



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

Dan Saltzman, Commissioner
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Date: February 8, 2016
To: Interested Person
From: Matt Wickstrom, Land Use Services
503-823-6825 / 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 14-166440 AD

GENERAL INFORMATION

Applicant: Arianne R Cohen
1526 NE Alberta St
Portland, OR 97211-5046

Site Address: 3915 N VANCOUVER AVE

Legal Description: BLOCK 24 LOT 7, CENTRAL ALBINA
Tax Account No.: R146804010, R146804010
State ID No.: 1N1E22DC 01900, 1N1E22DC 01900
Quarter Section: 2630
Neighborhood: Boise, contact Stephen Gomez at 503-819-8268
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032
District Coalition: Northeast Coalition of Neighborhoods, contact Lokye Au at 503-388-9030

Zoning: R2.5a (Residential 2,500 Zone with an "a" Alternative Design Density Overlay Zone)

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

Proposal:

The applicant proposes to revise a land use review request. Previously, the applicant had requested to construct an accessory dwelling unit (ADU) that exceeded the maximum size allowed for ADUs. The applicant no longer proposes to construct an ADU, but to construct detached living and office space on top of the existing detached garage and convert the garage to living space with bathroom facilities but no kitchen. The existing garage is located within the 5-foot side setback as it built 3 feet from the south property line. Whereas the addition will be constructed 5 feet from the south property line, approval through an Adjustment Review is necessary because living space is being added to a structure within the setback. The applicant requests one Adjustment to reduce the south side setback from 5 feet to 3 feet (33.110.220.B).

Staff note: On January 1, 2016 new zoning regulations pertaining to accessory structures went into effect. Since this land use review was submitted prior to that date, the proposal is reviewed using the regulations in effect prior to 2016.

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 4,750 square foot site is developed with a two-story house with a detached garage in the southwest corner. The surrounding vicinity to the north, west and south is primarily developed with single-dwelling houses, a few with two-story accessory structures. The area to the east of the site is rapidly changing and is increasingly developed with multi-story mixed use commercial and apartment buildings.

Zoning: The site is zoned R2.5a (Residential 2,500 with an “a” Alternative Design Density Overlay Zone). The R2.5 zone is a single-dwelling zone. Single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood.

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 15, 2015. Another notice that described the previous proposal was mailed on December 24, 2015. The following Bureaus have responded:

The Bureau of Environmental Services responded with information on sanitary service and stormwater management (Exhibit E-1).

The Water Bureau responded with information on water service (Exhibit E-2).

The Life Safety Section of the Bureau of Development Services (BDS) responded with information on obtaining a building permit (Exhibit E-3).

The Site Development Section of BDS responded with the information on stormwater discharge, septic systems and erosion control (Exhibit E-4).

The Portland Bureau of Transportation, Fire Bureau and Urban Forestry responded with no concerns (Exhibit E-5).

Neighborhood Review: One written responses have been received in response to the Notice of Proposal from the Boise Neighborhood Association. The response refers to the original proposal which was to increase the maximum allowed size of an accessory dwelling unit. The proposal was revised since the letter from the neighborhood association was received and a new Notice of Proposal was sent.

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 applicant requests an adjustment to reduce the side setback from 5 feet to 3 feet for a second story addition to an existing garage that is located 3 feet from the side property line. The purpose for the setback regulations for single-dwelling zones is found in 33.110.220, which states:

Purpose: *The building setback regulations 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.*

Although the existing detached garage is located 3 feet from the south property line, the second story addition is proposed to be 5 feet from the property line. This will help maintain light and air for the adjacent property (although the privacy screen will be located 3 feet from the property line). The addition is also located to the north of the house on the lot to the south which means that it won't block southern exposure. Furthermore, the side of the addition facing the lot to the south is only 14 wide or about half the length of the existing detached garage. The 3-foot setback of the existing garage maintains access for fire-fighting and proper separation for fire protection.

As the addition to the garage and its conversion to living space won't include a kitchen, the structure is not considered a house or dwelling unit. Therefore, a reasonable physical relationship between residences is preserved. The applicant proposes a privacy screen so individuals on the porch at the entrance to the second floor cannot see into the neighbor's backyard. In order to ensure that privacy is maintained, a condition of approval requires a fully sight-obscuring privacy screen on the south side of the porch. The privacy screen must be a minimum of 7 feet wide and 7 feet tall. A detail of the screen must be included with building permit drawings.

