



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

FROM CONCEPT TO CONSTRUCTION

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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** March 25, 2014  
**To:** Interested Person  
**From:** Sylvia Cate, Land Use Services  
503-823-7771 / [Sylvia.Cate@portlandoregon.gov](mailto:Sylvia.Cate@portlandoregon.gov)

## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The 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 14-114168 AD**

#### **GENERAL INFORMATION**

**Property Owner:** Jennifer P Scott / 3945 SE Grant Ct / Portland, OR 97214-5940

**Applicant:** Holly Moore / McCall Design / 117 NE 17th Ave / Portland OR 97232

**Site Address:** 3945 SE GRANT CT

**Legal Description:** BLOCK 1 E 16 2/3' OF LOT 5 W 16 2/3' OF LOT A, HOWES ADD  
**Tax Account No.:** R404900150  
**State ID No.:** 1S1E01DD 05700 **Quarter Section:** 3234

**Neighborhood:** Richmond, contact Douglas Klotz at 503-233-9161.  
**Business District:** Division-Clinton Business Assoc, Darice Robinson at 503-233-1888.  
**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.  
**Zoning:** R5, Single Dwelling Residential 5,000  
**Case Type:** AD, Adjustment  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant proposes to add a full second story addition to the existing house. The existing home, built in 1910, is set back from both side property lines 4 feet 7 inches. Current zoning regulations require a 5 foot setback for structures built in the R5 zone. Therefore, the applicant requests an Adjustment to reduce the side setbacks for the second story addition to 4 feet 7 inches. The addition will have a new roof, with eaves proposed to be 18 inches deep, to reflect the bungalow esthetic present in the immediate area. Attached are plans and a zoning map depicting the proposal.

#### **Relevant Approval Criteria:**

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

## ANALYSIS

**Site and Vicinity:** The site is a 3,300 square foot lot developed with a 1,488 square foot house build in 1910. The site has frontage on SE Grant Court, a designated Local Service Street. The site is roughly one block east of SE Cesar E Chavez Boulevard, a Major Traffic Street and Transit Street. The site is located in the R5 residential zone and is surrounded in all directions with residential uses and development. The block that includes the site has a number of bungalow homes built in the early 1900's.

**Zoning:** The site is zoned Single Dwelling Residential 5,000; one of several residential zones that implement the Comprehensive Plan Designation of single dwelling residential.

**Land Use History:** City records indicate there are no prior land use reviews for this site.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **February 25, 2014**. The following Bureaus have responded with no issues or concerns:

- Fire Bureau
- Bureau of Parks-Forestry Division
- Bureau of Environmental Services
- Bureau of Transportation Engineering

The Water Bureau responded with no objections, but included information for the applicant to be aware of at time of building permit submittal.

The Life Safety Section of BDS responded with no objections but that a building permit will be required for the work proposed.

The Site Development Section of BDS responded with no objections but that a building permit will be required for the work proposed.

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the 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 purpose of the regulation to be adjusted is found at 33.110.220, *Setbacks*, which states:

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 houses 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; 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.

The existing house is set back 4 feet 7 inches from the east and west [side] property lines. The setback requirement is 5 feet; therefore the existing house is five inches closer to the property line than allowed by the zoning code. The applicant proposes to add a second floor addition to the existing house, using the existing setback of the original construction for the second story. The adjacent house to the east is set back five feet from the common [east] property line. The adjacent house to the west is set back five feet five inches from the common [west] property line. The slight reduction in the setback distance of five inches will still maintain light, air, separation and access for fire fighting. The Portland Fire Bureau has responded to the proposal and notes no concerns.

The physical relationship between residences will remain the same; that is, the subject home will remain separated from adjacent homes to the east and west by the same amount of space that currently exists. There are multiple homes on the block of the site located closer to others than the current requirement of 5 feet. Therefore the proposal is consistent with the scale and development pattern in the immediately surrounding area. The reduction of the side setback will have *de minimus* impact on privacy. The front setback will remain unchanged by the proposal.

The proposed adjustment will provide flexibility for the applicant in constructing the second story so that it integrates with the existing architecture of the house and not require additional structural reinforcement to support exterior walls offset from the existing load-bearing walls of the home. The proposal has no impact on on-site parking as there is neither a driveway nor garage.

