



**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](http://www.portlandoregon.gov/bds)

**Date:** August 25, 2011  
**To:** Interested Person  
**From:** Mark Bello, Land Use Services  
503-823-7810 / [Mark.Bello@portlandoregon.gov](mailto: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.

**CASE FILE NUMBER: LU 11-154151 AD**  
**4424 NE ALBERTA COURT ADU SIDE SETBACK**

**GENERAL INFORMATION**

**Applicant:** Eric M. Reid  
Dana Reid  
4424 NE Alberta Court  
Portland, OR 97218

**Site Address:** 4424 NE Alberta Court

**Legal Description:** BLOCK 1 LOT 26, STEIGERWALD ADD  
**Tax Account No.:** R793500590  
**State ID No.:** 1N2E19BC 04600  
**Quarter Section:** 2535

**Neighborhood:** Cully, contact Evans Martin at 503-784-1494.  
**Business District:** None  
**District Coalition:** Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.

**Zoning:** R7h Residential 7,000 with 'h' Airport Landing overlay zoning  
**Case Type:** AD Adjustment  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:**

The subject site is currently developed with a single-dwelling house, with a one-story, detached garage to the rear of the house. The applicant is proposing to convert the garage to an Accessory Dwelling Unit (ADU). Zoning regulations require a 5 ft. setback from side lot lines (Section 33.110.220). Because the existing garage, including eaves, is only 1 ft. from the side property line, the applicant is requesting an Adjustment to allow the ADU to be closer than the code minimum 5 ft. from the side property line.

## ANALYSIS

**Zoning:** The Residential 7,000 (R7) 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 4,200 square feet, with a minimum width and depth dimensions of 40 feet and 55 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 7,000 square feet of site area.

The Aircraft Landing Zone “h” overlay provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. A height contour map is available for review in the Development Services Center.

**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 14, 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
7. Life Safety Plans Examiner, Bureau of Development Services

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on July 14, 2011. No written response was received from the Neighborhood Association. An adjacent neighbor supports the proposal, noting that there will be no windows toward their property and no increase in size. See Exhibit F-1

## 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
- B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area; and
- 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
- D. City-designated scenic resources and historic resources are preserved; and

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.
- 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 AND CONCLUSIONS**

The applicants' proposal meets all of the relevant approval criteria: *The purposes of building setback requirements are to maintain light, air, separation for fire protection, and access for fire fighting. Setback standards also reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences. They promote options for privacy for neighboring properties and 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 (Section 33.110.220 A).*

The applicant's site is a regularly platted interior lot, 5900 sq. ft. in area. The lots to the east and south are approximately 6,000 sq. ft. in area. Adjacent lots to the west and southwest are double lots, approximately 11,900 sq. ft. in area. These lots are developed with houses and detached structures. No house or detached structure is closer than 37 ft. to the proposed ADU, based on city records. The applicant has received a building code appeal approval to convert the garage to an ADU (Exhibit G.3). The Fire Bureau has no objection. Given the location of the garage, the location of nearby structures, and no objection from other city agencies, the purpose of fire safety and reasonable relationships is met.

The applicant is converting an existing garage, in its original location, with a wall 2 ft. and eave 1 ft. from the east side property line and 21'-6" from the rear property line. So, privacy impacts could be felt by the neighbor to the east. The applicant has submitted plans showing no windows on that side of the structure, only skylights. So privacy will be maintained.

The proposal will not have any negative impacts on the appearance or the livability of the residential area because the structure will be compatible with the architectural style of the existing residence and will not introduce any activities or structural relationships that alter the character of this residential street.

No cumulative impacts are expected to occur from approval of the proposal and it is consistent with the purpose of the R5 zone, which is to preserve land for housing and to provide housing opportunities for individual households. There are no scenic or historic resources on this site; and no impacts have been identified for the abutting property or the surrounding residential area. The site is not located in an environmental zone, so the criteria related to these issues do not apply. Therefore, 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.

## **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.

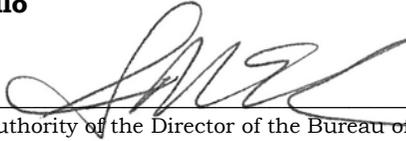
## **ADMINISTRATIVE DECISION**

Approval of an adjustment to Section 33.110.220, to allow conversion of a garage to an ADU, to be set back 2 ft. from the east property line and eaves set back 1 ft. from the east property line

per the approved site plans, Exhibits C-1 through C-2, signed and dated August 23, subject to the following condition:

- 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 11-154151 AD.

