



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

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Date: March 13, 2018
To: Interested Person
From: David Besley, Land Use Services
503-823-7282 / David.Besley@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has denied a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision.

The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 17-289792 CU

GENERAL INFORMATION

Applicant/Owner: Zachery Strachan
3943 NE Mallory Ave (Unit A)
Portland, OR 97212

Site Address: 3943 NE MALLORY AVE

Legal Description: LOT 2, PARTITION PLAT 2016-36
Tax Account No.: R649671420
State ID No.: 1N1E22DD 03602
Quarter Section: 2630

Neighborhood: King, contact Andrew Neerman at andrew.neerman@kingneighborhood.org

Business District: Soul District Business Association, contact at outreach@nnebaportland.org

District Coalition: Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030

Zoning: R2.5a – Single-Dwelling Residential 2,500 with Alternative Design Density (“a”) overlay zone

Case Type: CU – Conditional Use Review
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant owns two attached houses, each on its own lot: 3943 NE Mallory Avenue and 3947 NE Mallory Ave. The applicant resides at 3943 NE Mallory Avenue and requests Conditional Use approval to operate a Type B Accessory Short-Term Rental (ASTR) facility at this address. A Type B ASTR is concurrently proposed on the adjacent lot to the north (LU 17-289796 CU). The attached 3-story house (with partial 4th story) would have 5 ASTR guest rooms that would be rented out to a maximum of two groups at a time. In addition to the 6-bedrooms

in the primary dwelling unit, there is a 2-bedroom Accessory Dwelling Unit (ADU) on the ground floor of the house.* No exterior alterations to the house are proposed. No outside employees, food or beverage service, or commercial events are proposed. Proposed house rules would require quiet hours between 10pm and 9am.

Type B Accessory Short-Term Rentals are allowed in residential zones when the proposal meets the Conditional Use approval criteria and applicable standards. The regulations are intended to allow for efficient use of houses in residential areas if the neighborhood character is maintained. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

*Due to a misunderstanding in the plan set, the Notice of Proposal (Exhibit D-1) noted that the primary dwelling unit contains 5 bedrooms and the ADU contains 3 bedrooms. The correct breakdown is noted above (a 6-bedroom primary dwelling and a 2-bedroom ADU).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are in Zoning Code Section 33.815.105: Conditional Use Approval Criteria for Institutional and Other Uses in a Residential Zone.

ANALYSIS

Site and Vicinity: The 2,500 square foot site is located on the west side of NE Mallory Avenue, between NE Shaver Street to the north and NE Failing Street to the south. The site is developed with a 2,770 square foot 3-story single-dwelling residence with a partial fourth story. A two-bedroom ADU is located on the ground floor. This house is nearly identical to 7 adjacent homes in a row on this street. One on-site parking space is provided via an approximately 28-foot-long driveway, accessed from NE Mallory Avenue. Neighboring properties on NE Mallory Avenue are developed with a mix of one-story to four-story single-dwelling houses. The site is located two blocks west of a mixed-use commercial corridor along NE Martin Luther King Jr Boulevard.

Zoning: The R2.5 zoning designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. Type B ASTRs are allowed in the R2.5 zone when the proposal meets the Conditional Use approval criteria and applicable standards.

The site is also within the boundaries of the Alternative Design Density ("a") overlay zone, though the "a" overlay regulations are not applicable to this review. The purpose of the "a" overlay zone is to focus development on vacant sites, preserve existing housing, and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed January 25, 2018. The following Bureaus have responded as follows:

- The Portland Bureau of Transportation responded with information concerning how the proposal meets transportation-related approval criteria. Details of this response are included below under "Zoning Code Approval Criteria." (Exhibit E-1);
- The Bureau of Environmental Services (BES) stated that BES has no issues related to the public services approval criterion for stormwater and sanitary service. Sanitary sewer service is available via the combined sewer within NE Mallory Avenue. Additionally, as no changes are proposed to the existing building, no BES stormwater requirements are triggered (Exhibit E-2); and

- The Police Bureau responded with no concerns and noted that there are no proposed alterations to the site that would impact the Police Bureau's ability to provide adequate services (Exhibit E-3).

The following Bureaus have responded with no concerns (Exhibit E-4):

- The Fire Bureau
- The Water Bureau
- The Life Safety Review Section of the Bureau of Development Services (BDS); and
- The Site Development Review Section of BDS.

Neighborhood Review: Two written responses have been received from notified property owners in response to the proposal. The first letter (Exhibit F-1), from the adjacent neighbor to the south, is written in support of the proposal, noting the helpfulness and responsiveness of the applicant/owner. The second letter (Exhibit F-2), from a neighbor on NE Rodney Avenue to the northwest, is written in opposition to the proposal, for the reasons primarily related to livability. A summary of those concerns follows:

- The rooftop deck, balconies, floor-to-ceiling windows, and substantial height of the house will allow guests to look into neighboring yards and windows, which will impact privacy;
- The rooftop decks, in combination with the number of available bedrooms, will attract large groups who may throw parties;
- There are concerns that the property owner will not act responsively on behalf of neighbor concerns if issues arise; and
- ASTR projects can have a negative effect on affordable housing.

Staff Response: Relevant concerns are addressed in the Zoning Code Approval Criteria findings below.

