



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

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Paul L. Scarlett, Director
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www.portlandoregon.gov/bds

**NOTICE OF A PUBLIC HEARING BEFORE THE CITY COUNCIL
ON A COMPREHENSIVE PLAN MAP AMENDMENT
AND ZONING MAP AMENDMENT**

CASE FILE: **LU 18-112666 CP ZC**
Hearings Office Case # 4180003

WHEN: **August 8, 2018 at 2:00 PM**

WHERE: CITY COUNCIL CHAMBERS
1221 SW FOURTH AVENUE

Date: July 9, 2018

To: Interested Person

From: Mark Moffett, City Planner
(503) 823-7837, mark.moffett@portlandoregon.gov

A public hearing will be held to consider the Land Use Hearings Officer's recommendation on an application for a Comprehensive Plan Map and Zoning Map Amendment. On June 21, 2018, the Hearings Officer issued a recommendation of approval, with conditions, of the requested Comprehensive Plan Map and Zone Map Amendments. Because this case includes a Comprehensive Plan Map Amendment, the City Council must make the final decision. You are invited to testify at the hearing.

Copies of the existing and proposed zoning map (one map) is attached. I am the staff person handling this case - please contact me with any questions regarding this proposal, the Council hearing, or how to testify in this matter. **For a general explanation of the City Council hearing process, please refer to the last page of this notice.**

Applicant/Owner: Tim Sotoodeh, Southwest Hills LLC
12802 Bonita Heights Dr
Santa Ana, California 92705

Attorney/Contact: Renee France, Radler White Parks & Alexander LLP
111 Columbia St, Suite 1100
Portland, Oregon 97201

Property Owner: Southwest Hills LLC
12802 Bonita Heights Dr
Santa Ana, Ca 92705-6303

Site Address: 2855 SW PATTON RD

Legal Description: BLOCK P TL 13200, GREENWAY
Tax Account No.: R343104990
State ID No.: 1S1E08AA 13200
Quarter Section: 3226

Neighborhood: Southwest Hills Residential League, contact Nancy Seton at 503-224-3840.

Business District: None.

District Coalition: Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.

Zoning (prior): **CN2** (Neighborhood Commercial 2) *in effect prior to May 24, 2018*

Zoning (current): **CM-1 (MU-D)** (Commercial/Mixed-Use 1 base zone with corresponding Mixed-Use – Dispersed Comprehensive Plan Map designation) *in effect on May 24, 2018*

Case Type: **CP ZC** (Comprehensive Plan and Zoning Map Amendment)

Procedure: **Type III**, with a public hearing before the Hearings Officer. The recommendation of the Hearings Officer will be considered at a public hearing before the Portland City Council. The decision of the City Council can be appealed to the State Land Use Board of Appeals (LUBA).

Proposal: The current proposal is for a Comprehensive Plan Map and Zoning Map Amendment to delete various conditions of approval associated with prior City Council Ordinances at the site from the 1980s. The prior Ordinances are all related to an earlier 1984 Zoning and Comprehensive Plan Map Amendment that changed the site from R5 zoning (single-family residential) to CN2 (commercial), eliminating the nonconforming use status of the grocery store. Through a series of three Ordinances in 1984 (#155609 & #155850) and 1998 (#160473), City Council imposed conditions of approval tied to this earlier “zone change”, including the following specific restrictions:

- Limiting use of the site to a grocery store;
- Preventing future building “outline” expansions;
- Maintaining a special 35’-foot north setback, and preventing regrading north of the building;
- Prohibiting new accessory buildings;
- No exterior recycling or trash containers;
- Requirement for employees to park in a specific covered area under the current building;
- Requiring forward motion and on-site loading for all loading activity;
- Requirements addressing buffering per the Parks Bureau abutting Portland Heights Park;
- Requirements for exterior lighting;
- Requiring Design Commission “advice” via Planning Bureau staff prior to permitting of the existing structure;
- Limiting deliveries by “large trucks” from 4:30 to 7:30pm, and from 9:00pm to 7:00am;
- Limiting the size and type of signage;
- Requiring a store entrance on the lower level;
- Ensuring any loudspeaker noise not be audible to any residential property;
- Re-stating that soil stability and drainage requirements of the Building Code apply;
- Requiring a specific driveway layout, at least 58 on-site parking spaces, and a left-turn lane in SW Patton at Old Orchard Road;
- Possibly requiring a right-turn lane from SW Patton Road into the parking lot;
- Re-stating that drainage (stormwater) requirements of City Code will apply;
- Re-stating that Fire Code requirements will apply;
- Requiring certain areas of the parking lot to be closed when the store is closed;
- Limiting the height of the building to no more than 17 feet above the grade of SW Patton Road, except for skylights;
- Limiting rooftop mechanical equipment to specific types, sizes and locations, and with specific screening requirements;

- Requiring window screening inside the store to prevent “light shining onto the neighbors and reduce visibility into the store”; and
- Logistical and timing requirements for the 1980s building permit process.