**Staff Planner: Mark Bello**

**Decision rendered by:**  **on August 23, 2011**

By authority of the Director of the Bureau of Development Services

**Decision mailed: August 25, 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 1, 2011, and was determined to be complete on **July 11, 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 1, 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: October 29, 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 8, 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](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 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 9, 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:

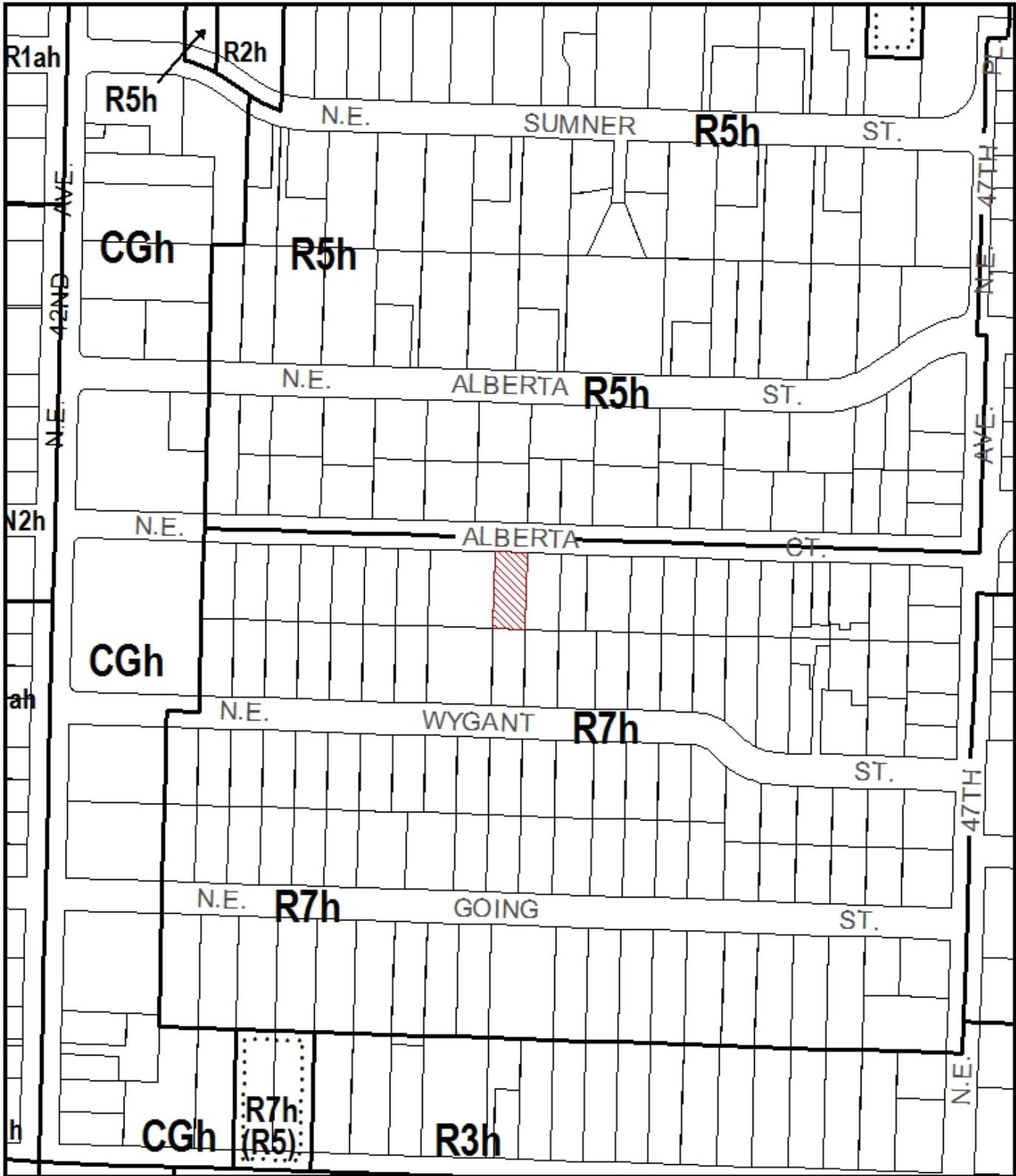
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations 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. Life Safety Plans Examiner, Bureau of Development Services
- F. Correspondence:
  - 1. Pat Sanders and Erin Sanders, 4432 NE Alberta Ct., Portland, OR 97218
- 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

