



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

Ted Wheeler, Mayor  
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**Date:** May 7, 2018  
**To:** Interested Person  
**From:** David Besley, Land Use Services  
503-823-7282 / [David.Besley@portlandoregon.gov](mailto:David.Besley@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 18-129303 AD**

#### **GENERAL INFORMATION**

**Applicants/Owners:** Alexei Peters & Claudia Contreras-Peters  
5703 NE 32nd Pl, Portland, OR 97211

**Site Address:** 5703 NE 32ND PL

**Legal Description:** BLOCK 47 LOT 14&16 N 15' OF LOT 18, IRVINGTON PK  
**Tax Account No.:** R421318310  
**State ID No.:** 1N1E13CD 20000  
**Quarter Section:** 2433

**Neighborhood:** Concordia, contact Garlynn Woodsong at 503-936-9873.  
**Business District:** Soul District Business Association, contact at [outreach@nnebaportland.org](mailto:outreach@nnebaportland.org)

**District Coalition:** Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030

**Zoning:** R5ah (Single Family Residential 5,000, with an Alternative Design Density Zone overlay and an Aircraft Landing Zone overlay)

**Case Type:** AD (Adjustment Review)  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee

#### **Proposal:**

The applicant proposes to deconstruct a 273 square foot detached garage and build a new 504 square foot (18-foot by 28-foot) detached garage in the same approximate location, on the northwestern corner of the site. The Portland Zoning Code requires that buildings be set back a minimum of 5 feet from the side lot lines in this zone (Section 33.110.220). The new garage is proposed to be 2 feet from the side (north) lot line. An Adjustment is therefore required to reduce the minimum side (north) setback from 5 feet to 2 feet. Additionally, the Portland Zoning Code allows eaves to extend into required building setbacks up to 20 percent of the

depth of the setback (in this case, a 1-foot encroachment into side setback); however, they must be at least three feet from a lot line (Section 33.110.220.C.1; Table 110-3). The proposed 1.5-foot long eaves are proposed 6 inches from the north (side) property line. An additional Adjustment is therefore required to allow eaves to be up to 6 inches from the north property line.

Note: No side, rear, or garage entrance setback is required from a lot line abutting an alley. Though the detached garage is 1 foot from the rear (west) property line, this lot line abuts an alley and is therefore exempt from meeting the minimum 5-foot rear 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 6,500 square foot site is on the west side of NE 32nd Place, between NE Killingsworth Street to the south and NE Jarrett Street to the north, in the Concordia neighborhood. The site is bordered to the west by an alley. The site slopes slightly upward from east to west, and is developed with a 2,863 square foot residence and a 273 square foot detached garage (which is proposed to be removed). The surrounding vicinity is developed with a mix of single-dwelling residences on all sides and some pockets of commercial development about one block to the south along NE Killingsworth Street.

**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. Regulations of the "a" zone overlay (Alternative Design Density Zone) and "h" zone overlay (Aircraft Landing Zone) are not applicable to 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 **April 2, 2018**. 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);
- The Site Development Section of BDS responded with no concerns and included information about cesspool decommissioning requirements (Exhibit E-2); and
- The Bureau of Environmental Services (BES) responded with no concerns and provided stormwater management information (Exhibit E-3); and
- The Bureau of Transportation (PBOT) responded with no concerns and noted that the applicant will be required to improve the existing alley at the time of Building Permit review (Exhibit E-4).

The following Bureaus have responded with no concerns (Exhibit E-5):

- The Fire Bureau; and
- The Water Bureau.

**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

**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 to the proposed garage building wall from 5 feet to 2 feet and to allow eaves to be up to 6 inches from the north property line. 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 273 square foot detached garage that is 7 feet from the side (north) lot line and 1 foot from the rear (west) lot line and constructing a new, larger detached garage. The new garage will be no closer to the west property line than the original structure but will be 5 feet closer to the north property line. While the size of the detached garage will be larger than the existing detached garage (by 360 square feet), the location will be about 78 feet from the front/east property line with access via the alley to the west, which will help to maintain a visually pleasing and open front yard. Placing the new garage in the northwest corner will provide an outdoor area that far exceeds the minimum required outdoor area.

