

# City of Portland

# **Bureau of Development Services**

Land Use Services Division

1900 SW Fourth Ave. Suite 5000 Portland, Oregon 97201 Telephone: 503-823-7300 TDD: 503-823-6868 FAX: 503-823-5630

www.portlandonline.com/bds

**Date:** July 2, 2008

**To:** Interested Person

From: Suzanne Savin, Land Use Services

503-823-5888 / Suzanne.Savin@ci.portland.or.us

# 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 08-120093 AD

## **GENERAL INFORMATION**

**Applicant:** Jenny Landsberg

Giulietti/Schouten AIA Architects, P.C.

2800 NW Thurman Street Portland, OR 97210

**Owner:** Ronald W Atwood and Rebecca Youngstrom

2311 NE Hancock St Portland, OR 97212-4752

Site Address: 2311 NE HANCOCK ST

**Legal Description:** LOT 3 BLOCK 17 E 1/2 OF LOT 4 BLOCK 17, JOHN IRVINGS 1ST

ADD

**Tax Account No.:** R430305140 **State ID No.:** 1N1E26DD 01100

Quarter Section: 2832

**Neighborhood:** NECN, Irvington, contact Dean Gisvold at 503-284-3885.

**Business District:** North-Northeast Business Assoc, contact Joyce Taylor at 503-445-

1321.

**District Coalition:** Northeast Coalition of Neighborhoods, contact Robin Denburg at 503-

823-4135.

**Plan District:** Albina Community

Other Designations: Irvington Conservation District

**Zoning:** R2a (Multi-Dwelling Residential 2,000, with Alternative Design Density

Overlay Zone)

**Case Type:** AD (Adjustment Review)

**Procedure:** Type II, administrative decision with appeal to Adjustment Committee.

#### Proposal:

Two Adjustments are requested in conjunction with proposed development on the site.

The property owner is planning to construct a carport, which will be located south of the existing detached garage and will be attached to the west side of the single-dwelling residence. The proposed carport will be approximately 36 feet, 11 inches in length, approximately 12 feet, 6 inches in width, and approximately 11 feet in height. The proposed carport's western support columns and western roof overhang will be set back approximately 1 foot, 6 inches and 1 foot, 1 inch, respectively, from the west (side) property line. Zoning Code Section 33.120.220, Table 120-3 and Table 120-4 require a minimum side building setback of 5 feet for the carport. Therefore, Adjustment #1 is a request for an adjustment to Section 33.120.220, Table 120-3 and Table 120-4, to allow the proposed carport to have a minimum setback of 1 foot, 1 inch from the west (side) property line.

The property owner is planning to replace the flat roof of the existing detached garage with a gambrel roof to match the roof of the residence. The garage has a setback of approximately 8 inches from the west (side) property line.

The property owner is planning to place a flat roof over a 14-foot wide by 24-foot long portion of unroofed patio on the east side of the garage. The proposed patio roof will be attached to the east garage wall. Because the garage is located within the 5-foot setback from the west property line, and because additional roof area is proposed to be attached to its east side to cover the concrete patio, an Adjustment is required to allow the proposed roofed structure as a whole to be at 8 inches from the west property line. Therefore, Adjustment #2 is a request for an adjustment to Section 33.120.220, Table 120-3 and Table 120-4, to allow the existing detached garage and proposed roofed patio area on its east side to have a minimum setback of 8 inches from the west (side) property line.

## Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are the Adjustment Approval Criteria of Section 33.805.040.A – F.

#### ANALYSIS

**Site and Vicinity:** The site is located on the north side of NE Hancock Street, between NE 22<sup>nd</sup> Avenue and NE 24<sup>th</sup> Avenue, and is approximately 11,250 square feet in size. The site is developed with a single-dwelling residence and detached garage. To the north are properties zoned R5a, developed with single-dwelling residences. To the east, south, and west are properties zoned R2a, developed with single-dwelling residences, many with detached garages.

**Zoning:** The site is zoned R2a, Multi-Dwelling Residential 2,000 with Alternative Design Density Overlay Zone.

The R2 zone is a low-density multi-dwelling zone. It allows approximately 21.8 dwelling units per acre. Density may be as high as 32 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to three story buildings, but at a slightly larger amount of building coverage than the R3 zone. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments. These housing types are intended to be compatible with adjacent houses. Generally, R2 zoning will be applied near Major City Traffic Streets, Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

The purpose of the Alternative Design Density Overlay Zone (designated with a lowercase 'a') 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 concept for the zone is to allow increased density for development that meets additional design compatibility requirements. For sites that are zoned R2, the

Alternative Design Density Overlay Zone allows bonus residential density for projects that voluntarily go through a Type III design review process; allows triplexes, subject to specific requirements; and allows the creation of flag lots, subject to specific requirements. However, the applicant is not proposing bonus residential density, a triplex, or creation of a flag lot, so the Alternative Design Density Overlay Zone standards 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 in Your Neighborhood" was mailed **June 6, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

