

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: www.portlandoregon.gov/auditor/hearings



DECISION OF THE HEARINGS OFFICER IN UNCONTESTED CASE

File No.: LU 13-111303 ZC
HO 4130010

Applicant: Robert Hawthorne
PDX Living, LLC
616 NE 61st Place
Portland, OR 97213

Owner: Tatiana Moller
616 NE 61st Place
Portland, OR 97213

Owner: Andrew Dryden
7606 SE Maple Avenue
Vancouver, WA 98664

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Representative: Mark Bello

Site Address: 616 NE 61st Place/715 NE 62nd Avenue

Legal Description: BLOCK 1 LOT 2, BARRETTS ADD; BLOCK 1 LOT 6, BARRETTS
ADD

Tax Account No.: R055800020, R055800060

State ID No.: 1N2E31AD 04000, 1N2E31AD 04400

Quarter Section: 2936

Neighborhood: North Tabor

Business District: None

District Coalition: Southeast Uplift

Existing Zoning: R5, Residential 5,000

Land Use Review: Type III, Zoning Map Amendment (ZC)

BDS Staff Recommendation to Hearings Officer: Approval with condition

Public Hearing: The hearing was opened at 1:30 p.m. on May 13, 2013, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 2:05 p.m. The applicant waived applicant's rights granted by ORS 197.763 (6)(e), if any, to an additional 7 day time period to submit written rebuttal into the record. The record was closed to all testimony and/or written submissions at the end of the hearing.

Testified at Hearing:

Mark Bello
Andrew Dryden
Robert Hawthorne

Proposal:

The applicant requests a Type III **Zoning Map Amendment** on two separate 5,000 square foot lots - from R5 (Residential 5,000) to R1 (Residential 1,000) in conformance with the existing R1 Comprehensive Plan designation. The applicant intends to submit a subsequent request to partition each property into two 2,500 square foot parcels. No development proposal is identified at this time.

Relevant Approval Criteria:

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

33.855.050.A, B and D, Approval Criteria for Base Zone Changes

Hearings Officer Decision: It is the decision of the Hearings Officer to adopt and incorporate into this decision the facts, findings, and conclusions of the Bureau of Development Services in its Staff Report and Recommendation to the Hearings Officer dated May 1, 2013 (Exhibit H.2) with the correction of the following scrivener's errors:

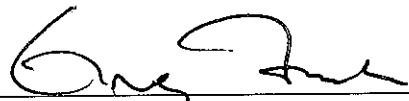
1. Page 3 of the BDS Staff Report (Exhibit H.2) "History for 616 NE 61st Avenue, City records indicate there are no recent prior land use reviews for 616 NE 61st Avenue" is changed to "History for 616 NE 61st Place, City records indicate there are no recent prior land use reviews for 616 NE 61st Place."
2. Page 7 of the BDS Staff Report (Exhibit H.2), Condition A reference to "2,500 square feet of site area" is changed to "2,450 square feet of site area."

The Hearings Officer's decision is:

Approval of a Zoning Map Amendment (33.855.040) to change the zoning from R5 (Residential 5,000) to R1 (Residential 1,000), subject to the following condition:

- A. The maximum allowed density for each lot will be one dwelling unit per 2,450 square feet of site area. Accessory Dwelling Units are exempt from maximum density calculations.

Basis for the Decision: BDS Staff Report in LU 13-111303 ZC, Exhibits A.1.1 to H.4, and the testimony from those listed above.



Gregory J. Frank, Hearings Officer

5/20/13

Date

Application Determined Complete:	March 25, 2013
Report to Hearings Officer:	May 3, 2013
Decision Mailed:	May 21, 2013
Last Date to Appeal:	4:30 p.m., June 4, 2013
Effective Date (if no appeal):	June 5, 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 \$4,561 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, City Council will hold an evidentiary hearing, one in which new evidence can be submitted to them. Upon submission of their application, the applicant for this land use review chose to waive the 120-day time frame in which the City must render a decision. This additional time allows for any appeal of this proposal to be held as an evidentiary hearing.

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 Chair person 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.

