



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

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Date: November 2, 2017
To: Interested Person
From: Andrew Gulizia, Land Use Services
503-823-7010 / Andrew.Gulizia@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 17-142637 CU

GENERAL INFORMATION

Applicant: Ian Reclusado
1734 NE Broadway #8
Portland, OR 97232

Property Owner: David Wiese
4330 Pepperwood Ave.
Long Beach, CA 90808

Site Address: 1734 NE Broadway

Legal Description: BLOCK 5 LOT 12 EXC PT IN ST, JOHN IRVINGS 1ST ADD
Tax Account No.: R430301250
State ID No.: 1N1E26DC 04300
Quarter Section: 2832
Neighborhood: Sullivan Gulch, contact DJ Heffernan at djheff1@gmail.com
Business District: Northeast Broadway Business Association, contact Michael Chronister at 503-288-1500
District Coalition: Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030
Zoning: CS – Storefront Commercial
Case Type: CU – Conditional Use Review
Procedure: Type II, an administrative decision with appeal to the Hearings Officer

Proposal: The applicant requests Conditional Use approval to operate a Type B accessory short-term rental (ASTR) facility in the existing house on this site. No exterior alterations to the house or site are proposed. The applicant lives in the house full-time, and the proposed ASTR facility would have up to 5 guest rooms available for rent. No outside employees, food or beverage service, or commercial events are proposed. The proposed house rules would require quiet hours between 10pm and 9am. The property contains a 5-space parking lot behind the house.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are in Zoning Code Section 33.815.105: Conditional Use Approval Criteria for Institutional and Other Uses in a Residential Zone.

ANALYSIS

Site and Vicinity: The site is a 4,500-square-foot lot on the south side of NE Broadway, between NE 17th Avenue and NE 19th Avenue. The site is developed with an approximately 3,200-square-foot, 7-bedroom, single-dwelling house that was built in 1908. A driveway on the east side of the lot leads to a 5-space parking lot behind the house, and a small, landscaped front yard is in front of the house. Abutting lots to the east and west are developed with commercial buildings, and lots across the street from the site (on the north side of NE Broadway) are developed with a mix of residential and commercial uses. Properties south of the site are developed with single-dwelling houses and duplexes.

Zoning: The subject site is designated with the CS (Storefront Commercial) zone. Commercial zones generally seek to promote uses and developments that will enhance the economic viability of both the City and neighborhood, and a wide variety of uses are allowed. The CS zone in particular is intended to preserve and enhance older commercial districts that have a storefront character, and to encourage pedestrian-oriented development. Residential use is allowed outright in the CS zone.

Land Use History: City records indicate one prior land use review for the site. In 1987, a Variance was approved for a parking area behind the house with 5 compact parking spaces and no perimeter landscaping buffer (VZ 117-87).

Agency Review: A “Notice of Proposal” was sent September 20, 2017. The following Bureaus responded:

- The Bureau of Environmental Services stated that “BES has no issues related to the adequacy of public services approval criteria for stormwater and sanitary service.” (Exhibit E-1)
- The Portland Bureau of Transportation responded with information concerning how the proposal meets transportation-related approval criteria. Details of this response are included below under “Zoning Code Approval Criteria.” (Exhibit E-2)
- The Water Bureau responded with no concerns. (Exhibit E-3)
- The Fire Bureau responded with no concerns. (Exhibit E-4)
- The Police Bureau responded that the Bureau is capable of serving the proposed use. (Exhibit E-5)
- The Site Development Review Section of the Bureau of Development Services responded with no concerns. (Exhibit E-6)
- The Life Safety Review Section of the Bureau of Development Services responded with no concerns. (Exhibit E-7)

Neighborhood Review: One letter in support of the application was received from a notified neighbor (Exhibit F-1). This letter stated the house and grounds on the subject site are well-maintained, and the proposal will not negatively impact the neighborhood.

