



City of Portland, Oregon
Bureau of Development Services
Land Use Services

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Portland, Oregon 97201
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www.portlandonline.com/bds

Date: March 6, 2009
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 09-103299 AD

GENERAL INFORMATION

Applicant/Owner: Carrie A Capp
9333 SW 4th Ave
Portland, OR 97219

Site Address: 9333 SW 4TH AVE

Legal Description: LOT 3 BLOCK 10, COLLINS VIEW TR
Tax Account No.: R171602430
State ID No.: 1S1E28AD 04800
Quarter Section: 3928

Neighborhood: Collins View, contact Dave and Dixie Johnston at 503-636-0959.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: R7, Medium-density single-dwelling 7,000
Case Type: AD, Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant recently purchased this house. At some point in time prior to the current owner's purchase, the attached garage was converted to living area without benefit of permits. The zoning code requires an on-site parking space, which had been provided by the garage. When the garage was converted to living area, the parking space was eliminated, and consequently the site was no longer in compliance with the parking requirement. The owner wishes to legalize this situation, and is requesting an Adjustment to waive the standard requiring one on-site parking space, per zoning code standard 33.266.110 B.

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 site is 64 feet wide by 100 feet deep, sloping downwards from SW 4th Avenue. The ranch-style single-story house sits below the street grade, and a fairly delineated parking area is situated above the grade of the house next to the roadway. The part of the house that was formerly the attached garage is 2'9" from the street property line; the remainder of the house is set back about 10 feet from it.

This section of 4th Avenue is a sloping, dead-end street with no curbs or sidewalks. The houses on the west, downward-sloping side of the street are built fairly close to the street, and on the upward-sloping side they are set back further from it. Boones Ferry Road runs parallel to the street along this block, several feet below the roadway of SW 4th Avenue.

Zoning: The site is zoned R7. The R7 zone corresponds to the Medium-Density Single-Dwelling designation of the Comprehensive Plan, which allows new lots with an average size of 7,000 square-feet.

Land Use History: City records indicate that the site was annexed to the City in 1968.

Summary of Applicant's Statement: The applicant recently purchased this house, and is working on rectifying work that was done to the house without permits prior to her purchase. The Adjustment required for the conversion of the garage to living space is for a conversion that was done several years ago.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **February 6, 2009**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Transportation Engineering

The Bureau of Parks-Forestry Division recommends waiving the off-street parking to preserve a large Douglas fir tree, which would be impacted by a parking pad that met the parking standard.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 6, 2009. Staff received one written response from a neighboring property owner in response to the proposal, who expressed support.

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: 33.266.110 Minimum Required Parking Spaces - Purpose: The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis.

One off-street parking space is required on single-dwelling properties that are more than 500 feet from a bus line. Bus line 38 runs on Boones Ferry Road less than 400 feet from the subject site, but it does not run at a frequency of 20 minutes or less during peak hour. If it met the frequency standard, then parking would not be required on the subject site.

A visit to the site showed that there is ample space alongside the roadway for parking in front of the house. The roadway can just accommodate two cars, but the public right-of-way is 50 feet wide, leaving at least 12 feet on either side of it for on-street parking. Some of the nearby houses have driveways and garages, and others do not. It appears that on this dead-end, sloping street there is likely adequate space to accommodate parking demand by the residents, and there are no other uses nearby that would add to that demand. The Bureau of Transportation did not indicate any concern with the requested Adjustment to waive the required parking space. Their response to such requests is generally based on the parking demand in an area. Therefore, 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: According to the applicant and the neighboring property who commented on the proposal, the former attached garage was converted to living area approximately thirty years ago. Although it projects forward of the rest of the house, the converted area has the appearance of living area. The driveway in front of it is very steep and not conducive to parking, especially in comparison to the flat parking area alongside the roadway. In sloping areas such as this one, it is not uncommon to find houses in close proximity to the street and parking areas that are situated in such a way to avoid topography.

As indicated in criterion A above, there does not appear to be a high demand for on-street parking along this dead-end street that would be generated by something other than the residences on it.

The garage conversion was done some time ago, and the neighborhood is accustomed to the house's existing appearance. The requested adjustment does not change that appearance, or the function of on-street parking for vehicles associated with the dwelling. Consequently, the proposal does not detract from either the livability or appearance of this residential area. Therefore, 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: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: There are no discernible impacts that would result from granting the requested adjustment. The request legalizes a conversion that was done before most of the current residents of the area lived there, and consequently there is no physical change to the house or the parking situation to which the neighborhood is accustomed. 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

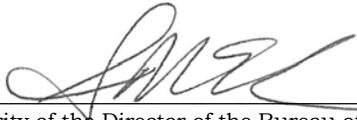
Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be 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 proposal to waive the off-street parking would allow the current owner to legalize a garage conversion that was down many years prior to her ownership of the property. The physical appearance is not changing as a result of the adjustment; rather, the existing situation is maintained. The site is on a dead-end street where parking demand is primarily from the residents of this street, and is not generated by any other nearby use. There is adequate on-street parking to meet the demand for the residents of this house without creating impacts to the neighborhood. The proposal satisfies all of the relevant adjustment approval criteria.

