



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

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Date: April 20, 2016
To: Interested Person
From: David Besley, Land Use Services
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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 16-124607 AD

GENERAL INFORMATION

Applicant: Chad Ethridge
4226 SE 34th Ave
Portland, OR 97202

Owner: Lise Harwin
4226 SE 34th Ave
Portland, OR 97202-3308

Site Address: 4226 SE 34TH AVE

Legal Description: BLOCK 12 LOT 7, KENILWORTH
Tax Account No.: R443103980
State ID No.: 1S1E12DC 06100
Quarter Section: 3434

Neighborhood: Creston-Kenilworth, contact Zachary Smith at 503-866-8575
Business District: Greater Brooklyn, contact David Weislogel at 503-872-9320
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010

Zoning: R5 (Single Family Residential 5,000)

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

Proposal:

The applicant proposes to convert a detached garage to living area and connect this structure to the house with an approximately 400 square foot addition, resulting in a single residence. The existing detached garage is 2 feet – 2 inches from the east (rear) property line and 0 feet from the northern (side) property line. A detached garage may be built in setbacks if it meets certain requirements; however, connecting the garage to the dwelling results in the structure

no longer being detached and an Adjustment is therefore required. The Portland Zoning Code requires that buildings be set back a minimum of 5 feet from the side and rear lot lines in this zone (Section 33.110.220.B); therefore, approval through an Adjustment is required for the addition/conversion.

To summarize, the applicant is proposing to construct an addition to the house, while converting the garage to living space, which requires 2 Adjustments:

1. To reduce the minimum rear (east) setback from 5 feet to 2 feet – 2 inches; and
2. To reduce the minimum side (north) setback from 5 feet to 0 feet.

Only the existing detached garage portion of the improvement is within setbacks; the addition that connects the two existing structures will not be within the setbacks.

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 5,000 square foot site is on the east side of SE 34th Avenue, approximately 75 feet north of the intersection of SE 34th Avenue and SE Cora Drive. The site is relatively flat and developed with a single-story 1,622 square-foot residence and an approximately 700 square-foot detached garage. The surrounding vicinity is developed primarily with a mix of single-dwelling residences and multi-dwelling residential buildings.

Zoning: The R5 zone is a single-dwelling zone that is intended to preserve land for housing, and to provide housing opportunities for individual households. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

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 14, 2016. The following Bureaus have responded with the following information:

- The Water Bureau responded with no concerns and provided information on water service (Exhibit E-1);
- The Bureau of Environmental Services responded with no concerns and provided information on stormwater disposal (Exhibit E-2; and
- The Life Safety section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information (Exhibit E-3).

The following Bureaus have responded with no concerns:

- The Site Development Section of BDS;
- The Portland Fire Prevention Division; and
- The Portland Bureau of Transportation.

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.040 Adjustment 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 has requested two Adjustments to reduce the minimum rear (east) setback from 5 feet to 2 feet – 2 inches and to reduce the minimum side (north) setback from 5 feet to 0 feet to convert a detached garage to living area and connect this structure to the house with an addition, resulting in a single residence. The relevant purpose statements and associated findings are found below:

33.110.220 Setbacks

The setback regulations for buildings and garage entrances serve several purposes:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the city's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The existing detached garage is currently 0 feet from the side (north) property line and 2 feet – 2 inches from the rear (east) property line. The proposed addition connecting the two structures will meet setback requirements. Because only the existing portion of the structure will be within the setbacks, there will be no additional impacts to the physical relationship between residences, the amount of light, air, and separation, and the availability of outdoor areas. No windows are proposed on the northern or eastern facades of the converted garage portion of the house, so there will be no additional impacts to privacy. Many of the surrounding houses in this area have structures built within side and rear setbacks; therefore, this development is compatible with and reflective of development patterns in this neighborhood.

The Life Safety Plan Review Section and the Fire Bureau have reviewed the request for reduced setbacks, and responded with no concerns with regards to separation for fire protection, or access for fire fighting. The Portland Bureau of Transportation has no concerns regarding the proposed adjustment. The residents will continue to use their driveway for on-site parking.

