



CITY OF

---

**PORTLAND, OREGON**

---

**OFFICE OF THE CITY AUDITOR**  
**Hearings Office**

**LaVonne Griffin-Valade, City Auditor**

1900 SW 4<sup>th</sup> Avenue, Room 3100

Portland, Oregon 97201

Telephone: (503) 823-7307

Fax: (503) 823-4347

TDD: (503) 823-6868

[www.portlandonline.com/auditor/hearings](http://www.portlandonline.com/auditor/hearings)

---

**DECISION OF THE HEARINGS OFFICER**

**I. GENERAL INFORMATION**

**File No.:** LU 09-111841 CU (HO 4090015)

**Applicant:** Laura Edwards, Executive Director  
Oregon Halfway House  
6000 NE 80<sup>th</sup> Avenue  
Portland, OR 97218

**Applicant's  
Representatives:** William Bailey  
Waterleaf Architecture  
419 SW 11th Avenue, Ste. 200  
Portland, OR 97205

Paul Norr, Attorney  
5550 SW Macadam Avenue, Ste. 330  
Portland, OR 97239

**Hearings Officer:** Gregory J. Frank

**Bureau of Development Services (BDS) Staff Representative:** Matt Wickstrom

**Site Address:** 6000 NE 80TH AVENUE

**Legal Description:** TL 1200 LOT 3, PROPCO INDUSTRIAL PARK; TL 1300 LOT 3,  
PROPCO INDUSTRIAL PARK; TL 1700 LOT 3, PROPCO  
INDUSTRIAL PARK

**Tax Account No.:** R678601000, R678601020, R678601700

**State ID No.:** 1N2E17DA 01200, 1N2E17DA 01300, 1N2E17DA 01700

**Quarter Section:** 2438

**Neighborhood:** Cully

**Business District:** Columbia Corridor Association

**District Neighborhood Coalition:** Central Northeast Neighbors

**Zoning:** EG2h (General Employment 2 with an Aircraft Landing Zone overlay)

**Land Use Review:** Type III, CU (Conditional Use Review)

**BDS Staff Recommendation to Hearings Officer:** Approval with conditions

**Public Hearing:** The hearing was opened at 2:28 p.m. on May 29, 2009 in Room 3000 on the 3<sup>rd</sup> floor, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 3:17 p.m. At the hearing, the record for new evidence was held open until 4:30 p.m. on June 19, 2009 and until 4:30 p.m. on June 26, 2009 for applicant's final rebuttal. The applicant submitted, during the open record period, Exhibit H-7; a request to keep the record open for an additional period of time. The applicant also submitted an "applicant's waiver of the 120-deadline" (Exhibit H-7a) with the request. The Hearings Officer, in an Interim Order dated June 12, 2009, extended, consistent with applicant's request, the open record period for new evidence until 4:30 p.m. on August 17, 2009 and the applicant's final rebuttal until 4:30 p.m. on August 24, 2009. The Hearings Officer closed the record on August 24, 2009.

**Testified at the Hearing:**

Matt Wickstrom, BDS Staff Representative

Paul Norr, 5550 SW Macadam Ave., Suite 330, Portland, OR 97239

Steven Yett, Cully Neighborhood Association Vice-Chair, 5949 NE Cully Blvd., Portland, OR 97218

**Proposal:**

Oregon Halfway House ("OHH") received Conditional Use approval in 2002 to operate a 75-bed program serving federal offenders for post-incarceration and community sanctions services. The program serves the community through housing, training, and support for the resident offenders. Several conditions of approval were attached to the 2002 land use review. The applicant requests to modify the Conditional Use approval by increasing the number of beds from 75 to 125 over an approximate three to five year period of time, and by allowing state and local correction program post-incarceration offenders in addition to federal offenders. The applicant does not propose to alter

any of the conditions of approval from the previous land use review (LU 02-110304 CU) that first approved the facility. The applicant's narrative states that the increase to the number of beds can be accomplished through interior alterations to the facility which include converting three-person rooms to four-person rooms, and converting some day room areas to additional resident rooms. No changes to the exterior of the building, outdoor areas or parking areas are proposed. Currently, a minimum of two security staff members are on duty at the facility at all times, and in addition to on-

site staff at least two staff members are on call at all times. OHH, through its application, anticipates providing at least one additional security officer per shift, plus at least one additional case worker as the number of residents begins to increase. At full occupancy, OHH anticipates the facility will have approximately 25 staff spread over three shifts with typically no more than 12 staff during the day, seven in the evening, and six overnight. The Portland Zoning Code classifies halfway houses where residents are supervised by peace officers as Detention Facilities. This proposal to expand the number of residential beds within the facility from 75 to 125 requires approval through a Type III Conditional Use Review and must meet the approval criteria of 33.815.205 Detention Facilities.

**Relevant Approval Criteria:**

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

- 33.815.205 Detention Facilities – Conditional Uses

## **II. ANALYSIS**

**Site and Vicinity:** The Site consists of three separate parcels, with street frontage on both NE 80<sup>th</sup> and 82<sup>nd</sup> Avenues just north of NE Columbia Boulevard (the parcels are referred collectively as the “Site”). Vehicular access is oriented towards NE 80<sup>th</sup> Avenue to the west. The frontage on Northeast 82<sup>nd</sup> Avenue is composed of a vegetated barrier with trees, shrubs, and grasses designed with either berms or sloping banks. The section of NE 82<sup>nd</sup> Avenue that is adjacent to the Site connects NE Airport Way with NE Columbia Boulevard. No direct access to NE 82<sup>nd</sup> Avenue is available from the Site. The Site is developed with a two-story building, which is approximately 160 feet wide by 80 feet deep. The main entrance to the building is located on the east-facing façade, and the building is surrounded by landscaped parking lots on all but the north side. North of the office building is a landscaped buffer approximately 60 feet in width between the Site and the Ramada Hotel parking areas and buildings. The northwest section of the Site facing NE 80<sup>th</sup> Avenue (generally the area within the separate Taxlot 1300) is undeveloped and covered with grassy vegetation except for a small portion, which is developed with the paved parking area and a portion of the basketball court.

