



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

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Portland, Oregon 97201
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TTY 503-823-6868
www.portlandonline.com/bds

Date: February 18, 2009
To: Interested Person
From: Crystal Hitchings, Land Use Services
503-823-7583 / Crystal.Hitchings@ci.portland.or.us

**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 reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 09-100046 AD

GENERAL INFORMATION

Applicant: Michael Calhoun
Calhoun & Sons Contracting
4976 SE Willow St.
Portland, OR 97216

Property Owners: Kenneth Demo & Maura Doherty
5416 SE Steele St.
Portland, OR 97206-5557

Site Address: 5416 SE STEELE ST

Legal Description: LOT 27&28 BLOCK 14, TREMONT PK
Tax Account No.: R842203170
State ID No.: 1S2E18AC 07000
Quarter Section: 3536

Neighborhood: Woodstock, contact Terry Griffiths at 503-771-0011.
Business District: Woodstock Community Business Association, contact Angie Even at 503-771-9912.
District Coalition: Southeast Uplift, contact Cece Hughley Noel 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 is proposing to construct an addition onto the west side of the existing, detached garage. The existing garage is 23 feet wide by 20 feet deep, is 8 feet, 3 inches in height to the top of the walls, and is 13.5 feet in height to the top of the roof gable, and is located 4 feet from the east side property line and 2 feet from the rear property line along the alley. The proposed addition is 16 feet wide by 20 feet deep, is 10.5 feet in height to the top of the walls, and is 16

feet, 4 inches in height to the top of the roof gable. The proposed addition will be constructed on the west side of the existing garage, internal to the site, and at a 2-foot setback from the rear property line along the alley. The addition will be 33 inches taller than the existing garage. The existing garage is allowed to be located within the side building setback by right because it meets specific exceptions allowed by Zoning Code Section 33.110.253.D. However, because the proposed addition is attached to the existing garage, the new addition brings the overall garage size and height out of compliance with the exception that allows garages to be located within the building setbacks. Therefore, the garage must meet the setback standards of the R5 zone.

The R5 zone requires a side building setback of 5 feet. No building setback is required from a rear lot line abutting an alley. Therefore, an Adjustment to **Section 33.110.220, Setbacks**, is required to allow the proposed 39' x 20' (overall size) garage to be located 4 feet from the east side property line.

ANALYSIS

Site and Vicinity: The 8,400 square foot subject site is located on the south side of SE Steele Street, just east of SE 54th Avenue, and is developed with a single-story, single-dwelling home originally built in 1924. A public alley runs through the center of the block along the rear property line of the site. The site also contains a carport in the southwest corner and a single-story, detached garage on the southeast corner. Vehicle access to the site is obtained through the alleyway at the rear of the site; there is on-street parking but no vehicle access from SE Steele Street. Outdoor areas for the home are located in the front yard and the northwest and southeast side yards. Shrubs and mature trees grow along the west side property line.

The adjacent sites are also developed with single-dwelling homes. The site to the southwest has an attached garage located along the alley, but vehicle access is from SE 54th Avenue. Property lines between the subject and adjacent sites contain mature trees and shrubs and/or fencing. The sites from which the garage addition is most visible are two directly across the alley to the south. Both sites are fenced along their rear, alley frontage.

Within 200 feet of the subject site, development is predominantly single-story, single-dwelling residential. Lots vary in size, but are mainly 40, 60, or 80 feet wide. All of the immediately surrounding blocks contain a public alley, as do almost all of the blocks as far south as SE Duke and as far east as SE 72nd Avenue, and it is common for garages of many different sizes to be located along these alleys.

In this area, SE Steele is designated as a Local Service Access Street. The north side of SE Steele is developed with a 9-foot planting strip, 5-foot sidewalk, and an additional 2-foot right-of-way. The south side of SE Steele is developed with a gravel curb only, except for a 120-foot strip just east of the subject site that also is developed with the 9-5-2 pattern found on the north side.

