



City of Portland
Bureau of Development Services
Land Use Services Division

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Portland, Oregon 97201
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FAX: 503-823-5630
www.portlandonline.com/bds

Date: August 19, 2008
To: Interested Person
From: Douglas Hardy, Land Use Services
503-823-7816 / dhardy@ci.portland.or.us

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved with conditions 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 08-144926 AD

GENERAL INFORMATION

Applicant: Nathaniel R. Tilden and Allison M. Burt, property-owners
6243 NE 11th Avenue
Portland, OR 97211

Site Address: 6243 NE 11TH AVENUE

Legal Description: LOT 2 BLOCK 2, HIGHLAND PK
Tax Account No.: R384600400
State ID No.: 1N1E14CA 14800
Quarter Section: 2431
Neighborhood: Woodlawn, contact John Graeter at 503-975-9516.
Business District: North-Northeast Business Assoc, contact Joyce Taylor at 503-445-1321
District Coalition: Northeast Coalition of Neighborhoods, contact Lauren McCartney at 503-823-4135.
Zoning: R5h Single-Dwelling Residential 5,000, with Aircraft Landing zone overlay

Case Type: Adjustment Review (AD)
Procedure: Type II, Administrative decision with appeal to Adjustment Committee

PROPOSAL

The applicant proposes constructing a one car garage, 15 feet in width by 20 feet in depth, along the site's NE Holman Street frontage. The garage will be set back five feet from the site's rear (west) lot line, and five feet from the north side lot line along NE Holman Street. In the Single-Dwelling zones, garage entrances are required to be set back a minimum of 18 feet from a street lot line (Zoning Code Section 33.110.220.B, Table 110-3). The applicant is requesting an Adjustment to reduce the garage entrance setback along NE Holman Street from the minimum required 18 feet to five feet.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805.040.A-F of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The flat, 4,915 square foot site is located at the southeast corner of NE Holman Street and NE 11th Avenue, and is developed with a one and one-half story, single-dwelling house. The house is oriented to NE 11th Avenue, and set back approximately 15 feet from this street; the house is set back approximately 16 feet from the side lot line along NE Holman Street. Sidewalks are located along both street frontages, with the sidewalk along NE Holman (the street frontage where the garage is proposed) being five feet in width and set back two feet from the property line. There is no planter strip between the sidewalk and the curb along this street frontage.

The surrounding area is developed predominantly with one to two-story, single-dwelling residences. There are a number of examples in the surrounding area of garages being built closer to the street lot line than the required 18 feet, particularly on corner lots. The abutting lot to the west has a single-car garage that is set back approximately eight feet from the NE Holman street frontage.

Zoning: The site is located in an R5 (Single-Dwelling) zone, and mapped with the Aircraft Landing Zone overlay.

The Single-Dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

The Aircraft Landing Zone ("h") overlay is intended to provide safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. The site is located in the 220 foot elevation contour of the Aircraft Landing Zone overlay. The 35 foot height limit of the R5 base zone is more restrictive than the height limit of the "h" overlay.

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

Agency Review: A Notice of Proposal was mailed July 21, 2008. The following Bureaus have responded with no issues or concerns with the requested land use review:

- Bureau of Environmental Services;
- Bureau of Development Services - Site Development Section; and
- Fire Bureau.

The Bureau of Transportation Engineering responded that the Adjustment request is generally consistent with the stated intent of the garage entrance setback regulations. However, the existing fence along the site's north property line (on NE Holman Street) will result in poor visibility when vehicles are backing out of the garage. Transportation Engineering recommends that the fence on the west of the garage be relocated so that it is flush with the street-facing facade of the proposed garage, and that the fence be cut back at a 45 degree angle from the northeast corner of the proposed garage. Transportation Engineering also noted that an existing planter box along the site's north property line encroaches into the public right-of-way. Transportation Engineering requests that prior to issuance of a building permit for the proposed garage, that a revocable permit be obtained from Portland Transportation for the portion of the planter box located in the NE Holman Street right-of-way.

