



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

Ted Wheeler, Mayor
Rebecca Esau, Director
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Date: February 6, 2019
To: Interested Person
From: Amanda Rhoads, Land Use Services
503-823-7837 / Amanda.Rhoads@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 18-262281 AD

GENERAL INFORMATION

Applicant: Miranda Lloyd
8905 NE Thompson St | Portland, OR 97220
917-968-9117 | miranda@mirandalloyd.com

Owners: John Jahrling and Miranda Lloyd
8905 NE Thompson St | Portland, OR 97220

Site Address: 8905 NE THOMPSON ST

Legal Description: BLOCK 6 LOT 15&16, FERN PK
Tax Account No.: R275001560
State ID No.: 1N2E28CA 11700
Quarter Section: 2839
Neighborhood: Madison South, contact Kimberly Botter at mkbotter@msn.com
Business District: Parkrose Business Association, contact parkrosebusinessassociation@gmail.com
District Coalition: Central Northeast Neighbors, contact Sandra Lefrancois at 503- 823-2780.
Plan District: None
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:

The applicant has converted the attached garage to additional living space and moved the required onsite parking onto the driveway. The Zoning Code requires the 9-foot by 18-foot parking pad to be located out of the front setback, which in the R5 zone is 10 feet. The driveway measures 26 feet, 2 inches long between the property line and the building wall. Therefore, the applicant requests an Adjustment to Zoning Code Section 33.266.120.C.1.a to allow the parking pad to encroach 1 foot, 10 inches into the required 10-foot front 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 5,000-square-foot site is currently developed with a modest ranch-style house constructed in 1952. It is located in a neighborhood with housing built between the 1910s through the present, though the 1950s one-story ranch is a common typology. Lots are of varying sizes. The site is located two blocks to the west of Jason Lee Elementary and two blocks north of Hancock City Park. NE 82nd Ave and Madison High School are four blocks to the west. NE Thompson is a Local Service street with sidewalks on both sides.

Zoning: The Residential 5,000 (R5) single-dwelling zone is 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.

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 **January 4, 2019**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Life Safety (Building Code) Plans Examiner

Neighborhood Review: One written response was received from a notified neighbor in response to the proposal. That letter raised a concern with a current Code Compliance case on the property. It stated, “I don’t believe [the applicants] should be permitted to proceed with anything until they fix their past code violations” (Exhibit F.1).

Staff Response: *The presence of an open violation case does not preclude a property owner from applying for an Adjustment Review, and there is no nexus between the approval criteria for Adjustment approval and the absence of violations on a property. In this case, however, the conversion of the garage to living space without the benefit of permits is one of the items that must be resolved in order to close one of the violation cases. It was in applying for a permit to address this violation that the need for this Adjustment was surfaced. Gaining approval for this Adjustment will enable the applicant to continue to work to resolve any outstanding violations on the property through permits and inspections.*

ZONING CODE APPROVAL CRITERIA**33.805.010 Purpose (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 providing certainty and rapid processing for land use applications.

33.805.040 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

Findings: The proposed Adjustment is to reduce the required setback distance from the front lot line to the parking area on the driveway from 10 feet to 8 feet, 2 inches. 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.*

While non-required parking spaces are allowed to be located within the front setback (i.e., parking areas in front of garages), converting the garage to living space has the effect of making the driveway the required parking space. While the applicant proposes no changes to the existing driveway, locating the required parking on the driveway instead of in the garage brings the site out of conformance with this standard.

Staff finds this 1-foot, 10-inch reduction of the front setback for a parking pad located on the driveway will not be enough to noticeably affect the appearance of the driveway or the appearance of the neighborhood. Surrounding properties similarly have driveways that extend into the front setbacks, and a recent site visit showed vehicles parked in driveways, resulting in an appearance similar to the proposal at the subject site. Further, there is a 2-foot strip of right-of-way between the sidewalk and the front property line, making it appear as though the driveway length exceeds the minimum 28 feet. For these reasons, the proposal will fit with an existing pattern found in the neighborhood.

