



City of Portland
Bureau of Development Services
Land Use Services Division

1900 SW Fourth Ave. Suite 5000
Portland, Oregon 97201
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TDD: 503-823-6868
FAX: 503-823-5630
www.portlandonline.com/bds

Date: July 22, 2008
To: Interested Person
From: Jacob Brostoff, Land Use Services
503-823-7198 / BrostoffJ@ci.portland.or.us

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-108899 AD

GENERAL INFORMATION

Applicant: Peter Lu & Mai Nguyen
11319 SE Ogden St
Portland, OR 97266

Site Address: 9707 SE HOLGATE BLVD

Legal Description: EXC PT IN ST LOT 12 BLOCK 6, ELMO HTS

Tax Account No.: R249501630

State ID No.: 1S2E09DC 04200

Quarter Section: 3540

Neighborhood: Lents, contact Alan Brzycki at 503-774-3256.

Business District: Midway, contact Donna Dionne at 503-252-2017.

District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550.

Plan District: Johnson Creek Basin

Zoning: R1a

Case Type: AD

Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal:

Applicants propose to build 6 new dwelling units (3 2-unit buildings) on an 8,437 sq. ft. lot. As part of the development proposal, the Portland Office of Transportation required a dedication along SE Holgate to create an 8 ft. wide sidewalk. As a result, applicants dedicated 5 ft. to an existing 7 ft.-wide sidewalk, making for a total of 12 ft. of right-of-way between the curb and the property line. The dedication process is complete. The Office of Transportation will use the dedication to expand the sidewalk to 8 ft. The remaining 4 ft., between the sidewalk and the property line, is proposed to be used as a planter strip.

Applicants state that by dedicating 5 ft. to the right-of-way, the area available for development on the lot is reduced so that one of the units would have to be eliminated. **Applicants request an Adjustment to the minimum front setback, from 3 ft. to 0 ft.**

Relevant Approval Criteria:

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The site is a deep, vacant lot on SE Holgate just east of I-205. This section of SE Holgate, a busy Neighborhood Collector street, has curb-tight sidewalks with no planter strip or street trees. The surrounding area is urban and built-up, with many single-dwelling homes and some apartment complexes nearby.

Zoning: R1a— Residential Multi-dwelling 1,000, with the "a"—Alternative Design Density Overlay Zone, in the Johnson Creek Basin Plan District.

The R1 zone allows multi-dwelling residential development up to a maximum density of one unit per 1,000 square feet of site area, and requires a minimum density of one unit per 2,000 square feet for sites less than 10,000 square feet in area.

The "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood.

The Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services.

This proposal does not take advantage of the provisions of the "a" Overlay Zone, and there are no relevant provisions of the Johnson Creek Basin Plan District.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **April 28, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau

The Bureau of Environmental Services responded with comments: Please see Exhibit E-1 for additional details.

The Site Development Section of BDS responded with comments: Please see Exhibit E-2 for additional details.

The Urban Forestry Section of the Bureau of Parks and Recreation responded with comments: Please see Exhibit E-3 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 28, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Title 33.805.040 Adjustment Approval Criteria

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

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

Findings: The setback regulations for buildings and garage entrances serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of multi-dwelling development in the city's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
- Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.

The light and air between residences would not be affected by the proposal, as the reduction to the front setback would merely bring the building closest to the street 3 feet forward. Access for fire-fighting would not change. The proposal would reflect the general building scale and placement of multi-dwelling development in the neighborhood. It meets all other development standards and the building envelope is in keeping with what is allowed by right in the R1 zone. There would be no impacts to privacy because the front building would move 3 feet forward, toward the sidewalk. The setback required by the zone, 3 feet, does not allow adequate room for a front yard, so reducing it to zero would not significantly change the relationship of the front yard to the side and rear yards. Siting the front building at zero feet from the front lot line allows the proposal to include additional outdoor area at the rear and sides of the site. The proposal would meet the maximum transit street setbacks, creating an environment that is inviting to pedestrians and transit users.

This approval criterion is met.

