



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

Carmen Rubio, Commissioner  
 Rebecca Esau, Director  
 Phone: (503) 823-7310  
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 www.portland.gov/bds

**Date:** April 20, 2023  
**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 23-011983 AD**

**GENERAL INFORMATION**

**Applicant:** Daniel Keller | Full Stop Design Studio LLC  
 715 SE 35th Ave | Portland, OR 97214  
 Phone: 225-244-5900 | Email: daniel@fullstopdesignstudio.co

**Property Owners:** Mehran Azma and Markie Johansen  
 3245 N Willamette Blvd Portland, OR 97217

**Site Address:** 3245 N Willamette Blvd

**Legal Description:** BLOCK 3 LOT 7&8, ARBOR LODGE  
**Tax Account No.:** R032700450  
**State ID No.:** 1N1E16BC 13700  
**Quarter Section:** 2327

**Neighborhood:** Arbor Lodge, contact Dan Craver at landuse@arborlodgeneighborhood.com

**Business District:** NONE  
**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877.

**Zoning:** R5s (Residential 5,000 with a Scenic Resource Zone overlay)

**Case Type:** AD – Adjustment Review (3 Adjustments)  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:**  
 The applicant proposes three Adjustments related to the expansion of an existing garage on this site. The proposal also includes modifications to the structure as it is currently constructed. Modifications include reducing the building height and replacing the new garage door with a sliding door. Proposed modifications will result in a garage/accessory structure

that is 32 feet and 3 inches in length, 22 feet in depth and 14 feet and 11 inches in height located 0 feet from the side and rear property lines.

The Portland Zoning Code requires buildings in the R5 zone to be set back 5 feet from side and rear property lines. Exceptions to this standard generally allow smaller garages and accessory structures within these setbacks when other requirements are met; however, sites located within the Scenic Resources Overlay zone are not subject to the side setback exception and therefore these sites are not allowed to have buildings, garages or accessory structures located closer than 5 feet to a side property line. Because the modified garage/accessory structure is proposed to be larger than the zoning code exception allows and is located within a side setback of a Scenic Resource Overlay zoned site, approval through an Adjustment Review is necessary.

The three Adjustments proposed by the applicant for the garage/accessory structure include:

- 1) Reduce the 5-foot side setback to 0 feet (33.110.220.B and Table 110-4);
- 2) Reduce the 5-foot rear setback to 0 feet (33.110.220.B and Table 110-4); and
- 3) Allow the garage/accessory structure to be located within the 5-foot side setback (33.480.040.B.2.b).

**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 6,175 square foot lot is located along N Willamette Boulevard which is one of the city's designated scenic corridors. The lot is developed with a single-dwelling one-and-a-half story home with a basement accessory dwelling unit and a detached garage. The detached garage has been added onto in such a way that it is over 15 feet in height and has a third garage bay. For the purposes of this review, the surrounding vicinity is defined as the area within 400 feet of the site. This area is developed primarily with single-dwelling homes built in a variety of decades. Some of the homes have detached structures located in the side and rear setbacks. The vicinity contains a well-used bike lane along N Willamette Boulevard and homes located on the street have views of the industrial area and downtown.

**Zoning:** The site is zoned R5s (Residential 5,000 with a Scenic Resource Overlay zone). The R5 zone is a single-dwelling zone which are zones intended to preserve land for housing and to provide housing opportunities for individual households. Accessory dwelling units are allowed on certain lots with single-dwelling homes. The "s" overlay that applies on this site recognizes the scenic corridor along N Willamette Boulevard. Scenic corridors are intended to preserve and enhance the scenic character along corridors, and where possible, scenic vistas from corridors.

**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 **March 10, 2023**. The following Bureaus have responded with no issues or concerns:

- The Life Safety Section of BDS responded with no objections to the proposal and stated that building code requirements may impact the final design of the building. The response also notes that a separate building permit is required for the work proposed (Exhibit E.1).
- The Site Development Section of BDS, the Fire Bureau, Bureau of Environmental Services, Portland Bureau of Transportation and the Water Bureau responded with no concerns (Exhibit E.2).

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on March 10, 2023. One written response has been received from notified property owners in response to the proposal and states support for the proposal (Exhibit F.1).

