



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

1900 SW 4th Avenue, Suite 5000  
Portland, Oregon 97201  
503-823-7300  
Fax 503-823-5630  
TTY 503-823-6868  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** May 27, 2009  
**To:** Interested Person  
**From:** Crystal Hitchings, Land Use Services  
503-823-7583 / [Crystal.Hitchings@ci.portland.or.us](mailto:Crystal.Hitchings@ci.portland.or.us)

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

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 09-122917 AD**

#### **GENERAL INFORMATION**

**Applicants:** James White and Terry Campos  
9428 SW 62nd Dr  
Portland, OR 97219

**Site Address:** 9428 SW 62ND DR

**Legal Description:** LOT 16, TUALATIN VIEW  
**Tax Account No.:** R845300620  
**State ID No.:** 1S1E30BC 00800  
**Quarter Section:** 3923

**Neighborhood:** Ashcreek, contact Gary Miniszewski at 503-892-3903.  
**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

**Zoning:** R10, Single-dwelling Residential 10,000

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

#### **Proposal:**

The applicants are requesting an Adjustment to the required building setbacks from the west side property line in order to construct a new, 2-story, 21-foot by 28-foot addition onto their existing home. The southeast corner of the new addition will be located 6 feet from the side property line, and 45-feet from the front property line. The first level of the new addition will be below the grade of the street, and the second level of the new addition will be constructed at the same height as the existing home, and will appear as a one-story structure from the street.

The R10 zone requires side building setbacks of 10 feet. Therefore, an **Adjustment to Section 33.110.220 and Table 110-3** is required in order to locate the southeast corner of the new addition 6 feet from the west side property line.

**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 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 20,000 square foot site is located on the north side of SW 62<sup>nd</sup> Drive, about 400+ feet from the Unincorporated Multnomah County line. The site is developed with a single-story, single-dwelling residential home, which has a main floor at street level and another floor below the street level. The site slopes down from the southeast corner along SW 62<sup>nd</sup> to the northwest. The grade of the site where the existing house is located is well below the street grade. The lot is characterized by open yard and mature trees and under-story growth along the south property line, and shrubs along the front property line. The northwestern portion of the site along the rear property line is more heavily vegetated than the front portion surrounding the home. A perpetual sewer easement is located just inside and along the tree line on the rear portion of the site. Two 6.5" diameter trees and a detached accessory structure are located where the proposed addition will be constructed, and will be removed. The site is located within a designated potential landslide hazard area.

In this location, SW 62<sup>nd</sup> Drive is designated as a Local Service Access Street and is improved with a paved travel lane and gravel curbs but no sidewalks.

**Zoning:** The site and surrounding sites to the north, south, and east are zoned R10, Single-dwelling Residential 10,000. A few sites across SW 62<sup>nd</sup> to the southeast are zoned R7, Single-dwelling Residential 7,000. Larger areas of R7 zoning begin 5 sites to the west and south of the site.

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 R10 zone is a low density single-dwelling zone. The R10 zone allows attached and detached single dwelling structures and duplexes.

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

**Agency Review:** A "Request for Response" was mailed on April 30, 2009. The following Bureaus have responded with no issues or concerns (Exhibits E.1-E.5):

- Life Safety Bureau
- Fire Bureau
- Bureau of Transportation Engineering
- Water Bureau
- Bureau of Parks-Forestry Division

The following Bureaus have submitted additional comments:

- The **Bureau of Environmental Services** (Exhibit E.6): BES gave no objections to the requested Adjustment, but stated that not enough information is available to evaluate adequacy of stormwater management for the proposed addition. A staff person from BES is working with the applicant to identify an adequate stormwater discharge point.
- The **Site Development Section of BDS** (Exhibit E.7): Site Development gave no objections to the requested Adjustment, but stated that not enough information is available to determine if the proposal will conform to requirements for sanitary and stormwater services.

