



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

Dan Saltzman, Commissioner  
Paul L. Scarlett, Director  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** February 4, 2016  
**To:** Interested Person  
**From:** Andrew Gulizia, Land Use Services  
503-823-7010 / [Andrew.Gulizia@portlandoregon.gov](mailto:Andrew.Gulizia@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 15-281977 AD**

#### **GENERAL INFORMATION**

**Applicant:** Jack Barnes / Jack Barnes Architect, PC  
615 SE Alder St., Suite 304  
Portland, OR 97214

**Property Owners:** Caryn Jones and Jason Lander  
2211 SE 76<sup>th</sup> Ave.  
Portland, OR 97215

**Site Address:** 2211 SE 76<sup>th</sup> Ave.

**Legal Description:** TL 6900 0.43 ACRES, SECTION 05 1S 2E  
**Tax Account No.:** R992051970  
**State ID No.:** 1S2E05DC 06900  
**Quarter Section:** 3238  
**Neighborhood:** Mt. Tabor, contact Stephanie Stewart at 503-230-9364  
**Business District:** Eighty-Second Ave of Roses Business Association, contact Richard Kiely at 503-504-2273.  
**District Coalition:** Southeast Uplift, contact Anne Dufay at 503-232-0010.  
**Zoning:** R5 – Single-Dwelling Residential 5,000  
**Case Type:** AD – Adjustment Review  
**Procedure:** Type II administrative decision with appeal to the Adjustment Committee

**Proposal:** The applicant proposes to convert an existing attached garage on the north side of the house into living space. Exterior alterations include a new door and windows and a new sloping roof. The existing building footprint is not proposed to change. The existing driveway will be retained for off-street parking. As Zoning Code Section 33.110.220.B requires structures in the R5 zone to be set back at least 5 feet from side lot lines, and the proposed improvements abut the north side lot line, the applicant is requesting approval of an Adjustment to reduce the north side setback requirement from 5 feet to 0 feet.

**Relevant Approval Criteria:** In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Section 33.805.040.A-F of the Portland Zoning Code.

## ANALYSIS

**Site and Vicinity:** The site is an 18,600-square-foot lot located on the west side of SE 76<sup>th</sup> Avenue, between SE Division Street and SE Lincoln Street. The 20-foot-wide right-of-way of SE 75<sup>th</sup> Avenue abuts the site to the west, making the property a through lot. The site is developed with a one-story, single-dwelling house. A majority of surrounding properties are also developed with one-story houses.

**Zoning:** The R5 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

**Land Use History:** City records indicate that prior land use reviews include the following:

- LU 02-141063 AD: In 2002, the City approved Adjustments to legalize an existing detached garage and shed which did not comply with setback requirements.
- LUR 95-00421 AD: In 1995, the City denied an Adjustment application to construct a two-story addition abutting the north lot line.
- LUR 92-00664 AD: In 1992, the City denied an Adjustment application to construct a 58-foot-long addition abutting the north lot line.

**Agency Review:** A "Notice of Proposal" was mailed January 11, 2016. The following Bureaus have responded with no concerns about the proposal:

- Bureau of Environmental Services;
- Bureau of Transportation Engineering;
- Water Bureau;
- Fire Bureau;
- Site Development Section of BDS; and
- Life Safety Review Section of BDS.

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the mailed "Notice of Proposal."

## 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 is requesting an Adjustment to the minimum setback requirement for structures in the R5 zone. The purpose of the setback requirement is stated in Zoning Code Section 33.110.220.A:

**Purpose.** *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.*

The entire length of the attached garage to be converted to living space abuts the adjacent neighbor's garage, with an existing fire-rated CMU wall separating the two structures. Since the only change to the existing building envelope will be a new sloping roof, approval of the Adjustment will cause no negative impacts to the adjacent neighbor in terms of light, air, privacy, the physical relationship between the residences, or fire safety. The Fire Bureau reviewed the proposal and responded with no concerns (Exhibit E-4). The portion of the building subject to the Adjustment will remain low in height (with the new roof 12 feet above the ground at its highest point), and is partially hidden from view from SE 76<sup>th</sup> Avenue by existing landscaping. This portion of the building has little affect on the overall scale and placement of structures in the neighborhood. As the Adjustment relates only to the north side yard, the Adjustment will not affect the open front yard, and the site contains ample outdoor area. The existing driveway will remain unchanged, and there will be adequate space for a car to park on the driveway without overhanging the street or sidewalk. Visibility for drivers backing onto the street will be unaffected by the side setback Adjustment. Based on these reasons, the proposed Adjustment equally meets the intent of the regulation and 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:** Because the site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. The attached garage to be converted to living space is one story, with a new sloping roof that will be only 12 feet tall at its highest point. The front of the structure is set back approximately 54 feet from the front lot line abutting SE 76<sup>th</sup> Avenue, and existing landscaping partially obscures the view of it from the street. The proposal will have little impact on the appearance of the surrounding area. Since this garage already abuts the adjacent neighbor's garage for its entire length, converting the applicant's garage to living space will not negatively impact the adjacent neighbor's privacy. The existing driveway will remain, and is wide enough and deep enough to meet the on-site parking requirement. For these reasons, the proposal will not result in any negative impacts to neighborhood livability or appearance. 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:** As only one Adjustment is being requested, this criterion is not applicable.

- 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 or historic resource designations 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:** As discussed in the findings for approval criterion B, the proposal will have no adverse impacts on the livability of the surrounding residential area. As there are no identified adverse impacts for which mitigation would be required, this criterion is not applicable.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on site, 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 proposed setback Adjustment equally meets the intent of the setback regulation, and will not have adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Since the approval criteria are met, the proposal should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.110.220.B to reduce the required setback from the side (north) lot line from 5 feet to 0 feet per the approved site plan and building elevations, Exhibits C-1 through C-4, signed and dated February 2, 2016, subject to the following condition:

- A. As part of the building permit application submittal, each of the 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 through C-4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-281977 AD."

**Staff Planner: Andrew Gulizia**

**Decision rendered by:**  **on February 2, 2016.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: February 4, 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 December 28, 2015, and was determined to be complete on **January 6, 2016.**

*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 28, 2015.

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 5, 2016.**

**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 18, 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 5<sup>th</sup> 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 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 19, 2016**.
- 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.