For the purposes of this decision, the surrounding vicinity is defined as the area within 400 feet of the Site. The surrounding area is largely industrial in character, with some nearby commercial uses. The Site is adjacent to a large single-story distribution warehouse to the south, and a two-story Ramada Hotel to the north. Across NE 80<sup>th</sup> Avenue to the west are a two-story office building, a single-story office structure, and a single-story mixed-use industrial structure at the intersection of NE 80<sup>th</sup> Avenue and Columbia Boulevard. Nearby development is automobile-oriented in character and usually composed of buildings set well back from the street with generous on-site surface parking lots. Other businesses within the vicinity include airport-oriented hotels, truck repair operations, and other industrial operations.

**Zoning:** The Site is zoned EG2h (General Employment 2 with an Aircraft Landing Zone overlay). The EG2 zone allows a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zone is on industrial or industrially-related uses. Detention facilities are a Conditional Use in the EG2 zone. The “h” overlay limits the height of structures and vegetation in the vicinity of the Portland International Airport. The height limit for this Site is 180 feet above the PDX airport landing strip elevation of 18 feet above sea level. The “h” overlay is not applicable to this land use review as no new development is proposed.

**Land Use History:** City records indicate that prior land use reviews include:

LU 02-110304 CU: On appeal, City Council approved of the Hearings Officer’s decision to approve a Conditional Use Review for a 75-bed Detention Facility use, building renovations and on-site improvements. Conditions of approval include requirements to maintain a minimum of two trained security officers on-duty at all times, control and monitor the main entrance to the facility, conduct criminal background checks for all staff, reject potential residents with a history of sex offenses or violent assaultive behavior, maintain a facility checkout log procedure, allow annual inspections by the Portland Fire Bureau and the Multnomah County Health Department, and to provide a fact sheet listing the program director and others responsible for the program operations to interested parties upon request. Other conditions of approval include requirements that on-site pedestrian walkways and parking areas be lighted to a level where they can be utilized and monitored safely, domestic water and fire suppression systems be acceptable to the Water Bureau, an on-site septic system be decommissioned, all requirements of the Stormwater Management Manual are met, frontage dedication and improvements including landscape screening must be made along NE 80<sup>th</sup> Avenue, annual communication occur with the Cully Neighborhood Association, and a gate and fence must be provided along the north property line. Conditions of approval from this land use review are either carried forward, or carried forward and modified or if they have been satisfied, this information is noted in the findings and summarized as a final condition of approval. The applicant responded as part of the application narrative that all of the above conditions of approval are met and/or are still in effect. A staff visit to the Site confirmed that all physical conditions of approval are met.

LU 04-048228 AD: Approval of an Adjustment to reduce the required low-screen perimeter vehicle area landscaping along the easterly property line, with no landscaping except for two small landscaped islands. No specific conditions of approval were included with the decision.

**Agency Review:** A “Request for Response” was mailed **April 9, 2009**. The following Bureaus have responded:

- **The Bureau of Environmental Services (“BES”)** responded with information on sanitary services and stormwater management. The response states that prior to the future building permit for the interior alterations, the applicant will be required to bring the existing solid waste and recycling area into conformance with the Stormwater Management Manual (Exhibit E-1).
- **The Life Safety Section of BDS** responded that a separate building permit is required for the work proposed (Exhibit E-2).

- **The Water Bureau** provided information on water service for the Site and responded with no objections to the proposed Conditional Use Review (Exhibit E-3).
- **The Development Review Section of the Portland Bureau of Transportation** (“PBOT”) responded with an evaluation of the transportation-related Conditional Use approval criteria. The response also evaluates the requirements of Title 17 and how they relate to the proposal. The response notes no objections to the proposed Conditional Use (Exhibit E-4).
- **Site Development** responded with no objections to the proposal. The response notes that “the stormwater services criterion can be met using existing facilities, if acceptable to BES” (Exhibit E-5).
- **The Fire Bureau and Parks Bureaus** responded with no concerns (Exhibit E-6).
- **The Police Bureau** submitted responses to the proposal (Exhibits H-3b and H-8). In its most recent submission (Exhibit H-8) the Police Bureau supports the proposal if conditions of approval are included (see Conditions C.4 and C.5).

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on April 23, 2009. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. Steven Yett, a representative of the Cully Neighborhood Association testified, at the hearing, that the association had “chosen not to oppose” the application because (1) no requests to oppose were received by the association, (2) historically there have been no reports of complaints related to OHH received by the association, and (3) the association concurs with the refinement of criteria used to filter clientele.

## **ZONING CODE APPROVAL CRITERIA**

### **Conditional Use**

#### **33.815.010 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.

#### **33.815.205 Detention Facilities**

These approval criteria ensure that the facility is physically compatible with the area in which it is to be located and that the safety concerns of people on neighboring properties are addressed. The approval criteria are:

- A. Appearance.** The appearance of the facility is consistent with the intent of the zone in which it will be located and with the character of the surrounding uses and development; and

**Findings:** The proposal to increase the number of residential beds within the OHH facility at the Site from 75 to 125 does not require any exterior alterations or improvements and therefore, the appearance of the building will not change. The two-story OHH building that is constructed of wood and is attractively landscaped is in character with the surrounding uses and development. Most surrounding development is constructed of wood or concrete and most is of a low intensity on the Site.

The intent of the EG2 zone is to provide land for a wide range of employment opportunities without potential conflicts from interspersed residential uses. From the outside or to a passerby who does not know the use of the building, it appears to be a low-intensity office building surrounded by surface parking and landscaping, similar to the use of the building prior to OHH. Office uses of this size are allowed in the EG2 zone so therefore, the appearance of the building is in conformance with the character of the surrounding uses.

