



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

FROM CONCEPT TO CONSTRUCTION

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Date: January 4, 2017
To: Interested Person
From: David Besley, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The 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 16-261250 AD

GENERAL INFORMATION

Applicant: Sue Firpo
SI Firpo Design/Craft
420 NE 56th Ave
Portland, OR 97213

Owner: Benjamin R Polas
2825 NE 63rd Ave
Portland, OR 97213-4607

Site Address: 2825 NE 63RD AVE

Legal Description: BLOCK 10 LOT 3, BELLE CREST
Tax Account No.: R065301360
State ID No.: 1N2E29BC 06900
Quarter Section: 2737

Neighborhood: Rose City Park, contact Tamara DeRidder at 503-249-6977
Business District: Portland International District Business Association, contact Thomas Wright at 503-249-3926
District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156

Zoning: R5h (Single Family Residential 5,000 with an Aircraft Landing 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 deconstruct an existing 240 square foot garage and construct a new 600 square-foot detached garage (for storage and maintenance of a boat) in the same

approximate location to the northwest of an existing 2-story home. Due to its height, the Portland Zoning Code requires that the garage be set back a minimum of 5 feet from the side and rear property lines (33.110.220). The garage is proposed to be 6 inches from the northern property line and 1 foot– 4 inches from the western property line; therefore, 2 Adjustments are required:

1. To reduce the minimum side (north) setback from 5 feet to 6 inches; and
2. To reduce the minimum rear (west) setback from 5 feet to 1 foot – 4 inches.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The 5,000 square foot site is on the west side of NE 63rd Avenue, between NE Alameda Street and NE Stanton Street, in the Rose City Park neighborhood. The relatively flat site is developed with a 2,737 square foot residence and a 240 square foot garage. The surrounding vicinity is developed with a mix of single-dwelling residences on all sides and commercial development about one block to the north along NE Sandy Blvd.

Zoning: The R5 zone is a single-dwelling zone that is intended to preserve land for housing, and to provide housing opportunities for individual households. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. The "h" zone overlay (Aircraft Landing Zone) is not impacted by the Adjustment 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 **November 16, 2016**. The following Bureaus have responded with the following information:

- The Life Safety section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information (Exhibit E-1); and
- The Bureau of Environmental Services (BES) responded with no concerns and provided stormwater management information (Exhibit E-2).

The following Bureaus have responded with no concerns:

- The Bureau of Transportation (PBOT) (Exhibit E-3).
- The Fire Bureau;
- The Water Bureau; and
- The Site Development Section of BDS.

Neighborhood Review: One written response was submitted by the Rose City Park Neighborhood Association (RCPNA) recommending denial of the application unless the applicant provided the RCPNA Board with:

1. Letters of support for this proposal from the property owners impacted by the setback reduction, the properties to the north and west of the site, to determine if the proposal will "significantly detract from the 'livability or appearance of this residential area" per 33.805.040 criterion B; and
2. Documentation of proposed firewall construction and eve design on the north and west walls to satisfy 33.805.040 Criterion A. That subsection requires the "adjustment will equally or better meet the purpose of the regulation to be modified."

The applicant subsequently obtained and submitted two letters of support from adjacent neighbors to the north (Exhibit A-2) and west (Exhibit A-3), details showing the firewall construction and eve design (Exhibit A-4), and a revised letter from the RCPNA Board recommending approval (Exhibit A-5).

ZONING CODE APPROVAL CRITERIA

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

1. **Findings:** The applicant has requested an Adjustment to reduce the minimum side (north) setback from 5 feet to 6 inches and a second Adjustment to reduce the minimum rear (west) setback from 5 feet to 1 foot – 4 inches to construct a new detached garage. The relevant purpose statements and associated findings are found below:

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.*

The proposed development involves deconstructing an existing 240 square foot detached garage that is 6" from the side (north) lot line and 0' from the rear (west) lot line and constructing a new, larger detached garage that is no closer to the property lines than the original structure. While the size of the detached garage will be larger (360 square feet) than the existing detached garage, the location will be over 68 feet from the front/east property line, which will help to maintain light and air along the pedestrian corridor. The new detached garage will be close to an adjacent detached garage to the west, but there will be no additional impacts to the physical relationship between residences themselves.

