



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

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Date: November 3, 2016
To: Interested Person
From: Matt Wickstrom, 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 16-245326 AD

GENERAL INFORMATION

Applicant: Alexander Smit
4025 SE Stark St
Portland, OR 97214

Site Address: 4025 SE STARK ST

Legal Description: BLOCK 96 LOT 18, LAURELHURST
Tax Account No.: R479123700
State ID No.: 1N1E36DD 10900
Quarter Section: 3034

Neighborhood: Laurelhurst, contact Peter Meijer at info@pmapdx.com.
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Plan District: Laurelhurst-Eastmoreland

Zoning: R5 (Residential 5,000)

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

Proposal:

The applicant proposes to demolish an existing detached garage accessed from SE Oak Court and replace it with a new two-car garage. Although SE Oak Court appears and functions more like a public alley than a public street, it is in fact a public street and therefore the garage must be set back 10 feet from the street property line and the entrance must be 18 feet from the street property line. The applicant proposes for the new garage and garage entrances to be set back 5 feet from the SE Oak Court property line, which requires approval through an Adjustment Review. Two Adjustments are requested as part of this review. The first Adjustment request is to reduce the minimum front building setback from 10 feet to 5 feet.

The second Adjustment request is to reduce the minimum garage entrance setback from 18 feet to 5 feet.

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 5,950 square foot site is developed with a two-story single-dwelling residence facing SE Stark Street and a single-car detached garage facing SE Oak Court. SE Oak Court is much narrower than a typical street and has a width similar to an alley. The vicinity is developed with other single-dwelling homes. Many of the homes with frontage on SE Stark Street and SE Oak Court have detached garages and accessory structures that are accessed from or located close to the SE Oak Court property line.

Zoning: The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet. The site is located in the Laurelhurst Plan District. The plan districts enforce special mapped street setback requirements to maintain the established character of the Laurelhurst area, characterized by homes with larger than normal building setbacks from the street. The Portland Zoning Code defines a "Through Lot" as a lot that has frontage on two streets, and where the frontages do not intersect (33.910). Through lots have two parallel lot lines where front building setbacks apply. In the R5 zone, the front building setback is 10 feet.

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 **October 7, 2016**. The following Bureaus have responded:

- The Life Safety Section of the Bureau of Development Services (BDS) responded with information about obtaining a building permit (Exhibit E-1);
- The Bureau of Environmental Services (BES) responded that the requirements of the Stormwater Management Manual are not triggered with the project and notes that BES does not object to the requested Adjustment (Exhibit E-2);
- The Portland Bureau of Transportation (PBOT) responded with no objections and noted that Title 17 requirements will need to be met at time of building permit (Exhibit E-3); and not object to the requested Adjustment (Exhibit E-3); and
- The Site Development Section of BDS, the Fire Bureau and the Water Bureau responded with no concerns (Exhibit E-4).

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

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 two Adjustments in connection with plans to demolish the existing detached garage and construct a new detached garage accessed from SE Oak Court. The first Adjustment request is to reduce the garage entrance setback from 18 feet to 5 feet. The second Adjustment request is to reduce the front building setback from 10 feet to 5 feet. The purpose for the setback regulations for single-dwelling zones is found in 33.110.220.A 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.*

As noted above, the purpose of the garage entrance setback standard is to provide room for a car to park in front of a garage door without overhanging the street or sidewalk. This also enhances driver visibility when backing onto the street.

The concern PBOT generally has about Adjustments to the garage entrance setback standard is whether the location of the door will encourage vehicles to park in front of the door in a manner that would block the sidewalk and extend into the abutting roadway. As this location, SE Oak Court is a 19-foot wide paved roadway with curbs on both sides and no sidewalks. While not specifically platted as such, this roadway functions as an alley providing primarily vehicle access for the majority of the lots on either side of the street. Given a typical vehicle length of between 15 and 19 feet, any vehicle attempting to park in front of the proposed garage would extend entirely into the roadway. Accordingly, the lack of sidewalks and the existing narrow width of the roadway will require that vehicles be parked entirely within the proposed garage. This would preclude a car from being parked in a manner that overhangs the street as is typically the concern with a standard pedestrian corridor and wider roadway.

While garage entrances near or at the property line could result in reduced sight lines, reduced garage setbacks also result in very low vehicle speeds when backing out, given that is less time/distance for vehicles to accelerate. Additionally, garages constructed at or near the property line is very common along SE Oak Court and occurs on almost every lot on both sides of the roadway between SE 41st Avenue and SE 44th Avenue. Therefore, drivers accessing this roadway will be traveling at low speeds due to the narrowness of the roadway and the proximity of garages to the property line. With the exception of SE Oak Court, this block has fully improved pedestrian corridors. It can be expected that the majority of pedestrians in this area will utilize the well-connected sidewalks in the area rather than SE Oak Court. The

minimal number of pedestrians expected on SE Oak Court will already have an increased awareness due to the configuration of the roadway (lack of sidewalks) and the existing garages within close proximity to the property line.

