



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** August 4, 2016  
**To:** Interested Person  
**From:** Marguerite Feuersanger, Land Use Services  
503-823-7619 / [mfeuersanger@portlandoregon.gov](mailto:mfeuersanger@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 mailed copy of this document is only a summary of the decision. 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 16-159357 AD**

#### **GENERAL INFORMATION**

**Applicant:** (Junior) T. Falepapalangi, Jr.  
JR Concrete Construction LLC  
20023 SE Tillstrom Rd  
Damascas, OR 97089

**Owners:** Tamitha and Michael Llanos  
3560 SE Kelly Street  
Portland, OR 97202-1841

**Site Address:** 3560 SE Kelly Street

**Legal Description:** BLOCK 39 LOT 18 E 13' OF LOT 19, WAVERLEIGH HTS  
**Tax Account No.:** R885307190  
**State ID No.:** 1S1E12AC 07300  
**Quarter Section:** 3334

**Neighborhood:** Richmond, contact Douglas Klotz at 503-233-9161.  
**Business District:** Greater Brooklyn, contact David Weislogel at 503-872-9320.  
**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010.

**Zoning:** R5, Single-Dwelling Residential 5,000 Zone

**Case Type:** AD, Adjustment  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:** The applicant proposes to expand the existing 9-foot-wide driveway on the site. The overall driveway dimensions will be 12 feet in width. Other site work includes:

- Remove existing driveway and landscaping and retaining walls along the existing driveway;
- Add two new retaining walls along both sides of the new 12-foot-wide driveway;
- Add a new paved walkway along the east side of the front yard with a 3-foot wide landscape area between the new walkway and new driveway;
- Replace and expand the front porch to 8 feet by 16 feet;
- Add a new walkway and stairs to connect the porch to the driveway and to an existing path at the west side of the house.
- Remove existing stairs at the west side of the front yard.
- Add two new low-level retaining walls near the front property line parallel with the public sidewalk;

The Portland Zoning Code does not allow vehicle parking spaces within the first 10 feet from a front lot line unless they are located immediately behind a parking space that is outside of the 10-foot setback (33.266.120.C.2). A standard parking space measures 9 feet in width and 18 feet in length. The existing driveway is approximately 9 feet in width and 20 feet in length. It is located immediately behind the house's single car garage and currently meets the standard. Because the driveway is proposed to be widened beyond the existing garage walls and is less than the minimum 28 feet in length, an Adjustment is required to allow vehicle parking within the front setback area.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria for Adjustment requests are found in Section 33.805.040.

## ANALYSIS

**Site and Vicinity:** The site is 5,300 square feet in area and contains an existing house with attached garage. The site slopes up from SE Kelly Street, but the driveway and detached garage are at sidewalk grade. Two retaining walls border the driveway. Development on the subject block and the block to the north is predominantly houses on approximate 5,000 square-foot lots. Most houses are one one-story in height. Many lots have narrow driveways along the side lot line, which lead to detached garages in rear yards.

**Zoning: Zoning:** The R5 designation is one of the City's single-dwelling zones, which are intended to preserve land for housing and to promote housing opportunities for individual households.

**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 **June 24, 2016**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services(Exhibit E-1);
- Water Bureau(Exhibit E-3); and
- Site Development Section of BDS (Exhibit E-4).

The Bureau of Transportation Engineering states that the existing curb cut must be realigned with the new 12-foot-wide driveway. Also, proposed retaining walls near the driveway entrance must be 3 feet or less in height to maintain visibility. Note that a survey may be required to determine the front property line location; retaining walls, including footings, proposed within the public right-of-way will require an encroachment permit (Exhibit E-2).

The Life Safety Plans Examiner states that the building permit is required for the proposed work (Exhibit E-5).

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the Notice of Proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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 allow vehicle parking to be located within the 10-foot front building setback. The purpose of the vehicle parking requirements for houses and duplexes are stated in Zoning Code Section 33.266.120.A:

*The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.*

The existing 9-foot-wide driveway will be replaced with a new 12-foot-wide driveway. With this change, the driveway length will remain at 20 feet, measured from the front wall of the existing house and front property line, but will appear longer given that the front property line is located two feet behind the sidewalk. Therefore, sufficient area is provided on the site to park a full-sized vehicle without blocking the sidewalk, and driver visibility, when backing out onto the street, is not affected by this proposal.

