



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

Amanda Fritz, Commissioner
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Date: April 2, 2014
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 14-119025 AD

GENERAL INFORMATION

Applicant: Asmund Tweto / NWC - Nick Weitzer Co.
2038 SE Cesar Chavez Blvd / Portland, OR 97214

Owners: David Jencks and Jill Feldstein
2215 SE Cesar E Chavez Blvd / Portland, OR 97214

Site Address: 2215 SE CESAR E CHAVEZ BLVD

Legal Description: BLOCK 4 LOT 9, FIELDS ADD **Tax Account No.:** R277900350
State ID No.: 1S1E01DD 26200 **Quarter Section:** 3234

Neighborhood: Richmond, contact Douglas Klotz at 503-233-9161

Business District: Division-Clinton Business Assoc, Darice Robinson at 503-233-1888

District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010

Zoning: R5 (R1) – Residential 5,000 with a Residential 1,000 Comprehensive Plan Map designation

Case Type: AD (Adjustment)

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant proposes to replace the existing detached garage located in the north side building setback with an accessory dwelling unit (ADU). The footprint of the garage structure will be expanded to the south and include additional internal living area for the ADU as well as a covered porch. Detached garages are allowed in the side setback in certain circumstances. However, new detached ADU structures must comply with setback requirements. The applicant requests an Adjustment to reduce the required 5-foot north side building setback to 1-foot (0 feet to the eave) to construct the ADU.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- 33.805.040 Adjustments Approval Criteria

ANALYSIS

Site and Vicinity: The 4,725 square foot site is developed with a single-dwelling residence. It is located on SE Cesar E Chavez Boulevard. Development in the vicinity is primarily single-dwelling residences with a few nearby retail and office establishments.

Zoning: The R5 (Residential 5,000) zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. An ADU may be added to a house, attached house or manufactured home in the R5 and other residential zones.

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 6, 2014**. The following Bureaus have responded with the following:

- The Site Development Section of the Bureau of Development Services (BDS) responded with no concerns and provided information on the septic system and erosion control (Exhibit E-1).
- The Life Safety Section of BDS responded with information on obtaining a building permit and exterior walls less than 3 feet from a property line (Exhibit E-2).
- The Water Bureau responded with no concerns and provided information on water service (Exhibit E-3).
- The Bureau of Environmental Services responded with no concerns and with information on sanitary sewer service and stormwater management requirements (Exhibit E-4).
- The Bureau of Transportation Engineering responded with no concerns (Exhibit E-6).
- The Portland Parks and Recreation Bureau responded with no concerns (Exhibit E-5).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 6, 2014. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Title 33.805.040 Adjustments

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

Findings: The applicant plans to replace an existing detached garage with an accessory dwelling unit (ADU) and requests one Adjustment to reduce the side setback from 5 feet to 1-foot (0 feet to the eave). The purpose of the setback standards in the R5 zone is found in 33.110.220.A and reads:

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.*

Many detached garages in Portland's older neighborhoods are located in the side and/or rear setback. Because these structures are generally 10-12 feet in height, light, air and access for fire fighting are still maintained. The ADU will be the same height as a typical detached garage and therefore impacts on light, air and access for fire fighting will be comparable. As noted in the Life Safety response, building code fire wall requirements will apply for walls less than 3 feet from the property line. The proposed ADU will be located adjacent to the north property line, approximately 15-20 feet from the neighboring house. This provides a reasonable separation between residences and living space. No windows are proposed along the north elevation of the ADU, therefore privacy for the residence to the north will be maintained. The ADU is sited in such a way that it is compatible with the placement of detached structures in the neighborhood and still allows for an adequately sized backyard for the residents of the primary residence and ADU to share. Although the garage will be replaced with an ADU, the driveway will remain. Based on this information, 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 ADU is designed to match the architectural style of the house. Due to the lack of north-facing windows on the ADU, privacy for the adjacent neighbor will not be negatively impacted. 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 being requested therefore this criterion does not apply.

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

Findings: There are no scenic or historic resources at this site therefore this criterion does not apply.

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

Findings: No impacts should result from the requested Adjustment. The ADU is well designed and will meet building code requirements. 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 located in an environmental zone therefore this criterion does not apply.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

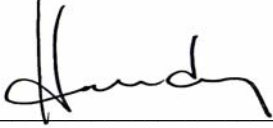
The applicant requests one Adjustment to reduce the required 5-foot side building setback to 1-foot (0 feet to the eave). Acknowledging the height of the proposed ADU, the design and the lack of north-facing windows, the proposal meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the north building setback from 5 feet to 1-foot (0 feet to the eave) for the construction of an accessory dwelling unit, per the approved plans, Exhibits C-1 through C-2, signed and March 28, 2014, 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 14-119025 AD."

