



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: March 4, 2010
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 10-106192 AD

GENERAL INFORMATION

Applicant: Glen E and Joan S Wallace, Property owners
5908 SW Nevada Ct
Portland, OR 97219

Representative: Alan Armstrong, Architect
Strongwork Architecture
6215 NE 13th Ave
Portland, OR 97211
503 442 6786

Site Address: 5908 SW NEVADA CT

Legal Description: BLOCK E LOT 3, LEES ADD
Tax Account No.: R485303130
State ID No.: 1S1E19BA 14900
Quarter Section: 3723

Neighborhood: Maplewood, contact Chris Mays at 503-293-5382.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: R7, Single Dwelling Residential 7,000

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

Proposal:

The site has an existing detached garage located in the southwest corner of the lot. The owners proposed to convert the garage into a two-story studio space. This is not an Accessory Dwelling Unit, but would be used instead as a studio area. In order for the second story to meet code requirements for ceiling heights in living space, the proposed remodel of the garage would increase the over all height of the building by 3 feet, and the height of the wall that is in the

setback area along the west property line will increase 2 feet 7 inches over the existing situation. The applicant notes that the proposed shed style roof will be an eco roof, and the rooftop landscaping will further soften the appearance of the roof. Garages are allowed in the side and rear setbacks, but because the garage will be changed to a studio use, an adjustment to allow the existing reduced setback is required. Therefore, the applicant requests one adjustment: to allow the remodeled structure to remain at a 0 foot setback along the western property line. *Please note* that the previous Notice of Proposal you received identified two adjustments. Since that mailing, it has been determined that the height adjustment is not required as the overall height of the structure is below the overall height limit of the base zone.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

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.

ANALYSIS

Site and Vicinity: The site is an 8,800 square foot lot developed with a 1,322 square foot single dwelling residence and garage built circa 1921. The immediate vicinity comprises lots and parcels in the R7 zone developed with residential uses. SW Nevada street is a designated Local Service Street and is improved with an 18 foot wide paved roadway, with no curbs or sidewalks.

Zoning: The site lies within the R7 zone, a medium density single-dwelling zone. The R7 Zone allows attached and detached single-dwelling structures and duplexes.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **February 8, 2010**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering responded with no concerns as long as there is adequate space to retain on-site parking.
- Water Bureau
- Fire Bureau
- Bureau of Environmental Services

The Site Development Section of BDS responded that they have no objection to the proposal provided that plans submitted for building permit review include an acceptable method of overflow discharge for the proposed eco-roof.

The Bureau of Parks-Forestry Division responded that all trees within the public right of way must be retained. A written permit is required from the City Forester to remove or cut any tree of any size within any public street.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 8, 2010. 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 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 requests one adjustment: to allow the remodeled structure to remain at a 0 foot setback along the western property line.

Adjustment to Setback

The purpose for the setback regulations is found at 33.110.220 A, which states:

The building setback regulations serve several purposes:

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

The proposed remodel of the existing garage will not enlarge the footprint of the structure, nor will the footprint of the structure move. The continuation of the current setback with a modified roofline will not have a significant impact on light, air, or separation and access for fire fighting. The Fire Bureau has noted no concerns regarding the proposal. Given the relationship of the garage proposed to be remodeled to the adjacent garages on the lots to the west and south, there is no significant change to building scale or placement and a reasonable physical relationship between residences is unaffected. As noted earlier, the west façade of the remodeled garage will have no windows and therefore will continue to promote privacy to the adjacent neighbor. There is no impact to the openness of the front yard of the site, nor will there be any reduction to the front yard setback. As the garage is already existing, it currently fits the topography of the site and the proposed remodel will not reduce the required outdoor area. With the remodel, the existing driveway will remain, providing a legal, on-site parking space. For these reasons, this criterion is met for the requested Adjustment to setback.

- 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 residentially zoned. The proposal will provide additional livability on the site by providing additional living area for creative endeavors. Given the relatively modest increase in height in order to meet building code and the new shed roof style, the proposal will not significantly detract from the livability or appearance of the immediate residential area. For these reasons, the request to Adjust the setback meets this criterion.

