



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

Dan Saltzman, Commissioner
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Date: February 19, 2016
To: Interested Person
From: Andrew Gulizia, Land Use Services
503-823-7010 / Andrew.Gulizia@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 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 16-102358 AD

GENERAL INFORMATION

Applicant: Joe Robertson / Shelter Solutions LLC
1973 SE Duncan Dr. / Hillsboro, OR 97123

Property Owner: Nelson Khov
6010 N Wilbur Ave / Portland, OR 97217

Site Address: 6010 N Wilbur Ave.

Legal Description: BLOCK 2 LOT 13, WILLAMETTE
Tax Account No.: R912200380
State ID No.: 1N1E16CA 18900
Quarter Section: 2427
Neighborhood: Arbor Lodge, contact Nate Young at alna.nate@gmail.com.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099

Zoning: R5a - Single-Dwelling Residential 5,000 with Alternative Design Density overlay zone

Case Type: AD – Adjustment Review
Procedure: Type II administrative decision with appeal to the Adjustment Committee

Proposal: Zoning Code Section 33.266.120.C.1.a requires that off-street parking spaces be located behind the required 5-foot setback from a side lot line abutting a street. Since a parking space must be at least 18 feet long, this standard would require a driveway and parking pad on this property to extend at least 23 feet past the side lot line abutting N Ainsworth Street. The applicant proposes to construct a detached accessory dwelling unit (ADU) in the rear yard of this property, with a new driveway and parking pad extending 18 feet past the side lot line abutting N Ainsworth Street. The applicant is requesting approval of an Adjustment to reduce the required distance from the side lot line to the 18-foot-long parking space from 5 feet to 0 feet.

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

ANALYSIS

Site and Vicinity: The site is a 5,000-square-foot lot on the northeast corner of N Wilbur Avenue and N Ainsworth Street. The site is developed with a two-story, single-dwelling house with an attached garage accessed from N Wilbur Avenue. Neighboring properties are developed with a mixture of one-story and two-story single-dwelling homes. Commercial development along N Greeley Avenue is two blocks west of the site.

Zoning: The R5 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The site is also within the boundaries of the Alternative Design Density ("a") overlay zone. The purpose of the "a" overlay zone is to focus development on vacant sites, preserve existing housing, and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The associated regulations are not applicable to this Adjustment request.

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

Agency Review: A "Notice of Proposal" was mailed January 22, 2016. The following Bureaus have responded with no concerns about the proposal:

- Bureau of Environmental Services (Exhibit E-1);
- Bureau of Transportation Engineering (Exhibit E-2);
- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4); and
- Site Development Section of BDS (Exhibit E-5).

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

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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 is requesting an Adjustment to reduce the setback from the side lot line to the parking space from 5 feet to 0 feet. The purpose of the vehicle parking requirements for houses and duplexes is stated in Zoning Code Section 33.266.120.A:

33.266.120.A Purpose: *The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.*

The proposed driveway and parking pad will be relatively narrow (10 feet wide), and will utilize an existing curb cut. The curb cut is currently the only one on this block face, with the remainder of the street frontage of the block face planted with grass and street trees. Although the 18-foot-long parking space will not be set back from the side lot line, it will be set back approximately 16 feet from the curb. The proposed driveway and parking pad will

not be a prominent visual feature of the streetscape, and will not create an unattractive appearance for the site. Also, the applicant's plan illustrates a 3.5-foot-deep covered porch on the front of the proposed ADU, creating an attractive buffer between the parking space and the front wall of the ADU's living space, and enhancing the overall street presence of the site. Because the proposed porch is essential in providing a visual buffer for the reduced parking space setback, a condition is warranted. A minimum 3-foot-deep covered porch will be made a condition of approval of this Adjustment. Based on these reasons, and with the condition of approval for the porch, the proposal equally meets the intent of the regulation. 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: Because the site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. As discussed above, the driveway and parking pad will be only 10 feet wide, and will not be visually prominent on this block face. The covered porch between the parking space and the front wall of the ADU will provide a buffer and enhance the appearance of the site. While off-street parking is not required for an ADU (Zoning Code Section 33.205.040.C.2), the proposed off-street parking space for this ADU will support neighborhood livability by reducing impacts to on-street parking availability. With a condition of approval requiring a covered front porch on the ADU, the proposal will have no significant negative impacts to neighborhood livability or appearance. 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 being 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. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

Findings: As discussed in the findings for approval criteria A and B, the applicant's plan includes a covered porch between the proposed parking space and the front wall of the proposed ADU. The covered porch will provide an attractive buffer between the parking space and the front wall of the ADU's living space, and will enhance the overall street presence of the site. The covered porch will be made a condition of approval for this Adjustment. 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 or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The proposal to reduce the setback from the street lot line to the parking space equally meets the intent of the regulation and does not cause significant adverse impacts on the livability and appearance of the surrounding neighborhood. A minimum 3-foot-deep covered porch will be required as a condition of approval, enhancing the aesthetic quality of the project. The applicant has demonstrated that the applicable approval criteria have been met. Since the approval criteria are met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.266.120.C.1.a to reduce the required distance from the side lot line to the 18-foot-long parking space from 5 feet to 0 feet, per the approved site plan, Exhibit C-1, signed and dated February 17, 2016, subject to the following conditions:

- A. As part of the building permit application submittal, each of the required site plans must reflect the driveway/parking pad dimensions approved by this land use review as indicated in Exhibit C-1. The sheet on which this information appears must be labeled, "Proposal as approved in Case File # LU 16-102358 AD."
- B. A minimum 3-foot-deep covered porch is required between the north end of the proposed driveway/parking pad and the south wall of the detached ADU. The covered porch must extend along the entire length of the south wall of the detached ADU as shown on Exhibit C-1.

