



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

Ted Wheeler, Mayor
Rebecca Esau, Director
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www.portlandoregon.gov/bds

Date: July 26, 2019
To: Interested Person
From: David Besley, Land Use Services
503-823-7282 / David.Besley@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 19-133460 AD

GENERAL INFORMATION

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

Owner: Sunset Bridge Inc
Po Box 66910
Portland, OR 97290

Site Address: 110 SE 139TH AVE

Legal Description: S 1/2 OF LOT 102, ASCOT AC
Tax Account No.: R041802740
State ID No.: 1N2E35DD 05000
Quarter Section: 3044

Neighborhood: Hazelwood, contact Arlene Kimura at 503-252-9429.
Business District: Gateway Area Business Association, contact at masciocchi@mac.com
Or gabapdxboard@gmail.com

District Coalition: East Portland Community Office, contact Victor Salinas at 503-823-6694

Plan District: East Corridor

Zoning: CM1 (Commercial/Mixed Use 1)

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

Proposal:

The applicant is proposing to construct 8 detached residential units, vehicular access along the south side of the units, and a 5-foot landscaped buffer along the southern and eastern edges of this vehicle area. The Portland Zoning Code requires a minimum 10-foot buffer with high-screen landscaping (L3 standard per Section 33.248 Landscaping and Screening) for lots abutting residential zoned lots (Section 33.130.215.B; Table 130-2). Because the applicant is proposing a 5-foot buffer with high-screen landscaping along the southern and eastern edges of the site – opposite the driveway area – an Adjustment is required to reduce the minimum landscape buffer from 10 feet to 5 feet.

Note: The original proposal was to construct 9 detached residential units (Exhibit C.3), and the easternmost unit was proposed to be 7 feet from the eastern lot line. Because this site abuts a residential zone to the east, a second Adjustment was required to reduce the minimum building setback from 10 feet to 7 feet for the easternmost unit (Section 33.130.215.B; Table 130-2). As a result of the Portland Bureau of Transportation (PBOT) requirement of an approximate 14-foot dedication (Exhibit E-3), the applicant removed the westernmost unit, and shifted the units to the west such that the easternmost unit met the 10-foot building setback requirement and this Adjustment was therefore no longer required.

Relevant Approval Criteria:

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 21,778 square foot site is located on the east side of SE 139th Avenue, about 250 feet south of the intersection of SE 139th Avenue and E Burnside Street. It contains a 640 square foot house, as well as a garage, shed and other detached accessory structures, all of which are proposed to be removed from the site. The site is bordered on all sides by single and multi-dwelling residential development. The surrounding vicinity is developed primarily with residential uses, with a commercial/mixed use zoning area along E Burnside.

Zoning: The Commercial/Mixed Use 1 (CM1) zone is a small-scale zone intended for sites in dispersed mixed use nodes within lower density residential areas, as well as on neighborhood corridors and at the edges of neighborhood centers, town centers and regional centers. The zone is also appropriate in core commercial areas of centers in locations where older commercial storefront buildings of 1 to 2 stories are predominant. This zone allows a mix of commercial and residential uses. The size of commercial uses is limited to minimize impacts on surrounding residential areas. Buildings in this zone will generally be up to three stories tall. Development is intended to be pedestrian-oriented and compatible with the scale and characteristics of adjacent residentially zoned areas or low-rise commercial areas. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

The East Corridor plan district includes three light rail stations and three Pedestrian Districts. The area is targeted to receive a significant share of the city's growth. It is envisioned that future development will transform the areas surrounding the light rail stations into vibrant mixed-use areas of retail, office, and housing with a high level of pedestrian amenities. Lower density residential and commercial development will continue to surround the Pedestrian Districts. These regulations:

- Encourage new housing and mixed use development and expansions of existing development to promote the corridor's growth and light rail transit ridership;
- Promote compatibility between private and public investments along the light rail system through enhanced building design and site layout standards;
- Implement the objectives of the City's Pedestrian Districts to enhance the pedestrian experience and access to and from light rail service; and

- Encourage connectivity for vehicles, bicycles, and pedestrians on large sites.

