



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

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Date: August 19, 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 09-133959 AD

GENERAL INFORMATION

Applicant: Carl Snelling
Snelling & Company
PO Box 891, Silverton, OR 97381

Owner: Florene Wheeler
6416 SE Knight Street
Portland, OR 97206

Site Address: 6416 SE KNIGHT STREET

Legal Description: W 30' OF LOT 17 BLOCK 23 LOT 18 BLOCK 23, TREMONT PL
Tax Account No.: R842406470
State ID No.: 1S2E17CB 12400
Quarter Section: 3637
Neighborhood: Mt. Scott-Arleta, contact Shawna Fuller at 503-771-3104
Business District: Eighty-Second Avenue, contact Ken Turner at 503-484-6225
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010
Zoning: R2.5a – Residential 2,500
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal: The applicant proposes to construct a family room/bathroom addition on the rear (south) portion of the existing residence at 6416 SE Knight Street. As shown on the attached site plan, the addition would measure 14' x 26' (364 SF) and would replace an existing covered patio.

Section 33.110.225 B and Table 110-4 of the Portland Zoning Code establish maximum building coverage standards within single-dwelling zones. The property, presently developed with a primary residence and various accessory structures, has building coverage of 2,624 square feet. The proposed 364 square foot rear addition would bring total building coverage on the site to

2,988 square feet, which is 228 square feet over the allowed maximum of 2,760 square feet. An adjustment to the maximum building coverage standard is therefore required.

A second adjustment is required to legalize existing structures on the site that were constructed within the side setback along the east property line. Section 33.110.220 C and Table 110-3 of the Portland Zoning Code establish minimum setback standards of 5 feet in this zone. A tool shed and carport currently extend to the east property line; consequently, the applicant requests an adjustment to reduce the east side setback from 5 feet to zero.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments.

ANALYSIS

Site and Vicinity: The site is an 8,400 square-foot lot developed with a mid-century ranch-style house and attached garage. A covered patio is at the rear of the house, in roughly the same location as the proposed single-story addition. Accessory structures on the lot include a 9' x 12' tool shed, a two-car, 23' x 28' carport and a 14' x 23' shop. The carport and shop are at the rear of the property, which abuts a functioning alley. The shed is on the east side property line behind the house, as is the carport. The carport is a tall structure that can accommodate a recreational vehicle.

The vicinity is characterized primarily with postwar houses on lots that vary in size from the typical 5,000 square-foot to larger ones such as the subject lot. Most houses in the area include detached or attached garages, and other accessory structures are common, particularly adjacent to the alleys that appear to be well used and maintained by most residences.

Zoning: The site is zoned R2.5a. The R2.5 zone is the highest density single-dwelling zone, designated in the Comprehensive Plan as Single-Dwelling Attached. This zone allows duplexes, detached and attached houses. New lots for detached or attached houses are allowed with an average area of 2,500 square-foot. The 'a' signifies the Alternative Design Density overlay zone, which allows options for higher density if the project is reviewed and approved through Design Review. Those options are not applied in this review.

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 **July 22, 2009**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Site Development Section of BDS
- Life Safety Review Section of BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 22, 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: Two adjustments are requested, to the setback and building coverage standards, respectively. The setback adjustment will be discussed first.

The setback regulations are intended 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;
- Promote open, visually pleasing front yards with larger required front setbacks than side and rear setbacks;
- 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 applicants request a reduced side setback for the existing carport at the rear of the property, and the existing shed on the side of the property. Both are built up to the east side property line. The required setback for the structures is 5 feet.

The carport is located in the southeast corner of the lot, adjacent to the alley. The shed is towards the middle of the lot, along the east property line. It is a small, fairly innocuous structure that is not readily visible from the nearest neighbor to the east, because a play structure is on that property alongside the area of the shed. The play structure is taller than the shed. Additionally, there is a slatted chain-link fence all around the subject site, separating it from the abutting neighbors and enclosing the rear from the alley.

The reduced setback would maintain adequate light and air between the site and abutting property to the east, which is the most affected property. Fire separation would be more than adequate, as well as access for fire fighting, because the shed is small in scale, adjacent to a fairly open play structure. Likewise, the carport is just that, an unwallled, open roofed structure.

Both structures are located on parts of the lot that are typical, as both sheds and garages or carports are often built up to side or rear property lines. The carport would be allowed as located if it were 4 feet shorter (24 feet long). Its position on the property is appropriate at the rear, where there is alley access. Similar larger structures are adjacent to the alley in all of the surrounding blocks, where they are separated from most of the adjacent neighbors by the alley. There is buffering and physical separation from the abutting east property by trees and shrubs in their yard, which visually screen the carport at the rear. Consequently, the shed and garage as located support the intent of the setback standard, thus satisfying this criterion.