The proposal is located at the rear of an existing lot and therefore won't impact the front yard. There are also a number of two-story accessory structures in the vicinity some which are close to the 5-foot setback; therefore, the proposal will be compatible with the neighborhood. Adequate outdoor area will remain despite the

addition to the garage. The driveway provides adequate depth to park a car without overhanging the sidewalk or street.

Based on the information above, this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The proposal will not significantly detract from the livability or appearance of the residential area. The addition is designed so that it maintains the majority of the existing detached garage. The addition is oriented in a different direction than the garage which will make for an interesting design. A condition of approval requires a 7-foot tall sight-obscuring privacy screen to be installed. The screen will help protect the privacy for the resident of the lot to the south. 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: Only one Adjustment is being requested, therefore, this criterion does not apply.

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

Findings: No City-designated scenic or historic resources are located on the site; therefore, this criterion does not apply.

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

Findings: The primary impact that could occur as a result of the Adjustment is the loss of privacy for the lot to the south due to the location of the second story porch. This impact has been mitigated through the inclusion of a condition of approval which requires a 7-foot tall sight-obscuring screen along the south side of the porch. With the condition of approval and considering the addition has no south facing windows, 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 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 applicant proposes to construct a second-story addition to an existing detached garage located 3 feet from the south side property line. Although the addition is located 5 feet from the side property line, approval through an Adjustment Review is required because it is constructed on top of the detached garage located within the setback. A condition of approval

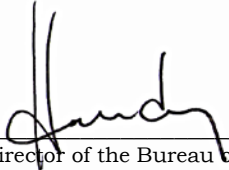
is included with this land use review which requires a privacy screen to be installed on the south side of the new porch on the second level. The privacy screen will restrict views from the porch into the neighbor's backyard. With this condition of approval, the Adjustment request meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the side setback from 5 feet to 3 feet for a second story addition to and existing detached garage (33.110.220.B), per the approved plans, Exhibits C-1 through C-5, signed and dated February 4, 2016, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 14-166440 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A fully sight-obscuring privacy screen must be constructed and maintained on the south side of the porch. The privacy screen must be a minimum of 7 feet wide and 7 feet tall. A detail of the screen shall be included with building permit drawings.

Staff Planner: Matt Wickstrom

Decision rendered by:  **on February 5, 2016**
By authority of the Director of the Bureau of Development Services

Decision mailed: February 8, 2016

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 June 6, 2014, and was determined to be complete on **December 2, 2014**.

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 June 6, 2014.

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 waived the 120-day review period, as stated with Exhibit (Exhibit #A5) Unless further extended by the applicant, **the 120 days will expire on: April 1, 2015. The letter submitted by the applicant states that the City is not responsible for issues a decision after the full 3650day decision deadline.**

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 22, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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.

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 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 **February 23, 2016 – (the day following the last day to appeal).**
- 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.

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:

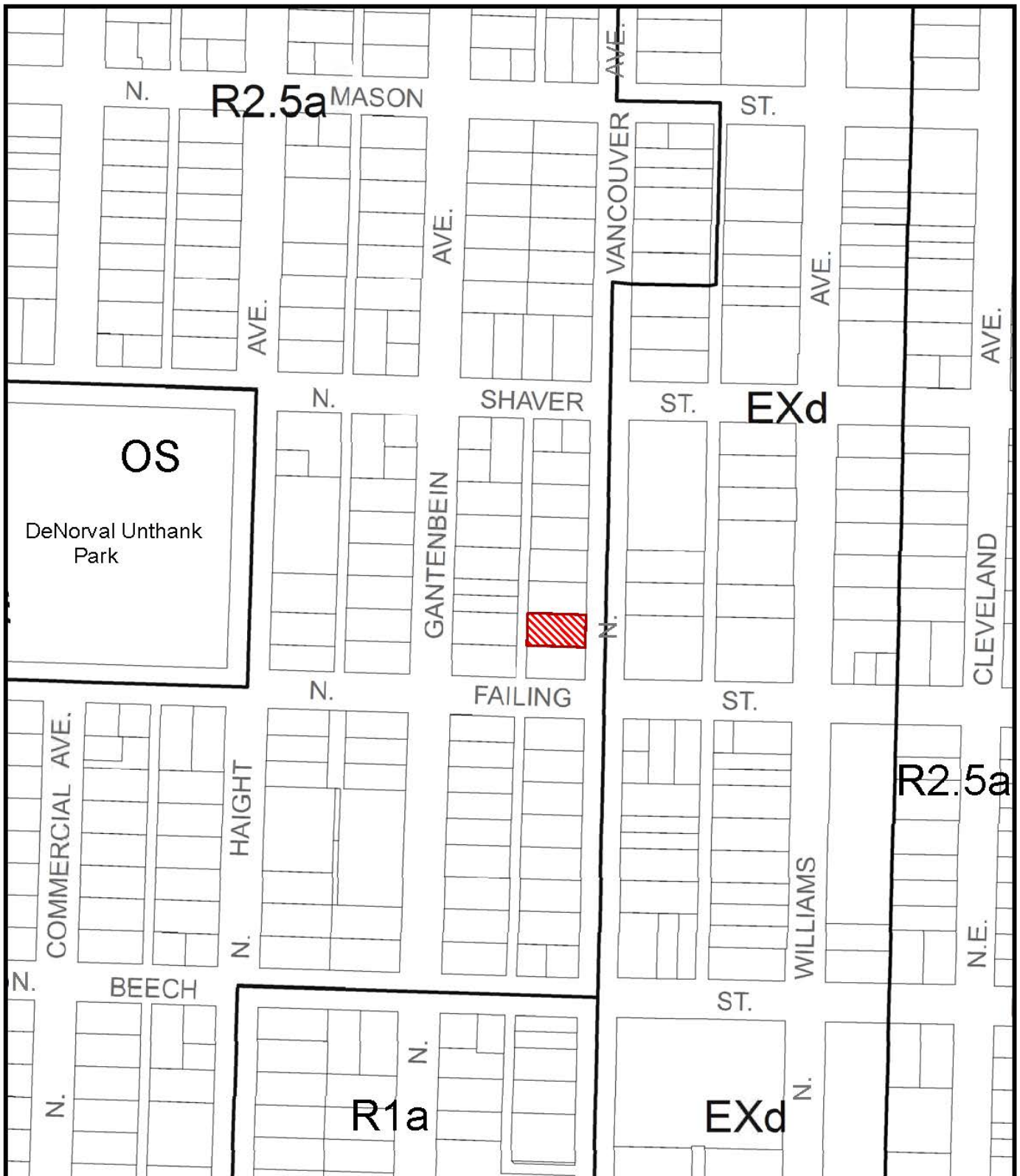
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- | | |
|---|--|
| <p>A. Applicant's Statement</p> <ol style="list-style-type: none"> 1. Incomplete letter from Matt Wickstrom to Andy Dahlton dated June 18, 2014 2. Submittal from Andy Dahlton dated November 20, 2014 3. Submittal from Andy Dahlton dated December 8, 2014 4. Submittal from Andy Dahlton dated November 16, 2015 5. Letter from Arianne Cohen dated November 10, 2015 6. Submittal from Andy Dahlton dated December 21, 2015 7. Final drawings from Arianne Cohen dated January 20, 2016 8. Emails from Andy Dahlton requesting extensions to the completeness deadline dated December 2, 2015 and February 26, 2015 <p>B. Zoning Map (attached)</p> <p>C. Plans/Drawings:</p> | <ol style="list-style-type: none"> 1. Site Plan (attached) 2. West Elevation (attached) 3. East Elevation (attached) 4. North Elevation (attached) 5. South Elevation (attached) <p>D. Notification information:</p> <ol style="list-style-type: none"> 1. Mailing list dated January 15, 2015 2. Mailed notice dated January 15, 2015 3. Revised Mailed notice dated December 24, 2015 4. Revised Mailed notice dated December 24, 2015 <p>E. Agency Responses:</p> <ol style="list-style-type: none"> 1. Bureau of Environmental Services 2. Water Bureau 3. Life Safety Section of BDS 4. Site Development Review Section of BDS 5. Summary sheet of agency responses <p>F. Correspondence:</p> <ol style="list-style-type: none"> 1. Stephen Gomez, February 3, 2015, concerns about proposal |
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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

