

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: April 9, 2009

To: Interested Person

From: Crystal Hitchings, Land Use Services

503-823-7583 / Crystal.Hitchings@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 09-113497 AD

GENERAL INFORMATION

Applicant: Paul Rabay

249 N Ivy St

Portland, OR 97227-1534

Contractor: Aaron Stevens

Hammer And Hand Inc 1020 SE Harrison St Portland OR 97214

Site Address: 249 N IVY ST

Legal Description: EXC PT IN ST LOT 6 BLOCK 5, ALBINA ADD

 Tax Account No.:
 R009900790

 State ID No.:
 1N1E27AB 02500

Quarter Section: 2730

Neighborhood: Boise, contact Christopher Sahli at 503-807-7905.

Eliot, contact Mike Warwick at 503-284-7010.

Business District: North Portland Business Assoc, contact Jim Schaller at 503-517-9915.

North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.

District Coalition: Northeast Coalition of Neighborhoods, contact Lauren McCartney at

503-823-4135.

Plan District: Albina Community

Zoning: R1a, Multi-dwelling Residential 1,000 with an Alternative Design

Denisty Overlay Zone

Case Type: AD, Adjustment Review

Procedure: Type II, an administrative decision with appeal to the Adjustment

Committee.

Proposal:

The applicant wishes to change the hip roof of an existing enclosed porch to a shed roof, in order to provide ample headroom for a new interior staircase. This change to the roof will occur in the northwest corner only. The remainder of the roof and porch will not be changed. The west side of the porch that will become wall instead of roof will be sided to match the existing wall (please refer to the attached elevations for clarification). The existing porch is located on the rear of the home, approximately 1.5 feet from the west side property line.

The R1 zone requires a side setback of 5 feet. Exceptions to this requirement do allow some extensions into the setback by right; however, the porch does not meet those exceptions. Therefore, an **Adjustment** to Zoning Code **Section 33.120.220**, Setbacks, is required to allow the proposed shed-style roofline on the northwest corner of the enclosed porch, located at a 1.5-foot setback from the west side property line, to replace the existing hip-style roofline.

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 3,483 square foot lot is located on the north side of N Ivy Street, at the intersection of N Ivy and N Gantenbein Avenue. In this location, N Ivy dead-ends in a cul-desac 3 lots west of the subject site. The site is developed with a single-dwelling, two-story structure originally built in 1892. The site is characterized by several mature deciduous trees on the southwest and northwest portions of the site, and smaller trees and shrubs along the eastern property line, with open lawn in the rear and side yards. The site is accessed from N Ivy and N Gantenbein by pedestrian paths and does not have on-site parking.

Within 200 feet of the subject site, development is a mixture of residential, commercial, and institutional. To the south is a parking lot associated with the American Red-Cross office/medical use located nearby, vacant land, and an Interstate 5 ramp with access to N Cook Street and N Kerby Avenue. To the north is the Open Door House of Prayer, vacant land, and single-dwelling residential structures. To the east, along N Vancouver Avenue, are vacant commercial structures. To the west, development is single-dwelling residential. Directly adjacent to the site to the west is a single-dwelling home.

Zoning: The site is zoned R1a, Multi-dwelling Residential 1,000 with an Alternative Design Denisty Overlay Zone. The multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The R1 zone is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses.

The purpose of the Alternative Design Density ("a") Overlay Zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

The R1 zone requires a minimum side building setback of 5 feet. The application does not take advantage of the allowances provided by the "a" overlay zone, and therefore the standards of this zone are not applicable to the proposal.

