



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

Ted Wheeler, Mayor
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: March 13, 2019
To: Interested Person
From: Staci Monroe, Land Use Services
503-823-0624 / staci.monroe@portlandoregon.gov

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

The Bureau of Development Services has approved a proposal in your neighborhood. The 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 18-281038 HR - NEW EXTERIOR MECHANICAL UNITS

GENERAL INFORMATION

Applicant: Jamie Fisher | Jeffrey Miller Architect
834 SW St Clair Ave. Suite 202 | Portland, OR 97205
503-222-2234 | jamie@jlmarchitect.com

Owners: Ralph Zazula and Kelly A Toshach
1131 SW King Ave | Portland, OR 97205

Contractor: Jeff Jones | Olsen And Jones Construction
9442 SW Barbur Blvd | Portland, OR 97219

Site Address: **1131 SW King Avenue**

Legal Description: BLOCK 1 LOT 1&2, JOHNSONS ADD
Tax Account No.: R431600010
State ID No.: 1N1E33CD 05500
Quarter Section: 3027

Neighborhood: Goose Hollow, contact planning@goosehollow.org.
Business District: Goose Hollow Business Association, contact Angela Crawford at 503-223-6376., Stadium Business District, contact Tina Wyszynski at Tina.wyszynski@gmail.com

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Plan District: None
Other Designations: Historic Landmark individually listed in the National Register of Historic Places on November 28, 1978 and Contributing Resource in King's Hill Historic District

Zoning: **R5**, Single Family Residential 5,000
Case Type: **HR**, Historic Resource Review
Procedure: **Type II**, an administrative decision with appeal to the Landmarks Commission.

Proposal:

The applicant is seeking Historic Resource Review approval for three new mechanical units located in the side yard of the property along SW King's Court. All three units will be located outside the 5'-0" required side setback. Two of the three units will be recessed into the ground. Landscaping located behind the existing metal fence will screen all three units from SW King's Court.

Historic Resource Review is required because the proposal is for non-exempt exterior alterations of a Historic Landmark and contributing resource in a Historic District.

Relevant Approval Criteria:

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

- King's Hill Historic District Design Guidelines

ANALYSIS

Site and Vicinity: The 10,000 SF site is located at the southwest intersection of SW King & Kings court, in the Kings Hill Historic District. The house sits back from SW Kings Avenue occupying the west and southern portions of the lot. The property was added to the National Register of Historic Places in 1978 and designated as a Local landmark in 1977. The house, known as the MacKenzie (W.R.) Residence was built in 1893-4 and designed by the Portland architecture firm Whidden & Lewis. The design of the house is in the Federal Style, with 3 stories with a large covered porch at the central entry off SW Kings Avenue, clapboard siding and punctuated with rusticated wood decoration. A garage at the basement level was added in 1922 that fronts on to SW Kings court. The new mechanical units are proposed next to the garage door up next to the south façade of the house.

The house is also identified as a contributing resource in the Kings Hill Historic District. The Kings Hill Historic District was added to the National Register of Historic Places in 1990 based on factors of historical, visual and physical characteristics, specifically architecture, industry, commerce, performing arts and social history during the period of 1882-1914 and 1915-1942. The historic district comprised of 42 acres of irregularly shaped lots with primarily single family and multifamily residential. The lots and homes are rather large.

Zoning:

The Residential 5,000 (R5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

The Historic Resource Protection overlay is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks and protects certain historic resources in the region and preserves significant parts of the region's heritage. The regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region. The regulations foster pride among the region's citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties

Land Use History: City records indicate there is one prior land use review for this site.

- VZ 201-70 – Denial of a request to increase the height of a fence from 3.5' to 6' in the south front yard.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **January 24, 2019**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (see Exhibit E.1)
- Water Bureau (see Exhibit E.2)
- Bureau of Transportation Engineering (see Exhibit E.2)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on January 24, 2019. One written response has been received from a notified property owner in response to the proposal.

