



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

Ted Wheeler, Mayor
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Date: December 14, 2018
To: Interested Person
From: Amanda Rhoads, Land Use Services
503-823-7837 / Amanda.Rhoads@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 18-256576 AD

GENERAL INFORMATION

Applicant: Julie A Mulley
2758 SW Moss St | Portland, OR 97219-2508
503-880-0302 | mulleyja@gmail.com

Owners: Julie and John Mulley
2758 SW Moss St | Portland, OR 97219-2508

Site Address: 2758 SW MOSS ST

Legal Description: BLOCK 7 N 93' OF W 68' OF E 127' OF LOT 1, RYAN PL
Tax Account No.: R734302050
State ID No.: 1S1E20DA 07300
Quarter Section: 3826
Neighborhood: Multnomah, contact at contact-multnomah@swni.org.
Business District: Multnomah Village, contact Jason Lensch at benji10@comcast.com.
District Coalition: Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.
Plan District: None
Zoning: R7 – Single-Dwelling Residential 7,000
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to convert the attached garage to living space and move the required onsite parking onto the driveway. The Zoning Code requires the 9-foot by 18-foot parking pad to be located out of the front setback, which in the R7 zone is 15 feet. Since the driveway is not 33 feet long (the minimum required with the 15-foot front setback and the 18-foot parking pad length), the applicant requests an Adjustment to Zoning Code Section 33.266.120.C.1.a to allow the 9-foot by 18-foot parking pad to encroach 10 feet, 7 inches into the required 15-foot 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 6,324-square-foot site is developed with an English cottage-style, one-and-a-half story house constructed in 1929 with an attached garage. The garage is accessed by a paved driveway approximately 22 feet, 5 inches long and up to 9 feet wide. Surrounding houses are similarly scaled, though on varying lot sizes, and were constructed throughout the 20th century. SW Moss St is a 50-foot-wide right-of-way with 16 feet of paving and no improved sidewalk corridor. The street is uphill one block from SW Multnomah Blvd, with multi-dwelling development and larger institutional and corporate uses to the south. West Hills Christian School is located a block and a half to the east, which interrupts SW Moss St.

Zoning: The Residential 7,000 (R7) single-dwelling zone is 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 4,200 square feet, with minimum width and depth dimensions of 40 feet and 55 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 7,000 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 **November 14, 2018**. The following Bureaus have responded with no issues or concerns:

- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4);
- Site Development Section of BDS (Exhibit E.5); and
- Life Safety (Building Code) Plans Examiner (Exhibit E.6).

The Bureau of Environmental Services notes that a safe stormwater disposal location that does not impact adjacent properties and/or structures must be shown at time of building permit submittal, but that BES does not object to the requested Adjustment (Exhibit E.1).

The Bureau of Transportation notes SW Moss is a 50-foot-wide right-of-way with a 16-foot wide paved roadway. Even with a future potential 2-foot dedication, PBOT states “the requested reduction in off-street parking...will not adversely affect the public ROW. Accordingly, PBOT has no opposition to the requested Adjustment” (Exhibit E.2).

Neighborhood Review: No written responses were received from either the Neighborhood Association or notified residents 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 review body finds that the applicant has shown that approval criteria A. through F. below have been met.

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

Findings: The applicant is requesting an Adjustment to allow the on-site parking space to extend 10 feet, 7 inches into the 15-foot 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 22 feet, 5 inches long as measured from the front property line to the garage wall. The applicant's proposed conversion of the existing attached garage to living space would not change the dimensions of the driveway, so the driveway will still be long enough to accommodate the required 18-foot-long parking space without overhanging into the public right-of-way. The existing width of the driveway is 9 feet close to the front property line but appears to narrow closer to the garage. If the driveway is narrower than 9 feet at any point, a condition of approval will require the applicant to widen the driveway to the minimum parking pad width of 9 feet in order to preserve a standard parking space onsite.

