



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: October 27, 2008
To: Interested Person
From: Crystal Hitchings, Land Use Services
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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 this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-129320 HDZ AD

GENERAL INFORMATION

Applicant: Jonathon Zilka
Zilka Design
2421 SE Ash St.
Portland, OR 97214

Property Owner: Justin and Emily Hirsch
2531 NE 16th Ave
Portland, OR 97212-4231

Site Address: 2531 NE 16TH AVE

Legal Description: LOT 7 & 8 BLOCK 61, IRVINGTON
Tax Account No.: R420413190
State ID No.: 1N1E26AC 17500
Quarter Section: 2732
Neighborhood: Irvington, contact Dean Gisvold at 503-284-3885.
Business District: North-Northeast Business Assoc, contact Joyce Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, Lauren McCartney at 503-823-4135.
Other Designations: Irvington Conservation District
Zoning: R5a, Single-Dwelling Residential 5,000 with an Alternative Density Overlay Zone
Case Type: HDZ AD, Historic Design Review with concurrent Adjustment review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to construct a two-story structure containing a 2 car garage on the first floor and an Accessory Dwelling Unit (ADU) and storage space on the second floor. The structure is located in the southwest corner of the site, in the location of the existing detached garage and carport (which will be demolished). The proposed structure is located in essentially the same footprint of the existing garage and carport, except that larger setbacks are provided than currently exist. The existing garage is located 1 foot from the west and 1.5 feet from the south property lines. The walls of the proposed structure are set back 3 feet from the south

(rear) property line, and 2 feet from the west (side) property line, with the eaves set back 2 feet from the south and 1 foot from the west property lines. The west wall of the bumped-out portion of the proposed structure (located on the north side) is located 5 feet from the property line, with the eave set back 4 feet from the property line (eaves are allowed to be located 4 feet from a property line when the setback is 5 feet).

The height of the proposed building is approximately 14.75 feet (measured to the midpoint of the highest gable) and is 21 feet to the highest point of the gable. The existing garage and carport measure 14 feet tall at the highest point of the gable. The footprint of the existing garage is 22 feet by 30.5 feet. The proposed footprint of the main area of the new garage and ADU which is located in the setbacks measures 22 feet by 27 feet. The bumped-out portion on the north side of the structure, which is not located in the setback, measures 18 feet, 2 inches by 3.5 feet, and provides the entry and stairway for the second floor ADU, and an attic space (please see attached ADU floor plan for a graphical depiction).

The second story of the structure is 660 square feet in size, and is mainly dedicated to the ADU and storage areas accessible from the ADU. A small portion of that square footage is dedicated to storage area which is not accessible from the ADU, and is not considered part of the ADU.

The proposed structure incorporates architectural details and elements from the primary home on the subject site, and which reflect the architecture of nearby structures, including details, proportions, and materials. The gabled dormers and eave detail on the structure matches the front and rear dormers as well as the front porch, which also has a gabled roof. The trim details are similar to the windows with lintel mold and six inch boards. Corner boards and beading are the same as the house. The pitch of the roof is 10 and 12, as it is on the house. The siding material and color will match the house. Window style and proportion will match those of the house.

The site is within the boundaries of the Irvington Conservation District. The primary structure on the site is listed as having “primary historical significance” and is a contributing structure to the district. Zoning Code Sections 33.445.400, Conservation Districts and 33.825, Design Review, require a Historic Design Review for sites located within conservation districts. Therefore, the applicant is requesting a Historic Design Review. The Irvington Conservation District utilizes the *Community Design Guidelines*.

Zoning Code Section 33.110.220, Table 110-3, requires minimum side and rear building setbacks of 5 feet in the R5 zone. An eave is allowed to project a maximum of 20% into required 5-foot building setbacks, and based on this allowed projection, an eave is required to have a 4-foot setback from side and rear property lines. Therefore, the applicant is requesting Adjustments to Section 33.110.220 and Tables 110-3, to allow the proposed structure to be set back 3 feet from the south property line and 2 feet from the west property line, and to allow the eaves of the structure to be set back 2 feet from the south property line and 1 foot from the west property line.

Relevant Approval Criteria:

Historic Design Review requests will be approved if the review body finds the applicant has shown that the proposal complies with the design guidelines for the area. As per Zoning Code Sections 33.445.400, Conservation Districts and 33.825, Design Review, the relevant criteria for the subject site are the *Community Design Guidelines*.

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 10,000 square foot site is located on the west side of NE 16th Avenue, between NE Brazee and NE Knott Streets. The site is developed with a 3,600 square foot, 3-story home originally built in 1907; a 671 square foot detached garage and carport; and a 48 square foot playhouse. The site contains three large evergreen trees (2 are 30 inches and one is 40 inches in diameter). One 30 inch diameter tree is located approximately 14 feet east of the garage entrance, and one 40-inch diameter tree is located approximately 26 feet north of the carport. Two large chestnuts trees are located in the planting strip in front of the home. The site is formally landscaped with smaller shrubs and open lawn. The site is accessed from NE 16th via a concrete driveway on the south side of the home. The driveway was designed to incorporate the 30-inch fir tree. The driveway splits around the tree and cars can enter the garage from the left of this tree and enter the carport from the right of the tree.

The existing home is constructed in the Colonial Revival vein, with a hip roof and gabled dormers, paired round columns, and symmetrical architectural features. Siding is wooden clapboard with double bevels and a 3 inch reveal, corner boards are beaded, gable soffits are fully enclosed and those on the hip roof are 2 feet deep with decorative brackets on the main roof, and are 8 inches deep on the rear dormers and 1 foot deep on the gable roof over the front porch. All doors and windows have lintel molding; banding, corner board, and barge boards are 8 inches wide. Windows are wooden, double-hung panes with 6 inch trim boards. Person-doors have wooden panels below and glass panels above. Front and side porches have decorative columns on stone foundations, with turned wooden railings. The second story and the third story gable on the east façade contain round windows. Skylights were installed in the hip roof.

The adjacent lot to the south of the subject site is also developed with a single-dwelling residence and a detached garage. The garage is located south of the garage on the subject site and is approximately 1 foot south of the common property line, and 2.5 feet from the garage. The driveway accessing the adjacent site to the south runs along the common property line from NE 16th, with a narrow planting strip in-between.

The adjacent lot to the west is developed with a commercial building which contains a specialty food market and other commercial space, and associated on-site parking. The east wall of this commercial structure is located at a 0-foot setback from the common property line, and approximately 1 foot from the carport. The structure is constructed of concrete, and the east wall abutting the subject site is approximately 18 feet tall.

Aside from this commercial use, development within 200 feet of the subject site is limited to single- and multi-dwelling residential homes. Lots in the area are typically 5,000 or 10,000 square feet in size. Homes in the area are typically larger, 2 to 3 story homes. Most sites contain detached accessory structures located to the rear and side of the home. Aerial photographs from 2007 show that most of the accessory structures and several of the primary structures within the immediate neighborhood are located in side and/or rear setbacks.

