



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

1900 SW 4th Avenue, Suite 5000  
Portland, Oregon 97201  
503-823-7300  
Fax 503-823-5630  
TTY 503-823-6868  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** June 24, 2010  
**To:** Interested Person  
**From:** Douglas Hardy, Land Use Services  
503-823-7816 / [douglas.hardy@portlandoregon.gov](mailto:douglas.hardy@portlandoregon.gov)

## **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 10-136428 AD**

#### **GENERAL INFORMATION**

**Applicant:** Duane and Karen Schaad, property-owners  
5402 NE Mason Street  
Portland, OR 97218-2134

**Representative:** Donna Keogh  
503 W 44th Street  
Vancouver, WA 98660

**Site Address:** 5402 NE MASON STREET

**Legal Description:** TL 13400 0.46 ACRES, SECTION 19 1N 2E  
**Tax Account No.:** R942191770  
**State ID No.:** 1N2E19DB 13400  
**Quarter Section:** 2636

**Neighborhood:** Cully, contact Dustin Micheletti at 503-347-6282  
**Business District:** Beaumont Business Association, contact Kate Fischer at 503-549-4011  
**District Coalition:** Central Northeast Neighbors, contact Alison Stoll at 503-823-3156

**Zoning:** R7h - Single-Dwelling Residential 7,000, with a Aircraft Landing overlay zone

**Case Type:** Adjustment (AD)  
**Procedure:** Type II, Administrative decision with appeal to Adjustment Committee

#### **PROPOSAL**

The applicant proposes constructing a carport in the front of the existing garage. The carport will measure approximately 18 feet in width by 20 feet in depth, and be covered by an open gabled roof. The carport will be located 38.5 feet from the front lot line, and three from the east side lot line (with the eaves two feet from the side lot line).

Regulations of the R7 zone require the carport to be set back a minimum of five feet from the side lot line (with eaves allowed to encroach one foot into the setback). The applicant is requesting an Adjustment to reduce the minimum required side setback for the carport from five feet to three feet, with the eaves extending one foot into the setback.

**Relevant Approval Criteria:**

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

## ANALYSIS

**Site and Vicinity:** The 19,900 square foot site is currently developed with a one and one-half story, single-dwelling residence, set back approximately 30 feet from the street lot line. A detached garage, with width and depth dimensions of approximately 18 feet by 20 feet, is located directly east of the house. The garage is located approximately two feet from the west side lot line, and approximately 60 feet from the street lot line. The surrounding neighborhood to the north, east and west of the subject site is developed with one and two-story single-dwelling residences. Rose City Cemetery is located immediately south of the neighborhood.

**Zoning:** The subject site (and properties to the north, east and west of the site) are located in an R7 – Single-Dwelling Residential 7,000 zone, with an Aircraft Landing (h) overlay zone. The Single-Dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing. The development standards in the Single-Dwelling zones work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The Aircraft Landing overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation.

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

**Agency Review:** A Notice of Proposal was mailed May 27, 2010. 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; and
- Bureau of Development Services Life Safety.

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

## ZONING CODE APPROVAL CRITERIA

### 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 applicant is requesting an Adjustment to reduce the minimum required side setback for an open carport from the required five feet to three feet. The purpose for

minimum building setbacks, as stated in Section 33.110.220.A of the Zoning Code, is as follows:

*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 requested Adjustment equally or better meets the relevant purposes of the setback standard based on the following findings:

- The placement of the carport will still maintain light and air for the adjacent house located closest to the carport. The adjacent house is located approximately six feet from the side lot line shared with the subject site, with the carport set back an additional three feet from the same side lot line. This nine foot distance, in addition to the carport being open on all sides, will allow adequate light and air to reach the neighboring house.
- The carport, being open on all sides, placed nine feet away from the house on the adjacent property, with a 17 foot wide driveway between the carport and the street lot line provides adequate separation for fire protection and access for fire fighting. Additionally, the Fire Bureau reviewed the requested Adjustment and has no concerns.
- The carport will meet all development standards of the Zoning Code with the exception of the three foot side setback. Garages and carports built in side and rear setbacks is a development pattern commonly seen throughout Portland. In fact, were the carport placed 1.5 feet farther back from the street lot line, for a total setback of 40 feet, it would be allowed to be built to a zero foot setback from the side lot line. As such, the placement of the carport reflects the general building scale and placement of garages seen in the City's neighborhoods.
- Because the Adjustment is for a carport, which compared to a habitable space is likely to be occupied by people less frequently, there are not expected to be privacy issues associated with the reduced setback. Additionally, the distance between the proposed carport and the residence on the adjacent lot, approximately nine feet, is not substantially different than the 11 feet that would exist were the carport to meet the minimum setback standard, thereby not having a substantial impact on privacy.
- The requested Adjustment will have no impact on maintaining an open, front yard area. Instead, the carport will be set back 20 feet farther from the front lot line than the Zoning Code requires. This setback provides more than adequate room to park a car in front of the carport without overhanging the street or sidewalk.

