



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

FROM CONCEPT TO CONSTRUCTION

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

**Date:** July 2, 2015  
**To:** Interested Person  
**From:** Mark Walhood, City Planner  
503-823-7806 / [mark.walhood@portlandoregon.gov](mailto:mark.walhood@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 15-163574 AD**

#### **GENERAL INFORMATION**

**Applicant:** Michael Roberts / LRS Architects  
720 NW Davis St Ste 300 / Portland OR 97209

**Property Owner:** Mayanna Allen and Kevin Pogson Trust  
3415 NE Davis St / Portland OR 97232-3403

**Site Address:** 3415 NE DAVIS ST

**Legal Description:** BLOCK 77 LOT 20&21, LAURELHURST  
**Tax Account No.:** R479115460  
**State ID No.:** 1N1E36DB 10100  
**Quarter Section:** 3034  
**Neighborhood:** Laurelhurst, contact Sean Green at 971-998-7376.  
**Business District:** None  
**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.  
**Zoning:** **R5** (Single-Dwelling Residential 5,000), **Laurelhurst Plan District**  
**Case Type:** **AD** (Adjustment Review)  
**Procedure:** **Type II**, an administrative decision with appeal to the Adjustment Committee.

**Proposal:** The applicant proposes to remodel and expand an existing attached garage for the home at 3415 NE Davis Street, including the addition of a new rooftop deck element and cor-ten steel trellis structure. The existing garage walls would be removed to address water intrusion issues, and be replaced by new walls along the south edge of the garage and facing the street, but with an expansion that moves the building northward by approximately 8'-0". An existing stairway on the north side of the garage would be re-located immediately north of the new garage wall. The rooftop deck above the garage would be directly accessible from the house, and include decorative cor-ten steel trellis elements at the edges of the deck on the northwest and southwest corners of the garage, along the street. The trellis features are angled to the street-facing plane of the garage and kept within the footprint of the structure at the

southwest corner, but extend west towards the street lot line on the northwest corner. The garage measures 26'-0" wide as it faces the street. The garage roof is approximately 14'-0" above grade at the taller north end of the structure, and the cor-ten trellis rises another 4'-6" above that to approximately 18'-6" above the street.

Regulations of the R5 zone require a side building setback of 5'-0", and a garage entrance setback of 18'-0" (33.110.220.B/Table 110-3). Because the walls are being demolished the new structure must meet today's code or get an Adjustment. As proposed, the street-facing walls of the garage range from 0'-0" (southwest corner) to 2'-0" (northwest corner) from the lot line, with the steel trellis placed at 1'-0" from the lot line. The garage entrance, measured along the centerline of auto travel to the closest point of the garage door, is approximately 0'-6" from the lot line. Note that the attached site plans show the lot line directly behind the sidewalk, but in fact the lot line is located 1'-0" behind the sidewalk, towards the house.

Therefore, in order to construct the garage and deck/trellis structure as proposed, the applicant has requested Adjustments to reduce the west side setback from 5'-0" to a range of 2'-0" to 0'-0" for the wall, from 5'-0" to 1'-0" for the cor-ten trellis around the street-facing sides of the deck, and to reduce the garage entrance setback from 18'-0" to 0'-6".

**RELEVANT APPROVAL CRITERIA:** In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at 33.805.040.A-F, Adjustment Approval Criteria.

## ANALYSIS

**Site and Vicinity:** The site is a single residential parcel of 10,000 square feet, located on the northeast corner of the intersection of NE Floral Place and Davis Streets in Laurelhurst. The property is developed with an existing two-story home, with the front porch and main entry oriented south, towards NE Davis Street. The side yard frontage long NE Floral Place has a notable grade change heading downhill north towards NE Flanders Street, with a concrete retaining wall along the entire property line, except where interrupted by the existing garage and concrete stairway. The retaining wall starts at grade near the corner of NE Davis Street and rises to approximately six feet tall at the northern downhill edge. The mature and well-kept landscaping, large street trees, and a nicely maintained exterior are typical of nearby homes in the area.

The surrounding area is exclusively residential in character, with homes from the late 19<sup>th</sup> and early 20<sup>th</sup> centuries. The nearest commercial services are along E. Burnside several blocks to the southwest. Laurelhurst Park is located four blocks south of the site. The abutting streets are improved with paved roadways, on-street parking on both sides, deep landscape strips with street trees, and concrete sidewalks.

