



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

FROM CONCEPT TO CONSTRUCTION

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Date: October 10, 2013
To: Interested Person
From: Sheila Frugoli, Land Use Services
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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 13-194015 AD

GENERAL INFORMATION

Applicant/Owner: Kathleen Keppinger
1983 SW Carter Lane / Portland, OR 97201-2478

Site Address: 2862 NW WESTOVER RD

Legal Description: BLOCK 3 LOT 15, WESTOVER TERR
Tax Account No.: R900000690
State ID No.: 1N1E32AB 04500
Quarter Section: 2926
Neighborhood: Hillside, contact Peter Stark at 503-274-4331. Northwest District, contact John Bradley at 503-313-7574.

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Zoning: R7, Single-Dwelling Residential 7,000 zone
Case Type: AD, Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant is requesting an Adjustment Review to waive the required five foot setback for both the side building setback and the garage front entrance setback. The applicant intends to enlarge the existing garage, converting it from a one-car to a two-car garage. The existing garage is built up to the front property line. The garage addition will be located within the front setback area, adjacent to the northwest property line. The western abutting lot is currently vacant and also owned by the applicant. A deck, with a railing, will be constructed on the roof of the proposed garage. The enclosed site plan, garage plan and exterior elevations illustrate the proposal.

The Portland Zoning Code allows garages to extend within 5 feet of the front property line if the lot is steeply sloped.

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 subject site (ownership) is comprised of two separate lots, both 4,500 square feet in size. Both lots are steeply sloped. The northernmost lot is vacant and heavily vegetated. The southern lot is developed with a 2.5-story single-dwelling residence. Like other homes on the south side of the street, the home and existing garage on the subject site are located relatively close to the street.

The surrounding area is developed predominantly with large stately homes. Most of the homes in the immediate vicinity were constructed in the early 1900s, which pre-dated existing zoning regulations. Setbacks from lot lines, particularly side lot lines are varied, with many side setbacks being less than the minimum required 5 feet. Most of the nearby residential lots have accessory garages—detached or attached.

Zoning: The site and surrounding properties are located in an R7, Single-Dwelling Residential 7,000 zone. This zone allows single-dwelling residences at a density of 1 unit per 7,000 square feet of site area. The use regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The development standards work together to preserve the character of neighborhoods, and promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

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 **September 10, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.6)
- Water Bureau (Exhibit E.2)
- Fire Bureau (Exhibit E.6)
- Bureau of Parks-Forestry Division (Exhibit E.5)

The **Portland Bureau of Transportation** responded with the following comments:

The only applicable transportation related purpose for setbacks as identified in Code Section 33.110.220.A is stated as follows:

“They (setbacks) 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.”

As shown on the submitted site plan, the proposed garage addition on the subject site will be placed similarly to the existing garage and along the site's NE Westover property line. The proposed structure may cause potential impacts to the public right-of-way.

- It is unlikely that the property owner or visitors will park vehicles across the pedestrian corridor and significantly into the street (as would be the case in this situation) given that the vehicles would create conflicts and impacts with other motorists along the street.
- NW Westover is paved and improved with curbs/sidewalks making it more likely that additional vehicles or guest vehicles will be parked along the site's frontage (and not across the sidewalk, in front of the proposed garage).

- With regard to a vehicle backing onto the street from the proposed garage, exiting speeds from the garage onto the abutting NW Westover will be slower than if there was a driveway that a vehicle would have to also cross (if the standard 18-foot garage setback was being provided).
- Considering potential impacts with pedestrians, the proposed project will match the location of the existing garage on the subject site relative to its location near the back of the existing sidewalk. Similar garage locations are found south-east of the subject site on nearby lots. These existing conditions along this segment of NW Westover provide pedestrians with garage orientations that should be expected in relation to the pedestrian environment. Otherwise stated, pedestrians in the area will not find the proposed garage (addition) location to be the only such configuration along this segment of NW Westover.

Because of the reasons stated above, PBOT has no objections to the proposed Adjustment request for the encroachment into the garage entrance setback area.

TITLE 17 REQUIREMENTS

Street Improvements (Section 17.88.010)

At this location, the City's Transportation System Plan classifies NW Westover as a Community Transit street, a City Walkway and a Local Service street for all other modes. The street is improved with 36-ft of paving and a 5-6-1 sidewalk corridor within a 60-ft wide right-of-way.

