



# City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 | 503-823-7300 | www.portlandoregon.gov/bds



## Type II and IIX Decision Appeal Form

LU Number: LU 20-198076 HR

### FOR INTAKE, STAFF USE ONLY

Date/Time Received 1/4/21 4:03pm ☒ Action Attached copy of decision  
 Received By Emily Wilson Fee Amount \$250  
 Appeal Deadline Date 1/4/21 4:30pm [Y] ☒ Fee Waived  
☐ Entered in Appeal Log Bill # 4773199  
☐ Notice to Dev. Review Neighborhood Northwest District

### APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS 2205 NW Johnson Street DEADLINE OF APPEAL 1/4/2021  
 Name Jordan Barbeau  
 Address 2205 NW Johnson Street City Portland State/Zip Code 97210  
 Day Phone 650-799-7879 Email j.b.barbeau@outlook.com Fax \_\_\_\_\_  
 Interest in proposal (applicant, neighbor, etc.) Applicant

### Identify the specific approval criteria at the source of the appeal:

Zoning Code Section 33. 846 . 060 Zoning Code Section 33. \_\_\_\_\_ . \_\_\_\_\_  
 Zoning Code Section 33. \_\_\_\_\_ . \_\_\_\_\_ Zoning Code Section 33. \_\_\_\_\_ . \_\_\_\_\_

### Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

The solar array layout as originally proposed, but not adopted in the City's decision, does meet the specific approval criteria in the above zoning code section, namely the Community Design Guidelines and Historic Alphabet District: Community Design Guidelines Addendum.

Appellant's Signature Jordan Barbeau Digitally signed by Jordan Barbeau  
 Date: 2021.01.04 15:09:32 -08'00'

### FILE THE APPEAL - Submit the following:

- ☐ This completed appeal form
- ☐ A copy of the Type II or IIX Decision being appealed
- ☐ An appeal fee as follows:
  - ☐ \$250, payable to City of Portland
  - ☐ No appeal fee is charged when appeal is filed by ONI recognized organizations for properties within organization's boundaries
  - ☐ Fee waiver request letter for low income individual is signed and attached
  - ☐ Fee waiver request letter for Unincorporated Multnomah County recognized organizations is signed and attached

The City must receive the appeal by 4:30 pm on the deadline listed in the Decision in order for the appeal to be valid. To file the appeal, submit the completed appeal application and fee (or fee waiver request as applicable) at the Reception Desk on the 5th Floor of 1900 SW 4th Ave, Portland, Oregon, between 8:00 am and 4:30 pm Monday through Friday.

A public hearing on the appeal will be held. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

**Information about the appeal hearing procedure and fee waivers is on the back of this form.**

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## Type II and IIx Appeal Procedure

For land use review applications that follow a Type II and IIx procedure, the Bureau of Development Services makes the decision on the application. This decision is called the Administrative Decision and may be appealed. The applicant and/or an interested person who does not agree with the Administrative Decision may appeal it by using the Type II and IIx Decision Appeal Form and submitting an appeal fee. No appeal fee is charged for Type II and IIx appeals when filed by an ONI recognized organization; the appeal must be for property located within the organization's boundaries, and the vote to appeal must be in accordance with the organization's bylaws. An appeal of a decision triggers an initial hearing before a City review body.

There is a 14-day appeal period that starts the day that the decision is mailed. The last day to appeal is stated in the decision. If appealed, a specific review body hears the case and makes the final City decision. These review bodies include:

- The Hearings Officer
- The Design Commission
- The Portland Historic Landmarks Commission
- The Adjustment Committee

### Type II and IIx Appeal Hearing

When a decision is appealed, the Bureau of Development Services schedules a public hearing and sends out a notice within five days of receiving the appeal. The hearing is held at least 21 days from the mailing of the notice.

At the hearing, everyone attending is allowed to speak to the review body. The testimony must address whether or not the proposal meets the approval criteria as described in the Administrative Decision or how the City erred procedurally. Written testimony is also accepted prior to or at the hearing. This may include additional information submitted by the applicant and/or appellant.

