



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
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Date: December 19, 2013
To: Interested Person
From: Kathleen Stokes, Land Use Services
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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 13-214441 AD

GENERAL INFORMATION

Applicants/Owners: John Cline and Debbie Gardiner
9909 SE Clatsop St / Portland OR 97266

Site Address: 9909 SE CLATSOP ST

Legal Description: BLOCK 2 LOT 7, MILLENNIUM PARK ESTATES
Tax Account No.: R571100580 **State ID No.:** 1S2E21DD 05100
Quarter Section: 3840
Neighborhood: Lents, contact Cora Potter at 503-823-4550.
District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550.
Plan District: Johnson Creek Basin – South Subdistrict
Zoning: R7 (R7000, Medium Density Single-Dwelling Residential)
Case Type: Adjustment
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The applicants are proposing to build an addition, in order to provide a second garage at the rear of the house. The garage would be 645 square feet in area and would take the place of an existing 567 square-foot deck that is currently located at the northwest corner of the building. The removal of the deck and the addition of the new garage would bring the overall building coverage for the site to 3,439 square feet.

The Portland Zoning Code, Title 33, limits building coverage in the single-dwelling zones to an amount that is based on the size of the site. In this case, the allowed building coverage for this 10,217 square-foot property is 3,032 square feet. Exceptions to this standard are approved through an Adjustment Review, if all of the relevant approval criteria are met or if the criteria can be met through conditions of approval. Therefore, the applicants are requesting approval of an Adjustment to Code Section 33.110.225 to allow the maximum building coverage to be increased from 3,032 square feet to 3,520 square feet.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The applicants' site is a 10,217 square-foot lot that is located on the north side of SE Clatsop Street, on a stretch of the street that is intersected, one lot to the east and five lots to the west, by the looping right-of-way of SE Clatsop Court. The property is developed with a single-dwelling residence that was constructed in 1997. The area around the site is similarly developed with single-dwelling residences that are all a part of the Millenium Park Estates subdivision. The area was heavily forested, prior to development and still retains many native trees and areas with steep slopes. The applicants' site has a comparatively flat topography.

Zoning: The site is zoned R7, Medium Density single-dwelling Residential. This zone designation is intended for areas with adequate public services but minor development constraints. Single-dwelling residential will be the primary use. The maximum density is generally 6.2 units per acre or an average of one lot for every 7,000 square feet. Buildings are required to be set back 15 feet from the front property line and 5 feet from side or rear property lines. The maximum height allowed for residential structures is 30 feet. The maximum building coverage allowed by the base zone development standards is based on the area of the individual lot.

The site is located within the boundaries of the Johnson Creek Basin Plan District. This plan district provides for the safe, orderly, and efficient development of lands that may be subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. At certain locations, the density of development is limited by applying special regulations to new land division proposals. In addition, restrictions are placed on all new land uses and activities to reduce stormwater runoff, provide ground water recharge, reduce erosion, enhance water quality, and retain and enhance native vegetation throughout the plan district. At other locations, development is encouraged and mechanisms are included that provide relief from environmental restrictions. In the South Subdistrict of the Plan District, where this site is located, impervious surfaces are limited to 50% of the site area.

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 **November 13, 2013**. The following Bureaus have responded with no issues or concerns. Agencies that provided written comments regarding building permit requirements are noted with exhibit numbers:

- Environmental Services sent a response that provided information on the existing sanitary infrastructure and the general stormwater management requirements. The response noted that the information provided by the applicants on the preliminary infiltration testing showed that the proposed pervious pavement for the new driveway area is an acceptable pervious treatment. Additional testing and details on the stormwater management design may be required for building permit review (Exhibit E-1).
- Transportation Engineering noted that there are no transportation -related criteria for this review and no impacts are expected on the transportation system. The response also explained that "significant alterations" to existing development may trigger a requirement for street dedications and/or improvements. (Note: The applicants have assured staff that the proposed project would not meet the level of this threshold, which is defined as a project that has a valuation that equals or exceeds 35% of the assessed value of all of the improvements on the site. Exhibit E-2).
- Water Bureau described the existing water service for the site (Exhibit E-3).
- Site Development Section of BDS gave an analysis of the general physical characteristics of the site, noting that although the site is in the designated Potential Landslide Hazard Area, the central and southern portions of the site are relatively flat. The response reminded the applicants that the erosion prevention and sediment control requirements found in Title 10 apply to both site preparation work and development (Exhibit E-4).
- Life Safety Plan Review Section of BDS stated that building permits are required for the proposed work (Exhibit E-5).

