

City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

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

Date: May 3, 2012

To: Interested Person

From: Kathleen Stokes, Land Use Services

503-823-7843 / Kathleen.Stokes@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 reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 11-199478 NU AD

GENERAL INFORMATION

Applicant: State Of Oregon, Dept. of Transportation

9200 SE Lawnfield Rd Clackamas, OR 97015

Representative: Robert Price, Planning And Development Services

3935 NE 72nd Avenue Portland OR 97213

Site Address: 8710 SE POWELL BLVD

Legal Description: TL 9600 0.14 ACRES, SECTION 09 1S 2E; TL 9700 0.14 ACRES,

SECTION 09 1S 2E; TL 9800 0.14 ACRES, SECTION 09 1S 2E; TL 9100 0.22 ACRES, SECTION 09 1S 2E; TL 9000 0.12 ACRES, SECTION 09 1S 2E; TL 8900 0.12 ACRES, SECTION 09 1S 2E; TL 9200 0.47 ACRES, SECTION 09 1S 2E; TL 9300 0.19 ACRES, SECTION 09 1S 2E; TL 9500 0.19 ACRES, SECTION 09 1S 2E; TL 9500 0.19 ACRES, SECTION 09 1S 2E; TL 10000 0.12 ACRES, SECTION 09 1S 2E; TL 9500 0.42 ACRES, SECTION 09 1S 2E

Tax Account No.: R992090760, R992090770, R992090780, R992090810, R992090820,

R992090830, R992090840, R992090860, R992090870, R992090880,

R992091010, R992095630

State ID No.: 1S2E09CA 09600, 1S2E09CA 09700, 1S2E09CA 09800, 1S2E09CA

09100, 1S2E09CA 09000, 1S2E09CA 08900, 1S2E09CA 09200, 1S2E09CA 09300, 1S2E09CA 09400, 1S2E09CA 09500, 1S2E09CA

10000, 1S2E09CA 09900

Quarter Section: 3439

Neighborhood: Lents, David Hyde at 503-772-1376.

Business District: Eighty-Second Avenue, Ken Turner at 503-484-6225.

District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550. **Zoning:** R1a (R1,000, Medium Density Multi-Dwelling Residential, with an

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Alternative Design Density Overlay)

Case Type: Nonconforming Situation Review, Adjustment Review

Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal: The State of Oregon, Department of Transportation (ODOT) is proposing construction of an addition to the Department of Motor Vehicles (DMV) "Drive Test Center," which they have maintained on this site since 1985. The facility provides a location for residents to apply for and renew driver's licenses. Written tests and vision tests occur in the office facility. Staff who oversee driving tests are also based in the office. The addition is proposed to include 1,764 square feet of new floor area, an increase of 419 square feet to the canopied drive area and 14 new parking spaces, bringing the overall total number of spaces to 132, including 3 RV/truck spaces and 3 ADA compliant spaces. (The RV/truck parking accommodates larger recreational vehicles and personal trucks and/or smaller commercial trucks, but not heavy commercial vehicles). One driveway access from SE 86th Avenue would be closed. General site improvements, including upgrades to required parking lot landscaping and bicycle parking, will also be provided.

The DMV facility that is located on the site was originally approved as a Conditional Use in the R1 zone, in 1984 (CU-089-84). Subsequent changes to the Portland Zoning Code now identify this as an office use, which is prohibited in the R1 zone, but has a right to remain as a Legal Nonconforming Use. Nonconforming uses may be expanded, if approved through a Nonconforming Situation Review. This review is to determine whether the proposed expansion will increase impacts on the residential area. Impacts that are considered are those from hours of operation, vehicle trips, noise, vibrations, dust, odors, fumes, glare and smoke, potential for increased litter, the amount, location and nature of outside displays, storage or activities, and also changes in the site development that lessen the residential character of the area.

The hours of operation (8 to 5, weekdays, except 9 to 5 on Wednesdays) are not scheduled to change. The applicants indicate that the changes to the site are proposed to simply update, modernize and provide greater efficiency. The additional parking spaces are intended to reduce existing congestion in the parking lot. It is not anticipated that there will be any noticeable increase in the numbers of users or associated vehicle traffic. The applicants have indicated that staffing and user requirements do not conform to the dedication of spaces for carpools.

