



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: June 12, 2008
To: Interested Person
From: Jacob Brostoff, Land Use Services
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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 08-111117 AD

GENERAL INFORMATION

Applicant/Owner: Carl F Vetter
8920 N Calvert Ave
Portland, OR 97217

Site Address: 8920 N CALVERT AVE

Legal Description: LOT 5&6 BLOCK 48, PENINSULAR ADD 4

Tax Account No.: R655243210

State ID No.: 1N1E09BD 09200

Quarter Section: 2127

Neighborhood: Kenton, Steve Rupert at 503-317-6573.

Business District: Kenton Business Association, Echo Leighton at 503-285-7234.

District Coalition: NPNS, Mary Jaron Kelley, 503-823-4099.

Zoning: R5a—Single-dwelling Residential 5,000 with the "a"—Alternative Design Density Overlay Zone.

Case Type: AD—Adjustment Review

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

Proposal:

Applicant proposes to expand the wall of his attached garage by 4 feet to the south, to the existing retaining wall on the south end of his property. The new garage wall would be located approximately six inches from the south property line, expanding it to the existing retaining wall. The garage currently extends in front of the longest street-facing wall of the house, and is more than 50% of the length of the street-facing façade of the house. The garage wall also projects one foot into the minimum five foot setback. These factors make the existing garage non-conforming. Because the applicant wishes to expand an existing non-conforming garage in a way that will take it further out of conformance with applicable development standards, the following three **Adjustments** are required:

- 1.) An Adjustment to the side setback standard to allow the garage wall at six inches from the south side property line (33.110.220)
- 2.) An Adjustment to the length of the street-facing garage wall standard (33.110.253.E)
- 3.) An Adjustment to the street lot line setback standard for street-facing garage walls (33.110.253.F)

Relevant Approval Criteria:

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The Vetter residence, a one-story home, is on a dead-end street. The neighborhood is an eclectic mix of newer and older homes. Many of the older homes on the block are single-story with garages that dominate the street-facing facades of the homes. These garages are closer to street lot lines than the living area of the homes, and they are often as wide or wider than the rest of the street-facing facades of the homes. They are also generally more visible from the street than the main entrances of the homes. The newer homes are taller, and also feature similar, prominent garages. The Vetter site slopes down from south to north, and there are retaining walls on the north and south property lines.

The street network is urban, with a high degree of connectivity and sidewalks.

Zoning: R5a—Single-dwelling Residential 5,000 with the "a"—Alternative Design Density Overlay Zone.

The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Newly created lots must have a maximum density of 1 lot per 5,000 square feet of site area.

The "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood.

This proposal does not take advantage of the "a" overlay provisions of the Zoning Code.

Land Use History: City records indicate the following prior land use history for this site:

LU 07-139106 AD: Approval of an Adjustment to 33.110.255.C.1 to allow a 42-inch tall fence on top of a retaining wall that measures 11 inches in height as measured from ground level on the higher side, with conditions.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **March 26, 2008**. 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

The Life Safety Review Section of BDS identified that a building code appeal would be required to build closer than 3 feet to the side property line.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 26, 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

Title 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.'

Title 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. have been met.

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

Findings: The setback regulations for buildings and garage entrances serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of houses in the city's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
- They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.

The light and air between residences would not be affected by the proposal, as the garage wall would abut a retaining wall and fence. Per the Life Safety Section's comments, separation for fire protection and access for fire fighting can be addressed through the use of fire-rated materials and a building code appeal. The proposal would reflect the general building scale and placement of houses in the neighborhood, as it is for a minor addition to a single-story structure, similar to other homes in the neighborhood. There would be no impacts to privacy as there would be no windows or other openings in the expanded southern garage wall. There would be no change to the front yard, and it would continue to be larger than the side yard, remaining open and visually pleasing. The location of the building on site would expand slightly, but would be similar to other houses in the neighborhood, would fit the topography of the site, would not impact required outdoor areas, and would not impact architectural diversity. There would continue to be room for a car to park in front of the garage door without overhanging the street, and there would be no impact to driver visibility when backing onto the street.

The garage standards:

- Together with the window and main entrance standards, ensure that there is a physical and visual connection between the living area of the residence and the street;
- Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;
- Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;
- Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and

-Enhance public safety by preventing garages from blocking views of the street from inside the residence.