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 **May 9, 2019**. The following Bureaus have responded with the following information:

- The Life Safety section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information (Exhibit E-1);
- The Bureau of Environmental Services responded with no concerns and provided information on stormwater management (Exhibit E-2); and
- The Portland Bureau of Transportation responded with no concerns and notes requirements of an approximate 14-foot dedication and the construction of a pedestrian corridor to City standards (Exhibit E-3); and

The following Bureaus have responded with no concerns (Exhibit E-4):

- The Site Development Section of BDS;
- The Fire Bureau;
- The Water Bureau.

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

33.805.040 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 proposing to construct 8 detached residential units, and requests an Adjustment to reduce the minimum landscape buffer from 10 feet to 5 feet. The relevant purpose statements and associated findings are found below:

33.130.215 Setbacks

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial/mixed use zones. The setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial/mixed use development that will maintain light, air, and the potential for privacy for adjacent residential zones.

The front setback requirements for Civic Corridors in Eastern and Western pattern areas provide opportunities for additional pedestrian space and separation from the vehicle traffic along these major streets to create an environment for building users and pedestrians that is less impacted by close proximity to traffic, and provide opportunities for front landscaping reflective of the vegetated characteristics of these neighborhood pattern areas.

The minimum building setbacks along local service streets adjacent to residential zones work together with requirements for step downs in building height (33.130.210.B.2.b.) to ensure that there is a transition in street frontage characteristics to lower scale residential zones. In these situations, the building setback regulations promote street frontages with landscaping and residential uses to provide a transition and a cohesive street environment

with similar street frontage characteristics on both sides of the street, and limit exterior display and storage to minimize impacts to nearby residentially-zoned areas.

- While the applicant is proposing a reduction from 10 feet to 5 feet for the required landscape setback, the proposed detached housing units are about 30 feet from the south property line. This is 20 feet longer than the minimum required 10-foot building setback. This increased setback distance maintains light, air, and the potential for privacy for the adjacent single dwelling residential zone to the south.
- Providing 5 feet of high-screen landscaping will be an improvement over the current stretch of tall shrubs. To ensure that the landscape provides adequate screening, a condition of approval will require medium and/or large trees to be planted, and no small trees, must be planted along the southern and eastern edges of the site (Exhibit C.1). Additionally, at least half of the trees must be evergreen.
- The subject site is not in a Civic Corridor.
- The westernmost building (Exhibit C.2) is proposed to face SE 139th Avenue and will be only 5 feet from the sidewalk, reinforcing a pedestrian orientation.

As conditioned, this criterion is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 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 Commercial zone, the applicant must demonstrate that the proposal is consistent with the classification of adjacent streets and the desired character of the area. This CM1-zoned site has vehicular access from SE 139th Avenue. At the subject location, the Transportation System Plan (TSP) classifies SE 139th Avenue as being a Neighborhood Collector, City Walkway, Major Emergency Response, Community Corridor, and Local Service for all remaining modes. The Adjustment request will not impact the ability of SE 139th Avenue to serve the local bike, pedestrian or street circulation needs desired by the Local Service designations and will support the proposed residential use.

The Portland Zoning Code defines Desired Character as “the preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district. It also includes the preferred and envisioned character based on any adopted area plans or design guidelines for an area.” In this instance, Desired Character is defined by the character statement of the CM1 zone, the East Corridor Plan District, and the Hazelwood Neighborhood Plan.

The character statement for the CM1 zone in Section 33.130.030.B reads: The Commercial/Mixed Use 1 (CM1) zone is a small-scale zone intended for sites in dispersed mixed use nodes within lower density residential areas, as well as on neighborhood corridors and at the edges of neighborhood centers, town centers and regional centers. The zone is also appropriate in core commercial areas of centers in locations where older commercial storefront buildings of 1 to 2 stories are predominant. This zone allows a mix of commercial and residential uses. The size of commercial uses is limited to minimize impacts on surrounding residential areas. Buildings in this zone will generally be up to three stories tall. Development is intended to be pedestrian-oriented and compatible with the scale and characteristics of adjacent residentially zoned areas or low-rise commercial areas.

The East Corridor plan district includes three light rail stations and three Pedestrian Districts. The area is targeted to receive a significant share of the city’s growth. It is envisioned that future development will transform the areas surrounding the light rail

stations into vibrant mixed-use areas of retail, office, and housing with a high level of pedestrian amenities. Lower density residential and commercial development will continue to surround the Pedestrian Districts. These regulations:

- Encourage new housing and mixed use development and expansions of existing development to promote the corridor's growth and light rail transit ridership;
- Promote compatibility between private and public investments along the light rail system through enhanced building design and site layout standards;
- Implement the objectives of the City's Pedestrian Districts to enhance the pedestrian experience and access to and from light rail service; and
- Encourage connectivity for vehicles, bicycles, and pedestrians on large sites.

