



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

FROM CONCEPT TO CONSTRUCTION

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Date: June 30, 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 14-156016 AD

GENERAL INFORMATION

Applicant: Linda Wall
 2703 NE 35th Ave / Portland, OR 97212

Site Address: 2703 NE 35TH AVE

Legal Description: BLOCK 7 LOT 10, HOLLYROOD
Tax Account No.: R397702100
State ID No.: 1N1E25AC 09700 **Quarter Section:** 2734
Neighborhood: Grant Park, contact Ken Peterson at gpnalanduse@gmail.com.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032.
District Coalition: NE Coalition of Neighborhoods, Claire Adamsick at 503-388-9030.
Zoning: R5 (Residential 5,000)
Case Type: AD (Adjustment Review)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:
 The applicant proposes to convert the basement of the home at 2703 NE 35th Avenue to an accessory dwelling unit (ADU). The Portland Zoning Code limits the size of ADUs to 800 square feet or 75% of the living area of the primary dwelling unit (the main house), whichever is less. The floor area of the first and attic floors of the main house measures 1,489 square feet. This limits the floor area of the ADU to 800 square feet in size. The basement area the applicant plans to convert to an ADU measures 960 square feet. The applicant requests one Adjustment to increase the allowed size of the basement ADU from 800 square feet to 960 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 5,000 square foot site is located at the northwest corner of NE Knott Street and NE 35th Avenue. The site is developed with a two-story home with a basement. The surrounding vicinity is primarily developed with single-dwelling residences. The lot to the west of the site is developed with a two-story church. Grant High School is also located in the vicinity.

Zoning: The site is zoned R5 (Residential 5,000). The R5 zone is intended to foster the development of single-dwelling residences. An accessory dwelling unit may be added to a house, attached house, or manufactured home in the R5 zone (as well as other R 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 **May 28, 2014**. The following Bureaus have responded:

The Water Bureau responded with information about water service and different approaches for serving the ADU (Exhibit E-1).

The Site Development section of the Bureau of Development Services (BDS) responded with descriptions of site characteristics (Exhibit E-2).

The Life Safety section of BDS responded with information about obtaining a building permit (Exhibit E-3).

The Urban Forestry section of the Parks Bureau responded with information on street trees (Exhibit E-4).

The Fire Bureau, Bureau of Environmental Services and Portland Bureau of Transportation responded with no concerns (Exhibit E-5).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on May 28, 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 (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 applicant requests one Adjustment to increase the maximum allowed size for a proposed ADU from 800 square feet to 960 square feet. The purpose of the ADU design standards is listed below:

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.*

The ADU is proposed to be located in the existing basement of the home and therefore will not result in any exterior changes to the site. Considering the lack of exterior changes and that the ADU will occupy existing area of the home, versus a newly constructed structure or addition, the proposal to increase the allowed size of the ADU by 160 square feet will not impact the character of the surrounding vicinity or the livability of the area. The location of the ADU in the basement of the existing home will not result in any changes to the scale and placement of structures in the vicinity and will still allow for the sharing of common space on the site. The living area in the main house is 1,489 square feet; at 960 square feet or 64 percent of the living area of the main house, the ADU is significantly smaller in size than the house. The ADU is not located in a new building so the flexibility to site a building to fit the topography of the site is not an issue. 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: As mentioned in the findings above, the ADU will be located in the basement of an existing home and will not result in extensive exterior alterations. Therefore, the ADU and request to allow a larger ADU than allowed by right, will not detract from the appearance of the residential area. The requested increase in ADU size does not result in a floor plan that would allow more intensive use of the ADU than is typical. Two-bedroom ADUs are common and can easily be constructed at or below the 800 square foot limit. Based on this information, the ADU will not significantly detract from the livability of the surrounding area as well. 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: 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: The proposal is not expected to result in any impacts; therefore, mitigation is not necessary. 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

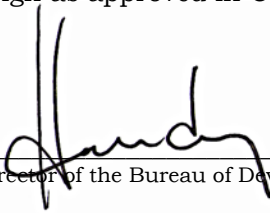
The applicant proposes one Adjustment to increase the allowed size of a basement ADU from 800 square feet to 960 square feet. The proposal meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum allowed size of an Accessory Dwelling Unit from 800 square feet to 960 square feet (33.205.030.C.6), per the approved site plans, Exhibits C-1 through C-2, signed and dated June 26, 2014, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-156016 AD."

