



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

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**Date:** June 25, 2010  
**To:** Interested Person  
**From:** Sheila Frugoli, Land Use Services  
503-823-7817 / [frugolis@ci.portland.or.us](mailto:frugolis@ci.portland.or.us)

**NOTICE OF A TYPE II**  
**REVISED DECISION**  
**ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a **revised 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 10-129448 AD**

**GENERAL INFORMATION**

**Applicant:** Kenneth Breaux, Designer  
Design Team Consultants LLC  
11780 SW Butte Lane  
Beaverton, OR 97008

**Owners:** Lisa K Swallow and Stephen L Aho  
9421 SW 8th Ave  
Portland, OR 97219-4737

**Site Address:** 9421 SW 8TH AVE

**Legal Description:** BLOCK C LOT 9, NORTHROP AC  
**Tax Account No.:** R616102250  
**State ID No.:** 1S1E28AC 00600  
**Quarter Section:** 3928

**Neighborhood:** Collins View, contact Dave and Dixie Johnston at 503-636-0959.  
**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

**Zoning:** R10, Single Dwelling Residential 10,000  
**Case Type:** AD, Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**REVISED PROPOSAL: A notice of decision was mailed on June 3, 2010. After the decision approving the requested Adjustments was mailed, the applicant discovered that the site plan, specifically the location of the existing house, was not accurately drawn. This revised decision provides accurate identification of the existing house and the relative location of the proposed garage. The original plan showed the garage extending 13 feet in front of the house. The proposed garage has not changed in placement from**

**the original submittal. However, the measurements between the house and garage must be corrected. The proposed garage entrance will be located 27 feet from the front of the porch and 34 feet from the front wall of the house. The garage will be located approximately 44 feet back from the front property line.**

**Original Proposal:** In order to construct a new 720 square-foot detached garage, the applicant is requesting the following two Adjustments to Zoning Code development standards: (1) reduce the side setback from 10 feet to 3.5 feet for the north property line and (2) allow the garage to be located 13 feet closer to the street property line than the house.

The Zoning Code allows detached garages to be constructed within side and/or rear building setbacks if the garage is no wider or longer than 24 feet respectively. Because this garage is proposed to be 30 feet deep, the 10 foot building setback applies. Further, the Zoning Code allows garages to extend 6 feet closer to the street than the front building wall. But because the garage front extends 13 feet closer, the second Adjustment is requested.

The applicant intends to store a boat and truck in the garage. Garage doors on both the east and west façade will allow the owners to tow the boat into the garage, rather than back it in. The roof includes a faux dormer. The ceiling will be open. An upper floor or attic space is not proposed.

**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.

## ANALYSIS

**Site and Vicinity:** The 32,640 square foot residential lot is developed with a two-story single-dwelling residence. The home sits in the middle of the lot. It is set back approximately 70 feet from both the front and rear lot lines and at least 40 feet from the side property lines.

The surrounding area is developed with single-dwelling residences on larger, 10,000 square feet or more lots. The homes in the immediate area vary in architectural style and site location. Most of the homes have garages. SW 8<sup>th</sup> Avenue and many nearby streets have narrow roadways with no curbs and sidewalks.

**Zoning:** The site and surrounding properties are located in an R10, Single-Dwelling Residential 10,000 zone. The use regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The development standards work together to preserve the character of neighborhoods, and promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. The development standards are generally written for houses on flat, regularly shaped lots.

**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 4, 2010. The following Bureaus submitted written comments that will pertain to the building permit review. The responses have been forwarded to the applicant. A summary of comments is provided below.

The Bureau of Environmental Services responded with the following comment: The proposed splash blocks on south corner of the proposed garage do not meet BES Stormwater

Management Requirements. A site utility plan and stormwater management plan that complies with the Stormwater Management Manual is required for permit submittal (Exhibit E.1). The Site Development Section of BDS responded with the following comment: If on-site stormwater disposal facilities are proposed a geotechnical reports or engineering will be required to address the slope setback requirements (Exhibit E.2).

The Life Safety Plan Review Section of BDS responded with the following comment: Firewall building requirements are not required if the building is 3 feet from the property line and the eave does not extend within 2 feet of the property line (Exhibit E.3).

