



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
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TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: December 24, 2014
To: Interested Person
From: Douglas Strickler, Land Use Services
503-823-7919 / Douglas.Strickler@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 14-231451 AD

GENERAL INFORMATION

Applicant: Justin Swanson / Swanson Construction Inc
Po Box 1874 / Sandy, OR 97055

Property Owner: Vera Brosgol
6128 N Concord Ave / Portland, OR 97217

Site Address: 6128 N Concord Ave.

Legal Description: BLOCK 10 LOT 13, GRANVILLE
Tax Account No.: R338001820
State ID No.: 1N1E16DA 13300
Quarter Section: 2428
Neighborhood: Arbor Lodge, contact Nate Young at 503-679-9929.
Business District: Interstate Corridor
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Plan District: North Interstate
Zoning: RHd – High Density Residential with Design Overlay Zone
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to demolish an existing 11' x 17' garage and build a new two-car garage that measures 17' x 20'. The new garage footprint would extend 9 feet further to the west than the existing garage and would be 1 foot from the rear property line on the east. Since Zoning Code Section 33.120.280.C.4.b does not allow covered structures over 6 feet in height in required building setbacks, the applicant is requesting approval of an Adjustment to reduce the rear property line setback requirement from 5 feet to 1 foot.

Relevant Approval Criteria: In order to be approved, the proposal must comply with the Adjustment Review approval criteria of section 33.805.040.A-F of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The site is a 4,300 square foot lot located on the southeast corner of N Concord Avenue and N Colfax Street. The site is developed with a two-story, single dwelling house and a one-story, detached garage. It is proposed that the garage be demolished and replaced with a one-story one-car garage in the rear yard. The surrounding neighborhood along N Concord Avenue has a mix of one-story and two-story houses in various architectural styles as well as a multi-building apartment complex to the south of the project site. There is also an apartment complex to the east of the project site with a driveway that abuts the rear of the project site. Several of the lots with single family houses in the immediate vicinity, including the neighboring lot to the south, have detached garages.

Zoning: The RH zoning designation is a high density multi-dwelling zone. Single dwelling houses are allowed, but much of the housing is characterized by buildings that have medium to high height and a relatively high percentage of building coverage. The area is well served by transit with a light-rail line one block away along N Interstate Avenue.

The site is also within the boundaries of the Design (“d”) overlay zone. The purpose of the “d” overlay zone is to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The associated regulations are not applicable to this Adjustment request.

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 24, 2014**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E-1)
- Bureau of Transportation Engineering and Development Review (Exhibit E-2)
- Water Bureau (Exhibit E-3)
- Fire Bureau (Exhibit E-4)
- Site Development Review Section of BDS (Exhibit E-5)
- Life Safety Review Section of BDS (Exhibit E-6)
- Bureau of Parks, Forestry Division (Exhibit E-7)

The Bureau of Parks-Forestry Division responded with the following comment: Existing street trees are to be protected and preserved. Please see Exhibit E-6 for additional details.

Neighborhood Review: One written comment was received in response to the mailed “Notice of Proposal”.

One e-mail from a neighbor expressed support for the proposal and clear approval of the change for both the property and the neighborhood.

Staff Response: The applicant is proposing to expand the footprint of the existing 11’ x 17’ one-car garage by demolishing that structure and building a new garage that extends the footprint of the garage 9 feet to the west, thus creating an 17’ x 20’ two-car garage. The existing garage entrance is 5 feet from the side yard property line as is allowed in the RH zone and encroaches 4 feet into the rear-yard setback which is not allowed unless the garage is setback 25 feet from the side street lot line. Consequently, an Adjustment is required to build the garage in the desired location with a 4-foot encroachment into the rear yard setback. The applicant’s proposal is found to meet the applicable approval criteria as discussed below.

ZONING CODE APPROVAL CRITERIA

Title 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 5-foot rear setback requirement. The purpose of the setback requirement is stated in Zoning Code Section 33.120.220.A:

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;*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

Since the location of the proposed structure will provide the same relationship to the rear lot line as the existing structure, it would maintain the access to light, air, separation for fire protection, and access for fire fighting that exists with the current garage. The rear (east) boundary of the property fronts on a 20-foot wide driveway for a multi-unit apartment complex that is approximately 5 feet from the property line. Maintaining the existing separation provides ample access for both the garage and the apartment complex. The proposed garage would only be slightly higher than the existing garage, and it would still reflect the general building scale of the surrounding neighborhood. The primary dwelling is a 1.5- or two-story structure with dormers and living space on the second floor and would maintain a predominant relationship to the proposed garage. The two structures would also continue to reflect the house-to-garage relationship that is present in much of the surrounding neighborhood. The location of the proposed garage would also continue to promote the current physical relationship between residences and options for privacy, since the existing relationship, which the neighborhood is accustomed to, would generally be maintained. The ability to expand the garage using the existing reduced setback demonstrates the flexibility to site a building respecting the topography of the site and still continue the basic relationship with both the primary dwelling and the neighborhood. It does not appear that the expansion of the street face of the proposed garage will alter the current streetscape in any significant way and will maintain the current environment for pedestrians and transit users. The proposal will not alter either the current driver visibility or the ability for a car to park in front of the existing garage door.

