



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

Ted Wheeler, Mayor
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: March 26, 2019
To: Interested Person
From: Don Kienholz, Land Use Services
503-823-7771 / 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 18-265554 AD

GENERAL INFORMATION

Applicant: David Grant, David Grant Construction
Po Box 16726, Portland OR 97292

Owners: Heidi Schopen and Michael Pardew
3916 SE 68th Ave, Portland, OR 97206

Site Address: 3916 SE 68TH AVE

Legal Description: BLOCK 4 LOT 19, RESERVOIR PK
Tax Account No.: R699402150
State ID No.: 1S2E08CA 13300
Quarter Section: 3437

Neighborhood: Foster-Powell, contact Shawn Morgan at 503-622-3933.
Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Plan District: None

Zoning: R5a – Single-dwelling residential 5,000 with an Alternative Design Density ('a') overlay zone.

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

Proposal:

The applicant is proposing to convert an attached garage into additional living space for the dwelling and relocate the required parking space that was in the garage to the driveway. Portland Zoning Code Section 33.266.120.C.1 and D requires all provided parking space to be 9x18-feet and located outside of the 10-foot minimum front setback. As such, to locate the

parking space in front of the former garage, the driveway length must be 28-feet from the front property line to the front of the building.

The applicant's driveway from the front property line to the wall of the former garage is 25-feet, 3-inches, which means the required 9x18-foot parking space will encroach 2.75-feet into the front building setback. Because the parking space is within the 10-foot minimum front setback, an Adjustment is required.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in Portland Zoning Code Section 33.805.040 Approval Criteria.

ANALYSIS

Site and Vicinity: The subject 4,000 square foot lot contains a detached single-family dwelling built in 1972 with an attached garage in the Foster-Powell neighborhood a block away from Kern Park. The property is in the middle of a large area bordered by SE Foster, SE Powell, and SE 82nd and generally zoned R5 with mixed use commercial along the border and a small pocket of R2.5 near Powell. Most lots are approximately 5,000 square feet in size and in a typical grid pattern. The area is filled with single-family dwellings generally built between 1900 and 1960 with infill homes from the 1980's and later commonly found. Given the wide range of homes in the vicinity, the development pattern is not consistent to close-in neighborhoods but a mixture of pre and post-war development.

Zoning: the site is zoned R5, Single-Dwelling Residential 5,000. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing. The use regulations are intended to create, maintain and promote single-dwelling neighborhoods. They allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood. The development standards preserve the character of neighborhoods by providing six different zones with different densities and development standards. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

The site is also mapped with the Alternative Design Density ('a') overlay. The overlay is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

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 **February 6, 2019**. The following Bureaus have responded with no issues or concerns:

1. The Bureau of Transportation Engineering responded (Exhibit E.1);
2. Bureau of Development Services Life Safety (Exhibit E.2);
3. Bureau of Environmental Services (Exhibit E.3) and
4. Site Development, Fire Bureau, and the Water Bureau (Exhibit E.4)

Neighborhood Review: 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

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. They also allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

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 applicant is proposing to retroactively convert the attached garage into additional living space. As a result, the required parking space will be relocated from the garage to the driveway in front of the former garage. As there is only 25-feet between the building and the property line, the requested Adjustment is to locate the required 9x18-foot parking space 3-feet into the front building setback (33.266.120.C.1). The purpose of the parking development standards for houses is found in 33.266.120.A:

“Purpose. The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.”

The proposal is to locate the required parking space 3-feet, or 30% into the required front building setback. The remaining 7-feet depth will still ensure that there will be adequate room behind a parked vehicle to so that the vehicle will not overhang the sidewalk and allow proper vision clearance when backing out. Additionally, with the homes in the area made up of both pre and post-war design, it is common to find vehicles parked in the driveway either in front of a garage and in the front building setback, or in front of a garage converted to living space and in the front building setback.

In place of the garage door, the applicant is proposing french doors to allow access from the converted living area to the driveway. The see-through door will allow a visual connection from the living space to the street, enhancing security. Additionally, the french door will improve the exterior façade of the home by adding curb appeal.

Given the encroachment into the front building setback is only 3-feet, there will be adequate room behind the parking space for vision clearance; the vehicle will not overhang the sidewalk; it is common in the area for a vehicles to be parked in front of a garage or the house and in the front building setback; and the french door will enhance the curb appeal of the home and increase security, staff finds the proposal will not adversely impact the appearance of the neighborhood and will enhance it.

Criterion met.

