



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

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Date: June 28, 2022
To: Interested Person
From: Andrew Gulizia, Land Use Services
503-865-6714 / Andrew.Gulizia@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 22-142490 AD

GENERAL INFORMATION

Applicant: Chandra Robinson
LEVER Architecture PC
4713 N Albina Ave, 4th Floor
Portland, OR 97217
(503) 804-5509
chandra@leverarchitecture.com

Property Owner: Home Forward
135 SW Ash St.
Portland, OR 97204-3540

Site Address: 7003 NE 27th Ave.

Legal Description: BLOCK 3 LOT 1 UND 1/54 INT TRACT A, DEKUM COURT; BLOCK 3 LOT 2 UND 1/54 INT TRACT A, DEKUM COURT; BLOCK 3 LOT 3 UND 1/54 INT TRACT A, DEKUM COURT; BLOCK 3 LOT 4 UND 1/54 INT TRACT A, DEKUM COURT; BLOCK 3 LOT 5 UND 1/54 INT TRACT A, DEKUM COURT; TL 18100 3.72 ACRES SPLIT MAP R315537 (R941141490), SECTION 13 1N 1E; TL 6200 0.90 ACRES SPLIT MAP R315377 (R941132940), SECTION 14 1N 1E

Tax Account No.: R201452000, R201452020, R201452040, R201452060, R201452080, R941132940, R941141490

State ID No.: 1N1E13BC 17600, 1N1E13BC 17500, 1N1E13BC 17400, 1N1E13BC 17300, 1N1E13BC 17200, 1N1E13BC 18100, 1N1E14AA 06200

Quarter Section: 2332 & 2333

Neighborhood: Concordia, contact Ben Taylor at landuse@concordiapdx.org

Business District: Soul District Business Association, contact at Info@nnebaportland.org

District Coalition: Northeast Coalition of Neighborhoods, contact at info@necoalition.org

Plan District: None

Zoning: RM1h – Residential Multi-Dwelling 1 base zone with Aircraft Landing (“h”) overlay zone

Case Type: AD – Adjustment Review

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal: The applicant has submitted building permit applications to construct an affordable housing development on this site with six apartment buildings, a community building, and surface parking lots. A new Head Start building is also planned for the site in the future, but a permit application has not been submitted for the new Head Start building. The applicant requests approval of these Adjustments to Zoning Code requirements for this project:

- To increase the maximum building setback from the NE 27th Avenue lot line to the community building from 20 feet to between 131 feet and 140 feet (Zoning Code Section 33.120.220.C.1)
- To increase the maximum building setback from the NE 27th Avenue lot line to Building B from 20 feet to between 108 feet and 122 feet (Zoning Code Section 33.120.220.C.1)
- To increase the maximum walking distance between the entrance to Building D and the NE Morgan Street lot line from 65 feet (120% of the shortest straight-line distance) to 330 feet (Zoning Code Section 33.120.255.B.1.a.2).

Relevant Approval Criteria: To be approved, this proposal must comply with the Adjustment Review approval criteria in Zoning Code Section 33.805.040.A-F.

ANALYSIS

Site and Vicinity: The subject site is approximately 5.3 acres in area and abuts three streets: NE 27th Avenue to the east, NE Saratoga Street to the south, and NE Morgan Street to the north (Exhibit B). NE 27th Avenue is designated a Transit Access Street in the City’s Comprehensive Plan. The site is currently developed with an affordable housing complex with two-story buildings. Most neighboring properties are developed with single-dwelling houses. An industrial area on the north side of NE Lombard Street is about one block north of the site.

Zoning: The RM1 zone is a low-scale, multi-dwelling residential zone.

The Aircraft Landing (“h”) overlay zone limits the height of structures and vegetation near Portland International Airport. The regulations of the “h” overlay zone do not apply to the subject site because it’s in a residential zone (Zoning Code Section 33.400.030.B).

Land Use Review History: This site was subject to the following prior land use reviews:

- CU 05-83: 1983 Conditional Use approval for a nursery school
- PC 6653: 1978 approval of a zone change
- CU 06-76: 1976 Conditional Use approval for an activity building and laundry facility
- CU 037-74: 1974 Conditional Use approval for a new building

Agency Review: A “Notice of Proposal” was sent May 25, 2022 (Exhibit D-2). The following Bureaus responded with no objections to the proposed Adjustments:

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

Neighborhood Review: No written responses to the mailed “Notice of Proposal” were received from either the Neighborhood Association or notified neighbors.

