



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

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**Date:** October 14, 2019  
**To:** Interested Person  
**From:** Marguerite Feuersanger, Land Use Services  
503-823-7619 / [mfeuersanger@portlandoregon.gov](mailto:mfeuersanger@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 19-211692 AD**

#### **GENERAL INFORMATION**

**Applicant:** Bruce Howard, PDX Business Investments LLC  
8213 SW Kingfisher Way  
Portland OR 97224  
[brucehoward222@gmail.com](mailto:brucehoward222@gmail.com) (503) 989-9417

**Owners:** Larry W Bright Tr and Mary C Bright Tr  
7236 N Jordan Ave  
Portland, OR 97203-4447

**Site Address:** **7236 N Jordan Avenue**

**Legal Description:** BLOCK 5 LOT 21&24&25, SMITHSON LAND COS ADD  
**Tax Account No.:** R776601900  
**State ID No.:** 1N1E08CC 15100  
**Quarter Section:** 2225

**Neighborhood:** University Park, contact Tom Karwaki at [tkarwaki@gmail.com](mailto:tkarwaki@gmail.com)  
**Business District:** University Park Business District  
**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at (503) 823-4099

**Zoning:** R5, Single-Dwelling Residential 5,000 Zone

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

**Proposal:** The applicant plans to separate the existing site into two properties through a Lot Confirmation review (#19-213075 PR). The existing house will remain on the northerly 5,250 square feet (Lots 21 and 24) while the southerly 2,625 square feet (Lot 25) will be developed with a new house, to be sold separately. The existing detached garage and

driveway on the southerly property will be removed for this new development. Rather than replace the required on-site parking, the applicant is requesting an Adjustment to waive the required on-site parking space for the existing house (Zoning Code Section 33.266.110).

The applicant will maintain the existing house and would like to avoid removal of an existing tree and relocation of an existing fire hydrant, actions which are necessary to add a new driveway. The applicant states that the new dwelling unit on Lot 25 will include a new on-site parking space (attached garage).

**Relevant Approval Criteria:**

To be approved, this proposal must comply with the approval criteria of Title 33, the Portland Zoning Code. Adjustment requests will be approved if the applicant has shown that approval criteria A through F of Zoning Code Section 33.805.040 are met.

## ANALYSIS

**Site and Vicinity:** The site is a 7,875 square-foot interior lot, with street frontage on N Jordan Avenue. A one-story house and detached garage are located on the site. The surrounding properties are developed with a mix of one- and two-story homes dating from the 1920s.

North Jordan Avenue is designated a Local Service Street and is improved with paved public sidewalks, planter strips with street trees and curbs. The paved roadway is only 24 feet in width and can accommodate two-way vehicle traffic but is not wide enough to accommodate on-street parking on both sides of the street. Thus, on-street parking is not permitted on the easterly side of N Jordan Avenue, adjacent to the site.

The commercial main street of N Lombard is located approximately 900 feet north of the site. The University of Portland campus is located nearly 1,600 feet south of the site.

**Zoning:** The R5 zone is a single-dwelling residential zone intended to preserve land for housing and provide housing opportunities for individual households. Parking regulations are intended to provide adequate on-site parking spaces for the intended use of the land, while avoiding significant impacts to nearby on-street parking.

**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 **September 5, 2019**. The following Bureaus have responded with no concerns regarding the proposed Adjustment:

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

Note that some Bureau staff cited requirements that will apply to the building permit for the proposed development on the new vacant property.

Transportation staff (PBOT) has reviewed the proposal and responded with comments relating to the approval criteria and impact on neighborhood on-street parking supply (Exhibit E-2). Transportation staff finds:

*“Additional evidence would need to be submitted ... to document the approval criteria have been met. This evidence would need to be a parking study conducted by a licensed traffic engineer.”*

Because the applicant did not submit a parking study, Transportation does not support the proposed to waive the one-site parking but recommends a condition of approval that requires

provision of at least one parking space, either on the new vacant lot or the smaller lot with the existing house.

Additional analysis and findings from Transportation staff are contained in the Adjustment review approval criteria findings below.

