



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

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**Date:** July 22, 2014  
**To:** Interested Person  
**From:** Sheila Frugoli, Land Use Services  
 503-823-7817 / [Sheila.Frugoli@portlandoregon.gov](mailto:Sheila.Frugoli@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 14-162833 AD**

**GENERAL INFORMATION**

**Applicant:** Josh Patrick  
 Metro Homes NW, LLC  
 211 NE Weidler  
 Portland, OR 97232

**Site Address:** 8004 SE RHINE ST

**Legal Description:** BLOCK 2 LOT 12&13, WAPELLO PK  
**Tax Account No.:** R878800690  
**State ID No.:** 1S2E08DA 07300  
**Quarter Section:** 3438  
**Neighborhood:** Foster-Powell, contact Aaron Sorenson at 971-235-0025.  
**Business District:** Eighty-Second Ave of Roses Business Association, contact Frank Harris at 503-774-2832.  
**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.  
**Plan District:** None  
**Zoning:** R2a, Multi-Dwelling Residential 2,000 zone with the “a” Alternative Design Density overlay zone  
**Case Type:** AD, Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:** The applicant has submitted, under separate review, for a Property Line Adjustment to reestablish and move an existing platted lot line to create a new buildable lot (14-138287 PR). The existing house and a portion of the garage will remain on the adjusted corner lot (5,120 square feet). The new vacant lot will be 1,800 square feet.

Because the corner lot will be reconfigured, the west (SE 80<sup>th</sup> Avenue) property line will be the “front lot line” instead of the “side lot line”. The applicant is requesting an Adjustment to allow the existing house and garage to be located within the required setback area. Specifically, the

applicant is requesting an Adjustment to reduce the front setback from 10 feet to 7.5 feet and to reduce the garage entrance setback from 18 feet to 7 feet, 5 inches.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are Adjustment, 33.805.040.A-F.

## ANALYSIS

**Site and Vicinity:** The corner lot is developed with a 1-story ranch-style home with an attached garage. The subject property is located one block south of SE Powell and on the block that fronts SE 82<sup>nd</sup> Avenue. The immediate area is comprised of a mix of uses—commercial, employment, institutional, multi-dwelling residential and single-dwelling residential. Except for a large institutional use—St. Anthony Village, a senior residence and memory care facility that is located southwest of the site, most of the other properties that are south and west of the subject site are developed with single-dwelling residences. To the north and east, properties are developed with a mix of more intensive land uses—commercial and multi-dwelling uses.

**Zoning:** The site is zoned R2a, Multi-Dwelling Residential 2,000 zone with the “a” Alternative Design Density overlay zone. The R2 zone is a low density multi-dwelling zone. It allows approximately 21.8 dwelling units per acre. Lots for detached houses may be as small as 1,600 square feet. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments.

**Land Use History:** City records indicate only the active Property Line Adjustment review—14-138287 PR.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **June 19, 2018**. The following Bureaus have responded with no issues or concerns:

- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.5);
- Life Safety Plan Review Section of BDS (Exhibit E.5); and
- Urban Forestry (Exhibit E.5).

The **Bureau of Environmental Services** responded with the following comments:

BES does not object to the requested setback reduction, but the applicant is reminded that setback widths less than 10' will necessitate review by BDS for a plumbing code appeal if a covenant for future easement is pursued through PLA 14-138287-PR (yet to be reviewed by BES staff). See additional comments related to sewer connection requirements – and other sanitary/stormwater issues – in the staff response to Early Assistance application 14-128882-EA. (Exhibit E.1)

The **Portland Bureau of Transportation** responded with the following comments:

PBOT has no objection to the reduced setback. However, the applicant is advised that no vehicle may be parked in front of the existing garage as it will encroach into the required pedestrian through zone.

For a Local Service street, along an R2-zoned site, the City’s Pedestrian Design Guide recommends an 11-ft sidewalk corridor (0.5-ft curb/4-ft furnishing zone/6-ft sidewalk/0.5-ft frontage zone). There is currently 9-ft of ROW behind the existing curb on SE 80<sup>th</sup>. While it is not PBOT’s current policy to require dedication of property for ROW for this type of development, **frontage improvements within the existing ROW will be required prior to the issuance of a demolition permit for the removal of the garage**. Improvements will include a 0.5-ft curb/ 3-ft furnishing zone/5-ft sidewalk/0.5-ft frontage zone.