Zoning: The base zone is R5, which is a high-density, single-dwelling residential zone. Surrounding properties within the area are also zoned R5. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. Single-dwelling zones allow attached and detached single-dwelling residential structures. The R5 zone requires a minimum side and rear setback of 5 feet.

The Alternative Design Density overlay zone is intended to focus development on vacant sites, preserve existing housing, and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The proposal does not trigger the development standards of this overlay zone.

This site is part of the Irvington Conservation District, and the primary structure is shown in the adopted Irvington Neighborhood Plan as being of a Primary Historical Significance and is a contributing structure to the conservation district. The Irvington Conservation District strives to retain a lively, appealing urban neighborhood with diverse residents who share common

values; strives to preserve the neighborhood's distinctive residential character; and strives to provide diversity in type and density of housing. New development in the Irvington Conservation District is subject to the *Community Design Guidelines*. The site is also within the adopted Albina Community Plan area, but is not within the Albina Community Plan District, which has specific zoning regulations as outlined in the Zoning Code. The Albina Community Plan outlines objectives intended to protect the rich historic, cultural, and architectural heritage of the Albina community, and provide alternative housing types which fit into the existing residential areas.

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

Agency Review: A "Request for Response" was mailed on **September 12, 2008**. The following Bureaus have responded with no issues or concerns (Exhibits E.1-E.4):

- Fire Bureau
- Bureau of Transportation Engineering
- Water Bureau
- Bureau of Parks-Forestry Division

The following agencies submitted additional comments:

The **Bureau of Environmental Services** (Exhibit E.5): had no concerns and stated that the stormwater runoff from the proposed new garage/ADU and any proposed new driveway area must be infiltrated on-site, provided infiltration rates are adequate, and NOT discharged off-site to the City combined sewer. BES referred to comments from the Site Development Section of BDS.

The **Site Development Section of BDS** (Exhibit E.6): had no concerns and submitted information regarding sanitary and stormwater services, root protection zones, and demolition permits to assist the applicant in the building permit phase.

The **Life Safety Bureau** (Exhibit E.7): had no concerns and submitted preliminary Building Codes information to assist the applicant in the building permit phase.

Neighborhood Review: A "Notice of Proposal in Your Neighborhood" was mailed on **September 26, 2008**. Two written responses were received from the Irvington Neighborhood Association and a notified property owner in response to the proposal. One response stated that the Neighborhood Association had voted to oppose the request for reducing the setbacks, on the grounds that the minimum setbacks are vital to the character of the neighborhood; the size of the structure in combination with the reduced setbacks is too imposing; views will be affected; fire risk is heightened and fire access decreased; and that there is no compelling reason to reduce the setbacks. The response from a nearby neighbor stated opposition to the setback reduction, stating that there was plenty of room on the property to construct the proposed building while meeting the minimum setbacks.

Staff response: Private views are not protected by the Zoning Code. The Adjustment review process does not require a finding of "compelling need" to vary from a standard, nor does it require an alternatives analysis. All other concerns regarding setbacks that directly relate to the relevant approval criteria are addressed under the findings below.

ZONING CODE APPROVAL CRITERIA

Chapter 33.825 Design Review

Section 33.825.010 Purpose of Design Review

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be

compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

Section 33.825.055 Design Review Approval Criteria

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

The site is located within the Irvington Conservation District. Because the Irvington Conservation District does not have its own adopted design guidelines, the applicable design guidelines are the *Community Design Guidelines*.

Community Design Guidelines

The *Community Design Guidelines* consist of a set of guidelines for design and historic design cases in community planning areas outside of the Central City. These guidelines address the unique and special characteristics of the community plan area and the historic and conservation districts. The *Community Design Guidelines* focus on three general categories: **(P) Portland Personality**, which establishes Portland's urban design framework; **(E) Pedestrian Emphasis**, which states that Portland is a city for people as well as cars and other movement systems; and **(D) Project Design**, which assures that each development is sensitive to both Portland's urban design framework and the users of the city.

As per the *Community Design Guidelines* Applicability Chart, new single-dwelling development is subject to the P1 and P2 standards, and all of the D standards, but none of the E standards. Staff has considered all applicable guidelines and has addressed only those guidelines considered relevant to this project.

P1. Plan Area Character. *Enhance the sense of place and identity by incorporating site and building design features that respond to the area's desired characteristics and traditions.*

Findings: The project site is located within the adopted Albina Community Plan area, but is not within the Albina Community Plan District. The Albina neighborhood plan calls for protection and enhancement of the historic, cultural, and architectural resources and encourages compatible, quality development. The Albina Community Plan states that a variety of housing types providing alternatives to the detached single-dwelling home will be needed in the future, and that a mix of housing types that fit into the fabric of the existing residential area is an important goal of the plan.

The nearby neighborhood within several blocks of the subject site is characterized by larger, older homes of various architectural styles and typically with ornate architectural details. Homes are located on larger lots, and are typically well set back from the front property line. Homes are commonly located close to the north property line, while accessory structures are commonly located close to the side and the rear property lines. Lots are well vegetated with mature trees and formal landscaping. The applicant states that the Irvington neighborhood was known as one of the first in Portland to incorporate garages into the initial design of homes, as it was expected that residents of this particular neighborhood would own automobiles. The applicant further states that the proposed 2-car garage with carriage doors remains historically relevant.

The proposed ADU incorporates architectural details from the primary home on the subject site, in relative proportion to the size of the proposed structure. Details contained in the primary home and incorporated into the proposed accessory structure include: the gabled dormers and eave detail of the front and rear dormers and the front porch gable; reveal, material, glazing (1 over 1), and trim details of the windows; corner boards and beading; siding material and color; and roof pitch. The applicant submitted photos of several homes in the area which show that nearby homes also contain dormers and other details similar to those on the subject home and proposed ADU, and this was confirmed by staff in the field.

The proposed ADU provides alternative housing options while remaining compatible with the overall character and livability of the residential area. The proposed structure is located in essentially the same location as an existing structure, and therefore will not change other physical characteristics and amenities of the site, such as landscaping, outdoor areas, and vehicle access. Setbacks between properties and structures are slightly increased from what exists. The ADU is located at the rear, southwest corner of the site, further back from the street than the main structure, and therefore does not significantly change the views of the site from the street. The ADU respects the historical and residential features of the primary structure on the site, and is oriented for maximum interaction between the house and the street.

Historically, it is not unusual for detached accessory structures, typically garages, to be located within side and rear setbacks in many areas of the city, or even to be located at a zero-foot setback with shared side walls. In fact, it can be seen in aerial photographs of the block on which the subject site is located, and on the adjacent blocks to the west and east, that there are instances where garages are located at a zero-foot setback on two adjacent lots with a shared side wall, and multiple instances where detached garages are located within the 5-foot side and rear setbacks. These same aerial photos also show that several of the primary structures located on the lots in the block between NE 16th and NE 17th Avenues are located within side or rear setbacks. The commercial structure on the adjacent lot to the west is located at zero-foot side and rear setbacks, the primary structures on the adjacent lots to the north and northwest of the subject site are located within the side setbacks. The garage on the adjacent site to the south is located within both the side and rear setbacks, and garages and primary structures on lots further to the north are located within side and rear setbacks. This trend of both primary and accessory structures being located within side and rear setbacks continues in nearby blocks to the east, west, south, and north.