The Bureau of Parks-Forestry Division responded with the following comment: All right-of-way trees must be protected. If construction causes trees to be removed, mitigation for loss of trees will be required (Exhibit E.4).

The Fire Bureau will review the street and driveway accessibility of fire apparatus vehicles at time of building permit review. Improvement to driveway from SW 8<sup>th</sup> Avenue may be required. (Exhibit E.5).

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on May 4, 2010. One written response has been received from a notified property owner in response to the proposal. A property owner in the Collins View neighborhood objects to the proposal because: (1) The structure appears to be a storage facility/commercial building in a residential neighborhood, (2) the building is too close to SW 8<sup>th</sup> Avenue, (3) the building should meet the side setback requirement and (4) the structure will have a negative impact and destroy the architectural harmony of the residential neighborhood (Exhibit F.1).

## ZONING CODE APPROVAL CRITERIA

### 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 purpose of the development standards requested for Adjustment are found in Sections 33.110.253.A and 33.110.220.A, as follows:

#### **Garage-Street Lot Line Setback (33.110.253.A)**

These standards:

- Together with the window and main entrance standards, ensure that there is a physical and visual connection between the living area of the residence and the street;
- Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;
- Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;
- Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and
- Enhance public safety by preventing garages from blocking views of the street from inside the residence.

#### **Building Setbacks (33.110.230.A)**

The setback regulations for buildings and garage entrances 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.

Garage-Street Lot Line Setback.: The structure will be located closer to the street lot line than the longest street facing wall of the house. Because the detached structure will be located approximately 34 feet closer to the street than the front porch of the house and 27 feet in front of the attached front porch, the applicants wish to waive the requirement.

Even though closer to the street, the detached structure will only be 24 feet wide and will not obstruct the prominence of the two-story home which sits back from the street and is located on the upper portion of the lot. The house provides a visual connection between the living area of the house and the street. The front porch and entry offer ample opportunities for “eyes on the street” and making a visually pleasing experience for pedestrians. The street-facing façade of the detached garage will include windows in the upper story and in the garage door. Windows on the street facing façade of the garage provide for a more pleasant pedestrian environment.

The height of the structure from street grade to the mid-point of the peaked roof is approximately 16 feet. In the Single-Dwelling zones, including the R10 zone, homes and accessory structures may be as tall as 30 feet. This proposed structure will be considerably lower in height.

The north elevation of the garage will have no windows or other openings. The abutting site to the north is comprised of three separate lots, under the same ownership. The lot that abuts the subject site is 16,240 square feet is heavily vegetated. There is no residential development on that lot. A reduced setback along a property line that abuts a vacant lot does not adversely impact an existing residence and/or development.

The proposed garage will reflect the general building scale and placement of garages and detached garages in southwest Portland residential areas where the topography strongly influences the placement of structures and driveways. Even though the garage will be located in front of the house, it will be set back approximately 45 feet from the front property line. Therefore, vehicles will not overhang into the roadway area. The Portland Transportation staff reviewed this proposal and has no concerns regarding impacts into the right-of-way.

This proposal equally meets the purpose of the garage street lot line setback standard. Therefore, this criterion is met.

Side Building Setback: The applicant is requesting an Adjustment to reduce the required side building setback from 10 feet to 3.5 feet for the north property line.

The submitted north elevation of the structure shows a wall, approximately 10 feet high. The height is 16 feet at the mid-point of the roof. There will be no openings on this side of the building. It will be finished in horizontal lap siding.

The reduction of the north building setback from 10 feet to 3.5 feet will have no discernable impacts on privacy. Nor will it restrict light, air, or emergency access to the property. The 3.5 foot setback is adequate to provide access to the north building wall if needed for emergency purposes. Fire fighting access will be provided off of SW 8<sup>th</sup> Avenue. The Fire Bureau expressed no concerns about the proposed side setback reduction in its response to this proposal. At building permit review, the applicant will be required to show that the eave north side of the garage does not extend closer than 2 feet to the property line. Only if the structure is located within 3 feet of a property line and an eave is within 2 feet, do Building Code firewall standards apply. As proposed, no firewall requirements will apply.

