



CITY OF PORTLAND
Bureau of Development Services
1900 SW Fourth Avenue, Suite 5000
Portland, OR 97201 **P524**
Land Use Decision Enclosed
Case # LU 09-140499 AD

16

Return Service Requested

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 5,000 square foot site is located on the east side of NE 7th Avenue, just north of NE Going Street and 1 block east of King School and King School Park. The site is developed with a single-dwelling home and attached garage, with a larger rear yard vegetated with mature trees and shrubs, and minimal side and front yards. The site is accessed from NE 7th Avenue, which is a Local Service Access Street. The surrounding area within 200 feet of the site is developed with single-dwelling residential homes, some multi-dwelling residential, the King Elementary School and park, and city-owned parking lots located adjacent to the park and school.

Zoning: The site and surrounding sites are zoned Single-dwelling Residential, with Alternative Design Density and Aircraft Landing Overlay Zones. The standards of these overlay zones are not triggered by the proposal. Sites to the southwest do not have Aircraft Landing Overlay Zones. To the west is King NE Park, which is an Open Space zoned site. Industrial zoning begins over 600 feet to the west, and commercial zoning begins over 700 feet to the north.

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 July 9, 2009. The following Bureaus have responded with no issues or concerns (Exhibits E.1-E.7):

- Site Development Section of BDS
- Life Safety Bureau
- Fire Bureau
- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Bureau of Parks-Forestry Division

Neighborhood Review: A "Notice of Proposal in Your Neighborhood" was mailed on July 9, 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 purpose of the regulation to be modified; and

Findings: The applicant is requesting an Adjustment to **Section 33.110.220, Setbacks**. The purpose statement for this regulation is as follows:

Purpose: 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 houses 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*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The existing garage to be converted into a living area is located approximately 11 feet from the southeast corner of the adjacent house on the site to the north. Approximately 14 feet of the structure faces the rear yard of that site. The adjacent home is located toward the front of the lot, leaving a large, open rear yard with landscaping around the perimeter and a garden on the north side. The height of the north wall of the existing garage will be raised by approximately 2.5 feet, and the roofline will be changed such that the pitch will be slightly steeper and therefore more of the roof will be exposed to the adjacent site. The gable ends of the converted structure face east and west, so that from the perspective of the adjacent site to the north, the additional height of the converted structure is minimal. The proposed new structure is approximately 35 feet from the rear property line, and the home on the adjacent site to the east is separated from the proposed new structure by approximately 65 feet of rear yards and vegetation.

The proposed additional height of the structure is not significant, and will not adversely or significantly affect light and air to adjacent properties. The north wall of the proposed new structure will be fire-rated to meet current building code requirements, therefore fire protection will be increased from existing conditions. Separation for fire protection and fire access between properties is not changed from existing conditions.

Sizes of lots and homes in the neighborhood, and orientation of the homes on the lots, are varied such that some lots have larger rear yards and minimal front and side yards, while some lots have larger front yards and minimal rear yards, and other lots have a larger side yard and smaller front and rear yard. There are a couple of examples of larger, attached garages that appear to be located in the side setbacks. Homes are of a variety of sizes (height, square footage) and are constructed in a variety of architectural styles. The proposed new living area does not change the footprint, square footage, or location of the existing home, but raises the height and changes the roofline of a 20-foot by 21-foot portion of the home that contains the garage, pantry, and laundry room. Separation between homes in the neighborhood ranges from minimal (approximately 5 feet) to generous (approximately 30 feet), with more of the homes separated by approximately 8 to 15 feet. The existing and proposed separation between the new living area and closest adjacent home is approximately 11 feet, which is typical of the neighborhood. Distance between structures is not proposed to be changed, just height and use of the structure. Therefore, the proposal reflects the general building scale and placement of the neighborhood, and provides a reasonable physical separation.

Opaque, fire-rated glass blocks will be installed in the north façade, facing the adjacent site to the north, and skylights will be installed in the roof. The glass blocks will allow light to enter but will obscure views between the sites. The skylights will be oriented toward the sky and not directly toward the adjacent home or yard. Therefore, options for privacy are retained.