ZONING CODE APPROVAL CRITERIA

Conditional Uses

33.815.010 Purpose

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

33.815.105 Institutional and Other Uses in R Zones

These approval criteria apply to all conditional uses in R zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in a residential zone that maintain or do not significantly conflict with the appearance and function of residential areas. The approval criteria are:

- A. Proportion of Household Living uses.** The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the Household Living category in the residential area. Consideration includes the proposal by itself and in combination with other uses in the area not in the Household Living category and is specifically based on:
1. The number, size, and location of other uses not in the Household Living category in the residential area; and
 2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

Findings: For purposes of this criterion, the “residential area” is considered to be roughly bounded by NE Skidmore Street to the north, NE Fremont Street to the south, N Williams Avenue to the west, and NE Martin Luther King Jr Boulevard to the east (Exhibit A-1, page 3). Within the residentially-zoned portions of this area are several uses not in the Household Living category, including four churches and two small schools. There are 11 Type A ASTRs (1-2 bedrooms) and two other Type B ASTRs in this area (both approved for a maximum of three bedrooms). Additionally, a Type-B ASTR is concurrently proposed on the adjacent lot to the north (LU 17-289796 CU at 3947 NE Mallory Avenue), which is also proposed to have 5 bedrooms. If all the proposed rooms were rented on both this site and the neighboring site at the same time, 10 bedrooms would be rented out, which could result in 20 or more guests over a relatively small combined site area of 5,000 square feet. The intensity and scale of these side-by-side ASTRs and the subsequent volume of guests would be inconsistent with the residential function of this single dwelling residential area.

Because of the cumulative impact of side-by-side ASTRs in relation to the Household Living uses, BDS Staff initially determined each site could be approved by limiting each ASTR to three bedrooms. The owner, however, preferred the option of accepting an approval for a 5-bedroom ASTR for the northern site (LU 17-289796 CU at 3947 NE Mallory Avenue), in which a long-term renter is the resident/applicant, and a denial for this site, in which he is the resident/applicant. This option results in a significant reduction to rentable bedrooms between these two sites.

For these reasons, staff finds this criterion is not met.

B. Physical compatibility.

1. The proposal will preserve any City-designated scenic resources; and

Findings: City-designated scenic resources are identified on the official zoning maps with a lower case “s.” There are no City-designated scenic resources on the site or in the surrounding neighborhood. Therefore, this criterion is not applicable.

2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, tree preservation, and landscaping; or

Findings: While the single dwelling unit design is somewhat taller than many houses in the defined area, it is nearly identical in design to the three lots directly to the north and the four lots directly to the south. Additionally, the site’s lot size, building setbacks, and landscaping meet the standards required by the R2.5 zone, and are comparable to other properties in the surrounding neighborhood and in the R2.5 zone generally. In any event, the proposed ASTR facility would operate inside the existing house, and no physical changes to the house or to the landscaping on the site are proposed with this application.

This criterion is met.

3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, tree preservation, and other design features.

Findings: The applicant is not proposing any physical changes to the house or lot to accommodate the ASTR facility. Therefore, the proposed Conditional Use will not create any differences in appearance or scale between the subject property and neighboring properties that require mitigation. This criterion is not applicable.

- C. Livability.** The proposal will not have significant adverse impacts on the livability of nearby residential zoned lands due to:

1. Noise, glare from lights, late-night operations, odors, and litter; and

Findings: Parties, work retreats, and large gatherings are not permitted per the proposed “house rules” (Exhibit C of Exhibit A-1), which also require quiet hours between 10pm and 9 am. Conditions to limit rooftop and outdoor access could be required to prevent significant adverse impacts; however, as the proposal does not meet Criterion A, and therefore must be denied, it is not necessary to include conditions of approval that would limit these impacts.

No physical changes such as new exterior lighting are proposed, and the proposed “house rules” (Exhibit C of Exhibit A-1) include instructions for dealing with guests’ garbage that will help prevent litter. No aspect of the ASTR operation is likely to produce odors that are different from a standard residential use, or that would adversely impact neighbors.

Because the proposal is being denied with no conditions proposed that would limit impacts on livability, this criterion is not met.

2. Privacy and safety issues.

Findings: The back yard of the subject property is enclosed by a 5.5-foot tall wooden fence, promoting privacy for abutting neighbors if short-term rental guests use the back yard. As noted above, conditions to limit rooftop and outdoor access could be required to prevent impacts to privacy; however, the proposal is being denied so there is no purpose to include such conditions.

No adverse safety impacts are anticipated. The Police Bureau noted that they are currently able to serve the existing house at the site and will be able to continue providing services to the proposed Type-B ASTR at this address (Exhibit E-3). The Fire Bureau has reviewed the proposal and responded that they have no concerns with their ability to serve the ASTR, as they recently reviewed and signed off on a building permit for this house which was constructed in 2017 (Building Permit 16-137398 RS) and no changes are proposed to the building (Exhibit E-4).

Because the proposal is being denied, and staff is therefore not proposing any conditions of approval that would limit impacts related to privacy, this criterion is not met.

D. Public services.

1. The proposal is supportive of the street designations of the Transportation Element of the Comprehensive Plan;
2. The transportation system is capable of supporting the proposal in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies;

Findings: The Portland Bureau of Transportation (PBOT) submitted the following response (Exhibit E-1):

Portland Transportation/Development Review (PBOT) has reviewed the application 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.

Proposed Development

The applicant proposes an Accessory Short Term Rental (ASTR) facility, to include five rental rooms to be rented to no more than two parties at one time. The ASTR is to be located in a single-family attached dwelling with one Accessory Dwelling Unit (ADU) on the subject parcel. No outside employees, food or beverage service, or commercial events are proposed. Proposed house rules would require quiet hours between 10pm and 9am.

Conditional Use Approval Criteria

The transportation related approval criteria related to the proposed Conditional Use that must be addressed are found in Code Section 33.815.105.D.1 and D.2, and are stated as follows:

1. The proposed use is supportive of the street designations of the Transportation Element of the Comprehensive Plan;

At this location, the City's Transportation System Plan (TSP) classifies NE Mallory as a Local Service Street for all modes. The TSP states that, "Local Service streets provide local circulation for traffic, pedestrians and bicyclists" and that "Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses." The proposed accessory short-term rental (ASTR) is supportive of the designations of the adjacent street. The development of the site with an ASTR will not impact the distribution of local traffic throughout the area. The proposed use will not be inconsistent with or negatively impact the adjacent residential street network or necessitate changes in the street designations.

2. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies.

Street Capacity/Level of Service

To address the transportation evaluation factors, the applicant submitted a Transportation Impact Analysis prepared by Lancaster Engineering dated February 12, 2018. The TIS used the Motel trip category within Trip Generation, 9th Edition, published by the Institute of Transportation Engineers (ITS), to estimate the trips generated by the proposed use. The applicant proposes an Accessory Short Term Rental (ASTR) facility, to include five rental rooms to be rented to no more than two parties at one time. The ASTR will be unlikely to house single occupants generating work trips at peak hours. Services provided to operate the ASTR-- such as landscaping, regular maintenance, or cleaning-- will be consistent with a typical single-family home.

The TIS states "The proposed conditional use of both homes will generate four additional trips during both the morning and evening peak hours. The simultaneous short-term rental of both homes will have a negligible impact on operation of any of the study area intersections, which will continue to operate acceptably either with or without the addition of site traffic... the study roadways and intersections meet the City of Portland's operational standards and are capable of safely supporting the existing uses as well as the proposed use of the site."

Access to Arterials

The site is within close proximity to arterials and the greater transportation system. Martin Luther King Jr Blvd (Highway 99E) is approximately 700 feet from the proposed development. The entry ramp to I-5 is approximately 2.7 miles from the proposed development.

Connectivity

The proposed development is in an area with established block patterns and development. PBOT has no concerns relative to connectivity and this proposed Conditional Use request.

Transit Availability

The proposed development is within close proximity to transit. Stops for Trimet buses #6, #44, #4, #24, #8 and #72 are within less than a mile of the proposed development. Improved sidewalk corridors that exceed the city standard provide direct pedestrian access from the site to area transit facilities.

On-Street Parking Impacts

Based on the site plans provided, one legal parking spot is provided on the subject parcel. The TIS provided an analysis of existing on-street parking and compared that analysis to the expected parking demand of the proposed use. The estimated parking demand was provided using demand rates from the Institute of Transportation Engineer's Parking Generation. It estimated the parking demand to be four spaces per ASTR use. However, given the proposed use-- in which five rooms are provided together for rent as one unit-- the motel parking generation rate that was used to calculate the average number of parked vehicles is likely to be an overestimate of the actual parking demand. PBOT considers 80% approaching full (heavily parked) and 85% full. The TIS estimated the occupancy level of parking in the site vicinity to be 69.5% and therefore well below levels that PBOT considers heavily parked. The TIS states "Based on the observations and analysis, the available on-street parking in the site vicinity is adequate to safely support the proposed use in addition to the existing uses in the site vicinity." PBOT concurs with this assessment.

Access Restrictions

Vehicle access to the existing house will continue to be provided via a driveway/curb-cut on NE Mallory. PBOT has no access restriction concerns.

Neighborhood Impacts

As stated previously, the increase in vehicle trips from the proposed development is not expected to correspond with peak hours, and not expected to negatively impact the operations of area intersections. The proposed use, in an existing dwelling, keeps with the residential character of the neighborhood. The TIS states "The proposed use will have negligible impacts felt by the neighborhood and will not impact the circulation of pedestrians, bicycles, or transit." The Transportation Demand Plan addressed below will encourage guests to use modes of transportation other than cars.

Impacts on Pedestrian, Bicycle, and Transit Circulation

The site is located on street that is developed with 12-ft sidewalk corridors on both sides. The subject frontage was recently reconstructed in relation to construction of the subject attached dwelling. The TIS asserts that dedicated bicycle facilities are provided on N. Williams and N. Vancouver that can be accessed from the proposed development via Local Service Streets. There is no reason to believe that the proposed ASTR will result in any negative impacts to pedestrian, bicycle, or transit circulation in the area.

Safety for All Modes

The TIS provides information about safety for all modes with which PBOT concurs. Staff identified no outstanding safety issues in the vicinity, and no adverse impacts are anticipated as the result of the proposed development. No mitigation measures are needed or recommended.

Adequate Transportation Demand Management Strategies

Transportation Demand Management (TDM) strategies are actions designed to change travel behavior in order to reduce the use of single-occupant vehicles to the

site and, in turn, improve the performance of transportation facilities. To reduce the use of single-occupant vehicles, the applicant provided a Transportation Demand Management Plan, and proposed to provide:

- Schedules and maps describing the available transit within the site vicinity.
- Information regarding bicycle and carshare opportunities.
- Information and maps of local destinations and amenities in the area.

The applicant is encouraged to provide guests with additional active transportation maps, bus schedules and maps, guidebooks, and local restaurant menus to encourage guests to explore the city on foot and by bicycle. The applicant is also encouraged to provide guests information about transit access to the airport and train stations, and airport shuttles that depart from downtown Portland. As a condition of Conditional Use Permit approval, the applicant shall maintain a current and active Transportation Demand Management Plan, as proposed for this land use review.

PBOT acknowledges and supports the applicant's efforts to minimize single-occupancy vehicle trips to the site. In summary, PBOT staff finds that the transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Accordingly, PBOT has no objections to the proposed ASTR with five guest rooms.

Title 17 Requirements

Transportation System Development Charges (Chapter 17.15) may be assessed for this development. The applicant is advised to leave a voicemail message to include the case file number, at (503) 823-7002, Option 2. Additional information about PBOT SDCs can be located at this link:
<https://www.portlandoregon.gov/transportation/46210>

Driveways and Curb Cuts (Section 17.28)

Curb cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of Building Permits.

