



City of Portland
Bureau of Development Services
Land Use Services Division

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www.portlandonline.com/bds

Date: June 18, 2008
To: Interested Person
From: Ruth Shriber, Land Use Services/503-823-3032/rshriber@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 08-127687 AD

GENERAL INFORMATION

Applicant: Alex Kalin, MKO2 Family LLC
2045 SE Grant
Portland, OR 97214

Site Address: 417 SE 20TH AVE

Legal Description: LOT 7 BLOCK 6, ELIZA J MURPHYS ADD
Tax Account No.: R243801050
State ID No.: 1N1E35DD 17200
Quarter Section: 3032
Neighborhood: Buckman, contact Susan Lindsay at 503-725-8257.
Business District: E Burnside Business Association, Judy Crain 503-234-2514.
District Coalition: Southeast Uplift, contact Gary Berger at 503-232-0010.
Zoning: R2.5 - Single dwelling residential 2,500
Case Type: AD - Adjustment
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing an Adjustment to reduce the setback requirements for the newly created flag lot in the rear portion of 417 SE 20th Street. The applicant is requesting the setback requirement on the south property line be reduced from 10 feet to 6 feet and the setback requirement on the west property line be reduced from 10 feet to 7 feet.

The 10 foot setbacks for the subject flag lot were originally established by the alternative development option set forth in 33.110.240.F which requires flag lots in the R2.5 zone to have the same set back of 10-feet along all lot lines.

In order for the Adjustment to be approved, the applicant must demonstrate that the new configuration equally or better meets purpose of the section to be adjusted. The section to be adjusted is 33.110.240F (flag lot development standards). The purpose statement for this section is set forth in 33.110.240.A.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in 33.805.040, criteria A through F, Approval Criteria for Adjustments.

ANALYSIS

Site and Vicinity: The site is relatively flat with slight grade on the west boundary. The site is a vacant, newly created flag lot. The parcel in front contains an existing house that fronts SE 20th Avenue. The surrounding area is developed primarily with detached houses of varying ages and sizes, punctuated by occasional multi-dwelling developments. The structure directly to the north has no windows that face the subject site. To the south is a commercial lot adjacent to SE 20th Avenue and SE Stark.

Zoning: The site is located in the R2.5 zone, which allows attached or detached houses at a density of one dwelling per every 2,500 square feet of site area. The site is adjacent to a corner lot zoned CN1 (Neighborhood Commercial) at the intersection of SE Stark and SE 20th.

Land Use History: There was a prior land use review for this site under LU 05 156439 which divided the lot at 417 SE 20th into 2 parcels. The subject parcel for this case is the flag lot in the rear created by that case. A front parcel with an existing residence facing SE 20th Avenue was also created.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on **May 22, 2008**.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed November 5 2007. The following Bureaus have responded with issues or no concerns at this time about future development on the proposed lots:

- Bureau of Environmental Services
- Bureau of Transportation
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Urban Forestry
- Life Safety

Please see Exhibits E for additional details.

Because this application is for an Adjustment only and no new development is proposed at this time, these requirements would apply at the time of new development on the parcels. Any requirements of the Service Bureaus would be required to be met at the time of development.

2. **Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA FOR ADJUSTMENTS**Title 33.805 Adjustments**

33.805.010 Purpose. The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply citywide, 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 Approval Criteria

The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met.

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and**
- 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**
- 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; and**
- F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;**

The proposal is for an Adjustment to 33.110.240.F to reduce the setback requirements for the newly created flag lot in the rear portion of 417 SE 20th Street. The applicant is requesting the setback requirement on the south property line be reduced from 10 feet to 6 feet and the setback requirement on the west property be reduced from 10 feet to 7 feet. The 10 foot setbacks for the subject flag lot were originally established by the alternative development option set forth in 33.110.240.F which requires flag lots in the R2.5 zone to have the same set back of 10-feet along all lot lines. In order for the Adjustment to be approved, the applicant must demonstrate that the new configuration equally or better meets purpose of the section to be adjusted. The section to be adjusted is 33.110.240F (flag lot development standards). The purpose statement for this section is set forth in 33.110.240.A.

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

The section to be adjusted is 33.110.240.F (flag lot development standards). The purpose statement for this section is set forth in 33.110.240.A, which states:

Purpose. The alternative development options allow for a variety in development standards while maintaining the overall character of a single-dwelling neighborhood. These options have several public benefits:

- They allow for development which is more sensitive to the environment;
- They allow for preservation of open and natural hilly areas;
- They promote better site layout and opportunities for private recreational areas;
- They promote opportunities for affordable housing;
- They promote energy efficient development; and,
- They reduce the impact that new development may have on surrounding residential development.

