



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

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[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** September 29, 2009  
**To:** Interested Person  
**From:** Kathleen Stokes, Land Use Services  
503-823-7843 / [kstokes@ci.portland.or.us](mailto:kstokes@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 09-150626 AD**

#### **GENERAL INFORMATION**

**Applicant:** Matthew S and Katherine M Hickman  
4235 SW Patrick Place  
Portland, OR 97239

**Representative:** Liz Dexter, Reveal Architecture And Interiors  
1600 SE Bybee Ste 206  
Portland OR 97202

**Site Address:** 4235 SW PATRICK PL

**Legal Description:** TL 3500 LOT 8&9 BLOCK 4, HEALY HTS & RPLT  
**Tax Account No.:** R371100970  
**State ID No.:** 1S1E09CC 03500  
**Quarter Section:** 3427

**Neighborhood:** Healy Heights, contact Liz Mason-Kahn at 503-248-1651. Southwest Hills Residential League, contact Nancy Seton at 503-224-3840.

**Business District:** None  
**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

**Zoning:** R7 (R7,000, Medium Density Single-dwelling Residential)

**Case Type:** Adjustment Review  
**Procedure:** Type II, administrative decision with appeal to Adjustment Committee.

**Proposal:** The applicants are proposing to tear down the attached garage and replace it with a new garage and a second story addition. The proposed addition would be located on the east side of the house, where the angled property line varies from 2 feet, 10 inches to 5 feet, 10 inches from the proposed building wall. No eaves are proposed on the east side, but a small projection of up to 6 inches will provide a roof edge for attaching gutters. The new garage is also proposed to extend further toward the street than the existing garage, placing it 16 feet, 9 inches closer to the street lot line than the longest street-facing wall of the living area of the residence.

The Portland Zoning Code, Section 33.110.220 B, requires structures to be set back a minimum of five feet from side and rear property lines in the R7 zone. The Code also regulates the size and position of garages, relative to the living area of a dwelling unit. Code Section 33.110.253 F states that a garage wall that faces a street may be no closer to the street lot line than the longest street-facing wall of the dwelling unit.

Exceptions to these standards may be requested through an Adjustment Review. The applicants are requesting approval of an Adjustment to allow the minimum setback for the addition to be reduced from 5 feet to as little as 2 feet, 10 inches for the building wall and to 2 feet, 4 inches for the edge of the roof. The applicants have requested approval of a second Adjustment to allow the garage wall to be 16 feet, 9 inches closer to the street lot line than the longest street-facing wall of the dwelling unit.

**Relevant Approval Criteria:** To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

## ANALYSIS

**Site and Vicinity:** The applicants' site is an 8,500 square-foot parcel that is located on the west side of SW Patrick Place. The property is developed with a 1.5-story, 3,263 square-foot, single-dwelling residence that was constructed in 1953. The site is across the street from Healy Heights Park and the rest of the surrounding area is developed with other single-dwelling residences that are generally similar in age and size.

**Zoning:** The site is zoned R7, Medium Density Single-dwelling Residential. This zone designation is intended for areas with adequate public services but minor development constraints. Single-dwelling residential will be the primary use. The maximum density is generally 6.2 units per acre or an average of one lot for every 7,000 square feet.

**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 **August 26, 2009**. The following Bureaus have responded to indicate that there are no issues or concerns related to approval of the requested Adjustments. Agencies that provided written comments regarding building permit requirements are noted with exhibit numbers:

- Environmental Services provided information on sanitary sewers and stormwater management requirements (Exhibit E-1).
- Transportation Engineering noted that the addition to the garage footprint will still meet the required garage entrance setback, which will allow adequate space for parking in front of the garage entrance without obstructing the pedestrian corridor or overhanging the street. (Exhibit E-2)
- Water Bureau provided information on the water service for the site (Exhibit E-3).
- Fire Bureau noted no concerns.
- Site Development Section of BDS provided information on requirements for stormwater management and also stated that a geotechnical engineer's report may be required at the time of plan review (Exhibit E-4).
- Life Safety Plan Review Section of BDS noted requirements for fire protection for walls that are less than three feet from an adjacent property line (Exhibit E-5).
- Parks-Forestry Division noted no concerns.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on August 26, 2009. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

**33.805.010 Purpose of 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 to provide certainty and rapid processing for land use applications.

