



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: August 13, 2012
To: Interested Person
From: Mark Bello, 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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 12-155691 AD

GENERAL INFORMATION

Applicant: Yarrow Murphy
4415 SE 16th Ave / Portland, OR 97202-4704

Gibran Ramos
4415 SE 16th Ave / Portland, OR 97202-4704

Site Address: 4415 SE 16TH AVE

Legal Description: BLOCK 13 LOT 21&22, BOISES ADD
Tax Account No.: R087303060
State ID No.: 1S1E11DC 10100
Quarter Section: 3432

Neighborhood: Brooklyn Action Corps, contact Steve Schmunk at 503-998-4096.
Business District: None
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.

Zoning: R2.5 Residential 2,500
Case type: AD Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:
The subject site is currently developed with a single-dwelling house, with a one-story, detached garage to the rear of the house. The applicant is proposing to convert the garage to an Accessory Dwelling Unit (ADU).

ADUs are allowed in single dwelling zones and are subject to zoning code development standards. The applicant has requested an adjustment to the following two standards:

1. Bulk limitation. The building coverage for the detached accessory dwelling unit may not be larger than the building coverage of the house. The combined building coverage of all detached accessory structures may not exceed 15 percent of the total area of the site. (Section 33.205.030 D)

The existing garage has a footprint of 910 sq. ft., comprising a total of 18.1% of the site. An adjustment is required to this standard to allow the converted garage/ADU to exceed the maximum percentage of site area, from 15% to 18.1%.

2. Minimum setbacks. Side and rear setbacks are a minimum 5' (Section 33.110.220, Table 110-3)

The existing garage/proposed ADU is located 1'-6" from the side (north) property line and 4'-3" from the rear (west) property line. An adjustment is required to reduce these setbacks from 5'.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria have been met.

ANALYSIS

Site and Vicinity: The site is a regularly platted lot, with 50' of frontage on the west side of SE 16th Avenue and is 100' deep. The lot is relatively level. There is a detached house at the front of the lot and a detached garage located 1'-6" from the north (side) lot line and 4'-3" from the west (rear) property line. [Dimensions excluding roof overhang.] According to city records, the house has a floor area of 1,264 sq. ft. According to the applicant the house has a footprint of 960 sq. ft. and the garage/ADU structure a footprint of 910 sq. ft.

The block is platted so that the garage is adjacent to the backyard of two lots that front on SE Mall Street. This is possible because the former corner lot at the intersection of SE Mall and SE 16th has been partitioned and developed with two houses. Across the south property line, a four-plex has been slotted on the rear of the lot behind surface parking. So, the garage is in close vicinity to a house directly to the north, a backyard to the west and farther from property to the south.

Development in the vicinity reflects the zoning pattern, which decreases in allowed density from R1, medium density multi-dwelling; to R2.5, detached or attached housing; to R5, single-dwellings. The industrial zone, EG1, along Holgate and approximately 150 ft. north of Holgate on SE 15th and SE 16th Avenues, includes commercial uses such as the strip retail center across SE 16th Avenue mixed with industrial uses. SE Holgate is heavily trafficked. Prominent uses in the vicinity include Tri-Met across SE 17th Avenue and the rail yards farther east.

Zoning: The Residential 2,500 (R2.5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The minimum density for new lots in this zone is 1 unit per 5,000 square feet and the maximum density is based on lot size and street configuration. Both detached and attached single-dwellings are allowed. Accessory Dwelling Units are allowed subject to the zoning requirements contained in Chapter 33.205.

Land Use History: City records indicate there are no prior land use reviews for this site. An addition to the south side of the two-car garage permitted in 1978 does not appear to have building permit approval nor is there a city record of any adjustment application for the 4'-3"

distance from the addition to the west property line. This review includes an adjustment for the reduced west setback.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **July 6, 2012**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1)
- Bureau of Transportation Engineering (Exhibit E.2)
- Water Bureau (Exhibit E.3)
- Fire Bureau (Exhibit E.4)
- Site Development Section of BDS (Exhibit E.5)
- Bureau of Parks-Forestry Division (Exhibit E.6)
- Life Safety Plan Review Section of BDS (Exhibit E.7)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 6, 2012. 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 either 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 ADU design standards are as follows:

33.205.030 Design Standards

A. Purpose. 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 purpose of the minimum setback regulations are as follows:

33.110.220 Setbacks

A. Purpose. The setback regulations for buildings and garage entrances serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of 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.