**Neighborhood Review:** Two written responses were received; both responses were in opposition to the proposal (Exhibits F-1 and F-2). One nearby resident is concerned about the lack of on-street parking supply due to the proximity of the University of Portland and the restriction of on-street parking along the east side of N Jordan Avenue, adjacent to the side availability of on-street parking for neighborhood residents. Evaluation of the on-street parking supply in the immediate area is addressed the findings for the Adjustment approval criteria in this report.

## 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 Adjustment 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:** Relevant portions of the purpose statement for minimum parking requirements are as follows (33.266.110.A):

*“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... The required parking numbers correspond to broad use categories, not specific uses, in response to this long-term emphasis.”*

The applicant provided a written response to the approval criteria (Exhibit A-1) but did not provide a professional on-street parking study. Transportation (PBOT) staff has reviewed the proposal for potential impacts regarding the public right-of-way, including traffic impacts and conformance with adopted policies, street designations, relevant portions of Titles 17 and 33, and for overall potential impacts upon transportation services, including the availability of on-street parking (Exhibits E-2). Following is a summary of PBOT comments:

The subject property is comprised of the following underlying subdivision lots: Smithson Land Cos Addition, Block 5, Lots 21, 24, and 25. The existing house spans Lots 21 and 24. Lot 25 contains the existing driveway and detached garage associated with house. A Lot Confirmation review is in process to allow

infill development of a new single-dwelling house. This redevelopment will remove the required legal parking for the existing house. Although the existing house is required to maintain at least one on-site parking space, no on-site parking is required for Lot 25 per Zoning Code Section 33.110.213.C.5. In total, both lots are required to provide one off-street parking space. The Zoning Code, however, requires that the parking space be on lots 21 & 24 with the existing house. The applicant requests an Adjustment to waive this on-site parking requirement.

The subject site is within a neighborhood platted in 1889. This development pre-dates land regulation in Portland. While the total right-of-way of N Jordan Avenue is 50 feet wide, the roadway surface is only 24 feet wide. (Current PBOT standards require a minimum 28-foot paved roadway to allow parking on both sides with two-way travel using a “courtesy queuing” model.) As a result, parking is only allowed on one side of N Jordan Avenue. In this case, the east side of the street, adjacent to the subject site, does not allow for on-street parking and signs are posted: “No Parking.” These existing site conditions present the following issues related to the requested Adjustment:

- There will be no increase to the public on-street parking supply if the existing driveway and curb cut were to be closed; and
- The number of on-street parking spaces is half the amount expected on a typical street with on-street parking on both its sides.

PBOT reviewed available City data, which shows there are a significant number of driveways on the west side of the street, a condition that reduces the on-street parking supply. PBOT does not have information about the number of existing on-street parking spaces available or about the extent to which the existing spaces are used. This information must be provided by the applicant in the form of a professional parking study, which provides data regarding the existing supply and demand for on-street parking at and near the subject site.

As an alternative to requiring the applicant to prepare a professional parking study, PBOT is supportive of an Adjustment with a condition that requires at least one on-site parking space, either on the existing house lot or the vacant Lot 25. This allows the applicant the flexibility to provide parking on either property, which the current standard does not allow. More importantly, the condition results in no net loss of on-street parking supply over what is allowed by right. PBOT has no concerns with shifting the required parking space from one lot to another.

In consideration of the above PBOT evaluation and findings, this criterion is met with the condition that requires at least one on-site parking space, which could be located on either the combined Lots 21 and 24 or on Lot 25.

- 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:** The proposal is to remove the requirement for on-site parking for the existing house. A new dwelling unit is planned on Lot 25, which must meet applicable Zoning Code standards. For this Adjustment review, therefore, the design of the new dwelling unit is not considered.

The findings from PBOT staff under Criterion A above conclude in absence of a professional parking study (which would be provided by the applicant), a condition is necessary that requires an on-site parking space which can be located on either with

the existing house on Lots 21 and 24 or with new development on Lot 25. This condition ensures that the proposal will not result in a loss of on-site parking. Therefore, the proposal will not significantly detract from the livability of the residential area. With the condition of approval recommended by PBOT in Criterion A, this approval 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 has been requested. Therefore, 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 does not apply.

