



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: September 2, 2011
To: Interested Person
From: Douglas Hardy, Land Use Services
503-823-7816 / Douglas.Hardy@portlandoregon.gov

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

The Bureau of Development Services has approved with conditions 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 11-151332 CU

GENERAL INFORMATION

Applicant: Judith Berman-Yamada, property-owner
2104 SE Reedway Street
Portland, OR 97202

Site Address: 2104 SE Reedway Street

Legal Description: Block 45, Wly 1/2 of Lots 1 & 2, Westmoreland
Tax Account No.: R899009150
State ID No.: 1S1E14DA 09600
Quarter Section: 3632

Neighborhood: Sellwood-Moreland, contact Mat Millenbach at 503-239-1134
Business District: Westmoreland, contact Tom Brown at 53-381-6543
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010

Zoning: R5a, Single-Dwelling Residential 5,000, with an Alternative Design Density overlay

Case Type: Conditional Use Review (CU)
Procedure: Type II, Administrative decision with appeal to the Hearings Officer

PROPOSAL

The applicant requests approval of a Conditional Use to establish a bed & breakfast facility in an existing accessory structure on the site, which was recently converted from a garage to an Accessory Dwelling Unit (ADU). The bed and breakfast facility will consist of a single unit accommodating up to four guests per night, and be hosted and operated by the property-owners who reside on the site. There will be no non-resident employees associated with the Bed and Breakfast facility, and no commercial meetings are proposed. One on-site parking space will be available for bed & breakfast guests. No substantive changes are proposed to the exterior of the structure as the result of the bed and breakfast facility.

RELEVANT APPROVAL CRITERIA

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Zoning Code Section 33.815.105.A-E (Institutional and Other Uses in R zones)

ANALYSIS

Site and Vicinity: The 4,900 square foot site is located at the southeast corner of SE Reedway Street and SE 21st Avenue. The site is developed with a one and one-half story single-dwelling structure with its main entrance oriented to SE Reedway Street. A detached, one-story 484 square foot accessory structure is located behind the house, in the northeast corner of the site. This is the structure in which an ADU currently exists, and which is proposed to be used as a bed and breakfast facility. The accessory structure is located approximately five feet from the south property line, and approximately three feet from the east property line. The structure is set back approximately 27 feet from the (west) street lot line, with a paved driveway located between the structure and the street. The driveway, approximately 18 feet in width, can accommodate two cars. A fully sight-obscuring fence, approximately six and one-half feet in height, is located along a portion of the south and east property lines in the vicinity of the accessory structure.

Surrounding properties, within a 150 foot radius of the site, are developed with similarly scaled single-dwelling structures. The house closest to where the bed and breakfast facility is proposed (south of the subject site) is also a one and one-half story single-dwelling residence, located approximately 13 feet from the south wall of the bed and breakfast facility. It has a total of three windows facing the proposed bed and breakfast (two on the first floor and one on the second floor). An additional, fully sight-obscuring fence, approximately seven feet in height is located along a portion of the lot line between this lot from the subject site.

Zoning: The site is located in a Single-Dwelling Residential 5,000 (R5) zone, with an Alternative Design Density (“a”) overlay zone. The use regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The regulations allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood. The development standards of the Single-Dwelling zones work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

The purpose of the Alternative Design Density overlay zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements. The applicant is not proposing to use any of the provisions of this overlay zone.

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

Agency Review: A Notice of Proposal was mailed July 22, 2011. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services;
- Water Bureau;
- Fire Bureau;
- Bureau of Development Services/Site Development Section;

- Bureau of Development Services/Life Safety;
- Bureau of Parks/Forestry Division; and
- Bureau of Police.

The Bureau of Transportation Engineering responded with no objections to the proposal, and included specific comments related to the transportation-related approval criteria. These comments are included later in this decision in response to Approval Criteria 33.815.105.D1 and D2.

Neighborhood Review: Several letters in opposition to the proposal were received from notified property owners. A neighbor residing on SE 22nd Avenue expressed opposition based on concerns with introducing a business into a residential neighborhood and the impact on the area's "desirability." He also expressed concerns regarding increased parking and traffic associated with the use, as well as the potential for noise impacts. Regarding the comment on establishing a business in a residential area, the Zoning Code does not consider a bed and breakfast facility to be a business, but rather an accessory use to Household Living. The standards that apply to bed and breakfast facilities (included in Zoning Code Chapter 33.212) are specifically intended to limit the intensity and kinds of activity that are allowed with a bed and breakfast facility so that these facilities do not exhibit the same characteristics or have similar impacts as a business. Regarding the comments on parking and traffic, this issue is addressed later in this decision in response to the Conditional Use approval criteria.

