



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

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503-823-7300
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TTY 503-823-6868
www.portlandonline.com/bds

Date: May 2, 2011
To: Interested Person
From: Mieke Keenan, Land Use Services
503-823-0624 / Mieke.Keenan@portlandoregon.gov

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 11-120768 AD

GENERAL INFORMATION

Applicant/Owner: Steven R Lacey, and Abigail Spring
5125 SE Ogden St
Portland, OR 97206

Site Address: 5133 SE OGDEN ST
Legal Description: BLOCK 6 LOT 33&34, ERROL HTS
Tax Account No.: R255300900
State ID No.: 1S2E19BD 01900
Quarter Section: 3735
Neighborhood: Brentwood-Darlington, contact Eric Wikoff at 503-704-2396.
Business District: Woodstock Community Business Association, contact Lori Boisen at 503-760-7968.

District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.
Zoning: R5a (Residential 5,000 with the alternative design density overlay)
Case Type: AD (Adjustment)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicants are proposing to allow surface parking within the required 10-foot front setback. The Portland Zoning Code, Title 33, regulates the size and placement of parking spaces. Code Sections 33.266.120.C-D require lots with single-dwelling residences to have a minimum of one on-site parking space that is at least 9- feet wide and 18- feet deep. The required parking space must be set back a minimum of 10- feet from the front property line, for a total of 28- feet. *The purpose for these regulations is to enhance the appearance of neighborhoods.*

The applicants are in the process of converting their existing garage to living space (RS 11-104419) and are seeking an adjustment to 33.110.220 to allow a surface parking space within the required 10-foot setback, reducing the setback from 10-feet to 0-feet.

There is approximately 18-feet between the front property line and the existing house, which provides enough length for one surface parking space. There is approximately 10 feet of public right-of-way between the back of the sidewalk and the front property line.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805.040.A-F of the Portland Zoning Code

ANALYSIS

Site and Vicinity: The existing residence is the previous Fire District No.1 building which has been converted to a dwelling family residence. The exterior façade of the building has been maintained as the fire house and still posts the “Fire District No.1” signage.

The property and surrounding neighborhood is generally flat and developed with single dwelling residences on lots typical of the R5 zone. The subject property is approximately 5,000 square feet in size with the largest lot on the block being approximately 7,500 square feet and the smallest approximately 2,500 square feet. Properties to the north, south, east and west are developed with single dwelling homes that are moderately sized, with SE 52nd Avenue flanking the neighboring property to the east. The east side of SE 52nd Avenue is zoned CN2 (Neighborhood Commercial) to promote small commercial development, at this location.

Zoning: The R5 zone is a high density single-dwelling zone. The R5 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 **April 7, 2011**. The following Bureaus have responded with no issues or concerns:

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

The Bureau of Transportation Engineering responded with comments. Exhibit E-2 contains additional information.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 7, 2011. One written response has been received from a notified property owner in response to the proposal. The property owner wrote in opposition to the proposal. They state that the adjustment will reduce the curb appeal of the properties in the neighborhood.

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 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below have been met.

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

The purpose of the setback regulations, per 33.110.220, is to:

- maintain light, air, separation for fire protection, and access for fire fighting;
- reflect the general building scale and placement of houses in the city's neighborhoods;
- promote a reasonable physical relationship between residences;
- promote options for privacy for neighboring properties;
- require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
- 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.

Findings: The proposed adjustment is for existing development. Since the applicant is converting the existing garage to living space they are proposing to allow surface parking in front of the building. Since no exterior changes will be made light, air, separation for fire protection and access for fire fighting will be maintained. The general building scale and placement will also be maintained.

The front property line is set back 10 feet from the back of the sidewalk. This is an important distinction because the 10 feet between the back of the sidewalk and front property line functions as the front setback, and will maintain the overall appearance of the neighborhood. Currently there is 28 feet between the back of the sidewalk and the garage entrance and 18 feet between the front property line and the building wall. The width of the driveway exceeds the 9 foot requirement. As such the existing driveway meets the dimension requirements for a parking space without interfering with the existing development pattern. No new development is proposed as part of this adjustment and an open front yard will be maintained. The applicant has noted that they plan on removing a portion of the existing pavement and convert it to garden space improving the overall appearance of the front yard. No impact on privacy is anticipated. Because there is 28 feet between the building and back of the sidewalk a car can park in the driveway without overhanging the street or sidewalk. Visibility will be maintained.

The 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 proposed adjustment will not detract from the livability or appearance of the area. There is adequate room to allow the existing driveway to function as a parking space. The applicant has noted that the availability of on street parking is limited and providing an on-site parking space will improve the livability of the neighborhood. Since cars are currently parking in the driveway there will be no change to appearance of the property or to the street in general.

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 being requested.

