



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

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Date: August 4, 2009
To: Interested Person
From: Suzanne Savin, Land Use Services
503-823-5888 / Suzanne.Savin@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 09-101534 AD

GENERAL INFORMATION

Applicant: Doug Moore
493 NW Bryn Mawr Pl.
Gresham, OR 97030

Site Address: 2911 SE 174TH AVE

Legal Description: BROOKLYN ESTATES, LOT 1, INC UND INT TRACTS A&B
Tax Account No.: R108600050
State ID No.: 1S3E07AB 9701
Quarter Section: 3348

Neighborhood: Centennial, contact Louise Cody at 503-252-4302.
Business District: None
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: None

Zoning: R7 (Single-Dwelling Residential 7,000)

Case Type: AD (Adjustment Review)
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal:

The site is an approximately 7,760 square foot corner lot that was created as part of a 5-lot subdivision (LU 06-115563 LDS), and contains an existing single-dwelling residence. The applicant is planning to construct a second residential unit on this corner lot, as allowed by Section 33.110.240.E of the Zoning Code. A new garage for the single-dwelling residence will be attached to the north side of the residence. In addition, a second residential unit and its garage will be attached to the north side of the residence to form a duplex.

A paved driveway will extend into the site, from SE 174th Avenue to the front of the side-by-side garages. As shown on the attached site plan, the driveway includes a hammerhead vehicle turn-around area on the north side of the driveway, to allow vehicles backing out of both garages to enter SE 174th Avenue in a forward motion. The area of the driveway between the east lot line and the east building line is approximately 655 square feet, while the land area between the east (side) street lot line and the east building line is approximately 2,590 square feet.

Per Zoning Code Section 33.266.120.C.3.a, on corner lots, no more than 20% of the land area between the side street lot line and the side street building line may be paved or used for vehicle areas. However, the proposed paved driveway and hammerhead turn-around area on this site will constitute approximately 26% of the land area between the east side street lot line and the side street building line. Therefore, the applicant is requesting an Adjustment to Section 33.266.120.C.3.a, to allow the driveway to constitute approximately 26% of the land area between the east lot line and the east building line.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are the Adjustment Approval Criteria of Zoning Code Section 33.805.040.A – F.

ANALYSIS

Site and Vicinity: The site is located on the west side of SE 174th Avenue, between SE Julie Place and SE Brooklyn Street, is approximately 7,760 square feet in size, and contains a single-dwelling residence. To the north, east, south and west of the site are properties zoned R7a and R7, developed with single-dwelling residences.

Zoning: The site is zoned R7, Single-Dwelling Residential 7,000. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households.

Land Use History: City records indicate that there is one prior land use review involving this property: LU 06-115563 LDP, which was a land division casefile. This site was once part of a larger site; the land division casefile approved the division of this site into a 5-lot subdivision. The casefile was approved and the subdivision was platted, which resulted in the present configuration of the subject site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **July 9, 2009**. The following Bureaus have responded with no issues or concerns:

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

The Bureau of Environmental Services (BES) responded that BES has no objection to this Adjustment as long as the public stormwater facilities next to the proposed development are not affected and the stormwater from the driveway is treated through an onsite vegetated infiltration facility. There appears to be adequate space for onsite stormwater treatment. (Exhibit E-1)

The Bureau of Transportation Engineering (PBOT) responded that PBOT has no objection to the proposal provided that there is a clear line of sight provided and maintained along the driveway frontage, including the 18.5-foot hammerhead, and forward motion onto SE 174th Avenue is implemented. (Exhibit E-2)

The Site Development Section of BDS responded that Site Development has no objection to

approval of the proposed Adjustment, provided that the proposed development can meet applicable requirements of the Stormwater Management Manual at the time of building permit review. The response includes additional information that is applicable at the time of building permit review. (Exhibit E-3)

The Life/Safety Plan Review Section of BDS responded that a separate building permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances. (Exhibit E-4)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 9, 2009. One written response has been received from the Centennial Community Association in response to the proposal.

The letter noted that the paving from the turn-around area detracts from the front yard's landscaping, which otherwise would have trees, plants, and/or grass. However, the site plan shows shrubs and a small tree between the turn-around area and the street lot line. These plantings can help minimize the look of the paved area. The site plan also shows 3 street trees within the swale. Many storm swales are filled with tall grasses, green plants, and trees, which if done here can mitigate for the adjustment. The letter concluded that if this is accomplished, as well as landscaping the rest of the front yard facing 174th Avenue, there would be no objection to the proposal. A "no parking" sign would preserve the turn-around area's function to exit onto the avenue in a safe manner.

