



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

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: July 29, 2009
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / kstokes@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 09-135251 AD

GENERAL INFORMATION

Applicants: Mary T Murty (property owner)
0415 SW Florida St
Portland, OR 97219-2358

Robert J. Hamnes
12105 SW 92nd Ave.
Tigard, OR 97223

Site Address: 0415 SW FLORIDA ST

Legal Description: E 1.5' OF LOT 22 BLOCK 20 LOT 24 BLOCK 20, SOUTHERN PORTLAND

Tax Account No.: R780203770
State ID No.: 1S1E22BA 19100
Quarter Section: 3729

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.

Zoning: R5 (R5,000, High Density Single-Dwelling Residential)

Case Type: Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee

Proposal: The applicants are proposing reconstruction and improvements to the existing driveway on this site. The below-grade garage entrance will be replaced with a retaining wall and the driveway will be widened from the existing 7.5 feet. This will accommodate a parking space that will be 9 feet wide and extend for 17.5 feet from the front property line, or 22 feet from the inside edge of the sidewalk.

The Portland Zoning Code, Title 33, regulates the size and placement of parking spaces. Code Sections 33.266.120.C-D require lots with single-dwelling residences to have a minimum of one on-site parking space that is at least 9 feet wide and 18 feet long. The required parking space

must be set back a minimum of 10 feet from the front property line. *The purpose for these regulations is to enhance the appearance of neighborhoods.*

Exceptions to these standards may be requested through an Adjustment Review. The applicants have requested approval of Adjustments to waive the required setback from the front property line and to reduce the minimum length of the parking space, from 18 feet to 17.5 feet.

Relevant Approval Criteria: 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 applicants' site is a 5,000 square-foot parcel that is located on the north side of SW Florida Street, three lots to the west of the intersection with SW Virginia Avenue. The property is developed with a one story, single-dwelling house, with finished attic and basement, that was built in 1912. The existing driveway is 7.5 feet wide and provides access to a below-grade garage, which is undersized by today's standards.

The area around the site is mainly developed with other single-dwelling structures that include several that are similar in age to the applicants' house. Many of the houses have parking areas in driveways in front of attached garages. However, most of the other garages are above grade, incorporated into the first level of the residences. The applicants' property is unique in this particular area, in having a garage that is located underneath the front porch, with a driveway that slopes steeply down between retaining walls on either side.

Southwest Florida is a Local Sevice Street that has a paved roadway, curbs, sidewalks and a planting strip. The street slopes uphill, to the west, and deadends midblock, at the foot of a steep bank. Although it appears that there is pedestrian connection that continues to the west, the roadway ends without making the full physical connection with Corbett Avenue that is shown on paper street maps.

Zoning: The site is zoned R5, High Density Single-Dwelling Residential. This zone is intended to accommodate single-dwelling development, with an average of one unit per 5,000 square feet of site area. Each lot is required to have at least one onsite parking space, with a minimum size of 9 by 18 feet and is allowed to have a driveway that is at least 9 feet wide.

Land Use History: City records indicate there have been no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 1, 2009**. The following Bureaus have responded with no issues or concerns:

- Environmental Services provided commentary with advice on storm water management (Exhibit E-1).
- Transportation Engineering provided an electronic response that indicated that there were no issues or concerns regarding approval of the proposal.
- Water Bureau provided information on existing water services and noted that, as no changes were proposed and there was no request for any additional service, that there were no concerns with the proposal (Exhibit E-2).
- Fire Bureau provided an electronic response that indicated that there were no issues or concerns regarding approval of the proposal.
- Site Development Section of BDS provided information on requirements for storm water management, noting that on-site infiltration is not appropriate for the soils on this site (Exhibit E-3).
- Life Safety Plan Review Section of BDS provided information on requirements for building permits (Exhibit E-4).
- Parks-Forestry Division provided an electronic response that indicated that there were no issues or concerns regarding approval of the proposal.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 1, 2009. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 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 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 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, have been met.