Street Improvements (Section 17.88.010)

No ROW improvements or property dedication are required in relation to the proposed development.

Street Trees: The applicant is advised to contact Urban Forestry, City of Portland, at 503-823-8733 or trees@portlandoregon.gov regarding the requirements related to trees adjacent to the subject property. More information can be found at this link:
<https://www.portlandoregon.gov/trees/article/560288>

Recommendation

PBOT has no objection to the proposed Conditional Use, subject to the following:

1. The applicant shall maintain a current and active Transportation Demand Management Plan, as proposed for this land use review.

Based on PBOT's analysis, and with a condition of approval limiting rental of the home to single-tenancy, these criteria are met.

3. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

Findings: The Bureau of Environmental Services notes that sanitary sewer service is available via the combined sewer within NE Mallory Avenue. Additionally, as no changes are proposed to the existing building, no BES stormwater requirements are triggered (Exhibit E-2). The Police Bureau noted that they are currently able to serve the existing house at the site and will be able to continue providing services to the proposed Type-B ASTR at this address (Exhibit E-3). as they recently reviewed and signed off on a building permit for this house which was constructed in 2017 and no changes are proposed to the building.

For these reasons, this criterion is met.

- E. Area plans.** The proposal is consistent with any area plans adopted by the City Council as part of the Comprehensive Plan, such as neighborhood or community plans.

Findings: The site is within the boundaries of the King Neighborhood Plan and Albina Neighborhood Plan. The King Neighborhood Plan notes objectives for economic development (Policy IV, Page 16). The first is to support the formation of new businesses and investments within the King Neighborhood which are linked to the Convention Center and Lloyd Center area development. As a 5-bedroom ASTR in close proximity to the Convention Center and Lloyd Center, it is likely to be booked by groups attending conventions and supporting area businesses within the Convention Center and Lloyd Center area, as well as the broader King Neighborhood. The ASTR itself would be the formation of a new business and investment within the King Neighborhood linked to Convention Center and Lloyd Center area development, given that it will likely be booked by groups attending conventions.

The second objective is to provide opportunities for home based businesses. The owner hopes to run the ASTR from their home as a business, which would be accessory to a Household Living use. The fourth economic objective is to support the growth of existing businesses within the King Neighborhood. Short term guests are likely to make extensive use of local businesses for shopping, dining, and other goods and services, thus directly supporting the growth of existing local businesses.

The Albina Neighborhood Plan includes Business Growth and Development objectives including encouraging the creation of economic activities which broaden and diversify the commercial base of the Albina Community; promoting local entrepreneurship and business expansion; and strengthening the markets for local goods and services by encouraging business growth, tourism development, residential rehabilitation, and new housing construction (Policy III, Objectives 1, 7, and 14; page 39-40). The newly build subject house, operating as an ASTR, will broaden and diversify the commercial base, promote local entrepreneurship, and strengthen the markets for local goods and services by providing lodging for tourists.

For these reasons, 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.

CONCLUSIONS

The applicant proposes to operate a Type B ASTR facility with five guest rooms. A type-B ASTR is concurrently proposed on the adjacent lot to the north (LU 17-289796 CU at 3947 NE Mallory Avenue), which is also proposed to have 5 bedrooms. The intensity and scale of these side-by-side ASTRs and the subsequent volume of guests would negatively impact the

residential function of this single dwelling residential area. Because this proposal does not meet each of the required approval criteria, it must be denied. The denial results in a significant reduction to rentable bedrooms between these two sites.

ADMINISTRATIVE DECISION

Denial of a Conditional Use to allow a 5-bedroom Type B ASTR facility within the existing single-dwelling, attached house on this site, as shown on the plans, Exhibits C.1 and C.2.

Staff Planner: David Besley



Decision rendered by: _____ **on March 13, 2018.**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 13, 2018

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on December 29, 2017, and was determined to be complete on January 23, 2018.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on December 29, 2017.

ORS 227.178 states the City must

issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: May 23, 2018.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

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

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

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on March 27, 2018** at 1900 SW

Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant submittal
 - 1. Applicant's Statement
 - 2. Applicant ID
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Floor Plans (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Bureau of Environmental Services
 - 3. The Police Bureau
 - 4. Bureaus responding with no concerns
- F. Correspondence:
 - 1. Jonah Luzier, February 13, 2018, letter in support of proposal
 - 2. Kate Lyman and Kalin Schmoldt, February 13, 2018, letter in opposition to proposal
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incompleteness determination letter, dated January 11, 2018

