



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

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Date: April 19, 2013
To: Interested Person
From: Staci Monroe, 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 13-117456 AD - CONVERT A DETACHED GARAGE INTO AN ACCESSORY DWELLING UNIT

GENERAL INFORMATION

Applicant: Lionel Ramirez
7025 SE 36th Avenue / Portland OR, 97202

Owner: James and Anastasia Shulevitz
2008 NE Siskiyou Street / Portland, OR 97212-2465

Site Address: 2008 NE SISKIYOU STREET

Legal Description: BLOCK 26 N 1' OF LOT 19 LOT 20, IRVINGTON
Tax Account No.: R420405720
State ID No.: 1N1E26AA 17600
Quarter Section: 2732
Neighborhood: Irvington, contact Dean Gisvold at 503-284-3885.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.
District Coalition: NE Coalition of Neighborhoods, Shoshana Cohen at 503-388-5004.
Other Designations: Irvington Historic District
Zoning: R5 – Single Family Residential 5,000 zone
Case Type: AD – Adjustment Review for 3 Adjustments
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal:

The applicant seeks approval of three Adjustments to convert an existing detached garage into an Accessory Dwelling Unit (ADU). The single-story garage is located in the southeast corner of the site, 29'-0" from the north property line along Siskiyou Street. The proposal includes a one-story addition at the north end of the structure reducing the setback from Siskiyou to 21'-0". The conversion of the garage into living area for an ADU requires the following three Adjustments:

Side & Rear Setbacks (Zoning Code Section 33.110.253.C & D)

In the R5 zone, the required side and rear building setback is 5'-0". The garage is located 1'-0" from the east (side) property line and 2'-0" from the south (rear) property line. Section 33.110.253.C states that existing detached garages in side and rear setbacks may be converted to another type of detached structure so long as they meet the regulations of Section 33.110.253.D. This section requires a minimum 25'-0' setback from the side street lot line (21'-0" proposed), 24'-0" maximum dimensions (28'-0" proposed), and the structure may not include any living space (living unit proposed). Therefore, since the proposal does not meet these requirements for an exception to the setback standards, an Adjustment to the 5'-0" side and rear setback is necessary.

Accessory Dwelling Unit Design Standards (Zoning Code Section 33.202.030.C.8 and 11)
Section 33.202.030.D.4.d states when floor area is added to existing detached structures to allow for an ADU conversion, the entire structure must meet the design standards of Section 33.202.030.C. Given the addition on the north end, the structure would need to have a pitched roof with eaves of similar depth to match the house and cedar shingles. The existing condition of the garage, flat roof with a parapet and no eaves, is proposed to remain and a similar treatment is proposed on the addition. Tongue and groove cedar siding is proposed on the new bay on the west side.

Parking in Side Setback (Zoning Code Section 33.266.120.C.2)

Converting the garage relocates the required parking space to the driveway between the modified structure and the north lot line along Siskiyou. Zoning Code section 33.266.120.C.1.a states that required parking spaces are not allowed within a required side setback. In this case, the side setback is 5'-0". Zoning Code section 33.266.120.D.1 states that a parking space must be at least 9' wide by 18' deep outside the side setback area, which results in a driveway length requirement of at least 23'-0" in depth. The proposed driveway is 21'-0" in depth, hence the Adjustment request.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. 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 5100 SF site is located at the southeast corner of the intersection at NE 20th and NE Siskiyou within the Irvington Historic District. The property is developed with a 2 story house and detached garage. The surrounding properties are also zoned R5 and developed with single-family homes, most with detached garages set towards the rear of the site.

Zoning: The Residential 5,000 (R5) 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. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

Irvington Historic District Platted in the late Nineteenth Century as the first addition to Portland that employed restrictive covenants, the Irvington area developed intensely with a mix of middle class housing types and sizes during the first two decades of the Twentieth Century. The contributing resources in Irvington range in design character from expressions of the late Victorian Era styles, especially Queen Anne, through the many Period Revival modes of the early decades of the Twentieth Century, to a few early modernist examples. There is also a wide diversity in the sizes of lots and houses. In terms of the streetscape, the numbered north-south avenues in Irvington vary dramatically in width, and they mostly form rather long block faces which the houses generally face. The named east-west street block faces are more consistent in

length, almost all being traditional 200' Portland blocks. All are lined with mature street trees. These patterns help to lend the neighborhood the distinctive and homogeneous historic character.

