



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

Amanda Fritz, Commissioner  
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**Date:** October 31, 2014  
**To:** Interested Person  
**From:** Sheila Frugoli, Land Use Services  
 503-823-7817 / [Sheila.Frugoli@portlandoregon.gov](mailto:Sheila.Frugoli@portlandoregon.gov)

**NOTICE OF A REVISED TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

NOTE: The Bureau of Development Services **approved** a proposal in your neighborhood on July 25, 2014. A notice of decision was mailed on July 30, 2014. It has been discovered that staff inadvertently missed a front setback requirement for the proposed ADU. This decision addresses that additional Adjustment. The project has **not** changed.

The mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 14-165180 AD**

**GENERAL INFORMATION**

**Applicant/Owner:** Brett A Nance  
 6416 N Campbell Ave | Portland, OR 97217-4917

**Site Address:** 6416 N CAMPBELL AVE

**Legal Description:** BLOCK 1 LOT 1 EXC S 45', GRANVILLE  
**Tax Account No.:** R338000010  
**State ID No.:** 1N1E16DA 03900  
**Quarter Section:** 2428  
**Neighborhood:** Arbor Lodge, contact Nate Young at 503-679-9929.  
**District Coalition:** North Portland Neighborhood Serv, Mary Jaron Kelley at 503-823-4099.  
**Plan District:** North Interstate  
**Zoning:** R2, Multi-Dwelling Residential 2,000  
**Case Type:** AD, Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:** The applicant is requesting an Adjustment to reduce the required side and rear building setback from 5 feet to 1 foot for a proposed detached garage with Accessory Dwelling Unit (ADU). The applicant also requests an Adjustment from 4 feet to zero, to allow a 1-foot deep eave to extend to the south property line.

Also, an Adjustment is needed to waive the requirement that the proposed detached ADU is at least 60 feet back from the front lot line or at least 6 feet behind the house. The west wall of the ADU will be located in the same location as the existing garage. Because the garage entrance is approximately 45 feet back from the front (street) lot line and is parallel with the back wall of the house, this standard must to be waived.

The applicant intends to enlarge (at the rear) the existing garage from approximately 262 feet to 525 square feet and add a second-story, approximately 500 square foot, Accessory Dwelling Unit (ADU). If possible, the applicant will retain the existing garage structure, except for the south concrete block wall. The applicant intends to match the roof line, windows and exterior siding of the house. No windows or openings will be located on the south (side) and east (rear) walls. The structure will be 18 feet tall (measured from ground to the mid-point of the roof).

**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. A-F, Adjustments.

**ANALYSIS**

**Site and Vicinity:** The 4,455 square foot lot is developed with a one-story 1911 Cottage-style home and a one-car detached garage located towards the rear of the site, behind the house. The garage is located 1 foot from the south property line and approximately 15 feet from the rear (east) property line.

The immediate area is developed with single-dwelling residences. Most of the homes on the block of the subject site and in the nearby area have on-site parking with driveways and/or garages. Most of the detached structures in the immediate area appear to be set back from the houses and are modest in scale.

The northern abutting residential site fronts N Rosa Parks Way, which is designated as a Regional Trafficway street and is zoned for High-Density Residential (RH) development. Most of the nearby properties that front N Rosa Parks Way are developed with single-dwellings, but they could be redeveloped to a higher density. A block to the west is a commercial node at N. Denver and Rosa Parks Way.

**Zoning:** The site is within the R2, Multi-Dwelling Residential 2,000 zone and the North Interstate Plan District. The R2 zone is a low density multi-dwelling zone. It allows approximately 21.8 dwelling units per acre. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments. These housing types are intended to be compatible with adjacent houses. Generally, R2 zoning will be applied near Major City Traffic Streets, Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

The North Interstate plan district provides for an urban level of mixed-use development to support the MAX line and the surrounding neighborhoods by encouraging development that increases neighborhood economic vitality, amenities, and services and successfully accommodates additional density.

**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 30, 2014. The following Bureaus have responded with no issues or concerns:

- Fire Bureau (Exhibit E.6);
- Portland Bureau of Transportation (Exhibit E.6); and
- Bureau of Parks-Forestry Division (Exhibit E.5).