**Neighborhood Review:** A “Notice of Proposal in Your Neighborhood” was mailed on April 30, 2009. No written responses were received from either the Neighborhood Association or notified property owners in response to 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 providing 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 is requesting an Adjustment to **Section 33.110.220, Setbacks**. The purpose statement for this regulation is as follows:

*Purpose: The building setback regulations serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The proposed, reduced west side building setback provides 6 feet of separation between the southwest corner of the proposed addition and the west side property line. The setback on the northwest corner of the proposed addition is approximately 10 feet from the west side property line. The home on the adjacent lot to the west is located approximately 6 feet from the common side property line. The area between the proposed addition and the adjacent home contains two trees that will be removed during construction. The area also contains fairly dense mature trees and vegetation that will remain. A line of medium-height shrubs is located along the front property line.

The requested 6-foot setback allows adequate access for fire protection. The 6-foot setback on the subject site plus the approximately 6-foot setback on the adjacent site to the west provides adequate separation for fire protection. This separation also allows adequate air flow between structures. The proposed structure is to the north of the home on the adjacent site and is to the east of the rear yard of the adjacent site, and so will not affect light on that site. The applicant states that the removal of the two trees will actually increase light and air.

The two-story addition will be attached to the south wall of the existing home, and will be constructed within the existing roofline and designed to match the architectural style of the existing home. Because the site slopes down from the street, and the ground level of the home is partly submerged into the grade, the street-facing façade of the home will appear only one-story in height. Single-story homes built closer to the front of sites with longer street-facing facades are common in this neighborhood due to the often steep topography. Side setbacks appear to be reduced on several nearby lots, and the applicant has submitted a statement that 8 nearby properties have reduced setbacks, although this information is not verified by staff. The vegetation between the subject site and adjacent site to the south obscures views between the two properties, and views from the street are limited by a drop in grade and existing shrubs along the front property line. From the east side of SW 62<sup>nd</sup> drive, only the roof of the addition will be visible. The large trees between and around the addition and the adjacent home, the vegetation along the front property line, and the drop in grade from the street all serve to minimize visibility of the proposed addition. The property line is configured at an angle such that the rear corner of the addition meets the 10-foot setback, further minimizing the impacts of the proposal on the adjacent property.

The physical separation between the proposed addition and the adjacent home is 12 feet. Some structures in the immediate vicinity of the subject site are located 10 feet to 20 feet from structures on adjacent lots. The proposed separation is consistent with this, and is therefore reasonable.

The existing home has 1 window located on the south façade. The proposed addition will have one smaller window in that same location, and will also have three small windows near the ground level. Existing vegetation between the sites and the low location of the first floor windows will prohibit views from the addition into the adjacent site. Privacy will not be compromised.

The proposal is for an Adjustment that would allow the new living area to be located in line with the existing home, toward the front of the lot and adjacent to existing developed areas and access points, rather than locating it further back on the lot where it would not be in line with existing development and where the slope is steeper. The proposed location allows the addition to be compatible with the topography of the site without removing significant outdoor area. The proposed location of the addition is adjacent to the home to the west, and adjacent to a vegetated buffer between the properties, and so does not compromise the livability of the outdoor area on that adjacent site. The proposed location remains consistent with development in the surrounding vicinity, which is also a steeply-sloped area with homes located toward the front of lots and adjacent to the street.

The purpose statement for setbacks is met, and 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; and

**Findings:** The proposal to reduce the side setback for a portion of the new addition results in a project that remains consistent with development in the neighborhood. Adequate separation and privacy remain for the adjacent site to the west. The addition is designed to match the roofline and architecture of the existing home, and will appear similar in scale and location to other homes in the nearby area. For these reasons, the proposal will not significantly detract from the livability or appearance of the area, and 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:** The request meets the applicable approval criteria as proposed. There are no discernible impacts that would result from granting the requested Adjustment. Therefore, 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. 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 request to allow a 6-foot west side building setback for the southwest corner of the new addition meets the purpose statement for setbacks and all the applicable review criteria. This Adjustment request should be approved.

## ADMINISTRATIVE DECISION

Approval of an **Adjustment to Section 33.110.220 and Table 110-3**, to allow the southeast corner of the new addition to be located 6 feet from the west side property line, per the approved site plans, Exhibits C-1 through C-2, signed and dated May 22, 2009, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-122917 AD."

