



CITY OF  
**PORTLAND, OREGON**

HEARINGS OFFICE

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**DECISION OF THE HEARINGS OFFICER**

**I. GENERAL INFORMATION**

**File No.:** LU 08-166036 CU AD (HO 4080043)

**Applicant:** Housing Authority Of Portland  
Patrick Rhea  
135 SW Ash St.  
Portland, OR 97204-3540

**Applicant's  
Representative:** Robert Brendle, Architect  
William Wilson Architects  
1010 SW 11th Ave.  
Portland, OR 97205

**Hearings Officer:** Gregory J. Frank

**Bureau of Development Services (BDS) Staff Representative:** Sheila Frugoli

**Site Address:** 1510 SW 13TH AVE

**Legal Description:** W 45' OF LOT 7&8 BLOCK S1/2C, PORTLAND

**Tax Account No.:** R667735770

**State ID No.:** 1S1E04AC 00200

**Quarter Section:** 3128

**Neighborhood:** Downtown Community Association

**Business District:** Downtown Retail Council

**District Neighborhood Coalition:** Neighbors West/Northwest

**Plan District:** Central City - West End Subdistrict

**Zoning:** RXd, Central Residential zone and the Design overlay zone

**Land Use Review:** Type III, CU AD, Conditional Use and Adjustment Review

**BDS Staff Recommendation to Hearings Officer:** Approval with conditions

**Public Hearing:** The hearing was opened at 9:00 a.m. on December 22, 2008, in the 3<sup>rd</sup> floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, OR, and was closed at 10:10 a.m. The record was held open until 4:30 p.m. on January 9, 2009 for new written evidence, and until 4:30 p.m. on January 16, 2009 for the applicant's final rebuttal. The record was closed at that time.

**Testified at the Hearing:**

Sheila Frugoli, BDS Staff Representative

Michael Andrews, Director of Development and Community Revitalization, Housing Authority of Portland, 135 SW Ash St., Suite 500, Portland, OR 97204

Russ Teasdale, 1316 SW 13th Ave., Portland, OR 97201

**Proposal:** The applicant is requesting a Conditional Use Review to establish a Group Living Use in a proposed new 5-story, 19,600 square foot building. The Group Living Use will provide housing and services, including dual diagnosis and treatment, for individuals with mental illness. The building will include 48 rooms on the upper floors. Each room will contain a sleeping area, a half-bath and small kitchen area. Shared shower facilities will be provided on each floor. The ground floor will include a commercial kitchen and dining area for the residents as well as treatment rooms, meeting spaces and offices. The applicant is requesting an Adjustment Review to reduce the spacing requirement between Group Living uses, from 600 feet to 170 feet. The nearest Group Living Use is the New Avenues for Youth facility at 1220 SW Columbia Street. The new building, which will replace the existing structure at this location, is being reviewed under a Type III Design Review –LU 08-161153 DZ.

**Relevant Approval Criteria:**

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

■ 33.815.105, Institutional and Other Uses in R Zones—Conditional Use Review	■ 33.805.040, Adjustment Review
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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. This application was submitted on September 26, 2008 and determined to be complete on November 4, 2008.

**II. ANALYSIS**

**Site and Vicinity:** The 4,500 square foot site is located in the Downtown Sub-District of the Central City Plan District, in an area further defined as the West End. The site is currently developed with a 1908 building, the Luxor Apartments, which will be demolished. The West

End subarea, as defined by the City, extends from SW 9<sup>th</sup> Avenue, west to the I-405 Freeway, and from the northern edge of Portland State University's campus at SW Market Street, and north to West Burnside Street. This area contains a mixture of old and new apartment buildings, institutions, surface parking lots, office buildings, residential hotels, and small retail businesses. St. Stephen's Episcopal Church and Grace Bible Church occupy the south half of the block directly north of the site. The submerged I-405 freeway is located on the west side of SW 13<sup>th</sup> Avenue. A freeway ramp entrance is located at SW Clay and 13<sup>th</sup> Avenue. The northern edge of the Portland State University campus is one block south of the site. The Helen Gordon Child Development Center is located on the south side of SW Market Street.

The subject block contains three relatively new residential buildings—(1) the Hamilton West Apartments, a Housing Authority of Portland residential building, located at the corner of SW 12<sup>th</sup> and Clay, (2) the Peter Paulson, another Housing Authority of Portland residential building located at the corner of SW 13<sup>th</sup> and Market, and (3) the 12<sup>th</sup> Avenue Terrace, a 55 and older residential project located at SW 12<sup>th</sup> and Market. The Hamilton West and 12<sup>th</sup> Avenue Terrace building both contain ground floor commercial uses.

The site has frontage on both SW Clay Street and SW 13<sup>th</sup> Avenue. Portland's *Transportation System Plan* classifies SW Clay Street as a Traffic Access Street, Local Service Bikeway and Community Corridor. Southwest 13<sup>th</sup> Avenue is a Major City Traffic Street, City Bikeway and Community Corridor. The site is within the Downtown Pedestrian District.

**Zoning:** The site is zoned RXd. The Central Residential (RX) zone is a high-density multi-dwelling residential zone. The maximum size of buildings and intensity of use are regulated by floor area ratio limits and other site development standards. Generally, new housing development will be medium- and high-rise apartments and condominiums, often with allowed retail, institutional, or other service-oriented uses. As noted above, the Group Living use in this proposal requires a Conditional Use Review.

The Design (d) overlay zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects and by requiring design review. Design Review ensures that certain types of infill development will be compatible with the neighborhood and will enhance the area.

**Land Use History:** City records indicate that prior land use reviews include:

- 1) LU 98-00297 DZ AD: Design Review approval of a proposal for the development of a nine-story building on a 12,893 square foot site, immediately east of this project (Hamilton West Apartments). The building includes 124 studio apartment units, 23 one bedroom apartment units, and 4,292 square feet of ground floor office or retail space.
- 2) LU 07-155558 DZ: Design Review approval of two new steel fire escape platforms at the Luxor/University Place Apartments.
- 3) LU 08-161153 DZM: Design Review with a Modification for the proposed 5-story University Place structure. The proposal was submitted to the Design Commission, in a

public hearing, on December 5, 2008. The Commission identified a short list of minor changes the applicant should make to the exterior of the building. The second hearing, to consider the changes, was scheduled to occur on January 9, 2009.

**Summary of Applicant's Statement:** The current program, Bridgeview, operated at NW Everett and Broadway, has been in existence for nearly 15 years and has received consistently high and successful outcomes. It is considered a valuable piece of the homeless support system by the City and County, as well as the State's Department of Human Services, and is regarded as one of the County's highest priority programs as it serves to transition some of the community's most vulnerable persons from homelessness to permanent housing and self-sufficiency. University Place Apartments is being built to house the Bridgeview program. This program is the County's primary housing program for the most seriously mentally ill individuals experiencing homelessness and it plays a critical role in the spectrum of housing options in the community.

The program provides an array of services including dual diagnosis treatment to individuals with mental illness and addictions, including gambling, who have not been successful in permanent housing and are at risk of homelessness. Clients are offered integrated services and housing aimed at facilitating recovery through a harm reduction model. Bridgeview clients sign a six-month lease, pay rent, and receive support that encourages good tenancy. The county recently engaged Luke-Dorf Inc. as the new program operator. Luke-Dorf promotes the health and integration of community mental health clients by providing individualized, strength-based services to clients and establishes a supportive network of case managers, residential options, drug and alcohol treatment, activities and other social supports that assist clients in leading fully integrated, meaningful lives.