At this location, *according to City records*, the site's existing frontage conditions are currently built to City standards. There will be no requirements to dedicate any property or construct any frontage improvements associated with the proposed garage addition. **NOTE:** No portion of the proposed garage addition shall be located within the public right-of-way.

An over-the-counter permit shall be obtained from PBOT for the modification to the existing curb-cut/driveway that will be necessary to serve the new garage (addition). (Exhibit E.1)

The **Site Development Section of BDS** responded with the following comments:

Potential Landslide Hazard Area. The site is located in the Potential Landslide Hazard Area. At the time of building permit application, the applicant may be asked to submit a soils report stamped by a registered design professional licensed in the State of Oregon that meets the requirements of Section 1803 of the 2010 Oregon Structural Specialty Code. A soils report must be commensurate with the difficulty of the proposed development and the site geology.

Stormwater discharge and treatment. The Bureau of Environmental Services will review the project for conformance to the 2008 Stormwater Management Manual. Site Development does not support the use of on-site stormwater disposal.

Erosion control. Erosion prevention and sediment control requirements found in Title 10 apply to both site preparation work and development. Full compliance with the erosion control requirements of Title 10, as well as maintenance of the erosion control elements, such as silt fences on private property, storm drain inlet protection and bio bags in the public right-of-way, is the responsibility of the property owner, the developer of the land division and the builders of structures on the individual lots. Please refer to the City of Portland *Erosion and Sediment Control Manual* for additional information regarding erosion and sediment control requirements.

Conclusion. Site Development takes no exception to the proposed setback adjustment. (Exhibit E.3)

The **Life Safety Plan Review (Building Code) Section of BDS** responded with the following comment:

Exterior walls less than three feet to a property line shall be one-hour fire-rated with no openings allowed. Roofs and eaves may project not closer than two feet to a property line. Eaves less than three feet to a property line must be protected on the underside as required for one-hour fire-rated construction. ORSC R302.1 (Exhibit E.4)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on September 10, 2013. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.040 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 33.110.220, Setbacks**. The purpose statement for this regulation is as follows:

Purpose: *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; and*
- *They 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.*

The proposed garage will be located in the same general area as the existing garage. The new garage will be approximately 550 square feet (22' x 25'). The Adjustment request is to reduce the required front and side setback from 5 feet to zero. The garage is partially submerged into the sloped hillside and is attached to the house, at the lower level. The garage will be constructed up to the west property line, adjacent to the vacant steeply-sloping 4,500

square foot lot that is also owned by the applicant. Even if the adjacent lot were not vacant, the reduced side and front setback is consistent with the development pattern of nearby sites. The responses from the Fire Bureau, BDS Life Safety Plan Review Section and Bureau of Transportation did not identify any concerns regarding fire separation, fire fighting access and safety within the public right-of-way. The one-story garage will not impact neighbors' privacy or access to light and air.

Many of the lots within the nearby neighborhood are steeply sloping, and, depending on the size, shape, and specific topography of the site, a number of homes and/or garages are located very close to the street, and a number of structures also appear to be located within side building setbacks. Lot sizes vary greatly depending on topography and street configurations, and therefore home sizes, elevations from the street level, and locations on the lot also vary. A reasonable physical separation between structures is retained.

For the reasons stated above, this approval 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: Because the site slopes steeply down to the street, the new one-story garage will sit much lower than the home. This is neither a significant change from the existing conditions nor is the proposal out of character with existing development in the neighborhood. The proposed ornate brick façade will match the colonial-style architectural features of the home. This approval 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: Two Adjustments have been requested. However, both are to modify the setback requirement—side and front—for a garage. Both individually and cumulatively, the requested setback Adjustments are still consistent with the purpose of the R7 single-dwelling residential zone. This criterion is met.

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: As explained above, no impacts are anticipated from these Adjustments. Therefore, no mitigation is needed. This approval criterion is satisfied.

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

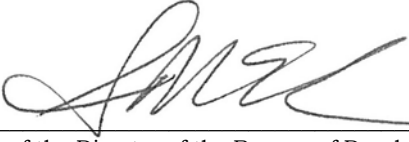
As reflected in the findings of this report, the proposal addresses the approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to waive the required five foot setback for both the side building setback and the garage front entrance setback for a two-car garage, per the approved site plans, Exhibits C.1 through C.3, signed and dated October 8, 2013, 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 substantially reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-194015 AD".

Staff Planner: Sheila Frugoli

Decision rendered by:  **on October 8, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: October 10, 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 August 16, 2013, and was determined to be complete on September 6, 2013.

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 August 16, 2013.

