

# City of Portland

# **Bureau of Development Services**

Land Use Services Division

1900 SW Fourth Ave. Suite 5000 Portland, Oregon 97201 Telephone: 503-823-7300 TDD: 503-823-6868 FAX: 503-823-5630

www.portlandonline.com/bds

**Date:** June 10, 2008 **To:** Interested Person

**From:** Sylvia Cate, Land Use Services

503-823-7771 / scate@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 08-114048 AD

# **GENERAL INFORMATION**

**Applicant:** Michael J and Adrian L Brown, listed property owners

2608 NE Halsey St Portland, OR 97232

Bryce Johnson and Cecile Baril, listed property owners

2616 NE Halsey St Portland, OR 97232

**Site Address:** 2608 and 2616 NE HALSEY ST

**Legal Description:** N 83' OF LOT 11 BLOCK 22 N 83' OF W 5' OF LOT 12 BLOCK 22,

HOLLADAY PK & 1ST ADD; E 45' OF N 83' OF LOT 12 BLOCK 22,

HOLLADAY PK & 1ST ADD

**Tax Account No.:** R395506930, R395506970

**State ID No.:** 1N1E36BB 01300, 1N1E36BB 01200

Quarter Section: 2933

**Neighborhood:** Sullivan Gulch, contact Peyton Snead at 503-284-8313.

**Business District:** None

**District Coalition:** Northeast Coalition of Neighborhoods, contact Joseph Santos-Lyons at

503-823-3151.

**Plan District:** None **Other Designations:** None

**Zoning:** R2.5, Single Dwelling Residential 2,500

**Case Type:** AD, Adjustment

**Procedure:** Type II, an administrative decision with appeal to the Adjustment

Committee.

# Proposal:

The applicants, two adjoining neighbors, propose to build a 20 x 22-foot two car garage, divided by a center wall and shared by both parties. The garage will have separate entrances into two separate 20 x 11-foot vehicle areas. The garage is proposed to straddle the common property line so that one half of the garage is on each lot. Due to the existing configuration of the space between the two houses, the garage cannot be located near the rear property lines of the lots. The applicants propose to locate the garage where a shared concrete parking pad currently exists. The garage is proposed to be set back 22 feet 8 inches from the front property line so that the front of the garage would be flush [even] with the front porch walls of the two houses. The Portland Zoning Code allows garages in the side setback if several thresholds are met, including size and height of the garage, and if the garage is set back from the front property line at least 40 feet. Although the garage meets all of the thresholds for size and height, because the garage is proposed to be closer than 40 feet, this Adjustment is necessary. Attached to this Notice are plans depicting the proposal.

# Relevant Approval Criteria:

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 for this review consists of two side by side neighbors who are participating in a joint project to construct a shared, two car garage. The site consists of two lots, the westerly one being a corner lot at the southeastern quadrant of the intersection of NE 26<sup>th</sup> and NE Halsey Street, and the immediately adjacent lot to the east. The corner lot is 4,565 square feet in area and is developed with a 3,110 square foot home, built circa 1910. The easterly lot is 3,735 square feet in area, developed with a 2,573 square foot home also built in 1910. The area surrounding the site is zoned residential and includes a mixture of single dwelling houses and apartment buildings. At this location, both NE 26<sup>th</sup> and NE Halsey are designated Local Service Streets and are fully improved with curbs, sidewalks and paved roadway.

**Zoning:** The site lies within the Single Dwelling R2.5 zone. The single-dwelling zones are 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.

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 on May 13, 2008. The following Bureaus have responded with no issues or concerns:

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

Both the Bureau of Environmental Services and BDS Site Development note no concerns, but that at time of building permit submittal, the proposal must comply with the applicable stormwater management regulations in effect at time of permit application.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on May 13, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to 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 setback regulations for buildings and garage entrances 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 proposed location for the shared garage is situated such that it will straddle the shared side property line, and therefore requires an Adjustment to the side setback. Given the location of the proposed garage, there will be no impact on light and air. The Fire Bureau notes no concerns, but that at building permit review, the structure will require exterior walls to be one hour fire-rated with no openings. The shared garage configuration is consistent with the architectural period during which both houses were built, and the relatively modest size is consistent with the general building scale in the immediate neighborhood. The placement of the garage, flush with the dominant front porches of both homes will not impinge on the existing open and visually pleasing front yards of both properties. The garage entrance meets the required setback so that there is no concern regarding driver visibility or cars blocking the public sidewalk. Due to the configuration of existing development on both properties, this adjustment provides the flexibility necessary to locate the shared garage in a location that meets the purpose of the setback regulations without impacting other development standards. For these reasons, 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 site is located within a residential zone. The proposed garage will provide secure covered parking for both residences and modest storage area for

recycling containers and similar which are currently stored within the proposed footprint of the shared garage. The garage will provide enhanced livability for both homes because of the secured parking and storage functions. Additionally, the proposal will enhance the overall appearance of both properties by visually screening cars that park in this area as well as items that will be stored inside the garage. For these reasons, 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 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. 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 proposal in and of itself results in visually screening cars and household items that are typically stored inside garages. 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 not within an environmental zone, which is designated on the zoning map by either a "c" or "p" overlay. Therefore, 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 applicants, two adjoining neighbors, propose to build a 20 x 22-foot two-car garage, divided by a center wall and shared by both parties. The garage will have separate entrances into two separate vehicle areas. The garage is proposed to straddle the common property line so that one half of the garage is on each lot. Due to the existing configuration of the space between the two houses, the garage cannot be located near the rear property lines of the lots. The applicants propose to locate the garage where a shared concrete parking pad currently exists. The garage is proposed to be set back 22 feet 8 inches from the property line so that the front of the garage would be flush [even] with the front porch walls of the two houses. The proposal meets all applicable approval criteria and therefore should be approved.

#### ADMINISTRATIVE DECISION

Approval of:

• An Adjustment to reduce the required garage side setback from five feet to 0 feet,

In substantial compliance with the approved site plans, Exhibits C-1 through C-3, signed and dated June 4, 2008, 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.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-114048 AD."

Decision rendered by:

on June 4, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: June 10, 2008

Staff Planner: Sylvia Cate

**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 7, 2008, and was determined to be complete on May 9, 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 June 24, 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 <a href="https://www.portlandonline.com">www.portlandonline.com</a>.

**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 June 25, 2008 (the 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 503-823-0625.

**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:

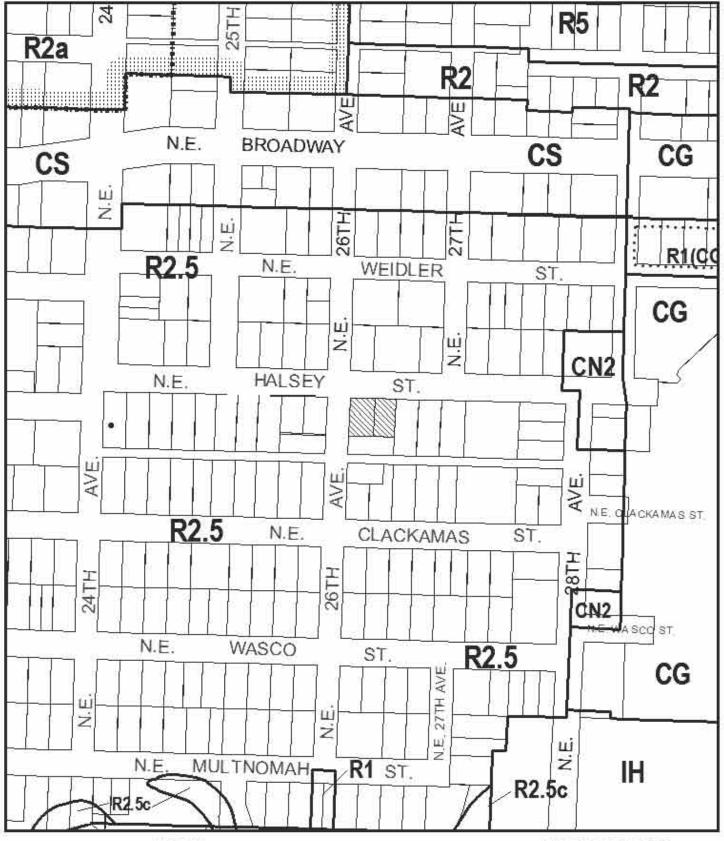
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

#### NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Detailed site plan
  - 3. Elevations
- 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 received
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Letter to applicant: March 21, 2008, re: need additional information

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).