Based on these reasons, the proposal equally meets the intent of the setback 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 multi-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 will have a generally traditional style, basically reflecting the style of the original existing garage as well as the original house. With the footprint of the proposed structure at 17 feet by 20 feet and the height at approximately 15 feet, the principal dwelling unit would clearly maintain a predominant relationship to the new garage. In addition there is an existing fence that is already present in the visual space that the expanded garage would occupy, so the visual perception of the street side of the site would be generally the same. Only the proportion of the various elements (garage face and fence) would change.

For these reasons, the proposal will not result in any significant negative impacts to neighborhood livability or 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: 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 the 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 proposal to reduce the minimum rear setback for a garage equally meets the intent of the setback regulations, and will not have adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable

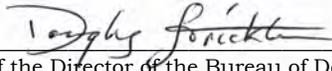
approval criteria have been met. Since the approval criteria are met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum rear yard setback for a garage from 5 feet to 1 foot (33.120.220.B and Table 120-4) per the approved site plans and drawings, Exhibits C-1 through C-6, signed and dated December 19, 2014, subject to the following condition:

- 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.6. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-231451 AD."

Staff Planner: Douglas Strickler

Decision rendered by:  **on December 19, 2014.**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 24, 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 October 28, 2014, and was determined to be complete on **November 19, 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 October 28, 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 extended by the applicant, **the 120 days will expire on: April 18, 2015.**

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 7, 2015** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee 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 8, 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:

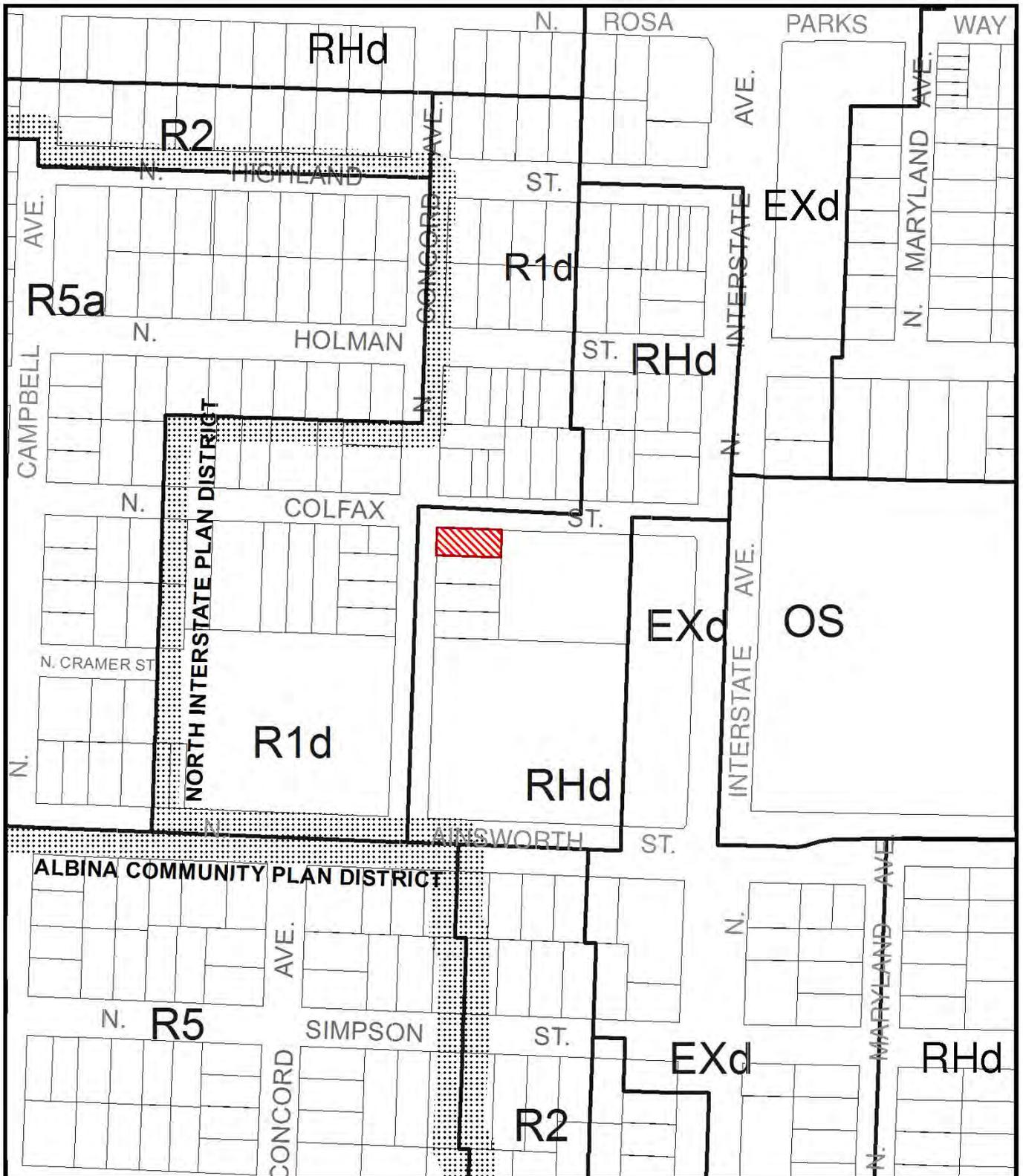
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Photos
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. East side elevation (attached)
 - 3. Front elevation (attached)
 - 4. West side elevation (attached)
 - 5. Rear elevation (attached)
 - 6. Full set large, scalable plans
- 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. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. E-mail from Don R. Riggs and Colleen McClain, dated November 28, 2014
- G. Other:
 - 1. Original LU Application form and receipt.

