



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

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[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** May 7, 2010  
**To:** Interested Person  
**From:** Sheila Frugoli, Land Use Services  
503-823-7817 / [frugolis@ci.portland.or.us](mailto:frugolis@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 10-122605 AD**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Viktor Babiy  
10754 SE Francis St  
Portland, OR 97266

**Site Address:** 10754 SE FRANCIS ST

**Legal Description:** BLOCK 1 LOT 5, NYSTROMS ADD  
**Tax Account No.:** R620100090  
**State ID No.:** 1S2E10CD 02500  
**Quarter Section:** 3441

**Neighborhood:** Lents, contact David Hyde at 503-772-1376. Powellhurst-Gilbert, contact John McDonald at 503-753-4226.

**Business District:** Midway, contact Bill Dayton at 503-252-2017.

**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

**Plan District:** Johnson Creek Basin  
**Zoning:** R5a, Single-Dwelling Residential 5,000 zone with the a, Alternative Design Density overlay zone

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

**Proposal:** In order to legalize an existing paved area, the applicant is requesting an Adjustment to exceed the allowed front yard paving limit of 40 percent by 98 square feet (an increase of 8 percent). The paving limit of 40 percent applies to the area between the front property line and the front wall of the house.

The applicant intends to use the additional paving near the east property line for access to parking for a recreational vehicle (RV). Note: The Zoning Code allows RV parking on

residential lots as long as it is not within the area between the house and front property line and is on a paved surface.

**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 subject site is developed with a house with attached garage. A City owned open space—Earl Boyles Park abuts the site's east property line. Directly north, on the other side of SE Francis Street is a David Douglas High School. West of the site, on the south side of SE Francis are other single-dwelling residences. The homes have on-site parking with double-car garages and paved driveways. SE Francis Street has an 18 foot paved roadway. There is no curb or sidewalks along the frontage of the residential lots. On the north side, a sidewalk provides a connection to the school and park.

**Zoning:** The site is zoned R5a. The R5, Single-Dwelling Residential zone provides housing opportunities for individual households. This zone is generally developed with detached homes on individual lots at a density of one unit per 5,000 square feet. The "a", Alternative Design Density Overlay zone allows, in certain situations, an increase in density for development that meets additional design compatibility requirements. For sites zoned R5, Single-Dwelling Residential, the overlay provisions allow attached houses (rowhouses) on vacant lots. The applicant is not proposing use of this "a" overlay zone provision.

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

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed April 12, 2010. The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

The **Bureau of Environmental Services** responded with the following information: Projects that add more than 500 feet impervious (paved) surface must comply with the 2008 Stormwater Management Manual—Flow Control and Pollution Reduction requirements.

The existing driveway on the western edge of the site measures approximately 700 square feet, based on the submitted site plan, verified by City staff using GIS and aerial photos. The driveway slopes generally to the west, with a slight crown near the northwest corner of the house, so that some of the runoff flows toward SE Francis Street but most flows to the west-southwest. Considering the size of the driveway, Stormwater Management Manual requirements for infiltration and treatment must be met. In order to meet these requirements, the applicant can provide a vegetated filter strip down the middle of the driveway (see page 2-61 of the Manual), which will capture runoff from the eastern drive aisle. There is currently a narrow strip of vegetation between the driveway and the neighboring property to the west, which appears to be sufficient for the western drive aisle. BES recommends that as a condition, the work must be completed via a Zoning Permit. To receive BES approval for the permit, the applicant must retrofit the driveway to meet the Stormwater Management Manual Requirements. If there are questions, contact Joe Blanco, BES at 503-823-2059.

The **Bureau of Transportation Engineering** responded with the following information: The improvements appear to function as an approach to the property's on-site parking. The width of the area exceeds the 20-foot maximum (Chapter 17.28.110 of the City code). Given that there are no curb or sidewalk improvements in the general area, the applicant should submit a street and storm waivers of remonstrance, in-lieu-of defining the approach location with a curb improvement (via a street permit). The applicant is advised that should a Local Improvement District be formed in the future, it is likely that reconstruction of the frontage improvements will be required at that time. Contact Wayne Close at [wayne.close@portlandoregon.gov](mailto:wayne.close@portlandoregon.gov) to obtain a copy of required waiver documents. A recording fee of \$62.00 is required, associated with the processing of the waivers.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on April 12, 2010. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 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 33.266.120**, Development Standards for Houses and Duplexes. The purpose statement for this regulation is as follows:

*The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.*

The applicant wishes to legalize a 10-foot wide paved area that exceeds the allowed front yard paving limit of 40 percent by 98 square feet (an increase of 8 percent). The views of the front door and most of the street-facing façade of the home will not be obstructed by parked vehicles. The additional paving is located near the west property line. Views into the site and toward the main entrance of the home, as seen looking south from SE Francis Street, are not obstructed by vehicles parked in the new driveway.

The driveways range from approximately 23 feet to 36 feet wide for the other homes fronting SE Francis, located on along this block. Furthermore, the other homes are located approximately same distance from the front property line. The applicant's request to legalize the 29 foot wide paved area between the front building wall of the house and the front property line is consistent with the existing pattern.

