



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

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: January 14, 2011
To: Interested Person
From: Douglas Hardy, Land Use Services
503-823-7816 / dhardy@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 10-198621 AD

GENERAL INFORMATION

Applicants: Margaret D. Kirkpatrick and Earl Blumenauer, property-owners
2241 NE 30th Avenue
Portland, OR 97212

Representative: Richard Brown, architect
239 NW 13th Avenue, #305
Portland, OR 97209

Site Address: 2241 NE 30th Avenue

Legal Description: Block 7, Lots 1 & 2, TL 21400, Dolph Pk
Tax Account No.: R212501850
State ID No.: 1N1E25CA 21400
Quarter Section: 2833

Neighborhood: Grant Park, contact Geoff Hyde at 503-281-4097
District Coalition: Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-823-4575.

Zoning: R5 - Single-Dwelling Residential 5,000
Plan District: None
Other Designations: None

Case Type: Adjustment (AD)
Procedure: Type II, Administrative decision with appeal to Adjustment Committee

PROPOSAL

The applicants propose constructing a 300 square foot, one-story detached accessory structure that will be used in the future as an Accessory Dwelling Unit (ADU). The proposed structure, measuring 11 feet in height to the top of the shed roof, will be located in the rear yard, northeast of the primary two-story dwelling on the site.

Zoning regulations require major design features of the ADU to replicate those on the primary dwelling on the site. Because the ADU will be on a portion of the site that is not visible from the street, and will be located 46 feet from the primary dwelling on the site, the applicants are requesting an Adjustment to allow the following design features on the ADU to be different than those on the primary dwelling:

- exterior finish materials;
- roof pitch;
- type, size and location of trim; and
- proportion and orientation of windows.

RELEVANT APPROVAL CRITERIA

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

ANALYSIS

Site and Vicinity: The 8,258 square foot site is currently developed with a two-story, single-dwelling residence, and a 96 square foot shed. The site is irregular in shape, with a 75.6 foot by 74.5 foot square portion located adjacent to NE 30th Avenue. The primary residence is situated on this portion of the lot. The remainder of the lot, a 35 foot by 75 foot rectangular section, is located southeast of the house, and is not visible from the street. This is the portion of the site where the proposed ADU is to be located. The surrounding area is characterized by two-story homes on lots typically in excess of 6,000 square feet. Northeast 30th Avenue is a designated Local Service Street, and fully improved.

Zoning: The site is located in an R5, Single-Dwelling Residential 5,000 zone. The Single-Dwelling Residential zones are intended to preserve land for housing and to provide 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.

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

Agency Review: A Notice of Proposal was mailed December 17, 2010. The following Bureaus have responded with no issues or concerns regarding the requested Adjustment:

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

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

33.805.010 Purpose

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would

preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

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

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicants are requesting an Adjustment to allow the following design features on the ADU to be different than those on the primary dwelling:

- exterior finish materials;
- roof pitch;
- type, size and location of trim; and
- proportion and orientation of windows.

The purpose for the standards that regulate design features of ADUs, as stated in Section 33.205.030.A of the Zoning Code, is as follows:

Standards for creating accessory dwelling units address the following purposes:

- *Ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones;*
- *Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;*
- *Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and*
- *Provide adequate flexibility to site buildings so that they fit the topography of sites.*

The proposal will equally or better meet the relevant purposes of the regulation based on the following findings:

- The proposed ADU will be compatible with the desired character and livability of the surrounding residential area. The “desired character” of single-dwelling residential neighborhoods, as stated in Section 33.110.010 (Purpose) of the Single-Dwelling zones, is to preserve land for housing, provide housing opportunities for individual households, and to promote desirable residential areas by addressing aesthetically pleasing environments.

The proposal is for an ADU that will provide future housing opportunities for households. The size of the ADU (a one-story structure of 300 square feet) in relation to the size of the primary dwelling on the site (a two-story structure of approximately 3,500 square feet) ensures that the primary dwelling will remain the predominant structure on the site, thereby maintaining the single-dwelling character of the neighborhood.