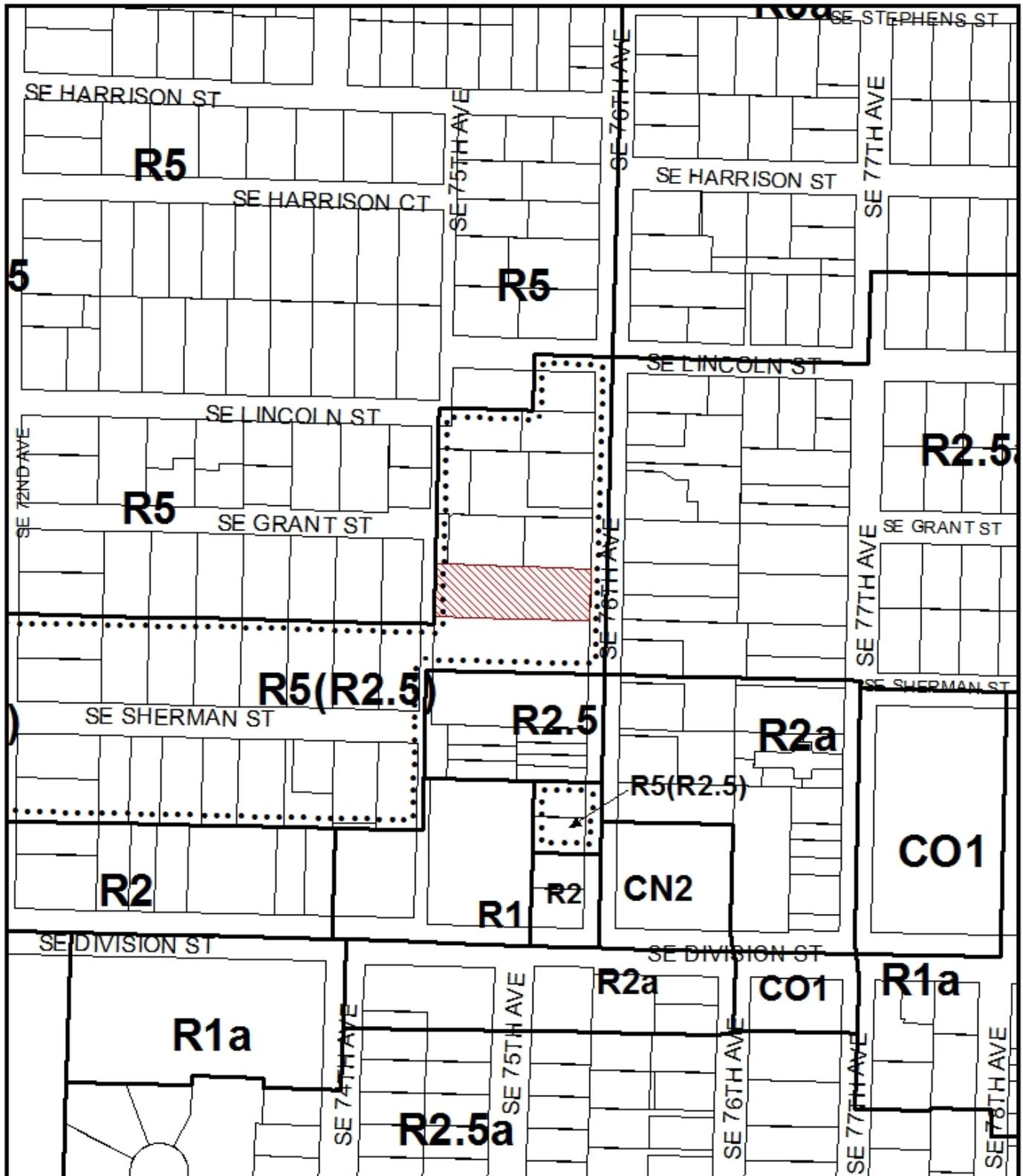
**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site plan (attached)
  - 2. East elevation (attached)
  - 3. North elevation (attached)

4. West and south elevations (attached)
  5. Existing floor plan
  6. Proposed floor plan
  7. Roof plan
- D. Notification Information:
1. Mailing list
  2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
  2. Bureau of Transportation Engineering and Development Review
  3. Water Bureau
  4. Fire Bureau
  5. Site Development Review Section of BDS
  6. Life Safety Review Section of BDS
- F. Correspondence – none received
- G. Other:
1. Original LU application form and receipt

**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 15-281977 AD  
 1/4 Section 3238  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E05DC 6900  
 Exhibit B (Jan 05, 2016)

**JACK BARNES ARCHITECT**  
 615 SE Alder Street, Suite 304  
 Portland, Oregon 97214  
 T 503.232.1620  
 jack@jackbarnesarchitect.com  
 www.jackbarnesarchitect.com

