



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

FROM CONCEPT TO CONSTRUCTION

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Date: August 12, 2013
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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 <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 13-118341 AD HDZ

GENERAL INFORMATION

Representative: Christe White, Attorney Representing Condominium Owners
Radler White Parks & Alexander LLP / 971-634-0204
111 SW Columbia St., Suite 1100 / Portland, OR 97201

Representative: Phillip Muir, Representing Park Place/Boardwalk Condominium
Muir & Troutman
16100 NW Cornell Rd Suite 200 / Beaverton, OR 97006

Applicant/Owner: Randall Huebner (Lang House) / Talus Design, Inc.
2188 SW Park Pl Suite 101 / Portland, OR 97205

Site Address: 2188 SW PARK PL and 2172 SW PARK PL

Legal Description: BLOCK 4 LOT 7 W 1/2 OF LOT 8, JOHNSONS ADD; CANCEL
ACCOUNT INTO BOARDWALK CONDOMINIUMS FOR 2002,
JOHNSONS ADD

Tax Account No.: R431600460, R431600480

State ID No.: 1N1E33CD 04300, 1N1E33CD 04400

Quarter Section: 3027

Neighborhood: Goose Hollow, contact Greg Wimmer at 503-222-7173.

Business District: Goose Hollow Business Association, contact Angela Crawford at 503-223-6376.

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Zoning: RH, High Density Multi-Dwelling Residential Zone

Case Type: AD, HDZ: Adjustment Review and Historic Design Review

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee and/or Landmarks Commission.

Proposal: The applicant is requesting an **Adjustment Review** to reduce the required on-site parking from the required 20 spaces to 6 on-site parking spaces for the Lang House, a 9,874 square foot office building at 2188 SW Park Place. The Lang House will have 2 on-site parking spaces, located at the rear of the building, with driveway access off SW St. Clair Ave. Also, the applicant proposes to secure 4 parking spaces in the Boardwalk Condominium (2172 SW Park Place) garage that will be available for Lang House tenants/employees.

The Lang House, an office building in a residential zone, has maintained its nonconforming (“grandfather”) use status since 1963 (Land Use Review #CU 27-63). In 1998, the 15-space surface parking lot (located on the eastern abutting lot) that served the Lang House building was proposed for redevelopment--a multi-unit residential project (LUR 98-00256 HDZ). After appeals and numerous revisions, the residential project (called either Park Place or Boardwalk Condominiums) received final approval (LUR 00-00122 HDZM). The condominium project is a 7-unit development that was designed to receive Historic Design Review (HDZ) approval. At that time, a condition of the HDZ decision required the condo project to include 15 parking spaces that were to remain dedicated for use of the Lang House tenants. The condition required a long-term lease (or similar instrument) to secure the parking spaces. To comply with this condition, the owner of the condominium project recorded a Restrictive Covenant that secured the 15 commercial-use spaces on the condominium property. The condo project was approved showing 19 spaces, with 4 spaces that met the minimum requirement for residential development (1 per 2 units). The other 15 spaces were intended to replace the spaces lost by the development of the surface lot. According to the applicant, only 18 spaces were actually constructed in the lower-level garage.

This review also includes a **Historic Design Review** to amend the previous LUR 98-00256 HDZ decision, removing the condition that requires the 15 spaces. According to the applicant, when the condos were sold, each residential unit received 2 parking spaces. Hence, 14 of the 18 spaces serve the residential use. The applicant proposes submitting a new restrictive covenant that requires 4 of the 18 spaces at the Boardwalk Condo site be available to the Lang House office tenants for their exclusive use. Zoning Code Section 33.730.140.A requires that changes to conditions be processed using the same procedure and approval criteria that was used for the original review. No exterior changes are proposed to either the Lang House or the Boardwalk Condominium properties.

The application notes that when considered together the two properties will provide 20 on-site parking spaces. This results in a deficiency of only 4 total spaces. The current Zoning Code requirement for both developments is 24 spaces. The applicant states that many of the Lang House tenants currently have permits for on-street parking.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

- **33.805.040.A-F, Adjustments**
- **33.846.060. E, Historic Review –
*King’s Hill Historic District
Guidelines***

ANALYSIS

Site and Vicinity: The subject properties are developed with the Lang House (Office Building) at 2188 SW Park Place and the Boardwalk Condominiums (Residential) at 2172 SW Park Place are located in the King’s Hill Historic District and Goose Hollow neighborhood. The immediate area is a high-density residential area, although it has a mixed-use character, given the numerous nonconforming office uses. Nearby, approximately 2 blocks to the north is the West Burnside commercial corridor, approximately 2 blocks to the east is the Jeld Wen stadium and Multnomah Athletic Club, to the south, is the north edge of the Southwest Hills single-dwelling residential area and to the west is Washington Park, a 400-plus acre City-owned facility.

