



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**

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**Date:** May 12, 2011  
**To:** Interested Person  
**From:** Sylvia Cate, Land Use Services  
503-823-7771 / [Sylvia.Cate@portlandoregon.gov](mailto:Sylvia.Cate@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 reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 11-102953 CU**

#### **GENERAL INFORMATION**

**Applicant:** Sandra K Miller, Owner  
2924 SE Alder St  
Portland, OR 97214-3033

**Site Address:** 2924 SE ALDER ST

**Legal Description:** BLOCK 18 W 45' OF LOT 10, HANSONS ADD & 2ND  
**Tax Account No.:** R358101760  
**State ID No.:** 1S1E01BA 16100  
**Quarter Section:** 3133

**Neighborhood:** Sunnyside, contact Paul Loney at 503-233-8265.  
**Business District:** Belmont Business Association, contact John Barker at 503-231-9118.  
**District Coalition:** Southeast Uplift, contact Leah Hyman at 503-232-0010.

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

**Case Type:** CU: Conditional Use  
**Procedure:** Type II, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant requests conditional use approval to operate a Bed and Breakfast in the existing house. The proposed B&B will provide three upstairs rooms for guests in the house, and no physical changes to the existing home are proposed. The owner will host and operate the facility. No employees are proposed and no commercial meetings are proposed. No exterior changes to the house are proposed. Bed and Breakfast facilities are allowed in residential zones when the proposal meets the approval criteria and applicable standards, which are listed below.

The regulations are intended to allow for a more efficient use of large, older houses in residential areas if the neighborhood character is preserved to maintain both the residential neighborhood experience and the bed and breakfast experience. These regulations enable

owners to maintain large residential structures in a manner which keeps them primarily in residential uses. The proprietor can take advantage of the scale and often the architectural and historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- 33.815.105, Institutional and other uses in Residential Zones
- 33.212.040 and -.050, Mandatory Use-related and Site-Related standards

## ANALYSIS

**Site and Vicinity:** The site is a 4,500 square foot lot developed with a single story house built in 1912. The immediately surrounding area in all directions includes R2.5 and R5 properties developed with residential uses. A number of non conforming apartments are sprinkled throughout this area. A large institutional/Group Living use, Laurelhurst Village, is located northeast of the site.

**Zoning:** The site lies within the Single Dwelling Residential 5,000 zone. This is one of several zones that implement the Comprehensive Plan Map designation for single dwelling residential.

**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 **February 18, 2011**. The following Bureaus have responded with no issues or concerns:

- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Water Bureau

The Bureau of Transportation Engineering responded with no objections, but recommends conditions of approval.

Bureau of Environmental Services responded with no objections, but notes that an existing non conforming sewer connection must be upgraded to BES standards prior to commencing B&B operations.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on February 18, 2011. One written response has been received from a notified property owner in response to the proposal. The neighbor initially wrote that he objected to the proposal due to parking concerns. While reviewing this proposal, the neighbor was contacted by PBOT staff to discuss his concerns. During the conversation it became clear that the neighbor had misunderstood the location of the proposed B&B. The neighbor subsequently left a voice message on the assigned planner’s phone, indicating that he no longer had any objections and wished to withdraw his letter. A second written response was received from John Barker, representing the Belmont Business Association, expressing strong support for the proposal and wishing the applicant good luck in her venture.

## ZONING CODE APPROVAL CRITERIA

**33.815.010 Purpose**

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the

environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

### **33.815.105 Institutional and Other Uses in R Zones**

These approval criteria apply to all conditional uses in R zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in a residential zone that maintain or do not significantly conflict with the appearance and function of residential areas. The approval criteria are:

**A. Proportion of Household Living uses.** The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the Household Living category in the residential area. Consideration includes the proposal by itself and in combination with other uses in the area not in the Household Living category and is specifically based on:

1. The number, size, and location of other uses not in the Household Living category in the residential area; and
2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

**Findings:** For purposes of evaluating the proposal against this criterion, the residential area comprises approximately 400 feet in all directions from the subject site. In general, this area is roughly bounded by SE Belmont to the south, SE 28<sup>th</sup> to the west, SE Washington Street to the north and the intersection of SE Alder Street with SE Alder Court to the east.

