



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

FROM CONCEPT TO CONSTRUCTION

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Date: April 2, 2012
To: Interested Person
From: Kathy Harnden, Land Use Services
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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 12-108149 AD

GENERAL INFORMATION

Applicant: Daniel G Reimer
Reimer Construction
PO Box 70006
Vancouver WA 98665

Owners: David S Howell and Lauren R Wallace
2517 NE Hamblet St
Portland, OR 97212-1562

Site Address: 2517 NE HAMBLET ST

Legal Description: BLOCK 15 LOT 4 EXC W 7' OF S 64' LOT 5&A&B, ALAMEDA PARK
Tax Account No.: R007601750
State ID No.: 1N1E24CB 18700
Quarter Section: 2633

Neighborhood: Alameda, contact Scott Rider at 503-528-9651.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-823-4575.

Plan District: None
Other Designations: None

Zoning: R5 – R-5000, high density, single dwelling residential
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The owners proposed to construct a 611-square-foot, 2-car garage on the northwest side of their existing home. The proposed garage would have a personal door opening onto the

driveway. The original application showed that the new garage would be constructed to the west property line and the west/side setback would be reduced from 5 feet to zero feet. Eaves would be flush with the building wall so as to not extend beyond the property line. The structure would add 23-feet 2-inches to the width of the existing house structure. In addition, a new driveway that accesses from NE Hamblet Street would be installed. Rain gutters would be installed on the new attached garage and be tied into existing storm drains. An existing garage at the rear of the property in the northwest corner would be removed.

The owners have revised their proposal by reducing the width of the proposed garage in order to set the garage back from the property line by 2 feet instead of zero feet. The new proposal shows a 21-foot 3-inch width for the garage with a total area reduced from 611 square feet to 552 square feet. In order to reduce the width and provide the 2-foot setback, the proposed personal door has been removed from the plans (see Revised proposed development and elevation plans, C.2.b and C.3.b).

Therefore, the revised request asks for a 3-foot reduction to the 5-foot west/side setback. The eaves will remain flush with the west building wall, and the structure will add 21-feet 2-inches in width to the existing house structure.

A new driveway that accesses from NE Hamblet Street will be installed, and the existing garage located in the northwest corner will be removed. Currently, rain gutters are planned to be installed on the new attached garage and be tied into existing storm drains.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are 33.805.040, A.-F., Adjustment Approval Criteria

ANALYSIS

Site and Vicinity: The site is located in central NE Portland about 3½ miles southwest of the Portland Airport and almost two miles east of I-5. This site is only a few blocks north of the Ridge and Stairs hiking trail that travels along Alameda Ridge. The neighborhood is fully developed with homes dating to the early 1900s. The subject house was originally constructed in 1909. Wilshire Park is located about a half mile to the east and the Vernon Tank Playground and Sabin Community Garden is about 0.3 mile to the northwest. Sabin Elementary School is about 0.4 mile to the west of the site.

The site is not squared with the cardinal directions. It is located at the western end of the Alameda Ridge, and the street pattern is tilted not quite 45 degrees from the typical north/south and east/west grid. Lots in this area range in size from the small, about 2100 square feet, to the large, about 13,300 square feet. The historic property across the street to the south contains 27,300 square feet. The subject site contains 9,952 square feet.

Zoning: The site is located in the R5h zone, which is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet. Newly created lots must have a minimum density of 1 lot per 5,000 square feet of site area.

The “h” overlay refers to the “Aircraft Landing Zone” associated with building height on properties located within the Portland Airport aircraft landing zone. The ground elevation at this site is approximately 250 feet NGVD. The maximum building height allowed at the site would be 300 feet. The proposed garage at approximately 20 feet is well within the prescribed limits.

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

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **February 28, 2012**. The Water and Fire Bureaus responded with no issues or concerns:

The Bureau of Transportation Engineering noted that the existing curb cut for the existing driveway would have to be removed and a permit for the new curb cut would be required at the time of building permits.

The Bureau of Environmental Services noted that the new garage must meet stormwater requirements at the time of building permits.

Site Development noted that there may be an existing cesspool in the location of the proposed garage and that it must be decommissioned prior to issuance of building permits.

Life Safety commented that building permits would be required for the proposed work and that walls closer than 3 feet to the property line must be one-hour fire rated and the underside of eaves closer than 3 feet to the property line must also be one-hour fire rated.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 28, 2012. Three written responses were received from notified property owners in response to the proposal:

One neighbor noted that they would like to do a similar project on their property, but contained no comments relevant to the Adjustment proposal.

Another neighbor voiced concern that construction could impact social events taking place at their property between September 17 and 25, 2012, but contained no comments relevant to the Adjustment proposal.

A third neighbor provided detailed comments regarding impacts that could affect their enjoyment of their property if the proposal is approved as originally proposed. These comments will be addressed as required throughout the report.