The Bureau of Environmental Services (BES) responded that the requested adjustments appear to have no impact on existing BES sanitary/stormwater facilities at this time. Further development of the property will be subject to BES standards and requirements during the building plan review process. (Exhibit E-1)

The Life Safety Plans Examiner Section of BDS responded that exterior walls less than three feet to a property line shall be one-hour rated with no openings allowed. Roofs and eaves may project not closer than two feet to a property line. Eaves less than three feet to a property line must be protected on the underside as required for one-hour fire-rated construction. A carport being built less than 3 feet from a property line is required to be of one-hour construction or heavy timber. (Exhibit E-3)

**Staff:** As noted in the Proposal description, the carport's western support columns and western roof overhang are proposed to be less than 3 feet from the west property line. The applicant has obtained an approved Building Code Appeal (Appeal ID 5229) for the proposed carport's location relative to the west property line.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on June 6, 2008. 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 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 is requesting two setback adjustments: 1) An adjustment to allow the proposed carport to have a minimum setback of 1 foot, 1 inch from the west (side) property line, and 2) An adjustment to allow the existing detached garage and proposed roofed patio area on its east side to have a minimum setback of 8 inches from the west property line. Per Section 33.120.220.A, the purpose of the setbacks regulation is as follows:

The setback regulations for buildings and garage entrances 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
- 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.

The applicant states that the proposed carport will maintain light, air, separation for fire protection, and access for fire-fighting because it is an open structure that will allow light and air penetration, as well as access in the event of fire. The applicant has obtained an approved Building Code Appeal for the building code fire separation requirements for the carport (Appeal ID 5229). The carport reflects the general building scale and placement of surrounding development. Although it is attached to the residence, it is set back further from the front property line than the residence, and is only approximately 12 feet in height. Therefore, the carport is clearly subordinate to the three-story residence to which it is attached, small in scale in relation to the two to three-story residences on the surrounding abutting properties, and consistent in height to the detached garages on many of the surrounding properties. In addition, the incorporation of the design elements from the house into the carport's design (example: the carport's support columns) assist in allowing the carport to blend into the site and surrounding neighborhood. The carport will have no negative impact on the privacy of the abutting property to the west, because its roof structure and columns will help to create and maintain an additional visual barrier between the properties. This criterion is met, for the setback adjustment for the carport.

The new patio roof attached to the east side of the garage will be approximately 14 feet from the west property line, will be lower than the height of the garage roof, and will be not extend beyond the east wall of the garage, to which it will be attached. Therefore, its visibility from the abutting property to the west will be very limited. As a result, the patio roof will maintain light, air, separation for fire protection, access for fire fighting, and will promote options for privacy for the abutting property to the west. The garage itself is not changing in length/width dimension or location, and the height of the garage's replacement roof measured to the ridge line will be approximately 15 feet, which complies with the maximum height requirement for garages within side setbacks. This criterion is met, for the setback adjustment for the patio roof to be attached to the east side of the garage.

**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 proposal is within a residential zone. The setback adjustment for the patio roof to be attached to the east side of the garage will no detract from the livability or appearance of the residential area, because the patio roof will not be visible from the front of the property and the street. The patio roof will have limited visibility from the closest property line (the west property line), because the existing garage is located between the west property line and the patio area to be roofed.

The setback adjustment for the carport will not significantly detract from the livability or appearance of the residential area, because the carport will be set back approximately 44 feet from the front property line, and approximately 20 feet back from the covered front porch of the residence. The carport will be an open structure that will allow views from the street back to the garage that is behind the carport. The carport will incorporate design elements (support columns) that reflect the design elements of the residence.

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:** Although two adjustments are being requested, they will not have a cumulative effect. The carport will be closer than 5 feet to the west property line. However, its modest height and open character will allow it to have minimal effects on the abutting property to the west.

The patio roof to be attached to the east side of the garage will be minimally visible from the west, as the garage is located between the west property line and the proposed patio roof. No changes are proposed to the garage's location relative to the west property line, or to the length of the garage's west wall.

This criterion is met.

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

**Findings:** The site does not contain a city-designated scenic resource. However, the site is within the Irvington Conservation District, and Zoning Code Section 33.445.030.D defines a Conservation District as a type of Historic Resource that is a collection of individual resources that is of historical or cultural significance at the local or neighborhood level.

The proposed development is the addition of a carport that will attached to the west side of the primary structure (residence), and the addition of an attached roof area on the east side if the detached garage to cover an adjacent, presently unroofed patio area.

Per Section 33.445.420.A, Historic Design Review is required in a Conservation District for exterior alteration of a primary structure or building a new structure, unless the proposal is eligible to use Community Design Standards as an alternative. In this instance, the proposal to construct an attached carport complies with the requirements that allow use of the Community Design Standards, per Section 33.445.710. The applicant's site plan and elevations indicate that the proposed attached carport can comply with the applicable Community Design Standards of Section 33.218.130. With compliance with the Community Design Standards, the carport will preserve the historic resource on the site.

