

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: November 18, 2011

To: Interested Person

From: Douglas Hardy, Senior Planner

Land Use Services

503-823-7816 / Douglas.Hardy@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 11-184345 AD

GENERAL INFORMATION

Applicants: Melissa and Thomas Peloquin, property-owners

4148 SE Taggart St Portland, OR 97202

Site Address: 4148 SE Taggart Street

Legal Description: Block 10, Lot 9, Richmond Add.

 Tax Account No.:
 R703803190

 State ID No.:
 1S2E07BB 20100

Quarter Section: 3335

Neighborhood: Richmond, contact Douglas Klotz at 503-233-9161

Business District: Division-Clinton Business Association, contact Darice Robinson

at 503-233-1888

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

Zoning: R5 - Single-Dwelling Residential 5,000

Case Type: Adjustment (AD)

Procedure: Type II, Administrative decision with appeal to Adjustment Committee

PROPOSAL

The applicants propose legalizing a one-story, 44 square foot addition to an existing one-story detached accessory structure located in the southwest corner of the site. (The accessory structure was originally a one-car garage, but is proposed to be converted to living area.) The existing detached accessory structure is set back three feet, three inches from the west side lot line, and five feet from the south rear lot line. The addition is located on the east side of the accessory structure, and is set back five feet from the rear lot line. Because the existing detached accessory is located within the minimum required five foot (west) side setback, any addition to the structure requires an Adjustment Review. The Adjustment Review will allow a

44 square foot addition to a detached accessory structure that is located in the required five foot west side setback.

RELEVANT APPROVAL CRITERIA

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805.040.A-F of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The 5,000 square foot flat site is located on the south side of SE Taggart Street, between SE 41st and SE 43rd Avenues. The site is developed with a one and one-half story, single-dwelling residence located toward the front of the site (approximately 28 feet back from the front lot line). A detached accessory building, one-story in height and approximately 12 feet in width by 22 feet in length, is located in the southwest corner of the site. This building was originally a garage, but the applicants have submitted a building permit application (CO 11-168045) to convert the building to living area, and to build the addition. A paved driveway, approximately 44 feet in length, is located along the west side of the site.

Development in the surrounding area, within a two block radius, is characterized predominantly by one to one and one-half story single-dwelling homes, many of which have a detached garage built in the rear corner of the site.

Zoning: The site is located in a Single-Dwelling Residential 5,000 (R5) zone. The use regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. They allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood. The development standards of the Single-Dwelling zones work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A Notice of Proposal was mailed October 20, 2011. The following City bureaus have responded with no issues or concerns regarding the requested land use review:

- Bureau of Transportation Engineering;
- Portland Fire Bureau;
- Portland Parks & Recreation Urban Forestry Division;
- Bureau of Development Services Site Development Review Section;
- Bureau of Environmental Services; and
- Portland Water Bureau.

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

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose

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 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 applicants are requesting an Adjustment to allow an addition to an existing detached accessory structure that is located within the minimum required five foot west side setback. The purpose for the minimum setback standard, as stated in Section 33.110.220.A of the Zoning Code, is as follows:

The setback regulations for buildings 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; and
- 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.

The proposal will equally meet the purpose of the regulation based on the following findings:

- Maintain light, air, separation for fire protection, and access for fire fighting.
 - The addition itself will be located outside both the minimum required five foot rear and side building setbacks. As such, the amount of light, air, separation for fire protection and access for fire fighting envisioned by requiring a minimum five foot setback will be maintained with the proposed location. Also, the addition will be set back approximately 29 feet from the east side lot line, and 24 feet from the closest portion of the house on the site. These additional set backs provide ample separation for fire protection and access for fire fighting.
- Reflect the general building scale and placement of houses.
 - Many properties in the surrounding residential area (two block radius) are built with detached accessory structures (typically garages) located in the rear corner of the site, within side and/or rear setbacks. The Zoning Code allows detached garages to be built

in side and rear setback under certain conditions, such as a footprint that is no larger than 24 feet by 24 feet, with the building walls being no taller than 10 feet, and the overall building height being no more than 15 feet in height. The detached structure on the subject site, while no longer a garage, measures at its longest dimension only 17 feet in width even with the addition, with the building walls limited to 8.5 feet, and the overall building height limited to just over 10 feet. As the Zoning Code allows detached garages to locate in side and rear setbacks, the proposed addition to an existing detached accessory structure will be in character with the form of development commonly found in neighborhoods through the city, and in the surrounding neighborhood. Limiting the dimensions of the expanded detached structure to less than what would be allowed for garages in the side and rear setback further helps ensure that the proposal reflects the general scale and placement of buildings in Single-Dwelling zones.

