



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

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Date: September 14, 2017
To: Interested Person
From: Lauren Russell, 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 mailed copy of this document is only a summary of the decision. 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 17-194632 AD

GENERAL INFORMATION

Applicant: Eric Gamer
Eric R Gamer Design
3305 NE 59th Ave
Portland, OR 97213 / 503-284-6070

Owner: David A Lee
716 NE 28th Ave
Portland, OR 97232

Contractor: Terry Long
SKL Construction
8577 SW Dakota Dr
Tualatin, OR 97062

Site Address: 716 NE 28TH AVE

Legal Description: BLOCK 8 LOT 7, YORK
Tax Account No.: R934901650
State ID No.: 1N1E36BC 02900
Quarter Section: 2933
Neighborhood: Kerns, contact Elliott Mantell at commonchiro@yahoo.com
Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Plan District: None
Zoning: R1 – Multi-Dwelling Residential 1,000
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant would like to build a new driveway, with an on-site parking space to allow a plug-in electric car to be charged. There is no existing driveway on the site and the new driveway is proposed to slope steeply down from the front property line, as if it were leading to a tuck-under garage, though no new garage is proposed. A parking space must be at least 9 feet by 18 feet per Zoning Code Section 33.266.120.D.1 and must be located outside the 10-foot front setback per Zoning Code Section 33.266.120.C.1.a, which means the driveway must be at least 28 feet in length measured from the front lot line. Due to the location of the existing house on the site, the proposed driveway would be 22'-2" in length instead of the required 28 feet. Therefore, the applicant requests an Adjustment to allow the on-site parking space to extend 5'-10" into the front setback.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A through F of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The subject site is a 3,650 square foot lot located on the east side of NE 28th Avenue between NE Oregon Street and NE Irving Street. The site is currently developed with two-story single-dwelling residence. There is no on-site parking space. Adjacent properties on the subject block are also developed with one- to two-story single-dwelling residences, most with on-site parking spaces. On the other side of NE 28th Avenue are some large multi-dwelling apartment buildings. Low-scale commercial development is located about one block to the north at the intersection of NE 28th Avenue and NE Sandy Boulevard.

Zoning: The R1 zone is one of the City's multi-dwelling zones, which are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The development standards work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

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 July 20, 2017. The following Bureaus have responded with no issues or concerns regarding the proposed Adjustment:

- Bureau of Environmental Services responded that the pollution and flow control requirements of the Stormwater Management Manual are not triggered; however, a safe stormwater disposal location that does not impact adjacent properties or structures must be shown at the time of building permit submittal (Exhibit E-1);
- Bureau of Transportation Engineering responded with no objections (Exhibit E-2);
- Water Bureau responded with no concerns (Exhibit E-3);
- Fire Bureau responded with no concerns (Exhibit E-4);
- Site Development Section of BDS responded with no concerns (Exhibit E-5); and
- Life Safety Review Section of BDS responded that retaining walls over 4 feet in height require a building permit and that the proposal must be designed to meet all applicable building codes and ordinances (Exhibit E-6).

Neighborhood Review: One written response has been received from a notified neighbor in response to the "Notice of Proposal." The respondent expressed concerns that the new driveway would cause more on-street parking spaces to be lost on NE 28th Avenue, which already has inadequate parking due to the new bike lane, and would like to see better demarcation of parking spaces in the area so that the new driveway does not worsen the parking situation.

Staff response: The Transportation (PBOT) reviewer looked at the proposed driveway and the buffered bike lane and found that because the buffered bike lane is on the opposite side of the street from the subject property, the driveway will not be in conflict with the bike facility. At this time, PBOT will not require on-street parking spaces in the area to be demarcated.

