



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

FROM CONCEPT TO CONSTRUCTION

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Date: December 16, 2014
To: Interested Person
From: Andrew Gulizia, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 14-157692 CU

GENERAL INFORMATION

Applicants/Owners: Caleb and Catherine Aring
5400 NE 23rd Ave.
Portland, OR 97211

Site Address: 4915 NE 28th Ave.

Legal Description: BLOCK 2 LOT 19, ELBERTA
Tax Account No.: R242300310
State ID No.: 1N1E24BC 02200
Quarter Section: 2533
Neighborhood: Concordia, contact Garlynn Woodsong at 510-913-5472
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-789-7074
District Coalition: Northeast Coalition of Neighborhoods, contact Claire Adamsick at 503-388-9030

Zoning: R5ah – Single-Dwelling Residential 5,000 with Alternative Design Density and Aircraft Landing overlay zones

Case Type: CU – Conditional Use Review
Procedure: Type II an administrative decision with appeal to the Hearings Officer

Proposal: The applicants request conditional use approval to operate a bed and breakfast (B&B) facility in the existing house on this site. No exterior alterations to the house are proposed. The proposal includes three guest rooms, with the fourth bedroom to be occupied by a resident manager. The applicants state that guests will be directed to park in the garage or driveway when possible. No outside employees, meal service, or commercial events are proposed.

B&B facilities are allowed in residential zones when the proposal meets the approval criteria and applicable standards. The regulations are intended to allow for efficient use of houses in residential areas if the neighborhood character is maintained. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are in Zoning Code Section 33.815.105: Conditional Use Approval Criteria for Institutional and Other Uses in a Residential Zone.

ANALYSIS

Site and Vicinity: The site is a 4,000 square-foot lot located on the west side of NE 28th Avenue, between NE Alberta Street and NE Wygant Street. The site is developed with a single-dwelling residence with an attached garage. Neighboring properties along NE 28th Avenue are also developed with single-dwelling homes. A mixed-use corridor along NE Alberta Street is immediately north of the site.

Zoning: The R5 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The site is within the Alternative Design Density ('a') and Aircraft Landing ('h') overlay zones. The purpose of the 'a' 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 Aircraft Landing ('h') overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation in employment, industrial, and open space zones. The regulations associated with the 'a' and 'h' overlay zones are not applicable to the proposal.

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

Agency Review: A "Notice of Proposal" was mailed November 10, 2014. The following Bureaus responded:

- The Bureau of Environmental Services responded with no concerns. (Exhibit E-1)
- The Bureau of Transportation Engineering and Development responded with information concerning how the proposal meets transportation-related approval criteria. Details of this response are included below under Zoning Code Approval Criteria. (Exhibit E-2)
- The Water Bureau responded with information on water service and raised no concerns about the proposal. (Exhibit E-3)
- The Fire Bureau responded with no concerns. (Exhibit E-4)
- The Police Bureau responded that the Bureau is capable of serving the proposed use. The comments include recommendations to ensure the address marker is visible and to maintain landscaping to maximize visibility for officers. (Exhibit E-5)
- The Site Development Section responded with no concerns. (Exhibit E-6)
- The Life Safety Section of the Bureau of Development Services responded with no concerns. (Exhibit E-7)
- The Urban Forestry Section of Portland Parks and Recreation responded with no concerns. (Exhibit E-8)

Neighborhood Review: One letter was received from a neighboring property owner in response to the mailed "Notice of Proposal." This neighbor objected to the potential impact to on-street parking availability in the neighborhood.

Staff Response: As recommended by the Portland Bureau of Transportation (Exhibit E-2), the proposal is approved with a condition requiring the rooms to be rented to a single group at a time, rather than renting each of the three rooms individually. This condition of approval will tend to limit the number of guest vehicles at the site at any one time.