The Boardwalk is a multi-story structure. The on-site parking is concealed behind a garage door that faces SW Park Place. The Lang House, a large residence that was converted into office has long driveway at the rear of the building, with access from SW St. Clair Avenue. The driveway is approximately 70 feet deep, which can accommodate 2-3 vehicles. The driveway is separated from the southern abutting site by a tall, dense landscape hedge.

The site and surrounding properties are located within an area that has a parking permit program.

Zoning: The site is zoned RH, High Density Multi-Dwelling Residential and is within the King's Hill Historic District. The RH zone does not regulate density by a maximum number of units per acre. Rather, the maximum size of buildings and intensity of use is regulated by floor-area ratio (FAR) limits and other site development standards. Generally the density ranges from 80 to 125 units per acre. Allowed housing is characterized by medium to high height and relatively high percentage of building coverage. The major types of new housing development are low, medium, and high-rise apartments and condominiums. Generally, RH zones are well served by transit facilities or near areas with supportive commercial services.

The King's Hill Historic District is regulated via the Historic Resource Protection overlay zone (Chapter 33.445). This overlay zone addresses Historic and Conservation Districts, as well as Historic and Conservation Landmarks. The regulations that pertain to these properties protect certain historic resources in the region and preserve significant parts of the region's heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties.

Land Use History: City records indicate that prior land use reviews addressed the following:

- **CU 27-63:** The Planning Commission approved the Lang House for Office Use – zoned A0. Conditions: (1) close off attic, (2) not less than 1 parking space per employee must be provided, and (3) all the applicable zoning code requirements must be met, except that parking is permitted within the front yard back of the required 5 foot setback and screening.
- **HLDZ 15-79:** It appears the Landmarks Commission did not take action. There is information about the historical history of the building (and former residents).
- **LUR 98-00256 HDZ:** After appeal of Type II decision, the Landmarks Commission upheld the appeal, but approved a modified proposal.

ORIGINAL PROPOSAL: The Planning Bureau approved a Historic Review for an 11-unit, 5-story wood frame building. The following Adjustments were also approved: (1) reduce parking requirement for Lang House from 20 to 15 (based on 1963 requirement of 1 space per 500 square feet of Office use); (2) allow stacked parking (15 in basement level); (3) modify drive aisle dimension, (4) reduce existing lot area requirement, (5) reduce existing lot minimum lot area requirement, and (6) reduce minimum lot area for new lot. The decision included the following condition: Prior to obtaining a building permit the applicant must provide to the Bureau of Planning documentation that by a secured long term lease (or similar means) the 15 on-site commercial spaces will remain dedicated to that use as long as the Lang House has a commercial parking requirement.

REVISED PROPOSAL: In response to the appeal, the Landmarks Commission approved a revised proposal with 8-units, 3-stories above the basement. The proposal showed one on-site parking space at the Lang House and 18 vehicle parking spaces in the basement of the condo building. The decision applied the following condition: Prior to obtaining a building permit the applicant must provide to the Bureau of Planning a covenant with the City ensuring that the 15 parking spaces providing required commercial parking remain dedicated for such as long as there is an adjacent commercial use.

The Landmarks Commission's decision included code analysis. The report stated that because the site will not be separated (remain under the same ownership), the minimum lot area and width requirements would not apply. And, because the Lang House only had 15 existing parking spaces, the site was grandfathered in.

- **LUR 99-00370 HDZ:** The Planning Bureau approved the following revisions to the project: (1) change chimneys, (2) main entrance stairs, windows, dormer and balconies, (3) eliminate vehicle access and 1 parking space off SW St. Clair and (4) provide 19 parking spaces in basement of new condo bldg. Condition A of 1998 decision for the parking covenant was referenced as still applicable.
- **LUR 99-879 HDZ:** The applicant requested to change the condition of approval requiring that 15 vehicle parking spaces be provided to accommodate the Lang House office use. The request was to reduce the parking requirement from 15 to 12 and substitute 15 new bicycle parking spaces for the 3 reduced vehicle parking spaces. The application was withdrawn before a decision was rendered.
- **LU 00-00122 HDZM:** In response to a City-initiated "stop work" order that addressed complaints that the Boardwalk Condo building, under construction, did not match the Landmarks Commission's approved plans, a Type II HDZ application was submitted. The Type II decision partially approved the changes but denied changes to height and massing elements. The decision was appealed. Upon appeal, the Landmarks Commission approved numerous architectural changes to the previously approved design. Also approved, were modifications to setback and landscaping requirements.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **June 7, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

The **Portland Bureau of Transportation (PBOT)** submitted an extensive response with findings that respond to the Adjustment approval criteria (Exhibit E.1). The PBOT response is inserted under the relevant criteria, below.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 7, 2013. A total of six written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. Also, a letter was mailed from a concerned neighbor on July 15, 2013 (Exhibit F.7). Because the letter was sent after the extended comment period (July 9, 2013), the content of the letter is not addressed below.