Staff Planner: Andrew Gulizia

Decision rendered by:  **on February 17, 2016.**
By authority of the Director of the Bureau of Development Services

Decision mailed: February 19, 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 January 8, 2016, and was determined to be complete on **January 20, 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 January 8, 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 extended by the applicant, **the 120 days will expire on: May 19, 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 March 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 **March 7, 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:

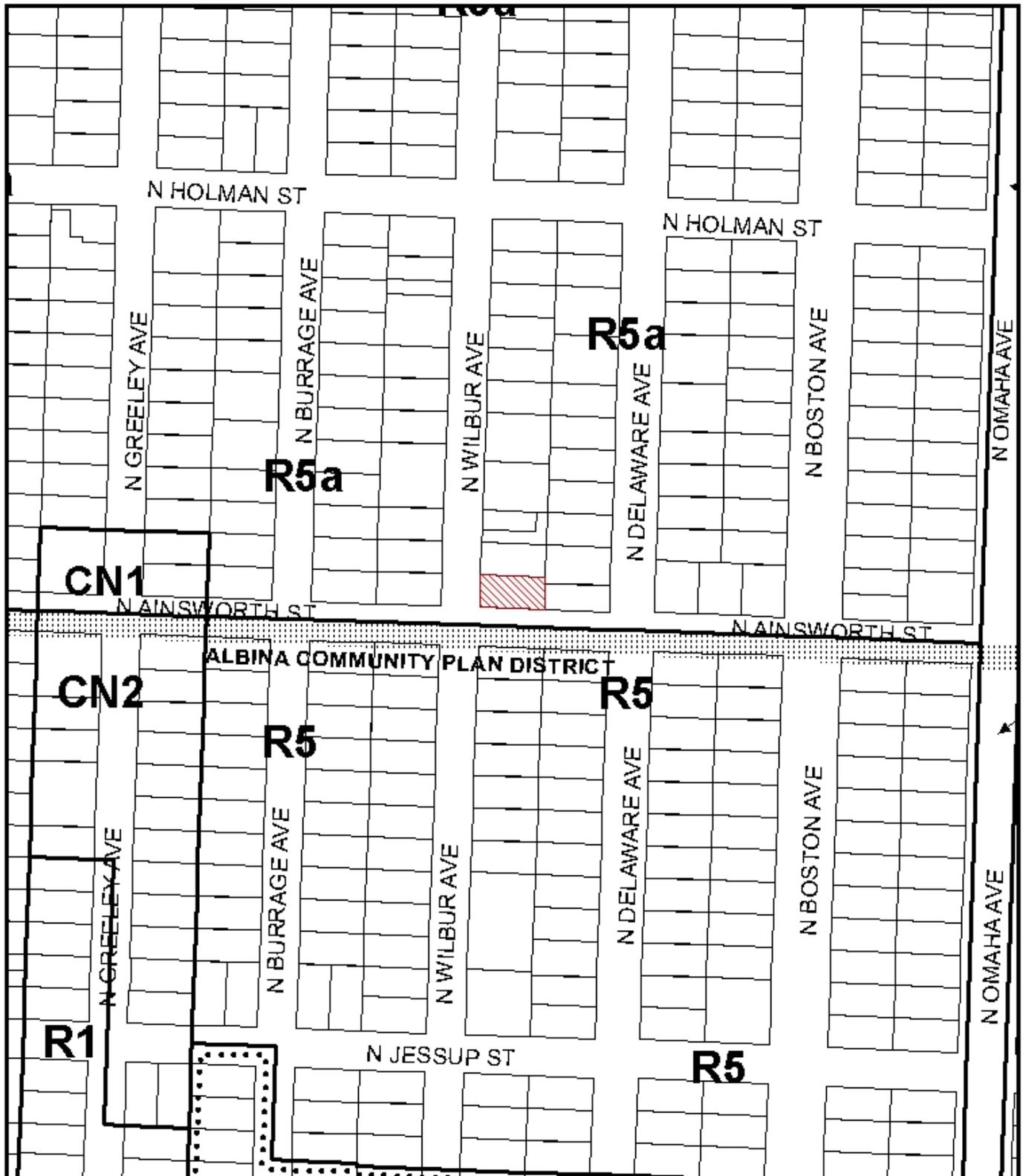
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- | | |
|---------------------------------------|--|
| A. Applicant's Statement | 2. Bureau of Transportation Engineering and Development Review |
| B. Zoning Map (attached) | |
| C. Plans/Drawings: | 3. Water Bureau |
| 1. Site plan (attached) | 4. Fire Bureau |
| 2. Preliminary front elevation | 5. Site Development Review Section of BDS |
| 3. Preliminary main level floor plan | |
| 4. Preliminary upper level floor plan | |
| D. Notification Information: | F. Correspondence – none received |
| 1. Mailing list | G. Other: |
| 2. Mailed notice | 1. Original LU application form and receipt |
| E. Agency Responses: | |
| 1. Bureau of Environmental Services | |

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).

