



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

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Date: November 7, 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 16-164843 AD

GENERAL INFORMATION

Applicant: Gene Bolante
Studio 3 Architecture
222 Commercial St NE
Salem, OR 97301

Owner: Mark Madden
Redwood PDX LLC
2330 NW 31st Ave
Portland, OR 97210

Site Address: 233 NW 16TH AVE

Legal Description: BLOCK 151 LOT 5&8, COUCHS ADD
Tax Account No.: R180213000
State ID No.: 1N1E33DB 04100
Quarter Section: 3028

Neighborhood: Northwest District, contact John Bradley at 503-313-7574
Business District: Nob Hill, contact Nob Hill at nobhillportland@gmail.com. Pearl District Business Association, contact Carolyn Ciolkosz at 503-227-8519
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212

Plan District: Northwest

Zoning: EXd (Central Employment with a Design Overlay Zone)

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

Proposal:

The applicant is proposing a new 5 story, 50-unit apartment building with ground floor commercial and residential uses. The Portland Zoning Code requires one “Standard B” on-site loading space for a building with more than 40 dwelling units on a street without light rail or streetcar alignment, and with less than 20,000 square feet of floor area in uses other than Household Living (Section 33.266.310.C). The “Standard B” loading space dimensional requirements are a minimum of 18 feet long, 9 feet wide, and a minimum clearance of 10 feet. Due to space limitations on the site, the applicant is requesting an Adjustment to reduce the on-site loading requirement from one space to zero spaces.

Relevant Approval Criteria:

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 10,000 square foot property is located on the southwestern corner of NW Everett Street and NW 16th Avenue. The relatively flat site is currently vacant, with a proposed commercial and residential development. The surrounding vicinity is developed with a mix of commercial and higher-density residential to the south, west, and north, and is adjacent to Highway 405 to the east.

Zoning: The Central Employment zone is intended to allow mixed-uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area. The development standards are intended to allow new development which is similar in character to existing development. The “d” zone overlay (Design Overlay Zone) is not impacted by the Adjustment proposal.

Regulations of the Northwest Plan District are intended to provide 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.

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

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **September 30, 2016**. The following Bureaus have responded with the following information:

- The Life Safety Section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information(Exhibit E-1); and
- The Bureau of Transportation (PBOT) initially noted the requirement that the applicant be required to provide a Loading Demand Analyses prepared by an Oregon licensed traffic engineer in order to satisfy the approval criteria for removing the requirement for a single on-site loading space. A Loading Demand Analyses was submitted to PBOT for review, and it was determined that the request to reduce the number of on-site spaces required from one to zero is supportable by PBOT (Exhibit E-2).
- The Bureau of Environmental Services responded with no concerns and provided information on stormwater management (Exhibit E-3)

The following Bureaus have responded with no concerns:

- The Water Bureau (Exhibit E-4);
- The Fire Bureau (Exhibit E-4); and
- The Site Development Section of BDS (Exhibit E-4).

Neighborhood Review: One written responses to the proposal was received from a neighboring property owner noting opposition to the proposal, noting traffic flow concerns that that could

result from the loss of a loading space for a 50-unit apartment building in a busy area (Exhibit F-1).

Staff Response: Relevant concerns are addressed in the Zoning Code Approval Criteria findings below.

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 an Adjustment to waive the one required “Standard B” on-site loading space for the construction of a new 5 story, 50-unit apartment building with ground floor commercial and residential uses. The relevant purpose statement and associated findings are found below:

33.266.310 Loading Standards

Purpose: *A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.*

New street parking will be created as a result of closing the existing curb cut on the site (from NW Everett Street). This curb cut closure will create an additional two parking spaces, which will provide additional area for vehicles, including loading vehicles. Providing a loading area within the site would require vehicles to enter and exit the site via a driveway perpendicular to NW Everett Street, which could slow traffic and possibly create safety issues for pedestrians where the vehicle area entrance intersects with the sidewalk and street parking. The proposed removal of a required vehicle loading area results in pedestrian access being separated from, and therefore protected from, automobile traffic.