- Fire Bureau and Parks-Forestry Division both provided electronic responses of “no concerns.”

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 13, 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 of Adjustments The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below, have been met.

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- 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
- 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
- D. City-designated scenic resources and historic resources are preserved; and
- E. Any impacts resulting from the adjustment are mitigated to the extent practical.
- 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 AND CONCLUSIONS

The applicants' proposal meets all of the relevant approval criteria:

The request is to allow an increase in the maximum building coverage for the site, from 3,032 square feet to 3,439 square feet, in order to construct a new single-story garage at the rear of the existing residence on the site.

Building coverage is the area that is covered by buildings or other roofed structures. A roofed structure includes any structure more than 6 feet above grade at any point, and that provides an impervious cover over what is below. Building coverage also includes uncovered horizontal structures such as decks, stairways and entry bridges that are more than 6 feet above grade. Eaves are not included in building coverage.

The building coverage standards, together with the height and setback standards control the overall bulk of structures. They are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site.

The proposed garage will be a 645 square-foot addition that would be located at the rear of the house, in an area that previously had a 567 square-foot deck. This northwestern corner of the structure will not be visible from the street view of the developed area. The addition will be set back from the adjacent neighbors' properties, which have development that is generally at the same height or taller than the existing and proposed structures on the applicants' site. The site is large enough that there will still be a generous amount of open area, so that the footprint will not make the development seem crowded or overwhelming.

The proposed garage will allow the applicants to store vehicles and equipment, which will assist in maintaining a tidy appearance. It will provide space for the applicants' pursuit of comfort in their residence, which would in no way create any negative impacts nor detract from the livability of the area. For these reasons, the proposal will meet the purposes of the regulation and will not significantly detract from the livability or the appearance of the residential area and, therefore, these criteria are met.

Only one Adjustment has been requested. Designated scenic resources are indicated by a lower case "s" on the official zoning maps. Historic resources are indicated by black dots on the zoning maps, for landmarks, and by boundaries that show Historic Districts and Conservation Districts. Environmental zones are indicated by lower case "c" for Environmental Conservation overlays and "p" for Environmental Protection overlays. There are no scenic or historic resources on this site and it is not located in an environmental zone. Therefore, the criteria related to these issues do not apply.

Therefore, all of the relevant approval criteria are met and the proposal can be approved, in substantial compliance with the proposed site plan and elevation drawings.

DEVELOPMENT STANDARDS

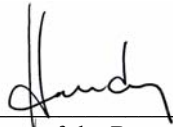
Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Code Section 33.110.225, to allow the maximum building coverage to be increased from 3,032 square feet to 3,520 square feet, in general compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-2, signed and dated December 17, 2013, subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-214441 AD."

Staff Planner: Kathleen Stokes

Decision rendered by:  **on December 17, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 19, 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 October 10, 2013, and was determined to be complete on November 8, 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 October 10, 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: March 8, 2014.**

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 January 2, 2014** 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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, 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 **January 3, 2014**.
- 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. Application and original narrative and plans
 2. Supplemental information, received November 7, 2013
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Elevation Drawings (attached)
- D. Notification information:
 1. Mailing list