1. Barbara Zappas, dated 2/11/19, primarily asking questions about the need for the mechanical units and potential noise concerns (see Exhibit F.1)

Staff Response - Staff provides the following responses to items in the letter:

- The units are new and are not replacements relocated from elsewhere on the site. The number of units on this site historically is unknown.
- A recording studio is allowed as a Type B Home Occupancy which limits the number of customers to 8 per day. A permit is required to be approved from the City in order to operate a Type B Home Occupation. City records currently do not indicate such permit has been obtained. A code compliance inquiry was filed on 2/7/19 for construction work associated with a recording studio. It was determined the required permits for the building and site alterations has been approved and a recording studio was not operating. The home owner will need to meet the requirement of Zoning Code Chapter 33.203 (Accessory Home Occupation) before conducting the business out of home.
- Two of the mechanical units have been set mostly below grade. A continuous Boxwood hedge will line the south and west edges of the mechanical area. Together these efforts should help to reduce noise from the units when they are in use.
- Per Zoning Code Section 33.203.050, noise associated with a home occupation is limited to 50 dBa as measured from the property line. The Noise Abatement hotline is a resource for future noise concerns with the recording studio.

ZONING CODE APPROVAL CRITERIA

Chapter 33.846.060 - Historic Resource Review

Purpose of Historic Resource Review

Historic Resource Review ensures the conservation and enhancement of the special characteristics of historic resources.

Historic Resource Review Approval Criteria

Requests for Historic Resource Review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

Findings: The site is located within the King's Hill Historic District and the proposal is for a non-exempt treatment. Therefore Historic Resource Review approval is required. The approval criteria are the *King's Hill Historic District Guidelines*.

Staff has considered all guidelines and addressed only those applicable to this proposal.

King's Hill Historic District Guidelines

A1. Historic Character. Retain and preserve the diverse historic character of the King's Hill Historic District.

A3. Historic Material, Features, and Color. During exterior rehabilitation, protect, maintain, and preserve historic materials, color, and architectural features.

P2. Embellish the Different Levels of Buildings. Embellish the different levels of a building that are visible from the streets or public open spaces. Enhance the pedestrian network by forming visual connections from buildings to adjacent streets. Incorporate building equipment, mechanical exhaust systems, and/or service areas in a manner that does not detract from the pedestrian environment.

D6. Site and Landscape Characteristics. Site new construction to respect and complement historic development patterns in the King's Hill Historic District. Incorporate landscaping as a design element that integrates with the built and natural environment. When incorporating lighting, integrate it with mature plantings, landscaping, parking area, and special district features.

D7. Elevated Lots, Fences, and Retaining Walls. Use changing grades and site elevation as design elements. Site new buildings and make site modifications in a way that reinforces the existing pattern present in surrounding historic buildings and the topography. Maintain existing garden walls at or near the property line. Replace retaining walls where they previously existed.

Findings for A1, A3, P2, D6 and D7: The proposal meets these guidelines in the following manner:

- The 3 new mechanical units are set within the side yard of the property facing SW King Court between the house and the existing fence. No exterior alterations to the house are proposed. The height of the units will be approximately 3.5' above the grade adjacent of the house sitting well below the bay of windows on the south façade. Therefore, the historic materials, colors or architectural features on the home will not be impacted.
- The house sits on an elevated lot that slopes down towards each street. The proposal respects the topography of the site by setting the two larger units within a "well" between the house and the iron gate, where the grade is flat and far from the existing retaining walls near the streets. In this way, the proposal maintains the topography and retaining walls that are characteristic of the historic district.
- The addition of boxwood evergreen shrubs will assist in screening portions of the larger units and the small unit that will exist above the finished grade and adds to the heavily landscaped character of the district.
- The proposal successfully integrates these mechanical units in a manner that will limit the impacts on pedestrian environment and on the district. The location on the side yard and behind the roof of the garage will ensure the formal entry and front yard are not impacted. The recessed location of the larger units within the "well" and the evergreen shrubs along the south and west edges behind the wrought iron gate will limit the visibility from SW Kings Court. The recessed location and shrubs should also help buffer noise that may be generated when the units are in use.