The request to convert the existing garage to a living area allows for a greater residential use of the site while remaining compatible with the neighborhood, not removing existing outdoor area, and allowing architectural upgrades to the home. Adequate room remains for parking in the driveway in a manner that doesn't interfere with the public right-of-way.

The purpose statement for setbacks is equally met, and therefore this approval 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 proposed changes remove the garage and replace it with living area with windows and doors facing the street. The changes proposed to the north façade do not significantly change the appearance of that façade, except that the architectural style of the proposed new structure is more compatible with the style and appearance of the existing home. New sky-lights and new opaque glass blocks along the façade will add some articulation to the façade. Therefore, the appearance of the residential area will be improved from both the street perspective and the perspective of the adjacent site to the north. Physical separation and options for privacy are not significantly changed and fire safety is improved from existing conditions. Livability is not negatively affected by the proposal. 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 request to convert the existing garage into a new living area in its existing location meets the purpose statement for setbacks, and does not significantly or negatively affect livability or appearance of the neighborhood. All applicable approval criteria are met, and therefore this Adjustment should be approved.

ADMINISTRATIVE DECISION

Approval of an **Adjustment** to zoning code **Section 33.10.220 and Table 33.110-3, Setbacks**, to allow the conversion of an existing attached garage to a new living area, with the north wall located 12 inches from the north side property line and the north eave located 8 inches from the property line, in significant conformance with the approved site plans, Exhibits C.1 through C.4, signed and dated July 31, 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.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-140499 AD."

Staff Planner: Crystal Hitchings



Decision rendered by: _____ **on July 31, 2009.**

By authority of the Director of the Bureau of Development Services

Decision mailed: August 3, 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 July 1, 2009, and was determined to be complete on July 7, 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 July 1, 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: November 4, 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 August 17, 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 **August 18, 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.

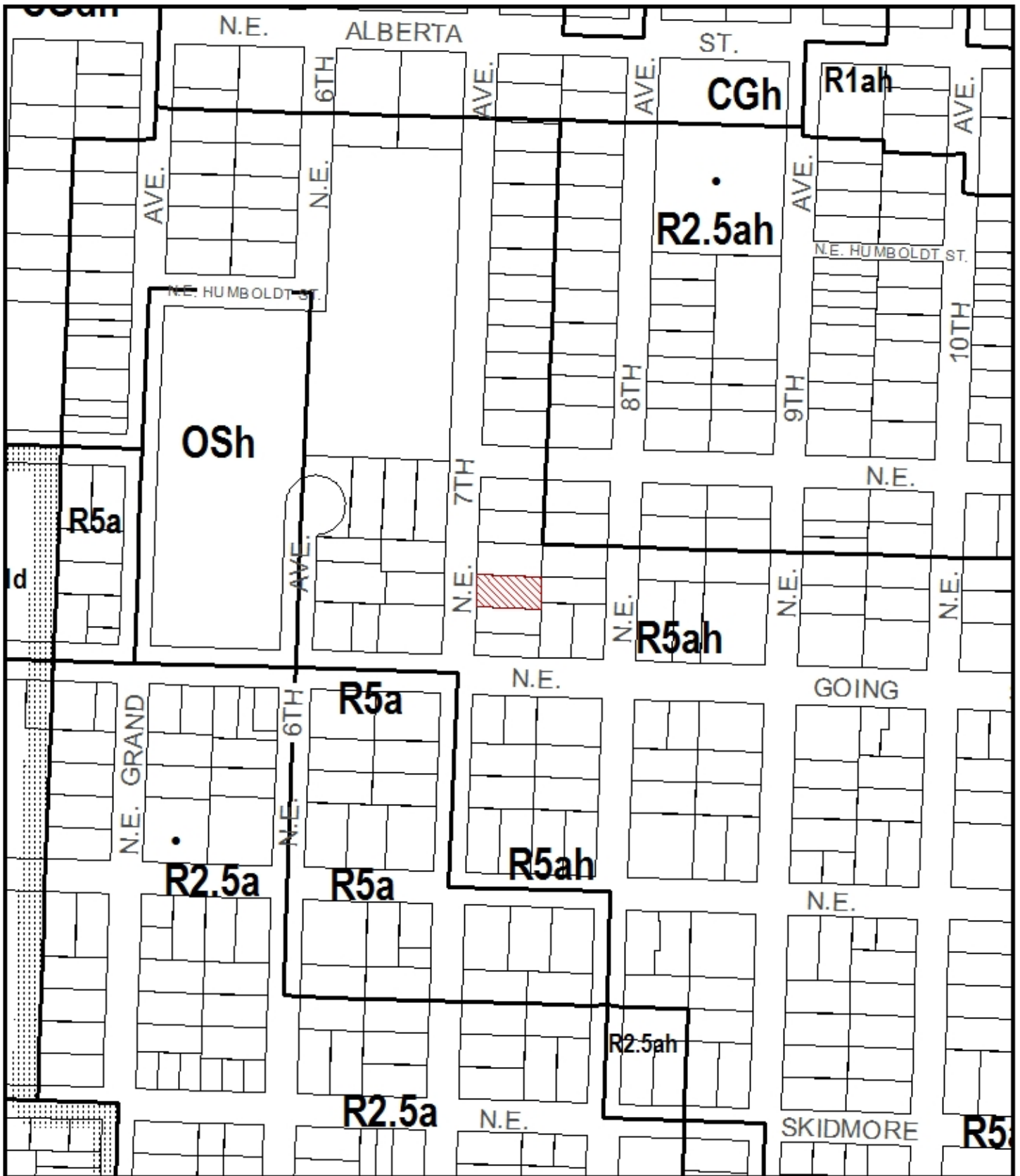
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. West (front) Elevation (attached)
 - 3. North (side) Elevation (attached)
 - 4. East Elevation (attached)
 - 5. South Elevation
 - 6. Floor Plan
 - 7. Site Photos
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Site Development Review Section of BDS
 - 2. Life Safety
 - 3. Fire Bureau
 - 4. Bureau of Environmental Services
 - 5. Bureau of Transportation Engineering and Development Review
 - 6. Water Bureau
 - 7. Bureau of Parks, Forestry Division
- F. Correspondence:
 - None Received
- 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. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).



