



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

FROM CONCEPT TO CONSTRUCTION

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Date: March 6, 2014
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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, via this link: <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the district coalition and 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 12-207136 DZM **New Single-Family House on Flag Lot** **GENERAL INFORMATION**

Applicant: Todd Hutchinson | (503) 725-5549
5324 SE 89th Ave | Portland, OR 97266-3822

Owners: Malcolm, Lynette, and Todd Hutchinson
5324 SE 89th Ave | Portland, OR 97266-3822

Site Address: 5324 SE 89th Avenue

Legal Description: BLOCK 1 S 1/2 OF LOT 9, EVERGREEN PK
Tax Account No.: R262100370
State ID No.: 1S2E16BD 10000
Quarter Section: 3539
Neighborhood: Lents Neighborhood Association; contact Cora Potter at 503-823-4550
Business District: 82nd Ave Business Association; contact Frank Harris at 503-774-2832
District Coalition: East Portland Neighborhood Office; contact Richard Bixby at 503-823-4550

Plan District: None
Other Designations: Located in Lents Town Center Subarea of Outer Southeast Community Plan Area

Zoning: Residential 2,000 (R2) base zone;
Alternative Design Density (a) overlay zone

Case Type: Design Review with Modifications (DZM)
Procedure: Type II (an administrative decision, with appeal to the Design Commission)

PROPOSAL: The applicant requests Design Review approval for a new single-family house on a newly created flag lot. The existing lot located at 5324 SE 89th Avenue recently underwent a Land Division – Partition (case number LU 12-143733 LDP), so that the flag lot could be created.

Before the flag lot was created, the property at 5324 SE 89th Avenue was about 8,300 square feet in area. The newly created flag lot is about 3,512 square feet in area, and the lot where the existing house is located is now about 4,785 square feet in area.

A driveway comprised of pervious pavers will provide access to the new house. A parking space for the new house will be located at the end of the driveway. The existing house will share the driveway, in order to access a parking pad located near the southeast corner of the house.

Whereas originally the new house was proposed with a one-story portion and a two-story portion, now the entire house will be one story tall. The two-story portion had consisted of two stacked steel shipping/cargo containers, each 20'-0" long x 8'-0" wide. Instead of this configuration, now there will be one container, 40'-0" long x 8'-0" wide, located on the ground. The other part of the house is a wood structure clad in vertical wood siding with composite slate roofing (as originally proposed). An eco-roof with perennial plantings will be located atop the shipping container.

The main entry door to the new house will be located on the west façade, facing the front lot line of the flag lot. The south façade will have a sliding door. Both the main entry door and sliding door are accessed via a wrap-around concrete-surfaced porch.

Two doors and two windows will be installed on the east facade of the shipping container. Three windows will be located on the west façade of the shipping container.

All windows will be fiberglass.

Landscaping will be located along the north, south, and east property lines of the "flag" portion of the new flag lot.

Per 33.405.070.D of the Zoning Code, proposals taking advantage of the provisions of the Alternative Design Density ("a") Overlay Zone must meet the Community Design Standards or be approved through Design Review. This proposal is taking advantage of the "a" overlay zone, but the proposal does not meet the Community Design Standards. Therefore, Design Review is required prior to the issuance of building permits.

Three Modifications are requested as part of this Design Review, as follows:

1. In the *Parking and Loading* chapter of the Zoning Code, 33.266.120.D.2 states: "The minimum driveway width on private property is 9 feet." A section of the existing driveway is 6'-0" wide, adjacent to an existing large evergreen tree to be retained. This 6'-0"-wide section of the driveway will be part of the driveway used to access the new house on the flag lot. Therefore a Modification is needed.
2. In the *Alternative Design Density Overlay Zone* chapter of the Zoning Code, 33.405.070.C.4 states that there should be an eight-foot setback from all lot lines that abut a lot that is not part of a flag-lot development. The applicant is proposing five-foot setbacks for the side lot lines (north and south lot lines) of the new flag lot. Therefore a Modification is needed.
3. In the *Multi-dwelling Residential Zones* chapter of the Zoning Code, 33.120.220 (Table 120-4) requires five-foot setbacks from the "flagpole" portion of the new flag lot. A portion of the existing house will be located four feet from the "flagpole." Therefore a Modification is needed.

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33 (Portland Zoning Code). The relevant criteria are:

- The *Community Design Guidelines*
- 33.825.040.A through B: *Approval Criteria for Modification through Design Review*

ANALYSIS

- I. **Site and Vicinity:** The subject site is an approximately 8,300-square-foot lot located at 5324 SE 89th Avenue, which is located on the irregularly shaped block bounded by SE 89th Avenue, Steele Street, 92nd Avenue, Insley Street, 91st Avenue, and Ellis Street. A Land Division – Partition was recently approved at the site, to allow creation of a flag lot. The proposed house will be located on the newly created flag lot.

An existing house is located at the site. The house was built around 1909. There is also a detached garage. The garage will be demolished to accommodate the new flag lot and the proposed new house. The site is generally flat, though there is a slight slope up from SE 89th Avenue.

