



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

FROM CONCEPT TO CONSTRUCTION

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Date: September 14, 2016
To: Interested Person
From: Lauren Russell, 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 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 16-214203 AD

GENERAL INFORMATION

Applicant: Bonnie Wilson Harold
BWH
1705 Fern Pl
Lake Oswego OR 97234

Owner: Monica and Devin Sanders
4727 SE 58th Ave
Portland, OR 97206-4827

Site Address: 4727 SE 58TH AVE

Legal Description: BLOCK C E 148' OF S 48.5' OF LOT 2, OVERTON PK
Tax Account No.: R634402120
State ID No.: 1S2E18AA 22000
Quarter Section: 3536
Neighborhood: Woodstock, contact Terry Griffiths at 503-771-0011.
Business District: Woodstock Community Business Association, contact Ann Sanderson at anndango@gmail.com.
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Plan District: None
Other Designations: None
Zoning: R5 – Single-Dwelling Residential 5,000
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to build a kitchen addition that would extend 5 feet into the existing driveway, shortening the length of the driveway to 25 feet from the front lot line. A parking space must be at least 9 feet by 18 feet per Zoning Code Section 33.266.120.D.1 and must be located outside the 10-foot front setback per Zoning Code Section 33.266.120.C.1.a, which

means that a driveway must be at least 28 feet in length from the front lot line. Because the proposal would limit the driveway to 25 feet instead of the required 28 feet, the applicant requests an Adjustment to allow the on-site parking space to extend 3 feet into the front setback.

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 is a 9,647 square foot lot on the west side of SE 58th Avenue between SE Long Street and SE Schiller Street. It is developed with a one-and-a-half-story single-dwelling residence, a detached garage that was converted to living space, and a shed. The neighboring properties are similarly developed with one- to two-story single-dwelling residences and detached garages.

Zoning: The R5 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and provide housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

Land Use History: City records indicate that prior land use reviews include the following:

- LU 06-108079 AD: Approval of an adjustment to code section 33.110.220 to reduce the required setback for the north wall of the accessory structure from 5 feet to 1 foot for the existing garage and from 5 feet to 2 feet for the proposed addition to the garage

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed August 17, 2016. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services responded that the requirements of the Stormwater Management Manual are not triggered with this proposal; however, a safe stormwater disposal location that does not impact adjacent structures must be shown on the building permit drawings (Exhibit E-1);
- Bureau of Transportation Engineering responded that no work is proposed in the public right-of-way and if the scope remains that same at the time of permit, Transportation will have no requirements (Exhibit E-2);
- Water Bureau responded with no concerns (Exhibit E-3);
- Fire Bureau responded with no concerns (Exhibit E-4);
- Site Development Section of BDS responded that the home was connected to sewer at time of construction in 1956 and that no onsite sanitation facility is in the vicinity of the building addition (Exhibit E-5); and
- Life Safety Review Section of BDS responded that a building permit has been applied for and is currently under review and that a Life Safety plans examiner has been in contact with the applicant regarding building code-related comment (Exhibit E-6).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on August 17, 2016. 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 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 the on-site parking space to extend 3 feet into the front setback. The purpose of the vehicle parking requirements for houses and duplexes is stated in Zoning Code Section 33.266.120.A:

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

The existing driveway is 9 feet wide and approximately 62 feet long as measured from the front property line. The applicant's proposed kitchen bump out would shorten the driveway to 25 feet, which is long enough to accommodate the required 9-foot-wide by 18-foot-long parking space without overhanging into the public right-of-way. No changes are proposed to the width of the driveway so the proposal has no effect on the appearance of the front yard or the surrounding residential neighborhood. Additionally, surrounding properties contain driveways that extend into the front setback area with vehicles parked in the driveway. Based on these reasons, the proposed Adjustment equally meets the intent of the regulation and 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: Because the subject site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. The shortened driveway will still be long enough to accommodate the on-site parking space so the required parking space for the lot will not be displaced to the street where neighborhood livability could be affected. Additionally, the 25 foot long driveway will ensure that the required 9-foot-wide by 18-foot-long parking space will not extend into the adjacent sidewalk, thereby maintaining safe access for pedestrians. Lastly, no changes are proposed to the width of the driveway so the proposal has no effect on the appearance of the front yard or surrounding residential neighborhood. For these 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: Because only one Adjustment is being requested, this criterion is not applicable.

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. Because there no scenic or historic resource designations are mapped on the subject site, this criterion is not applicable.

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

Findings: As discussed in the findings for approval criterion B, the proposal has no adverse impacts on the livability or appearance of the surrounding residential area for which mitigation would be required. Therefore, 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: 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). Because no environmental overlay zone is mapped on subject 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 proposal to allow the on-site parking space to extend 3 feet into the front setback equally meets the intent of the regulations and does not have adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Because the approval criteria are met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to allow the on-site parking space to extend 3 feet into the front setback (Zoning Code Section 33.266.120.C.1.) per the approved site plan, Exhibit C-1, signed and dated September 9, 2016, subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibit C-1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-214203 AD. No field changes allowed."

