



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

1900 SW Fourth Ave. Suite 5000  
Portland, Oregon 97201  
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[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** July 10, 2008  
**To:** Interested Person  
**From:** Crystal Hitchings, Land Use Services  
503-823-7583 / [Crystal.Hitchings@ci.portland.or.us](mailto:Crystal.Hitchings@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 08-130722 AD**

#### **GENERAL INFORMATION**

**Applicant:** Joel Fraley  
Neil Kelly Design/Build  
15573 SW Bangy Rd  
Lake Oswego, OR 97035

**Property Owner:** Sharon L Meyer-Ramsperger  
5722 SE 47th Ave  
Portland, OR 97206-6101

**Site Address:** 5722 SE 47TH AVE

**Legal Description:** N 1/2 OF LOT 3 BLOCK 102, WOODSTOCK  
**Tax Account No.:** R928910140  
**State ID No.:** 1S2E18CA 14600  
**Quarter Section:**

**Neighborhood:** Woodstock, contact Terry Griffiths at 503-771-0011.  
**Business District:** Woodstock Community Business Association, contact Nancy Chapin at 503-774-2832.  
**District Coalition:** Southeast Uplift, contact Gary Berger at 503-232-0010.

**Plan District:** None  
**Other Designations:** None

**Zoning:** R5, Single-Dwelling Residential 5,000

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

**Proposal:** The applicant is proposing to convert an existing 2-car garage to a finished living room and covered front porch. The existing garage roof will be preserved intact with a new post

and beam support to create the covered entry. The front door of the home will be relocated to the center of the remodeled structure, and will be accessed via the covered porch. The existing brick path leading to the front entry will be extended along the façade of the new porch.

The front of the existing garage is located 22 feet from the property line, and there are currently two on-site, paved parking spaces located in front of the garage at a 4-foot setback from the front property line. The applicant proposes to locate the two on-site parking spaces at a zero setback from the front lot line.

Section 33.266.120 of the Portland Zoning Code requires that parking spaces, which must be 18 feet long, are not allowed within the first 10 feet from a front lot line or within a required setback, whichever is greater, which in this case is 10 feet. Therefore, the applicant requests an Adjustment to allow the two on-site parking spaces to be located at a zero-foot setback.

**Note: The original Notice of Proposal stated that the applicant would remove one on-site parking space and reduce the curb cut.**

**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 5,000 square foot site is located on the east side of SE 47<sup>th</sup> Avenue between SE Reedway and SE Ramona Streets, approximately 565 feet north of SE Woodstock Street. The site is developed with a single-dwelling residence and attached garage, originally constructed in 1984. The garage is located at the front of the home, facing the street, and is the most visible aspect of the existing structure. One 18-foot wide parking pad, providing two parking spaces, is currently located in front of the garage, and is set back 4 feet from the front property line along SE 47<sup>th</sup> Avenue. The front door of the home is located to the south of and approximately 20 feet further east of the garage façade, and is not easily visible from the street. The site is characterized by several medium-sized trees growing around the perimeter, open lawn in the front yard, and a landscaped area to the north of the driveway. A wooden fence extends along the perimeter of the lot. The house is located approximately in the center of the lot. A large street tree exists in the ROW just south of the driveway. The site is accessed off of SE 47<sup>th</sup> Avenue. In this area, SE 47<sup>th</sup> is considered a local service street, and is improved with a 9-foot planting strip, 5-foot sidewalk, and additional 2-foot right-of-way behind the sidewalk. The immediate vicinity, within approximately 200 feet of the subject site, is zoned R5 and developed with attached and detached single-dwelling residential structures. Many of these homes are located close to the street. Many have garage entrances facing the street with additional on-site parking pads in front of the garages.

**Zoning:** R5, Single-Dwelling Residential. The area to the north, east, and immediate south of the site is also zoned R5. The area one block south of the site is zoned with pockets of R2.5 (Single-Dwelling Residential 2,500), CS (Storefront Commercial), CSb (Storefront Commercial with a Buffer Zone overlay), and CN2 (Neighborhood Commercial 2).