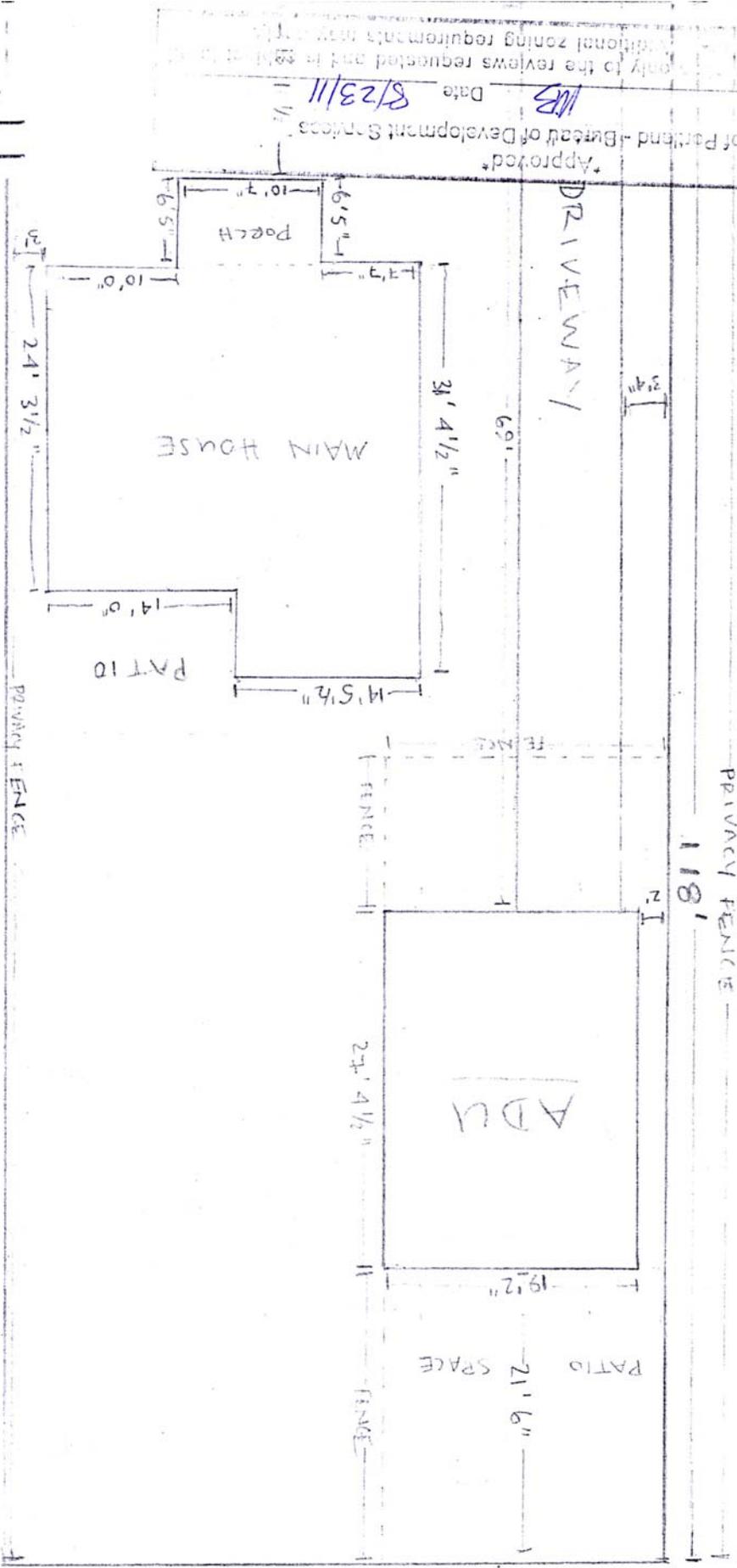
 Site



File No. LU 11-154151 AD  
 1/4 Section 2535  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E19BC 4600  
 Exhibit B (Jul 12, 2011)

CASE NO. 151451-11  
 EXHIBIT 11

City of Portland - Bureau of Development Services  
 Approved: MB  
 Date: 8/23/11  
 Only to the reviews requested and in addition to the additional zoning requirements may be applied to this project.



