



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

Chloe Eudaly, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: March 30, 2017
To: Interested Person
From: Don Kienholz, Land Use Services
503-823-7771 / Don.Kienholz@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 16-261887 AD

GENERAL INFORMATION

Applicant: Eric M. Crespo
6816 NE 22nd Ave
Portland, OR 97211

Site Address: 6816 NE 22ND AVE

Legal Description: BLOCK 81 LOT 8, IRVINGTON PK
Tax Account No.: R421324630
State ID No.: 1N1E14AD 18100
Quarter Section: 2332

Neighborhood: Concordia, contact Garlynn Woodsong at 503-936-9873.
Business District: North-Northeast Business Assoc, contact at chair@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030.

Zoning: R5ah – Residential 5,000 base zone with Alternative Design Density ('a') and Airport Landing Zone ('h') overlays.

Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing an approximately 280-square addition to an existing garage located within the south side building setback. The property is in the R5 zone with an Alternative Design Density overlay and Aircraft Landing overlay. Within the R5 zone, accessory detached structures are allowed within the side setback by right if they have a footprint no larger than 24x24-feet in size, no taller than 15-feet tall, and have walls no taller than 10-feet in height [PCC 33.110.250(C)(b)]. With the addition, the detached garage will be less than 15-feet tall, and have walls less than 10-feet in height. While the addition to the garage is fully outside the

side setback and five-feet from the side property line, the existing structure is not. With the addition, the new structure will have a combined length of approximately 33-feet with portions encroaching into the setback.

The Adjustment request is to allow an existing 18-foot portion of the proposed enlarged detached garage to encroach 2-feet into the 5-foot side building setback.

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 subject property has an existing dwelling constructed in 1944 and a detached garage in the back yard. The local neighborhood generally consists of lots with single-family dwellings constructed in the early to mid 20th century and small detached garages or accessory buildings. Lots in the area south of NE Bryant Street are approximately 5,000 square feet with lots on NE Bryant and further north being from approximately 7,000 square feet to 12,000. The subject site has several large trees in the backyard off of the unimproved alley.

Zoning: The Residential 5,000 zone (R5), is a Single-Dwelling zone intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50-feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

The purpose of the Alternative Design Density Overlay Zone ('a') is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements. No provisions of the 'a' overlay are being used for this proposal.

The purpose of the Aircraft Landing Overlay Zone is to provide safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment.

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 15, 2017**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Bureau of Transportation Engineering (Exhibit E.2);
- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4);
- Site Development Section of BDS (Exhibit E.5); and
- Life Safety (Exhibit E.6).

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Title 33.805.040 Adjustment Approval Criteria

33.805.040 Approval Criteria

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

Finding: The request is for an Adjustment to the development standards of 33.110.250.C.b to allow a detached accessory structure longer than 24-feet to encroach within the south side yard setback (Exhibit C.2). The purpose of the detached accessory structure development standards is found in 33.110.0250.A:

'Purpose: This section regulates detached structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards limit the height and bulk of the structures, promote compatibility of design for larger structures, provide for necessary access around larger structures, help maintain privacy to abutting lots, and maintain open front setbacks.'

The primary structure on the site, the dwelling, is a single-story, approximately 16-foot tall, rectangular, 780-square foot building located in the first third of the property closest to the front property line. The existing garage measures approximately 18-feet in length and is located in the middle portion of the property and three-feet from the south side property line.

The proposed addition to the accessory building would add approximately 15-feet to the length of the building for a total of 33-feet 9-inches, and would be entirely outside of the required 5-foot side building setback, creating an articulated wall plane. The addition would be taller than the existing garage and be 11.5-feet measured to the ridgeline of the roof and 9-feet tall (Exhibit C.3) as Building Height is defined (i.e., to the midpoint of the highest roof gable). With the addition, the detached accessory structure would be a total of approximately 470-square feet.

With the house on the property being significantly larger in square footage, taller and at the front of the property, it is clearly the predominant element on the site. The proposed addition to the accessory structure is proposed to remain a single-story and have an articulated wall along the side that encroaches into the setback, thereby reducing its visual mass. No windows are proposed for the wall that faces the southern side property line that encroaches in the setback which preserves privacy. The design of the building limits the overall bulk of the building; has an increased setback of 5-feet for the addition which provides adequate access around the building; is behind the house which provides an open front setback; and overall keeps the accessory building as clearly accessory. Based on the evidence in the record, the purpose of the detached accessory structure development standards are equally met.

