



City of Portland, Oregon
Bureau of Development Services
Land Use Services

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www.portlandonline.com/bds

Date: June 16, 2009
To: Interested Person
From: Nan Stark, Land Use Services
503-823-7828 / 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 09-124401 AD

GENERAL INFORMATION

Applicant: Linda Rentfrow
13668 SW Michelle Ct
Tigard, OR 97223-5620

Representative: Allan Kabanuk, Designer
4420 NE 105th Ave
Portland, OR 97220

Site Address: 1967 SE 28TH AVE

Legal Description: TL 6000 0.08 ACRES, SECTION 01 1S 1E
Tax Account No.: R991010310
State ID No.: 1S1E01CB 06000
Quarter Section: 3233

Neighborhood: Hosford-Abernethy, contact Kina Voelz at 971-207-9243.
Business District: Division-Clinton Business Association, contact Darice Robinson at 503-233-1888.
District Coalition: Southeast Uplift, contact Leah Hyman 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 build a second story above the existing 1½ -story house, with the second-story walls directly above the first story. The existing house, built in 1926, is 4 feet from the side property lines. The zoning code requires that structures are at least 5 feet from the side property lines in this zone. The existing eaves project 2 feet from the house, which is 2 feet from the property lines; the addition is proposed with the same eave length. The current code allows eaves to project 20 percent further into the setback than the building. Consequently, in order to build the second-story addition above the existing walls with the same eave length as existing, the applicant is requesting an Adjustment to the setback

standard, 33.110.220 B, to reduce the setbacks for the second story from the required 5 feet to 4 feet for the building wall and to 2 feet for the eaves.

Also proposed is a deck above the existing rear enclosed porch extending across the length of the rear of the house. The uncovered deck is allowed to encroach into the setback by 20 percent, or 1 foot, and consequently its location at 4 feet from the side property lines, in alignment with the house, is allowed and not subject to this review.

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 site is a 40' x 87.5' lot developed with a 1½ -story house with a rear dormer. The 1926 cottage style house is built characteristic of this era, with a prominent front porch and long eaves. The house extends across most of the width of the lot, with 4-foot side building setbacks. The 2-foot long eaves extend to 2 feet from the side property lines. A basement level garage is on the north side of the house.

The neighborhood is characterized by single dwelling development built in the early 20th century, with occasional infill development throughout representing all decades of the 20th century. Houses vary in size from single-story to 2½ stories, like the abutting house to the south. The site is one lot north of Harrison Street, which is a Neighborhood Collector street between SE 26th and 30th Avenues. Harrison Street is also a City Bikeway and City Walkway.

Zoning: The site is zoned R5. The R5 zone corresponds to the High-Density Single-Dwelling designation of the Comprehensive Plan. This zone allows a density of 8 lots per acre, with average lot size of 5,000 square-feet.

Land Use History: City records indicate that there is no prior land use history for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **May 15, 2009**. The following Bureaus have responded with no issues or concerns:

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on May 12, 2009. Staff received one letter, of support, from a neighboring property owner in response to the notice.

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 intent of requiring side building setbacks is to maintain air, light and emergency access; to reflect the general building scale, placement and physical relationships between buildings; to promote options for privacy and architectural diversity; and to provide flexibility to build so that it will be compatible with the neighborhood, fit the topography and allow for required outdoor areas.

From the street, the subject house appears as a single-story structure with attic, indicated by the high pitch of the roof and windows in the gables on the sides of the house. The abutting house to the south is a 2½ -story dwelling with long eaves, and is on a grade slightly above the subject site. The new roofline resulting from the addition will still be below that of the neighboring one to the south. The house to the north is separated from the subject site by its single-car driveway, so that it is over 10 feet from the common property line between the two properties. The two houses are set back similarly from the street, so that any reduction to sunlight from the subject house will fall on the driveway and house, and will not affect the back yard. Consequently, there will be no effect on light or air to the houses on either side. Likewise, emergency access will not change, as the second story will be built directly above the existing walls, and the existing setback is adequate to provide such access.

By adding a second story to this cottage, the house will remain characteristic of the immediate neighborhood, where 1½ to 2½ -story houses predominate. The relationship of the subject house to the abutting ones on either side will not change, which currently has the appearance that the 5-foot setbacks are met. The longer eaves are an important architectural detail that also characterizes the neighborhood, and are typically closer to the property lines than allowed by the current code due to their length. This proximity of eaves to the property line is somewhat of a defining feature of this primarily older and built-up neighborhood, giving it a somewhat more dense appearance but with a strong architectural consistency.

The addition is designed with second-floor windows that will be several feet above floor level, allowing in light but not providing direct views into or out of the internal space. Consequently, there is no effect on privacy; in fact, the existing windows in the side gables are individually larger and longer. As the addition is proposed to be built directly above the existing walls, there is no change to the house's footprint, and consequently no effect on the outdoor area on the site. Therefore, the proposal supports the purpose of the setback regulation, thus meeting this criterion.