Staff: As discussed in the following section of this report, Staff concurs that the proposed onsite shrubs and tree will provide visual screening for the turn-around area. The quantity and location of off-site trees (street trees within the swale area) will be determined by the Bureau of Parks – Forestry during building permit review of the proposal, and is not within the scope of the present Adjustment review.

The letter writer has recommended the placement of a "no parking" sign at one end of the proposed turn-around area. However, there is no Zoning Code standard that prohibits parking within the turn-around area. While Zoning Code Section 33.266.130 (Parking and Loading - Development Standards for All Other Uses) requires parking areas to be designed to allow vehicles to enter and exit the roadway in a forward motion, there is no such requirement in Zoning Code Section 33.266.120 (Parking and Loading – Development Standards for Houses and Duplexes). Furthermore, although Zoning Code Section 33.266.120 does not allow required parking spaces within side street setbacks on corner lots, the turn-around area is outside the 5-foot side setback, and would not constitute required parking, since the proposal includes garages for each unit. Therefore, there is no Zoning Code basis upon which to require the applicant to post the turn-around area with a "no parking" sign.

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., below, have been met.

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

Findings: The requested Adjustment is to increase the allowable side yard paved area for vehicles from 20 percent to 26 percent. The purpose of the regulation that limits the vehicle area paving is set forth in Section 33.266.120.A (Parking and Loading - Development Standards for Houses and Duplexes - Purpose) as follows:

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

The applicant states that the request equally meets the above purpose of the regulation for the following reasons:

- The submitted driveway design is as small a paved footprint as possible, while meeting the required minimum turning radius.
- The design allows for a 5-foot buffer between the sidewalk and the hammerhead turn-around. A landscape buffer will be installed between the sidewalk and the turn-around, consisting of a tree and low-growing shrubs. The shrubbery and tree visually screen the additional paved area associated with the turn-around.
- A second factor that provides some visual screening of the turn-around is that the sidewalk is approximately 18 inches higher than the finished floor elevation of the proposed garage floor. From the sidewalk, the slope down and away from the sidewalk may not have a big impact, but from the street, it will help in reducing the visibility of the paving proposed.
- A third factor that provides some visual softening of the turn-around is the fact that most of the turn-around is within the “front yard” of the new duplex unit (between the sidewalk and that unit’s front door). As a result, there will be other shrubs and grass present to soften the appearance of the turn-around area, that might not otherwise exist in a large yard.
- A fourth factor that provides some visual screening of the turn-around is the fact that the swale between the street and the sidewalk is 9 feet to the face of the curb. This is a much wider area than the more typical 3 to 5-foot planter strip found along many curbs and sidewalks.

Staff notes that the applicant’s original proposal was for two hammerhead turn-around areas (one on each side of the driveway), and thus a larger amount of paved area within the side setback. At Staff’s recommendation, the applicant scaled back the proposal to a single hammerhead turn-around area that will be shared by both residential units, and a corresponding reduction in the amount of paved area. This reduction results in a paved area that exceeds the allowed area by only a small amount. With a condition of approval requiring the installation of the proposed trees and shrubs adjacent to the driveway and hammerhead turn-around area as shown on the Site Plan, the purpose of regulation (enhancing the appearance of neighborhoods) will be equally met.

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: This site is within a residential zone. The proposal for additional paved vehicle area within the side setback will not significantly detract from the livability or appearance of the residential area, due to the fact that the amount of additional paved

area is relatively small, and due to the proposal for shrubs and a tree adjacent to the driveway and turn-around area, as shown in the site plan.

- 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, to the amount of paved vehicle area between the side street lot line and side street building line, is being requested. Therefore this criterion is not applicable.

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

Findings: The site does not contain any City-designated scenic or historic resources. Therefore, this criterion is not applicable.

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

Findings: An increase in paved vehicle area has the potential to negatively impact the appearance of the neighborhood. However, in this case, the amount of paved area increase is relatively small. In addition, the applicant is proposing to mitigate the increase in paved area with shrubs and a tree for visual screening and softening of the paved area when viewed from the sidewalk and street. This mitigation will mitigate any impacts from the adjustment to the extent practical.