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

Findings: The site is not within a City-designated scenic resource area or a historic resource area. Therefore, this criterion does not apply

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

Findings: No impacts are anticipated from the proposed adjustments. Therefore, this criterion does not apply.

- 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. Therefore, this criterion does not apply.

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

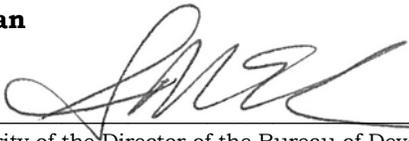
All of the approval criteria have been met for the requested Adjustment. The proposed adjustment will not detract from the livability of the neighborhood and provides adequate space for an open front yard. The existing 10' feet of right of way between the back of the sidewalk and front property line functions as the front setback. For these reasons, the Adjustment should be approved.

ADMINISTRATIVE DECISION

Approval of an adjustment to code section 33.110.220 to allow parking within the required front building setback, reducing the 10 foot setback to 0 feet per the approved site plans, Exhibits C.1 signed and dated April 28, 2011, 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. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 11-120768 AD".

Staff Planner: Mieke Keenan

Decision rendered by:  **on April 28, 2011.**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 2, 2011

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 March 16, 2011, and was determined to be complete on **April 4, 2011**.

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 March 16, 2011.

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 May 16, 2011** 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 **May 17, 2011 – (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.

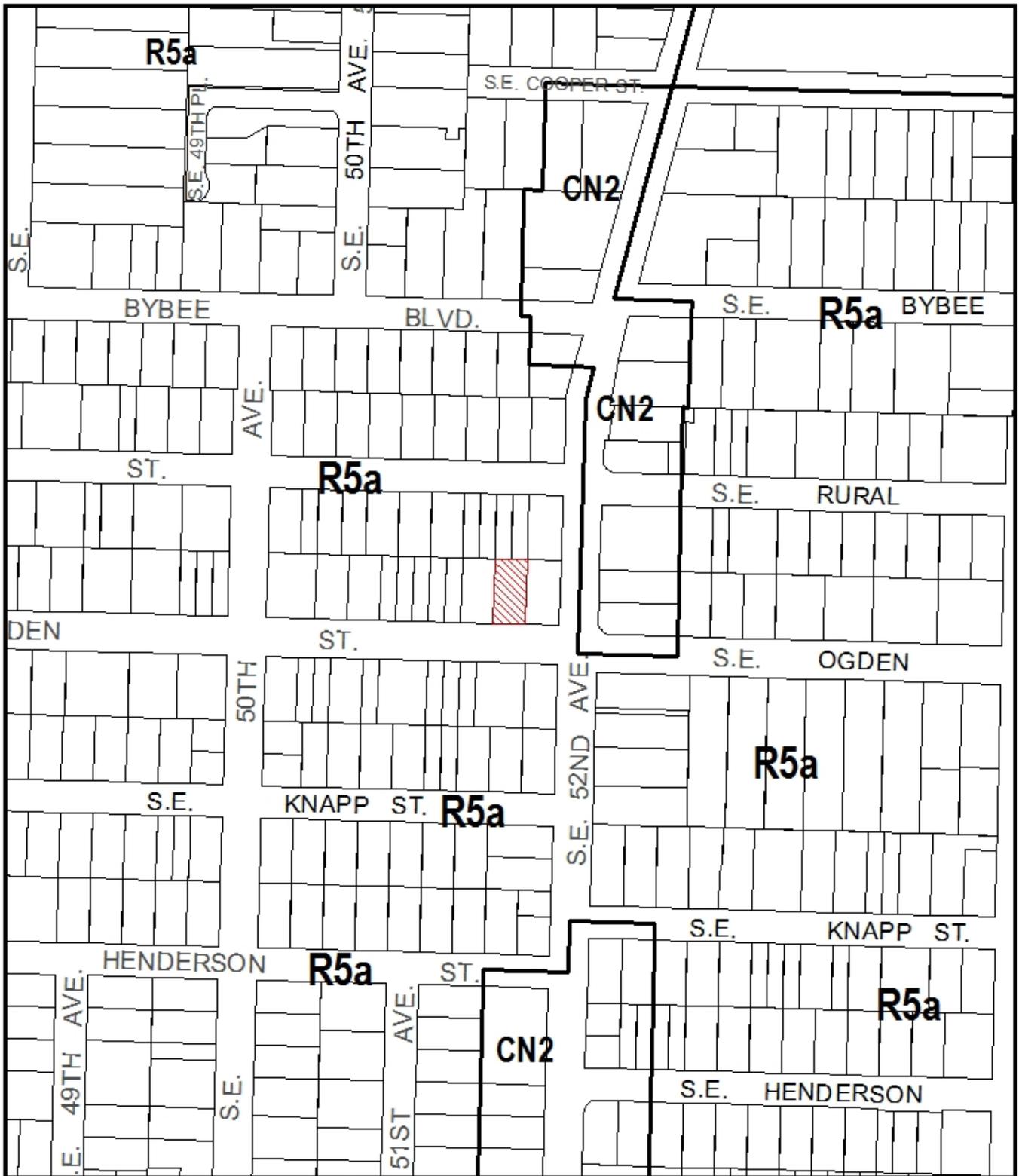
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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)
- 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:
 - 1) Gregg S, Lao and Anne Wedyawati
- 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).



