



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: July 21, 2008
To: Interested Person
From: Nan Stark, Land Use Services
503-823-7828 / nstark@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 08-133340 AD

GENERAL INFORMATION

Applicants/Owners: Michael A Scott
Annick J Benson
7952 SW 46th Ave
Portland, OR 97219

Site Address: 7952 SW 46TH AVE

Legal Description: TL 11000 LOT 22-24 BLOCK 1, PORTLAND PK ADD
Tax Account No.: R669400160
State ID No.: 1S1E19DA 11000
Quarter Section: 3824

Neighborhood: Multnomah, contact Brian Russell at 503-869-1632.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: R7s: Medium-density single-dwelling 7,000 with 's' Scenic Resource overlay zone

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

Proposal:

The owners are planning a 24' x 24' addition to their house, extending alongside the east side of the house so that it will be flush with the existing north and south facades. The site has frontage on Multnomah Blvd and SW 46th Ave. The front of the house is actually oriented south, towards 46th Ave, and not to Multnomah Blvd. It is set back 12 feet from the front property line adjacent to Multnomah Blvd, and the addition is planned along the same line. In the 's' Scenic Resource overlay zone, a 20-foot street setback is required, with L1 landscaping between a structure and the street property line (the L1 standard requires 1 tree per 30 linear feet and groundcover over the remaining area). This overlay zone extends along the north 25 feet of the property. The applicants are requesting an Adjustment to the Scenic Resource

overlay setback standard, 33.480.040 B., to reduce the street setback on the Multnomah Blvd side of the property from 20 feet to 12 feet.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments.

ANALYSIS

Site and Vicinity: The site is 5,975 square-feet in area, with full frontage on Multnomah Blvd and 32 feet of frontage on 46th Avenue. The house and front yard are oriented to 46th Avenue, which dead-ends at the site, and the frontage on Multnomah Blvd functions as the rear of the site. To the casual passer-by, the 1½-story house is not visible from the Multnomah Blvd side, which is several feet above the roadway and screened with a fairly heavy tree canopy, which runs for several blocks.

The site is accessed from SW 46th Avenue, from which the single-car garage and west side of the house is visible. The houses on the two abutting lots, which also have frontage on Multnomah Blvd, gain access via SW 46th Avenue as well.

This area of Multnomah Blvd west of 45th Avenue is characterized by the trees which provide a nearly uninterrupted landscape screen along the street, giving it the scenic quality that is intended by the overlay zone. One block to the east is a small commercial node at 45th Avenue. A mix of older and newer single-dwelling residential characterizes the neighborhood interior to the neighborhood collector streets of Multnomah Blvd and 45th Avenue.

Zoning: The site is zoned R7, which corresponds to the Medium Density Single-dwelling zone of the Comprehensive Plan, typically found in closer-in areas of the city with a somewhat larger lot pattern than the higher-density single-dwelling zones. Average lot size for new lots is 7,000 square-feet. The 's' represents the Scenic Resource overlay zone. In this area, the overlay zone protects the scenic quality of the corridor that runs along Multnomah Blvd from 45th Avenue west up to the City boundary at Garden Home Road.

Land Use History: City records indicate there are no recent land use reviews for this site. The site was part of a zone change to City zoning when it was annexed in 1963.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **June 24, 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
- Bureau of Parks-Forestry Division

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 24, 2008. Staff received one written response from a neighboring property owner, who wrote to express support for the proposal.

ZONING CODE APPROVAL CRITERIA

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.

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

Findings: The *purpose* of the scenic corridor standards is to preserve and enhance the scenic character along corridors and where possible, scenic vistas from corridors. This is accomplished by limiting the length of buildings, preserving existing trees, providing additional landscaping, preventing development in side setbacks, screening mechanical equipment, and restricting signs.