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, therefore 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

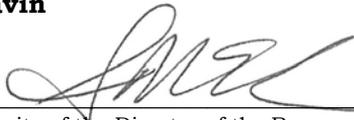
The applicant has requested an Adjustment to Section 33.266.120.C.3.a, to allow the driveway with hammerhead turn-around to constitute approximately 26% of the land area between the east lot line and east building line. The applicant has provided information to demonstrate that the Adjustment will comply with the Adjustment Approval Criteria. Therefore, the Adjustment can be approved, per the site plan. Approval of building permits is still required, after the decision is final and has been recorded with Multnomah County.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Section 33.266.120.C.3.a, to allow the driveway and hammerhead turn-around area to constitute approximately 26 % of the land area between the east (side) property line and the east building line, per the approved plan, Exhibit C-1, signed and dated July 31, 2009, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (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 09-101534 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The driveway and hammerhead turn-around area must be flanked with landscaping (a tree and shrubs) in the approximate locations shown on the site plan (Exhibit C-1).

Staff Planner: Suzanne Savin

Decision rendered by:  **on July 31, 2009.**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 4, 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 January 9, 2009, and was determined to be complete on July 6, 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 9, 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. Unless further extended by the applicant, **the 120 days will expire on: November 3, 2009.**

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 August 18, 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 **August 19, 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:

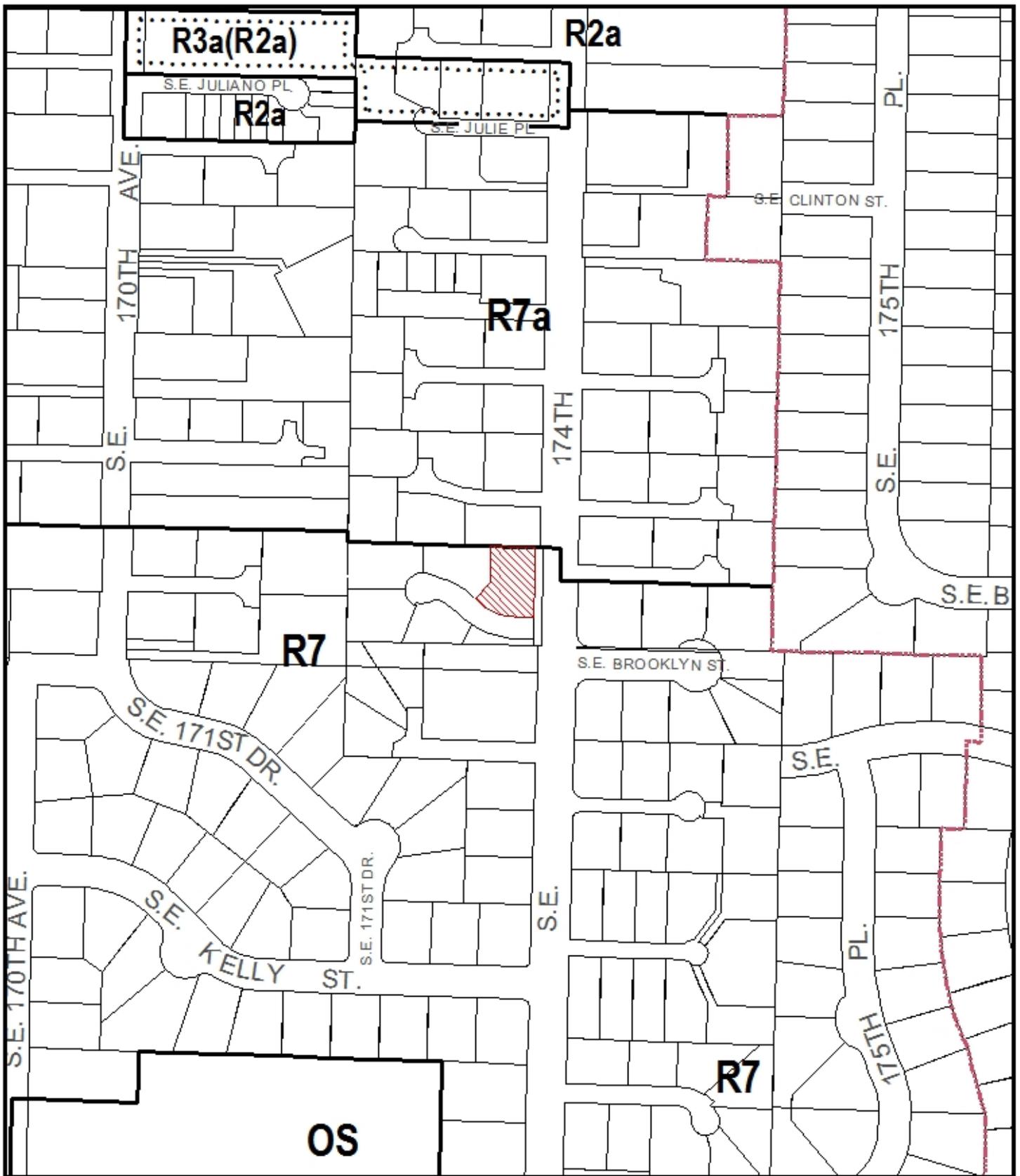
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations of Proposed Second Unit (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. Site Development Review Section of BDS
 - 4. Life/Safety Plan Review Section of BDS
 - 5. Water Bureau
 - 6. "No concerns" response from Fire Bureau, Bureau of Parks - Forestry Division
- F. Correspondence:
 - 1. Louise Cody, Land Use Chair of the Centennial Community Association, July 30, 2009, provided comments and recommendations for the proposal.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).