**Land Use History:** City records indicate one previous land use review for this site. MP 40-83, minor partition recorded in 1983. No further information is available, but this partition would have no bearing on the current Adjustment review.

**Agency Review:** A "Request for Response" was mailed on June 13, 2008. The following Bureaus have responded with no issues or concerns (Exhibit E.1-E.3):

- Fire Bureau
- Water Bureau
- Bureau of Parks-Forestry Division

The following Bureaus submitted additional comments:

- The **Site Development Section of BDS** (Exhibit E.4): submitted information to assist with the building application process.
- The **Life Safety Bureau** (Exhibit E.5): submitted information to assist with the building application process.
- The **Bureau of Environmental Services** (Exhibit E.6): commented that the proposed Adjustment does not appear to impact a stormwater management plan for this site and had no objections and gave information to assist with the building application process.
- The **Bureau of Transportation Engineering** (Exhibit E.7): commented that the proposal remains consistent with other properties in this immediate neighborhood and had no objections, but noted that vehicles may not park in a manner that obstructs or encroaches into the pedestrian corridor.

**Neighborhood Review:** A “Notice of Proposal in Your Neighborhood” was mailed on June 13, 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

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 providing 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 either approval criteria A. through F. or approval criteria G. through I., below, have been met. Adjustments to the ground floor window requirements of this Title must also meet the additional requirements stated in the ground floor window sections in the base zones.

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

**Findings:** The applicant has requested an Adjustment to Section 33.266.120.C Development Standards for Houses and Duplexes; Parking Area Locations. The purpose for this standard states that: *“The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.”* The proposed remodel of the existing structure will replace the garage entrance, which currently dominates the site, with a covered front porch extending across the entire street-facing façade, 100% of which will be living area. The main entrance, currently located approximately 20 feet behind and to the side of the garage entrance, will be prominently located at the front and center of the covered front porch. The covered porch emphasizes the location of the front door, making the main entrance to the home more visible than it currently is. Living area rather than garage becomes the prominent feature of the street-facing face of the home, therefore improving the appearance as viewed from the street and sidewalk. The proposed front porch also creates an opportunity for increased community interaction and surveillance.

Vehicles currently park in the parking pads located at the front of the garage. The proposal replaces the garage with a front porch and entrance but does not alter the current location of parking, meaning that vehicles will now park in front of the proposed porch and main entrance. However, views of the facade will not be more

obstructed by vehicles than they currently are, and vehicles will not be more visible than they currently are. The covered front porch will ensure that the main entrance can be easily located from the street. Windows face the street from the living area, again enhancing the visibility and appearance of the front of the home. The low wooden fence extending along the side and front property line helps make vehicles less visible when viewed at an angle from the street by people traveling from south, north, or west of the site. Although many nearby homes have prominent front entrances, several, including that on the subject site, are not easily visible from the street, due to either obstruction from landscaping and vehicle parking or to the layout of the home, where the garage is located more prominently and closer to the street than the living area. The proposal is not out of character with the appearance of the neighborhood, and replacement of a garage façade with living area façade will only improve the appearance of this site from its existing conditions. Vehicles parked in front of the home will not block views of the home and will not significantly alter the existing parking condition on the site. For these reasons, the proposal remains consistent with and does not detract from the existing appearance and character of the neighborhood, and the purpose statement for this standard is equally met by the proposal. 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:** For the reasons stated under Criterion A above, the proposal to locate parking at a zero setback will not vary greatly from existing conditions on the subject site, nor will it vary from the overall character of the neighborhood. Therefore, the appearance of the residential area will not be significantly affected. The Bureau of Transportation has reviewed the proposal and finds that locating the parking spaces at a zero setback from the front lot line will discourage double-parking of vehicles in the parking pad which would obstruct the sidewalk and extend into the public right-of-way. The 22 feet between the new porch and front property line creates a situation where vehicles could double park and block the sidewalk. Retention of the 4-foot setback would not allow for the physical or visual separation between the parking area and the front porch. In order to insure that the 18-foot parking spaces are located at zero feet from the front lot line, a condition will require the extension of the existing brick walkway, which is slightly raised above the level of the existing concrete parking pad, across the top of the pad for the length of the front porch. This creates a visual separation that delineates the vehicle parking area from the pedestrian area and visually enhances the main entrance. The extended walkway creates a physical separation between the main entrance and the parking area by which people can travel between vehicles and the house. For these reasons, this criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Only one adjustment is requested. This criterion is not applicable.