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

Findings: The purpose for the regulations that govern the size and placement of parking spaces for houses and duplexes is to enhance the appearance of the neighborhood. In order to provide an on-site parking space, that has better utility and function than is provided by the current below grade, outdated garage, the applicants are proposing to construct a masonry wall, that will block off the garage entrance, and to have the parking space be located in front of the wall. The existing driveway would be widened from 7.5 feet to 9 feet, so it would meet the required width for the parking space. The remaining depth of the driveway would be 17.5 feet to the property line and 22 feet to the edge of the sidewalk.

Reducing the required depth of the parking space by 6 inches, from 18 feet to 17.5 feet, is a minimal change that would not be readily apparent and therefore will have no impact at all on the appearance of the neighborhood. Locating the parking space in the required front setback area is not expected to have any impacts on the appearance of the area, either. With the exception of widening the driveway by 1.5 feet the development will still occupy the same location on the property so there will be no visual impacts. The proposed improvements to the driveway will allow it to be used as a functioning parking space, which will reduce onstreet parking and add convenience for the household. Because the garage is already located at the front edge of the house and the driveway location will not change, there will be no negative impacts on the appearance of the front yard. Because the proposal will not significantly alter the development on the site, but will improve its utility and because it will not appear out of character with other residences on the street, the proposal equally meet the purpose of these regulations and 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: As stated in the findings above, the proposal to reduce the required size of the parking space and to waive the setbacks from the front property line will not significantly alter the appearance of the property from the present condition. The proposed improvements will create a parking area that can be utilized onsite, thereby reducing the need for onstreet parking, which should improve the livability of the area. Therefore, approval of the proposal will not have any significant negative impacts on the appearance or livability of the residential area and 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: Two adjustments have been requested, but no cumulative effects are expected to occur. Approval of the requested adjustments will result in a project that enhances the appearance and utility of the parking area, which is accessory to the single-dwelling residence on this site. Because the purpose of the R5 zone is to preserve land for housing and to provide housing opportunities for individual households, the project is still consistent with the overall purpose of the zone and this criterion is met.

- D.** City-designated scenic resources and historic resources are preserved; and
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.
- 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: There are no scenic or historic resources on the site. No impacts have been identified and the site is not located in an environmental zone. Therefore, these criteria do not apply.

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

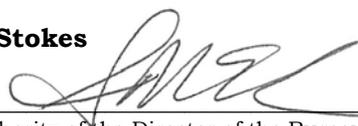
The applicants' proposal meets all of the relevant approval criteria. The only impact that has to be considered in this proposal is its effect on the appearance of the neighborhood. As the existing parking situation is not adequate for modern vehicles, the proposed solution will allow onsite parking, without any significant changes to the development on the site. The proposed improvements will improve the livability of the residential area, by reducing the demand for onstreet parking and will not negatively impact the appearance of the neighborhood. Therefore, the proposal can be approved, in substantial compliance with the proposed site plan.

ADMINISTRATIVE DECISION

Approval of Adjustments to 33.266.120 C and D, to allow the required depth of the parking space to be reduced from 18 feet to 17.5 feet and to waive the required setback from the front property line for the proposed parking space, in general compliance with the approved site plan, Exhibit C-1, signed and dated July 27, 2009, subject to the following condition:

- 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-135251 AD."

Staff Planner: Kathleen Stokes

Decision rendered by:  **on July 27, 2009/**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 29, 2009

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 June 11, 2009, and was determined to be complete on June 29, 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 June 11, 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.

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 August 12, 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 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 **August 13, 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 503-823-0625.

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:

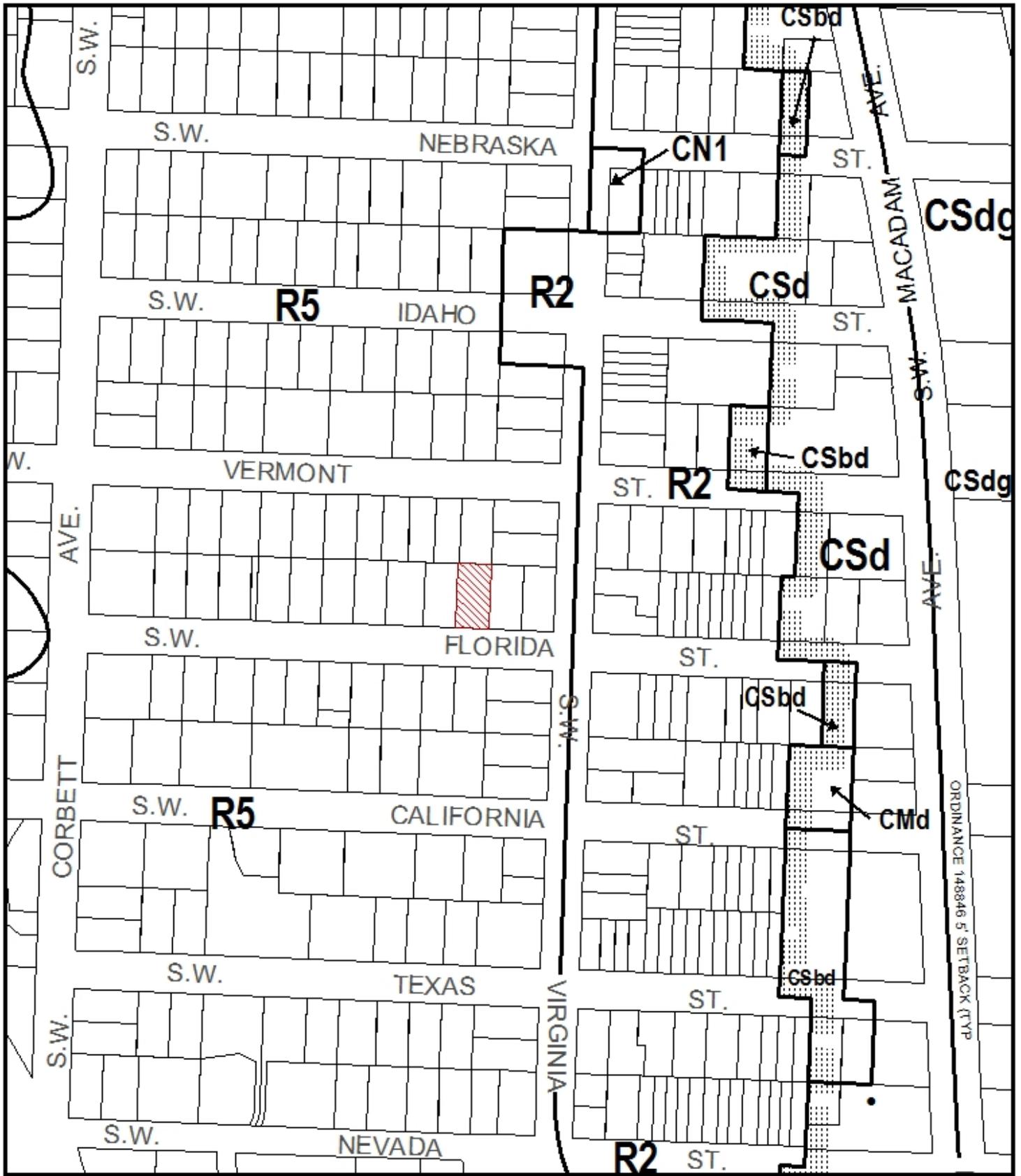
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Application and original submittal
 - 2. Addendum and elevation drawing, June 26, 2009
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Site Development Review Section of BDS
 - 4. Life Safety Plan Review Section of BDS
 - 5. Summary sheet of electronic responses from agencies
- F. Correspondence: (none received)
- G. Other:
 - 1. Letter from Kathleen Stokes to Robert J. Hamnes, June 24, 2009

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 09-135251 AD
1/4 Section	3729
Scale	1 inch = 200 feet
State_Id	1S1E22BA 19100
Exhibit	B (Jun 15, 2009)

ORDINANCE 148846 5' SETBACK (TYP)

PATIO Proposed 198 sq. Ft. - Driveway (Existing 165 sq. Ft.)
No change

WALK No change

ROOF AREA
(INCL. OVERHANG) No change

TOTAL 33 sq. Ft. of Additional
Impervious Area

Approved
City of Portland - Bureau of Development Services
Planner Kathleen A. Stiles Date July 27, 2009
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Approval of
Adjustments
to reduce ^{depth} length
of parking space
from 18' to 17.5'
and to
waive
required set-
back for
parking
space -
other site plan
details may
vary.
front property
Line

