



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

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Date: December 13, 2017
To: Interested Person
From: Lauren Russell, Land Use Services
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Mary Sierra, Community Service Aide II

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 17-252091 AD

GENERAL INFORMATION

Applicant: Kevin Partain | Urban Visions
223 NE 56th Ave | Portland OR 97213

Owners: William A Tuten & Diane M Tuten
6305 SE Tenino St | Portland, OR 97206-9643

Site Address: 6305 SE TENINO ST

Legal Description: BLOCK 2 LOT 10&11, HEDRICKS ADD
Tax Account No.: R373100170
State ID No.: 1S2E20CC 03200
Quarter Section: 3837
Neighborhood: Brentwood-Darlington, contact bdlanduse@gmail.com.
Business District: Eighty-Second Ave of Roses Business Association, contact Nancy Chapin at nchapin@tsgpdx.com

District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Plan District: None
Zoning: R5a - Single Dwelling Residential 5,000, "a" Alternative Design Density 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.

Because the corner lot will be reconfigured, the SE Tenino St property line will effectively become the front lot line of the new lot for the existing house. On a corner lot, the Portland Zoning Code defines the shorter lot line as the front lot line of the property (33.910). Following the reconfiguration of the lot, the existing house and placement will not meet the required front building setbacks in the Portland Zoning Code (see 33.120.220).

In order for the existing house to remain within the newly defined front building setback, the applicant is requesting an Adjustment to reduce the required front building setback from 10 feet to 7.43 feet.

Relevant Approval Criteria:

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

ANALYSIS

Site and Vicinity:

The site is a 5,300 square-foot property that is located on the north corner of SE Tenino St and SE 65th Ave. The site is currently developed with a 1,332 square-foot single-dwelling residence built in 1947. The site is located in an expansive area zoned Single Dwelling Residential 5,000 with an Alternative Design Density overlay designation. The two lots to the east are a part of a large area zoned Open Space but are developed with single story homes like the rest of the street. Further southwest are two other large areas designated Open Space. The surrounding neighborhood is developed with a variety of housing types in regard to size, architecture, placement on lot, and year built.

The existing house that is requesting an adjustment to the required front building setbacks is situated right on the corner of SE Tenino St and SE 65th Ave. The front door and porch are oriented towards SE Tenino, therefore acting already as the front yard. The area of the site that faces SE 65th Ave provides curb cut access to a driveway and garage located behind the existing house.

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 purpose of the *Alternative Design Density Overlay Zone* ("a") 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. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements. Provisions of the "a" overlay are not being used for 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 November 9, 2017. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E-1);
- Bureau of Transportation Engineering (Exhibit E-2);
- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4);
- Site Development Section of BDS (Exhibit E-5); and
- Life Safety Section of BDS (Exhibit E-6).

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified neighbors in response to the "Notice of Proposal."

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would

preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

Adjustment requests will be approved if the 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 applicant is requesting an Adjustment to reduce the front setback from 10 feet to 7.43 feet. The purpose of the setback requirement in the R5 zone is stated in Zoning Code Section 33.110.220.A and reads as follows:

A. Purpose. *The setback regulations for buildings and garage entrances serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for firefighting;*
- *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 adjustment is to reduce the required front building setback of the existing house on the corner of SE Tenino and SE 65th Ave from 10 feet to 7.43 feet. As mentioned in the site analysis, SE Tenino St acts as the front street line to the house already. A front porch and door connect directly to SE Tenino St and provide a visually pleasing front yard. To further promote an open and visually pleasing front yard, the applicant has removed the existing chain link fence out of the public right of way, which opens up the front yard even more.

No changes or alterations are proposed to the existing house and it will continue to meet the purposes to maintain light, air, separation for fire protection, and as such, access for firefighting and to reflect the general building scale and placement of the houses in the surrounding neighborhood.

A reasonable physical relationship between residences and options for privacy for neighboring properties will be maintained in that the existing house will remain as is and not change in its relationship to the surrounding residences.

The Adjustment to the reduced front building setback will allow the existing house to remain where it is and for the required outdoor area to be located behind the house. The area behind the house and along the side property line on SE 65th Ave will meet continue to meet required outdoor areas and provide access to the existing curb cut and driveway.

For the reasons stated above, this approval 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: The adjustment to reduce the front setback for the existing house is in response to the new classification of the property lot lines following the proposed lot confirmation and property line adjustment. The façade of the existing house facing the new front property line acts as a front yard already, with a porch and front door facing SE Tenino St. Since the

function of the site is not changing it will not significantly impact the livability of the residence and surrounding neighborhood.