ZONING CODE APPROVAL CRITERIA

Conditional Uses

33.815.010 Purpose

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the

environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

33.815.105 Institutional and Other Uses in R Zones

These approval criteria apply to all conditional uses in R zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in a residential zone that maintain or do not significantly conflict with the appearance and function of residential areas. The approval criteria are:

- A. Proportion of Household Living uses.** The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the Household Living category in the residential area. Consideration includes the proposal by itself and in combination with other uses in the area not in the Household Living category and is specifically based on:
1. The number, size, and location of other uses not in the Household Living category in the residential area; and
 2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

Findings: Per Zoning Code Section 33.207.050.A.2, Type B accessory short-term rental proposals in all zones are subject to the Conditional Use approval criteria in Zoning Code Section 33.815.105. This site and neighboring properties along NE Broadway are zoned CS (Storefront Commercial), and the area has a commercial rather than residential appearance and character. Therefore, the proposal will not lessen any residential appearance and character, but it will preserve an existing house in the neighborhood for use as both a residence for the applicant's household and an accessory short-term rental facility. Furthermore, no exterior alterations are proposed that would change the residential appearance of the site. Staff finds this criterion is met.

B. Physical compatibility.

1. The proposal will preserve any City-designated scenic resources; and

Findings: City-designated scenic resources are identified on the official zoning maps with a lower case "s." The zoning maps show no City-designated scenic resource on or near this site. Therefore, this criterion is not applicable.

2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, tree preservation, and landscaping; or
3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, tree preservation, and other design features.

Findings: The site is located within a commercial corridor along NE Broadway, but properties south of the site are developed with homes. Like the house on the subject site, these neighboring homes have a two-story scale and traditional building style. Lot sizes and setback distances from lot lines are also fairly similar. The neighboring residential lots have more landscaped area than the subject site, but the proposed short-term rental facility will operate inside the existing house, and no tree removal or reduction in landscaped area is proposed. As noted above, no exterior alterations are proposed that would change the residential appearance of this site.

Since the proposed Conditional Use will not create any differences in appearance or scale between the subject site and neighboring residential properties, staff finds criterion B.2, above, is met. (Since B.2 is found to be met, B.3 does not have to be addressed.)

C. Livability. The proposal will not have significant adverse impacts on the livability of nearby residential zoned lands due to:

1. Noise, glare from lights, late-night operations, odors, and litter; and

Findings: No commercial meetings or events are proposed, and the proposed “house rules” will require guests to observe quiet hours between 10pm and 9am (Exhibit A-2). With continual enforcement of these quiet hours, no adverse impacts related to noise or late-night operations are anticipated.

No new exterior lighting is proposed for the accessory short-term rental facility, and the applicant states that litter will be picked up regularly. No aspect of the short-term rental operation is likely to produce odors that are different from a typical residential use or that would adversely impact neighbors.

With a condition of approval that quiet hours between 10pm and 9am are continually implemented and enforced, staff finds this criterion is met.

2. Privacy and safety issues.

Findings: The back of the property is paved for parking, so the house does not have a back yard. The only outdoor gathering area that will be used by short-term rental guests is the front porch, which faces NE Broadway and allows views only toward the commercial corridor along the street. The site has no outdoor gathering areas that would cause guests to be near or within view of the residential lots south of the site. Therefore, the accessory short-term rental use is unlikely to cause privacy impacts for nearby residentially-zoned land.

No adverse safety impacts are anticipated, either. The Fire Bureau has reviewed the proposal and responded with no concerns (Exhibit E-4). The Police Bureau has reviewed the proposal and found that police services are adequate to serve the proposed use (Exhibit E-5). The applicant states that potential guests will be screened before reservations are accepted (Exhibit A-1). To further ensure safety, a condition of approval will require the applicant to obtain an inspection verifying the building code, smoke detector, and carbon monoxide alarm requirements in Zoning Code Section 33.207.050.B.4 are met for each bedroom to be rented.

With this condition of approval, staff finds this criterion is met.

D. Public services.

1. The proposal is supportive of the street designations of the Transportation Element of the Comprehensive Plan;
2. The transportation system is capable of supporting the proposal in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies;

Findings: The Portland Bureau of Transportation (PBOT) submitted the following response (Exhibit E-2):

The transportation related approval criteria related to the proposed Conditional Use that must be addressed are found in Code Section 33.815.105.D.1 & 2. To address the transportation approval criteria, the applicant submitted a professional Transportation Impact Study (TIS) prepared by Lancaster Engineering. PBOT Development Review staff has performed a review of the TIS and agrees with the methodologies, analyses, assumptions, findings and conclusions including on-street parking impact/ neighborhood impacts to confirm that the transportation-related approval criteria are satisfied, subject to the conditions listed below.