**Staff Planner: Crystal Hitchings**

**Decision rendered by:**  **on May 22, 2009.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: May 27, 2009**

**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 April 21, 2009, and was determined to be complete on April 21, 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 April 21, 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. Unless further extended by the applicant, **the 120 days will expire on: August 26, 2009.**

**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 June 10, 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](http://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 **June 11, 2009 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

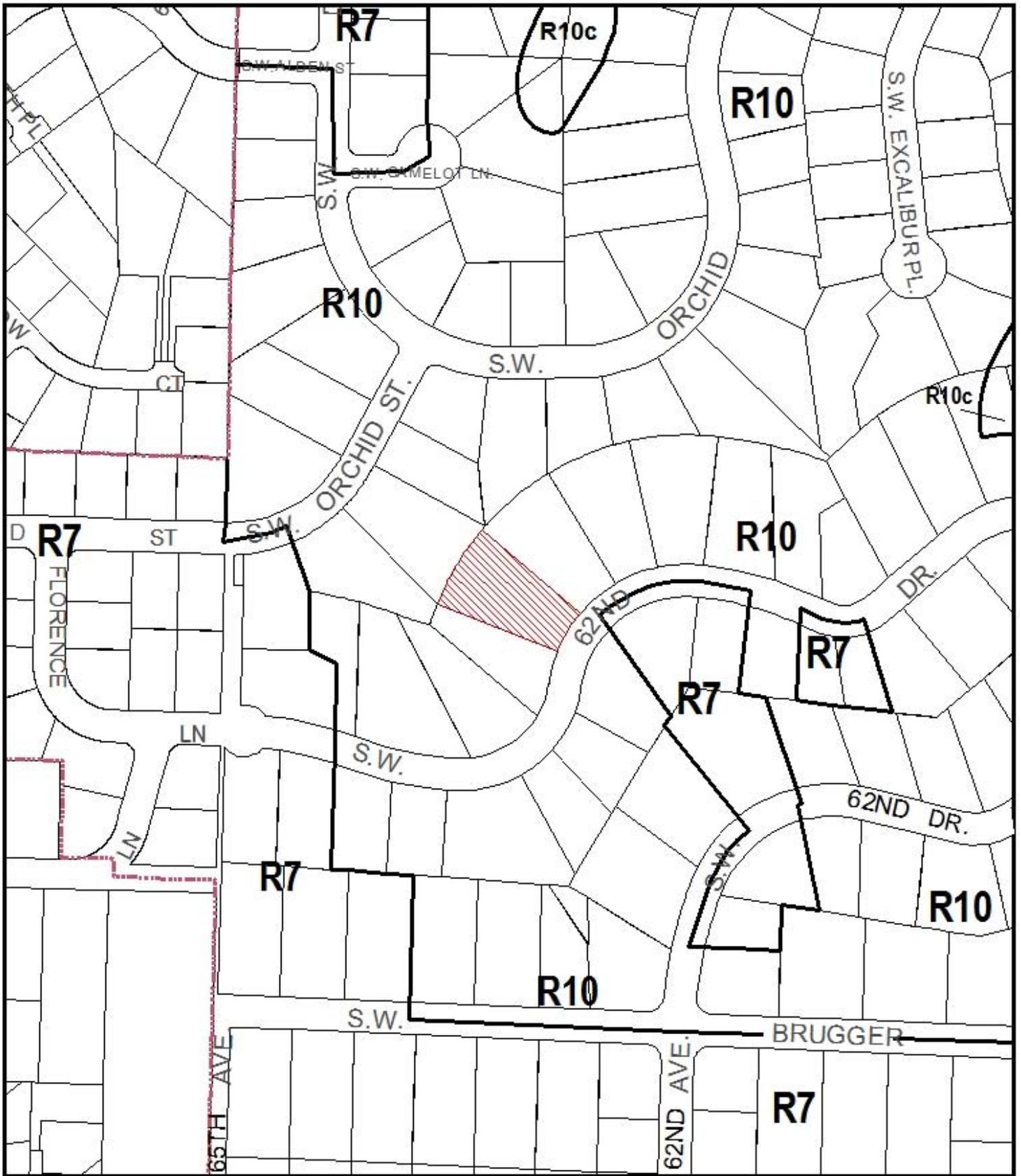
**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

