicle parking regulations is as follows:

33.266.110 Minimum Required Parking Spaces

The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. Multidwelling development that includes a large number of units may require some parking to support existing and future uses in the area and serve residents and guests, especially those with disabilities. Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. Transit supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.

Tract 1 – the southernmost lot – includes an existing house which is too close to the street-facing lot lines to accommodate a required 9-foot wide by 18-foot deep parking space, and the only logical area where a parking space would fit is occupied by a 10-foot by 12-foot utility easement.

As noted in the PBOT response (Exhibit E-1) the parking demand study found that on average half of the on-street parking spaces within the study area boundary would be available to serve the site. PBOT does not consider an area having a significant parking problem until the utilization rate of 85% is reached for on-street parking spaces during the peak demand period. In addition, the southern parcel could park at least two cars along its SE 11th and SE Spokane frontages without having to park along a neighbor's frontage. PBOT notes that the curb cut for a residential driveway is 10-ft wide with 3-ft wings on either side for a total of 16-ft. This results in a reduction of an on-street parking space that otherwise would be available for anyone to use. Effectively, the proposal is exchanging an off-street parking space for an on-street parking space, which will better accommodate parking needs in the area than the required off-street parking space, which would only accommodate the applicant's parking needs. PBOT noted no concerns to the request.

As conditioned, 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 parking space removal will not detract from the livability or appearance of the residential area as there is no new construction proposed. Having an additional on-street parking space will improve livability in the residential area by providing additional parking.

As conditioned, 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 proposed; therefore, this criterion is not applicable.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. 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: As noted in the PBOT response (Exhibit E.1), the curb cut for a residential driveway is 10-ft wide with 3-ft wings on either side for a total of 16-ft. If it was possible for Tract 1 to accommodate a curb cut for a required parking space, this would result in a reduction of one on-street parking space that otherwise would be available for anyone to use. The loss of an off-street parking space results in the gain of a public, on-street parking space; impacts resulting from the Adjustment are therefore mitigated to the extent practical.

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 Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, 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 has requested an Adjustment to reduce the required vehicle parking space from one space to zero spaces as a result of a Lot Confirmation and Property Line Adjustment and resulting site constraints. Because the curb cut of a required (off-street) parking space would be 16 feet long, the proposal is effectively exchanging an off-street parking space for an on-street parking space. This will better accommodate parking needs in the area than the required off-street parking space, which would only accommodate the applicant’s parking needs. The proposal meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the required parking space from one to zero (Section 33.266.110, Table 266-1, Table 266-2) for Tract 1 of a pending Lot Confirmation and Property Line Adjustment as shown on the approved site plan, Exhibit C.1, signed and dated April 6, 2017, subject to the following condition:

- 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-122513 AD."

Staff Planner: David Besley



Decision rendered by: _____ **on April 6, 2017.**

By authority of the Director of the Bureau of Development Services

Decision mailed: April 12, 2017

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 February 16, 2017, and was determined to be complete on March 6, 2017.

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 February 16, 2017.

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 4, 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 April 26, 2017** 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 **April 27, 2017 – (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:

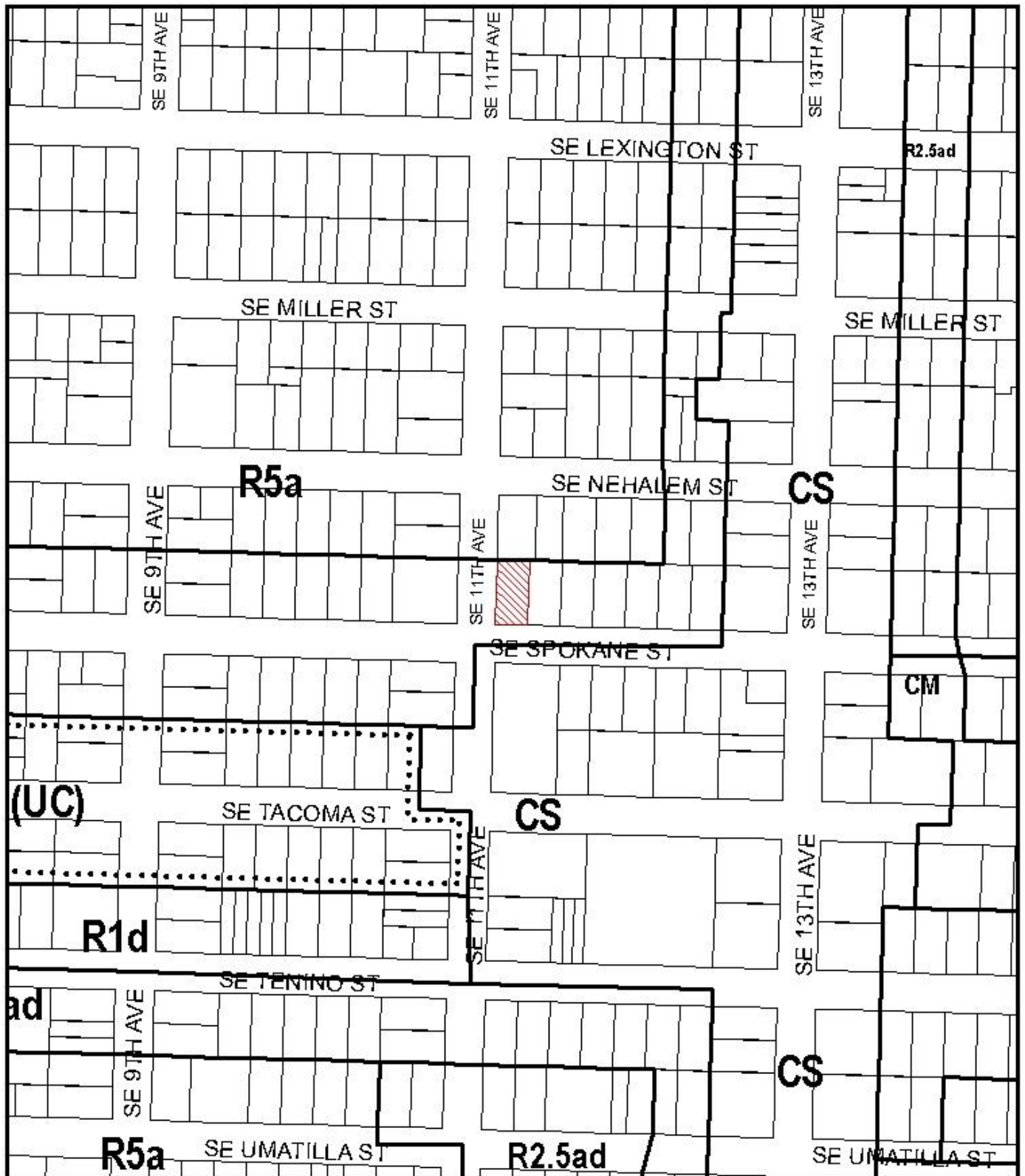
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant Submittal
 - 1. Applicant's Statement
 - 2. Applicant's response to letters of opposition dated
- 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 Transportation Engineering and Development Review
 - 2. Bureau of Environmental Services
 - 3. The Life Safety section of BDS
 - 4. Bureaus responding with "no concern"
- F. Correspondence:
 - 1. SMILE, March 30, 2107, E-Mail expressing concerns with the requested Adjustments
 - 2. Peter and Leocadia Hainley, March 22, 2017, E-Mail expressing concerns with the requested Adjustments
 - 3. David Ashman, March 30, 2017, E-Mail expressing concerns with the requested Adjustments
 - 4. Matt Hainley, March 23, 2017, E-Mail expressing concerns with the requested Adjustments
 - 5. Michael Gilbertson, March 21, 2017, E-Mail expressing concerns with the requested Adjustments
- G. Other:
 - 1. Original LU Application and Receipt

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



File No. LU 17-122513 AD
 1/4 Section 3831
 Scale 1 inch = 200 feet
 State_Id 1S1E23CA 9000
 Exhibit B (Feb 21, 2017)

