



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

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**Date:** September 28, 2017  
**To:** Interested Person  
**From:** Andrew Gulizia, Land Use Services  
503-823-7010 / [Andrew.Gulizia@portlandoregon.gov](mailto:Andrew.Gulizia@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 17-221352 AD**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Amairali Cruz-Fenton  
9432 N Tioga Ave.  
Portland, OR 97203

**Site Address:** 9432 N Tioga Ave.

**Legal Description:** BLOCK 32 LOT 11&12, POINT VIEW  
**Tax Account No.:** R665714740  
**State ID No.:** 1N1E06CC 03500  
**Quarter Section:** 2023  
**Neighborhood:** St. Johns, contact [sjnalanduse@gmail.com](mailto:sjnalanduse@gmail.com)  
**Business District:** St. Johns Center for Opportunity, contact Emily Stanfield at 503-841-5522  
**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099  
**Zoning:** R5 – Single-Dwelling Residential 5,000  
**Case Type:** AD – Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee

**Proposal:** For properties in the R5 zone, the Zoning Code requires at least one off-street parking space to be set back at least 10 feet from the front lot line. Since a parking space must be at least 18 feet long, this standard requires the driveway to be at least 28 feet long when a property lacks a garage. On this site, the former garage has been converted to living space and the driveway is only 22 feet long between the front lot line and the house. Therefore, the applicant is requesting an Adjustment to reduce the minimum required distance from the front lot line to the 18-foot-long parking space on the driveway from 10 feet to 4 feet (Zoning Code Section 33.266.120.C).

**Relevant Approval Criteria:** In order to be approved, this proposal must comply with the Adjustment Review approval criteria in Zoning Code Section 33.805.040.A-F.

## ANALYSIS

**Site and Vicinity:** The site is a 5,000-square-foot lot on the east side of N Tioga Avenue, between N Fessenden Street and N Seneca Street. The site is developed with a one-story, single-dwelling house. The house originally had an attached garage projecting forward from the house toward the street, but at some point in the past the garage was converted to living space. There is no record of a building permit for that work, but the applicant has applied for a retroactive building permit. Most lots in the surrounding neighborhood are also developed with one-story houses. Most neighboring homes have garages, but several do not. An industrial area is a few blocks north of the site, and a commercial area along N Lombard Street is a few blocks to the south.

**Zoning:** The R5 zone is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

**Land Use History:** City records indicate there are no prior land use reviews for this site.

**Agency Review:** A "Notice of Proposal" was sent September 1, 2017. The following Bureaus responded with no concerns about the proposed Adjustment:

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

**Neighborhood Review:** No written responses to the mailed "Notice of Proposal" were received from either the Neighborhood Association or notified neighbors.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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 applicant is requesting an Adjustment to reduce the required setback distance from the front lot line to the 18-foot-long parking space on the driveway from 10 feet to 4 feet. The purpose of the vehicle parking requirements for houses and duplexes is stated in Zoning Code Section 33.266.120.A:

***Purpose.** The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.*

The former garage which was converted to living space was finished to match the rest of the house and a sliding glass door was installed on the street-facing wall. This living space has a more positive contribution to neighborhood appearance than the former garage, which faced the garage door toward the street and which projected forward from the house in a manner no longer permitted for new garages in the R5 zone. Although the applicant is requesting an Adjustment to the 10-foot setback requirement for the driveway parking

space, the house itself, at 22 feet from the front lot line, is set back further than required. The driveway does not exceed the maximum allowance for paved vehicle area within the front yard (Zoning Code Section 33.266.120.C.3.a), and most of the front yard is attractively landscaped. For these reasons, the proposed Adjustment equally meets the intent of the regulation. 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:** Since the site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. For the reasons discussed above in the findings for approval criterion A, the conversion of the former garage to finished living space contributed positively to the aesthetics of the neighborhood. Since the driveway is large enough to accommodate parking, the required parking for the lot is not displaced to the street. For these reasons, the proposed Adjustment has no negative impacts to neighborhood livability or appearance. 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:** As only one Adjustment is requested, this criterion is not applicable.

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

**Findings:** City-designated scenic resources are identified on the official zoning maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

**Findings:** As discussed in the findings for approval criterion B, the Adjustment request has no adverse impacts on the livability or appearance of the surrounding area. As there are no adverse impacts identified for which mitigation would be required, this criterion is not applicable.

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

**Findings:** Environmental overlay zones are designated on the official zoning maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on the site, this criterion is not applicable.

## DEVELOPMENT STANDARDS

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

## CONCLUSIONS

The proposal to reduce the required setback from the front lot line to the parking space on the driveway equally meets the intent of the regulation, and will not adversely impact the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Since the approval criteria are met, the proposal must be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum required distance from the front lot line to the 18-foot-long parking space on the driveway from 10 feet to 4 feet (Zoning Code Section 33.266.120.C) per the approved site plan, Exhibit C-1, signed and dated September 25, 2017, subject to the following condition:

- A. As part of the building permit application submittal, each of the required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibit C-1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-221352 AD."

