



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File No.: LU 07-146177 CU (HO 4080027)

Applicant: Pastor Albert Wayne Johnson
Morning Star Missionary Baptist Church
106 NE Ivy Street
PO Box 12530
Portland OR 97212

**Applicant's
Representatives:** Derwin Broughton
Ron Hobbs Architects
614 W Main St, Ste 200
Garland, TX 75040

Donna Merrill, local liaison
1630 SW Harbor Way Apt 203
Portland, OR 97201

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Staff Representative: Nan Stark

Site Address: 106 NE IVY ST

Legal Description: W 65' OF LOT 1&2 BLOCK 14, CANCEL INTO R308816 / WILLIAMS AVENUE ADD; BLOCK 14 LOT 1-6 21&22, WILLIAMS AVENUE ADD; E 1/2 OF LOT 3&4 BLOCK 14, CANCEL INTO R308816 / WILLIAMS AVENUE ADD; W 1/2 OF LOT 3&4 BLOCK 14, CANCEL INTO R308816 / WILLIAMS AVENUE ADD; LOT 5&6 BLOCK 14, CANCEL INTO R308816 / WILLIAMS AVENUE ADD

Tax Account No.: R916405360, R916405380, R916405440, R916405450, R916405470

State ID No.: 1N1E27AA 05600, 1N1E27AA 05500, 1N1E27AA 08900, 1N1E27AA 08800, 1N1E27AA 09000

Quarter Section: 2730
Neighborhood: Eliot

Business District: North-Northeast Business Association

District Neighborhood Coalition: NE Coalition of Neighborhoods

Plan District: Albina Community

Zoning: R2a: Multi-Dwelling Residential 2,000 with 'a' Alternative Design Density overlay zone

Land Use Review: Type III, CU, Conditional Use

BDS Staff Recommendation to Hearings Officer: Approval with conditions

Public Hearing: The hearing was opened at 9:00 a.m. on August 5, 2008, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, OR, and was closed at 10:45 a.m. The record was closed at that time.

Testified at the Hearing:

Nan Stark, BDS Staff Representative
Ed Gallagher, 4675 NW Owyhee Ct., Portland OR 97229
Pastor Albert Wayne Johnson, 106 NE Ivy Street, Portland OR 97212
Alberta Phillips, 2434 NE 15th Avenue, Portland OR 97212
Lee Macgee, 1311 NW 26th Avenue, Battleground, WA 98604
Nicholas Albert Johnson, 5526 NE Jessup Street, Portland OR 97218
Terrance Knapper, 4115 N. Kirby Avenue, Portland OR 97217
Tieleen F. Freeman, 7515 N. Westana, Portland OR 97203
Armae Johnson, PO Box 12530, Portland OR 97212
Debra Knapper, 4115 N. Kirby Avenue, Portland OR 97217
John J. Williams, 1969 NW Johnson Street, Portland OR 97209
James Jackson, 4320 NE Cleveland Avenue, Portland OR 97211
Miriam Osborne, 6640 SW Boundary Street, Portland OR 97225
Maudie White, 6724 N. Richmond Avenue, Portland OR 97203
Donna Merrill, 1630 SW Harbor Way, Apt. 203, Portland OR 97201
Karen Talton, 1909 NE Knott Street, Portland OR 97212
Christopher Jones, 1204 NE Failing, Portland OR 97212
Todd Eddie, 74 NE Ivy Street, Portland OR 97212

Proposal:

Morning Star Missionary Baptist Church proposes to build a new church (“new” church) on the site of the former church (“old” church) that was destroyed by fire in February, 2007. The “new” church building will be generally in the same location as the “old” church, at the Rodney Avenue/Ivy Street corner. The sanctuary area proposed for the “new” church is approximately 4,000 square-feet, which will accommodate 400 people. The sanctuary at the “old” church provided seating for 500 people.

Worship services are proposed at the “new” church at the same times as the “old” church schedule, on Sunday mornings. Other activities that occurred at the “old” church will occur at the “new” church facility as well. The proposed development includes the church and attached facility with classrooms, offices for the pastor and assistants, and meeting spaces. That part of the facility will be along the Rodney Avenue frontage.

Activities that formerly occurred at the “old” church, and will continue to occur at the “new” church include the Sunday worship services, with anticipated 400 attendees per morning service, and an evening service; office hours for seven staff on weekdays; daycare for twenty children on weekdays; an elementary school program for 70-80 students, and various other weekly meetings such as bible study and youth programs.

Parking for 35 vehicles is proposed on the east side of the “new” church site, with access from Ivy and Cook Streets. The applicant has also arranged a joint-use parking arrangement with Mid-K Beauty Supply, at the east end of the block in the EX, Central Employment zone, for use of 36 spaces in its lot during Sunday services. A Transportation Demand Management Plan was submitted with the application showing church services will bring approximately 84 vehicles to the site; consequently, the majority of the parking demand will be accommodated either on-site or on the Mid-K site. Weekday parking demand is anticipated to be fully accommodated on-site.

The site is in the Eliot Conservation District. New development in conservation districts requires Historic Design Review. That review (LU 08-106832 HDZM) is currently in the public comment period.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are 33.815.105 A.-E., Conditional Uses: Institutional and other uses in Residential zones.

II. ANALYSIS

Site and Vicinity: The site is 40,000 square-feet in area, with 200 feet of frontage on each of the three adjacent streets of Ivy Street to the north, Cook Street to the south, and Rodney Avenue to the west. The full block on which the site is situated extends to Martin Luther King Jr. Blvd., 370 feet to

the east of the site's eastern property line. There are houses abutting the site on the east side oriented to both Cook and Ivy Streets. Between the site and the Mid-K Beauty Supply site, which is at the east end of the block oriented to Martin Luther King Jr. Blvd., are three lots with detached houses on each frontage.