The proposed Adjustment is consistent with the existing setbacks of the neighborhood block, particularly to the north portion of the block. The Adjustment would promote better site layout for the property and increased recreational opportunities for the subject property. The subject parcel would have a larger front yard area providing better separation from the residence in the front. The applicant is required to install landscape buffer to the L3 high standard of 6-feet high (in addition to trees). The L3 buffer screening will help to reduce the impact that new development may have on the surrounding residential development by providing a visual screen and physical barrier. The

requested adjustment will provide opportunity for the applicant to construct a residence that fits well with the neighborhood and that employs green building techniques. There are no open or natural hilly areas on the site that require preservation. Granting the adjustment would equally meet this purpose. Therefore, Criterion A is satisfied.

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

The proposed adjustment would not significantly detract from the livability or appearance of the residential area because the new configuration is consistent with the setbacks that currently exist on the north portion of the block and within proximity of the site. The building setbacks would be consistent with the existing setbacks to the north. At present, there is a structure with windowless walls to the west, so views will not be effected. There is commercial parking to the south at present, so livability should not be impacted. The proposed footprint for the new structure is consistent in size with the surrounding residences. The L3 landscaping buffer would provide some separation and visual screen between the existing residences. The proposed configuration will be compatible with the livability and appearance of the residential area.

Therefore, Criterion B is satisfied.

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

Only one adjustment is requested, so criterion C does not apply.

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

No City-designated scenic or historic resources are affected, so criterion D does not apply.

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

Providing an Adjustment to the setback requirement on both the south property line (reduced from 10 feet to 6 feet) and the west property (reduced from 10 feet to 7 feet) will be mitigated to the extent practical. The L3 requirement to provide landscape buffering will remain in effect, so adjacent properties will be provided vegetative screening and buffer between their properties and the new residential structure.

When the site was partitioned, Site Development and BES deemed a vegetated flow through planter with overflow to the public combination system to be an acceptable method of stormwater management for the flag lot. The vegetated flow through planter is proposed to be located in the area of the reduced west setback. The applicant has provided a supplemental plan that shows a flow through planter, but no discharge point is identified on the plan. Therefore, as a condition of approval for the Adjustment, at the time of building permit, a detailed site utility plan must be provided to demonstrate that the vegetated flow through planter will comply with the stormwater Management Manual to the satisfaction of BES and Site Development.

With the condition of approval mentioned above, Criterion E can be satisfied.

F. If in an environmental zone, the proposal has as few significant detrimental

The proposal is not in an environmental zone, so criterion F does not apply.

Conclusion: The approval criteria for granting the adjustment are met.

CONCLUSIONS

The applicant has requested an Adjustment to 33.110.240.F –Alternative Development Options – Flag lot standard. The proposal to reduce the setback requirements for the newly created flag lot in the rear of 417 SE 20th Street on the south property line (from 10 feet to 6 feet) and the west property (from 10 feet to 7 feet). The new configuration meets purpose of 33.110.240F - the section to be adjusted. The application has met the criteria for approval with one condition of approval.

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.110.240.F to reduce the setback requirements for the newly created flag lot in the rear of 417 SE 20th Street from 10 to 6 feet on the south property line and from 10 to 7 feet on the west property with the following condition of approval:

A. At the time of Development:

1. At the time of building permit, a detailed site utility plan must be provided to demonstrate that the vegetated flow through planter will comply with the Stormwater Management Manual to the satisfaction of BES and Site Development.

Decision rendered by:  **on June 13, 2008**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 18, 2008

Staff Planner: Ruth M. Shriber, ASLA

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 May 8, 2008, and was determined to be complete on May 19, 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 May 8, 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 date July 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. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. 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 Hearings Officer 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 Hearings Officer 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 **July 3, 2008**.
- 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.

