



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** December 23, 2013  
**To:** Interested Person  
**From:** Andrew Gulizia, Land Use Services  
503-823-7010 / [Andrew.Gulizia@portlandoregon.gov](mailto:Andrew.Gulizia@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 13-227133 AD**

#### **GENERAL INFORMATION**

**Applicant:** Adam Christie / Christie Architecture  
9532 SW 18th Place / Portland, OR 97219

**Owners:** Jim and Kim Bauman  
2235 NE 32<sup>nd</sup> Ave / Portland, OR 97212

**Site Address:** 2235 NE 32nd Avenue

**Legal Description:** BLOCK 9 S 2' OF LOT 6 LOT 7, DOLPH PK  
**Tax Account No.:** R212502450  
**State ID No.:** 1N1E25CA 19200 **Quarter Section:** 2833  
**Neighborhood:** Grant Park, contact Ken Peterson at [gpnalanduse@gmail.com](mailto:gpnalanduse@gmail.com).  
**Business District:** North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.  
**District Coalition:** NE Coalition of Neighborhoods, Claire Adamrick at 503-388-9030.  
**Zoning:** R5 - Single-Dwelling Residential 5,000  
**Case Type:** AD - Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant proposes to replace the existing garage with a larger, 16-foot by 36-foot (576 square-foot) detached garage. It is proposed to be within three inches of the side (north) property line.

The applicant is requesting an Adjustment to Zoning Code Section 33.110.220 (Table 110-3, Setbacks) which requires a five-foot side setback for accessory buildings such as garages in the R5 zone. Garages in the R5 zone are exempt from the side setback requirement when they meet certain limitations on size, height, and distance from the front property line (33.110.253.D). One of those limitations is that the garage must have dimensions no greater than 24 feet by 24 feet. At 576 square feet, the garage proposed by the applicant is not larger than the area that would result if the garage were 24 feet by 24 feet. However, an Adjustment to the five-foot setback requirement is necessary because the garage is longer than 24 feet.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805.040.A-F of the Portland Zoning Code.

**ANALYSIS**

**Site and Vicinity:** The 6,760 square-foot lot is located on the west side of NE 32<sup>nd</sup> Avenue, between NE US Grant Place and NE Thompson Street. The site is developed with a two-story single-family residence that is located approximately 27 feet back from the street lot line. The proposed garage would be constructed in the same area of the lot as the existing garage, set back behind the house and approximately 75 feet from the street lot line. Surrounding lots are zoned R5 residential and developed with single-family houses. Most neighboring homes are also two stories with garages set behind the house.

**Zoning:** The R5 designation is one of the City's single-dwelling zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The R5 zone implements the comprehensive plan policies and designations for single-dwelling housing.

**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 **November 27, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering and Development Review
- Water Bureau
- Fire Bureau
- Site Development Review Section of BDS
- Life Safety Review Section of BDS
- Parks Bureau, Urban Forestry Division

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on November 27, 2013. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

**ZONING CODE APPROVAL CRITERIA****33.805.040 Approval Criteria**

Adjustment requests will be approved if the applicant has demonstrated 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 the minimum five-foot side setback requirement for structures in the R5 zone. The purpose of the setback requirement is stated in Zoning Code Section 33.110.220.A:

**Purpose.** *The setback regulations for buildings and garage entrances 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 Adjustment equally meets the stated intent of the regulation based on the following:

- The proposed garage would line up with the garage on the abutting property to the north, as does the existing structure it will replace. Therefore, the Adjustment has no greater impact on light, air, and fire protection than the existing condition. Pursuant to building code requirements, the north wall of the structure will have no openings and must be one-hour fire rated.
- Reflecting the predominant scale and placement of garages in the neighborhood, the new garage would be one story, detached, and behind the house.
- Since the garage would be detached, there would be no impact to the physical relationship between the residence and any neighboring residence.
- As the proposal includes no new living space and no windows with intrusive views into neighboring property, no impacts to neighbors' privacy are anticipated.
- As the garage would be placed behind the house, and 75 feet from the street lot line, the proposal would not obstruct the open, visually pleasing front yard.
- The proposed garage has a richly detailed design which will complement the architectural character of the surrounding neighborhood. Placement of the structure along the north side property line will maximize its aesthetic contribution to the streetscape while simultaneously maximizing the usable outdoor area of the lot.
- As the driveway would be more than 75 feet long between the sidewalk and the proposed garage, the proposal will not affect visibility for drivers backing onto the street and there will be ample space for cars to park on the driveway without overhanging the street or sidewalk.

Based on these reasons, the proposed Adjustment equally meets the intent 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:** Because the site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area.