These guidelines have been met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all requirements of Title 11 can be met, and that all development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review, prior to the approval of a building or zoning permit.

CONCLUSIONS

The purpose of the Historic Resource Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. This proposal meets the applicable Historic Resource Review criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of three new mechanical units per the approved site plans, Exhibits C-1 through C-9, signed and dated 3/11/19, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) 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 18-281038 HR." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. No field changes allowed.

Staff Planner: Staci Monroe



Decision rendered by: _____ **on March 11, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 13, 2019

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 20, 2018, and was determined to be complete on January 22, 2019.

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 20, 2018.

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 22, 2019.**

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 Landmarks Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on March 27, 2019** 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 Landmarks Commission 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 Landmarks Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **March 28, 2019** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

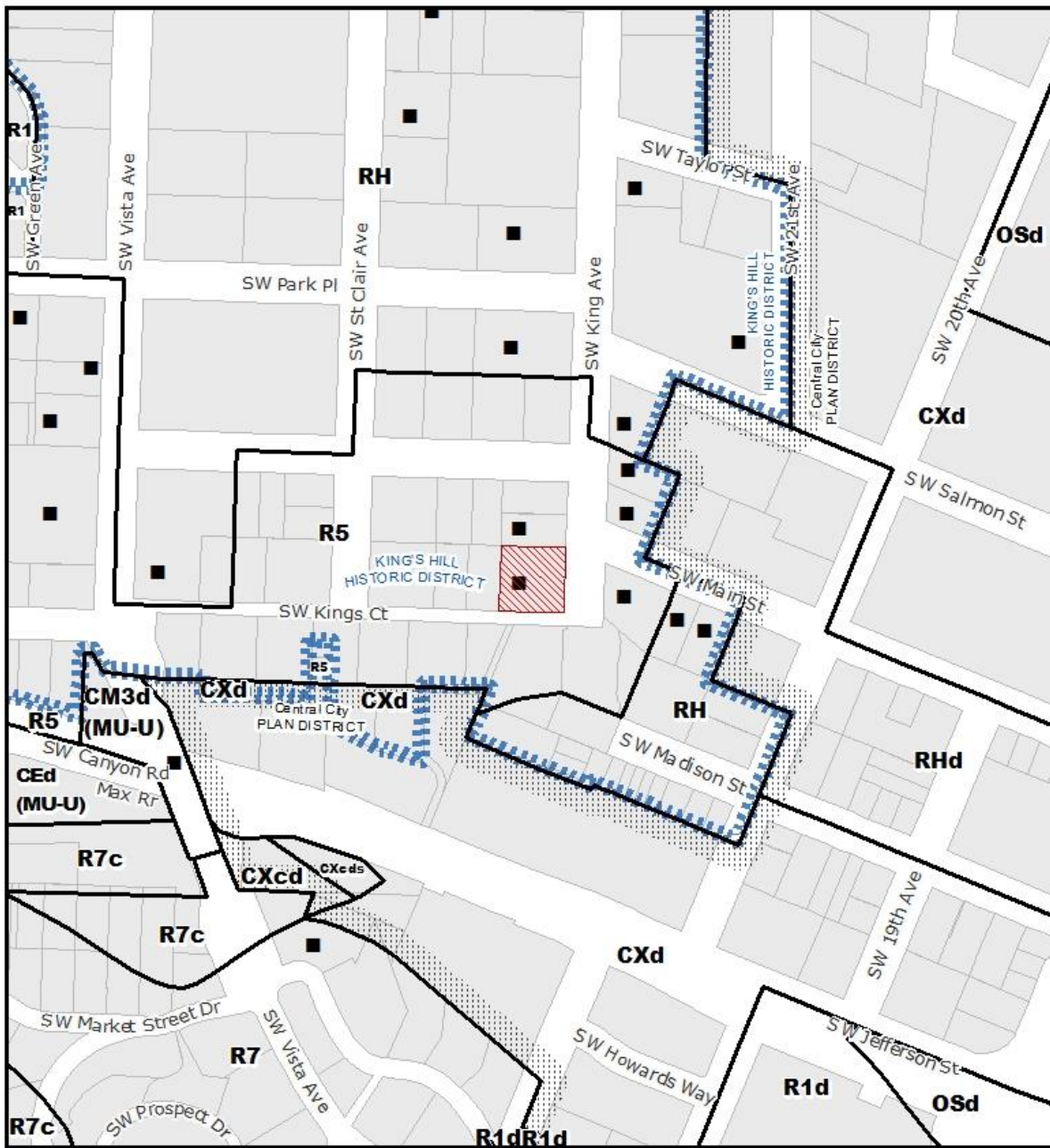
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Photos of existing conditions
 2. Narrative of proposal & responses to approval criteria
 3. Original drawing set submitted
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Enlarged Proposed Floor Plan – Mechanical Area (attached)
 3. Enlarged Existing Floor Plan – Mechanical Area
 4. South Elevation
 5. East Elevation/Section through garage
 6. Site section facing east through mechanical area
 7. Site section facing east
 8. Site section facing north through mechanical area (attached)
 9. Section facing east through existing stair
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Water Bureau
 3. Bureau of Transportation Engineering and Development Review
- F. Correspondence
 1. Barbara Zappa, dated 2/11/19, primarily asking questions about the need for the mechanical units and potential noise concerns.
- G. Other:
 1. Original LU Application
 2. Incomplete letter dated 1/3/2019
 3. NRHP Form