The proposal to locate the garage/ADU in essentially the same footprint as the existing garage/carport respects the historic pattern of setbacks both on this site and in the nearby neighborhood. Additionally, utilizing essentially the same footprint maintains the historic physical separation between the primary structure, which is a contributing structure to the conservation district, and the proposed new structure. Maintaining this historic separation allows the primary, contributing structure to stand apart from and remain visually and physically dominant to and separate from the accessory structure. Allowing the proposed additional height to the structure located within the setback on this site allows alternative housing options, which is a stated goal of both the Albina and Irvington neighborhood plans, while retaining existing outdoor areas, landscaping, and vehicle areas, and is not out of character with the tendency in the nearby neighborhood of 2-story structures to be located in setbacks, and does not interfere visually or physically with the historic significance of the primary structure.

This criterion is met.

P2. Historic and Conservation Districts. *Enhance the identity of historic and conservation districts by incorporating site and building design features that reinforce the area's historic significance. Near historic and conservation districts, use such features to reinforce and complement the historic areas.*

Findings: The Irvington Conservation District strives to ensure that Irvington remains a lively, appealing urban neighborhood whose residents are diverse but share common values of neighborliness, respect for others and concern for the preservation of the neighborhood's distinctive residential character. General housing goals are to provide diversity in the type and density of housing to ensure an adequate supply of safe, attractive housing at a variety of prices and rents. General neighborhood goals are to preserve, restore, and enhance Irvington's historic resources and distinctive physical and natural features, and maintain the neighborhood's historic residential character.

Creating an ADU on this lot not only provides diversity in type and density of housing, it also provides opportunities for diverse residents to inhabit the site, and encourages neighborliness and respect for others by locating residents on shared property and orienting the structures such that common areas such as vehicle areas and outdoor areas will be shared.

As noted in P1 above, the primary home is a contributing structure to the conservation district, and the proposed accessory structure incorporates elements from the primary home, including details, proportions, and materials. Additionally, similar features, such as the dormers, can be found on nearby homes. The gabled dormers and eave detail on the ADU match the front and rear dormers and elements of the front porch, which also has a gabled roof. The trim details match the house windows with lintel mold and six inch boards. Corner boards and beading match those found on the house. The pitch of the ADU is 10 and 12, as it is on the house. The style of the garage door is reminiscent of carriage doors historically used on garages in the area. The applicant has stated that period reproduction hardware will be purchased to match that on the home.

By incorporating these same features into the accessory structure, the contributing features of the main home are reinforced, and the historic character of the area is maintained. By locating the proposed structure in the same location of the existing structure, historic setbacks are maintained between properties, historic garage locations are maintained, and the historic physical relationship between the primary and accessory structures on the subject site is maintained.

This criterion is met.

D1. Outdoor Areas. *When sites are not fully built on, place buildings to create sizable, usable outdoor areas. Design these areas to be accessible, pleasant, and safe. Connect outdoor areas to the circulation system used by pedestrians;*

D2. Main Entrances. *Make the main entrances to houses and buildings prominent, interesting, pedestrian accessible, and transit-oriented.*

D3. Landscape Features. *Enhance site and building design through appropriate placement, scale, and variety of landscape features.*

Findings (D1-D3): No new outdoor areas, main entrances to the house, or landscape features are proposed, nor are any of these existing features being changed. The size of the footprint of the garage and carport structure, and size of the driveway, is not changing. Existing landscaping, including the large tree located in the center of the driveway in front of the garage, is being retained. The main entrance of the ADU faces into the site and away from the street, and therefore the main entrance of the home will remain the prominent entrance. The physical relationship between the outdoor areas and circulation systems are maintained.

These criteria are met.

D4. Parking Areas and Garages. *Integrate parking in a manner that is attractive and complementary to the site and its surroundings. Locate parking in a manner that minimizes negative impacts on the community and its pedestrians. Design parking garage exteriors to visually respect and integrate with adjacent buildings and environment.*

Findings: Existing parking and access are not changed by this proposal. The existing footprint of the vehicle storage area will not change, except that the proposed garage will be located further from the property lines than the existing garage and carport. The garage is located in the far southwest corner of the site, behind the house, and therefore the house remains the dominant, primary structure on the site. The exterior of the garage is integrated into the exterior façade of the ADU, and the structure incorporates the following features of the adjacent home: the gabled dormers and eave detail from the front and rear dormers and from elements of the front porch; reveal, material, glazing (1 over 1), and trim details from the windows; corner boards and beading; siding material and color; and roof pitch. Additionally, the garage door is wooden and is intended to emulate historic carriage style doors.

This criterion is met.

D5. Crime Prevention. *Use site design and building orientation to reduce the likelihood of crime through the design and placement of windows, entries, active ground level uses, and outdoor areas.*

Findings: The ADU has two upstairs windows which face the driveway and street, one in the sleeping area and one in the living area, thereby creating strong visual connection between the ADU and the street. The entrance to the ADU opens toward the main house, and the entrance to the main house is just a few feet away from the entrance to the ADU, thereby increasing visual and physical interaction between the two homes. The stairwell includes 1 window which faces the driveway and street and 2 windows which face the back yard. The garage is an active ground level use, and the garage doors both include windows facing the driveway and street. All of these elements increase visibility to the street and create opportunities for residents to engage with the activities on the site and sidewalk, encouraging passive surveillance of street and neighborhood, and thereby reducing likeliness of crime.

This criterion is met.

D6. Architectural Integrity. *Respect the original character of buildings when making modifications that affect the exterior. Make additions compatible in scale, color, details, material proportion, and character with the existing building.*

Findings: Although not an addition to the existing home, the ADU sits directly adjacent to the home and is visually connected with the home on the site. As noted in P1 and P2 above, the proposed structure incorporates architectural details directly from the primary home on the subject site, including details, proportions, and materials.

The gabled dormers and eave detail on the structure are copied from the front and rear dormers and from elements of the front porch, which also has a gabled roof. The pitch of the roof and gables is 10 and 12, as it is on the house. The siding material is wood clapboard with 3 inch reveal. Roof material is composition shingles to match the house. Paint color matches the house. All windows, doors, and trim are composed of wood. The trim details include bead and lintel casing, cove and bed molding, 1 inch by 6 inch window and door trim, and 8 inch banding boards. Beaded corner boards are 8 inches wide. Gable windows are double-hung with half-round transoms above, and are 4 feet by 2 feet. Other windows are also double-hung but without transoms, and are 2 feet by 3.5 feet. The person-door has two lower panels and a large window above. The garage doors are carriage-style doors, with 12 solid panels below 12 glass panels. The applicant has stated that hardware will match that of the original home, although no specific details were provided.

