



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

Chloe Eudaly, Commissioner
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Date: April 7, 2017
To: Interested Person
From: Rodney Jennings, Land Use Services
503-823-5088 / Rodney.Jennings@portlandoregon.gov

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 16-271064 AD

GENERAL INFORMATION

Applicant: Maj 24 Llc
300 W 15th St #201
Vancouver, Wa 98660-2927

Ryan Schera,
Deacon Development Group
901 NE Glisan St, #100
Portland, OR 97232

Site Address: 4242 NE HALSEY ST

Legal Description: BLOCK 45 TL 4000, LAURELHURST; BLOCK 45&46 TL 4000, LAURELHURST; BLOCK 45&46 TL 4001, LAURELHURST, BLOCK 45&46 TL 4001

Tax Account No.: R479108040, R479108050
State ID No.: 1N2E31BB 04000, 1N2E31BB 04001,
Quarter Section: 2935

Neighborhood: Hollywood, contact Doug Hamilton at hamiltonpdx@gmail.com.
Business District: Hollywood Boosters, contact hollywoodboosters@gmail.com.
District Coalition: Central Northeast Neighbors, contact Sandra Lefrancois at 503- 823-2780.

Plan District: Hollywood - Subdistrict A

Zoning: CXd Central Commercial Zone; 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 6 story, 100-unit apartment building with ground floor retail on a site that already includes a 69,054 square foot office/retail building. The Portland Zoning Code (Subsection 33.266.310.C) requires loading spaces based on the size and the uses located in buildings. Buildings with up to 100 dwelling units and less than 20,000 square feet of net building area in uses other than Household Living are required to provide one "Standard B" loading space. Buildings with more than 50,000 square feet of net building area in uses other than Household Living are required to provide two "Standard A" loading spaces. Taken together, these regulations require that two "Standard A" loading spaces and one "Standard B" loading spaces be provided on the site for the existing building and the proposed new building. The "Standard A" loading space dimensional requirements are a minimum of 35 feet long, 10 feet wide, with a clearance of 13 feet. The "Standard B" loading space dimensional requirements are a minimum of 18 feet long, 9 feet wide, with a clearance of 10 feet. The applicant is requesting an Adjustment to reduce the minimum required loading spaces to one "Standard A" space and one "Standard B" space.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at **33.805.040.A-F**, Adjustment Approval Criteria.

ANALYSIS

Site and Vicinity: The site is located between the Hollywood Transit Center and the NE 43rd Street off-ramp from the I-5 freeway. It is developed with a 3-story commercial structure that includes offices, a health club and ground floor retail facing NE Halsey Street and the Transit Center. There is a 4-story parking garage along the rear of the site adjacent to the freeway and the off-ramp. The area surrounding the site is developed with a mix of 5-8 story office and residential buildings interspersed with auto-oriented commercial uses and 1 to 2 story garden apartment complexes.

Zoning: The CX zone is intended to provide for commercial development within Portland's most urban and intense areas. A broad range of uses is allowed to reflect Portland's role as a commercial, cultural and governmental center. Development is intended to be very intense with high building coverage, large buildings, and buildings placed close together.

The "d" overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development are subject to design review.

The Hollywood plan district provides for an urban level of mixed-use development including commercial, office, housing, and recreation. The plan district strengthens Hollywood's role as a commercial and residential center, and promotes the use of light rail, bus transit, and walking. The site is within Subdistrict A of this plan district.

