



City of Portland
Bureau of Development Services
Land Use Services Division

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Portland, Oregon 97201
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www.portlandonline.com/bds

Date: July 17, 2008
To: Interested Person
From: Crystal Hitchings, Land Use Services
503-823-7583 / 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 08-137301 AD

GENERAL INFORMATION

Applicant: Melissa McCall
107 SE Washington Street, Suite 480
Portland, OR 97214

Property Owner: Shem Malone
3419 NE 17th Ave
Portland, OR 97212

Site Address: 3419 NE 17TH AVE

Legal Description: TL 4300 BLOCK 56, IRVINGTON
Tax Account No.: R420412180
State ID No.: 1N1E26AB 04300
Quarter Section: 2732

Neighborhood: Sabin Community Assoc., contact Rick Alexander at 503-516-9059.
Business District: North-Northeast Business Assoc, contact Joyce Taylor at 503-445-1321.

District Coalition: Northeast Coalition of Neighborhoods, contact Robin Denburg at 503-823-4135.

Plan District: None
Other Designations: None

Zoning: R5, Residential 5,000

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

Proposal:

The applicants are proposing to construct a new, full second-story addition onto their home, replacing the existing half second-story. The existing structure is located 3.5 feet from the south side property line; the existing eave projects 2 feet and is located 1.5 feet from the south side property line. The full second story and associated eave will be built with the same footprint of the existing half second story and eave.

The R5 Zone requires a 5 foot side building setback, and allows eave projections up to 20% of the setback, or 1 foot in this case. Therefore, the applicant is requesting an Adjustment to **Section 33.110.220, Setbacks**, to allow the proposed second story to be located 3.5 feet from the south side property line, which is the same location of the existing south wall, and the proposed eave to be located 1.5 feet from the south side property line, which is the same location of the existing eave.

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 lot is developed with a single-dwelling, 1.5 story residential structure, originally built in 1921, and with a detached garage. The garage is located within the side and rear setback at the northwest corner of the lot, and a driveway extends along the northern portion of the lot, accessed from NE 17th Avenue. The home is located slightly south of the center of the lot. The front yard is open, and the rear yard has several large trees. The adjacent lot to the south also is developed with a 1.5 story house which is slightly taller than that on the subject site, located in approximately the center of the lot, and a garage located within the side and rear setback at the northwest corner. The north wall of the adjacent home to the south is approximately 20 feet from the south wall of the home on the subject site at the closest point, and approximately 23 feet for most of the length of the two walls. The driveway on the lot to the south and narrow side yards of each lot provide separation between the two structures.

The area is residentially developed with 1, 1.5, and 2 story homes built in the early 1900's. The homes are typically located on 50 x 100-foot lots, with some 75 x 100-foot lots. Both main and accessory structures are commonly located within side and rear setbacks, some detached garages share a building wall along lot lines, and the lots generally have narrow side yards and deeper front and rear yards.

Zoning: The site and area surrounding the site is zoned R5, Residential 5,000, which is a high density Single-Dwelling Residential Zone. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. Single-dwelling zones allow attached and detached single-dwelling residential structures. The zones implement the comprehensive plan policies and designations for single-dwelling housing. The R5 Zone requires side building setbacks of 5 feet.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A "Request for Response" was mailed **June 23, 2008**. The following Bureaus have responded with no issues or concerns (Exhibits E.1-E.4):

- The Fire Bureau
- The Bureau of Transportation Engineering
- Water Bureau
- Bureau of Parks-Forestry Division

The following Bureaus responded with additional comments:

- The **Site Development Section of BDS** (Exhibit E.5): had no objection to the proposed Adjustment. Permit 08-140580-RS is under review and James Hyatt has signed off on on-site stormwater.
- The **Life Safety Bureau** (Exhibit E.6): submitted informational comments to assist with the building permit process.
- The **Bureau of Environmental Services** (Exhibit E.7): submitted informational comments to assist with the building permit process.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **June 23, 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

33.805.040 Approval Criteria

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

Section 33.110.220 Setbacks

Purpose: *The building setback regulations 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.*

