



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

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

Date: August 16, 2022
To: Interested Person
From: Andrew Gulizia, Land Use Services
503-865-6714 / 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 22-150613 AD

GENERAL INFORMATION

Applicant: Lee Winn, Winn Architecture Llc
7338 N Chase Ave
Portland, OR 97217
(503) 803-6996 | lee.r.winn@gmail.com

Property Owner: CH Woodstock LLC
236 W Portal Ave #150
San Francisco, CA 94127

Site Address: 5151 SE Holgate Blvd.

Legal Description: BLOCK 1 LOT 1&21 EXC PT IN STS LOT 2&22 EXC PT IN ST, LENOX
Tax Account No.: R488300010
State ID No.: 1S2E07DC 17500
Quarter Section: 3435
Neighborhood: Creston-Kenilworth, contact Seth Otto at ckna.landchair@gmail.com
Business District: None
District Coalition: Southeast Uplift, contact Matchu Williams at matchu@seuplift.org

Zoning: CE – Commercial Employment

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

Proposal: This site is developed with a four-story apartment building that was completed in 2018. The applicant proposes to convert a vacant, ground floor commercial space at the corner of SE 52nd Avenue and SE Holgate Boulevard into five new, ground floor apartments. The applicant requests two Adjustments to the “flexible ground floor design” requirements in Zoning Code Section 33.130.230.B.4.a for this change:

- To reduce the minimum clearance from the floor to the bottom of the ceiling structure above from 12 feet to 10 feet (Zoning Code Section 33.130.230.B.4.a.1).
- To reduce the minimum distance the ground floor residential units must extend inward from the street-facing façade from 25 feet to 20'-11" (Zoning Code Section 33.130.230.B.4.a.2).

Relevant Approval Criteria: 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 subject site is 19,655 square feet in area and abuts three streets: SE Holgate Boulevard to the south, SE 51st Avenue to the west, and SE 52nd Avenue to the east. A four-story building with 64 apartments and ground floor commercial space (which the applicant proposes to convert to five more apartments) was completed on this site in 2018. Neighboring properties around the intersection of SE 52nd Avenue and SE Holgate Boulevard are developed with single-story commercial buildings. Most other properties in the surrounding area are developed with houses.

Zoning: The Commercial Employment (CE) zone is a medium-scale commercial/mixed use zone intended for sites along corridors with a Neighborhood Collector or higher traffic classification, especially along Civic Corridors that are also Major Truck Streets or Priority Truck Streets. The zone allows commercial and residential uses, including auto-accommodating development and drive-through facilities, as well as some light manufacturing and distribution uses that have few off-site impacts.

Land Use Review History: There are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal" was sent July 19, 2022 (Exhibit D-2). The following Bureaus responded with no concerns about the proposal:

- Bureau of Environmental Services (Exhibit E-1);
- Portland Bureau of Transportation (Exhibit E-2);
- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4);
- Site Development Section of the Bureau of Development Services (BDS) (Exhibit E-5); and
- Life Safety Review Section of BDS (Exhibit E-6).

Neighborhood Review: No written responses to the mailed "Notice of Proposal" were received from either the Neighborhood Association or notified neighbors.

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: The applicant requests Adjustments to the "flexible ground floor design" requirements in Zoning Code Section 33.130.230.B.4.a for ground floor residential units. The purpose of the regulation is stated in Zoning Code Section 33.130.230.B.1:

In the commercial/mixed use zones, blank walls on the ground level of buildings are limited in order to:

- *Provide a pleasant, rich, and diverse pedestrian experience by connecting activities occurring within a structure to adjacent sidewalk areas, or allowing public art at the ground level;*
- *Encourage continuity of retail and service uses;*
- *Encourage surveillance opportunities by restricting fortress-like facades at street level; and*
- *Avoid a monotonous pedestrian environment.*

The standard itself reads as follows (Zoning Code Section 33.130.230.B.4.a):

Flexible ground floor design. The ground floor window standard of Subparagraph B.2.a(1) must be met, and the ground level of the building must be designed and constructed as follows:

