



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

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Date: January 12, 2018
To: Interested Person
From: Andrew Gulizia, 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 17-272887 AD

GENERAL INFORMATION

Applicant/Owner: Gail Harradine
401 SE 47th Ave.
Portland, OR 97215

Site Address: 401 SE 47th Ave.

Legal Description: LOT 12, BAMFORD PK
Tax Account No.: R052500290
State ID No.: 1N2E31CC 01700
Quarter Section: 3035
Neighborhood: North Tabor, contact Sam Fuqua at sam@sjfpdx.com
Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010
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 widen the existing driveway on this property from 10 feet wide to 18 feet wide. In the R5 zone, the Zoning Code requires off-street parking spaces that are not directly in front of a garage to be set back at least 10 feet from the front lot line. Since the Zoning Code also requires off-street parking spaces for houses to be at least 18 feet long, driveways that aren't directly in front of a garage must have a depth of at least 28 feet. Since the house on this property is set back only 27 feet from the front lot line, the applicant is requesting an Adjustment to reduce the required setback distance from the front lot line to the parking area on the driveway from 10 feet to 9 feet (Zoning Code Section 33.266.120.C).

Relevant Approval Criteria: To be approved, this proposal must comply with the Adjustment Review approval criteria in Zoning Code Section 33.805.040.A-F.

ANALYSIS

Site and Vicinity: The site is a 7,434-square-foot lot on the west side of SE 47th Avenue, one block north of SE Stark Street. The site is developed with a one-story, single-dwelling house with an attached, one-car garage. The garage is accessed by an existing paved driveway approximately 10 feet in width. The house is slightly higher in elevation than the adjacent sidewalk on SE 47th Avenue, so pedestrian access to the house is by concrete stairs next to the driveway. Most neighboring properties are also developed with one-story houses, though there is a church across the street from the site and another church a half-block to the south.

Zoning: The R5 zone is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote 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 there are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal" was sent December 19, 2017. The following Bureaus responded with no objections to approval of the proposed Adjustment:

- Bureau of Environmental Services (Exhibit E-1);
- Portland Bureau of Transportation (Exhibit E-2);
- Water Bureau (Exhibit E-3);
- Site Development Section of BDS (Exhibit E-4); and
- Life Safety Review Section of BDS (Exhibit E-5).

Neighborhood Review: No written responses to the mailed "Notice of Proposal" were received from either the Neighborhood Association or notified neighbors.

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 proposed Adjustment is to reduce the required setback distance from the front lot line to the parking area on the driveway from 10 feet to 9 feet. The purpose of the vehicle parking requirements for houses and duplexes is stated in Zoning Code Section 33.266.120.A:

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

Without this Adjustment, new driveway area not directly in front of the garage would have to have a depth of at least 28 feet. With this Adjustment, the new driveway area will have a depth of 27 feet. Staff finds this one-foot reduction will not be enough to noticeably affect the appearance of the driveway or the appearance of the neighborhood.

Staff also notes the expanded driveway will be 18 feet wide, which represents only 29% of the lot's 63-foot-wide frontage. This is substantially less than the maximum allowed width for residential driveways, which is 40% of the lot frontage (Zoning Code Section 33.266.120.C.3.a). This preserves most of the front yard as green space, enhancing the appearance of the neighborhood.

For these reasons, the proposed Adjustment equally meets the intent of the regulation. 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: Since the site is 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. As discussed above in the findings for approval criterion A, the width of the expanded driveway will be only 29% of the lot frontage, preserving most of the front yard as green space. The one-foot reduction in the depth of the driveway will not be noticeable enough to significantly affect the appearance of the site. In addition, the applicant's proposal supports neighborhood livability by constructing new pedestrian stairs adjacent to the expanded driveway (Exhibit C-1). These stairs will preserve a separate pedestrian connection between the house and the public sidewalk, promoting a pedestrian-friendly environment. For these reasons, staff finds 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: As only one Adjustment is 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. As there are no scenic or historic resource designations 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 Adjustment request will have no adverse impacts on the livability or appearance of the surrounding area. As there are no adverse impacts identified for which mitigation would be required, this criterion is not applicable.

- 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 the 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 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 reduce the required setback from the front lot line to the parking area on the driveway equally meets the intent of the regulation and will not adversely impact the livability

and appearance of the surrounding neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Since the approval criteria are met, the proposal must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.266.120.C to reduce the required setback distance from the front lot line to the parking area on the driveway from 10 feet to 9 feet, per the approved site plan, Exhibit C-1, signed and dated January 10, 2018, subject to the following condition:

- A. As part of the zoning permit application submittal, each of the required site plans 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 17-272887 AD."