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 applicant has demonstrated 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 allow the on-site parking space to extend 5'-10" into the front setback. The purpose of the vehicle parking requirements for houses and duplexes is stated in Zoning Code Section 33.266.120.A:

33.266.120.A Purpose: *The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.*

The new driveway would be 11 feet wide and 22'-2" long as measured from the front property line, which would be long enough to accommodate the required 9-foot-wide by 18-foot-long parking space without overhanging into the public right-of-way. The new on-site parking space would slope down away from the street, so it would not block views to the elevated front porch and main entrance to the house. At 11 feet wide, the driveway would occupy only 22-percent of the area between the front of the house and the front property line. The remainder of this area would be landscaped or provide pedestrian access to the main entrance of the house. Additionally, surrounding properties also contain driveways that extend into the front setback area with vehicles parked in the driveway. Based on these reasons, the proposed Adjustment equally meets the intent of the regulation 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 subject site is located in a multi-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. The new 22'-2" long driveway would ensure that the required 9-foot-wide by 18-foot-long parking space will not extend into the adjacent sidewalk, thereby maintaining safe access for pedestrians. The new on-site parking space would slope down away from the street, so it would not block views to the elevated front porch and main entrance of the house, which would minimize the effect on the appearance of the front yard. As stated above in the findings for Approval Criterion A, the new driveway

would only result in 22-percent of the front yard used as vehicle area, while up to 40-percent is allowed by right. By maintaining the majority of the yard as open, vegetated space or for use by pedestrians, the new driveway would not detract from the appearance of the surrounding residential area. For these reasons the proposal has no negative impacts to neighborhood livability or appearance. 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: Because only one Adjustment is being requested, this criterion is not applicable.

D. City-designated scenic resources and historic resources are preserved; and

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. Because there no scenic or historic resource designations are mapped on the subject site, this criterion is not applicable.

E. Any impacts resulting from the Adjustment are mitigated to the extent practical; and

Findings: As discussed in the findings for Approval Criterion B, the proposal has no adverse impacts on the livability or appearance of the surrounding residential area for which mitigation would be required. Therefore, this criterion is met.

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

Findings: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). Because no environmental overlay zone is mapped on subject site, this criterion is not applicable.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

The proposal to allow the on-site parking space to extend 5'-10" into the front setback equally meets the intent of the regulations and does not have adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Because the approval criteria are met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to allow the on-site parking space to extend 5'-10" feet into the front setback (Zoning Code Section 33.266.120.C.1), in conformance with Exhibits C-1 through C-3, signed and dated September 11, 2017, 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 information and design approved by this land use review as indicated in Exhibits C-1 – C-3. The sheets on which this information appears

must be labeled, "Proposal and design as approved in Case File # LU 17-194632 AD. No field changes allowed."

Staff Planner: Lauren Russell

Decision rendered by:  _____ **on September 11, 2017.**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 14, 2017

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 June 28, 2017, and was determined to be complete on July 17, 2017.

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 June 28, 2017.

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: November 14, 2017.**

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 September 28, 2017** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **September 29, 2017** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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:

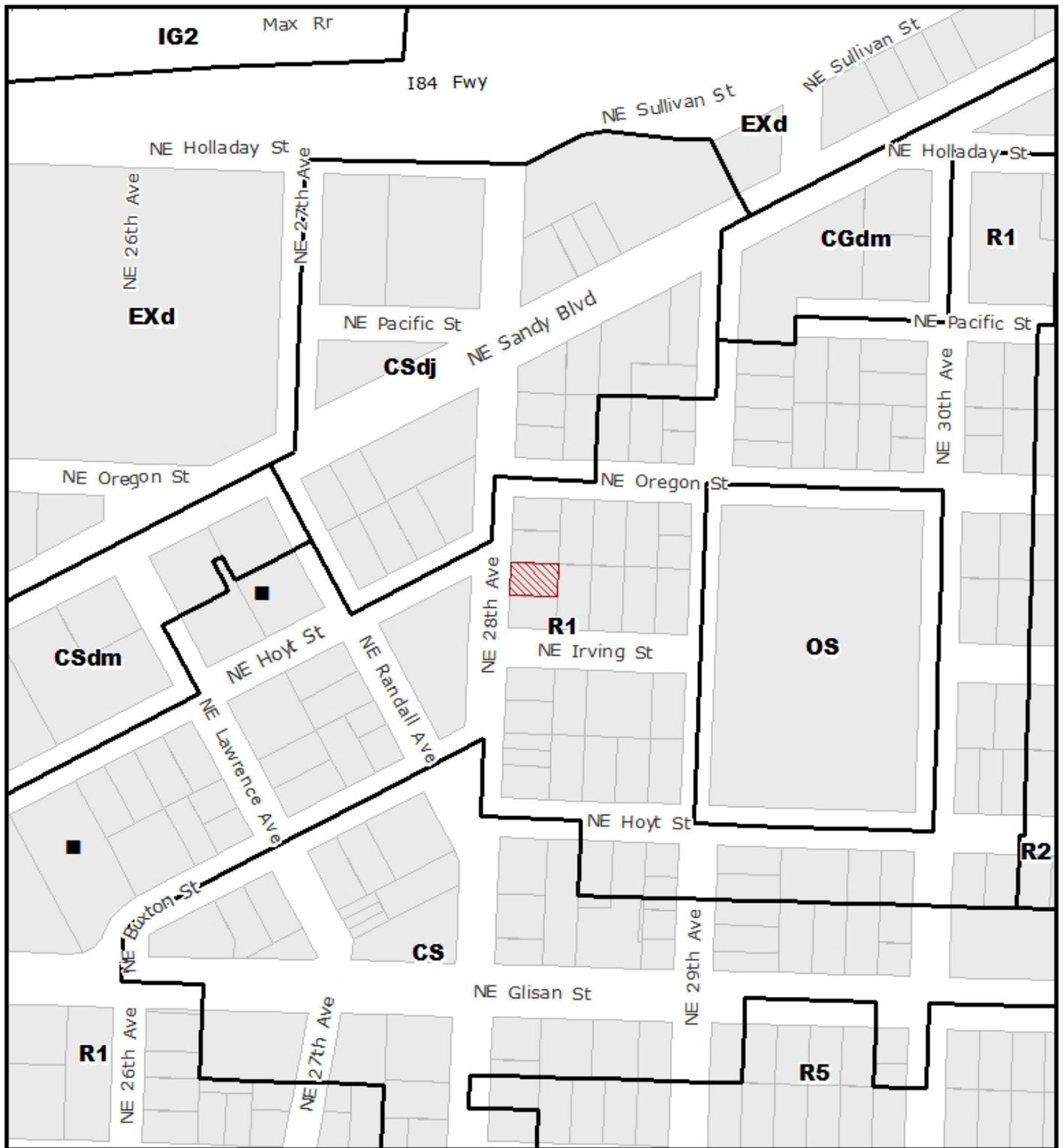
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative and Plans received 6/28/17
 - 2. Revised narrative and Plans received 7/17/17
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Front Elevation (attached)
 - 3. Section Drawing (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. Life Safety Review Section of BDS
- F. Correspondence:
 - 1. Otto Gyax, received 7/31/17, email in opposition
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter mailed 7/13/17