- (1) *The distance from the finished floor to the bottom of the ceiling structure above must be at least 12 feet. The bottom of the structure above includes supporting beams;*
- (2) *The area meeting this standard must be at least 25 feet deep, measured from the street-facing facade; and*
- (3) *Each unit must include a front entrance that is located at the level of the finished grade and can be accessed without steps.*

The existing façade will continue to exceed the minimum ground floor window area requirement in Subparagraph B.2.a(1) (Exhibit A-2, page 4). Part of the floor area subject to this Adjustment Review will have 10-foot ceilings (83% of the 12-foot requirement in 33.130.230.B.4.a.1), but much of the floor area along the street frontages will have 11-foot ceilings, which is 92% of the 12-foot requirement (Exhibit C-1). Most of the area subject to this Adjustment Review will be only a few inches less than the 25-foot depth required in 33.130.230.B.4.a.2, and the minimum 20'-11" dimension will be in only a small area of the westernmost unit (Exhibit C-1). Each residential unit will have an exterior, front entrance at grade, as required by 33.130.230.B.4.a.3 (Exhibit C-1).

The existing building façades will remain the same, and most of the ground floor wall area subject to the Adjustment Review will be windows (Exhibit A-2, page 4). Therefore, the proposal will not create a monotonous or fortress-like façade, and surveillance opportunities and visual connections between the building and the adjacent sidewalks will be maintained. Since the slightly lower ceilings and the distances to the back walls will not be readily apparent from the street, the proposal will not affect the appearance of the building in a manner contrary to the intent of the flexible ground floor design standard.

The ground floor area subject to this Adjustment Review was constructed as retail space, and since the proposed partition walls will be non-structural, this space can be easily converted back for commercial use in the future.

For these reasons, staff finds the proposal is equally consistent with the purpose of the requirement and that approval criterion A is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: Since the site is in a commercial zone, the Adjustment proposal must be consistent with the classifications of the adjacent streets and the desired character of the area.

Street classifications

The classifications of the adjacent streets in the Transportation Element of the Comprehensive Plan are as follows:

	Traffic	Transit	Bikeway	Pedestrian	Freight
SE Holgate Blvd.	Neighborhood Collector	Transit Access Street	City Bikeway	City Walkway	Truck Access Street
SE 51 st Ave.	Local Service	Local Service	Local Service	Local Service	Local Service
SE 52 nd Ave.	Neighborhood Collector	Transit Access Street	Major City Bikeway	City Walkway	Truck Access Street

The Adjustments affect interior dimensional requirements for the ground floor and will have no impact on service levels on adjacent streets. The Portland Bureau of Transportation (PBOT) reviewed the proposal and responded with no objections (Exhibit E-2). Therefore, staff finds the proposal is consistent with the adjacent street classifications.

Desired character of area

“Desired character” is defined in Zoning Code Chapter 33.910. Pursuant to this definition, the desired character for this location is determined by the character statement for the CE zone and the Creston-Kenilworth Neighborhood Plan.

CE zone

The character statement for the CE zone is in Zoning Code Section 33.130.030.E:

The Commercial Employment (CE) zone is a medium-scale zone intended for sites along corridors with a Neighborhood Collector or higher traffic classification, especially along civic corridors that are also Major Truck Streets or Priority Truck Streets. This zone is generally not appropriate in designated centers, except on a site that is currently developed in an auto-oriented manner and where more urban development is not yet economically feasible. The zone allows a mix of commercial uses, including auto-accommodating development and drive-through facilities, as well as some light manufacturing and distribution uses that have few off-site impacts. The emphasis of this zone is on commercial and employment uses, but residential uses are also allowed. Buildings in this zone will generally be up to four stories tall. This zone is intended to allow for development with auto-accommodating configurations, while also including pedestrian-oriented design features that support transit and pedestrian access.

