



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: August 11, 2008
To: Interested Person
From: Nan Stark, Land Use Services
503-823-7828 / nstark@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 08-142531 AD

GENERAL INFORMATION

Applicant: Jonathan Orpin
New Energy Works Timberframers
1180 Commercial Drive
Farmington NY 14425

Owners: Jonathan Orpin and Maxine Bromfield
3 Westland Ave
Rochester, NY 14618

Site Address: 5078 SW VERMONT ST

Legal Description: SECTION 19 1 S 1 E; TL 400 0.81 ACRES
Tax Account No.: R991193680
State ID No.: 1S1E19AB 00400
Quarter Section: 3624

Neighborhood: Maplewood, contact Chris Mays at 503-293-5382.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Zoning: R7, R7p: Single-dwelling residential 7,000 with 'p' Environmental Preservation overlay zone

Case Type: AD, Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The owners of this flag lot are planning to develop it with a house and detached garage with an accessory dwelling unit (ADU) above the garage. The standards for detached ADUs require, among other things, that they match the house with regards to roof pitch, siding and trim material and style, and window orientation. The proposed ADU is designed to match these elements except that the roof will be a shed style, unlike the predominantly gable style roof of the house. As a result, the owners request an Adjustment to this standard, as found in zoning code 33.205.030 C.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the relevant approval criteria of 33.805.040 A.-F., Adjustments.

ANALYSIS

Site and Vicinity: The site is a flag lot with an area of 35,000 square-feet, accessed by a 15-foot wide access pole that is 162 feet long. It abuts the rear of two lots that are on Vermont Street. The lots to the front slope down from the street at a grade of about ten percent, and the subject lot continues to slope downward east to west. At the low point and near the western edges of the lot are a few trees. Most of the lot is open and grassy.

The neighborhood is characterized by the mid-century ranch-style houses that represent the original development of the area, and later-century two-story houses along Vermont Street and the adjacent area to the south. The lot pattern is a mix of lots that match the zoning, close to 7,000 square-feet in area, and others that are generally larger but with no consistent size.

Zoning: The R7 zone is the Medium-Density Single-Dwelling zone, which allows new lots with an average area of 7,000 square-feet. This zone is generally found in areas where the original platting created somewhat larger lots than those in the more urban areas, and in areas of minor challenges, such as topography. The 'p' represents the Environmental Protection overlay zone, which is placed along areas of high environmental value. As in the case of the 'p' zoning in this area, the overlay zone is often placed over streams and their corresponding forested areas that offer significant habitat value and other values warranting protection.

Land Use History: City records indicate that the subject lot was divided through a land division, LU 06-181800 LDP, which included conditions for development of this lot in conformance with the Tree Preservation Plan and requires that all driveway and associated uncovered parking area surfaces need to be paved with pervious pavers such as grasscrete, grasspave or similar product allowing water to infiltrate the ground.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 15, 2008**. The Bureaus of Water, Fire, Parks-Urban Forestry, Environmental Services, Site Development Section of BDS and Plan Review Section of BDS responded with no concerns regarding Adjustment for the roof pitch.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 15, 2008. One written response has been received from a notified property owner in response to the proposal. The writer expressed support for the project, but noted that there has been flooding of Vermont Creek. The writer also noted that the house in front of the lot has problems that have been brought to the attention of the City.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (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: There are several purposes for the design standards for ADUs. They are intended to:

- Ensure that ADUs are compatible with the desired character and livability of Portland's residential zones, and that they are smaller in size than houses;
- Respect the general building scale and placement of structures to allow sharing of common space on the lot;
- Provide adequate flexibility to site buildings so that they fit the topography of sites.

The subject lot is 35,000 square-feet in area, with dimensions of 163' x 200' for the flag part of the lot. The 15-foot wide pole is 162 feet long. From the street and viewed from the driveway (flag pole), the ADU will be the visible structure, though to a limited degree because it is set back 10 feet from the east side property line, thus leaving only 5 feet of structure in direct view. At that, the distance from the structure to the street of over 230 feet will further limit the view; such a distance is comparable to a city block.

