



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

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Date: July 3, 2017
To: Interested Person
From: Andrew Gulizia, 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 17-177147 AD

GENERAL INFORMATION

Applicant: Josh Patrick
Columbia Pacific Homes LLC
919 NE 19th Ave. #160n
Portland, OR 97232

Property Owners: Daniel Brown and Judy McKay
6347 SE 84th Ave.
Portland, OR 97266

Site Address: 6347 SE 84th Ave.

Legal Description: BLOCK 5 LOT 23&24, ARLETA PK 4
Tax Account No.: R037001150
State ID No.: 1S2E16CC 16000
Quarter Section: 3639
Neighborhood: Lents, contact Judy Low at pmsi_92@hotmail.com
Business District: Eighty-Second Ave of Roses Business Association, contact Nancy Chapin at nchapin@tsgpdx.com; Lents Business Association, contact lentsgrown@gmail.com

District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550

Zoning: R2.5a – Single-Dwelling Residential 2,500 with Alternative Design Density (“a”) overlay zone

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

Proposal: The subject property contains two lots (Lot 23 and Lot 24) which are each currently 40 feet wide. The applicant submitted a Property Line Adjustment application (file # PR 17-182350 PLA LC) to move the existing lot line between Lot 23 and Lot 24 to the location shown on the attached site plan (Exhibit C-1). Lot 23 will be 44 feet wide and Lot 24 will be 36 feet

wide (the minimum lot width in the R2.5 zone). A new house is proposed for Lot 24. In order to accommodate the proposed Property Line Adjustment while retaining the existing house on Lot 23, the applicant is requesting an Adjustment to reduce the minimum north side setback for the existing house on Lot 23 from 5 feet to 3.4 feet for the wall (Zoning Code Section 33.110.220.B) and from 4 feet to 2.4 feet for the eave (Zoning Code Section 33.110.220.C.1). An existing bay window on the north side of the existing house will be removed. No Adjustments are requested for the new house proposed for Lot 24.

(The “Notice of Proposal” described the proposed north side setback for the existing house as 3.5 feet for the wall and 2.5 feet for the eave. After the “Notice of Proposal” was sent, the applicant submitted the stamped survey in Exhibit C-1 which found the proposed setback will be 3.4 feet for the wall and 2.4 feet for the eave.)

Relevant Approval Criteria: In order to be approved, this proposal must comply with the Adjustment Review approval criteria in Zoning Code Section 33.805.040.A-F.

ANALYSIS

Site and Vicinity: The site is 8,000 square feet in area and is located on the west side of SE 84th Avenue, between SE Tolman Street and SE Duke Street. The site contains two separate lots (Lot 23 and Lot 24) which are each currently 40 feet wide and 100 feet deep. The site is developed with a one-and-a-half-story, single-dwelling house that was constructed in 1906 and a detached garage in the rear yard. The house and garage are on the southern portion of the site, almost entirely within the existing boundaries of Lot 23. Neighboring properties are developed with one-story and two-story single-dwelling houses of various ages. A commercial corridor along SE 82nd Avenue is two blocks west of the site.

Zoning: The R2.5 zoning designation is one of the City’s single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The site is also within the boundaries of the Alternative Design Density (“a”) overlay zone, though the “a” overlay regulations are not applicable to this Adjustment request. The purpose of the “a” overlay zone is to focus development on vacant sites, preserve existing housing, and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal” was mailed June 6, 2017. The following Bureaus responded with no concerns about the proposed setback Adjustment:

- Bureau of Environmental Services (Exhibit E-1);
- Portland Bureau of Transportation (Exhibit E-2);
- Water Bureau (Exhibit E-3); and
- Fire Bureau (Exhibit E-4).

The Site Development Review Section of BDS responded with a question about cesspool location (Exhibit E-5). While this issue is not directly related to the setback Adjustment for the existing house, the applicant is advised that Site Development will require this issue to be addressed before the pending Property Line Adjustment for this site can be approved.

The Life Safety Review Section of BDS responded with information on building code requirements for eaves less than 3 feet from lot lines (Exhibit E-6). This issue does relate to the setback Adjustment for the existing house, so as discussed in the approval criteria findings

below, a condition of this approval requires this issue to be addressed before the pending Property Line Adjustment can be approved.

Neighborhood Review: No written responses were received from either the Neighborhood Association or notified neighbors in response to the mailed “Notice of Proposal.”

