



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

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
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TTY 503-823-6868
www.portlandonline.com/bds

Date: June 26, 2009
To: Interested Person
From: Sylvia Cate, Land Use Services
503-823-7771 / scate@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 09-125035 AD

GENERAL INFORMATION

Applicant: Willard B Ely, Listed Property Owner
3806 SE 26th Ave
Portland, OR 97202-2923

Representative: Jen Wentzien, Architect and Main Contact
2933 SE 26th Avenue
Portland, OR 97202

Site Address: 3806 SE 26TH AVE

Legal Description: BLOCK 4 LOT 5, EVANSTON
Tax Account No.: R260300330
State ID No.: 1S1E12CB 07200
Quarter Section: 3433

Neighborhood: Creston-Kenilworth, contact Nellie Korn at 503-772-0521.
Business District: Greater Brooklyn, contact David Weislogel at 503-239-9050.
District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.

Plan District: None
Other Designations: None

Zoning: R2.5

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

Proposal:

The applicant proposes to build a new attached garage and front entry stairs to their existing 1910 bungalow. An existing attached garage located at the southwest corner of the site is too small to accommodate a standard sized vehicle. The proposed new garage would be located in

the same area, but the footprint of the new structure is expanded in three directions. As a result of the proposed new garage, three development standards [setbacks] must be adjusted as follows: Adjust the required 5 foot setback to 2 feet 2 inches along the south side property line, which is the current setback of the existing garage; Adjust the garage entrance from 18 feet to 1 foot, and Adjust the street lot line setback to allow the new garage to be closer to the street than the longest street-facing wall of the home. Attached to this notice are plans depicting the proposal.

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 a 5,000 square foot lot developed with a home and garage built in 1910. To the north, east and south are other lots in the R2.5 zone and developed with residential uses. Across SE 26th to the west is a large parcel in the EG2d zone, developed with the Fred Meyer headquarters office building. Two lots to the south is another home built in the same era [1910] with a detached garage set close to the street.

Zoning: The site is zoned R2.5, a Single Dwelling Zone.

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 May 20, 2009. The following Bureaus have responded with no issues or concerns:

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

The Bureau of Environmental Services notes that existing plumbing records indicate that a rain drain is connected to the sewer in the garage and because the new garage structure will be under 500 sq ft, the runoff from the new garage roof may be reconnected to the existing facility.

The Site Development Section of BDS responded with no objection to the applicant’s proposal to direct a portion of the site’s stormwater to the public system and to direct the balance to an onsite infiltration system. The results of an infiltration test must be provided to determine the infiltration rate and to size the onsite system accordingly. In addition, the top of the slope along the site frontage must be identified on the utility plan to ensure the onsite system will meet setback standards.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on May 20, 2009. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. The applicant included with the application a signed letter of support from the adjacent neighbor to the north.

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, and Table 110-3**. 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 request is to maintain a current non conforming setback for an expanded garage in the same location as the existing garage. With the enlarged footprint of the proposed garage, the garage will extend toward the front property line and maintain the same south property line setback as the existing garage, which is 2 feet 2 inches. As such, the proposed expansion will maintain the existing physical relationship between residences, will have no impact on privacy for neighboring properties, will allow the proposed expanded garage to fit into the topography of the site without impinging on required outdoor areas. Because of the nonconforming placement of the current garage, which was a typical building pattern at the turn of the century, the slightly expanded footprint will have no significant impact on the openness of the front yard. In fact, an additional portion of the project includes a redesign of the front steps leading up from the sidewalk grade to the front porch, which will further enhance the visual presentation of the front yard area of the site. Because the proposed garage expansion maintains the 'flat roof' design of the original garage, the applicant proposes to place a deck over the garage, which will further increase the potential for 'eyes toward the street' whenever this space is used. Portland Transportation has reviewed the proposed setback of the garage entrance to the front property line and has determined that the request has no additional impacts on the transportation system than the existing development. For all of these reasons, this criterion is met.

