



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File No.: LU 12-206307 ZC AD (HO 4130005)

Applicant: Kakumyo Lowe-Charde
Dharma Rain Zen Center
2539 SE Madison Street
Portland, OR 97214

Applicant's Representative: Robert Price, Consultant
3935 NE 72nd Avenue
Portland, OR 97213-5711

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Staff Representative: Kathleen Stokes

Site Address: NE 82nd Avenue and NE Siskiyou Street

Legal Description: LOT 3 TL 100, PARTITION PLAT 1998-22

Tax Account No.: R649780870

State ID No.: 1N2E28BC 00100

Quarter Section: 2739

Neighborhood: Madison South

Business District: Parkrose Business Association

District Neighborhood Coalition: Central Northeast Neighbors

Zoning: EG2h, b - General Employment 2, with Aircraft Landing (height) Overlay and Buffer Overlay

Land Use Review: Type III, Zoning Map Amendment for Overlay Zone, Adjustment Review, Site Review (per previous Condition of Approval)

BDS Staff Recommendation to Hearings Officer: Approval with conditions.

Public Hearing: The hearing was opened at 9:00 a.m. on March 20, 2013, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 11:13 a.m. The record was closed at that time.

Testified at the Hearing:

Kathleen Stokes, BDS Staff Representative, 1900 SW 4th Avenue, Suite 5000, Portland, OR 97201

Gyokuko Carlson, 2539 SE Madison, Portland, OR 97214

Kakumyo Lowe-Charde, 2539 SE Madison, Portland, OR 97214

Michael Howells, 5927 NE Davis Street, Portland, OR 97213

Robert Price, 3935 NE 72nd Avenue, Portland, OR 97213

Frank Walsh, 3164 NE Fremont Drive, Portland, OR 97220

Brad Gilbert, 2818 NE 82nd Avenue, Portland, OR 97220

Mike Nahorney, 3125 NE 85th, Portland, OR 97220

Mark Newsom, 4124 NE Laddington Court, Portland OR 97232

Jocelyn Tunnard, BES, 1900 SW 4th Avenue, Portland, OR, 97201

Bob Haley, PBOT, 1900 SW 4th Avenue, Suite 5000, Portland, OR 97201

Dan Seeman, Kittleson & Associates, 610 SW Alder Street, Suite 700, Portland, OR 97205

Bill Kehrli, CWK2, 10700 SW Beaverton-Hillsdale Hwy., Suite 533, Beaverton, OR 97005

Proposal: The Dharma Rain Zen Center ("Applicant") proposes to locate a religious institution, with accessory housing targeted for members, on real property shown on Exhibits A and B (hereafter the "Site"). The development plan includes removal of a 60-foot-wide portion of the Buffer or "b" Overlay to allow vehicular access to/from Siskiyou Street. At the public hearing on March 20, 2013, Applicant submitted a revised site plan that eliminated a proposed pedestrian connection from the Site to the Madison Place subdivision (Exhibit H.6). A Zoning Map Amendment is required to approve the proposed removal of the portion of the Buffer Overlay Zone. Approval of an Adjustment to the landscaping requirements for the remaining Buffer Overlay area (33.410.040), to allow low screen or L2, instead of high screen or L3 landscaping is also being requested.

Applicant's development plan for the Site also requires approval through a Type III review because of a previous condition of approval in land use review ZC 7791. This condition reads as follows:

D. Any further development of the former landfill site (excluding the 100 ft depth of frontage along NE 82nd Ave) shall require a public hearing in compliance with a Type III procedure. The applicant shall demonstrate compliance with the following requirements:

- 1) A Transportation Study, subject to approval of the Office of Transportation.
- 2) Any necessary public street dedications and improvements.
- 3) A sanitary sewer and stormwater drainage system adequate to serve the development.
- 4) A report on the on- and off-site methane gas monitoring system.
- 5) Site review in accordance with the overlay zone and buffering requirements. Site design shall show the relationship of buildings on the site to one another and to the neighborhood and should be particularly sensitive to building height and mass.

Approval Criteria: In order to be approved, this proposal must comply with the requirements of the condition of approval cited above and also the approval criteria of Title 33, Portland Zoning Code ("PCC"). The applicable approval criteria are:

Zoning Map Amendment

(partial removal of overlay zone) ...PCC 33.855.060

Adjustment ReviewPCC 33.805.040 A-F

Site Review.....Condition of Approval D of ZC 7791

II. ANALYSIS

Site and Vicinity: The Site is approximately 478,991 square-feet in size and is located at the southwest corner of NE Fremont Drive and NE Siskiyou Street. A slender piece of the Site (the "Pole Section") extends from the main portion of the Site westerly to NE 82nd Avenue. The Site was once part of a former mining operation, Rose City Sand and Gravel. When the mining operation was completed, the Site was characterized as "open pits." In the early 1970s, the City approved two separate Conditional Use requests to allow the "open pits" to be filled with dry, non-putrescent wastes. Approximately 14.4 acres, comprising the southern half of the Site, was approved to be filled in 1972. Two years later, the City approved a proposal to fill the northerly half of the Site. The Lavelle Land Fill, as is it was known, was abandoned and capped in 1982.

Currently, the Site is largely overgrown with brush. Much of the vegetation on the Site consists of invasive non-native species, such as Himalayan Blackberry. The Site has, to a large degree, become a habitat area for birds travelling over the area. Applicant has started the process of removing the invasive plants while being sensitive to bird nesting areas.

The area surrounding the Site is developed with a variety of types of structures. Along NE 82nd Avenue there is commercial development with an industrial character to the south and a retail character to the north. Directly across 82nd Avenue is a City park and the Madison High School campus. On the east side of Fremont Drive, there is a single-dwelling residential subdivision that

was mainly developed in the late 1940s and early 1950s. A small City-owned open space area is adjacent to the southeast corner of the Site. Further to the east of the Site is the Rocky Butte natural area, the Rocky Butte historic district, and a subdivision.

Northeast Siskiyou Street, which abuts the northernmost Site property line, is a narrow right-of-way with no sidewalks. It is designated as a City Bikeway and as a Local Service Street for all other transportation modes. Northeast Fremont Drive abuts a small portion of the Site at the northeast corner of the property. Northeast Fremont Drive is designated as a City Walkway, a City Bikeway (only where it abuts the Site and provides access to a jog in the Siskiyou right-of-way), and as a Transit Access Street. Northeast Fremont Drive also provides a connection to the scenic Rocky Butte Drive. Northeast 82nd Avenue, which abuts the western end of the Site's access pole, is a Major City Traffic and Transportation Street, a City Walkway, Major Truck Access Street, Major Emergency Response Street and a Regional Corridor for street design. Northeast 82nd, also designated Oregon State Highway 213, is largely under the jurisdiction of the Oregon Department of Transportation ("ODOT").

Zoning: This Site is zoned General Employment 2 ("EG2"). The General Employment zones, in general, implement the Mixed Employment map designation of the Comprehensive Plan. These zones allow a wide range of employment opportunities. The emphasis of the General Employment zones is on industrial and industrially related uses. Limited commercial uses are allowed in order to support a wide range of services and employment opportunities. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial/commercial areas. EG2 areas generally have larger lots and an irregular or large block pattern. Typical General Employment 2 areas are less developed with medium and low building coverage and the buildings are often set back from the street. EG2 zoned lands are generally on larger areas than those zoned EG1.

Religious institutions and their accessory uses are allowed by right in the EG zones.

Buffer Overlay Zone ("b") requires additional buffering between nonresidential and residential zones. The b zone overlay is used when the base zone standards do not provide adequate separation between residential and nonresidential uses. The separation is achieved by restricting motor vehicle access, increasing setbacks, requiring additional landscaping, restricting signs, and in some cases by requiring additional information and proof of mitigation for uses that may cause off-site impacts and nuisances. For E and I-zoned lands, a 20-foot deep area, landscaped with 6-foot tall shrubs, trees and ground cover (L3 standard) must be provided along all lot lines that are within the buffer overlay. A 10-foot deep area may be provided instead, if landscaped to the L4 standard (6-foot-tall masonry wall, with shrubs, trees and ground cover). No motor vehicle access for commercial uses is allowed through the landscaped areas that are required by the b zone. Exterior work activities, signs and radio frequency transmission facilities on towers are all prohibited in the b zone. All development in the b zone must meet the requirements for off-site impacts (PCC 33.262.100).

The Site also has an Aircraft Landing zone ("h") overlay. The provisions of this overlay zone, which limit the height of structures within the aircraft landing approach patterns for the Portland International Airport, are not relevant to this proposal.

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

PC 4332 C (90-022557) An Ordinance granting a revocable permit to Town and Country Bowl, Inc., and Rose City Sand and Gravel Company, to establish and maintain a parking lot.

PC 4879 (90-023110) 1966 Planning Commission initiation of a zone change, from M1 TO C2. No documentation showing accepted and recorded date was found, but Ordinance No. was hand written on letter to applicant.

CU 53-72 (72-002197) Conditional Use approval for a landfill, with conditions as specified below:

- 1) The specifications for Lavelle Land Fill, 3000 NE 82nd Avenue, be part of the Condition.
- 2) That exit to NE Siskiyou Street be located and constructed so that the cars and trucks will only be able to go west on NE Siskiyou Street.
- 3) That a 25 foot strip along NE Siskiyou Street be dedicated for street purposes the full length of the property on NE Siskiyou Street and be improved to City specifications from NE 83rd Avenue west to NE 82nd Avenue.
- 4) That this approval of fill is in no way considered tacit approval of any future request for zone change from present R7 zoning to any A or C zoning.
- 5) That the fill be approved by DEQ and any requirements of DEQ be met. This Conditional Use is not to become effective until the applicant submits proof of DEQ approval.

CU 053-74 (74-002200) Conditional Use approval for a fill on TL 13, Sec 28, 1N 2E, subject to the conditions imposed by DEQ, as listed below:

- 1) That the 50-ton compactor not be used on Sundays or holidays.
- 2) That all excavating and fill operations be completed by August 13, 1979.
- 3) That the final grade plans be approved by the Planning Commission Staff to ensure a uniform finished grade and that said plans be submitted within one year.
- 4) That existing trees on the south and east boundaries be retained.
- 5) That the name and phone number of a responsible party be maintained in a conspicuous position for people to contact in case of a problem.
- 6) That the use of the D-8 Dozer be limited to no more than a total of 2 ½ hours per day on Sundays and holidays.

NOTE: PCC 33.700.110 states conditions of approval for land use reviews that were *approved prior to 1981* no longer apply, with the exception of land use reviews that approved or were associated with land divisions or PUDs. However, because these reviews trace the history of the creation of the landfill on Site and some of the conditions of these

reviews are related to the landfill and are still binding under the requirements of the State of Oregon Department of Environmental Quality (DEQ), they are included here.

PC 7362 PA (90-025638) 1984 Ordinance No. 156305 Decision of the City Council on Appeal of PC File 7362 PA: An Ordinance amending the Comprehensive Plan Map Amendment for TL 13, 34, 38 & 105, Sec 28, 1N 2E, from C2 (Commercial General) and R5 (High-Density Single-Family Residential) to M3 (Light Manufacturing), located at NE 82nd Avenue, south of NE Siskiyou Street.