The site is located in a residential area that is generally bordered by single-dwelling residential lots (R5 zone) and Lents Park (OS zone) to the north, and multi-dwelling-zoned properties (R2 zone) and Interstate 205 to the east. To the south, extending to SE Foster Road, there is higher-density residential R1 zoning, General Commercial (CG) zoning, and Central Employment (EX) zoning. To the west, extending to SE 82nd Avenue, there multi-dwelling R2 zoning and employment Central Employment (EX) zoning. The existing development throughout this area does not reflect the type or scale of development allowed by the current zoning designations. Most of the residential properties are currently developed with one- or two-story single-family homes, and much of the development along the commercial and employment corridors of SE Foster and SE 82nd consists of single-story buildings.

The street grid consists of many developed north-south streets and fewer east-west streets. Most north-south streets include sidewalks and planters, whereas many of the east-west streets have only intermittent sidewalk and planter improvements.

According to the City of Portland's Transportation System Plan, SE 89th Avenue is classified as a Local Service Bikeway and Local Service Walkway.

The site is located in the Outer Southeast Community Plan Area.

II. Zoning:

Base Zone: The Residential 2,000 (R2) zone is a low density multi-dwelling zone. It allows approximately 21.8 dwelling units per acre. Density may be as high as 32 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to three story buildings, but at a slightly larger amount of building coverage than the R3 zone. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments. These housing types are intended to be compatible with adjacent houses. Generally, R2 zoning will be applied near Major City Traffic Streets, Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets. Newly created lots in the R2 zone must be at least 4,000 square feet in area for multi-dwelling development, 1,600 square feet for development with attached or detached houses, and 2,000 square feet for development with duplexes. Minimum lot width and depth standards may apply.

Overlay Zone: The Alternative Design Density "a" overlay is in place 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.

III. Land Use History:

City records indicate one prior land use review for the subject site. LU 12-143733 LDP granted approval to create the flag lot where the proposed house will be located.

IV. Public Notice:

A Notice of Proposal in Your Neighborhood was mailed on April 23, 2013.

Neighborhood Review: One written comment in response to the proposal has been received. The comment is from Cora Potter, chairperson of the Land Use Committee of the Lents Neighborhood Association. The comment was received via e-mail. The e-mail indicates that the Lents Neighborhood Association Board voted to support the proposal. The e-mail states in part: "...we feel that Mr. Hutchinson's proposal contains adequate façade improvements, landscaping, and other design elements to mitigate the negative impacts of an additional flag lot and the steel siding of the cargo container façade."

Agency Review: All seven notified City bureaus/departments responded with comments but with no concerns:

- Site Development Review Section of Bureau of Development Services (Exhibit E-1);
- Bureau of Environmental Services (Exhibit E-2);
- Life Safety/Building Code Section of Bureau of Development Services (Exhibit E-3);
- Portland Water Bureau (Exhibit E-4);
- Portland Fire & Rescue (Exhibit E-5);
- Urban Forestry Division of Portland Parks & Recreation (Exhibit E-6); and
- Development Review Section of the Portland Bureau of Transportation (Exhibit E-7).

A second Notice of Proposal in Your Neighborhood ("Re-notice") was mailed on September 24, 2013.

Neighborhood Review: No written comments in response to the proposal were received from the neighborhood association (Lents Neighborhood Association) or notified property owners.

Agency Review:

Four bureaus/departments responded with comments but with no concerns:

- Bureau of Environmental Services (Exhibit E-8);
- Life Safety/Building Code Section of Bureau of Development Services (Exhibit E-9);
- Portland Water Bureau (Exhibit E-10); and
- Portland Fire Bureau (Exhibit E-11).

ZONING CODE APPROVAL CRITERIA

I. DESIGN REVIEW

Chapter 33.825 Design Review

Section 33.825.010 Purpose of Design Review

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

Section 33.825.055 Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

Findings: The site is designated with design overlay zoning (d); therefore the proposal requires Design Review approval. Because of the site's location, the applicable design guidelines are the *Community Design Guidelines*.

Community Design Guidelines

The Community Design Guidelines consist of a set of guidelines for design and historic design cases in community planning areas outside of the Central City. These guidelines address the unique and special characteristics of the community plan area and the historic and conservation districts. The Community Design Guidelines focus on three general categories:

- (P) *Portland Personality* establishes Portland's urban design framework;
- (E) *Pedestrian Emphasis* states that Portland is a city for people as well as cars and other movement systems; and
- (D) *Project Design* assures that each development is sensitive to both Portland's urban design framework and the users of the city.

Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.

P1. Community Plan Area Character.

Enhance the sense of place and identity of community plan areas by incorporating site and building design features that respond to the area's unique characteristics and neighborhood traditions.

Findings for P1: The subject site is located in the Outer Southeast Community Plan Area. According to the *Community Design Guidelines* document, Guideline P1 can be met in the Outer Southeast Community Plan Area “through the use of architectural details found in surrounding buildings. Outer Southeast is a mixture of housing styles ranging from farm houses and bungalows to more recent ranch style [sic] infill housing.”

The proposal is for a new single-family house on a flag lot recently partitioned from an approximately 8,300-square-foot rectangular lot with an existing single-family home. Many large lots in the surrounding area have been similarly partitioned in recent years, allowing for new single-family homes to be constructed behind older homes. The proposal is consistent with this trend, which is consistent with the Outer Southeast Community Plan goal of increasing housing density and increasing the range of housing choices.

The proposed new house incorporates design features of other high-quality homes in the surrounding area, including wood siding, a front porch, main entry door facing the front lot line, windows set into the building walls and surrounded by proportionally appropriate wood trim, and a roof form similar to that of existing Modern homes in the area.