The 2002 land use review included a condition of approval which stated that “the applicant shall provide landscape treatment along the entire NE 80<sup>th</sup> Avenue site frontage to conform to the L2, low screen standard as prescribed by 33.248.02. This frontage shall be placed in a 4 foot wide planting strip to the east (property side) of the sidewalk improvements required by Condition ‘G’ above.” BDS staff verified that this condition had been met.

Based on this information, the Hearings Officer finds that this approval criterion is met.

- B. Safety.** The facility and its operations will not pose an unreasonable safety threat to nearby uses and residents;

**Findings:** The expansion of the facility located on the Site, and its operations, will not pose an unreasonable safety threat to nearby uses or residents. BDS staff noted, in its report/recommendation to the Hearings Officer (Exhibit H-2) that, to the best of the planner’s knowledge, safety-related incidents have not occurred during the last five years of operations of OHH.

Communication with the Police Bureau did indicate that the previous condition from the 2002 land use review that stated that “all residents will be classified prior to acceptance and those with a background of sex offenses or violent assaultive behavior will be rejected”, needed further clarification (Exhibits H-3a and H-3b). Regarding the question of residents with a background of sex offenses, OHH submitted a memo to explain the “Bureau of Prisons criteria for Oregon Halfway House placements.” The Police Bureau noted that “the Bureau of Prisons will identify a sex offender referral based on a ‘person-to-person’ sex offense such as rape or child molestation.” The Police Bureau also mentions that “there are individuals that have a criminal conviction that requires them to register as a sex offender, but are not classified as such within the BOP (Bureau of Prisons) system, as it is not a ‘person-to-person’ offense.” The Police Bureau states that the “most common offense of this nature would be ‘possession of child pornography.’” The Police Bureau also expressed

concerns regarding the definition of “violent.” OHH indicated concerns with the Police Bureau proposed condition related to “violent”, and subsequently OHH requested the record remain open for an extended time period to allow OHH and the Police Bureau to reach accord on a definition for “violent.” The Police Bureau, in its second response (Exhibit H-8) recommended specific language for conditions related to “sex offenders” and “violent” offenders. OHH indicated, (in Exhibit H-9) that the two proposed conditions in Exhibit H.8 were acceptable to OHH and asked the Hearings Officer to include the two conditions as part of the approval. The Hearings Officer finds that the proposed conditions provide further safety protection to nearby land uses and residents.

The Hearings Officer notes that the 2002 land use review included findings that concern the operations of the facility. The approval conditions include communication by OHH with the Cully Neighborhood Association, the Central Northeast Portland Crime Prevention Specialist, and the North Precinct of the Portland Police Bureau. A condition of approval included with that land use review states that “a fact sheet listing the name, address, and phone number of the program director and others responsible for the program operations will be provided to the North Precinct Portland Police Bureau, the Cully Neighborhood Association, the Columbia Corridor Business Association and other interested parties upon request. This list will be updated annual(ly) or as changes occur.” During the course of the review, the Police Bureau representative mentioned that the precinct for the Site had changed and therefore, this report suggests that Condition B-7 of LUR 02-110304 CU be updated to read:

*A fact sheet listing the name, address, and phone number of the program director and others responsible for the program operations will be provided to the Portland Police Bureau precinct which provides law enforcement services for the site, the Cully Neighborhood Association, the Columbia Corridor Business Association and other interested parties upon request. This list will be updated annually or as changes occur.*

Safety-related findings within the 2002 land use review also mention that all residents are required to abide by specific program rules, limits and regulations including curfews, and the advanced approval of departures. Findings mention residents’ employment, monthly OHH contacts of employers, as well as social pass procedures and monitoring. The findings discuss safety procedures and necessary physical improvements required for monitoring the building entrance, all areas of the Site and the building itself. Finally the findings mention requirements for staffing and the employment of staff. In order to ensure that all findings and conditions of approval from the 2002 land use review continue to apply, the 2002 Hearings Officer and City Council decisions were included as exhibits with this land use review, and all safety-related conditions of approval from the 2002 review and updates addressed as part of this review are carried forward as conditions of approval, excepting as specifically modified.

Based on this information, the Hearings Officer finds that this approval criterion is met.

### C. Public services.

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

**Findings:** Staff from PBOT provided transportation-related comments for this proposal. The Site is located between NE 80<sup>th</sup> Avenue and a section of NE 82<sup>nd</sup> Avenue which connects NE Airport Way and NE Columbia Boulevard. In this location, the Transportation element classifies NE 80<sup>th</sup> Avenue as a Local Service Traffic Street, a Local Service Transit Street, a Local Service Bikeway, a Local Service Walkway, a Local Service Truck Street, a Minor Emergency Response Street and a Local Street. This section of NE 82<sup>nd</sup> Avenue is classified as a Major City Traffic Street, a Transit Access Street, a Local Service Bikeway, a Local Service Walkway, a Local Service Truck Street, a Major Emergency Response Street and a Local Street. Arterial Streets Classification Policy designations for the surrounding streets designate NE 82<sup>nd</sup> Avenue as a Major City Traffic Street, Major City Transit Street and City Bikeway. Northeast 80<sup>th</sup> Avenue is classified as a Local Service Street. Staff from PBOT found that the proposal does not conflict with adopted street designations. “The existing facility and expansion thereof will have no impact on the local traffic distribution”. 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, or other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; and safety for all modes; and

**Findings:** In their provided response, staff from PBOT found that “the site has adequate access to arterials.” The response states that “PBOT has no concerns relative to connectivity or locations of right-of-way associated with the proposed Conditional Use permit.” A condition of approval from the 2002 review stated that “The applicant shall provide a gate, in conjunction with the fence on the north property line (northeast corner of the property). This gate shall be placed in the driveway and shall be designed to discourage pedestrian and vehicular circulation between the properties. The gate will be equipped with a lock that complies with all requirements of the Portland Fire Bureau. The gate shall be a minimum of six foot in height and utilize slats as a visual screen.” A site visit by BDS staff verified that this condition had been met.