The scale and placement of the surrounding single dwelling residences varies substantially so the adjustment to reduce the required 10-foot front building setback for the house at the corner of SE Tenino and SE 65th Ave will not detract significantly from neighborhood appearance. There are no proposed alterations to the existing house which will help to mitigate from detracting from the livability or appearance of the surrounding residential area. As proposed, 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: 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. 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 described in the findings for Approval Criteria A and B above, there are no adverse impacts associated with the requested Adjustment for which mitigation would be required. Therefore, this criterion is met.

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

Findings: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). Because no environmental overlay zone is mapped on subject site, this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant has demonstrated the applicable criteria for the requested Adjustment have been met. An adjustment to allow a reduction of the required front building setback from 10 feet to 7.43 feet will not change significantly alter the functionality or character of the site and the surrounding neighborhood.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum required front building setback for the existing house from 10 feet to 7.43 feet (Zoning Code Section 33.120.220), granted per the approved site plan, Exhibit C-1, signed and dated December 7, 2017, subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibit C-1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-252091 AD. No field changes allowed."

Staff Planner: Lauren Russell

Community Service Aide: Mary Sierra

Decision rendered by: Lauren Russell on December 7, 2017
By authority of the Director of the Bureau of Development Services

Decision mailed: December 13, 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 October 6, 2017, and was determined to be complete on November 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 October 6, 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: March 2, 2018.**

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 December 27, 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 **December 27, 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.

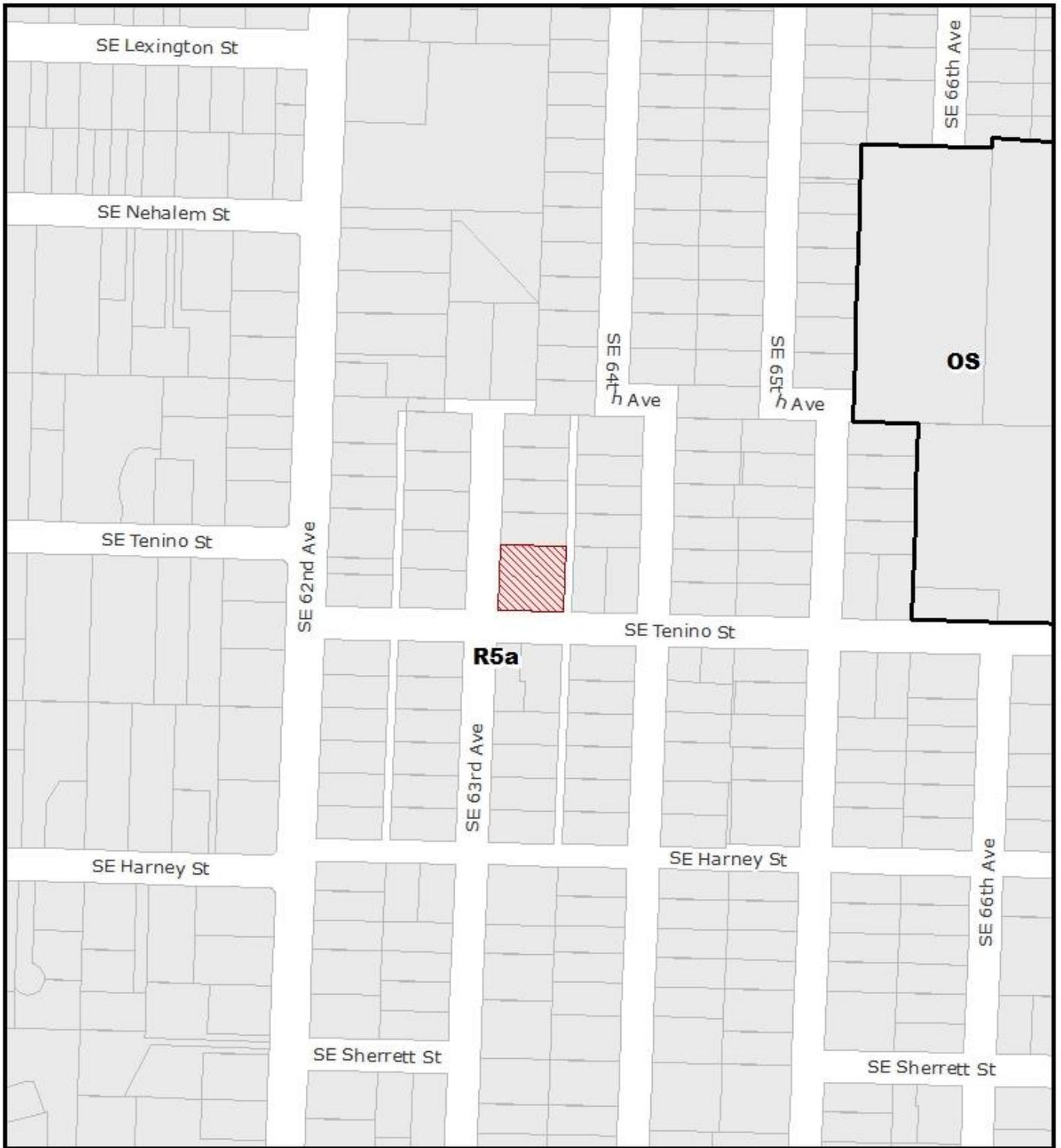
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Narrative and Plans submitted 10/6/2017
 2. Revised Survey received 10/30/17
 3. Revised Site Plan received 11/2/17
- 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 Engineering and Development Review
 3. Water Bureau