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



Site

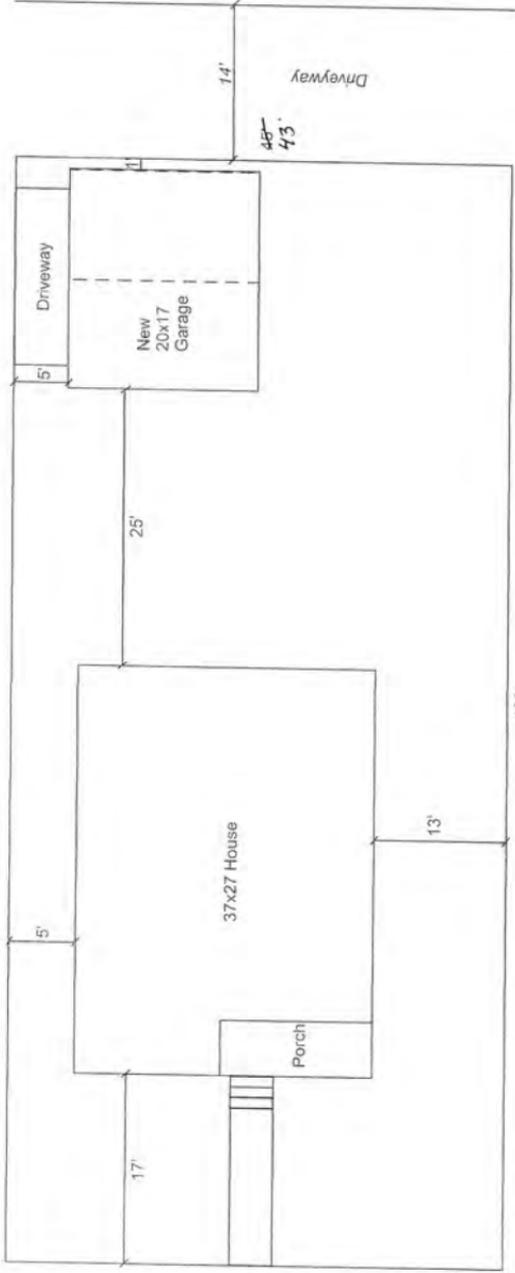


NORTH

This site lies within the:
NORTH INTERSTATE PLAN DISTRICT

File No. LU 14-231451 AD
 1/4 Section 2428
 Scale 1 inch = 200 feet
 State_Id 1N1E16DA 13300
 Exhibit B (Oct 30, 2014)

Colfax



Concord

CASE NO. LU 14-231451 AD

EXHIBIT

C.1

Plot Map

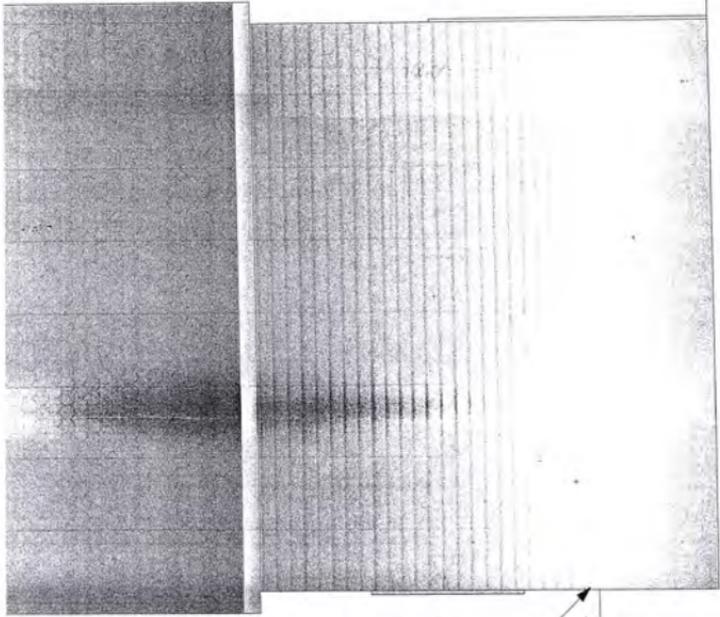
1"=10'

