



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

Chloe Eudaly, Commissioner
Rebecca Esau, Interim Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: August 2nd, 2017
To: Interested Person
From: Mark Moffett, City Planner
503-823-7806 / mark.moffett@portlandoregon.gov

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 17-174685 AD

GENERAL INFORMATION

Applicant: Kevin Partain
223 NE 56th Ave.
Portland, OR 97213-3705

Property Owner: B-W Construction Inc
P.O. Box 66910
Portland, OR 97290-6910

Site Address: 12110 SE RAYMOND ST

Legal Descriptions: LOT 3 EXC PT IN ST, RAYMOND'S CORNER; LOT 4 EXC PT IN ST, RAYMOND'S CORNER; LOT 5 EXC PT IN ST, RAYMOND'S CORNER; LOT 6 EXC PT IN ST, RAYMOND'S CORNER

Tax Account Nos.: R692500150, R692500200, R692500250, R692500300
State ID Nos.: 1S2E15AD 08503, 1S2E15AD 08504, 1S2E15AD 08505, 1S2E15AD 08506

Quarter Section: 3542

Neighborhood: Powellhurst-Gilbert, contact at pgnaboard@gmail.com
Business District: Midway, contact info@midwaybusiness.org.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Zoning: **R1a** (Multi-Dwelling Residential 1,000 base zone with Alternative Design Density overlay zone), **Johnson Creek Basin plan district**

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

PROPOSAL: The applicant is working with the property owner to reconfigure six existing vacant lots facing SE Raymond Street, one lot west of the intersection of SE Raymond and SE 122nd Avenue. Through a series of property line adjustments, the interior lots are being changed to create lot widths ranging in size from 18'-4" to 18'-9". Three pairs of attached houses are proposed on the six lots, with narrower lots in the middle and slightly wider lots on the end.

The four new interior lots will each have narrow side yards abutting the adjacent lot, with a building wall placed at 3'-5" from the abutting lot line, and eaves projecting one additional foot to 2'-5" from the abutting lot line. While the two outermost homes of the six will feature standard 5'-0" building setbacks along the outer edges of the project, the four side walls at both of two new interior "side yards" of the project will have less than the minimum 5'-0" side building setback called for in the R1 base zone for walls, or the 4'-0" minimum setback required for eaves.

Therefore, in order to construct the six-unit attached housing project as proposed, the applicant has requested four Adjustments on the interior lots of the site, to reduce the west or east side building setbacks from 5'-0" to 3'-5" for the walls (33.120.220.B/Table 120-4), and from 5'-0" to 2'-5" for the eaves (33.120.220.D.1.a).

Note: in response to regulations limiting the "throat" width of shared driveways for attached houses to 14 feet at the front lot line and street, the applicant has reduced the width of the driveways in the first 3'-0" inside the front lot line from 18'-0" to 14'-0". A reciprocal access easement will be required for the outermost 3'-0" of the driveways during permitting, as the narrow portions of the revised driveways that are under 9'-0" wide on any individual lot do not meet driveway width standards. To accommodate the narrower driveway while still providing the desired on-site parking space in front of the garage doors, the individual attached houses have been moved back an additional 6'-8" away from the street. The size and design of the houses, including the reduced setbacks at the interior, remains the same as previously proposed.

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at **33.805.040.A-F, Adjustment Approval Criteria.**

ANALYSIS

Site and Vicinity: The site is a collection of six relatively small individual parcels, located on the south side of SE Raymond Street, just one lot west of SE 122nd Avenue. The site is currently vacant, and occupied only by open lawn area and a few trees. The site is surrounded by existing detached single-family development on all sides, as well as directly across the street to the north. The nearest commercial "node" is a small cluster of auto-oriented businesses a few blocks north of the site, at SE 122nd Avenue and Holgate Street.

Southeast Raymond Street abutting the site is improved with a paved, two-way roadway, curbing and public sidewalks, except at the immediate site frontage where only curbing exists and sidewalks have not yet been installed. Southeast Raymond Street is a Local Service Street for all modes in the City of Portland Transportation System Plan.