Criterion 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

Finding: The subject property is in the R5 zoning district, a residential zone (Exhibit B). The accessory structure with the addition will be significantly smaller than the house on the lot; shorter than the house on the lot and located in the back yard behind the house. Staff evaluated properties within a two block radius and found that accessory structures

were common in the residential area, located similarly behind houses and of approximate sizing of the proposed addition. Additionally, no comments were received concerned with the size or design of the proposed addition. Given the findings above, the proposal will not detract from the appearance or livability of the residential area.

Criterion 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

Finding: Only one Adjustment has been requested.

Criterion not applicable.

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

Finding: City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s,” while historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. The subject property is not within a City-designated ‘s’ overlay zone and is not within a Historic or Conservation district. Considering the lack of proximity to any specific historic or scenic resources, identified city-designated resources will be preserved.

Criterion met.

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

Finding: As found in staff responses to criteria A and B, the requested adjustment equally meets the purpose of the respective purpose statement. The accessory structure addition is designed such that it will not adversely impact the livability or appearance of the residential area. Staff finds that the Adjustment is mitigated to the extent practical.

Criterion 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;

Finding: The subject property is not within an environmental zone.

Criterion 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 has demonstrated that the applicable approval criteria have been met for the requested Adjustment. The Adjustment equally meets the intent of the Detached Covered Accessory Structure standards and will not significantly detract from the livability or appearance of the residential area.

ADMINISTRATIVE DECISION

Approval of an Adjustment to allow an existing 18-foot portion of the proposed enlarged detached accessory structure to encroach 2-feet into the 5-foot side building setback, per the approved site plan and building elevations and building elevations, Exhibits C.2 and C.3, signed and dated March 27, 2017, 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.2-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-261887 AD. No field changes allowed."

Staff Planner: Don Kienholz

Decision rendered by:  **on March 27, 2017**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 30, 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 20, 2016, and was determined to be complete on February 2, 2017.

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 20, 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 did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: June 2, 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 April 13, 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 **April 14, 2017**.
- 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:

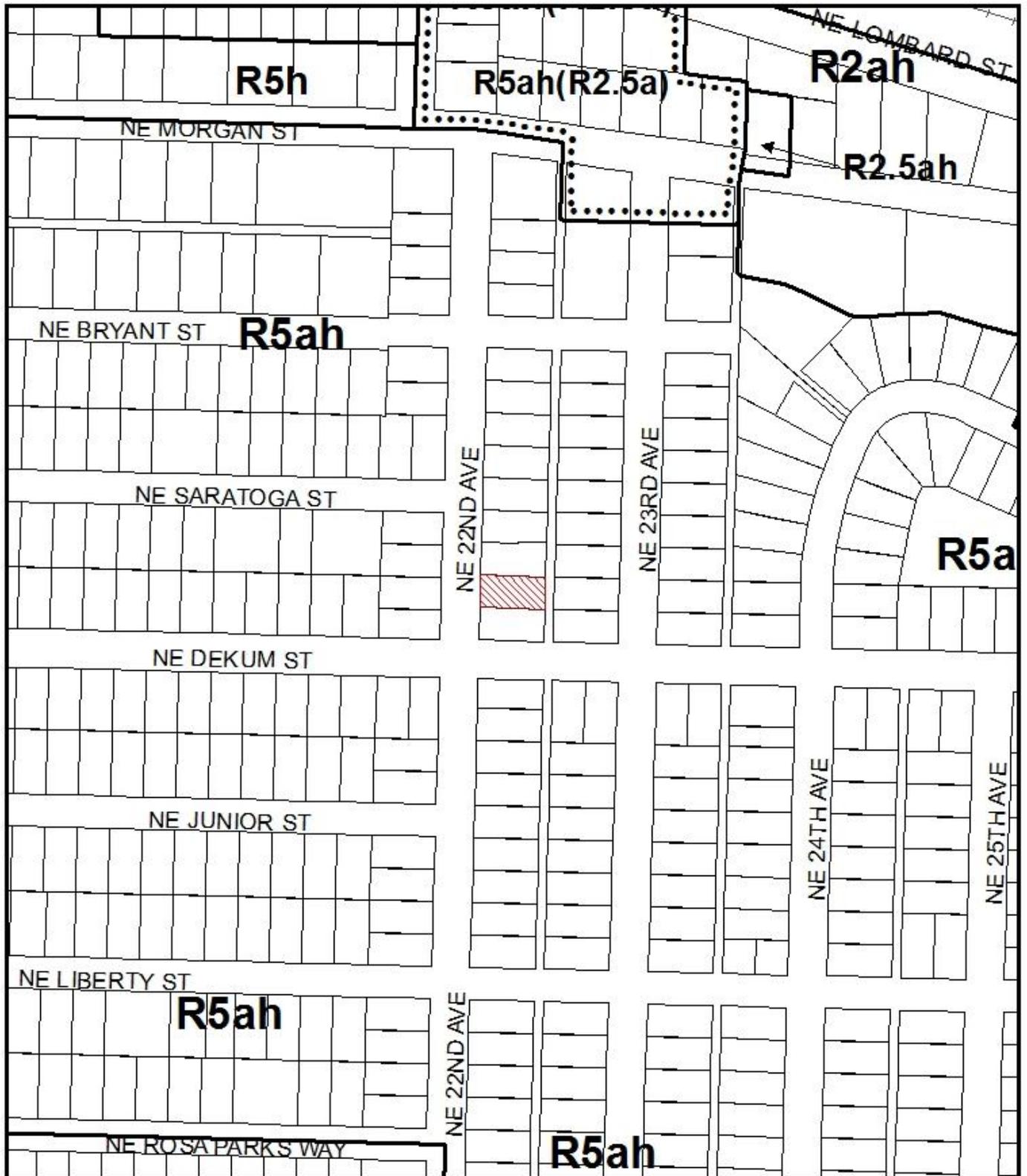
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Materials
 1. Applicant's October 20, 2016 Narrative
 2. Applicant's January 31, 2017 Narrative
 3. Applicant's Photographs of Existing Structure and Site
- B. Zoning Map (Attached)
- C. Plans/Drawings:
 1. October 20, 2016 Site Plan
 2. February 2, 2017 Site Plan (Attached)
 3. October 20, 2016 Elevation Plans 2 pages (Attached)
- D. Notification Information:
 1. Mailing List
 2. Mailed Notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Life Safety
- F. Correspondence: None
- G. Other:
 1. Original LU Application
 2. Receipt of Payment
 3. November 8, 2016 Incomplete Letter
 4. Copy of 1911 Plat of Irvington Park Subdivision