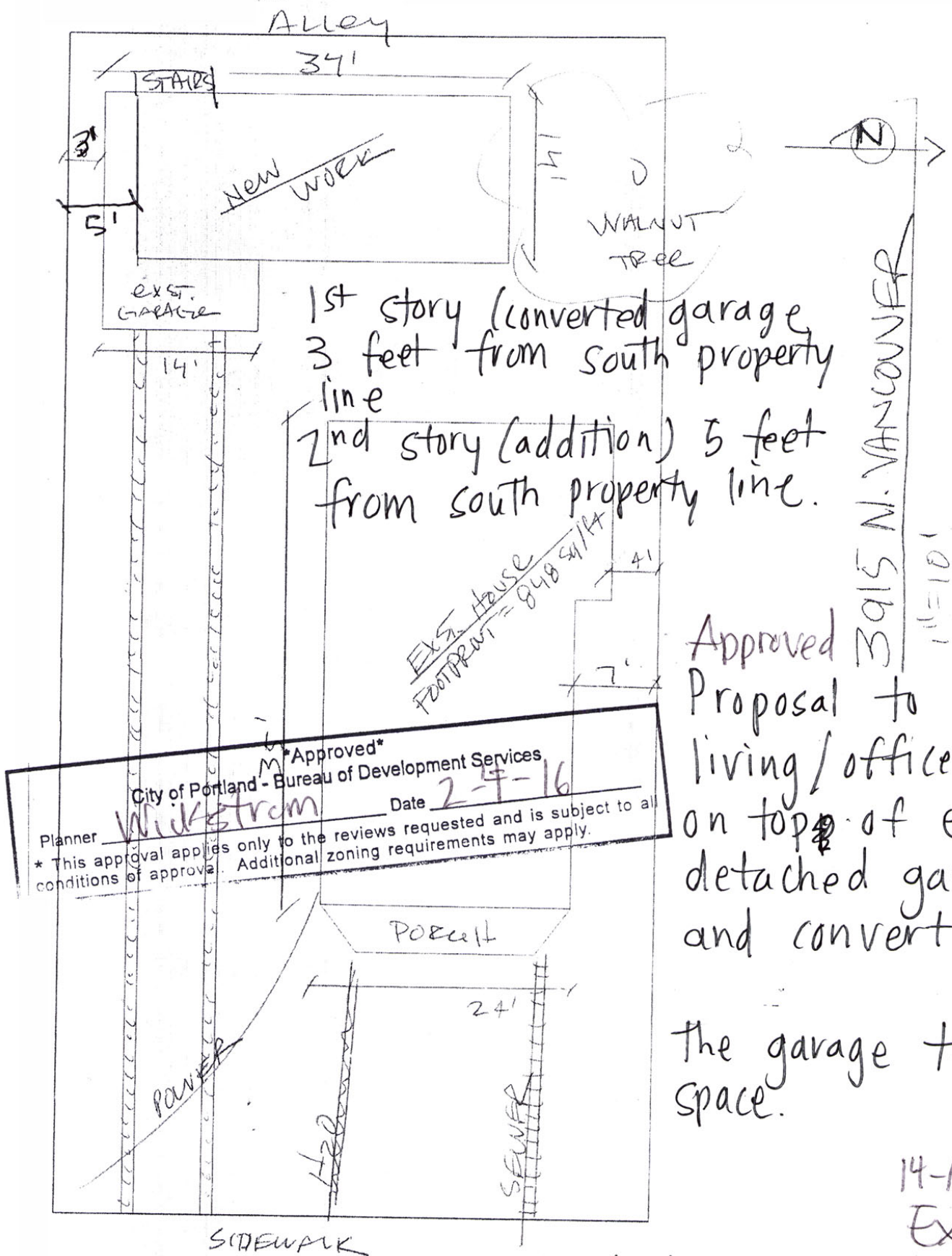


Site



NORTH

File No. LU 14-166440 AD
 1/4 Section 2630
 Scale 1 inch = 200 feet
 State_Id 1N1E22DC 1900
 Exhibit B (Jun 10,2014)



