



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Charlie Hales, Mayor
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: March 5, 2013
To: Interested Person
From: Shawn Burgett, Land Use Services
503-823-7618 / shawn.burgett@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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 13-106091 AD

GENERAL INFORMATION

Applicant: Jose Gonzalez
2300 SE 82nd Ave #10
Portland OR 97216

Site Address: 15321 SE CLAY CT

Legal Description: BLOCK 4 LOT 8, PARKLANE
Tax Account No.: R647100810
State ID No.: 1S2E01DB 03800
Quarter Section: 3146, 3246
Neighborhood: Centennial, contact Tom Lewis at 503-347-5715.
Business District: Midway, contact Bill Dayton at 503-252-2017. Gateway Area Business Association, contact Fred Sanchez at 503-256-3910.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Zoning: R7 (Single Family Residential 7,000)
Case Type: AD (Adjustment)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The owner has converted the existing garage on this site into living area which moves the parking pad on the site out of conformance with the Zoning Code's setback standards. Zoning Code section 33.266.120.C.1.a states that required parking spaces are not allowed within a required front setback. In this case the front setback required is 15 ft. Zoning Code section 33.266.120.D.1 states that a parking space must be at least 9 feet wide by 18 feet in depth.

Therefore, the Zoning Code requires driveways not leading to garages in the R7 zone to be at least 33 ft. in depth.

In this case, the applicant's driveway is approximately 24 feet in depth between the garage that has been converted to living area and the front property line. Since 33 feet is required, the applicant has requested an adjustment to this standard.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are located in Section 33.805.040 of the Zoning Code.

ANALYSIS

Site and Vicinity: The area is made up of predominantly single story homes built in the early 1960's with large front yards and driveways providing abundant off street vehicle parking. The home on the subject site was built in 1961. The homes in this area are built on large lots, predominantly over 7,000 square feet in area.

Zoning: The R7 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote 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 **February 4, 2013**. 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
- Life Safety

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 4, 2013. 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 purpose of the regulation to be modified; and

Findings: The purpose of the standards for parking and loading standards related to the development of houses and duplexes is explained under Section 33.266.120.a as follows:

The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.

The proposed adjustment is for existing development. The applicant has converted the existing garage into living area. The conversion of the garage into living area moves the parking pad on the site out of conformance with the Zoning Code's setback standards. The Zoning Code requires a garage with an associated driveway to be set back a minimum of 18 ft. from a property line in this zone. However, if a garage is not located at the end of a driveway, the Zoning Code requires the 18 ft. deep parking pad to be located entirely outside of the required 15 ft. front setback. This standard requires driveway's that doesn't lead to a garage to be at least 33 ft. in depth in this zone.

In this case, the applicant's driveway is 24 feet in depth between the converted living area and the front property line. Since 33 feet is required, the applicant has requested an adjustment allow the parking pad to encroach 9 ft. within the required 15 ft. front setback.

Because the owner of the home converted the existing garage to living space, they will maintain existing parking in-between the converted space and the front property line. The home is not getting any closer to the right of way, and the driveway will remain its existing length (24 ft.) so light, air, separation for fire protection and access for fire fighting will be maintained. The Fire Bureau has no objection to this request. It should also be noted that there is approximately 6 feet between the curb along the public street and the front property line.

The general building scale and placement will also be maintained. Converting the garage into living space allowed a window to replace the garage door. A better connection between the residence and the sidewalk results from this change. In addition, the front yard of the home will become more open and visually pleasing.

For the reasons stated above, 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 proposed adjustment will not detract from the livability or appearance of the area. There is adequate room to allow the existing driveway to continue to function as a parking space, which is consistent with the character in the area. 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: Not applicable, only one adjustment has been requested.

- 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: As found under criterion A and B, the requested Adjustments will not create impacts and therefore do not require mitigation to lessen their effect. This approval criterion is satisfied.

- 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. 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

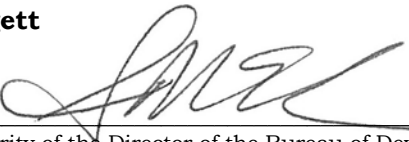
All of the approval criteria have been met for the requested Adjustment. The proposed adjustment will not detract from the livability of the neighborhood because additional residential use of the garage will not reduce the amount of on-site parking provided. For these reasons, the Adjustment should be approved.

