



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: www.portlandoregon.gov/auditor/hearings



DECISION OF THE HEARINGS OFFICER IN UNCONTESTED CASE

File No.: LU 14-103645 CU AD
HO 4140013

Applicant: Andy Liu
8315 NW Helvetia Road
Hillsboro OR 97124

Representative: Matt Newman, NW Engineers
3409 NW John Olson Place
Hillsboro, OR 97124

Owners: Uyen To Vuong Duong, Huong To Vuong Duong
4320 SE 136th Avenue
Portland, OR 97236

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Representative: Kathleen Stokes

Site Address: 4320 SE 136TH Avenue

Legal Description: TL 3100 0.93 ACRES, SECTION 11 1S 2E

Tax Account No.: R992115790

State ID No.: 1S2E11DC 03100

Quarter Section: 3444

Neighborhood: Powellhurst-Gilbert

Business District: Midway

District Coalition: East Portland Neighborhood Office

Plan District: Johnson Creek Basin

Zoning: R10 (R10,000, Low Density Single-Dwelling Residential)

Land Use Review: Type III, Conditional Use Review, Adjustment Review (CU AD)

BDS Staff Recommendation to Hearings Officer: Approval with Condition

Public Hearing: The hearing was opened at 9:11 a.m. on July 2, 2014, in the 3rd floor hearing room, 1900 SW 4th Avenue, and was closed at 10:00 a.m. The record was closed at that time. The applicant waived applicant's rights granted by ORS 197.763 (6)(e), if any, to an additional 7 day time period to submit written rebuttal into the record.

Testified at Hearing:

Kathleen Stokes
Matt Newman
Robert Price
Fabio de Freitas

Proposal: The applicant is requesting approval to locate a Buddhist temple within the existing structures on this site. The existing household use would also continue to be located on the property. No new floor area is being proposed. A 54-space parking lot that was previously created, without permits, is proposed to be legalized to serve the use. Improvements that would make the parking lot compliant with the Zoning Code requirements for paving, striping and landscaping are also proposed.

The regularly proposed temple activities include small daily and weekly meditation visits and somewhat larger special events, which are further described in the findings for Approval Criterion 33.815.105 A, on pages 4 and 5 of this report.

Zoning Code Section 33.110.245 states that development on sites that have institutional uses and that are located on designated transit streets are subject to a maximum building setback standard of 20 feet, unless an exception is approved through Conditional Use Review. At least 50% of the street facing facades of structures must meet this maximum setback. In this case, more than 50% of the development is about 25 to 30 feet back from the front property line. The applicants have asked for an exception to this standard to allow the existing building setbacks from SE 136th Avenue, which is designated as Community Transit Street.

Approval of two Adjustments is being requested for some of the existing development on the site that does not conform to the development standards for institutions in the single-dwelling zones. Zoning Code Section 33.110.245 (Table 110-5) requires that buildings on institutional sites have a minimum setback of one foot for every two feet of building height, but in no case, less than 15 feet. The existing residence does not meet this institutional standard, so the applicant is requesting

approval of an Adjustment to reduce the required setback from the north property line, from 15 feet to about 5.5 feet.

Zoning Code Section 33.110.255 C states that fences that are located within front building setback areas are limited in height to 3.5 feet. In other setback areas, along both side and rear property lines, fences can be up to 8 feet tall. This site has a decorative iron fence that exceeds this height limit, being between 4 feet to 7 feet 3 inches tall (at the gate) within the front setback area. Brick pillars also flank the gates on both the front and south sides of the property. These pillars, which were not previously separately reported in the notice, are 7 feet 6 inches tall, with a statue of a lion figure perched on top of each pillar, adding another 18 inches, for a total height of 9 feet. An additional Adjustment is being requested to allow the decorative fence and pillars to remain.

Approval Criteria: Because the proposed temple is a new religious institution in a residential zone, approval of a Type III Conditional Use Review is required. Requests for exceptions to the applicable development standards require approval of Adjustment Reviews.

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

- Conditional Use: Institutional and Other Uses in R-Zones, 33.815.105 A-E
- Adjustments: 33-805.040 A-F

Hearings Officer's Decision: It is the decision of the Hearings Officer to adopt and incorporate into this decision the facts, findings, and conclusions of the Bureau of Development Services in their Staff Report and Recommendation to the Hearings Officer dated June 20, 2014, and to issue the following approval:


Approval of a Conditional Use Review, to locate a Buddhist temple on this site and also approval of the 54-space parking lot and other improvements that were created to serve the use;

Approval of Adjustments – to Code Section 33.110.245 (Table 110-5), to reduce the required setback from the north property line, for the existing structure, from 15 feet to about 5.5 feet; and - to Code Section 33.110.255 C to increase the allowed height of the fence within the front building setback, from 3.5 feet to a height that varies from 4 feet to 7 feet 3 inches tall (at the gate), and to allow a height of up to 9 feet tall for the brick pillars with statues, in the front and south side building setbacks, in order to allow the decorative fence and pillars to remain.

Approvals are subject to general compliance with the site plan (Exhibit C-1) and fence detail plan (Exhibit C-2) and also subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-103645 CU AD."

Basis for the Decision: BDS Staff Report in LU 14-103645 CU AD, Exhibits A.1 through H.3, and the hearing testimony from those listed above.



Gregory J. Frank, Hearings Officer

July 16, 2014
Date

Application Determined Complete:	May 12, 2014	
Report to Hearings Officer:	June 20, 2014	
Decision Mailed:	July 16, 2014	
Last Date to Appeal:	4:30 p.m., July 30, 2014	
Effective Date (if no appeal):	July 31, 2014	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 4TH AVENUE, PORTLAND, OR 97201 (503-823-7526). 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 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **An appeal fee of \$5,000 will be charged (one-half of the application fee for this case, up to a maximum of \$5,000).** 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.

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:
 - 1. Application Form and receipt
 - 2. Original narrative and plans (not final, see revisions, including deletion of some Adjustment requests)
 - 3. Preliminary Drainage Report, dated January 10, 2014 (not final, see revised copy)
 - 4. Traffic Analysis Report, dated December 2013
 - 5. Preliminary Drainage Report, dated February 25, 2014 (not final, see revised copy)
 - 6. Supplemental information (revision pages, dated February 28, 2014)
 - 7. Email from Matt Newman to Kathleen Stokes, March 25, 2014
 - 8. Memo to Kathleen Stokes, dated April 7, 2014 (includes revised response to approval criteria, fence detail plan and Drainage Report, revised April 3, 2014 (not final, see final revised copy)
 - 9. Infiltration Testing Memo from Greg Thiel, NW Engineers, dated June 3, 2014
 - 10. Revised Drainage Report (final), dated June 16, 2014
- B. Zoning Map:
- C. Plans & Drawings:
 - 1. Site Plan
 - 2. Fence Detail Plan
- 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 Environmental Services
 - 2. Bureau of Environmental Services, Addendum
 - 3. Bureau of Transportation Engineering and Development Review
 - 4. Water Bureau
 - 5. Fire Bureau
 - 6. Police Bureau
 - 7. Site Development Review Section of Bureau of Development Services
 - 8. Life Safety Plan Review Section of Bureau of Development Services
 - 9. Summary of electronic responses from City service agencies, including Bureau of Parks, Forestry Division
- F. Letters:
 - 1. Pamela Melcher and David Findlay

G. Other:

1. Pre-application Conference Summary Notes
2. Letter from Kathleen Stokes to Matt Newman, January 31, 2014

H. Received in the Hearings Office

1. Notice of Hearing – Kathleen Stokes
2. Staff Report – Kathleen Stokes (**attached**)
3. Record Closing Information – Hearings Office



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
 Paul L. Scarlett, Director
 Phone: (503) 823-7300
 Fax: (503) 823-5630
 TTY: (503) 823-6868
 www.portlandoregon.gov/bds

STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER

CASE FILE: LU 14-103645 CU AD (PC # 13-216872)
REVIEW BY: Hearings Officer
WHEN: July 2, 2014 at 9:00 AM
WHERE: 1900 SW Fourth Ave., Suite 3000
 Portland, OR 97201

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this proposal.

