



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

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Date: July 20, 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 17-177296 ZE

GENERAL INFORMATION

Applicant: Douglas Hardy
City Of Portland, Bureau Of Development Services, Land Use Services
1900 SW 4th Ave #4100
Portland, OR 97201

Representative: Jonathan Dunn
Woodblock Architecture
107 SE Washington St Ste 250
Portland OR 97214
503-889-0604
Jonathan@Wblock.Com

Owners: Rose City Church of the Nazarene
225 NE 80th Ave
Portland, OR 97213

Site Address: 225 NE 80TH AVE

Legal Description: BLOCK 11 E 27' OF LOT 1 LOT 22-24, MT TABOR VILLA ANX
Tax Account No.: R589602340
State ID No.: 1N2E32DA 15001
Quarter Section: 3038

Neighborhood: Montavilla, contact Nick Mira at nick@propelstudio.com
Business District: Eighty-Second Ave of Roses Business Association, contact Nancy Chapin at nchapin@tsgpdx.com, Montavilla-East Tabor, contact Stephan Rice at metbassoc@gmail.com

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

Zoning: CS (Storefront Commercial)

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

Case Type: ZE (Zone Map Error Correction)
Procedure: Type II, an administrative decision with appeal to the Hearings Officer

Proposal:

The Bureau of Development Services is initiating a Zoning Map Error application to correct the zoning on this site. The proposal would change the westernmost zoning of the site from R2.5 (Single-Dwelling Residential 2,500) with an “a” overlay to CS (Storefront Commercial), as the majority of the site is zoned. The applicant states that the property should be commercially zoned per a previously adopted zoning from the Outer SE Community Plan. A memo provided by the City of Portland Bureau of Planning and Sustainability (BPS) concludes that there is sufficient evidence of legislative intent to show that the property was intended to be commercially zoned.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Zoning Code Section 33.855.070.

ANALYSIS

Site and Vicinity: The 15,225 square foot site is located on the southwest corner of NE Everett Street and NE 80th Avenue. The site is relatively flat and currently developed with a 7,261 square foot commercial building and parking lot. The commercial building extends across the northern portion of the site, in both the CS and R2.5 zones. The surrounding vicinity is developed with a mix single-dwelling residences, multi-dwelling residences, commercial buildings, and institutional uses.

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 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.

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 review. 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.

Neighborhood Review: A “Notice of Proposal in Your Neighborhood” was mailed June 13, 2017. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.855.070 Corrections to the Official Zoning Maps

A. Mapping errors. The correction may be made for mapping errors such as:

1. A map line that was intended to follow a topographical feature does not do so. Topographical features include the tops and bottoms of hillsides, the banks of water bodies, and center lines of creeks or drainage ditches; or
2. There is a discrepancy between maps and on balance there is sufficient evidence of legislative intent for where the line should be located.

Findings: Section 33.855.070 is intended to provide a quasi-judicial process in which Zoning Map Errors can be evaluated and corrected if necessary. It is important to note that the language in Subsection A states, “The correction may be made for mapping errors *such as...*” Zoning Code Section 33.700.070.D.4 clarifies that lists of items in the Code that include the phrase “such as” or similar language are not limited to just those items. The list is intended to provide examples, but not be an exhaustive list of all possibilities. As such, the language included in Subsections A.1 and A.2, above, is intended to provide examples of situations in which Zoning Map Errors may be addressed, but is not intended to present an exclusive list.

City records show that in June 1992, the City of Portland approved Property Line Adjustment PLA-0474. The PLA approved the movement of the common property line between the subject property and the adjacent (west) residential property at 236 NE 79th Avenue when both lots were zoned R5 (Single Dwelling Residential 5,000). The county base map that was updated to reflect the approved property line adjustment in 1992 was not used by Portland until 1996; the city continued to use the base map from 1989. When the Outer SE Community Plan zoning changes were adopted in 1996, the subject property and others around it were rezoned to CS, but the property line and zoning line followed the old property line on the subject property rather than the new property line (as approved through the PLA described above). When zoning was adopted as part of the 1998 Community and Neighborhood Plan Mapping and Title 33 Corrections project, the property line was shown accurately, but the zoning line was still where the old property line was located.

Although the City attempts to follow a convention of applying zoning lines along property lines, there are occasional deviations from the convention. On the 1996 map, there are no deviations from the convention except on the subject property. Because the property line was inaccurately represented when the Outer SE Community Plan changed the zone for the subject property, it can be concluded that the zoning line would have followed the altered property line had it been accurately represented on the base map. This would have placed the CS zoning on the entire lot.

This criterion is met.

B. Movement of the reference item for the map line. The correction may be made when it can be clearly shown that a map line is based on the location of a reference item that has since been moved. Reference items are rights-of-way, tentative rights-of-way, utility easements and similar type items. Map line changes in these cases must not be more than a trivial change to the map pattern and must not result in any significant impacts to abutting lots.

