



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
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Date: August 4, 2016
To: Interested Person
From: Staci Monroe, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has a approved 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 16-179053 HR *REPLACE BRICK RETAINING WALL*

GENERAL INFORMATION

Applicant/Owner: James L. McGlothlin Trust
c/o Jacques Tournier
1435 NW 23rd Avenue, #204
Portland, OR 97210-2677

Representative: Nicholas Valencia
Evergreen Landscape Care & Tree Services
17902 S. Holly Lane
Oregon City, OR 97405

Site Address: 1942 NW KEARNEY STREET

Legal Description: BLOCK 270 W 10' OF LOT 7 LOT 10 E 10' OF LOT 11, COUCHS
ADD

Tax Account No.: R180225650

State ID No.: 1N1E33AC 10500

Quarter Section: 2928

Neighborhood: Northwest District, contact John Bradley at 503-313-7574.

Business District: Nob Hill, contact Nob Hill at nobhillportland@gmail.com.

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: Northwest

Other Designations: Alphabet Historic District

Zoning: RH – High Density Residential zone

Case Type: HR – Historic Resource Review

Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant seeks Historic Resource Review approval to replace a brick retaining wall on the property at 1942 NW Kearney, a contributing property in the Alphabet Historic District. The retaining wall is located at the eastern end of the site running along the Kearney street frontage and returning down along the driveway on the adjacent property to the east. The portion of the retaining wall along Kearney is failing and leaning over the sidewalk. The proposal includes removing the failing portion and rebuilding it with CMU block and tumbled brick veneer in a color and size to match the portion of the wall to remain. The replacement wall will be the same 6-foot height as the existing wall.

Retaining walls over 4' in height and that require a building permit in historic districts are subject to Historic Resource Review.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria specified in Title 33, Portland Zoning Code. The relevant approval criteria are:

- Community Design Guidelines
- Historic Alphabet District Community Design Guidelines Addendum

ANALYSIS

Site and Vicinity: The 8,000 SF site is located midblock on the south side of NW Kearney between NW 20th and 19th within the Northwest Plan District. The property is a contributing resource within the Historic Alphabet District. The site is developed with a residential structure that was converted to office use back in the late 1960s with surface parking at the rear and landscaped area. The portion of the retaining wall to be replaced exists on the east site of the house fronting NW Kearney. The surrounding area is a mix of multifamily and single family dwellings as well as commercial buildings.

Zoning: The High Density Residential (RH) is a high density multi-dwelling zone which allows the highest density of dwelling units of the residential zones. Density is not regulated by a maximum number of units per acre. Rather, the maximum size of buildings and intensity of use are regulated by floor area ratio (FAR) limits and other site development standards. Generally the density will range from 80 to 125 units per acre. Allowed housing is characterized by medium to high height and a relatively high percentage of building coverage. The major types of new housing development will be low, medium, and high-rise apartments and condominiums. Generally, RH zones will be well served by transit facilities or be near areas with supportive commercial services. Newly created lots in the RH zone must be at least 10,000 square feet in area for multi-dwelling development. There is no minimum lot area for development with detached or attached houses or for development with duplexes. Minimum lot width and depth standards may apply.

The Historic Resource Protection overlay is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks and protects certain historic resources in the region and preserves significant parts of the region's heritage. The regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region. The regulations foster pride among the region's citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties.

The Northwest Plan District implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this chapter: promote housing and mixed-use development; address the area's parking scarcity while discouraging auto-oriented developments; enhance the pedestrian experience; encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along

main streets and the streetcar alignment; and minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary.

Land Use History: City records indicate the following prior land use review for this site:

- CU 056-69: A 969 Conditional Use approval for office use with a condition that a screen is provided at the south end of the property.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **July 13, 2016**. No Bureaus reviewed or provided a response to the proposal given the small scope of work.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **July 13, 2016**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Chapter 33.846.060 - Historic Resource Review

Purpose of Historic Resource Review

Historic Resource Review ensures the conservation and enhancement of the special characteristics of historic resources.

Historic Resource Review Approval Criteria

Requests for Historic Resource Review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

Findings: The site is located within the Alphabet Historic District and the proposal is for a non-exempt treatment. Therefore Historic Resource Review approval is required. The approval criteria are the *Community Design Guidelines* and the *Historic Alphabet District Community Design Guidelines Addendum*.

Staff has considered all guidelines and addressed only those applicable to this proposal.

