



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

Ted Wheeler, Mayor
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Date: May 22, 2017
To: Interested Person
From: Lauren Russell, 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 17-150086 AD

GENERAL INFORMATION

Applicant/Owner: Gerry Gerhart | Highland NW Inc
727 SE 72nd Ave
Portland, OR 97215-2209

Surveyor: Scott Field | NW Surveying
1815 NW 169th Pl, Ste 2090
Beaverton OR 97006

Site Address: 2035 SE BELMONT ST / 2036 SE MORRISON ST

Legal Description: BLOCK 3 W 5' OF LOT 15 LOT 16, TILTONS ADD
Tax Account No.: R835601380
State ID No.: 1S1E02AA 05100
Quarter Section: 3132
Neighborhood: Buckman, contact Rick Johnson at rickjohnson77@comcast.net
Business District: Belmont Business Association, contact Constance Ihrke at 503-267-3721.

District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Plan District: None
Zoning: CS – Storefront Commercial
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The subject site contains two existing structures. The applicant intends, through a separate review, to confirm the underlying lots and adjust the common property line in order to create 2 lots, each containing one of the existing structures. The existing structure on proposed Tract 1 is a one-and-a-half-story single-dwelling residence and the existing structure on proposed Tract 2 is a one-and-a-half-story structure that serves as a medical office. Per Zoning Code Section 33.130.220.B and Table 130-3, the minimum building coverage in the Storefront Commercial

zone is 50-percent of the site area. Proposed Tract 1 would be 2,382 square feet with the existing building coverage of 994 square feet, or 41.7% of the site area. Proposed Tract 2 would be 3,314 square feet with the existing building coverage of 1,394 square feet, or 44.5% of the site area. Because the existing development on the proposed Tracts would not meet the minimum 50% building coverage requirement, the applicant requests the following Adjustments:

- Decrease the minimum building coverage for the existing development on proposed Tract 1 from 1,191 square feet to 994 feet; and
- Decrease the minimum building coverage for the existing development on proposed Tract 2 from 1,567 square feet to 1,394 square feet.

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 subject site is a 5,520 square foot through lot that fronts SE Morrison Street to the north and SE Belmont Street to the south, between SE 20th Avenue and SE 23rd Avenue. The site is currently developed with two structures: a one-and-a-half-story duplex facing SE Morrison Street and a one-and-a-half-story structure facing SE Belmont Street, which is currently being used as a medical office. Directly to the west of the subject site is a property that contains a mix of uses including multi-dwelling residential in two-story buildings, several commercial spaces, and a warehouse maker space. Of the two properties located directly east of the subject site, the property facing SE Morrison Street is developed with a single-dwelling residence and the property facing SE Belmont Street is developed with a commercial building that contains a restaurant. Lone Fir Cemetery, a historic landmark, is located directly north of the subject site. Properties south of the subject site across SE Belmont Street contain one- to two-story commercial buildings and a multi-dwelling residential building that is currently under construction.

Zoning: The CS designation is one of the City's commercial zones, which are intended to promote uses and development that will enhance the economic viability of the commercial district and city as a whole. The development standards work together to promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential uses.

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 April 24, 2017. The following Bureaus have responded with no issues or concerns regarding the requested Adjustments:

- Bureau of Environmental Services (BES) responded that the requested adjustment does not appear to have an impact on the location of a stormwater management system; therefore, BES has no objections (Exhibit E-1);
- Water Bureau responded with no concerns (Exhibit E-2);
- Fire Bureau responded with no concerns (Exhibit E-3);
- Site Development Section of BDS responded with no concerns (Exhibit E-4); and
- Life Safety Review Section of BDS responded that there appears to be no conflicts between the proposal and applicable building codes (Exhibit E-5);

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the "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 applicant has demonstrated 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 is requesting the following two Adjustments:

- Decrease the minimum building coverage for the existing development on proposed Tract 1 from 1,191 square feet to 994 feet; and
- Decrease the minimum building coverage for the existing development on proposed Tract 2 from 1,567 square feet to 1,394 square feet.