Staff Planner: Lauren Russell

Decision rendered by:  **on September 9, 2016.**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 14, 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 August 1, 2016, and was determined to be complete on August 12, 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 August 1, 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: December 10, 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 September 28, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th 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.

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 **September 29, 2016**.
- 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

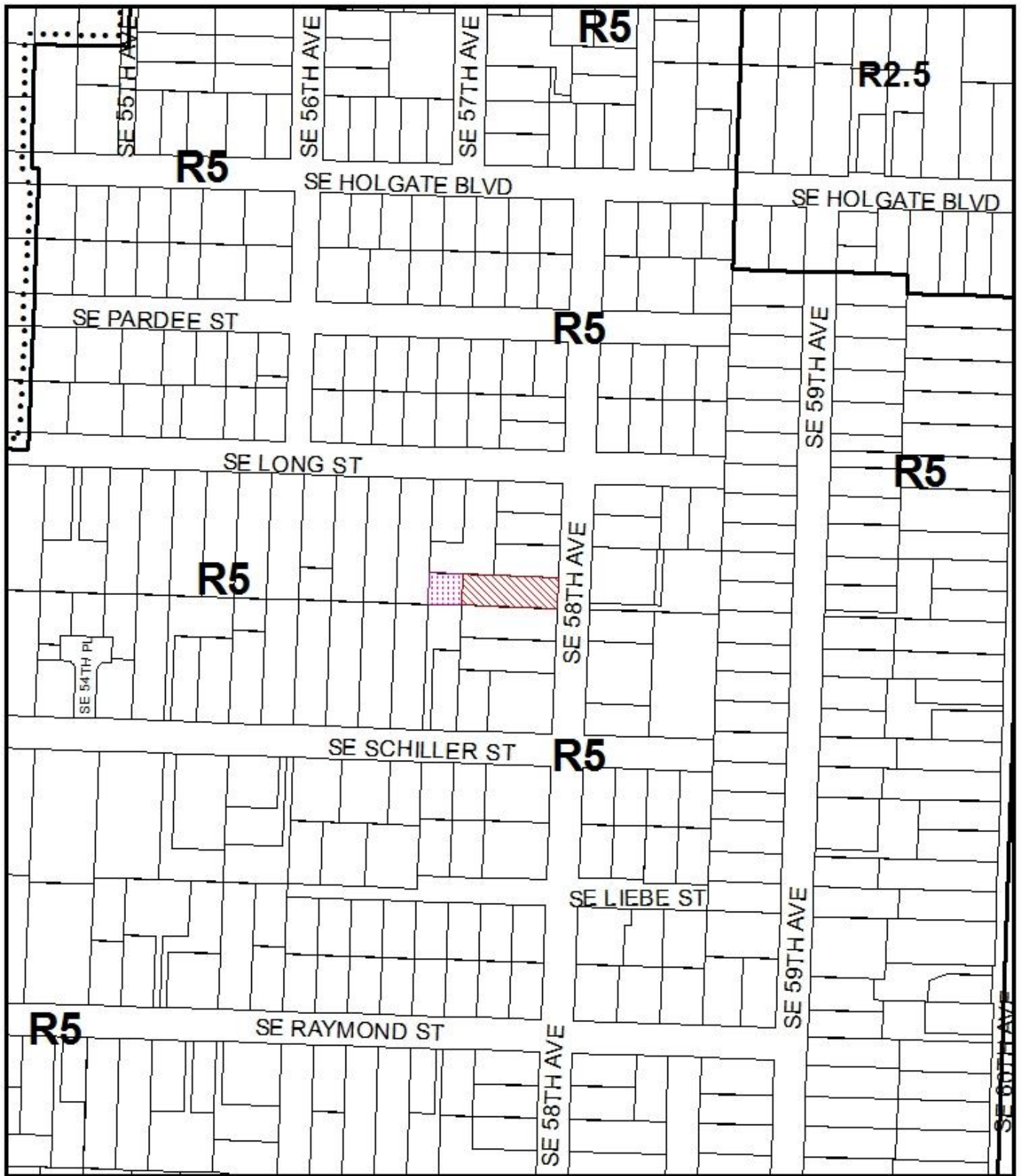
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative and Plans 8/1/16
 - 2. Revised Narrative and Plans 8/12/16
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Full Size Site Plan
 - 3. Front Elevation
 - 4. Full Size Front Elevation
- 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. Life Safety Section of BDS
- F. Correspondence – none received
- G. Other:
 - 1. Original LUR Application
 - 3. Email to Applicant 8/5/16

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 Parcels



File No.	<u>LU 16-214203 AD</u>
1/4 Section	<u>3536</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E18AA 22000</u>
Exhibit	<u>B (Aug 03, 2016)</u>