The building will remain four stories tall and oriented to the adjacent sidewalks, with pedestrian entrances from the sidewalks and zero setbacks from two of the three abutting street lot lines (Exhibits C-1 and A-2). The proposal will remove dedicated commercial space from the new building, but residential use is permitted outright in the CE zone and commercial use is not required (33.130.100). Residents of the ground floor apartments are likely to support businesses nearby, and the ground floor units could easily be converted back to commercial space in the future. For these reasons, staff finds the proposal is consistent with the character statement for the CE zone.

Creston-Kenilworth Neighborhood Plan

The following statements from the Creston-Kenilworth Neighborhood Plan are found to be relevant:

Creston Kenilworth Neighborhood Urban Design Concept, SE Holgate Boulevard Corridor: The SE Holgate Boulevard corridor will be strengthened by including medium scale multidwellings that orient to the transit street. They will be clustered closer to the mixed-use nodes at SE Twenty-eighth, Thirty-ninth, and Fifty-second Avenues. SE Holgate Boulevard will be a transit corridor with wider sidewalks and street trees that will enhance the pedestrian character.

Creston Kenilworth Neighborhood Urban Design Concept, SE Fifty-second Avenue Corridor: The SE Fifty-second Avenue corridor is a major transportation corridor with transit lines along it. Development in the form of small scale multidwellings, including duplexes and rowhouses, and single family homes will help define it.

Creston Kenilworth Neighborhood Urban Design Concept, Mixed-use Notes Along SE Holgate at SE Twenty-eighth, Thirty-ninth, and Fifty-second: The mixed-use nodes will include small scale retail that serves the residents or small professional offices and housing. Examples of offices include a veterinarian's office and an accountant's office. The developments will have pedestrian-oriented fronts that contribute to making the nodes an attractive place to visit.

Policy 1A (Traffic and Transportation): Reduce reliance on the private automobile and improve access to all parts of the neighborhood by encouraging walking, bicycling, and riding public transit.

Policy 3 (Business and Economic Development), Objective 3.2: Promote a spatial clustering of businesses at the commercial and mixed-use nodes consistent with the urban design concept.

Policy 4A (Land Use, Urban Design and Historic Preservation): Promote development that is pedestrian-friendly, has human scale and contributes in its design and form to the livability of the neighborhood.

Policy 5B (Housing): Encourage infill housing along transit streets and at the commercial and mixed-use nodes.

The proposal does not retain commercial space on the site, but the five new ground floor apartments will provide additional housing along two transit streets, and the additional residents are likely to support businesses nearby. The building is oriented toward public sidewalks and transit facilities on adjacent streets, and no additional off-street parking is proposed for the new apartments. For these reasons, staff finds that on balance, the proposal is consistent with the Creston-Kenilworth Neighborhood Plan.

Summary

The proposal is consistent with the classifications of the adjacent streets and the desired character of the area. Approval criterion B 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: The purpose of the CE zone is described in Zoning Code Section 33.130.030.E:

The Commercial Employment (CE) zone is a medium-scale zone intended for sites along corridors with a Neighborhood Collector or higher traffic classification, especially along civic corridors that are also Major Truck Streets or Priority Truck Streets. This zone is generally not appropriate in designated centers, except on a site that is currently developed in an auto-oriented manner and where more urban development is not yet economically feasible. The zone allows a mix of commercial uses, including auto-accommodating development and drive-through facilities, as well as some light manufacturing and distribution uses that have few off-site impacts. The emphasis of this zone is on commercial and employment uses, but residential uses are also allowed. Buildings in this zone will generally be up to four stories tall. This zone is intended to allow for development with auto-accommodating configurations, while also including pedestrian-oriented design features that support transit and pedestrian access.

As stated previously, the building will remain four stories tall and oriented to the adjacent sidewalks, with pedestrian entrances from the sidewalks and zero setbacks from two of the three abutting street lot lines (Exhibits C-1 and A-2). The proposal will remove dedicated commercial space from the new building, but residential use is permitted outright in the CE zone and commercial use is not required (33.130.100). Residents of the ground floor apartments are likely to support businesses nearby, and the ground floor units could easily be converted back to commercial space in the future. For these reasons, staff finds the proposal is consistent with the overall purpose of the CE zone.