Regarding street capacity, level-of-service and other performance measures, the response states:



*“Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply*

- 1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.*
- 2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.*

*The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland’s performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors.*

*With regard to trip generation, the existing detention facility has been in operation for several years and the operations of the facility have been well documented by the applicant with regard to the current level of residents and staffing. This information was projected and anticipated by the applicant during the City’s review and approval of the initial Conditional Use for the detention facility in 2002 and can be used as a baseline of trip generation information for the current proposal to expand the facility.*

*The applicant has conservatively determined that at any one time, no more than 25% of the residents will have personal vehicles (currently, 12 of the 75 residents (16%) have cars). Residents typically do not use their cars daily, but if they did, with the proposed maximum number of 125 residents, this would result in approximately 60 resident trips (30 exiting/30 entering) per day.*

*At full occupancy, the facility will have approximately 25 staff, scheduled over 3 shifts, with typically no more than 12 during the day, 7 in the evening, and 6 overnight. During the facility’s operation to date, the applicant indicated that approximately 25% of the staff either carpool or utilize public transportation. The remaining 75% would generate approximately 18 trips during the early morning-late afternoon shift (9 driving employees), about 10 trips during the late afternoon-late evening shift (5 driving employees) and about 8 trips during the late evening-early morning shift (4 driving employees).*

*Residents are allowed to have visitors at the subject site. Historically, with 75 residents, visitations occur on an average of one per day, and typically within the hours of 4:00-8:00 PM. With the proposed maximum increase to 125 residents, visitations can be projected to an average of 1-2 visitors/day. The facility also attracts official visitors on a weekly basis, but these official visits are on the average 1 visitor/day.*

*The applicant has estimated that the site will generate 106 daily trips as extrapolated from existing site data. PBOT staff concurs with this figure and the calculation thereof. The ITE Manual does not contain a detention facility category that is representative of the subject land use. The Manual does suggest collecting local data when a land use classification is not covered within said resource, which the applicant has done.*

*With regard to trip distribution, since the detention facility is existing, trip distribution throughout the area has already been established and there is no reason to believe that the expansion of the facility will result in any new patterns of distributing vehicular trips. Given the street classifications of the surrounding area, vehicles arriving to and leaving the site will do so on streets designated to distribute traffic across broader areas of the city. NE Columbia Blvd, NE 82<sup>nd</sup> Ave and NE Killingsworth are each streets designed to carry and move significant amounts of vehicular and freight traffic. The minimal number of additional trips expected to distribute into this system with the proposed expansion will have negligible impacts to the street network.*

*The applicant's submitted information on the operation of the existing detention facility has allowed PBOT staff to conclude that the expected minor increase in trip generation resulting from the expanded use will have negligible impacts to the transportation system, including nearby stop controlled intersections throughout the area. The intersections will continue to operate at acceptable levels of service with no degradation of intersection capacity resulting from the proposed project. In addition, and to further PBOT's conclusion on this matter, the trip generation associated with the detention facility is approximately one-quarter of the trip generation of the previous office use on the subject site (420 daily trips)."*

Regarding on-street parking and neighborhood impacts the PBOT response states:

*"The proposed site plan shows that there will be 96 off-street parking spaces provided in various parking areas of the site. Since, as noted previously, only a small percentage of residents own vehicles, not all of the facility's staff drive to the site, and there has been and will continue to be few visitors to the site, there is an ample number of parking spaces to serve the expanded use of the site without the need for spilling onto the abutting NE 80<sup>th</sup> Ave and parking on the street. On-street parking will not be impacted in association with this proposed land use request."*

The response further states that "there is an existing access driveway to the facility along the Site's NE 80<sup>th</sup> frontage. This will continue to serve as the Site's only point of access in relation to the proposed expansion. No access restrictions are necessary." The response also states that "there is no reason to believe that the proposed

Conditional Use will have negative impacts to pedestrian, bicycle or transit circulation in the adjacent neighborhoods” and “no negative safety impacts are expected with this proposal on any mode of the transportation system.” The response also lists reasons why PBOT agrees that no Transportation Demand Management is necessary with the Conditional Use application.

The response also clarifies that the applicant dedicated property for right-of-way purposes and constructed a sidewalk corridor along the Site’s frontage as required by LUR 02-110304 CU. Therefore, the condition of approval related to right-of-way dedication from the 2002 review will not be carried forward as part of this review.

The PBOT response concludes that “the transportation system is capable of supporting the proposed uses in addition to the existing uses in the area.” 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 BES.

**Findings:** The Portland Water Bureau responded with no objections to increasing the number of beds from 75 to 125 and therefore, the Condition of Approval from the 2002 land use review which stated “Domestic water and fire suppression systems must be made acceptable to the Bureau of Water Works prior to issuance of a building permit for the project” is no longer applicable.

BES responded with information on sanitary services and stormwater management. The response states that because no changes to the exterior of the building, outdoor areas or parking areas are proposed, it does not appear that the Stormwater Management Manual (“SWMM”) requirements will be triggered. Based on this information, the Condition of Approval from the 2002 land use review, which stated that “the applicant shall meet all applicable regulations of the City’s Stormwater Management Manual to the satisfaction of the Bureau of Environmental Services prior to issuance of a building permit for the project” is no longer applicable.

The BES response did note that although the 2002 proposal received a building permit in 2004,

*“it appears the solid waste (garbage) and recycling area does not meet the applicable 2004 code requirements for those areas. Section 4.5 of the SWMM describes requirements for solid waste and recycling areas, including a structural cover with a paved surface beneath the receptacles, an isolated area beneath the cover to protect from stormwater run-on, and a drain to the sanitary sewer within the isolated covered area. Based upon applicant statements at the Pre-Application Conference (EA 09-102346), and site plans submitted for the Land Use Review on March 19, 2009, the existing solid waste and recycling area does not meet all of those requirements. The sanitary drain and paved surface area requirements appear to be met, but the structural cover and the isolated*

*area requirements are not supported by the drawings or statements made in the Pre-Application Conference.”*

The Hearings Officer finds that prior to final approval of building permits for the interior alterations to accommodate additional residents, the applicant must bring the Site into compliance with the solid waste/recycling requirements from Section 4.5 of the SWMM. Based on this information, a condition of approval has been added, which states that “The applicant must bring the existing solid waste and recycling area into conformance with Section 4.5 of the Stormwater Management Manual as part of the building permit application for interior alterations to increase the number of beds from 75 to 125.”