- 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 site is in a residential zone. The appearance of the residential area is a mix of single- and multi-dwelling development, and this multi-dwelling proposal will not change that appearance. The livability of the area will be enhanced by the larger sidewalk required through dedication, along with the street trees in tree wells that can be provided per Urban Forestry's comments.

This approval 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 is not applicable.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; 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: The reduced setback does not create any impacts. This approval criterion is not applicable.

- 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: The site is not within an environmental zone, which is designated on the zoning map by either a "c" or "p" overlay. Therefore, 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.

CONCLUSIONS

The applicant has requested an adjustment to reduce the required front setback of 3 feet to zero feet for this multi-dwelling proposal. All of the approval criteria have been met. The proposal will contribute to an attractive streetscape along SE Holgate, a transit street. The overall appearance of the multi-dwelling residential area will remain the same as a result of this multi-dwelling development. With street trees provided in wells in the wider sidewalk provided by the dedication from this proposal, the livability of the area will be enhanced.

ADMINISTRATIVE DECISION

Approval of an adjustment to reduce to front setback from 3 feet to zero feet, per the approved site plans and elevation drawings, Exhibits C-1 through C-2, signed and dated July 22, 2008, subject to the following condition:

- 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 Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-108899 AD. No field changes allowed."

Decision rendered by:  **on July 22, 2008.**

By authority of the Director of the Bureau of Development Services

Decision mailed: Date

Staff Planner: Jacob Brostoff

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on February 13, 2008, and was determined to be complete on April 23, 2008.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the

application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on February 13, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended per the email in exhibit F.1 due to discussions with the Site Development Section of BDS about stormwater management issues.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on August 6, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **August 7, 2008**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

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

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

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

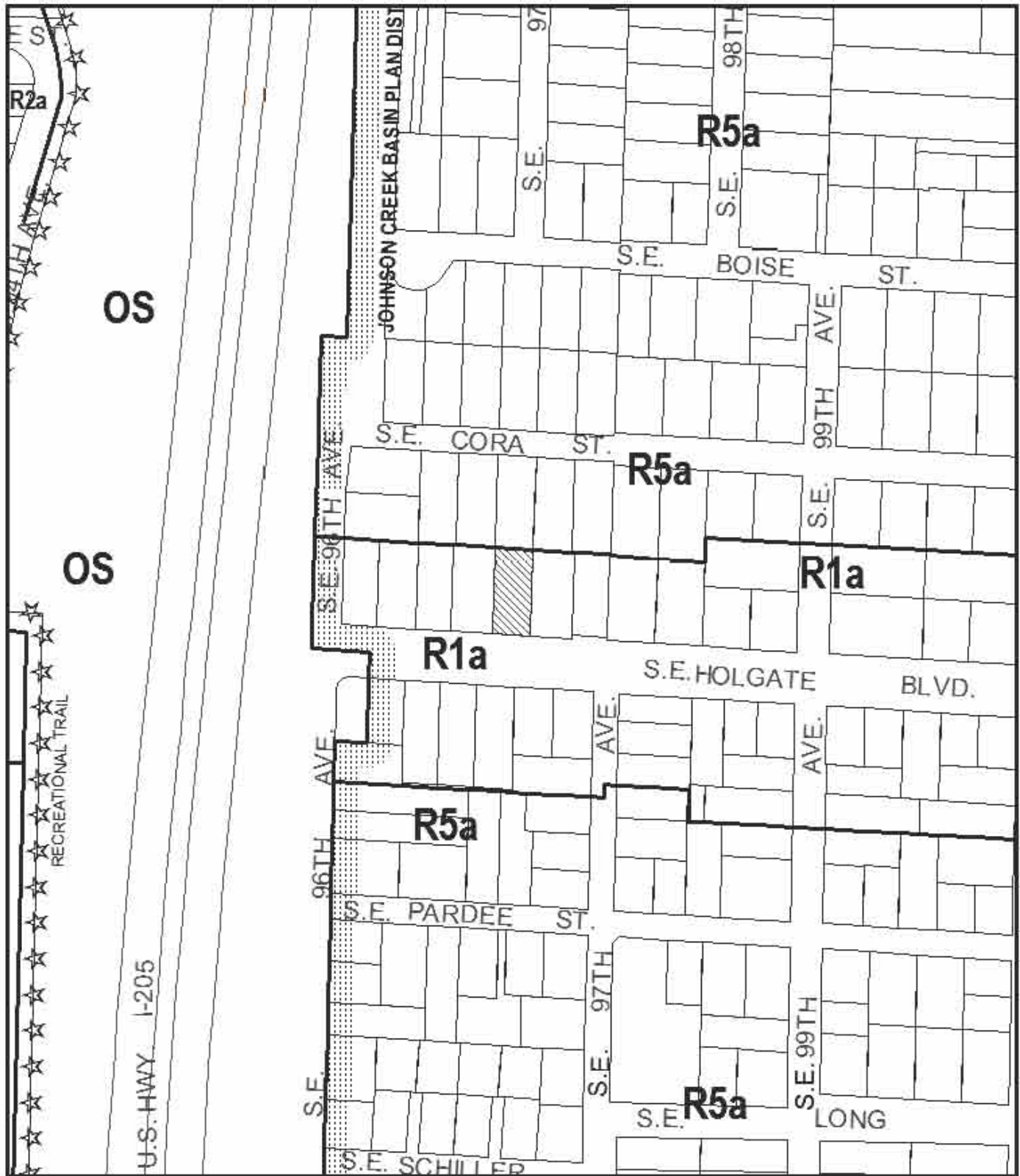
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)