The Bureau of Environmental Services noted the City's Stormwater Management Manual requires that stormwater runoff from new or redeveloped impervious area be managed on-site

through surface infiltration facilities to the maximum extent practicable. Roof runoff may be managed in drywells or soakage trenches. Pollution reduction is required for all non-rooftop runoff, and all runoff that is not infiltrated on site. Stormwater runoff from parking lot, driveway and other ground-level impervious surface must be treated by means of vegetated surface facilities with overflow directed to an appropriate disposal location. A disposal location for stormwater must be identified for any size development. For this particular project, an on-site stormwater management facility that meets setback requirements (10 feet from all structures and five feet from property lines) must be shown on the site utility plan at the time of building permit review.

Neighborhood Review: No written responses to the Notice of Proposal 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 citywide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the Zoning Code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the Zoning Code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the Zoning Code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

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 requests an Adjustment to decrease the minimum garage entrance setback for the proposed garage from 18 feet to five feet. The purpose for the minimum garage entrance setback, as stated in Zoning Code Section 33.110.290.A, is to provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and to enhance driver visibility when backing onto the street.

The garage will be set back five feet from the side property line along NE Holman Street, and 12 feet from the curb line. It is not likely that a car would ever park in this 12 foot section as the vehicle would extend out into the street. Additionally, as a corner site with extensive street frontage, it is more likely that a vehicle would park in the garage or on the street parallel to the curb, than in the short driveway between the garage entrance and the curb. As such, the requested setback will not promote a situation where a vehicle will park and block the sidewalk.

The purpose of the minimum setback standard is also to allow adequate driver visibility when backing out of the driveway. Portland Transportation noted that the existing wooden fence along the site's north property line (along NE Holman Street) and a portion of the west property line will create visibility problem for drivers backing out, especially with a reduced garage entrance setback. To address this issue, a condition of approval regarding the location of fences on the property shall be required as follows:

- To the west of the garage, no fence along either the north or west property lines shall be located so that it is closer to the street lot line than the north façade of the garage; and
- To the east of the garage, any fence shall be angled at a 45 degree angle extending from the northeast corner of the garage to the north property line (see Exhibit C1).

With this condition, the adequate visibility for drivers backing into the street will be preserved.

As proposed and with the condition of approval, 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 not expected to significantly detract from the livability or appearance of the surrounding residential area. The garage will have a gabled roof with horizontal lapsiding that reflects the architecture of the house on the site and many existing garages in the surrounding area. The reduced setback reflects setbacks seen on other garages in the immediate area (particularly on corner lots), which have street setbacks ranging from approximately zero to eight feet. Additionally, the condition of approval identified above in Approval Criterion A will address potential pedestrian and vehicle safety issues by ensuring that fences on the property are not located in such a way that precludes visibility for drivers backing out of the proposed garage onto the street.

As proposed and with the condition of approval, 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: Because the applicant is requesting only one Adjustment, this criterion is not applicable.

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

Findings: City-designated scenic resources are identified on City zoning maps by a lowercase “s”. Historic resources are identified by a reference dot. There are no scenic or historic resources on the subject site, therefore, 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, the only identified impact relates to the location of the existing fence (and future fences) on the site that could have an adverse impact on safety issues. To address this, a condition of approval is being placed on the Adjustment that limits the location of fences so as to preserve visibility of the sidewalk and street for drivers backing out of the garage. There are no other adverse impacts identified with the proposal.

As proposed and with the condition of approval, 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: Environmental zones are identified on City zoning maps by a lowercase “c” or “p”. There are no environmental zones on the subject site, 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

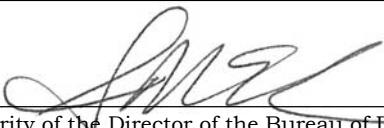
The applicant has demonstrated that the applicable approval criteria for an Adjustment that reduces the minimum garage entrance setback from 18 feet to five feet have been met. The Adjustment request will be consistent with the intent of ensuring that vehicles do not block the sidewalk and street, and with a condition of approval, will preserve driver visibility when backing onto the street. The proposal will not significantly detract from the livability and appearance of the surrounding residential area, and the one identified adverse impact associated with visibility will be addressed by limiting the location of fences on the property.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum garage entrance setback (Zoning Code Section 33.110.220.B, Table 110-3) from 18 feet to five for a proposed garage oriented to NE Holman Street, per the approved site plan (Exhibit C1), and building elevations (Exhibit C2), signed and dated August 15, 2008, and subject 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 four 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 08-144926 AD. All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled 'REQUIRED'."
- B. To the west of the garage, no fence along either the north or west property lines shall be located so that it is closer to the street lot line than the north façade of the garage; and to the east of the garage, any fence shall be placed at a 45 degree angle extending from the northeast corner of the garage to the north property line (see Exhibit C1).