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

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **March 14, 2013**. The following Bureaus have responded with major no issues or concerns:

- Bureau of Environmental Services (Exhibit E-1)
- Water Bureau (Exhibit E-2)
- Bureau of Parks-Forestry Division (Exhibit E-3)
- Plan Review Section of BDS (Exhibit E-4)
- Bureau of Transportation Engineering (no exhibit)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 14, 2013. 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 (Adjustments)

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

33.805.040 Approval Criteria

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

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

Findings: The purpose of each of the standards are as follows:

Side & Rear Setbacks (Zoning Code Section 33.110.220) - 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.*

On the south side, the existing 2'-0" setback will not change. The window on this elevation will be removed to meet life safety code, which limits openings in setbacks less

than 5'-0". Similarly on the east elevation, the existing window will also be removed due to the 1'-0" setback from the property line. The wall on the east side will be extended 8'-0" to the north within the reduced side setback.

The proposal meets the purpose of the regulation in several ways. The garages on the abutting properties east and south of the site are both several feet from the subject structure, allowing light, air and access to be maintained. Life safety code will require fire rating of both of these walls to ensure fire protection for the adjacent structures. Removal of the windows that face the abutting properties and the fact that the adjacent structures are garages will ensure the privacy of the neighboring residences will be maintained.

Accessory Dwelling Unit Design Standards (Zoning Code Section 33.202.030.C.8 and 11) - 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.*

Section 33.202.030.D.4.d states when floor area is added to existing detached structures to allow for an ADU conversion, the entire structure must meet the design standards of Section 33.202.030.C. Given the addition on the north end, the structure would need to have a pitched roof with eaves of similar depth to match the house and cedar shingles. The existing condition of the garage, flat roof with a parapet and no eaves, is proposed to remain and a similar treatment is proposed on the addition. Tongue and groove cedar siding is proposed on the new bay on the west side.

The detached garage is listed as a Contributing Garage in the Irvington Historic District. Even though it does not match the house in terms of its roof, it was constructed during the period of significance for the district and considerable changes, such as to the roof design, should be avoided to retain its architectural integrity and thus contribution to the historic district. The addition on the north end will continue the crenelated parapet and cedar shingles. It will also incorporate new features that visually match the original historic materials and detail as those found on the house, such as wood windows of similar proportion and orientation, trim, wood doors and cedar shingles. The tongue and groove siding on the new bay on the west side will differentiate the projection from the original structure and once painted and located behind the new fence will have a negligible impact on the resource.

The proposal meets the purpose of the standard in that it provides an efficient form of housing that utilizes existing infrastructure. It does so in a manner that respects the look and scale of the single-dwelling historic Irvington neighborhood. At 496 SF in floor area, it retains a similar footprint of a two car garage, which is not an uncommon size for detached structures in this district. The complementary detailing respects the architectural integrity of this contributing resource.

Parking in Side Setback (Zoning Code Section 33.266.120.C.2) - The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.

Although not currently used for vehicle parking due to a fence along the north property line, an existing curb cut is evidence that a driveway once occurred at the proposed location. This curb cut will be used for the new driveway, which will consist of permeable pavers. The fence will be relocated west of the driveway. On the east side along the abutting property line is a retaining wall of several feet in height with

landscaping on top. Both the abutting retaining wall and the relocated fence will obscure the portions of a parked vehicle within the 5' setback along the side lot line. It should also be noted that there is an additional 2'-0" between the back of the sidewalk on Siskiyou and the side property line, therefore the 23'-0' required is provided just not entirely on the private property. Transportation did not have any concerns as the proposal allows the required parking space (9'x18') to be fully on the property with no overhang into the sidewalk and therefore no pedestrian conflicts.