The adjacent neighbor, immediately south of the subject site, wrote two letters objecting to the proposed facility. In summary, the cited reasons for objecting to the proposal included:

- impacts on privacy related to the entrance to the bed and breakfast being located close to the side of their house, and proximate to two bedrooms;
- the ease in which noise or voices associated with the bed and breakfast facility will be heard;
- adverse impacts on general livability and property values;
- introducing a business into a residential neighborhood;
- adverse impacts on on-street parking;
- increased foot traffic from unknown tenants; and
- the exterior seating area for bed and breakfast guests being located close to their house.

Regarding the location of the bed and breakfast entrance, it should be noted that this entrance currently exists for use by residents of the ADU. Relocating the entry to another façade may not be practical as this would require a substantial reconfiguration of the interior floor plan. However, as described below in response to the approval criteria, a condition of approval will be included that is intended to minimize impacts associated with the operation of the bed and breakfast facility. Responses to other issues raised that are relevant to the approval criteria are also addressed later in this decision.

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

Findings: For purposes of this criterion, the “residential area” is defined as the area bounded by SE Harold Street to the north, SE Yukon Street to the south, SE McLoughlin Boulevard to the east, and SE 18th Avenue to the west. A visual survey did not find any nonresidential uses in the defined residential area. (Note that while the applicant’s written narrative identifies nine businesses in this area, these appear to be accessory home occupations which the Zoning Code considers to be part of the Household Living use category, and not separate nonresidential uses.) As there are no identified non-residential uses in the surrounding 15 block residentially-zoned area, the proposed bed and breakfast facility will not significantly alter the proportion of Household Living uses.

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

Findings: While the zoning regulations allow a bed and breakfast facility to contain up to five bedrooms for guests, with no limit on the total number of guests, the proposed bed and breakfast facility will be limited to a single guest unit that can sleep up to four persons. Limiting the bed and breakfast to a single unit will greatly limit the intensity of the use.

Additionally, because the site is in a Single-Dwelling zone, no commercial meetings such as luncheons, banquets, parties, weddings, meetings or other gatherings for which either direct or indirect compensation is received are allowed. To further address the intensity of the use and limit the number of people coming to the site, the applicant indicates no non-resident staff will be employed. To ensure that this situation is maintained over time, a condition of approval will be placed on the facility stating nonresident employees will not be engaged on a regular basis to help in the operation of the facility unless approved under a subsequent Conditional Use Review. However, services may be contracted for activities related to normal upkeep of the site, including repair and maintenance of the structures or grounds.

As indicated below, in response to the livability criterion, an additional condition of approval will require that house rules be applied to the operation of the bed and breakfast facility, which are intended to mitigate for any impacts associated with the facility.

Given the limited size and intensity of the proposed bed and breakfast facility, the functioning of the residential area will not be significantly lessened and this criterion is met.

B. Physical compatibility.

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

Findings: City designated scenic resources are designated on the Zoning Map with a lower case “s”. As there are no such designations on properties within the above defined residential area, 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
3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, and other design features.

Findings: Based on the following findings, the proposal will be compatible with adjacent residential development based on characteristics such as site size, building scale and style, setbacks, and screening:

Site Size

The site on which the bed and breakfast is proposed is 4,900 square feet, which is comparable to residential lots in the immediate vicinity. Lots in the surrounding residential area are typically 4,900 to 5,000 square feet in area.

Building Scale

The bed and breakfast facility is proposed in an existing detached structure that was recently converted to an ADU. The structure is one-story in height with a footprint of 484 square feet, and appears similar in scale to a small detached garage that is typical in residential neighborhoods. No changes to the scale of the building are proposed as part of the Conditional Use request.

Building Style

The style of the building in which the bed and breakfast facility is proposed reflects the appearance of the primary house on the site in terms of the lap siding that is used, the window orientation, exterior color, roof line and eaves. No substantive changes to the exterior of the existing ADU are proposed in order to accommodate the bed and breakfast facility.

Setbacks

The building in which the bed and breakfast facility is proposed is located 27 feet from the street lot line along SE 21st Avenue, five feet from the south (rear) lot, and three feet from the (east) side lot line. With the exception of the three foot east side setback, all other building setbacks meet or exceed minimum setback standards of the Zoning Code. In this zone, a 30 foot tall house, with exterior walls containing windows and doors, would be allowed within five feet of the side and rear lot lines. The building in which the bed and breakfast is proposed measures approximately 12.5 feet in height, considerably less than what would be allowed outright.

While the east side setback is less than the five feet that is currently required, a shed located on the adjacent property, surrounded by mature trees, largely blocks views to the structure in which the bed and breakfast is proposed. The shed also blocks views from the two existing windows located on the east wall of the bed and breakfast facility.

Screening

This criterion considers screening as a means of mitigating for the appearance or scale of the proposed development. As the proposed bed and breakfast facility has a residential appearance and scale, screening is not necessary. Screening that will address privacy issues is addressed in the following criterion.