The applicant is advised that at such time as the subject property is redeveloped resulting in an increase in use/density at this location, a 2-ft dedication of property for ROW purposes will be required in order to construct the standard 11-ft corridor. (Exhibit E.2)

The **Site Development Section of BDS** responded with the following comments:

**Septic system.** City records show that the residence at 8004 SE Rhine Street was constructed in 1953 and changed from cesspool to sewer in 1997. City records do not show that the on-site sanitary disposal system(s) were decommissioned at the time the house was connected to the public sewer system. The site contains multiple abandoned cesspools. The applicant has submitted, under separate review, for a Property Line Adjustment to reestablish and move an existing platted lot line to create a new buildable lot (14-138287 PR). The existing house and a portion of the garage will remain on the adjusted corner lot (5,120 square feet). The proposed property line is over 5 ft from any of the abandoned cesspools. The applicant is required to complete a Disclaimer for Existing On-site Sewage Disposal System with the building permit application for the garage demolition. (Exhibit E.4)

**Staff Comments:** *The requirements identified by BES, Site Development and PBOT will be applied as part of the Property Line Adjustment review and/or Building Permit review for the new house that will be developed on the newly created 1,800 square foot lot.*

**Neighborhood Review:** No written responses were received from either the Neighborhood Association or notified property owners in response to the “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 Section 33.110.220, Setbacks. The purpose statement for this regulation is as follows:

*Purpose:* *The building setback regulations serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the City’s neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The applicant has submitted a request for a Property Line Adjustment, which changes the “front lot line” from SE Rhine to SE 80<sup>th</sup> Avenue. In order to receive approval, the applicant has requested an Adjustment request is to allow for a reduced front and garage entrance setback for existing development.

No changes are proposed to the house. Therefore, there will be no impact to privacy for the neighboring properties. The existing garage was reduced in size (building permit #14-138933 RS), but neither the house nor the garage will be moved from its current location. No additional windows or openings were added to the garage façade. The home has been located within 7.5 feet from SE 80<sup>th</sup> Avenue since its original construction in the 1950’s. Given this, the reduction of the

front building and garage entrance setbacks will not negatively affect privacy, light or air, and there remains adequate fire fighting access. The Fire Bureau has reviewed the proposal and has no concerns (Exhibit A.5). The Portland Bureau of Transportation (PBOT) has reviewed this proposal and notes no concerns about the reduced setback but states that vehicles may not park in the driveway if they encroach into the pedestrian (sidewalk) corridor (Exhibit A.2).

The immediate area contains a variety of housing types and a mix of uses. Setbacks vary depending on the architectural style, size and use of the structures. Because the location of the house and attached garage will not change, there will continue to be a reasonable physical separation between the structure and nearby homes.

For the reasons stated above, this approval criterion is met.

**B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area; and

**Findings:** As explained under criterion A, the location of the house and garage entrance will not change. The 7.5 foot separation between the property line and SE 80<sup>th</sup> Avenue will be maintained. Therefore, the livability and appearance of the residential area will not be affected. This approval 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:** One Adjustment, to modify the setback to the minimum front and garage entrance setback, has been requested. Therefore, this criterion does not apply.

**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 stated under criterion A and B, the adjustment will not create impacts to the existing development and nearby properties. Therefore, no mitigation is necessary. 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

As reflected in the findings of this report, the proposal addresses the approval criteria and therefore should be approved.

**ADMINISTRATIVE DECISION**

**Approval** of an Adjustment to reduce the front setback from 10 feet to 7.5 feet and to reduce the garage entrance setback from 18 to 7 feet, 5 inches to allow the existing house and attached garage to be located within the required front setback area (33.120.220), per the approved site plan, Exhibit C.1, signed and dated July 18, 2014. This review is necessary in order to complete the Property Line Adjustment review PR 14-138287.

**Staff Planner: Sheila Frugoli**

**Decision rendered by:**  on **July 18, 2014**

By authority of the Director of the Bureau of Development Services

**Decision mailed: July 22, 2014**

**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 29, 2014, and was determined to be complete on **June 17, 2018**.

*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 29, 2014.

*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 August 5, 2014** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> 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 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 **August 6, 2014 – (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.

