



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

Amanda Fritz, Commissioner
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Date: January 23, 2015
To: Interested Person
From: Sylvia Cate, 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 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 14-240256 AD

GENERAL INFORMATION

Applicant: Mary Hogue, Main Contact
MKM Architecture / 3304 SE 52nd Ave / Portland, OR 97206

Owners: Mark W and Gina M Doleski, listed property owners
910 NE Imperial Ave / Portland, OR 97232

Site Address: 910 NE IMPERIAL AVE

Legal Description: BLOCK 10 LOT 26, LAURELHURST
Tax Account No.: R479102140
State ID No.: 1N1E36AD 18100
Quarter Section: 2934

Neighborhood: Laurelhurst, contact Eric Fruits at 503-928-6635.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.

Plan District: Laurelhurst-Eastmoreland
Zoning: R5, Single Dwelling Residential 5,000

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

Proposal:

The applicant proposes a modest expansion of an existing kitchen. The addition is 19 feet long by 5 feet wide, as shown on the attached site plan. Because the site is a corner lot, there are two street frontages: NE Imperial and NE Hazelfern. The current glazing on this façade is 13.9%; however, with the five foot wide addition, an additional 9 square feet of windows would be required to meet the standard. The zoning code requires that street facing facades have at least 15% of the façade area in windows or a main entrance. Because the 5 foot wide portion of the proposed kitchen addition faces NE Hazelfern, the applicant requests an Adjustment to

reduce the amount of glazing on the Hazelfern street facing façade and waive the requirement to add an additional 9 square feet of windows. Attached to this Notice is a zoning map, site plan, and elevations depicting the proposal.

Relevant Approval Criteria:

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria 33.805.040, *Approval Criteria* A. through F. below have been met.

ANALYSIS

Site and Vicinity: The site is a 7,128 square foot lot developed with a 2,739 square foot home built in 1925 in the English Tudor architectural style of the period. The site is located at the northeast corner of the intersection of NE Hazelfern and NE Imperial Avenue. The surrounding vicinity in all directions consist of lots zoned R5 and developed with residential uses. The site is also located within the Laurelhurst Plan District.

Zoning: The site is zoned R5. The R5 zone is a high density single-dwelling zone. The R5 zone allows attached and detached single-dwelling structures and duplexes.

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 **December 31, 2014**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Site Development Section of BDS
- Bureau of Environmental Services

The Water Bureau responded with no objections and includes comments regarding the water service for the applicant. The full response is contained in Exhibit E-3.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on December 31, 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 an Adjustment to reduce the amount of glazing on the Hazelfern street facing façade and waive the requirement to add an additional 9 square feet of windows for a five foot wide façade resulting from a kitchen expansion. The purpose for glazing on street facing facades is found at 33.110.232.A, which states

This standard:

- *Together with the main entrance and garage standards, ensures that there is a visual connection between the living area of the residence and the street;*
- *Enhances public safety by allowing people to survey their neighborhood from inside their residences; and*
- *Provides a more pleasant pedestrian environment by preventing large expanses of blank facades along streets.*

The modest kitchen expansion will be located along the east facing façade, resulting in a 5-foot wide bump out that results in a narrow façade facing NE Hazelfern Pl. However, this façade is set back 79 feet from the south property line, and is also 41 feet behind the primary façade facing NE Hazelfern Place. Given these distances, along with the generous fenestration on the south façade and the period architecture, the pedestrian environment remains pleasant without an additional window in a relatively minor bump-out over 40 feet from the sidewalk. The existing home exceeds the amount of glazing on the main [front] façade, which faces west toward NE Imperial Avenue and is nearly met on the existing south elevation. Therefore, there will be no impact on 'eyes toward the street' nor any changes to the existing visual connection between the residence and the neighborhood and adjacent streets. For these reasons, the request equally meets the purpose of the regulation and therefore, this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The proposal will have no impact on the livability or the appearance of the residential area because the visual connections between the residence and the street will remain unchanged and the one-story addition will be in keeping with the English Tudor architectural style. For these reasons, 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. This criterion is not applicable.

- 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

The applicant plans on a modest expansion of the existing kitchen in the residence. The result of the expansion is a new, 5-foot wide façade facing NE Hazelfern Place. The zoning code requires 15% glazing on all street facing facades. Therefore, the applicant requests an Adjustment to waive adding additional windows to the south facing façade. The proposal meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of

- An Adjustment to 33.110.232.C, to waive any additional glazing installed on the south façade facing NE Hazelfern Place, per the approved site plans, Exhibits C-1 through C-2, signed and dated January 21, 2015, subject to the following conditions:
 - 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 14-240256 AD."