As proposed, the ADU has a floor area of 553 square-feet and is situated above the garage that will serve the residents of the primary dwelling. That dwelling will have over 3,000 square-feet of living area with a footprint about twice the size of the garage/ADU structure. About one-third of the flag or rectangular portion of the lot is in the 'p' Environmental Preservation overlay zone, which will remain undeveloped. Consequently, the combination of large lot size and the overlay zone ensures abundant shared open space on the lot. The two structures are of a fairly modern design that integrate similar features in both, and consequently the minor variation in roof pitch from the primary dwelling to the ADU does not stray from the intent of the ADU design standards. Therefore, 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 lot slopes downward from the front lots adjacent to Vermont Street. The two structures are proposed in the existing open, grassy area of the lot. The structures will be alongside each other but the difference in the roof pitch will not be apparent to those who view the site from the street, due to the downward-sloping topography and the significant distance that will limit views. From the neighboring properties, the two structures will be more visible, but the flatter pitch of the ADU/garage structure will harmonize with the varying roof lines of the primary dwelling. The project integrates elements such as window orientation, siding and materials that results in a unified and intentional design. Both structures will be substantially separated from any of the nearest dwellings on the abutting lots by both topography and distance. For these reasons, the proposed flat roof design for the ADU will not detract from either the livability or appearance of this residential area, thus satisfying this criterion.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one adjustment is requested. This criterion is not applicable.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: There are no discernible impacts that would result from granting the requested adjustment. The applicant has proposed a minimal variation from the standard that requires roof pitch, among other design elements, of the ADU to match that of the primary dwelling. 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 in an environmental zone, which is designated on the zoning map by the "p" overlay that covers about one-third of the subject lot. No development is proposed in the part of the lot in the environmental zone, and consequently it is not subject to the regulations of the environmental zones. Therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

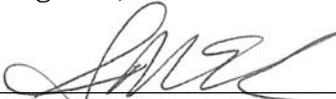
Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be 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 proposed a project for a new dwelling and ADU above a garage. The development integrates several design features that will give the project a unified appearance, even though the roof pitch of the ADU/garage will differ from that of the house. The combination of topography and distance separates the structures from all of the abutting neighbors, as well as from the street, and consequently the minimal difference in pitch will not detract from or create any impact to the neighborhood. The design supports the intent of the ADU design standards and all of the relevant approval criteria.

ADMINISTRATIVE DECISION

Approval of Adjustment to zoning code standard 33.205.030 C. to allow a shed roof on the ADU, subject to general conformance with the site plan and elevation drawings, Exhibits C-1 through C-3, signed and dated August 7, 2008.

Decision rendered by:  on August 7, 2008
By authority of the Director of the Bureau of Development Services

Decision mailed: August 11, 2008

Staff Planner: Nan Stark

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 2, 2008, and was determined to be complete on July 14, 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 July 2, 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 August 25, 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 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 **August 26, 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 503-823-7967.

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.

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:

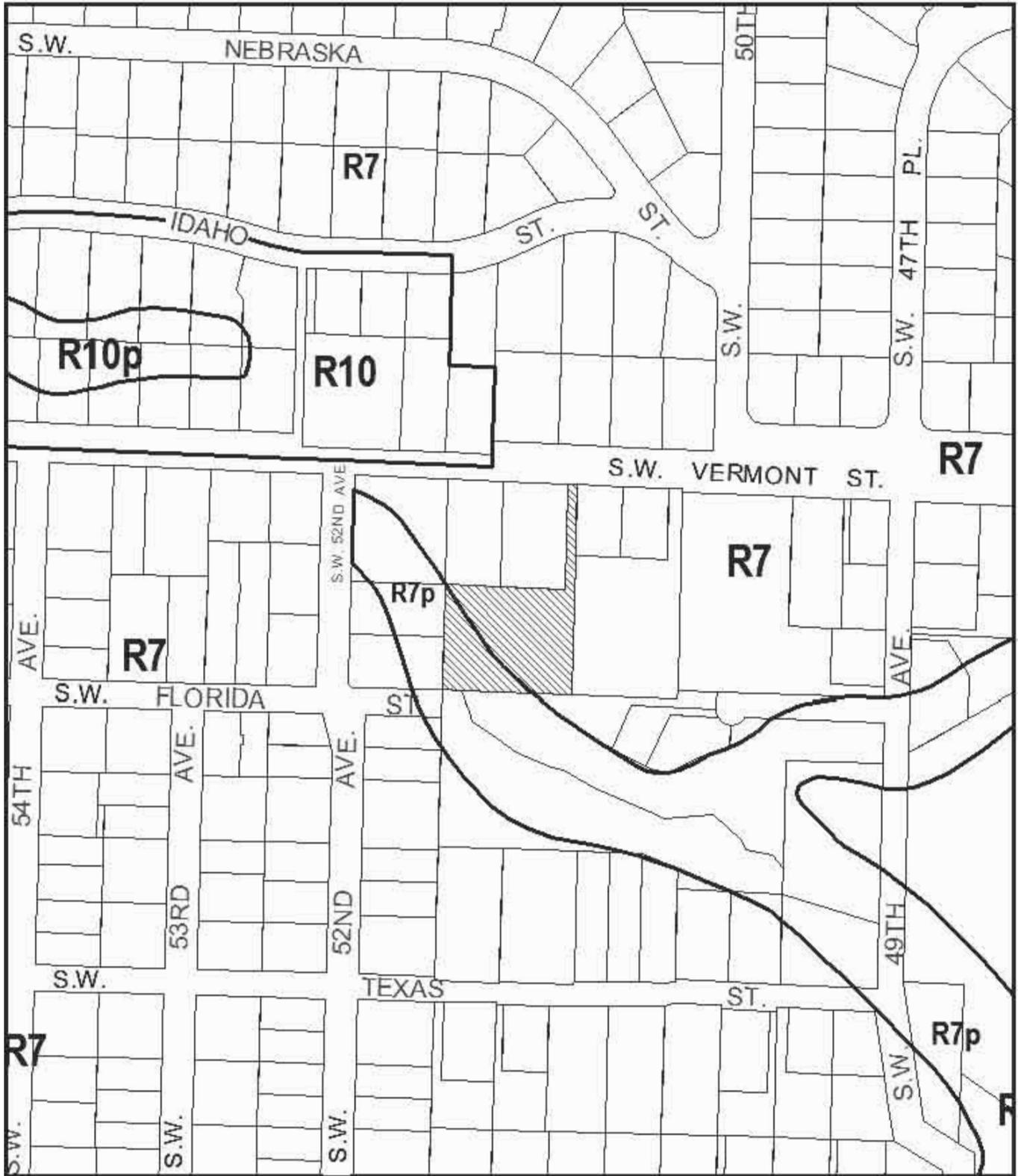
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation drawings, north and east (north attached)
 - 3. Elevation drawings, south and west (attached)
 - 4. Dimensional drawing
- 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. Portland Transportation
 - 4. Water Bureau
 - 5. Fire Bureau
 - 6. Plan Review Section of BDS
 - 7. Portland Parks—Urban Forestry
- F. Correspondence:
 - 1. C. Bennett, August 1, 2008, in support
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