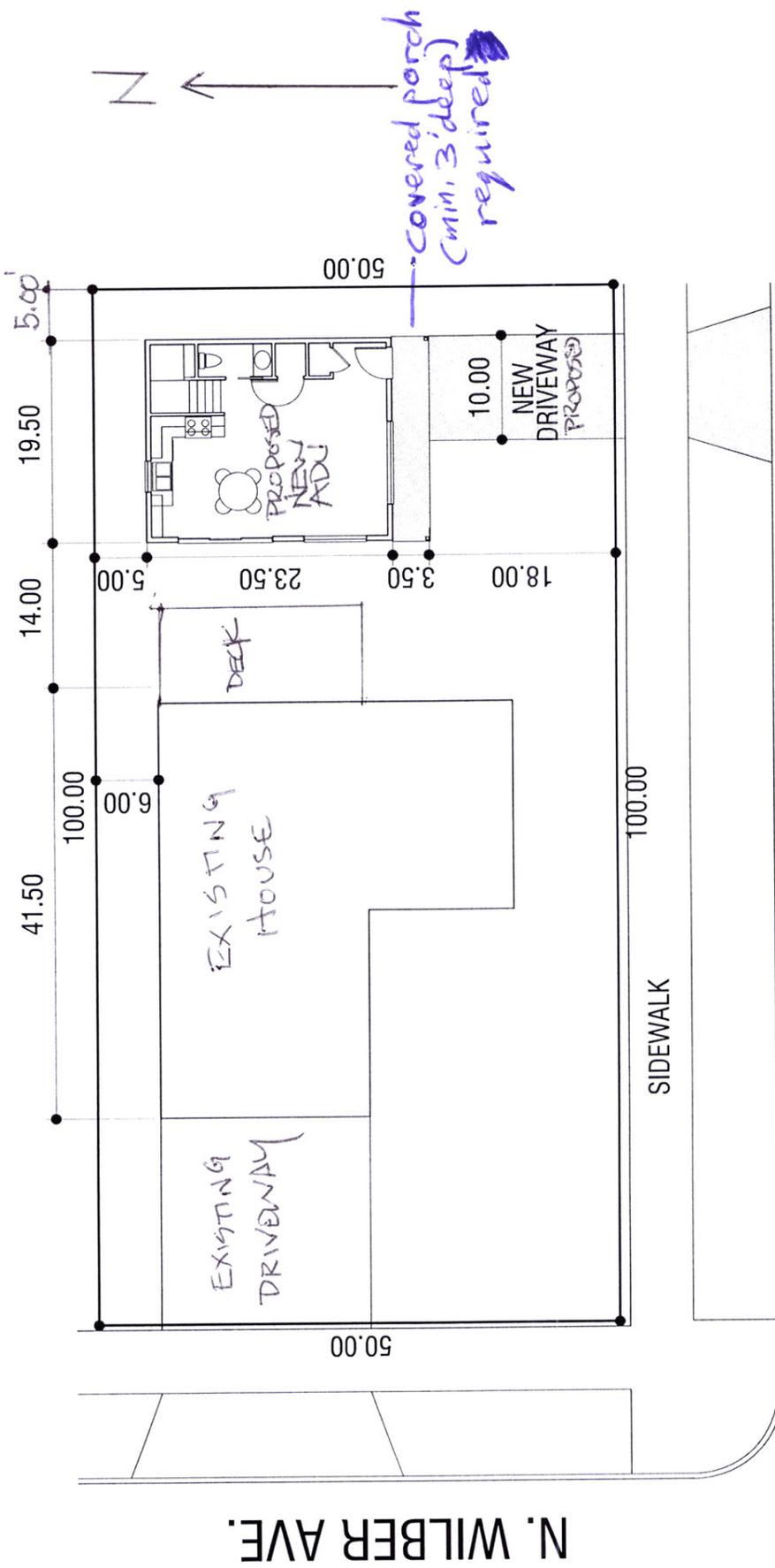


ZONING

 Site



File No. LU 16-102358 AD
 1/4 Section 2427
 Scale 1 inch = 200 feet
 State_Id 1N1E16CA 18900
 Exhibit B (Jan 13, 2016)



REVISED PRELIMINARY "ADU" SITE PLAN
 6010 N. WILBER AVE., PORTLAND, OR
 SCALE 1/16" = 1'-0"

N. AINSWORTH ST.
 (NO ON STREET PARKING)

Approved
 City of Portland - Bureau of Development Services
 Planner A. Gullizzi Date 2/17/16
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.