



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

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[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** April 18, 2008  
**To:** Interested Person  
**From:** Nan Stark, Land Use Services  
503-823-7828 / [nstark@ci.portland.or.us](mailto:nstark@ci.portland.or.us)

## **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 this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 08-113865 AD**

#### **GENERAL INFORMATION**

**Applicants/Owners:** Saul A Lopez and Courtie Bassarab  
2572 SW Arden Rd  
Portland, OR 97201-1604

**Representative:** Geno Salimena, Emerick Architects  
208 SW 1st Ave, Ste 320  
Portland, OR 97204

**Site Address:** 2572 SW ARDEN RD

**Legal Description:** NE 50' OF LOT 18 BLOCK E, GREENWAY  
**Tax Account No.:** R343101460  
**State ID No.:** 1S1E09BB 09800  
**Quarter Section:** 3327  
**Neighborhood:** SW Hills Residential League, contact Nancy Seton at 503-224-3840.  
**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.  
**Zoning:** R10c: Low-density residential 10,000 with 'c' Environmental Conservation overlay zone

**Case Type:** AD, Adjustment  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The owners are remodeling the existing house, including the area that was converted from garage to office space at some point in the past, without benefit of permits. With the proposed remodel, the owners wish to legalize the garage conversion. The zoning code requires one off-street parking space on the lot, which was originally provided in the garage. The driveway in front of the former garage is 5-feet long, which is not adequate to provide parking. The applicants have requested this Adjustment to code standard 33.266.110 to waive the required on-site parking space.

Note that there is an existing living area that currently attaches the house and garage, and a small infill addition is planned between the structures, which will fully connect them; that addition is not subject to this review. There is no change to the existing setbacks. Also note

that the additions are not in the 'c' Environmental Conservation overlay zone area on the lot, which is to the rear of the house.

## ANALYSIS

**Site and Vicinity:** The site is a 4,700 square-foot lot developed with an early 20<sup>th</sup> century house and attached garage built close to the front property line on Arden Road. The lot is a through lot, with frontage on both Arden Road and Arden Place. Like many properties in this steeply sloping area, houses and garages are built close to the street property line, particularly on the downhill-sloping lots. The entrance to the subject garage is 5 feet from the street property line.

This block of Arden Road is a dead-end street, situated above the Marquam Trail, which runs along Arden Place and connects to trails through Marquam Nature Park to the east and Council Crest Park to the southwest. The area is characterized by the predominance of fir and deciduous trees.

**Zoning:** The site is zoned R10, which corresponds to the Low-Density single-dwelling designation in the City's Comprehensive Plan. This zoning is often found in areas of development constraints, such as topography. The majority of the lot, to the rear of the house, is in the 'c' Environmental Conservation zone, which limits development due to identified environmental resources in areas with such overlay zoning.

**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 **March 18, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

The Bureau of Transportation Engineering responded that the request to waive the required parking can be supported because this is a dead-end street with low on-street parking demand. A recommended condition of approval is to close the curb cut in order to provide additional on-street parking, and to reconstruct it to full height curb and sidewalk to match the existing configuration on each side of it.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on March 18, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. With their application, the owners submitted a letter signed by four adjacent neighbors on Arden Road who indicated support for the proposal.

## 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 to provide 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 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 required parking numbers correspond to broad use categories, not specific uses, in response to this long-term emphasis.

The site is on a dead-end street in a steeply-sloping area. Traffic on this section of the street is primarily for the residents, as it does not provide through connections. One off-street parking space is required for each developed residential lot in this zone. The owners wish to legalize the conversion of their garage for living space, which was converted several years ago and consequently has not provided parking for some time.

The Office of Transportation has responded that there are no concerns regarding this adjustment if the driveway is closed so that there is a full-height curb and sidewalk to match the existing configuration on each side. By closing the curb, additional on-street parking is created that makes up for the reduction in off-street parking. With this condition, the proposal supports the purpose of the regulation, thus satisfying this criterion.

- 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:** According to the applicant, the garage has not been used to provide parking for a number of years. The proposed conversion of the garage structure to living area will remove the garage door and replace it with windows and a person door, as depicted on the proposed north elevation (attached). As well, the roofline over that part of the structure will change from a gable facing the street to a lower gable facing the side yard.