Land Use History: City records indicate that prior land use reviews include the following:

- 1) **VZ 27-63, VZ 276-63** – Approval of a flood lighted outdoor advertising sign;
- 2) **CU 040-72** – Approval of a service station expansion;
- 3) **V 27-74** – Approval of the vacation request for NE Clackamas Street east of 42nd Avenue;
- 4) **V 25-81** – Approval of the vacation of NE Clackamas and special ordinance designating NE 42nd Avenue between NE Halsey and the Banfield Freeway for exclusive use as a mass transit street pending an agreement between Tri-Met and Copeland Lumber Yards.
- 5) **LUR 91-00497 HL** – Historic District Nomination case that was withdrawn;
- 6) **LUR 95-00388 AD** – Adjustment approval for lot coverage and setbacks; and
- 7) **LU 05-104186 DZ AD** – Design review approval with conditions of a mixed-use development including a 3-story mixed-use building, a 4-story parking structure and a 5-

story office building. Adjustment approval to reduce the four required Standard A loading stalls to two Standard A loading spaces.

- 8) **LU 05-166879 DZ** – Design review approval of 4 signs.
- 9) **LU 07-131430 DZ** – Design review approval of illuminated sign.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **February 6, 2017**.

The Portland Bureau of Transportation responded with comments supporting the requested Adjustment: Please see Exhibit E-1 for additional details.

The Life Safety section of the Bureau of Development Services responded with no concerns.

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

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

33.805.040 Adjustment 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 purpose of the loading standards is found in Code Section 33.266.310.A and is stated as follows:

“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 the 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”. The relevant portions of the aforementioned purpose statement that are italicized will be addressed below.

The Portland Bureau of Transportation (PBOT) has responded that the applicant submitted a Loading Demand Study that was prepared by a professional traffic consultant. The 100-unit apartment building triggers the need for one Standard B loading space. This is being provided and is adequate to serve the needs of that building. The expected number of moves based on the information provided in the study (which agrees with data provided in previous similar apartment studies) is 2.75 per week. These are long duration loadings. There is an additional loading demand (deliveries, maintenance, etc.) expected to be generated by the apartment building of 17.5 loadings per week. These are shorter duration loadings. This estimate is based on data provide in previous studies. A single space is adequate to serve these loading demands.

The 69,054 square foot office building triggers the need for two Standard A loading spaces. There is not sufficient data in the submitted study to calculate the demand for the existing

office building, however, PBOT has referred to data from previous studies. The expected demand for the existing office building is 101 loadings/week. The majority of these are shorter duration loadings with an average dwell time for all loadings of 17-minutes per previous studies. The expected daily loadings are 20 assuming all deliveries happen during the 5-day work week. The total dwell time is expected to be 5.7 hours per day. The vast majority of this demand can be accommodated by the single Standard A space proposed. Assuming that most of the moves related to the apartment building will happen on the weekend, it is likely that the Standard B space will be available for use in the event that two office building loadings occur at the same time and one of the loadings is a smaller Standard B sized vehicle.

PBOT recommends approval of one Standard A loading space and one Standard B loading space to serve the site's loading needs. Therefore, this criterion is met.

Although not related to the Adjustment request, PBOT also reviewed an AutoTurn exhibit showing how a SU-30 size vehicle would enter and exit the Standard A loading space. PBOT has concerns that the foremost two bollards on either side of the Standard A space will hinder maneuvering into the space without damage to the bollards. The applicant has proposed installing removable bollards at the front of the Standard A space, and is advised of PBOT's concerns.

- 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: For the reasons discussed above under findings for criterion A, and with no objections from Portland Transportation, the requested loading Adjustment is consistent with the classifications of adjacent streets and the desired character of the area. The site is within the CX zone. The CX zone is intended to provide for commercial development within Portland's most urban and intense areas. It allows a broad range of uses. Development is intended to be intense, with high building coverage, large buildings, and buildings placed close together. Development is also intended to be pedestrian oriented with an emphasis on a safe and attractive streetscape. Approval of this Adjustment will reduce the area on the site devoted to loading, which is consistent with the intent of the zone to provide high building coverage and buildings placed close together. A reduced number of loading spaces will reduce conflicts with pedestrian, which is consistent with the intended pedestrian orientation of the zone. The site falls within the Hollywood: Transit Station node of the *Hollywood and Sandy Plan*. There are no goals or policies in the *Hollywood and Sandy Plan* that directly conflict with this specific request to reduce the required on-site loading stalls. Therefore, 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. This criterion is not applicable.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. 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: The loading demand analysis provided by the applicant demonstrates that the loading needs of the development on the site will be adequately met with one Standard A space and one Standard B space. There are no discernible impacts that would result from granting the requested adjustment. 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 Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As the site is not within an environmental zone, 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