**Jones/Lander Remodel**  
 2211 SE 76th Avenue  
 Portland, OR 97215

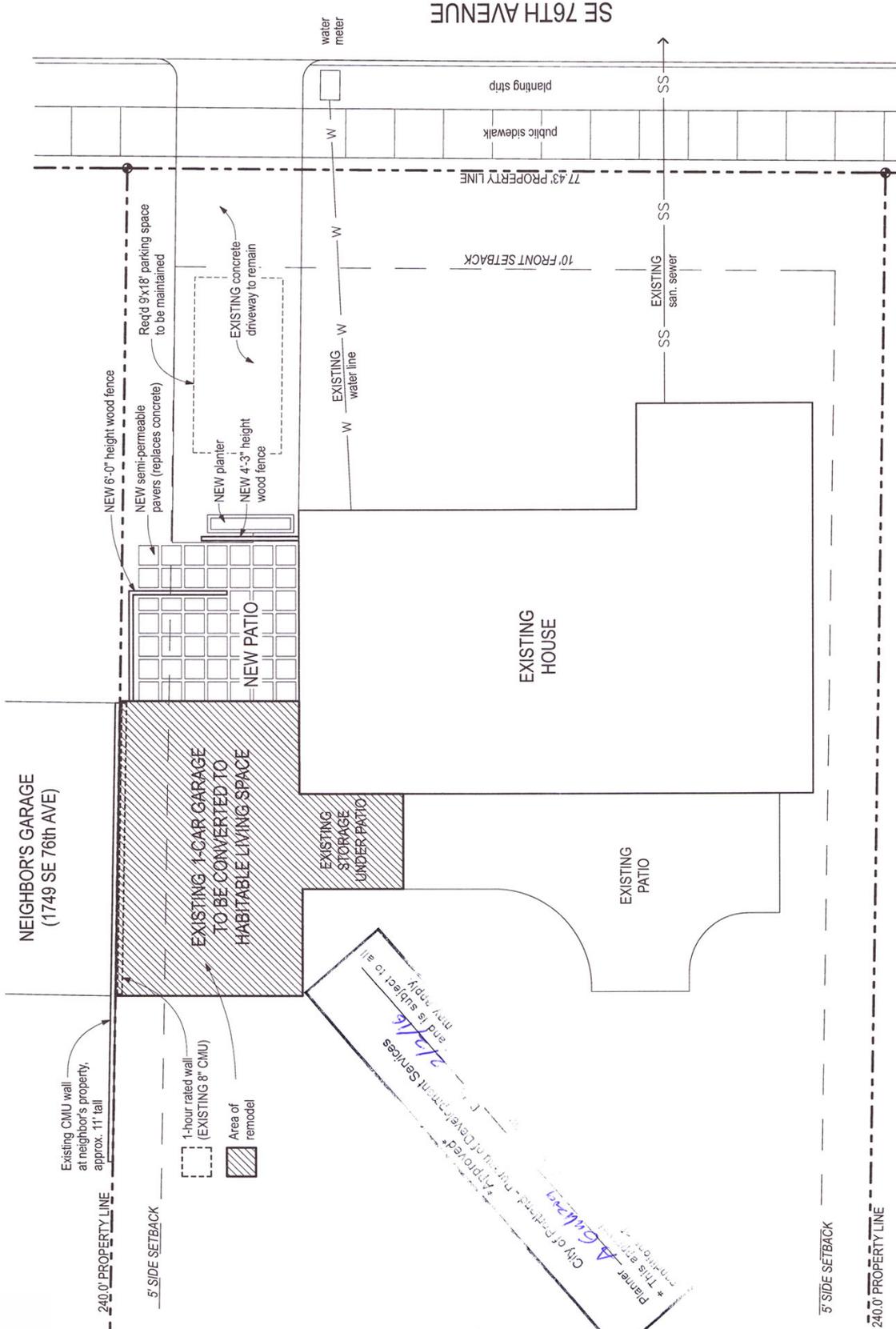
client:  
 Jason Lander & Caryn Jones  
 © Jack Barnes-Architect, P.C. 2015



Site Plan

**ADJ-1**

Plotted On: 12/27/15



Approved - original Development Services  
 City of Portland  
 Permit # 16167  
 \* This original permit is subject to the applicable rules and regulations of the City of Portland.  
 W 15-281977AD

**PROPOSED SITE PLAN (PARTIAL)**

SCALE: 1" = 10'

1

Exhibit C-1

**JACK BARNES  
ARCHITECT**  
615 SE Alder Street, Suite 304  
Portland, Oregon 97214  
T 503.232.1620  
jack@jackbarnesarchitect.com  
www.jackbarnesarchitect.com