Findings: Because the proposed second-story addition will be built within the existing footprint, separation for fire protection and access for fire fighting will be maintained. The existing structure on the subject site is lower in height than the existing 1.5 story structure on the adjacent lot to the south. The proposed second-story addition will make the structure on the subject site somewhat taller than the existing structure to the south. However, the difference in height will be minimal, and is not unreasonable or out of character with surrounding development. Additionally, the proposed addition is north of the adjacent lot, and retains the existing setback. Therefore, the proposed development will not significantly affect the light and air on the lot to the south. Homes in the neighborhood are a mix of 1, 1.5, and 2 story homes that are typically located in the center of the lots, with small side yards and driveways separating the houses. A number of main and accessory structures are located within the side and rear setbacks, and there are several detached garages that appear to share a wall along a property line. There are a number of larger, 2-story homes in the neighborhood, located adjacent to smaller, 1- or 1.5-story homes. The proposed full 2-story structure continues to reflect the general building scale and placement of houses in the neighborhood. The proposed structure will be built entirely within the existing footprint, and therefore does not significantly change the existing physical relationship between existing structures. Windows on the first floor of the home on the subject site face the adjacent home to the south. The addition will contain more windows on the south facade of the subject home than exist now, but these second story windows are located slightly higher than those on the second story of the adjacent home and are

somewhat off center of the middle (second story windows on the adjacent home are in the center of the gable end). Therefore, considering the dense development style and orientation of homes typical of the area, a reasonable amount of privacy still remains for the adjacent lot. The homes on the subject site and the adjacent site to the south are separated by a driveway and narrow side yards, which do not currently provide private outdoor enjoyment. The most private outdoor areas on both lots are at the rear, and privacy to the rear yard of the adjacent lot is not affected. 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: The proposal is for a new, full second story addition built within the same footprint of the existing half second story, and located between two existing 1.5 story homes that are currently taller than the subject home and diagonally across from an existing 2 story home. The proposed second story addition will be built with a hipped roof. The adjacent home to the south and a 2 story home two lots to the north, both have a bay window with a hipped roof; another home on the next block to the south has a hipped roof. The addition and other exterior upgrades to the home will result in a two-story home that reflects the period style, density, and scale of homes within the neighborhood and retains its existing residential appearance. Existing livability issues such as privacy, space, safety, light, and appearance are not significantly affected by the proposal. 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 this site; this criterion is not applicable.

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

Findings: No discernable impacts will result from the 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 or near 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

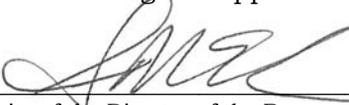
The proposal to reduce the side setback for the second story addition in order to construct the addition within the same footprint of the existing home does not significantly affect the

livability, safety, or residential appearance of the neighborhood. All relevant approval criteria are met. Therefore, the Adjustment should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to **Section 33.110.220, Setbacks**, to allow the proposed second story to be located 3.5 feet from the south side property line, which is the same location of the existing south wall, and the proposed eave to be located 1.5 feet from the south side property line, which is the same location of the existing eave, in significant conformance with the approved plans, Exhibits C-1 through C-4, signed and dated July 15, 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.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-137301 AD."

Decision rendered by:  on July 15, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: July 17, 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 June 16, 2008, and was determined to be complete on June 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 June 16, 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 July 31, 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 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 **August 1, 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.