ZONING CODE APPROVAL CRITERIA

Conditional Uses

33.815.010 Purpose

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

33.815.105 Institutional and Other Uses in R Zones

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

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

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

Findings: The proposal will not alter the proportion of Household Living uses in the area because bed and breakfast facilities in residential zones are classified as a Household Living use. Zoning Code Section 33.920.110 describes the characteristics of Household Living uses and specifically identifies B&Bs as one of the accessory uses of Household Living. Since no uses are proposed that are not classified as Household Living in the Zoning Code, this criterion is met.

B. Physical compatibility.

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

Findings: No City-designated scenic resources are present at the site. Therefore, this criterion is not applicable.

2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, and landscaping; or

Findings: The 4,000-square-foot site is comparable to neighboring residential properties in lot size, setbacks, and landscaping. The house on this site appears taller than most neighboring homes, and has a building style somewhat unique in the neighborhood. However, the proposed B&B facility will operate inside the existing house, and no physical changes to the existing development on the site are proposed. This criterion is met.

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

Findings: The applicants are not proposing any physical changes to the house or lot to accommodate the B&B facility. Therefore, the proposal will have no effect on differences in appearance or scale between the subject property and neighboring properties. This criterion is not applicable.

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

1. Noise, glare from lights, late-night operations, odors, and litter; and

Findings: The applicants propose to enforce quiet hours after 10:00 PM on weekdays and after 10:30 PM on weekends. Additionally, pursuant to Zoning Code Section 33.212.040.E, social gatherings with more than eight guests are limited to twelve per year.

No changes to the existing exterior lighting are proposed. The existing exterior lighting includes porch lights which are typical for Household Living uses and which will impose no significant adverse impacts on neighbors.

No odors are anticipated to result from the B&B operation, and the applicants state the resident host will check for and remove any guests' litter on a daily basis. The applicants have also submitted a "house rules" list (Exhibit A-2) which will help prevent noise and other livability impacts on neighbors.

With the condition of approval that the "house rules" listed in Exhibit A-2 are continually enforced, this criterion is met.

2. Privacy and safety issues.

Findings: Given the proposed quiet hours restriction, the limitation on social gatherings, and the fact that only three rooms are proposed to be rented, staff finds that use of the site as a B&B will not have a substantially greater impact on neighbors' privacy than could occur if the house were not used in this way. This four-bedroom house could be occupied on a long-term basis, without the need for Conditional Use review, by as many residents at one time as could occupy the proposed B&B (Zoning Code Section 33.910.030, definition of "Household.") An existing 6-foot-tall fence surrounding the rear yard will further protect neighbors' privacy.

No safety impacts are anticipated. The Fire Bureau has reviewed the proposal and responded with no concerns. The Police Bureau has reviewed the proposal and found that police services are adequate to serve the proposed use. The applicants have also submitted a "house rules" list (Exhibit A-2) which will promote safety and limit privacy impacts on neighbors.

With the condition of approval that the "house rules" listed in Exhibit A-2 are continually enforced, 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, the City's Transportation System Plan (TSP) classifies NE 28th Avenue as a Local Service street for all transportation modes. Local Service streets are intended to distribute local traffic and provide access to local residences or commercial uses. The proposed use is consistent with the Local Service street designation.

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: The Portland Bureau of Transportation submitted the following response:

1. Street Capacity, Level of Service, and Other Performance Measures

A professional Transportation Impact Study (TIS) was not prepared in conjunction with the proposed B&B. The Trip Generation Manual from the Institute of Transportation Engineers (ITE) does not have any comparable trip generation data for the proposed use. The ITE Trip Generation Manual only includes data as it pertains to larger and more traditional hotels, motels, and resorts.

The proposed B&B will have 3 guest rooms with a fourth bedroom to be occupied by a resident manager. There will be no other outside employees or commercial events associated with the proposed use. Given the nature of the proposed use, the number of vehicles likely to access the proposed facility at any given time, especially during the morning and evening residential peak hours, will be minimal. Additionally, the applicant has indicated that they will only be renting the home to a single-tenancy household and rooms will not be rented out individually. This will allow the home to function more closely to a traditional single-family home.