The house and garage are situated across the front (Arden Road) property line such that there is no space to situate a driveway. By closing the existing curb and removing the driveway, as indicated on the site plan, an additional on-street parking space is created, making up for the removal of the off-street parking. The proposed changes to the street-facing elevation will result in a more interesting façade from the street perspective. Thus, the proposal will not detract from either the livability or appearance of the residential area. This criterion is therefore 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 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 existing off-street parking space in the garage will be replaced with an on-street parking space in front of the site, with the reconstruction of the curb and sidewalk. This will provide mitigation for the removal of a parking space on-site, and thus is required as a condition to fully satisfy this criterion. With this condition, 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:** The site is partially within an environmental zone, which is designated on the zoning map by the "c" overlay that begins a few feet to the rear of the existing house. No development is proposed in the environmental zone, which ensures the least impact to the resources values in the area of the environmental zone. Therefore, 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**

The owners wish to convert the existing attached garage to living area as part of an interior remodel of the house. The requested change from garage to living space will better reflect the actual use of the garage structure for a number of years. With the condition that the curb in front of the garage is reconstructed, along with the public sidewalk, there will be an additional on-street parking space along this dead-end street that primarily serves only the residents of this block.

## **ADMINISTRATIVE DECISION**

Approval of an Adjustment to zoning code standard 33.266.110 to waive the required off-street parking space, subject to the approved site plan, Exhibits C-1, signed and dated April 16, 2008, and the following conditions:

- A. As part of the building permit application submittal, the following development-related condition must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 08-113865 AD." All requirements must be graphically represented on the site plan and must be labeled "REQUIRED."
- B. The existing driveway must be closed so that there is a full-height curb and sidewalk to match the existing configuration on each side.

**Decision rendered by:**  **on April 16, 2008**

By authority of the Director of the Bureau of Development Services

**Decision mailed: April 18, 2008**

**Staff Planner: Nan Stark**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 7, 2008, and was determined to be complete on March 17, 2008.

*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 7, 2008.

*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.

**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 May 2, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., 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. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 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 550 Capitol St. NE, Suite 235, 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 **May 5, 2008 – (the first business day following the last day to appeal)**.
- 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 503-823-7967.

**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, or
- In situations involving only the creation of lots, the land division has been recorded.