No windows are proposed on the northern facades of the detached garage, which promotes privacy for the neighboring properties to the north. Detached structures that are a maximum of 24 feet by 24 feet (576 square feet) are permitted in side setbacks by right (per Section 33.110.250.C.2.b.2). The 18-foot by 28-foot detached garage is smaller in square footage than a 24-foot by 24-foot building (504 square foot), but because one of the dimensions is greater than 24 feet, it does not meet this allowance. The smaller 18-foot façade dimension is the façade proposed in the setback, which is less than the allowable 24 feet; therefore, the proposed development is comparable with the allowable building scale and placement.

Many of the surrounding houses in this area have detached garages built within side setbacks. A detached garage constructed within side setbacks as proposed will therefore be compatible with this neighborhood.

The Fire Bureau has reviewed the request for reduced setbacks and eave allowances, and responded with no concerns with regards to separation for fire protection, or access for fire fighting. Access is available via the alley. 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 subject property is zoned R5, a residential zone. The detached garage, though larger than the existing detached garage, will have a building height of 11 feet and will appear as a secondary structure to the (existing) 2-story house. This proposal is consistent with the development pattern in the area, which includes detached accessory structures in side setbacks, and, as such, will not significantly detract from the appearance of the area. The absence of windows on the north protects privacy, a key component of livability for adjacent neighbors who could be 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:** Only one Adjustment is requested; therefore, this criterion is not applicable.

- 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:** As noted in Criterion A and B, there are no discernible impacts that would result from granting the requested Adjustment for which mitigation would be required.

***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 requirements of Title 11 can be met, and 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 proposes to deconstruct a 273 square foot detached garage and build a new 504 square foot detached garage in the same approximate location, on the northwestern corner of the site. An Adjustment is required to reduce the minimum side (north) setback from 5 feet to 2 feet and to allow eaves to be up to 6 inches from the north property line. While the size of the detached garage will be larger than the existing detached garage, it will still appear as a secondary structure as compared to the 2-story existing house. No windows are proposed on

the northern facades of the detached garage, which promotes privacy for the adjacent property to the north. Many of the surrounding houses in this area have detached garages built within side setbacks. A detached garage constructed within the side setbacks will therefore be compatible with this neighborhood's development pattern. The proposal meets the applicable approval criteria and should therefore be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum side (north) building setback from 5 feet to 2 feet for a new detached garage (Section 33.110.220) and to allow eaves to be up to 6 inches from the north property line (Section 33.110.220.C.1), per the approved site plans, Exhibits C-1 through C-2, signed and dated May 1, 2018, 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 18-129303 AD. No field changes allowed."

**Staff Planner: David Besley**



**Decision rendered by:** \_\_\_\_\_ **on May 1, 2018.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: May 7, 2018**

**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 March 1, 2018, and was determined to be complete on March 26, 2018.

*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 March 1, 2018.

*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: July 24, 2018.**

**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 May 21, 2018** 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 **May 21, 2018** 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:

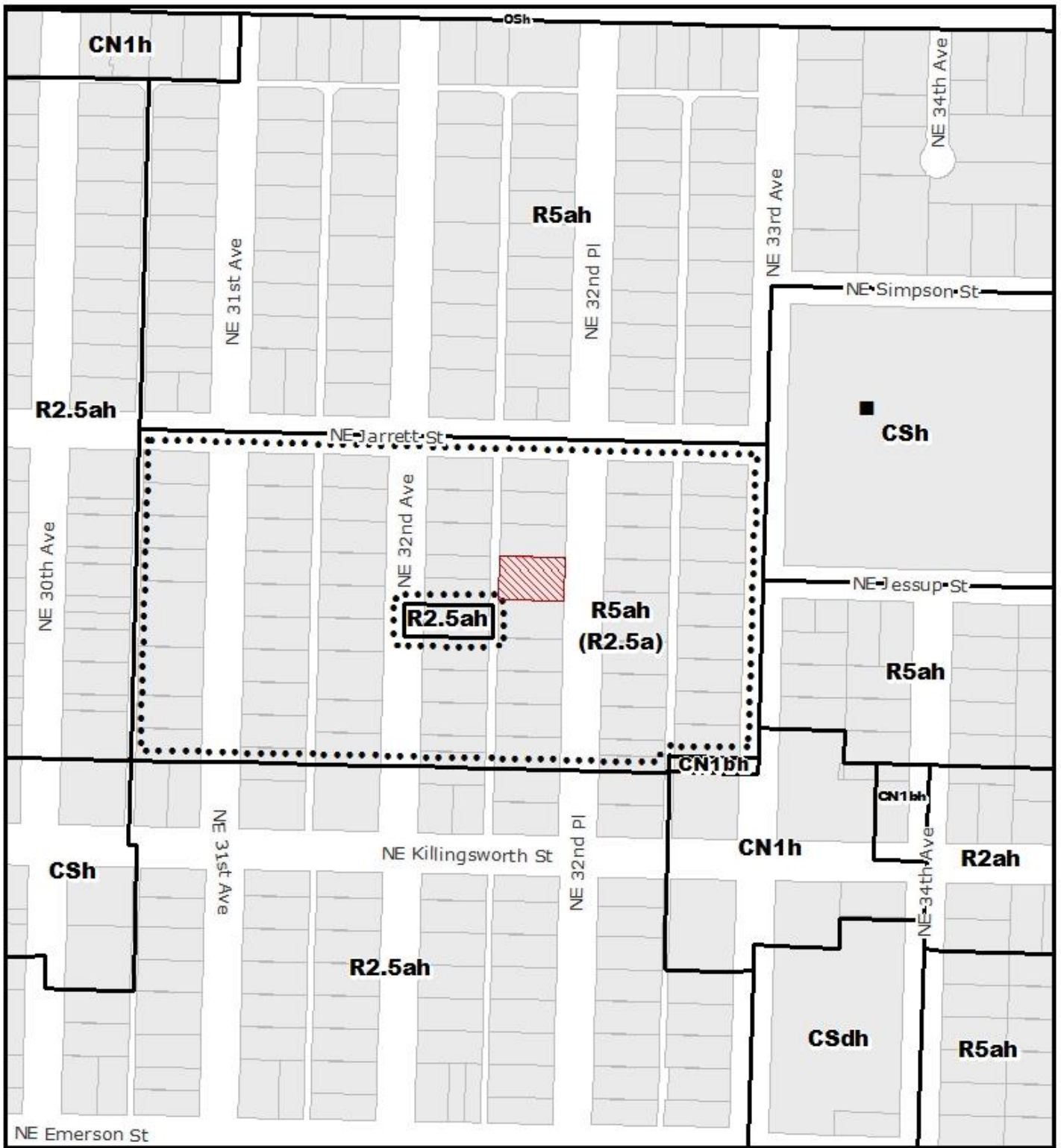
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- 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. Life Safety Section of BDS
  - 2. Site Development Section of BDS
  - 3. Bureau of Environmental Services
  - 4. Bureau of Transportation Engineering and Development Review
  - 5. Bureaus responding with no concerns
- F. Correspondence: None
- G. Other:
  - 1. Original LU Application and receipt
  - 2. Incomplete letter from staff to applicant, sent March 15, 2018

**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  
 Historic Landmark

File No.	LU 18-129303 AD
1/4 Section	2433
Scale	1 inch = 200 feet
State ID	1N1E13CD 20000
Exhibit	B Mar 05, 2018