Accordingly, the proposed use is not anticipated to have a significant impact upon the total number of vehicle trips in the area during the morning or afternoon peak hours. Any services for the B&B, such as landscaping, regular maintenance, or cleaning will be consistent with a typical single-family home.

2. Access to Arterials

The subject site enjoys unobstructed access to arterials and the greater transportation system. Specifically, NE Alberta St, a Neighborhood Collector and Community Transit street, is located approximately 136-ft to the north and provides east/west connectivity to NE 33rd a District Collector and Transit Access street located approximately 1,000-ft from the site.

3. Connectivity

The subject site is located within an area where the street grid is reasonably intact. There are existing block and development patterns that preclude improvement upon the current connectivity at this time. PBOT has no concerns relative to connectivity in association with the proposed Conditional Use request.

4. Transit Availability

Transit service is available in the vicinity of the site. TriMet Route #17 has a stop at NE 27th & NE Alberta which is located approximately 316-ft from the site. Access to transit facilities is accommodated via fully improved pedestrian corridors.

5. On-Street Parking Impacts

The impact upon on-street parking is one of the more common concerns with this type of use within a residential neighborhood. However, external alterations that will make a dwelling appear less residential in nature or function are not allowed per the City's Zoning Code. Such alterations include prohibiting the installation of more than three parking spaces and paving of required setback areas. The site can currently accommodate two on-site parking spaces and the applicant has indicated that guests will be directed to park in the driveway parking space.

The applicant provided a parking survey (Exhibits A-1 and A-3) that included available on-street spaces on both sides of NE 28th (Alberta to NE Wygant). Based

upon the information provided by the applicant, there are a total of 43 available spaces within the study area. The applicant accounted for restricted parking areas as well as areas that were not available for parking due to the location of existing driveways.

The survey was conducted at various times in order to capture the residential peak periods. This included a survey of existing conditions at 6:00am and 10:00pm on a Wednesday. The results of the survey indicated that there were a total of 16 on-street parking spaces available within the study area at 10:00pm and 17 spaces available at 6:00am. The applicant also submitted additional on-street parking information for an expanded study area that included NE Wygant (north and south sides) and NE 27th (east and west sides). The results of this expanded study also found that there is on-street parking available in the vicinity of the site.

Based upon the results of the parking survey, the ability to accommodate two parking spaces on-site, and the transportation demand management strategies discussed later in this response, there is sufficient on-street parking available in the vicinity to accommodate overflow parking from the proposed use.

6. Access Restrictions

NE 28th Ave is a fully-improved Local Service street that provides direct access to area arterial roadways. There are no access restrictions in the vicinity of the proposed development.

7. Neighborhood Impacts

The proposed B&B will be subject to the standards for Bed and Breakfast facilities found in Zoning Code. The purpose of the standards is to allow for a more efficient use of certain types of residential structures in a manner which keeps them primarily in residential use without detracting from neighborhood character. As referenced herein, sufficient on-street parking opportunities exist within the vicinity of the proposed use and the applicant has proposed adequate strategies to reduce vehicle trips to the site. Accordingly, staff finds that the proposed use will be able to be incorporated into the existing development pattern in the area with minimal impacts to the transportation systems in the neighborhood.

8. Impacts on Pedestrian, Bicycle, and Transit Circulation

Pedestrian, bicycle, and transit circulation is currently accommodated in the vicinity of the site via fully-improved rights-of way that include sidewalk corridors that meet/exceed City standards. Based upon the condition of existing infrastructure in the area and existing safe conditions for all transportation modes as discussed herein, there is no reason to believe the proposed B&B will have a negative impact on pedestrian, bicycle, or transit circulation.