The applicant is also requesting an Adjustment to **33.110.232, Street Facing Facades in R10 through R2.5 Zones**. The purpose statement for this regulation is as follows:

Purpose: This standard:

- *Together with the main entrance and garage standards, ensures that there is a visual connection between the living area of the residence and the street;*

- *Enhances public safety by allowing people to survey their neighborhood from inside their residences; and*
- *Provides a more pleasant pedestrian environment by preventing large expanses of blank facades along streets.*

Because of the difference in grade between the garage, which is significantly lower than the main house, the visual connection between the living area of the residence and the street is unaffected. The proposed expansion of the garage is modest and will not result in a large blank façade. The associated improvements with the project include new stairs leading up to the house which are more pedestrian friendly and provide additional areas in the front yard for landscaping and softening via greenery. Even with additional plant material placed in the front yard area, due to the grade differences between the garage level and the main house, there is no impingement on the ability to survey the immediately surrounding neighborhood from the main residence. For these reasons, 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 will enhance the livability for the immediate area as well as the applicant by providing a useable on-site parking space which in turn relieves pressure on the available on street parking supply. The proposed garage, combined with the new stairway to the front porch of the house will improve the existing appearance of the subject property by a more pleasing set of stairs and additional area for landscaping in the front yard. 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: Three adjustments are requested. However, the cumulative effect of the project and the three adjustments result in a well designed project configured to have minimal impacts as compared to the existing situation. This criterion is met.

- 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. 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 applicant proposes to build a new attached garage and front entry stairs to their existing 1910 bungalow. An existing attached garage located at the southwest corner of the site is too small to accommodate a standard sized vehicle. The proposed new garage would be located in the same area, but the footprint of the new structure is expanded in three directions. As a result of the proposed new garage, three development standards [setbacks] must be adjusted as follows: Adjust the required 5 foot setback to 2 feet 2 inches along the south side property line, which is the current setback of the existing garage; Adjust the garage entrance from 18 feet to 1 foot, and Adjust the street lot line setback to allow the new garage to be closer to the street than the longest street-facing wall of the home. The request meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of:

- An Adjustment to reduce the side setback from the south property line from 5 feet to 2 feet 2 inches;
- An Adjustment to reduce the Garage entry setback from 18 feet to 1 foot and
- An Adjustment to allow the garage to be 1 foot from the front property line, thus being closer to the street than the longest street facing façade of the house

For a proposed expansion of an existing garage, per the approved site plans, Exhibits C-1 through C-5, signed and dated June 24, 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.5. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-125035 AD."

Staff Planner: Sylvia Cate

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

By authority of the Director of the Bureau of Development Services

Decision mailed: June 26, 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 30, 2009, and was determined to be complete on .

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 30, 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 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 503-823-0625.

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: Existing and Proposed (attached)
3. New North and South Elevations (attached)
4. Garage and Partial basement floor plan
5. Partial first floor plan
6. Utility Plan