In summary, the following objections were raised:

- Approving the Adjustment will set a dangerous precedent for amending land use review approvals at a later date and cost the City significant funds that it doesn't have.
- There are probably many applicants that will see this as a possibility to amend their parking requirements and other criteria at a later date.
- There appears to be have been a potentially illegal allocation or selling of property (parking spaces). This issue should be transferred to the City Attorney's Office.
- A developer has cheated the system at the expense of neighborhood livability.
- It is not the neighborhood's responsibility to bear the burden of the disregard to the City's regulations.
- How can the City, upon learning that its requirements were ignored, now go back and say, "we did not mean it".

- The City should reject the application and insist that the off-street parking for office building is required, per the original decision.
- Street parking in the area is insufficient for the number of people living in the neighborhood. For example, the Washington Park Condominiums, across the street, has no visitor parking and has 7 units for which there is no off-street parking.
- It seems that the developer of the Boardwalk project must have been fully aware that taking the Lang House spaces for the condo owners was in direct violation of the original approval and would force Lang House office workers and their visitors to seek on-street parking.
- This situation has created a much greater number of cars daily seeking on-street parking in the neighborhood.
- The livability of the neighborhood is severely impacted by the lack of on-street parking.
- The Portland Bureau of Transportation has abetted this flaunting of the regulations by providing parking permits to office workers.
- The Boardwalk project was approved after a thorough process with great input and much thought about how the project would be integrated into the historic neighborhood. Boardwalk and Lang House should honor the original agreement that allowed the development to take place.
- As more multi-family is developed, the business-related competition for parking impacts the current residents who hold "Permit-A" on-street parking permits. (Exhibits F.1-F.6)

BDS Staff Response: *BDS has no record of receiving complaints or inquiries about lack of compliance with the condition of approval and recorded covenant. The applicant has voluntarily initiated this review and therefore has voluntarily placed the compliance issue in the forefront. The BDS Land Use Review staff is charged with implementing the City's Zoning Code regulations. As the implementers of City regulations, the BDS staff works diligently to apply the regulations and craft conditions that address the applicable approval criteria and responds to the concerns raised by interested persons. Staff strives to prepare decisions and conditions that are clear and reasonable and will therefore be followed.*

In this situation, it appears it was more expedient than practical for the developer of the Park Place/ Boardwalk to propose meeting the minimum on-site parking requirements for both the office and residences in the new residential building. As the applicant acknowledges the proposed parking arrangement was never followed as the Boardwalk parking has been used primarily for the residents. Furthermore staff acknowledges that the condition, as written, was not entirely clear.

A decision to amend a previous condition requires careful consideration of the current circumstances, current site conditions and surrounding impacts and the applicable approval criteria. This request will therefore not set precedence for other requests or invite other applications to follow. Finally, the applicant has paid the required fees for the land use reviews. Hence, this review is not expected to cost additional resources and City general funds.

The other issues that are raised are germane to the Adjustment approval criteria and will be addressed in the findings section, under each relevant criterion.

ZONING CODE APPROVAL CRITERIA

Chapter 33.846, Historic Reviews

Purpose of Historic Design Review

Historic Design Review ensures the conservation and enhancement of the special characteristics of historic resources.

Historic Design Review Approval Criteria

Requests for historic design review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

Findings: The site is located within the King's Hill Historic District. Per PCC 33.730.140.A, a request to change a condition of approval must be processed using the current procedure assigned to the land use review and the current approval criteria for the original land use review." Therefore, this review must be evaluated based on the current King's Hill design guidelines. The findings below identify the relevant guidelines.

King's Hill Historic District Guidelines

The guidelines for the King's Hill Historic District were adopted on November 15, 2001. King's Hill was locally designated as a historic district, then listed in the National Register of Historic Places in 1991. The guidelines are designed to maintain and preserve those qualities that make the King's Hill Historic District a unique historic neighborhood. They promote the continued integrity and identity of the district in three broad areas, which are addressed under the following guideline headings: Area Character, Pedestrian Emphasis and Project Design.

The original proposal was reviewed using the "general" guidelines (PCC 33.846.060.G) that apply to properties in a historic district that do not have adopted historic district guidelines.

A1. Historic Character. Retain and preserve the diverse historic character of the King's Hill Historic District.

A2. Architectural Styles. Maintain the architectural integrity of historic building façades. Respect the essential forms and styles of the historic buildings in the district.

A3. Historic Material, Features, and Color. During exterior rehabilitation, protect, maintain, and preserve historic materials, color, and architectural features.

A4. Gateways. Strengthen the transitional role of the neighborhood's gateways.

A5. Historic Change to Buildings. Alterations may take on historical significance over time. Preserve those portions or features of a building that define its historical, cultural, or architectural value.

P1. Stopping and Viewing Places. Place buildings to provide stopping and viewing places that contribute to the district's historic character.

P2. Embellish the Different Levels of Buildings. Embellish the different levels of a building that are visible from the streets or public open spaces. Enhance the pedestrian network by forming visual connections from buildings to adjacent streets. Incorporate building equipment, mechanical exhaust systems, and/or service areas in a manner that does not detract from the pedestrian environment.

