



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

Charlie Hales, Mayor  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** March 7, 2013  
**To:** Interested Person  
**From:** Mark Bello, Land Use Services  
503-823-7810 / [Mark.Bello@portlandoregon.gov](mailto:Mark.Bello@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 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 12-218054 AD**

#### **GENERAL INFORMATION**

**Applicant:** Melissa McCall  
McCall Design LLC  
4336 NE 65th Ave  
Portland OR 97218

**Contractor:** Jason Siri  
Siri Construction LLC  
6816 SE Belmont Street  
Portland OR 97215

**Owners:** Jane Paulson  
Helen White  
1829 NE Stanton St  
Portland OR 97212

**Site Address:** 1829 NE Stanton Street

**Legal Description:** BLOCK 40 LOT 9&10, IRVINGTON  
**Tax Account No.:** R420408640  
**State ID No.:** 1N1E26AC 00600  
**Quarter Section:** 2732  
**Neighborhood:** Irvington, contact Dean Gisvold at 503-284-3885.  
**Business District:** North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-388-5004.

**Plan District:** None  
**Other Designations:** Irvington Historic District  
**Zoning:** R5 Residential 5,000  
**Case Type:** AD Adjustment  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:**

The applicant proposes to construct a new 13'-0" deep x 12'-6" wide addition/extension to an existing one-story detached garage that is 21'-1½" deep x 18'-0" wide. The new garage extension will be built directly behind the existing garage. It will be located 4'-6" from the west property line and 3' from the north property line. Eaves will extend 12" toward the west property line and 6" toward the north property line. The addition has a gable roof with the same orientation and pitch as the existing garage (8:12). The existing garage is 1'-8" from the west property line and 16' from the north property line.

This addition to the existing garage is not subject to historic design review (see Section 33.445.320 A, When design review is required in a Historic District). However, the resultant 34'-1½" long structure is subject to the minimum 5' setback from both the west and north property lines. So, the applicant requests adjustments to reduce the setback from 5'-0" to 4'-6" along the west property line and from 5'-0" to 3'-0" along the north property line.

Note that the original proposal has been modified to reduce potential impacts. The addition has shifted to the east and to the south and the roof lowered.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

- 33.805.040 [Adjustment] Approval Criteria

**ANALYSIS**

**Site and Vicinity:** The site is a 10,000 sq. ft. corner lot. The house is centered on the lot and a two-car detached garage is located near the northwest corner of the lot. A driveway runs along the west property line to the garage and the garage is also close to the west property line (1'-8") but has been constructed 16' south of the north property line. The area between the garage and the north property line is undeveloped. Vegetation grows between the garage and adjacent property lines.

Three properties abut this corner site. To the west and north are three standard 5,000 sq. ft. lots.

- At the corner of NE 18<sup>th</sup> Avenue and NE Stanton the house at 1809 NE Stanton is centered on the lot with a 180 sq. ft. detached garage accessed from NE Stanton.
- Also on NE 18<sup>th</sup> Avenue and one lot to the north, there is a house at 2914 NE 18<sup>th</sup> but without a detached structure. This is the lot adjacent to the proposed garage addition location. The house has a 29' deep back yard. The backyard is 50' wide and applicant's existing garage has a 21' - 1½" linear dimension on the other side of the mutual property line.
- Along NE 19<sup>th</sup> Avenue, the house to the north is separated from the applicant's site by a driveway but there is no garage at the southwest corner of the lot; rather the backyard features an outdoor deck.

All these lots are treed as are other lots in the Irvington neighborhood.

**Zoning:** The site is zoned R5,000 (R5) or High Density Single-Dwelling Residential, and is intended to accommodate single-dwelling development, with an average of one unit per 5,000 square feet of site area. Also, the site is within the Irvington Historic District.