Staff Planner: Matt Wickstrom

Decision rendered by:  **on March 28, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 2, 2014

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 20, 2014, and was determined to be complete on March 3, 2014.

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 20, 2014.

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: July 1, 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 April 16, 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 **April 17, 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:

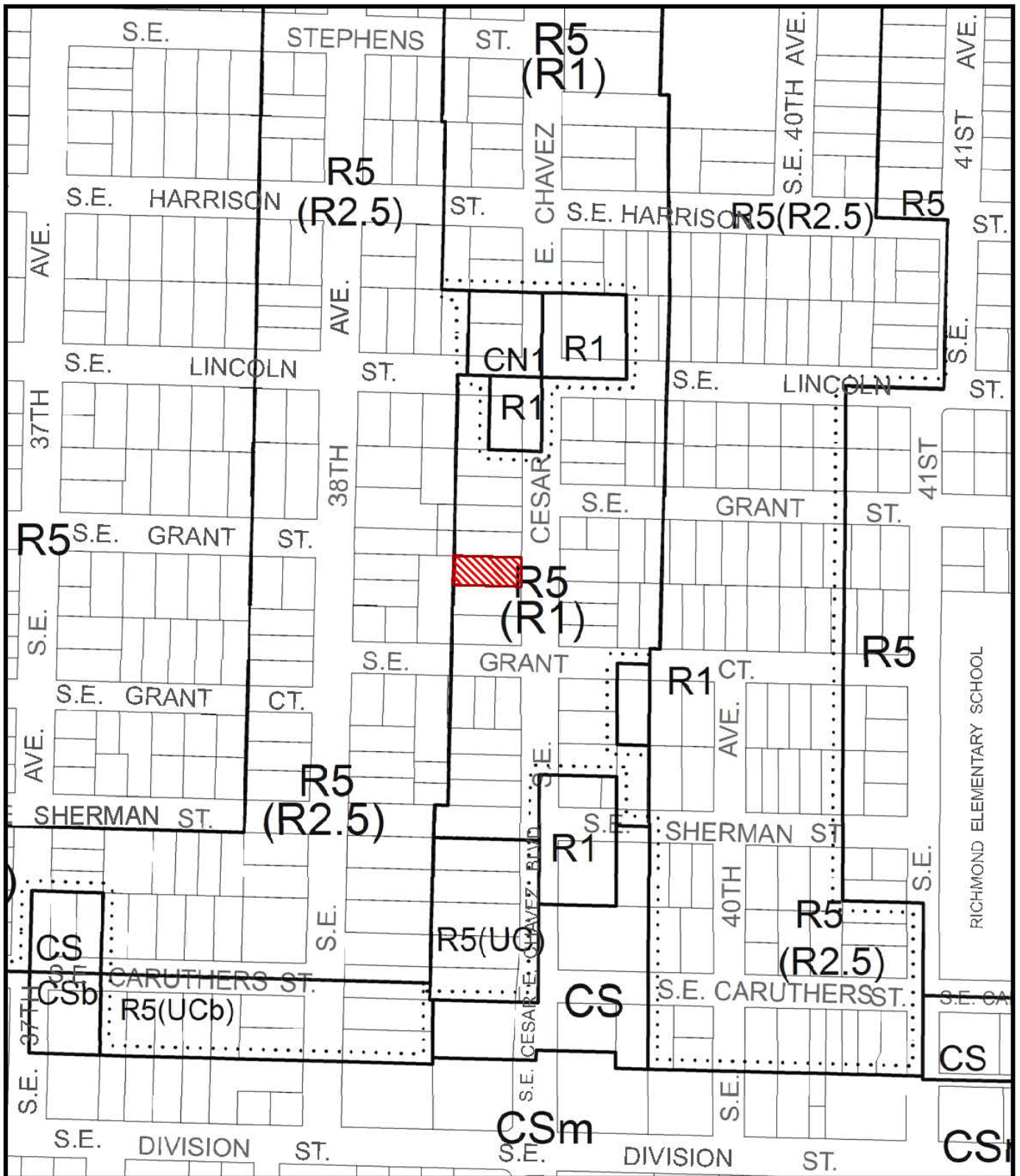
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Life Safety Section of BDS
 - 3. Site Development Section of BDS
 - 4. Bureau of Environmental Services
 - 5. Portland Parks & Recreation – Urban Forestry
 - 6. Summary of bureau responses
- 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