- Promote a reasonable physical relationship between residences and promote options for privacy for neighboring properties.
 - The one-story, 44 square foot addition is located outside the minimum required building setbacks, and placed on the side of the existing detached structure that is internal to the site. There are no windows on the rear, south-facing facade of the addition that would allow views to the adjoining property. Also, as indicated above, the addition will be 24 feet back from the closest portion of the house on the site. Given the design and location of the addition, a reasonable physical relationship will be maintained between residences, with no impacts on privacy for neighboring properties.
- Require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards.
 - The proposed addition is to an existing detached accessory structure located in the rear corner of the subject site. Given this location, there will be no impact on the desire to maintain a larger, open, visually appealing front setback.
- 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.
 - Granting the Adjustment will allow a modest addition to an existing accessory building on the site that, as indicated above, will be compatible with development in the surrounding neighborhood.

As proposed, the Adjustment request equally meets the intent of the setback standard, 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: The requested Adjustment will not result in a proposal that detracts from the livability or appearance of the surrounding single-dwelling residential area. The addition is limited to one-story and 44 square feet in area. The building on which the addition is proposed is located 73 feet from the front lot line, and located to the rear of the one and half story house on the site. The addition is not visible from the street. Additionally, the addition itself is located outside any minimum required building setback. Given the diminutive scale of the addition and its location on the property, the proposal is found to have no adverse impact on the livability or appearance of the surrounding residential area.

As proposed, 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 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. Because there is neither a scenic nor historic resource designation on the site, this criterion is not applicable.

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

Findings: As indicated in responses to Approval Criteria A and B, the proposal:

- is consistent with the intended purposes of the regulation being adjusted; and
- has no impacts on the appearance or livability of the surrounding single-dwelling residential area.

As such, there are no identified impacts for which mitigation is required, and 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 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 via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicants have demonstrated that the applicable approval criteria have been met for the requested Adjustment. The proposal, which will add a small addition to an existing building that is located in a required side setback, equally meets the stated purpose of minimum required building setback, and has no adverse impact on the appearance or livability of the surrounding residential area. There are no adverse impacts for which mitigation would be required.

ADMINISTRATIVE DECISION

Approval of an Adjustment to allow a one-story, 44 square foot addition on an existing detached accessory building that is located within the minimum required five foot (west) side setback (the building wall of the existing building is located three feet, three inches from the west side lot line, with the eaves set back approximately two foot, three inches), per the approved site plan (Exhibit C.1) and building elevations (Exhibit C.2), signed and dated November 17, 2011, and subject to the following condition:

A. As part of the building permit application submittal, each of the four 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 11-184345 AD."

Staff Planner: Douglas Hardy

Decision rendered by: ______ on November 17, 2011.

By authority of the Director of the Bureau of Development Services

Decision mailed: November 18, 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 October 11, 2011, and was determined to be complete on **October 20, 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 October 11, 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 extended at the request of the applicant. In this case, the applicant did not extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on February 18, 2012.**

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 December 2, 2011**, at 1900 SW Fourth Avenue. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3:00 p.m. After 3:00 pm and on 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 Street 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 **December 5, 2011 the** first business 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:

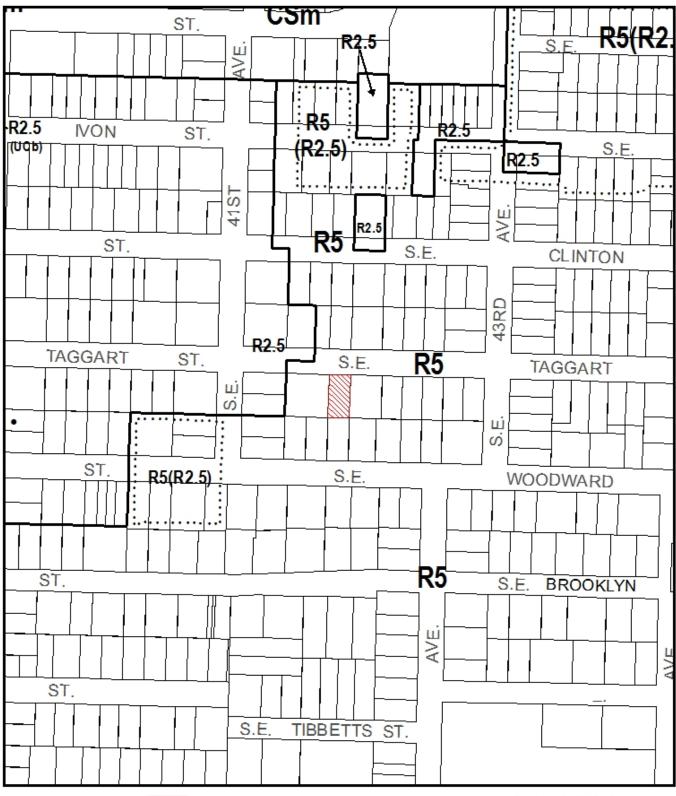
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicants' Statement
 - 1. Written response to approval criteria
 - 2. Photos
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Building Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Portland Fire Bureau
 - 3. Portland Parks & Recreation Urban Forestry Division
 - 4. Bureau of Development Services Site Development Review Section
 - 5. Bureau of Environmental Services
 - 6. Portland Water Bureau
- 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).

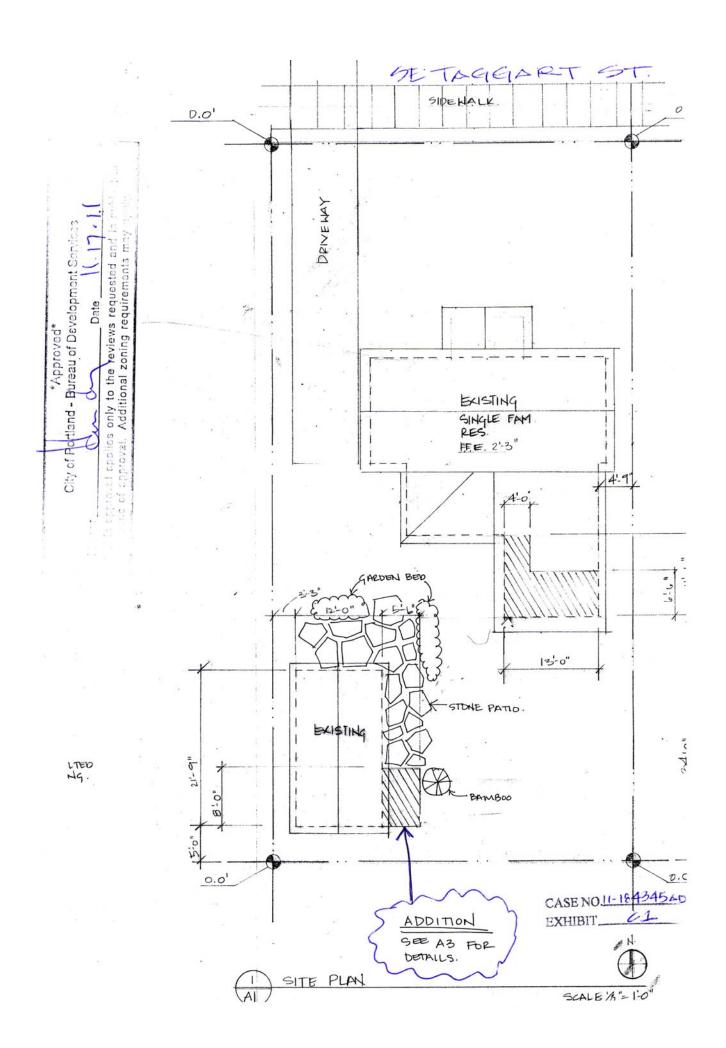


ZONING Site



File No. __LU 11-184345 AD 1/4 Section ___3335 1 inch = 200 feet Scale_ 1S2E07BB 20100 State Id (Oct 14,2011) Exhibit _

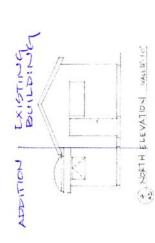


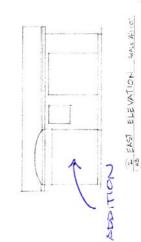


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Partice Property

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LU11-184345 AD

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