



CITY OF PORTLAND  
Bureau of Development Services  
1900 SW Fourth Avenue, Suite 5000  
Portland, OR 97201 **P524**  
**Land Use Decision Enclosed**  
**Case # LU 09-151969 AD**

16

**Return Service Requested**



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

1900 SW 4th Avenue, Suite 5000  
Portland, Oregon 97201  
503-823-7300  
Fax 503-823-5630  
TTY 503-823-6868  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** September 25, 2009  
**To:** Interested Person  
**From:** Kate Green, Land Use Services  
503-823-5868 / [kate.green@ci.portland.or.us](mailto:kate.green@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 09-151969 AD**

### **GENERAL INFORMATION**

**Applicants:** Melody Emerick and Diane Cook, Emerick Architects  
208 SW First Avenue, Suite 320  
Portland OR 97204

**Property Owners:** Sara and Scott Kelly  
6617 SE 30th Avenue  
Portland OR 97202

**Site Address:** 6617 SE 30TH AVENUE

**Legal Description:** LOT 19&20 BLOCK 31 S 20' OF LOT 21 BLOCK 31, EASTMORELAND  
**Tax Account No.:** R231506820  
**State ID No.:** 1S1E24BA 03000  
**Quarter Section:** 3733

**Neighborhood:** Eastmoreland, contact Kathy Ten Pas at 503-771-0010  
**Business District:** None  
**District Coalition:** Southeast Uplift, contact Leah Hyman at 503-232-0010

**Zoning:** Single Dwelling Residential 5000 (R5)  
**Plan District:** Eastmoreland

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

**Proposal:** The applicants plan to remodel an existing residence. The alterations will include a new covered porch along the south and east sides of the house. The support columns for the portion of the covered porch along the east (street-facing) side of the house are proposed to be set back 23 feet from the front lot line, instead of the 25 feet required by the *Eastmoreland Plan District* regulations (33.540). In order to allow the porch addition to be built in this location, the applicants request an **Adjustment** to reduce the required front building setback from 25 feet to 23 feet.

**Note:** In addition to the new covered porch, the project plans show the removal of existing structures and the construction of other additions or new structures. This Adjustment review is for the requested setback reduction for the covered porch addition only. Other demolition work,

new construction, or site alterations must meet all applicable city codes, and will be evaluated through a separate permit review process.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33.805, Adjustments.

## ANALYSIS

**Site and Vicinity:** The project site is a 12,000 square foot, relatively flat lot with frontage on SE 30<sup>th</sup> Avenue. The site is developed with a two story residence and detached single story garage. The balance of the site is landscaped or paved for the driveway and patio areas.

**Zoning:** This project site is located in a *Single Dwelling Residential 5000* (R5) zone. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households.

The site is also located within the *Laurelhurst/Eastmoreland Plan District* (Chapter 33.540), which requires larger setbacks along certain street frontages. The plan district standards supersede the base zone standards, so instead of the 10 foot front setback required by the R5 zone, a 25 foot front building setback is required at this location.

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

**Agency Review:** A *Notice of Proposal in Your Neighborhood* was mailed **August 31, 2009**. The following agencies have responded:

- *Environmental Services* indicates sanitary services do not appear to be affected by the requested Adjustment. Since over 500 square feet of new or redeveloped impervious area is being proposed, the project must comply with the *Stormwater Management Manual* hierarchy. The applicant must identify an appropriate discharge point for stormwater, and building plans (which are currently under review) must include a detailed site utility plan. Additional details are provided in Exhibit E.1.
- *Site Development* notes building permit applications 09-154671-RS and 09-154714-RS will be reviewed and inspected under the Field Issuance Remodeling (FIR) program and, therefore, will not be reviewed by *Site Development* (Exhibit E.2).
- *Water* cites no concerns with the Adjustment application, as no changes to the existing water service have been proposed. Further information is included in Exhibit E.3
- *Life Safety, Fire, and Transportation* note no concerns (Exhibit E.4).

**Neighborhood Review:** One neighbor wrote in support of the proposal. No other responses have been submitted.

## 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 project site is located within the *Laurelhurst/Eastmoreland Plan District*, which requires a 25-foot front building setback from SE 30<sup>th</sup> Avenue. The applicants propose to construct a covered porch addition along the street frontage of the existing residence and request an Adjustment to reduce the required 25-foot setback to 23 feet.