Findings: In this case, the Zoning Map error is not the result of the original zone line being based on a reference point that has since been moved. Therefore, this criterion is not applicable.

C. Land within the Urban Growth Boundary. The correction may be made when it involves the removal of the Future Urban overlay zone from properties that are now within the Urban Growth Boundary.

Findings: This situation does not apply to the subject 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

As documented by the BPS memo, the property line was inaccurately represented when the Outer SE Community Plan changed the zone for the subject property; therefore, the zoning line would have followed the altered property line had it been accurately represented on the base map, and the lot in its entirety would have been zoned CS.

ADMINISTRATIVE DECISION

Approval of a Zoning Map Error Correction (Zoning Code Section 33.855.070) to correct the zoning map for a portion of this site from R2.5a to CS as illustrated in Exhibit B-2.

Staff Planner: David Besley



Decision rendered by: _____ **on July 12, 2017.**
By authority of the Director of the Bureau of Development Services

Decision mailed: July 20, 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 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 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 further extended by the applicant, **the 120 days will expire on: October 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 Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on August 3, 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 Hearings Officer 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 Hearings Officer 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 **August 4, 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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:

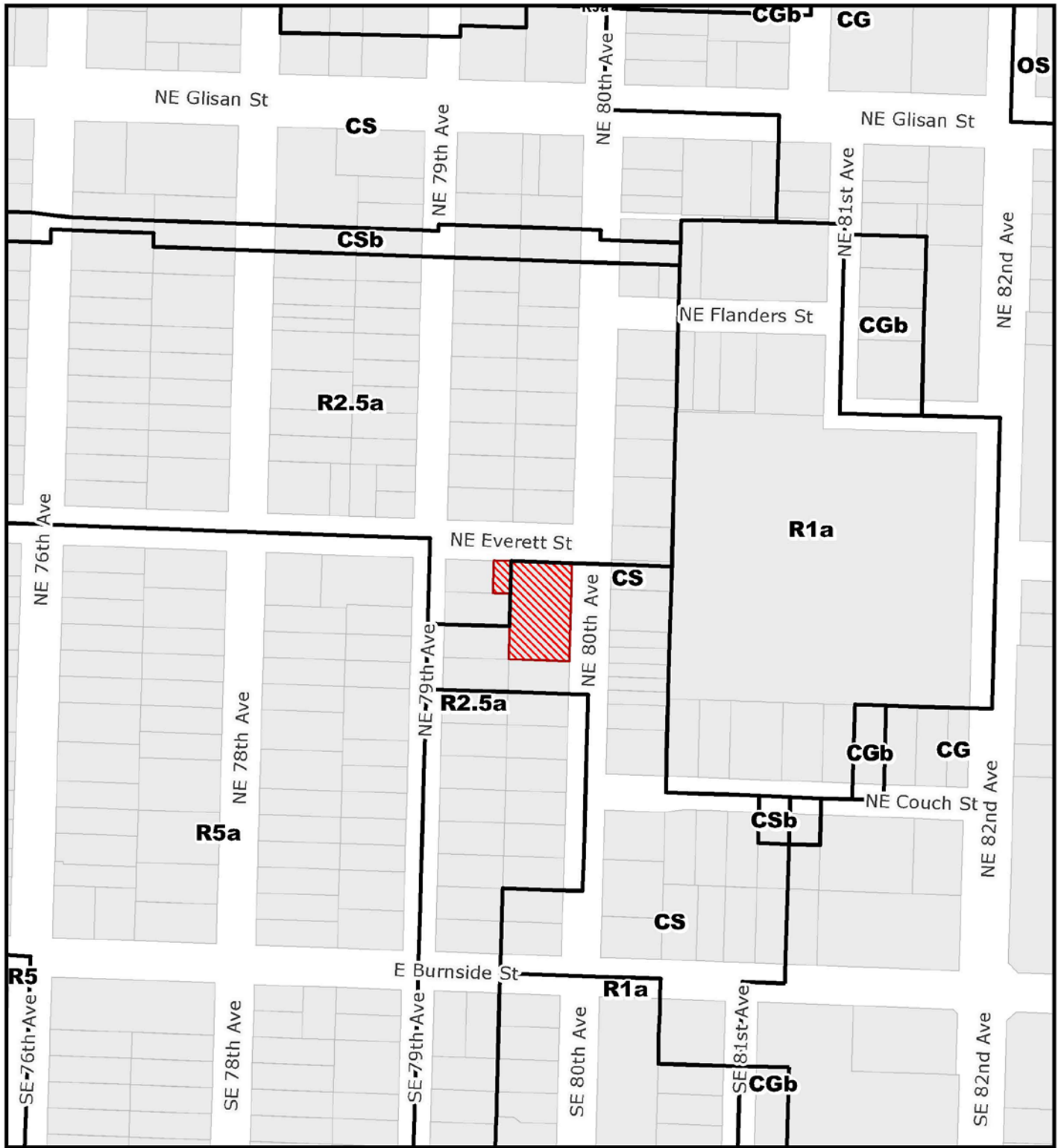
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

