

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: July 10, 2008

To: Interested Person

From: Crystal Hitchings, Land Use Services

503-823-7583 / Crystal.Hitchings@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 08-131843 AD

GENERAL INFORMATION

Applicant: Gail and Ron Cowan

2235 SE Salmon St Portland, OR 97214

Site Address: 2235 SE SALMON ST

Legal Description: EXC NLY 36' LOT 2 BLOCK 9; TILTONS ADD

Tax Account No.: R835603190 **State ID No.:** R835603190 1S1E02AD 07700

Quarter Section: 3132

Neighborhood: Buckman, contact Susan Lindsay at 503-725-8257.

Business District: Belmont Business Association, contact John Barker at 503-231-9118.

District Coalition: Southeast Uplift, contact Gary Berger at 503-232-0010.

Plan District: None Other Designations: None

Zoning: R5, Single-dwelling Residential 5,000

Case Type: AD, Adjustment Review

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

Committee.

Proposal:

The applicant is proposing to remove an existing, attached garage and replace it with a larger attached garage in the same location. The proposed garage will reflect the period style of the existing home. The existing garage is 10 feet wide by 19 feet long by 9 feet high, and is set back 4 feet from the side (east) lot line along SE 23rd Avenue, and 5 feet from the rear (north) lot line. The proposed garage is 13 feet wide by 21 feet long by 11.5 feet high, and will be set back 2 feet from the side lot line along SE 23rd Avenue and 2.5 feet from the rear lot line. The eave of the structure will extend an additional 6 inches toward the rear lot line. The garage entrance will be located 2 feet from the side lot line along SE 23rd Avenue. The north and west walls of the proposed garage will be constructed of split block for fire protection, and the east wall will be sheathed with clapboards. The south wall will be attached to the existing home.

The Portland Zoning Code requires a rear building setback of 5 feet, a side building setback of 5 feet, and a garage entrance setback of 18 feet in the R5 Zone. Therefore, the applicant is

requesting Adjustments to Zoning Code Section 33.10.220, Setbacks, and Table 110.3, Development Standards, in order to construct a garage with the north wall of the structure located 2.5 feet from the rear lot line and the eave located at 2 feet; and with the east wall and the garage entrance located 2 feet from the side lot line along SE 23rd Avenue. NOTE: The Notice of Proposal indicated that the east wall and garage entrance would be located 4 feet from the side property line along SE 23rd Avenue. The proposed setback distance has been corrected to reflect the 2-foot public right-of-way existing between the sidewalk and the side property line.

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 2,940 square foot corner lot is located on the northeast corner of the intersection of SE 23rd Avenue and SE Salmon Street. The site is developed with a 2,617 square foot, two-story single-dwelling residential structure, originally built in 1903, and a 171 square foot, one-car attached garage, located at the northeast corner of the home. The area behind the garage is occupied by a small "L" extension of the existing home. The main entrance to the home faces SE Salmon, and a side entrance and the garage entrance both face SE 23rd. Both entrances to the home are several feet above the sidewalk grade and are covered; the main entrance has a porch. The roof of the garage is flat, with a small shed-roof overhanging the entrance. The north wall of the garage is currently located 5 feet from the rear lot line. A 6-foot high wooden fence extends along the north of the lot, approximately 2.5 feet inside the rear lot line. A concrete walkway located between the north wall of the garage and the fence provides access to the rear of the site from SE 23rd Ave. The existing garage entrance is located 4 feet from the side lot line along SE 23rd Avenue, and is accessed directly from the street with no additional parking pad. The home located on the adjacent lot to the north is approximately 9-10 feet north of the garage's north wall. The lot to the north is an unusually small lot for this neighborhood, and the home on the lot is sandwiched between the subject site and a half-block site with a large multi-dwelling structure located on it.

In this location, both SE 23rd Avenue and SE Salmon Street are considered local service streets and local service walkways. SE 23rd is improved with a 10-foot planting strip, 6-foot sidewalk, and retains an additional 2-foot right-of-way behind the sidewalk. On-street parking is available on both streets. Other lots in the immediate vicinity are developed with singledwelling, detached residential structures which are typically larger, 2-story homes built in the late 1800's to early 1900's. There are also a number of newer, multi-unit residential structures located nearby. Lots are typically narrow, and many homes and garages are located at side and rear property lines or within the required side and rear building setbacks. Although some garage entrances in the vicinity do meet or exceed the setback requirement, garage entrances located close to the street are not uncommon in the neighborhood. On the same block as the subject site, the multi-dwelling structure on the southwest corner of the intersection of SE 23rd and SE Taylor has 3 garage entrances located close to the street, and the single-dwelling structure on the southeast side has one garage entrance also located close to the street. One block south, the multi-dwelling structure on the southeast corner of the intersection of SE 23rd and SE Salmon has 5 garage entrances located close to the street, and the single-dwelling structure on the southwest corner has one garage entrance located close to the street. Several garage entrances are also located in the setback along SE Salmon St., observed within 1 block east and two blocks west of the subject site, including one at the property directly adjacent to and west of the subject site.