As the proposal will be compatible with adjacent residential development, this criterion is met.

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: As a bed and breakfast facility, there are not expected to be any issues associated with odors or litter that would be any different than a single-dwelling residential use. However, bed and breakfast facilities have the potential to generate impacts associated with noise, particularly during late night hours. Specifically, the immediate neighbor to the south of the subject site expressed concerns about general noise generated by guests coming and going from the south-facing entrance of the bed and breakfast facility, and with potential noise emanating from guests gathering or sitting in the patio area in the south building setback.

Given the proposed bed and breakfast facility will be limited to a single unit, the Bureau of Development Services (BDS) does not find that the level of noise generated by this facility is likely to be any greater than that associated with the ADU that currently exists in the structure. However, in recognition of the concerns expressed by the neighbors, a condition of approval will require the following elements be included in the house rules that will apply to the operation of the bed and breakfast facility:

- Guests, when entering and exiting the bed and breakfast, shall be respectful of the proximity of adjacent residents.
- No amplified music is permitted outside of the guest room, and the sound level within the guest rooms must be maintained at or below conversational level.
- Rowdiness, group assembly or any type of disruptive behavior to other guests or neighbors is not to be tolerated, inside or outside of the bed and breakfast facility.
- Outside patios must be maintained as quiet zones, with normal conversational levels only; no seating area or gathering is allowed in the south setback.
- Guests may not smoke in outdoor areas on the site.
- These house rules will be required to be posted in the bed and breakfast facility, and included in all printed and web advertising of the bed and breakfast facility.

With the application of these house rules, any impacts associated with the bed and breakfast facility should be of a level at least equivalent, if not less, than a residential use or ADU that would be allowed by right in this location.

Regarding glare from lights, given the proximity of the bed and breakfast to the adjacent neighbor, exterior lighting particularly on the south facing wall of the facility could create glare on the adjacent residence. To minimize the impacts of light glare on the adjacent residence to the south, a condition of approval will require that exterior lighting installed on the south façade of the bed and breakfast facility be of a design that the light shadow is directed downwards.

As proposed and with the conditions of approval, this criterion is met.

2. Privacy and safety issues.

Findings: The adjacent neighbor has expressed concerns regarding the impact of the proposed facility on privacy. The particular concern appears to be with the bed and breakfast facility entrance facing to the south, allowing views into the

neighbor's windows. The bed and breakfast facility does have its main entrance and one window facing the adjacent neighbor. To address privacy issues, the applicant has erected a fully sight-obscuring fence, slightly more than six feet in height, between the bed and breakfast facility and the adjacent neighbor. The neighbor has also erected a fully sight-obscuring fence, close to seven feet in height, along the same frontage. While these fences prevent any views into the first floor windows of the adjacent residence, the second story window of the adjacent house will still be visible from the bed and breakfast facility. However, given the second story window is substantially higher than the bed and breakfast entrance and window, views into the adjacent house will be very limited. BDS does not find that this situation poses undue privacy impacts. A condition of approval will require the maintenance of a fully sight obscuring fence, at least six feet in height, along the south property line in the location of the bed and breakfast facility.

Additionally, while there are two windows on the east-facing facade, a fully sight obscuring fence on the applicant's site, in combination with the shed on the adjacent property to the east, preclude views from the bed and breakfast facility into the adjacent yard and house.

There are no foreseen safety impacts associated with the proposed facility.

As proposed and with the condition of approval, this criterion is met.

D. Public services.

1. The proposal is supportive of the street designations of the Transportation Element of the Comprehensive Plan;

Findings: At this location, SE Reedway Street and SE 21st Avenue are designated as Local Service streets for all modes in the City's Transportation System Plan (TSP). The TSP states that, "Local Service streets provide local circulation for traffic, pedestrians and bicyclists." Portland Bureau of Transportation (PBOT) has reviewed the proposal and finds the proposed use supports or enhances the above referenced street designations. The TSP also states that, "Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses." PBOT finds that the bed and breakfast facility will not impact the distribution of local traffic throughout the area, with bed and breakfast guests expected to utilize SE Reedway Street and SE 21st Avenue, as well as other nearby Local Service streets to access the site.

2. The transportation system is capable of supporting the proposal 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: PBOT has reviewed the proposal for compliance with this criterion, and provides the following comments:

Street Capacity/Level of Service

A Transportation Impact Study (TIS) was not prepared and submitted in conjunction with the proposed Conditional Use application. The Trip Generation Manual from the Institute of Transportation Engineers does not have any comparable trip

generation data for the proposed use, only for larger and more traditional hotels and resorts. However, with a general accommodation of up to four guests (in one unit), two on-site employees (property owners), and no non-resident employees or commercial meetings, the number of vehicles likely to access the proposed facility at any given time, and especially during the morning or afternoon peak hour times will be minimal. Accordingly, the resulting insignificant number of vehicle trips to the area during the traditional morning and afternoon peak hours of travel, will not impact the existing transportation system. Any services for the facility (landscaping, cleaning, regular maintenance, etc.) will not be done on a daily basis and generally not during peak hour times of travel.