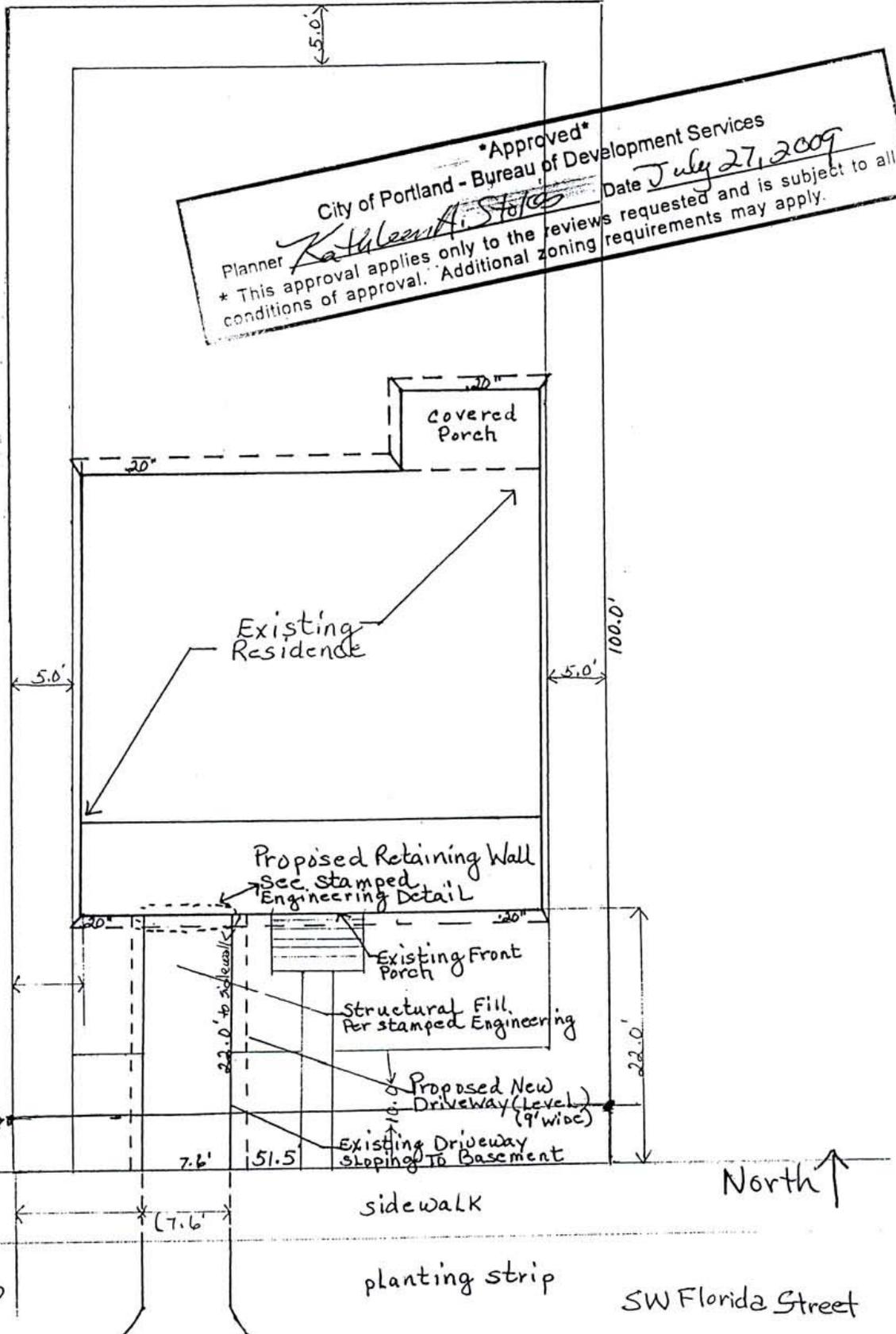


Exhibit C-1
LU09-135251 AD