BUREAU OF DEVELOPMENT SERVICES STAFF: KATHLEEN STOKES /
KATHLEEN.STOKES@PORTLANDOREGON.GOV

GENERAL INFORMATION

Applicant: Andy Liu
 8315 NW Helvetia Road
 Hillsboro OR 97124

Representative: Matt Newman, NW Engineers
 3409 NW John Olson Place
 Hillsboro, OR 97124

Owners: Uyen To Vuong Duong, Huong To Vuong Duong
 4320 SE 136th Avenue
 Portland, OR 97236

Site Address: 4320 SE 136TH Avenue

Legal Description: TL 3100 0.93 ACRES, SECTION 11 1S 2E
Tax Account No.: R992115790
State ID No.: 1S2E11DC 03100
Quarter Section: 3444

Neighborhood: Powellhurst-Gilbert, Mark White at 503-761-0222.
Business District: Midway, Bill Dayton at 503-252-2017.
District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550.

Plan District: Johnson Creek Basin

Zoning: R10 (R10,000, Low Density Single-Dwelling Residential)

Case Type: Conditional Use Review, Adjustment Review
Procedure: Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

RECEIVED
 JUN 20 2014
 HEARINGS OFFICE

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ANALYSIS

Site and Vicinity: The applicant's site is a 37,508 square-foot property that is located on the northeast corner of the intersection of SE 136th Avenue and SE Mall Street. The site appears to have been originally developed with a single-dwelling residence and an accessory structure that was originally intended to be a detached garage. Both of these structures have had additions built that now connect the buildings to one another. These additions accommodate the temple, facing SE 136th, to the south of the house, and an additional community space, to the rear or east of the house. A garden area, with life-size sculptures is located in the southwest corner of the site. Vehicular access to the site is available in two places. The first is at the front of the lot, where a gate in the decorative iron fence opens to allow drivers access from SE 136th Avenue to a paved area in the northwest corner of the site. The second vehicular access is through another gate that allows entry from SE Mall Street to a paved 54-space parking area that is located on the eastern half of the site.

The area around the site is comprised of a variety of development types, corresponding to the various base zone designations. A two-story structure, which appears to be a single-dwelling residence, is located adjacent to the site, to the north. To the south there is a large undeveloped tract of land that is owned by the City of Portland. To the southwest, there is a development that consists of several row

houses. Due west of the property, there is a cluster of single-dwelling structures. Larger buildings that comprise low density multi-dwelling development are further to the north, on the west side of SE 136th.

Zoning: The zoning for this site is R10, Low Density Single-dwelling Residential. This zone is intended for areas that have public services, but that are subject to significant development constraints. Single-dwelling residential is the primary use, with an average maximum density of about 4.4 units per acre, or one unit per 10,000 square-foot lot. Institutional uses are allowed, when approved through Conditional Use Review.

The site is located within the boundaries of the Johnson Creek Basin Plan District. This plan district provides for the safe, orderly, and efficient development of lands that may be subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. At certain locations, the density of development is limited by applying special regulations to new land division proposals. In addition, restrictions are placed on all new land uses and activities to reduce stormwater runoff, provide ground water recharge, reduce erosion, enhance water quality, and retain and enhance native vegetation throughout the plan district. At other locations, development is encouraged and mechanisms are included that provide relief from environmental restrictions.

Land Use History: City records indicate that prior land use reviews for this site include:

LU 10-136419 AD 2010 approval of Adjustment to Zoning Code Section 33.110.225, to increase the maximum allowed building coverage for this site, from 6,038.25 square feet to 7,121 square feet, in order to construct a proposed addition, in general compliance with the approved site plan and elevation drawings. *(Note: At that time, the structure was identified as a single-dwelling residence, with no other uses on the site).*

Agency Review: A "Request for Response" was mailed **May 13, 2014**. The following Bureaus have responded with no issues or concerns:

- Environmental Services (BES) provided comments regarding the sanitary sewer infrastructure for this site and also an analysis of the proposed stormwater management plan. Originally, BES found that the proposed stormwater management plan was not meeting their requirements but in working with additional information and revisions that were provided by the applicant, BES staff found that the conceptual plan was adequate to meet with their requirements at this time. Additional revisions may be required at the time of building permit review (Exhibits E-1 and E-2).
- Transportation Engineering (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services (Exhibit E-3).
- Water Bureau provided information on the existing water service for the site and noted permit review requirements for any needed expansion of the service (Exhibit E-4).
- Fire Bureau stated that all applicable fire codes will need to be met at the time of the required building permit review (Exhibit E-5).
- Police Bureau reviewed the proposal and discussed security measures, such as lighting for the address sign and the parking area, as well as overseeing gate access. The bureau found that services were adequate for the proposal with these recommended measures (Exhibit E-6).
- Site Development Section of BDS gave a summary of the physical characteristics of the site and reminded the applicants that the erosion prevention and sediment control requirements of City Title 10 apply to both site preparation work and development (Exhibit E-7).
- Life Safety Plan Review Section of BDS stated that a separate building permit is required, in order to legalize and ensure the safety of any unpermitted development on the site and to ensure that the correct occupancy classification and corresponding building code requirements are being met (Exhibit E-8).
- Parks-Forestry Division provided a response of "no concerns" (Exhibit E-9).

Neighborhood Review: One written response was received from a notified property owner, in response to the proposal. The neighbor stated she was also speaking on behalf of another and that the Temple was their neighbor. The letter stated that there were only positive and no negative impacts from having the temple at this location (Exhibit F-1).

ZONING CODE APPROVAL CRITERIA

33.815.105: Institutional And Other Uses In R Zones

33.815.040 Review Procedures The procedure for reviews of conditional uses depends on whether the applicant is proposing a new conditional use, changing to another type of conditional use, or modifying development at an existing conditional use. The review procedure may also depend upon the type of use that is being proposed. This proposal is for the addition of a religious institution to a site in a residential zone and to approve the development that is related to this religious institution. Because this is a proposal for a new institutional use in a residential zone, it requires approval through a Type III Conditional Use Review.

33.815.105 Approval Criteria for Non Household Living Uses in R Zones These approval criteria apply to most conditional uses in R zones. The approval criteria allow institutions and other non household living uses in a residential zone which 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: The residential area includes residentially-zoned properties within several blocks of the site. The applicant provided an inventory of nonhousehold uses in an area that is bounded, north to south, by SE Powell Boulevard and SE Holgate Street and east to west by SE 130th and SE 140th Avenues. According to the applicant's representative, the area currently contains nine non residential uses, including four small businesses, a residential care facility, two day care centers, an elementary school and a City Water Bureau utility site. This inventory of non-household uses also includes Gilbert Heights Park and Gilbert Heights Community Garden. While the other eight nonhousehold uses that were reported did appear to be located within the residential-zoned area, Gilbert Heights Park, and presumably, the Community Garden are located within the OS or Open Space zone.

This inventory does not represent a significant portion of the uses within the inventory area, where the remainder of the properties contain numerous single and multi-dwelling residential uses. Approval of the addition of a religious institution at this site will not increase the proportion of uses that are not in the household living use category in such a way that the overall residential appearance and function of the area are significantly lessened.

The temple occasionally has events that draw large numbers of people to the site, but this is not the frequent occurrence. The regular activities that occur are generally quiet and most of the time, they draw very few visitors to the site. The applicants have described the activities of the temple as follows:

- daily visits of 5 to 10 persons, arriving at various times for prayer and meditation;
- weekly gathering of 10 to 20 persons for prayer and meditation, usually indoors, in the main prayer room but some people would also be in the outdoor area (generally on Sundays, from 10 am to noon); and
- special events which may draw about 100 persons, generally occurring six times during the year. The dates may vary slightly each year with the calendar; for 2014-15, the anticipated dates and times area:

- Buddha Kuan Yi's Birthday festival - July 6 (10 am to 1 pm)
- Mother Day - August 10 (10 am to 1 pm)
- Buddha Birthday festival - November 5, or the Sunday before or after (10 am to 1 pm)
- Thanksgiving - November 30 (10 am to 1 pm)
- Vietnamese New Year (lunar New Year) - January 31 (9 pm to 1 am)
- Praying of 1st of the year - February 16 (10 am to 1 pm)

An additional special event, which is reported to be a one-time-only event, is proposed to occur from August 27 through September 7, 2014, when a traveling "Buddha" will be on display and related prayer and activities will occur. This event may bring a few hundred people to the site. The applicant indicates that special provisions have been made for temporary parking in the adjacent field and that they have also made arrangements for a shuttle that would take visitors to other temporary parking locations.

