



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

Dan Saltzman, Commissioner
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Date: March 11, 2016
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / Kathleen.Stokes@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 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 15-277988 AD

GENERAL INFORMATION

Applicant/owner: Mikhail and Alla Shiryayev and Stepan Gustey
12017 NE Eugene St
Portland, OR 97220-1859

Site Address: 2118 NE 121ST AVE

Legal Description: BLOCK 4 LOT 13, SAN RAFAEL PK
Tax Account No.: R742500750
State ID No.: 1N2E27DA 15000
Quarter Section: 2842

Neighborhood: Parkrose Heights, Pete Natwick at 503-493-3612.
Business District: Gateway Area Business Association, Fred Sanchez at 503-256-3910.
District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550.

Zoning: R7h, Residential 7,000, Medium Density Single-Dwelling, with an Aircraft Landing (height) Overlay

Case Type: Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The applicants are proposing various improvements to the residence on this site, including construction of a new carport, 28 feet long and 9 feet, 4 inches wide, that would be attached to the south side of the house. The structure would be located 28 feet from the front (west) property line and would extend to 1 foot, 1 inch from the south side property line. A 6-inch curb with a 30-inch tall iron fence is proposed to block the remaining paved area in front of the house so that it will serve as pedestrian area or patio, rather than providing additional vehicle area.

The Portland Zoning Code generally requires structures in the R7 zone to be located a minimum of 5 feet from side and rear property lines. Exceptions to this regulation are approved through Adjustment Reviews, when all of the relative approval criteria have been met or if the criteria can be met through reasonable conditions of approval. Therefore, the applicants have requested approval of an Adjustment to Zoning Code, Section 33.110.220. B, to reduce the required minimum building setback for the carport from 5 feet to 1 foot, 1 inch from the south side property line.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The site is a 7,194 square-foot lot that is located on the east side of NE 121st Avenue. It is the third lot to the north of the intersection with NE San Rafael Street and is directly to the east of the intersection with NE Eugene Street. The property is developed with a single-dwelling residence that was constructed in 1954. The area around the site is similarly developed with single-dwelling residences that generally appear to be from the same time period. A small public open space, Merrifield Park is located about one block to the west. A large commercial area is located one block to the east, on the far side of NE 122nd Avenue.

Zoning: The site is zoned R7, or Residential 7,000, Medium Density Single-Dwelling. This zone designation is intended for areas with adequate public services but minor development constraints. Single-dwelling residential will be the primary use. The maximum density is generally 6.2 units per acre or an average of one lot for every 7,000 square feet.

This site also has an “h” or Aircraft Landing Overlay. The provisions of this overlay zone, that limit the height of structures within the aircraft landing approach patterns for the Portland International Airport, are not relevant to this proposal.

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 **February 12, 2016**. The following Bureaus have responded with no issues or concerns:

- Environmental Services provided information on the existing sanitary infrastructure and requirements for any extension of the sewer connections and also summarized the storm water management requirements for building permit submittal (Exhibit E-1).
- Water Bureau provided information on the existing water service for the site and requirements for new and existing services (Exhibit E-2).
- Life Safety Plan Review Section of BDS noted that a building permit is required for the proposed work and added information on Fire Code requirements for structures that are less than three feet from a property line (Exhibit E-3).
- The remaining City agencies, including Transportation Engineering, Fire Bureau and Site Development Section of BDS, each sent a response of “no concerns,” with no additional comments (Exhibit E-4).

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. The applicant submitted four letters from neighbors that expressed support of the proposal as a part of the application (Exhibit A-2).

ZONING CODE APPROVAL CRITERIA

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 to provide 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. stated below, have been met.