Transportation Engineering notes that prior to issuance of a building permit for the proposed garage, the applicant shall obtain a revocable permit from Portland Transportation for the portion of the existing planter box located in the NE Holman Street right-of-way.

Decision rendered by:  on August 15, 2008
By authority of the Director of the Bureau of Development Services

Decision mailed: August 19, 2008

Staff Planner: Douglas Hardy

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 July 10, 2008, and was determined to be complete on July 21, 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 July 10, 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 extended at the request of the applicant. In this case, the applicant did not 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 September 2, 2008**, at 1900 SW Fourth Avenue. 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 **September 3, 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. Building Elevations (attached)
- 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. Site Development Review Section of BDS
 - 4. Fire Bureau
- F. Correspondence (None)
- G. Other:
 - 1. Original LU Application

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).

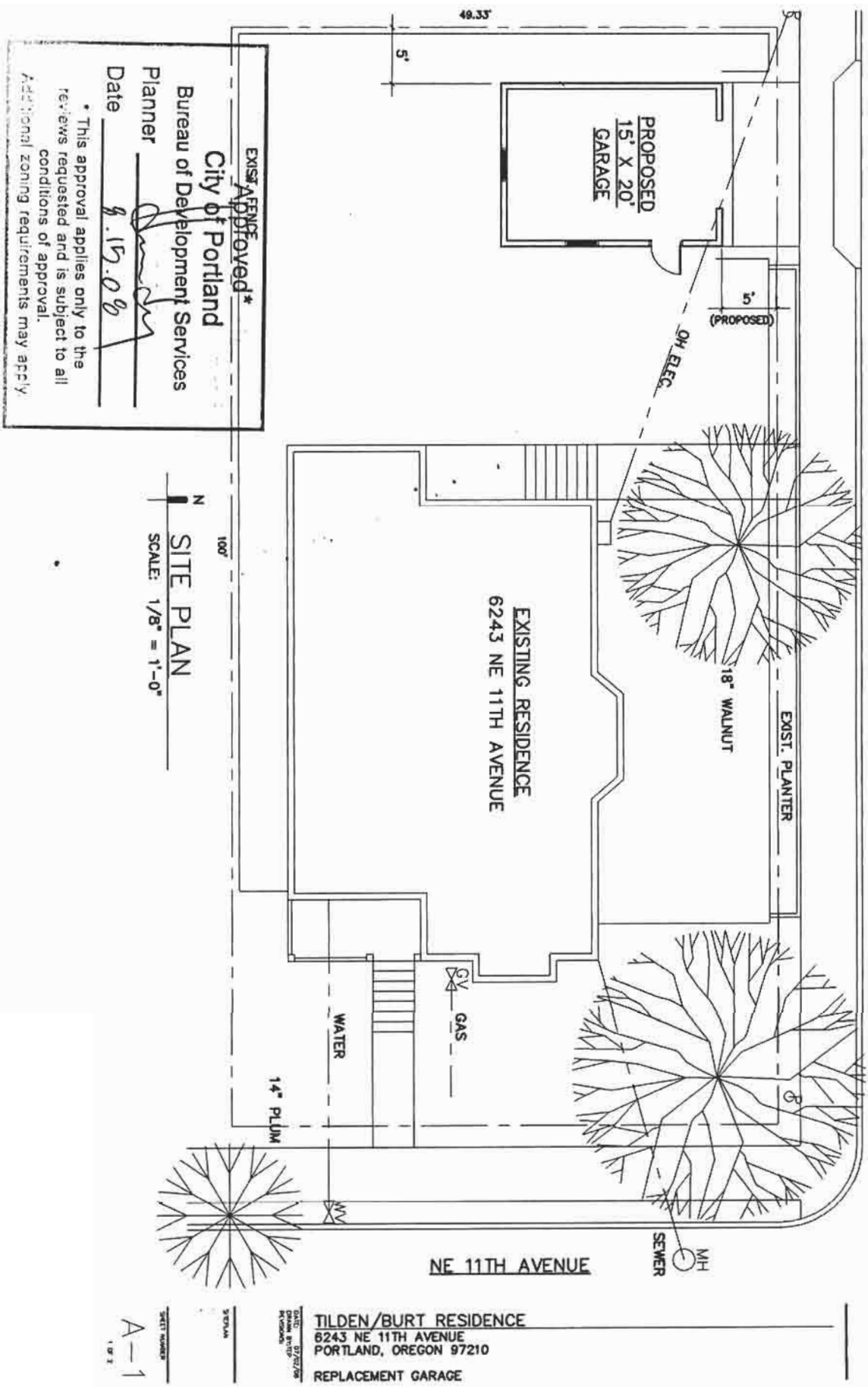


ZONING

 Site



File No.	<u>LU 08-144926 AD</u>