2. Mailed notice

E. Agency Responses:

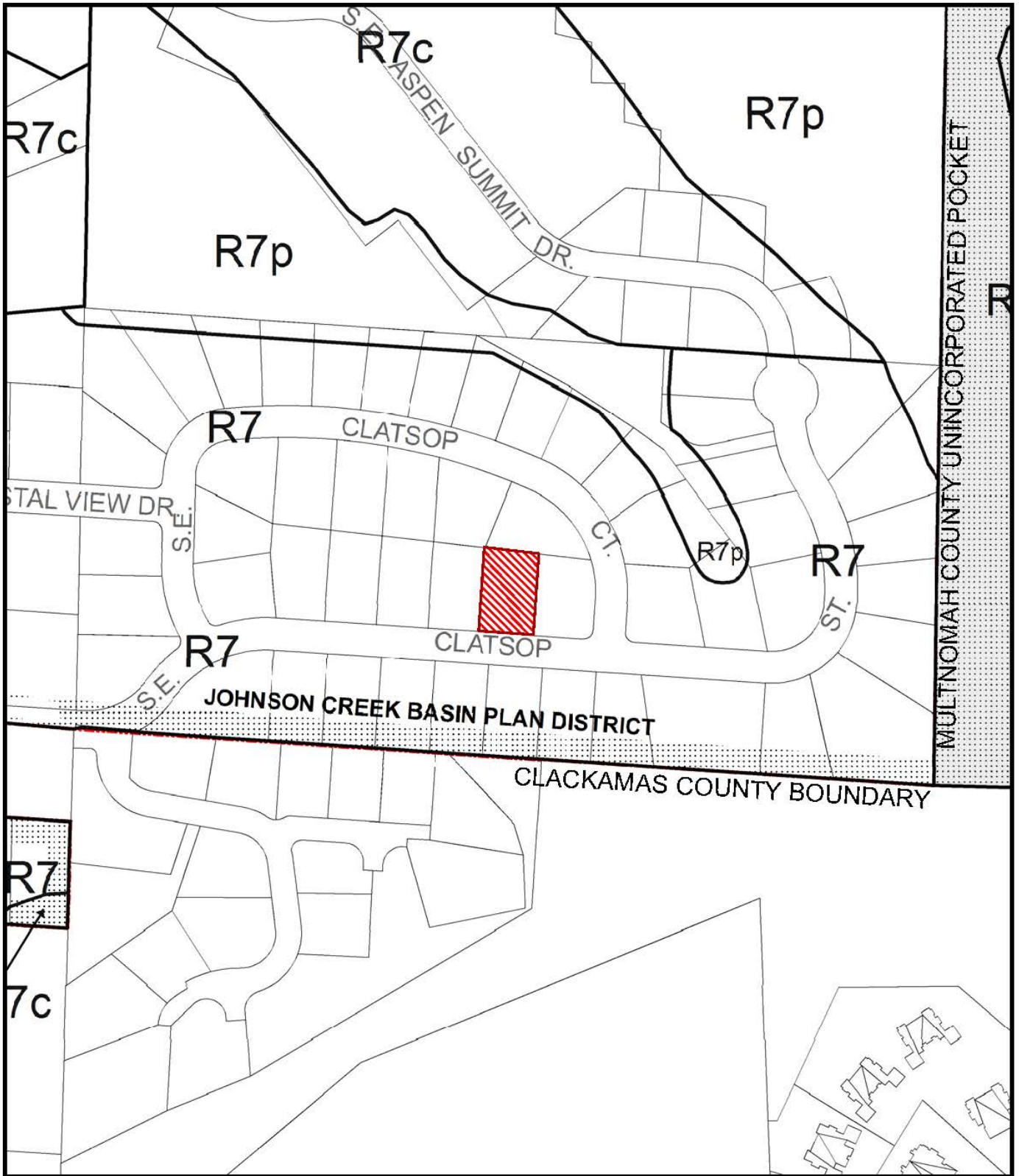
1. Bureau of Environmental Services
2. Bureau of Transportation Engineering and Development Review
3. Water Bureau
4. Site Development Review Section of BDS
5. Life Safety Plan Review Section of BDS
6. Summary of electronic responses from City service agencies