The purpose of the building coverage standards is stated in Zoning Code Section 33.130.220.A:

Purpose. *The building coverage standards limit the footprint of buildings and work with the FAR, height, and setback standards to control the overall scale of development. The standards promote development consistent with the desired character of the zone. In the CM and CS zones, the required minimum building coverage standards promote development which will support the built-up, urban character of these zones. In the CN2 and CO1 zones, the standards promote buildings at a scale compatible with surrounding residential development.*

In the CS zone, the 50-percent minimum building coverage standard is intended to promote development which will support the built-up, urban character of the zone. The building coverage of the subject site is currently 49.5% and after the proposed property line adjustment, proposed Tract 1 would have a building coverage of 41.7% and proposed Tract 2 would have a building coverage of 44.5%. The applicant does not propose to alter the existing buildings, which were both originally constructed as single-dwelling residences. Each building is located close to and oriented toward the adjacent street: the northern building's porch is located 7 feet from the front property line along SE Morrison Street and the southern building's porch is located 12.4 feet from the front property line along SE Belmont Street. Although the building coverage of each proposed Tract would be under 50-percent, the existing buildings are built-up and appear to take up much of the yard, which contributes to the dense urban development pattern of the subject block. Additionally, the proposed Adjustments to minimum building coverage would apply only to the existing development and not future development, which would ensure that any future development on the Tracts would be even more built up. Based on these reasons, the proposed Adjustments equally meet the intent of the regulation and 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: Because the subject site is located in a commercial zone, the applicant must demonstrate that the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area. Zoning Code Section 33.910 defines desired character as the “preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district” and “it also includes the preferred and envisioned character based on any adopted plans or design guidelines for an area.”

Street classifications: The Portland Transportation System Plan classifies SE Morrison Street as a City Bikeway, City Walkway, Community Corridor, Neighborhood Collector Street, and Major Transit Priority Street. It classifies SE Belmont Street as a City Bikeway, City Walkway, Community Main Street, Neighborhood Collector Street, and Major Transit Priority Street. The proposed Adjustments to decrease minimum building coverage would not affect the uses or development intended along these adjacent streets.

CS zone character statement: The character statement of the CS zone is stated in Zoning Code Section 33.130.030.F:

Storefront Commercial Zone. *The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service, and business uses with a local and regional market area. Industrial uses are allowed but are limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.*

Decreasing the minimum building coverage from 50% to 41.7% for proposed Tract 1 and to 44.5% for proposed Tract 2 would still allow for a full range of retail, service, and business uses with a local and regional market area; and pedestrian-oriented development; AS described in Approval Criterion A, both buildings extend close to the respective front property lines, with the buildings extending across much of the lot width. Main entrances and pedestrian paths are oriented to the adjacent streets. Therefore the proposed Adjustments would not affect the character of the CS zone.

Buckman Neighborhood Plan: The site is located within the boundaries of the 1991 “Buckman Neighborhood Plan.” Staff has reviewed the adopted policies of this plan and has found that none are applicable to the requested Adjustments.

For these reasons, the proposal would be consistent with the classifications of the adjacent streets and the desired character of the 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: Two Adjustments have been requested. The overall purpose statement of the CS zone is to preserve and enhance older commercial areas that have a storefront character. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged. As stated in Criterion B, decreasing the minimum building coverage from 50% to 41.7% for proposed Tract 1 and to 44.5% for proposed Tract 2 would maintain the existing pedestrian-oriented development and buildings with a built-up character. Therefore this criterion is met.

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

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. Because there no scenic or historic resource designations are mapped on the subject site, this criterion is not applicable.

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

Findings: As discussed in the findings for approval criterion B, the proposal has no adverse impacts on the classifications of the adjacent streets or the desired character of the area for which mitigation would be required. Therefore, this criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). Because no environmental overlay zone is mapped on subject site, 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 proposal to decrease the minimum building coverage for the existing development on proposed Tracts 1 and 2 equally meets the intent of the regulations and is consistent with the classifications of the adjacent streets and the desired character of the area. The applicant has demonstrated that the applicable approval criteria have been met. Because the approval criteria have been met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to decrease the minimum building coverage for the existing development on proposed Tract 1 from 1,191 square feet to 994 square feet (Zoning Code Section 33.130.220.B).