- 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. Therefore 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. 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 site has an existing detached garage located in the southwest corner of the lot. The owners proposed to convert the garage into a two-story studio space. This is not an Accessory Dwelling Unit, but would be used instead as a studio area. In order for the second story to meet code requirements for ceiling heights in living space, the proposed remodel of the garage would increase the overall height of the building by 3 feet, and the height of the wall that is in the setback area along the west property line will increase 2 feet 7 inches over the existing situation.

The applicant notes that the proposed shed style roof will be an eco roof, and the rooftop landscaping will further soften the appearance of the roof. Garages are allowed in the side and rear setbacks, but because the garage will be changed to a studio use, an adjustment to allow the existing reduced setback is required. Therefore, the applicant requests one adjustment: to allow the remodeled structure to remain at a 0 foot setback along the western property line.

The proposal meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

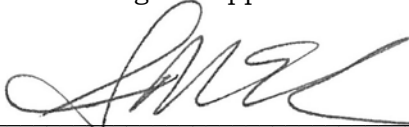
Approval of:

- An Adjustment to allow the existing 0 foot setback of the original garage structure to remain at 0 feet after conversion to a two story studio space,

per the approved site plans, Exhibits C-1 through C-2, signed and dated March 2, 2010, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-106192 AD."

Staff Planner: Sylvia Cate

Decision rendered by:  **on March 2, 2010**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 4, 2010

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 January 26, 2010, and was determined to be complete on February 4, 2010.

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 January 26, 2010.

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: May 26, 2010.**

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 March 18, 2010** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, 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 **March 19, 2010 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

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

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

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

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

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

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

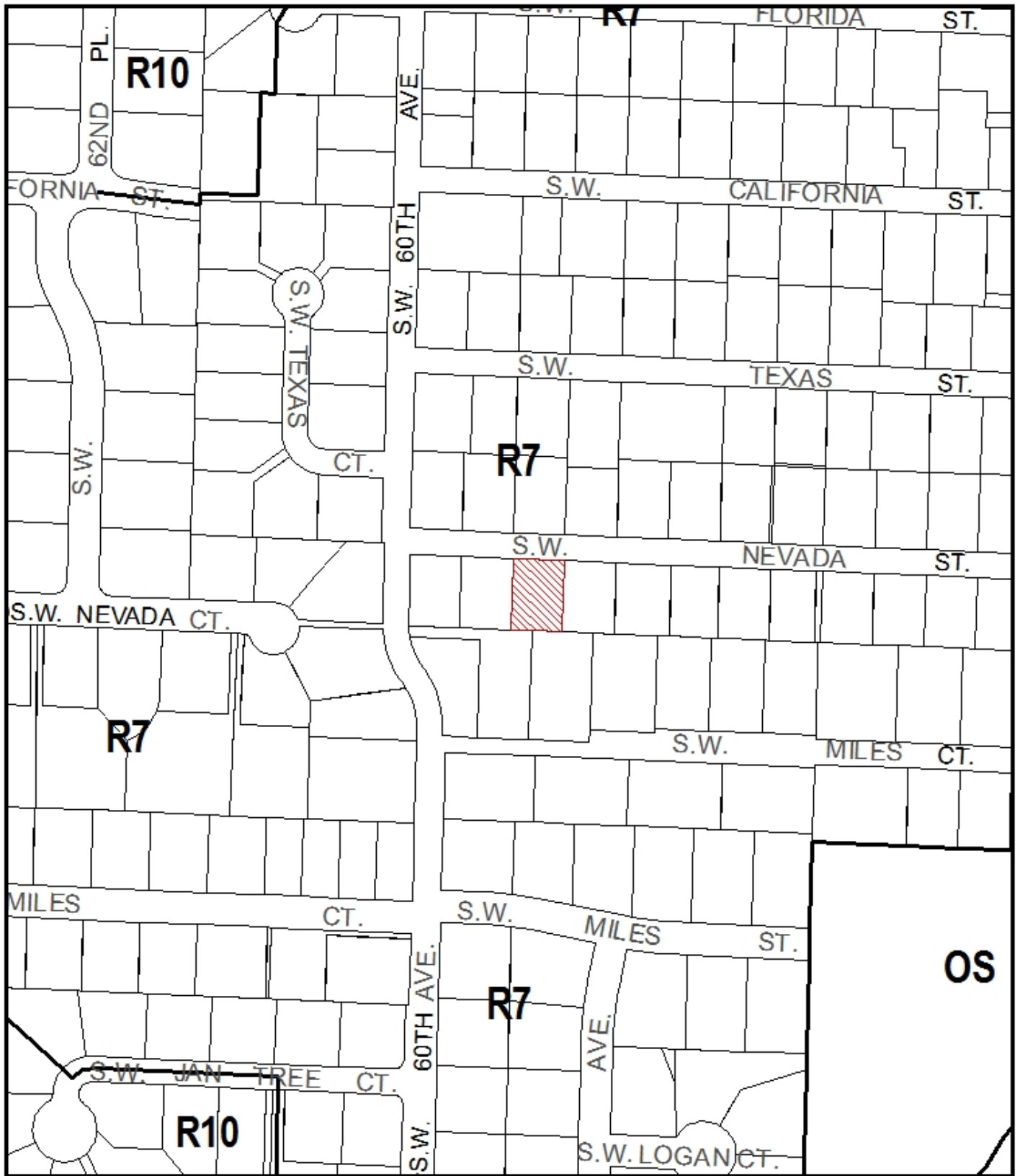
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations South & West
 - 3. Elevations North & East
- 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. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