## 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 proposes to reduce the side and rear setbacks for the garage structure from a minimum of 5 feet to 0 feet (Exhibit C.1). The purpose of the requirement for the garage structure to be located 5 or more feet from the side and rear property lines is stated in Zoning Code Section 33.110.220.B:

#### **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 to reduce the side and rear setbacks from 5 feet to 0 feet equally or better meets the purpose statement above for the following reasons:

- The garage structure even prior to the recent additions which added height and an additional garage bay was already located 0 feet from the side and rear property lines. This proposal involves reducing the height of the current structure with the unpermitted addition so that it is less than 15 feet tall (Exhibit C.2, Exhibit C.3 and Exhibit C.4). This is more comparable to a single-story structure. It is also more comparable to other detached accessory structures in the vicinity which the applicant provided examples of in two exhibits (Exhibits C.5 and C.6). The applicant also provided another exhibit – a shadow study which illustrates the shading the garage will cause during standard times of the day and year, such as the summer equinox at noon (Exhibit C.7). The shading study shows that the most shadow resulting from the garage structure will impact the site itself or the large tree on the neighboring property to the east. Based on this information and the exhibits provided, the garage structure will maintain light and air for surrounding properties.
- The proposed location of the garage structure will also not further compromise access for fire fighting as demonstrated by the Fire Bureau's response of "no concerns" and the fact that the previous garage was already located 0 feet from the side and rear property lines. The garage structure is also designed with one-hour fire walls to provide fire protection.
- The garage structure does not include living space, only storage room and a garage area, and therefore does not impact the physical relationship between residences. Even if the storage area were converted to a habitable area (but not a dwelling unit), there still would be no impacts to the physical relationship between residences because the storage portion of the garage structure is located almost 25 feet from the nearest residence.

- The garage structure has no windows facing neighboring properties and therefore the proposed changes do not impact privacy for neighbors.
- The garage structure is not located in the front yard and does not reduce its size or aesthetic qualities.
- As mentioned previously, the applicant provided an exhibit which documents that accessory structures located in the side and rear setbacks are prevalent in the vicinity. This shows that the location of the addition to the garage maintains compatibility with the neighborhood. The addition also leaves adequate outdoor area both behind and in front of the house and allows for architectural diversity while still being compatible with neighborhood design.

The applicant requests an allowance for the garage structure to be located in the 5-foot side setback (33.480.040.B.2.b). The purpose of the requirement for the garage structure to be located 5 or more feet side property line when a property is located in the Scenic Resource Overlay zone is stated in Zoning Code Section 33.480.040.B:

### **Scenic Corridors**

*The scenic corridor designation is intended to preserve and enhance the scenic character along corridors, and where possible, scenic vistas from corridors. This is accomplished by limiting the length of buildings, preserving existing trees, providing additional landscaping, preventing development in side setbacks, screening mechanical equipment, and restricting signs. Property owners and others are encouraged to make every effort to locate buildings, easements, parking strips, sidewalks, and vehicle areas to preserve the maximum number of trees.*

Staff finds the proposal to allow the garage structure to be located in the side setback within the Scenic Resource Overlay zone equally or better meets the purpose statement listed above, primarily because the original garage was already located in the side setback, and for the following other reasons:

- The proposal reflects the location of the garage prior to modification, it will be slightly taller and longer; however the longer portion is primarily internal to the lot and other than an extended rear wall adjacent to a neighbor's rear property line, the modification proposed results in minimal impacts on neighboring properties.
- The original garage was constructed in 1956 prior to 1991 application of the Scenic Overlay zone (Exhibit C.8).
- The proposed expansion of the garage does not increase its length within the side setback. The same building coverage will be located within the side setback as before the garage structure was modified.
- The proposed expansion of the garage does not result in tree loss, the provision of additional landscaping visible from the public realm of the scenic corridor, mechanical equipment or signs.
- The proposed expansion of the garage does not involve locating buildings easements, parking strips, sidewalks or vehicle areas in the Scenic Resource Overlay zone.

Based on the information above, staff finds the proposal to allow a detached accessory structure in the side setback of the Scenic Resource Overlay zone meets this criterion.

Staff finds 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 will not significantly detract from the livability or appearance of the residential area. As mentioned above, the original detached garage was permitted and constructed before the Scenic Resource Overlay zone was applied to this

section of N Willamette Boulevard. The modifications proposed for that structure with this land use review will not further lessen the livability or appearance of the residential area either. Modifications to the original garage result in a slightly taller structure by 4 feet 3 inches as well as a longer structure by 12 feet 3 inches. These modifications are either located where development was already approved or are not visible from the public realm of the scenic corridor. The proposed design for the garage structure addition matches the existing design in terms of wood siding placement and materials to match the original garage.

Based on this information 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:** In total 3 Adjustments are being requested. It is important to note that the proposal is not for a new accessory structure, it is a proposal about modifications to a detached garage that measured 20 feet wide, 10 feet 2 inches tall when constructed in 1956. The modifications proposed will increase the length of the original garage by 12 feet 3 inches and will increase the height by about 4 feet 3 inches. This criterion requires that the cumulative effect of the of the three Adjustments: reducing the side and rear setbacks to zero and allowing the accessory structure within the side setback is still consistent with the overall purpose of the zones.