4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Life Safety Section of BDS
- F. Correspondence: None received
- G. Other:
1. Original LU Application
 2. Incomplete Letter mailed 10/16/17

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).



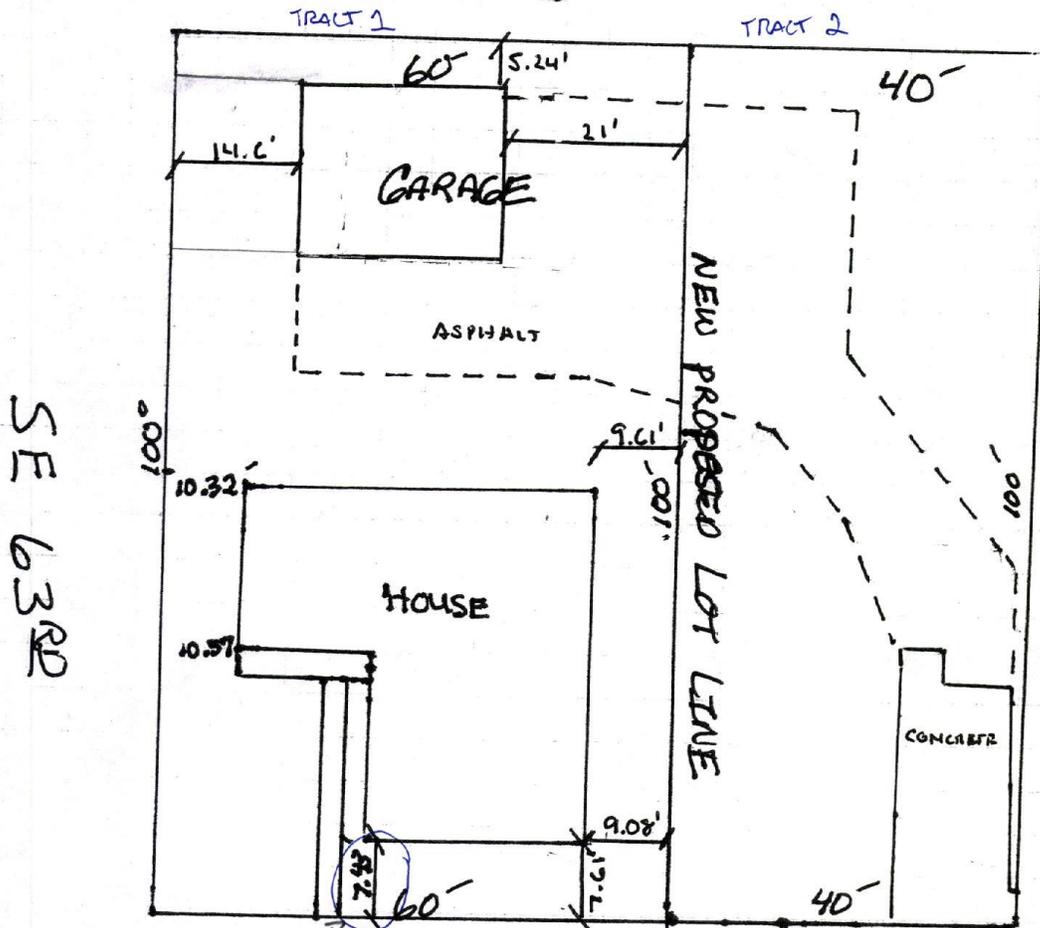
ZONING 
NORTH

 Site

File No.	LU 17-252091 AD
1/4 Section	3837
Scale	1 inch = 200 feet
State ID	1S2E20CC 3200
Exhibit	B Oct 09, 2017

6305 SE TENINO

1" = 20'
N
↑



Adjustment requested
to reduce the front
building setback
from 10' to 7.43'.

SE TENINO

Approved

City of Portland - Bureau of Development Services

Planner Zawen Russell Date 12/7/17

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

CASE NO. 17-252091 AD

EXHIBIT C-1

LU 17-252091 AD