



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

1900 SW Fourth Ave. Suite 5000  
Portland, Oregon 97201  
Telephone: 503-823-7300  
TDD: 503-823-6868  
FAX: 503-823-5630  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** October 31, 2008  
**To:** Interested Person  
**From:** Suzanne Savin, Land Use Services  
503-823-5888 / [Suzanne.Savin@ci.portland.or.us](mailto: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 08-163881 AD**

**GENERAL INFORMATION**

**Applicant:** Lucinda M Agre  
2933 SE 20th Ave  
Portland, OR 97202

**Site Address:** 2933 SE 20TH AVE

**Legal Description:** E 54' OF S 6' OF LOT 7 BLOCK 52 E 54' OF LOT 8 BLOCK 52,  
TIBBETTS ADD

**Tax Account No.:** R834302970

**State ID No.:** 1S1E11AB 21400

**Quarter Section:** 3332

**Neighborhood:** Hosford-Abernethy, contact Kina Voelz at 971-207-9243.

**Business District:** Division-Clinton Business Association, contact Katherine Cosgrove at 503-234-8585.

**District Coalition:** Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.

**Plan District:** None

**Zoning:** R2.5 (Single-Dwelling Residential 2,500)

**Case Type:** AD (Adjustment Review)

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

**Proposal:**

The site contains a single-dwelling residence with an attached garage. The property owner is planning to convert the garage into living area, and to replace the original roll-up garage door with 4 French-style doors, as shown on the attached South (Front) Elevation. Conversion of the garage into living area will remove the required on-site parking space within the garage.

The applicant proposes to retain the existing 18-foot long driveway leading to the garage for use as the required on-site parking space. Zoning Code Section 33.266.120.C.1 states that on-site parking is not allowed within the 10-foot front setback. More than half of the driveway's length is within the 10-foot front setback. Therefore, the applicant is requesting an Adjustment to

Section 33.266.120.C.1, to allow the required on-site parking space to be in the driveway and within the 10-foot front setback.

**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 at the northwest corner of SE 20<sup>th</sup> Avenue and SE Brooklyn Street, and is approximately 3,024 square feet in size. The site contains a single-dwelling structure, built in 2003, with an attached garage. To the north, east, southeast and west of the site, the surrounding properties are zoned Single-Dwelling Residential (R2.5 and R5), and are developed with single-dwelling detached residential structures. The majority of these surrounding properties have garages and/or driveways that allow for on-site parking of one or more vehicles, but several of the surrounding properties have no on-site parking areas.

The property immediately south of the site is zoned Multi-Dwelling Residential (R1) and contains multi-dwelling structures (an apartment complex). This property contains a surface parking area for approximately 6 vehicles, located between SE 20<sup>th</sup> Avenue and the multi-dwelling structures. The northern-most multi-dwelling structure on the property also contains entrances to several garages along its north wall, which face the site.

**Zoning:** The site is zoned R2.5, Single-Dwelling Residential 2,500. 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 affecting the site:

LU 02-138393 AD was a 2002 Adjustment Review request that pre-dated the construction of the residence on the site. The request was for an adjustment to allow the site to have an outdoor area of 10 feet in width by 44 feet in length, to the north (rear) of the proposed residence. The adjustment was approved.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed on October 7, 2008. 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

The Bureau of Transportation Engineering responded that the purpose of the required parking area location standard is to regulate the size and placement of vehicle parking areas in order to enhance the appearance of neighborhoods. There are no transportation issues related to this purpose statement. The proposed on-site parking space will be provided entirely on private property. Portland Transportation has no objections to the proposed Adjustment. (Exhibit E-1)

The Life/Safety Plan Review Section of BDS responded that based on the information provided, there appears to be no conflicts between the proposal and applicable building codes. (Exhibit E-2)

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on October 7,

2008. 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., below, have been met.

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

**Findings:** The applicant proposes to retain the existing 18-foot long driveway as the required on-site parking space. An on-site parking space is required to have a minimum dimension of 9 feet by 18 feet. More than half of the driveway's 18-foot length is within the 10-foot front setback. Therefore, the applicant is requesting an Adjustment to Section 33.266.120.C.1, to allow the required on-site parking space to extend into the entire 10-foot front setback.

The purpose of the regulation that does not allow required parking within the 10-foot front setback is found in Section 33.266.120.A, which states, "The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods."