Staff Planner: Sylvia Cate

Decision rendered by:  **on January 21, 2015**
By authority of the Director of the Bureau of Development Services

Decision mailed: January 23, 2015

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 November 20, 2014, and was determined to be complete on December 29, 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 November 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 further extended by the applicant, **the 120 days will expire on: May 2, 2015.**

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 February 6, 2015** 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 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 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 **February 9, 2015 – (the first business 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:

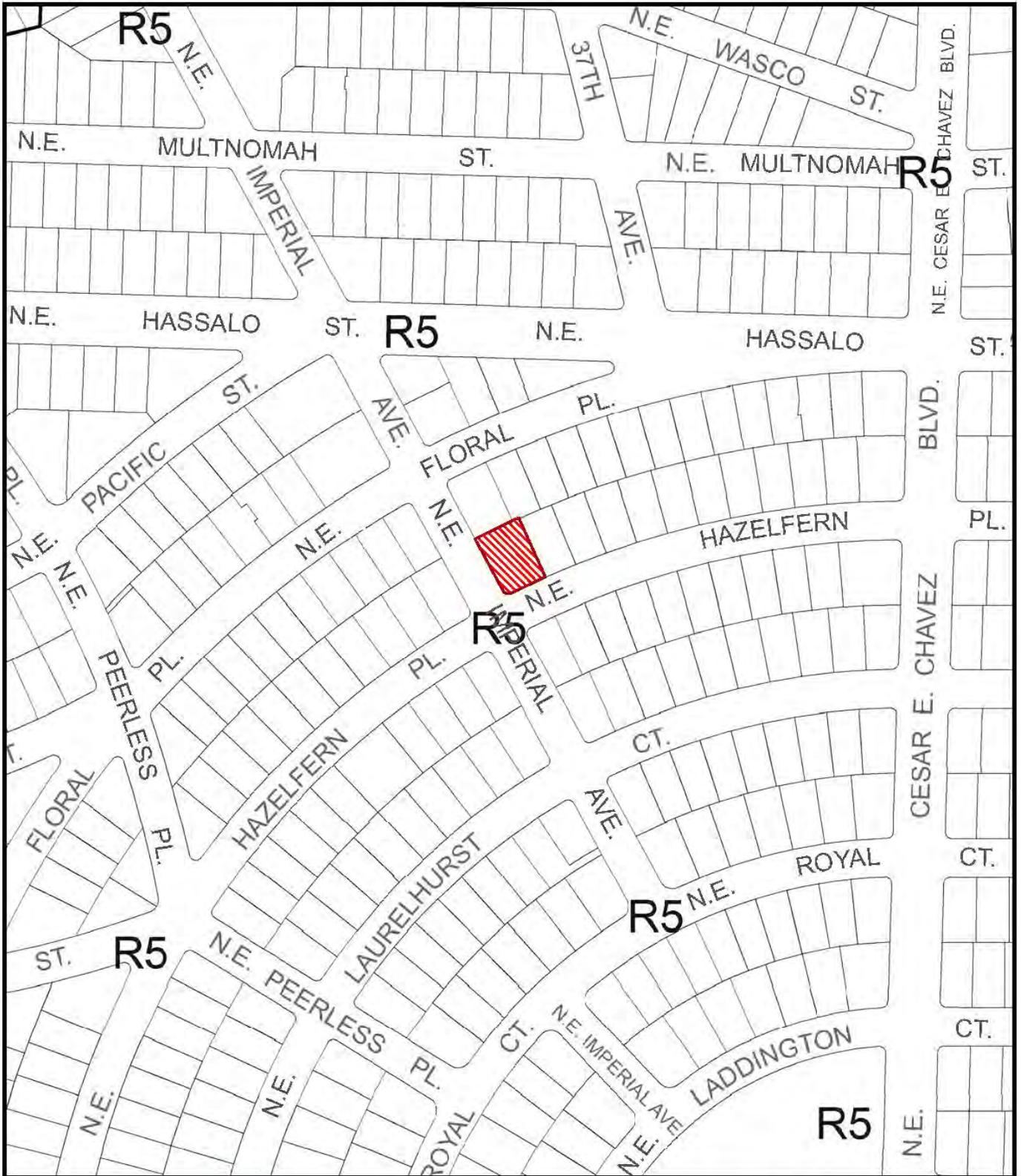
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. South [and North] Elevation (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Site Development Review Section of BDS
- F. Public Correspondence: None received
- G. Other:
 1. Original LU Application