If a committee reviews the appeal, a decision is made at the hearing. If the Hearings Officer is the review body, they may make a decision at the hearing, or make a decision later. Both the Hearings Officer and the committee must make a written decision and send notice of the decision within 17 days after the hearing. The decision is mailed to the appellant, applicant, and to anyone who submits oral or written testimony at the hearing.

The review body may adopt, modify, or overturn the Administrative Decision based on the information presented at the hearing and in the case record.

### Appeal Fees

An appeal of a land use decision must include an appeal fee. There is a \$250 fee charged for appealing a Type II and IIx decision. This fee is refunded if the decision-maker grants the appeal; i.e. agrees with the appellant.

In order for an appeal to be valid, an appeal fee must accompany the appeal form or a fee waiver request must be approved before the appeal deadline as stated in the specific land use decision (Section 33.730.020 of the Portland Zoning Code). See below for fee waiver eligibility information.

### Low Income Fee Waiver

The appeal fee may be waived for low income applicants who appeal a land use decision on the site of their primary residence in which they have an ownership interest. In addition, the appeal fee may be waived for low income individuals who have resided for at least 60 days within the required notification area for the land use review. Low income individuals requesting a fee waiver will be required to certify their annual gross income and household size. The appeal fee will only be waived for households with a gross annual income of less than 50 percent of the area median income as established and adjusted for household size by the federal Department of Housing and Urban Development (HUD). All financial information submitted to request a fee waiver is confidential. Fee waiver requests must be approved prior to appeal deadline to be considered for a fee waiver.

*Information is subject to change*



CITY OF PORTLAND  
Bureau of Development Services  
1900 SW Fourth Avenue, Suite 5000  
Portland, OR 97201 **P524**  
**Land Use Decision Enclosed**  
**Case # LU 20-198076 HR**

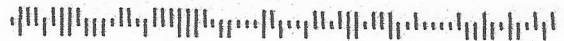
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U.S. POSTAGE **PITNEY BOWES**  
  
 ZIP 97204 \$ 000.38<sup>9</sup>  
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## RETURN SERVICE REQUESTED

OWNER/AGENT  
THE JOSEPH BARBEAU REV TR  
BARBEAU JOSEPH  
2205 NW JOHNSON ST  
PORTLAND OR 97210



96 JAMES 97210



City of Portland, Oregon | Bureau of Development Services | 1900 SW Fourth Avenue, Portland, Oregon 97201 | [www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)



The City of Portland is committed to providing meaningful access. For accommodations, modifications, translation, interpretation or other services, please call 503-823-7300, the TTY at 503-823-6868 or the Oregon Relay Service at 711.

503-823-7300  BDS@PortlandOregon.gov  [www.PortlandOregon.gov/bds/translated](http://www.PortlandOregon.gov/bds/translated)



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Turjumida ama Fasiraadda | 翻譯または通訳 | Письменный или устный перевод  
Traducere sau Interpretare | 번역 및 통역 | الشفوية | أو الشفوية | الترجمة الشفهية أو الشفهية  
ການແຈ້ງ ຫຼື ການອະທິບາຍ | Письмовий або усний переклад



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

Dan Ryan, Commissioner  
Rebecca Esau, Director  
Phone: (503) 823-7300  
Fax: (503) 823-6983  
TTY: (503) 823-6868  
[www.portland.gov/bds](http://www.portland.gov/bds)

**Date:** December 21, 2020  
**To:** Interested Person  
**From:** Hillary Adam, Land Use Services  
503-823-3581 / [Hillary.Adam@portlandoregon.gov](mailto:Hillary.Adam@portlandoregon.gov)

## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 20-198076 HR – SOLAR ARRAY**

#### **GENERAL INFORMATION**

**Applicant:** Bob Rathbone  
Premier Solar NW  
12399 NW Waker Dr  
Portland, OR 97229  
[rrathbone@premiersolarnw.com](mailto:rrathbone@premiersolarnw.com)

