



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** July 21, 2011  
**To:** Interested Person  
**From:** Mark Bello, Land Use Services  
503-823-7810 / [Mark.Bello@portlandoregon.gov](mailto:Mark.Bello@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.

### **GENERAL INFORMATION**

## **CASE FILE NUMBER: LU 11-146132 AD** **3322 SE JOHNSON CREEK BLVD. CARPORT LOCATION & WIDTH**

**Applicant:** Steve C Weakland  
Megan N Weakland  
3322 SE Johnson Creek Blvd  
Milwaukie, OR 97222

**Site Address:** 3322 SE JOHNSON CREEK BLVD

**Legal Description:** BLOCK 2 LOT 2, ENYART ADD  
**Tax Account No.:** R253800490  
**State ID No.:** 1S1E24DC 06000  
**Quarter Section:** 3834

**Neighborhood:** Ardenwald-Johnson Creek, contact Mary King at 503-654-2969.  
**Business District:** None  
**District Coalition:** Southeast Uplift, contact Leah Hyman at 503-232-0010.

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

**Proposal:** In 2009, the applicant tore down an existing structure and replaced it with a carport. The carport does not meet the zoning code standard for the width of a carport between the house/detached garage and SE Harney Court as it blocks more than 50 percent of the house (Section 33.110.253 E). The applicant has requested an adjustment to "block" 61% of the garage and house located to the north. Note: even though the existing garage blocks a portion of the house, the full width of the house is used in this calculation.

## ANALYSIS

**Zoning:** The Residential 10,000 (R10) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 6,000 square feet, with minimum width and depth dimensions of 50 and 60 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 10,000 square feet of site area.

**Land Use History:** City records indicate there are no prior land use reviews for this site. An earlier application, LU 11-127547 AD for a reduction in the required side setback was incorrectly required. It was withdrawn when it was determined by City staff that the zoning code allows placement of the garage in the side setback. However, this adjustment application was required for the placement of the 18.5 ft. wide carport in this location.

The city has approved a zoning permit to legalize a driveway (ZP 11-128816) and the applicant will apply for a building permit for the carport itself once this adjustment application process is final.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **June 17, 2011**. The following Bureaus have responded with no issues or concerns:

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. Bureau of Development Service, Life Safety

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on June 17, 2011. 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 of 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. They also allow for alternative ways to meet the purposes of the code, while allowing the zoning.

**33.805.040 Adjustment Approval Criteria** The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. have been met:

**Relevant Approval Criteria:** To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

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

*33.110.253 Garages*

*A. Purpose. 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);*
- and

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area; and
- 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
- D.** City-designated scenic resources and historic resources are preserved; and
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and.
- 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 AND CONCLUSIONS**

The applicant's proposal meets all of the relevant approval criteria.

The applicant's site is a through lot between SE Johnson Creek Boulevard and SE Harney Court. The house orients to SE Johnson Creek Blvd. The existing garage and carport are located to the south of the house. The old driveway extends from the garage to SE Johnson Creek Blvd. Johnson Creek Boulevard is a neighborhood collector street and transit street while SE Harney is a local service street. The former street has sidewalks and the latter none. So, the primary visual connection should be between the house and SE Harney. As proposed, the carport has no impact on this connection. The applicant will access the site from SE Harney Court in the future. The entire area between the house and SE Johnson Creek Blvd. will be clear of visual or other obstructions between this street and the house/main entrance.

The carport replaces a previous structure but is built stronger and safer in a similar location. Landscaping to the west screens the carport in that direction. The yard between the carport and the neighboring driveway to the east is grassed. The carport is set back approximately 29.5 ft. from the south property line and no significant impact is expected for neighbors to the south.

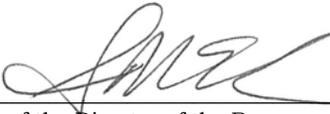
No cumulative impacts are expected to occur from approval of the proposal and it is consistent with the purpose of the R10 zone, which is to preserve land for housing and to provide housing opportunities for individual household. There are no scenic or historic resources on the site; no impacts have been identified and the site is not located in an environmental zone, so the criteria related to these issues do not apply. Therefore, because all of the relevant approval criteria are met, the proposal can be approved, in substantial compliance with the proposed site plan.

**ADMINISTRATIVE DECISION**

Approval of an Adjustment to Section 33.110.253 E, to allow the placement of a carport 18.5 ft. in width (and more than 50% of the length of the south façade of the house) to be located between the existing house and SE Harney Court, per the approved site plan, Exhibit C-1, signed and dated July 19, 2011, 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 11-146132 AD.

**Staff Planner: Mark Bello**

**Decision rendered by:**  **on July 19, 2011**

By authority of the Director of the Bureau of Development Services

**Decision mailed: July 21, 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 June 7, 2011, and was determined to be complete on June 13, 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 June 7, 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. Unless further extended by the applicant, **the 120 days will expire on: October 11, 2011.**

**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 August 4, 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](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 **August 5, 2011**.
- 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.

