



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

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**Date:** May 13, 2022  
**To:** Interested Person  
**From:** Matt Wickstrom, Land Use Services  
503-865-6513 / Matt.Wickstrom@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 21-087631 AD**

**GENERAL INFORMATION**

**Applicant:** Michelle Jeresek | Ivon Street Studio  
1001 SE Water Ave #315 | Portland, OR 97214  
503-702-4442 | michelle@ivonstreetstudio.com

**Owners:** John Wieber and Masako Yamamoto Wieber  
3245 NE 61st Ave  
Portland, OR 97213-3931

**Site Address:** 3245 NE 61ST AVE

**Legal Description:** BLOCK 109 LOT 1, ROSE CITY PK  
**Tax Account No.:** R723111790  
**State ID No.:** 1N2E30AA 15900 **Quarter Section:** 2736

**Neighborhood:** Rose City Park, contact Tamara DeRidder at SustainableDesign@tdridder.users.panix.com

**Business District:** None  
**District Coalition:** Central Northeast Neighbors, contact Alison Stoll at 503-823-2778.

**Zoning:** R5h (Residential 5,000 with an Aircraft Landing Zone overlay)

**Case Type:** AD (Adjustment Review – 2 Adjustments)  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:**

The applicant proposes to demolish an existing attached garage with rooftop deck and replace it with a new attached garage with rooftop deck. The new garage is proposed in the same location but will be 3 feet wider than the existing garage (the rooftop deck will be about 2 feet wider). The Portland Zoning Code has setback standards for buildings and garages. Garage entrances are required to be located a minimum of 18 feet from a street lot line and attached

garages in the R5 zone are required to be 5 feet from a side property line. In order to replace the existing garage and rooftop deck in the same location as they are currently located, the applicant proposes two Adjustments to Portland Zoning Code standard 33.110.220.B and Table 110-4. The first Adjustment is to reduce the garage entrance setback from 18 feet to 0.25 feet. The second Adjustment is to reduce the side setback from 5 feet to 0.25 feet.

**Relevant Approval Criteria:**

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 corner lot is developed with a single-dwelling house and an attached garage with a rooftop deck. The garage entrance is located 2 feet 3 inches from the NE Klickitat St. property line. A rooftop deck is located above the garage and is set in 12 inches from the garage edges. The surrounding neighborhood is primarily developed with single-dwelling houses.

**Zoning:** The site is zoned R5h (Residential 5,000 with an Aircraft Landing Zone overlay). The R5 zone is a single-dwelling zone and is intended to preserve land for housing and to provide housing opportunities for individual households. The Aircraft Landing Zone limits the height of structures and buildings in the vicinity of Portland International Airport.

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

**Agency Review:** The following Bureaus have responded with no issues or concerns:

- The Life Safety Section of BDS responded with no objections and noted building code requirements for the proposal (Exhibit E1).
- The Site Development Section of BDS responded with no concerns and provided information that may be related to the future building permit (Exhibit E2).
- The Bureau of Transportation responded with no objections. The response notes “the existing garage is in the same location as the proposed widened garage” and “any car parking in front of the garage door would fully block the sidewalk corridor extending through the furnishing zone” stating that type of parking behavior is not typical. The response also provides information about the required vehicle area necessary to be contained within the garage – a minimum of 18 feet (a standard parking space size). *Staff note: The applicant updated the site plan showing the garage is 19 feet deep.*
- The Fire Bureau, Bureau of Environmental Services and the Water Bureau responded with no concerns (Exhibit E4).

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on March 18, 2022. One written response has been received from a notified property owner in response to the proposal. The response is in agreement with the proposed development and notes that it will improve the quality and livability of the house while also enhancing the neighborhood (Exhibit F1).