Approved Proposal to add living/office space on top of existing detached garage and convert

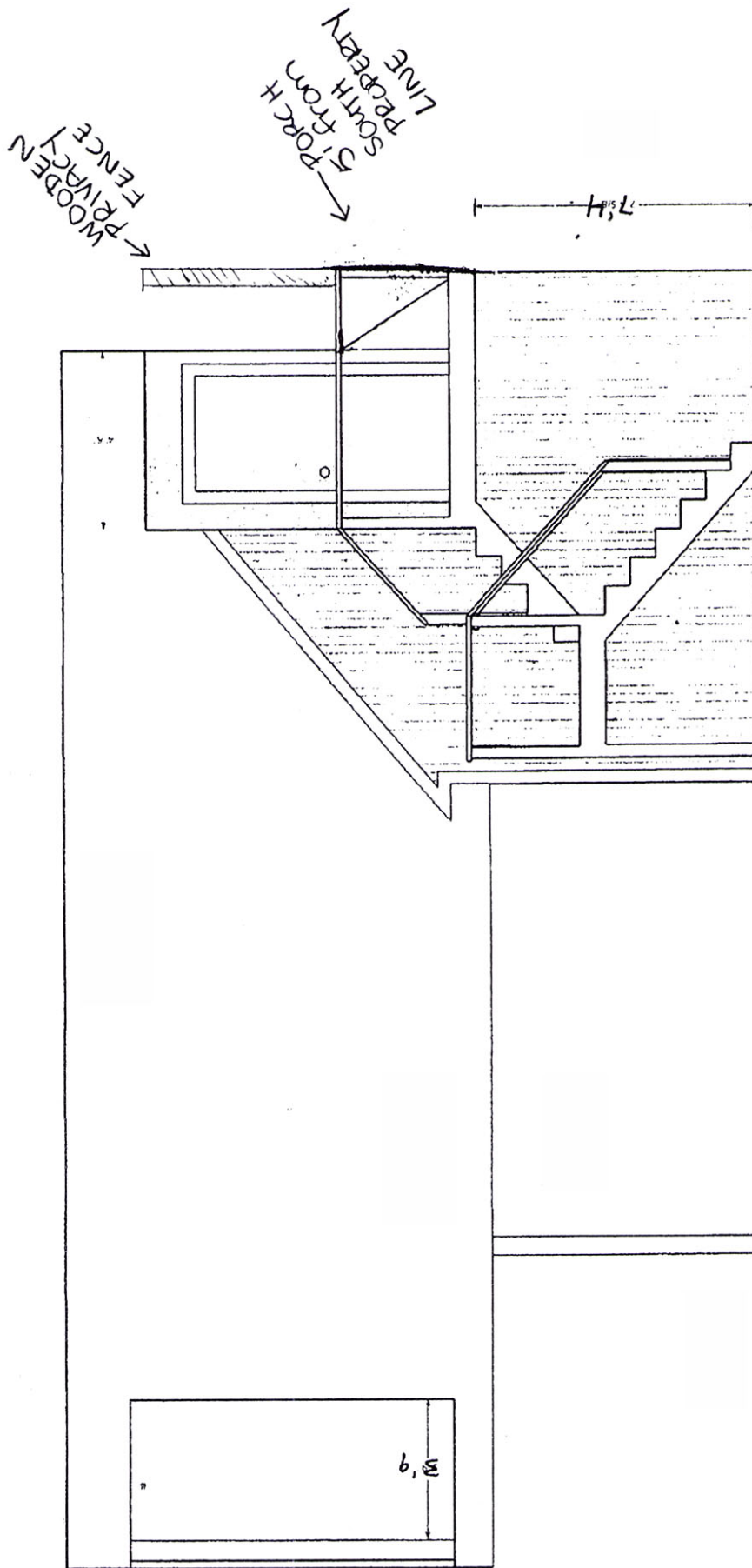
the garage to living space.

14-166440 AD
Exhibit C-1

1 Adjustment requested to allow living space 3 feet from south side property line (reduce setback from 5 feet to 3 feet).

