



City of Portland, Oregon
Bureau of Development Services
Land Use Services

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Date: May 6, 2010
To: Interested Person
From: Sylvia Cate, Land Use Services
503-823-7771 / scate@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 10-117694 AD

GENERAL INFORMATION

Applicants: Matthew V and Rhonda L Nava, property owners
3311 NE Couch St
Portland, OR 97232

Site Address: 3311 NE COUCH ST

Legal Description: BLOCK 82 W 1/2 OF LOT 16 LOT 17, LAURELHURST
Tax Account No.: R479116570
State ID No.: 1N1E36DB 14500
Quarter Section: 3034

Neighborhood: Laurelhurst, contact Eric Fruits at 503-928-6635.
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.
Plan District: Laurelhurst-Eastmoreland
Other Designations: None

Zoning: R5, Single Dwelling Residential 5,000
Case Type: AD, Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicants propose to demolish the existing garage on the site and build a new garage with an Accessory Dwelling Unit [ADU] on the second floor. Accessory Dwelling Units are an allowed use in the R5 zone. However, the applicants propose to locate the new structure in nearly the exact location as the existing garage, but shifted approximately 2 feet to the north. The garage will meet both the required front and rear setbacks, but the structure will be located 2 feet 6 inches from the westerly property line. Therefore, the applicant requests an adjustment to reduce the required 5 foot side yard setback to 2 feet 6 inches for the proposed new structure. The proposed ADU meets all other applicable development standards. Attached to this notice are plans that depict the proposal.

Relevant Approval Criteria:

Adjustment requests will be approved if the review body finds that the applicant has shown that Adjustment approval criteria 33.805.040 A. through F. below have been met.

ANALYSIS

Site and Vicinity: The site is a 10,139 square foot lot developed with a 2,879 square foot home built circa 1923. The immediately surrounding residential area [200 feet in all directions] are lots and parcels zoned R5 and developed with residential uses. The over all character of this area includes relatively large homes built in the first quarter of the 20th century.

Zoning: The site is zoned Single Dwelling Residential 5,000 one of several zones that implement the Comprehensive Plan Designation for Single Dwelling Residential.

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 **March 26, 2010**. A revised Notice was mailed on April 23, 2010.

The following Bureaus have responded:

The Bureau of Environmental Services responded with no objection to the requested adjustment to side setback for the proposed new garage and ADU. At the time of building permit, the applicant must meet the requirements of the SWMM, which may include providing the results of infiltration testing.

The Bureau of Transportation Engineering responded with no concerns.

The Water Bureau responded with no objections to the proposed demolition of an existing garage structure and the subsequent construction of a new garage with a second story ADU, for the property located at 3311 NE Couch St. There is an existing 3/4" metered service which provides water to this location from the existing 8" CI main in NE Couch St. The estimated static pressure range for this location is 73 psi to 92 psi at the service elevation of 199 ft.

The Fire Bureau responded with no concerns.

The Site Development Section of BDS responded with no objection to approval of the proposed Adjustment to setback requirements, provided that the applicant can provide a utility plan that includes a method of stormwater management that meets minimum setback requirements in compliance with the Stormwater Management Manual at the time of building permit review.

The Bureau of Parks-Forestry Division responded with no concerns.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 26, 2010. One written response has been received from a notified property owner in response to the proposal. The neighbor expressed strong support of the proposal.

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 providing 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 requests an Adjustment to reduce the side yard setback from 5 feet to 2 feet 6 inches along the west property to reconstruct a new garage with a second story ADU in approximately the same footprint as the existing garage.

The purpose for setback regulations is found at 33.110.220, Setbacks, which states:

The building setback regulations 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;
- 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 placement of the new garage approximately 2 feet farther north than the existing garage will further separate the new structure from the adjacent home to the west. A mature tree along this property line should also provide some buffering between the new garage and the adjacent property to the west. The Fire Bureau notes no concerns. The architectural elements and design of the proposed garage and ADU are consistent with the existing home thus reflecting the general building scale in this neighborhood, which is characterized by relatively large homes. As located, the physical relationship of the new structure is reasonable with the residential development on the abutting lots to the west, northwest and north. Given the design and style of the new garage and ADU there appears to be no impingement on privacy for neighboring properties. The proposal has no impact on the existing front yard or front yard setback. There will be adequate room for more than one car to park in front of the garage door without encroaching into the front setback or overhanging the sidewalk. The proposed location of the new structure, 2 feet further to the north than the existing garage will still provide adequate outdoor areas and fit within the existing development pattern in the neighborhood. For these reasons, 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 site is in the R5 residential zone. Given the proposed design elements of the reconstructed garage and second story ADU, there will be no detriment in appearance. The additional living area will enhance the livability of the site without negative impacts to the immediately surrounding residential area. 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: 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. 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. 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 proposes to demolish the existing garage on the site and build a new garage with an Accessory Dwelling Unit [ADU] on the second floor. Accessory Dwelling Units are an allowed use in the R5 zone. However, the applicant proposes to locate the new structure in nearly the exact location as the existing garage, but shifted approximately 2 feet to the north. The garage will meet both the required front and rear setbacks, but the structure will be located 2 feet 6 inches from the westerly property line. Therefore, the applicant requests an adjustment to reduce the required 5 foot side yard setback to 2 feet 6 inches for the proposed new structure. The proposed ADU meets all other applicable development standards.

The proposal meets all applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of:

- An Adjustment to reduce the 5 foot side yard setback to 2 feet 6 inches for a new garage with an Accessory Dwelling Unit [ADU] on the second floor, per the approved site plans, Exhibits C-1 through C-5, signed and dated May 3, 2010, 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.XX. The sheets on which this information appears

must be labeled, "Proposal and design as approved in Case File # LU 10-117694 AD . No field changes allowed."

Staff Planner: Sylvia Cate



Decision rendered by: _____ **on May 3, 2010**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 6, 2010

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 March 10, 2010, and was determined to be complete on March 24, 2010.

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 March 10, 2010.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: July 8, 2010.**

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 May 20, 2010** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. 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 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 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 **May 21, 2010 - (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:

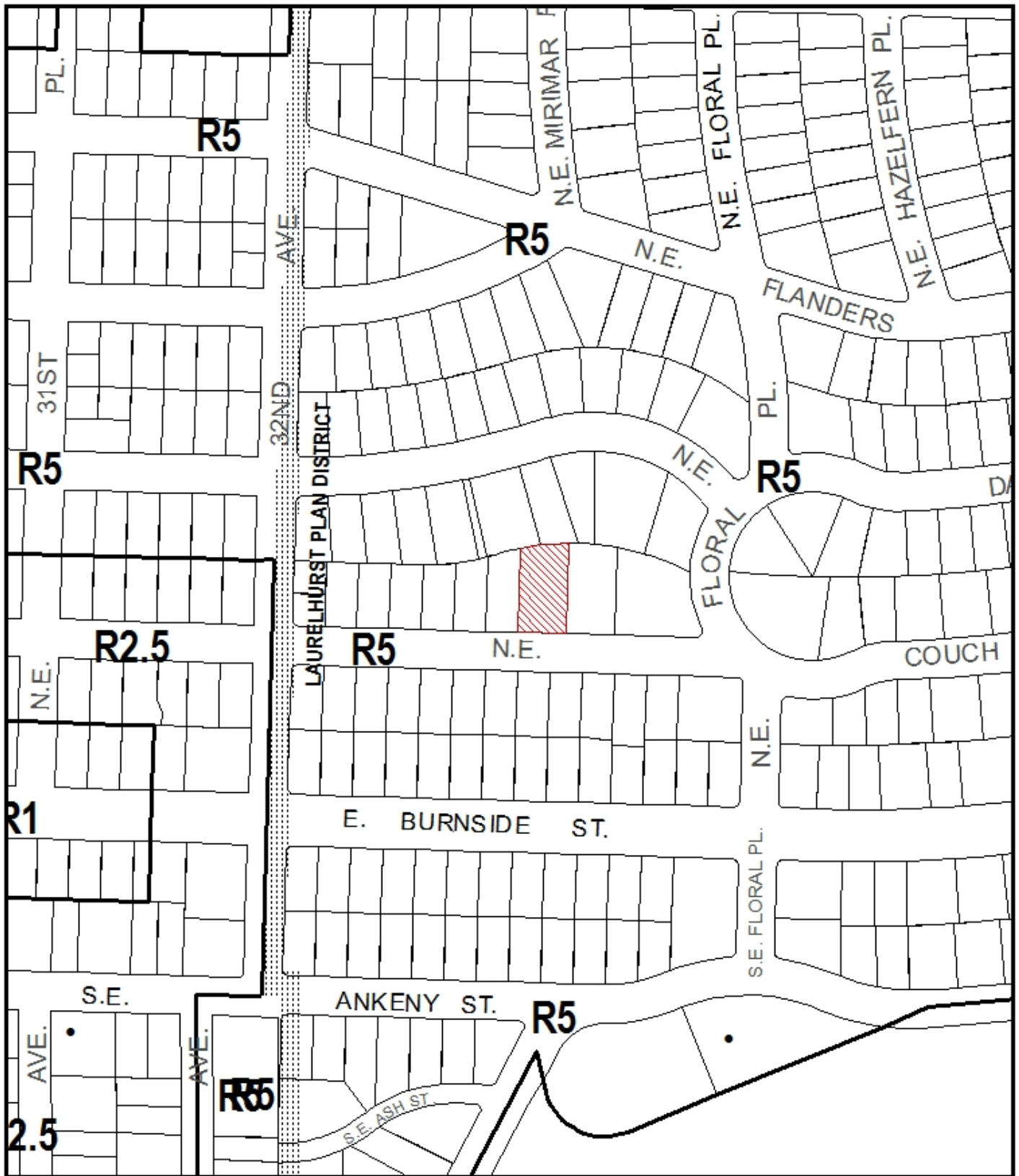
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. South Elevation
 - 3. East Elevation
 - 4. North Elevation
 - 5. West Elevation
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. P. Ferguson, April 2, 2010, 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. 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

