



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

Chloe Eudaly, Commissioner
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Date: July 24, 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 17-185826 AD

GENERAL INFORMATION

Applicant: Kevin Partain
Urban Visions
223 NE 56th Ave
Portland, OR 97213 / 503-421-2967

Owner: Eden Enterprises LLC
5505 SW Delker Rd
Tualatin, OR 97062

Site Address: 3837 NE 63RD AVE

Legal Description: BLOCK 6 LOT 1&2, HYDE PK
Tax Account No.: R411400960
State ID No.: 1N2E20CC 04800
Quarter Section: 2637
Neighborhood: Roseway, contact Bob Price at 503-807-4009.
Business District: Portland International District Business Association, contact Thomas Wright at 503-249-3926.
District Coalition: Central Northeast Neighbors, contact Sandra Lefrancois at 503- 823-2780.
Plan District: None
Zoning: R5h - Single-Dwelling Residential 5,000, Aircraft Landing Overlay
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant intends, through a separate review, to confirm that the original underlying subdivision lots are legal buildable lots and then adjust the common property line between the two lots. Tract 1 will contain the existing single-dwelling residence and Tract 2 will be developed with a new single-dwelling residence. The existing garage is located on what will be

Tract 2, which means that the existing house will lose its on-site parking space. Tract 1 would need to be able to accommodate the replacement 9-foot by 18-foot parking space outside the 10-foot front setback from NE 63rd Avenue or the 5-foot side setback from NE Failing Street (Zoning Code Section 33.266.120.C.1). Due to the location of the existing house on Tract 1 and the presence of large trees, the applicant is unable to provide the on-site parking space.

Per Zoning Code Section 33.266.110.B.1 and Table 266-2, one on-site parking space is required per household living unit; however, if the site is located fewer than 500 feet from a transit street with 20-minute peak hour service, no parking is required for household units where there are up to 30 units on the site (Zoning Code Section 33.266.110.D.1.) Because the subject site is located over 1,250 feet from NE Cully Boulevard, a transit street whose Number 71 bus line provides the closest 20-minute peak hour service, the applicant requests an Adjustment to reduce the one required on-site parking space to zero.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A through F of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The 5,000 square foot lot is located on the southwest corner of the intersection of NE Failing Street and NE 63rd Avenue. The site is currently developed with a one-and-a-half single-dwelling residence with a detached one-car garage and carport. The site has two driveways that are accessed from NE Failing Street. The western driveway leads to the detached garage. The eastern driveway does not lead to a legal on-site parking space but instead appears to lead to a small storage space at the basement level of the house. There are two large trees located at the front of the house and two large trees located right behind the house. Adjacent properties are similarly developed with one- to one-and-a-half story single-dwelling residences, some with detached or attached garages.

Zoning: The R5 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and provide 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 Aircraft Landing (h) overlay zone provides for safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment. In Residential zones, structures are regulated by the base zone height limits rather than the height limits of the overlay zone. The overlay zone does not apply to this proposal.

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 June 26, 2017. The following Bureaus have responded with no issues or concerns regarding the requested Adjustment:

- Bureau of Environmental Services (BES) responded that BES does not object to approval of the requested Adjustment review (Exhibit E-1);
- Bureau of Transportation Development Review responded with no objection to the proposed Adjustment and provided information about Title 17 requirements (Exhibit E-2);
- Water Bureau responded with no concerns (Exhibit E-3);
- Fire Bureau responded with no concerns (Exhibit E-4);
- Site Development Section of BDS responded with no concerns (Exhibit E-5);

- Life Development Section of BDS responded with no concerns (Exhibit E-6); and
- Bureau of Parks-Forestry Division responded with no concerns (Exhibit E-7).

Neighborhood Review: One written response has been received from a notified neighbor. The respondent wrote in support of the requested Adjustment because it would allow for the retention of large trees on the subject site.

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 an Adjustment to reduce the one required on-site parking space to zero.