**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 purpose of the requirement for the garage entrance to be 18 feet from the property line and the side setback to be no closer than 5 feet to the property line is stated in Zoning Code Section 33.110.220.B:

**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.*

Staff finds the proposal is equally or better meet the purpose statement above for the following reasons:

- The proposal maintains light, air and separation for fire protection and access for fire fighting because it is not located nearby other residences. It is adjacent to the street and the fire bureau responded with no concerns.
- The proposal reflects the general building scale and placement of houses in the city's neighborhoods because the attached garage and rooftop deck are proposed in the same location as the previous attached garage and rooftop deck, albeit slightly wider.
- Due to its location, the garage is not in proximity to other residences and will not compromise privacy for neighbors, again, because the garage and rooftop deck are proposed in the same location as the existing garage and rooftop deck.
- The garage and rooftop deck are not located in the front yard and generally only occupy area already occupied by the existing garage and rooftop deck.
- Outdoor area and architectural diversity are addressed due to the design of the garage with the rooftop deck. The location of the garage is not uncommon in Portland's inner neighborhoods; therefore flexibility is warranted so that the proposed location and replacement garage and rooftop deck can be located in the same general location as they are currently.
- As noted in the response from PBOT, the reduced garage entrance setback is a current situation and there is no record of any incidents of a car parking over the curb and into the street, therefore, there is no reason to assume such instances may occur. The applicant has confirmed the parking space inside the garage is at least 18 feet deep (Exhibit C1). PBOT noted no concerns with regards to driver visibility.

Since the proposal is found to equally or better meet the purpose of the standard to be modified, 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:** The proposed Adjustment must not significantly detract from the livability or appearance of the residential area. The proposed garage and rooftop deck are thoughtfully designed and located in the same general location as the existing garage and rooftop deck which have not detracted from the livability or appearance of the residential area. Based on

this information, the proposal also will not detract from the livability or appearance of the residential area.

- 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:** There will be no cumulative effect. The proposal is to replace the current conditions with a new garage and rooftop deck. Detached and attached garages with rooftop decks are common in inner neighborhoods and do not result in a cumulative effect that is inconsistent with the purpose of single-dwelling zones.

- 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 resources or historic resources 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:** Staff has not identified any negative impacts on neighbors or on the neighborhood specifically resulting from this Adjustment request. Since no negative impacts are identified which require mitigation, 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:** The site is not located in an environmental zones, 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 applicants propose two Adjustments to replace the current garage and rooftop deck development at the site. The first Adjustment is to reduce the garage entrance setback from 18 feet to 0.25 feet and the second Adjustment is to reduce the side building setback from 5 feet to 0.25 feet. The proposal is almost identical to the existing development of the garage and rooftop deck, except both are 2-3 feet wider. The proposal is found to meet applicable approval criteria. Comments from City bureaus also do not object to the Adjustment request. Based on this information, the Adjustment request is approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the garage entrance setback of 33.110.220.B and Table 110-4 from 18 feet to 0.25 feet and approval of an Adjustment to reduce the side setback of 33.110.220.B and Table 110-4 from 5 feet to 0.25 feet for the garage and rooftop deck, per the approved site plans, Exhibits C-1 through C-2, signed and dated May 6, 2022, 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 21-087631 AD. No field changes allowed."

**Staff Planner: Matt Wickstrom**

**Decision rendered by:**  **on (May 4, 2022)**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: May 13, 2022**

**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 September 17, 2021, and was determined to be complete on March 16, 2022.

*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 16, 2022.

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 14, 2022.**

**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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on May 27, 2022. The completed appeal application form must be emailed to [LandUseIntake@portlandoregon.gov](mailto:LandUseIntake@portlandoregon.gov) and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front

page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

**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 27, 2022** 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. North and East Elevation (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. BDS Life Safety
  - 2. BDS Site Development
  - 3. PBOT Development Review
  - 4. Fire Bureau, Bureau of Environmental Services and Water Bureau
- F. Correspondence:
  - 1. Email from William Burns, 3/23/22, support for proposal
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete letter from Clare Fuchs to Michelle Jeresek, 10/7/22
  - 3. Applicant email and revised submittal, 3/16/22
  - 4. Applicant email, 5/6/22
  - 5. Revised site plan, 5/6/22

**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).**