**Agency Review:** A "Request for Response" was mailed November 7, 2008. The following Bureaus have responded with no issues or concerns:

- Water Bureau (Exhibit E.1)
- Fire Bureau (Exhibit E.1)
- Bureau of Parks-Forestry Division (Exhibit E.1)
- Site Development Services of BDS (Exhibit E.2)
- Life Safety Plan Review of BDS (Exhibit E.3)

The **Bureau of Environmental Services (BES)** response stated that there are existing sewer facilities in the public right-of-way available to serve the sewer needs of the proposed new building. Because the BDS Site Development section does not recommend on-site infiltration of stormwater runoff, the applicant's proposed flow-through planters along the east side of this site, to meet pollution reduction requirements, is acceptable to BES. Regarding the future building permit, BES will require an easement on the abutting property to allow the proposed grease interception, which is needed for the University Place kitchen facility. This project must also include the installation of a sewer sampling manhole or 6-inch sampling tee on the waste line, per the BES Extra Strength Sewer Charge Program (Exhibit E.4).

The **Bureau of Transportation Engineering (PDOT)** responded with no objections. The PDOT response is discussed under Conditional Use approval criterion 33.815.105.D.2 (Exhibit E.5).

The **Portland Police Bureau** responded with recommendations. The recommendations are discussed under the Conditional Use Review approval criteria (Exhibit E.6).

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on December 1, 2008. One written response was received by the Bureau of Development Services prior to the issuance of the BDS staff report, from a notified property owner in response to the proposal. The comments are summarized below:

- A condominium owner in the nearby Eliot Condominiums objects to the proposal because it appears that HAP is trying to warehouse as many mentally-challenged folks in as small an area as they possibly can. He has concerns for the health and safety of those residents as well as the surrounding community. For the proposed University Place residents, they will be living in a very small area. Physically, they will have few places to stretch out, certainly not in their room, nor in any kind of decent general area or outdoor recreation area. Consequently, they will likely wander the streets. This does not seem like an optimal set-up for an area of town already struggling with many street incidents that diminish the overall livability of that area (Exhibit F.1).

One opponent testified at the hearing (Teasdale) and two opponents submitted written evidence into the hearing record (Teasdale and Kovtynovich) (Exhibits H.3a, H.7, and H.8). The essence of the concerns expressed by these opponents is similar to that expressed by the condo owner above; approval of this application will exacerbate public safety problems existing in the area by concentrating low-income and challenged persons in the immediate area. The concerns of these opponents are addressed in the conditional use approval and adjustment review findings below.

## **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 applicant submitted an inventory of uses in the vicinity of this residential area (Exhibit C.3). The inventory of the residential area extends north to SW Jefferson Street, east to SW 9<sup>th</sup> Avenue, and south to SW Montgomery. The Hearings Officer defined, for the purposes of this decision, as the “area” generally described geographically as bounded on the north boundary by SW Main Street (a distance in excess of 600 feet), on the south by the extension of SW Montgomery Street (within Portland State University), on the west by I-405 (a distance less than 600 feet), and the east by SW 10<sup>th</sup> Avenue. The applicant’s description of the “area” is slightly larger than that described by the Hearings Officer. See also the findings for 33.805.040 discussing the purpose section of 33.239.030; such findings are incorporated by this reference into the findings for this approval criteria.

Within the “area” can be found numerous residential buildings as well as retail sales and service and office uses, sites with religious institutions and college uses. There are two religious institutions directly north of the site as well as others nearby. The Subject Property block is developed with three other residential buildings.

Another Group Living Use is located within approximately one block north of the site—the New Avenues for Youth facility, which is located on the south side of SW Columbia Street between SW 12<sup>th</sup> and 13<sup>th</sup> Avenues. In 1998, the facility received Conditional Use Review approval to provide Group Living housing for 30 youth who would reside at the facility for a period of 3 months to 2 years and to establish a Mass Shelter for an additional 30 youth (see exhibit H.9c). The relative location of this Group Living Use to the proposed facility is specifically analyzed under the Adjustment approval criteria, below. The applicant is requesting to reduce the required spacing requirement between Group Living Uses from the required 600 feet to the proposed 170 feet.

The Hearings Officer finds that the applicant’s proposed facility will operate more like a small residential building rather than an institutional facility. Despite the fact that technically this project will increase the number of uses other than Household Living uses in this residential area, the scale and density of the University Place project is relatively modest in this very urban/intense area of the central core. The

proposed facility requires at least a 6-month tenancy of its residents. The proposed Group Living use is not a temporary or short-term housing service. The management of the facility will include security, visitor limitation and monitoring.

The block where the University Place project is proposed has three relatively new housing developments. The developments, built within the last 15 years, offer low-income and/or elderly housing. Through these three projects, and other nearby residential projects, the West End area is becoming more residential in character. Nonconforming uses and development are being replaced with high-density housing. For example, the three new residential buildings replaced a residential duplex, surface parking lot and a one-story office building. These residential structures provide approximately 360 residential units. These larger scale buildings will not be proportionately impacted by a residential treatment facility that will serve 48 residents.

The purpose of this approval criteria is to consider whether the use applied for (Group Living) will significantly impact the proportion of non-household uses in the residential area. Applicant's legal counsel, in exhibit H.10, stated that "because subsidized housing is a Household Living use under the PZC, the impacts flowing from any concentration of such a use are not relevant in determining whether the University Place proposal complies with criterion (A)" (exhibit H.10, page 3). The Hearings Officer agrees with this statement. It appeared to the Hearings Officer that most of opponent Teasdale's complaints regarding behavior impacts related to low-income and/or subsidized housing. The Hearings Officer notes that these uses (low-income and/or subsidized housing) would not require a Type III conditional use review. These uses (low-income and/or subsidized housing) are already in the Household Living category.

This criterion is met.

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

**Findings:** This approval criteria addresses the intensity and scale of the proposed use in the context of the appearance and function of the "area." The appearance and function of the area are described above and also in the findings for 33.239.030 (which are incorporated herein). The proposed use is Group Living to provide housing (48 rooms) and services for individuals with mental illness.

The Hearings Officer finds that the primary use of the Subject Property will be to provide a residence for 48 persons. The applicant indicated that the Subject Property, if developed to its maximum density, could accommodate 120 residential units. BDS staff opined that the site could accommodate 72 residential units (500 square feet each) or more units if the size is reduced. The scale of the proposed building (height and mass) will be less than allowed by the zone and is also less

than other buildings on the same city block. Therefore, the Hearings Officer finds that the scale of the proposed use is actually less than provided for in the zone.

The Hearings Officer finds that intensity of use, in this case, may refer to uses in addition to housing (diagnosis, treatment and counseling of individuals with mental illness) that are offered by the Group Living use. Applicant has provided extensive discussion of these additional uses (see exhibits A.1, A.2, A.3, H.4, H.5, H.9 and H.10). The Hearings Officer finds that the services mentioned above are only available to the residents at the Subject Property.

Opponents Teasdale and Kovtynovich indicated (exhibits H.7, H.3a and H.8) that tenants and/or visitors at nearby City-owned/low-income housing projects in the area create negative impacts for local businesses/residents (i.e. threatening behavior and panhandling). Opponent Teasdale asserts that the applicant's program controls only affect the behavior of tenants and/or visitors while at the Subject Property and not while on the public sidewalks and streets (or, upon private property in the "area").