- 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 addition of a second story to the existing dwelling will not detract from either the livability or appearance of this residential area. As seen from the public street, there will be a change in the appearance of this dwelling, but a second story in this area is typical. The proposed design maintains the cottage-style character of the original house, carrying through elements including the eave length, windows with mullions on the front elevation, and a small window in the gables. The request to allow the eaves to encroach into the setback, as the existing ones do, will allow the two-foot eave length, which is an important feature that characterizes the era of the house and many of the dwellings in the neighborhood. Additionally, the mullion windows carry through this architectural theme, and consequently will be required on the second-story windows facing the street, in order to fully satisfy this criterion. With this condition, 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 applicant has put forth a design that will maintain the character of this early 20th century house. The eaves, at a longer length than the code allows (two feet), carry through the architectural lines of the house and are similar to that found on most houses in the area. With the condition that the street-facing windows on the second story include mullions consistent with those on the existing first floor, the more prominent architectural features will be sustained on the addition. Thus, with this condition, 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 proposal is to add a second story to the existing house. The house was originally built in 1926 with a 4-foot side setbacks and 2-foot eaves; the addition will have the same. The analysis shows that the proposal satisfies all of the adjustment approval criteria with a condition requiring eaves to match the existing, and mullions in the street-facing windows on the second floor, continuing that design element from the existing first-floor windows.

ADMINISTRATIVE DECISION

Approval of an adjustment to zoning code standard 33.110.210 C., setbacks, to reduce the side building setbacks to 4 feet and to allow the eaves to extend up to 2 feet from the building wall. This approval is subject to the approved site plan and elevation drawings, Exhibits C-1 through C-5, signed and dated June 12, 2009, and 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 09-124401 AD."

- B. The second story windows on the street-facing façade must include mullions to match the existing first floor windows.

Staff Planner: Nan Stark

Decision rendered by:  **on June 12, 2009**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 16, 2009

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 April 27, 2009, and was determined to be complete on May 12, 2009.

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 April 27, 2009.

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: September 9, 2009.**

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 June 30, 2009** 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 1, 2009 – (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
 - 2. Front (east) elevation drawings (attached)
 - 3. South side elevation drawing
 - 4. Rear (west) elevation drawing
 - 5. North (side) elevation drawing
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 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:
 - 1. S. Malek, May 22, 2009, in support
- G. Other:
 - 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 503-823-7300 (TTY 503-823-6868).