The site subject to this application is presently vacant and enclosed with a chain-link fence. There is little evidence of the structures that once stood prominently on the site. The streets adjacent to the site are all developed primarily with older houses featuring prominent front porches and entries, in the cottage style and larger four-square-style that is typical of this area of Northeast Portland.

The site is bounded to the east by Martin Luther King Jr. Blvd. and the Williams/Vancouver Avenue couplet to the west, which separate this part of the neighborhood. The Eliot Neighborhood Plan describes this section of the neighborhood as "Northern Eliot", bounded to the north by Fremont Street, which is just one block to the north, and by Russell Street, nearly one-half mile to the south. The older residential character that comprises this area internal to the busier streets to the east and west is fairly consistent, yet changing with more recent infill development that has occurred with demand for closer-in housing.

Zoning: The site to this application is in the R2 zone in the Eliot Conservation District and the Albina Community Plan District. The R2 zone is a medium-density multi-dwelling zone, allowing detached, attached and multi-unit structures at a maximum density of one unit per 2,000 square-feet of site area. Institutional uses such as churches are allowed in residential zones if approved through the Conditional Use process.

The 'a' represents the Alternative Design Density overlay zone, which allows options for additional density if standards are met. This proposal will not utilize the options of the overlay zone.

There are several Conservation districts within the City, in neighborhoods with special architectural and historic significance. In these districts, proposals for new development or alterations to existing development are subject to the Historic Design Review process, which ensures that the special qualities and characteristics of these districts are preserved.

The Albina Community Plan District is generally intended to ensure compatibility between commercial and industrial development and nearby residential neighborhoods, and to encourage compatible residential infill.

Land Use History: City records indicate that prior land use reviews include LUR 94-011517 DZ/LUR 94-00615 CU: approval of a Conditional Use with Design Review for a play area on the site of Christian Women Against Crime School; and approval of a modification through Design Review to increase the fence height in the front setbacks along Cook, Rodney and Ivy Streets from 3½ feet to 5 feet, and to reduce the required landscaping.

Agency Review: A "Request for Response" was mailed June 20, 2008.

- The **Water and Fire Bureaus** responded with no issues or concerns.
- The **Bureau of Transportation Engineering** commented that the applicant's Transportation Demand Management Plan supports the transportation-related criteria for the Conditional Use. The proposed parking agreement with a nearby business for shared parking during Sunday services will ensure sufficient off-street parking during peak demand, and the on-site parking area will meet the daily needs of the church and its programs.
- The **Life Safety Review section of BDS** submitted comments intended to provide the applicant with preliminary Building Codes information that could affect the Land Use Review and/or future Building Permit reviews.
- The **Bureau of Parks-Forestry Division** commented that street trees will be required.
- The **Bureau of Environmental Services** reviewed the revised (July 18, 2008) Preliminary Stormwater Management Report and responded that based on the revised plans and calculations, discharging stormwater runoff on-site is feasible and the approval criterion for stormwater services can be met.
- The **Site Development Section of BDS** also reviewed the revised stormwater report and concluded that the design is acceptable for purposes of this conditional use. The report relies on the use of drywells for stormwater disposal, which will require DEQ UIC registration prior to building permit approval. It appears that stormwater treatment and groundwater separation requirements can be met.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 11, 2008. At the time of this report, staff had not received any written responses from either the Neighborhood Association or notified property owners in response to the proposal. A large number of letters were received prior to and at the public hearing expressing support for the proposal. A large number of persons testified in support of the proposal at the public hearing. One person testified at the hearing in opposition to the proposal; the essence of the opponent's comments relating to objections of the design of the proposed "new" church building. The opponent's comments are addressed in the findings for 33.815.105 B. below.

ZONING CODE APPROVAL CRITERIA

33.815.105 Institutional and Other Uses in R Zones

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

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

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

Findings: BDS, in its Staff Report (Exhibit H.2), described the “residential area” by using the subject property as the center point and including properties within a radius of 500 to 600 feet from the subject property; generally Martin Luther King Jr. Blvd. to the east, Williams Avenue to the west, Monroe Street to the south and Beech Street to the north. The Hearings Officer finds the BDS geographical description of the “residential area” to be reasonable because properties within this area will be the most directly impacted by the approval/denial of this conditional use.

There is one other institutional use within the above-described “residential area.” The other institutional use is also a church which is located on Rodney Avenue north of Fremont Street. Along Williams Avenue, the residential zoning becomes higher density, to R1 and RH, and along Martin Luther King Jr. Blvd. is a mix of higher-density multi-dwelling, commercial and employment zoning. The vicinity is almost entirely made up of single-dwelling development, interspersed with duplexes and small multi-unit buildings. There are commercial uses on Martin Luther King Jr. Blvd. at the east end of this block, including the small plaza that includes Mid-K Beauty Supply that will be used for shared parking on Sundays.

Beyond the described “residential area” are two significant institutional uses in the vicinity; Emanuel Hospital, west of Vancouver Avenue and south of Cook Street, and the American Red Cross, north of the hospital. Several churches are also in the general vicinity of one-half mile from the site. However, these other institutional uses are out of the range that characterizes what is almost entirely residential surrounding the subject site.

The Hearings Officer finds, on its face, that replacing a church on the subject property with a new church building does not increase the proportion of uses not in the Household Living category. The Hearings Officer finds that there will be no increase in the number and size of uses not in the Household Living category within the “residential area.” Based upon the evidence in the record the intensity and scale of the “new” church will be equal or less than that created by the “old” church.