ZC 7791 (00-037349) 1988 NOTE: The Ordinance No. for this case was not found in the microfiche records, logbook or original case file. Order of the City Council on the appeal against Hearings Officer's decision on Zone Change 7791: Following the appeal of Rose City Sand and Gravel Co., applicant, against Hearings Officer's decision on application for Zone Change and major Variance to allow development of a golf driving range with outdoor storage located east of NE 82nd Ave on property described as: TL 13, 34, 38 & 105, Sec 28, 1N 2E and presently classified as R7L and C2L [...] the following changes of zone are approved: Approval of a Zone Change from R7L and C2L to M3L for the westerly 100 ft of TL 34 & 38; Approval of a Zone Change from R7L and C2L to M3BLsr on the northerly 50 ft of TL34, the southerly 50 ft of TL 13, and the easterly 50 ft of TL 13, 34, 38 & 105; Approval of a Zone Change from R7L and C2L to M3Lsr on the remaining portions of TL TL 13, 34, 38 & 105, all in Sec 38, 1N 1E. All rezonings are subject to the following conditions:

- A. The use of the site is limited to a permitted type of M3 vehicle sales/storage and a golf driving range and miniature golf course as indicated on Exhibit 5, Page 1. This limitation does not apply to the 100 ft depth of property frontage along NE 82nd Ave, nor does it apply to future development proposals evaluated under Condition D.
- B. A storm drainage system shall be implemented by the applicant to the satisfaction of the Bureau of Environmental Services.
- C. The access/egress requirements of the Buffer Zone shall not apply to residential developments or any emergency vehicle access points. B-zone landscaping and screening requirements do not need to be implemented for the golf course/driving range uses of the site.
- D. Any further development of the former landfill site (excluding the 100 ft depth of frontage along NE 82nd Ave) shall require a public hearing in compliance with a Type III procedure. The applicant shall demonstrate compliance with the following requirements:
 - 1) A Transportation Study, subject to approval of the Office of Transportation.
 - 2) Any necessary public street dedications and improvements.
 - 3) A sanitary sewer and stormwater drainage system adequate to serve the development.
 - 4) A report on the on- and off-site methane gas monitoring system.

- 5) Site review in accordance with the overlay zone and buffering requirements. Site design shall show the relationship of buildings on the site to one another and to the neighborhood and should be particularly sensitive to building height and mass.
- E. The use of approximately 4.5 acres of the site, fronting on NE Russell St, shall be limited to residential uses permitted in the M3 zone.
- F. A Building Permit or Occupancy Permit must be obtained from the Bureau of Buildings [...] before carrying out this project, in order to assure that all conditions imposed here and all requirements of the pertinent Building Codes are met.

96-00758 MP (96-013645) Denial of a 3-lot minor partition.

96-01126 MP (96-014013) Approval of minor partition, Exhibit B1, for the lotting only with the following conditions:

1. The sanitary and storm water conditions shall be met to the satisfaction of the Bureau of Environmental Services as cited in Exhibit C2 (or C2a).
2. The applicant shall sign and return street and storm waivers to the satisfaction of Transportation Engineering as cited in Exhibit C3. The applicant shall submit documentation of ODOT's permission for the curb cuts as cited in Exhibit C4.
3. The plat shall reflect the dimensions and easement required by LUR 97-530 AD. The applicant shall submit a recorded copy of the adjustment approval along with the final plat.

The Final Plat for this partition was approved.

97-00530 AD (97-014576) Adjustment Review approval to reduce the width of a flag pole stem from 40 to 27 feet, which includes a 20-foot wide two-way drive aisle, two 6-inch curbs, and a 6-foot wide sidewalk; the approval also included the reduction of the required 5-foot deep landscape buffers on either side of the flag pole stem to 0 feet, subject to the approved site plan (Exhibit C 1 and C 2) and Exhibit A-2, paragraph 2, signed and dated July 1, 1997, with the following conditions:

- A. No parking is to occur along either side of the length of the flagpole stem.
- B. The required 5-foot landscape buffers will be replaced with trees planted 30 feet on center along each edge of the proposed two-way driveway. Each tree will be a minimum of 2 1/2 inches in diameter at 5 feet above ground. The trees will be planted in a 2-foot wide planting strip accommodated by an easement on proposed parcels 1 and 2 of the minor partition reviewed by LUR 96-01126 MP.

Agency Review: A "Request for Response" was mailed February 1, 2013. The following bureaus have responded with no issues or concerns:

- **Environmental Services** ("BES") responded to indicate that the conceptual plans for sanitary sewer connections and stormwater management will be feasible. They provided a detailed analysis of requirements that must be met for a Public Works Permit, prior to approval of building permits (Exhibit E.1).
- **Transportation Engineering** ("PBOT") noted that the required Transportation Study was prepared by a qualified traffic engineer and was submitted by Applicant. The response also noted the right-of-way dedications and street improvements that will be required by PBOT in relation to the proposed development plan for the Site (Exhibit E.2).
- **Water Bureau** provided information on the availability of future water service for the Site (Exhibit E.3).
- **Fire Bureau** noted that all applicable Fire Code requirements apply at the time of permit review (Exhibit E.4).
- **Site Development Section of BDS** ("Site Development") stated that a geotechnical investigation will be required to evaluate foundation support over the landfill, as well as geologic hazards. Information was also provided in their response regarding requirements for erosion control and the potential requirements for a seismic hazard study (Exhibit E.5).
- **Life Safety Plan Review Section of BDS** noted requirements for obtaining a building permit and recommended that Applicant contact a BDS process manager to arrange a Preliminary Fire and Life Safety Meeting (Exhibit E.6).
- At the request of BES, a representative of the DEQ Pollution Prevention section reviewed the letter that Applicant provided as a report on the on and off-site methane gas monitoring system and plans for addressing the methane gas deposits and emissions during and after development and found that it met the requirements of the Condition of Approval of ZC 7791 (Exhibit E.7).
- **Parks-Forestry Division** sent an electronic response of "no concerns."

Neighborhood Review: Public notice was mailed on February 21, 2013. A written response, encouraging approval of the requested reviews, was received from the Madison South Neighborhood Association on February 19, 2013 (Exhibit F.1). Three letters were submitted, at the March 20, 2013 public hearing, expressing support of Applicant's proposal (Exhibits H.3, H.4, and H.5). One letter was submitted, at the hearing, expressing opposition to Applicant's proposal (Exhibit H.7). Three persons testified, at the public hearing, in opposition to Applicant's proposal (Gilbert, Nahorney and Newsom).

The Hearings Officer shall address issues relevant to approval criteria in the findings below. Nahorney did raise one issue that did not relate to a relevant approval criterion. Nahorney testified that a wildlife study should have been performed as part of the review of this application. The Hearings Officer reviewed the relevant approval criteria and found nothing that would require a wildlife study to be conducted in this case.

The Hearings Officer notes that Applicant, in this case, provided information to the Madison South Neighborhood Association, Roseway Neighborhood Association and Coalition of Northeast Neighbors (listing of contacts/meetings is found in Exhibit A.1, subparts 12 and 13).

ZONING CODE APPROVAL CRITERIA

33.855.060 Approval Criteria for Other Changes

In addition to the base zones and Comprehensive Plan designations, the Official Zoning Maps also show overlay zones, plan districts, and other items such as special setback lines, recreational trails, scenic viewpoints, and historic resources. Amendments to all of these except historic resources and the creation of plan districts are reviewed against the approval criteria stated in this section. Historic resources are reviewed as stated in Chapter 33.846, Historic Reviews. The creation of a new plan district is subject to the approval criteria stated in 33.500.050. An amendment will be approved (either quasi-judicial or legislative) if the review body finds that all of the following approval criteria are met:

- A. Where a designation is proposed to be added, the designation must be shown to be needed to address a specific situation. When a designation is proposed to be removed, it must be shown that the reason for applying the designation no longer exists or has been addressed through other means;
- B. The addition or removal is consistent with the purpose and adoption criteria of the regulation and any applicable goals and policies of the Comprehensive Plan and any area plans; and

Findings: Mr. Nahorney ("Nahorney"), an individual residing near the Site, testified orally at the public hearing. Nahorney also submitted written evidence at the hearing (Exhibit 7). Nahorney expressed opposition to Applicant's proposal to remove only 60 feet of the buffer zone along NE Siskiyou. Nahorney's objections are summarized by the Hearings Officer below:

- The Site has no legal vehicular access per a prior land use decision (LU 05 117484 ZC AD); and
- If vehicular access to/from NE Siskiyou is granted to Applicant (waiving the buffer zone) it should be for "many" entrances and not the single entrance as proposed; and
- Applicant's proposal, if approved, should be conditioned to allow only traffic generated by the Site to use the Siskiyou access;
- Applicant should be required to pay for a fully improved Siskiyou Street and not just a "half-street" improvement.

The Hearings Officer finds that any landowner (or person with the appropriate rights) has the legal right to submit an application to modify one or more zoning restriction(s) or land used condition(s) included in a prior land decision. The Hearings Officer notes that a zone change request is, by definition, a request to change an existing land use designation to a new land use designation. In this case, Applicant requested a modification to the buffer overlay zone requirement. The Hearings Officer recognizes that this application request (removal of 60 feet of the buffer zone along NE Siskiyou) can only be approved if the relevant approval criteria are met.

The Hearings Officer views Nahorney's statement that this application should be denied because the Site has no legal access is contradictory to his request that "many" entrances should be granted. The Hearings Officer reiterates that Applicant's proposal is to eliminate the buffer zone requirement for only one location. Therefore, the Hearings Officer must determine if the request for one 60-foot wide buffer meets the relevant approval criteria. The Hearings Officer is not permitted to unilaterally modify Applicant's proposal for the Site.

Nahorney expressed concern that if the buffer zone request, in this application, was approved it would open the door for additional properties (i.e. properties adjacent to the Site) to direct their traffic through the 20-foot Siskiyou access. The Hearings Officer finds that any approval of this application must be limited to traffic generated by Applicant's proposed uses. Approval of this application cannot be construed to grant any rights to change or substantially increase Applicant's proposed use and certainly cannot be construed to allow (without approval of a future Type III application) traffic generated of the Site to use the 20-foot Siskiyou access point.

Nahorney argued, in his testimony, that Applicant should be required to build a full-street improvement on Siskiyou for the entire length of its ownership. The Hearings Officer notes that PBOT and BDS have recommended approval of the application, including the removal of the buffer overlay for a 60-foot segment, upon the condition that Applicant build a half-street improvement. The Hearings Officer finds no evidence in the record to suggest that a rational relationship (nexus) exists between the impacts created by this application and the imposition of a City requirement for a full-street improvement. Further, the Hearings Officer finds that requiring Applicant to build a full-street improvement for its entire ownership length along Siskiyou would not be roughly proportional to impacts created by the proposed development. The Hearings Officer finds that a condition of approval, in this case, requiring Applicant to build a full-street improvement would be an unconstitutional exaction.

