



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

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Portland, Oregon 97201
503-823-7300
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TTY 503-823-6868
www.portlandonline.com/bds

Date: March 1, 2010
To: Interested Person
From: Sylvia Cate, Land Use Services
503-823-7771 / scate@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 10-103307 AD

GENERAL INFORMATION

Applicant: Peter A and Joy Nahigian, Listed Owners
4124 SE Long St
Portland, OR 97202

Tony Sanseri, Listed Owner
Neighborhood Homes
P O Box 820181
Portland OR 97282

Representative: Rob Humphrey
Faster Permits
PO Box 42597
Portland, OR 97242

Site Address: 4124 SE Long Street

Legal Description: BLOCK 3 LOT 3, BEAUVOIR
Tax Account No.: R061300350
State ID No.: 1S2E18BB 10800
Quarter Section: 3535

Neighborhood: Woodstock, contact Terry Griffiths at 503-771-0011.
Business District: Woodstock Community Business Association, contact Lori Boisen at 503-760-7968.
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.

Zoning: R5, Single Dwelling Residential 5,000

Case Type: AD, Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The lot to the west of the subject site was created by a lot segregation in 1997. Prior to the lot segregation, the parent parcel [now 4124 SE Long] met its off site parking requirement on this adjacent lot. The approval of the lot segregation in 1997 did not leave room for on-site access to the rear of the existing home on the parent parcel, and other options such as parking in the front setback or easements to provide parking in the rear are difficult if not impossible, due to the topography and slope of both lots. The existing access to the lot to the west of the site serves both that lot and 4714 SE 41st Avenue. Therefore, the applicant requests an adjustment to waive the requirement for off-street parking for the existing residence at 4124 SE Long Street. Because the parent lot at 4124 SE Long street is 534 feet from SE Holgate, which has 20-minute peak hour transit service, it cannot use the exception allowing no on-site parking if the site is within 500 feet of peak hour transit service.

Relevant Approval Criteria:

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 site is a 4,945 square foot lot developed with a 2 story single dwelling residence built circa 1914. Although the lot is relatively flat, it slopes up steeply from the sidewalk for several feet before leveling off. The immediately adjacent properties are all zoned R5 and developed with residential uses, except for the vacant lot immediately west. The vacant abutting lot to the west was created via a lot segregation process in 1997, effectively removing the vacant lot from the parent parcel.

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

Land Use History: City records indicate there are no prior land use reviews for the site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **February 4, 2010**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Bureau of Transportation Engineering

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 4, 2010. 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 (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 Adjustment request is to zoning regulation 33.266.110, *Minimum required parking spaces*, and the purpose of the regulation is found at 33.266.110 A, *Purpose*, which states:

The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.

In this specific instance, the site is 534 feet from frequent service transit. The zoning code waives required on-site parking for properties within 500 feet of frequent service transit. Additionally, given the existing improvements to SE Long Street, creating a new curb cut for the existing house would effectively remove one on-street parking space. By waiving the requirement of one on site parking space, the existing inventory of on street parking spaces is preserved, providing public on-street parking for anyone at any time of day, including use by the residents of the subject site. Given that the site is only 34 feet beyond the 500 foot 'transit street exception to minimum parking' and that by waiving this requirement the current inventory of on street parking is preserved, the proposal equally meets the purpose of the adjusted regulation, and 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, 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: Given the amount of available on street parking along this block of SE Long Street and the fact that the proposal will preserve this inventory and therefore the current livability of the residential area will be maintained. There is nothing about the proposal that would create a detrimental appearance. 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: There are no discernible impacts that would 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 lot to the west of the subject site was created by a lot segregation in 1997. Prior to the lot segregation, the parent parcel [now 4124 SE Long] met its off site parking requirement on this adjacent lot. The approval of the lot segregation in 1997 did not leave room for on-site access to the rear of the existing home on the parent parcel, and other options such as parking in the front setback or easements to provide parking in the rear are difficult if not impossible, due to the topography and slope of both lots.

The existing access to the lot to the west of the site serves both that lot and 4714 SE 41st Avenue. Therefore, the applicant requests an adjustment to waive the requirement for off-street parking for the existing residence at 4124 SE Long Street. Because the parent lot at 4124 SE Long street is 534 feet from SE Holgate, which has 20-minute peak hour transit service, it cannot use the exception allowing no on-site parking if the site is within 500 feet of transit service.