9. Safety for All Modes

In this area, pedestrian circulation is accommodated via fully improved pedestrian corridors that provide direct access to area transit facilities. There are also identified bike facilities in the vicinity (Portland Bike/Walk Map) including a Neighborhood Greenway to the south (NE Going) and Shared Roadways to the south and east (NE Sumner and NE 30th respectively).

The vicinity of the proposed use is currently safe for all modes and will not be adversely affected by the proposed development. No mitigation measures are needed or recommended.

10. Adequate Transportation Demand Management Strategies

Transportation Demand Management strategies are actions designed to change travel behavior in order to reduce the use of single-occupant vehicles to the site and, in turn, improve the performance of transportation facilities. In the case of the proposed use, the impact upon on-street parking is typically of concern.

While the proposed B&B will have three guest rooms, the applicant has indicated that they intend to rent the facility as a single-tenancy household rather than renting each room to individual parties. This will enable the proposed use to function in a manner more consistent with a single-family home and reduce the likelihood of multiple vehicles coming to the site. Accordingly, PBOT finds a condition limiting rental of the B&B to a single party is appropriate.

As indicated previously, the site is located in close proximity to transit facilities and is also within walking distance to a wide range of commercial uses on NE Alberta to the north. The applicant has indicated that all guests will be encouraged to utilize public transportation and information regarding the location of TriMet bus lines, area maps, and the location of area bike rentals will be provided to guests.

Based upon the information provided, it appears that the applicant has proposed adequate strategies to reduce single-occupancy vehicle trips to the site and to encourage alternative modes of transportation.

Street Improvements (Section 17.88.010)

According to City GIS data, NE 28th is improved with a 30-ft wide paved roadway and a 3-6-1 pedestrian corridor within a 50-ft ROW. For a Local Service street, abutting an R5ah zoned site, the City's Pedestrian Design Guide recommends an 11-ft wide pedestrian corridor (0.5-ft curb/4-ft furnishing zone/6-ft sidewalk/0.5-ft frontage zone).

While the existing pedestrian corridor does not meet the standards specified in the Pedestrian Design Guide, the site does qualify for an exemption in accordance with Administrative Rule 1.22 "Infill Development on Streets with an Existing Sidewalk Corridor". The applicant will only be required to make repairs as needed.

Transportation System Development Charges (Chapter 17.15)

System Development Charges (SDCs) may be assessed for this development. The applicant can receive an estimate of the SDC amount prior to submission of building permits by contacting Rich Eisenhauer at 503-823-6108.

Driveways and Curb Cuts (Section 17.28)

Curb cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of building permits.

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 Bureau of Environmental Services and the Water Bureau reviewed the proposal and responded with no concerns. Police and fire protection services are available and capable of serving the proposed use. The Portland Police Bureau provided recommendations regarding landscaping maintenance and the visibility of the street address marker, but had no objection to the proposal. For these reasons, 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 within the boundaries of the adopted Concordia Neighborhood Plan and the adopted Albina Community Plan. While neither plan speaks specifically to B&B proposals, both plans include objectives to preserve existing homes. The applicants' proposal is supportive of this objective. 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.

The following development standards apply to B&B facilities:

33.212.010 Purpose – Bed and Breakfast Facilities

This chapter provides standards for the establishment of bed and breakfast facilities. The regulations are intended to allow for a more efficient use of large, older houses in residential areas if the neighborhood character is preserved to maintain both the residential neighborhood experience and the bed and breakfast experience. These regulations enable owners to maintain large residential structures in a manner which keeps them primarily in residential uses. The proprietor can take advantage of the scale and often the architectural and historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

33.212.030 Where These Regulations Apply

The regulations of Sections 33.212.040 through 33.212.080 apply to bed and breakfast facilities in the R zones. In the RX and RH zone, where a limited amount of commercial uses are allowed by right or by conditional use, a bed and breakfast facility may be regulated either as a Retail Sales And Service use, or as a bed and breakfast facility under the regulations of this chapter. The decision is up to the applicant.