Zoning: The R1 or Residential 1,000 zone is a medium-density multi-dwelling zone, generally providing for a maximum density of one dwelling unit per 1,000 square feet of site area. The R1 zone is intended to create and maintain higher-density residential neighborhoods. The setbacks under consideration in this application are development standards of the R1 zone.

The "a" or Alternative Design Density overlay provides opportunities for additional density in some cases, provided additional design compatibility requirements are met. This is an overlay zone that provides optional paths for development which are not being used by the current project.

The Johnson Creek Basin plan district contains regulations that provide for the safe, orderly and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. Because the site is located in the Kelly Butte subdistrict, and not the Flood Plain or South subdistrict, there are few relevant plan district regulations which impact the project. The tree removal regulations of the plan district (33.537.125.C) do apply, because the site is within a special flood hazard area.

Land Use History: City records indicate one prior land use review for this site. Case File # *LUR 99-00655 SU VZ AD* was the 7-lot subdivision for “Raymond’s Corner”, including the six attached housing lots of the site plus the original detached house on the property located directly to the east. Variances were granted to allow new lots in a floodplain, with Adjustments to lot dimension standards.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **June 8, 2017**. The following Bureaus have responded:

The *Bureau of Environmental Services* (BES) has reviewed the proposal and responded without concerns or objections. Because the setback Adjustments themselves do not create additional impervious surfaces, and given the relevant approval criteria, there are no direct stormwater or sanitary sewer capacity issues in this Adjustment. Future development of the attached houses will be subject to all BES stormwater- and sanitary sewer-related regulations during the building permit review process. Exhibit E.1 contains staff contact and additional information.

The *Development Review Section of Portland Transportation* (PBOT) has reviewed the proposal for potential impacts regarding the public right-of-way, overall transportation services, and for relevant transportation-related codes and policies. The applicant will be required to provide public street improvements (new sidewalks, etc.) as part of the building permit review process for the new homes at the site, as well as a site survey to verify if any additional street dedications are necessary (this appears to be unlikely, but a survey may be required to confirm). The original site plans provided by the applicant showed shared driveways with 18-foot throats, which exceed the maximum allowed width of 14 feet. Therefore, as a condition of building permit approval, PBOT will require that the applicant provide shared driveways with 14-foot throats, as proposed in the second set of site plans. Exhibit E.2 contains staff contact and additional information.

The *Water Bureau* has reviewed the proposal and responded without comment or concern (Exhibit E.3). Water connection regulations and requirements will apply during the building permit review process.

The *Fire Bureau* has reviewed the proposal and responded without comment or concern (Exhibit E.4). All Fire Code and related regulations must be met or successfully appealed during the building permit review process.

The *Site Development Section of the Bureau of Development Services* has reviewed the proposal, and responded with floodplain and permitting information, but no comments or concerns regarding the requested Adjustments. The applicant should be aware that the site is in a Special Flood Hazard Area, and new construction will be impacted by floodplain regulations, which require elevated living areas and regulate both soil removal and fill. Compliance with relevant floodplain regulations will occur during the building permit review and inspection process. Exhibit E.5 contains staff contact and additional information.

The *Life Safety Section of the Bureau of Development Services* has reviewed the proposal and responded with preliminary Building Code-related information, which must be fully addressed during the building permit process. No objections are raised with regards to the specific Adjustments being requested. Exhibit E.6 contains staff contact and additional information.

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of Adjustment Reviews

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 review body finds that the applicant has shown that approval criteria A. through F. below have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The relevant portions of the purpose statement for side setbacks in the R1 zone are as follows (33.120.220.A):

“The building setback regulations 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 multi-dwelling development in the City's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- 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;”

Four side setback Adjustments are requested, at the two interior shared ‘side yards’ of a future 6-unit attached housing development. There will still be a 6’-10” separation between the adjacent building walls, and a 4’-10” separation between the adjacent eaves. This maintains the minimum 6’-0” separation required by Building Codes for fire protection, and the Fire Bureau has reviewed the proposal without concerns or objections regarding access for fire-fighting or separation for fire protection. Adequate light and air will still be provided around the exterior of the two-unit attached home structures.

