



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

**Date:** June 9, 2011  
**To:** Interested Person  
**From:** Mieke Keenan, Land Use Services  
503-823-0624 / [Mieke.Keenan@portlandoregon.gov](mailto:Mieke.Keenan@portlandoregon.gov)

## **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 11-132158 AD**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Gregory J Ferey  
7617 SE 69th Ave  
Portland, OR 97206-8066

**Owner:** Eowyn B Ferey  
7617 SE 69th Ave  
Portland, OR 97206-8066

**Site Address:** 7617 SE 69TH AVE  
**Legal Description:** BLOCK 4 E 100' OF LOT 2 EXC N 66', ALTADENA ACREAGE  
**Tax Account No.:** R018900490  
**State ID No.:** 1S2E20CA 04900  
**Quarter Section:** 3837

**Neighborhood:** Brentwood-Darlington, contact Eric Wikoff at 503-704-2396.  
**Business District:** Eighty-Second Avenue, contact Ken Turner at 503-484-6225.  
**District Coalition:** Southeast Uplift, contact Leah Hyman at 503-232-0010.

**Zoning:** R5a – Residential 5,000 with the alternative design density overlay  
**Case Type:** AD - Adjustment  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant is proposing to allow surface parking within the required 10-foot front setback. The Portland Zoning Code, Title 33, regulates the size and placement of parking spaces. Code Sections 33.266.120.C-D require lots with single-dwelling residences to have a minimum of one on-site parking space that is at least 9- feet wide and 18- feet long. The required parking space must be set back a minimum of 10- feet from the front property line, for a total of 28- feet. *The purpose for these regulations is to enhance the appearance of neighborhoods.* The applicant is in the process of converting their existing garage to living space and is seeking an adjustment to

allow a surface parking space within the required 10-foot setback, reducing the setback from 10-feet to 2-feet, which will allow a car to encroach into the setback 8 feet.

There is approximately 20-feet between the front property line and the existing house, which provides enough length for on-site parking. There is approximately 10-feet of public right-of-way between the edge of roadway pavement and the front property line.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805.040.A-F of the Portland Zoning Code.

## ANALYSIS

**Site and Vicinity:** The subject property is relatively flat and located on SE 69<sup>th</sup> Ave, which dead ends approximately 120 feet south of the property. It is bordered to the north by SE Flavel Street. The property is not unlike other lots in the neighborhood. It is approximately 5500 square feet in size and contains a single family dwelling, a small shed and several small and medium sized trees. There are no curbs or sidewalks on SE 69<sup>th</sup> Avenue at this location.

**Zoning: Residential 5,000 (R5)**

The R5 zone is a high density single-dwelling zone. The R5 zone allows attached and detached single-dwelling structures and duplexes.

**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 **May 12, 2011**. The following Bureaus have responded with no issues or concerns:

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

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on May 12, 2011. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

**33.805.010 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 to provide certainty and rapid processing for land use applications.

**33.805.040 Adjustment Approval Criteria**

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

The purpose of the setback regulations, per 33.110.220, is to:

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

**Findings:** The proposed adjustment is for existing development. Since the applicant is converting the existing garage to living space they are proposing to allow surface parking in front of the dwelling. Since no exterior changes will be made light, air, separation for fire protection and access for fire fighting will be maintained. The general building scale and placement will also be maintained.

The front property line is set back 10 feet from the edge of roadway pavement. This 10 feet of public right of way between the edge of pavement and front property line functions visually as the front setback, and will maintain the overall appearance of the neighborhood. Currently there is 30 feet between the edge of the street pavement and the garage entrance including 20 feet between the front property line and the building wall. The width of the driveway exceeds the 9 foot requirement. The existing driveway meets the zoning code requirements for a parking space, minimum of 18 feet long and 9 feet wide, without interfering with the existing development pattern. No new development is proposed as part of this adjustment and an open front yard will be maintained. The applicant has noted that there is an existing 9 foot tall hedge bordering the north side of the driveway, providing an effective screen from the adjacent neighbor. No impact on privacy is anticipated. Because there is 30 feet between the building and the edge of the street a car can park in the driveway without overhanging the right of way. Visibility will be maintained.

The criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** The proposed adjustment will not detract from the livability or appearance of the area. There is adequate room to allow the existing driveway to function as a parking space. The applicant has noted that the availability of on street parking is limited and providing an on-site parking space will improve the livability of the neighborhood. Since cars are currently parking in the driveway there will be no change to appearance of the property or to the street in general.

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 being requested. This criterion does not apply.

**D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** The site is not within a City-designated scenic resource area or a historic resource area. Therefore, this criterion does not apply

**E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** No impacts are anticipated from the proposed adjustments. Therefore, this criterion does not apply.