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



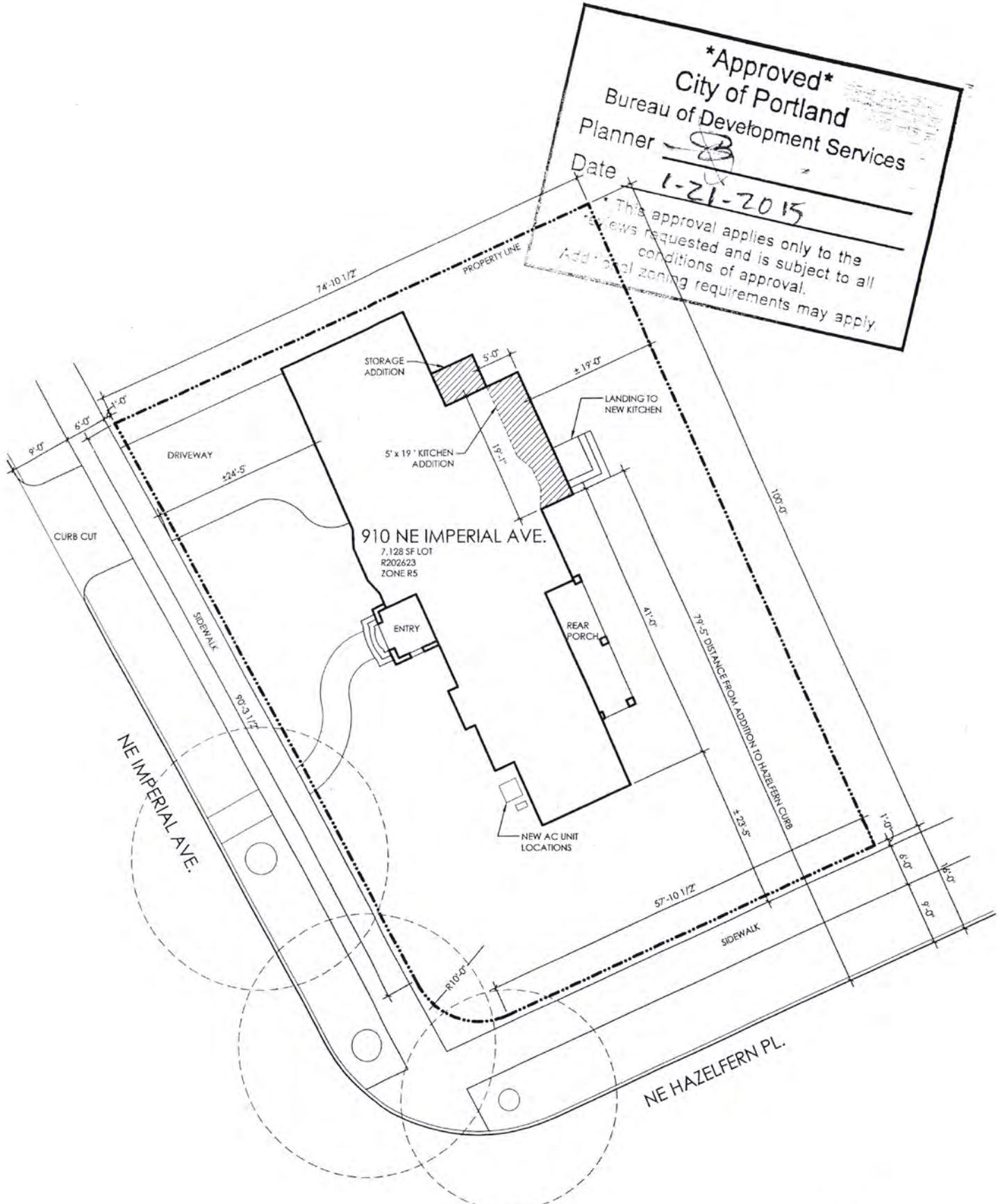
NORTH

This site lies within the:
LAURELHURST PLAN DISTRICT

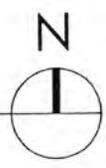
File No. LU 14-240256 AD
 1/4 Section 2934
 Scale 1 inch = 200 feet
 State_Id 1N1E36AD 18100
 Exhibit B (Nov 21, 2014)

Approved
City of Portland
 Bureau of Development Services
 Planner B
 Date 1-21-2015

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



SITE PLAN
 SCALE: 1" = 20'-0"



