



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

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[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** April 15, 2008  
**To:** Interested Person  
**From:** Nan Stark, Land Use Services  
503-823-7828 / [nstark@ci.portland.or.us](mailto:nstark@ci.portland.or.us)

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

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 08-112163 AD**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Janet M Kneedler  
4305 SE Raymond St  
Portland, OR 97206-5081

**Representative:** Kendra Lwebuga, Spinnaker Architect  
4420 NE 30th Avenue  
Portland, OR 97211

**Site Address:** 4305 SE RAYMOND ST

**Legal Description:** EXC N 50' LOT 15&16 BLOCK 4, COLLEGIATE HTS  
**Tax Account No.:** R170600420  
**State ID No.:** 1S2E18BB 17000  
**Quarter Section:** 3535

**Neighborhood:** Woodstock, contact Terry Griffiths at 503-771-0011.  
**Business District:** Woodstock Community Business Association, contact Nancy Chapin at 503-774-2832.

**District Coalition:** Southeast Uplift, contact Gary Berger at 503-232-0010.  
**Zoning:** R5, High-density single-dwelling 5,000

**Case Type:** AD, Adjustment  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The owner wishes to convert the existing attached single-car garage to living area. The driveway leading to the garage is 19'8" from the front property line. The zoning code (standard 33.266.120) does not allow parking in the setback, which in this case is the first 5 feet from the side (Raymond Street) property line. A required parking space is 9' x 18', and the additional 5 foot setback requires a driveway of 23 feet long. The existing driveway does not meet this

standard, and consequently the owner requests an Adjustment to allow parking partially in the 5-foot setback, thus allowing a driveway length of 19'8" rather than the required 23 feet.

## ANALYSIS

**Site and Vicinity:** The site is a 5,000 square-foot lot at the corner of SE Raymond Street and 43<sup>rd</sup> Avenue, developed with a one-story house built circa 1937. A single-car garage is on the east side of the house, accessed from Raymond Street, and connected to the house by a roof that creates a breezeway between the structures.

The vicinity in all directions is zoned R5, and is primarily developed to reflect this single-dwelling zoning that is generally found in the closer-in established neighborhoods of the city.

**Zoning:** The site lies within the R5a zone, Single Dwelling Residential 5,000 with an Alternative Design Density overlay zone. The R5 zone is one of several that implements the Comprehensive Plan designation for single dwelling residential. The 'a' overlay allows options for additional density when specific standards are met. The requested Adjustment is not utilizing any provisions of the 'a' overlay zone.

**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 **March 11, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

The Bureau of Transportation Engineering responded that the only impact related to the proposed Adjustment would be the potential for a parked vehicle to conflict with pedestrian movement along the right-of-way. The length of the driveway is not changing. There is no existing sidewalk corridor along the site's Raymond Street frontage, nor is there any such corridor along the other two lots along this block face. It is unlikely that the subject lot or other two properties on this block will be partitioned in the future. There is no additional demand on the local transportation system being created by the garage conversion. For these reasons, Portland Transportation will not be requiring the applicant to provide the recommended sidewalk corridor in the City's Pedestrian Design Guide. Consequently, there won't be any potential for conflicts between a car parked on the subject site's driveway and pedestrians, and as a result, Portland Transportation has no concerns with regard to the proposed Adjustment.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on March 11, 2008. Staff received a letter from a neighboring property owner in response to the proposal, expressing support for it.

## ZONING CODE APPROVAL CRITERIA

### 33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below, have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** The purpose of the standard regulating parking is to enhance the appearance of neighborhoods. The proposed garage conversion does not change the length of the driveway, which is identical to that of the driveway on the abutting property to the east. Both driveways can accommodate a single vehicle.

