



City of Portland
Bureau of Development Services
Land Use Services Division

1900 SW Fourth Ave. Suite 5000
Portland, Oregon 97201
Telephone: 503-823-7300
TDD: 503-823-6868
FAX: 503-823-5630
www.portlandonline.com/bds

Date: August 1, 2008
To: Interested Person
From: Sheila Frugoli, Land Use Services
503-823-7817 / frugolis@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 08-136759 AD

GENERAL INFORMATION

Applicant: Carl Munz
Green Gables Design and Restoration
PO Box 4264
Portland OR 97208

Owners: Leanne Littrell Dilorenzo and John Dilorenzo
1736 SW Prospect Dr
Portland, OR 97201-2484

Site Address: 1736 SW PROSPECT DR
Legal Description: TL 13700 BLOCK 60, CARTERS ADD TO P
Tax Account No.: R140403530
State ID No.: 1S1E04BA 13700
Quarter Section: 3127
Neighborhood: SWHRL, Southwest Hills Residential League, contact Nancy Seton at 503-224-3840
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-2862
Zoning: R7, Single-Dwelling Residential 7,000
Case Type: AD, Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant is proposing changes to the north side of the existing multi-story house. An elevated "bay room" will improve the internal connection between the kitchen and family room. A new "alcove bay" will be constructed on the east side of the kitchen with new double doors onto a new small deck. This deck will provide a connection between the existing walkway to the kitchen.

The additions will be single story (added to a portion of the upper floor). The upper-story deck will be connected to the existing walkway via new stairs and a concrete landing. Lastly, a new roof, approximately 3 feet deep, will be constructed over the existing walkway and single garage

door located near the entrance of the house. The roof will extend beyond the property line into the public right-of-way.

Zoning Code Section 33.110.220 and Table 110-3 requires buildings to be set back from the side property lines by at least 5 feet. Portions of the proposed additions and deck will extend within the required setback. The applicant therefore requests an Adjustment to reduce the side building setback from 5 feet to 0. As shown on the attached site plan, the northwest corner of the existing house and much of the driveway area are located within the SW Prospect Drive right-of-way.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria have been met.

ANALYSIS

Site and Vicinity: The 24,500 square foot circular-shaped lot is developed with a three-story, single-dwelling residence. The lot has frontage on three sides as SW Prospect Drive, a narrow driving lane, that curves around the property. The home sits adjacent to the street lot line and in places appears to extend within the public right-of-way. Most of the site is elevated above the street and is separated from the street by manicured landscaping and walls.

Like the subject site, the nearby homes are large, elegant, architecturally-significant homes that were constructed in the early 1900s. Given that most of the homes were constructed prior to zoning regulations and were sited near the front lot lines in response to the steeply sloping sites, most of the homes are configured in a manner that does not meet current building setback requirements.

Zoning: The site and surrounding properties are located in an R7, Single-Dwelling Residential 7,000 zone. The use regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

Land Use History: City records indicate there was a prior land use review completed for this site. In 1967 (case file VZ 1119-67) the City approved a variance to: (1) reduce the north front yard along SW Prospect Drive from 20 feet to 11 feet, (2) reduce the required garage setback from 22 feet to 11 feet and (3) increase the height from the permitted 2.5 stories or 35 feet to 3 stories and 43 feet in height in order to construct an addition to the house. *Note: (1) The variance request and building addition appears to have been completed without exact measurements provided through a property survey and (2) building setback and height regulations have changed since 1967.*

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 3, 2008**. The following Bureaus have responded with no issues or concerns:

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

The **Portland Office of Transportation, Bureau of Transportation Engineering** responded with the following comment: There are no transportation impacts associated with the requested Adjustment to reduce the side setback. However, it appears that the proposed roof over the existing single car garage will extend into the right-of-way. In addition, there are some "mid-level" stairs that connect from the proposed deck on the east end to the path in the right-of-way. It is difficult to determine whether these stairs are new or existing. The applicant also has a number of existing structures and portions of the house that are encroaching in the public right-of-way. In order to approve the building permit for this expansion, the applicant

will need to have a revocable permit, issued by the Office of Transportation, for all existing structures that encroach in the public right-of-way. No further encroachments will be supported by Portland Transportation. Portland Transportation has no objection to the proposed adjustment subject to the following condition: "Prior to building permit approval, a revocable permit must be on file for all existing structures that encroach in the public right-of-way." Exhibit E.1.