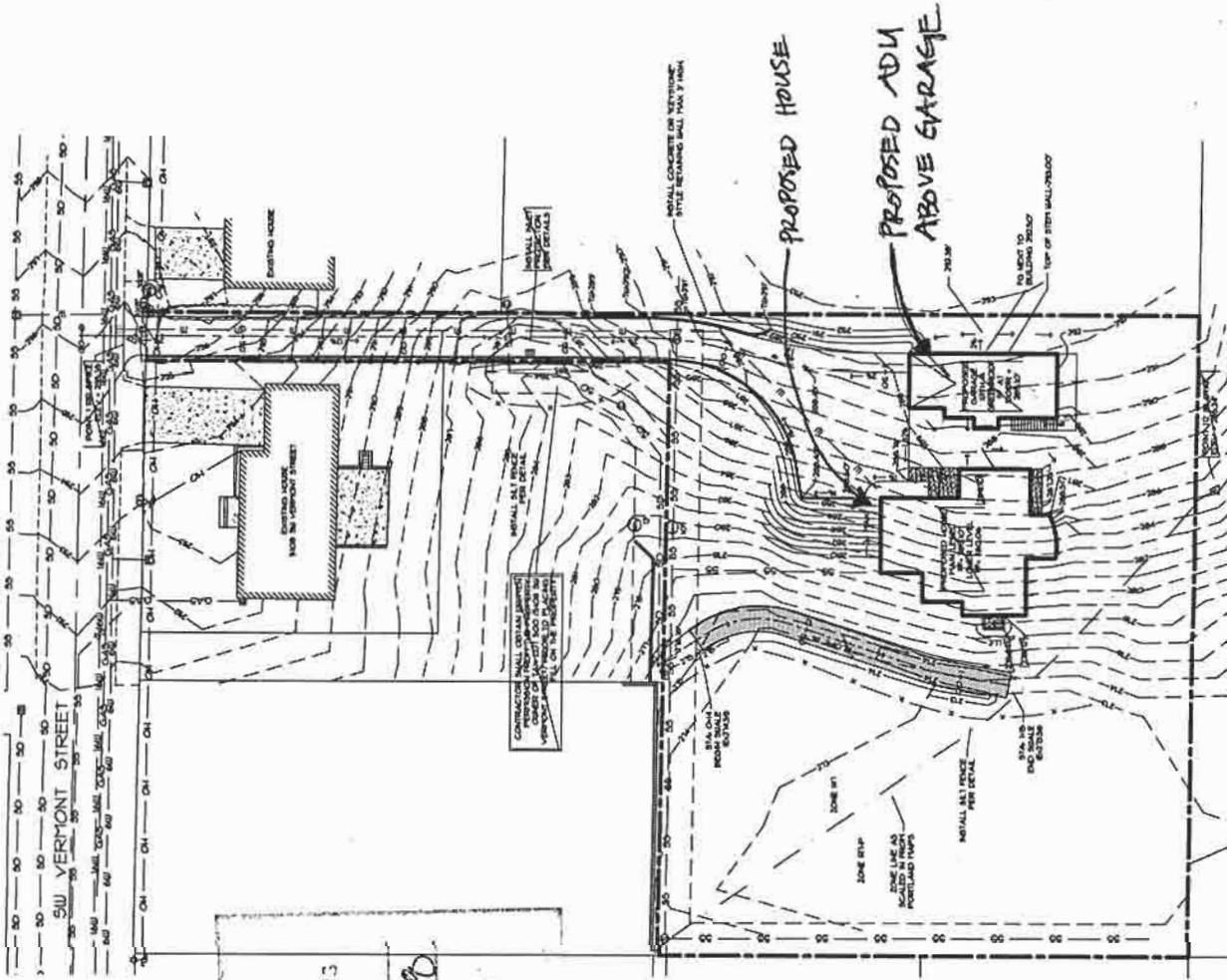
The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING



File No.	<u>LU 08-142531 AD</u>
1/4 Section	<u>3624,3724</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E19AB 400</u>
Exhibit	<u>B (Jul 07,2008)</u>



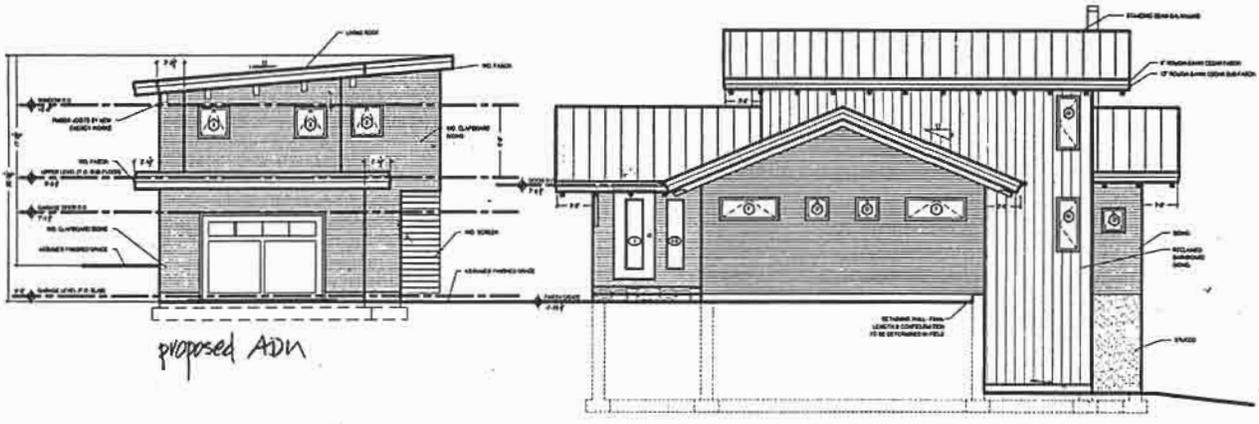
Approved*
 City of Portland
 Bureau of Development Services
 Planner NS/ak
 August 7, 2008