F. Correspondence: (None received)

G. Other:

1. Letter from Kathleen Stokes to John Cline and Debbie Gardiner, October 29, 2013

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



This site lies within the:
JOHNSON CREEK BASIN SOUTH PLAN DISTRICT

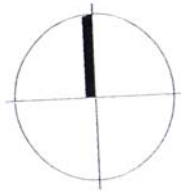
File No.	<u>LU 13-214441 AD</u>
1/4 Section	<u>3840</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E21DD 5100</u>
Exhibit	<u>B (Oct 16, 2013)</u>

Approved

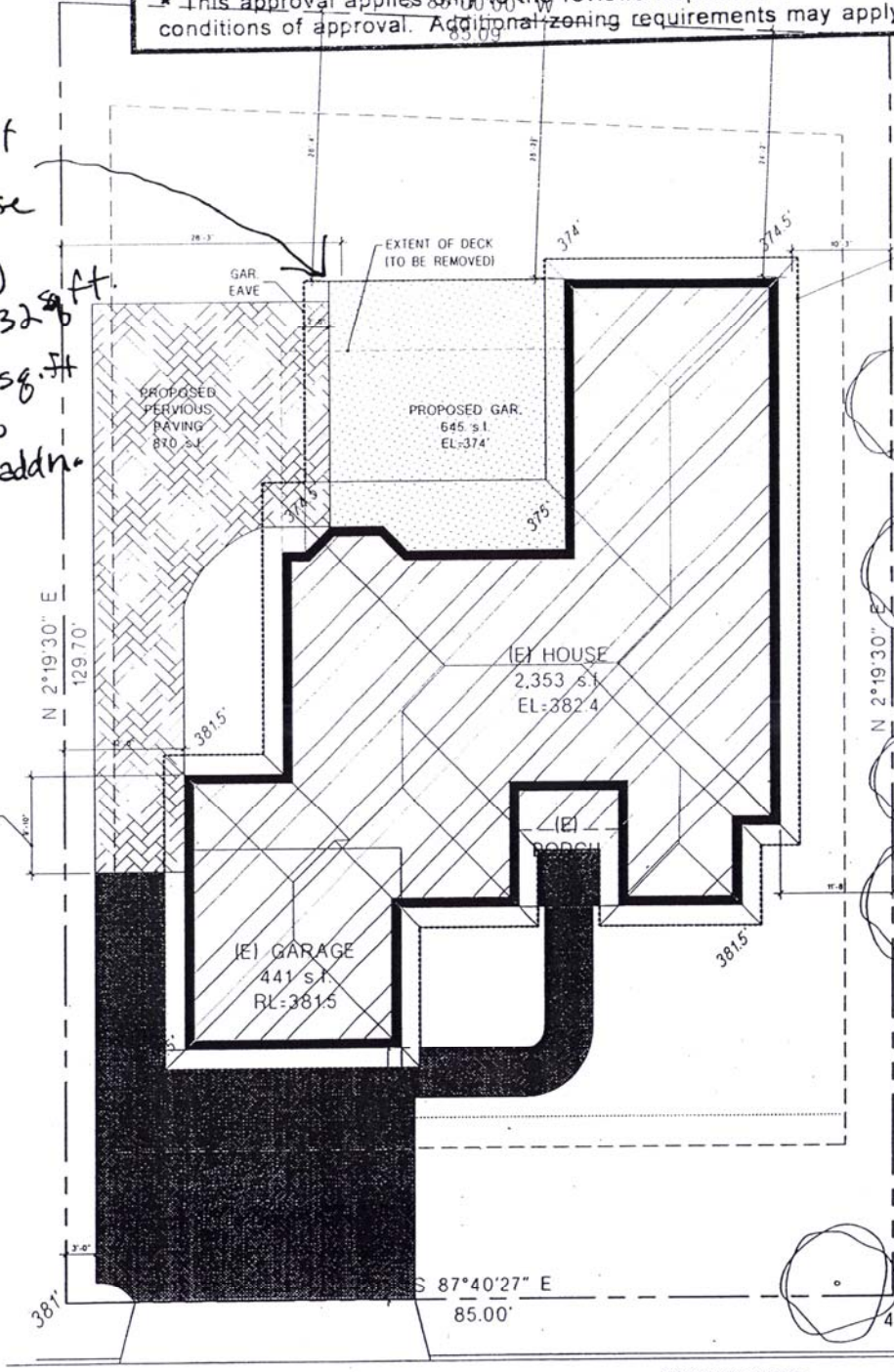
City of Portland - Bureau of Development Services

Planner Kathleen A. Stokes Date December 17, 2013

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



AD request to increase bldg covg from 3032 sq. ft. to 3439 sq. ft. for new garage addn.