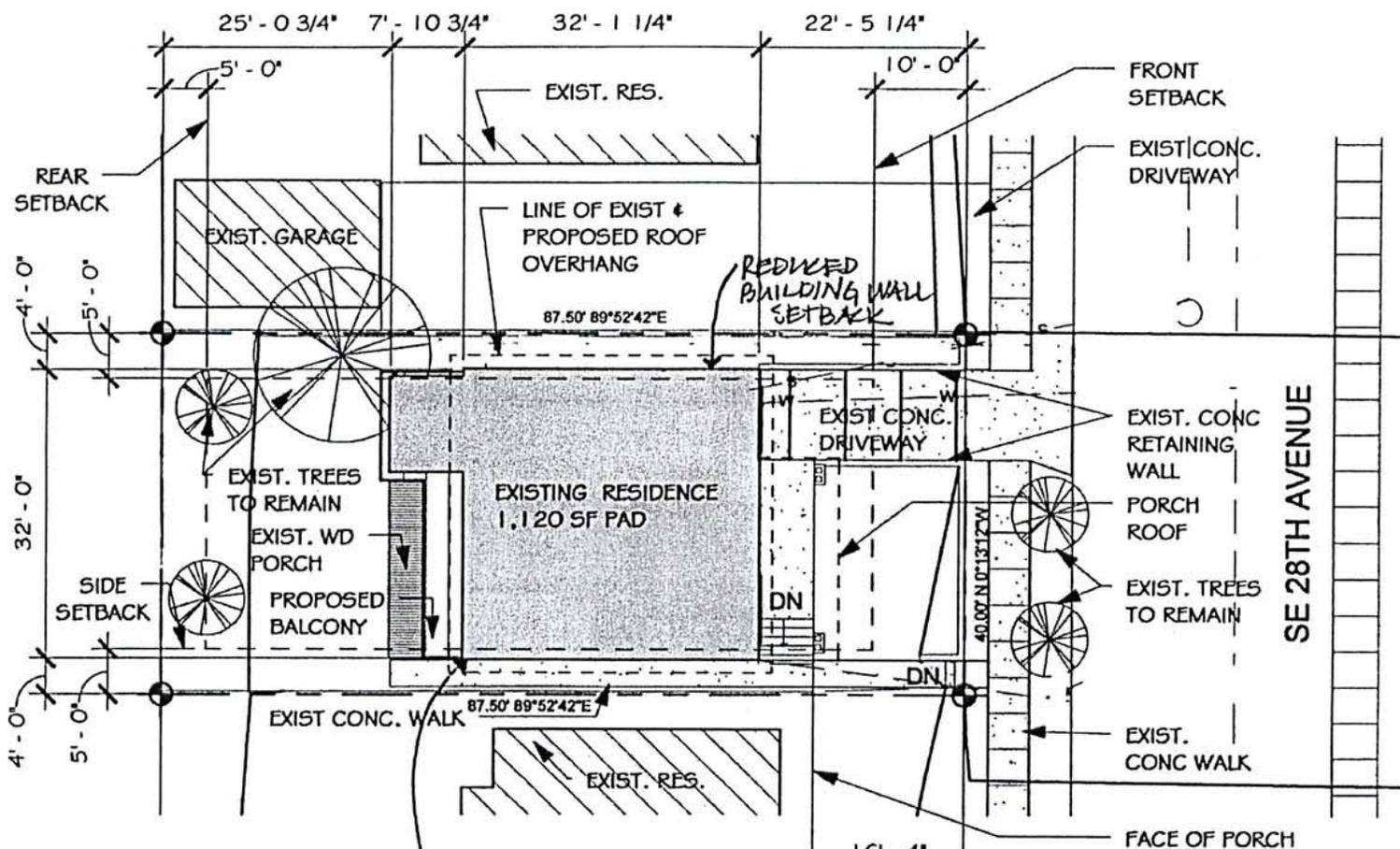


ZONING

 Site



File No. LU 09-124401 AD
 1/4 Section 3233
 Scale 1 inch = 200 feet
 State_Id 1S1E01CB 6000
 Exhibit B (Apr 30,2009)



① Site Plan 01
1" = 20'-0"

REDUCE NORTH & SOUTH
SIDE SETBACKS for 2nd story
ADDITION ABOVE EXISTING
WALLS OF HOUSE, AT 4' FROM
PROPERTY LINES
ALLOW 2' LONG EAVES UP TO
2' FROM PROPERTY LINES



Owner	Linda Rentfrow	Addition and Remodel of Rentfrow Res.	Site Plan	
Designer	Allen Kabanuk, Designer Ph: 503-250-3623		Project number	08-01
		Date	04/24/2009	A01
		Drawn by	Author	
		Checked by	Checker	

