

City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

Date: August 19, 2011

To: Interested Person

From: Mark Bello, Land Use Services

503-823-7810 / Mark.Bello@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

Owner

CASE FILE NUMBER: LU 11-155934 AD 1309 SE 32ND PL. ACCESSORY STRUCTURE SETBACK

GENERAL INFORMATION

Applicant Lisa Christie Jennifer M Adams 1207 NE Fremont Heikki Julkuneu Portland OR 97212 1309 SE 32nd Pl

Portland, OR 97214-4204

Site Address: 1309 SE 32ND PL

Legal Description: BLOCK A LOT 9, CHERRYDALE

Tax Account No.: R153600170 State ID No.: 1S1E01BD 18900

Quarter Section: 3133

Neighborhood: Sunnyside, contact Paul Loney at 503-233-8265.

Business District: Hawthorne Blvd. Bus. Assoc., contact Peter Rossing at 503-231-8704

District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.

Zoning: R5 Residential 5,000 Adjustment Case Type:

Procedure: Type II, an administrative decision with appeal to the Adjustment

Committee

Proposal:

The applicant proposes to build a new detached accessory structure that will serve as single car garage and art studio in the backyard. The one-storey structure will be 24' wide and 20' deep. The structure's walls will be located 2'-4" from both the side (north) and rear (west) property lines. Eaves will project an additional 4 inches toward side and rear property lines. There will be no openings near these property lines and the building walls near property lines will be 1hour fire rated. Garages of a certain size can be located on side and rear property lines but this structure also contains an art studio and is subject to the 5 ft. setback standard of the zoning code (Section 33.110.220). Thus, the applicant is requesting an adjustment.

ANALYSIS

Site and Vicinity: The site is a regularly platted lot, 5,000 sq. ft. in area. The two-story house is located on the front half of the lot. The backyard is roughly 48 ft. deep and 50 ft. wide. The site is an interior lot and lots to the north, south, and west are also approximately 4,500 sq. ft to 5,000 sq. ft. in area. The lots to the northwest and south have detached structures located in the backyard but the houses to the north, west, and southwest do not, according to city records. However, based on a site visit, city staff notes that there is a small detached structure on the lot to the north near the applicant's north property line. The remainder of the block between SE 32nd Avenue and SE 32nd Place is regularly platted and developed with residences.

Zoning: The Residential 5,000 (R5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

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 **July 26, 2011**. The following Bureaus have responded with no issues or concerns:

- 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. Bureau of Parks, Forestry Division

The Life Safety Plans Examiner, Bureau of Development Services, notes that a separate building permit is required that meets fire-rating standards for a structure this close to the property line.

Applicant Response: The applicant will meet the Oregon Residential Specialty Code to address life safety issues associated with a structure this close to a property line.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 26, 2011. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of 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 to provide certainty and rapid processing for land use applications.

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. stated below, have been met.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

33.120.220 Setbacks
A. 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 multi-dwelling development
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
□ Setback requirements along transit streets create an environment that is inviting to
pedestrians and transit users.
☐ 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.

Findings: The applicant proposes to erect a detached structure to be used as a garage and artist studio in the northwest corner of the applicant's site. The structure will be sufficiently set back from north and south property lines to meet building code standards for fire protection. As the structure is located in a rear yard and adjacent properties do not have detached structures nearby, there are no near hazards. Other properties farther away do have detached garages and other structures so the proposal fits the neighborhood pattern. The one story height is important in avoiding the domination of neighboring properties.

As the driveway to the garage extends the full length of the lot and a car may park anywhere along the 78 ft. driveway, a car will not impinge on the sidewalk or front yard.