Detailed technical responses to each transportation related evaluation factor is provided in the TIS. However, on-street parking impacts, and the associated neighborhood impacts that could result, are often critical evaluation factors associated with the proposed use. Therefore, additional information on these evaluation factors is provided below.

On-Street Parking Impacts / Neighborhood Impacts

The parking demand that will be generated as a result of the proposed development was estimated using parking demand rates from Parking Generation, 4th Edition, published by the Institute of Transportation Engineers (ITE). As directed by PBOT, the applicant's traffic engineer utilized data for land use #320, Motel, as it represents the closest use to the proposed ASTR for which data is available. Based upon the data, the typical peak parking demand for a five-room motel is four parking spaces. It should be noted that operation of a typical motel would result in rental of the rooms to different parties, each of which would travel separately. Accordingly, utilization of this parking rate likely represents a conservative approach. Actual parking demand will likely be less due to single-parties renting multiple rooms arriving in a single vehicle. When accounting for the 5-room ASTR and the existing residential use to be retained on the site, the maximum estimated demand for parking at this site is 6 spaces.

The site has an on-site parking area that can accommodate approximately 5 vehicles and the TIS indicates that two of those spaces will be available to guests of the ASTR with the remaining spaces available for the residential use to be retained. Accordingly, the ASTR has the potential to generate the demand for 2 on-street parking spaces.

To determine the demand and availability of on-street parking in the vicinity of the site, the applicant's traffic engineer conducted observations during the overnight period corresponding to the expected peak period for residential parking demand in the site vicinity as well as during the mid-week evening peak hour and during a Friday evening when the retail businesses in the area experience peak parking demands. The observations were conducted within the nearest two blocks of the subject property at 12:30 AM on Wednesday, August 16th, 2017, at 4:30 PM on Tuesday October 10, 2017 and at 6:30 PM on Friday October 6th.

The site vicinity was calculated to have a capacity of 174 vehicles. During the residential peak period (overnight) the occupancy rate was observed to

be 43%. During the PM peak period (commercial demand) the occupancy rate was observed to be 84%. PBOT considers an area heavily parked and in need of active parking management when occupancy rates exceed 85%.

As demonstrated by the applicant's TIS, there is ample on-street parking during the residential peak period to accommodate additional demand that could be generated by the proposed use. While the additional demand of 2 on-street parking spaces could result in an 86% occupancy rate during the commercial peak period, this 1% increase is within a natural fluctuation margin associated with a commercial area. Therefore, the applicant has demonstrated that there is sufficient on-street parking to accommodate the occasional increase in demand generated by the proposed use.

Transportation Demand Management Strategies

The applicant has proposed several transportation demand management strategies that have the potential to reduce vehicle trips to the site. These include:

- Providing secure on-site bicycle parking;*
- Providing information on-site regarding bike rental locations; and*
- Providing information on-site regarding transit schedules and bus routes*

Based upon the results of the applicant's parking study and in concert with the proposed transportation demand management strategies, PBOT finds that the transportation-related approval criteria are satisfied and that the transportation system in the area can adequately accommodate existing uses in addition to the proposed ASTR subject to the conditions listed below.

Recommendation

PBOT has no objection to the proposed ASTR subject to the following conditions:

- 1. A minimum of two on-site parking spaces shall be provided for guests of the ASTR.*
- 2. The applicant shall Implement the Transportation Demand Management Strategies recommended in the transportation analysis including providing walking guides, transit information, bicycle maps, and information on local bicycle rental facilities at a central location within the rental.*

Based on these findings from PBOT, and with the conditions of approval recommended by PBOT, staff finds that criteria D.1 and D.2 are met.

3. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

Findings: The Bureau of Environmental Services, the Water Bureau, and the Fire Bureau reviewed the proposal and responded with no concerns (Exhibits E-1, E-3, and E-4, respectively). The Portland Police Bureau reviewed the proposal and responded that police services are adequate to serve the facility (Exhibit E-5). For these reasons, this criterion is met.

