



**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](http://www.portlandoregon.gov/bds)

**Date:** April 5, 2013  
**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 with conditions** 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 13-116220 AD**

#### **GENERAL INFORMATION**

**Applicant:** Brett Schulz / Brett Schulz Architect  
1111 E. Burnside Street, Suite 303 / Portland, OR 97214

**Property-Owner:** Dr Jim's Still Really Nice LLC  
3435 NE 45th Avenue, Suite J / Portland, OR 97213

**Site Address:** 3450 SE ALDER STREET

**Legal Description:** BLOCK 9, E 16 2/3' OF LOT 10, LOT 11&14, W 27 1/6' OF LOT 15, SUNNYSIDE & PLAT 2 & 3

**Tax Account No.:** R810401390, R810401390, R810401390, R810401390, R810401390

**State ID No.:** 1S1E01AB 17500, 1S1E01AB 17500, 1S1E01AB 17500, 1S1E01AB 17500, 1S1E01AB 17500

**Quarter Section:** 3134

**Neighborhood:** Sunnyside, contact Paul Loney at 503-233-8265

**Business District:** Belmont Business Association, contact Katie Meyer at 503-360-7814

**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010

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

**Case Type:** Adjustment (AD)

**Procedure:** Type II, Administrative decision with appeal to Adjustment Committee

#### **Proposal:**

The applicant proposes converting the existing nonconforming warehouse structure on the site to four dwelling units. All four units will be contained within the existing building on the site. As part of the proposal, the one overhead garage door on the building's north-facing façade (on SE Alder Street) will be replaced by an entry door, and two new overhead doors will be added to provide parking for two of the residences. The overhead door garage door facing SE 35<sup>th</sup> Avenue will be removed.

In the Single-Dwelling zones, garage entrances are required to be set back a minimum of 18 feet from the street property line. Because the building wall on which the new overhead doors are proposed is already built to the street property line, the applicant is requesting an Adjustment to reduce the setback for the two proposed garage doors from 18 feet to zero feet.

**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 11,050 square foot site is located at the southwest corner of SE Alder Street and SE 35<sup>th</sup> Street. The site is developed with a one-story, 11,000 warehouse building that covers nearly the entire lot. The building is built to the street lot line along both SE Alder Street and SE 35<sup>th</sup> Avenue. Three person doors and one overhead garage door currently face SE Alder Street, with two curb cuts also along this frontage. (One of the curb cuts appears to be to an overhead garage door that may have been replaced at a later date with a person door.) One overhead garage door, with curb cut access, is located along the site's SE 35<sup>th</sup> Avenue frontage.

The surrounding area, within a block radius, is developed predominantly with one to two-story single-dwelling residences. The exception is a three-story townhouse-style residential development at the southwest corner of SE Alder Street and SE 34<sup>th</sup> Avenue. Multi-dwelling residential development and commercial uses are found along the nearby SE Belmont Street frontage.

The site is within 500 feet a frequent service bus along SE Belmont Street. Due to this proximity, no on-site parking is required.

**Zoning:** The subject site is located in a Single-Dwelling Residential 2,500 (R2.5) zone. The use standards of the Single-Dwelling Residential zones are intended to preserve land for housing and to provide housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

While the current structure on the site is not residential, notes from an Early Assistance Appointment held in 2012 (EA 12-120164) identified the building being constructed in 1919 as a warehouse and/or garage, with a 1961 variance (VZ 38-61) allowing the building to be occupied as a nonconforming printing plant and warehouse. Notes from the Early Assistance Appointment also stated the site could be redeveloped by-right for up to four dwelling units (given the size of the site).

**Land Use History:** As noted above, City records indicate there is one prior land use review for this site. In 1961, the Portland Planning Commission approved a variance that allowed the existing nonconforming import warehouse use on the site to be converted to a printing plant and warehouse operation (VZ 38-61).

**Agency Review:** A Notice of Proposal was mailed February 28, 2013. The following City bureaus have responded with no issues or concerns regarding the requested Adjustment:

- Bureau of Environmental Services;
- Fire Bureau;
- Bureau of Development Service Site Development Section; and
- Portland Parks & Recreation Urban Forestry Division.