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

**Findings:** There are no such resources present on the site; this criterion is not applicable.

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

**Findings:** There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

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

**Findings:** The site is not within an environmental zone; 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.

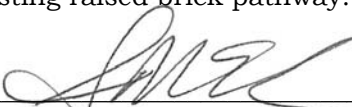
## CONCLUSIONS

The proposal to locate the parking spaces at a zero-foot setback from the property line is not a significant variation from existing conditions and the site will remain in character with the appearance and character of the neighborhood. The reconstructed street-facing façade will greatly improve the appearance of the site, which will no longer be dominated by a garage entrance. The required extended walkway will visually and physically delineate the parking area and provide a path for pedestrian access to the house, and by doing so will draw attention to the main entrance. Locating the parking area at a zero-foot setback instead of the existing 4-foot setback reduces the possibility of vehicles being double parked and obstructing the sidewalk and right-of-way. All criteria are met and this Adjustment should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to Section 33.266.120, to waive the 10 foot setback between the parking area and the front property line in order to allow the two on-site parking spaces to be located at a zero-foot setback, per the approved plans, Exhibits C-1 through C-3, signed and dated July 8, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.XX. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-130722 AD. No field changes allowed."
- B. A 4-foot wide brick or raised concrete walkway must be constructed along the entire length of the driveway in order to separate the parking area from the porch and connecting to the existing raised brick pathway.

**Decision rendered by:**  **on July 8, 2008.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: July 10, 2008**

**Staff Planner: Crystal Hitchings**

**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 21, 2008, and was determined to be complete on June 4, 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 21, 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, 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 July 24, 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](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 **July 25, 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.