The Site Development Section of BDS responded with no objections and stated that “the stormwater services criterion can be met using existing facilities, if acceptable to BES.” Based on this response the condition of approval from the 2002 review, which stated that “the applicant must decommission the on-site septic system and connect the site to the City’s sanitary sewer system to the satisfaction of the Site Development Section of the Office of Planning and Development Review prior to the issuance of a certificate of occupancy for the structure” is no longer applicable.

The Fire Bureau responded with no concerns.

The Police Bureau responded that with two proposed conditions it found the proposal by OHH to be acceptable (Exhibit H-8). OHH indicated that the two Police Bureau conditions were acceptable (Exhibit H-9).

Based on this information, 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.

### **III. CONCLUSIONS**

The applicant requests a Conditional Use Review to increase the number of residential beds (and tenants) at this facility from 75 to 125. The Hearings Officer found, as described above in the findings for this decision, that the proposal is able to meet the Conditional Use Review approval criteria. No changes to the exterior of the building are proposed. The Police Bureau recommended two conditions and those conditions were found acceptable by OHH. The Hearings Officer found that the proposed Police Bureau conditions would further improve safety protections already part of the OHH 2002 approval. The Hearings Officer found all services were available and acceptable to

the relevant City bureaus, with conditions of approval where appropriate. With approval requiring that permit drawings substantially conform with the site plan attached, the requested Conditional Use Review meets the applicable criteria and should be approved.

#### **IV. DECISION**

Approval of a Conditional Use Review (33.815.215) to increase the number of residential beds at an existing Detention Facility (halfway house) from 75 to 125 subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related Conditions (B through G) must be noted on each of the four 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 09-111841 CU." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Condition B-4 of LUR 02-110304 CU shall continue in full force and effect except as modified by Condition C below.
- C. The facility must implement and maintain the following safety-related precautions and operate the facility subject to the following limitations:
  - 1. A minimum of two staff members will be on duty at the facility at all times and one of such staff members will be a sworn officer (e.g., a person certified in correctional officer training or a person eligible for employment as a pre-trial services officer, a certified reserve officer, a corrections officer, a parole and probation officer or a police officer).
  - 2. Entrance to the facility will be controlled and monitored 24 hours a day. Security cameras will be positioned for enhanced observation of the facility and grounds.
  - 3. All staff members will undergo a criminal background check and U.S. Bureau of Prisons approval prior to employment.
  - 4. Residential referrals will not be accepted at the Site for individuals who have been convicted of state or federal sex offenses and who are required by current state or federal law to register as a sex offender.
  - 5. Residential referrals will not be accepted at the Site for individuals who meet the 'dangerous offender' definition of Oregon Revised Statute 161.725-735. It is the understanding of the Portland Police Bureau that OHH includes a 'dangerous offender' determination in its referral evaluation process as well as thorough consideration of other factors including; behavioral elements of the conviction offense, past criminal acts/convictions including any record of assaultive behaviors, any record of psychological/psychiatric disorders or

- treatment, general mental health, any history of substance abuse or treatment, employment experiences, family history/resources, and any other relevant factors.
6. A facility checkout log procedure will be used to assure resident accountability and all departures will be approved in advance.
  7. The Portland Fire Bureau and the Multnomah County Health Department will inspect the facility annually.
  8. A fact sheet listing the name, address, and phone number of the program director and others responsible for the program operations will be provided to the Portland Police Bureau precinct which provides law enforcement services for the Site, the Cully Neighborhood Association, the Columbia Corridor Business Association and other interested parties upon request. This list will be updated annually or as changes occur.
- D. The on-site pedestrian walkways and vehicle areas must be lighted to a level where they can be utilized and monitored safely at night by employees, residents and visitors at the facility.
- E. In addition to the operational requirements set forth in Condition “C” above, the operator of the facility shall have one of its Board of Directors or some other representative communicate with the Cully Neighborhood Association at least once annually in writing to report on program operations and/or attend at least one open public meeting of the Cully Neighborhood Association to respond to questions.
- F. Prior to the future building permit for the interior alterations, the applicant will be required to bring the existing solid waste and recycling area into conformance with the Stormwater Management Manual.
- G. Conditions B, C, and I of LUR 2002-110304 CU have been carried forward and/or modified as part of this land use review and are renamed as Conditions C, D and E. Conditions A, D, E, F and G of LUR 2002-110304 CU are no longer applicable. Conditions H and J of LUR 2002-110304 CU have been met.

---

Gregory J. Frank, Hearings Officer

---

Date

<b>Application Determined Complete:</b>	April 7, 2009
<b>Report to Hearings Officer:</b>	May 19, 2009
<b>Decision Mailed:</b>	September 3, 2009
<b>Last Date to Appeal:</b>	4:30 p.m., September 17, 2009
<b>Effective Date (if no appeal):</b>	September 18, 2009 Decision may be recorded on this date.

**Conditions of Approval.** 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.

**Appeal of the decision.** ANY APPEAL OF THE HEARINGS OFFICER’S DECISION MUST BE FILED AT 1900 SW 4<sup>TH</sup> AVENUE, PORTLAND, OR 97201 (823-7526). Until 3:00 p.m., Tuesday through Friday, file the appeal at the Development Services Center on the first floor. Between 3:00 p.m. and 4:30 p.m., and on Monday, file the appeal at the Reception Desk on the fifth floor. **An appeal fee of \$3,400.00 will be charged (one-half of the application fee for this case).** Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

**Who can appeal:** You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

**Appeal Fee Waivers:** Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization’s bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

BDS may also grant fee waivers to low income applicants appealing a land use decision on their primary residence that they own in whole or in part. In addition, an appeal fee may be waived for a

low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Individuals requesting fee waivers must submit documentation certifying their annual gross income and household size (copies of tax returns or documentation of public assistance is acceptable). Fee waivers for low-income individuals must be approved prior to filing your appeal; please allow three working days for fee waiver approval.