The impacts of the reduced setbacks are generally contained within the interior of the site, and do not reduce setbacks at the perimeter of the project or where the site abuts adjacent homes. The perimeter setbacks of the project match the typical 5’-0” side setbacks found on many other nearby homes, and which is typically required of homes in the nearby single-dwelling zones. The general building scale and placement of the structures are consistent with other attached housing projects in the R1 zone found nearby and elsewhere in the City’s neighborhoods.

A reasonable relationship will be maintained with the directly adjacent attached housing in the area of the reduced setbacks, and potential privacy impacts are limited

to the inter-relationships between the new homes at the site, as opposed to impacting privacy of existing nearby properties. Window size and placement on the two facing side elevations in the area of reduced setbacks are also such that privacy will be maintained at the interior of the project. Overall, the setback reductions allow for a series of attached homes that are compatible with other similar development in the neighborhood, while still maintaining outdoor space and new housing options in the area.

Therefore, with approval granted based on the revised submitted site plan and elevation drawings, 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: For the reasons as noted above under findings for criterion A, the proposal will not significantly detract from the livability or appearance of the residential area. With approval granted based on the revised site plan and original elevation drawings, this criterion can be 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: Four adjustments are requested. The overall purpose of the R1 zone is to provide urban housing opportunities through creating and maintaining higher-density residential neighborhoods (33.120.010.A). The project will provide six new attached housing units, with adjustments necessary for side setbacks only at the interior of the project, without direct impact on the surrounding neighborhood. Reduced setbacks are typical of rowhouse development, and in this case will not have cumulative effects that result in a project not meeting the overall purpose of the R1 zone. This criterion is met.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: Given their location interior to the project site, the reduced setbacks in this application will result in no discernible impacts that require mitigation. 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 the site is not within an environmental zone, 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.

The applicant will be required to record reciprocal access easements for those portions of driveways on lots 2-7 that have less than the 9'-0" required minimum driveway width. All Building Code, Fire Code, Transportation and other relevant regulations must also be met, as noted in the service bureau responses.

CONCLUSIONS

The applicant has proposed a 6-unit attached house project on SE Raymond Street, in the R1 zone. Reduced setbacks are proposed for the two shared side yards at the interior of the project, without reducing setbacks at the perimeter where the project abuts existing homes. Overall, the scale and appearance is typical of other attached housing projects in the R1 zone, without significant impacts to the surrounding area or regulatory intent of the zone. Because the relevant approval criteria are met, the request should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the west side setback on Lot 3 (12134 SE Raymond) from 5'-0" to 3'-5" for the building walls (33.120.220.B/Table 120-4), and from 4'-0" to 2'-5" for the eaves (33.120.220.D.1.a/Table 120-4).

Approval of an Adjustment to reduce the east side setback on Lot 4 (12126 SE Raymond) from 5'-0" to 3'-5" for the building walls (33.120.220.B/Table 120-4), and from 4'-0" to 2'-5" for the eaves (33.120.220.D.1.a/Table 120-4).

Approval of an Adjustment to reduce the west side setback on Lot 5 (12118 SE Raymond) from 5'-0" to 3'-5" for the building walls (33.120.220.B/Table 120-4), and from 4'-0" to 2'-5" for the eaves (33.120.220.D.1.a/Table 120-4).

Approval of an Adjustment to reduce the east side setback on Lot 6 (12110 SE Raymond) from 5'-0" to 3'-5" for the building walls (33.120.220.B/Table 120-4), and from 4'-0" to 2'-5" for the eaves (33.120.220.D.1.a/Table 120-4).

The above approvals are granted based on the approved plans and drawings, Exhibits C.1 through C.3, all signed and dated July 27, 2017, and subject to the following conditions:

- 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 Exhibits C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-174685 AD."

Staff Planner: Mark Moffett

Decision rendered by: M. MOFFETT **on July 27, 2017.**

By authority of the Director of the Bureau of Development Services

Decision mailed: August 2nd, 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 19, 2017, and was determined to be complete on June 5, 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 19, 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 requested that the 120-day review period be extended for 21 days, in order to provide time to address transportation issues (Exhibit G.3) Unless further extended by the applicant, **the 120 days will expire on October 23, 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 16th, 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 on or after **August 17th, 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.

