



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

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Date: September 21, 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 09-130005 AD

GENERAL INFORMATION

Applicant/Owner: Robert J Graham
121 SW Salmon Street, #P1
Portland, OR 97204

Site Address: 4525 SW VALONA WAY

Legal Description: TL 5600 0.20 ACRES, SECTION 30 1 S 1 E
Tax Account No.: R991300250
State ID No.: 1S1E30DA 05600
Quarter Section: 4024

Neighborhood: West Portland Park, contact Rob Shirley at 503-293-1010.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: CGb, General Commercial with a Buffer Overlay Zone

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

Proposal:

The applicant is requesting an Adjustment in order to legalize conversion of the former attached garage to living area, and consequently use the existing driveway for the site's required parking. The parking area measures 24 feet wide by 23 feet long. Two additional, existing concrete pads in the front yard that have previous functioned as parking pads will be closed by the installation of a 3.5-foot high fence along the front property line.

The Zoning Code does not allow required parking spaces in the first 10 feet from a front lot line, and the spaces are required to be a minimum of 18 feet deep. Consequently, a 28-foot long paved parking space is required, as measured from the front property line. The existing parking pad is 23 feet long. Therefore, an Adjustment to zoning code Section 33.266.120,

Parking Standards for Houses and Duplexes, is required to allow parking in the first 10 feet from the front lot line.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The 8,712 square foot site is located on a dead-end section of SW Valona Way, just west of SW Capitol Highway and east of SW Barbur Boulevard. The site is developed with a single-dwelling residential home constructed in 1956. It was originally constructed with an attached two-car garage, which has since been converted to living area. The garage door is replaced with windows and brick siding to match the ranch-style house.

This single block of Valona Way is accessed from Capitol Highway, to the east. The street is not improved with curbs or sidewalks. Five of the lots on the block are developed similarly to the subject site, with ranch-style houses from the mid-1950s, and attached or detached garages. At the end of the street is one building of a multi-dwelling development and larger site that is accessed from Luradel Street, south of Valona Way. Across SW Capitol Highway, development is predominantly commercial, as it is on the abutting lots to the north, which are oriented to Barbur Blvd.

Zoning: The site is zoned CGb, General Commercial with a Buffer Overlay Zone. The site is generally bounded by other commercially zoned properties to the north and west, by multi-dwelling residential zones to the south, and by single-dwelling residential zones to the east.

The General Commercial (CG) zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. The zone allows a full range of retail and service businesses with a local or regional market. Development is expected to be generally auto-accommodating, except where the site is adjacent to a transit street or in a Pedestrian District. The zone's development standards promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves.

The 'b' Buffer overlay zone requires additional buffering between nonresidential and residential zones. It is used when the base zone standards do not provide adequate separation between residential and nonresidential uses. The separation is achieved by restricting motor vehicle access, increasing setbacks, requiring additional landscaping, restricting signs, and in some cases by requiring additional information and proof of mitigation for uses that may cause off-site impacts and nuisances. The application is for a residential use and does not trigger the standards of the overlay zone.

Land Use History: City records indicate that the site was part of an annexation of the neighborhood adjacent to Markham School to the City in 1965 (PC 4834).

Agency Review: A "Request for Response" was mailed on August 26, 2009. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Life Safety Bureau
- Fire Bureau
- Site Development Section of BDS

The Bureau of Transportation commented that the provided plan appears capable of supporting parking out of the public right-of-way. The site is located at the end of a low volume dead-end local service street. Transportation has no objection to the proposed on-site parking.

Neighborhood Review: A “Notice of Proposal in Your Neighborhood” was mailed on August 26, 2009. Staff received a letter from the president of the West Portland Park Neighborhood Association, indicating that the Board of the WPPNA voted unanimously to support the adjustment. Staff also received a telephone response from a neighbor who expressed concern that there is signed “No Parking” along the site, but that the residents of the property may park on the street without regard to the sign. The neighbors do not want to contact the City’s enforcement agency whenever this occurs.

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 providing 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 zoning code Section 33.266.120, Parking and Loading; Development Standards for Houses and Duplexes. The purpose statement for this regulation states: The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.

This particular block is adjacent to Capitol Highway, running east of the site, and Barbur Blvd to the northwest. There are five houses and an apartment building on this block-long dead-end street. The houses are mid-century ranch style houses, all with garages that are either attached to the side, like the subject structure, or detached towards the rear.

The historic location for the driveway leading to the former attached garage is not changing with this proposal. At 23 feet long, the driveway is more than sufficient in length to accommodate a vehicle without being near the public right-of-way between the property line and the roadway. The width of the driveway can accommodate two vehicles. The front door is readily apparent, and the living area in the converted garage is set back slightly behind the front wall of the house, making it a subordinate element.