For all the reasons discussed 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: This proposal is consistent with the development pattern in the area, which includes many detached structures that are built within required setbacks. The proposal detracts from neither the livability nor appearance of the area. The addition/conversion is designed to match the existing style of the house. The absence of windows on the north and east facades protects privacy and livability for adjacent neighbors.

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: The overall purpose of the R5 zone is to preserve land for housing, and to provide housing opportunities for individual households. Granting this Adjustment will allow for improvements to an individual household. As noted above, the proposed conversion/addition will not further encroach into the setbacks than the existing configuration. Therefore, the project is still consistent with this overall purpose.

This criterion is met.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. There are no such resources present on the site; therefore, this criterion is not applicable.

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

Findings: Impacts resulting from the adjustment are mitigated to the extent practical. There will be no windows on the northern and easternmost facades, which will mitigate any privacy impacts to the neighboring properties. The conversion from detached garage to living area will not encroach farther into setbacks than the existing detached garage and the addition will not be within the setbacks.

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: Environmental overlay zones are designated on the Official Zoning Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; 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 to reduce the minimum rear (east) setback from 5 feet to 2 feet – 2 inches and to reduce the minimum side (north) setback from 5 feet to 0 feet to convert a detached garage to living area and connect this structure to the house with an addition, resulting in a single residence. Because only the existing portion of the structure will be within the setbacks, there will be no additional impacts to the physical relationship between residences, the amount of light, air, and separation, and the availability of outdoor areas. No windows are proposed on the northern and easternmost elevations, so there will be no additional impacts to privacy. This proposal will be consistent with the neighborhood because many of the surrounding properties in this area also have structures that are built within required setbacks. The proposal meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of 2 Adjustments:

1. To reduce the minimum rear (east) setback from 5 feet to 2 feet – 2 inches (Section 33.110.220.B); and
2. To reduce the minimum side (north) setback from 5 feet to 0 feet (Section 33.110.220.B)

to convert an existing garage into living area and connect this structure to the house with an addition, resulting in a single residence, per the approved site plans, Exhibits C-1 through C-2, signed and dated April 14, 2016, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-124607 AD."

Staff Planner: David Besley



Decision rendered by: _____ **on April 14, 2016.**

By authority of the Director of the Bureau of Development Services

Decision mailed: April 20, 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 February 22, 2016, and was determined to be complete on March 9, 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 February 22, 2016.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: July 7, 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 May 4, 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 **May 5, 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:

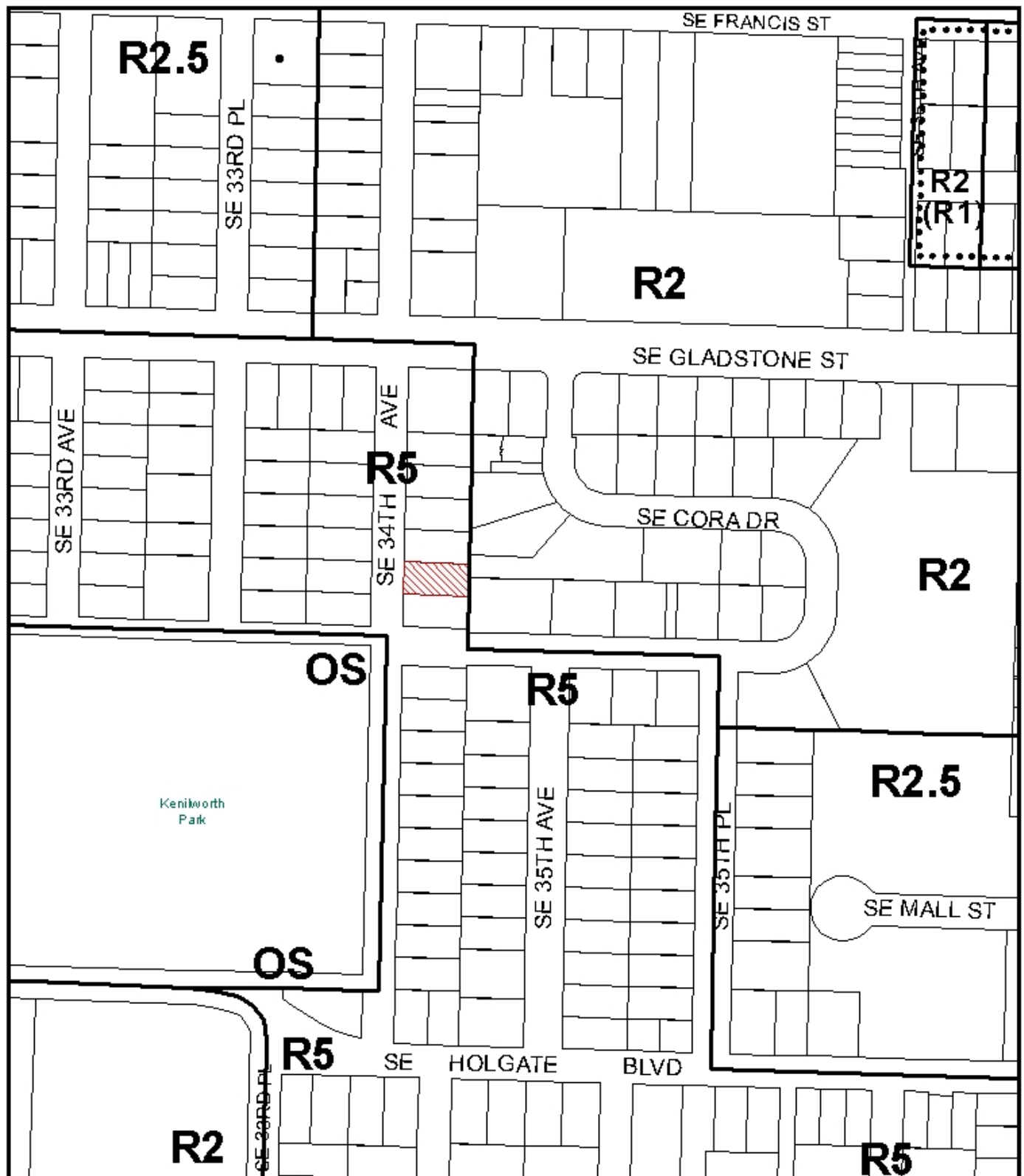
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
 - 3. Site Plan - existing development
 - 4. Elevation Drawings - existing development
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Bureau of Environmental Services
 - 3. Life Safety Section of BDS
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application Form and Receipt
 - 2. Incomplete letter from staff to applicant, sent March 3, 2016

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



NORTH



Site



Historic Landmark

File No. LU 16-124607 AD

1/4 Section 3434

Scale 1 inch = 200 feet

State_Id 1S1E12DC 6100

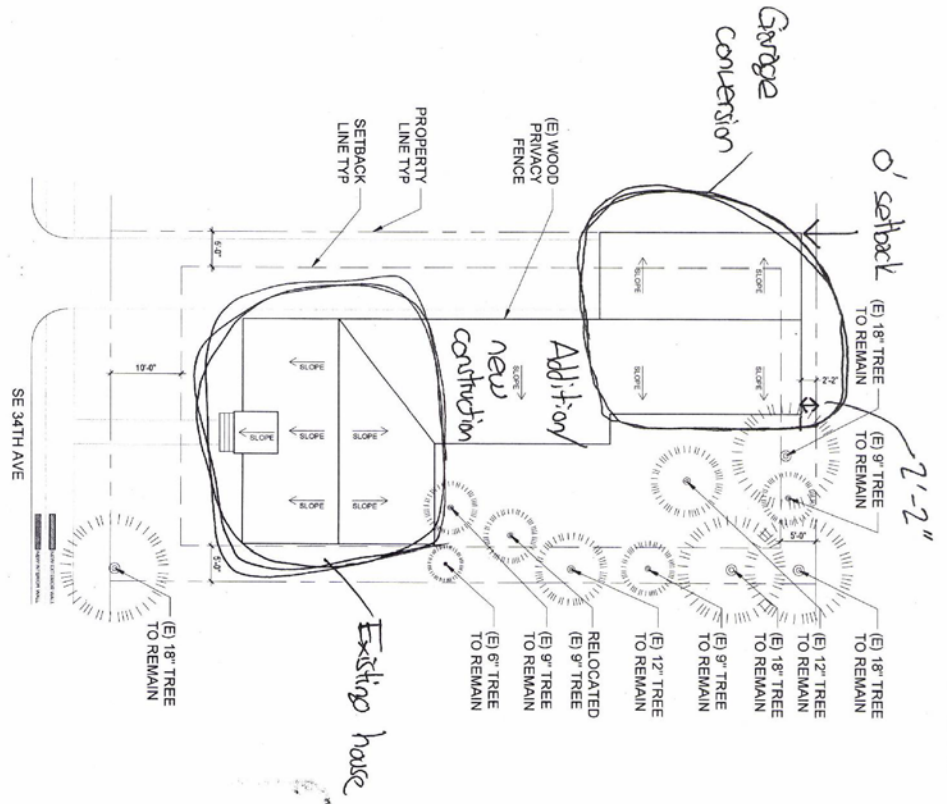
Exhibit B (Feb 24, 2016)

