



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

FROM CONCEPT TO CONSTRUCTION

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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** August 28, 2014  
**To:** Interested Person  
**From:** Matt Wickstrom, Land Use Services  
503-823-6825 / [Matt.Wickstrom@portlandoregon.gov](mailto:Matt.Wickstrom@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 14-177644 AD**

#### **GENERAL INFORMATION**

**Applicant:** Geoffrey Harker  
Richard Brown Architect, AIA  
239 NW 13th Avenue, Room 305  
Portland, OR 97209

**Property Owners:** Priscilla M Bernard and Dan G Wieden  
0930 SW Palatine Hill Rd  
Portland, OR 97219

**Site Address:** 3125 SW FAIRMOUNT BLVD

**Legal Description:** LOT 1 EXC PT IN ST, HESSLER HILLS  
**Tax Account No.:** R380800010  
**State ID No.:** 1S1E16BA 02200  
**Quarter Section:** 3527

**Neighborhood:** Hillsdale, contact Duane Hunting at 503-245-7998.  
**Business District:** None  
**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

**Zoning:** R10s (Residential 10,000 with a Scenic Resource Zone overlay)

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

**Proposal:**

The applicant proposes to construct a single-dwelling residence and an accessory dwelling unit (ADU) on this site. The Portland Zoning Code includes many specific rules pertaining to the size, location and appearance of ADUs in relation to the primary structure (the house). One regulation states that the ADU must be at least 60 feet from the front lot line or 6 feet behind the house. In this situation, due to the curved lot line, the location of the ADU in relation to the house is based on the location of the main entrance of the home. Because the main

entrance of the house faces west, the ADU is considered to be in front of the house. To remedy this situation, the applicant proposes one Adjustment to allow the ADU to be in front of the house.

**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 39,000 square foot site is vacant. It is located at a curved corner of SW Fairmount Boulevard. The site slopes up from the street. It has a few large trees but relatively no shrubs.

The surrounding vicinity is developed with large single-dwelling houses on large lots. SW Fairmount is an attractive street with a large amount of tree canopy.

**Zoning:** The site is zoned R10s (Residential 10,000 with a Scenic Resource Zone overlay). The R10 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 6,000 square feet and an average lot area of 10,000 square feet. The “s” overlay zone is intended to protect Portland’s significant scenic resources. In this situation, the “s” overlay follows SW Fairmount Boulevard. For corner lots or lots with multiple street frontages, the Portland Zoning Code defines front property line as the shortest of the lot lines that abut a street.

**Land Use History:** City records indicate there are no prior land use reviews for this site. A land use review in 2005 (LU 05-172259 LDP AD) approved a 2-lot land division at this site; however, the decision was never recorded and is now void.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **July 23, 2014**. The following Bureaus have responded:

The Bureau of Environmental Services responded with information on sanitary service and stormwater management (Exhibit F-1).

The Life Safety section of the Bureau of Development Services responded with information on obtaining a building permit (Exhibit F-2).

The Water Bureau responded with information about water service (Exhibit F-3).

The Urban Forestry section of the Parks Bureau responded with information on street tree requirements (Exhibit F-4).

The Fire Bureau responded that applicable Fire Code requirements will apply at time of permit review (Exhibit F-5).

The Portland Bureau of Transportation responded with no objections and information on System Development Charges, driveways and curb cuts (Exhibit F-6).

**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****33.805.010 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 proposes one Adjustment to the Portland Zoning Code regulation that requires detached ADUs to be located at least 60 feet from the front property line or at least 6 feet behind the home on the site. For this situation, the front lot line of the site is short segment of street along the western edge of the site. Because the main entrance also faces this segment of street and the ADU is between this main entrance and street segment, approval of the ADU location through an Adjustment Review is necessary. The purpose of the design standards for ADUs, including the location requirement, is found in Section 33.205.030.A of the Portland Zoning Code and reads:

*Purpose: 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 Portland Zoning Code defines "desired character" as:

*The preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district. It also includes the preferred and envisioned character based on any adopted area plans or design guidelines for an area.*

In this location, the desired character is defined by the purpose statement for single-dwelling zones found in Section 33.110.010 and the *Southwest Community Plan*.

The purposes statement for single-dwelling zones states:

*The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing.*

The proposal is consistent with this stated purpose and the site will still provide land for housing and housing opportunities for individual households.