Given that the driveway is not changing, and has always been able to accommodate one or two vehicles, the situation is not markedly different than it has ever been. The change is that the garage no longer exists. The appearance of the neighborhood is not changing with the Adjustment to allow parking in the first ten feet of the driveway, because this is a fairly typical place to park, especially when the garage is attached. There will continue to be two on-site parking spaces with full visibility of the front door and walkway leading to it, as well as the majority of the house. Thus, 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 applicant requests an Adjustment in order to legally park in the first ten feet from the front property line. The driveway is 23 feet long, to the side of the front door, in front of what was formerly a garage that has been converted to living area.

In the front yard, there are two paved areas that are roughly 12 feet wide by 15 feet long, extending from the front property line back. The applicant has shown these on the site plan as patios that were previously parking spaces. The applicant proposes to install fencing along the entire front property line except across the driveway. This would effectively block the paved areas so that they can no longer be parked on.

It is reasonable that one of these two paved areas may function as a patio in the front yard. Staff does not agree that both of those would likely be used as a patio space, and could more likely remain as a concrete pad that may eventually store a vehicle of some sort, or even be used for parking, in spite of the fence. Paved areas may be located in the front yard if they are not used for vehicles. Nonetheless, to fully meet this criterion and ensure that the proposal does not significantly detract from the appearance or livability of the residential area, the applicant will be required to remove one of the parking pads as part of this approval. The continued use of the driveway for vehicle parking in a portion of the front setback is appropriate and will not detract either the appearance or livability of this residential street. Removing one of the two former parking pads, neither of which meets the dimensional standard for parking spaces, will further ensure that an illegal parking situation will not occur. In addition, the applicant will be required to install a fence across the remaining pad that either connects to the existing fencing with the same black wrought iron material, or to replace the entire fence across the front property line. With these conditions, 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: The requested adjustment is to allow parking on the driveway within the first ten feet from the front property line. The driveway is built up to the front building wall of what was formerly the garage, and is now living area of the house. The original and main part of the house sits a few feet forward of the converted garage, and thus is the more prominent element. Vehicles parked in the driveway will not obscure the front door or front yard; they will be located in the same place that has accommodated parking since the house was built in the 1950s.

Removal of one of the two concrete pads that were formerly parking pads, and installing fencing across the front property line in front of the remaining pad, will ensure that parking on the site is limited to the actual driveway. The pads do not meet standards for parking spaces and are not allowed as such. Ensuring these pads are no longer available as parking options will eliminate the visual impact that those might cause if used to contain vehicles. As a hard-

surfaced patio or outdoor area, the one pad will provide outdoor recreation options without affecting the appearance of the house as seen from the street.

To meet the code standard, the driveway would have to be 28 feet long, measured from the front property line. As indicated by the applicant, the driveway is 23 feet long. The difference of 5 feet in the length of the driveway does not change its use, or its appearance. A vehicle can be easily accommodated on the 23-foot long driveway. A typical vehicle is 15 to 18 feet long, which would leave several feet of driveway. By maintaining the existing situation, there is no physical change to the driveway, and the footprint of the house remains the same as it has always been.

Thus, the condition described in criterion B above will ensure that the potential visual impact from the additional paving and potential use as parking on the existing pads will be eliminated. The existing driveway will continue to appropriately provide parking for the site without changing either the driveway or the house. Thus, with the condition requiring removal of one parking pad and addition of fencing across the front of the remaining pad, 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 in an environmental zone. 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 request to allow parking in the first ten feet of the existing driveway meets the three relevant approval criteria. There will be no change to the driveway, nor to the footprint of the house. The garage has been converted to living area, and through this process the applicant is legalizing that conversion. Through this approval, the driveway will continue to be able to accommodate two vehicles on the site without encroaching into the public right-of-way and without creating any impacts as a result of its 23-foot length. Although it is five feet shorter than required by code, the reduction does not visually detract from the neighborhood. As conditions, the applicant must remove one of the two concrete pads in the front yard, and install continuous fencing to ensure that the remaining pad is not accessible for vehicle use, but is for patio area as indicated on the site plan. These conditions fully ensure that the approval criteria are supported by the proposal.

ADMINISTRATIVE DECISION

Approval of an Adjustment to zoning code Section 33.266.120, Development Standards for Houses and Duplexes, in order to allow a 23-foot long driveway, subject to the approved site plan, Exhibit C-1, signed and dated September 17, 2009, and to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B and 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 09-130005 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

- B. One of the two concrete pads in front of the house, marked on the approved site plan as “patio”, must be removed. The remaining pad shall not be used for vehicular parking.
- C. A fence must be installed in front of the remaining concrete pad that either connects to the existing fence using black wrought iron to match the existing fence, or the entire fence along the front property line must be replaced with a fence not to exceed 3.5 feet in height.