**Jones/Lander  
Remodel**  
2211 SE 76th Avenue  
Portland, OR 97215

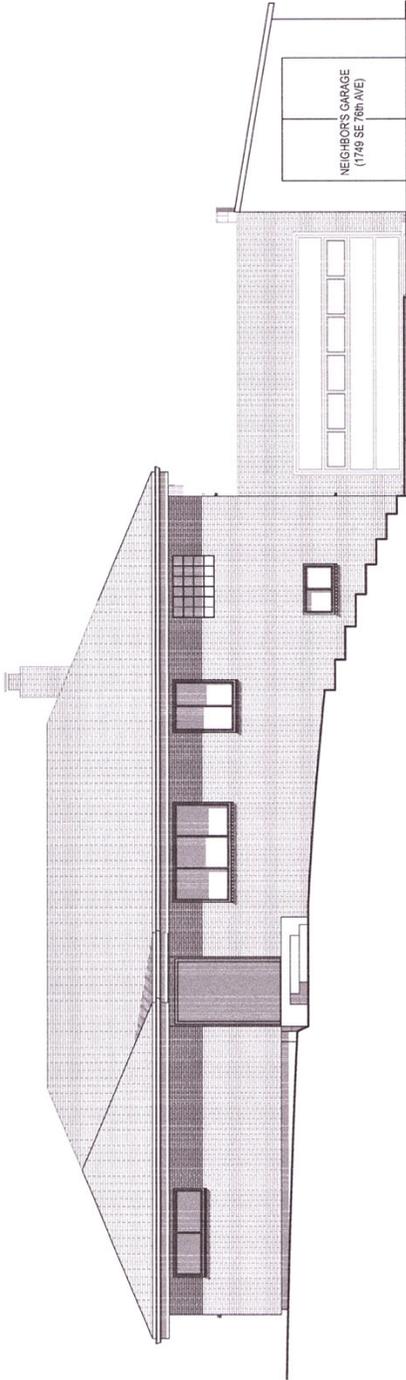
client:  
Jason Lander & Caryn Jones  
© Jack Barnes Architect, P.C. 2015