Many of the residences within the Collins View neighborhood were built prior to City zoning regulations that established setback standards. Irregular-shaped lots and steep topography have placed constraints on the location of houses and other structures on lots. As a result, there is no consistency or uniformity in terms of building setbacks within the southwest Portland neighborhoods. The proposed location of the garage is reasonable and not inconsistent with the building pattern of the surrounding area.

Lastly, the proposed garage will not diminish the physical and visual connection between the living area of the residence and the street. For the above reasons, the proposal to reduce the north building setback from 10 feet to 3.5 feet will equally meet the purpose of the setback regulation. 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 site is located in a residential zone.

A property owner in the Collins View neighborhood, Mr. Walter Lamberti, submitted a letter objecting to the proposal. (Exhibit F.1). Mr. Lamberti states that the structure appears to be a storage facility/commercial building in a residential neighborhood and that it will have a negative impact on the architectural harmony of the residential neighborhood. The concerns raised regarding appearance have been reviewed.

The garage is designed to replicate architectural elements of the home. The proposal shows a garage door with windows, horizontal siding, a “fake dormer” with more windows facing SW 8<sup>th</sup> Avenue and a peaked roof, similar to that of the house. The detached accessory structure will be set back approximately 45 feet from the street and approximately 150 feet from the closest house to the north and at least 100 feet to closest house on the east side of SW 8<sup>th</sup> Avenue. The garage will be smaller, in terms of size and scale to the house and therefore less prominent. The garage will not obscure the main entrance of the house from the street. As explained under criterion A, there will be no discernable impacts to privacy.

A garage with lap siding, pitched roof, trim details, and a 16 foot wide, 8 foot tall garage door does not mirror commercial-like buildings. A condition will require the garage be constructed per the approved site plan and the approved east and north elevations can not be changed. A building permit will not be issued if the plans have been modified. Lastly, in single-family zones, garages may be used for the storage of vehicles (automobiles and recreational vehicles) and accessory activities such as the storage of yard and play equipment. Commercial uses, such as auto repair businesses, are prohibited.

For these reasons, the proposal will not significantly detract from the livability or appearance of the residential area. Therefore, 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:** Two Adjustments are requested. Individually and collectively, the requested Adjustments will still result in a project that is consistent with the overall purpose of the Single-Dwelling zone. This criterion is met.

- D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** City-designated scenic and historic resources are indicated on City zoning maps. There are no scenic or historic resources designated on the subject site. Therefore this criterion is not applicable.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** The proposal is to locate the detached accessory structure in front of the house and within 3.5 feet from a side property line. The structure will be used as an accessory garage, providing cover for the residents' vehicles and/or boat. There are no impacts anticipated that would require mitigation. This criterion has been 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:** Environmental zones are indicated on City zoning maps. There is no environmental zoning on the subject site. 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 garage will be appropriate in terms of size and scale to the house: The smaller structure will not be more prominent than the 2-story house. The garage will not obscure the main entrance of the house from the street. The proposed garage will visually match the house in terms of architectural style. The proposed adjustment meets the applicable approval criteria and should therefore be approved.


## ADMINISTRATIVE DECISION

Approval of the following two Adjustments for a new 720 square-foot detached garage: (1) allow the structure to be located 27 feet closer to the front property line than the house, measured from the front porch (Section 33.110.253.F) and (2) reduce the north building setback requirement (33.110.220.B and Table 110-3) from 10 feet to 3.5 feet, 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 10-129448 AD. No field changes to the east and north elevations are allowed."

**Staff Planner: Sheila Frugoli**

**Decision rendered by:**  **on June 23, 2010**

By authority of the Director of the Bureau of Development Services

**Decision mailed: June 23, 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.

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 9, 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](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 **July 12, 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:

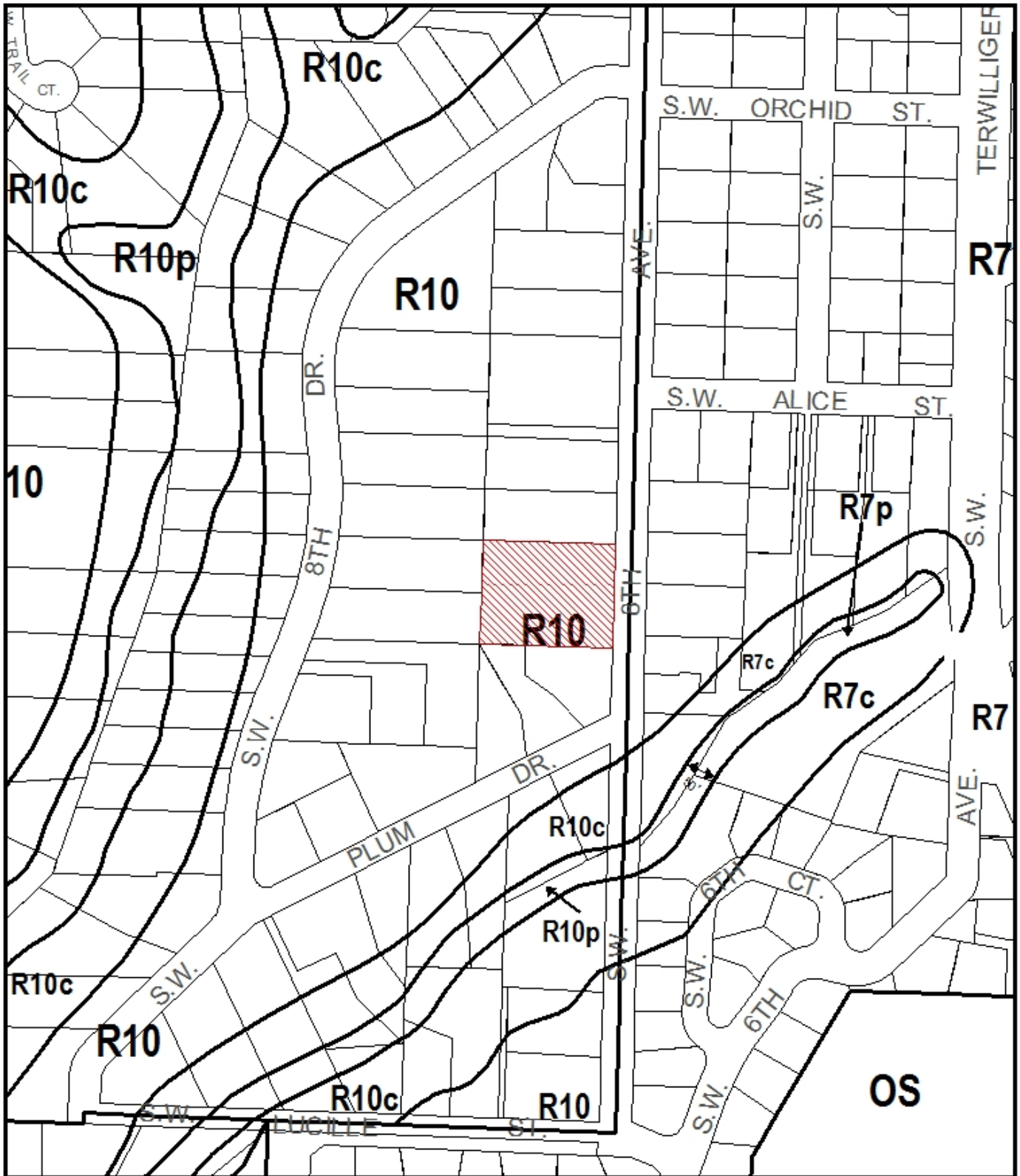
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. REVISED Site Plan, submitted June 16, 2010 (attached)
  - 2. East Elevation
  - 3. North Elevation
  - 4. West Elevation
  - 5. South Elevation
  - 6. Site Plan
  - 6. Photos of Existing House, Driveway and Tarp-Like Vehicle Cover
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 1. Site Development Review Section of BDS
  - 2. Life Safety Plans Review Section of BDS
  - 3. Bureau of Parks, Forestry Division
  - 4. Fire Bureau
  - 5. Bureau of Transportation Engineering and Development Review
  - 6. Water Bureau
- F. Correspondence:
  - 1. H. Walter Lamberti, May 20, 2010, opposes the proposal
  - 2. Request from Applicant to Revise DecisionD
- 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