Findings for A1, A2, A3, A4, A5, P1, & P2: This proposal does not entail any physical changes to the existing development on both the Lang House and Boardwalk properties.

Therefore, these guidelines do not apply.

P3. Landscaping of Off-Street Parking Lots. Incorporate landscaping as an integral element of design in and around surface parking lots. Use landscaping to enhance the site and unify it with adjacent sites. Define surface lots by creating clear edges.

Findings: The existing small on-site parking area located at the rear of the Lang House provides two legal on-site parking spaces. A tall hedge separates the parking area from the southern abutting site. The applicant is not proposing any changes to the use, parking area and/or landscaping.

Therefore, this guideline will continue to be met. .

D1. Exterior Alterations. Exterior alterations should complement the resource's massing, size, scale, and architectural features.

D2. New Construction. Use siting, mass, scale, proportion, color, and material to achieve a coherent composition that adds to or builds on the characteristics of historic buildings in the immediate vicinity and the character of the King's Hill Historic District as a whole.

D3. Differentiate New Construction. For development including new buildings and building additions, differentiate new construction from the historic structures while respecting primary site characteristics such as mass, size, scale, and setback.

D4. Integrate Barrier-Free Design. Retrofit buildings or sites to improve accessibility for persons with disabilities using design solutions that preserve the architectural integrity of the historic resource. Such retrofits should utilize proportion and materials compatible with the historic building. Design exterior alterations and new construction to minimize material loss and visual change to a historic building while ensuring equal access, to the extent practicable.

D5. Building Context and Composition. In new construction, complement the characteristics of the site and architectural features of contextual building by borrowing from, and building on, the design vocabulary of the district's historic buildings. When adding to or altering the exterior of existing development, respect the character of the original structure as well as adjacent structures.

D6. Site and Landscape Characteristics. Site new construction to respect and complement historic development patterns in the King's Hill Historic District. Incorporate landscaping as a design element that integrates with the built and natural environment. When incorporating lighting, integrate it with mature plantings, landscaping, parking area, and special district features.

D7. Elevated Lots, Fences, and Retaining Walls. Use changing grades and site elevation as design elements. Site new buildings and make site modifications in a way that reinforces the existing pattern present in surrounding historic buildings and the topography. Maintain existing garden walls at or near the property line. Replace retaining walls where they previously existed.

D8. Exterior Materials and Features. Retain or restore original exterior finishing materials. Use materials and design features that promote permanence, quality, and visual interest. Use materials and design features that are consistent with the building's style and with the existing vocabulary of the historic district.

D9. Window Features. Retain and preserve window features that are important in defining the building's historic character. Replace, in kind, extensively deteriorated or missing parts of the window casement when surviving prototypes exist. When in-kind replacement is not practical, replace with elements that recreate the window's historic character.

D10. Roof Features. Design roof features to be compatible with the detailing, scale, and pitch of historic roofs, consistent with the respective building's style. Retain and preserve roof features that are important in defining the building's historic character. Replace, in kind, extensively deteriorated or missing parts of the roof and/or roof line when surviving prototypes exist. When in-kind replacement is not practical, replace with elements that recreate the roof's historic character.

D11. Main Entrances. Main entrances, including doors, porches, and balconies, should be prominent features, compatible with the detailing, style, and quality of historic main entrance features of nearby buildings. Retain and preserve main entrance features that are important in defining the building's historic character. Replace, in kind, extensively deteriorated or missing

parts of the main entrance when surviving prototypes exist. When in-kind replacement is not practical, replace with elements that recreate the historic character of the main entrance.

Findings for D1, D2, D3, D4, D5, D6, D7, D8, D9, D10 & D11: This proposal does not entail any physical changes to the existing development on both the Lang House and Boardwalk properties.

Therefore, these guidelines do not apply.

D12. Parking Areas and Garages. Design surface parking to be consistent with the design of the building it serves. Modify historic parking structures to be compatible with the accompanying building by retaining their defining architectural characteristics. Where possible, share parking areas to reduce disruption of the historic sidewalk landscape pattern.

Findings: This request is to amend the Landmarks Commission's condition A, imposed under LUR 98-00256 HDZ. Condition A requires, "Prior to obtaining a building permit, the applicant must provide to the Bureau of Planning a covenant with the City ensuring that the 15 parking spaces providing required commercial parking remain dedicated for such as long as there is an adjacent commercial use." The Commission's report does not apply this condition to specific historic guidelines. There were no guidelines that addressed parking. The report states, "the proposal will provide parking for Lang House office use, as well as required new residential parking" (page 2). On page 8, in the Zoning Code analysis section, the report states "The applicant proposes to submit a covenant with the City ensuring that the 15 spaces providing requirement commercial parking remain dedicated for such as long as there is an adjacent commercial use."