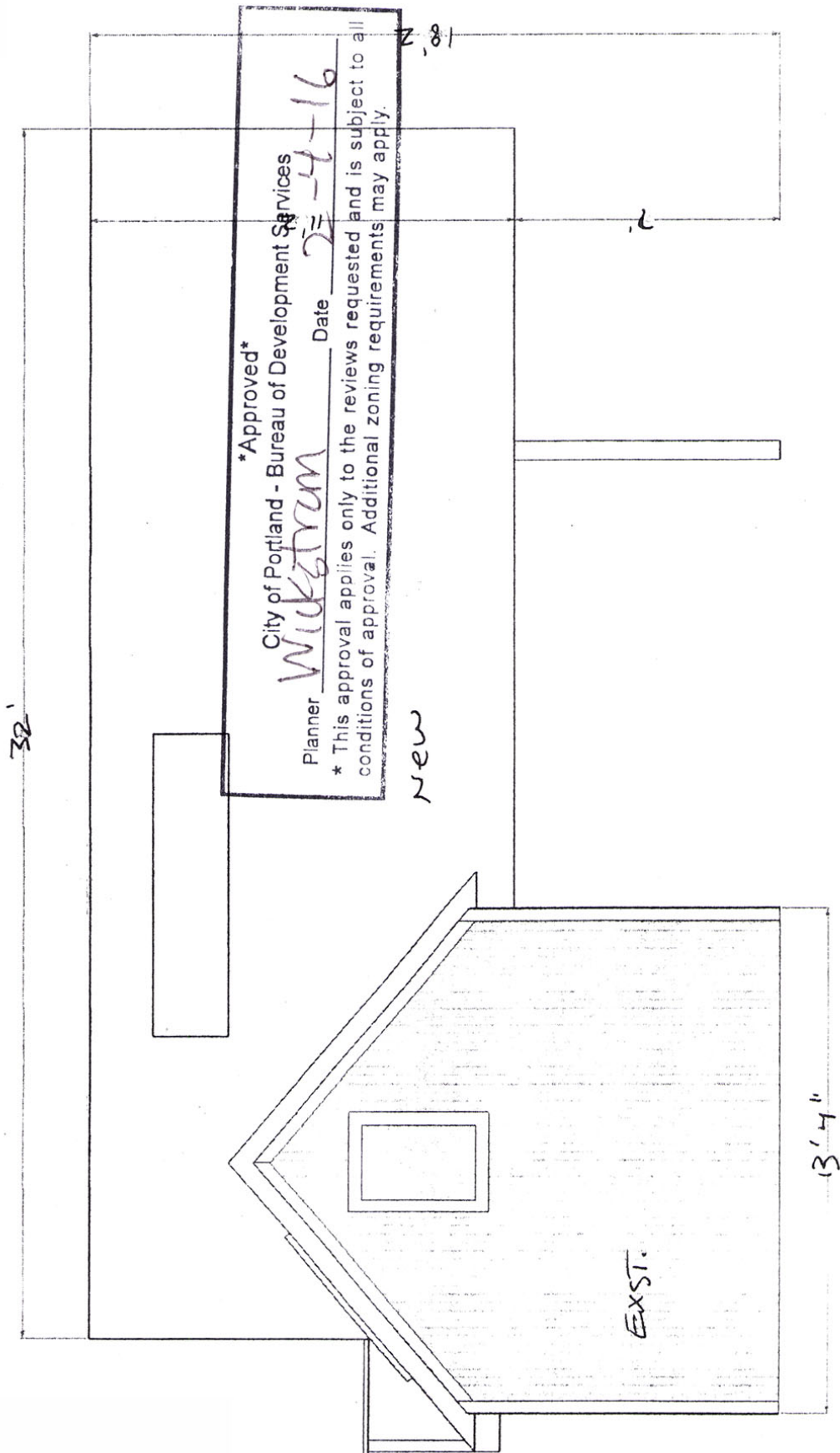
WEST ELEVATION YH-1

Approved
City of Portland - Bureau of Development Services
Planner Wickstrom Date 2-4-16
* This approval is only to the reviews requested and is subject to all conditions of approval. If different planning requirements may apply.

