



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

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www.portlandonline.com/bds

Date: March 9, 2010
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / 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 10-106868 AD

GENERAL INFORMATION

Applicant: Lawrence D. and Heather M. Rush
7800 SE Stephens St
Portland, OR 97215

Site Address: 7800 SE STEPHENS ST

Legal Description: BLOCK 4 LOT 4, CHARLOTTE HTS
Tax Account No.: R150800570
State ID No.: 1S2E05DA 09700
Quarter Section: 3238

Neighborhood: Montavilla, contact Sandra McDaniel at 503-754-4099.
Business District: Eighty-Second Avenue, contact Ken Turner at 503-484-6225.
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.

Zoning: R5a (R5,000, High Density Single-Dwelling Residential with an Alternative Design Density Overlay)

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

Proposal: The applicants are proposing to remove the garage door and replace it with a "double glazed window," in order to convert the garage to additional living space. Auto parking would be accommodated in the 18-foot-wide, 20-foot deep driveway, that is located in front of the former garage. The Portland Zoning Code, Section 33.266.120 C, states that required parking spaces must be set back at least 10 feet from the front property line in the R5 zone. The required size for a parking space is 9 feet by 18 feet. Because the proposed conversion of the garage would remove the required parking space that was formerly in the garage, the applicants are requesting approval of an Adjustment to reduce the required setback for the parking spaces, from 10 feet to 2 feet from the front property line.

Adjustment requests are approved if all of the relevant approval criteria are met or can be met, through conditions of approval. One of the relevant approval criteria is that the purpose of the regulation is met. The purpose of the regulations related to the size and placement of vehicle parking areas is "to enhance the appearance of neighborhoods."

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 a 7,200 square-foot lot that is located on the south side of SE Stephens Street, between SE 77th and SE 80th Avenues. The property is developed with a single-story, single-dwelling residence that was built in 1950. The area around the site is built with other single-dwelling residences that appear to be generally of a similar age and size. Most of the homes have attached garages and many of the residents park automobiles in their driveways in front of the garages.

Zoning: The site is zoned R5, High-Density Single-Dwelling Residential with an "a" or Alternative Design Density Overlay. The R5 zone requires an average lot area of 5,000 square feet, with a maximum allowed density of one unit per lot (generally 8.7 units per acre.) The "a" Overlay Zone allows opportunities for increased residential density in certain situations. The overlay zone does not apply to this situation.

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 on February 9, 2010. The following Bureaus have responded to indicate that there are no issues or concerns related to approval of the requested Adjustment:

- Bureau of Environmental Services states that, with no changes to the footprint of the house or the exterior improvement areas, BES has no concerns (Exhibit E-1)
- Transportation Engineering noted the common practice of parking in the driveway, throughout the neighborhood, and stated that there are no concerns with approving the Adjustment (Exhibit E-2).
- Water Bureau provided information on the existing water service and stated that since there were no changes proposed there are no objections to approval of the Adjustment (Exhibit E-3).
- Fire Bureau provided an electronic response of "no concerns."
- Site Development Section of BDS states that, with no changes to the footprint of the house or the exterior improvement areas, Site Development has no concerns (Exhibit E-4)
- Life Safety Plan Review Section of BDS noted that building permits are required for the proposed garage conversion (Exhibit E-5).
- Parks-Forestry Division provided an electronic response of "no concerns."

Neighborhood Review: 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

- 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
- 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
- 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 AND CONCLUSIONS

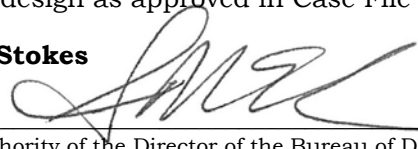
The applicants' proposal meets all of the relevant approval criteria: The purpose for the regulations that govern the size and placement of parking spaces for houses and duplexes is to enhance the appearance of the neighborhood. Therefore, the only impact that has to be considered in this proposal is its effect on the appearance of the neighborhood. As parking in the driveway, in front of an attached garage, appears to be a regular practice in the area, the proposed parking location will not detract from the appearance of this property. No cumulative impacts are expected to occur from approval of the proposal and it is consistent with the purpose of the R5 zone, which is to preserve land for housing and to provide housing opportunities for individual households. There are no scenic or historic resources on the site; no impacts have been identified and the site is not located in an environmental zone, so the criteria related to these issues do not apply. Therefore, because all of the relevant approval criteria are met, the proposal can be approved, in substantial compliance with the proposed site plan.

