



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

**Date:** June 2, 2008  
**To:** Interested Person  
**From:** Kathleen Stokes, Land Use Services  
503-823-7843 / [kstokes@ci.portland.or.us](mailto:kstokes@ci.portland.or.us)

## **NOTICE OF A TYPE II DECISION ON A REVISED 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 08-118108 AD**

#### **GENERAL INFORMATION**

**Applicant:** Owen K Steere and Marilyn Cony  
8333 SE 8th Ave  
Portland, OR 97202-6905

**Site Address:** 8333 SE 8<sup>th</sup> Avenue

**Legal Description:** LOT 4 BLOCK 18, SELLWOOD  
**Tax Account No.:** R752701400  
**State ID No.:** 1S1E23CC 09900  
**Quarter Section:** 3831  
**Neighborhood:** Sellwood-Moreland, contact Reid Kells at 503-484-7343.  
**Business District:** None  
**District Coalition:** Southeast Uplift, contact Gary Berger at 503-232-0010.  
**Zoning:** R5a (R5,000, high Density Single-Dwelling Residential with an Alternative Design Density Overlay)

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

**Proposal:** The applicants are proposing an addition that would expand the footprint to the south, on the first floor, and also extend up to add on to the second story of their house with a new north/south ridge line. The north wall of the addition would be 18.5 feet wide and would continue on the same plane as the existing structure, which is located about 3 feet (36.5 inches) from the north property line. The roof eave would extend for one foot, to a distance of about 2 feet (24.5 inches) from the north side of the property. The proposed addition would be 25 feet to the peak of the roof. The allowed height for structures in the R5 zone is 30 feet, measured to the midpoint of the roof slope on the highest gable. In response to concerns expressed by the owner of the adjacent property to the north, the applicants revised the roof line of the proposed addition. Instead of having a gable end that faces the north property line, the revised plan calls for the roof above the north wall of the addition to be "hipped," so that it slopes away from the north wall, instead of coming to a peak above the wall.

The Portland Zoning Code, Title 33, requires structures to be set back a minimum of five feet from side and rear property lines in the R5 zone. Roof eaves must be set back a minimum of four feet from these property lines. Exceptions to this standard can be approved through an

Adjustment Review, if all of the relevant approval criteria are met. The applicants are asking approval of an Adjustment to Code Section 33.110.220 to allow the required setback from the north side property line to be reduced from 5 feet to 3 feet for the building wall and from 4 feet to 2 feet for the roof eaves.

**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 a 5,000 square-foot parcel that is located at the northwest corner of SE 8<sup>th</sup> Avenue and SE Harney Street. The property is developed with a one-story single-dwelling residence, with a finished attic, which was built in 1889. A single, detached garage is also located at the rear of the lot, with access from SE Harney Street. The area around the site is developed with residential structures of varying ages and architectural styles. While there are some higher density properties, the buildings are predominantly single-dwelling residences that date from 1890 to 1925. The property that abuts the applicants' site, to the north, is developed with a single-story duplex that was constructed in 1979.

**Zoning:** The site is zoned R5, High-Density Single-Dwelling Residential with an "a" or Alternative Design Density Overlay. The R5 zone requires an average lot area of 5,000 square feet, with a maximum allowed density of one unit per lot (generally 8.7 units per acre.) The "a" Overlay Zone allows opportunities for increased residential density in certain situations. The overlay zone does not apply to this situation.

**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 **April 22, 2008**. The following Bureaus have responded with no issues or concerns regarding approval of the requested Adjustment. Agencies that provided information on requirements for building permit submittal 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 22, 2008. One written response was received from a notified property owner in response to the proposal. A representative for Lincoln Loan Company, owner of the property to the north of the applicants' site, sent a letter that detailed concerns regarding potential impacts on the occupants of the duplex that is located on their property. In the letter, the representative for the property owner noted that, while the proposed improvements would enhance the look of the applicants' home, the second story addition would limit the amount of sunlight that reaches the duplex, especially for the eastern unit, which is directly adjacent to the proposed addition. In the letter, it was also noted that the proposed addition would limit the access for escape from the south facing entries to the duplex units in the case of an emergency (Exhibit F-1).