The subject house is situated 7 feet from the north property line along Multnomah Blvd at its closest point. The addition will run along the same facade as the majority of the existing house, which is 12 feet from that property line. Between the existing house as well as the wall of the proposed addition is a dense line of trees which, as staff saw on a site visit, obscured the house from the street. Along this stretch of Multnomah Blvd, the houses adjacent to the street are not visible behind the dense vegetation. The sloping topography further separates the site from the street, as the roadway is a few feet below grade. Consequently, although the proposed setback would bring the addition alongside the existing façade at 12 feet from the property line, which is 8 feet closer than what is allowed by the zoning code, the addition will not be visible from the street.

The applicants indicate that they are not planning to remove any trees in the reduced setback area. To ensure the continued screening that the trees provide, and that is intended by the overlay zone, a condition of approval will require that the existing trees must remain, or if any are removed in the future, they must be replaced. With this condition, 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 existing house was built with its front door facing 46th Avenue, which ends at the subject property's south property line. The rear of the house is oriented to Multnomah Blvd, and the north side of the property, adjacent to that street, functions as the back yard. The proposed one-story addition, while proposed at 12 feet from the north property line, will not be visible to the casual passerby due to the dense vegetation along the street frontage. The setback reduction, consequently, will not detract from either the livability or appearance of the residential area. 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: The purpose of this review is to allow a reduction from the 20-foot setback standard that is required in the 's' Scenic Resource overlay zone. The applicants request a 12-foot

setback so that their proposed addition is flush with the existing wall of the house at the same setback. The applicants indicated that they will not remove any trees along the Multnomah Blvd frontage of the property, which is where the site is heavily screened from the road. Consequently, there will be no change to the existing dense tree coverage along this part of the scenic corridor, thus upholding the intended effect of the 's' overlay. Therefore, this criterion is met.

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. The setback reduction from 20 to 12 feet allows for a logical and appropriate placement for an addition to the house, while retaining the existing trees that screen the property from Multnomah Blvd, as intended by the Scenic Resource overlay standards. The reduction of 8 feet to the setback will not make a difference to the scenic corridor, due to the heavy screening from trees and understory growth that exists. The condition required to fulfill criterion A will also ensure that the screening will be preserved, and thus will mitigate for the reduced setback and the possibility of greater visibility of the house without the existing trees that provide the desired screening. Thus, with that condition, 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, 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 applicants have proposed to build an addition to their existing house along the same façades as the front and rear of the house. The Multnomah Blvd side of the site is in the scenic resource zone and thus requires the 20-foot street setback. This portion of the scenic corridor is heavily screened by trees and understory plants, thus minimizing visibility of any of the houses along it for a distance of several blocks. The intent of the overlay zone is upheld with this proposal, with a condition for preservation of existing trees on the property, or replacement if any are removed, to ensure continuation of the screening that provides the scenic quality of this corridor.

ADMINISTRATIVE DECISION

Approval of an Adjustment to zoning code standard 33.480.040 B., to reduce the street setback on the Multnomah Blvd side of the property from 20 feet to 12 feet for an addition to the house, subject to the approved site plan and north elevation drawing, Exhibits C-1 and C-2, signed and dated July 16, 2008, and to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition 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 08-133340 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

B. The existing trees in the north setback must be preserved, or if any are removed in the future, they must be replaced.

Decision rendered by:  **on July 16, 2008**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 21, 2008

Staff Planner: Nan Stark

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 2, 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 2, 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 August 4, 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 5, 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 503-823-7967.

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, or

- In situations involving only the creation of lots, the land division has been recorded.