The Hearings Officer finds that applicant's have adequately demonstrated control over the tenants while inside of the proposed building. The Hearings Officer also finds that a Good Neighbor Agreement, if made a condition of approval, would provide properties in the "area" with communication contacts and behavior modification tools that will minimize the negative impacts of the services provided at the Subject Property as part of this application. Finally, the Hearings Officer encourages City efforts to modify the Portland Business Alliance western jurisdictional boundary, in the area of the Subject Property, to extend to the west side of SW 13<sup>th</sup> Avenue.

The Hearings Officer finds that the 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.

The Hearings Officer finds that this criterion is met.

## **B. Physical compatibility.**

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

**Findings:** There are no City-designated scenic resources on or near 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:** The University Place Group Living facility is designed with multi-dwelling residential features such as a distinct ground-level base with extensive glazing and a roof with a projecting cornice treatment. The residential floors have a significant amount of windows on three sides of the building. The building is consistent in scale, style and setbacks with other nearby residential buildings.

Because the site is located within the Downtown Design District, an extensive evaluation of the project, based upon design guidelines, has been undertaken. The first hearing before the Design Commission was held on December 5, 2008. The Commission requested the applicant respond to a short list of exterior/detail changes the Commission identified as needed. At an additional hearing, on January 9, 2009, the Commission was to consider changes. The applicant must continue through the separate design review process and satisfy all separate requirements/conditions set forth by the Design Commission.

The overall design of the building satisfies this criterion for the Conditional Use Review.

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 significant differences in appearance or scale that require mitigation. 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

**Findings:** The applicant states that the facility will have secured entrances with a camera system that will monitor both inside and outside activities. Because the building is a residential facility, there will be no late-night operations. Garbage will be stored inside the building and then moved to the alley corridor behind the building, which is used for garbage truck access for the other buildings on the block. The applicant states that only once-per-week garbage service is needed to serve the facility. Therefore, this criterion is met.

2. Privacy and safety issues.

**Findings:** The building will have large storefront-like windows along the SW Clay and 13<sup>th</sup> Avenue frontages and upper-story residential windows on the north, west and east sides of the building. Only the east side windows, on the upper floors, will directly face the residential units of the adjacent Hamilton West Apartment building. The buildings will be separated by approximately 20 feet. Regardless, residential windows facing other residential windows will not adversely impact the privacy of residents.

The building will be staffed at all hours. The applicant states the front desk will be strategically located near the entrance to provide a physical presence as well as a point from which the building's camera and security systems may be monitored at all times. Staff will have use of a silent alarm security system.

The Portland Police Bureau provided a response that states that the Portland Police Bureau is capable of serving the proposed use at this time; however, the following concerns and recommendations were offered:

- **Controlled Access:** Condominium/residential or mixed-use buildings that incorporate types of controlled access, either by use of a combination, electronic accessory key, or secured key access, put limitations on emergency services for that building's residents or patrons. The Police Bureau requests that when/if a security code system or key system is incorporated into the building's development plan for gates and doors, a specific code/key should be provided to the Police Bureau and/or the 911 dispatch system for emergency access.
- **Community Policing Request:** Prior to residents occupying the building, the Police Bureau requests that the staff manager or facility director meet with Central Precinct Commander Mike Reese to discuss any public safety concerns and to identify any crisis intervention needs. A thorough and appropriate security protocol should be developed and communicated to emergency responders to address the needs of the community, residents and staff.

The application stated that the owner of this project, Housing Authority of Portland, participates in monthly meetings with the Office of Neighborhood Involvement and the Portland Police Central Precinct. The Housing Authority has a number of residential projects located in the downtown core. These meetings provide a venue in which to discuss and address any issues or challenges at the various properties or with surrounding neighbors. HAP has access to a Portland Police Neighborhood Response Team Officer for emergency situations.

Through a separate process, the Office of Neighborhood Involvement (ONI), implements a Community Residential Siting Program. This program offers services such as helping residential facilities and neighborhood associations develop a Good Neighbor Agreement. The applicant states that ONI will facilitate the development of an agreement for the proposed facility. The agreement will be implemented at time of construction completion and in advance of occupancy. The agreement will address any concerns raised by neighbors and the community to address issues such as communication, safety, health security, crime prevention, loitering, and litter control.

To address the safety needs of the residents, and that of the residents and employees in the area, the Hearings Officer will require, as a condition of approval, the applicant coordinate with the Portland Police Bureau and develop a Good Neighborhood Agreement. Through compliance with these conditions, this criterion is satisfied.

**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 has frontage on two public rights-of-way that are classified as follows:

Rights-of-Way	Traffic Classification	Transit Classification	Bicycle Classification	Pedestrian Classification
SW 13th Avenue	Major City Traffic	None	City Bikeway	Pedestrian District
SW Clay Street	Traffic Access	None	Local Bikeway	Pedestrian District

The Group Living Use on the site is consistent with the Transportation Element designation of the fronting streets. 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:** The proposed building will not include any vehicle access onto the site. No on-site parking or driveways for service vehicles such as garage delivery and loading facilities are proposed. The applicant states that approximately 10 full-time employees during the day, and two to three overnight, will staff the facility. The applicant states that only three employees intend to drive to the site. The remaining staff will use public transit or bicycles. None of the residents own automobiles. The applicant submitted a Transportation Demand Management Plan and an inventory of nearby parking spaces that would be available to serve the facility. The applicant identified 151 on-street parking spaces available within a 2-block radius of the site. There is on-street parking available along both frontages of the site. There are also two commercial parking facilities within two blocks of the site that offer a total of 238 spaces.

The Portland Transportation Bureau of Transportation Engineering and Development has reviewed the application for its potential impacts to the public

right-of-way, traffic and upon services. Portland Transportation finds that the transportation system should be capable of safely serving the proposed use in addition to the existing uses in the area. Therefore, 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:** All City service agencies were notified of this proposal and were asked to submit concerns or identify requirements that should be imposed through the review and/or at building permit review. As explained under approval criterion C.2, the Police Bureau recommended conditions that would facilitate coordination and emergency response access.

Except to address stormwater management requirements, none of the other service agencies raised concerns or noted other development-related requirements. Public services are capable of serving the proposed use. This criterion is satisfied.

- 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 is located within the boundary of the Central City Plan, adopted by City Council on March 24, 1988, effective July 1, 1988. The Plan policy document was amended July 1995, February 1996 and February 2002. The 2002 amendment implemented the Downtown's West End Sub-District policies, actions and code provisions.