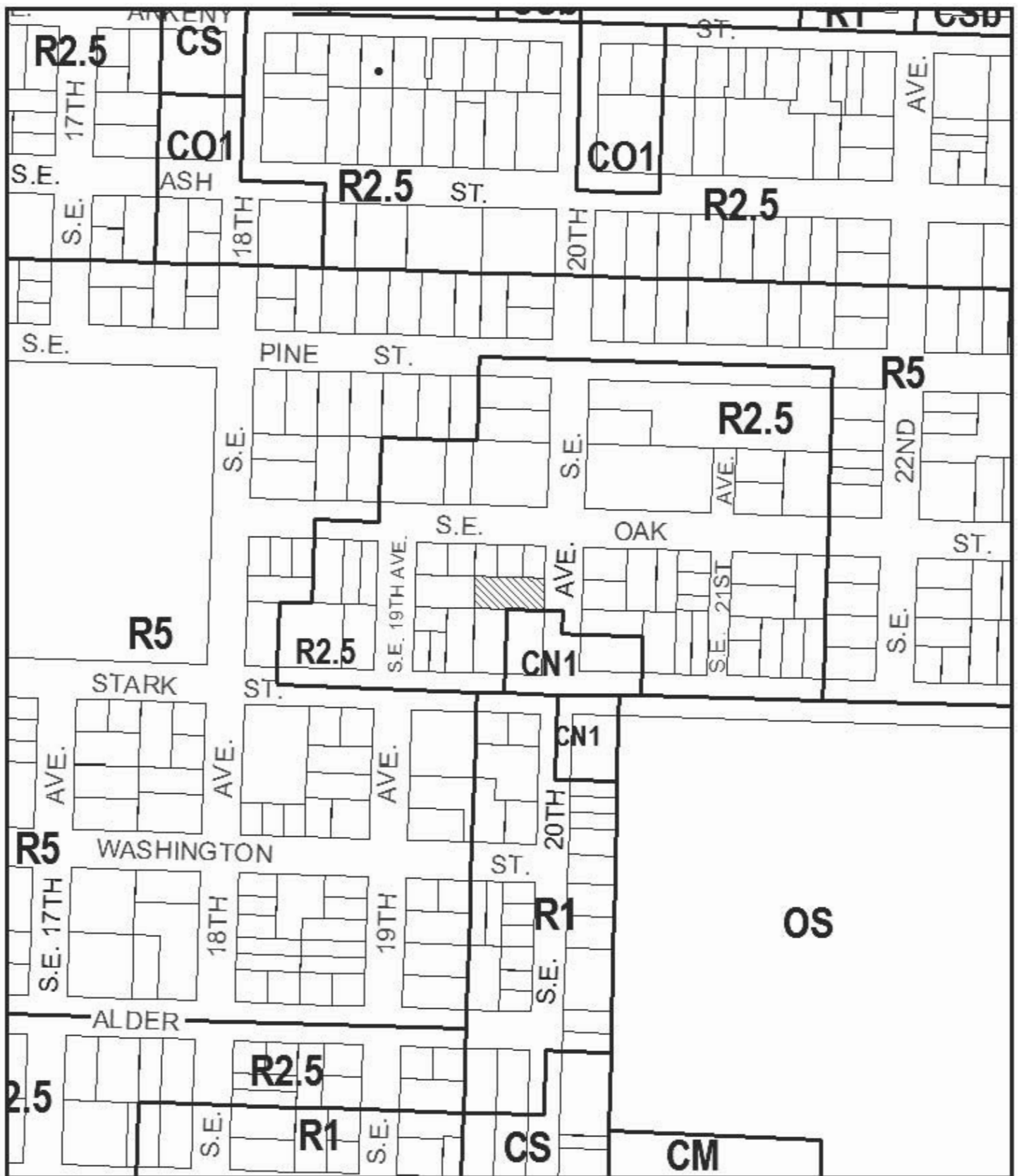
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Adjustment Narrative
 - 2. Photos
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plans (attached)
 - 2. Supplemental Plan (attached)
 - 3. Elevations
 - 4. Building foundation Plans
- D. Notification information:

1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
 7. General Life Safety
- F. Correspondence (none submitted):
- G. Other:
1. Original LU Application
 2. Adjustment approval Application
 3. Site History Research
 4. General Communication staff to applicant

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).