With the exception of the one-time event that is anticipated at the end of this summer, the intensity and scale of the activities related to the proposed use that would occur at the site, even on the six annual special event days, will not disrupt the character of the residential area in any way that would lessen its residential appearance or function.

Therefore, these criteria are met.

B. Physical compatibility.

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

Findings: City-designated scenic resources are protected with an "s" or Scenic Resource Overlay Zone. There are no City-designated scenic resources at the site or adjacent to the site, therefore, this criterion does not apply.

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

Findings: The approval criteria require that either 2 or 3 must be met. The architecture of institutional uses is often substantially different from residential architecture, based on characteristics such as site size, building scale and style. In this case, however, there is a mix of things to consider. The development is not set back the requisite 15 feet from the north side of the property but the scale of the buildings is not out of character with residential development in the area. The architectural characteristics of the buildings have been modified over-time and now present a unique visage in the area but there are portions of the site that are sheltered by landscaping and distance from residential properties.

The existing building consists of several one-story components that were all connected by the addition of through-passageways. All of the components of the building are of a size that is consistent with surrounding residential structures, though the architectural details and the color scheme differ, as they reflect the Buddhist cultural traditions and meaning. The setbacks are also in keeping with other development in the area, which is to be expected since much of the development was originally constructed to serve a residential use. These existing setbacks do not meet the Zoning Code requirements of 33.110.245 for an institutional use because part of the house that was the original structure is not set far enough back from the north property line and the buildings, again reflecting Code requirements for residences, are set back further than the maximum setback along SE 136th Avenue. The house still serves its residential use and functions as a home for the nuns who maintain this site. While the minimum setback requirement will be addressed fully in the findings for the requested Adjustment, on page 14 below, staff notes here that keeping the existing form and location of this structure does not detract from the appearance of the residential area. The same is true with maintaining the existing setback from SE 136th Avenue. The purpose of the maximum setback requirement is to bring structures up close to the

sidewalk to encourage transit use and a friendly pedestrian environment. These structures are readily visible and provide a lively environment along the street frontage that is in keeping with this intent, even though they are located beyond the maximum setback, at 25 to 30 feet from the street property line.

While the property has certain characteristics that differentiate it from the neighboring residences, such as the roof line of the temple assembly building, the statues that are included in the grounds and the brightly colored buildings and fence, the site is somewhat separated from its residential neighbors by the large open area to the south and by the parking area on the east side of the site, which will offer more buffering when the required landscaping is installed. Overall, the site seems to present a different sort of use and development that creates variety on the landscape but still is not over-whelming the residential area. With this assessment, staff finds that this criterion is met.

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
2. Privacy and safety issues.

Findings: No significant adverse impacts related to noise, glare from lights, late-night operations, odors or litter are expected to result from this proposal. The site will continue to be used as a residence and also be used as a location for religious "services", which mainly consist of meditation. Other activities include study groups, meetings and community events. Most of these activities occur in the daytime and, with the exception of the one-time special event planned for the end of August and beginning of September, 2014, which will involve some temporary satellite parking locations, all are completely self-contained on the site.

The applicant has not reported any evening events, aside from the annual Vietnamese New Year (lunar New Year), reported this year as January 31, when devotional activities are planned from 9 pm to 1 am.

The site will be maintained as a temple and shrine and will continue to be kept free from odors and litter. The fact that the nuns who look after the temple also reside on the property means that there are always caretakers to prevent safety issues and these residents also will observe privacy for their neighbors. Therefore, no ongoing significant adverse impacts on the livability of the residential area are expected to occur and these criteria are met.

D. Public services.

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

Findings: Portland Transportation/Development Review reviewed this proposal for its conformance with adopted policies, street designations, Title 33 Approval Criteria, and for potential impacts upon transportation services. Transportation's analysis is contained below:

"Street Classification and Configuration

The City's Transportation System Plan (TSP) classifies SE 136th Avenue as a Neighborhood Collector, Community Transit Street, City Bikeway, City Walkway & a Local Service (Design Mode) Street. The TSP classifies SE Mall as a Local Service street for all modes.

The proposed institutional use on the subject site is supportive of the various street designations of the abutting streets. The TSP states that, "Neighborhood Collectors are intended to serve as distributors of traffic from Major City Traffic Streets or District Collectors to Local Service Streets. Neighborhood Collectors should connect neighborhoods to nearby centers, corridors, station communities, main streets, and other nearby destinations.

Community Transit streets are intended to serve neighborhoods and industrial areas and connect to city-wide transit service. Pedestrian and transit-oriented developments are encouraged in commercial, institutional and mixed-use areas along Community Transit streets. Auto-oriented land uses should be discouraged from locating on City Bikeways that are not also classified as Major City Traffic streets. City Walkways are intended to provide safe, convenient, and attractive pedestrian access to activities along major streets and to recreation and institutions; provide connections between neighborhoods; and provide access to transit". The TSP states that, "Local Service streets provide local circulation for traffic, pedestrians and bicyclists". The proposed development on the site supports or enhances the above referenced street designations. The TSP also states that, "Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses." The proposal on the subject site supports or enhances the above referenced street designations.

Beyond this analysis by Portland Transportation, BDS staff notes that religious institutions serve residential area populations and generally are located in areas that are well served by transportation connections. In this case, the applicant is asking to waive the Maximum Transit Street Setback from SE 136th Avenue as a part of the Conditional Use review. The existing setbacks that the applicant wishes to retain have the buildings located 25 to 30 feet from the street lot line, instead of the maximum 20-foot setback that this regulation allows. The Transit Street Setback standard was created to ensure that development along transit streets creates streetscapes that are inviting to transit users and pedestrians, rather than having buildings be set back long distances and having the streetscape dominated by parking areas. That is not the case in this instance, as the parking area on the site is located to the rear of the buildings and the retrofitted structures are facing the pedestrian route and have a bright and open appearance with entries that are readily visible and accessible to and from the street edge. Therefore, the exception to the Transit Street Setback can be approved and, even with this exception, the proposed use is in conformance with the street designations. Therefore, 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: Portland Bureau of Transportation/Development Review (PBOT) analysis continues below:

Prior to addressing the evaluation factors, PBOT must explain direction given to the applicant's traffic consultant in relation to the scope of the submitted TIS and the uniqueness of the subject institutional use on the site. At the onset of PBOT learning about this potential land use proposal, PBOT staff needed to understand the nature of the temple and especially its operations relative to regular services and special events.

Based on discussions with representatives of the temple the site operations are described as follows:

No classes or daycare services are provided. Regular meetings or gatherings occur on Sundays between 10:00 am to 12:00 noon with usually 10 to 20 members attending for prayer and meditation. Members typically arrive by car with two or more people per car.

The temple has six major events or celebrations per year and these include the following:

- New Year of Vietnamese (Lunar New Year) from 9:00 pm to 12:00 midnight;
(or, BDS notes, from 10 pm to 1 am, as cited in the applicant's submittal for this review);
- Buddha's birthday, attendees come and go throughout the day;
- Mothers Day;
- Buddha Kuan Yi's Birthday festival, attendees come and go throughout the day;
- Thanksgiving; and

- Praying for 1st of the New Year.

All events will be on either a Saturday or Sunday and have from 60 to 100 people attending. The maximum in attendance at any one time will be approximately 60 people in the late morning or mid-day period. Weekday events do not occur because the members have to work at their regular jobs.

Fortuitously, the applicant's traffic consultant was hired to prepare the necessary TIS just prior to one of the temple's main events of the year, the Thanksgiving celebration. This opportune timing enabled the applicant's traffic consultant to make observations, prepare data and initiate a variety of analyses with said information. The resulting analysis provides both a conservative review of the potential impacts related to the temple use at the site as well as a snapshot of the worst case scenario associated with the use.

Street capacity, level of service, and other performance measures

In relation to the Thanksgiving event, the applicant's traffic consultant was able to record traffic counts at the site's parking lot driveway and at the intersections on 136th Avenue at Powell Boulevard, Mall Street, and Holgate Boulevard. Additional counts were also recorded the following Sunday for comparison purposes. Representatives of the temple indicated that approximately 100 people attended the Thanksgiving celebration which was scheduled from 10:00 am to 12:00 noon. All of the counts were conducted between 9:00 am to 1:00 pm.