The following excerpts from the Vision Statement and policies in the Central City Plan have been identified as applicable for consideration:

*Vision Statement*

*A wide choice of housing types and prices is available for a diversity of urban lifestyles and incomes. Residential development is clustered in neighborhoods where the needs of the residents for support goods and services, including social services, can be met.*

*Social and health services are available and provide dignified care to dependent populations. The community offers training and support for those able to become more independent.*

*Policy 3: Housing*

*Maintain the Central City's status as Oregon's principal high density housing area by keeping housing production in pace with new job creation.*

*Further Statement*

*C. Encourage the development of housing in a wide range of types and prices and rent levels. Avoid isolating higher, middle, moderate, low and very low income households.*

*E. Secure greater regional participation in addressing the housing needs of the homeless, low-income and other special needs populations.*

*Policy 5 Human Services*

*Provide social and health services for special needs populations, and assist dependent individuals to become more independent.*

*Further Statement:*

*A. Create opportunities for job training and employment.*

*B. Ensure that those in the greatest need receive aid and that it is given in a dignified and caring manner.*

*C. Reduce conflicts between members of special needs populations and other residents, workers and visitors to the Central City.*

*E. Implement Portland's Strategy for Fair Housing. Consider the strategy when siting social service facilities in the Central City.*

*F. Support efforts to coordinate the delivery of social services, and actively support provision of community-based care and other innovative models of service provision.*

*H. Ensure that necessary social services and facilities are available as needed and are integrated into the Central City in a manner that is consistent with the City of Portland and Multnomah County's coordinated housing and social service plans.*

*Policy 22: West End*

*Build on the West End's exceptional cultural and institutional assets, and its proximity to Portland State University, the Park Blocks, public transit, Goose Hollow and the Stadium area, and the Downtown retail core to foster its development as a vibrant Downtown neighborhood.*

*Further Statement*

*A. Reinforce the role of the West End as a stable residential neighborhood by preserving or replacing existing housing and constructing 5,000 new units of housing.*

*B. Preserve and construct housing to provide rental and home ownership opportunities for households of diverse income levels to provide additional opportunities for living close to work, services, shopping and recreation.*

*D. Encourage the retention or replacement of existing housing, including 2,700 units of housing affordable to low and moderate income households, in order to reduce the economic displacement of households currently residing in the West End.*

*J. Continue to provide a place for institutional and social service uses requiring a central location and successfully integrate these uses with the larger mixed-use neighborhood.*

The proposed University Place will specifically serve persons who require mental health treatment and supervised housing. The applicant states that this program is one of the County's highest priority programs as it serves to transition some of the community's most vulnerable persons from homelessness to permanent housing and self-sufficiency.

This proposal does not conflict with the adopted area plan. This criterion is met.

## **Adjustments**

### **33.805.010 Purpose**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purpose of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

### **33.805.040 Approval Criteria**

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A through F below, have been met.

The Hearings Officer finds that the applicant is requesting to reduce the distance between Group Living uses that require(d) conditional use approval from 600 feet to 170 feet. The Hearings Officer finds that reduction of the spacing requirement (33.239.030 B.2) is eligible to be considered for an adjustment (33.805.030).

The Hearings Officer finds that subsections C (more than one adjustment requested), D (City designated scenic/historic resources) and F (environmental zone) of 33.805.040 do not apply in this case. The Hearings Officer finds that subsection E of 33.805.040 must be considered in this review (to determine if there are any detrimental impacts resulting from the adjustment and if so, are the detrimental impacts mitigated to the extent practical).

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified.

**Findings:** The Hearings Officer finds that the language of this approval criteria is clear; consider whether or not the purpose statement of the regulation to be modified equally or better meets the purpose section of the regulation to be modified.

The regulation to be modified (and purpose statement) states:

33.239.030 B.

**Minimum Spacing**

1. **Purpose.** The minimum spacing standards assure that large Group Living uses do not unduly affect the character of residential and commercial areas.
2. **Spacing standards.** Group living facilities that are conditional uses must be at least 600 feet from a site with any other group living facility that is also a conditional use

Applicant's proposed location (1510 SW 13<sup>th</sup> Avenue – corner of SW 13<sup>th</sup>/SW Clay) is approximately 170 feet from another Group Living use that was approved as a conditional use (New Avenues for Youth at 1220 SW Columbia – corner of SW 12<sup>th</sup>/SW Columbia) (see exhibit 9). Applicant's proposal does not, without the approval of the requested adjustment, meet the spacing requirements set forth in 33.239.030 B.2.

An opponent of the application indicated that there were "two major Group Living buildings in the immediate vicinity" (exhibit H.3a); New Avenues for Youth and "Outside in, just north of my office." The Hearings Officer finds that Outside In is located at 1132 SW 13<sup>th</sup> and is outside the 600 foot 33.239.030 B.2 spacing distance. The Hearings Officer finds that the only other Group Living use that was approved as a conditional use within the 600 foot standard is the New Avenues for Youth at 1220 SW Columbia. Further, there is no definitive and credible evidence in the record to confidently categorize Outside In as a Group Living use (a residential occupancy of a structure by a group of people who do not meet the definition of Household Living – see discussion of what is a Group Living facility in exhibit H.6).

The above-referenced opponent also referenced the Gretchen Kafoury Commons (1276 SW Columbia) and the St. Stephens Church (1260 SW Clay) as impacting the livability in the area around his professional office (1316 SW 13<sup>th</sup>) (exhibit H.3a). There is no evidence in the record to suggest that either the Gretchen Kafoury Commons or St. Stephens Church are Group Living uses. The Hearings Officer does note that both the Gretchen Kafoury Commons and St. Stephens Church are located within 600 feet of the real property subject to this application.

This opponent also indicated that the 600-foot spacing requirement is actually a "750-foot radius." (exhibit H.3a). This opponent did not reference any section of City Code to support the 750-foot radius requirement. The Hearings Officer, for the purposes of this decision, finds that a 600-foot spacing requirement represents the regulation in effect at the time this application was filed.

Zoning Code section 33.239.030 B.1 identifies the purpose of the spacing standards in 33.239.030 B.2. 33.239.030 B.1 states:

*“The minimum spacing standards assure that large Group Living Uses do not unduly affect the character of residential and commercial areas.”*

The Hearings Officer finds that an interpretation of the intent of City Council when drafting this section of the zoning code is required. See *PGE v. BOLI*, 317, Or 606, 859 P 2d 1143 (1993). The first level of such analysis is to consider the text as written; is the language of the section clear? The Hearings Officer finds that the use of the word “large” in this section is, from the language of the section, not defined within the section or elsewhere in the zoning code and as such is not clear.

The Hearings Officer notes that it is appropriate to consider the context within which 33.239.030 B.1 is found. The Hearings Officer reviewed 33.239 and 33.920.100 and found no assistance in interpreting the word “large” found in 33.239.030 B.1. The next analytical step for the Hearings Officer would be to consider the legislative history.

BDS staff provided, during the open record period at the Hearings Officer’s request, a summary of its research into the legislative history of the spacing requirements found in 33.239.030 B.2 (see exhibit H.6). The Hearings Officer reviewed the BDS staff memo and attached code/commentary excerpts (exhibit H.6). The commentary for the 1990 zoning code rewrite (exhibit H.6d, 239-1 commentary) references a summary of Group Living regulations. This commentary includes a table which identifies “small” group living as 7 to 15 residents and “large” Group Living as 16 residents and over. The draft code language for the 1989 chapter 33.239 rewrite (exhibit H.6d, 33.239.040 B.1, page 239-2) states that “Group Living uses which have between 6 and 15 residents are classified as small group living facilities. Group Living uses which have 16 or more residents are classified as large group living facilities.”

Although not specified in the current version of the zoning code, it appears to the Hearings Officer that City Council intended, when referencing “large” in 33.239.B1, that “large” meant a number of residents in excess of 16. As the proposed number of residents in the applicant’s proposal is 48, the Hearings Officer finds that the application is for a “large” Group Living use. The Hearings Officer disagrees with BDS staff and applicant that the application involves a “small” Group Living use. The Hearings Officer, as noted above, finds that the 48 resident proposal is a large Group Living use (exceeds 16 residents).

