



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** October 21, 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 13-198393 AD**

#### **GENERAL INFORMATION**

**Applicants:** Jennifer Wantland and Bryan Scott  
3412 SE 53rd Ave / Portland, OR 97206

**Site Address:** 3410 SE GRANT CT

**Legal Description:** BLOCK 1 LOT 1, STRATFORD-SYDNEY ADD  
**Tax Account No.:** R800500010  
**State ID No.:** 1S1E01DC 14600 **Quarter Section:** 3234

**Neighborhood:** Richmond, contact Douglas Klotz at 503-233-9161.  
**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  
**Case Type:** AD – Adjustment  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant has proposed to convert the existing attached garage into an Accessory Dwelling Unit. The conversion of the garage into living area moves the parking pad on the site out of conformance with the Zoning Code's setback standards. Zoning Code section 33.266.120.C.1.a states that required parking spaces are not allowed within the first ten feet from a front lot line or in a required front setback. In this case the front setback required is ten feet. Zoning Code section 33.266.120.D.1 states that a parking space must be at least 9 feet wide by 18 feet in depth.

The Zoning Code allows a garage with an associated driveway to be set back 18 feet from a front property line in this zone. However, if a garage is not located at the end of a driveway, the Zoning Code requires the 18-foot-deep parking pad to be located entirely outside of the required 10-foot front setback. This standard requires driveways not leading to garages to be at least 28 feet long.

In this case, the applicants' driveway is 21 feet 11 inches between the front property line and the proposed living area. The applicant has requested an Adjustment to allow car parking to

encroach into the required front setback by six feet, one inch. It should be noted that there is one foot of public right-of-way between the back of the sidewalk and the front property line. 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.

**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 subject site is in a dense single-dwelling neighborhood. The house onsite is a single-story ranch house built in 1977, in a neighborhood made up largely of older, 1.5- and 2-story homes in the bungalow or Craftsman style. Though the zone is R5, the subject site and most nearby lots are smaller than 5,000 square feet, which makes the area feel dense and more urban than an R5 area with 5,000 square-foot lots. Grant Court is also quite narrow at 39.4 feet, with parking on both sides and only one lane for passage.

Many neighboring garages are built close to or at the property line, or are altogether absent. The ranch home immediately to the south of the subject site, constructed at the same time, has a garage with identical placement. There is significant on-street parking on SE Grant Court and SE 34<sup>th</sup> Ave. SE 34<sup>th</sup> Ave. is a City Bikeway while SE Grant Court is a Local Service Bikeway. Both are classified as Local Service Walkways.

**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 lot per 5,000 square feet of site area.

**Land Use History:**

VZ 119-76 Approved a reduction to the minimum lot area and minimum lot width of Lots 1 and 2 (the subject site and that to the south) to create two legal lots.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **September 23, 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 23, 2013. Four written responses in support of the proposal have been received from notified property owners. The Richmond Neighborhood Association Land Use Committee also sent a letter of support.

One resident of the neighborhood wrote in support of the proposal from her perspective as a real estate broker, saying that off-street parking is a desirable amenity and taking it away from the site might hurt the market value of the home and is unfair (Exhibit F.1). *BDS Staff*

*Response: While the City appreciates this respondent taking the time to express her support, we are unable to consider effects of development or use on property values in our decision.*

Another neighborhood resident wrote in support, discussing the increased parking pressure in the neighborhood due to recent development of successful businesses on Division Street and asked us to continue to support residents parking in their own driveways where possible. “I would hate for a precedent to be set that parking on your own property in a driveway would not be considered due to a few feet in a setback...” (Exhibit F.2). *BDS Staff Response: Each Adjustment case is considered independently as individual circumstances matter greatly in determining whether the approval criteria are met.*

A third response in support stated that “off-street parking is a good thing and contributes to an overall better looking and safer street” (Exhibit F.3). A fourth stated that “having cars off the road and on their own property opens up the little street in our neighborhood making it much safer to bike and drive” (Exhibit F.4).

The Richmond Neighborhood Association Land Use Committee sent a letter of support for the proposal, stating “it does not detract from neighborhood appearance, and with the changes proposed to the doors, will enhance the appearance of the house” (Exhibit F.5).

