



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

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Portland, Oregon 97201  
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Fax 503-823-5630  
TTY 503-823-6868  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** April 21, 2011  
**To:** Interested Person  
**From:** Mieke Keenan, Land Use Services  
503-823-0624 / [Mieke.Keenan@portlandoregon.gov](mailto:Mieke.Keenan@portlandoregon.gov)

## **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 11-118004 AD**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Jesse A Smith and Ildiko Arndt  
8210 SW 41st Ave  
Portland, OR 97219

**Site Address:** 8210 SW 41ST AVE  
**Legal Description:** BLOCK 1 LOT 2 EXC N 4', HILLVALE TR  
**Tax Account No.:** R390500010  
**State ID No.:** 1S1E20CC 01300  
**Quarter Section:** 3825

**Neighborhood:** Multnomah, contact Randy Bonella at 503-293-9460.  
**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.  
**Zoning:** R7 (Residential 7,000)  
**Case Type:** AD (Adjustment)  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicants propose to construct a detached single level, single car garage/storage structure. The garage area will be 339 square feet and the storage area at the rear of the garage will be 74 square feet. The structure will range between 14 feet 6 inches wide towards the front and 12 feet 6 inches at the rear. The roof pitch and siding of the garage will match the two level single dwelling residence located behind and southeast of the proposed garage.

The applicants are requesting an Adjustment to Zoning Code section 33.110.253.F because the garage wall that faces the street will be closer to the street lot line than the longest street-facing wall of the dwelling.

#### **Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in 33.805.040, A-F (Adjustments) and are shown below.

## ANALYSIS

**Site and Vicinity:** The house is located in southwest Portland in an area characterized by modest one and two story houses on large lots (between 8,000 and 15,000 square feet respectively), set far back from the street. The subject property is approximately 8,680 square feet in size and contains a two story house (approximately 1,523 square feet). It has a generous front and back yard. The site is relatively flat with a gradual slope in the back (east) of the house. The streets in the neighborhood are improved with asphalt that has deteriorated and not been repaired. There are no curbs or sidewalks. The site is approximately 165 feet west of Capitol Hwy.

**Zoning:** The R7 zone is a medium density single-dwelling zone. The R7 Zone allows attached and detached single-dwelling structures and duplexes.

**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 **March 24, 2011**. The following Bureaus have responded with no issues or concerns:

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

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on March 24, 2011. One written response was received and is summarized below.

**Neighbor Response:** A neighbor wrote in general support of the application. However they are concerned with the speed in which construction will be completed and the noise it will cause.

**Staff Response:** For the purposes of this land use review, speed of construction and noise are not considered in terms of approvability of the application. However, the applicant is responsible for complying with the Noise Ordinance (Title 18) which limits the permissible sound levels during daytime hours (between 7:00am – 10:00pm). If you have a noise complaint call 503.823-7350.

## ZONING CODE APPROVAL CRITERIA

### Title 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 applicant is requesting an Adjustment to **Section 33.110.253, Garages**. The purpose statement for this regulation is as follows:

*These Standards:*

- *Together with the window and main entrance standards, ensure that there is a physical and visual connection between the living area of the residence and the street;*
- *Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;*
- *Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;*
- *Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and*
- *Enhance public safety by preventing garages from blocking views of the street from inside the residence.*

The existing house fronts on SW 41<sup>st</sup> Avenue, and is set back from the front property line approximately 38 feet. There is a large front porch, approximately 7 feet deep, that spans the width of the house, with a set of stairs that leads up to the porch and the front entrance. This creates a clear *visual* connection between the street and front entrance. Bordered on each side by planting boxes is an existing 3' wide gravel path that runs between the house and the street. The path creates a *physical* relationship between the residence and the street. The location and orientation of the proposed garage will not change that relationship. In other words, the prominence of the residence as viewed from the street will not change due to the location of the proposed garage. The residence will continue to dominate views from the street. It will be more than one story taller than the garage. The width of the house (24 feet 3 inches) is approximately 10 feet wider than the front width of the garage. Given the height and width of the existing house, compared to the size of the proposed structure, the residence will be more prominent than the garage. The proposed structure, which includes a 339 square foot garage and 74 square foot storage area behind the garage, will sit approximately 5 feet 8 inches north of the residence, and extend approximately 17 feet out in front (west) of the house. The main entrance to the house faces SW 41<sup>st</sup> Ave, so the proposed location of the garage will not change its prominence or obscure views from SW 41<sup>st</sup> Ave. There is no sidewalk from which to view the neighborhood. The street will continue to be visible from inside portions of the residence due to the offset position of the garage to the house, and because the house is taller than the garage. 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 garage will improve the livability and appearance of the residential area by providing an unobtrusive place to store automobiles. The proposed location of the garage/storage area is placed in a location that is not inconsistent with the development pattern of the street and neighborhood. The structure will be thoughtfully placed adjacent to the northern neighbor's garage, which, although attached to the primary residence, also extends in front of the residence. There are several residences along the street with detached garages that sit in front of the primary residence.