Since the closure of the last grocery store operation at the site, the new owner has marketed the site to several grocery retailers, but has not been able to attract a grocery use to the site. The applicant claims that the grocery store-only conditions, as well as the other site-specific restrictions and conditions noted above, effectively deprive them of economically viable use of the site. As a result, the applicant is requesting removal of the various site- and use-specific conditions of approval noted above in their entirety. Because the conditions of approval were imposed as part of a City Council process tied to a prior Comprehensive Plan and Zoning Map Amendment in the 1980s, the same process must be followed to remove the conditions. Therefore, the applicant has requested a Comprehensive Plan and Zoning Map Amendment to delete the prior conditions above, but without any changes to existing or future Zone Map or Comprehensive Plan Map designations.

The Hearings Officer recommended conditional approval of the request on June 21, 2018.

Conditions of approval require:

- A. Notation of the case number and any relevant conditions of approval on all future building permit applications at the site;
- B. Coordination with the Bureau of Environmental Services regarding on-site sewer easements, including possible development changes or re-routing of the sewer and easement as necessary in the event of new development or building expansions; and
- C. Imposition of a Trip Cap for future development, requiring future activity to either comply with the Trip Cap, or receive separate approval through a discretionary Type II Transportation Impact Review.

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

- **33.810.050.A.1-4, Comprehensive Plan Map Amendment Approval Criteria;**
- **33.855.050.A-D, Zoning Map Amendment Approval Criteria;**
- *(by reference at 33.810.050.A.1)* **Comprehensive Plan Policies;** and
- *(by reference at 33.810.050.A.2)* **Statewide Land Use Planning Goals.**

DECISION MAKING PROCESS

Review of the Case File: The Land Use Hearings Officer's recommendation and all evidence on this case are available for review (by appointment) at the Bureau of Development Services, 1900 SW Fourth Avenue, 4th Floor, Portland OR 97201. Please contact support staff at 503-823-767 to schedule a time to review the file. 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 for such services. You may also find additional information about the City of Portland and City bureaus as well as a digital copy of the Portland Zoning Code, by visiting the City's home page on the Internet at www.ci.portland.or.us

We are seeking your comments on the proposal. The hearing will be held before the City Council. To comment, you may write, or testify at the hearing. In your comments, you should address the approval criteria, which are identified above. Please refer to the case file number when seeking information or submitting testimony. Written comments **must be received by the end of the public testimony of the hearing**, and should include the case file number and name and address of the submitter. Written comments must be given to the Council Clerk in person, or mailed to 1221 SW Fourth Avenue, Room 140, Portland, OR 97204.

APPEAL PROCESS

The decision of the City Council may be appealed to the Oregon Land Use Board of Appeals (LUBA) at 775 Summer Street NE, Suite 330, Salem, OR 97310. The phone number for LUBA is (503) 373-1265. Failure to raise an issue in person or in writing by the close of the record at or following the final evidentiary hearing before the City Council on this case may preclude an appeal to LUBA on that issue. Also, if you do not provide enough detailed information to the review body, they may not be able to respond to the issue you are trying to raise. In such a situation an appeal to LUBA based on that issue may not be allowed.

Public transportation to City Hall is available. Call TriMet at (503) 238-7433 (or www.trimet.org/routes_times.htm) for routes and times. Hourly rated public parking is available underneath the Portland Building immediately north of City Hall. Other public parking garages are in the immediate vicinity.

