



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

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**Date:** March 13, 2018  
**To:** Interested Person  
**From:** Don Kienholz, Land Use Services  
503-823-7771 / [Don.Kienholz@portlandoregon.gov](mailto:Don.Kienholz@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 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 17-270932 AD**

#### **GENERAL INFORMATION**

**Applicant:** Jason Omelchuck | Trace Brash Construction  
3360 NE 12th Ave | Portland OR, 97212

**Owner:** Alec Y Steury  
845 NE 109th Ave | Portland, OR 97220

**Site Address:** 845 NE 109TH AVE

**Legal Description:** BLOCK 2 LOT 3, SWAGGART ADD  
**Tax Account No.:** R814100550  
**State ID No.:** 1N2E34BD 03900  
**Quarter Section:** 2941

**Neighborhood:** Hazelwood, contact Arlene Kimura at 503-252-9429.  
**Business District:** Gateway Area Business Association, contact Paul Wild at [paul.wild@mhcc.edu](mailto:paul.wild@mhcc.edu)  
**District Coalition:** East Portland Neighborhood Office, contact Victor Salinas at 503-823-6694.

**Plan District:** None

**Zoning:** R7 – Single Dwelling Residential, 7,000

**Case Type:** AD – Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:**

The subject property has an existing single-dwelling home with an attached garage that provides the site's one required parking space (Portland Zoning Code section 33.266.110). The applicant is requesting to convert the existing attached garage into an office for the home and

remove the site's one required parking space. Because the applicant is requesting to reduce the minimum number of on-site parking spaces from one to zero, an Adjustment is required.

## ANALYSIS

**Site and Vicinity:** The subject site is zoned R7 and developed with a single-family dwelling with an attached garage. The property is in the Hazelwood neighborhood and in an area colloquially known as "Gateway" just east of I-205 and north of Glisan Street. The neighborhood consists mainly of mid-century homes on large lots ranging in size from about 6,500-square feet upwards to 12,000 square feet. The segment of NE 109<sup>th</sup> the property fronts on is paved but lacks sidewalk infrastructure on both sides of the travel lanes. The lack of sidewalks renders front property line locations ambiguous.

**Zoning:** The Residential 7,000 zone (R7), is a Single-Dwelling zone intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 4,200 square feet, with minimum width and depth dimensions of 40 and 550-feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 7,000 square feet of 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 **January 25, 2018**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Water Bureau, Fire Bureau and Site Development Section of BDS (Exhibit E.2); and
- Life Safety (Exhibit E.3).

The Portland Bureau of Transportation Development Review Section evaluated and analyzed the proposal and provided comments (Exhibit E.4) noting that there will still be adequate area between the converted garage and property line to park a vehicle and that there is adequate on-street parking availability to meet demand in the area. *(Note that the applicant is not proposing a parking space on the paved area; no parking will remain on site).*

**Neighborhood Review:** One response was received from a notified property owner in response to the proposal. The comment by Vladimir Mosiychuk (Exhibit F.1) supported the proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 Approval Criteria

**The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.**

#### **A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and**

**Finding:** The proposal is to remove the site's one required on-site vehicle parking space from the property. Parking requirements are found in Portland Zoning Code Section 33.266. Specific to this request are the minimum required parking spaces, found in 33.266.110. The purpose statement that the proposal must equally meet is:

*'The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-*

*street parking. Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.'*

The relevant portion of the purpose statement above to the proposal is: "...to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time."

The use of the subject site is Household Living and no retail or office uses are existing or proposed. No changes to the existing zoning is anticipated in the foreseeable future. The parking standards require one on-site vehicle parking space per Household Living unit based on expected demand. In this case, the site requires one parking space since there is only a single-family dwelling on site. A residential parking space for a single-family dwelling is required to measure 9-feet wide by 18-feet deep and generally includes an approximately 12 to 14-foot wide driveway apron/approach. The subject site has a two-car paved vehicle area measuring 19-feet in width in front of the single-car garage. In practical terms, removing the on-site parking space and extending the existing fence across the 19-foot driveway access creates one 19-foot on-street parking space where the driveway and apron once were. This one-for-one exchange will satisfy the expected parking demand of the site. In addition, the applicant provided an on-site parking analysis of the immediate vicinity that the Portland Bureau of Transportation evaluated and determined provided adequate on-street parking to meet the demand of the use. A condition of approval will be included to ensure the driveway is closed off by extending an existing fence across the width of the driveway at the front of the lot.

