



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
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Date: March 4, 2015
To: Interested Person
From: Sheila Frugoli, Land Use Services
503-823-7817 / Sheila.Frugoli@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 mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 14-223542 AD

GENERAL INFORMATION

Applicant/Owner: Jessica & William Glenn
6422 SE 17th Ave / Portland, OR 97202

Site Address: 6310 SE STEELE ST

Legal Description: BLOCK 3 W 62 1/2' OF LOT 10, THIRD ELECTRIC ADD
Tax Account No.: R829700780
State ID No.: 1S2E17BC 19100
Quarter Section: 3537
Neighborhood: Mt. Scott-Arleta, contact Nicole Green at 503-816-1310.
Business District: Woodstock Community Business Association, contact Sean Daugherty at 503-754-2636.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Zoning: R5a, Single-Dwelling Residential 5,000 zone with the "a" Alternative Design Density overlay zone.
Case Type: AD, Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicants are requesting an Adjustment to waive the required 5-foot building setback along the south and east property lines in order to convert the existing detached accessory structure into an Accessory Dwelling Unit (ADU). The south and east walls are comprised of concrete block with no openings.

The Portland Zoning Code allows detached garages to be built up to the side and rear property lines and the conversion of garages into an ADU is allowed under the following circumstances: (1) the garage was legally constructed before January 1, 2005, (2) the structure is at least 40 feet from a front lot line, and if on a corner lot, at least 25 feet from a side street lot line, (3) the structure has dimensions that do not exceed 24 feet by 24 feet, excluding eaves, (4) the structure is no more than 15 feet high and the structure walls are no more than 10 feet high.

Because the walls of the existing structure are more than 10 feet tall, the building setback requirements apply.

To address identified code violations (14-162707 HS), the applicants intend to comply with Building Permit requirements to convert the structure into a legal Accessory Dwelling Unit. Also, the applicants intend to either remove or reduce the size of the existing carport to comply with a Zoning Code standard that limits the size of accessory structures on residential lots.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are 33.805.040.A-F, Adjustments.

ANALYSIS

Site and Vicinity: The subject site is a 4,960 square foot lot that is developed with a single-story home and a 576 square foot detached structure that was originally constructed (with a building permit) as a garage. The accessory structure abuts the side (east) and rear (south) property lines. There is a carport structure that extends from the detached structure over the existing paved driveway.

Many homes in the immediate area are also one-story in height. The area is comprised of a variety of housing styles and ages of homes. There is no predominate pattern of type of garages and accessory structures. There are some nearby residential lots with detached structures that appear to be used as garages or shops.

Zoning: The site and surrounding properties are located in an R5a, Single-Dwelling Residential 5,000 zone and the “a”, Alternative Design Density overlay zone. The regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The development standards work together to preserve the character of neighborhoods, and promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This proposal is not using the provisions of the “a” overlay zone.

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 **January 26, 2015**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Site Development Section of BDS

The **Water Bureau** responded with the following comments:

The Water Bureau has no issues regarding the requested Adjustment Review for proposed adjustments to applicable zoning code standards for the conversion of an existing outbuilding to an ADU as depicted in this LUR, but does have comments to be included with the Water Bureau portion of the BDS response, for the property located at 6310 SE Steele St.

There is an existing 5/8” metered service (Serial #98043166, Account #2951271800) which provides water to this location from the existing 6” DI water main in SE Steele St.

This service may potentially be used to provide water to the existing house and proposed ADU. Under this scenario, City Title 21.12.010 will require any new building construction, additions or modifications to existing structures, or any construction that will need water, to have a water service and meter of appropriate size installed within the public right-of-way and within the specific property boundary/frontage for which it will serve. A Water Bureau review for fixture count will need to be submitted to the Water Bureau by the applicant at the time of submittal of the building permit to appropriately size the water service and meter for this location. If a water service and or meter upsize is required, all applicable costs will be the responsibility of the applicant.

As an additional note, any new sanitary laterals for the proposed development must be installed in a manner which provides 5' minimum of horizontal skin to skin clearance from the existing or any newly installed water service and service line within the public Right-of-way, and the same criteria applies to the placement of new water services with regards to existing sanitary lines, in order to meet Oregon State OAR 333 rules for proximity of sewer line to potable water lines prior to the Water Bureau selling any water services or signing off any building permits for this development.

Also, if the proposed new ADU will utilize the existing water service and since it is contained in a separate building, Title 21.12.070 will then also apply.... "A separate service shall be required for each house or building, even if under one ownership, and on the same lot or parcel of land. If a single service will be used to provide for multiple units under single ownership, a separate service agreement will need to be signed with the Water Bureau for this property where multiple buildings are supplied with water from a single water service", prior to the Water Bureau signing off on any building permits and selling any water services to this development.

