



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

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**Date:** July 27, 2009  
**To:** Interested Person  
**From:** Nan Stark, Land Use Services  
503-823-7828 / [nstark@ci.portland.or.us](mailto: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 09-129297 AD**

#### **GENERAL INFORMATION**

**Applicants:** Ronald M. Jimmerson and Pat Griffin  
618 NE Laurelhurst Place  
Portland OR 97232

**Site Address:** 3827 NE STANTON STREET

**Legal Description:** BLOCK 24 LOT 6, BEAUMONT  
**Tax Account No.:** R060804170  
**State ID No.:** 1N1E25AD 04900  
**Quarter Section:** 2734

**Neighborhood:** Beaumont-Wilshire, contact Michael Rounds at 503-936-0740  
**District Coalition:** Central Northeast Neighbors, contact Alison Stoll at 503-823-3156

**Zoning:** R5h – High Density Single-Dwelling 5,000  
**Case Type:** AD – Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee

**Proposal:** The applicants propose to construct a 555 square foot garage on the west side of the property. As shown on the attached site plan and elevation drawings, the proposed garage is 18.5 feet wide and 30 feet long. The location of the proposed garage is similar to where the original garage stood on the property. That garage has been removed, but the driveway remains.

The notice for this proposal indicated that the garage would be 19 feet in height measured to the top of the gabled roof. In response to concerns raised by neighboring property owners following the notice for this proposal, the applicant revised the design, and is now proposing a flat-roof garage that measures 11 feet high.

Section 33.110.220 and Table 110-3 of the Zoning Code require a minimum 5-foot side setback in the R5 zone. The applicants request an Adjustment to this standard, to reduce the setback from 5 feet to 0, to allow the garage to be built on the west side property line.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Section 33.805.040 of the Zoning Code.

## ANALYSIS

**Site and Vicinity:** The site is 9,000 square-feet in area, with 50 feet of frontage on NE Stanton Street. It is developed with a detached dwelling built in 1929. An existing driveway is on the west side of the property. The west property line abuts three properties that are on 38<sup>th</sup> Avenue, and the east property line abuts two properties on 39<sup>th</sup> Avenue.

The surrounding neighborhood is residential, developed almost entirely with single dwellings built in the early 20<sup>th</sup> century. The site is just below the Alameda ridge, two blocks to the north.

**Zoning:** The site is zoned R5h. The R5 zone corresponds to the High Density Single-Dwelling designation of the Comprehensive Plan, found in the city's closer-in neighborhoods, with average lot size of 5,000 square-feet.

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

**Summary of Applicant's Statement:** The applicants wish to construct a garage in the same location as the previous single-car garage, but to lengthen it to accommodate two vehicles.

**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
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on June 2, 2009. In response to the notice of proposal, staff received three letters. Of those, two live on abutting properties to the west, and expressed strong concern about the height of the garage and its resulting impact to their properties. The visual impact with a relatively high roof line at the property line was the primary concern, as well as the impact from shading and not fitting in with other garages in the neighborhood.

As indicated in the summary of the proposal on the previous page, the applicants responded to these concerns by redesigning the garage with a flat roof, reducing the height to 11 feet.

The third letter was written with concern for the mature pine tree that is approximately 10 feet north of the proposed structure. The neighbors strongly suggest that a certified arborist be consulted if any extensive digging is to occur in the vicinity of the tree, in order to preserve it. The applicants responded to this comment that they have hired an arborist, and removed some dead or diseased trees on the arborist's suggestion, and no other trees will need to be pruned or removed for the garage addition.

