

# Development Services

## From Concept to Construction

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More Contact Info (<http://www.portlandoregon.gov/bds/article/519984>)



### APPEAL SUMMARY

**Status:** Mixed Decision. Items 1, 2: Decision Rendered. Item 3: Hold for Additional Information.

<b>Appeal ID:</b> 27576	<b>Project Address:</b> 2311 SE Cesar Chavez Blvd
<b>Hearing Date:</b> 3/16/22	<b>Appellant Name:</b> Eli Metcalf
<b>Case No.:</b> B-001	<b>Appellant Phone:</b> 9716782531
<b>Appeal Type:</b> Building	<b>Plans Examiner/Inspector:</b> Steven Freeh
<b>Project Type:</b> commercial	<b>Stories:</b> 2 <b>Occupancy:</b> R-3 <b>Construction Type:</b> V-B
<b>Building/Business Name:</b>	<b>Fire Sprinklers:</b> Yes - NFPA 13D throughout
<b>Appeal Involves:</b> other: Change of use from single family residence to (2) residential transient living units (less than 10 total occupants)	<b>LUR or Permit Application No.:</b> 22-100609-CO
<b>Plan Submitted Option:</b> pdf [File 1]	<b>Proposed use:</b> Residence –Transient Living (R3)

### APPEAL INFORMATION SHEET

#### Appeal item 1

<b>Code Section</b>	Table 601
<b>Requires</b>	Exterior walls less than 10' from the property line shall have a 1-hour rated assembly
<b>Code Modification or Alternate Requested</b>	We are asking to allow the south wall to remain as-is without a listed 1 hr rated assembly.
<b>Proposed Design</b>	We are proposing to convert this property from a single family home (R3) to a residential transient living R3 with 10 or fewer occupants. We are proposing to install a new NFPA 13D fire sprinklers system throughout the home. The system will be installed on all three levels (basement, first story, second story). The south wall will remain as is: 2x4 construction with a single layer of gypsum wallboard on the interior and sheathing and fiber cement siding on the exterior.
<b>Reason for alternative</b>	The building was built per residential code allowing exterior walls to be unrated and have a fire separation distance of 3' or more. These are single family dwelling units, intended to be rented to a single group (no more than 5-6 people). The occupancy is R3 and hazard is nearly identical to it's currently R3 use. Therefore, we feel that we are exceeding the intention of the code by adding a sprinkler system. To reconstruct the walls to be 1 hr rated would pose an undue and unnecessary burden.

#### Appeal item 2

<b>Code Section</b>	Table 705.8
<b>Requires</b>	The maximum area of unprotected and protected openings permitted in an exterior wall in any story of a building shall not exceed the percentages specified in Table 705.8 based on the fire

separation distance of each individual story.

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<b>Code Modification or Alternate Requested</b>	We are requesting 12% unprotected openings in the first story of the south wall.
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<b>Proposed Design</b>	We are proposing a NFPA 13D sprinkler system throughout the house. The first story will retain the existing and unchanged 12% unprotected openings.
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<b>Reason for alternative</b>	Although the proposed NFPA 13D sprinklers do not qualify as "Sprinklered" protection in Table 705.8, they still provide a strong degree of safety, and are more appropriate in a residential setting. Given that the area of unprotected openings is low, and that these are dwelling units with residential use, allowing the openings to remain as-is with the new proposed NFPA 13D sprinkler system sufficiently protects the life and safety of the users. The south facade meets the 10% unprotected opening limit with 9.5% openings when measured together. This is not a commercially scaled building and should not adhere to the strict standards of the commercial code. Infilling the windows or replacing them with "Protected" openings would pose an undue and unnecessary burden, as well as reduce south facing light and ventilation to the users.
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### Appeal item 3

<b>Code Section</b>	1207.2
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<b>Requires</b>	Occupiable spaces, habitable spaces and corridors shall have a ceiling height of not less than 7'-6" above the finished floor. Bathrooms, toilet rooms, kitchens, storage rooms and laundry rooms shall have a ceiling height of not less than 7 feet above the finished floor.
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<b>Code Modification or Alternate Requested</b>	Requesting lower than 7'-6" ceilings in the basement unit.
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<b>Proposed Design</b>	We propose a 6'-8 1/4" ceiling. Add larger than required egress openings: 2.5' x 3.5' egress windows in both of the bedrooms and a 4.5' x 3.5' egress window in the living room.
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<b>Reason for alternative</b>	Since a 6'-8" ceiling height is permitted in the Portland code guide for residential basements, we believe that the use of these units matches the intention of the residential ceiling height requirement, rather than the 7'-6" commercial requirement. These are single family dwelling units, intended to be rented to a single group (no more than 5-6 people). The occupancy is R3 and hazard is nearly identical to it's currently R3 use. We are providing larger than required windows which meet the intent of the code for a comfortable living space and safe means of egress. Excavating the basement slab to add 9.75" represents an unreasonable burden.
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### APPEAL DECISION

**1. Non-fire rated South exterior wall to remain. Granted as proposed.**

**2. Non-fire rated South exterior wall openings to remain. Granted as proposed.**

**3. Reduction in the minimum required ceiling height in the basement unit from 7'-6" to 6'8": Hold for additional information.**

**See note below regarding the process for submitting additional information.**

**Appellant may contact John Butler (503 865-6427) or e-mail at [John.Butler@portlandoregon.gov](mailto:John.Butler@portlandoregon.gov) with questions.**

For Items 1, 2: The Administrative Appeal Board finds that the information submitted by the appellant demonstrates that the approved modifications or alternate methods are consistent with the intent of the code; do

not lessen health, safety, accessibility, life, fire safety or structural requirements; and that special conditions unique to this project make strict application of those code sections impractical.

Pursuant to City Code Chapter 24.10, you may appeal this decision to the Building Code Board of Appeal within 90 calendar days of the date this decision is published. For information on the appeals process, go to [www.portlandoregon.gov/bds/appealsinfo](http://www.portlandoregon.gov/bds/appealsinfo), call (503) 823-7300 or come in to the Development Services Center.

For Item 3: Additional information is submitted as a no fee reconsideration, following the same submittal process and using the same appeals form as the original appeal. Indicate at the beginning of the appeal form that you are filing a reconsideration and include the original assigned Appeal ID number. The reconsideration will receive a new appeal number.

Include the original attachments and appeal language. Provide new text with only that information that is specific to the reconsideration in a separate paragraph(s) clearly identified as "Reconsideration Text" with any new attachments also referenced. Once submitted, the appeal cannot be revised.

No additional fee is required.

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