



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

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Date: April 10, 2015
To: Interested Person
From: Mark Walhood, City Planner
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has reviewed a proposal in your neighborhood and **approved** five out of six requested Adjustments, with one Adjustment **denied**. 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 14-248295 AD

GENERAL INFORMATION

Applicant/Owner: Mark L Larson
3103 NW Wilson St / Portland OR 97210-1958

Site Address: 3103 NW WILSON ST

Legal Description: LOT 1, PARTITION PLAT 1997-62
Tax Account No.: R649772450, R649772450, R649772450
State ID No.: 1N1E29CA 05501, 1N1E29CA 05501, 1N1E29CA 05501
Quarter Section: 2825
Neighborhood: Northwest District, contact John Bradley at 503-313-7574.
Business District: None
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Zoning: **R5** (Single-Dwelling Residential 5,000 base zone), **Northwest Hills Plan District/Forest Park Subdistrict**

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

Proposal: The applicant has proposed to expand and convert an existing detached outbuilding in the rear yard to an Accessory Dwelling Unit (ADU). The proposed structure is located behind (north of) the existing house, near the northwest corner of the lot, but out of the required 5'-0" rear setbacks. The structure is located 2'-8" from the west side lot line at the wall, with another few inches of eave extension beyond the wall. Regulations of the R5 zone require a minimum 5'-0" side building setback.

Development standards for ADU's require that the new building match or be compatible with the existing primary house in five distinct ways. As proposed, the new ADU building (see attached drawings) does not meet the five following ADU compatibility standards:

1. *Exterior finish materials* – the ADU has a combination of sheet pressboard (T-1-11) and lap siding, which is not the same or visually matching that of the house (33.205.030.C.7);

2. *Roof pitch* – the ADU has a steeper roof pitch of 8:12 (rise:run), which does not match the predominant and lower pitch of the house at 4.75:12 (33.205.030.C.8);
3. *Trim* – the ADU does not have the same type, size or location of window and door trim as found on the main house (33.205.030.C.9);
4. *Windows* – the ADU window openings are different in both proportion and orientation versus those of the main house (33.205.030.C.10); and
5. *Eaves* – the ADU has little or no projecting eaves on the west facade, which neither match the house nor project at least 1'-0" from the building walls (33.205.030.C.11).

Therefore, in order to construct the ADU as proposed, the applicant has requested five Adjustments to the above-noted ADU development standards. The applicant also requests a sixth Adjustment to reduce the west side setback from 5'-0" to 2'-8" for the wall, and slightly less than that for the projecting eaves.

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at 33.805.040.A-F, Adjustment Approval Criteria.

ANALYSIS

Site and Vicinity: The site is a 5,800 square-foot parcel, located on the north side of NW Wilson Street, in the lower portion of Willamette Heights. The site is developed with a 1.5-story bungalow and two outbuildings in the side and rear yard, with a driveway providing access to the rear yard just west of the house. The front yard is heavily landscaped, such that the house is partially obscured from view along the street. The site topography is sloping downhill to the north and east, especially in the rear (northeast) corner, where the grade change is significant and too steep to easily climb on foot. Technically a small portion of the site at the downhill northeast corner fronts onto NW 31st Avenue, but there is no direct pedestrian or automotive access to NW 31st Avenue from the site.

The surrounding area is developed with older single-family homes and the occasional duplex. Structures are generally built before World War II, but some newer midcentury structures are also found nearby. The abutting street is improved with a paved two-way roadway, curbing, planter strips with street trees, and on-street parking.

Zoning: The R5 zone is a single-dwelling zone that is intended to preserve land for housing, and to provide housing opportunities for individual households. Development standards are intended to allow some flexibility for development while maintaining compatibility with the City's various neighborhoods. Zoning regulations specific to Accessory Dwelling Units are intended to provide opportunities for additional housing in a manner that is compatible with existing single-dwelling development.

Land Use History: City records indicate one prior land use review at the site. In 2003, the existing 12'-0" by 20'-0" covered deck in the west side setback was approved through an Adjustment Review, via case file LU 03-106734 AD.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **March 2, 2015**. The following Bureaus have responded with comments:

The *Water Bureau* has reviewed the proposal and has no objections to the requested Adjustments, but extensive information regarding water services is provided, which will have to be addressed during the building permit review process. Regulations providing for minimum separation of water service and sanitary sewer lines must be met, a separate service agreement will need to be signed if one water service is to provide both the house and ADU, and all applicable costs will be the responsibility of the applicant. Exhibit E.1 contains staff contact and additional information.

