



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
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Date: June 6, 2016
To: Interested Person
From: David Besley, 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 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 16-135070 AD

GENERAL INFORMATION

Applicant: Ken Yu
Kaly Construction & Design Inc
2738 SE 82nd Ave #101
Portland, OR 97266

Owner: Danny Wong
14717 SE Division St
Portland, OR 97236-2334

Site Address: 14717 SE DIVISION ST

Legal Description: TL 5700 0.20 ACRES, SECTION 01 1S 2E
Tax Account No.: R992010110
State ID No.: 1S2E01CD 05700
Quarter Section: 3245

Neighborhood: Centennial, contact Tom Lewis at 503-347-5715
Business District: Division-Clinton Business Association, contact at 503-706-3730
Midway, contact David Day at 503-760-7572
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550

Zoning: CG (General Commercial)

Case Type: AD (Adjustment Review)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to construct a 1,900 square foot addition to an existing 1,184 square foot commercial building. The existing building is approximately 68 feet from the street

lot line (SE Division Street) and the proposed addition will be 34.5 feet from the street lot line. The Portland Zoning Code requires that 50 percent of the length of the ground level street-facing facades of buildings be set back a maximum of 10 feet from transit street property lines in this zone (Section 33.130.215; Table 130-3); therefore an Adjustment is required to increase the maximum street lot line setback from 10 feet to 34.5 feet for the proposed addition.

Note: Initially, the Adjustment was requested to increase the maximum street lot line setback from 10 feet to 39.5 feet for the proposed addition. The reduction to 34.5 feet noted above is reflective of the Portland Bureau of Transportation requirement for a 5-foot right-of-way dedication.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The 8,690 square foot site is located on the north side of SE Division Street, about 200 feet west of the intersection of SE Division Street and SE 148th Avenue in the Centennial neighborhood. The relatively flat site is currently developed with a 1,184 square foot restaurant and surface parking lot. The surrounding vicinity is developed with a mix of commercial, single and multi-dwelling residences.

Zoning: The General Commercial zone is intended to allow auto-accommodating commercial development, including a full range of retail and service businesses. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **April 29, 2016**. The following Bureaus have responded with the following information:

- The Water Bureau responded with no concerns and provided information on water service (Exhibit E-1);
- The Fire Prevention Division responded with no concerns and provided information on Fire Code Requirements (Exhibit E-2);
- The Life Safety section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information (Exhibit E-3);
- The Portland Bureau of Transportation (PBOT) responded with no concerns and noted the requirement of a 5-foot right-of-way dedication (Exhibit E-4). The applicant submitted a revised set of plans to reflect the dedication;
- The Bureau of Environmental Services responded with no concerns and provided information on stormwater requirements (Exhibit E-5); and
- The Site Development Section of BDS responded with no concerns and provided information on sewer connection (Exhibit E-6).

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

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

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

Findings: The applicant has requested to construct a 1,900 square foot addition to an existing 1,184 square foot commercial building, which requires an Adjustment to increase the maximum street lot line setback from 10 feet to 34.5 feet. The purpose for the setback regulations is as follows:

33.130.215 Setbacks

The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial zones. The CN1, CM, CS, and CX setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial development that will maintain light, air, and the potential for privacy for adjacent residential zones. The setback requirements along transit streets and in Pedestrian Districts create an environment that is inviting to pedestrians and transit users.

In the CG zone, the maximum street building setback is 10 feet. While the addition will be 34.5 feet from transit street (SE Division Street) property line in this zone, the existing building is approximately 68 feet from this property line; therefore the addition will bring the building closer to conformance with the maximum setback standard than the existing building. As part of the proposal, a 5-foot landscaped buffer between the sidewalk and the parking lot is proposed to meet the L2 *low screen* landscaping standard (Section 33.248.020.B), which requires trees and enough low shrubs to form a continuous screen 3 feet high. The applicant has also proposed to include landscaping on the southeastern corner of the property, in a paved area where there a billboard is located. Pedestrian access is proposed which will connect the sidewalk on SE Division Street to the restaurant entrances. These features will promote a more attractive, pedestrian oriented and built-up streetscape. To ensure that a 5-foot landscaped buffer planted to L2 standards constructed, and that landscaping be planted in the billboard area, a condition of approval is included.

Many of the surrounding CM zoned properties in this area, including adjacent properties to the east and south of the site, include development that is farther than 10 feet from the transit street property line (SE Division Street). The increased maximum transit street setback will therefore be compatible with and reflective of this neighborhood. The side does not abut any residential zones.

The Portland Bureau of Transportation has no concerns regarding the proposed Adjustment, but notes that a 5-foot right-of-way dedication is required.

As conditioned, this criterion is met.