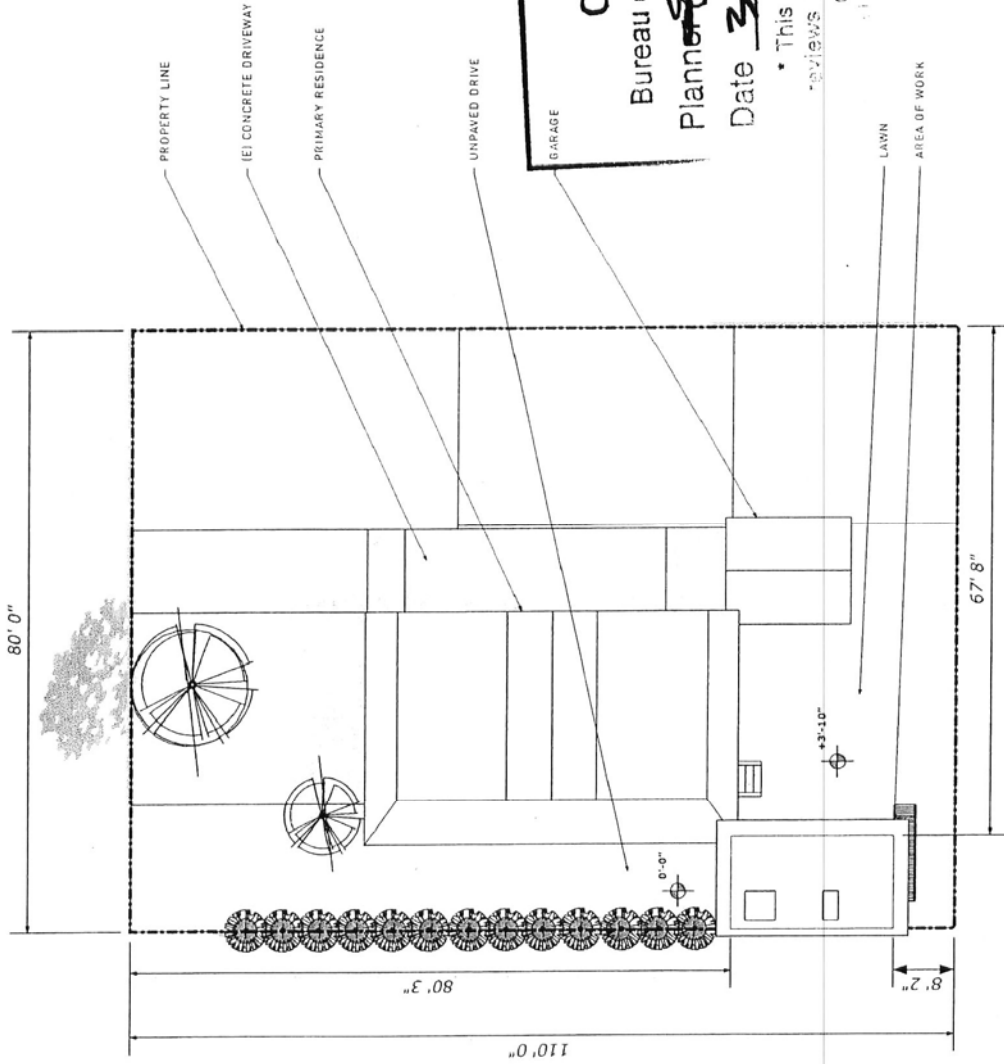
 Site



File No.	<u>LU 10-106192 AD</u>
1/4 Section	<u>3723</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E19BA 14900</u>
Exhibit	<u>B</u> (Jan 28,2010)