As the proposal equally or better meets the stated purpose of the regulation, 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 requested Adjustment will not result in a proposal that detracts from the livability or appearance of the surrounding residential area. As indicated above in response to Approval Criterion A, carports and garages located in side (and rear) setbacks is a development pattern seen in residential neighborhoods across the City. Were the carport to be placed 1.5 feet farther back from the front lot line than proposed, its location in the side setback would be allowed without an Adjustment.

Visually, the proposed carport is integrated with existing development on the site. The carport will be open and placed approximately eight feet behind the street-facing façade of the house on the site, which helps to maintain the prominence of the house and reduce the presence of the carport as viewed as the street. Additionally, the framing of the carport reflects prominent architectural elements of the house.

As the requested Adjustment does not detract from the appearance of development on the site or in the surrounding neighborhood, 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 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. Because there is neither a scenic nor historic resource designation on the site, this criterion is not applicable.

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

**Findings:** As indicated in response to Approval Criteria A and B, the proposal is consistent with the intended purpose of the regulation being adjusted, with no impacts on the appearance or livability of the surrounding residential area. As such, there are no identified impacts for which mitigation is required, and therefore this criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on 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 applicants have demonstrated that the requested Adjustment to reduce the side setback for a proposed carport meets the applicable approval criteria. The requested Adjustment will equally or better meet the stated purpose of the setback regulation, and will not detract from the appearance or livability of the surrounding residential neighborhood.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum required east side setback [Section 33.110.220.B) for a carport from five feet to three feet, with the eave extending one foot into the reduced setback, per the approved plans, Exhibits C1 and C2, signed and dated June 23, 2010, and subject to the following condition:

- A. As part of the building permit application submittal, each of the four required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C1 and C2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-136428 AD."

**Staff Planner: Douglas Hardy**

**Decision rendered by:**  **on June 23, 2010.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: June 24, 2010**

**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 11, 2010, and was determined to be complete on May 25, 2010.

*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 11, 2010.

*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 extended at the request of the applicant. In this case, the applicant did not 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 8, 2010** at 1900 SW Fourth Avenue. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3:00 p.m. After 3:00 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. 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 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](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 **July 9, 2010 – 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.