ADMINISTRATIVE DECISION

Approval of an Adjustment to waive the required on-site parking space, per zoning code standard 33.266.110 B. subject to the approved site plan, Exhibit C-1, signed and dated March 4, 2009.

Decision rendered by:  on March 4, 2009
By authority of the Director of the Bureau of Development Services

Decision mailed: March 6, 2009

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 January 20, 2009, and was determined to be complete on February 3, 2009.

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 January 20, 2009.

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 March 20, 2009** 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 **March 23, 2009 – (the first business 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.

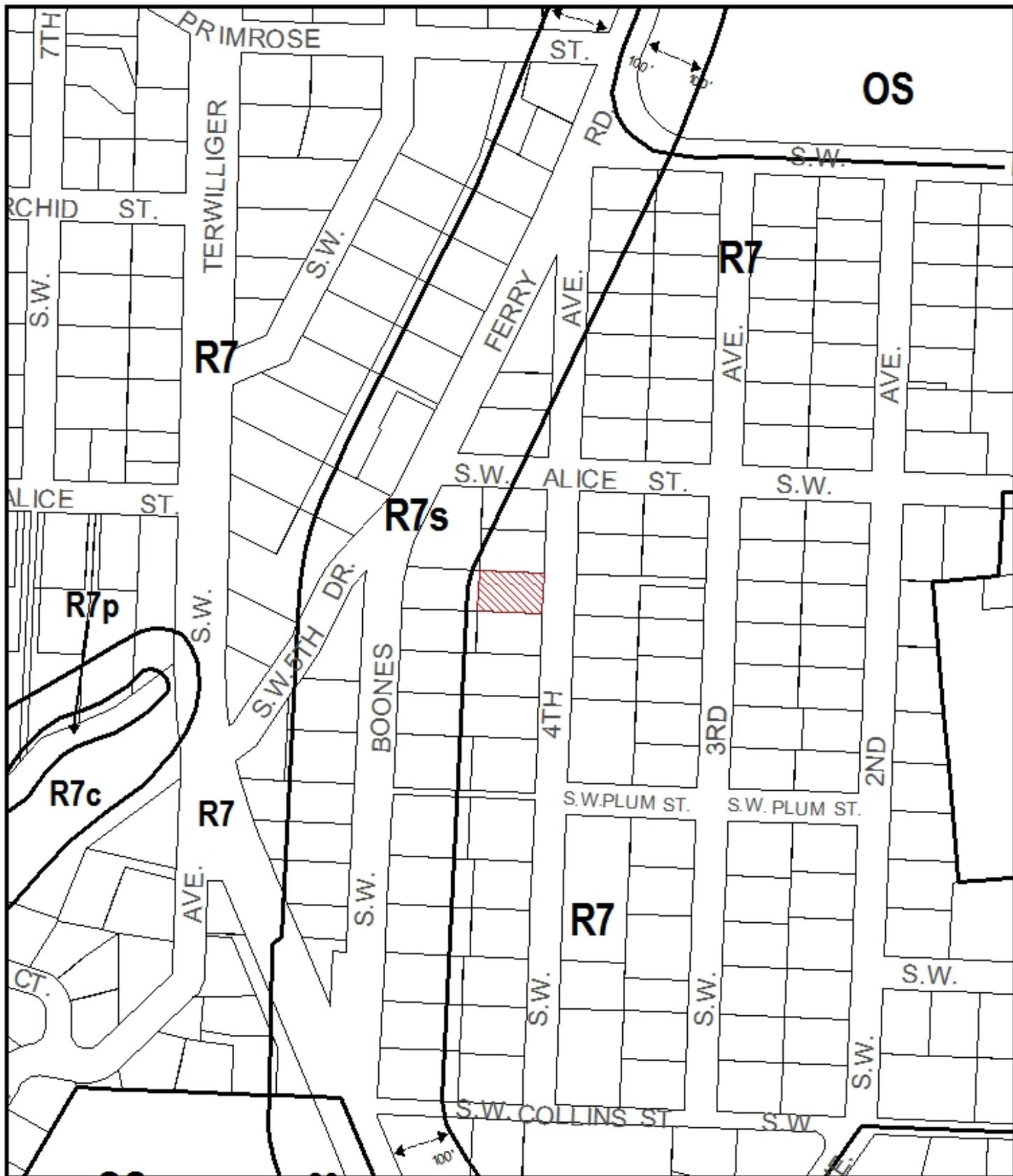
EXHIBITS

NOT ATTACHED UNLESS INDICATED

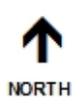
A. Applicant's Statement

- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Site and boundary surveys
 - 3. Elevation drawings
 - 4. Floor plan, section, details
 - 5. Framing and foundation plan
- 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. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. E. and K. Kreipe, Feb 21, 2009, in support
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