The **Water Bureau** responded with no concerns/objections to the side setback Adjustment. The following comments will apply at time of Building Permit review:

There is an existing 5/8" metered service (Serial #9404464, Account #2989630700) which provides water to this location from the existing 6" CI water main in N Campbell Ave. This service may potentially be used as is to provide water to the existing house and additional newly created ADU at this location. Under this scenario, City code 21.12.010 will apply, as

described fully below, and a Water Bureau review for fixture count will need to be submitted by the applicant at the time of submittal of the building permit to appropriately size the domestic water service and meter for this location, prior to the Water Bureau signing off on any building permits for this property. If a water service and or meter upsize is required, all applicable costs will be the responsibility of the applicant.

If the proposed new ADU will utilize the existing water service, Title 21.12.070 will then also apply.... "A separate service shall be required for each house or building, even if under one ownership, and on the same lot or parcel of land. If a single service will be used to provide for multiple units under single ownership, a separate service agreement will need to be signed with the Water Bureau for this property where multiple buildings are supplied with water from a single water service", prior to the Water Bureau signing off on any building permits.

If it is decided that the new ADU will need a separate water service, City code 21.12.010 will require any new building construction, additions to or remodeling and or reconstruction of an existing building structure, or any construction that will need water, to have a water service and meter of appropriate size installed within the public right-of-way and within the specific property boundary/frontage for which it will serve. There is water available to the proposed ADU from the existing 6" CI water main in N Campbell Ave. A Water Bureau review for fixture count will need to be submitted by the applicant at the time of submittal of the building permit to appropriately size the water service and meter for this location. All applicable costs will be the responsibility of the applicant. (Exhibit E.3)

The **Bureau of Environmental Services** responded with no concerns/objections to the side setback Adjustment. The following comments will apply at time of Building Permit review:

The proposed ADU must meet the City's Stormwater Management Manual. The development project will be greater than 500 square feet. Therefore, pollution reduction and flow control requirements of the SWMM apply. The information provided by the applicant does not indicate how stormwater runoff will be managed. However stormwater runoff from the structure can be captured via gutters and downspouts and directed to a vegetated area on the north side of the structure, away from adjacent properties on the east and south side of this site. **The requested Adjustment does not appear to have an impact on the location of a stormwater management system for this project. Therefore, BES has no objections to the requested Adjustment.** (Exhibit E.1)

The **Site Development Section of BDS** responded with the following comments that apply at time of Building Permit review:

Septic system. City records show that the residence at 6416 N Campbell Avenue was constructed in 1911 and changed from cesspool to sewer in 1934. City records do not show that the septic system on the site was decommissioned at the time the house was connected to the public sewer system. The cesspool appears to be located over 10 ft from the proposed Accessory Dwelling Unit (ADU). Cesspool decommissioning will not be required. At the time of building permit application, please complete a Disclaimer for Existing On-site Sewage Disposal System. The form is available from the Permit Center or at the Bureau of Development Services website under the Applications/Handout tab and Alphabetical List (all) "Disclaimer for Existing On-site Sewage Disposal System – 3/15/12"

Erosion control. Erosion prevention and sediment control requirements found in Title 10 apply to both site preparation work and development. Full compliance with the erosion control requirements of Title 10, as well as maintenance of the erosion control elements, such as silt fences on private property, storm drain inlet protection and bio bags in the public right-of-way, is the responsibility of the property owner, the developer of the land division and the builders of structures on the individual lots. Please refer to the City of Portland *Erosion and Sediment Control Manual* for additional information regarding erosion and sediment control requirements. (Exhibit E.4)

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the "Notice of Proposal".

## ZONING CODE APPROVAL CRITERIA

### 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

**1.** The purpose of the regulation for the front setback for the ADU is found under Section 33.205.030.D.1, The purpose of the standard are to:

- *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*

**Findings:** The proposed ADU will be located in approximately the same location of the existing garage. The front of the ADU will be in the same location at the front of the existing garage. This location is consistent in placement and character of other nearby residential lots. The ADU will not be a dominant element because it will be set back at least 45 feet from the street lot line and be smaller in size than the primary dwelling on the site. This criterion is met.

**2.** Section 33.120.220 identifies the purpose of the building setback regulation. Each purpose statement is addressed individually below.