If it is decided that the new ADU will need a separate water service, City code 21.12.010 will require any new building construction, additions to or remodeling and or reconstruction of an existing building structure, or any construction that will need water, to have a water service and meter of appropriate size installed within the public right-of-way and within the specific property boundary/frontage for which it will serve. There is water available to the proposed ADU from the existing 6" DI water main in SE Steele St. A Water Bureau review for fixture count will need to be submitted by the applicant at the time of submittal of the building permit to appropriately size the water service and meter for this location, prior to the Water Bureau signing off on any building permits for this property. All applicable costs will be the responsibility of the applicant.

The estimated static water pressure range for this location is 59 psi to 73 psi at the existing service elevation of 241 ft. (Exhibit E.1)

The **Fire Bureau** responded with the following comments: Please see Exhibit E-xxx for additional details.

All addresses shall be permanently displayed as directed by the Fire Marshal's Office (mounted on a building, fence, post, etc.). Numbers/letters shall be contrasting in color to the background and of sufficient size to be plainly visible from the street or road fronting the property. Numbers/letters shall be a minimum 4" high with at least a 5/16" wide stroke. This office may specify larger numbers/letters. Address numbers shall be Arabic numbers or alphabetical letters. Where the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained. (Exhibit E.2)

The **Life Safety Plan Review Section of BDS** responded with the following comments: Exterior walls less than three feet to a property line shall be one-hour fire-rated with no openings allowed. Roofs and eaves may project not closer than two feet to a property

line. Eaves less than three feet to a property line must be protected on the underside as required for one-hour fire-rated construction. ORSC R302.1 (Exhibit E.3)

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the mailed “Notice of Proposal”.

ZONING CODE APPROVAL CRITERIA

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

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

Findings: The purpose of the standards for accessory structures is explained under Section 33.110.250.A as follows:

This section regulates structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards provide for necessary access around structures, help maintain privacy to abutting lots, and maintain open front setbacks.

Further, the purpose of the setback standard requested for Adjustment is found in Section 33.110.220, Setbacks. 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.*

Building setbacks are not required along side and rear property lines for detached garages as long as the garage meets specified size restrictions, such as walls being no taller than 10 feet (33.110.250.C.4.c). Detached garages are allowed to be converted into detached Accessory Dwelling Units if Section 33.110.250.C.4.c is met. Because this structure has walls that exceed the 10 foot limit, a 5-foot side and rear building setback is required. The applicant is requesting to waive this requirement.

The Fire Bureau raised no concerns regarding access to the structure for fire protection. At building permit review, the BDS Life Safety Plan Review staff will verify that fire separation requirements are met. The detached structure was constructed in 1975. The issued building permit and photos from the applicant show that the east (side) and south (rear) walls of the structure are comprised of concrete block, with no openings. The solid walls maintain privacy between the proposed ADU and the adjacent neighbors. Because the structure is set back on the site, there is an open front yard and available on-site parking in the driveway that is located in front of the proposed ADU.

For the reasons stated above, 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: As stated above, the reduced setback of the existing detached accessory structure will not detract from the livability of nearby residences. This is an existing structure that complies, except for the projections into the required setback areas) with accessory structure standards. According to the Code Compliance inspection records, the structure was most recently used as a daycare facility with an outdoor play area. The conversion of the structure into an ADU will not create new or additional impacts to the surrounding area.

- 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 applicant is requesting only one Adjustment. The applicant understands that the attached carport must be reduced in size to comply with Zoning Code section 33.110.250.D—building coverage for detached accessory structures. Because only one Adjustment is requested, this criterion does not apply.

- 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 zone. Historic resources are designated by a large dot. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: As found under criterion A and B, the requested Adjustment will not create impacts and therefore mitigation is not needed to lessen its effect. This approval criterion does not apply.

- 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 such designations on this 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

Waiving the required side and rear setbacks for the conversion of an existing detached structure meets the approval criteria and therefore should be approved.

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.

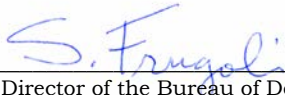
ADMINISTRATIVE DECISION

Approval of an Adjustment to waive the required building setback along the side (east) and rear (south) property lines to convert an existing detached accessory structure into an Accessory Dwelling Unit, per the approved site plan, Exhibit C.1, signed and dated March 2, 2015, subject to the following condition:

- A. As part of the building permit application submittal, each of the 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. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-223542 AD."

NOTE: The carport that is attached to the detached accessory structure must be removed or reduced in size, via the building permit, to comply with the total maximum allowed building coverage of 744 square feet for detached accessory structures.

Staff Planner: Sheila Frugoli

Decision rendered by:  **on March 2, 2015**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 4, 2015

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 9, 2014, and was determined to be complete on **January 21, 2015**.

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 9, 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.