**Zoning:** The Residential 5,000 (R5) base zone is intended to preserve land for housing, and to provide housing opportunities for individual households. The development standards are intended to preserve and enhance the residential character of single-dwelling neighborhoods. The Laurelhurst Plan District enforces special setback requirements along most streets in the area, consistent with the established character, in order to retain the established historical pattern of larger than normal building setbacks from the street. Unusually, both the east and west frontages of NE Floral Place, which the proposed garage directly abuts, do not have special street setback designations: this appears to be the only block frontage in the plan district with this situation.

**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 **May 26, 2015**. The following Bureaus have responded:

The *Water Bureau* has reviewed the proposal and provided comments about available water services, but no objections or concerns regarding the requested Adjustments (Exhibit E.1).

The *Fire Bureau* has reviewed the proposal and responded without concerns (Exhibit E.2).

The *Urban Forestry Division of Portland Parks and Recreation* has reviewed the proposal and noted no impacts to street trees are shown with the proposal, but that a full street tree review will occur during the building permit review process (Exhibit E.3).

The *Bureau of Environmental Services* has reviewed the proposal and raised some potential issues with regards to stormwater management, but notes that there are no stormwater-related approval criteria for this particular Adjustment. There is no available off-site discharge location for stormwater available to this project, and the vegetated areas available for stormwater facilities must meet minimum setbacks from buildings, property lines, and other structures such as retaining walls. Issues with regards to stormwater management must be addressed during the building permit review process, but no objections are made with regards to the requested Adjustments. Exhibit E.4 contains staff contact and additional information.

The *Life Safety Section of the Bureau of Development Services* has provided standard comments that Building Code applies, and that a permit is required (Exhibit E.5).

The *Development Review Section of Portland Transportation (PBOT)* has reviewed the proposal for potential impacts regarding the public right-of-way, as well as for relevant regulations in Titles 17 and 33. PBOT has no objections to the requested Adjustments, provided that the condition of approval is imposed requiring a current survey at time of building permit review. Additional information is included in the findings and decision portions of this document, below (Exhibit E.6).

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on May 26, 2015. One written response has been received. A neighbor living a few houses away on NE Davis Street has written a letter in support of the request. The letter says the resident owners “have been very good neighbors since moving into the neighborhood and are doing a wonderful job of fixing up what could have become an eyesore on our street. I hope their plans are approved.”

## ZONING CODE APPROVAL CRITERIA

### 33.805.010 Purpose of Adjustment Reviews

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

### 33.805.040 Adjustment 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 statement for the **side** and **garage entrance setbacks** in the R5 zone reads as follows (33.110.220.A):

**“Purpose.** *The setback regulations for buildings several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the city's neighborhoods;*

- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.”*

The proposed replacement garage structure is located in the same location as the existing garage, but with rebuilt exterior and retaining walls, and a northward extension to the structure of about 8'-0". The garage remains a single-story structure, with an open trellis added to the outside upper edges of the deck above the garage on the street side. The garage occupies less than 25% of the long side street frontage facing NE Floral Place, and is well-separated from abutting residential properties, given the larger than average lot size for the neighborhood of 10,000 square feet.

With regards to the side setback reduction, the expanded garage will not impact access to light and air for the residents of the home or their neighbors, and the Fire Bureau has reviewed the proposal for fire access and responded without concern. The garage is similar in scale and placement to the original existing garage, as well as to several other nearby older detached and attached garages, especially on the shorter 'side street' frontages such as NE Floral Place where the main home entries are oriented to the longer east-west streets. The modest expansion to the garage will not change the physical relationship between residences. The location of the garage set partly into the hillside helps mask the scale of the structure so close to a sidewalk in a manner that is found with other garages in the neighborhood, and in deference to site topography. The new rooftop deck is not near the private yards or living spaces of any nearby homes, with a 20'-0" distance to the closest abutting lot immediately north of the site. This distance and a row of tall evergreen shrubs and trees along the shared lot line to the north reduce any potential privacy impacts from the outdoor area atop the rebuilt garage. The front yard along NE Davis Street remains open and visually pleasing, with a generous front porch and mature landscaping. For these reasons, this criterion is met for the side setback reduction.