- D.** City-designated scenic resources and historic resources in Historic, Conservation and National Register Districts and within the boundaries of Historic, Conservation and National Register Landmarks 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 resources or historic resources 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 slightly reduced ceiling heights and internal depths for the ground floor residential space create no adverse impacts to neighbors or the neighborhood. Neighbors who received the public notice of this Adjustment Review (Exhibits D-1 and D-2) did not raise any objections to the proposal. Since no negative impacts specifically resulting from the Adjustment requests are identified, staff finds 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 a “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 proposal will convert ground floor commercial space on this site into five ground floor apartments. Staff finds the requested Adjustments to the minimum depth and the minimum ceiling height to be consistent with the purposes of the requirements to be modified and with the planned character of the area. Staff finds the applicable Adjustment Review approval criteria are met. Since the approval criteria are found to be met, the Adjustments must be approved.

ADMINISTRATIVE DECISION

Approval of the following Adjustments to the “flexible ground floor design” requirements for ground floor residential units in Zoning Code Section 33.130.230.B.4.a:

- To reduce the minimum clearance from the floor to the bottom of the ceiling structure above from 12 feet to 10 feet (Zoning Code Section 33.130.230.B.4.a.1).
- To reduce the minimum distance the ground floor residential units must extend inward from the street-facing façade from 25 feet to 20'-11" (Zoning Code Section 33.130.230.B.4.a.2).

Approval is per the approved plan in Exhibit C-1, signed and dated August 10, 2022, subject to the following condition:

- A. As part of the building permit application submittal, the required site plan and ground floor plan 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 22-150613 AD."

Staff Planner: Andrew Gulizia

Decision rendered by:  **on August 10, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 16, 2022

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 7, 2022 and was determined to be complete on July 14, 2022.

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 7, 2022.

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 November 11, 2022.**

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, and if appealed a hearing will be held. The appeal application form can be accessed at https://www.portland.gov/sites/default/files/2020/lu_type2_2x_appeal_form_071116.pdf. Appeals must be received **by 4:30 PM on August 30, 2022. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to email, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and City bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

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 30, 2022** 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 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 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:

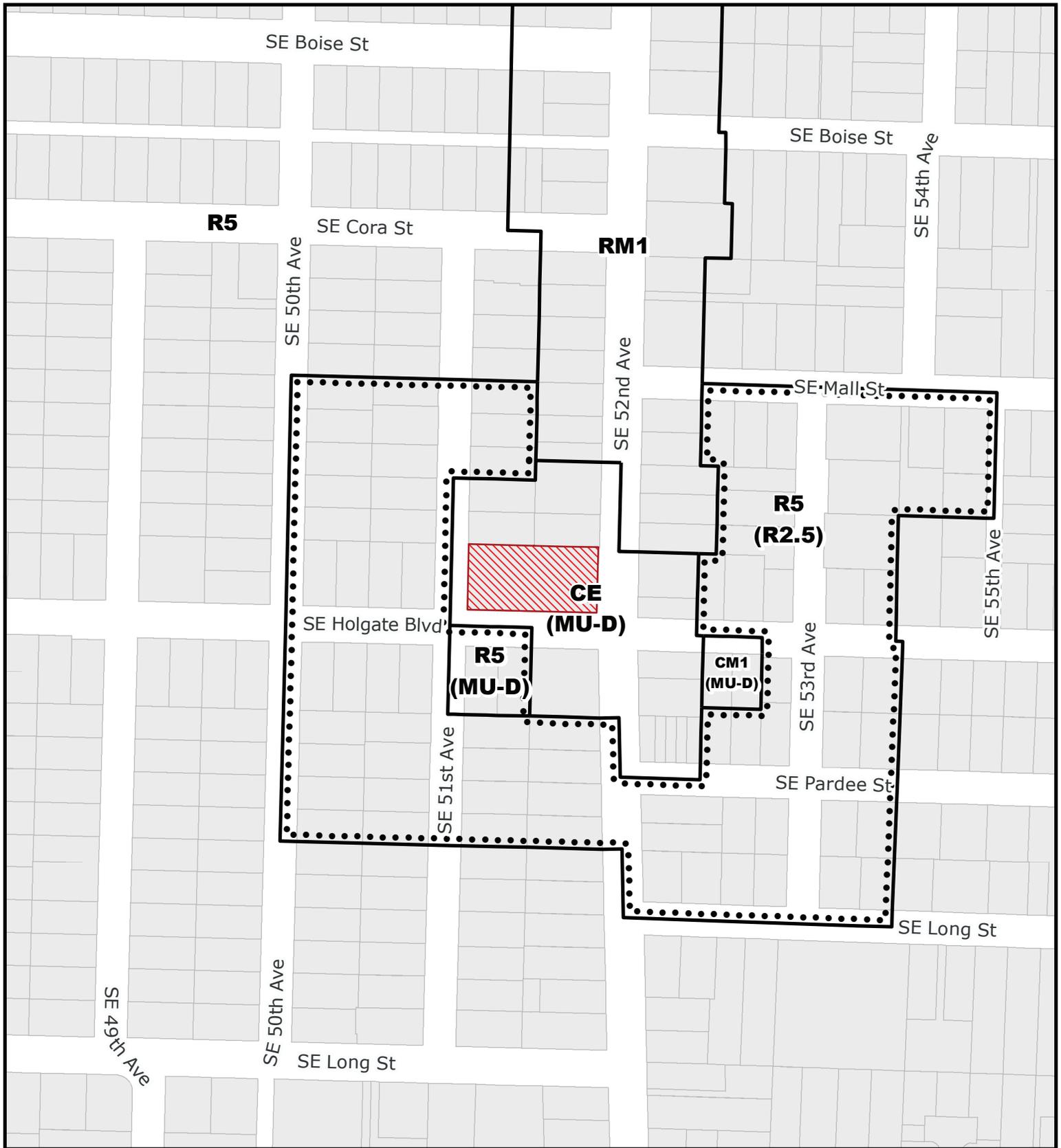
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Original narrative
 - 2. Plan set
 - 3. Photograph
 - 4. Revised narrative, submitted July 14, 2022
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan/ground floor plan (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. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence (none received)
- G. Other:
 - 1. Land use review application form
 - 2. Incompleteness determination letter, dated June 22, 2022