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

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevations (attached)
  
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Life Safety Bureau
  - 2. Fire Bureau
  - 3. Bureau of Transportation Engineering and Development Review
  - 4. Water Bureau
  - 5. Bureau of Parks, Forestry Division
  - 6. Site Development Review Section of BDS
  - 7. Bureau of Environmental Services
- F. Correspondence:
  - None received
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Aerial photo
  - 4. Tax map

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).**



# ZONING

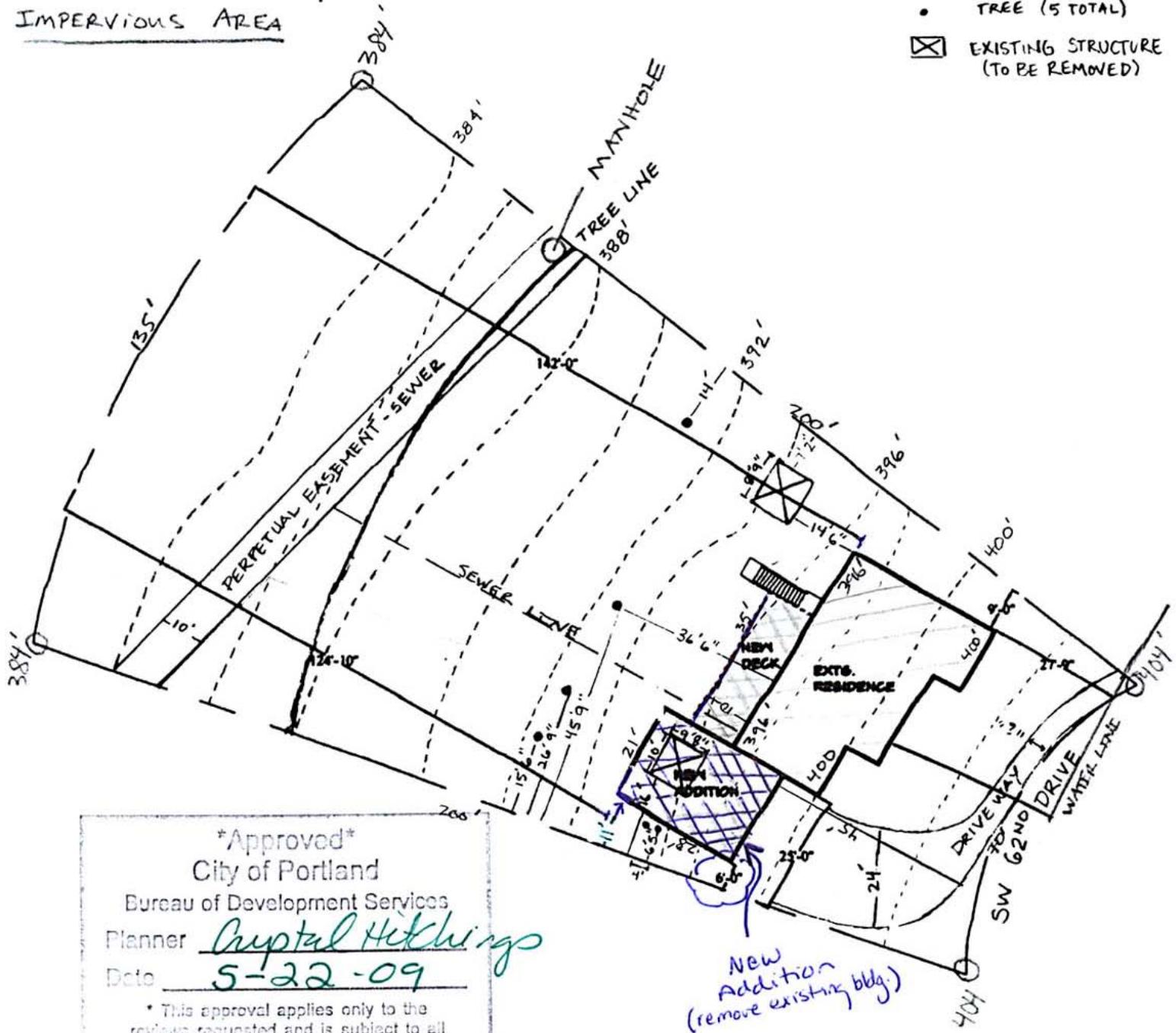
 Site



File No. LU 09-122917 AD  
 1/4 Section 3923  
 Scale 1 inch = 200 feet  
 State Id 1S1E30BC 800  
 Exhibit B (Apr 23, 2009)