*(Staff note: It is not clear why the adjacent property owner considered that the proposed addition would limit emergency access from the duplex. The proposal does not include any change to the ground floor on the north side of the building. Therefore, the existing separation for emergency access will remain unchanged. Other issues raised in the neighboring property owner's letter will be addressed in the findings below).*

## 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.

The development standards in the R5 zone require structures to be set back a minimum of five feet from side and rear property lines. Roof eaves are required to be a minimum of four feet from the side and rear property lines. The applicants are requesting approval of an Adjustment to reduce the north side setback for the proposed second story addition. The addition would follow the line of the ground floor building wall, with a setback of three feet from the property line for the wall and a setback of two feet for the roof eave. Because there will be no change to the building wall on the ground floor, there will be no change to the separation for fire protection or access for fire fighting. Furthermore, the existing building wall and the proposed second story addition meet the building code requirements for separation for fire safety (three feet for the building wall and two feet for the roof eaves).

The existing wall on the north side of the applicants' house includes a gable end that provides living area in a finished attic. This wall casts a shadow over the south side of the one-story duplex that is adjacent to their property. The proposed addition will create an 18.5-foot-wide wall that is somewhat higher than the existing gable wall, but this should not decrease the amount of light that reaches the ground level living units of the duplex. The existing wall already casts a shadow onto the duplex and the shadow from the addition will largely fall on the roof of this adjacent structure. The applicants have revised the roof plan, proposing a hipped roof, that angles away from the common property line to reduce any visual impacts.

A new, larger window is proposed to be located on the north-facing wall of the addition, but the existing house already has a window in that location. Therefore, there should not be any change in impacts on privacy.

These circumstances will ensure that the proposed structure will not have negative impacts on light, air or privacy. The proposed addition is in keeping with the scale and placement of the existing house and with similar residences in the neighborhood. Therefore, the proposed setback equally meets 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 side property line will not have any significant negative impact on the appearance or livability of the residential area because it will still meet the purpose of preserving 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. The scale of the structure and the architectural details that are compatible with the character of the existing residence will enhance the appearance of the building from the street and from the abutting properties. 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
- 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:** Only one Adjustment is being requested. There are no scenic or historic resources on the site. No impacts from the proposal have been identified. 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.

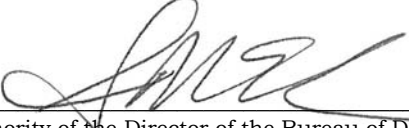
## CONCLUSIONS

All of the relevant approval criteria have been met. Approving the request to reduce the required setback from the north side property line is not expected to have any significant impacts on the adjacent property or on the livability or appearance of the residential area. The Adjustment 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 required minimum building setback from the north side property line, from 5 feet to 3 feet for the building wall and from 4 feet to 2 foot for the roof eave for a second story addition, in general compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-3, signed and dated May 29, 2008, and 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 through C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-118108 AD."

**Decision rendered by:**  **on May 29, 2008.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: June 2, 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 26, 2008, and was determined to be complete on April 18, 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 26, 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 requested that the 120-day review period be extended for 11 days, as stated with Exhibit A-4.

**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 16, 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](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 17, 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:

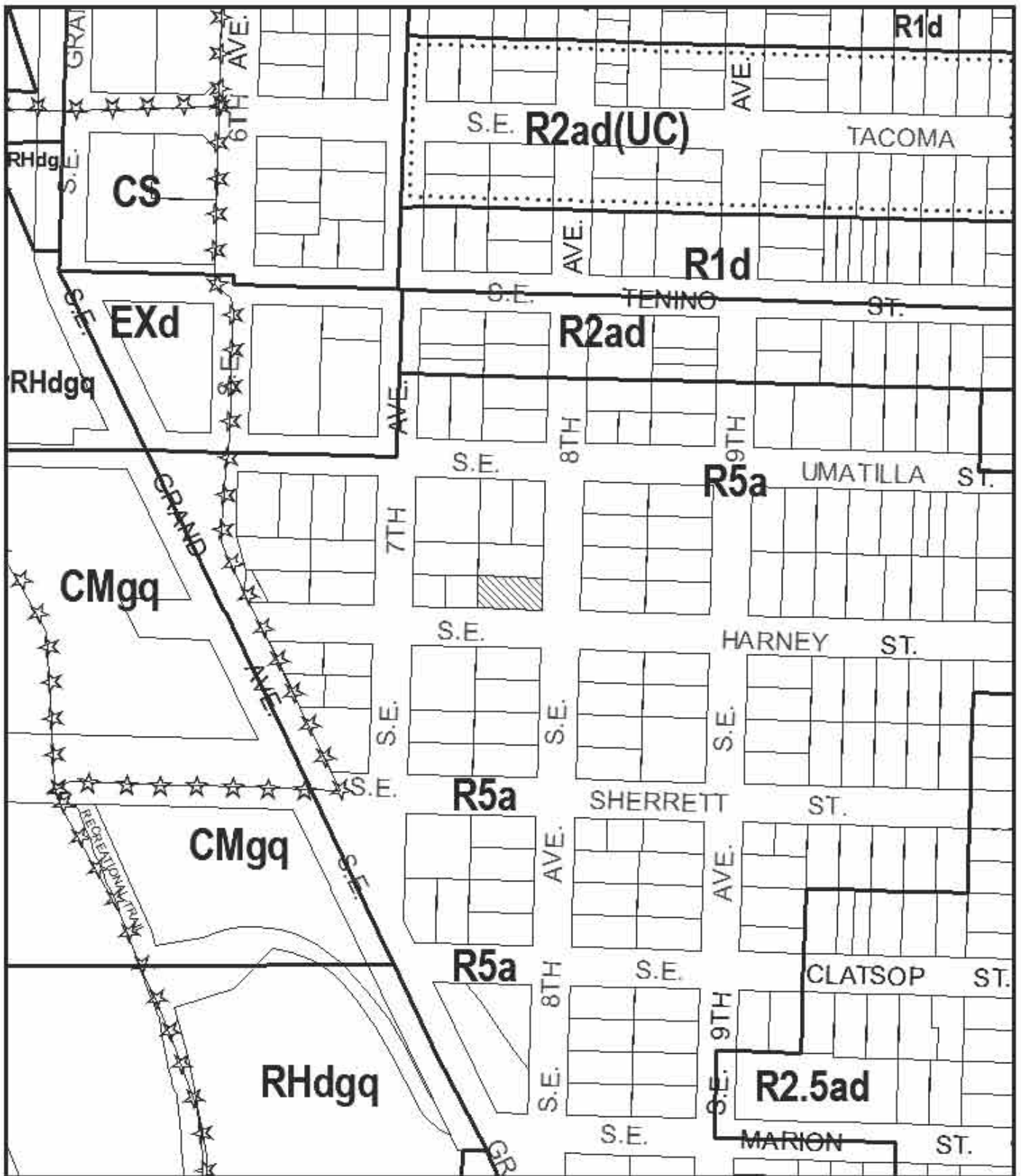
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Application and original plans and narrative
  - 2. Supplemental information with revisions to narrative and plans, April 16, 2008
  - 3. Revised plans, May 12, 2008
  - 4. Request to postpone decision and memo regarding revised plans, May 19, 2008
  - 5. Final elevation drawings, May 29, 2008
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevation Drawings (north and south, attached)
  - 3. Elevation Drawings (east and west, 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:
  - 1. Steven Benson, Lincoln Loan Company, received April 29, 2008
- G. Other:
  - 1. Letter from Kathleen Stokes to Owen K. Steere, April 10, 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