By incorporating materials, details, and proportions of the home as closely as possible, by maintaining the existing footprint of parking structures, and by constructing an accessory building that is proportionate yet significantly smaller than the primary structure, the proposed garage/ADU is compatible in scale, color, details, material, proportion, and character with the existing building.

This criterion is met.

D7. Blending into the Neighborhood. *Reduce the impact of new development on established neighborhoods by incorporating elements of nearby, quality buildings such as building details, massing, proportions, and materials.*

Findings: Building details, proportions, and materials used in the ADU/garage emulate those on the existing home, which is a contributing structure to the established conservation district and is representative of the typical architectural diversity and detail found in the Irvington neighborhood. Elements of the proposed structure are also found in nearby homes, including

the gabled dormers, clapboard siding, single-paned double-hung windows, banding, corner boards, and detailed molding and trim work.

This criterion is met.

D8. Interest, Quality, and Composition. *All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.*

Findings: Major features of the street-facing façade of the proposed structure include the detailed carriage-style garage doors, two dormer windows, and the smaller side window on the ADU entry. Each of the two garage doors has 12 panels on the lower two-thirds of the door, and 12 smaller window panes on the upper third of the door, with trim details to match the door of the house. Each of the two dormers has a double-hung, wood-frame window with a half round transom above, and trim detail to match that on the dormers of the home. The smaller window on the ADU entrance is a double-hung, wood-frame window similar to those in the dormers, and again with trim details matching that on the home. The corner trim boards are mitred, with beading and crown to match that on the home. The composition roof, double bevel siding, and paint color match that on the existing home. Eave and gable proportions of the proposed structure match those found on the existing house. Materials and details will be as closely matched to the original home as possible. All proposed building materials are composed of wood. The applicant has expressed the intent to seek out original period architectural building materials and hardware whenever possible, and to custom reproduce materials when necessary. The proposed structure offers pleasing views of all 4 facades which are balanced and proportional, and which emulate the details and proportions of the existing home.

This criterion is met.

Chapter 33.805, Adjustments

Section 33.805.010 Purpose of 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.

Section 33.805.040 Adjustments 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 application is for two Adjustments to Zoning Code Section 33.110.220, Setbacks. The purpose statement for this standard is as follows:

Purpose

The building setback regulations serve several purposes:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*

- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.*

The proposal is for a new, taller structure to be located in essentially the same footprint of an existing structure, which will be removed. The proposed structure will provide greater setbacks than the existing structure. The existing structure is located 1.5 feet from the south property line and 1 foot from the west property line. The south wall will be located 3 feet from the south side property line. The eave on the south wall of the proposed ADU will be located 2 feet from the south side property line. The west wall of the proposed structure will be located 2 feet from the rear (west) property line. The applicant received a Building Code Appeal allowing the eave on the west wall of the proposed ADU to be located less than 2 feet from the rear (west) property line, adjacent to a commercial, concrete wall.

The east, rear façade of the commercial structure located to the rear (west) of the subject site, constructed of concrete, is located at a 0-foot setback on the common rear property line. A residential garage is located on the adjacent site to the south, and is located at a 2-foot setback from the common side property line.

The proposed structure will utilize essentially the same footprint of the existing garage and carport, except that it will be located 1.5 feet further away from the south property line and 1 foot further away from the west property line than the existing garage/carport is located. Therefore, existing access for fire fighting and separation for fire protection will be improved by the proposal. The west eave and west wall of the ADU will be constructed to meet building code requirements for fire proofing. The existing garage is not constructed to meet fire code, and therefore the construction of the proposed structure will be an improvement for fire protection. The garage on the adjacent site to the south is located 4 feet from the proposed structure, and the home on the adjacent lot is located over 20 feet southeast of the proposed structure. A paved driveway is located between the home on the adjacent site and the proposed structure on the subject site, which provides adequate separation for fire protection. The commercial structure located at a 0-foot setback on the adjacent lot to the west is constructed of cement. The Fire Bureau has reviewed this proposal and submitted no concerns regarding fire access or fire safety.

The proposed structure is 21 feet in height to the top of the ridge, which is approximately 7 feet taller at its highest point than the existing structure. The commercial structure located at the common rear property line is 18 feet tall and extends over 50 feet along the property line. Light and air will not be reduced for this commercial site. The adjacent garage on the lot to the south is taller than the existing garage on the subject site, but the proposed structure will be 6 feet taller than the adjacent garage. However, because the proposed structure is located on the north side of the adjacent garage, light on the property to the south will not be affected by the proposal. A dense evergreen shrub border separates the two properties along the common side property line, and the garages are currently located only 5 feet apart, with the shrub border extending right up to the front façade of the structures. The proposed structure will be located 1.5 feet further from the property line than the existing structure. Therefore, air passage between the two sites at this location will be improved.

The proposed structure is designed to emulate the primary structure and incorporates the proportions of the primary structure, on a reduced scale. The proposed structure is significantly lower in height and shorter in length than the primary structure. Additionally, the proposed structure is located at a rear corner of the lot, further back on the lot than the primary structure. Therefore, the primary structure remains the dominant structure on the site, reflecting the typical relationship between a larger primary structure and a smaller accessory structure, and is not out of scale with development on other sites. Because the proposed structure will be built on essentially the same footprint as the existing structure, the physical relationship between structures will not be changed by this proposal. Additionally, the location of the proposed structure in the side and rear setbacks at the southwest corner of the site reflects common development patterns of other accessory structures in the nearby neighborhood, which are commonly located in the side and rear setbacks.

At 14.75 feet at the midpoint of the highest gable, the ADU is 3.25 feet lower than the maximum height allowance of 18 feet for ADU's, and meets the proportional requirements of ADU living space to primary dwelling living space. The portion of the structure within the setbacks (22 by 27 feet, not including the bump-out, which is outside of the rear setback) is only 18 square feet larger than the footprint of a garage that would be allowed by right within the setbacks, if it met specific height requirements. The overall height of the proposed structure is 6 feet taller than a garage that would be allowed in the setbacks by right, but the height of the wall, excluding the gable, is 9.75 feet, which is lower than the maximum height that would be allowed for garages located in the setback. The structure is significantly lower than a structure that could be built by right (30 feet) if it were only 2 feet further from the south and 3 feet further from the west property lines. Additionally, given the 18-foot tall commercial structure to the rear and the dense shrub border and adjacent garage to the south side, the additional height of the proposed structure will not be easily visible from nor visually intrude upon adjacent lots. For these reasons, the size of this proposed structure does not impose an unreasonable physical bulk upon adjacent properties.

The south façade of the proposed structure, which faces the adjacent residential lot, does not contain any windows. The west wall, which faces the roof of the structure on the adjacent commercial lot, contains skylights in the roof. The shrub border, which provides an existing privacy screening, will not be changed. Therefore, privacy for adjacent lots will not significantly change.

