



City of Portland
Bureau of Development Services
Land Use Services Division

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Portland, Oregon 97201
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www.portlandonline.com/bds

Date: June 30, 2008
To: Interested Person
From: Matt Wickstrom, Land Use Services
503-823-7840 / wickstromm@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 08-107960 AD

GENERAL INFORMATION

Applicant: John MacKinnon
Northwest Architecture & Design PC
515 NW Saltzman Rd., No 722
Portland, OR 97229

Owner: Arnold Mecham Sr.
2240 SE 20th Ave.
Portland, OR 97214

Site Address: 2240 SE 20TH AVE

Legal Description: LOT 10 BLOCK 6, MAYHEU PK
Tax Account No.: R547000690
State ID No.: 1S1E02DD 11800
Quarter Section: 3232

Neighborhood: Hosford-Abernethy, contact Frank Dufay at 503-232-0204
Business District: Division-Clinton Business Association, contact Nancy Chapin at 503-774-2832
District Coalition: Southeast Uplift, contact Gary Berger at 503-232-0010

Zoning: R5 (Residential 5,000)

Case Type: AD (2 Adjustments)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is requesting two Adjustments to standards in the Portland Zoning Code for a new breezeway roof that was constructed on the property in 2007: One Adjustment request is to the side building setback standard (33.110.220) and the second Adjustment request is to the maximum building coverage standard (33.110.225).

In the R5 zone, the minimum side building setback standard is 5 feet. The footprint of the new breezeway roof, like that of the original structure, extends to within 6 inches of the north side property line. The new footprint also includes an additional 35 square feet of roof area within the side setback, which allows the roof to wrap around a portion of the north side of the existing house. Additionally, the new breezeway structure increases the building coverage of the site to 2,879 square feet – the maximum allowed building coverage for the site is 2,100 square feet. Two Adjustments are requested as part of this land use review; the first to reduce the north side setback from 5 feet to 6 inches for the roof of the rebuilt/new breezeway and the second to increase the maximum allowed building coverage from 2,100 square feet to 2,879 square feet.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of 33.805.040 A-F, Adjustments.

ANALYSIS

Site and Vicinity: The 4,600 square foot lot is located at the corner of SE 20th Avenue and SE Sherman Street. It is developed with a single-dwelling residence which faces SE 20th Avenue. The site is also developed with a single-car garage which is attached to the house by a breezeway which was reconstructed/expanded in 2007. The rear of the garage and the roof of the breezeway are located approximately 6 inches from the north property line of the site. The surrounding vicinity is primarily developed with single-dwelling residences although a small apartment building is located across SE Sherman Street from the site with other apartment buildings and a commercial building located further to the south and southeast of the site.

Zoning: The site is zoned R5 (Residential 5,000). The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet.

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 **May 19, 2008**. The following Bureaus have responded:

- The Bureau of Environmental Services (BES) responded with information on sanitary services, stormwater management and water resources. The initial BES response and a response from the Site Development Section of BDS stated that neither Bureau could support the proposal without additional information about the existing and proposed stormwater management system. An amended response was received from BES on June 23, 2008. The response states that BES (and Site Development) supports the proposal as a result of the applicant providing a revised site plan which identifies the stormwater management plan for the site. The response states that “the applicant proposes to have all downspouts disconnected from the City-owned system. Stormwater will be managed on the site. The downspout on the NW corner of the garage will be reconfigured; a new lateral drain pipe will be installed to run from the NW corner gutter to the new front SW corner downspout on the garage. The SW corner of the garage will have a downspout run down to the driveway without a splashblock. The driveway acts as a splashblock, in a sense. There is an existing downspout on the SE corner of the garage that will remain. The house has an existing downspout that will remain. For the front porch, there will be chains with gravel on the two corners of the porch. The revised site plan does not show sanitary services. However, because the applicant does not propose to connect the downspouts to the City-owned system, it is acceptable to not show the sanitary services (combination gravity mains in SE 20th Ave. and SE Sherman St.) at this time” (Exhibit E-1).
- The Life Safety Section of BDS responded that a separate building permit is required for the work proposed and the proposal must be designed to meet the applicable building codes and ordinances. The response also states that exterior walls less than 3 feet to a property line shall be one-hour fire-rated with no openings allowed. In addition, eaves which project less than 3

feet to a property line must be protected on the underside as required for one-hour fire-rated construction (Exhibit E-2).

