



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

FROM CONCEPT TO CONSTRUCTION

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Date: September 24, 2013
To: Interested Person
From: Kathleen Stokes, 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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 13-160924 AD

GENERAL INFORMATION

Applicant: Nick York, Balanced Energy Solutions
612 NE 74th Avenue / Portland, OR 97213

Owners: Dennis Meiners and Leslie Lee
8225 SW 3rd Avenue / Portland, OR 97219-4659

Site Address: 8225 SW 3RD AVE

Legal Description: BLOCK 33 LOT 3, CARSON HTS **Tax Account No.:** R139704850
State ID No.: 1S1E22CC 02900 **Quarter Section:** 3828

Neighborhood: South Burlingame, contact Betsy Shand at 503-545-8331.

District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: R5 (R5,000, High Density Single-Dwelling Residential)

Case Type: Adjustment Review

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

Proposal: The property owners are proposing to convert their existing garage to living space. The garage door would be replaced with windows and the driveway in front of the garage would be used for the legal on-site parking space. The Zoning Code requires that there be at least one on-site parking space. The space must be at least 9 feet wide and 18 feet deep and must be located outside of the 10-foot-deep front building setback area. Exceptions to this requirement are approved through Adjustment Reviews when the relevant approval criteria are met or if the criteria can be met through conditions of approval. Therefore, the applicant is requesting approval of an Adjustment to Code Section 33.266.120 C, to reduce the required setback for the parking space from 10 feet to 6 feet from the front property line.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The applicant's site is a 5,000 square-foot lot that is located on the west side of SW 3rd Avenue, three lots south of the intersection with SW Hume Street. The property is developed with a single-dwelling residence that was constructed in 1961. The house has a split-level design, with the garage at grade level on the north side and the main entrance one

level above, on the south side of the structure. The area around the site is generally developed with other single-dwelling residences that were constructed over a wide range of time in a variety of sizes and architectural styles.

Zoning: The site is zoned R5, High Density Single-Dwelling Residential. This zone is intended to accommodate single-dwelling development, with an average of one unit per 5,000 square feet of site area.

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 27, 2013**. The following Bureaus have responded with no issues or concerns. Agencies that provided written responses with information regarding building permit requirements are noted with exhibit numbers:

- Environmental Services, Transportation Engineering, Fire Bureau and Parks-Forestry Division each provided an electronic response of, “no concerns.”
- Water Bureau provided information on existing water service and requirements for any expansion that may be needed to serve the proposed conversion of the garage to living space (Exhibit E-1).
- Site Development Section of BDS offered a general analysis of the characteristics of the site and provided information on erosion control requirements (Exhibit E-2).
- Life Safety Plan Review Section of BDS stated the general requirements for obtaining required building permits (Exhibit E-3).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on August 27, 2013. Two letters were received from notified property owners, who wrote in response to the proposal. One neighbor indicated support of approval and noted that parking in the front yard is a common practice in the area and that most modern cars are small enough to easily fit in the proposed space without appearing out of the ordinary (Exhibit F-1). The other letter was from a couple who own property in the neighborhood and wrote to indicate opposition to approval of the requested Adjustment. In their letter, these property owners stated that they, “feel it might start a precedent that may not be good for the neighborhood” (Exhibit F-2).

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of Adjustments The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below, have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

- C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and
- D. City-designated scenic resources and historic resources are preserved; and
- E. Any impacts resulting from the adjustment are mitigated to the extent practical.
- F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