- E. Area plans.** The proposal is consistent with any area plans adopted by the City Council as part of the Comprehensive Plan, such as neighborhood or community plans.

Findings: The site is located within the boundaries of the adopted Sullivan's Gulch Neighborhood Plan. Staff finds the following Neighborhood Plan objectives to be relevant:

- *Policy 7 (Housing): Objective 7A:*
Encourage a variety of sound, well-maintained housing at all price and rental levels suitable to the needs of a variety of households such as the elderly, both large and small families and young single persons.
- *Policy 7 (Housing): Objective 7C:*
Encourage housing and mixed-use development in nonresidential zones which permit housing.

The CS (Storefront Commercial) zoning on the site would allow the house to be demolished and replaced with a larger commercial building. The applicant's proposal preserves the existing house for use as both a residence for the applicant's household and an accessory short-term rental facility. Since the house is fairly large (7 bedrooms) and more than 100 years old, current and future maintenance costs may be significant. The revenue from the accessory short-term rental facility will help to offset the costs of keeping the house in good condition. For these reasons, staff finds the proposal is consistent with the Sullivan's Gulch Neighborhood Plan and that this criterion is 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 applicant proposes to operate a Type B accessory short-term rental facility with up to 5 guest rooms. No exterior alterations to the house or property are proposed. No non-resident employees are proposed, and no commercial meetings will be held. With conditions of approval, the proposed accessory short-term rental facility meets all of the applicable approval criteria and therefore must be approved.

ADMINISTRATIVE DECISION

Approval of a Type B accessory short-term rental facility within the existing single-dwelling house on this site with a maximum of 5 guest rooms available for rent at a time, per the approved site plan, Exhibit C-1, signed and dated October 30, 2017, subject to the following conditions:

- A. At least 2 on-site parking spaces must be provided for guests of the Type B accessory short-term rental facility.
- B. The applicant must implement the transportation demand management strategies recommended in the transportation analysis (Exhibit A-8, page 13) including providing walking guides, transit information, bicycle maps, and information on local bicycle

rental facilities at a central location within the Type B accessory short-term rental facility.

- C. Quiet hours between 10pm and 9am must be continually implemented and enforced.
- D. Before the Type B accessory short-term rental facility can operate, a fee paid inspection must be purchased from BDS to confirm that the building code, smoke detector, and carbon monoxide alarm requirements of Zoning Code Section 33.207.050.B.4 are met.

Staff Planner: Andrew Gulizia

Decision rendered by:  **on October 30, 2017.**

By authority of the Director of the Bureau of Development Services

Decision mailed: November 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 March 29, 2017, and was determined to be complete on September 15, 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 March 29, 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 further extended by the applicant, **the 120 days will expire on: January 13, 2018.**

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 Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on November 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 Hearings Officer 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 Hearings Officer 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 **November 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.

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;