NORTH

File No. LU 14-119025 AD
 1/4 Section 3234
 Scale 1 inch = 200 feet
 State_Id 1S1E01DD 26200
 Exhibit B (Feb 24, 2014)

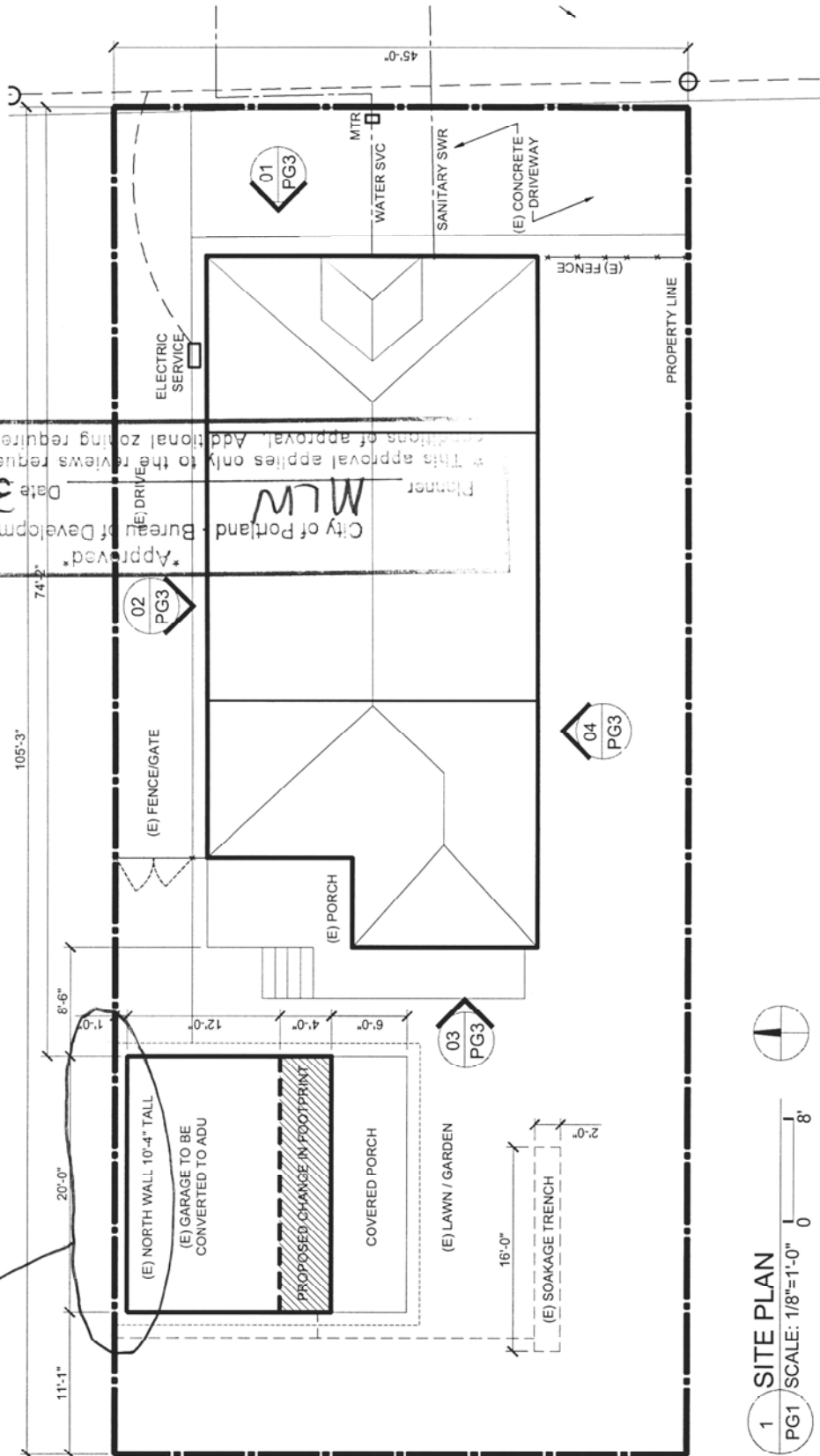
2/04/2013

JENCKS-FEDLSTEIN ADU 2215 SE CESAR E CHAVEZ AVE

NWC

Nick Weitzer Company

2038 SE CEASER CHAVEZ BLVD
PORTLAND OREGON 97214
PHONE: 503-251-9900
FAX: 503-251-1600
Info@NWCpdx.com
CCB # 174360



Approved*
 City of Portland
 Bureau of Development Services
 Planner
 MLW
 Date: 3-28-14
 * This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

Adjustment approval to reduce side setback from 5 feet to 1-foot (0 feet to eave) for ADU.