Historic Alphabet District - Community Design Guidelines Addendum

- 1. Historic Changes.** Most properties change over time; those changes that have acquired historic significance will be preserved.
- 2. Differentiate New from Old.** New additions, exterior alterations, or related new construction will retain historic materials that characterize a property to the extent practicable. Replacement materials should be reasonable facsimiles of the historic materials they replace. The design of new construction will be compatible with the historic qualities of the district as identified in the Historic Context Statement.
- 3. Hierarchy of Compatibility.** Exterior alterations and additions will be designed to be compatible primarily with the original resource, secondarily with adjacent properties, and finally, if located within a historic or conservation district, with the rest of the District. Where practical, compatibility will be pursued on all three levels. New development will seek to incorporate design themes characteristic of similar buildings in the Historic Alphabet District.

Findings: The building was constructed in 1910 and is identified as a secondary contributing resource within the historic district. The description of the property in the nomination is limited to the building and does not address the site improvements, such as the brick retaining wall. It is also not known when the retaining wall was constructed and if original to the site. The applicant explored re-using the existing bricks, however, they are too damaged and some are even broken.

The new portion of the brick wall will be differentiated by the use of new material, however, the detailing will be consistent with the existing wall. The new brick size (standard), color (Inca) and texture (tumbled) will complement the brick that will remain. Re-pointing the existing mortar joints to match the new the mortar joints of the new wall will help ensure a seamless transition as will continuing the running bond pattern.

Replacing the failing portion of the brick retaining wall will allow it to remain a site feature that complements the brick on the foundation of the contributing building on the property and similar site elements found within the surrounding area and in the Alphabet Historic District. *These guidelines have been met.*

Community Design Guidelines

P1. Plan Area Character. Enhance the sense of place and identity by incorporating site and building design features that respond to the area's desired characteristics and traditions.

P2. Historic and Conservation Districts. Enhance the identity of historic and conservation districts by incorporating site and building design features that reinforce the area's historic significance. Near historic and conservation districts, use such features to reinforce and complement the historic areas.

D7. Blending into the Neighborhood. Reduce the impact of new development on established neighborhoods by incorporating elements of nearby, quality buildings such as building details, massing, proportions, and materials.

E1. The Pedestrian Network. Create an efficient, pleasant, and safe network of sidewalks and paths for pedestrians that link destination points and nearby residential areas while visually and physically buffering pedestrians from vehicle areas.

D1. Outdoor Areas. When sites are not fully built on, place buildings to create sizable, usable outdoor areas. Design these areas to be accessible, pleasant, and safe. Connect outdoor areas to the circulation system used by pedestrians;

D3. Landscape Features. Enhance site and building design through appropriate placement, scale, and variety of landscape features.

D8. Interest, Quality, and Composition. All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.

Findings for P1, P2, D1, D3, D7, E1 and D8: The proposal meets these guidelines as follows:

- Replacing the portion of the failing wall that leans over the sidewalk will provide a safer and more pleasant condition for pedestrians along the site's frontage.
- The CMU block construction will ensure the wall is sturdy while the brick face provides a durable finish on the exterior of the wall.
- The brick retaining wall complements landscape and site features found within the surrounding area and particularly in the Alphabet Historic District.
- The size (standard), color (Inca) and texture (tumbled) of the new brick will complement the brick on the portion of the retaining wall to remain. Repointing the existing mortar joints to match the new the mortar joints of the new wall will help ensure a seamless transition as will continuing the running bond pattern.

These guidelines have been 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.

CONCLUSIONS

The purpose of the Historic Resource Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. This proposal meets the applicable Historic Resource Review criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of a partial replacement of a 6' tall retaining wall, per the approved site plans, Exhibits C-1 through C-2, signed and dated 8/2/16, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-179053 HR."

Staff Planner: Staci Monroe



Decision rendered by: _____ **on August 2, 2016**

By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) August 4, 2016

Procedural Information. The application for this land use review was submitted on May 26, 2016, and was determined to be complete on July 11, 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 May 26, 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.

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.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further 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.

Recording the final decision.

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder. A building or zoning permit will be issued only after the final decision is recorded. The final decision may be recorded on or after **August 4, 2016**. 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 503-823-7617.