The **Site Development Section of BDS** responded with the following comment: No information has been provided about the existing or proposed stormwater management system; however, plumbing records indicate that the roof drains for the house are connected to the public system. Site Development recommends against on-site infiltration at this location. If allowed by the Bureau of Environmental Services, Site Development supports modifying existing gutter and rain drains to incorporate the new development and continuing to discharge stormwater to the public system. A utility plan must be with the permit application for the additions to show how the requirements of the Stormwater Management Manual (SWMM) will be met. Exhibit E.2.

The **Bureau of Environmental Services** responded with the following comment: The submitted plan does not include the existing or proposed stormwater management facilities. The submitted site plan indicates the proposed additions to the existing house will be less than 500 square feet of impervious surface. Please note that when over 500 feet of impervious area is added or redeveloped, the SWMM requirements apply. BES considers it acceptable for these proposed small additions to connect to the existing gutter system as recommended by BDS Site Development. Exhibit E.3.

The **Life Safety Plan Review Section of BDS** responded with the following comment: There appears to be no conflicts between this proposal and applicable building codes for the purposes of obtaining an LU approval. Fire separation distances for the new addition may be measured to the center of streets or alleys where the structure/building faces the street or alley. Exhibit E.4.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 3, 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

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 applicant is requesting to waive the side building setback in order to add an elevated "bay room" that will connect the kitchen and family room. A new "alcove bay" will be constructed on the east side of the kitchen with new double doors onto a new small deck. This deck will provide a connection between the existing walkway to the kitchen. Lastly, a new roof, approximately 3 feet deep, will be constructed over the existing walkway and single garage door located near the entrance of the house.

The intent for requiring minimum setbacks, as stated in Section 33.110.220.A (Purpose), is as follows:

- 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.

Light and Air

The proposed additions, located within the north side building setback, will not adversely impact light and air of adjacent properties. SW Prospect Drive separates the house to the north and the other adjacent homes are located a significant distance from the DiLorenzo home. The reduced setback at this location will not restrict light and air to the surrounding homes.

Separation for Fire Protection/Access for Fire Safety

The proposed additions will be located on the existing north facing façade of the home. Access for fire protection is available within the adjacent public right-of-way. Staff from both the BDS Life Safety Plan Review Section and the Fire Bureau have reviewed the proposal and have no concerns. Based on these findings, the proposal will have no impact on separation for fire protection and access for fire safety.

Reflect the General Building Scale and Placement of Houses/Reasonable Physical Relationship Between Building

The scale and massing of the house, with the proposed addition, will remain consistent with the scale of the houses in the surrounding area. The majority of houses on the SW Prospect Drive are a full two stories or taller in height. Given the site is located in the SW Hills area, with steeply sloped sites, a majority of the houses are built close to the street property lines.

Options for Privacy

The proposed new bays and deck will increase the amount of window area on the north wall and provide additional outdoor area with the small deck. This north, street-facing façade currently contains a significant number of windows. However, the proposed new bay windows and deck will be located considerably higher than the window on the house directly north of the site at 1739 SW Prospect Dr. And therefore are not likely to have significant adverse impacts on privacy for adjacent residents.

Larger Front Setbacks

The requested Adjustment is for a reduction in one of the side building setbacks. The existing front setback, which has been determined to be the eastern portion of the site, is extensively landscaped. The front setback area will remain unchanged.

Room for a Car to Park in Front of the Garage

The existing setback between the garage entrances and the street lot line will remain unchanged. It must be noted that the Zoning Code provisions generally apply only to development on private property. The Office of Transportation (PDOT) response states that at building permit review, the applicant will be required to obtain a Revocable Permit for existing encroachments into the public right-of-way. PDOT will not approve the proposed garage entrance cover, that is shown to extend over the property line.

Based on these findings, the proposal will result in development that is equally meets the purpose of the minimum side building setback regulations. 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 requested Adjustment to reduce the side setback for the additions will not detract from the livability or appearance of the residential area. As indicated above, the surrounding residential neighborhood is characterized by large homes, many of which have setbacks that are less than the minimum required. The resulting massing and placement of the dwelling on the lot will be consistent with the established character of the surrounding neighborhood. The proposed bays and deck will increase the “eyes on the street”, adding more window area. The round bays will add architectural interest on the tall north-facing walls.