Approved

City of Portland - Bureau of Development Services

Planner A. Gushaker for B. Smiley Date DEC. 19, 2014

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



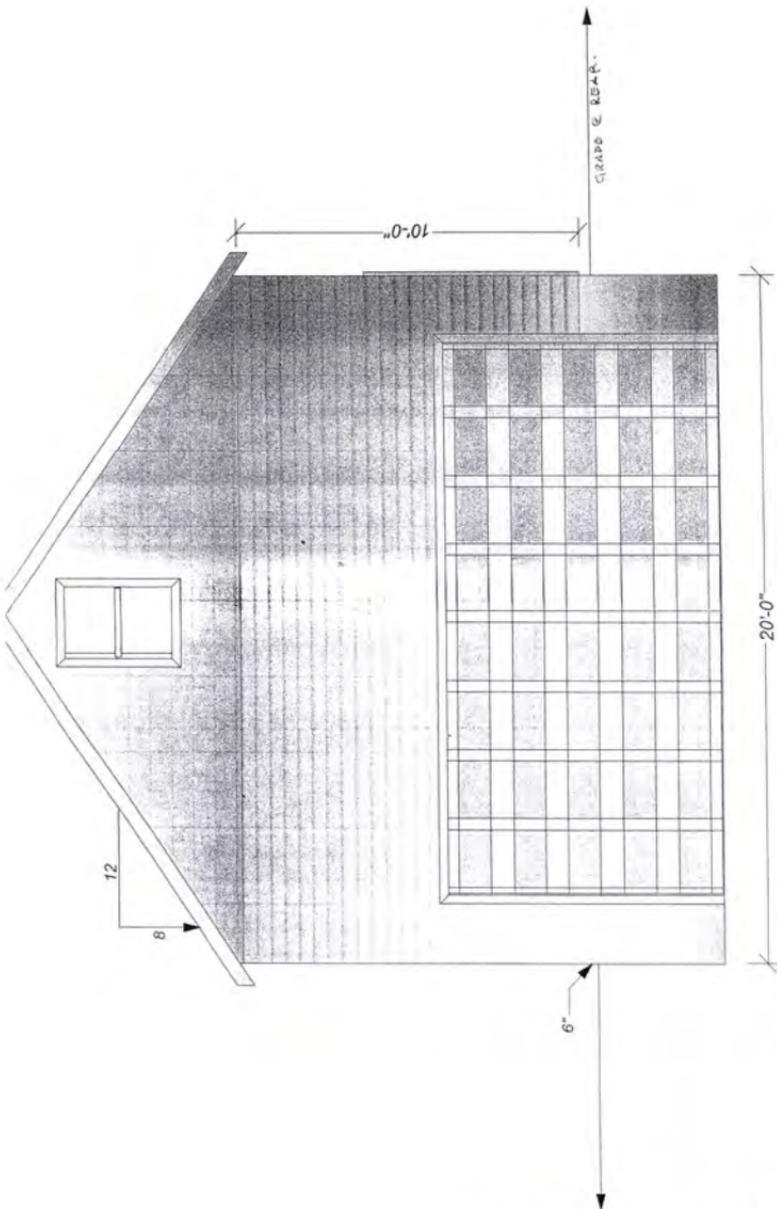
17'-0"

EAST Side Elevation

10'-0"

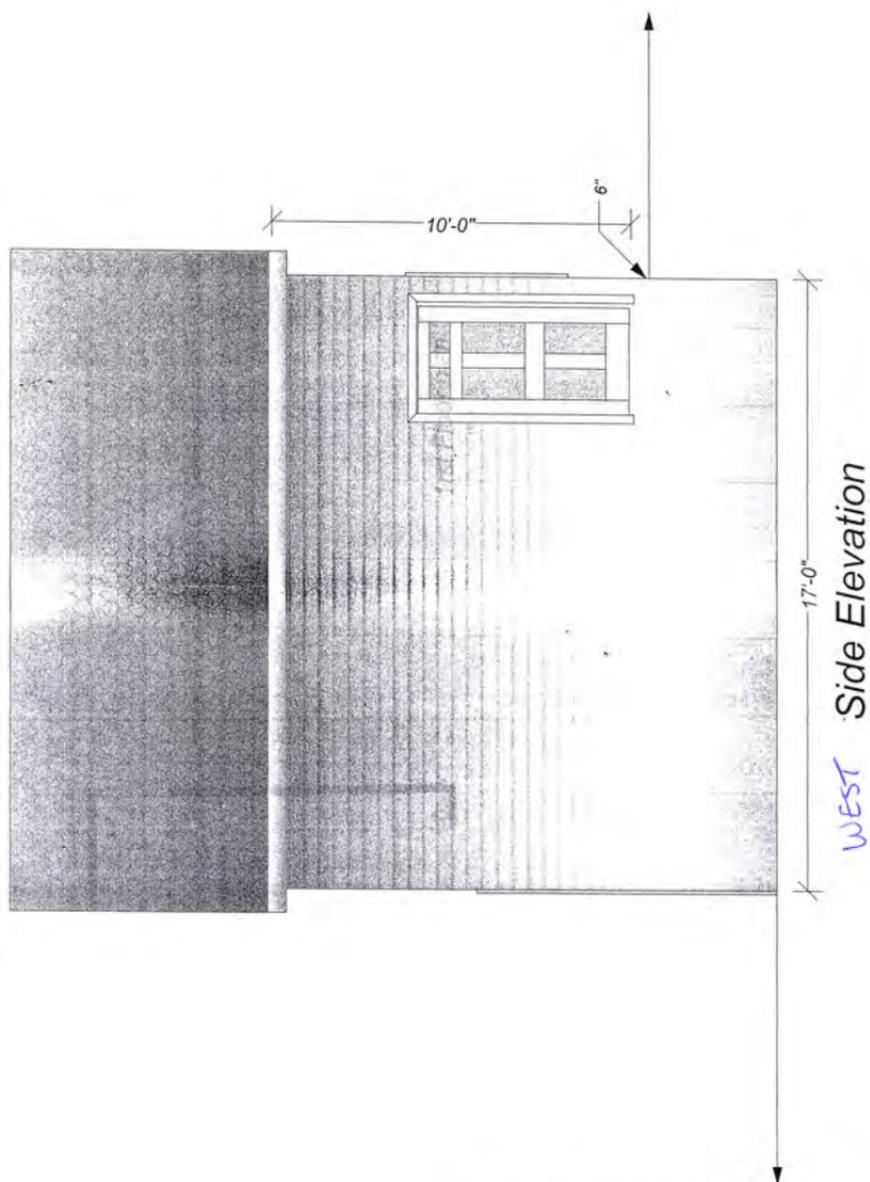
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Approved
City of Portland - Bureau of Development Services
Number AG2126 for D. Stricker Date DEC. 19, 2014
This approval applies only to the reviews requested and is subject to the terms and conditions of approval. Additional zoning requirements may apply.