BOLD DASHED LINE DENOTES EXTENT OF IMPERVIOUS BUILDING AREA (4,021 s.f. - INCLUDES EAVES OF ORIG. HOUSE AND NEW GARAGE)

EXTENT OF REMOVAL

* EXISTING DECK REMOVAL	-567 SF
* PROPOSED GARAGE ADDN	109 SF
NET PROPOSED TOTAL ADDN	-458 SF
* INCLUDES AREA UNDER HOUSE EAVES!	

TREE PRESERVATION / REFORESTATION

LOT AREA	10,217 SF
CALIPER REQ'D (2" / 1,000 SF)	2043 INCHES
EXISTING CALIPER ON SITE / WITHIN 5'	23 INCHES
TREE CALIPER TO ADD	0 INCHES

XXXXXXXX SILT FENCE

○ PROPOSED TREE TO KEEP

FRONT YARD COVERAGE (40% MAX)

DRIVEWAY	805 SF
FRONT YARD	2105 SF
PERCENTAGE	37.66%

IMPERVIOUS COVERAGE (PROPOSED)

HOUSE PLUS ADDN GAR (INCL PORCHES & EAVES) 4,021 SF	
EXIST'G DRIVE, WALK & PORCH (INCL EAVES) 1,068 SF	
TOTAL	5,089
PERCENTAGE OF 10,217 s.f. LOT AREA!	49.81%

LOT COVERAGE OF EXIST'G BLDG

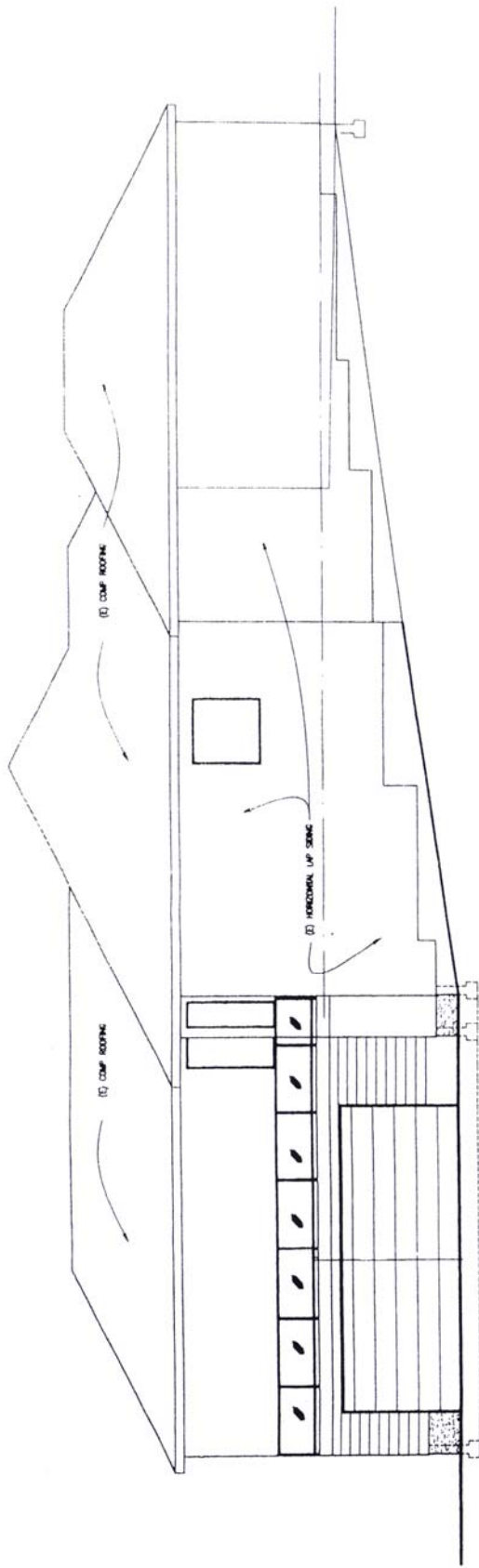
LOT AREA	10,217 SF
ALLOWABLE (0.250 SF - 15% x 5,000 SF)	3,032 SF
* BUILDING AREA	3,361 SF
RESIDUAL COVERAGE	OVER BY 329 SF
* INCLUDES PORCHES AND DECK OF 567 s.f. (NO EAVES)	

