



Memorandum

Planning and Urban Development Department

Planning Division

To: Chair Boepple and Members of the Portland Planning Board

From: Jean Fraser, Planner

Date: January 13, 2017

Re: **January 17, 2017 Planning Board Workshop**
Map Amendment B2 and R3 to Residence Professional Zone for 117 Auburn Street (Fallbrook Professional Building)
MacDermot LLC, Applicant

Project #: 2016-272 CBL: 375 – O- 39

I. INTRODUCTION

MacDermot LLC has requested a map amendment to rezone the property at 117 Auburn Street to the Residence-Professional (RP) Zone. The .9 acre site was developed in 1980 for a 2-story medical office building, with a rear parking area. The site is located at the north end of Northgate Plaza, behind the H&R Block building and across from the CVS. The parcel is shown on the current zoning map as mostly R3 with a sliver of B2. Most recently it was a Mercy medical building, which was considered a legally non-conforming use in the R3 zone. This legal status was lost because the building remained vacant for more than one year and the under the land use code the non-conforming status is lost (14-387 of the Land Use Code).

The applicant intends to lease the existing building for professional/medical office use and this use is not allowed in the R3 zone. This use is allowed in both of the abutting zones of B2 and RP (Residence-Professional) and the applicant has requested the map amendment to RP.

The applicant has not provided a specific map change boundary, but it is implied that the entirety of the parcel is the subject of the request although the area developed for the office building and parking is less than 2/3 of the parcel (constrained by Fall Brook to the east).



The building was constructed in 1980 and neither the applicant nor staff have been able to locate clear evidence of the zoning in place at the time it was constructed nor determine if the extent of the R3 zone was a scrivener's error. It was considered a legally non-conforming use in the R3 zone since the R3 zoning was introduced in the 1980's. It no longer has that status and a map amendment appears to be the only clear way of confirming allowable uses.

Applicant: MacDermot LLC, Kevin McQuinn, Representative
Property Owner: MacDermot LLC (Mike Cloutier)

Public Notice: Public notice of the workshop appeared in the Portland Press Herald on January 9th and 10th, 2017, was posted on the web site and was sent by mail or e-mail to 221 property owners and interested citizens.

II. EXISTING CONDITIONS

The site comprises the existing 2-story office building and parking at the rear of the building. The developed part of the site is approximately the western 2/3 of the parcel, as the Fall Brook Stream Protection linear zone to the east extends into the parcel. To the east and north are mainly single family homes, with a corner of the the Lyman Moore/Lyseth School complex (elementary and middle) abutting the site to the northeast.

To the south of the site is the CVS, the northern-most retail unit in the Northgate Plaza, and to the west is the H&R Block building which was recently refurbished.

The applicant has not submitted details of the previous uses, but it was a medical office building most recently and the building has been vacant for more than a year.



(Left: Site Plan submitted by applicant)

III. ZONING BACKGROUND

The applicant and staff have both had difficulty in finding documentation as to the zoning in place at the time of construction (which allowed for it to be constructed in what is now R3) and whether there is any evidence of a scrivener's error regarding the extent of the R3 zone across this lot.

Staff has found the following information on the tax maps of 1975 and 1990 which show:

- That the bulk of the site was in the residential zone in 1980, with the remainder of the site and the area to the south and west as B1. There may have been a provision for extending the B1 zone into part of the site (similar to the current ordinance provision that allows a zone line to be extended 30 ft) that may have allowed the original construction.
- That in 1990 the area of the residential zone in relation to the subject site was unchanged, but the B1 area was changed to B2 and the H&R Block on Auburn Street was changed to RP (presumably to provide a buffer from the intensified business use of Northgate Plaza area). When this was done a sliver of the B2 (former B1) was left between the H&R Block site and the subject site.
- A "scrivener's error" in plotting the boundary between the R3 and B2 zones appears unlikely, as the residential zoning was over the bulk of the subject site from at least 1975, and the R3 zoning line matches the R2 zone line to the north.

The proposed map amendment therefore seems the best approach for confirming the legal uses on the subject site. The logical options for a map amendment are either B2 or RP, as the site abuts both zones. Staff recommended the RP zone to maintain the buffer zone between the Northgate Plaza and the residential neighborhood, as the RP does not introduce the range of B2 commercial and high intensity uses that could prove incompatible with the surrounding residential and school neighborhood (as illustrated in the table below).