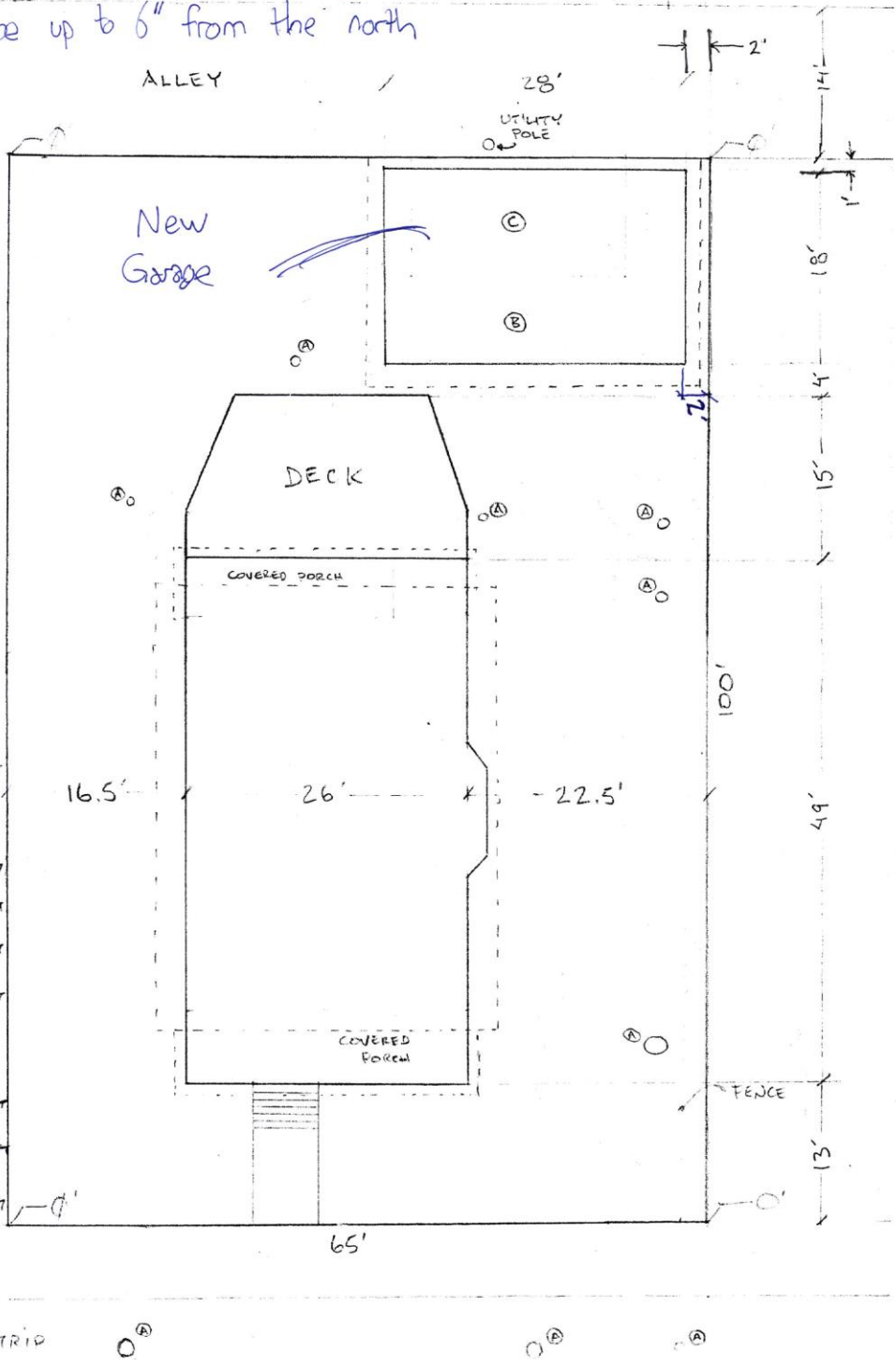
Adjustment to reduce minimum side (North) setback from 5' to 2' for a new garage & to allow eaves to be up to 6" from the north property line

- Ⓐ EXISTING TREE TO BE RETAINED
- Ⓑ PROPOSED NEW GARAGE
- Ⓒ EXISTING GARAGE TO BE REMOVED

SITE ADDRESS:  
5703 NE 32ND PL.  
PORTLAND, OR 97211

LEGAL:  
TAX ID: R190533

LOT AREA	6500 sq/ft
<b>IMPERVIOUS AREA</b>	
PROPOSED GARAGE INC. OVERHANG	667 sq/ft
WALK	78 sq/ft
ROOF AREA INC. OVERHANG	1539 sq/ft
TOTAL	2284 sq/ft
<b>BUILDING COVERAGE</b>	
RESIDENCE FOOTPRINT	1300 sq/ft
PROPOSED GARAGE FOOTPRINT	468 sq/ft
TOTAL	1768 sq/ft