The next step in the analysis is to determine if the proposed 48 resident Group Living use in this application, to be located approximately 170 feet from another conditional use approved Group Living Use (rooms for 30 youth plus temporary shelter for 30 youth plus services to residents and drop-ins) “unduly affect the character of residential and commercial areas.”

The Hearings Officer notes that the word “unduly” provides the Hearings Officer some discretion. The Hearings Officer finds that determining whether the application “unduly”

affects the character of the residential and/or commercial area requires an exercise of judgment.

Section 33.910.010 states that words used in the zoning code have their normal dictionary meaning unless they are listed in 33.910.020. The word “unduly” is not defined in 33.910.020.

Webster’s New Collegiate Dictionary provides an appropriate definition of “undue” as “excessive.” Black’s Law Dictionary defines “undue” as “more than necessary.” The Hearings Officer finds that both of these definitions suggest an interpretation of “unduly” consistent with “excessive.” The Hearings Officer finds that the word “unduly” should not be interpreted to mean “less than a substantial impact.” (See also exhibit H.10, page 9).

The Hearings Officer next considers the character of the area. The “area” to be considered in this analysis could be as small as all properties within 600 feet of the subject property (the distance set forth in the spacing requirements of 33.239.030 B.2) or as large as the West End (a downtown sub-district of the Central City Plan). The Hearings Officer selected 600 feet, as modified below, as the appropriate distance in considering the impacts upon character of the “area.”

The Hearings Officer finds, in the vicinity of the Subject Property, that the I-405 freeway creates a physical barrier minimizing the Subject Property’s impacts on the westside of I-205. The Hearings Officer considered the I-405 freeway as the western most boundary of the “area.” The Hearings Officer considered the east boundary of the “area” to be SW 10<sup>th</sup> Avenue, the north boundary to be SW Main Street (a distance in excess of 600 feet) and the south boundary the extension of SW Montgomery Street (within Portland State University).

Applicant submitted two “vicinity plan” maps during the open record period (exhibit H.9e, page 2 of 28 and also Exhibit H.9k). These maps identify types of uses within the “area.” Exhibit H.9k also shows a representation of the 600-foot distance from the subject property. On the block where the Subject Property is located there are 3 other mid-rise apartment buildings (see exhibit H.9e, Site Plan) including the Peter Paulson, Hamilton West and 12<sup>th</sup> Avenue Terrace. Located on the blocks south of SW Market are PSU residences, a parking lot, child care center and vacant lot. Located on the block to the east are offices, a parking lot and a mid-rise student housing building(s). Additional residential housing is located on the block between SW 10<sup>th</sup> and SW 11<sup>th</sup> and SW Market and SW Clay; including a recently constructed mid-rise condominium project (Benson Tower).

The block immediately north of the subject block (SW Clay, SW Columbia, SW 12<sup>th</sup> and SW 13<sup>th</sup>) has two churches, a mid-rise apartment building (Gretchen Kafoury Commons) and the other conditional use Group Living Use (New Avenues for Youth). On the block between SW Clay and SW Columbia and SW 11<sup>th</sup> and SW 12<sup>th</sup> are a number of residential apartments (one large mid-rise complex – Rose Schnitzer Apartment Tower).

The block bounded by SW Columbia, SW Jefferson and SW 12<sup>th</sup> and SW 13<sup>th</sup> has a dental office building (opponent Teasdale’s property), another office building and apartment

buildings. It appears from Exhibit H.9e (Vicinity Plan, page 2 of 28), that immediately south of the dental office is a vacant parcel which could be developed (see opponent Teasdale's comments in Exhibit H.8). The remaining blocks in the "area" are mostly occupied by apartment buildings, office buildings and retail uses.

The Hearings Officer finds the general character of the "area" to be residential (apartments) with some office and retail uses.

The Hearings Officer is aware of one and possibly two Group Living uses in relatively close proximity to the Subject Property. The Hearings Officer notes that the proposal anticipates 48 residents, the New Avenues for Youth permits (per Exhibit H.9c, page 18 of 22) 60 residents (30 in a group living setting and 30 in a "mass shelter" arrangement) and additional residents at the Outside In facility. Outside In was not confirmed, with evidence in the record, that it is a conditionally approved Group Living use. Further, Outside In is located beyond the 600 feet spacing requirement but was considered within the Hearings Officer defined "area").

The question to be answered, at this point, by the Hearings Officer is: does the addition of 48 residents in a Group Living situation, as proposed in this application, unduly affect the character of the neighborhood? The Hearings Officer finds that it does not.

Opponents (exhibits H.3a, H.7, and H.8) suggest that the impacts of the proposed Group Living use are related to livability; the "negative impact of these facilities on the residents of each other." (exhibit H.8). One opponent (Teasdale) suggested, at the hearing, that the residents of the conditional use approved Group Living use pose safety risks to other area residents and businesses beyond those posed by market rate apartment tenants.

BDS staff noted, in its final memo submitted to the Hearings Officer during the open record period, that during research of the legislative history of the "spacing requirements," the staff commentary "does not explain what unique problems/impacts Group Living uses bring to an area." (exhibit H.6, page 4). The Hearings Officer is also not absolutely certain as to the legislative intent of Council in this matter. However, for the purposes of this decision, the Hearings Officer finds that the impact Council was likely primarily concerned with was density. Increase in density impacts traffic, parking, noise, safety, privacy, infrastructure demands and physical compatibility. Note: these factors are already considered in the conditional use review under 33.815.105.

The Hearings Officer finds that the structure proposed in this application will be physically compatible to other buildings in the "area." The Hearings Officer finds that the proposed development will not create any extraordinary traffic, parking or infrastructure demands. The Hearings Officer finds that this proposal will, in combination with New Avenues for Youth and Outside In, not create any extraordinary density, noise or privacy impacts on the "area." The Hearings Officer, having reviewed the security discussion offered by applicant (exhibits H.9d, H.9g, H.9h, H.9i, H.9j, H.9l, and H.10), including its commitment to enter into a Good Neighbor Agreement (see exhibit H.9m), finds that the proposed use, in combination with New Avenues for Youth and Outside In, will not create any extraordinary

safety issues. Opponent Teasdale, via antidotal testimony, suggests that safety risks would be increased if the application were approved. The Hearings Officer finds opponent Teasdale's testimony is not supported by any empirical evidence. The Hearings Officer notes that evidence in favor of the proposition that supportive housing does not negatively affect value of surrounding properties (long term) is found in exhibit H.9j.

It is important to recall that the purpose statement under consideration in this section of the decision states that the minimum spacing standards are in place to assure that large Group Living uses do not *unduly* affect the character of the "area." As mentioned above, the Hearings Officer found that the term "unduly" is synonymous with excessive. The Hearings Officer finds that approval of this application to adjust the spacing requirements for Group Living uses *will* impact the character of the "area" to some extent but, *not* "unduly" or excessively. The Hearings Officer finds that building a new apartment on the subject site, to its allowed density, would also have some impacts upon the character of the neighborhood but not "unduly" or excessively.

The Hearings Officer, therefore, finds that there is no evidence in the record to support a finding that the approval of the application will "unduly" affect the residential and commercial character of the "area."

The Hearings Officer finds that the purpose statement of 33.239.B.1 is equally satisfied by approval of the applicant's request for an adjustment of the minimum spacing requirements. The Hearings Officer finds that this approval criteria is met.

