



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
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Date: May 19, 2014
To: Interested Person
From: Andrew Gulizia, 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 14-129431 AD

GENERAL INFORMATION

Applicant: Kevin Partain
Urban Visions
223 NE 56th Ave.
Portland, OR 97213
(503) 421-2967

Property Owner: Sage and Jaclyn Eaton
2110 SE 47th Ave.
Portland, OR 97215

Site Address: 2110 SE 47th Ave.

Legal Description: BLOCK 5 LOT 3-5 TL 5400, TABASCO ADD
Tax Account No.: R818101560
State ID No.: 1S2E06CD 05400
Quarter Section: 3235
Neighborhood: Richmond, contact Douglas Klotz at 503-233-9161.
Business District: Division-Clinton Business Association, contact Darice Robinson at 503-233-1888.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Plan District: None
Zoning: R5 – Single-Dwelling Residential 5,000
Case Type: AD – Adjustment Review
Procedure: Type II administrative decision with appeal to the Adjustment Committee

Proposal:

The site consists of a single tax lot made up of Lot 3 and an Adjusted Lot comprised of the majority of Lot 4 and a portion of Lot 5 in the Tabasco Addition (hereinafter Lot 3 and Lot 4). On May 14, 2014, the applicant submitted an application to confirm Lot 4 as a separate buildable lot (Case File # 14-156813 PR).

The house on this site was constructed on Lot 3, while the detached garage was constructed on Lot 4. The applicant plans to demolish the detached garage and build a new house on Lot 4. Because this plan would leave the existing house on Lot 3 without an off-street parking space, and at least one off-street parking space per dwelling is required by Zoning Code Section 33.266.110.B.1, the applicant is requesting an Adjustment to the parking space requirement of Section 33.266.110.B.1 for the existing house on Lot 3. (Note: No Adjustment is requested for Lot 4, so an off-street parking space would be required for any new dwelling on that lot.)

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Section 33.805.040.A-F of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The site is a 5,000 square-foot lot located on the east side of SE 47th Avenue, between SE Lincoln Street and SE Sherman Street. The site is developed with a single-dwelling house and a detached garage. Neighboring lots are also developed with single-dwelling houses, some with attached garages and others with detached garages.

Zoning: The R5 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

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 April 21, 2014. The following Bureaus have responded with no concerns:

- Bureau of Environmental Services;
- Water Bureau;
- Fire Bureau;
- Site Development Section of BDS;
- Life Safety Review Section of BDS; and
- Bureau of Parks-Forestry Division.

The Bureau of Transportation Engineering responded with no objection to the proposal and commented that on-street parking within one block of the site appears adequate even at peak demand times. Please see Exhibit E-2 in the archived record of this application for additional details.

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the Notice of Proposal.

ZONING CODE APPROVAL CRITERIA**33.805.040 Approval Criteria**

Adjustment requests will be approved if the applicant has demonstrated 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 the requirement in Section 33.266.110.B.1 that the house on Lot 3 have at least one off-street parking space. The purpose of the regulation is stated in Zoning Code Section 33.266.110.A:

Purpose. *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 neighborhood surrounding the site has a grid street pattern with excellent connectivity. Most streets in the area, including SE 47th Avenue, have continuous sidewalks on both sides. Also, the site is within easy walking distance (less than 800 feet) of two frequent-service bus lines: Line 14 on SE 50th Street and Line 4 on SE Division Street. Furthermore, the Bureau of Transportation Engineering found that in the immediate vicinity of the site, the supply of on-street parking spaces currently exceeds the demand, even at peak times (Exhibit E-2).

For these reasons, the proposal equally meets the purpose of the parking regulation as stated in Section 33.266.110.A. 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: Because the site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area.

As mentioned previously, the Bureau of Transportation Engineering found the supply of on-street parking near the site exceeds the demand. In any event, a new curb cut to create an off-street parking space on Lot 3 would eliminate an existing on-street parking space, so the proposal will have little or no net impact on the availability of parking in the neighborhood.