2. Elevation drawings (attached)
- D. Notification information:
1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Site Development Review Section of BDS
 3. Urban Forestry, Bureau of Parks and Recreation
- F. Correspondence:
1. Peter Lu, 4/17/08, email with revised site plan.
 2. Peter Lu, 5/21/08, email requesting case be put on hold while Site Development/stormwater issues are worked out.
- G. Other:
1. Original LU Application
 2. Site History Research

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



ZONING

 Site



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	LU 08-108899 AD
1/4 Section	3540
Scale	1 inch = 200 feet
State_Id	1S2E09DC 4200
Exhibit	B (Feb 21, 2008)

Approved*
City of Portland - Bureau of Development Services

Planner JMB

Date 1/22/18

* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

INSTALL "NO PARKING
FIRE LANE" SIGN
SEE DETAIL THIS SHEET

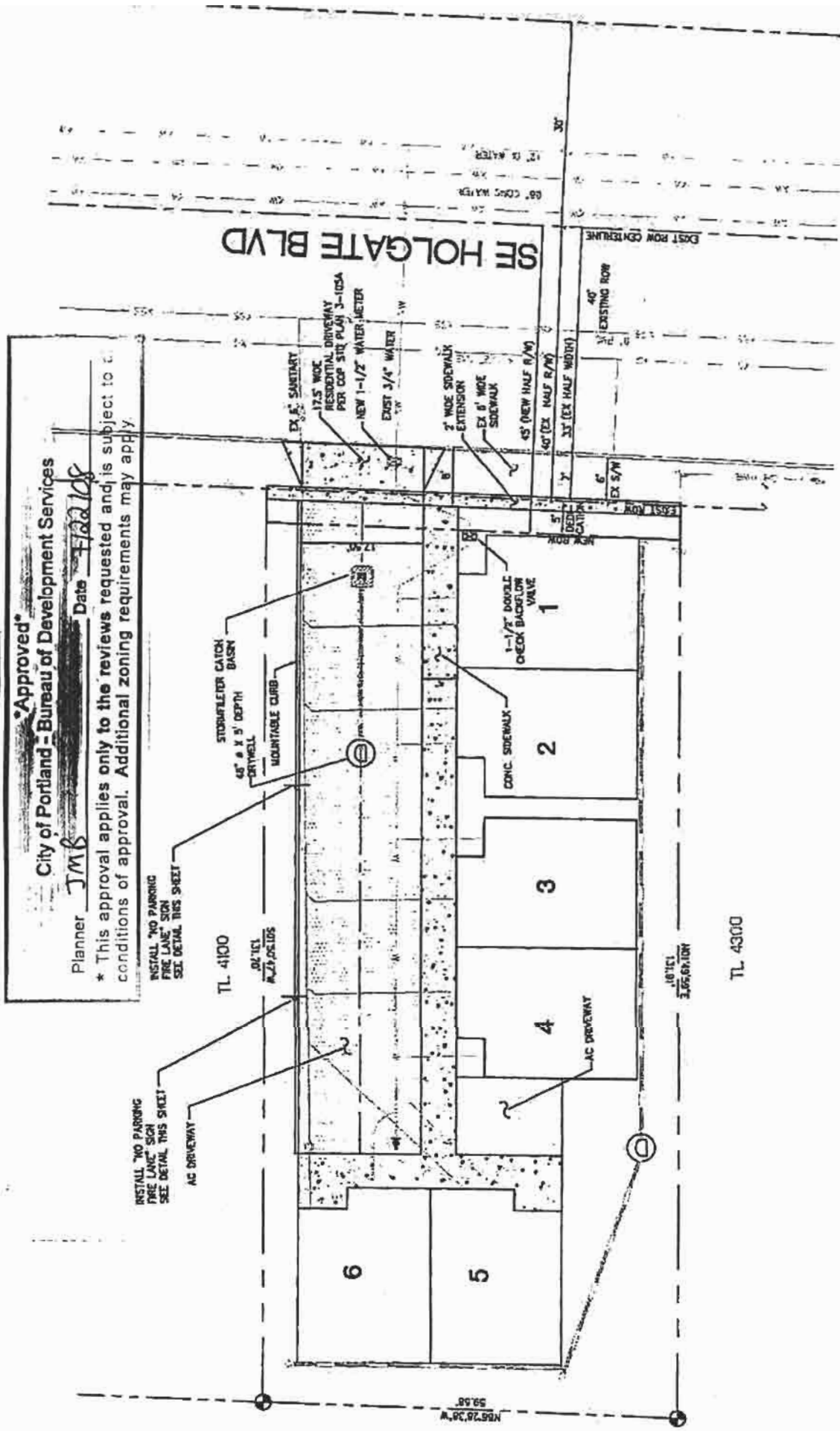
INSTALL "NO PARKING