- The primary house on the site has an exterior finish material of stucco with shingle accents, and a fairly steep clipped gable/hipped roof. The windows on the house are vertical in orientation (both casement and double-hung), with a relatively narrow trim around the windows and doors. For the proposed ADU, the exterior finish materials will be board and batten, with a shed roof having a relatively low pitch. Most of the windows on the proposed ADU are vertical (casements), with only two (awning) windows on the rear of the ADU having a horizontal orientation. A flat, broad trim is proposed around the windows and door on the ADU.

The Code requirement that the major design elements of an ADU be the same as those on the primary dwelling is intended to ensure compatibility between the two structures. This objective is not an issue for the subject site given the lot configuration and positioning of the ADU. The ADU will be set back a substantial distance (46 feet) from the primary dwelling on the site, and located on the rectangular portion of the site that is not visible from the street. In this position, the ADU does not even appear to be on the same lot as the primary dwelling. As such, the requested Adjustment will not have an adverse impact on the desired character of the surrounding residential area.

- Regarding the stated purpose of the regulation to respect the general building scale and placement of structures so as to allow sharing of common space on the lot, the requested Adjustment equally meets this intent. As indicated above, there is a substantial distance between the house and the proposed ADU, with a generous open yard area of approximately 2,400 square feet between the two structures.

As the proposal equally or better meets the intent of the regulation being adjusted, this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The requested Adjustment will not result in a proposal that detracts from the livability or appearance of the surrounding single-dwelling residential area. As indicated above in response to Approval Criterion A, the proposed ADU will not be visible from the street (or from the primary dwelling on the site). Additionally, the ADU's diminutive scale, particularly in relation to the scale of the primary dwelling on the site, reduces its visual appearance. At only 11 feet in height and 300 square feet in area, it is little different in scale than an accessory building (such as a shed) frequently found on single-dwelling residential lots. Furthermore, the exterior finish materials proposed for the ADU are residential in appearance, and frequently found on residential homes in the surrounding Dolph Park neighborhood.

As the proposal will not significantly detract from the livability or appearance of the 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: As only one Adjustment is requested, this criterion is not applicable.

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

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case "s," and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. Because there is neither a scenic nor historic resource designation on the site, this criterion is not applicable.

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

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

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

As such, there are no identified impacts for which mitigation is required, and therefore this is criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on site, this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicants have demonstrated that the relevant approval criteria have been met. While some of the major design elements of the proposed ADU are not the same as those on the primary dwelling on the site, as required by the Zoning Code, the proposal does meet the stated intent of these regulations. The ADU, even with the requested Adjustment, will be compatible with the desired character and livability of the surrounding Single-Dwelling zone, and will respect the general building scale and placement of structures by maintaining ample open space between the ADU and the primary dwelling. Additionally, the size and placement of the ADU ensure that the primary dwelling remains the dominant structure on the site.

ADMINISTRATIVE DECISION

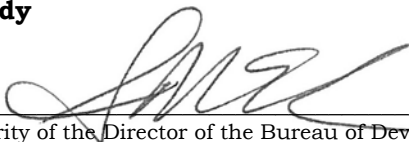
Approval of an Adjustment to Zoning Code Section 33.205.030 (Design Standards) to allow the following design features of the proposed accessory dwelling unit to be different than those on the primary dwelling on the site:

- exterior finish materials;
- roof pitch;
- type, size and location of trim; and
- proportion and orientation of windows;

per the approved site plan, Exhibit C-1, and building elevations (Exhibit C2), both signed and dated January 13, 2011, and subject to the following condition:

- A. As part of the building permit application submittal, each of the four required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C1 and C2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-198621 AD."

Staff Planner: Douglas Hardy

Decision rendered by:  **on January 13, 2011.**

By authority of the Director of the Bureau of Development Services

Decision mailed: January 14, 2011

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on December 7, 2010, and was determined to be complete on **December 17, 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 December 7, 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 April 16, 2011**.

