



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
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Date: February 3, 2012
To: Interested Person
From: Sheila Frugoli, Land Use Services
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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 11-203956 AD

GENERAL INFORMATION

Applicants: Amy L Fox and Corey Barr
5827 SW Vermont St
Portland, OR 97219

Site Address: 5827 SW VERMONT ST

Legal Description: TL 3700 0.33 ACRES, SECTION 18 1S 1E
Tax Account No.: R991181750
State ID No.: 1S1E18CD 03700
Quarter Section: 3623
Neighborhood: Hayhurst, contact Janet Hawkins at 503-988-3707.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Plan District: None
Zoning: R10p, Single Dwelling Residential 10,000 zone with the Environmental Protection overlay zone

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

Proposal: The applicants wish to construct an attached two-car garage on the east side of their house. In order to obtain a Building Permit, the applicants are requesting an Adjustment to the Zoning Code required side building setback. The request is to reduce the required building setback from 10 to 5 feet and the setback for the roof eave from 8 feet to 3.5 feet from the east property line.

RELEVANT APPROVAL CRITERIA:

In order to be approved, this proposal must comply with the approval criteria of Title 33. 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 residential lot is developed with a one-story, single-dwelling residence on a 14,374 square foot lot. Vermont Creek, a tributary of Fanno Creek, runs through the site. Approximately the northernmost third of the site is comprised of vegetation that separates the natural drainageway from the home. The creek and upland area is within the Environmental Protection overlay zone. Most of the homes in the immediate area have attached garages. The homes are set back from SW Vermont by approximately 20 feet. Because the 40-foot wide right of way is comprised of just a 24-foot wide roadway, the homes appear to be set back even further from the public street.

Zoning: The site and abutting properties are located in an R10, Single-Dwelling Residential 10,000 zone and the p, Environmental Protection overlay zone.

The use regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The development standards work together to preserve the character of neighborhoods, and promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. The development standards are generally written for houses on flat, regularly shaped lots.

The p, Environmental Protection overlay zone is applied on the lots in a manner that is intended to follow the open stream. The Environmental overlay zones protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The Environmental Protection Zone provides the highest level of protection to the most important resources and functional values.

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 January 6, 2012. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering (Exhibit E.4)
- Water Bureau (Exhibit E.2)
- Fire Bureau (Exhibit E.4)
- Site Development Section of BDS (Exhibit E.3)
- Bureau of Parks-Forestry Division (Exhibit E.4)

The **Bureau of Environmental Services** response included the following key comments:

BES has no specific approval criteria related to the requested Adjustment for setbacks. Note that the newly developed or redeveloped impervious surface is over 500 square feet for this proposal, which triggers that SWMM requirements be met. A stormwater management plan has not been reviewed with this application and the applicant will be responsible for submitting stormwater information that meets BES standards and requirements at the time of building permit review.

- **On-Site Stormwater Management Comments:** The proposed garage is over 500 square feet of impervious surface, thus is subject to the requirements of the SWMM. Per the current version of the SWMM projects that develop or redevelop more than 500 square feet of impervious surface are required to comply with the Flow Control and Pollution Reduction requirements and a disposal location is required for all development projects regardless of size.
- BES researched the property's existing stormwater management plan and found that rain drains leading to a subsurface facility (soakage trench) were installed

in 1979 via permit # 0220858. BES visited the site on 1/25/12 and found the rain drains to be attached to the stand pipes at the same location as the installation in 1979. BES was unable to determine if these still drained to the soakage trench and was also unable to determine if the soakage trench was properly working.

- As a stormwater management plan has not been submitted with this review, BES provides the following information which will be evaluated at the time of building permit:
 - 1) If the applicant intends to connect the proposed garage to the existing stormwater management system (rain drains presumably to a subsurface soakage trench), a licensed professional needs to evaluate the existing system and provide a stamped geotechnical report indicating it is sufficient to handle the additional stormwater from the proposed garage. In addition, the application needs to show that the existing system can meet Infiltration requirements.
 - 2) Alternatively, BES recommends that the stormwater flows from the house and proposed garage be separated. This can be achieved by a separate gutter system to a separate discharge point for the proposed garage. The applicant may propose a new subsurface infiltration facility but needs to confirm the feasibility of such facility. In order to verify whether on-site infiltration is feasible, the results of Simplified Approach infiltration test(s) on the subject site per [Appendix F.2](#) must be provided. Infiltration test pits must be as close as possible to the location of the proposed infiltration facilities, and tests must be performed at the depth of the proposed facilities. Indicate on a submitted plan the approximate location of the test pit(s).
 - 3) The Oregon Department of Environmental Quality (DEQ) regulates underground injection control (UIC) facilities to protect groundwater. Drywells and soakage trenches are examples of UICs. It is the applicant's responsibility to register all on-site UICs with DEQ, as appropriate. To learn more visit [DEQ's website](#) or contact the DEQ UIC Program at 503-229-5945. The [SWMM](#) also includes general UIC information.
- **Outfalls:** If the applicant proposes an outfall to Vermont Creek, coordinate with BDS Land Use Services to determine if an Environmental Review will be required. If an outfall is proposed, it should be designed to minimize erosion and disturbance, not endanger slope stability, and protect stream stability. [Appendix A.4](#) of the SWMM provides technical design guidance. If a land use review is required, BES may request more detailed information about the outfall design at that time. (Exhibit E.1)