Other than this potential widening, the proposal has no effect on the appearance of the front yard or the surrounding residential neighborhood. Surrounding properties similarly have driveways that extend into the front setbacks, and a recent site visit demonstrated vehicles parked in driveways, resulting in an appearance similar to the proposal at the subject site. For this reason, the proposal will fit with an existing pattern found in the neighborhood.

Finally, the applicant proposes to fill in the garage door area with siding and windows to match the existing front façade of the house, resulting in an attractive condition that integrates the converted garage into the rest of the house. Based on these reasons, the proposed Adjustment equally meets the intent of the regulation and this criterion is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 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 garage conversion would not change the dimensions of the house, so the driveway will still be long enough to accommodate the required on-site parking space, which prevents the displacement of the parking space to the street where neighborhood livability could be affected.

Additionally, the driveway, measuring 22 feet, 5 inches in length, will ensure that the required 18-foot-long parking space will not extend into the adjacent right-of-way, thereby maintaining safe access for pedestrians. The condition of approval requiring the expansion of the driveway to at least 9 feet wide will reduce areas of mud or other unsightly conditions that could result in a heavily-used, substandard-width driveway.

Finally, the thoughtful replacement of the garage door with windows and siding that match existing and integrate this attached garage into the rest of the house will contribute to an attractive appearance for the site. For these reasons, and with the condition of approval requiring the driveway to meet the minimum 9-foot width, the proposal has no negative impacts to neighborhood livability or appearance, and 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: Only one adjustment is requested. This criterion is not applicable.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: As 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. The condition of approval requiring the driveway to measure at least 9 feet wide will ensure no degradation of the front yard and that current standards are met for the new parking pad. With this condition, 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). As the site is not within an environmental zone, this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all requirements of Title 11 can be met, and 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 10 feet, 7 inches 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 Zoning Code Section 33.266.120.C.1 to allow the 9-foot by 18-foot parking pad to encroach 10 feet, 7 inches into the required 15-foot front setback. Approval is per the approved plans, Exhibits C.1 through C.3, signed and dated December 12, 2018, 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 18-256576 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. If the existing paved driveway measures less than 9 feet wide, the driveway must be widened to meet the minimum 9-foot width set out in Zoning Code Section 33.266.120.D.1. The widened driveway must be shown at time of building permit for the conversion of the garage to living space.

Staff Planner: Amanda Rhoads

Decision rendered by:  **on December 12, 2018**

By authority of the Director of the Bureau of Development Services

Decision mailed: December 14, 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 October 23, 2018, and was determined to be complete on January 8, 2018.

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 October 23, 2018.

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: March 18, 2019.**

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 December 28, 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 **December 28, 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.

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:

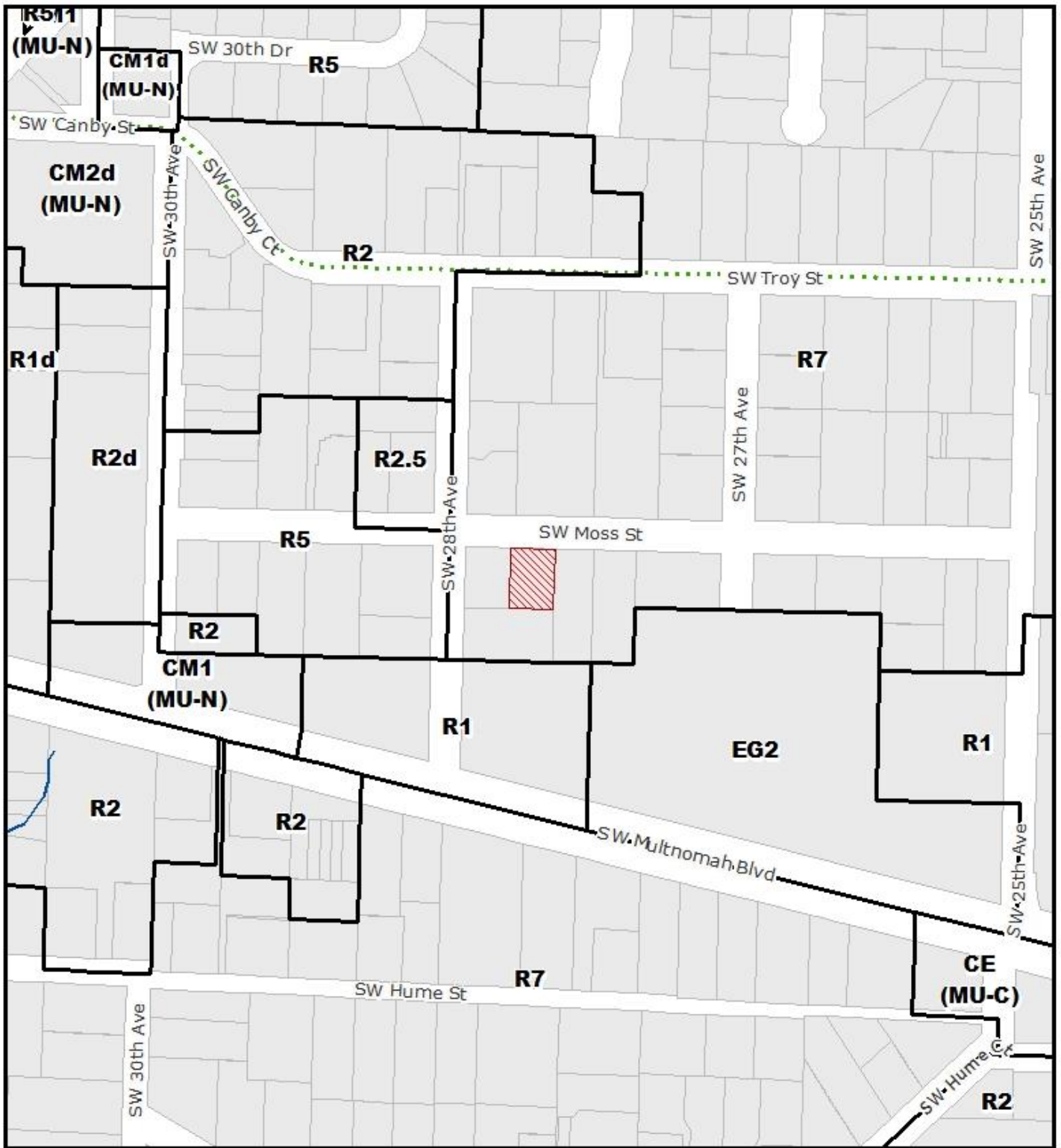
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant Narrative
 - 2. Initial Site Plan (superseded by Exhibit C.1)
 - 3. Existing Floor Plans
 - 4. Site Photos
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Existing and Proposed Front Elevations (attached)
 - 3. Proposed First Floor Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety (Building Code) Plans Examiner
- F. Correspondence: none received
- G. Other:
 - 1. Original Land Use Application and Receipt
 - 2. Incomplete Letter, November 6, 2018

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



Stream



Recreational Trails

File No.	LU 18-256576 AD
1/4 Section	3826
Scale	1 inch = 200 feet
State ID	1S1E20DA 7300
Exhibit	B Oct 26, 2018

