



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

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Date: September 9, 2010
To: Interested Person
From: Lois Jennings, Land Use Services
503-823-2877

**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 10-150132 AD

Applicant: Carol and Jerard Weigler
1637 NW Aspen Ave
Portland, OR 97210-1919
Phone #: 503-228-2672

Site Address: 1637 NW ASPEN AVE

Legal Description: BLOCK 33 LOT 13, WILLAMETTE HTS ADD
Tax Account No.: R913405880
State ID No.: 1N1E29CC 02100
Quarter Section: 2825
Neighborhood: Northwest District, contact John Bradley at 503-313-7574.
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Plan District: Northwest Hills - Forest Park Subdistrict
Zoning: R5-High Density Single Family Residential Zone
Case Type: AD-Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant is proposing to convert the existing garage into a utility room and studio, with an addition (underneath existing roofline) to the front which will square off the front of the residence. The zoning code requires an on-site parking space, which has been provided by the garage. When the garage is converted to living area, the required parking space will be eliminated. The zoning code regulates size and placement of parking spaces in the residential zone to be 18 feet long and a minimum of 9 feet wide and to be outside the front setback. Because parking is not allowed within the 10-foot front setback, the driveway parking area must be 28 feet deep. The applicant is proposing to utilize the existing driveway, which is 12 feet wide by 20 feet deep for the required parking space for the existing house. The applicant requests this adjustment to the zoning code standard 33.266.120.C. to allow the required parking to be within the front setback.

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 abuts Forest Park and is located on west side of NW Aspen Avenue. Northwest Aspen Avenue is a narrow paved local street. There is no sidewalk and curb in front of this property and the adjacent property to the south. The sidewalk on the west side of Northwest Aspen ends at NW Savier Street. Northwest Aspen dead ends into NW Raleigh street. This local street provides is classified as a City Walkway and provides two access points to park trails into Forest Park. Northwest Aspen avenue is improved with 20-feet of paving within a 50-foot right-of-way. The frontage for this property is not improved with curb or sidewalk (although immediately north of the subject site, there is an existing 3-6-1 sidewalk corridor that extends well to the north of the site).

Properties surrounding the site are developed predominantly with single story or two story single dwelling residences. Due to the slope of these properties, a majority of the homes and detached garages are closer to the front lot line than the required front setback of 10 feet or garage entrance setback of 18 feet. Some of the single family residences within this neighborhood have no on site parking and currently park on the street.

Zoning: The site is zoned R5- High Density Single Dwelling zone that allows a maximum density of 1 unit per 5,000 square feet. The Northwest Hills plan district protects sites with sensitive and highly valued resources and functional values. The portions of the plan district that include the Balch Creek Watershed and the Forest Park Subdistrict contain unique, high quality resources and functional values that require additional protection beyond that of the environmental overlay zone. These regulations provide the higher level of protection necessary for the plan district area. The Forest Park Subdistrict prohibits any ground disturbance between October 1, and April 30th. Forest Park is to the west of this property and is zoned OSp- Open Space with environmental protection “p”-zoning and the remainder of surrounding properties have R5 zoning, which allow single dwellings.

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

Neighborhood and Agency Review: A Notice of Proposal in your Neighborhood was mailed on August 10, 2010. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. The following Bureaus have responded with no issues or concerns.

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

The Bureau of Transportation Engineering comments are noted within the approval criteria findings noted below.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant requests an adjustment to allow the required parking space for this house to be within the front setback on the existing driveway. The purpose of the parking regulations for houses and duplexes is listed below:

- Section 33.266.120 Development Standards for Houses and Duplexes states the following: The size and placement of vehicle parking areas are regulated in order to enhance the appearance of the neighborhoods.

At times parking within the front setback can potentially create negative visual impacts depending upon the surrounding neighborhood and site specifics. The surrounding neighborhood currently is developed with detached garages and houses closer to the front property line than the required building setback of 10 feet or garage entrance setback of 18 feet. The appearance of the neighborhood will not be impacted by allowing this existing driveway to be the required parking space for the existing residence. Existing landscaping softens the impacts of vehicle parking within the front setback from the street and the abutting properties. Even with PBOT requiring the trimming of the existing vegetation within the public right-of-way (see criterion B below), additional landscaping may be planted on private property to continue to soften the impact to adjacent property owners.