### **33.805.040 Adjustment Approval Criteria**

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below, have been met.

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

**Findings:** Adjustment 1. Reduce the minimum building setback from the south side property line, from 5 feet to a distance that varies to as little as 2 feet, 10 inches to the building wall and 2 feet, 4 inches to the roof edge: The purpose of building setback requirements are to maintain light, air, separation for fire protection, and access for fire fighting. Setback standards also reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences. They promote options for privacy for neighboring properties and 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.

In this situation, there is a parcel that is located between the applicant's site and the adjacent residence to the south that is not of sufficient size or shape to allow any development to occur. According to the applicants' representative, both the applicants and their neighbors have attempted to purchase this small, triangular parcel, but were unsuccessful. The property creates a natural buffer area that, when combined with the proposed building setback on the applicants' site, increases the defacto setback from the next developed lot to the south by a distance of more than 8 feet. In addition to this, much of the proposed structure meets the required 5-foot setback, even without the buffer of the adjacent irregular lot. Therefore all of the purposes of setback requirements are equally met by this proposal and, for this adjustment, this criterion is met.

Adjustment 2. Allow the street-facing garage wall to be located 16 feet, 9 inches closer to the street lot line than the longest street-facing wall of the dwelling unit: The purpose for the special regulations related to garages is stated in the Code, as follows: "These standards

- Together with the window and main entrance standards, ensure that there is a physical and visual connection between the living area of the residence and the street;
- Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;
- Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;
- Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and
- Enhance public safety by preventing garages from blocking views of the street from inside the residence."

A physical and visual connection will be maintained between the living area of the dwelling unit and the street, because the small projection of the garage toward the front of the lot will not obscure the remaining front of the dwelling unit. The living area of the residence will still be prominent and will be enhanced by the bay window feature above the garage. The main entrance is well demarcated by the courtyard and entry path in the front yard area. The path and the setback from the street edge maintain a pleasant

pedestrian environment. The openness of the front of the lot and visibility of the entry porch will also be maintained to ensure that public safety is not effected. Therefore the proposal equally meets the purposes of this regulation and, for this adjustment, 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:** As stated in the findings above, the proposal to reduce the minimum building setback from the south property line and to locate the garage wall closer to the street lot line than the longest street-facing wall of the dwelling unit will not have any impacts on the adjacent residents, will not detract from the appearance of the property from the street frontage and will not obscure the main entrance or the living area of the dwelling unit. Therefore, approval of the proposal will not have any significant negative impacts on the appearance or livability of the residential area 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:** Two adjustments have been requested, but no cumulative effects are expected to occur. Approval of the requested adjustments will result in a project that is compatible with the appearance of the residence and enhances the utility of the residence, the garage and the parking area, without creating negative impacts. The proposal is to create improvements to the single-dwelling residence on this site. Because the purpose of the R7 zone is to preserve land for housing and to provide housing opportunities for individual households, the project is still consistent with the overall purpose of the zone and this criterion is met.

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

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

- 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:** There are no designated scenic or historic resources on the site. No impacts have been identified and the site is not located in an environmental zone. Therefore, these criteria do not apply.

## **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 applicants' proposal meets all of the relevant approval criteria. Adequate separation will exist between structures to meet the purposes of the building setback requirement along the south property line. The location of the street-facing garage wall will not have any negative effect on the appearance of the neighborhood and will not obscure the living area of the dwelling unit or main entry. Therefore, the proposal can be approved, in substantial compliance with the proposed site plan and elevation drawings.