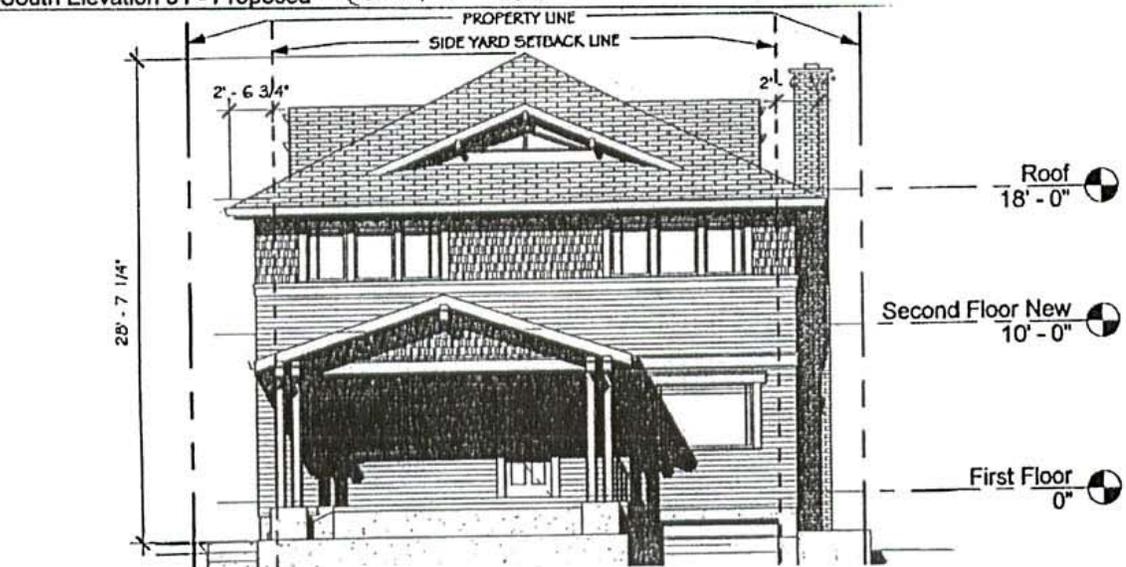
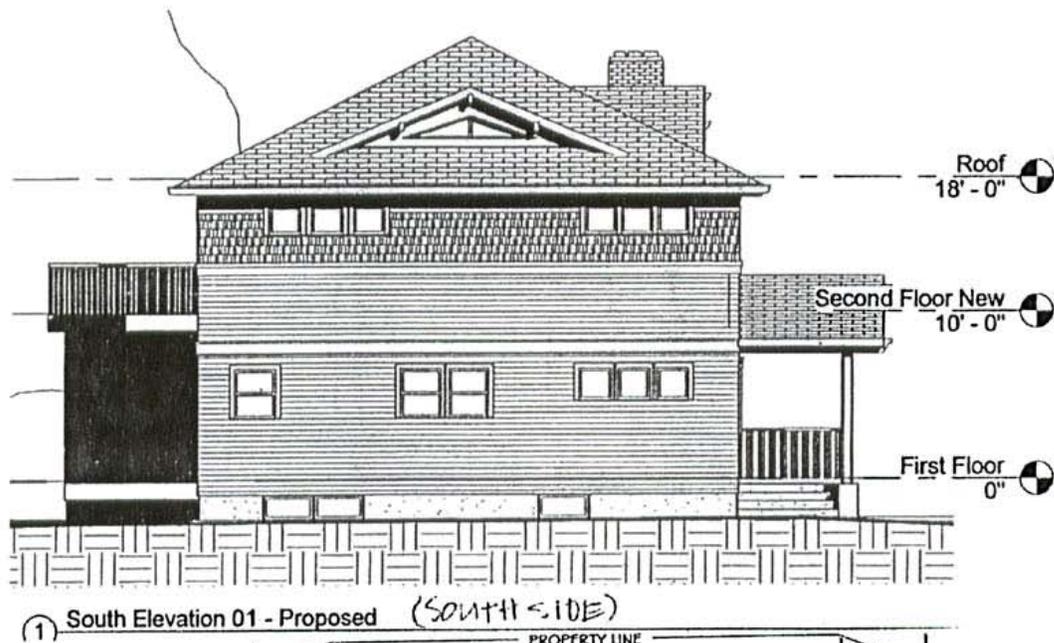
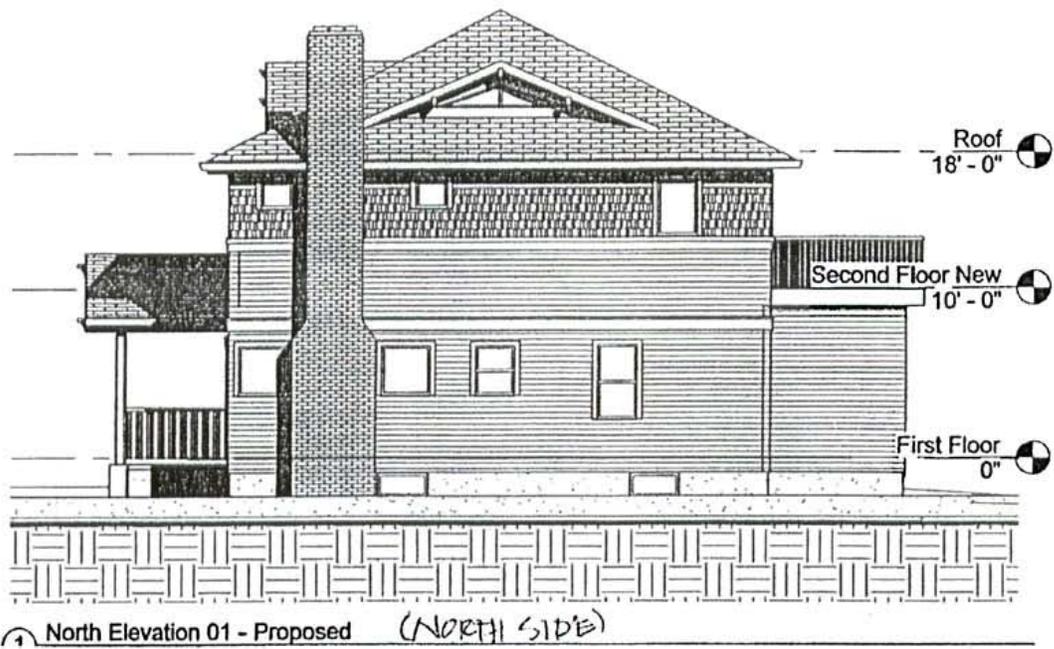
Approved

City of Portland - Bureau of Development Services

Planner: Alt Date: June 12, 2009

This approval applies only to the reviews requested and is subject to all other applicable codes and regulations. Additional zoning requirements may apply.

U09-124401 AD
Exhibit C-1



W09-124401 AD
Exhibits C.2,3,5