ZONING

 Site

 Historic Landmark

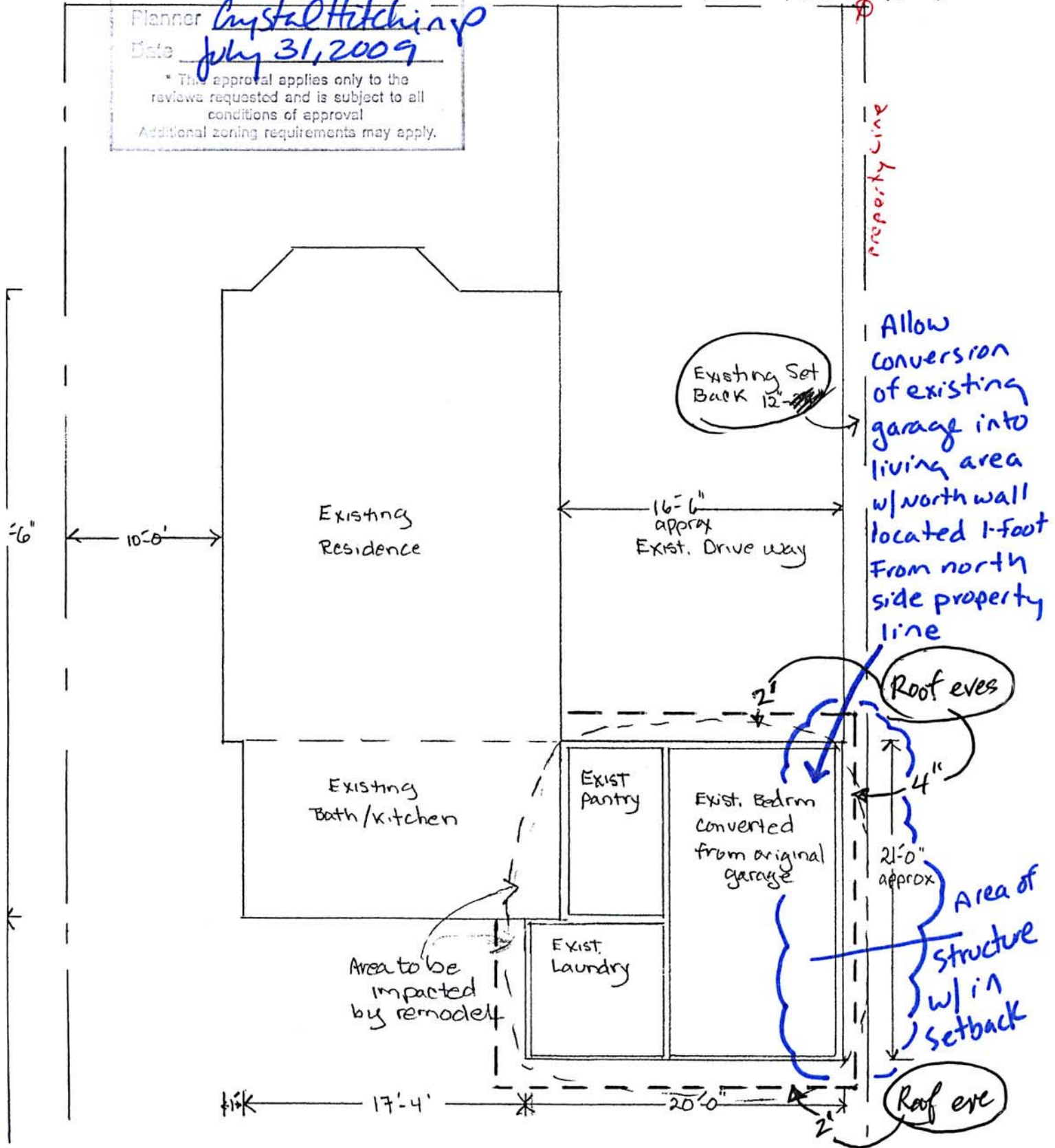


File No.	<u>LU 09-140499 AD</u>
1/4 Section	<u>2531</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E23BC 10200</u>
Exhibit	<u>B</u> (Jul 02,2009)

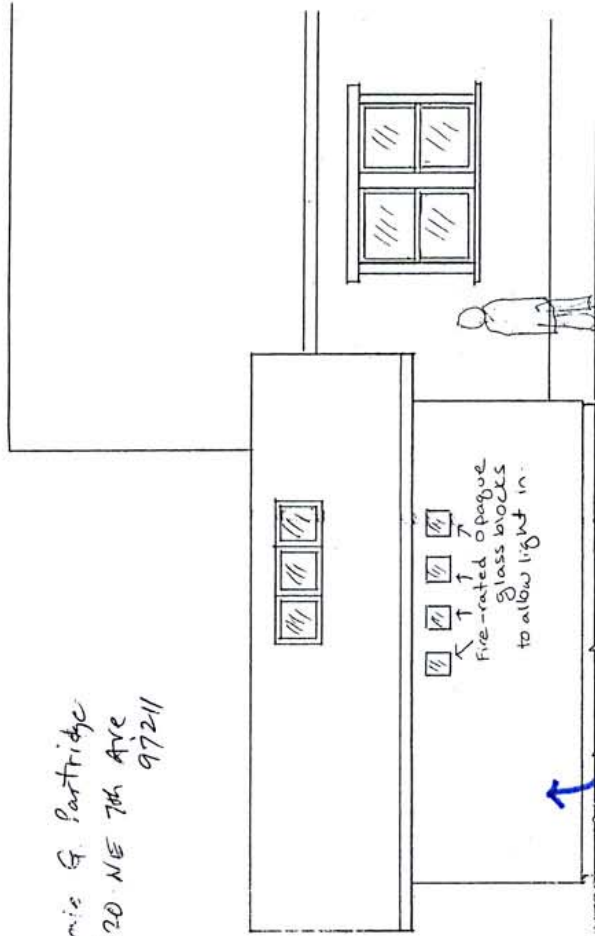
Approved
 City of Portland
 Bureau of Development Services
 Planner Crystal Hitchings
 Date July 31, 2009
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