The Portland Bureau of Transportation (PBOT) reviewed the proposal for its potential impacts regarding the public right-of-way, traffic impacts, and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts on transportation services. PBOT stated no objections to the reduced garage entrance setback on the condition that the garages

for each dwelling unit with on-site parking be fitted with an automatic garage door opener. This will ensure that vehicles will not block the sidewalk or roadway when waiting to enter the garages. PBOT also noted that at the time of building permit review the applicant will be required to reconstruct the site's street frontages to close any abandoned driveway approaches, and construct new driveway approaches to current standards. The sidewalk at the corner of SE Alder Street and SE 35<sup>th</sup> Avenue will be required to be reconstructed to accommodate dual ADA ramps. Street trees will also be required.

The Water Bureau responded with no objections to the requested Adjustment, and noted water service is available from both SE Alder Street and SE 35<sup>th</sup> Avenue. The applicant will be required to provide to the Water Bureau at the time of building permit review a water unit fixture count in order to properly size the water service and meter. Information on the minimum distance between street trees and water service lines are also provided.

**Neighborhood Review:** Two comments were received from area residents in response to the Notice of Proposal.

One neighbor, owning property that abuts the subject site to the south, submitted an e-mail expressing support for the proposal. The neighbor notes that as the City becomes more populated, livability is enhanced by having off-street parking.

A second neighbor, residing just east of the subject site across SE 35<sup>th</sup> Avenue, sent an e-mail expressing opposition to adding additional driveway approaches along the site's frontage. He notes that there are already two driveway approaches to the site, and adding additional ones only creates additional pedestrian/vehicular conflicts along the adjacent sidewalk. The neighbor also notes that adding one additional on-site parking space provides no net benefit to the neighborhood as the driveway approach removes one curbside parking space. *[BDS Comment: The site currently has a total of three driveway approaches –two on SE Alder Street and one on SE 35<sup>th</sup> Avenue. (Only one of the approaches on SE Alder Street accesses a garage). The applicant proposes removing the driveway approach on SE 35<sup>th</sup> Avenue, and maintaining two driveway approaches on SE Alder Street. As such, there will be no net increase, but rather a net decrease, in the number of driveway approaches to the site.]*

## ZONING CODE APPROVAL CRITERIA

### 33.805.010 Purpose

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 applicant requests an Adjustment to reduce the minimum required

setback for the two proposed garage doors along SE Alder Street from 18 feet to zero feet. The purpose for the minimum required garage entrance setback, as stated in Zoning Code Section 33.110.220.A (Purpose) is as follows:

*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 proposal equally meets the stated intent of the regulation based on the following findings:

- Because the garages are proposed to be set back zero feet from the street lot line, it is not likely that anyone will park in front of the garage knowing they would entirely block the sidewalk. This would be more of an issue if the garage entrances were set back, for example, 12 to 15 feet from the street lot line, which would be deep enough to encourage some to park in front of the garage, but not deep enough to avoid the car extending partially over the sidewalk. At a zero foot setback, the potential for a car to park between the garage and the street lot line and partially overhang the sidewalk is removed.
- Because the building is already built at a zero foot setback from the street lot line, meeting the 18 foot garage entrance setback would require creating an 18 foot deep recess between the front building wall and a garage entrance internal to the building. This would not only create an unattractive void along the building façade, but also would do nothing to enhance driver visibility when backing onto the street.
- The proposal continues an existing situation on the site, whereby there are two garage entrances placed zero feet from the street lot line. The applicant only proposes relocating the location of these garage entrances, with no increase in the number of garage entrances. There is nothing in the record that would indicate the existing condition has created any issues related to the parking of vehicles that entirely block the sidewalk, or any ongoing pedestrian/vehicular conflicts resulting from vehicles backing out of the garages.
- Because of the lack of a garage entrance setback, the potential exists for residents entering the two proposed garages to pull up to the garage entrance and block the sidewalk when getting out of the car to open the garage doors. To avoid this, PBOT has proposed a condition of approval that requires each of the garage doors to be equipped with an automatic garage door opener to allow the residents to open the garage door from the car, thereby decreasing the time any vehicle will be on the sidewalk.

