



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

1900 SW Fourth Ave. Suite 5000  
Portland, Oregon 97201  
Telephone: 503-823-7300  
TDD: 503-823-6868  
FAX: 503-823-5630  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** April 18, 2008  
**To:** Interested Person  
**From:** Ronda Fast, Land Use Services  
(503) 823-7839 / [FastR@ci.portland.or.us](mailto:FastR@ci.portland.or.us)

## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has a approved 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 08-111653 AD**

#### **GENERAL INFORMATION**

**Applicant:** Carl Munz, Green Gables Design & Restoration, Inc.  
PO Box 4264  
Portland, OR 97208

**Owner(s):** Kerry and Michael Tappenbeck  
8838 SW 54th Avenue  
Portland, OR 97219-3217

**Site Address:** 8838 SW 54TH AVE  
**Legal Description:** LOT 20 BLOCK 2, WEST PORTLAND  
**Tax Account No.:** R894200420  
**State ID No.:** 1S1E30AB 04900  
**Quarter Section:** 3824  
**Neighborhood:** Ashcreek, Jack Klinker at 503-246-7872.  
**District Coalition:** Southwest Neighborhoods Inc., Leonard Gard at 503-823-4592.  
**Zoning:** R5, Single-Dwelling Residential 5,000  
**Case Type:** AD, Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicants propose to build an addition on an existing home for a single-car garage. The site currently has a parking pad and no garage. The proposed 12' by 28' garage will be located in the same location as the existing parking pad. Because the house is skewed on the lot, the space between the home and the north property line is closer at the west end of the addition than on the east end. The proposed garage will be 18 inches north property line at its closest point (on the west end) and 4' 6" at its farthest point (on the east end). The minimum required side setback for buildings in the R5 zone is 5 feet. Therefore, an Adjustment is required to allow a reduction in the building setback for a garage addition from 5 feet to 18 inches at its closest point.

#### **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 site is located on a 5,000 square foot lot in Southwest Portland. SW 54<sup>th</sup> Avenue is accessible from Garden Home Road but dead ends at Smith Elementary School, just south of the site. The residential area is predominately residential with a mix of architectural styles.

**Zoning:** The zoning on the site is R5, Single Dwelling Residential 5,000. Lots in the R5 zone are intended for single-dwelling development.

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

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **March 13, 2008**. The following Bureaus have responded with no issues or concerns related to the approval of the requested Adjustment. Bureaus that sent written responses regarding requirements for permit review are noted with Exhibit numbers below:

- Bureau of Environmental Services (Exhibit E-1)
- Plan Review/Life Safety Section of BDS (Exhibit E-2)
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS (Exhibit E-3)
- Bureau of Parks/Urban Forestry

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on March 13, 2008. No written responses have been received.

## 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

**Findings:** The applicants have requested an Adjustment to reduce the side setback for a single-car garage addition from 5 feet to 18 inches at its closest point. The purpose of the setback regulations for buildings and garages, found in Zoning Code Section 33.110.220.A is:

- 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 proposed side setback adjustment will not have a significant detrimental impact on light or air to neighboring properties. The proposed single-car garage addition is single-story with a hipped roof facing north which reduces the amount of shading to the north.

The original house is built at a slight angle relative to property lines on the site. The proposed garage addition is set back from the side property line 4'-6" at the front of the garage and 1'-6" at the back of the garage. The adjacent house to the north is 5 feet from the property line so at their closest point, the structures will be 6'-6" from one another. Life Safety/Plan Review section of BDS responded with comments that portions of a structure closer than 3 feet to a property line must use fire-rated materials. Fire protection requirements will be fulfilled at permit review.

The area is predominately developed with mid-to-late century residences. The placement of the garage addition is not out of character with the general scale and placement of houses in neighborhood. The garage addition is also situated back from the main part of the house preserving the open area in the front yard. The requested adjustment will allow the applicant the flexibility necessary to add a single-car garage in a manner that will fit the site and also be compatible with the neighborhood. Based on the proposed design of the garage addition this criterion is met.

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

**Findings:** The design of the proposed garage addition is consistent with the design of the house and is not out of character of the residential area. The house is situated on the lot at a slight angle, making a garage addition that complies with setbacks difficult. The original character is preserved, ensuring a quality project that reflects the housing in the area. Therefore, 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. Therefore this criterion is not applicable.