Staff Response: The applicant received approval of a building code appeal for the location of the breezeway structure and eaves to be within 3 feet of the property line. Documentation of this approval is attached to Exhibit E-2.

- The Development Review Section of Portland Transportation as well as the Fire, Water and Parks Bureaus all responded with no concerns (Exhibit E-3).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on May 19, 2008. A total of two written responses have been received from notified property owners in response to the proposal.

- The first response was received from the owner of an adjacent property to the west of the site. The response states that the improvements to the breezeway and the proposed retaining wall will and have improved the “look of our neighborhood and have been done in a considerate manner”. The respondent “strongly supports” approval of the Adjustment request (Exhibit F-1).
- The second response was received from the owners of an adjacent property to the north of the site. The response states that as far as the appearance of the project goes, “we have no concerns regarding the changes. They look nice and are well done”. The response also states that the property owners trust BDS staff to make sure questions of code and safety are addressed “as that is not our area of expertise” (Exhibit F-2).

ZONING CODE APPROVAL CRITERIA

Title 33.805.10 Purpose of Adjustments

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

33.805.40 Adjustment Approval Criteria

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

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

Findings: The applicant requests two Adjustments associated with the construction and expansion of a breezeway which was completed in 2007. The first Adjustment request is to reduce the north setback from 5 feet to 6 inches for the roof of the breezeway. The second Adjustment is to increase the maximum allowed building coverage from 2,100 square feet to 2,879 square feet. The purpose of the setback and building coverage regulations are listed below:

33.110.220.A Setbacks – Purpose

The setback regulations for buildings and garage entrances serve several purposes:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the city's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*

- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

33.110.225.A Building Coverage – Purpose

The building coverage standards, together with the height and setback standards, control the overall bulk of structures. They are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site.

Adjustment 1 - Setback

The location of the breezeway roof is in-line with the rear setback of the garage on the site; therefore the breezeway roof will not block light and air any more than the garage. Its one-story height also helps limit impacts to the availability of light and air for the adjacent property to the north. The applicant received approval of a building code appeal for the location of the breezeway structure and eaves to be less than 3 feet from the property line. The approval document states that the new breezeway structure essentially has the same footprint as the original breezeway structure which was removed. The proposed upgrades (as described above under Agency Review – Life Safety) increases the fire protection as compared to the original breezeway which was removed. Also, the proposed upgrade for this breezeway has greater fire protection than the current adjacent existing garage. Based on this information, the proposal meets fire protection requirements. In order to ensure that these upgrades are made, a condition of approval has been added to this land use review. The new/reconstructed breezeway will not block access by fire protection personnel. In addition, the Fire Bureau responded to the Notice of Proposal with no concerns. The one-story height of the breezeway, its open design and its location next to a garage which when detached would be allowed by right within the side setback ensures that the Adjustment request to reduce the side setback is not out of character with the general building scale and placement of homes in the residential neighborhood. In addition, the applicant has provided information which shows that the original breezeway which attached the garage to the house was constructed in a similar location and had existing for quite some time. As the breezeway will provide outdoor recreation area rather than living space and no living space on adjacent properties is located in close proximity to the breezeway, an adequate physical relationship between residences is preserved. Furthermore, the location of the breezeway roof will not negatively impact privacy as existing landscaping and fencing and/or opportunities to plant landscaping or install fencing are not compromised. Based on this information and including the condition of approval, this criterion is met.

