



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

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Date: March 7, 2017
To: Interested Person
From: Don Kienholz, 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 16-245270 AD

GENERAL INFORMATION

Applicant: Junior Falepapalangi
Jr. Concrete Construction LLC
20023 SE Tillstrom Rd.
Damascus, OR 97089

Owner: Jack Grohs
448 Clark St.
Mesquite, NV 89027

Site Address: 8506 SE TAYLOR ST.

Legal Description: BLOCK 6 LOT 49&50, MANSFIELD
Tax Account No.: R532201740
State ID No.: 1S2E04BC 05000
Quarter Section: 3139

Neighborhood: Montavilla, contact Nick Mira at nick@propelstudio.com
Business District: Eighty-Second Ave of Roses Business Association, contact Nancy Chapin at nchapin@tsgpdx.com
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Zoning: R5a –Residential 5,000 base zone with an Alternative Design Density (“a”) overlay zone.

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

Proposal:
The subject property is zoned R5 and contains an existing house. An attached garage was converted to living space at some point in the past. Converting the garage to living space

removed the required on-site parking space from the garage and it is required to be placed elsewhere on the property. The applicant is seeking to relocate the required parking area to the driveway in front of the converted garage and widen it from 8-feet to 12-feet.

The area in front of the converted garage measures 22-feet in length from the base of the house to the front property line. Parking spaces for houses and duplexes are required to measure at least 9-feet wide by 18-feet in length [33.266.120(D)(1)]. The R5 zone has a required 10-foot front yard setback [33.110.220]. Required parking areas are not allowed within the required setback [33.266.120(C)(1)]. The applicant's request to allow the required parking space to encroach within the front yard setback requires an Adjustment.

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 4,570 square foot lot and has an existing single family dwelling constructed in 1951 with a small detached accessory building in the back yard. The property has access to SE Taylor Street to the north and to SE Taylor Court in the southwest along a small portion of the western property line. The vicinity is predominately made up of single family dwellings constructed in the mid 20th century on individual lots. The property is at the northwestern most corner of a large area zoned R5. Across the street to the north the area transitions to R2.5 zoning and immediately to the west is an area running north and south R2 zoning. Further west are a few properties zoned R1 before the zoning changes to General Commercial Zoning up and down SE 82nd Avenue. The vast majority of homes have a single car driveway and garages tucked back behind the house on site. A few lots with houses from the early 20th century don't have any driveway or parking areas on site at all and a couple homes have double car driveways and garages.

Zoning: The Residential 5,000 zone (R5), is a Single-Dwelling zone intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50-feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

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 14, 2016**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Bureau of Transportation Engineering (Exhibit E.2);
- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4); and
- Site Development Section of BDS (Exhibit E.5).

The Life Safety Plans Examiner (Exhibit E.6) noted that the conversion of the garage to living space has not been reviewed by the city and to be a lawful conversion, a building permit needs to be obtained.

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

ZONING CODE APPROVAL CRITERIA

Title 33.805.040 Approval Criteria

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

Finding: The applicant is seeking an Adjustment to the parking area location standard in Zoning Code Standard 33.266.120(C)(1) in order to allow the required parking space to be located within the first 10-feet from the front property line. The purpose of the parking area location for houses and duplexes is outlined in 33.266.120(A):

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

To help understand the characteristics and appearance of neighborhoods the zoning code and Comprehensive Plan are trying to achieve, the description of the zone the property is in must be evaluated. The R5 zone is a single dwelling zone which has the following purpose statements:

“33.110.010 Purpose

The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing.

- A. *Use regulations. The use regulations are intended to create, maintain and promote single-dwelling neighborhoods. They allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood.*
- B. *Development standards. The development standards preserve the character of neighborhoods by providing six different zones with different densities and development standards. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed. The development standards are generally written for houses on flat, regularly shaped lots. Other situations are addressed through special regulations or exceptions.” (Emphasis added)*

Based on the above code sections, the purpose of the Parking Area Location standard is to promote desirable residential areas by addressing the aesthetics and visual appearance of the proposal, safety considerations, privacy and ensuring development maintains compatibility with the neighborhood. Staff looked at the development pattern of the residential driveways in the local neighborhood (Exhibit G.4). The applicant also conducted an analysis of the residential area and provided photos (Exhibit G.5).