BDS stated, in the Staff Report (Exhibit H.2) that the “new” Morning Star church and its activities and programs will remain basically the same as those that occurred at the “old” church. Evidence in the record indicates that the sanctuary size of the “new” church is actually smaller than the “old” church, designed to accommodate 400 people, which is 20 percent smaller than the previous sanctuary which held up to 500 people. The daily and weekly programs that occurred in the past

will continue to take place, bringing between 20 and 60 people to the site at various times during weekdays, and typically up to 400 worshipers for the Sunday services. The Hearings Officer finds that the most intensive activity affecting the neighborhood will be on Sundays around the hours of services.

The Hearings Officer finds that the level of activity will generally be the same as what has been associated with this religious institutional site over its history. While the site has been vacant since the fire that destroyed the buildings 18 months ago, the neighborhood is aware of the plans to rebuild it. The usual levels of activity that are associated with religious institutions throughout the city will once again occur at this site, at the same frequency and amount as before, appropriate for an institution of this size in terms of congregation and physical size. For these reasons, the Hearings Officer finds that this criterion is met.

B. Physical compatibility.

1. The proposal will preserve any City-designated scenic resources; and
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
3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, and other design features.

Findings: The site is in the Eliot Conservation District. Larger scale projects in the Conservation districts must be approved through the Historic Design Review process. The design for the site, including the church, classroom/office building, parking area and overall site design is being reviewed through LU 08-106382 HDZ, which is a Type II review. The Hearings Officer notes that the drawings used to evaluate this criterion are conceptual, and this Conditional Use review will not approve the design, but rather analyze it for consistency with the relevant criteria.

BDS staff, in the Staff Report (Exhibit H.2) indicated that it worked extensively with the applicant, architect and other representatives to ensure a design that is of a scale and style that fits in with this older, established neighborhood. The “old” church structure, that unfortunately was destroyed by fire, was designated a Historic Landmark on the National Register. Its prominence as an architecturally important religious institution contributed to the historic character of the Eliot neighborhood. The “old” church had a strong street quality, with its entry at the corner of two streets, Ivy and Rodney, and created the sense of partnership or community with the neighborhood. While the proposed structure does not bring the main entrance to the corner like the previous church, there are strong visual entry points, as well as a strong street presence with the similar corner-oriented structure. BDS Staff opined (Exhibit H.2) that architectural features, including glazing interspersed with buttresses and other façade elements, ensure a form that offers visual interest at a pedestrian scale. BDS Staff indicated (Exhibit H.2) that the roof pitch and general massing reflects much of the surrounding early Portland residential development which, while at a larger scale, provides compatibility.

The proposed surface parking lot will be paved and striped, with landscaping around its perimeter and in the interior, unlike the “old” church that had a more informal parking area which was

unpaved and doubled as a play area. The proposed “new” church and classroom building will comprise about 150 feet of the 200-foot frontage along Rodney, and about 1/3 of the east-west frontages on Ivy and Cook Streets. BDS Staff indicated (Exhibit H.2) that the physical change to the site will create a clearer delineation of the parking area, church and multi-use structure, all bordered by new trees and shrubs to create site edges. The setbacks proposed between the parking area and the adjacent residential lots to the east provide a slightly greater separation than required by the zoning code. The required L3 landscaping along that edge which currently does not exist, will provide a strong landscape screen consisting of trees and tall shrubs that will significantly buffer the church from the nearest neighbors.

Mr. Eddie, the sole person testifying in opposition to this application, expressed concerns related to the design of the proposed “new” church. Mr. Eddie noted that the “old” church had gothic arches and the “new” church does not. Mr. Eddie noted that the “old” church and proposed “new” church were different in fenestration, roof pitch, building layout (“old” church built in roughly a “T” shape – the “new” church proposed be more rectangular in shape), siding materials and symmetry. Mr. Eddie testified that he wanted the “new” church to orient itself (face) the corner like the “old” church because a corner orientation would deter drug activity in the area.

The Hearings Officer first notes that the proposed design of the “new” church is conceptual only, and that the final design will be determined in a companion land use application (LU 08-106382 HDZ). The Hearings Officer finds that many of Mr. Eddie’s comments are more appropriate and relevant to the companion design review process. However, this approval criteria does require the Hearings Officer to consider the proposed building scale, style, setbacks and landscaping in the context of whether or not the “new” church (subject to this application) will be compatible with the adjacent residential development.

Compatible is defined, in Webster’s New Collegiate Dictionary, as “capable of existing together in harmony.” This definition does not require any particular design and in particular, does not mean that the design of the “old” church is the only one that is compatible. The Hearings Officer finds that the “old” church design was less similar to the surrounding neighborhood than the conceptual design of the “new” church. However, that does not mean that the “old” church was “incompatible.” Rather, the question to be answered in this case is whether the proposed conceptual design of the “new” church fits, harmoniously, with the “residential area.” There is no doubt in the mind of the Hearings Officer, based on the unanimous testimony at the hearing (including Mr. Eddie) that the “old” church fit into the “residential area” harmoniously. The Hearings Officer finds that with the exception of Mr. Eddie, the consensus of testimony (BDS staff, applicant’s architect and those testifying in support of the application) find the conceptual design of the “new” church to fit into the “residential area.” The Hearings Officer finds that Mr. Eddie’s testimony is desirous of a design closely replicating that of the “old” church. If the “old” church design had been proposed, the Hearings Officer would have found such design to be compatible. However, the Hearings Officer also finds the conceptual design of the proposed “new” church to be “compatible.” Further, the Hearings Officer finds that the companion design review (LU 08-106382) will ensure that the final design of the “new” church will be consistent with the Elliot Conservation District. The Hearings Officer finds that the location of the “new” church at the

corner of Rodney Avenue and Ivy Street is appropriate for this close-in area in which smaller institutions, such as places of worship and schools, are oriented to the street and thus function as important elements of the community. Thus, the Hearings Officer finds that the overall site design, as well as architectural design of the building and its scale, upholds the historical significance of the structure that it replaces as an important part of this neighborhood and Conservation district, satisfying this criterion.