PROJECT NAME: MULLEY GARAGE CONVERSION

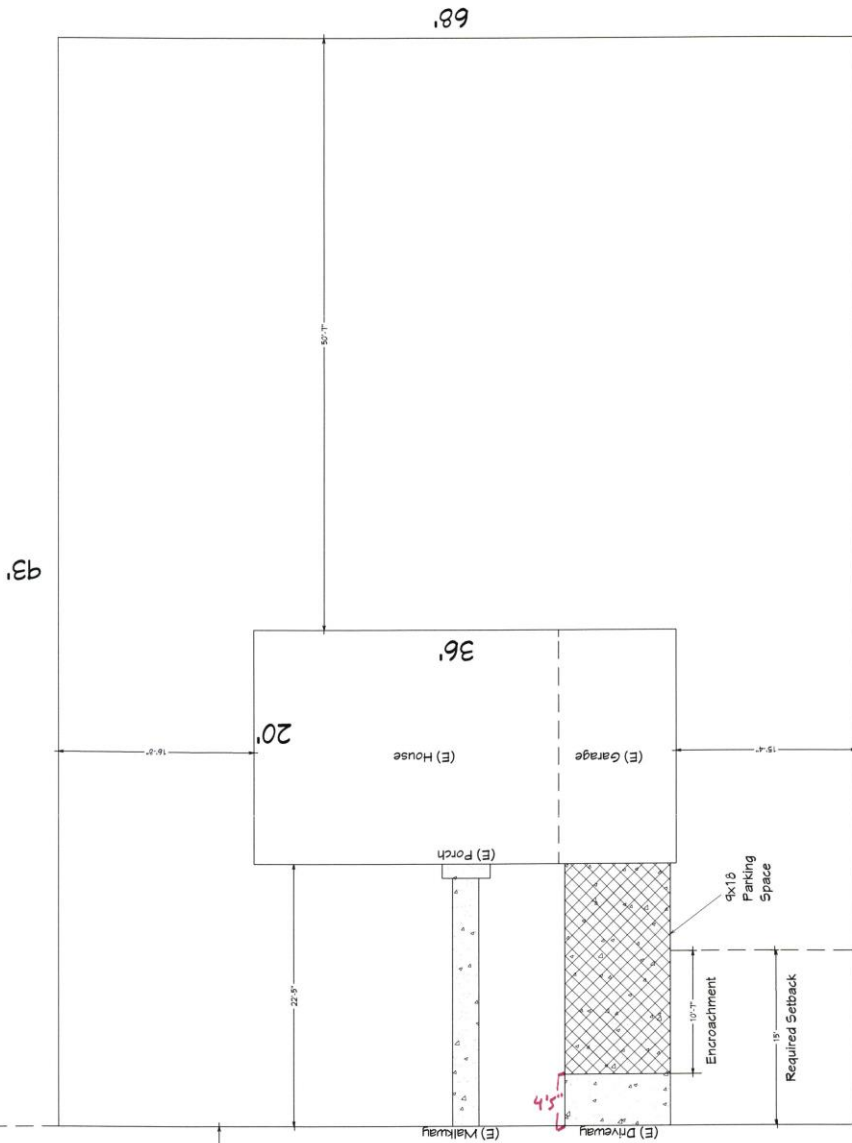
PROJECT SUMMARY: Convert the existing attached one-car garage into a bedroom with attached full bathroom w/shower. The garage door will be replaced with a window that matches the existing windows on the front of the house. There are no other changes to the facade. There are no structural changes and no changes to the building footprint.

LOT DETAILS:

Name
MULLEY JOHN B &
MULLEY JULIE A
Address
2758 SW MOSS ST
PORTLAND, OR 97219
Property ID
R263347
Tax Roll
RYAN PL, BLOCK 7, N 93' OF
W 68' OF E 127' OF LOT 1
RESIDENTIAL IMPROVED
Use
1
Lot
7
Block
Multnomah
County
State ID
1S1E20DA 7300
New State ID
1S1E20DA -07300
Alt Acct Num
R734302050
Map Number
3826 OLD
Land Type
RESIDENTIAL LAND
Total Area
0.15 acres (6,324 sq ft)

****Approved****
City of Portland - Bureau of Development Services
Planner *MJM* Date *Dec. 12, 2018*
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