**Staff Planner: Andrew Gulizia**

Decision rendered by:  on September 25, 2017  
By authority of the Director of the Bureau of Development Services

**Decision mailed: September 28, 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 August 11, 2017, and was determined to be complete on August 29, 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 August 11, 2017.

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 extended by the applicant, **the 120 days will expire on: December 27, 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 October 12, 2017**, at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> 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](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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **October 13, 2017**, by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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:

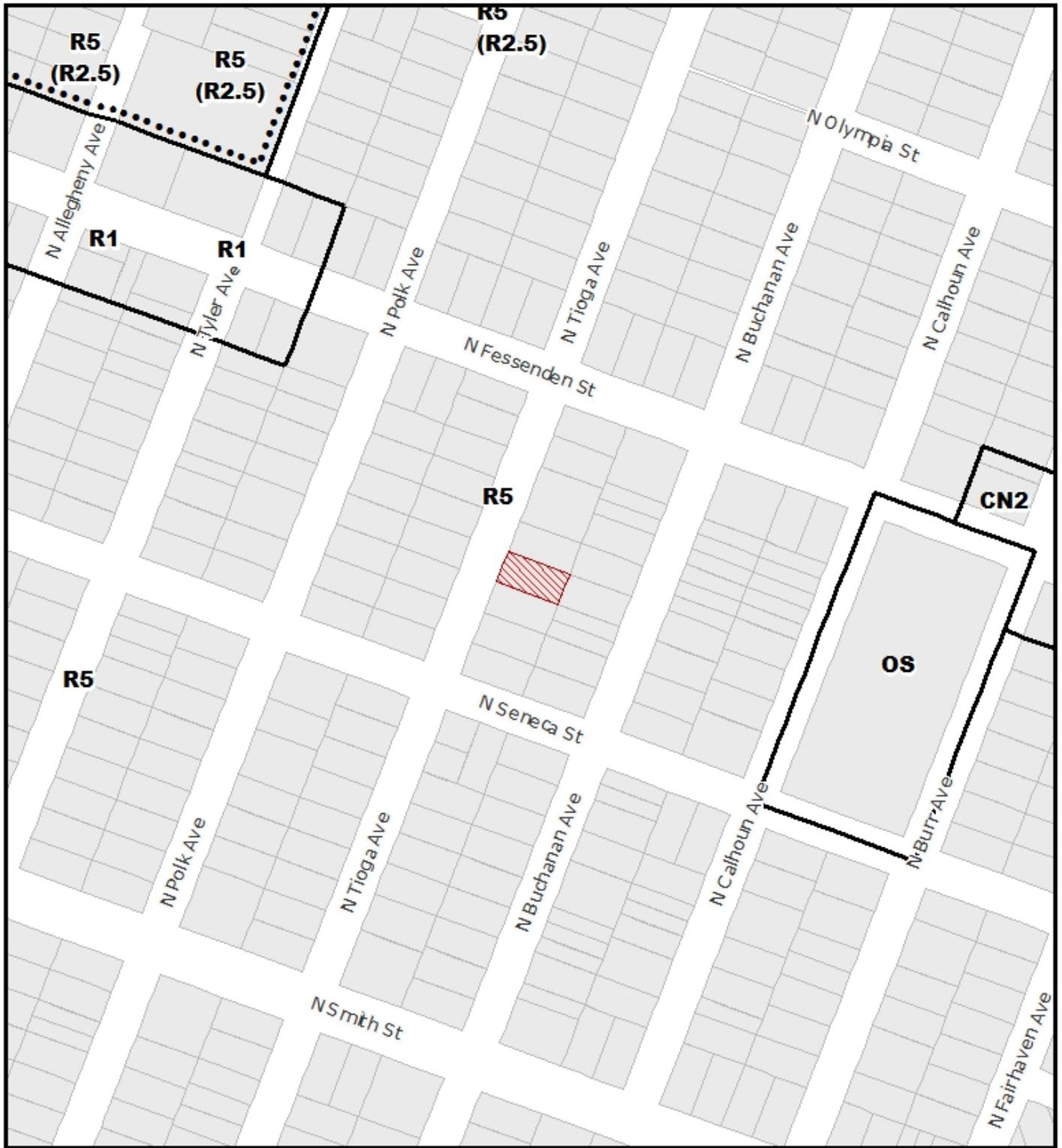
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
  - 1. Proposal statement
  - 2. Approval criteria responses
  - 3. Original site plan, prior to revision (superseded by Exhibit C-1)
  - 4. Building elevations
  - 5. Photographs
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1.a Site plan (attached)
  - 1.b Site plan (large-sized, scalable copy)
- D. Notification Information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Portland Bureau of Transportation
  - 3. Fire Bureau
  - 4. Site Development Review Section of BDS
  - 5. Life Safety Review Section of BDS
- F. Correspondence – none received
- G. Other:
  - 1. Land use application form and receipt
  - 2. Incompleteness determination letter, dated August 18, 2017

**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**   
NORTH

 Site

File No.	LU 17-221352 AD
1/4 Section	2023
Scale	1 inch = 200 feet
State ID	1N1E06CC 3500
Exhibit	B Aug 14, 2017

