CITY OF



PORTLAND, OREGON

HEARINGS OFFICE

1900 S.W. 4th Avenue, Room 3100 Portland, Oregon 97201 Telephone: (503) 823-7307 FAX: (503) 823-4347 TDD (503) 823-6868

www.portlandonline.com/auditor/hearings

DECISION OF THE HEARINGS OFFICER IN UNCONTESTED CASE

File No.: LU 08-168368 ZC (HO 4080040)

Applicant: Russ Bartels

Metro Area Construction Services

PO Box 1301 Sandy, OR 97055

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Staff Representative: Sylvia Cate

Site Address: 2844-2848 SE 50TH AVE

Legal Description: LOT 15 BLOCK 2, LELAND PK

Tax Account No.: R487800910

State ID No.: 1S2E07BA 15600

Quarter Section: 3335

Neighborhood: Richmond

Business District: Division-Clinton Business Association

District Neighborhood Coalition: Southeast Uplift

Existing Zoning: R2, Multi-dwelling Residential 2,000

Proposed Zoning: R1, Multi-dwelling Residential 1,000

Land Use Review: Type III; ZC, Zone Change

BDS Staff Recommendation to Hearings Officer: Approval with conditions

Decision of the Hearings Officer in Uncontested Case LU 08-168368 ZC (HO 4080040) Page 2

Public Hearing: The hearing was opened at 9:00 a.m. on December 3, 2008, in the 3rd floor hearing room, 1900 SW 4th Avenue, and was closed at 9:12 a.m. The record was closed at that time.

Testified at the Hearing:

Sylvia Cate, BDS Staff Representative Russ Bartels, 41173 SE Vista Loop Dr., Sandy, OR 97055

Hearings Officer Decision: It is the decision of the Hearings Officer to adopt and incorporate into this decision the facts, findings, and conclusions of the Bureau of Development Services in their Staff Report and Recommendation to the Hearings Officer dated November 21, 2008, and to issue the following approval:

Approval of:

- A zoning map amendment to change the existing zoning of R2, Low-density Multi-Dwelling Residential 2,000 to R1, Medium Density Multi-dwelling Residential 1,000 for Lot 15 Block 2, Leland PK, aka 1S2E07BA 15600.
- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and zoning approved by this land use review as indicated in Exhibit B 2. The sheets on which this information appears must be labeled, "Zone Map Amendment as approved in Case File LU 08-168368 ZC."

Basis for the Decision: BDS Staff Report in LU 08-168368 ZC, Exhibits A-1 through H-2, and the hearing testimony from those listed above.

Gregory J. Frank, Hearings Officer
Date

Application Determined Complete:October 23, 2008Report to Hearings Officer:November 21, 2008Decision Mailed:December 11, 2008Last Date to Appeal:4:30 p.m.,December 26, 2008

Effective Date (if no appeal): December 29, 2008 Decision may be recorded on this date.

Conditions of Approval. 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.

Appeal of the decision. ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE FILED AT 1900 SW 4TH AVENUE, PORTLAND, OR 97201 (823-7526). Until 3:00 p.m., Monday through Friday, file the appeal at the Development Services Center on the first floor. Between 3:00 p.m. and 4:30 p.m., file the appeal at the Reception Desk on the 5th Floor. **An appeal fee of \$3,552.50 will be charged (one-half of the application fee for this case).** Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

Who can appeal: You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person_authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

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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.

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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 approval. 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
 - 1. 120-day waiver
- B. Zoning Maps
 - 1. Existing Zoning
 - 2. Proposed Zoning
- C. Plans & Drawings
 - 1. Site Plan
- D. Notification information
 - 1. Request for response
 - 2. Posting letter sent to applicant
 - 3. Notice to be posted
 - 4. Applicant's statement certifying posting
 - 5 Mailing list
 - 6. 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. Police Bureau
 - 6. Site Development Review Section of Bureau of Development Services
 - 7. Bureau of Parks, Forestry Division
 - 8. Life Safety Plans Examiner
- F. Letters: None received at time of Staff Report publication
- G. Other
 - 1. Original LUR Application
 - 2. Site History Research
- H. Received in the Hearings Office
 - 1. Hearing notice Cate, Sylvia
 - 2. Staff Report (attached) Cate, Sylvia





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

1900 SW 4th Avenue, Suite 5000 Portland, Oregon 97201 503-823-7300 Fax 503-823-5630 TTY 503-823-6868 www.portlandonline.com/bds

STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER

CASE FILE: LU 08-168368 ZC

PC # 08-154699

REVIEW BY: Hearings Officer

WHEN: December 3, 2008 at 9:00 AM

WHERE: 1900 SW Fourth Ave., Suite 3000

Portland, OR 97201

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this proposal.

