



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

Dan Ryan, Commissioner
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Date: December 21, 2020
To: Interested Person
From: Hillary Adam, Land Use Services
503-823-3581 / 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

Owner: Jordan Barbeau
The Joseph Barbeau Rev Tr
2205 NW Johnson St
Portland, OR 97210
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.

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

ANALYSIS

Site and Vicinity: The subject property is a 2.5-story single dwelling located at the northwest corner of NW 22nd and NW Johnson, elevated from the street and oriented south. The house was constructed in 1907 in the Craftsman style. From the National Register nomination:

This residence is significant for its association with John Kiernan, who once occupied the house. A native of Illinois, Kiernan amassed his fortune as one of Oregon’s first salmon packers, lumberman, and industrialists. He was also a prominent figure in real estate development in the state and was the sole owner of Ross Island for over 50 years.

This residence was also occupied at one time by Herbert H. Sichel. Born in Portland in 1888, Sichel was a prosperous Portland merchant who operated the Moses and H.H. Sichel men’s furnishings store. Active in civic and club affairs, he was a leader in merchandizing organizations and a member of various organizations, including the Selective Service Board, Al Kader Shrine, Scottish Rite, and the American Legion. Sichel was also the treasurer for the American Council for Judaism.

The Alphabet Historic District is an area of Portland significant for its concentration of intact late 19th and early 20th Century, mostly middle class, housing stock and small-scale commercial buildings. Of special note are the many mid-sized apartment and institutional buildings. Many of these are in the various Period Revival styles, e.g. Tudor, Spanish Colonial, Byzantine, Jacobean, etc. and this is especially the case in the immediate vicinity of the proposed new development. The area is characterized by a grid of narrower, more tree-lined, east-west residential streets, named alphabetically after prominent Portlanders of the day, which are crossed by generally more robust north-south avenues. Two of these, NW 21st Avenue and NW 23rd Avenue are low-scale business corridors featuring a mix of purpose-built commercial structures and converted houses.

Zoning: The RM3 zone is a medium to high density multi-dwelling zone applied near the Central City, and in centers, station areas, and along civic corridors that are served by frequent transit and are close to commercial services. It is intended for compact, urban development with a high percentage of building coverage and a strong building orientation to the pedestrian environment of streets. This zone is intended for areas where the established residential character includes landscaped front setbacks. Allowed housing is characterized by mid-rise buildings up to six stories tall. The Design overlay zone is applied to this zone.

The Historic Resource Protection overlay is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks and protects certain historic resources in the region and preserves significant parts of the region’s heritage. The regulations implement Portland’s Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those

living in and visiting the region. The regulations foster pride among the region's citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties.

The “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development are subject to design review. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area

The Northwest Plan District implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this chapter: promote housing and mixed-use development; address the area's parking scarcity while discouraging auto-oriented developments; enhance the pedestrian experience; encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment; and minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed November 4, 2020. The following Bureaus have responded with no issues or concerns:

- Fire Bureau – noted an active permit for the proposal is under review.
- Life Safety Division of BDS – noted an active permit for the proposal is under review.
- Water Bureau

The official Fire Bureaus response for this land use review simply noted that there is an active permit and that the proposal would be reviewed for compliance under that permit. However, because there is an active permit, staff checked the permit file to compare drawings and determine if additional information could be gleaned under that application. Upon reviewing the checksheet from the Fire Bureau and confirming with the Fire Bureau, staff was able to verify that the proposal, as drawn, does not meet Fire Bureau requirements. As such, conditions have been added below addressing this deficiency.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 4, 2020. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Chapter 33.846.060 - Historic Resource Review

Purpose of Historic Resource Review

Historic Resource Review ensures the conservation and enhancement of the special characteristics of historic resources.