The R5 zone generally requires detached structures, six feet high and taller, to be set back 5 ft. from a property line. An exception is made for garages that are 40 ft. from a property line, no larger than 24' x 24'and no taller than 15 ft. with garage walls no taller than 10 ft. Another exception is made for expansion of existing detached structures, including garages and artist studio, if located within a setback; these structures can be enlarged to 24' x 24', excluding eaves, and may be no more than 15 ft. high with walls 10 ft. high. The applicant proposes a structure 20' x 24', 12 ft. height at the midpoint of the gable roof, with a 10 ft. wall. In effect, the applicant proposes a structure similar to what would be approved for either of these exceptions. To ensure privacy, those elevations facing neighbors will have no windows or doors. This approval criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area,; and

Findings: The detached structure is designed so the garage portion of the structure is viewed down the side driveway like many examples in the neighborhood. From the street, only the garage door is visible; the door into the artist studio faces the yard. The structure has a gable roof, lap siding, and carriage house style garage door. The quality of design and construction is equal or superior to many examples in the neighborhood. This approval 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 requested, therefore this criterion is not applicable.

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

Findings: City-designated scenic resources are indicated on City zoning maps by a lowercase "s". Historic resources are indicated by a reference dot or by the location of the boundaries of a Historic District. There are no scenic or historic resources located at the subject site. This criterion is not applicable.

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

Findings: There are no impacts anticipated to result from the requested adjustment. 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 zones are indicated on City zoning maps by a lowercase "c" or "p" zone. There are no environmental zones on the subject site. This criterion is not applicable.

CONCLUSION

The zoning code envisions new garages in side and rear setbacks but not a new garage with an artist studio, which arguably can create less of an impact than the activities typically associated with auto storage and maintenance. The applicant has minimized impact with a one-story structure and has maximized privacy by avoiding openings on the building elevations that face the neighbors.

All of the relevant approval criteria are met and the proposal can be approved, in substantial compliance with the proposed site plan and elevation drawings.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Section 33.110.220 to allow an accessory detached structure to be located 2'-4" from both the side (north) and rear (west) property lines with eaves projecting an additional 4 inches toward side and rear property lines, per the approved site plan, Exhibit C-1 and C-2, signed and dated August 17, 2011, 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 and C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 11-155934 AD.

Staff Planner: Mark Bello

Decision rendered by: on August 17, 2011

By authority of the Director of the Bureau of Development Services

Decision mailed: August 19, 2011

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 July 8, 2011, and was determined to be complete on **July 22, 2011**.

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 July 8, 2011.

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: November 18, 2011.**

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 September 2, 2011** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged**. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- Unless appealed, The final decision may be recorded on or after **September 6, 2011.**
- A building or zoning permit will be issued only after the final decision is recorded.

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

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

For further information on recording, please call the County Recorder at 503-988-3034 For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

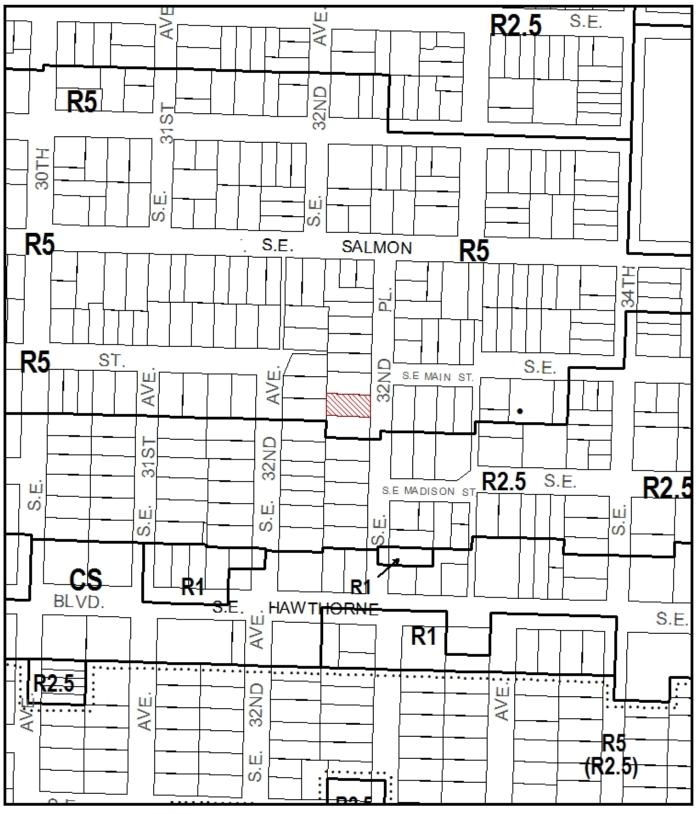
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review:
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations (attached)
- 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. Bureau of Parks, Forestry Division
 - 7. Bureau of Development Services, Life Safety
- F. Correspondence: (none)
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

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).