The count results determined that during the peak traffic hour occurring on Sunday between noon and 1:00 pm (November 17th, Thanksgiving celebration) a total of 49 vehicles exited the site's parking lot and 17 vehicles entered the parking lot. By comparison on the next Sunday (November 24th) during the same time a total of 2 vehicles entered and 2 vehicles exited the lot. The number of eastbound plus westbound trips occurring on Mall Street between the site's driveway and 136th Avenue on the two consecutive Sundays were 82 vehicles (with celebration) and 5 cars (w/o celebration).

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 weekday 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.

Capacity analyses were performed to determine the levels of service for the Sunday peak hour (note the difference from the typical weekday peak hour timeframe). The applicant's traffic consultant provided capacity calculations for the above referenced intersection during the special event (Thanksgiving celebration) and typical Sunday gathering timeframes. At no time during the two analyses periods did the operation of any of the studied intersections fall below LOS C, which is well within the City's performance measures for the types of intersections considered. In fact the intersections operated within a range from LOS A to LOS C.

The results of the capacity analysis clearly demonstrate that even during the temple's largest events of the year, the area intersections are operating well within established performance measures.

Access to arterials

The subject site has frontage along SE 136th Avenue, which is considered an arterial street. The site is situated between SE Powell Boulevard, to the north, and SE Holgate Boulevard, to the south. Both of these streets are also considered arterial roadways and lead to other arterial streets in the broader transportation network. The site is well served and has easy access to arterial streets.

Connectivity

The City's spacing goals for public through streets and public pedestrian connections is a maximum of 530-ft and 330-ft, respectively. The following discussion is based on PBOT's assessment of the connectivity potential in the area. The subject site is located on a block that measures approximately 650-ft (length) x 290-ft (depth). Accordingly, the City's public street and pedestrian connection goal is satisfied in one direction. The subject site is at the southwest corner of the block in question, and though it is the largest lot on the block, it is not located in an ideal location (mid-block) to consider furthering any connectivity goals. Further, and more importantly, the R10, single-family residentially zoned lots on the north side of the subject block, that measure approximately 10,000 sf and are built out with homes, a) cannot be further divided and b) would need to have at least one home demolished to extend either a new public street or pedestrian connection from SE Mall. The feasibility and practicality of furthering either of the connectivity goals is neither warranted nor possible, without reducing existing housing stock on the subject block. PBOT is therefore not recommending the extension of a public street or pedestrian connection through the subject site.

Transit availability

The subject site is directly served by Tri-Met bus route #17 (Holgate/Broadway) with service along SE 136th Avenue (and SE Holgate to the south). There is additional Tri-Met bus service north of the site along SE Powell Boulevard via route #9 (Powell Boulevard).

On-street parking impacts

This was the evaluation factor that PBOT has expressed initial concerns about prior to learning more about the proposed temple use and services. The applicant's traffic consultant was directed to focus much of his attention on this issue and provide a thorough parking analysis.

Again, the timing of the applicant's hiring of the traffic consultant was very auspicious considering the timing of one of the temple's largest events that draw the most people at one time, and therefore, again, a worst case scenario could be evaluated for this particular evaluation factor.

A study area radius covering approximately 600-ft from the site was analyzed. The streets included SE 136th Avenue, SE Mall, SE Cora, SE 135th Avenue, and SE 138th Avenue. The on-street parking capacity was estimated using a conservative parking stall design length of 25-ft (22-ft average length suggested by AASHTO and by the City). The block length used to calculate the parking capacity took into account the width of the existing street crossings, driveways, utilities, and posted no-parking zones. The resulting on-street parking capacity per block was determined and contained in the submitted TIS.

A total of 139 on-street parking spaces were counted as available supply in the study area. The applicant's traffic consultant conducted multiple observations during a series of timeframes during the Thanksgiving event. The maximum on-street parking demand occurred during the 11:30 AM survey when 32 vehicles were parked representing 23% of the available capacity. In the other surveys (during the other timeframes) the parking demand ranged between 9% to 21% of the on-street parking supply.

Additionally, the applicant's traffic consultant noted that the site's parking lot (currently spaces are not painted) has a capacity for approximately 48 vehicles. The usage ranged from just 3 parked cars (6% usage) at 9:00 am to 48 cars (100% usage) at 11:00 am. By 1:00 pm the number of parked vehicles was 7 cars (15% usage).

Based on the parking analysis, it has been determined that the on-street parking capacity in

the area is sufficient to accommodate the expected demand related to the temple use, during even one of the use's largest events. The parking demand during high-use celebrations with attendance totaling approximately 100 people does result in the on-site parking lot reaching its capacity during the peak period observed, and therefore the demand for on-street parking spaces is triggered. However, even during one of the few large events scheduled at the temple, the attendance did not result in over-parking within the neighborhood. It is noted that the existing parking lot will be striped in the future to provide more efficient use of the space. The number of parking stalls is projected to total at least 54 spaces. This will increase the lot's current capacity by 6 spaces, and conversely, reduce the demand for on-street parking by the same number.

The applicant's TIS has effectively demonstrated that in the course of the temple's typical operations or services, there is little demand for on-street parking given the number of participants. Additionally, the data collected for the parking analysis conducted during one of the temple's largest yearly events also demonstrated that there is an abundance of on-street parking supply in the surveyed area to accommodate a peak demand period which will only be triggered a handful of times per year. PBOT is satisfied that there will be no adverse impacts to on-street parking related to the proposed temple use on the subject site.

Access restrictions

The site is currently accessed through a gate along the site's SE Mall frontage. Though PBOT's preference is to direct access points onto/from higher classified streets (in this case that would be along SE 136th Avenue), this would not be practical in this case as a result of the location and orientation of the existing building on the site. Conceptually, a driveway could be located near the southern end of the SE 136th Avenue frontage, but this driveway would likely not satisfy the location requirements of Title 17 (min 25-ft from the intersection of the property corners). As will be discussed below, there is adequate sight distance along SE Mall such that exiting vehicles from the existing access location will not have any safety issues (leaving the parking lot). PBOT has no objections in maintaining the access location along SE Mall. In fact, said access point will be improved as a result of the required r.o.w. improvements that will be required to be constructed in relation to this use (as will be discussed further, below).

Neighborhood impacts

Traffic volumes on area roadways and at area intersections are not expected to change significantly upon approval of the proposed Conditional Use. Though the applicant has submitted this land use request to authorize the applicant to use the site as an institutional use, the temple has apparently been operating at this site for some time. No significant operational or safety problems were identified. There is a sufficient on-street parking supply to accommodate the existing and proposed developments. It is PBOT's determination that the proposed partition request will not result in adverse impacts on the surrounding neighborhood.

Impacts on pedestrian, bicycle, and transit circulation/safety for all modes

At the time of the submittal of this land use request, sidewalk segments had been provided only on the west side of SE 136th Avenue near the site. Since the proposal was submitted, PBOT has begun (and may already be completed with) a capital improvement project to construct sidewalks along the east side of SE 136th Avenue, from SE Powell Boulevard to SE Holgate Boulevard (which includes the area along the subject site's frontage). Further, the pedestrian environment will be enhanced in the neighborhood in direct association with this project with a new sidewalk proposed to be constructed along the site's frontage on SE Mall Street.

There are identified bike facilities (Portland Bike/Walk Map) in the area including a Shared Roadway designation along a segment of SE 136th Avenue, along SE Bush and SE Center, north of the site. An additional Shared Roadway is found along SE Holgate Boulevard, south of the site.

Tri-Met's bus service was described earlier in this response.

Additionally, the applicant's traffic consultant conducted a sight distance analysis. The street

alignment along SE 136th Avenue is tangent without vertical grade. The intersection sight distance at Mall Street was reviewed in the field as this street provides access to the site's parking lot. On the westbound stop approach to Mall Street the sightline to the north becomes severely restricted to less than 50-ft of sight distance when vehicles park on SE 136th Avenue, directly in front of the temple. As a result it may be necessary to prohibit parking in the intersection's northeast corner for safety purposes. It is recommended that the parking be prohibited for a distance of 50-ft immediately north of SE Mall Street to mitigate the situation. Based on the street's posted speed of 35 MPH the required intersection sight distance is 390-ft. This standard will be met with the recommended parking restriction. **NOTE:** This recommended parking restriction will not adversely impact the parking analysis and conclusions thereof. PBOT traffic engineering staff will take this recommendation into consideration.