The roof replacement for the detached garage, and the attachment of a roof to the east side of the garage over the concrete patio, are both exterior alterations of an accessory structure. These exterior alterations will not increase the garage's floor area. Although exterior alterations of primary structures are subject to Historic Design Review per Section 33.445.420, exterior alterations of accessory structures are not.

Because the elements of the proposed development are either subject to the Community Design Standards and appear to be able to comply with them, or are exempt from Historic Design Review, Staff concludes that the proposed development will preserve the historic resources on the site. This criterion is met.

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

**Findings:** No impacts are expected to result from the adjustment. The patio roof to be attached to the east side of the garage will be minimally visible from the west property line, with the garage acting as a physical separation between the west property line and the patio roof. The garage's location and dimensions will remain the same.

The carport, although closer than 5 feet to the west property line, will have minimal impacts on the abutting property to the west, due to its modest height and open character.

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, therefore 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 applicant has requested setback Adjustments to allow a proposed carport to have a minimum setback of 1 foot, 1 inch from the west (side) property line, and to allow the existing detached garage and proposed roofed patio area on its east side to have a minimum setback of 8 inches from the west (side) property line. The applicant has provided information to demonstrate that these adjustment will comply with the Adjustment Approval Criteria, and therefore the adjustments can be approved, per the plans and elevations. Approval of building permits is still required, after the decision is final and has been recorded with Multnomah County.

## ADMINISTRATIVE DECISION

Approval of:

An Adjustment to Section 33.120.220, Table 120-3, and Table 120-4, to allow the proposed carport to have a minimum setback of 1 foot, 1 inch from the west (side) property line; and,

An Adjustment to Section 33.120.220, Table 120-3, and Table 120-4, to allow the existing detached garage and the proposed roofed patio area on its east side to have a minimum setback of 8 inches from the west (side) property line,

per the approved site plans, Exhibits C-1 through C-3, signed and dated June 30, 2008, 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-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-120093 AD."

Decision rendered by:

on June 30, 2008.

By authority of the Director of the Bureau of Development Services

Decision mailed: July 2, 2008

Staff Planner: Suzanne Savin

**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 April 3, 2008, and was determined to be complete on June 3, 2008.

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 April 3, 2008.

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.

#### 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 July 16, 2008 at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., 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. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 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 <a href="https://www.portlandonline.com">www.portlandonline.com</a>.

**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 July 17, 2008 (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.

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:

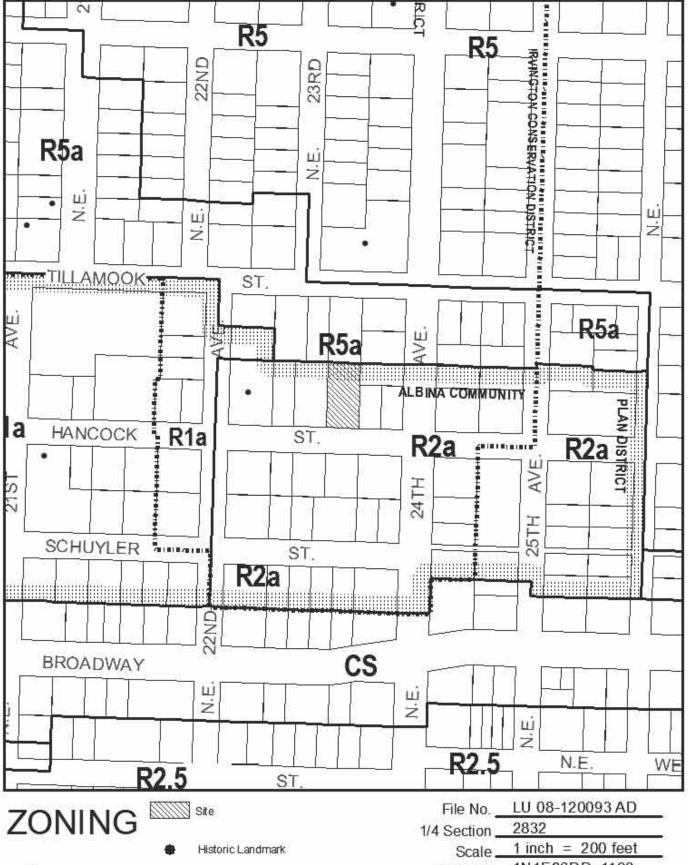
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

#### NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. West and South Elevation (attached)
  - 3. North and East Elevation (attached)
  - 4. Existing Conditions Plan
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Site Development Review Section of BDS
  - 3. Life Safety Plan Review Section of BDS
  - 4. "No concerns" responses from the Bureau of Transportation Engineering and Development Review, Water Bureau, Fire Bureau, Bureau of Parks Forestry Division
- F. Correspondence:
  - 1. No correspondence was received.
- 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. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



NORTH

This site lies within the: IRVINGTON CONSERVATION DISTRICT

1N1E26DD 1100 State Id

> В (Apr 04,2008) Exhibit.