Additionally, a new curb cut and driveway for off-street parking on Lot 3 would eliminate green space from the yard and from the planter strip between the sidewalk and the street. In this respect, the proposal prevents rather than causes a negative impact to the appearance of the neighborhood.

For these reasons, the proposal will not result in any significant negative impacts to neighborhood livability or appearance. 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: As only one Adjustment is being requested, this criterion is not applicable.

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

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case "s," and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

Findings: As discussed in the findings for approval criterion B, the proposal has no adverse impacts on the livability or appearance of the surrounding residential area. As there are no identified adverse impacts for which mitigation would be required, this criterion is not applicable.

- 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 overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or “c” (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on the site, this criterion is not applicable.

DEVELOPMENT STANDARDS

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

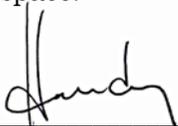
CONCLUSIONS

The proposal equally meets the intent of the parking requirement and does not have adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Since the approval criteria are met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.266.110.B.1 to allow the existing house on Lot 3 to have no off-street parking space.

Staff Planner: Andrew Gulizia

Decision rendered by:  on **May 15, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: May 19, 2014

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on March 20, 2014, and was determined to be complete on **April 16, 2014**.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 20, 2014.

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 extended by the applicant, **the 120 days will expire on: August 14, 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 June 2, 2014**, at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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 97301-1283, 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 **June 3, 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