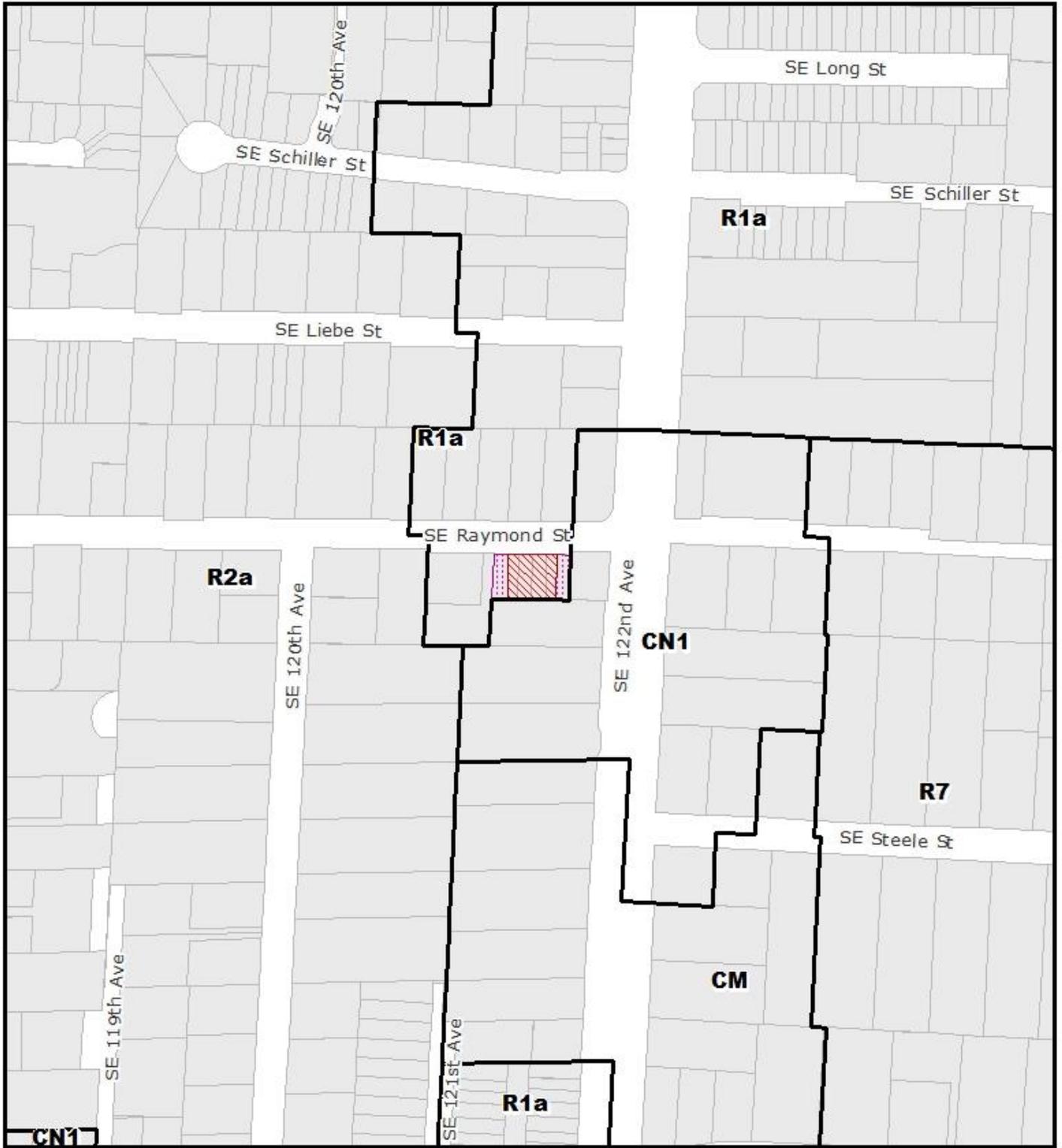
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
 1. Original narrative
 2. Original site plan, before driveway throat reduction – reference only
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site plan (attached)
 2. Large site plan
 3. Elevations (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Development Review Section of Portland Transportation

