



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

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Date: April 17, 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 17-116687 AD

GENERAL INFORMATION

Applicant: Kevin L Mickelsen
2817 SE Waverleigh Blvd
Portland, OR 97202

Site Address: 2817 SE WAVERLEIGH BLVD

Legal Description: BLOCK 8 LOT 3, WAVERLEIGH HTS
Tax Account No.: R885300960
State ID No.: 1S1E12BC 07600
Quarter Section: 3333

Neighborhood: Hosford-Abernethy, contact chair@handpdx.org
Business District: Greater Brooklyn, contact David Weislogel at 503-872-9320
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010

Zoning: R2.5 (Single Dwelling Residential 2,500)

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

Proposal:

The applicants are proposing to create a parking space in front of the house in order to access an electric charger for their all-electric vehicle. The Portland Zoning Code states that parking spaces are not allowed within the first 10 feet of a front lot line (Section 33.266.120.C.1.a), that a parking space must be at least 9 feet by 18 feet (Section 33.266.120.D.1), and that the minimum driveway width on private property is 9 feet (Section 33.266.120.D.2). The driveway is proposed to have 8 feet in width (two parallel strips of concrete 30 inches wide with a 36 inch space between), the parking space is proposed to be 8 feet wide and a range of 16 feet to 18 feet long, and 10 feet of the parking space is proposed to be in the 10-foot front setback; therefore three Adjustments are required:

1. to reduce the minimum parking space size from 9 feet by 18 feet to 8 feet by a range of 16 feet to 18 feet in length;
2. to reduce the minimum driveway width from 9 feet to 8 feet; and
3. to waive the requirement that parking spaces not allowed within the first 10 feet of a front lot line.

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 3,912 square foot lot is on the north side of SE Waverleigh Blvd. between SE 28th Avenue and SE 28th Place. The site slopes upward slightly from west to east, and is currently developed with a single-story 2,163 square foot residence. The surrounding vicinity is developed with a mix of single-dwelling residences to the north and commercial uses to the south.

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.

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 **March 10, 2017**. The following Bureaus have responded with the following information:

- The Portland Bureau of Transportation (PBOT) does not support a reduction in length from 18 feet to 16 feet (Exhibit E-1); and
- The Bureau of Environmental Services responded with no concerns and provided stormwater management information and site considerations (Exhibit E-2).

The following Bureaus have responded with no concerns (Exhibit E-3):

- The Life Safety Section of the Bureau of Development Services (BDS);
- The Site Development Section of BDS;
- The Water Bureau; and
- The Fire Bureau.

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

33.805.040 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 has requested an Adjustment to create an 8 foot wide by 16-to-18 foot long parking space within the first 10 feet of a front lot line. The relevant purpose statements and associated findings are found below:

33.266.120 Development Standards for Houses and Duplexes

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

Though a parked car will be closer to the right-of-way than the zoning code allows, the visual impacts will be minimal in part because of the proposed two-track paving, which leaves a permeable 36-inch-wide strip between two 30-inch-wide paved parking strips. This permeable area will reduce runoff and improve visual appeal as this system allows vegetation to grow; it also encourages the longevity of an 18 inch diameter cherry tree in the front yard. A condition of approval will require the 3 foot area between the paved strips remain permeable and vegetated.

PBOT notes in their review that they have no concerns with the requested Adjustments to allow a parking space within the first 10 feet of a front lot line and to reduce the on-site driveway width from 9 feet to 8 feet; however, they do not support the proposed Adjustment to reduce the minimum length of the parking space from 18 feet to 16 feet. Given a standard vehicle length between 15 feet and 19 feet, the proposed on-site parking space has the potential to result in a vehicle that would encroach into the sidewalk. Therefore, a condition will be required that the vehicle parking space be a minimum of 18-feet in length as measured from the edge of the sidewalk.

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: As noted above, the paved parking strips with a permeable, vegetated area between will improve the visual appeal of the driveway as this system allows vegetation to grow and supports the survival of a mature cherry tree in the front yard. As such, 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: The overall purpose of the R2.5 zone is to preserve land for housing, and to provide housing opportunities for individual households. The proposed Adjustments to parking standards support the residential use and the cumulative effect of the Adjustments will therefore be consistent with the overall purpose of the zone.

This criterion is met.

- 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: With the conditions requiring the vehicle parking space be a minimum of 18-feet in length to prevent vehicles from encroaching into the sidewalk and that a vegetated permeable area be retained between the parking strips, there are no

discernible impacts that would result from granting the requested Adjustments for which mitigation would be required. The parking space will have minimal impacts to the appearance of the area.

As conditioned, 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 create an 8 foot wide by 16-to-18 foot long parking space within the first 10 feet of a front lot line. The paved parking strips with a permeable area between will improve the visual appeal of the driveway as this system allows vegetation to grow and supports the survival of a mature cherry tree in the front yard. Given a standard vehicle length between 15 feet and 19 feet, the proposed on-site parking space has the potential to result in a vehicle that would encroach into the sidewalk. Therefore, a condition will require that the vehicle parking space be a minimum of 18-feet in length. The proposal meets the relevant approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of three Adjustments (Section 33.266.120 C-D)

1. to reduce the minimum parking space size from 9 feet by 18 feet to 8 feet by 18 feet (note that the minimum 18-foot length to be measured from the edge of the sidewalk);
2. to reduce the minimum driveway width from 9 feet to 8 feet; and
3. to waive the requirement that parking spaces not allowed within the first 10 feet of a front lot line.