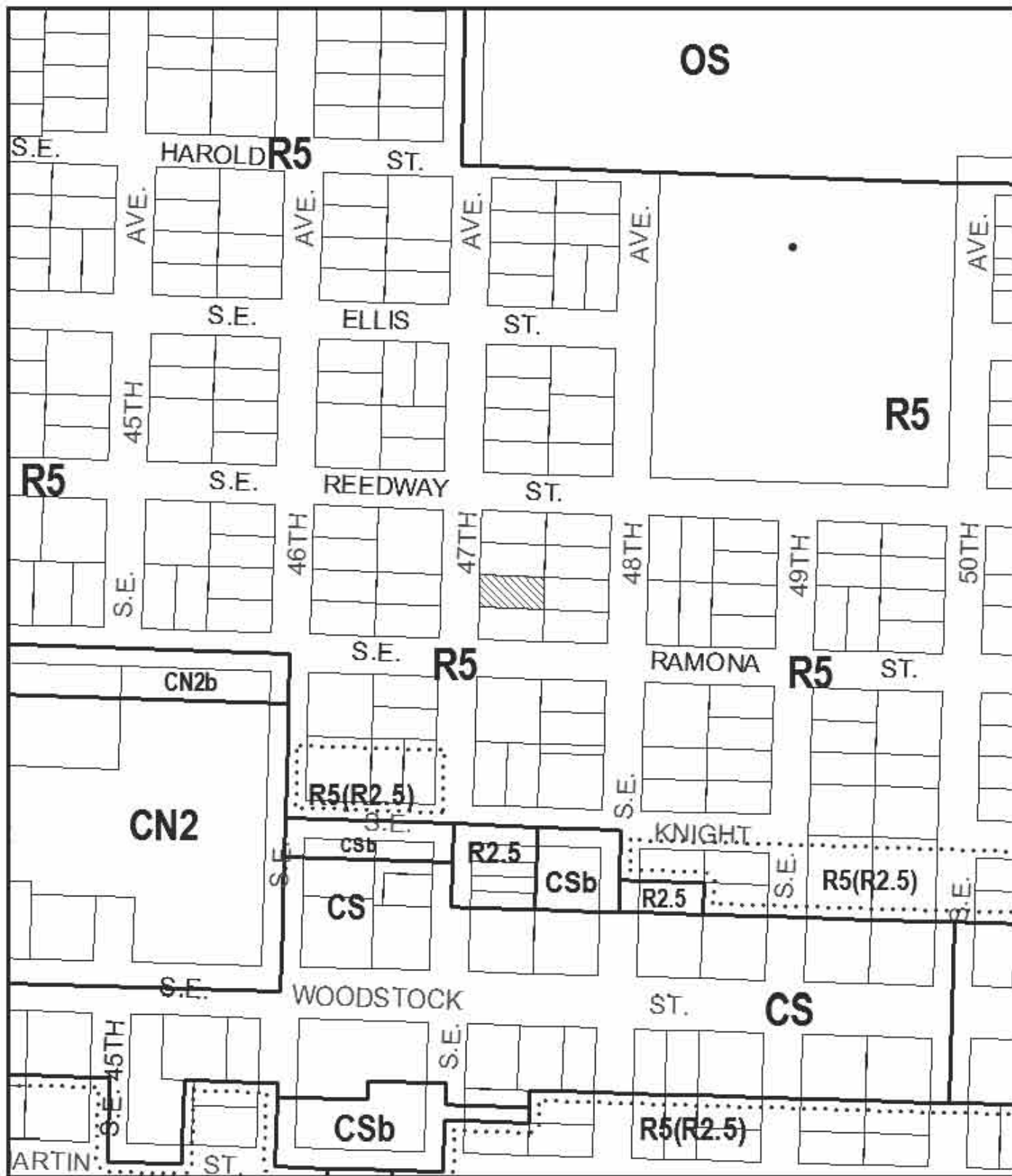
**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevations: front, north, south (attached)
  - 3. Site Photos
  - 4. Tax map
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Fire Bureau
  - 2. Water Bureau
  - 3. Bureau of Parks, Forestry Division
  - 4. Site Development Review Section of BDS
  - 5. Life Safety Bureau
  - 6. Bureau of Environmental Services
  - 7. Bureau of Transportation Engineering and Development Review
- F. Correspondence:
  - None Received
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research