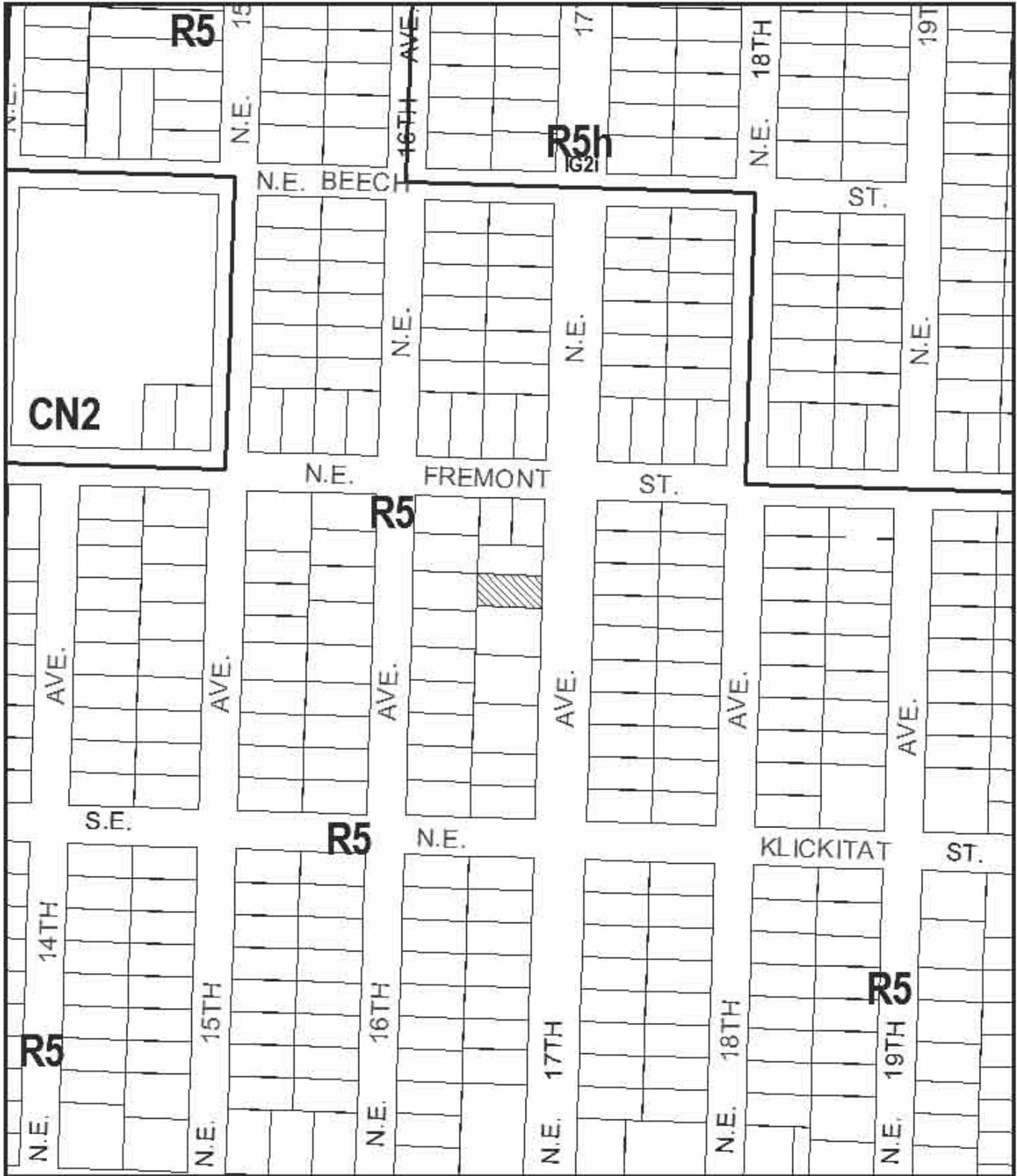
EXHIBITS

NOT ATTACHED UNLESS INDICATED

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

The Bureau of Development Services is committed to providing equal access to information and hearings. If

you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).