B. If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2

zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Finding: Staff found in Finding A above that the proposed Adjustment will not detract from the appearance of the residential area. As the proposed encroachment of the parking space into the front building setback will still allow appropriate vision clearance and prevent vehicles from overhanging the sidewalk and the new french door will improve curb appeal, the proposal will not detract from the livability of the area.

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, therefore this criterion is not applicable.

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

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 nor within proximity to an Historic Resource. Considering the lack of proximity to city-designated scenic and historic resources, staff finds development will not adversely impact scenic or historic resources and they will be preserved.

Criterion met.

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 allow a parking space to encroach 3-feet into the front building setback equally meets the purpose of the development standards for parking and vehicle areas for homes and will not significantly detract from the livability or appearance of the residential area. As such, no mitigation is necessary

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: The subject property is not within an environmental zone.

Criterion 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 requirements of Title 11 can be met, and 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 applicant has demonstrated that converting the garage into living space, replacing the garage door with french doors, relocating the required parking space to the driveway and allowing the required parking space to encroach 3-feet into the 10-foot minimum front building setback (33.266.120.C.1) will equally meet the purpose of the parking standards for homes and not detract from the appearance and livability of the area. Additionally, the proposal will not adversely impact historic, scenic or environmental resources. As the application has met the approval criteria, the proposal must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to allow the required parking space to encroach 3-feet into the 10-foot minimum front building setback (33.266.120.C.1) per the approved site and building elevation plans, Exhibits C.1 through C.2, signed and dated March 22, 2019, 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 18-265554 AD. No field changes allowed."

Staff Planner: Don Kienholz



Decision rendered by: _____ **on March 22, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 26, 2019

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 13, 2018, and was determined to be complete on January 30, 2019.

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 13, 2018.

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 30, 2019.**

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

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

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

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

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 9, 2019** 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 **April 9, 2019** 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:

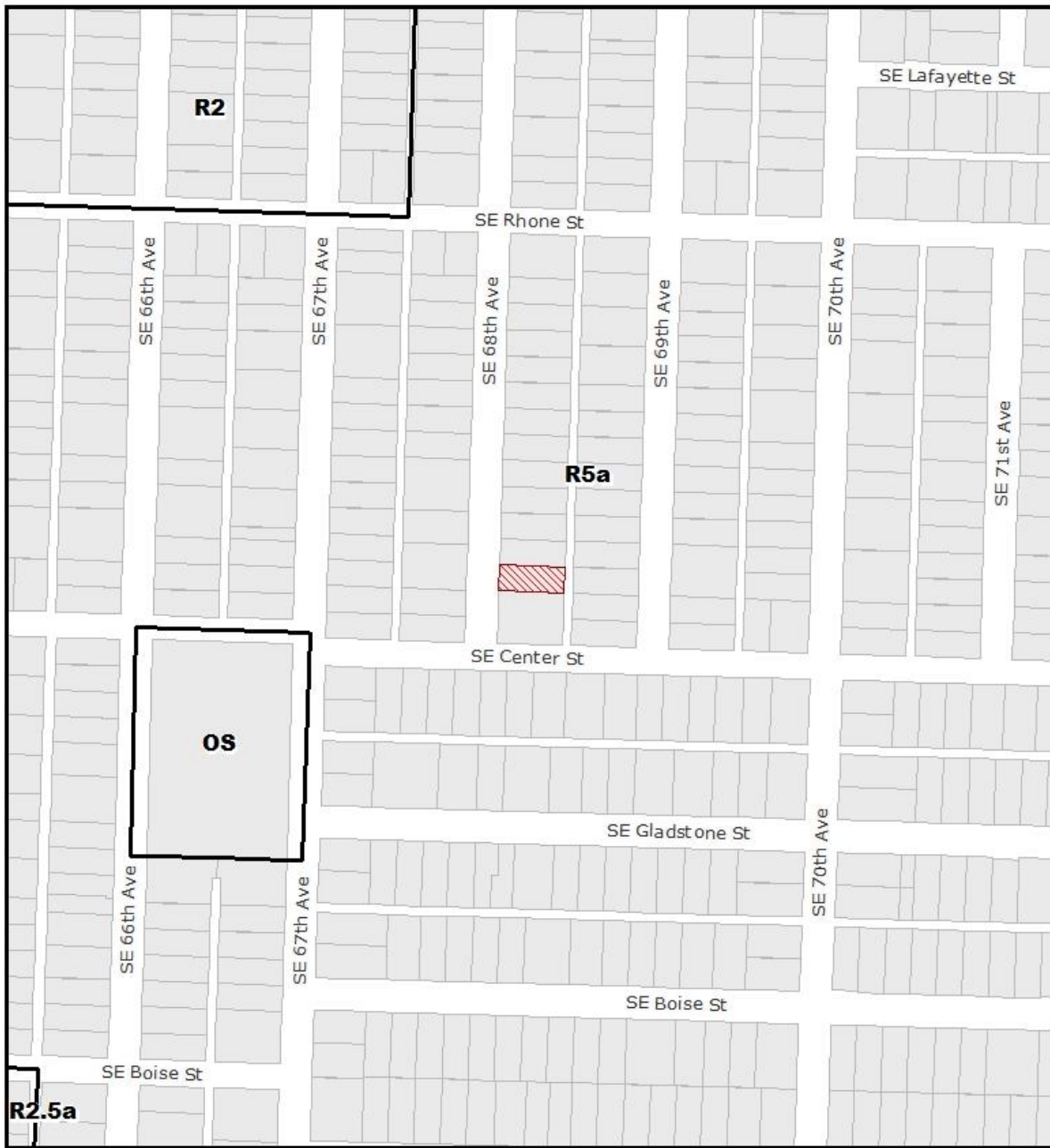
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Materials
 1. November 13, 2018 Narrative
 2. January 29, 2019 Updated Narrative
 3. November 13, 2018 Reduced Size Site Plan
 4. November 13, 2018 Reduced Size Elevation Plans
 5. January 30, 2019 Floor Plan of Remodeled Garage
 6. Applicant's Site Photos
- B. Zoning Map (Attached)
- C. Plans/Drawings:
 1. Site Plan (Attached)
 2. Elevation Plan (Attached)
- D. Notification information:
 1. Mailing List
 2. Mailed Notice
- E. Agency Responses:
 1. Bureau of Transportation Engineering
 2. Life Safety
 3. Bureau of Environmental Services
 4. Site Development, Fire Bureau, and the Water Bureau
- F. Correspondence:
 1. Letter in Support From Brian Repa and Yoko Tsutsumi
 2. Letter in Support From Barbara Timper and Wendy Jensen
- G. Other:
 1. Original LU Application
 2. Copy of Receipt of Payment
 3. November 21, 2018 Incomplete Letter