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 October 24, 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 after **October 25, 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:

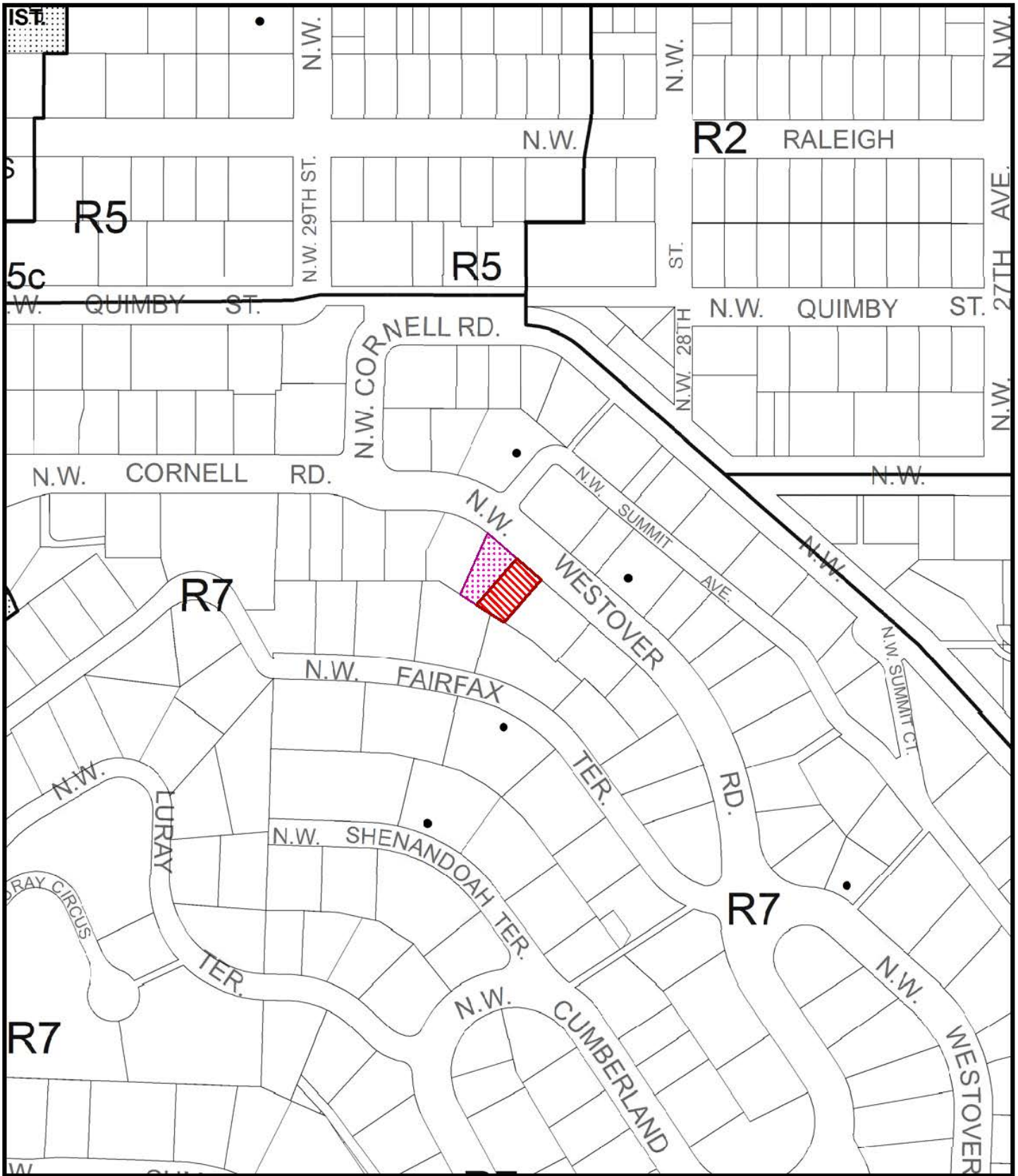
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Garage Floor Plan (attached)
 - 3. Exterior Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Water Bureau
 - 3. Site Development Review Section of BDS
 - 4. Life Safety Plan Review Section of BDS
 - 5. Bureau of Parks, Forestry Division
 - 6. TRACS Print-Out Showing Response of "No Concerns" from Bureau of Environmental Services, Fire Bureau
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Letter to Applicant – Incomplete Application

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
-  Also Owned
-  Historic Landmark



File No. LU 13-194015 AD
 1/4 Section 2926
 Scale 1 inch = 200 feet
 State_Id 1N1E32AB 4500
 Exhibit B (Aug 21, 2013)

* Approved
 City of Portland
 Bureau of Development Services
 Planner S. Truzel
 Date Oct. 8, 2013
 * This approval applies only to the reviews requested and is subject to a conditions of approval.
 Additional zoning requirements may apply.