The *Southwest Community Plan* does not contain any goals or policies specific to ADUs; therefore, the proposal is not inconsistent with the desired character described in that plan.

The proposed location of the ADU will not impact the livability of the residential area. It will be located approximately 140 feet from the nearest house. The ADU and configuration on the site will respect the general scale and placement of structures. The site has multiple street frontages and the placement of the ADU in front of the house or in front of the main entrance will not be readily apparent. In fact, from most vantage points along SW Fairmount Boulevard, the ADU will not appear to be in front of the house. The ADU meets maximum size requirements of the Portland Zoning Code and is significantly smaller than the proposed house. The ADU and the house appropriately fit the topography of the site.

Based on the information 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 proposal will not detract from the livability or appearance of the residential area. The site has abundant street frontage and from most vantage points, the ADU will not appear to be in front of the house. The ADU does not negatively impact livability, it is located at least 140 from any homes on nearby sites. The ADU also meets other standards for Accessory Dwelling Units, including requirements for certain elements to match the proposed house. Based on this information, 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 requested; therefore, this criterion is not applicable.

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

**Findings:** The proposal is located in the Scenic Resource Overlay zone and meets all applicable development standards of the section of the Portland Zoning Code. The site does not contain any City-designated scenic resources. Based on this information, this criterion is met.

- 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 adjustments. 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

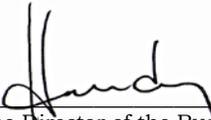
The applicant proposes one Adjustment to standards of the Portland Zoning Code to allow the ADU to be located in front of the main entrance of the primary house. The proposal meets the intent of the regulations because from most vantage points along SW Fairmount Boulevard, the ADU will not appear to be in front of the proposed house. The proposal meets the applicable approval criteria and should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.205.040.D.1 to allow the proposed ADU to be located in front of the main entrance of the proposed house, per the approved site plans, Exhibits C-1 through C-2, signed and dated August 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 14-177644 AD adjustment."

**Staff Planner: Matt Wickstrom**

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

**Decision mailed: August 28, 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 July 1, 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 July 1, 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, applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: November 12, 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 11, 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 **September 12, 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**