The proposed garage would be constructed over the same footprint as the existing garage to be demolished. At 16 feet by 36 feet (576 square feet), the new garage would be significantly larger than the one-car garage it would replace. However, a 576 square-foot garage on the side property line would be allowed outright, without the need for an Adjustment, if the garage were no more than 24 feet long (Zoning Code Section (33.110.253.D)). The Adjustment is necessary because the proposed two-car garage has a tandem design which would be 36 feet long. Given the placement of the garage on the lot, the greater length of the new garage compared to the existing garage (and compared to the building footprint that wouldn't require an Adjustment) would primarily impact the abutting properties to the north and west. However, impacts on the property to the north are

minimized because the structure is proposed to line up with the existing garage on that lot. With respect to the neighboring property to the west, the new garage would be 19 feet from the shared property line, which greatly exceeds the minimum five-foot setback requirement for structures in the R5 zone. Therefore, no negative impacts to neighborhood livability from the proposed Adjustment are anticipated.

In addition, as discussed above, the proposed garage has an architectural design which will complement rather than detract from the appearance of the surrounding 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:** As only one Adjustment is being 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 there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

**Findings:** As discussed in the findings for approval criterion B, the proposal has no adverse impacts on the livability or appearance of the surrounding residential area. As there are no identified adverse impacts for which mitigation would be required, this criterion is not applicable.

- 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 there are no environmental overlay zones mapped on site, 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 has demonstrated that the applicable approval criteria have been met. The proposal to reduce the north side setback for a garage equally meets the intent of the regulation, and does not have adverse impacts on the livability and appearance of the surrounding residential neighborhood.

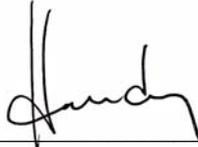
## **ADMINISTRATIVE DECISION**

Approval of the Adjustment to reduce the minimum north side setback for an accessory building from five feet to zero feet, per the approved site plans and South building elevation,

Exhibits C-1 through C-2, signed and dated December 19, 2013, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-227133 AD. No field changes allowed."

**Staff Planner: Andrew Gulizia**



**Decision rendered by:** \_\_\_\_\_ **on December 19, 2013.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: December 23, 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 November 13, 2013, and was determined to be complete on November 22, 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 13, 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 did not waive or extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: March 25, 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 January 6, 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 **January 7, 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:

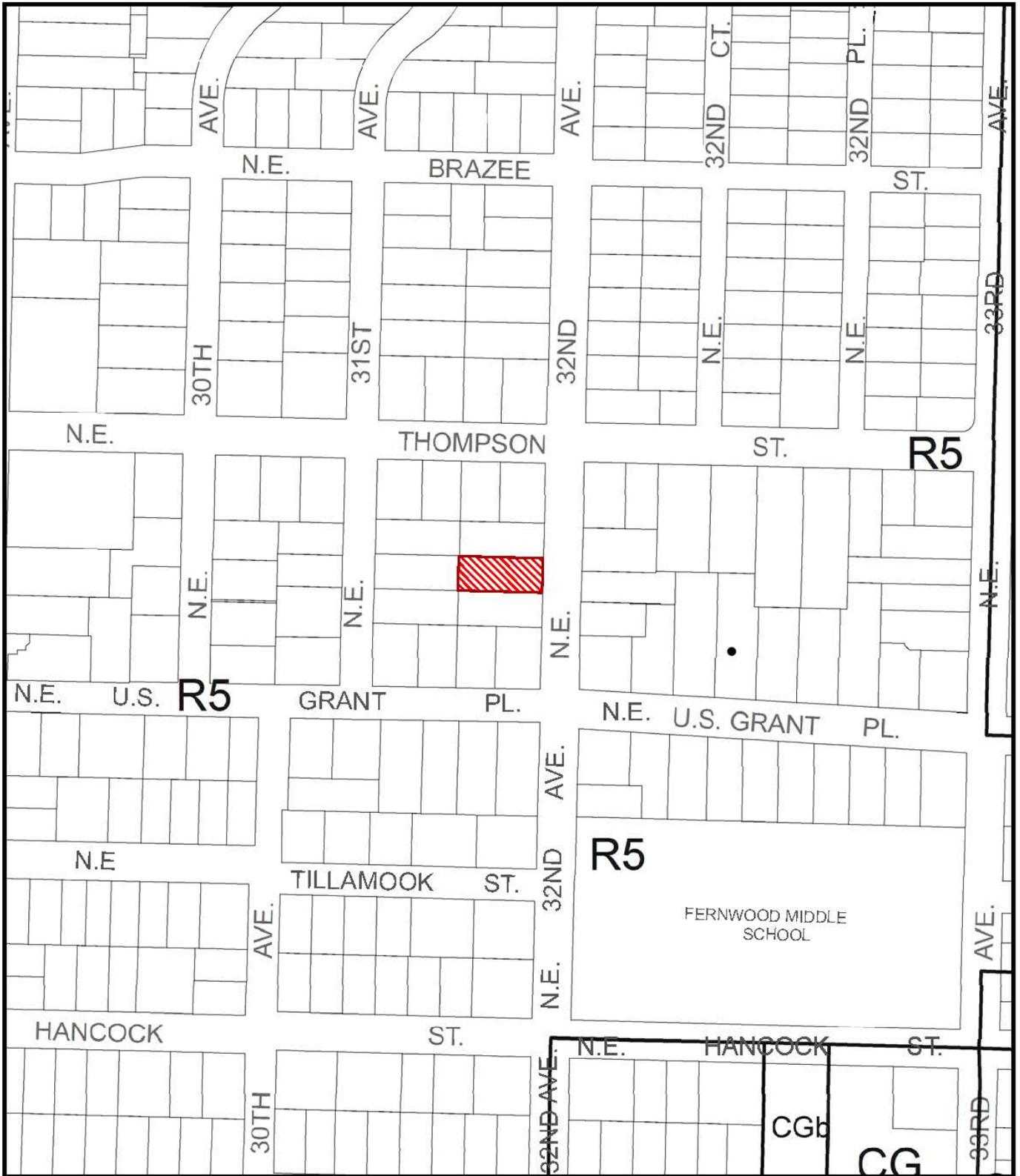
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Building Elevations (attached)
- 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. Life Safety Review Section of BDS
  - 7. Parks Bureau, Urban 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



