



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
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Date: August 20, 2014
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / Kathleen.Stokes@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 14-172962 AD

GENERAL INFORMATION

Applicant: Mark Lyles
7017 N Haight Avenue
Portland, OR 97217-1723

Site Address: 7017 N Haight Avenue

Legal Description: BLOCK 2 LOT 6, GREEN C LOVE ADD
Tax Account No.: R340000390
State ID No.: 1N1E15AB 09700
Quarter Section: 2330
Neighborhood: Piedmont, Brian Borrello at 503-754-5595.
Business District: North-Northeast Business Association, Joice Taylor at 503-841-5032.
District Coalition: North Portland Neighborhood Services, Mary Jaron Kelley at 503-823-4099.

Zoning: R5h - High Density Single-Dwelling, Residential 5,000, with an Aircraft Landing (height) Overlay

Case Type: Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The applicant is proposing to make alterations to the existing detached garage on this site to convert it for use as a home office. The proposed changes to the structure are to replace the flat roof with a pitched roof, with composite shingles to match the house. Skylights would be added on the south side of the roof. The plan also includes replacing wood siding and adding new windows and doors. The garage is situated two feet from the south side property line.

The regulations of Title 33, The Portland Zoning Code, require a minimum setback from the side and rear property lines of five feet to the building wall and four feet to the roof eave. Some garages are allowed to be within this setback area, but generally, when alterations to these structures are proposed, the setback standards apply. Exceptions to these standards are approved through Adjustment Reviews, when the relevant approval criteria are met or if the criteria can be met through conditions of approval. Therefore, the applicant is requesting approval of an Adjustment to Zoning Code Section 33.110.220 B, to reduce the minimum south

side setback requirement for the garage from five feet to two feet to the building wall and from four feet to one-foot, four inches for the roof eave.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The applicant's site is a 5,000 square-foot property that is located on the west side of North Haight Avenue, one lot to the north of the intersection with North Bryant Street. The site is developed with a single-dwelling residence that was constructed in 1919 and a detached single garage that is located two feet from the south side property line.

The area around the site is generally developed with other single-dwelling residences that were mainly constructed in the early part of the 1900s. The location of structures on the lots is fairly uniform throughout the immediately surrounding area and includes a number of other single detached garages that are built toward the rear of the lots and close to the side property lines.

Zoning: The site is zoned Residential 5,000 (R5), High Density Single-Dwelling Residential. This zone is intended to accommodate single-dwelling development, with an average of one unit per 5,000 square feet of site area. This site also has an "h" or Aircraft Landing Overlay. The provisions of this overlay zone, which limit the height of structures within the aircraft landing approach patterns for the Portland International Airport, are not relevant to this proposal.

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 **July 17, 2014**. The following Bureaus have responded with no issues or concerns regarding this proposal. Agencies that provided written responses regarding building permit requirements are noted with exhibit numbers:

- Bureau of Environmental Services;
- Transportation Engineering;
- Fire Bureau;
- Site Development Section of BDS;
- Parks-Forestry Division;
- Water Bureau provided information on the existing water service to the site and on the requirements that would apply for any expansion of the service at the time of building permit review (Exhibit E-1); and
- Life Safety Plan Review Section of BDS noted that a separate building permit is required and that exterior walls that are less than three feet from a property line must be one-hour fire rated. Eaves that are less than three feet from the property line must be protected on the underside as required for one-hour fire rated construction. Roofs and eaves may not be closer than two feet from a property line (Exhibit E-2).

Neighborhood Review: 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 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 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. stated below, have been met.

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

Findings: Adjustment to Code Section 33.110.220, to reduce the required minimum south side building setback for the garage, from five feet to two feet to the building wall, and from four feet to one foot, four inches, for the roof eave.

The purpose of building setback requirements are to maintain light, air, separation for fire protection, and access for fire fighting. Setback standards also reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences. They promote options for privacy for neighboring properties and 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.

The location of the garage is not changing. The new roof will not extend the footprint within the setback, so that the ground floor wall not be any longer. The proposed roof will be a pitched roof with a gable and will replace the existing flat roof, so the height of the structure in the setback will be increased but not beyond what could have been allowed by right if originally built with the pitched roof. The use of the structure is also proposed to change, from a garage to a home office space. This would also be allowed under the present Portland Zoning Code, if the garage were remaining as originally constructed or if it had originally been constructed with the pitched roof. Given these circumstances, it is difficult to see how any unacceptable impacts might occur with approval of this proposal.