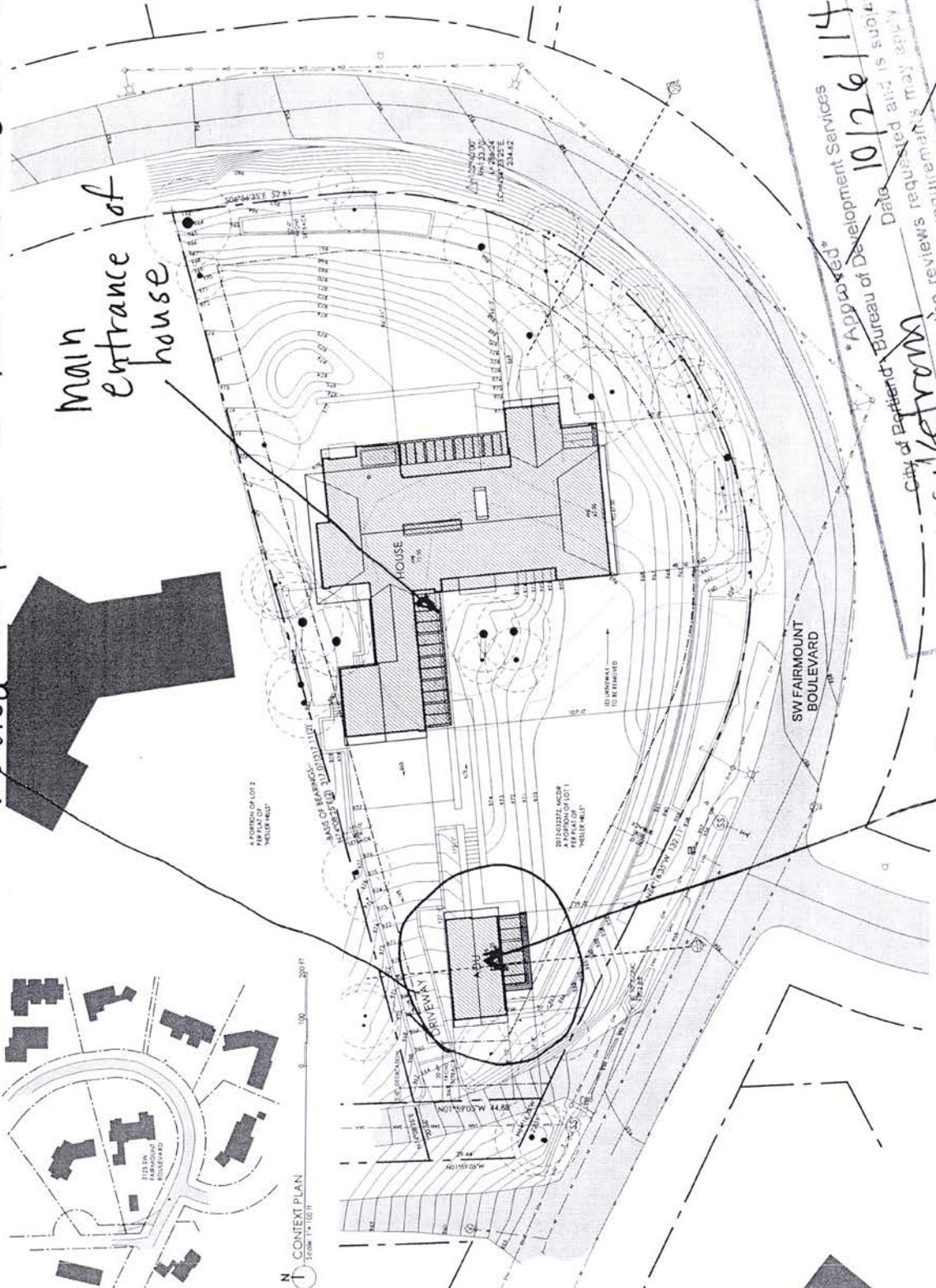
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
  1. Large plan set
  2. Supplemental submittal dated August 18, 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. Bureau of Environmental Services
  2. Life Safety Section of BDS
  3. Water Bureau
  4. Bureau of Parks, Forestry Division
  5. Fire Bureau
  6. Portland Bureau of Transportation
- 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).**



Approved proposal to allow ADU to be located in front of main entrance of house.



**RBA**  
Richard Brown Architects, AIA  
1000 NE Oregon Street, Suite 300  
Portland, OR 97232  
503.251.1811

**PROJECT INFORMATION**

PROJECT: NEW RESIDENCE  
DWELLING USE  
PROJECT NO.: R171247  
ZONE: IS  
OVERLAY: S  
CONING MAP: 3377  
USE AREA: 31,000 SF  
REARING: 1  
COVERAGE: 1/3255 MAXIMUM

**UTILITIES**

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

ELECTRIC: 1/8" = 1'-0"

WATER: 1/8" = 1'-0"

**PRELIMINARY NOT FOR CONSTRUCTION**

**FAIRMOUNT HOME**

3125 SW FAIRMOUNT BOULEVARD  
PORTLAND, OREGON 97239

DESCRIPTION: FAIR PROJECT 1102  
DATE: 10/26/14  
PREPARED BY: 2014/08/18

**ARCHITECTURAL SITE PLAN**

**A0.1**

Approved by Development Services 10/26/14  
Data is subject to City of Portland Bureau of Development Services  
City of Portland  
Planner: **Wilkstrom**

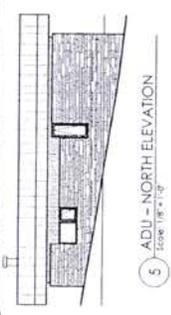
**proposed ADU**

ARCHITECTURAL SITE PLAN  
Scale: 1/4" = 1'-0"

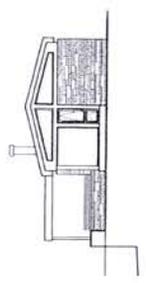
\* This approval applies only to the reviews requested and is subject to additional zoning requirements may apply.  
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Exhibit C-1

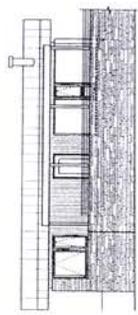
Proposed ADU



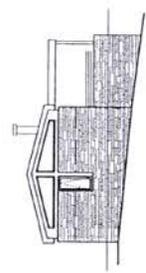
5 ADU - NORTH ELEVATION  
Scale: 1/8" = 1'-0"