The proposed number of parking spaces exceeds the maximum number that is allowed for this use. Office uses are required to have a minimum of one space per 500 square feet of floor area and are allowed a maximum of one space per 294 square feet of floor area. At least five spaces must be reserved for carpool parking. The existing facility has a reported floor area of 12,280 square feet, which would allow 41 spaces. The proposed addition would increase the allowed number to 47 spaces. There currently are 118 parking spaces, including three RV/truck spaces and three accessible spaces. No carpool spaces are provided. Exceptions to these standards are approved through Adjustment Review, if all of the relevant approval criteria are met or if the criteria can be met through conditions of approval. Therefore, the applicants have requested approval of an Adjustment to Code Section 33.266.110 C to waive the carpool parking requirement and to Code Section 33.266.115 B, to increase the maximum number of parking spaces from the existing nonconforming 118 spaces to 132 spaces.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Code Sections 33.258.080 B (Nonconforming Situations) and 33.805.040 A- F (Adjustments).

ANALYSIS

Site and Vicinity: The applicant's site consists of twelve parcels. The applicant states that the property comprises a total area of 106,992 square feet, but Multnomah County records show that the site has a combined area of 107,154 square feet. The property is located on the south side of SE Powell Boulevard, extending through to Lafayette Street and from SE 86th Avenue, east to SE 88th Avenue. The site is developed with an existing 12,280 square-foot facility that

provides space for the public to take written and visual tests for driver's licenses and for taking the photographs that are required for their driver's licenses or state identification cards. Area is also provided for staff work space. The area surrounding the building provides space for a greater than usual number of parking spaces, so that drivers can park the vehicles that they will drive for the driving portion of the motor vehicle operator's test.

Zoning: The site is zoned R1, Medium Density Multi-dwelling Residential. This zone allows up to one unit per 1,000 square feet of site area and requires a minimum of one unit per 1,450 square feet of site area, or 1 unit per 2,000 square feet of site area for sites that are smaller than 10,000 square feet. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the lower density multi-dwelling zones. The major type of new housing will be condominiums and apartments, duplexes, townhouses, and rowhouses. Generally, R1 zoning will be applied near neighborhood collector and district collector streets, and local streets adjacent to commercial areas, or major streets.

The site also has an "a" or Alternative Design Density Overlay. This zone allows increased residential density, in certain situations, when design standards are met.

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

CU 089-84 approved the location of the DMV facility in this location, together with a potential relocation of the East Portland Precinct police station on property on the block to the east. The police station was never relocated to the site and the eastern portion of the property that was approved for the station is now under a different ownership.

Although, under the current zoning code, this use is no longer a Conditional Use, but is instead considered to be a legal nonconforming use, Code Section 33.700.110 2.c. states that the Conditions of approval of the 1984 review still apply. As a part of the Nonconforming Situation Review, we will revisit these conditions, to determine whether any are to be amended. These conditions included limits on vehicular access and requirements for landscaping (See decision language, below, with conditions).

"TO APPROVE A CONDITIONAL USE AS DESCRIBED IN THE ""DESCRIPTION OF PLAN"" HEREIN, TO BE CONSTRUCTED GENERALLY IN ACCORDANCE WITH EXHIBITS 5A AND 5B, SUBJECT TO THE FOLLOWING CONDITIONS:

A. Prior to the issuance of a Building Permit, a detailed site plan for the project, which meets all zoning Code requirements, must be approved by the Planning Director or his designee only after agreement with the City's Noise Control Officer. Such site plan(s) must include

- 1. A detailed landscaping plan which shows buffers to the residential areas. A 15- foot wide landscaping buffer area long all of SE Lafayette and SE 86th right-of-way must be included. This buffer must include ground cover, an evergreen hedge and trees. Width of a similar landscaping buffer along the eastern border of the site, including the border with the adjacent residential lot on the north site plan as described in Condition A., paragraph 1, above.
- 2. No access to or from SE Lafayette is allowed.
- 3. Parking lot design requirements, in accordance with Zoning Code Chapter 33.82 must be included.
- 4. A description of the landscaping measures which will mitigate the noise impact of the motorcycle test course on Kirkland Union Manor, or a relocation of the motorcycle test course.
- 5. A traffic pattern plan showing traffic patterns of vehicles coming to and from the site and how access through the residential areas will be deterred.
- 6. The following requirements set forth by the Bureau of Transportation Planning and Development (as described in Exhibit 6c.)