This criteria is met.

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

**Findings:** Only one adjustment is requested. This criterion is not applicable.

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

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

**Findings:** There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

**F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** The site is not within an environmental zone. This criterion is not applicable.

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

The applicants propose to construct a garage between SW Boones Ferry Road and the existing two-level house. Because the orientation of the house is to the west, away from Boones Ferry, and because views of the proposed garage will mostly be obscured by vegetation along the east side of the property, the livability and appearance of the neighborhood will be preserved. All of the approval criteria have been met for the requested Adjustment. Therefore, the Adjustment that has been requested can be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to Setbacks provisions of the Zoning Code (33.110.253F) in order to allow a garage closer to SW Boones Ferry Road than the longest street-facing wall of the dwelling unit, per the approved site plans, Exhibits C-1 through C-2, signed and dated April 18, 2011, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 11-118004 AD."

**Staff Planner: Mieke Keenan**

**Decision rendered by:**  **on April 18, 2011**

By authority of the Director of the Bureau of Development Services

**Decision mailed: April 21, 2011**

**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 March 4, 2011, and was determined to be complete on **March 22, 2011**.

*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 March 4, 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 May 5, 2011** 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](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 **May 6, 2011 – (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:

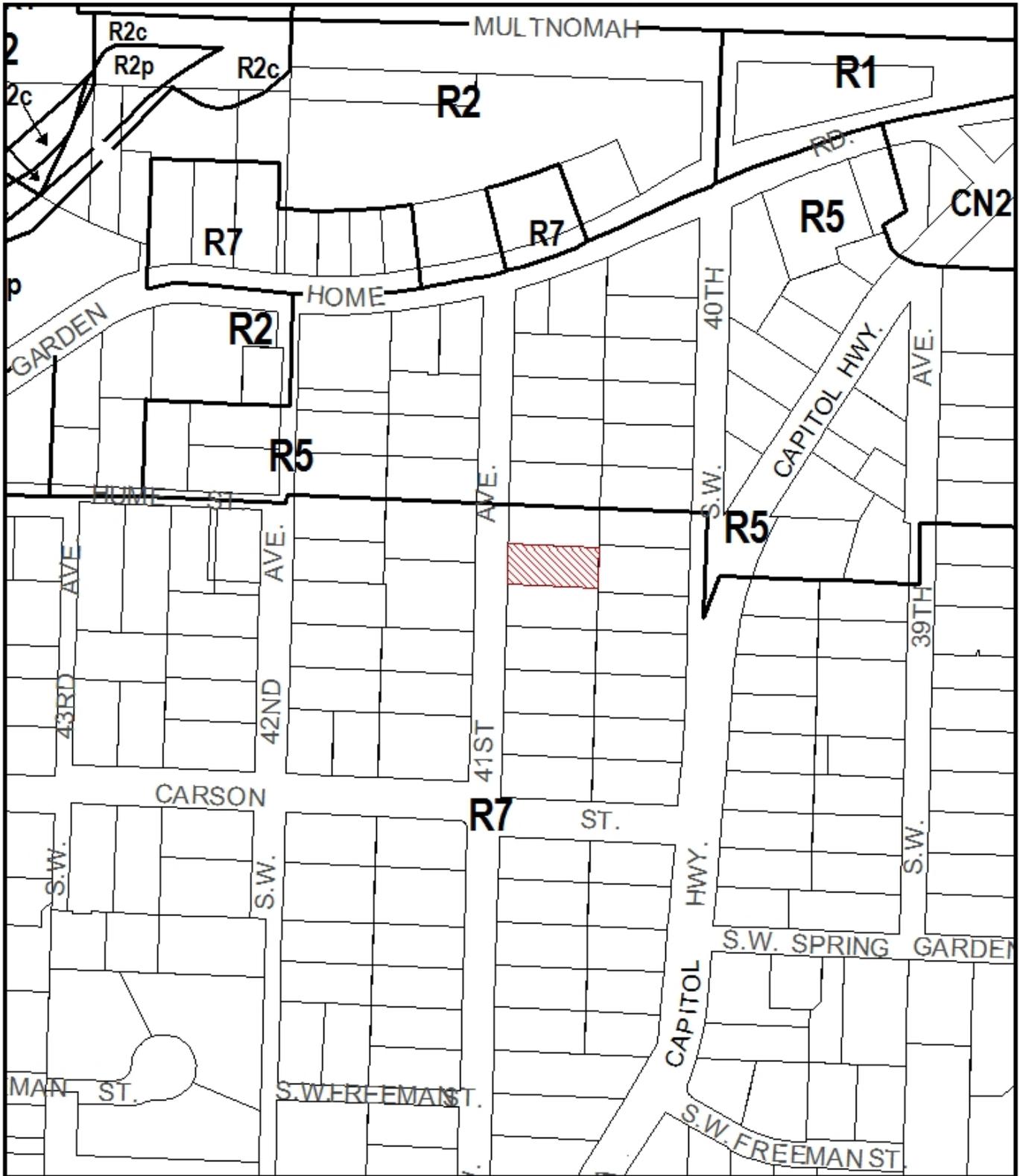
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. West Elevation (attached)
  - 3. Large Site Plan
  - 4. Large Garage Floor Plan
  - 5. Large Elevations
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Life Safety
  - 6. Site Development Review Section of BDS
  - 7. Bureau of Parks, Forestry Division
- F. Correspondence:
  - 1. Dana and Jill Gold, April 10, 2011
- 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