Neighborhood Review: A "Notice of Proposal in Your Neighborhood" was mailed on January 6, 2012. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.040 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 purpose of the setback standard is found in Section 33.110.220.A, as follows:

Building Setbacks (33.110.230.A)

The setback regulations for buildings and garage entrances serve several purposes:

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

The reduction of the east building setback will have no discernable impacts on privacy. Nor will it restrict light, air, or emergency access to the property. The 5 foot setback is adequate to provide access to the east building wall if needed for emergency purposes. Fire fighting access will be provided off of SW Vermont Street. The Fire Bureau expressed no concerns about the proposed side setback reduction in its response to this proposal. As proposed, no firewall requirements will apply.

Lots near the subject site are relatively large. The lots, including the subject site, exceed the minimum 10,000 square foot requirement of the R10 zone. The adjacent east lot is 19, 602 square feet. The eastern abutting home is located approximately in the middle of the lot, set back at least 30 feet from the property line shared with the subject site. The proposed location of the garage maintains a reasonable physical relationship between residences and it is not inconsistent with the building pattern of the surrounding area. The proposed garage will be flush with the front building wall of the home. Therefore, the garage will not diminish the physical and visual connection between the living area of the residence and the street. For the above reasons, 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: The site is located in a residential zone. Many of the nearby lots are developed with homes with attached 2-car garages. The proposal shows matching siding and roof pitch. Because the garage is designed to replicate architectural elements of the home, the proposed garage will not detract from the appearance of the residential area. There will be no window or openings on the east wall of the garage and the structure will be at least 30 feet from the eastern abutting house. The applicants intend to retain vegetation that is located near the east property line. This vegetation will serve as a buffer between the two properties. Hence, there will be no impacts to livability for the adjacent residence. 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: This criterion does not apply because there is only one Adjustment requested.

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

Findings: City-designated scenic and historic resources are indicated on City zoning maps. There are no scenic or historic resources designated on the subject site. Therefore this criterion is not applicable.

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

Findings: As explained under criterion A and B, the reduced setback will not create any discernable impacts. Therefore, no mitigation is needed. This criterion has been satisfied.

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: Environmental zones are indicated on City zoning maps. There is no environmental zoning on the subject site. 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

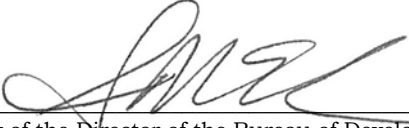
The garage will be appropriate in terms of size and scale to the house. The proposed garage will visually match the house in terms of architectural style and will not negatively impact the livability of nearby residences. The proposed adjustment meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the require side building setback (33.110.220.B) from 10 feet to 5 feet for an attached 2-car garage and to allow the roof eave of the garage to extend within 3.5 feet of the east property line, per the approved site plan, Exhibits C.1 signed and dated February 1, 2012, 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.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 11-203956 AD".

Staff Planner: Sheila Frugoli

Decision rendered by:  **on February 1, 2012**

By authority of the Director of the Bureau of Development Services

Decision mailed: February 3, 2012

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 December 23, 2011, and was determined to be complete on January 3, 2012.

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 **December 23, 2011**.