1 SQUARE = 3 FEET

LOT COVERAGE:  
 LOT AREA - 5900 sq ft  
 HOUSE - 390 sq ft  
 ADU - 530 sq ft  
 Total coverage - 1320 sq ft  
 COVERAGE REFERENCE - 22%

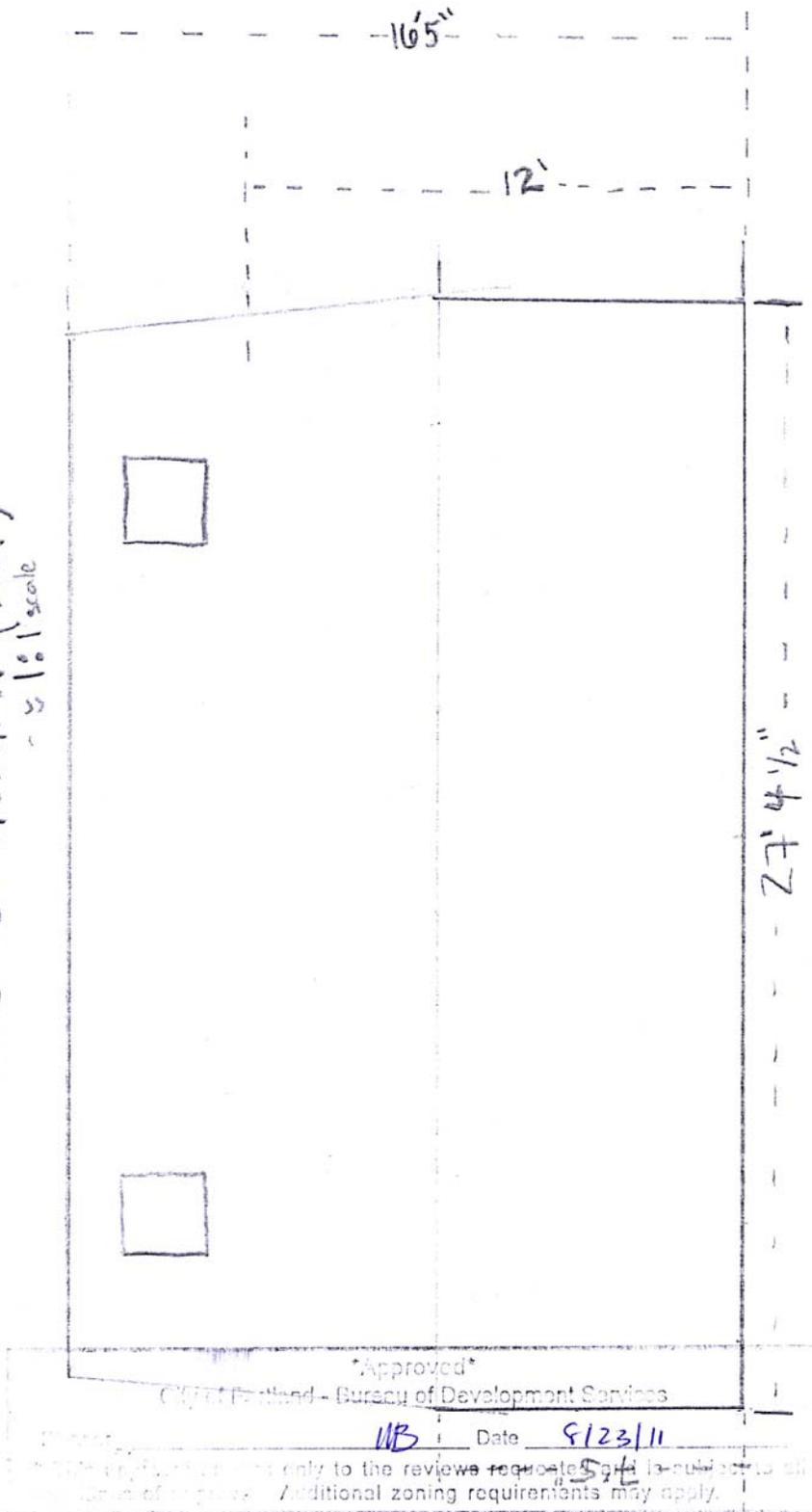
SITE ADDRESS:  
 4424 NE ALBERTA CT  
 PORTLAND, OR 97218