Therefore this guideline is met.

E1. The Pedestrian Network.

Create an efficient, pleasant, and safe network of sidewalks and paths for pedestrians that link destination points and nearby residential areas while visually and physically buffering pedestrians from vehicle areas.

D4. Parking Areas and Garages.

Integrate parking in a manner that is attractive and complementary to the site and its surroundings. Locate parking in a manner that minimizes negative impacts on the community and its pedestrians. Design parking garage exteriors to visually respect and integrate with adjacent buildings and environment.

Findings for E1 and D4: Parking for the existing house will be located at the rear of the house, near its southeast corner. Parking for the proposed new house will be located near the terminus of the “flagpole” of the newly created flag lot, on a parking pad comprised of the same pervious paver strips that comprise the new driveway. The parking pad for the existing house will be about 45 feet from the public sidewalk, and the parking pad for the proposed new house will be about 65 feet from the sidewalk. These locations, far from the pedestrian environment of SE 89th Avenue, minimize the parking areas’ visual impact on the neighborhood.

A singular driveway will be used to access the parking pads for both the existing house and the proposed new house. The existing curb cut at 89th Avenue will be reused for the new driveway. The curb cut need not be expanded. In this way, the addition of a new house to the subject site does not result in expanded vehicle area adjacent to the public sidewalk. The

existing positive characteristics of the pedestrian environment of 89th Avenue will be maintained.

Therefore these guidelines are met.

D1. Outdoor Areas.

When sites are not fully built on, place buildings to create sizable, usable outdoor areas. Design these areas to be accessible, pleasant, and safe. Connect outdoor areas to the circulation system used by pedestrians.

D3. Landscape Features.

Enhance site and building design through appropriate placement, scale, and variety of landscape features.

Findings for D1 and D3: The location and configuration of the proposed house allow for a wrap-around porch at the main entrance, as well as landscaped setbacks at the side lot lines and rear lot line.

The proposal retains existing usable outdoor spaces at the front and rear yards of the existing house. Through a Modification to 33.266.120.D.2, the proposal preserves the existing large coniferous tree directly abutting the driveway, adjacent to the public sidewalk on SE 89th Avenue.

Therefore these guidelines are met.

D2. Main Entrances.

Make the main entrances to houses and buildings prominent, interesting, pedestrian accessible, and transit-oriented.

Findings for D2: The main entrance for the proposed new house faces the front lot line of the newly created flag lot, and is accessed via a wrap-around porch. The location of the main entrance is highlighted by the distinctive roof form and canted columns of the porch. A decorative hanging light fixture in front of the entry door also highlights the door's location. *Therefore this guideline is met.*

D5. Crime Prevention.

Use site design and building orientation to reduce the likelihood of crime through the design and placement of windows, entries, active ground-level uses, and outdoor areas.

Findings for D5: The likelihood of crime is reduced in the following ways:

- The wrap-around porch provides an outdoor space for residents of the new home to survey the immediately surrounding area.
- The main entrance for the proposed new house faces the front lot line of the newly created flag lot.
- There is a sliding door located on the south façade, abutting the wrap-around porch.
- All façades of the new house contain clear-glazed windows.
- Wall sconces on the south and west façades illuminate the immediately surrounding area during nighttime hours.

Therefore this guideline is met.

D7. Blending into the Neighborhood.

Reduce the impact of new development on established neighborhoods by incorporating elements of nearby, quality buildings such as building details, massing, proportions, and materials.

Findings for D7: The proposed house originally contained a two-story portion comprised of stacked shipping containers. To reduce the visual impact of the new house – especially for

the lots abutting the rear lot line of the newly created flag lot – the house design was revised. Now the entire house is one story tall, with one shipping container located on the ground. The relatively small size and minimal height of the new house also reduce its visual impact when viewed from SE 89th Avenue.

The new house incorporates details of high-quality single-family homes in the area, including wood siding, a front porch, main entry door facing the front lot line, windows set into the building walls and surrounded by proportionally appropriate wood trim, and a roof form similar to that of existing Modern homes in the area.

Landscape features also help the new house to blend into the neighborhood. The setbacks will be fully landscaped; the driveway will consist of two strips of pervious pavers; an eco-roof with perennial plantings will be located atop the shipping container; and a new concrete wall provides screening along the south property line.

Therefore this guideline is met.

D8. Interest, Quality, and Composition.

All parts of a building should be interesting to view, of long-lasting quality, and designed to form a cohesive composition.

Findings for D8: The proposal renders a high-quality, architecturally cohesive composition, as follows:

- The house employs durable materials: a steel shipping/cargo container, wood-framed structure with wood siding, and fiberglass windows.
- The eco-roof will feature perennial vegetation, softening the appearance of the shipping container portion of the house and providing visual interest.
- The use of vertical siding on the wood-framed portion of the house helps to integrate it with the steel shipping container portion, which has vertical corrugation.
- The roof form of the wrap-around porch provides visual interest through the inclusion of canted columns, and by projecting above the roof form of the overall house.

Therefore this guideline is met.

II. MODIFICATIONS

33.825.040 Modifications That Will Better Meet Design Review Requirements:

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. These modifications are done as part of design review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

A. Better meets design guidelines.

The resulting development will better meet the applicable design guidelines; and

B. Purpose of the standard.

On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

Staff individually addresses each requested Modification below. As part of addressing Modification approval criterion B, the purpose of the development standard being modified is stated for each Modification.