## 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
- 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 for A and B:** The purpose of the standards for parking and loading related to the development of houses and duplexes is explained under Section 33.266.120.a as follows:

*The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.*

The proposed adjustment will not detract from the livability or appearance of the area. At approximately 22 feet in length, plus another foot of right-of-way to the sidewalk, there is adequate room to allow the existing driveway to continue to function as a parking space without the risk of cars overhanging into the sidewalk. It is unlikely this will occur, because the driveway is sloped and parking partly on the sidewalk, which is flat, and partly on the sloped driveway would be awkward.

Currently, when viewed from the public street (SE 34<sup>th</sup> Ave.), the garage door is the most prominent element on the front façade. Allowing this garage door to be converted to windows and an entry will provide a better connection between the home and the public street and improve the appearance of the residential area. In addition, the frontage onto SE 34<sup>th</sup> Ave. will become more open and visually pleasing.

Because the applicant is converting the existing garage to living space, existing parking will be maintained in between the converted space and the front property line. The home is not getting any closer to the right of way, and the driveway will remain its existing length (21 feet 11 inches) so light, air, separation for fire protection and access for fire fighting will be maintained. The Fire Bureau has no objection to this request. The general building scale and placement will also be maintained.

Part of the appearance of neighborhoods includes how the right-of-way is used. While some of the homes have off-street parking, often in the form of garages built up to or close to the property line or the right-of-way, other properties only have on-street parking options. With street parking at an increasing premium given the growing popularity of shops and restaurants along Division St., both the appearance and functionality of the neighborhood could be impacted if the Adjustment were not granted, and the curb cut removed.

For the reasons stated above, these criteria are 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:** Not applicable, only one adjustment has been requested.

- 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:** The requested Adjustment will not create impacts and therefore does not require mitigation to lessen its effects. This approval criterion is satisfied.

- 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

All of the approval criteria have been met for the requested Adjustment. The proposed adjustment will not detract from the livability of the neighborhood because additional residential use of the garage will not reduce the amount of on-site parking provided. At the same time, the conversion of the garage to a main entrance will enhance the home's connection to the public street and improve the overall appearance and livability of the neighborhood.

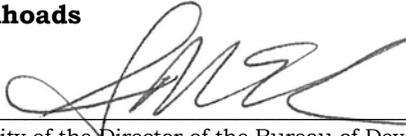
For these reasons, the Adjustment should be approved.

## ADMINISTRATIVE DECISION

Approval of Adjustment to front setback requirement for a parking pad (33.266.120.C.1.a), from ten feet to three feet eleven inches, per the approved site plans, Exhibits C.1 through C.6, signed and dated October 17, 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 13-198393 AD."

**Staff Planner: Amanda Rhoads**

**Decision rendered by:**  **on (October 17, 2013.)**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: October 21, 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 August 28, 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 August 28, 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 November 4, 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, OR 97301-1283, 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 5, 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:

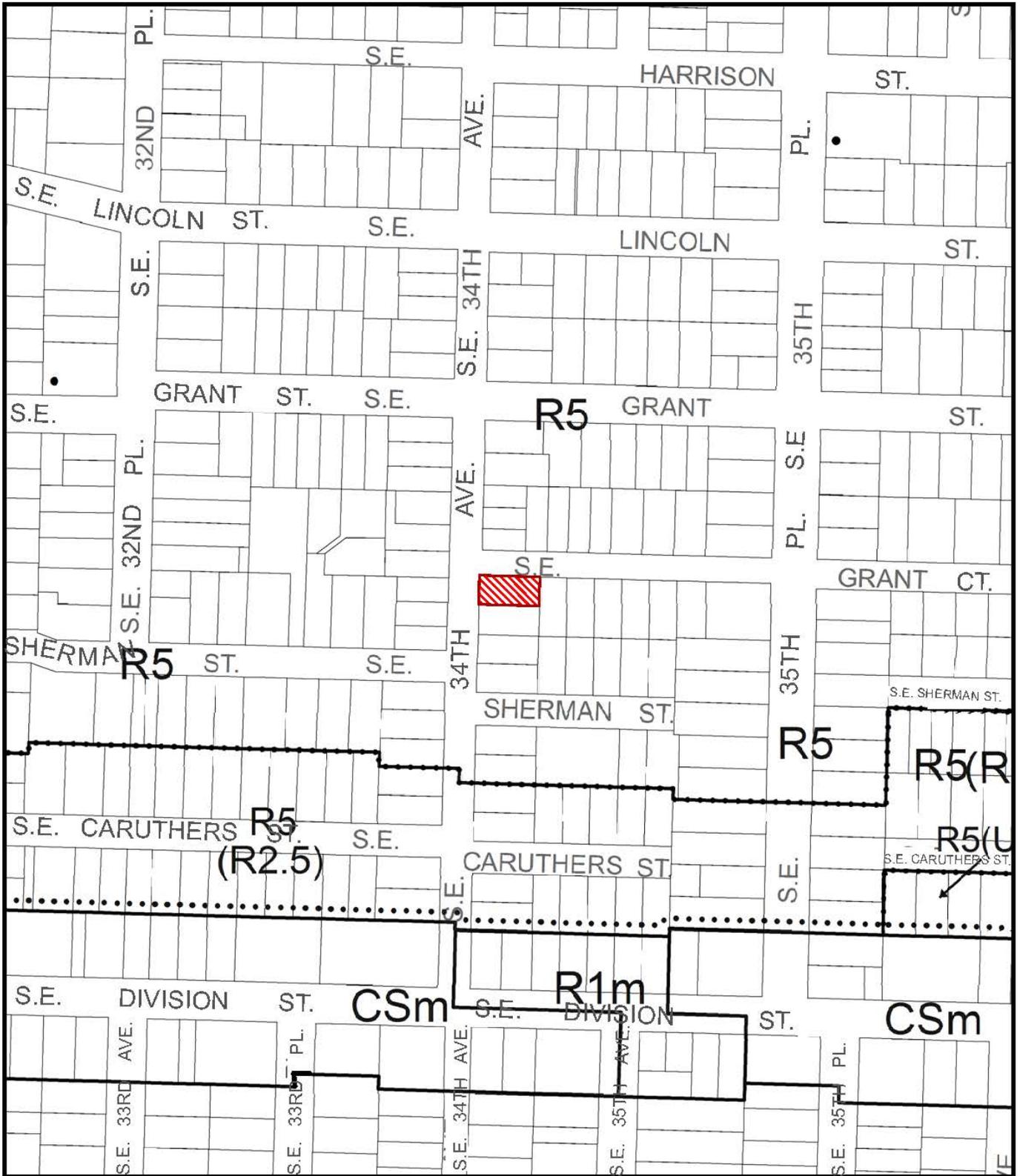
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. West Elevation (attached)
  - 3. North Elevation
  - 4. Floor Plan
  - 5. Alternate Site Plan
  - 6. Alternate Elevations
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Water Bureau
  - 3. Fire Bureau
  - 4. Site Development Review Section of BDS
  - 5. Bureau of Parks, Forestry Division
  - 6. BDS Life Safety (Building Code) Section
- F. Correspondence:
  - 1. Dee Reddy, 10/1/2013, in support.
  - 2. Brock Storfa, 10/3/2013, in support.
  - 3. Anastasia McLaughlin, 10/4/2013, in support.
  - 4. Madeline Manson, 10/6/2013, in support.
  - 5. Richmond Neighborhood Association Land Use Committee, 10/3/2013, in support.
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Incomplete Letter, Sept. 5, 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).**



# ZONING



Site



Historic Landmark



File No. LU 13-198393 AD  
 1/4 Section 3234  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E01DC 14600  
 Exhibit B (Aug 28, 2013)