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

Agency Review: A "Request for Response" was mailed on March 16, 2009. The following Bureaus have responded with no issues or concerns (Exhibits E.1-E.5):

- Fire Bureau
- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Bureau of Parks-Forestry Division

The following Bureaus have submitted additional comments:

- The **Site Development Section of BDS** (Exhibit E.6): had no objection to the requested Adjustment, and noted that the existing house is being remodeled (Permit 08-191330 RS) through the Field Inspection Remodel (FIR) program. The applicant is advised to work with the FIR inspector and Site Development technical staff to address sanitary sewer connection and stormwater management and disposal requirements.
- The **Life Safety Bureau** (Exhibit E.7):had no concerns and noted that, in order to meet current building code, the new triangular portion of the west wall under the new shed roof will need to be one-hour fire rated.

Neighborhood Review: A "Notice of Proposal in Your Neighborhood" was mailed on March 16, 2009. No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

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 <u>purpose</u> of the regulation to be modified; and

Findings: The applicant is requesting an Adjustment to **Section 33.120.220, Setbacks**. The <u>purpose</u> statement for this regulation is as follows:

The building setback regulations serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;

- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
- Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.

The request is to modify the roofline of the northwest corner of the porch only. The modification will not result in the porch being any taller than the existing porch, nor will any significant portion of the porch be closer to the property line (about 8 square feet of new structure will be located in line with the existing westernmost wall of the porch and house). The proposal will mainly result in a slight increase in the amount of visible wall area on the west façade and the amount of visible roof area on the north facade. On the north façade of the home, the area covered by roof will increase by approximately 8 square feet and replace what is currently covered by siding. On the west façade of the home, the visible area of siding will increase by approximately 8 square feet and replace what is currently covered by roof. No changes will occur that affect light, air, fire separation, or fire safety to the adjacent properties. The new portion of wall area is required to be one-hour fire-rated to meet building code requirements. The proposed change does not alter the building scale or placement of the existing porch in relationship to other multi-dwelling development in the neighborhood, nor does it significantly alter the physical relationship of the proposed porch to adjacent structures or affect options for privacy for neighboring properties. The purpose statement is equally met, and therefore 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; and

Findings: The altered portion of the porch roof is a minimal part of the overall residential structure and is visible from the rear yard and from some areas of the adjacent lot to the west, and is minimally visible to the rest of the neighborhood. The requested setback is the same as the existing setback of the entire western wall of the house and porch. The proposal to alter the northwest corner of the roofline of the porch does not significantly alter the appearance or livability of the residential area from the existing 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 proposed alteration only minimally changes the existing conditions, and 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 proposal to alter the northwest corner of the existing roofline from a hip roof to a shed roof, and to allow the altered portion to be located 18 inches from the west side property line, does not significantly alter the appearance, size, or function of the existing structure, and does not affect livability or appearance of the neighborhood, and no impacts are anticipated that need mitigation. All applicable approval criteria are met, and this Adjustment should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code **Section 33.120.220, Setbacks**, to allow the proposed shed-style roofline on the northwest corner of the enclosed porch, located at a 1.5-foot setback from the west side property line, to replace the existing hip-style roofline, in significant conformance with the approved site plans, Exhibits C-1 through C-2, signed and dated April 7, 2009, subject to the following conditions:

A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-113497 AD."

Staff Planner: Crystal Hitchings

Decision rendered by: ______ on April 7, 2009.

By authority of the Director of the Bureau of Development Services

Decision mailed: April 9, 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 March 10, 2009, and was determined to be complete on March 12, 2009.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 10, 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 April 23, 2009 at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. An appeal fee of \$250 will be charged. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- Unless appealed, The final decision may be recorded on or after April 24, 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.

