



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

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TENTATIVE
FINAL FINDINGS, CONCLUSIONS AND DECISION OF THE
HISTORIC LANDMARKS COMMISSION
ON AN
APPEALED ADMINISTRATIVE DECISION
(TYPE II PROCEDURE)

Case File Number: LU 20-198076 HR – New Solar Array

Note: Underlined text indicates new findings, revised from the December 21, 2020 administrative decision.

The Administrative Decision for this case was appealed by Jordan Barbeau, 2205 NW Johnson St, Portland OR 97210 to the City of Portland Historic Landmarks Commission. The Historic Landmarks Commission granted aspects of the appeal that had been addressed by the Applicant through revisions to the proposal and upheld the Administrative Decision that approved the proposal.

GENERAL INFORMATION

Applicant:	Jordan Barbeau The Joseph Barbeau Rev Tr 2205 NW Johnson St Portland, OR 97210	j.b.barbeau@outlook.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 on the roof of a historic landmark and contributing resource in the Alphabet Historic District. The solar array will include 24 panels, the top face of which will be offset no more than 6" from the roof slope, with the array set back at least 15" inches from the southern edge of the roof. The original proposal included 26 panels located at the roof edge and offset up to 18" from the roof. An AC disconnect on the east façade of the house (not shown in the drawings) is also proposed.

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 Bureau 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 the initial drawings and determine if additional information could be gleaned under that application. Upon reviewing the checklist from the Fire Bureau and confirming with the Fire Bureau, staff was able to verify that the prior proposal, as drawn, did not meet Fire Bureau requirements. The revised proposal appears to meet the Fire Bureau requirements; this will be confirmed at permit.

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.

Appellant Statement:

The administrative decision of approval with conditions was been appealed by Jordan Barbeua, the property owner. According to the appellants' statement, the appeal is based on arguments that:

"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.

The full appeal statement can be viewed in the notice located on the BDS website at <https://efiles.portlandoregon.gov/Record/14312316/>.

Public Hearing: On February 22, 2021, the Historic Landmarks Commission held a public hearing to consider an appeal of the Administrative Decision on this case.

Hillary Adam, the case planner and representative of the Bureau of Development Services (BDS)/Land Use Services Division, made a PowerPoint presentation that included a brief summary of the proposal, slides of the subject site and surrounding neighborhood, a summary of BDS's findings related to the approval criteria, and a summary of key issues raised in the appellant's statement.

Following BDS's presentation, the Appellant presented their case and spoke to the lack of visibility of the solar panels and lack of impacts to historic materials. No public testimony was heard as no persons indicated a desire to testify. The Historic Landmarks Commission then closed the record and deliberated on the evidence that was submitted into the record. The Commission expressed acceptance of solar panels to be located on the east slope due to the height of the roof and its lack of visibility from the pedestrian realm, but suggested the panels should be held back from the front (south-facing) eaves. After deliberation, the Historic Landmarks Commission requested revisions to the proposal and requested the applicant to return with a revised proposal. The Landmarks Commission indicated an expectation that a revised proposal would include panels set back from the south edge of the roof at least 12" and ideally offset no more 6" from the roof slope.

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 the east and west slopes of the primary roof, as well as one panel on a lower projecting bay, and three panels on a small rear yard shed. The proposed panels are low profile, to be set at no more than 6" above the roof slope and are black in color. While not indicated on the drawings, the applicant's solar contractor indicated that the panels would be set at least 15" back from the front edge of the roof (see Exhibit A-18). The proposal also appears to meet or be substantially closer to meeting Fire Bureau requirements for escape pathways. Staff notes that the prior proposal showed panels set almost immediately at the roof edge and had conflicting notes about the panel height.

With the conditions that the solar array shall be set with the top surface of the panels no more than 6" above the roof slope and located at least 15" away from the southern edge of the primary roof, 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: Because the existing resource is a historic landmark 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. The Historic Landmarks Commission 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 precedes any potential changes and is therefore subject to review and the noted approval criteria.

At the February 22, 2021 hearing, the Commission agreed with the applicant/appellant that due to the substantial height of the building, the proposed solar array on both slopes of the primary roof will be minimally visible as long as they are mounted low to roof and set back from the eaves. As noted above, the revised proposal indicates black panels, the face of which will be offset from the roof slope by 6", with the array set back 15" from the southern edge of the roof.