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

Findings: PBOT has indicated no concerns regarding the proposal's consistency with the classification of adjacent streets.

The Portland Zoning Code defines "desired character" as "the preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district. It also includes the preferred and envisioned character based on any adopted area plans or design guidelines for an area." In this instance, *Desired Character* is defined by the character statement of the CG zone and the Centennial Neighborhood Plan; there are no overlay zones or design guidelines.

The General Commercial (CG) character statement notes that this zone is intended to allow auto-accommodating commercial development, including a full range of retail and service businesses. The zone's development standards promote attractive development,

an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves.

The proposed restaurant addition will be consistent with the CG character statement, as it will allow auto-accommodating commercial development, including retail and service businesses. The proposed development will be an attractive improvement to the site because the restaurant addition will be closer to the transit street and because the landscaping will soften the appearance of the surface parking area and result in an attractive streetscape.

The Centennial Neighborhood Plan includes a business development policy to encourage and support businesses which enhance the neighborhoods (Policy 1, Page 15). This policy includes several objectives that are relevant to the proposal, including the following:

3. Enhance the attractiveness of existing commercial centers by improving the appearance of parking areas and commercial structures, adding landscaping and by encouraging greater compatibility with adjacent developments.
4. Revitalize older commercial areas.
6. Protect the viability of existing businesses.

The proposed development will enhance the attractiveness of existing commercial area by screening the parking area with landscaping. The proposal itself is for the expansion of an existing restaurant, which will protect the viability of this business. The improvements will result in a more pedestrian oriented design that enhances the appearance and helps revitalize this commercial area.

For these reasons, this proposal is consistent with the Desired Character of the area.

This criterion is met.

- C.** If more than one Adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one Adjustment is requested; therefore, this criterion is not applicable.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. There are no such resources present on the site; therefore, this criterion is not applicable.

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

Findings: As noted above, a 5-foot landscaped buffer between the sidewalk and the parking lot is proposed, which includes trees and shrubs. The applicant has also proposed to include landscaping on the southeastern corner of the property, in a paved area where there a billboard is located. These features will soften the hardscape and promote a more attractive, pedestrian-orientated streetscape.

As conditioned, this criterion is met.

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

Findings: Environmental overlay zones are designated on the Official Zoning Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental

Conservation overlay zone). No environmental zoning is applied to the site; therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

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

Please be aware that, if the value of the proposed alterations on the site exceeds \$155,900, nonconforming development standards will be triggered (33.258.070.D.2.a-b).

CONCLUSIONS

The applicant has requested to construct a 1,900 square foot addition to an existing 1,184 square foot commercial building, which requires an Adjustment to increase the maximum street lot line setback from 10 feet to 34.5 feet. The existing building is approximately 68 feet from this property line; therefore the addition will bring the building closer to the street than the existing building. As part of the proposal, a 5-foot landscaped buffer between the sidewalk and the parking lot is proposed, including trees and shrubs to form a continuous screen 3 feet high. These features will promote a more attractive pedestrian orientated and built-up streetscape. Many of the surrounding CM zoned properties in this area are farther than 10 feet from the transit street property line; therefore the increased maximum transit street setback will be compatible with and reflective of this neighborhood. The proposal meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of requires an Adjustment to increase the maximum street lot line setback from 10 feet to 34.5 feet (Section 33.130.215; Table 130-3) to construct an addition, per the approved site plan, Exhibit C-1, signed and dated May 31, 2016, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) 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 16-135070 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A 5-foot landscaped buffer in compliance with the L2 *low screen* landscaping standard must be planted between the sidewalk and the parking lot, and that new landscaping be planted in the billboard area, as shown in Exhibit C-1.

Staff Planner: David Besley



Decision rendered by: _____ **on May 31, 2016.**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 6, 2016

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 March 15, 2016, and was determined to be complete on March 30, 2016.

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 March 15, 2016.

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 further extended by the applicant, **the 120 days will expire on: August 20, 2016.**

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

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

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

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

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on June 20, 2016** 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 Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 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 Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

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

- *Unless appealed*, The final decision may be recorded on or after **June 21, 2016 – (the 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.