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 33.110.220, Setbacks.**

There are several reasons for requiring setbacks from property lines including maintaining light and air between neighbors, separation for fire protection and access for fire fighting. The setback standards also reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences. They promote options for privacy among neighboring properties and provide adequate flexibility to site a building so that it can be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity. They also help to provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and enhance driver visibility when backing onto the street.

The applicant requested an adjustment to the west/side setback so that a two-car garage could be constructed adjacent to the house. After applying for a zero-foot side setback, the applicants decided to modify their request by setting the garage back two feet from the west property line in order to provide more space between their proposed garage and the neighbor's garage located adjacent to the west property line. The applicants propose to have a one-hour

fire rating on the west wall, which meets the Fire Bureau requirements for proposed construction within two feet of a property line. There will be no eave on the west side of the garage, but a portion of the eaves along the front and rear of the garage may also be required to be one-hour fire-rated. The one-hour fire rating is determined at the time of building permit review.

The site is a large corner lot, over 9,000 square feet, with the existing house located mostly within the northwest corner. The house is about 5,082 square feet, leaving almost 4,000 square feet of open area adjacent to the streets on this corner lot, which is mostly flat. The house is similar in size to many other houses in the neighborhood. The proposed driveway will be approximately 41 feet long, providing ample room to park a vehicle and provide visibility to drivers backing out onto NE Hamblet Street.

The applicant provided photos of a number of lots in the neighborhood that have adjoining garages at the property line. Even the next-door neighbor's garage to the west is located only about 6 inches from the site's west property line. In addition, two adjoining lots to the north each have garages that are within a foot or two of this site's northerly property line. Because the garage will extend only 3 feet beyond the neighbor's garage, there will be no serious impacts to light and air beyond what would occur if the garage were constructed another three feet to the east, at the five-foot setback line. Also, there will be about 33 feet between the rear of the garage and the rear, or north, property line, where the existing garage will be removed. Removing the garage at the rear of the site will significantly improve light and air at the rear of the site.

The proposal should have little impact on privacy between neighbors as the proposed garage and the west neighbor's garage will face each other and neither has a window on the facing sides. The neighbor's garage, at about six inches from the common property line, has always provided some privacy between the two properties. The rear of the proposed garage will extend beyond the end of the neighbor's garage by about three feet, adding a few more feet of privacy between the two properties.

In addition, the proposed garage design and scale of the garage matches that of the existing house so that when completed, it will look as though it's always been there. For example, the roof and siding material will match that of the house, as will the pitch of the roof and the design of the doors and dormer window in the roof. The garage will also be set back 18 inches from the front of the house to provide more architectural interest.

The adjacent neighbors to the west commented that the effect of the garage extending about three feet beyond the end of their garage would impact their enjoyment of their existing patio which is located adjacent to the end of their garage and abuts the common property line. They also noted that repair of their garage wall would be precluded by a garage located only six inches from their own (i.e., because their garage is located 6 inches from the property line and the original proposal for the subject garage would have been at the property line). The applicants decided to request a 2-foot setback instead of the originally proposed zero-foot setback in order to provide additional light and air between the proposed garage and the neighbors' patio.

Relatively speaking, there would be very little difference in light and air impacts to the neighbors between the proposed garage located at the 2-foot setback and a garage located at the required 5-foot setback. But there would be a large impact to the applicants because they would not have enough room for a two-car garage at this location, which is far more convenient for them to access their home.

Conclusions: Because the garage wall will have a 1-hour fire rating and because the garage will be set back two feet from the west property line, there will be adequate separation for fire fighting. In addition, the garage will match the architectural details of the existing house which will maintain the building's compatibility with the neighborhood and the existing

architectural diversity of the area. Modifying the proposal to set the garage back 2 feet instead of zero feet from the property line, and removing the existing garage from the northwest corner will enhance light and air adjacent to the neighbor's back yard and help minimize impacts.

Finally, since the proposed garage will face the neighbor's existing garage for the majority of its length (23 of 26 feet), and extend only three feet beyond it, there will be very little impact to the neighbors' privacy or their enjoyment of their property relative to the same garage being constructed at the 5-foot setback line. The reduction in size of the garage in order to have a 2-foot setback will allow maintenance of the applicant's garage. The neighbors, of course, would need permission from the applicants to go on the applicants' property to maintain the outside of their own garage. Further, as stated, the neighbors will be effected by only 3 linear feet of the proposed garage, where their own backyard appears to have around 1200 square feet of open space and be between 33 and 39 feet deep. Because the applicants decided to set their proposed garage two feet back from the property line to accommodate their neighbors, additional mitigation is not required, 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

The site is located within a residential zone. As discussed above, the proposed garage has been designed to match the architectural detail of the existing house. The proposed design of the garage is quite elegant as it matches each design feature of the existing house, from roof pitch, siding, and windows to a dormer to match the house dormer and garage windows and doors that reflect the house windows and doors. Rather than detracting from the livability or appearance of the residential area, the garage will enhance both through its architectural detail. When completed, the garage will look as though it had been constructed at the same time as the house, providing an integrated and graceful façade to the neighborhood.

