



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

Amanda Fritz, Commissioner  
Paul L. Scarlett, Director  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** October 17, 2013  
**To:** Interested Person  
**From:** Amanda Rhoads, Land Use Services  
503-823-7837 / [Amanda.Rhoads@portlandoregon.gov](mailto:Amanda.Rhoads@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 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 13-201881 AD**

#### **GENERAL INFORMATION**

**Applicant:** Theodore J Richard  
2442 SE Harrison St / Portland, OR 97214

**Representative:** Jon Epley / Alan Mascord Design Assoc, Inc  
1305 NW 18th Ave / Portland, OR 97209

**Owners:** Theodore and Colleen Richard  
2442 SE Harrison St / Portland, OR 97214

**Site Address:** 2442 SE HARRISON ST

**Legal Description:** BLOCK 1 LOT 7, MURRAYMEAD **Tax Account No.:** R595000090  
**State ID No.:** 1S1E01CC 12400 **Quarter Section:** 3233  
**Neighborhood:** Hosford-Abernethy, contact Joanne Stainbrook at 503-231-9245.  
**Business District:** Division-Clinton Business Assoc, Darice Robinson at 503-233-1888.  
**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.  
**Zoning:** R5 – Single-Dwelling Residential 5,000  
**Case Type:** AD – Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant proposes to remodel the home, expanding out into the backyard (south), front yard (north) and west side, as well as raising the roof two feet and changing the roof pitch. The east wall of the home will remain where it was built in 1926, four feet six inches from the property line. It will be extended approximately four feet closer to the front lot line and just over thirteen feet closer to the rear lot line, as well as gaining two feet at its peak.

The Zoning Code requires a five-foot side setback for houses in the R5 zone. Because the expansion of the home includes an increase in height, the project is not eligible for an exception to the required setback as described in 33.110.220.D.5, which would allow an expansion of an existing wall located in the setback as long as there was no increase in height. The applicant is therefore requesting an Adjustment to Zoning Code Section 33.110.220,

Setbacks, to reduce the east side building setback from the required five feet to four feet, six inches and a setback reduction for the eave from the required four feet to three feet, two inches.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

## ANALYSIS

**Site and Vicinity:** The site, with its 1926 home, fits in well with the surrounding neighborhood of mostly older homes, street trees and pleasant pedestrian conditions. While some sites have newer homes, most are from roughly the same era as that on the subject site. The size of homes varies in the neighborhood, with larger, often newer homes and historic mansions interspersed with more diminutive, worker-style bungalows. Several churches and a convent are located nearby. This is a very walkable neighborhood, close to historic Ladd's Addition and stores on Hawthorne and Division.

This section of SE Harrison St. is designated a City Walkway and City Bikeway. It is also one of the City's Neighborhood Greenways, which are residential streets with low volumes of auto traffic and low speeds where bicycles and pedestrians are given priority.

**Zoning:** The Residential 5,000 (R5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 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 **September 20, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- BDS Site Development Section
- BDS Life Safety (Building Code) Section
- Bureau of Parks-Forestry Division

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on September 20, 2013. One written response has been received from a notified property owner in support of the proposal. That neighbor was pleased that the home is being remodeled and that the design is "in a style that fits with the surrounding structures. It will be a welcome addition to the block."

## 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 applicant is requesting an Adjustment to **Section 33.110.220, Setbacks**. The purpose statement for this regulation is as follows:

*Purpose: The building setback regulations serve several purposes:*

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

The applicant is requesting a reduced building setback for an existing wall on a 1926 home that is undergoing substantial renovations. According to the proposal, the height of the eastern wall, which is located six inches in the setback, will be increased by two feet and the first floor of the wall will be extended toward the rear of the property by approximately 13 feet, and by about four feet toward the street lot line. While the home is gaining two feet in height, the house currently is slightly shorter than the property to the east, and significantly shorter than the newer construction on the adjacent property to the west. The house on the subject site is also currently set back about eight feet further from the front property line than the house to the west. The expansion of the home, making it both taller and closer to the property line, will provide a transition between the larger, newer home to the west and the 1925 home on the east, thus improving the physical relationship of the residences. The home will also match the general scale and placement of its neighbors.