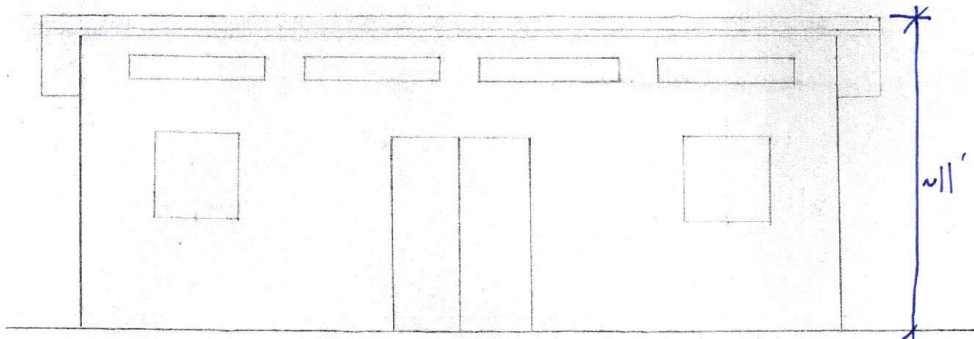


LU 18-129303 AD  
CASE NO. 18-129303 AD  
EXHIBIT C

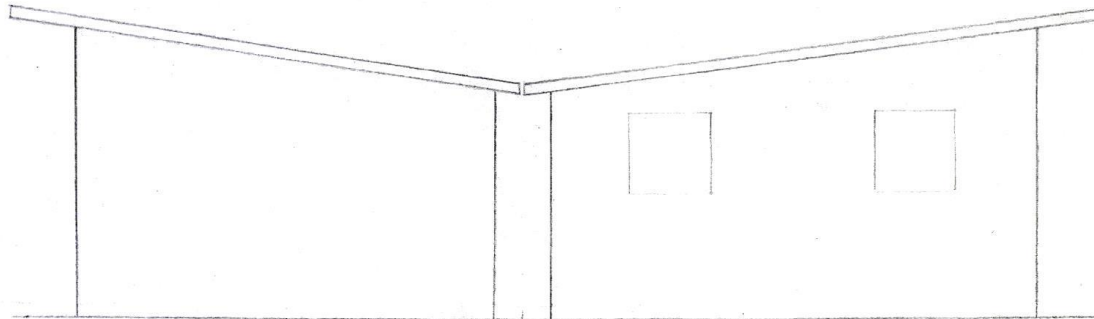
\*Approved\*  
City of Portland  
Bureau of Development Services  
Planner David Bailey  
Date 5.1.18  
\* This approval applies only to the reviews requested and is subject to all conditions of approval.  
Additional zoning requirements may apply.

32nd PL  
SITE PLAN SCALE 1"=10'  
LU 18-129303 AD



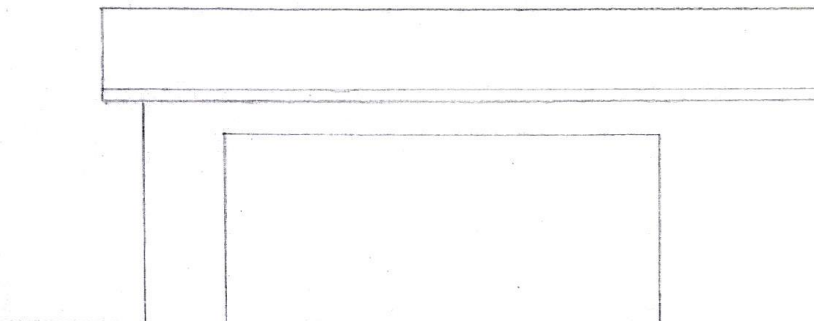


EAST ELEVATION



NORTH ELEVATION

SOUTH ELEVATION



WEST ELEVATION

**\*Approved\***  
**City of Portland**  
Bureau of Development Services  
Planner David Besley  
Date 5.1.18  
\* This approval applies only to the reviews requested and is subject to all conditions of approval.  
Additional zoning requirements may apply.

SCALE 1/4" = 1'

Exh C-2

LU 18-129303 AD