- *They maintain light, air, separation for fire protection, and access for firefighting;*

**Findings:** The proposed ADU will be located in approximately the same location of the existing garage. However, the structure will be larger—an addition at the back of the structure and an upper-story addition. There will be an approximate 10 foot height increase with the alteration. However, the proposed ADU will be within the 18 foot height allowance for detached ADU structures and far below the R2 zone height allowance of 40 feet. The ADU will not significantly diminish the light, air and fire protection separation between the ADU and other structures and the adjacent property. Access for firefighting will be available from N. Campbell Avenue. The Fire Bureau stated “no concerns” in its response to the proposal. Consistent with the Building Code requirements, there will be no openings on the east and south exterior wall. The BDS Life Safety Plan Review Section response states that walls, less than 3 feet to the property line, shall be one-hour fire rated with no openings and/or roof eaves are allowed.” (Exhibit E.2)

- *They reflect the general building scale and placement of houses in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*

**Findings:** Given that the ADU will replace the existing detached garage and it, even though larger, will have a small—525 square foot footprint and be less than 18 feet in height—the general building scale and placement will not change.

- *They promote options for privacy for neighboring properties;*

**Findings:** As noted above, there will be no windows or other openings on the south and east walls. Therefore, the privacy enjoyed by the adjacent residents will not be compromised.

- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*

**Findings:** The Adjustment request is to reduce only the side and rear setbacks. The front yard is not impacted.

- *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*

**Findings:** The location of the ADU will continue to provide adequate outdoor area and will have no apparent impacts to the neighbors enjoyment of their outdoor space.

- *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.*

**Findings:** The structure will contain a lower-level garage and will be setback approximately 45 feet. Therefore, on-site parking will be maintained.

For all the reasons described 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 subject site and most of the other nearby lots have homes that were constructed in the early 1900's. It is not unusual for these older homes and their accessory structures to be built closer to the property lines than the 5-foot setback currently requires. Approving the proposed Adjustments to allow an ADU to replace an existing detached garage will not detract from the appearance or livability of the area. The ADU windows and access is oriented away from the eastern and southern abutting lots. The ADU regulations (Zoning Code Chapter 33.205) will require the new/expanded ADU structure to be within the 18 foot height limit and have elements that match the houses—roof pitch, exterior siding, trim and window orientation. Compliance with these provisions will achieve a project that fits within the neighborhood.

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 applicant proposes to adjust the ADU front setback and the side and rear building setback standards. As noted above, the applicant intends to cite the ADU in the same location as the existing garage. The ADU will not be closer to the front (west) and side (south) property lines. The purpose of the multi-dwelling residential zones is “to preserve land for urban housing and to provide opportunities for multi-dwelling housing”. Approving an accessory dwelling in the approximate same location of the existing detached garage structure does not conflict with the purpose of the zone. This approval 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:** 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:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As 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

As reflected in the findings of this report, the proposed setback reductions meets the approval criteria and therefore should be approved.

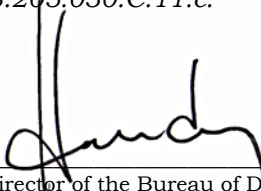
## ADMINISTRATIVE DECISION

Approval of an Adjustment to: (1) waive the requirement that the Accessory Dwelling Unit be at least 60 feet back from the front lot line or 6 feet behind the house and (2) reduce the required side and rear building setback (33.120.220) from 5 feet to 1 foot for a proposed detached garage with a two-story detached structure with ground-level garage and a 500 square foot upper-story ADU, per the approved site plan, Exhibit C.1, signed and dated October 29, 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 site plan approved by this land use review as indicated in Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-165180 AD".

*NOTE: Stormwater management (BES), Life Safety (Building Code) Plan Review and Zoning Code ADU development standards will all be reviewed for compliance during Building Permit review. If the proposed 1-foot eave conflicts with the Life Safety firewall requirements, the eave is not required per Zoning Code standard 33.205.030.C.11.c.*

**Staff Planner: Sheila Frugoli**

**Decision rendered by:**  **on October 29, 2014**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: October 31, 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 June 4, 2014, and was determined to be complete on June 18, 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 June 4, 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.