The building will not cause impacts related to loss of light, air or privacy for the abutting property to the south. The access for fire fighting will remain unchanged. Fire proofing requirements of the building code will be met by the use of fire-rated building materials. (This could include the removal of the eave on the south side, which can be allowed as an exception to the proposed elevation drawings).

The garage, including the proposed roof alteration, is in keeping with many other detached garages along this street which were built close to the side property lines so it will reflect the general building scale and placement of development and continue a reasonable physical relationship between residences and be compatible with the neighborhood. Therefore, the purpose of the regulation is equally met and so, 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: Approval of the request to reduce the required setback for the garage/office structure, from five feet to two feet from the south property line will not significantly detract from the appearance or the livability of the residential area. The original structure has been in this location for many years. The remodeled building will still only be slightly over 14 feet tall, as measured to the roof peak. (Height is usually measured from grade to the average height of the highest gable, which is the midpoint of the sloped side and not the peak of a gabled roof). The building will also retain a relatively modest footprint of 10 feet 1.5 inches to 12 feet, 7.5 inches wide by 18 feet, 2 inches deep. The design includes features that are in keeping with the main house and with the general architectural character of the neighborhood. The appearance will be similar to many accessory structures that were built to the rear of residences in the Portland area in the first decades of the 1900s. Therefore, no potential impacts on livability or appearance, based on the location of the structure have been noted and so, 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; and

Findings: City-designated scenic resources are shown on the City's zoning maps by an "s" or Scenic Overlay Zone. City-designated historic resources are shown on the City's zoning maps, either as an adopted landmark, or as a site that is located within the boundaries of a Historic Conservation or Historic Design District. There are no City-designated scenic or historic resources on the site. Therefore, this criterion does not apply.

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

Findings: No potential impacts from approval of the requested Adjustment have been identified by staff. Therefore, no mitigation is needed and 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 zones are designated with either a lower case "c," for the Environmental Conservation Overlay, or "p," for the Environmental Protection Overlay. 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

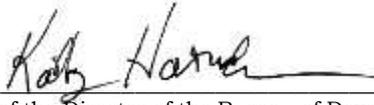
All of the relevant approval criteria have been met for the requested Adjustment to reduce the minimum building setback from the south side property line. The purpose for building setbacks will be equally met because the proposed building will not significantly impact light, air or privacy and will not cause fire safety issues. It will be in keeping with the scale and placement of structures in the area and will not significantly detract from the appearance or the livability of the surrounding area. The proposal can be approved in general compliance with the site plan and elevation drawings.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Code Section 33.110.220 B, to reduce the minimum building setback from the south side property line, from five feet to two feet for the building wall and from four feet to as little as one-foot four inches for the roof eave (pending building code review approval) for the proposed alterations to the accessory structure, in general compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-2, signed and dated August 18, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-172962 AD."

Staff Planner: Kathleen Stokes

Decision rendered by:  **on August 18, 2014.**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 20, 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 20, 2014, and was determined to be complete on **July 15, 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 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 extended by the applicant, **the 120 days will expire on: November 11, 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 September 3, 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 **September 4, 2014– (the day following the last day to appeal)**
- 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. Application and original narrative and plans
 - 2. Supplemental information, received July 15, 2014
- 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 Plan Review Section of BDS
 - 3. Summary of electronic responses received from City service agencies
- F. Correspondence: (none received)
- G. Other:
 - 1. Letter from Kathleen Stokes to Mark Lyles, July 2, 2014

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. | <u>LU 14-172962 AD</u> |
| 1/4 Section | <u>2330</u> |
| Scale | <u>1 inch = 200 feet</u> |
| State_Id | <u>1N1E15AB 9700</u> |
| Exhibit | <u>B (Jun 23, 2014)</u> |