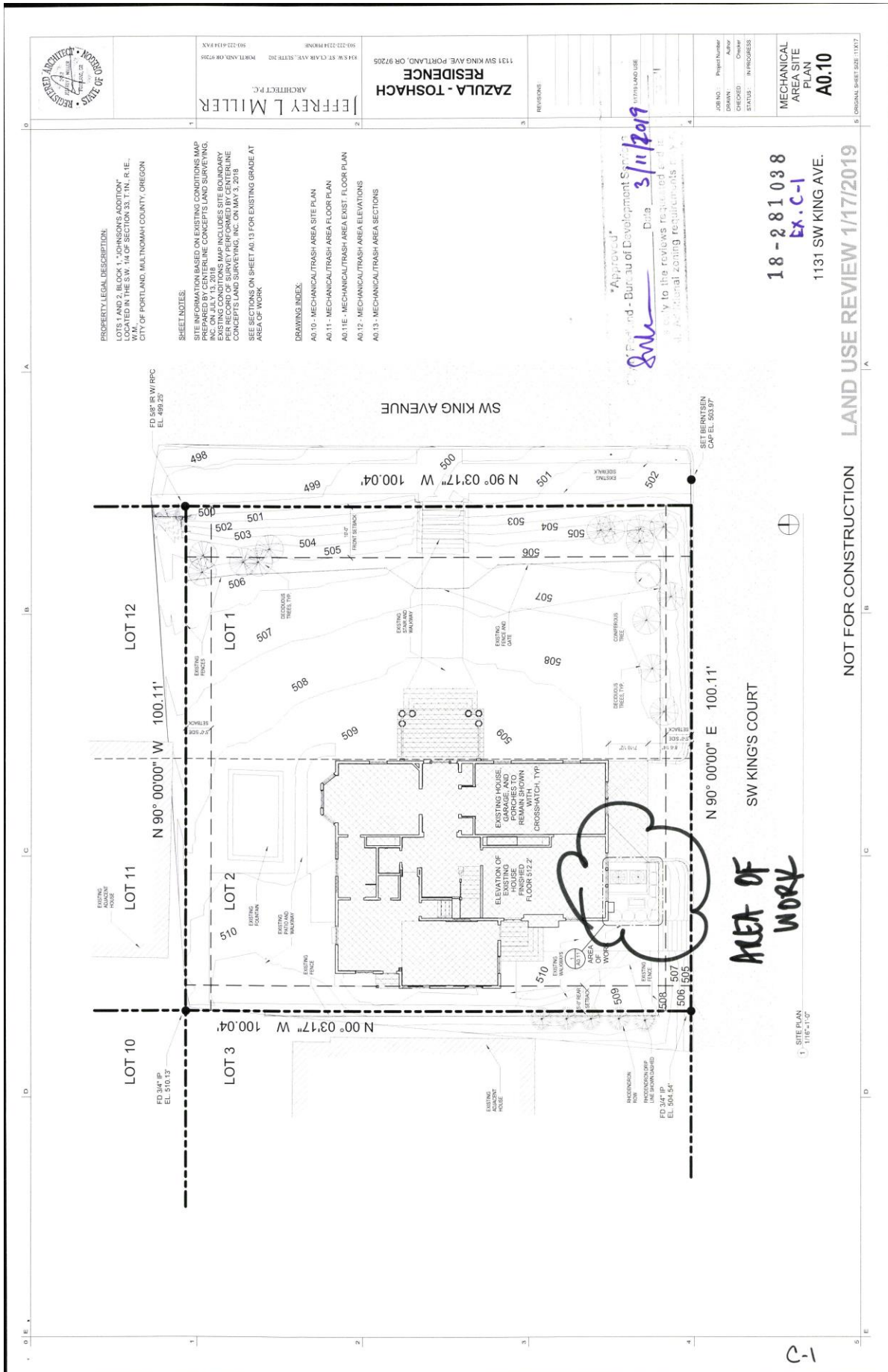
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
 THIS SITE LIES WITHIN THE:
 KING'S HILL HISTORIC DISTRICT