D. Notification information:

1. Mailing list
2. Mailed notice

E. Agency Responses:

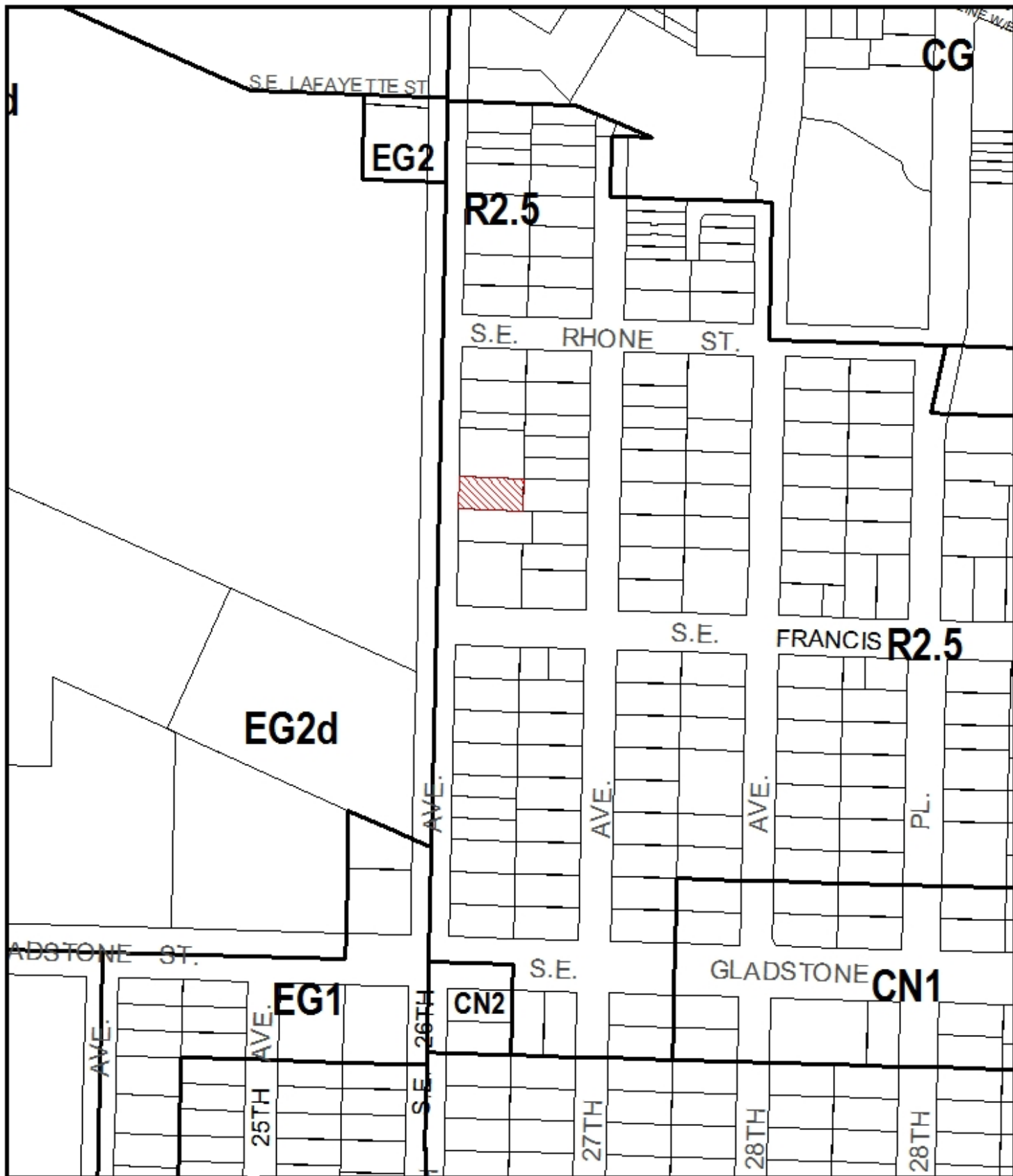
1. Bureau of Environmental Services
2. Bureau of Transportation Engineering and Development Review
3. Water Bureau
4. Fire Bureau
5. Site Development Review Section of BDS
6. Bureau of Parks, Forestry Division

F. Correspondence: None received

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 503-823-7300 (TTY 503-823-6868).



ZONING

 Site

File No. LU 09-125035 AD

1/4 Section 3433

Scale 1 inch = 200 feet

State Id 1S1E12CB 7200

Exhibit B (May 04,2009)



Zoning

Property and Zoning Information:

Property Address:
3806 SE 26th Avenue
Portland, OR 97202

Property Description:

Evastion:

Lot 5 Block 4
Prop. Tax ID: R158974
State ID: S1E12CB 7200
Alt Account #: R260300330
Lot Area: 5,000 SF

Description of Project:

1. Rebuild existing front porch.
2. Remove existing site entry stairs and build new stairs.
3. Remove existing attached garage and build expanded attached garage.

Building and Fire Code:

2008 Oregon Residential Code
Occupancy: R-3 Private Residence.
Construction: Type 5 NR

Recent Land-Use and Permitting Decisions: None.