Lastly, crash data for the intersection of SE 136th Avenue/SE Mall St was requested from Oregon Department of Transportation staff. The intersection report provided by ODOT looked at the latest three-year period (January 2010 through December 2012) and documented that there were no reported crashes.

None of these transportation modes will be adversely impacted by the proposed Conditional Use request. There is no crash history in the immediate vicinity of the subject site to suggest that are safety issues nearby. This evaluation factor is satisfied.

Adequate transportation demand management strategies

Transportation Demand Management Plans (TDMP) are typically considered when mitigation measures are necessary to address impacts related to proposed developments. Strategies are developed in said TDMPs to help eliminate or minimize potential impacts determined to result on the local transportation system and/or neighborhood. As analyzed above, PBOT staff has found that all of the transportation-related approval criteria related to this land use request are satisfied. Accordingly, no adverse impacts to the transportation system or to the neighborhood will result from the proposed temple use on the site, and therefore, no TDMP is necessary.

In conclusion, and as analyzed above considering each of the noted evaluation factors, the transportation system is capable of supporting the proposed use in addition to the existing uses in the area. (Exhibit E-3)

Conclusion: BDS staff concurs with this analysis and finds that 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 City's other service agencies evaluated this proposal and found that public services are adequate to serve the proposed use:

Water Bureau - There is an existing 5/8" metered service (Serial #21304114, Account #2989232400) which provides water to this location from the existing 6" CI water main in SE 136th Ave. The estimated static water pressure range for this location is 69 psi to 86 psi at the existing service elevation of 212 ft.

For any future site improvements and or building permits, City Title 21.12.010 will apply and will require any new building construction, modifications or additions to existing structures, or any construction that will need water, to have a water service and meter of appropriate size installed within the public right-of-way and within the specific property boundary/frontage for which it will serve. A Water Bureau review for fixture count will need to be submitted by the applicant at the time of submittal of the building permit to appropriately size the water service and meter for this location prior to the Water Bureau signing off on any building permits. If a water service and or meter upsize is required, all applicable costs will be the responsibility of the applicant (Exhibit E-4).

Police Bureau - The bureau discussed security measures with the applicant and found that the plan

is for the current alarm system to be extended into the new building additions and that dusk to dawn and motion sensing lighting is planned for the site grounds and parking area. Further, the parking lot gate will be secured during non-use hours. On-site persons will maintain the site and there is no plan to use dumpsters, so there will be no nuisance or crime impacts from such large receptacles. Direction lighting will be installed to assist in the identification of the address for emergency responders. Based on these agreements, the bureau found that they identified no issues in serving the proposed use (Exhibit E-6).

Fire Bureau - The applicant shall obtain a separate building permit for this proposal. All applicable Fire Code requirements will apply at the time of permit review and development. Please note that special events require an additional separate permit from the Fire Marshal's Office (Exhibit E-5).

Bureau of Environmental Services - Sanitary Service

- *Existing Sanitary Infrastructure:* BES maintains the following public sanitary sewers in the site vicinity:
- A public 12-inch PVC sanitary sewer in SE Mall Street (BES as-built #4410).
- A public 8-inch PVC sanitary sewer in SE 136th Ave (BES as-built #4686).
- *Sanitary Service:* Historic plumbing records (available on www.PortlandMaps.com) indicate that the site is connected to the public sewer in 136th. However the applicant's *original submitted* site plan depicted a sanitary branch from the public sewer in Mall near the site's southwest corner. As previously indicated, the sewer branch to SE Mall St near the site's southwest corner is not supported by City plumbing records or TV inspection records of the sewer there (ACE984-ACE983). Staff requested a revised plan showing the actual existing sanitary sewer connection location(s) to document the adequacy of sanitary service. The applicant has submitted a *revised* plan (plot date June 5, 2014) that eliminated the Mall sewer branch and shows the existing sanitary sewer branch to the public sewer in 136th. The applicant has adequately documented the site's sanitary sewer service.

Stormwater Management

- *Existing Stormwater Infrastructure:* There is no public storm-only sewer available to this property. There are public underground injection control (UIC) systems located in the vicinity of this site that receive stormwater runoff from the public right-of-way.
- *General Stormwater Management Requirements:* All development and redevelopment proposals are subject to the requirements of the City of Portland Stormwater Management Manual (SWMM). The SWMM is periodically updated; projects must comply with the version that is adopted when permit applications are submitted. Note that a new version was adopted on January 2nd, 2014. The SWMM is available on the BES website here: www.portlandoregon.gov/bes/SWMM.
- *On-Site Stormwater Management:* Previously, NW Engineers – the applicant's consulting engineer – submitted a *Preliminary Drainage Report* (January 10, 2014, revised February 25, 2014) that did not adequately address the City's stormwater management requirements. Subsequently, BES has received a stormwater report from NW Engineers (revised June 16, 2014) that addresses staff's concerns about the size of the proposed infiltration planter and the function of the drywell. Details of the proposed planter and the connection to the drywell must be reviewed and approved by BES through review of the parking lot retrofit permit (or other permit as determined by BDS). Although the latest report is acceptable for the purpose of evaluating whether stormwater management requirements can be met, staff has the following comments that must be taken into account during permit submittal and review:
- The June 16, 2014 report reverts back to the original January 10, 2014 report in that it once again shows overflow pipes from the public stormwater facilities in SE Mall to the private on-site drywell. Public stormwater overflow cannot be conveyed to the private on-site stormwater system; these overflow pipes must be removed from all future permit plans.
- The applicant shows a drainage pipe through the interior landscaped area to convey runoff from

the uphill portion of the parking lot (northwest) to the central paved area, where it will sheet flow south to the infiltration planter. Conceptually this is acceptable but during review of permits City staff may require a different method of conveyance or additional measures to prevent clogging and backups of that pipe.

- NW Engineers has clarified the impervious area in the on-site drainage basin as 18,908sf. The revised PAC outputs, site plan and infiltration test results indicate there is adequate area available for an infiltration planter to manage runoff from that area.
- *Public Right-of-Way Stormwater Management Comments:* The City of Portland Bureau of Transportation (PBOT) requires public right-of-way improvements as part of the proposed development, and public drainage improvements per the standards of the SWMM and the Sewer and Drainage Facilities Design Manual are required along with those improvements. BES requires the applicant to complete the concept review (30% design) phase of the public works permitting (PWP) process prior to issuing a recommendation of land use approval. The applicant has submitted an application and plans to initiate a PWP review, and has received engineering feedback in a 30% meeting with City staff. BES Development engineering staff required an interim submittal before releasing the 30% Concept; subsequently, NW Engineers has submitted additional information for review. Although that information has not yet been reviewed and therefore the 30% Concept has not officially been approved, Development Engineering staff has indicated that the amount of dedication will not change and that an approvable plan is achievable here. Therefore BES requires no additional information related to the public improvements for the purpose of reviewing the Conditional Use application. The applicant should continue to coordinate with Marc Jones in BES Development Engineering (503-823-7064) with any questions about outstanding PWP requirements. General information about the PWP process can be found on the [City of Portland Public Works Permitting website](#).
- Conditions of Approval - None requested by BES staff. (Exhibit E-2)

Conclusion: Therefore, based on these responses from the City's service agencies, BDS staff finds that this criterion is met.

- E. Area plans.** The proposal is consistent with any area plans adopted by the City Council such as neighborhood or community plans.

Findings: This site is within the boundaries of the Outer Southeast Community Plan and the Powellhurst-Gilbert Neighborhood Plan. A review of the policies and objectives of the Outer Southeast Community Plan, including the Mixed Eras Sub area, where this site is located, did not result in finding any plan elements that were directly relevant to this proposal. Similarly, the Powellhurst-Gilbert Neighborhood Plan does not contain any policies or objectives that are directly related to this proposed religious institution. However, the proposal does not contradict any of the policies or objectives of these plans and the well-kept character of the site, and its community focus for the members of the temple's congregation, are consistent with the intent of the plans to improve the overall quality of life for the residents of the Outer Southeast Portland Community and the Powellhurst-Gilbert Neighborhood. Therefore, this criterion is met.