This area includes three residential zones, R5, R2.5, and R1 at the most southern point. Commercial areas of CS and CN1 zoning are either in close proximity or included in this area at the most southern point. This area is primarily residential in use and development, with a significant mix of housing types. There are a number of nonconforming multi-dwelling residential structures in this area, including three apartment buildings on the same block as the subject site despite the R5 zoning.

The only non household use within the residential area is Laurelhurst Village, to the northeast, which is a Group Living facility for residents requiring assisted living and/or skilled nursing care. This facility has extensive on-site parking for visitors and staff.

Just beyond this residential area, to the north and south, are commercial nodes along SE Stark Street, to the north, and SE Belmont, to the south.

Given the absence of other non-household uses in the immediately surrounding residential area, the proposed bed and breakfast has no significant impact on the appearance and function of the residential area.

The intensity and scale of the proposed bed and breakfast meets the development standards and use limits found at 33.212.040 and -050, as determined below in this report. The proposal is relatively small in scale as three rooms in the main house are proposed for bed and breakfast guests for a total of three guest bedrooms. No employees are proposed. No physical changes to the main house are proposed. Given the proposal, the intensity and scale of the proposed bed and

breakfast will not result in any significant impacts on either the appearance or functioning of the residential area. This criterion is met.

**B. Physical compatibility.**

1. The proposal will preserve any City-designated scenic resources; and

**Findings:** City-designated scenic resources are indicated on City zoning maps by a lowercase “s.” There are no scenic resources on the subject site, nor in the immediate neighborhood. This criterion is not applicable.

2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, and landscaping; or

**Findings:** The proposal does not include any exterior changes to the main house. The site and development will remain compatible with adjacent residential developments in terms of site size, building scale and style, setbacks, and landscaping. There are no differences in appearance or scale requiring mitigation. This criterion is met.

3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, and other design features.

**Findings:** There are no differences in appearance or scale requiring mitigation. The existing main house, built in 1912 will have no significant exterior changes. This criterion is met.

**C. Livability.** The proposal will not have significant adverse impacts on the livability of nearby residential zoned lands due to:

1. Noise, glare from lights, late-night operations, odors, and litter; and

**Findings:** The regulations of Chapter 33.212, Bed and Breakfast Facilities, limit the number of guests allowed per night and the number of social events and meetings allowed per year at the facility. The proposed bed and breakfast complies with the regulations and limits. As a result, impacts in terms of noise should be similar to any other residential use. The applicant notes that check in and check out will be scheduled to occur during the mid day hours to reduce late night arrivals or departures and the associated noise. The applicant also notes that a security system that will allow off hours arrivals or departures, but the ‘house rules’ will remind guests to enter quietly after dark. The applicant notes that no odors or litter should result from the B&B operation, but should such situations occur, they will be quickly dealt with to avoid inconveniencing neighbors or other guests. This criterion is met.

2. Privacy and safety issues.

**Findings:** There are no anticipated impacts in terms of glare from lights, late-night operations, odors, or litter. There are no anticipated impacts in terms of privacy or safety. Therefore, this criterion is met.

**D. Public services.**

1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan;

**Findings:** The street classifications for SE Alder are noted above. The proposed bed and breakfast is supportive of the various street designations of this street. The TSP states that, “Local Service streets provide local circulation for traffic, pedestrians and bicyclists”. The proposed development on the site supports or enhances the above referenced street designations. The TSP also states that, “Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses.” The use of the site for a bed and breakfast will not impact the distribution of local traffic throughout the area; future clients of the bed and breakfast will utilize NE Alder as well as other surrounding local service streets to access the site. This criterion is met.

2. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies;

**Findings:**

**Street capacity/level of service**

A transportation impact study (TIS) was not prepared and submitted in conjunction with the proposed Conditional Use application. The Trip Generation Manual from the Institute of Transportation Engineers does not have any comparable trip generation data for the proposed use, only for larger and more traditional hotels and resorts. However, with a general accommodation of up to six guests (2 guests/3 rooms), one on-site employee, and no commercial meetings, the number of vehicles likely to access the proposed facility at any given time, and especially during the morning or afternoon peak hour times will be minimal. Accordingly, the resulting insignificant number of vehicle trips to the area will not impact the existing transportation system. Any services for the facility (landscaping, cleaning, regular maintenance, etc.) will not be done on a daily basis and generally not during peak hour times of travel.

**Access to arterials**

The subject site is located in close proximity to SE 30<sup>th</sup> Ave to the east, and SE Belmont to the south, both arterial streets in the City’s transportation system.

**Connectivity**

The subject site is located within a robust street grid pattern that meets City connectivity spacing requirements.

**Transit availability**

The site is currently indirectly served by Tri-Met bus line #15 (Belmont/NW 23<sup>rd</sup>) along SE Belmont, approximately 460-ft south of the site.

**On-street parking/neighborhood impacts**

PBOT staff had initial concerns with regard to the proposed bed and breakfast. It appears as though there is a high demand for on-street parking considering the multi-dwelling residential development found prominently throughout the area and the lack of on-site parking opportunities provided by these uses. PBOT directed the applicant to conduct a parking survey and collect data to determine the number of available on-street parking spaces and demonstrate that the demand does not exceed the supply.

Using standard traffic engineering practices for collecting such data, the applicant conducted the parking survey during typical times when on-street parking demand is at its peak. The surveyed area included a realistic parking/walking distance of no further than one full block away from the subject site (in all directions). The applicant provided information collected during early and late evening (8:00 pm and 11:00 pm) weekday nights, and during early morning hours on both weekend days. While the data collected does indicate that there is a high demand for on-street parking in the area, especially along SE Alder (between SE 29<sup>th</sup> and SE 30<sup>th</sup>), the information collected also indicated that there are many spaces available along most of the surveyed block faces during three of the four surveyed times/days. Even during the highest demand period observed (and expected), 11:00 pm on Friday evening, there were several block faces that had at least one, and up to twelve available spaces. On the other three surveyed times/days, most, if not all of the block faces surveyed had at least one, and up to 13 available on-street parking spaces.

Realistically, if the proposed bed and breakfast is at its capacity, there will be three vehicles that will need to be accommodated along the area's streets and within a limited distance away from the subject site. Given the detailed parking survey conducted and provided by the applicant, there will be ample opportunities for the proposed bed and breakfast's guests to park within a reasonable walking distance from the facility. The utilization of three on-street parking spaces within the area surveyed by the applicant will not result in negative impacts to the on-street parking supply or to the surrounding neighborhood.

#### **Access restrictions**

The submitted site plan shows a single driveway that serves the subject site. The applicant has indicated that she parks her vehicle in the garage and that the driveway would be available for use by one of her guests. There is no reason to restrict access onto the site via the existing driveway, but the applicant is advised to take measures to ensure that guest vehicles won't be parked on the driveway and extend into the sidewalk. PBOT has no access restriction concerns.

#### **Impact on pedestrian, bicycle, and transit circulation**

The site's frontage is improved to City standards. There will be no impact on pedestrian circulation in relation to the proposed bed and breakfast. There is no reason to believe that the proposed bed and breakfast will have impacts to either bicycle or transit circulation.

#### **Safety for all modes**

No significant negative safety impacts are expected with this proposal on any mode of the transportation system.