As noted in the site and vicinity description and findings above, it is not unusual for detached accessory structures, and even primary structures, to be located within both side and rear setbacks. Aerial photographs show numerous examples of these situations within 150 feet of the subject site, and shows several examples of adjacent garages located at a 0-foot setback with a common side wall. The proposal locates the garage/ADU in essentially the same footprint as the existing garage/carport, except that setbacks are increased from 1.5 feet to 3 feet on the south property line, and from 1 foot to 2 feet on the west property line. Therefore, not only does the proposal bring the site closer to conformity, it also maintains the pattern of setbacks both on this site and in the neighborhood, maintains the existing character of the neighborhood, and maintains the historic physical separation between the primary structure and the proposed new structure.

Detached structures in the neighborhood are typically located at the rear of the sites. Due to the existence of several large trees and the residential structures, the site does not provide many options for locating a detached structure on other areas of the site. Locating the structure further to the east or north would infringe upon the root protection zones of large, mature trees. The applicants chose to locate the structure on the footprint of the existing garage/carport specifically with the intent to preserve existing outdoor areas and vegetation, particularly mature trees, and to preserve the

historic configuration and relationship of structures on the site. Locating the structure further to the north would also bring the accessory structure close to the primary structure and would infringe upon the visual space and physical separation that sets the primary structure apart on the lot.

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 structure honors the historic significance of the primary home and enhances the appearance of the site and the neighborhood, and provides additional, alternate housing opportunities for the neighborhood in conformance with adopted neighborhood plans. The proposed structure utilizes the same footprint of the existing garage/carport, with increased side and rear setbacks, and is designed to reflect historic architectural features and materials of the primary home and of the neighborhood. The garage/ADU is located at the rear of the subject site, 73 feet from the street, and is somewhat visually blocked from the street by the large fir tree located in front of the garage, and therefore does not visually intrude on the existing primary home and does not significantly change the appearance of the site from the street. An 18-foot tall, 50-foot long concrete wall separates the proposed structure from the adjacent lot to the west. Dense vegetation and the location of the garage on the adjacent lot to the south separate the proposed structure from the adjacent lot to the south. Issues related to livability, such as privacy, sunlight, noise, safety, and appearance, are not significantly detracted from by this proposal. Fire safety and access is improved by this proposal. The increased side and rear setbacks bring the property further into conformance with development standards that affect livability and appearance.

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: The overall purpose of the R5 zone is to preserve land for housing and to provide housing opportunities to individual households. Approval of the two requested setback Adjustments will result in a project that adds a housing opportunity to a residential lot while retaining on-site parking and outdoor areas and honoring historic development patterns.

This criterion is met.

- 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. The subject site is located within the Irvington Conservation District, and the primary home on the subject site is designated as a contributing structure to the District. As a part of this land use review, the proposal is subject to a Historic Design Review against the applicable Community Design Guidelines. The proposed accessory structure emulates the proportions, materials, and details of the primary structure, and respects the historic character of structures both on the subject site and within the neighborhood. All applicable approval criteria for the Historic Design Review were met. Historic resources are preserved and honored by the proposed development.

This criterion is met.

- 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: 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 has proposed the construction of a new two-car, detached garage and upstairs ADU with reduced setbacks, located on the footprint of the existing garage and carport, set back an additional 1.5 feet further from the south property line and 1 foot further from the west property line than the existing south garage. Existing site amenities and site layout are preserved by the proposal. The structure incorporates materials and architectural details found on the main house, including a gabled roof form and gabled dormers; a 10/12 pitch; 1 over 1 double-hung windows; and siding material and paint color, fascia boards, bargeboards, soffits, and banding to match that on the existing home. Livability and appearance of the neighborhood are not detracted from, and in fact are enhanced by this proposal. The purpose statement for setbacks is equally met by the proposal. The request is able to meet the applicable *Community Design Guidelines* and Adjustment review criteria, and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of a Historic Design Review and concurrent Adjustment to Section 33.110.220 and Tables 110-3, to allow the proposed garage/ADU structure, designed to match elements of the existing home, including gabled dormers and roof with a 10/12 pitch; 1 over 1 double-hung windows (windows in dormers contain half round transoms); double bevel wood siding; carriage-style garage doors; and trim, molding, and eaves details matching those of the existing home, to be located 3 feet from the south property line and 2 feet from the west property line, and to allow the eaves of the structure to be located 2 feet from the south property line and 1 foot from the west property line, in substantial conformance with the approved plans, Exhibits C-1, C-5 through C-7, and C-11 through C-16, signed and dated October 20, 2008:

- 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-5 through C-7, and C-11 through C-16. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-129320 HDZ AD.

Decision rendered by:  **on October 23, 2008.**

By authority of the Director of the Bureau of Development Services

Decision mailed: October 27, 2008**Staff Planner: Crystal Hitchings**

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 May 15, 2008, and was determined to be complete on September 9, 2008.

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 May 15, 2008.

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 a total of 14 days (see exhibit G.9).

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 November 10, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., 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. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further

appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 after **November 11, 2008 – (the first business 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.

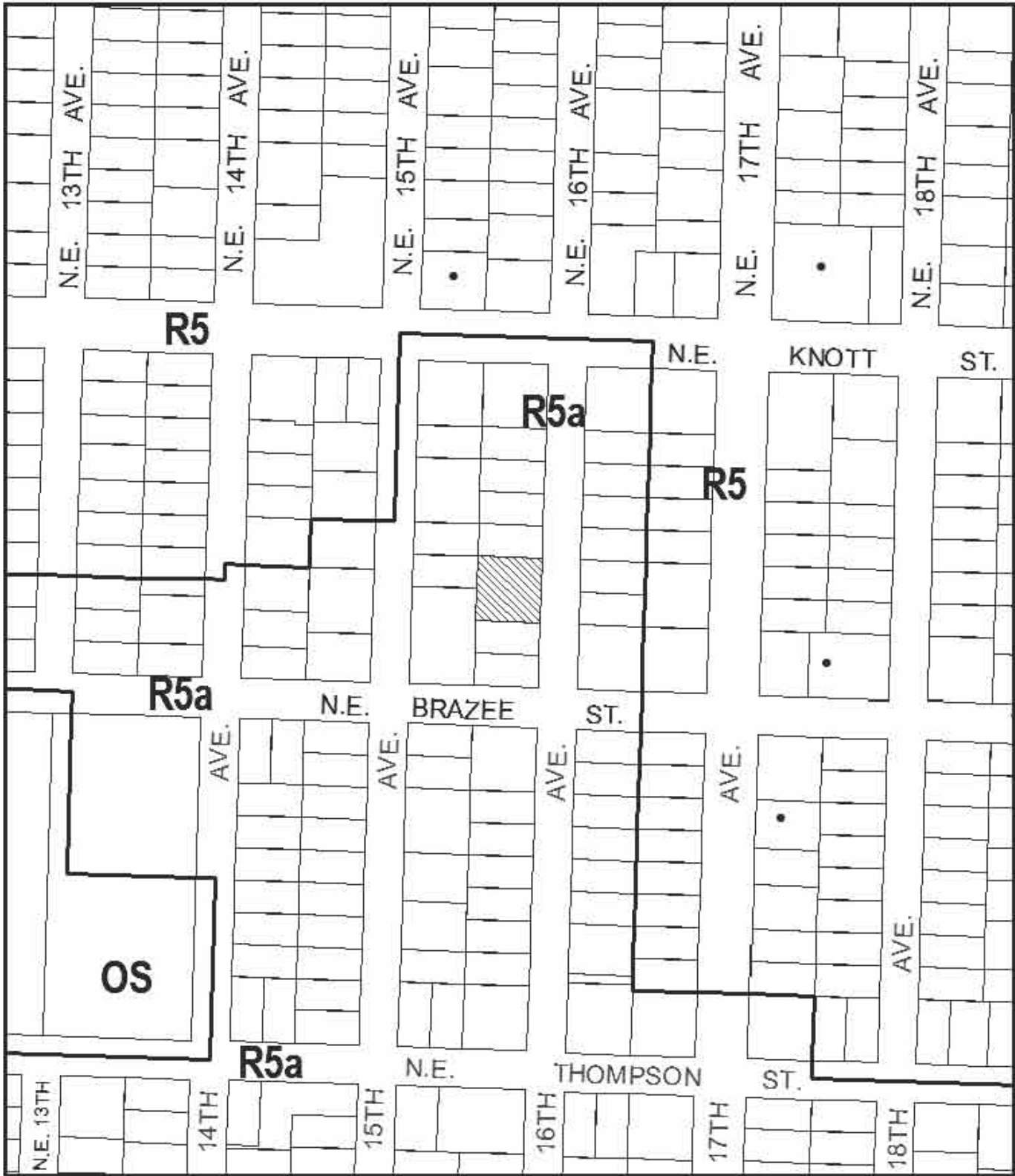
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (*attached*)
- C. Plans/Drawings:
 - 1. Site Plan
 - a. Proposed (*attached*)
 - b. Existing
 - 2. Elevations (south & north)
 - 3. Elevations (east & west)