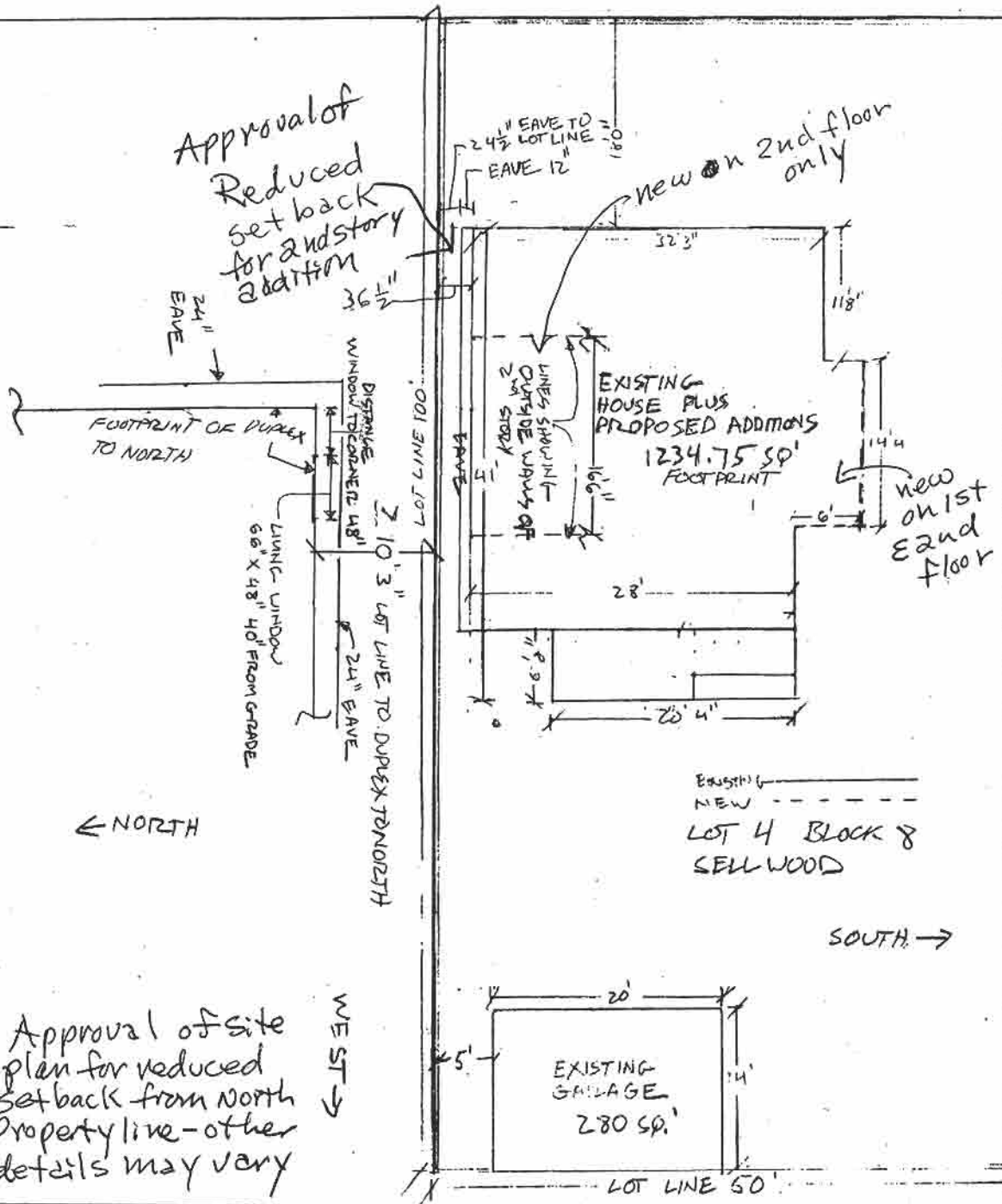
 Site



NORTH

|             |                          |
|-------------|--------------------------|
| File No.    | <u>LU 08-118108 AD</u>   |
| 1/4 Section | <u>3831</u>              |
| Scale       | <u>1 inch = 200 feet</u> |
| State_Id    | <u>1S1E23CC 9900</u>     |
| Exhibit     | <u>B</u> (Mar 27, 2008)  |