This proposal would not change the physical or visual connection between the living area of the residence and the street. The location and amount of the living area of the residence, as seen from the street, is already somewhat less prominent than the garage, because the garage is closer to the street lot line than the main entrance and the living area of the house. The proposal would not change this configuration. The expanded garage would not obscure the main entrance from the street, and would have minimal effect on the pedestrian environment. The expanded garage would not block views of the street from inside the residence, as it would be expanding to the south, away from the living area of the house.

This approval criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, 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 site is in a residential zone. The appearance of the residential area is already comprised of houses of various heights with prominent garages. This minor garage expansion of 4' to the width of the garage would not change the appearance or livability of the residential area. This approval 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: Three Adjustments are requested. The purposes of the R5 zone are as follows:

The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing.

The proposed Adjustments would not change the use of the land from housing or change housing opportunities for individual households. The comprehensive plan policies and designations would continue to be implemented if this proposal were approved. This approval criterion is met.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: The increased garage size will increase the overall building bulk on the lot. This impact can be mitigated by adding landscaping to the area of the yard north of the driveway. With the requirement that 3 feet of L2 landscaping be added to the area of the yard north of the driveway, this approval criterion can be met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not within an environmental zone, which is designated on the zoning map by either a "c" or "p" overlay. Therefore, 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 applicant has requested Adjustments to the length of the street-facing garage wall standard, the garage street lot line setback standard, and the side setback standard. With a larger garage, the house will become more livable. The overall appearance of the house will not change, and as the block is dominated by prominent garages, the Adjustments will not change the appearance of the residential area and will not affect livability. In order to mitigate the overall increase in building bulk, 3 feet of L2 landscaping is required in the front yard. With this condition, all of the approval criterion have been met.

ADMINISTRATIVE DECISION

Approval of Adjustments 33.110.220 (side setback), 33.110.253.E (length of street-facing garage wall) and to 33.110.253.F (street lot line setback), to allow a 4-foot expansion of the non-conforming garage wall to the retaining wall on the south side property line, per the approved site plan, Exhibits C1-C2, signed and dated June 11, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) 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 08-111117 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A 3-foot deep area of L2 landscaping must be installed in the section of the front yard north of the driveway, and adjacent to the fence along the street lot line, at the time of building permit review for the expansion of the garage.

Decision rendered by:  **on June 12, 2008.**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 12, 2008.

Staff Planner: Jacob Brostoff

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 February 25, 2008, and was determined to be complete on March 20, 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 25, 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 26, 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 on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment

Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **June 27, 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
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)

D. Notification information:

1. Mailing list
2. Mailed notice

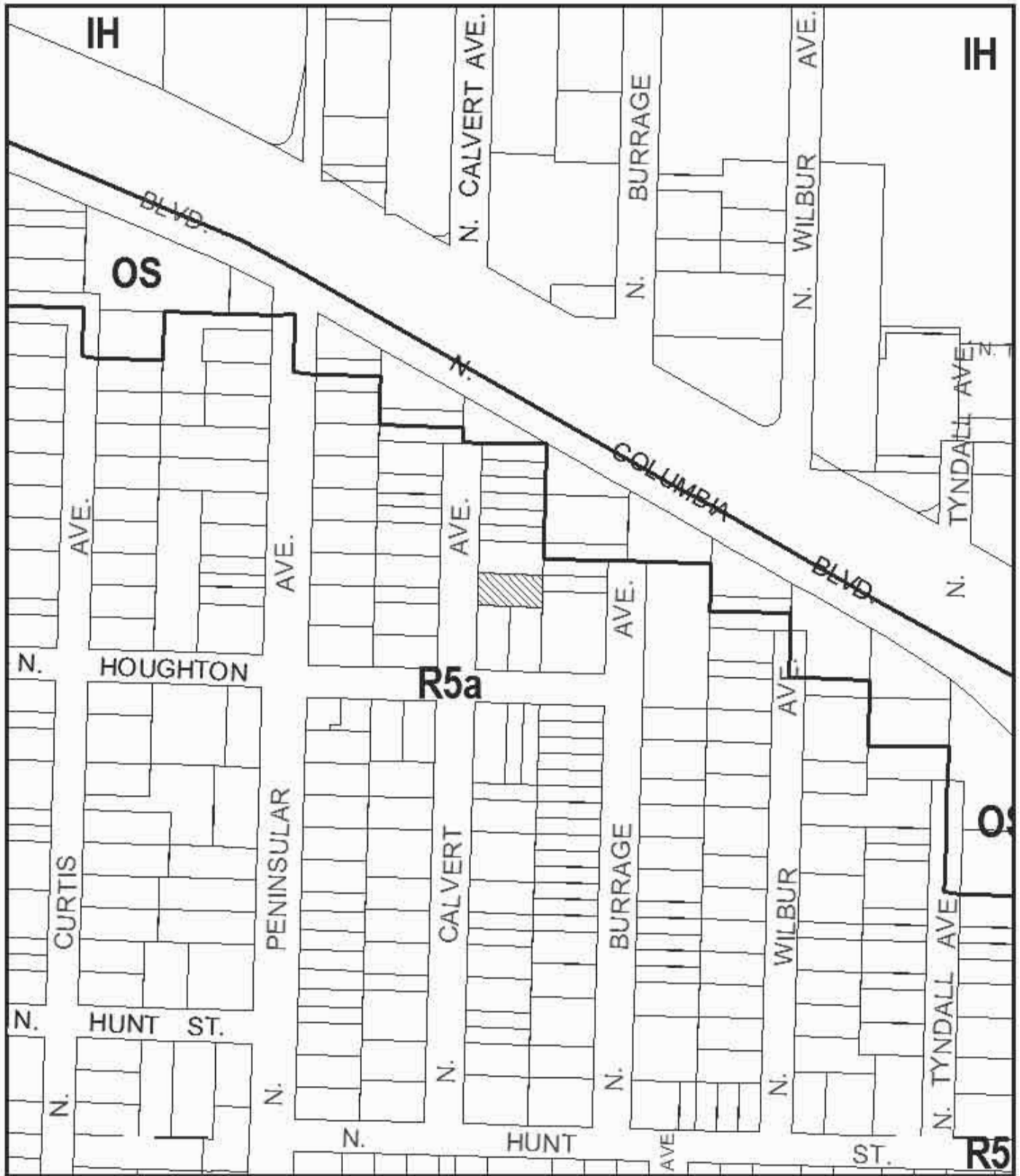
E. Agency Responses:

1. Bureau of Environmental Services
2. Site Development Review Section of BDS
3. Life Safety Section of BDS

F. Other:

1. Original LU Application
2. Site History Research

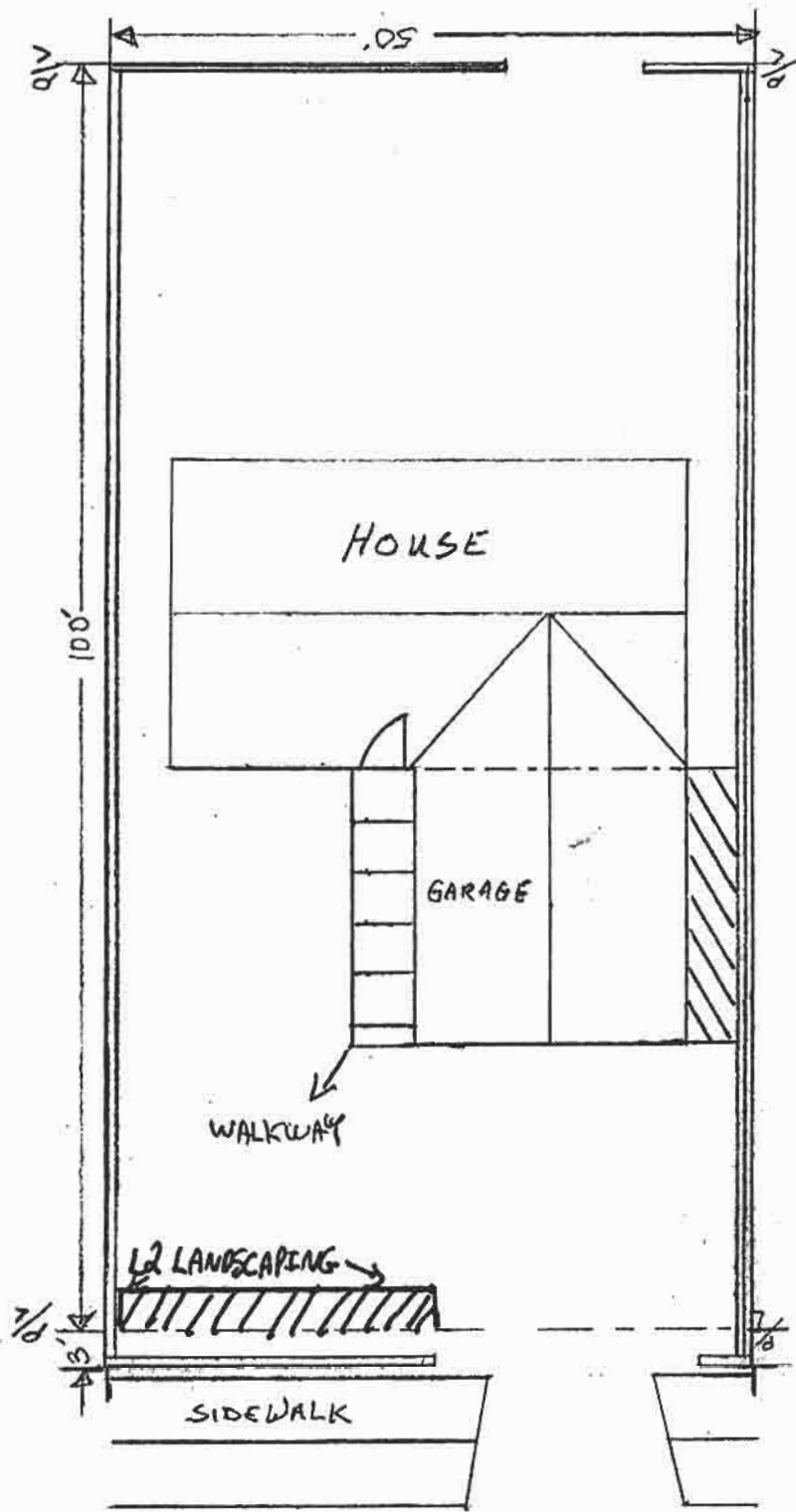
The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING



File No.	LU 08-11117 AD
1/4 Section	2127
Scale	1 inch = 200 feet
State_Id	1N1E09BD 9200
Exhibit	B (Feb 27, 2008)



Approved
 City of Portland - Bureau of Development Services
 Planner JMB Date 6/19/05
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

8920 N. CALVERT AVE.

GARAGE EXTENSION

SITE PLAN
 SCALE 1/16" = 1'0"

EXHIBIT C.1
 4408-11117AD

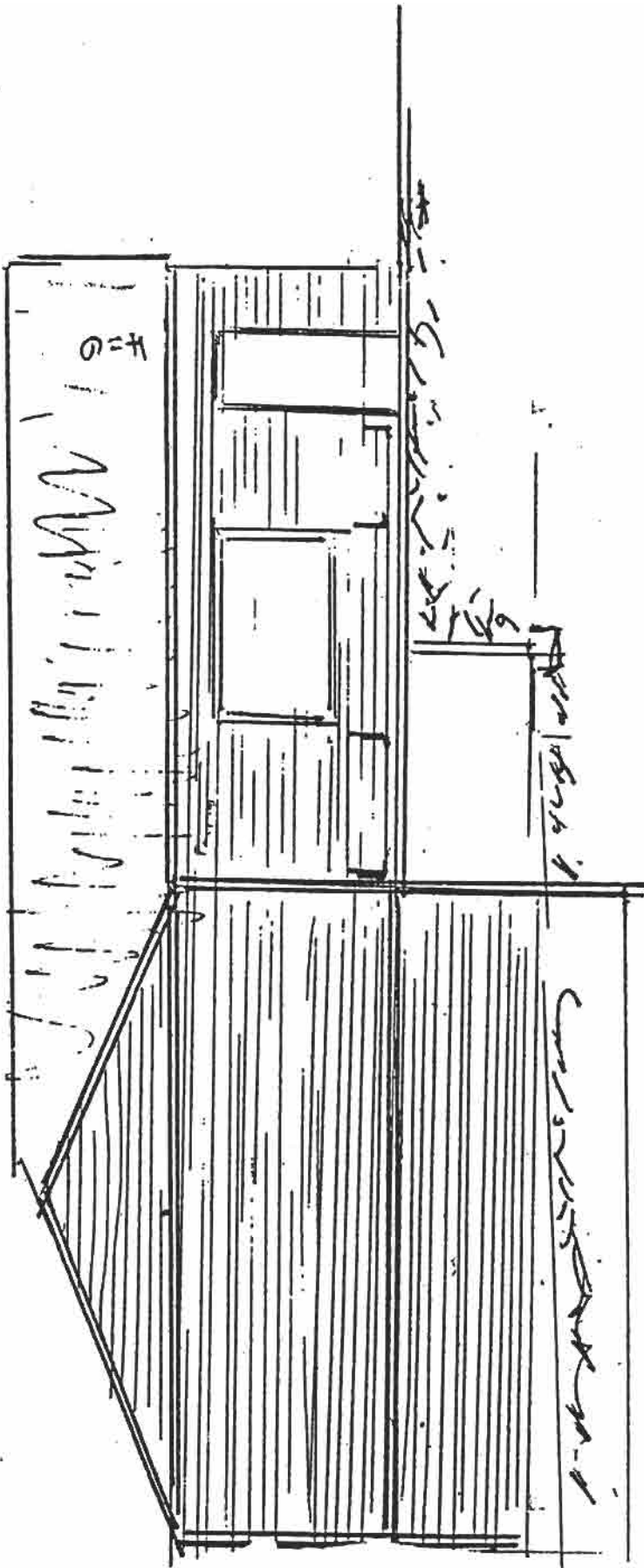
Approved

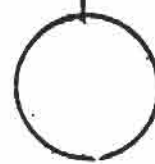