Access to Arterials

The subject site is located in close proximity to SE McLoughlin Boulevard to the east and SE Milwaukie Avenue to the west, both arterial streets in the City's transportation system.

Connectivity

The subject site is located within a robust street grid pattern that meets City connectivity spacing requirements.

Transit Availability

The site is currently indirectly served by TriMet Bus Routes #33 and #99 (McLoughlin and McLoughlin Express) along SE McLoughlin Boulevard; Route #70 (12th Avenue) along SE 17th Avenue, west of the site; and Route #19 (Woodstock/Glisan) along SE Milwaukie Avenue, also west of the site.

On-Street Parking/Neighborhood Impacts

A survey of the neighborhood in the general vicinity of the subject site suggests that there is not a high demand for on-street parking. All of the homes in the general vicinity have ample opportunities for on-site parking considering each is developed with at least a driveway, and most have garages as well. Further, the applicant has indicated that one of the two on-site parking spaces on the driveway (on the subject lot) will be available for guest parking. The applicant also indicated that she currently parks one of her two vehicles on the driveway as well, and typically parks the second vehicle along the site's SE Reedway Street frontage. There appears to be sufficient curb length along the SE Reedway Street frontage of the site to accommodate two parked vehicles and for three to four vehicles to be parked along the site's SE 21st Avenue frontage. With guests of the proposed bed and breakfast facility expected to arrive in one vehicle (since there is only one unit proposed), and an on-site parking space available to them, as well as ample parking opportunities for guests to park along the site's two frontages (along the streets), PBOT does not expect there to be any adverse impacts to on-street parking.

Again, because of the limited vehicle trips expected to be generated by the proposed use and the adequate operation of the existing transportation system, PBOT also does not expect there to be any transportation-related neighborhood impacts from the bed and breakfast facility.

Access Restrictions

The submitted site plan shows a single driveway that serves the subject site. The applicant has indicated that she parks her vehicle on one of the two available driveway spaces on-site and that the other space will be available for use by her guest(s). There is no reason to restrict access onto the site via the existing driveway,

but the applicant is advised to take measures to ensure that guest vehicles that are parked on the driveway, don't extend onto the sidewalk. PBOT has no access restriction concerns.

Impact on Pedestrian, Bicycle, and Transit Circulation

The site's frontages are improved with sidewalks, as are other frontages throughout the area. There will be no impact on pedestrian circulation in relation to the proposed bed and breakfast facility. Both adjacent streets have regulatory speeds of 25 miles per hour and bicycles are expected to share the roadway, which is common on such low-speed (and low volume) facilities. There is no reason to believe that the proposed bed and breakfast will have impacts to either bicycle or transit circulation.

Safety for All Modes

No significant negative safety impacts are expected with this proposal on any mode of the transportation system.

Adequate Transportation Demand Management Strategies

PBOT has not identified any transportation-related impacts expected from the proposed bed and breakfast facility, which is typically why a Traffic Demand Management Plan ((TDMP) is proposed or required. Therefore, PBOT is not requiring the applicant to develop and submit a TDMP.

In summary, and as evaluated above, transportation system is capable of supporting the proposed use in addition to the existing uses in the area. 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: Written responses were received from the Water Bureau, the Police Bureau, and the Fire Bureau expressing no concerns in the ability to provide service to the proposed bed and breakfast facility. The Bureau of Environmental Services provided a written response indicating no issues with providing sanitary services, and no issues with stormwater management given no new impervious surface is proposed.

Based on the response from the relevant service bureaus, this criterion is met.

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

Findings: The site is located within the boundaries on the *Sellwood-Moreland Neighborhood Plan*, and identified in the Plan as being in the Westmoreland residential neighborhood.

The Plan includes a desired character statement for the residential areas. This statement describes an area where houses face the street, with porches or other semi-public spaces that promote neighborhood interaction. Infill development should match the historic character of each residential subarea. Existing street trees should be protected, and new ones planted. These residential areas should remain pedestrian-oriented, with auto-dominated structures not allowed. The applicant's request to establish a bed and breakfast on the subject site is not inconsistent with the desired character statement of the *Sellwood-Moreland Neighborhood Plan*.

The Plan also includes a set of Policies and Objectives that are intended to achieve a desired character for the area. The one policy in the Plan that is relevant to the current proposal is Policy X1 (Residential Areas), which calls for preserving the predominantly pedestrian scale and design of the neighborhood's residential areas. The proposed bed and breakfast facility, located in an existing one-story structure on the site, preserves a pedestrian scale of development.

