



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: July 7, 2008
To: Interested Person
From: Sylvia Cate, Land Use Services
503-823-7771 / scate@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 08-129855 AD

GENERAL INFORMATION

Applicant/Owner: Randall R. Suess
5623 SW Taylors Ferry Rd.
Portland, OR 97219

Owner: Clifford L. Hawkins
8504 SE 55th Ave.
Portland, OR 97206

Site Address: 0240 SW Nebraska St.

Legal Description: LOT 7 BLOCK 22 W 50' OF LOT 9 BLOCK 22, SOUTHERN PORTLAND
Tax Account No.: R780204100
State ID No.: 1S1E15CD 10100
Quarter Section: 3629

Neighborhood: South Portland NA., contact Jim Davis at 503-248-9820
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592

Plan District: None
Other Designations: None

Zoning: R5, Single-Dwelling Residential 5,000

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

Proposal: The applicant is proposing to construct a second story addition to the front half of an existing church (Willamette Park Congregation of Jehovah's Witnesses) located at 0240 SW Nebraska Street. The addition will include an office, small meeting room, break area, and ADA-

compliant restrooms. The proposed addition will be built on top of the exterior walls of the existing structure, so there will be no increase in the size of the building footprint.

The applicant is requesting an Adjustment to the front, side, and rear setback standards for the new addition and associated features. Section 33.110.245 and Table 110-5 of the Zoning Code require building walls of institutional uses to be a minimum of 15 feet from property lines. Eaves may extend 20 percent into required setbacks. The ordinance (No. 105647) that approved the original construction of the church in 1957 allowed setbacks for the building to be less than 15 feet. Currently, the north and south sides of the building are set back 12' 6", while the west side of the building is set back 9' 8". The church's parking lot is on the east side of the building.

On the north (front) side of the church, the new addition will, like the existing front building wall, be set back 12' 6" from the front property line. The north eaves will extend 3' from the building and be 9' 6" from the front property line. An awning over the north-facing door will project 4' from the building and be 8' 6" from the front property line. On the west side of the building, the proposed addition will, like the existing building wall, be set back 9' 8" from the property line. Eaves will extend 3' from the wall and be 6' 8" from the property line. The applicant also proposes exterior stairs for the west side of the building. The stairs will extend 4' from the building and be 5' 8" from the side property line. On the south side of the structure, eaves on the new roof will extend 3' from the building wall and be 9' 6" from the property line.

Relevant Approval Criteria:

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

ANALYSIS

Site and Vicinity: The 10,000 square foot site is located at 0240 SW Nebraska Street. The existing church, which occupies the western half of the lot, was built in 1957. The eastern portion of the lot is occupied by the church's parking lot. The site slopes gently from west to east and a retaining wall borders the site on its west, east, and south sides.

The surrounding neighborhood is made up primarily of older single-family residences, with newer multi-dwelling residences scattered throughout the area. Another church, Hope Korean Presbyterian Church, is one block east of the site on SW Virginia Street. The Portland French School is located one block to the north. Most commercial development within the area is concentrated along SW Macadam Avenue.

Zoning: The zoning on the site is R5 (Residential 5,000). The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 5,000 square feet. In addition to residential uses, institutional uses, which include churches, are allowed within the R5 zone as limited or conditional uses. Along with regular base zone development standards, institutional uses within residential zones are subject to institutional development standards found in Section 33.110.245 of the Zoning Code. In this case, a Conditional Use review is not necessary, since the total amount of additional floor area is less than 1,500 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 **June 4, 2008**. The following Bureaus have responded with no issues or concerns about this proposal:

- Portland Office of Transportation
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks – Urban Forestry

- The Bureau of Environmental Services responded with information on sanitary services, stormwater management, and water resources. The response states no objections to the proposed adjustment.
- The Life Safety Section of BDS responded that a building permit is required for work that is proposed and that the proposal must meet all applicable building codes and ordinances.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 4, 2008. No written responses have been received from either the Neighborhood Association or from notified property owners in response to the proposal.