There is quite a bit of variability within this neighborhood with regard to single-dwelling residential parking configurations. Within a one-block radius of the site, the following types of parking configurations were observed:

- Detached or attached garages within the front or side building setbacks, that are as close or closer to the street than their associated residences;
- Long driveways extending to the rear of properties, and/or to detached garages at the rear of properties;
- Short driveways with a portion of the available parking space length within front building setbacks;
- Absence of on-site parking (properties contain neither driveways nor garages).

The third bulleted parking configuration (short driveway, with a portion of the available parking space length within the front building setback) is the same as that proposed for this site by the requested Adjustment. Staff observed at least 5 properties within a one-block radius of the site that had this type of parking configuration. In addition, the applicant included photos in her submittal, showing that the parking of vehicles within the front setback is a relatively common occurrence within the neighborhood. Therefore, the applicant's proposal is consistent with existing parking patterns in the neighborhood. Furthermore, the driveway already exists on the site. As a result, the requested Adjustment will not detract from the appearance of the neighborhood.

The applicant notes that the existing front yard, adjacent to the driveway, is attractively landscaped, thus enhancing the appearance of the neighborhood. Furthermore, the applicant points out that as part of the garage's conversion to a living area, the existing featureless garage door will be replaced with French-style doors, which will further enhance the appearance of the house itself and of the neighborhood.

Staff concurs that replacement of the garage door with the French-style doors as shown on the South Elevation will enhance the appearance of the house and neighborhood, because of the additional window area that the proposed doors contain. Per the scale of the South Elevation, each French-style door contains an approximately 2' x 3' window, for a total proposed window area of approximately 24 square feet. However, it is possible that the applicant will want to utilize a somewhat different type of door during the garage remodel, or replace the garage door with one man-door or windows only, rather than four French-style doors. To allow the applicant some flexibility while at the same time ensuring that the garage door will be replaced by additional window area to enhance the appearance of the house and neighborhood, a condition of approval is warranted. The condition requires the garage door to be replaced with wall and/or door area that contains a minimum of 24 square feet of window area.

The use of the existing driveway as an on-site parking space is consistent with the on-site parking configurations of other nearby properties within the neighborhood. In addition, the existing front yard landscaping enhances the appearance of the neighborhood. With imposition of a condition of approval requiring the garage door to be replaced with wall and/or door area that contains a minimum of 24 square feet of window area, the appearance of the house and neighborhood will be further enhanced and this criterion will be 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 within a residential zone. The retention of the existing driveway as an on-site parking space for one vehicle will prevent an increase in on-street parking demand. Therefore, the proposal will not significantly detract from the livability of the residential area.

As noted in the findings for Approval Criterion A, the driveway is existing. In addition, there are at least 5 other properties within a one-block radius of the site that have short driveways with approximately half of the available parking space length within the front building setback. In addition, the applicant has submitted photographs demonstrating that the parking of vehicles within the front setback is a relatively common occurrence in the neighborhood. Therefore, allowance of the driveway on the site to be used for on-site vehicle parking will not significantly detract from the appearance of the residential area.

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 being requested, so this criterion is not applicable.

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

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

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

**Findings:** No impacts are anticipated from this Adjustment. The driveway that is proposed to be retained as the on-site parking space is already existing. The applicant has submitted photos illustrating that the parking of vehicles within the front setback is a relatively common occurrence within the immediate neighborhood. Therefore, the parking of a vehicle within the site's driveway (more than half of which is within the front setback) will have no negative impacts on the neighborhood.

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, 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 applicant has requested an Adjustment to allow the required on-site parking space to be within the existing 18-foot long driveway, which is within the 10-foot front building setback. The applicant has provided information to demonstrate that this adjustment will comply with the Adjustment Approval Criteria, and 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.1, to allow the required on-site parking space to be within the existing 18-foot long driveway, which is within the 10-foot front building setback, per the approved plan, Exhibit C-1, signed and dated October 29, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (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 08-163881 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The garage door must be replaced with wall and/or door area that contains a minimum of 24 square feet of window area.

**Decision rendered by:**  **on October 29, 2008.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: October 31, 2008****Staff Planner: Suzanne Savin**

**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 September 18, 2008, and was determined to be complete on October 3, 2008.