The second adjustment requested is to increase building coverage from the allowed maximum of 2,760 square-feet to the proposed 2,988 square-feet. The existing house and accessory structures (carport, shed and shop) fall within the allowed building coverage standard. The proposed 14' x 26' rear addition adds 364 square feet, thus exceeding the allowed amount. The purpose of the building coverage standards, together with the height and setback standards, is to control the overall bulk of structures. They are intended to assure that taller buildings will

not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on the site.

From the street, the proposed addition and the existing accessory structures will not be visible because the ranch-style house is situated horizontally along the width of the property. From the adjacent properties, the addition will not be readily noticeable, because it is located behind the house and is one story in height, like the house, and is situated towards the middle of the lot. Given the relatively moderate size and single-story scale of the addition, the resulting footprint of the house will not overwhelm the adjacent houses. The only element on the property that might be considered conspicuous is the carport, due to its height. However, situated at the rear corner of the property, screened by landscaping and with its relatively open structure, only the roof gives a sense of bulk. That bulk is primarily experienced at the alley, which is the most appropriate place for such a structure, and from that vantage it is not affecting any of the adjacent houses. Thus, the building coverage proposed, primarily as a result of the rear addition, supports the purpose of the building coverage standard, and therefore meets 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 R2.5 single-dwelling zone. The reduced setbacks are requested for the existing carport and shed, which appear to have been built some time ago, and consequently the nearest neighbors are accustomed to them. The landscaping and play structure on the property to the east, which is the most affected property, serve to screen and visually separate the structures, thus not detracting from either livability or appearance. The carport is oriented to the alley, where there are many such structures of various sizes in this neighborhood, appropriately located and utilizing this minor right-of-way for access and parking. The alley also provides separation from the neighboring properties to the south, such that the bulkier scale of the carport is, for all intents and purposes, not affecting them. The rear addition to the house is causing the building coverage to be exceeded, and will be minimally visible from any of the adjacent properties, due to its small scale and location towards the middle of the lot, with a fair amount of yard area on either side of it. For these reasons, 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: The purpose of the single-dwelling zones is to preserve land for housing and to provide housing opportunities for individual households. The proposed addition to the house, and the accessory structures are all intended for use by the residents of this site. Consequently, the proposal ensures that the land is continued to be used for individual household use, thus upholding the purpose of the zone. 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: The reduced setback for the shed and carport is along areas of the site that are typical and appropriate for such structures. In this neighborhood, the alley system appears to be well used, judging by the relative maintained roadways and the number of garages and carports situated along them. The carport extends a few feet above the existing fence that

encloses the rear yard from the alley and the abutting neighbors. At the rear corner of the property, the structure is visually screened by landscaping on the abutting property. The roof is the only part of the structure that needs screening, due to its height and rounded slope, but it is not unlike the roof height for a typical newer garage, which is generally taller than the older garages built in the early 20th century. For this neighborhood characterized by postwar and mid-century houses, the size and style of carport is not unusual.

The additional building coverage resulting from the addition, exceeding what is allowed by the zoning code, is for a moderately-scaled addition to the rear of the house. It will not be visible from the street, and will be minimally noticeable from either of the abutting properties, as it will be several feet from both side property lines. From the rear or alley side, it will not be noticeable, due to distance and the shop and carport along the rear property line. Therefore, the adjustments will not create impacts that require mitigation; 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 proposal for setback reductions for two accessory structures, and an increase in building coverage resulting from a rear addition support all of the relevant approval criteria. The proposed addition to the rear of the house is relatively small in scale, and will not be visible from the street. Its position towards the middle of the lot at the rear of the house separates the addition from both of the neighboring properties by a fairly substantial distance. The reduced setbacks for the shed and carport along the east property line allow continuation of an existing situation, with no change to either structure. The site and abutting properties are separated by a slatted chain-link fence, as well as trees and shrubs that further provide buffering and visual screening. The analysis shows that the adjustments do not result in impacts that require mitigation, and a favorable decision can be made.

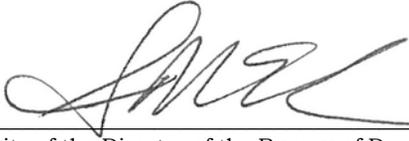
ADMINISTRATIVE DECISION

Approval of two Adjustments:

1. to zoning code section 33.110.225 B, Building Coverage, for a rear addition to the house, increasing the building coverage from the allowed 2,760 square-feet to 2,988 square-feet; and
2. to zoning code section 33.110.220 C, Setbacks, to reduce the east side setback for the existing shed and carport from the required 5 feet to 0.