- 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. 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
 - 1.1 Narrative, January 25, 2013
 - 1.2 Revised Narrative, January 30, 2013
 - 2 120-day waiver
 - 3. Stormwater Simplified Approach Calculations
 - 4. Transportation Analysis
- B. Zoning Maps
 - 1. Existing Zoning
 - 2. Proposed Zoning
- C. Plans and Drawings
 - 1. Combined Site Plan and 715 NE 62nd Avenue Site Plan
 - 2. Site Plan, Existing and Proposed, 616 NE 61st Place
- 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
 - 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. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Letters: (none)
- G. Other
 - 1. Original LUR Application
 - 2. Site History Research
 - 3. Staff Incomplete Letter to Applicant, February 15, 2013
- H. Received in the Hearings Office
 - 1. Hearing Notice - Bello, Mark
 - 2. Staff Report - Bello, Mark (**attached**)
 - 3. Note with attachment - Bello, Mark
 - a. 5/9/13 Memo - Bello, Mark
 - 4. Record Closing Information - Hearings Office



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Charlie Hales, Mayor
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER

CASE FILE: LU 13-111303 ZC

PC # 12-182026

REVIEW BY: Hearings Officer

WHEN: May 13, 2013, 1:30 pm

WHERE: 1900 SW Fourth Avenue, Suite 3000
Portland, OR 97201

RECEIVED

MAY 03 2013

HEARINGS OFFICE

BUREAU OF DEVELOPMENT SERVICES STAFF: MARK BELLO / MARK.BELLO@PORTLANDOREGON.GOV

GENERAL INFORMATION

Applicant: Robert Hawthorne, PDX Living LLC, 616 NE 61st Place, Portland OR 97213

Owner: Tatiana Moller, 616 NE 61st Pl, Portland, OR 97213

Owner: Andrew Dryden, 7606 SE Maple Avenue, Vancouver WA 98664

Site Address: 616 NE 61st Place/715 NE 62nd Avenue

Legal Description: BLOCK 1 LOT 2, BARRETT'S ADD; BLOCK 1 LOT 6, BARRETT'S ADD

Tax Account No.: R055800020, R055800060

State ID No.: 1N2E31AD 04000, 1N2E31AD 04400

Quarter Section: 2936

Neighborhood: North Tabor, contact Nicole Davenport at 661-965-9602.

Business District: None

District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.

Existing Zoning: R5, Residential 5,000

Case Type: Zoning Map Amendment (ZC)

Procedure: Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

Proposal:

The applicant requests a Type III **Zoning Map Amendment** on two separate 5,000 square foot lots - from R5 (Residential 5,000) to R1 (Residential 1,000) in conformance with the existing R1 Comprehensive Plan designation. The applicant intends to submit a subsequent request to partition each property into two 2,500 square foot parcels. No development proposal is identified at this time.

Relevant Approval Criteria:

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

33.855.050.A, B and D, Approval Criteria for Base Zone Changes**ANALYSIS**

Site and Vicinity: Both sites are approximately 50 feet by 100 feet (5,000 square feet) and flat. This is the predominant lot size and geography for this neighborhood. Both sites are through lots. The Zoning Code defines a through lot as a lot that has frontage on two streets, and where the frontages do not intersect.

The lot at 616 SE 61st Place is developed with a house on the west side of the lot and a detached accessory garage that is accessed from NE 62nd Avenue.

The lot at 715 NE 62nd Avenue was originally developed with the house that orients to NE 62nd Avenue and a recently constructed Accessory Dwelling Unit (ADU) resident oriented to NE 61st Avenue.

These lots are located on a city block with the unusual characteristic of being one lot wide, that is, 100 feet east to west, between NE 61st Place and NE 62nd Avenue. The block is a more normal, seven lots in length between NE Oregon Street to the north and NE Hoyt Street to the south.

In addition to the two sites under consideration, an additional four lots on the same block are approximately 50 feet by 100 feet and developed with residences. The most southerly 50 feet of the block has been divided into two 2,500 square feet lots.

The block is approximately one block north of NE Glisan Street, a major city street to the south and two blocks south of the I-84 freeway which has access from NE 60th Avenue, traveling east. The larger North Tabor neighborhood is primarily residential and extends from the I-84 freeway to Burnside and from NE 44th to NE 69th Avenue.

At these locations, NE 61st Place and NE 62nd Avenue are classified as Local Service streets for all transportation modes in the City's Transportation System Plan (TSP).