Zoning: The R5 zone is a high density single-dwelling zone. The R5 zone allows attached and detached single-dwelling structures and duplexes. 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.

The R5 zone requires a 5-foot side and rear building setback, but does not require any building setback from a side or rear lot line abutting an alley.

Land Use History: City records indicate that there have been no prior quasi-judicial land use reviews for this site.

Agency Review: A "Request for Response" was mailed on January 22, 2009. The following Bureaus have responded with no issues or concerns (Exhibits E.1-E.4):

- Fire Bureau
- Bureau of Transportation Engineering
- Water Bureau
- Bureau of Parks-Forestry Division

The following Bureaus have submitted additional comments:

- The **Site Development Section of BDS** (Exhibit E.5): gave no objections to the proposed Adjustment, and responded with information regarding stormwater management and water resources intended to assist the applicant with the building permit process.
- The **Life Safety Bureau of BDS** (Exhibit E.6): noted that a building permit has been applied for (08-179162 RS) and that a Life Safety plans examiner is in contact with the applicant.
- The **Bureau of Environmental Services** (Exhibit E.7): gave no objections to the proposed Adjustment, and responded with information regarding stormwater management and water resources intended to assist the applicant with the building permit process.

Neighborhood Review: A “Notice of Proposal in Your Neighborhood” was mailed on January 22, 2009. A total of two written responses were received from notified property owners in response to the proposal. Both letters were written in general support of the Adjustment request.

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 **Section 33.110.220, Setbacks**. The purpose statement for this regulation is as follows:

Purpose: The building setback regulations serve several purposes:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The existing garage is a legally constructed structure allowed by right, through an exception, to be located within the east side building setback. The addition throws the garage out of conformance with the exception, and thus the entire garage is subject to the 5-foot side setback requirement. The addition itself exceeds required building setbacks in all directions. No changes are proposed to the existing garage, either in its physical nature or in its use, other than its being enlarged at the interior of the lot by the construction of the addition. Therefore, the relationship of the existing garage to the adjacent property to the east is not changed through the construction of a garage addition on the west façade at the interior of the lot.

The addition is 33 inches taller than the existing garage, but is 27 feet from the east side property line. Constructing an addition onto the west side of the garage at the interior of the lot, away from properties to the north, west, and east property lines, does not negatively affect light and air for neighboring lots, and existing light and air are maintained.

Similarly, because the addition is located at the interior of the lot, and no new development is proposed within the east side setback or adjacent to any other properties, fire safety and fire access will not be reduced by the addition. The existing garage is located 4 feet from the east side property line, leaving adequate room between it and the adjacent property for fire fighting access. The Fire Bureau and the Life Safety Bureau have reviewed the proposal and have expressed no concerns.

The longest façade and most visible portion of the garage is the south facade, which fronts the public alley. The garage addition is not required to be set back at all from the rear property line along the alley way, but is actually set back by 2 feet, providing greater physical and visual separation than required from adjacent lots to the south. The adjacent property to the east is the most affected by the proposal. From this adjacent property, the only visible aspect of the addition is the portion of the roof which rises above the roof of the existing garage, which is located 27 feet from the property line. Because the addition has already been framed, the visual affects of the addition on the adjacent property are immediately obvious. The garage addition does not appear out of scale with existing development, and it is not uncommon for garages of a similar size to be located at the rear of a lot along a public alley in the larger neighborhood to the south and east.

The addition will be located approximately 25 feet from the house on the subject site, approximately 30 feet from the nearest adjacent house to the south, and approximately 33 feet from the adjacent home to the east. The existing garage is located at least 10 feet from the rear corner of the home on the adjacent property to the east, which is also the distance between the home on the subject site and on the adjacent site to the east. These distances provide reasonable physical relationships between structures.