The Hearings Officer finds the purpose of the Buffer Overlay zone, as stated in PCC 33.410.010, is to require additional buffering between nonresidential and residential zones. The Buffer Overlay zone is used when the base zone standards do not provide adequate separation between residential and nonresidential uses. The separation is achieved by restricting motor vehicle access, increasing setbacks, requiring additional landscaping, restricting signs, and in some cases by requiring additional information and proof of mitigation for uses that may cause off-site impacts and nuisances. The Buffer Overlay zone is to be applied primarily along the edge of a nonresidential zone abutting, or located across a street from, a residential zone.

The Buffer Overlay zone was applied to the Site to provide adequate buffering to adjacent residential zoning to the north and east of the entire former Lavelle Land Fill. The Buffer Overlay Zone does not include the now commercially developed property situated north of the Pole Section. Given activities previously occurring on the Site, including a sand and gravel quarry, a landfill, and then the closing activities, the Buffer Overlay was historically appropriate. Additionally, the EG2 base zone allows for a very wide variety of uses and

development on the Site, and thus the Buffer Overlay zone provides very real and appropriate protections for the residential uses and development directly north and east.

This proposal calls for a religious institution, with accessory uses, including community gathering facilities for teaching and meditation, and also group and individual housing for members of the Dharma Rain community to be located on the Site. The primary use is not residential, but neither is it the type of nonresidential use that requires application of a Buffer Overlay to protect the adjacent residential properties. Generally, religious institutions may be found throughout the city in residentially zoned areas. These institutions, when located in R zones, are subject to special regulations, which require meeting special standards that include greater setbacks and landscaping and are also subject to approval through Conditional Use approval. In the EG2 zone, the religious institution is allowed by right. Vehicular access to the Site must come from NE Siskiyou and not from NE 82nd, due to safety and ODOT access and driveway spacing standards.

The Buffer Overlay zone will remain in effect on all of the Site property lines (where it currently exists) except where a 60-foot-wide opening has been requested to allow the development of vehicular access. The Hearings Officer finds that the impacts arising from Applicant's development proposal are significantly less than those associated with manufacturing and industrial uses allowed by the EG2 zoning on the Site. The Hearings Officer finds that the need for vehicular restrictions and screening, considering the proposed use, are reduced as well. Restrictions necessary to buffer and provide separation of the proposed uses from the adjacent residentially zoned area are no greater than those that are required for these institutions in R zones. The Hearings Officer finds the Buffer Overlay zone can be removed from a small portion of the Site boundary for the purpose of allowing vehicular access to the Site. The Hearings Officer finds the removal of a portion of the Buffer Overlay zone will not cause any foreseeable impacts upon neighboring residential uses, as long as the development proposal meets requirements for buffering that would be similar to those that are required for religious institutions in residential zones.

The Hearings Officer finds removing a portion of the Buffer Overlay zone is consistent with the following applicable goals and policies of the Comprehensive Plan:

Goal 2, Urban Development; Policy 2.23 Buffering: This policy was amended in November 1990, long after the Buffer Overlay zone was placed on the Site. The policy states that when residentially zoned land is changed to a commercial, employment or industrial zone, impacts on residential areas from new nonresidential uses shall be mitigated via buffering and access limitations. In this case, the Buffer Overlay Zone was placed along the edges of the entire landfill when the Site's zoning was changed in 1984 from residential to M3. The findings of the 1984 decision included an extensive discussion as to why, at that time, redeveloping these parcels with residential uses would be prohibitively expensive due to technical and engineering requirements. Additionally, the 1984 decision noted, under Policy 2.9, Residential Neighborhoods:

"...buffering of existing neighborhoods to the south, north and east can be accomplished by conditions limiting continuous circulation and requiring adequate buffering. The conditions will be addressed at the time a zone change is processed and heard, since such conditions are inappropriate and premature at the time the M3 comprehensive plan designation is enacted" [p. 12, PC File 7362].

These findings indicate that when the Site was rezoned M3 there was anticipation that appropriate buffering and mitigation measures would occur during review of specific future development proposals, such as this request. Therefore, the Hearings Officer finds the removal of a small portion of the Buffer Zone to allow access to Applicant's proposed uses on the Site is consistent with *Goal 2, Policy 2.23*.

Goal 5, Economic Development, Policy 5.9, Protection of Non-industrial lands: This policy states that when industrially zoned lands abut residential zoned lands, steps should be taken to protect the non-industrial zoned lands from the potential adverse impacts of industrial activities and development. Although the Employment designation and the implementing EG2 zoning is not technically an Industrial designation or zone, the allowed uses within the EG2 zone include industrial uses and development which would appropriately require screening and buffering from adjacent residential uses. As noted above, Applicant's proposed uses will not have the adverse impacts that can be associated with industrial uses and activities. Therefore, the Hearings Officer finds the removal of a portion of the Buffer Overlay zone will not negatively impact adjacent residential uses to the north, so long as Applicant's proposed uses continue upon the Site. For these reasons, the Hearings Officer finds the requested removal of a portion of the Buffer Overlay zone is consistent with *Goal 5, Policy 5.9*.

Goal 12, Urban Design: The Hearings Officer finds Applicant's request to remove a portion of the Buffer Overlay zone designation on the Site will allow development that is consistent with the Urban Design Goal. In part, this Goal is to "Enhance Portland as a livable city, attractive in its setting and dynamic in its urban character ..." Removing a portion of the Buffer Overlay zone will allow Applicant's religious institution and accessory uses to locate on the Site and provide a park-like environment. Applicant has expressed a desire to allow access to the Site to the larger community.

The improvements and development plan address the street frontage along NE Siskiyou in a manner that both typifies Portland [Objective A] and enhances the character of the neighborhood with development of attractive and unique characteristics [Objective B]. Due to the proximity of the residential neighborhood to the north, the removal of a portion of the Buffer Overlay zone, at the point that is requested, will ensure that traffic is contained farther to the west where it will have less impact on the residential area. Applicant requested approval of an Adjustment to allow L2 (low screen) landscaping, as opposed to the regularly required L3 or L4 (high screen) landscaping, in the portion of the Buffer Overlay zone that will remain. As noted above, the setbacks and screening standards that are required for religious institutions that are located in residential zones are more appropriate for this

situation than the full adherence to the Buffer Overlay. While this will be discussed in greater depth in the findings for the Adjustment review, below, the Hearings Officer finds the proposal will result in a project with building setbacks and landscaping that is similar to the standards for religious institutions in residential zones and will be consistent with Policy 12.4, Providing for Pedestrians. The Hearings Officer finds Applicant's proposal will create an attractive, safe and pedestrian friendly streetscape that will further encourage walking from the residential neighborhood to transit available along NE 82nd Avenue.

In summary, the Hearings Officer finds Applicant's request to remove a portion of the Buffer Overlay zone is consistent with the need of having the overlay in place for this proposal, and with the purpose of the regulations and the applicable Goals and Policies of the Comprehensive Plan so long as the approval is conditioned that the access point is only used for the proposed uses. In addition, the Hearings Officer wishes to make it perfectly clear that additional uses located outside of the Site are not permitted, without undergoing a full and complete land use review, to use the Siskiyou access point. The Hearings Officer finds that the partial removal of the Buffer Overlay zone must be revisited through a new Type III Zoning Amendment review for any alternative redevelopment plan for the Site or for a use in another use category. Alternative redevelopment is described as applying only to major redevelopment of the Site for another use and does not apply to further development for the Dharma Rain Zen Center or other religious institutions and uses that may be associated with these institutions. With this condition, these criteria can be met.

- C. In the Marquam Hill plan district, relocation of a scenic viewpoint must be shown to result in a net benefit to the public, taking into consideration such factors as public access, the quality of the view, the breadth of the view, and the public amenities that are or will be available.

Findings: The Site is not in the Marquam Hill Plan District. This criterion is not applicable.

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: Applicant is requesting an adjustment to Code Section 33.410.040 A.2 to plant low screen (3-foot-tall) shrubs instead of the required high screen (6-foot-tall shrubs) in the remaining Buffer Overlay area, along both the NE Siskiyou frontage and the property line on the east side of the Site.

The purpose of the Buffer Overlay Zone is stated above in the findings for the request to remove a portion of the overlay. The parts of the purpose statement that refer to the landscaping requirement state that these standards are intended to require additional buffering between nonresidential and residential zones, when the base zone standards do not provide adequate separation. One of the ways that the desired separation is achieved is by increasing setbacks and requiring additional landscaping (20 feet to the L3 or L4 level).

Chapter 33.248 of PCC contains five different levels of landscape planting requirements: L1 through L5. Each level has standards that are required for different types of uses and development in different zones. The L1 standard requires only trees, scattered shrubs and living ground cover. The L2 and L3 standards both require a continuous evergreen hedge, with trees and living ground cover. For L2, a three-foot-tall hedge is required and L3 requires a six-foot-tall hedge. For L4 landscaping, a 6-foot-tall masonry wall is required with trees, shrubs and living ground cover. Finally, the L-5 standard, while not relevant to this proposal, requires a berm that is four to six feet tall, with planting requirements for shrubs and trees that depend upon the size of the berm.

With this development proposal, the level of separation that is needed is not as critical as that which might be needed for the types of commercial and industrial uses that are allowed in the EG2 zone and demand the buffering that would be provided by the L3 or L4 standards.

The adjacent residential areas, to the north and east of the Site, are zoned R5, which is a single-dwelling residential designation. Religious institutions are allowed in the R5 zone when approved as Conditional Uses in the single-dwelling zones. Buffering that is 15-feet wide and is landscaped to at least the L3 standard is required along property lines that abut residential zones. A 15-foot -wide buffer landscaped to the L1 standard is required along property lines that are across the street from residential zones. In this case, the remaining Buffer Overlay zone requires a 20-foot deep landscaped area along the north and east property lines. Applicant requests the L2 level of landscaping apply rather than the L3 standard. Along the north side Applicant's request would exceed the applicable landscaping requirement if the Site were zoned residentially.

On the east side of the Site, both the institutional development standards of the single-dwelling zones and the Buffer Overlay would require at least the L3 level of landscaping. Here, too, the Buffer Overlay zone requires a 20-foot deep landscaped area as compared to the 15-foot institutional standard requirement. In this part of the Site, however, the natural topography creates a much greater separation than that offered by either of these standards. The ravine that is created by the sharp rise in the grade, from the east to west on this portion of the Site, is more than 120-feet wide and results in a steep drop-off at the property line.

The physical characteristics of this area make it more difficult, as well as less desirable, to meet the L3 standard.

Applicant is planning significant ecological restoration work in the ravine which will add some aesthetic value. Further, in a discussion with BDS staff, Applicant noted that it would seem ironic to wall it off from the neighbors, "just as it got pretty." The plans to create a religious institution with retreat facilities for members of the Dharma Rain and an also be a community asset would not be well served by requiring a taller sight-obscuring hedge. The Hearings Officer finds that requiring a low hedge will enhance the neighboring feeling of inclusion.

