



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

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Date: June 21, 2108
To: Interested Person
From: Jeffrey Mitchem, 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 18-169644 DZM - 5721 NE ML KING JR BLVD – KFC

GENERAL INFORMATION

Applicant: Junior Carbajal | CIDA
 15895 SW 72nd Ave | Portland, OR 97224

Owner: Northwest Restaurants Inc
 18815 139th Ave NE #C | Woodinville, WA 98072

Party of Interest: Patrick McCarthy | Joseph Hughes Construction
 11125 SW Barbur Blvd | Portland, OR 97219

Site Address: **5721 NE ML King Jr Blvd**
Legal Description: BLOCK 20 INC STRIP 20’ WIDE E OF & ADJ LOT 1&2 & INC STRIP 20’ WIDE E OF & ADJ-S 16’ OF LOT 3, PIEDMONT
Tax Account No.: R657802890
State ID No.: 1N1E15DD 13300
Quarter Section: 2430
Neighborhood: King, contact Margaret O’Hartigan at margaret@kingneighborhood.org
Business District: Soul District Business Association, contact at info@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030

Plan District: None
Zoning: **CGd, h** - General Commercial with Design and Aircraft Landing Zone Overlays
Case Type: **DZM** - Design Review with Modifications
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:
 The proposal is for a new screening wall surrounding a cooler addition to the north wall of the existing KFC. A Modification to setback standards (Portland Zoning Code Section 33.130.215) is necessary to allow the wall to be constructed outside the 10’ maximum setback on a Transit

Street. Design Review is necessary because the proposal is for exterior alterations within a Design Overlay Zone.

Relevant Approval Criteria:

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

- Community Design Guidelines
- 33.825 Modifications through Design Review

ANALYSIS

Site and Vicinity: This 13,920 sq. ft. site supports a 1,791 sq. ft. fast food restaurant (KFC) and a surface parking lot (13 parking stalls). The area of work is limited to a previously constructed mechanical enclosure (coolers) near the center of the site, set back approximately 78-feet from the lot line along NE MLK Jr Blvd. The valuation of the proposed work is estimated to be \$27,415. The property is one block east of the boundary to the Piedmont Conservation District which consists mostly of single family homes.

The site is located within a 235-foot by 400-foot rectangular block, which is bordered on the north by NE Jarrett St, on the west by NE Garfield Ave, on the south by NE Jessup St, and on the east by NE M L King Jr. Blvd. The block is split down the middle by an alley system, and the western half of the block lies within the Piedmont Conservation District. NE M L King Jr. Blvd is classified as a Regional Main St., a Major City Traffic St., a Major Transit Priority St., a City Bikeway and Walkway, and has regular bus service. NE Jarrett St. is classified as a City Bikeway and a City Walkway and a Local Service Walkway. NE Garfield Ave. and NE Jessup St. are both designated Local Service Bikeways and Walkways.

Zoning: 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.

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. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

The Aircraft Landing Zone "h" overlay provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. A height contour map is available for review in the Development Services Center.

Land Use History: City records indicate no prior land use reviews.

Agency Review: A *Notice of Proposal in Your Neighborhood* was mailed **May 24, 2018**. The following Bureaus have responded with no issues or concerns:

- Life-Safety
- Bureau of Environmental Services
- The Bureau of Transportation Engineering

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **May 24, 2018**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Chapter 33.825 Design Review

Section 33.825.010 Purpose of Design Review

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

Section 33.825.055 Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

Findings: The site is designated with design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site's location, the applicable design guidelines are the Community Design Guidelines.

Community Design Guidelines

The Community Design Guidelines consist of a set of guidelines for design and historic design cases in community planning areas outside of the Central City. These guidelines address the unique and special characteristics of the community plan area and the historic and conservation districts. The Community Design Guidelines focus on three general categories: **(P) Portland Personality**, which establishes Portland's urban design framework; **(E) Pedestrian Emphasis**, which states that Portland is a city for people as well as cars and other movement systems; and **(D) Project Design**, which assures that each development is sensitive to both Portland's urban design framework and the users of the city.