Single dwelling zones provide land for housing and housing opportunities for individual households. In the R2.5 zone, lots may be developed with detached houses, attached houses, duplexes in certain circumstances, and Accessory Dwelling Units (ADUs). Lots may be as small as 1,600 sq. ft. and minimum side and rear setbacks as small as 5 ft. Development standards that specify maximum heights, building coverage, setbacks, and required outdoor areas provide parameters for appropriate building envelopes and locations of the house and accessory structures.

In the R2.5 zone, a detached garage in the side or rear setback may be converted to an Accessory Dwelling Unit provided that the original structure has dimensions typical of a two-car garage. In this case, the garage/ADU conversion has an east/west dimension (side yard) that exceeds the maximum dimension (24') by 6 ft. And, the north/south dimension (rear yard) is exceeded by 10'-11". Therefore, conversion is not allowed by right and the structure is subject to the ADU regulations and design standards.

Although the floor area of the garage/ADU is slightly less than 72% of the square footage of the house and meets part of the ADU bulk standard, the structure also exceeds the maximum building coverage of the site (18.1% vs. 15% code maximum). However, the building coverage of the accessory structure is less than the house and the height of the accessory structure is less than the house. (The structure is one story while the house is two stories.) So, the ADU is accessory in sense that the house is clearly the primary structure and the ADU is secondary or accessory to the house.

In terms of sheer size, the ADU does exceed the 800 sq. ft. maximum by 110 sq. ft. However, the house and accessory structure are already constructed so it is possible to evaluate the proposal as existing. As the applicant notes, the existing building is similar in character and equal or smaller in scale to neighboring buildings and therefore will not overwhelm adjacent homes.

Also, converting the garage into an ADU with two bedrooms will probably preclude further division of the lot into two parcels, each of which may be as small as 2,500 sq. ft. and be half covered with buildings.

Therefore, this approval criterion is met regarding additional floor area.

The accessory structure is placed closer than the minimum 5' setback from side and rear property lines. The structure is one-story in height and has no windows on the north elevation and three windows on the west elevation. A 9" reduction in distance from the ADU to the west property line (from 5" to 4'-3" to building wall) could decrease the privacy of the neighbor to the west by reducing the distance by that 9". However, the applicant states that there is a fence along the mutual property line and that the neighbor has eliminated a hedge that formerly provided an additional layer of separation. To the north, a reduction from 5' to 1'-6" is proposed but mitigating circumstances include a solid wall with no windows and an easement granted to the neighbor. City staff has not received any response from neighboring property owners.

Therefore, this criterion is met regarding reduced setbacks.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area; and

Findings: The proposed project will not significantly change the livability or appearance of the residential area. The most significant change will be replacing the overhead garage door with exterior wall including windows and an entry on the front of the building. The siding will also be changed to match the primary dwelling. Otherwise, the structure will not increase in height or floor area. *Therefore, 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: The applicant is requesting two Adjustments. The purpose of the Single-Dwelling Residential zones is to “preserve land for housing and to provide housing opportunities for individual households (Zoning Code Section 33.110.010.). Individually and cumulatively, requested Adjustments for a new accessory dwelling unit are consistent with the purpose of the zone which is to provide housing opportunities. *Therefore, this criterion is met.*

- 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 zone. Historic resources are designated by a large dot. 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: The proposed ADU will remain one-story. The north wall is solid but the west wall does have windows. The chief impact of the proposal will be to reduce the distance that these windows are from the west property line, from a code minimum 5’ to 4’-3”. The chief impact would be a loss of privacy from a structure being an additional 9” closer to the property line than allowed by code; however, this reduced setback is so minimal that impacts to privacy would also be minimal. There is a fence along the common property line, and the area between the structure and the property line is paved with concrete so no additional mitigation for privacy such as landscaping is practical. *Therefore, 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: 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 such designations on this 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 or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The garage in the backyard is already constructed and will not be expanded. Approval criteria are met. However, there is no record that a building permit was ever issued for the 9’-10” “addition” to the garage permitted in 1978. So, a building permit will be required to “legalize” this addition as part of the conversion of the structure from garage to ADU.

The approval criteria are satisfied and therefore the request should be approved.

ADMINISTRATIVE DECISION

Approval of the following adjustments to allow conversion of an existing detached garage to an ADU:

Per the approved site plans, Exhibits C-1 and C-4, signed and dated August 7, 2012, subject to the following conditions:

1. An Adjustment to increase the building coverage of the detached structure from 15% to 18.1% (33.205.030.D)
2. An Adjustment to reduce the required setback from the north property line from 5' to 1'-6" (33.110.220, Table 110-3)
3. An Adjustment to reduce the required setback from the west property line from 5' to 4'-3" [eaves project up to 10" into this area] (33.110.220, Table 110-3).

