



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
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Date: December 19, 2013
To: Interested Person
From: Matt Wickstrom, 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 13-224678 AD

GENERAL INFORMATION

Applicant: Lorraine Guthrie / Lorraine Guthrie Architect, Inc.
2748 SW Patton Ct / Portland OR 97201

Property owners: Martha Johnson and Luis Ponce De Leon
1220 SE 40th Ave / Portland, OR 97214-4404

Site Address: 1220 SE 40TH AVE

Legal Description: BLOCK 14 N 40' OF LOT 1&2, SUNNYSIDE ADD
Tax Account No.: R810501390
State ID No.: 1S1E01AD 16600 **Quarter Section:** 3134
Neighborhood: Sunnyside, contact Paul Loney at 503-233-8265.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Zoning: R2.5 (Residential 2,500)
Case Type: AD (Adjustment Review)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing a one-story, 439 square foot addition to the rear of the existing one and one-half story single-dwelling residence on the site. The addition will be set back four feet from the north side lot line (reflecting the side setback of the existing house), five feet from the rear lot line, and 20.5 feet from the south side lot line.

On a site of this size in the R2.5 zone, buildings are allowed to cover up to 1,661 square feet of the site. The existing house covers 1,383 square feet, with the addition bringing the total building coverage to 1,822 square feet. The applicant is therefore requesting an Adjustment to increase the maximum allowed building coverage on the site from 1,661 square feet to 1,822 square feet.

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 approximately 3,400 square feet in size. It is developed with a one-and-a-half story single-dwelling home constructed in a Victorian style. Development in the immediate vicinity is primarily composed of single-dwelling residences that are also generally one-and-a-half to two-stories in height.

Zoning: The site is zoned R2.5, one of several zones that implement the Comprehensive Map designation for residential. The R2.5 zone is a high density single-dwelling zone. The R2.5 zone allows attached and detached single-dwelling structures and duplexes.

Land Use History: City records indicate the following prior land use reviews for this site:

LUR 91-00444: Approval of two Adjustments to allow construction of a detached garage within 1-foot of the street property line and to reduce the south side building setback from 5 feet to 4 feet for the existing house.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **November 18, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 18, 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 for the building coverage regulations for single dwelling zones is found at 33.110.225, which states:

Purpose: The building coverage standards, together with the height and setback standards control the overall bulk of structures. They are intended to assure that taller

buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site.

The applicant requests to increase the allowed building coverage from 1,661 square feet to 1,822 square feet. This reflects an increase in allowed building coverage of approximately 160 square feet or only 10 percent above what is allowed by right. The single-story addition and its location at the rear of the existing house controls the overall bulk of the structure so that it will not overwhelm the adjacent houses. An existing 6-foot fence and hedge will also help screen the addition from the homes next door. 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 proposal will not detract from the livability or appearance of the residential area. The addition is well-designed and is consistent with the Victorian style architecture of the home. The single-story addition will not impact privacy for the adjacent homes especially considering that the existing fence and hedge will screen the addition from the homes next door. The addition also does not impact the street-facing façade of the home, in fact, it won't be visible from the street. 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: Only one adjustment is requested. This criterion is not applicable.

- 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: There are no discernible impacts that would result from granting the requested adjustment. 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: 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

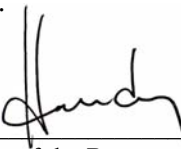
The applicant has requested an Adjustment to allowed building coverage at this site in order to construct a single-story addition to the rear of an existing house. All applicable approval criteria are met, and therefore the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of:

- An Adjustment to 33.110.225 Building Coverage to increase the allowed building coverage from 1,661 square feet to 1,822 square feet, per the approved site plans, Exhibits C-1 through C-2, signed and dated December XX, 2013, subject to the following condition:
 - A. As part of the building permit application submittal, each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 13-224678 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

Staff Planner: Matt Wickstrom

Decision rendered by:  **on December 16, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 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 November 5, 2013, and was determined to be complete on November 18, 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 November 5, 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. Unless further extended by the applicant, **the 120 days will expire on: March 18, 2014.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project

elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on January 2, 2014** 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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after **January 3, 2014.**
- 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:

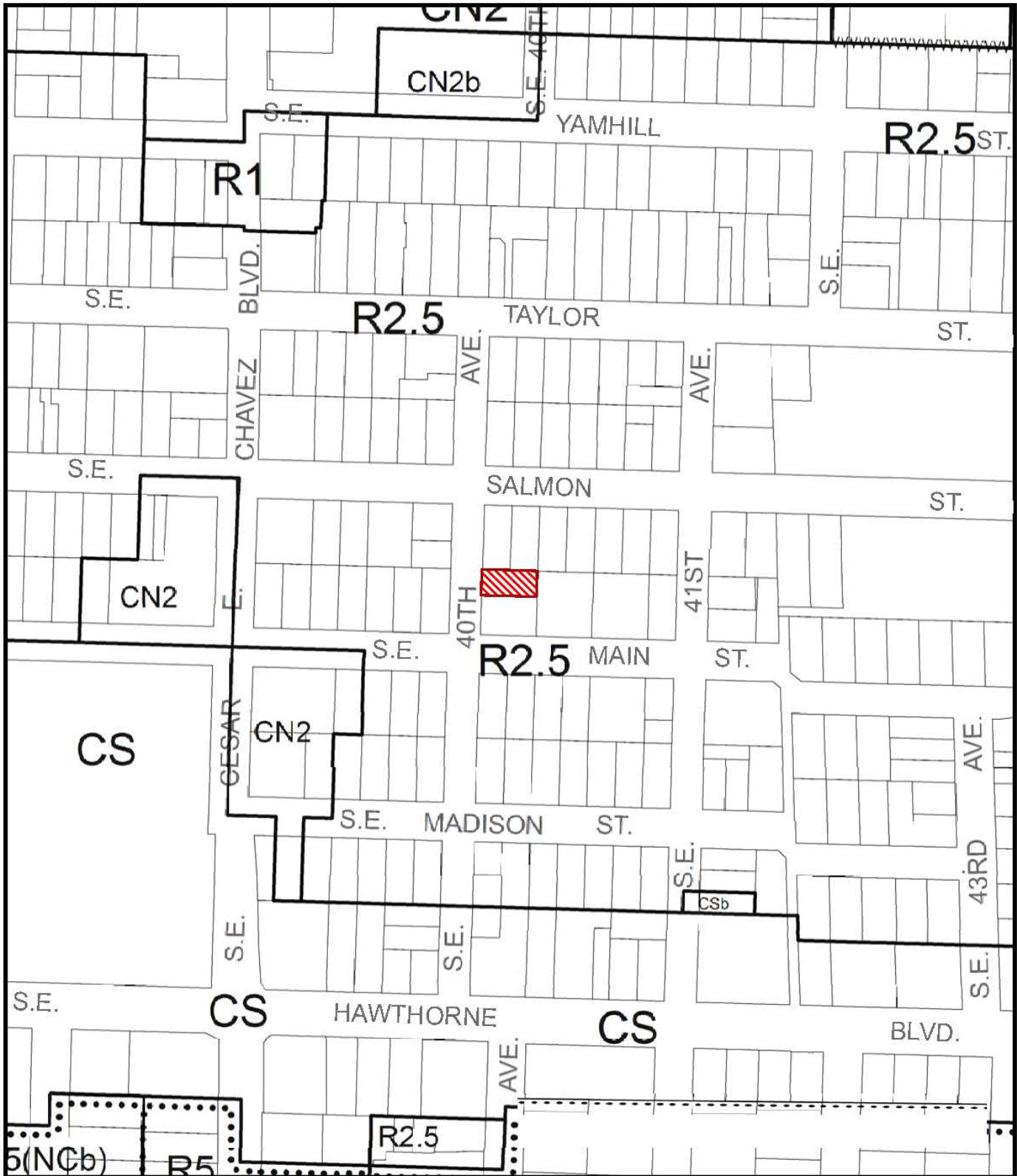
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Building Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Site Development Review Section of BDS
 - 5. 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