- (a) All access to the Department of Motor Vehicles (DMV) office shall be from SE 88th. General traffic will access on SE 86th via two driveways; one of which serves the customer parking/egress drive and one which serves the drive-in window/employee, and large vehicle parking. (b) SE 88th Avenue will be fully improved to City standards at the applicant's expense and culde-sac in a manner approved by the Bureau of Transportation Planning and Development, just south of the DMV's 88th Avenue driveway access. No traffic will be allowed to access SW Lafayette from SE 88th.
- (c) The existing curbed median will have to be moved to a point west of 88th to allow left turns from 88th Powell. The area formerly occupied by the median island would then be converted to a left-turn lane.
- (d) Public access to the Portland (Police) Bureau shall be solely from SE 88th. Future access to private street (SE 90th) may be used for access to secured parking.
- (e) A continuous landscaped berm shall run along the south edge of both the DMV and PPB sites, to mitigate noise and visual intrusion from the two facilities and Powell Boulevard. The berm shall be a minimum of four feet in height, with a four-foot-high continuous and solid wall, to be constructed on top of the berm. A five-foot landscaped buffer shall be provided on the street side of the noise barrier (between SE Lafayette and the two sites) to provide a screen for adjacent residential areas. The landscaping shall consist of growing ground cover and trees.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed on March 27, 2012. The following Bureaus have responded with no issues or concerns. Agencies that provided information on requirements for building permits are noted with exhibit numbers:

- Bureau of Environmental Services provided information on sanitary sewers and storm water management requirements (Exhibit E-1).
- Transportation Engineering provided information on Title 17 requirements for the proposed development (Exhibit E-2).
- Water Bureau noted that tax lot consolidation will be required, prior to "sign off" for building permits (Exhibit E-3).
- Fire Bureau noted that Fire Code requirements must be met at the time of Building Permit Review (Exhibit E-4).
- Site Development Section of BDS provided an electronic response of "no concerns."
- Life Safety Plan Review Section of BDS advised that building permits are required for the proposed development (Exhibit E-5).
- Parks-Forestry Division provided an electronic response of "no concerns."

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 27, 2012. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

NONCONFORMING SITUATION REVIEW

33.258.010 Purpose of Nonconforming Situation Regulations

Nonconforming situations are created when the application of a specific zone to a site changes, or a zoning regulation changes. As part of the change, existing uses, density, or development might no longer be allowed. The intent of the change is not to force all noncomplying situations to be immediately brought into conformance. Instead, the intent is to guide future uses and development in a new direction consistent with City policy, and, eventually, bring them into conformance.

Legal nonconforming status is based on whether the situation was allowed when established, and if it has been maintained over time. This chapter also provides a method to review and limit nonconforming situations when changes to those situations are proposed. The intent is to protect the character of the area by reducing the negative impacts from nonconforming situations. At the same time, the regulations assure that the uses and development may continue and that the zoning regulations will not cause unnecessary burdens.

Nonconforming situations that have a lesser impact on the immediate area have fewer restrictions than those with greater impacts. Nonconforming uses in residential zones are treated more strictly than those in commercial, employment or industrial zones to protect the livability and character of residential neighborhoods.

33.258.050 Nonconforming Uses

Nonconforming use status for this site and purposes for review requirements: This proposal is to continue the existing use, a State of Oregon Department of Motor Vehicles testing center, which was originally approved as a Community Service, through a Conditional Use review in 1984 (CU 089-84). The use has continued on the site, since it opened in 1985. The current proposal is for an addition to the building and the addition of 14 more parking spaces and the closure of one access drive, in order to more efficiently serve the public. Although the character of the use has not changed, since the 1984 review, the code classification has changed and it is now considered to be an office use which is considered to be a legal nonconforming use in the R1 zone.

Therefore, the applicant has the right to legal nonconforming status, according to Code Section 33.258.050, and also has the right to request approval of a Nonconforming Situation Review for the proposed expansion of the development that serves the use.