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

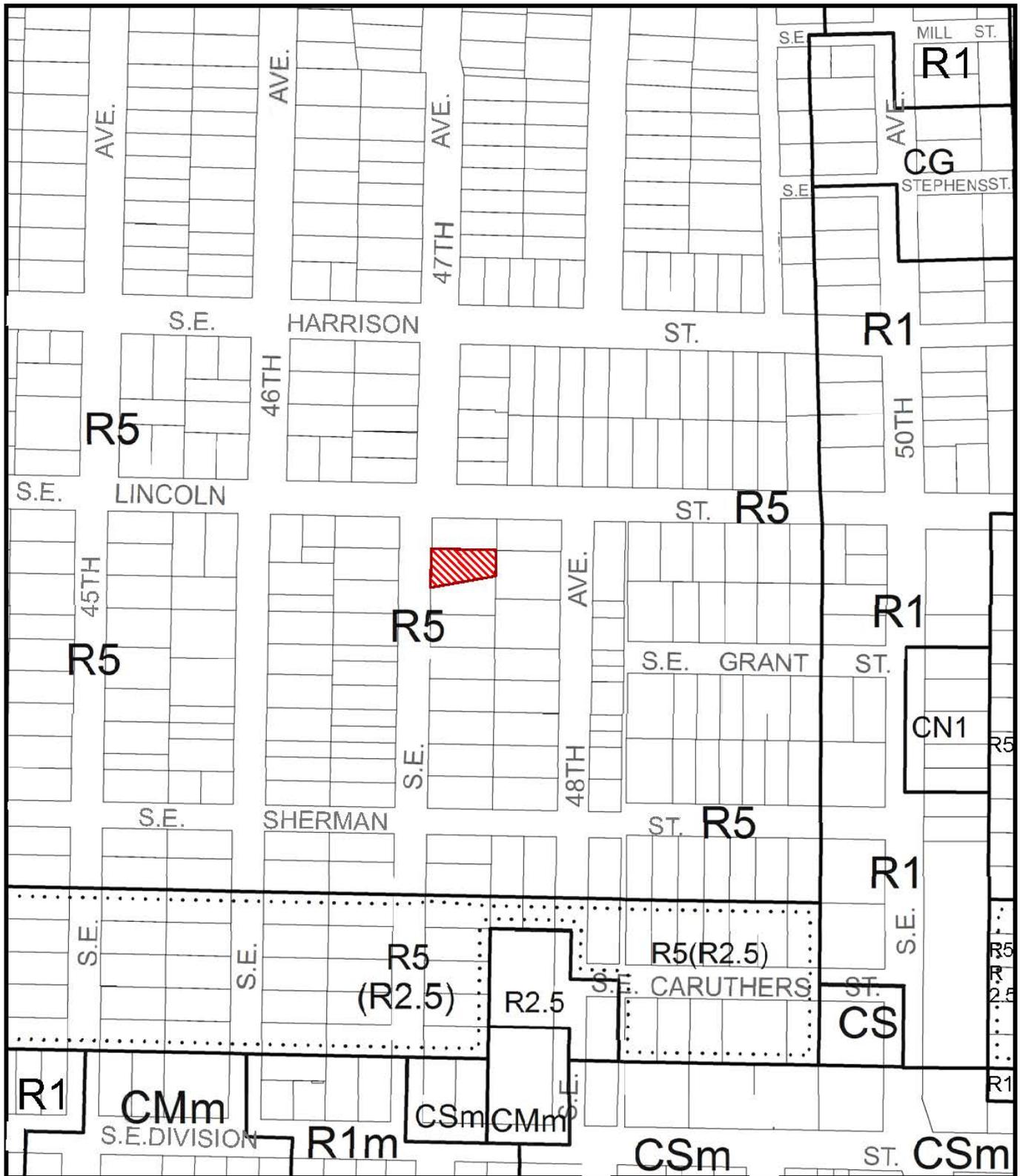
EXHIBITS

NOT ATTACHED UNLESS INDICATED

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| <ul style="list-style-type: none"> . Applicant's Statement: <ul style="list-style-type: none"> 1. Written narrative 2. Response to incompleteness determination letter, received April 9, 2014 3. Warranty deed copy B. Zoning Map (attached) C. Plans/Drawings: <ul style="list-style-type: none"> 1. Site plan (attached) D. Notification Information: <ul style="list-style-type: none"> 1. Mailing list 2. Mailed notice E. Agency Responses: <ul style="list-style-type: none"> 1. Bureau of Environmental Services | <ul style="list-style-type: none"> 2. Bureau of Transportation Engineering and Development Review 3. Water Bureau 4. Fire Bureau 5. Site Development Review Section of BDS 6. Life Safety Review Section of BDS 7. Bureau of Parks, Forestry Division F. Correspondence (none) G. Other: <ul style="list-style-type: none"> 1. Original LU application 2. Incompleteness determination letter, dated March 28, 2014 |
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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