As the proposed bed and breakfast facility is compatible with the *Sellwood-Moreland Neighborhood Plan*, 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 via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant has demonstrated that with conditions of approval the relevant approval criteria to allow a bed and breakfast facility at this site are met. The facility is proposed within an existing detached accessory structure on the site, with no substantive exterior changes proposed. This structure will retain its residential scale and appearance, with no changes to the existing building setbacks. The facility is not expected to adversely impact livability for nearby neighbors with the requirement that several conditions are met related to the establishment of quiet hours, requirements for exterior lighting, placement of exterior seating areas for bed and breakfast guests, and maintaining a sight-obscuring fence. Public services are deemed to be adequate to serve the proposed facility, and the facility is compatible with the adopted *Sellwood-Moreland Neighborhood Plan*.

ADMINISTRATIVE DECISION

Approval of a one-unit bed and breakfast facility accommodating up to four guests in the detached accessory structure, per the approved site plans, Exhibits C1 through C3, signed and dated September 1, 2011, subject to the following conditions:

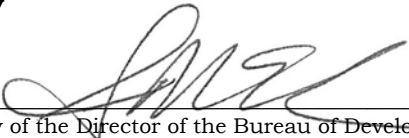
- A. As part of the building permit application submittal, the following development-related conditions (B through E) must be noted on each of the four required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 11-151332 CU." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. No nonresident employees will be engaged on a regular basis to help in the operation of the facility unless approved under a subsequent Conditional Use Review. However, services may be contracted for activities related to normal upkeep of the site, including repair and maintenance of the structures or grounds.

- C. House rules shall be established for the operation of the bed and breakfast facility that include at least the following elements:
1. Guests, when entering and exiting the bed and breakfast, shall be respectful of the proximity of adjacent residents.
 2. No amplified music is permitted outside of the guest room, and the sound level within the guest rooms must be maintained at or below conversational level.
 3. Rowdiness, group assembly or any type of disruptive behavior to other guests or neighbors is not to be tolerated, inside or outside of the bed and breakfast facility.
 4. Outside patios must be maintained as quiet zones, with normal conversational levels only; no seating area or gathering is allowed in the area south of the bed and breakfast facility.
 5. Guests may not smoke in outdoor areas on the site.

These house rules will be required to be posted in the bed and breakfast facility, and included in all printed and web advertising of the bed and breakfast facility.

- D. Any exterior lighting installed on the south façade of the bed and breakfast facility must be of a design that the light shadow is directed downward.
- E. A fully sight-obscuring fence, at least six feet in height, shall be maintained along the south property line in the location of the bed and breakfast facility.

Staff Planner: Douglas Hardy

Decision rendered by:  **on September 1, 2011.**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 2, 2011

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 June 23, 2011, and was determined to be complete on **July 22, 2011.**

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 June 23, 2011.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on November 26, 2011.**

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 Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on September 16, 2011**, at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, 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. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, 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 Hearings Officer 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 Hearings Officer 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 **September 19, 2011 – the next business day following the last day to appeal**.
- 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.