In order to meet this criterion, the proposal must equally meet the purpose of the plan district regulations, which is as follows:

*33.540.010 Purpose*

*The regulations of the Laurelhurst/ Eastmoreland plan district enforce the special setback requirements of Ordinances 70343 and 70341. This plan district maintains the established character of the Laurelhurst and Eastmoreland areas, characterized by homes with larger than normal building setbacks from the street.*

*33.540.030 Required Building Setbacks*

*Required building setbacks are shown on the Special Building Setbacks maps.*

The homes on SE 30<sup>th</sup> Avenue are representative of the large setbacks anticipated by the plan district regulations, and have generous setbacks and large landscaped front yards. Many of the homes in the surrounding residential area have open porches or enclosed front entrances that project from the house toward the street, and, in some instances, appear to protrude slightly into the required setback.

The applicants' narrative notes that the east property line is located 2 feet from edge of the sidewalk, so both the existing 2-story house, which is set back over 29 feet from the front lot line, and the proposed porch, which will be located 23 feet from that lot line, will appear to be set back 31 and 25 feet respectively from the sidewalk, and this will be consistent with the established large setbacks in the surrounding area.

Even with the proposed porch, the residence will continue to reflect a general openness and retain an expansive front yard, which will maintain the established character of the plan district, and equally meet the purpose of the plan district setback regulation. As such, 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 development on the surrounding properties within the plan district, which extends several blocks to the north, east, south, and west of the subject site, is representative of the development pattern anticipated by the plan district regulations. The surrounding area includes lots, homes, and front yards that are larger than those typically found in other R5 zoned residential areas. As noted above, the existing development on the site reflects the general scale and appearance of many of the nearby homes.

The applicants note that the proposed porch will moderate the overall scale of the front façade, by stepping the house down toward the street, and that it will add more aesthetic interest to the east façade with a covered porch that better matches the architectural style of the home.

Provided a utility plan is submitted, which fulfills the stormwater management requirements noted in the response from *Environmental Services*, the livability of the

residential area will not be diminished due to uncontrolled stormwater runoff from the approximately 800 square foot porch addition.

Overall, the site will continue to have a larger front setback, than that otherwise required in the R5 zone, and the appearance of the porch will reflect the general pattern of the surrounding residential area. Accordingly, the proposal is not expected to detract from the appearance and livability of the neighborhood, and this criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Only one adjustment is requested, so this criterion is not applicable.

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

**Findings:** There are designated scenic or historic resources on the site or abutting lots, so this criterion is not applicable.

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

**Findings:** The single story covered porch will encroach two feet into the required setback; however, the two-story residence to which it will be attached, is set back over 29 feet from the street lot line and will remain the dominant feature on the site. Furthermore, the open design of the porch, with five columns and an open balustrade helps to maintain a spacious front yard, and effectively tempers the slight decrease in the front building setback. These features help to mitigate visual and spatial impacts from the requested reduction in the special plan district regulations.

In addition, with a condition to submit a utility plan, which meets the stormwater management requirements, as noted above, potential impacts to neighborhood livability and safety will be addressed.

Based on the foregoing, this criterion will be 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, so 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 applicants request an Adjustment to reduce the special 25-foot front building setback required by the plan district regulations in order to construct an approximately 800 square foot single story porch addition to an existing two-story residence. Based on the findings in this report, the proposal is expected to equally meet the purpose of the plan district regulations, and the proposed open, single-story design of the porch will not diminish the appearance of the surrounding residential area. With a condition to ensure the effective management of stormwater from the porch addition, the livability of the area will be protected as well. Accordingly, the requested Adjustment should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the special 25-foot front building setback (per Zoning Code Section 33.540, *Laurelhurst/Eastmoreland Plan District*) to 23 feet for a single story porch addition, per the approved site plans, Exhibits C.1 through C.3, signed and dated September 23, 2009, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (1) 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 09-151969 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
1. A utility plan, which meets the *Stormwater Management Manual* requirements, must be provided with the permits for the porch addition.

**Staff Planner: Kate Green**

**Decision rendered by:**  **on September 23, 2009**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: September 25, 2009**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on August 18, 2009, and was determined to be complete on August 28, 2009.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on August 18, 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 December 25, 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 October 9, 2009** at 1900 SW Fourth Avenue. 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](http://www.portlandonline.com).

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the LUBA on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.** If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after **October 12, 2009**.
- 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 503-823-7967.

**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, or
- In situations involving only the creation of lots, the land division has been recorded.