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 March 18, 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 **March 19, 2015 – (the day following the last day to appeal).**
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder’s office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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. Floor Plan – Detached Accessory Structure
 - 3. North, Street Facing Elevation
 - 4. Photos of Existing Structure
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Fire Bureau
 - 3. Life Safety Plan Review Section of BDS
 - 4. TRACS Print-out Showing “No Concerns” from: Site Development Review Section of BDS, Bureau of Environmental Services, Bureau of Transportation Engineering and Development Review and Urban Forestry
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Application Letter to Applicant

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



ZONING

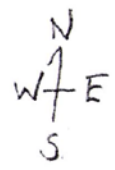


Site



File No. LU 14-223542 AD
 1/4 Section 3537
 Scale 1 inch = 200 feet
 State_Id 1S2E17BC 19100
 Exhibit B (Oct 13, 2014)

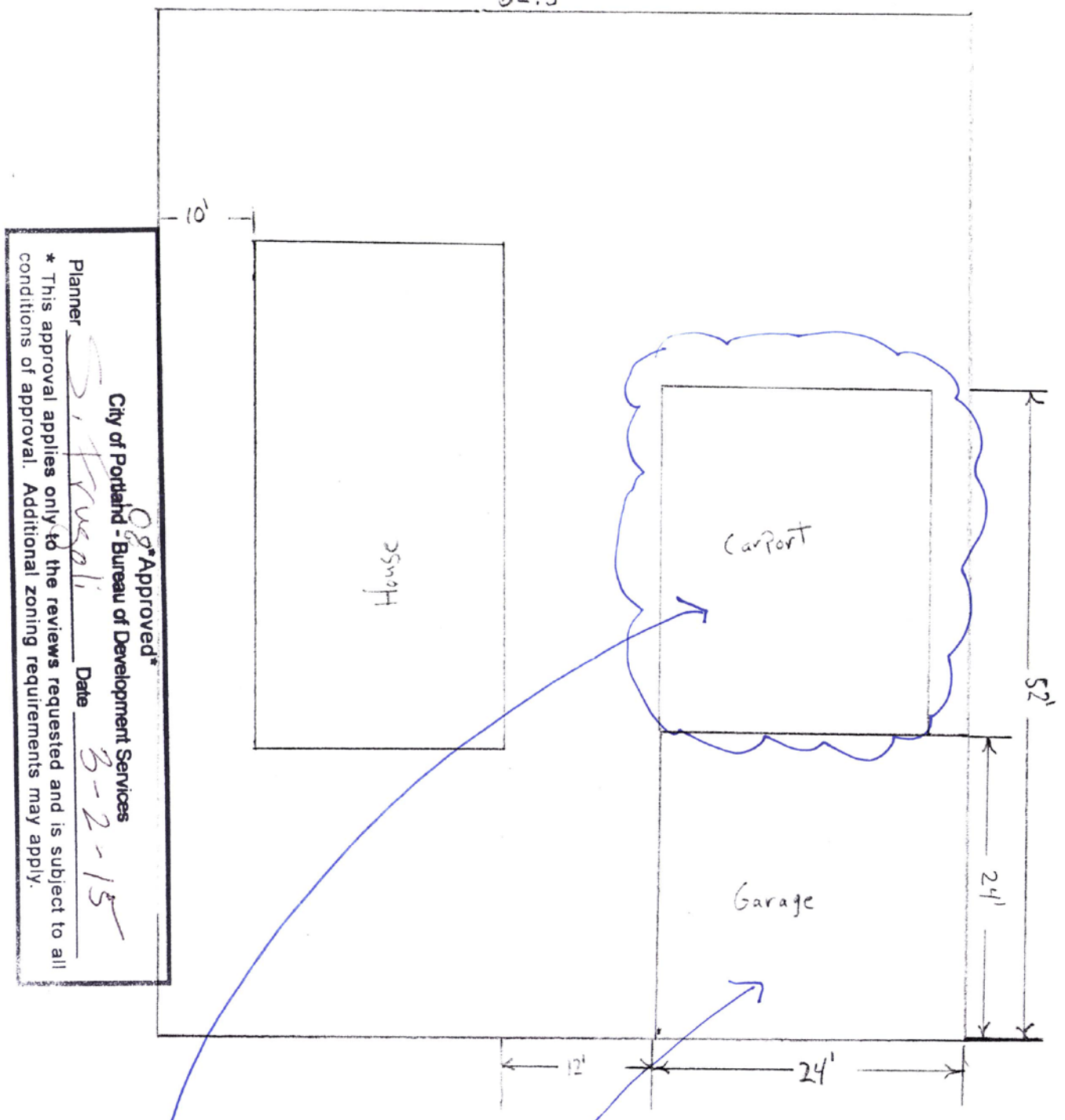
5310 SE Steele
Portland OR 97202
R 5a



1/8" = 1'

Steele St.

62.5'



Planner S. H. [Signature] Date 3-2-15
City of Portland - Bureau of Development Services
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Approved*

Not approved as part of this review.

Proposed ADU - Approved Side and rear setback Adjustment

LU 14-223542 AD