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

Findings: Adjustment to Code Section 33.110.220, to reduce the required minimum building setback for the carport from 5 feet to 1 foot 1 inch from the south side property line. *The purposes of building setback requirements are to maintain light, air, separation for fire protection, and access for fire fighting. Setback standards also reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences. They promote options for privacy for neighboring properties and 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.*

The applicants are proposing several improvements to the residence on this site. One of these improvements, the addition of a carport that will be attached to the south side of the house, will create a neater area for the storage of vehicles on the property and also provide a covered area for the applicants for the care of their vehicles. The structure has a low profile and will be located next to similar uses and development on the abutting lot to the south, where there is a driveway with vehicle storage and other residential accessory uses. Due to this situation, with a co-location of uses, the carport will still maintain light and air for the adjacent neighbor. Separation for fire protection will be ensured by building code requirements for the use of fire-proof materials and there is ready access for fire-fighting from the adjacent street frontage. The structure will not include any windows on the south side so options for privacy for the neighbor to the south will still be promoted. The driveway already exists in this location. Placing a shelter over the driveway, through the construction of the carport, will be compatible with the other existing development in the neighborhood, will fit the topography and the built character of the site. The carport will not remove any required outdoor area and will be in keeping with the architectural diversity of the neighborhood. Therefore, the purposes of the building setback requirements are equally met 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: Approval of the request to reduce the required south side building setback for the carport will not significantly detract from the appearance or the livability of the residential area. The structure will provide shelter over the vehicle storage area on the driveway, which has been in this location for many years. There are no known impacts on livability that have been presented by proposing to have the structure in this location. The applicant gained the written support of several neighbors in advance of submitting the application. The proposed structure will be compatible with the main part of the house and will thereby enhance the appearance of the streetscape. Therefore, no potential impacts on livability or appearance, based on the proposed addition have been noted and so, 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: Only one adjustment is being requested. Therefore, this criterion does not apply.

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

Findings: City-designated scenic resources are shown on the City's zoning maps by an "s" or Scenic Overlay Zone. City-designated historic resources are shown on the City's zoning maps, either as an adopted landmark, or as a site that is located within the boundaries of a Historic Conservation or Historic Design District. There are no City-designated scenic or historic resources on the site. Therefore, this criterion does not apply.

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

Findings: No potential impacts from approval of the requested Adjustment have been identified by staff. Therefore, no mitigation is needed and 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 zones are designated with either a lower case "c," for the Environmental Conservation Overlay, or "p," for the Environmental Protection Overlay. This site is not located within an environmental zone, so this criterion does not apply.

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

All of the relevant approval criteria have been met for the requested Adjustment. The purpose for building setbacks will be equally met because the carport will not have any impacts on light, air or privacy and will not cause fire safety issues. It will be in keeping with the scale and placement of structures in the area and will not significantly detract from the appearance or the livability of the surrounding area. The proposal can be approved in general compliance with the site plans and elevation drawings.

ADMINISTRATIVE DECISION

Approval of an adjustment to Code Section 33.110.220 B, to reduce the required minimum building setback for the proposed carport, from 5 feet to 1 foot, 1 inch, from the south side property line, in general compliance with the approved site plan and elevation drawings, Exhibits C-1 and C-2, signed and dated March 9, 2016, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-277988 AD."

Staff Planner: Kathleen Stokes

Decision rendered by: _____ **on March 9, 2016**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 11, 2016

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 December 16, 2015, and was determined to be complete on **February 9, 2016**.

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 December 16, 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: June 8, 2016**.

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 25, 2016** 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 28, 2016 – (the first working 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.