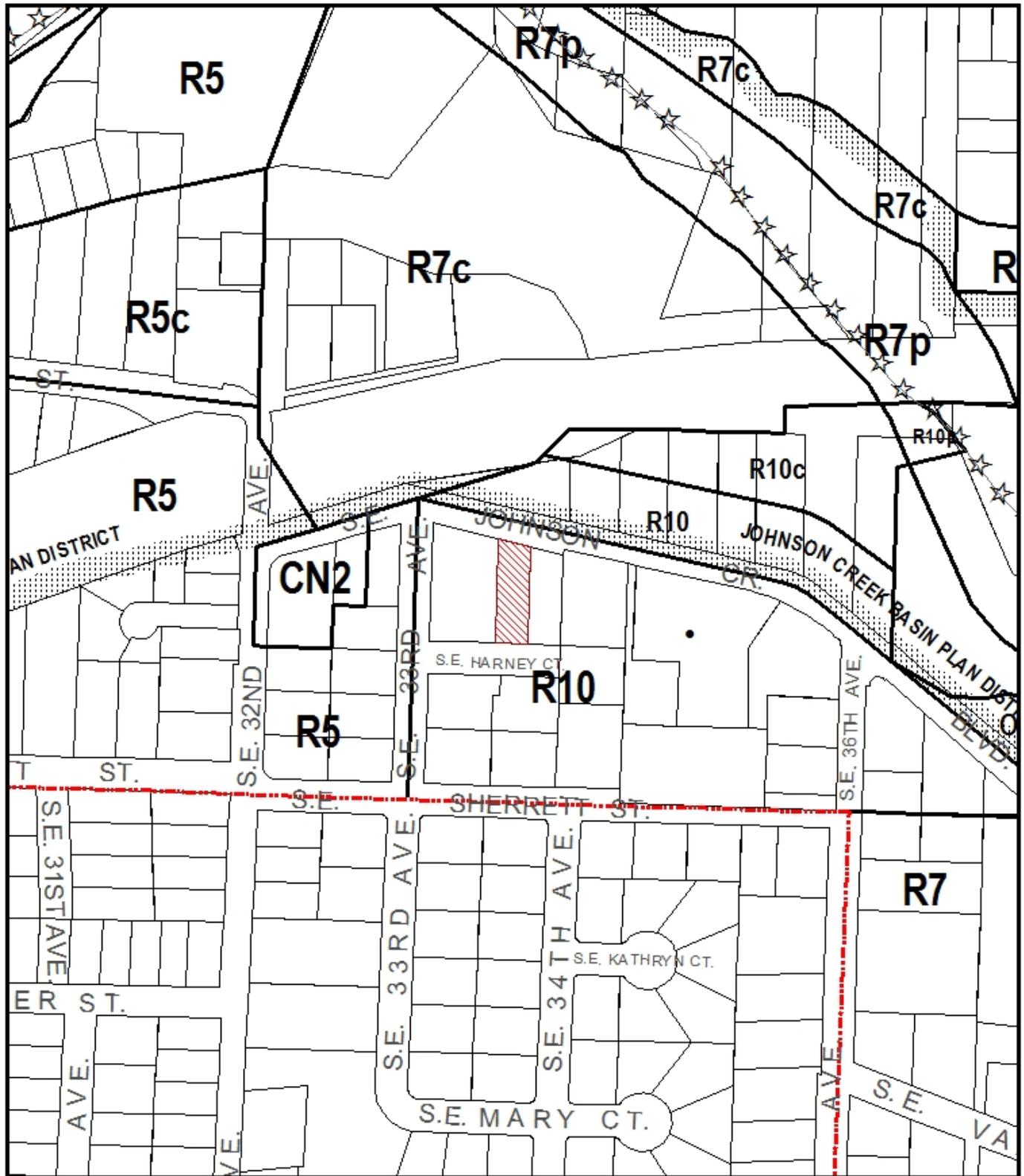
**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
  - 7. Bureau of Development Services, Life Safety
- F. Correspondence: (none)
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Engineering Review



# ZONING



Site



Historic Landmark



File No.	LU 11-146132 AD
1/4 Section	3834
Scale	1 inch = 200 feet
State_Id	1S1E24DC 6000
Exhibit	B (Jun 13, 2011)

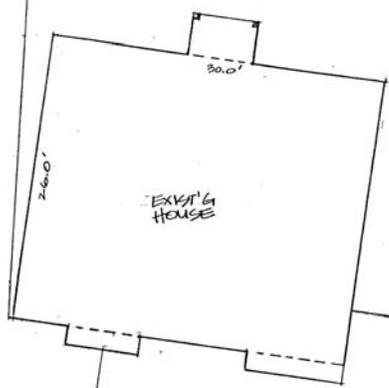
SE JOHNSON CREEK BLVD

51.05' SIDEWALK

**SITE PLAN FOR  
STEVE AND MEGAN WEAKLAND**  
3322 SE JOHNSON CREEK BLVD  
PORTLAND, OREGON 97222  
MULTNOMAH COUNTY

LOT 2, BLK 2, ENYART ADDITION  
1S1E24DC 6000  
7869.9 SF

EXISTING DRIVE (ABANDONED)



CONCRETE PATIO



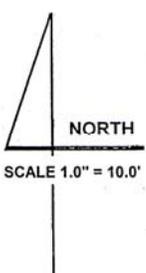
THE SITE HAS NO SLOPES GREATER THAN 5%



NEW DRIVEWAY

150.42' FENCE

EXISTING DRIVE



3.5'

2.0'

18.5'

29.5'

50.5'

SE HARNEY CT

CASE NO. 11-14632  
EXHIBIT C1

Approved\*  
City of Portland - Bureau of Development Services  
WB Date 7/19/11  
Subject to the reviews requested and is subject to all additional zoning requirements may apply.