



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

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Date: December 27, 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 17-253777 AD

GENERAL INFORMATION

Applicant: Dan Williams | Faster Permits
 2000 SW 1st Ave Suite 420 | Portland, OR 97201

Owner: Jerry W and Glory A Yankauskas
 41400 SE Bacon Creek Rd | Sandy, OR 97055

Site Address: 2720 N TERRY ST

Legal Description: BLOCK 12 LOT 25-27, PENINSULAR ADD
Tax Account No.: R655104740
State ID No.: 1N1E09CD 05000
Quarter Section: 2227
Neighborhood: Kenton, contact Webly Bowles at knalanduse@gmail.com.
Business District: Kenton Business Association, contact Mo Bachmann at info@kentonbusiness.com.

District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Plan District: None
Zoning: R5a – Single-Dwelling Residential 5,000, 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 underlying lots are legal buildable lots and adjust the common property line between the 2 lots. Tract 1 will contain the existing single-dwelling residence and Tract 2 will be developed with a new single-dwelling residence. The existing on-site parking space 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. Due to the location of the existing house on Tract 1, 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 dwelling 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 dwelling 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 800 feet from N Lombard Street, a transit street whose Number 4 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 7,500 square foot lot is located on the south side of N Terry Street between N Peninsular Avenue and N Burrage Avenue. The site is currently developed with a one-story residence in the northwest corner of the lot with a detached one-car garage toward the southeast corner of the lot. Adjacent properties are similarly developed with one- to two-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 Alternative Design Density (a) overlay zone is an optional overlay zone that provides opportunities for increased density in limited situations, provided that additional design compatibility requirements are met for the project. 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 November 20, 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 (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); and
- Life Development Section of BDS responded with no concerns (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 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.*

Through a separate review, the applicant is proposing to confirm underlying lots that will allow the existing house to be retained on proposed Tract 1 and a new single-family residence to be constructed to the east of the existing house on proposed Tract 2. There is currently a single curb cut serving the site that will be impacted by the Lot Confirmation and proposed development because it will be located entirely on Tract 2, which means that Tract 1 will no longer have an on-site parking space.

The Development Review Section of Portland Transportation (PBOT) reviewed the request to waive the on-site parking space for Tract 1 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 the transportation services (Exhibit E-2).

The PBOT reviewer stated that there will be sufficient space in the right-of-way abutting Tract 1 to accommodate approximately two on-street parking spaces, which is sufficient to accommodate the expected demand for parking generated by the residential use of Tract 1. Additionally, constructing a new driveway for Tract 1 to provide on-site parking would remove at least one space from the on-street parking supply. For these reasons, PBOT has no objections to the requested Adjustment to waive the on-site parking space for Tract 1.

The subject site is in close proximity to transit with the Number 35 bus line on N Peninsular Avenue located 430 feet away, the Number 75 bus line on N Lombard Street located 825 feet away, and the Number 4 bus line on N Halleck Street located 0.2 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. 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, by not constructing a new driveway to provide an on-site parking space for Tract 1, there will be no net loss in on-street parking capacity. According to PBOT, the available on-street parking spaces are sufficient to accommodate the expected demand for parking generated by the residential use of Tract 1.

The request to waive the required on-site parking space does not directly impact the appearance of the residential area; however, maintaining the on-street parking spaces rather than constructing a new driveway to provide an on-site parking space allows for the residential appearance of the subject site to be maintained. Due to the location of the existing house on the site, a new on-site parking space would likely have to be located at least partially within the front setback, which could create a cluttered and auto-oriented appearance.

Therefore, the proposal will not significantly detract from the livability and appearance of the surrounding residential area. This criterion is met.

C. If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: 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 Criterion B, the proposal would have no adverse impacts on the livability or appearance of the residential area. 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 proposal to reduce the one required on-site parking space to zero for proposed Tract 1 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 waive the one required on-site parking space for proposed Tract 1 (Zoning Code Section 33.266.120.B.1), granted per the approved site plan, Exhibit C-1, signed and dated December 21, 2017.