**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 November 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 5<sup>th</sup> 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](http://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 **November 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**

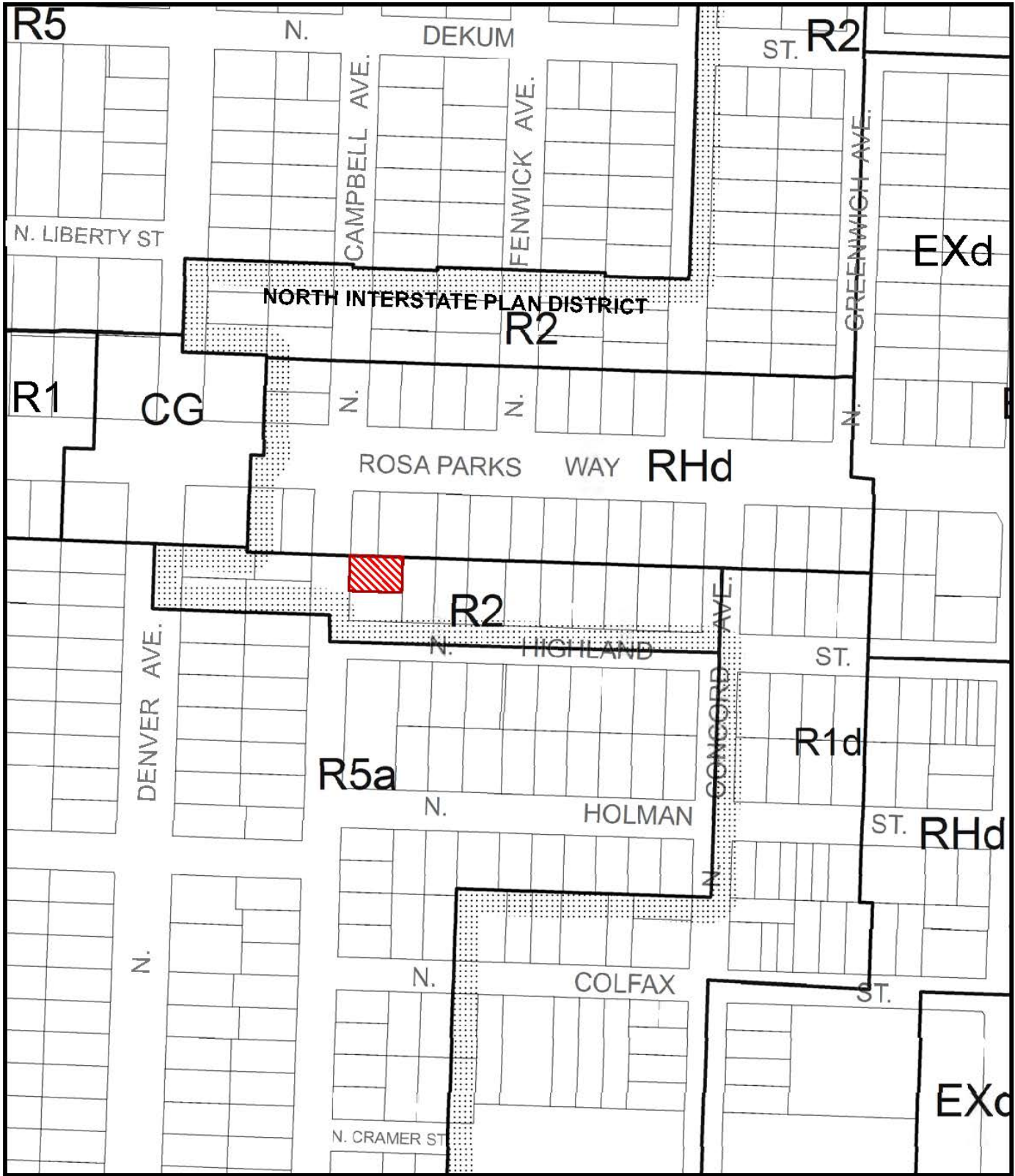
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  1. Original Narrative
  2. Amended Narrative, Submitted June 18, 2014
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)