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 January 28, 2011**, 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 **January 31, 2011 – (the next business day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

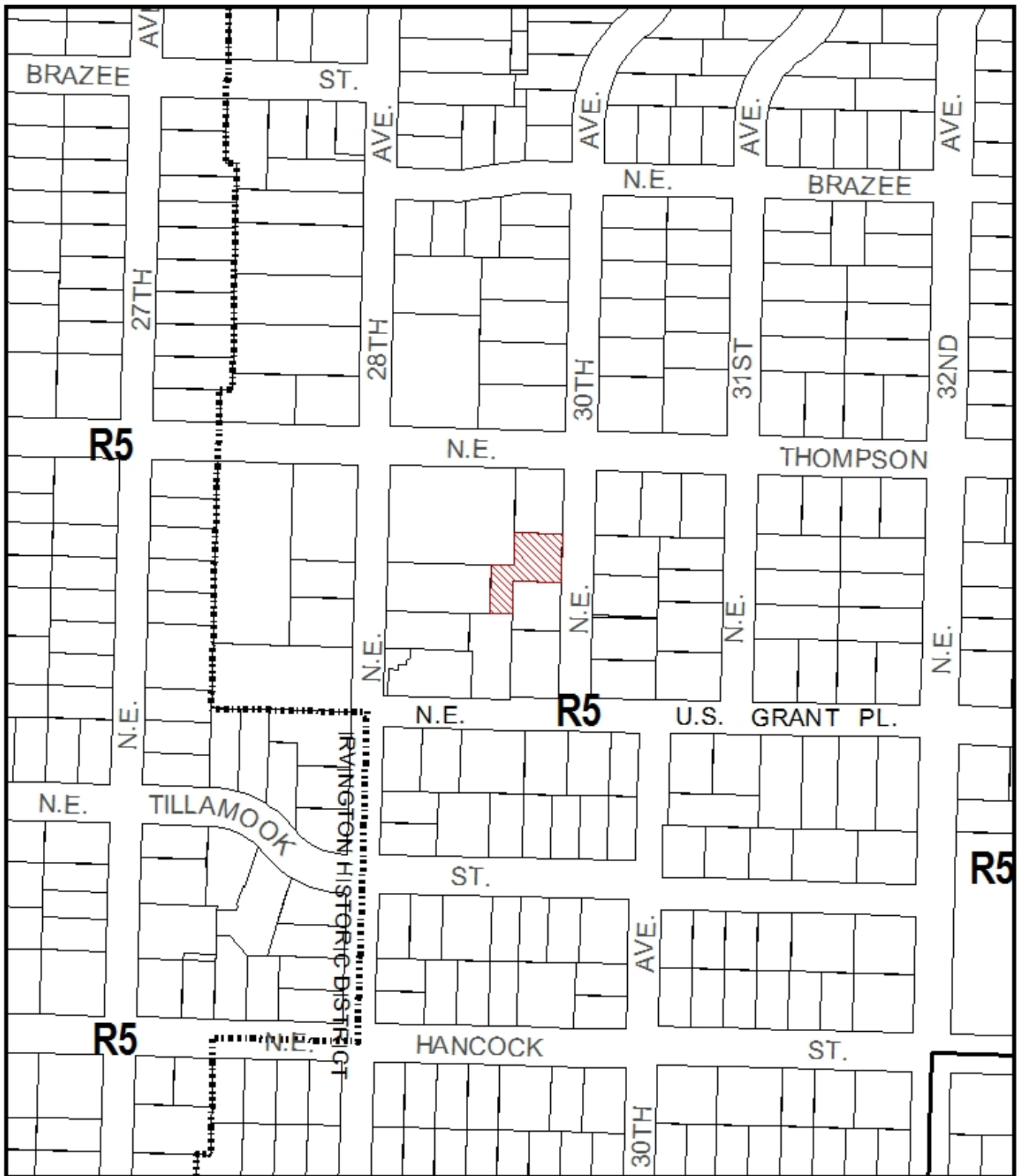
- all conditions imposed herein;
- all applicable development standards, unless specifically exempted as part of this land use review;
- all requirements of the building code; and
- all provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicants' Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Building Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Bureau of Development Services -Site Development Review Section
 - 6. Bureau of Development Services – Life Safety Review
 - 7. Bureau of Parks, Forestry Division
- F. Correspondence (none)
- G. Other:
 - 1. Original LU Application

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.	<u>LU 10-198621 AD</u>
1/4 Section	<u>2833</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1N1E25CA 21400</u>
Exhibit	<u>B</u> (Dec 14,2010)