Approval of  
Reduced  
set back  
for 2nd story  
addition

New on 2nd floor  
only

EXISTING  
HOUSE PLUS  
PROPOSED ADDITIONS  
1234.75 SQ'  
FOOTPRINT

new on 1st  
and 2nd  
floor

EXISTING  
NEW  
LOT 4 BLOCK 8  
SELLWOOD

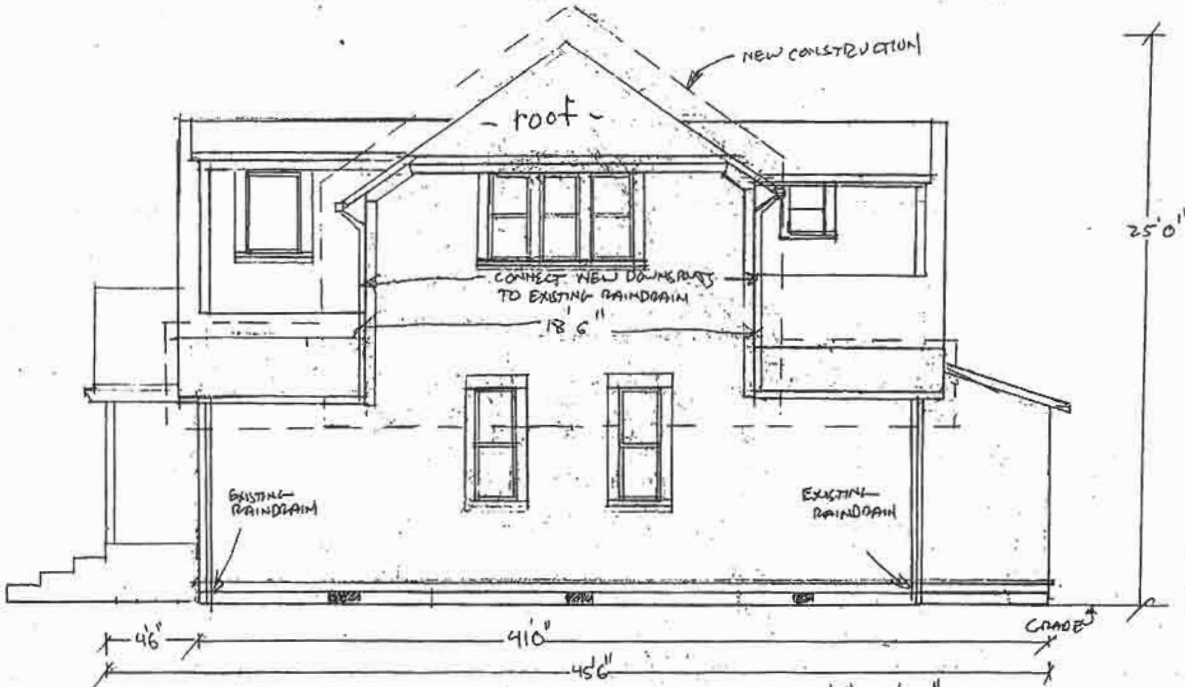
Approval of site  
plan for reduced  
set back from north  
property line - other  
details may vary

**\*Approved\***  
City of Portland - Bureau of Development Services  
Planner Kathleen A. Stokes Date May 29, 2008  
\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

PLAT PLAN FOR  
REMODEL PROJECT  
OWEN STEERE AND  
MARILYN CONY RESIDENCE  
833 SE 8TH PORTLAND, OR  
97202

- LOT LINE ———
- EXISTING BUILDING PERIMETER ———
- NEW BUILDING PERIMETER - - - - -
- SCALE = 1/8" = 1'0"

ELEVATION PLAN



Style and placement of windows may vary, but must be consistent with character of existing residence

- \*NOTES  
 ① SIDING MATERIAL  
 SAWN CEDAR SHINGLE TO MATCH EXISTING

- ② ALL EXTERIOR AND INTERIOR TRIM DETAIL TO MATCH EXISTING

Exhibit C-2

NORTH ELEVATION 1/4" = 1'0"  
 OWEN STEERE MARILYN CONY RESIDENCE  
 8333 SE 8<sup>TH</sup> PORTLAND, ORE 97202  
 LU08-118108AD

\*Approved\*

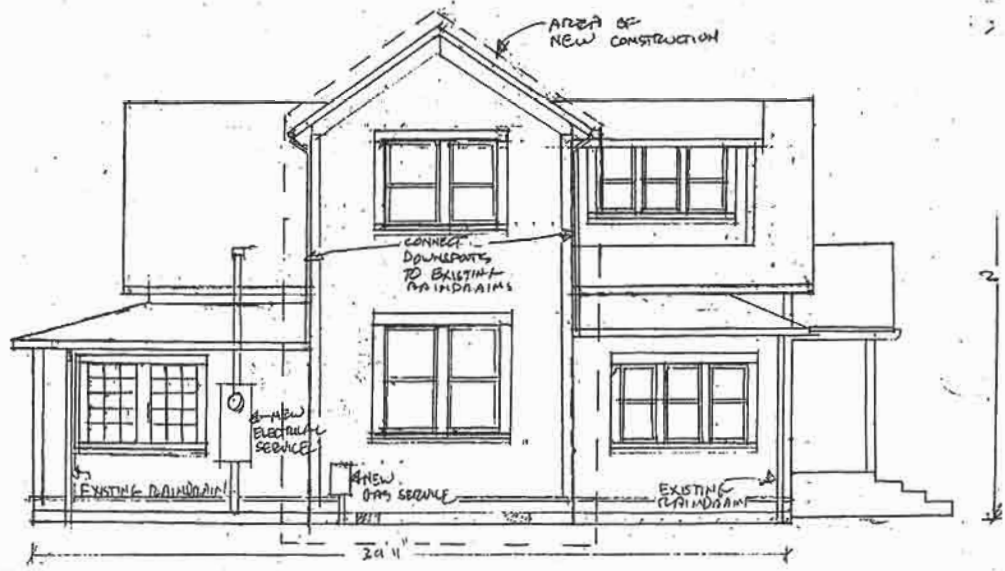
City of Portland - Bureau of Development Services