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

E3. The Sidewalk Level of Buildings. Create a sense of enclosure and visual interest to buildings along sidewalks and pedestrian areas by incorporating small scale building design features, creating effective gathering places, and differentiating street level facades.

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

D6. Architectural Integrity. Respect the original character of buildings when making modifications that affect the exterior. Make additions compatible in scale, color, details, material proportion, and character with the existing building.

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

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

Findings for E3, D3, D6, D7 and D8: The mechanical enclosure wall is constructed as an extension of the abutting building façade and is compatible in material and color. Specific attributes meeting these criteria include:

- the wall creates a sense of enclosure and visual interest;
- the wall enhances site and building design by visually obscuring mechanical equipment from the pedestrian realm;
- the wall respects the original character of buildings through complimentary material, color and style; and,

- the wall reduces the visual impact of the mechanical equipment on the surrounding neighborhood.

Therefore, these criteria are met.

MODIFICATIONS (33.825)

33.825.040 Modifications That Will Better Meet Design Review Requirements:

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. These modifications are done as part of design review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- A. **Better meets design guidelines.** The resulting development will better meet the applicable design guidelines; and
- B. **Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

33.130.215.C.2, Maximum Building Setbacks. At least 50 percent of the length of the ground level street-facing façade of the building must be within the maximum setback of 10'. The entire length of the mechanical enclosure wall is setback approximately 78' from NE MLK Jr Blvd, a transit street.

Purpose Statement. The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial zones. The setback requirements along transit streets and in Pedestrian Districts create an environment that is inviting to pedestrians and transit users.

- A. **Better meets design guidelines.** *The resulting development will better meet the applicable design guidelines.*

Findings: As described in the findings above, the enclosure wall extends the façade language of the primary structure abutting the internal pedestrian circulation route. In so doing, the resulting character better meets the following approval criteria: *E3. The Sidewalk Level of Buildings. The wall creates a sense of enclosure and visual interest. D3. Landscape Features. The wall enhances site and building design by visually obscuring mechanical equipment from the pedestrian realm. D6. Architectural Integrity. The wall respects the original character of buildings through material, color and style. D7. Blending into the Neighborhood. The wall reduces the visual impact of the mechanical equipment on the surrounding neighborhood.*

Therefore, this criterion is met.

- B. **Purpose of the standard.** *On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

Findings. The purpose of the maximum setback standard along transit streets is to create an environment that is inviting to pedestrians and transit users. The screen wall is configured as a planar extension of the abutting building wall which frames the interior pedestrian circulation route. Additionally, the material, color and façade language are consistent with the adjacent façade. As such, the resulting streetscape condition is more

inviting to pedestrian traffic into the site than would be created by an exposed mechanical unit. *Therefore, this criterion is met.*

Therefore, this Modification merits approval.

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 requirements of Title 11 can be met, and 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

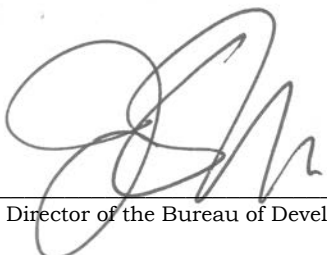
The design review process exists to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The proposal meets the applicable design guidelines and modification criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of design review for a mechanical screen wall per the approved site plans, Exhibits C-1 through C-3, signed and dated June 18, 2018, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 18-169644 DZM." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. No field changes allowed.

Staff Planner: Jeffrey Mitchem

Decision rendered by:  **on June 18, 2018**
By authority of the Director of the Bureau of Development Services

Decision mailed: June 21, 2018

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 11, 2018**, and was determined to be complete on **May 21, 2018**.

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 11, 2018**.