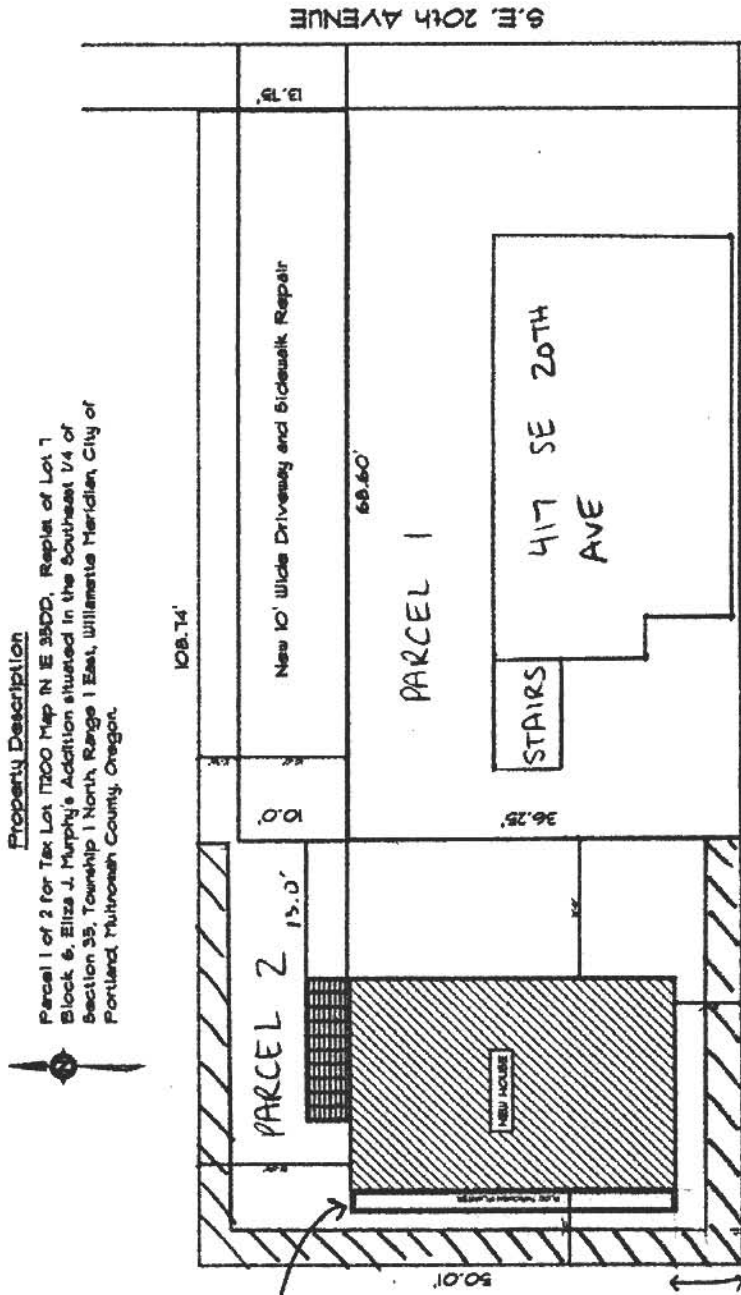
ZONING



File No.	LU 08-127687 AD
1/4 Section	3032
Scale	1 inch = 200 feet
State_Id	1N1E35DD 17200
Exhibit	B (May 14, 2008)

LU08-127687 AD

Site plan shows footprint of new construction reflecting proposed 7' setback on W property line and proposed 6' setback on S property line



Property Description
 Parcel 1 of 2 for Tax Map 17000 Map in E 3500, Replat of Lot 7 Block 6, Eliza J. Murphy's Addition situated in the Southeast 1/4 of Section 35, Township 1 North, Range 1 East, Willamette Meridian, City of Portland, Multnomah County, Oregon.

Flow-through planter

proposed 6' setback → { 6' }

proposed 7' setback

3' wide vegetative buffer landscaped to L3 high screen standard

1 inch = 20'