The existing garage on the subject site is flush with the house, and is situated on the east side of it, separated from the house but attached by a roof providing a breezeway between the structures. The property slopes up slightly from the street, so that the driveway and front yard are above the curb level. There are no public sidewalks on this block of Raymond Street. The narrow 13-foot wide driveway is almost 20 feet long, and thus just over 3 feet shorter than what is required for a car to be parked on it by right. The minimal difference between what is allowed and what is proposed will not be discernible to those passing by. Parking a vehicle in the existing driveway will not interfere with pedestrian passage, which is now provided by a path through grass along the front yards of the properties on the block. Parking is now provided by the garage and driveway and will, with this Adjustment, be limited only to the driveway. Consequently, there will be no physical change to the driveway or yard, thus not affecting the appearance of the site or neighborhood. Therefore, this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** The depth of the driveway, at just under 20 feet, is adequate to accommodate residential vehicles without hanging over the sidewalk or right-of-way. In this case, as Portland Transportation has indicated, there is no sidewalk corridor along the subject property or the other two properties on this side of Raymond Street. Nonetheless, pedestrians do have space to walk in front of the property through the grass, and a parked car in the driveway will not interfere with their passage.

The existing driveway will not change in size. The only change to the appearance of the site will be removal of the garage door, and enclosing the area that is now open between the house and garage. As the south elevation drawing shows, the garage door will be replaced with two windows and walls sided with the same brick that covers the façade of the house. The layout of the house across this side of the lot is such that the proposed changes will be minimally noticeable from the street or neighbors' perspectives. The slight reduction in the length of the driveway from what is required (23 feet) to what is existing (19'8") will not detract from either livability or appearance of the neighborhood, and in fact will not result in any physical change to the driveway. This criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Only one adjustment is requested. This criterion is not applicable.

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

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

**Findings:** There are no discernible impacts that would result from granting the requested adjustment. The existing driveway will remain and can continue to accommodate vehicles on site. The physical changes to the garage conversion will be minimally noticeable from the street or nearby neighbors, and will retain the design elements of the house. This criterion is met.

**F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** The site is not within an environmental zone, which is designated on the zoning map by either a "c" or "p" overlay. Therefore, this criterion is not applicable.

## 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 applicants propose to replace their one-car garage with living area, and fully attach the garage to the house. The existing driveway will remain and will not change in size, continuing to provide off-street parking for one vehicle. The driveway is of more than adequate length to accommodate residential vehicles without encroaching onto the pedestrian path in front of the site, and will not detract from the appearance or livability of the neighborhood, or cause any impacts.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to zoning code standard 33.266.120 to allow parking in the side setback, allowing a driveway length of 19'8" rather than the required 23 feet. This approval is subject to the approved site plan and elevation drawing, Exhibits C-1 and C-2, signed and dated April 11, 2008.

**Decision rendered by:**  **on April 11, 2008**

By authority of the Director of the Bureau of Development Services

**Decision mailed: April 15, 2008**

**Staff Planner: Nan Stark**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 February 28, 2008, and was determined to be complete on March 7, 2008.

*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 February 28, 2008.

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.

**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 Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 29, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 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](http://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 Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

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

**Recording the final decision.**

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

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **April 30, 2008 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-7967.