Zoning: R2.5

Setbacks: Single Family Detached.

Front Yard: 10'
Side Yard: 5'
Rear Yard: 5'

Existing House: 1000 GSF Basement (600 sf unfinished)
1175 GSF Ground Floor
600 GSF Finished Attic
209 GSF Attached Garage

New Addition: 198 GSF (407 sf (N) garage and 209 sf demolition of (E) garage.)

Existing Site Coverage: 1513 GSF

New Site Coverage: 1711 GSF

Abbreviations

- (E) Existing.
- FV Contractor to field verify.
- (N) New.
- OFCI Owner Furnished. Contractor Installed.
- UND Unless noted otherwise.
- W with.

Ely Front Entry Remodel
3806 SE 26th Avenue
Portland, OR 97202

Jen Wentzler Architect
2633 SE 26th Ave. / Portland, OR 97202
971-346-7722

Adjustment Application
Site Plan
April 29, 2009

A1.1

Index

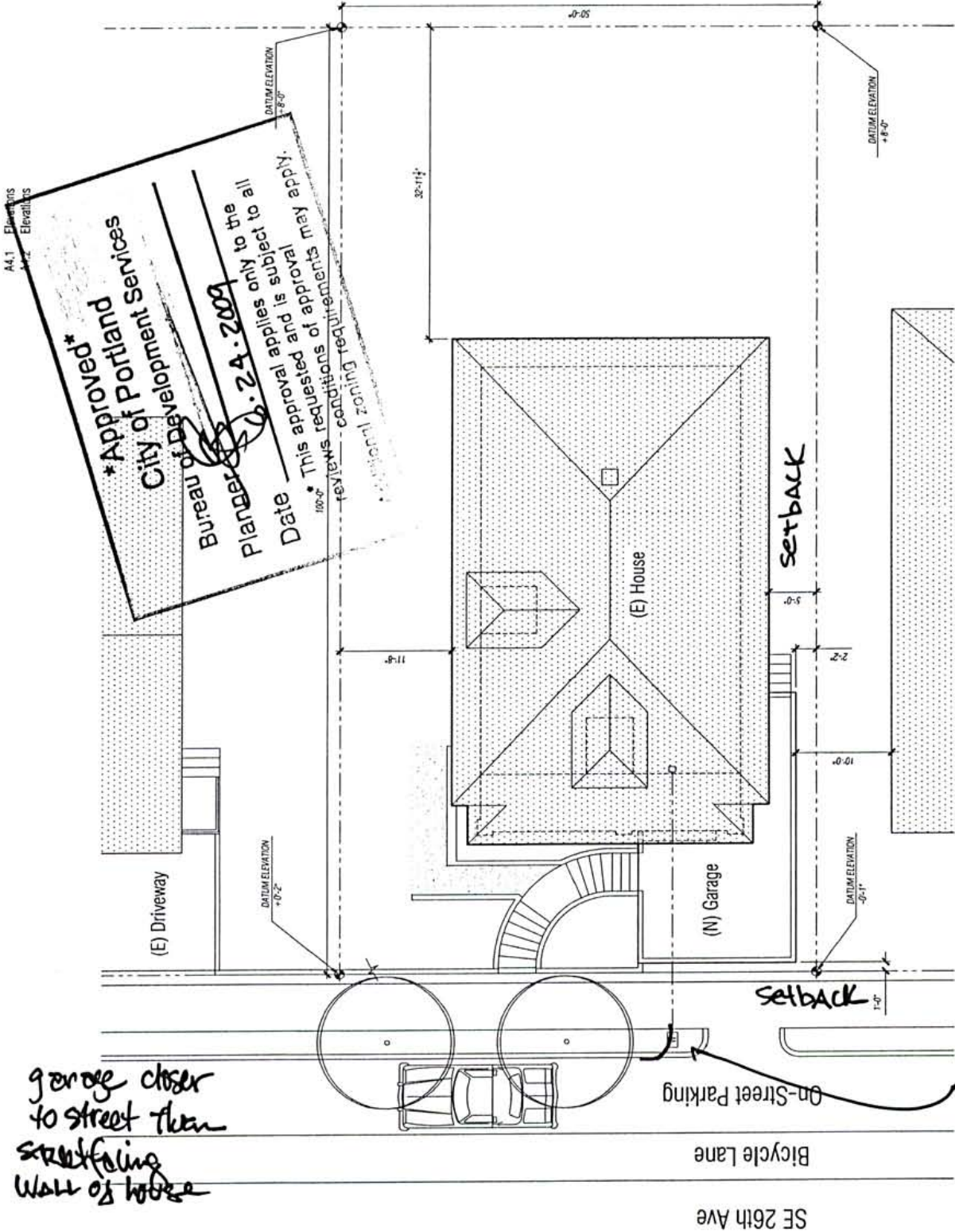
A1.1 General Information and Site Plan

A2.0 Partial Basement Plan

A2.1 Partial Ground Floor Plan

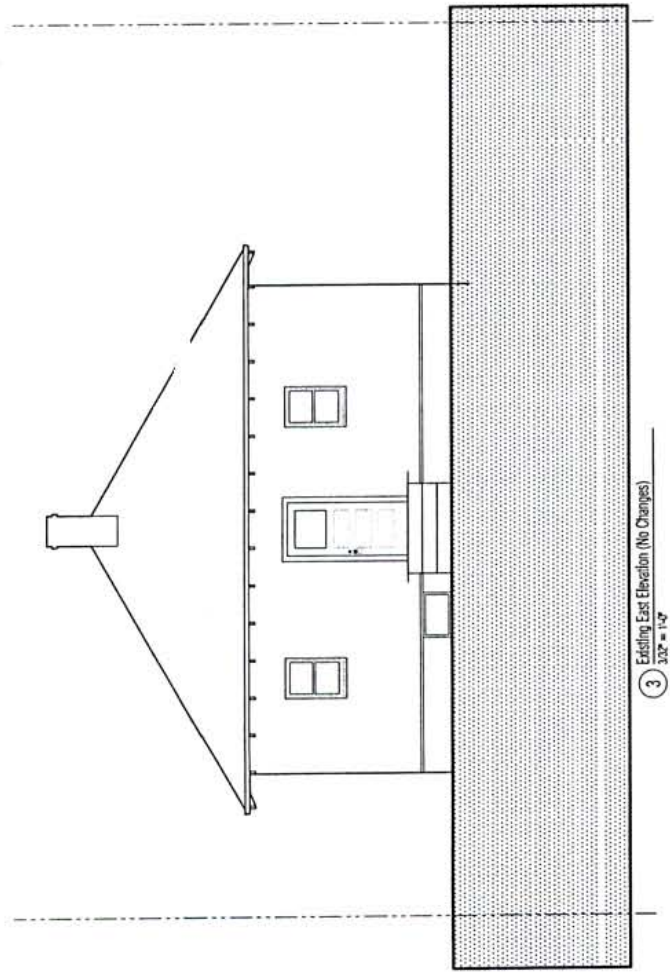
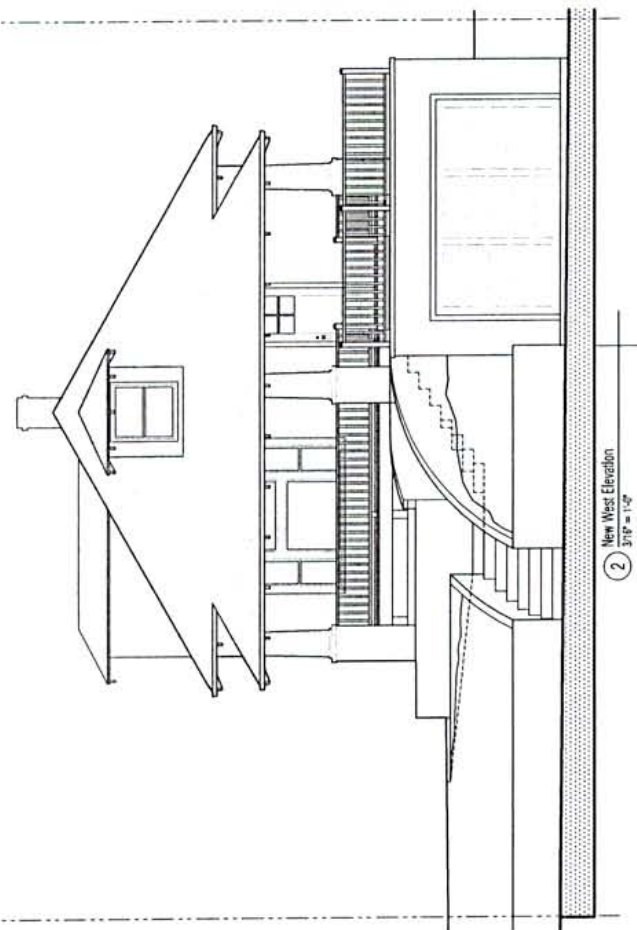
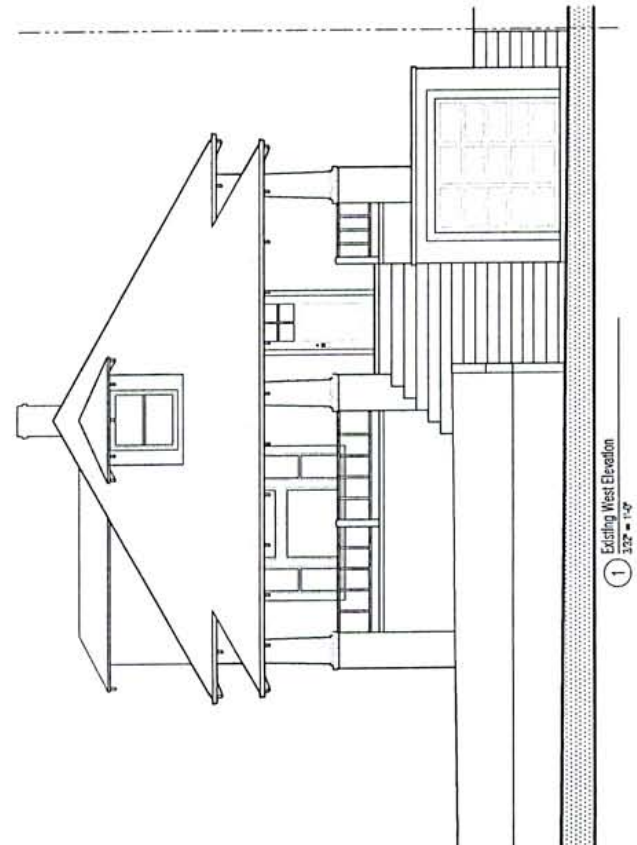
A4.1 Elevations