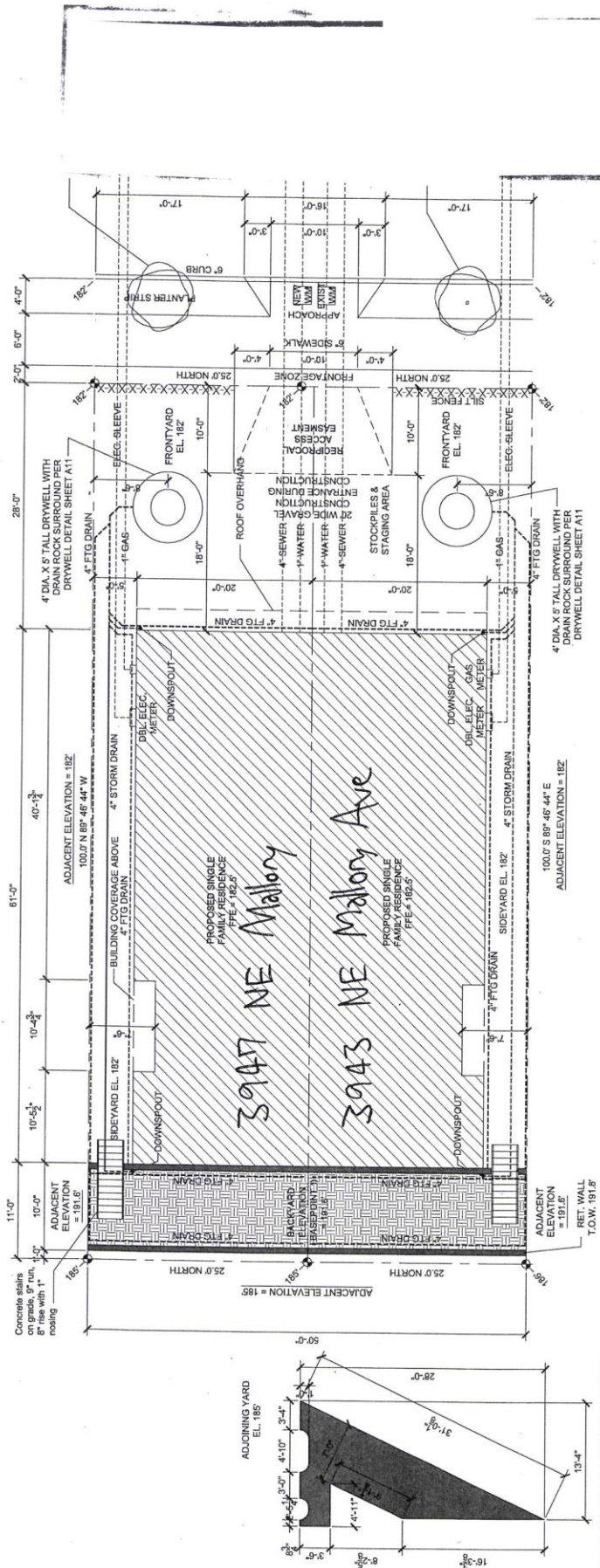
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
NORTH

-  Site
-  Also Owned Parcels

File No.	LU 17-289792 CU
1/4 Section	2630
Scale	1 inch = 200 feet
State ID	1N1E22DD 3602
Exhibit	B Jan 02, 2018



SITE PLAN / EROSION CONTROL PLAN
1/8" = 1'-0"

REQUIRED INFORMATION

LOT AREA 2,500 S.F.
IMPERVIOUS AREA 1,280 S.F. ROOF & ROOF DECK AREA INCLUDING EAVES
252 S.F. VEHICLE AREA (WITH OPTIONAL PERVIOUS GRASS DRIVEWAY SYSTEM
1,482 S.F. 10% PL.
BUILDING COVERAGE 1,250 S.F. COUNTED BUILDING COVERAGE
50 S.F. UNCOUNTED COVERAGE (LEAVES/OVERHANGS)
1,250 S.F. TOTAL BUILDING COVERAGE

LANDSCAPING REQUIREMENTS

MIN. REQUIRED GROUND COVER LANDSCAPE AREA PER SIDE
25' WIDE X 20' DEEP YARD = 700 S.F.
60% REQUIRED LANDSCAPE AREA THAT CAN BE USED FOR PEDESTRIANS, PATIOS, ETC = 140 S.F.
MIN. REQUIRED LANDSCAPING IS 420 S.F. MINUS 140 S.F. = 280 S.F.
REQUIRED FOUNDATION SHRUBBERY PER SIDE
20' WIDE FOUNDATION LINE DIVIDED BY (1) 3 GAL. SHRUB PER 3 LF OF FOUNDATION = 7 SHRUBS

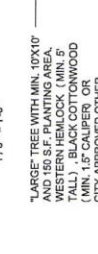
EROSION CONTROL NOTES

1. BACK AND SIDE PROPERTY LINES WILL HAVE RETAINING WALLS CONSTRUCTED DURING THE EXCAVATION AND FOUNDATION STAGE AND THEREAFTER WILL NOT REQUIRE SILT FENCING OR OTHER EROSION CONTROL MEASURES.
2. FRONT PROPERTY LINE WILL HAVE SILT FENCING ON EACH SIDE OF CONSTRUCTION ENTRANCE AS SHOWN ON PLAN.
3. NO OTHER EROSION CONTROL MEASURES ARE ANTICIPATED TO BE NECESSARY.
4. TEMPORARY CHAIN LINK CONSTRUCTION FENCE TO BE MAINTAINED AT FRONT LOT LINE DURING CONSTRUCTION.

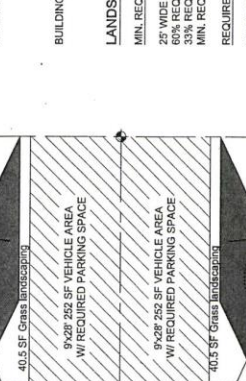
ON-SITE TREE DENSITY REQUIREMENTS

TREE REQUIREMENTS PER SIDE
REQUIRED TREE AREA (OPTION A) = 2,500 S.F. X 40% = 1,000
ONE LARGE TREE REQUIRED PER 1,000 S.F. (TABLE 50-2)
MIN. 10'X10' REQUIRED PLANTING AREA PER TREE (TABLE 50-2)
SUMMARY:
(1) LARGE TREE WITH 10'X10' PLANTING ARE PER SIDE REQUIRED AND PROVIDED

WALKWAY DIMENSIONS
1/8" = 1'-0"



LANDSCAPE PLAN
1/8" = 1'-0"