33.258.080 Nonconforming Situation Review

- **A. Procedure.** A nonconforming situation review is processed through a Type II procedure.
- **B. Approval criteria.** The request will be approved if the review body finds that the applicants have shown that all of the following approval criteria are met:
 - 1. With mitigation measures, there will be no net increase in overall detrimental impacts (over the impacts of the previous use or development) on the surrounding area taking into account factors such as:
 - a. The hours of operation;
 - b. Vehicle trips to the site and impact on surrounding on-street parking;
 - c. Noise, vibration, dust, odor, fumes, glare, and smoke;
 - d. Potential for increased litter; and
 - e. The amount, location, and nature of any outside displays, storage, or activities; and

Findings: The hours of operation are not scheduled to change. The facility is open weekdays and is closed on Saturdays, Sundays and holidays. The office opens at 8 AM, each day except Wednesday, when it opens at 9 AM. The facility closes at 5 PM each day.

The nature of the use, a test center for the public to obtain their motor vehicle operator's licenses, demands that the majority of the clientele drive to the site. The proposed changes to the layout and access for the parking area will improve the onsite circulation and is intended to reduce impacts on the adjacent streets. Closing one of the driveways that access 86th Avenue will give more queuing distance to the light-controlled intersection at SE 86th and Powell Boulevard. The addition of 14 more parking spaces, while retaining the use of the spaces by individual drivers (rather than setting aside reserved spaces for car pool parking), will also address impacts on the surrounding streets and any overflow parking that might be occurring.

No parking is allowed on SE Powell Boulevard on the east side of SE 86th Avenue. Closure of the second driveway on SE 86th will improve the queuing on this street, south of the intersection at Powell.

The improvements will trigger a requirement to upgrade landscaping on the site. One of the purposes of landscaping in parking areas is to reduce the impacts from dust, odor and fumes. Other potential impacts, from noise, vibration, glare or smoke, which would only be created by the vehicular traffic on the site, are not expected to increase as a result of the proposed addition to the building or the parking area. There is nothing in the proposal that would indicate any potential for an increase in litter and there are no outdoor displays, storage, or activities.

<u>Summary:</u> The impacts on the surrounding residential area will not increase as a result of the proposed addition to the building or from the reconfiguration of and addition to the parking area. The hours will not change and the proposed changes to the development are intended to accommodate the need for this public service in a more efficient manner which will reduce the potential impacts on the surrounding residential area. Therefore, this criterion is met.

- 2. If the nonconforming use is in an OS or R zone, and if any changes are proposed to the site, the appearance of the new use or development will not lessen the residential character of the OS or R zoned area. This is based on taking into account factors such as:
 - a. Building scale, placement, and facade;
 - b. Parking area placement;
 - c. Buffering and the potential loss of privacy to abutting residential uses; and
 - d. Lighting and signs, and

Findings: The development on this site, first created after the 1984 Conditional Use approval, functions as an office that provides a necessary use for the general public. No changes are proposed that will alter the character of the development on the site, other than to make it more efficient. The development is confined to a full block that is separated from residential uses by the abutting rights-of-way. Required upgrades to the landscaping of the parking area will provide additional buffering, which should help to soften the visual impacts of the nonresidential development. The development is separated from the closest residential uses so that there are not any known impacts to privacy. No lighting or signs are proposed that would have any impacts on the residential uses in the vicinity. Conditions of the 1984 approval which are still relevant and necessary to maintain buffering and reduce impacts for residential area are being carried forward, with language updated to meet the current Code. Therefore, with these conditions, the proposed changes to the site will not lessen the residential character of the R-zoned area and this criterion is met.

3. If the nonconforming use is in a C, E, or I zone, and if any changes are proposed to the site, the appearance of the new use or development will not detract from the desired function and character of the zone.

Findings: The proposal is in a residentially zoned area. This criterion does not apply.

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 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: The applicant has requested approval of Adjustments to Code Section 33.266.110 C, to waive the carpool parking requirement, and to Code Section 33.266.115 B, to increase the maximum number of parking spaces from the existing nonconforming 118 spaces to 132 spaces.