#### **Adequate Transportation Demand Management (TDM) strategies**

The applicant has included several measures to mitigate for impacts in relation to the proposed bed and breakfast. Though PBOT has not identified any transportation-related impacts, which is typically why a Traffic Demand Management (TDM) Plan is proposed, PBOT staff suggests that the applicant implement a TDM Plan to ensure that the proposed bed and breakfast facility does not result in significant impacts to the area's transportation system, on-street parking or surrounding neighborhood.

The applicant must provide the following TDM measures in relation to the proposed bed and breakfast:

- Allow use of the on-site driveway for guest overnight parking (vehicle shall not extend over sidewalk).

- The bed and breakfast operator shall offer free guest pick-up/drop-off at the Portland Airport.
- The bed and breakfast operator shall offer free guest bicycle usage.
- The bed and breakfast operator shall provide public transit and bicycle route information pamphlets to guests.
- The bed and breakfast operator shall offer free public transit day passes to guests.
- The bed and breakfast operator shall provide descriptions of alternative transportation options to guests in all proposed public informational/promotional materials.
- A formal copy of the applicant's TDM Plan shall be signed, dated and provided to BDS staff to be retained in the project file. Said document shall be submitted within 30 days of approval from the City for this proposed land use request.

In summary, and as evaluated above, transportation system is capable of supporting the proposed use in addition to the existing uses in the area with a condition of approval that the applicant include the above TDM measures as part of the overall operation of the B&B. This criterion is met.

3. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

**Findings:** The Water Bureau has no objections to the requested bed and breakfast use, and notes that there is an existing metered service to the site. The Life Safety/Plans Examiners Section of Bureau of Development Services has no objection, but notes that the applicant will need to set up a residential inspection with a building inspector prior to starting the Bed and Breakfast. The Fire Bureau notes no concerns with the proposal.

Bureau of Environmental Services notes that city plumbing records show that the sewer connection from the subject site is connected to the public sewer via a private lateral in the SE Alder right of way. Private laterals in the rights of way are considered nonconforming, and this must be upgraded to a conforming sewer prior to the Bed and Breakfast beginning operations. Because no new development is proposed, the existing stormwater management system is adequate.

Police services are available to this area.

With the conditions as recommended by Portland Transportation and BES, this criterion is met.

- E. Area plans.** The proposal is consistent with any area plans adopted by the City Council as part of the Comprehensive Plan, such as neighborhood or community plans.

**Findings:** The site lies within the boundaries of the Sunnyside Neighborhood Association. The applicant states the following in the application narrative:

*This project actively complies with both citywide and neighborhood plans. Portland's Comprehensive Plan includes a goal to promote small business: "Enhancing small businesses and community economic development opportunities will support economic diversity and resiliency."*

*The property involved is located within Portland's Sunnyside neighborhood. The Sunnyside Neighborhood Association's plan, adopted in 1999, recognizes that this vibrant area is a densely populated "urban village," and that "businesses are an inherent part of neighborhood life." Its motto, "Proud Past, Bright Future," reflects the*

*realization that the history inherent in older homes has value. The house at 2924 SE Alder, built in 1912 in the Craftsman style, would serve as an excellent anchor site from which visitors to the area could explore neighborhood shops and green space. Attracting guests who would patronize the nearby businesses, enhancing the immediate neighborhood's economy. This venture would promote the Sunnyside policies of neighborhood history and economic development.*

Staff has reviewed the Sunnyside Neighborhood Plan and concurs with the applicant's assessment. This criterion is met.

## **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.

### **33.212.010 Purpose**

This chapter provides standards for the establishment of bed and breakfast facilities. The regulations are intended to allow for a more efficient use of large, older houses in residential areas if the neighborhood character is preserved to maintain both the residential neighborhood experience and the bed and breakfast experience. These regulations enable owners to maintain large residential structures in a manner which keeps them primarily in residential uses. The proprietor can take advantage of the scale and often the architectural and historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

### **33.212.030 Where These Regulations Apply**

The regulations of Sections 33.212.040 through 33.212.080 apply to bed and breakfast facilities in the R zones. In the RX and RH zone, where a limited amount of commercial uses are allowed by right or by conditional use, a bed and breakfast facility may be regulated either as a Retail Sales And Service use, or as a bed and breakfast facility under the regulations of this chapter. The decision is up to the applicant.