-  Site
-  Historic Landmark

File No.	LU 18-281038 HR
1/4 Section	3027
Scale	1 inch = 200 feet
State ID	1N1E33CD 5500
Exhibit	B Dec 26, 2018



PROPERTY LEGAL DESCRIPTION:
 LOTS 1 AND 2, BLOCK 1, JOHNSON'S ADDITION,
 W.M., AS SHOWN IN THE S.W. 1/4 OF SECTION 35, T.1N., R.1E.,
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

SHEET NOTES:
 SITE INFORMATION BASED ON EXISTING CONDITIONS MAP
 PREPARED BY CENTERLINE CONCEPTS LAND SURVEYING
 INC. ON MAY 3, 2018. THIS MAP INCLUDES SITE BOUNDARY
 EXISTING CONDITIONS MAP PERFORMED BY CENTERLINE
 CONCEPTS LAND SURVEYING, INC. ON MAY 3, 2018
 SEE SECTIONS ON SHEET A0.13 FOR EXISTING GRADE AT
 AREA OF WORK

DRAWINGS INDEX:
 A0.10 - MECHANICAL/TRASH AREA SITE PLAN
 A0.11 - MECHANICAL/TRASH AREA FLOOR PLAN
 A0.11E - MECHANICAL/TRASH AREA EXIST. FLOOR PLAN
 A0.12 - MECHANICAL/TRASH AREA ELEVATIONS
 A0.13 - MECHANICAL/TRASH AREA SECTIONS

JEFFREY L MILLER
 ARCHITECT P.C.
 1414 S.W. 57 CLARK AVE., STE 212
 PORTLAND, OR 97205
 503.222.4134 FAX
 503.222.4134 PHONE