No windows are proposed on the northern or western facades of the detached garage, which promotes privacy for the neighboring properties to the north or west. Availability of outdoor areas will be maintained by this development, which has a yard in the southwestern corner and in front of the house. Many of the surrounding houses in this area, including adjacent neighbors to the west and south, have detached garages built within side and rear setbacks. A detached garage constructed within side and rear setbacks will therefore be compatible with this neighborhood.

The Fire Bureau has reviewed the request for reduced setbacks, and responded with no concerns with regards to separation for fire protection, or access for fire fighting. The Portland Bureau of Transportation has no concerns regarding the proposed adjustment.

This criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be

consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The detached garage, though larger than the existing detached garage, will still appear as a secondary structure to the 2-story house. This proposal is consistent with the development pattern in the area and will not significantly detract from the appearance of the area. The absence of windows on the north and west protects privacy and livability for adjacent neighbors impacted by the setback reduction.

This criterion is met.

- C.** If more than one Adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: The overall purpose of the R5 zone is to preserve land for housing, and to provide housing opportunities for individual households. The proposed detached garage will support the residential use and the cumulative effect of the adjustments will therefore be consistent with the overall purpose of the zone.

This criterion is met.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. 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: Impacts resulting from the adjustment are mitigated to the extent practical. While the size of the detached garage will be larger and taller than the existing detached garage, the new detached garage will be 1’ - 4” farther away from the western property line than the existing detached garage, which is on the property line, and therefore helps mitigate visual impacts of a larger structure.

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 Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

The applicant is proposing to construct a new 600 square-foot detached garage (for storage and maintenance of a boat) to the northwest of an existing 2-story home for which two Adjustments

are required to reduce the minimum side (north) setback from 5 feet to 6 inches; and to reduce the minimum rear (west) setback from 5 feet to 1 foot – 4 inches. While the size of the detached garage will be larger and taller than the existing detached garage, it will still appear as a secondary structure to the 2-story house. No windows are proposed on the western or northern facades of the detached garage, which promotes privacy for the adjacent properties to the north and west. Many of the surrounding houses in this area, including adjacent neighbors to the south and west, have detached garages built within side and rear setbacks. A detached garage constructed within the side and rear setbacks will therefore be compatible with this neighborhood. The proposal meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of 2 Adjustments:

1. To reduce the minimum side (north) setback from 5 feet to 6 inches (33.110.220); and
2. To reduce the minimum rear (west) setback from 5 feet to 1 foot – 4 inches (33.110.220)

to construct a new 600 square-foot detached garage (for storage and maintenance of a boat), per the approved site plans, Exhibits C-1 through C-3, signed and dated December 15, 2016, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File LU 16-261250 AD."

Staff Planner: David Besley



Decision rendered by: _____ **on December 15, 2016.**
By authority of the Director of the Bureau of Development Services

Decision mailed: January 4, 2017

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 19, 2016, and was determined to be complete on November 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 October 19, 2016.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be fully extended on December 21, 2016. With the extension provided by the applicant, **the 120 days will expire on: March 23, 2017.**

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 18, 2017** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 19, 2017 – (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.