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



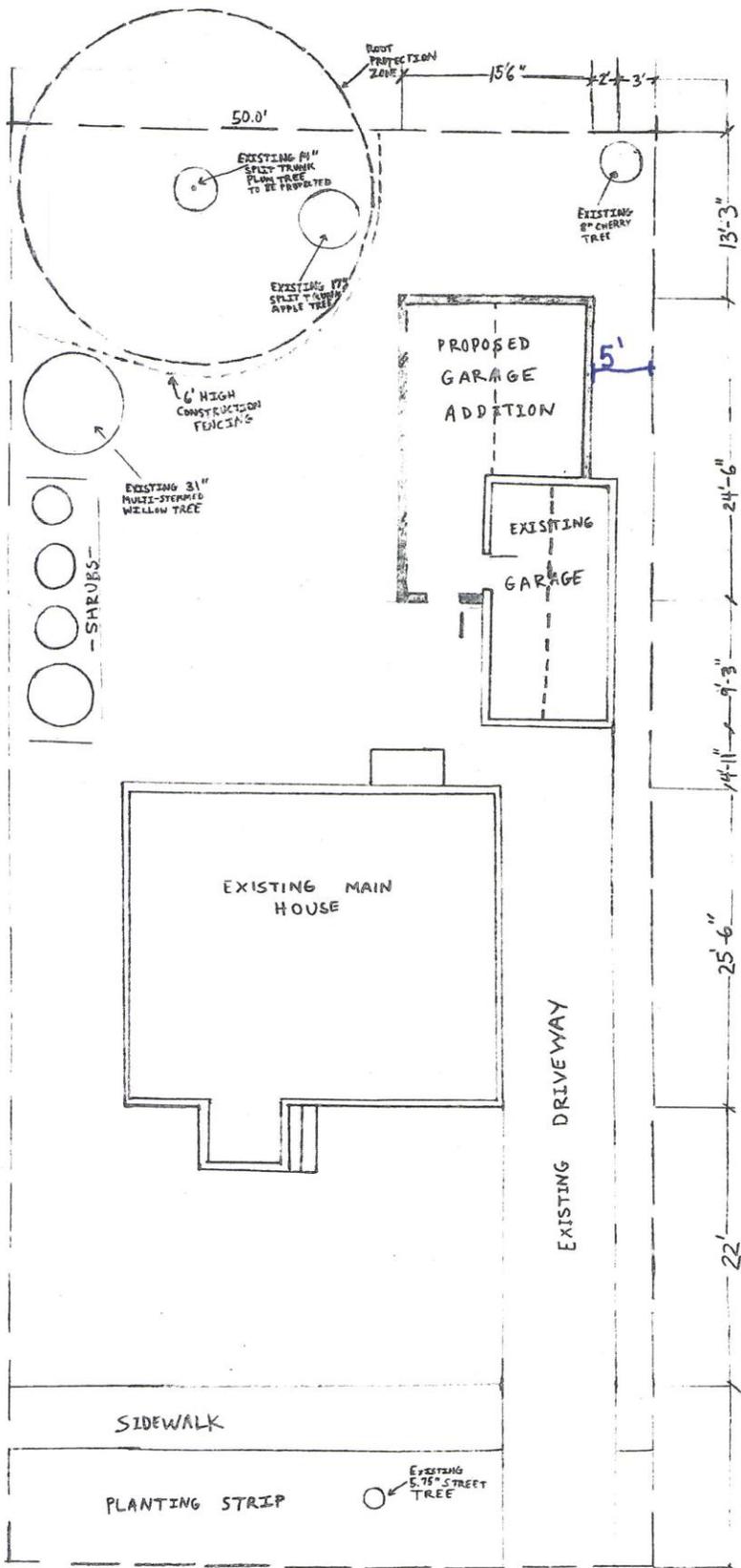
ZONING

 Site



NORTH

File No.	<u>LU 16-261887 AD</u>
1/4 Section	<u>2332</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E14AD 18100</u>
Exhibit	<u>B</u> (Oct 24, 2016)



LEGEND

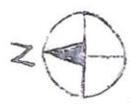
— EXISTING WALL

— NEW WALL

Approved
City of Portland
 Bureau of Development Services
 Planner *Allen Benish*
 Date *3/27/17*

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

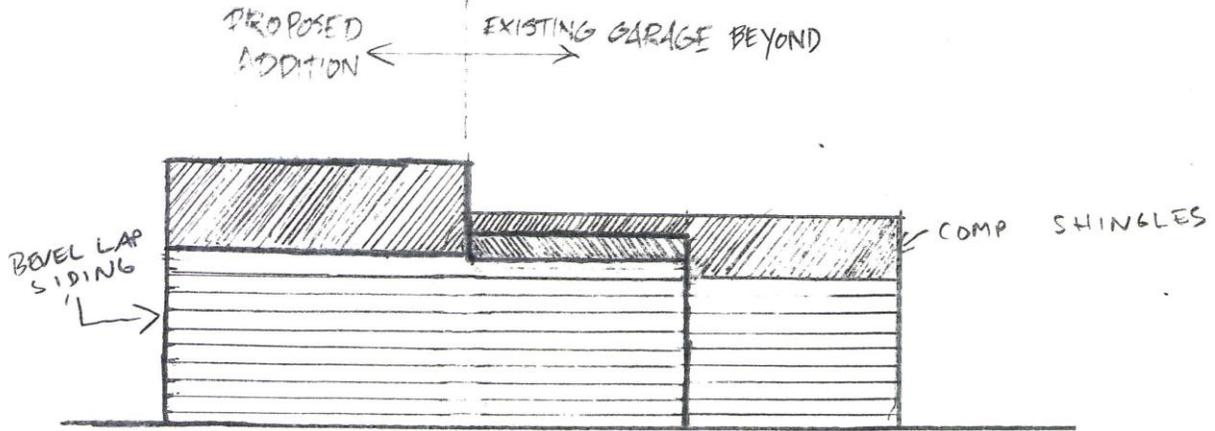
CASE NO. *LU16-261887 AD*
 EXHIBIT *C.2*