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 September 18, 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 Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on July 5, 2108** 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 Design Commission 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 Design Commission 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 on or after **July 6, 2018** 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:

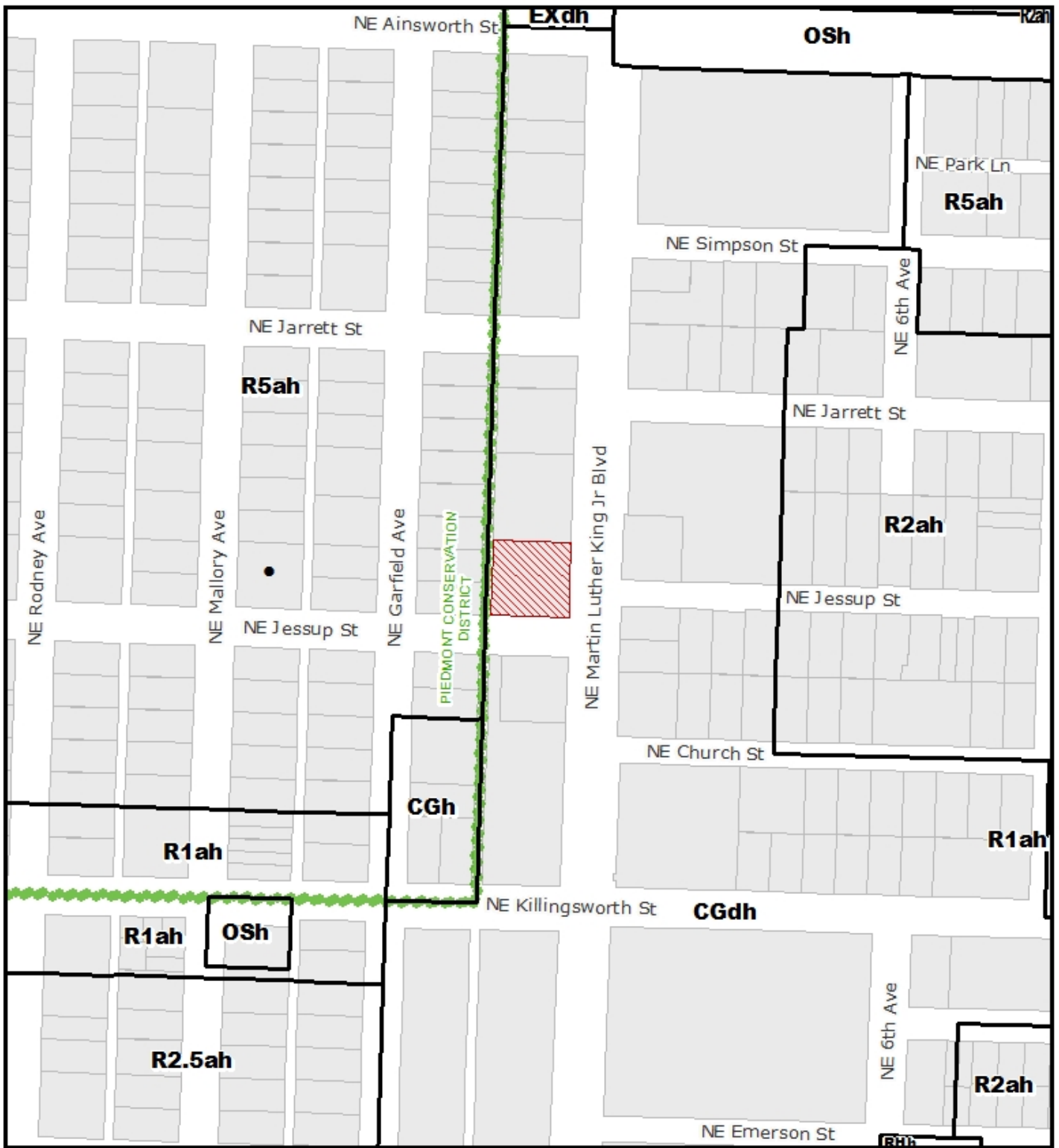
- *All conditions imposed herein;*
- *All applicable development standards, unless specifically exempted as part of this land use review;*
- *All requirements of the building code; and*
- *All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations (attached)
 - 3. Wall Section
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life-Safety
 - 2. Bureau of Environmental Services
 - 3. The Bureau of Transportation Engineering
- F. Correspondence: none
- 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  NORTH