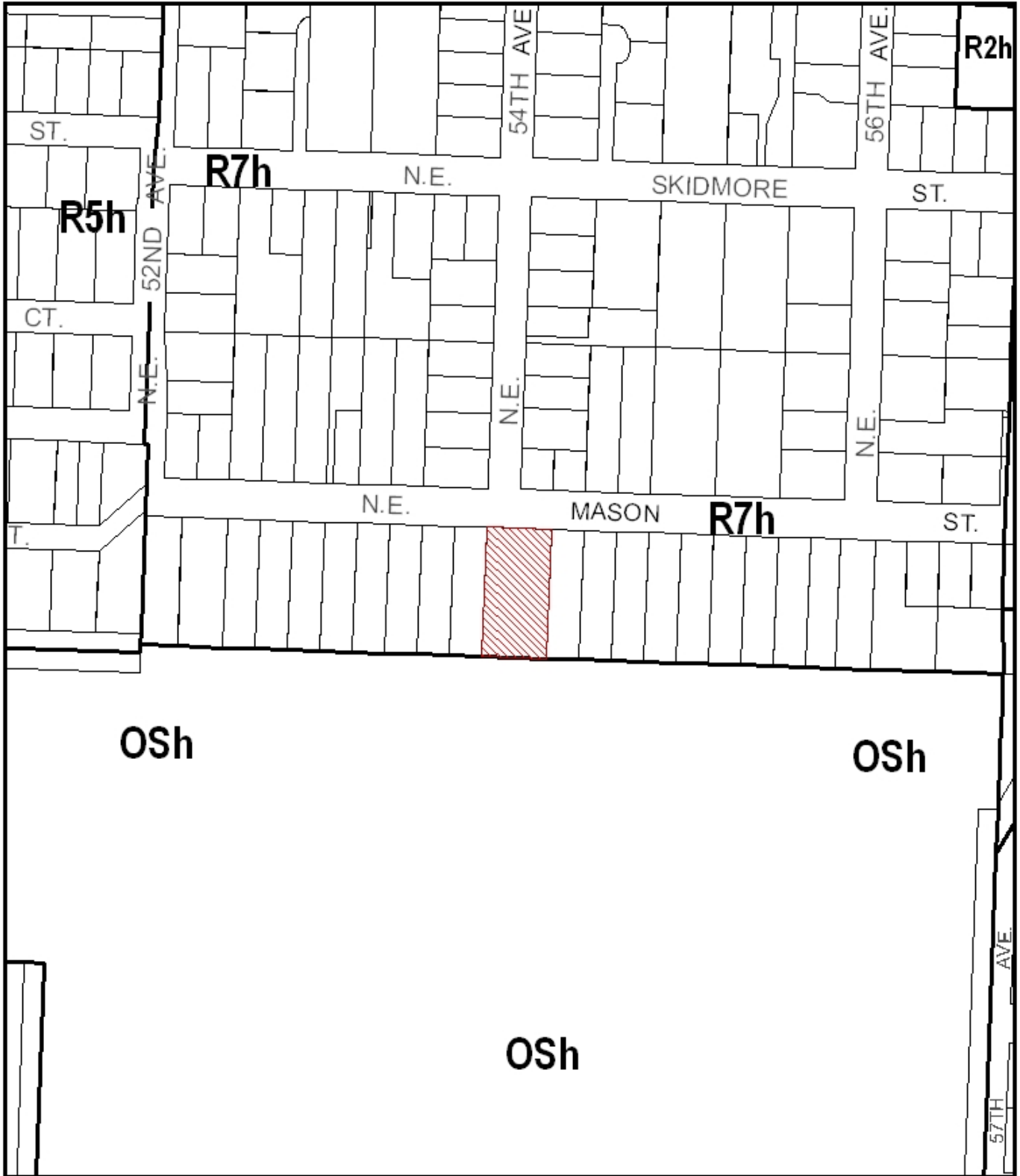
**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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. Building Elevation (attached)
- 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
  - 7. Bureau of Development Services Life Safety
- F. Correspondence (none)
  - 1. Original LU Application



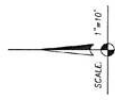
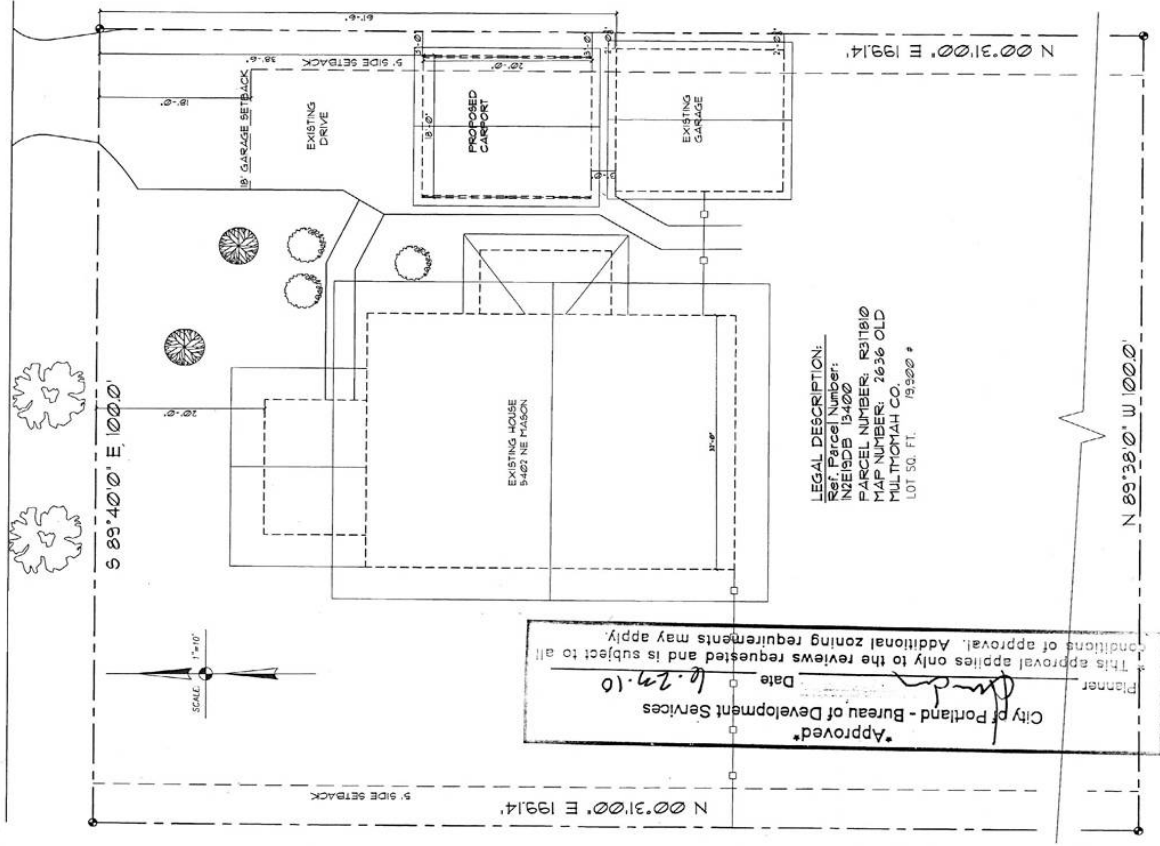
# ZONING