## 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 zoning code regulates setbacks in 33.110.220. The purpose of the setback standard is to:

- Maintain light, air, separation for fire protection, and access for fire fighting;
- Reflect the general building scale and placement of houses in the city's neighborhoods;
- Promote a reasonable physical relationship between residences; and options for privacy for neighboring properties;
- Require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- 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 garage is proposed to be built along an existing 38-foot long, 8-foot high concrete block wall that runs along the west property line. The existing parking pad is bounded by the wall, and a 4-foot high brick foundation on its east and north sides, which defines a space that is 18'6" square, where the original garage was that was removed at some time in the past. The City's Sanborn maps, created in the 1960's, show the square garage in the same location as the proposed one on the west property line. The applicants intend to keep the brick wall on the east side and continue it to the rear of the garage. The wall that runs east-west will be removed, to accommodate the longer 30-foot garage.

Given that a previous detached garage existed within the bounds of the existing concrete and brick walls, the new garage is generally reflecting the placement of accessory structures in the neighborhood. Throughout the city, original single-car garages are typically set back behind the house and up to the side and/or rear property lines, as is the case in this situation. As a detached structure, there is adequate separation from the house for access for fire fighting, and from the neighboring structures for fire protection. By building the garage utilizing the existing concrete wall on the west property line, the wall will extend an additional 3 feet in height, allowing a reasonable scale that also provides privacy to abutting neighbors without dramatically changing the existing situation between the two properties. Further, the existing trees north of the garage will remain undisturbed, thus minimizing any change between the site and the north properties.

Consequently, by constructing the garage in the location proposed, there is a fairly minimal change from the existing situation as it relates to the most affected neighbors to the west. The applicants' re-design, bringing the roofline down from a 12/12 pitch to a flat roof, respects that existing relationship between properties and minimizes the scale of the project from the neighbors' vantage. The smaller scale is also more in keeping with the scale of existing

detached garages in this neighborhood of older houses, and utilizing the original location appropriately preserves the relationship to the adjacent properties. 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:** The applicants have revised the design of the garage from the original proposal, changing the original pitched roof to a flat one, resulting in a height of 11 feet for the structure. The result of the new design is that from both the street and the abutting west properties, the garage will be of a scale that is appropriate in the context of the neighborhood.

The 30-foot length of the garage is longer than typical, creating internal stacked parking for vehicles, rather than side-by-side parking. This is appropriate for the size of this lot, which is fairly deep relative to neighboring properties, and can easily accommodate the extra length. The existing 8-foot high concrete wall on the west property line runs along the full length of the property to the west that the garage would be next to. The garage would in effect raise the wall to 11 feet for its 30-foot length. With the existing condition of the block wall, the relatively small addition to the height will not pose a totally new situation for the neighboring property. It will result in a higher wall that offers privacy to those neighbors while maintaining a reasonable scale at the property line. From the street perspective, the scale and location will be consistent with other garages in the area. Further, the garage is to the east of the nearest neighbor, thus having minimal effect on light entering their rear yard. 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 garage design incorporates the existing block wall on the west property line, thus not creating a totally situation to the most affected property to the west. The applicants changed the design, reducing the roofline and consequently putting forth a design that is fairly consistent with the scale and location of garages throughout the area. The existing driveway will be utilized, further maintaining the existing situation as seen from the street and neighboring properties to the south. Thus, 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 applicants wish to construct a garage in the same place as the original garage on this property, which has been removed. The existing 8-foot high concrete block wall now separates the subject property from the most affected west property, along which the garage is proposed. By placing the garage along this property line, it will in effect add 3 feet to the height of the wall, as seen from the west. This is a relatively minor change to an existing situation. The location of the garage along the side property line is consistent with other garages throughout the area. The change from a fairly steep roofline to a flat roof ensures compatibility with neighboring accessory structures, which are generally of a fairly small scale. From the street perspective, the garage will have a consistent appearance and relationship to the street and neighboring properties, and from the side of the reduced setback, it will result in a moderate scale that does not pose impacts.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to zoning code standard 33.110.220 C, Setbacks, to reduce the west side setback for the length of the garage from 5 feet to 0. This approval is subject to the approved site plan, Exhibit C-1, and elevation drawings, Exhibits C-2 and C-3 showing a flat roof with a structure height of 11 feet to the top of the wall, signed and dated July 22, 2009, subject to 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.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-129297 AD."