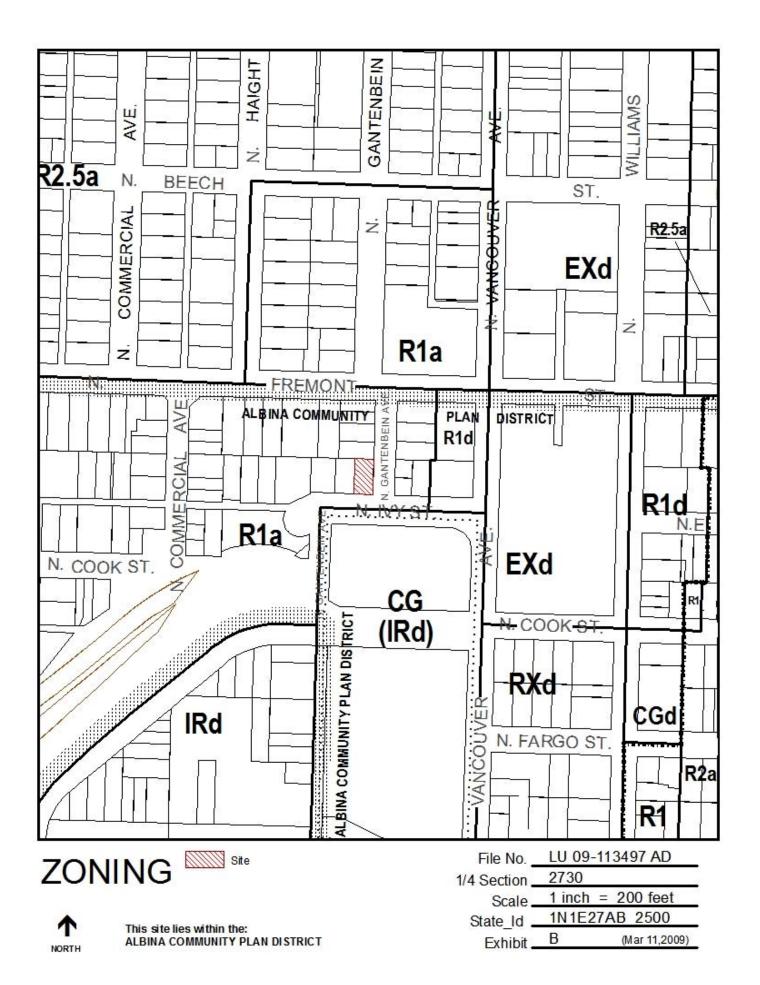
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

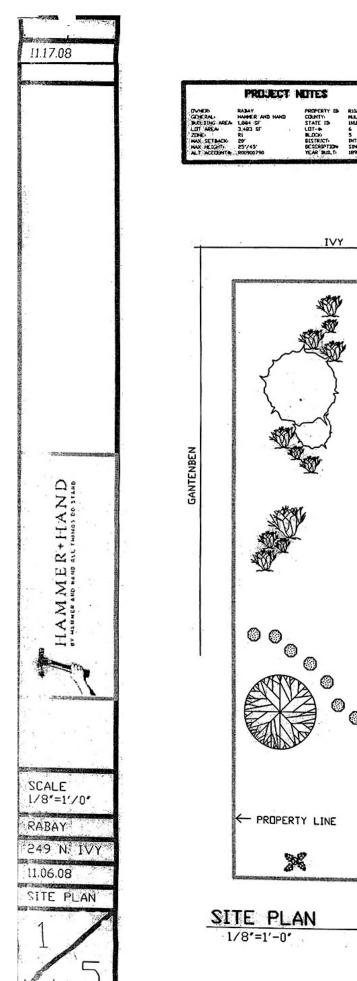
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