### **33.212.040 Use-Related Regulations**

- A. Accessory use.** A bed and breakfast facility must be accessory to a Household Living use on a site. This means that the individual or family who operate the facility must occupy the house as their primary residence. The house must be at least 5 years old before a bed and breakfast facility is allowed.

**Findings:** The applicant is the owner of the house and it is their primary residence. The house was built in 1912 and therefore is more than 5 years old.

- B. Maximum size.** Bed and breakfast facilities are limited to a maximum of 5 bedrooms for guests. In the single-dwelling zones, a bed and breakfast facility over this size limit is prohibited.

**Findings:** The applicant notes that three bedrooms will be utilized for guests.

- C. Employees.** Bed and breakfast facilities may have nonresident employees for such activities as booking rooms and food preparation, if approved as part of the conditional use review. Hired service for normal maintenance, repair and care of the residence or site such as yard maintenance may also be approved. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of a conditional use approval.

**Findings:** The applicant notes that no non resident employees will be utilized for the bed and breakfast.

- D. Services to guests and visitors.** Serving alcohol and food to guests and visitors is allowed. The proprietor may need Oregon Liquor Control Commission approval to serve alcohol at a bed and breakfast facility.

**Findings:** The applicant does not indicate an intention to seek an OLCC approval at this time.

**E. Meetings and social gatherings.**

1. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings in bed and breakfast facilities are regulated as follows:
  - a. In the single-dwelling zones, commercial meetings are prohibited at a bed and breakfast facility;
  - b. In the multi-dwelling zones, the residents of a bed and breakfast facility may request up to 24 commercial meetings per year as part of a Conditional Use Review. The maximum number of visitors or guests per event will be determined through the Conditional Use Review. Adjustments to the maximum number of meetings per year are prohibited.
2. Private social gatherings. The residents of a bed and breakfast facility are allowed to have only 12 private social gatherings, parties, or meetings per year, for more than 8 guests or visitors. The private social gatherings must be hosted by and for the enjoyment of the residents. Private social gatherings for 8 or fewer guests are allowed without limit as part of a normal Household Living use at the site.
3. Historical landmarks. A bed and breakfast facility which is located in a historical landmark and which receives special assessment from the State, may be open to the public for 4 hours one day each year. This does not count as either a commercial meeting or a private social gathering.
4. The bed and breakfast operator must log the dates that private social gatherings for more than 8 visitors or guests are held, and the number of visitors or guests at each event. The operator must also log the dates of all commercial meetings held, and the number of visitors or guests at each event.

**Findings:** The applicant notes that there will be no commercial meetings, and private social gatherings will be limited to 12 per year for more than 8 guests or visitors.

**33.212.050 Site-Related Standards**

- A. Development standards.** Bed and breakfast facilities must comply with the development standards of the base zone, overlay zone, and plan district, if applicable.
- B. Appearance.** Residential structures may be remodeled for the development of a bed and breakfast facility. However, structural alterations may not be made which prevent the structure being used as a residence in the future. Internal or external changes that will make the dwelling appear less residential in nature or function are not

allowed. Examples of such alterations include installation of more than three parking spaces, paving of required setbacks, and commercial-type exterior lighting.

**C. Signs.** The sign standards are stated in Title 32, Signs and Related Regulations.

**Findings:** The applicant notes that any signage will meet the applicable regulations. No structural alterations are proposed, and no external or internal changes are proposed that would result in the dwelling appearing less residential in nature or function. This criterion is met.