**Staff Planner: Nan Stark**

**Decision rendered by:**  **on July 22, 2009**

By authority of the Director of the Bureau of Development Services

**Decision mailed: July 27, 2009**

**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 18, 2009, and was determined to be complete on May 27, 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 18, 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 24, 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 August 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 **August 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 503-823-7967.

**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**

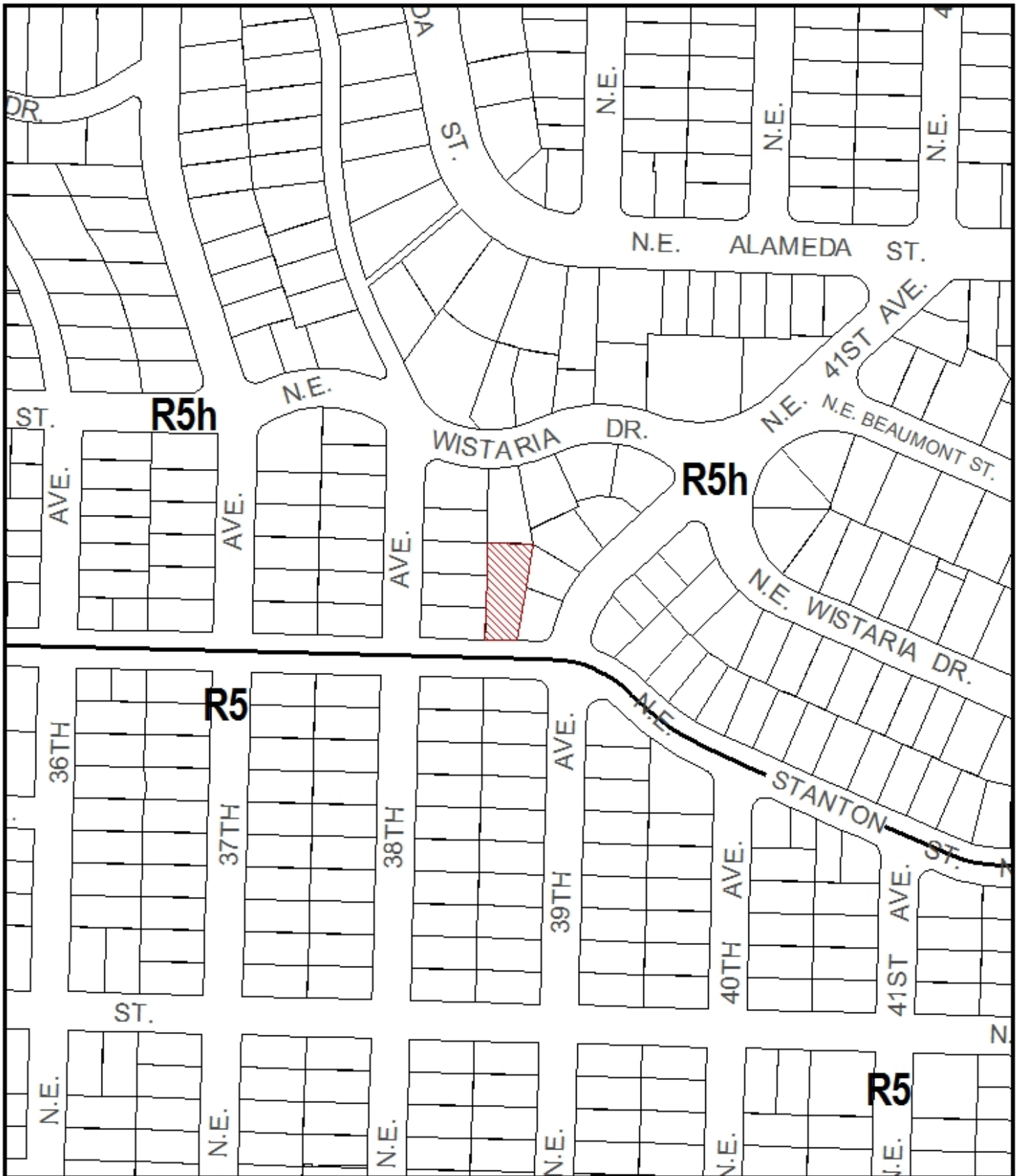
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Elevation drawings, revised, north and south (south attached)
  3. Elevation drawings, revised, east and west (west attached)
  4. Elevation drawings, original submittal
  5. Floor/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. 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:
1. J. Abbott and L. Hawkins, June 18, 2009, concerns
  2. E. Stark and R. Weber, June 23, 2009, concerns
  3. M. Peterson, June 24, 2009, concerns
- G. Other:
1. Original LU Application
  2. Sanborn map of vicinity
  3. Building permit history