**Owner:** Jordan Barbeau  
The Joseph Barbeau Rev Tr  
2205 NW Johnson St  
Portland, OR 97210  
[j.b.barbeau@outlook.com](mailto:j.b.barbeau@outlook.com)

**Site Address:** 2205 NW JOHNSON ST

**Legal Description:** BLOCK 2 E 55' OF LOT 3&4 HISTORIC PROPERTY 15 YR 2008,  
POTENTIAL ADDITIONAL TAX, KINGS 2ND ADD

**Tax Account No.:** R452300230

**State ID No.:** 1N1E33BD 14500

**Quarter Section:** 2927

**Neighborhood:** Northwest District, contact Greg Theisen at 503-227-5430.

**Business District:** Nob Hill, contact Nob Hill at [nobhillportland@gmail.com](mailto:nobhillportland@gmail.com).

**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

**Plan District:** Northwest

**Other Designations:** Contributing resource in the Alphabet Historic district

**Zoning:** RM3d – Multi-Dwelling Residential 3 with Design and Historic Resource  
Protection overlays

**Case Type:** HR – Historic Resource Review

**Procedure:** Type II, an administrative decision with appeal to the Landmarks  
Commission.



**Proposal:**

The applicant proposes a new solar energy system at an existing contributing resource in the Alphabet Historic District to include 26 panels attached to the east- and west-facing slopes of the roof as well as a utility meter and AC disconnect on the east façade of the house (not shown in the drawings). Per the information provided the panels are noted to be set off the roof at a distance "<18 inches". *Please note the dimensions shown in the attached site plan are not accurate.*

Historic Resource Review is required because the proposal is for non-exempt exterior alterations in a historic district.

**Relevant Approval Criteria:**

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

- Community Design Guidelines
- Historic Alphabet District: Community Design Guidelines Addendum

**CONCLUSIONS**

The purpose of the Historic Resource Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. Portions of this proposal meet the applicable Historic Resource Review criteria and therefore warrants approval.

**ADMINISTRATIVE DECISION**

Approval of a new solar energy system at an existing contributing resource in the Alphabet Historic District to a rooftop solar array and AC disconnect switchbox on the east façade of the house (not shown in the drawings), per the approved site plans, Exhibits C-1 through C-4, signed and dated December 15, 2020, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through F) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 20-198076 HR." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. No field changes allowed.
- D. The solar array shall be limited to the west slopes of the roof and the final layout shall meet Fire Bureau requirements.
- E. The AC Disconnect switchbox shall be attached within the field of siding immediately adjacent to the existing meters and shall not overlap and trim elements.
- F. The solar array shall be set parallel and no more than 8 inches from the roof surface.

**Staff Planner: Hillary Adam**

**Decision rendered by:**  **on December 15, 2020**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: December 21, 2020**

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

**Procedural Information.** The application for this land use review was submitted on September 30, 2020, and was determined to be complete on October 27, 2020.

*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 September 30, 2020.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: February 24, 2021.**

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**Appealing this decision.** This decision may be appealed, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received by 4:30 PM on January 4, 2021. **Towards promoting social distancing during the COVID-19 pandemic, the completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations for the appeal of Type



II and IIX decisions on property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that due to COVID-19 and limited accessibility to paper files, only digital copies of material in the file are available for viewing. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <https://www.portlandoregon.gov/citycode/28197>.