The proposed Adjustment meets the intent of the standard in that it provides the parking space dimensions required and its placement, within the side setback, is enhanced with screening on both sides by the abutting retaining wall and fence. In addition, rather than asphalt or concrete the driveway will consist of permeable pavers to soften the space, which could be used as an outdoor patio for the ADU when a car is not parked there. The garage doors on the converted garage will be replaced with two pairs of French doors providing a better connection between the structure and the sidewalk.

For the reasons stated above, 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 proposed adjustments will not detract from the livability or appearance of the area. There is adequate room to allow the prior driveway to be replaced and function as a parking space, which is consistent with the character in the area. The location of the structure in the setback is similar to the location of the structures on the abutting properties and with the removal of the windows on the east and south elevations privacy should not be an issue with the conversion to living space. Maintaining the architectural detailing and integrity of this contributing structure rather than matching the house on the site is consistent with the intention of Historic District, which is to preserve those resources that contribute its historic fabric. 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 three Adjustments combined will not conflict with the purpose of the single-dwelling zones, which is intended to preserve land for housing and to provide housing opportunities for individual households. 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; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: As found under criterion A and B, the requested Adjustments are not anticipated to create any additional impacts and therefore do not require mitigation. The proposal, however, includes design measures, such as pervious pavers for the driveway, screening of the parking space, complementary architectural detailing and an improved street façade that will visually enhance the property. This approval criterion is satisfied.

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

Findings: The site is not within an environmental zone. This criterion is not applicable.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

All of the approval criteria have been met for the requested Adjustments. The proposed adjustments will not detract from the livability of the neighborhood and they meet the intent of the individual standard being adjusted as well as of the residential zone. For these reasons, the Adjustment should be approved.

ADMINISTRATIVE DECISION

Approval of the following three Adjustments to convert an existing detached garage with an addition into a 496 SF Accessory Dwelling Unit (ADU):

1. Reductions to the side setback from 5' to 1' and rear setback from 5' to 2' (Zoning Code Section 33.110.253.C & D);
2. Accessory Dwelling Unit design standards for roof pitch, eaves and exterior finish (Zoning Code Section 33.202.030.C.8 and 11); and
3. Parking in 5' side setback (Zoning Code Section 33.266.120.C.2).

Per the approved site plans, Exhibits C-1 through C-12, signed and dated 4/17/13, 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.12. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-117456 AD. No field changes allowed."

Staff Planner: Staci Monroe



Decision rendered by: _____ **on April 17, 2013**

By authority of the Director of the Bureau of Development Services

Decision mailed: April 19, 2013

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 February 19, 2013, and was determined to be complete on March 11, 2013.

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 February 19, 2013.

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 May 3, 2013** 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 **May 6, 2013**.
- 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.