As noted in the PBOT review above, a Loading Demand Analyses prepared by an Oregon licensed traffic engineer was submitted and reviewed by PBOT; it was determined that the Adjustment request to waive the required loading space will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way. Because there will be no loading area, the regulations pertaining to the appearance of loading areas does not apply.

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: Because the site is located in an EX zone, the applicant must demonstrate that the proposal will be consistent with the classification of the adjacent streets and the desired character of the area.

PBOT has identified NW Everett as a Transit Access Street and a Local Service Street for all other modes. PBOT finds the proposal is consistent with the classification of NW Everett Street.

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 EX zone, the Design Overlay Zone, and the Northwest Plan District and Neighborhood Plan.

The character statement for the EX zone in Section 33.140.030.B reads:

This zone implements the Central Employment map designation of the Comprehensive Plan. The zone allows mixed-uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area. The development standards are intended to allow new development which is similar in character to existing development.

The proposed mixed-use building includes ground floor commercial and 50 apartments above. It will therefore be consistent with the Central Employment zone’s intention of allowing mixed-uses. The Adjustment to the loading space requirement will not have a negative impact on the desired character of the area. It will be consistent with the surrounding vicinity, which is developed with a mix of commercial and higher-density residential to the south, west, and north.

The Design Overlay Zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The Adjustment to the loading space requirement will allow a pedestrian-only sidewalk by removing curb-cuts, which results in a safe, pedestrian oriented streetscape rather than one dominated by vehicular access. The Design Overlay Zone regulations and purpose are met with this proposal.

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 plan district’s regulations discourage auto-oriented developments and enhance the pedestrian experience, which will be supported by the Adjustment to remove a loading space and subsequent creation of a pedestrian oriented streetscape.

The Northwest District (Neighborhood) Plan does not include measures specifically relating to minimum loading areas, but includes an emphasis on mixed-use development in the area of the site (pages C.2-C.3) and includes transportation objectives to increase the availability of, and incentives to use alternatives to the automobile, and to promote increased use of public transit by residents, employees and visitors (Objectives A, E, page E.14). As noted above, the curb cut closure on NW Everett will create an additional two off-site parking spaces, which will provide additional area for vehicles, including loading vehicles, while enhancing the pedestrian experience with a safe, attractive sidewalk.

This proposal is therefore 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 proposed; 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, the curb cut closure on NW Everett will create an additional two off-site parking spaces, which will provide additional area for vehicles, including loading vehicles. Granting the loading space adjustment results in a total separation on site between automobiles and pedestrians; it also increases the amount of landscaping provided to create a more safe and comfortable pedestrian experience. Impacts resulting from the Adjustment are therefore mitigated to the extent practical.

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.

CONCLUSIONS

The applicant has requested an Adjustment to waive the one required “Standard B” on-site loading space for the construction of a new 5 story, 50-unit apartment building with ground floor commercial and residential uses. Two new street parking spaces will be created as a result of closing the existing curb cut on the site, which will provide additional area for vehicles, including loading vehicles. The proposed removal of a required vehicle loading area results in pedestrian access being separated from, and therefore protected from, automobile traffic. A Loading Demand Analyses prepared by an Oregon licensed traffic engineer was submitted and reviewed by PBOT and it was determined that the Adjustment will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way. This proposal is consistent with the Desired Character of the area. It meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to waive the one required “Standard B” on-site loading space for the construction of a new 5 story, 50-unit apartment building with ground floor commercial and residential uses (Section 33.266.310.C), per the approved site plans and elevations, Exhibits C.1 through C.2, both signed and dated October 31, 2016, and 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 16-164843 AD. No field changes allowed."

Staff Planner: David Besley



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

By authority of the Director of the Bureau of Development Services

Decision mailed: November 7, 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 May 2, 2016, and was determined to be complete on September 26, 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 2, 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: January 24, 2017.**

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 November 21, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 **November 22, 2016**.
- 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:

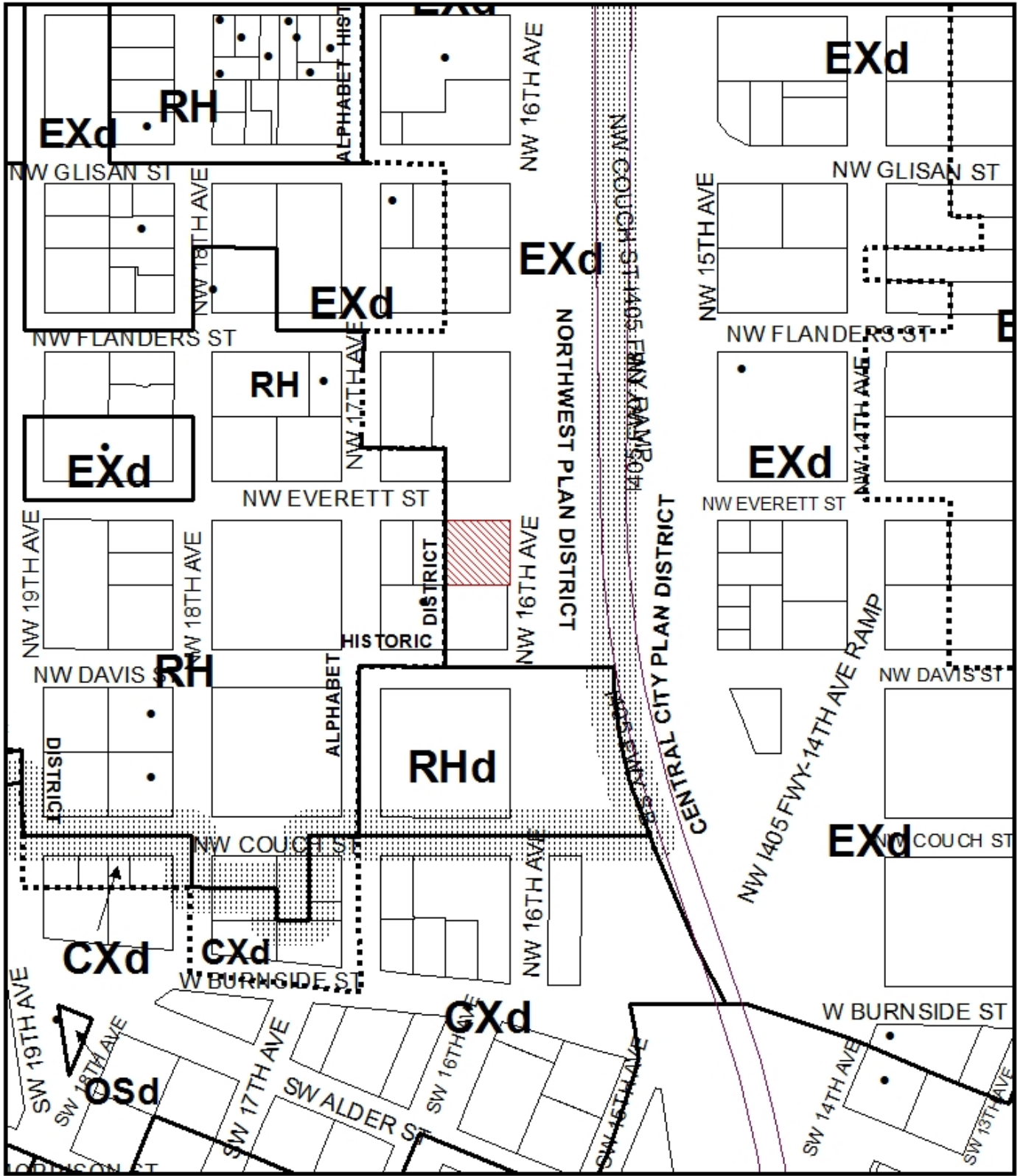
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. North Elevation Drawing
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section of BDS
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Bureau of Environmental Services
 - 4. Water Bureau, Fire Bureau, Site Development Review Section of BDS
- F. Correspondence:
 - 1. David Chown, October 10, 2016, letter of opposition
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incomplete letter from staff to applicant, sent May 16, 2016
 - 3. Early Assistance notes – EA 16-108813
 - 4. Neighborhood contact receipt and letter provided by applicant

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

This site lies within the:
NORTHWEST PLAN DISTRICT



File No.	LU 16-164843 AD
1/4 Section	3028
Scale	1 inch = 200 feet
State_Id	1N1E33DB 4100
Exhibit	B (May 02, 2016)