According to City database sources, NE 61st Place is improved with 26 feet of paving and a 6-4-2 sidewalk corridor within a 50-foot wide right-of-way (r-o-w.). For a site located in the R5 (or R1) zone district along a Local Service (classification) street, the City's Pedestrian Design Guide recommends an 11-foot wide sidewalk corridor comprised of a 0.5-foot curb/4-foot wide furnishing zone/6-foot wide sidewalk/0.5-foot frontage zone. The site's current sidewalk corridor is wide enough, but is not consistent with regard to the standard components. However, since no development is proposed along this street frontage for either lot (the existing homes will remain), there will be no requirement to reconstruct these property frontages.

According to City database sources, NE 62nd Avenue is improved with 28 feet of paving and a 9-6-0 sidewalk corridor within an approximate 58-foot wide right-of-way (r-o-w.). For a site located in the R5 (or R1) zone district along a Local Service (classification) street, the City's Pedestrian Design Guide recommends an 11-foot wide sidewalk corridor comprised of a 0.5-foot curb/4-foot wide furnishing zone/6-foot wide sidewalk/0.5-foot frontage zone. The site's current sidewalk corridor is wide enough and exceeds the standard components. Accordingly, there will be no need for property dedication or frontage improvements in association with future development along this street.

Zoning: Residential 5,000 (R5) with the Residential 1,000 (R1) Comprehensive Plan Map Designation.

The R5 zone is a high density single-dwelling zone. The R5 zone allows attached and detached single-dwelling structures and duplexes. **The R1 zone** is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (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 and transit streets.

Land Use History:

History for 616 NE 61st Avenue

City records indicate there are no recent prior land use reviews for 616 NE 61st Avenue.

History for 715 NE 62nd Avenue

In June of 2010, the applicant received approval of permits and began construction of an accessory structure (containing living area including studio space, two bedrooms, 2 bathrooms and storage). His intention was to later convert this structure to a single dwelling residence with the application of the Comprehensive Plan Map zoning designation of multi-dwelling R1 in the neighborhood. This zoning amendment was anticipated to be completed as part of the Eastside Max Station project towards the end of summer 2010, but due to budget constraints at the Bureau of Planning and Sustainability, the project was delayed. In lieu of the zone change which would allow two single dwelling residences on this lot, the applicant is instead requesting to convert the new accessory structure to an Accessory Dwelling Unit (ADU). The difference between the "living areas" as permitted in the accessory structure and the proposed ADU, is that the ADU would contain a kitchen. ADUs are allowed in single dwelling zones as long as they meet certain design standards. Because the structure was intended to ultimately be a single dwelling residence, rather than an ADU, it was constructed without meeting those standards.

The applicant requested and the City approved the two Adjustments to the following two ADU design standards (LU 11-117912 AD):

1. **Height.** Allow the ADU to be 19 feet 6 inches tall. (Section 33.205.030.D.2 limits the height of an ADU to 18 feet.)
2. **Size.** Allow the ADU to be 1,266 square feet. (Section 33.205.030.C.6 limits the size of an ADU to 800 square feet or 75% of the living area, whichever is less.)

Agency Review: A "Request for Response" was mailed **March 28, 2013**. The following Bureaus have responded with no issues or concerns. Services are adequate for this proposal:

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. Bureau of Parks, Forestry Division
7. Life Safety Plans Examiner

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 22, 2013. No written responses have been received from either the Neighborhood Association or notified property owners in response to the notice of proposal.

ZONING CODE APPROVAL CRITERIA

Zone Change

33.855.010 Purpose

This chapter states the procedures and approval criteria necessary to process an amendment to the base zones, overlay zones, plan districts, and other map symbols of the Official Zoning Maps. The chapter differentiates between amendments which are processed in a quasi-judicial manner and those processed in a legislative manner. A discussion of quasi-judicial and legislative is found in 33.700.070.

33.855.050 Approval Criteria for Base Zone Changes

An amendment to the base zone designation on the Official Zoning Maps will be approved (either quasi-judicial or legislative) if the review body finds that the applicant has shown that all of the following approval criteria are met:

A. Compliance with the Comprehensive Plan Map. The zone change is to a corresponding zone of the Comprehensive Plan Map.

1. When the Comprehensive Plan Map designation has more than one corresponding zone, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.
2. Where R zoned lands have a C, E, or I designation with a Buffer overlay, the zone change will only be approved if it is for the expansion of a use from abutting nonresidential land. Zone changes for new uses that are not expansions are prohibited.
3. When the zone change request is from a higher-density residential zone to a lower-density residential zone, or from the CM zone to the CS zone, then the approval criterion in 33.810.050 A.2 must be met.