As proposed and with the condition of approval requiring automatic garage door openers, the intent of the standard is met, and 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 site is located in a residential zone, this criterion requires demonstrating that the proposal will not significantly detract from the livability or appearance of the residential area. The proposal meets this criterion based on the following findings:

- Providing garage entrances that reflect the zero foot setback of the existing building reinforces the street edge, and avoids the alternative of requiring the garage entrances to be recessed 18 feet into the building. The voids created by these recesses would not only detract from the appearance of the building, but also provide areas for potential delinquent activity.
- Placing the garage entrances at a zero foot setback respects the historic character of the existing building.
- Recessing the garage entrances 18 feet into the building would only create an auto-oriented image along this building façade, which is contrary to the desire of the development in single-dwelling zones. Providing a garage door that is at the same plane as the existing building wall deemphasizes the auto-orientation.

As proposed, 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 the subject site is designated neither as a scenic nor historic resource, this criterion is not applicable.

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

**Findings:** As described above, in response to Approval Criteria A, the only foreseen adverse impact associated with the Adjustment request is the possibility of drivers stopping their cars in the sidewalk to manually open the garage door, thereby increasing potential vehicular/pedestrian conflicts. With the condition of approval that requires the garage doors to be equipped with automatic door openers that can be operated remotely, this impact is mitigated to the extent practical.

With the condition of approval, 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 such designations on this 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 via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

The applicant has demonstrated that with one condition of approval, the applicable approval criteria are met for the requested Adjustment. The request to reduce the garage entrance setback equally meets the intent of the regulation with a condition requiring automatic garage door openers. The proposal will not adversely impact the appearance or livability of the surrounding residential area.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to decrease the garage entrance setback for two garage openings from 18 feet to zero feet (Zoning Code Section 33.110.220.B, Table 110-3), per the approved site plan (Exhibit C.1) and building elevations (Exhibit C.2), signed and dated April 4, 2013, and subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the four required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 13-116220 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Each of the garages must be equipped with an automatic garage door opener that can be operated remotely.

**Staff Planner: Douglas Hardy**

**Decision rendered by:**  **on April 4, 2013.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: April 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 February 14, 2013, and was determined to be complete on February 28, 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 February 14, 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. Unless further extended by the applicant, **the 120 days will expire on June 28, 2013.**

**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 April 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](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 **April 22, 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**