City of Portland - Bureau of Development Services

Planner JMB

Date 6/16/08

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



 NORTH ELEVATION

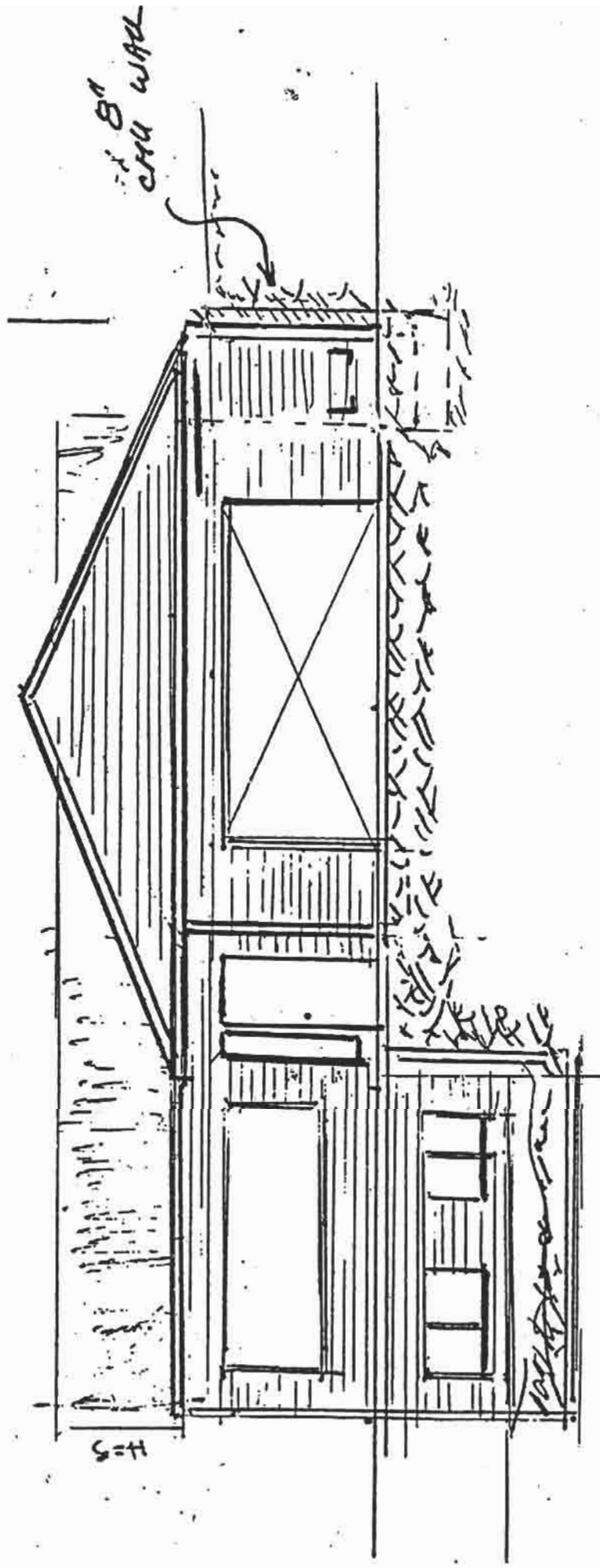
SCALE = 1/8" = 1'0"

EXHIBIT C-2
LU of-11117 A0

"Approved"
 City of Portland - Bureau of Development Services

Planner JMB Date 6/16/08

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



NEW FRONT ELEVATION

SCALE = 1/8" = 1'0"

OFF 11111-36
 CIVIL ENGRS
 LV 381117AD