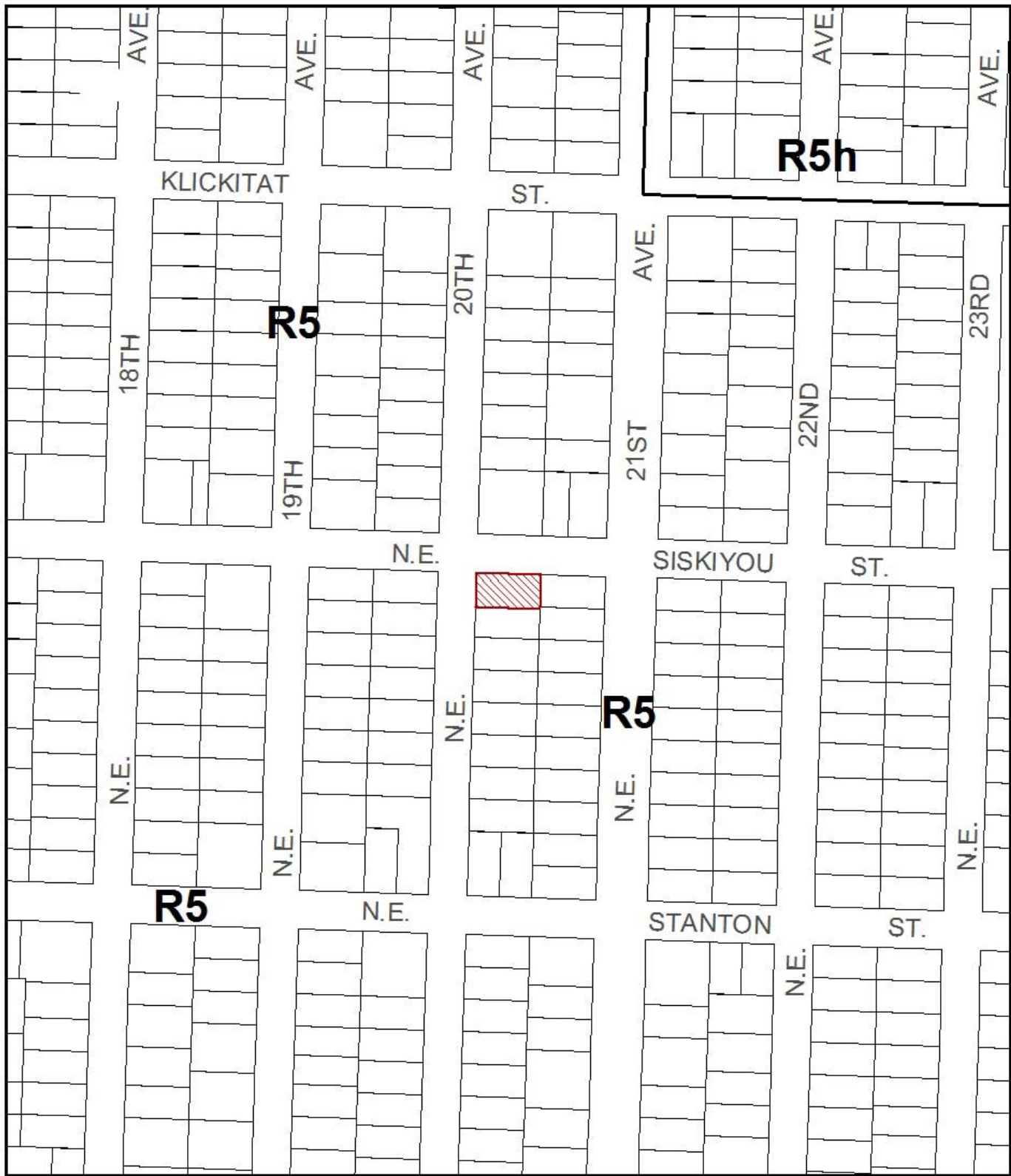
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
 1. Responses to Approval Criteria
 2. Photos of Existing Conditions
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site (attached)
 2. Building Elevations (attached)
 3. Existing House West Elevation
 4. Window Wall Sections
 5. Exterior Details and Sections
 6. Window Details
 7. Door Details

8. Light Fixture Details
 9. Skylight Detail
 10. AC Unit Details
 11. Rooftop Membrane Details
 12. Floor Plan
- D. Notification information:
1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Water Bureau
 3. Bureau of Parks, Forestry Division
 4. Plan Review Section of 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