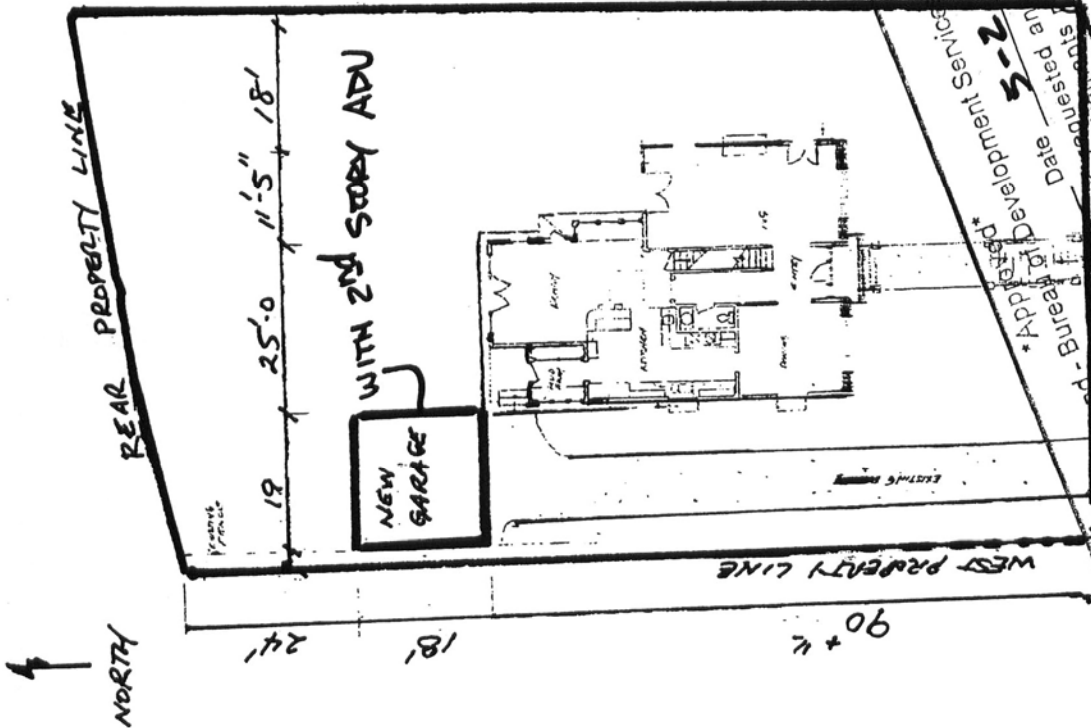
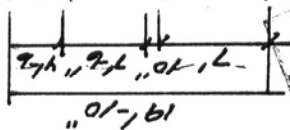
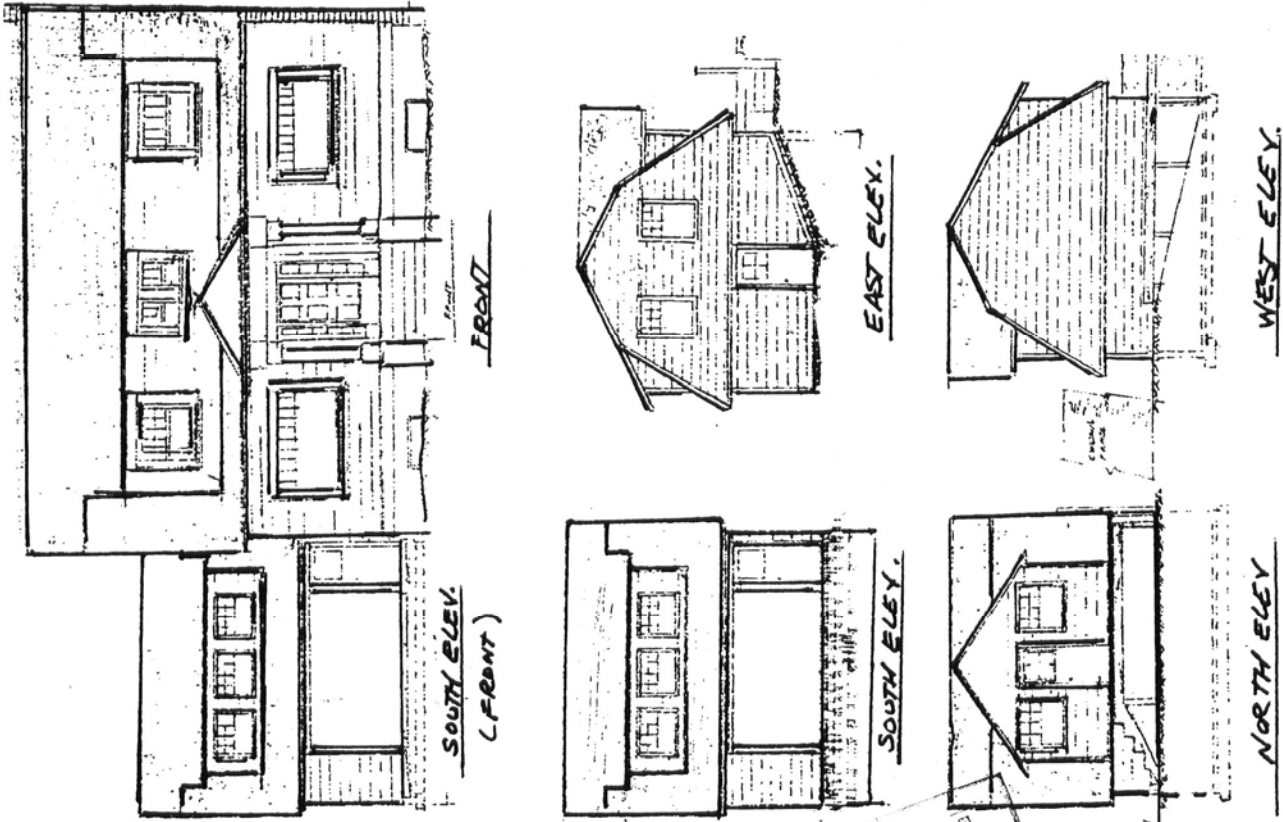
 Site



This site lies within the:
LAURELHURST PLAN DISTRICT

File No.	LU 10-117694 AD
1/4 Section	3034
Scale	1 inch = 200 feet
State_Id	1N1E36DB 14500
Exhibit	B (Mar 12, 2010)

Matthew and Rhonda Nava
 3311 NE Couch St, Portland, Oregon



City of Portland
 3311 NE Couch St
 Additional Zoning Review Requested
 Date 5-2-2010
 Approved by Bureau of Development Services
 is subject to a

Planets of approval. This approval applies only to the plan.
 3311 NE Couch St
 Additional Zoning Review Requested
 Date 5-2-2010
 Approved by Bureau of Development Services
 is subject to a

Exhibit C-1