



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

Chloe Eudaly, Commissioner
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Date: August 2, 2017
To: Interested Person
From: Andrew Gulizia, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision 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 17-190600 AD

GENERAL INFORMATION

Applicant's Representative: Kate Rogers
Otak, Inc.
808 SW 3rd Ave., Suite 300
Portland, OR 97204

Applicant/Owner: Nez C. Hallett III
PO Box 10761
Portland, OR 97296

Site Address: 1825 SE 50th Ave.

Legal Description: BLOCK 8 LOT 3, HAWTHORNE PL
Tax Account No.: R367000540
State ID No.: 1S2E06CA 08800
Quarter Section: 3235
Neighborhood: Richmond, contact Matt Otis at matt.otis@gmail.com
Business District: Hawthorne Blvd. Bus. Assoc., contact Greg Moon at gmoon@westernseminary.edu
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010
Zoning: CG – General Commercial
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal: The applicant plans to construct a 4-story, 19-unit apartment building on this site. Zoning Code Section 33.130.240.B.2 requires paved walkways at least 6 feet wide to connect exterior entrances to the public sidewalk. The primary entrance at the front of the building will meet this standard outright, but the applicant also proposes 4'-4"-wide paved walkways on the north and south sides of the building serving the ground floor units. Therefore, the applicant is requesting an Adjustment to reduce the required widths of the walkways on the north and south sides of the building from 6 feet to 4'-4".

Relevant Approval Criteria: In order to be approved, this proposal must comply with the Adjustment Review approval criteria in Zoning Code Section 33.805.040.A-F.

ANALYSIS

Site and Vicinity: The site is a 5,000-square-foot lot on the west side of SE 50th Avenue, between SE Mill Street and SE Stephens Street. At this location, SE 50th Avenue is designated as a Neighborhood Collector Street and a Major Transit Priority Street (served by Tri-Met's #14 frequent-service bus line). The site is currently vacant, but a one-story commercial building on the site was recently demolished. Properties in the immediate vicinity along SE 50th Avenue are developed with a mix of commercial buildings and multi-dwelling residential buildings. The wider area surrounding the site is developed with mostly single-dwelling houses. A new 4-story apartment building is under construction across the street from the site at 1916 SE 50th Avenue. SE Hawthorne Boulevard is approximately 1,000 feet north of the site, and SE Division Street is approximately 1,300 feet to the south. Mount Tabor Park is approximately one-half mile east of the site.

Zoning: The site is designated with the CG (General Commercial) zone. Commercial zones generally seek to promote uses and developments that will enhance the economic viability of both the City and neighborhood. The CG zone in particular is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. The zone allows a full range of retail and service businesses with a local or regional market. Apartment buildings are also permitted in the CG zone.

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

Agency Review: A "Notice of Proposal" was mailed July 5, 2017. The following Bureaus responded with no concerns:

- Water Bureau (Exhibit E-3); and
- Site Development Review Section of BDS (Exhibit E-5).

The following Bureaus responded with information applicable to the building permit review for this project, but with no concerns about the proposed Adjustment:

- Bureau of Environmental Services (Exhibit E-1);
- Portland Bureau of Transportation (Exhibit E-2);
- Fire Bureau (Exhibit E-4); and
- Life Safety Review Section of BDS (Exhibit E-6).

Neighborhood Review: One written response to the mailed "Notice of Proposal" was received from a notified neighbor (Exhibit F-1). This neighbor opposed the Adjustment on the grounds that recent development in the neighborhood had created an over-sized, crowded feeling already, and several other properties could be redeveloped in the future. The neighbor stated the Adjustment should be denied unless it resulted in additional parking.

Staff response: The applicant could avoid the need for exterior walkways on the sides of the building (and therefore the need for this Adjustment Review) by providing an interior corridor to access the ground floor units, as is proposed for the upper floors. However, since the CG zone requires no minimum building setbacks from the side lot lines, this alternative would likely make the ground floor wider, bulkier, and closer to the abutting properties. Therefore, denial of the proposed Adjustment would not necessarily result in a smaller or less bulky building.

As explained under "Zoning Code Approval Criteria" below, staff finds the proposed Adjustment meets the applicable Adjustment approval criteria.

Off-street parking is not proposed for the site, and none is required at this location per Zoning Code Section 33.266.110.B.1. The proposed Adjustment to the width requirement for two exterior walkways will have no effect on parking demand.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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: As stated previously, the pedestrian standard in the CG zone requires paved walkways at least 6 feet wide to connect exterior entrances to the public sidewalk. The primary entrance at the front of the building will meet this standard outright, but the applicant is requesting an Adjustment to allow secondary walkways abutting the north and south sides of the building to be only 4'-4" wide.