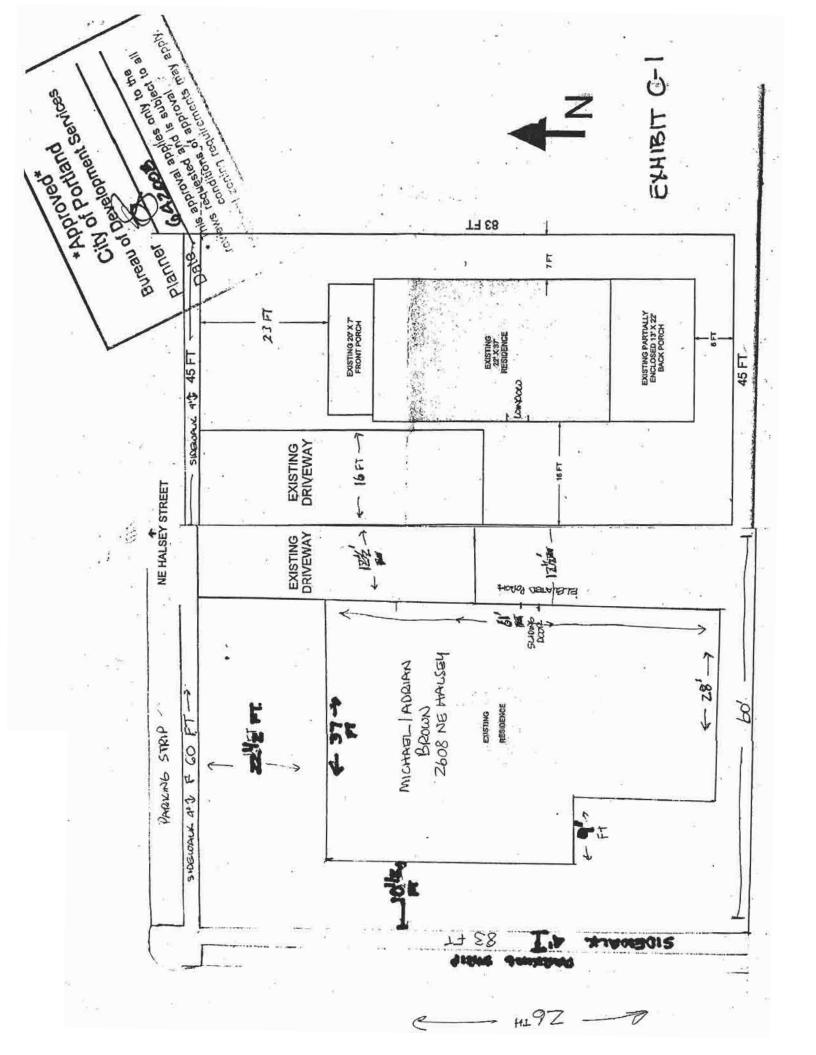
ZONING

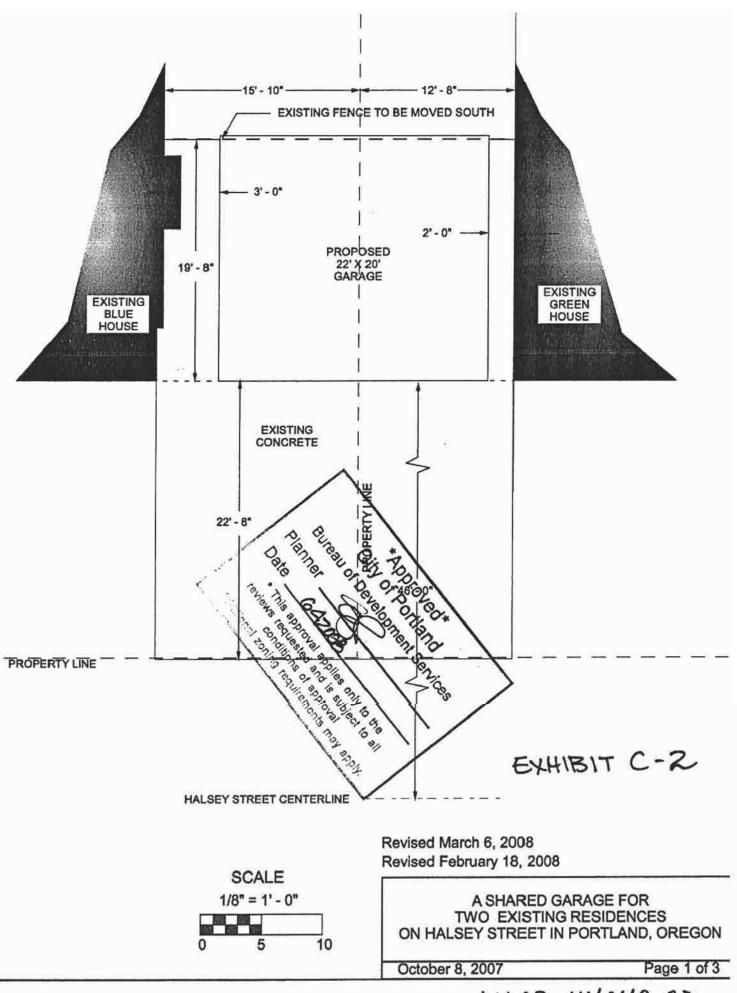
Site

Historic Landmark

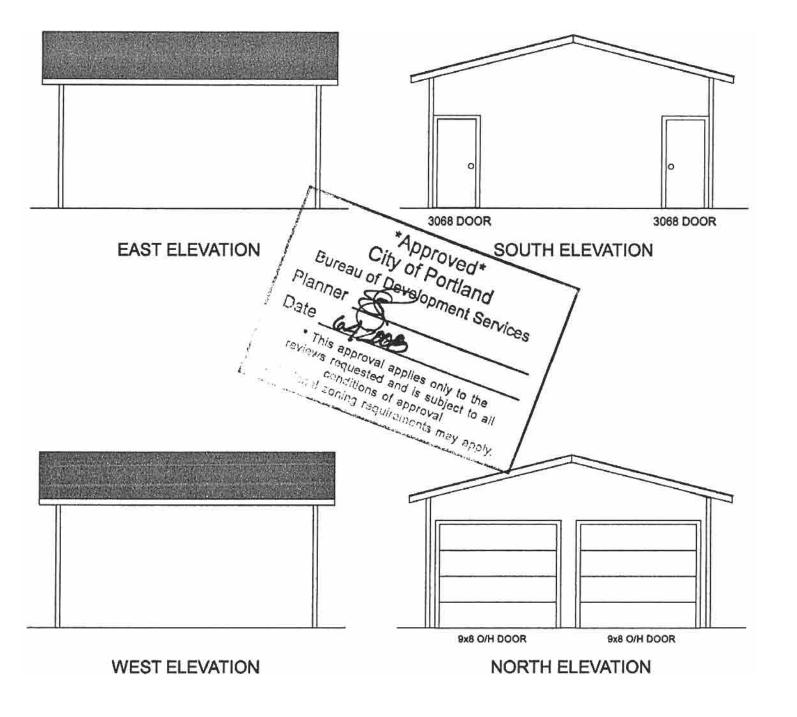


File No.	LU 08-114048 AD	
1/4 Section	2933	
Scale_	1 inch = 200 feet	_
2.75 AM SAME TO SEC.	1N1E36BB 1300	
Exhibit _	B (Mar 11,2008	)





LU 08-114048 AD



# EXHIBIT C-3

Revised March 6, 2008 Revised February 18, 2008

SCALE 1/8" = 1' - 0" 0 5 10

A SHARED GARAGE FOR TWO EXISTING RESIDENCES ON HALSEY STREET IN PORTLAND, OREGON

October 8, 2007

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