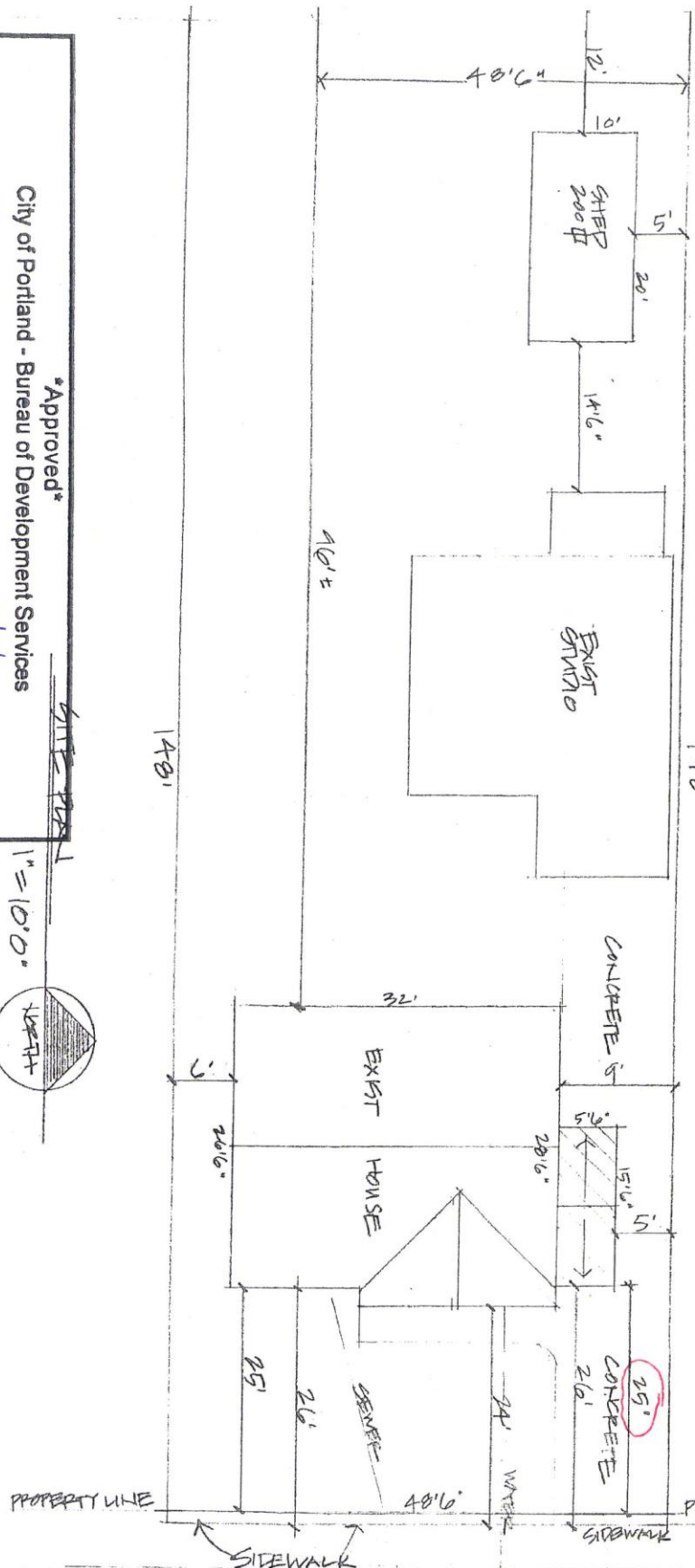
Devin & Monica Sanders
 4727 S.E. 58th Avenue
 Portland OR 97206

Property id: R231989
 State Id: IS2E18AA 22000
 Alt Acct: R634402120
 Lot size: .16 acres 7,178 sq. ft.

Scope of work: Eating nook addition to north side of main floor
 (15'6" x 5'6")

ADJUSTMENT TO ALLOW THE
 ON-SITE PARKING SPACE TO
 EXTEND 3 FEET INTO THE
 FRONT SETBACK

Exist main	862
Fin attic	538
Fin basement	862
Detached studio	787
Concrete	700
EXIST SHEED	200
Proposed new addition to main floor:	85 sq. ft.
Total main	947



Planner: L. Russell
 Date: 9/9/16

Approved
 City of Portland - Bureau of Development Services

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

LV 16 - 214203 AD

SHEET XII	bwh.design BONNIE WILSON HAROLD 1705 FERN PLACE LAKE OSWEGO OR 97034 503-789-2770	CLIENT: Devin & Monica Sanders 4727 SE 58th Avenue Portland OR 97206	DATE: 18 APRIL 2016
		SHEET: SITE PLAN	REVISIONS: 5 AUGUST 2016

CASE NO LV16-214203 AD
 EXHIBIT C-1