1/4 Section	<u>2431</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1N1E14CA 14800</u>
Exhibit	<u>B (Jul 15, 2008)</u>



NE HOLMAN

28' CHESTNUT

PROPOSED
15' X 20'
GARAGE

EXISTING RESIDENCE
6243 NE 11TH AVENUE

EXIST. PLANTER

18' WALNUT

NE 11TH AVENUE

WATER

GAS

14" PLUM

MH
SEWER

EXIST. APPLICANT APPROVED*
City of Portland
Bureau of Development Services
Planner _____
Date 8.15.08

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

N
100'
SITE PLAN
SCALE: 1/8" = 1'-0"

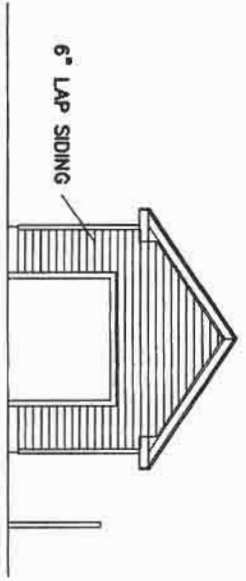
SHEET NUMBER
A-1
1 OF 2

TILDEN/BURT RESIDENCE
6243 NE 11TH AVENUE
PORTLAND, OREGON 97210
REPLACEMENT GARAGE

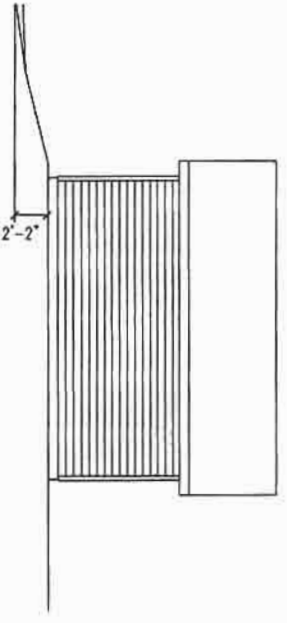
CASE NO. 08-144926A
EXHIBIT 01

*** Approved ***
City of Portland
 Bureau of Development Services
 Planner *[Signature]*
 Date 8.19.08

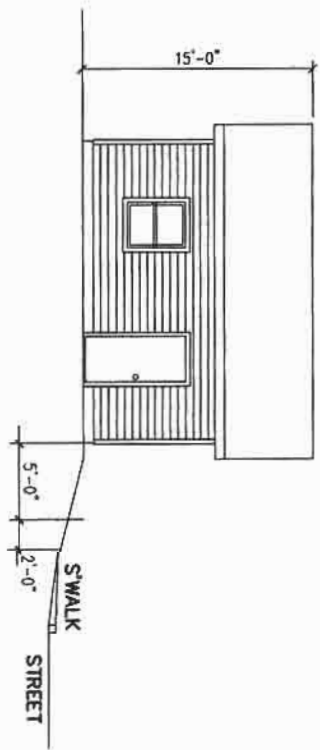
* This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.



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



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



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



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

TILDEN/BURT RESIDENCE
 6243 NE 11TH AVENUE
 PORTLAND, OREGON 97210
 REPLACEMENT GARAGE

DATE: 07/02/08
 DRAWN BY: [Name]
 REVISIONS:

ELEVATIONS

SHEET NUMBER

A-2
 2 of 2

CASE NO. 08-1044926-PD
EXHIBIT C2