MODIFICATION #1

In the *Parking and Loading* chapter of the Zoning Code, 33.266.120.D.2 states: “The minimum driveway width on private property is 9 feet.” A section of the existing driveway is 6’-0” wide, adjacent to an existing large evergreen tree to be retained. This 6’-0”-wide section of the driveway will be part of the driveway used to access the new house on the flag lot.

The purpose statement for 33.266.120: Development Standards for Houses and Duplexes, in the Parking and Loading chapter, is:

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

Findings for Criterion A: With the Modification, the proposal better meets Guideline D1: *Outdoor Areas* and Guideline D3: *Landscape Features*, by allowing for preservation of the existing large coniferous tree directly abutting the driveway and adjacent to the public sidewalk on SE 89th Avenue. This existing tree positively contributes to the landscape of the property and the overall street. *Therefore this criterion is met.*

Findings for Criterion B: The proposal is consistent with the purpose of 33.266.120. Large coniferous trees are a positive defining feature of the neighborhood. The appearance of the neighborhood is enhanced more by the retention of the aforementioned large tree than it would be by requiring a uniformly nine-foot-wide driveway. *Therefore this criterion is met.*

MODIFICATION #2

In the *Alternative Design Density Overlay Zone* chapter of the Zoning Code, 33.405.070.C.4 states that there should be an eight-foot setback from all lot lines that abut a lot that is not part of a flag-lot development. The applicant is proposing five-foot setbacks for the side lot lines (north and south lot lines) of the new flag lot.

The purpose statement for 33.405.070: Alternative Development Options in the R2 and R2.5 Zones, in the Alternative Design Density Overlay Zone chapter, is:

The provisions of this section [of the chapter] offer opportunities for enhancing the variety of housing types and building forms that are found in areas zoned for attached or low-density multi-dwelling residential development. Such areas generally include a mixture of single-dwelling detached and small multi-dwelling development. A variety of housing types in areas receiving infill development will improve continuity with the character of existing buildings.

Findings for Criterion A: With the Modification, the proposal better meets Guideline D7: *Blending into the Neighborhood*. The Modification allows for one long shipping container to be located on the ground; in contrast, the original proposal was for two shorter shipping containers, stacked one atop the other. Side setbacks that are three feet narrower than required (five feet wide instead of eight feet wide), to accommodate the longer shipping container, are consistent with the traditional five-foot-wide side setbacks for single-family homes in Portland. *Therefore this criterion is met.*

Findings for Criterion B: The allowance of side setbacks that are three feet narrower than required does not affect the ability of the proposal to meet the purpose statement of 33.405.070. The proposal for a new single-family home that incorporates a shipping container and a Modern design aesthetic, on a newly created flag lot, enhances “the variety of housing types and building forms,” as the purpose statement describes.

Moreover, the underlying primary purpose of Zoning Code setback requirements in general – to maintain light, air, and separation between buildings – is being maintained with the five-foot setbacks, particularly with a single-story home located at the rear of the site. *Therefore this*

criterion is met.

MODIFICATION #3

In the *Multi-dwelling Residential Zones* chapter of the Zoning Code, 33.120.220 (Table 120-4) requires five-foot setbacks from the “flagpole” portion of the new flag lot. A portion of the existing house will be located four feet from the “flagpole.”

The purpose statement for 33.120.220: Setbacks, in the Multi-dwelling Zones chapter, is:

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 multi-dwelling development 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;
- Setbacks requirements along [designated] transit streets create an environment that is inviting to pedestrians and transit users; 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.

Findings for Criterion A: The proposal better meets *Guideline D7: Blending into the Neighborhood*. Without the Modification, a portion of the south building façade of the existing house would have to be demolished and re-built, because it is one foot too close to the “flagpole” of the newly created flag lot. Reconstructing part of the existing house, simply to create a “flagpole” that is uniformly five feet away from the existing house, would cause disruption to the site that runs counter to the spirit of blending into the neighborhood. Thus the Modification enables the site to accommodate new development with fewer effects on existing site conditions. *Therefore this criterion is met.*

Findings for Criterion B: The proposal is consistent with the purposes of 33.120.220. The location of a small portion of the south façade of the existing house four feet from the “flagpole” instead of the required five-foot distance...

- ...does not adversely affect “light, air, separation for fire protection, or access for fire-fighting.”
- ...has no effect on the “general building scale and placement of multi-dwelling development in the City’s neighborhoods.”
- ...has no effect on the “physical relationship between residences,” as the Modification involves the proximity of the existing house to the “flagpole” of the flag lot, not the proximity of the existing house to adjacent houses or the proposed new house.
- ...does not affect the visually pleasing nature of the front yard of the existing house.
- ...has no bearing on the siting of the new house with respect to fitting “the topography of the site,” allowing for “required outdoor areas,” or allowing “architectural diversity” for the new house.
- ...is irrelevant with regard to setback requirements along transit streets, as SE 89th Avenue is not a designated transit street.
- ...is irrelevant with regard to parking a car in front of a garage door, as such a condition will not exist at the subject site.

Lastly, the proposal is consistent with the purpose of providing “adequate flexibility to site a building” to achieve compatibility, to “allow for required outdoor areas,” and to “allow for architectural diversity.” Allowing a small portion of the existing house to be four feet from the “flagpole” provides the flexibility needed for the existing house and the proposed new house to share a driveway, as well as the flexibility needed to site a new house at the rear of the site.