 Site

● Conservation Landmarks

File No. LU 18-169644 DZM

2430

Scale 1 inch = 200 feet

State ID 1N1E15DD 13300

Exhibit B May 16, 2018



ISSUED DATE
 1 04/06/2017 PERMIT SET
 2 04/11/2017 REVISION Δ
 3 04/03/18 DESIGN REVIEW SET - REVISIONS Δ



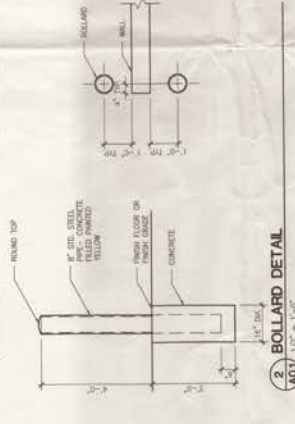
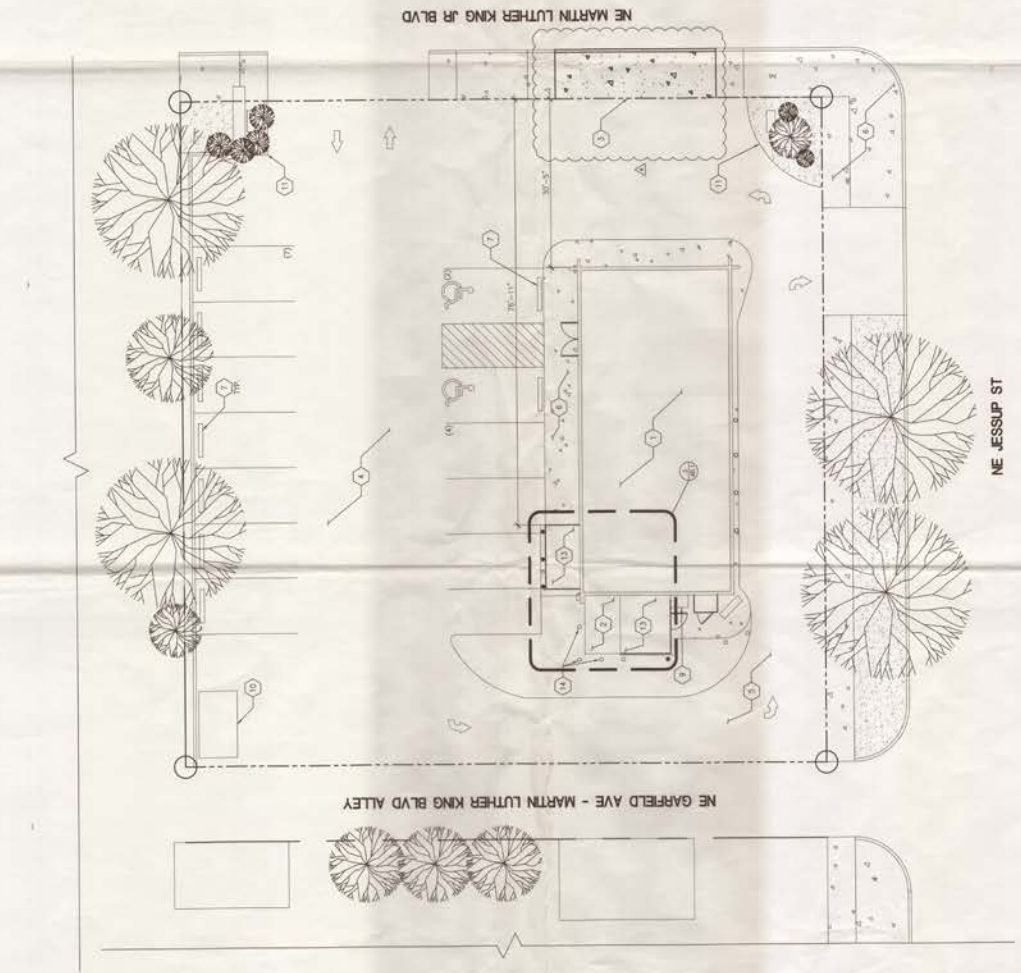
ALTERNATION FOR
KFC
 5721 NE MLK BLVD
 PORTLAND, OREGON 97211