6 ADU - EAST ELEVATION  
Scale: 1/8" = 1'-0"



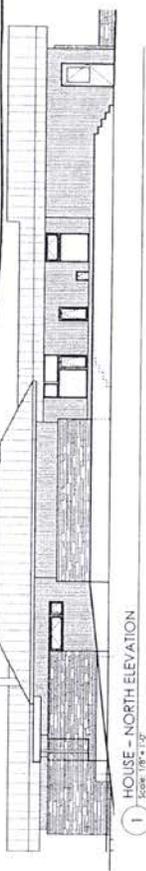
7 ADU - SOUTH ELEVATION  
Scale: 1/8" = 1'-0"



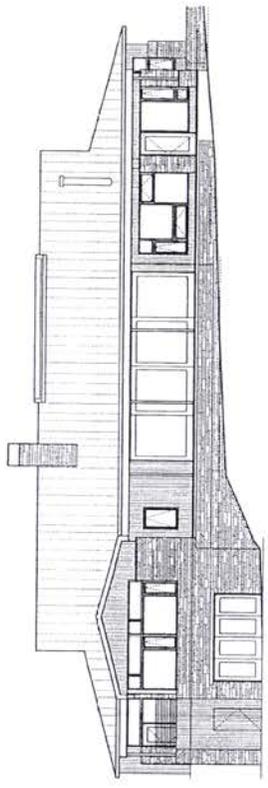
8 ADU - WEST ELEVATION  
Scale: 1/8" = 1'-0"

Primary Structure (House)

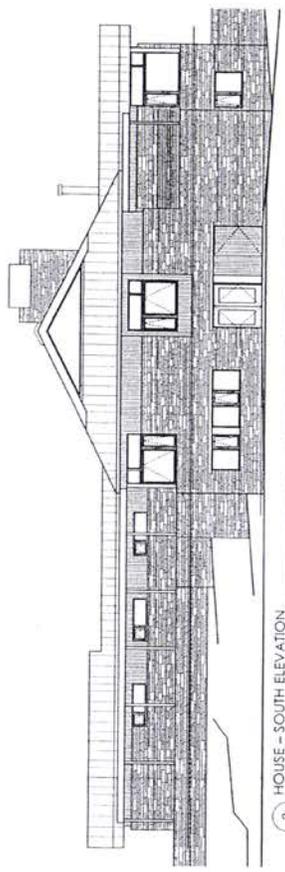
RBA  
Richard Brown Architects  
1910 SW 10th Avenue, Suite 300  
Portland, OR 97205  
503.222.4457  
rba@rba.net



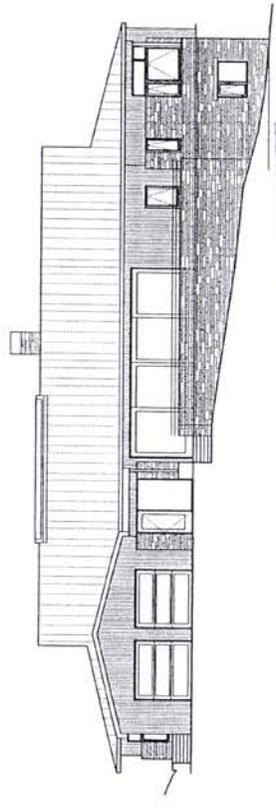
1 HOUSE - NORTH ELEVATION  
Scale: 1/8" = 1'-0"



2 HOUSE - EAST ELEVATION  
Scale: 1/8" = 1'-0"



3 HOUSE - SOUTH ELEVATION  
Scale: 1/8" = 1'-0"



4 HOUSE - WEST ELEVATION  
Scale: 1/8" = 1'-0"

DATE: PRELIMINARY NOT FOR CONSTRUCTION  
FAIRMOUNT RESIDENCE & GUESTHOUSE  
3335 FAIRMOUNT AVENUE  
PORTLAND, OREGON 97212  
DESCRIPTION: RBA PROJECT DATE: 2014.06.30  
ADJUSTMENTS

HOUSE & ADU ELEVATIONS

A2.1

Approved\*  
City of Portland - Bureau of Development Services  
Planner: Wickstrom Date: 10/26/14  
\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.