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 applicant is requesting an Adjustment to Section 33.110.245 and Table 110-5 to reduce the 15-foot front, side, and rear setbacks for a second story addition and associated features to an existing church building. The purpose of the setback regulations, as stated in Section 33.110.220A., include the following:

- *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, and options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards; and*
- *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.*

The second-story addition to the church will be built on top of the exterior walls of the existing structure. The current front and rear building setbacks will remain at 12' 6". The current west side building setback will remain at 9' 8". Eaves for the addition, like the existing eaves, will extend 3' from building walls. An exterior stairway for emergency egress will extend 4' from the west building wall and an awning over the north-facing door on the first floor will extend 4' from the front building wall.

An Adjustment to front, side, and rear setback standards for the second-story addition and associated features will not have adverse impacts on light, air, separation for fire protection, or emergency access. The addition will not result in any increase in building coverage on the site. Distances from building walls and eaves to property lines will remain unchanged. Distances from building walls and eaves to residences on adjacent lots to the west and south will also not change as a result of the addition.

The addition will add bulk and height to the existing structure. Measured from grade to the top of the gabled roof, the second-story addition will increase the height of the building to approximately 31 feet. This height is well within the maximum allowed building height of 50 feet as stated in Section 33.110.245 and Table 110-5 of the Zoning Code. Other factors help to mitigate any potential impacts to light, air, and

privacy that might result from the increased building height. The site is gently sloped from west to east and is lower in grade than adjacent properties to the west and south. The addition will also cover only the front half of the church, with the roof line of the southern portion of the building remaining at its current height. Further, adjacent residences to the west, south, and east are multi-story, so the height of the church with the new addition will reflect the general building scale of the surrounding area.

To ensure privacy for adjacent residences to the west and the south, there will be no windows on the south and west facades of the addition. Proposed landscaping within side setbacks will also help to ensure that privacy is maintained for adjacent properties. An existing laurel hedge along the east and west sides of the lot will be replaced with a 6' fence on top of existing retaining walls. Arborvitae will also be planted along the length of the side property lines. For the reasons stated above, 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 request for an Adjustment to front, side, and rear building setbacks as part of the construction of the second-story addition will not significantly detract from the livability or appearance of the residential area. For reasons stated above under criterion A, granting the Adjustment will not result in any decrease in light, air, or privacy for adjacent properties. Because the new addition will include only an office, small meeting room, break area, and restrooms, there will be no increase in the intensity of use of the church and no increase in traffic or noise. The design of and materials used for the addition, including the use of larger eaves, shingles, and windows along the upper front façade, will allow the church to blend more effectively with the residential character of the area. 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 being requested. This criterion is therefore not applicable.

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

Findings: The site does not contain city-designated scenic or historic resources. This criterion is therefore not applicable.

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

Findings: No impacts are expected to result from the proposed Adjustment, since the new addition will not increase the building footprint and adequate separation will exist between the building and adjacent residences to maintain light, air, and privacy. No mitigation is necessary. This approval criteria 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. This criterion is therefore 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.

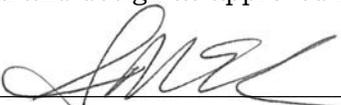
CONCLUSIONS

The applicant has demonstrated that the approval criteria have been met. Granting the Adjustment to setback standards will still meet the intent of the code for setbacks in single-dwelling residential areas, will not significantly detract from the livability or appearance of the neighborhood, and will not result in adverse impacts that require mitigation. The design of the addition and the materials used in its construction will result in a building that better resembles single-family residences within the neighborhood. This proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.110.245 and Table 110-5 to reduce the required 15-foot front, side, and rear setbacks as part of the construction of an addition to an existing church per the approved plans, Exhibits C.1 through C.5, signed and dated July 2, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.5. The sheets on which this information appears must be labeled "Proposal and design as approved in Case File # LU 08-129855 AD."