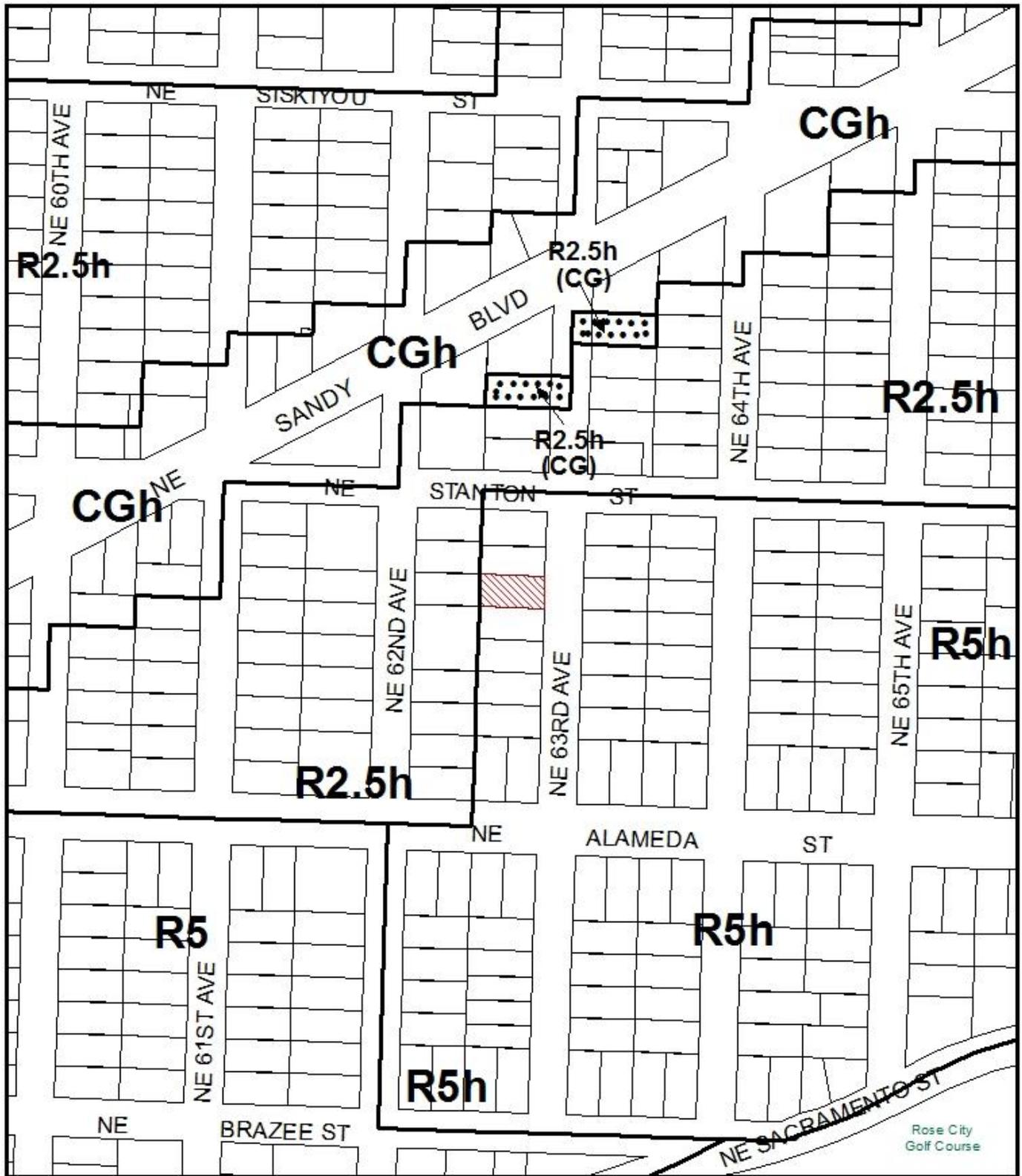
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant Submittal:
 1. Applicant's Statement
 2. Ross T. Bown, December 13, 2016, letter of support
 3. Emily and Eric Doust, December 13, 2016, letter of support
 4. Details showing the firewall construction and eve design
 5. Revised letter from the RCPNA Board recommending approval
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Site plan showing existing detached garage and proposed new detached garage.
 3. Elevation Drawings (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Life Safety Section of BDS
 2. Bureau of Environmental Services
 3. Bureau of Transportation Engineering and Development Review
- F. Correspondence:
 1. Rose City Park Neighborhood Association, December 7, 2016, letter expressing denial recommendation for the requested Adjustments and options to overturn the denial
- G. Other:

1. Original LU Application and receipt
2. Incomplete letter from staff to applicant, sent November 2, 2016
3. Request for Extension of 120-Day Review Period letter dated December 21, 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