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

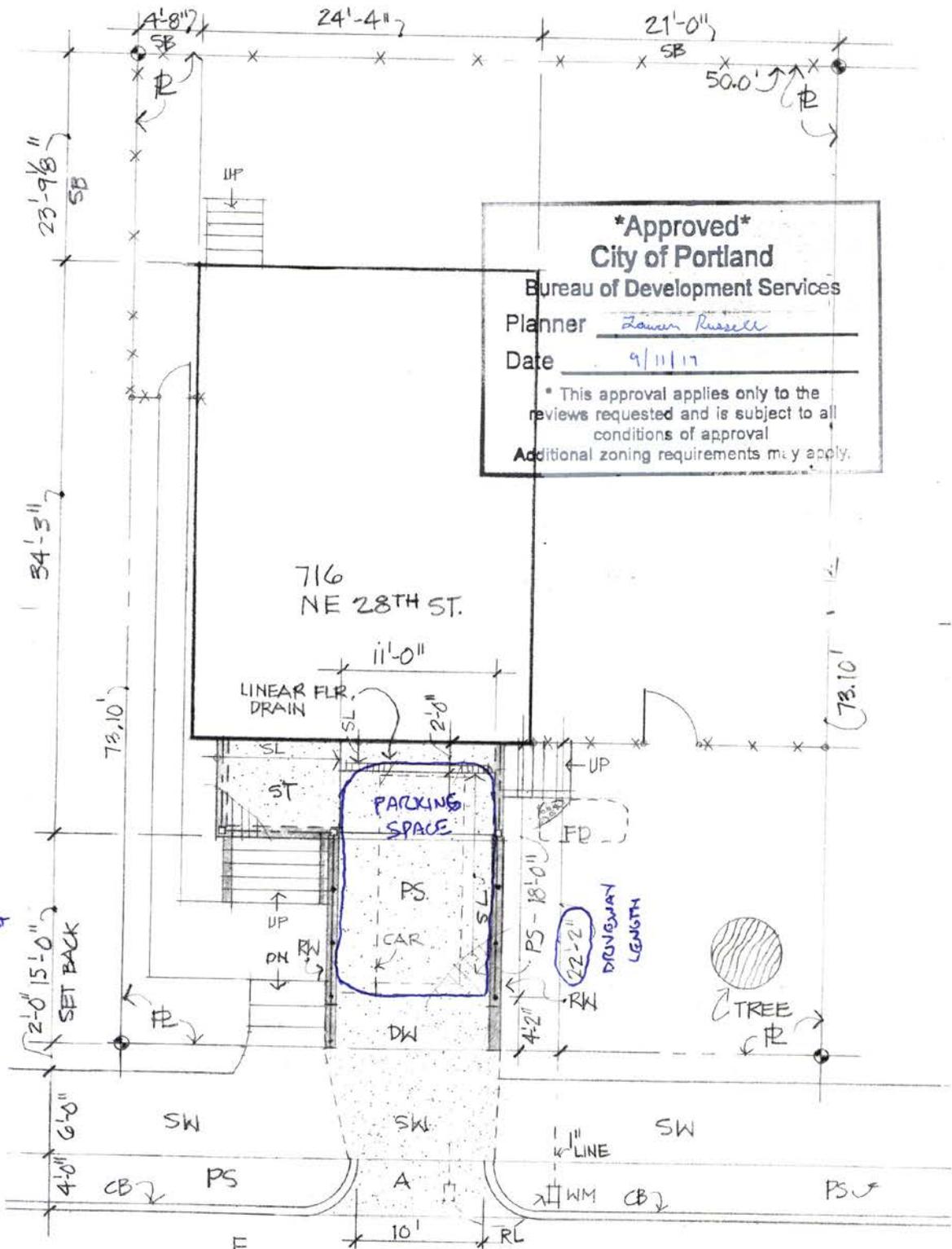


Site



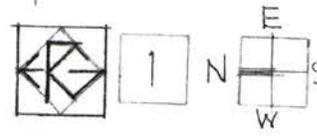
Historic Landmark

File No.	LU 17-194632 AD
1/4 Section	2933
Scale	1 inch = 200 feet
State ID	1N1E36BC 2900
Exhibit	B Jun 28, 2017