The proposal will have no impact on livability issues to the abutting property owners. As proposed, 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: As only one Adjustment is requested, this criterion is not applicable.

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

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As the subject site, or adjacent sites, are not designated as scenic or historic resources, this criterion is not applicable.

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

Findings: As described above in response to Approval Criteria A and B, there are no significant adverse impacts for which mitigation is required. This criterion is not applicable.

- 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: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As there are no such designations on this site, 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 via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant has demonstrated that the applicable Adjustment approval criteria have been met. The request to reduce the north side setback for the bay additions, deck and garage

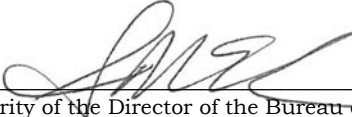
entrance cover will result in development that meets the intent of the minimum setback regulation, and will not adversely impact the appearance or livability of the surrounding residential neighborhood.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum north side building setback (Zoning Code Section 33.110.220.B, Table 110-3) for the proposed additions from 5 feet to zero feet, per the approved site plan (Exhibit C.1), and building elevations (Exhibit C.2 and C.3), signed and dated July 30, 2008, and subject to the following condition:

- A. As part of the building permit application submittal, each of the four required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C1-C3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-136759 AD."

NOTE: Prior to Building Permit approval, a Revocable Permit must be filed with the Portland Office of Transportation for all existing structures that encroach in the public right-of-way.

Decision rendered by:  on July 30, 2008
By authority of the Director of the Bureau of Development Services

Decision mailed: August 1, 2008

Staff Planner: Sheila Frugoli

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 12, 2008, and was determined to be complete on July 1, 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 12, 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 15, 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 18, 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.

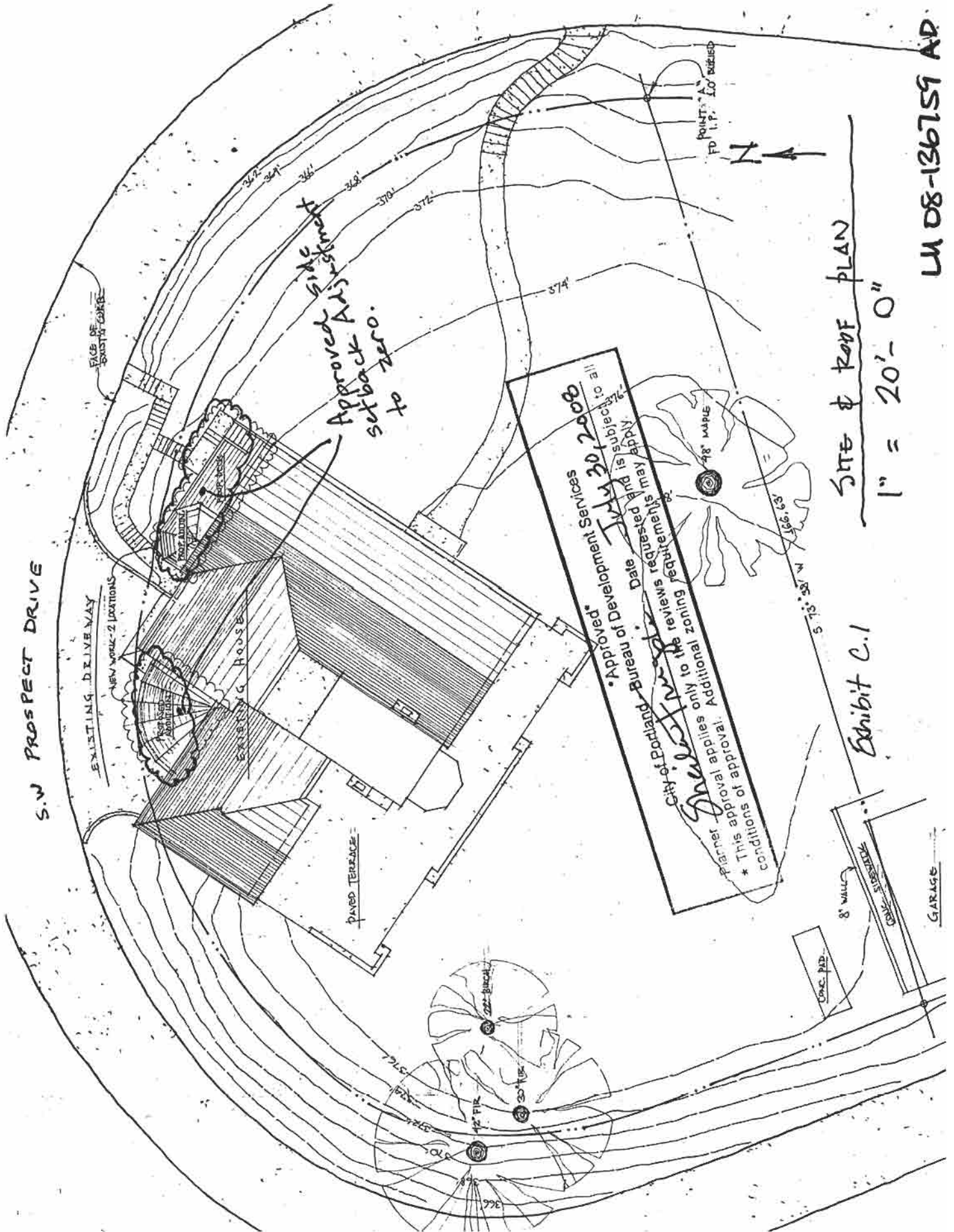
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Proposed Northeast Elevation (attached)
 - 3. Proposed SE Elevation of New Alcove and Northwest Elevation (attached)
 - 4. Main Floor Plan - Existing
 - 5. Main Floor Plan - Proposed
 - 6. Photos of Exterior of Home
 - 7. Site Boundary and Topographic Survey by ZTEC Engineering
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Site Development Review Section of BDS
 - 3. Bureau of Environmental Services
 - 4. Life Safety Plan Review Section of BDS
- F. Correspondence: None
- 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).