The purpose of the minimum carpool parking requirement is to encourage carpool use. The purpose of limits on the maximum numbers of parking spaces allowed promotes efficient use of land, enhances urban form, encourages use of alternative modes of transportation, provides for better pedestrian movement, and protects air and water quality.

The limits in Title 33 for the maximum allowed number of parking spaces are generally based on average needs for uses and try to prevent an excessive amount of parking while still allowing an adequate number of spaces for most uses. In this case, there is a unique use that provides a required public service that generally requires people to drive to the site and limits the times that carpooling can be an option. This requirement, necessary to obtain a license to operate a motor vehicle in the State of Oregon, creates a need for more parking spaces than the average office use and makes the use of carpool parking unlikely. In order to meet the demand for parking on the property for this situation, and not have it spread into the surrounding neighborhood, the requested Adjustments are in keeping with the spirit of the relevant portions of this purpose, to promote efficient use of land and to protect air and water quality. Therefore they equally meet this purpose and 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: The development that serves this nonconforming use is contained within a one-block area that is separated from the adjacent residential area by the abutting rights-of-way. Approval of the requested Adjustments will actually help to continue to maintain the activities on the same block and not have parking overflow into the surrounding area. Therefore, 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: Two Adjustments have been requested. However, staff finds that the impacts from approval of the Adjustments will not be cumulative, unless they are cumulative in a positive way. Further, while the purpose of the R1 zone is to provide opportunities for multi-dwelling development, in this case the site has been occupied by a nonconforming office use since about 1984. Allowing the requests to add more parking spaces and waive the requirement for carpool parking will actually help to reduce potential impacts on the surrounding residential area. Therefore this criterion is met.

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

Findings: There are no scenic or historic resources on the site. Therefore, this criterion does not apply.

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

Findings: The applicants have requested approval of two Adjustments that are exceptions to the regulations for parking on this site. Allowing these Adjustments will actually provide mitigation for potential impacts from this nonconforming use. No impacts are seen to result from the actual allowance for these exceptions. Therefore, this criterion is met.

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: The site is not located in 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.

CONCLUSIONS

The Oregon Department of Motor Vehicles Drive Test Center is a nonconforming office use at this R1-zoned site. The request to building an addition to the building and the drive through canopy, to add additional parking spaces, reconfigure the parking area and close a driveway to SE 86th Avenue can be approved because there will be no increase in impacts on the adjacent residential area. Parts of the proposal, including the request to approve Adjustments to allow an increase in the number of parking spaces, from 118 to 132 and to waive the requirement for carpool parking should actually help to keep the potential impacts from the use from increasing and impacting the residential neighborhood in negative fashion. The requested reviews can be approved, in general compliance with the site plan and elevation drawings and with the requirement that the original conditions of approval that are still relevant are updated and carried forward.

ADMINISTRATIVE DECISION

Approval of a Nonconforming Situation Review to allow the proposed additions to the development on the site for the State of Oregon Department of Motor Vehicles Test Center, to include 1,764 square feet of new floor area, an increase of 419 square feet to the canopied drive area and 14 new parking spaces, bringing the overall total number of spaces to 132, including 3 RV/truck spaces and 3 ADA compliant spaces.

Approval is also given to the requested Adjustments to Code Section 33.266.115 B, to increase the maximum number of parking spaces from the existing nonconforming 118 spaces to 132 spaces, and to Code Section 33.266.110 C, to waive the carpool parking requirement.

Approvals are subject to general compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-2, signed and dated May 1, 2012. Approval of the Nonconforming Situation Review is also subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B. 1. through 4.) 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 11-199478 NU AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Relevant Conditions of Approval of CU 089-84 are carried forward in this decision, with updates to match current conditions and Code language. Conditions that are not included here are no longer relevant and are void.
 - 1. A detailed landscaping plan was submitted with the current review and shows buffers to the residential areas and meets the upgrade requirements of 33.258. This landscaping plan must be carried forward for permit review. It includes the 1984 requirement for a