The current application does not propose any physical changes to the Lang House or Boardwalk properties. The applicant intends to provide 2 on-site parking spaces in the existing long driveway located behind the Lang House building. There are no changes proposed to the Boardwalk garage. The applicant proposes to continue a "shared parking arrangement", making available 4 of the 18 spaces in the Boardwalk garage to Lang House employees. Conditions of approval will require that a new covenant be executed that reserves the 4 spaces for the Lang House employees/tenants and that the spaces be posted with signs that reserve the parking for the Office use.

Therefore, the current proposal continues to meet this guideline.

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

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

Findings: The applicant is requesting an Adjustment to reduce the required number of on-site parking spaces for the Lang House from 20 to 6. The applicant proposes to provide use of 4 spaces in the Boardwalk Condominium building. The applicant intends to record a new covenant to reflect this commitment.

The purpose for requiring a minimum number of on-site spaces, as stated in Zoning Code Section 33.266.110.A, is as follows:

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. Multi-dwelling development that includes a large number of units may require some parking to support existing and future uses in the area and serve

residents and guests, especially those with disabilities. 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 Portland Bureau of Transportation (PBOT) response notes, “The subject sites are located within a robust grid pattern of streets that are fully improved with sidewalks. The area has excellent connectivity and pedestrian facilities, again, which facilitate alternative modes of travel other than by vehicle. The proposed parking space allocation on the Lang House and the Park Place/ Boardwalk Condo sites will have no adverse impact on the pedestrian facilities in the area”. (Exhibit E.1)

While the stated purpose of the regulation is to ensure there is enough on-site parking to accommodate the majority of traffic generated by the uses, the regulation acknowledges that sites that are located in close proximity to transit, and that have good street connectivity and good pedestrian facilities may require little or no off-street parking. Zoning Code regulations in Section 33.266.110.B.3 implement this intent by requiring no minimum on-site parking for sites located less than 500 feet from a transit street with 20-minute peak hour service. (“Peak Hour Service” is defined in Zoning Code Section 33.910.030 as weekday service provided by public transit between 7:00 am and 8:30 am, and between 4:00 pm and 6:00 pm.)

The subject site is located along a bus route, #63 (Washington Park/Arlington Heights). This route provides work day service. Based on the TriMet bus schedule, the #63 line provides a bus, both east and west bound approximately every hour between 7 am and 6 pm, Monday through Friday. This bus service corresponds with normal working hours found in most traditional Office use settings. Further, the Boardwalk and Lang House are located two blocks south of W. Burnside Street. Burnside has frequent, 20-minute peak hour service. Also, the properties are located approximately ¼ mile from the light rail station near SW Salmon and SW 18th Avenue. The Westside light rail line provides frequent service. Given the availability of nearby frequent transit service, a reduced amount of on-site parking to serve the Lang House is consistent with the stated purpose of the regulation.

The Portland Bureau of Transportation (PBOT) finds that, “the current overall demand for parking related to the two uses can be expressed by the allotted number of residential parking spaces at the Park Place/Boardwalk Condo (14) and the maximum number of allotted parking permits provided to the employees of the Lang House (10) or a total of 24 spaces. Twenty of these 24 spaces are provided on the Lang House and the Park Place/Boardwalk Condo site; statistically, this represents 83 percent of the current demand. Therefore, there is sufficient parking to accommodate the majority of traffic generated by these uses in question, which is not expected to change in time.”

Opponents contents that the Lang House parking “situation has created a much greater number of cars daily seeking on-street parking in the neighborhood” (Exhibits F.2, F.5 and F.6). The PBOT staff do not agree. PBOT finds:

By allowing the continued use of 14 of the on-site parking spaces the Park Place/ Boardwalk Condo garage, this will result in less of a demand than the Lang House employees for on-street parking. Under the commercial permit program, Lang House is limited to 10 annual permits based on historical maximum full time employee occupancy of 20 employees. The residents of the Park Place/ Boardwalk Condo are only limited by the

number of cars they own. With 7 residences and 14 cars, the residents would be permitted to secure 14 on-street permits. Thus if the residential parking for the Park Place/Boardwalk Condo is displaced to the street, to accommodate the spaces that were originally devoted for the employees of Lang House, the residential users would require up to 4 more on-street parking permits than Lang House is permitted today. City records show that there are no annual on-street permits issued to the residents of the condominiums. Their current demand is met in the garage.

Finally, an explanation between residential and office parkers is warranted to demonstrate the different impacts to on-street parking. Employees of the Lang House presumably arrive for conventional office hours anytime between 8:00-10:00 am. This does not take into consideration non-traditional offices/businesses that may likely be located in a facility such as the Lang House. The same office users leave the area, vacating their on-street parking spaces traditionally, anytime between 4:00-5:00. There is consistent and daily turnover in the current utilization of on-street parking spaces used by employees at the Lang House. On-street parking spaces utilized by residents can be occupied virtually without any time limitations. According to PBOT's Parking Control Manager, the only time residential permit holders would have to move their respective vehicles along the streets in the area would be if the parking is reserved for construction or street maintenance. Neither of these activities occurs with any regularity. Long term parking for residents of the area, with little to no turn-over in the utilization of said spaces, results in greater impacts to the neighborhood than the transient nature of office parkers. This is another reason why PBOT staff is supportive of the requested Adjustment.