NORTH

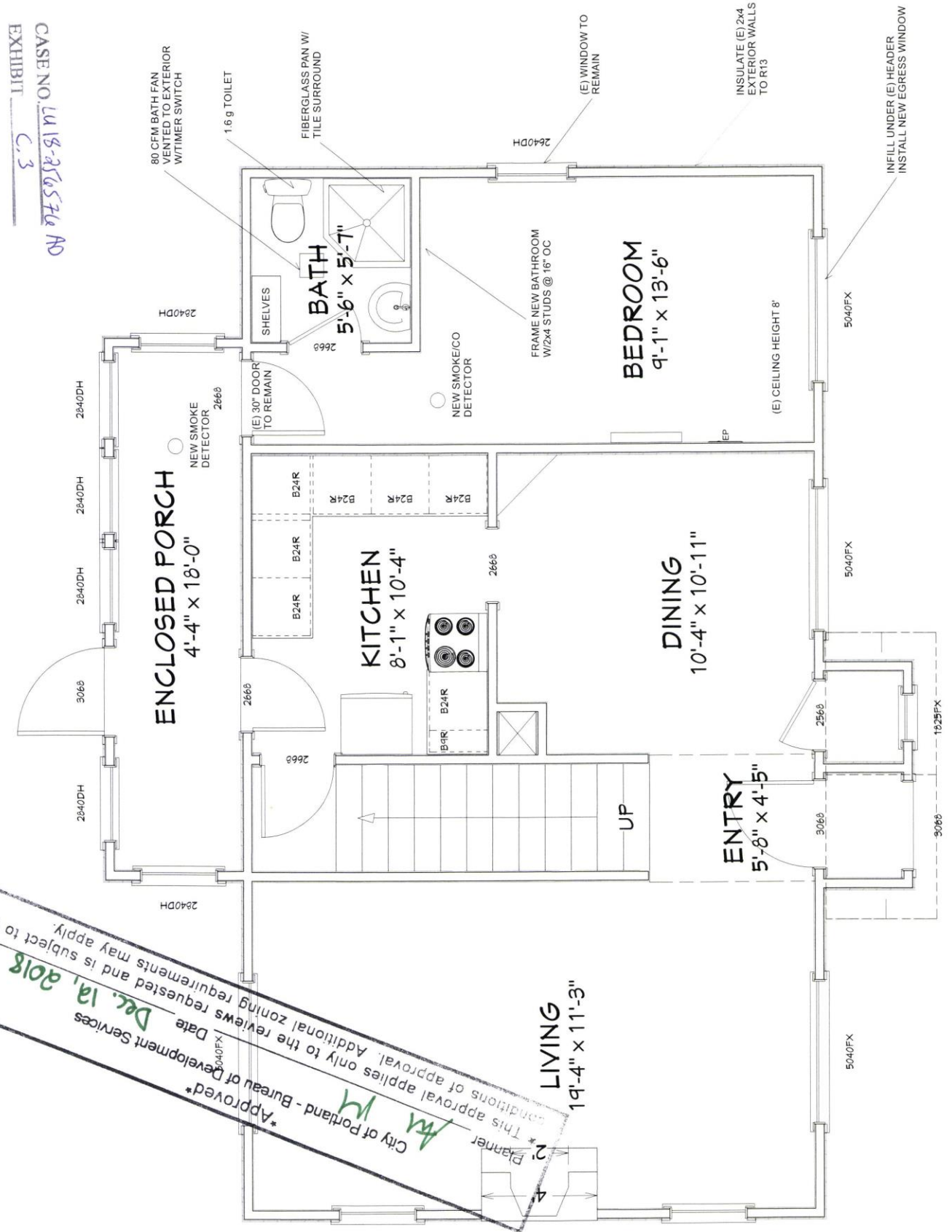


Applicant has applied for a Type II review to allow the 9x18 off-street parking space to encroach 10'7" into the required 15' setback from the lot line.

CASE NO. *Lu 18-256576 AD*
EXHIBIT *C.1*

Lu 18-256576 AD

CASE NO. LU 18-256576 AD
 EXHIBIT C.3



Approved*
 City of Portland - Bureau of Development Services
 Date: Dec. 12, 2018
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.
 Planner: Mr. M

Prepared LU 18-256576 AD