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 and C.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-155691 AD.

Staff Planner: Mark Bello

Decision rendered by:  **on August 9, 2012**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 13, 2012

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 June 27, 2012, and was determined to be complete on July 3, 2012.

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 June 27, 2012.

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: October 31, 2012.**

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 27, 2012** 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 **August 28, 2012**.
- 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:

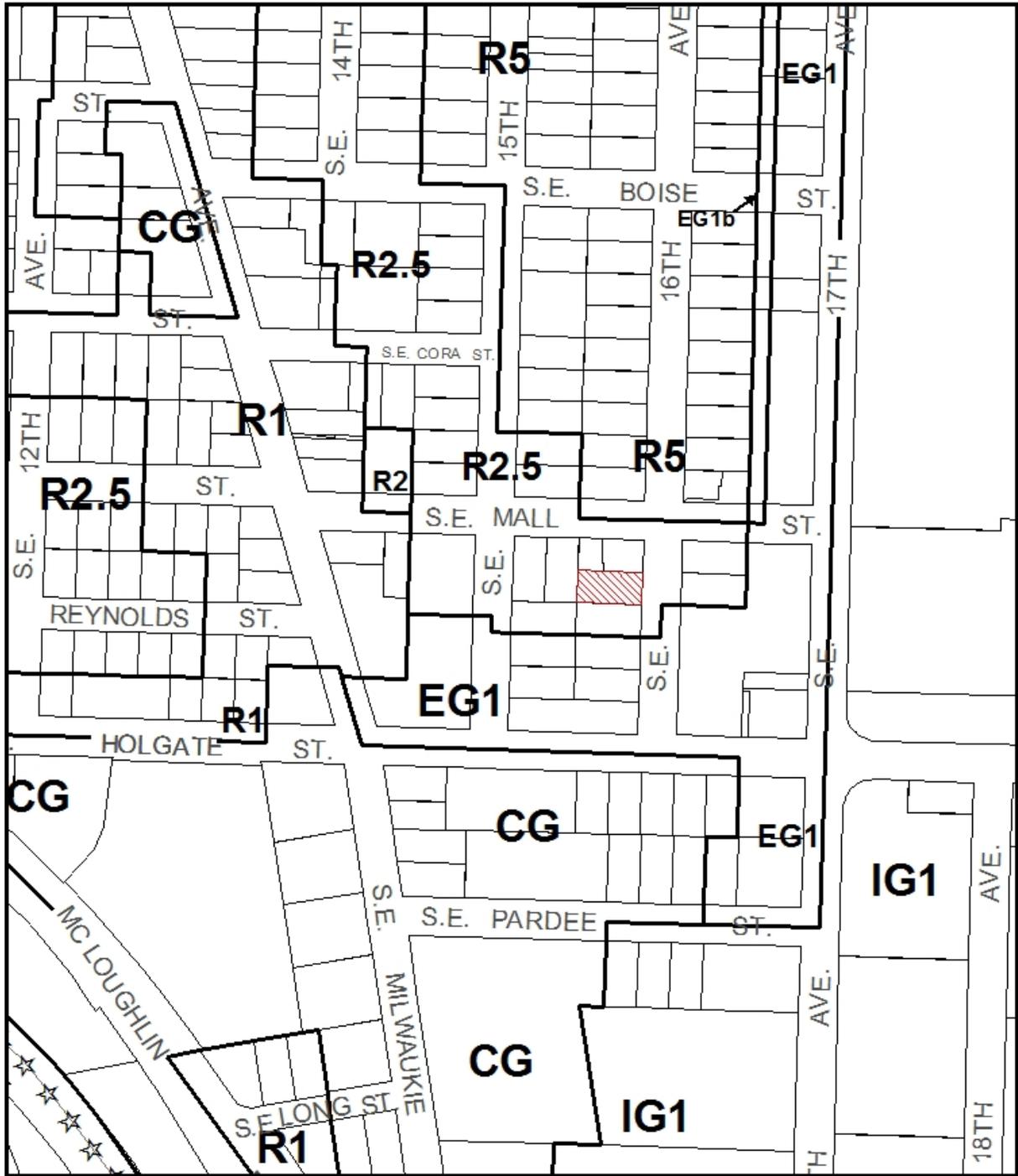
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Existing Garage Elevations/East, West
 - 3. Existing Garage Elevations/South/North
 - 4. Proposed Garage Elevations/East, West (attached)
 - 5. Existing Garage Floor Plan
 - 6. Proposed ADU Floor Plan (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. Site Development Review Section of BDS
 - 6. 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 12-155691 AD</u>
1/4 Section	<u>3432</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S1E11DC 10100</u>
Exhibit	<u>B (Jun 29, 2012)</u>