ADMINISTRATIVE DECISION

In order to allow conversion of the existing garage space to living space, approval of an adjustment to 33.266.120.C.1.a to allow the 24 foot long parking pad to encroach 9 ft. within the front setback in substantial conformance with the approved site plan Exhibits C.1, signed and dated February 28, 2013 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 setback approved by this land use review as indicated in Exhibits C.1. The sheets on which this information appears must be labeled, "Proposal as approved in Case File # LU 13-106091 AD."

Staff Planner: Shawn Burgett

Decision rendered by:  **on February 28, 2013**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 5, 2013

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 January 17, 2013, and was determined to be complete on January 31, 2013.

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 January 17, 2013.

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 March 19, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 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 **March 20, 2013**.
- 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.

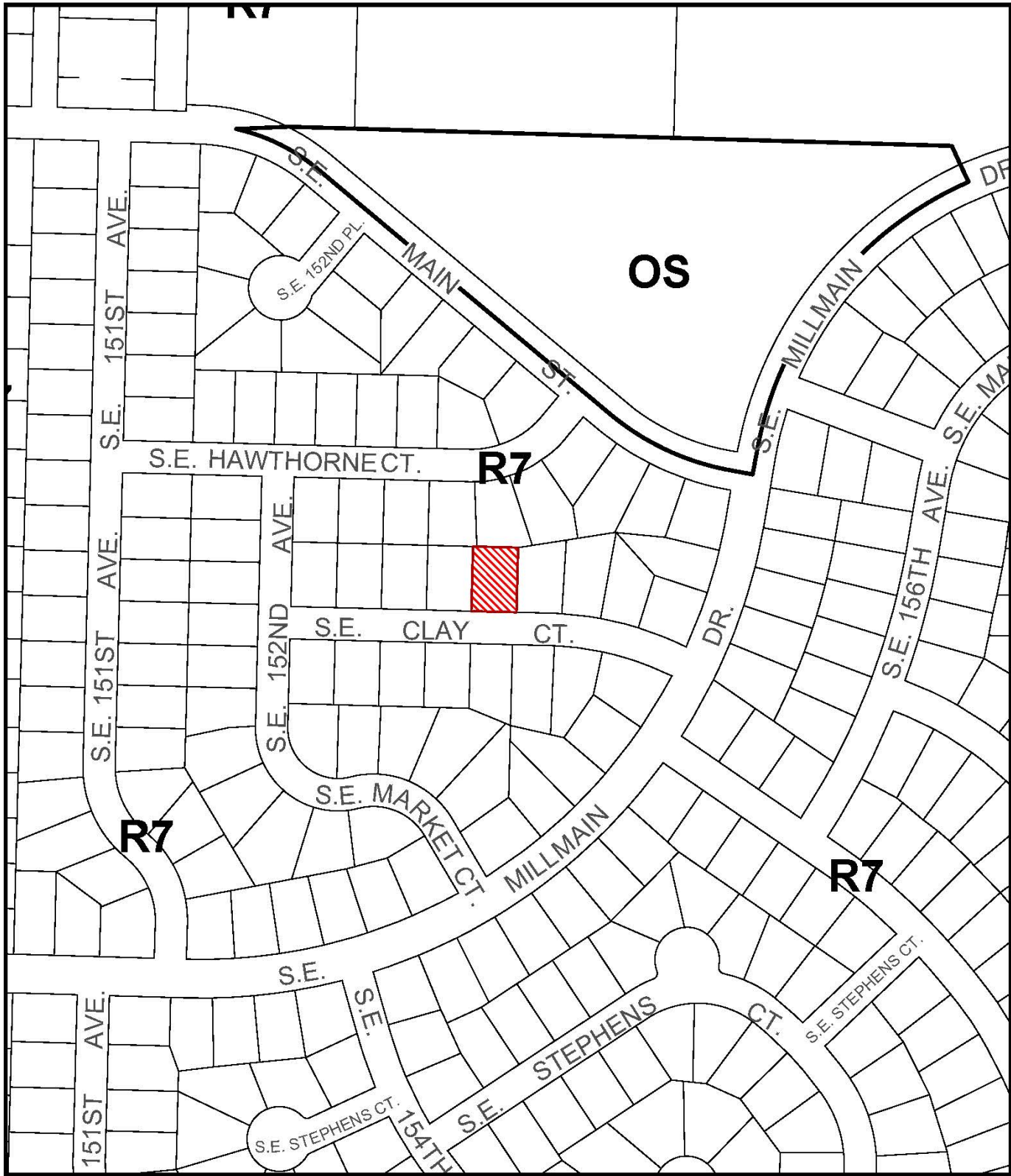
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicants Narrative
 - 2. Photos of site and surrounding area.
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan/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. Life Safety
- F. Correspondence: (none received)
- 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. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