Historic Resource Review Approval Criteria

Requests for Historic Resource Review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

Findings: The site is located within the Alphabet Historic District and the proposal is for a non-exempt treatment. Therefore Historic Resource Review approval is required. The approval criteria are the *Community Design Guidelines* and the *Historic Alphabet District Community Design Guidelines Addendum*.

Staff has considered all guidelines and addressed only those applicable to this proposal.

Historic Alphabet District - Community Design Guidelines Addendum

2. Differentiate New from Old. New additions, exterior alterations, or related new construction will retain historic materials that characterize a property to the extent practicable. Replacement materials should be reasonable facsimiles of the historic materials they replace. The design of new construction will be compatible with the historic qualities of the district as identified in the Historic Context Statement.

3. Hierarchy of Compatibility. Exterior alterations and additions will be designed to be compatible primarily with the original resource, secondarily with adjacent properties, and finally, if located within a historic or conservation district, with the rest of the District. Where practical, compatibility will be pursued on all three levels. New development will seek to incorporate design themes characteristic of similar buildings in the Historic Alphabet District.

Findings: The proposed solar array will be located on the roof of the existing house, and will therefore not affect historic materials that characterize the property. The array will be clearly differentiated from the historic resource in that solar power was not available in this form at the time of the resource's construction. One element – the AC Disconnect – will be located on the east (side) elevation adjacent to existing meters and will therefore be attached to existing historic siding; however, the attachment points will be minimal. The proposed solar array is shown to be located on extensive portions of the roof, including on the east slope, facing Johnson Street, which would be highly visible to pedestrians. While staff is supportive of the addition of solar panels to the resource, the extent proposed does not meet the guidelines for compatibility, nor does it meet the Fire Bureau's requirements, as noted above. As such, staff has added a condition of approval that the solar array shall be limited to the west slopes of the roof where it will be less visible and therefore more compatible, and that the final layout shall meet Fire Bureau requirements.

With the condition that the solar array shall be limited to the west slopes of the roof and that the final layout shall meet Fire Bureau requirements, these guidelines are met.

Community Design Guidelines

P1. Plan Area Character. Enhance the sense of place and identity by incorporating site and building design features that respond to the area's desired characteristics and traditions.

P2. Historic and Conservation Districts. Enhance the identity of historic and conservation districts by incorporating site and building design features that reinforce the area's historic significance. Near historic and conservation districts, use such features to reinforce and complement the historic areas.

D7. Blending into the Neighborhood. Reduce the impact of new development on established neighborhoods by incorporating elements of nearby, quality buildings such as building details, massing, proportions, and materials.

Findings for P1, P2, and D7: As noted above, the proposed array extends over a significant portion of the roof and has been noted by the Fire Bureau to not meet their requirements. Staff also noted, above, concerns with the visibility of the array on the east slope of the roof, facing NW Johnson. Because the existing resource is a contributing resource located on a corner property, minimizing the visual impacts of the new array on the historic district is important for ensuring the proposal is compatible with the resource and the district as a whole. Staff is supportive of introducing solar energy to historic districts and notes that the Zoning Code related to historic resources is currently under revision; this includes the extent of solar arrays that could be exempt from historic resource review. The code changes have the potential of significantly changing the relationship between solar and historic districts by exempting a greater range of proposals. However, this application recedes any potential changes and is therefore subject to review and the noted approval criteria. In addition to the proposal not meeting

Fire Bureau requirements, staff does not find that the extent of the array proposed meets the above approval criteria. As such as condition of approval has been added that the solar array shall be limited to the west slopes of the roof where it will be less visible and therefore more compatible, and that the final layout shall meet Fire Bureau requirements.

With the condition that the solar array shall be limited to the west slopes of the roof and that the final layout shall meet Fire Bureau requirements, these guidelines are met.

D6. Architectural Integrity. Respect the original character of buildings when making modifications that affect the exterior. Make additions compatible in scale, color, details, material proportion, and character with the existing building.

D8. Interest, Quality, and Composition. All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.