ZAZULA - TOSHACH
 RESIDENCE
 1131 SW KING AVE. PORTLAND, OR 97205

REVISIONS

NO.	DATE	DESCRIPTION

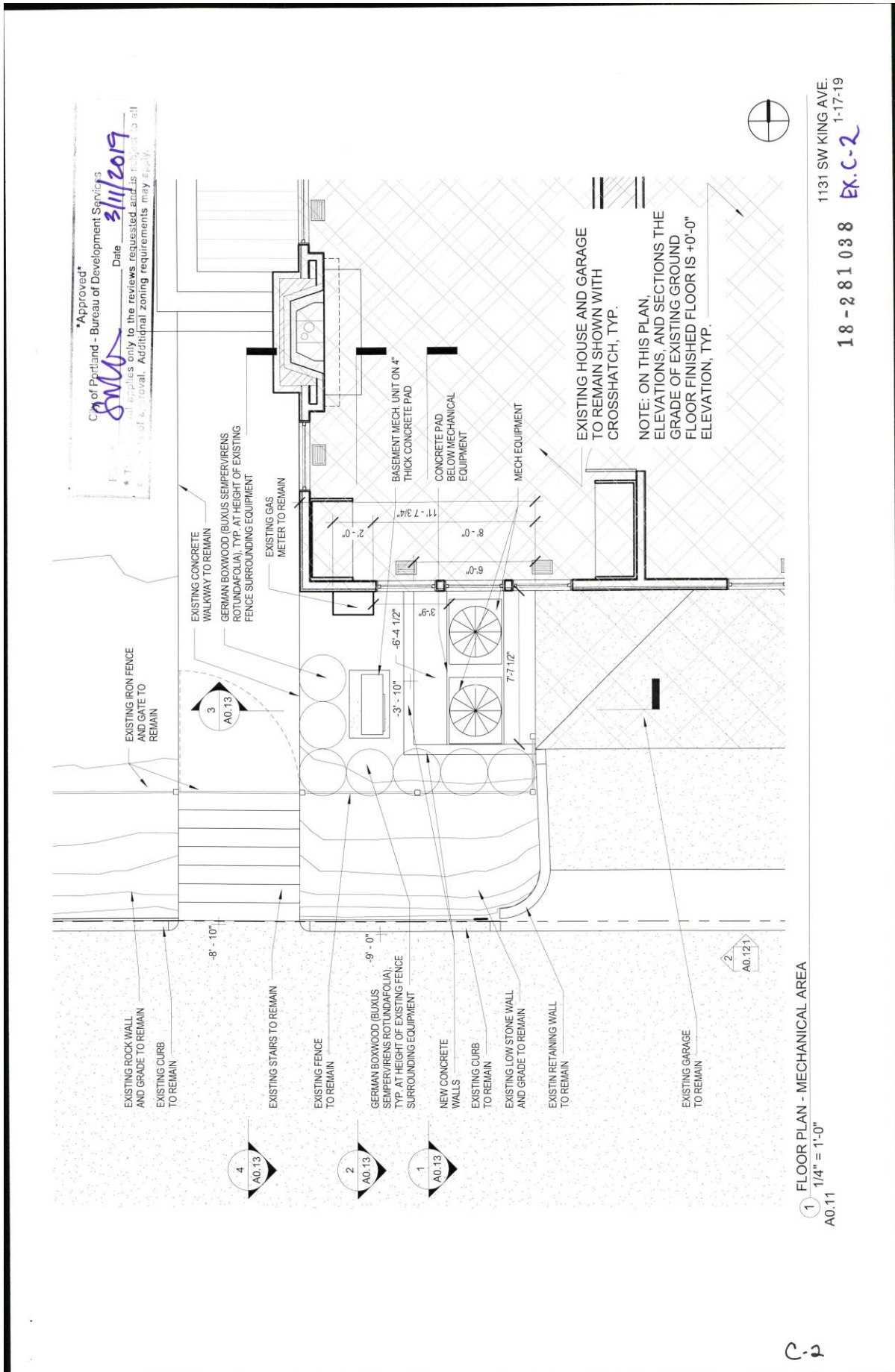
JOB NO.: Project Number
 DRAWN: Author
 CHECKED: Checker
 STATUS: IN PROGRESS