Site Plan

Proposed Conversion of existing garage to ADU

Located at
4415 SE 16th Ave
Portland, Oregon 97202

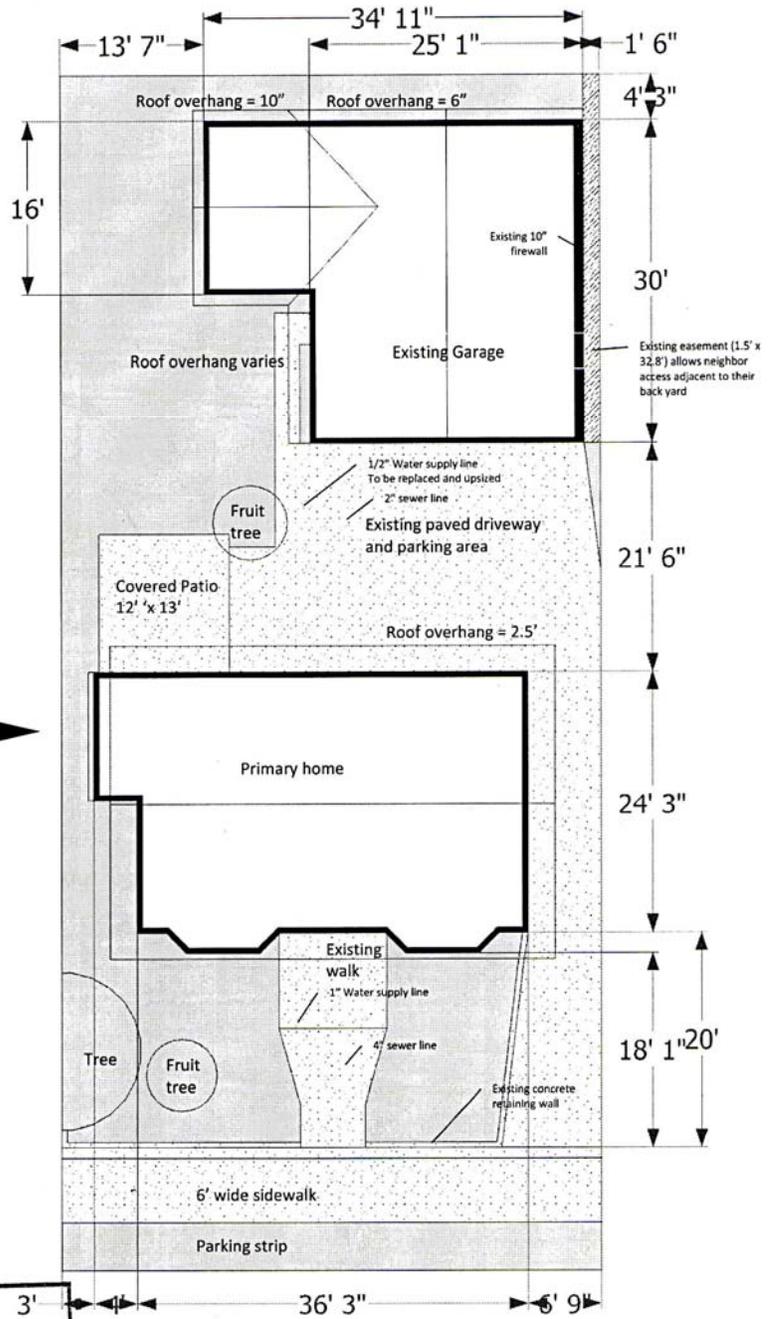
Legal description
Lots 21 and 22
Block 13
Boise's Addition to
the City of Portland

Lot Area 5000 sq ft

Impervious area
Driveway 980 sq ft
Patio 150 sq ft
Walk 200 sq ft
Roof.... 2220 sq ft
Total 3550 sq ft

Building Coverage
Accessory bldg footprint.... 910 sq ft
Main house footprint.... 960 sq ft
Total building footprint.... 1870 sq ft

Notes:
1) Proposed Work will be limited to the interior of the existing garage and to a 0.75" extension water supply line to the proposed ADU.
2) Impervious area and building coverage will not change as part of this project.



