



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

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Date: March 3, 2016
To: Interested Person
From: Sylvia Cate, 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 15-269516 CU

GENERAL INFORMATION

Applicant/owner: Belladona Ritz
PO Box 14205
Portland, OR 97293

Site Address: 5426 NE 31ST AVE

Legal Description: FOXCHASE ADD, BLOCK 3, LOT 15
Tax Account No.: R295300490
State ID No.: 1N1E24BA 04200
Quarter Section: 2533
Neighborhood: Concordia, contact Garlynn Woodsong at 503-936-9873.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032.
District Coalition: Northeast Coalition of Neighborhoods, contact Lokye Au at 503-388-9030.

Zoning: R2.5ah: Single Dwelling Residential 2,500 zone with the "a" Alternative Design Density and "h" Aircraft Landing overlay zones

Case Type: CU: Conditional Use

Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant requests a Conditional Use approval to operate a Type B Accessory Short Term Rental (ASTR) facility. The applicant proposes to live in the unit at least 270 days per year (as required by Zoning Code Section 33.207.050.A.1) and rent up to five bedrooms to one or two groups at a time. No exterior alterations to the structure are proposed. No food service or commercial meetings are proposed.

Note: The site is developed with a duplex, but the ASTR use is proposed only in the unit where the applicant will reside (5426 NE 31st Ave.). The other unit (5428 NE 31st Ave.) is occupied as a long-term rental.

Relevant Approval Criteria:

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

- 33.815.105, *Conditional Use Criteria for Institutional and Other Uses in R zones*

ANALYSIS

Site and Vicinity: The site is a 5,000 square foot lot developed with a duplex constructed circa 2006. Immediately surrounding the site in all directions are residential uses and development consistent with the R2.5 zone. To the north of the site is NE Killingsworth Street and a node of Storefront Commercial a block to the northwest. In this location NE Killingsworth is a designated District Collector and Major Transit Street.

Zoning: The site is zoned R2.5ah: Single Dwelling Residential 2,500 with an Alternative Design Density and Aircraft Landing overlay zones. The R2.5 zone is a high density single-dwelling zone. The R2.5 zone allows attached and detached single-dwelling structures and duplexes.

The purpose of the Alternative Design Density Overlay Zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

The Aircraft Landing overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation.

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

A "Notice of Proposal in Your Neighborhood" was mailed **January 25, 2016.**

Agency Review: The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

The Bureau of Transportation Engineering responded with no objections and provided an analysis regarding transportation impacts that are incorporated into the findings below in this decision. Please see Exhibit E-2 for additional details.

The Police Bureau responded that services are available and included a number of recommendations about lighting, signage, etc. The full response is contained in Exhibit E-5.

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

ZONING CODE APPROVAL CRITERIA**33.815.010 Conditional Uses: 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: For purposes of evaluating the proposal against this criterion, the residential area comprises approximately 300 feet in all directions from the subject site. In general, this area is roughly bounded by NE Emerson to the south, NE 30th Avenue to the west, a quarter block north of NE Killingsworth to the north and the block face fronting NE 32nd Avenue to the east. With the exception of a small node of commercial zoning at the intersection of NE 30th and NE Killingsworth, all of the lands surrounding the site in all directions are zoned single dwelling residential R2.5 and R 5. The immediately surrounding area is developed with residential structures and uses, with a variety of architectural styles built in different eras. In the immediate area, there are no other non household living uses. All of the non residential development and uses are within the commercially zoned lots along NE Killingsworth.

Because there are no other non-household uses in the immediately surrounding area, the proposed ASTR will not have an impact on the function or the appearance of the residential area. There are no proposed changes to the existing house, although the applicant is allowed and encouraged to place a small sign (1 square foot in size) near the front door identifying the home as a “Bed and Breakfast” and the house number clearly showing, per recommendations from the Portland Police Bureau. The intensity of the proposed ASTR is equivalent to the number of people who could reside in the house, given the number of existing bedrooms. For all of these reasons, this criterion is met.

B. Physical compatibility.

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

Findings: City-designated scenic resources are indicated on City zoning maps by a lowercase “s.” There are no scenic resources on the subject site, nor in the immediate neighborhood. 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, and landscaping; or

Findings: The proposed ASTR use would take place in an existing unit of a single dwelling duplex built circa 2006. No exterior changes are proposed. The existing

home, lot, building scale, setbacks and building style are all typical of the immediately surrounding single dwelling residential neighborhood. This criterion is met.