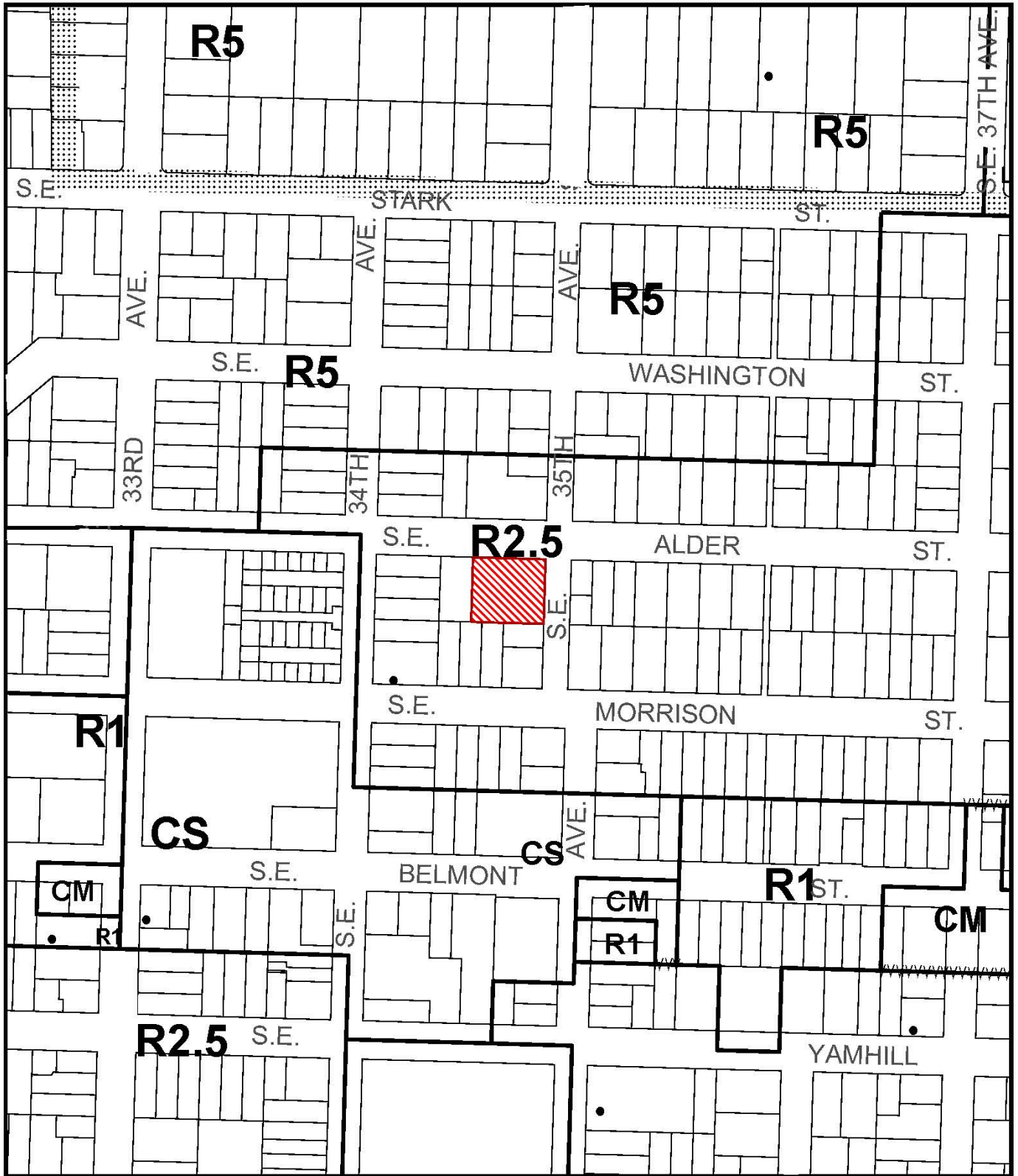
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Building Elevations (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Portland Bureau of Transportation
  - 3. Water Bureau
  - 4. Fire Bureau



5. BDS Site Development Review Section
  6. Portland Parks & Recreation Urban Forestry Division
  7. BDS Life Safety Plans Examiner
- F. Correspondence:
1. Myron White, e-mail received March 8, 2013, in support
  2. Bruce Barbarasch, e-mail received March 20, 2013, in opposition
- G. Other:
1. Original LU Application
  2. EA 12-120-164

**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



Historic Landmark



File No. LU 13-116220 AD

1/4 Section 3134

Scale 1 inch = 200 feet

State\_Id 1S1E01AB 17500

Exhibit B (Feb 14, 2013)