PROJECT INFORMATION

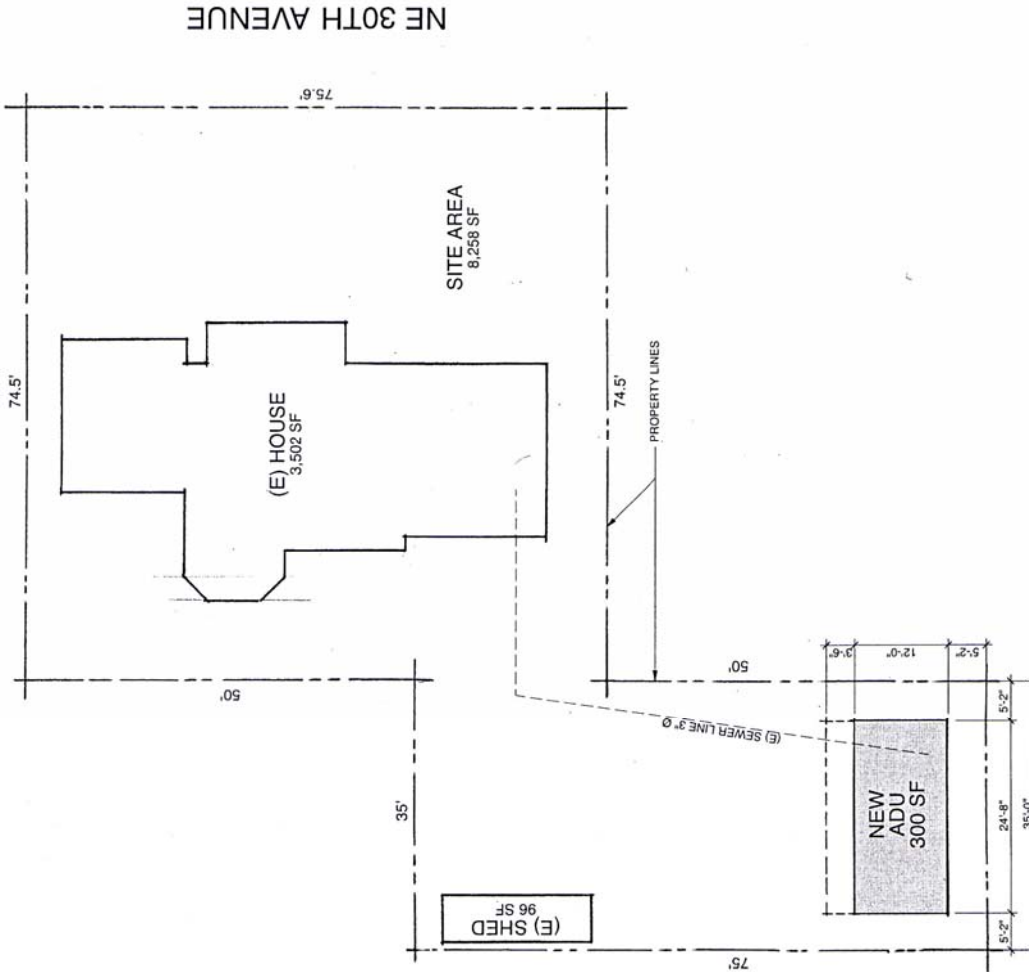
JURISDICTION: CITY OF PORTLAND
 CURRENT BUILDING CODE: 2008 OREGON RESIDENTIAL SPECIALTY COD
 PROPERTY ID: R147794
 COUNTY: MULTNOMAH
 STATE ID: INIE25CA 21400
 SITE ADDRESS: 2241 NE 30TH AVENUE
 PORTLAND, OREGON 97212
 TAX ROLL: DOLPH PK, BLOCK 7, LOT 1 & 2 TL 21400
 ZONE: R-5
 OVERLAY: N/A
 COMP PLAN: R/L
 ZONING MAP: 2833

OWNER: MARGARET KIRKPATRICK & EARL BLUMENAUER
 ADDRESS: 2241 NE 30TH AVENUE
 PORTLAND, OREGON 97212
 PHONE: 503.288.0739
 EMAIL: MARGARET.KIRKPATRICK@NWNATURAL.COM

ARCHITECT: RICHARD BROWN ARCHITECT, AIA
 ADDRESS: 239 NW 13th Avenue Room 305
 PORTLAND, OREGON 97209
 PHONE: 503.223.7857
 FAX: 503.223.7857
 CONTACT: RICHARD BROWN
 EMAIL: BROWN@RBARCH.COM