FIRE LANE" SIGN
SEE DETAIL THIS SHEET

TL 4100

TL 4300

TL 4300

SITE PLAN
SCALE 1"=10'



08-108899 LW EXHIBIT C.1

1. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF PORTLAND AND THE PORTLAND PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT.



SunRidge Design
17659 SE 106th Ave
Portland, OR 97236
(503) 257-7852
FAXLINE (503)258-8111



DATE	1/11/17
BY	JMB
FOR	7/22/17
PROJECT	7/22/17
DESCRIPTION	

NO.	DATE	DESCRIPTION
1	1/11/17	ISSUED FOR PERMIT
2	1/11/17	ISSUED FOR PERMIT
3	1/11/17	ISSUED FOR PERMIT
4	1/11/17	ISSUED FOR PERMIT
5	1/11/17	ISSUED FOR PERMIT

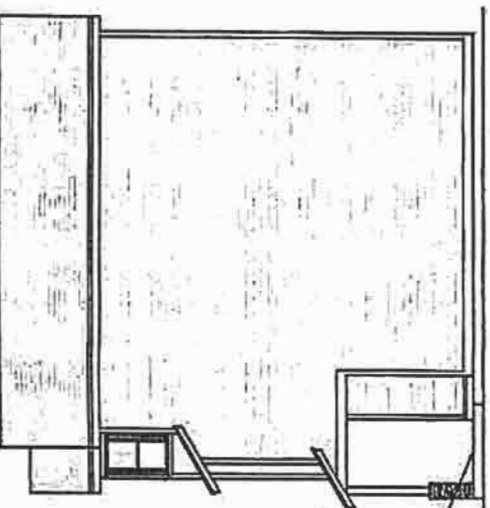
Approved
City of Portland - Bureau of Development Services
Date: 7/22/17
This approval applies only to the reviews requested in the conditions of approval. Additional zoning requirements apply.

1. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF PORTLAND AND THE PORTLAND PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT.