SITE PLAN



SOUTH

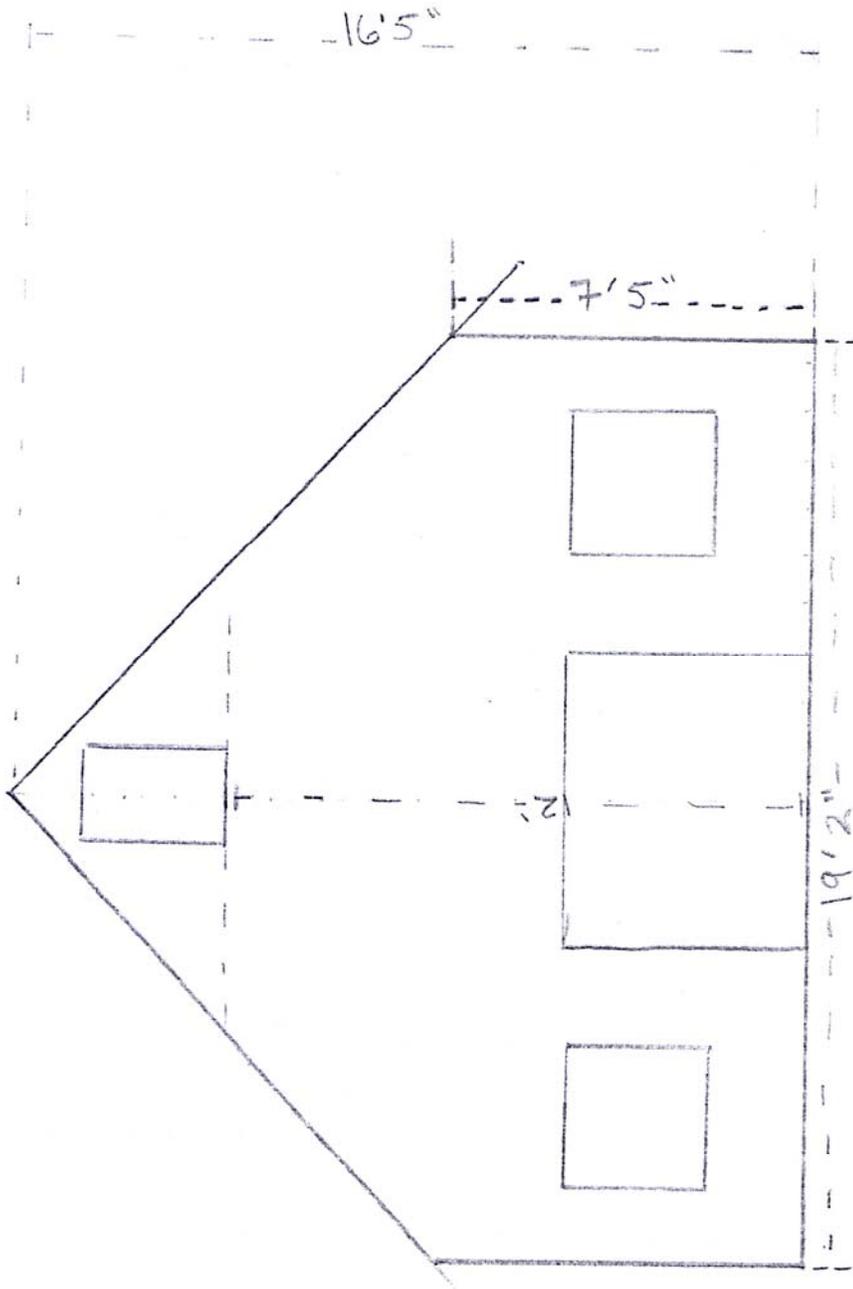
Side View Elevation (East)  
1/8" scale



CASE NO. 11-154151  
EXHIBIT 62

GENERAL CONCEPT -  
NO WINDOWS AT GROUND LEVEL

BACK Elevation Plan (South)  
1/1 Scale



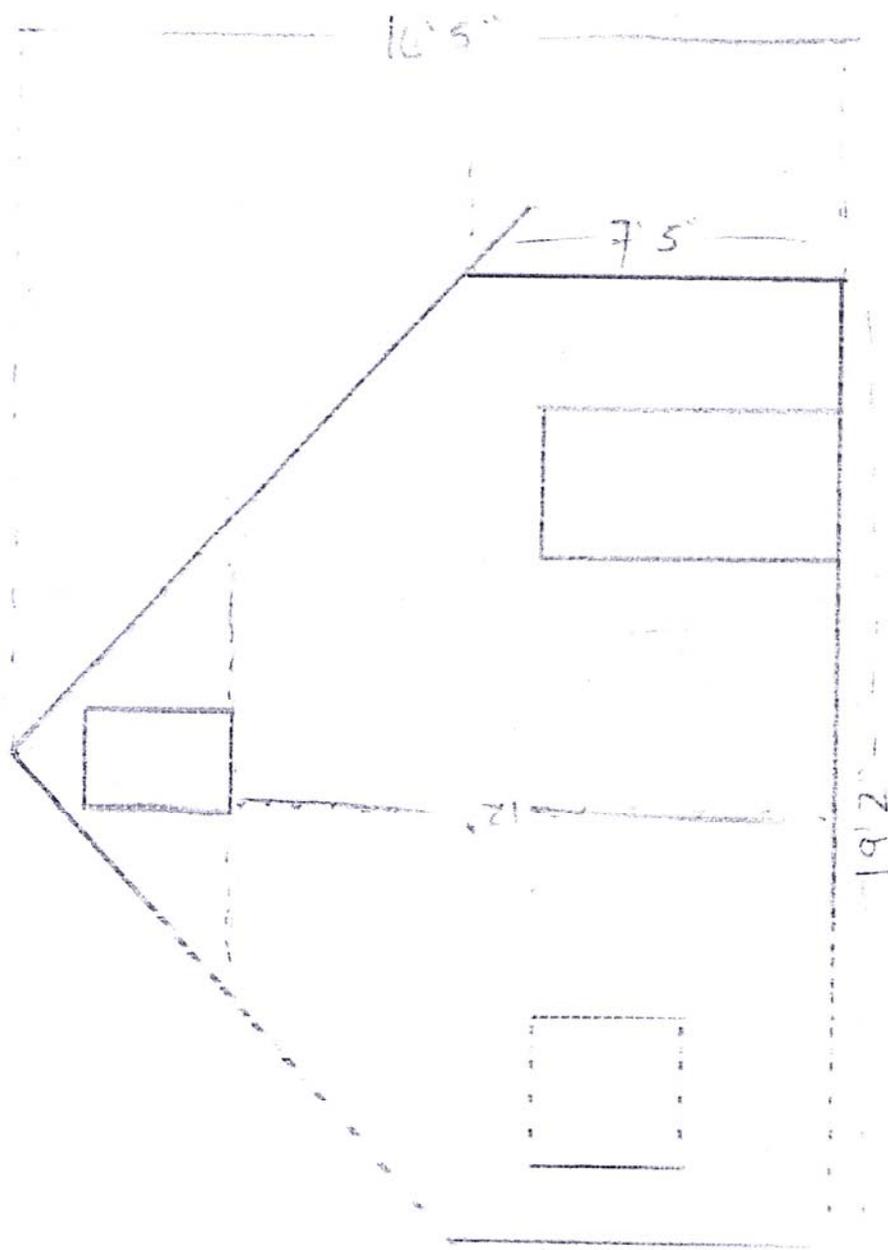
\*Approved\*  
City of Portland - Bureau of Development Services  
\_\_\_\_\_  
Date 8/23/11  
This document is for informational purposes only to the reviews requested and is subject to all applicable codes and regulations. Additional zoning requirements may apply.