Findings: The applicant requests a zone change from R5 (Residential 5,000) to R1 (Residential 1,000). There is only one corresponding zone for the Residential 1,000 designation, which is R1; the site does not have a C, E, or I designation with a Buffer overlay; and, the request does not include a change in zoning from a higher-density residential zone to a lower-density residential zone, or from the CM zone to the CS zone. Based on this information, this criterion is met.

B. Adequate public services. Public services for water supply, transportation system facilities and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete, and proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services.

1. Adequacy of services applies only to the specific zone change site.
2. Adequacy of services is based on the projected service demands of the site and the ability of the public services to accommodate those demands. Service demands may be determined based on a specific use or development proposal, if submitted. If a specific proposal is not submitted, determination is based on City service bureau demand projections for that zone or area which are then applied to the size of the site. Adequacy of services is determined by the service bureaus, who apply the demand numbers to the actual and proposed services to the site and surrounding area.

3. Services to a site that is requesting rezoning to IR Institutional Residential will be considered adequate if the development proposed is mitigated through an approved impact mitigation plan or conditional use master plan for the institution. [Not applicable as the applicant does not request IR zoning.]

Findings: The following responses regarding adequacy of services apply only to the sites referenced in this application;

The Bureau of Environmental Services (BES) has no objection to the requested Zoning Map Amendment. BES has proposed no conditions of approval.

The Development Review Section of Portland Transportation (PBOT) reviewed the proposal for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

PBOT has found that the applicant has demonstrated compliance with the applicable transportation-related approval criteria. As indicated in their comments below, PBOT is supportive of the proposed Zone Change (with no recommended conditions of approval):

The applicant submitted a professionally prepared Transportation Impact Study (TIS) to address the transportation-related approval criteria associated with this Zone Change request. The TIS compares the existing development scenario for the current R5 zoning with the development scenario for the proposed R1 zoning. NOTE: The property located at 616 NE 61st Place currently has one single-family dwelling in place. This home has a private driveway that takes access from NE 61st Place. The property located at 715 NE 62nd Avenue currently has two dwelling units, with a primary residence and an accessory dwelling unit. Future potential development on these two lots would include converting the existing accessory dwelling unit into a single-family residence (at 715 NE 62nd Avenue) and constructing a new single-family residence on the new lot to be created through a separate land division process at 616 NE 61st Place. Hence, the net difference between existing conditions at these two properties and future development would be one additional single-family residence.

The TIS included area intersection capacity analysis of four nearby local intersections utilizing industry standard trip generation methodology as well as a projected trip distribution consideration given observations made at and near the site. The trip generation calculations show that future development within the subject properties will generate a net increase of two trips during the morning peak hour. During the evening peak hour a total of one additional trip is expected. A weekday total of 14 additional trips are expected to be generated.

The TIS' intersection capacity analysis included the following several local intersections in the nearby vicinity:

NE 60th Avenue/NE Oregon Street (stop controlled)
NE 60th Avenue/NE Glisan Street (signalized)
NE 62nd Avenue/NE Hoyt Street (uncontrolled)
NE 62nd Avenue/NE Glisan Street (stop controlled)

City of Portland operational standards require Level of Service (LOS) E or better at unsignalized intersections and LOS D or better at signalized intersections. The analysis, again, utilizing acceptable industry standards, shows that all of the studied intersections currently and in the future, considering the minimal additional number of trips expected to be generated by future development on the two lots during the peak hour of operation by the proposed Zone Change, will satisfy City of Portland performance measures for intersection operations.

The recently amended Transportation Planning Rule (effective January 1, 2012) generally requires a local government to determine whether certain regulatory amendments will "significantly affect an existing or planned transportation facility." The land use actions that trigger compliance with this requirement are amendments to a functional plan, comprehensive plan, or a land use regulation (including a Zoning Map Amendment). (OAR 660-012-0060(1)) If the local government finds an amendment has a significant effect, it must take one or more specifically identified steps to address and remedy this conflict. (OAR 660-012-0060(2))

The amended TPR includes an exception to this general requirement for a Zoning Map Amendment where the proposed new zoning is consistent with: (1) the comprehensive plan map designation for the site; and (2) the local Transportation System Plan. If both conditions are satisfied, the local government may find that the amendment "does not affect an existing or planned transportation facility." (OAR 660-012-0060(9)). In this case, the proposed R1 zoning is consistent with Comprehensive Plan Map designation for the site and the local Transportation System Plan. Accordingly, the above referenced approval criterion is satisfied.