With regards to the garage entrance setback reduction, the door of the rebuilt garage is generally located the same distance from the street as the existing door. The new garage door is slightly further away from the street on the extended north end, due to the curving street lot line which arcs westward, away from the building. The submitted site plan shows minor discrepancies with regards to the location of the lot line, which is shown immediately at the inside edge of the public sidewalk, although the actual lot line is 1'-0" in from the sidewalk. The Development Review Section of Portland Transportation (PBOT) has reviewed the proposal for potential impacts to the public right-of-way and other transportation-related concerns, as they do with all garage entrance setback Adjustments. PBOT has no objections to the requested Adjustments if the applicant is required to provide a current survey at the time of building permit review to document that the structure will be on private property and not encroach into the public right-of-way of NE Floral Place.

With the noted condition of approval requiring a current survey showing the relationship of the proposed garage structure and the new property line during permitting as requested by PBOT, this criterion can be met for the garage entrance setback reduction.

- 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:** One neighbor has written a letter in support of the project, saying that the property owners “have been very good neighbors since moving into the neighborhood and are doing a wonderful job of fixing up what could have become an eyesore on our street” (Exhibit F.1). The proposal involves remodeling an existing garage that has been a long-standing part of the neighborhood, with an attractive design that integrates with neighborhood character while expanding the outdoor living space for the residents. 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:** Two adjustments have been requested, but the proposal has no cumulative effects that conflict with the overall purpose of the R5 zone to provide housing opportunities for individual households. Therefore, this criterion is met.

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

**Findings:** There are no City-designated scenic or historic resources on the site. This criterion does not apply.

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

**Findings:** With approval granted based on the submitted plans, there are no discernible impacts that result from granting the requested adjustments. This criterion is met.

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

**Findings:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As the site is not within an environmental zone, this criterion is not applicable.

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

The applicant will be required to document conformance with the preservation standards of Title 11 during the building permit review process. Tree information was not submitted for this land use review, but there appear to be several mature trees on the site. Depending on the final project valuation, the applicant may or may not need to meet the density (new tree planting) requirements of Title 11, as well. If the project valuation is less than \$153,450, only the preservation standard must be met during the building permit process for the garage.

## CONCLUSIONS

The applicant has proposed to reconstruct and slightly expand an existing garage on the property, attached to the house but also located in the side street setback, along NE Floral Place just north of NE Davis Street. The proposed garage remodel is in keeping with the existing development on the site, as well as several nearby garages along the narrower north-south “side streets” in this part of Laurelhurst. With one condition of approval to verify the location of the structure in relation to the lot line in NE Floral Place during permitting, the request is able to meet the relevant criteria and should be approved.

**ADMINISTRATIVE DECISION**

**Approval of an Adjustment** to reduce the west side setback from 5'-0" to a range of 2'-0" to 0'-0" for the garage/deck walls, and from 5'-0" to 1'-0" for the cor-ten trellis around the street-facing sides of the deck (33.110.220.B/Table 110-3).

**Approval of an Adjustment** to reduce the garage entrance setback from 18'-0" to 0'-6" (33.110.220.B/Table 110-3).

Both of the above approvals are granted based on the approved plans and drawings, Exhibits C.1 through C.4, all signed and dated June 30, 2015, and subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.4, as well as the language of condition of approval B, below. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-163574 AD."
- B. The applicant must provide a current survey at the time of building permit review for the garage, documenting that the structure will be on private property and not encroach into the public right-of-way of NE Floral Place.

**Staff Planner: Mark Walhood**

**Decision rendered by:** MARK WALHOOD on **June 30, 2015**.  
By authority of the Director of the Bureau of Development Services

**Decision mailed: July 2, 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 May 1, 2015, and was determined to be complete on **May 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 May 1, 2015.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on September 17, 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 July 16<sup>th</sup>, 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 5<sup>th</sup> floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

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

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

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **July 17<sup>th</sup>, 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:

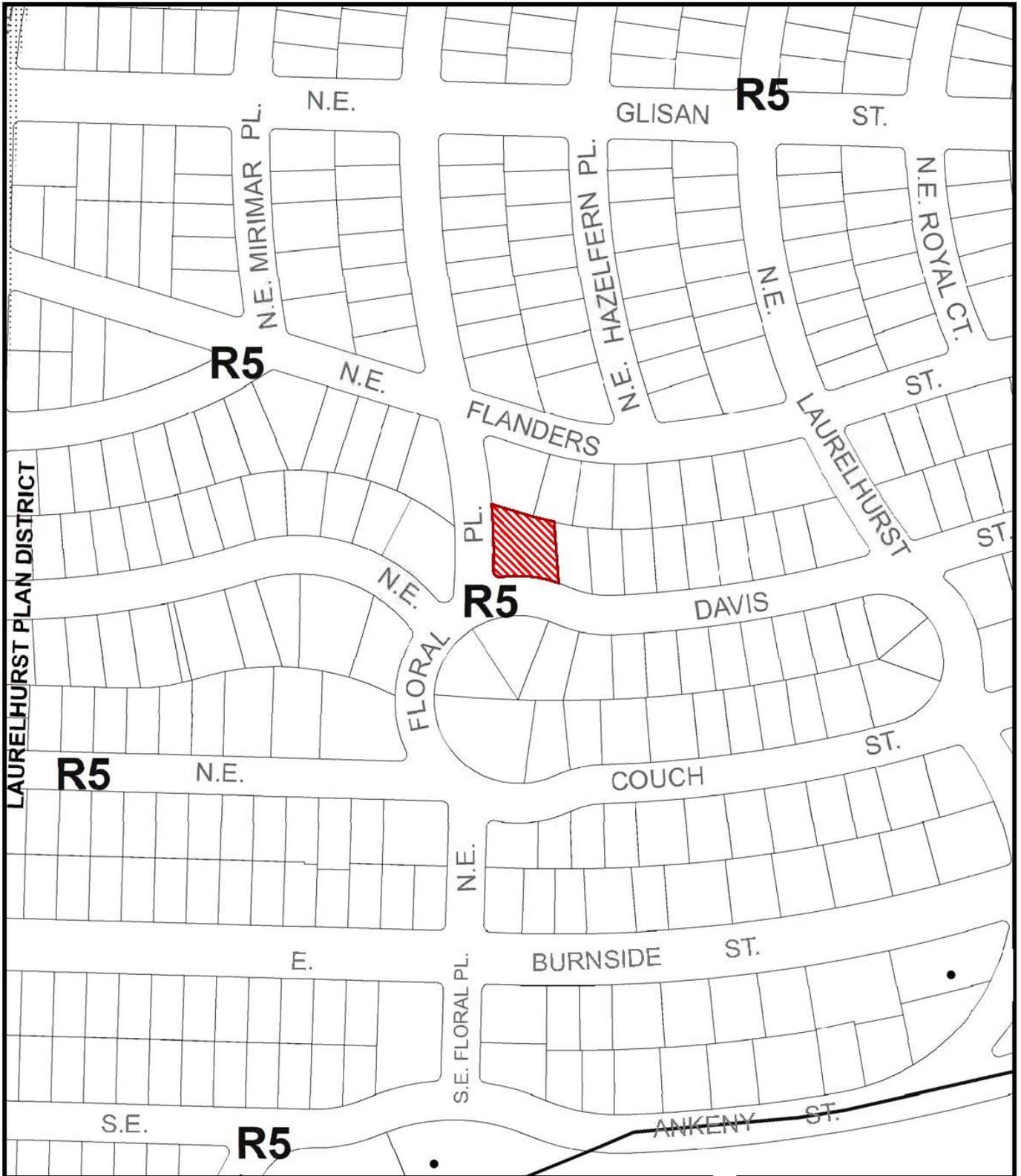
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
  - 1. Original narrative
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Vicinity Map and Site Plan (attached)
  - 2. Elevations and Floor/Deck Plans (attached)
  - 3. Large, scalable vicinity map and site plan
  - 4. Large, scalable elevations and floor/deck plans
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Water Bureau
  - 2. Fire Bureau
  - 3. Urban Forestry Division of Portland Parks and Recreation
  - 4. Bureau of Environmental Services
  - 5. Life Safety Section of the Bureau of Development Services
  - 6. Development Review Section of Portland Transportation
- F. Correspondence:
  - 1. E-mail letter of support from Michael Schlicting, rec'd. 6/615
- G. Other:
  - 1. Original LU Application Form and Receipt
  - 2. Copy of original Laurelhurst plan district map, and copy of current tax map