SUMMARY: Based on the information provided by the Applicants in their narrative and plans, BDS staff finds that all of the Conditional Use Approval Criteria are met.

33.805.010 Purpose of Adjustments

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide

flexibility for unusual situations and to allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below have been met.

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: Adjustment 1. Minimum Building Setback for Institutions

Approval of an Adjustment is being requested for existing development on the site that does not conform to the development standards for institutions in the single-dwelling zones. Zoning Code Section 33.110.245 (Table 110-5) requires that buildings on institutional sites have a minimum setback of one foot for every two feet of building height, but in no case, less than 15 feet. The existing building meets the five-foot building setback that is required for houses in the nearby R5 zone, but does not meet the 10-foot setback that is required by the R10 zone designation and does not meet this institutional standard, so the applicant is requesting approval of an Adjustment to reduce the required setback from the north property line, from 15 feet to about 5.5 feet.

The purpose of the base zone building setback requirements, as stated in Zoning Code Section 33.110.220 A, are to maintain light, air, separation for fire protection, and access for fire fighting. Setback standards also reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences. They promote options for privacy for neighboring properties and provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity.

The general base zone standards are designed for residential buildings. Zoning Code Section 33.110.245 A states that, "Different development standards are needed for institutional uses which may be allowed in single-dwelling zones. The intent is to maintain compatibility with and limit the negative impacts on surrounding residential areas."

The structure that does not meet the setback from the north property line was constructed as part of a single-dwelling residence. A portion of the building is still being used as a residence, but it is physically attached to the structures that house the proposed religious institution on this site. Because there is no proposed change in the setback and no increase in floor area, the impacts to the residents on the property to the north will not change, in regards to protection of light and air, separation for fire protection, access for fire fighting and preservation of privacy. The one-story building is compatible with the surrounding residential area in the scale and placement of buildings and a reasonable physical relationship between residences. Because the structure is not of a scale that is often found in institutional structures, there is no need for a larger setback here. This northern portion of the building was constructed as a part of the fabric of the residential area and maintains that character. Therefore, because the purposes of the base zone setback requirement and the purpose of the institutional setback requirement are being equally met, this criterion is met.

Adjustment 2. Increase allowed height of fence within the front building setback

Approval of a second Adjustment is being requested to allow the retention of an over-height decorative wrought iron fence that is located around the perimeter of the site. Code Section 33.110.255 C states that fences that are located within front building setback areas are limited in height to 3.5 feet. In other setback areas, along both side

and rear property lines, fences can be up to 8 feet tall. The site has a decorative iron fence that exceeds this height limit, being between 4 feet to 7 feet 3 inches tall (at the gate) within the 20-foot front setback area, adjacent to SE 136th Avenue, and also along the south side of the site, adjacent to SE Mall Street. Brick pillars also flank the gates on both the front and south sides of the property. These pillars are 7 feet 6 inches tall, with a statue of a lion figure perched on top of each pillar, adding another 18 inches, for a total height of 9 feet. An additional Adjustment is being requested to allow the decorative fence and pillars to remain.

The purpose for limits on fence heights is to promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. The standards are intended to promote the positive aspects of fences and to limit the negative ones.

The fence and the decorative pillars on each side of the gates are distinctive features of the physical aesthetic of the site. The fence is colorful, having rails that are painted bright yellow with pink flower insets. Because it is a wrought-iron fence, there are openings between the rails that allow easy visibility between the street edge and the interior of the site. The fence provides an attractive boundary for the site and does not create any negative effects such as the creation of a street wall that would inhibit surveillance or hinder emergency access of safe movement of pedestrians or vehicles. The pillars serve provide decorative punctuation for the gate openings without creating large surfaces that obstruct views or create a fortress like character. The fence may potentially increase the sense of community, due to its unique character. Therefore, the purpose of this regulation is equally met and for this adjustment, this criterion is met.

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

Findings: Adjustment 1. Minimum Building Setback for Institutions

The size, scale and location of the building, in relation to the north property line, are not changing. The structure has been situated in this location for many years and part of the building will continue to serve as a residence for the small group of nuns who live at and care for this temple. Therefore, there are no impacts on livability or appearance of the residential area that are expected from approval to maintain the existing physical location of the building, and so, for this adjustment, this criterion is met.

Adjustment 2. Increase allowed height of fence within the front building setback

As discussed in the findings above, this fence consists of brightly-colored wrought iron that includes many decorative features in its design. The fence, including the brick pillars with their statues, on either side of the gates, makes an attractive addition to this corner site. Neither the fence, nor the pillars, obstruct views to or from the site or cause any safety issues. Therefore, allowing the increased height of the fence and the pillars will not create significant detrimental impacts on the appearance or the livability of the residential area, and so, for this adjustment, this criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: The applicants are asking for approval of Adjustment Reviews to allow exceptions to two development standards. The purpose of the single-dwelling zones, as stated in Zoning Code Section 33.110.010 A, is to preserve land for housing and to provide housing opportunities for individual households. Institutional uses, such as the one that is requesting approval for its location on this site, are allowed when approved as Conditional Uses. This section of the Zoning Code also describes the purpose for the single-dwelling zone development standards, which is to preserve the character of neighborhoods by providing the six different single-dwelling residential zones and standards that work together to promote aesthetically pleasing environments, safety, privacy, energy conservation and recreational opportunities.

Approval of the request for an Adjustment to the minimum institutional building setback from the north property line would allow the portion of the existing structure, which was originally constructed as a single-dwelling residence to remain in the same location where it has always been, which is consistent with the intended use and development pattern of the zone. Approval of the request for an Adjustment to increase the allowed height of the fence and the pillars will allow a distinctive decorative feature of the institutional development on the site to remain and enhance the aesthetic character of the site, without impacting safety, privacy, energy conservation or recreational opportunities. Approval of the two Adjustments will not create any cumulative effect and will not be inconsistent with the purpose of the R10 zone. Therefore, for both of the requested Adjustments, this criterion is met.

- D.** City-designated scenic resources and historic resources are preserved; and

Findings: City-designated scenic resources are indicated by application of the "s" or Scenic Resource Overlay. Historic Resources are designated by adoption of Landmark Status. There are no City-designated scenic or historic resources on this site. Therefore, this criterion does not apply.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.

Findings: No impacts, either individually or cumulatively, are expected to result from approval of the requested Adjustments. Therefore, this criterion does not apply.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

Findings: Environmental zones are designated with either a lower case "c," for the Environmental Conservation Overlay, or "p," for the Environmental Protection Overlay. The site is not located within an environmental zone. Therefore, this criterion does not apply.

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.

Other: Code/Title 17 Information and Requirements

Street Classification

The City's Transportation System Plan (TSP) classified SE 136th Avenue as a Neighborhood Collector, Community Transit street, City Bikeway, City Walkway & a Local Service (Design Mode) street. The TSP classifies SE Mall as a Local Service street for all modes.

Transportation System Development Charges (17.15)

System Development Charges (SDCs) may be assessed for the proposed use on the site. The applicant can receive an estimate of the SDC amount, prior to submission of Building Permits by contacting Rich Eisenhauer at (503) 823-6108.

Driveways and Curb Cuts (17.28.110)

Curb cuts and driveway construction must meet the requirements in Title 17. Title 17 driveway requirements will be enforced during Building Permit review.

Street Improvements (17.88.020)

The City Engineer requires a site's frontage to be improved to City Standards for any Building Permit or land use action that increases occupancy.

It is typical PBOT procedure to review existing roadway configurations by referring to City GIS database resources in order to determine the necessary dedications and/or improvements related to proposed land use cases. City staff *may* receive different information from the applicant's engineer with regard to the existing condition of the subject roadways based on the actual survey of the site.

At this location, according to City GIS, SE 136th Avenue is improved with approx 30-ft of paving width within an approx 57-ft wide r.o.w. (no curbs or sidewalks). SE Mall is a gravel-base 40-ft wide r.o.w.

As noted previously, the SE 136th Avenue frontage of the site will be (or already has been) improved in relation to a City capital improvement project with a new sidewalk corridor. The site's SE Mall frontage will be required to be constructed to the satisfaction of the City Engineer and will be associated with the expected Building Permit for the project.