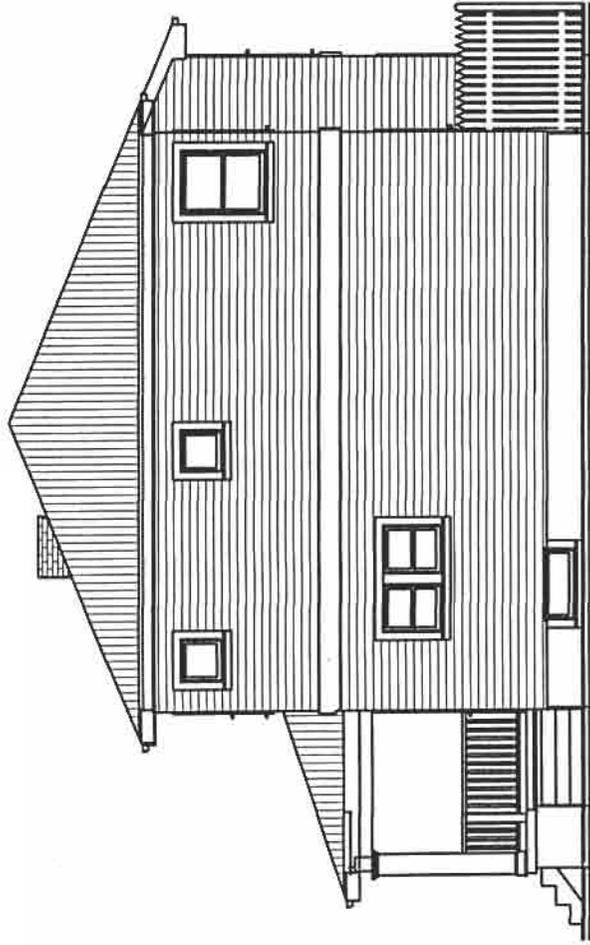


ZONING

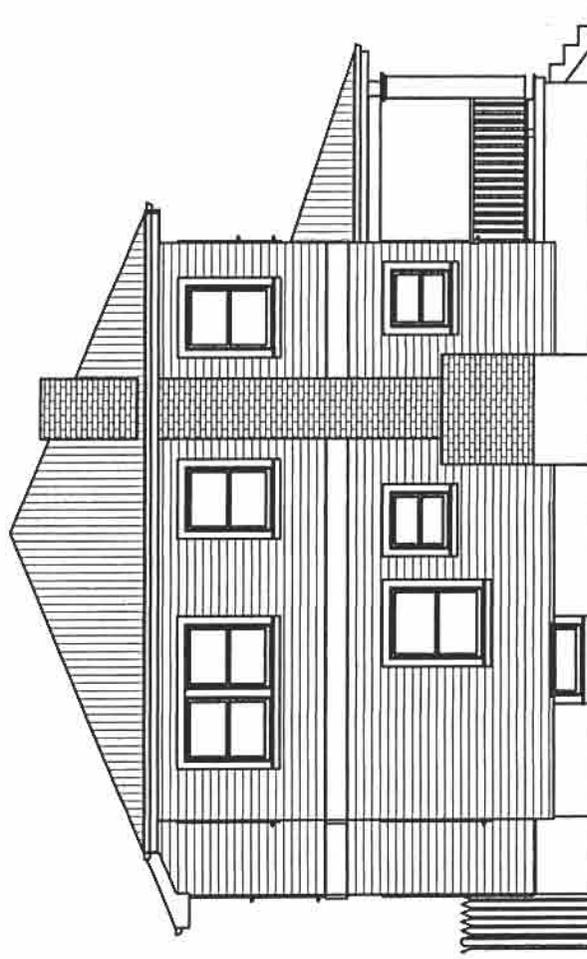
 Site



File No. LU 08-137301 AD
 1/4 Section 2732
 Scale 1 inch = 200 feet
 State Id 1N1E26AB 4300
 Exhibit B (Jun 19,2008)