Staff Planner: Andrew Gulizia

Decision rendered by:  **on January 10, 2018.**
By authority of the Director of the Bureau of Development Services

Decision mailed: January 12, 2018

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on November 20, 2017, and was determined to be complete on December 14, 2017.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on November 20, 2017.

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, applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: April 13, 2018.**

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 January 26, 2018**, 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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **January 26, 2018**, by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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:

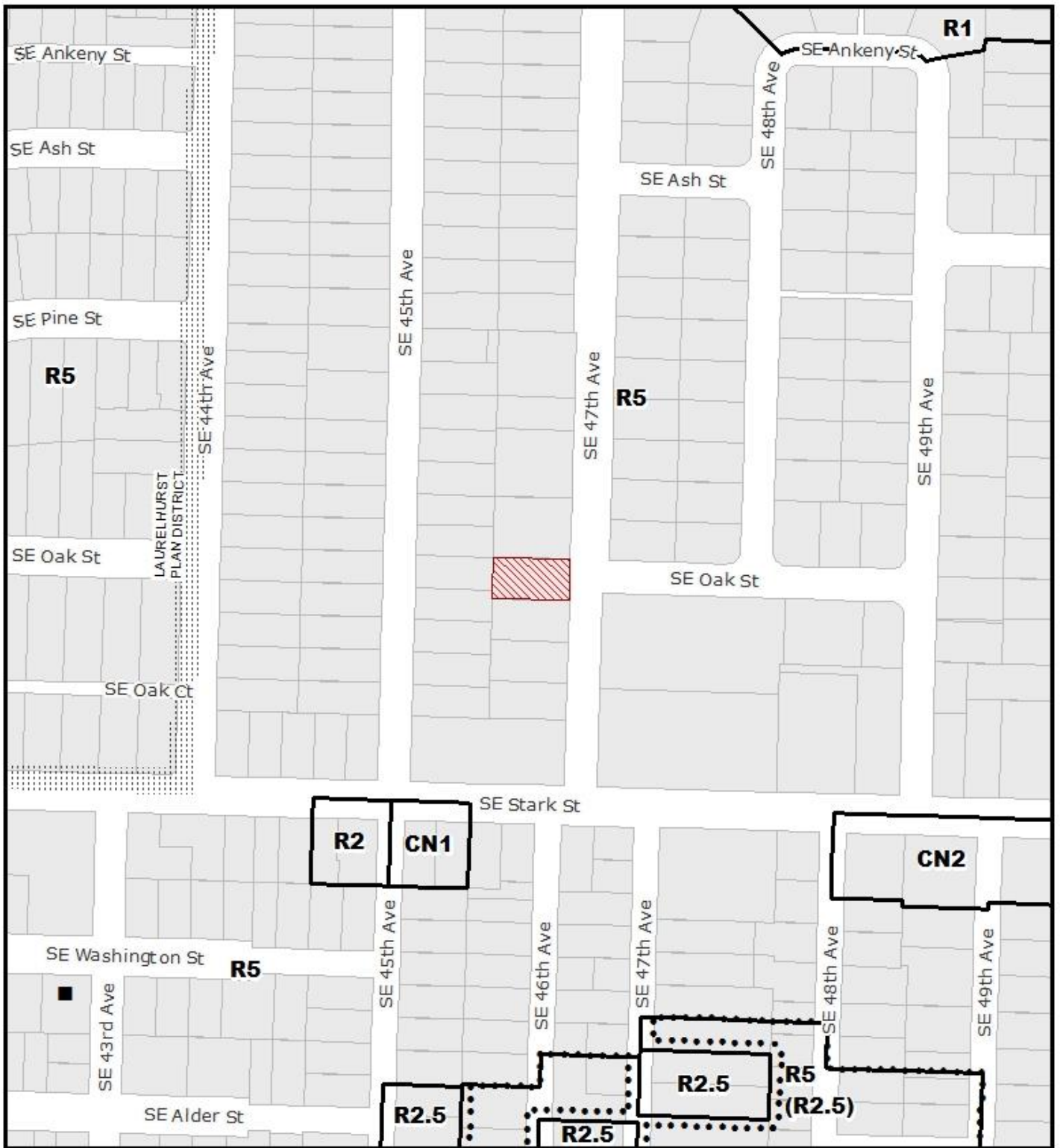
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Applicant's original narrative
 - 2. Applicant's revised narrative, received December 14, 2017
 - 3. Photograph of site
 - 4. Original site plan, prior to revision (superseded by Exhibit C-1)
 - 5. Original partial site plan, prior to revision
 - 6. Revised partial site plan, received December 14, 2017
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
- D. Notification Information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Bureau of Transportation
 - 3. Water Bureau
 - 4. Site Development Review Section of BDS
 - 5. Life Safety Review Section of BDS
- F. Correspondence – none received
- G. Other:
 - 1. Land use application form and receipt
 - 2. Incompleteness determination letter, dated December 1, 2017