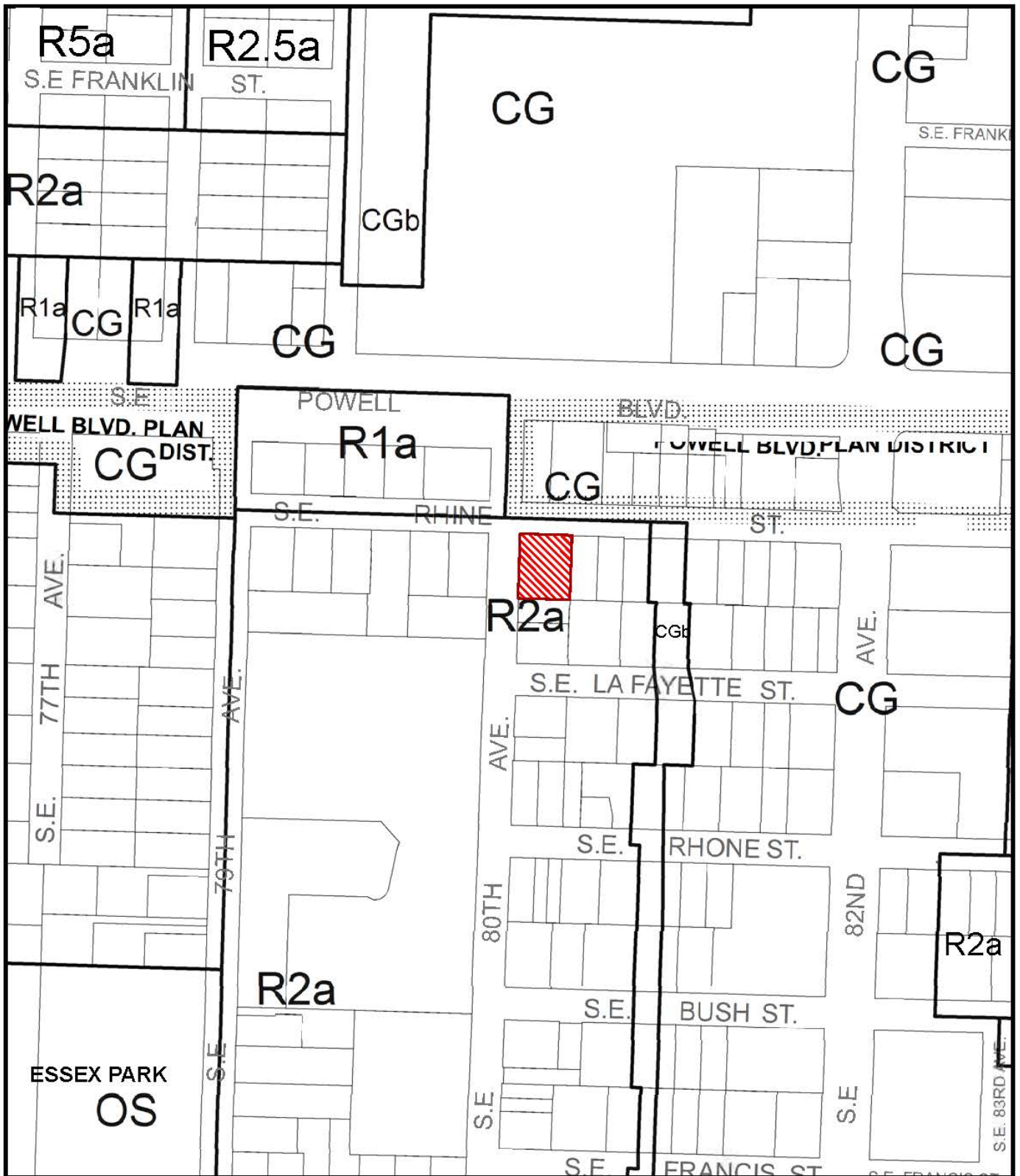
#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Original Narrative
  - 2. Revised Narrative, Submitted June 11, 2014
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Site Plan with Original Garage and West Elevation Showing Change to Garage Façade
  - 3. Photos of House
- 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. TRACS Print-Out Showing "No Concerns" from Fire Bureau, Life Safety Plan Review of BDS and Urban Forestry
- F. Correspondence: NONE
- G. Other:
  - 1. Original LU Application
  - 2. Early Assistance Summary Memo
  - 3. Incomplete Application Letter from Staff to Applicant