Based on these findings, the Adjustment request is equally supportive of the purpose 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: The subject site is located in an RH, High Density Multi-Dwelling Residential zone. The request to reduce the required number of on-site parking spaces for the Lang House from 20 to 6—4 available in the Boardwalk garage and 2 on-site spaces, will have no impact on the appearance of the surrounding residential area. Both buildings are developed and no physical changes to either property is proposed. As for livability impacts, the requested Adjustment is not expected to significantly detract from the livability of the nearby residents. The application explains,

Under the current situation, Lang House accommodates all of its parking on-street or on its own site. Under this proposal, Lang House will absorb 4 spaces in the Park Place (Boardwalk) garage reducing its burden on the on-street supply. Conversely, if all of the Park Place owners were required to abandon the spaces they own in the garage, those 14 spaces would need to be accommodated on the street, resulting in a likely net gain to on-street parking demand...Further, the Lang House use of on-street parking is typically on weekdays during business hours, leaving more spaces open during the nights and weekends for other users. If residential users from the Boardwalk occupied those on-street spaces, they would likely occupy those spaces during the daytime as well as the night and weekend hours, leaving less on-street parking opportunities.

The PBOT staff concurs with this analysis. The PBOT response, above notes that the parking permit program sets no limit to the number of permits issued to residential buildings. Therefore, the impacts of utilizing most of on-site parking for the Office (commercial) use would create a significant impact to the overall supply of on-street parking. A condition of approval will require that a new covenant be executed that reserves 4 spaces in the Boardwalk garage for the Lang House employees/tenants. And, a condition will require the parking spaces be posted with signs that reserve them for Office users.

Based on these findings, the proposal will not adversely detract from the livability or appearance of the surrounding residential area, and 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: As only one Adjustment is 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. As explained under the Historic Design Review criteria, this proposal will not alter the existing development on either property. The proposal is consistent with the King’s Hill Historic District guidelines. Therefore, this criterion is met.

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

Findings: As addressed in the findings above, there are no identified impacts that would result from granting the Adjustment request. The Adjustment request equally meets the stated intent of the minimum parking regulation, and has no expected adverse impacts on the appearance or livability of the surrounding residential area.

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: As the site is not within an environmental zone, this criterion is not applicable.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

As reflected in the findings of this report, with conditions that require a new parking agreement that secures 4 dedicated parking spaces in the Boardwalk Condominium, this proposal addresses the approval criteria of both the Historic Design Review and Adjustment Review.

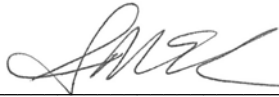
ADMINISTRATIVE DECISION

Approval of Historic Design Review (33.846) to amend the Historic Design Review decision (LUR 98-00256 HDZ), to remove Condition A that required the applicant to provide a covenant with the City ensuring that 15 parking spaces in the residential condominium building will be dedicated to the adjacent office use, and

Approval of Adjustment to reduce the required minimum on-site parking requirement (33.266.110) from 20 to 6 for the Office use (Lang House) at 2188 SW Park Place, subject to the following conditions:

- A. Two on-site parking spaces must be provided on the Lang House site, as graphically represented on the site plan (Exhibit C.1);
- B. Within 3 months from the date of the decision, the applicant must execute a covenant that reserves 4 on-site parking spaces located in the residential condominium garage (Boardwalk Condominium) at 2172 SW Park Place for the exclusive use of the Office use tenants or employees at 2188 SW Park Place (Lang House). The covenant must guarantee access to the parking. The covenant must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to recording;
- C. Upon approval, the applicant must submit a legal instrument that terminates the recorded (July 1999) restrictive covenant on the residential condominium property that benefited the Lang House and the City of Portland;
- D. The residential condominium (Boardwalk) must post, with signs, 4 parking spaces in the garage that are reserved for the exclusive use of the Office (Lang House) tenants or employees; and
- E. This final decision must be recorded with Multnomah County on both properties—the Lang House (2188 SW Park Place) and the Boardwalk Condominiums (2172 SW Park Place).

Staff Planner: Sheila Frugoli

Decision rendered by:  **on August 8, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 12, 2013

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 February 20, 2013, and was determined to be complete on June 2, 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 February 20, 2013.

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 requested that the 120-day review period be extended for an additional 3 weeks, allowing the public comment period to extend until July 9, 2013 (Exhibit A.5).

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 or Landmarks Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on August 26, 2013** 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 Adjustment Committee or Landmarks 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, OR 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 or Landmarks 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 **August 27, 2013 – (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.