<i>Permitted and conditional uses in B2 Zone</i>	<i>Permitted and conditional uses in RP zone</i>
<p>PERMITTED USES</p> <p><u>Residential</u> Attached single-family & two-family dwellings; Multi-family dwellings; Handicapped family units; Combined living/working spaces</p> <p><u>Business</u> General, business & professional offices; Personal services; Offices of building tradesmen; Retail establishments; Restaurants; Drinking establishments; Billiard parlors; Mortuaries or funeral homes; Miscellaneous repair services, excluding motor vehicle repair; Communication studios or broadcast and receiving facilities; Health clubs and gymnasiums; Veterinary hospitals; Theaters; Hotels; Dairies and bakeries; Drive-throughs associated with a permitted use if not adjacent to residential zone; Commercial kitchens with retail/tasting room Registered medical marijuana dispensaries;</p> <p><u>Institutional</u> Long term, extended and intermediate care facilities; Clinics; Places of assembly; Schools; College, university or trade schools; Municipal buildings and uses.</p> <p><u>Other</u> Lodging houses; Day care facilities or babysitting services Utility substations; Accessory uses; Bed and breakfasts; Studios for artists and craftspeople; Hostels; Wind energy systems.</p>	<p>PERMITTED USES</p> <p><u>Residential</u> Any residential use as is permitted in the residential zone abutting the lot (R2 and R3)</p> <p><u>Business</u> Professional offices, incl. the offices & facilities of health care and related laboratory and pharmacy services and health care administration, but <u>excluding</u> personal services, retail establishments and veterinarians; Business services, as defined in 14-47 except copy services; Adult day care services; Mortuaries or funeral homes</p> <p><u>Other</u> Utility substations; Accessory uses ref 14-404; Wind energy systems.</p>
<p>CONDITIONAL USES</p> <p>Auto service stations; Car washes; Drive-throughs where adj. residential; Automobile dealerships; Printing and publishing; Wholesale distribution; Research and development & related production; Temporary wind anemometers; Wind energy systems.</p>	<p>CONDITIONAL USES</p> <p>Such other offices which have characteristics similar to but no more objectionable than those generally associated with professional offices (defined in text); With the exception of day care facilities below, any conditional use that is allowed as a conditional use in any residential zone abutting the lot; Temporary wind anemometers; Day care facilities or home babysitting services not otherwise permitted as a home occupation under section 14-410, and nursery schools and kindergartens; Wind energy systems.</p>

IV. PROPOSED DEVELOPMENT

The applicant proposes to retain the existing building and use it for professional offices. Staff recommended a map amendment to the Residence-Professional (RP) zone because it did not introduce the possibility of the wide range of uses and a drive through associated with the B2 zone- see discussion and table below comparing the allowed uses for the RP and B2 zones.

The applicant has submitted basic information (Plans P1 to P3) that illustrate the existing site development, and does not propose any changes or improvements.

V. ANALYSIS

The parcel is in a transition location between the more intense commercial and business uses of the B2 zone to the south and the residential uses and zones to the north and east. Originally the H&R Block building was part of the B2 zone and that was changed to RP which created a less intense buffer for the residential properties to the north.

The proposal for a map amendment to the RP zone provides the applicant with potential uses that are suitable for the existing building while also limiting the potential impacts on the surrounding residential neighborhood.

One question is the extent of the map amendment? The applicant has implied that the entire parcel (yellow and red outline on the map below) would be included in the map amendment to RP. The Board may wish to consider whether the map amendment should apply to just the western part of the site (yellow outline approximately) to include the already developed part of the site and minimize incursion of the RP into R3 zone. It should be noted that eastern part of the site is within the Stream Protection zone (stippled area) which would require the maintenance of this buffer and does not allow development within 75 feet of the stream.

It also should be noted that the incorporation of all of the lot within an extended RP boundary would line up with the B2 zone line of Northgate. Alignment of the zone boundary with the parcel boundary would avoid future questions for any site improvements or redevelopment to be considered in the future.



VI. NEXT STEPS

- Determine area to be advertised for a map amendment
- Determine whether to schedule a public hearing or another workshop

VI. ATTACHMENTS

Memo Attachments (none)

Public comments (none)

Applicants Submittal

- A. Application
- B. Deed and Assessor's information
- C. 'For Lease' flyer

Plans

- P1 Zoning Map
- P2. Site Plan
- P3. Vicinity Map