



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

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Date: June 26, 2009
To: Interested Person
From: Nan Stark, Land Use Services
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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 09-129807 AD

GENERAL INFORMATION

Applicant/Owner: Kathy Grantz
6023 NE Rodney Ave
Portland, OR 97211

Site Address: 6023 NE Rodney Ave

Legal Description: BLOCK 37, Lot 3, Piedmont
Tax Account No.: R243581
State ID No.: 1N1E15DA 16100
Quarter Section: 2430

Neighborhood: Piedmont, contact Brian Borrello at 503-286-3557.
Business District: North-Northeast, contact Joice Taylor at 503-445-1321.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Zoning: R5ah – High Density Single-Dwelling 5,000 with ‘a’ Alternative Design Density overlay and ‘h’ Aircraft Landing height overlay
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal: The applicant proposes to add a bay window to the north side of the house, extending 1.8 feet from the house. The bay is 13 feet long and is cantilevered from the first floor of the house.

Section 33.110.220 and Table 110-3 of the Zoning Code require a minimum 5-foot side setback in the R5 zone. The applicant requests an Adjustment to this standard, to reduce the setback from 5 feet to approximately 3’8” for the bay window, and another 1 foot for the eave over it. The north wall of the house is 5’6” from the north property line, and is 28 feet long. The bay would project just under 2 feet from the existing wall for about half the length of the house, as shown on the attached site plan, and the eave above the bay would extend another 1 foot from it.

ANALYSIS

Site and Vicinity: The site is 5,000 square-feet in area, developed with a single-story house with attic that was built in 1925. Like most houses in this residential area, the house has a prominent front porch and architectural features that evoke its early 20th century development. The house is a Cape style, with a steep roof and minimal eaves. The house on the abutting property to the north is basically identical in style, with an equal ridge line and footprint. That house has a small bay projecting about 2 feet from its south side, towards the front wall.

The area is almost entirely developed with houses from the first two decades of the 20th century. Alleys run north-south throughout the area, giving a strong traditional character and pedestrian orientation, with few curb cuts along the street frontages.

Zoning: The site is zoned R5ah. The R5 zone is the corresponding zone to the High Density Single-Dwelling designation of the Comprehensive Plan, allowing lots with an average area of 5,000 square-feet and a density of 8.7 lots per acre. The 'a' designates the Alternative Design Density overlay zone, which allows options for higher density in specific situations. This proposal is not using the options of that overlay zone. The 'h' represents the Aircraft Landing height overlay zone, which restricts height in the landing zone of Portland International Airport.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **June 2, 2009**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Life Safety Review Section of BDS
- Bureau of Parks-Forestry Division

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 2, 2009. No written responses 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 (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below, have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The setback regulation has several purposes:

- To maintain light, air, separation for fire protection, and access for fire fighting;
- to reflect the general building scale and placement of houses in the city's neighborhoods;
- to promote a reasonable physical relationship between residences; and options for privacy for neighboring properties;
- To require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- To 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.

The applicant requests this Adjustment to allow the projection of a 13-foot long bay window extending from the side of the house. The north wall, which the bay would project from, is approximately 5 feet, 7 inches from the north side property line. The bay would project just under 2 feet beyond the wall, at the height of the first floor, with a shed-style roof above it. The relatively short length of the bay, combined with a depth of less than 2 feet, ensures that there is no reduction to light or air to the nearest dwelling, on the abutting property to the north. Likewise, there would remain adequate separation for fire protection and access for fire fighting.

The small scale of the addition projecting into the setback fits in with the general building scale and relationships of houses to each other in this urban neighborhood. The proposed bay would face a similar bay projecting from the house on the abutting north property, which has the same general lines and scale as the subject house. The distance between houses with the two bays between them will appear as typical, and in fact will be just under 14 feet between the two houses, well over the minimum of 10 feet between buildings as required by the 5-foot side setback standard. For all of these reasons, the proposal supports the purposes of the setback regulation, thus meeting this criterion.