The applicant also notes that the eaves of the addition are designed to match the style of the existing house, and therefore the eaves will be setback from the property line 18 inches. The applicant notes that this design aspect would be in character with the surrounding homes built in the same period, and would allow for this esthetically pleasing detail to further integrate the second story with the existing house. The applicant will be required to meet all building code requirements for life safety applicable to the eaves encroaching into the setback at time of building permit issuance. For these reasons, 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 proposed second story with a small reduction in setback distances does not include any aspects that would be anticipated to detract from the livability of the

residential area. The addition is well designed and integrates well with the existing home and architectural style. The proposed project will be attractive and is not anticipated to have any impacts on the residential appearance of the immediate neighborhood. 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:** Only one adjustment is requested. This criterion is not applicable.

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

**Findings:** City designated resources are shown on the zoning map by the ‘s’ overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

**Findings:** There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

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

**Findings:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). 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

The applicant proposes to add a full second story addition to the existing house, which is setback from both side property lines 4 feet 7 inches. Current zoning regulations require a 5 foot set back for structures built in the R5 zone. Therefore, the applicant requests an Adjustment to reduce the side setbacks for the second story addition to 4 feet 7 inches. The addition will have a new roof, with eaves proposed to be 18 inches deep, to reflect the bungalow esthetic present in the immediate area. The proposal meets all of the applicable criteria and therefore should be approved.

## ADMINISTRATIVE DECISION

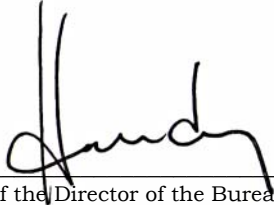
Approval of:

- Adjustment to 33.110.220, *Setbacks*, to allow the walls of a second story addition to the existing home to be set back 4 feet 7 inches from both the east and west [side] property lines, and allow the eaves to be 18 inches from the side property lines, per the approved

site plans, Exhibits C-1 through C-3, signed and dated March 21, 2014, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 14-114168 AD ." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

**Staff Planner: Sylvia Cate**

**Decision rendered by:**  **on March 21, 2014**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: March 25, 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 February 5, 2014, and was determined to be complete on February 21, 2014.

*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 5, 2014.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: June 21, 2014.**

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

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

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

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

**Appealing this decision.** This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 8, 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](http://www.portlandonline.com).

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision 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 **April 9, 2014.**
- 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:

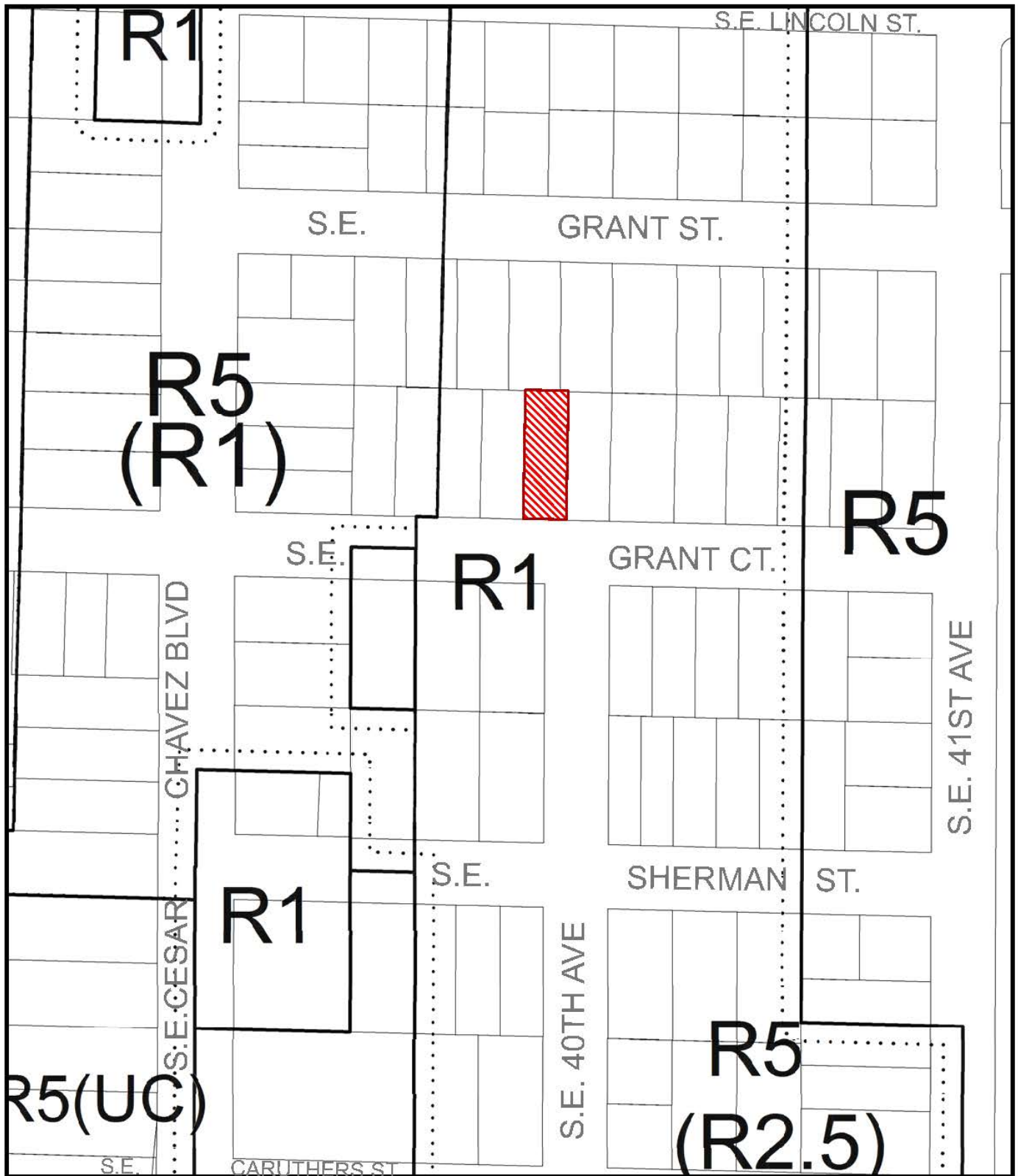
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevations: Front & Back
  - 3. Elevations: West & East
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
- F. Correspondence: None received
- G. Other:
  - 1. Original LU Application

