



City of Portland
Bureau of Development Services
Land Use Services Division

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Portland, Oregon 97201
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www.portlandonline.com/bds

Date: May 29, 2008
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / kstokes@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 08-119069 AD

GENERAL INFORMATION

Applicant: Kevin Partain, Urban Visions
223 NE 56th Ave
Portland, OR 97213

Julia A. Brim-Edwards and Randall T Edwards
6666 SE Yamhill St
Portland, OR 97215-2030

Site Address: 6666 SE YAMHILL ST

Legal Description: EXC S 25' IN PARK DRIVE LOT 6 BLOCK W, TABOR HTS
Tax Account No.: R818605480
State ID No.: 1S2E05BA 16600
Quarter Section: 3137

Neighborhood: Mt. Tabor, contact Dave Hilts at 503-780-0826.
Business District: Eighty-Second Avenue, contact Nancy Chapin at 503-774-2832.
District Coalition: Southeast Uplift, contact Gary Berger at 503-232-0010.

Zoning: R5 (R5,000, High Density Single-Dwelling Residential)

Case Type: Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The applicants are proposing renovation of the existing garage on this site. The proposal includes adding a new pitched roof, to replace the former flat roof. The proposal also includes adding new doors and other architectural elements that will match the trim on the residential structure. The existing garage is located at the property line on the front, and also on the east side, where it shares a common wall with the garage on the adjacent property. The existing garage wall is about 8.5 feet tall, with a concrete parapet wall that extends up an additional 3 feet on the sides and rear of the structure.

The proposed roof would extend the wall to a height of 10 feet, 8 inches. The height of the roof would be 15.5 feet at the peak. Decorative bracing that is proposed for the roof will project one-foot beyond the front property line. The east eave of the roof is proposed to project over the

shared property line by one foot, as well. As a preliminary measure, before applying for this adjustment review, the applicants obtained a reciprocal maintenance agreement with the neighbor to the east and then gained approval of a Building Code Appeal, which determined that adequate fire-proofing materials were being proposed.

The R5 zone requires that buildings be set back 10 feet from front property lines and 5 feet from side property lines. Nonconforming development that is located within these required setbacks may remain and may be upgraded. However, if the building wall is proposed to increase in height, within the setback, it must be approved through an Adjustment Review. Therefore, the applicants are requesting approval of adjustments to Code Section 33.110.220 B, to reduce the required minimum setbacks from the front property line, from 10 feet to zero and from the east side property line, from 5 feet to zero.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The applicants' site is 15,600 square-foot parcel that is located on the south side of SE Yamhill Street, adjacent to the north side of Mt. Tabor Park, between SE 66th Place and SE 67th Avenue. The property line at the rear of the house abuts SE Park Drive, making the site a "through lot," with frontage on two parallel streets and two front lot lines. The property is developed with a large, craftsman-style house that was built in 1917. Similar to the development of other lots on this side of the street, the applicants' residence is situated at the top of a steep bank, with stonework providing terracing and stairways for pedestrian access to Yamhill Street. Due to the topography of the area, several other homes in the area have garages that are located at the front property line.

Zoning: This site is zoned R5, High Density Single-Dwelling Residential. This zone is intended to provide opportunities for single-dwelling development. The development standards for the zone require buildings to be set back a minimum of 10 feet from the front property line. Structures that are taller than 6 feet above grade level are required to be set back a minimum of 5 feet from the side and rear property lines. Exceptions to these standards are approved through Adjustment Reviews, when all of the applicable approval criteria are met or can be met through conditions of approval.

Land Use History: City records include the following prior land use review for this site:

LUR 99-00003 (99-016 408) Approval of a 1999 Adjustment Review, to allow a 6-foot tall wrought iron fence and gate within the front (north) building setback along SE Yamhill Street and a 6 to 8 foot tall fence and 6 foot tall gate along the front (south) building setback along SE Park Drive, subject to compliance with the approved site plan and fence and gate elevations and to the condition that each gate must be constructed so the maximum encroachment over the right-of-way is no more than one foot when the gate is fully open.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **April 24, 2008**. The following Bureaus have responded with no issues or concerns related to approval of the requested Adjustments. Agencies that provided written comments regarding building permit requirements are noted with exhibit numbers:

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 24,

2008. 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 of 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 relevant purposes of building setback requirements are

- to maintain light, air, separation for fire protection, and access for fire fighting
- to reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences
- to promote options for privacy for neighboring properties and
- to 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.
- Larger front setbacks are required to promote open, visually pleasing front yards.

north

The development standards for lots in the R5 zone require structures to be set back a minimum of ten feet from front property lines and five feet from side and rear property lines. On "through lots," the front setback must be met on both front property lines. The applicant is requesting approval of Adjustments to reduce the front building setback, along SE Yamhill Street, from ten feet to zero, and the east side setback, from five feet to zero, for the proposed renovations to the existing garage.