4. East Elevation (proposed ADU/garage and adjacent neighbor garage to south)
 5. Elevations (south and east-existing home and proposed structure) (attached)
 6. Floor Plans
 - a. ADU, 2nd floor
 - b. Garage, 1st floor
 7. Construction details,
 - a. South eave
 - b. West eave
 8. Site Photos
 9. Elevations, first revision for HDZ
 10. Architectural details, first revision for HDZ
 11. Elevations, second revision for HDZ (*attached*)
 12. Architectural details, second revision for HDZ
 13. Garage door, manufacturer cutsheet
 14. ADU entry door, manufacturer cutsheet
 15. Dormer window, manufacturer cutsheet
 16. Molding/casing, manufacturer cutsheets
- D. Notification information:
1. Mailing list
 2. Mailed notice
 3. Mailing list, Re-notice
 4. Mailed Re-notice
- E. Agency Responses:
1. Fire Bureau
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Bureau of Parks, Forestry Division
 5. Bureau of Environmental Services
 6. Site Development Review Section of BDS
 7. Life Safety Bureau
- F. Correspondence:
1. Dean Gisvold, Irvington Neighborhood Association; October 17, 2008; opposition to reduced setbacks
 2. Jean Mitchell; October 17, 2008; opposition to reduced setbacks
- G. Other:
1. Original LU Application
 2. Site History Research
 3. Incomplete letter
 4. Building Code Appeal approval
 5. Tax map
 6. Report of Building Inspection for existing garage and carport, dated June 2, 1959
 7. Building footprint graphic from GARTH
 8. Irvington Historic Design Zone map
 9. Request for 14-day extension of 120-day review period, received October 1, 2008
 10. Aerial photo of site
 11. GARTH images of nearby structures

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING



Site

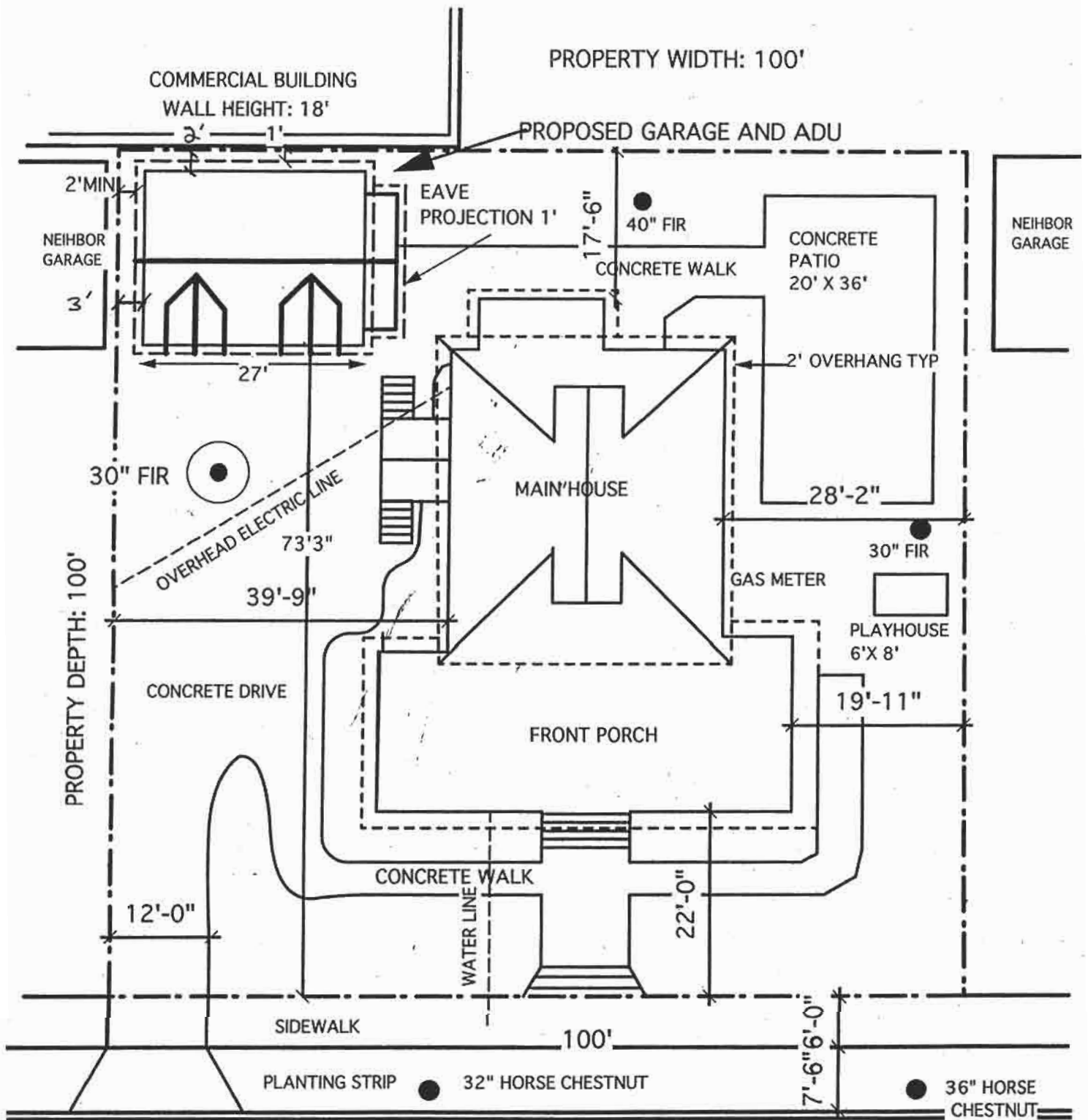


Historic Landmark



This site lies within the:
IRVINGTON CONSERVATION DISTRICT

File No. LU 08-129320 HDZ AD
 1/4 Section 2732,2832
 Scale 1 inch = 200 feet
 State Id 1N1E26AC 17500
 Exhibit B (Sept 24, 2008)