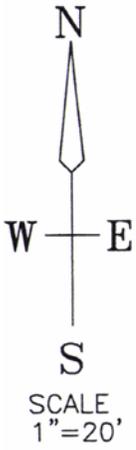


NORTH

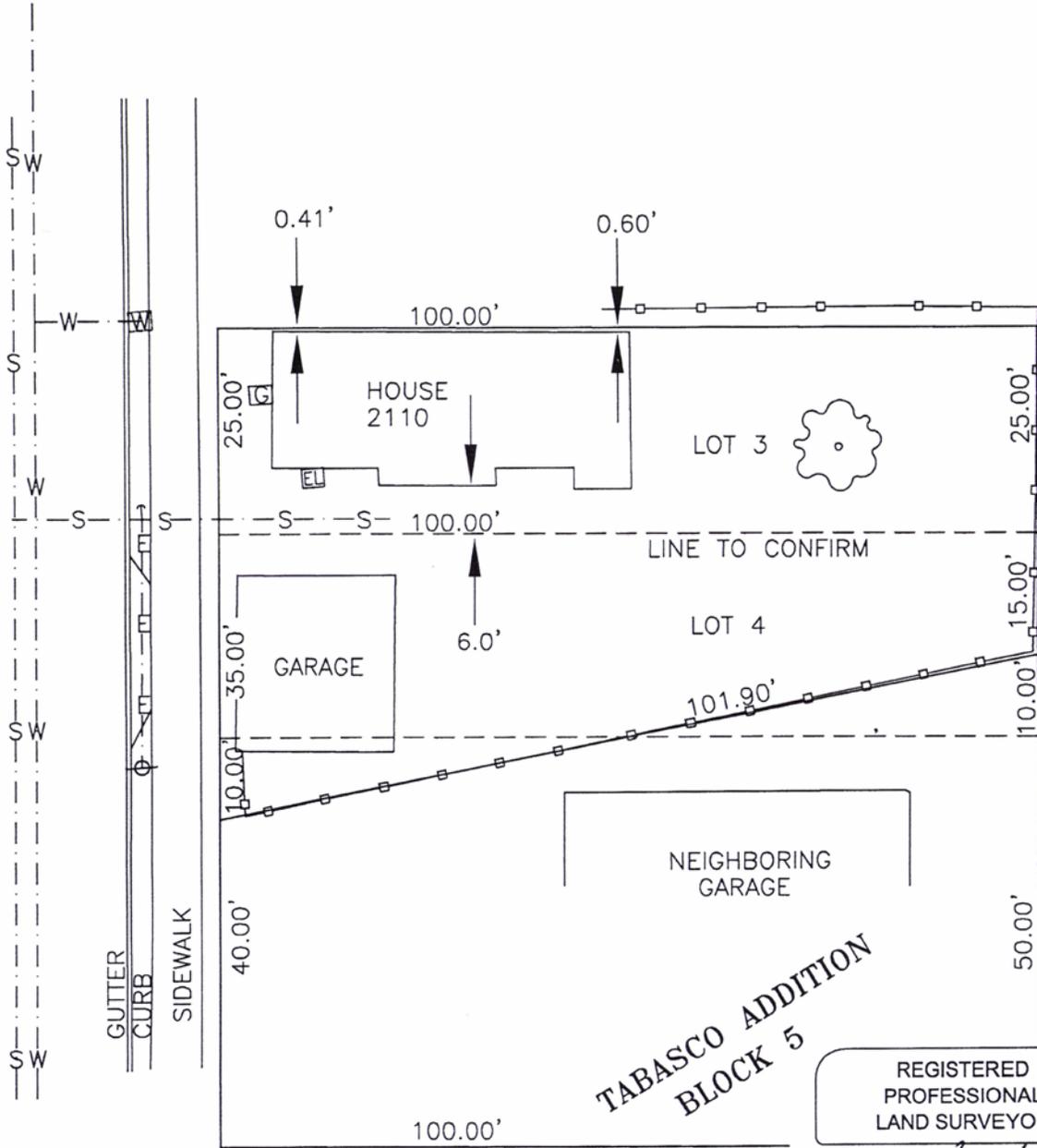
File No. LU 14-129431 AD
 1/4 Section 3235
 Scale 1 inch = 200 feet
 State_Id 1S2E06CD 5400
 Exhibit B (Mar 25, 2014)

LOT CONFIRMATION MAP

LOTS 3-5, BLOCK 5, TABASCO ADDITION,
 LOCATED IN THE SW 1/4 OF SECTION 6, T.1S., R 2E., W.M.
 CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON



S.E. 47TH AVENUE
 (50.00' WIDE)



CLIENT: SAGE EATON
 2110 SE 47TH AVE
 PORTLAND, OR 97215

TABASCO ADDITION
 BLOCK 5

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

[Signature]
 OREGON
 JULY 25, 1990
 JOE H. FERGUSON
 2445

RENEWAL DATE 12/31/15

Ferguson Land Surveying, Inc.
 646 SE 106TH AVE. PORTLAND, OR 97216
 Phone (503) 408-0601 Fax (503) 408-0602

SHEET NO. 1 OF 1
 JOB NO. 14-034
 DRAFTED: 3/17/14 KF

LA 14-129431 AD Exhibit C-1