The proposed design calls for the addition of a gabled roof to replace the current flat roof of the structure. The footprint of the garage, which currently abuts the north front and the east side property lines will not change. However, the location of the garage is nonconforming, since it is within the required front setback. When a building is nonconforming due to its position within a required building setback, the height of the structure cannot be increased unless approved through Adjustment Review. The design actually calls for the structure to extend slightly beyond the property lines. The decorative bracing and the eave, at the front of the structure is proposed to extend for one-foot over the right-of-way, at a height of 10 feet, 8 inches above the sidewalk. Portland Transportation will review this portion of the proposal, but has stated in a preliminary review that there are no concerns. The building also would extend approximately one-foot over the east property line. A Building Code Appeal was approved for this extension, to ensure that fire and life-safety standards will be met. A reciprocal maintenance agreement was obtained by the property owners prior to approval of the Building Code Appeal.

The requested reductions in the required building setbacks will not have any impact on light and air or on privacy for the adjacent properties because the reduced setback would be at the bottom of a steep bank and along the edge of the sidewalk. The applicants' residence and the residence on the adjoining property to the east both are situated well above the top of the garage, even with the proposed increase in the height of the roof. For this same reason, there

will be no impacts on separation for fire protection or access for fire fighting. The garage will still occupy the same location on the property so there will be no impacts on the scale and placement of the development on the site and the structure will not appear out of character in its physical relationship with other residences. Because the garage is already located at the front edge of the property and the footprint will not change, there will be no impact on the character of the front yard, other than improving the appearance of the garage in that location.

Therefore, the proposed setbacks equally meet the purposes of the regulation and this criterion is met.

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

Findings: As stated in the findings above, the proposal to reduce the required setbacks from the north front and the east side property lines will still meet the purposes of maintaining fire safety, privacy, light and air and will still reflect the scale and placement of buildings in the area and preserve a reasonable relationship between residences. There will be no change in the portion of the front yard that is devoted to the garage, but the appearance of the garage will be significantly enhanced with the proposed improvements. The proportionate scale of the structure and the addition of architectural details that are compatible with the existing structure on the site and with the overall character of the area, will enhance the appearance of the building from the street and from the abutting properties. Therefore, the requests to reduce the required setbacks will not have any significant negative impacts on the appearance or livability of the residential area and 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: Two adjustments have been requested, but no cumulative effects are expected to occur. Approval of the requested adjustments will result in a project that enhances the appearance of the existing garage, which is an accessory structure for the single-dwelling residence on this site. Because the purpose of the R5 zone is to preserve land for housing and to provide housing opportunities for individual households, the project is still consistent with the overall purpose of the zone and this criterion is met.

- D.** City-designated scenic resources and historic resources are preserved; and
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.
- 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 are no scenic or historic resources on the site. No impacts have been identified and the site is not located in an environmental zone. Therefore, these criteria do 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.

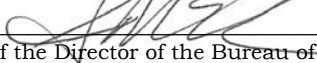
CONCLUSIONS

All of the relevant approval criteria have been met. Approval of the requests to reduce the required setback from the north front and the east side property lines are not expected to have significant impacts on light, air, privacy, fire protection or access for fire fighting. The proposed improvements to the garage are compatible with the scale and placement of structures, the relationship of residences and the architectural character of the adjacent area. The requested reduction in the setbacks will not have any cumulative impacts. Therefore there will be no significant impacts on the livability or appearance of the residential area. The Adjustment requests can be approved, subject to compliance with the site plan and elevation drawings.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Code Section 33.110.220 to reduce the minimum required building setbacks from the north front property line, from ten feet to zero, and from the east side property line, from five feet to zero, in general compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-2, signed and dated May 27, 2008. This approval is for the proposed addition of a pitched roof to the existing garage, but will also apply if it is found that the structure has to be reconstructed on the same footprint. The approval is subject to the following condition:

- 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 08-119069 AD."

Decision rendered by:  **on May 27, 2008.**
By authority of the Director of the Bureau of Development Services

Decision mailed: May 29, 2008

Staff Planner: Kathleen Stokes

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 31, 2008, and was determined to be complete on April 22, 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 March 31, 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 June 12, 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.