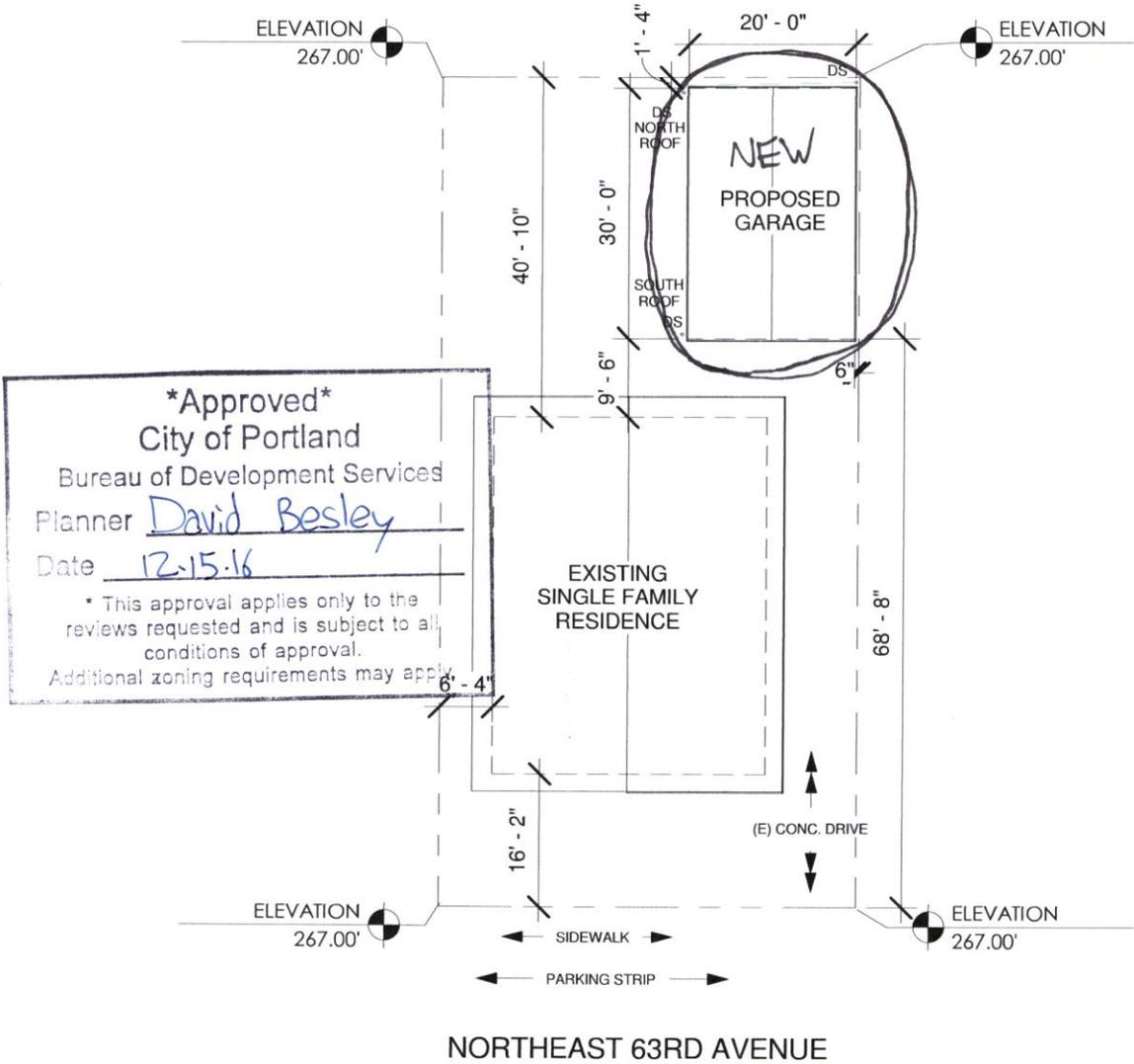


 Site

File No.	<u>LU 16-261250 AD</u>
1/4 Section	<u>2737</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N2E29BC 6900</u>
Exhibit	<u>B</u> (Oct 21, 2016)

Rose City Golf Course

NOTE: EXISTING GARAGE TO BE DEMOLISHED



Approved
 City of Portland
 Bureau of Development Services
 Planner David Besley
 Date 12-15-16
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