For the reasons described above, the proposal does not detract from the existing appearance of the neighborhood. 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:** Issues that affect livability, such as privacy and safety, will not be affected by this proposal. The additional paving is not a departure from other driveways/paved areas on nearby residential lots. The street-facing façade and the front porch remain visually prominent and the main entrance to the home remains visible and accessible. For these

reasons, the additional paving will not significantly detract from the appearance or livability of the neighborhood. 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. 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. 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 applicant has demonstrated that the applicable approval criteria have been met. The request to exceed the front paving allowance does not adversely impact the appearance and livability of the surrounding residential area.

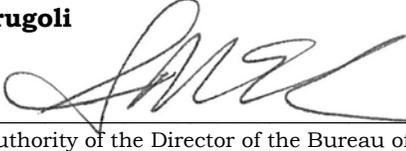
## ADMINISTRATIVE DECISION

Approval of an Adjustment to exceed the allowed front yard paving limit of 40 percent by 98 square feet (an increase of 8 percent), per the approved site plan, Exhibits C.1, signed and dated May 5, 2010, subject to the following conditions:

- A. A Zoning Permit is required to legalize the paving. As part of the permit application submittal, each of the 3 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 10-122605 AD."

**Note:** In order to receive approval of the **Zoning Permit**, Portland Office of Transportation and the Bureau of Environmental Services must approve the permit. At permit review, the applicant must: (1) obtain a right-of-way permit to widen the approach to the driveway or submit Waivers of Remonstrance to the Portland Bureau of Transportation and (2) comply with BES Stormwater Management Manual requirements.

**Staff Planner: Sheila Frugoli**

**Decision rendered by:**  **on May 5, 2010**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: May 7, 2010**

**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 March 30, 2010, and was determined to be complete on April 8, 2010.

*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 March 30, 2010.

*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: August 6, 2010.**

**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 May 21, 2010** 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 Mondays, 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](http://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 **May 24, 2010 – (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:

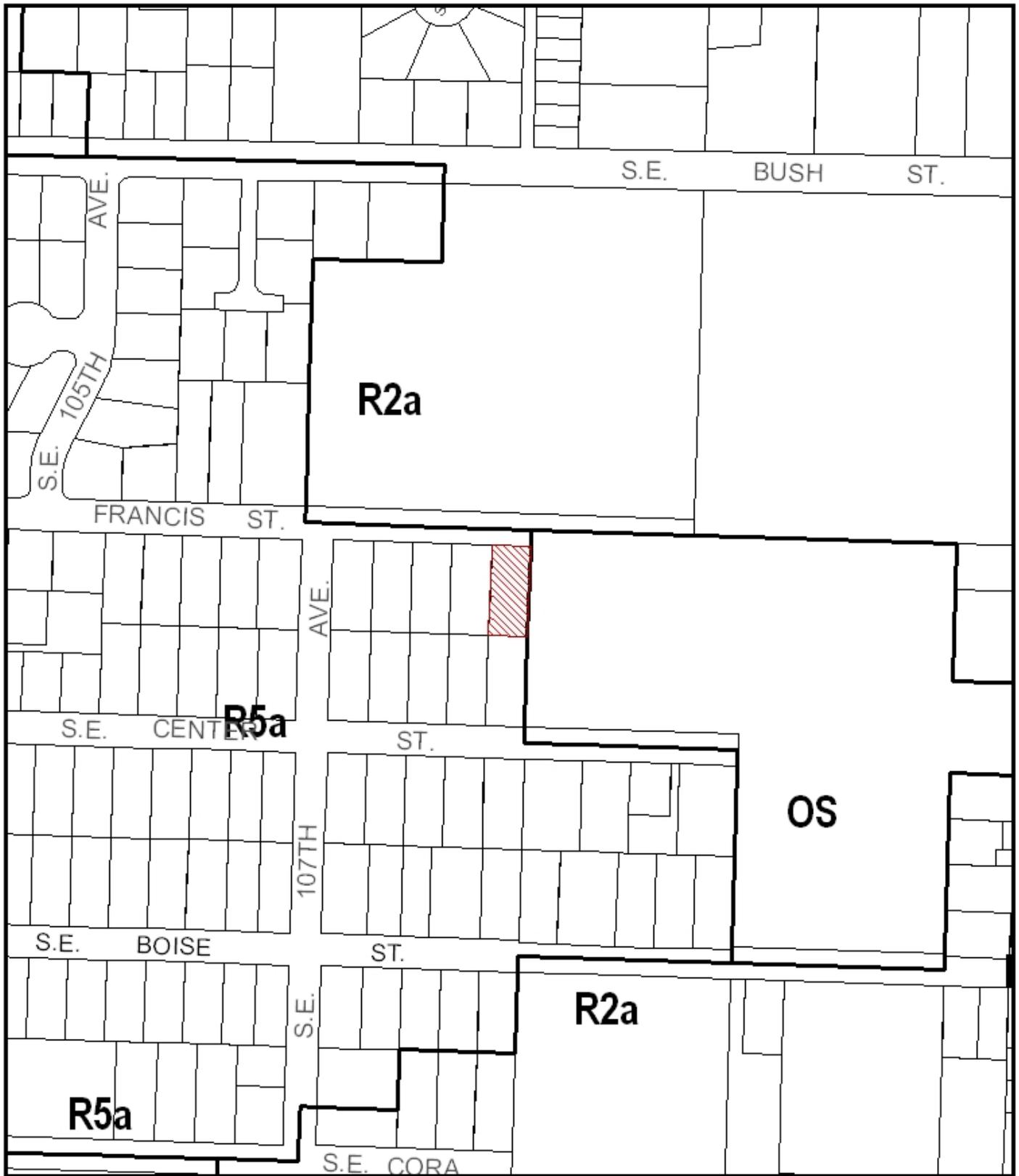
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Transportation Engineering and Development Review
  - 2. Water Bureau
  - 3. Bureau of Environmental Services
  - 4. TRACS Printout showing no concerns or response from Fire Bureau Site Development Review Section of BDS and Bureau of Parks, Forestry Division
- 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. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