**East (Front)  
Elevations**

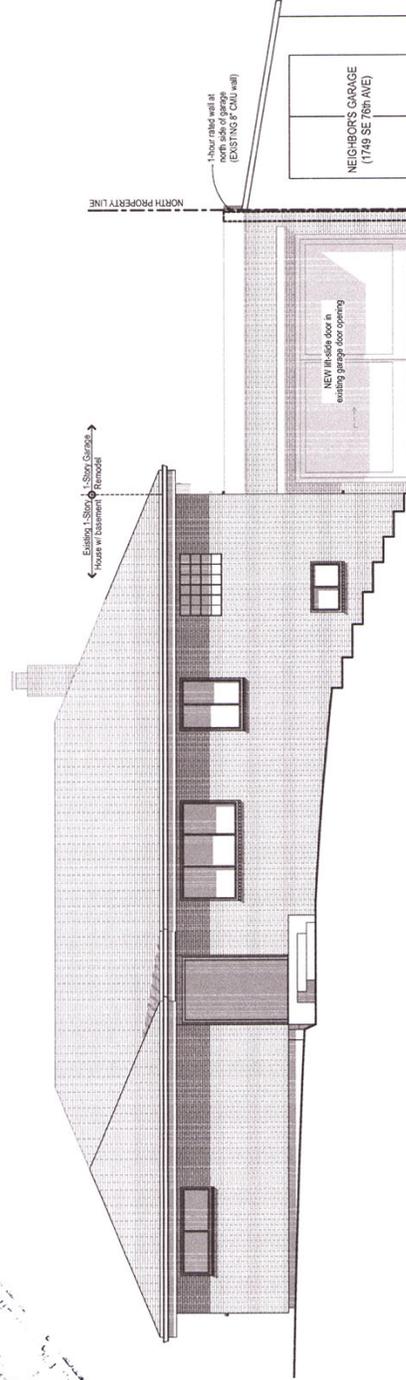
**ADJ-5**

Plotted On: 12/27/15



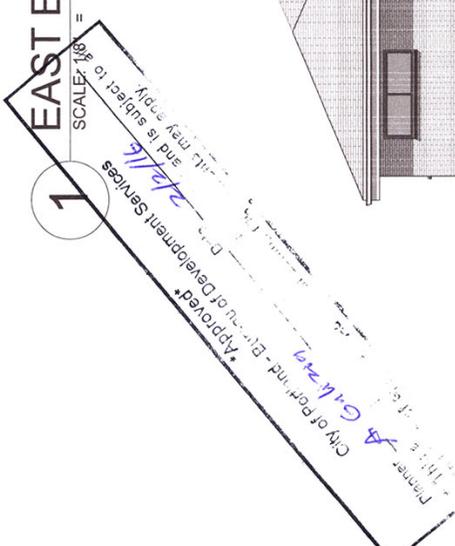
**1 EAST ELEVATION - EXISTING**

SCALE: 1/8" = 1'-0"



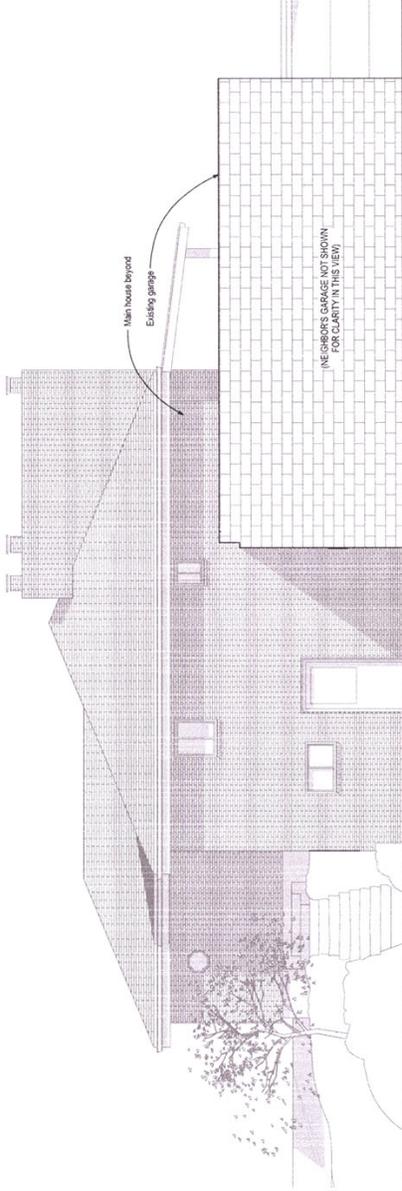
**2 EAST ELEVATION - PROPOSED**

SCALE: 1/8" = 1'-0"



LU15-281977AD

Exhibit C2

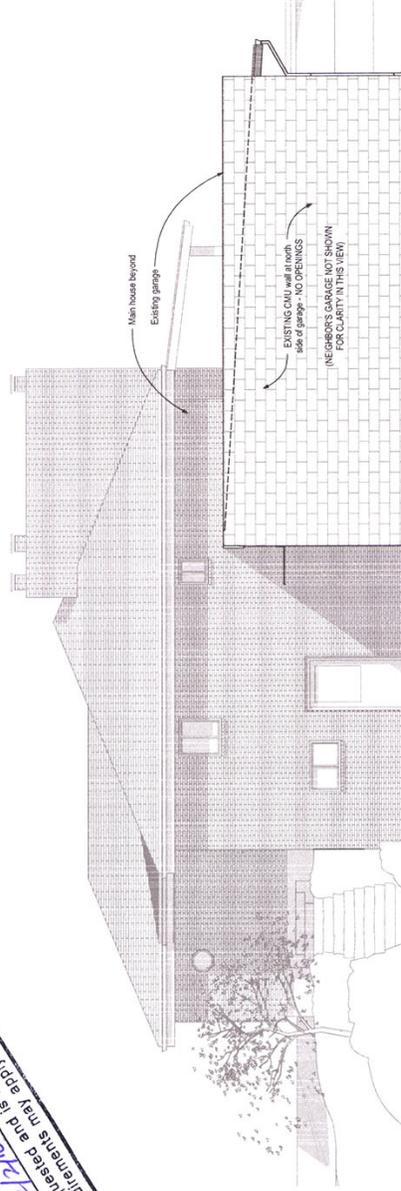


**1 NORTH ELEVATION - EXISTING**

SCALE: 1/8" = 1'-0"