104.12

60'-0"

3/4" = 10'-0"

PROPOSED GARAGE AREA

EXTG GARAGE

EXTG LANDSCAPE

PORCH

EXISTING HOUSE

2862

DN

6'-0"

87.53

50.48

29.73

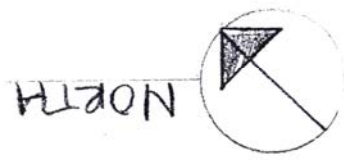


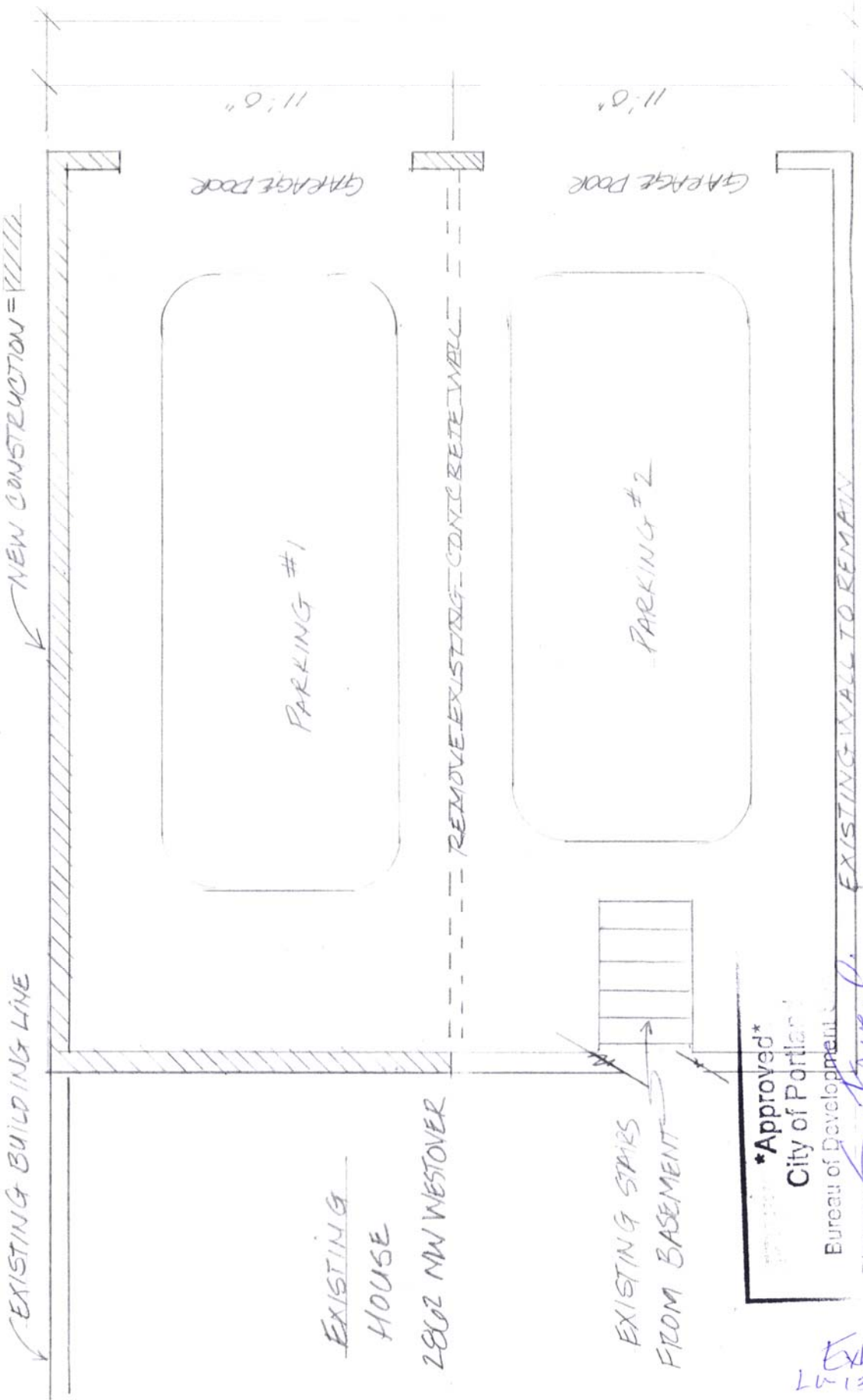
Exhibit C.1
 LU 13-194015 AD

NW WESTOVER ROAD

FACE OF CURB

5' 6 1/2"

