



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

FROM CONCEPT TO CONSTRUCTION

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STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER

CASE FILE: LU 13-109253 CU
PC # - EA 12-204213
REVIEW BY: Hearings Officer
WHEN: Monday, June 10, 2013 at 1:30 PM
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 / SYLVIA.CATE@PORTLANDOREGON.GOV

GENERAL INFORMATION

Applicant/Owner: Peaks And Valleys LLC
Steve Martini
1725 NW Division St
Gresham OR 97030

Representative: Edward Radulescu, Main contact
EPR Design
825 NE 20th Ave Ste 202
Portland OR 97232
503 265 8461

Site Address: 9347 SW 35TH AVE

Legal Description: BLOCK 7 LOT 9, ARA VISTA
Tax Account No.: R032202260
State ID No.: 1S1E29BD 00300
Quarter Section: 3925

Neighborhood: Multnomah, contact Susan Rudloff at 503-358-2316.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: R7, Single Dwelling Residential 7,000
Case Type: CU, Conditional Use
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 requests a Conditional Use approval to add an additional 6 beds to an existing 10 bed group living facility. The existing facility was approved in 2001 via Case File LUR 00-00430 CU.

The applicant proposes to convert space in the existing daylight basement of the home to add the additional beds. No increase in the building's foot print is proposed. A Type III Conditional Use Review is required as the proposed additional number of residents is increasing by more than 10 percent.

Attached to this Report are site plans, elevations and zoning map depicting the proposal.

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:

- 33.815.105, Institutional and Other Uses in the R zones

ANALYSIS

Site and Vicinity: The site is a 17,000 square foot parcel developed with a 6,950 square foot Group Living home. The site is trapezoidal in shape, with a street frontage of approximately 148 feet, and a depth ranging from approximately 73 feet to 139 feet.

The site is located on the south side of SW 35th Avenue, less than 100 feet north of SW Barbur Boulevard. Development along SW 35th Avenue is predominantly one-story detached single-dwellings on oversized lots, with the exception of a three-story multi-dwelling residence located at the northwest corner of SW 35th Avenue and SW Barbur Boulevard. Commercial development, including office and retail uses of one-to-three stories in height, is located along SW Barbur Boulevard, including a one-story fast food restaurant that abuts a portion of the subject site's southwestern lot line. Single-dwelling development is found in the area north and west of the site, and the Interstate 5 freeway is located just south of SW Barbur Boulevard.

Southwest 35th Avenue is a local service street, with an 18-foot wide paved roadway, and no curbs or sidewalks. Nearby SW Barbur Boulevard is a major city traffic street with a 64 foot wide paved roadway. Southwest Barbur Boulevard is also improved with sidewalks, curbs, and bicycle lanes.

Zoning: The site lies within the R7, Single Dwelling Residential 7,000 zone. The R7 zone is a medium density single-dwelling zone. The R7 Zone allows attached and detached single-dwelling structures and duplexes.

Land Use History: City records indicate one prior land use review, Case File LUR 00-00430 CU, which granted conditional use approval for an elder care [Group Living] facility with up to 10 residents.

Agency Review: A "Request for Response" was mailed on May 20, 2013. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Portland Police Bureau
- Bureau of Transportation Engineering responded with no objections. The analysis of traffic and parking impacts is included below, in this report.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on May 20, 2013.

No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. Staff received on phone call regarding the proposal, from a notified neighbor, who had no concerns regarding the proposed expansion, but did have concerns about excessive parking on the street potentially blocking emergency vehicles. These concerns are addressed below, in the findings for transportation system impacts and adequacy.

ZONING CODE APPROVAL CRITERIA

Conditional Uses

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

Findings: The site is located approximately 100 feet from SW Barbur Boulevard to the east. Along SW Barbur to the south and east of the site are multiple commercial uses in General Commercial and Office Commercial 2 zones. To the west and north are lots in the R7 zone developed with single dwelling residential uses. To the northeast, along SW Barbur Boulevard is an apartment complex in the R2 zone. Based on this configuration of zoning patterns in the area, the residential 'area' comprises all the lands with residential zoning within 500 feet of the site. This area is generally bounded to the west by SW 37th, to the north by an imaginary line from the terminus of SW Primrose, and to the east by SW Alice. To the south is Barbur Boulevard, which has commercial zoning near the site. There is one nonresidential use in the R7 zone, the Good Shepherd Lutheran church approximately 500 feet northeast of the site on SW Alice Street.