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

**Findings:** There are no scenic or historic resources 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 discernable 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:** There is no environmental zoning on the site. 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.

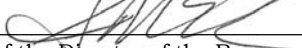
## CONCLUSIONS

The applicants propose to replace a parking pad with a single-car garage addition on the north side of their house. The addition preserves the architectural integrity of the existing home. It is not expected that the 12' by 28' garage addition will detract from the livability of the area nor create any impacts. The proposal meets all of the relevant approval criteria and consequently the Adjustment to allow a reduced side setback from 5 feet to 18 inches at its closest point should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.110.220 to allow a reduced setback for a 12' by 28' garage addition from 5 feet to 18 inches at its closest point, per the approved site plans, Exhibits C-1 through C-2, signed and dated April 18, 2008, 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 08-111653 AD."

**Decision rendered by:**  **on April 18, 2008.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: April 18, 2008**  
**Staff Planner: Ronda Fast**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 February 27, 2008, and was determined to be complete on March 11, 2008.

*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 February 27, 2008.

*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 May 2, 2008** 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. Recognized neighborhood associations are not subject to the appeal fee. 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.

**Appeal fee waivers.** Multnomah County may cover the appeal fees for their recognized associations. An appeal filed by a recognized association must be submitted to the City with either the appropriate fee or the attached form signed by the County. Contact Multnomah County at 503-988-3043, 1600 SE 190<sup>th</sup>, Portland, OR 97233.

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](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 Review an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **May 5, 2008 – (the 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 503-823-7967.

**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.

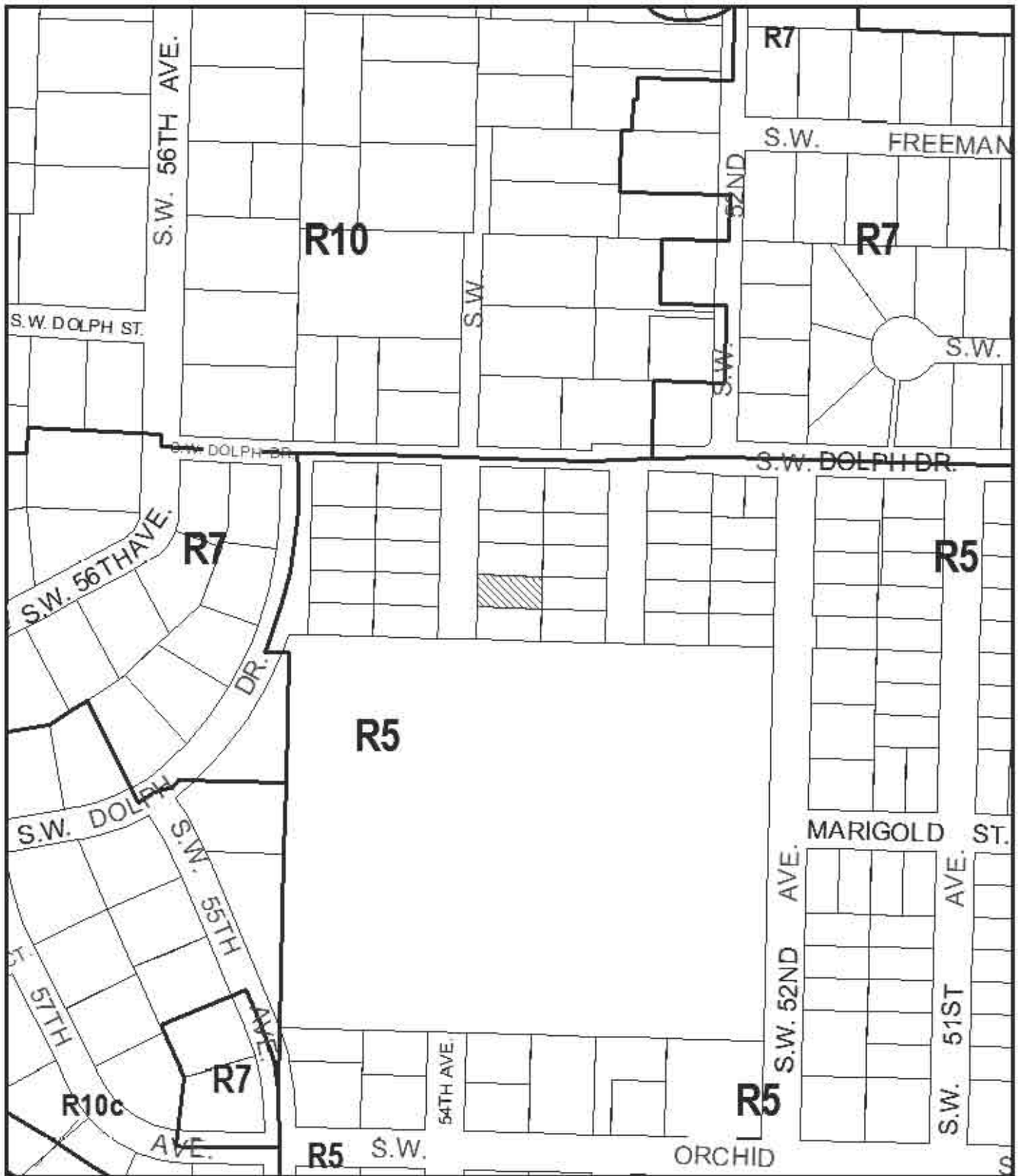
**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:

1. Site Plan (attached)
  2. Partial Building Elevations (attached)
  3. Full Front Building Elevation
  4. Building Section, Floor Plan, and Footing Details
- D. Notification information:
1. Mailing list
  2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
  2. Life Safety/Plan Review Section of BDS
  3. Site Development Review Section of BDS
  4. Water Bureau
  5. Fire Bureau
  6. Police Bureau
  7. Bureau of Parks, Forestry Division
  8. Bureau of Transportation Engineering and Development Review
- F. 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 503-823-0625 (TTY 503-823-6868).**



# ZONING



Site

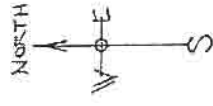
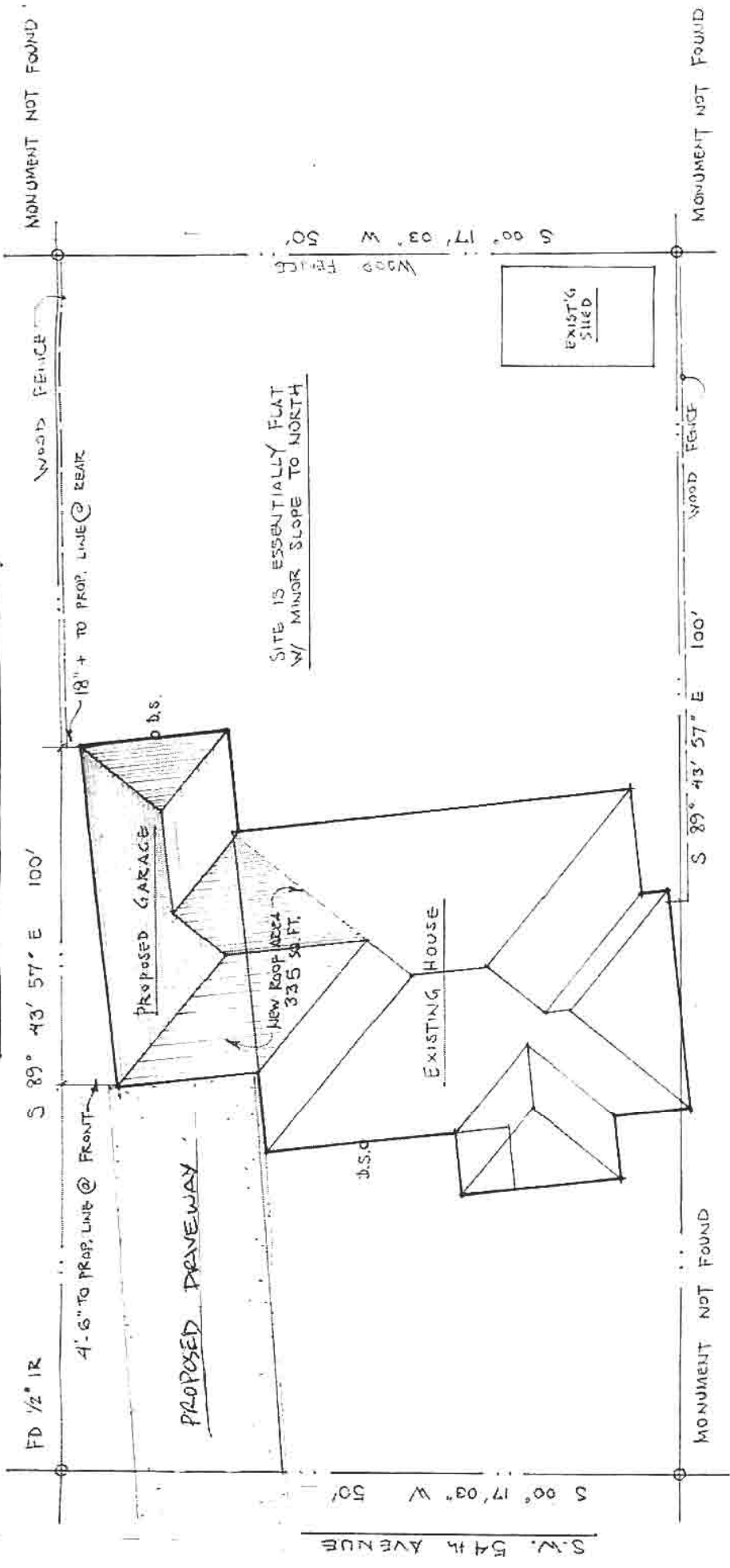