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Landmarks Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Landmarks Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **January 5, 2021** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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

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

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

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

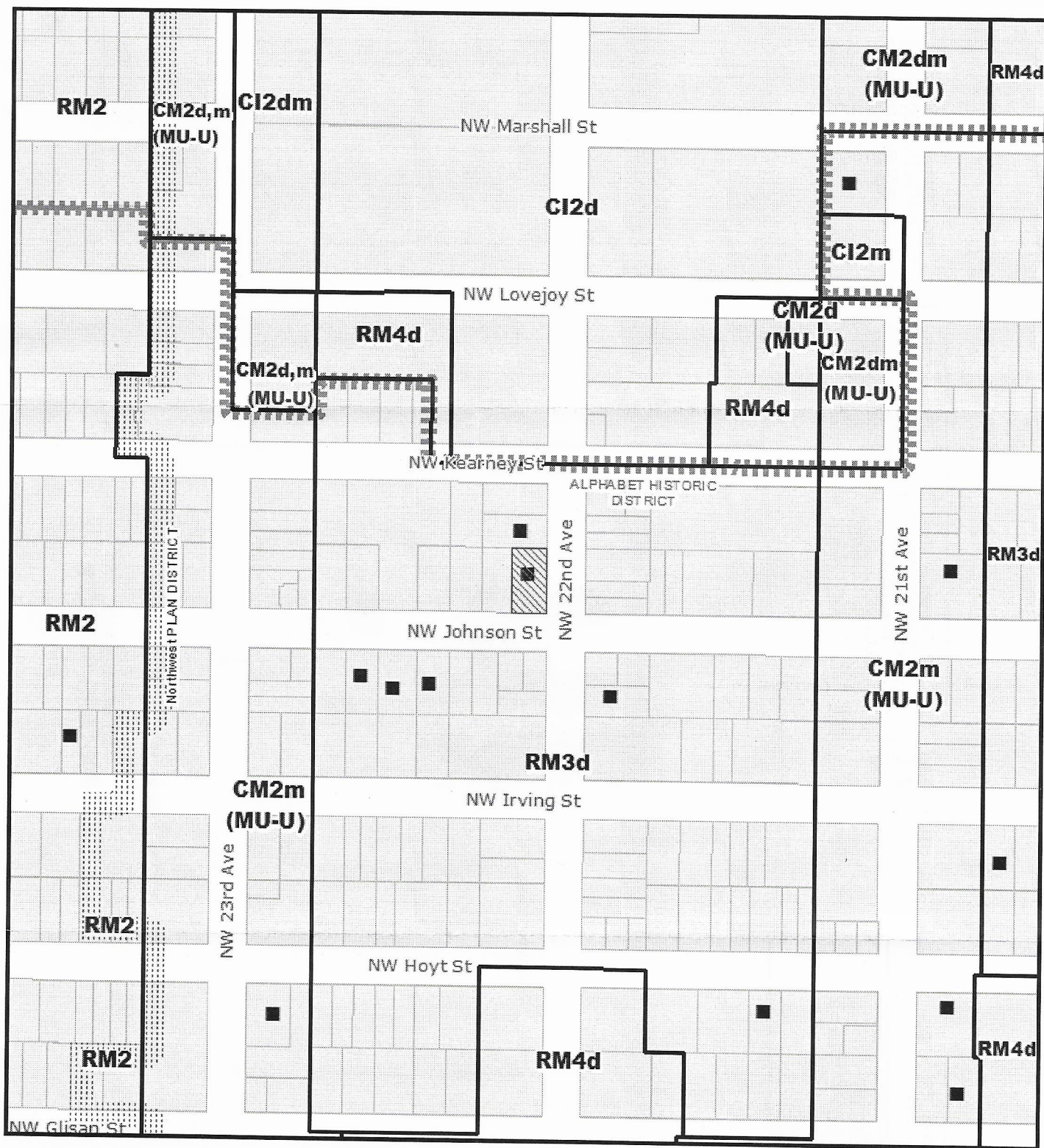
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Narrative
  - 2. Plans
  - 3. Prescriptive Checklist
  - 4. Solar Panel Manufacturer's Specifications
  - 5. Revised Narrative
  - 6. Completeness Response
  - 7. Roof Plan
  - 8. Roof Plan and Roof Section
  - 9. Front Elevation Photo
  - 10. West Slope Photo
  - 11. East Slope Photo
  - 12. Solar Panel Manufacturer's Specifications
  - 13. Inverter Manufacturer's Specifications
  - 14. AC Disconnect Photo
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Roof Plan (attached)
  - 3. Roof Section
  - 4. Elevations
  - 5. Solar Panel Manufacturer's Specifications
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Fire Bureau
  - 2. Life Safety Division of BDS Section of BDS
  - 3. Water Bureau
- F. Correspondence: none
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter, dated October 14, 2020
  - 3. Fire Bureau checksheet for 20-197017-000-00-RS
  - 4. Email from Jeff Herman, dated December 4, 2020