Although the driveway will be widened by only three feet, significant changes will occur in the front yard as existing plantings and retaining walls along both sides of the driveway will be replaced. The applicant proposes a new retaining wall at the east property line, in part to provide a new foot path to the back yard. A new landscape area, measuring 3 feet in width by 14 feet in length, will be added to separate the driveway and foot path. The new landscape area will be at the same grade as the sidewalk, and will serve to replace existing landscaping within the front yard retaining walls. Evergreen shrubs will be added that will provide interest and enhance the front yard appearance from the sidewalk view. Protective curbs will be added to the landscape perimeter where adjacent to the driveway. Because these landscape elements will enhance the appearance of the site and will limit the area devoted to vehicle parking, a condition of approval for these landscape elements is needed.

Based on the above aspects of the proposal and site conditions, the proposal equally meets the intent of the regulations to be modified. With the above recommended condition, 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 is located in the R5 residential zone. Initially, the applicant proposed to expand the driveway to 19 feet in width, allowing for up to two vehicles to be parked side-by-side. Most of the front yard landscaping would be removed. This proposal was not consistent with development of the neighborhood area, defined as the subject block and the block to the north. Driveways serving houses in the area are limited to single cars. The expansive driveway width and resulting loss of existing landscaping in the front yard would detract from the appearance of the area.

The applicant revised the proposal to the current 12-foot-wide driveway, with new landscaping and a pedestrian path at the east property line. The new driveway will be widened by only three feet, and its length of 20 feet will continue to allow a car to be parked

on it without blocking the sidewalk, Further, the applicant has provided revised front building elevations, showing a new street facing wall of the house will be created by the expanded driveway (3 feet wide and 7 feet tall). The revised elevations show that the main entrance of the house will face the street, and existing windows represent more than 15 percent of the front elevation of the house. A new porch will be added at the main entrance door. These features preserve the attractiveness of house and front yard as seen from the sidewalk view, and result in development that is compatible with existing houses and front yards in the area.

The existing 9-foot-wide driveway is flanked by retaining walls approximately 4 to 5 feet in height. This condition provides inadequate space for comfortable entering and exiting of parked vehicles. The proposal addresses the owner's desire to create adequate room for vehicle loading and unloading. An adequate but not excessive parking area will be provided on the driveway. For the above reasons, the proposal has no negative impacts to neighborhood livability or appearance. 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:** One Adjustment is requested. This criterion does not apply.

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

**Findings:** City-designated scenic resources are identified on the Official Zoning Maps with a lower case "s," and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations on the subject site, this criterion does not apply to the proposal.

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

**Findings:** As discussed in the findings for approval criterion B above, the proposal has no adverse impacts on the livability or appearance of surrounding neighborhood area, and with a condition requiring landscaping between the driveway and walkway, the proposal will meet the intent of the regulation to be adjusted. As there are no identified adverse impacts, mitigation is not needed. The proposal satisfies this criterion.

- 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:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on site, 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 owners plan to renovate their front yard landscaping, driveway and retaining walls. The proposed design with a widened driveway to 12 feet, additional landscaping, protective curbs and footpath, work well with the existing house and as a whole are compatible with front yards and driveways of houses on nearby residential properties and will not affect livability or

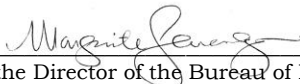
appearance of the surrounding neighborhood. The existing driveway is 22 feet in length, measured to the sidewalk, providing adequate area for a vehicle to park without blocking the sidewalk. The proposal satisfies the adjustment approval criteria in full and should be approved.

### ADMINISTRATIVE DECISION

Approval of an Adjustment to allow vehicle parking in the front setback, per the approved site plans, Exhibits C-1 through C-2, signed and dated August 2, 2016, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 16-159357 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A landscape area is required adjacent and parallel to the east edge of the 12-foot-wide driveway. The landscape area must be at least 3 feet wide and 14 feet deep, and planted to meet the L2 Standard of Chapter 33.248, with shrubs and groundcover only. A 4" inch tall protective curb must be installed where landscaping is adjacent to the driveway.

**Staff Planner: Marguerite Feuersanger**

**Decision rendered by:**  **on August 2, 2016.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: August 4, 2016.**

**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 April 25, 2016, and was determined to be complete on June 20, 2016.

*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 April 25, 2016.

*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 18, 2016.**

**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 18, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, 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 19, 2016 – (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.