Staff Planner: Matt Wickstrom

Decision rendered by:  **on June 26, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: June 30, 2014

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 May 13, 2014, and was determined to be complete on May 22, 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 May 13, 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 20, 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 July 14, 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 **July 15, 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, or
- In situations involving only the creation of lots, the land division has been recorded.

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:

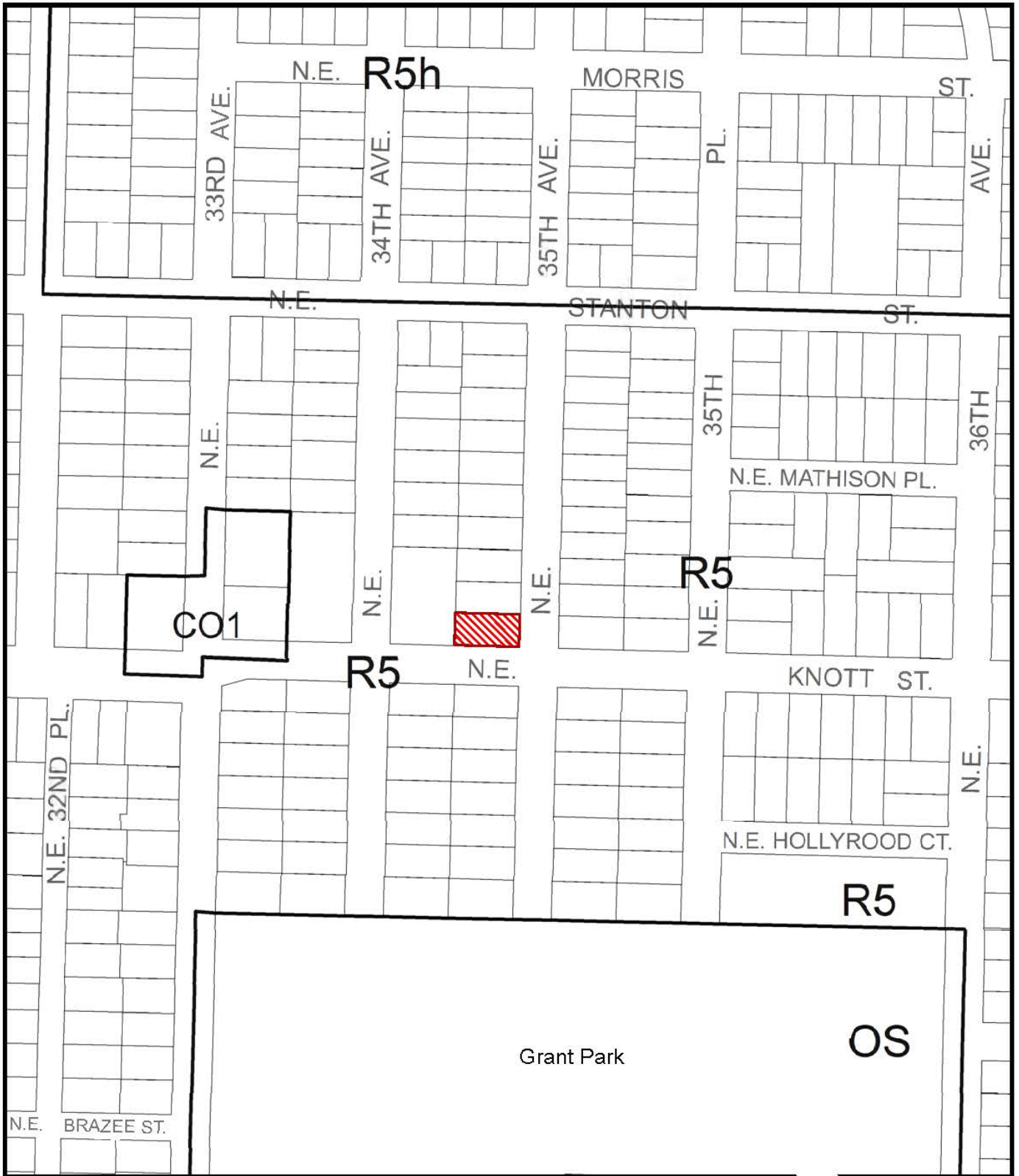
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Basement Floor Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Site Development Review section of BDS
 - 3. Life Safety section of BDS
 - 4. Bureau of Parks, Forestry division
 - 5. Summary sheet of agency responses
- F. Correspondence: None received