JOB NO. 17013331
 11-18-16
 11-18-16

GENERAL NOTES
 CONTRACTOR SHALL VERIFY AND CORRECT EXISTING CONDITIONS SHOWN OR NOT SHOWN TO BE ACCURATE PRIOR TO START OF CONSTRUCTION. VERIFY ALL OF ANY DISCREPANCIES.

- SITE PLAN KEYNOTES**
- 1 (1) BELONGING TO REMAIN
 - 2 (2) PERMITTED COOLER UNIT
 - 3 (3) FRANKING SET - NO CHANGES PROPOSED
 - 4 (4) NOT USED
 - 5 (5) ELECTRICAL SERVICE
 - 6 (6) RAINWATER DRAINAGE
 - 7 (7) LANDSCAPE - NO CHANGES PROPOSED
 - 8 (8) NOT USED
 - 9 (9) UN-FINISHED COOLERS
 - 10 (10) NOT USED

- SITE PLAN LEGEND**
- (1) SIDEWALK
 - (2) ASYL STALL
 - (3) EXISTING
 - (4) LANDSCAPE
 - (5) PERMITTED BOLLARDS
 - (6) UN-FINISHED BOLLARDS - SEE DETAIL 2A.01
 - (7) PROPERTY LINE
 - (8) SEPARATION
 - (9) ROAD TOP



2 BOLLARD DETAIL
 1/2" = 1'-0"

NOTE
 TOP OF EXISTING SIDE & BEST EDGE = 9'-3"



- ROOF KEYNOTES**
- 1 ROOF BY COOLER MANUFACTURER
 - 2 FULLY FINISHED
 - 3 USE RIGID FIRM INSULATION TO SLOPE ROOF
 - 4 INSULATOR END

ROOF LEGEND
 T.O.D. = TOP OF DECK
 A.F.F. = ABOVE FINISHED FLOOR

Approved:
 David R. Bates
 Professional Engineer
 License No. 11181
 State of Oregon