Note: The R1 zone generally allows one unit per 1,000 square feet of site area. These two lots are each approximately 5,000 square feet in area which would allow five units per lot. However, because this analysis was conducted on the basis of a total of four 2,500 square foot lots, a condition of approval is warranted to limit additional allowed density.

The Water Bureau responded with no concerns about the proposal at this time. The response does not note any deficiencies in water service for this site.

The Fire Bureau and Site Development Section of BDS and Life Safety Section of the BDS responded with "no concerns".

The Police Bureau anticipates very limited impacts and has no concerns regarding providing adequate service. (Staff note: there are already three residential structures on the two sites, future land division will allow at most two additional households, well within the variation in population otherwise allowed by the R5 zoning.)

Based on the foregoing agency responses, services are adequate for the uses and maximum density that would be allowed in the R1 zone, so Criterion B.1 and B.2 are met. Since this proposal does not include a request for IR zoning, Criterion B.3 does not apply.

- C. When the requested zone is IR, Institutional Residential.** In addition to the criteria listed in subsections A. and B. of this Section, a site being rezoned to IR, Institutional Residential must be under the control of an institution that is a participant in an

approved impact mitigation plan or conditional use master plan that includes the site. A site will be considered under an institution's control when it is owned by the institution or when the institution holds a lease for use of the site that covers the next 20 years or more.

Findings: The applicant is not requesting that the site be rezoned to IR, therefore, this criterion is not applicable.

- D. Location.** The site must be within the City's boundary of incorporation. See Section 33.855.080.

Findings: The site is within Portland's boundary of incorporation, so this criterion is met.

Development Standards

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

CONCLUSION

The applicant requests a Zoning Map Amendment to change the zoning on this 5,000 square foot site from R5 (Residential 5,000) to R1 (Residential 1,000) in compliance with the Comprehensive Plan Map designation for the site. The R1 zone allows a maximum density of 1 unit per 1,000 square feet of site area. Each of the two lots could be developed with a maximum of five dwellings. However, the lot at 616 NE 61st Place is developed with two structures and this zone change and subsequent land partition will only allow the sale of each unit individually. The lot at 715 NE 62nd Avenue is developed with a house and a garage and future redevelopment will only involve the demolition of the garage and construction of a new house and potential ADU. The Service Bureaus find that services are adequate. Based on this information and the findings in this report, the proposal should be approved.

TENTATIVE STAFF RECOMMENDATION

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

Approval of a Zoning Map Amendment (33.855.040) to change the zoning from R5 (Residential 5,000) to R1 (Residential 1,000), subject to the following condition:

- A. The maximum allowed density for each lot will be one dwelling unit per 2,500 square feet of site area. Accessory Dwelling Units are exempt from maximum density calculations.

Procedural Information. The application for this land use review was submitted on January 31, 2013, and was determined to be complete on March 25, 2013.

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 January 31, 2013.

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 waived or extend the 120-day review period.

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 recommendation 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.

This report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case. This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Avenue., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at www.portlandonline.com. On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Avenue., Suite 5000, Portland, OR 97201.

Appeal of the decision: The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, City Council will hold an evidentiary hearing, one in which new evidence can be submitted to them. Upon submission of their application, the applicant for this land use review chose to waive the 120-day time frame in which the City must render a decision. This additional time allows for any appeal of this proposal to be held as an evidentiary hearing.

Who can appeal: You may appeal the decision only if you write a letter which is received before the close of the record on hearing or if you testify at the hearing, or if you are the property owner or applicant. Appeals must be filed within 14 days of the decision. **An appeal fee of \$ 4,561 will be charged (one-half of the BDS application fees, up to a maximum of \$5,000).**

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 Chair person 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.

- 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. 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.