33.212.040 Use-Related Regulations

- A. Accessory use.** A bed and breakfast facility must be accessory to a Household Living use on a site. This means that the individual or family who operate the facility must occupy the house as their primary residence. The house must be at least 5 years old before a bed and breakfast facility is allowed.

Staff Response: The applicants propose to employ a resident host who will live in the house. The building permit for the house was issued in 2002 and the final building inspection was approved in 2008.

- B. Maximum size.** Bed and breakfast facilities are limited to a maximum of 5 bedrooms for guests. In the single-dwelling zones, a bed and breakfast facility over this size limit is prohibited.

Staff Response: The applicants propose to rent three bedrooms to guests.

- C. Employees.** Bed and breakfast facilities may have non-resident employees for such activities as booking rooms and food preparation, if approved as part of the conditional use review. Hired service for normal maintenance, repair and care of the residence or site such as yard maintenance may also be approved. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of a conditional use approval.

Staff Response: No non-resident employees are proposed. Non-residents will be employed on an incidental basis only for repairs, maintenance, and cleaning.

- D. Services to guests and visitors.** Serving alcohol and food to guests and visitors is allowed. The proprietor may need Oregon Liquor Control Commission (OLCC) approval to serve alcohol at a bed and breakfast facility.

Staff Response: The applicants do not intend to serve food or alcohol to guests at this time.

E. Meetings and social gatherings.

1. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings in bed and breakfast facilities are regulated as follows:
 - a. In the single-dwelling zones, commercial meetings are prohibited at a bed and breakfast facility;
 - b. In the multi-dwelling zones, the residents of a bed and breakfast facility may request up to 24 commercial meetings per year as part of a Conditional Use Review. The maximum number of visitors or guests per event will be determined through the Conditional Use Review. Adjustments to the maximum number of meetings per year are prohibited.

Staff Response: The applicants note that there will be no commercial meetings on the site. Commercial meetings are prohibited at bed and breakfast facilities in single-dwelling residential zones.

2. Private social gatherings. The residents of a bed and breakfast facility are allowed to have only 12 private social gatherings, parties, or meetings per year, for more than 8 guests or visitors. The private social gatherings must be hosted by and for the enjoyment of the residents. Private social gatherings for 8 or fewer guests are allowed without limit as part of a normal Household Living use at the site.

Staff Response: The applicants acknowledge that private social gatherings will be limited as specified above.

3. Historical landmarks. A bed and breakfast facility which is located in a historical landmark and which receives special assessment from the State, may be open to the public for 4 hours one day each year. This does not count as either a commercial meeting or a private social gathering.

Staff Response: There is no historical landmark on the subject site.

4. The bed and breakfast operator must log the dates that private social gatherings for more than 8 visitors or guests are held, and the number of visitors or guests at each event. The operator must also log the dates of all commercial meetings held, and the number of visitors or guests at each event.

Staff Response: The applicants acknowledge that the resident host will maintain a log book for private social gatherings.

33.212.050 Site-Related Standards

- A. Development standards.** Bed and breakfast facilities must comply with the development standards of the base zone, overlay zone, and plan district, if applicable.

Staff Response: Since no new construction is proposed, the development standards of the R5 base zone, the Alternative Design Density overlay zone, and the Aircraft Landing overlay zone are not applicable. The site is not within a plan district.

- B. Appearance.** Residential structures may be remodeled for the development of a bed and breakfast facility. However, structural alterations may not be made which prevent the structure being used as a residence in the future. Internal or external changes that

will make the dwelling appear less residential in nature or function are not allowed. Examples of such alterations include installation of more than three parking spaces, paving of required setbacks, and commercial-type exterior lighting.

Staff Response: No remodeling is proposed at this time.