Approval of an Adjustment to decrease the minimum building coverage for the existing development on proposed Tract 2 from 1,567 square feet to 1,394 square feet (Zoning Code Section 33.130.220.B).

The above approvals are granted per the approved site plan, Exhibit C-1, signed and dated May 17, 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 17-150086 AD. No field changes allowed."

Staff Planner: Lauren Russell

Decision rendered by: Lauren Russell **on May 17, 2017.**
By authority of the Director of the Bureau of Development Services

Decision mailed: May 22, 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 April 11, 2017, and was determined to be complete on April 19, 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 April 11, 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: August 17, 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 June 5, 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 **June 6, 2017**.
- 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;

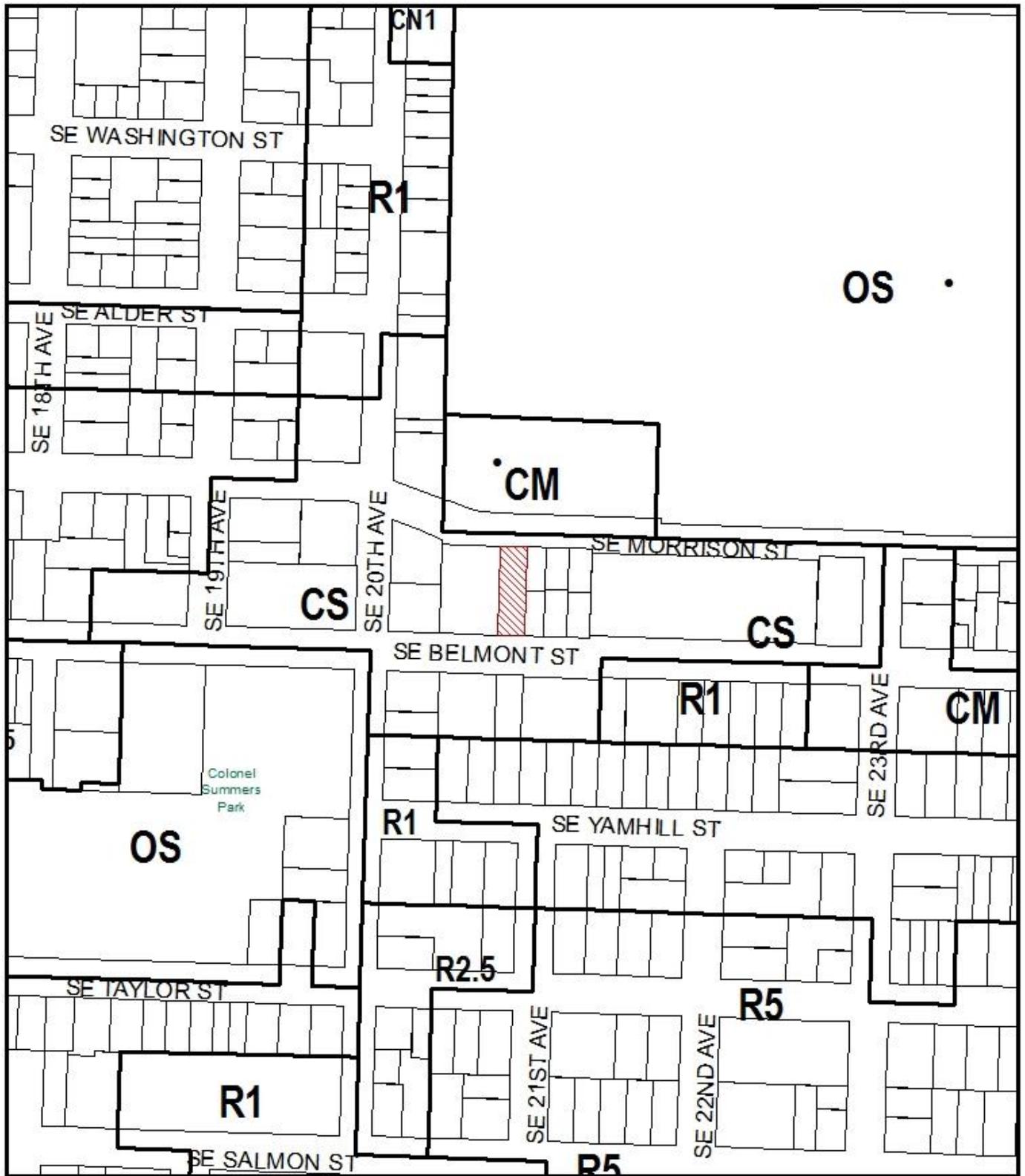
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative and Site Plan received 4/11/17
- 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. Water Bureau
 - 3. Fire Bureau
 - 4. Site Development Review Section of BDS
 - 5. Life Safety Section of BDS
- F. Correspondence: none received
- 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
- Historic Landmark