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



# ZONING



Site

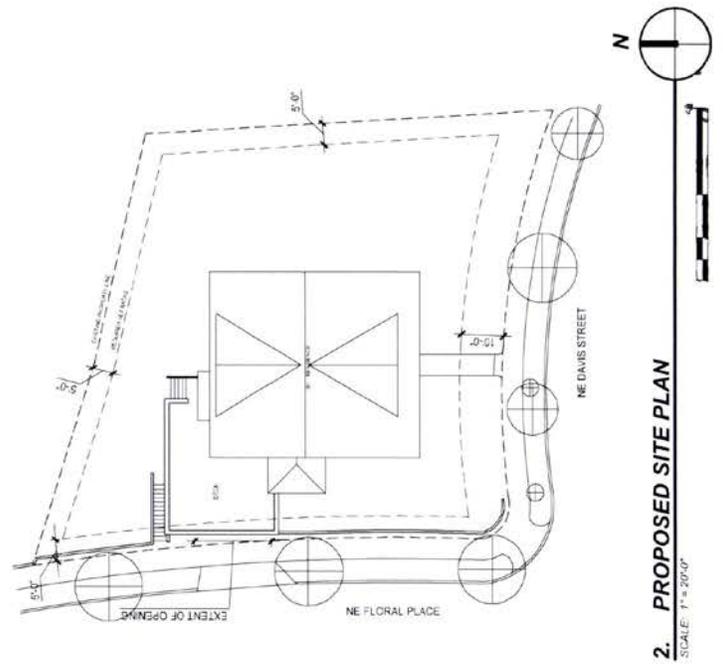
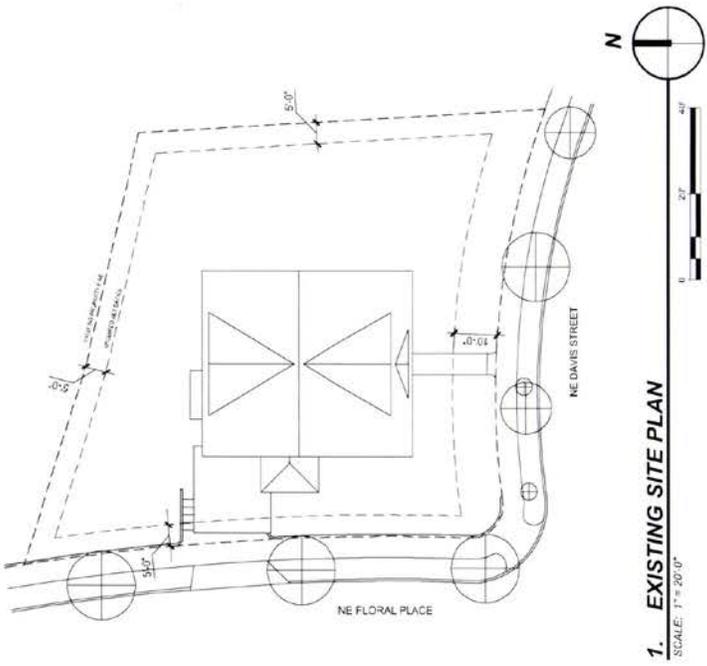