In general, the development pattern of the neighborhood consists of homes with single wide driveways leading to detached or attached garages. Air photos, the applicant's submitted photos and the staff site visit document that vehicles are routinely parked in the driveways within the front building setback at approximately 50% of the homes. Staff finds that the proposal for a 12-foot wide driveway would allow enough space for one vehicle, but not two, to park within the front building setback and that such a

parking location is consistent with the development pattern of the neighborhood. A condition of approval will limit the driveway to a maximum width of 12-feet and require a 2-foot landscaped separation between the driveway and the pedestrian path. Because parking within the front building setback is a normal development pattern in the neighborhood, there would be no adverse impact to the visual appearance or aesthetics of the neighborhood if the parking area were allowed in the front building setback. Furthermore, the parking area is located towards the most eastern side of the house, keeping visibility and access to the front door. The placement of the parking area also allows the majority of the front yard to be retained in open, landscaped area.

As shown on the February 10, 2017 site plan, the proposed parking area measures approximately 20.25-feet from the house to the property line. The regulation size of a required parking space is 9-feet wide by 18-feet in depth. As proposed, the parking area would accommodate the required parking space dimensions and keep a vehicle from overhanging the property line. There is a two-foot planting strip between the property line and sidewalk providing a total of 4.25-foot buffer from the end of the parking space to where pedestrians walk by, which prevents conflicts between pedestrians and parked cars. The 4.25-foot buffer also provides a visual clearance area for vehicles backing out of the parking space, increasing safety for pedestrians and vehicles driving by.

Based upon the evidence in the record, staff finds that the proposal to allow a parking space within the front building setback is consistent with the neighborhoods development pattern, will not adversely impact the visual appearance of the neighborhood and will not create safety conflicts with pedestrians or other passing vehicles. The proposal equally meets the purpose of the parking area location standards.

Criterion 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

Finding: The property is located in the R5 zone, a residential zoning district. As discussed in Finding A above, the proposal was found to not detract from the appearance of the residential area.

Livability includes issues surrounding safety. As discussed in Finding A above, the proposal will not have an adverse impact on safety. Therefore, staff finds that the proposal will not detract from livability of the neighborhood.

Criterion 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

Finding: The proposal only includes a request for one Adjustment.

Criterion not applicable.

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

Finding: City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s,” while historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. The subject property is not within a City-designated ‘s’ overlay zone nor within an Historic or Conservation District. Considering the lack of proximity to city-designated scenic and historic resources, staff

finds the proposal will not adversely impact scenic or historic resources and they will be preserved.

Criterion met.

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

Finding: As found in staff responses to criteria A and B, the requested adjustment equally meets the purpose of the parking space location standards and does not adversely impact the livability or appearance of the residential neighborhood. Staff finds there are no adverse impacts resulting from the Adjustment and as such no mitigation is required.

Criterion 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;

Finding: The subject property is roughly 4,500-feet from the nearest environmental zone. The proposed Adjustment will have no detrimental impacts on the protected resource.

Criterion met

DEVELOPMENT STANDARDS

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

CONCLUSIONS

The applicant has demonstrated that the applicable approval criteria have been met for the requested Adjustment. The Adjustment equally meets the purpose of the Parking Area Location standards found in the Development Standards for Houses and Duplexes (33.266.120.C), will not significantly detract from the livability or appearance of the residential area, and has no impact on historic resources.

ADMINISTRATIVE DECISION

Approval of a parking space within the front building setback, per the approved site plans, Exhibits C.7, signed and dated March 6, 2017, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.7 and C.8. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-245270 AD. No field changes allowed."
- B. The new driveway shall not be more than 12-feet in width as shown in Exhibit C.7 and C.8.
- C. A two (2) foot planting strip shall be provided between the new driveway and new sidewalk leading up to the main entrance as depicted in Exhibit C.7 and C.8

Special note:

During the comment period, a City of Portland Life Safety plans examiner evaluated the proposal and found no building permits have been issued for the past conversion of the garage to living space. To be considered a lawful conversion, building permits will need to be applied for, issued and receive final inspection.

Staff Planner: Don Kienholz

Decision rendered by:  **on March 3, 2017**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 7, 2017

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 September 19, 2016, and was determined to be complete on November 30, 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 September 19, 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 requested that the 120-day review period be extended for a total of 60-days. Unless further extended by the applicant, **the 120 days will expire on: May 29, 2017.**

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 March 21, 2017** 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 **March 22, 2017**.
- 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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:

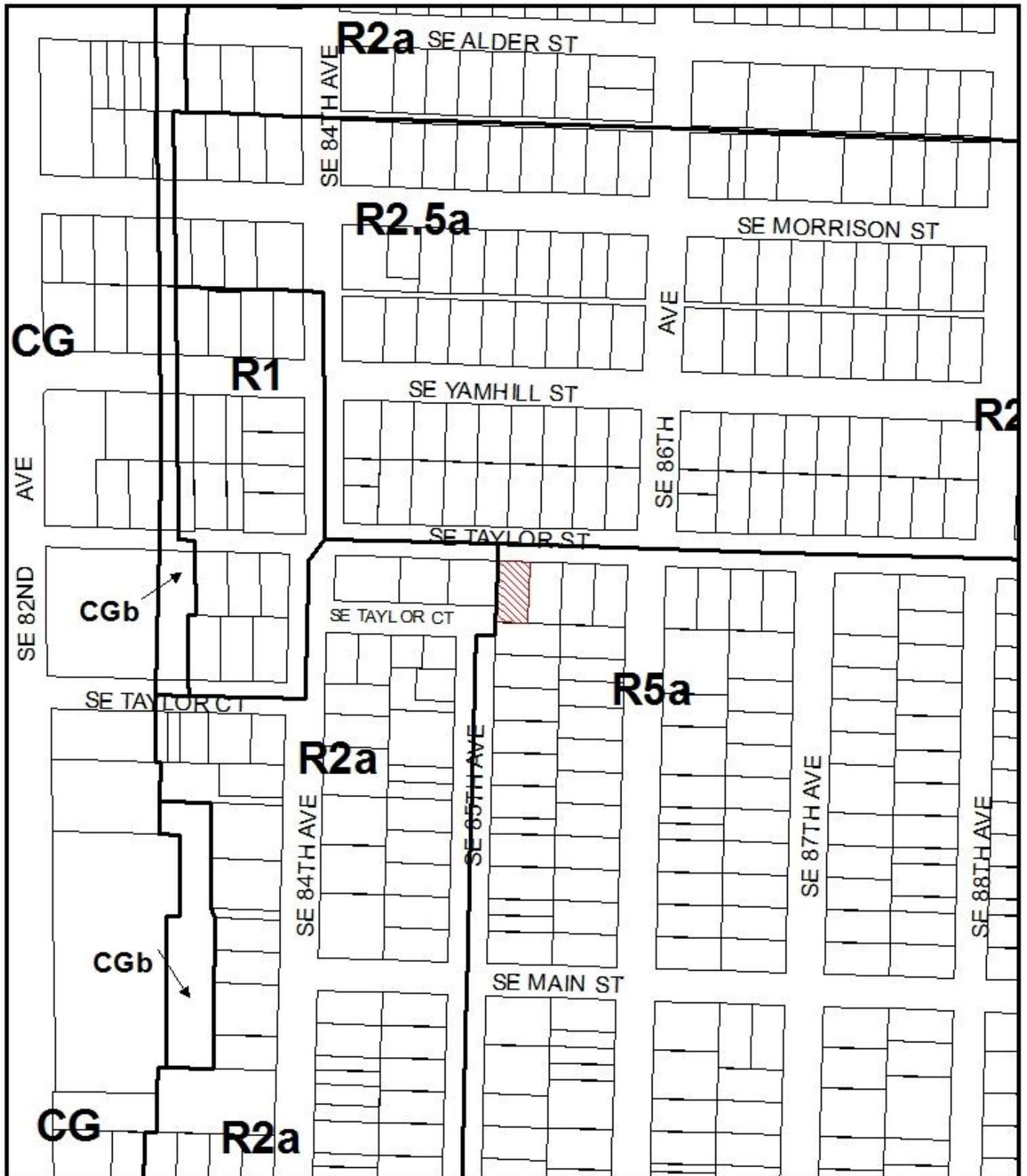
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Materials:
 - 1. Photos of Properties in the Vicinity
 - 2. Applicant's November 7, 2016 Narrative
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. September 19, 2016 Site Plans
 - 2. September 19, 2016 Elevation Plans
 - 3. October 27, 2016 Site Plans
 - 4. October 27, 2016 Elevation Plans
 - 5. November 30, 2016 Site Plans
 - 6. November 30, 2016 Elevation Plans
 - 7. February 10, 2017 Large Size Site Plan (Attached)
 - 8. February 20, 2017 Reduced Size Existing and Proposed Site Plan
- 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
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Receipt of Payment
 - 3. October 3, 2016 Incomplete Letter
 - 4. Analysis of Driveways On SE Taylor Street
 - 5. Analysis of Applicant's Properties in Photos
 - 6. Map Locating Applicant's Properties in Photos and Applicant's November 7, 2016 Photos
 - 7. Applicant's January 13, 2017 Request to Extend Statutory 120-day Clock for 30-Days
 - 8. Applicant's February 10, 2017 Request to Extend Statutory 120-day Clock for 30-Days