The subject Group Living home is existing and is the only other nonhousehold living use in the immediate area. Given that the Group Living home exists and that the proposal to add additional beds in the daylight basement without expanding the footprint of the home, this modest increase in residents is not anticipated to have any significant impacts on either the function or appearance of the residential

neighborhood. Given the orientation of the Group Home toward SW Barbur and the proximity to adjacent, multiple commercial uses, the proposed additional 6 beds/residents will have no impacts on the residential appearance and function of the immediately surrounding residential neighborhood. For these reasons, this criterion is met.

2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

Findings: The proposed additional beds for 6 more residents in the existing Group Living facility will have little, if any, impact on the overall operations of the existing facility. All of the additional beds will be added within the daylight basement of the facility. The proposed additional six beds and associated residents are not anticipated to create any additional impacts beyond the current operations of the home. For these reasons, this criterion is met.

B. Physical compatibility.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion 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: No exterior alterations to the existing home are proposed. This criterion is not applicable.

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

Findings: No exterior alterations to the existing home are proposed. The facility will remain compatible with the adjacent residential development. This criterion is not applicable.

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
2. Privacy and safety issues.

Findings: There are no proposed changes in the operations of the Group Living facility from the current operations. The Group Living facility is not anticipated to have any adverse impact on the immediately surrounding residential neighborhood. 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 site abuts SW 35th Avenue, a Local Service Street, but is only about 175 feet from SW Barbur Boulevard, a Major City Traffic Street, Regional Transitway and Major City Transit Street, City Bikeway, City Walkway, and Major Truck Street with a 64-foot wide paved roadway, sidewalks, curbs, and bicycle lanes.

At this location, SW 35th Avenue is classified as a City Bikeway, City Walkway, and a Local Service street for all other transportation modes in the City's Transportation System Plan. The frontage was improved to current City standards as a condition of the original 2000 conditional use review. No dedications or street improvements are required.

The project does not propose any changes to the street classification and the use is appropriate for this classification of street. For these reasons, 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: No increase in staff or hours of operation are proposed. The six new residents do not drive or own cars. A slight increase in visitors can be expected, but the number and frequency of visitors tend to drop off over time at this type of facility. The existing four on-site parking spaces coupled with the approximately four on-street parking spaces along the site frontage will be adequate to serve the proposal. In addition; the owners of the site have an agreement with a neighboring commercial use to use their excess on street parking for employees if needed. The site is served by Tri-met lines #12 and # 39.

The minimal traffic associated with the temporarily increase in visitors will not have any significant impact on street capacity or levels of service. The provision of sidewalks along the frontage required from the previous land use review ensures adequate facilities for pedestrians.

The applicant has provided a Transportation Demand Management Plan (TDM) that outlines measures the facility will take to reduce the number of single-occupant vehicles coming to the site. For these reasons, 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 responded with no concerns regarding the proposal, and notes that an existing water service provides water to the site. The Portland Police Bureau has responded and notes that police services are available for the use. The Fire bureau has responded with no concerns, and notes that all current Fire Code standards must be met at time of building permit review. The Bureau of Environmental Services has responded with no concerns regarding the proposal, and included information for the applicant that is relevant to the building permit review phase. 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 Multnomah Neighborhood Association. There is no adopted neighborhood plan.

The site lies within the Southwest Community Plan, adopted by City Council July 13, 2000. The proposal is consistent with the Policies and Objectives of

- Economic Development, Objective 5: *Encourage locally-owned and managed businesses and properties*; and
- Housing, Objective 2: *Provide for diversity of size, type and affordability of housing to meet the needs of [...] the elderly, and others.*

The existing business is locally-owned and managed. The proposal is to allow 6 additional residents for the Group Living facility, thus providing appropriate housing for the elderly and medically fragile individuals who need assistance in daily activities. For these reasons, 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 Conditional Use approval to add an additional 6 beds to an existing 10 bed group living facility. The existing facility was approved in 2001 via Case File LUR 00-00430 CU. The applicant proposes to convert space in the existing daylight basement of the home to add the additional beds. No increase in the foot print of the building is proposed. 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:

- Conditional Use to add 6 additional beds to an existing Group Living facility, subject to the following conditions:
 - 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 design approved by this land use review as indicated in Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-109253 CU.

Procedural Information. The application for this land use review was submitted on January 25, 2013, and was determined to be complete on April 18, 2013.

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 25, 2013.

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: August 16, 2013.**

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.

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.

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 record. 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.

Appeal of the decision. The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. 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.

Who can appeal: You may appeal the decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/applicant. Appeals must be filed within 14 days of the decision. **Appeals must be filed**

within 14 days of the decision. An appeal fee of \$ 2,000.00 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000).

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.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

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 the day following the last day to appeal. The Hearings Officer's decision will note this date.
- 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.