Historic Landmark

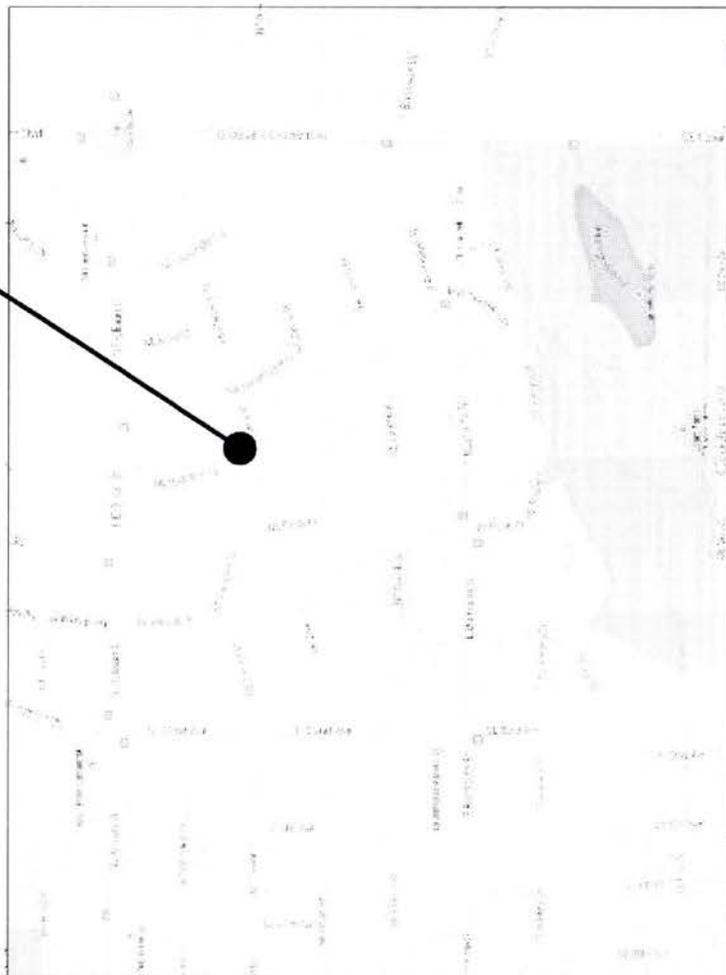


This site lies within the:  
**LAURELHURST PLAN DISTRICT**

File No. LU 15-163574 AD  
 1/4 Section 3034  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E36DB 10100  
 Exhibit B (May 01, 2015)