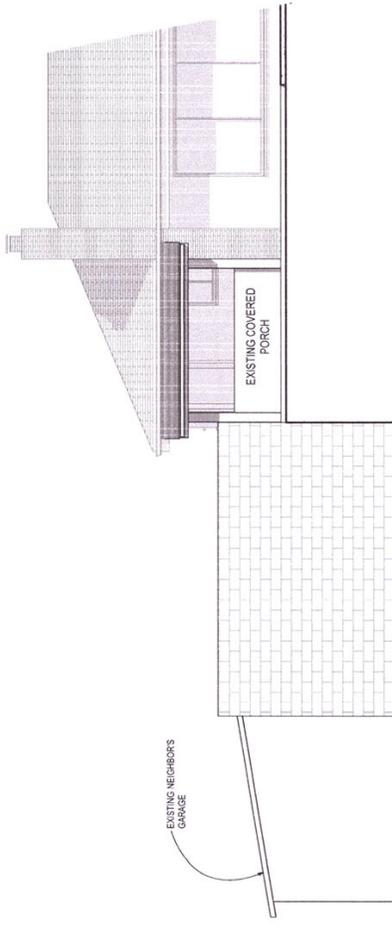
1  
SCALE: 1/8" = 1'-0"

Approved\*  
City of Portland - Bureau of Development Services  
Date 2/18/16  
\*This approval applies only to the reviews requested and is subject to the following conditions of approval:  
Additional zoning requirements may be required.



**2 NORTH ELEVATION - PROPOSED**

SCALE: 1/8" = 1'-0"



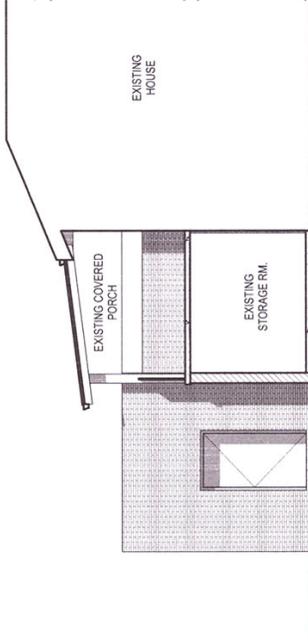
**1 WEST ELEVATION - EXISTING**

SCALE: 1/8" = 1'-0"

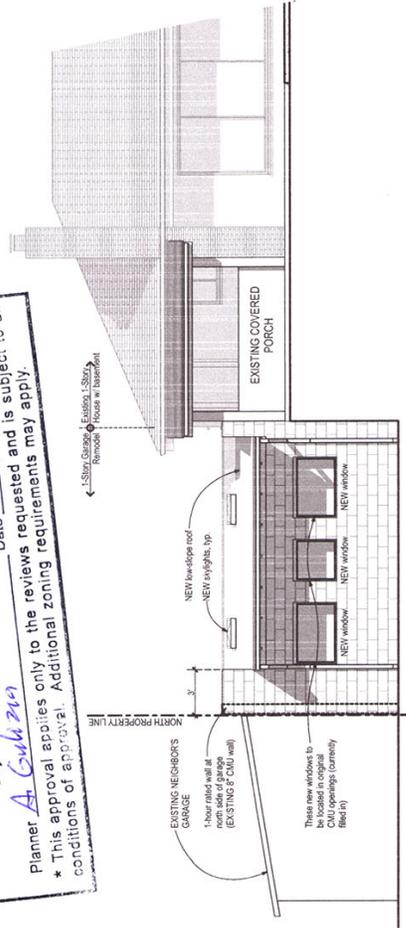
**3**

**SOUTH ELEVATION - EXISTING**

SCALE: 1/8" = 1'-0"



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



**2 WEST ELEVATION - PROPOSED**

SCALE: 1/8" = 1'-0"

**4**

**SOUTH ELEVATION - PROPOSED**

SCALE: 1/8" = 1'-0"