ZONING CODE APPROVAL CRITERIA

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: Two of the Adjustment requests are to increase the maximum building setback from NE 27th Avenue, a designated transit street, for the community building and Building B. Zoning Code Section 33.120.220.A states the purposes of the setback requirements in multi-dwelling residential zones:

The building setback regulations serve several purposes:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for building residents and neighboring properties;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity;*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users; 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 relevant part of this purpose statement for the maximum building setback requirement from transit streets is:

- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users*

The two buildings subject to maximum building setback Adjustments will be part of a six-building complex. The east wall of Building E, which is not subject to this Adjustment, will be within the 20-foot maximum setback from the NE 27th Avenue lot line, supporting a built-up, pedestrian oriented feel along the transit street (Exhibit C-1). The community building will be set back between 131 feet and 140 feet from the NE 27th Avenue lot line, but this building will specifically serve residents of this site and will not be a destination for other neighbors. Therefore, staff finds this building does not need to be located near NE 27th Avenue to create an inviting environment for pedestrians and transit users. Building B will also be set back further than allowed from NE 27th Avenue (between 108 feet and 122 feet). However, placing this residential building within 20 feet of the east lot line, as would be required without this Adjustment, would increase impacts to and likely require removal of several mature trees in the front yard (Exhibit C-1). Two of the trees in the front yard have trunks larger than 40 inches in diameter: a 41-inch oak and a 44-inch oak (Exhibit C-1). Staff finds the aesthetic qualities and shade provided by these mature trees also contribute to an inviting environment for pedestrians and transit users along NE 27th Avenue, and that removing or pruning back these trees to place Building B closer to the street would not create a more inviting environment. For these reasons, and with a condition of

approval to preserve the five trees identified on Exhibit C-1, staff finds the proposal equally meets the purpose of the maximum setback requirement.

The other Adjustment request is to the requirement in Zoning Code Section 33.120.255.B.1.a.2 for the main entrance of Building D to have a straight-line pedestrian connection to NE Morgan Street. Zoning Code Section 33.120.255.A states the purpose of the pedestrian standards:

The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between abutting streets and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible. The standards promote configurations that minimize conflicts between pedestrians and vehicles. In order to facilitate additional pedestrian oriented space and less impervious surface, the standards also provide opportunities for accessways with low traffic volumes, serving a limited number of residential units, to be designed to accommodate pedestrians and vehicles within the same space when special paving treatments are used to signify their intended use by pedestrians as well as vehicles.

For Building D to have a pedestrian connection to NE Morgan Street that meets the pedestrian standard outright, a pathway between the building entrance to the cul-de-sac directly to the north would need to cut through an existing retaining wall with new stairs. However, staff does not find that to be necessary in this case for residents to have a safe, attractive, and usable pedestrian circulation system. Residents of Building D will still have a pedestrian connection to NE Morgan Street using the walkway system that will connect the six new buildings to each other and to all three adjacent streets (Exhibit C-1). The path between Building D and NE Morgan Street will be attractive and safe, as it will be lined with new trees and will not cross any vehicle area (Exhibit C-1). Though this walkway will meet the NE Morgan Street sidewalk further to the west than required without the Adjustment, most if not all pedestrian trips from the subject site onto NE Morgan Street will be heading west of the site into the neighborhood street network. The part of NE Morgan Street east of where the new walkway will meet the street is a cul-de-sac serving only three homes (Exhibit C-1). For these reasons, staff finds the Adjustment to be consistent with the purpose of the pedestrian standard.

Summary

With a condition of approval to preserve the five trees identified on Exhibit C-1, staff finds the proposal equally meets the purposes of the regulations to be modified. With the condition of approval, criterion A 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: Since the site is in a residential zone, the Adjustments must not significantly detract from the livability or appearance of the residential area. This site is surrounded by single-dwelling houses that were mostly built between the 1950s and the 1980s. The subject site is the only large-scale multi-dwelling development in the immediate area. However, the RM1 zoning that applies to this site allows multi-dwelling residential development outright. The proposal will replace an existing, 1970s apartment complex with new development meeting all current requirements except the maximum setback and pedestrian connection standards addressed in this Adjustment Review. The new apartment buildings will have gable roofs and horizontal siding that will appear compatible with the established residential neighborhood (Exhibits C-3 and C-4). Mature trees to be preserved on the property will continue to support an attractive and livable neighborhood, and as discussed in the findings for criterion A, the Adjustment to the maximum setback

requirement will support the preservation of several trees on the east side of the site. The Adjustment to the pedestrian standard will not detract from neighborhood livability because all residents, including residents of the building subject to the Adjustment, will have a complete, safe, and attractive walkway network with connections to all three adjacent streets. For these reasons, and with the condition of approval to preserve the trees identified on Exhibit C-1, staff finds the proposal will not significantly detract from the livability or appearance of the residential area. With the condition of approval, criterion B 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: The purpose of multi-dwelling residential zones such as RM1 is described in Zoning Code Section 33.120.010:

The multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing.