Granting this Adjustment does not change the degree of privacy enjoyed on the subject site or neighboring properties. No changes in the location or use of the existing garage are proposed. There are no windows or doors on the east (side) or south (rear) wall of the existing garage, which face other properties. The addition is located on the west side of the existing garage, 27 feet from the east side property line. A 6-foot wooden fence runs along the common side property line, obscuring much of the visibility between the subject site and the property to the east. Additionally, trees and shrubs on the adjacent property further screen visibility between the garage and adjacent property. The Adjustment does not change the degree of or options for privacy already enjoyed on this or any adjacent sites. The garage entrance faces into the lot rather than the street, and plenty of room for parking is provided on the site.

Because the addition is located at the interior of the lot, and does not impose any changes to the area of the garage that is actually located in the setback, the request does not negatively affect issues related to the purpose statement for setbacks, and the purpose statement is equally met by the proposal. Therefore, 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; and

Findings: This Adjustment will not result in any changes to the location, size, or use of the existing portion of the garage. The roof of the addition is 33 inches taller than the roof of the existing garage, and so will be somewhat but not significantly visible from the east. However, the closest visible portion of the addition roof is located 27 feet from the common side property line. The proposed garage addition, in conjunction with the existing structure, results in a structure that remains in character with other accessory development along alleys in the nearby neighborhoods, and so will not negatively affect the existing livability or appearance of the residential area. Therefore, 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: The proposed addition is not located within or near the side building setback, and will not change the existing portion of existing garage that is located within the setback. No discernible impacts will result from granting the requested adjustment. 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: 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 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

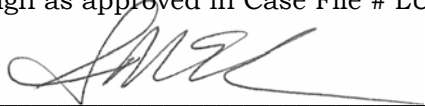
The request is for an addition at the interior of the lot on the west side of the existing garage, and will result in no changes to the existing garage. The Adjustment approval criteria are met. Therefore, the Adjustment can be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to **Section 33.110.220, Setbacks**, to allow the proposed new 16' x 20' garage addition that is 16 feet, 4 inches in height, measured at the ridge, to be constructed on the west side of the existing garage, resulting in an overall garage size of 39' x 20' located 4 feet from the east side property line, in significant conformance with the approved plan, Exhibit C-1, signed and dated **February 13, 2009**, 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 Exhibits C-1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-100046 AD."

Decision rendered by:  **on February 13, 2009.**
By authority of the Director of the Bureau of Development Services

Decision mailed: February 18, 2009

Staff Planner: Crystal Hitchings

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 January 2, 2009, and was determined to be complete on January 15, 2009.

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 January 2, 2009.

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.

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 4, 2009** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **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. Low-income individuals appealing a decision for their personal

residence that they own in whole or in part, may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 5, 2009 – (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.

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:

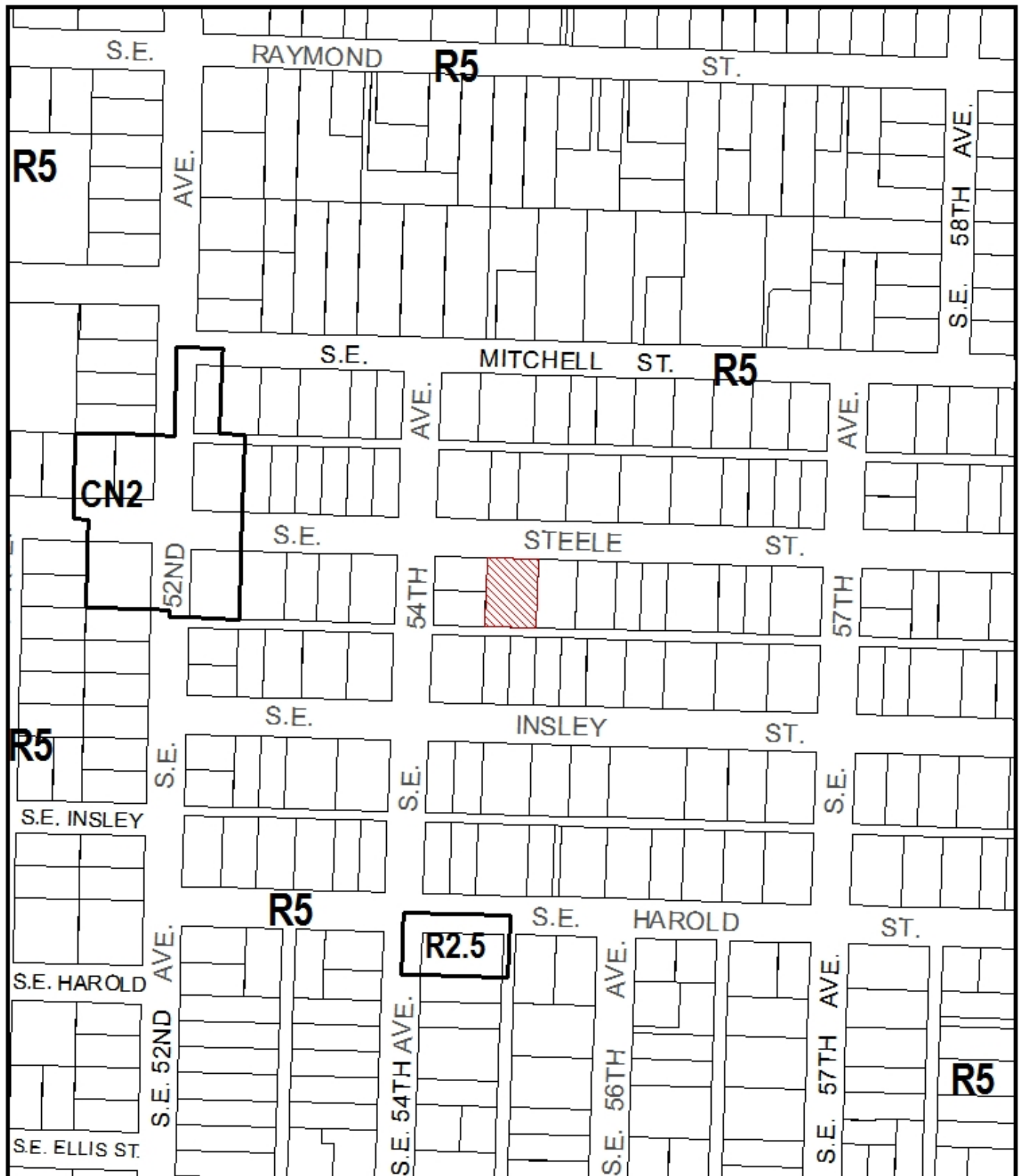
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Site photos (staff) (attached)
 - 3. Site photos (applicant)
 - 4. Elevation, garage addition (north and south)
 - 5. Elevations, existing garage (north and south)
 - 6. Construction details
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Fire Bureau
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Bureau of Parks, Forestry Division
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Bureau
 - 7. Bureau of Environmental Services
- F. Correspondence:
 - 1. Betty Bergstrom; January 23, 2009; support of the proposal
 - 2. Inez Linn; January 29, 2009; support of the proposal
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Building Permit and Inspections Required; dated November 26, 2008
 - 4. Disclaimer for existing on-site sewage disposal system; 08-179162 RS

The Bureau of Development Services is Committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING



Site



NORTH

File No. LU 09-100046 AD
 1/4 Section 3536
 Scale 1 inch = 200 feet
 State_Id 1S2E18AC 7000
 Exhibit B (Jan 07,2009)