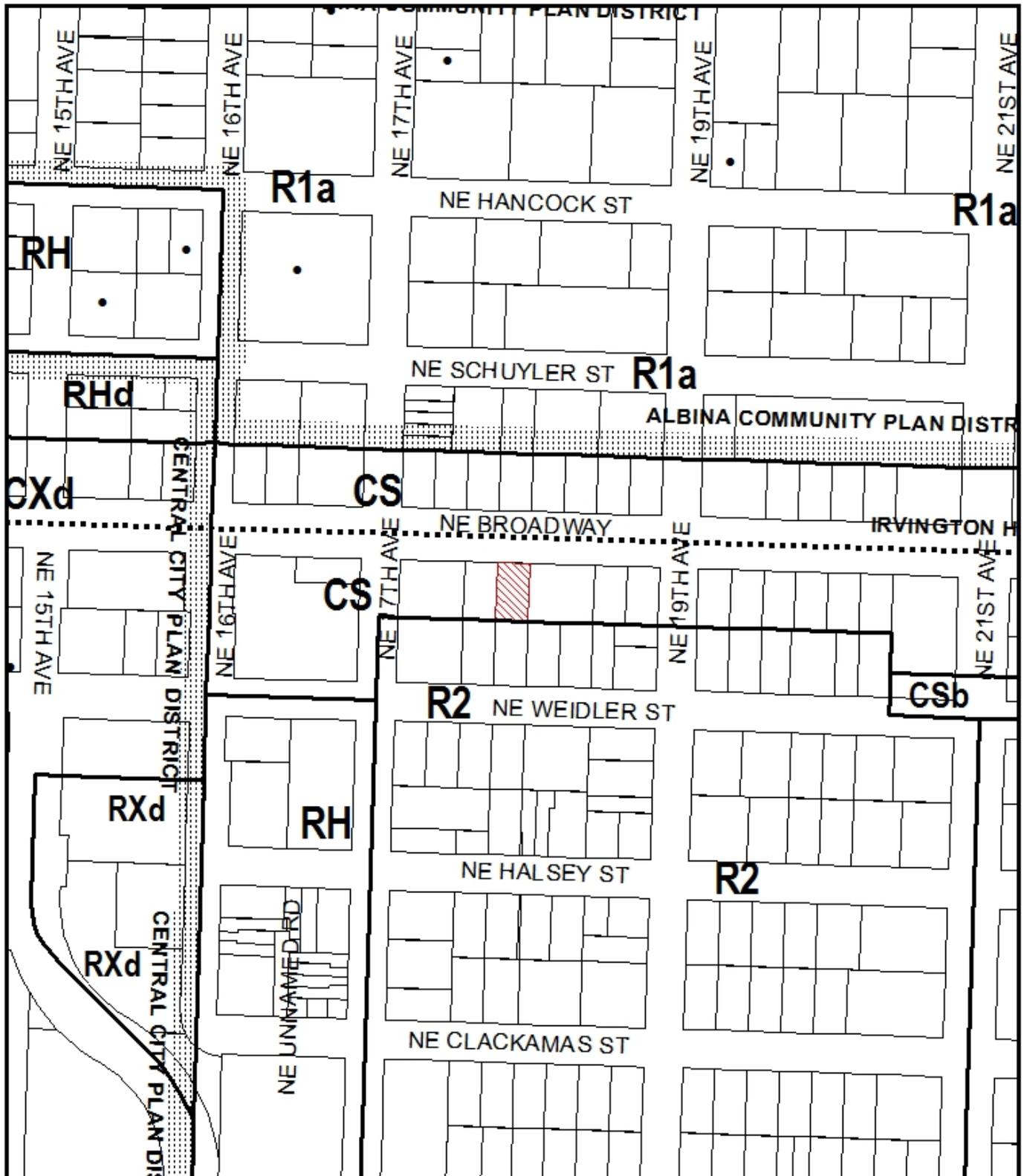
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Approval criteria responses
 - 2. Revised approval criteria responses and development standards responses, received April 28, 2017
 - 3. Section drawing and floor plans
 - 4. Photographs
 - 5. Transportation analysis
 - 6. Transportation demand management plan
 - 7. Request for extension of 120-day review period
 - 8. Revised transportation analysis
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan/building elevations (attached)
- 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. Police Bureau
 - 6. Site Development Review Section of BDS
 - 7. Life Safety Review Section of BDS
- F. Correspondence:
 - 1. Letter in support from Jean Terret, received October 5, 2017
- G. Other:
 - 1. Land use application form and receipt
 - 2. Incompleteness determination letter, dated April 11, 2017

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).



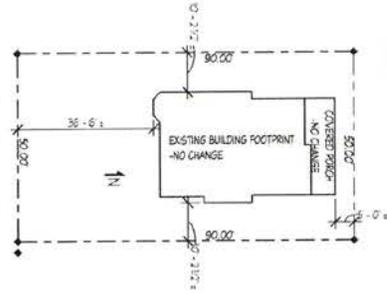
ZONING

-  Site
-  Historic Landmark



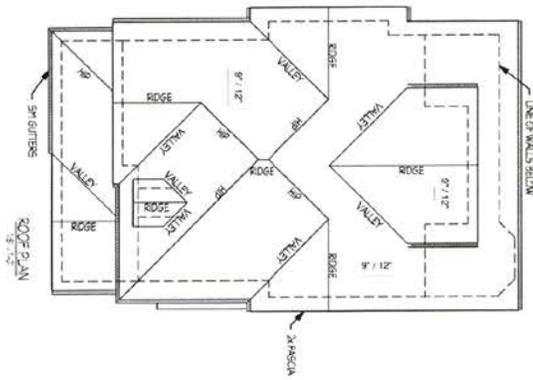
File No.	<u>LU 17-142637 CU</u>
1/4 Section	<u>2832</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E26DC 4300</u>
Exhibit	<u>B</u> (Apr 03, 2017)

NE SPOONWAY ST.