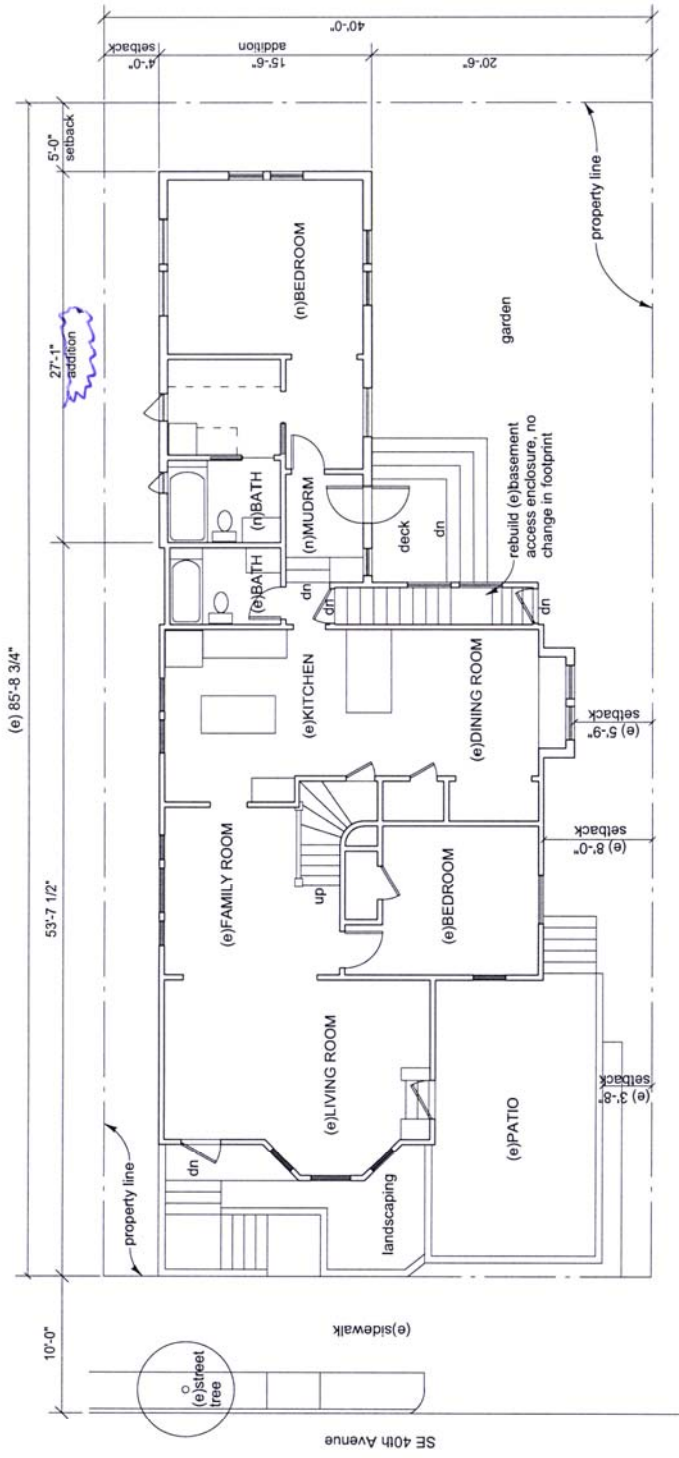
File No. LU 13-224678 AD
 1/4 Section 3134
 Scale 1 inch = 200 feet
 State_Id 1S1E01AD 16600
 Exhibit B (Nov 06,2013)

Approved

City of Portland - Bureau of Development Services

Planner MLW Date 12-16-13

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



| | |
|-------------------------------|----------|
| Lot size: | 3,429 sf |
| Maximum coverage: | 1,661 sf |
| (1,500 + 37.5% of 429) | |
| Existing coverage: | 1,383 sf |
| Proposed additional coverage: | + 439 sf |
| Total proposed coverage | 1,822 sf |