NORTH

|             |                   |
|-------------|-------------------|
| File No.    | LU 08-111653 AD   |
| 1/4 Section | 3824,3924         |
| Scale       | 1 inch = 200 feet |
| State Id    | 1S1E30AB 4900     |
| Exhibit     | B (Feb 28,2008)   |



FOOTPRINT OF ADJACENT HOUSE



WEST PORTLAND ADDTN, LOT 20 BLOCK 2  
 TAX ACCOUNT # R-301511  
 SITE & ROOF PLANS - GARAGE ADDITION  
 8838 S.W. 54TH AVE. PORTLAND 97219 1/3  
 "X" = 1" = 0" GREEN GABLES DESIGN 2.22.08

"Approved"  
 City of Portland - Bureau of Development Services  
 Planner Karla First Date 4/18/08  
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

Exhibit C.1

LV08-111653AD

\*Approved\*

City of Portland - Bureau of Development Services

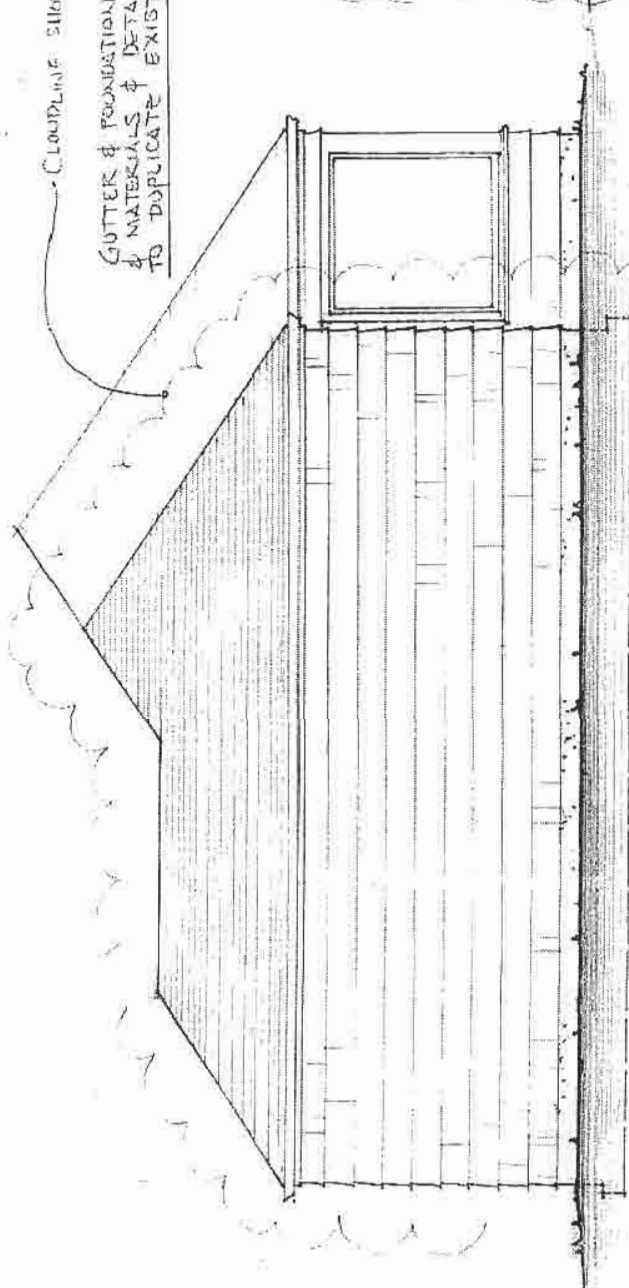
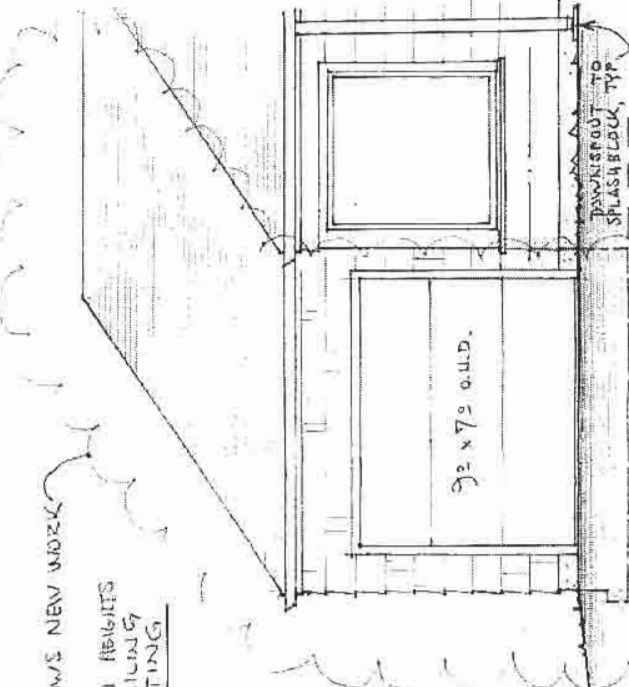
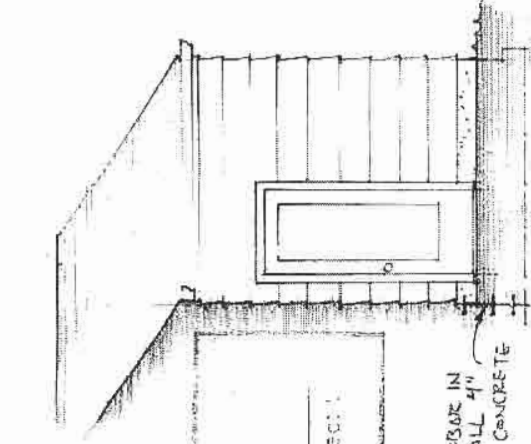
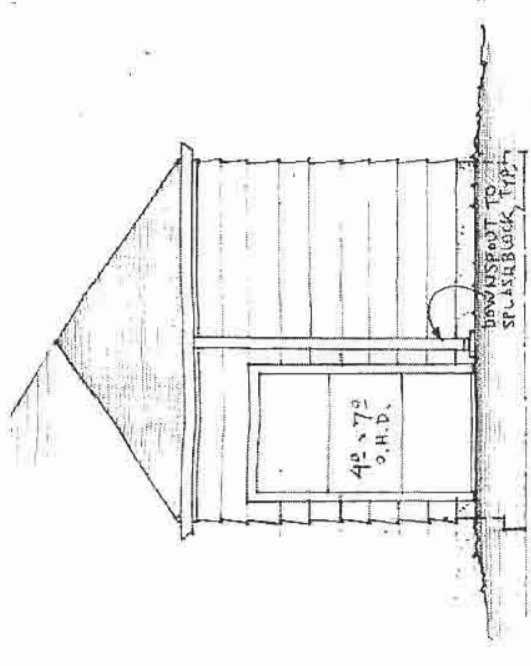
Planner Ronda Faust

Date 4/19/08

\* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

DRILL NEW REBAR IN FTG. & STEMWALL 4" INTO EXIST'G CONCRETE

CLOUDLINE SHOWS NEW WORK  
GUTTER & FOUNDATION HEIGHTS & MATERIALS & DETAILING TO DUPLICATE EXISTING



(PARTIAL) WEST ELEVATION

NORTH ELEVATION

8838 S.W. 54th AVE. PORTLAND 97219 3/3

SCALE = 1/4" = 1'-0" GREEN GABLES DESIGN 2.22.08

Exhibit C-2

LU08-111653AD