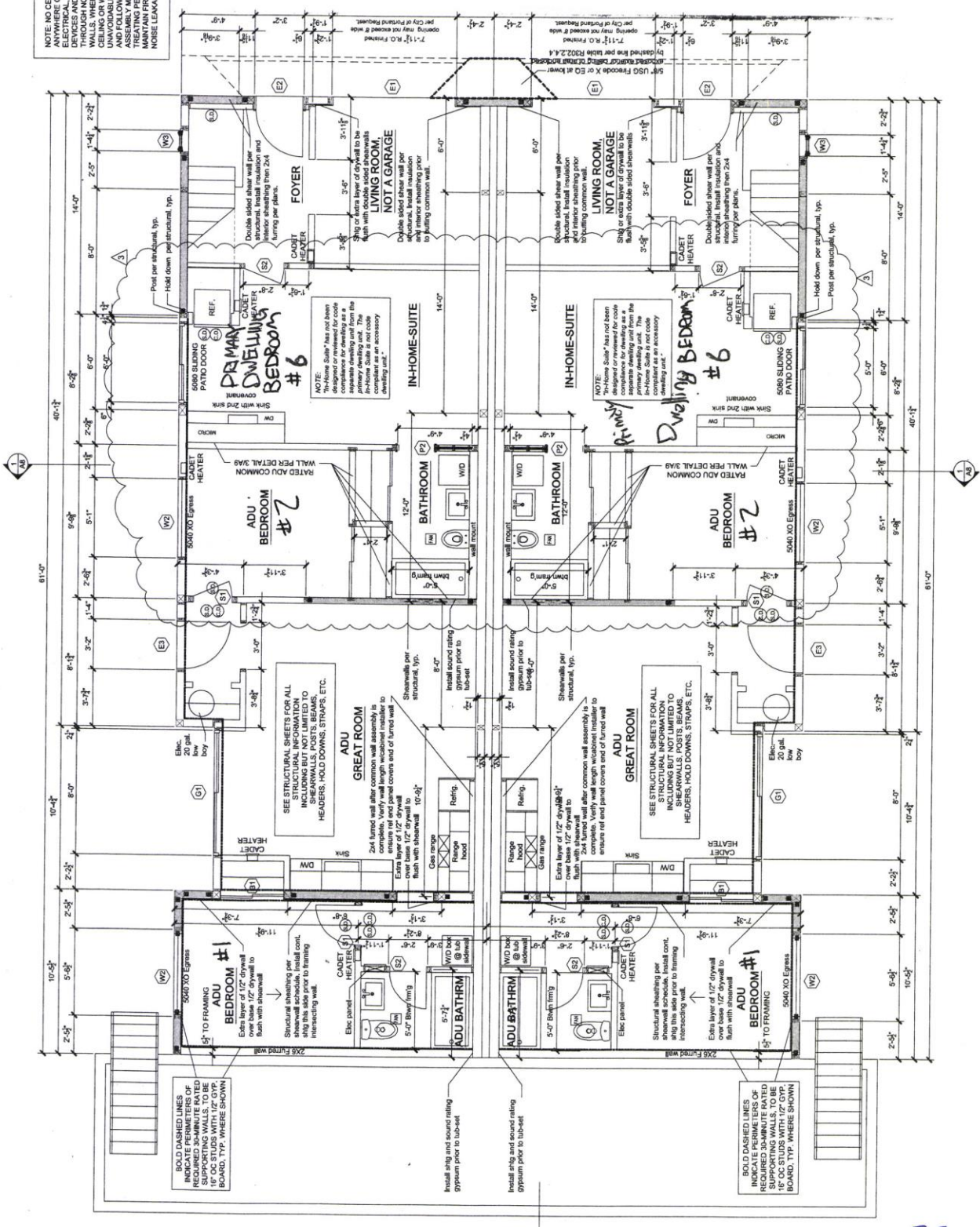


LARGE TREE WITH MIN. 10'X10' AND 150 S.F. PLANTING AREA, WESTERN HEMLOCK (MIN. 5" DBH), OR OTHER SPECIES LISTED IN CITY OF PORTLAND SUGGESTED PLANT LISTS FOR REQUIRED LANDSCAPING. ALL SHRUBS SHOWN TO BE WITHIN 2' OF FOUNDATION.
7X3 GAL. SNOWBERRY OR OTHER SPECIES LISTED IN CITY OF PORTLAND SUGGESTED PLANT LISTS FOR REQUIRED LANDSCAPING. ALL SHRUBS SHOWN TO BE WITHIN 2' OF FOUNDATION.
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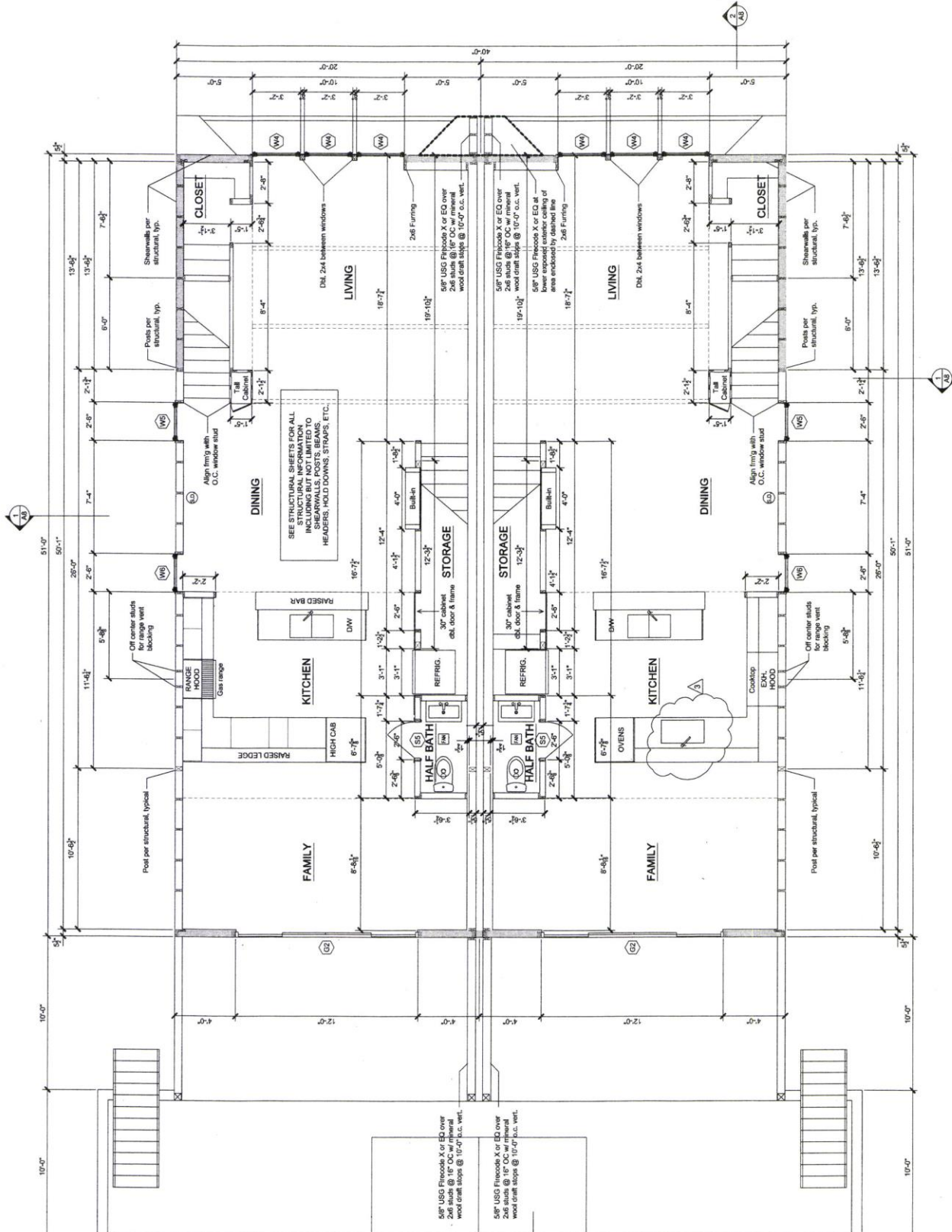