C. Signs. The sign standards are stated in Title 32, Signs and Related Regulations.

Staff Response: No signs are proposed at this time. B&Bs are allowed to have a one-square-foot sign to help guide guests to the correct location.

D. Accessory dwelling units. Accessory dwelling units must meet all requirements of Chapter 33.205, Accessory Dwelling Units.

Staff Response: There is no accessory dwelling unit on this site, and none is proposed.

CONCLUSIONS


The applicants propose to operate a bed and breakfast facility with three guest rooms. No exterior alterations are proposed. A resident host will live in the house, and no non-resident employees are proposed. No commercial meetings will be held. The proposed bed and breakfast facility meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of a bed and breakfast facility with a maximum of three guest rooms, subject to the following conditions:

- A. The "house rules" listed in Exhibit A-2 must be continually enforced.
- B. Rentals shall be limited to single-tenancy rental of the entire residence (with the exception of the resident manager's room).

Staff Planner: Andrew Gulizia

Decision rendered by:  **on December 12, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 16, 2014

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 May 16, 2014, and was determined to be complete on **November 5, 2014**.

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 May 16, 2014.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or

extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: March 5, 2015.**

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 December 30, 2014**, at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, 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 **December 31, 2014**.
- 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.

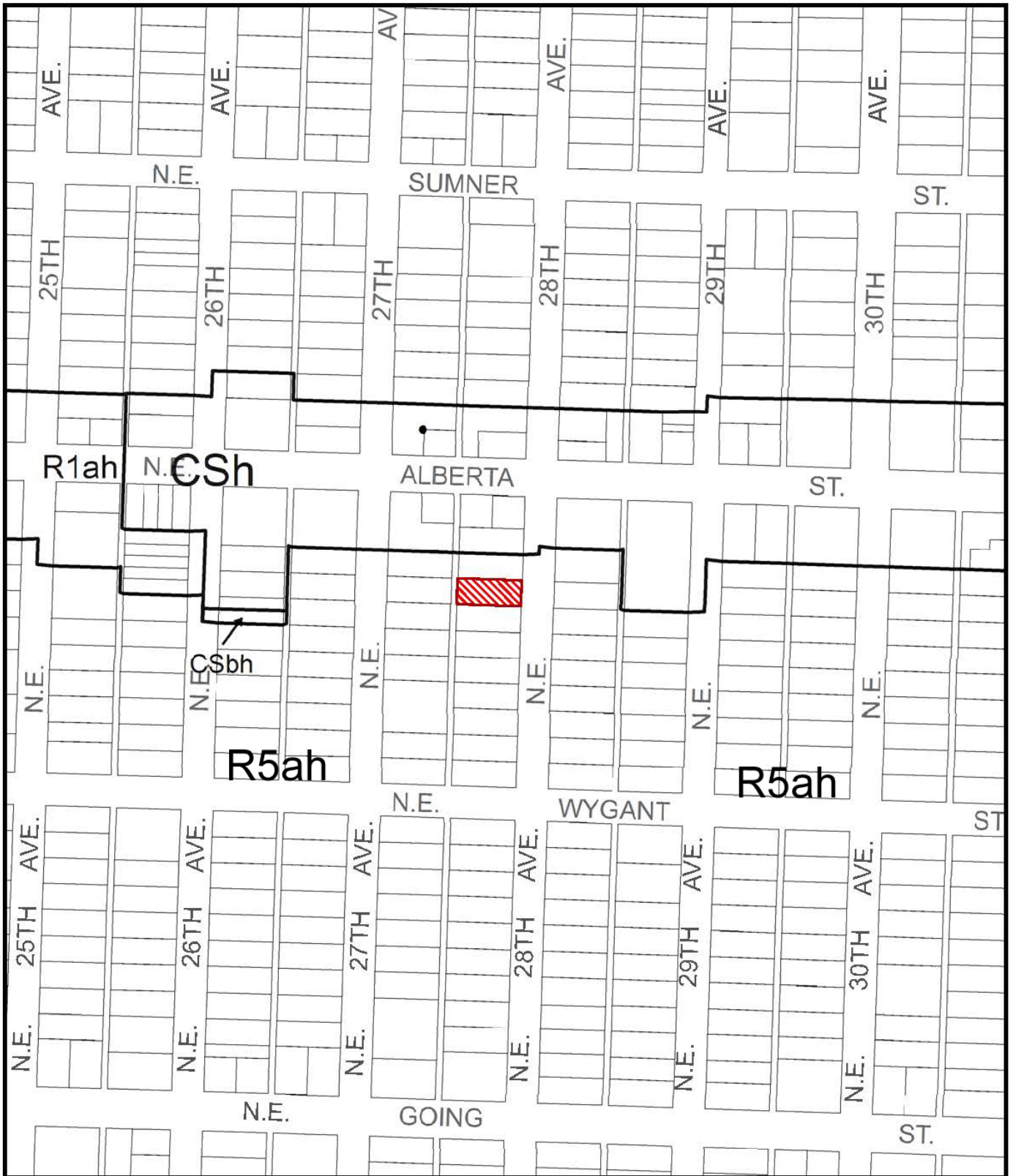
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Project narrative
 2. "House rules" list
 3. Project narrative addendum, dated December 5, 2014
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site plan (attached)
 2. Floor plan
 3. Building elevations
 4. Landscaping plan
- 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. Police Bureau
 6. Site Development Review Section of BDS
 7. Life Safety Review Section of BDS
 8. Bureau of Parks, Forestry Division
- F. Correspondence
1. Letter in opposition from Alessandra and Mark Novak, received November 20, 2014
- G. Other:
1. Original LU application form and receipt
 2. Incompleteness determination letter, dated May 29, 2014