ZONING

 Site

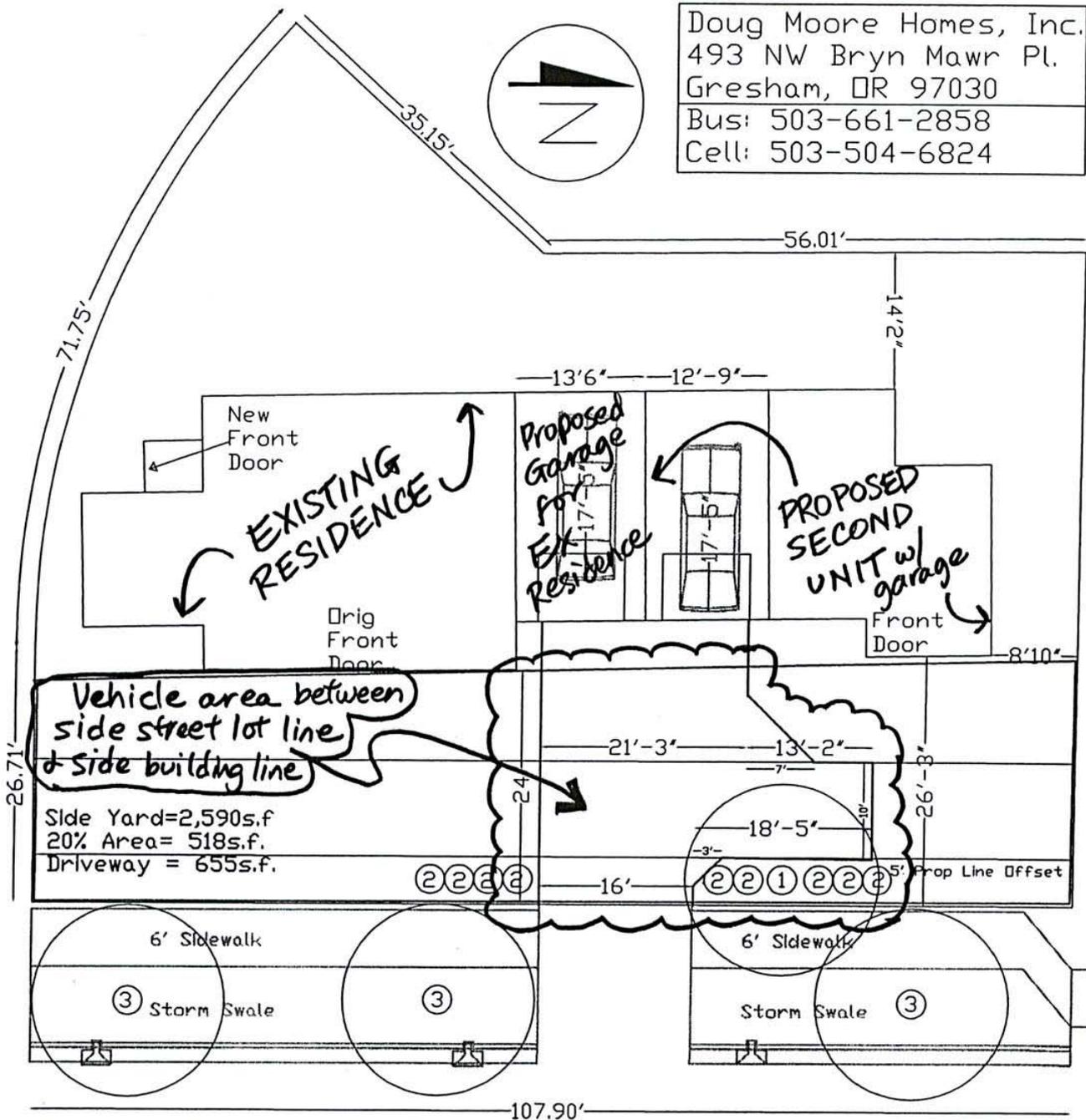


File No.	<u>LU 09-101534 AD</u>
1/4 Section	<u>3348</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S3E07AB 9700</u>
Exhibit	<u>B</u> (Jan 21,2009)

SITE PLAN

Scale: 1"=16'

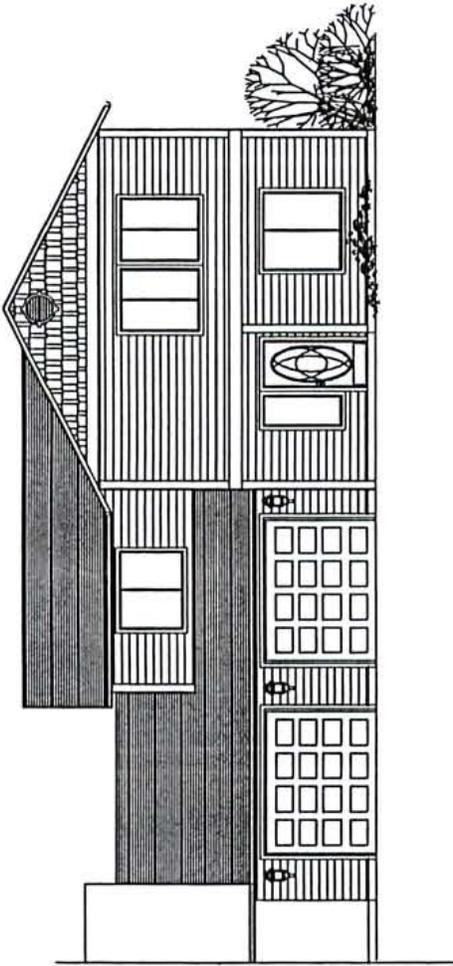
Doug Moore Homes, Inc.
 493 NW Bryn Mawr Pl.
 Gresham, OR 97030
 Bus: 503-661-2858
 Cell: 503-504-6824



Approved
 City of Portland - Bureau of Development Services
 Planner *Suzanne* Date *July 31, 2009*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

- AutoCAD Caluated Area of Paved Area of Side Yard within blue lines= 655 sq. ft.
- ① = "Small Tree" same/similar as Pyrus calleryana "Glens Form" Callery Pear