LOT COVERAGE INCLUDING GARAGE ADDITION

LOT AREA	10,217 SF
ALLOWABLE (0.250 SF - 15% x 5,000 SF)	3,032 SF
* BUILDING AREA	3,439 SF
RESIDUAL COVERAGE	OVER BY 407 SF
* INCLUDES PORCHES & ADDN GARAGE OF 645 s.f. (NO EAVES)	

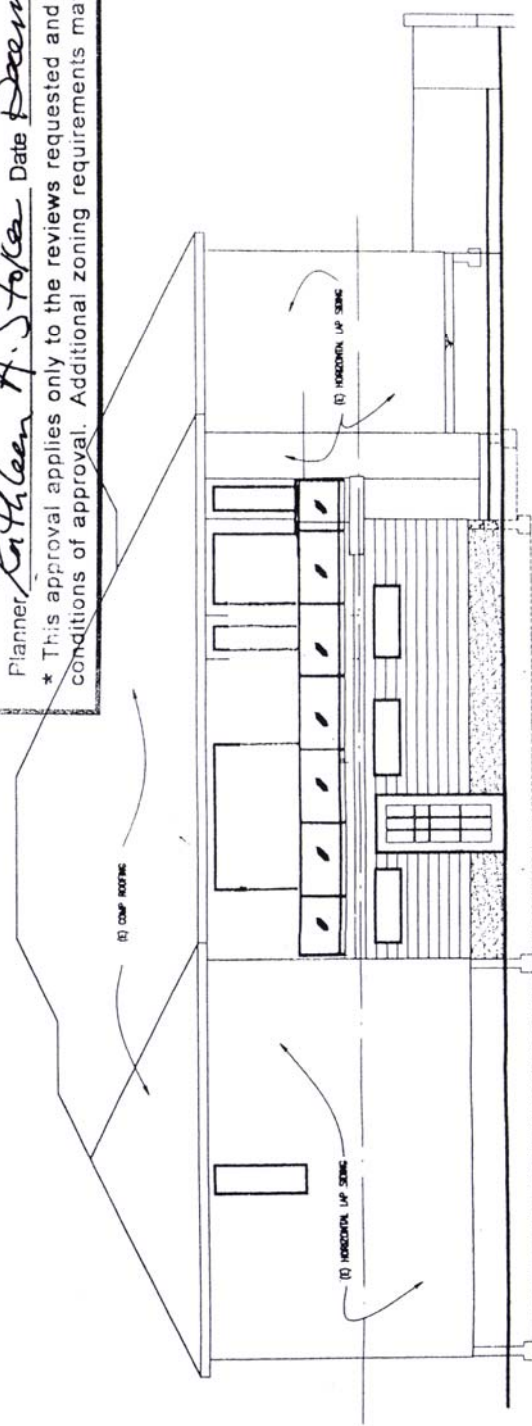
LU 13-
214 441 AD
Exhibit C-1

S.E. CLATSOP STREET



Left Side (west side) Elevation

Approved
 City of Portland - Bureau of Development Services
 Planner *Kathleen A. Stokes* Date *December 7, 2013*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



Rear Side (north side) Elevation

pp00958262

Exhibit C-2

LN 13-214441 AD