**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).**



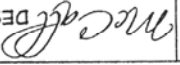
# ZONING

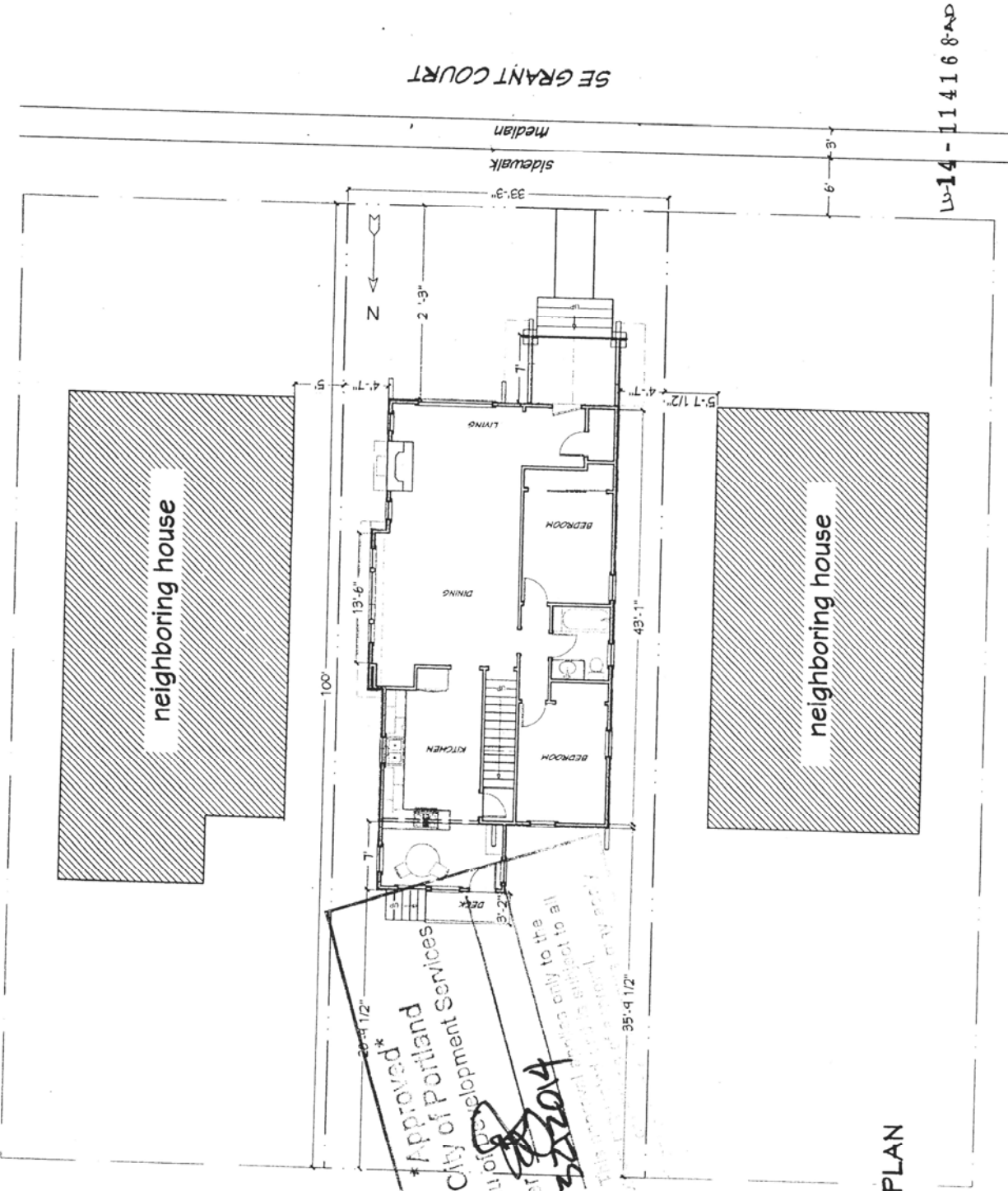
 Site



File No. LU 14-114168 AD  
 1/4 Section 3234  
 Scale 1 inch = 100 feet  
 State\_Id 1S1E01DD 5700  
 Exhibit B (Feb 12, 2014)



 503.449.3878	SCOTT GARBER REMODEL 3445 SE GRANT CT PORTLAND, OR 97214	DESIGNER: Melissa McCall REVISOR: 1/14 DATE: 1/14	DRAWING NEW SITE PLAN	PAGE <b>2</b>
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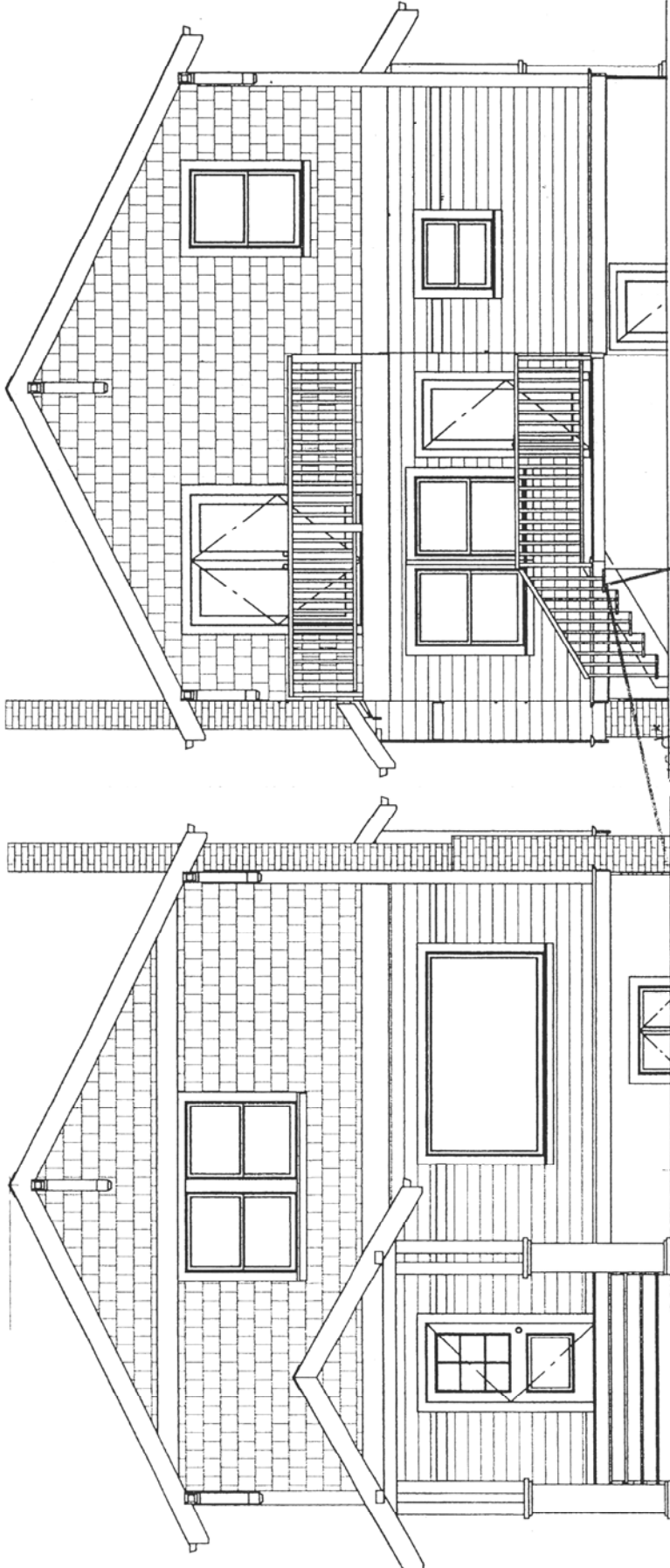


Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner: [Signature]  
 Date: 3/22/14  
 \* This approval is only valid for the project shown on this plan.

NEW SITE PLAN  
 1"=1'-0"

EXHIBIT C-1

LS-14-114168-AD



MATCH EXISTING TRIM, SIDING,  
RAFTER TAILS, WINDOWS AND  
DETAILS @ NEW SECOND STORY  
ADDITION, TYP.

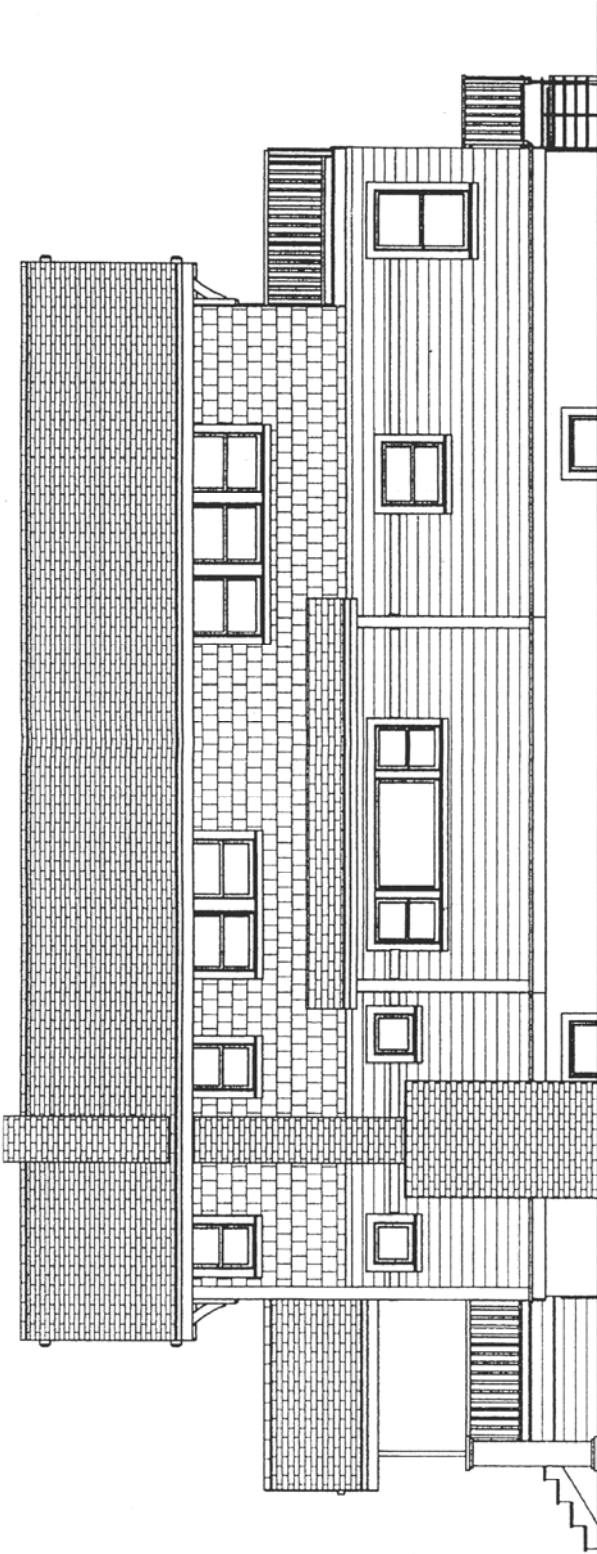
\*Approved\*  
City of Portland  
Bureau of Development Services