CONTRACTOR: CRAIG DESIGN GROUP, LLC
 PHONE: 503.757.5089
 CCB LIC: 196948
 CONTACT: SCOTT CRAIG
 EMAIL: JSCOTTCRAIG@MSN.COM

STRUCTURAL ENGINEER: GRUMMEL ENGINEERING
 ADDRESS: 7421 SE POWELL BLVD.
 PORTLAND, OREGON 97206
 PHONE: 503.244.7014
 FAX: 503.246.2011
 CONTACT: BOB GRUMMEL P.E. S.E.
 EMAIL: BGRUMMEL@MSN.COM



1 SITE PLAN
 SCALE: 1/16" = 1'-0"

CASE NO. 10-1918621 AD
 EXHIBIT C1

RB|A
 Richard Brown Architect, AIA
 239 NW 13th Avenue Room 305
 Portland, OR 97209
 F: 503.223.7803

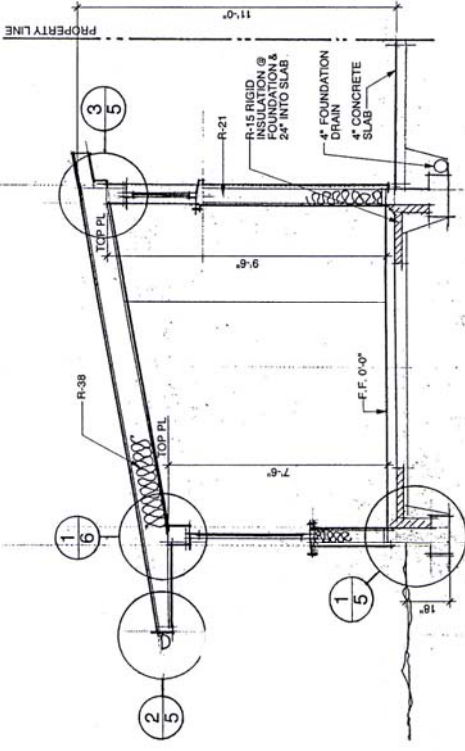
WRITER'S RETREAT
 2241 NE 30TH AVENUE
 PORTLAND, OREGON 97212
 Project: #10011
 SUBMITTAL
 PERMIT REVIEW & CONSTRUCTION
 DATE
 2010.11.10

1

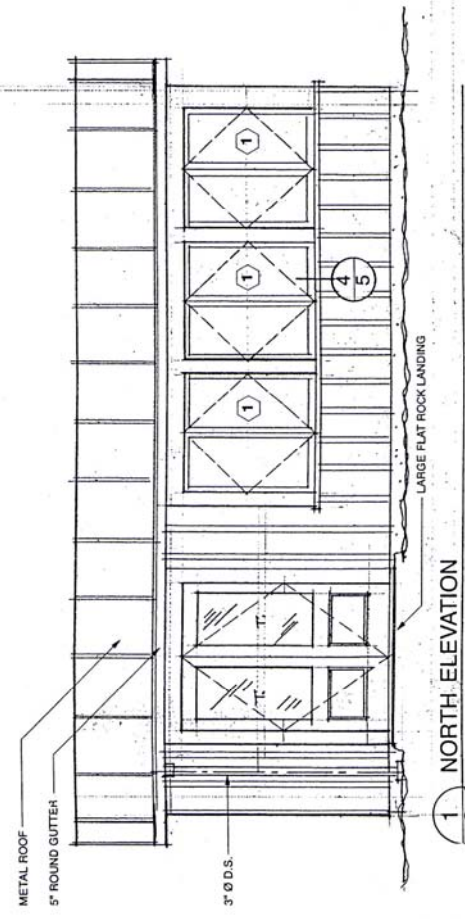
* Approved*
 City of Portland - Bureau of Development Services
 Planner: *[Signature]* Date: 1.17.11
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

ROOF ASSEMBLY
 ATTACHED TO FOUNDATION
 ATTACH W/ 60 RINGS/W/ NAILS
 @ 6" O.C. @ EDGES / 10" IN FIELD
 2x12 @ 24" O.C. W/ R-38 INSULATION