- 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 site is in the R5 single-dwelling zone. The addition of a fairly modest bay projecting from the north wall of the house will not affect either the livability or appearance of this residential area. The house, built in the early 20th century, is a Cape-style house, as is the one on the abutting property to the north. That neighboring house has a small bay projecting about the same distance from the house, only closer to the front of the house than the proposed bay. The proposed bay will contain two double-hung windows, as does the existing wall area that the bay will cover.

The side yards of both houses appear to have ample space, with narrow original concrete paths on each property, separated by about 5 feet. They lead to the public sidewalk by matching concrete steps, built into the grade. This somewhat unusual pair of steps adds to the historic character of the two nearly matching houses and further marks the separation between houses, which will continue to exist with the proposed bay. Thus, 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 proposed bay is small in scale and evokes the era of the house and the general character of this early 20th century residential neighborhood. 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 applicant proposes a small-scale bay window to project from the north side of the house. The house is built 5.6 feet from the north property line, and the bay will project less than two feet from it. The slight projection will not have an effect on light or air or emergency access. Its design is consistent with the early 20th century character of the neighborhood, and is similar to the bay projecting from the abutting house. The general layout of the subject house and abutting one closest to the bay will make the bay appear as a typical feature, with no impacts.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Section 33.110.220 and Table 110-3, to reduce the setback for a bay addition from 5 feet to approximately 3'8" for the bay window, and another 1 foot for the eave over it. This approval is subject to the approved site plan, Exhibits C-1, and elevation drawings, Exhibit C-2, signed and dated June 24, 2009, and the following condition:

- 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.5. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File LU 09-129807 AD."

Staff Planner: Nan Stark

Decision mailed: June 26, 2009

Decision rendered by:  **on June 24, 2009**

By authority of the Director of the Bureau of Development Services

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 May 20, 2009, and was determined to be complete on May 29, 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 May 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. Unless further extended by the applicant, **the 120 days will expire on September 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 July 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.

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 **July 13, 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.

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. Elevation drawings (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. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
 7. Life Safety Review Section of BDS
- 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 503-823-7300 (TTY 503-823-6868).