The proposal meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of:

- An Adjustment to 33.266.110 B 1 and associated Tables to reduce the required on-site parking from 1 space to 0,

per the approved site plans, Exhibit C-1, signed and dated February 25, 2010, subject to the following conditions:

- 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 10-103307 AD."

Staff Planner: Sylvia Cate

Decision rendered by:  **on February 25, 2010**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 1, 2010

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 15, 2010, and was determined to be complete on January 29, 2010.

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 15, 2010.

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: May 29, 2010.**

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 15, 2010** 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 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 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 16, 2010 – (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:

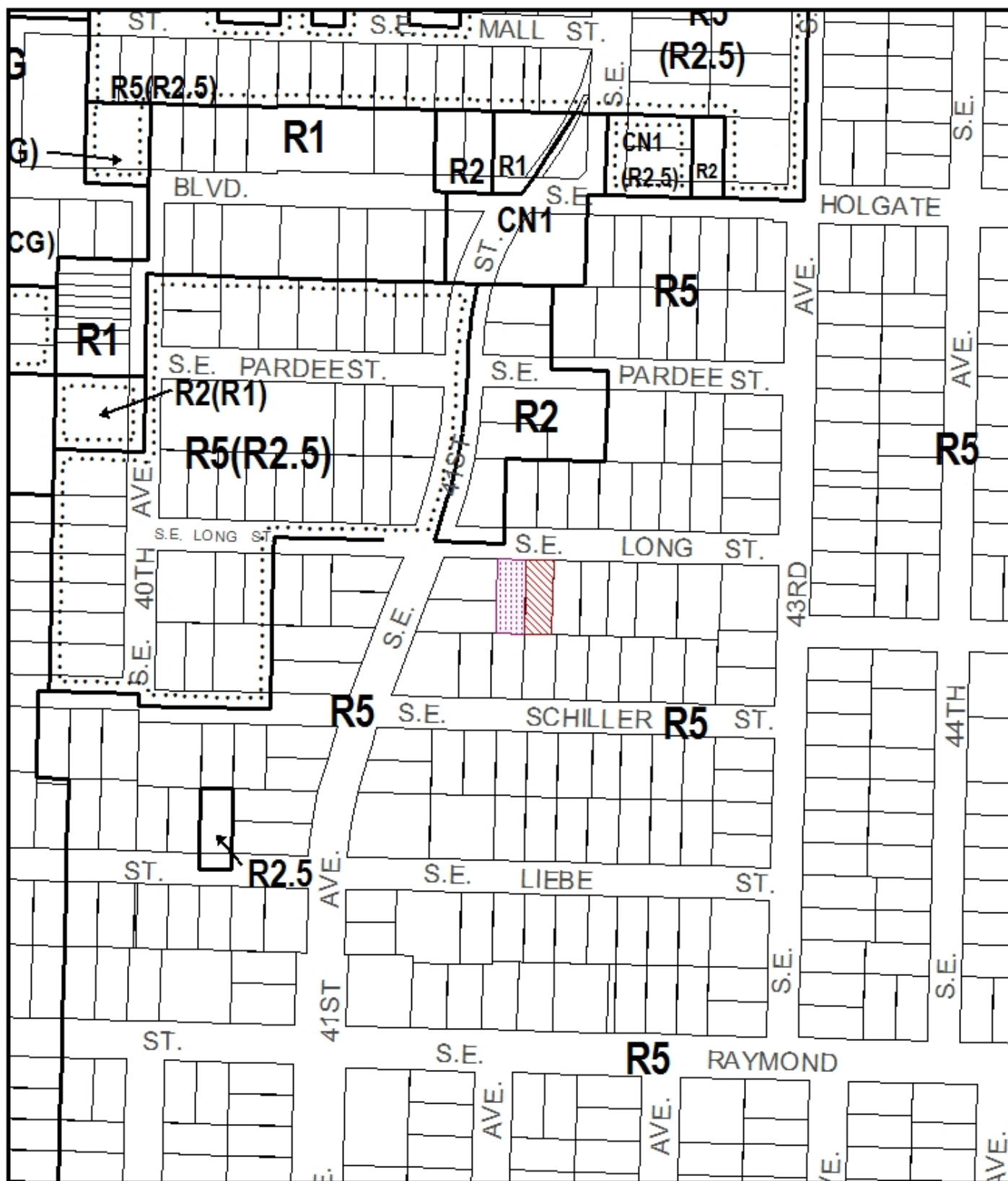
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- 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. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence: None Received
- 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. 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).