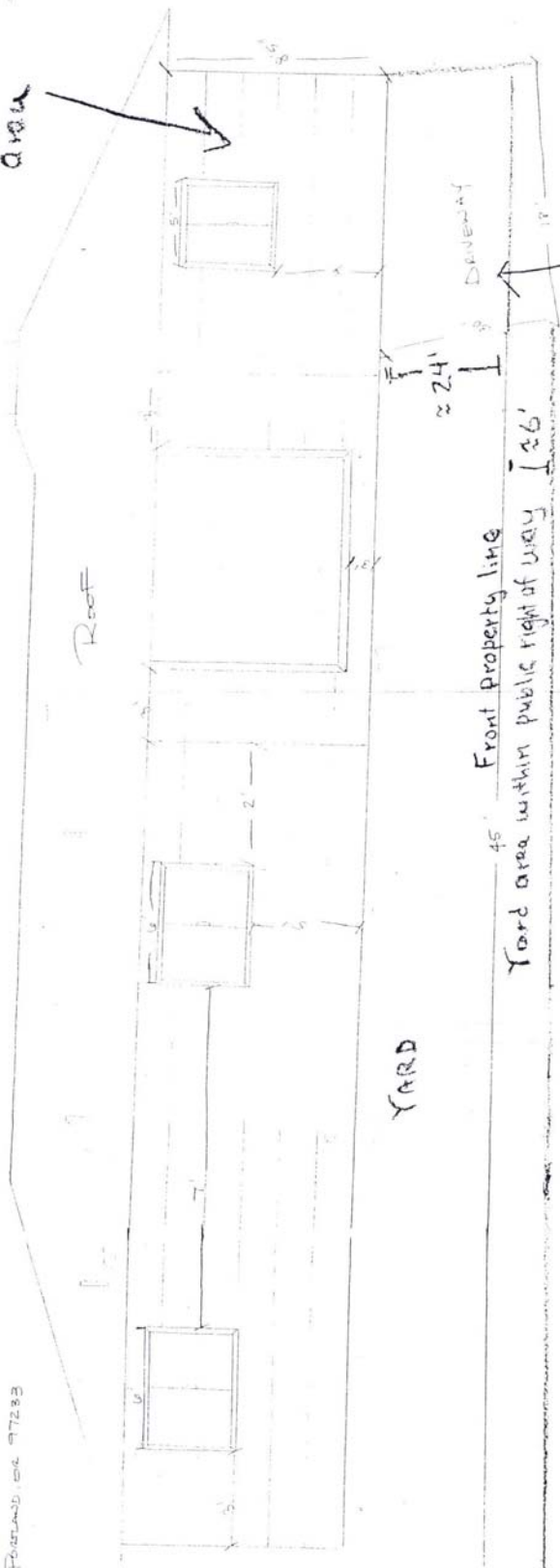
 Site



File No. LU 13-106091 AD
 1/4 Section 3246
 Scale 1 inch = 200 feet
 State_Id 1S2E01DB 3800
 Exhibit B (Jan 17, 2013)

former garage
Converted to living
area

321 SE CLAY CT
PORTLAND, OR 97233



LM 13-106091 AD
SE CLAY CT

Adjustment - 24' Setback between
home and front property
line for driveway



Approved
 City of Portland - Bureau of Development Services
 Planner S. Burgett Date 2/28/13
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

CASE NO. 13-106091
EXHIBIT C-1