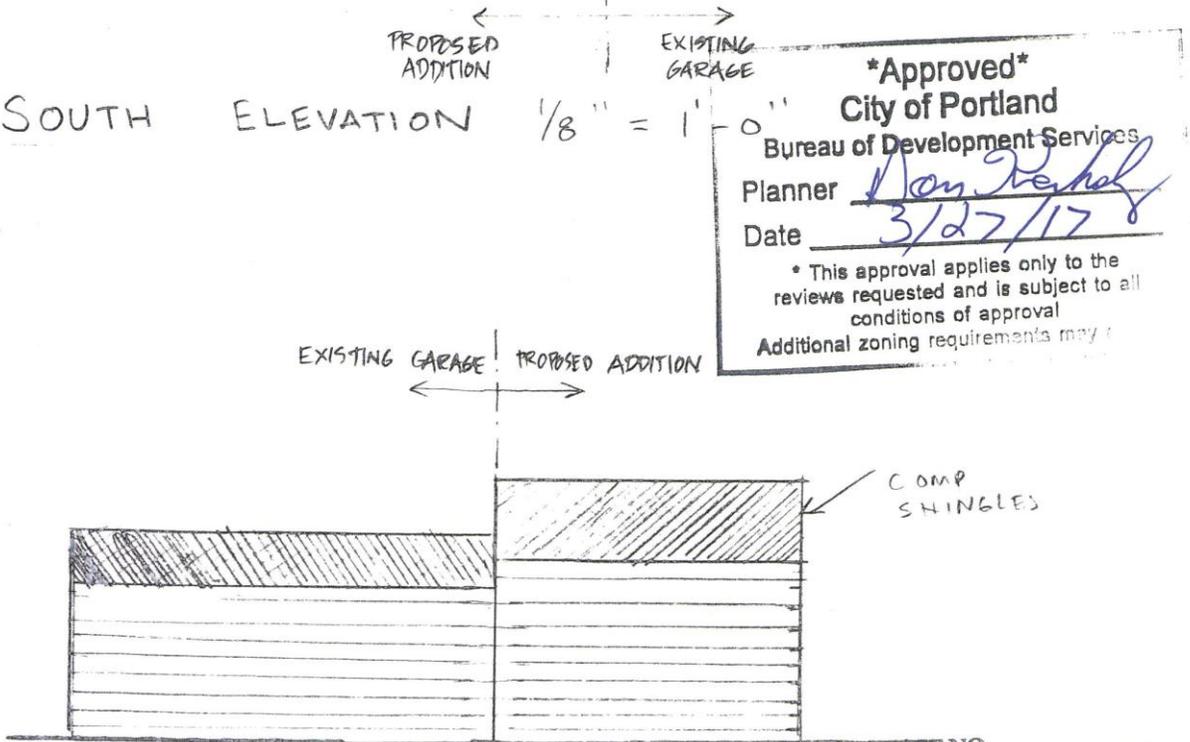
SITE PLAN scale 1/8" = 1'