7017 N HAIGHT AVE

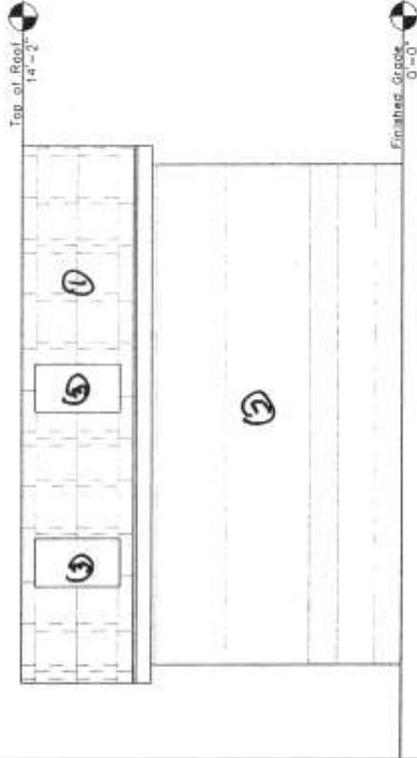
R172728

A4.00

Sheet Notes

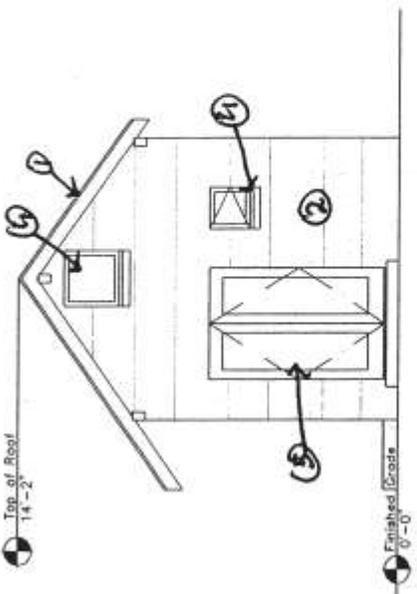
1. New pitched roof to match slope of existing house.
2. Replace wood siding throughout
3. New Skylights
4. New windows
5. New doors

General Notes



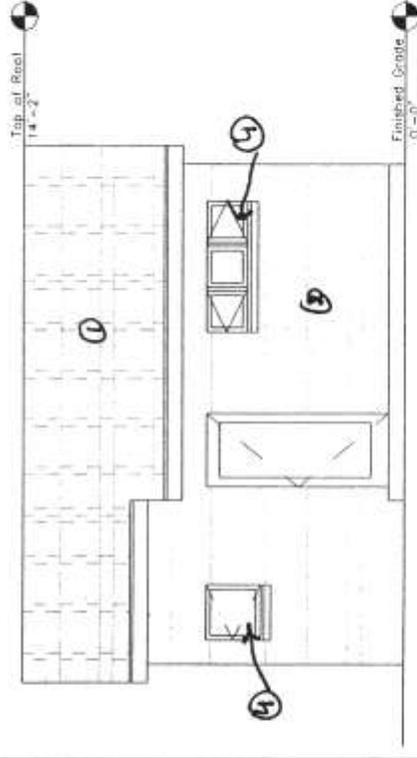
South Elevation

Scale: 1/4" = 1'-0"



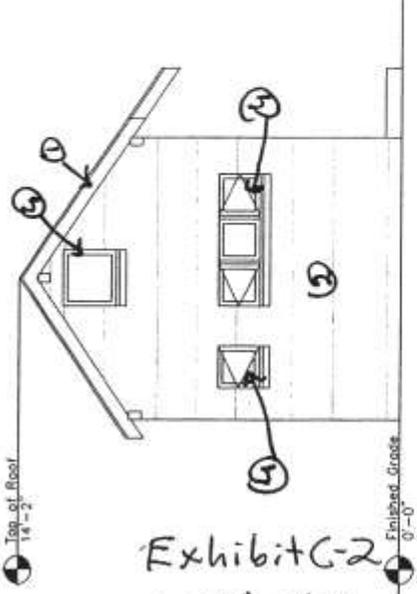
West Elevation

Scale: 1/4" = 1'-0"



North Elevation

Scale: 1/4" = 1'-0"



East Elevation

Scale: 1/4" = 1'-0"

Exhibit C-2
LUIA-172962 AD

Approved

City of Portland - Bureau of Development Services

Planner *Kathleen A. Stolc* *August 18, 2017*

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