Planner's Name: Sylvia Cate

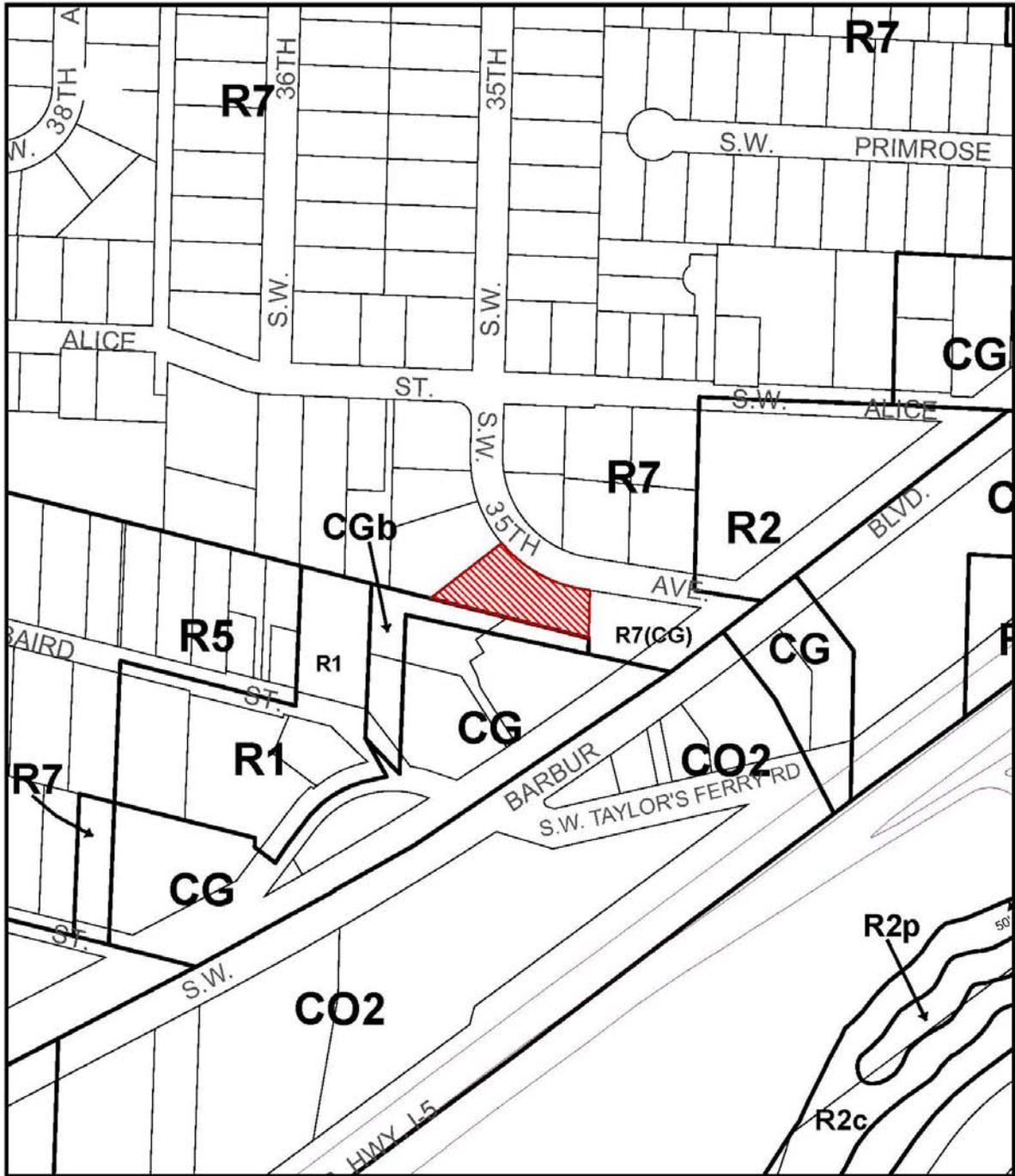
Date: May 31, 2013

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Project narrative
- B. Zoning Map (attached):
- C. Plans & Drawings:
 - 1. Site Plan (attached)
 - 2. South and East elevations
 - 3. Main level floor plan
 - 4. Daylight basement floor 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. Site Development Review Section of Bureau of Development Services
 - 6. Bureau of Parks, Forestry Division
 - 7. Portland Police Bureau
 - 8. Life Safety Review Section of Bureau of Development Services
- F. Letters: None received by date of Staff Report publication
- G. Other:
 - 1. Original LUR Application
 - 2. Pre Application Conference Summary Notes
 - 3. Incomplete letter March 6, 2013; re missing information
 - 4. LU 00-00430 CU decision

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



File No. LU 13-109253 CU
 1/4 Section 3925
 Scale 1 inch = 200 feet
 State_Id 1S1E29BD 300
 Exhibit B (Jan 28, 2013)

epr
DESIGN

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Portland, Oregon 97232
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ALL COMFORT CARE
Residential Care Facility
9347 SW 35th Ave.
Portland, Oregon 97219

These plans and the designs
thereon are the property of EPR DESIGN, Inc.