The *Site Development Section of the Bureau of Development Services* has reviewed the proposal and provided technical details about erosion control and other issues, but no objections to the

requested Adjustments. Site Development notes they have already reviewed and approved the building permit for this project. Exhibit E.2 contains staff contact and additional information.

The *Life Safety Section of the Bureau of Development Services* has reviewed the proposal and offered standard comments noting that all Building Codes must be met, but no specific objections or concerns regarding the requested Adjustments. Exhibit E.3 contains staff contact and additional information.

The following bureaus have responded without comment or concern:

- The *Bureau of Environmental Services* (Exhibit E.4);
- The *Development Review Section of Portland Transportation* (Exhibit E.5);
- The *Bureau of Environmental Services* (Exhibit E.6); and
- The *Urban Forestry Division of Portland Parks and Recreation* (Exhibit E.7).

Neighborhood Review: An initial Notice was mailed on January 23, 2015, with an earlier site plan that showed a 6'-0" west side setback. After this issue was flagged by the neighbors to the west as inaccurate, the applicant submitted revised plans showing a reduced west setback, and paid the additional fees necessary to re-notify to include the necessary setback Adjustment. The revised Notice was mailed on March 2, 2015, adding the requested west side setback Adjustment.

Three letters were received from the abutting property owners to the west, including the initial response letter. Concerns in these letters include the following:

- The existing covered deck was approved while the neighbors were out of town, preventing their concerns from being addressed when the prior Adjustment was approved, despite an understanding from staff that nothing less than a 2'-0" setback would be approved;
- The covered deck and ADU are closer than that shown on the approved plans, and was built less than the approved 1'-0" distance to their shared lot line;
- Use of the existing covered deck, particularly in the summer, has negative impacts on the adjacent home. A wood-burning barbecue fills the neighbors sunroom with smoke and makes having the windows open in summer unpleasant;
- Other concerns with the existing covered deck include fire access, inadequate parking created by a shorter driveway and fence, air circulation, and access;
- The proposed ADU is too close to the neighbors property, and outstanding concerns include fire safety, incompatible/too close siting, reduced property values, and parking availability;
- The proposed ADU may be rented out as a short-term rental; and
- The proposed ADU is out of character with the neighborhood, being sited too close to the property line.

Staff Response: Issues regarding the covered deck are not relevant to the current application. Staff did observe the distances between abutting structures at 3103 and 3115 NW Wilson Street on a site visit in March, 2015, and it appears that the distances are generally as shown on the submitted site plans. With all land use reviews, staff must rely on the accuracy of the site plan submitted by the applicant, but an effort was made to ensure that all distances shown on the proposed site plan were generally accurate. Staff did note one anomaly between the approved drawings for the covered deck and the as-built conditions, but that consists of a small area of roof at the southwest corner of the covered deck that extends beyond the approved deck roof cover. This extra roof area will be noted in this decision, and a condition of approval will require its removal. Issues with regards to neighborhood compatibility and the relationship between residences will also be considered in greater detail in the findings, below.

There is no record of any promise made to neighbors that only a 2'-0" setback would be approved during the last Adjustment for the covered deck (which approved a 1'-0" setback). There is a close relationship between the buildings on the two parcels at 3103 and 3115 NW Wilson Street, but it is almost equally due to structures on both lots, not just on the subject site. This will be discussed in greater detail in the findings, below.

There are no relevant criteria that address adequacy of parking, and no additional parking is required for an ADU. Accessory rentals are allowed by-right in many situations under new regulations recently adopted by City Council, and an analysis of potential future by-right uses

of approved living area on the site is not under consideration in this Adjustment. Property value impacts, either to the upside or downside as the neighborhood changes over time, are not considered in the Adjustment process. Issues with regards to fire safety, air circulation, and compatibility with the neighborhood will be considered further in the findings, below.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of Adjustment Reviews

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 Adjustment 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 purpose of the ADU design standards is as follows (33.205.030.A):

“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.”*

For all five ADU compatibility standards under consideration, which regulate the exterior appearance of the structure but not its placement on the lot, size, or physical relationship with abutting structures, there are no issues with regards to allowing shared common spaces on the lot, such as driveways and yards. The ADU is smaller in size than the house on the lot. The ADU is nestled into a descending ‘hollow’ on the site below and behind the home, abutting an approximately 6’-0” tall retaining wall to the west, and with only the uppermost roof projecting above the abutting fence in the rear yard to the west, in a natural response to the steep topography of the site.