# ZONING

 Site



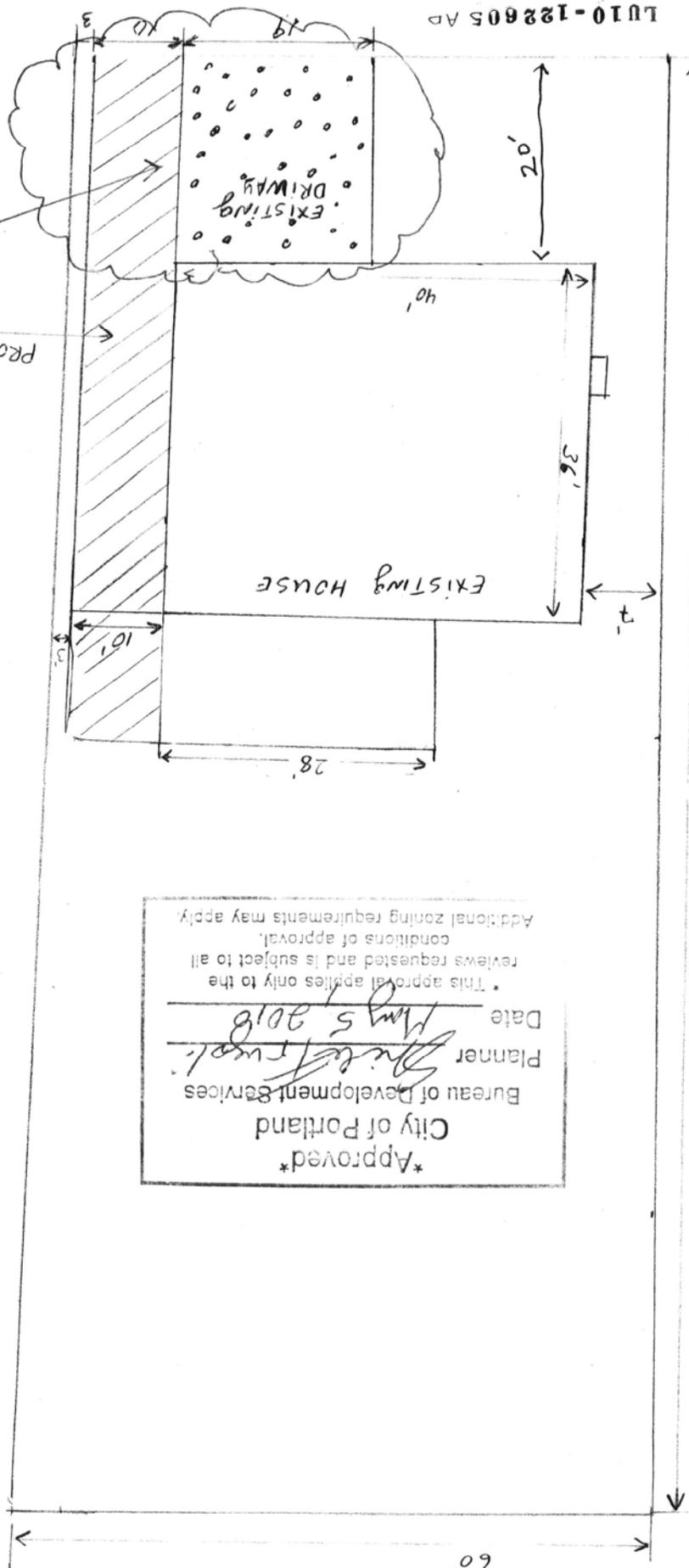
This site lies within the:  
**JOHNSON CREEK BASIN PLAN DISTRICT**

File No.	<u>LU 10-122605 AD</u>
1/4 Section	<u>3441</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E10CD 2500</u>
Exhibit	<u>B (Mar 30, 2010)</u>

Exhibit C.1

LU10-122605 AD

SE FRANCIS



\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner *Shirley Truitt*  
 Date *May 5, 2018*  
 \* This approval applies only to the reviews requested and is subject to all additional zoning requirements that may apply.