CONCLUSIONS

All of the relevant approval criteria have been met for the requested reviews. The proposal to locate a religious institution on this site, and to legalize the development that serves the institution, in accordance with the standards of Title 33, will not cause any impact on the appearance or the function of the residential area due to the proportion of non household living uses or from the scale or the intensity of the use. The proposal is substantially compatible with many elements of the adjacent residential development, based on characteristics such as site size, building scale, setbacks and landscaping, and does not present an unattractive element in the area where it is not consistent, due to cultural elements and architectural details. No activities that would create any ongoing impacts on livability have been identified. The Portland Bureau of Transportation (PBOT) found that the use is supportive of the designations of streets, as identified in the Transportation Element of the Comprehensive Plan and also that the transportation system is capable of supporting the proposal, in addition to the existing uses in the area. The City's other service agencies also found that services were adequate to serve the proposed use and that the conceptual plan for storm water management was acceptable to the Bureau of Environmental Services (BES). There were no relevant policies or objectives in the adopted area plans, but the proposal is consistent with these plans through providing a well-kept, upgraded property that offers a community asset for a group of Outer Southeast Portland citizens.

The requested Adjustments to the minimum institutional building setback from the north property line and the maximum height for the fence and pillars, within the front and side building setback areas were found to meet the purposes of the respective regulations. Approval of these Adjustments is not expected to create any impacts on the appearance or the livability of the residential area and there are no cumulative impacts that are expected to occur. The proposal can

be approved, in general compliance with the site plan and the fence detail plan (Exhibits C-1 and C-2, respectively).

TENTATIVE STAFF RECOMMENDATION

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

Approval of a Conditional Use Review, to locate a Buddhist temple on this site and also approval of the 54-space parking lot and other improvements that were created to serve the use;

Approval of Adjustments – to Code Section 33.110.245 (Table 110-5), to reduce the required setback from the north property line, for the existing structure, from 15 feet to about 5.5 feet; and

- to Code Section 33.110.255 C to increase the allowed height of the fence within the front building setback, from 3.5 feet to a height that varies from 4 feet to 7 feet 3 inches tall (at the gate), and to allow a height of up to 9 feet tall for the brick pillars with statues, in the front and south side building setbacks, in order to allow the decorative fence and pillars to remain.

Approvals are subject to general compliance with the site plan (Exhibit C-1) and fence detail plan (Exhibit C-2) and also subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-103645 CU AD."

Procedural Information. The application for this land use review was submitted on January 10, 2014, and was determined to be complete on May 12, 2014.

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 January 10, 2014.

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 extended by the applicant, **the 120 days will expire on: September 10, 2014.**

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 recommendation 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.

This report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case. This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at www.portlandonline.com. On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

Appeal of the decision. The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. 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.

Who can appeal: You may appeal the decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/applicant. Appeals must be filed within 14 days of the decision. **Appeals must be filed within 14 days of the decision. An appeal fee of \$5,000.00 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000).**

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.

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.

Planner's Name: Kathleen Stokes

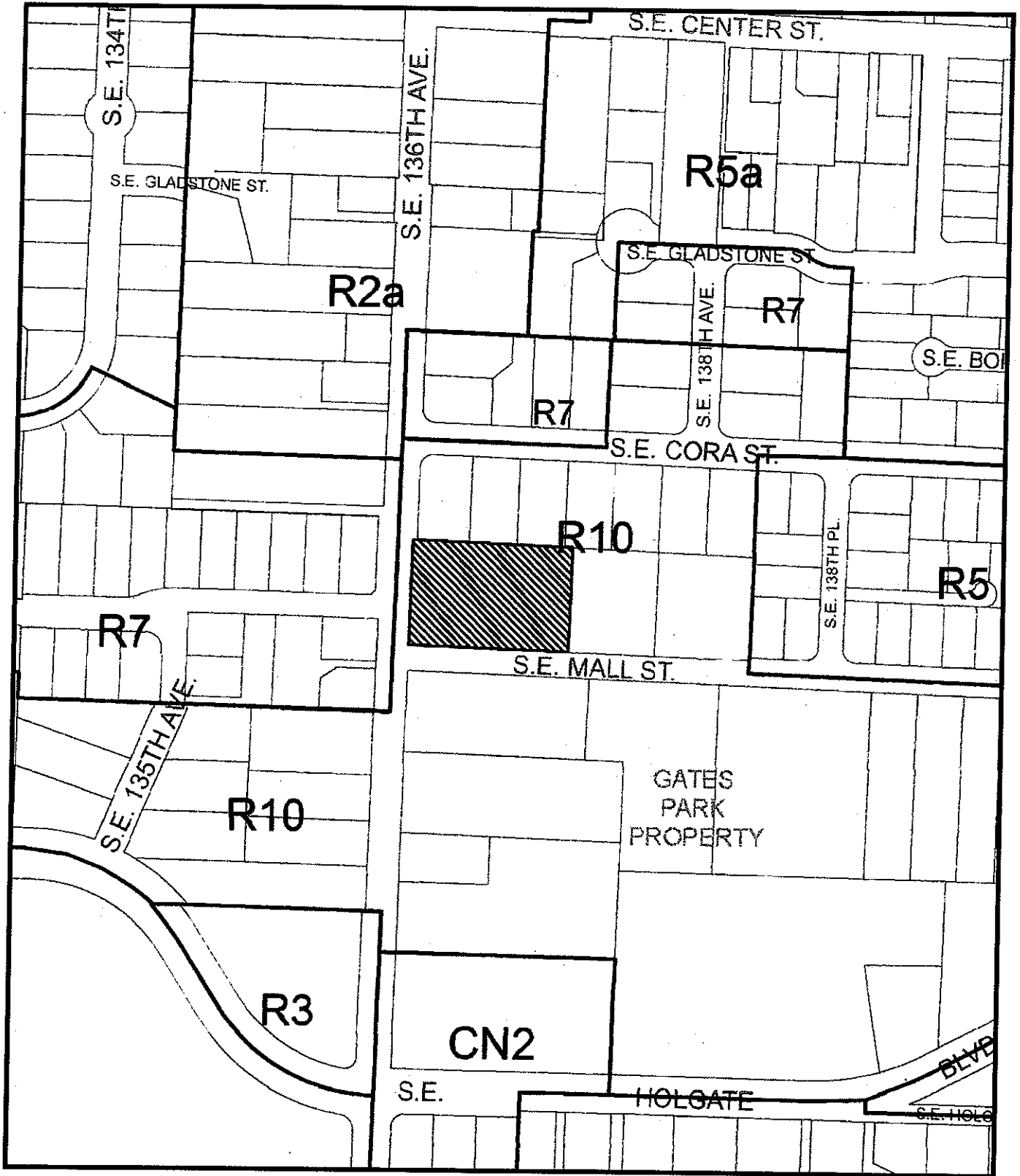
Date: June 20, 2014

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
1. Application Form and receipt
 2. Original narrative and plans (not final, see revisions, including deletion of some Adjustment requests)
 3. Preliminary Drainage Report, dated January 10, 2014 (not final, see revised copy)
 4. Traffic Analysis Report, dated December 2013
 5. Preliminary Drainage Report, dated February 25, 2014 (not final, see revised copy)
 6. Supplemental information (revision pages, dated February 28, 2014)
 7. Email from Matt Newman to Kathleen Stokes, March 25, 2014
 8. Memo to Kathleen Stokes, dated April 7, 2014 (includes revised response to approval criteria, fence detail plan and Drainage Report, revised April 3, 2014 (not final, see final revised copy)
 9. Infiltration Testing Memo from Greg Thiel, NW Engineers, dated June 3, 2014
 10. Revised Drainage Report (final), dated June 16, 2014
- B. Zoning Map (attached):
- C. Plans & Drawings:
1. Site Plan (attached)
 2. Fence Detail Plan (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 Environmental Services
 2. Bureau of Environmental Services, Addendum
 3. Bureau of Transportation Engineering and Development Review
 4. Water Bureau
 5. Fire Bureau
 6. Police Bureau
 7. Site Development Review Section of Bureau of Development Services
 8. Life Safety Plan Review Section of Bureau of Development Services
 9. Summary of electronic responses from City service agencies, including Bureau of Parks, Forestry Division
- F. Letters:
1. Pamela Melcher and David Findlay
- G. Other:
1. Pre-application Conference Summary Notes
 2. Letter from Kathleen Stokes to Matt Newman, January 31, 2014