The applicant also requests to reduce the front building setback for the detached garage from 10 feet to 5 feet. Based on the description of SE Oak Court above and the close proximity of detached garages to the street, this reduced setback is consistent with the surrounding vicinity. Furthermore the detached garage will replace an existing, albeit smaller, detached garage. The proposal will not negatively impact the availability of light or air for surrounding properties. Separation is provided for fire protection and access for fire fighting as indicated by the responses from Life Safety and the Fire Bureau. Privacy is maintained and an adequate outdoor area is provided. Due to the unique qualities of SE Oak Court, the frontage functions more as a rear setback than a front setback and therefore the front yard would be expected to be seen along SE Stark Street, not along SE Oak Court.

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 proposed Adjustments will not significantly detract from the livability or appearance of the residential area. As noted above under Criterion A, the location of the proposed detached garage is consistent with other detached garages for homes with frontage on SE Oak Court and SE Start Street. Furthermore, the garage is replacing an existing detached garage. 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: Two Adjustments are requested as part of this land use review. The purpose of the single-dwelling zones is to preserve land for housing and to provide housing opportunities for individual households. The proposal is consistent with the use regulations of the Single-Dwelling Zones because it does not conflict with the function of the area as a single-dwelling neighborhood. The proposal is consistent with the development standards of the Single-Dwelling Zones because it is compatible with the surrounding development which helps promote a desirable residential area. Based on this information, this criterion is met.

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

Findings: No City-designated scenic or historic resources are located at this site; therefore, this criterion is not applicable.

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

Findings: There are no discernible impacts that would result from granting the requested adjustments. 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.

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 November 17, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 **November 18, 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:

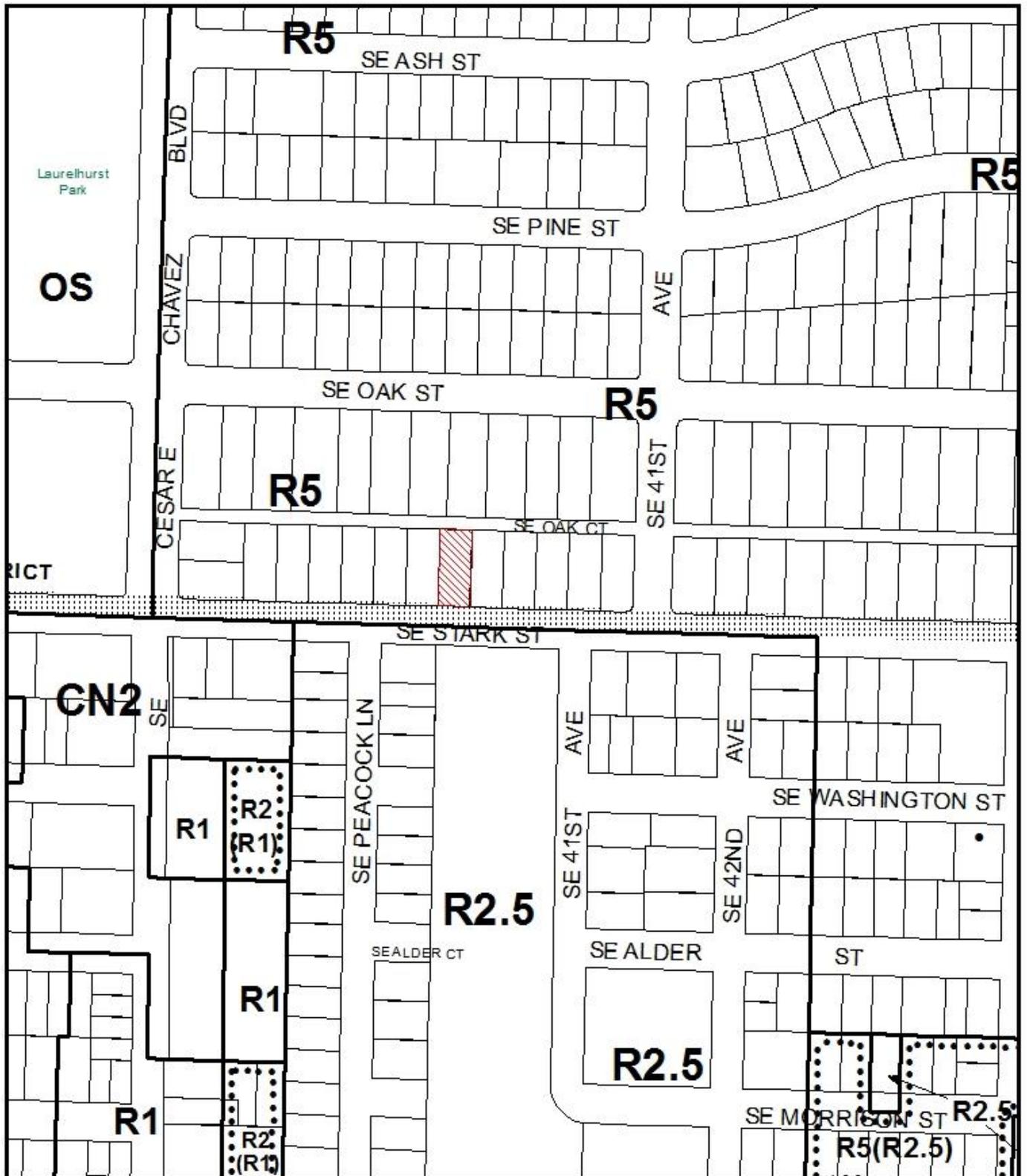
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section of BDS
 - 2. Bureau of Environmental Services
 - 3. Portland Bureau of Transportation
 - 4. Summary of Agency Responses
- F. Correspondence: None received