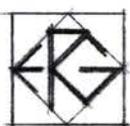
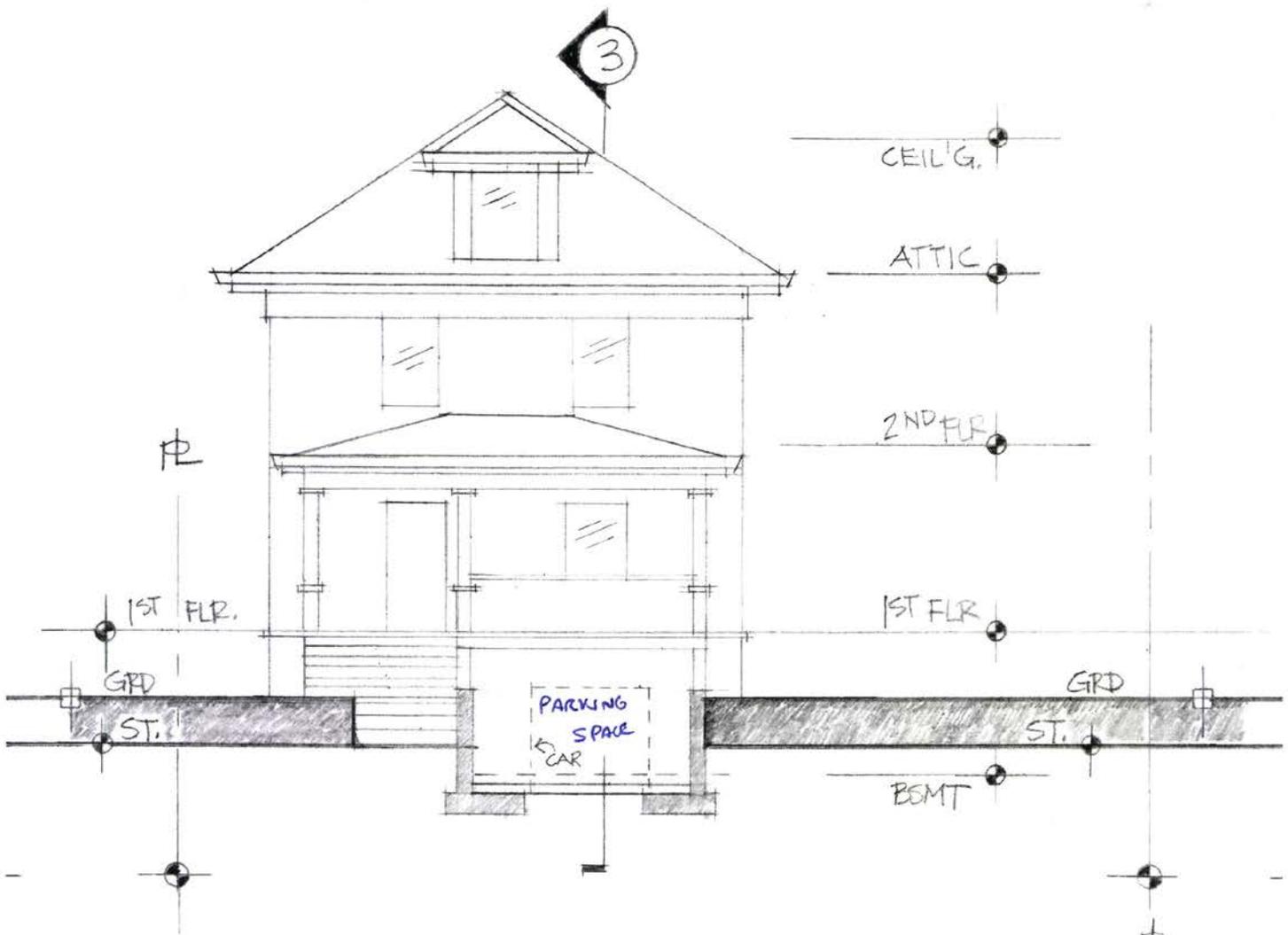
Approved
City of Portland
 Bureau of Development Services
 Planner Laura Russell
 Date 9/11/17
 * This approval applies only to the reviews requested and is subject to all conditions of approval
 Additional zoning requirements may apply.

ADJUSTMENT REQUEST
 TO ALLOW THE
 ON-SITE PARKING
 SPACE TO EXTEND
 5'-10" INTO THE
 FRONT SETBACK..