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;

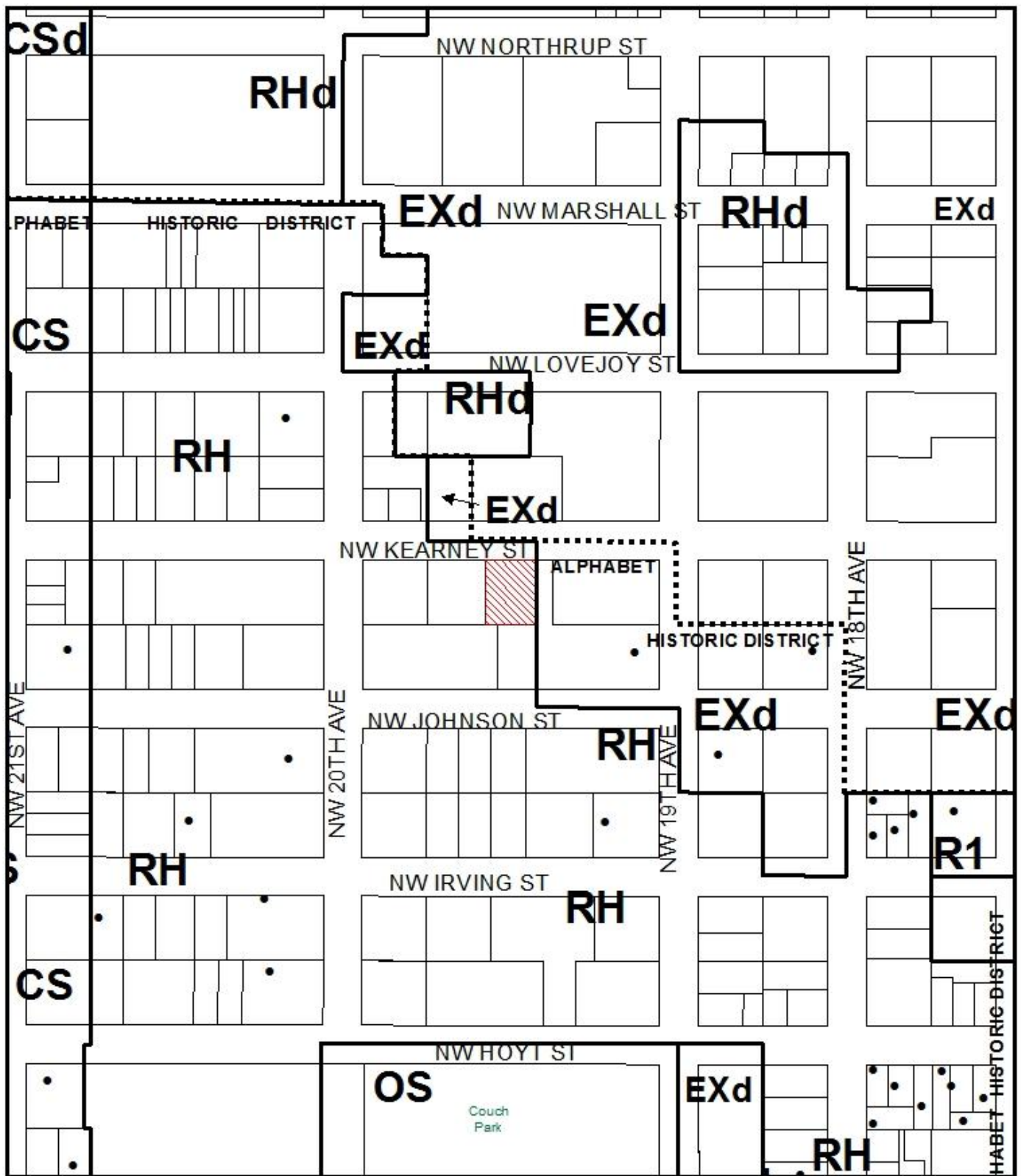
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Project description and approval criteria response
 - 2. Structural Calculations dated 5/6/16
 - 3. Photos of existing wall with brick options
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Wall Elevation, plan and section (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses: none
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application
 - 2. Letter of Incomplete dated 6/9/16
 - 3. Property Description – excerpt from Alphabet Historic District property inventory

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).



