



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

FROM CONCEPT TO CONSTRUCTION

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

Date: June 12, 2014
To: Interested Person
From: Mark Walhood, City Planner
503-823-7806 / mark.walhood@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 14-146146 AD

GENERAL INFORMATION

Applicants/Owners: Robert and Toni Crummett
457 NE Birchwood Dr. / Hillsboro, OR 97124

Architect: Kerry Vanderzanden
P.O. Box 28 / Banks, OR 97106

Site Address: 11304 NE KLINKITAT ST

Legal Description: BLOCK 14 LOT 3, PARKROSE HTS
State ID No.: 1N2E27AB 03400
Tax Account No.: R647903950
Neighborhood: Parkrose Neighborhood Assn., contact EPNO at 503-823-4550.
Business District: Gateway Area Business Assn., contact Fred Sanchez at 503-256-3910.
District Coalition: East Portland Nbrhd. Office, contact Richard Bixby at 503-823-4550.
Zoning: **R7h** (Single-Dwelling Residential 7,000 with "h" Aircraft Landing overlay zone)

Case Type: **AD** (Adjustment Review)
Procedure: **Type II**, an administrative decision with appeal to the Adjustment Committee.

PROPOSAL: The applicant has proposed the construction of an addition to an existing outbuilding in the rear yard of the property at 11304 NE Klickitat Street. The original detached garage behind the house was converted to a home office with bathroom via a building permit in 2006. An Adjustment (LU 06-108705 AD) was granted to allow the setback for the converted garage/home office to be only 3'-0" from the east lot line (2'-0" for the eaves). The current proposal is to attach a new 28'-0" by 40'-0" outbuilding onto this detached home office. The walls of the addition would be located out of the required 5'-0" east side building setback. Because of natural terracing of the grade on the site, the foundation slab for the new addition is elevated approximately 3'-0" above the floor level of the existing attached home office structure. The new building would have concrete block exterior walls, a low-pitched gable roof with composition shingle roofing, and a height of approximately 11'-6" (to mid-point of the new gable). The addition would have people doors on both the north and south facades, but otherwise no windows. Double-layer insulated walls and an elevated, isolated floor are proposed within the structure, which is to be used as a personal music recording studio and control room.

Regulations of the R7 zone limit the maximum amount of building coverage on a site. On this 18,000 square-foot site, the maximum amount of building coverage allowed is 4,200 square feet (33.110.225/Table 110-4). Currently there is 3,763 square feet of coverage on the site, but with the proposed 1,120 square foot addition the new total coverage would be 4,883 square feet. Therefore, because alterations are proposed to a structure which received an Adjustment back in 2006, and because the building coverage standard will not be met, the applicant has requested an Adjustment to increase the maximum building coverage on the site from 4,200 to 4,883 square feet.

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at **33.805.040.A-E**, Adjustment Approval Criteria.

ANALYSIS

Site and Vicinity: The site is a single residential parcel 18,000 square feet in size, located on the south side of NE Klickitat Street, and three lots east of NE 11th Avenue. The site is developed with a home originally constructed in 1962, along with other detached accessory buildings including a small pool house and studio which was originally a garage. The neighborhood is developed exclusively with single-family houses on large lots, most of which were built in the 1950's and 1960's. The lots in the neighborhood are of such a size that a good portion of the typical original lots have been subdivided with a flag lot behind the original home site.

Zoning: The site is zoned R7, Single-Dwelling Residential 7,000. Use regulations in the R7 zone are intended to create, maintain and promote single-dwelling neighborhoods. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. Setback regulations seek to preserve light, air, and fire access around homes, in addition to promoting privacy and compatibility with the neighborhood and adjoining properties.

Land Use History: City records indicate only one prior land use review at the site. In 2006, an Adjustment was granted (LU 06-108705 AD) to reduce the required west side setback for the existing detached garage behind the home, in order to convert said garage into a home office and workshop.