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



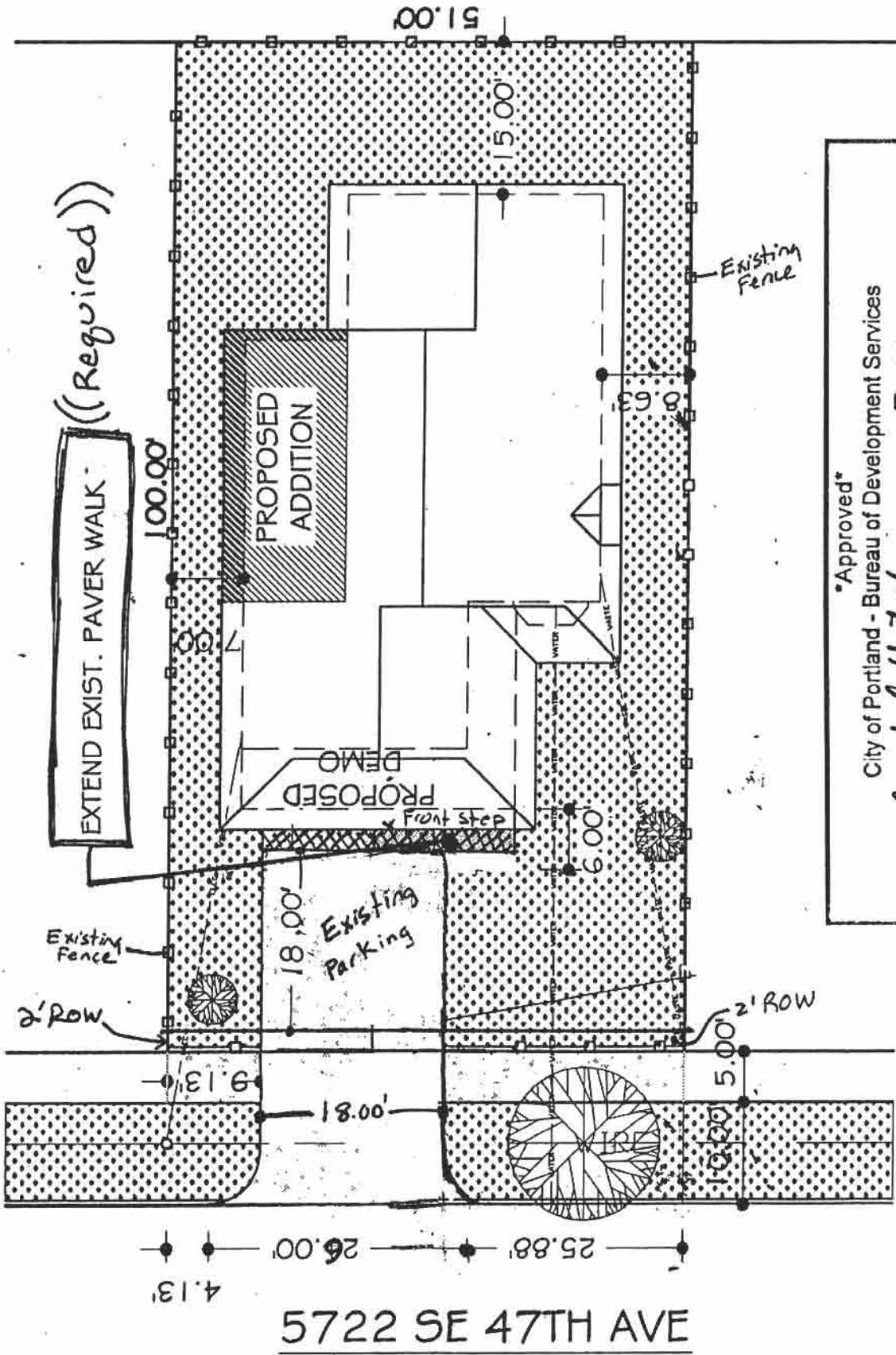


# ZONING

 Site



File No.	<u>LU 08-130722 AD</u>
1/4 Section	<u>3635</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E18CA 14600</u>
Exhibit	<u>B (May 28, 2008)</u>



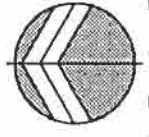
5722 SE 47TH AVE

\*Approved\*  
 City of Portland - Bureau of Development Services  
 Planner *Crystal Hillings* Date *7-8-2008*  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

SITE PLAN

SCALE:

1/16" = 1'