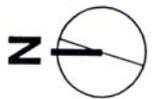
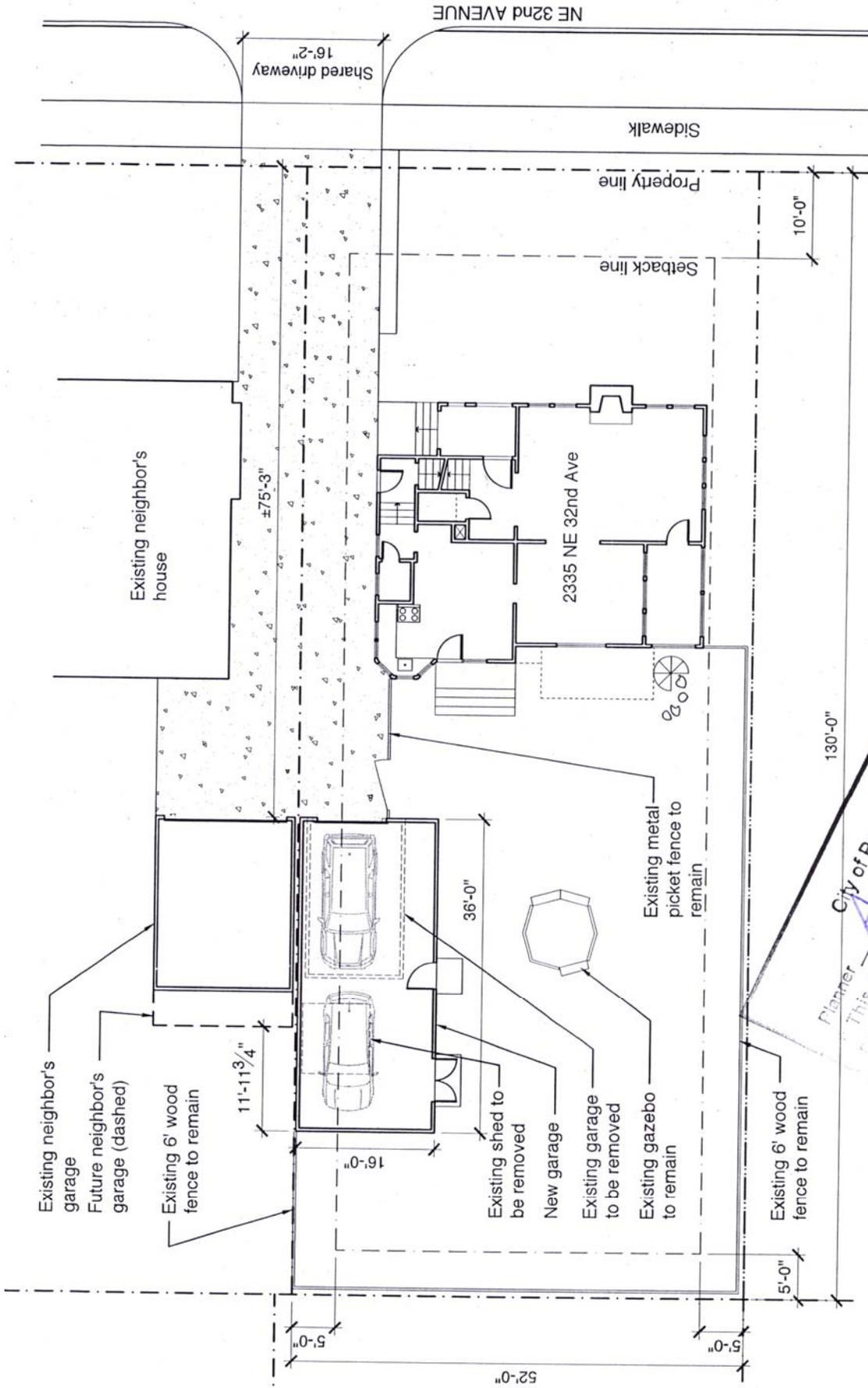
Site