Hearings Officer Notes: Opponents raised additional concerns which are not directly relevant to any approval criteria; however, the Hearings Officer finds the additional concerns can best be addressed within the findings for this approval criteria.

Opponent Teasdale stated that his dental office employees and patients experienced "problems associated with transient populations, problems which have ranged from vandalism and theft and littering to drug use and physical assaults." (exhibit H.3a). The Hearings Officer notes that these problems are not associated directly with Group Living uses; rather the inference from this opponent's letter is that many of these problems are created by residents of the Gretchen Kafoury Commons (not a Group Living use).

Opponent Teasdale expressed frustration that the Portland Business Alliance jurisdiction ends at SW 12<sup>th</sup>. The Hearings Officer finds that the jurisdiction of the Portland Business Alliance does not directly relate to any relevant approval criteria.

Opponent Teasdale stated that the applicant in this case did not provide evidence why the proposed Group Living use needed to be located at the Subject Property and further did not discuss alternative locations. The Hearings Officer finds that the relevant approval criteria do not require an applicant to justify a need for a specific location and do not require an applicant to discuss alternative locations to site the Group Living use.

The Hearings Officer infers from opponent Teasdale's testimony (written and oral) that he was concerned about the concentration of low-income and/or subsidized housing in the area around his dental office. The Hearings Officer finds that the minimum spacing requirements of 33.239.030 relate only to spacing of large Group Living uses. The Hearings Officer finds that the purpose statement of 33.239.030 B.1 requires that the Hearings Officer consider the impacts of large Group Living uses upon the existing character of the area; in this case the existing character, as stated by opponent Teasdale, is one of lower income housing. The Hearings Officer finds that opponent Teasdale may believe that the approval criteria requires the Hearings Officer to consider the impacts of low-income and/or subsidized housing on the character of the area. The Hearings Officer does not agree with that argument. The task of the Hearings Officer is to consider the impacts of the large Group Living uses upon the existing character of the area.

Opponent Teasdale (exhibit H.8) argued that if this application were approved then the goal of predictability of the Portland Zoning Code would be frustrated. The Hearings Officer notes that the Portland Zoning Code is, in certain cases, not rigid and does allow a certain amount of flexibility. The Hearings Officer finds such flexibility may be allowed in cases where adjustments are permitted. 33.805.010 states, in part, that "the adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations." The Hearings Officer finds that so long as the relevant sections of 33.805.040 are met, the intent and spirit of the zoning code is satisfied. The Hearings Officer finds that this application has been subject to public review, a public hearing before the Hearings Officer, and persons/entities appearing at the hearing or submitting testimony into the record may appeal the decision to City Council. The Hearings Officer finds that the checks and balances, as required by the zoning code, provide persons, such as opponent Teasdale, an opportunity to participate and comment on the proposal and relevant approval criteria, and the Hearings Officer and perhaps City Council must take such comments into consideration when making his/its decision.

Opponent Teasdale, in Exhibit H.8, suggested that he has had difficulty in getting the applicant, as owner of Gretchen Kafoury Commons, to meet, negotiate and execute a Good Neighbor Agreement. The Hearings Officer has no authority to require the applicant to enter into a Good Neighbor Agreement on property not subject to this application. The Hearings Officer notes that BDS staff proposed condition of approval D does require the applicant to have a Good Neighbor Agreement in place prior to occupancy of the proposed building. The Hearings Officer finds such condition to be appropriate and necessary in this case.

Opponent Kovtynovich (exhibit H.7) stated that if this application is approved it "will most likely spawn increased continued illegal and illicit activities on neighboring properties, including but not limited to illegal drug use and prostitution." The Hearings Officer finds no credible evidence in the record to support this statement as it relates to the Group Living use subject to this application.

Opponent Kovtynovich (exhibit H.7) stated that if the application is approved the “facility will diminish the value of neighboring and surrounding properties.” The Hearings Officer finds that the relevant approval criteria do not consider impacts on value.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** The exterior design of the proposed new building is consistent with the abutting and nearby high-density residential development and does not detract from the appearance of the residential area. A nearby residential property owner submitted written comments objecting to the University Place facility. A major concern was that the residents will be wandering the streets because the facility does not offer outdoor space and/or spacious units or common area.

Livability is further discussed in the findings for 33.815.105 C and 33.805.040 A above and are incorporated by this reference into these findings.

The application does not describe programmatic elements such as the types of passive and active recreation offered to the residents. However, conditions that require contact with Portland Police and a Good Neighborhood Agreement will provide a structure for monitoring and controlling any possible nuisance-type incidents or criminal behavior. Through compliance with these conditions, this criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and  
**Findings:** Only one Adjustment is requested. This criterion does not apply.

- D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** City designated scenic resources are shown on the zoning map by the “s” overlay zone. Historic resources are designated by a large dot. There are no such resources present on the site. Therefore, this criterion is not applicable.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** There are no detrimental impacts created by the reduction in spacing between the two Group Living uses. Therefore, no mitigation is needed. This criterion does not apply.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** This site is not within an environmental zone, which is designated on the zoning map by either a “c” or “p” overlay zone. Hence, this criterion is not applicable.

### **Development Standards**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

### **III. CONCLUSIONS**

The applicant is requesting approval of a Conditional Use Review to establish a new Group Living Use and approval of an Adjustment to reduce the spacing requirement between Group Living uses. The proposed 48-room facility will provide housing and treatment for mentally ill persons.

The Hearings Officer found that the conditional use approval and adjustment criteria are met in this case if conditions are made part of the approval.

The primary concern raised at the hearing and by opponents submitting written evidence related to the safety impacts created by approval of this application. The Hearings Officer found that with conditions related to safety (police and Good Neighbor Agreement), these concerns can be adequately addressed.

### **IV. DECISION**

Approval of a Conditional Use Review for the establishment of a 48-room Group Living use;  
and

Approval of an Adjustment to reduce the distance between an existing Group Living Use and the proposed facility from 600 to 170 feet (Section 33.239.030.B), subject to the following conditions:

- A. As part of the building permit application submittal, the following conditions (B through D) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 08-166036 CU AD."
- B. The facility must provide to the Portland Police Bureau and the 911-dispatch system the security code or key system for emergency access.
- C. The staff manager or facility director must meet with the Central Precinct Police Commander to discuss any public safety concerns and to identify any crisis intervention needs.
- D. Prior to occupancy of the building, the facility must develop, with the assistance of the Office of Neighborhood Involvement (ONI), a Good Neighbor Agreement. The agreement

should address concerns raised by neighbors and the community such as communication, safety, health security, crime prevention, loitering, and litter control.

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Gregory J. Frank, Hearings Officer

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Date

<b>Application Determined Complete:</b>	November 4, 2008
<b>Report to Hearings Officer:</b>	December 12, 2008
<b>Decision Mailed:</b>	February 3, 2009
<b>Last Date to Appeal:</b>	4:30 p.m., February 17, 2009
<b>Effective Date (if no appeal):</b>	February 18, 2009 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 4<sup>TH</sup> 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 \$6,355.50 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.

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.

BDS may also grant fee waivers to low income applicants appealing a land use decision on their primary residence that they own in whole or in part. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Individuals requesting fee waivers must submit documentation certifying their annual gross income and household size (copies of tax returns or documentation of public assistance is acceptable). Fee waivers for low-income individuals must be approved prior to filing your appeal; please allow three working days for fee waiver approval.