File No.	<u>LU 17-150086 AD</u>
1/4 Section	<u>3132</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E02AA 5100</u>
Exhibit	<u>B</u> (Apr 12, 2017)

PREPARED FOR
 HIGHLAND NW, INC.
 2035 SE BELMONT STREET
 PORTLAND, OR 97214

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

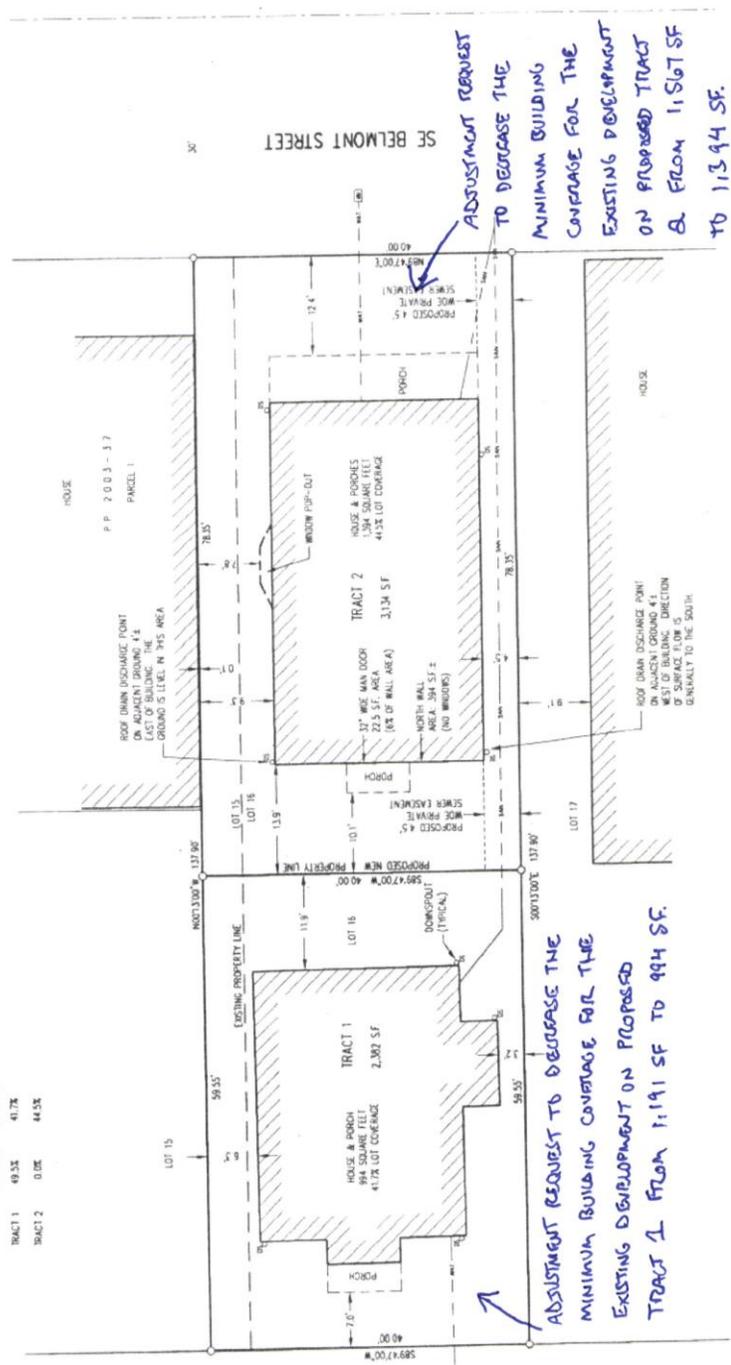
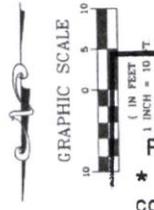
OREGON
 JAMES SCOTT FIELD
 SCOTT 2844
 17-31-2017
 RENEWAL DATE