ZONING CODE APPROVAL CRITERIA

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: In order to proceed with a Property Line Adjustment, the applicant is requesting an Adjustment to the north side setback requirement for the existing house on the site. The purposes of setback requirements in the R2.5 zone are stated in Zoning Code Section 33.110.220.A:

Purpose. *The setback regulations for buildings and garage entrances 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 houses in the city's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *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; 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 minimum setback from a side lot line in the R2.5 zone is 5 feet, and no Adjustments are requested for the new house proposed for Lot 24. If the bay window on the north side of the existing house on Lot 23 is removed (as the applicant proposes in Exhibit C-2), and no bay window projections are included on the south side of the new house on Lot 24, the separation between the walls of the two houses will be 8.4 feet. An 8.4-foot separation is 1.6 feet less (or 16% less) than the 10-foot separation that would result if both houses met the minimum setback from the side lot line.

The north wall of the existing house on Lot 23 is only about 10 feet tall, with the roof above sloping away from the north lot line. There are no dormers on the north side of the house, and the north-facing bay window will be removed. In addition, the existing house is only 44 feet long from front to back, including the 6-foot-deep front porch, while the lot is 100 feet deep. A majority of the setback area from Lot 23's north lot line will remain open and undeveloped.

These attributes will help maintain light, air, opportunities for privacy, and fire safety for both lots, consistent with the purposes of the setback standard. The Fire Bureau reviewed the proposal and responded with no concerns (Exhibit E-4), and a condition of approval will require the applicant to meet fire safety requirements for eaves less than 3 feet from a lot line. Consistent with recommendations from the Life Safety Review Section of BDS (Exhibit

E-6), these requirements must be addressed before the relocated lot line is established in the pending Property Line Adjustment review (file # PR 17-182350 PLA LC).

The attributes discussed above will also help maintain a physical relationship and placement that appears typical for the neighborhood. With ample light and air between the new house on Lot 24 and the modestly-sized existing house on Lot 23, the 1.6-foot reduction in the separation between houses will not create a crowded appearance. In addition, several older houses in the neighborhood are set back less than 5 feet from their side lot lines.

These findings assume an 8.4-foot separation between the walls of the two homes, as illustrated in Exhibit C-2. To ensure this separation is realized, conditions of approval will require that the north-facing bay window on the existing house on Lot 23 is removed (as proposed by the applicant) and that no bay window projections are included on the south wall of the new house on Lot 24.

The side setback Adjustment will not affect the front setback for either lot, and will not prevent either lot from meeting the outdoor area requirement. The setback Adjustment will not affect driver visibility or result in cars overhanging the street or sidewalk.

Staff finds that with the conditions of approval mentioned above, the proposal equally meets the purposes of the setback standard. 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: Since the site is located in a single-dwelling residential zone, the proposal must not significantly detract from the livability or appearance of the surrounding residential area.

As discussed above, the setback Adjustment will result in 8.4 feet of separation between the walls of the houses on Lots 23 and 24. This separation is 84% of the separation that would be required without the Adjustment, and given the low profile of the existing house on Lot 23, adequate light, air, and opportunities for privacy will be maintained. The physical relationship between the two houses will appear typical for the neighborhood, which has a variety of house sizes and ages and several older homes which are set back less than 5 feet from side lot lines.

The Adjustment will allow the existing house on Lot 23 to be retained while allowing a new house to be constructed on Lot 24. Without this Adjustment for the north side setback on Lot 23, the applicant could remove the existing house (which was constructed in 1906) and build two new houses on this site without the need for a Property Line Adjustment or a setback Adjustment.

For these reasons, staff finds the proposed setback Adjustment will not significantly detract from the livability or appearance 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: As only one Adjustment is requested, this criterion is not applicable.

- 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. As there are no scenic or historic resource designations 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: The applicant proposes to remove the existing bay window on the north side of the house on Lot 23, leaving the north wall of that house set back 3.4 feet from the relocated side lot line. This will be made a condition of approval of this review. The new house on Lot 24 will have to be set back at least 5 feet from the relocated side lot line, since no setback Adjustment is requested for Lot 24. Another condition of approval will require that no bay window projections are placed on the south wall of the new house on Lot 24. With these two conditions of approval, the separation between the walls of the two houses will be at least 8.4 feet, which is 84% of what would be required without the Adjustment. As discussed in the findings for approval criteria A and B, staff finds that in this case, an 8.4-foot separation between houses will be sufficient to equally meet the purposes of the setback standard and avoid negative impacts to the neighborhood. With the conditions of approval described above, staff finds that potential impacts of the setback Adjustment are sufficiently mitigated. 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). As there are no environmental overlay zones mapped on 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 Adjustment to reduce the side setback requirement for the existing house on Lot 23 equally meets the intent of the regulation and will not adversely affect the livability and appearance of the surrounding neighborhood. The existing bay window on the north side of the existing house will be removed, and no bay windows will be allowed on the south side of the new house on Lot 24. The applicant has demonstrated that the applicable approval criteria are met, and conditions of approval will ensure all aspects of the project proceed as proposed. Since the approval criteria are met, the proposal must be approved.