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



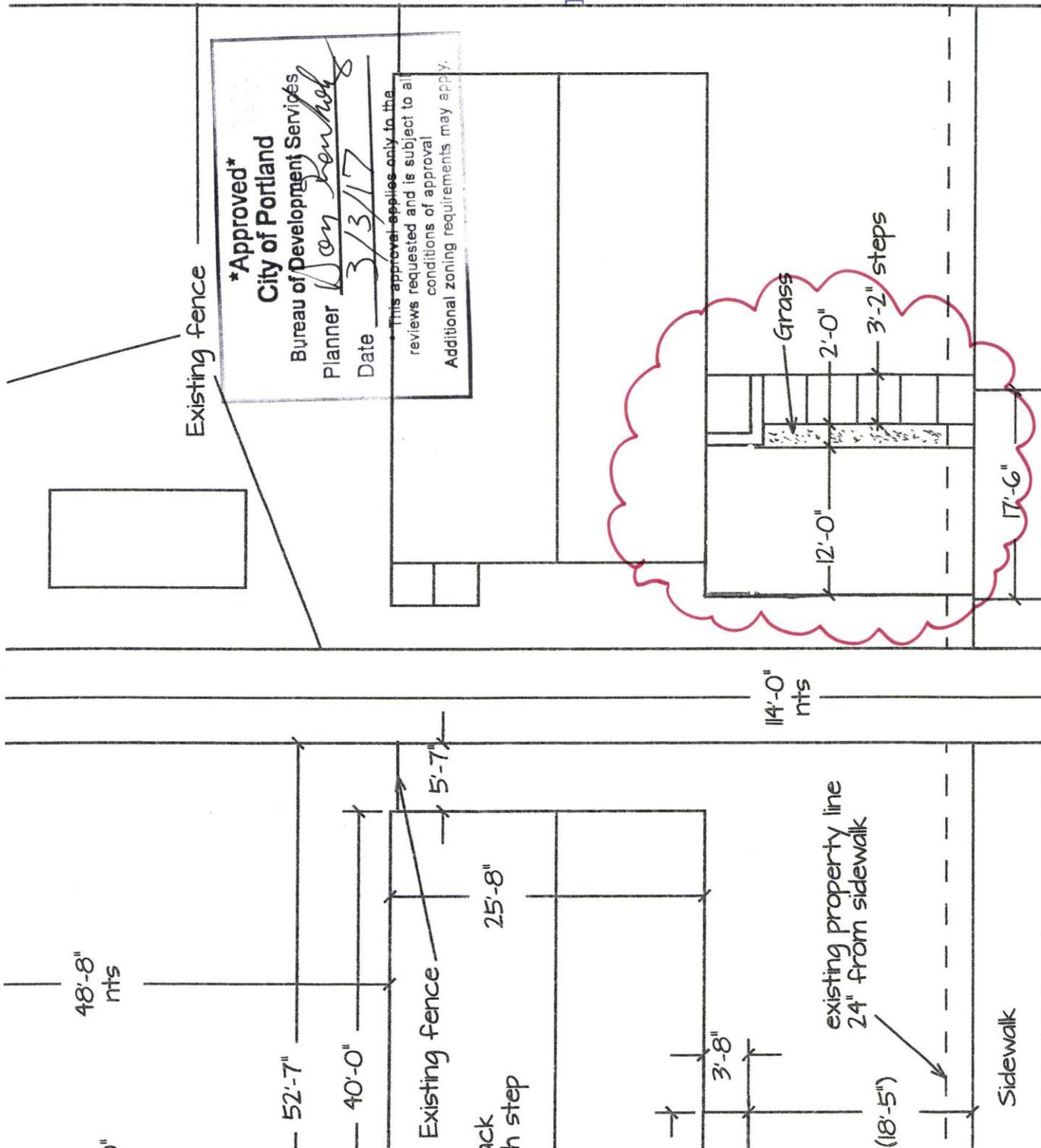
File No. LU 16-245270 AD
 1/4 Section 3139
 Scale 1 inch = 200 feet
 State_Id 1S2E04BC 5000
 Exhibit B (Sep 21, 2016)

LA 16-245270AD w/

RECEIVED

FEB 10 2017

CASE NO. 16-245270
EXHIBIT 7



LU 16-245270 AD

Existing home has a driveway that is 6 ft. wide. Owner would like to widen it to 20 ft. wide. There are no obstructions in the way of the proposed driveway.