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



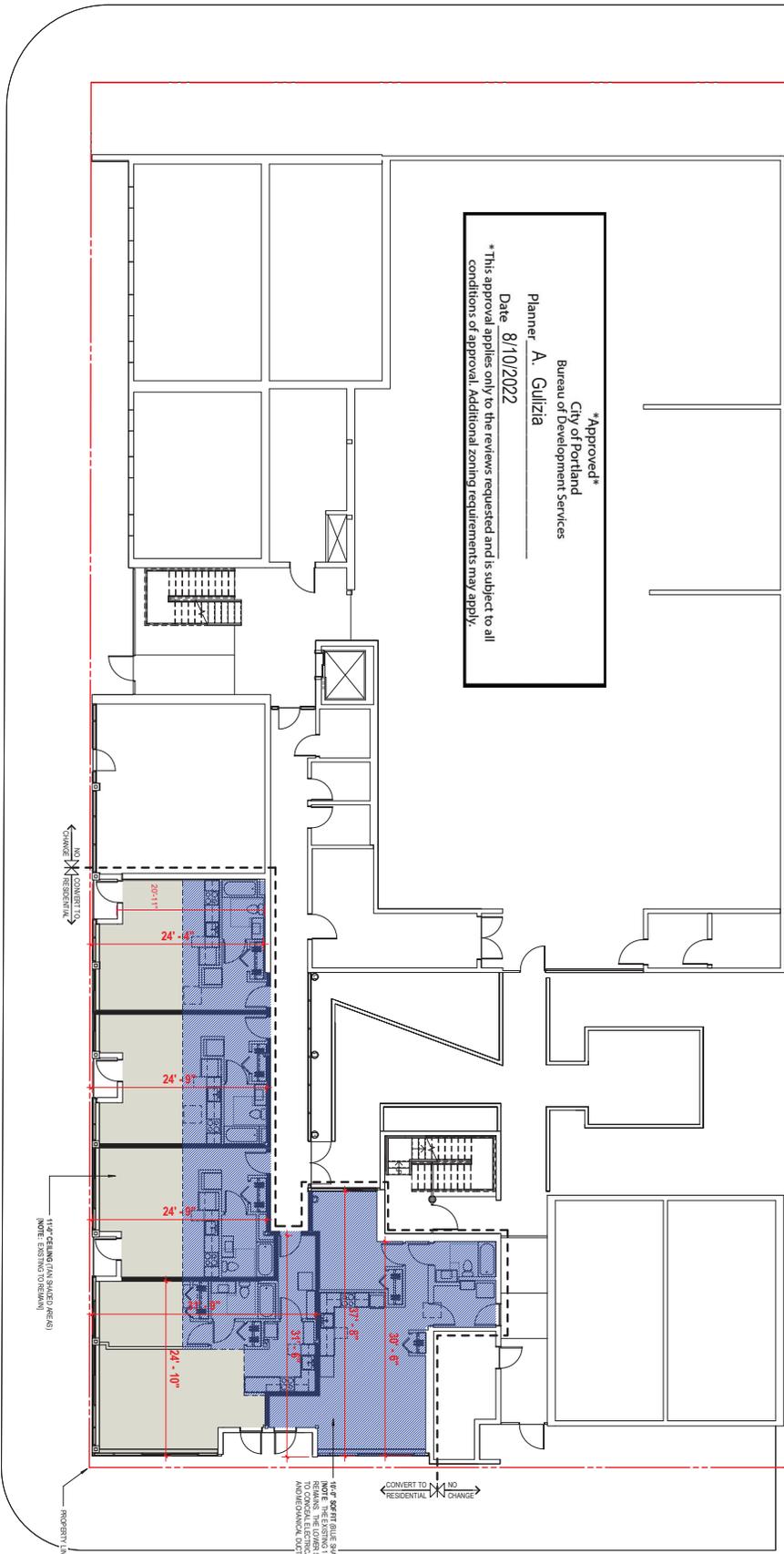
For Zoning Code in effect Post August 1, 2021

File No.	LU 22 - 150613 AD
1/4 Section	3436
Scale	1 inch = 200 feet
State ID	1S2E07DC 17500
Exhibit	B Jun 07, 2022

SE 51ST AVE

SE HOLGATE BLVD

SE 52ND AVE



Approved
 City of Portland
 Bureau of Development Services
 Planner A. Gulizia
 Date 8/10/2022
 This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

NO CHANGE / CONVERT TO RESIDENTIAL

NO CHANGE (NO SUBJECT AREAS) MORE RESIDENTIAL

10'-0" WIDE BLUE SHADDED AREAS INDICATE THE STRIPING TOP CENTER TO CONICAL ELECTRICAL PULBUND AND/OR SPINDLE SYSTEMS

NO CHANGE / CONVERT TO RESIDENTIAL



LU 22-150613 AD Exhibit C-1

Sheet Scale
 1/8" = 1'-0"

A1

Revised No. 21.005

No. Decision	None
Revised Schedule	None
Drawn By	AW
Checked By	AW
Date	08/01/2022

LENOX APTS | TENANT IMPROVEMENTS
 5151 SE HOLGATE BLVD, PORTLAND, OR 97206

SITE PLAN / GROUND FLOOR PLAN

WINN ARCHITECTURE LLC
 7338 N Chase Ave
 Portland, OR 97217

LEE WINN
 503 . 803 . 6996
 lee.r.winn@gmail.com

FOR REFERENCE ONLY