Decision rendered by:  **on July 2, 2008**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 7, 2008

Staff Planner: Sylvia Cate

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 May 16, 2008, and was determined to be complete on May 30, 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 May 16, 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 July 21, 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 22, 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:

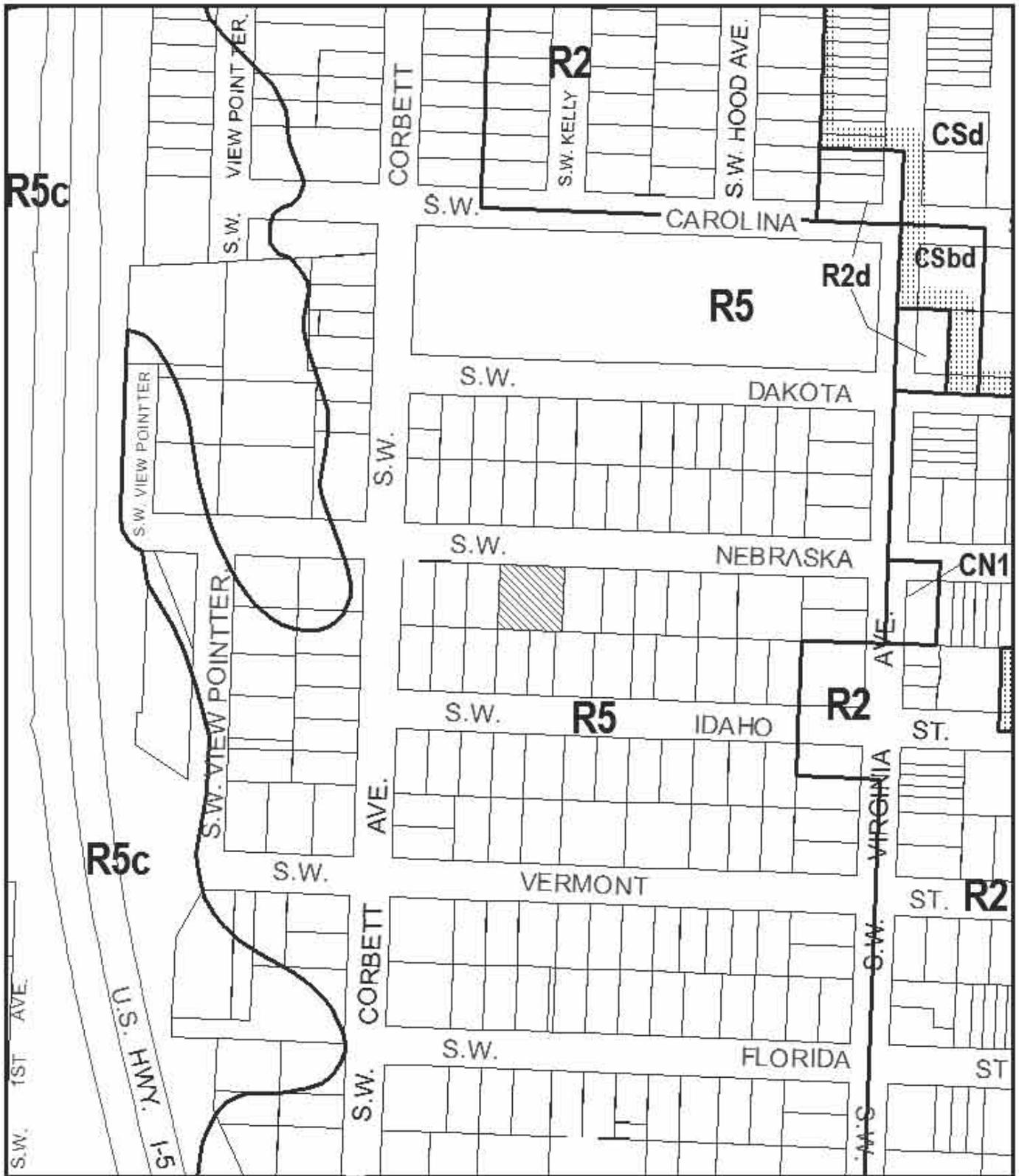
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. North and West Elevation (attached)
 - 3. South and East Elevation (attached)
 - 4. Landscape Plan
 - 5. Site Utilities Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Office of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Review Section of BDS
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. 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).



