



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

FROM CONCEPT TO CONSTRUCTION

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Date: December 31, 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 13-151939 AD

GENERAL INFORMATION

Applicant: Mike Coyle / Faster Permits
14334 NW Eagleridge Lane / Portland, OR 97229

Owner: Vic Remmers / Everett Custom Homes Inc
735 SW 158th Ave Ste 180 / Beaverton, OR 97008

Site Address: 2105 SE 44TH AVE

Legal Description: BLOCK 1 LOT 35&36, TABASCO ADD
Tax Account No.: R818100360
State ID No.: 1S2E06CC 07900
Quarter Section: 3235
Neighborhood: Richmond, Douglas Klotz at 503-233-9161.
Business District: Division-Clinton Business Assn, Darice Robinson at 503-233-1888.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Zoning: R5 (R5000, High Density Single-Dwelling Residential)
Case Type: Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The applicant is proposing to separate two previously platted lots and to relocate the property line, under a separate review, in order to allow retention of an existing house and the creation of an opportunity for infill development on the adjacent parcel to the west. This will result in a situation where there is no on-site parking for Parcel 2, which contains the house. Exceptions to the requirement for on-site parking 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 33.266.110, to waive the one required on-site parking space for Parcel 2.

ANALYSIS

Site and Vicinity: The applicant's site consists of two lots that are located on the southwest corner of the intersection of SE Lincoln Street and SE 43rd Avenue and immediately adjacent to the west on SE Lincoln Street. The corner lot has an existing single-dwelling residence that was constructed in 1910. The lot to the west is undeveloped. The area around the site is generally developed with other single-dwelling residences. While many of the other houses

also date from the early 1900s, there is also a mix of structures from other decades, providing a variety of architectural periods and styles.

Zoning: The site is zoned R5, High-Density Single-Dwelling Residential with an “a” or, as it is officially termed, an Alternative Design Density Overlay. The R5 zone requires an average lot area of 5,000 square feet, with a maximum allowed density of one unit per lot (generally 8.7 units per acre.)

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 **October 31, 2013**. The following Bureaus have responded with no issues or concerns. Agencies that provided written comments regarding requirements for permit review are noted with exhibit numbers:

- Environmental Services, the Fire Bureau, Site Development Section of BDS and Parks-Forestry Division each provided a response of, “no concerns.”
- Transportation Engineering provided a response that included an analysis of the proposal and findings that indicate that the purpose of the regulation is met (Exhibit E-1).
- Water Bureau provided information on the existing water service for the site and noted requirements for building permit requirements for changes to the service (Exhibit E-2).
- Life Safety Plan Review Section of BDS stated that waiving the requirement for an on-site parking space is not in conflict with existing building codes and that the new house to be proposed for the vacant parcel will require a separate building permit and must meet all applicable building codes at the time of the building permit review (Exhibit E-3).

Neighborhood Review: No written replies have been received from either the Neighborhood Association or notified property owners in response to the notice of this proposal.

ZONING CODE APPROVAL CRITERIA

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

33.805.040 Adjustment Approval Criteria

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

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

Findings: Code Section 33.266.110 states, “*The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking.*”

The request is to waive the requirement for one on-site parking space. This would displace the parking for this residence to the on-street parking in the area. At the request of the reviewing staff of BDS and PBOT, the applicant conducted a survey of the on-street parking spaces that would be available to serve this residence. PBOT provided the following comments in their analysis of the proposal:

“The applicant conducted multiple observations on various days and at various times to provide City staff with adequate information to complete this review. The observations were made along both sides of SE 44th Ave as well as along a segment of both sides of SE Lincoln. The results of the observations reveal that while there is an existing demand from the residential uses in the immediate area, that, regardless of the day or time thereof, there were ample opportunities for on-street parking throughout the survey area.

The current on-street parking supply is more than adequate to accommodate the majority of traffic generated by the range of uses which might locate at the site and in the area over time. There is a robust sidewalk system throughout the area in question. Therefore, eliminating the required off-street parking space is striking a balance with the pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. The site is located in close proximity to transit, has excellent street connectivity and an abundance of pedestrian facilities.