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



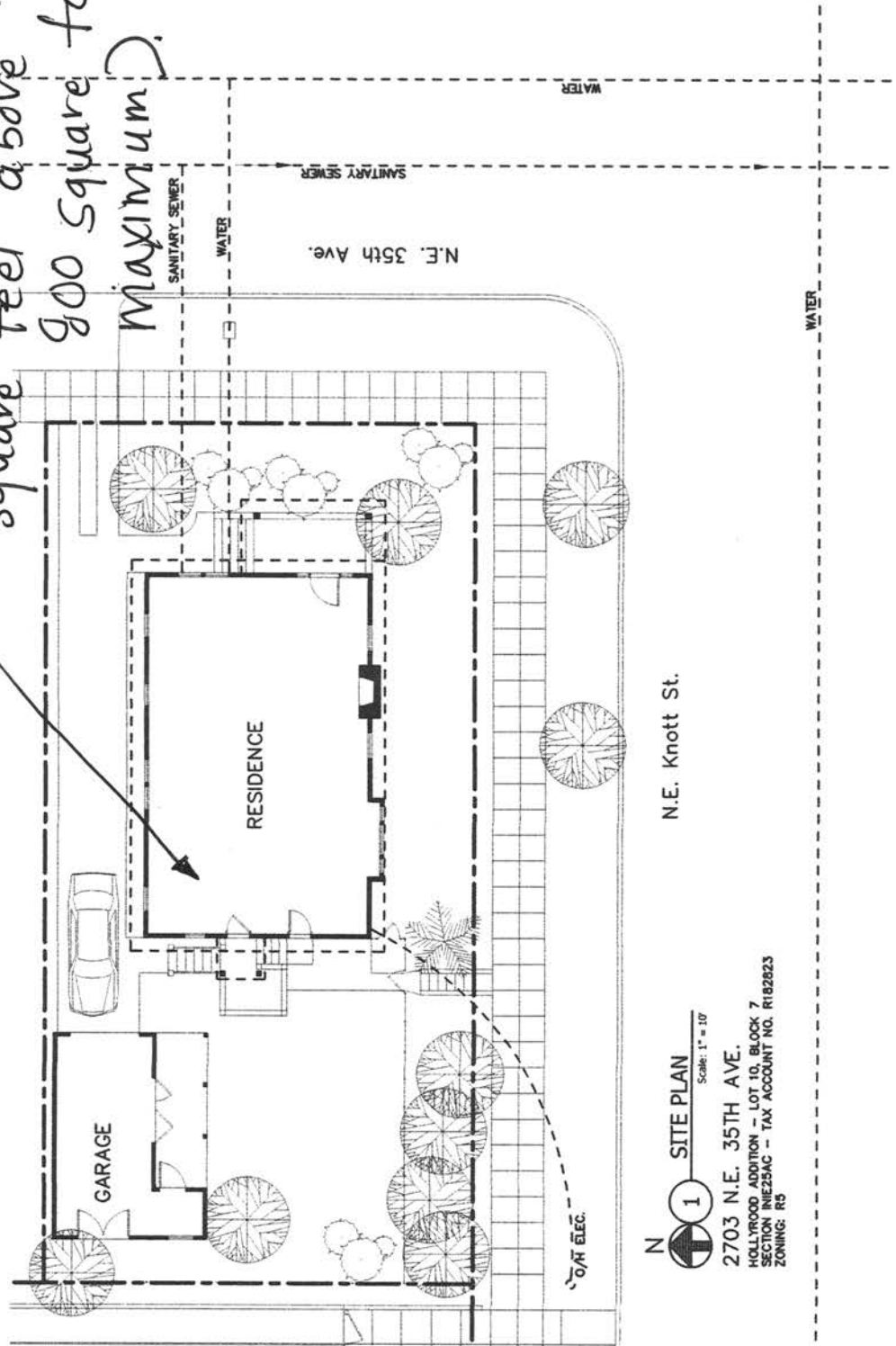
Site



File No. LU 14-156016 AD
 1/4 Section 2734
 Scale 1 inch = 200 feet
 State_Id 1N1E25AC 9700
 Exhibit B (May 15, 2014)

Approved Adjustment to allow new accessory dwelling unit in basement of existing home to be 960 square feet (160 square feet above the 800 square foot maximum).