Findings for D6 and D8:

Staff has addressed concerns with the visibility of the solar array in the above findings. While the solar array comprises the majority of the proposal, the applicant is also proposing an AC Disconnect switchbox adjacent to the meters on the east elevation. No drawing was provided to indicate the exact location of the AC Disconnect, and staff is therefore unable to assess the switchbox's impact to the east elevation, other than to confirm that the box does not appear to be overly large, based on a photo provided by the applicant. Therefore, staff has added a condition that the element must be attached within the field of siding immediately adjacent to the existing meters and may not overlap any trim elements. In addition, the drawings indicate that the solar panels will be offset from the roof "<18 inches". Eighteen (18) inches is a distance much larger than what staff typically approves as such a distance would make the array significantly more visible than would a smaller offset. Therefore, staff has added a condition that the array shall be set parallel to the roof slope and shall be offset no more than 8 inches from the roof surface.

With the condition that the AC Disconnect switchbox shall be attached within the field of siding immediately adjacent to the existing meters and shall not overlap any trim elements; and

With the condition that the solar array shall be set parallel and no more than 8 inches from the roof surface, these criteria are met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

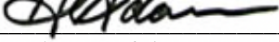
The purpose of the Historic Resource Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. Portions of this proposal meet the applicable Historic Resource Review criteria and therefore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

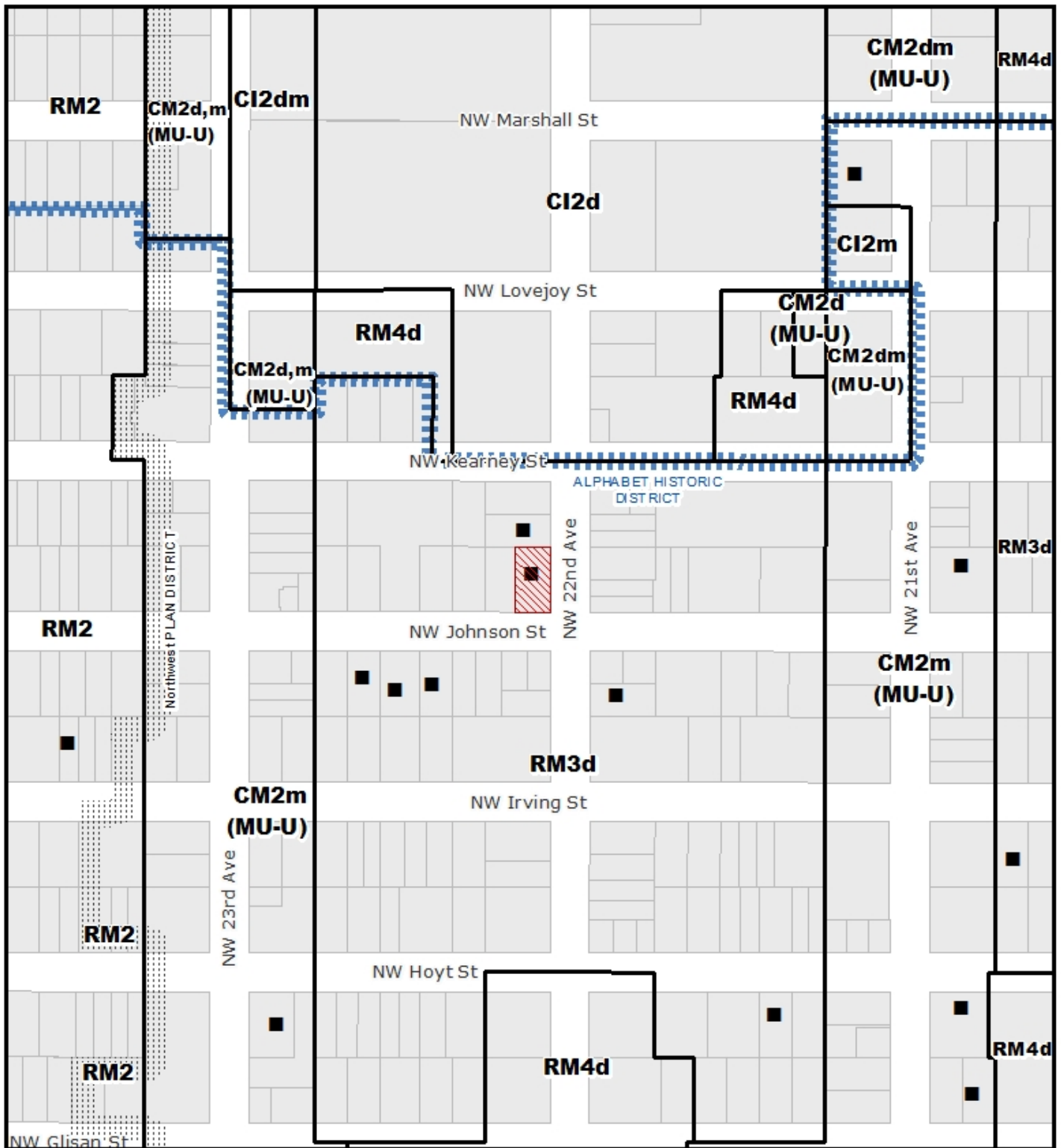
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