**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



NORTHWEST PLAN DISTRICT  
ALPHABET HISTORIC DISTRICT



Site



Historic Landmark

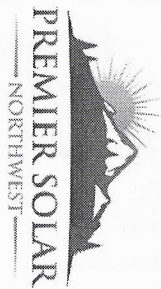
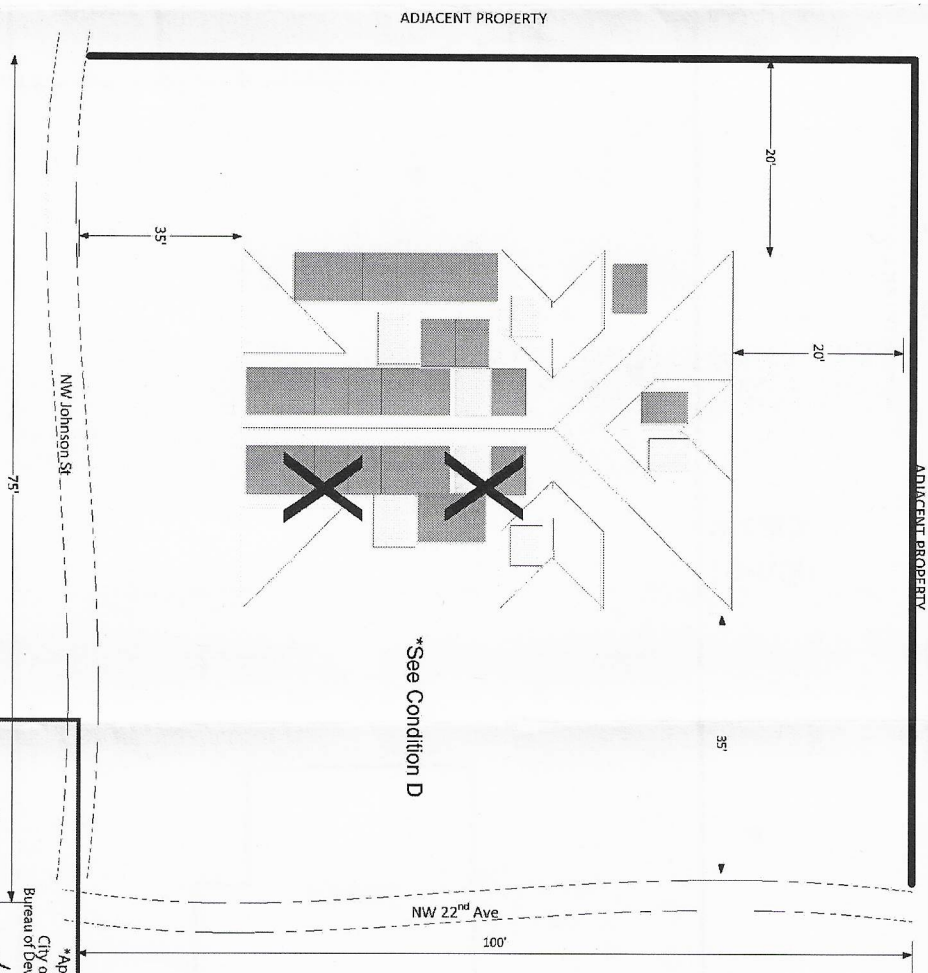
File No.	LU 20 - 198076 HR
1/4 Section	2927
Scale	1 inch = 200 feet
State ID	1N1E33BD 14500
Exhibit	B Oct 05, 2020