**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.

- 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**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;

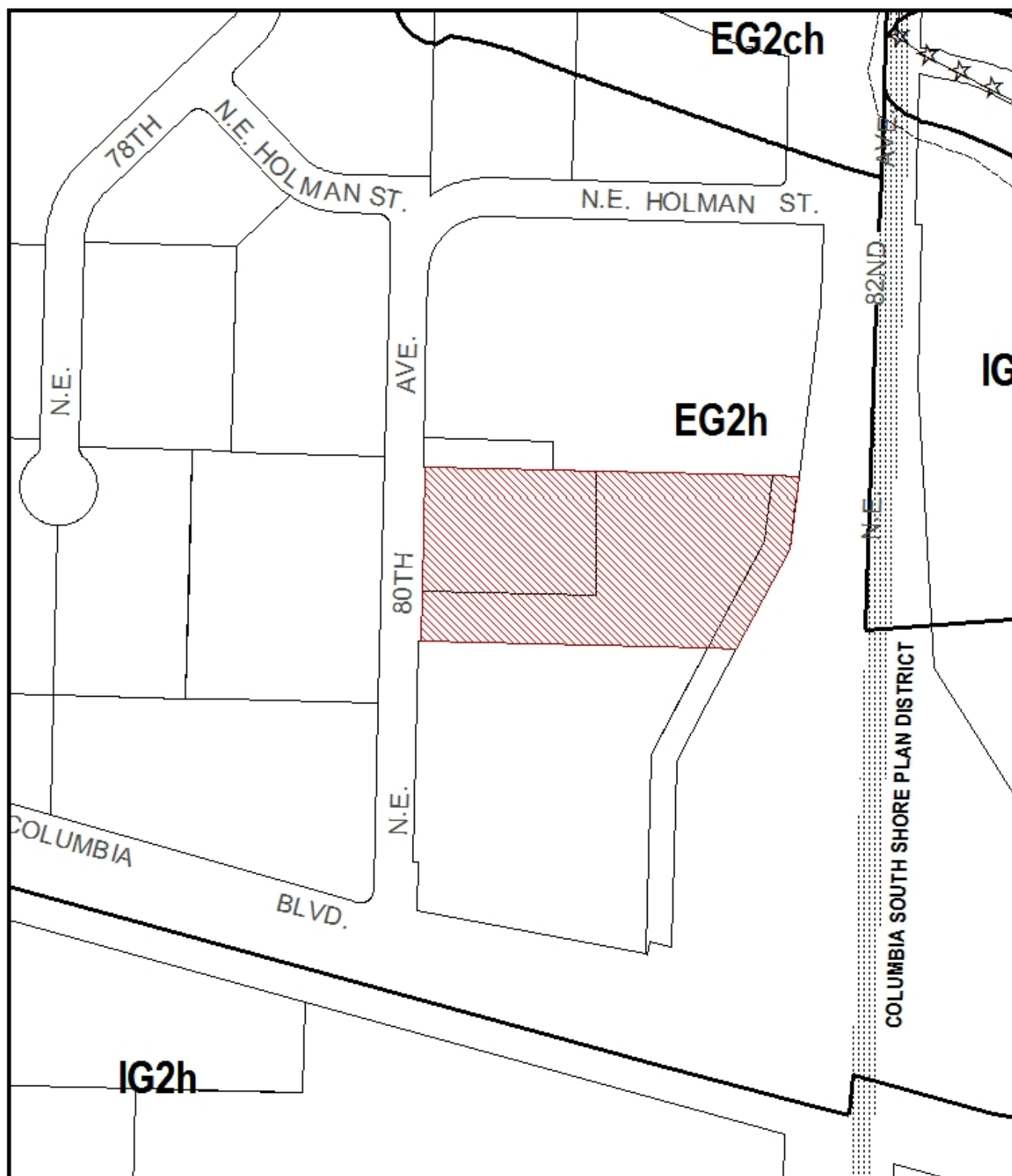


- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

**EXHIBITS**  
**NOT ATTACHED UNLESS INDICATED**

- A. Applicant's Statement and Original LU Application
  - 1. Incomplete letter from Matt Wickstrom to Paul Norr dated March 17, 2009
  - 2. Supplemental submittal received March 19, 2009
  - 3. Supplemental submittal received May 14, 2009
  - 4. Supplemental submittal received May 15, 2009
- B. Zoning Map (**attached**)
- C. Plans and Drawings
  - 1. Site Plan (**attached**)
  - 2. East and West Elevation Drawings (**attached**)
  - 3. North and South Elevation Drawings (**attached**)
- D. Notification information
  - 1. Request for response
  - 2. Posting letter sent to applicant
  - 3. Notice to be posted
  - 4. Applicant's statement certifying posting
  - 5. Mailing list
  - 6. Mailed notice
- E. Agency Responses
  - 1. Bureau of Transportation Engineering and Development Review
  - 2. Water Bureau
  - 3. Bureau of Environmental Services
  - 4. Site Development Section of the Bureau of Development Services
  - 5. Life Safety Section of the Bureau of Development Services
  - 6. Summary of Agency Responses
- F. Letters: None received
- G. Other
  - 1. Site History Research
  - 2. Order of Council on Appeal of Hearings Officer's Decision Approving LUR 02-110304 CU
  - 3. Hearing Officer's Decision Approving LUR 02-110304 CU
- H. Received in the Hearings Office
  - 1. Hearing notice - Wickstrom, Matt
  - 2. Staff Report - Wickstrom, Matt
  - 3. 5/28/09 Memo - Wickstrom, Matt
  - 3a. 5/19/09 Memo, Capt. Todd Wyatt to Wickstrom - Wickstrom, Matt
  - 3b. 5/27/09 Memo, Wyatt to Laura Edwards - Wickstrom, Matt
  - 4. 5/29/09 letter, Norr to Wickstrom - Wickstrom, Matt
  - 5. Letter from Stacy Walters - Norr, Paul
  - 6. 4/22/09 letter from John Shoemaker - Norr, Paul