Based upon the above, the Hearings Officer finds the purposes of the landscaping requirement for the Buffer Overlay zone are equally fulfilled for this proposal and, with a condition that requires that the Adjustment approval will be revisited if the Site is proposed to be redeveloped for a use in another use category, this criterion can be 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;

Findings: The requests to reduce the height of the required landscaping hedge in the Buffer Overlay zone will enhance visibility for pedestrians and bicyclists who use NE Siskiyou, a Local Service Street and City Bikeway, as a corridor to connect from the adjacent residential area to the commercial entities, the park, the high school and the transit stops on NE 82nd Avenue. Applicant noted that the proposal to employ the low screen standard will make the beauty of the Site more available for the community to enjoy. In this way, the entire Site will function as an attractive buffer between the heavily travelled corridor that is 82nd Avenue and the peaceful single-dwelling neighborhood that is tucked away along NE Fremont Drive, to the north and the east of the Site. All of the reasons that were outlined in the findings for Criterion A contribute to the consistency of the request with the classifications of these adjacent streets and the desired character of the area. Therefore, the Hearings Officer finds with a condition that requires that the Adjustment approval will be revisited if the Site is proposed to be redeveloped for a use in another use category, this criterion can be 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
- D. City-designated scenic resources and historic resources are preserved; and
- E. Any impacts resulting from the adjustment are mitigated to the extent practical.
- 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: Only one Adjustment has been requested. There are no City-designated scenic or historic resources on the Site. No impacts that require mitigation have been identified for this proposal. The Site is not located in an environmental zone. Therefore, these criteria do not apply.

Compliance with Previous Condition of Approval D of ZC 7791

In 1988 the City Council rendered a final decision in Case Number C 7791 ZC, following the appeal of Rose City Sand and Gravel Company. The appeal was against the Hearings Officer's decision on an application for a zone change and major variance to allow developing a golf driving range with outdoor storage. The Site was located east of NE 82nd Avenue on property described as: TL 13, 34, 38 & 105, Sec 28, 1N2E. The City Council approved multiple zone changes on various portions of the Site, subject to a number of conditions of approval.

The Site is a subset of the property involved in the above referenced final decision, and therefore is subject to Condition D, which states:

"Any further development of the former landfill site (excluding the 100 ft depth of frontage along NE 82nd Ave) shall require a public hearing in compliance with a Type III procedure. The applicant shall demonstrate compliance with the following requirements:" (Hearings Officer Note: the requirements are discussed in paragraphs numbered 1 through and including 5, below):

1. A Transportation Study, subject to approval of the Office of Transportation.

Findings: PBOT, in Exhibit E.2, reviewed Applicant's submitted Transportation Impact Study ("TIS") that was prepared by Kittleson and Associates (Exhibit A.1, subpart 6). PBOT staff noted that the TIS documents that all four intersections in the study will continue to operate at acceptable levels with the buildout of the proposed Dharma Rain development proposal. The TIS also indicates that the development will be well connected to the City's vehicular, pedestrian, bicycle and transit network, including a pedestrian and bicycle connection from the main portion of the development area of the Site, through the Pole Section to NE 82nd Avenue. Applicant's proposed on-site parking was determined, in the TIS and PBOT review, to be adequate to meet the majority of the demand, especially given the proximity of frequent service transit routes.

The Hearings Officer incorporates findings for PCC 33.855.060 A&B. In those findings the Hearings Officer addressed concerns/objections about transportation issues raised by Nahomey.

The Hearings Officer also incorporates Exhibit H.6, replacing all prior Site Plans and Conceptual Landscape Plans. At the public hearing Newsom, on behalf of the Madison Place Subdivision, requested the location of a proposed pedestrian path shown on the Exhibit C.1 Site Plan be modified to eliminate a connection to the Madison Place Subdivision. The sole

reason for including Exhibit H.6 is to document Applicant's intention that the proposed pedestrian path will not directly connect to the Madison Place Subdivision.

Based upon the above, the Hearings Officer finds this criterion has been met.

2. Any necessary public street dedications and improvements.

Findings: Street improvements and dedications, as required by PBOT under Title 17, to accommodate anticipated future street improvements are shown on Applicant's plans. The dedications include:

- a five-foot minimum right-of-way dedication on NE 82nd Avenue, and
- a ten-foot minimum right-of-way dedication on NE Siskiyou Street.

PBOT also noted that additional dedication *may* be required along NE Siskiyou, if necessary, depending on specific site conditions and stormwater management design. Applicant acknowledged and concurred with PBOT's comments relating to the possibility of additional land dedications. The Hearings Officer finds Applicant will, under the development proposal, meet these requirements.

3. A sanitary sewer and stormwater drainage system adequate to serve the development.

Findings: Applicant submitted conceptual plans for sanitary sewer extensions to serve the Site and also for management of stormwater runoff, both for the proposed on-site development and for the improvements to the public right-of-way. BES reviewed this submittal and stated that the proposal:

"appears to be conceptually feasible to BES and a public sanitary sewer system and a public stormwater drainage system can be designed that will be adequate to serve the development. The proposed private on-site stormwater management approach proposed for development of this site is adequate for the purposes of land use review." (*Additional details and discussion of Applicant's conceptual plan are included in the BES response, Exhibit E.1).*

As part of the City's permit review process, detailed public improvement information must be submitted for a Public Works Permit. The Public Works Permit is required as a condition of building permit approval. The Hearings Officer finds Applicant has met these requirements and this criterion is met.

4. A report on the on- and off-site methane gas monitoring system.

Findings: Applicant submitted a copy of a letter to the DEQ, dated August 29, 2012, which was prepared for Applicant by a local engineering firm (Exhibit A.1, subpart Exhibit 11). The letter outlines the history of the Site, first as a sand and gravel quarry and then as a solid

waste landfill, which was closed in 1982. The document reports that, "the site is outfitted with an active landfill gas (LFG) recovery system, which is in place and operational." The system includes a network of extraction wells connected to a header pipe running along the perimeter of the site. In addition, passive vents and numerous gas monitoring wells exist at various locations around the perimeter of the former landfill. The extraction blower and enclosure structure are located to the west of the site. The document discusses the basis of design for construction of the proposed development over the area of the capped landfill and the mitigation and protection measures that will be employed to meet design objectives to:

- mitigate potential for methane to accumulate in a confined space or structure at concentrations exceeding 25 percent by volume of the lower explosive limit.
- Ensure that the proposed improvements do not exacerbate existing conditions on the property; for example, resulting in or increasing off-site methane migration through utility corridors or by accumulation beneath paved areas on the Site.
- Ensure that, if the proposed Site improvements or access improvements result in disturbance to the current methane monitoring and/or extraction system, the disturbances are minimal and temporary.

Some discussion is included, in Exhibit A.1, subpart Exhibit 11, of the various construction methods that can be employed to meet these objectives and a process is outlined for monitoring, sampling and reporting on the conditions of the methane presence and release on the Site. This document was reviewed by the BES Pollution Prevention section and found to meet the requirements of this condition. The Hearings Officer finds this requirement is met.

5. Site review in accordance with the overlay zone and buffering requirements. Site design shall show the relationship of buildings on the site to one another and to the neighborhood and should be particularly sensitive to building height and mass.

Findings: Applicant provided a preliminary Site Plan for the proposed sodo ("temple") and community facilities and parking, as well as a conceptual plan for the location of housing on the Site and amenities such as pedestrian and bicycle paths and garden and natural areas (Exhibits C.1 through C.7 and Exhibit H.6). Exhibit H.6 is included for the purpose of showing a revised location of the pedestrian path at the south end of the Site. In former iterations of the Site Plan and Landscaping Plan, the pedestrian path connected directly to the Madison Place Subdivision; Exhibit H.6, which shall be controlling, shows a pedestrian path that does not connect directly into the Madison Place Subdivision.

None of the buildings are proposed to be of a scale that would be inconsistent with the surrounding residential area, in relation to height and/or mass. Substantial setbacks will be maintained and adequate vegetative buffering will be provided, as discussed at length in the findings for the Zoning Map Amendment and Adjustment review. The Hearings Officer finds this requirement is met.

SUMMARY: The Hearings Officer finds Condition D of ZC 7791 is met for this proposal. Any future redevelopment plan for the Site will need to be carefully assessed for its potential impact

to assure that Condition D of ZC 7791 continues to be met. In the context of the findings related to Condition D of ZC 7791, no additional property/land may be added to the Site without future review.

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.

III. CONCLUSIONS

Applicant proposes to locate a religious institution and accessory housing at a former landfill in the vicinity of NE 82nd Avenue and NE Siskiyou. The Site zoning (EG2h-b) would permit Applicant's proposed use. However, the geography of the Site generally dictates that access be via NE Siskiyou. Creating a NE Siskiyou access point requires a small portion of the Buffer Overlay Zone ("b") to be removed. Removal of any portion of the Buffer Overlay Zone requires Applicant to request a zone change. Also, the Site's land use history requires (Condition D of ZC 7991) an additional review to be conducted whenever a Zone Change is requested. Applicant requested to plant low screen landscaping (3-foot tall) instead of high screen landscaping (6-foot tall). The request to modify landscaping requirements required an Adjustment review.

The Hearings Officer found Applicant's proposal met the approval criteria requirement of PCC 33.855.060. The Hearings Officer found Applicant's proposal met the approval criteria for the requested Adjustment. The Hearings Officer found Applicant's proposal met the ZC 7991 informational requirements.

The Hearings Officer noted, both in the public hearing and in the findings above, that approval of Applicant's proposal should be limited to Applicant, its specific proposal, and only to the Site. The Hearings Officer included a condition to insure the approval of this application does not allow redevelopment of the Site for another use, use category, or property outside the boundary of the Site.

IV. DECISION

Approval of a Zoning Map Amendment to remove a 60-foot-wide portion of the Buffer or "b" Overlay, to allow vehicular access from Siskiyou Street.

Approval of an Adjustment to the landscaping requirements for the remaining Buffer Overlay area (33.410.040), to allow low screen or L2, instead of high screen or L3 landscaping.

Approval of the information provided regarding the conceptual development plan for the Site, as being compliant with the requirements of Condition of Approval D of land use review ZC 7791.

All of the approvals are subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B-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 12-206307 ZC AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The removal of a 60-foot-wide portion of the Buffer Overlay to allow a driveway access, approved through this review, must be revisited in a new Type III Zoning Amendment review, if the Site is redeveloped for another use that is not in the Religious Institution use category or if the Site boundary is expanded to include any additional land.
- C. The Adjustment to allow L2 instead of L3 landscaping in the remaining Buffer Overlay zone area must be revisited, through a new Type II Adjustment Review, if the Site is reoccupied or redeveloped by a different primary use that is not in the Religious Institution use category.
- D. Any other alternative redevelopment plan for this portion of the former landfill Site requires approval of a Type III Land Use Review. Applicant shall demonstrate compliance with the following requirements:
 - 1) A Transportation Study, subject to approval of the Portland Bureau of Transportation.
 - 2) Any necessary public street dedications and improvements.
 - 3) A sanitary sewer and stormwater drainage system adequate to serve the development.
 - 4) A report on the on- and off-site methane gas monitoring system.
 - 5) Site review in accordance with the overlay zone and buffering requirements. Site design shall show the relationship of buildings on the site to one another and to the neighborhood and should be particularly sensitive to building height and mass.
- E. The development shall be in substantial conformance with Exhibits C.1, C.2, C.3, C.4, C.5, C.6 and C.7 except as modified by Exhibit H.6; Exhibit H.6 eliminates a direct pedestrian path connection from the Site to the Madison Place Subdivision.