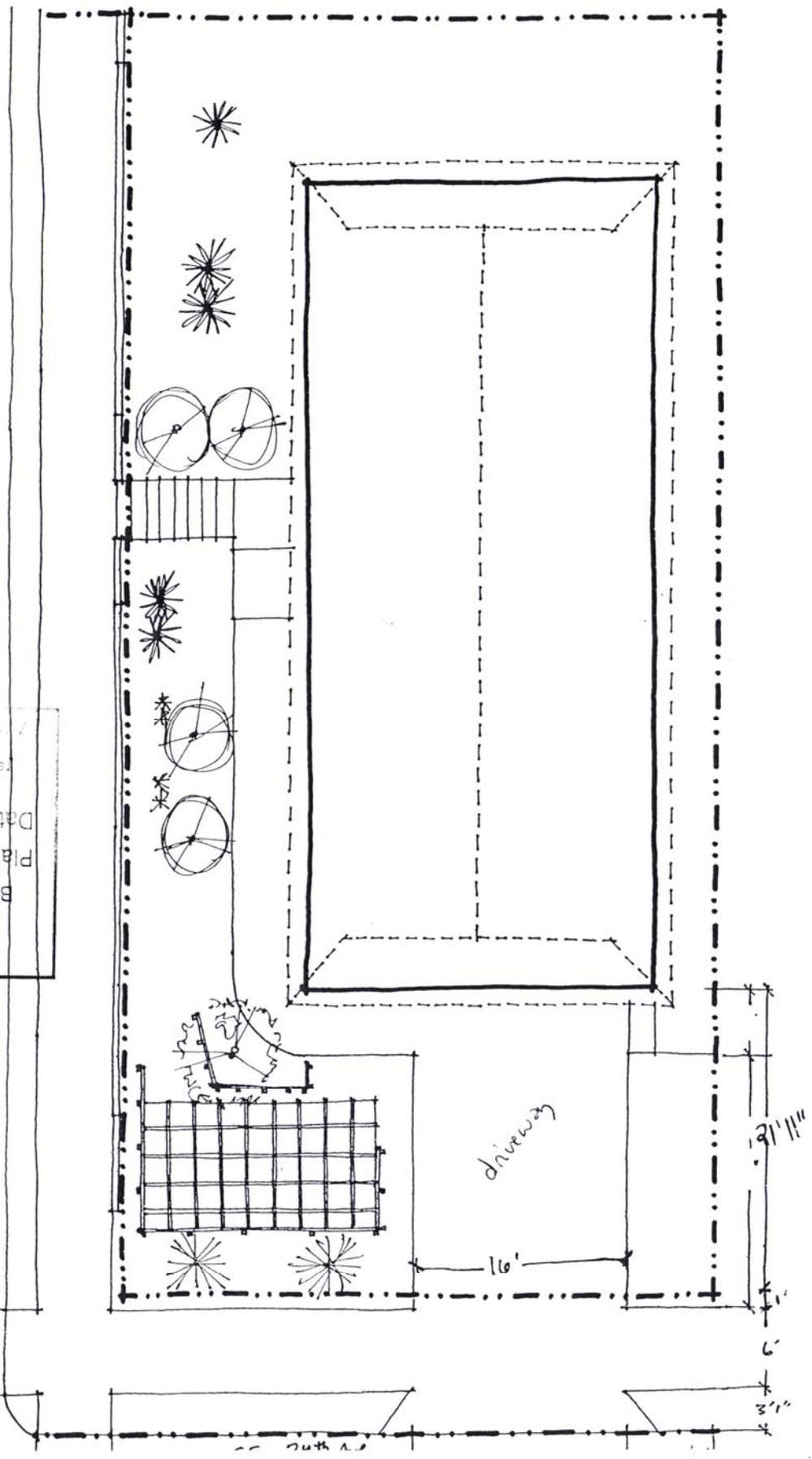
\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner AM  
 Date Oct. 17, 2013  
\* This approval only applies to the  
 reviews requested and is not to be  
 construed as a final approval.

N  
 SITE PLAN

not to  
 scale  
 1/8" = 1'

CASE NO. LU 13-198393AD  
 EXHIBIT C.1

SE Grant Ct.





WEST ELEVATION

\*Approved\*  
City of Portland  
Bureau of Development Services  
Planner Am M  
Date October 17, 2013  
\* This approval applies only to the reviews requested and is subject to the conditions of approval.

CASE NO. Lu 13-198393 AD  
EXHIBIT C.2