As part of the renovation, an original chimney on the east side wall was removed. This chimney, which was original to the house, extended almost two feet closer to the property line than the east wall. Its removal made accessing the east property line easier. A driveway is located at the property line of the eastern property, meaning the house does not abut another building directly on that side, thus ensuring air flow and good fire separation and access. The Fire Bureau has no concerns. The site's own driveway will remain in the same place on the west side of the property, leading to a garage in the rear of the site and providing ample room for several cars to park without overhanging the street.

**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 proposal maintains the existing wall line of the 1926 home with an additional two feet in height which will better match both its adjacent neighbors. The extension of the original eastern wall into the backyard does make space for a new master bedroom on the first floor. However, this master bedroom replaces a smaller bedroom in the same location, and the proposed windows on the east side of the house are more private than the original window for both the subject site and the property to the east. The two proposed east side master bedroom windows are smaller and oriented higher than the existing window, beginning approximately eight feet from ground level, or about five and a half feet from the finished floor level. The larger windows on the second story on the east side do not open to a bedroom but rather a loft area, or living area for the two upper bedrooms. Therefore, granting this adjustment will not impact privacy for the adjacent home.

The remodeled home's design will remain in keeping with its original bungalow style, which matches surrounding homes and neighborhood character. As discussed above, the new scale of the home will fit in well with its surroundings and will not detract from the appearance of the neighborhood.

**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. The wall has been in place on the property at four feet, six inches since it was built in the 1920s. Efforts have been made to maximize privacy between the east side of the home and the adjacent site. A driveway on the adjacent site also provides separation between the two houses. 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:** There are no discernible impacts that would result from granting the requested Adjustment. The wall has been in place on the property at four feet, six inches since it was built in the 1920s. Efforts have been made to maximize privacy between the east side of the home and the adjacent site. A driveway on the adjacent site also provides separation between the two houses. This criterion is met.

## **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

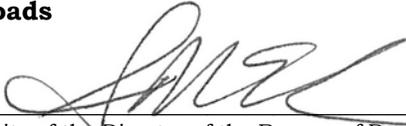
As part of a larger home renovation, the applicant requests an Adjustment to the required building setback on the east side, to extend the current building wall about 17 feet toward the rear and front of the property, and vertically by two feet. The current building wall is located four feet, six inches from the property line, whereas the required side setback for the R5 zone is five feet. The design incorporates some features to reduce potential privacy concerns: the ground floor windows from a bedroom are high on the wall and will not allow views onto the neighboring property; and the window on the second floor is not in the location of a bedroom but rather a loft area. The design will keep the home in scale with and matching the style of other homes in the neighborhood. The proposal meets each of the applicable criteria and therefore should be approved.

## ADMINISTRATIVE DECISION

Approval of Adjustment to required building side setback ( as specified in the Zoning Code 33.110.220) from five feet to four feet, six inches on the east side, with eaves extending to three feet, two inches of property line, per the approved site plans, Exhibits C.1 through C.6, signed and dated October 15, 2013, subject to the following conditions:

- 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.6. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-201881 AD."

**Staff Planner: Amanda Rhoads**

**Decision rendered by:**  **on (October 15, 2013.)**

By authority of the Director of the Bureau of Development Services

**Decision mailed: October 17, 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 September 6, 2013, and was determined to be complete on September 18, 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 September 6, 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: January 16, 2014.**

**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 31, 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](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 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 **November 1, 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.