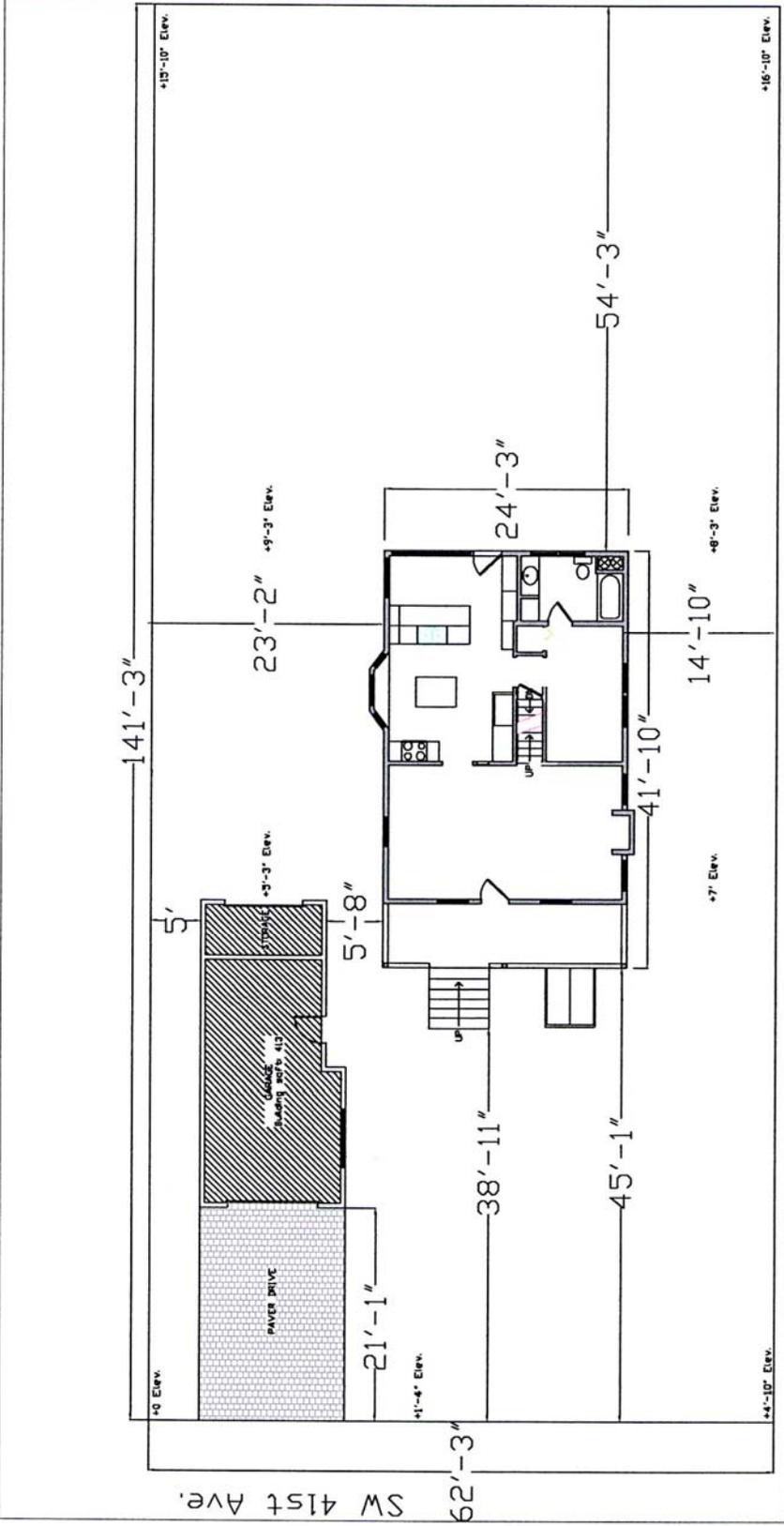
File No.	LU 11-118004 AD
1/4 Section	3825
Scale	1 inch = 200 feet
State Id	1S1E20CC 1300
Exhibit	B (Mar 09, 2011)