Layout 11" X 17"  
Scale 3/32" = 1"

# Barbeau Site Plan

Roof Structure & Site Map



**Contractor:**  
GENERAL CONTRACTOR:  
C&B RENEWABLE ENERGY, LLC  
12389 NW WAKER DR.  
PORTLAND OR, 97228  
503 828-9500  
CONTACT: CLIFF BARRY

**Customer:**  
Jordan Barbeau  
2205 NW Johnson Street  
Portland OR, 97210  
650 799-7878



LU 20-195078 HR C-001

Pilot Map  
September 3, 2020

**\*Approved\***  
City of Portland  
Bureau of Development Services  
Planner *[Signature]*  
Date 12/15/20  
\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

**Legend:**

Layout 8 1/2" x 11"

Scale 3/32" = 1"

# Barbeau Residence

## Roof Top Photovoltaic System Layout

Approved\*

City of Portland  
Bureau of Development Services

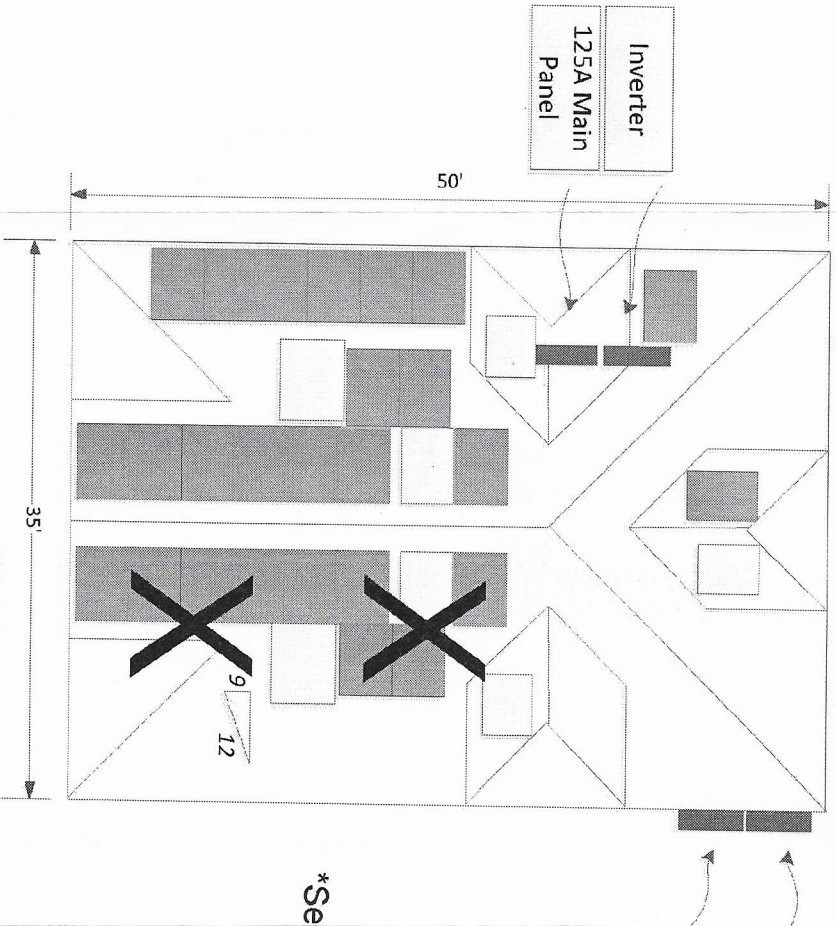
Planner

*[Signature]*

Date

12/15/20

\*This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



\*See Condition D

\*See Condition E

LU 20-198076 HR C-002

(26) Panasonic 325  
VBHN325KA03 Modules  
w/ (1) SolarEdge SE7600H-US  
Inverter