*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 September 18, 2008.

*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 November 14, 2008** 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](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 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 **November 17, 2008 – (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:

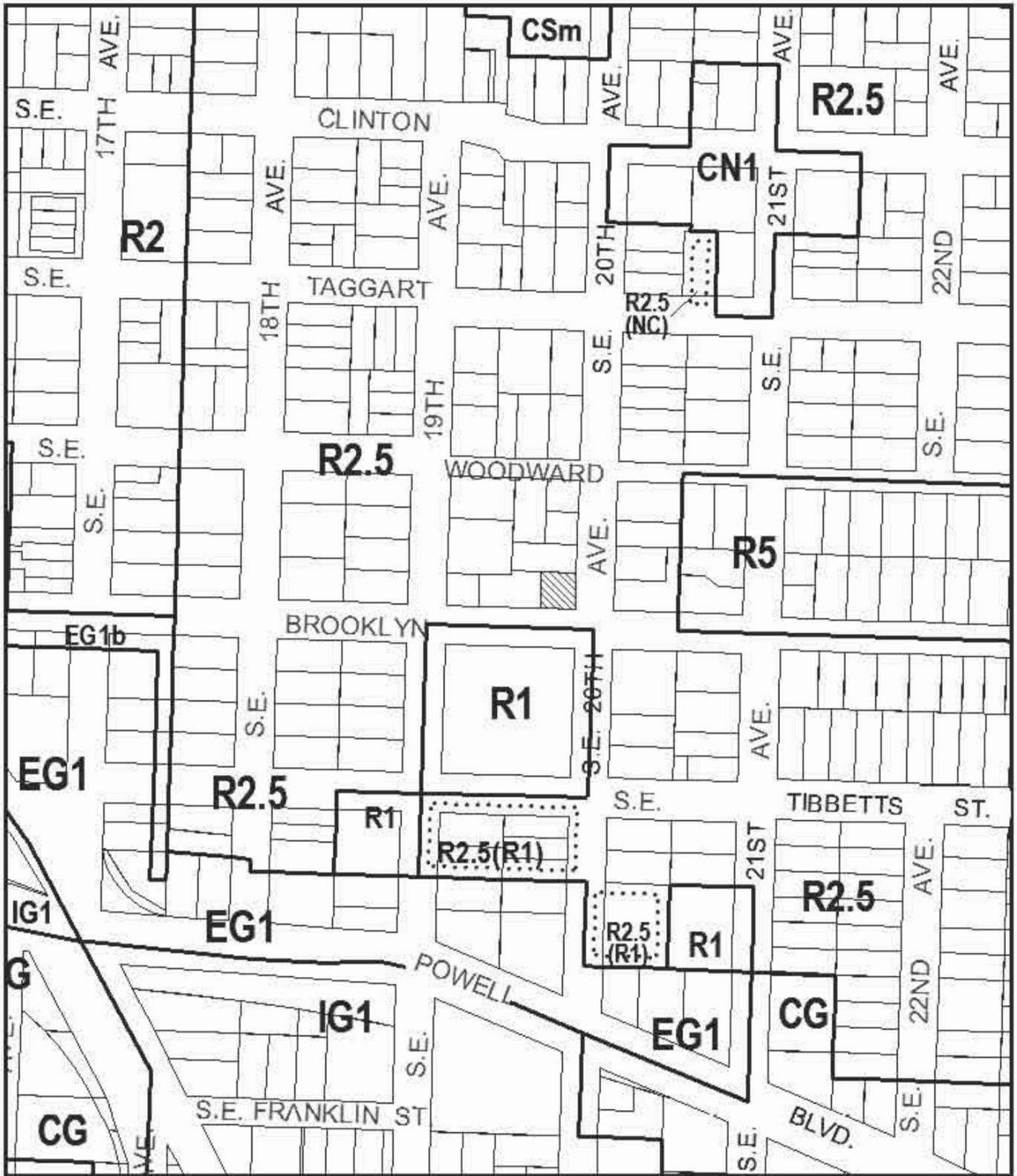
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. South (Front) Elevation (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Transportation Engineering and Development Review
  - 2. Life/Safety Plan Review Section of BDS
  - 3. "No concerns" responses from Bureau of Environmental Services, Water Bureau, Fire Bureau, Site Development Review Section of BDS, Bureau of Parks - Forestry Division
- F. Correspondence:
  - 1. No correspondence 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. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).**