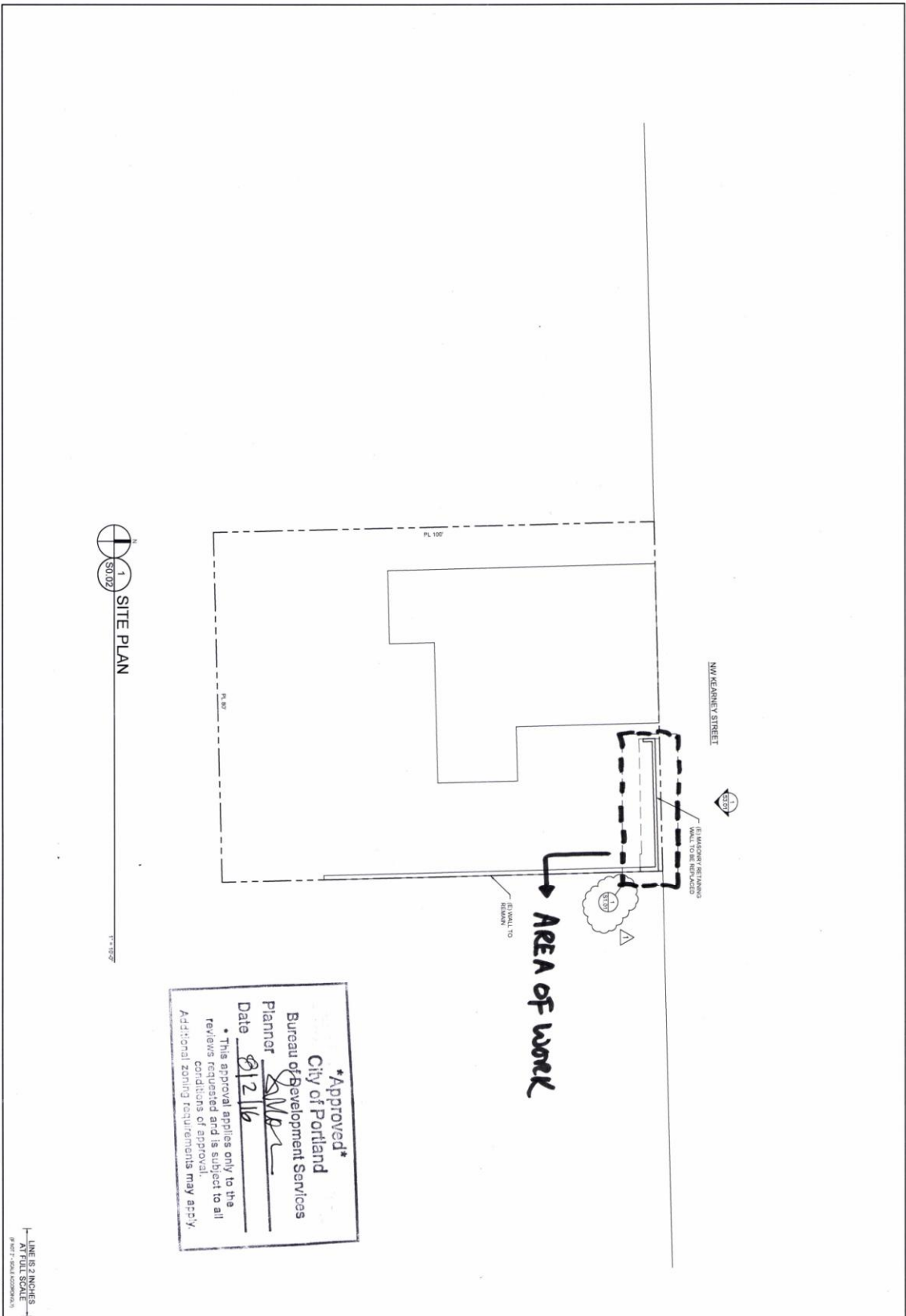
ZONING



This site lies within the:
 NORTHWEST PLAN DISTRICT
 ALPHABET HISTORIC DISTRICT

- Site
- Historic Landmark

File No. LU 16-179053 HR
 1/4 Section 2928
 Scale 1 inch = 200 feet
 State_Id 1N1E33AC 10500
 Exhibit B (May 31, 2016)



Approved
 City of Portland
 Bureau of Development Services
 Planner *SMB*
 Date 9/2/16
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

RESIDENTS NOTICE NOTICE TO ALL ADJACENT PROPERTY OWNERS A copy of this plan is being provided to you for your information. If you have any questions, please contact the engineer at the address below.	
EXPIRES: 12-31-2017 COPYRIGHT 2016 Miller Consulting Engineers, Inc. 3015 SW Barber Blvd Portland, OR 97219 Phone: 503.246.1520 Fax: 503.246.1521 www.miller-engineers.com	
MILLER CONSULTING ENGINEERS	
RETAINING WALL EVERGREEN LANDSCAPE CARE & TREE SERVICE, LLC 1942 NW KEARNEY STREET PORTLAND, OREGON	
DRAWN BY: <i>JM</i> CHECKED BY: <i>JM</i> PROJECT NO.: 160018 SHEET DATE: 8/2016	
DATE: 7-16-16 DESCRIPTION: REVISION PER PLAN CHECK	SHEET: S0.02 TOTAL SHEETS: 1 SHEET CONTENT: SITE PLAN

L216-179053 HR.
 EX-C-1