ZONING

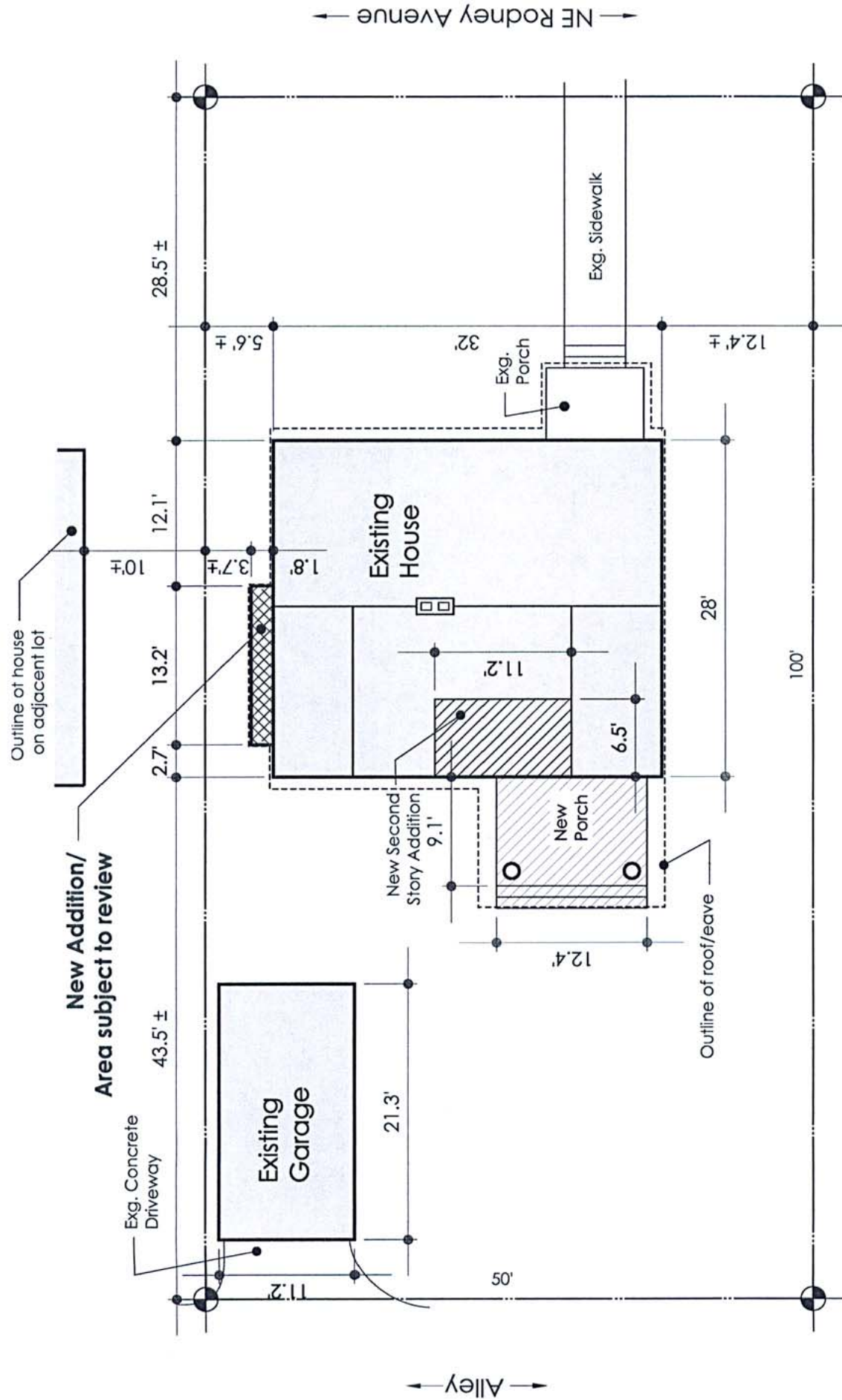
 Site

 Historic Landmark



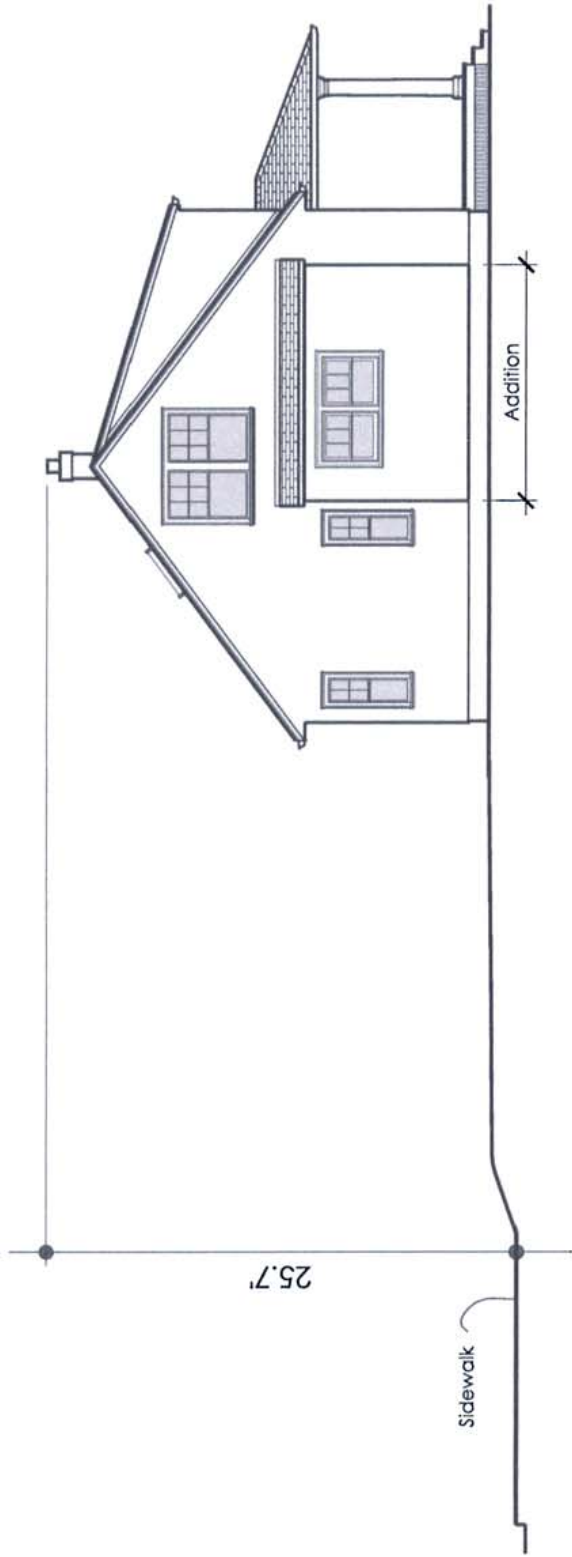
This site lies within the:
PIEDMONT CONSERVATION DISTRICT