With the condition that the solar array shall be located at least 15" away from the southern edge of the primary roof, 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 the visibility of the rooftop 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. Initially, no drawing was provided to indicate the exact location of the AC Disconnect, and staff was therefore unable to assess the switchbox's impact to the east elevation. Therefore, staff had 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. The Commission supported the condition but noted it could also be located in a concealed location, such as within the screened rear porch. However, the new solar contractor has indicated that the AC disconnect needs to be located next to the meter. The applicant has now provided an elevation that shows the location of the AC disconnect in the vertical field of the concrete foundation wall. As such, the prior concerns are alleviated.

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 requirements of Title 11 can be met, and 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. With the revisions proposed and presented by the applicant on August 9, 2021, this proposal meets the applicable Historic Resource Review criteria and Modification criteria and therefore warrants approval.

HISTORIC LANDMARKS COMMISSION DECISION

The Historic Landmarks Commission upheld the Administrative Decision that approved the proposal with additional revisions to the proposal, thus confirming approval of a new solar energy system on the roof of a historic landmark and contributing resource in the Alphabet Historic District. The solar array will be black and include 24 panels, the face of which will be offset no more than 6" from the roof slope, with the array set back at least 15" inches from the southern edge of the roof. (The original proposal included 26 panels located at the roof edge and offset up to 18" from the roof.) An AC disconnect on the east façade of the house (not shown in the drawings) is also proposed.

Approved with conditions per Exhibits C-1 through C-9, signed and dated August 9, 2021, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through E) 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 set with the top surface of the panels no more than 6” above the roof slope.
- E. The solar array shall be located at least 15” away from the southern edge of the primary roof.

These findings, conclusion and decision were adopted by the City of Portland Historic Landmarks Commission on August 9, 2021.

By: _____
Kristen Minor, Historic Landmarks Commission Chair

Date Final Decision Effective/Mailed: TBD
120th day date: October 26, 2021

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 November 06, 2019 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(1) 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 requested that the 120-day review period be extended for a total of 245 days (See Exhibit A-16). -Unless further extended by the applicant, **the 120 days will expire on: October 26, 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 is final and becomes effective the day the notice of decision is mailed (noted above). This decision may not be appealed to City Council; however, it may be challenged by filing a “Notice of Intent to Appeal” with the State Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed, pursuant to ORS 197.620 and 197.830. A fee is required, and the issue being appealed must have been raised by the close of the record and with sufficient specificity to afford the review body an opportunity to respond to the issue. For further information, contact LUBA at the 775 Summer Street NE, Suite 330, Salem, OR 97301 [Telephone: (503) 373-1265].

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 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