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

1. Noise, glare from lights, late-night operations, odors, and litter; and
2. Privacy and safety issues.

Findings: The church is proposing a development of a “new” church building to replace the former “old” church building that will accommodate the congregation it has served for a long time. The number of Sunday services will remain the same as before. There were various activities on the site, including offices for church staff, a small elementary school for 70 to 80 students, a preschool for 20 children, and typical church-related weekly activities, including Bible studies and youth groups.

Institutional uses such as this one are found in neighborhoods throughout the city, and are generally centers of activity that generate a degree of noise from outdoor play and vehicle parking and unloading. The proposed layout provides a fairly substantial separation of the buildings to the abutting residential properties to the east, and landscape buffering will effectively minimize glare from vehicle lights. No late-night operations are proposed. The daily activities are typical for a religious institution and church, with meetings and programs ending at hours reasonable for families participating in them, thus not affecting the surrounding neighbors. Odors and litter are not associated with the uses occurring on the site.

The surface parking area is well screened with landscaping along the street and abutting properties, but is open to the extent that the interior of the site will be visible to neighbors and passers-by. Thus, privacy will be ensured by the separation of use and natural landscape buffering, but activities on the exterior will be visible from the surrounding area, minimizing the types of illicit activities that can occur in parking lots. The fairly open quality of the site and the steady, daily uses that occur there also ensure safety and visibility for the users and neighbors. Thus, the Hearings Officer finds that this criterion is met.

D. Public services.

1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan;
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 church is adjacent to three streets: NE Ivy and Cook, the east-west streets, and NE Rodney, the north-south street along which the two buildings will be situated. All three streets are classified as Local Service streets for all modes. The site is in the Eliot Pedestrian District, and consequently pedestrian corridors are deemed important, because walking is intended to be the primary mode for trips within these districts. One block to the west is Williams Avenue, which is a designated Neighborhood Collector traffic street. NE Martin Luther King Jr. Blvd borders the east side of this block, and it is classified as a Major City Traffic Street and Major Transit Priority Street.

Based on information provided by the applicant, Portland Transportation found that the transportation system is capable of safely serving the proposed use in addition to existing uses in the area. The Hearings Officer finds with the implementation of the submitted Transportation Demand Management (TDM) Plan, and the off-site parking agreement for Sunday services, the impact on the on-street parking inventory in the area should be minimal.

The applicant provided a TDM plan showing approximate percentages of congregation members who arrive to the site by various transportation modes. The church anticipates that for Sunday services, approximately 9 percent of worshipers will arrive by public transit, 12 percent by walking, 3 percent by bicycle, 13 percent by the church's van service, and the remaining approximately 63 percent, or 252 people will arrive by car, with an average of three people per car. Portland Transportation noted that this mode split is quite high for a religious institution, and reflects the importance of the urban location for this congregation, of which many members walk to services. Portland Transportation noted that a high mode split reduces impacts to the neighborhood, as fewer vehicles will be using the streets for access and parking, and most of the parking can be accommodated on site or at the shared lot, which is 250 feet away. In addition, the site plan shows a covered bicycle parking area for 12 bicycles, which will be a further incentive for some staff, students and parishioners to use this option.

The TDM plan includes several parking management strategies, including working with Tri-Met to provide discounted passes for parishioners, employees and students; providing good bicycle facilities; coordinating the van service and carpooling; controlling parking during services with attendants; and staggering services to reduce demand on the streets. Portland Transportation and BDS Staff agreed that these strategies are all achievable and should be pursued to further ensure that transportation-related impacts are minimized to the greatest extent possible. Portland Transportation and BDS Staff suggested that the shared parking agreement proposed with the nearby commercial property should be continued in perpetuity as well. The Hearings Officer finds that both the Parking Management Strategies and the shared parking agreement support this criterion and thus will be required as a condition of this approval. With this condition, this criterion will be met.

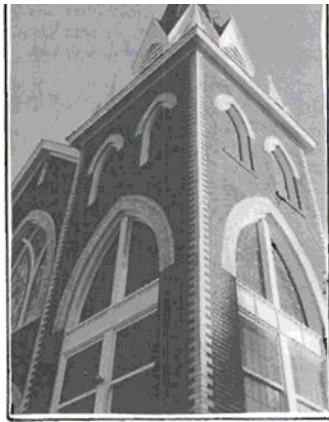
3. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

Findings: The responses from the Water and Fire Bureaus indicate that there are no issues related to the Conditional Use. The Police Bureau responded that it is capable of serving this use.

The Bureau of Environmental Services (BES) and the Site Development Section of BDS requested additional information from the applicant to ensure that the proposed stormwater management plan would be able to comply with the City’s Stormwater Management requirements. The applicant’s stormwater consultant provided a revised Stormwater Management Report with the calculations and other design information requested by the bureaus. In response, the Site Development section indicated that applicant’s proposed plan is acceptable for purposes of this conditional use. The consultant report relies on the use of drywells for stormwater disposal, which will require DEQ UIC registration prior to building permit approval. It appears that stormwater treatment and groundwater separation requirements can be met. BES concurred that discharging stormwater runoff on-site is feasible and thus the approval criterion for stormwater services for the proposed Conditional Use can be met. Therefore, based on the responses from BES and BDS Site Development following the applicant’s submittal of the revised Preliminary Stormwater Management Report, the proposed sanitary and stormwater disposal systems will be able to meet the City’s requirements, which will be further reviewed during the building permit phase of this project. Therefore, the Hearings Officer finds this criterion is met.