**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.

**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.

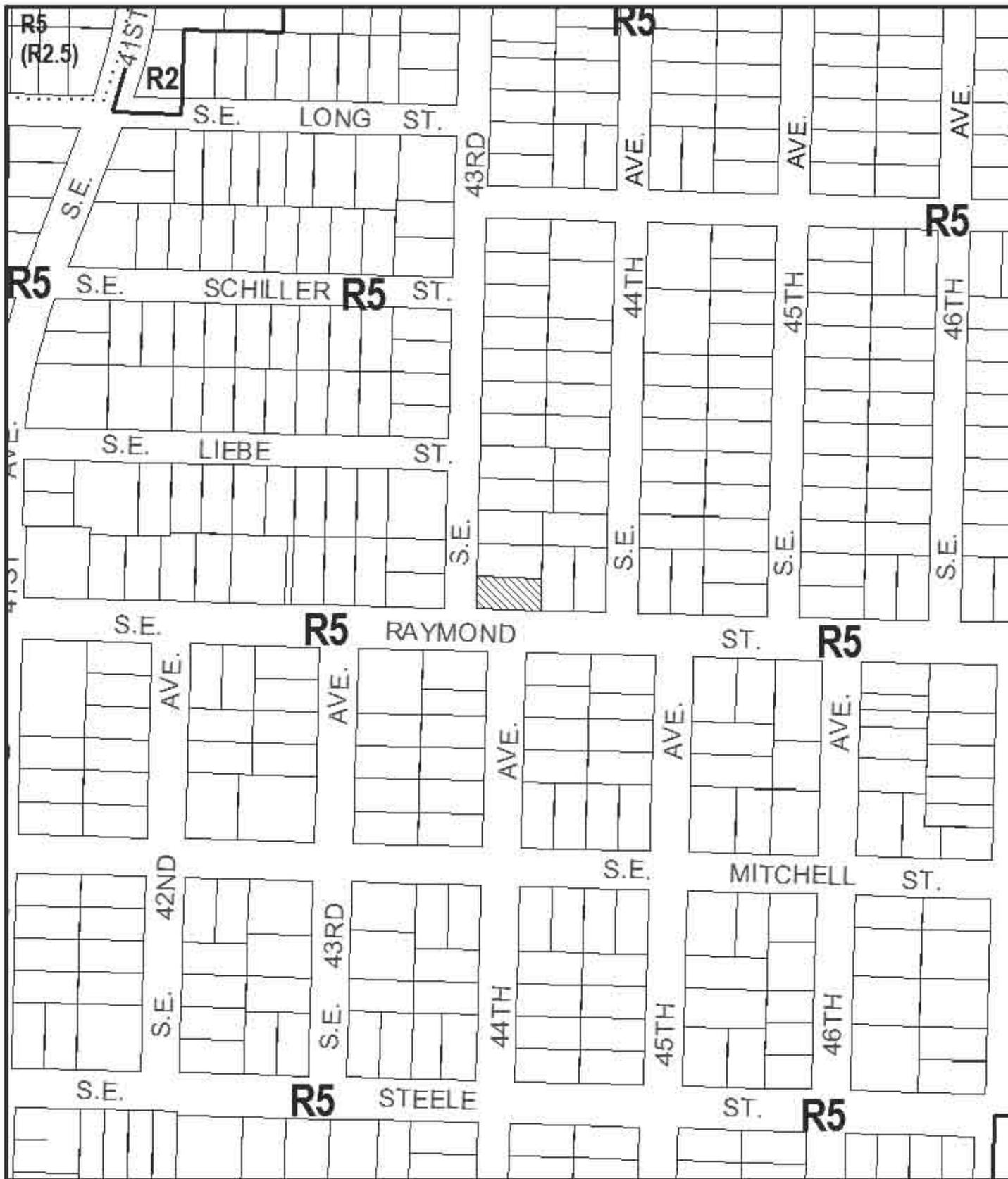
**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

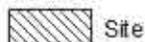
- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Elevation drawing, south (attached)
  3. Floor plan
  4. Perspective view
  5. Section drawings and details
- D. Notification information:
  1. Mailing list
  2. Mailed notice
- E. Agency Responses:
  1. Bureau of Environmental Services
  2. Office of Transportation

3. Water Bureau
  4. Fire Bureau
  5. Site Development Review Section of BDS
  6. Bureau of Parks, Forestry Division
  7. Plan Review section of BDS
- F. Correspondence:
1. S. Streeter, March 17, 2008, in support
- G. 1. Original LU Application

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).**



# ZONING



File No.	<u>LU 08-112163 AD</u>
1/4 Section	<u>3535</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S2E18BB 17000</u>
Exhibit	<u>B (Mar 03,2008)</u>