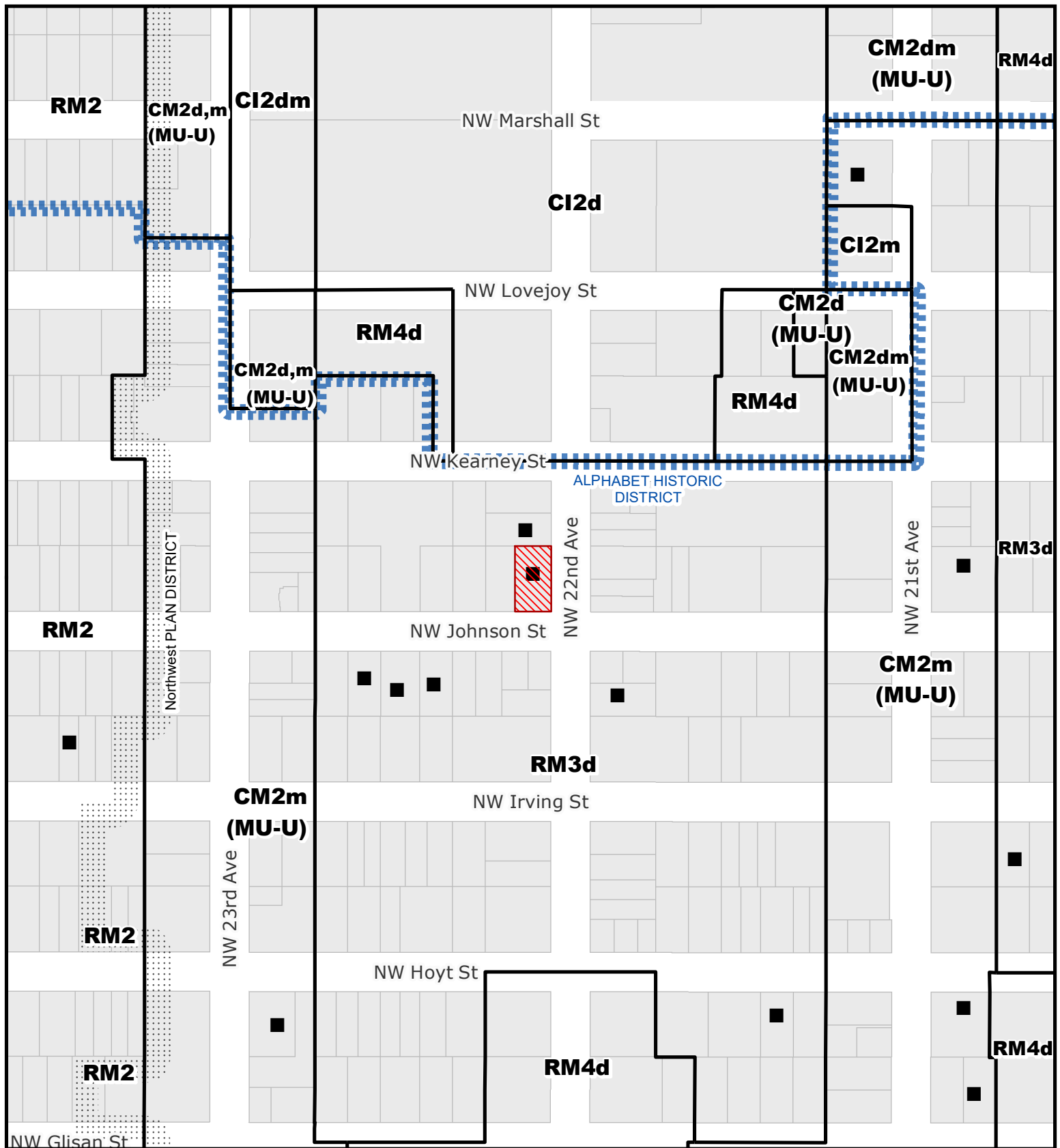
NOT ATTACHED UNLESS INDICATED

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
- 15. Extension Form, received January 5, 2021
- 16. Extension Form, received April 1, 2021
- 17. Revised Drawings, received July 26, 2021
- 18. Email from Heath Kearns, received July 26, 2021
- 19. Email from Heath Kearns, received July 30, 2021
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Map
 - 2. Roof Plan (attached)
 - 3. South Elevation
 - 4. East Elevation
 - 5. Racking Detail Portrait
 - 6. Racking detail Landscape
 - 7. Data Sheet Inverter
 - 8. Data Sheet Module
 - 9. Data Sheet Optimizer
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Fire Bureau
 - 2. Life Safety Division 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
- H. Hearing
 - 1. Appeal Form
 - 2. Appeal Notice
 - 3. Staff Presentation