In addition, a number of garages have been built on, or very close to, property lines within this neighborhood, making it a common appearance throughout the neighborhood. Indeed, the garage of the neighbor to the west is located only 6 inches or so from the common property line. Further, the original application requested a zero-foot setback from this property line, but the applicant revised the proposal to a 2-foot setback to accommodate their neighbors and to provide maintenance capability between the proposed garage and the neighbor's garage.

Conclusions: The design of the proposed garage, to match that of the existing house, will provide a visual contribution to the neighborhood. The applicants have added a dormer in the garage roof to match the one on the house façade, and the garage doors match the design of the house doors and windows. The effect is very aesthetically pleasing and improves both the livability and appearance of the neighborhood. Therefore, this criterion is met.

Findings:

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 neighbors to the west suggested that their enjoyment of their patio, which is adjacent to the common property line, would be impacted due to the three feet of garage that would extend beyond their own garage. The applicant, in consideration of the neighbors comments, reduced the size of their garage by setting it back two feet from their property line.

The other impact identified with this proposal is a fire safety related impact, because the garage will be so close to the property line. However, the proposed garage will have a one-hour fire rated wall and will be set back from the property line by two feet, which will nullify this safety concern.

Staff found that although the garage will be located close to the west property line, it should have few, if any, impacts to the neighboring property because it will parallel the neighboring garage which is located about six inches from the common property line. The proposed garage will extend about three feet beyond the end of the neighbor's garage, but this is not expected to substantially impact the neighbor's use of their large back yard to any greater degree than building the garage at the 5-foot setback line, where it would be allowed by right. In addition, the existing garage located in the northwest corner adjacent to the neighbor's backyard will be removed which will further improve light and air for the neighbors.

There are no other discernible impacts that would result from granting the requested adjustment. Therefore, 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 proposes to construct an attached 552 square foot, 2-car garage at two feet from the west property line. The findings above show that the proposal meets all of the approval criteria for granting an adjustment and that the proposed garage meets the multiple purposes of the setback regulations and enhances the livability and appearance of the neighborhood.

ADMINISTRATIVE DECISION

Approval of the following Adjustments (33.110.220) for a two-car garage:

- Reduce the required side/west setback from 5-feet to 2 feet for the building wall.

per the approved plans, Exhibit C.1.b and C.2.b signed and dated March 29, 2012, and subject to the following conditions:

- A. As part of the building permit application submittal, the required site plans and building elevations and any additional drawings must reflect the information approved by this land use review as indicated in Exhibits C.2.b through C.3.b. The sheets on which this information appears must be labeled, "Proposal and elevations as approved in Case File # LU 12-108149 AD."

Staff Planner: Kathy Harnden

Decision rendered by:  **on March 29, 2012**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 2, 2012

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 January 27, 2012, and was determined to be complete on **February 27, 2012.**

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 January 27, 2012.

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 extended by the applicant, **the 120 days will expire on: June 26, 2012**

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 April 16, 2012** 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 **April 17, 2012 – (the first business 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:

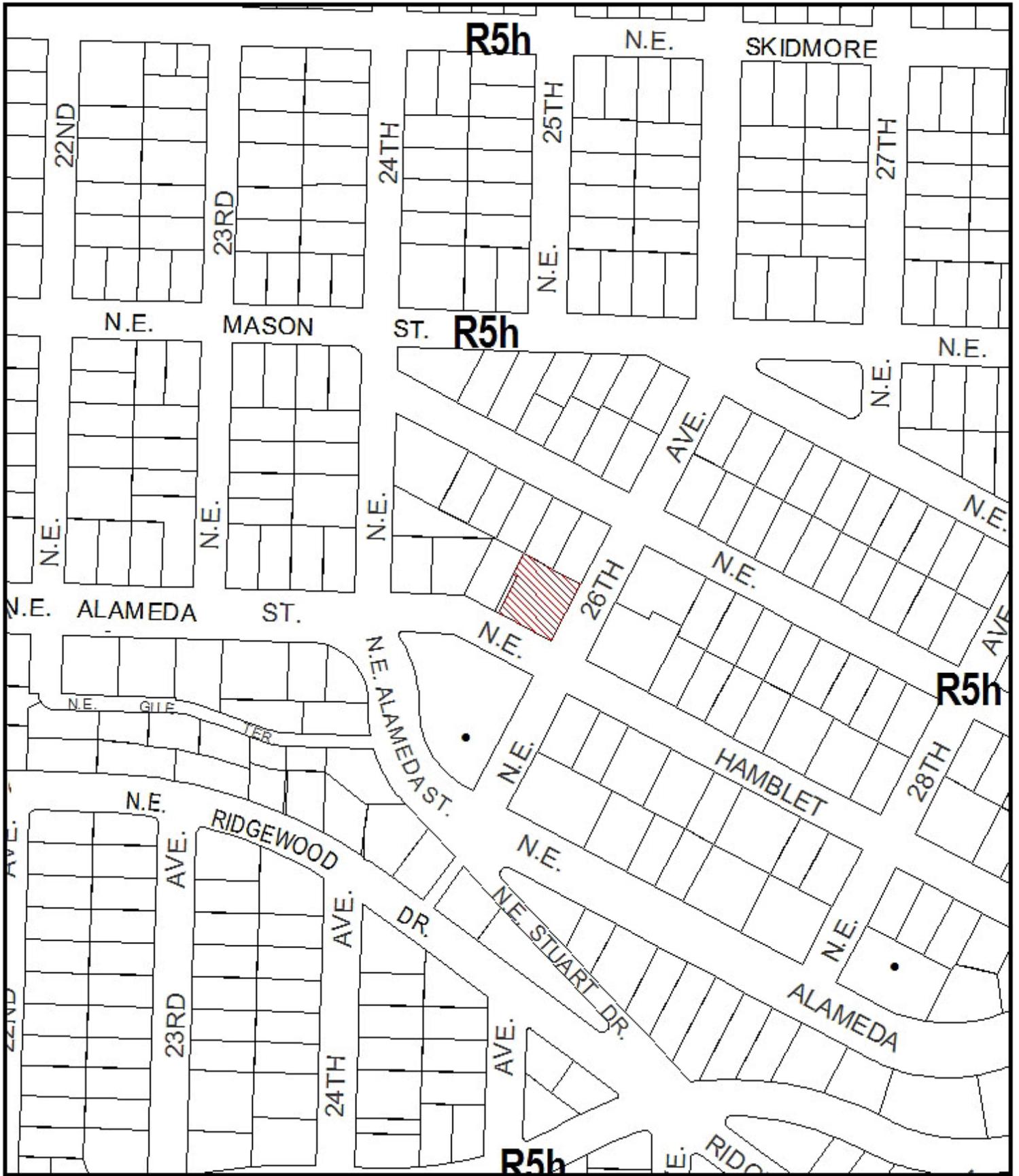
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Site Plan
 - 2. Original Development Proposal
 - 2.b Modified Development Proposed
 - 3. Original Proposed Elevations
 - 3.b Modified Elevations
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 1.b Bureau of Environmental Services, Addendum
 - 2. Bureau of Transportation, Informal Response
 - 3. Water Bureau
 - 4. Life/Safety
- F. Correspondence:
 - 1. Deneen and David Everly, 3/10/2012, Wants to do similar project on their property
 - 2. Lloyd and Gay Beil, 3/13/2012, Concerned about timing of the construction
 - 3. Thomas C. Phelan, 3/20/2012, Concerned that the proposal would detract from livability in his back yard
- 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. 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



NORTH

File No. LU 12-108149 AD

1/4 Section 2633

Scale 1 inch = 200 feet

State_Id 1N1E24CB 18700

Exhibit B (Feb 02,2012)

EXISTING HOUSE FOOTPRINT
SQUARE FOOTAGE 1,730 S.F.

*Proposed
Development*

Revised

NEW GARAGE
552 S.F.

26'-0"

21'-3"

2'-0"

West Property line

44'-3 3/4"

65'-6 3/4"

1/8" = 1'

EXISTING WALK



09/21/2012-2177 41'-6"

9.2.0.6

LOT COVERAGE:
LOT AREA: 9,583 S.F.
EXISTING LOT COVERAGE: 2,071 S.F.
EXISTING LOT COVERAGE PERCENTAGE: 22%
LOT COVERAGE OF ADDITION: 552 S.F.
NEW LOT COVERAGE: 2,623 S.F.
NEW LOT COVERAGE PERCENTAGE: 27%

**LOT COVERAGE REQUIREMENTS PER IBC TABLE 110-4
FOR LOTS 5,000 SQ. FT. OR MORE BUT LESS THAN 20,000 SQ. FT. :
2,250 SQ. FT + 15% OF LOT AREA OVER 5,000 SQ. FT.**

Revised Garage Proposal
Reduced size / removed
personal doot.

T.O. ROOF
+20'-0"

ASPHALT COMP. ROOF.

HEADER
+7'-0"

CARRIAGE-STYLE
GARAGE DOORS.

WOOD SIDING TO
MATCH EXISTING.

CURRENT GRADE
0'-0"

Property line

1/4" = 1'

LU12-08149AD
C.3.6