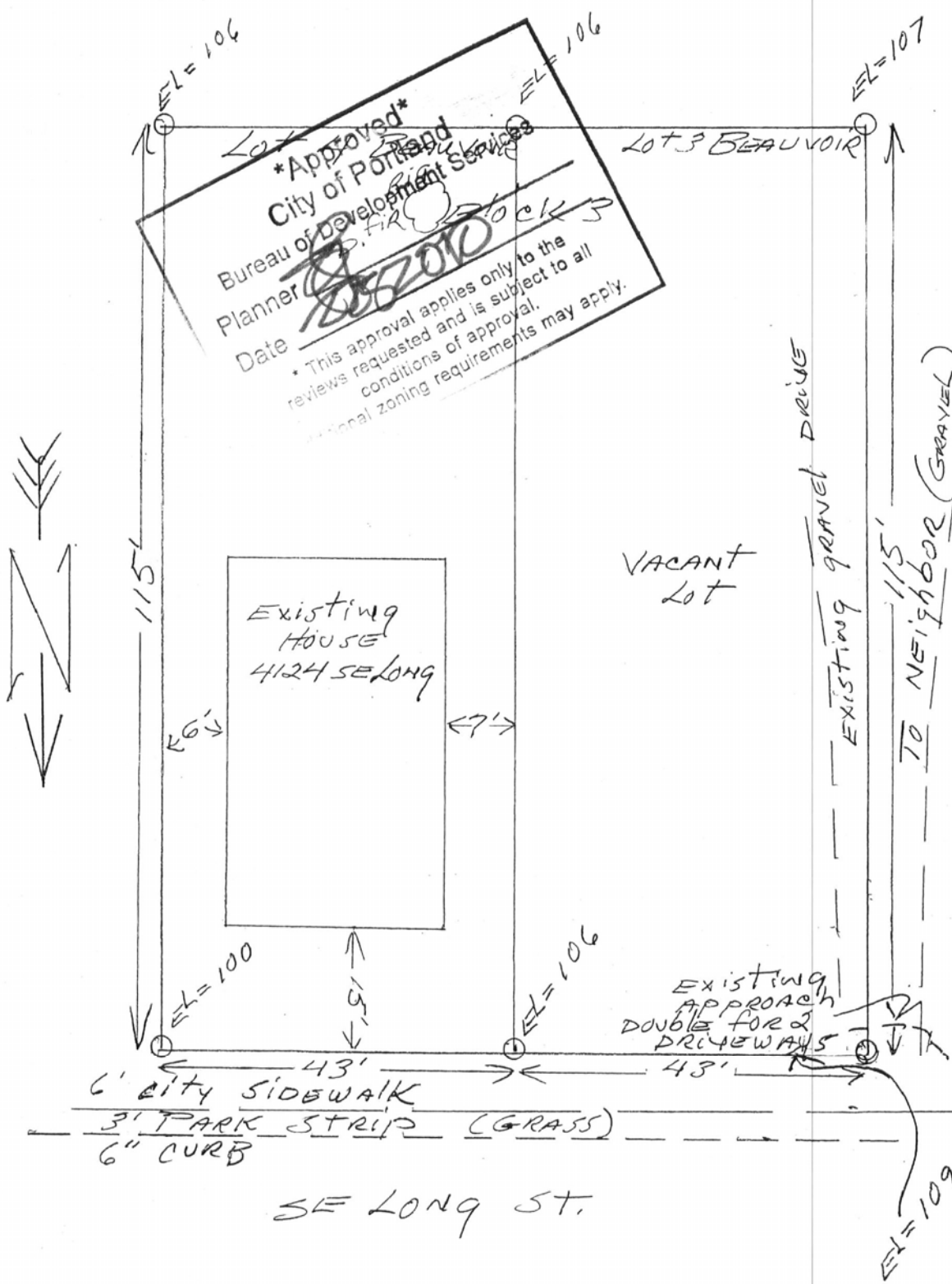


ZONING

 Site
 Also Owned



File No. LU 10-103307 AD
 1/4 Section 3535
 Scale 1 inch = 200 feet
 State_Id 1S2E18BB 10801
 Exhibit B (Feb 25, 2010)



Approved
 City of Portland
 Bureau of Development Services
 Planner *[Signature]*
 Date *8/20/00*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

EXHIBIT C-1

NEIGHBORHOOD HOMES
 P.O. BOX 820181
 PORTLAND, OREGON 97282

TONY SANSEVERI
 503 260 2671

LU10-103307AD

Scale 1" = 15'