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

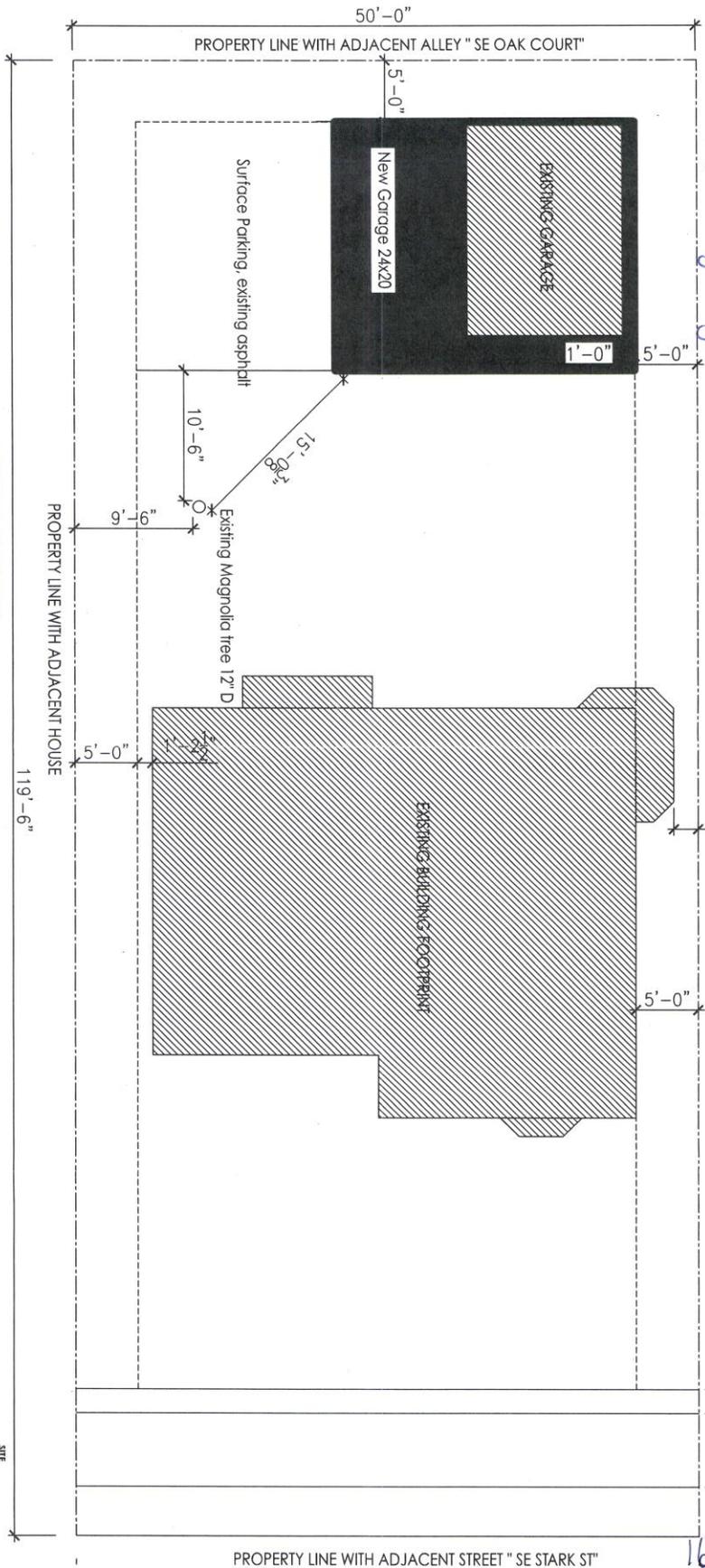
-  Site
-  Historic Landmark



This site lies within the:
LAURELHURST PLAN DISTRICT

File No. LU 16-245326 AD
 1/4 Section 3034
 Scale 1 inch = 200 feet
 State_Id 1N1E36DD 10900
 Exhibit B (Sep 21, 2016)

Approved Proposal to demolish existing garage + replace with new two-car garage.
 Adjustment request to reduce garage (building) setback from 10 feet to 5 feet and
 reduce garage entrance setback from 18 feet to 5 feet



Approved
 City of Portland - Bureau of Development Services
 Planner: WICKSTON Date: 11-2-16
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

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



LV 16 - 245326 AD

2

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

16-245326 AD
 Exhibit C-1