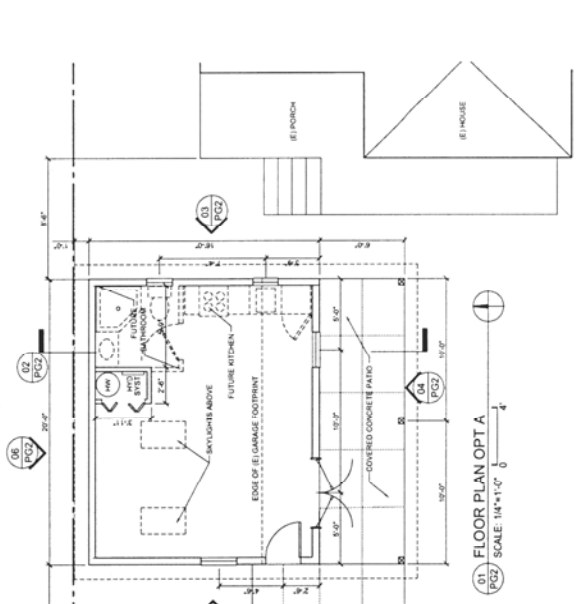
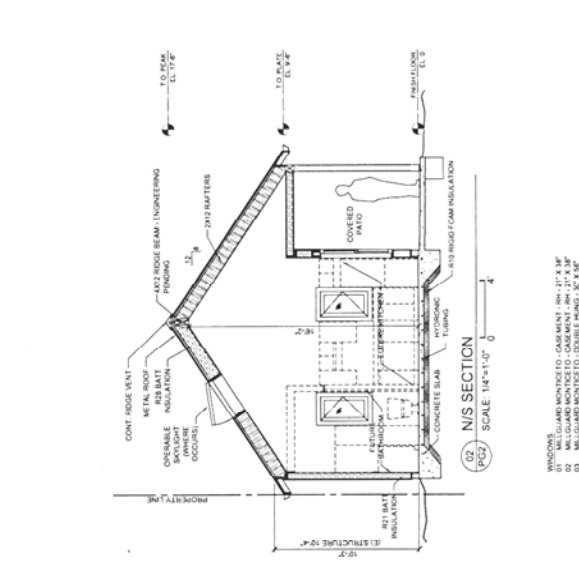
1 SITE PLAN
PG1
SCALE: 1/8"=1'-0"

SITE PLAN

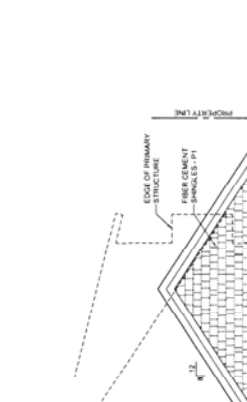
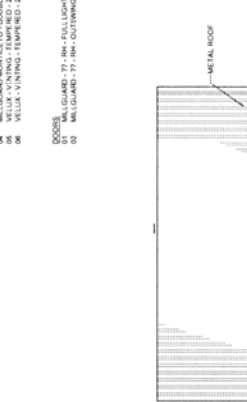
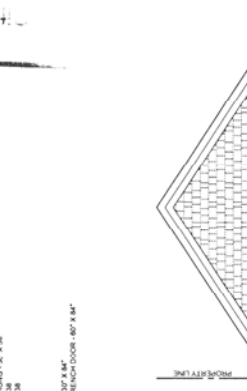
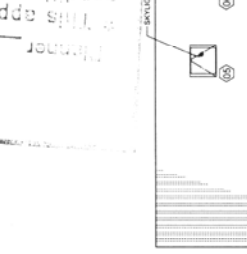
Exhibit C-1

Approved*
 City of Portland - Bureau of Development Services
 This approval applies only to the reviews requested
 Date: 3-28-14

Approved*
 City of Portland - Bureau of Development Services
 This approval applies only to the reviews requested
 Date: _____



- FINISHES:
 01 MULLIGAN MONOTON (O) CASHEMINT 18"X18"X3/8"
 02 MULLIGAN MONOTON (O) CASHEMINT 18"X18"X3/8"
 03 MULLIGAN MONOTON (O) CASHEMINT 18"X18"X3/8"
 04 MULLIGAN MONOTON (O) CASHEMINT 18"X18"X3/8"
 05 VELLA-VIRING - TEMPERED 2118
- DOORS:
 01 MULLIGAN 771-RH-FULLLIGHT 30"X84"
 02 MULLIGAN 771-RH-FULLLIGHT 30"X84"



ELEVATION DRAWINGS OF ADU

Exhibit
 C-2