**BRETT SCHULZ ARCHITECT**

1111 E. Burnside, Ste. 303  
Portland, Oregon 97214  
503-222-9099

brett@brettschulz.com  
www.brettschulz.com

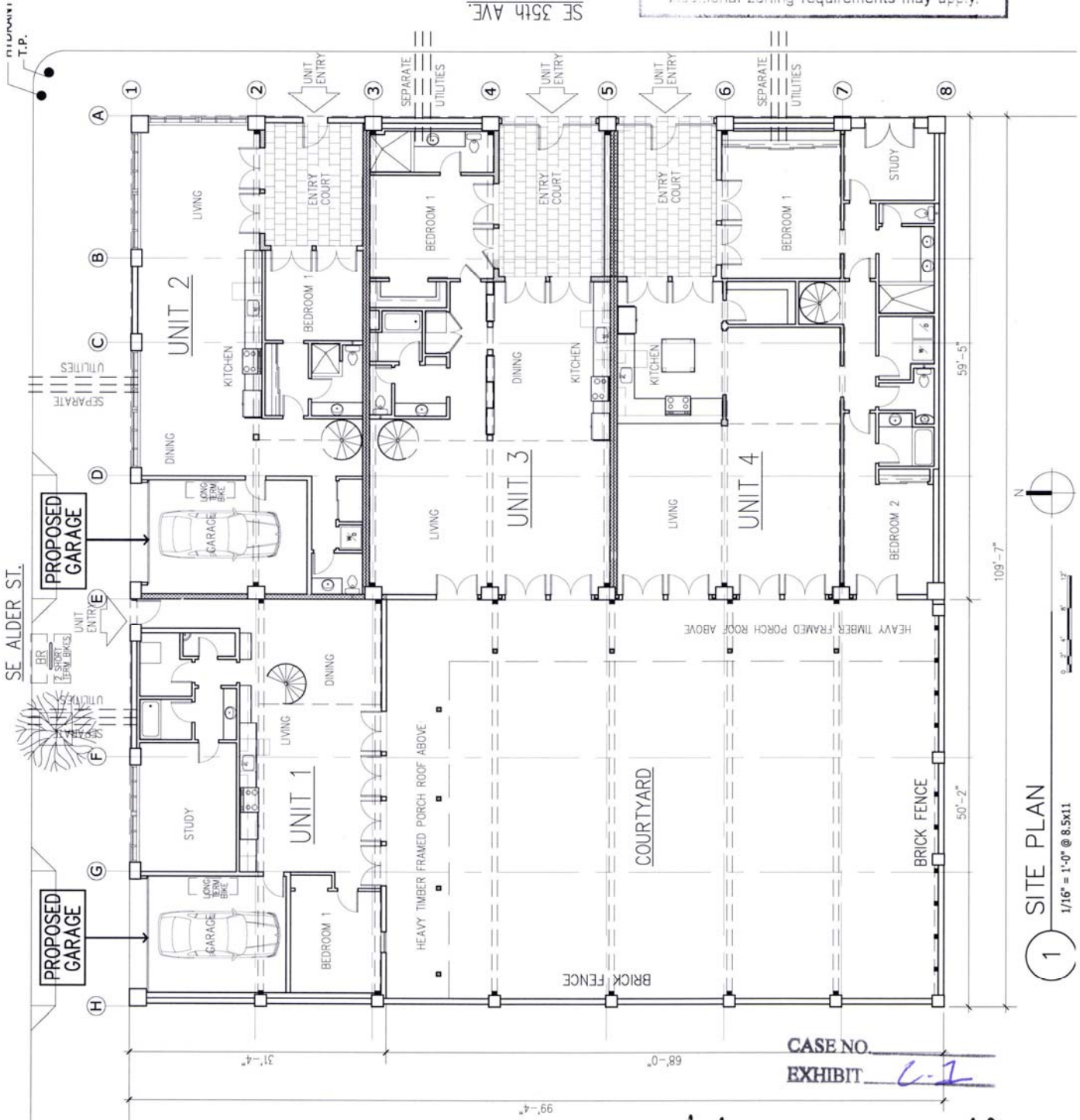
**Dr. Jim's  
Still Really Nice**

Adaptive Re-Use at  
3450 SE Alder St.  
Portland, Oregon

**\*Approved\***  
City of Portland  
Bureau of Development Services

DATE: February 16, 2013  
DRAWN: [Signature]  
APPROVED: [Signature]  
PLOTTED: [Signature]  
REVISIONS: [Signature]

This approval applies only to the plans requested and is subject to all conditions of approval.  
Additional zoning requirements may apply.