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

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on January 10, 2013. In response to the original proposal, the Irvington Neighborhood Association noted that they received no comments from neighbors or other members of the community and had no

objection. However, a neighbor expressed a concern that arbor vitae along the north property line might be removed as part of construction or as a result of damage during construction and requested replacement with comparable vegetation. The applicant also reported to city staff that another neighbor had expressed concerns.

In response, two additional designs were created. The latest design, with a 4'-6" setback from the west property line and a 3'-0" setback from the north property line is acceptable to the Irvington Land Use Committee. One nearby neighbor supports the proposal. However, it is not acceptable to two adjacent neighbors.

*Staff comment:* The original proposal has been altered to increase the setback on both the north and west property line. Also, the gable roof has been lowered. The revised proposal was sent for comment to neighbors and their comments are factored into the following discussion of facts and findings.

## 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** purposes of building setback requirements are to maintain light, air, separation for fire protection, and access for fire fighting. Setback standards also reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences. They promote options for privacy for neighboring properties and 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 (Section 33.110.220 A).

The applicant's site is a corner lot, 10,000 sq. ft. in area; the site is the combination of two former 5,000 sq. ft. lots. The three lots to the west and north are approximately 5,000 sq. ft. in area. Each of these lots has a house.

To the west, the lot directly adjacent to the proposed addition lacks a detached structure. On the applicant's lot, the addition would be constructed behind the existing garage but located 4'-6" from the property line, whereas the existing garage is located 1'-8" from the property line. The total length of the western façade is approximately 34'-1½". The distance between the house on NE 18<sup>th</sup> Avenue and the mutual property line with the subject site is approximately 29'. The addition's walls will be less than 10' in height and the ridge of the gable will be an additional 11'-0" away at an additional 7' height dimension above a 6' fence. This reduces the view of the sky from the backyard of the adjacent lot to the west of the subject site by an insignificant amount (in keeping

with the minimal requested 6" reduction in the code required setback). So, light and air will not be impacted. As part of this review staff compared the proposal to zoning code allowances for a house, set back 5' from a property line per code; an Accessory Dwelling Unit (ADU) also set back 5' from the property line; and a garage allowed to be located on the property line but no longer than 24' in length if located any closer than 5' from a property line. The applicant's proposal has a similar presence.

The adjustment request is only six inches less than that the required 5' setback and the applicant will be landscaping the setback area. A condition of approval that maintains the fence and/or landscaping will ensure that this addition does not significantly and negatively impact properties to the west or north.

The lot to the north also lacks a detached structure and the house is approximately 12' north of the property line. The proposed addition will be set back 3'-0" which allows arbor vitae landscaping to be retained or replanted if damaged. A 3'-0" setback (a 2'-0" reduction from the required 5'-0" minimum setback) could harm the existing vegetation and a condition of approval to ensure that landscaping or fencing continues to maintain privacy for the neighbor is appropriate and should be made a condition of approval. The small dimensions of the addition will avoid negative impacts to light and air on the property to the north. The Portland zoning code allows a detached garage in a rear setback (down to 0') providing the structure is no wider or longer than 24'. In this case the width of the additions is 12'-6" and the width of the existing garage is 18' (16' feet away from the north property line).

Given the location of the addition, the location of nearby structures, and the opportunity for landscaping, the purpose of fire safety and reasonable relationships is met. The applicant is proposing windowless walls and retaining current landscaping, so privacy will be maintained. Finally, the requested setback reduction adjacent to the west property line is minimal, 6". Eaves will extend 12" away from the garage, the same as allowed when a structure is 5' away from a property line. And the width of the north façade of the addition, at 12'-6" is approximately one half of what would be allowed for a garage on the property line, at a zero setback.

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, and

**Findings:** The proposal will not significantly detract from the appearance or the livability of the residential area because the structure will be compatible with the architectural style of the existing residence and will not introduce any activities or structural relationships that alter the character of both residential streets. The new structure features a gable roof that is lower than the existing roof and does not introduce an awkward element such as a change in roof pitch from the existing gable roof to a flat roof addition as previously explored by the applicant. The reduced setback on the west side is minimal, is behind the garage, and will not be visible from NE Stanton Street. And, the 3' setback to the north will not impact the residential area as it is to be screened by a 6' high fence or existing landscaping.