The proposed development – detached 2-story residential units – will be compatible with the scale and characteristics of adjacent residentially zoned areas to the south and east, as well as the low-rise commercial areas to the north (along E Burnside). The new housing will help promote the East Corridor's growth.

The site is within the boundaries of the Hazelwood Neighborhood Plan, which includes the following relevant housing objective:

- Promote the development of a variety of housing types (Objective 1, page 29).

Approval of the proposed Adjustment will promote the development of new higher-density detached residential housing. The Adjustment request is limited to reducing the depth of a landscape buffer and therefore has no impact on the intended scale or type of uses in the CM1 zone and the East Corridor Plan District.

This proposal is therefore consistent with the Desired Character of the area.

As conditioned, 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 proposed; therefore, this criterion is not applicable.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case "s" and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. 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: As noted above, the proposed dwelling units are an additional 20 feet beyond the minimum required 10-foot building side setback. This increased distance maintains light, air, and the potential for privacy for the adjacent single dwelling residential zone to the south. To ensure that the landscape provides adequate screening, a condition of approval will require medium and/or large trees be planted along the southern and eastern edges of the site (Exhibit C.1). Requiring larger trees will mitigate for the landscape reduction. Additionally, at least half of the trees will be required to be evergreen to provide screening year-round.

As conditioned, 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 Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all requirements of Title 11 can be met, and 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 is proposing an Adjustment to reduce the minimum landscape buffer from 10 feet to 5 feet to construct 8 detached residential units. The proposed detached housing units are about 30 feet from the south property line. This is 20 feet longer than the minimum required 10-foot building setback. This increased setback distance maintains light, air, and the potential for privacy for the adjacent single dwelling residential zone to the south, and providing 5 feet of high-screen landscaping will provide the desired screening along this lot line. To ensure that the landscape provides adequate screening, a condition of approval will require medium and/or large trees to be planted, and no small trees, must be planted along the southern and eastern edges of the site (Exhibit C.1). Additionally, at least half of the trees must be evergreen. The proposed detached 2-story residential units will be compatible with the scale and characteristics of adjacent residentially zoned areas and will help promote the housing growth goals of both the East Corridor Plan District and Hazelwood Neighborhood Plan. This proposal will thus be consistent with the Desired Character of the area. The proposal meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum landscape buffer along the south side lot line from 10 feet to 5 feet (Section 33.130.215.B; Table 130-2) for a development consisting of 8 detached residential units, Exhibits C.1 and C.2, signed and dated July 23, 2019, and subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 19-133460 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Medium and/or large trees (per the [Tree and Landscaping Manual](#)), must be planted along the southern and eastern edges of the site (Exhibit C.1). Additionally, at least half of the trees must be evergreen trees

Staff Planner: David Besley



Decision rendered by: _____ **on July 23, 2019.**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 26, 2019

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 March 15, 2019, and was determined to be complete on May 6, 2019.

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 March 15, 2019.

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: September 3, 2019.**

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 9, 2019** 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 9, 2019** 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:

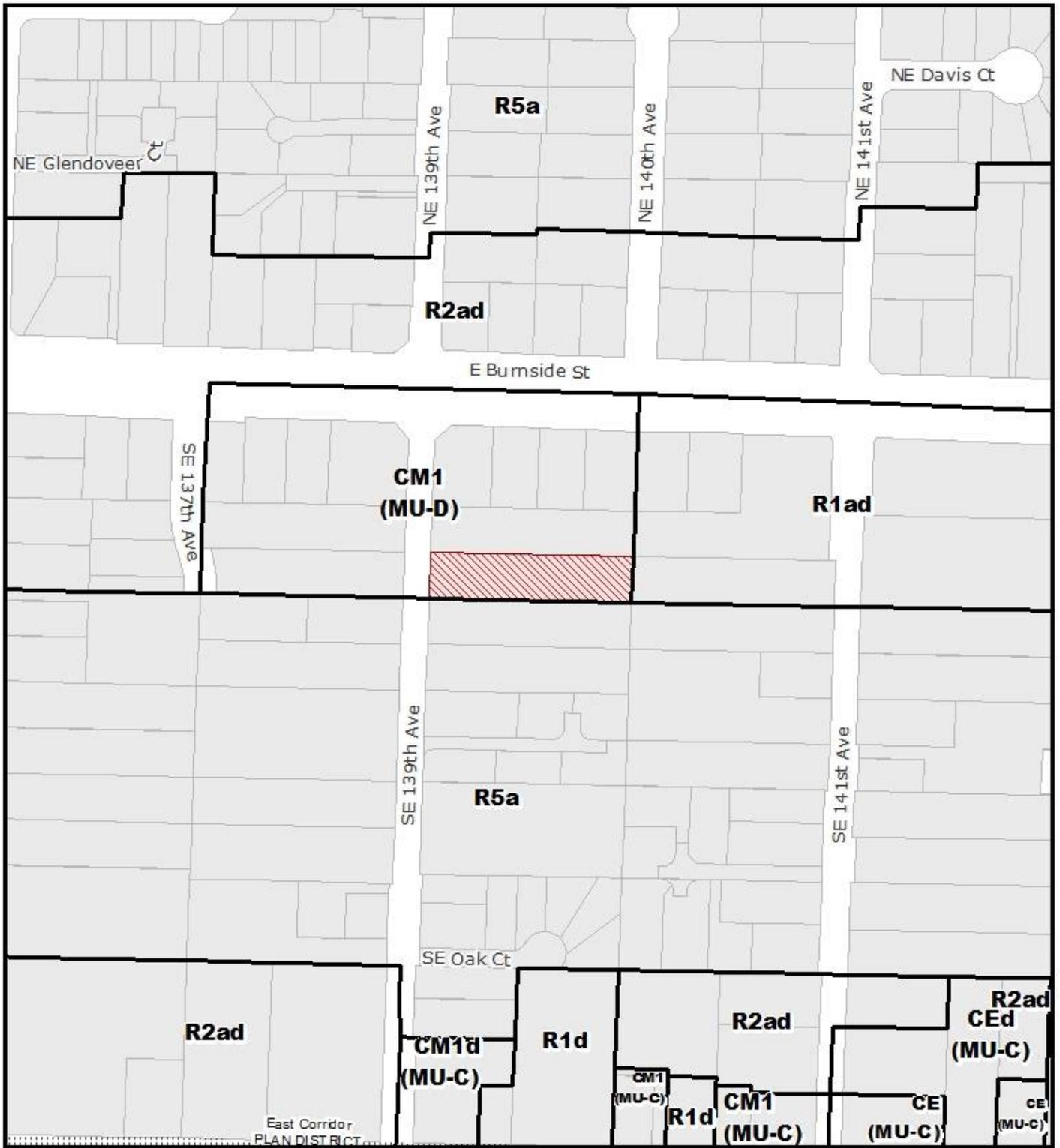
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Building C Elevation Drawings (attached)
 - 3. Original Site Plan submittal
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section of BDS
 - 2. Bureau of Environmental Services
 - 3. Bureau of Transportation Engineering and Development Review
 - 4. Agencies responding with no concerns
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application Form and Receipt
 - 2. Incomplete letter from staff to applicant, sent March 28, 2019

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).