BUREAU OF DEVELOPMENT SERVICES STAFF: SYLVIA CATE / SCATE@CI.PORTLAND.OR.US

GENERAL INFORMATION

Applicant: Russ Bartels

Metro Area Construction Services

PO Box 1301 Sandy OR 97055

Site Address: 2844-2848 SE 50TH AVE

Legal Description: LOT 15 BLOCK 2, LELAND PK

Tax Account No.: R487800910 **State ID No.:** 1S2E07BA 15600

Quarter Section: 3335

Neighborhood: Richmond, contact Douglas Klotz at 503-233-9161.

Business District: Division-Clinton Business Association, contact Katherine Cosgrove at

503-234-8585.

District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.

Existing Zoning: R2, Multi-dwelling Residential 2,000 Proposed Zoning: R1, Multi-dwelling Residential 1,000

Case Type: ZC, Zone Change

Procedure: Type III, with a public hearing before the Hearings Officer. The decision of

the Hearings Officer can be appealed to City Council.

Proposal:

The applicant is requesting a zoning map amendment to change the existing zoning of R2, Low-density Multi-Dwelling Residential 2,000 to R1, Medium Density Multi-dwelling Residential 1,000. The proposed zoning is in conformance with the City's Comprehensive Plan designation of [R1] for this area. Please see the attached zoning maps for a graphical depiction of current and proposed zoning. The applicant proposes to convert a portion of the basement of the existing triplex into a fourth unit once the zone change is approved.

Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are: 33.855.050 A-C, Approval Criteria for Zoning Map Amendments.

ANALYSIS

Site and Vicinity: The site is a relatively flat, 5,000 square foot lot developed with a 2-story triplex built in 1952. The site is one lot north of the northeast corner of the intersection of SE Woodward and SE 50th Avenue. To the west and southwest are lands zoned R1 and developed with multi dwelling uses. Immediately south of the site, across SE Woodward is a narrow strip of lots zoned General Commercial and developed with multi tenant office buildings and similar commercial uses. Immediately north of the site are three parcels zoned General Employment 1 and developed with multi tenant commercial buildings. The site has frontage along SE 50th Avenue which is designated as a Major Traffic and Major Transit Priority Street.

Existing Zoning: The R2 zone is a low density multi-dwelling zone. It allows approximately 21.8 dwelling units per acre. Density may be as high as 32 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to three story buildings, but at a slightly larger amount of building coverage than the R3 zone. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments. These housing types are intended to be compatible with adjacent houses. Generally, R2 zoning will be applied near Major City Traffic Streets, Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

Proposed Zoning: The R1 zone is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses. Generally, R1 zoning will be applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A "Request for Response" was mailed **October 27, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Police Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Bureau of Police
- Bureau of Transportation Engineering

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 10, 2008. At time of publication of this Staff Report, no written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.855.010 Purpose of Zoning Change

This chapter states the procedures and approval criteria necessary to process an amendment to the base zones, overlay zones, plan districts, and other map symbols of the Official Zoning Maps. The chapter differentiates between amendments which are processed in a quasi-judicial manner and those processed in a legislative manner. A discussion of quasi-judicial and legislative is found in 33.700.070.

33.855.050 Approval Criteria for Base Zone Changes

An amendment to the base zone designation on the Official Zoning Maps will be approved (either quasi-judicial or legislative) if the review body finds that the applicant has shown that all of the following approval criteria are met:

- **A.** Compliance with the Comprehensive Plan Map. The zone change is to a corresponding zone of the Comprehensive Plan Map.
 - 1. When the Comprehensive Plan Map designation has more than one corresponding zone, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.
 - **Findings:** There is only one corresponding zone for the Comprehensive Plan Map designation of R1, which is the zone being requested. Therefore, this criterion is not applicable.
 - 2. Where R zoned lands have a C, E, or I designation with a Buffer overlay, the zone change will only be approved if it is for the expansion of a use from abutting nonresidential land. Zone changes for new uses that are not expansions are prohibited.
 - **Findings:** The site is residentially zoned, and the request is for the R1 residential zone. Therefore, this criterion is not applicable.
 - 3. When the zone change request is from a higher-density residential zone to a lower-density residential zone, or from the CM zone to the CS zone, then the approval criterion in 33.810.050 A.2 must be met.
 - **Findings:** The site is currently zone R2, a Medium Density Multi Dwelling Zone, and the request is for R1, a higher density Multi-Dwelling Zone. There fore this criterion is not applicable.
- **B. Adequate public services**. Public services for water supply, transportation system facilities and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete, and proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services.
 - 1. Adequacy of services applies only to the specific zone change site.
 - 2. Adequacy of services is based on the projected service demands of the site and the ability of the public services to accommodate those demands. Service demands may be determined based on a specific use or development proposal, if submitted. If a specific proposal is not submitted, determination is based on City service bureau

