



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
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Date: June 12, 2012
To: Interested Person
From: Sylvia Cate, Land Use Services
503-823-7771 / Sylvia.Cate@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 12-124490 AD

GENERAL INFORMATION

Applicant: Robert D Gold, Property owner
7132 SW Corbett Ave
Portland, OR 97219-2902

Representative: Matt Haggstrom, Main contact
Wolf Construction
24027 SE Filbert Rd
Eagle Creek, OR 97022

Site Address: 7132 SW CORBETT AVE

Legal Description: BLOCK 4 WLY 26.55' OF S 25' OF LOT 3 LOT 14, CORBETT TERR
RPLT

Tax Account No.: R178201500
State ID No.: 1S1E22BA 11300
Quarter Section: 3729
Neighborhood: South Portland NA., contact Jim Davis at 503-248-9820.
Business District: South Portland Business Association, contact Kevin Countryman at 503-750-2984.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Zoning: R5, Single-Dwelling Residential 5,000
Case Type: AD, Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant requests an Adjustment to reduce the setback requirement for a garden shed built circa 1980 without benefit of permits. The required setback for accessory structures in the R5 zone is 5 feet. The garden shed exceeds the setback on the south side, but is located at 4 feet from the north property line. Therefore the applicant requests an Adjustment to reduce the setback for the shed from 5 to 4 feet.

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 site is a 5,650 square foot lot developed with a two-story house built circa 1965. The lot is rectangular with an additional 'stub' approximately 26 x 25 feet in area, along the easterly [rear] property line. The structure triggering the Adjustment request is located within this additional lot area. Residential uses and development typical of the R5 zone surrounds the site to the north, east, and south. Directly to the west, across SW Corbett Avenue are ODOT owned lands sloping steeply down to the Interstate 5 Highway corridor. Significant topography exists in the immediate area, with SW Corbett dropping in elevation to the north, to the east the grade slopes downhill toward SW Laview Drive. Lots directly south are generally at the same grade as the subject site.

Zoning: The site is zoned R5. The R5 zone is a high density single-dwelling zone. The R5 zone allows attached and detached single-dwelling structures and duplexes. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing.

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 10, 2012. The following Bureaus have responded with no issues or concerns:

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on May 10, 2012. Two written responses have been received from notified property owners in response to the Notice, both letters are in support of the proposal. One notified neighbor called staff to state they had no objection to the requested Adjustment, but did express concerns about stormwater management and potential stormwater run off issues affecting properties downhill from the subject site. *Note:* The applicant is required to legalize the structure by obtaining a building permit. Building code, stormwater management, as well as a number of other code requirements will be applicable at time of building permit review.

ZONING CODE APPROVAL CRITERIA**33.805.010 Purpose (Adjustments)**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

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

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

Findings: The relevant purposes for Setback regulations are found at 33.110.220.A, which states:

The building setback regulations serve several purposes:

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

The 16 x 20 foot detached accessory structure was constructed in the early 1980's without benefit of permits. The structure is used as a garden/utility shed and is accessed by a barn-style slider door on the west façade. The shed is set back 6 feet from the south property line, and 8 feet from the rear property line. However, the shed is 4 feet from the northerly property line; hence the request to reduce the setback by 1 foot.

The accessory structure is located behind the residence on this lot, and situated within a small 'bump out' additional area at the southeast corner of the lot. Given the structure's location in relation to adjacent properties developed with residential uses, the structure has a reasonable physical relationship to the adjacent structures. The structure itself is relatively small in scale with a 320 square foot floor area.

The 1 foot reduction of the side setback from the north property line does not significantly impact adjacent structures, or impinge on light, air and access for fire fighting. The Fire Bureau notes no concerns. The proposed 1 foot reduction to the side setback does not appear to reduce privacy for adjacent properties. The reduced site setback will not alter the existing front yard setback nor impact the visual appearance of the front yard area of the subject site.

By approving the requested reduction in the side setback, the current placement of the structure will remain as is. The location does not impinge on required outdoor area, remains compatible with the surrounding neighborhood and provides flexibility in keeping this structure as located in an 'out of the way' area on the property. For these reasons, 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 lies within the R5 residential zone. The detached accessory structure has been on the site since the early 1980's. The shed structure cannot be seen from SW Corbett Street due to its location behind the existing house and mature

vegetation that provides significant visual screening. Property lines of abutting lots are fenced and are also characterized by lush foliage, so the visibility of the shed is minimized. The detached accessory structure provides enhanced livability because it provides indoor storage for typical home and garden equipment and tools which otherwise might be stored outside in an unsightly manner. The requested Adjustment to reduce the setback for the shed from 5 to 4 feet will not create a significant visual detraction nor impinge on the livability of the residential area. For these reasons, 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: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not within an environmental zone. This criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant requests an Adjustment to reduce the setback requirement for a garden shed built circa 1980 without benefit of permits. The required setback for accessory structures in the R5 zone is 5 feet. The garden shed exceeds the setback on the south side, but is located at 4 feet from the north property line. Therefore the applicant requests an Adjustment to reduce the setback for the shed from 5 to 4 feet. The proposal meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

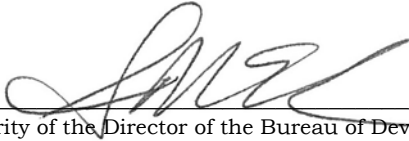
Approval of:

- Adjustment to 33.110.225, to reduce the side setback for a detached accessory structure/shed from five feet to four feet from the northerly property line, per the

approved site plans, Exhibits C-1 through C-xx, signed and dated month/day/year, 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-124490 AD."