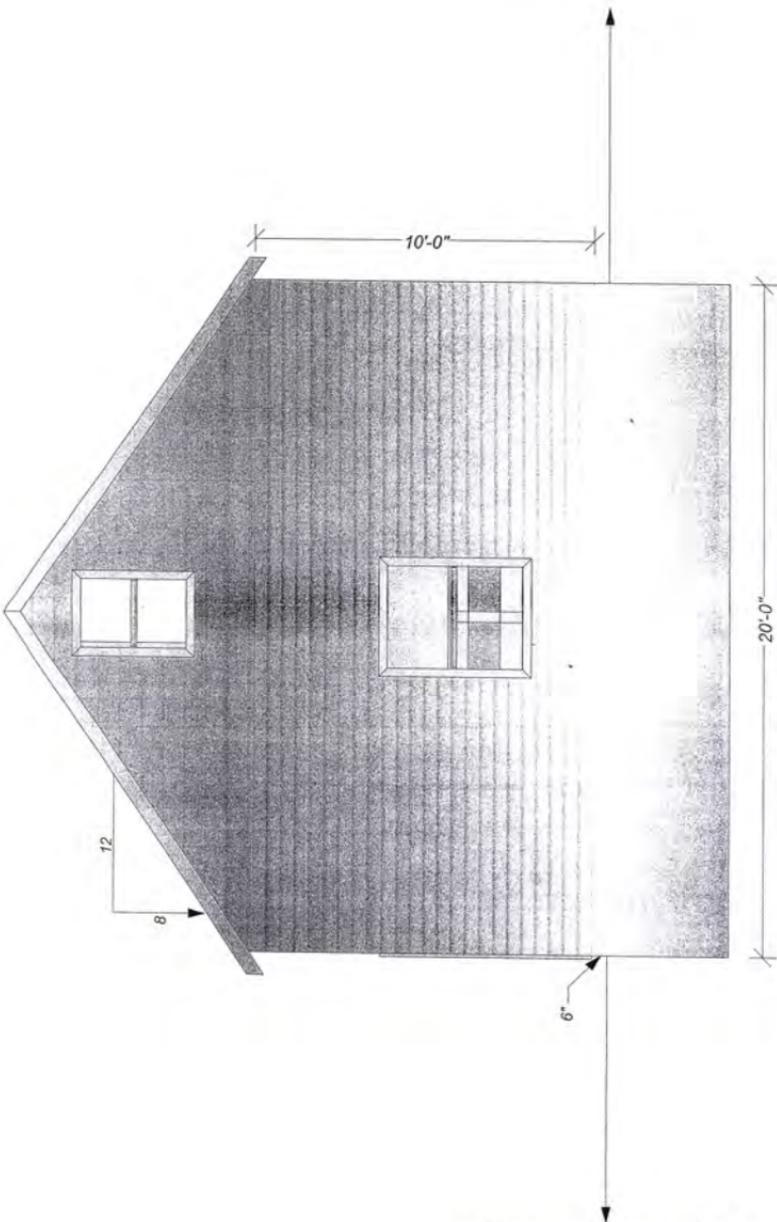
Front Elevation

Approved
 City of Portland - Bureau of Development Services
 Approved for D. Stricker Date DEC 19 2014
 This approval applies only to the reviews requested and is subject to terms of approval. Additional zoning requirements may apply.