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



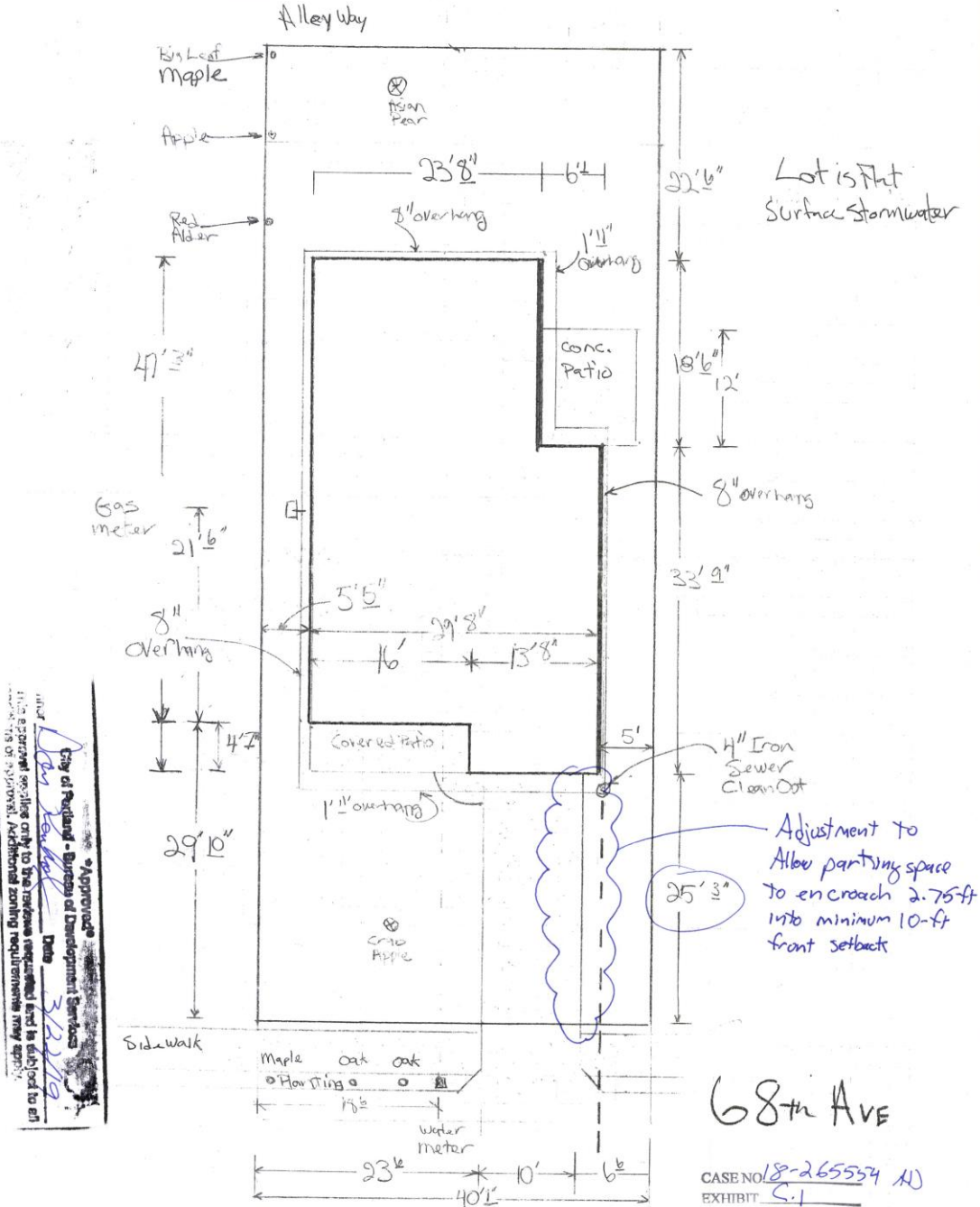
NORTH



Site

File No.	<u>LU 18-265554 AD</u>
1/4 Section	<u>3437</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1S2E08CA 13300</u>
Exhibit	<u>B Nov 16, 2018</u>

IMPERVIOUS AREA	BUILDING COVERAGE	LOT AREA
DRIVEWAY <u>252 SF</u>	BUILDING FOOTPRINT <u>1358 SF</u>	<u>4000 SF</u>
PATIO <u>120 SF</u>		
WALK <u>10 SF</u>		
ROOF AREA (INCL. OVERHANG) <u>1618 SF</u>		
TOTAL _____		



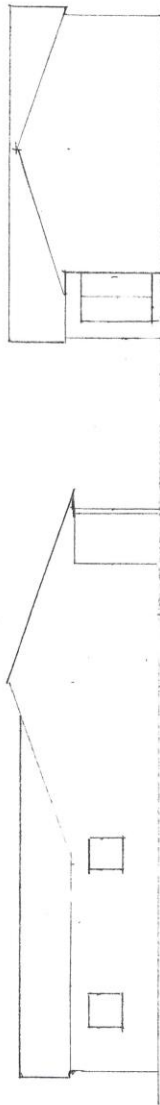
PROJECT LEGAL
Lot 19, Block 4
Reservoir Park
Sec 8, T15, R 1E, Wm.

PROJECT ADDRESS
3916 SE 68th Ave
Portland, OR

SITE PLAN
 SCALE 1" = 10'

 NORTH ARROW
 LU 18-265554 AD

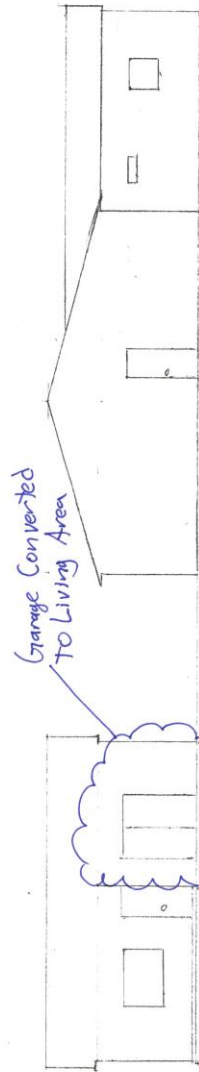
CASE NO. 18-265554 AD
 EXHIBIT C.1



North Side

East Back

Approved by the City of Portland Bureau of Development Services
 Date 3/22/19
 This document is filed only to the extent that it is submitted to the Bureau of Development Services. Additional zoning requirements may apply.



West Side

South Side

CASE NO. 18-265554 AD
 EXHIBIT C.2

LU 18-265554 AD

3916 SE 68th Ave
 Portland

Elevations

Scale = 1" = 10'

David Grant Const
 12... 41 00.10