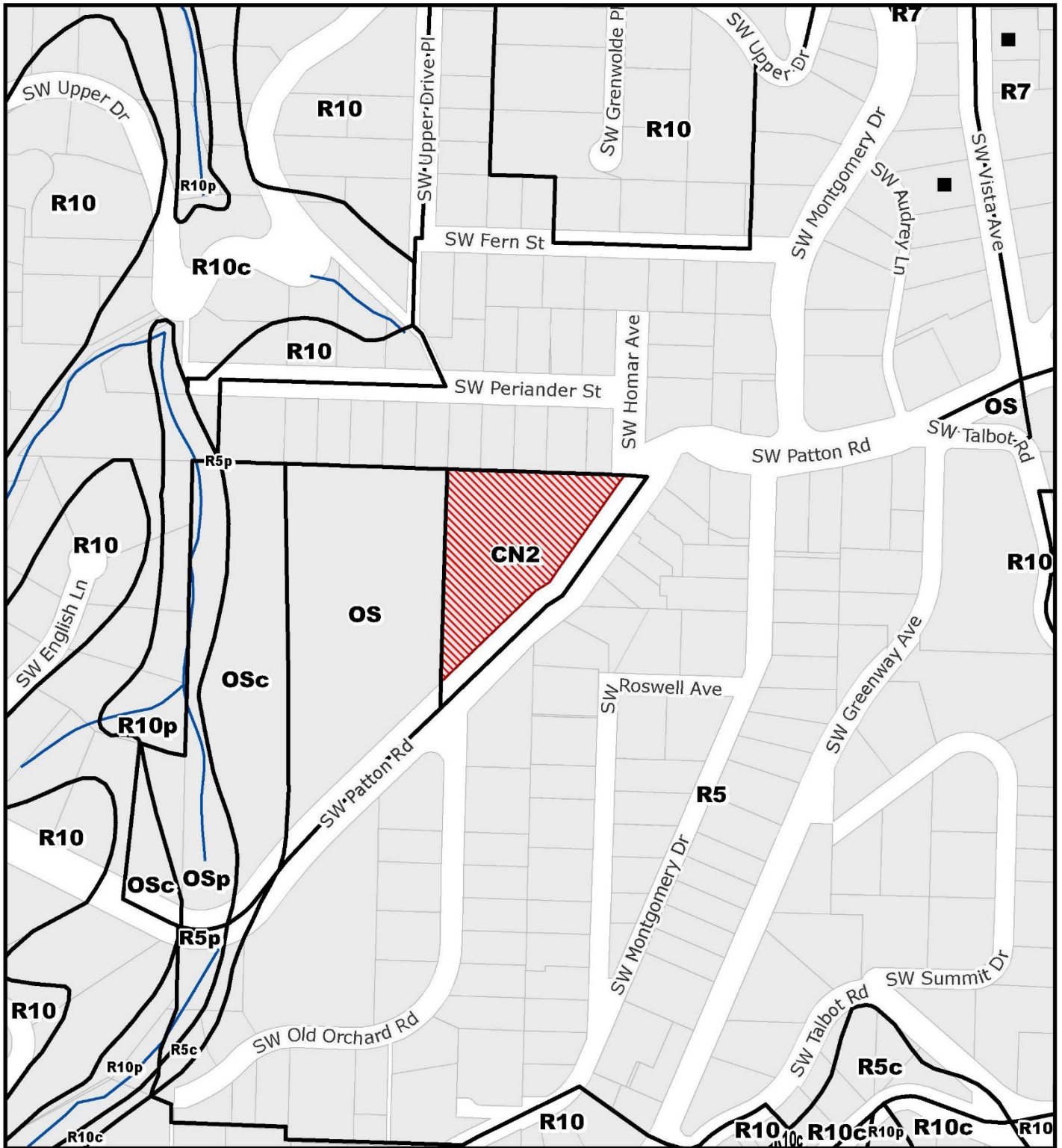
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).

Enclosures:

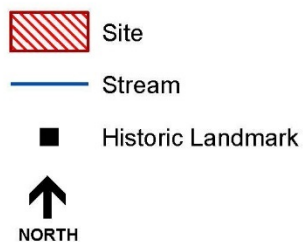
Existing/Proposed Zoning Map

Site Plan

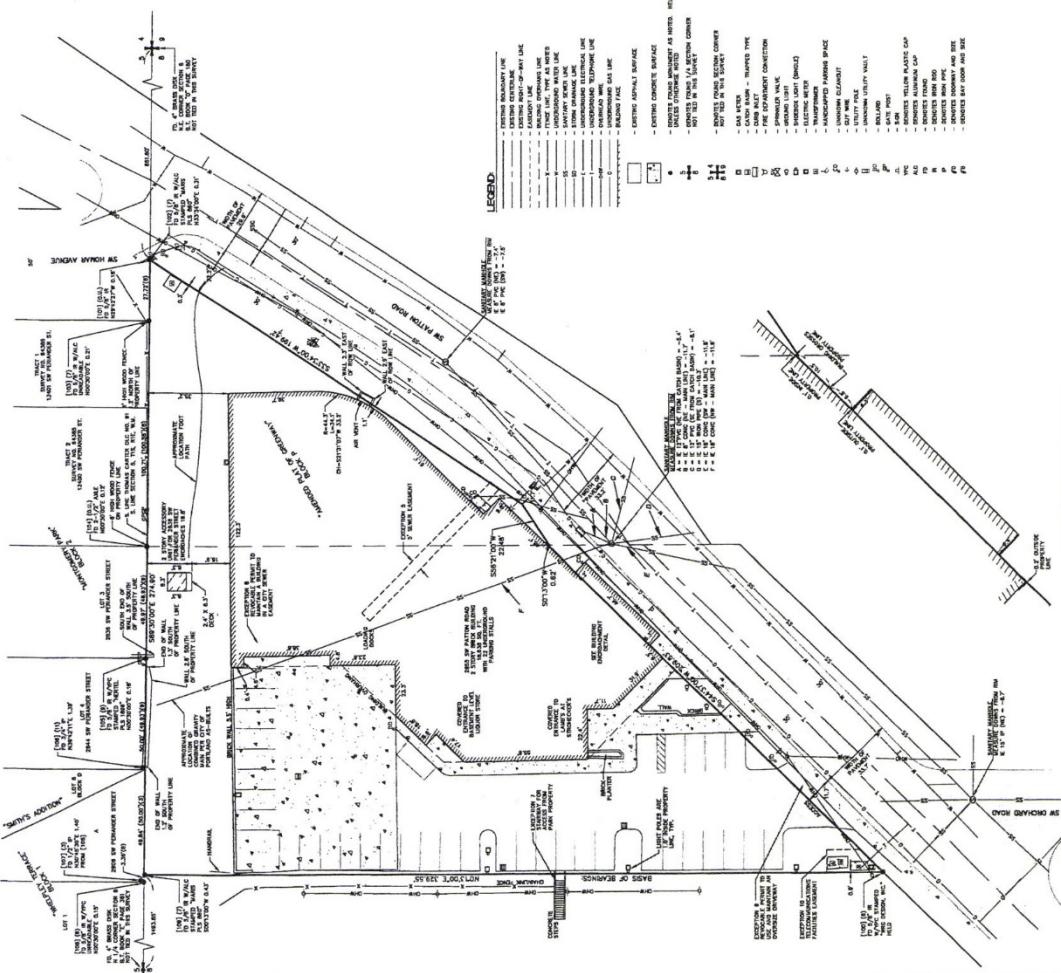
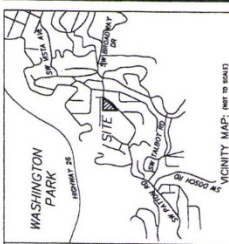
General Explanation for City Council Process For Evidentiary/De Novo Hearings



EXISTING PROPOSED ZONING



File No.	LU 18-112666 CP ZC
1/4 Section	3226,3326
Scale	1 inch = 200 feet
State ID	1S1E08AA 13200
Exhibit	B.1 Jan 26, 2018



A.L.T.A./A.C.S.M. LAND TITLE SURVEY
LOCATED IN THE NORTHEAST QUARTER OF SECTION 8,
TOWNSHIP 1 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

•• NOTE: THIS SURVEY IS NOT AN UPDATED ALTA.
THE SOLE PURPOSE WAS TO SHOW THE SANITARY LINE WITHIN SW
PATTON ROAD.

[illegible][illegible]

BASIS OF BEARINGS
ESTABLISHED BY HOLDING BEARINGS (U)O AND (V)S, MONITORING & ALTIMETER
OF SUBJECT PROPERTY, PLOT SURVEY NO. 34,322.