2. Street-Facing (West) Elevation
  3. North Elevation
  4. South Elevation
  5. East Elevation
  6. Roof Plan
  7. Floor Plan
  8. Cross-Section
  9. Photo of House and Existing Garage
- D. Notification information:
1. Mailing list
  2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
  2. Life Safety Section of BDS
  3. Water Bureau
  4. Site Development Review Section of BDS
  5. Bureau of Parks, Forestry Division
  6. TRACS Print-Out showing "No Concerns" Response from Fire Bureau and Bureau of Transportation Engineering and Development Review
- F. Correspondence: NONE
- G. Other:
1. Original LU Application
  2. Incomplete Application Letter to Applicant

**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



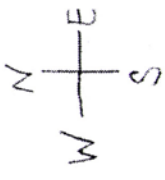
This site lies within the:  
**NORTH INTERSTATE PLAN DISTRICT**

File No. LU 14-165180 AD  
 1/4 Section 2428  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E16DA 3900  
 Exhibit B (Jun 06,2014)

81.83'

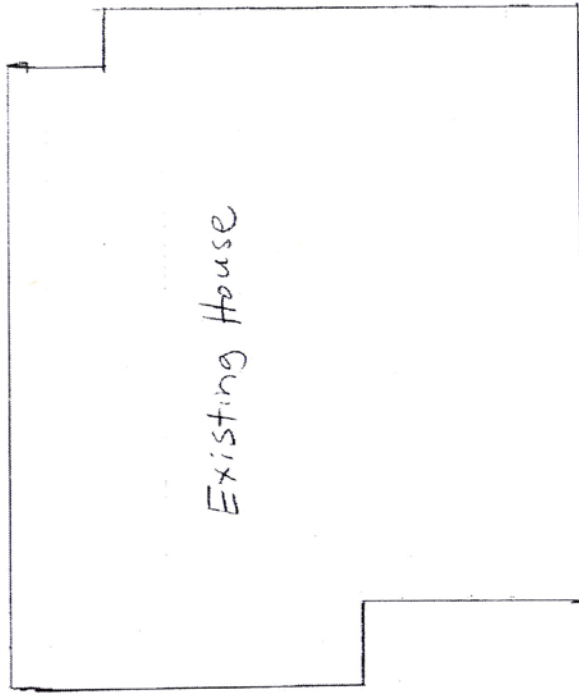
6416 N. Campbell  
Portland, OR 9721

Site Plan



\*Approved\*  
 City of Portland - Bureau of Development Services  
 Planner: S. Campbell  
 Date: July 25, 2014  
 \*This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

ADJACENT HOUSE



Existing House

1 foot REAR Setback

35'

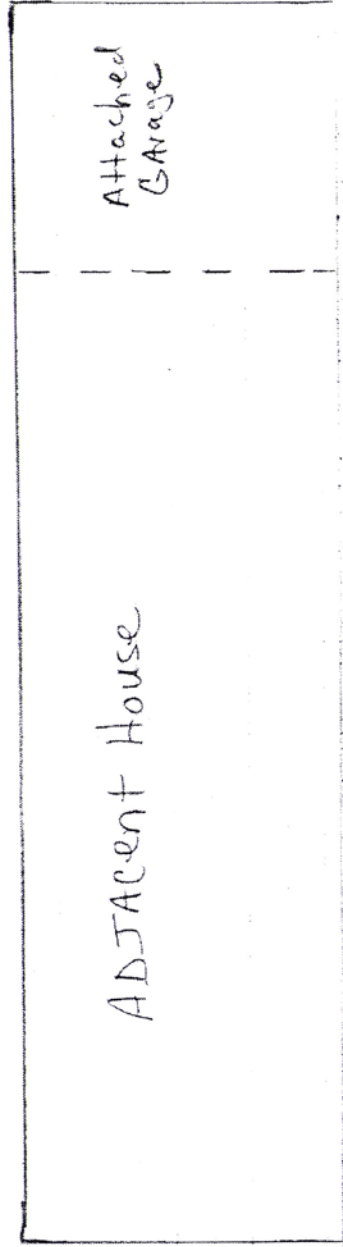
EXISTING GARAGE

PROPOSED ADU

15'

Driveway on site parking

1 foot SIDE SETBACK



ADJACENT HOUSE

Attached Garage

N. CAMPBELL

LW 14-165180 AD

Barbit C1