The purpose of the pedestrian standard in the CG zone is stated in Zoning Code Section 33.130.240.A:

***Purpose.** The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between abutting streets and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible.*

The walkway on the south side of the building will create a direct pedestrian connection to the street and will provide access to 4 of the 19 proposed apartments. The walkway on the north side of the building will also create a direct pedestrian connection to the street and will provide access to 3 of the 19 proposed apartments. (The north walkway will also access a trash and recycling room, a utility room, and a secondary exit door for the upper floor apartments.)

Staff finds that walkways serving only a few apartments do not necessarily need to be 6 feet wide to be safe, attractive, and usable. At 4'-4" wide, the proposed walkways will provide adequate space for residents of the ground floor units to move furniture, take out garbage, etc. Given the low number of units to be served by each of these walkways, congestion problems are unlikely. The grade on the site will be flat, and the walkways will be paved. The applicant proposes to install lighting along both walkways, as required by Zoning Code Section 33.130.240.B.3. A landscaped area in the rear of the lot including trees, evergreen shrubs, and ground cover plants will be visible from both of these walkways, enhancing the attractiveness of the pedestrian space.

The interior corridors providing access to the upstairs apartments will be 4'-2" wide, slightly narrower than the exterior walkways subject to this Adjustment request, demonstrating that 4'-4" exterior walkways will be adequate and usable pedestrian circulation area. Furthermore, while this building is proposed for a commercial zone, staff notes that walkways in multi-dwelling residential zones serving 4 or fewer apartments can be as little as 3 feet wide (Zoning Code Section 33.120.255.B.2.a).

The walkways are not designed to connect to neighboring properties (the neighboring properties do not have public space), but the subject site is fairly small (5,000 square feet), and the public sidewalk along the street will provide a convenient pedestrian connection to adjacent sites.

For these reasons, staff finds the Adjustment request equally meets the purpose of the pedestrian standard. 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 the CG zone, the applicant must demonstrate that the proposal will be consistent with the classifications of the adjacent street and the desired character of the area.

Street Classifications

The site fronts on SE 50th Avenue. The classifications of this street, as identified in the Transportation Element of the Comprehensive Plan, are as follows:

Traffic	Transit	Bikeway	Pedestrianway	Freight
Neighborhood Collector	Major Transit Priority Street	Local Service	City Walkway	Local Service

Since the proposed Adjustment relates only to walkway width, and not to the overall size, scope, or density of the development, the application will result in no changes to traffic levels or demand for transit, bike, pedestrian, or freight facilities. The Portland Bureau of Transportation reviewed the proposal and responded with no objections (Exhibit E-2). Therefore, staff finds the proposal is consistent with the adjacent street classifications and that this aspect of the criterion is met.

Desired Character of Area

The “desired character” of an area is defined in Zoning Code Section 33.910.030 as the preferred or envisioned character based on the purpose statement or character statement of the zone and any adopted area plans. The subject site is located within the CG zone and within the boundaries of the Richmond Neighborhood Plan.

The character statement for the CG zone in Section 33.130.030.G reads:

The General Commercial (CG) zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. The zone allows a full range of retail and service businesses with a local or regional market. Industrial uses are allowed but are limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. Development is expected to be generally auto-accommodating, except where the site is adjacent to a transit street or in a Pedestrian District. 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.

Apartment buildings are permitted outright in the CG zone, per Zoning Code Section 33.130.100, Table 130-1. The proposed Adjustment will reduce the width requirement for the walkways on the north and south sides of the proposed apartment building from 6 feet to 4'-4". The walkways will be mostly hidden from public view behind privacy fencing, so the widths of the walkways will have no direct impact on the factors described above. However, providing exterior walkways on both sides of the building will support an attractive development and a more open, pleasant street appearance by narrowing the building from what is allowed by right. The ground floor building walls could be closer to the north and south side lot lines if these walkways were not provided because zero-foot setbacks are allowed. The applicant could remove these walkways (and the need for this Adjustment Review) by providing an interior corridor for the ground floor, as is proposed for

the upper floors and building to the lot lines as the CG zone allows. This alternative would make the ground floor wider, bulkier, and closer to the abutting properties.

The site is also within the boundaries of the adopted Richmond Neighborhood Plan. Only one statement from this plan is found to be relevant to the proposed Adjustment:

Policy 6 (Transportation), Objective 6.2: Make Richmond a more pedestrian-oriented neighborhood by emphasizing pedestrian safety and convenience.