NORTH

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

Barbeau Site Plan



September 3, 2020

Alfred

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

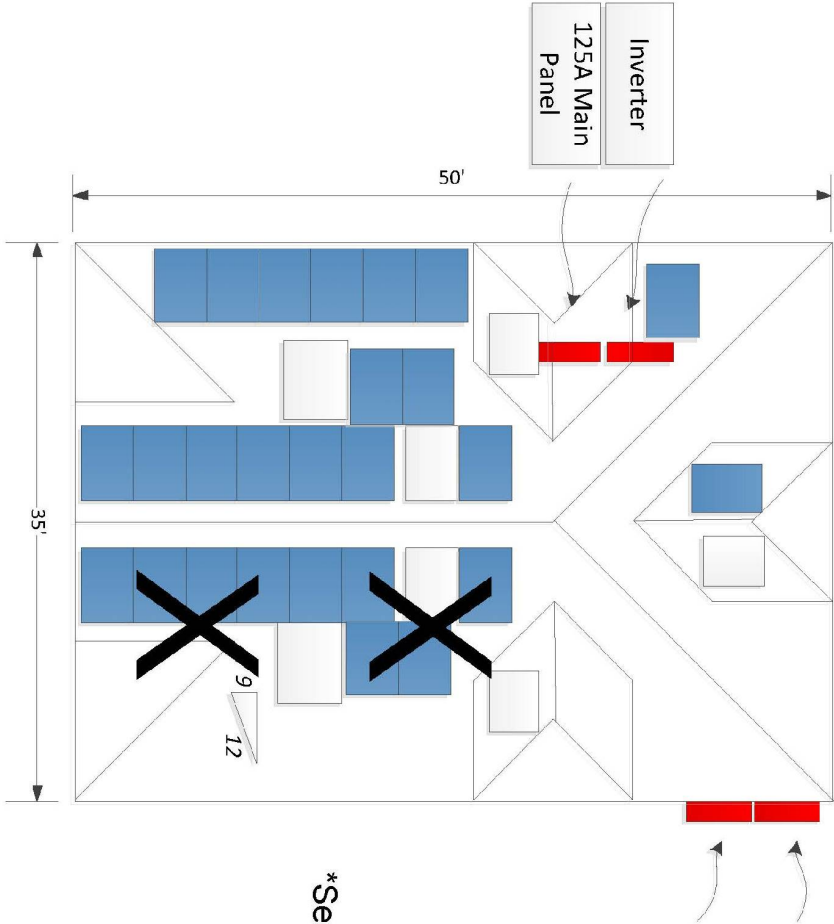
Planner

[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

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



LU 20-198076 HR C-002