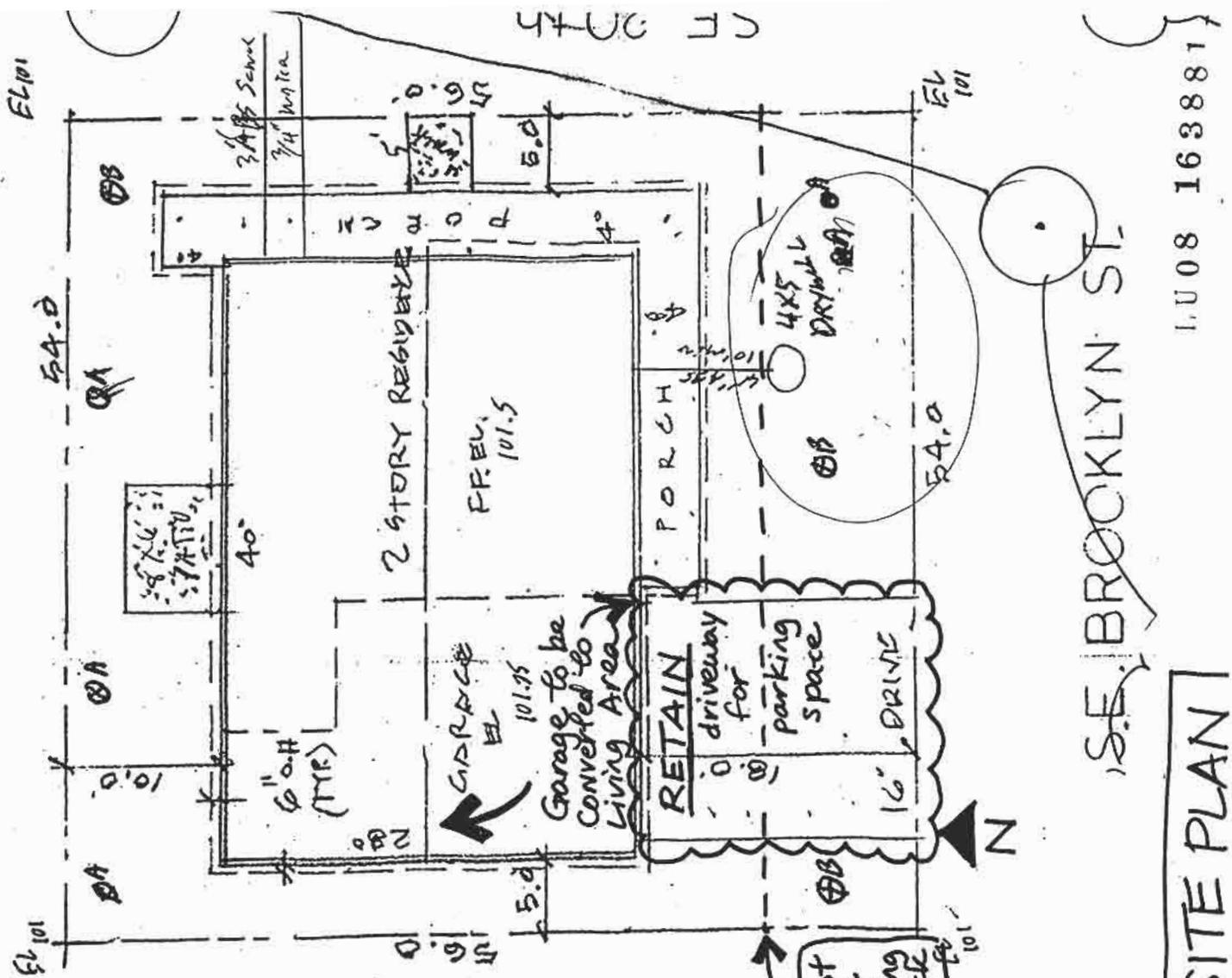


# ZONING

 Site



File No.	LU 08-163881 AD
1/4 Section	3332
Scale	1 inch = 200 feet
State Id	1S1E11AB 21400
Exhibit	B (Sep 23, 2008)