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.266.120 C, to reduce the required setback from the front property line for the proposed parking spaces, from 10 feet to 2 feet, in general compliance with the approved site plan, Exhibit C-1, signed and dated March 5, 2010, 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-106868 AD."

Staff Planner: Kathleen Stokes

Decision rendered by:  **on March 5, 2010**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 9, 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 27, 2010, and was determined to be complete on February 5, 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 27, 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.

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 23, 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 24, 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:

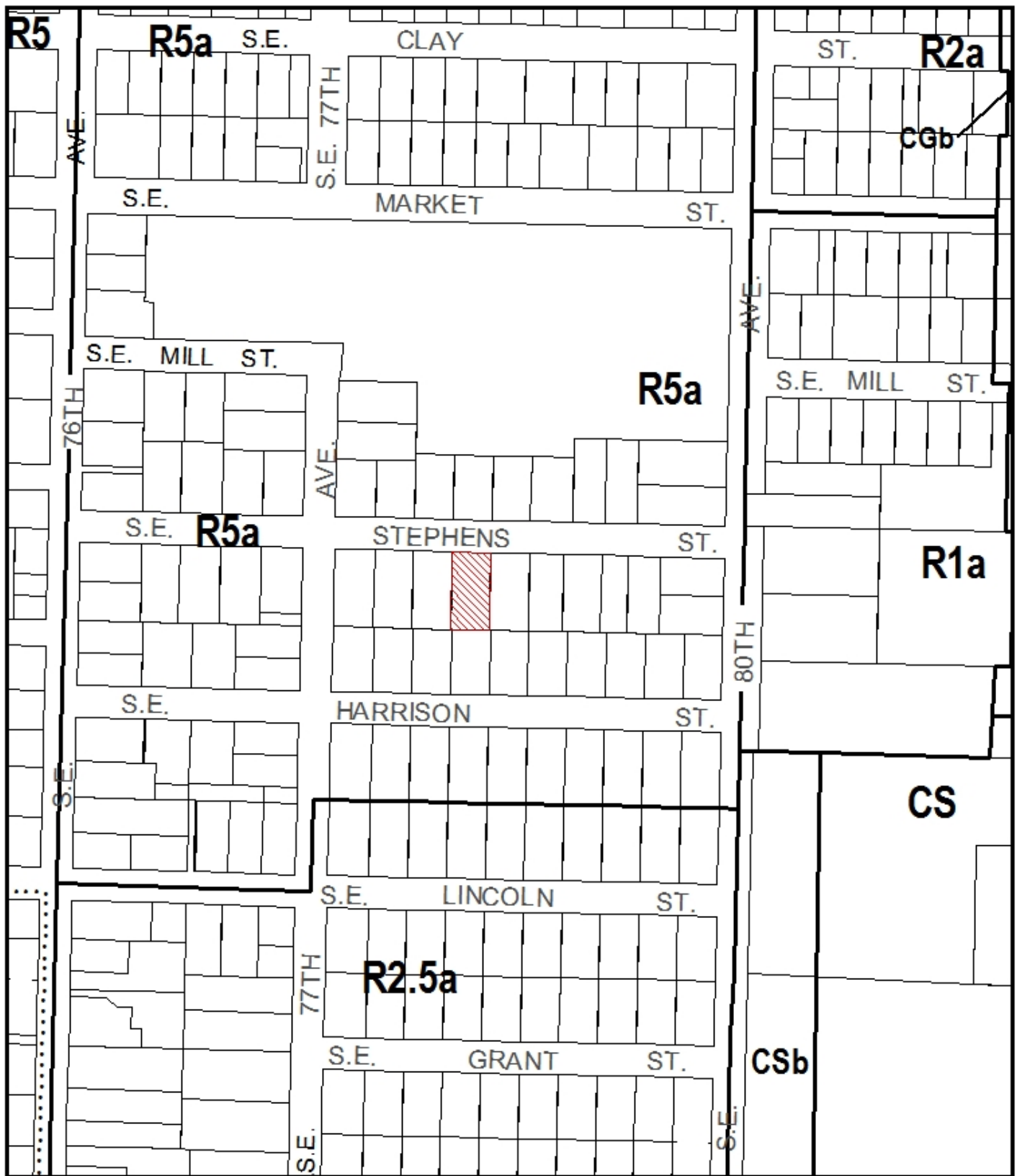
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations 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. Site Development Review Section of BDS
 - 5. Life Safety Plan Review Section of BDS
 - 6. Summary of electronic responses from City agencies
- F. Correspondence: (none received)
- G. Other: (none)