**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



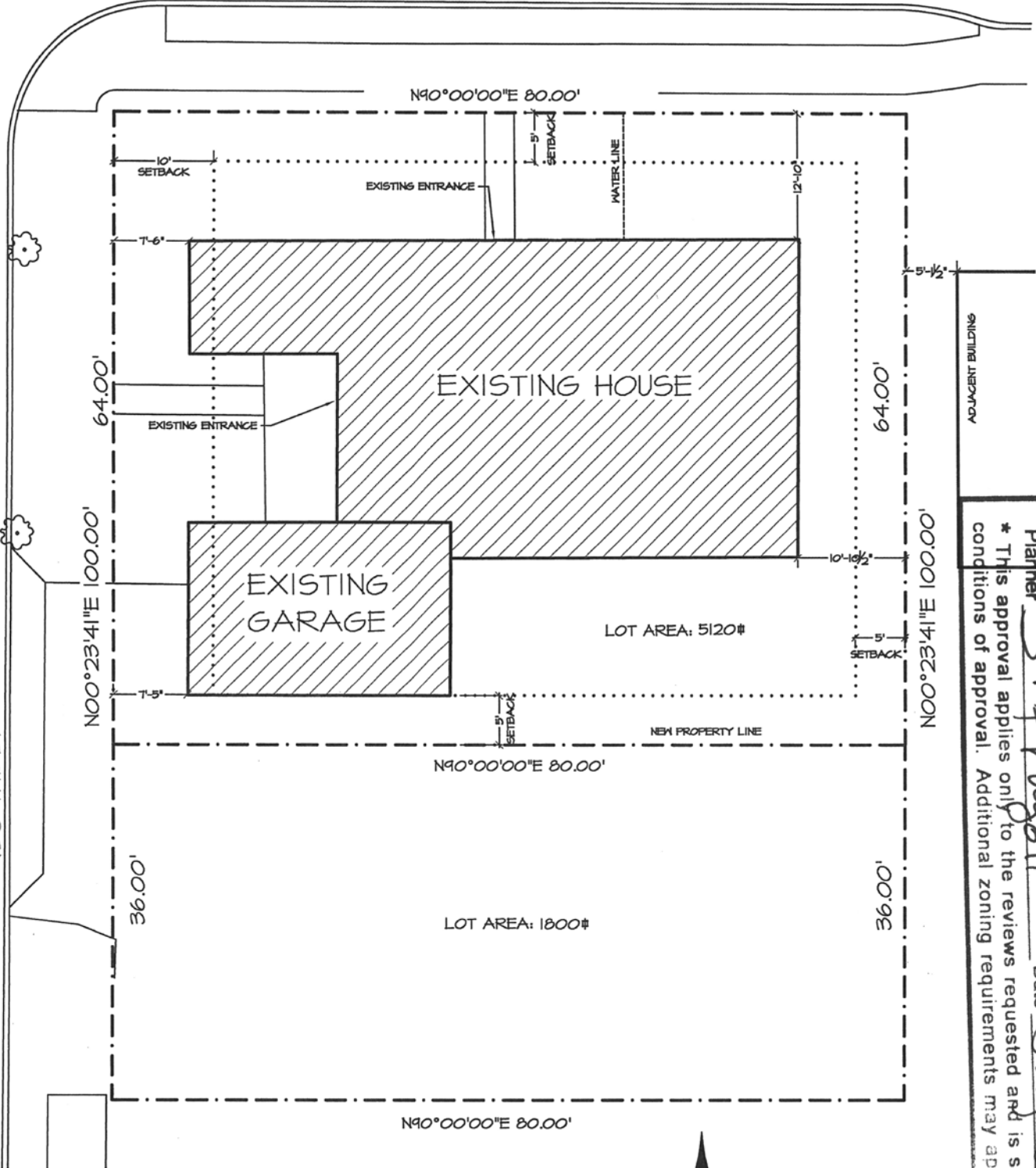
NORTH

File No. LU 14-162833 AD  
 1/4 Section 3438  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E08DA 7300  
 Exhibit B (June 3, 2014)



SE RHINE STREET  
(50' WIDE)

SE 80TH AVENUE  
(50' WIDE)



SITE PLAN



3/16" = 1'-0"

\* Approved \*

City of Portland - Bureau of Development Services

Planner S. Fringsli Date July 18, 2014

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

Exhibit C.1

LU 14 - 16283 3AD