**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.

- 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:

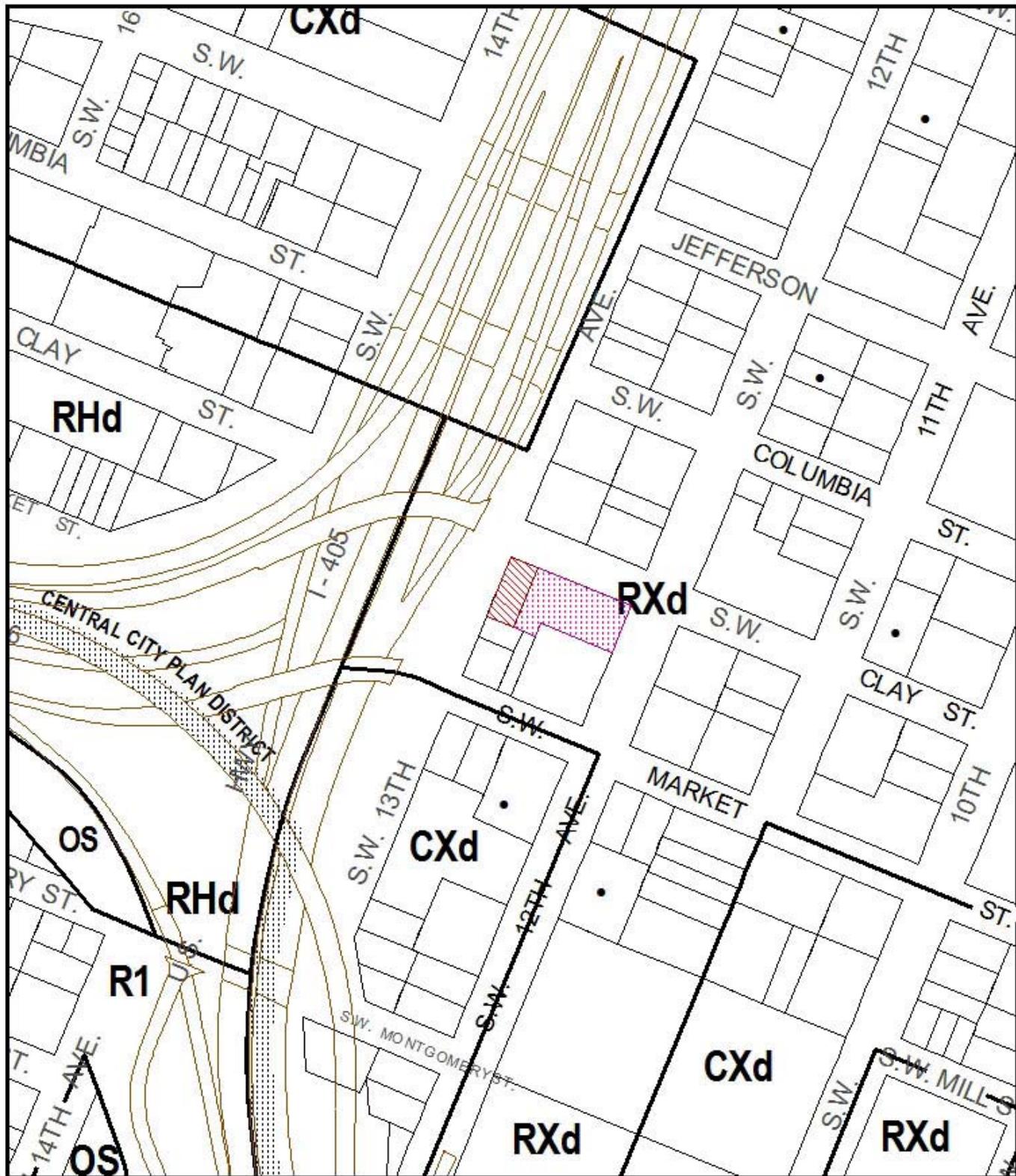
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Narrative Describing Project and Addressing Approval Criteria
  - 2. Supplemental Information, Submitted Oct. 21, 2008
  - 3. Supplemental Response to Adjustment Criteria, Submitted November 4, 2008
  - 4. Proposed Transportation Demand Management Plan and On-Street Parking Analysis, Submitted November 4, 2008
- B. Zoning Map (**attached**)
- C. Plans & Drawings
  - 1. Site Utility Plan (**attached**)
  - 2. Landscape Plan (**attached**)
  - 3. Vicinity Plan
  - 4. Site Plan/Aerial Photo
  - 5. FAR Calculation
  - 6. First Floor Plan
  - 7. Second Floor Plan
  - 8. Third-Fifth Floor Plan
  - 9. Roof Plan
  - 10. West Elevation
  - 11. East Elevation
  - 12. North Elevation
  - 13. South Elevation
  - 14. View SE
  - 15. View of East Side
  - 16. Night Render
  - 17. Context Photos
- 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. BDS TRACS Print-out, No Concerns from Comments from Fire, Water, and Urban Forestry
  - 2. Site Development Review Section of Bureau of Development Services
  - 3. Life Safety Review Section of Bureau of Development Services
  - 4. Bureau of Environmental Services
  - 5. Bureau of Transportation Engineering and Development Review
  - 6. Police Bureau
- F. Letters

1. Scott Coe, P.O. Box 5212 Portland, OR 97208-5212, letter of opposition
- G. Other
1. Original LUR Application
  2. Site History Research
  3. Incomplete Application Letter to Applicant, sent Oct. 1, 2008
  4. Incomplete Application Letter to Applicant, sent Oct. 23, 2008
  5. Pre-Application Summary Report
- H. Received in the Hearings Office
1. Hearing Notice - Frugoli, Sheila
  2. Staff Report - Frugoli, Sheila
  3. 12/17/08 Memo with attachment - Frugoli, Sheila
    - a. 12/4/08 Letter from Russell Teasdale - Frugoli, Sheila
  4. 12/19/08 Memo from Betty Dominguez, HAP - Andrews, Michael
  5. 12/3/08 Memo from Betty Dominguez, HAP - Andrews, Michael
  6. Memo to HO dated 1/6/09 with attachments - Frugoli, Sheila
    - a. Title 33 Planning & Zoning code citations (3 double-sided pgs.) - Frugoli, Sheila
    - b. Code Citations & Commentary - header "Chapter 130, Zoning Code Rewrite, Discussion Draft March 1988" (4 pgs. double-sided) - Frugoli, Sheila
    - c. Code Citations & Commentary - header "Chapter 821, Special Living, Zoning Code Rewrite, Discussion Draft, March 1988" (2 pgs. double-sided) - Frugoli, Sheila
    - d. Title 33 Citations & Commentary - header "Zoning Code Rewrite, Proposed Draft, April 1989" (10 pgs. double-sided) - Frugoli, Sheila
  7. Faxed letter to HO dated 1/9/09 - Kovtynovich P.E., Dan
  8. Letter to HO dated 1/7/09 on Advanced Dental Arts NW letterhead - Teasdale, Russell
  9. Letter to HO dated 1/9/09 (3 pgs.) (Stoel Rives LLP letterhead) with attachments - Curtiss, Sarah Stauffer
    - a. Labeled "Transcript of Land Use Application Housing Authority of Portland/University Place, December 22, 2008 (Case LU 08-166036CUAD) 16 pgs. - Curtiss, Sarah Stauffer
    - b. Certified true document for Land Use Document # 98-00729CU, signed by Deputy City Auditor Nancy Quan, dated 10/30/98 - Curtiss, Sarah Stauffer
    - c. Copy of Decision for Case LU 98-00729CU signed and dated by HO William Shatzer 10/15/98 with highlighted areas shown, 22 pgs. - Curtiss, Sarah Stauffer
    - d. Letter addressed "To Whom It May Concern" from Sherrie Scott dated 12/24/08 (2 pgs.) - Curtiss, Sarah Stauffer
    - e. 28 pgs. of color photos and 8 1/2 x 11 copies of plans - Curtiss, Sarah Stauffer
    - f. Copy of email from Betty Dominguez to Sarah Stauffer Curtiss dated 1/6/09, 1 pg. - Curtiss, Sarah Stauffer
    - g. Document with header "Program Description and Scope of Services Bridgeview Community" (4 pgs.) - Curtiss, Sarah Stauffer
    - h. Luke Dorf Inc. documents (appears as program manual - 23 pgs.) - Curtiss, Sarah Stauffer
    - i. Job Descriptions (10 pgs.) - Curtiss, Sarah Stauffer
    - j. New York University study/report (10 pgs.) and Editorial from New York Times (1 pg.) - Curtiss, Sarah Stauffer
    - k. 11x17 color street map showing lots and blocks - Curtiss, Sarah Stauffer