This approval is subject to the approved site plan and elevation drawings, Exhibits C-1 and C-2, signed and dated August 13, 2009.

Staff Planner: Nan Stark

Decision rendered by:  **on August 14, 2009**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 19, 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 June 8, 2009, and was determined to be complete on July 20, 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 June 8, 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: November 17, 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 September 2, 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 **September 3, 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:

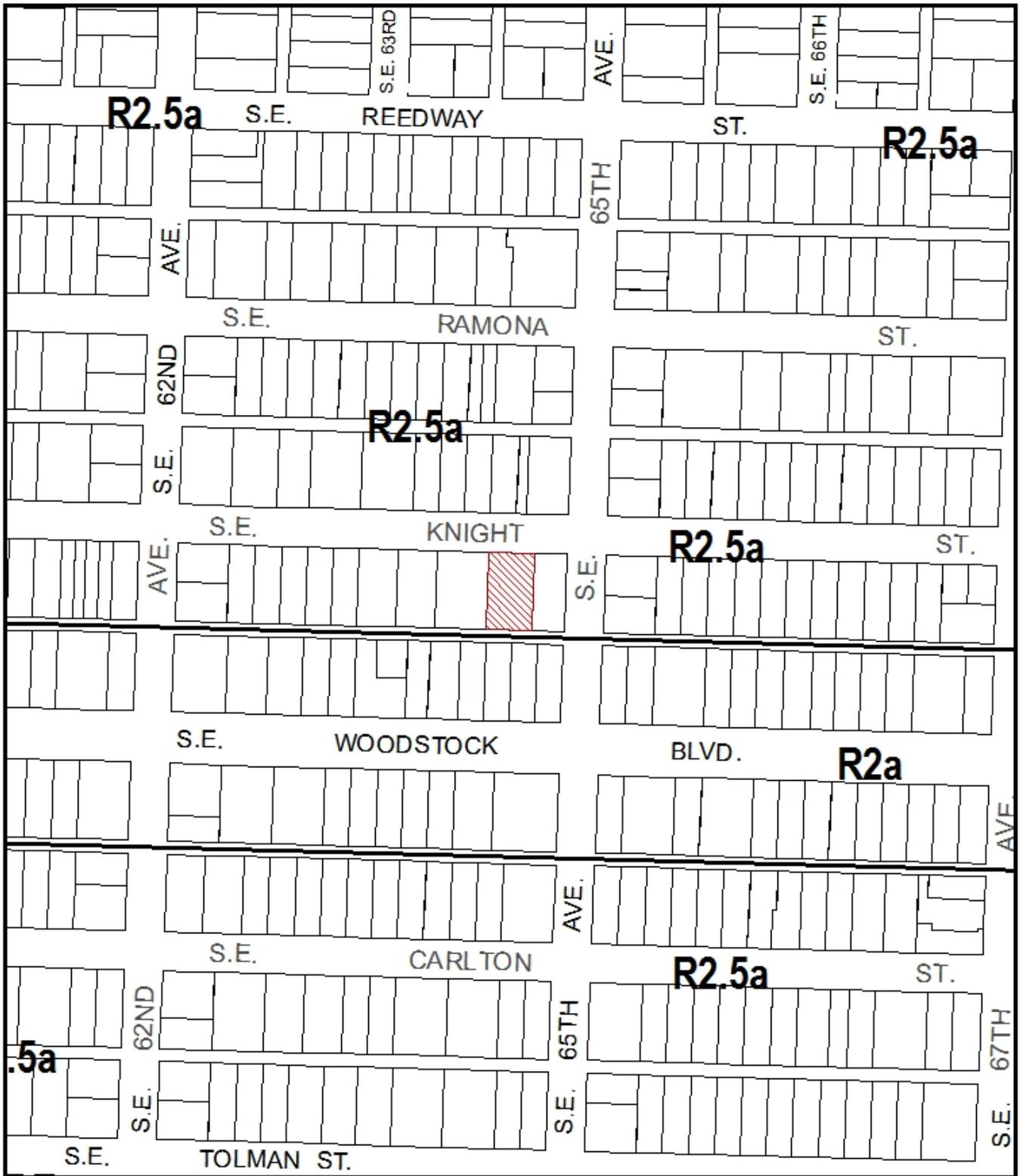
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Rear and side elevation drawing (attached)
 - 3. Foundation and framing plan
 - 4. Addition floor plan
 - 5. Roof framing and section drawings
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Site Development Review Section of BDS
 - 4. Life Safety Review Section of BDS
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete application letter, Stark to Snelling, June 19, 2009

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).