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



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No. LU 14-103645 CU,AD
 1/4 Section 3444
 Scale 1 inch = 200 feet
 State Id 1S2E11DC 3100
 Exhibit B (Jan 13,2014)

DESIGNED	BY	DATE
DRAWN	BY	DATE
APPROVED	BY	DATE
SUBMITTED	BY	DATE

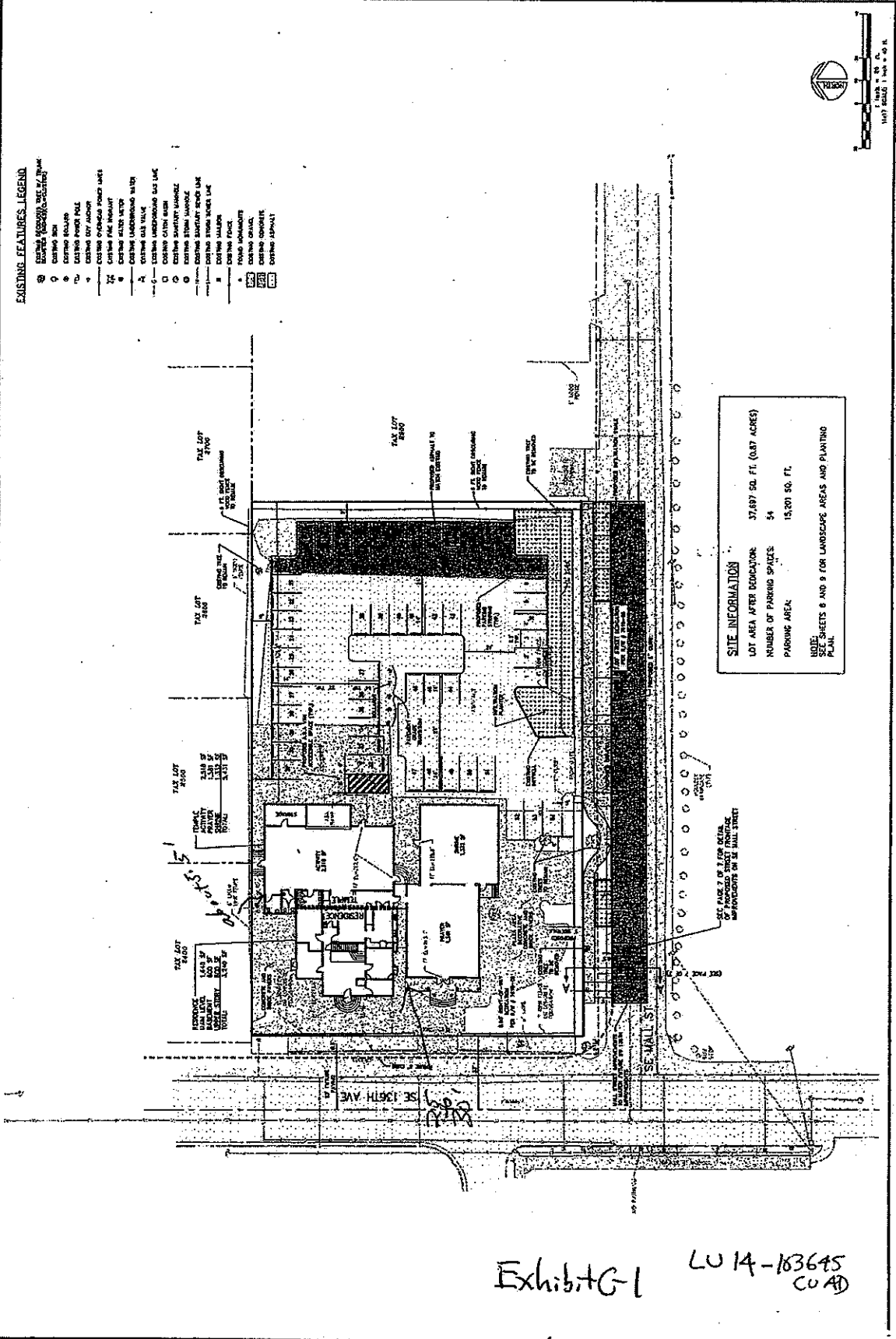
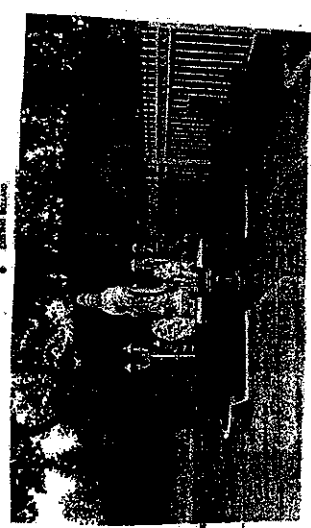


Exhibit G-1 LU 14-183645
 CO AD

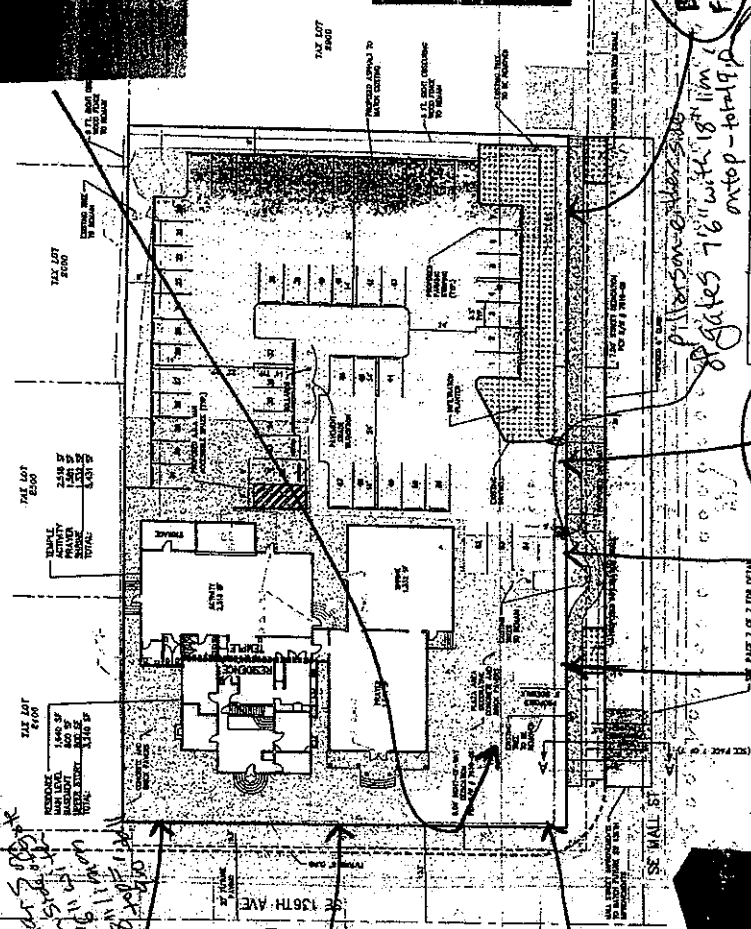
NO.	REVISION	BY	DATE

NO.	REVISION	BY	DATE

EXISTING FEATURES LEGEND
 ④ EXISTING TEMPLE BUILDING
 ○ EXISTING WELL
 ● EXISTING WALKWAY



EXISTING FENCE/GATE HEIGHT



SITE INFORMATION
 LOT AREA AFTER DEDICATION: 37,897 SQ. FT. (0.87 ACRES)
 NUMBER OF PARKING SPACES: 54
 PARKING AREA: 15,201 SQ. FT.
 NOTE: SEE SHEETS 5 AND 6 FOR CONCRETE WORK AND PAVING PLAN.

BASE 4" FENCE 44"
 GATE - 19 FT LONG 65"-87"

BASE 4" FENCE 44"

BASE 8" FENCE 66"

BASE 16" FENCE 66"

GATE 24-FT LONG 64"-87"

BASE 6" FENCE 64"

8 gates 7'6" with 18" trim on top - total 19 p.