Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: January 25, 2013
To: Interested Person
From: Mark Bello, Land Use Services
503-823-7810 / 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 the version located on the BDS website http://www.portlandonline.com/bds/index.cfm?c=46429. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 12-207814 AD ADJUSTMENT REQUEST

GENERAL INFORMATION

Applicant: Ed Spencer / End Point Design Inc
4036 NE Sandy Blvd 203 / Portland OR 97212

Owner: Michael D Hoover
PO Box 130 / Kelly, WY 83011-0130

Site Address: 9811 SE Reedway Street

Legal Description: BLOCK 5 LOT 11, MENTONE
Tax Account No.: R561200610
State ID No.: 1S2E16DA 15600
Quarter Section: 3640
Neighborhood: Lents, contact Cora Potter at 503-823-4550.
Business District: None
District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550.
Plan District: Johnson Creek Basin
Zoning: R5 Residential 5,000
Case Type: AD Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal: The applicant has converted an existing attached garage to living space and with this request proposes to provide one required parking space between the garage and front property line; that is, within the minimum required 10-foot front setback. The proposal reduces this distance to 2 ft.

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 long. 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.

There is a distance of approximately 20 ft. between the front property line and the existing garage, which provides enough length for on-site parking. It should be noted that there is approximately 2 feet of public right-of-way between the back of the sidewalk and the front property line.

The garage will be redesigned to integrate into the house design. Existing landscaping will be maintained. Also, the applicant will provide a new direct, paved connection between the public sidewalk and the main entry.

Relevant Approval Criteria:
In order to be approved, this proposal must comply with the approval criteria of zoning code section 33.805.040 A. – F:

ANALYSIS

Site: The site is a regularly platted interior lot. The submitted site plan shows a house with living space, including the converted garage and a detached accessory dwelling unit. This adjustment request does not address residential density.

Zoning: The R5 designation is one of the City's single-dwelling zones, which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Approval of this adjustment does not include approval of an additional ADU within the converted garage space.

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 **December 11, 2012**. 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. Life Safety Plans Examiner, BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on December 11, 2012. 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 (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 applicant is requesting an Adjustment to **Section 33.120.220, Setbacks** in order to reduce the front setback from 10 ft. to zero and so be able to place the parking pad next to the front property line. The purpose statement for this regulation is as follows:

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 multi-dwelling development in the City's neighborhoods;[not applicable]*
- *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*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users [not applicable].*

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

The front property line is set back approximately 2 feet from the sidewalk. Any parked vehicle has additional space to move away from the sidewalk as the pad will be 18 ft. in length and a car is approximately 16'-6". Therefore, the nominal impact of approving this adjustment is that a car will be approximately 5 ft. away from the sidewalk rather than the required 10 ft.

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. A new walkway from the main entry to the sidewalk creates a neighborly link between the house at the main entry and the sidewalk on Reedway.

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; 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. In addition the applicant has noted that there is existing landscaping that partially screens the driveway - both landscaping on the lot and a laurel hedge to the west. Since cars are currently parking in the driveway there will be no change to the 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 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 meaningful impacts that would result from granting the requested adjustment given that a vehicle is regularly parked in this location and landscaping is already in place. The new connection between the main entry and the Reedway sidewalk makes a link that was previous missing. 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.

CONCLUSION

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 2 feet of right of way between the back of the sidewalk and front property line plus the 2 feet proposed by this proposal will function as the front setback. For these reasons, the Adjustment should be approved.

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.

ADMINISTRATIVE DECISION

Approval of an adjustment to 33.110.220 to reduce the front setback from 10 feet to 2 feet to allow parking in front of the converted garage per the approved site plan, Exhibit C-1 signed and dated January 23, 2013 subject to the following condition:

A. As part of the building permit application submittal, each of the 4 required site plans 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 12-207814 AD."

Staff Planner: Mark Bello

Decision rendered by: _____ **on January 23, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: January 25, 2013

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 November 21, 2012, and was determined to be complete on November 30, 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 November 21, 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: March 30, 2013.**

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 February 8, 2013** 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 **February 11, 2013**.
- 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 and New Front Elevation (attached)
D. Notification information:
    1. Mailing list