GENERAL CONCEPT

CASE NO. 11 154151  
EXHIBIT C-2

FRONT Elevation Plan (North)

5:1 Scale

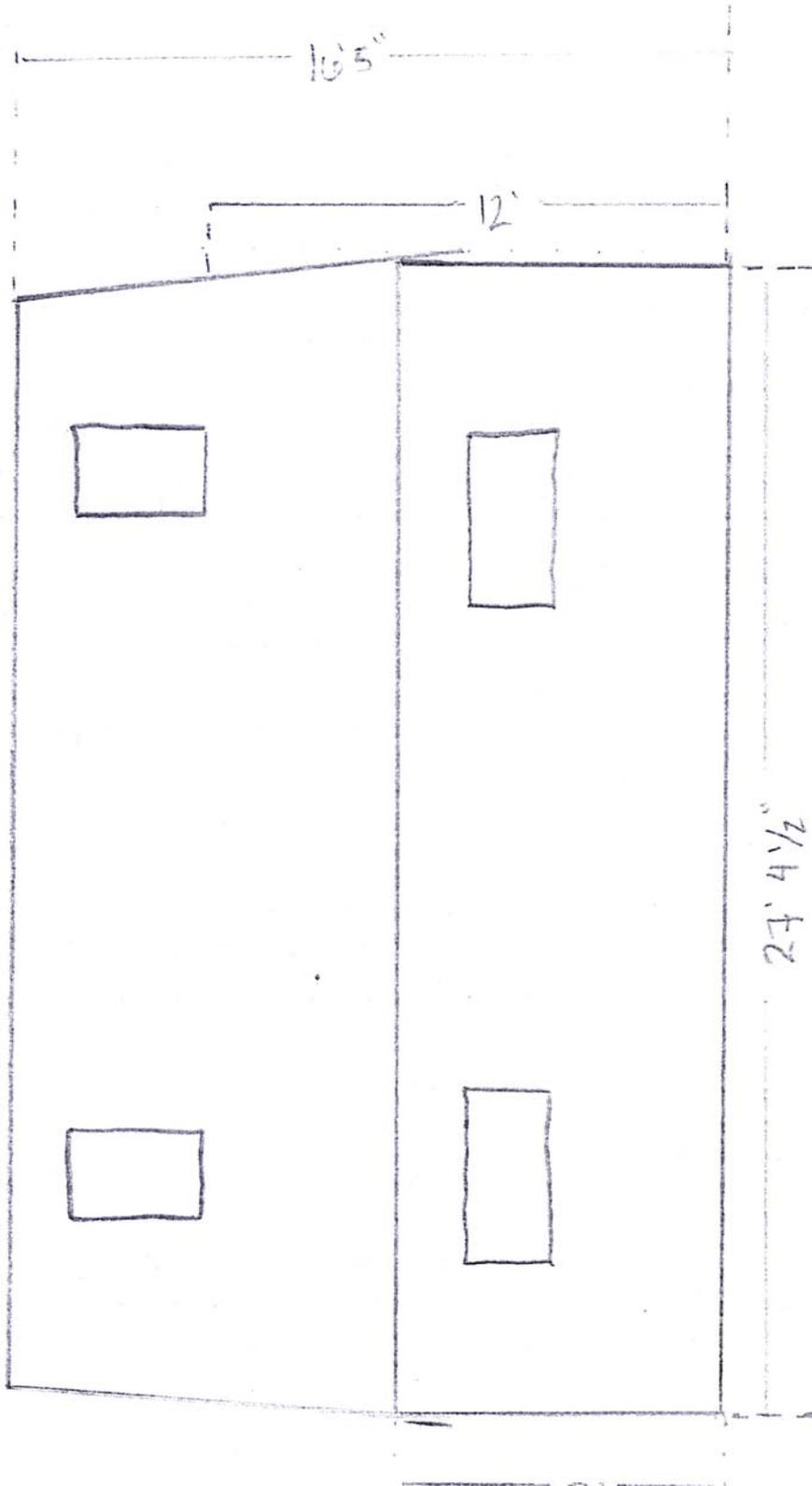


\*Approved\*  
City of Portland - Bureau of Development Services  
Date 8/23/11  
Additional zoning requirements may apply.

GENERAL CONCEPT

CASE NO. 11-154151  
EXHIBIT 12

Side View Elevation (West)  
1:1 scale



CASE NO. 11-154151  
EXHIBIT C2

\*Approved\* GENERAL CONCEPT  
City of Portland - Bureau of Development Services  
WB Date 8/25/11

LU11-154151AD