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

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

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and

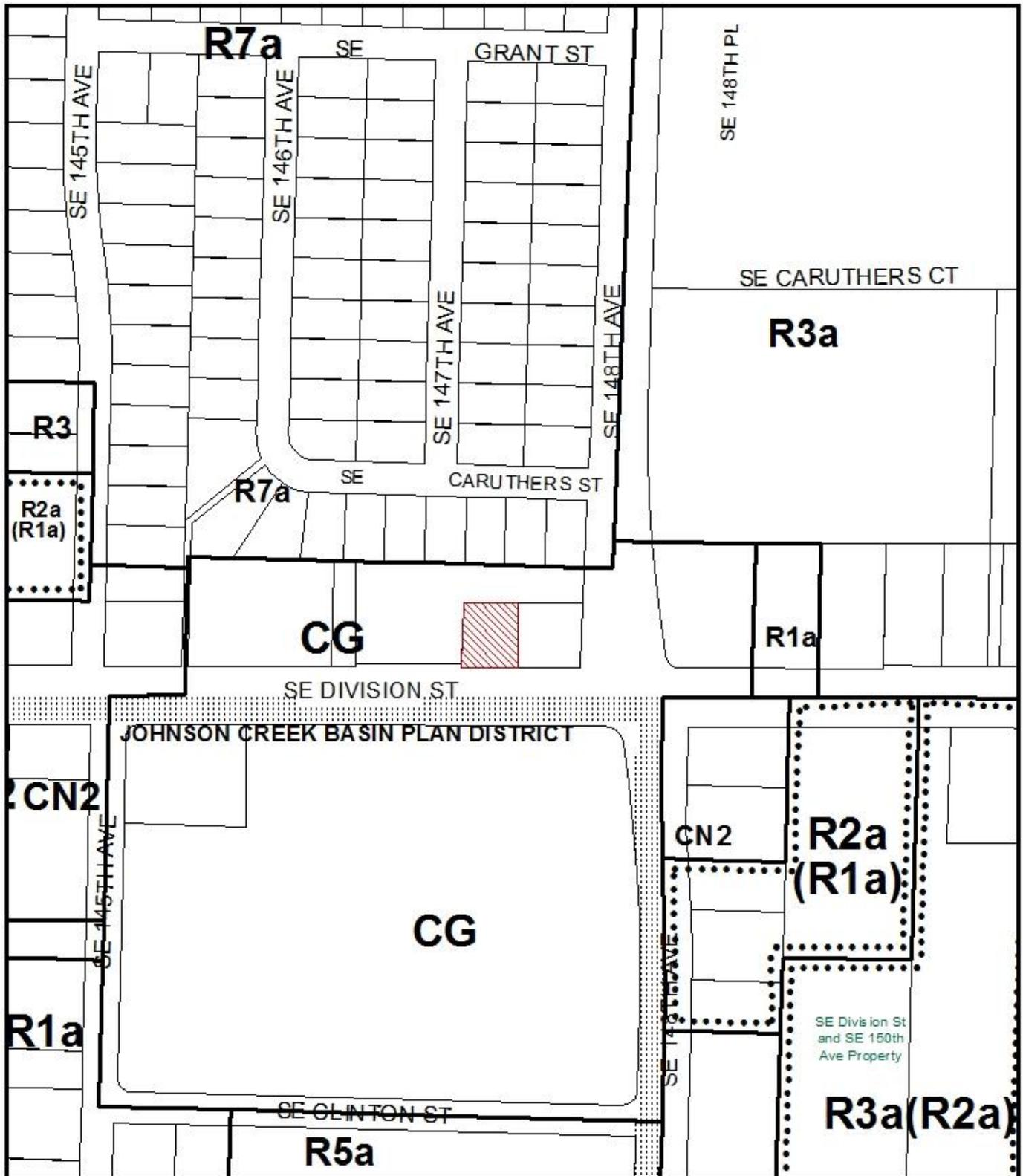
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's submittal
 - 1. Written Narrative
 - 2. Original Site Plan – not approved
 - 3. Elevation Drawings
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Fire Bureau
 - 3. The Life Safety Section of BDS
 - 4. Bureau of Transportation Engineering and Development Review
 - 5. Bureau of Environmental Services
 - 6. The Site Development Section of BDS
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incomplete letter from staff to applicant, sent April 7, 2016

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. LU 16-135070 AD
 1/4 Section 3245
 Scale 1 inch = 200 feet
 State_Id 1S2E01CD 5700
 Exhibit B (Mar 16, 2016)

Approved
City of Portland
 Bureau of Development Services
 Planner David Besley
 Date 5.31.16

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

TREE & SHRUB LEGEND
 COMMON NAME (SCIENTIFIC NAME)

SHRUBS

(20) AMERICAN BOX WOOD (BUXUS SEMPERVIRENS) 2 GAL. MIN.