**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. Therefore, this criterion does not apply.

## **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**

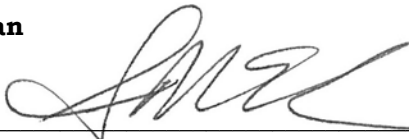
All of the approval criteria have been met for the requested Adjustment. The proposed adjustment will not detract from the livability of the neighborhood and provides adequate space for an open front yard. The existing 10' feet of right of way between the edge of roadway pavement and the front property line visually functions as the front setback. For these reasons, the Adjustment should be approved.

## **ADMINISTRATIVE DECISION**

Approval of an adjustment to 33.110.220 to allow parking within the required setback, reducing the allowed setback to 2 feet per the approved site plans, Exhibits C, signed and dated 6/7/2011, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 11-132158 AD." All requirements must be graphically represented on the site plan, or other required plan and must be labeled "REQUIRED."

**Staff Planner: Mieke Keenan**

**Decision rendered by:**  **on June 7, 2011.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: June 9, 2011**

**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 April 22, 2011, and was determined to be complete on May 9, 2011.

*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 April 22, 2011.

*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: September 6, 2011.**

**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 June 23, 2011** 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](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 **June 24, 2011 – (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

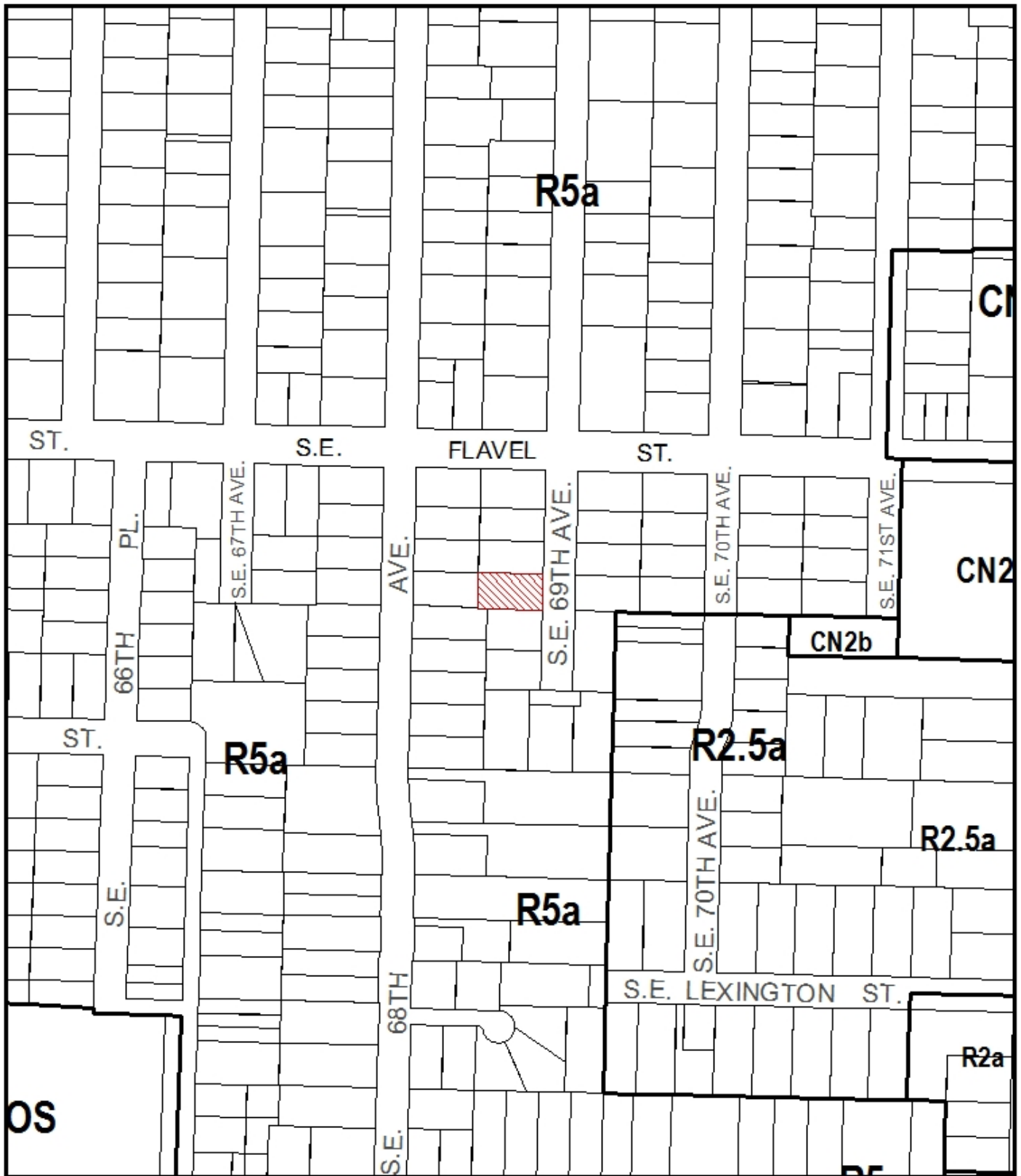
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Site Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailing list for Corrected Notice
  - 3. Mailed notice
  - 4. Corrected Notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety
- F. Correspondence: No written correspondence was received
- G. Other:
  - 1. Original LU Application