Based on the above, staff finds the purpose of the vehicle parking requirement is equally met.

*Criterion 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**

**Finding:** The subject site is zoned R7, a residential zone. Because the subject site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. As discussed in the findings for Approval Criterion A, closing the driveway will result in one additional on-street parking and there will be no net loss in parking capacity. The condition of approval that the applicant must close the driveway by extending the fence ensures that additional on-street parking spaces will be available. According to PBOT, the available on-street parking spaces are sufficient to accommodate the expected demand for parking generated by the residential use of the site.

The request to waive the required on-site parking space does not directly impact the appearance of the residential area; however, providing on-street parking spaces rather than an on-site parking space allows for the residential appearance of the subject site to be maintained. Due to the location of the existing house on the site, a new on-site parking space would likely have to be located at least partially within the front setback, which could create a cluttered and auto-oriented appearance.

Based on the above, staff finds the proposal will not significantly detract from the livability and appearance of the surrounding residential area. With the condition of approval, this criterion is met.

*Criterion 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**

**Finding:** Only one Adjustment is being requested. This criterion is not applicable.

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

**Finding:** City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s,” while historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. The subject property is not within a City-designated ‘s’ overlay zone and is not a designated landmark or within a Historic or Conservation district. Considering the lack of proximity to any specific historic or scenic resources, identified city-designated resources will be preserved.

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

**Finding:** As found in staff responses to criteria A and B, the requested adjustment to the remove the parking space from the site equally meets the purposes of the parking requirements. Removing the parking space from the site will not adversely impact the livability or appearance of the residential area. Staff finds that the Adjustment is mitigated to the extent practical.

*Criterion 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;**

**Finding:** Environmental zones are identified on the Official Zoning Maps with a lower case ‘c’ or ‘p.’ The subject property is not within a City designated Environmental zone.

*Criterion met.*

## **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 reduce the one required on-site parking space down to zero, with the condition of approval that the applicant close off the driveway by extending the existing fence along the driveway line equally meets the intent of the parking regulations and does not have any adverse impacts on the livability or appearance of the surrounding residential neighborhood. The applicant has demonstrated that the approval criteria have been met. Because the approval criteria have been met, the proposal must be approved.

**ADMINISTRATIVE DECISION**

Approval of an Adjustment to reduce the required on-site vehicle parking space from one down to zero (Zoning Code Section 33.266.110), per the approved site plan, Exhibit C.1, signed and dated March 8, 2018, 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-270932 AD. No field changes allowed."
- B. The applicant is required to close the driveway and extend the existing fence across the driveway along the front of the lot line to permanently prevent vehicle access. One gate with a width of no more than 4-feet to allow only human passage is permitted across the closed driveway. The closed driveway and new fence must be shown on the final building permit plans.

**Staff Planner: Don Kienholz**

**Decision rendered by:**  **on March 8, 2018**

By authority of the Director of the Bureau of Development Services

**Decision mailed: March 13, 2018**

**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 November 15, 2017, and was determined to be complete on January 8, 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 November 15, 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: May 8, 2018.**

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**Appealing this decision.** This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on March 27, 2018** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> 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](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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **March 27, 2018** 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**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:

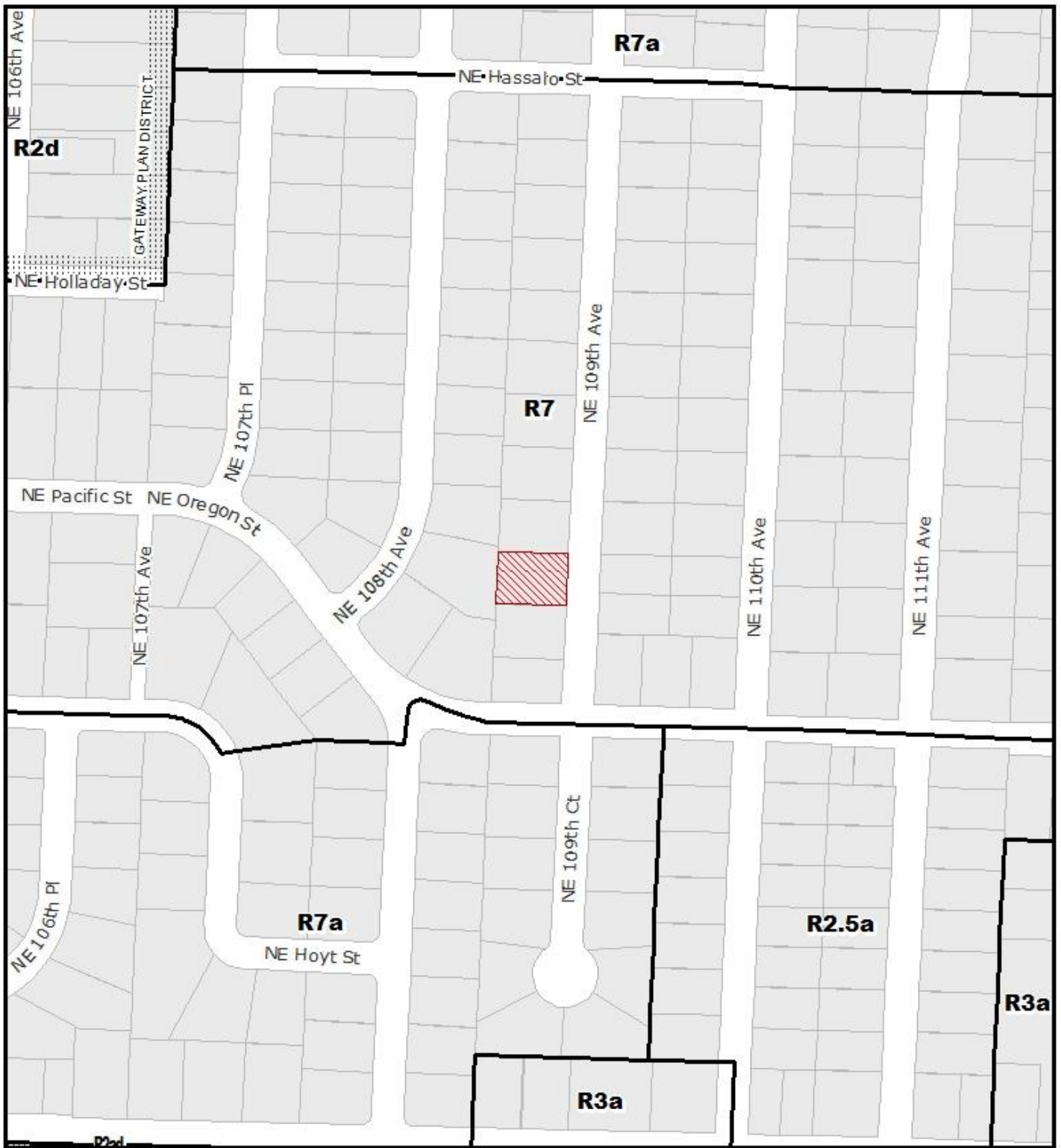
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Materials
  - 1. November 15, 2017 Narrative
  - 2. November 15, 2017 Existing Floor Plan
  - 3. November 15, 2017 Existing Front/East Elevation
  - 4. November 15, 2017 Existing Side/South Elevation
  - 5. November 15, 2017 Proposed Floor Plan for Garage Conversion to Living Space
  - 6. November 15, 2017 Proposed Site Plan Closing Driveway
  - 7. November 15, 2017 Set of Large Scale Plans
  - 8. January 8, 2018 Updated Existing Conditions Site Plan
- B. Zoning Map (Attached)
- C. Plans/Drawings:
  - 1. Site Plan (Attached)
- D. Notification Information:
  - 1. Mailing List
  - 2. Mailed Notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Site Development, Water Bureau and Fire Bureau
  - 3. Life Safety
  - 4. Bureau of Transportation Engineering and Development Review
- F. Correspondence:
  - 1. Vladimir Mosiychuk, January 30, 2018, Letter in Support of Proposal
- G. Other:
  - 1. Original LU Application
  - 2. Receipt of Payment
  - 3. December 4, 2017 Incomplete Letter
  - 4. January 8, 2018 Email From PBOT Engineer Approving Parking Impact Study