Staff Planner: Lauren Russell

Decision rendered by: Lauren Russell **on December 21, 2017.**

By authority of the Director of the Bureau of Development Services

Decision mailed: December 27, 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 10, 2017, and was determined to be complete on November 16, 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 10, 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 16, 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 January 10, 2018** 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 **January 10, 2018** 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 Survey submitted 10/10/17
 2. Site Plan received 11/16/17
- 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 10/18/17

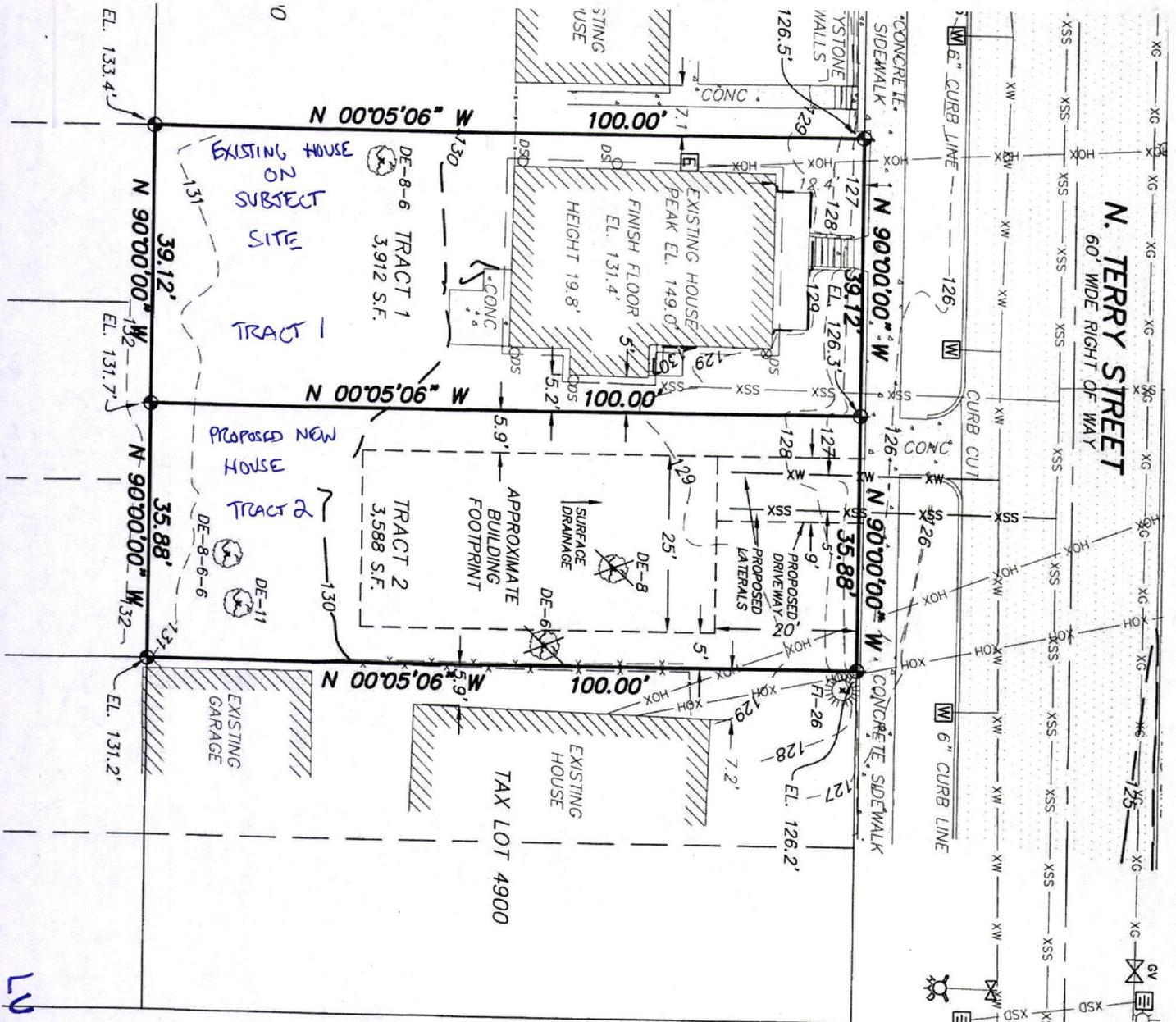
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING  NORTH

 Site

File No.	LU 17-253777 AD
1/4 Section	2227
Scale	1 inch = 200 feet
State ID	1N1E09CD 5000
Exhibit	B Oct 11, 2017



LV 17-253777 AD

N. BURRAGE AVENUE

ADJUSTMENT REQUEST TO REDUCE THE ONE REQUIRED ON-SITE PARKING SPACE ON TRACT 1 TO ZERO.

Approved
 City of Portland - Bureau of Development Services
 Planner Jamien Russell Date 12/21/17
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

CASE NO. 17-253777 AD
 EXHIBIT C-1