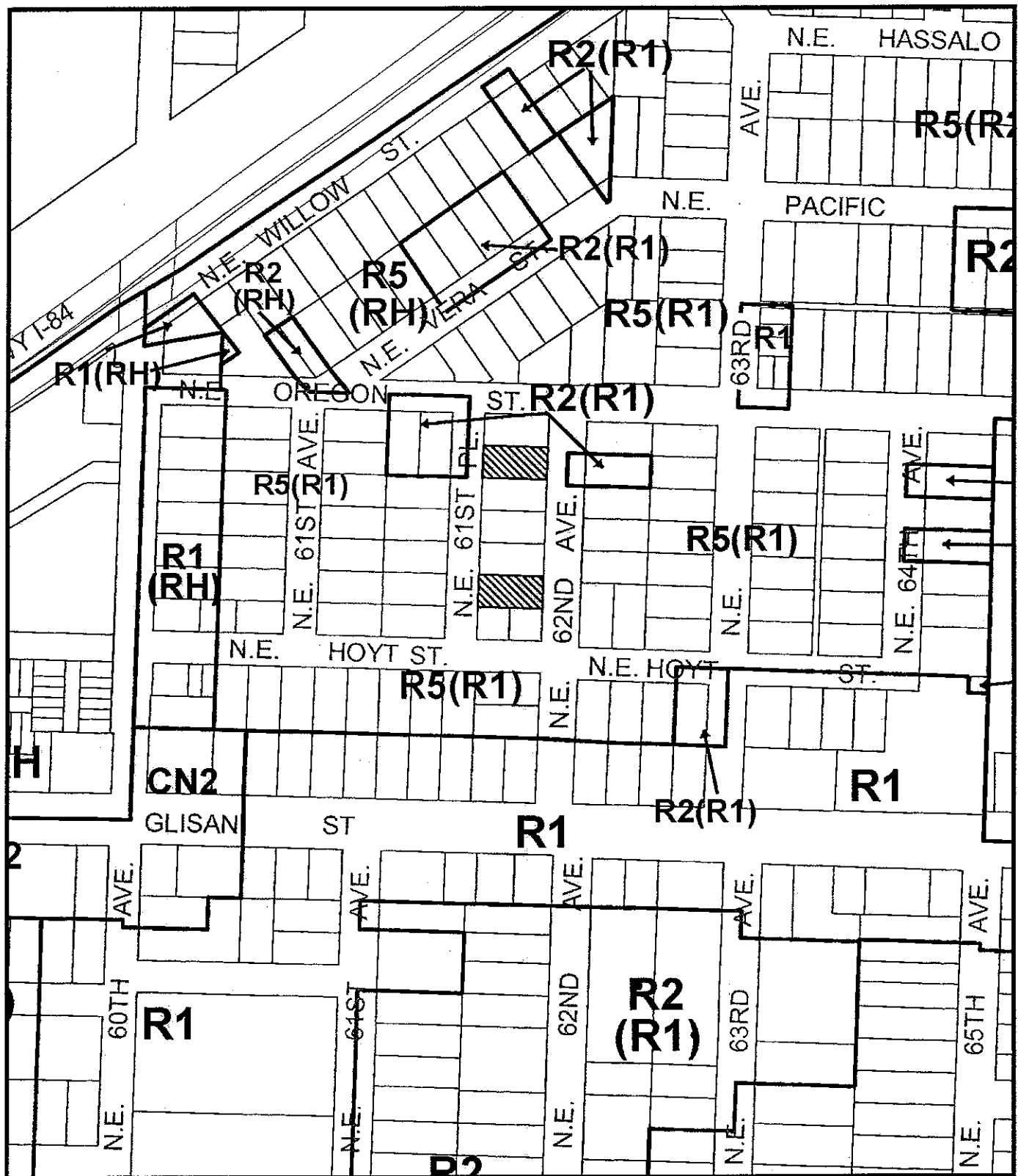
Planner's Name: Mark Bello

Date: May 1, 2013

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1.1 Narrative, January 25, 2013
 - 1.2 Revised Narrative, January 30, 2013
 - 2 120-day waiver
 - 3 Stormwater Simplified Approach Calculations
 - 4 Transportation Analysis
- B. Zoning Maps (attached):
 - 1. Existing Zoning
 - 2. Proposed Zoning
- C. Plans & Drawings:
 - 1. Combined Site Plan and 715 NE 62nd Avenue Site Plan
 - 2. Site Plan, Existing and Proposed, 616 NE 61st Place
- 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
 - 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. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Letters: (none)
- G. Other:
 - 1. Original LUR Application
 - 2. Site History Research
 - 3. Staff Incomplete Letter to Applicant, February 15, 2013