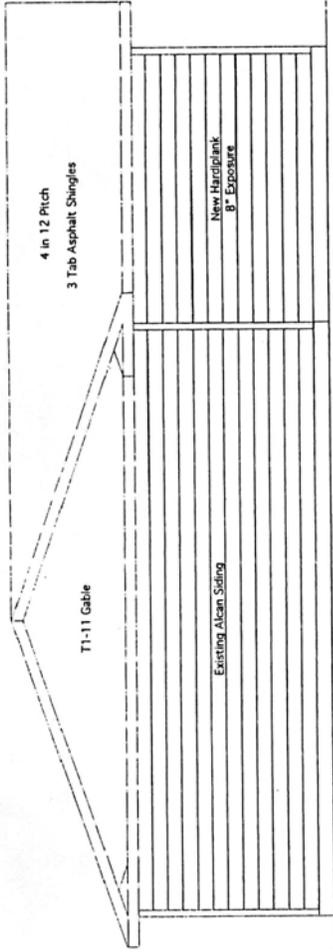
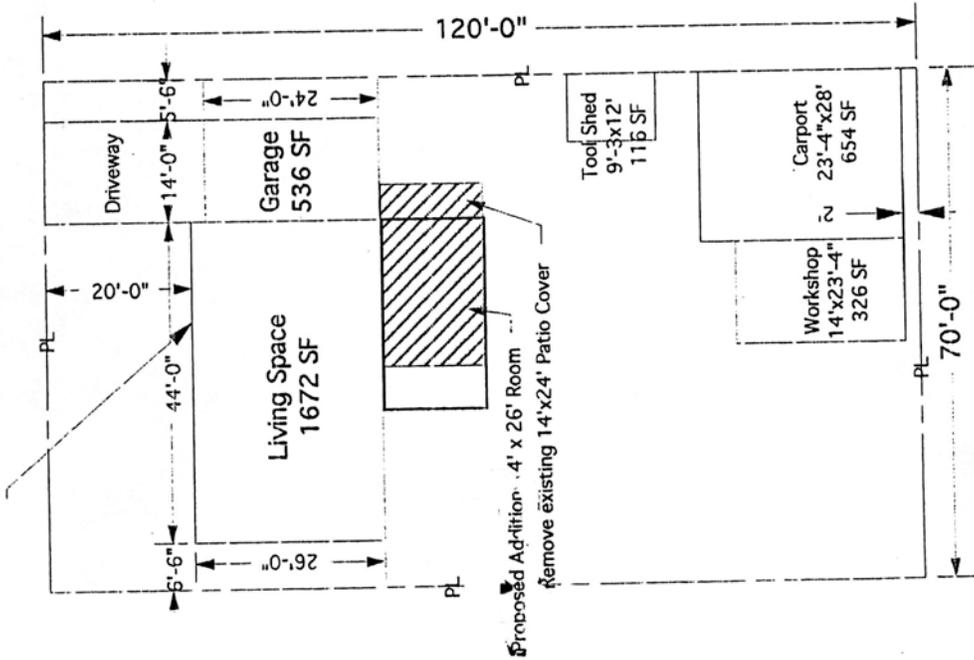
ZONING

 Site

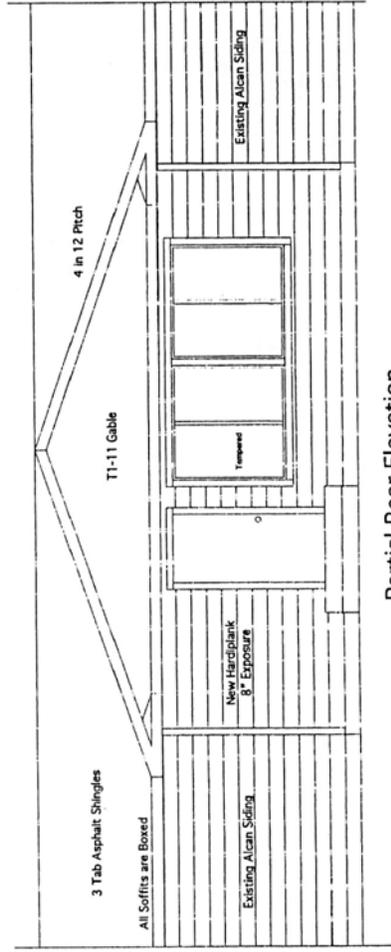


File No.	<u>LU 09-133959 AD</u>
1/4 Section	<u>3637</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E17CB 12400</u>
Exhibit	<u>B (Jun 09,2009)</u>

Knight Street



Right Elevation (typ.)



Partial Rear Elevation

Approved
 City of Portland - Bureau of Development Services
 Planner: *NS/alk* Date: *Aug 19, 2009*
 *This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

SITE PLAN

LU 00-133959 AD
Exhibits C-1 and C-2