FINDINGS AND CONCLUSIONS

The applicants' proposal meets all of the relevant approval criteria: The purpose for the regulations that govern the size and placement of parking spaces for houses and duplexes is to enhance the appearance of the neighborhood. Therefore, the only impact that has to be considered in this proposal is its effect on the appearance of the neighborhood. There are 16 feet, from the edge of the street to the property line, and another 24 feet to the house. The former garage door is being replaced with windows so that it has the appearance of a day light basement. The front porch and entry to the main living area is also at a higher grade level than the existing driveway and proposed parking space. This allows adequate room so that the location of the parking site will not obstruct views to or from the main part of the house or create a situation where the vehicle parking space is the predominant feature at the front of the house. Parking in the driveway is already a common occurrence throughout the neighborhood, as attested to in the letter that was received from one of the neighbors, and as observed during a site visit by staff. As each instance of a proposal for an Adjustment is considered separately and on its own merits, based on the individual circumstances of each site, approval of this request is not likely to create a precedent, as was expressed as a concern in the letter of opposition that was received for this case. Therefore, the proposal will not have any negative impact on the appearance of the neighborhood and so Criteria A and B are met. Only one adjustment is being requested. There are no scenic or historic resources on the site; no impacts have been identified and the site is not located in an environmental zone, so the criteria related to these issues do not apply. Therefore, because all of the relevant approval criteria are met, the proposal can be approved, in substantial compliance with the proposed site plan.

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.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Code Section 33.266.120 C, to reduce the required setback for the parking space from 10 feet to 6 feet from the front property line, in general compliance with the approved site plans, Exhibits C-1 through C-2, signed and dated September 20, 2013, 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 13-160924 AD."

Staff Planner: Kathleen Stokes



Decision rendered by: _____ **on September 20, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 24, 2013

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 May 29, 2013, and was determined to be complete on August 23, 2013.

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 May 29, 2013.

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 21, 2013.**

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 8, 2013** 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 775 Summer St. NE, Suite 330, 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 **October 9, 2013**.
- 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.

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
 - 1. Application and original narrative and plans
 - 2. Supplemental information, received August 21, 2013
 - 3. Supplemental information, received August 22, 2013 m
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Site Development Review Section of BDS
 - 3. Life Safety Plan Review Section of BDS
 - 4. Summary of electronic responses from City service agencies
- F. Correspondence:
 - 1. Robert Harr
 - 2. Samuel and Larrine R. Singer
- G. Other:
 - 1. Letter from Kathleen Stokes to Nick York, June 11, 2013

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).

(N7)