3. Water Bureau
 4. Fire Bureau
 5. Site Development Section of the Bureau of Development Services
 6. Life Safety Section of the Bureau of Development Services
- F. Correspondence (*none received at time of decision mailing*)
- G. Other:
1. Original LU application form and receipt
 2. E-mail from staff to applicant with case status update, sent 7/10/17
 3. Signed 120-day extension from applicant, rec'd. 7/12/17
 4. Driveway Design Exception materials – TR 17-202683

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



THIS SITE LIES WITHIN THE:
JOHNSON CREEK BASIN PLAN DISTRICT

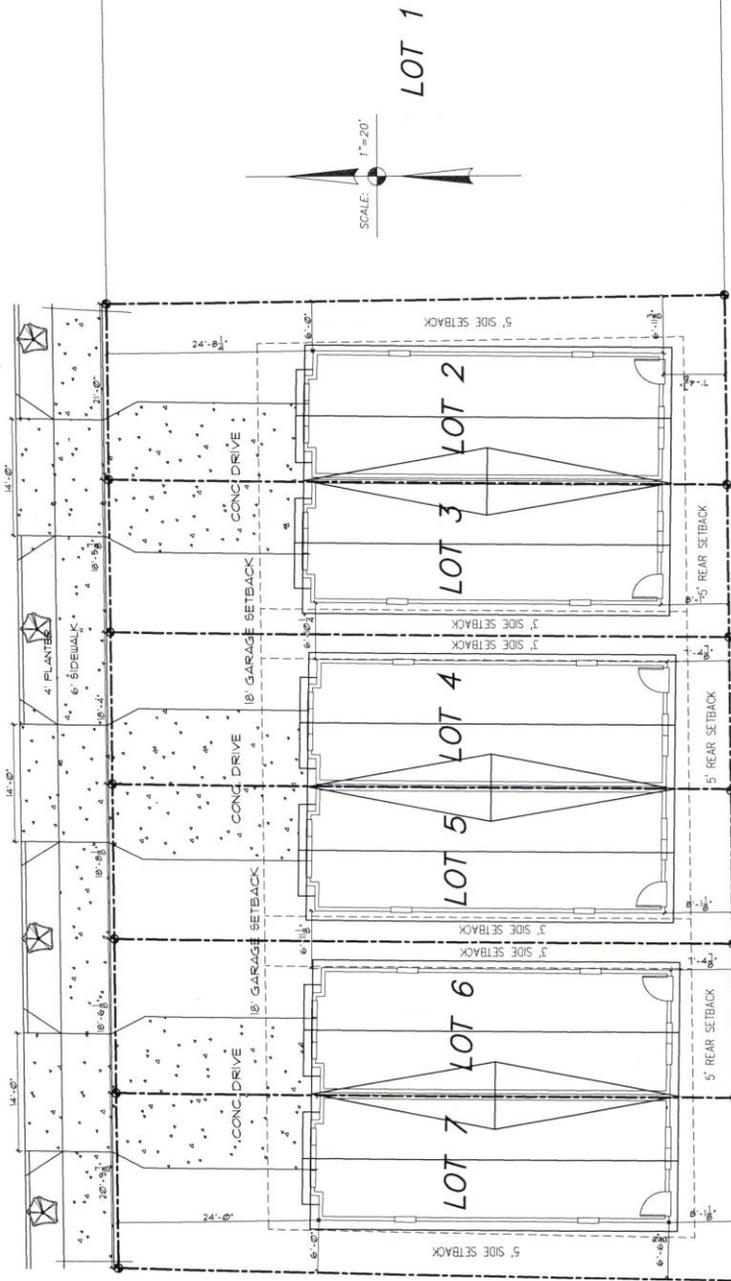
-  Site
-  Also Owned Parcels

File No.	LU 17-174685 AD
1/4 Section	3542
Scale	1 inch = 200 feet
State ID	1S2E15AD 8506
Exhibit	B May 24, 2017

SE 122ND AVE.

