



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

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Date: June 3, 2011
To: Interested Person
From: Sheila Frugoli, Land Use Services
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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 11-125188 AD

GENERAL INFORMATION

Applicants/Owners: Stephanie and Samuel Dyer
705 N Humboldt St
Portland, OR 97217

Site Address: 705 N HUMBOLDT ST

Legal Description: BLOCK E 1/2 N LOT 8, M PATTONS & SUB
Tax Account No.: R520706950
State ID No.: 1N1E22BD 19500
Quarter Section: 2529

Neighborhood: Humboldt, contact Brian Murtagh at 503-962-9194.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321;
North Portland Business Assoc, contact Jim Schaller at 503-517-9915.
District Coalition: Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-823-4575.
Plan District: None
Zoning: R2.5a, Single-Dwelling Residential 2,500 zone and "a" Alternative Design Density overlay zone
Case Type: AD, Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicants wish to demolish their dilapidated detached garage and replace it with a new detached, two-story Accessory Dwelling Unit (ADU). The ADU will be approximately 500 square feet with living area on both floors. The structure will be less than 18 feet tall, approximately the same height as the house. The applicants wish to construct the ADU in the approximate location of the garage. They are requesting an Adjustment Review to reduce the required 5 foot building setback. The east building wall, at its closest point, will be located 2 feet, 5 inches from the east property line and the roof eave will extend within 1.5 feet of the property line. The applicants intend to meet Building Code fire separation. There will be no openings such as windows on the east wall. The existing paved driveway will be used for on-site parking.

ANALYSIS

Site and Vicinity: The subject site is located where N. Borthwick terminates at N. Humboldt. The site contains a 1.5-story, bungalow style home with a detached 1-car garage. The home and garage are elevated from the adjacent public rights-of-way by approximately 5 feet. The home sits back from fully improved N. Humboldt by approximately 25 feet.

Similar single-dwelling residences surround the site. Many of the homes in the immediate area have detached garages. The eastern abutting lot is vacant, but provides driveway access to a detached garage that serves the home at 642 N. Alberta Street. New three-story attached rowhouse homes are located at the corner of N. Humboldt and N. Kerby. East of N. Kerby is Jefferson High School, a Portland Public School. The site is located close to the Mississippi commercial corridor and within a few blocks of the Killingsworth commercial area.

Zoning: The site is zoned R2.5a. The R2.5, Single-Dwelling Residential zone provides housing opportunities for individual households. This zone is developed with both attached and detached homes on individual lots at a density of one unit per 2,500 square feet. The “a”, Alternative Design Density Overlay zone allows, in certain situations, an increase in density for development that meets additional design compatibility requirements. The applicant is not proposing use of this “a” overlay zone provision.

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 **April 14, 2011**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division (Exhibit E.4)

The **Bureau of Environmental Services** responded with the following comments that will apply at building permit review. To accurately determine the location of the existing private sewer lateral, prior to building permit approval, the applicant will be required to provide a sewer scope. The applicant must provide surface locate markers for photos and possible inspection. To address stormwater management requirements, at building permit review, the applicant must submit a completed Simplified Approach Form. Infiltration testing is required (Exhibit E.1).

The Water Bureau responded with the following comments that will apply at building permit review: There is an existing 5/8” metered service to the site via a 6” water main in N. Humboldt Street. The new ADU must have a water service and meter installed within the public right-of-way (Exhibit E.2).

The BDS Life Safety Plans Review Section responded with the following comment: Exterior walls less than three feet to a property line shall be one-hour fire-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 (Exhibit E.3).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 14, 2011. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.040 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 purpose of the setback regulations, per 33.110.220.A, is to:

- Maintain light, air, separation for fire protection, and access for fire fighting;
- Reflect the general building scale and placement of houses in the city's neighborhoods;
- Promote a reasonable physical relationship between residences;
- Promote options for privacy for neighboring properties;
- Require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- 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
- 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 Zoning Code allows only garages within the setback. Zoning Code section 33.205.030.D. allows the conversion of detached structures into an ADU. However, the applicants are proposing to demolish the existing garage and build a new detached ADU. Therefore, the side and rear building setback requirements as well as other design-related ADU standards must be met. An Adjustment is requested to reduce the required side building setback from 5 feet to 2 feet, 5 inches along the east property line. The roof eave will extend within 1.5 feet of the east property line.

The proposed ADU structure will have two ground-level doors, one facing south towards the street and the other facing west into the backyard. The applicant argues that constructing the structure within, generally, the same location of the garage's east wall will align with the existing driveway and maintain the existing development pattern.