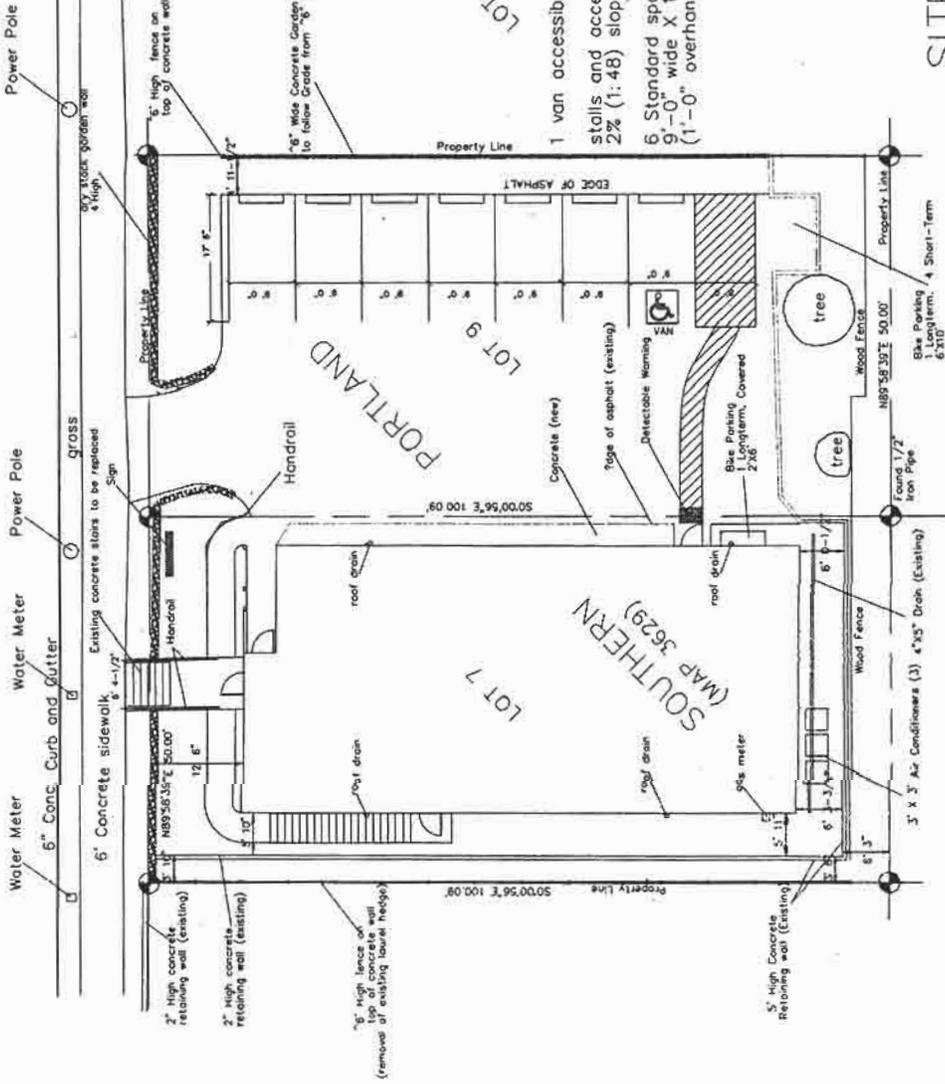
ZONING

 Site



File No. LU 08-129855 AD
 1/4 Section 3629
 Scale 1 inch = 200 feet
 State Id 1S1E15CD 10100
 Exhibit B (May 22, 2008)

NEBRASKA ST.



Approved
 City of Portland
 Bureau of Development Services
 Planner _____
 Date 7/2/08

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

1 van accessible ada space stalls and access areas no more than 2% (1:48) slope in all directions. See A9

6. Standard spaces 9'-0" wide X 18'-6" deep (1'-0" overhang into planter)

SITE PLAN

SCALE: 1/8"=1'

EXHIBIT C.1

LJ08-129855 AD

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|-----|------|----|------|
| REV | DATE | BY | CHKD |
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WILLAMETTE PARK CONGREGATION
 KINGDOM HALL OF JEHOVAH'S WITNESSES
 PORTLAND, OREGON