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

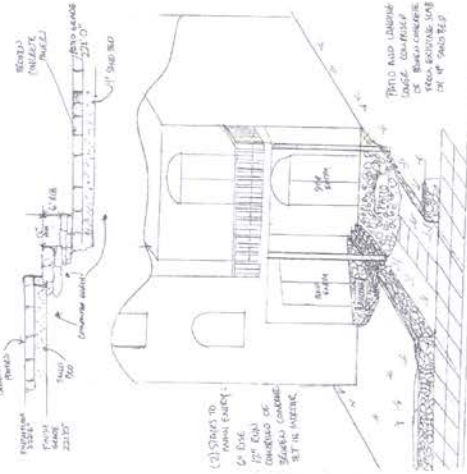


Historic Landmark

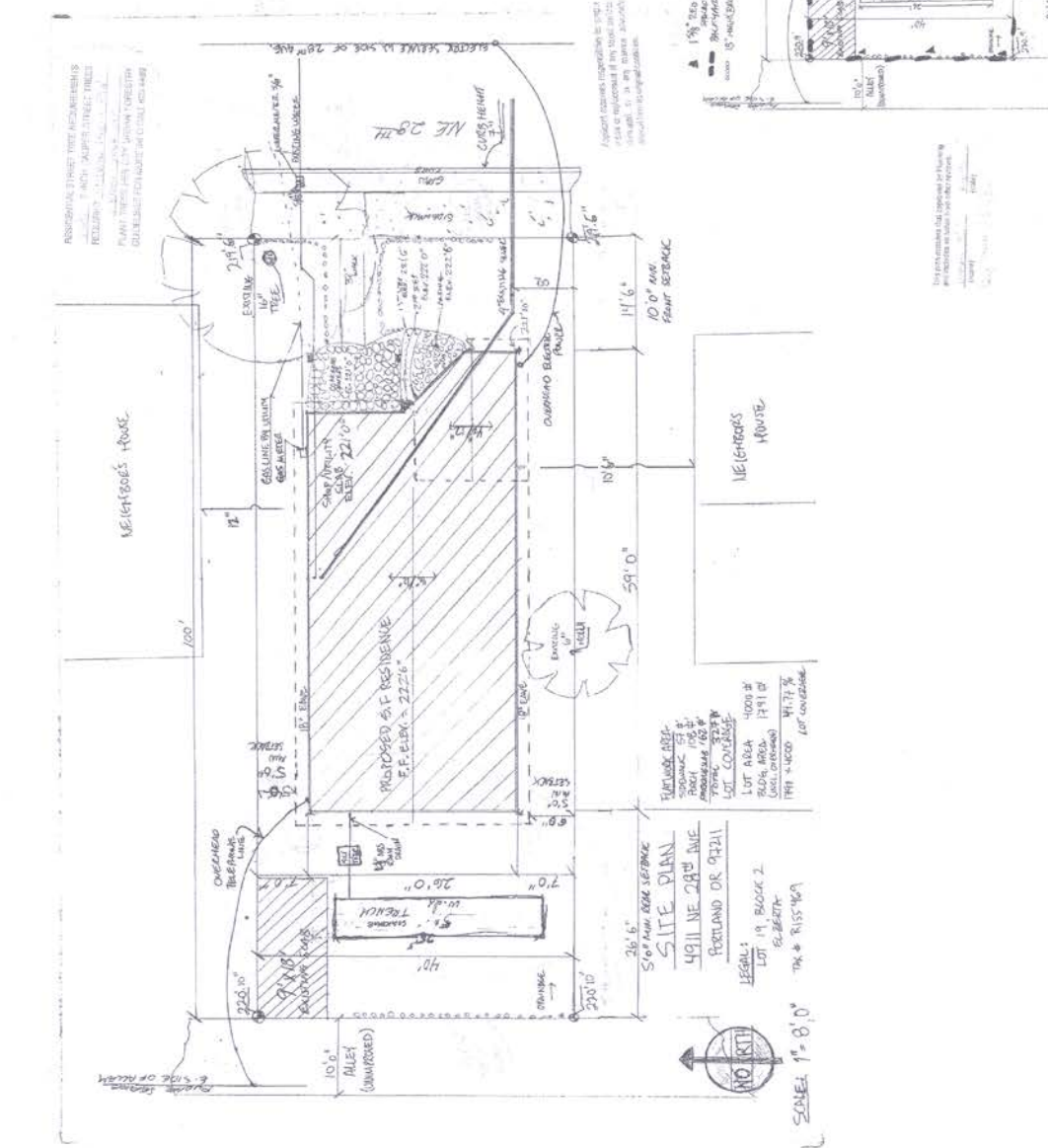


File No. LU 14-157692 CU
 1/4 Section 2533
 Scale 1 inch = 200 feet
 State_Id 1N1E24BC 2200
 Exhibit B (May 20, 2014)

ENTRY STONE DETAIL



RESIDENTIAL THREE TREE ARCHITECTURE
 1001 NE 28th Ave, Portland, OR 97211
 503-255-1234



1 1/2\"/>

ALL AREA NOT LABELED BY CONCRETE *
 * SHALL BE PAINTED IN GLOSS
 BLACKHED 2 1/2\"/>

SCHEM 1-13, 0" TH. & 1/8" DIA.
 10' x 10' DIA.

101	SHEET
JOB	RES-1
SCALE	AS NOTED
DATE	JANUARY 1, 2008
DRAWN BY	DM MACHOLS

MICHEL'S RESIDENCE

Portland, OR
 SITE PLAN
 4911 NE 28TH AVE., PORTLAND OR 97211
 X 2 ELBERTA TAX# R. 769

Written observations on these drawings shall have precedence over verbal observations. Contractor shall verify and be responsible for all dimensions and conditions on the job and the owner must be notified of any variations for the dimensions and conditions on these drawings.

LU 14 - 157692CU

Exhibit C-1