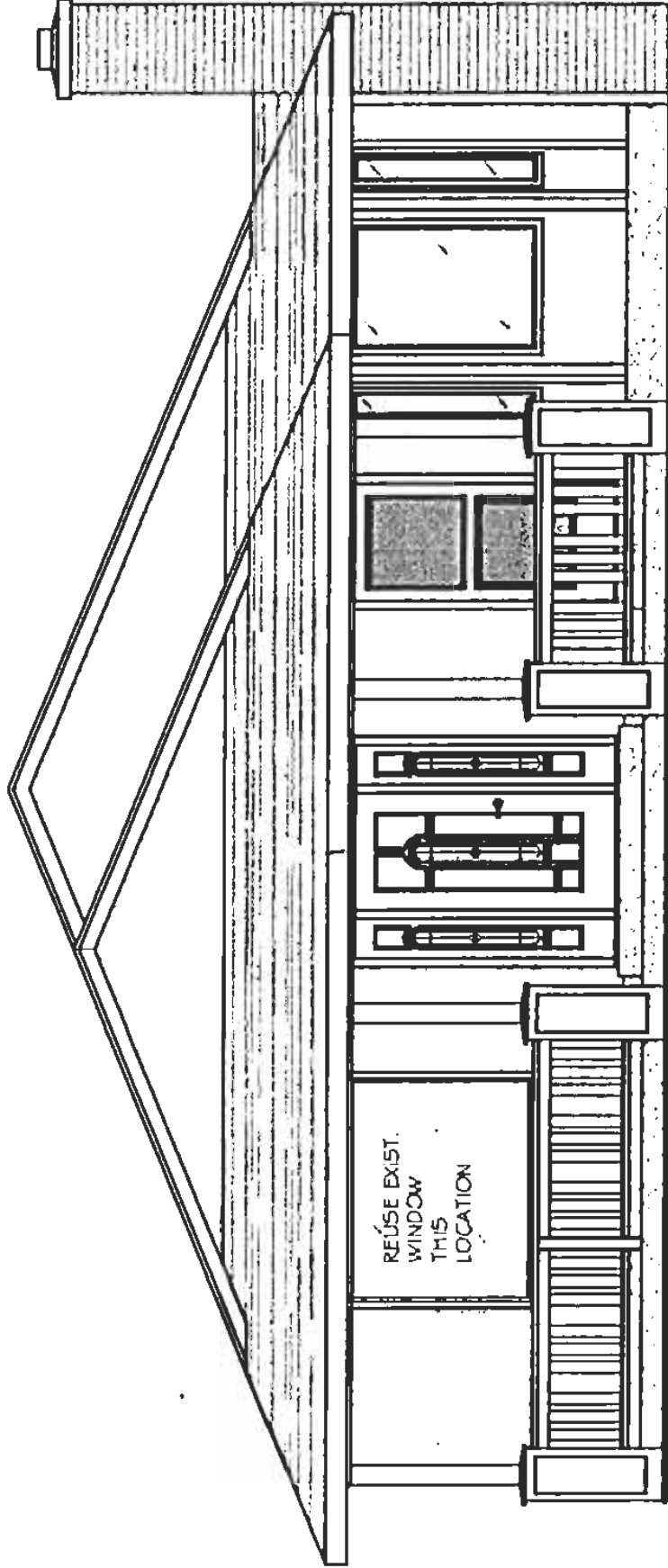
NORTH

"Approved"

City of Portland - Bureau of Development Services

Planner Crystal Hitchens Date 7-8-2008

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REUSE EXIST.  
WINDOW  
THIS  
LOCATION

FRONT EXTERIOR ELEVATION

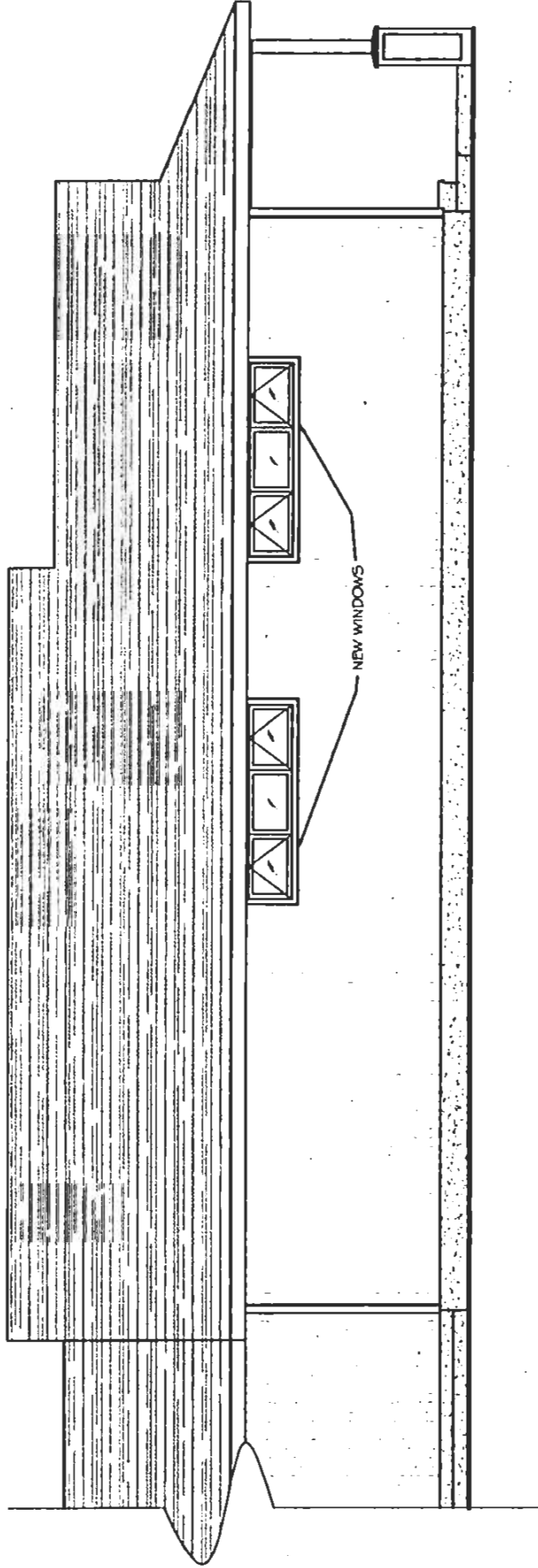
SCALE: 1/8" = 1'-0"