The existing house is part of the oldest housing stock in the neighborhood. Requiring the visually awkward setback of a small portion of the house from the “flagpole,” simply to achieve a five-foot distance instead of a four-foot distance, has been deemed counterproductive and unnecessary, with regard to the existing home’s presence at the street and the side driveway appearance of the “flagpole.” *Therefore this criterion is 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 proposed new house will have minimal visual impact on the neighborhood, by virtue of its relatively small footprint, one-story height, and location far from the pedestrian environment of SE 89th Avenue. The use of materials and architectural details similar to those of high-quality homes in the area helps the house to achieve compatibility with the neighborhood. Additionally, high-quality building materials and thoughtful design render the new house a cohesive composition. All three Modifications enable the proposal to better meet applicable design guidelines, and the respective purposes of the development standards being modified are still met. In conclusion, the proposal meets the applicable design guidelines and the Modification approval criteria; therefore approval is warranted.

ADMINISTRATIVE DECISION

Approval of a new one-story single-family home comprised of a wood-framed portion and a steel shipping container portion, located on a newly created flag lot at 5324 SE 89th Avenue, in the Lents neighborhood, in the Outer Southeast Community Plan Area.

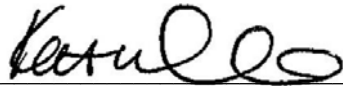
Approval of Modifications to the following development standards:

1. 33.266.120.D.2 (minimum driveway width);
2. 33.405.070.C.4 (setbacks at side lot lines); and
3. 33.120.220 (setback from “flagpole” portion of new flag lot).

Approval per the approved plans and drawings, Exhibits C-1 through C-12, signed and dated March 4, 2014, subject to the following condition:

- A. As part of the building permit application submittal, each of the four 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 through C-12. The sheets on which this information appears must be labeled, “Proposal and design as approved in Case File # LU 12-207136 DZM. No field changes allowed.”

Staff Planner: Kate Marcello

Decision rendered by:  **on March 4, 2014**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 6, 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 November 20, 2012, and was determined to be complete on April 15, 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 November 20, 2012.

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 waived the 120-day review period, as stated with Exhibit G-2.

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 Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on March 20, 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 Design Commission 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 Design Commission 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 **March 21, 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.