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:

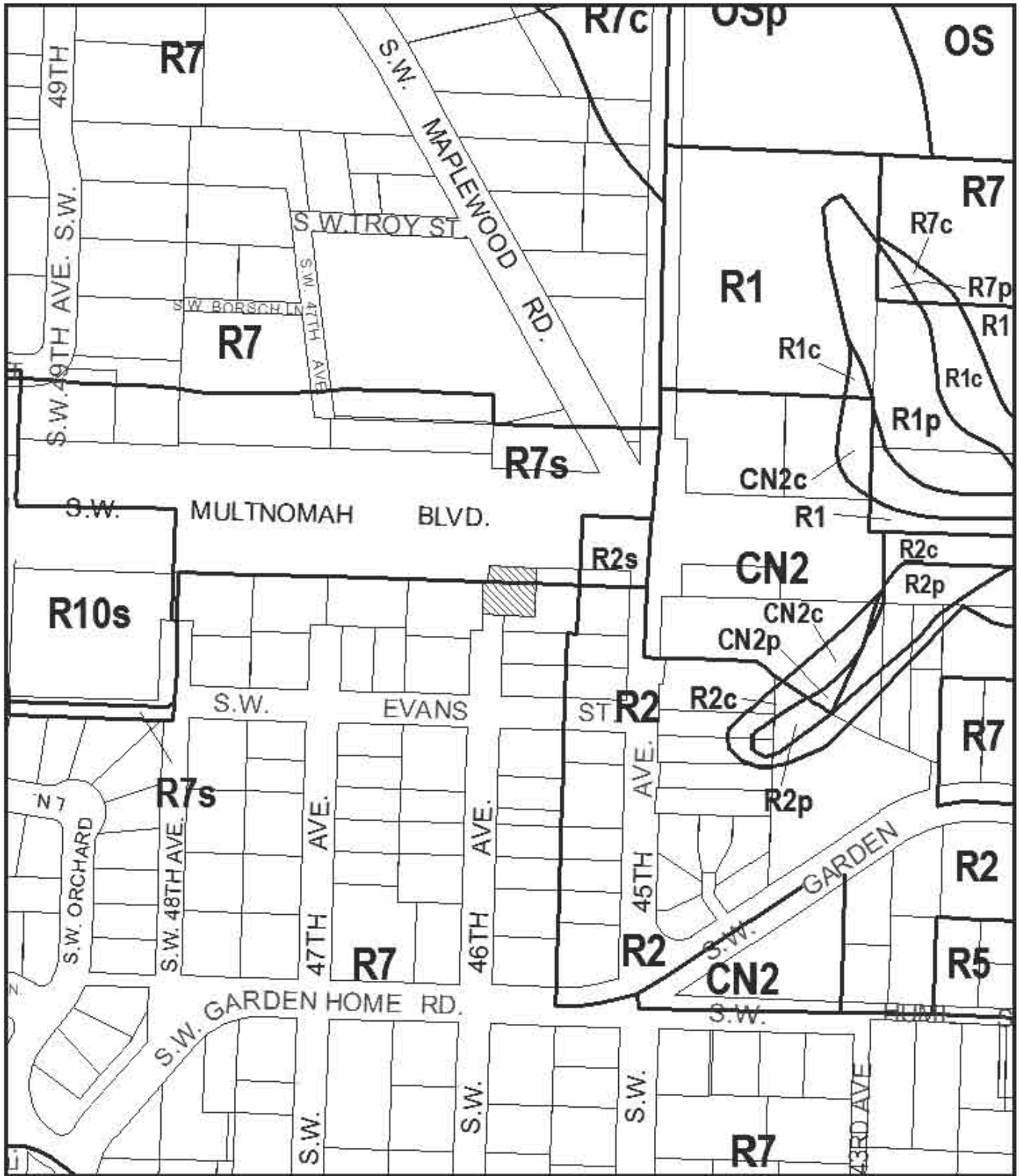
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. North elevation drawing (attached)
 - 3. South elevation drawing
 - 4. East elevation drawing
 - 5. Cross-section drawing
 - 6. Floor plan
 - 7. Foundation plan
 - 8. Photos of site
- 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. Site Development Review Section of BDS
 - 5. Bureau of Parks, Forestry Division
 - 6. Life Safety Review Section of BDS
- F. Correspondence:
 - 1. W. Sells, in support
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete application letter, Stark to applicants, June 17, 2008
 - 4. Email correspondence, Stark and A. Benson (applicant), various

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).