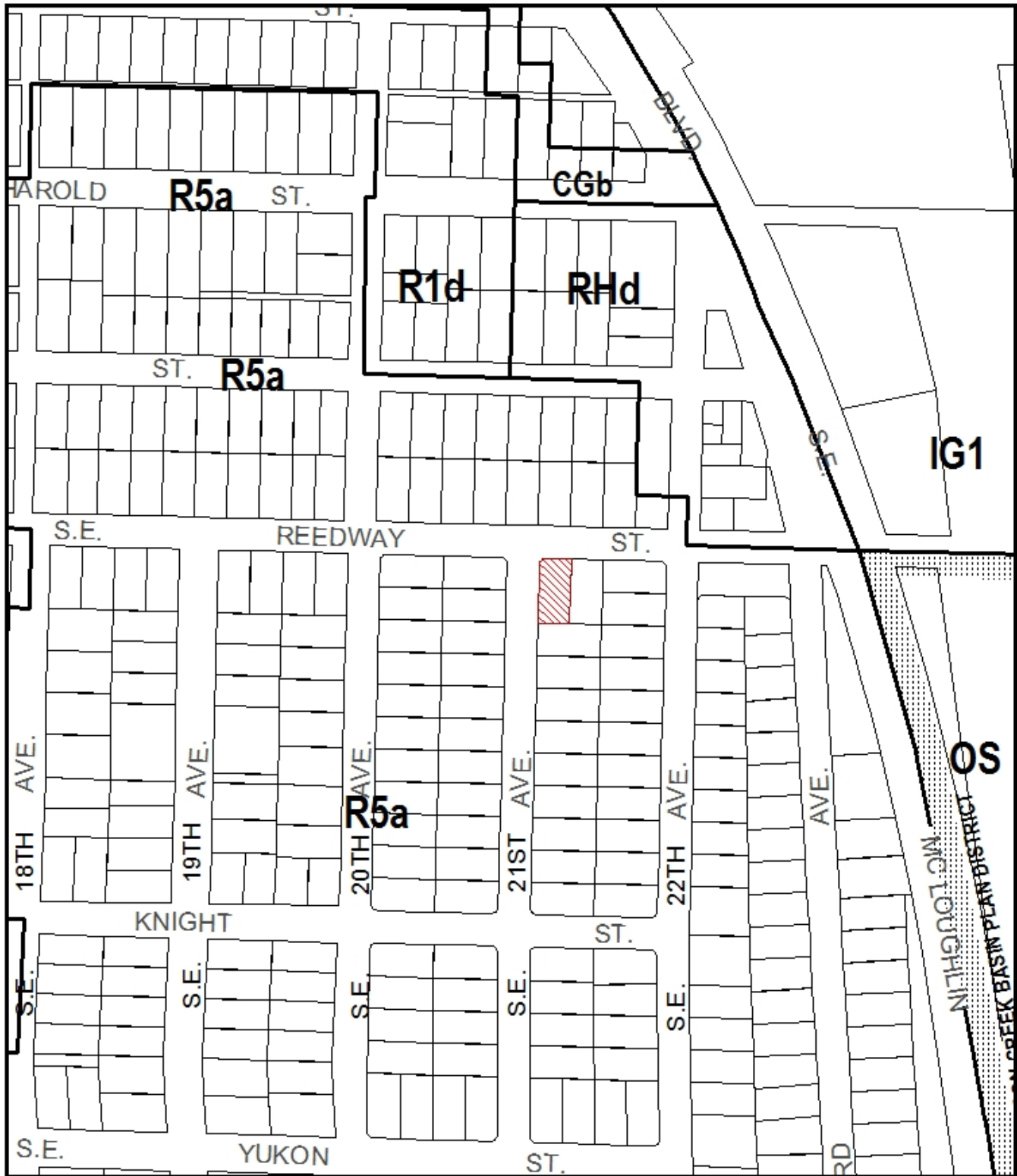
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Written narrative with photos
 2. Supplemental narrative, dated July 14, 2011
 3. Supplemental narrative, dated August 16, 2011
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. West and South Building Elevations
 3. East and North Building Elevations
- D. Notification information:
 1. Mailing list

2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
 7. Life Safety Plans Examiner, BDS
 8. Police Bureau
- F. Correspondence:
 1. Axel Bergman, letter dated July 30, 2011, in opposition
 2. Michael Turner, letter dated August 2, 2011, in opposition
 3. Ruth Turner, letter dated August 10, 2011, in opposition .
- G. Other:
 1. Original LU Application
 2. Site History Research
 3. Letter of Incompleteness

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

 Site



File No.	<u>LU 11-151332 CU</u>
1/4 Section	<u>3632</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E14DA 9600</u>
Exhibit	<u>B (Jun 29,2011)</u>