LOT AREA 20000 sq ft  
IMPERVIOUS AREA

KEY  
 • TREE (5 TOTAL)  
 ☒ EXISTING STRUCTURE (TO BE REMOVED)



\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner Crystal Hitchings  
 Date 5-22-09  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval / Additional zoning requirements may apply.



TUALATIN VIEW SUBDIVISION LOT 16

Contractor: N/A	Site Address: 9428 SW 62ND DRIVE	Scale: 1"=30'
Owner: JAMES WHITE TERRY CAMPOS TAX ID # R 291183, 1S1E30BC-00800	(815) 212-2862 TCAMPOS@KLARK.EDU	Date: 02/15/09

Exhibit C-1  
 LU 09 - 122917AD

CREATED 01/19/04  
 REVISED 02/18/04  
 REVISED 03/19/04

WWW.WISEOWLHOMEPLAN.COM (360) 750-8911  
**WISE OWL**  
 LLC



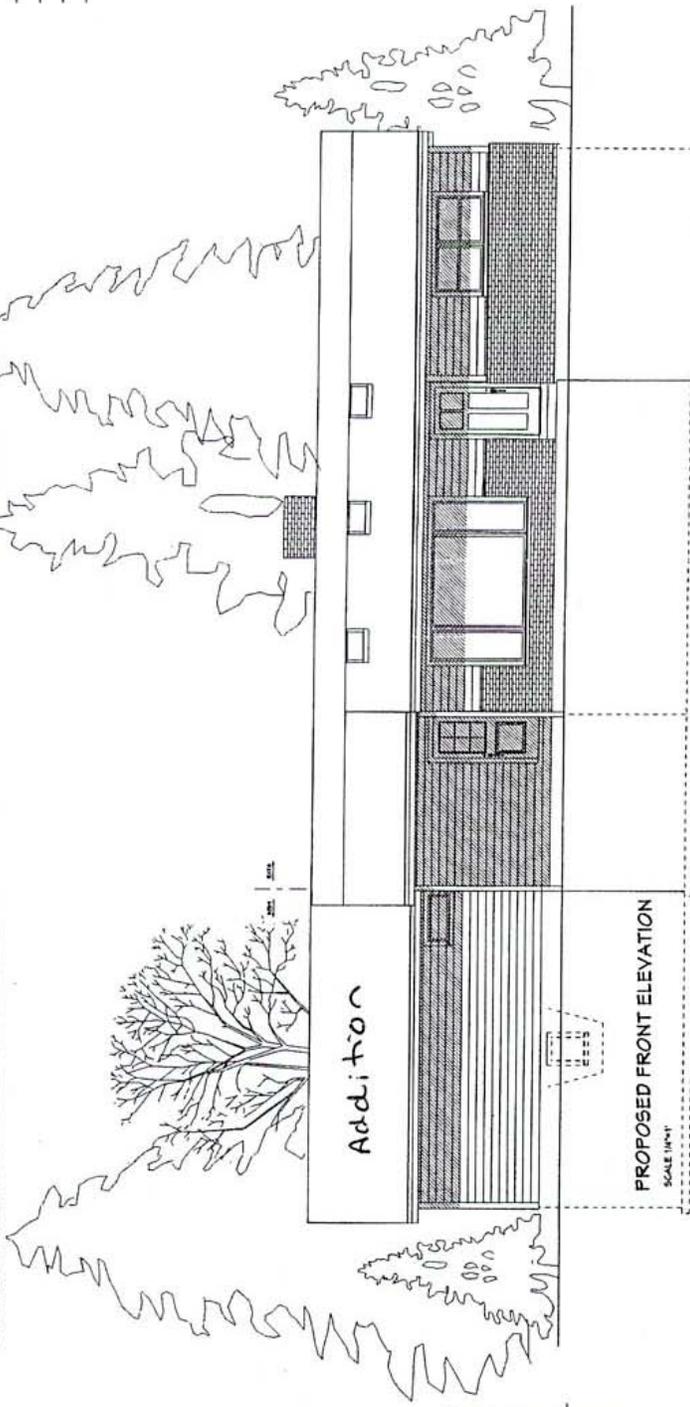
WHITE  
 REMODEL

PAGE

1

EXTG. MAIN 1204 SF  