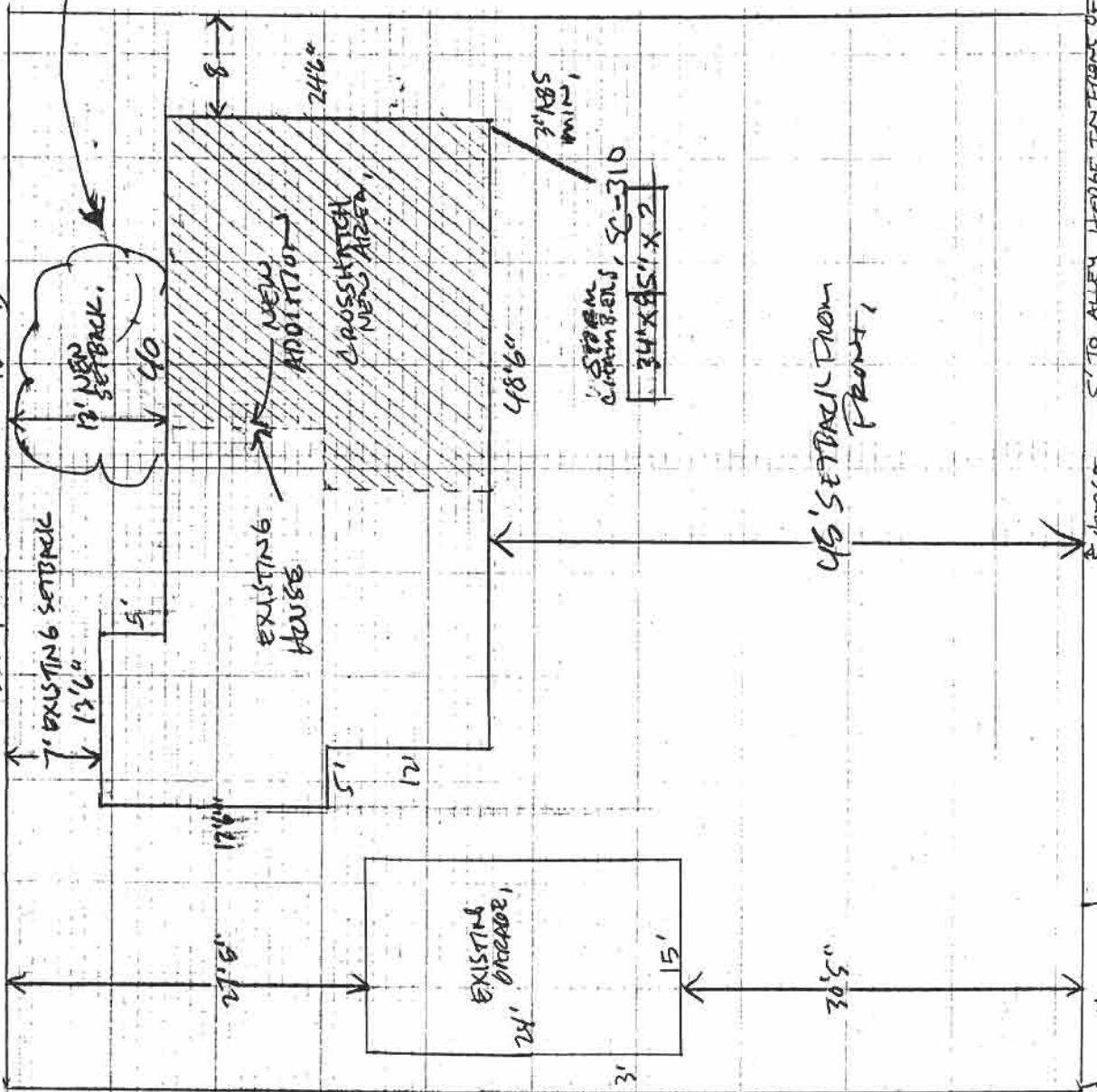
ZONING

 Site



File No. LU 08-133340 AD
 1/4 Section 3824
 Scale 1 inch = 200 feet
 State Id 1S1E19DA 11000
 Exhibit B (Jun 04, 2008)