**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.

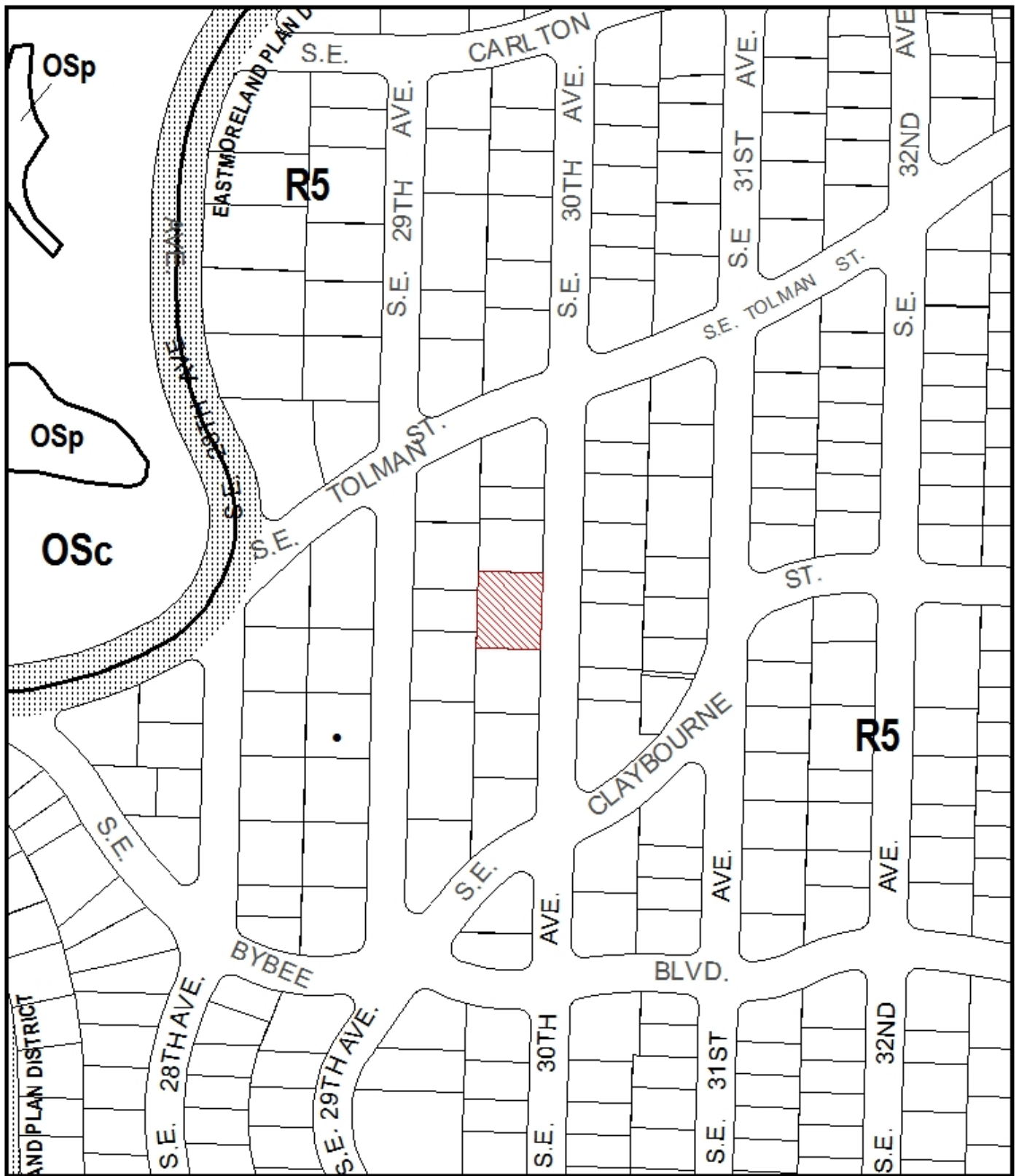
#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Building Elevations (front elevation-attached)
  - 3. Building Elevations (north & south elevations-attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Site Development Review Section of BDS
  - 3. Water Bureau
  - 4. Life Safety, Fire Bureau, Portland Transportation
- F. Correspondence:
  - 1. Carol Welch, September 11, 2009, supportive of 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. 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