NORTH ELEVATION



SOUTH ELEVATION

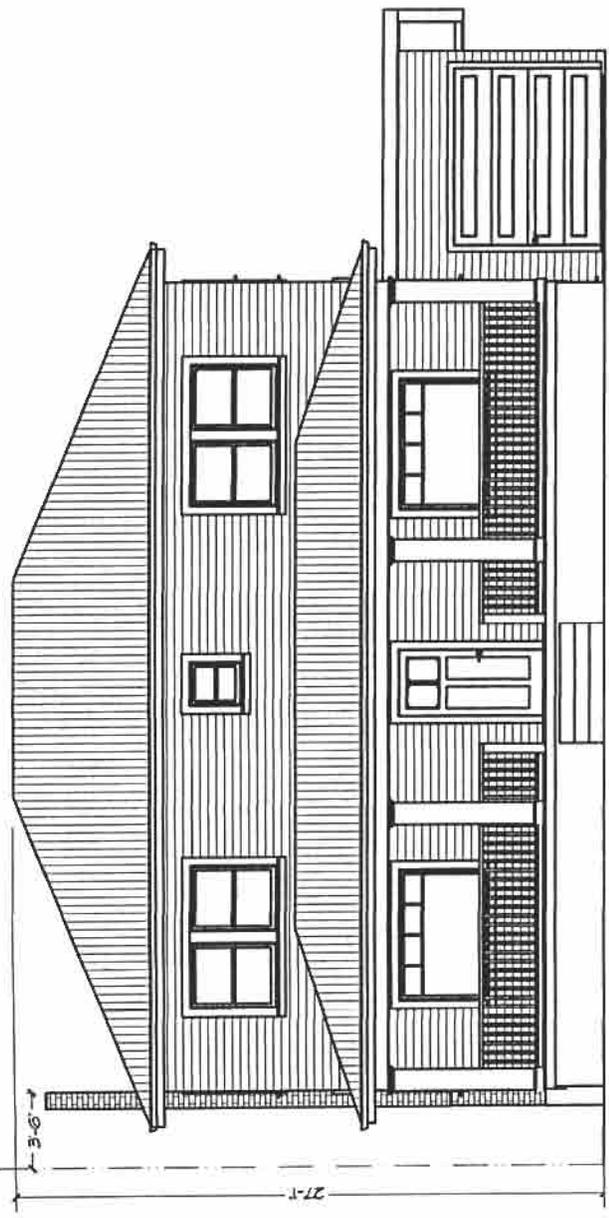
ELEVATIONS
1/8"=1'-0" C-2

Approved
City of Portland
Bureau of Development Services
Planner *Crystal Hitchins*
Date *7-15-08*
* This approval applies only to the reviews requested and is subject to the conditions of approval.
Professional Seal: [Illegible]

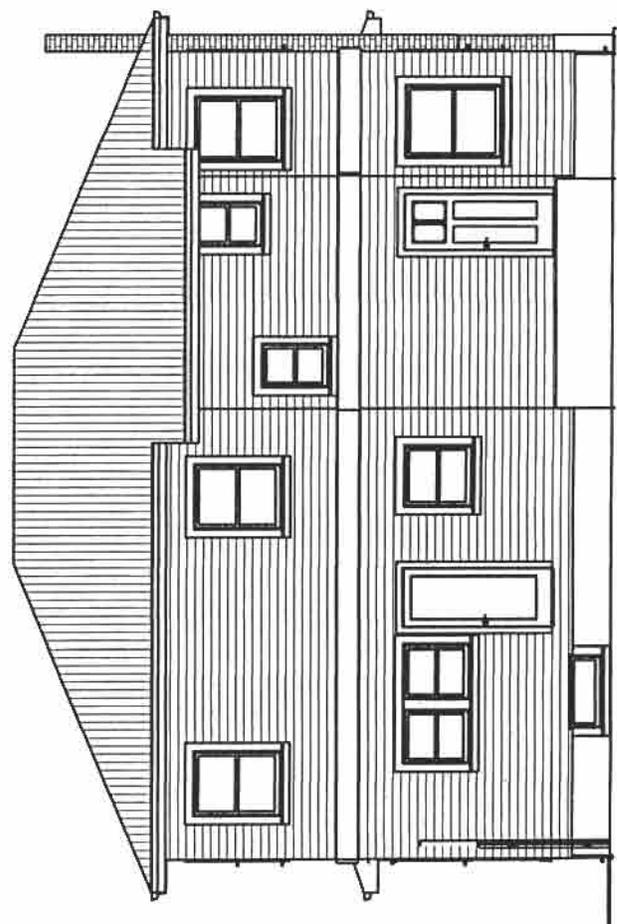
3	DRAWING: ELEVATIONS	DATE: 4/08	HAND ADDITION 349 NE 17th AVENUE PORTLAND, OR 97212	MELISSA McCALL DESIGN 503.449.3878
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MELISSA McCALL DESIGN 503.449.3878	HAND ADDITION 3419 NE 17th AVENUE PORTLAND, OR 97212	DATE: 4/08	DRAWING: ELEVATIONS	2
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EXIST. PROPERTY LINE



FRONT ELEVATION



BACK ELEVATION

Approved
 City of Portland
 Bureau of Development Services
 Planner *Cayshel Hitchins*
 Date *7-15-08*