A4.2 Elevations



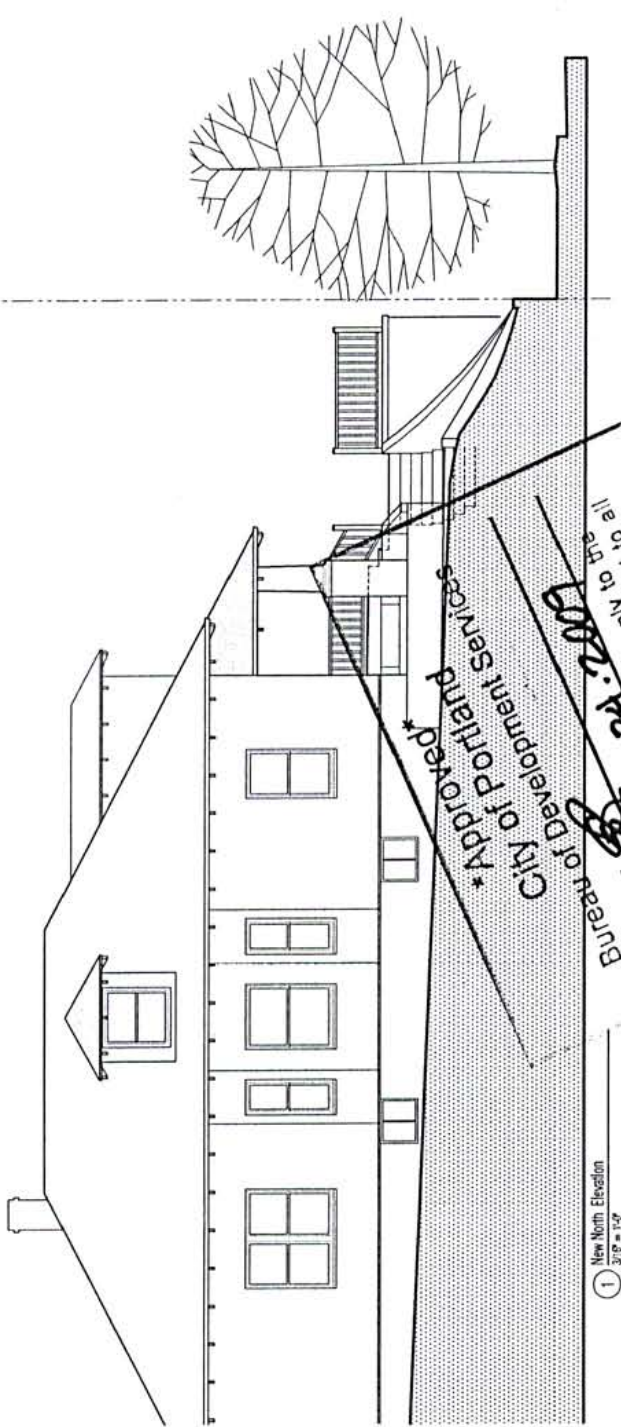
garage closer to street than stairs to main level of house

On-Street Parking
Bicycle lane
SE 26th Ave
New wider apron (12')