**1 SITE PLAN**  
1/16" = 1'-0" @ 8.5x11

CASE NO. \_\_\_\_\_  
EXHIBIT C-2

*LN 13-116220 AD*

**BRETT SCHULZ**  
ARCHITECT

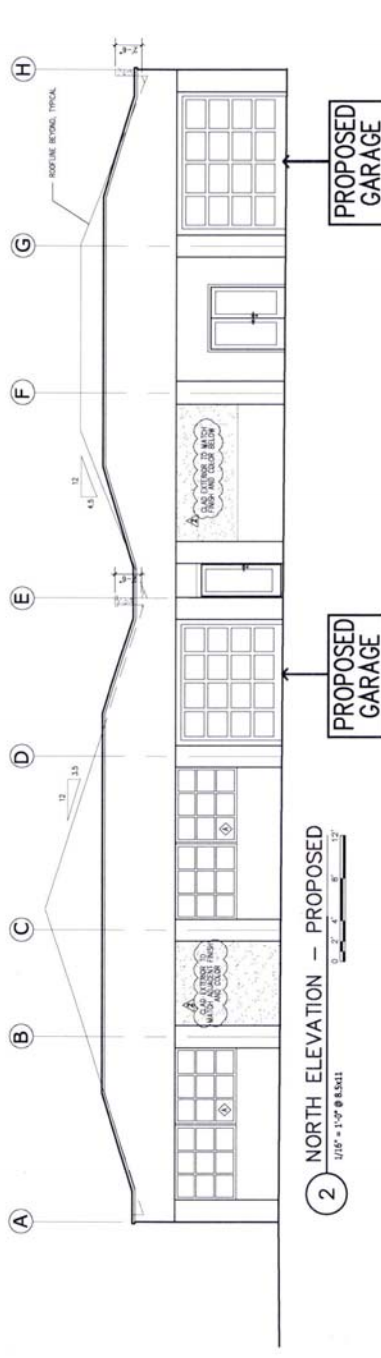
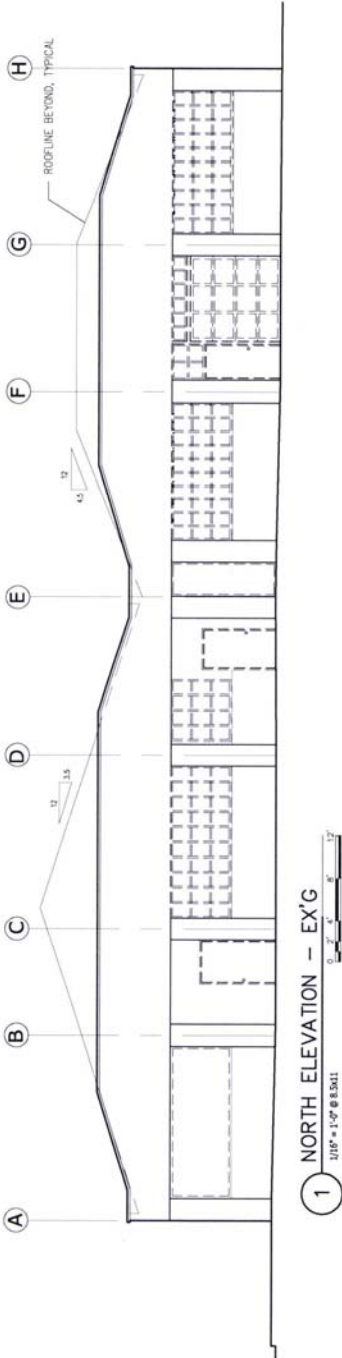
1111 E. Burnside, Ste. 303  
Portland, Oregon 97214  
503-222-9099

brett@brettschulz.com  
www.brettschulz.com

**Dr. Jim's**  
Still Really Nice

Adaptive Re-Use at  
3450 SE Alder St.  
Portland, Oregon

DATE: February 14, 2013  
DRAWN:  
APPROVED: BIS  
PLOT DATE:  
REVISIONS:



\* Approved\*  
City of Portland  
Bureau of Development Services  
Planner *[Signature]*  
Date 4-4-13  
\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

ELEVATIONS APPROVED FOR LOCATION OF GARAGE ENTRANCES ONLY. CHANGES TO OTHER ELEMENTS OF THE FACADE, IN CONFORMANCE WITH THE ZONING CODE, ALLOWED WITHOUT FURTHER LAND USE REVIEW.

CASE NO. \_\_\_\_\_  
EXHIBIT 4.2

LN 13-116220 AD