MECHANICAL
 AREA SITE
 PLAN
A0.10

Approved - Bureau of Development Services
 Date 3/11/2019
 See to the reviews requested and to
 additional zoning requirements

18-281038
 Ex. C-1
 1131 SW KING AVE.
 LAND USE REVIEW 1/17/2019

C-1

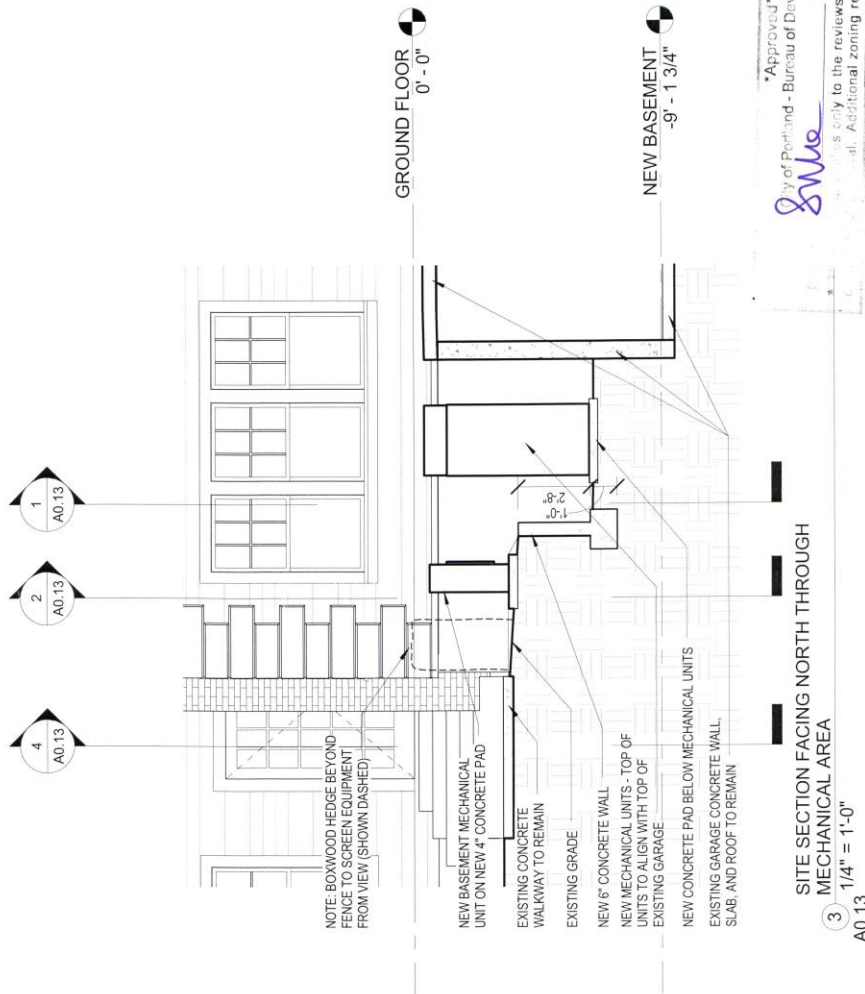


Approved
 City of Portland - Bureau of Development Services
 Date **3/11/2019**
 SWG
 This plan complies only to the reviews requested and is subject to all applicable codes, rules, and regulations. Additional zoning requirements may apply.

1131 SW KING AVE.
 1-17-19
EX. C-2

1 FLOOR PLAN - MECHANICAL AREA
 A0.11 1/4" = 1'-0"

C.P



1131 SW KING AVE.
 1-17-19
 18 - 281038
 EX. C-8

C-8