S.W PROSPECT DRIVE



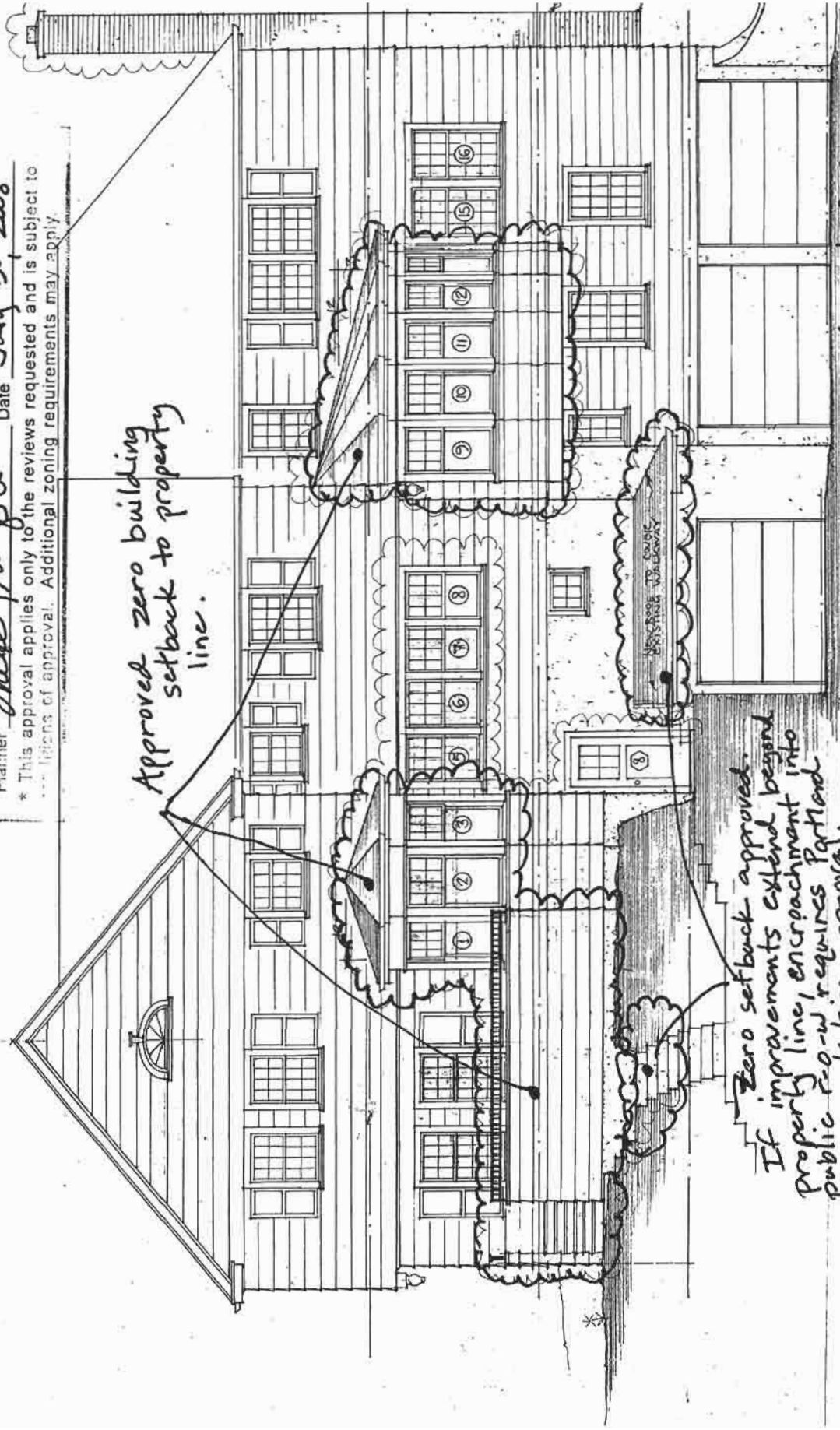
SITE & ROOF PLAN

1" = 20'-0"

Exhibit C.1

LM 08-136759 AD

Approved
 City of Portland - Bureau of Development Services
 Planner *Shirley Trumble* Date *July 30, 2008*
 * This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.



Approved zero building setback to property line.

Zero setback approved. If improvements extend beyond property line, encroachment into public R.O.W. requires Portland Transportation approval.