There are several homes in the neighborhood that have expanded driveways to accommodate more room for parking on the street.

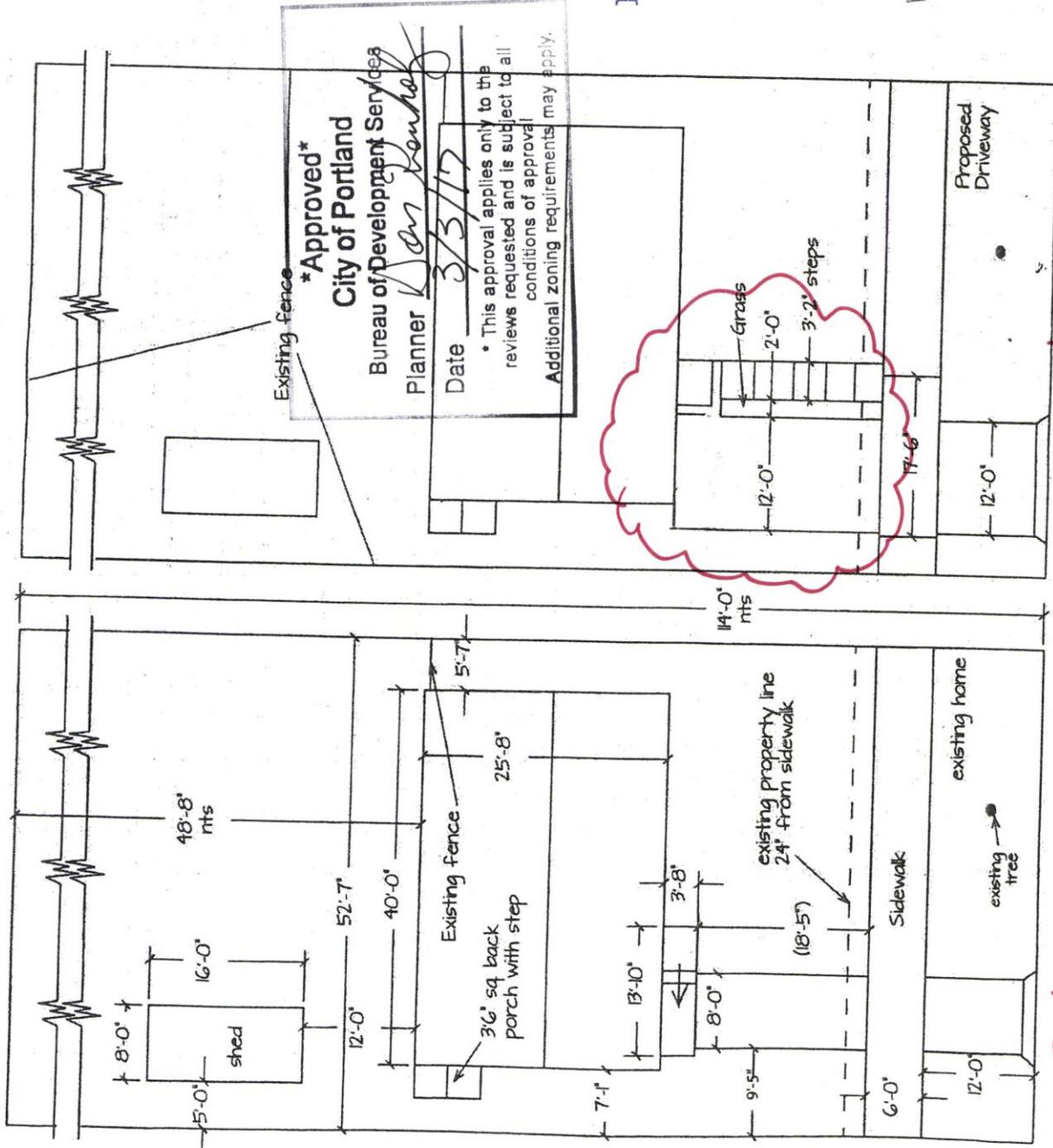
Gravel compacted nominal and required to fill in. 4" concrete, broom finish. Welded wire mesh as required. Expansion joints as needed. Approach to be 6" thick.

CASE NO. _____
EXHIBIT C.00

RECEIVED

FEB 10 2017

JR Concrete Construction	
Plot Plan	
8506 SE Taylors St	
Jack Graphs	29 Aug 2016
3/32" = 1 Ft.	19 Nov 2016



Approved
City of Portland
Bureau of Development Services
Planner *[Signature]*
Date 3/3/17
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Proposed

Existing