SITE INFO

ADDRESS: 5008 SW NEVADA CT
PORTLAND, OR 97119
PROPERTY ID: R206720
COUNTY: MULTNOMAH
STATE ID: 15E19BA 14900
ALT ACCT #: R485303130
MAP NUMBER: 3723 OLD
ZONE: R7
SITE AREA: 6600SF
IEI COVERAGE: 5954 SF
PROPOSED COVERAGE: NO CHANGE



Approved
City of Portland
Bureau of Development Services
Planner *[Signature]*
Date 3/2/2010

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

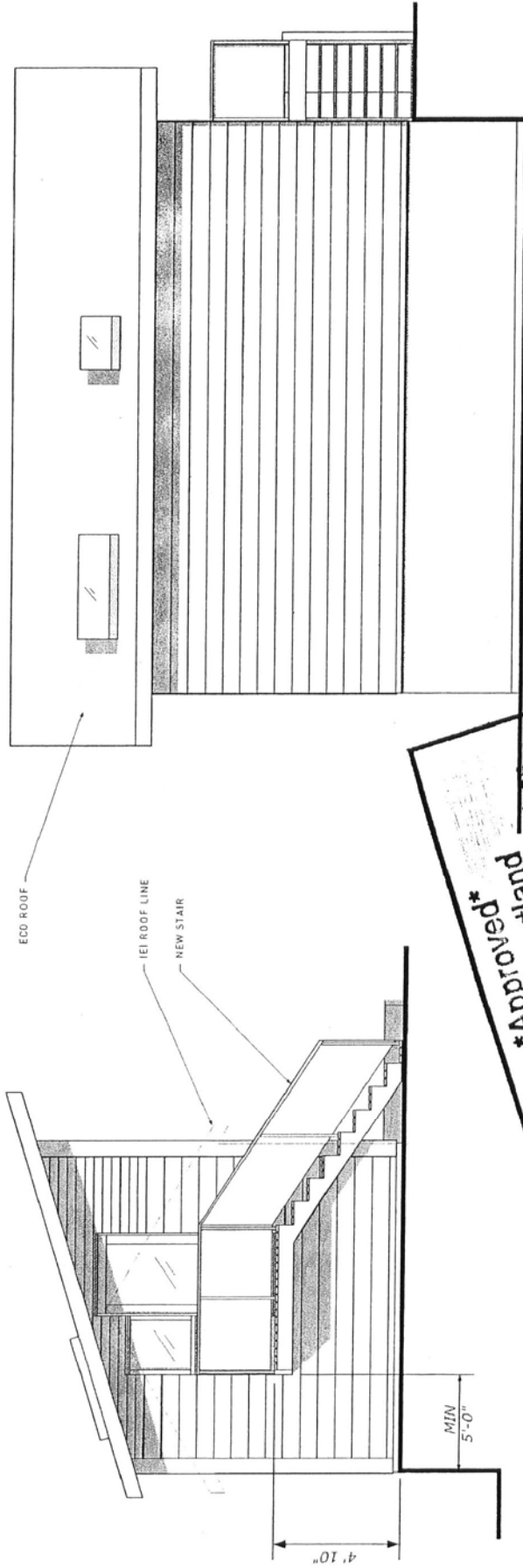


1 SITE PLAN
SCALE: 1/8" = 1'-0"



EXHIBIT C-1

LU10-106192AD



1 PROPOSED SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

2 PROPOSED WEST ELEVATION
SCALE: 1/8" = 1'-0"

Approved
 City of Portland
 Bureau of Development Services
 Planner *[Signature]*
 Date *3/22/10*
 • This approval applies only to the reviews requested of approval.
 • This approval is subject to all applicable requirements that may apply.



Exhibit C-2

I.U.10-106192 AD