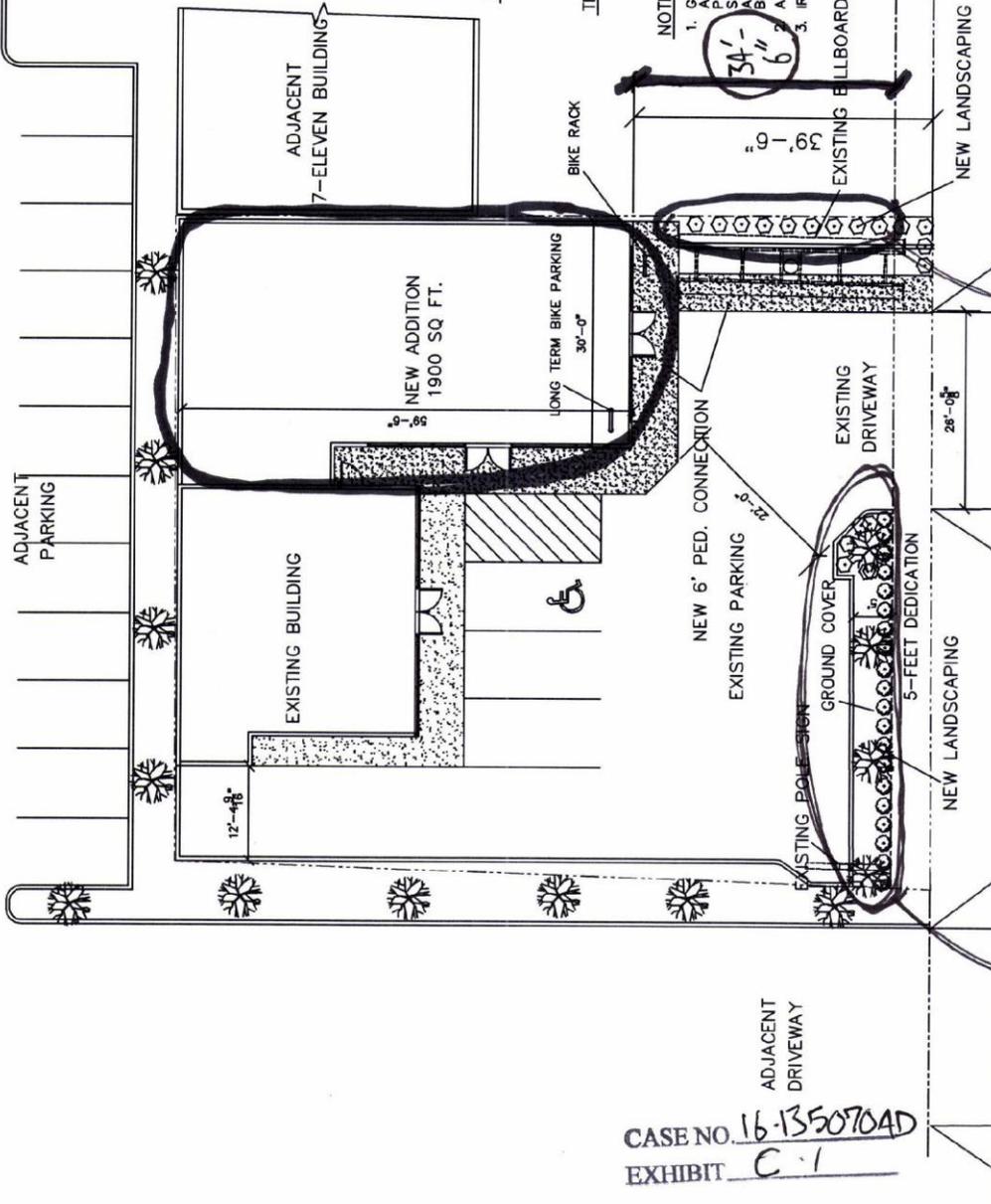
(19) RED-OSIER DOGWOOD (CORNUS SERICEA SP. SERICEA) 2 GAL. MIN.

TREES

(10) HEDGE MAPLE (ACER CAMESTRE) 2" DIA. 5' TALL

NOTES:

1. GROUND COVER SHALL PLANNED FOR AREA THAT IS NOT COVER BY TREE OR SHRUB. ALL GROUND COVER TO BE OREGON STONECROP, AND MUST BE AT LEAST 4" POT SIZE. AREA PLANTED IN GROUND COVER PLANTS OTHER THAN GRASS SEED OR SOO MUST BE PLANTED IN TRIANGULAR SPACING AT DISTANCES PROPORTIONATE FOR THE PLANT SPECIES. GROUND COVER PLANTS MUST BE PLANTED AT A DENSITY THAT WILL COVER THE ENTIRE AREA WITHIN 3 YEARS.
2. ALL TREE AT TIME OF PLANTING MUST BE FULLY BRANCHED & MIN. 5' TALL.
3. IRRIGATION BY HAND.



Adjustment request to increase the max street lot line setback from 10' to 34'-6"

landscaping in billboard area

SITE PLAN
 SCALE: 1/16"=1'-0"

5' min lanscape buffer to LZ standards

CASE NO. 16-135070AD
 EXHIBIT C-1