As described above under the site description, many of the nearby sites have detached structures, and there are new multi-story rowhomes and commercial buildings on the same block. Most of the detached garages are located near property lines but are small in scale with no dormers or upper-story use. The submitted plans show the ADU structure will comply with the maximum 18-foot height limit. Because of the variety of building types, uses and multi-story buildings, the proposed 2-story ADU will not stand out.

The 3,000 square foot eastern abutting lot is vacant except for a driveway that leads to a detached garage that is accessory to the residence at 642 N Alberta. The two lots are under the same ownership. The driveway provides access to the home on N. Alberta as well as the lot to the east at 633 N. Humboldt. Staff did not receive comments from the property owner of the eastern abutting lot. If the eastern abutting lot continues to be used only for driveway access to accessory garages, the location of the ADU structure will not adversely impact affect light, air, or privacy. The proposed east façade of the ADU will be a solid wall with no opening. The 2-story ADU will maintain a reasonable physical relationship between the ADU and the developed abutting residential lots. Further, ADU design standards (33.205.030.D) requires the proposed ADU to match the design features of the home.

Access for fire fighting is available via the driveway. The Fire Bureau reviewed the proposal and responded with no concerns (Exhibit E.4). In order to obtain a building permit for the ADU, the proposal must comply with Building Code and other development-related requirements.

Comments from BDS Life Safety Plans Examiners note that the roof eaves may not project closer than 2 feet to the property lines. Eaves that are between 2 and 3 feet of a property line must be protected on the underside as required for one-hour fire-rated construction (Exhibit E.3). In order to meet ADU design standard 33.205.030.C.11, which requires the eave to project at least 1 foot, the applicant must locate the new ADU structure no closer than 3 feet from the property line. A 3-foot setback will provide room for a 1 foot deep eave.

For the reasons stated above, a reduction in the building setback from 5 feet to 3 feet and an eave projection setback reduction from 4 feet to 2 feet will satisfy this approval criterion and address other applicable Zoning Code and Building Code requirements.

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 setback reduction from 5 feet to 2 feet, 5 inches for the east building wall would likely not create impacts given the wall will have no openings and will abut a lot that is used for vehicle access to garages. However as noted above this location creates conflicts with both the building code and the ADU design standard for eaves. A setback reduction from 5 feet to 3 feet will allow the eave to extend a foot and still meet the building code fire separation requirement. This approval criterion is satisfied.

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 development standard—setbacks, is being adjusted. Therefore this criterion does not apply.

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

Findings: The site is not within a City-designated scenic resource area or a historic resource area. Therefore, this criterion does not apply.

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

Findings: As described above in response to approval criteria A and B, there are no adverse impacts identified with the proposal. Therefore this criterion does not apply.

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 does not apply.

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

Based on the findings of this report, each applicable approval criterion is met.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the east building setback from 5 feet to 3 feet and the required setback for the eave from 4 feet to 2 feet for a new detached Accessory Dwelling Unit, per the approved plan, Exhibits C.1, signed and dated June 1, 2011, 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. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 11-125188 AD".
- B. The ADU structure must be designed and constructed to match the house in exterior finish materials, roof pitch, trim and window proportion and orientation, per Zoning Code section 33.205.030.C.

NOTE: At inspection, the applicant will be required to identify the property lines via survey markers and measurements to verify compliance with the approved building location.

Staff Planner: Sheila Frugoli

Decision rendered by:  **on June 1, 2011**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 3, 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 March 31, 2011, and was determined to be complete on **April 11, 2011**.

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 31, 2011.

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 June 17, 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 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 **June 20, 2011**
- 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:

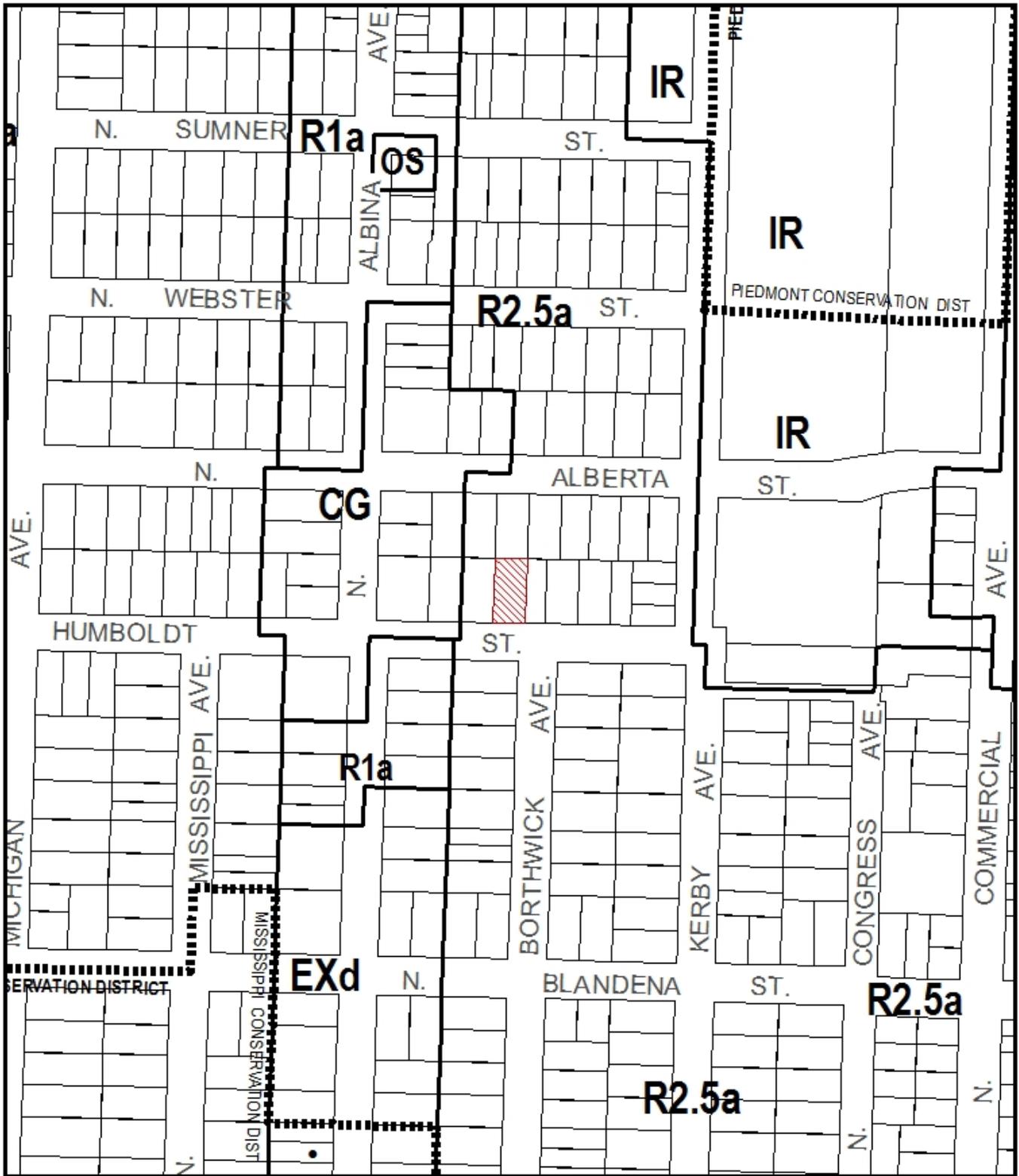
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Proposed Site Plan (attached)
 - 2. Proposed West and South Building Elevations
 - 3. Proposed East and North Building Elevations
 - 4. Floor Plans
 - 5. Building Section
 - 6. Survey
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Life Safety Plan Review Section of BDS
 - 4. TRACS Printout Showing "No Concerns" from Bureau of Transportation, Fire Bureau, Site Development Review Section of BDS and Bureau of Parks, Forestry Division
- F. Correspondence: NONE
- 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