PBOT concludes that the proposed Adjustment to eliminate the required off-street parking space from the subject site, in relation to the proposed property line adjustment/new home will not adversely impact the surrounding area and equally or better meets the purpose(s) of the off-street parking requirement.”

BDS staff concurs with these comments and therefore finds that 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 findings above show that there is an adequate inventory of on-street parking available in the surrounding residential area to serve this property, without causing any significant impacts on the neighboring residents. As the lack of a parking space will not create any visual impacts and there are not expected to be any impacts on livability, due to a shortage of parking space, this criterion is met.

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

Findings: Only one Adjustment is being requested. Therefore, this criterion does not apply.

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

Findings: Designated scenic resources are indicated by a lower case “s” on the official zoning maps. Historic resources are indicated by black dots on the zoning maps, for landmarks, and by boundaries that show Historic Districts and Conservation Districts. There are no City-designated scenic or historic resources on the site. Therefore, this criterion does not apply.

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

Findings: No impacts from the requested Adjustments have been identified by staff. Therefore, no mitigation is needed and 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: Environmental zones are indicated by lower case “c” for Environmental Conservation overlays and “p” for Environmental Protection overlays. The site is not located in an environmental zone. Therefore, this criterion does not apply.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

The applicant has requested approval of an Adjustment to Code Section 33.266.110, to waive the one required on-site parking space for this corner property that is designated as "Parcel 2". All of the relevant approval criteria have been met for this requested Adjustment. A parking survey was conducted by the applicant that showed that there is an adequate inventory of on-street parking to serve the site, and so meet the purpose of the regulation and ensure that there will be no significant impacts on appearance of livability for the residential area. Therefore, the requested Adjustment can be approved, in general compliance with the approved site plan.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Code Section 33.266.110, to waive the one required on-site parking space for "Parcel 2" (SW corner of SE Lincoln Street and SE 44th Avenue), in general compliance with the approved site plan, Exhibit C-1, signed and dated December 27, 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-151939 AD."

Staff Planner: Kathleen Stokes

Decision rendered by:  **on December 27, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 31, 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 10, 2013, and was determined to be complete on October 29, 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 10, 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 requested that the 120-day review period be extended, from November 26 to December 26, 2013, as stated with Exhibit A-4. Unless further extended by the applicant, **the 120 days will expire on: March 28, 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 January 14, 2014** 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 **January 15, 2014**.
- 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:

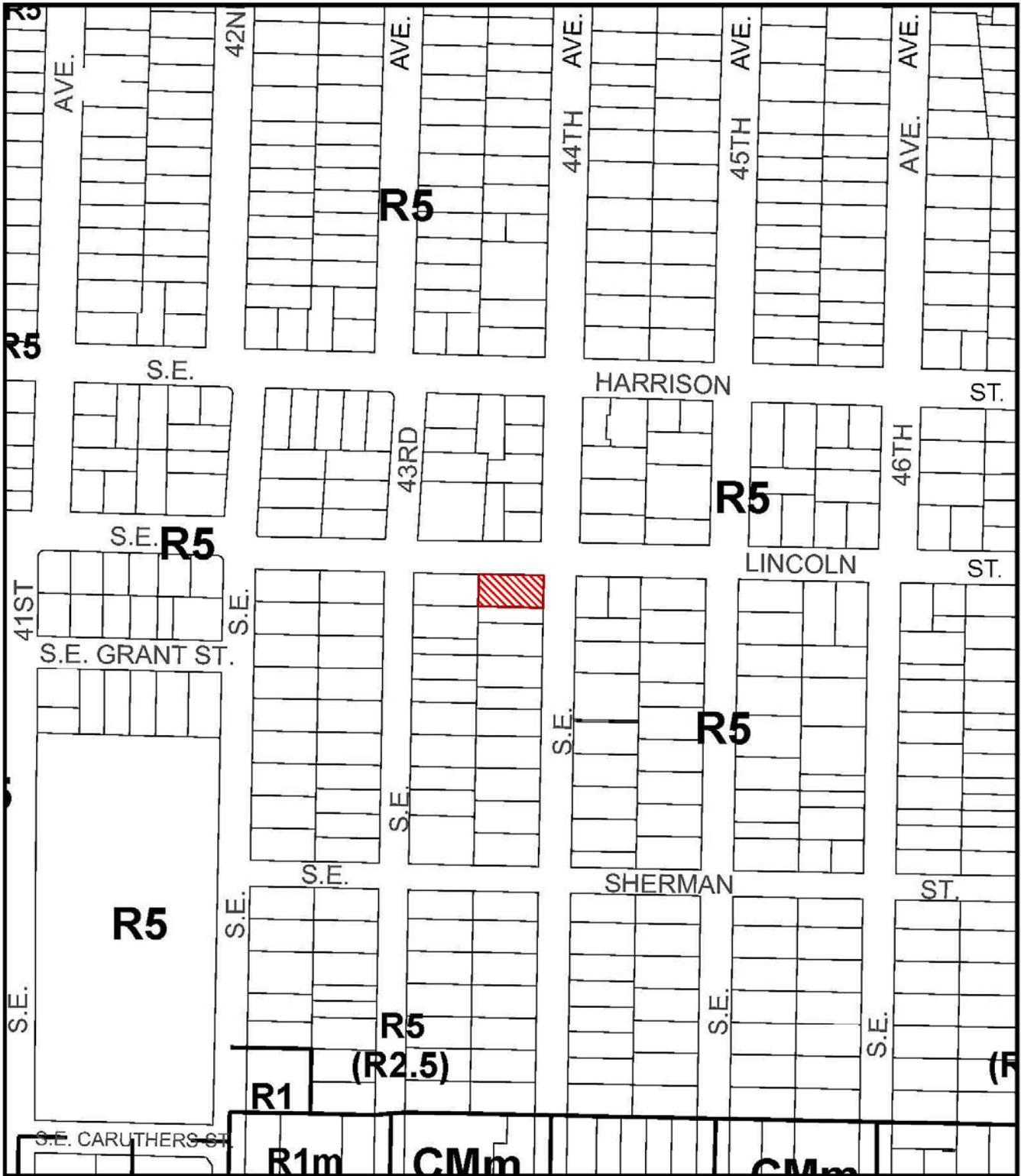
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Application and original plans and narrative
 2. Supplemental information (revisions, but not final proposal) dated June 21, 2013
 3. Supplemental information (revisions showing final proposal) received October 29, 2013
 4. Request to postpone decision and extend 120 day deadline, dated November 26, 2013
 5. Supplemental information (parking survey) received December 4, 2013
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Transportation Engineering and Development Review
 2. Water Bureau
 3. Life Safety Plan Review Section of BDS
 4. Summary of electronic responses from City service agencies
- F. Correspondence: (none received)
- G. Other:
 1. Letter from Kathleen Stokes to Mike Coyle, May 24, 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