With the conditions noted above 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 a 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: This site is zoned R5 – High Density Residential and has frontage along NW Aspen Avenue. The surrounding area is developed with existing single family houses or detached garages close to the front or developed right on the property line (less than 10 feet from front property line) due to the slope of the property or the time period when the garage and houses were built. Therefore it would not be out of character of the neighborhood for this required parking space to be within the front setback of 10 feet (from the front property line). Retaining a parking space on-site is a positive aspect in this situation, by also retaining off-street parking within the public right-of-way for the public. There is not a visual impact to the livability or appearance of the residential neighborhood since the driveway is there and is what is being utilized for the required on-site parking space. Currently those who visit the residents of this house would park their vehicle within the driveway and so does the resident. The Zoning Code currently allows vehicles to park in the setback if it behind a required parking space (which currently is within the garage, which is being converted to living space).

However, to improve the pedestrian access from the sidewalk corridor north of the subject site, (on the west side of NW Aspen) and to improve visibility for cars backing out from the subject site, the applicant will be required to trim back the existing vegetation that currently projects into the public right-of-way. Section 17.28.020 of Title 17 requires the owner(s) of land abutting any street in the City to be responsible for maintaining the parking strip in a safe condition (see Exhibit E.2 for further details). PBOT has no objections to this proposed adjustment, subject to the following condition “The existing vegetation that is growing into the public right-of-way shall be trimmed back to at least the abutting curb line. Said trimming to at least the abutting curb line shall include all vegetation along the entire frontage of the subject site and shall be completed prior to issuance of a Building Permit for the proposed project.”

Northwest Aspen is a City Walkway and by PBOT requiring the vegetation to be trimmed within the public right-of-way will provide a more safe and livable neighborhood for pedestrians and vehicles. The Adjustment request does not conflict with the desired character of the Residential (R5) Zone, which preserves land for housing and to provide

housing opportunities for individual households. The existing house will be retaining on-site parking, which will allow for parking on the street. 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: The site is not located within the scenic overlay zone nor is it designated as a historic landmark or resource. Therefore, this criterion is not applicable.

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

Findings: The applicant did not propose any mitigation for allowing the required parking to be within the front setback; since there is existing landscaping that provides screening of the vehicle from the street and adjacent properties.

A portion of this landscaping however is within the public right-of-way and may not count towards mitigation, especially since Transportation is requiring this vegetation to be trimmed back to the curb line to assist in vehicular visibility and pedestrian safety along this sidewalk corridor.

The existing landscaping on-site provides mitigation for allowing the required parking space to be within the front building setback of 10 feet (from the front property line). 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 applicant is proposing to convert the existing garage into a utility room and studio, with an addition (underneath existing roofline) to the front which will square off the front of the residence. By converting the existing garage into living space the required parking space will be eliminated. Therefore the applicant is requesting an adjustment to allow the required parking space to be located with the existing driveway (12 ft x 20 ft) and within the front building setback of 10 feet. As noted in this report, the proposal meets the Adjustment approval criteria with approval granted based on the condition of approval to trim back the vegetation (within the public right-of-way) along the site’s frontage.

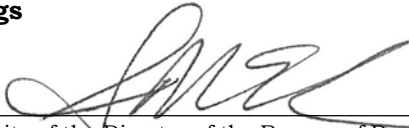
ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.266.120.C.1.a, Parking area location, in order to allow the required parking space to be within the front building setback (10 feet) for this house. This

required parking space is to be located within the existing driveway as shown on the approved site plans, Exhibits C.1 signed and dated September 2, 2010

- A. As part of the building permit application submittal, the following development-related conditions B must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 10-150132 AD ." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Transportation (PBOT) per Title 17.28.020.A requires the existing vegetation that is growing in the public right-of-way to be trimmed back to at least the abutting curb line. Said trimming to at least the abutting curb line shall include all vegetation along the entire frontage of the subject site and shall be completed prior to issuance of a Building Permit for the proposed project.

Staff Planner: Lois Jennings

Decision rendered by:  **on September 7, 2010.**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 9, 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 June 24, 2010, and was determined to be complete on August 5, 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 June 24, 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: December 3, 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 September 23, 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 **September 24, 2010**.
- 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.