**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:

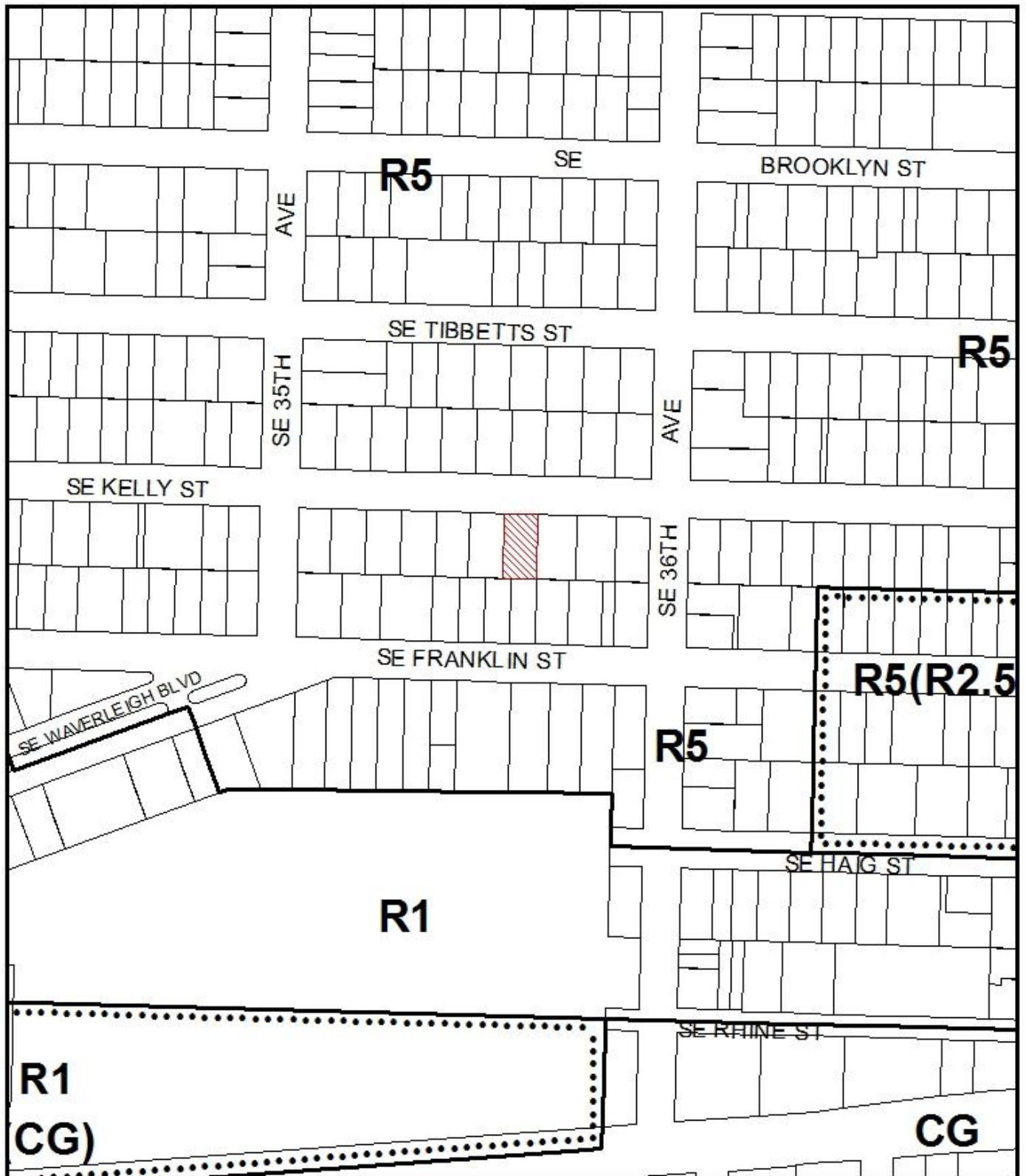
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**


NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Revised Existing and Proposed Site Plan, August 1, 2016 (attached)
  - 2. Proposed 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. Site Development Review Section of BDS
  - 5. Life Safety Plans Examiner of BDS
- F. Correspondence:
  - None
- G. Other:
  - 1. Original LU Application
  - 2. Original Site Plan, June 15, 2016