I HEREBY CERTIFY THAT THE SURVEY
 OF THIS PROPERTY WAS DONE UNDER
 MY DIRECT SUPERVISION AND THAT
 THE SURVEYING WAS ACCORDING TO
 THE STANDARDS OF THE PROFESSION AND
 THIS MAP IS A TRUE REPRESENTATION
 OF FACT

EXHIBIT MAP

FOR A PROPOSED PROPERTY LINE ADJUSTMENT
 AND A PORTION OF LOT 15, BLOCK 3, TILTON'S ADDITION,
 LOCATED IN THE NORTHEAST 1/4 OF SECTION 2, TOWNSHIP 1 SOUTH,
 RANGE 1 EAST, W.M., CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
 DATE: MARCH 21, 2017

TRACT	EXISTING	PROPOSED
TRACT 1	49.53	41.78
TRACT 2	0.08	44.58



ADJUSTMENT REQUEST
 TO DECREASE THE
 MINIMUM BUILDING
 COVERAGE FOR THE
 EXISTING DEVELOPMENT
 ON PROPOSED TRACT
 2 FROM 1,191 SF TO 994 SF.

ADJUSTMENT REQUEST TO DECREASE THE
 MINIMUM BUILDING COVERAGE FOR THE
 EXISTING DEVELOPMENT ON PROPOSED
 TRACT 1 FROM 1,191 SF TO 994 SF.

LEGEND

SURVEY MONUMENT TO BE SET	O
DOWNSPOUT	□
WATER METER	⊞
SANITARY SEWER LINE	---
WATER LINE	---

- NOTES
- THE PROPERTY BOUNDARY AS SHOWN IS DETERMINED BY SURVEY.
 - UTILITY LINES ARE BASED ON RECORD INFORMATION PER WWW.PORLANDMAPS AND ABOVE.
 - ROOF DRAIN DISCHARGE POINT FOR TRACT 1 HOUSE AND THE SOUTH SIDE OF THE TRACT 2 HOUSE ARE UNKNOWN POINT. THE ROOF DRAIN ON THE NORTH SIDE OF THE TRACT 2 HOUSE DISCHARGE TO THE ADJACENT DROUAD.
 - THE APPLICANT IS PROPOSING A PRIVATE EASEMENT UNDER TRACT 2 FOR SEWER LATERAL FROM TRACT 1. PER CITY RECORDS, THE SEWER LINES JOIN BEFORE CONNECTING TO THE CITY SEWER LINE ON SE BELMONT STREET. THE APPLICANT PROPOSES TO SPLIT THE LATERALS SO THERE ARE SEPARATE CONNECTIONS TO THE CITY LINE IN CONNECTION WITH THE APPLICATION.
 - THERE ARE NO DRIVEWAYS OR OFF STREET PARKING LOCATED ON EITHER TRACT.

BOUNDARY TOPOGRAPHIC CONSTRUCTION CADASTRAL

NORTHWEST

1815 NW 16TH PL. ACE. SUITE 2090
 PORTLAND, OREGON 97206
 PHONE: (503) 848-2127 FAX: (503) 848-2179

SURVEYING, Inc.

JOB NAME	YANG PUA
JOB NUMBER	1593
DRAWN BY	SJT
CHECKED BY	CHS
DRAWING NO.	1593_PUA-EX

City of Portland - Bureau of Development Services

Planner Jamian Russell Date 6/17/17

* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

CASE NO. 17-150086 AB
 EXHIBIT C-1