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 February 17, 2012** 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 **February 21, 2012– (the next working 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

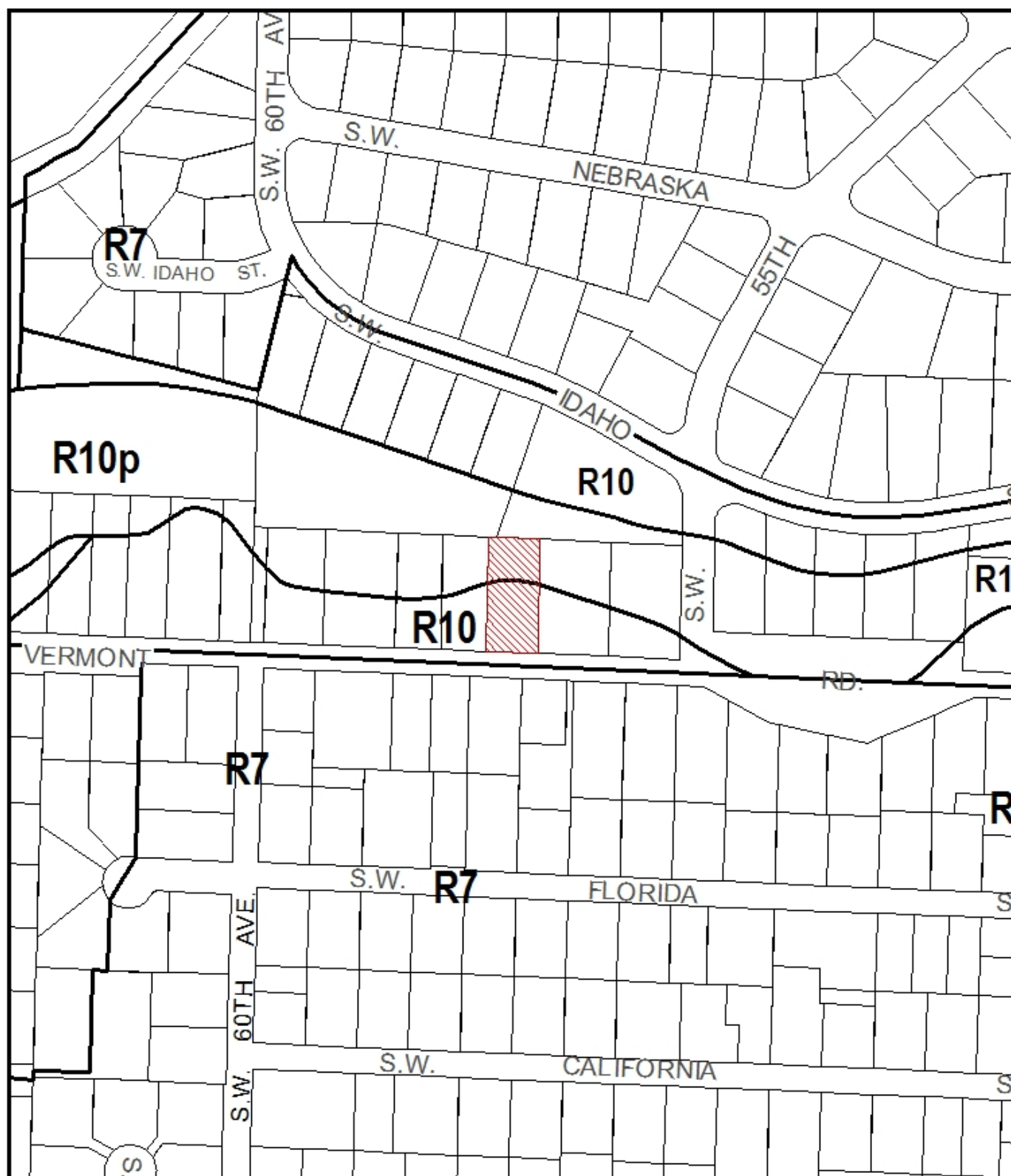
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Front (South) Elevation (attached)
 - 3. Side (East) Elevation (attached)
 - 4. Perspective Drawing- Front and Rear
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Site Development Review Section of BDS
 - 4. TRACS Summary – Showing “No Concerns” from the Bureau of Transportation Engineering and Development Review, Fire Bureau and Bureau of Parks, Forestry Division
- F. Correspondence: NONE
- 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).