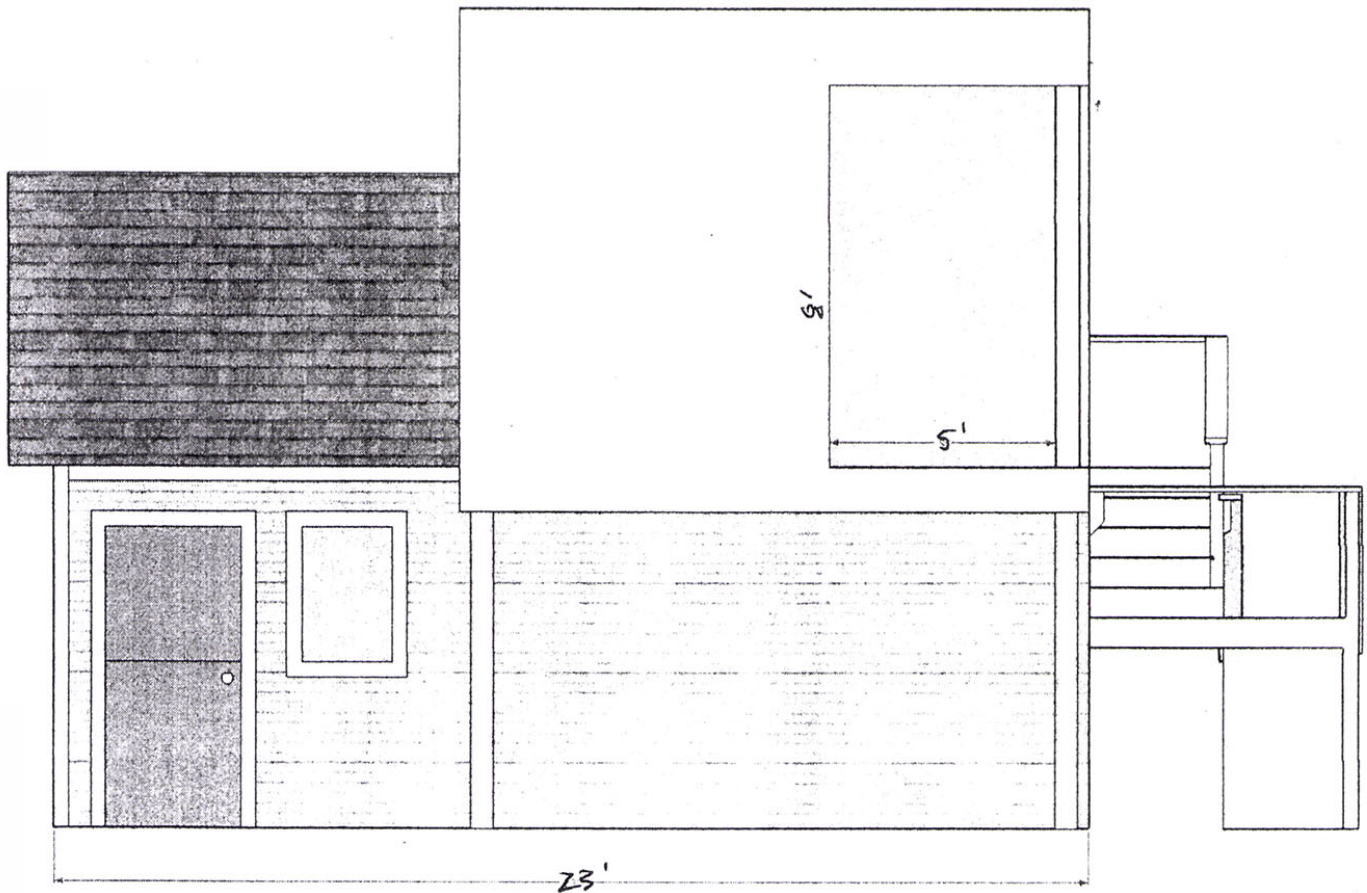


14-166440 AD
Exhibit C-2

EAST ELEVATION 1/4=1



14-166440 AD
Exhibit C3

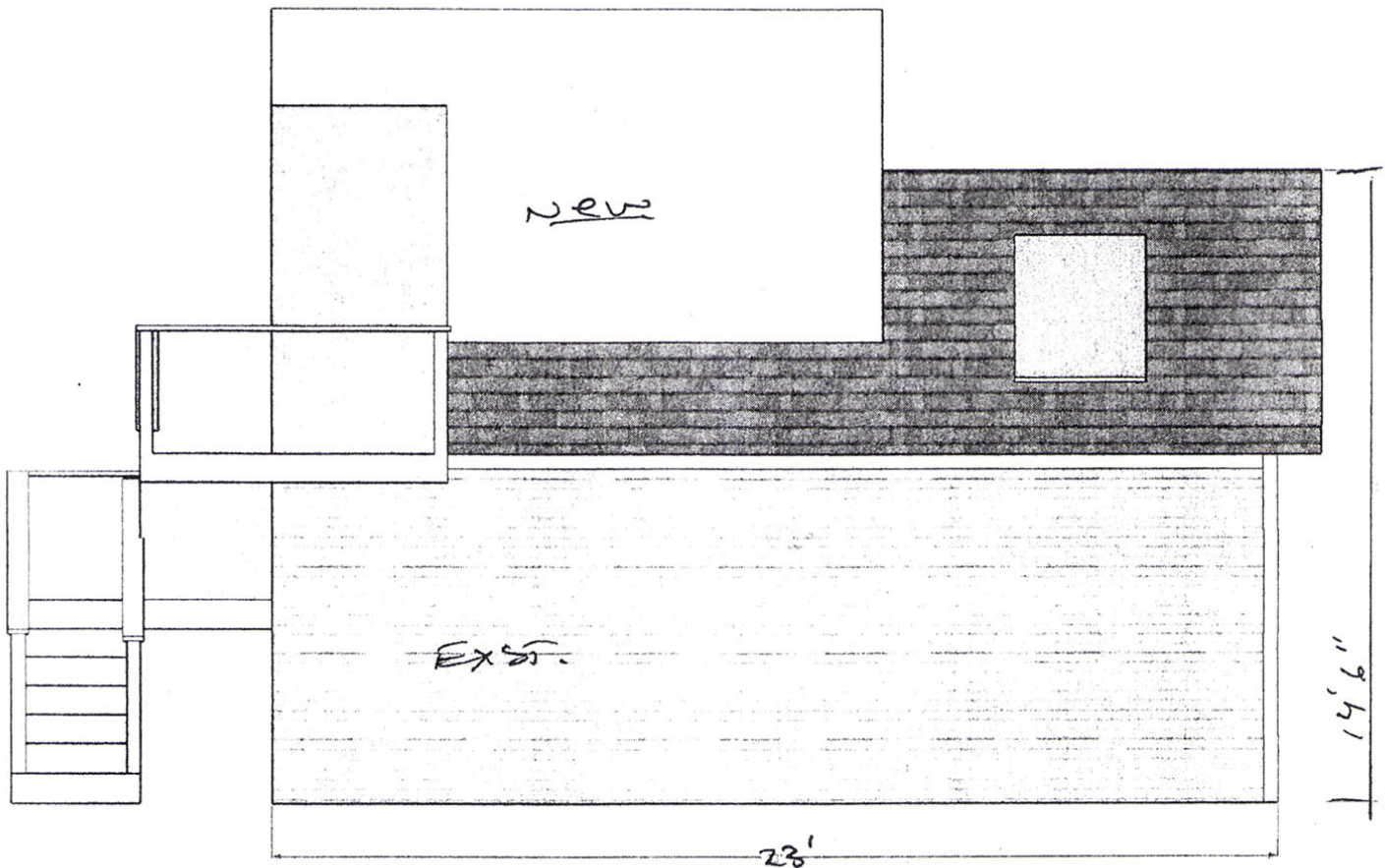


NORTH ELEVATION 1/4 = 1

Approved	
City of Portland - Bureau of Development Services	
Planner <u>Wickstrom</u>	Date <u>2-4-16</u>
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.	

14-166440 AD

Exhibit C-4



SOUTH ELEVATION $\frac{1}{4} = 1$

Approved	
City of Portland - Bureau of Development Services	
Planner <u>Wickstrom</u>	Date <u>2-4-16</u>
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.	

14-166440 AD
Exhibit C-5