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



ZONING  Site

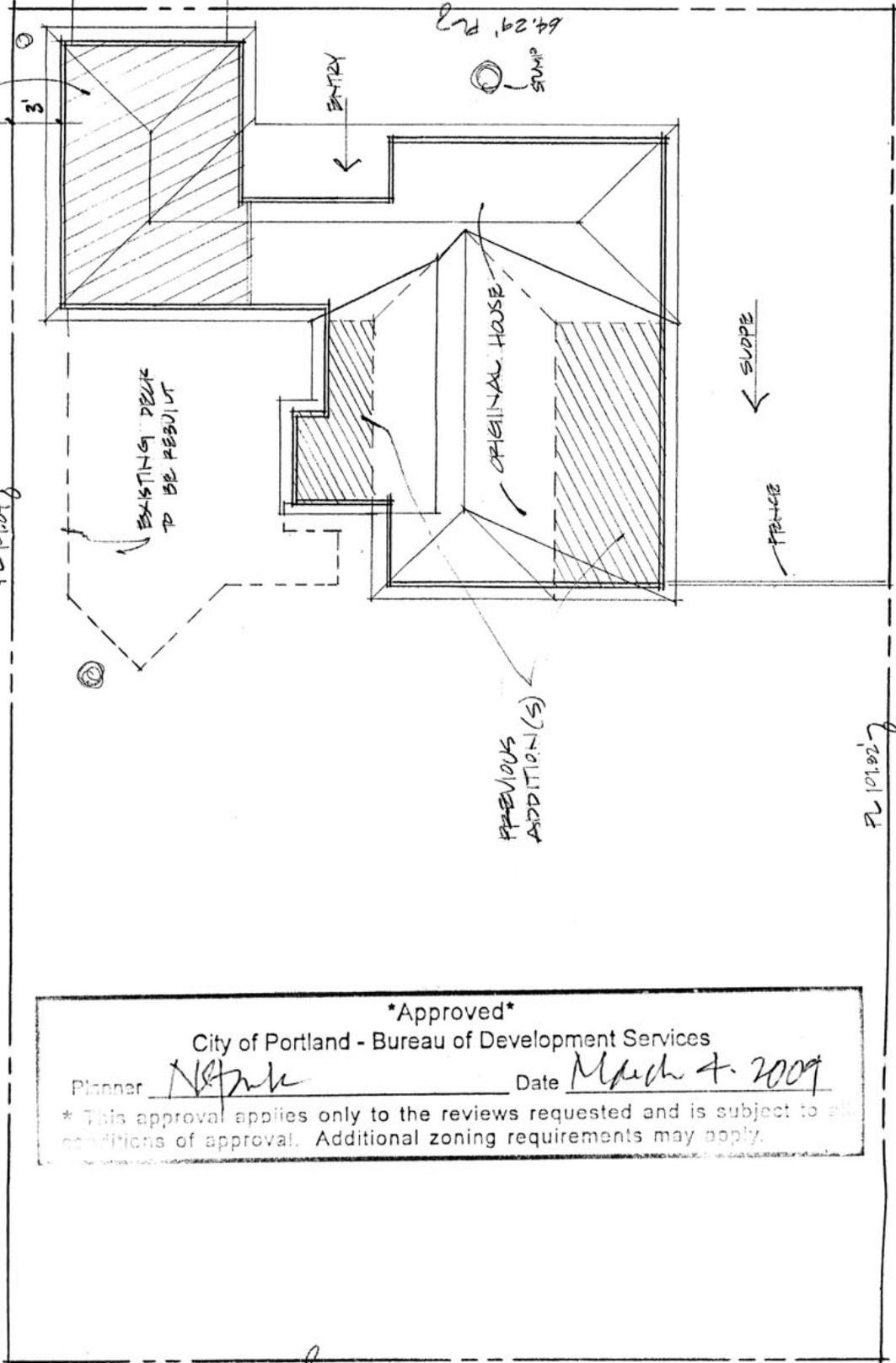


File No.	LU 09-103299 AD
1/4 Section	3928
Scale	1 inch = 200 feet
State Id	1S1E28AD 4800
Exhibit	B (Jan 23, 2009)

— SW 4TH AVE —

PREVIOUS GARAGE
CONVERSION INTO
HABITABLE SPACE

PVD
DRIVEWAY



N ↑

* REFER TO SURVEY FROM
W.B. HEWES FOR HOUSE LOCATION

Approved
 City of Portland - Bureau of Development Services
 Planner N. Frank Date March 4, 2009
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

64.29' PL2

LU 09.103299 AD
EXHIBIT C-1