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

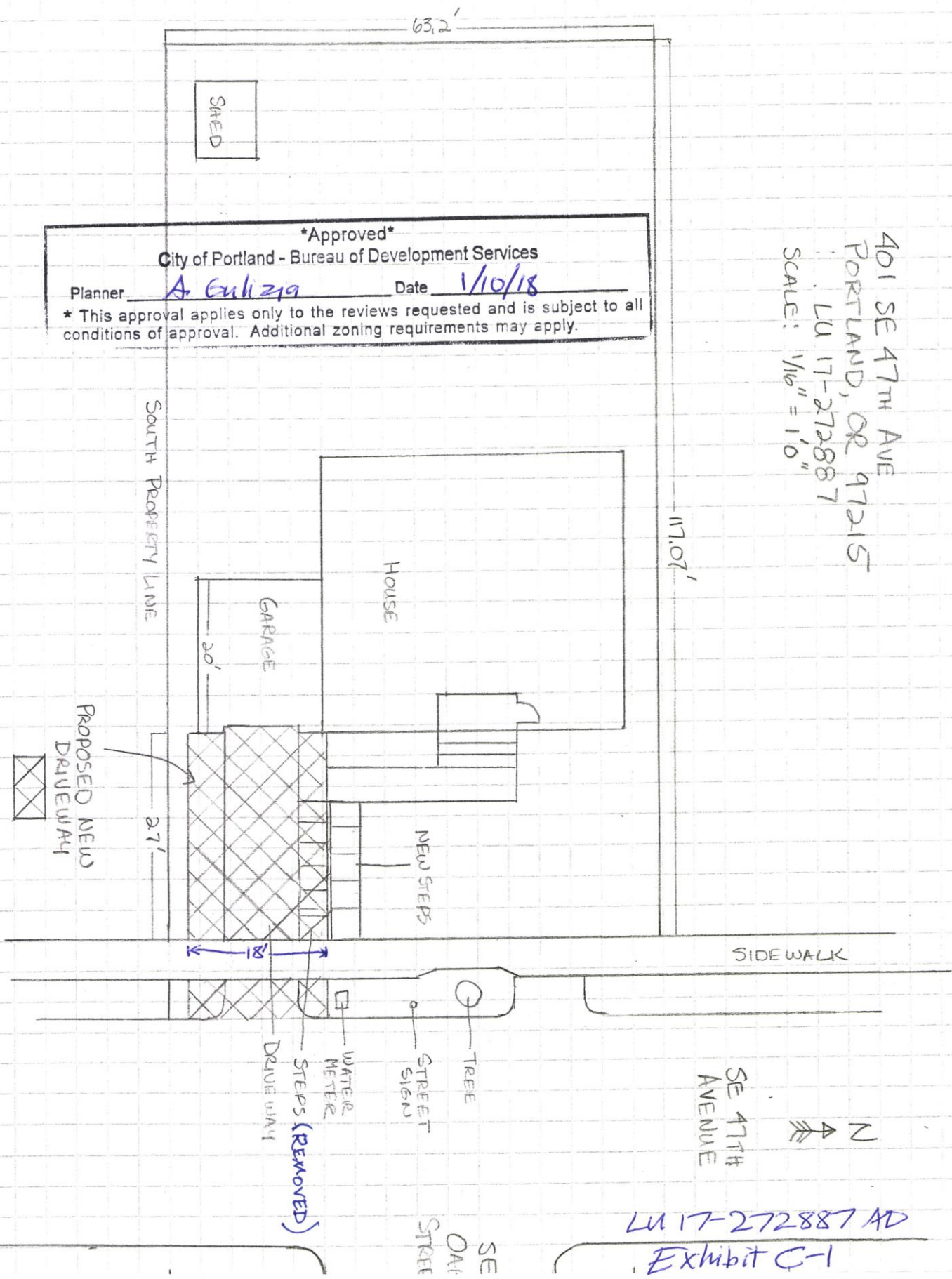


Historic Landmark

File No.	LU 17-272887 AD
1/4 Section	3035
Scale	1 inch = 200 feet
State ID	1N2E31CC 1700
Exhibit	B Nov 27, 2017

401 SE 47TH AVE
PORTLAND, OR 97215
LU 17-272887
SCALE: 1/16" = 1'0"

Approved
City of Portland - Bureau of Development Services
Planner A. Gulliza Date 1/10/18
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



SE 47TH AVENUE
LU 17-272887 AD
Exhibit C-1