Gregory J. Frank, Hearings Officer

4/3/13

Date

Application Determined Complete:	January 29, 2013	
Report to Hearings Officer:	March 8, 2013	
Decision Mailed:	April 4, 2013	
Last Date to Appeal:	4:30 p.m., April 18, 2013	
Effective Date (if no appeal):	April 19, 2013	Decision may be recorded on this date.

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

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

Appeal of the decision. ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE FILED AT 1900 SW 4TH AVENUE, PORTLAND, OR 97201 (503-823-7526). Until 3:00 p.m., Tuesday through Friday, file the appeal at the Development Services Center on the first floor. Between 3:00 p.m. and 4:30 p.m., and on Mondays, the appeal must be submitted at the Reception Desk on the 5th Floor. **An appeal fee of \$5,000 will be charged (one-half of the application fee for this case, up to a maximum of \$5,000).** Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

Who can appeal: You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chairperson or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline.

The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after 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 approval. Generally, Zone Change and Comprehensive Plan Map Amendment approvals do not expire. **(However, in this case, removal of a portion of the Buffer Overlay must be revisited if the site is redeveloped for a use in a different use category than religious institution).**

If the Zone Change or Comprehensive Plan Map Amendment approval also contains approval of other land use decisions, other than a Conditional Use Master Plan or Impact Mitigation Plan, those approvals expire three years from the date the final decision is rendered, unless a building permit has been issued, or the approved activity has begun.

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:

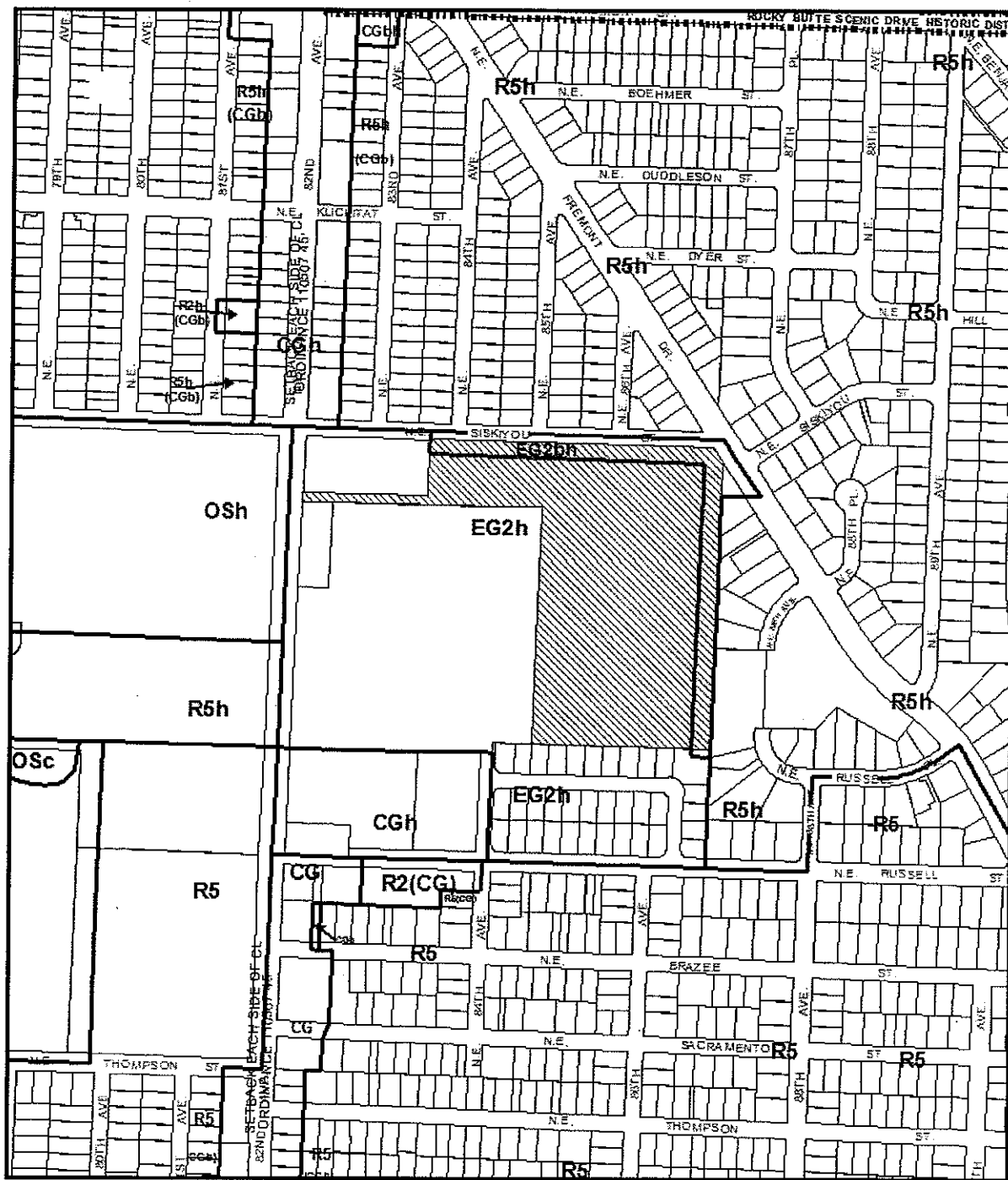
- All conditions imposed herein;

- 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 (w/TIS, Stormwater Plan, Methane Report)
 - 2. Request to reduce required parking, based on frequent transit service
 - 3. Supplemental information – revised plans, received January 29, 2013
- B. Zoning Map (**attached**)
 - 1. Existing Zoning
 - 2. Proposed Zoning
- C. Plans and Drawings
 - 1. Overall Site Plan (**attached**)
 - 2. Detail – Grading and Residential Center Plan (**attached**)
 - 3. Landscape plan detail (**attached**)
 - 4. Sodo Floor Plan (**attached**)
 - 5. Sodo Elevations (**north and east, attached**)
 - 6. Sodo Elevations (**south and west, attached**)
 - 7. Sodo Perspective (**attached**)
- D. Notification information
 - 1. Request for response
 - 2. Posting letter sent to applicant
 - 3. Notice to be posted
 - 4. Applicant's statement certifying posting
 - 5. Mailing list
 - 6. Mailed notice
- E. Agency Responses
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of Bureau of Development Services
 - 6. Life Safety Plan Review Section of Bureau of Development Services
 - 7. DEQ/BES Pollution Prevention
 - 8. Summary of electronic responses from City service agencies
- F. Letters
 - 1. Frank Walsh, Land Use Chair, Madison South Neighborhood Association
- G. Other
 - 1. Pre-application Conference Summary Notes
 - 2. Letter from Kathleen Stokes to Kakumyo Lowe-Charde, December 7, 2012
- H. Received in the Hearings Office
 - 1. Hearing Notice - Stokes, Kathleen
 - 2. Staff Report - Stokes, Kathleen
 - 3. 3/5/13 letter from Roseway NA - Stokes, Kathleen
 - 4. 3-18-13 E-mail from Mark Schlemmer - Stokes, Kathleen

5. 3/6/13 letter from Bob Ueland, Central NE Neighbors, Inc. - Stokes, Kathleen
6. Conceptual Landscape Plan - Lowe-Charde, Kakumyo (**attached**)
7. 3-18-13 Letter - Nahorney, Mike
8. Photo - Nahorney, Mike
9. Address Information - Nelson, Thomas
10. PowerPoint presentation printout - Stokes, Kathleen
11. Record Closing Information - Hearings Office



ZONING
EXISTING



NORTH

 Site

File No. LU 12-206307 ZC,AD
1/4 Section 2739
Scale 1 inch = 417 feet
State_Id 1N2E28BC 100
Exhibit B (Nov 20, 2012)

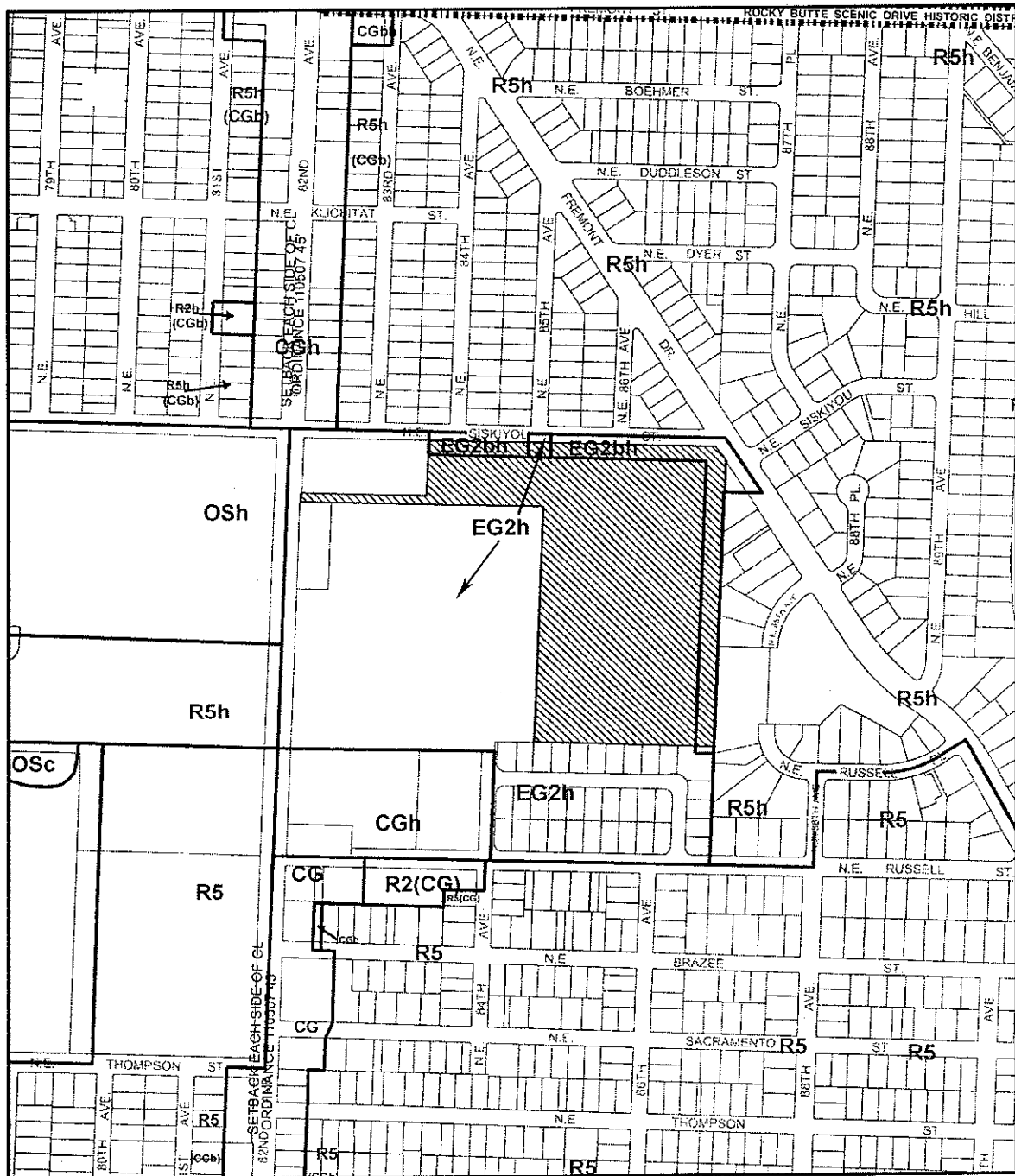
File No. LU 12-206307 ZC,AD

1/4 Section 2739

Scale 1 inch = 417 feet

State Id 1N2E28BC 100

Exhibit B (Nov 20, 2012)