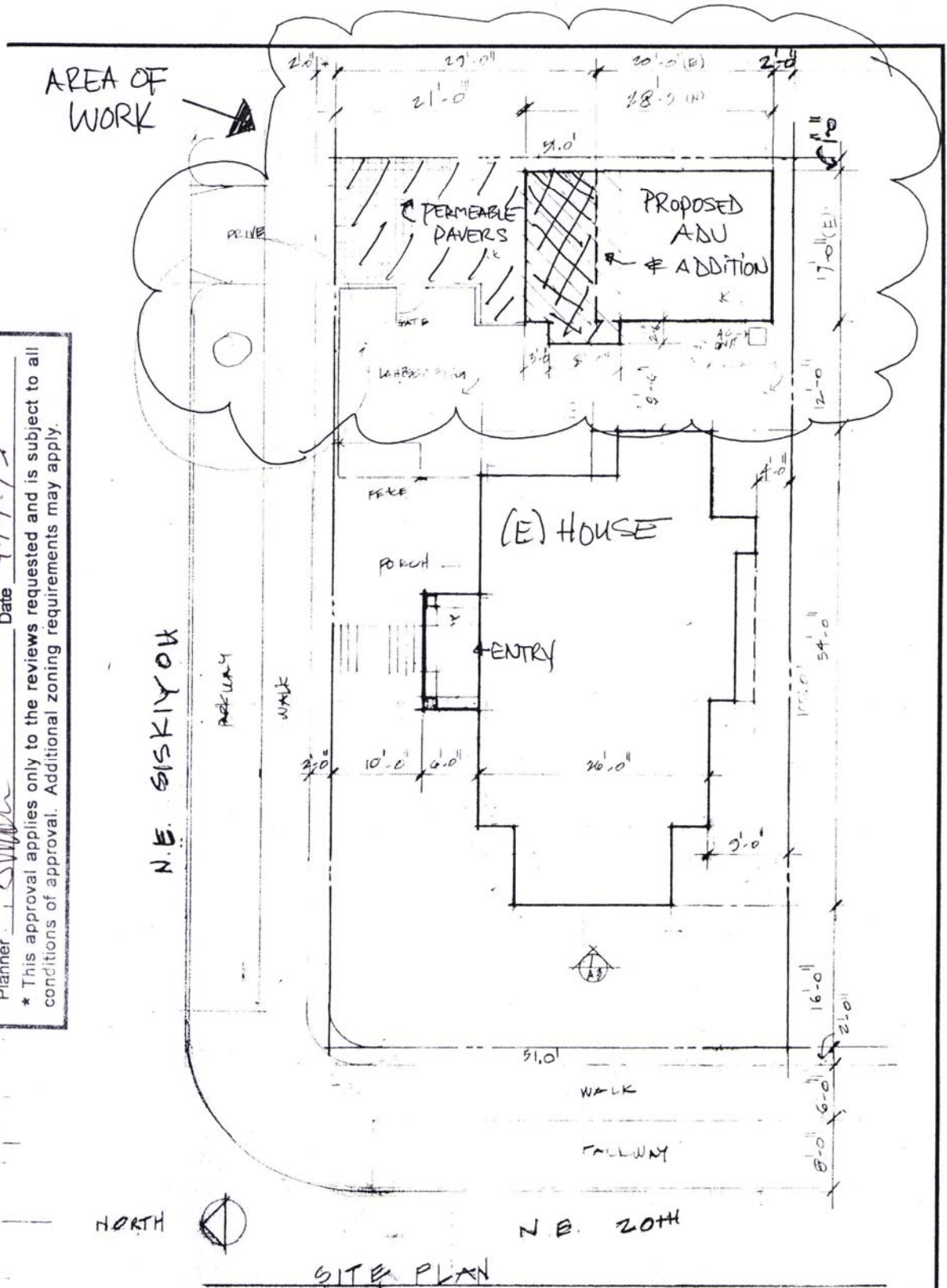
 Site



This site lies within the:
IRVINGTON HISTORIC DISTRICT

File No. LU 13-117456 HDZM
 1/4 Section 2732
 Scale 1 inch = 200 feet
 State_Id 1N1E26AA 17600
 Exhibit B (Feb 22, 2013)

* Approved*
 City of Portland - Bureau of Development Services
 Planner: *[Signature]* Date: 4.17.13
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



LEGAL - IRVINGTON, BLOCK 26,
 N 1' OF LOT 13, LOT 20

21. FINITE RESIDENCE 2078 N.E. SISKIYOU PORTLAND, OR 97212		
SCALE:	APPROVED BY:	DRAWN BY U.
DATE:		REVISED
EX. C-1		DRAWING NUMBER A1

LU-13 117456 AD