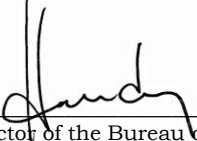
The applicant has requested an Adjustment to reduce the minimum required loading spaces to one “Standard A” space and one “Standard B” space. With a supportive recommendation from the Portland Bureau of Transportation the request is able to meet the applicable criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment, per the approved site plans, Exhibits C-1 through C-2, signed and dated April 7, 2017, 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 16-271064 AD. No field changes allowed."

Staff Planner: Rodney Jennings

Decision rendered by:  **on April 7, 2017**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 7, 2017

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 November 8, 2016, and was determined to be complete on February 6, 2017.

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 November 8, 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: June 6, 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 April 21, 2017** 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 **April, 24, 2017**
- 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.

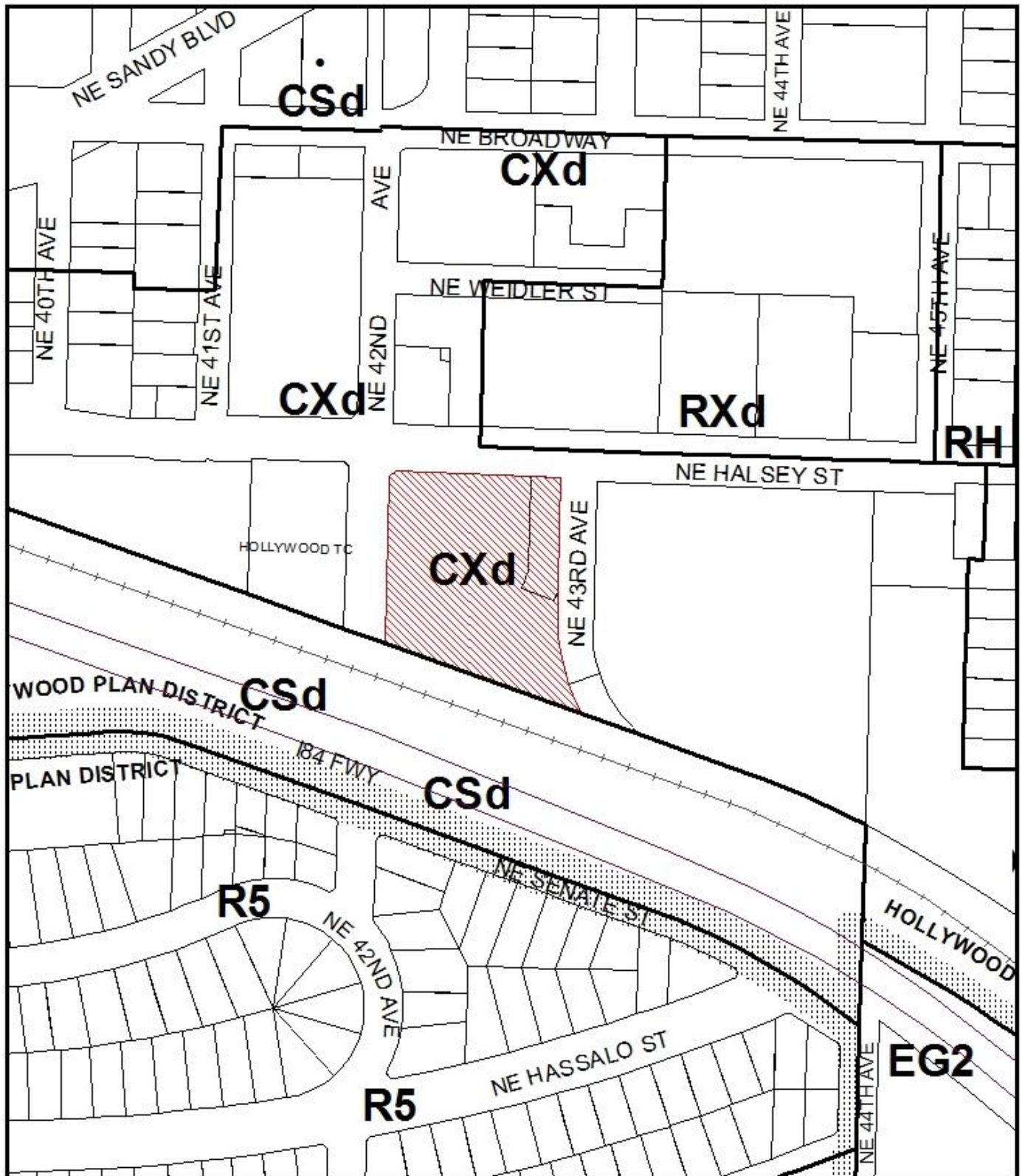
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Overall Site Plan (attached)
 2. Proposed Loading Space Site Plan (attached)
- D. Notification information:

1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Portland Bureau of Transportation
 2. Life Safety Plans Examiner
- G. Other:
1. Original LU Application

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:
HOLLYWOOD PLAN DISTRICT
SUBDISTRICT A SubDistrict

- Site
- Historic Landmark

File No.	<u>LU 16-271064 AD</u>
1/4 Section	<u>2935</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N2E31BB 4001</u>
Exhibit	<u>B</u> (Nov 14, 2016)



GENERAL NOTES:
 A. ALL DIMENSIONS ARE IN FEET AND INCHES.
 B. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.

KEYNOTES:

1. ALL DIMENSIONS TO FACE UNLESS NOTED OTHERWISE.

LEGEND:

- 1. EXISTING
- 2. PROPOSED
- 3. EXISTING WITH PROPOSED CHANGES
- 4. EXISTING WITH PROPOSED CHANGES TO BE REMOVED
- 5. EXISTING WITH PROPOSED CHANGES TO BE ADDED
- 6. EXISTING WITH PROPOSED CHANGES TO BE MODIFIED
- 7. EXISTING WITH PROPOSED CHANGES TO BE REPLACED

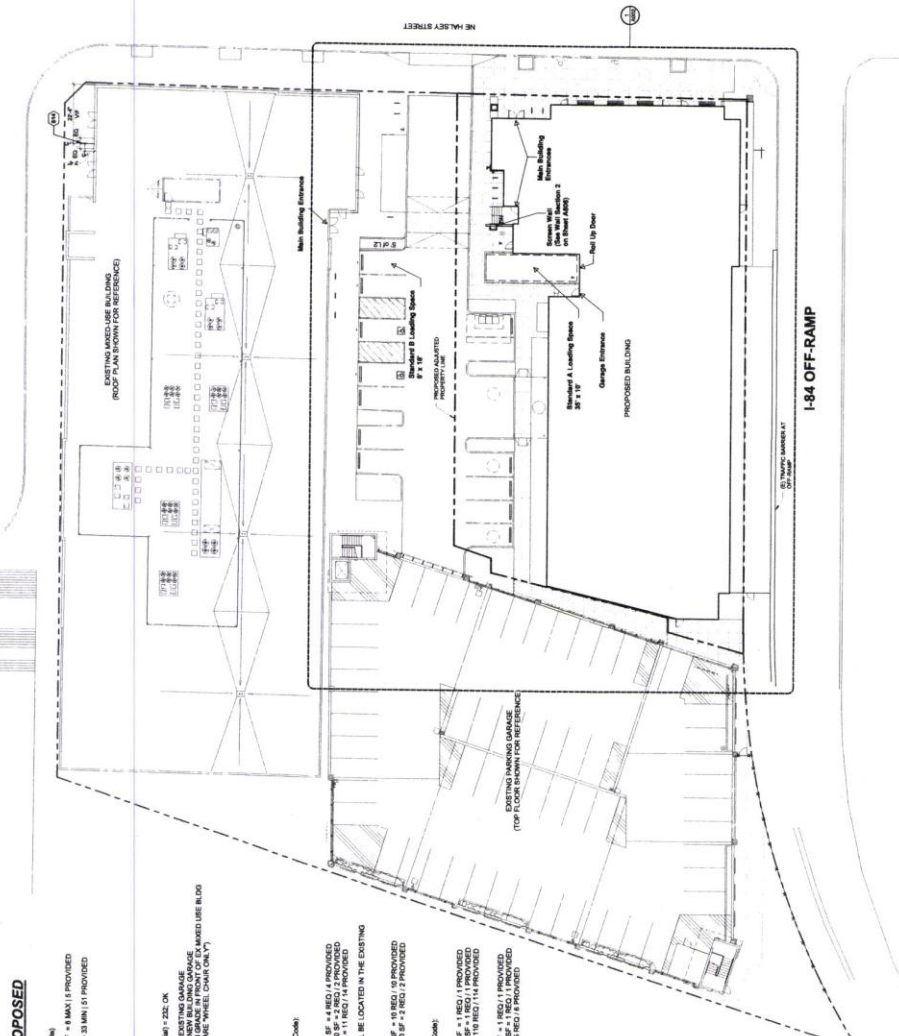
CONTRACT NO.:

PROJECT NAME:
Laurel 42

PROJECT ADDRESS:
 NE Halsey Street and
 NE 43rd Avenue
 Portland, OR 97213

PROJECT TYPE:
OVERALL SITE PLAN

DATE:
SCALE:
BY:
CHECKED:
DATE:



ZONING INFORMATION - PROPOSED

PROPOSED MAJOR USE BUILDING
 (per Max 506.1, Chapter 50.206 of Portland Development Code)
 RETAIL - 1 PER 10,000 SF
 RESIDENTIAL - 25 SPACES PER UNIT
 TOTAL MAXIMUM PARKING (EXISTING AND PROPOSED)
 EXISTING SITE
 TOTAL
 TOTAL PARKING PROVIDED
 ACCESSIBLE PARKING
 TOTAL ACCESSIBLE PARKING PROVIDED

PROPOSED NEW BUILDING
 (per Max 506.4, Chapter 50.206 of Portland Development Code)
 RETAIL - 1 PER 10,000 SF
 RESIDENTIAL - 1 PER 20 UNITS
 OFFICE - 1 PER 10,000 SF
 STANDARD A PROVIDED
 STANDARD B PROVIDED

1. ARCHITECTURAL SITE PLAN
 SCALE: 1/8" = 1'-0"

EXHIBIT C.1

* Approved*
 City of Portland - Bureau of Development Services
 Planner *Rodney Jennings* Date *4/7/17*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



GENERAL NOTES

- 1. THE ARCHITECT HAS BEEN ADVISED BY THE OWNER THAT THE PROJECT IS SUBJECT TO THE PORTLAND CITY CODE, CHAPTER 10.10, AND THE PORTLAND CITY CODE, CHAPTER 10.15.
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KEYNOTES