Historic Landmark



NORTH

This site lies within the:  
EASTMORELAND PLAN DISTRICT

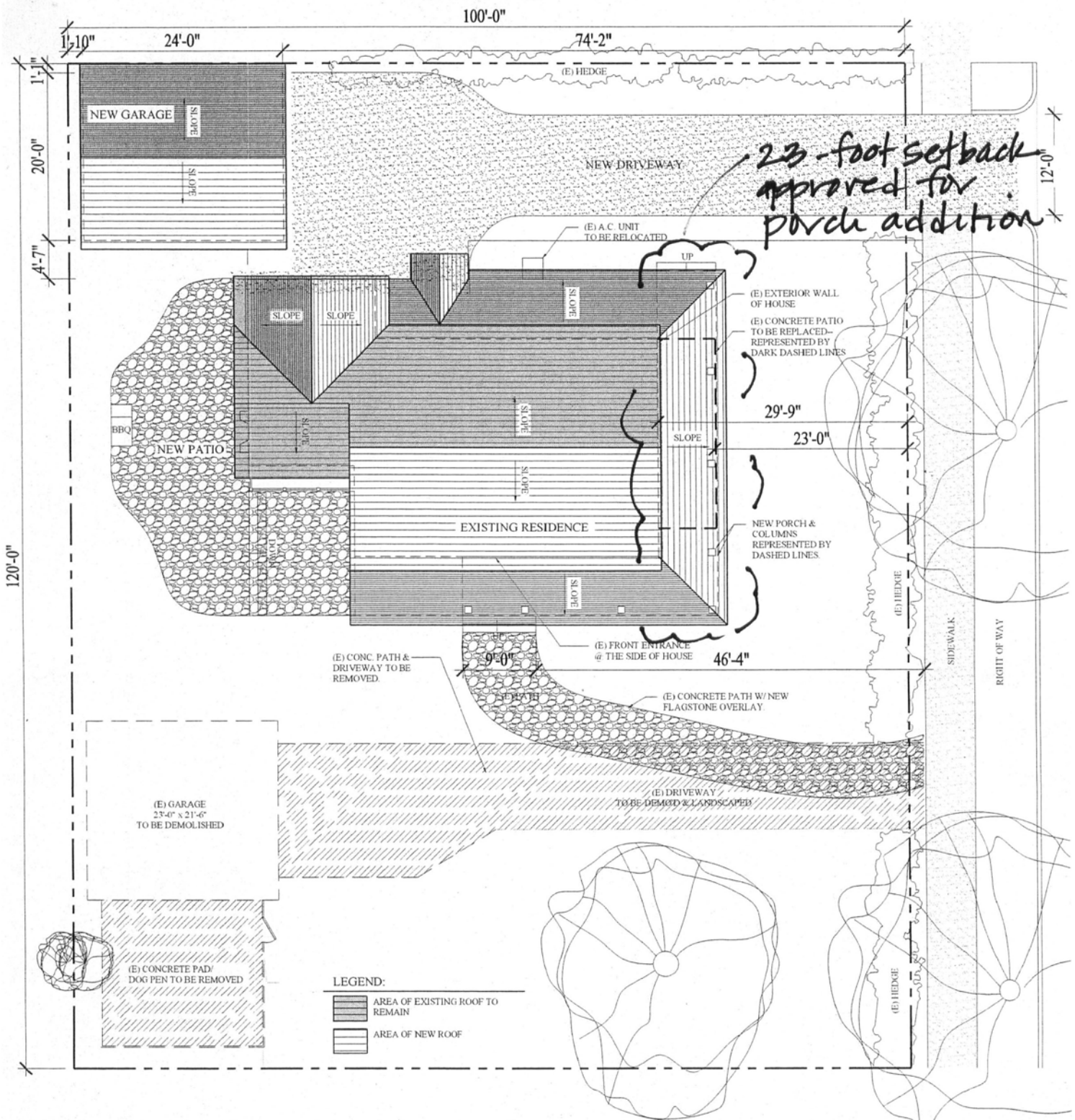
File No. LU 09-151969 AD

1/4 Section 3733

Scale 1 inch = 200 feet

State\_Id 1S1E24BA 3000

Exhibit B (Aug 21,2009)



1

# SITE PLAN FOR FRONT SETBACK ADJUSTMENT

SCALE: 1/16" = 1'-0"



LUR ADJUSTMENT

SITE PLAN

NOT FOR CONSTRUCTION

emerick architects p.c.