- l. Letter addressed to "Whom it May Concern" from Judith Mowry, dated 1/7/09 (2 pgs.) - Curtiss, Sarah Stauffer
  - m. Copy of email stream from Betty Dominquez to Sarah Stauffer Curtiss, dated 1/9/09 (2 pgs.) - Curtiss, Sarah Stauffer
10. 1/16/09 Final written argument - Curtiss, Sarah Stauffer



**ZONING**

-  Site
-  Also Owned
-  Historic Landmark



This site lies within the:  
 CENTRAL CITY PLAN DISTRICT

File No.	LU 08-166036 CU AD
1/4 Section	3128
Scale	1 inch = 200 feet
State_Id	1S1E04AC 200
Exhibit	B (Nov 6, 2008)

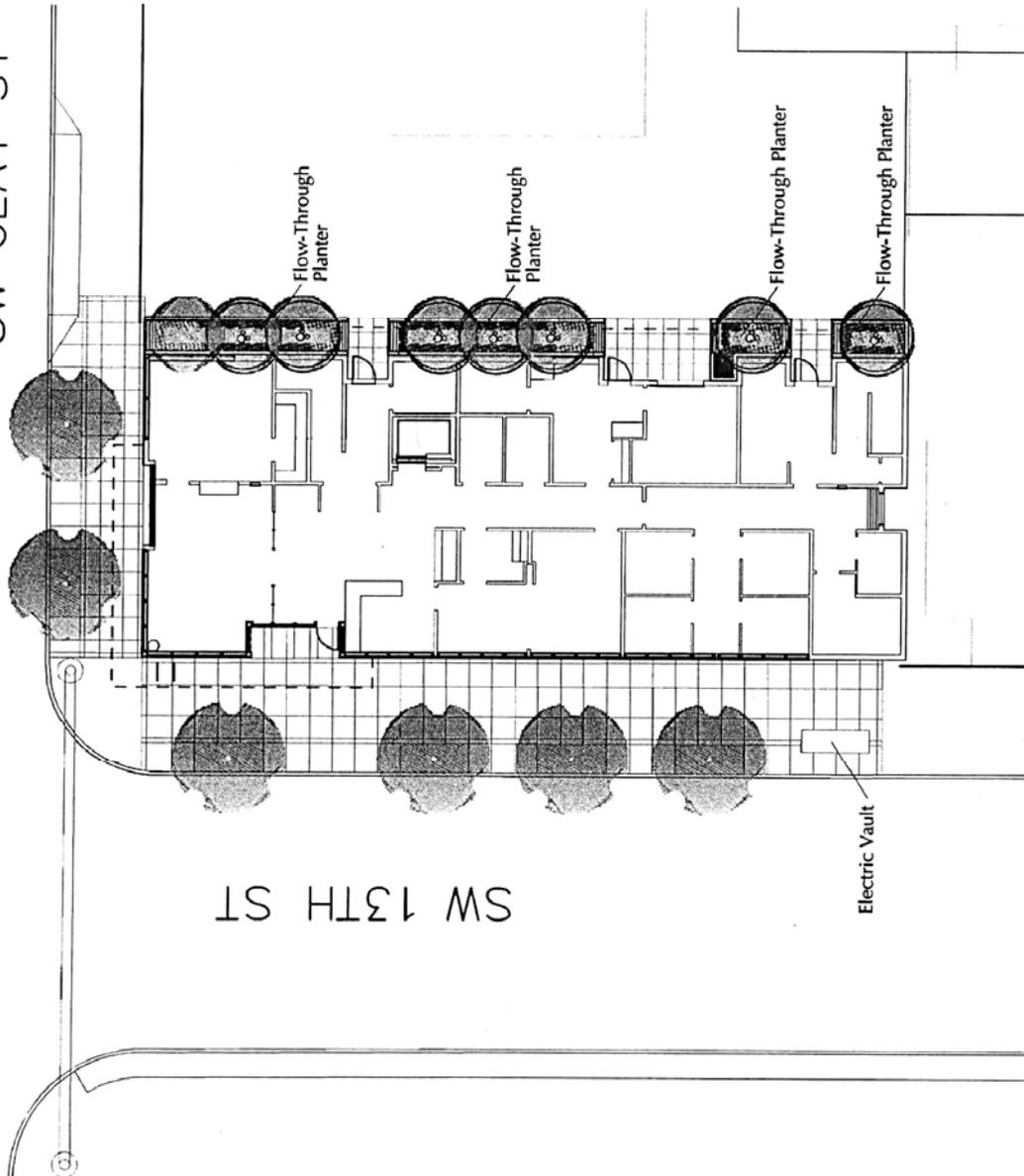


# University Place

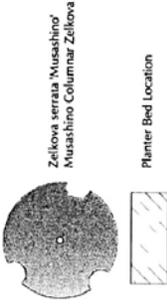
## Landscape Plan

SW CLAY ST

SW 13TH ST



### STREETSCAPE LEGEND



### PLANT LEGEND

SYMBOL	NAME	SIZE	TYPE
<b>ZONE A</b>			
	Acer circinatum Wine Maple	6-8'	B&B Multi-Stem 3 Trunk Min.
	Carex densa Dense Sedge	1 gal.	12" o.c. Tri-Space
	Carex flaccida New Zealand Orange Sedge	1 gal.	12" o.c. Tri-Space
	Juncus balticus Baltic Rush	1 gal.	12" o.c. Tri-Space
<b>ZONE B</b>			
	Cornus sericea var. kelseyii Dwarf Redtwig Dogwood	1 gal.	12" o.c. Tri-Space
	Liriodie muscari 'Big Blue' Big Blue Lily Turf	1 gal.	12" o.c. Tri-Space



**SCHEMATIC LANDSCAPE PLAN**  
 SCALE: 3/32" = 1'-0"



**HAP**  
 HOUSING AUTHORITY OF PORTLAND



Exhibit C.2

LU 08-166036 CU