Planner Kathleen A. Stokes Date May 29, 2008

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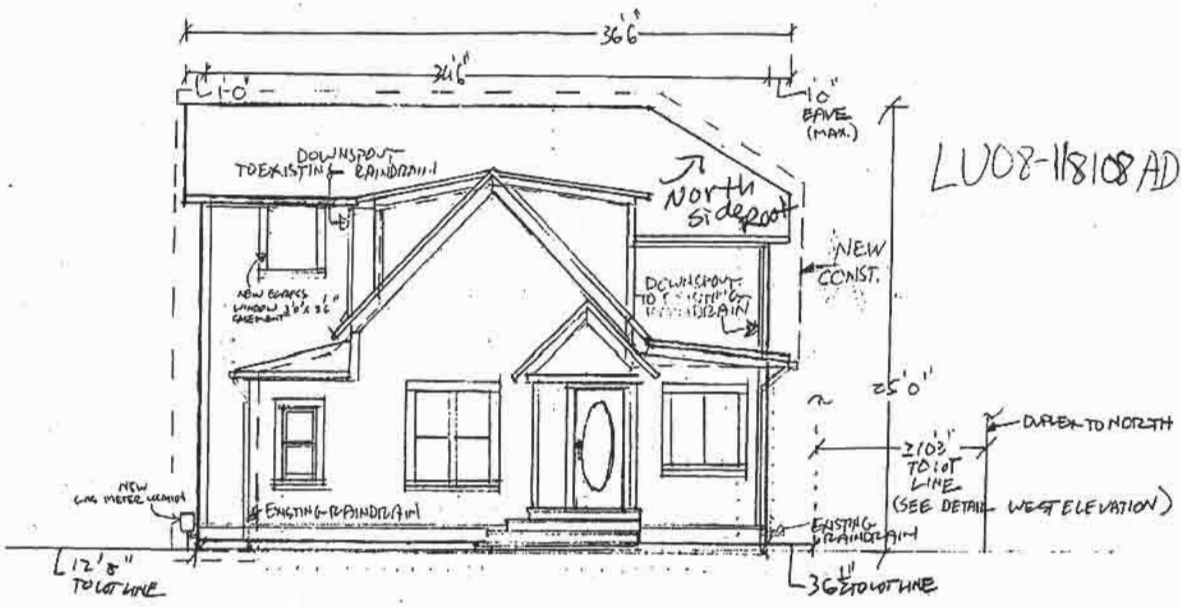
ELEVATION PLAN

MARILYN CONY OWEN STEERE RESIDENCE  
 8333 SE 8<sup>TH</sup> PORTLAND, ORE 97202  
 LU08-118108AD



SOUTH ELEVATION  
 1/4" = 1'0"

08 09 108a



LU08-118108AD

EAST ELEVATION 1/4" = 1'0"

ELEVATION PLAN  
 MARILYN CONY OWEN STEERE  
 RESIDENCE  
 8333 SE 8th PORTLAND, OREGON  
 97202

\*Approved\*

City of Portland - Bureau of Development Services

Planner Kathleen A. Stokes Date May 29, 2008

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

Style and placement of windows may vary, but must be consistent with character of existing residence.

MARILYN CONY OWEN STEERE RESIDENCE  
 8333 SE 8th PORTLAND, ORE. 97202

Exhibit C-3

LU08-118108AD