Staff Planner: Nan Stark

Decision rendered by: _____ **on September 17, 2009**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 21, 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 May 20, 2009, and was determined to be complete on August 24, 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 May 20, 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: December 29, 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 October 1, 2009** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development

Services Center until 3 p.m. After 3 p.m. and on Monday, 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, 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 **October 2, 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.

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:

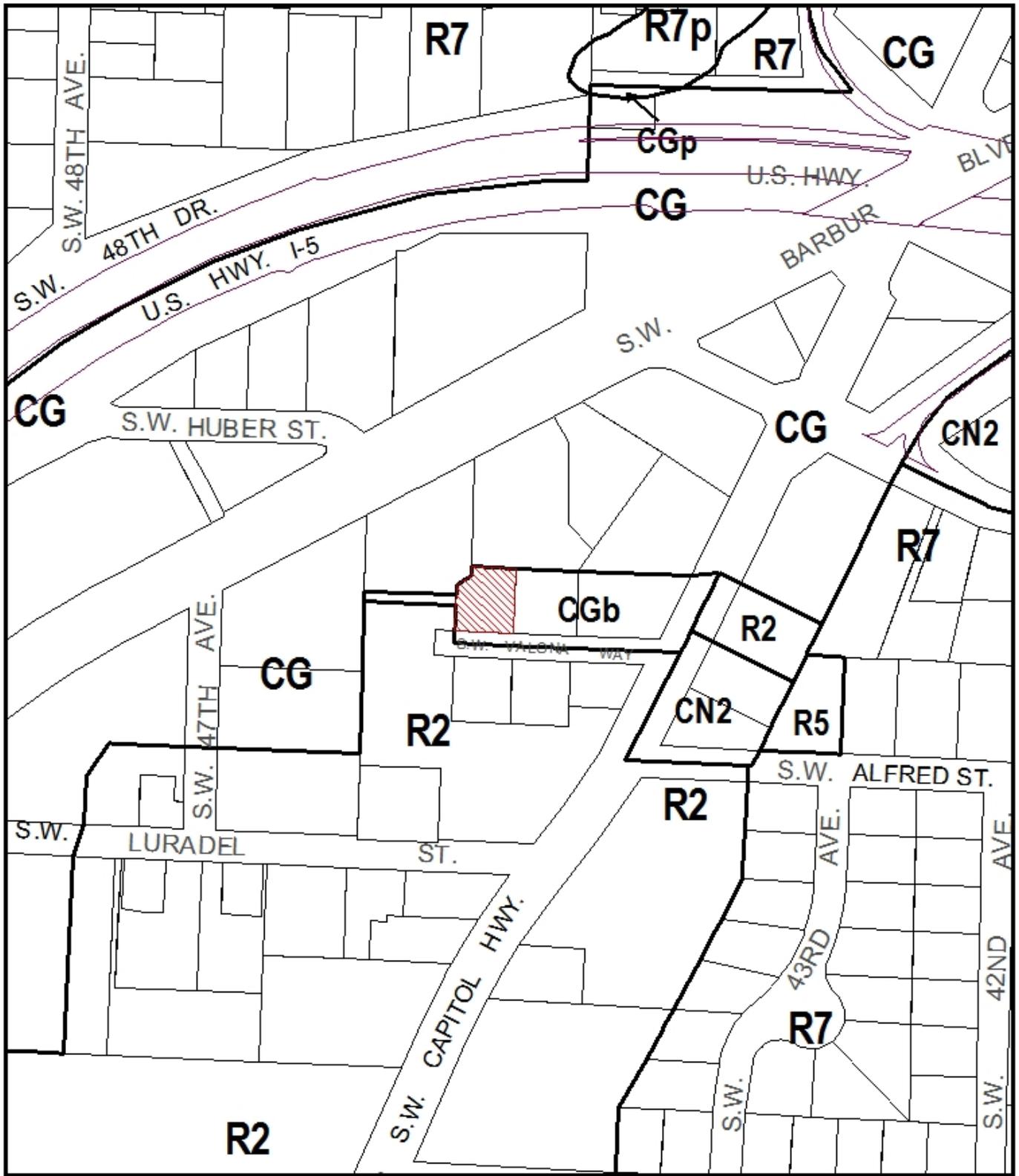
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Site photos
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. "No concerns" response from: Water Bureau, Life Safety Review section of BDS, Fire Bureau, Bureau of Parks, Forestry Division, Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Site Development Review Section of BDS
- F. Correspondence:
 - 1. J. McLaughlin, President, West Portland Park Neighborhood Association, in support
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete letter

The Bureau of Development Services is committed to providing equal access to information and hearings. Call at least five days in advance of the event if you need special accommodations, 503-823-7300 (TTY 503-823-6868).