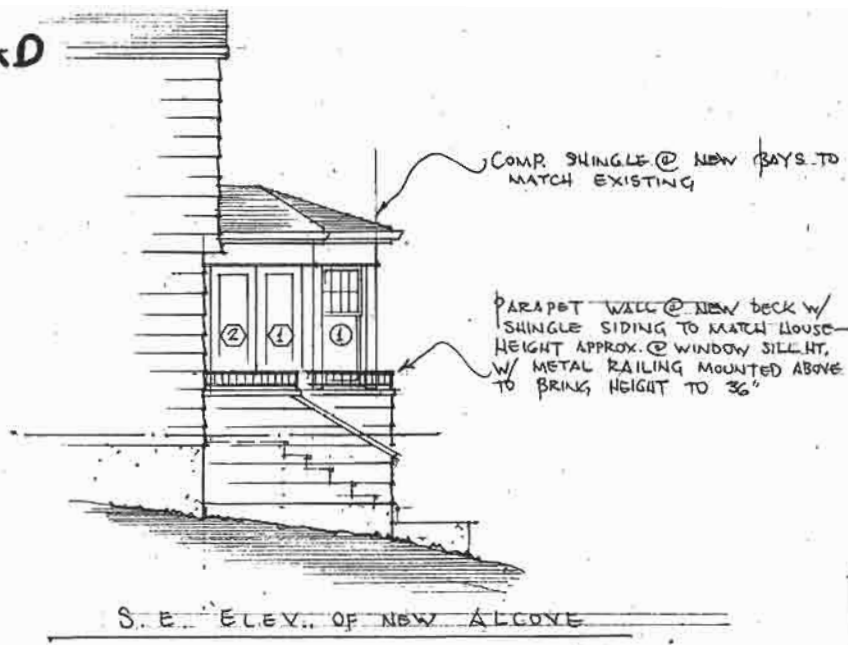
N O R T H E A S T E L E V A T I O N

Exhibit C.2

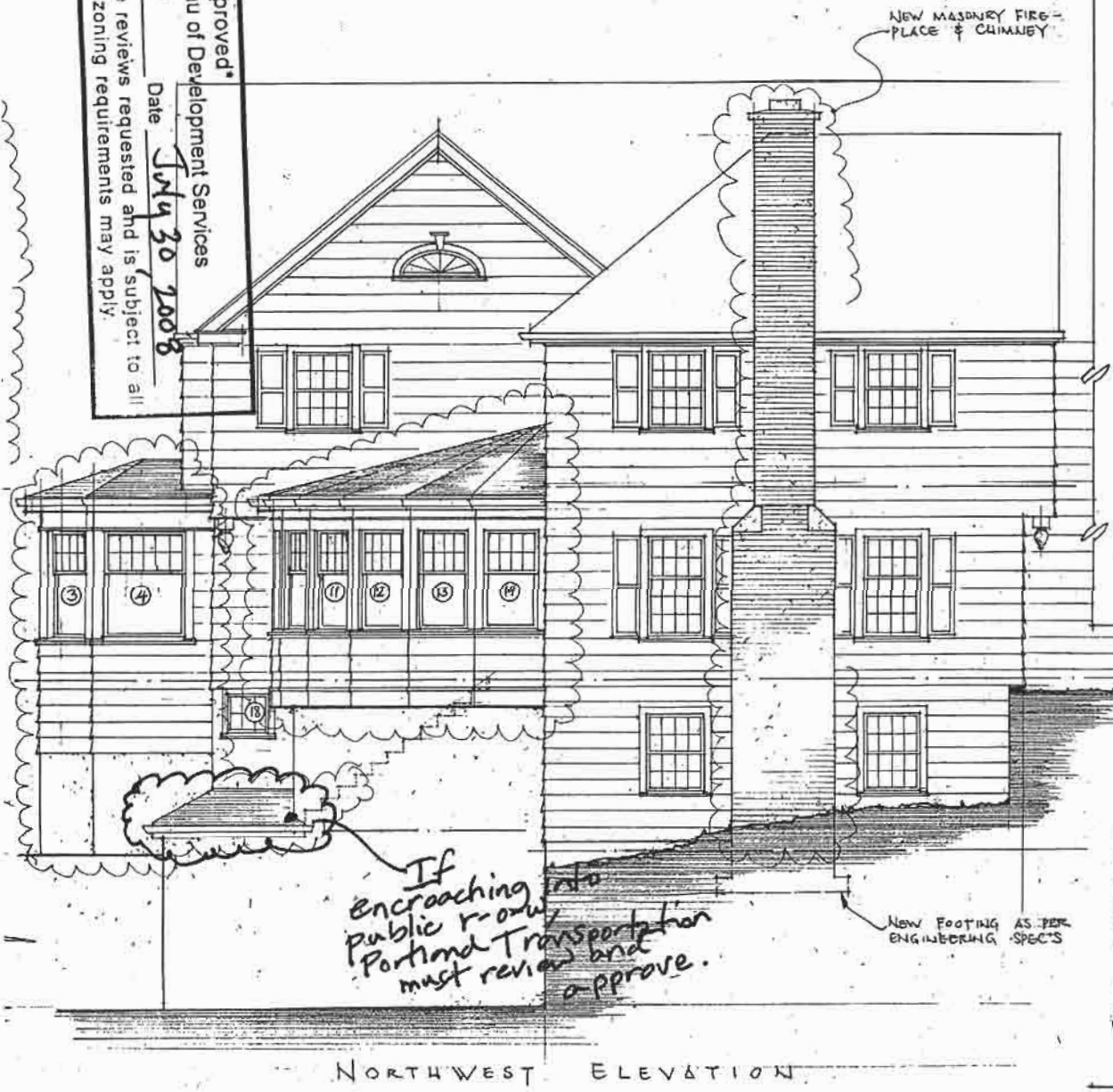
LM 08-136759 AD

Exhibit C.3.

Planner
Shirley Kungl
 City of Portland - Bureau of Development Services
 Approved
 Date July 30, 2008
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



GREEN GABLES DESIGN
 P.O. BOX 4264 PORTLAND, OR 97208
 PH: (503) 223-5109 F: 241-2413



If encroaching into public roadway Portland Transportation must review and approve.