**ZONING
PROPOSED**



File No. LU 12-206307 ZC,AD
1/4 Section 2739
Scale 1 inch = 417 feet
State_Id 1N2E28BC 100
Exhibit B (Nov 20,2012)

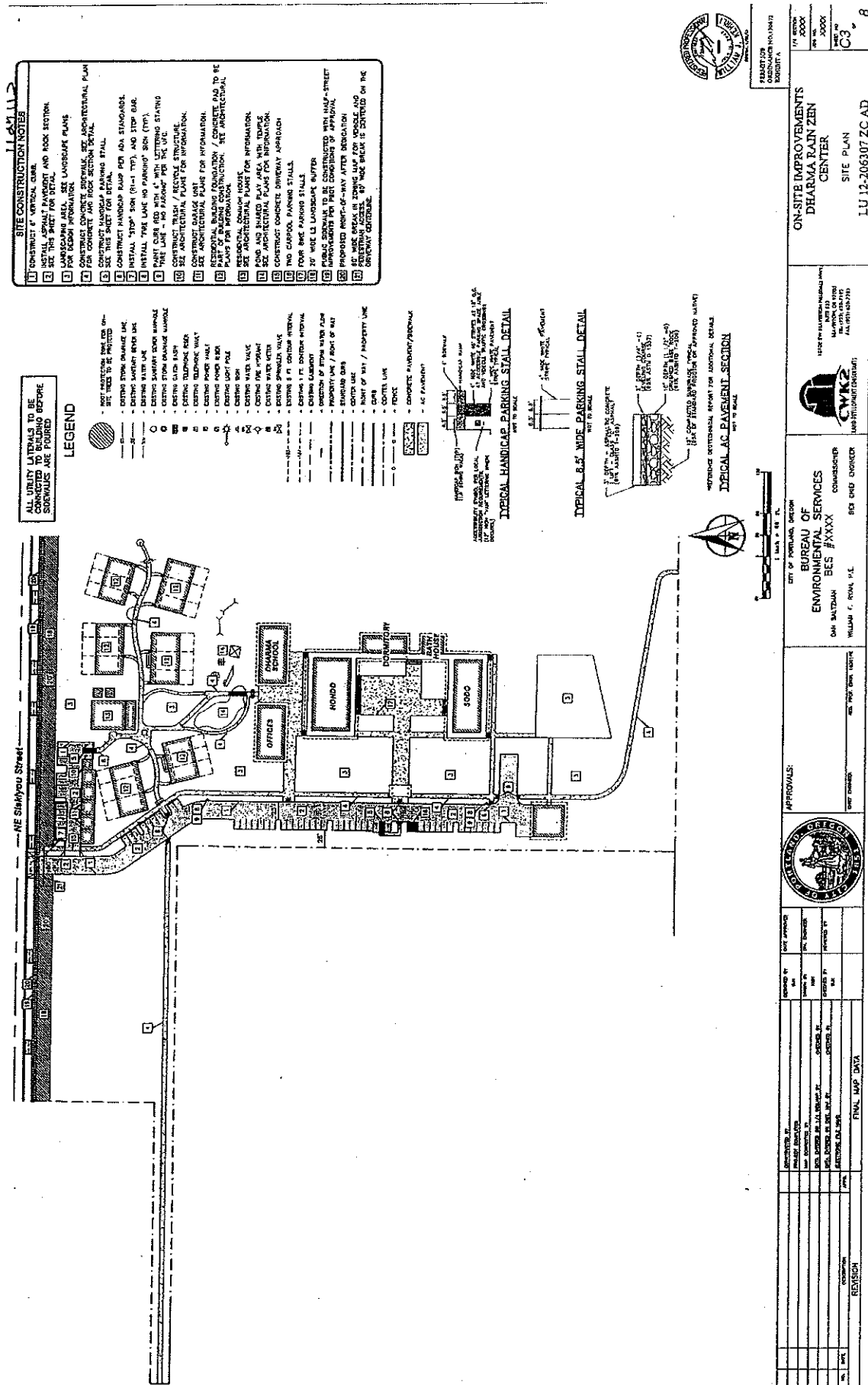
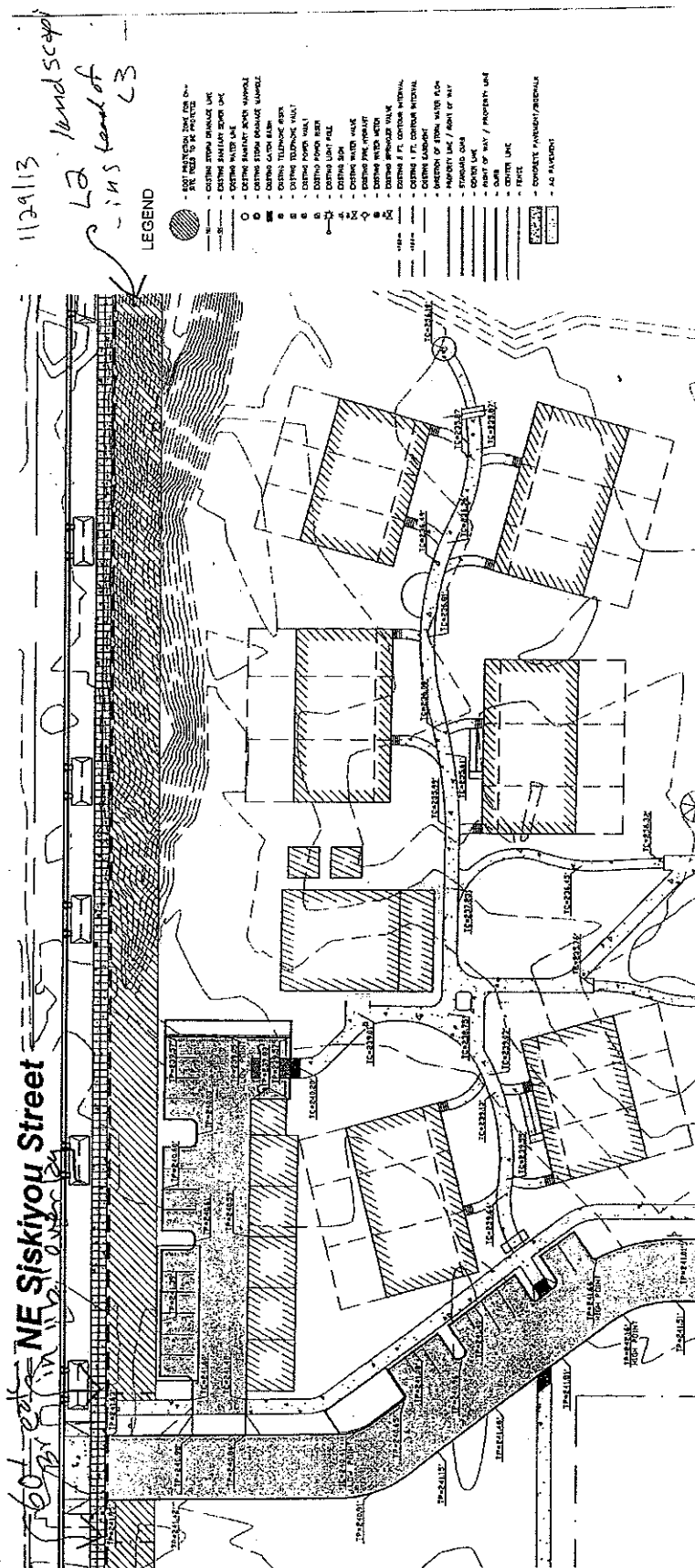




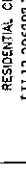
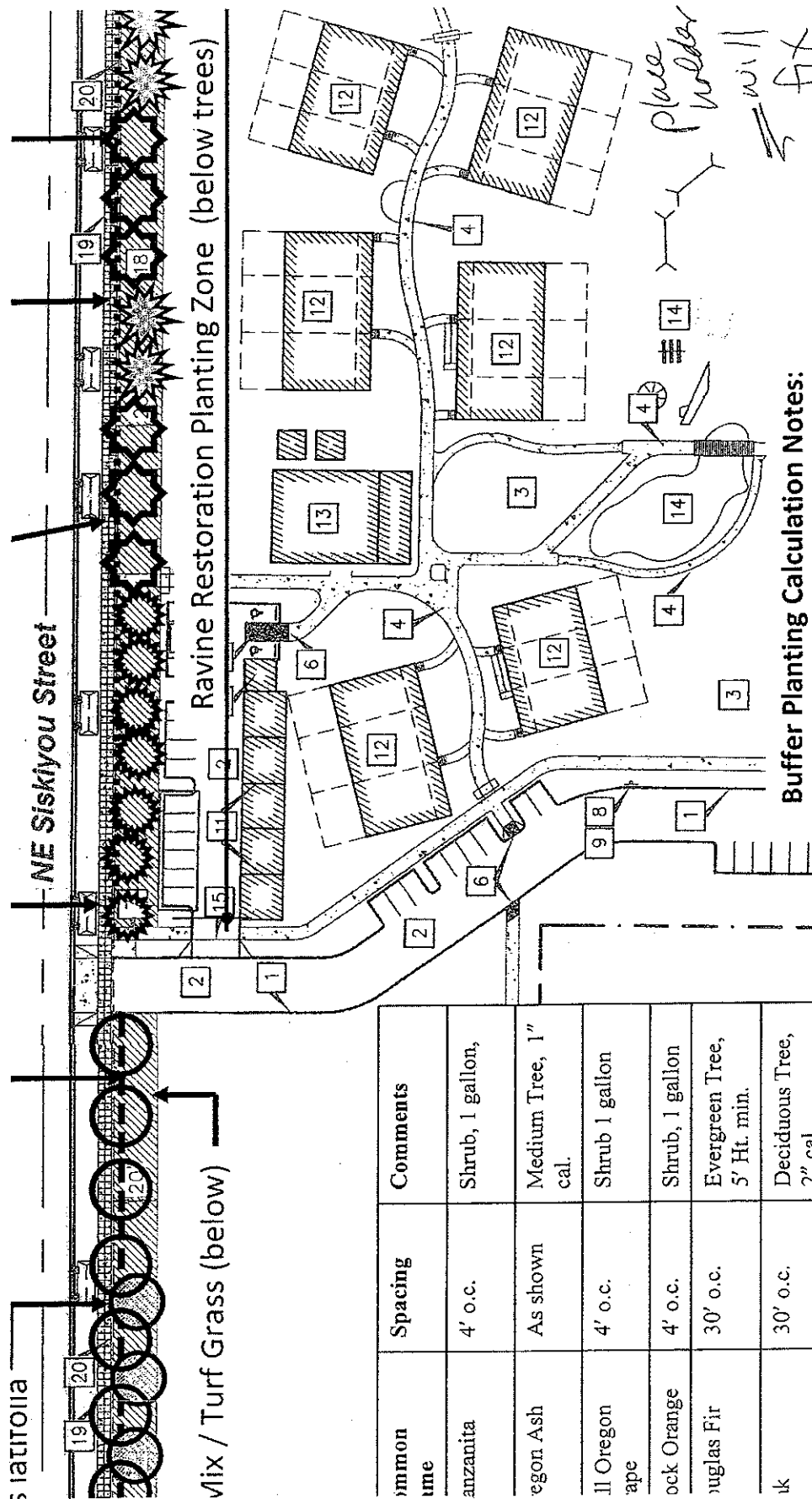


