

City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

Date: August 23, 2012 **To:** Interested Person

From: Mark Bello, Land Use Services

503-823-7810 / Mark.Bello@portlandoregon.gov

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 12-161561 AD GENERAL INFORMATION

Applicant: Daniel J Stein / Susan M Stein

1907 NE Multnomah St / Portland, OR 97232

John Mackinnon / Northwest Architecture & Design PC 515 NW Saltzman Rd, No 722 / Portland OR 97229

Site Address: 1907 NE MULTNOMAH ST

Legal Description: BLOCK 2 LOT 8, HOLLADAY PK & 1ST ADD

 Tax Account No.:
 R395500300

 State ID No.:
 1N1E35AB 01400

Quarter Section: 2932

Neighborhood: Sullivan's Gulch, contact Carol Gossett at 503-449-1253.

Business District: None

District Coalition: Northeast Coalition of Neighborhoods, Paige Coleman at 503-823-4575.

Zoning: R2, Residential 2,000, a low density multi-dwelling zone

Case Type: AD, Adjustment, a request to adjust zoning code setback standard Type II, an administrative decision with appeal to the Adjustment

Committee.

Proposal:

The corner property is located at the northeast corner of the intersection of NE Multnomah Street and NE 19th Avenue. The house orients to NE Multnomah, the side elevation fronts NE 19th Avenue. This elevation has a west room with deck and railing above. The west wall and foundation of this west room extend within the 5' minimum setback that is required by Portland's zoning code (section 33.120.220). That is, the structure is within 2' of the property line. The applicant wishes to rebuild the deck, add partial walls and railings, and provide a new covered roof structure for the altered deck. The deck would extend within 2' of the west property line and the roof above would extend within 6" of the west property line. The design is intended to enhance the second story space for a "bird sanctuary".

The development, as proposed, (located closer than 5' from the west property line), requires an Adjustment to the setback standards.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are cited in Section 33.805.040 of the Zoning Code.

ANALYSIS

Zoning: The Residential 2,000 (R2) zone is a low density multi-dwelling zone. It allows approximately 21.8 dwelling units per acre. Allowed housing is characterized by one to three story buildings, but at a slightly larger amount of building coverage than the R3 zone. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments. However, detached houses are also allowed.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 26, 2012**. City Bureaus responded with no issues or concerns:

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 26, 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

33.805.010 Purpose of Adjustments The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

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

- **A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- **B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area and
- **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
- **D.** City-designated scenic resources and historic resources are preserved; and
- **E.** Any impacts resulting from the adjustment are mitigated to the extent practical.
- **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 AND CONCLUSIONS

The applicants' proposal meets all of the relevant approval criteria: The purposes for the regulations that govern setbacks are to maintain light, air, and separation for fire protection; to reflect building scale and promote reasonable physical relationships between properties; and to promote a visually pleasing front yard.

This corner property is located at the northeast corner of the intersection of NE Multnomah Street and NE 19th Avenue. The NE 19th Avenue frontage is a side yard. In addition to the west room within the setback an existing garage is located near the north property line close to the sidewalk. The west wall of the garage is in line with the current west wall of the home/west room.

A "west room" extends from the main bulk of the house toward NE 19th Avenue into the side yard along NE 19th Avenue. Its west wall and foundation sits 3 ft. into the setback or 2 ft. from the west property line. The deck has access from the second floor bedroom door.

The existing west end of the house and the proposed covered deck design does not impede on light, air, separation for fire protection as it is located adjacent to the sidewalk and is not adjacent to neighboring properties. The Fire Bureau has no objections to this proposal.

The neighborhood is predominantly residential with a wide variety of housing types from detached homes to high rise apartments. The property immediately to the west is a two story condominium complex and the property to the immediate south is a two story apartment. This minor addition to the house is at a vastly smaller scale than the 15 to 16 story height of the Holladay Park Plaza and Fontaine high-rises nearby.

The proposed alteration will maintain the existing west wall location (or west room) in the same location but provide a new covered roof structure over the repaired second story deck. A partial height wall will surround the deck and feature open railing. The design will complement other second floor exterior decks in the neighborhood. The open deck can bring additional opportunities for neighbor interaction.

No impact is foreseen from approval of this proposal so mitigation or conditions of approval are not imposed as part of this review.

Only one adjustment is requested, there are no scenic or historic resources and the site does not have an environmental overlay zone, so approval criteria D and F are not applicable.

Therefore, because all of the relevant approval criteria are met, the proposal can be approved, in substantial compliance with the proposed site plan.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Section 33.120.220, to allow construction of a second floor enclosed deck, and reduced setback, from 5 ft. to 6 inches from the west property line.

Per the approved site plans, Exhibits C-1 and C-2, signed and dated August 17, 2012, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-161561 AD. No field changes allowed."

Staff Planner: Mark Bello

| Decision rendered by: | | on August 21, | 2012 |
|-----------------------|--|---------------|------|
| By a | authority of the Director of the Bureau of Development | Services | |

Decision mailed: August 23, 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 July 13, 2012, and was determined to be complete on **July 20, 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 July 13, 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: November 20, 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 September 6, 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 **September 7, 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.