ADMINISTRATIVE DECISION

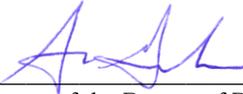
Approval of an Adjustment to reduce the minimum north side setback for the existing house on Lot 23 from 5 feet to 3.4 feet for the wall (Zoning Code Section 33.110.220.B) and from 4 feet to 2.4 feet for the eave (Zoning Code Section 33.110.220.C.1) per the approved plans, Exhibits C-1 through C-4, signed and dated June 28, 2017, subject to the following conditions:

- A. Prior to approval of the pending Property Line Adjustment application for this site (file # PR 17-182350 PLA LC), the bay window on the north side of the existing house on Lot 23 must be removed. A building permit is required for this work, and the final inspection for this building permit must be approved prior to approval of the Property Line Adjustment.

- B. Prior to approval of the Property Line Adjustment for this site (file # PR 17-182350 PLA LC), the applicant must successfully address building code issues resulting from the lot line moving to less than 3 feet from the eaves of the existing house on Lot 23. Compliance options are discussed in Exhibit E-6.
- C. No bay windows or other projections (except for eaves) can be placed on the south-facing wall of any house proposed for Lot 24. The plans for any building permit for a new house on Lot 24 must demonstrate compliance with this condition.

Note: The Site Development Review Section of BDS will require the cesspool on this site to be located, and possibly decommissioned, prior to approval of the pending Property Line Adjustment for this site (Exhibit E-5).

Staff Planner: Andrew Gulizia

Decision rendered by:  **on June 28, 2017**
By authority of the Director of the Bureau of Development Services

Decision mailed: July 3, 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 May 25, 2017, and was determined to be complete on June 2, 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 May 25, 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 extended by the applicant, **the 120 days will expire on: September 30, 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 July 17, 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 will be recorded with the Multnomah County Recorder.

•*Unless appealed*, the final decision will be recorded after **July 18, 2017**, by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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:

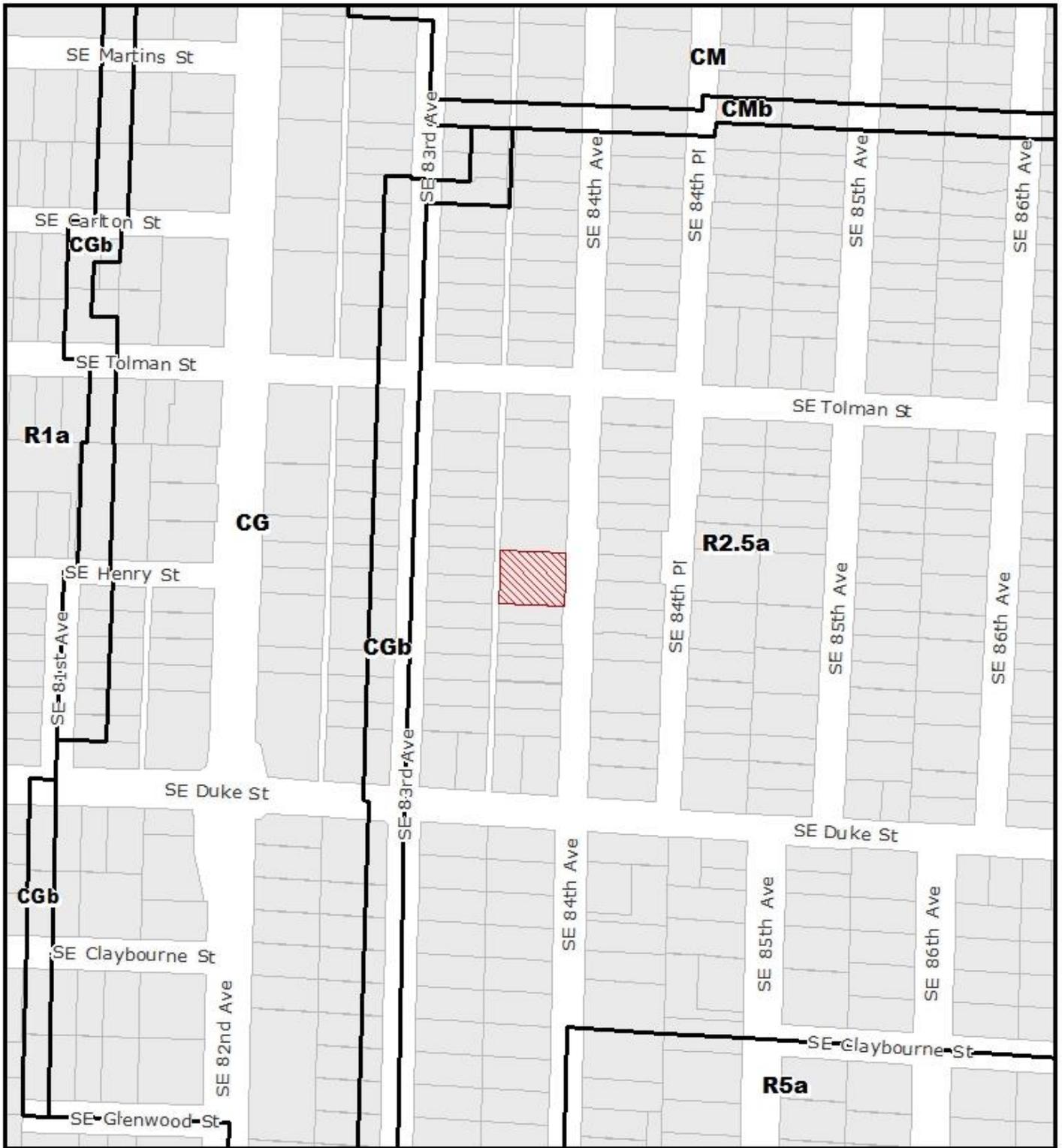
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Applicant's narrative
 - 2. Photographs
 - 3. Originally submitted site plan, prior to revision (superseded by Exhibit C-1)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. Front building elevation (attached)
 - 3. North side building elevation of existing house on Lot 23
 - 4. Full-sized site plan
- D. Notification Information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence – none received
- G. Other:
 - 1. Land use application form 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  NORTH