SHEET TITLE
A2.0
 PROPOSED PLANS
 SCALE AS NOTED

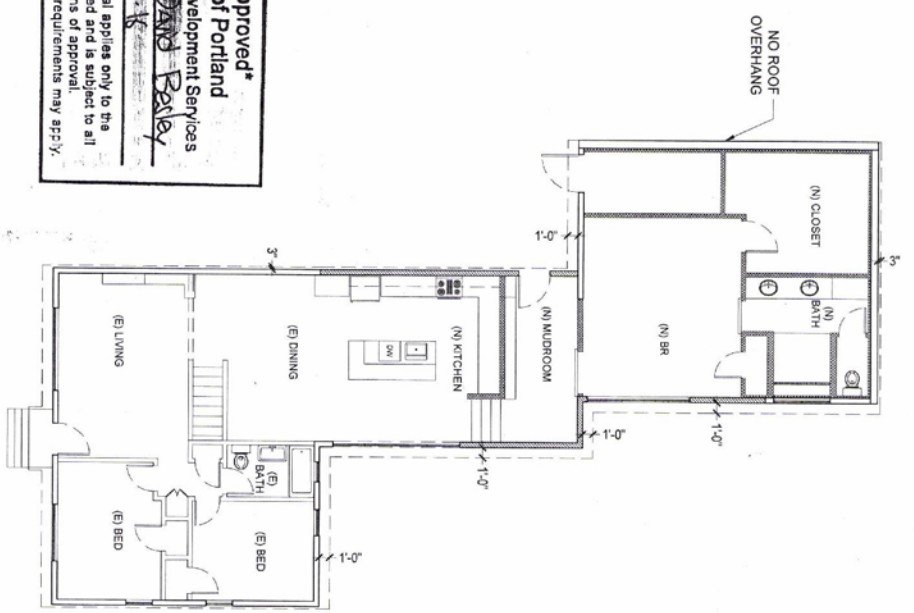
PLAN
 TRUE NORTH
 DATE DESCRIPTION

HOME REMODEL & ADDITION
 4226 SE 34TH AVE
 PORTLAND, OR 97202
 CASE NO. 16124607 AD
 EXHIBIT C.1

1 SITE PLAN - NEW
 SCALE 1/8" = 1'-0"



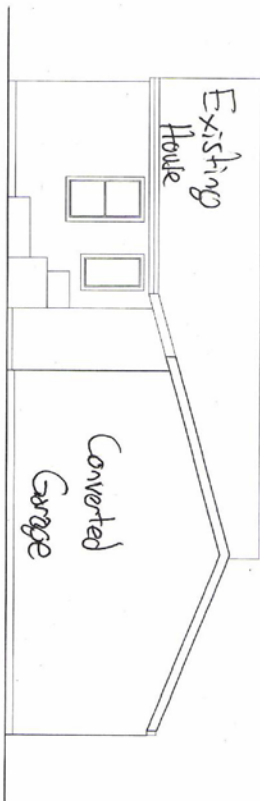
2 FLOOR PLAN - NEW
 SCALE 3/32" = 1'-0"