Approved
City of Portland
Bureau of Development Services
Planner HB
Date 8/9/12
* This approval applies only to the reviews requested and is subject to all conditions of approval.
Additional zoning requirements may apply.

CASE NO. 12-15569/AD
EXHIBIT C1

Scale 1" = 10'

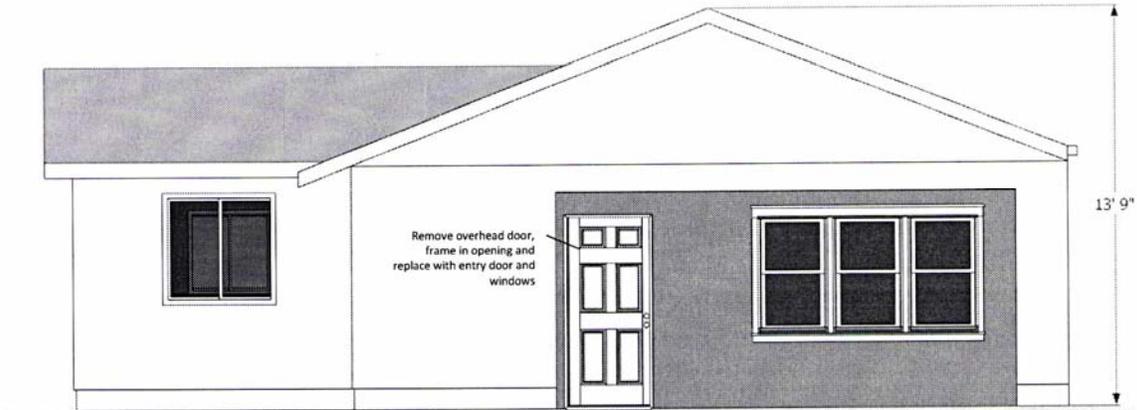
Proposed Elevation Plan
Conversion of existing garage to ADU

Located at
4415 SE 16th Ave
Portland, Oregon 97202

Legal description
Lots 21 and 22
Block 13
Boise's Addition to
the City of Portland

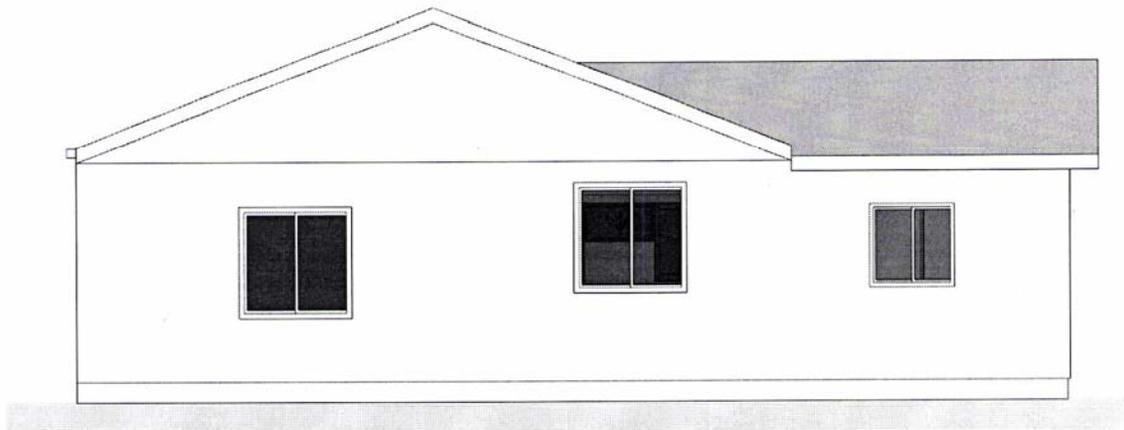
Notes

1. No proposed changes to footprint of existing garage.
2. Only exterior change to existing garages is on east side (facing street). Remove existing overhead garage door and replace with windows and entry door.



Proposed Elevation - Front (East)

Scale 1" = 4'



Proposed Elevation - Rear (West)

Scale 1" = 4'

Approved
City of Portland
Bureau of Development Services
Planner WJB
Date 8/9/12

* This approval applies only to the reviews requested and is subject to all conditions of approval.
Additional zoning requirements may apply.

CASE NO. 12-155691 AD
EXHIBIT C4