Adjustment 2 – Building Coverage

Due to the reconstruction/expansion of the breezeway, the building coverage of the site exceeds the maximum allowed in the R5 zone. Building coverage standards are intended to control the overall bulk of structures. In this case, the breezeway is open on its sides which allows light and air to travel through and is only one-story in height. These factors limit the overall bulk of the structure and ensure that the excess building coverage on the site will not overwhelm adjacent houses. In addition, both adjacent or abutting neighbors to the north and west of the site (those most impacted by the increased building coverage) responded with support for the Adjustment request. Furthermore, the applicant has provided photos which show that a breezeway was previously constructed in a similar location of the site. This breezeway remained until it was demolished and replaced with a new breezeway which added approximately 35 square feet of building coverage in the side setback, a minimal amount of additional building coverage in the side setback. The additional building coverage requested as part of this Adjustment Review will not alter the function of the house as a single-dwelling residence as is the intended function of the R5 zone.

The BES and Site Development respondents expressed concern with the impacts of the project on the stormwater management system at the site. After providing a site plan which shows the direction and function of all downspouts, the revised response received stated that both Bureaus find the proposal acceptable. In order to ensure that alterations to the stormwater management system are consistent with the proposal reviewed by BES and Site Development, a condition of approval has been added to this land use review. The condition requires that the stormwater management system comply with the BES response dated June 23, 2008 (quoted above under Agency Review – Bureau of Environmental Services) and as shown on the attached site/stormwater plan.

Based on this information, 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 proposal to decrease the side setback for the roof of the breezeway and to increase the maximum allowed building coverage for the site will not detract from the livability or appearance of the residential neighborhood. This is especially evident based on the two letters of support received from the adjacent property owners to the north and west of the site – those who are most impacted by the Adjustment requests. The breezeway roof and improvements made to the site are well-designed and help compliment the appearance of the house. Based on this information, 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: The purpose of the single-dwelling zones is to preserve land for housing and to provide housing opportunities for individual households. The proposal to allow the roof of the breezeway to be located 6 inches from the side property line and to increase the maximum allowed building coverage from 2,100 square feet to 2,879 square feet does not conflict with this purpose. The house will still function as a single-dwelling residence for individual households. This criterion is met.

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

Findings: Impacts associated from the requested Adjustments are mitigated to the extent practical through the conditions of approval required as part of this land use review. One condition of approval which requires that one-hour fire-rated requirements are met ensures that the project meets fire protection standards. The second condition of approval requires that stormwater management requirements are met which includes the applicant disconnecting from the public system and managing stormwater on-site. This ensures that the project will not increase the flow of stormwater to the public system. The neighbors to the north and west of the site responded with support of the Adjustment requests which, considering that the breezeway has primarily already been constructed, further ensures that impacts are minimal or non-existent. Based on this information, this criterion is met.

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

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resources and resource value as is practical.

Findings: The site does not contain any identified scenic or historic resources and the site is not located in an environmental zone; therefore, these criterion are 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 applicant proposes two Adjustments associated with the construction of a breezeway which attaches the existing garage to the residence on this site. As noted in this report, the project is able to meet the Adjustment approval criteria with approval granted based on the single-story height of the breezeway, its location in-line with the rear of the detached garage, letters of support from the two neighboring property owners and conditions of approval relating to building code and stormwater requirements. With approval requiring that the permit drawings substantially conform with the site plan and elevation drawing attached, the request meets the applicable criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of two Adjustments to 33.110.220.A Setbacks and 33.110.225.A Building Coverage to:

- reduce the side setback from 5 feet to 6 inches for the roof, any columnar supports of the breezeway and the garage; and
 - increase the maximum allowed building coverage for the site from 2,100 square feet to 2,879 square feet,
- per the approved site plans, Exhibits C-1 through C-3, signed and dated June 26, 2008, 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 08-107960 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The project must meet the requirements of building code appeal ID number 5146 which includes adding a one-hour rated fire-resistive enclosure to the two new columns and 1 layer of 5/8" Type X gypsum board to the underside of this new breezeway roof 3 feet from the property line, as determined by the Building Plans Examiner.
- C. The stormwater management system on the site must comply with the BES response dated June 23, 2008 (quoted above under Agency Review – Bureau of Environmental Services) and shown on the attached the site/stormwater plan, as determined by BES.

Decision rendered by:  on June 26, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: June 30, 2008

Staff Planner: Matt Wickstrom

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 February 8, 2008, and was determined to be complete on May 13, 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 8, 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 requested that the 120-day review period be extended for 16 days (Exhibit A-3).