Historic Landmark



File No. LU 13-227133 AD  
 1/4 Section 2833  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E25CA 19200  
 Exhibit B (Nov 15, 2013)



11/12/13 Proposed Adjustment

EXHIBIT C-1

W13 - 227 133AD

Planner *AC* City of Portland - Bureau of Development Services  
 \*Approved\*  
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.  
 Date 12/19/13

1 Site Plan: 2235 NE 32nd Ave  
 1/16" = 1'-0"

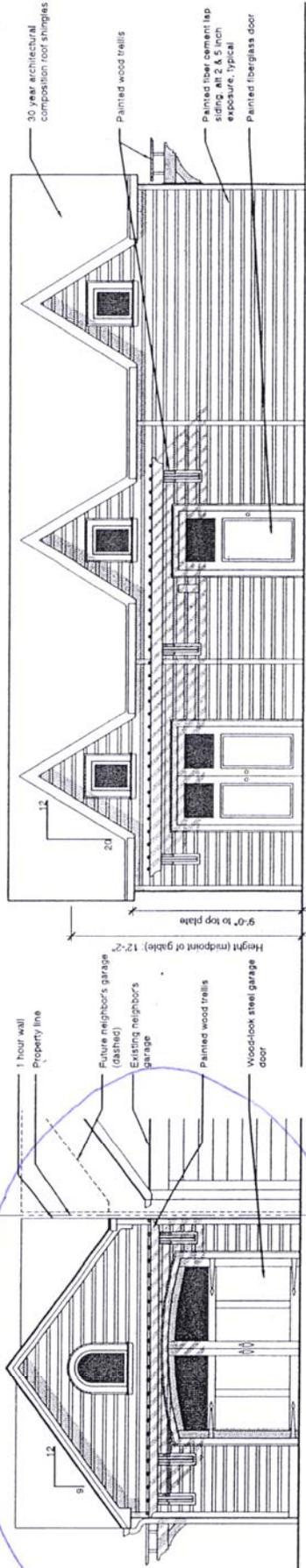
\*Approved\*

City of Portland - Bureau of Development Services

Planner *AC*

Date *12/19/13*

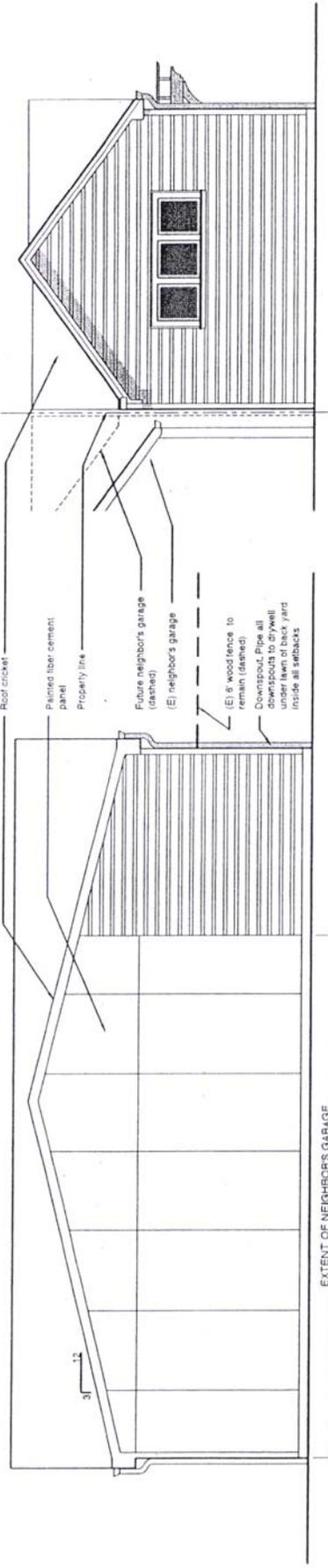
\* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.



EAST

SOUTH

*Final plans must be in substantial compliance with South elevation.*



NORTH

WEST

2 Elevations: Proposed Garage - 2235 NE 32nd Ave

1/8" = 1'-0"

11/12/13 Proposed Adjustment

*Exhibit C-2*

*LU13 - 227 133AD*