**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

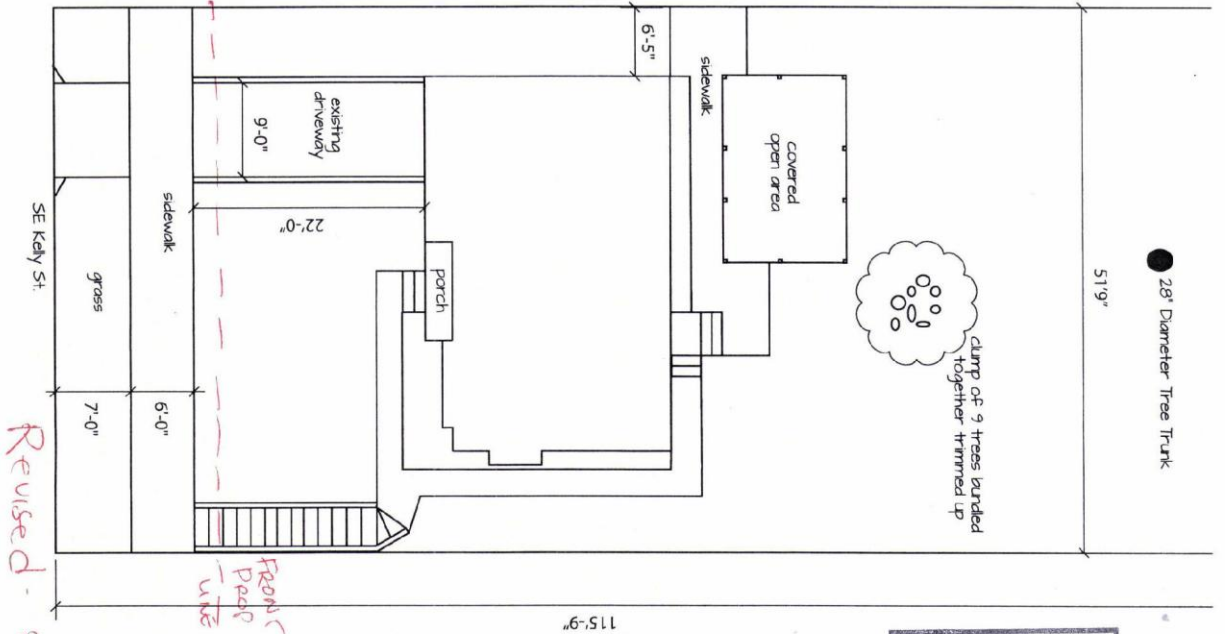
 Site



File No. LU 16-159357 AD  
 1/4 Section 3334  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E12AC 7300  
 Exhibit B (Apr 26, 2016)

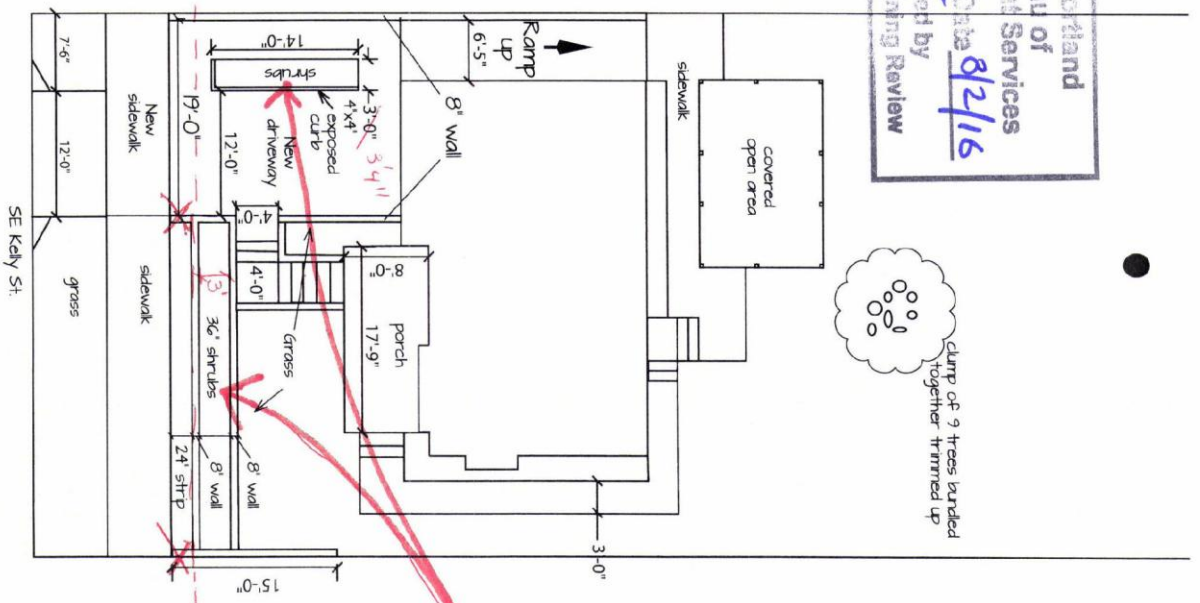


EXISTING SITE PLAN



Revised - 8/11/16

PROPOSED SITE PLAN



City of Portland  
Bureau of  
Development Services  
Date: 8/2/16  
By: [Signature]  
Approved by: [Signature]  
Planning & Zoning Review

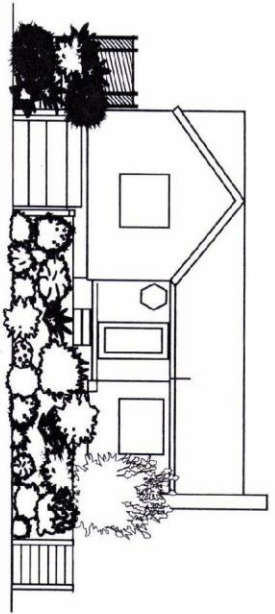
SHRUBS - planted in the driveway planter and the street-facing retaining walls will meet the L2 standard - this is the same as required for new planting which requires low level evergreen shrubs.