Agency Review: A "Notice of Proposal" was mailed **May 9, 2014**. The following Bureaus have responded:

The *Bureau of Environmental Services* (BES) reviewed the proposal and responded with comments, but no objections or recommendations regarding the requested land use review. The proposal has already been reviewed and approved by BES during the separate building permit review. Exhibit E.1 contains staff contact and additional information.

The *Water Bureau* has reviewed the proposal and responded with comments regarding water services available to the site, but no objections or recommendations regarding the requested land use review. Water services are available to serve the site. Exhibit E.2 contains staff contact and additional information.

The *Site Development Section of the Bureau of Development Services* has reviewed the proposal and provided comments, but no objections or recommendations regarding the requested land use review. The residence was constructed in 1962 and connected to a cesspool located ten feet south of the residence. The residence was connected to sewer in 1995. Cesspool decommissioning is not required at this time. Exhibit E.3 contains staff contact and additional information.

The *Fire Bureau* has reviewed the proposal and responded with comments regarding fire apparatus access. Fire apparatus access roads shall extend to within 150 feet of all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building. Where a building is protected with an approved fire sprinkler system, an exception to the maximum distance is increased to 250 feet. These issues must be addressed during the building permit and construction process, and are provided as a courtesy to the applicant. No objections are raised with regards to the requested land use reviews. Exhibit E.4 contains staff contact and additional information.

The *Life Safety Section of the Bureau of Development Services* has reviewed the proposal and responded with standard comments noting that a building permit is required for the project, and that the project must be designed to meet all applicable building codes and ordinances. Exhibit E.5 contains staff contact and additional information.

The following two bureaus responded without comments or concerns:

- The *Urban Forestry Division of Portland Parks and Recreation* (Exhibit E.6); and
- The *Development Review Section of Portland Transportation* (Exhibit E.7).

Neighborhood Review: A “Notice of Proposal” was mailed on May 9, 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

33.805.010 Purpose of Adjustment Reviews

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., 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 building coverage regulation in the single-dwelling zones is as follows:

“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.”
(33.110.225.A)

The proposal involves a single-story structure that is relatively low-slung and consistent with the predominantly single-story character of the existing and surrounding homes. The proposal meets the required 5'-0" side building setback along the east lot line, closest to the nearest abutting residence. An existing privacy fence is located between the addition and the nearest home to the east. The site and

surrounding properties slope gradually downhill towards the Columbia River to the north, and the stepped rooflines of the addition reduce the overall visual bulk of the outbuildings on the site. The low-slung scale of the addition is in keeping with the character of the R7 base zone, and is specifically in keeping with the typical architectural and spatial character of homes in the Parkrose Heights neighborhood. Therefore, 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 gradual slope of the land downhill to the north, along with the placement behind the house, create a situation where this addition will primarily only be visible from the rear yards of the homes to the south and east. The home on the flag lot directly to the east is most potentially impacted, but the limited height, lack of windows, and an existing privacy fence on the lot line minimize any potential impacts to the livability or appearance of the 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: Only one Adjustment has been requested. Therefore, this criterion does not apply.

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

Findings: There are no City-designated scenic or historic resources on the site, as indicated by the absence of any 's' overlay zoning or historic resource designations. Therefore, this criterion does not apply.

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

Findings: Impacts from a building coverage increase could include excessive bulk or other undesirable impacts on surrounding properties. Given the low-slung, single-story scale of the building, the placement of the structure out of the required setbacks, and the lack of windows or other elements in the design that will overwhelm the adjacent houses, no further mitigation is required beyond these inherent characteristics. 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: The site is not in an environmental overlay 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.

Use limitations: the applicant is proposing an in-home/personal music recording studio and control room. Household living uses are allowed by-right in the R7 zone, including the use of the recording space for residents at the site. The recording studio could not be rented out to

others or operated as a retail band practice space or recording studio in the R7 zone. Allowing use of the facility for paying customers is a commercial use that is prohibited in the R7 zone.