demand projections for that zone or area which are then applied to the size of the site. Adequacy of services is determined by the service bureaus, who apply the demand numbers to the actual and proposed services to the site and surrounding area.

Findings: The notified service bureaus have responded to this request, and the full text of each of those responses can be found in the case file under the "E' Exhibits. As summarized earlier in this report, the responses from each of the service bureaus are as follows:

<u>Water Bureau</u>: Water service is available. The Water Bureau has no concerns. [Exhibit E-3, Tracs print out].

<u>Fire Bureau</u>: Services are available. The applicant will be required to obtain a building permit for this proposal. The Fire Bureau will review the building permit and all fire code requirements will be addressed at that time. The requested change in zoning is not a concern, as long as code requirements are met at the time of development. [Exhibit E-4].

<u>Police Bureau</u>: Steve Beedle, Strategic Services Division, reviewed this Zoning Map Amendment Review. Additionally, Southeast Precinct Commander Keith Morse reviewed this proposal. The Portland Police Bureau supports the zoning map amendment. [Exhibit E-5]

<u>Bureau of Environmental Services</u>: Sanitary sewer is available, stormwater management must occur on site in compliance with the Stormwater Manual in effect at time of building permit review. *BES has no objections to the proposed zone change.*

Additional comments from BES are as follows:

Sanitary Services

There is a City-owned 22-inch VSP combination gravity main in SE 50th Avenue (BES as-built 2-1451). The main is currently serving the existing development. City plumbing records show permits on file under the addresses 2844 SE 50th Avenue and 2848 SE 50th Avenue. The triplex currently has sanitary services. The additional unit can be connected to the existing system. Appropriate permits will be necessary.

Stormwater Management & Water Resources

Stormwater runoff generated from new development and redevelopment must meet the requirements of the City of Portland's 2008 Stormwater Management Manual where the proposed new impervious area is 500 feet of impervious area or greater, or where there is increased stormwater discharge to the system. There is no City-owned storm-only main in SE 50th Avenue. There is no new impervious area proposed and no new stormwater flow to the City system; therefore requirements of the 2008 SWMM are not imposed.

The submitted site plan includes a note that states "existing storm & sewer drain pipe". The applicant is showing this as part of the existing stormwater management system and proposes no changes. The proposal, as shown, does not change the amount of stormwater flowing into the combination gravity main [Exhibit E-1].

<u>Portland Transportation</u>: Portland Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance

with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

The site is currently developed with a triplex. Under the proposed R1 zoning the site could be developed with up to 5 residential units. The Institute of Transportation Engineers *Trip Generation* manual was used to estimate vehicle trips under both the existing and proposed zoning. The proposed zone change could generate approximately **14** additional daily vehicle trips, including **one** additional peak hour trip during both the AM and PM peak hours onto the surrounding transportation system:

	Daily AM Peak Hour		PM Peak	
	Vehicle	Vehicle Trips	Hour Vehicle	
	Trips		Trips	
R2 Existing	20	2	2	
Zoning				
R1 Proposed	34	3	3	
Zoning				
Net New Trips	14	1	1	

A traffic impact study was not required for this zone change. Because of the well connected grid pattern of streets in the vicinity of the site the one additional vehicle trip expected during the peak hours may take a variety of routes to or from the site, or that trip may be offset by transit usage. The impacts to area intersections from one potential peak hour trip are expected to be de minimis.

Transit service is provided by Tri-Met on SE 50th Avenue (bus line 14) with bus stops located within 500 feet of the site. Bus line 14 is a frequent service transit line accessing downtown Portland.

In consideration of the proximity of transit, the limited increase in traffic anticipated, and the availability of alternative routes for vehicles to access the subject site Portland Transportation concludes that the transportation system can support the proposed development for the stated approval criteria. [Exhibit E-2].

Based on the above responses by the affected service providers, adequate levels of public services are, or can be made available, and therefore, this criterion is met.