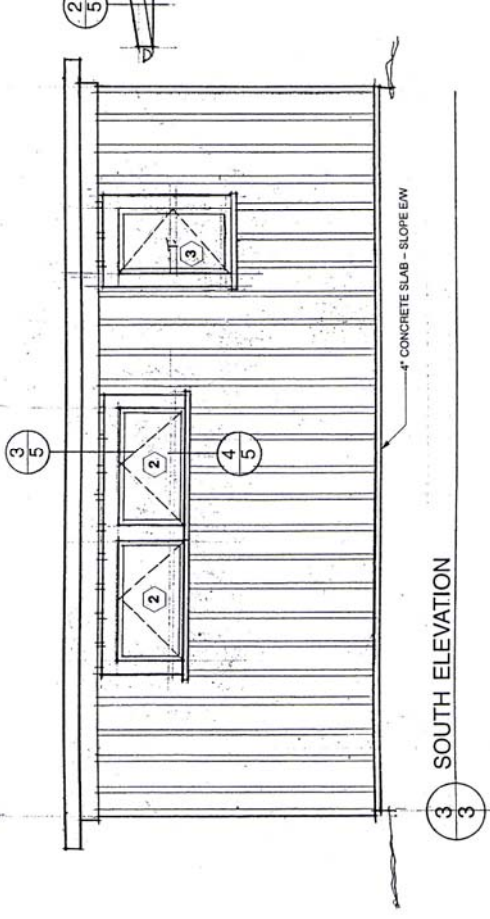
WALL ASSEMBLY
 ATTACHED TO FOUNDATION
 ATTACH W/ 60 RINGS/W/ NAILS
 @ 6" O.C. @ EDGES / 10" IN FIELD
 W/ R-21 INSULATION



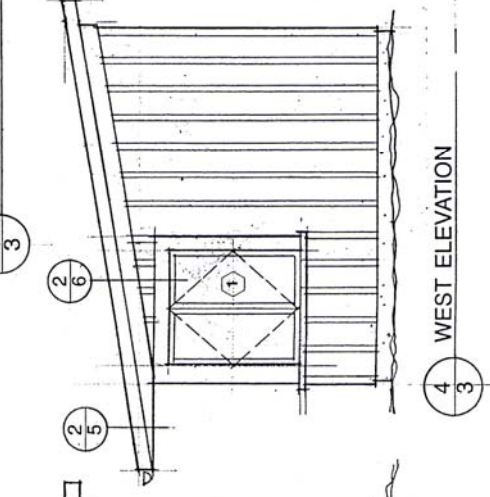
SECTION - EAST



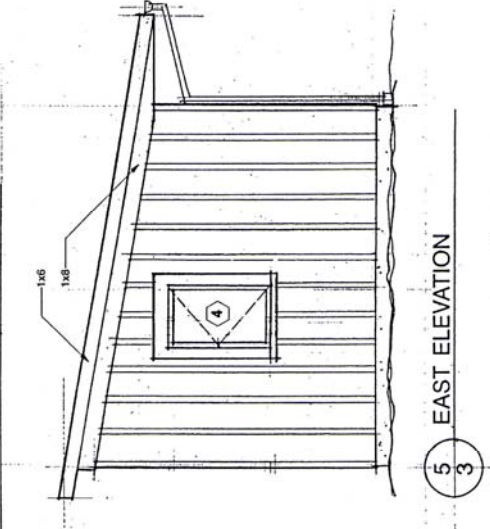
NORTH ELEVATION



SOUTH ELEVATION



WEST ELEVATION



EAST ELEVATION

RBA
 Richard Brown | Architect AIA
 204 NE 30th Avenue, Room 305
 Portland, OR 97232
 P 503.233.4877
 F 503.233.7653

WRITER'S RETREAT
 204 NE 30th Avenue
 PORTLAND, OREGON 97212

Project # 165011
 SUBMITTAL
 PERMIT REVIEW & CONSTRUCTION

DATE
 2010.11.10

3

Approved
 City of Portland - Bureau of Development Services

Case No. 198621AD Date 1.13.11
 EXHIBIT C2

Approval applies only to the reviews requested and is subject to the applicable zoning code. Additional zoning requirements may apply.