For a new vehicle parking space, per the approved site plan, Exhibit C-1, signed and dated April 10, 2017, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B and C) 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 17-116687 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The vehicle parking space must be a minimum of 18 feet in length.

- C. The 3-foot area between the paved driveway strips shall remain as permeable area and be vegetated.

Staff Planner: David Besley



Decision rendered by: _____ **on April 10, 2017.**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 17, 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 6, 2017, and was determined to be complete on March 7, 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 6, 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 5, 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 May 1, 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 **May 2, 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:

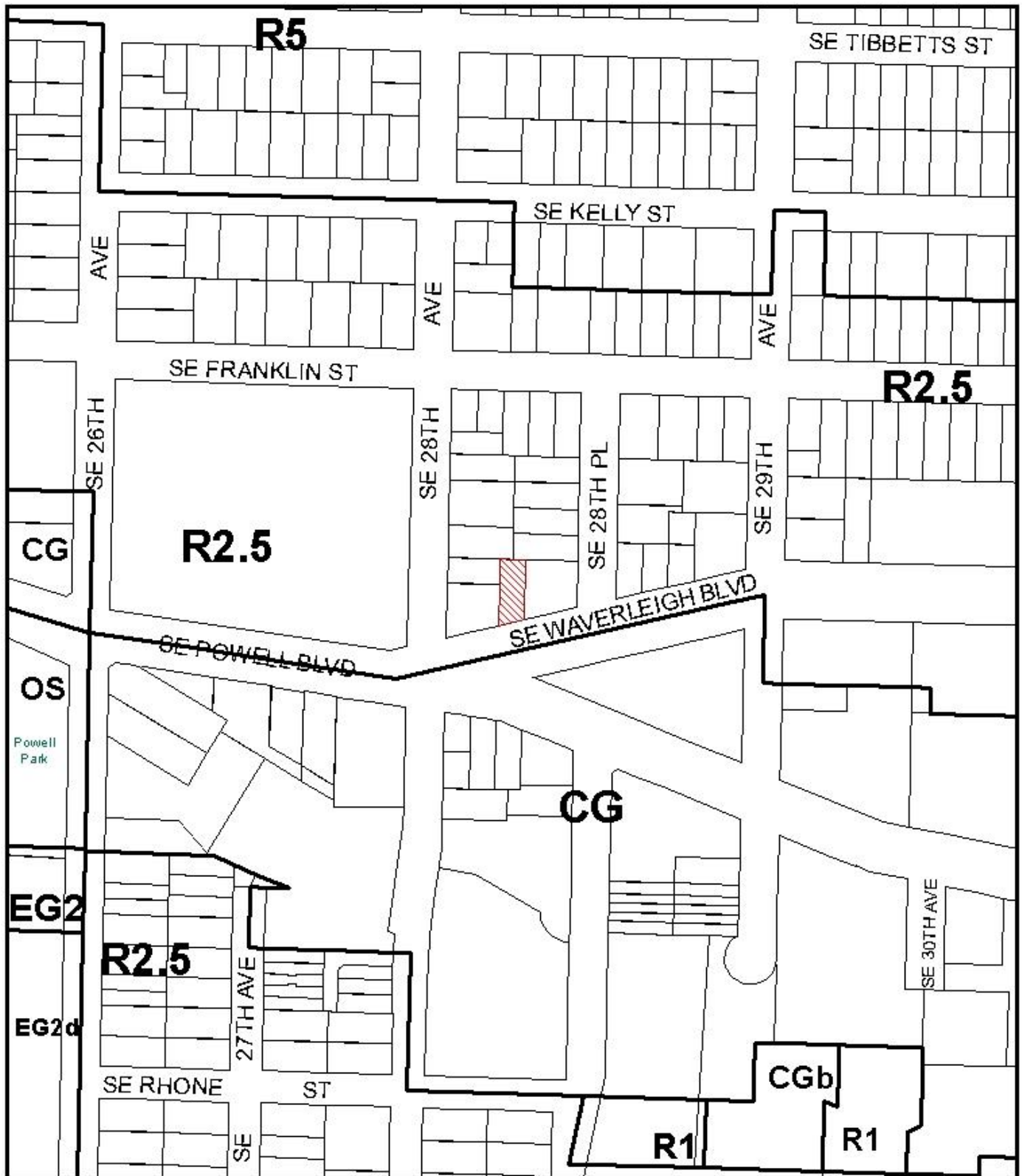
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS


NOT ATTACHED UNLESS INDICATED

- A. Applicant'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 Transportation Engineering and Development Review
 - 2. Bureau of Environmental Services
 - 3. Agencies responding with "no concern"
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incomplete letter from staff to applicant, sent February 17, 2017

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. | <u>LU 17-116687 AD</u> |
| 1/4 Section | <u>3333</u> |
| Scale | <u>1 inch = 200 feet</u> |
| State_Id | <u>1S1E12BC 7600</u> |
| Exhibit | <u>B</u> (Feb 09, 2017) |