 EXTG. BASEMENT 1216 SF  
 MAIN ADDTN. 501 SF  
 BASEMENT ADDTN. 561 SF  
 TOTAL LIVING 3084 SF

Approved\*  
 City of Portland - Bureau of Development Services  
 Cuptle Htkilng Date 5-22-09  
 Additional zoning requirements may apply.



**GENERAL REMODEL SCOPE:**  
 1. BUILD TWO STORY ADDITION ON LEFT SIDE OF RESIDENCE  
 2. MAKE MINOR REVISIONS PER FLOOR PLANS TO EXISTING HOUSE  
 3. ADD DECK OFF REAR OF RESIDENCE

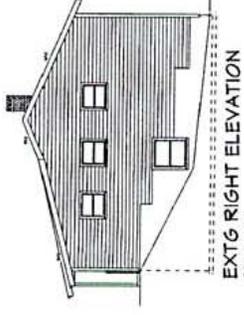
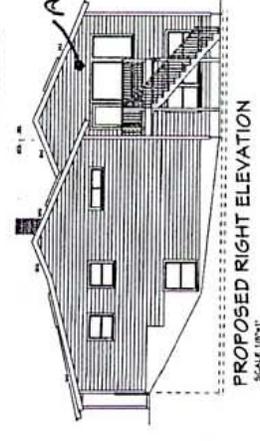
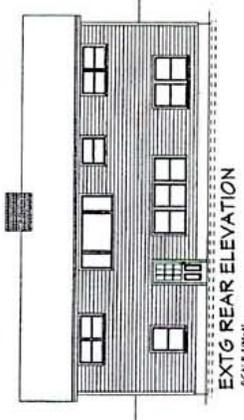
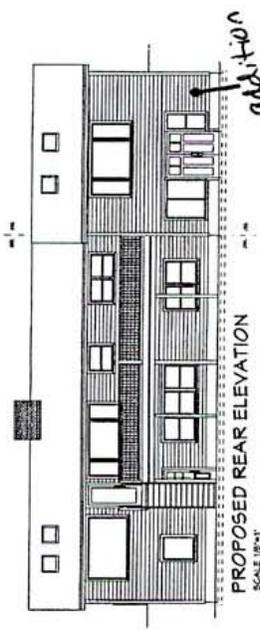
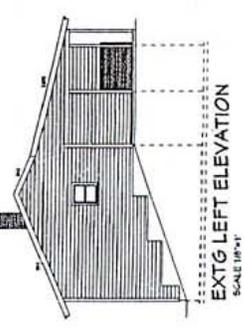
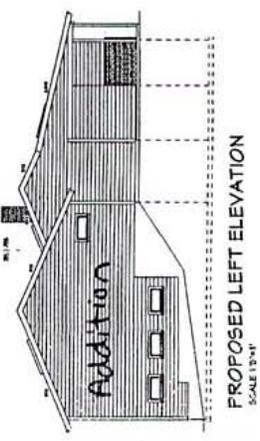
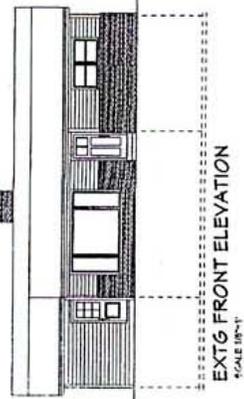


Exhibit C2  
 LU 09 - 122917 AD