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

Findings: The *Eliot Neighborhood Plan* was adopted by City Council in 1993, and was one of the neighborhood plans created and adopted during the Albina Community Plan process. A photo of the Morning Star Church is featured on the page before the plan document’s table of contents (see below), and the caption below it reads “Morning Star Baptist Church in northern Eliot is one of several churches located along Rodney Street which help to define Eliot’s historic character.”



Morning Star Baptist Church in Northern Eliot is one of several churches located along Rodney Street which help to define Eliot's historic character. The Church is listed on the National Register of Historic Places.



The policies of the neighborhood plan generally all apply to the rebuilding of the Morning Star Church. Policy A of the plan is Community Values and is intended to “promote and retain a mix of racial, ethnic, economic, occupational, educational, religious, age and other groups within the Eliot Neighborhood. This diversity is a main ingredient in Eliot’s rich texture.”

Policy B, Neighborhood Identity, seeks to “promote Eliot as a culturally vibrant, economically vital and residentially stable urban community with historic features.” Policy C, Community Services and Institutions, specifically addresses institutional uses: “Recognize that businesses and institutions are key participants in community affairs...Ensure that they are informed of opportunities to be actively involved in setting neighborhood priorities. Recognize that these...institutions make significant contributions to the neighborhood’s livability.”

Policies A, B and C are guiding policies of the neighborhood which address all aspects of the community, and not solely the physical development. The Hearings Officer finds that the proposed rebuilding of the church upholds these policies, bringing an important religious institution and related programs back to the community, with its congregation largely coming from the Eliot neighborhood and adjoining ones.

Policies 1 through 16 of the plan address development, and aim to guide development appropriately for this urban neighborhood with a historic context. Policy 1, Historic Conservation and Urban Design directly addresses the proposal: “Retain and strengthen a sense of neighborhood history through preservation and restoration of historic structures and other measures.” The re-construction of the church on this site, at the same corner, retains the history that was lost when the building was destroyed by fire, bringing a new structure to take its place and continue that history.

The Hearings Officer finds that this proposal supports other policies of the plan that are also relevant, including Policy 2, Neighborhood Development; Policy 4, Transportation; Policy 8, Livability and Public Safety; and Policy 10, Northern Eliot. These policies are intended to ensure that new development reflects the urban and historic character of the neighborhood, that transportation alternatives are encouraged, and that non-residential development is part of the community and adds to its livability. The Hearings Officer finds that this proposal fully supports these policies, bringing back an important institutional use to this site with an appropriate site design and scale (final design to be approved in LU 08-106382 HDZ) that is respectful of the historic quality of the area. Therefore, the Hearings Officer finds this criterion is met.

Development Standards

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

III. CONCLUSIONS

The application in this case to build a “new” Morning Star Missionary Baptist Church facility at 106 NE Ivy results from the destruction of the “old” church building at the same location. The “old” church was a historic landmark and an important element of the Eliot neighborhood. The proposed “new” church and multi-use buildings will allow a continuation of the religious services and programs that were previously at the site, without changing them to any meaningful extent. The activity levels and related traffic generated in and around the site will generally be comparable to the uses made of the site in the past. The applicants have used this Conditional Use review as an opportunity to enhance the parking situation and to look at ways to promote alternate forms of transportation by staff, students and parishioners.

The general programmatic scale will be similar to that occurring on the site previously, and the physical scale will reflect, in the opinion of the Hearings Officer, the surrounding residential neighborhood. The Hearings Officer found that the proposed “new” church project supports the general policies and the development policies of the Eliot Neighborhood Plan. Because the site is in the Eliot Conservation District, the design will be further reviewed through the Historic Design Review process (LU 08-106382 HDZ), for which application has been submitted.

The Hearings Officer notes that a large number of individuals expressed support for the proposed “new” church. The Hearings Officer also notes that one person expressed views in opposition to the application; those objections primarily centered on the design aspects of the “new” church. The Hearings Officer addressed, as relevant, the opponent’s comments in the approval criteria findings for 33.815.105 B. The Hearings Officer found, despite the opposition design related comments, that the concept design proposed in this case will be compatible with the “residential area.” In summary, the Hearings Officer finds that all of the relevant approval criteria are supported with this proposal.

IV. DECISION

Approval of a Conditional Use for a new church and classroom/multi-use facility to replace the original church and classroom building, and new 35-space parking area, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B and C) 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 07-146177 CU." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The parking management strategies of the TDM plan (Exhibit A-2) must be implemented to the fullest extent possible. Those strategies include:

- working with Tri-Met to provide discounted passes for parishioners, employees and students;
- Providing safe, secure and convenient bicycle facilities;
- Coordinating the van service and carpooling;
- Controlling parking during services with attendants; and
- Staggering Sunday services to reduce demand on the streets.

C. The shared parking agreement with the nearby commercial property, or a roughly equivalent agreement with another nearby property, shall be continued in perpetuity and must meet the requirements for joint use parking per 33.266.110 B.2.

Gregory J. Frank, Hearings Officer

Date

Application Determined Complete:	December 26, 2007
Report to Hearings Officer:	July 25, 2008
Decision Mailed:	August 18, 2008
Last Date to Appeal: 4:30 p.m.,	September 2, 2008
Effective Date (if no appeal):	September 3, 2008 Decision may be recorded on this date.

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

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

Appeal of the decision. ANY APPEAL OF THE HEARINGS OFFICER’S DECISION MUST BE FILED AT 1900 SW 4TH AVENUE, PORTLAND, OR 97201 (823-7526). Until 3:00 p.m., Monday through Friday, file the appeal at the Development Services Center on the first floor. Between 3:00 p.m. and 4:30 p.m., file the appeal at the Reception Desk on the 5th Floor. **An**

appeal fee of \$6,753.50 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.