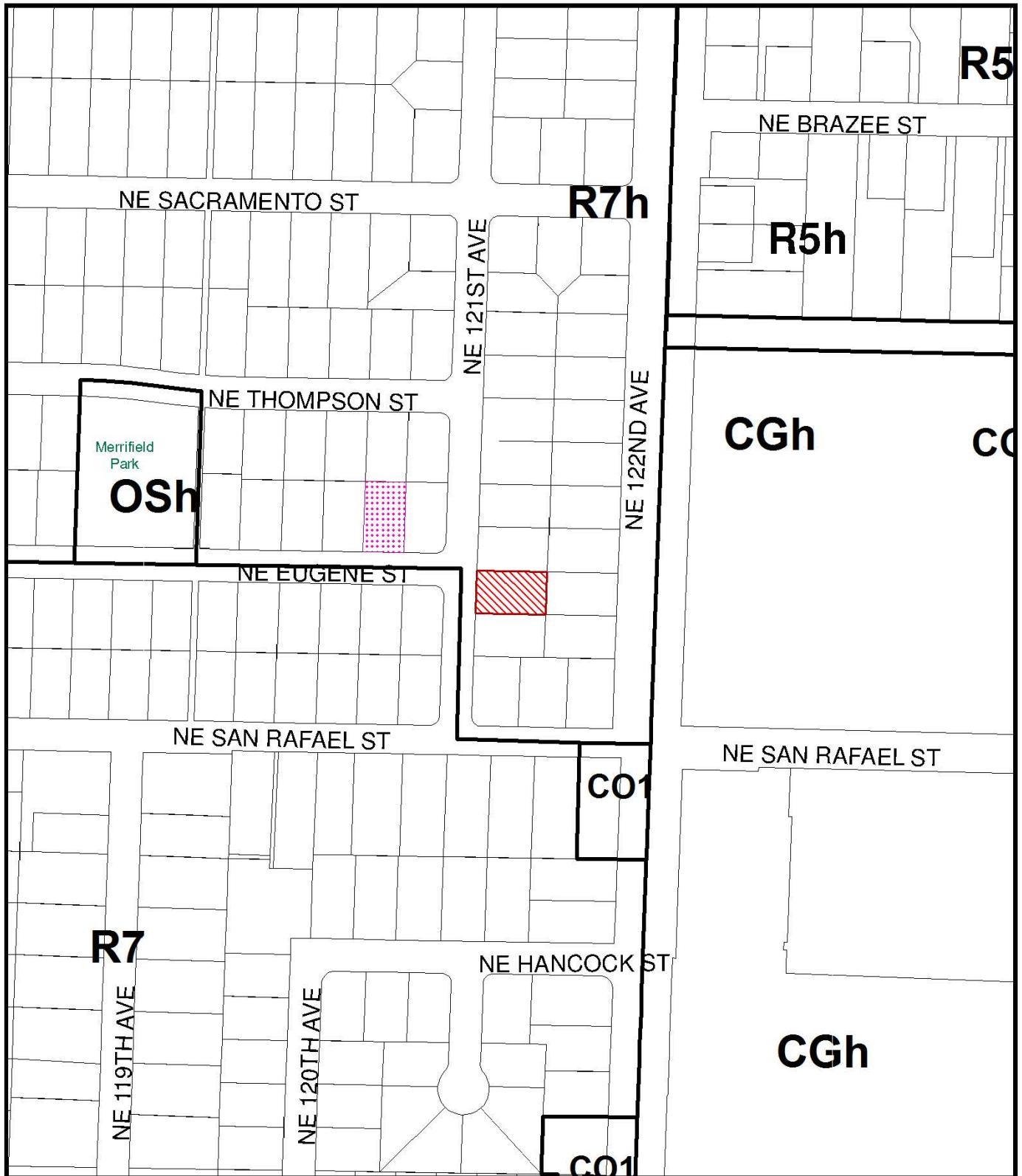
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
 - 1. Application and original narrative and plans
 - 2. Letters of support from neighbors, submitted with application
 - 3. Revised plans and drawings, received February 5, 2016 and corrected February 9, 2016
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Life Safety Plan Review Section of BDS
 - 4. Summary of City service agency responses (including Bureau of Transportation Engineering and Development Review, Fire Bureau, Site Development Review Section of BDS)
- F. Correspondence: (none)
- G. Other:
 - 1. Letter from Kathleen Stokes to Mikhail Shiryayev, January 12, 2016