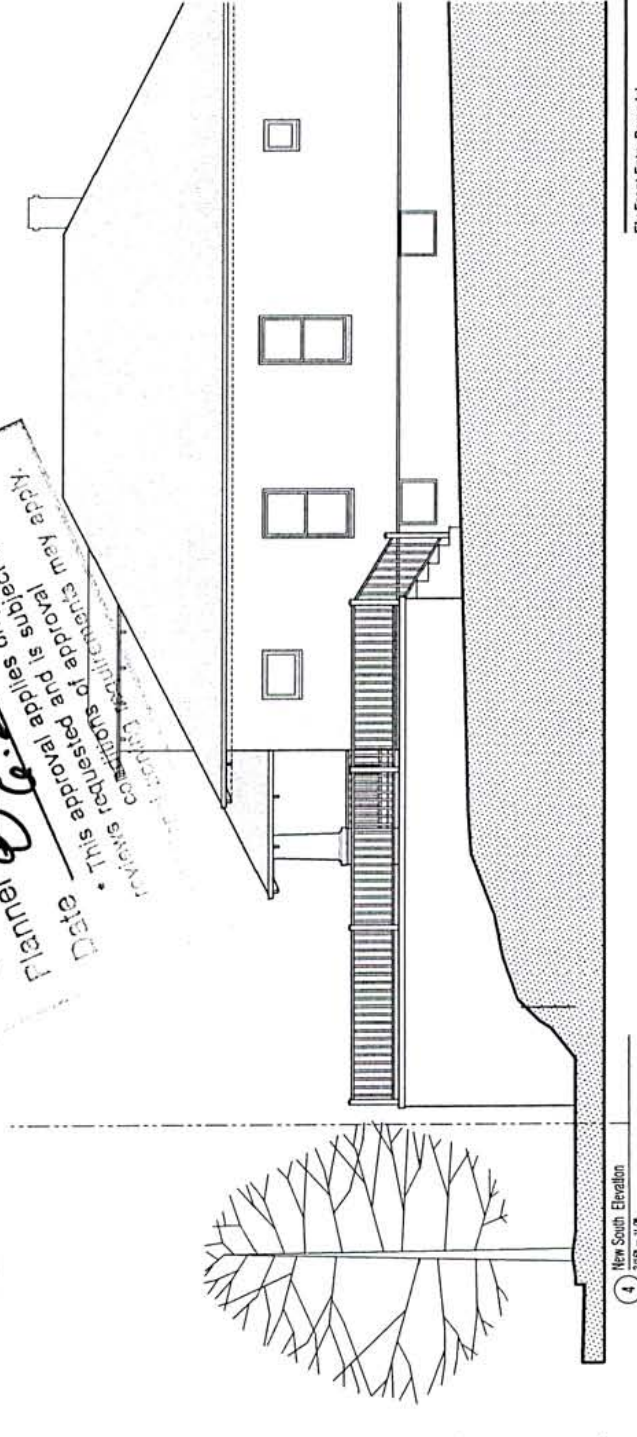


* This approval applies only to the
 conditions of approval is subject to all
 other zoning requirements may apply
 Data
 Bureau of Development Services
 City of Portland
 * Approved *
 6.24.2007

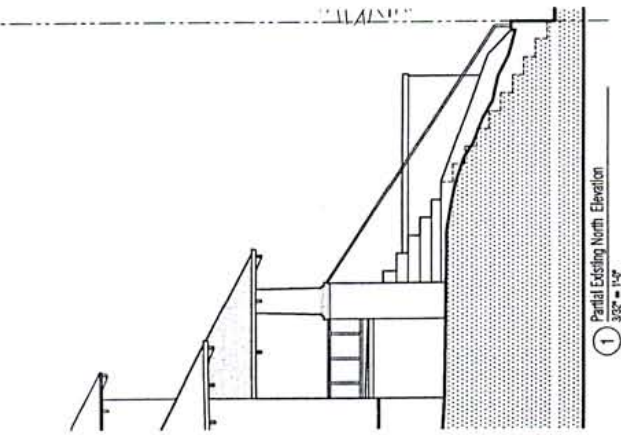
Ely Front Entry Remodel
 3006 SE 26th Avenue
 Portland, OR 97202
 Jan Wenzel Architect
 2933 SE 26th Ave. / Portland, OR 97202
 971-340-7722
 Adjustment Application
 Planning Evaluations
 4-18-2009



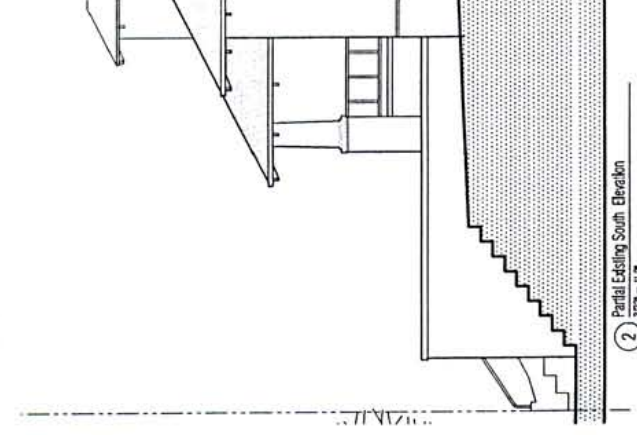
1 New North Elevation
3/16" = 1'-0"



4 New South Elevation
3/16" = 1'-0"



1 Partial Existing North Elevation
3/16" = 1'-0"



2 Partial Existing South Elevation
3/16" = 1'-0"

Approved*
City of Portland
Bureau of Development Services
Planner [Signature]
6.24.2009
 This approval applies only to the data requested and is subject to all zoning requirements that may apply.

Ely Front Entry Remodel
 3656 SE 26th Avenue
 Portland, OR 97202
 Jen Wentzler Architect
 2633 SE 26th Ave. / Portland, OR 97202
 503-340-7722
 Adjustment Application
 Ely Entry, Ely 08/05/08
 April 28, 2009