WEST Side Elevation

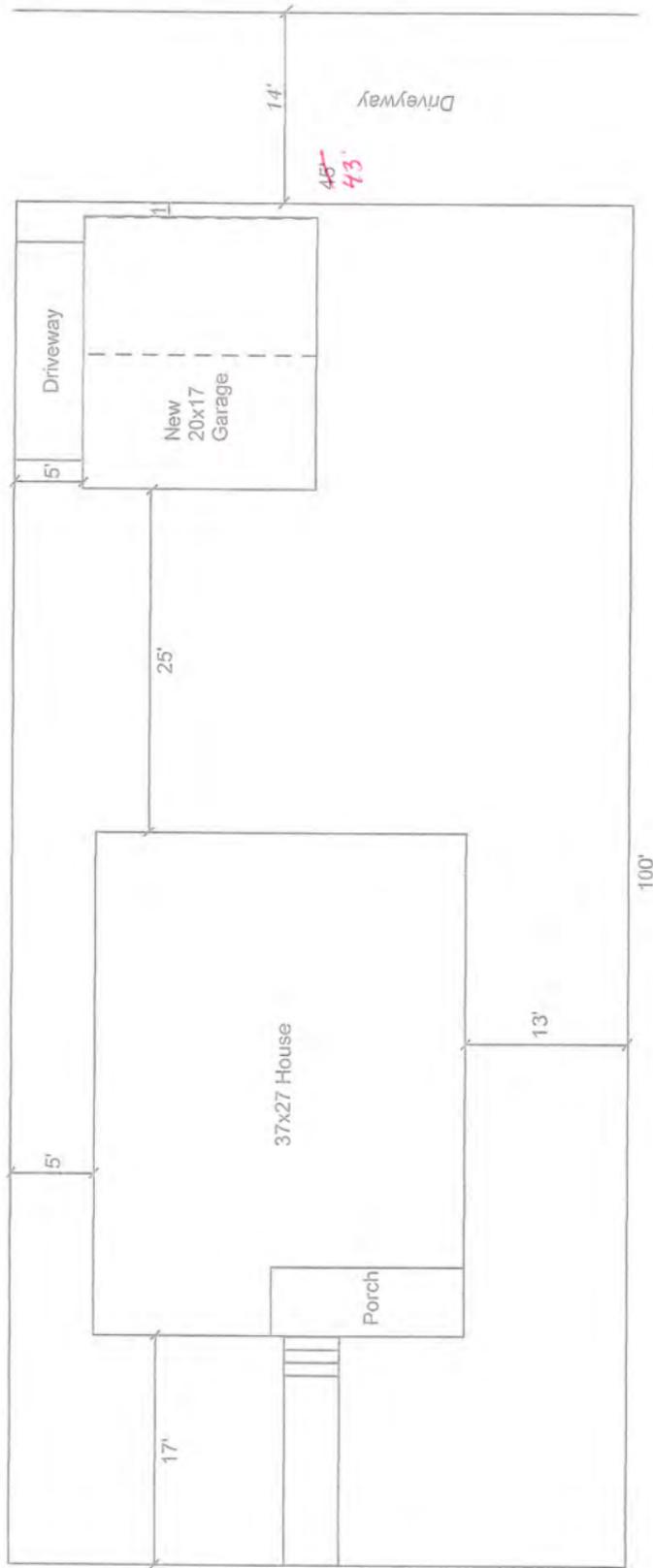
Approved
 City of Portland - Bureau of Development Services
 Project: *A. Gilbert for D. Strickley* Date: *DEC. 19, 2014*
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.



Rear Elevation
SOUTH

Approved
 City of Portland - Bureau of Development Services
 Applicant: Agudon for structure Date: DEC 19, 2014
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