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 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 **June 13, 2008 – (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:

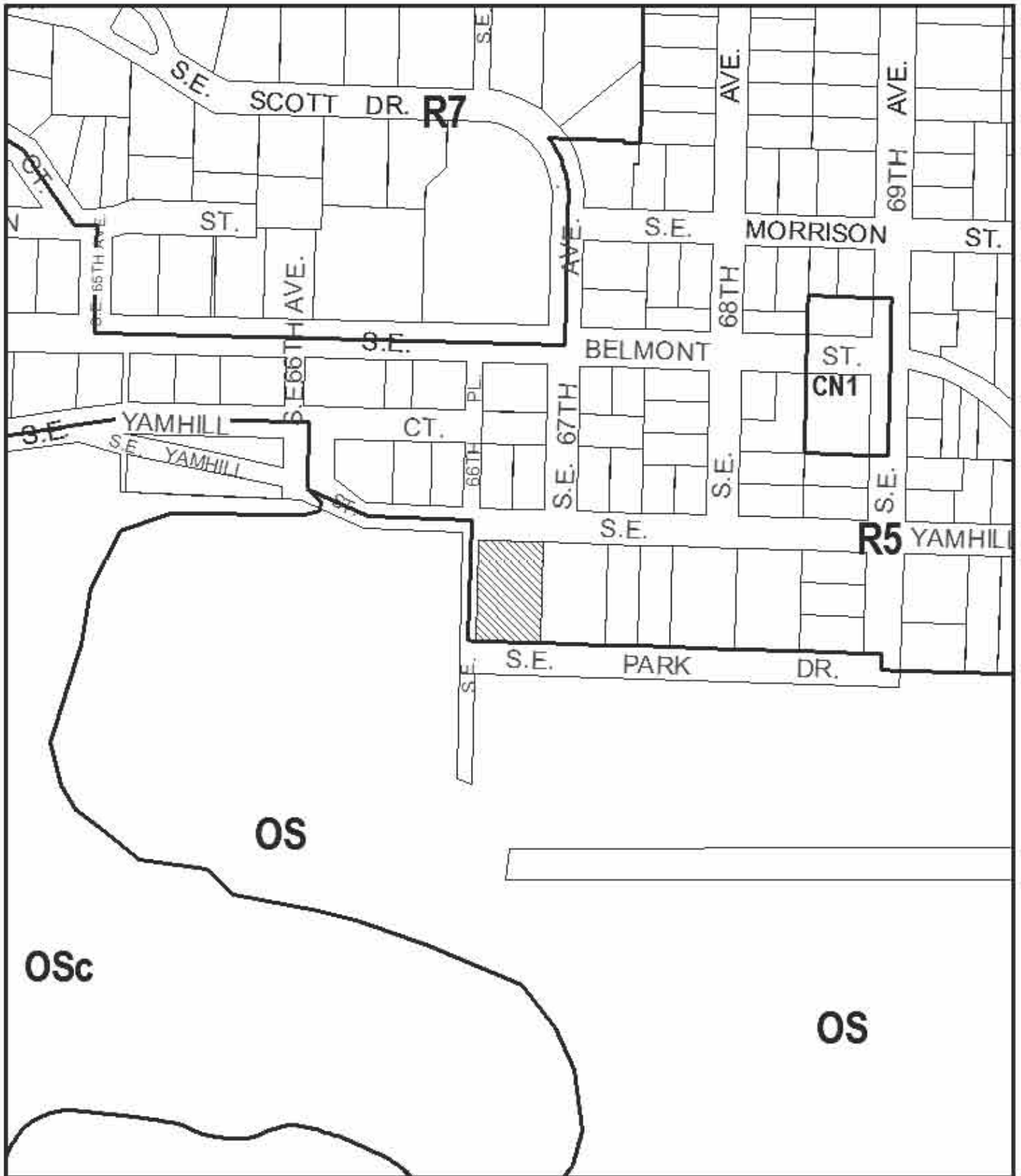
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

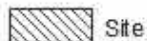
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Application, original narrative and plans, copies of building permit and photographs
 2. Supplemental information, with revised narrative, copy of Building Code Appeal, April 21, 2008
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Elevation Drawings (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Site Development Review Section of BDS
 3. Life Safety Plan Review Section of BDS
- F. Correspondence: (none received)
- G. Other:
 1. Site History Research
 2. Letter from Kathleen Stokes to Kevin Partain, April 14, 2008