The purpose of the minimum parking standard is stated in Zoning Code Section 33.266.110.A:

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

The Development Review Section of Portland Transportation reviewed the request to waive the on-site parking space and provided the following response (Exhibit E-2):

Portland Transportation/Development Review (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts, and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

Based on City GIS data, it appears as if approximately 50 feet of on-street parking exists on NE 63rd and approximately 65 feet of on-street parking exists on NE Failing. The area in which the development site is located has good connectivity. Both bus and MAX light rail stops are within 0.1 – 0.3 miles of the subject development. The removal of the driveways at this location will create additional on-street parking. Therefore, on-street parking will accommodate the majority of traffic generated by the residential uses at the site. Accordingly, PBOT has no objection to the requested adjustment.

The subject site is in close proximity to transit with the Number 24 bus line on NE Fremont Street located 0.2 mile away, the Number 71 bus line on NE Cully Boulevard located .25 mile away, and the Number 12 bus line on NE Sandy Boulevard located 0.4 mile away. The streets around the subject site are laid out in a regular block pattern and do not dead end, so there is good street connectivity. The rights-of-way around the subject site are fully improved and contain sidewalks, so there are good pedestrian facilities. For these reasons and per PBOT's response, the proposed Adjustment can equally meet the intent of the regulation.

In order to ensure that the existing on-site parking space is replaced with on-street parking spaces, as a condition of approval, the applicant must close the existing curb cuts, remove the portions of the driveways within the right-of-way, and reconstruct the sidewalk corridor and curb at these locations. With this condition of approval, there will be no net loss in parking capacity. Therefore, 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 single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. As discussed in the findings for Approval Criterion A, the subject site is located within close proximity to transit, has good street connectivity, and good pedestrian facilities, all of which support not requiring off-street parking. Additionally, closing the curb-cuts will result in additional on-street parking and there will be no net loss in parking capacity. The condition of approval that the applicant must close the existing curb cuts, remove the portions of the driveways within the right-of-way, and reconstruct the sidewalk corridor and curb at these locations ensures that additional on-street parking spaces will be available. According to PBOT, the available on-street parking spaces are sufficient to accommodate the expected demand for parking generated by the residential uses of the site.

The request to waive the required on-site parking space does not directly impact the appearance of the residential area; however, providing on-street parking spaces rather than an on-site parking space allows for the large, mature trees within the front yard of the existing house to be preserved. Due to the location of the existing house on proposed Tract 1, a new driveway and on-site parking space would likely have to be located close to the trees, which could harm them. Additionally, the small site would likely require the parking space to at least partially be located within the front or side setback, which could create a cluttered appearance.

Therefore the proposal will not significantly detract from the livability and appearance of the surrounding residential area. With the condition of approval, 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: Because only one Adjustment is being 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. 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 Criteria A and B, the condition of approval that the applicant must close the existing curb cuts, remove the portions of the driveways within the right-of-way, and reconstruct the sidewalk corridor and curb at these locations will ensure that there will be additional on-street parking spaces. This condition mitigates for the potential negative impact on the on-street parking supply and equally accommodates the parking demand created by the single-dwelling residence. With this condition of approval, 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 reduce the one required on-site parking space to zero, with the condition of approval that the applicant close the existing curb cuts and driveways and reconstruct the sidewalk corridor and curb at these locations, equally meets the intent of the regulations and does not have any adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the approval criteria have been met. Because the approval criteria have been met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the one required on-site parking space to zero for Tract 1 (Zoning Code Section 33.266.120.B.1), per the approved site plan, Exhibit C-1, signed and dated July 19, 2017, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 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, except as modified in Condition B below. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-185826 AD."
- B. The applicant is required to close the two existing curb cuts, remove the portions of the driveways within the right-of-way, and reconstruct the sidewalk corridor and curb at these locations. The closed curb cut and reconstructed sidewalk corridor for Tract 1 must be shown on the Lot Confirmation and Property Line Adjustment approved drawings and the closed curb cut and reconstructed sidewalk corridor for Tract 2 must be shown on the final building permit plans for development on Tract 2.