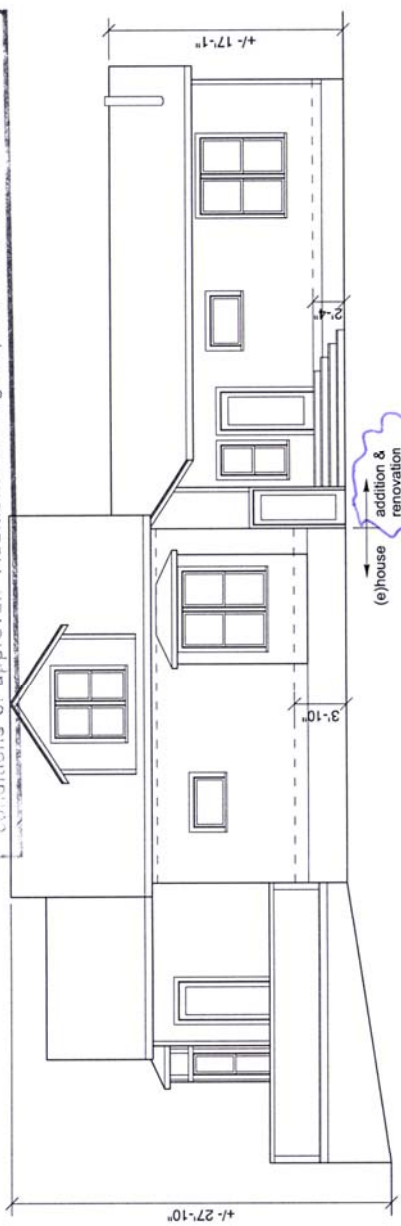
1 SITE / FIRST FLOOR PLAN



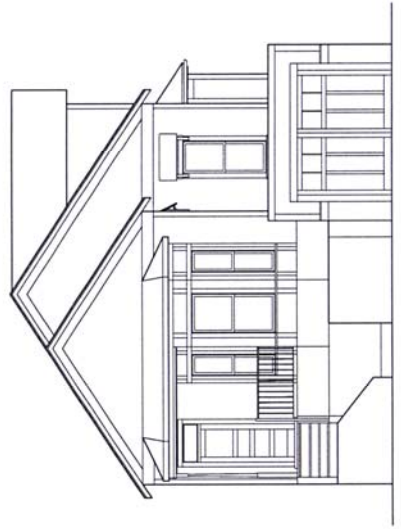
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|---|--|
| Johnson • Ponce De Leon Residence 1220 SE 40th Avenue, Portland OR 97214 Lorraine Gulhrite Architect, Inc. 2748 SW Patton Court, Portland, OR 97201 503.804.5725 | Title: Site Plan Scale: 1/8" = 1'-0" Date: 5 November 2013 <div style="text-align: center; font-size: 24pt; font-weight: bold;">1</div> |
|---|--|

LN 13-224678 AD C-1

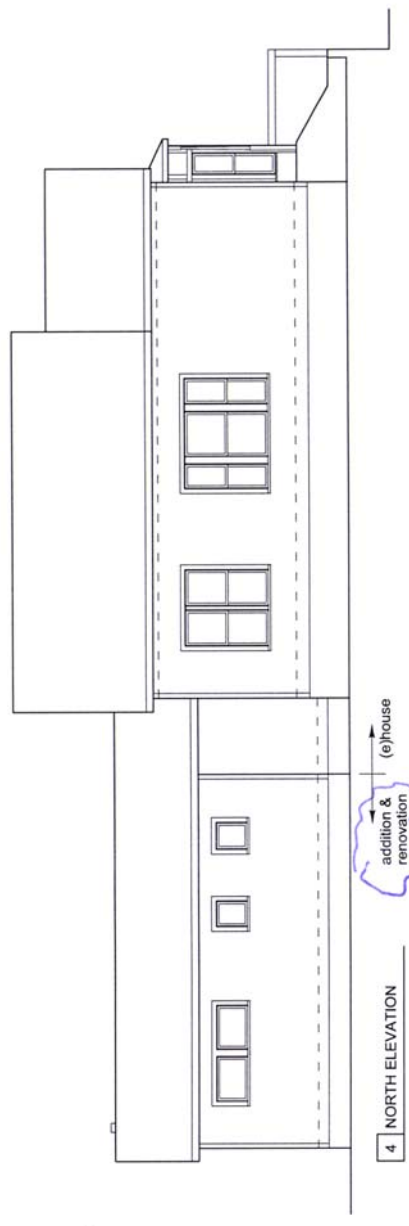
Approved
 City of Portland - Bureau of Development Services
 Planner MLW Date 12-16-13
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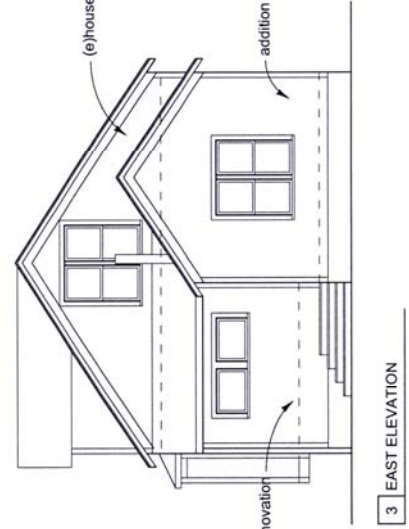
2 | SOUTH ELEVATION



1 | WEST ELEVATION



4 | NORTH ELEVATION



3 | EAST ELEVATION



Johnson • Ponce De Leon Residence
 1220 SE 40th Avenue, Portland OR 97214
 Lorraine Guthrie Architect, Inc. 2748 SW Patton Court, Portland, OR 97201
 503.804.5725

Title: Exterior Elevations
 Scale: 1/8" = 1'-0"
 Date: 5 November 2013

2

LN 13-224678 AD

C-2