**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.

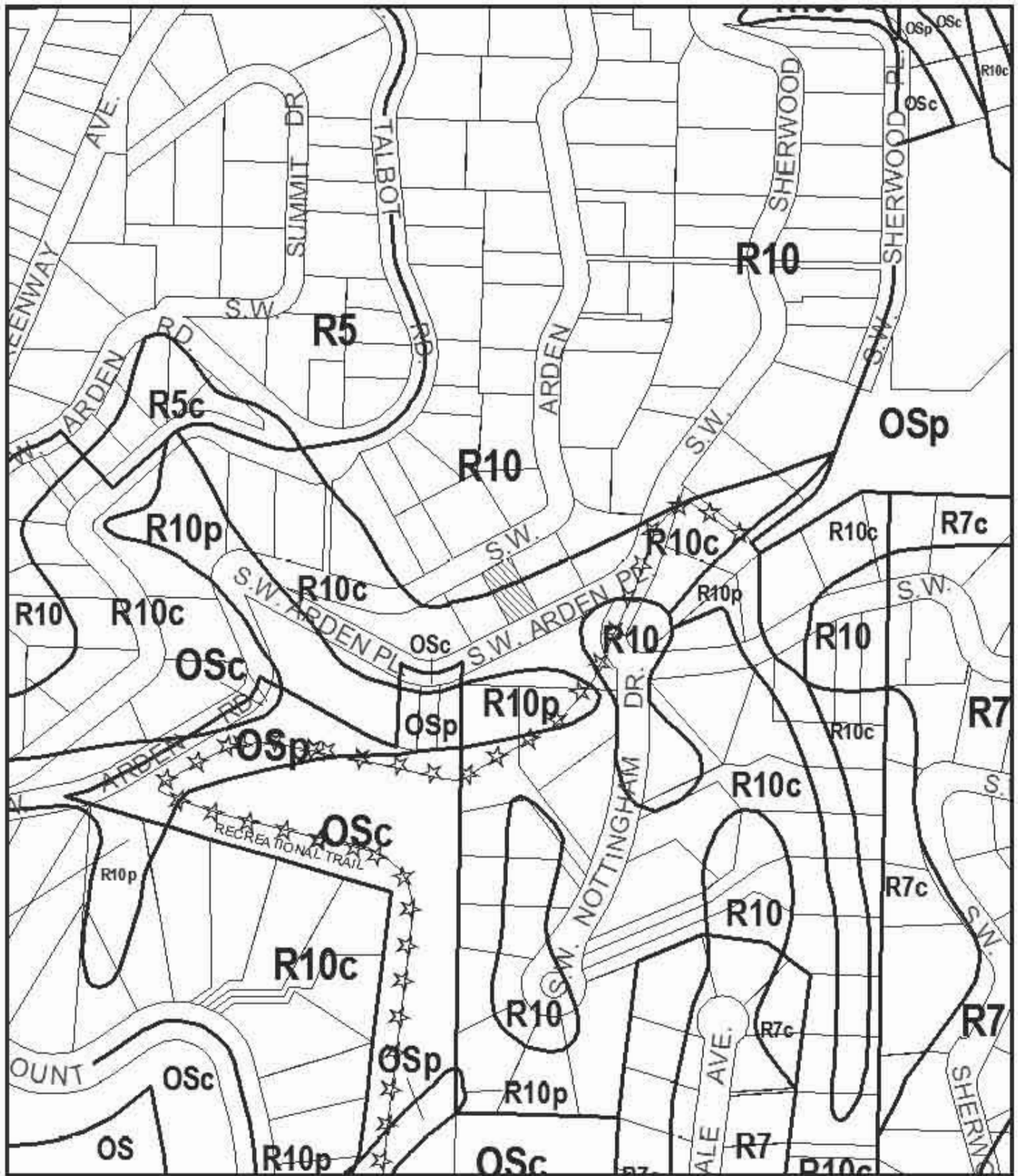
**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. 1. Applicant's Statement
- 2. Photos
- 3. Signatures of support from neighboring property owners
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. North elevation, existing and proposed
  - 3. East and west elevations, existing
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
- F. Correspondence: none
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).**