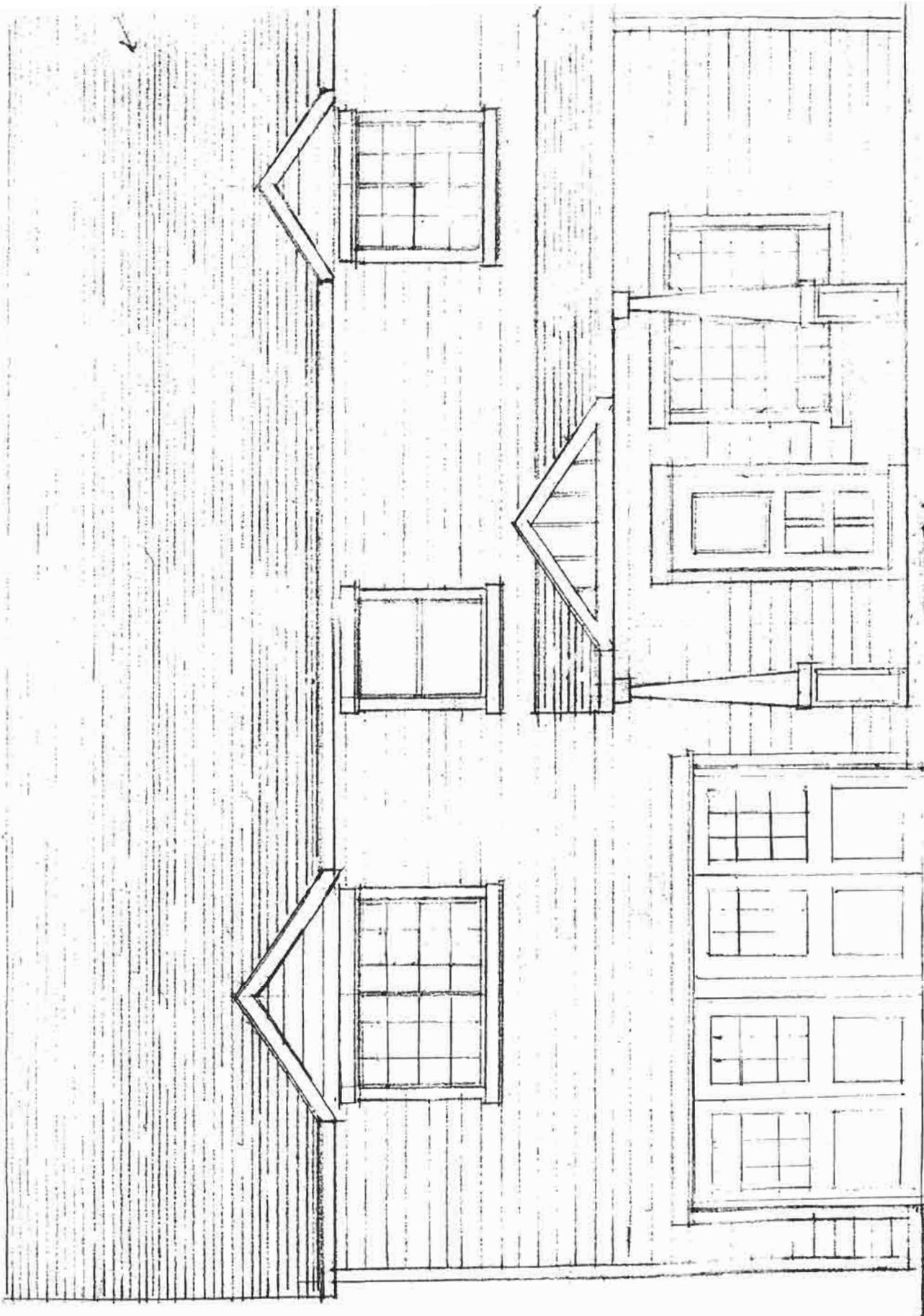


Adjustment to Zoning Code Section 33.266.120.C.1, to allow the required on-site parking space to be within the driveway, which is partially within the 10-foot front building setback.

\*Approved\*  
 City of Portland - Bureau of Development Services  
 Planner Suzanne Savin Date October 29, 2008  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

EX C-1

I.U.08 163881



1/4" = 1' 0"  
SOUTH  
(FRONT) ELEVATION

LU08 163881AD

EX C-2