NW WESTOVER ROAD

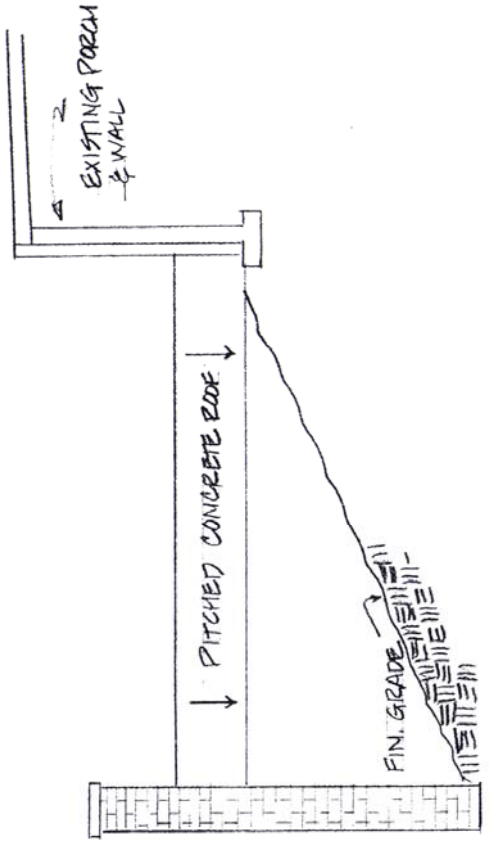


Approved
 City of Portland
 Bureau of Development
 Planner *S. Stuebel*
 Date *Oct 8, 2013*

* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

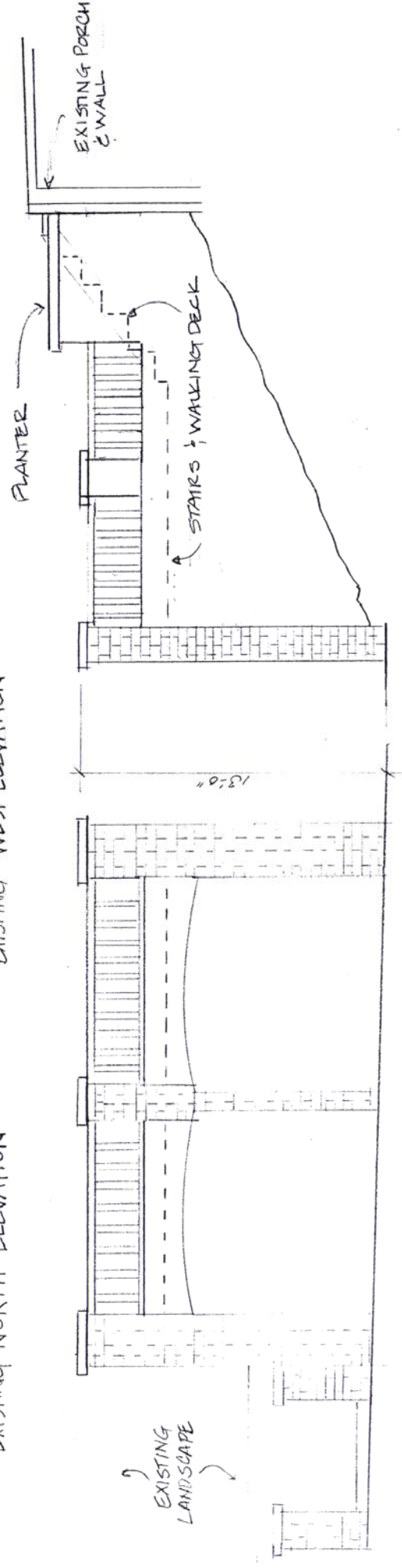
Exhibit C.2
LW13-194015 AD

SCALE 1/4" = 1'-0"
GARAGE PLAN



EXISTING NORTH ELEVATION

EXISTING WEST ELEVATION



PROPOSED NORTH ELEVATION

PROPOSED WEST ELEVATION

Approved
 City of Portland
 Bureau of Development Services
 Planner *S. Fugate*
 Date *Oct 8, 2013*

* This approval applies only to the review requirements of the applicable code.