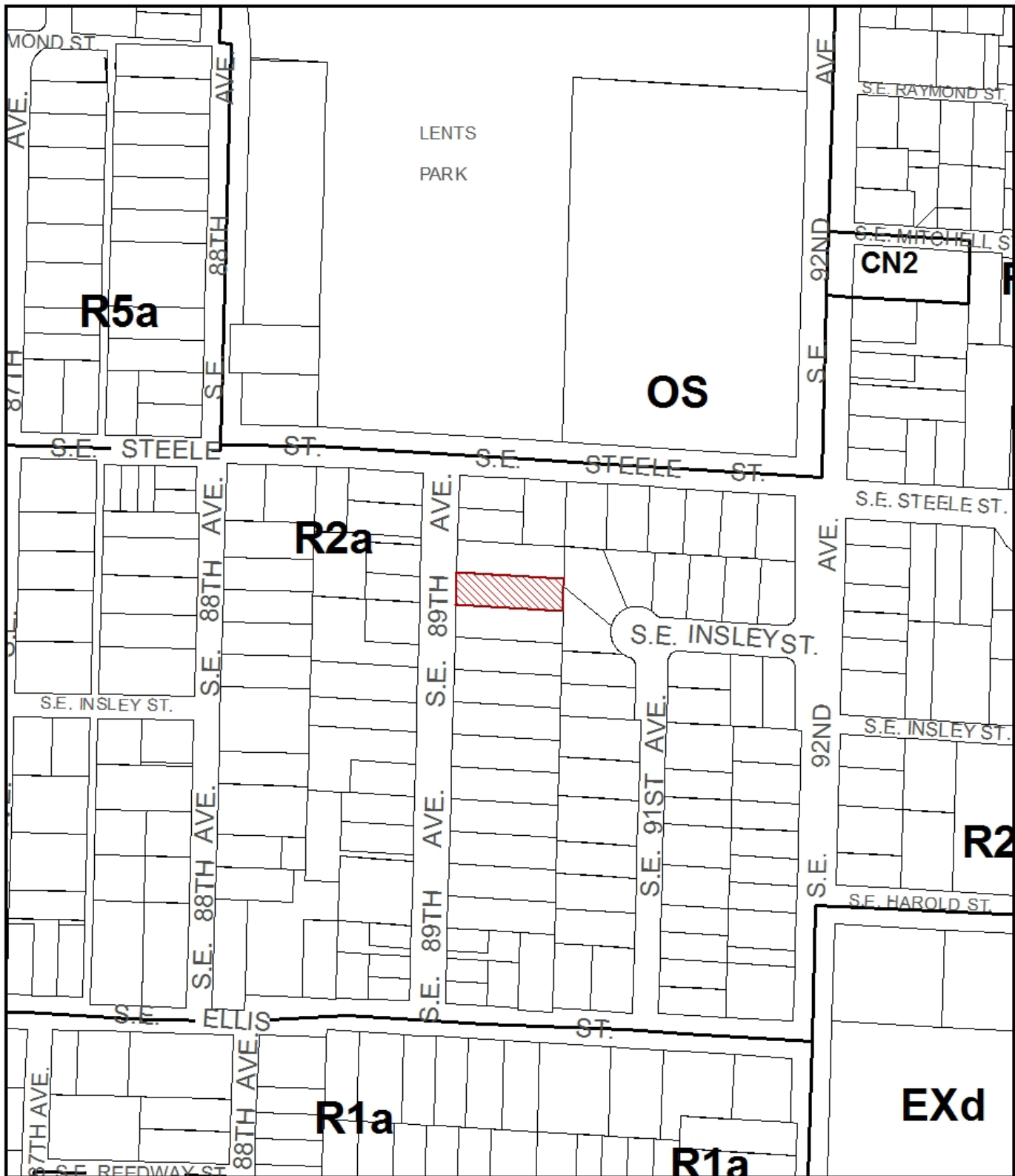
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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/Narrative
- B. Zoning Map (attached)
- C. Plans and Drawings
 - 1. Existing Site Plan
 - 2. Proposed Site Plan (attached)
 - 3. Proposed North Elevation Drawing (attached)
 - 4. Proposed East Elevation Drawing (attached)
 - 5. Proposed South Elevation Drawing (attached)
 - 6. Proposed West Elevation Drawing (attached)
 - 7. 3-D Rendering of Northeast Corner
 - 8. 3-D Rendering of Northwest Corner
 - 9. 3-D Rendering of Southwest Corner
 - 10. 3-D Rendering of Southeast Corner
 - 11. Window Section Drawing (at wood portion of house);
Window Section Drawing (at shipping/cargo container portion of house);
Eco-roof Section Drawing
 - 12. Manufacturer's Cutsheet for Fiberglass Windows
- D. Notification Information
 - Initial Notice of Proposal, dated April 23, 2013:
 - 1. Mailing list
 - 2. Mailed notice
 - Re-notification, dated September 24, 2013:
 - 3. Mailing list
 - 4. Mailed notice
- E. Agency Responses
 - Initial Notice of Proposal:
 - 1. Site Development Review Section of Bureau of Development Services
 - 2. Bureau of Environmental Services
 - 3. Life Safety/Building Code Section of the Bureau of Development Services
 - 4. Portland Water Bureau
 - 5. Fire Prevention Division of Portland Fire Bureau
 - 6. Urban Forestry Division of Portland Parks & Recreation
 - 7. Development Review Section of the Portland Bureau of Transportation
 - Re-notification:
 - 8. Bureau of Environmental Services
 - 9. Life safety/Building Code Section of the Bureau of Development Services
 - 10. Portland Water Bureau
 - 11. Fire Prevention Division of Portland Fire Bureau
- F. Correspondence
 - 1. Cora Potter, on behalf of Lents Neighborhood Association, received 14 May 2013; in support of proposal
- G. Other
 - 1. Original Land Use Review Application
 - 2. Waiver of Right to a Decision within 120 Days, signed by applicant
 - 3. Letter of Completeness, dated 14 December 2012
 - 4. Site Visit Photographs
 - 5. Originally Submitted Plans and Drawings (superseded)