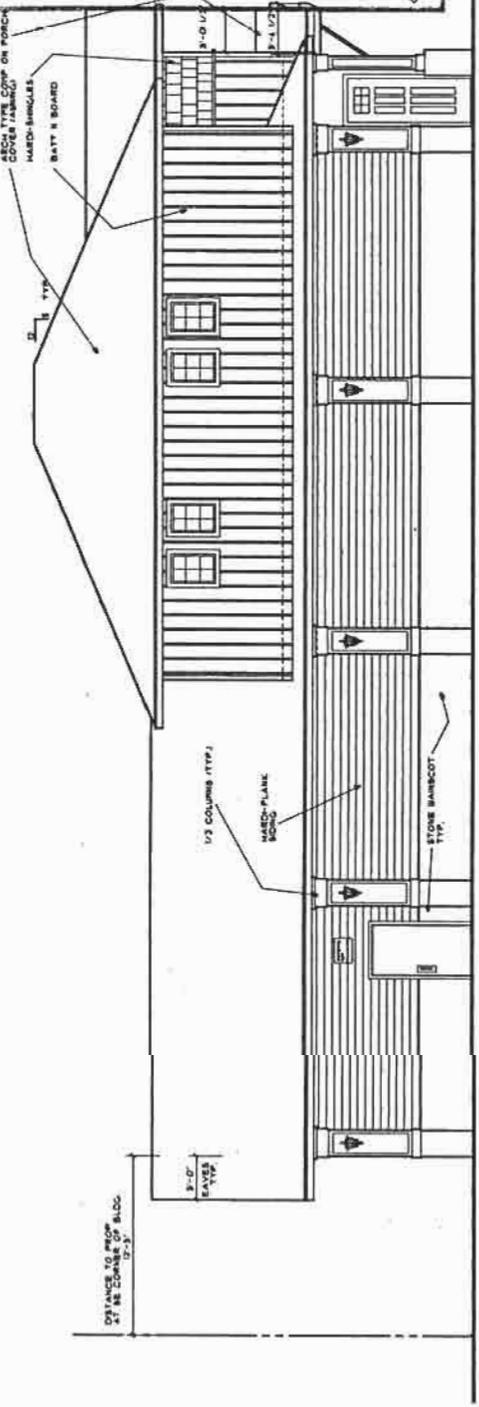
DATE: 7/2/08
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]

FEE NO. 99166444
 LOT 7, BLOCK 22, THE WEST 50 FEET OF
 MULTNOMAH, STATE OF OREGON
 CITY OF PORTLAND, COUNTY OF
 MULTNOMAH, STATE OF OREGON

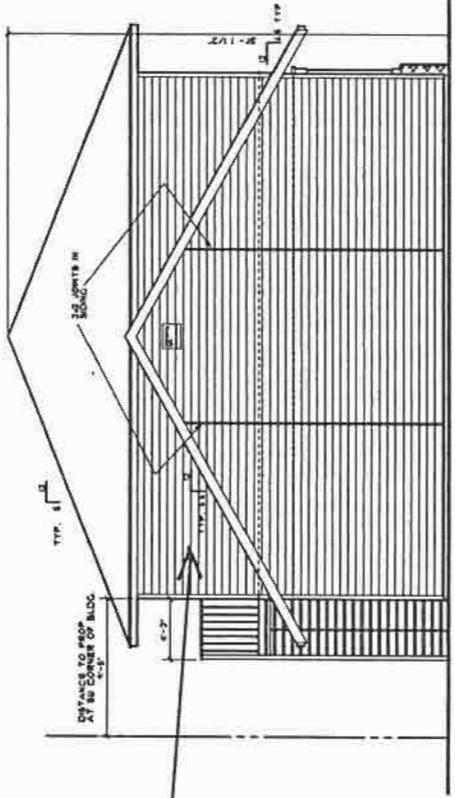
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|-------------------------------------|----------|
| WILMETTE PARK | |
| KINDRED HALL OF REFORMERS WITNESSES | |
| PORTLAND, OREGON | |
| EAST & SOUTH ELEVATIONS | |
| DATE | REV |
| JAN. 2008 | AS NOTED |

Planner _____
 Date 7/2/08
 * This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.

Approved*
 City of Portland
 Bureau of Development Services



EAST ELEVATION
 SCALE: 1/8" = 1'-0"



SOUTH ELEVATION
 SCALE: 1/8" = 1'-0"

No windows permitted on upper South facade

Exhibit C.3

LU08-129855 AD