ZONING

 Site



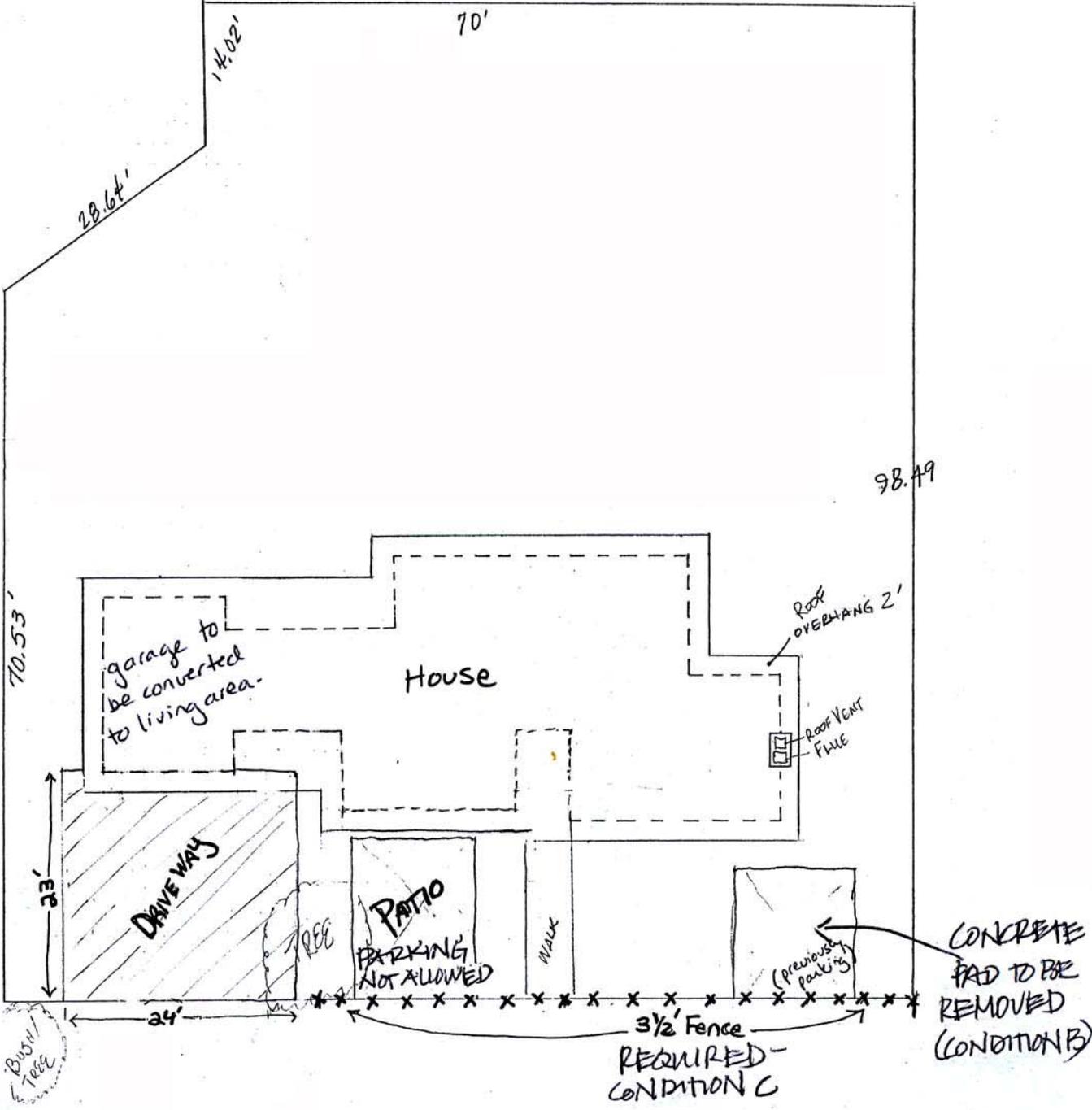
File No.	LU 09-130005 AD
1/4 Section	4024
Scale	1 inch = 200 feet
State Id	1S1E30DA 5600
Exhibit	B (May 26, 2009)

Approved

City of Portland - Bureau of Development Services

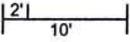
Planner N. Smith Date Sept 17, 2001

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



SITE PLAN

SCALE 1" = 10'



U109-13005 AD
Exhibit C.1