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
-  Also Owned Parcels



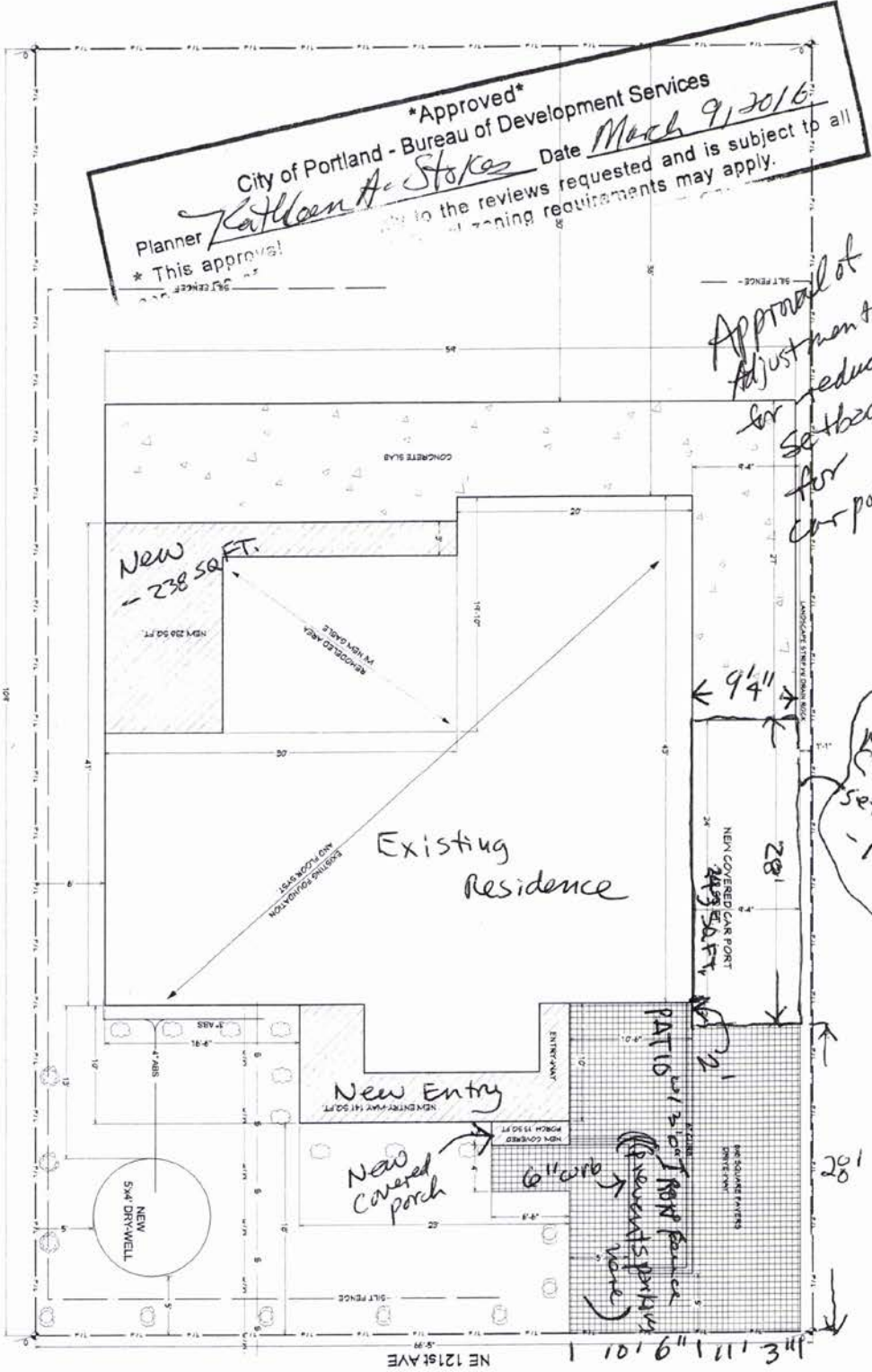
NORTH

File No. LU 15-277988 AD
 1/4 Section 2842
 Scale 1 inch = 200 feet
 State_Id 1N2E27DA 15000
 Exhibit B (Dec 18, 2015)

NORTH
←

Approved
 City of Portland - Bureau of Development Services
 Planner Kathleen Stokes Date March 9, 2016
 * This approval is subject to the reviews requested and is subject to all zoning requirements may apply.

LOT AREA: 7,194 SQ. FT.
 BUILDING COVERAGE: 2,574 SQ. FT.
 FRONT GLAZING: 23%
 2118 NE 121st AVE
 PORTLAND, OR 97220
 TONY MOLOFIV 503-720-4130
 1500 S. SANDFORD PK. BLOCK 4, LOT 13
 PORTLAND, OR 97201
 ZIP CODE 97220



- EVERGREEN SHRUBS
 - GRAPE PLANTS
 - KIWI TREE
- SITE PLAN/ EROSION CONTROL PLAN
 SCALE: 1/8" = 1'-0"