3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, and other design features.

Findings: Because the proposal meets criterion B.2., above, this criterion is not applicable.

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: The regulations of Chapter 33.207, Accessory Short Term Rentals, does not allow commercial meetings, and none are proposed. The proposed ASTR complies with the regulations and limits. As a result, impacts in terms of noise should be similar to any other residential use.

The applicant notes that there will be no changes to the exterior of the home, and the existing exterior lighting remains on 24-7 as a way to improve visibility and safety for neighbors and pedestrians using the sidewalk. The applicant notes that quiet hours will be enforced between 10 PM and 8 AM. With these quiet hours there is no anticipation of late-night operations.

No odors or litter are anticipated to result from the ASTR operation, but should such situations occur, they will be quickly dealt with to avoid inconveniencing neighbors or other guests.

The applicant includes excerpts from the 'House Rules' that have been developed for guest, which are structured to ensure that tenants do not engage in obnoxious or loud behaviors. For all these reasons, and with conditions of approval this criterion is met.

2. Privacy and safety issues.

Findings: There are no anticipated impacts in terms of privacy or safety. The applicant notes that all of the guests will enter the home using the same main entrance as the owner, which has excellent street visibility. The Portland Police Bureau has reviewed the proposal and have no objections. Therefore, this criterion is met.

D. Public services.

1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan;

Findings: The Portland Bureau of Transportation has reviewed the proposal and offers the following comments:

At this location, NE 31st Ave is classified in the City's Transportation System Plan (TSP) as a Local Service street for all modes. The proposed ASTR is supportive of the various street designations of this street. The TSP states that "Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses." The development of the site with an ASTR will not impact the distribution of local traffic throughout the area.

This criterion is met.

2. The transportation system is capable of supporting the proposed use 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 Office of Transportation Engineering and Development Review Section reviewed the proposed Type B Accessory Short Term Rental (ASTR) facility and note the following comments in their analysis:

The applicant hired a professional traffic consultant to prepare a Transportation Impact Study (TIS) to address this particular approval criterion. PBOT has reviewed the submitted TIS and offers the following assessment:

- Utilizing acceptable industry standards, methodologies, references and analyses, the TIS adequately addresses each of the above referenced evaluation factors.
- The TIS includes typically prepared trip generation/trip distribution analyses which conclude that the minimal expected vehicle trips associated with the proposed ASTR (2 am peak trip/2 pm peak trip and 28 total daily trips) will not have adverse impacts to the operations of the 2 studied intersections. Said intersections currently operate well within City of Portland performance measures and will continue to do so after the proposed ASTR is operating.
- The TIS includes a thorough on-street parking analysis which involved observations conducted during the peak parking demand periods associated with the residential uses in the immediate area. During both observation periods, there were observed demands for on-street parking throughout the survey area. However, the remaining 49% supply of on-street parking spaces will easily accommodate the expected additional demand (1-2 vehicles) generated by the proposed ASTR.
- The TIS adequately addresses the remaining evaluation factors, including the provision of available crash data to demonstrate that there are no safety concerns related to traffic at nearby intersections. Existing transit, pedestrian and bicycle facilities, which are robust in the area, will not be compromised by the proposed ASTR.

PBOT supports the conclusions reached in the submitted TIS and as required, the applicant has adequately demonstrated that “the transportation system is capable of supporting the proposed use in addition to the existing uses in the area”.

For all of the above reasons, this criterion is 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 Water Bureau notes that existing water supply is adequate. Police services and fire protection services are available and neither the Police nor Fire Bureau note concerns. The Portland Police Bureau Crime Analysis section has provided the applicant with several advisory recommendations regarding landscaping, lighting and addressing to ensure that public safety is maintained. These suggestions from PPB are not mandatory in order to meet this criterion, but the applicant is encouraged to follow these advisories. The Bureau of Environmental Services has no concerns. 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 subject site is located within the boundaries of the Concordia Neighborhood Plan, adopted by City Council October, 1993. A review of the adopted Goals and Policies for the Plan found no conflicts with the proposal. The proposal is consistent with Policy 3, *Economic Revitalization*, Objectives 2, 4-5 and is specifically supportive of Objective 8.