## ADMINISTRATIVE DECISION

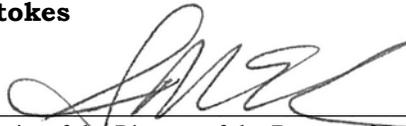
### Approval of Adjustments:

- to Code Section 33.110.220 B, to allow the minimum setback for the garage and addition to be reduced from 5 feet to as little as 2 feet, 10 inches for the building wall and to 2 feet, 4 inches for the edge of the roof, and
- to Code Section 33.110.253 F, to allow the garage wall to be 16 feet, 9 inches closer to the street lot line than the longest street-facing all of the dwelling unit.

Approvals are subject to substantial compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-2, signed and dated September 25, 2009, and also 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-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-150626 AD."

**Staff Planner: Kathleen Stokes**

**Decision rendered by:**  **on September 25, 2009**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: September 29, 2009**

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

**Procedural Information.** The application for this land use review was submitted on August 12, 2009, and was determined to be complete on August 24, 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 August 12, 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 October 13, 2009**, at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, 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 at [www.portlandonline.com](http://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 **October 14, 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.

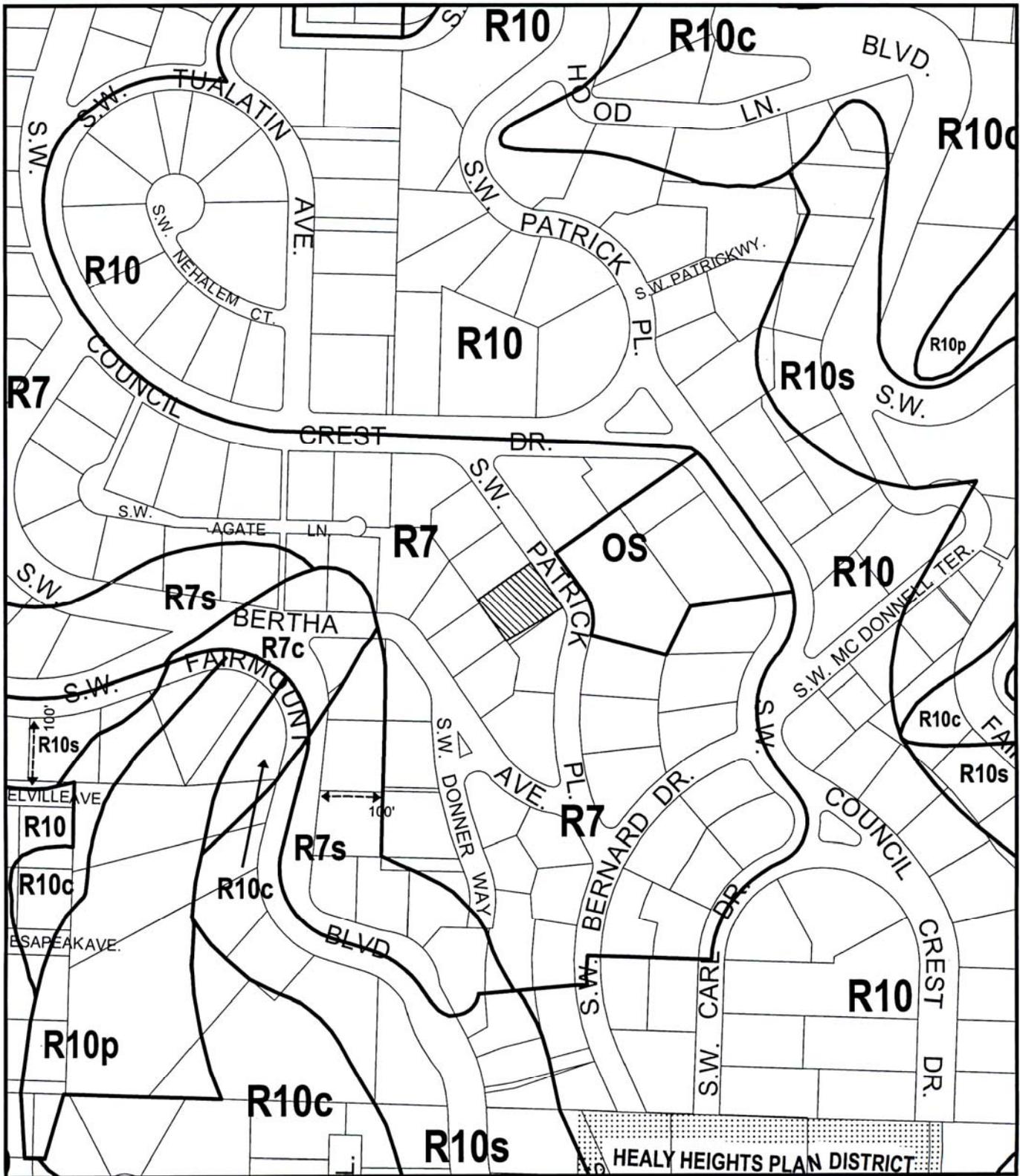
**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
  1. Application, narrative, photos and plans
  2. Plan revision, showing stormwater treatment with flow-through planters, Sept. 24, 2009
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Elevation Drawings (attached)
- 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. Site Development Review Section of BDS
  5. Life Safety Plan Review Section of BDS
  6. Summary sheet of electronic agency responses
- F. Correspondence: (none received)
- G. Other: (none)