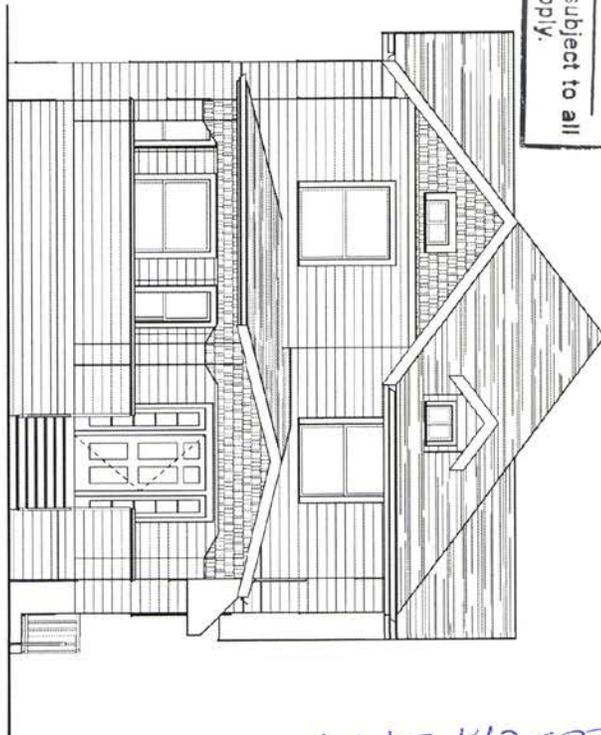


Address: 174 NE BECKONWAY PORTLAND, OR 97222
 Property ID: 0990000
 Tax ID: JOHN AVENUE STR ADD BLOCK 5 LOT 7 BLDG PT N 51
 Use: RESIDENTIAL, COMMERCIAL USE
 Lot: 7
 Zone: 2
 Subzone: 3
 Assessor's Parcel ID: INTEREST: ASPO
 Assessor's Parcel #: 2827000
 Map Number: 2827000
 Land Type: RESIDENTIAL, COMMERCIAL USE
 Total Land Area: 0.10 acres (4300 m²)

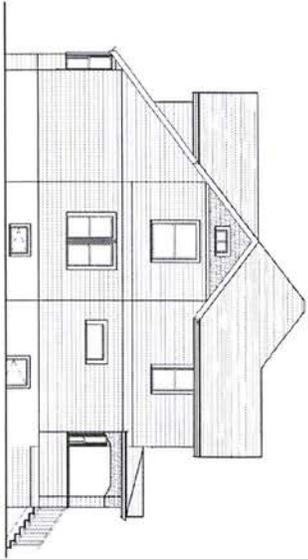
SITE PLAN



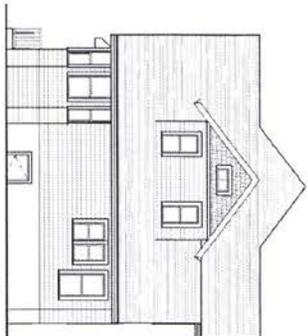
SCOPE PLAN



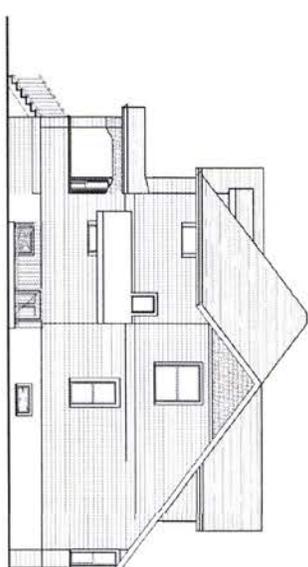
FRONT



LEFT



REAR



RIGHT

Approved
 City of Portland - Bureau of Development Services
 Planner A Gulyuzsk
 Date 10/30/17
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

LU 17-142637 CU
Exhibit C-1

LU 17 - 14 2637 CU