With regards to the **exterior siding materials** (33.205.030.C.7), the applicant shows two different siding materials on the proposed ADU: a vertical sheet pressboard material (T-1-11) on the lower walls, and traditional horizontal lap siding on the upper walls, except for the west and north elevations, which are all T-1-11. The applicant states that the sheet siding is not visible from the adjacent homes, but that is not the case: the north, west and south walls of the structure are plainly visible from even the closest neighbor to the west, when viewed from the elevated private deck at 3115 NW Wilson which looks directly into the backyard of 3103 NW Wilson. The existing craftsman home on the site is exclusively clad in horizontal lap siding, with a traditional look. The more recent covered deck structure has an unfinished, rustic appearance that contrasts with the more refined lines of the house, and is clad entirely in T-1-11. The existing structure in the rear yard looks like the siding was begun to be applied at the top of two out of four walls, but then simply never finished. To enhance the livability of the neighborhood, and ensure that the ADU has a visual appearance that is in keeping with the high-quality, attractive siding of the original home versus

the newer, unfinished-looking covered deck, horizontal siding matching that found on the home should be placed on all four walls, not just the upper portion of two out of four. Therefore, to ensure that the siding of the ADU will match the house, and because the proposed T-1-11 is incompatible with the desired character embedded in the ADU compatibility standards, this Adjustment request must be denied.

With regards to the **roof pitch** (33.205.030.C.8) the existing main house has a low-pitched gable roof, and a street-facing upper-story dormer with a matching low-pitched gable roof. The proposed ADU has a slightly steeper-pitched main roof form, and a lower-pitched section of roof on the south end. Due to topography, the ADU is nestled into a descending slope behind and lower than the home and covered deck on the site, and even further below the adjacent home to the west. Given this siting, the roof of the proposed ADU is the most visually prominent part of the structure when viewed from the street, inside the home, or from the closest-abutting property. The sheet metal roofing contrasts with the asphalt shingle roofing of the home, but the roofing material itself is not regulated by Zoning. The roof form is in keeping with the simple gable-roofed form of the house, and does not detract from the desired character or livability of the neighborhood, and is consistent with the ADU compatibility standards. For the purposes of the roof pitch Adjustment, this criterion is met.

With regards to the **trim** around windows and doors (33.205.030.C.9), there is trim around all openings but it is slightly smaller than the thicker, traditional trim found on the original home. The applicant has not specified exact dimensions, and the submitted plans are not to scale, but a statement is included that the trim is “approximately 20% smaller than the house trim” (Exhibit A.1). There are two small windows on the west-facing elevation, including a upper gable-end window and a small wall window. The only windows on the south-facing elevation are within the double entry doors which are not visible from the street, so the appearance of the trim is not a significant factor as the structure is viewed from the street and closest abutting neighbor to the west. Therefore, allowing slightly smaller trim will not impact the character or livability of the neighborhood, nor be inconsistent with the intent of the ADU compatibility standards overall. For the purposes of the trim Adjustment, this criterion is met.

With regards to the **window proportion and orientation** (33.205.030.C.10), there are a variety of windows in the proposed ADU, including horizontal fixed openings (3), two upper gable-end windows facing west and east, two horizontal slider windows, and two vertical windows in the paired entry doors. The traditional form of the existing home on the site has almost exclusively vertical window openings, sometimes grouped together into horizontal openings. Windows on the home are also fixed, hung or casement windows, not sliders. However, there are no street-facing windows on the structure, and the windows visible to the abutting neighbors are minimal in size, with most windows on the ADU facing north, away from abutting homes and towards the industrial area below. The ADU is also nestled into the descending slope of the site, such that only the roof structure is immediately apparent when viewed from the street or the closest abutting neighbor to the west. Therefore, allowing different window types in this ADU will not negatively impact the character or livability of the neighborhood. For the purposes of the window proportion and orientation Adjustment, this criterion is met.

With regards to **eaves** (33.205.030.C.11), the applicant states that the ADU has projecting eaves of at least 1 foot on all but the west façade, consistent with this standard. This did appear to be the case during the staff site visit, which also shows up on the submitted building elevations (although these are not to scale, and so the distance cannot be verified on the drawings). The west façade, where the reduced eave is located, is within three feet or less of an abutting property line, and therefore must meet firewall requirements during permitting. The west façade has an unfinished roofing edge and soffit at the top of the wall, but what is in place projects approximately 3 inches out from the wall below. This shallower eave is not visible from

the street as it is concealed from view by the existing covered deck. This shallower eave also helps keep the structure away from the abutting neighbors to the west, versus a proposal with a deeper eave. For all these reasons, the shallower eave on the west façade of the ADU will not impact the character or livability of the neighborhood. For the purposes of the eave Adjustment, this criterion is met.