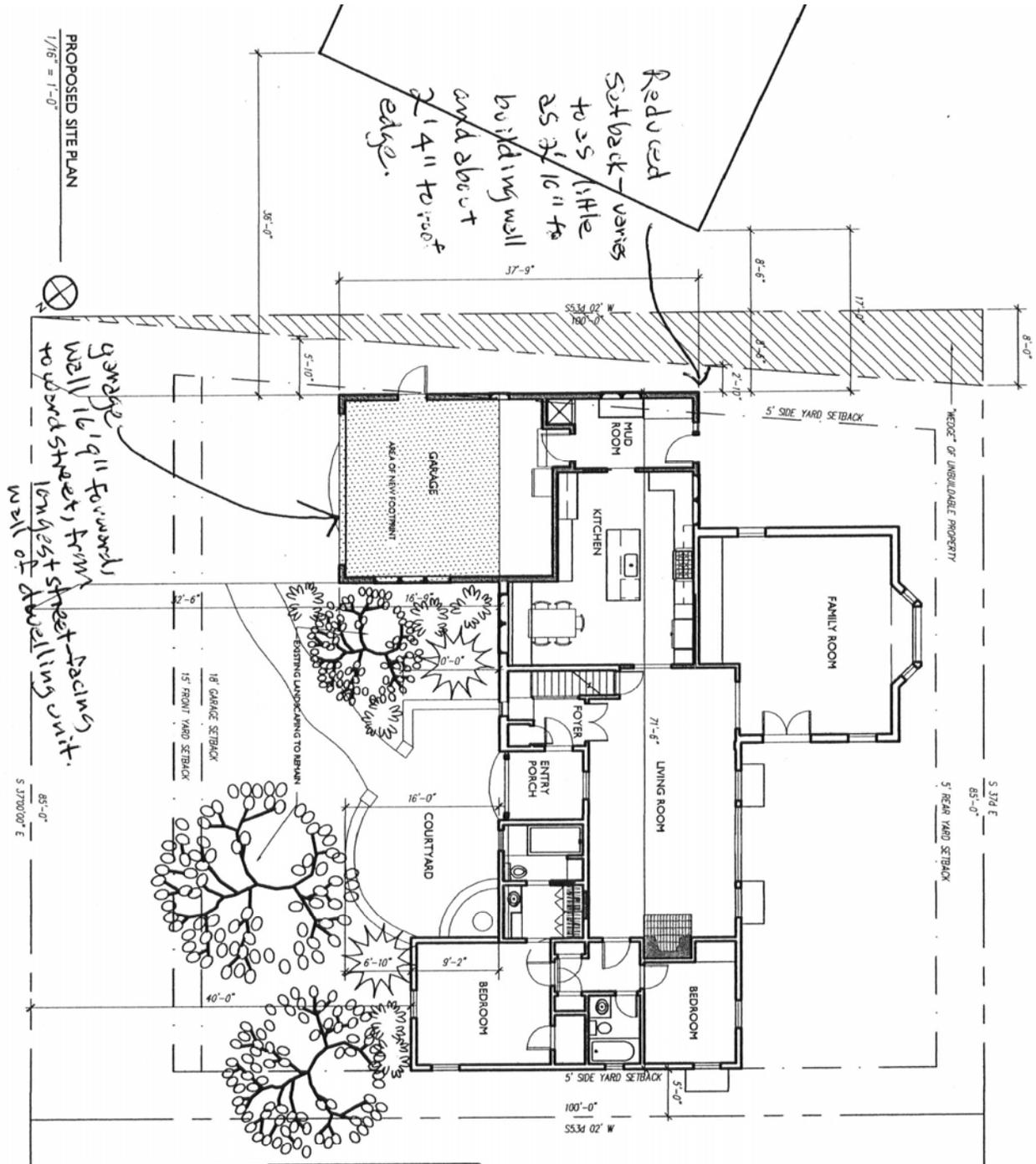
# ZONING

 Site



File No. LU 09-150626 AD  
 1/4 Section 3427  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E09CC 3500  
 Exhibit B (Aug 17, 2009)

PROPOSED SITE PLAN  
1/16" = 1'-0"



garage 16' 9\"/>

Reduced  
setback - varies  
to 5' little  
as 2' 1/2\"/>