Staff Planner: Sylvia Cate

Decision rendered by:  **on June 8, 2012**
By authority of the Director of the Bureau of Development Services

Decision mailed: June 12, 2012

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 29, 2012, and was determined to be complete on **May 4, 2012**.

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 29, 2012.

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: September 1, 2012.**

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 June 26, 2012** 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 **June 27, 2012.**
- 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.

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:

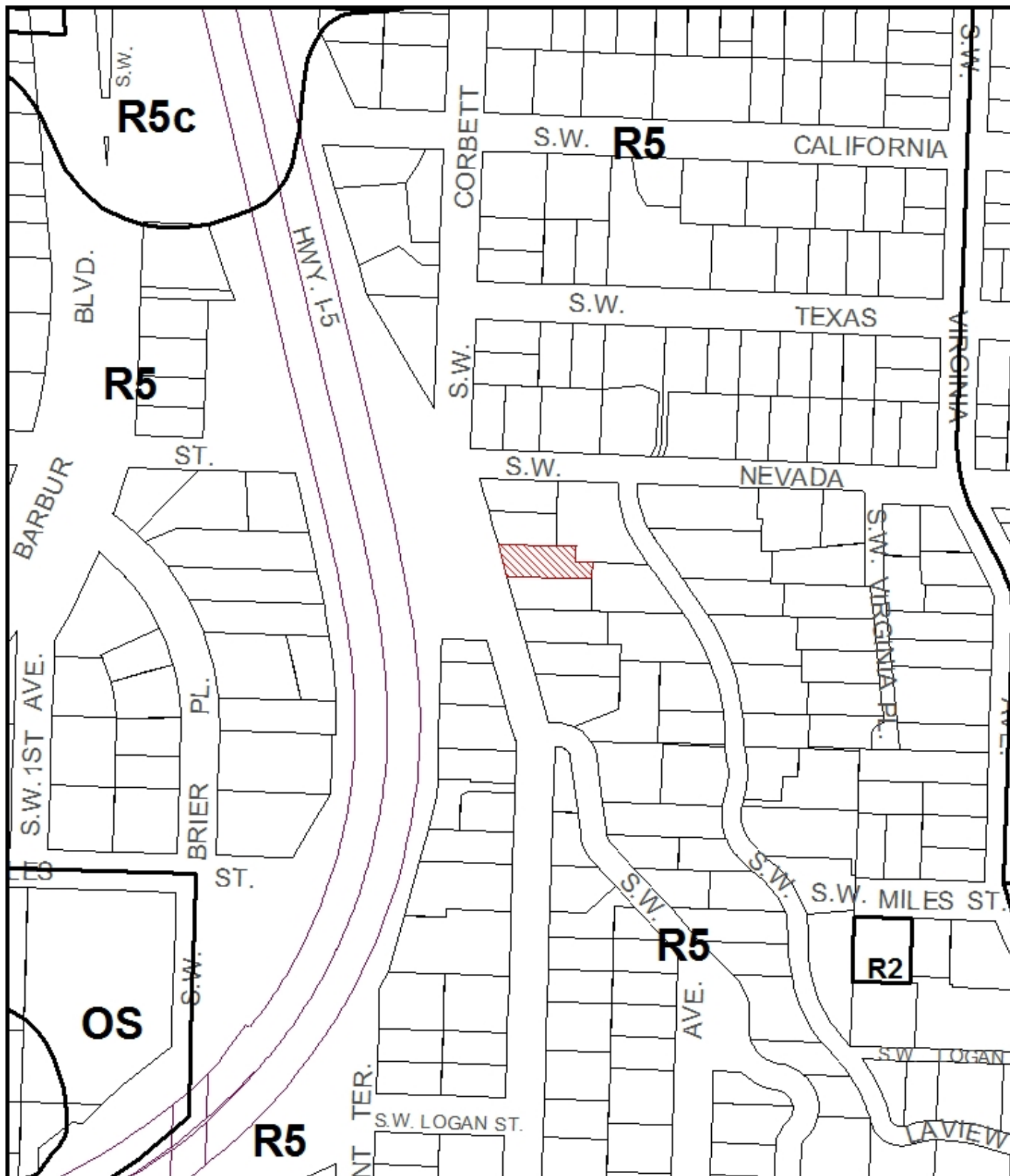
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations 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. Life Safety Plans Examiner Section of BDS
- F. Correspondence:
 - 1. D S Wright, May 18, 2012, No Objections
 - 2. E Sullivan, May 27, 2012, In support
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Letter to applicant, April 17, 2012; re: need additional information

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).