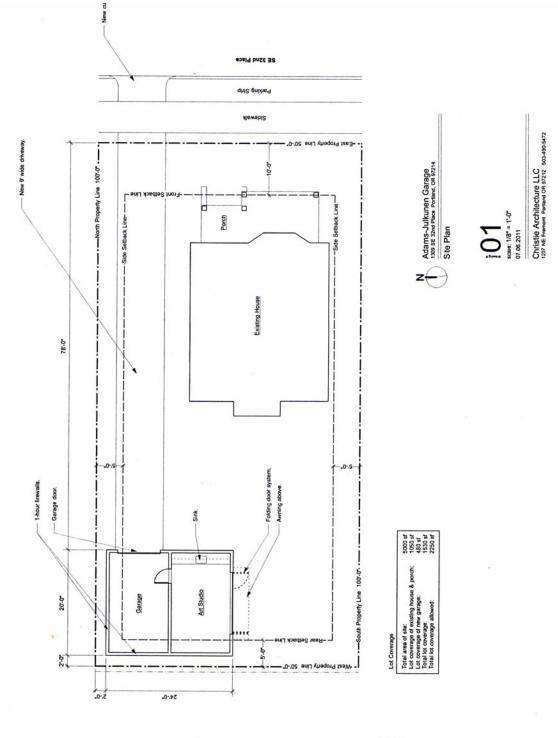


ZONING Site

Historic Landmark

↑ NORTH

File No.	LU 11-155934 AD
1/4 Section	3133
	1 inch = 200 feet
	1S1E01BD 18900
Exhibit.	



Approved

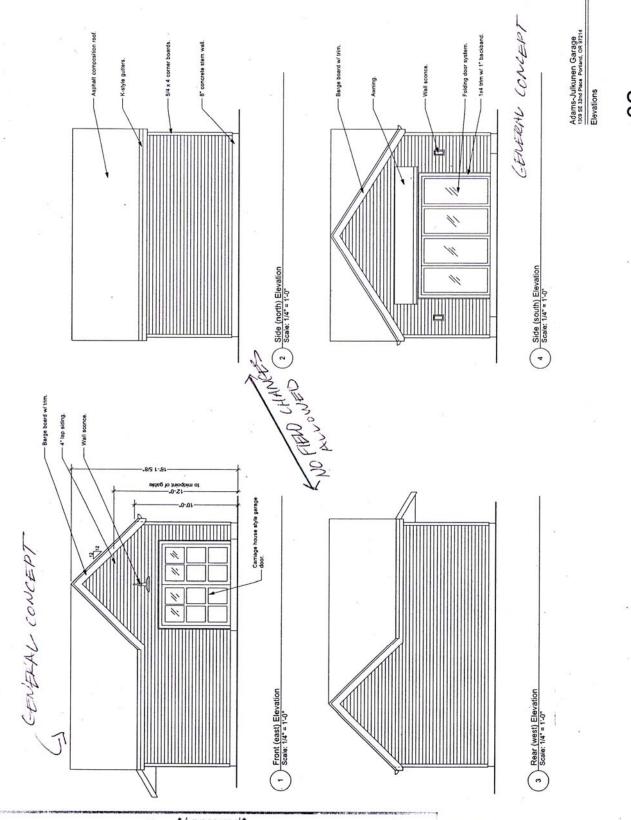
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Planner Date 8/17/1/

* This approval applies only to the reviews requested and is set by a Additional zoning requirements may:

CASE NO. EXHIBITULI - 155934 AD.

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Approved
City of Portland - Bureau of Development Services

Date S1711

Cult to the reviews requested out in and in an