Zoning: R5, Single-dwelling Residential 5,000, a High Density Single-Dwelling Residential Zone. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. Single-dwelling zones allow attached and detached single-dwelling residential structures. The zones implement the comprehensive plan

policies and designations for single-dwelling housing. The R5 Zone requires rear and side building setbacks of 5 feet, and a garage entrance setback of 18 feet.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A "Request for Response" was mailed **June 12, 2008**. The following Bureaus have responded with no issues or concerns (Exhibit E.1-E.3):

- Fire Bureau
- Water Bureau
- Bureau of Parks-Forestry Division

The following Bureaus responded with no concerns and gave additional comments:

- The **Site Development Section of BDS** (Exhibit E.4) submitted comments that discussed the need to integrate stormwater facilities into the design of the proposed development, included information regarding stormwater treatment and disposal requirements and potential methods, and gave instructions on how to conduct infiltration tests to determine if on-site infiltration is feasible or not. If on-site infiltration is not possible, a stormwater planter with a connection to the public system must be provided, if approved by BES. A utility plan will be required for pending permit application 08-129041 RS for the proposed garage to demonstrate that Stormwater Management Manual (SWMM) requirements can be met. The location of the sewer connection for this site is unknown. As part of the pending garage permit application, the applicant will be required to video the sewer line to verify the location and condition of that line, and this video and a utility plan showing the sewer line location must be included with permit 08-129041.
- The **Life Safety Bureau** (Exhibit E.5): provided informational comments relevant to the building permit process.
- The **Bureau of Environmental Services** (Exhibit E-6) submitted comments regarding sanitary services and stormwater management and water resources, and gave a condition of approval. The proposed development must meet the SWMM requirements at the time of building permit review. BES stated that, where approved by Site Development, roof runoff may be managed in drywells and soakage trenches, and surface runoff must be managed in surface infiltration facilities. BES noted that, if on-site infiltration is not feasible, a stormwater planter or other acceptable facility with a connection to the public system may be necessary. The condition of approval states that: "Utility Plan showing existing sanitary connections, proposed sanitary connections, and existing and proposed stormwater management systems that meet the requirements of the SWMM in effect at the time of permit submittal, must be submitted to the pending permit, 08-129041 RS."
- The **Bureau of Transportation Engineering** (Exhibit E-7) gave no objections provided that the reconstructed garage is built with a single car door; that the garage is continued to be used as a single car garage only; and that the vehicle door may not obstruct, or encroach into, the pedestrian corridor during operation. IBC encroachment standards must be met.

Neighborhood Review: A "Notice of Proposal in Your Neighborhood" was mailed on **June 12, 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 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 <u>purpose</u> of the regulation to be modified; and

Findings: The applicant is requesting Adjustments to three setback standards, the side and rear building setbacks, and the garage entrance setback. The side building setback and garage entrance setback Adjustments both address the location of the east wall of the proposed garage. The rear building setback addresses the location of the north wall. All three are subject to the following purpose statement, found in Section 33.110.220 Setbacks:

<u>Purpose:</u> The building setback regulations 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.

Rear Building Setback: The north wall of the existing garage is located at the 5-foot rear building setback, and is 9 feet high. A 6-foot wooden fence currently extends along the rear of the site, 2.5 feet inside the rear lot line. A concrete walk is located between the fence and the north garage wall. The concrete walk and fence will be removed. The new north wall of the proposed garage will be constructed in the same location as the fence and will be approximately 11.5 feet high. Because the proposed wall is 5.5 feet higher than the existing fence, light and air on the abutting lot to the north may be altered by this proposal. However, the affect would not be significant considering that the wall is in the same location as the existing fence, and that the applicant could have chosen to construct an 8foot fence at the lot line or could have built a 2 story structure 5 feet from the lot line. The proposal retains the existing 2.5 foot separation between development on the subject site and the north property line, thereby maintaining separation and access for fire fighting. The north wall is constructed of split block to enhance fire protection between the two properties. Additionally, the applicant has stated that they are in the process of drafting an easement which would allow the abutting lot to the north to use the area north of the garage as part of their yard, which would improve livability to the adjacent lot. The neighborhood is generally densely built, with structures pushed up against or close to rear lot lines, and therefore the proposal is not out of character with this development pattern. The proposal reduces the existing relationship between the garage wall and the property line by 2.5 feet; approximately 7.5 feet of distance will remain between the proposed garage and the home on the adjacent lot to the north, which is a reasonable physical relationship given the existing pattern of development in the neighborhood. Privacy will not be affected for the lot to the north because a solid wall will replace a solid fence.