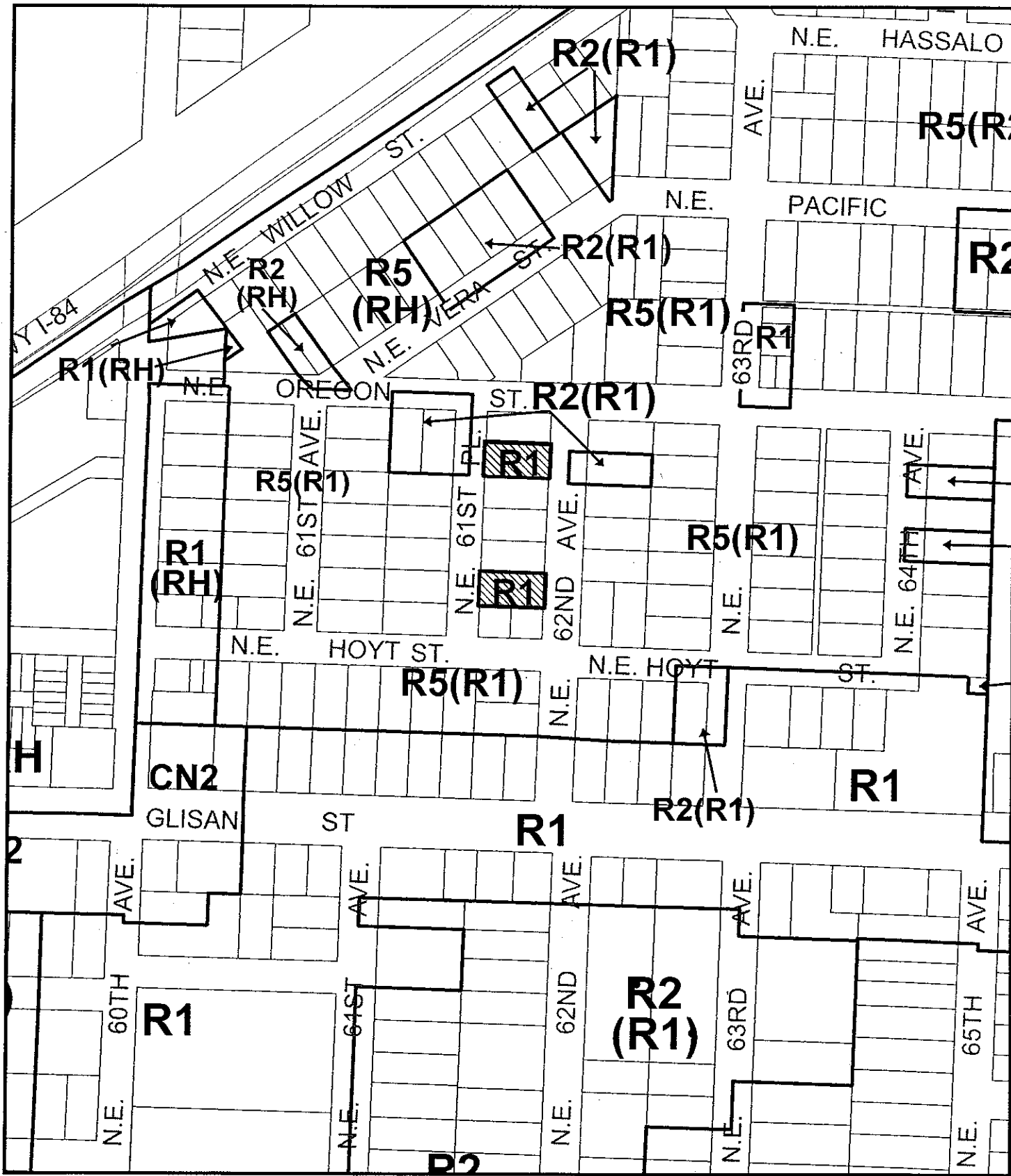
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



**ZONING
EXISTING**



File No. LU 13-111303 ZC
 1/4 Section 2936,2937
 Scale 1 inch = 200 feet
 State_Id 2S126DA13300
 Exhibit B1 (Feb 01,2013)



ZONING PROPOSED



NORTH

 Site

File No. LU 13-111303 ZC
 1/4 Section 2936,2937
 Scale 1 inch = 200 feet
 State_Id 2S126DA13300
 Exhibit B2 (Feb 01,2013)