Exhibit C-1



									
PROJECT NO. DRAWING NO. DATE		PROJECT NO. DRAWING NO. DATE		PROJECT NO. DRAWING NO. DATE		PROJECT NO. DRAWING NO. DATE		PROJECT NO. DRAWING NO. DATE	
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SCALE DATE		SCALE DATE		SCALE DATE		SCALE DATE		SCALE DATE	
REVISIONS NO. DATE DESCRIPTION		REVISIONS NO. DATE DESCRIPTION		REVISIONS NO. DATE DESCRIPTION		REVISIONS NO. DATE DESCRIPTION		REVISIONS NO. DATE DESCRIPTION	

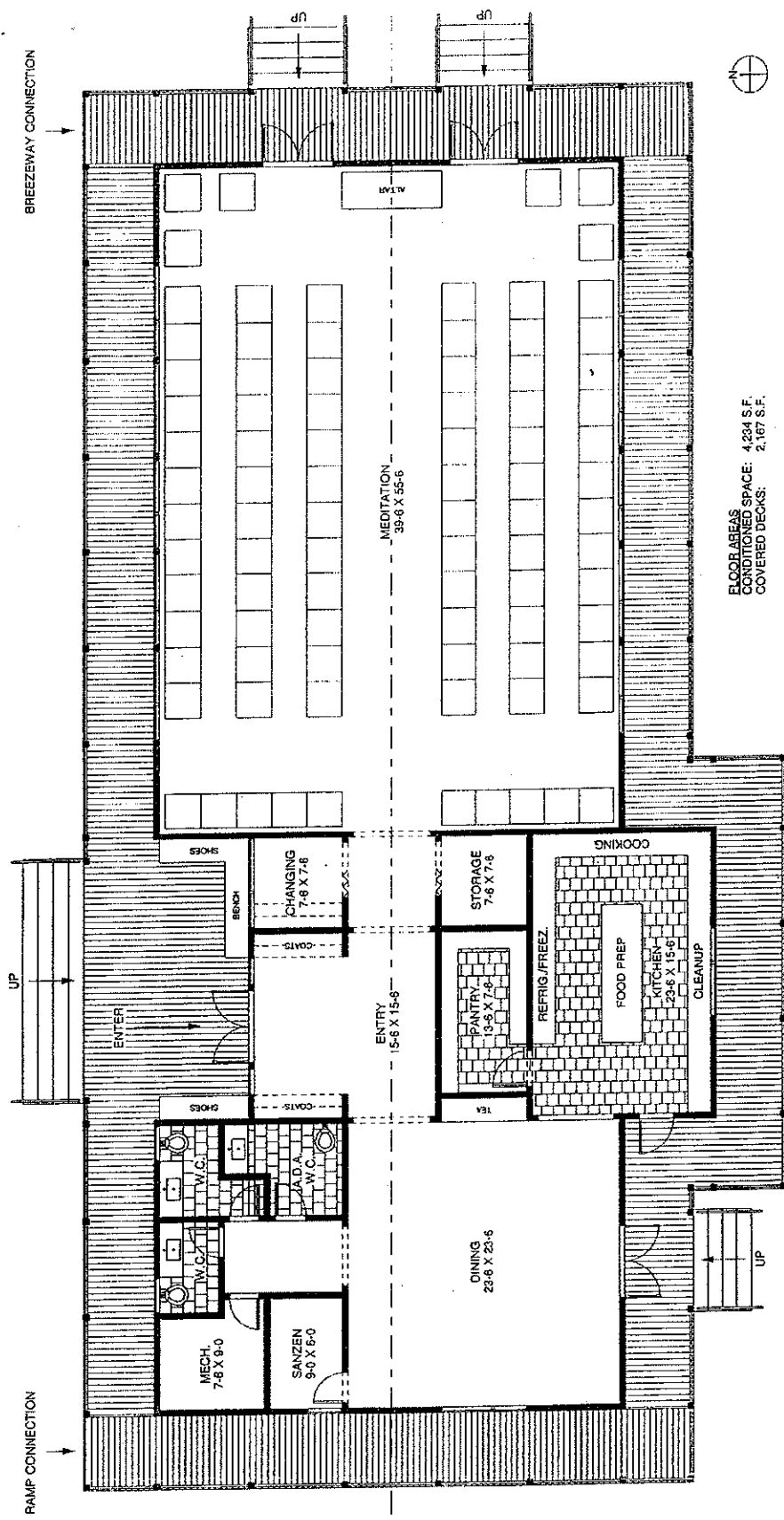


Buffer Planting Calculation Notes:

Length of property along NE Siskiyou Street = 882.98'
882.98' / One large tree per 30 lineal feet = 29.43 trees required
882.98' / One large shrub per 4 lineal feet = 220.74 shrubs required
Balance of 20' buffer to be covered with seeded wildflower mix
entrance; Native "Ravine Restoration" plantings occur below the main entrance.

LU 12-206307 ZC AD
Detail of Landscape Plan - Exhibit C-3

Proposed 20' Wide L2 Landscape Buffer Treatment



FLOOR AREAS
CONDITIONED SPACE: 4,234 S.F.
COVERED DECKS: 2,167 S.F.

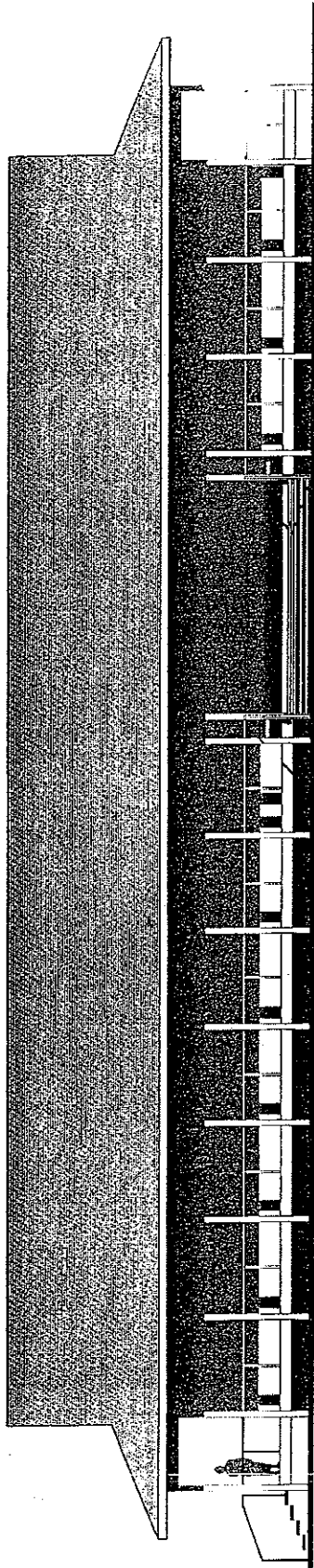
SODO FLOOR PLAN
PREPARED FOR DHARMA RAIN ZEN CENTER
2539 SE MADISON STREET
PORTLAND, OR 97214

Date: 11.07.2012		A-2
Scale: 1/8" = 1'-0"		

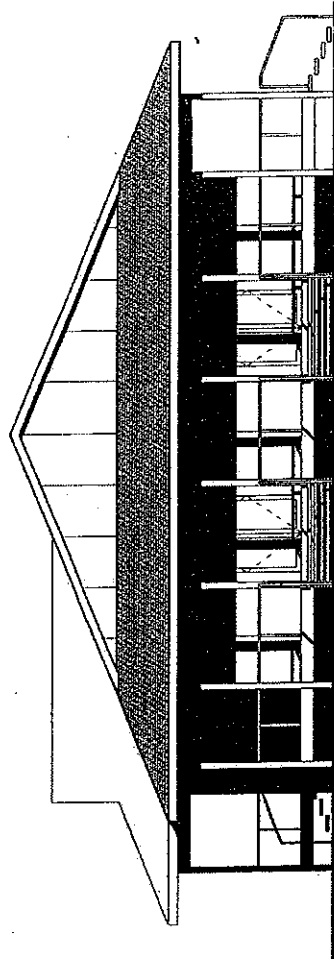
HOWELLS ARCHITECTURE + DESIGN LLC 5927 NE DAVIS STREET PORTLAND OR 97213 TEL 503 869 3715

HOWELLS ARCHITECTURE + DESIGN LLC 5927 NE DAVIS STREET PORTLAND OR 97213 TEL 503 869 3715

LU 12-206307 ZC AD
Exhibit C-7



① NORTH ELEVATION
 1/8" = 1'-0"



② EAST ELEVATION
 1/8" = 1'-0"