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

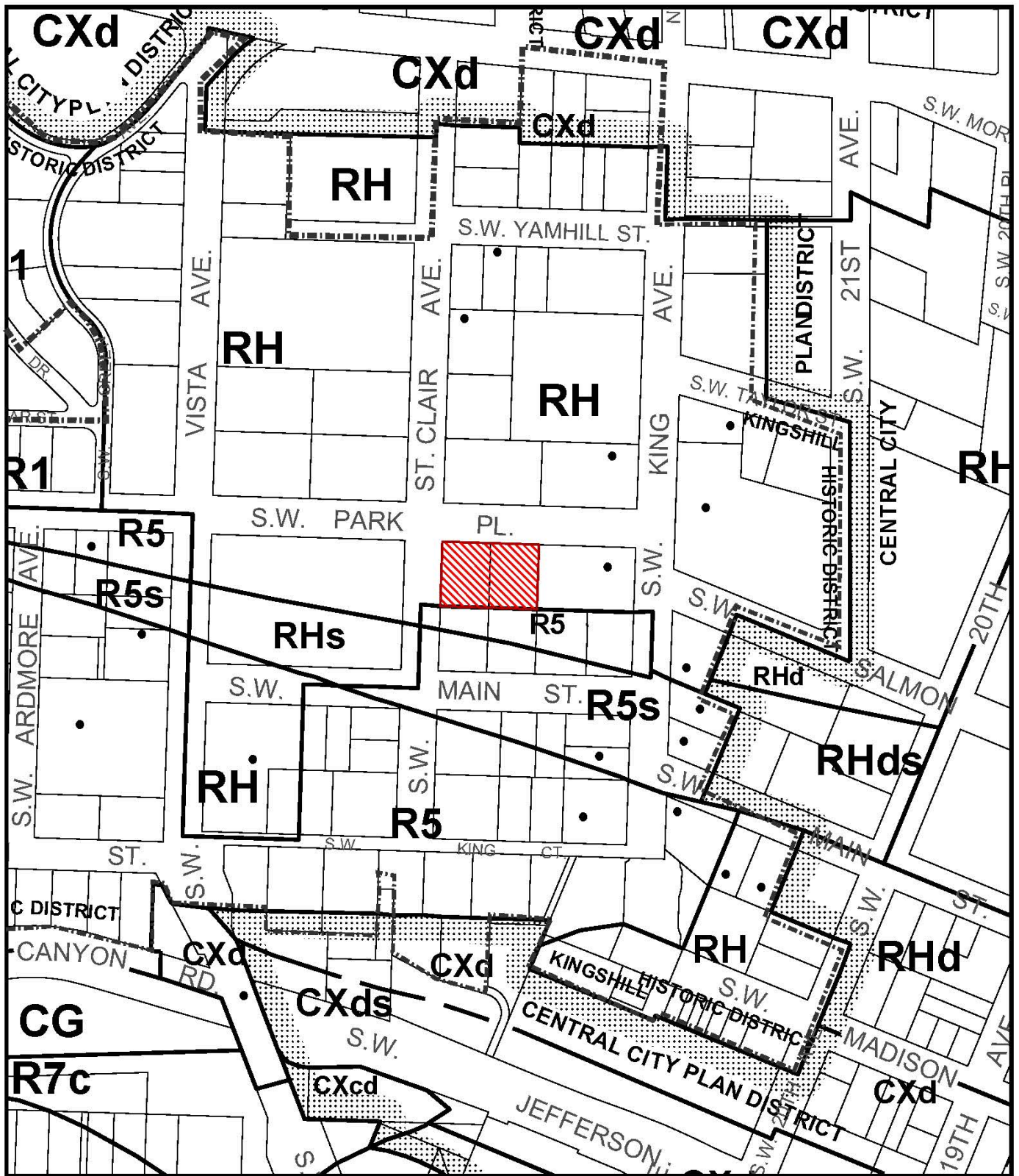
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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 Application Submittal
 - 1. Original Narrative, submitted Feb. 20, 2013
 - 2. Supplemental Narrative Addressing "Incomplete Items" with Response to Historic Design Review Approval Criteria, May 23, 2013
 - a. Aerial Photo of Buildings
 - b. Lang House Floor Plans
 - c. Recorded Restrictive Covenant for Parking in Condominium Building
 - d. Excerpt LUR 98-00256 HDZ Decision
 - 3. Summary of Adjustment Application, submitted July 2, 2013
 - 4. E-Mail to Fabio de Freitas, PBOT, July 2, 2013
 - 5. Extension to 120-Day Review Period
- 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 Transportation Engineering and Development Review
 - 2. Water Bureau
 - 3. Life Safety Plan Review Section of BDS
 - 4. Site Development Review Section of BDS
 - 5. TRACS Print-Out Showing "No Concerns" from Bureau of Environmental Services, Fire Bureau, and Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Stuart Emmons, June 18, 2013, Opposes Proposal
 - 2. Phyllis Oster, Secretary, Washington Park Condo Owners Association, June 25, 2013, Opposes Proposal
 - 3. Renee Ferrera and Jim Johnson, June 25, 2013, E-Mail Opposing Proposal
 - 4. Sandra Robertson, June 25, 2013, Opposes Proposal
 - 5. Tina Kaufman, June 25, 2013, Opposes Proposal
 - 6. Sandra Mackey, June 25, 2013, Opposes Proposal
 - 7. Larry and Karen Hayes, July 16, 2013. Letter Received After Close of Comment Period.
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Application Letter from Staff to Applicant
 - 3. Previous Land Use Review Decisions
 - a. LUR 99-00370
 - b. LUR 98-00256
 - c. LUR 00-00122