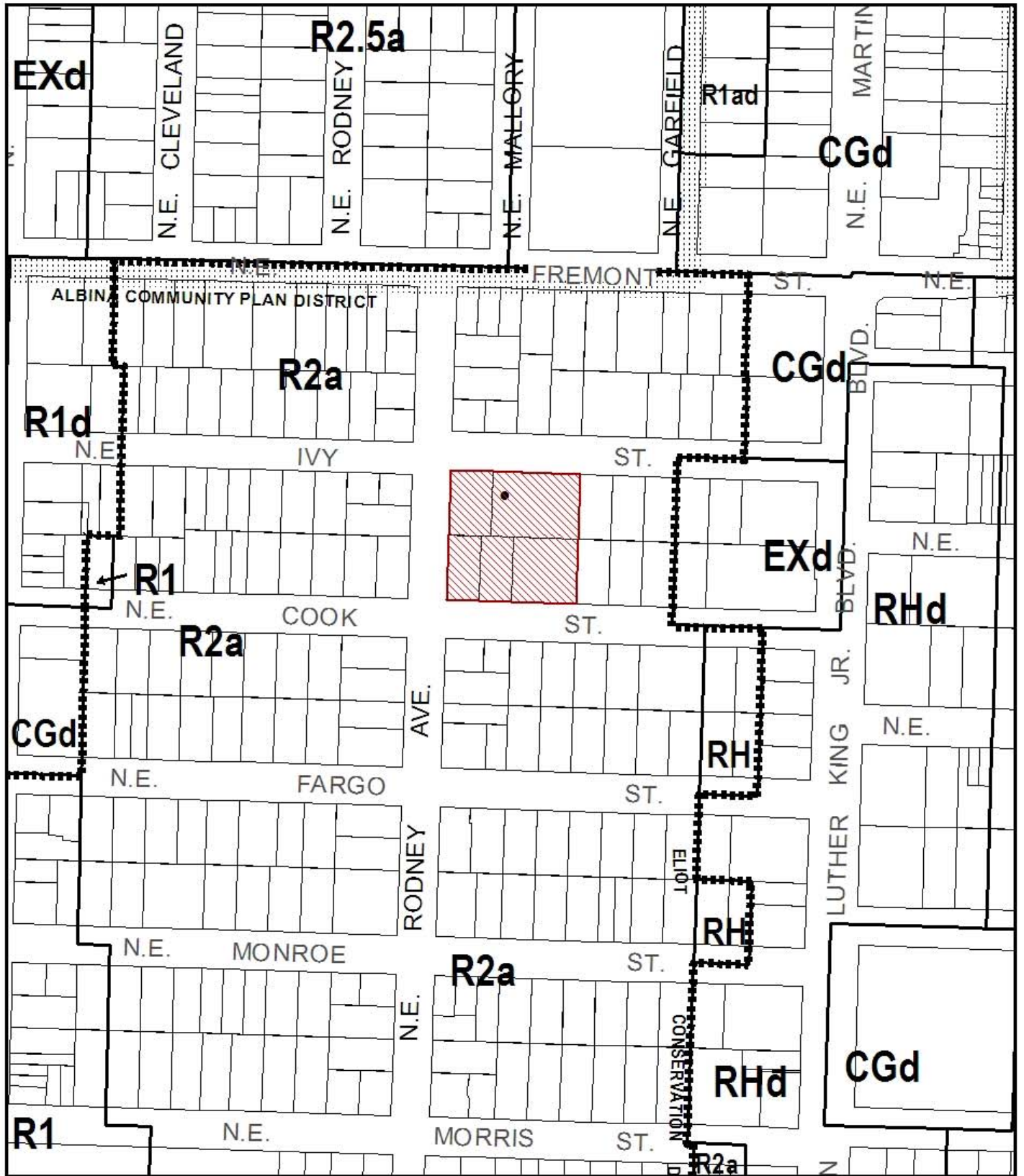
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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.
 - 1. Applicant's Statement
 - 2. Transportation Demand Management Plan, Parking Management Strategies and joint use parking agreement
 - 3. Stormwater Management Plan, revised, received July 23, 2008
- B. Zoning Map (**attached**)
- C. Plans & Drawings
 - 1. Site/Landscape Plan (**8 ½ x 11 attached**)
 - 2. Elevation drawings, east and Ivy Street (**attached**)
 - 3. Elevation drawings, Rodney and Cook (**attached**)
 - 4. Elevation drawings, courtyard and corner (**attached**)
 - 5. Floor plans, roof plan and details
 - 6. Site Plan and vicinity map
 - 7. Grading plan
 - 8. Utility plan
 - 9. Site details
 - 10. Drawings from original submittal packet: site plan/first floor plan, parking level, second floor plans, elevation drawings, roof plan, details
 - 11. Aerial photo
- 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.
 - a. Bureau of Environmental Services
 - b. Addendum to BES response, July 24, 2008
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Police Bureau
 - 6.
 - a. Site Development Review Section of Bureau of Development Services
 - b. Addendum to original response, July 23, 2008
 - 7. Bureau of Parks, Forestry Division
 - 8. Fire Life Safety Review division of BDS
- F. Letters: none
- G. Other
 - 1. Original LUR Application
 - 2. Site History Research