**D. Accessory dwelling units.** Accessory dwelling units must meet all requirements of Chapter 33.205, Accessory Dwelling Units.

**Findings:** No ADU is proposed.

## CONCLUSIONS

The applicant requests conditional use approval to operate a Bed and Breakfast in the existing house. The proposed B&B will provide three rooms upstairs for guests in the main house. The owner will host and operate the facility. No employees are proposed and no commercial meetings are proposed. No exterior changes to the primary house are proposed. With a condition of approval to ensure transportation impacts are mitigated, the proposal meets all applicable approval criteria, and therefore should be approved.

## ADMINISTRATIVE DECISION

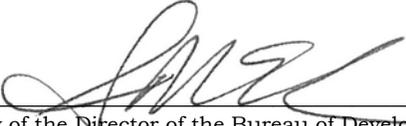
Approval of:

- A Conditional Use for a Bed and Breakfast facility, with three rooms in the house as guest rooms, per the approved site plan, Exhibits C-1 signed and May 9, 2011, subject to the following conditions:
- A. As part of the Special Residential Inspection permit application submittal, the following development-related conditions (B - D) must be noted and included as an attached sheet to the SRI permit application form. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 11-102953 CU." All requirements must be labeled "REQUIRED."
- B. The applicant must provide the following TDM measures in relation to the proposed bed and breakfast:
- Allow use of the on-site driveway for guest overnight parking (vehicle shall not extend over sidewalk).
  - The bed and breakfast operator shall offer free guest pick-up/drop-off at the Portland Airport.
  - The bed and breakfast operator shall offer free guest bicycle usage.
  - The bed and breakfast operator shall provide public transit and bicycle route information pamphlets to guests.
  - The bed and breakfast operator shall offer free public transit day passes to guests.
  - The bed and breakfast operator shall provide descriptions of alternative transportation options to guests in all proposed public informational/promotional materials.
  - A formal copy of the applicant's TDM Plan shall be signed, dated and provided to BDS staff to be retained in the project file. Said document shall be submitted within 30 days of approval from the City for this proposed land use request.
- C. Prior to commencing operation of the Bed and Breakfast, the applicant must have the following requirements completed:

- Upgrade the existing nonconforming sewer connection to current BES standards; and
- Receive final signoff on the required 'Special Residential Inspection.'

D. This decision cannot be recorded with Multnomah County until Condition C is met.

**Staff Planner: Sylvia Cate**

**Decision rendered by:**  **on May 9, 2011**

By authority of the Director of the Bureau of Development Services

**Decision mailed: May 12, 2011**

**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 January 11, 2011, and was determined to be complete on **February 16, 2011**.

*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 January 11, 2011.

*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 requested that the 120-day review period be extended a sufficient number of days to resolve outstanding BES requirements regarding a non-conforming sewer connection. The total extension was 47 days. Unless further extended by the applicant, **the 120 days will expire on: July 19, 2011.**

**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 Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 26, 2011** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist

at the front desk on the fifth floor. **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 Hearings Officer 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 Hearings Officer 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 must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after **May 27, 2011 – (the day following the last day to appeal).**
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**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:

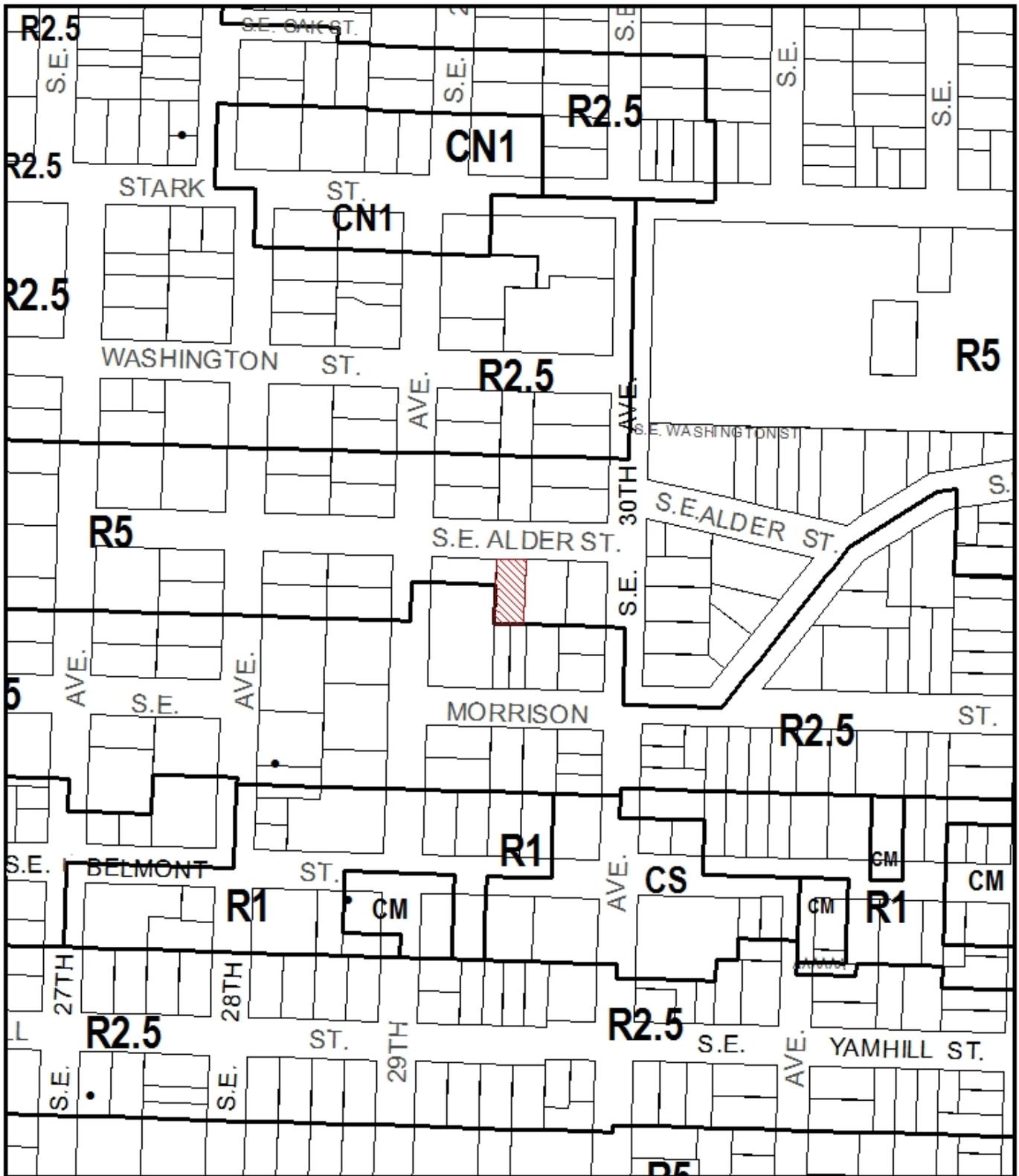
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations 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. Bureau of Parks, Forestry Division
- F. Correspondence:
  - 1. C Bates, February 11, 2011, concerns regarding parking, March 3, 2011 verbal request to withdraw objections.
  - 2. J. Barker, February 20, 2011, in support
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Letter to applicant: need additional information
  - 4. Email from applicant to extend 120 day clock