Case# LV 11-151332 CV
 2104 SE Redwing St
 Portland, OR 97202

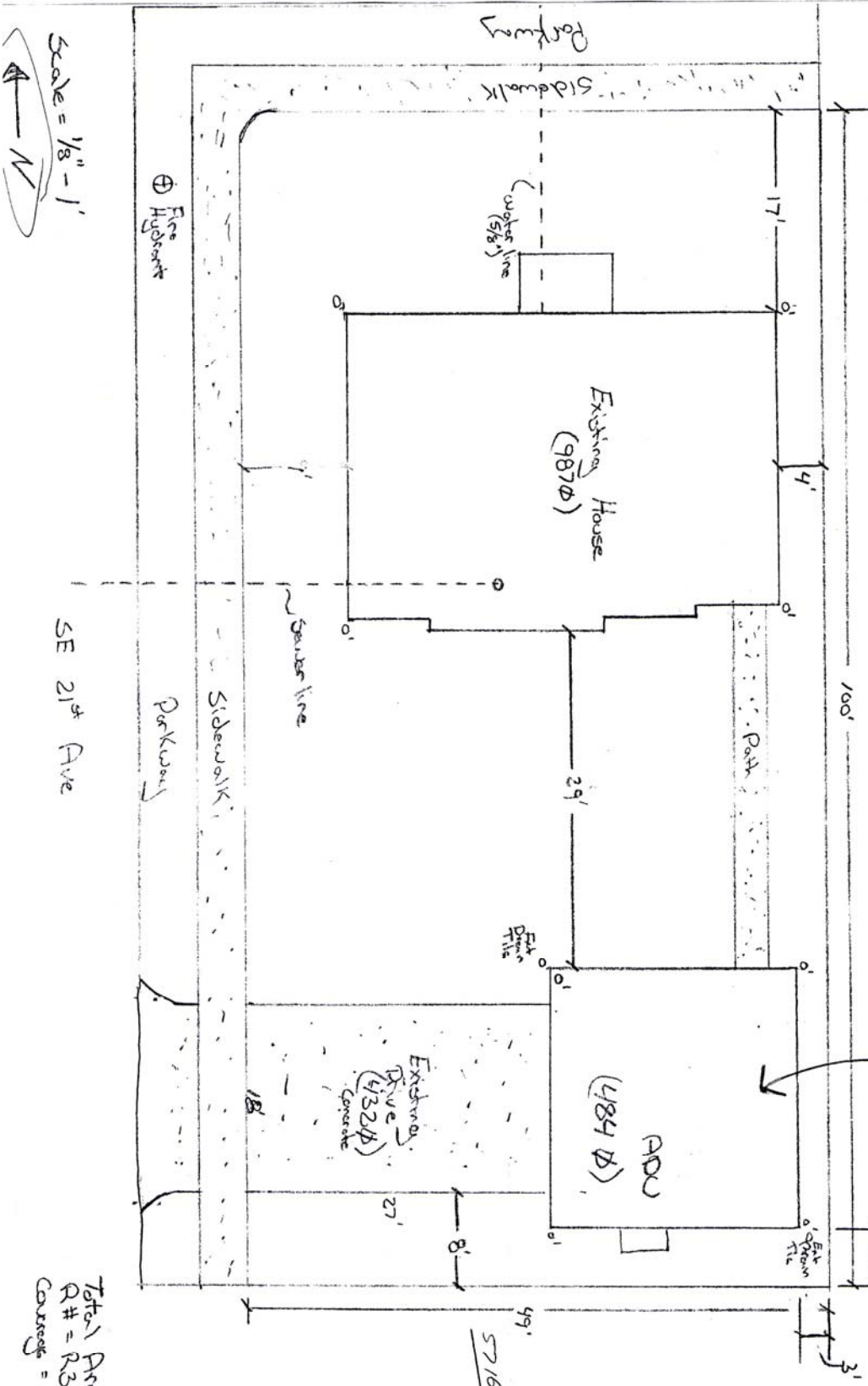
Approved
 City of Portland
 Bureau of Development Services
 Planner [Signature]
 Date 9.1.11
 * This approval applies only to the reviews requested and is subject to the conditions of approval. Additional zoning requirements may apply.