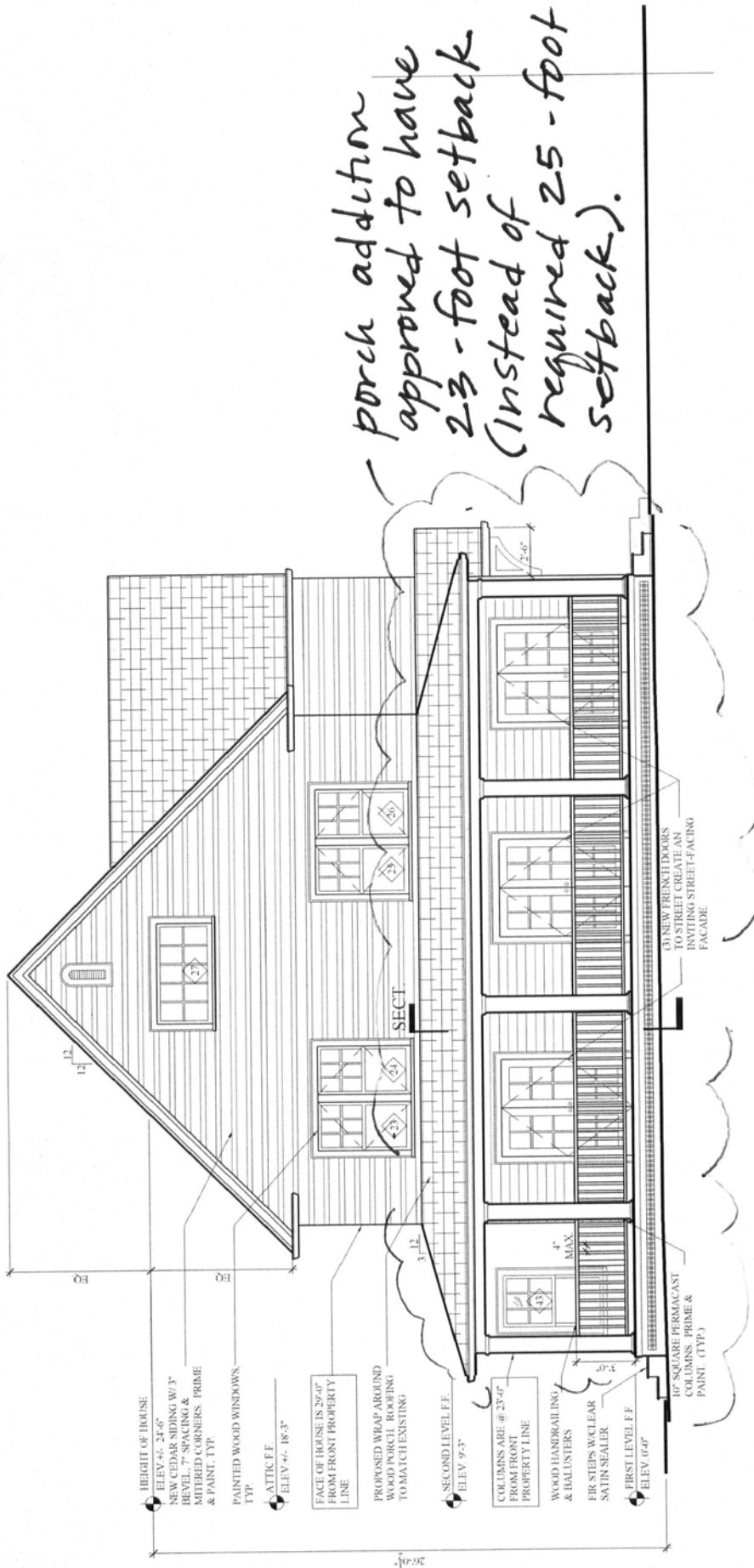
LU 09 - 151969 AD

PROJECT KELLY  
JOB #: 0902

Exhibit C.1

SK-1

DATE: 08-18-09



# EAST ELEVATION FOR FRONT SETBACK ADJUSTMENT

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

1

Exhibit C.2

LU 09 - 151969 AD

LUR ADJUSTMENT

STREET FACING ELEVATION

NOT FOR CONSTRUCTION

PROJECT KELLY  
JOB #: 0902

emerick architects p.c.

SK-2

DATE: 08-18-09

1.11.09-151969 AD



# 1 NORTH ELEVATION FOR FRONT SETBACK ADJUSTMENT

SCALE: 1/8" = 1'-0" reduced copy NTS

LUR ADJUSTMENT

NORTH ELEVATION

NOT FOR CONSTRUCTION

emerick architects p.c.

PROJECT KELLY  
JOB #: 0902

SK-3

DATE: 08-18-09



# 1 SOUTH ELEVATION FOR FRONT SETBACK ADJUSTMENT

SCALE: 1/8" = 1'-0" reduced copy NTS

LUR ADJUSTMENT

SOUTH ELEVATION

NOT FOR CONSTRUCTION

emerick architects p.c.

PROJECT KELLY  
JOB #: 0902

SK-4

DATE: 08-17-09

Exhibit C.3