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



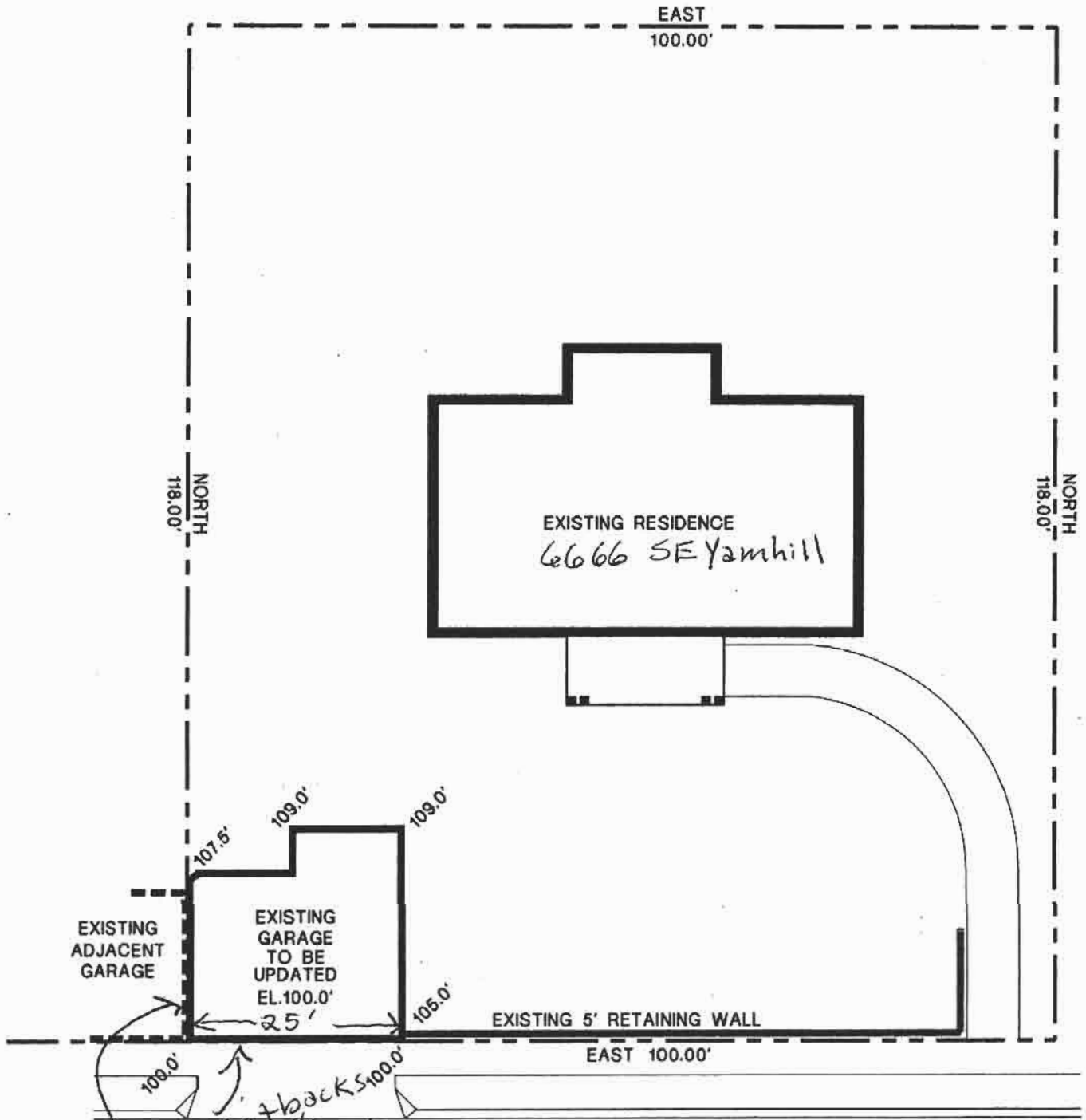
File No. LU 08-119069 AD
 1/4 Section 3137
 Scale 1 inch = 200 feet
 State_Id 1S2E05BA 16600
 Exhibit B (Apr 01,2008)

Approved

City of Portland - Bureau of Development Services

Planner Kathleen A. Stokes Date May 27, 2008

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



*zero setback
from front
and east side
property lines*

S.E. YAMHILL STREET

Exhibit C-1

SITE PLAN

SCALE 1" = 20'-0"



11108-119069 AD

Approved

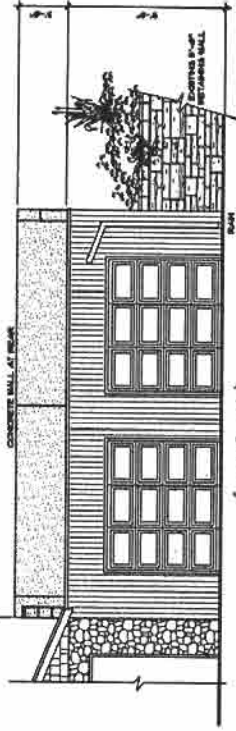
City of Portland - Bureau of Development Services