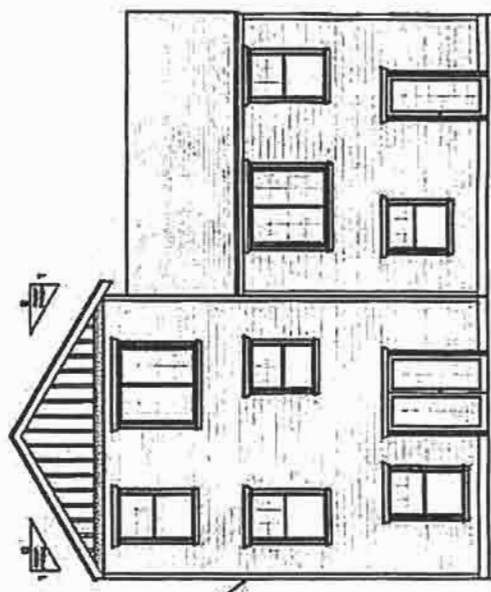
UNIT 1	AREA 1.2.2.0.0.0.0	MAX. HEIGHT	MAX. AREA
UNIT 2	AREA 1.2.2.0.0.0.0	MAX. HEIGHT	MAX. AREA



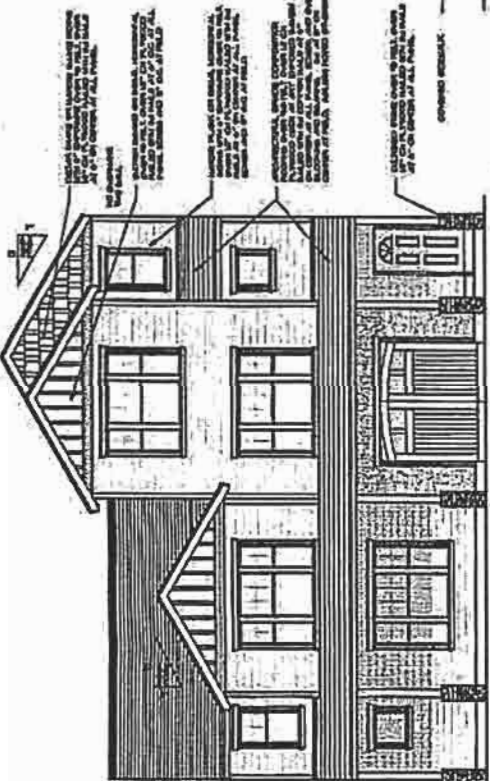
LATERAL FORCE NOTE
Lateral force shall be determined in accordance with ASCE 7-10, Section 12.8.1.1. Lateral force shall be applied to all walls and columns in both directions. Lateral force shall be applied to all walls and columns in both directions. Lateral force shall be applied to all walls and columns in both directions.



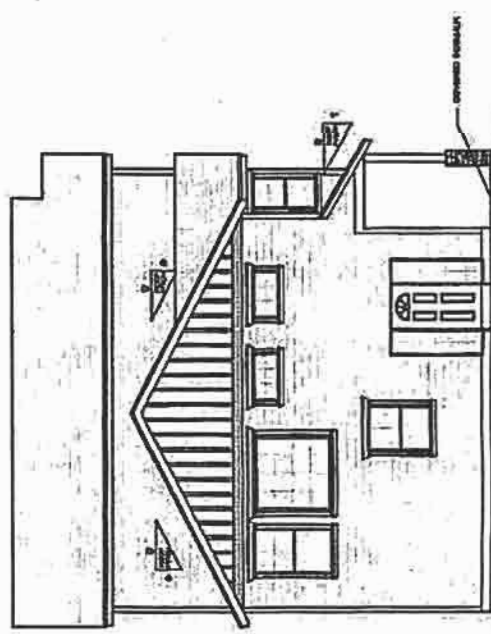
RIGHT ELEVATION
SCALE: 1/4" = 1'-0"



REAR ELEVATION
SCALE: 1/4" = 1'-0"



FRONT ELEVATION
SCALE: 1/4" = 1'-0"



LEFT ELEVATION
SCALE: 1/4" = 1'-0"

BLDG 1

08-108899 LO EXHIBIT C.2