<u>Side building/Garage entrance setback</u>: Because the side/garage entrance setback is on the street frontage, fire separation and fire-fighting access will not be affected, nor will light and air or privacy. It is not uncommon for structures in this area to be located at or near the side lot line. Many homes in the area have garages that are located near the street and within the 18-foot garage entrance setback. Because the existing home extends behind the garage, there is no room to push the garage further back on the lot. Additionally, a garage located close to the street has existed on the subject site for a long time, and the proposal

to move it 2 feet closer to the road is not a great departure from existing conditions or neighborhood development patterns. A reasonable physical distance will be retained between structures. The reduced setback minimizes the space in front of the garage by 2 feet and cars will not be able to park in front of the garage and overhang the street, as they do now, but will park either in the garage or on the street.

For these reasons listed above, the proposal remains consistent with the purpose statement of Section 33.110.220. 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 existing garage door is not functional for vehicle parking, the property owner currently parks in front of the garage, blocking the sidewalk and overhanging the curb. Enlarging the garage and installing an electric door will provide 1 on-site parking space and remove vehicles that currently block the sidewalk. Being able to park their car in a garage will increase livability to the applicant by preventing reoccurrences of damage to the applicant's vehicles as has been experienced several times over the past decade. The area between the garage and the north property line will become available as usable yard to the adjacent lot to the north, slightly increasing livability of that lot and increasing the appearance of this area of the subject site. The applicant is considering creating ledges for flower pots to be constructed into the north wall by residents of the adjacent lot. No significant decrease in livability will result from the increased wall height, especially when compared to what could be built by right. The increased height of the garage wall will help cut down on noise between the two lots. The increased footprint is only a slight increase in size from the existing garage, and will not change the residential character of the garage. Because the reduced garage entrance/side building setback will create a more intimate connection between the garage and the pedestrian environment, the architecture of the garage will have a noticeable effect on the appearance of the area, which is characterized by older homes. The garage is proposed to match the period style of the home, which will be a visual and structural improvement to the existing garage, and will therefore improve the pedestrian environment and contribute to the livability and appearance of the residential area. This criterion is met.

The Transportation Bureau has reviewed the proposal and provided feedback that the reconstructed garage should be built with a single car door (as is proposed), that the garage shall be used as a single car garage only, and that the vehicle door may not obstruct, or encroach into, the pedestrian corridor during operation. A condition of approval is warranted to ensure that these recommendations are met. With these conditions, 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: Three Adjustments are being requested. The overall purpose of the single-dwelling zones is to preserve land for housing and to provide housing opportunities for individual households. These Adjustments allow for greater utilization of the subject site and provide some additional usable area to the adjacent lot to the north. The proposal is consistent with the overall purpose of the zone; this criterion is met.

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

Findings: There are no such City-designated resources. This criterion is not applicable.

E. Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: Potential impacts will be mitigated through a condition to construct a garage that reflects or complements the period style of the existing residence and through a condition to ensure that recommendations made by the Transportation Bureau are met. Additional mitigation comes through the applicant's choice to allow the adjacent lot to the north to use the undeveloped area of the subject site to the north of the garage as open yard.

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 subject 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

The proposal to replace the existing garage with a larger garage and reduced side and rear building and garage entrance setbacks will maintain existing fire separation and access and privacy; does not significantly alter the relationship between structures or available light and air; remains in character with area development patterns; removes vehicles that currently block the sidewalk; and reduces incidences of crime. The garage is proposed to be constructed to reflect the period style of the home and so will positively contribute to the appearance and livability of the neighborhood. The applicable approval criteria are met by the proposal, and this Adjustment should be approved.

ADMINISTRATIVE DECISION

Approval of Adjustments to Zoning Code Section 33.10.220 and Table 110.3 in order to construct a garage with the north wall of the structure located 2.5 feet from the rear lot line and the eave located at 2 feet; and with the east wall and the garage entrance located 2 feet from the east side lot line along SE 23rd Avenue per the approved plans, Exhibits C-1 through C-2, signed and dated July 8, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions must be noted on each of the 4 required 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 08-131843 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A single door shall be installed; the style of vehicle door chosen may not obstruct, or encroach into, the pedestrian corridor during operation.
- C. The garage shall be used as a single car garage only.

NOTE: A Utility Plan showing existing sanitary connections, proposed sanitary connections, and existing and proposed stormwater management systems that meet the requirements of the SWMM in effect at the time of permit submittal, must be submitted to the pending permit, 08-129041 RS.