**Jesse Smith & Hilko Arndt (Owners)**  
 8210 SW 41st Avenue  
 Portland, Oregon 97219  
 503-752-2561  
 jsmith@stellanworks.us

Project Description: Garage Addition  
 REVISIONS: \_\_\_\_\_  
 BY: \_\_\_\_\_  
 DATE: \_\_\_\_\_

PLOT DATE: 3/2/2011  
 DRAWN BY: Jesse Smith

SHEET  
**Site**  
**A1.1**



**1 SITE PLAN - GARAGE**  
 Scale 3/32" = 1'

CASE NO. 11-119004  
 EXHIBIT C-1

Project Description:  
Garage Addition

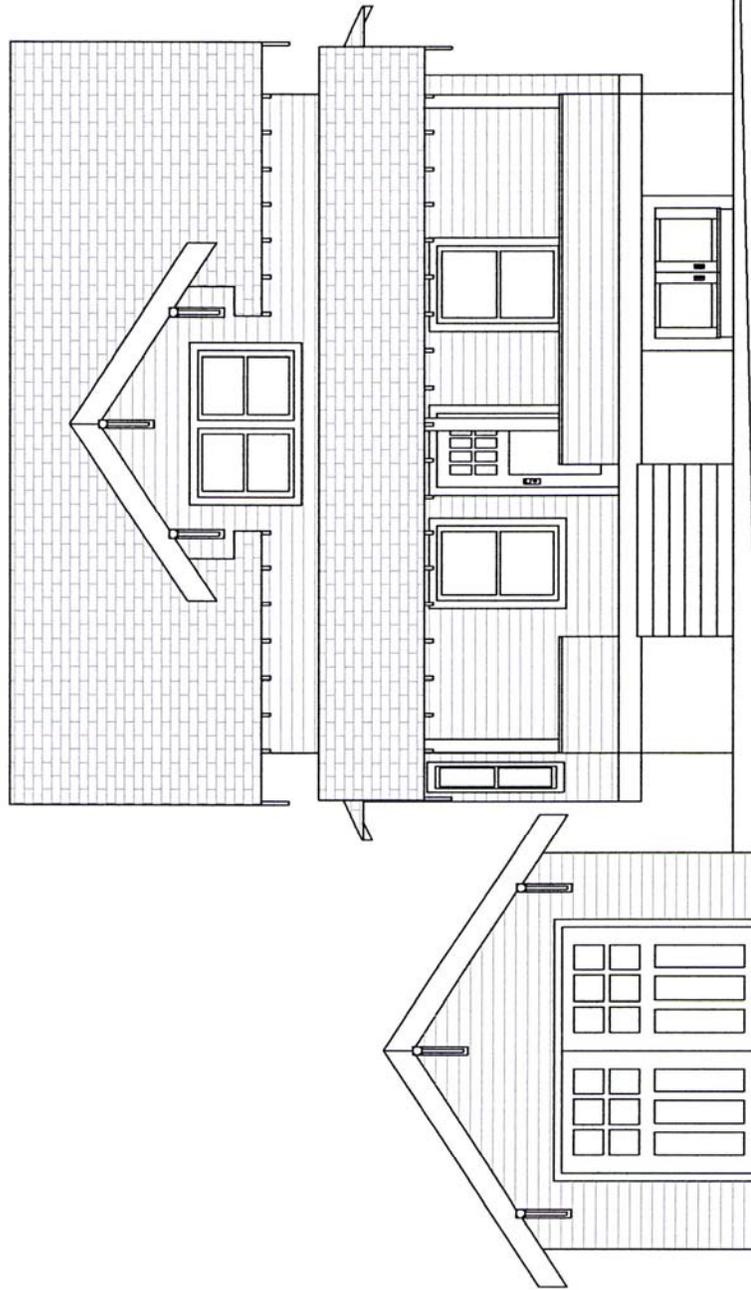
Jesse Smith & Hilko Arndt (Owners)  
8210 SW 41st Avenue  
Portland, Oregon 97219  
503-752-2561  
jsmith@stellaworks.us

REVISIONS	BY

PLOT DATE: 3/2/2011  
DRAWN BY: Jesse Smith

SHEET  
Garage Elevations

**A3.3**



1 WEST ELEVATION – GARAGE & HOUSE

Scale 1/4" = 1'

CASE NO. 11-118604  
EXHIBIT C-2