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

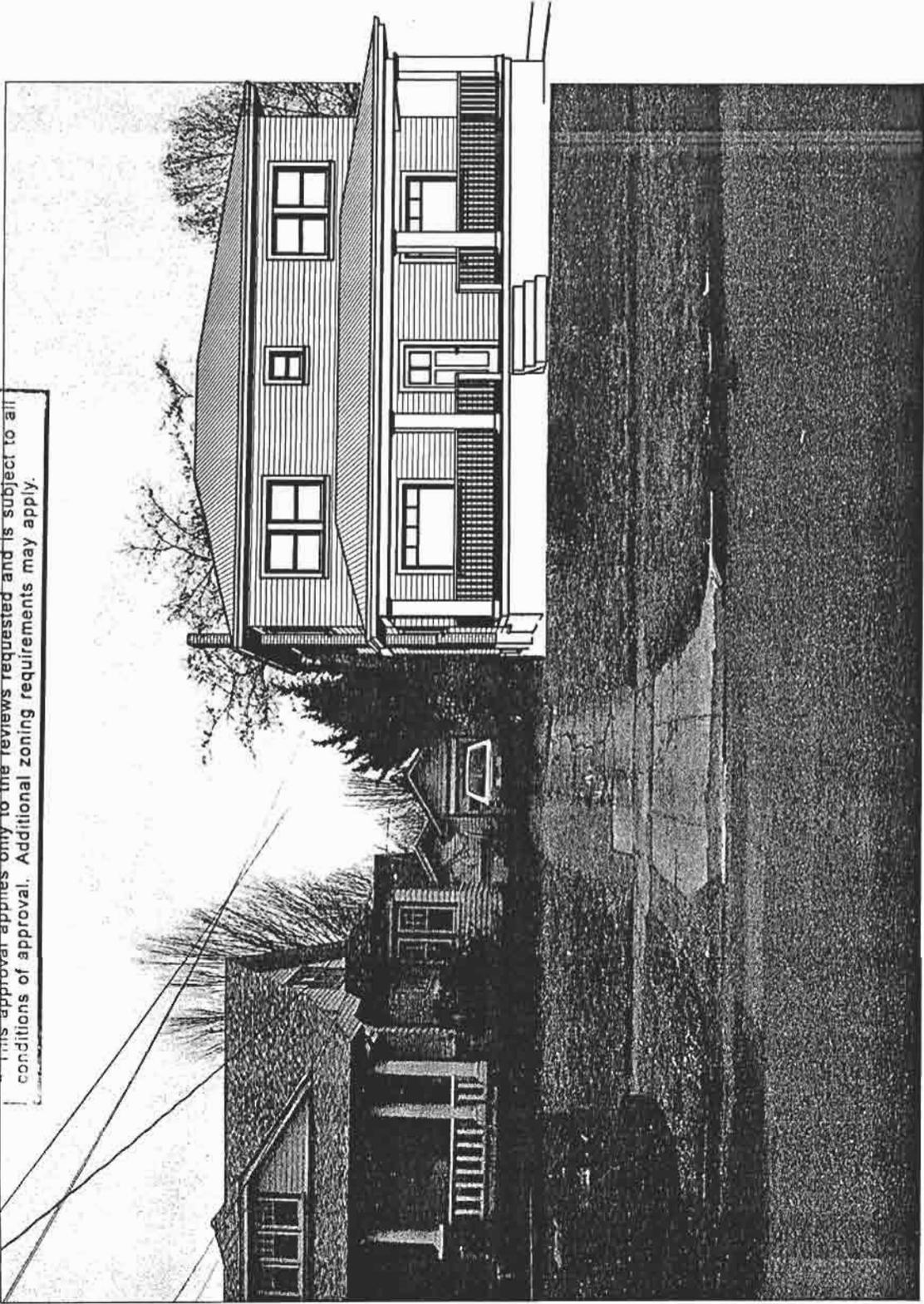
ELEVATIONS
 1/8"=1'-0" C.3

Approved

City of Portland - Bureau of Development Services

Planner *Crystal Hillings* Date *7-15-08*

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



NEIGHBORING HOUSE TO
THE SOUTH C.4

PERSPECTIVE OVERLAY of PROPOSED
SECOND STORY ADDITION

4	DRAWING: PHOTO PERSPECTIVE	DATE: 4/08	HAND ADDITION 3419 NE 17th AVENUE PORTLAND, OR 97212	MELISSA McCALL DESIGN 503.449.3878
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