Decision rendered by:

By authority of the Director of the Bureau of Development Services

Decision mailed: July 10, 2008

Staff Planner: Crystal Hitchings

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 27, 2008, and was determined to be complete on June 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 May 27, 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 July 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. 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. 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.

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 July 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

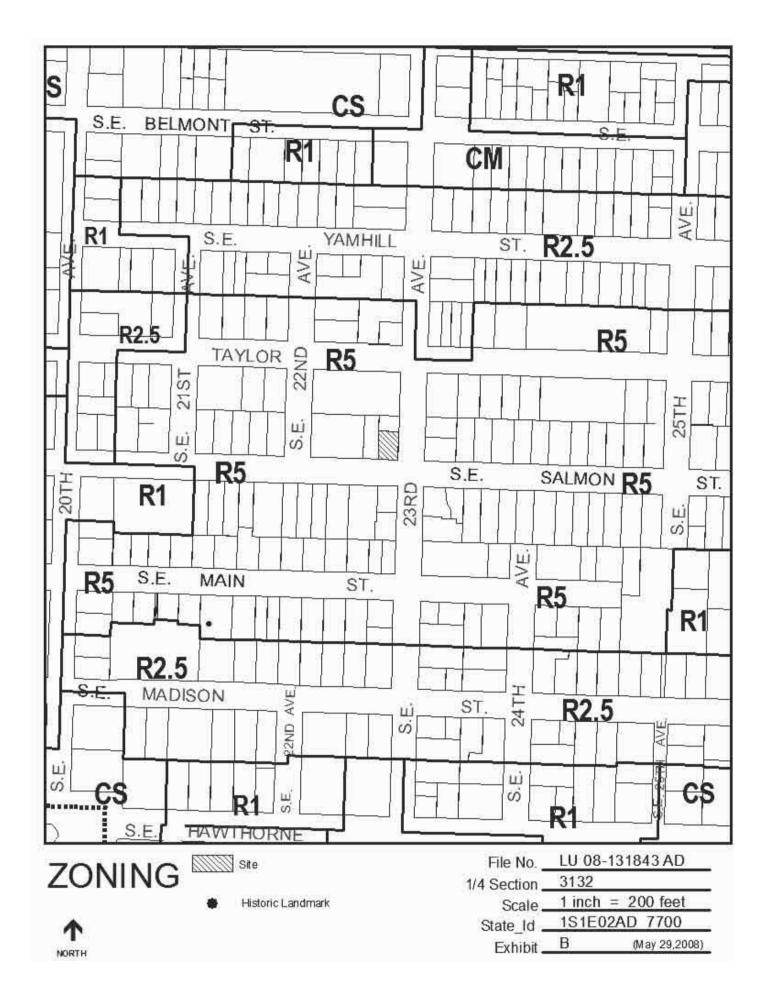
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations/Details (attached)
 - 3. Site Photos
 - 4. GARTH map, building/property line relationships in area
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Fire Bureau
 - 2. Water Bureau
 - 3. Bureau of Parks, Forestry Division
 - 4. Site Development Review Section of BDS
 - 5. Life Safety Bureau
 - 6. Bureau of Environmental Services
 - 7. Bureau of Transportation Engineering and Development Review
- F. Correspondence:

None Received

- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Tax Map

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).

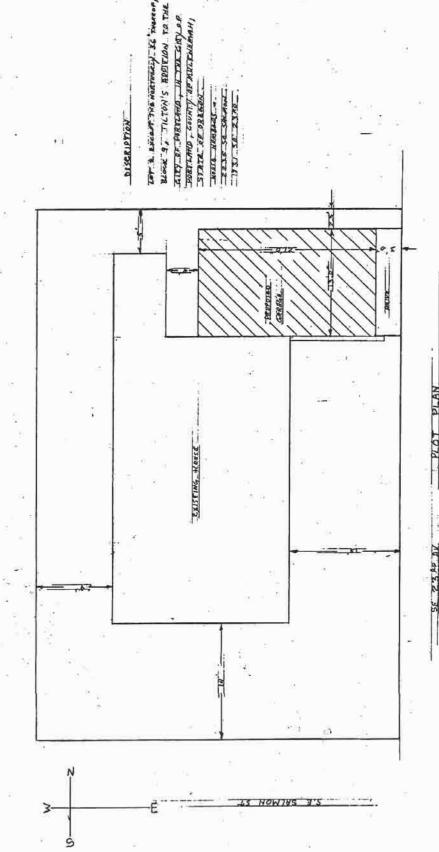


City of Parland - Bureau of Development Services *Approved*

* This approval applies only to the reviews requested and is subject to all Date 7-8-2008

Planner Consta

conditions of approval. Additional zoning requirements may apply.



08-131843 AD