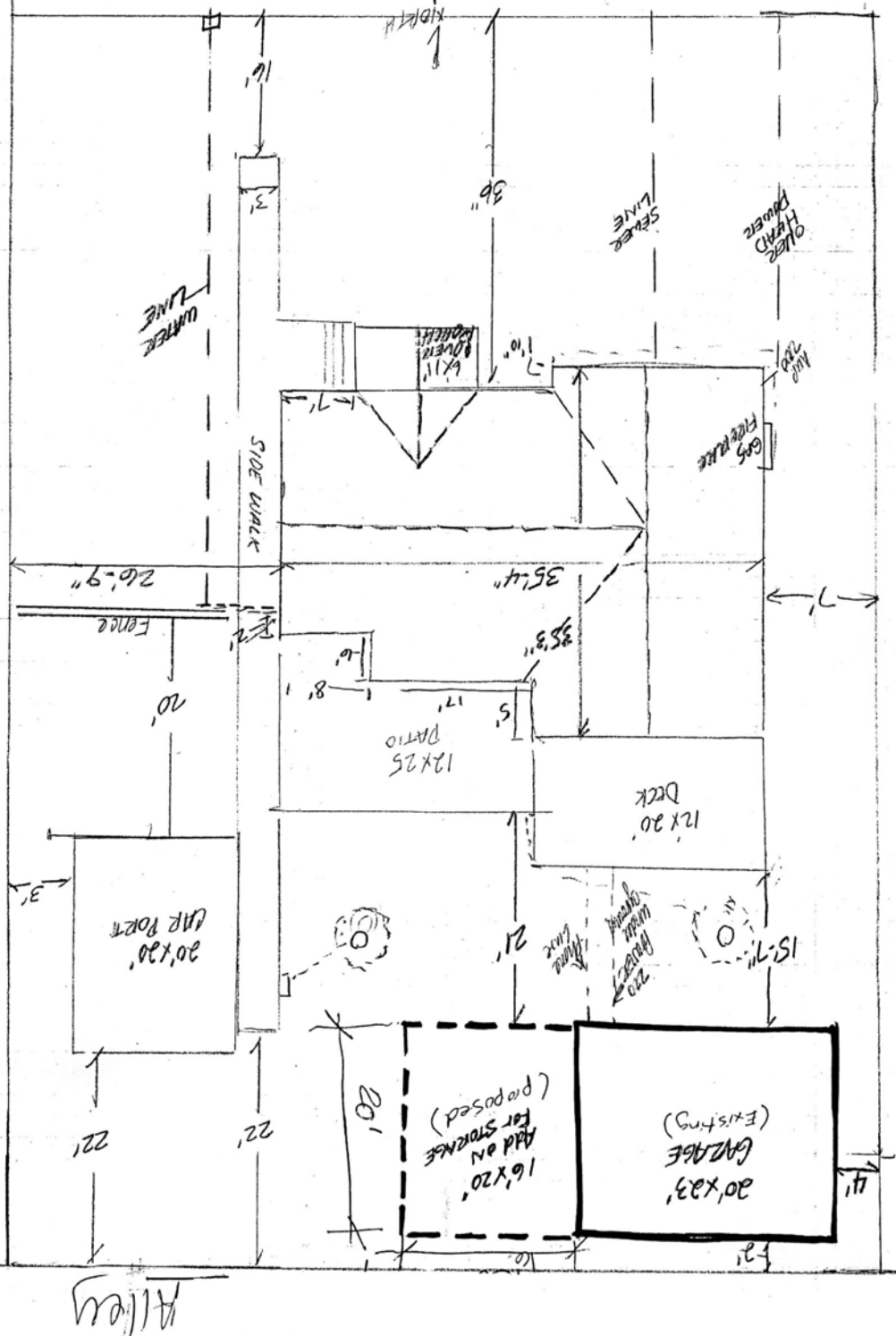


SITE PLAN

09-100046 AD

PROJECT ADDRESS
5416 SE STEELE ST
PORTLAND, OREGON 97206

PROJECT LEGAL
LOT 27 & 28 BLOCK 14



Approved
City of Portland - Bureau of Development Services
Planner *Capital Hill* Date *2-13-08*
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.