Planner Rathlean A. Stokes Date May 27, 2008

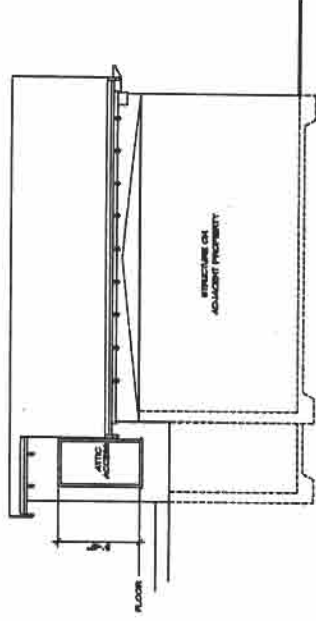
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

PROJECT OVERVIEW

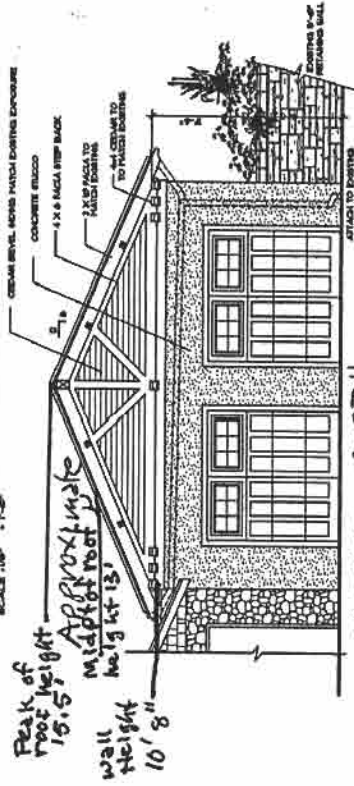
- 1. REMOVE ALL EXISTING ROOF SYSTEMS ON EXISTING EXTERIOR GARAGE.
- 2. REPLACE ROOF SYSTEM WITH A PROPOSED ROOF THAT WILL MATCH EXISTING ROOF SYSTEMS.
- 3. ATTIC BRACES HAVE BEEN CREATED TO ALLOW FOR STORAGE ABOVE THE ATTACHED PORCHES AND PORCHES.



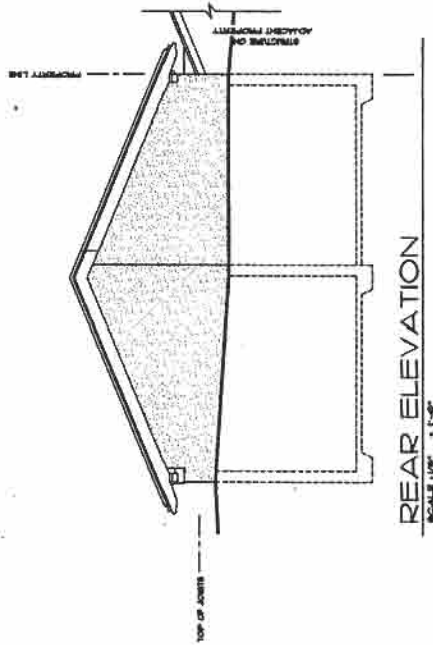
EXISTING FRONT ELEVATION (NORTH)
SCALE 1/8" = 1'-0"



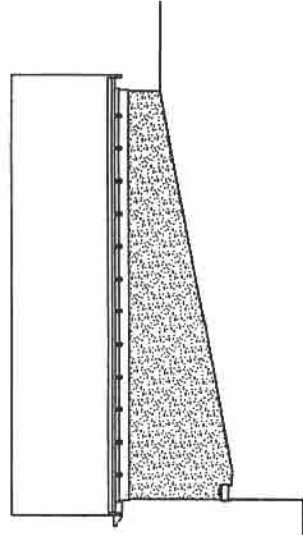
LEFT ELEVATION (EAST)
SCALE 1/8" = 1'-0"



PROPOSED - NORTH FRONT ELEVATION
SCALE 1/8" = 1'-0"



REAR ELEVATION
SCALE 1/8" = 1'-0"



RIGHT ELEVATION (WEST)
SCALE 1/8" = 1'-0"

LU 08-119069AD

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Exhibit C-2