Colfax



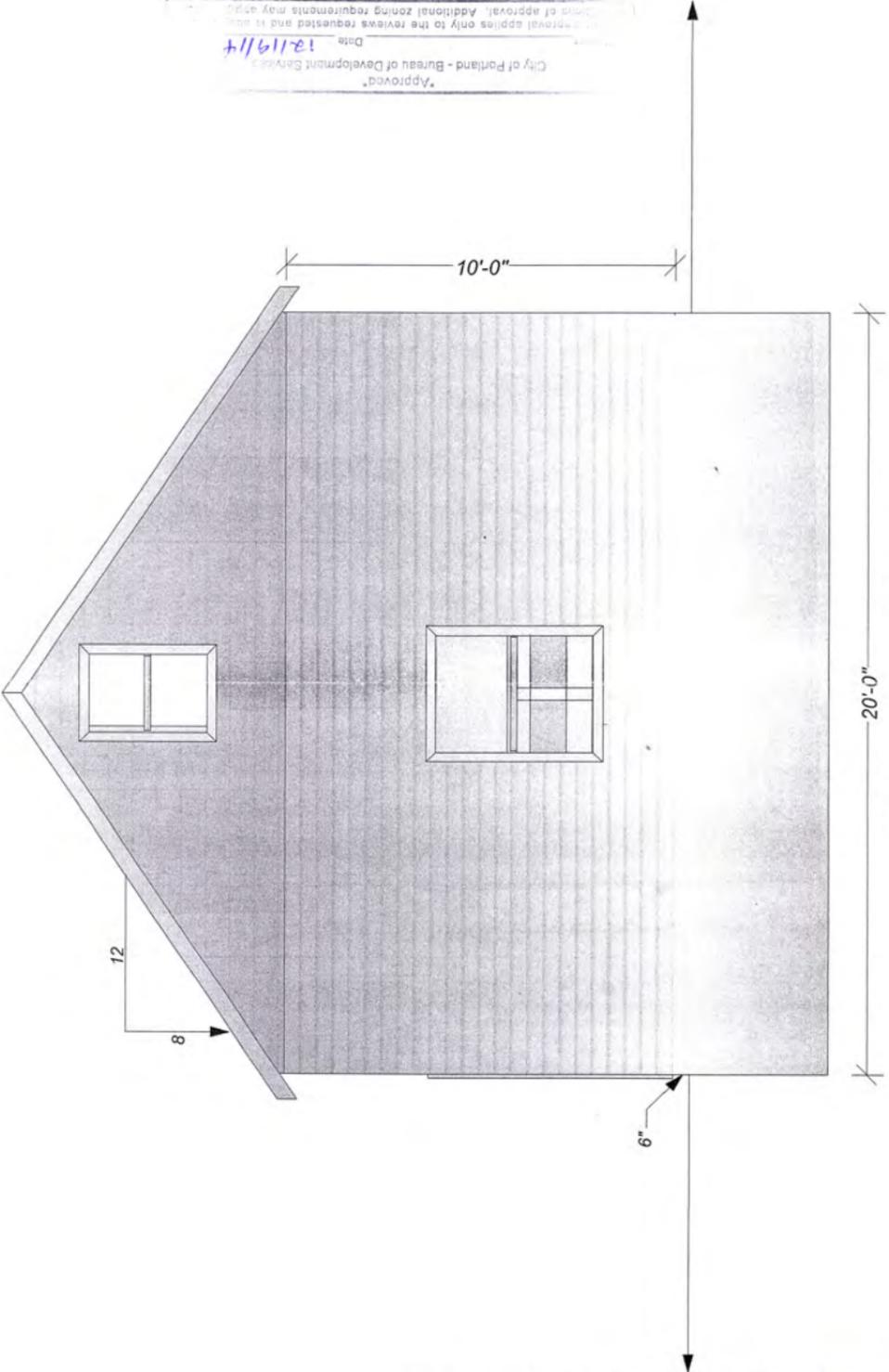
Existing Garage concrete wall

Plot Map

1"=10'

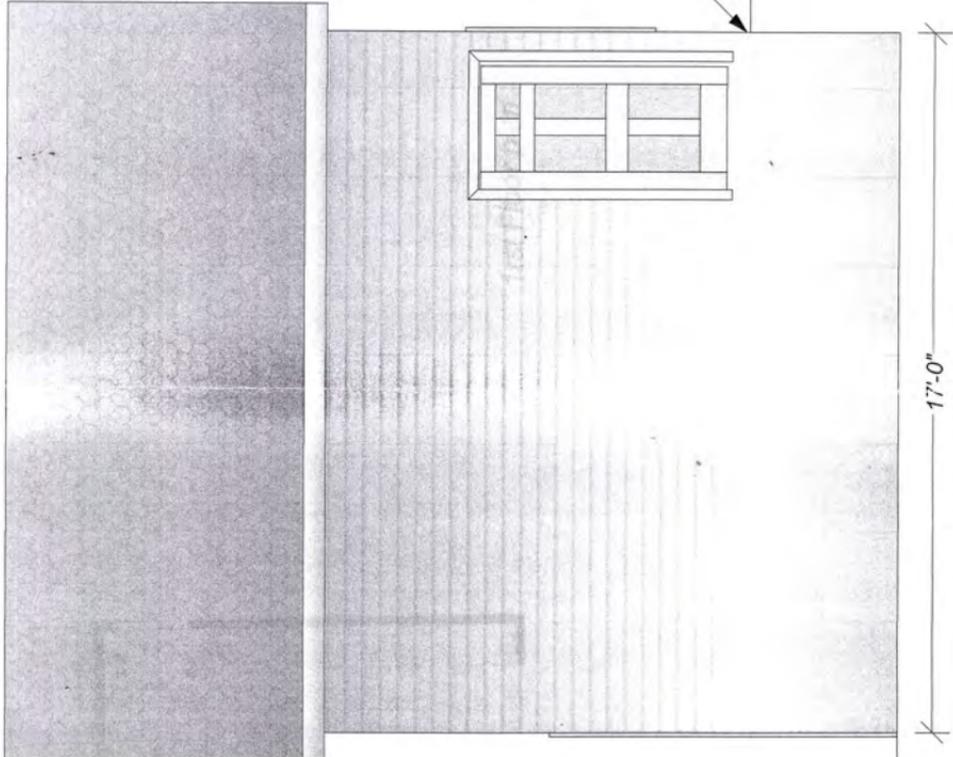
Approved
 City of Portland - Bureau of Development Services
 A.G. Gillette for D. St. John
 Date 12-11-14
 Approval applies only to the reviews requested and is not a guarantee of approval. Additional zoning requirements may apply.

"Approved"
City of Portland - Bureau of Development Services
Date: 2/19/14
This approval applies only to the reviews requested and is not
guarantee of approval. Additional zoning requirements may apply.