2. Create attractive and safe settings in neighborhood commercial centers for shoppers and visitors.
4. Create new markets for locally-produced goods and services.
5. Expand the range and quantity of consumer goods and services available locally.

A local business, such as a short term accessory rental, in close proximity to the commercial node at NE 30th Avenue and NE Killingsworth, will inherently provide new consumer services and create new customers for the local businesses in the immediate neighborhood.

The proposal is also specifically supportive of Objective 8:

8. Nurture and promote local entrepreneurship, micro-business growth, and business expansion, particularly for women- and minority-owned businesses.

The proposal is based on local entrepreneurship and will result in a new woman-owned business in the neighborhood. For these reasons, 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 requests a Conditional Use approval to operate a Type B ASTR facility. The applicant proposes to live in the unit at least 270 days per year (as required by Zoning Code Section 33.207.050.A.1) and rent up to five bedrooms to one or two groups at a time. No exterior alterations to the structure are proposed. No food service or commercial meetings are proposed. Because the proposal meets all of the applicable approval criteria, it should be approved.

ADMINISTRATIVE DECISION

Approval of

- Conditional Use to operate a Type B Accessory Short Term Rental (ASTR) facility at 5426 NE 31st Avenue for up to 5 bedrooms, per the approved site plans, Exhibit C-1, signed and dated February 29, 2016, 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 15-269516 CU." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
 - B. Quiet hours will be from 10:00 PM to 8:00 AM

- C. Before the Type B Accessory Short Term Rental can operate, a fee-paid inspection must be purchased from BDS to confirm that the requirements of Zoning Code Section 33.207.050.B.4 are met.

Staff Planner: Sylvia Cate

Decision rendered by:  **on February 29, 2016**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 3, 2016

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on November 24, 2015, and was determined to be complete on **January 19, 2016**.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on November 24, 2015.

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: May 18, 2016**.

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 March 17, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **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 must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **March 18, 2016 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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:

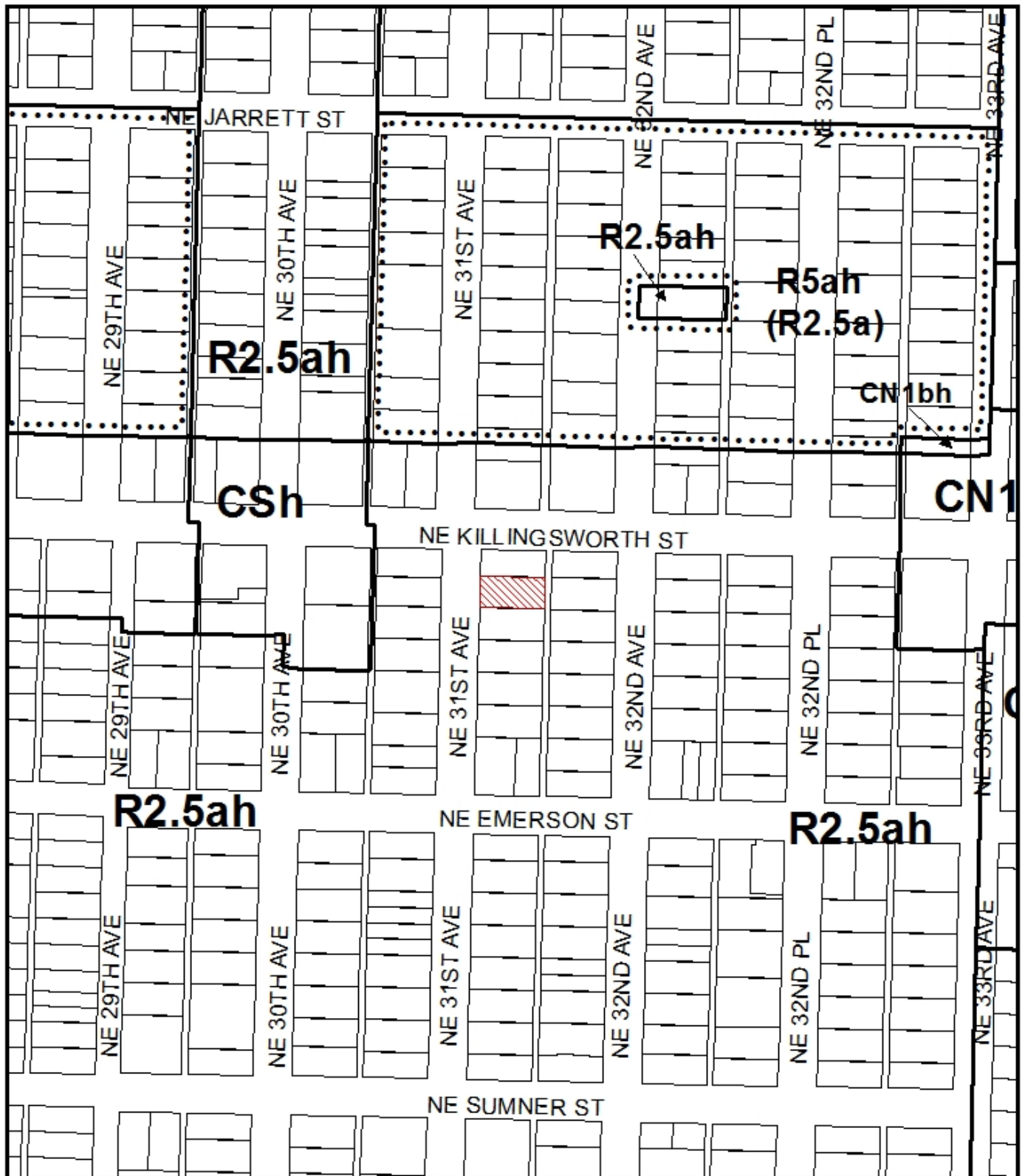
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS


NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Set of Floor Plans
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Police Bureau
 - 6. Site Development Review Section of BDS
 - 7. Bureau of Parks, Forestry Division
- F. Correspondence: *None Received*
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter, December 7, 2015; re: need more information

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).

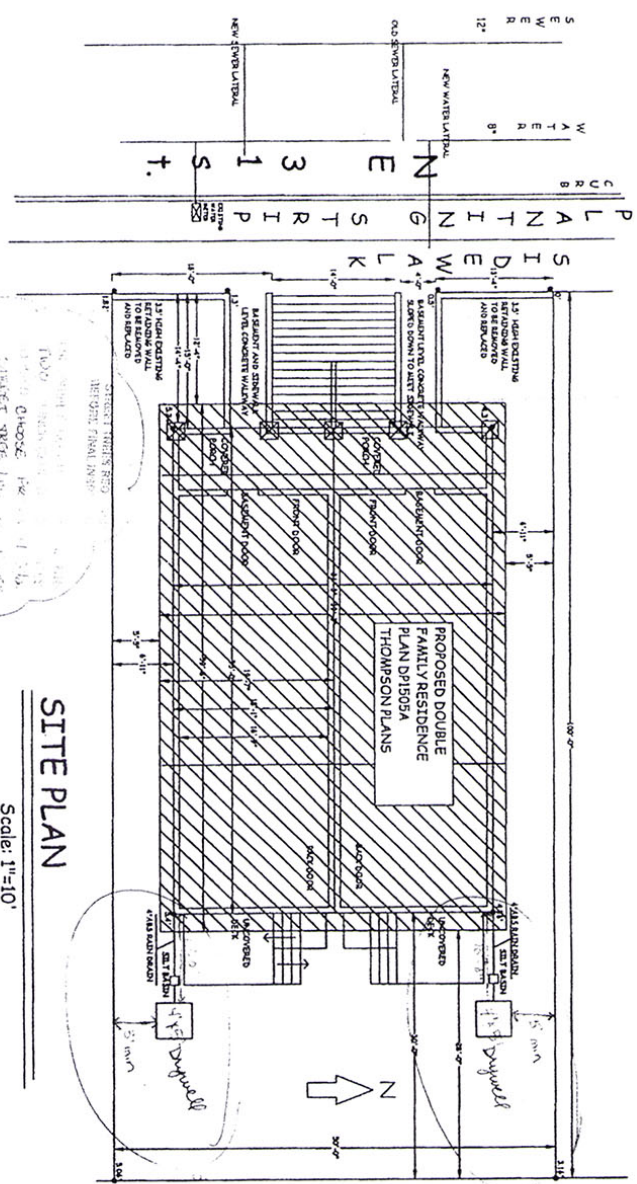


ZONING

 Site

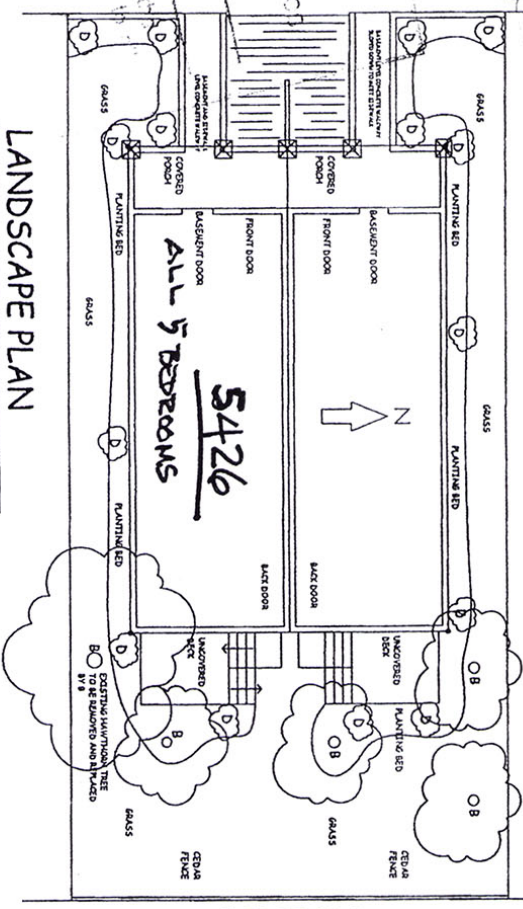


File No. LU 15-269516 CU
 1/4 Section 2533
 Scale 1 inch = 200 feet
 State Id 1N1E24BA 4200
 Exhibit B (Dec 01, 2015)



SITE PLAN

Scale: 1"=10'



LANDSCAPE PLAN

Scale: 1"=10'

TREE & SHRUB KEY

A - ORIENTAL CHERRY (PRUNUS SERPULATA) OR SILVER PEAR (PYRUS SALICIFOLIA)
 B - PAPERBARK MAPLE (ACER GRiseum) OR MAGNOLIA SOULANGEANA, WHITE OR RED
 D - ASSORTED RHODODENDRON AZALEA, HEBE, DAPHNE
 PROSTRATE JUNIPER

NOTE:
 ALL TREES (A&B) ARE TO BE PLANTED PER CITY URBAN FORESTRY GUIDELINES. FOR MORE INFO CALL 823-4489. STREET TREES REQUIRED BEFORE FINAL INSPECTION.

Approved by City of Portland

5426

ALL 5 BEDROOMS

Additional zoning reviews requested and is conditions of approval.

wquade@comcast.net
 CCB: 76966

6110 NE 53rd, PL. PORTLAND OR, 97218
 503-201-6635 Fax: 503-287-3294
 WALT QUADE

PIEDMONT CONSTRUCTION INC.
 GENERAL CONTRACTING
 PORTLAND OREGON

FLATWORK AREA
 STEPS & BASEMENT ACCESS... 198 sq.ft.
 TOTAL IMPERVIOUS AREA... 2540 sq.ft.

LOT COVERAGE
 LOT AREA... 5000 sq.ft.
 BLDG. AREA... 2342 sq.ft.
 (incl. overhang)
 LOT COVERAGE... 47%

NOTES:

SUBCONTRACTOR TO SPECIFY EXACT LOC'S OF UTILITY STUBS

THE OLD HOUSE HAD NO SEWER SERVICE

NO OFF STREET PARKING IS PLANNED

NO BUILDING WITHIN 5'-0" OF PROPERTY LINES

PROJECT LEGAL

FOXCHASE ADD, LOT 15, BLOCK 3

MAP# 2593 OLD PROPERTY ID, R166022 MULTNOMAH COUNTY

PROJECT ADDRESS

5424 NE 31 ST.
 PORTLAND OR, 97211

LV15 - 269516CU

EXHIBIT C-1

SITE SET