PREPARED FOR DHARMA RAIN ZEN CENTER
 2539 SE MADISON STREET
 PORTLAND, OR 97214

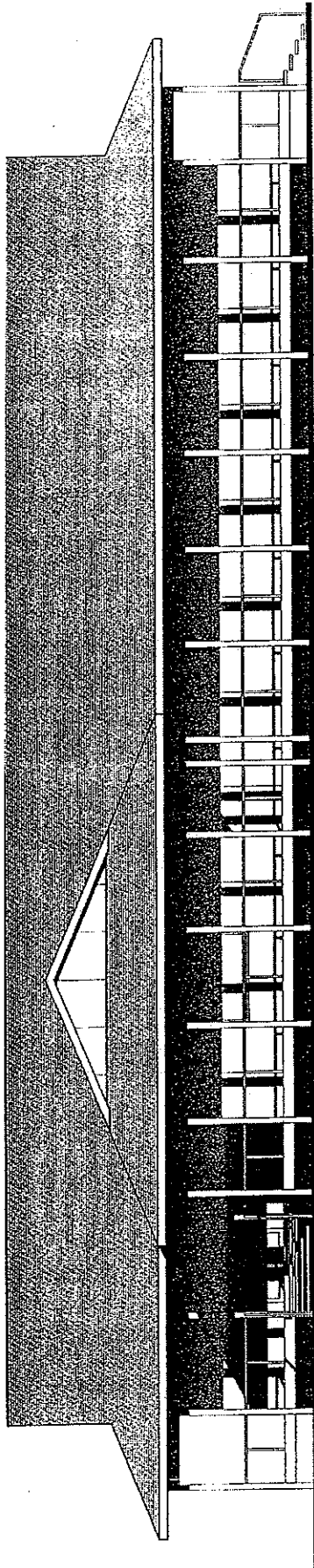
SODO ELEVATIONS

Date: 11.07.2012
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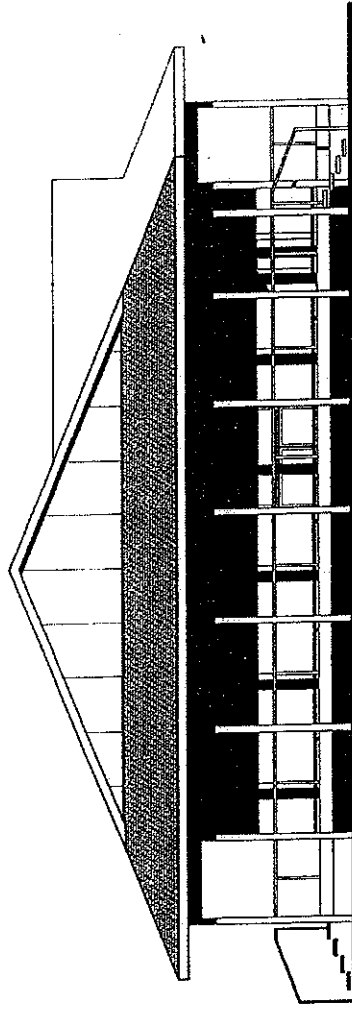
A-3

HOWELLS ARCHITECTURE + DESIGN LLC 5927 NE DAVIS STREET PORTLAND OR 97213 TEL 503 869 3715

LU 12-206307 ZC AD
 Exhibit C-5



① SOUTH ELEVATION
 1/8" = 1'-0"

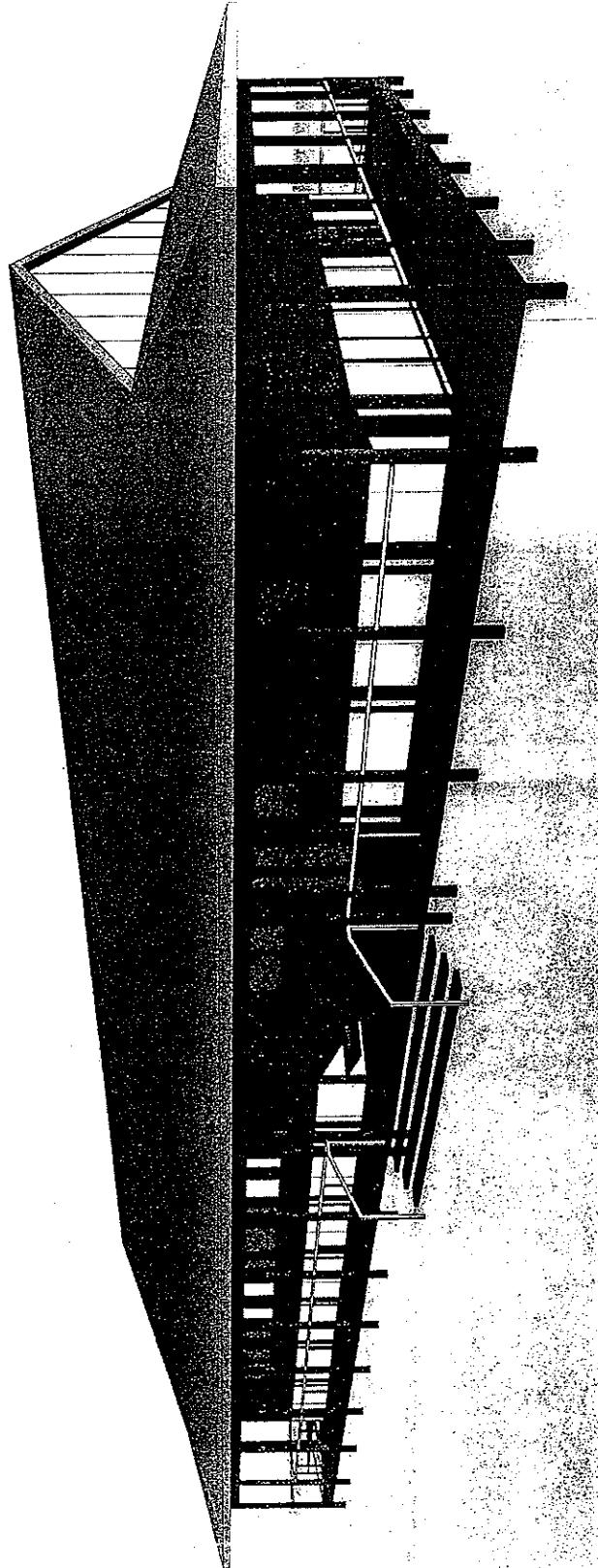


② WEST ELEVATION
 1/8" = 1'-0"

PREPARED FOR DHARMA RAIN ZEN CENTER 2539 SE MADISON STREET PORTLAND, OR 97214	SODO ELEVATIONS	Date: 11.07.2012	Scale: 1/8" = 1'-0"	A-4
HOWELLS ARCHITECTURE + DESIGN LLC 5927 NE DAVIS STREET PORTLAND OR 97213 TEL 503 869 3715				

LU 12-206307 ZC AD
 Exhib. + C-6

DHARMA RAIN ZEN CENTER SODO
SCHEMATIC DESIGN



PREPARED FOR DHARMA RAIN ZEN CENTER 2539 SE MADISON STREET PORTLAND, OR 97214	SODO PERSPECTIVE	
	LU 12-206307 ZC //	
HOWELLS ARCHITECTURE + DESIGN LLC 5927 NE DAVIS STREET PORTLAND OR 97213 TEL 503 869 3715	Date: 11.07.2012	A-1
	Scale:	

Exhibit C-7

Legend

- 1 Path to 82nd Ave.
- 2 Deciduous Oak Grove
- 3 Oak Savannah
- 4 Buffer Planting
- 5 Produce Garden
- 6 Orchard
- 7 Formal Courtyard & Japanese Garden
- 8 Bioswales & Trees
- 9 Pond
- 10 Householder Refuge Co-Housing
- 11 Ravine Habitat Area
- 12 Playground
- 13 Street Trees

NOTES:

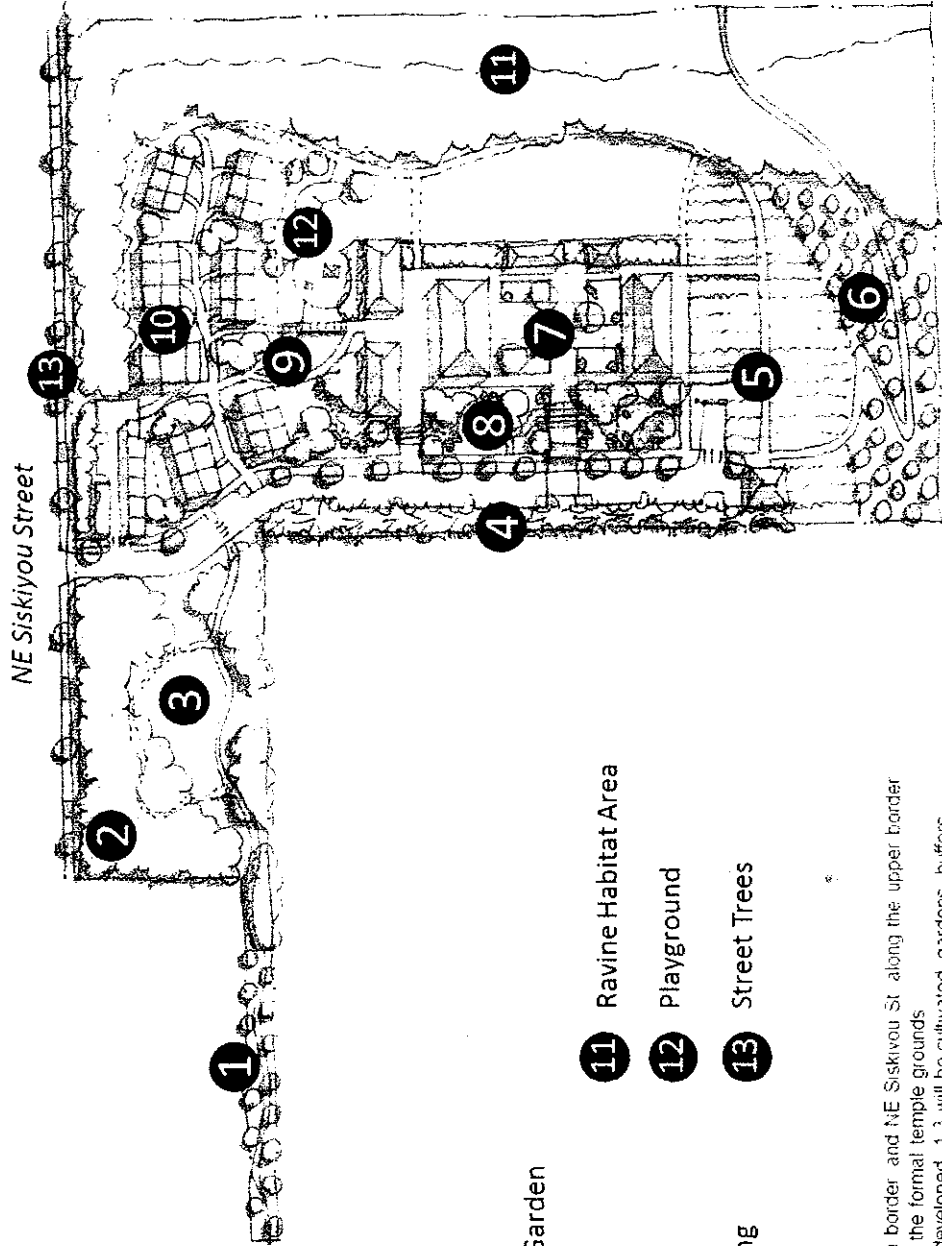
Shows entire site with NE 82nd Ave. on the western border and NE Siskiyou St. along the upper border. The collection of six buildings in the center make up the formal temple grounds. Approximately 1/3rd of the land area on site will be developed. 1, 3 will be cultivated gardens, buffers, formal plantings, orchard and other open space and 1, 3 will be managed as wildlife habitat.

Conceptual Landscape Plan Dharma Rain Zen Center, Portland, Oregon March 19, 2013

RECEIVED

MAR 20 2013

4-20-13



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