File No.	<u>LU 09-129807 AD</u>
1/4 Section	<u>2430</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1N1E15DA 16100</u>
Exhibit	<u>B</u> (May 26, 2009)



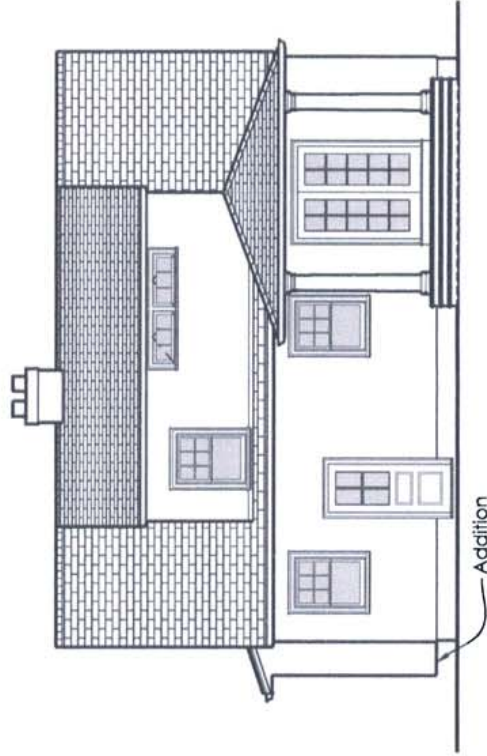
Site Plan
 Grantz Residence 6023 NE Rodney Avenue, Portland, OR 97211
 5.18.2009

*** Approved***
 City of Portland - Bureau of Development Services
 Planner: *NS/ANK* Date: *June 24, 2009*
 * This approval applies only to the reviews requested and is subject to the conditions of approval. Additional zoning requirements may apply.



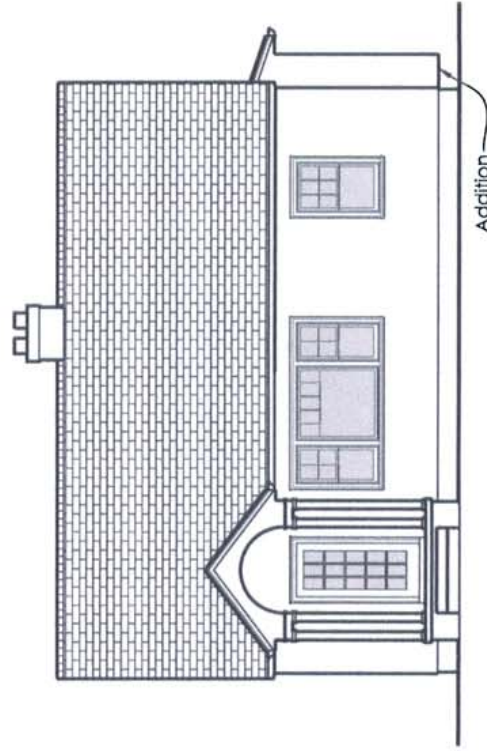
North Elevation/Building Height

Scale: 1/16" = 1'-0"



West

Scale: 1/8" = 1'-0"



East

Scale: 1/8" = 1'-0"

Elevations