SW Patrick Place

\*Approved\*  
City of Portland - Bureau of Development Services  
Planner Kathleen A. Stokes Date September 25, 2009  
\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

HICKMAN RESIDENCE

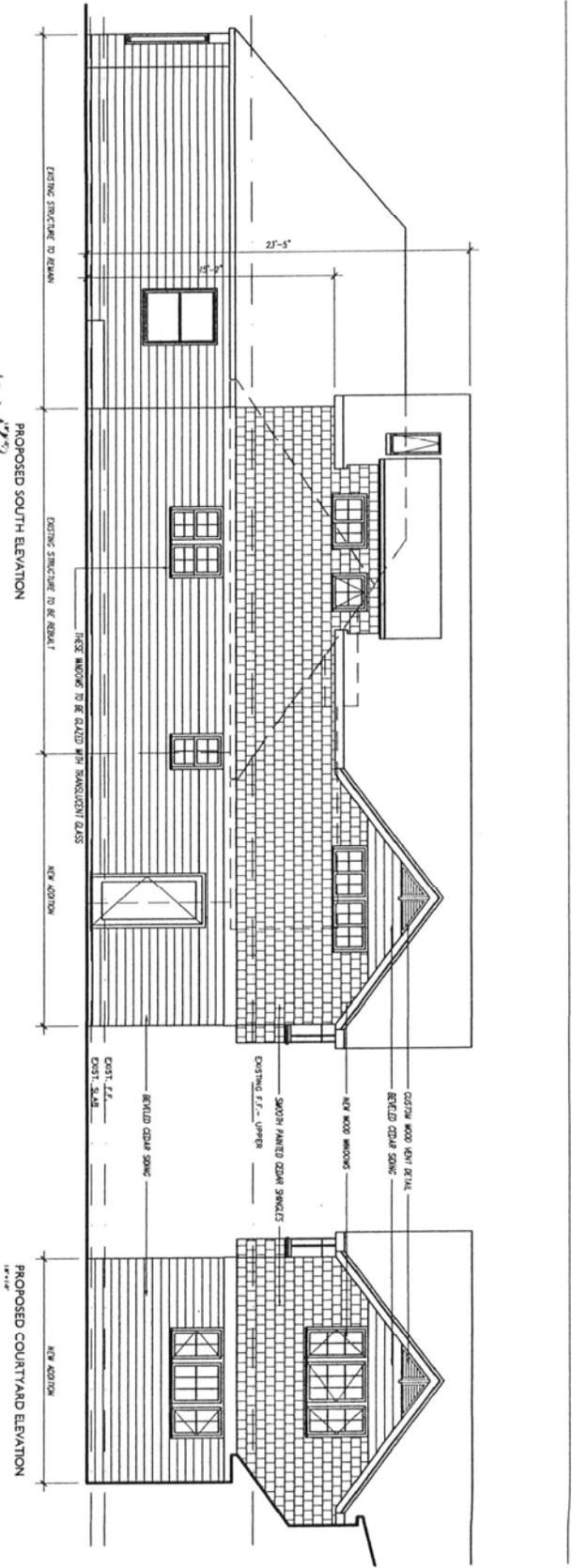
4235 SW PATRICK PLACE  
PORTLAND, OREGON 97201