NOTES:

1. THE LEGAL DESCRIPTION AND COORDINATES SHOWN HEREON ARE BASED ON INSURANCE COMPANY
2. THIS REPORT NO. IS: 42311847709 OFFICINE DATE: SEPTEMBER 14, 2011
3. BEARING AREAS SHOWN HEREON ARE BASED ON EXTENSION MEASUREMENTS
4. 239862;

FOR THE CITY OF PORTLAND DEVELOPMENT CODE.

THE SITE FALLS WITHIN ZONE "C" - MICROBIOLOGICAL COMMERCIAL 2 (COMPACT USES)

[illegible]

SURVEYOR'S CERTIFICATE:
TO: SEVEN INVESTMENTS
CHICAGO TITLE INSURANCE COMPANY

THIS IS TO CERTIFY THAT THE MAP ON PLAT AND THE SURVEY ON WHICH THIS CERTIFICATE IS BASED WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND ACCORDANCE WITH THE 2011 MINNESOTA STANDARD SURVEY REQUIREMENTS FOR THE PREPARATION OF SURVEYS. THE SURVEY WAS PREPARED IN ACCORDANCE WITH THE MINNESOTA SURVEYING ACT, CHAPTER 329A, MINNESOTA STATUTES, AND THE 2011 MINNESOTA STANDARD SURVEY REQUIREMENTS FOR THE PREPARATION OF SURVEYS. THE SURVEY WAS PREPARED IN ACCORDANCE WITH THE MINNESOTA SURVEYING ACT, CHAPTER 329A, MINNESOTA STATUTES, AND THE 2011 MINNESOTA STANDARD SURVEY REQUIREMENTS FOR THE PREPARATION OF SURVEYS.

CAROLANNA R. BARNES, P.L.S.
PLS.33.3
EXPIRES: 11/7/2013

EXCEPTIONS

1. SPECIFIC TERMS AND EXCEPTIONS

PROPERTY TAXES IN AN INCORPORATED AREAS, WHICH USE A LATE RENT SET PAYABLE, INCLUDING ANY ASSORTMENT COLLECTED WITH TAXES TO BE LINED FOR THE (WITH A SURETY GUARANTEE) [REDACTED]

2. CITY LEVIES & TAXES IN FAVOR OF THE CITY OF PORTLAND, MAINE, TRUST AS OF (WITH A SURETY GUARANTEE) [REDACTED]

3. AN EMBROIDERED CREDIT BY METROPLEX, INCLUDING TERMS AND CONDITIONS (TRUST) [REDACTED]

4. (WITH A SURETY GUARANTEE) [REDACTED]

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[illegible][illegible][illegible][illegible][illegible]

BUILDING ENCROACHMENT DETAIL.
SCALE: 1"=10'

GENERAL EXPLANATION OF THE CITY COUNCIL PROCESS FOR EVIDENTIARY/DE NOVO HEARINGS

1. SUBMISSION OF TESTIMONY

- a. Testimony may be submitted in writing to the Council Clerk, 1221 SW Fourth Avenue, Room 140, Portland, OR 97204. Written comments must be received by the time of the hearing and should include the case file number.
- b. Testimony may be submitted orally (see below).

2. HEARINGS PROCESS

- a. The order of appearance and time allotments are generally as follows:

Staff Report	10 minutes
Applicant	10 minutes
Supporters of Applicant	3 minutes each
Principal Opponent	15 minutes
Opponents	3 minutes each
Applicant Rebuttal	5 minutes
Council Discussion	

- b. The applicant and proponents have the burden of proof to show that each and every element of the approval criteria can be satisfied. If the applicant is opposing the Hearings Officer's recommendation, the applicant may also argue the criteria are being incorrectly interpreted, the wrong approval criteria are being applied or additional approval criteria should be applied.
- c. In order to prevail, the opponents of the application must persuade the City Council to find that the applicant has not carried the burden of proof to show that the evidence submitted in support of the application demonstrates that each and every element of the approval criteria is satisfied. The opponents may wish to argue the criteria are being incorrectly applied, the wrong criteria are being applied or additional approval criteria should be applied.
- d. The failure to address an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals (LUBA) on that issue.

3. OTHER INFORMATION

- a. Prior to the hearing, the case file and the Hearings Officer decision are available for review, by appointment, at the Bureau of Development Services, 1900 SW 4th Avenue, Portland, OR 97201. Call 503-823-7300 to make an appoint to review the file.

If you have a disability and need accommodations, please call 823-4085 (TDD: 823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.