**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).**

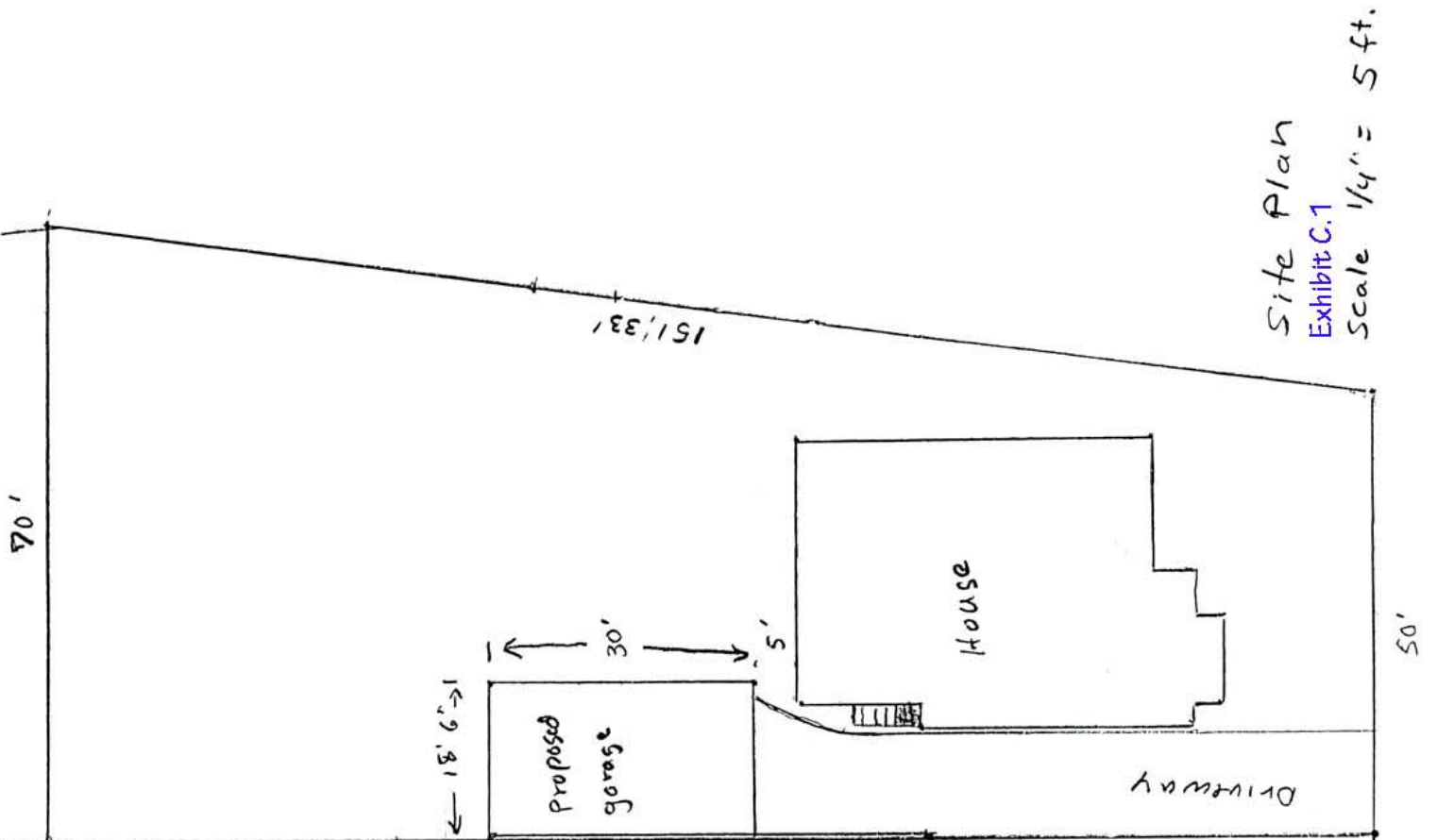




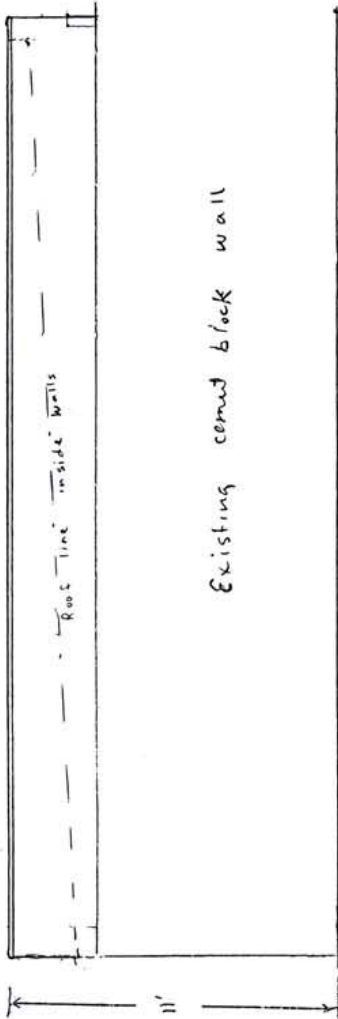
# ZONING



File No. LU 09-129297 AD  
 1/4 Section 2734  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E25AD 4900  
 Exhibit B (May 19,2009)



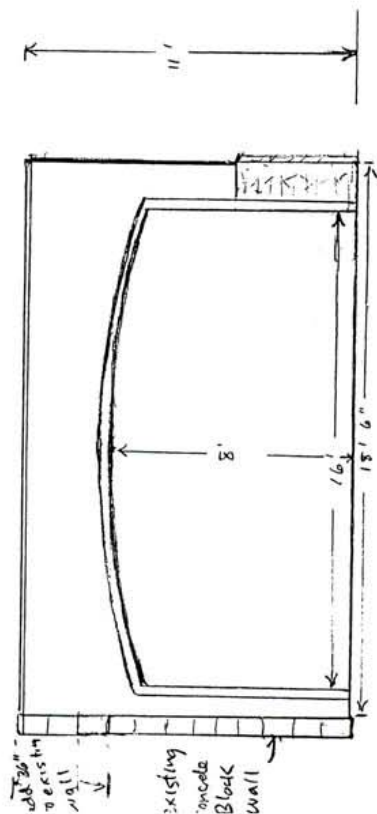
Site Plan  
 Exhibit C.1  
 Scale 1/4" = 5 ft.



West elevation Exhibit C.3

2916  
 38th

existing  
 concrete  
 Block  
 wall  
 50'



South Elevation Exhibit C.2  
 (Front of garage)

2904  
 38th

\* Approved\*

City of Portland - Bureau of Development Services

Planner: NSM Date: July 22, 2009

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