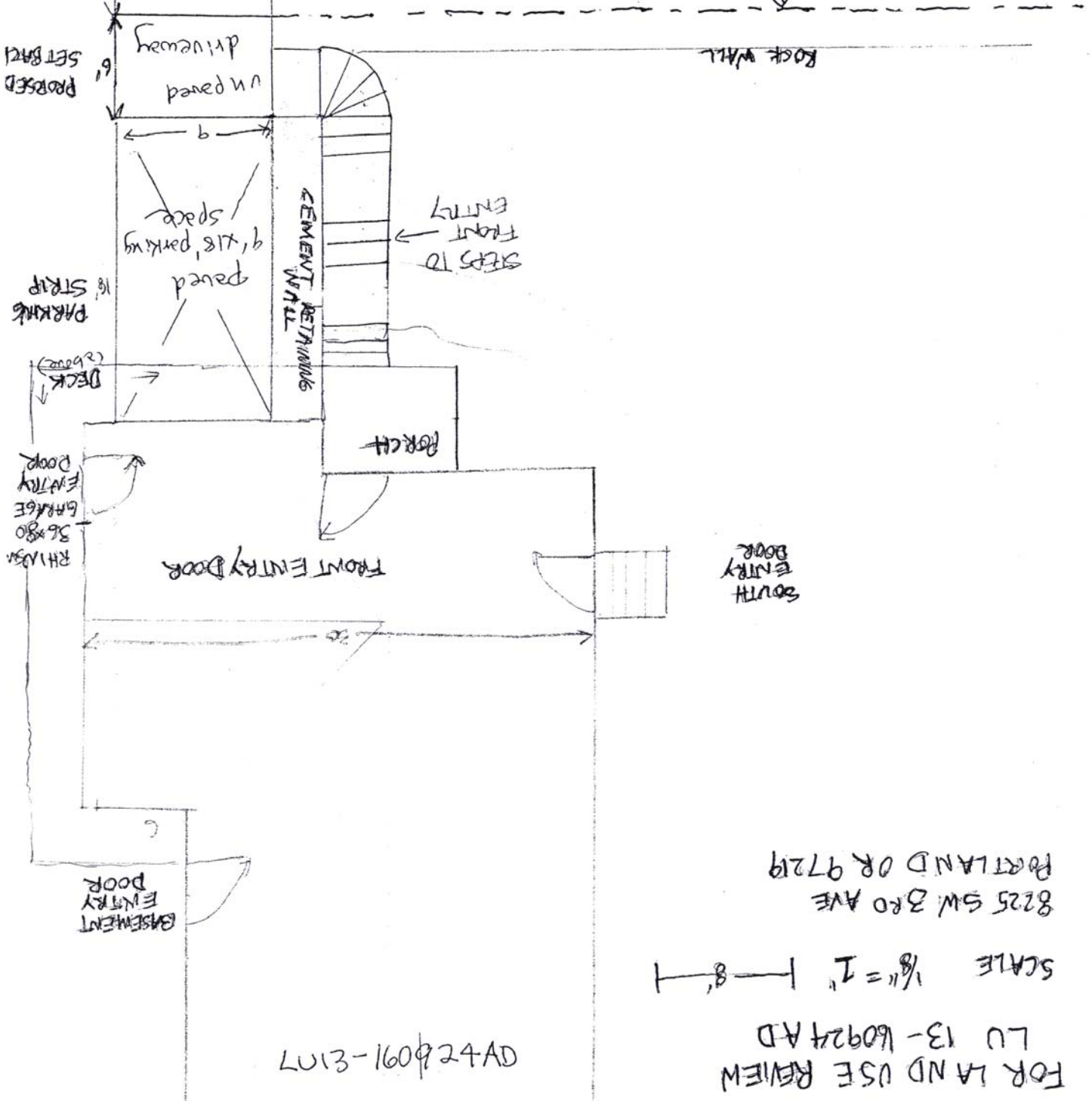
SW 3rd Ave EXHIBIT C-1

edge of paved roadway

Approved*
 City of Portland - Bureau of Development Services
 Planner *Kathleen A. Steiner* Date *September 20, 2013*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