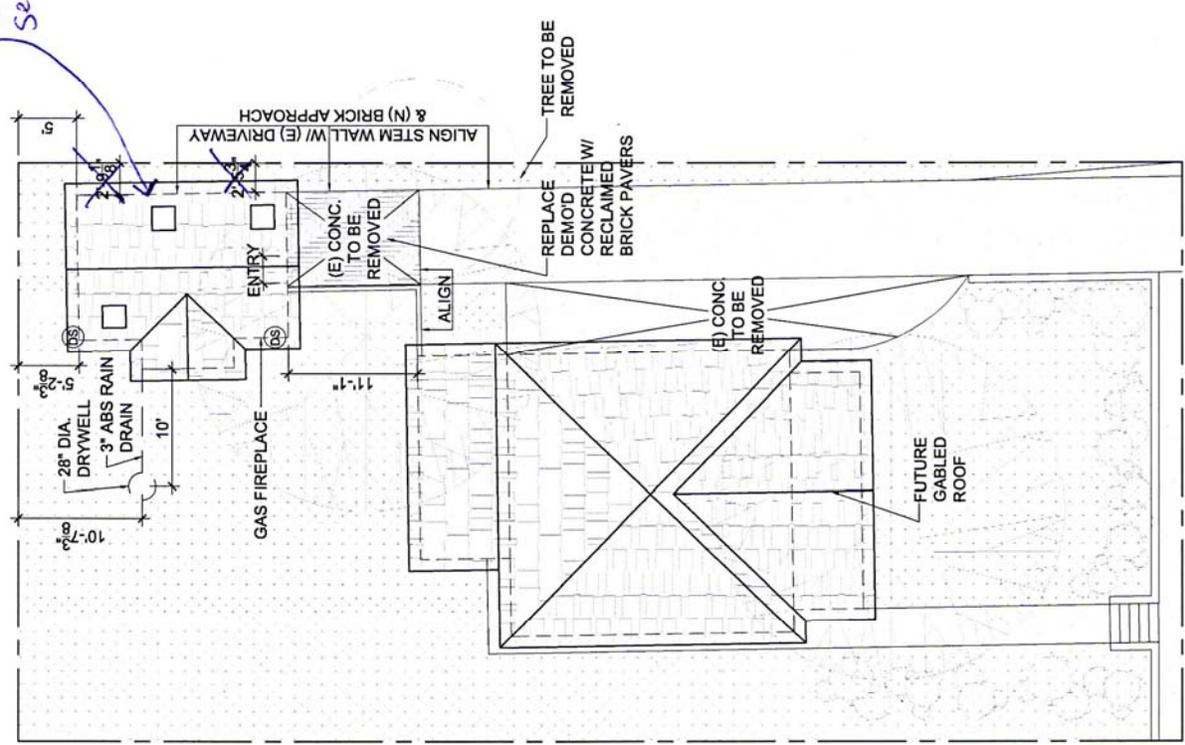
File No.	LU 11-125188 AD
1/4 Section	2529
Scale	1 inch = 200 feet
State_Id	1N1E22BD 19500
Exhibit	B (Apr 07,2011)

Approved 3-foot building setback

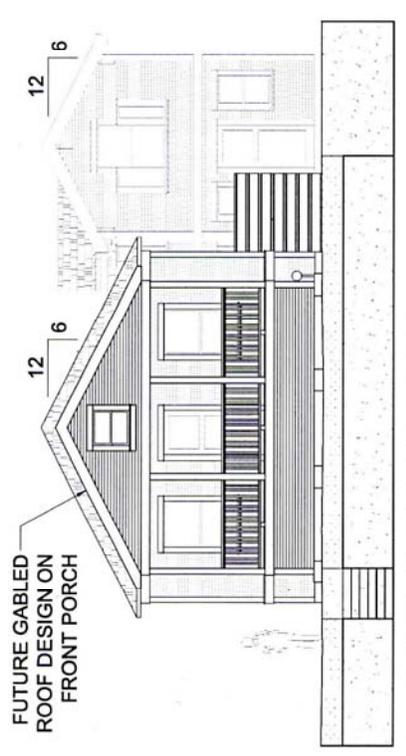
ADJUSTMENT SET 3.31.11
 STEPHANIE + SAMUEL DYER
 stephanieadyer@gmail.com
 503.956.0573

705 N. HUMBOLDT ST., PORTLAND, OR 97217
DYER RESIDENCE ACCESSORY DWELLING UNIT

A0.1
 2 of 7 Sheets



1 SITE PLAN
 A0.1 SCALE: 1" = 10'-0"



2 SITE ELEVATION FROM HUMBOLDT ST.
 A0.1 SCALE: 1/4" = 1'-0"

LOT AREA	5,000 SF
(E) IMPERVIOUS AREA	
DRIVEWAY + WALK	1,157 SF
ROOF AREA (INCL. OVERHANG)	1,215 SF
(N) IMPERVIOUS AREA	
DRIVEWAY + WALK	825 SF
ROOF AREA (INCL. OVERHANG)	1,291 SF
(E) BUILDING COVERAGE	
MAIN HOUSE FOOTPRINT	845 SF
GARAGE FOOTPRINT	180 SF
(N) BUILDING COVERAGE	
MAIN HOUSE FOOTPRINT	845 SF
GARAGE FOOTPRINT	247 SF

*Approved
 City of Portland - Bureau of Development Services
 Planner: *Michelle Truog* Date: *June 1 2011*
 * This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

*LU 11-125188 AD
 Exhibit C.1*