7. 6/10/09 letter - Norr, Paul
- 7a. Waiver of Right to a Decision within 120 Days - Norr, Paul
8. Police Bureau letter dated 7/28/09 - Wickstrom, Matt
9. Letter w/copy of Exh. H-8 attached - Norr, Paul



# ZONING

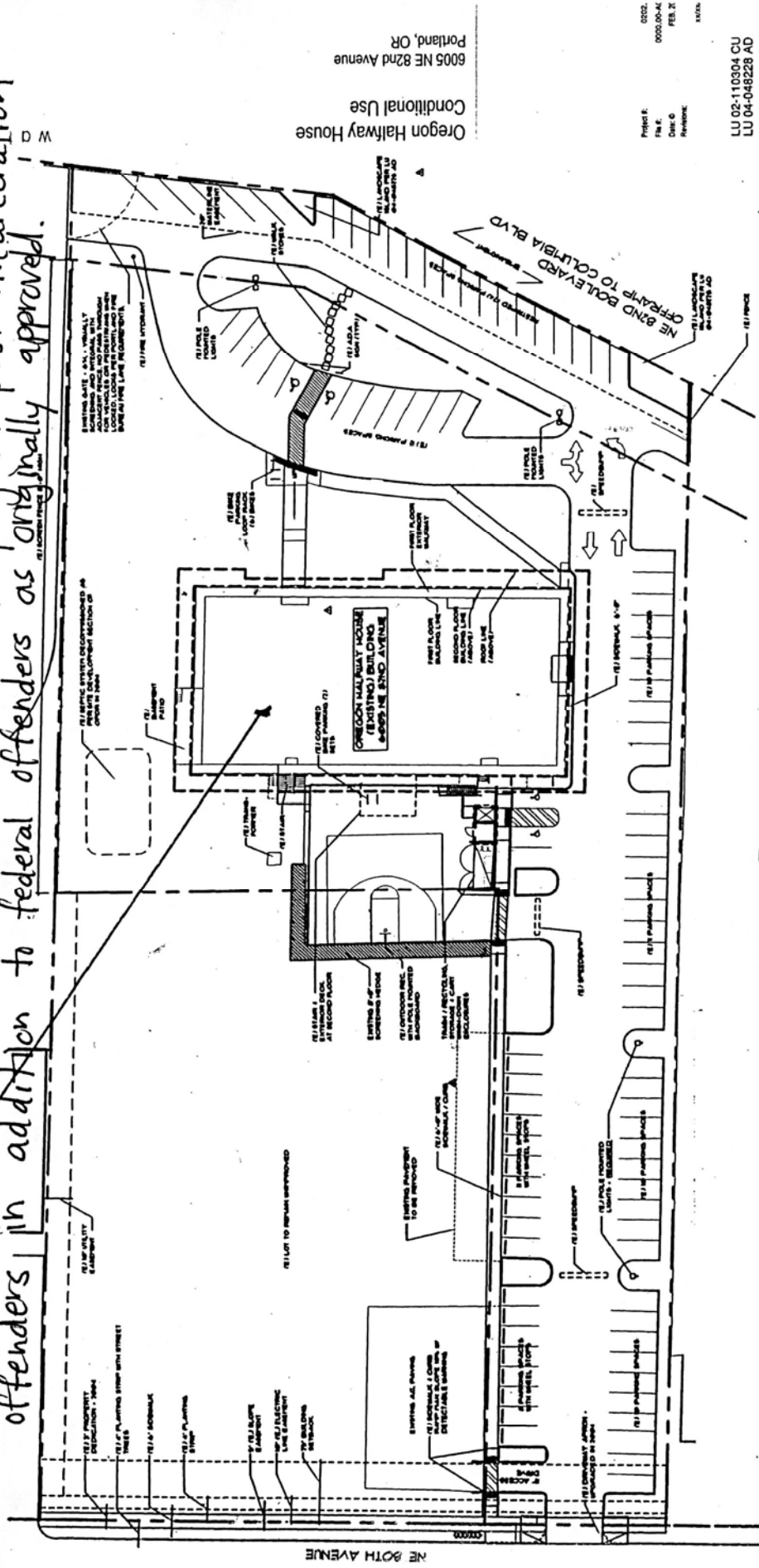


Site



File No.	LU 09-111841 CU
1/4 Section	2438,2439
Scale	1 inch = 200 feet
State_Id	1N2E17DA 1200
Exhibit	B (Mar 04,2009)

- Proposal to increase the number of beds at The Oregon Halfway House from 75 to 125 to serve post-incarceration and community Sanctions services offenders.
- Proposal to allow state and local correction program post-incarceration offenders in addition to federal offenders as originally approved.



Oregon Halfway House  
Conditional Use  
6005 NE 82nd Avenue  
Portland, OR

Project #  
File #  
Date  
Revision

LU 02-110304 CU  
LU 04-048228 AD

1. ZONING COMPLIANCE SITE PLAN  
SCALE: 1/8" = 1'-0"

CU1:

- No proposal to change any conditions of approval from LU 02-110304 CU
- No exterior alterations proposed.