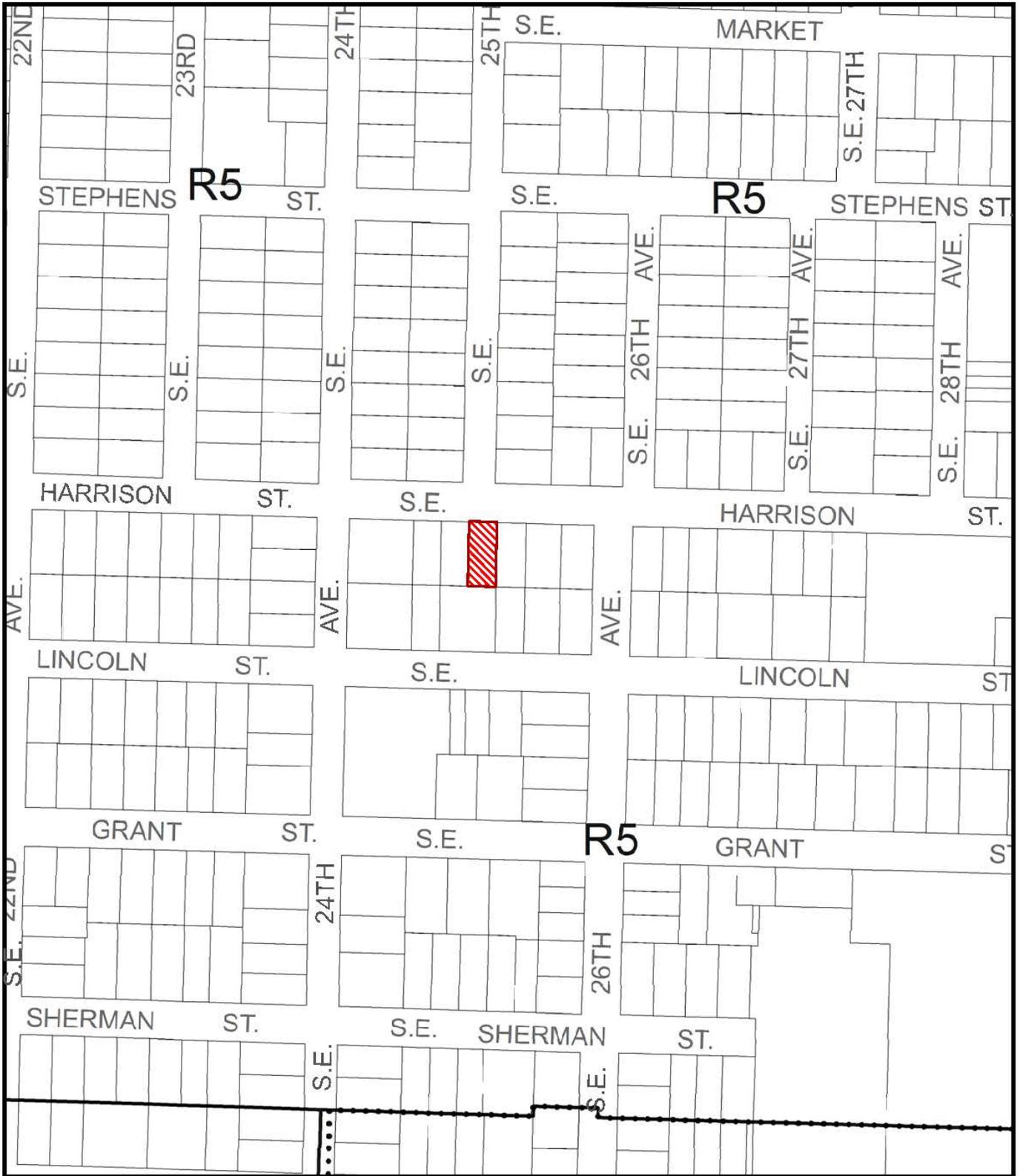
#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Right and Front Elevations
  - 3. Left and Rear Elevations (attached)
  - 4. Main Floor Plan
  - 5. Upper Floor Plan
  - 6. Foundation Plan
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. BDS Life Safety (Building Code) Section
- F. Correspondence:

1. Christine Carlson, Sept. 28, 2013, in support
- G. Other:
1. Original LU Application

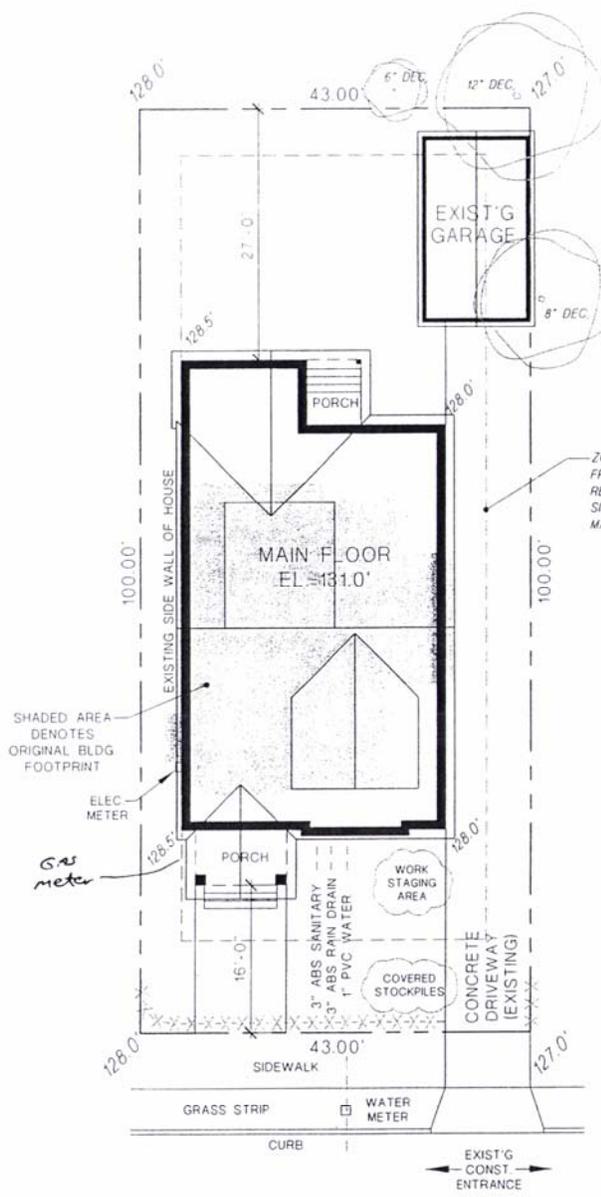
**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



# ZONING



File No. LU 13-201881 AD  
 1/4 Section 3233  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E01CC 12400  
 Exhibit B (Sep 11, 2013)



ZONE R5 SETBACKS  
 FRONT 10'  
 REAR 5'  
 SIDE 5'  
 MAX HEIGHT 30'

**\*Approved\***  
 City of Portland  
 Bureau of Development Services  
 Planner AMM  
 Date October 15, 2013  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

LOT COVERAGE	
LOT AREA	4,300 SF
ALLOWABLE (1,500 SF + 37.5% x 3,000 SF)	1,987.5 SF
* BUILDING AREA	1,721.7 SF

\* INCLUDES PORCHES

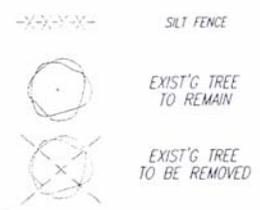
FRONT YARD COVERAGE	
DRIVEWAY	152 SF
FRONT YARD	688 SF
PERCENTAGE	22.1%

TREE PRESERVATION / REFORESTATION:	
LOT AREA	4,300 SF
CALIPER REQ'D (2" / 1,000 SF)	8.6 INCHES
EXISTING CALIPER ON SITE / WITHIN 5'	26+ INCHES
TREE CALIPER TO ADD	0 INCHES

S.E. HARRISON ST.