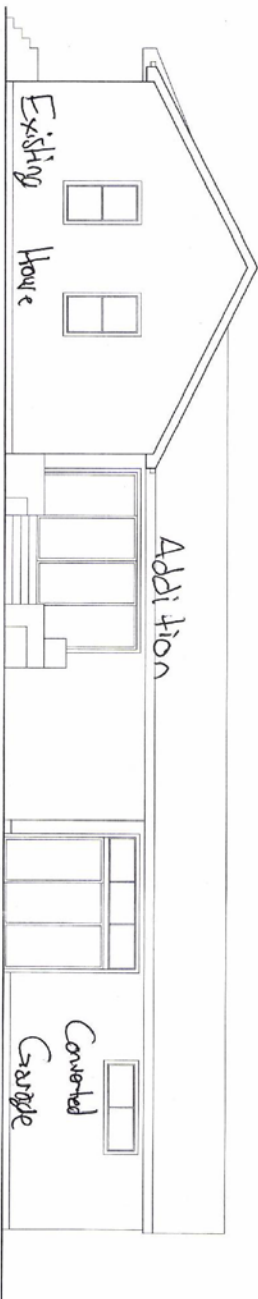
Approved
 Bureau of Development Services
 City of Portland
 Planner AND Bailey
 Date 4-14-18
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



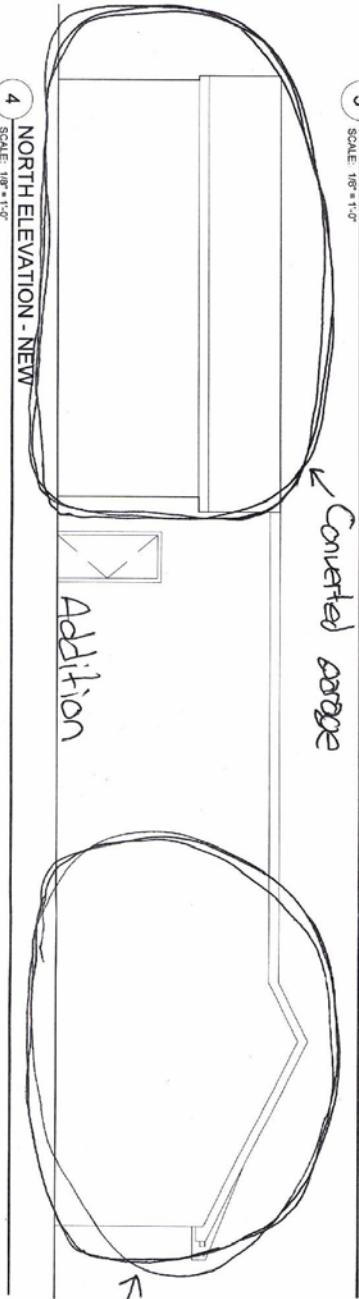
1 WEST ELEVATION - NEW
SCALE: 1/8" = 1'-0"



2 EAST ELEVATION - NEW
SCALE: 1/8" = 1'-0"



3 SOUTH ELEVATION - NEW
SCALE: 1/8" = 1'-0"



4 NORTH ELEVATION - NEW
SCALE: 1/8" = 1'-0"

- 2 Adjustments requested to construct an addition/ conversion to their house:
1. Reduce minimum rear (east) setback from 5' to 2'-2"
 2. Reduce minimum side (north) setback from 5' to 0'

Approved
Bureau of Development Services
Planner *David Kaley*
Date *4-14-16*
* This approval applies only to the reviews requested and is subject to all conditions of approval.
Additional zoning requirements may apply.

| | | | |
|---------------------|--|--|--|
| SHEET TITLE | | HOME REMODEL & ADDITION | |
| A2.1 | | 4226 SE 34TH AVE PORTLAND, OR 97202 | |
| PROPOSED ELEVATIONS | | CASE NO. <i>111612407 AD</i> | |
| SCALE: AS NOTED | | EXHIBIT <i>C-2</i> | |