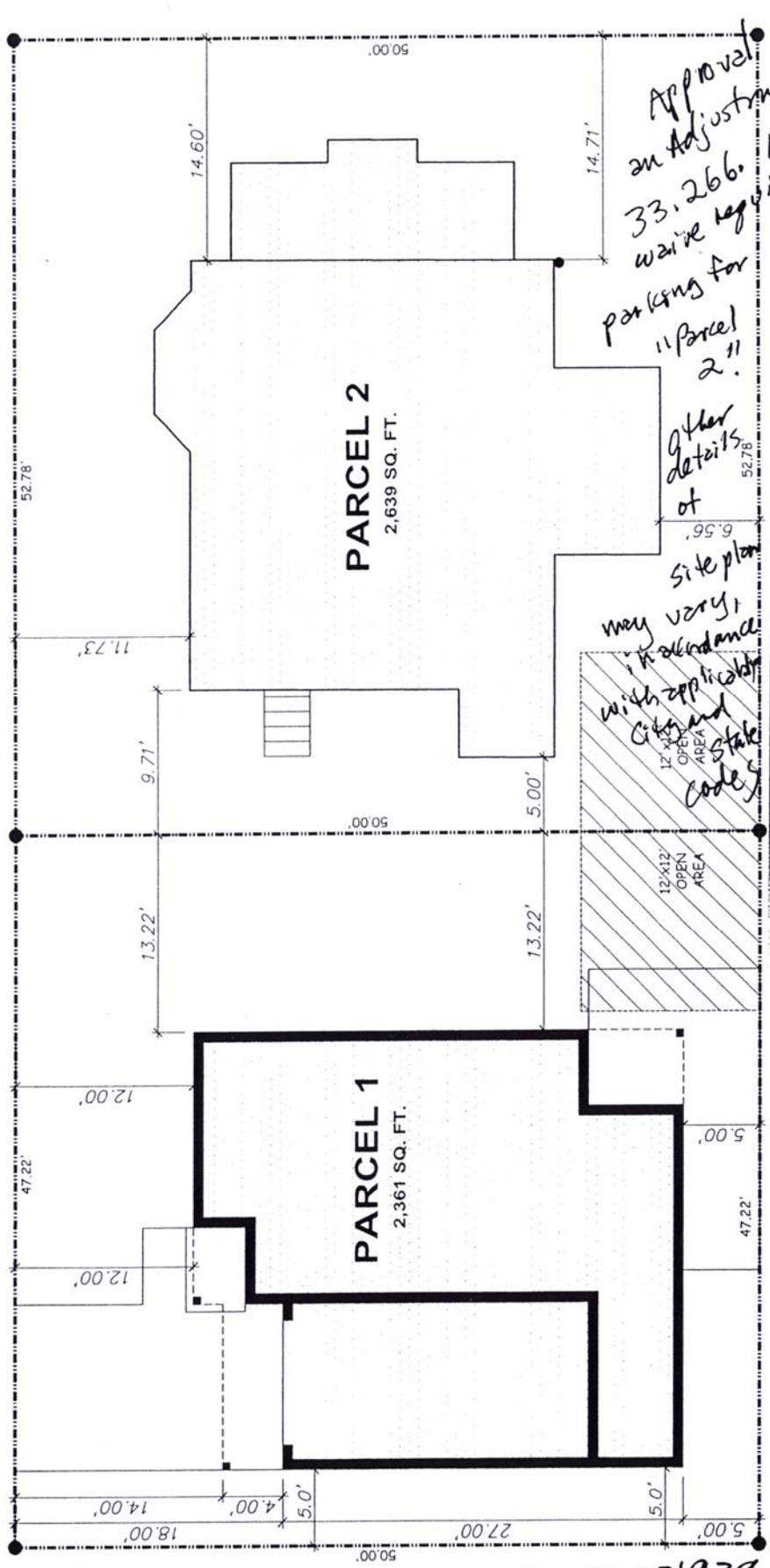
File No. LU 13-151939 AD
 1/4 Section 3235
 Scale 1 inch = 200 feet
 State_Id 1S2E06CC 7900
 Exhibit B (May 15, 2013)

PARCEL-1 PROPERTY DATA

LOT AREA:	2,361 SQ. FT.
BUILDING COVERAGE AREA:	935 SQ. FT.
HOUSE COVERAGE	935 SQ. FT.
BUILDING COVERAGE %:	39.6%
935/2,361 (x100)	39.6%

PARCEL-2 PROPERTY DATA

LOT AREA:	2,639 SQ. FT.
BUILDING COVERAGE AREA:	968 SQ. FT.
HOUSE COVERAGE	968 SQ. FT.
BUILDING COVERAGE %:	36.7%
968/2,639 (x100)	36.7%



LU 13-151939
Exhibit C.1.

Approved
City of Portland - Bureau of Development Services
Planner Kathleen A. Stokes date December 27, 2013
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.