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

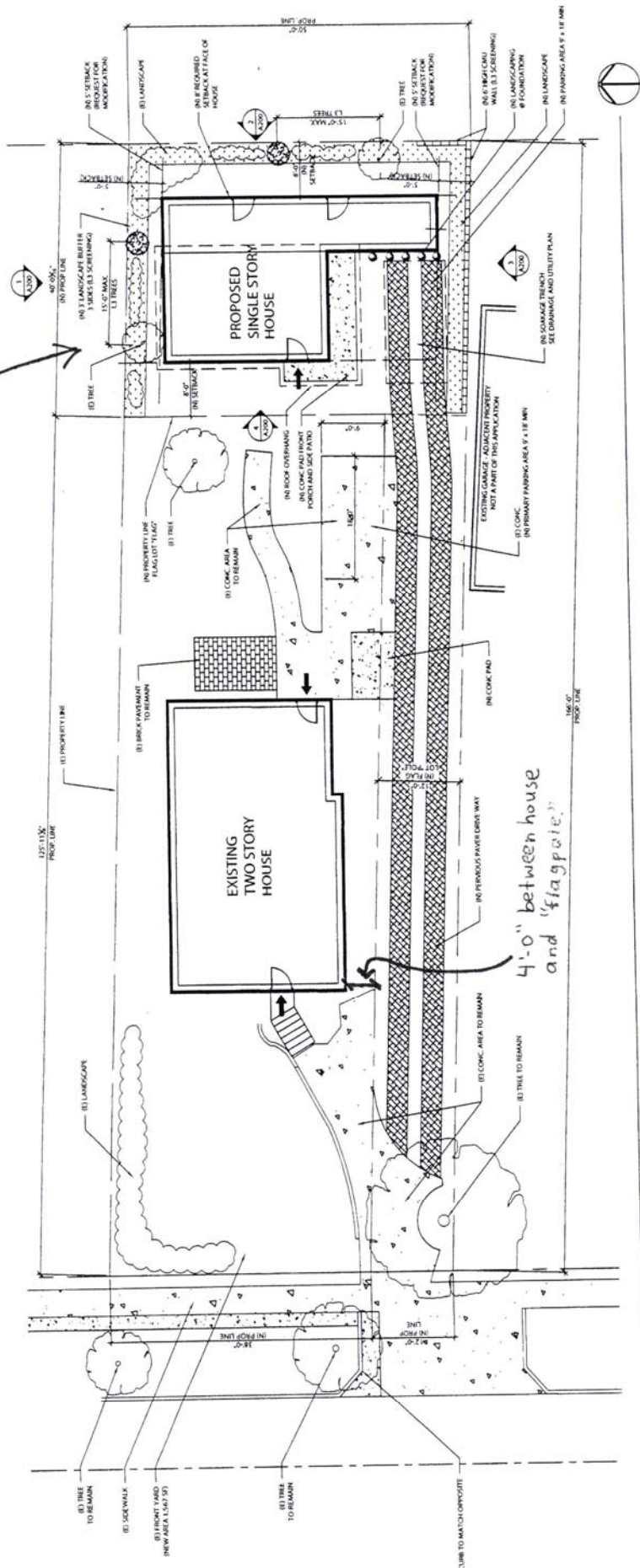


NORTH

File No.	LU 12-207136 DZM
1/4 Section	3539
Scale	1 inch = 200 feet
State_Id	1S2E16BD 10000
Exhibit	B (Apr 22, 2013)

Proposed Site Plan

Proposed new house



Sheet size has been altered.

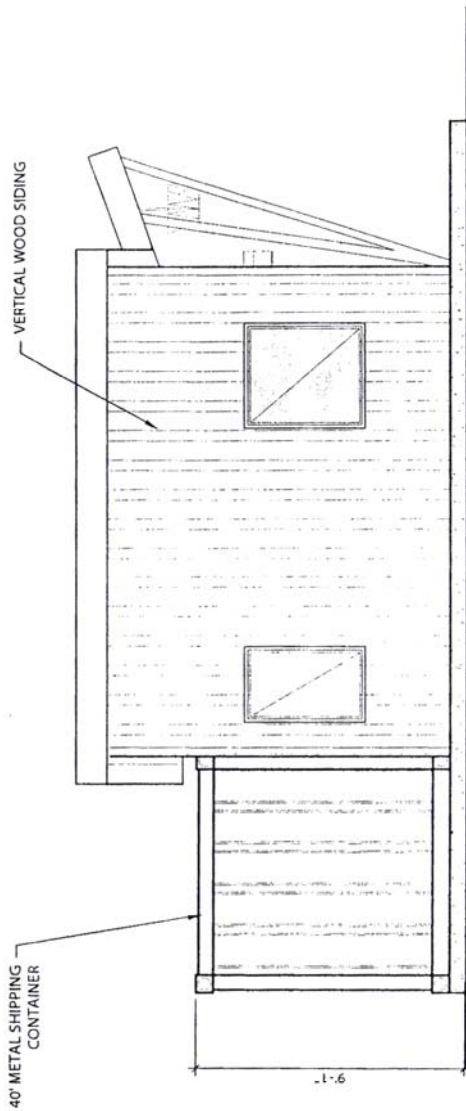
Scale: 1/16" = 1'-0"

Proposed Site Plan

Exhibit C-2

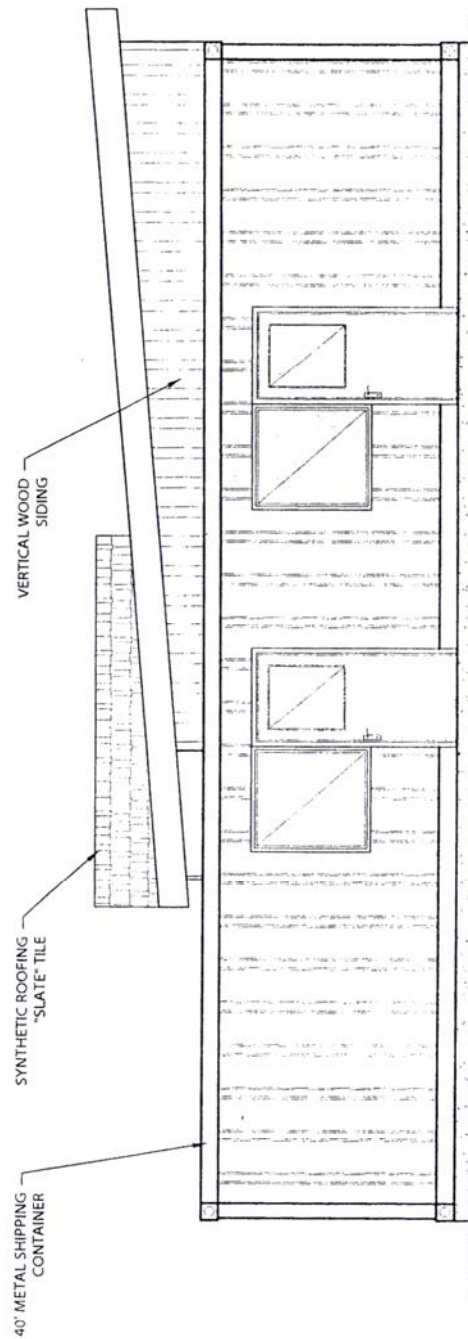
case # LU 12-207136 DZM

Approved
 City of Portland - Bureau of Development Services
 Planner Kurt L. Co Date March 4, 2014
 This approval applies only to the reviews requested and is subject to all
 conditions of approval. Additional zoning requirements may apply.