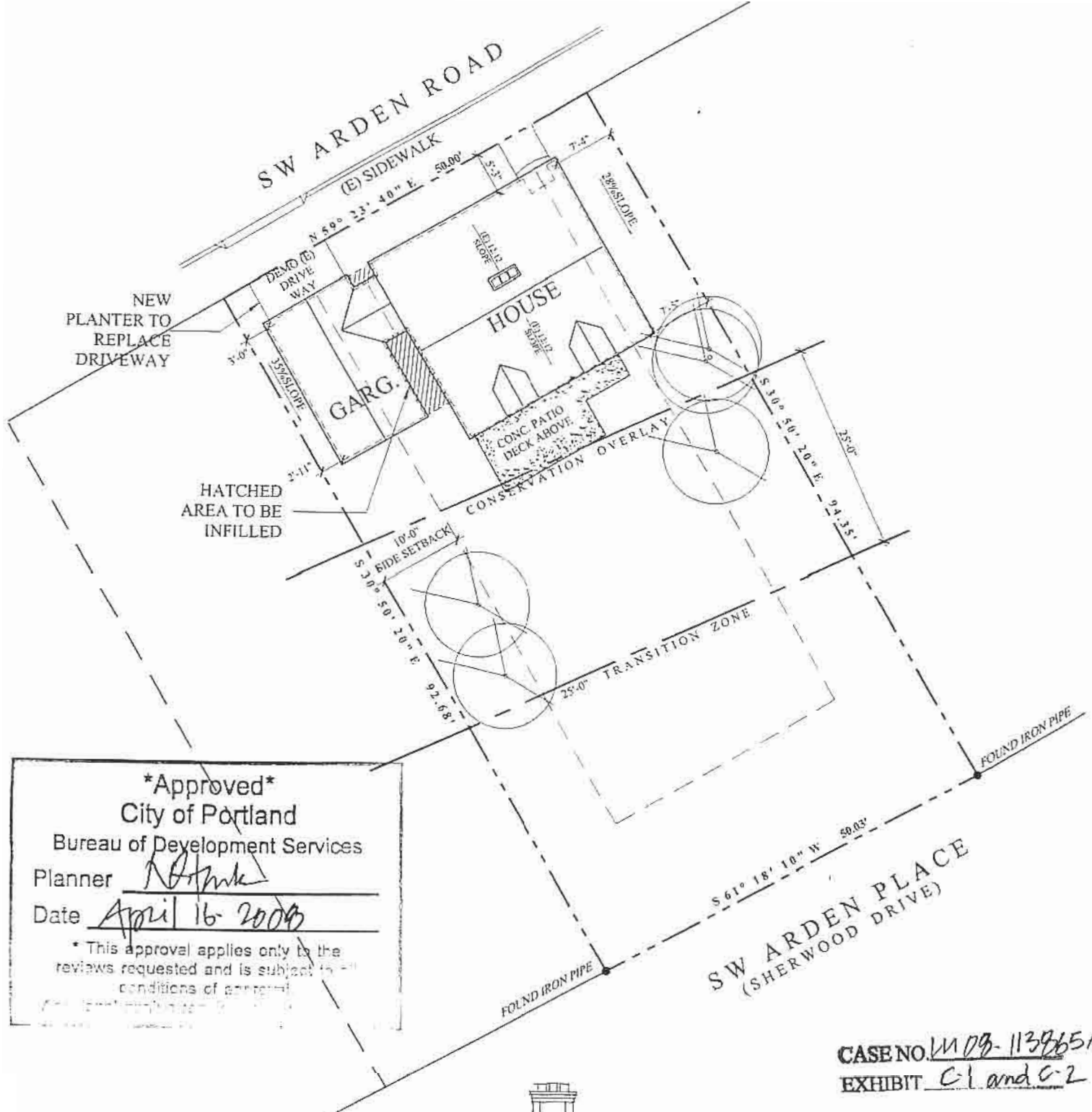


# ZONING

 Site



File No.	<u>LU 08-113865 AD</u>
1/4 Section	<u>3327</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E09BB 9800</u>
Exhibit	<u>B (Mar 10, 2008)</u>

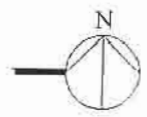
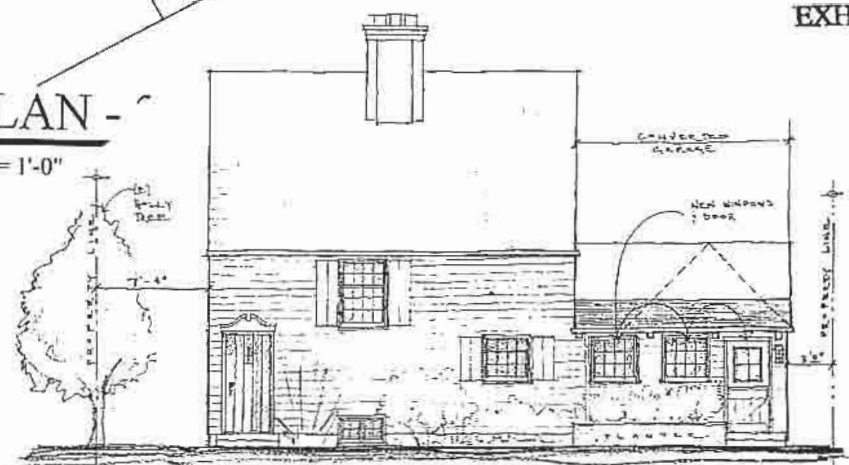


**\*Approved\***  
 City of Portland  
 Bureau of Development Services  
 Planner *[Signature]*  
 Date April 16, 2008  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval.

CASE NO. 1109-113865AD  
 EXHIBIT C-1 and C-2

**1 SITE PLAN**  
 SCALE: 1/16" = 1'-0"

ADJUSTMENT REVIEW  
 33.266.110 MIN. REQ. PARKI



**2 PROPOSED NORTH ELEVATION**  
 SCALE: 1/8" = 1'-0"

**SK-1**

DATE: 02-26-08