3. Services to a site that is requesting rezoning to IR Institutional Residential, will be considered adequate if the development proposed is mitigated through an approved impact mitigation plan or conditional use master plan for the institution.

Findings: The request is not for IR zoning, therefore this criterion is not applicable.

C. When the requested zone is IR, Institutional Residential. In addition to the criteria listed in subsections A. and B. of this Section, a site being rezoned to IR, Institutional Residential must be under the control of an institution that is a participant in an approved impact mitigation plan or conditional use master plan that includes the site. A site will be considered under an institution's control when it is owned by the institution or when the institution holds a lease for use of the site that covers the next 20 years or more.

Findings: The request is not for IR zoning, therefore this criterion is not applicable.

D. Location. The site must be within the City's boundary of incorporation. See Section 33.855.080.

Findings: The site is within the City of Portland boundary of incorporation. 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.

CONCLUSIONS

The applicant requests a zoning map amendment to change the existing zoning of R2, Multi-Dwelling Residential 2,000 to R1, Multi-Dwelling Residential 1,000 for the subject site. The proposed zoning is in conformance with the City's Comprehensive Plan designation of [R1] for this area. There are no conditions of approval requested by any responding service agencies. The proposal meets all of the applicable approval criteria, and therefore should be approved.

TENTATIVE STAFF RECOMMENDATION

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

Approval of:

- A zoning map amendment to change the existing zoning of R2, Low-density Multi-Dwelling Residential 2,000 to R1, Medium Density Multi-dwelling Residential 1,000 for Lot 15 Block 2, Leland PK, aka 1S2E07BA 15600.
- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and zoning approved by this land use review as indicated in Exhibit B 2. The sheets on which this information appears must be labeled, "Zone Map Amendment as approved in Case File LU 08-168368 ZC."

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 recommendation 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.

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development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Procedural Information.

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 filed, provided that the application is complete at the time of filing, or complete within 180 days. This application was filed on October 7, 2008 and determined to be complete on October 23, 2008.

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 October 7, 2008.

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: February 20, 2009.**

This report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case. This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the hearing. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at www.portlandonline.com. On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

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- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

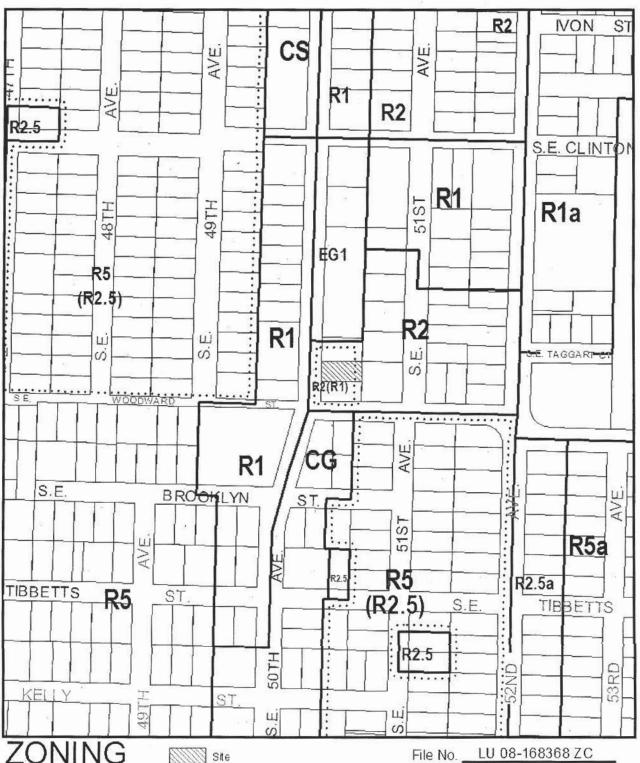
Planner's Name: Sylvia Cate Date: November 21, 2008

EXHIBITS

NOT ATTACHED UNLESS INDICATED

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 - 1. 120-day waiver
- B. Zoning Maps (attached):
 - 1. Existing Zoning
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- C. Plans & Drawings:
 - 1. Site Plan (attached)
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 - 8. Life Safety Plans Examiner
- F. Letters: None received at time of Staff Report publication
- G. Other:
 - 1. Original LUR Application
 - 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING **EXISTING**



NORTH

LU 08-168368 ZC File No.

3335 1/4 Section

1 inch = 200 feet Scale

1S2E07BA 15600 State Id

(Oct 10,2008) Exhibit.