3. Incomplete application letter, July 26, 2007
 4. Request to place file on hold, December 14, 2007
 5. Waiver of 120 days, January 30, 2008
 6. Request to withdraw hold, February 6, 2008
 7. Request for full extension of review period, June 17, 2008
- H. Received in the Hearings Office
1. Hearing notice - Stark, Nan
 2. Staff report - Stark, Nan
 3. Memo - Stark, Nan
 4. PowerPoint presentation - Stark, Nan
 5. Signed letters (same letter text) from citizens (95 pgs.) - Stark, Nan
 - 5a. Signed letters (same letter text) from citizens (79 pgs.) - Stark, Nan
 - 5b. Signed letters (same letter text) from citizens (57 pgs.) - Stark, Nan
 6. Signed letters (same letter text) from citizens (27 pgs.) - Macgee, Lee



ZONING



Site



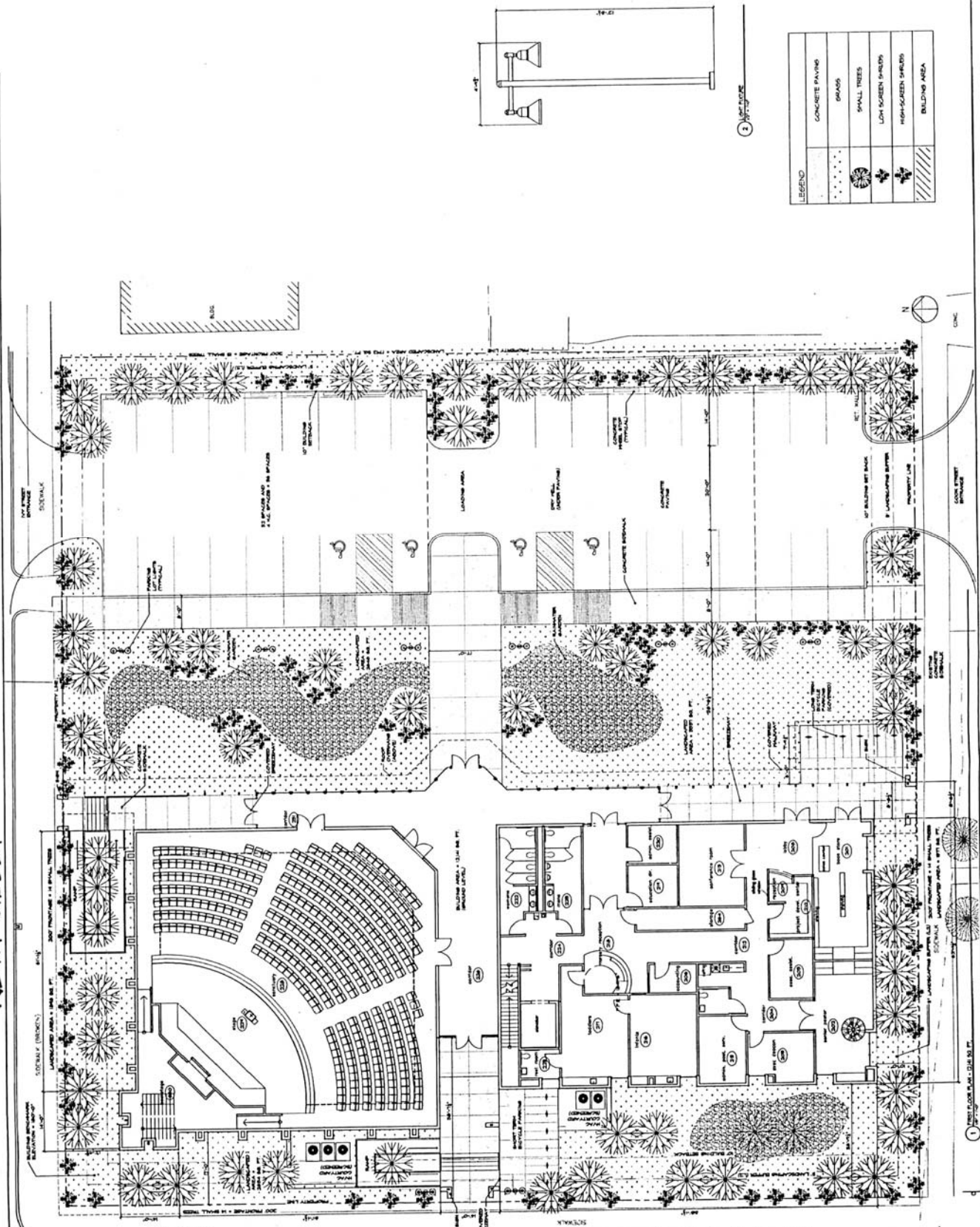
Historic Landmark



NORTH

This site lies within the:
ALBINA COMMUNITY PLAN DISTRICT
ELIOT CONSERVATION DISTRICT

File No. LU 07-146177 CU,HDZ
 1/4 Section 2730
 Scale 1 inch = 200 feet
 State_Id 1N1E27AA 9000
 Exhibit B (Jul 17,2007)