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:** No cumulative impacts are expected to occur from approval of the proposal and it is consistent with the purpose of the R5 zone, which is to preserve land for housing and to provide housing opportunities for individual households. This criterion is met.

- 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. The site is not a scenic resource but is within the Irvington Historic District. The Irvington Neighborhood Land Use Committee has no objection to the proposal. Objecting neighbors have not raised issues of historic resource protection.

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

**Findings:** Impacts on neighboring properties can be mitigated by maintenance and/or retention of screening between the garage and neighboring properties. With a condition of approval requiring screening this criterion can be 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 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 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 adjustment will allow the applicant the flexibility of locating a small storage addition in a corner of the property that is currently underused and screened from neighboring properties. The addition is well-designed and is harmonious with the historic district and also will be significantly screened by the surrounding fence and hedge. To ensure that screening is provided in the future this administrative decision includes a condition of approval to that effect. The requested adjustments are minimal with the condition that the addition be screened.

## ADMINISTRATIVE DECISION

Approval of adjustments to Section 33.110.220, to reduce the required minimum setback from 5' to 4'-6" (from west property line, 12" eave allowed within this area) and from 5' to 3' (from the north property line, 6" eave allowed within this area) to allow an addition to an existing garage, in substantial compliance with the approved site plans, Exhibits C-1 through C-3, signed and March 5, 2013, 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 12-218054 AD.

- B. The applicant shall maintain a fence and/or high shrubs to form a screen at least 6 ft. high. Any shrubs must be evergreen.

**Staff Planner: Mark Bello**

**Decision rendered by:** \_\_\_\_\_ **on March 5, 2013**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: March 7, 2013**

**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 December 21, 2012, and was determined to be complete on **January 7, 2013**.

*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 December 21, 2012.

*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: May 11, 2013**.

**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 March 21, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **March 25, 2013**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**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:

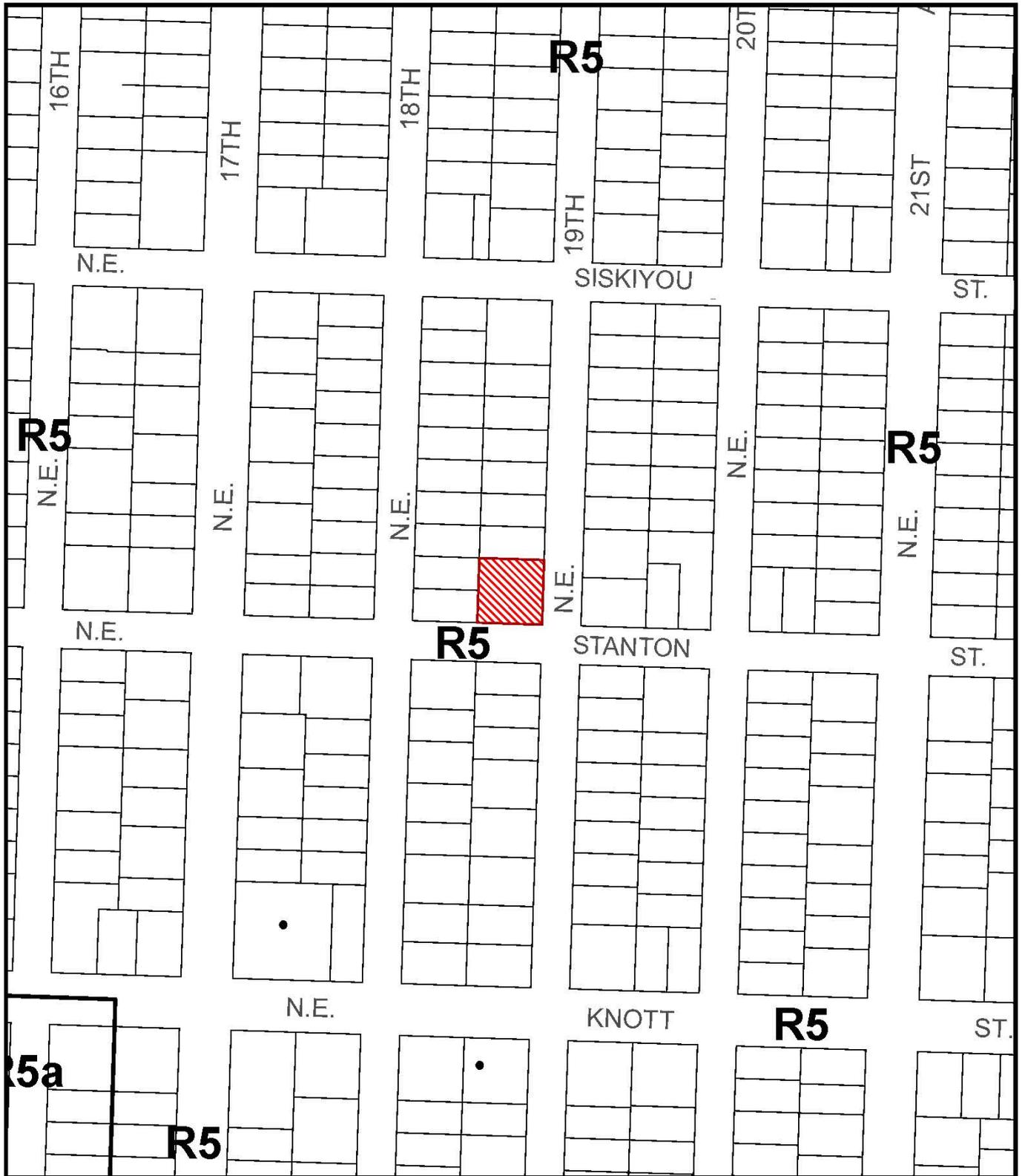
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan, A1 (attached)
  - 2. New Garage Extension, A4 (attached)
  - 3. New North Back Elevation and New East Side Elevation, A5 (attached)
  - 4. As Built Garage, A3
  - 5. Enlarged Site Plan Showing Adjacent Properties, A2
  - 6. Elevations and Perspectives, A6
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses: (not applicable)
- F. Correspondence:
  - 1. Kathryn R. Gordon & Bill Farver, January 17, 2013 & February 16, 2013
  - 2. Suzanne Guest, January 19, 2013
  - 3. ICA Land Use Committee, January 31, 2013 & February 15, 2013
  - 4. Jan Zuckerman, Amilcar Alvarez, February 15, 2013
- G. Other:
  - 1. Original LU Application
  - 2. Applicant Request for Extension of Timeline, December 28, 2012
  - 3. Applicant Request for Extension of Timeline, February 7, 2013

**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



Site



NORTH

This site lies within the:  
IRVINGTON HISTORIC DISTRICT

File No. LU 12-218054 AD  
 1/4 Section 2732  
 Scale 1 inch = 200 feet  
 State Id 1N1E26AC 600  
 Exhibit B (Dec 26, 2012)