REQ, L2 evergreen shrubs; no trees.

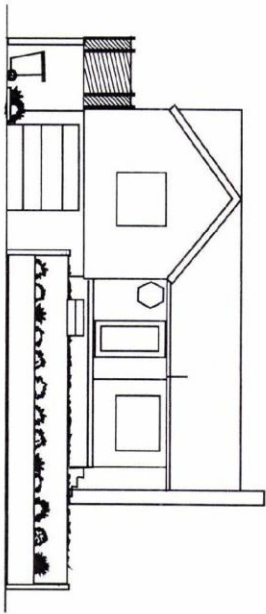
EXHIBIT C-1  
16.159357 AD

Mike & Tami Llanos  
503-701-2000 & 503-860-3271

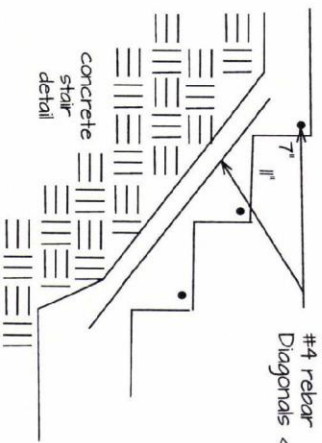
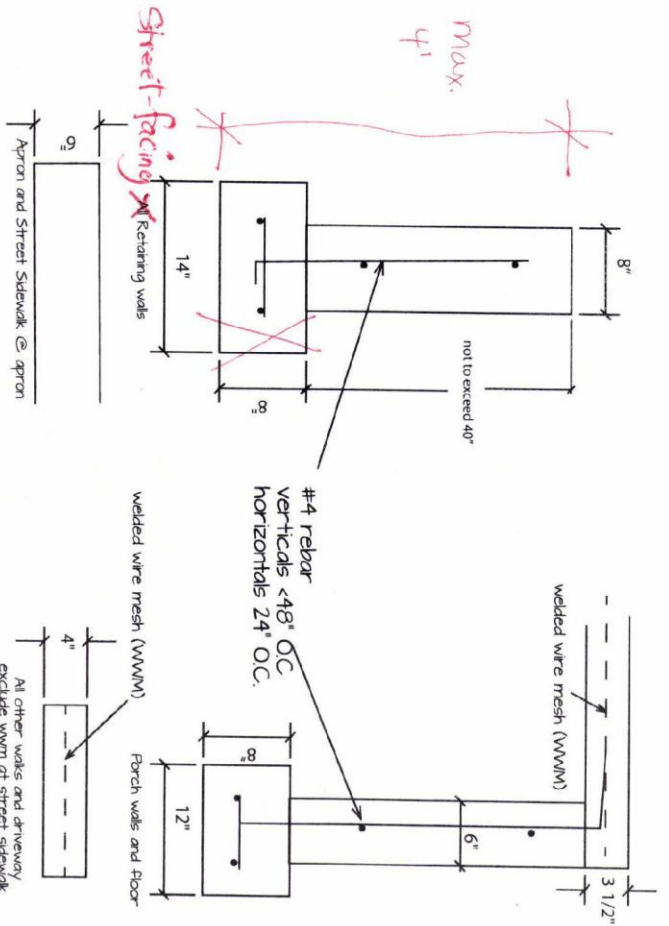
Site Plan	Revised 26 July 2016
Title: 3560 SE Kelly St	
Date: May 18, 2016	
Drawn by: Ron T	
Page:	
Scale: 3/32" = 1'0"	



Existing front elevation



Proposed front elevation



#4 rebar Diagonals < 18" OC

**EXHIBIT C-2**  
16.159357-AD

Mike & Tammi Llanos  
503-701-2010 & 503-860-3271  
**Elevation Plan**  
**Sectional Plan**

Revised	26 July 2015
Title:	3560 SE Kelly St
Date:	May 18, 2016
Drawn by:	Ron T
Page:	
Scale:	3/32" = 10"

City of Portland  
Bureau of  
Development Services

By *[Signature]* Date 8/2/16  
Approved by  
Planning & Zoning Review