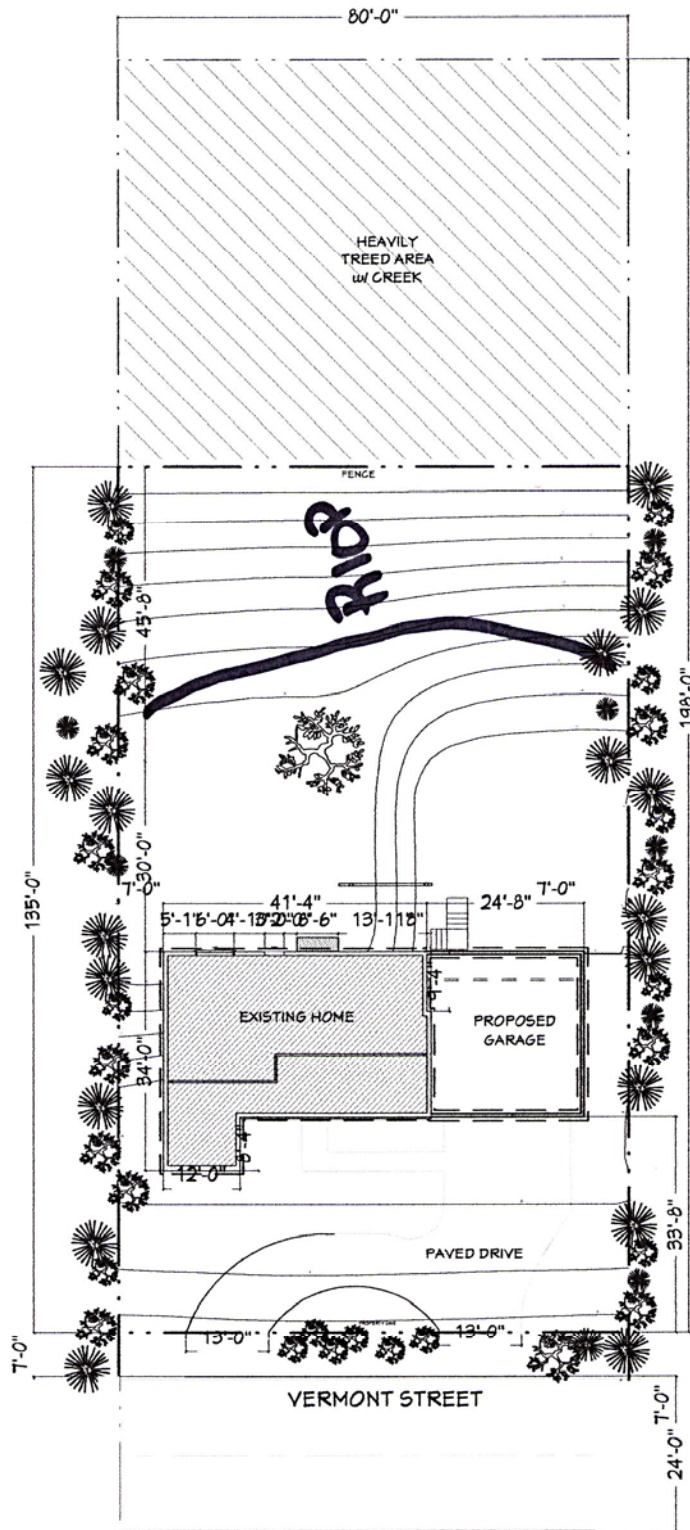


ZONING

 Site
Project Area



File No.	<u>LU 11-203956 AD</u>
1/4 Section	<u>3623</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E18CD 3700</u>
Exhibit	<u>B</u> (Dec 28, 2011)



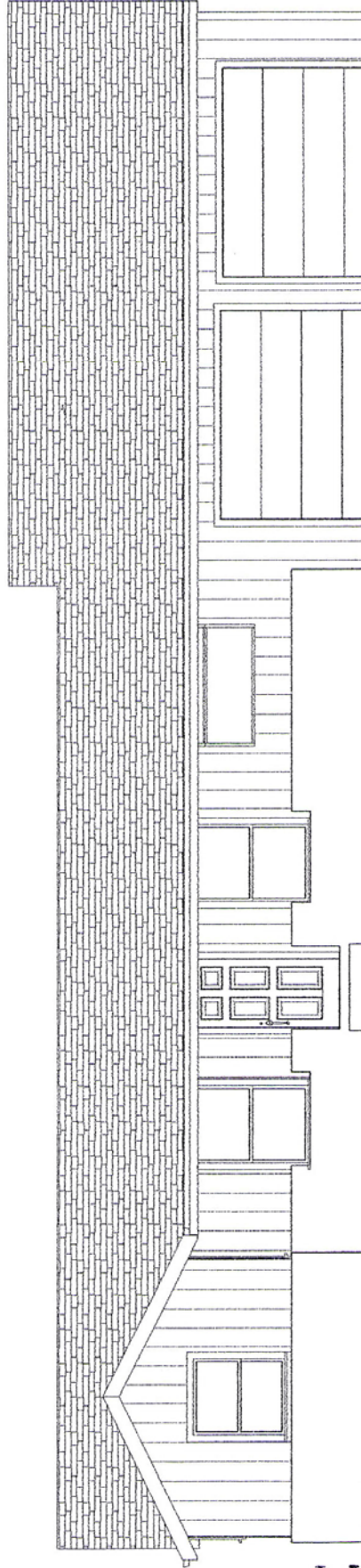
Approved
 City of Portland - Bureau of Development Services
 Planner *Shelley Truitt* Date *Feb. 1, 2012*
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