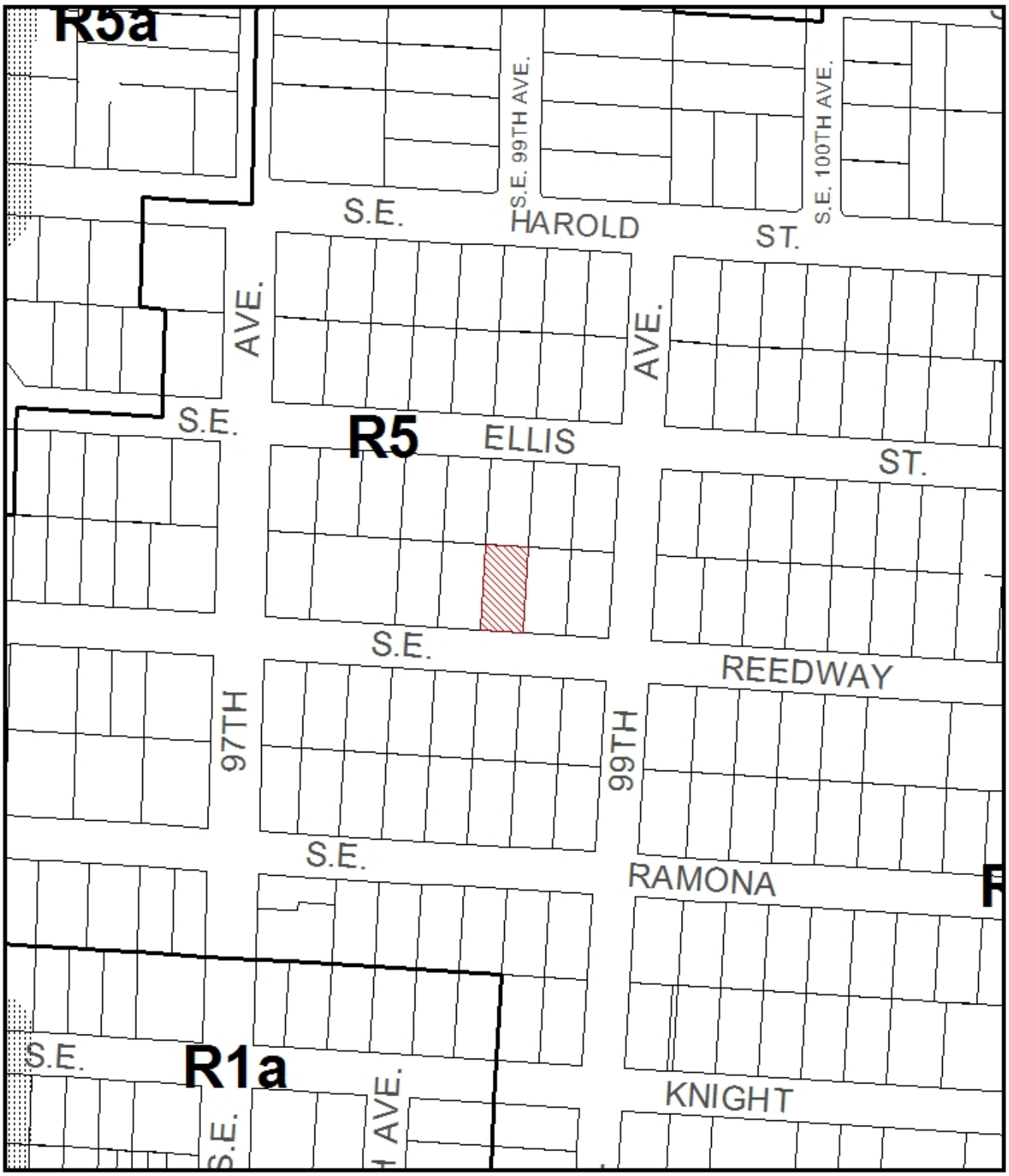
2. Mailed notice

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, BDS

F. Correspondence: (none)

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).