NE 16TH STREET

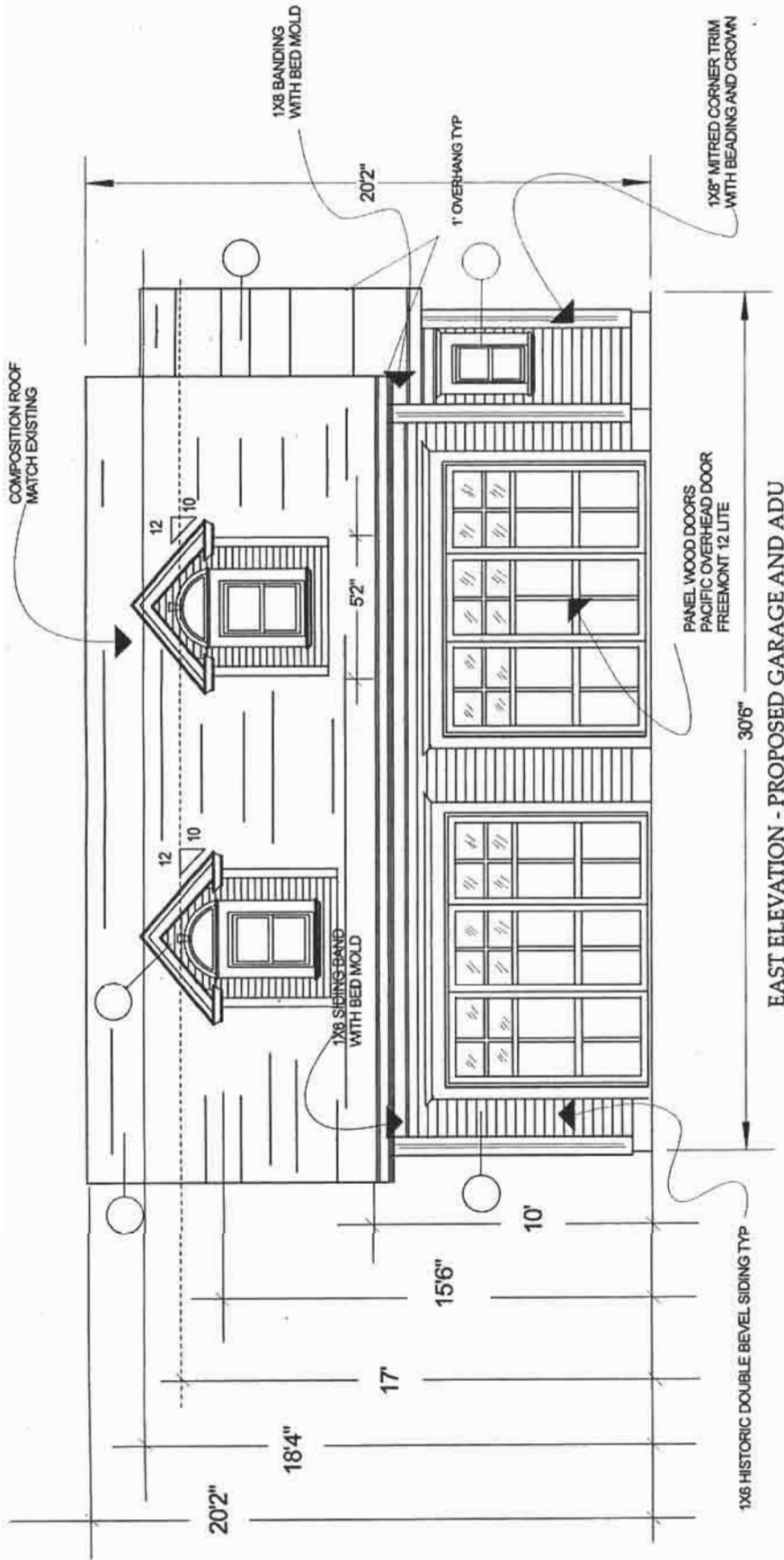
1

SITE PLAN FOR EXISTING HOUSE AND NEW GARAGE / ADU

2531 NE 16TH ST.
HIRSCH FAMILY
SCALE 1/16" = 1'0"

North →

Approved
City of Portland - Bureau of Development Services
Planner *Crystal Hitchings* Date *10-23-08*
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