SITE PLAN-LEE DRIVEWAY PROJECT
 1/8" ERIC GAMER DESIGN 503.284.6078 1/14/17 6.16.17 6.27.17
 7.6.17 7.14.17

CASE NO. 17-194632 AB
 EXHIBIT C-1

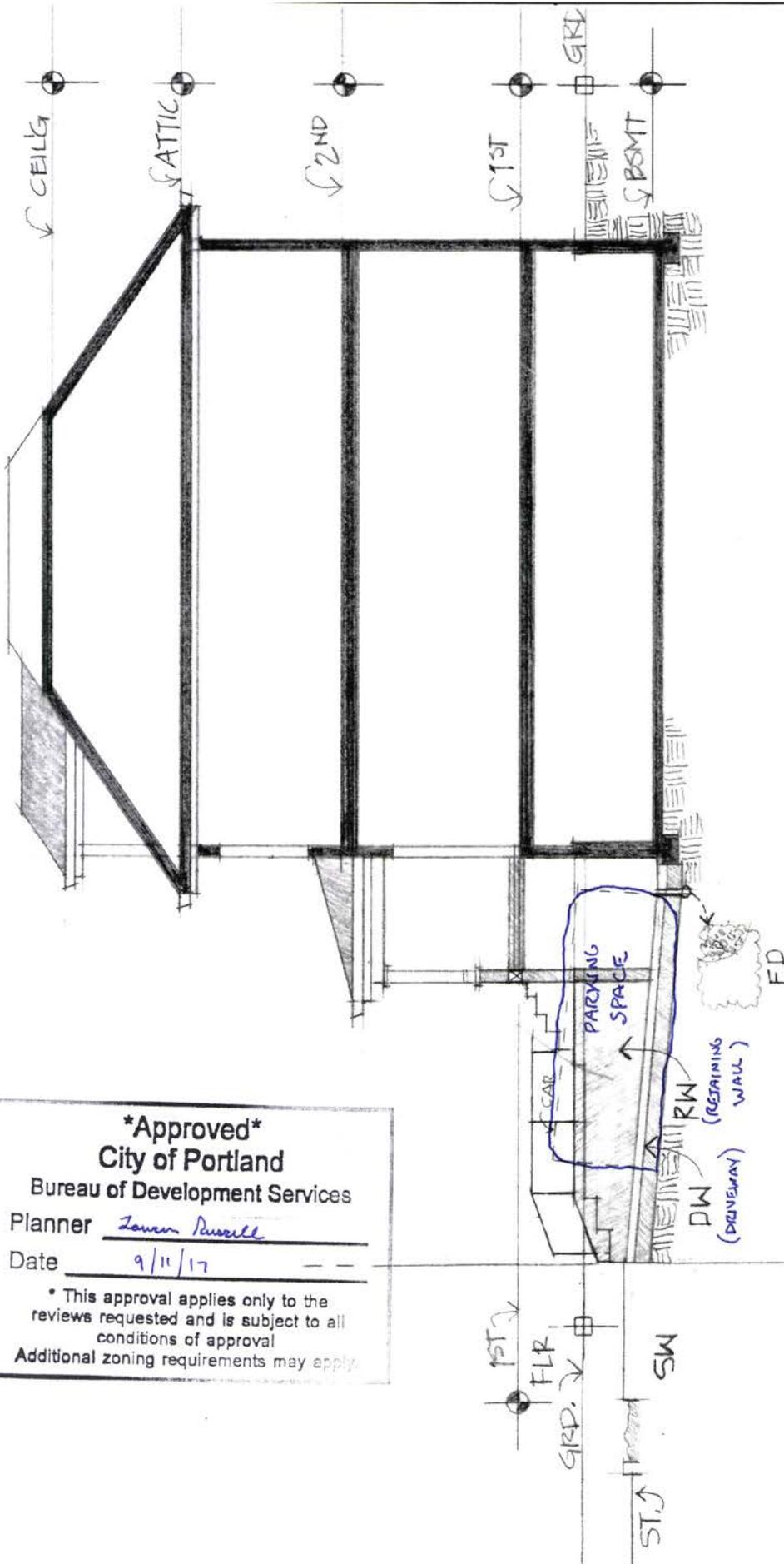


2 WEST ELEVATION-LEE DRIVEWAY Project

1/8" = 1'-0" ERG DESIGN

6.16.17 / 6.27.17
5:57P

Approved
City of Portland - Bureau of Development Services
 Planner Lauren Russell Date 9/11/17
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



Approved
City of Portland
 Bureau of Development Services
 Planner Laura Russell
 Date 9/11/17

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 Additional zoning requirements may apply.

SECTION - LEE DRIVEWAY PROJECT

6.16.17 / 6.27.17 / 7.6.17 / 7.14
 7:44P