Exhibit C-1

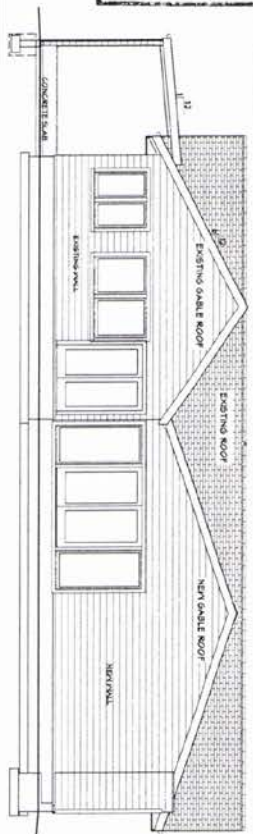
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						NUMBER	DATE
		2/4/2016					

Approved

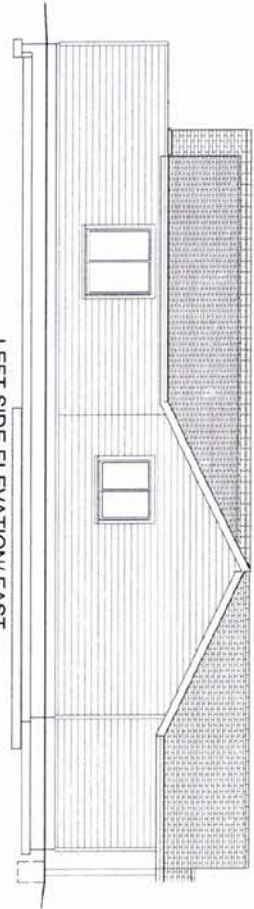
City of Portland - Bureau of Development Services

Planner *Taylor Alan A. Stokes* Date *March 7, 2016*

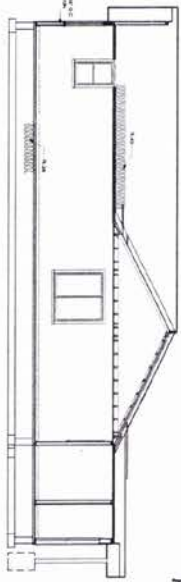
* This approval is valid only to the review's conditions of the project and is subject to all applicable codes and regulations.



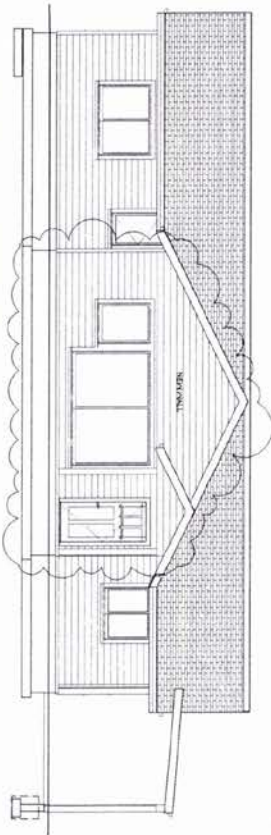
REAR ELEVATION/ SOUTH
SCALE: 1/4\"/>



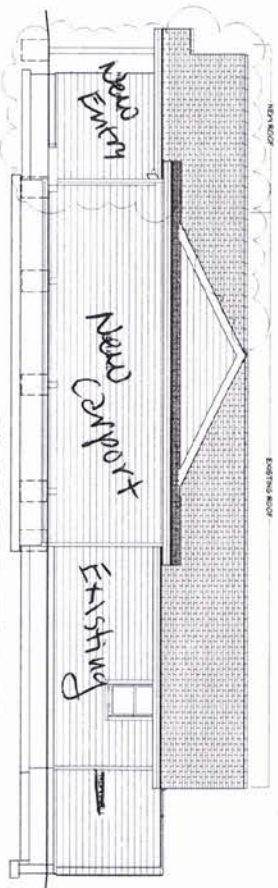
LEFT SIDE ELEVATION/ EAST
SCALE: 1/4\"/>



Elevation 17
SCALE: 3/8\"/>



FRONT ELEVATION/ NORTH
SCALE: 1/4\"/>



RIGHT SIDE ELEVATION/ WEST
SCALE: 1/4\"/>

Approval of Adjustment for Reduced setback for carport.

Review of Carport elevation only!

Exhibit C-2

LU 15-277988 AD

SHEET: A#	DATE: 2/4/2016	DRAWINGS PROVIDED BY:	PAGE TITLE	2116 NE 121st AVE PORTLAND, OR 97222	REVISION TABLE	
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