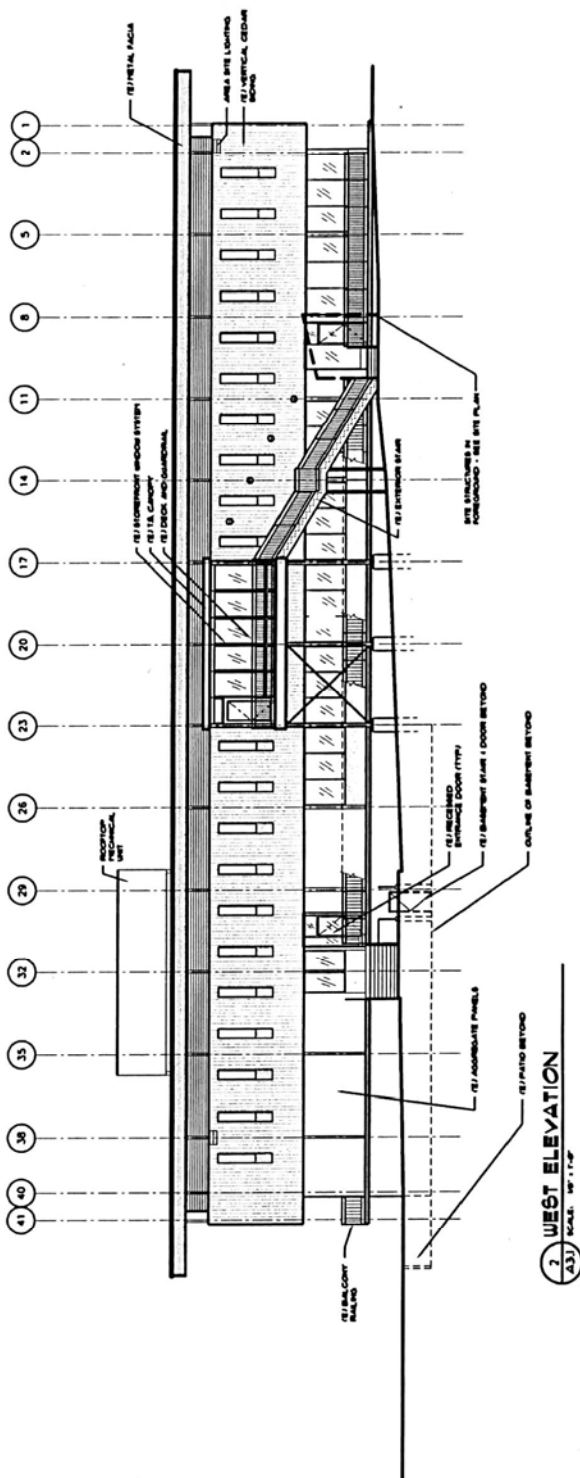
LU 09-1111841 CU



6005 NE 82nd Avenue  
Portland, OR

# CU1.4

Exhibit C.2





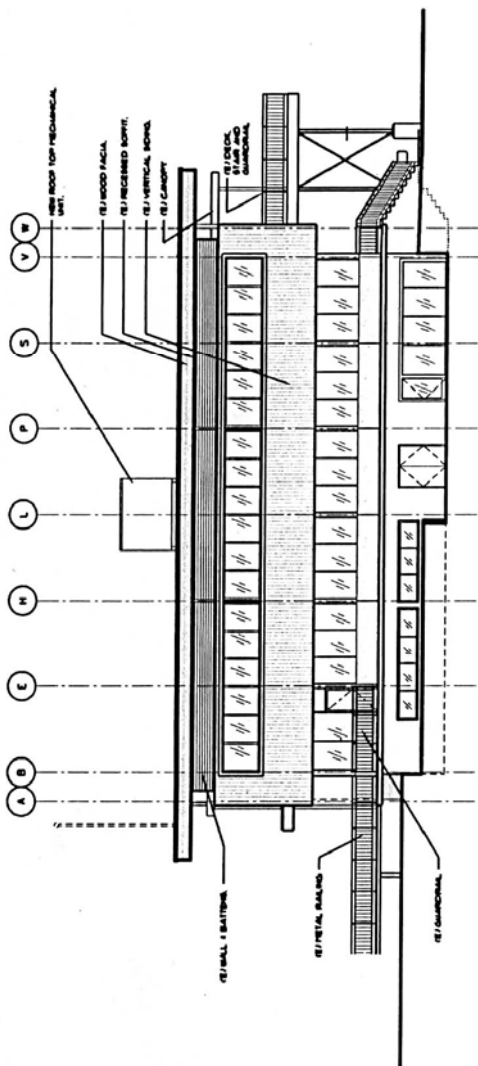
Oregon Halfway House  
Conditional Use  
6005 NE 82nd Avenue  
Portland, OR

Project #	0000.00
File #	0000.00-AQ.0
Date	FEB. 2007
Revisions:	006/007/008

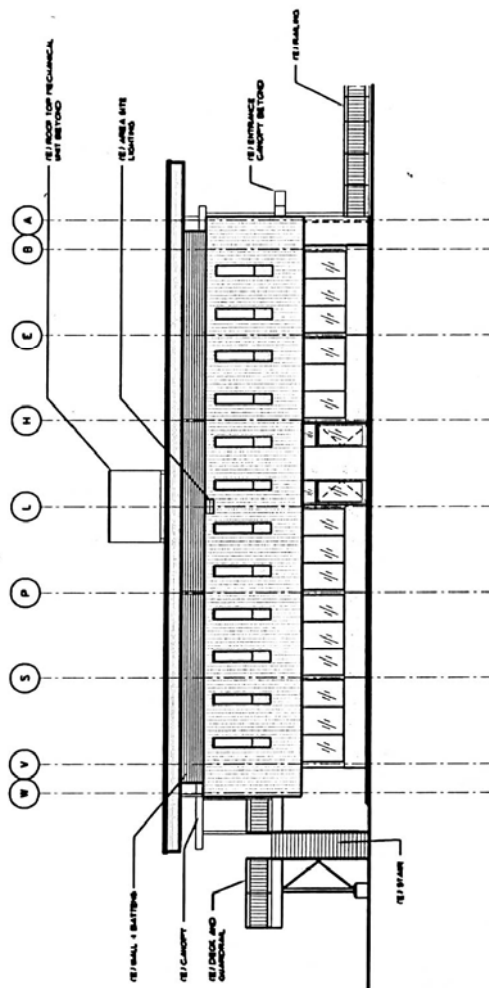
### EXISTING ELEVATIONS

CU1.5

**LU09-111841CV**



1 NORTH ELEVATION



2 SOUTH ELEVATION  
A32 SCALE: 1/8" = 1'-0"