1 PROPOSED ELEVATION (NORTH) (side facade)

SCALE: 1/4" = 1'-0"



2 PROPOSED ELEVATION (EAST) (Rear facade)

SCALE: 1/4" = 1'-0"

Sheet size has been altered.

Approved

City of Portland - Bureau of Development Services

Planner

Kate

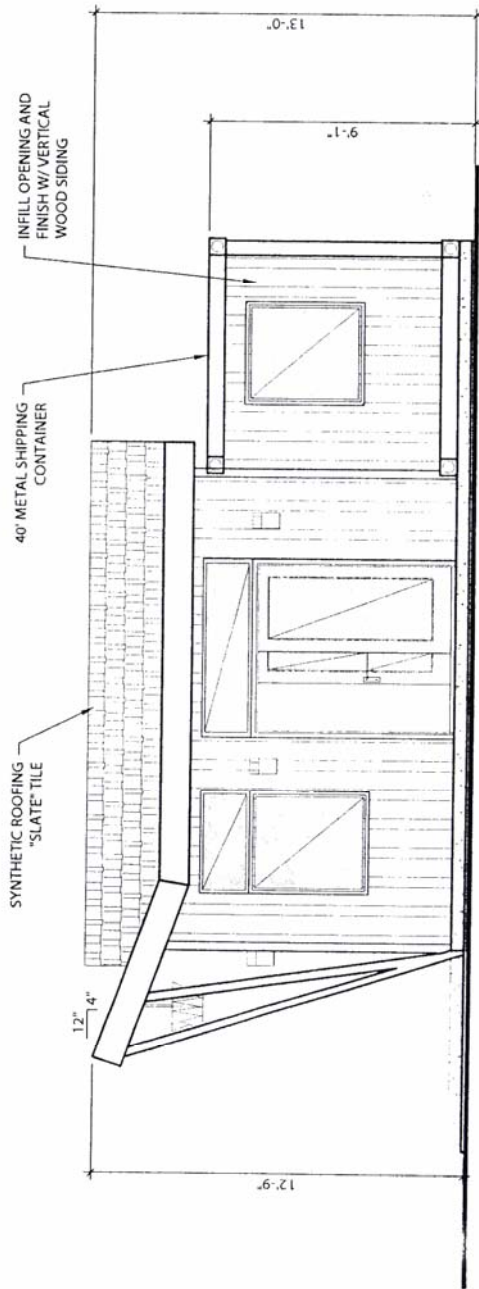
Date

March 4, 2014

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

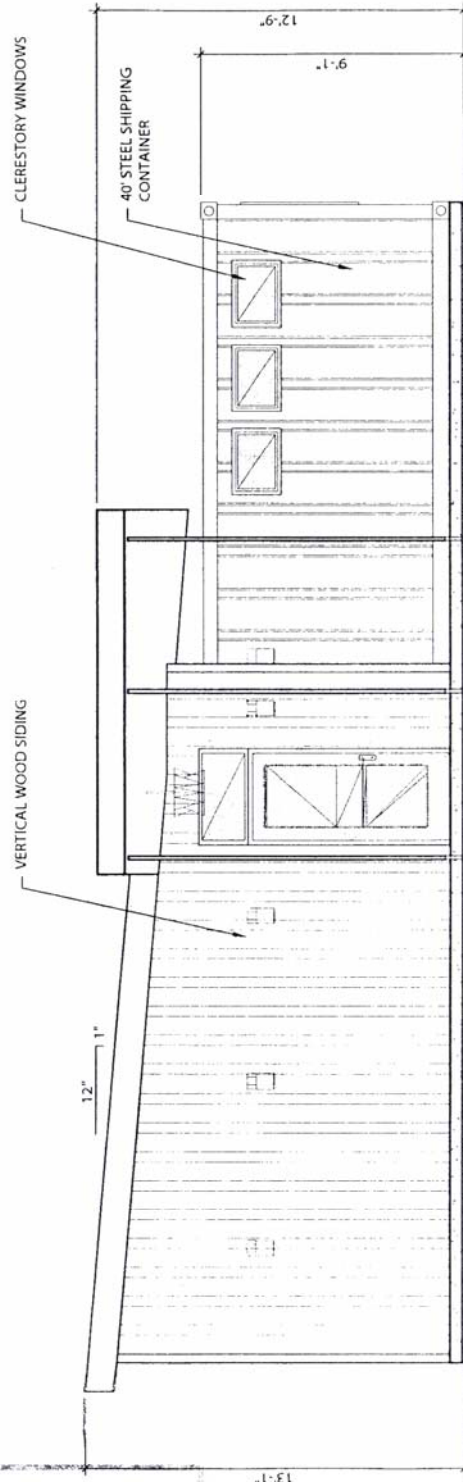
Exhibits C-3 and C-4

Case#: LU 12-207136 DZM



3 PROPOSED ELEVATION (SOUTH) (side facade)

SCALE: 1/4" = 1'-0"



4 PROPOSED ELEVATION (WEST) (front facade)

SCALE: 1/4" = 1'-0"

Sheet size has been altered.

Approved

City of Portland - Bureau of Development Services

Planner

Kate O

Date

March 4, 2014

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

Exhibits C-5 and C-6

Case #: LU 12-207136 DZM