SW MULTNOMAH BLVD



Adjustment to reduce street setback to 12' for addition

PLOT MAP -

1/8" = 1' (REDUCED)

N
N E
S

EXISTING HOUSE

ALLEY

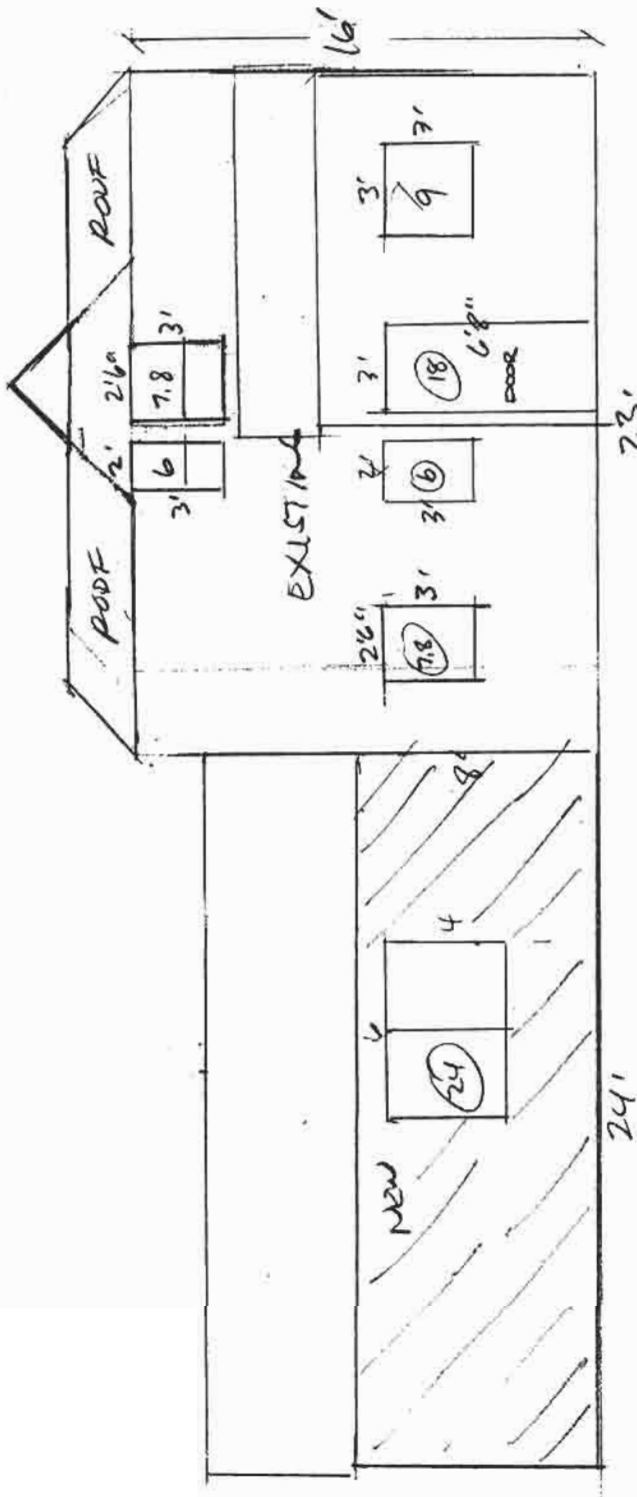
1952 SW 48TH AVE
PORTLAND, OR
97219

Setback. 5' TO ALLEY HEAD OF ENTRANCE OF