\*Approved\*

City of Portland - Bureau of Development Services

Planner *Crystal Hitchings* Date *7-8-2008*

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



LEFT EXTERIOR ELEVATION (north)

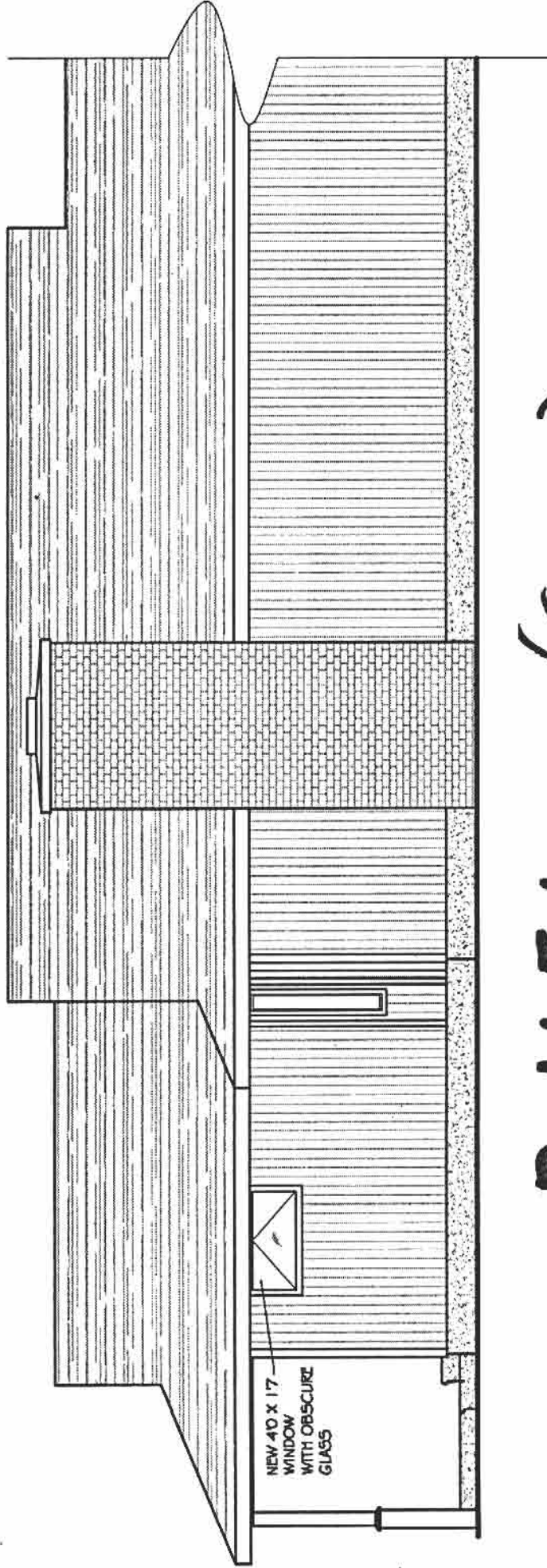
SCALE: 1/8" = 1'-0"

\*Approved\*

City of Portland - Bureau of Development Services

Planner Cyssel Hitchcock Date 7-8-2008

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



# Right Exterior (South) Elevation