Approved
 City of Portland - Bureau of Development Services
 Planner MLW Date 6/26/14
 * This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

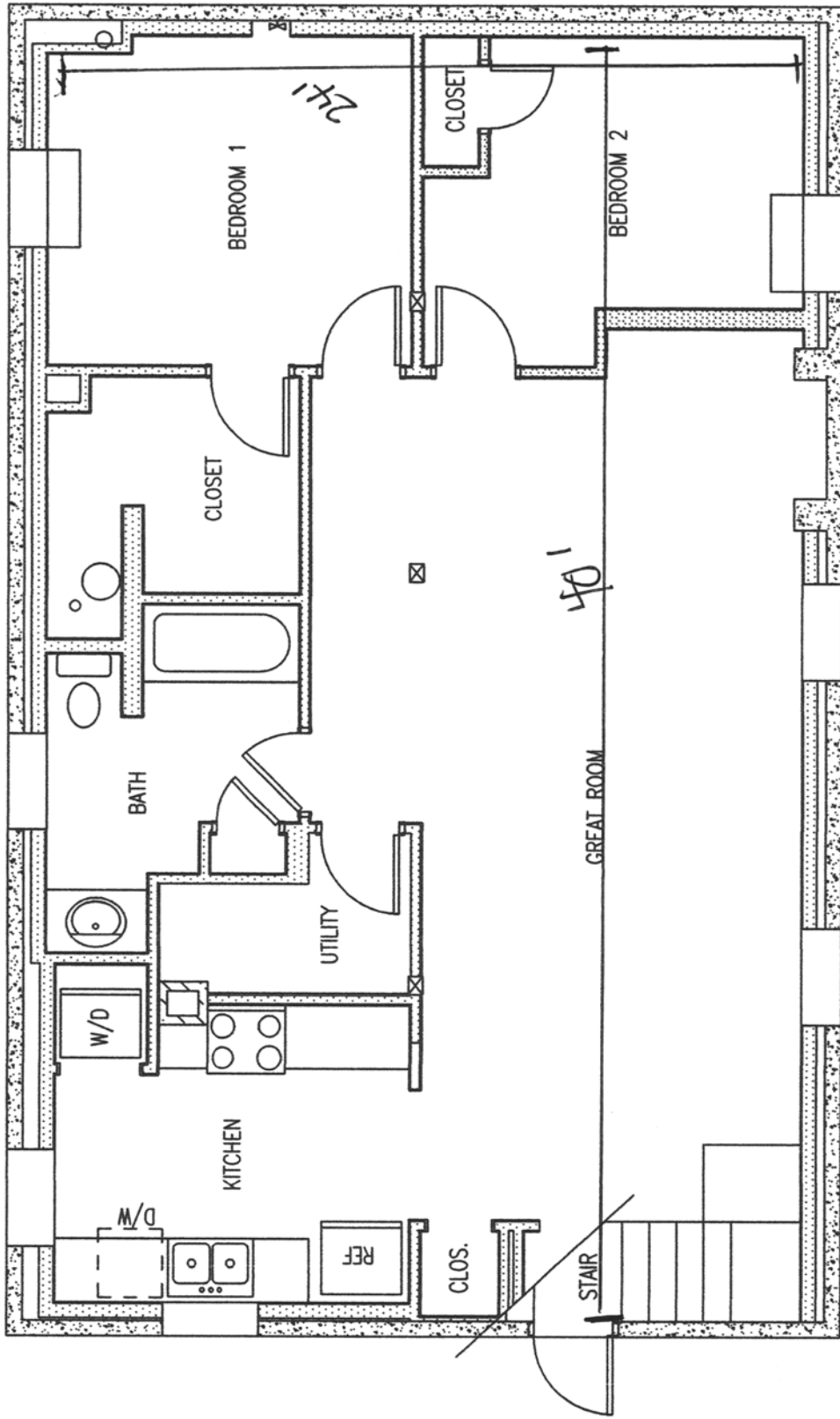


N
 1 SITE PLAN
 Scale: 1" = 10'
 2703 N.E. 35TH AVE.
 HOLLYWOOD ADDITION - LOT 10, BLOCK 7
 SECTION 1NE25AC - TAX ACCOUNT NO. R182823
 ZONING: R5

Exhibit C-1

LW14 -156016 AD

Floor plan of proposed basement accessory dwelling unit.



BASEMENT AT 2703 N.E. 35TH AVE., PORTLAND, OR 97212
 SCALE: 3/16" = 1'-0"

* Approved*
 City of Portland - Bureau of Development Services
 Planner: MLW Date: 6/26/14
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

LU 14-156016 AD
 Exhibit C-2