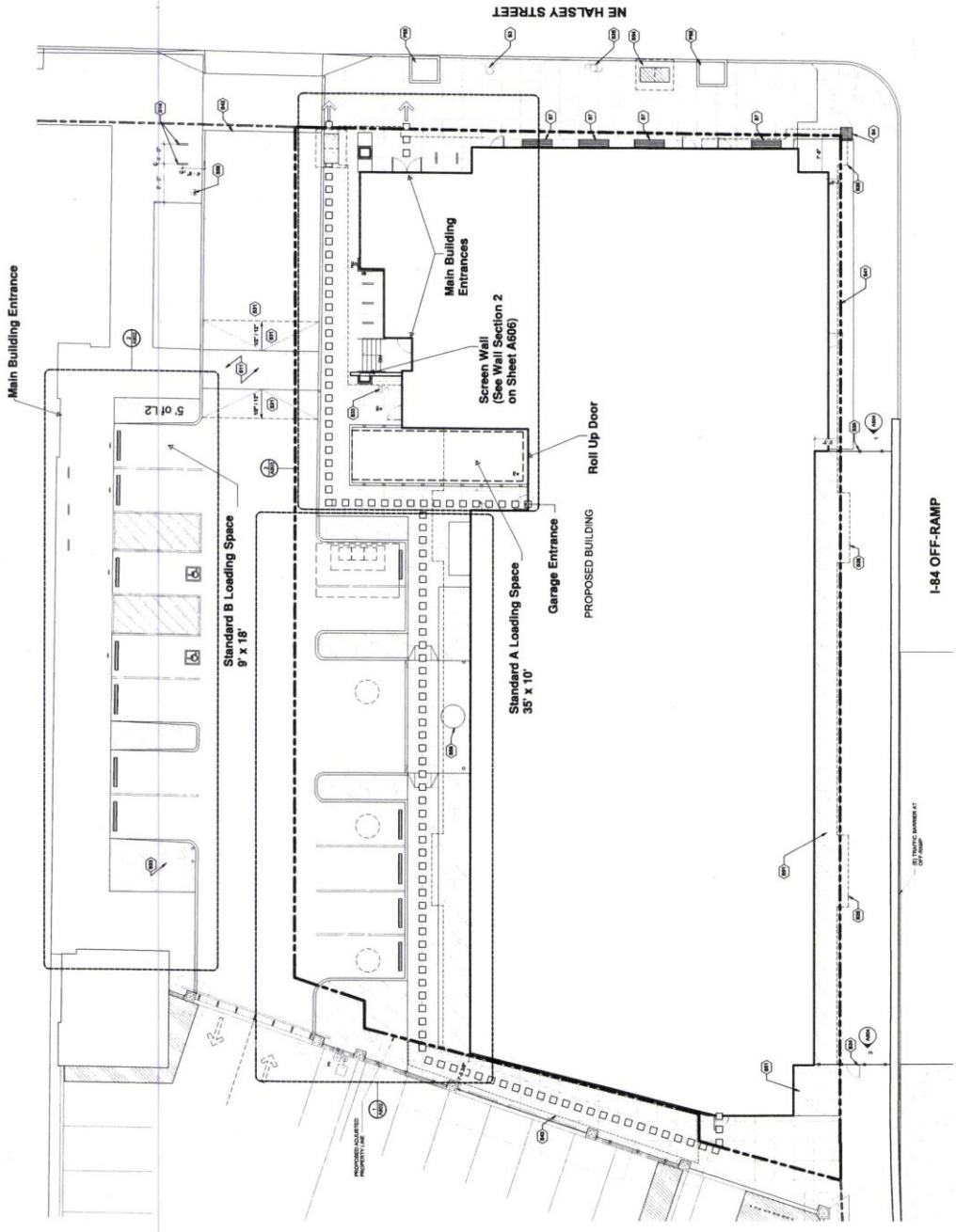
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PROJECT: **Laurel 42**

NE Halsey Street and
NE 43rd Avenue
Portland, OR 97213

ARCHITECTURAL
SITE PLAN

DATE: 12/27/17
SCALE: 1/8" = 1'-0"



- LEGEND**
- Proposed Structure
 - Proposed Building
 - Proposed Wall
 - Proposed Door
 - Proposed Window
 - Proposed Staircase
 - Proposed Ramp
 - Proposed Elevation
 - Proposed Section
 - Proposed Detail

1 ARCHITECTURAL SITE PLAN

* Approved*
 City of Portland - Bureau of Development Services
 Planner *Rodney Jennings* Date *4/17/17*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

EXHIBIT C.2