Staff also notes the driveway is 17 feet, 7 inches wide, which represents only 35 percent of the lot's 50-foot-wide frontage. This is less than the maximum allowed width for residential driveways, which is 40% of the lot frontage (Zoning Code Section 33.266.120.C.3.a). This preserves most of the front yard as green space, enhancing the appearance of the neighborhood.

For these reasons, the proposed Adjustment equally meets the intent of the regulation. This criterion is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 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 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. As discussed above in the findings for approval criterion A, the width of the driveway will be only 35 percent of the lot frontage, preserving most of the front yard than required as green space. The one-foot, 10-inch reduction in the depth of the driveway will not be noticeable enough to significantly affect the appearance of the site, and will be consistent with the neighborhood pattern. The Portland Bureau of Transportation

(PBOT) concludes the proposal would have no effect on the public right-of-way or the transportation system (Exhibit E.2). For these reasons, staff finds 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. This criterion is not applicable.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. 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: There are no discernible impacts that would result from granting the requested adjustment. 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 Maps with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). As the site is not within an environmental zone, 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

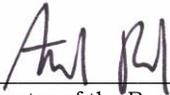
The proposal to reduce the required setback from the front lot line to the parking area on the driveway from 10 feet to 8 feet, 2 inches equally meets the intent of the regulation and will not adversely impact the livability and appearance of the surrounding neighborhood. The applicant has demonstrated 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 Zoning Code Section 33.266.120.C to reduce the required setback distance from the front lot line to the parking area on the driveway from 10 feet to 8 feet, 2 inches, per the approved site plan, Exhibit C.1, signed and dated February 4, 2019, 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 18-262281 AD."

Staff Planner: Amanda Rhoads

Decision rendered by:  on February 4, 2019
By authority of the Director of the Bureau of Development Services

Decision mailed: February 6, 2019

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 November 5, 2018, and was determined to be complete on December 31, 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 November 5, 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: April 30, 2019.**

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 February 20, 2019** 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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **February 20, 2019** 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.

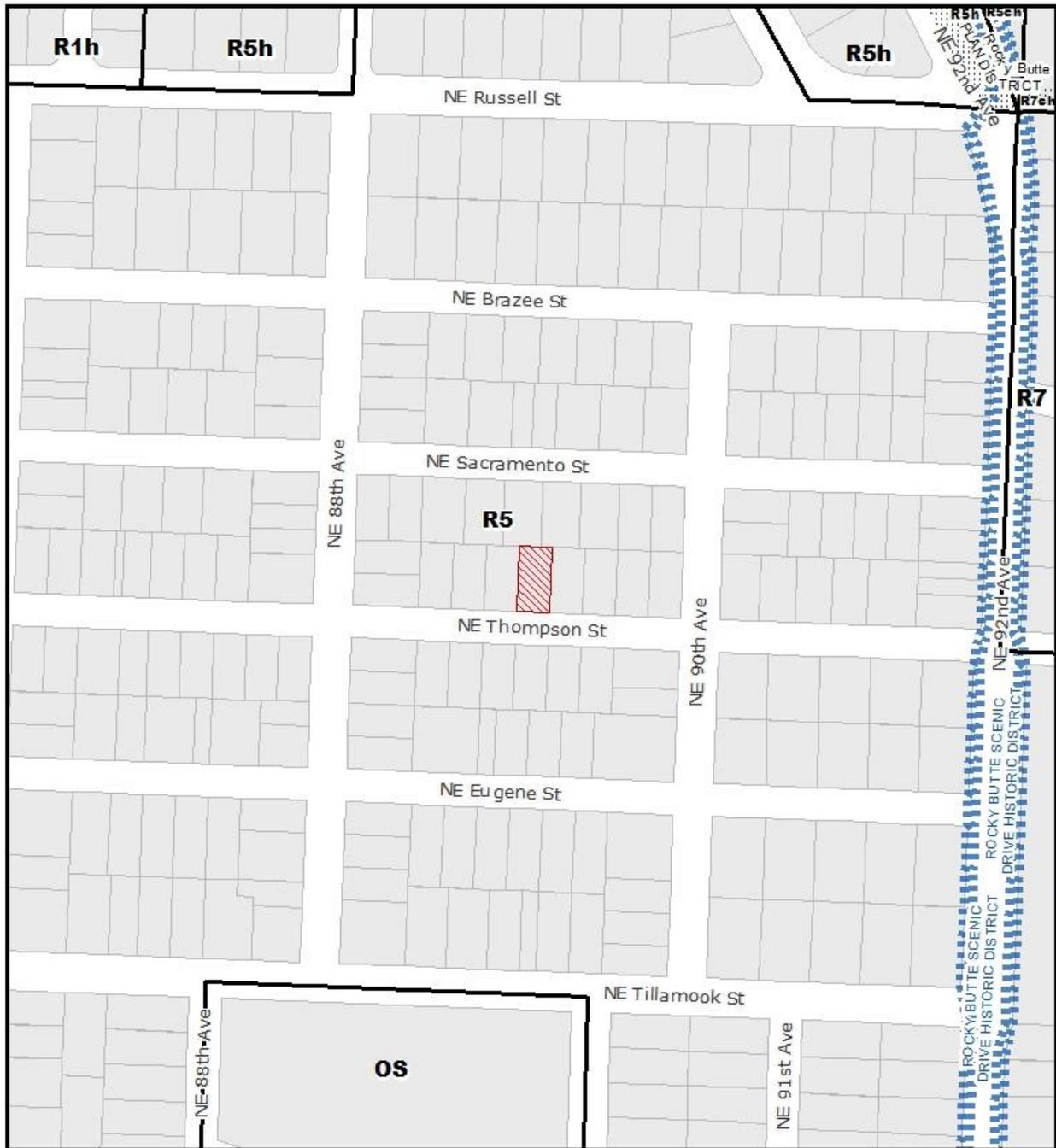
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Applicant Narrative
 2. Original Plan Set (superseded by C Exhibits)
 3. Response to Incomplete Letter, received December 31, 2018
 4. Existing Front Elevation
- B. Zoning Map (attached)
- C. Plans/Drawings:

1. Site Plan (attached)
 2. Front Building Elevation (attached)
- D. Notification information:
1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Bureau of Transportation
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Life Safety (Building Code) Plans Examiner
- F. Correspondence:
1. Richard Fulton, January 14, 2019, with concerns about code compliance case
- G. Other:
1. Original Land Use Application and Receipt
 2. Incomplete Letter, November 15, 2018
 3. Site photos
 4. Historic permits

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



File No.	LU 18-262281 AD
1/4 Section	2839
Scale	1 inch = 200 feet
State ID	1N2E28CA 11700
Exhibit	B Nov 07, 2018

RECEIVED
DEC 31 2018

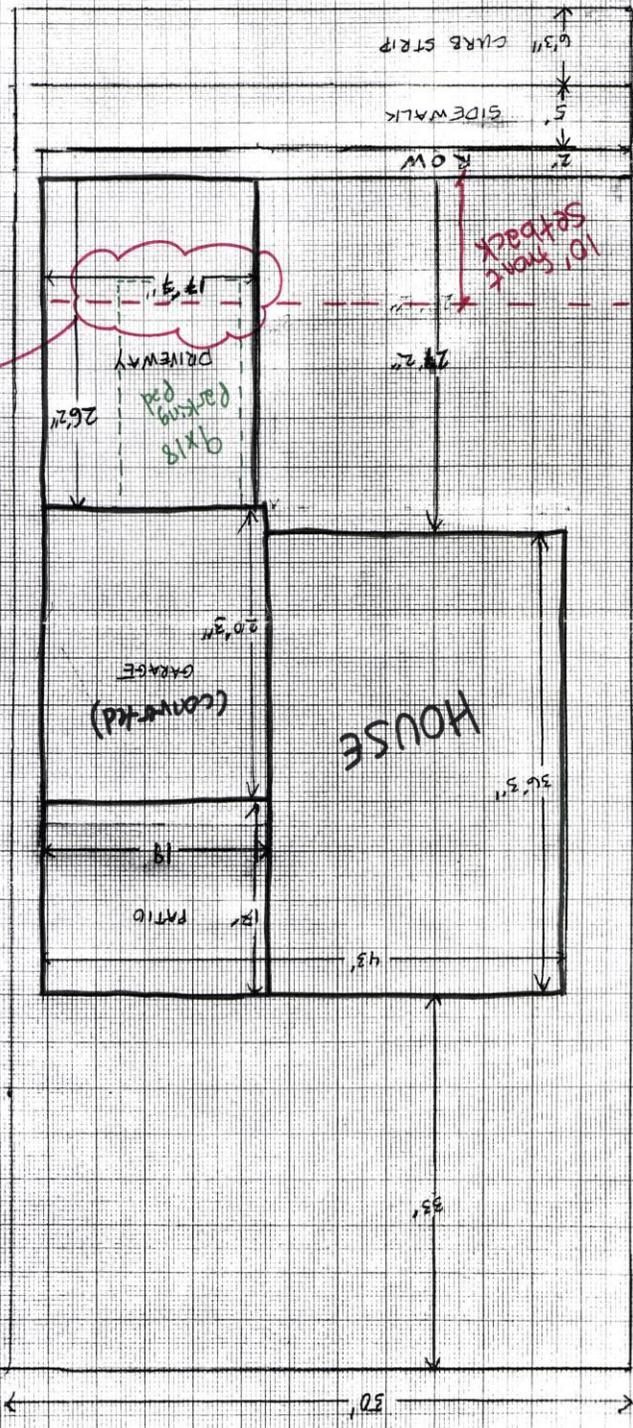
CASE NO. Lu 18-262281 AD
EXHIBIT C.1



N.E. THOMPSON ST.

CASE NO. Lu 18-262281 AD
EXHIBIT C.1

Area of
Adjustment



City of Portland, Bureau of Development Services
 1515 NE Oregon Street, Portland, OR 97232
 503.944.3311
 www.portland.gov

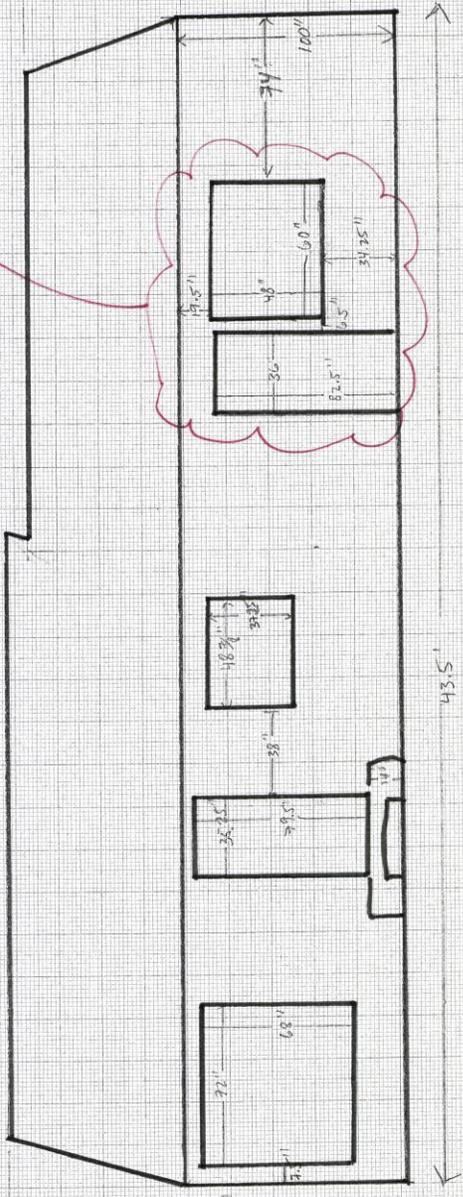
MADE IN CHINA

A3 297 x 430 mm

RECEIVED
OCT 16 2018
EDS

Approved
City of Portland - Bureau of Development Services
Planner: KM Date: 2/19/2019
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Area of former garage door



1/4" SCALE

Exhibit C.2

LU 18-262281 AD