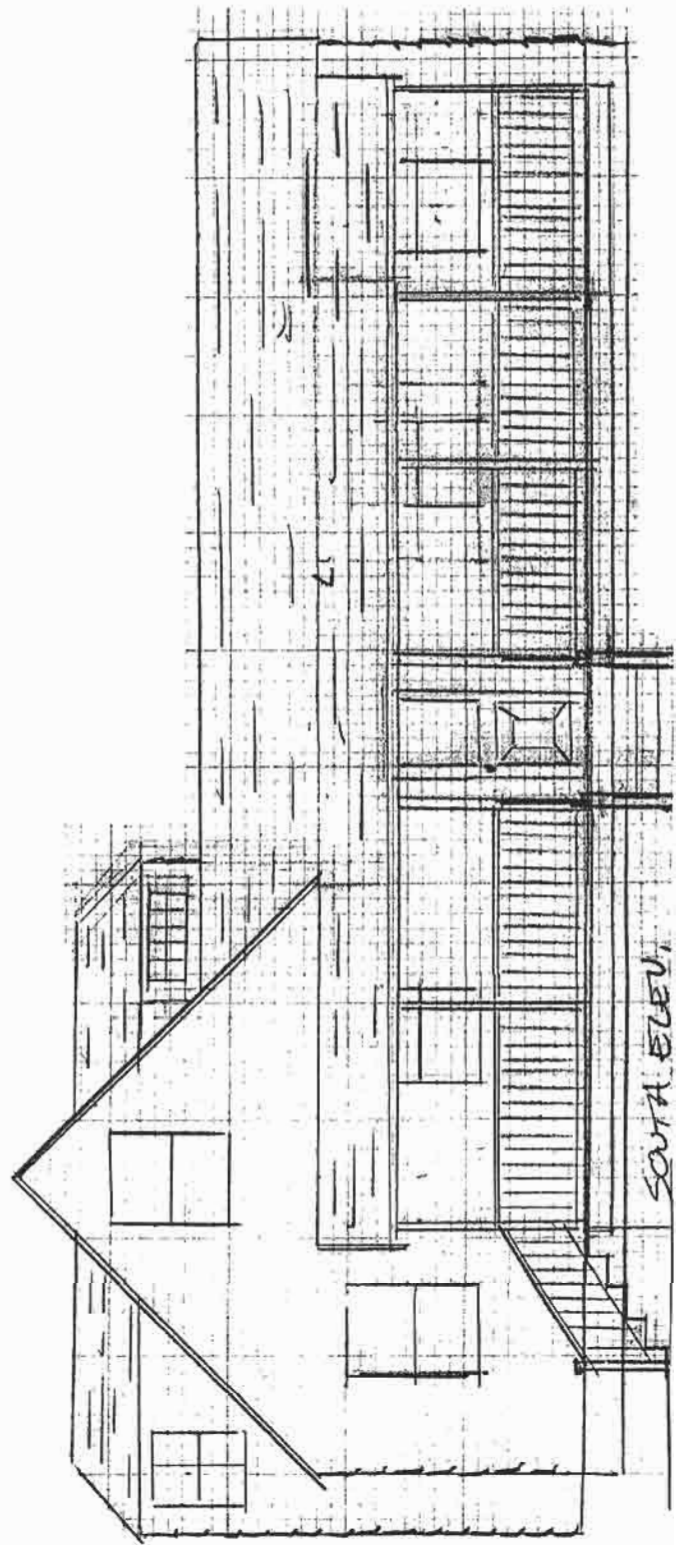
Approved
 City of Portland - Bureau of Development Services
 Planner *[Signature]* Date July 16, 2008
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

LU 08-133340 AD

EXHIBIT C-1



NORTH ELEVATION - MULTINOMATH BLDG



LN 08-1333AD AD
EXHIBITS C2 and C3