**SITE / EROSION CONTROL PLAN**

SCALE 1" = 8'-0"



ALAN MASCORD DESIGN ASSOCIATES, INC.  
 1500 NW 45th Ave., Portland, OR 97229  
 (503) 255-1234 Fax: (503) 255-1235 Email: alan@mascard.com

**RICHARD REMODEL**  
 2442 SE HARRISON ST.

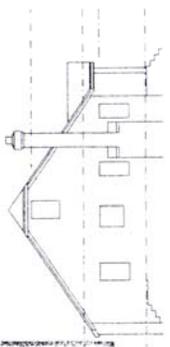
CITY OF PORTLAND, OREGON  
 MURRAYMEAD  
 LOT 7, BLOCK 1  
 (4,300 SQ. FT.)

09/05/2013 JRE

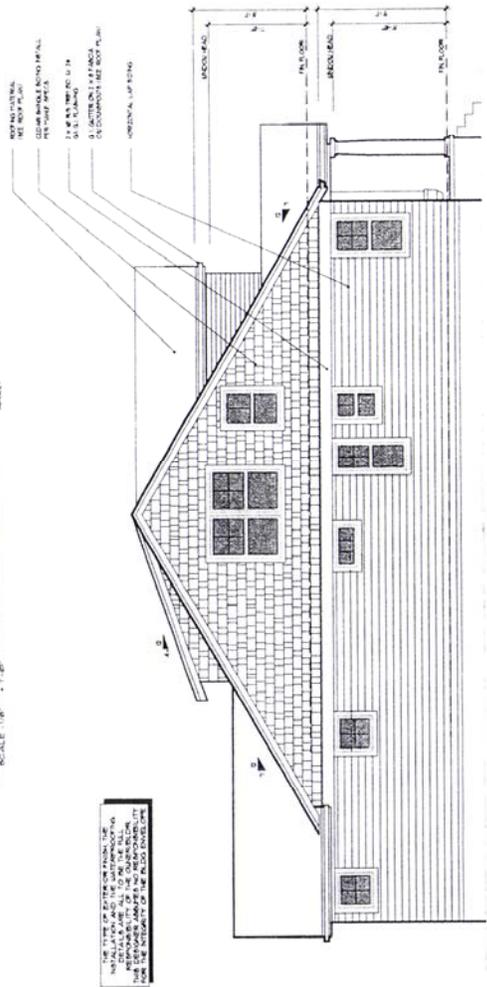
CASE NO. Lu 13-201881 AD  
 EXHIBIT C.1

**\*Approved\***  
 City of Portland  
 Bureau of Development Services  
 Planner Ann M  
 Date October 15, 2013

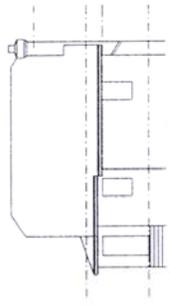
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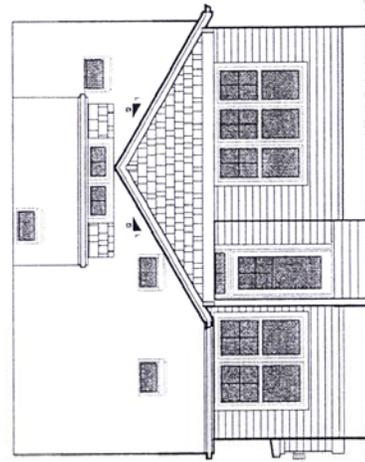
LEFT SIDE ELEVATION  
 SCALE: 1/4" = 1'-0"



LEFT SIDE ELEVATION  
 SCALE: 1/4" = 1'-0"  
 (East side)



REAR ELEVATION  
 SCALE: 1/4" = 1'-0"



REAR ELEVATION  
 SCALE: 1/4" = 1'-0"

ALL THE TIME OF EXISTENCE OF THIS  
 DRAWING, THE ARCHITECT SHALL BE  
 RESPONSIBLE FOR THE ACCURACY OF  
 THE INFORMATION AND DATA  
 CONTAINED THEREIN.

THE CITY OF PORTLAND BUREAU OF DEVELOPMENT SERVICES  
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 PHONE: 503.944.3300 FAX: 503.944.3301  
 WWW.PORTLAND.OREGON.GOV  
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Exhibit C.3

W13-201881AD