LU 14 - 2 4 0 2 5 6 AD

EXHIBIT C-1

Approved

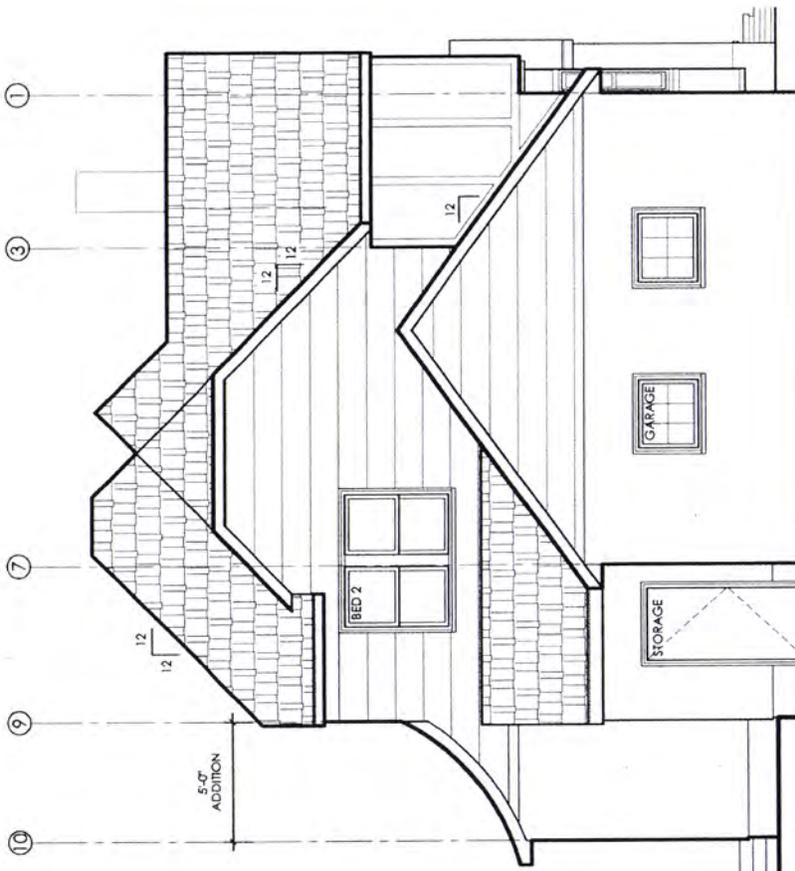
City of Portland

Bureau of Development Services

Planner *[Signature]*

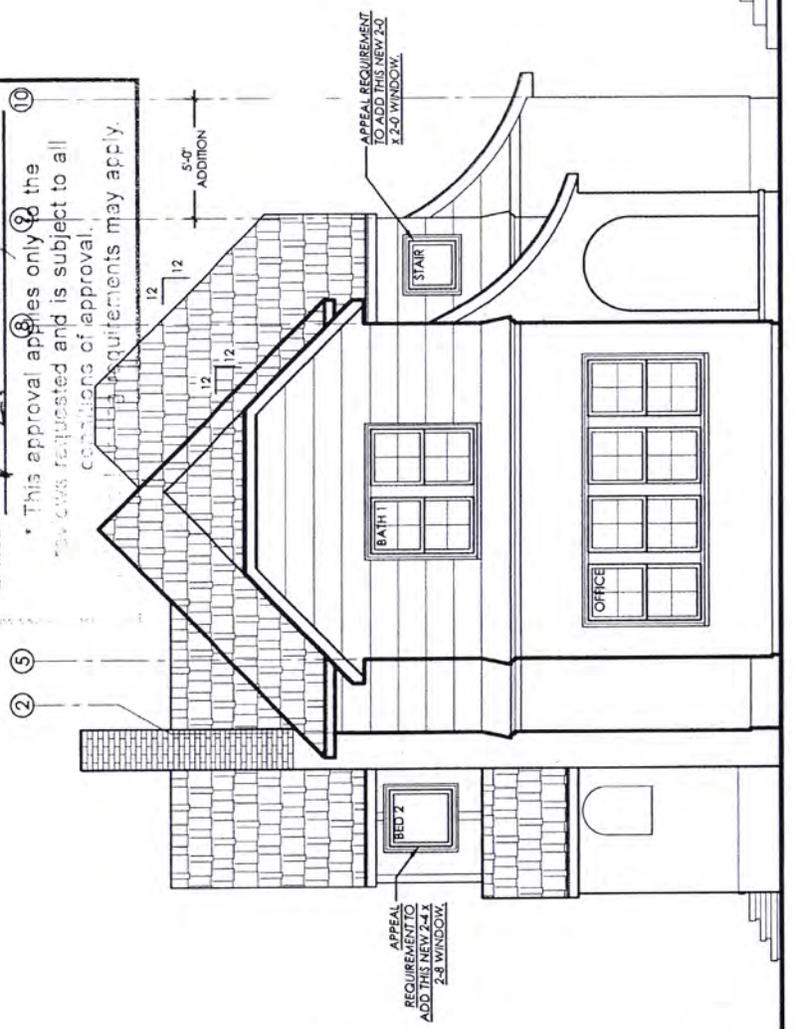
Date 1-21-2015

This approval applies only to the reviews requested and is subject to all conditions of approval. All other requirements may apply.



NORTH ELEVATION

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



SOUTH ELEVATION

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