As discussed in the findings for criterion A, staff finds that walkways serving only a few apartments do not necessarily need to be 6 feet wide to be safe and convenient for pedestrians. At 4'-4" wide, the proposed walkways will provide adequate space for residents of the ground floor units, and congestion problems are unlikely. The grade on the site will be flat, and the walkways will be paved. Lighting will be installed along both walkways. For these reasons, staff finds the proposed Adjustment is consistent with the above statement from the Richmond Neighborhood Plan.

Summary

The requested Adjustment is consistent with the street classifications and with the desired character described for the CG zone and the Richmond Neighborhood Plan. 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: As only one Adjustment is being requested, this criterion is not applicable.

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

Findings: City-designated scenic resources are identified on the official zoning maps with a lower case "s," and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

Findings: The proposed walkways will serve the interior of the development site, and staff does not anticipate that the Adjustment for the widths of these walkways will result in any adverse impacts on the surrounding area. As there are no adverse, Adjustment-related impacts identified for which mitigation would be needed, this criterion is not applicable.

- 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 "c" (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on the site, 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 proposed Adjustment equally meets the intent of the pedestrian standard and is consistent with the adjacent street classifications and desired character of the area. No adverse impacts on the surrounding area are expected to result from the proposed Adjustment. The applicant has demonstrated that the applicable approval criteria are met. Since the approval criteria are met, the proposed Adjustment must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the required widths of the walkways on the north and south sides of the proposed building from 6 feet to 4'-4" (Zoning Code Section 33.130.240.B), per the approved site plan, Exhibit C-1, signed and dated July 27, 2017, subject to the following condition:

- A. As part of the building permit application submittal, each of the required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibit C-1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-190600 AD."

Staff Planner: Andrew Gulizia

Decision rendered by:  **on July 27, 2017**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 2, 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 June 21, 2017, and was determined to be complete on June 30, 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 June 21, 2017.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120 days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: October 28, 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 August 16, 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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **August 16, 2017**, by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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:

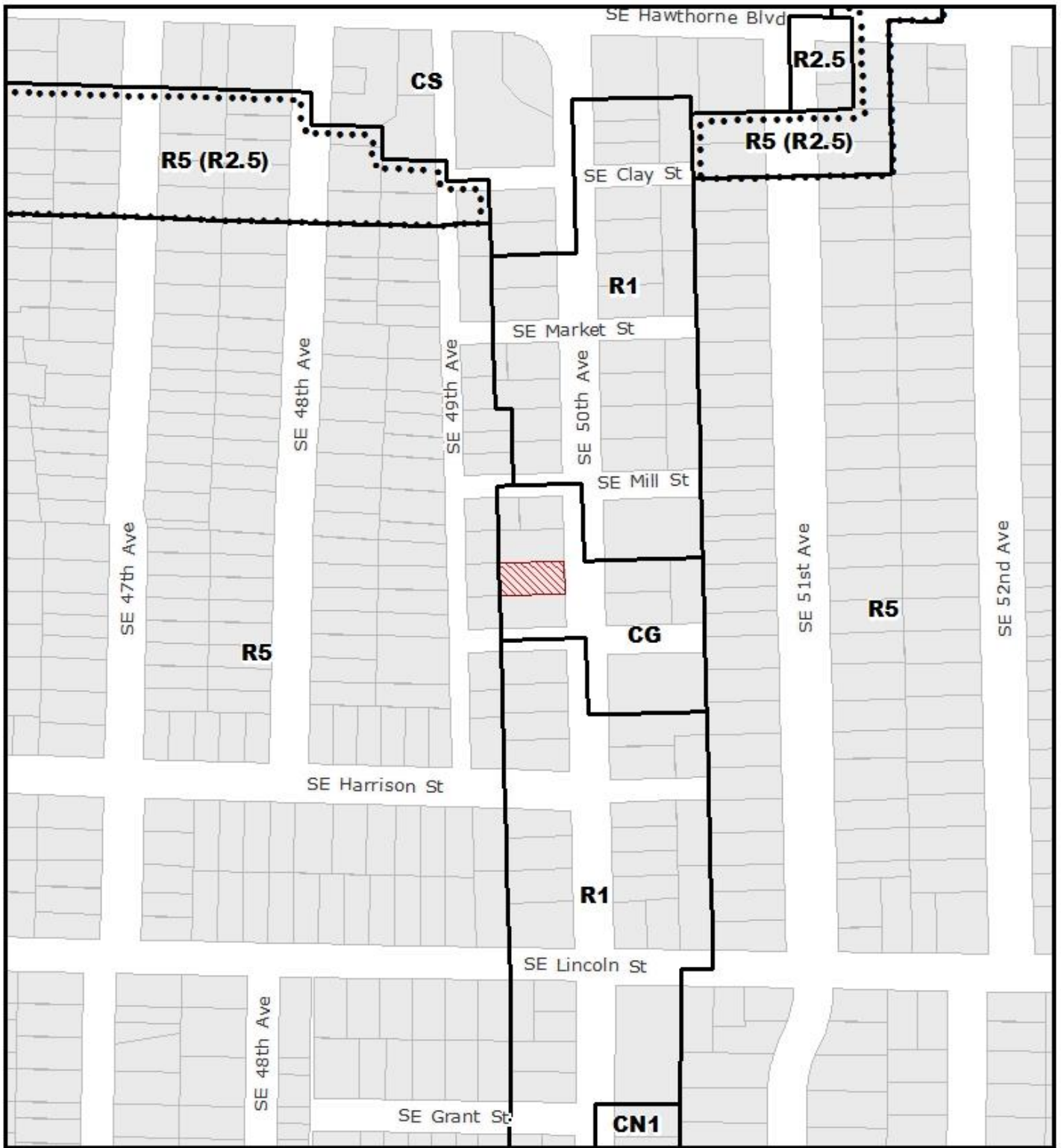
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Applicant's narrative
 - 2. Memo from applicant dated June 30, 2017
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. Front (east) building elevation (attached)
 - 3. East, west, north, and south building elevations
 - 4. Floor plans
 - 5. Full-sized, scalable site plan
 - 6. Full-sized, scalable front (east) building elevation
- D. Notification Information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence:
 - 1. E-mail in opposition from Bryan Paatz, received July 26, 2017
- G. Other:
 - 1. Land use application form and receipt