File No. LU 10-136428 AD  
 1/4 Section 2636  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E19DB 13400  
 Exhibit B (May 13, 2010)



NE MASON ST.

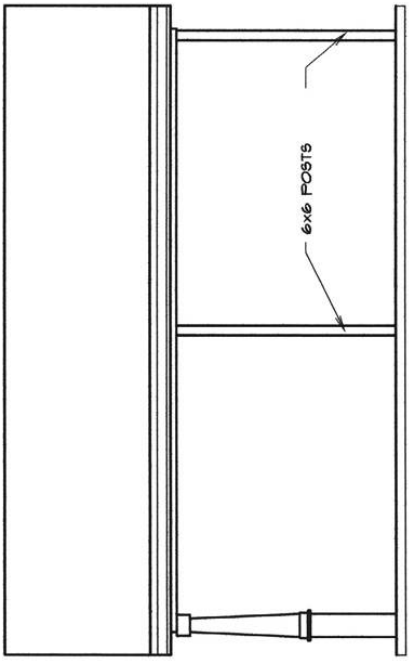


Approved\*  
 City of Portland - Bureau of Development Services  
 Planner: *[Signature]*  
 Date: 6.29.10  
 This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

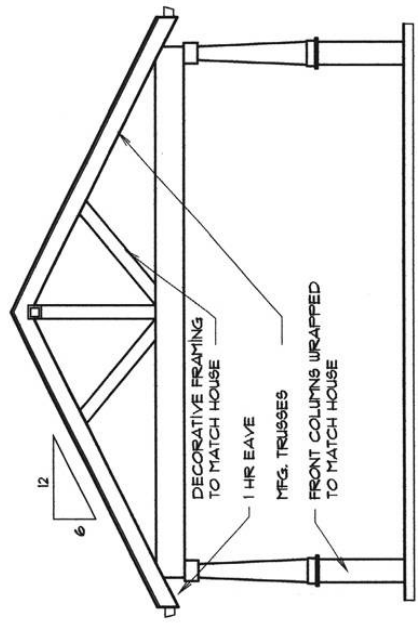
LEGAL DESCRIPTION:  
 Right Parcel Number:  
 NZE15DB 154600  
 PARCEL NUMBER: R311810  
 MAP NUMBER: 2636 OLD  
 MULTNOMIAH CO 193000 \*  
 LOT 50, PT. 193000 \*

LU10-136428 AD  
 CASE NO. 10-196428 AD  
 EXHIBIT C1

**SCHAAD RESIDENCE**  
 5402 NE MASON ST., PORTLAND, ORE. 97290 503-284-4860



SIDE ELEVATION  
 1/4" = 1'-0"



18'x20' CARPORT  
 END ELEVATION  
 1/4" = 1'-0"

Approved\*  
 City of Portland - Bureau of Development Services  
 Planner: *[Signature]*  
 Date: 6.29.10  
 This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

LU10-136428 AD  
 CASE NO. 10-196428  
 EXHIBIT C2

**SCHAAD RESIDENCE**  
 5402 NE MASON ST., PORTLAND, ORE. 97290 503-284-4860