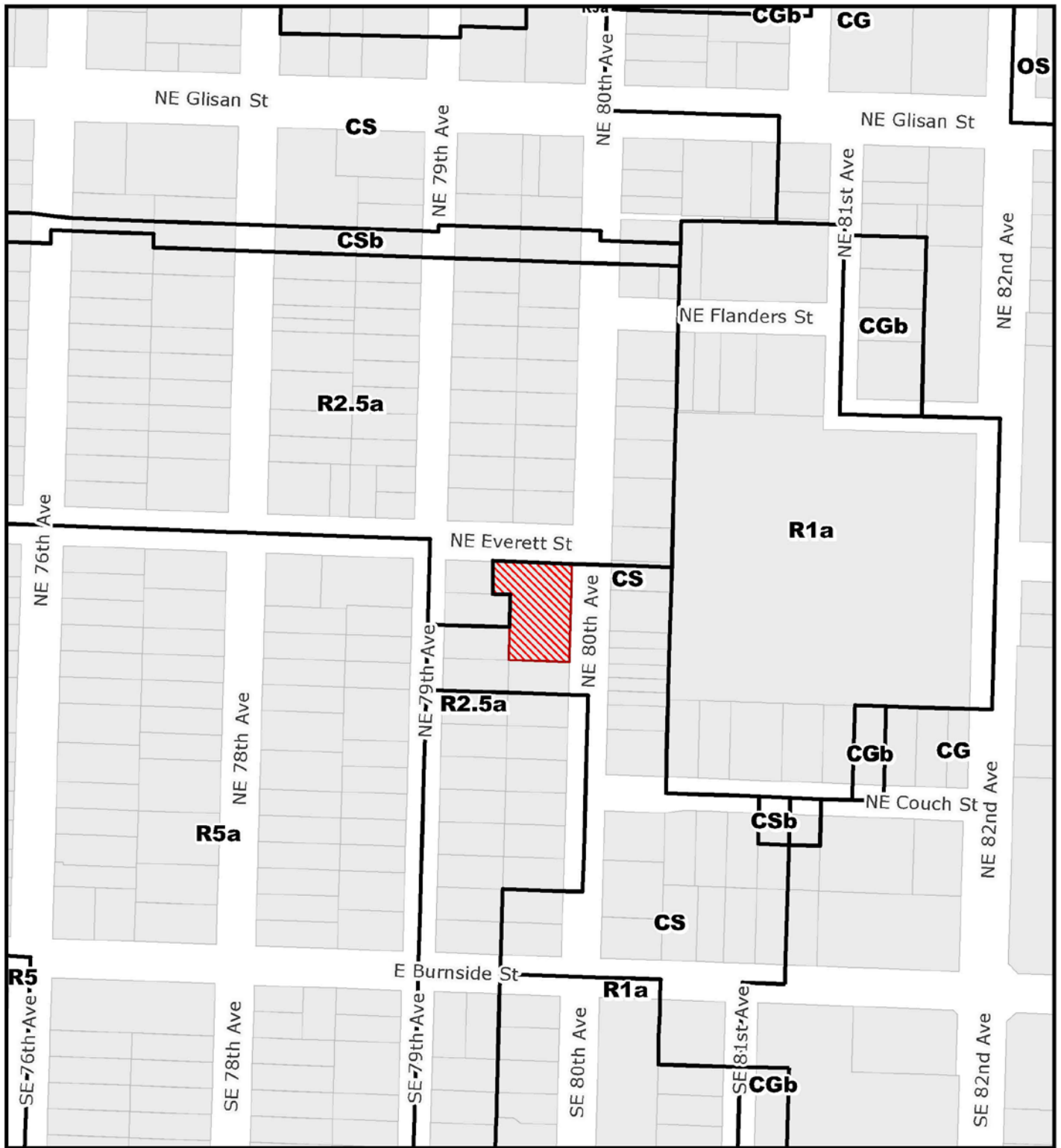
- A. Applicant's Statement
- B. Zoning Map (attached)
 - 1. Existing Zoning Map (attached)
 - 2. Proposed Zoning Map (attached)
- C. Plans/Drawings: None
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses: None
- F. Correspondence: None
- G. Other:
 - 1. Original 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).



EXISTING ZONING

File No.	LU 17-177296 ZE
1/4 Section	3038
Scale	1 inch = 200 feet
State ID	1N2E32DA 15001
Exhibit	B.1 July 18, 2017



PROPOSED ZONING

File No.	LU 17-177296 ZE
1/4 Section	3038
Scale	1 inch = 200 feet
State ID	1N2E32DA 15001
Exhibit	B.2 July 18, 2017