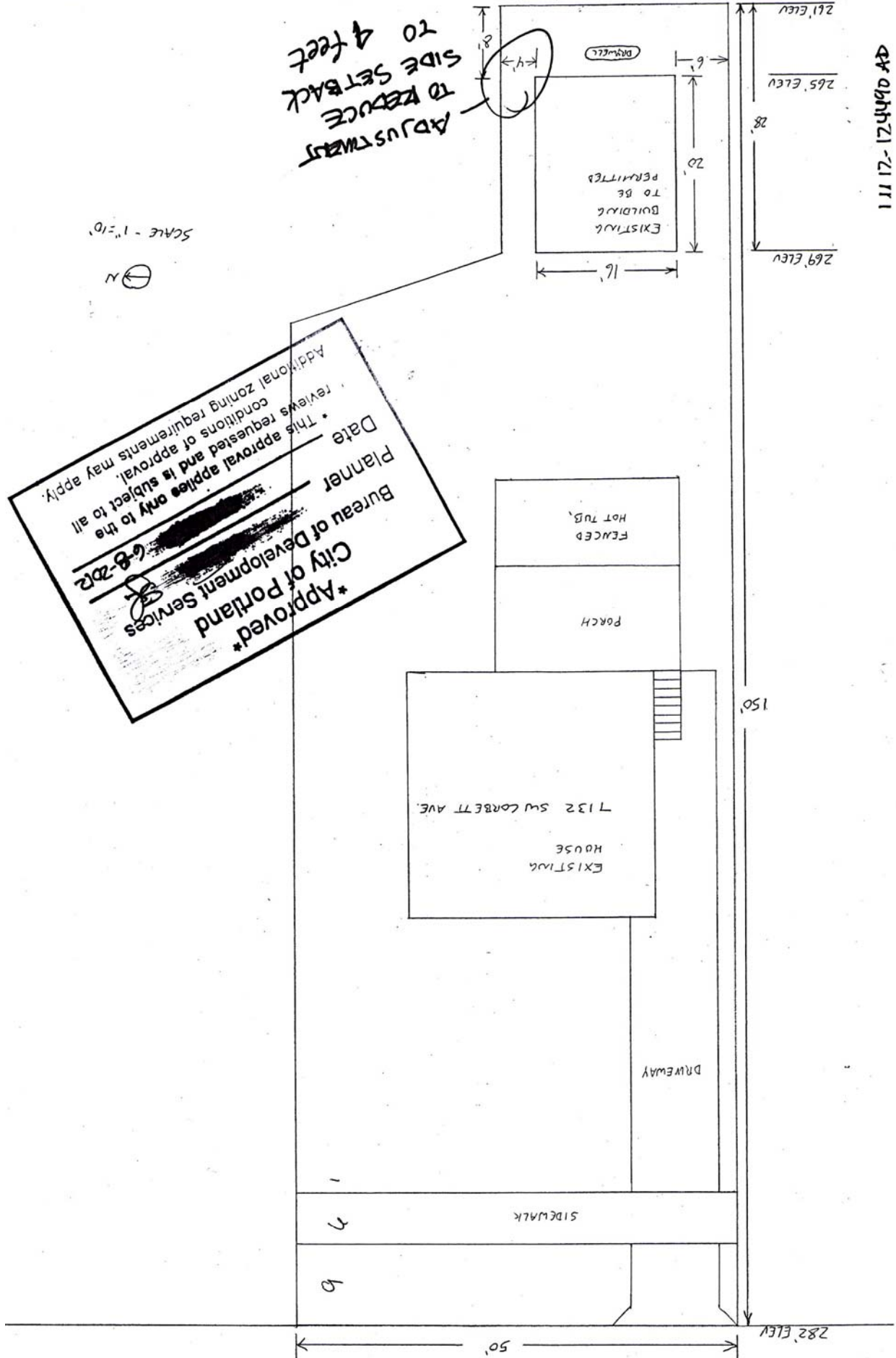


ZONING

 Site



File No.	LU 12-124490 AD
1/4 Section	3729
Scale	1 inch = 200 feet
State_Id	1S1E22BA 11300
Exhibit	B (Apr 02,2012)



ADJUSTMENTS
TO REDUCE
SIDE SETBACK
TO 4 FEET

SCALE - 1"=10'
N

*** Approved ***
 City of Portland
 Bureau of Development Services
 Date: 6-8-2012
 Planner: [Redacted]
 This approval applies only to the
 reviews requested and is subject to all
 additional zoning requirements that may apply.

SW CORBETT AVENUE 50' 282' ELEV
 LU 12-124490 AD
 EXHIBIT C-1

11117-17440 AD