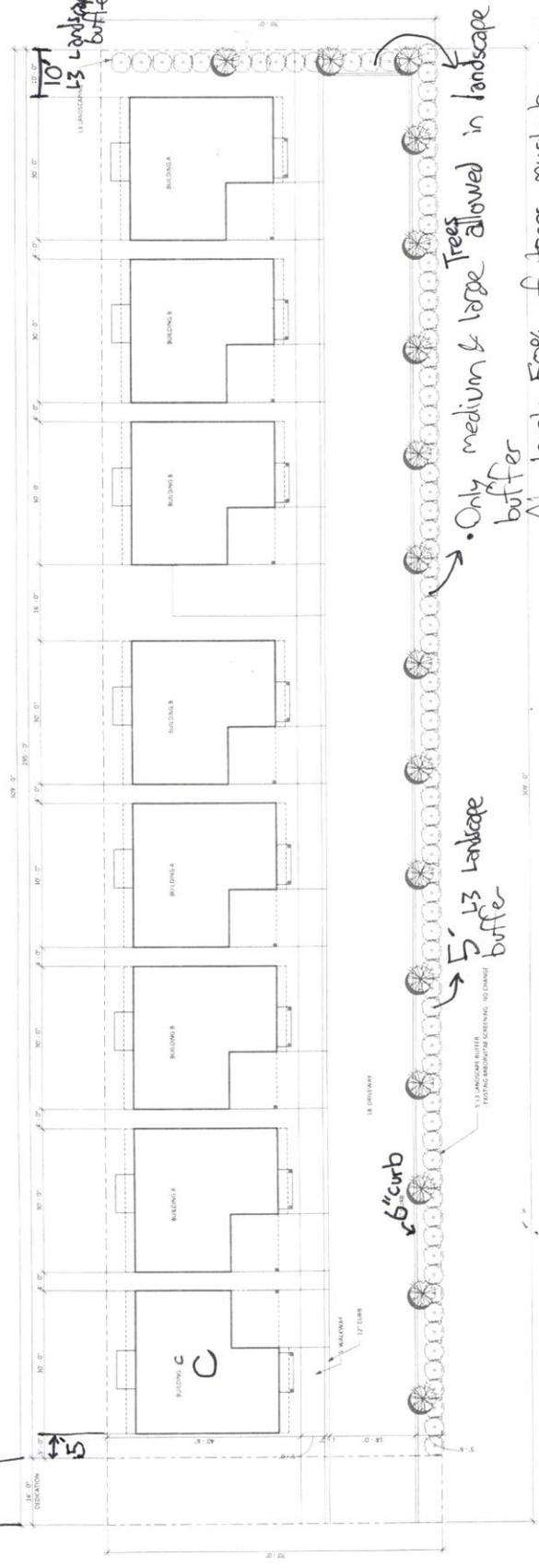
ZONING 
 NORTH
 THIS SITE LIES WITHIN THE:
 EAST CORRIDOR PLAN DISTRICT

 Site

File No.	LU 19-133460 AD
1/4 Section	3044
Scale	1 inch = 200 feet
State ID	1N2E35DD 5000
Exhibit	B Mar 19, 2019

Revised Plan Received 7.17.19

BUILDERS DESIGN INC
 COMMERCIAL, RESIDENTIAL, KITCHEN/BA
 PHONE: (503) 252-3493 FAX: (503) 252-3454
 1122 N. W. WILSON ST. PORTLAND, OR 97228
 EMAIL: BUILDERSDESIGN@GMAIL.COM



110 E 139th AVE

SITE PLAN

No.	Date	Revised By
1		

1 SITE PLAN
 1" = 10'-0"

- SEPARATION BETWEEN PATIO/DECK/SCREENED PORCH AND WATER LINE SHOULD BE 3' MIN. MAX 10' MAX
- SEPARATION BETWEEN UNDERGROUND ELECT. RACE SERVICE LINE AND WATER LINE SHOULD BE 4' MIN.
- SEPARATION BETWEEN WATER SERVICE AND SEWER SERVICE SHOULD BE 1' MIN.
- SEPARATION BETWEEN WATER AND SEWER SERVICE AND HIGH VOLTAGE SERVICE SHOULD BE 15' MIN.
- ALL OTHER UNDERGROUND UTILITIES SHOULD BE 1' MIN. SEPARATION FROM WATER LINE
- WATER LINES ARE TO BE SHOWN IN THE PUBLIC RIGHT OF WAY. SEWER FROM PRIVATE PROPERTY

APPROVED*
 City of Portland
 Bureau of Development Services
 Planner Dawn Bentley
 Date 7.17.19

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

1 SITE PLAN
 1" = 10'-0"
 ADDRESS: 110 E 139th Ave
 PORTLAND, OR 97111
 PROJECT NO: 19-00000
 DATE: 7/17/19
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

1 SITE PLAN
 1" = 10'-0"
 ADDRESS: 110 E 139th Ave
 PORTLAND, OR 97111
 PROJECT NO: 19-00000
 DATE: 7/17/19
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

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 PROJECT NO: 19-00000
 DATE: 7/17/19
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

Project Number: 19-00000
 Date: 7/17/19 8:18 AM
 Drawn By: [Name]
 Checked By: [Name]
 Approved By: [Name]
 0 SP

LW 19-133460 AD
 EXHIBIT C-1