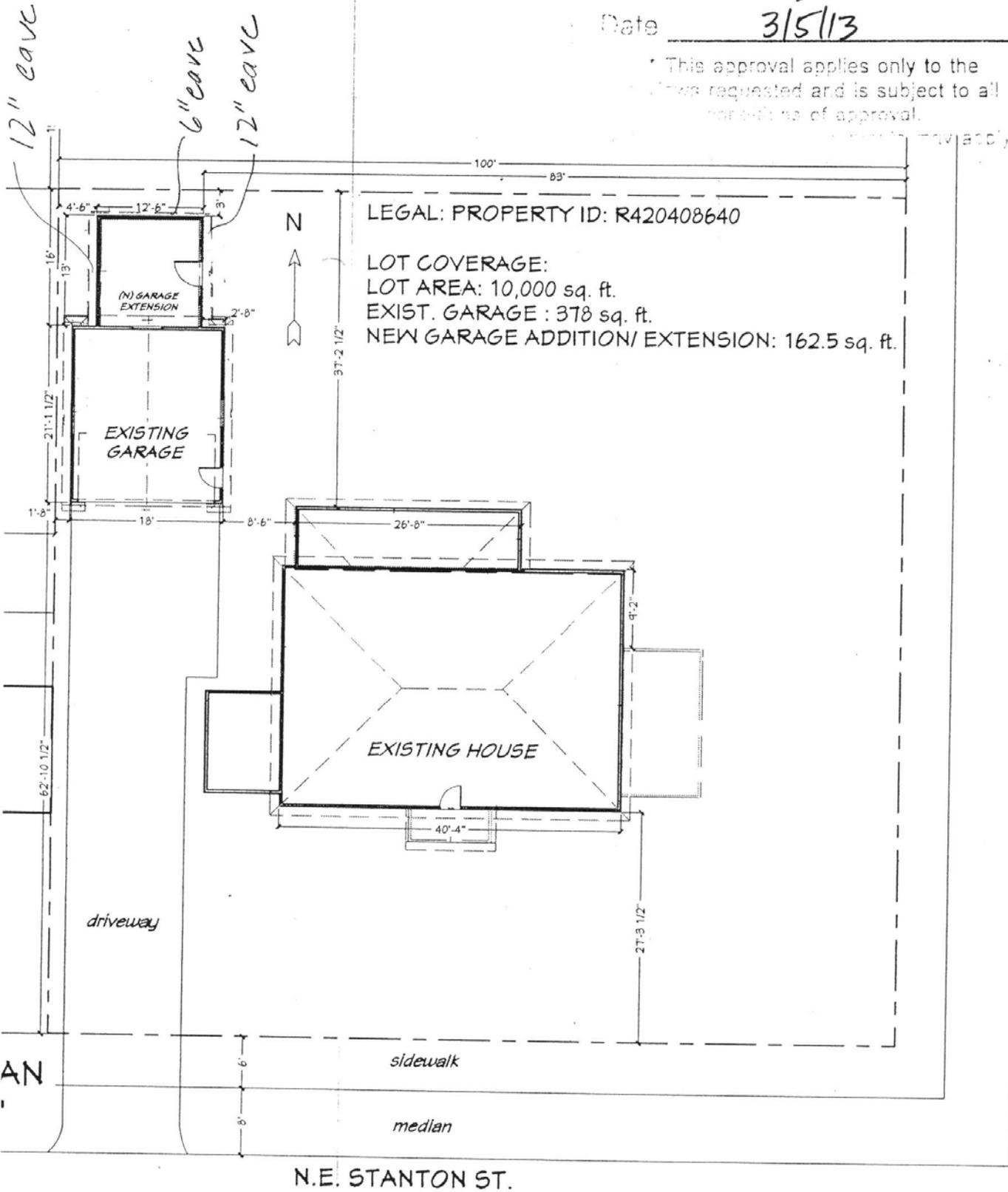
**\*Approved\***  
**City of Portland**

Bureau of Development Services

Planner MB

Date 3/5/13

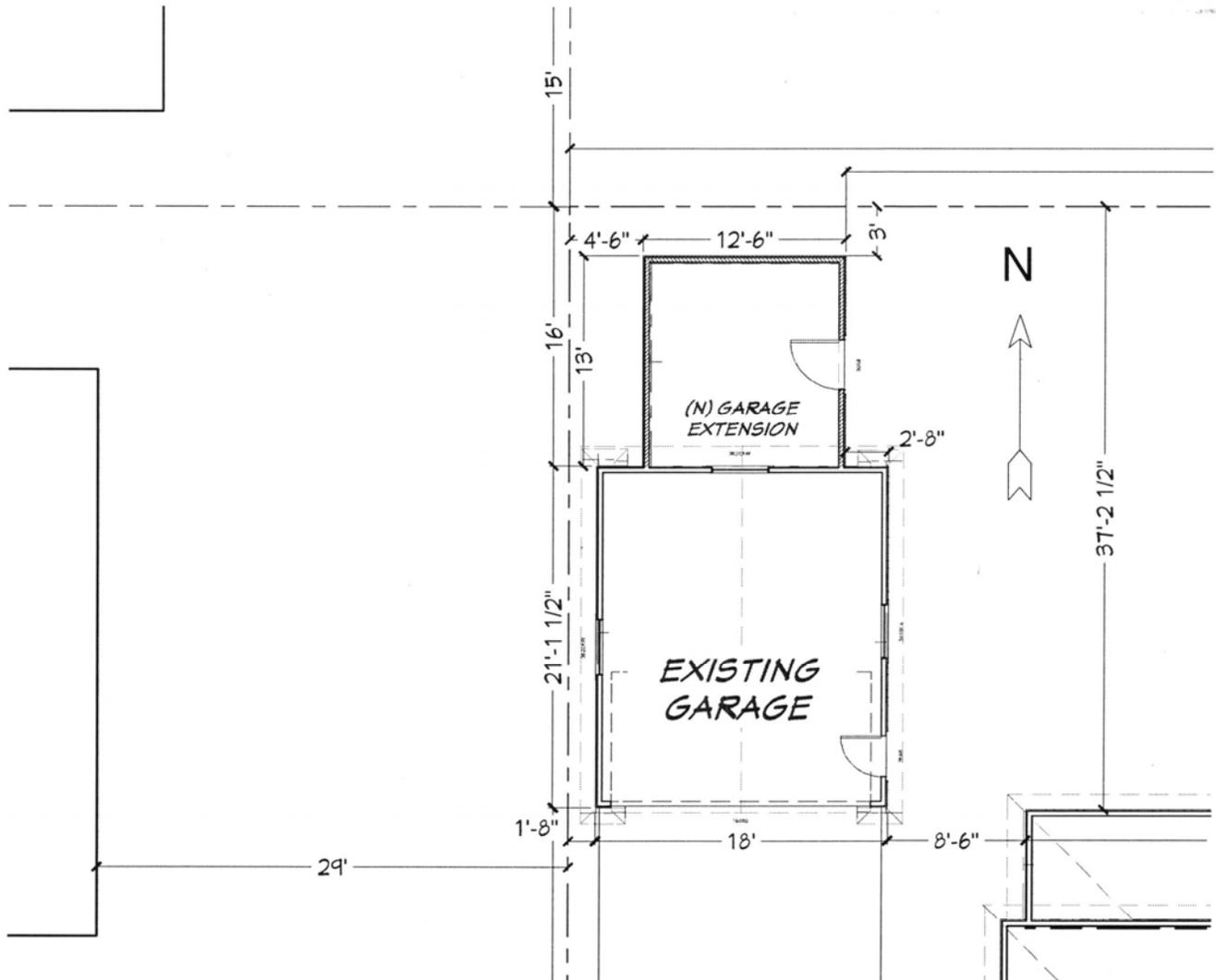
\* This approval applies only to the  
changes requested and is subject to all  
conditions of approval.



CASE NO. 12-21805  
EXHIBIT 61

**\*Approved\***  
**City of Portland**  
 Bureau of Development Services  
 Planner MB  
 Date 3/5/13

\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional requirements may apply.