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

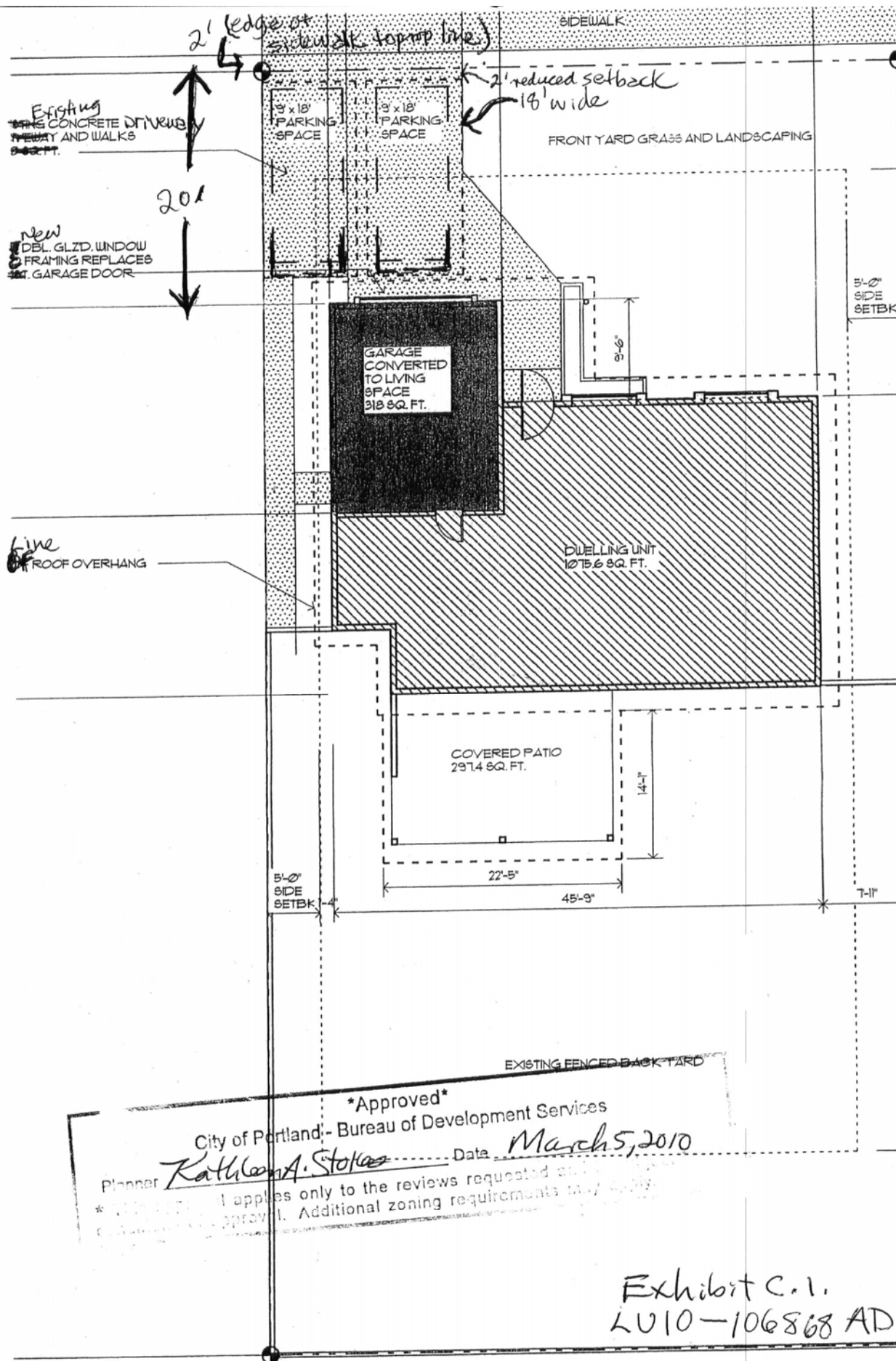


Site



NORTH

File No.	LU 10-106868 AD
1/4 Section	3238
Scale	1 inch = 200 feet
State_Id	1S2E05DA 9700
Exhibit	B (Jan 28, 2010)



Approval applies to parking in front of converted garage (2 spaces with setback reduced to 2 feet from front property line. Does not apply to other aspects of site plan

Approved
 City of Portland - Bureau of Development Services
 Planner Kathleen A. Stokes Date March 5, 2010
 *This approval applies only to the reviews requested and does not constitute approval. Additional zoning requirements may apply.

Exhibit C.1.
 LU10-106868 AD

NP
 site plan
 NTS