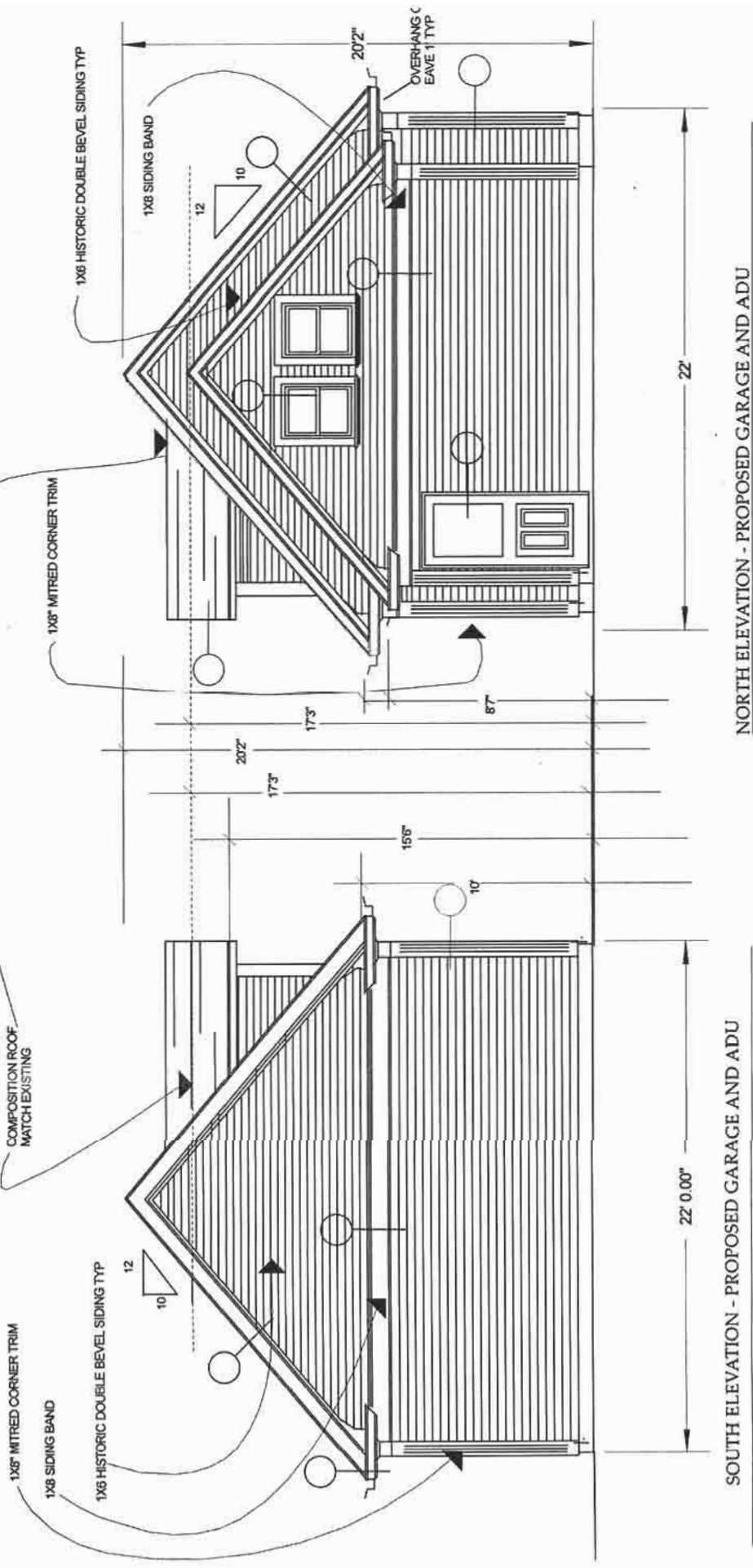


2531 NE 16th Ave
 Hirsch Residence
 scale 1/4" = 1'0"
 9/25/08

EAST ELEVATION - PROPOSED GARAGE AND ADU

ILLUSTRATION
 903 387 4384

Approved
 City of Portland - Bureau of Development Services
 Planner *Crystal Hitching* Date *10-23-08*
 This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



SOUTH ELEVATION - PROPOSED GARAGE AND ADU

NORTH ELEVATION - PROPOSED GARAGE AND ADU

2531 NE 16TH
SCALE 1/4" = 10"

2531 NE 16TH
SCALE 1/4" = 10"

REVISED 9/28/08

2531 NE 16TH
SCALE 1/4" = 10"

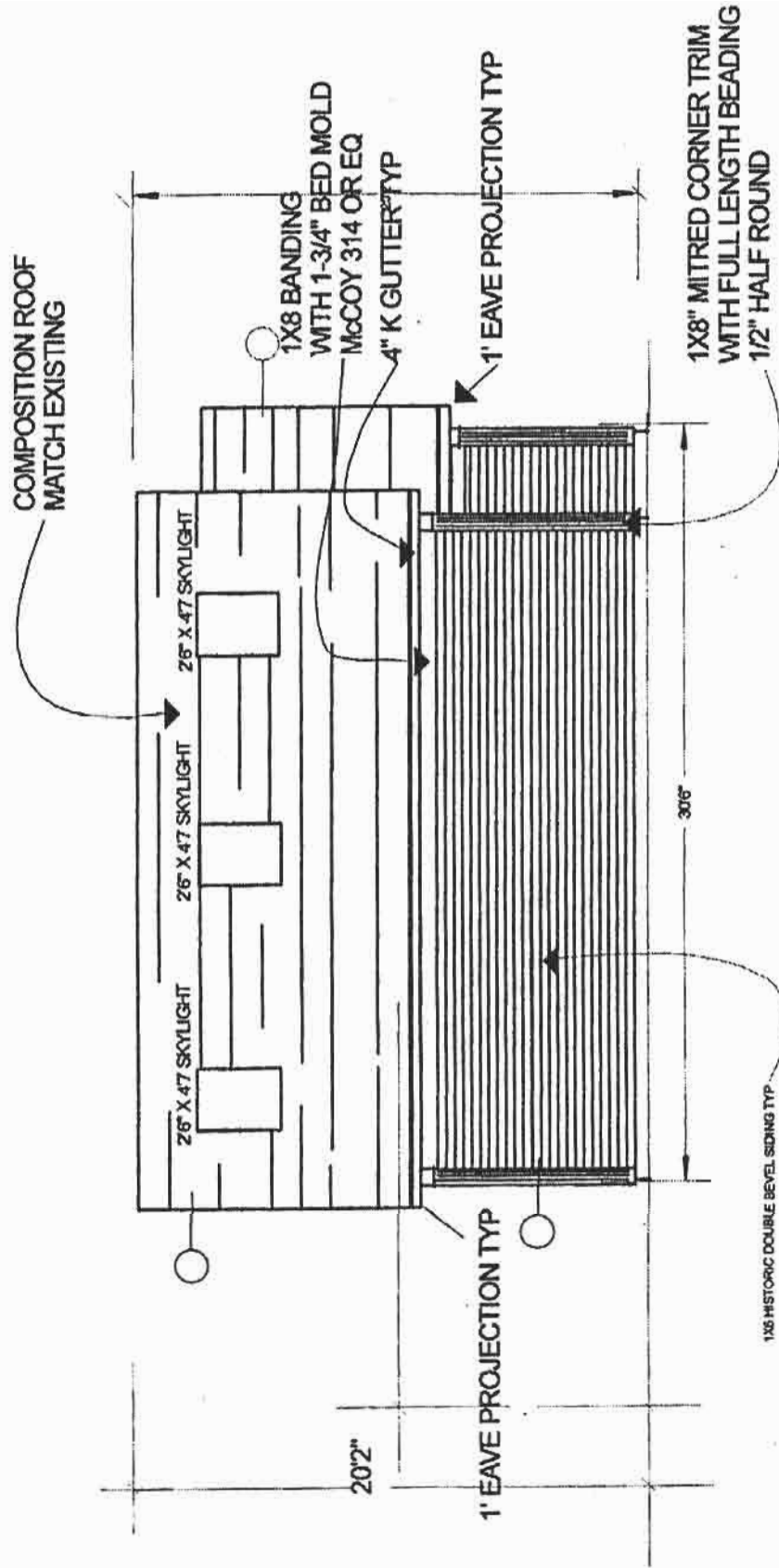
Approved
 City of Portland - Bureau of Development Services
 Planner *Crystal Hickings* Date *10-23-08*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Approved

City of Portland - Bureau of Development Services

Planner *Crystal Hitchings* Date *10-23-08*

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



WEST ELEVATION - PROPOSED GARAGE AND ADU

2531 NE 16TH
SCALE 1/4" = 1'0"
REVISED 10/20/08

ZILKA DESIGN
503 380 4556