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

**Findings:** With the condition of approval as requested by PBOT staff, to require an on-site parking space on either the existing house lot or on Lot 25, impacts of the requested Adjustment are mitigated to the extent practical. 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). 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.

## CONCLUSIONS

The applicant plans to separate the existing site into two properties through a Lot Confirmation review (#19-213075 PR). The existing house will remain on Lots 21 and 24 while Lot 25 will be developed with a new house, to be sold separately. A detached garage and driveway associated with the existing house will be removed for the development of the new house. Zoning Code regulations require that the larger existing house lot provide on-site parking but exempt the smaller Lot 25 from the on-site parking requirement. The applicant requests an Adjustment to waive the parking requirement for the existing house lot primarily because the replacement parking would require removal of an existing tree and relocation a fire hydrant.

Transportation staff found that the Adjustment request can be supported with the condition that requires at least one on-site parking space be provided either with new development on Lot 25 or with the existing house on Lots 21 and 24. This gives flexibility that is not provided by the regulation but the result is equal to the regulation in that there will be no loss of on-site

parking. The proposal as conditioned meets applicable Adjustment criteria and should be approved.

## ADMINISTRATIVE DECISION

**Approval of an Adjustment** to waive the minimum on-site parking requirement for the existing house site, to be composed of Lots 21 and 24, Block 5 of Smithson Land Cos Add (Section 33.266.110.B.2/Tables 266-1 & 266-2), per the approved site plan, Exhibit C-1, signed and dated October 10, 2019, subject to the following conditions:

- A. The following development-related condition B must be noted on each of the 4 required updated site plans and floor 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 19-211692 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At least one on-site parking space must be provided and maintained either on Lot 25, or on the combined Lots 21 and 24. The required on-site parking space must meet the applicable development standards for required parking spaces, Section 33.266.120.

**Staff Planner: Marguerite Feuersanger**

**Decision rendered by:**  **on October 10, 2019.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: October 14, 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 August 16, 2019 and was determined to be complete on August 30, 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 August 16, 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: December 28, 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 October 28, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> 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](http://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 **October 28, 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 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.