**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).**



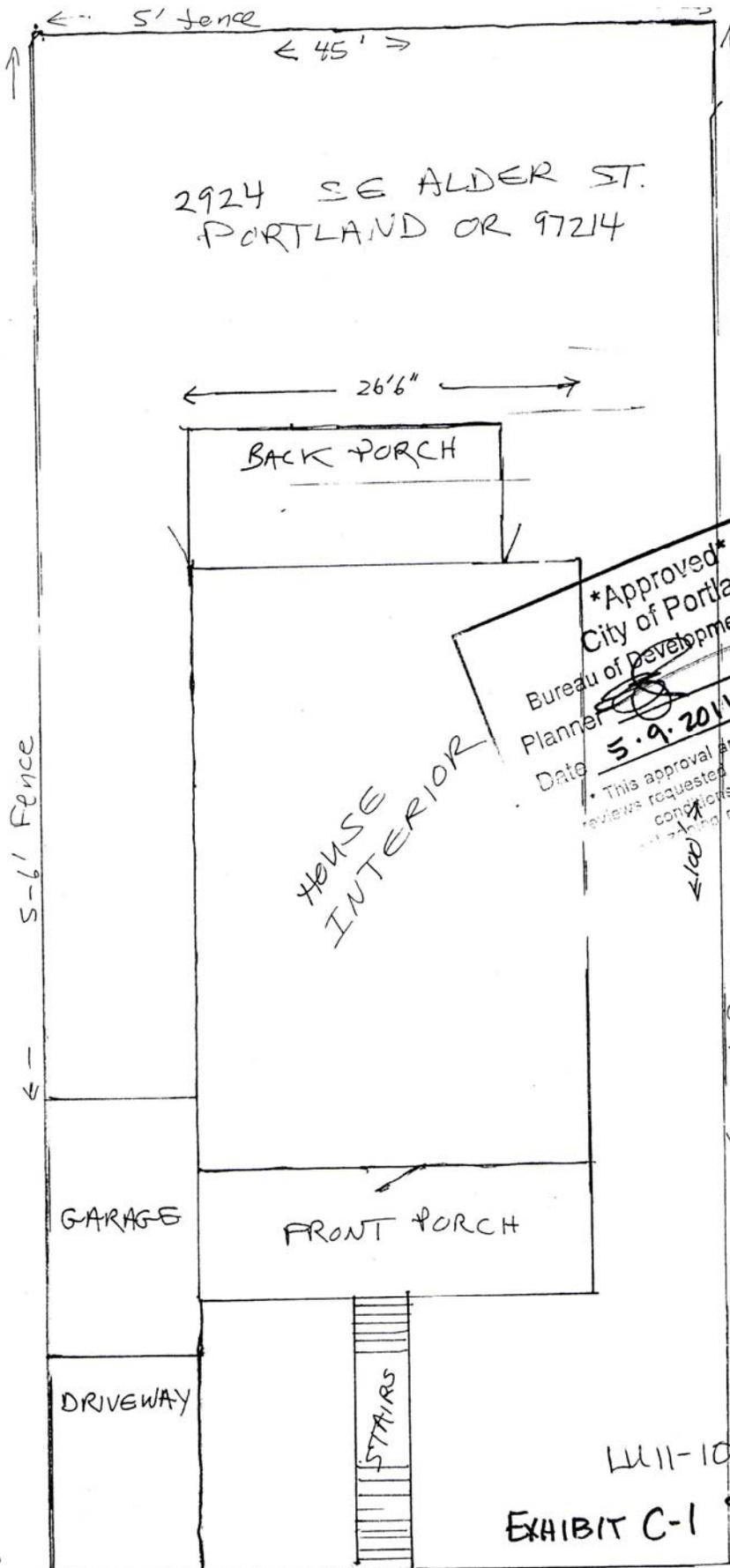
# ZONING

 Site

 Historic Landmark



File No.	<u>LU 11-102953 CU</u>
1/4 Section	<u>3133</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S1E01BA 16100</u>
Exhibit	<u>B (Jan 12,2011)</u>



SCALE:  
1"=10'

LU11-102953 CU  
EXHIBIT C-1 SITE PLAN

COA's

- ① update sewer connection
- ② SPECIAL INSPECTION
- ③ TDM PLAN