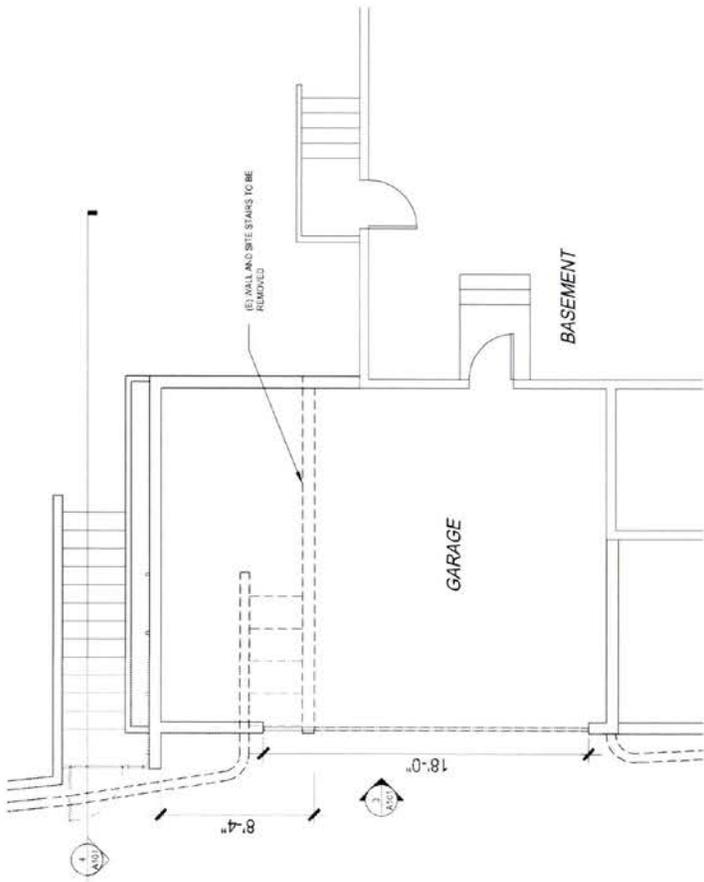
LOCATION OF PROJECT



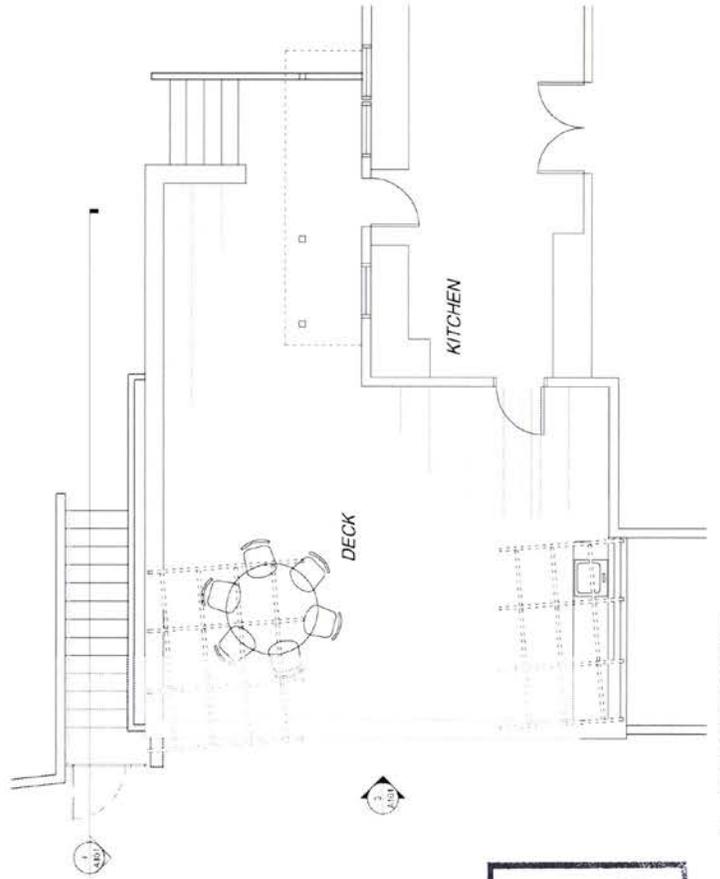
\*Approved\*  
City of Portland - Bureau of Development Services  
Planner MARK WATWOOD Date JUNE 20, 2015  
\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

LU 15-163574A0

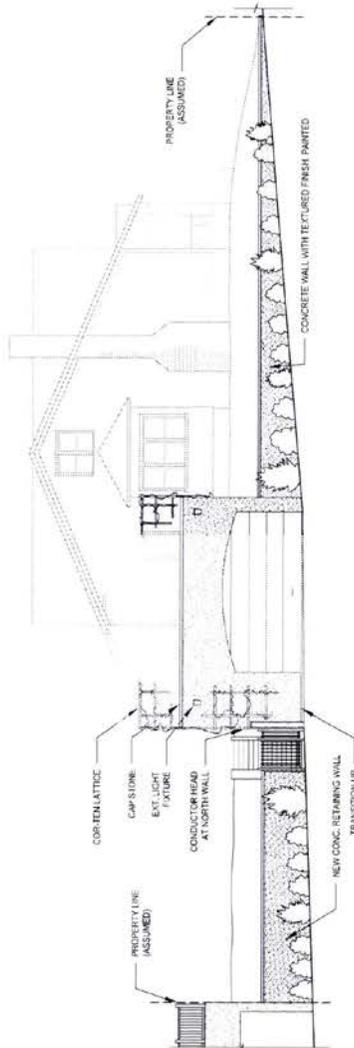
EXHIBIT C-1



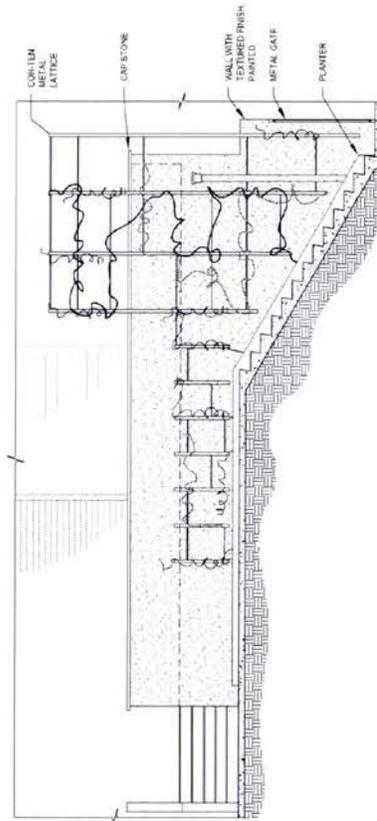
1. GARAGE LEVEL PLAN  
SCALE: 1/4" = 1'-0"



2. DECK LEVEL PLAN  
SCALE: 3/4" = 1'-0"



3. WEST ELEVATION  
SCALE: 3/8" = 1'-0"



4. SECTION AT SITE STAIRS  
SCALE: 3/4" = 1'-0"

\*Approved\*  
 City of Portland - Bureau of Development Services  
 Planner MARK WALHOOD Date JUNE 30, 2015  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.