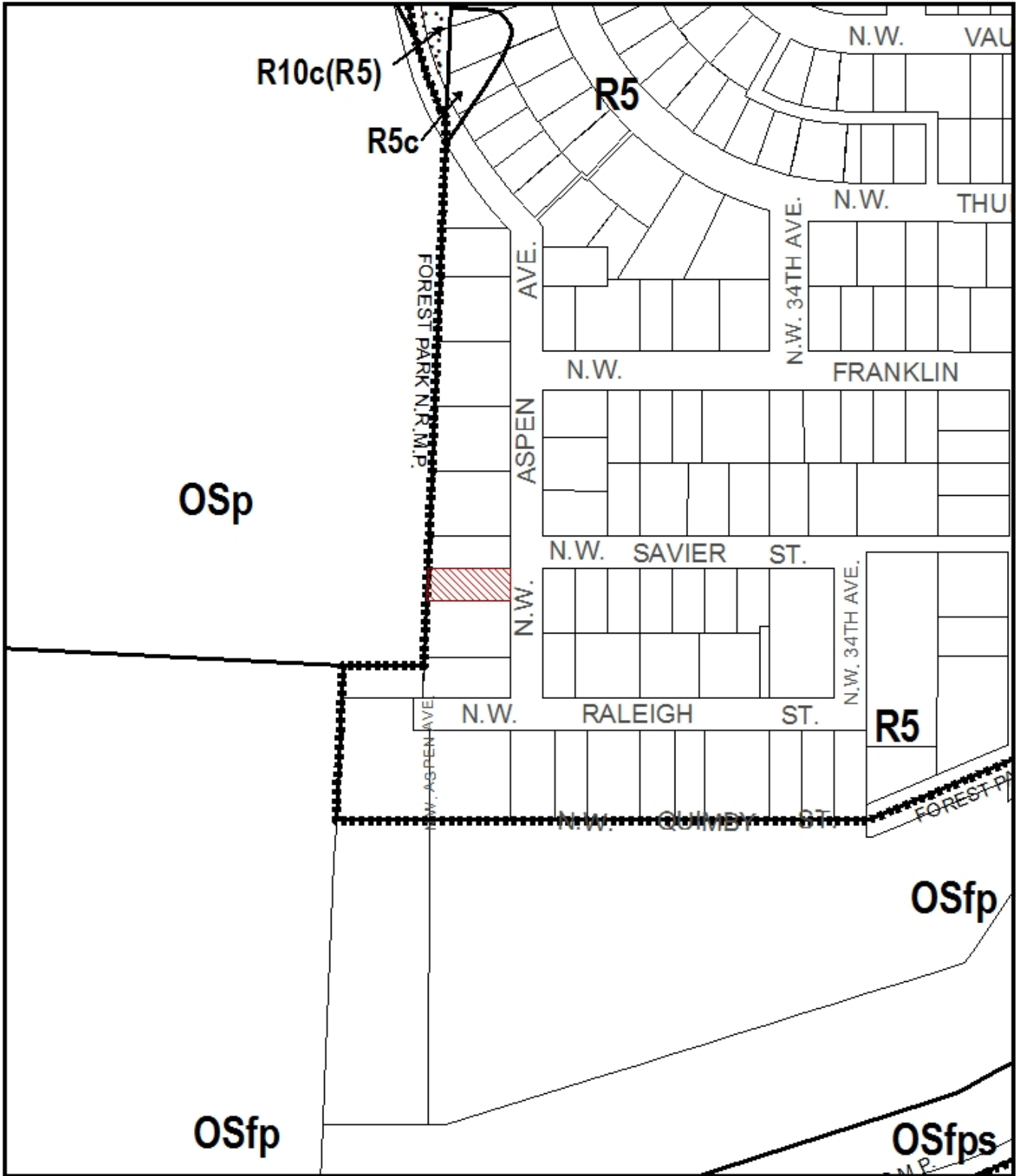
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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 submittal
 1. Original submittal packet
 2. Revised Narrative and plans submitted 8/5/2010
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Elevations & Floor 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 Section of BDS
- F. Correspondence:
 1. Incomplete Letter to applicant from BDS dated July 7, 2010
- G. Other:
 1. Original LU Application
 2. Site History Research