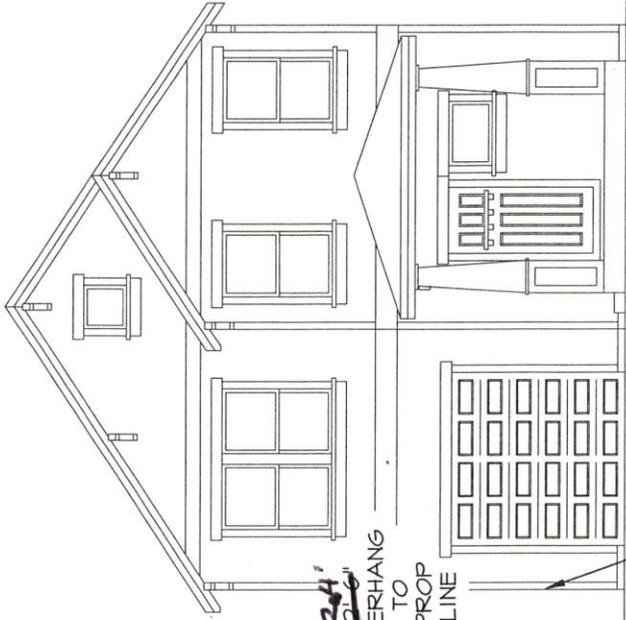
 Site

File No.	LU 17-177147 AD
1/4 Section	3639
Scale	1 inch = 200 feet
State ID	1S2E16CC 16000
Exhibit	B May 31, 2017

LA 17-177147 AD
 Exhibit C-2

PROPOSED PROPERTY LINE VIA P.L.A. (PROPERTY LINE ADJUSTMENT)

City of Portland - Bureau of Development Services
 6/28/17
 * Approved *
 Planner: *A. G. [Signature]*
 Conditions of approval:
 * This approval applies only to the review submitted in this application and is subject to all other applicable rules, regulations and policies of the City of Portland.

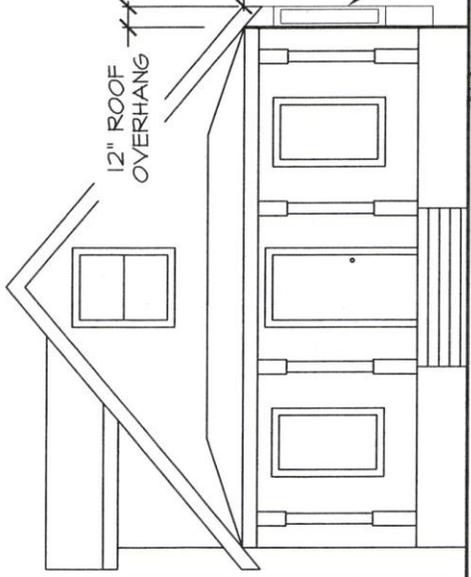


FUTURE DEVELOPMENT

new house on Lot 24 shown to illustrate proposed side setback relationship—this exact design for the new house is not required.

NO PROUTS ON NEW BUILDING
 EXISTING BAY WINDOW TO BE REMOVED
 TO BE REPLACED WITH WINDOW FLUSH WITH WALL

REQUIRED



FRONT ELEVATION
 1/8"=1'-0"

existing house on Lot 23

3'-3.4" SETBACK TO PROP LINE

1'-8.4" SETBACK TO PROP LINE

LA 17-177147 AD