Staff Planner: Lauren Russell

Decision rendered by: Lauren Russell **on July 19, 2017.**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 24, 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 June 12, 2017, and was determined to be complete on June 21, 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 June 12, 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 19, 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 August 7, 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 **August 7, 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. Narrative, Site Plan, and Parking Study received 6/12/17
- 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. Bureau of Transportation Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Section of BDS
 - 7. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Lara Bjork, received 7/17/17, email in support
- 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



| | |
|-------------|-------------------|
| File No. | LU 17-185826 AD |
| 1/4 Section | 2637 |
| Scale | 1 inch = 200 feet |
| State ID | 1N2E20CC 4800 |
| Exhibit | B Jun 14, 2017 |

Approved*
City of Portland
 Bureau of Development Services
 Planner Laura Russell
 Date 11/11/17
 This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.

- SITE PLAN GENERAL NOTES: U.N.O.**
1. REVISIONS SHALL BE INDICATED BY A RED CIRCLE AND NUMBERED 1 THROUGH 10.
 2. ALL CONCERNED AGENCIES OR AGENCY DIVISIONS SHALL BE NOTIFIED BY THE APPLICANT OF ANY REVISIONS.
 3. ALL CONCERNED AGENCIES OR AGENCY DIVISIONS SHALL BE NOTIFIED BY THE APPLICANT OF ANY REVISIONS.
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 12. ALL CONCERNED AGENCIES OR AGENCY DIVISIONS SHALL BE NOTIFIED BY THE APPLICANT OF ANY REVISIONS.

GENERAL PROJECT INFORMATION

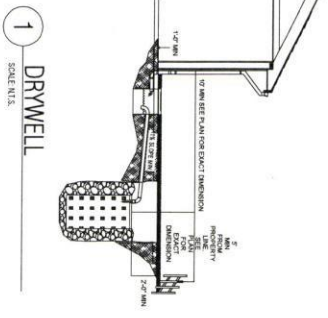
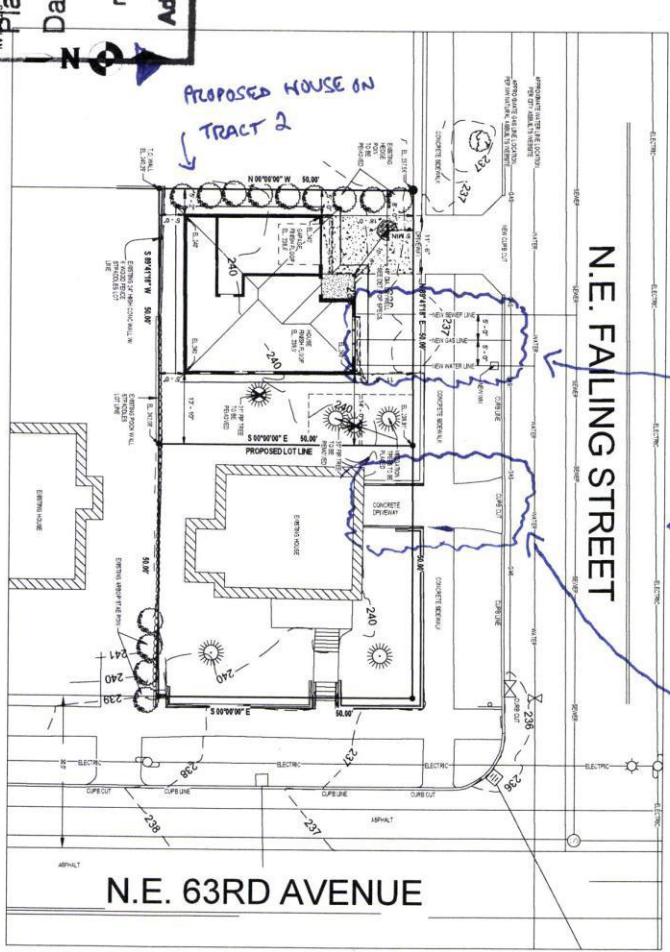
| | |
|----------------------------|-----------------------------|
| SITE ADDRESS | 3837 NE 63RD AVE (WEST LOT) |
| BUILDING AREA FOOTPRINT | 916 SF |
| DRIVEN LOT AREA | 2,500 SF |
| TOTAL AREA INCLUDING DRIVE | 3,416 SF |
| TOTAL AREA INCLUDING DRIVE | 3,416 SF |
| ZONING | R3 |