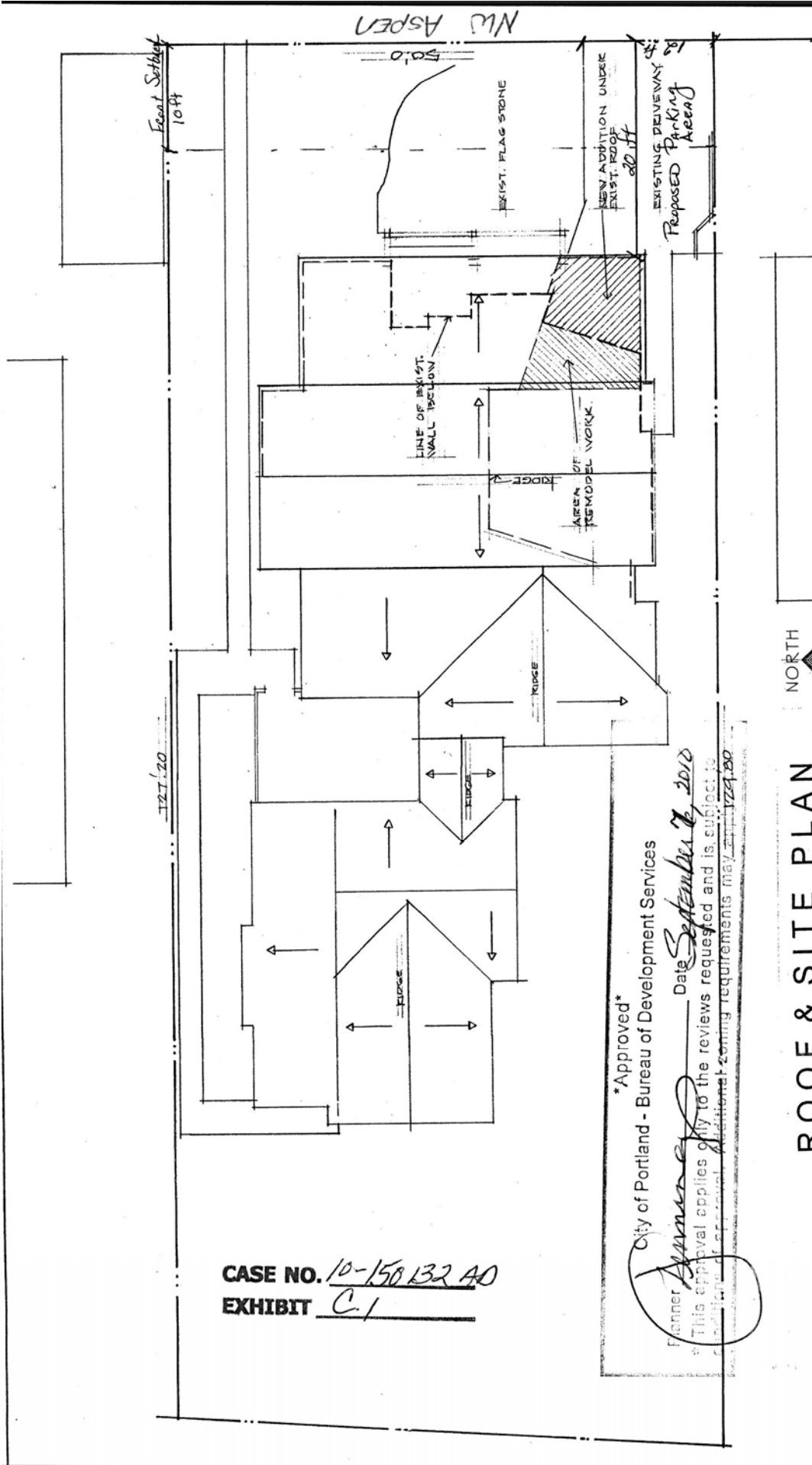
ZONING

 Site



This site lies within the:
NORTHWEST HILL S PLAN DISTRICT

File No.	LU 10-150132 AD
1/4 Section	2825
Scale	1 inch = 200 feet
State_Id	1N1E29CC 2100
Exhibit	B (Jul 01,2010)



CASE NO. 10-150132 AD
 EXHIBIT C-1

Approved
 City of Portland - Bureau of Development Services
 Planner [Signature] Date September 7, 2010
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply. 1/24/20



ROOF & SITE PLAN