3 ROOF PLAN T.O.D.
 3/8" = 1'-0"

LH-18-16 9644 D2A

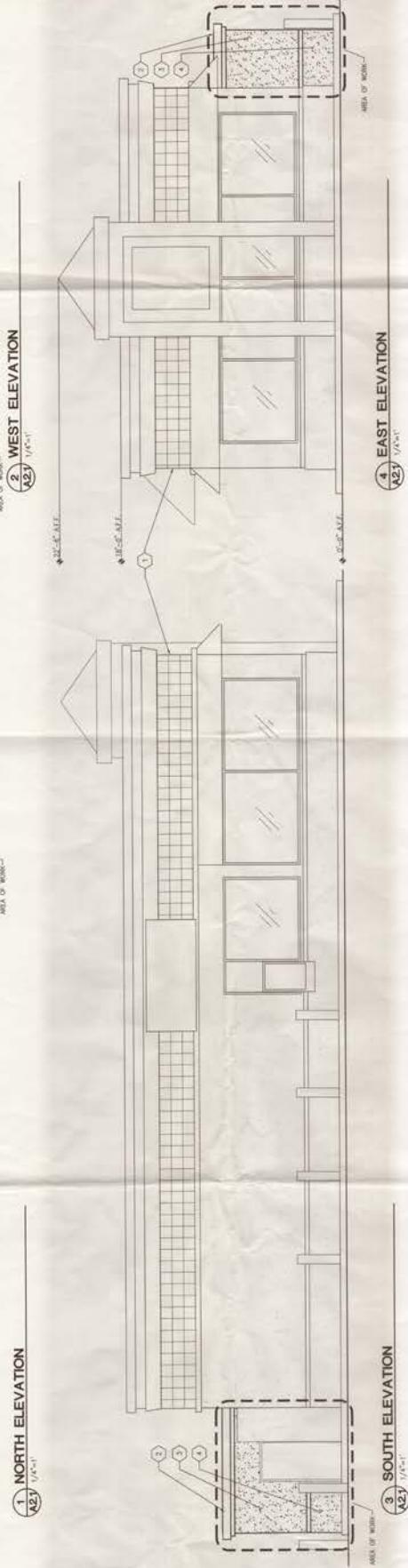
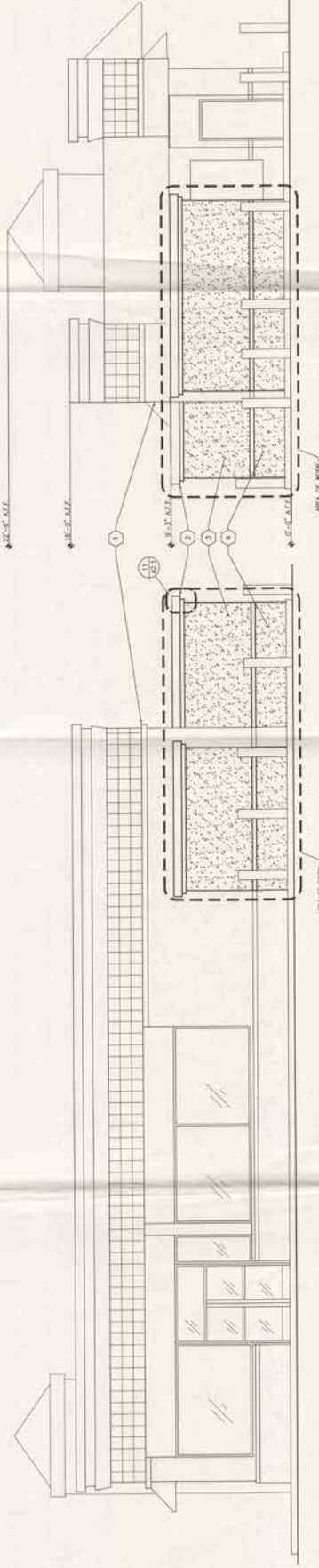


DATE: 04/18/2018
 1. 09/05/2017 PLUMB SET
 2. 04/19/2017 REVISED
 3. 04/02/18 DESIGN REVISION SET - REVISIONS

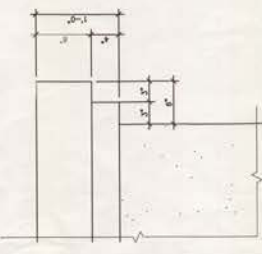


ALTERNATION FOR
KFC
 5721 NE MLK BLVD
 PORTLAND, OREGON 97211

DATE: 04/18/2018
 C.T.
 L.L.M. 18-169644 D.L.M.



- ELEVATION KEYNOTES**
- 1 (1) BUILDING TO REMAIN
 - 2 EPS FIBER - COLOR TO MATCH EXISTING
 - 3 300-0-303 CONCRETE - COLOR TO MATCH EXISTING BODY
 - 4 300-0-303 CONCRETE - COLOR TO MATCH EXISTING BASE



WZM 18-169644 DZM

L.L.M. 18-169644 D.L.M.



PROJECT: 5721 NE MLK BLVD, PORTLAND, OR 97211