GRASS STRIP

front property line

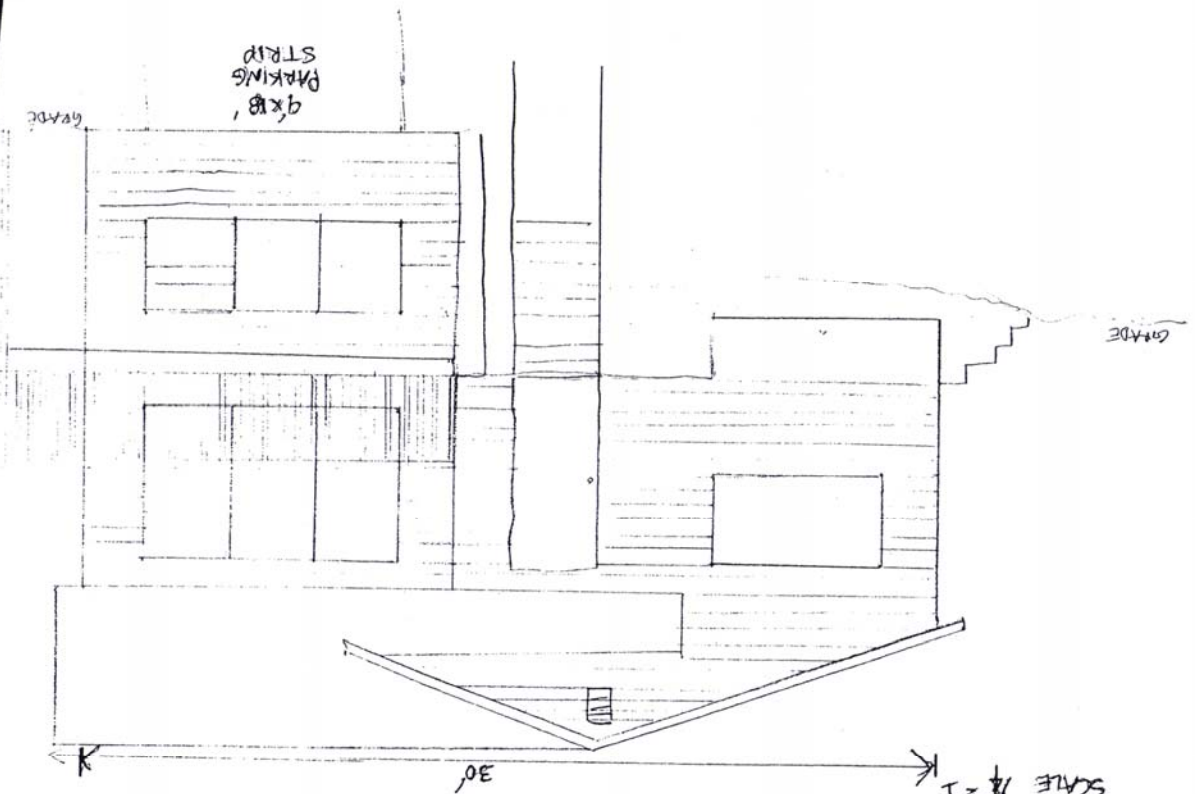
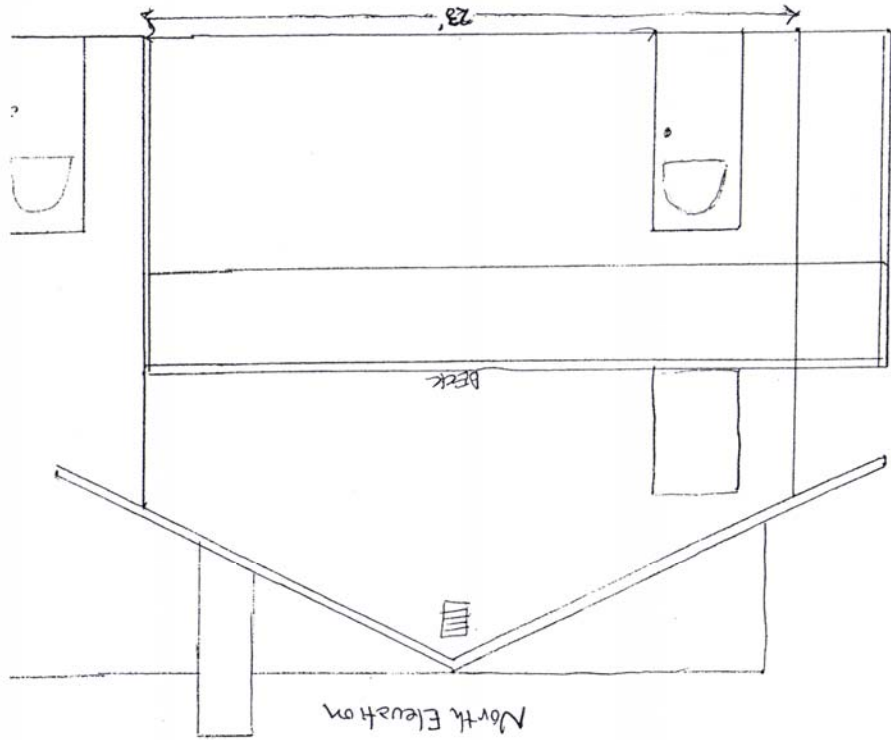


8225 SW 3rd Ave
PORTLAND OR 97219

SCALE 1/8" = 1' - 8'

FOR LAND USE REVIEW
LU 13-60924 AD

DA426091-2107



FOR LAND USE REVIEW
 LV 13-160924AD
 825 SW 3rd AVE
 PORTLAND OR 97219
 SCALE 1/4" = 1'

EAST ELEVATION

N →

DA426091-2107

Approved

City of Portland - Bureau of Development Services

Reviewed Kathleen A. Stefan Date September 29, 2013

This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.