CONCLUSIONS

The applicant has proposed a single-story addition to the rear of an existing outbuilding on a large parcel in Parkrose Heights. The addition is placed out of the required side setbacks, and is a single story structure with little to no impact upon the most immediate neighbors. The proposal meets the relevant Adjustment criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase building coverage on the site from 4,200 to 4,883 square feet (33.110.225/Table 110-5), in order to construct a single-story addition to an existing accessory structure in the southeast quadrant of the site, as shown on the approved plans and drawings Exhibits C.1 through C.4, all signed and dated June 9, 2014, and subject to the following condition:

- 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.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-146146 AD."

Staff Planner: Mark Walhood

Decision rendered by: MARK WALHOOD **on June 9, 2014.**
By authority of the Director of the Bureau of Development Services

Decision mailed: June 12, 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 April 22, 2014, and was determined to be complete on May 7, 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 April 22, 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 September 5, 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 June 26, 2014** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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 **June 27, 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; OR

- *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:

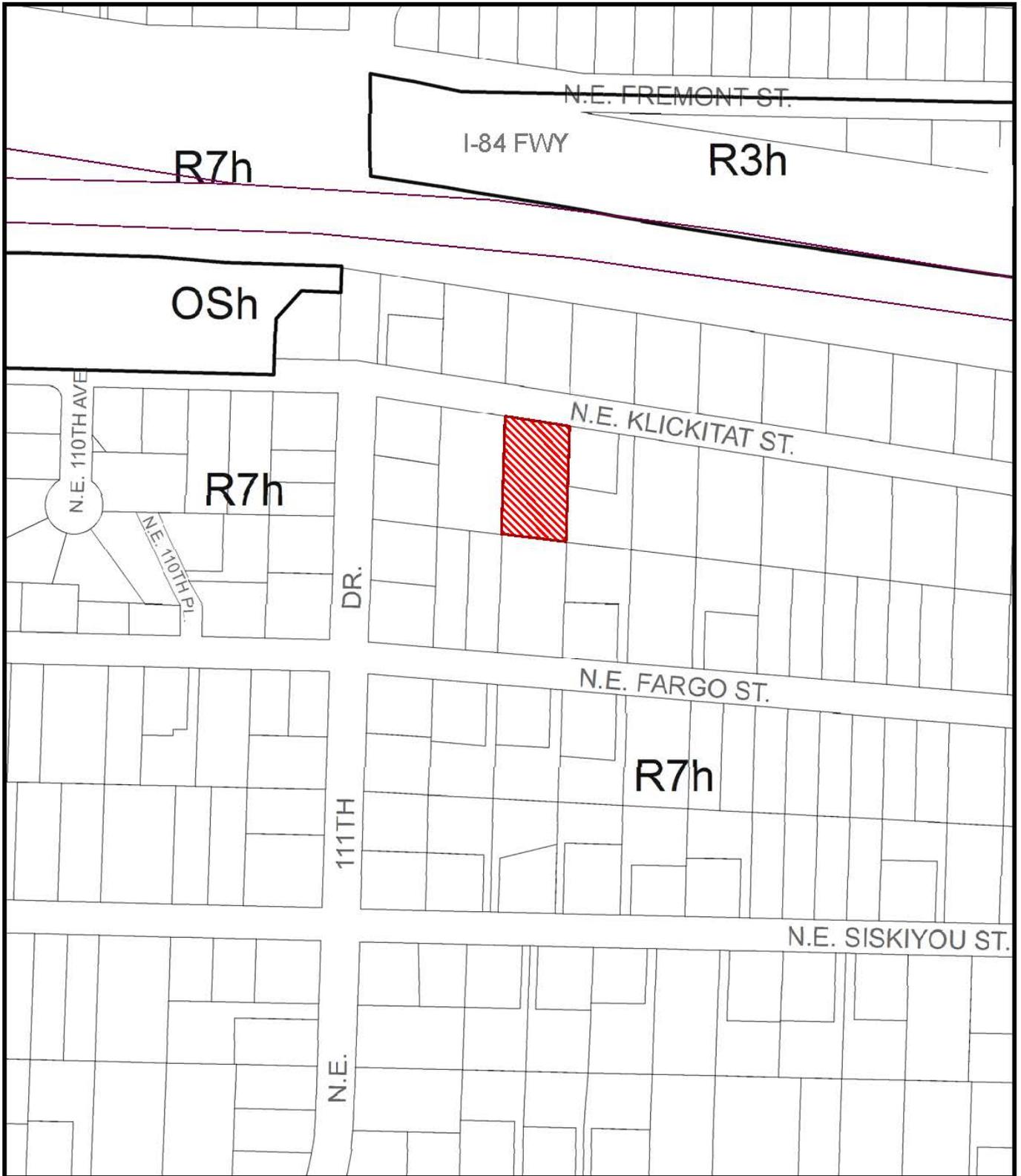
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
 - 1. Original narrative statement and photos of back yard
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan, Floor Plan and Elevations (attached)
 - 2. Elevations and Landscape Plan (attached)
 - 3. Large/Scalable Site Plan, Floor Plan and Elevations
 - 4. Large/Scalable Elevations and Landscape Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Site Development Section of the Bureau of Development Services
 - 4. Fire Bureau
 - 5. Life Safety Section of the Bureau of Development Services
 - 6. Urban Forestry Division of Portland Parks and Recreation
- F. Correspondence (*none received at time of decision mailing*):
- G. Other:
 - 1. Original LU Application Form and Receipt