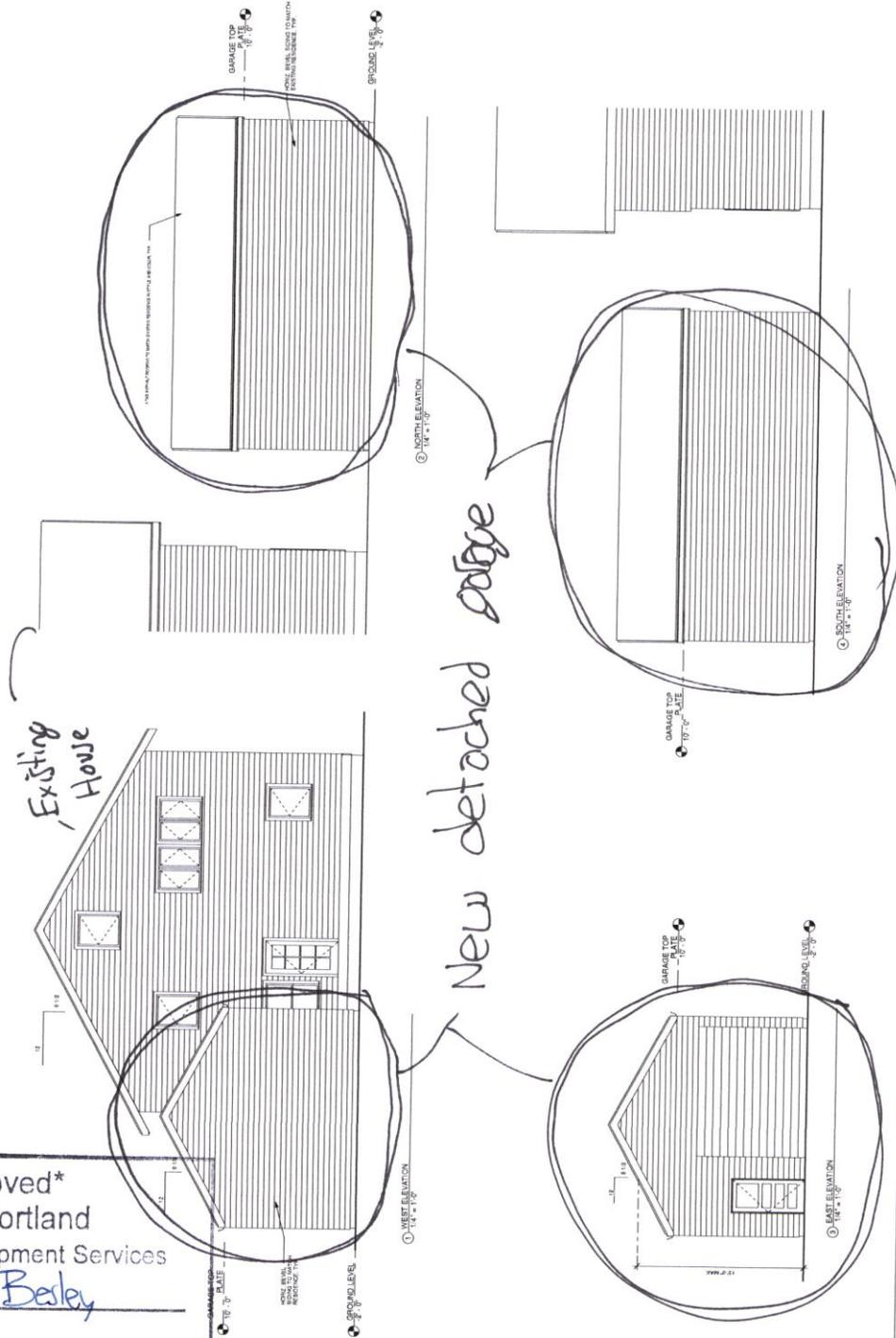
2 adjustments requested to construct a new det. garage:
 1. reduce min side (North) setback from 5' to 6"
 2. reduce min rear (west) setback from 5' to 1'-4"

1 SITE PLAN-8.5x11
 1" = 20'-0"

SITE PLAN NOTES:

2825 NE 63RD AVENUE
 PORTLAND OREGON, 97213
 ROSE CITY PARK
 BELLE CREST, BLOCK 10, LOT 3
 PROPERTY ID: R113938
 EXISTING RESIDENCE SQ. FT.: 2737 SQ. FT.
 EXISTING GARAGE SQ. FT.: 240 (TO BE DEMOLISHED)
 NEW GARAGE SQ. FT. : 600

Exh C1
 W16-261250AD



Existing House

New detached garage

Approved
 City of Portland
 Bureau of Development Services
 Planner David Besley
 Date 12.15.16

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

CASE NO. 16-261250 AD
 EXHIBIT C-3