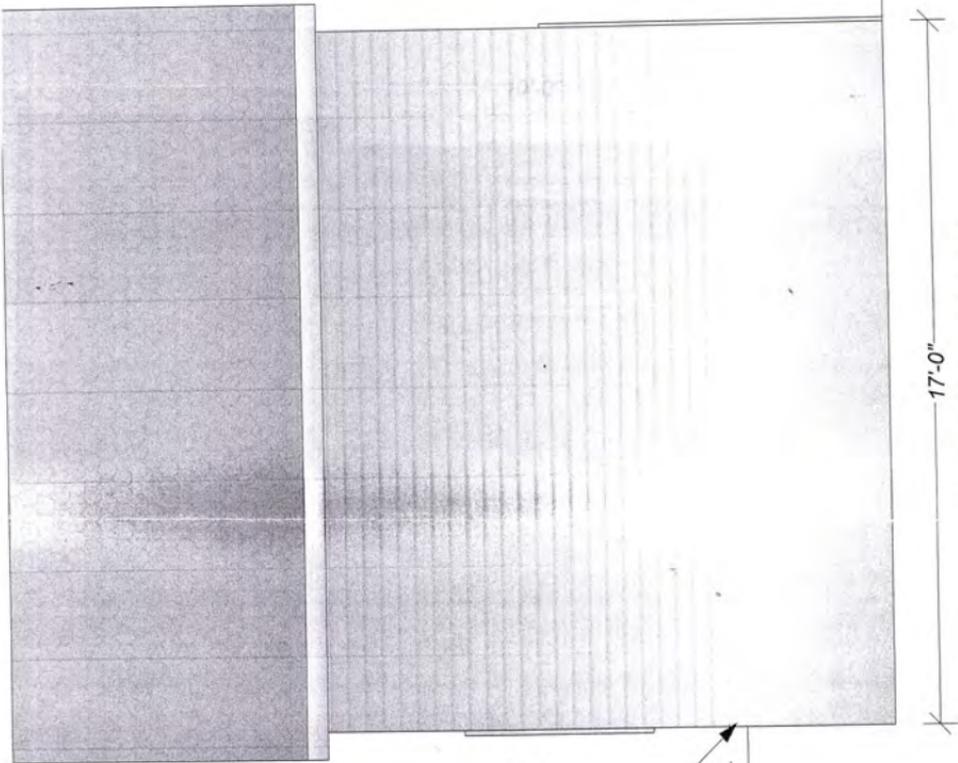
Rear Elevation

Approval applies only to the reviews requested and is not a guarantee of approval. Additional zoning requirements may apply.
Date: 12/19/14
City of Portland - Bureau of Development Services
"Approved"



Side Elevation

Approved
City of Portland - Bureau of Development Services
Date: 12/19/14
This approval applies only to the reviews requested and is subject to the terms of approval. Additional zoning requirements may apply.



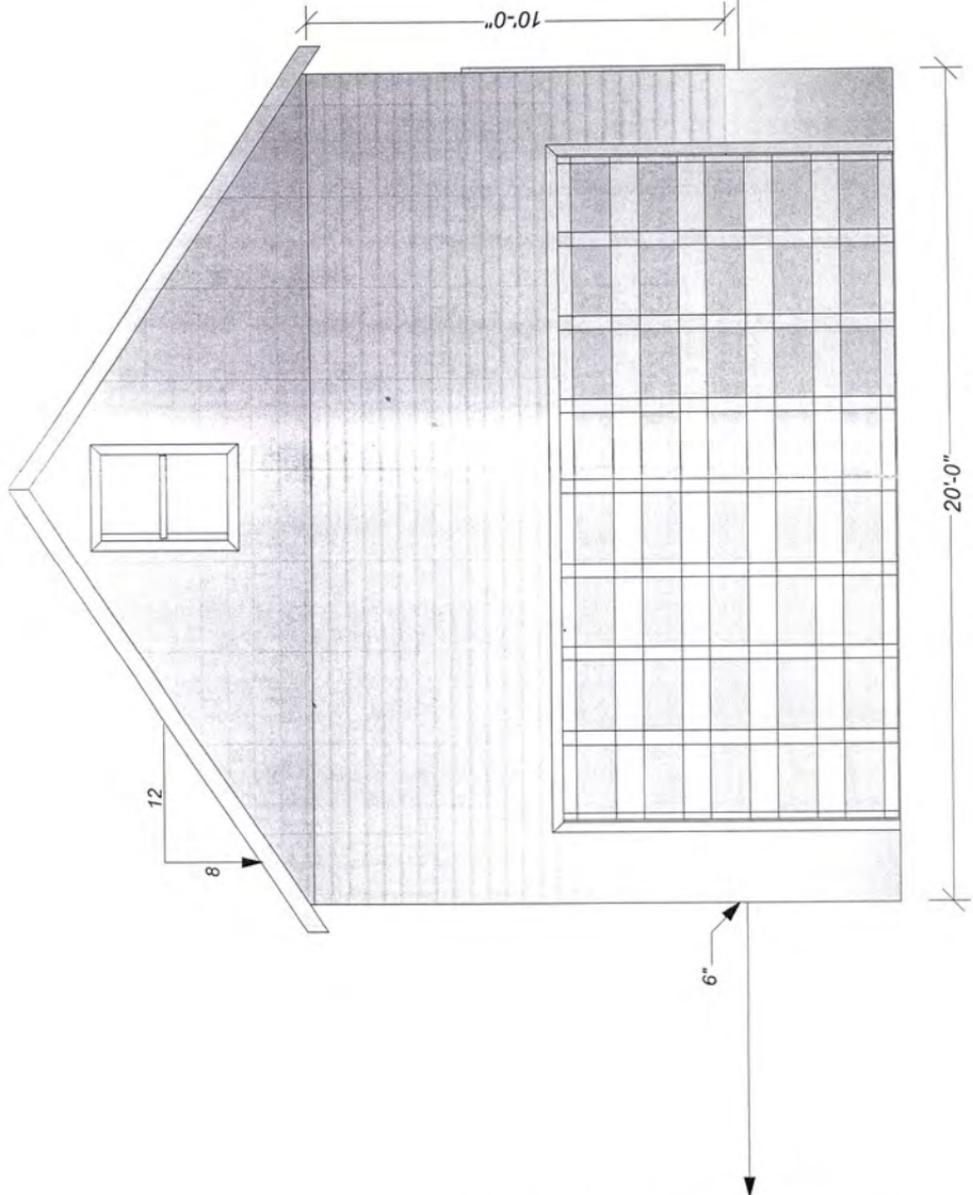
Side Elevation

17'-0"

10'-0"

6"

City of Portland - Bureau of Development Services
"Approved"
Date: 12/15/14
This approval applies only to the review requested and is subject to future zoning requirements and is subject to future approval.



Front Elevation