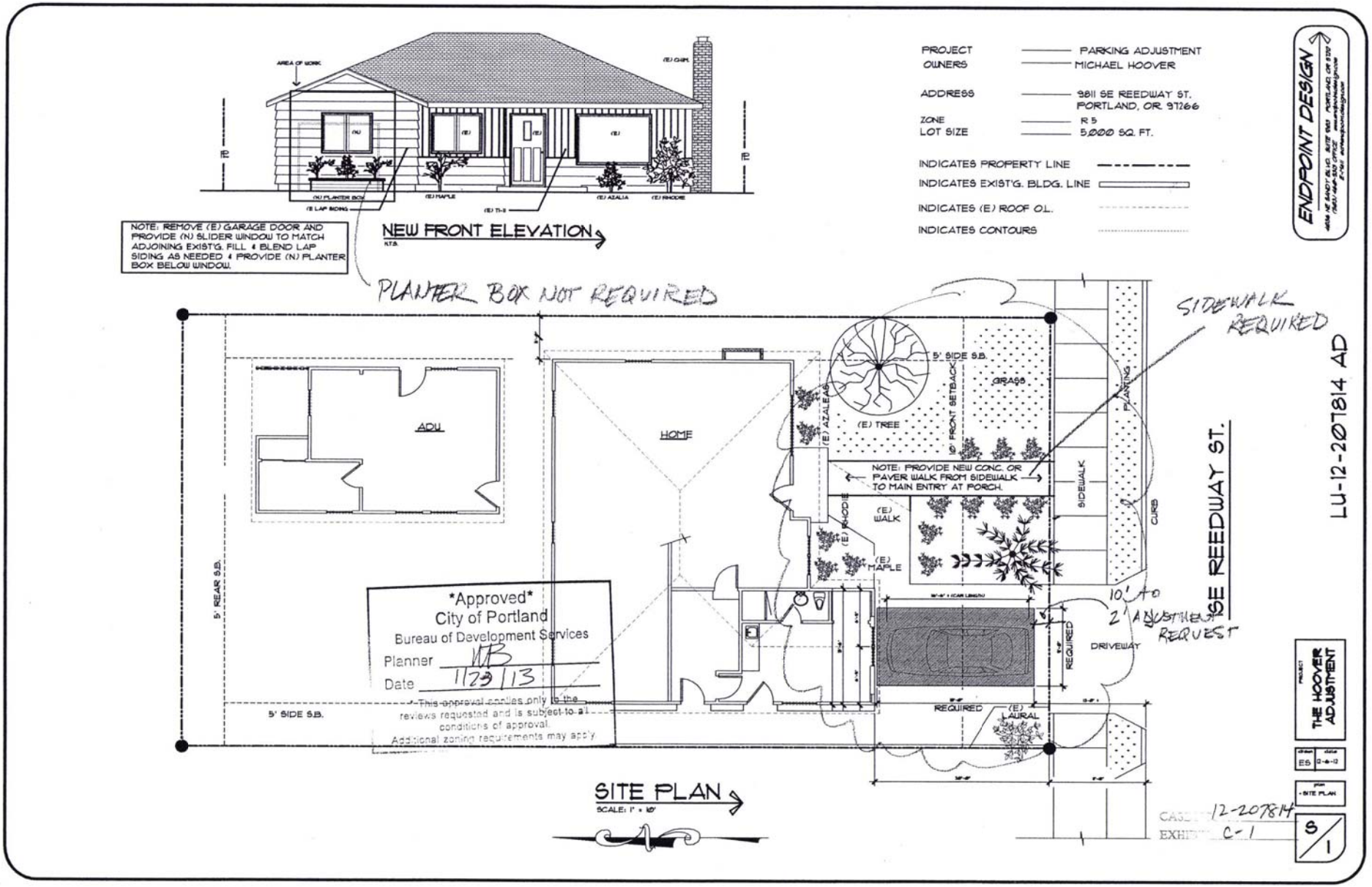


ZONING Site

File No.	LU 12-207814 AD
1/4 Section	3640
Scale	1 inch = 150 feet
State_Id	1S2E16DA 15600
Exhibit	B (Nov 26,2012)

NORTH

This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT



PROJECT — PARKING ADJUSTMENT
OWNERS — MICHAEL HOOVER
ADDRESS — 9811 SE REEDWAY ST. PORTLAND, OR. 97266
ZONE — R 5
LOT SIZE — 5,000 SQ. FT.
INDICATES PROPERTY LINE
INDICATES EXIST'G. BLDG. LINE
INDICATES (E) ROOF O.L.
INDICATES CONTOURS
ENDPOINT DESIGN
NEW FRONT ELEVATION
N.T.S.
NOTE: REMOVE (E) GARAGE DOOR AND PROVIDE (N) SLIDER WINDOW TO MATCH ADJOINING EXIST'G. FILL & BLEND LAP SIDING AS NEEDED & PROVIDE (N) PLANTER BOX BELOW WINDOW.
PLANTER BOX NOT REQUIRED
SIDEWALK REQUIRED
ADU
HOME
(E) TREE
(E) AZALEAS
(E) RHODIE
(E) WALK
(E) MAPLE
(E) LAURAL
GRASS
PLANTING
SIDEWALK
CURB
DRIVEWAY
REQUIRED
5' SIDE S.B.
5' REAR S.B.
NOTE: PROVIDE NEW CONC. OR PAVER WALK FROM SIDEWALK TO MAIN ENTRY AT PORCH.
10' TO 2' ADJUSTMENT REQUEST
SE REEDWAY ST.
LU-12-207814 AD
Approved
City of Portland
Bureau of Development Services
Planner
Date 1/23/13
This approval applies only to the reviews requested and is subject to all conditions of approval.
Additional zoning requirements may apply.
SITE PLAN
SCALE: 1" = 10'
THE HOOVER ADJUSTMENT
ES 12-6-12
SITE PLAN
CASE 12-207814
EXHIBIT C-1
S/1