7th Ave N →

Property Line



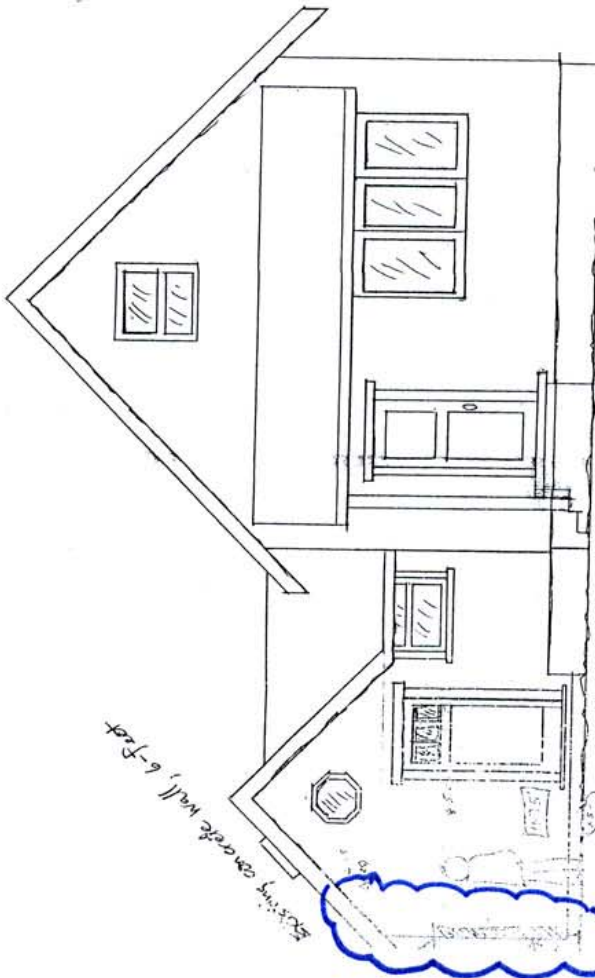
Jamie G. Partridge
1420 NE 7th Ave
97211



North Elevation
1/2 09-140499 AD

Five-rated opaque glass blocks to allow light in

North facade in setback

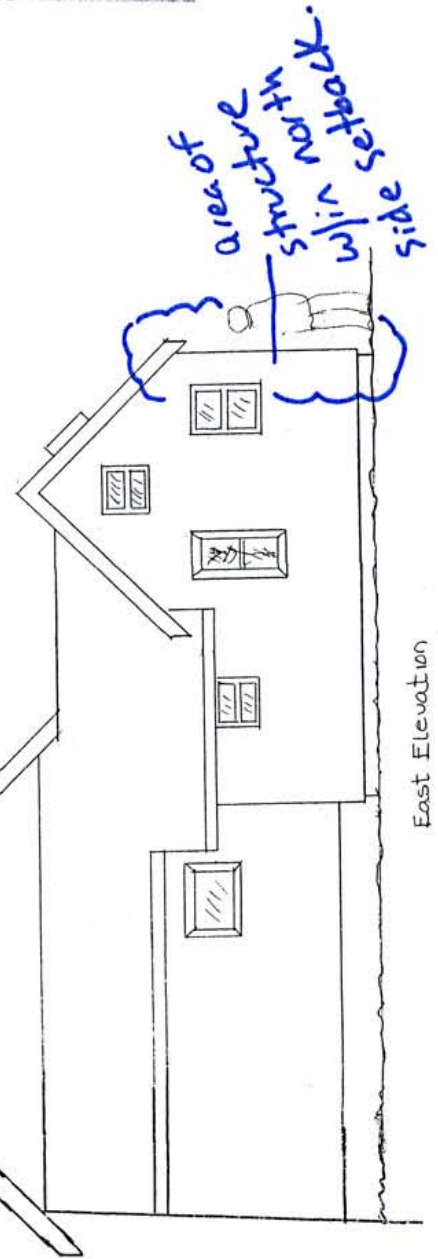


West Elevation
1/4 11

Existing concrete wall, 6-foot

Area of structure within north side setback

Approved
City of Portland
Bureau of Development Services
Planner *Crystal Hixling*
Date *July 31, 2009*
* This approval applies only to the reviews requested and is subject to all conditions of approval.
Additional zoning requirements may apply.



East Elevation