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).

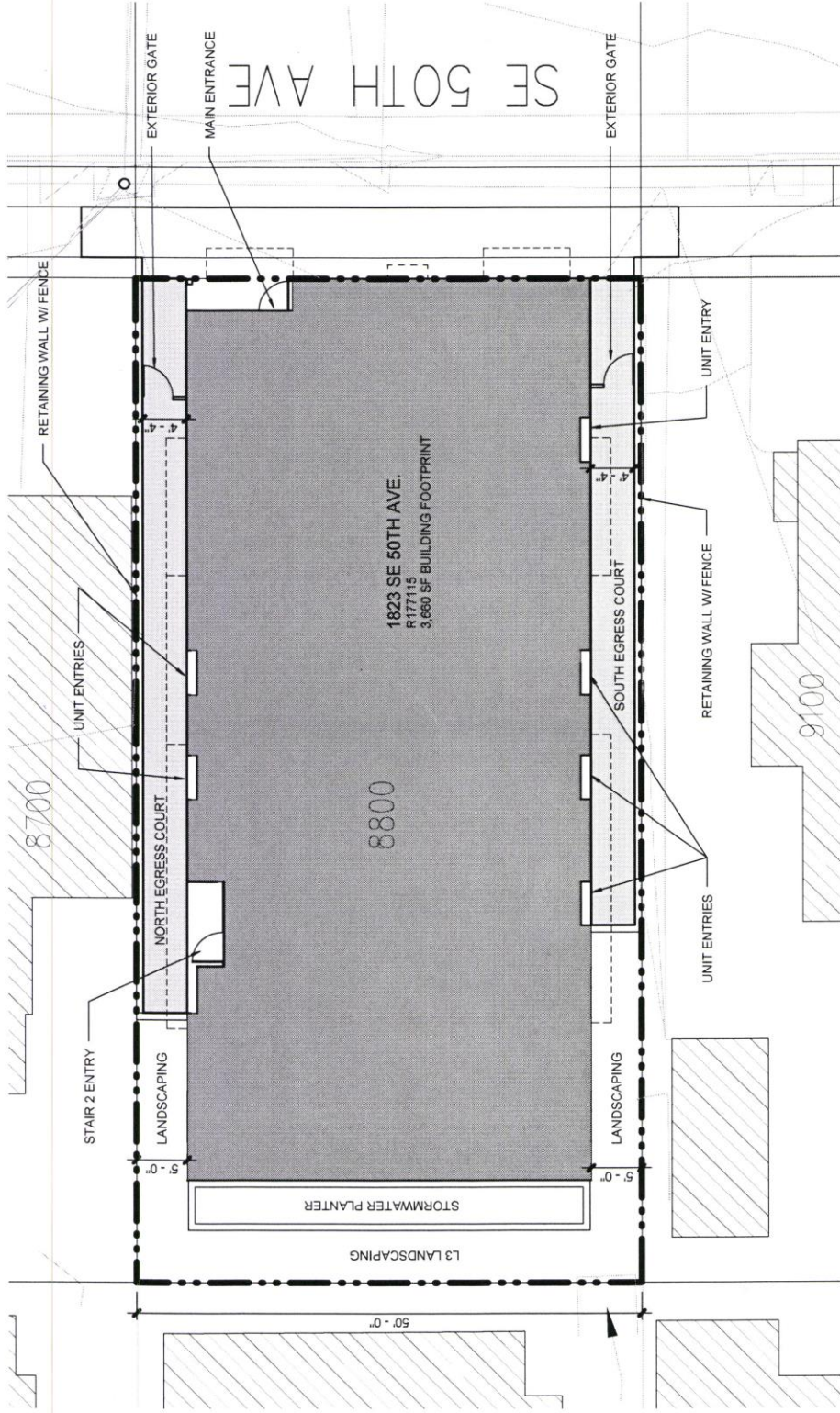


ZONING 
NORTH

 Site

File No.	LU 17-190600 AD
1/4 Section	3235
Scale	1 inch = 200 feet
State ID	1S2E06CA 8800
Exhibit	B Jun 22, 2017

LU 17-190600 AD
Exhibit C-1



1 SITE PLAN
ASI-001 SCALE: 1" = 10'-0"

6/20/2017

NEZ HALLETT



ASI-001

EGRESS COURT PLAN

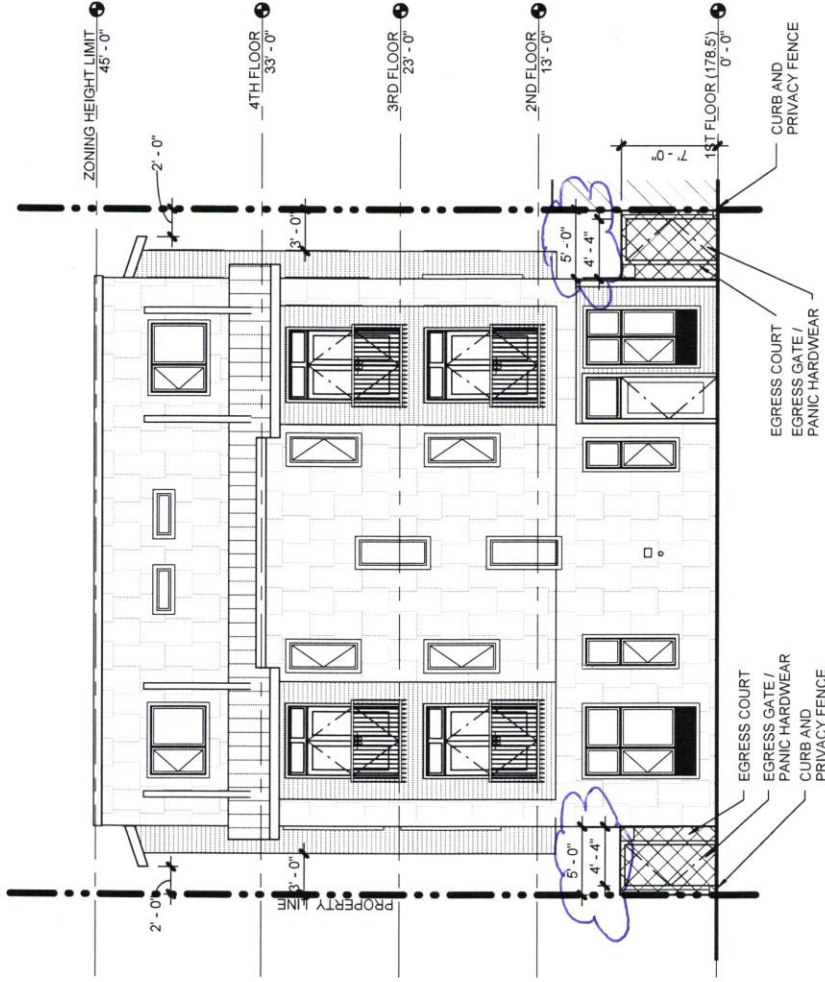
18153

Approved
 City of Portland - Bureau of Development Services
 Planner A Guhria Date 7/27/17
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

SE 50TH AVE

LU 17-190600 AD

LN 17-190600 AD
EXHIBIT C-2



EAST ELEVATION - ADJUSTMENT

SCALE: 1/8" = 1'-0"



Hamm Global Partner

ELEVATION

18153

6/20/2017

NEZ HALLETT

Approved
 City of Portland - Bureau of Development Services
 Planner A Gulzina Date 7/27/17
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

SE 50TH AVE

LN 17-190600 AD