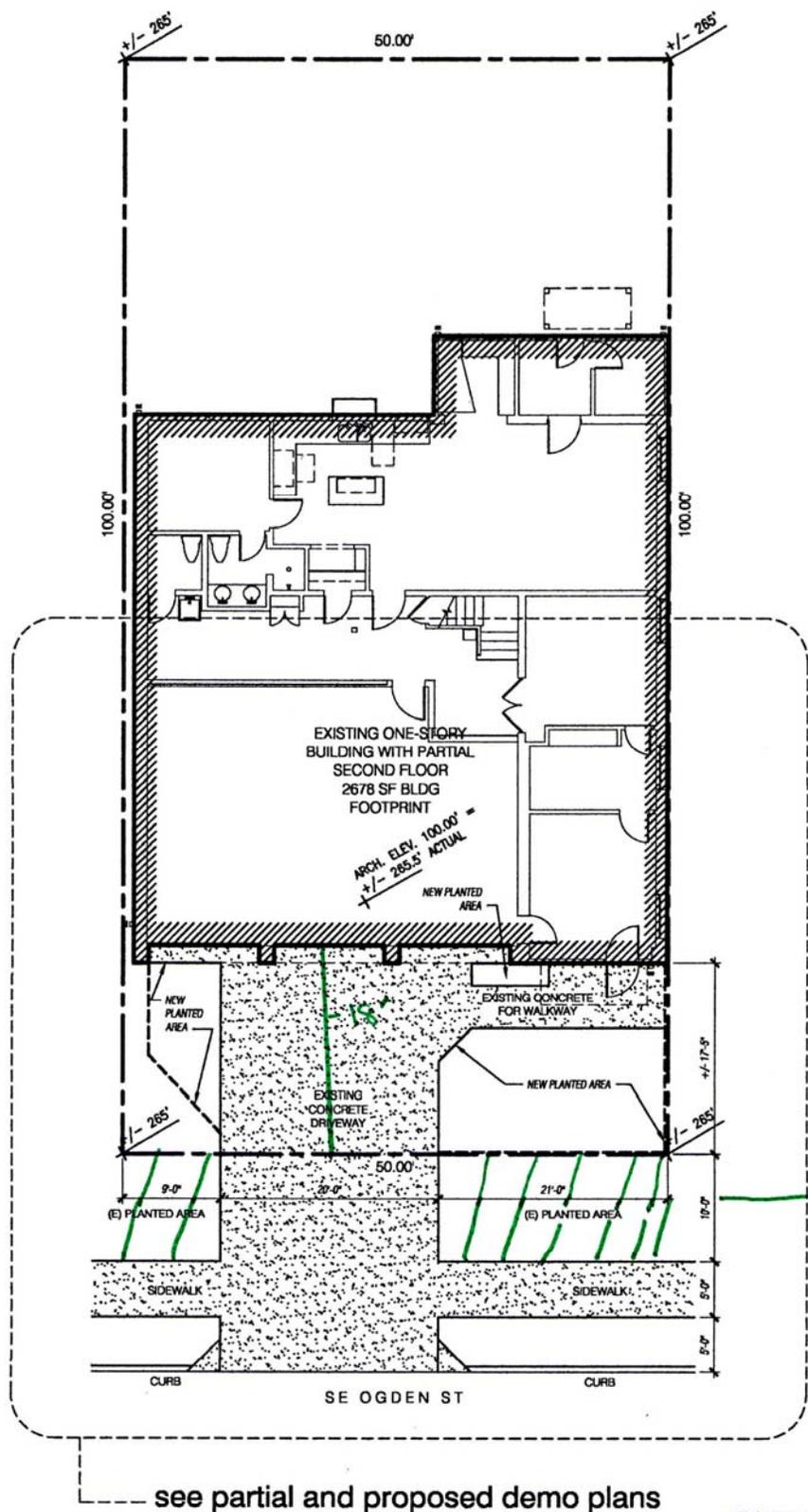
ZONING



Site



File No.	LU 11-120768 AD
1/4 Section	3735
Scale	1 inch = 200 feet
State_Id	1S2E19BD 1900
Exhibit	B (Mar 22, 2011)



* 10 feet of public right of way between back of sidewalk and property line.

see partial and proposed demo plans

CASE NO. 11-120768
EXHIBIT C

PROPOSED SITE PLAN