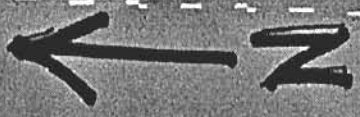
CASE NO. W 08/27687 AD
EXHIBIT C.1

S. E. 20th AVENUE

1 inch = 25 feet

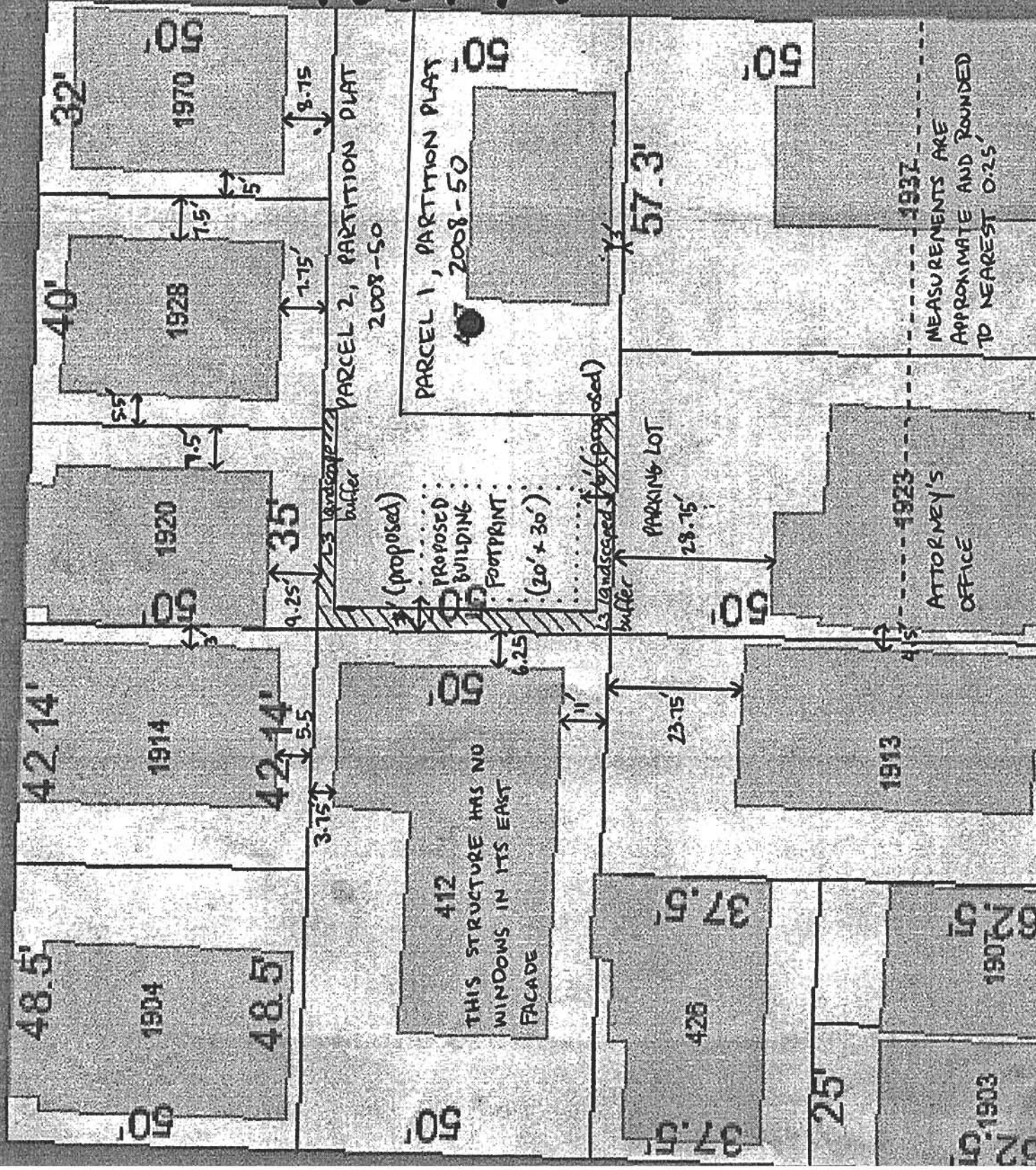
ALEX KALIN 503 407-5201

4/20/08



SE 20th Ave

LU 08127687 AD



CASE NO

17100

LOT 6

N 90°00'00" E 108.74

20' x 20' PRIVATE
RECIPROCAL ACCESS
EASEMENTS FOR VEHICLE
TURNAROUND

3.00
PLB

LANDSCAPED BUFFER

3.00
PLB

EXISTING SETBACK

10.00
2' WIDE
FLOW
PATTERN

PROPOSED
20X30 BLD.

EXISTING SETBACK

40.00

2' WIDE
FLOW
PATTERN

PARCEL 2

3.00
PLB

48.7'X10'
PROPOSED
PARKING PAD

EXISTING
PARKING PAD
(perVIOUS pavers)

STAIRS

5.0

417 S.E. 20TH
AVENUE
2 STORY WOOD
FRAME HOUSE WITH
BASEMENT

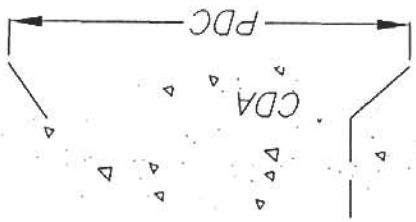
PARCEL 1

PORCH

68.22

S 90°00'00" W 108.22

SUPPLEMENTAL PLAN
FOR 08-127687 AD - SETBACK AD



20TH AVENUE
60 FEET WIDE

CASE NO. W09127687AD
EXHIBIT 002

Supplemental