- 15- foot wide landscaping buffer area along all of the SE Lafayette and SE 86th and SE 88th rights-of-way, except where there are vehicular access points.
- 2. No access to or from SE Lafayette is allowed.
- 3. A condition of CU 089-84 required: "A description of the landscaping measures which will mitigate the noise impact of the motorcycle test course on Kirkland Union Manor, or a relocation of the motorcycle test course." The motor cycle course is currently located adjacent to SE 88th Avenue. The applicant indicated that this complies with the condition, as it mitigates the noise by means of distance and that it is further buffered by the sound wall along SE Lafayette Street and vegetation on the south and west sides. This location of the course and these mitigation measures must be maintained, in order to continue to comply with this condition.
- 4. Requirements originally set forth by the "Bureau of Transportation Planning and Development" for the DMV facility, and for the Police Bureau facility that was never constructed, are amended to agree with the approved plan as shown with this decision, which reflects the reconfiguration of traffic circulation and parking on the site and the closure of the second driveway on SE 86th Avenue.

Staff Planner: Kathleen Stokes

Decision rendered by: ______ on May 1, 2012

By authority of the Director of the Bureau of Development Services

Decision mailed: May 3, 2012

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 December 8, 2011, and was determined to be complete on **March 23, 2012.**

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 December 8, 2011.

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 requested that the 120-day review period be extended, as stated with Exhibit A-5. Unless further extended by the applicant, **the 120 days will expire on: August 2, 2012.**

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 to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 17, 2012** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged**. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

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 Hearings Officer 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 Hearings Officer 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 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.

- Unless appealed, The final decision may be recorded on or after May 18, 2012 (the day following the last day to appeal.
- 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.

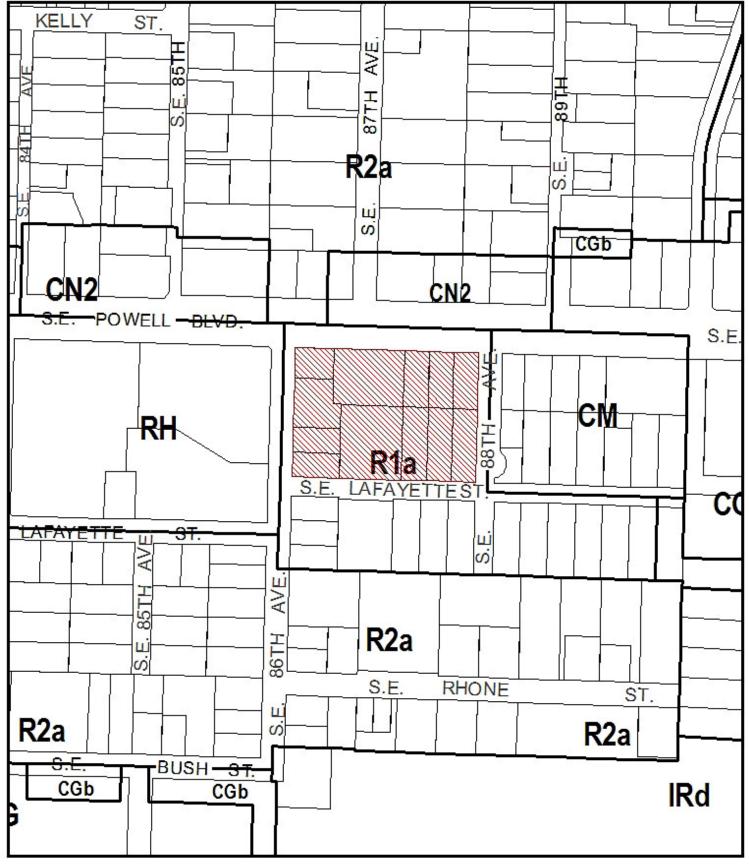
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Application and original narrative and plans
 - 2. Photographs (9 color copies of photographs)
 - 3. Supplemental information, dated March 2, 2012
 - 4. Revised landscape/site plan, received March 22, 2012
 - 5. Request to extend 120 day deadline for final local decision
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Life Safety Plan Review Section of BDS
 - 6. Summary of electronic responses from City Service Agencies
- F. Correspondence: (none received)
- G. Other:
 - 1. Site History Research
 - 2. Letter from Kathleen Stokes to Robert Price, December 20, 2011

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



LU 11-199478 NU File No. _ 3439 1/4 Section _ 1 inch = 200 feet Scale. 1S2E09CA 9200 State Id . В (Dec 09,2011) Exhibit.