MOP

Location of prepared prep & breakfast

East

CASE NO. 11-151332
 EXHIBIT 11

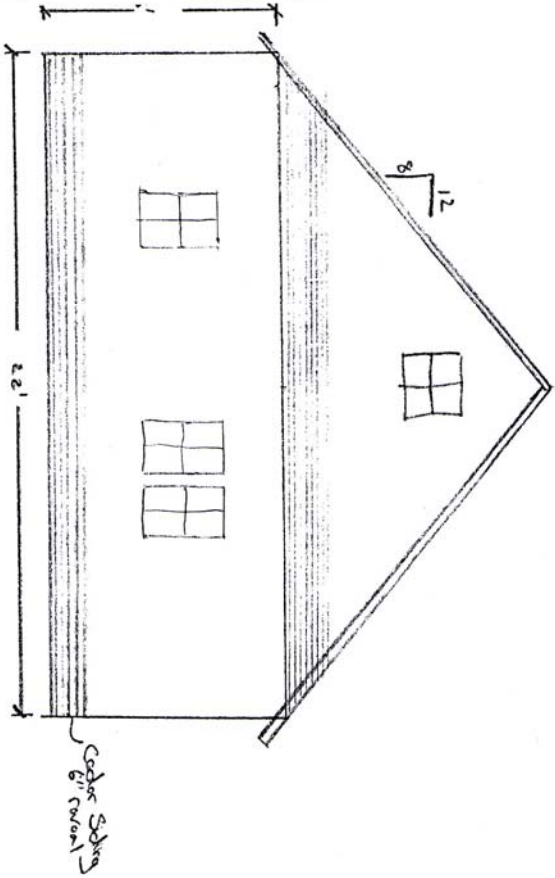


Scale = 1/8" = 1'
 N

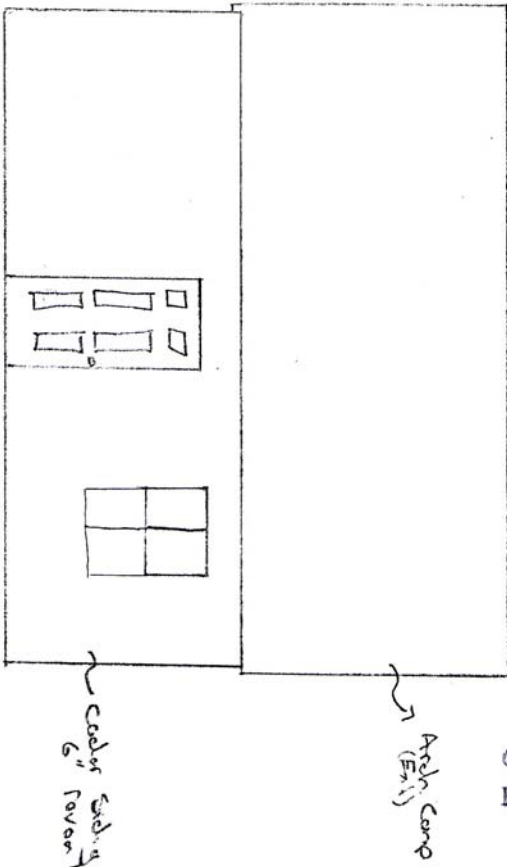
Total Area = 4,900 sq ft
 R# = R3044-19
 Coverage = 38%

Approved
 City of Portland
 Bureau of Development Services
 Planner [Signature]
 Date 9.1.11

* This approval applies only to the
 condition(s) specified and is subject to all
 conditions of approval.



West Elevation



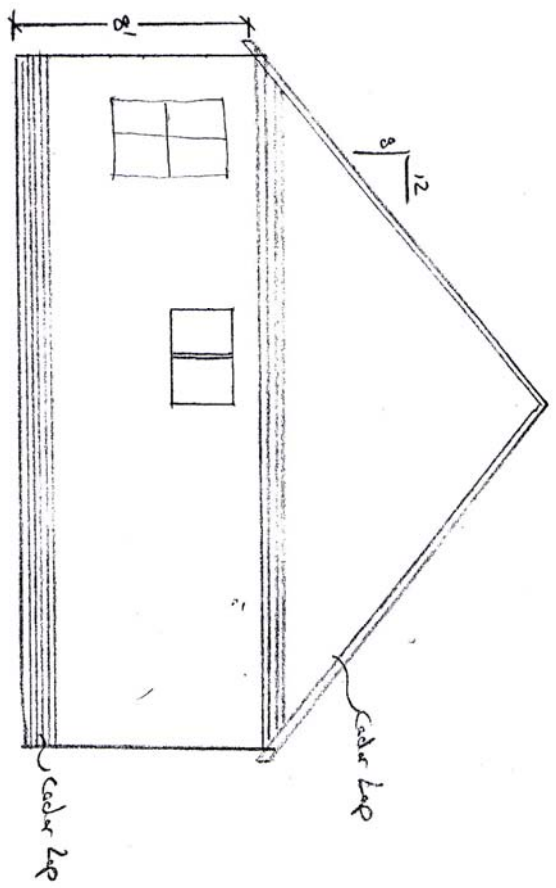
South Elevation
 Entry

1/4" = 1'

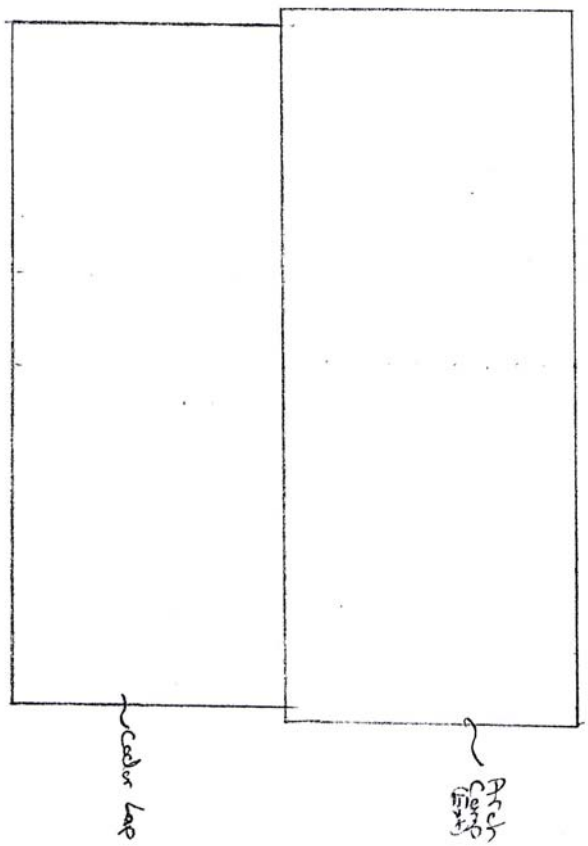
CASE NO. 11-151332
 EXHIBIT C2

Approved
 City of Portland
 Bureau of Development Services
 Planner [Signature]
 Date 9.1.11

* This approval applies only to the review requested and is subject to all conditions of approval.
 Approval does not constitute a warranty.



East Elevation



North Elevation

CASE NO. 11-151732
 EXHIBIT C3