CASE NO. 17-289792 CU
EXHIBIT C.1

17-289792

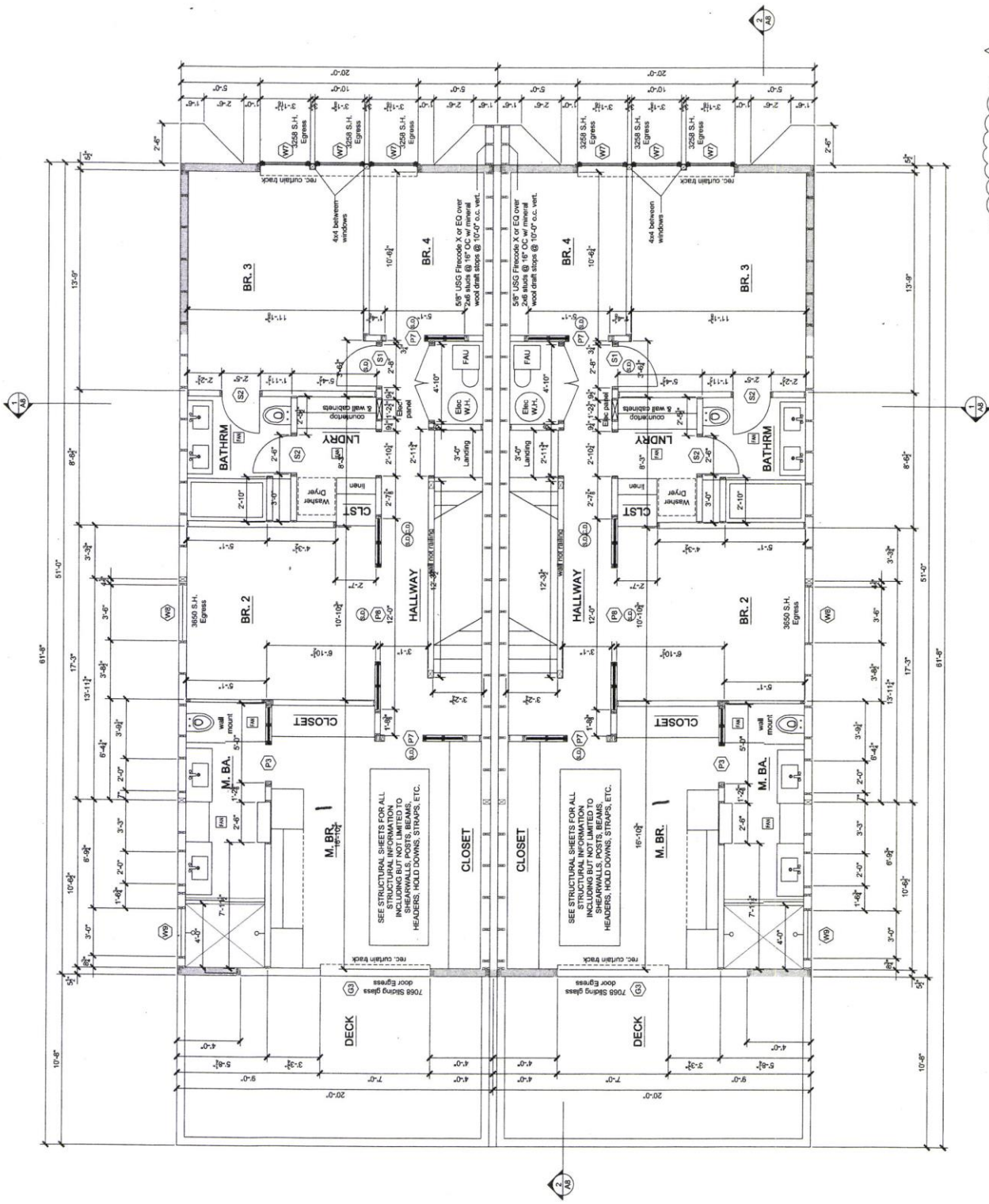
NOTE: NO CEILING PENETRATIONS ANYWHERE ON FIRST FLOOR. ALL ELECTRICAL, MECHANICAL AND OTHER PENETRATIONS ARE TO BE THROUGH NON-COMBUSTIBLE WALLS. WHERE SOUND OR FIRE-RATED CEILING OR WALL PENETRATIONS ARE REQUIRED, INSTALL INSULATION AND FOLLOW CODE AND RATED ASSEMBLY MANF. INSTRUCTIONS FOR PENETRATIONS. VERIFY ALL PENETRATIONS MAINTAIN FIRE RATING & MINIMIZE NOISE LEAKAGE.