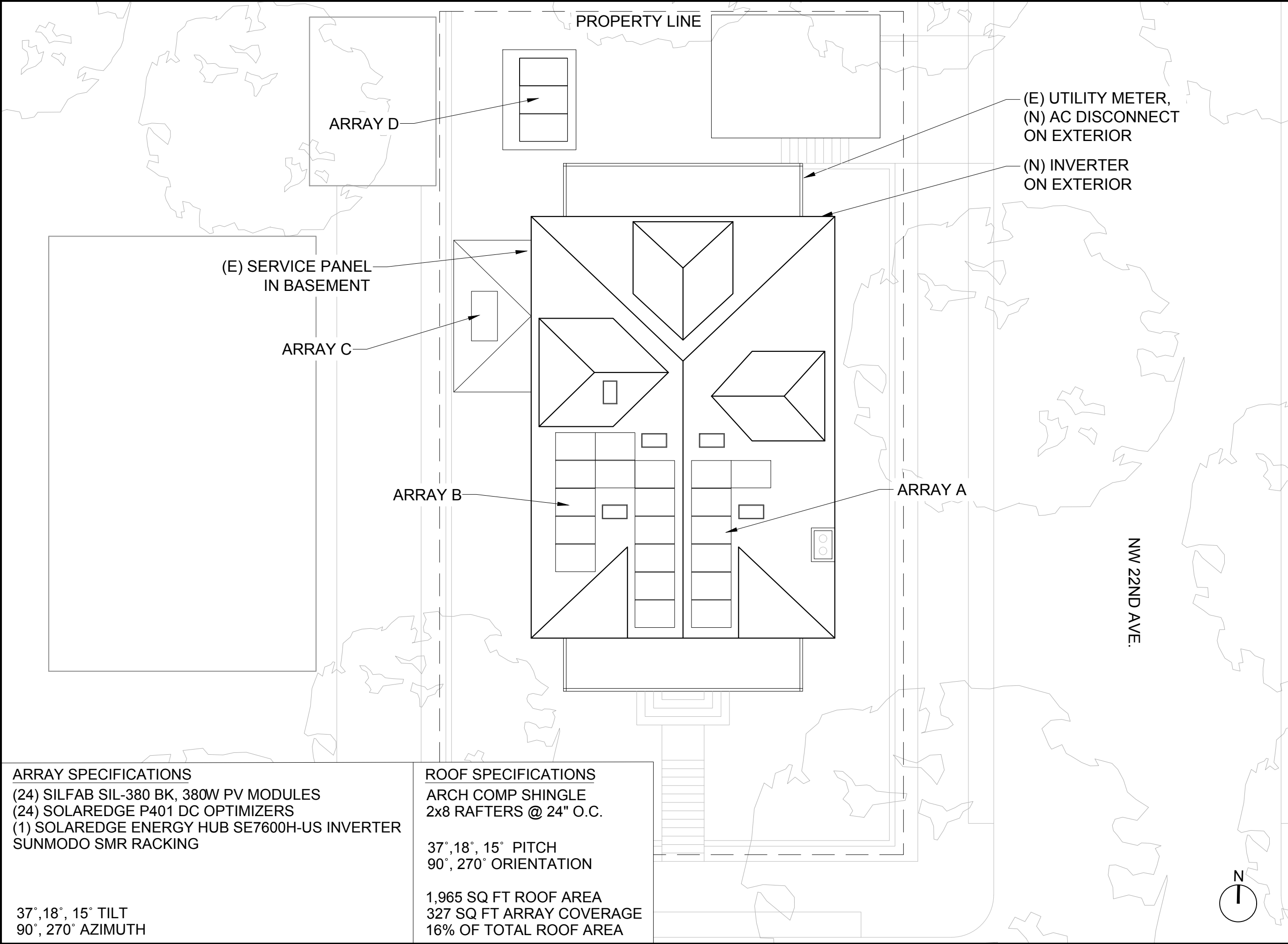
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



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



5506 SE INTERNATIONAL WAY
MILWAUKIE, OR 97222

P 503.477.9585 F 503.477.8340
INFO@IMAGINEENERGY.NET

CCB #: 167963
WA LIC #: IMAGIEL934PT

BARBEAU RESIDENCE

PROJECT DESCRIPTION
9.12 kW SOLAR PV PROJECT

PROJECT ADDRESS
2205 NW JOHNSON ST.
PORTLAND, OR 97210

CONTACT INFORMATION
JOE & JORDAN BARBEAU
650-278-9788
barbeaujoseph1970@gmail.com

SITE PLAN

REVISION	DATE	REASON

DESIGNED BY
HEATH KEARNS

DRAWN BY
JUSTIN GUADAGNI

DRAWN ON
7/29/2021

SCALE
3/32" = 1'

SHEET
NUMBER

PV-1

ARRAY SPECIFICATIONS

(24) SILFAB SIL-380 BK, 380W PV MODULES
(24) SOLAREEDGE P401 DC OPTIMIZERS
(1) SOLAREEDGE ENERGY HUB SE7600H-US INVERTER
SUNMODO SMR RACKING

37°,18°, 15° TILT
90°, 270° AZIMUTH

ROOF SPECIFICATIONS

ARCH COMP SHINGLE
2x8 RAFTERS @ 24" O.C.

37°,18°, 15° PITCH
90°, 270° ORIENTATION

1,965 SQ FT ROOF AREA
327 SQ FT ARRAY COVERAGE
16% OF TOTAL ROOF AREA