 - ② = "Low Shrubs" same/similar as Buxus sempervirens "Suffruticosa" Edging Boxwood
 - ③ = Typical Street Trees as required by LU-06-115563-LDS

SITE PLAN



FRONT ELEVATION

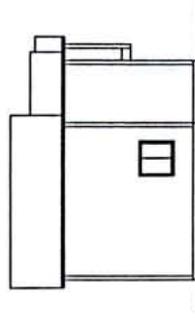
SCALE: 1/4" = 1'-0"

CITY OF FORTLAND YFD
 FRONT WALL HEIGHT AND FRONT DR.
 AREA REQ. = 134.
 FRONT WALL AREA = 746.2 S.F.
 15% OF 746.2 S.F. = 111.9 S.F.
 REDUCED IMPACT REQUIRED = 16.3 S.F.



REAR ELEVATION

SCALE: 1/8" = 1'-0"



RIGHT ELEVATION

SCALE: 1/8" = 1'-0"

ENERGY CODE : PATH 1

TROXEL'S HOME DESIGN	
SCALE: NOTED	DATE: 11/17/14
DATE: 2/26/15	DESIGNED BY: DENNIS TROTT
MARK: 524 SQ FT	TOTAL: 1346 SQ FT
UPPER: 654 SQ FT	PLAN NUMBER: #2220
SHEET: 1	

ELEVATIONS OF PROPOSED SECOND UNIT