CASE NO. 17-289792 CU
EXHIBIT C-2
#1 of 4



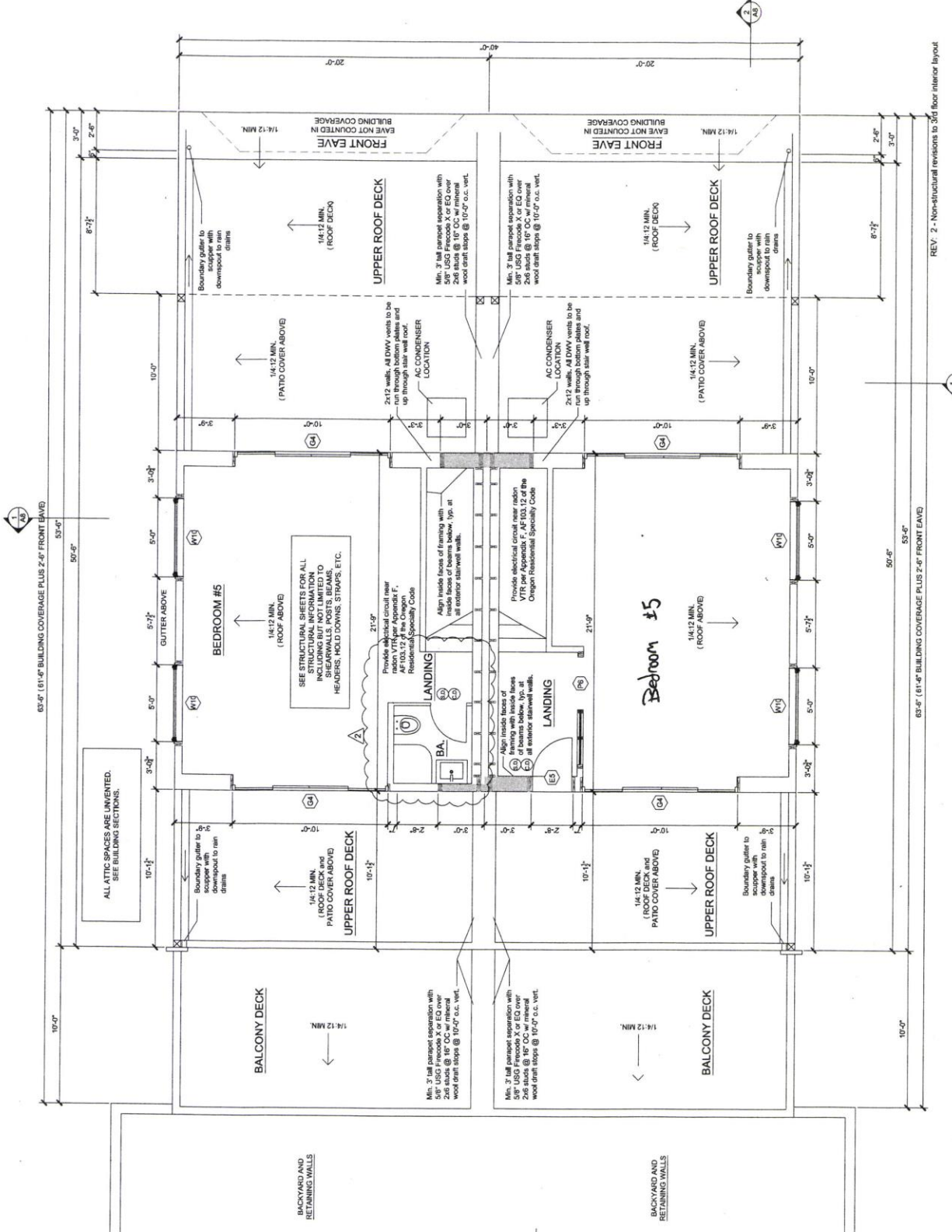
17-289792
 C-2
 # 2 of 4



SEE STRUCTURAL SHEETS FOR ALL INCLUDING BUT NOT LIMITED TO SHEARWALLS, POSTS, BEAMS, HEADERS, HOLD DOWNS, STRAPS, ETC.

SEE STRUCTURAL SHEETS FOR ALL INCLUDING BUT NOT LIMITED TO SHEARWALLS, POSTS, BEAMS, HEADERS, HOLD DOWNS, STRAPS, ETC.

17-289792
C.2
30f



REV. 2 - Non-structural revisions to 3rd floor interior layout

REV. 1 - Non-structural revisions to add bathroom to 4TH floor interior layout

DATE: 11-27-18

ROOF PLAN

Owner:
3959 NE Mallory, LLC

3945 NE Mallory Avenue
Portland, OR 97212

A8

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* C. 2
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