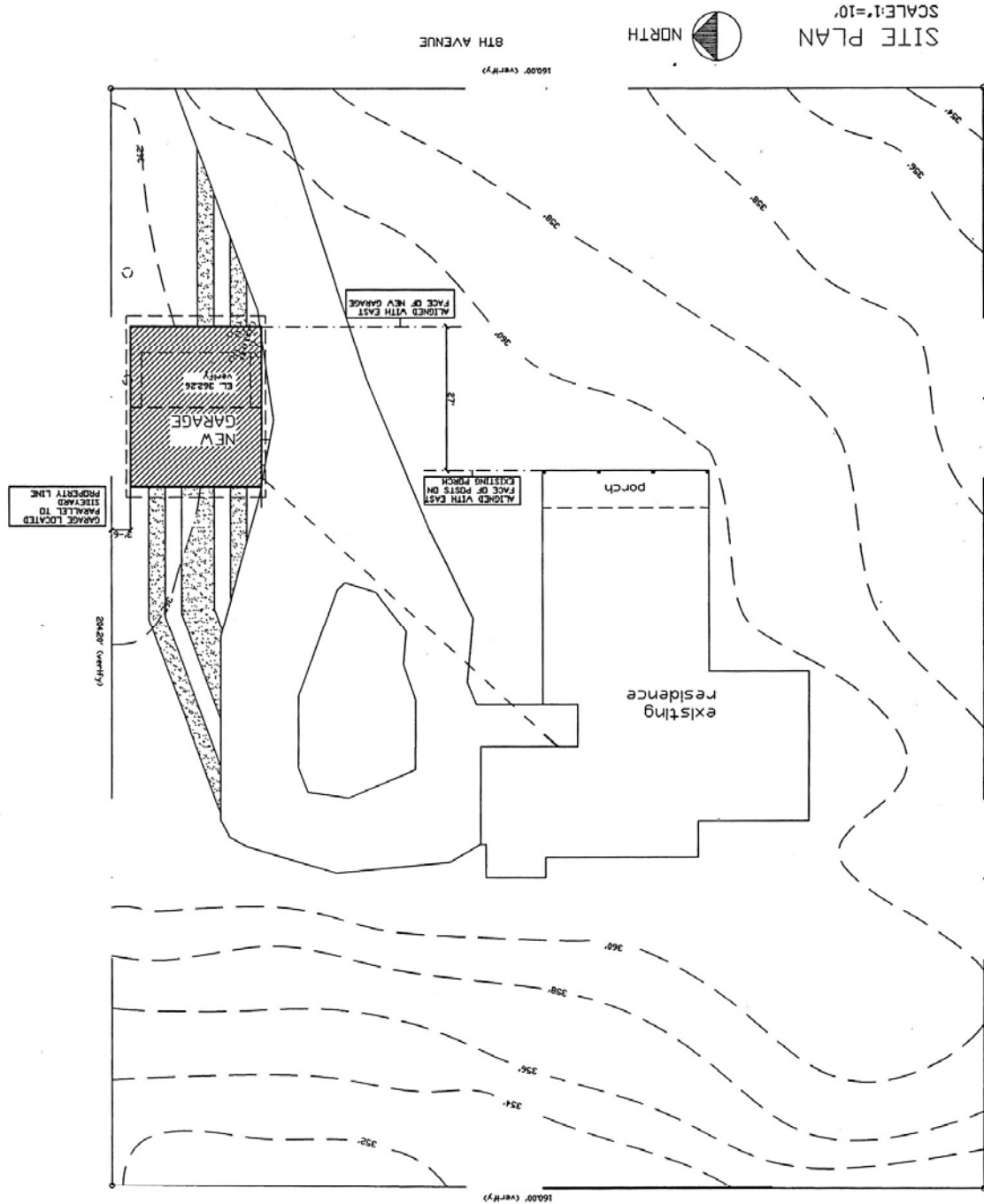
File No.	LU 10-129448 AD
1/4 Section	3928
Scale	1 inch = 200 feet
State Id	1S1E28AC 600
Exhibit	B (Apr 21, 2010)

RECEIVED

JUN 16 2010

Exhibit C.1

LU 10-129448AD



\*Approved\*

City of Portland, Bureau of Development Services

Planner *Shelika Ferguson*, Date *June 23 2010*

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