**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).**



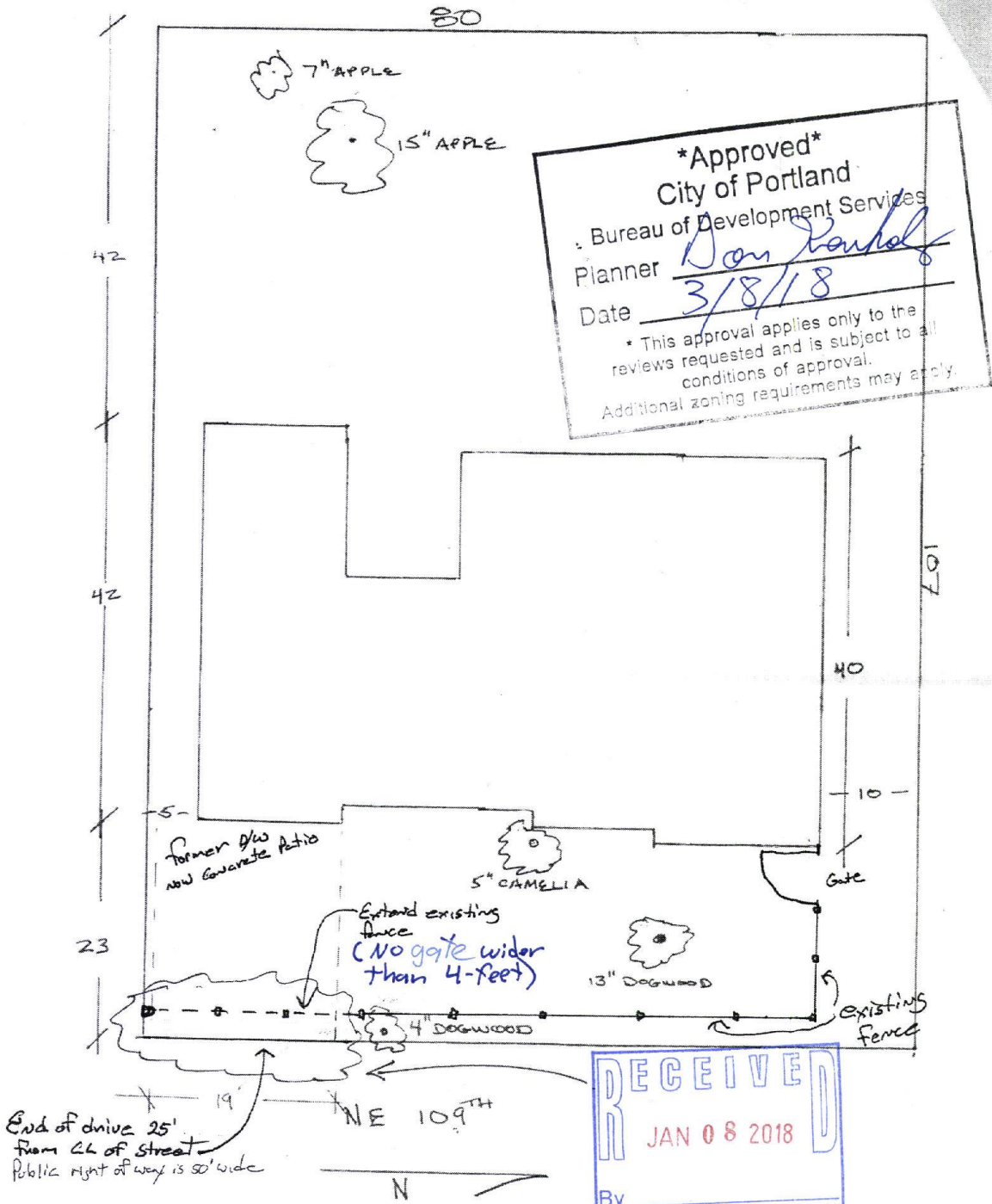
**ZONING**  NORTH

 Site

File No.	LU 17-270932 AD
1/4 Section	2941
Scale	1 inch = 200 feet
State ID	1N2E34BD 3900
Exhibit	B Nov 16, 2017



PROPOSED  
SITEPLAN 1" = 10'



**\*Approved\***  
 City of Portland  
 Bureau of Development Services  
 Planner Don Kaul  
 Date 3/8/18  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

RECEIVED  
 JAN 08 2018  
 By \_\_\_\_\_

End of drive 25'  
 from CL of Street  
 Public right of way is 50' wide

STEURY RESIDENCE  
 845 NE 109<sup>TH</sup> AVE  
 PORTLAND

TRACE REBAR CONST.  
 503.679.0565  
 CCR# 172746

CASE NO. 17-270932 AD  
 EXHIBIT C.1