- A. *Use regulations. The use regulations are intended to create and maintain higher density residential neighborhoods. At the same time, they allow for institutional, limited commercial, and other nonresidential uses, but not to such an extent as to sacrifice the overall residential neighborhood character of the multi-dwelling zones and their intended role as places for housing.*
- B. *Development standards. The six multi-dwelling zones are distinguished primarily by their allowed scale and development standards. The development standards work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The development standards generally assure that new development will be compatible with the City's character and contribute to the intended characteristics of each zone. At the same time, the standards allow for flexibility for new development. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed. The development standards are generally written for development on flat, regularly shaped lots. Other situations are addressed through special standards or exceptions.*

The proposed development will provide housing opportunities and support a higher density residential neighborhood, as intended for the RM1 zone. The new buildings will have horizontal siding and gable roofs that will appear compatible with the established residential area surrounding the site, and the mature trees to be preserved on the site will support an aesthetically pleasing environment. The new development will meet all safety-related development standards, including the requirement for pedestrian paths separate from vehicle areas. The Adjustments will not inhibit opportunities for energy conservation or recreation on the subject site or nearby properties, and the Adjustments will not detract from neighbors' privacy. Staff finds the Adjustments will provide flexibility without unreasonably impacting neighbors. For these reasons, and with a condition of approval for the trees identified in Exhibit C-1 to be preserved, staff finds the proposal is consistent with the overall purpose of the RM1 zone and that criterion C is met.

- D. City-designated scenic resources and historic resources in Historic, Conservation and National Register Districts and within the boundaries of Historic, Conservation and National Register Landmarks 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. As there are no scenic resources or historic resources 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: The increased setbacks from NE 27th Avenue to the community building and Building B could detract from the desired streetscape quality along the transit street if not for the mature trees that will be preserved in this part of the site. Staff finds the preservation of these trees supports an attractive, inviting streetscape as intended by the standard and will adequately mitigate impacts from the increased building setbacks. Staff has identified no negative impacts from the pedestrian connection Adjustment that require mitigation. As discussed in the findings for criterion A, residents of the building subject to this Adjustment (Building D) will still have a quality pedestrian connection to the adjacent street, and a more direct connection to that street would not serve many trips because the part of the street adjacent to Building D is a cul-de-sac serving only three homes. For these reasons, and with a condition of approval for the trees identified on Exhibit C-1 to be preserved, staff finds impacts are adequately mitigated and that criterion E 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 there are no environmental overlay zones mapped on the 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

Staff finds the proposed Adjustments to be consistent with the purposes of the regulations to be modified and with the overall purpose of the RM1 residential zone. No significant negative impacts are expected, and the proposal will not detract from the appearance or livability of the surrounding residential area. With the conditions of approval listed below, staff finds the proposal meets each of the applicable Adjustment Review approval criteria. Since the approval criteria are met, the proposal must be approved.

ADMINISTRATIVE DECISION

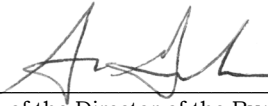
Approval of the following Adjustments to Zoning Code requirements for an affordable housing development on this site:

- To increase the maximum building setback from the NE 27th Avenue lot line to the community building from 20 feet to between 131 feet and 140 feet (Zoning Code Section 33.120.220.C.1)
- To increase the maximum building setback from the NE 27th Avenue lot line to Building B from 20 feet to between 108 feet and 122 feet (Zoning Code Section 33.120.220.C.1)
- To increase the maximum walking distance between the entrance to Building D and the NE Morgan Street lot line from 65 feet (120% of the shortest straight-line distance) to 330 feet (Zoning Code Section 33.120.255.B.1.a.2).

per the approved plans, Exhibits C-1 through C-4, signed and dated June 17, 2022, subject to the following conditions:

- A. As part of the building permit application submittal, each of the required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C-1 through C-4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 22-142490 AD."
- B. The 5 trees to the east of Building B identified on Exhibit C-1 must be preserved until they are found by a certified arborist to be dead, dying, a nuisance species, or hazardous. When any of these trees is removed for one of these allowed reasons, it must be replaced by a new tree in approximately the same location. At the time of planting, each new tree must be at least 1.5 caliper inches if a broadleaf variety or at least 5 feet in height if a conifer.

Staff Planner: Andrew Gulizia

Decision rendered by:  **on June 17, 2022**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 28, 2022

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on May 13, 2022 and was determined to be complete on May 23, 2022.

Zoning Code Section 33.700.080 states that land use review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on May 13, 2022.

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 20, 2022.**

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, and if appealed a hearing will be held. The appeal application form can be accessed at https://www.portland.gov/sites/default/files/2020/lu_type2_2x_appeal_form_071116.pdf. Appeals must be received **by 4:30 PM on July 12, 2022. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to email, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and City bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

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 **July 12, 2022** 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 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 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. Original narrative
 - 2. Plan set
 - 3. Adjustment diagrams
 - 4. Demolition plans
 - 5. Neighborhood contact information
 - 6. Revised narrative
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. Community center elevations (attached)
 - 3. Building B elevations (attached)
 - 4. Building D elevations (attached)
- D. Notification Information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence (none received)
- G. Other:
 - 1. Land use review application form
 - 2. Incompleteness determination letter, dated May 20, 2022

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).