Approved
 City of Portland - Bureau of Development Services
 Planner MARK MOFFETT Date JULY 27, 2017
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

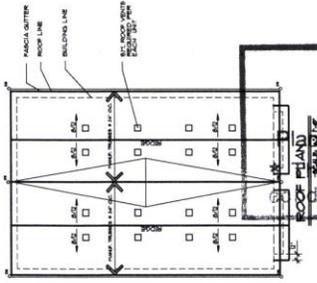
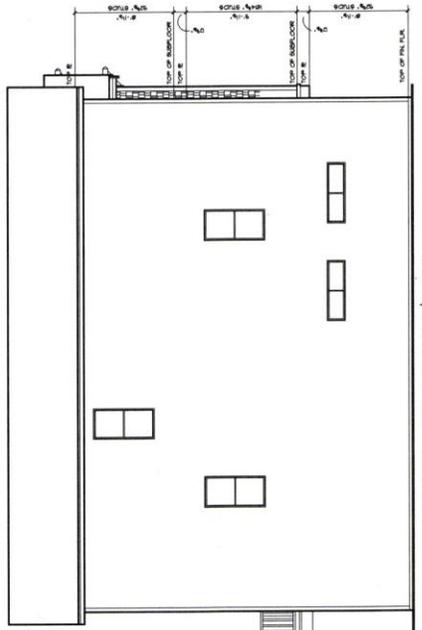
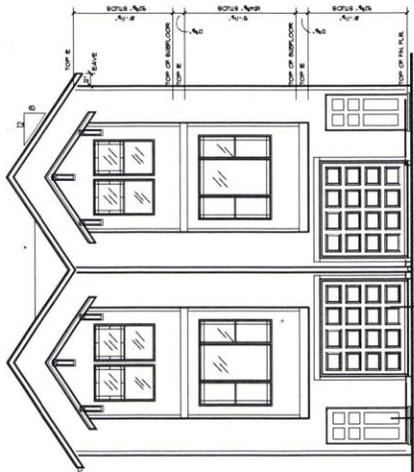
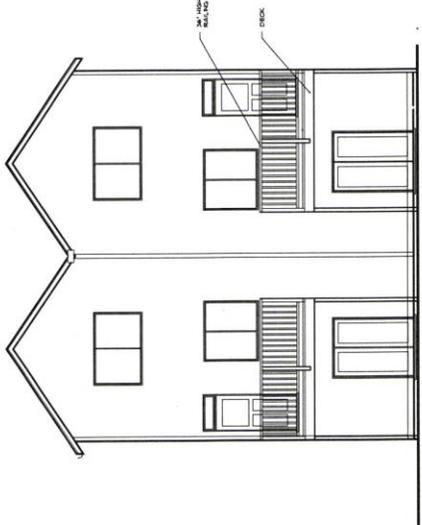
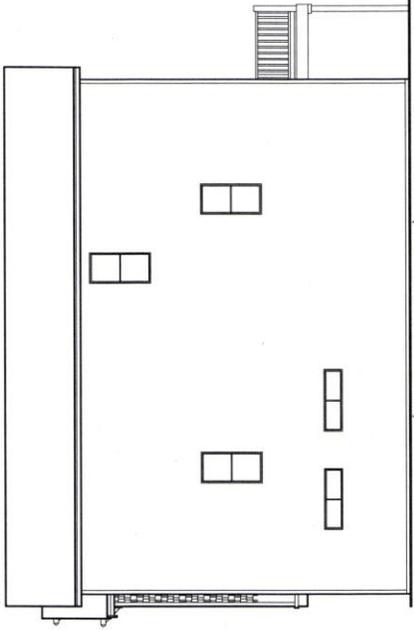
SE RAYMOND ST.



REDUCE WEST SIDE SETBACK 5' TO 3'-5" (WALLS)
 + FROM 4' TO 2'-5" (EAVES) (x2) ; 8
 REDUCE EAST SIDE SETBACK FROM 5' TO 3'-5" (WALLS)
 + FROM 4' TO 2'-5" (EAVES) (x2)

CASE NO. LU 17-174685 AD
 EXHIBIT C.1

REVISIONS BY NO DATE DESCRIPTION
 P.O. BOX 66813 PORTLAND, ORE. 97266 (503) 971-5700 FAX: (503) 780-0487
BW CONSTRUCTION
 project 66 RAYMOND ST
 ELEVATIONS
 plan 1718
1
 3/10/17



Approved
 City of Portland - Bureau of Development Services
 by MARK MOFFETT Date JULY 27, 2017
 This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Exhibit C.3

W 17-174685 AD

W 17 - 174685 AD