The purpose of the Single Dwelling Zones is found in 33.110.010 and reads as follows:

*The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing and provide options for infill housing that is compatible with the scale of the single-dwelling neighborhood.*

The purpose of the Scenic Resource Overlay Zone is found in 33.480.010 and reads as follows:

*The Scenic Resource zone is intended to:*

- *Protect Portland's significant scenic resources that provide benefits to the public as identified by the City in the Scenic Resources Protection Plan (1991), the Central City Scenic Resources Protection Plan (2017), and the River Plan / South Reach Scenic Resources Protection Plan (2020);*
- *Enhance the appearance of Portland to make it a better place to live and work;*
- *Create attractive entrance ways to Portland and its districts;*
- *Improve Portland's economic vitality by enhancing the City's attractiveness to people who live and work in Portland and people who are visiting; and*
- *Implement the scenic resource policies, goals, and objectives of Portland's Comprehensive Plan.*

The length of the garage structure in the setback is increasing, however the Adjustment to the expansion to establish the storage area occurs behind the rear wall of the main house and is out of view from the public realm of the scenic corridor along N Willamette Boulevard. The height of the garage structure is also increasing as viewed from the public realm; however, it is within the established building line of the original garage and only increases in height by 4 feet 3 inches, much less than an additional story. Furthermore, the applicant provided a shadow study showing that light impacts will occur primarily on the site itself. Because minimal impacts will result from the proposed Adjustments, the proposal maintains consistency with the purpose of the zones. The site still provides housing opportunities for individual households and the proposal is located in a portion of the site where impacts from additional development do not have negative affects on the purpose of the Scenic Resources Overlay Zone. This criterion is met.

**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. This site is identified with a lower case “s” as it is located in the Scenic Resource Overlay Zone. The proposal will preserve the Scenic Resource Overlay Zone because the majority of the proposed modification to the original garage is located out of visibility from the public realm and the original garage was already located 0 feet from the side property line. The proposal involves a 4 foot 3 inch increase in height of the original garage located 80 feet from the public right-of-way where the Scenic Resource Overlay Zone is centered and a 12 foot 3 inches addition to the north that will not be visible from the public right-of-way. The proposal preserves the City-designated scenic resource and this criterion is met.

**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 especially considering the original garage was already located in the side and rear setbacks. 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 zone, 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 applicant proposes 3 Adjustments associated with modifications proposed to the original garage permitted in 1956. The first, to reduce the side setback from 5 feet to 0 feet because the proposed garage structure will have walls that are 4 feet 3 inches taller than originally approved. The second to reduce the rear setback from 5 feet to 0 feet because the proposed garage structure will have walls that are 4 feet 3 inches taller and the structure will increase in length by 12 feet 2 inches. The third to allow the garage structure with the modified height to be located in the side setback of the Scenic Resource Overlay Zone. The proposal meets the applicable approval criteria in part due to the original garage having been permitted and constructed prior to the application of the Scenic Resource Overlay Zone, the shadow study provided by the applicant which showed impacts on the availability of light to be primarily focused on the site itself and views from the public right-of-way of the storage addition to the garage structure being obscured by the house. The proposal meets the applicable approval criteria and is approved.

## **ADMINISTRATIVE DECISION**

Approval of three Adjustments resulting from an addition and proposed modifications to a garage structure, including:

- 1) Reduce the 5-foot side setback to 0 feet (33.110.220.B and Table 110-4);

- 2) Reduce the 5-foot rear setback to 0 feet (33.110.220.B and Table 110-4); and
- 3) Allow the garage/accessory structure to be located within the 5-foot side setback (33.480.040.B.2.b),

per the approved site plans, Exhibits C.1 through C.3, signed and dated April 11, 2023, 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.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 23-011983 AD. No field changes allowed."

**Staff Planner: Matt Wickstrom**



**Decision rendered by:** \_\_\_\_\_ **on April 11, 2023**

By authority of the Director of the Bureau of Development Services

**Decision mailed: April 20, 2023**

**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 February 8, 2023, and was determined to be complete on February 9, 2023.

*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 February 8, 2023.

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 9, 2023.**

**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 4, 2023. 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 4, 2023** 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 and Original LU Application
  - 1. Email with revised drawings received March 3, 2023
  - 2. Revised elevation drawing – West; received March 3, 2023
  - 3. Revised elevation drawing – West from R.O.W. received March 3, 2023
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevation Drawing South (attached)
  - 3. Elevation Drawing West from R.O.W. (attached)
  - 4. Elevation Drawing as currently built
  - 5. Submitted Exhibit – Photos of accessory structures built in the setback
  - 6. Submitted Exhibit – Accessory structures in the setback in Arbor Lodge and along N Willamette Boulevard
  - 7. Shadow Study
  - 8. 1956 Permit
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Life Safety Section of the Bureau of Development Services
  - 2. Site Development Section of BDS, the Fire Bureau, Bureau of Environmental Services, Portland Bureau of Transportation and the Water Bureau
- F. Correspondence:
  - 1. Jamie Maxfield, March 19, 2023, support
- G. Other:
  - 1. Original LU Application

**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).**