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

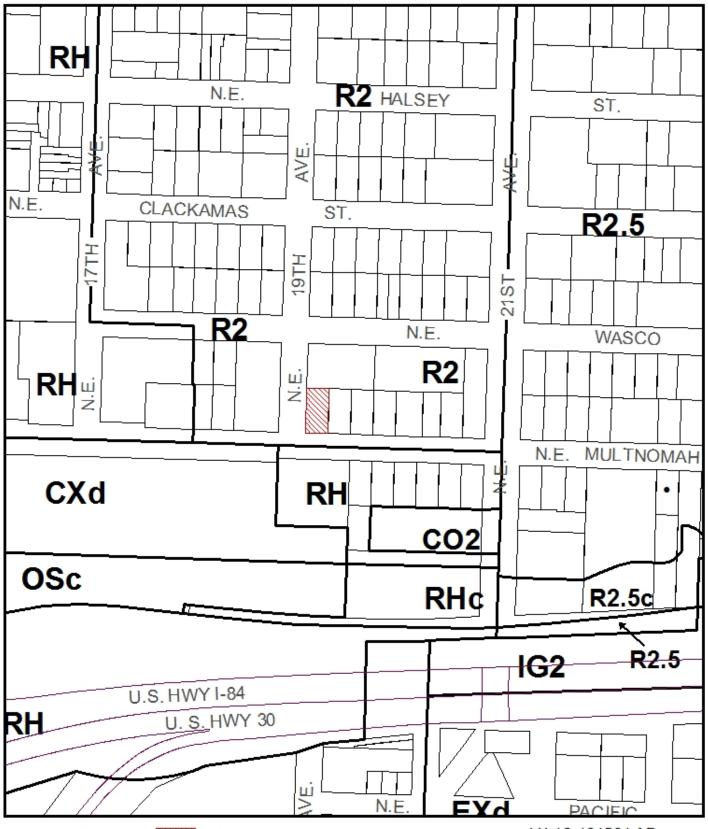
• All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. 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. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner, BDS
- 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).

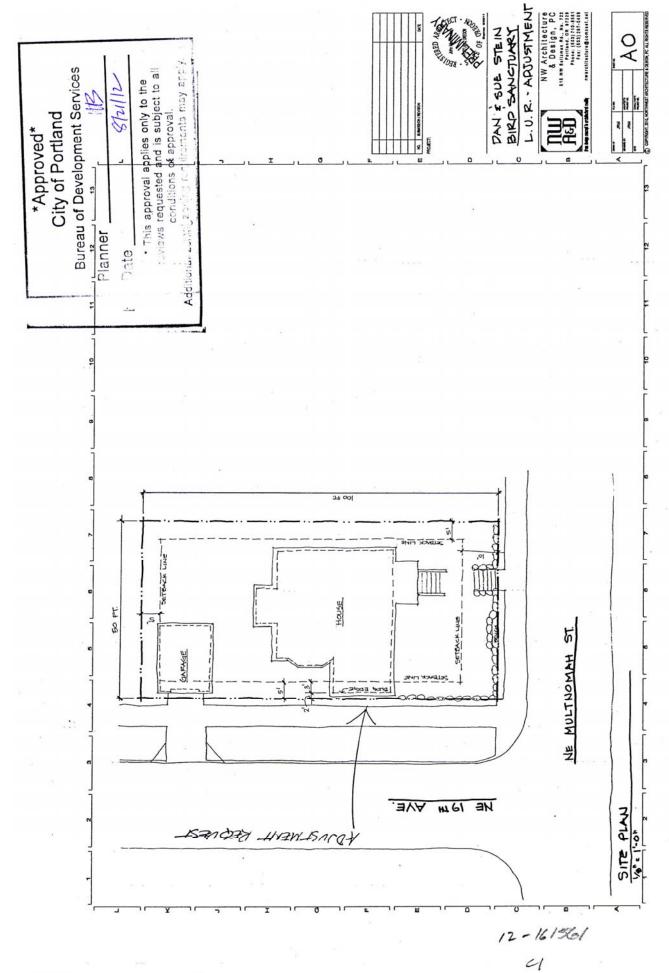


ZONING Site

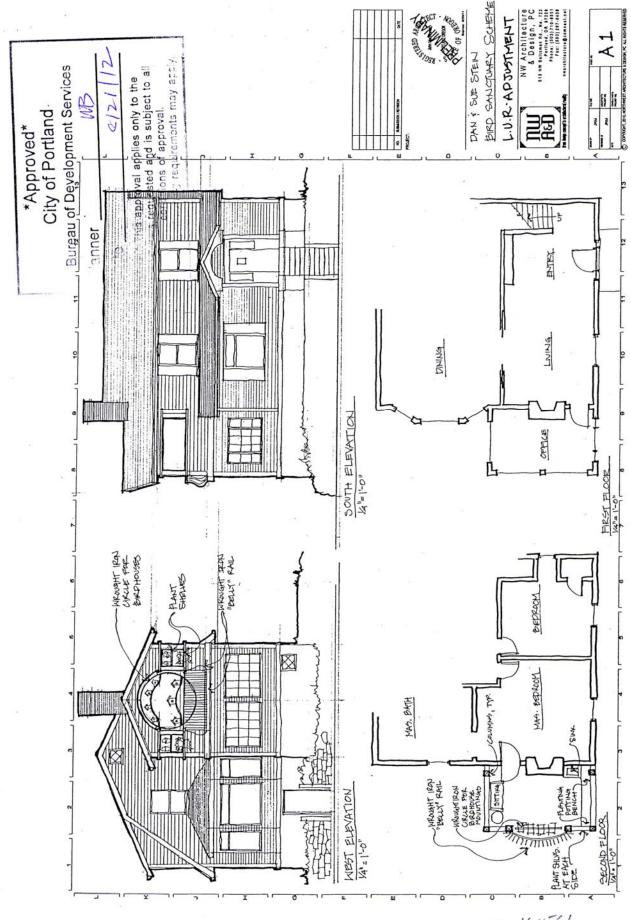


File No. __LU 12-161561 AD 2932 1/4 Section ___ Scale 1 inch = 200 feet 1N1E35AB 1400 State Id _ Exhibit B (Jul 23,2012)





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