**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



File No.	<u>LU 11-132158 AD</u>
1/4 Section	<u>3837</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E20CA 4900</u>
Exhibit	<u>B</u> (May 03,2011)



City of Portland  
Bureau of  
Development Services

By Middleman Date 6/7/11

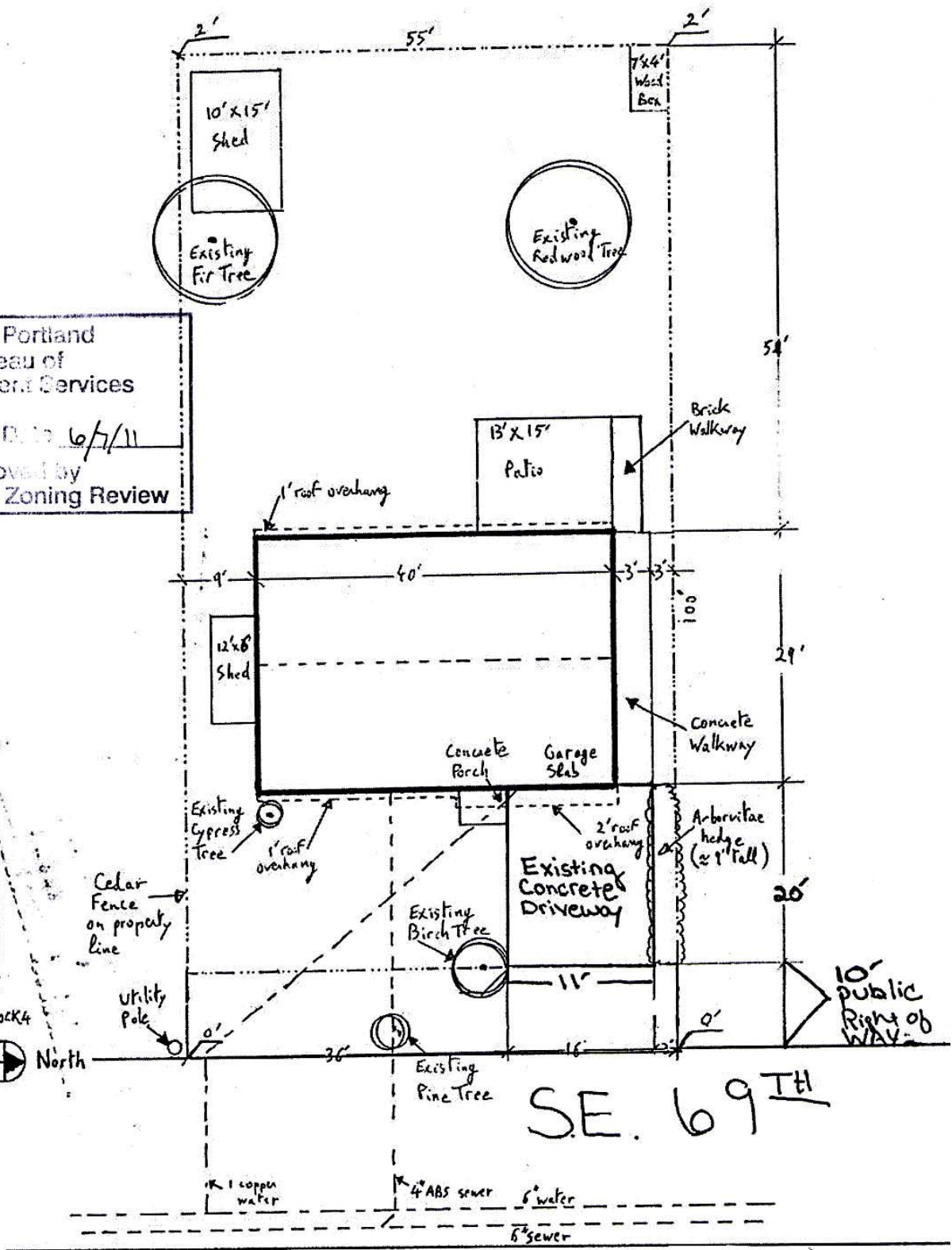
Approved by  
Planning and Zoning Review

Scale 1" = 10'

LOT AREA	5500 SQ FT
SUPERVISOR AREA	320 SQ FT
DRIVEWAY	195 SQ FT
PATIO	87 SQ FT
WALK	1259 SQ FT
ROOF AREA	1160 SQ FT
ENCL. OVERHANG	
TOTAL	1850 SQ FT
BUILDING COVERAGE	
BUILDING FOOTPRINT	1160 SQ FT

EGAL DESCRIPTION  
LT ADENA Acreage  
C. N 66'-E 100' of LOT 2 BLOCK 4  
AP 9837

PROJECT ADDRESS  
517 SE 69<sup>TH</sup> Ave  
Portland, OR 97206



CASE NO. 11-132158  
EXHIBIT C