THE VERMONT STREET RESIDENCE
 COPYRIGHT DESIGN BY NEW ENERGY WORKS OF ROCHESTER, INC.
 DATE: 6.23.08 SCALE: 3/32" = 1'-0"

EXHIBIT C.1

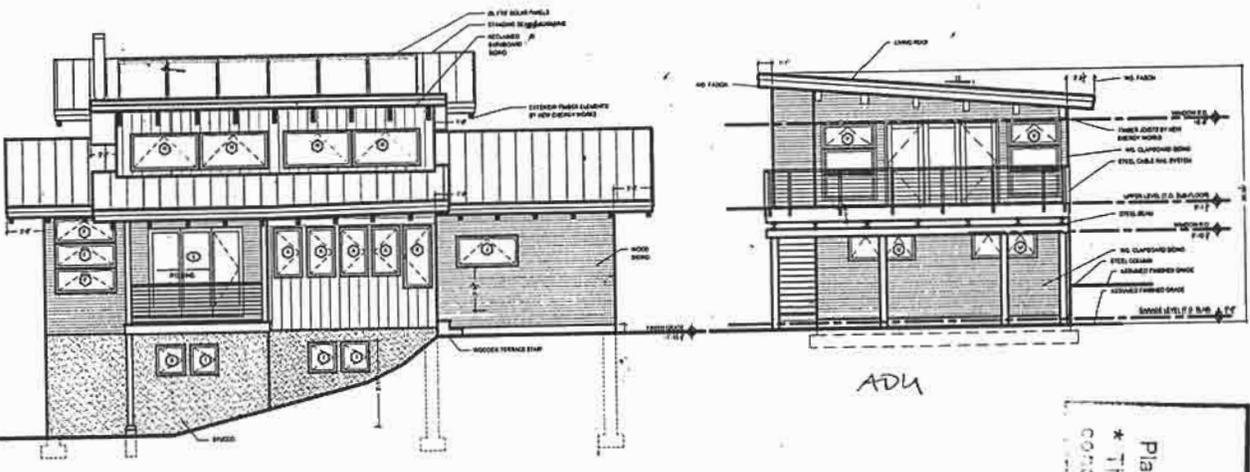
4408-142531 AD



proposed ADU

HOUSE

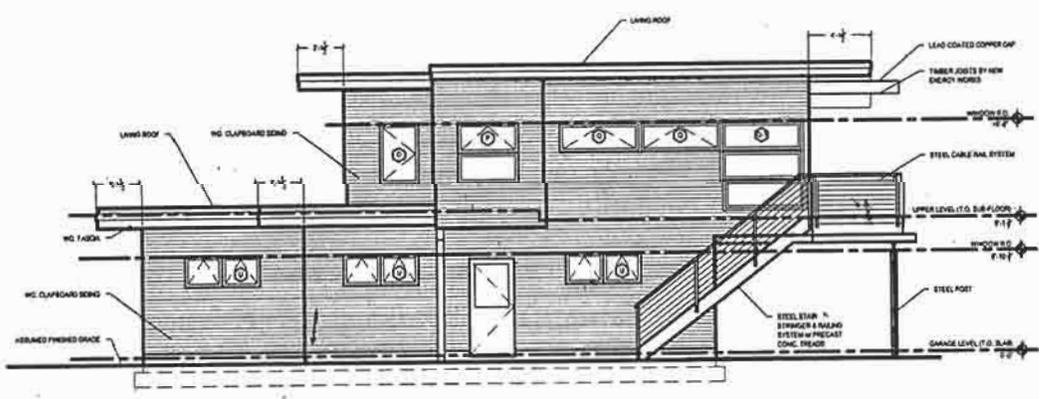
NORTH ELEVATION



HOUSE

ADU

SOUTH ELEVATION



WEST ELEVATION - ADU

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 DATE: 6.23.08 SCALE: 3/32" = 1'-0"

Approved
 City of Portland - Bureau of Development Services
 Planner *[Signature]*
 Date *August 7, 2008*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

LI 08-142531 AD
 EXHIBITS C.2 and C.3