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 14-146146 AD
 1/4 Section 2742
 Scale 1 inch = 200 feet
 State_Id 1N2E27AB 3400
 Exhibit B (Apr 24, 2014)

11704 NE KILPATRICK ST
PORTLAND, OREGON 97220

QUARTERLY ACCESSORY ADDITION

DATE: 07-10-2014
DRAWN BY: EC

SHEET
1 of 1

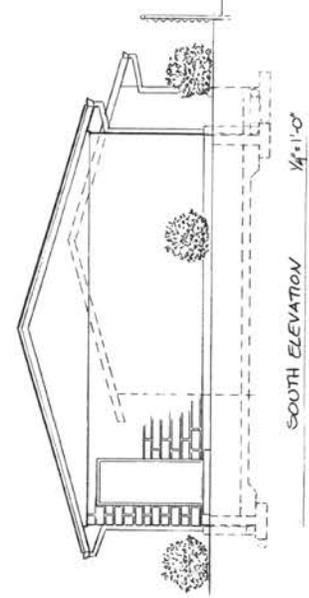
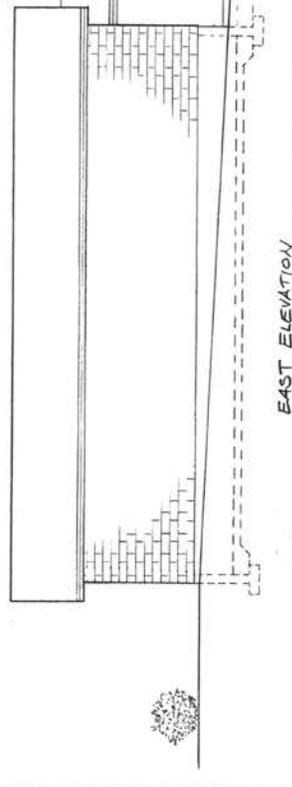
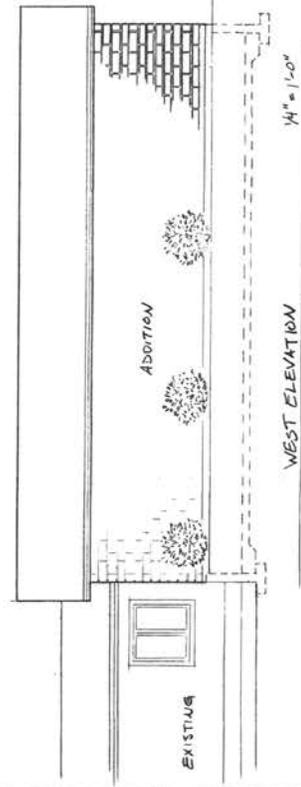


Approved

City of Portland - Bureau of Development Services

Planner MARK WALHOOD Date JUNE 9, 2014

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



CASE NO. W 14-146146 AD
EXHIBIT C.2