**GARAGE with (N) EXTENSION**  
 1/8"=1'-0"

CASE NO. 12-218054  
 EXHIBIT C2

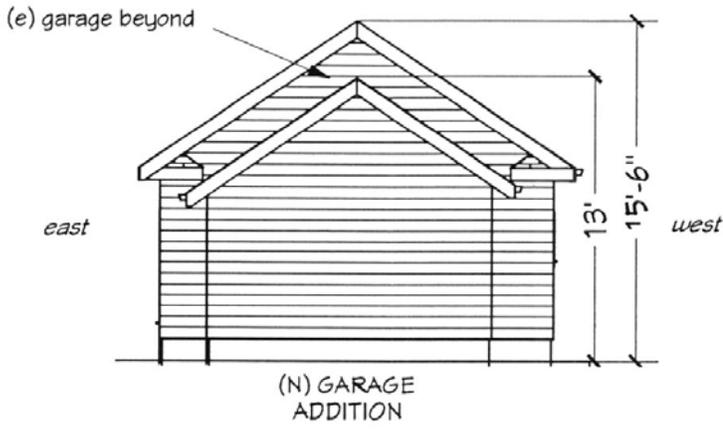
<b>A4</b>	NEW GARAGE EXTENSION	DATE: 12/12 REVISED: 2/13 DESIGNER: Melissa	PAULSON ADDITION 1629 NE STANTON ST PORTLAND, OR 97212	<i>McCall</i> DESIGN 503.449.3878
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**\*Approved\***  
**City of Portland**  
 Bureau of Development Services

Planner WB

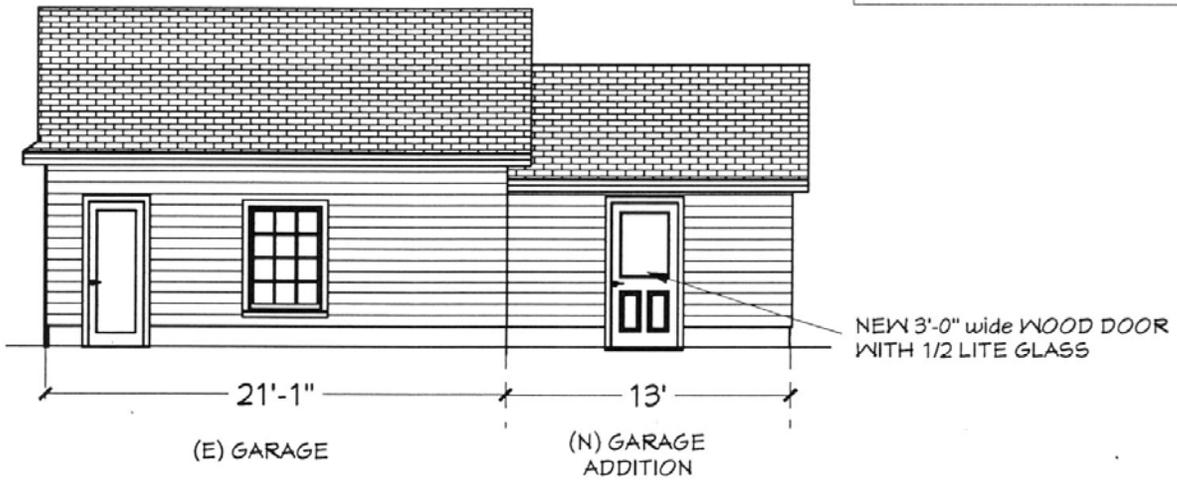
Date 3/5/13

\* This approval applies only to the review requested and is subject to all conditions of approval. Other applicable requirements may apply.



**NEW NORTH BACK ELEVATION**  
 1/8"=1'-0"

NOTE:  
 ALL TRIM, WINDOWS, DOORS AND DETAILS OF NEW ADDITION TO MATCH EXISTING GARAGE.  
 PAINT ALL NEW MATERIALS TO MATCH EXISTING.



**NEW EAST SIDE ELEVATION**  
 1/8"=1'-0"

CASE NO. 12-218054  
 EXHIBIT C3

<i>McCaff</i> DESIGN 503.449.3878
PAULSON ADDITION 1829 NE STANTON ST PORTLAND, OR 97212
DATE: 12/12 REVISED: 2/15/13 DESIGNER: Melissa
ELEVATIONS
A5