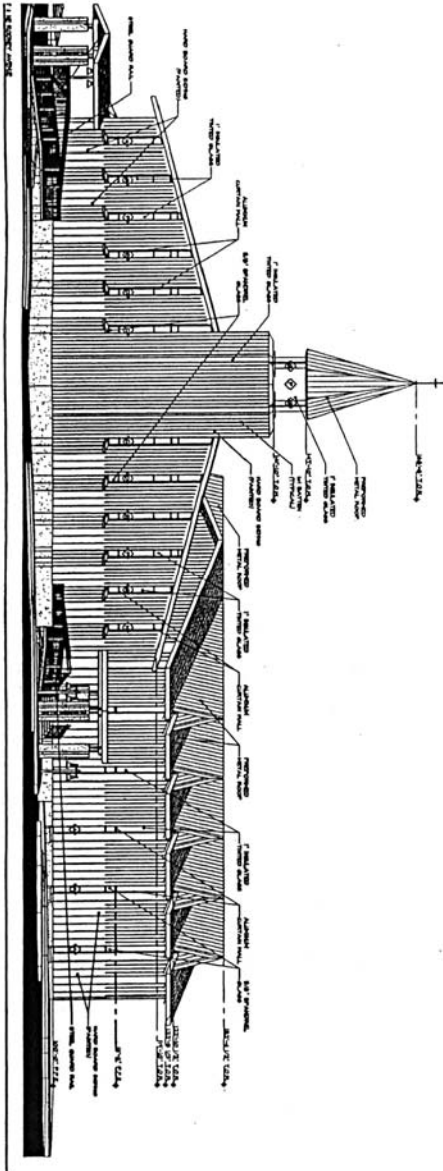


NEW WY STREET

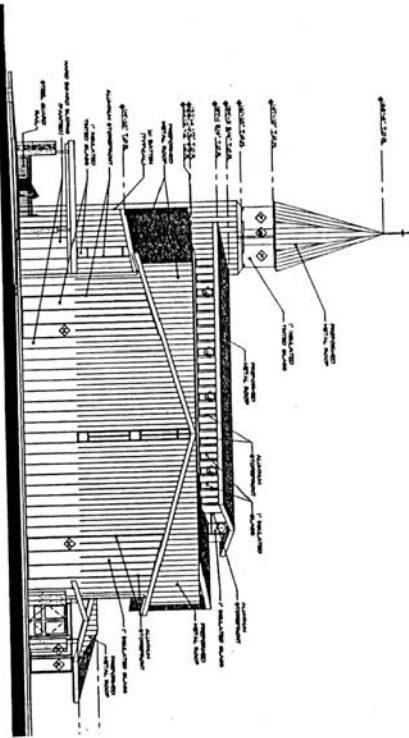
NE COOL STREET

NE PODNER AVE

17154117-10 m
 EXHIBIT C-1
 107-14617 CU

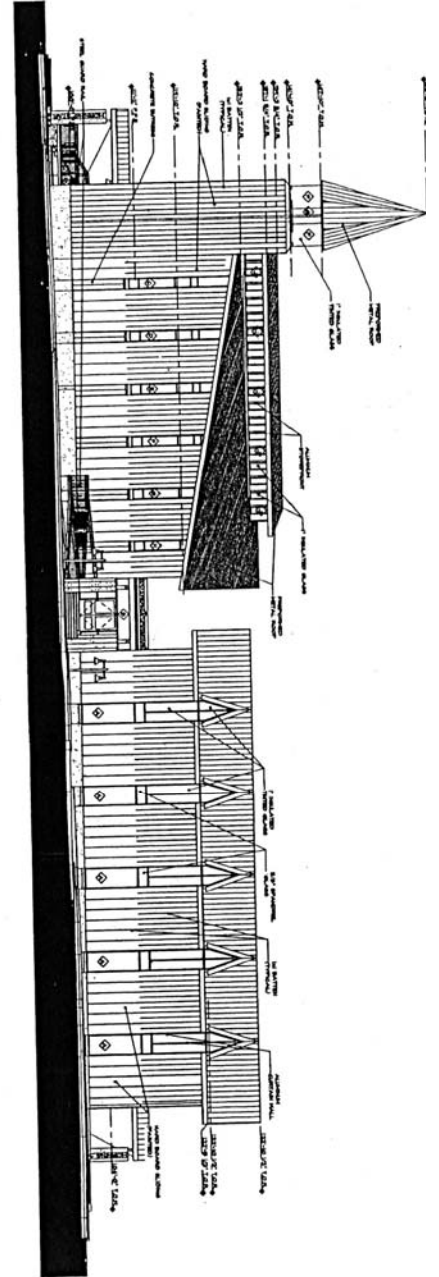
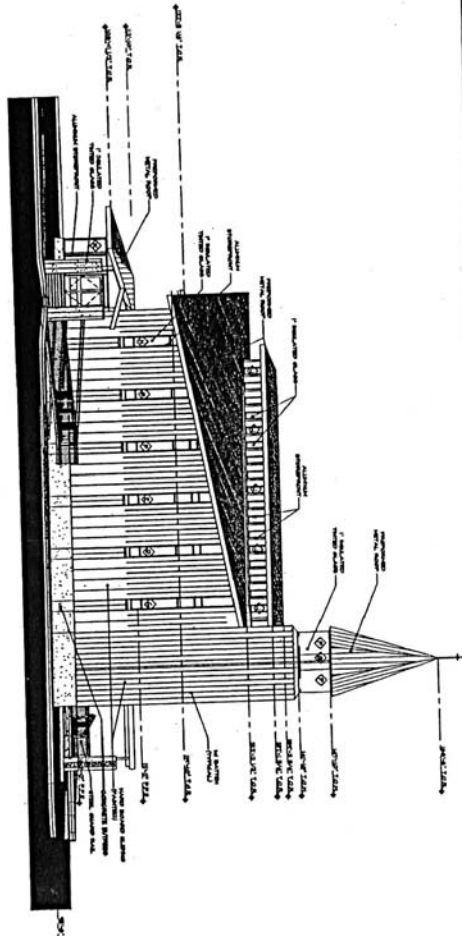


1 EAST ELEVATION OF CHURCH



2 WEST ELEVATION OF CHURCH

3 NORTH ELEVATION OF CHURCH



MORNING STAR MISSIONARY
BAPTIST CHURCH - DD
PORTLAND OREGON

CONCEPTUAL ELEVATION
DRAWINGS
LU 07-146177 CH
EXHIBITS C. 2, 3, 4