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 July 14, 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. 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. 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.

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 **July 15, 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 503-823-0625.

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. 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 and Original LU Application
 1. Incomplete letter from Nan Stark to John MacKinnon
 2. Email from John MacKinnon to Nan Stark dated May 12, 2008
 3. Email from John MacKinnon to Matt Wickstrom requesting to extend the 120-day decision deadline dated June 10, 2008

4. Supplemental submittal received June 20, 2008
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. North Elevation Drawing (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services/Site Development Section of BDS
 2. Life Safety Section of BDS
 3. Summary sheet of Bureau responses
- F. Correspondence:
 1. Claudia Haag, May 22, 2008, support of Adjustment request
 2. Darci Nielsen and Jesse Gravenor, June 9, 2008, support for Adjustment request
- G. Site History Research

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



Site

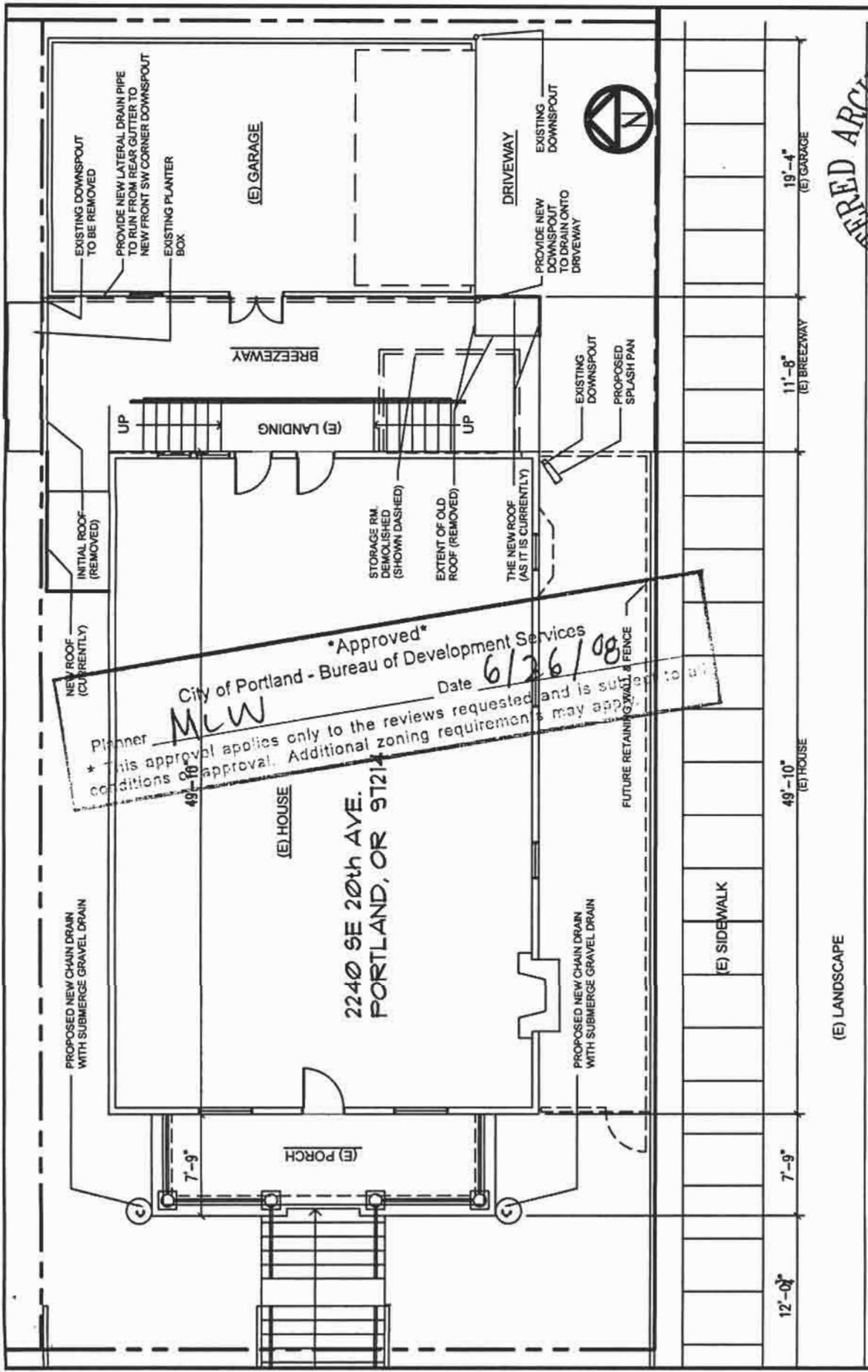


Historic Landmark



NORTH

File No.	LU 08-107960 AD
1/4 Section	3232
Scale	1 inch = 200 feet
State_Id	1S1E02DD 11800
Exhibit	B (Feb 21,2008)



Planner **MCW**
 City of Portland - Bureau of Development Services
 Approved
 Date **6/26/08**
 * This approval applies only to the reviews requested and is subject to the conditions of approval. Additional zoning requirements may apply.

EXHIBIT D - SITE PLAN (REV.: BES / SITE DEV.) DATE: 6-18-08 SCALE: 1"=10'

NW Architecture & Design, PC
 515 NW Saltzman Rd. #722
 Portland, OR 97229
 Phone: (503) 710-8551
 Fax: (503) 297-0409
 nwarchitecture@comcast.net

REGISTERED ARCHITECT
 JOHN R. MAC KINNON
John R. MacKinnon
 PORTLAND, OREGON
 STATE OF OREGON
 EXPIRES: 6-30-08
 © 2006, NW Architecture & Design, PC

08-107960 AD

Approved

City of Portland - Bureau of Development Services

Planner MLW Date 6/26/08

→ This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

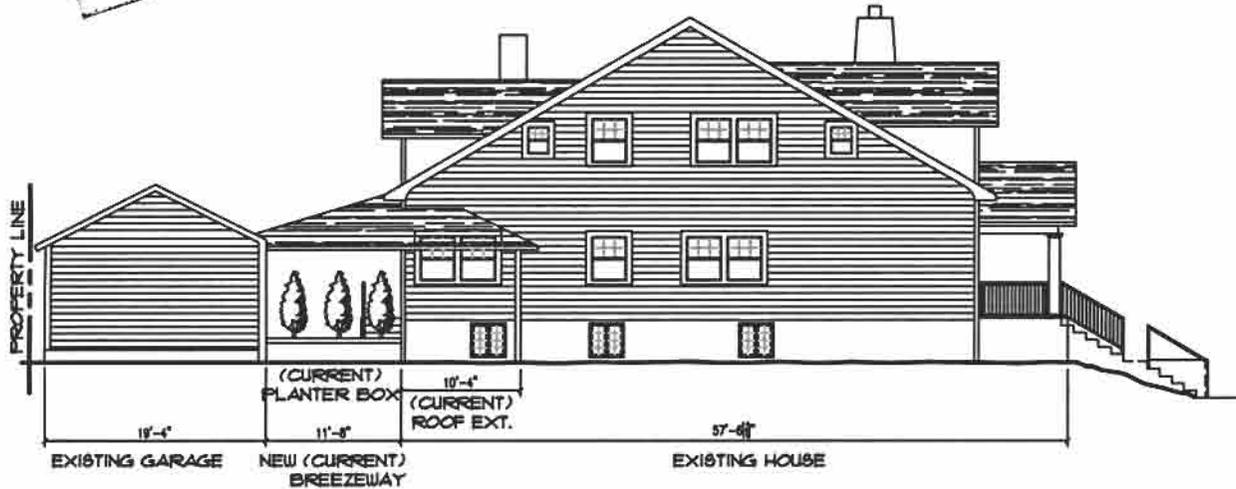


EXHIBIT G - NORTH ELEV

ADJUSTMENTS FOR 2240 SE 20th AVE.
PORTLAND, OR 97214

DATE: 2-1-08
SCALE: 1/16" = 1'-0"



NW Architecture
& Design, PC

515 NW Saltzman Rd. #722
Portland, OR 97229
Phone: (503) 710-8551
Fax: (503) 297-0409
nwarchitecture@comcast.net