CRESPO
 6816 NE 22nd Ave.
 PORTLAND, OR 97211

NORTH ELEVATION $\frac{1}{8}'' = 1'-0''$



SOUTH ELEVATION $\frac{1}{8}'' = 1'-0''$



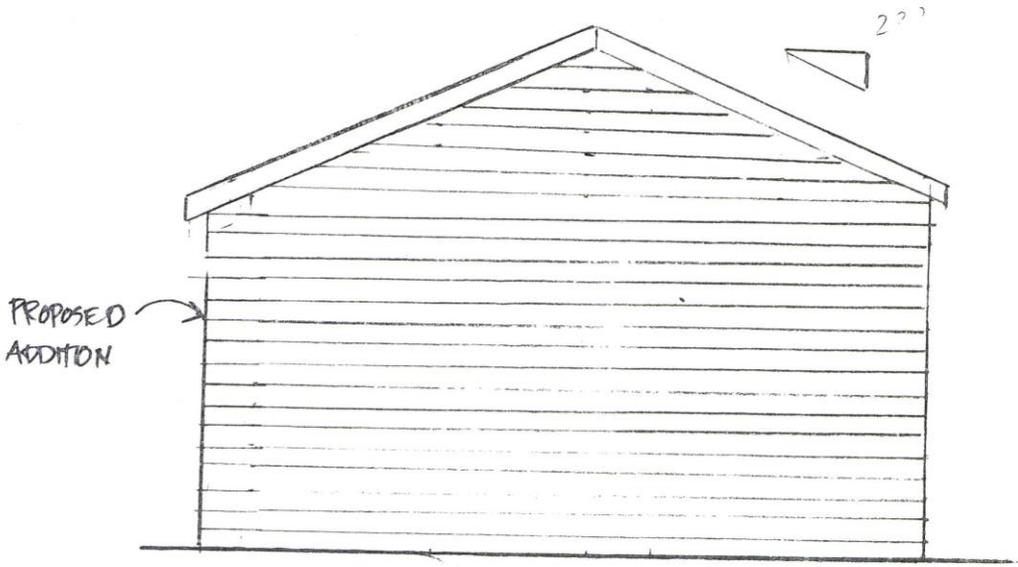
Approved
City of Portland
Bureau of Development Services
Planner Don Rehal
Date 3/27/17
* This approval applies only to the reviews requested and is subject to all conditions of approval
Additional zoning requirements may apply

CASE NO. _____
EXHIBIT C.3

CRESPO
6818 NE 22nd AVE
PORTLAND OR 97211

LU 16-261887 AD

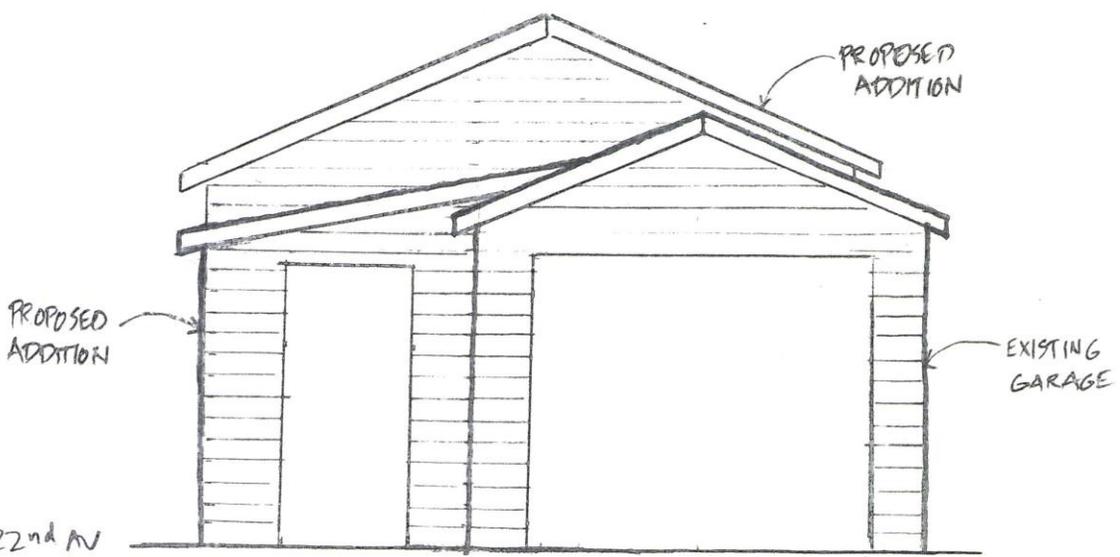
EAST ELEVATION 1/4" = 1'-0"



WEST ELEVATION 1/4" = 1'-0"

Approved
City of Portland
 Bureau of Development Services
 Planner Don Kenholz
 Date 3/27/17

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



CRESPO
 6818 NE 22nd AV
 PORTLAND, OR
 97211

LU 16-261887 AD