REVEAL  
architecture + interiors LLC  
1600 SE Bybee Blvd, Suite 206  
Portland, Oregon 97202  
t. 503.963.8147 f. 503.963.8149

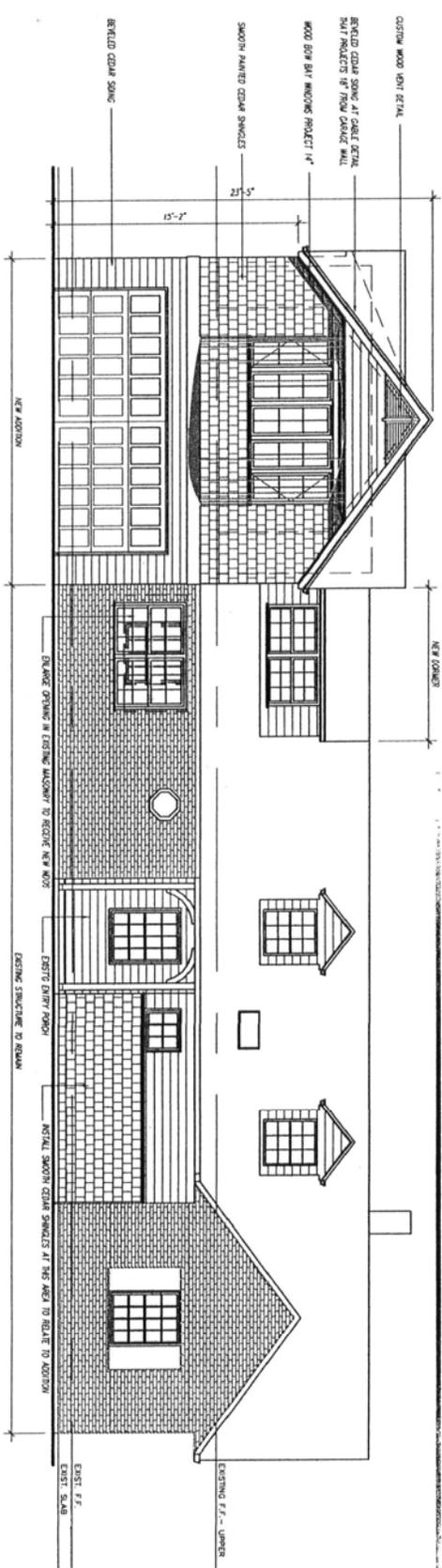
Exhibit C-1

8.11.09  
1/6

LU 09 - 150626 AD



*General compliance with elevations over garage have with elevations but do not need to be in a bay.*



**\*Approved\***  
 City of Portland - Bureau of Development Services  
 Planner Kathleen A. Stokes Date September 27, 2017  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.