Exhibit C.1

AMY FOX RESIDENCE
SITE PLAN
SCALE 1"=30'
5827 SW VERMONT ST., PORTLAND

TOTAL FRONT YARD SF 2696
 PROPOSED PAVED AREA 1064
 PERCENT PAVED 39%
 CANT EXCEED 40%

LU11 - 203956 AD



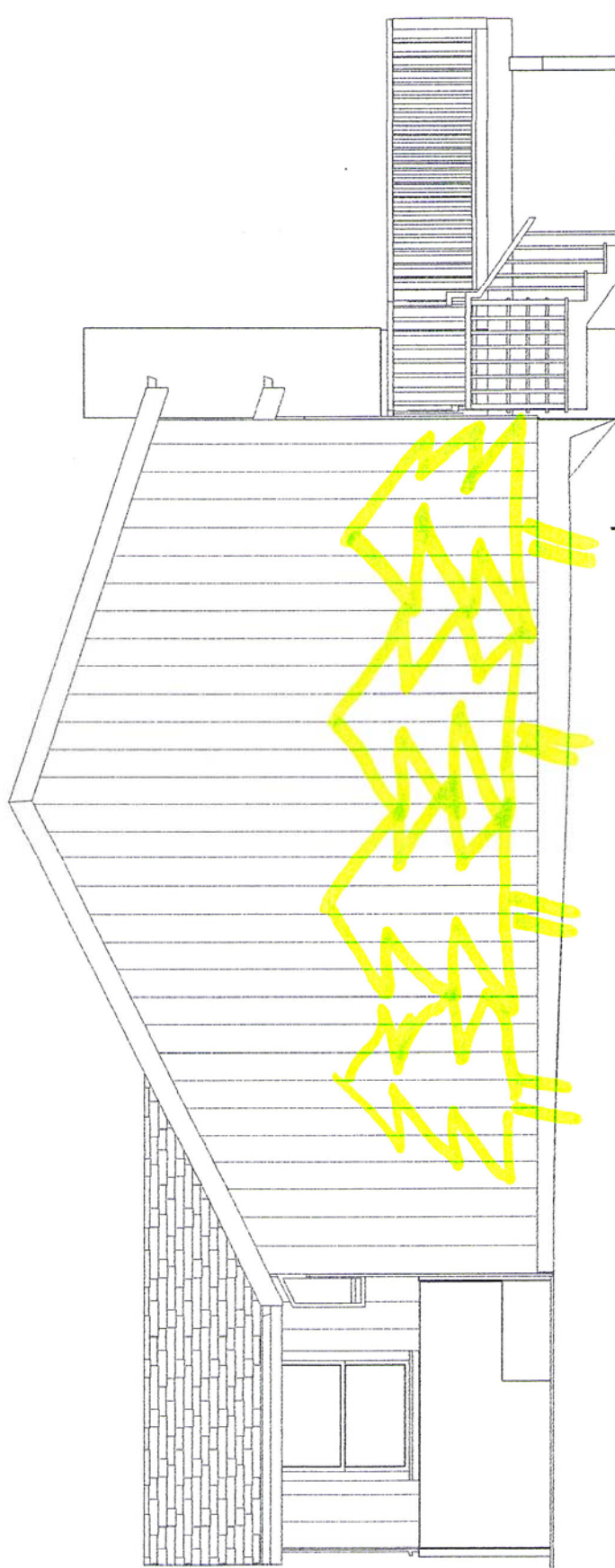
PRELIMINARY FRONT ELEVATION
1/8" SCALE

LU 11 - 203956 AD

Approved
City of Portland - Bureau of Development Services
Planner Sheila Trapp Date Feb. 1, 2012
* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

Exhibit C.2

Approved
City of Portland - Bureau of Development Services
Planner Shelley Truitt Date Feb. 1, 2012
* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.



→ Pine trees will
not be removed ~~for~~
during construction.

PRELIMINARY RIGHT ELEVATION
3/16 SCALE

LU11-203956 AD
Exhibit C.3