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



NORTH

This site lies within the:
KING'S HILL HISTORIC DISTRICT

File No. LU 13-118341 AD,HDZ

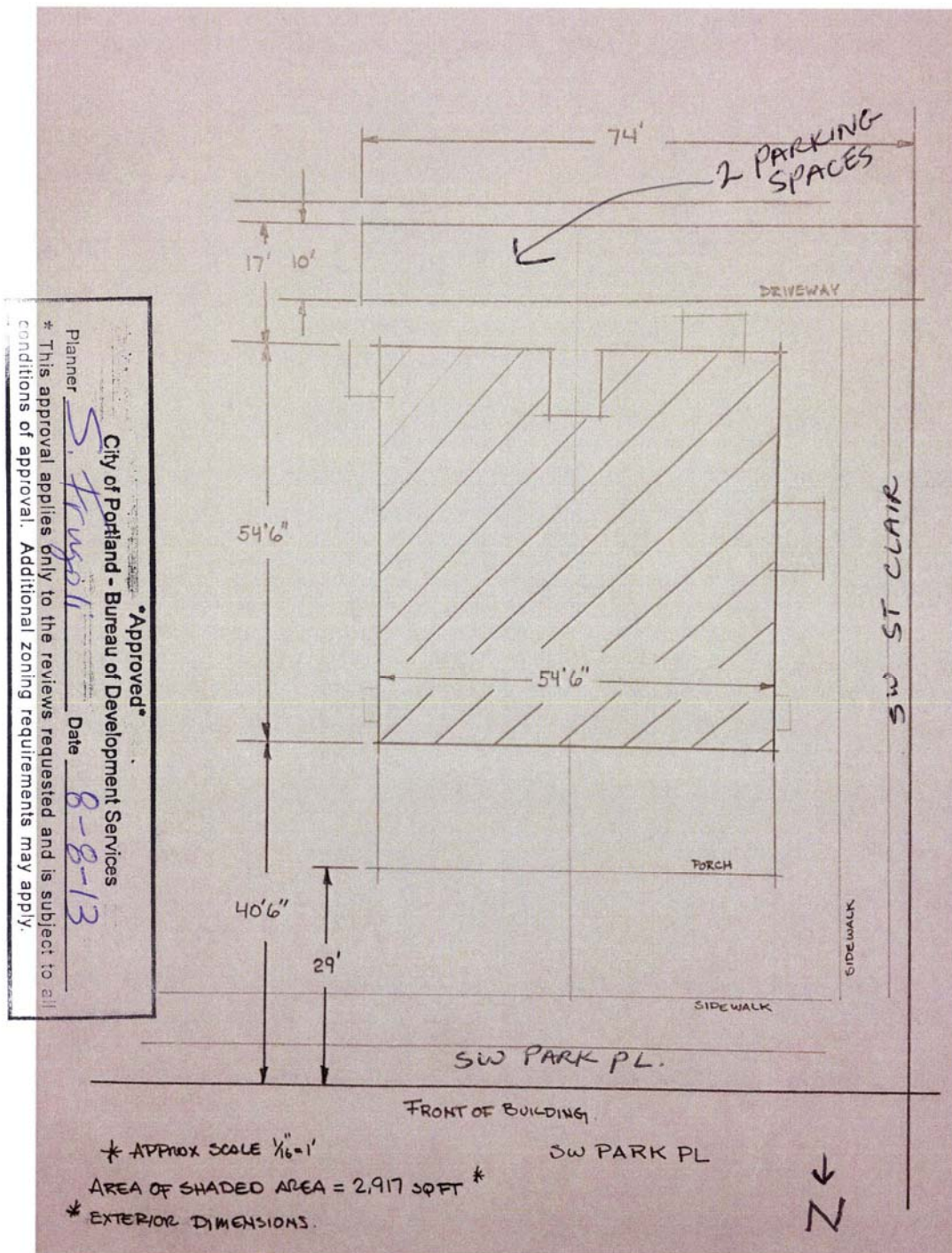
1/4 Section 3027

Scale 1 inch = 200 feet

State_Id 1N1E33CD 50000

Exhibit B

(Jun 05,2013)



NO SCALE

LW13-118341 AD,
HD2
Exhibit C.1