IMPERVIOUS AREA CALCULATIONS

| | |
|-----------------------------|---------------------------|
| PAVED WALKWAYS | 207 SF |
| ROOF AREA INCLUDING DRIVE | 1,133 SF |
| TOTAL IMPERVIOUS AREA | 1,340 SF |
| PERCENT PER IMPERVIOUS AREA | 48% DIAMETER X 5'-0" DEEP |

MINIMUM REQUIRED SETBACKS

| | |
|----------------------|----------|
| FRONT | 10'-0" |
| REAR | 10'-0" |
| SIDE | 5'-0" |
| REAR | 5'-0" |
| MAXIMUM HEIGHT LIMIT | 35 FT 1" |



CONDITION OF APPROVAL B
 THE APPLICANT IS REQUIRED TO CLOSE THE 2 EXISTING CURB CUTS, REMOVE THE PORTIONS OF THE DRIVEWAYS WITHIN THE RIGHT-OF-WAY, AND RECONSTRUCT THE SIDEWALK CORRIDOR AND CURB AT THESE LOCATIONS. THE CLOSED CURB CUT AND RECONSTRUCTED SIDE WALK CORRIDOR FOR TRACT 1 MUST BE SHOWN ON THE LOT CONFIRMATION AND PROPERTY LINE ADJUSTMENT APPROVED DRAWINGS AND FOR TRACT 2 MUST BE SHOWN ON THE FINAL BUILDING PERMIT PLANS FOR DEVELOPMENT ON TRACT 2.

LM 17 - 185826 AD

M-1602 GR
 3837 NE 63RD AVE
 SITE PLAN
 OSP-1
 AS REQUIRED

RENAISSANCE HOMES
 16771 BOONES FERRY ROAD
 LAKE OSWEGO, OR 97035
 P: (503) 636-5600 F: (503) 635-8400

THESE PLANS ARE FOR THE EXCLUSIVE USE OF RENAISSANCE HOMES. THESE PLANS MAY NOT BE WHOLLY OR IN PART BE USED BY ANY OTHER PARTY UNLESS IN WRITING BY RENAISSANCE HOMES TO A PARTY NECESSARY TO ASSIST IN THE USE OF THESE PLANS. REPRODUCTION OF THESE PLANS IN WHOLE OR IN PART IS STRICTLY PROHIBITED WITHOUT WRITTEN PERMISSION FROM RENAISSANCE HOMES. RENAISSANCE HOMES RETAINS COPYRIGHTS AND OWNERSHIP OF THE PLANS. UNAUTHORIZED USE OR COPYING OF THESE PLANS, OR THE DESIGN THEY DEPICT IMPRIZES RIGHT UNDER THE COPYRIGHT ACT. IMPRISORS' FACE LIABILITIES THAT INCLUDE FINES UP TO \$10,000 FOR EACH IMPRISOR MULTIFACT.

RENAISSANCE PLANS PREPARE ITS PLANS CAREFULLY FOR THE USE OF SUBCONTRACTORS. HOWEVER RENAISSANCE HOMES WILL NOT BE RESPONSIBLE FOR ANY CHANGES RELATING TO THE ACCURACY AND OVERALL INTEGRITY OF THE PLANS. SUBCONTRACTORS THEREFOR, MUST CAREFULLY INSPECT ALL DIMENSIONS AND DETAILS PRIOR TO THE START OF CONSTRUCTION. IF ANY ERRORS OR OMISSIONS ARE NOTICED, THE CONTRACTOR MUST NOTIFY RENAISSANCE HOMES BEFORE THE START OF CONSTRUCTION. IN ADDITION SPECIFIC SITE CONDITIONS, LOCAL CODE INTERPRETATION, AND COMMON BUILDING PRACTICES SHOULD BE FOLLOWED.

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RENAISSANCE HOMES
 CASE NO. LM 17-185826 AD
 EXHIBIT C-1