Planner  
32/2014

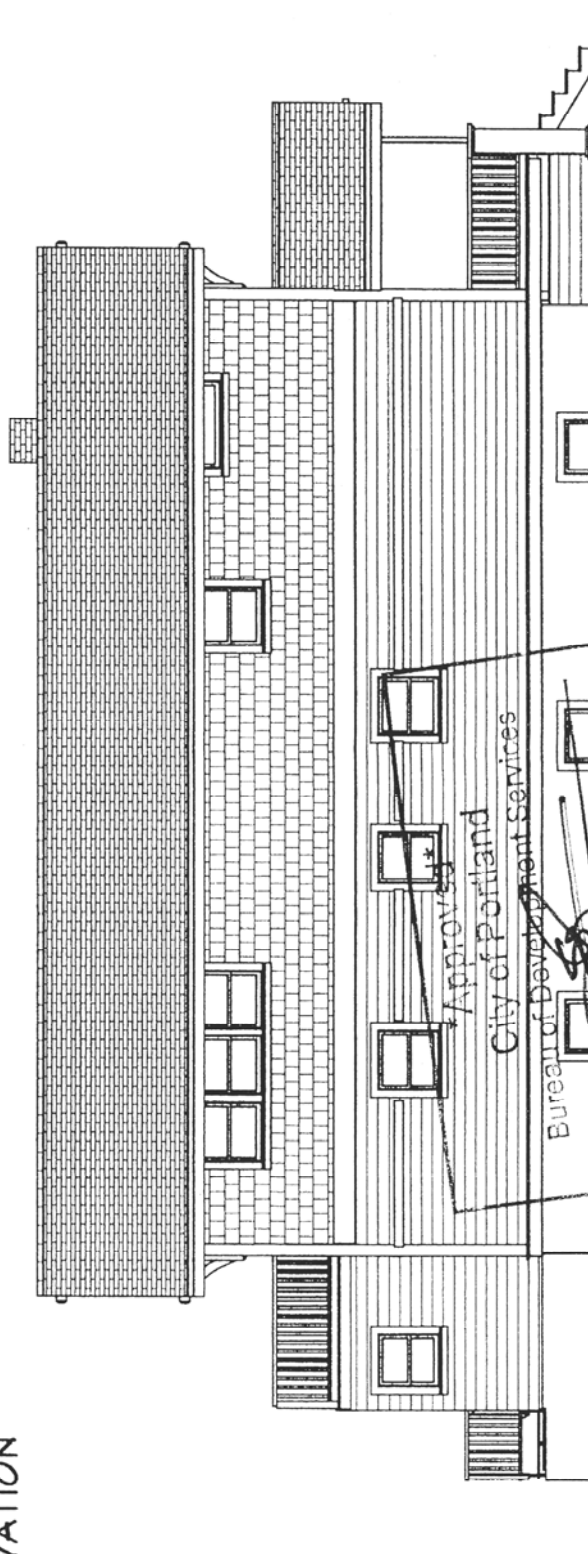
FRONT ELEVATION  
NEW EXTERIOR ELEVATIONS  
1/4"=1'-0"

W-14-114168-A0

EXHIBIT C-2



EAST ELEVATION  
not to scale



WEST ELEVATION

W-14-114168-A0

EXHIBIT C-3

Approved  
City of Portland  
Bureau of Development Services  
Planner [Signature]  
Date 3-12-2014  
• This approval applies only to the review requested and is subject to all applicable code requirements and conditions of approval.  
Additional code requirements may apply.