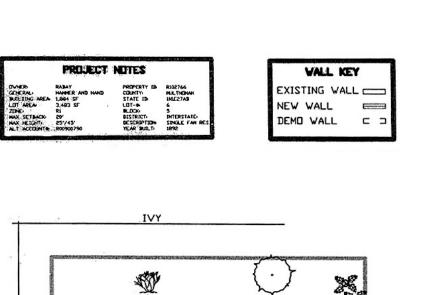
EXHIBITS

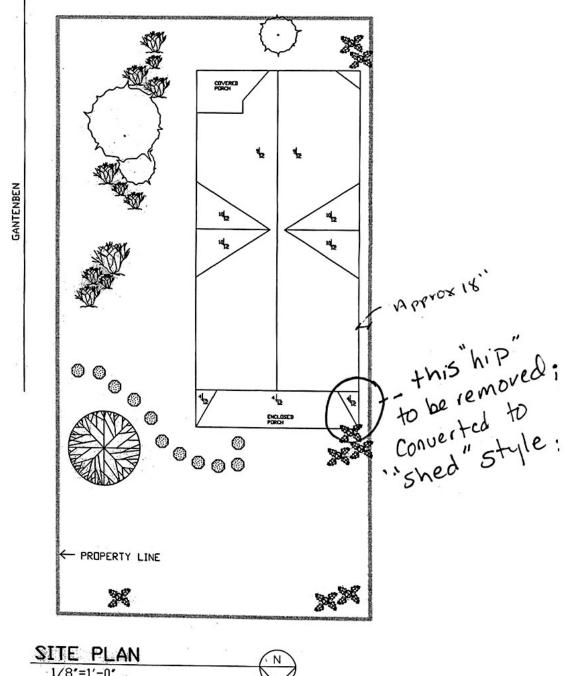
NOT ATTACHED UNLESS INDICATED

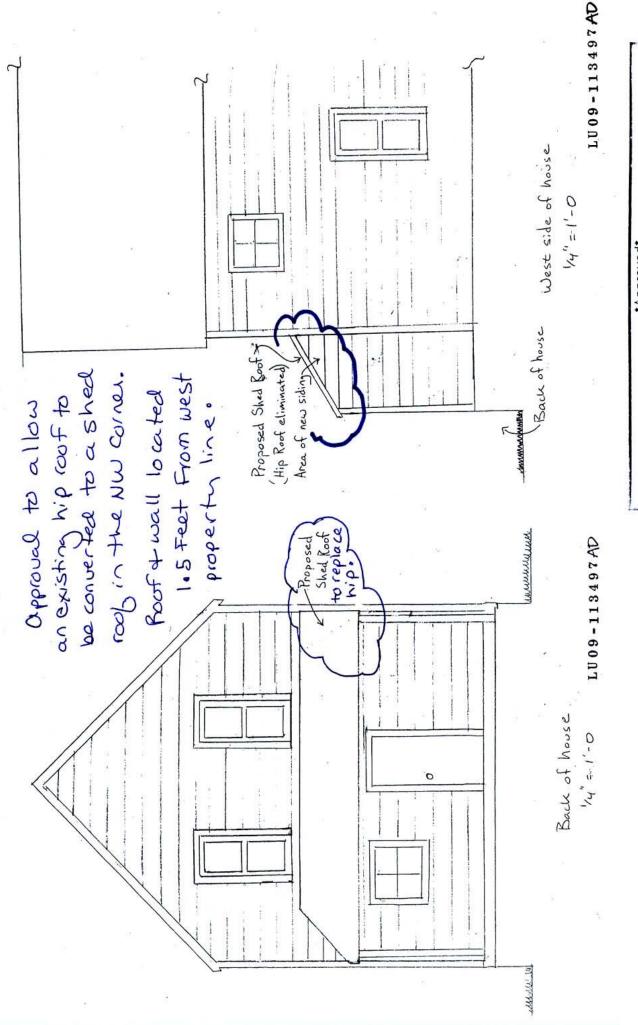
- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Proposed elevations (north and west) (attached)
 - 3. Existing elevations (north and west) (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
- 1. Fire Bureau
- 2. Bureau of Environmental Services
- 3. Bureau of Transportation Engineering and Development Review
- 4. Water Bureau
- 5. Bureau of Parks, Forestry Division
- 6. Site Development Review Section of BDS
- 7. Life Safety Bureau
- F. Correspondence:
 - None received
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research











Approved

City of Portland - Bureau of Development Services

Phanner Complete Holding Date 4-7-7

* This approved applies only to the reviews requested and is subject to all

Collicers of approval. Additional zoning requirements may apply