SITE PLAN

REVISED:

DRAWN BY:

DATE: 12/10/2012

SCALE: 1/8" = 1'-0"

SHEET:

A0.1

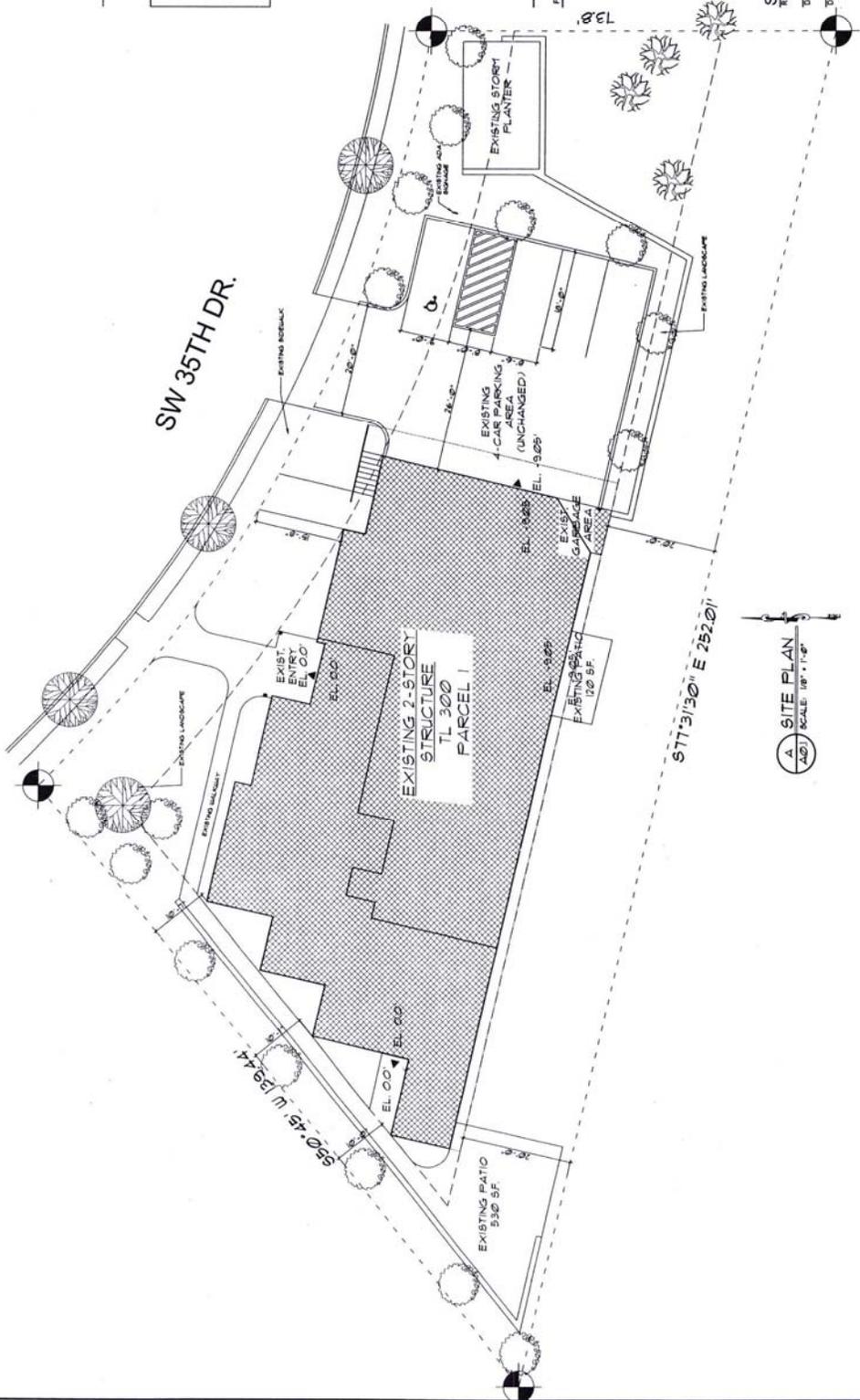


EXHIBIT C-1