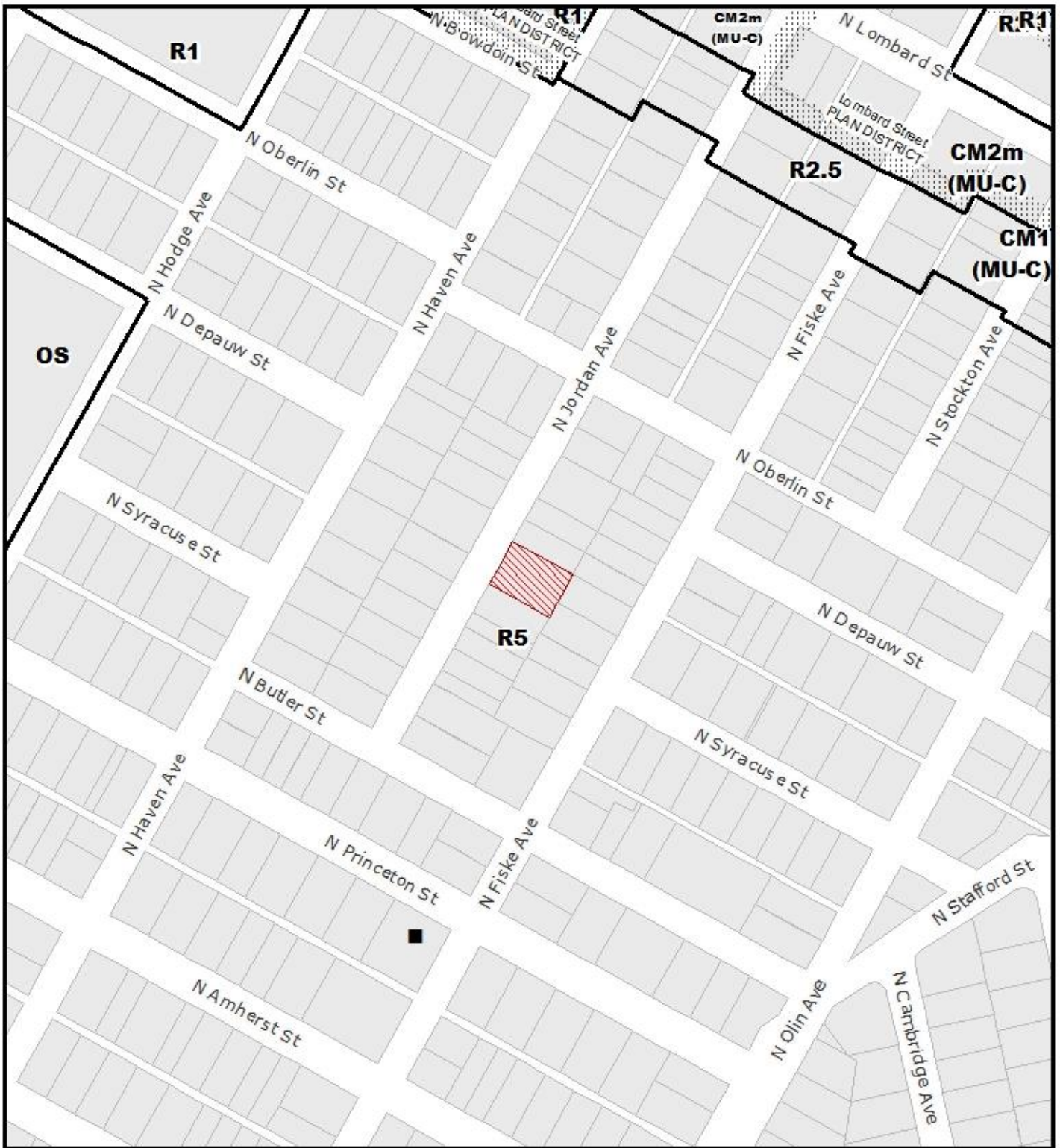
#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
- 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 Residential Plan Review of BDS
- F. Correspondence:
  - 1. Meredith J Enriquez, September 10, 2019, writing in opposition to the proposal
  - 2. Resident of 7218 N Jordan Avenue, September 26, 2019, writing in opposition to the proposal
- G. Other:
  - 1. Original LU Application

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





**ZONING**   
NORTH

 Site  
 Historic Landmark

File No.	LU 19-211692 AD
1/4 Section	2225
Scale	1 inch = 200 feet
State ID	1N1E08CC 15100
Exhibit	B Aug 19, 2019

**IMPERVIOUS AREA**

DRIVEWAY 912 sq ft  
PATIO N/A  
WALK 70 sq ft

**BUILDING COVERAGE**

BUILDING FOOTPRINT 982 sq ft  
Garage 360 sq ft

**LOT AREA**

7,875 sq ft (75' x 105')

ROOF AREA (INCL. OVERHANG)

TOTAL

LOTS 21+24  
Existing House  
on 50' x 105'

LOT 25  
Area to be separated  
25' x 105'

Adjustment Request:  
Waive on-site parking for existing house

shed  
12' x 16'  
192 sq ft

Garage  
18' x 20'  
360 sq ft

To be removed

**\*Approved\***  
**City of Portland**  
Bureau of Development Services  
Planner M. Green  
Date Oct 10, 2019  
• This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

House  
26' x 35'  
982 sq ft

Porch  
6' x 12'  
5' H



Driveway 12' x 76'

sidewalk

sidewalk

Water meter →

⊗ Fire Hydrant

EXHIBIT G1  
19.211692 AD

**PROJECT LEGAL**

Smithson Land Cos Add,  
Block 5, Lot 21 + 24 + 25  
R271676

**PROJECT ADDRESS**

7236 N Jordan  
Portland, OR 97203

**SITE PLAN**

SCALE 1" = 10'  
2' 10'