The purpose for **side setbacks** is as follows (33.110.220.A):

***Purpose.** The setback regulations for buildings and garage entrances serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the city's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *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*
- *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.*

The abutting neighbors to the west have objected to the proposal as out of character with the surrounding neighborhood, and as a negative influence in terms of access to light, access to air, and with regards to fire safety and access. The subject site currently has a 20'-0"-long covered deck within 1'-0" of the shared west lot line, generally as approved in case file LU 03-106734 AD. The one exception to this is a small area of roof cover that was added beyond the approved 20'-0" by 12'-0" roof structure, at the southwest corner and near the west lot line, abutting a dense planting strip of bamboo. The abutting neighbors have objected to the scale, use and placement of the existing covered deck, but that is not germane to the current request as long as the covered deck matches the prior approval. In this case, the additional roof area added to the existing covered deck beyond what was approved in 2003 must be corrected before additional projections into the setback are allowed. The roof area added is relatively small, providing only a few square feet of coverage, but it is not shown on the prior approved site plans for the 2003 Adjustment and therefore must be removed. To ensure that this occurs, a clarifying condition of approval will be added to ensure this unpermitted roof in the setback is removed.

The proposed ADU is nestled within the descending slope of a hillside property, largely placed below the adjacent retaining wall and fence of the neighbors property to the west, which rises approximately 6'-0" to 14'-0" above the sloping grade of the subject site. Although the entire south and west faces of the ADU structure are clearly visible when viewed from the abutting neighbors elevated private deck, only the uppermost portion of the roof projects above the fence atop the retaining wall. It should also be noted that the abutting house to the west has significant structures in the setback as well, including a carport and storage area with a sunroom and deck above. The carport is 17.29' long and two feet from the shared property line. The storage area is 9.25' long and zero to six inches from the shared property line. The sunroom and deck above are 3'-6" from the shared property line. The existing structure being proposed for conversion to an ADU has also been in place for some time, notwithstanding the unpermitted additions on the west, uphill side in the recent past, which must be legalized via a building permit.

The Fire Bureau has reviewed the request for reduced setbacks, and offered no concern with regards to separation for fire protection, or access for fire fighting. The proposed ADU is not a house, but its placement is in keeping with traditional backyard outbuildings in Portland's older neighborhoods like Willamette Heights, and is not significantly different in scale than a garage, many of which are found in building setbacks traditionally. The relationship between structures and the side lot lines on the site is not unreasonable or incompatible with the neighborhood character, which includes many structures in the side setbacks (such as those found immediately to the west at 3115 NW Wilson). There are no impacts to the front yard area, nor any changes to on-site parking, which is not required for the ADU regardless. Outdoor areas are provided for both units, per code regulations, in the shared back yard. The building is integrated into and responsive to site topography, containing the bulk of the greatest mass into the descending slope of this hillside property, largely below the closest abutting neighbor.

With regards to privacy, there are no potential impacts to the abutting neighbors with one exception: the clear glazing found in the uppermost gable end of the west elevation. Scalable, legible floor plans were not provided with this application, and it is unclear if this space within the ADU is simply an open cathedral ceiling, or if it is a sleeping loft or other usable space. This window provides direct views into the neighbors back yard, their rear deck, and rear windows, with potential significant impacts on privacy if allowed to remain. Also, it occurs on a wall that is within 3'-0" of a lot line, and so will be required to meet building code firewall regulations during the permitting process. It would not have the same privacy impacts if it was translucent privacy glass, or if the window was replaced with siding. Therefore, to address potential privacy issues resulting from the reduced west side setback, a condition of approval will be imposed requiring the west-facing upper gable window to be removed and replaced by either siding or translucent privacy glass. With the noted condition regarding the west gable window, this criterion is met with regards to the west side setback reduction.

- 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: With regards to the exterior siding Adjustment, the request cannot be approved because the dual-siding scheme of T-1-11 with horizontal siding is not in keeping with the quality, traditional siding found on the main home. Horizontal siding that integrates the house was installed on the upper portion of two out of four walls, and should be applied to the remainder of the building exterior to better integrate the structure with the main house. Because approving the proposed siding would significantly detract from the livability or appearance of the residential area, this criterion cannot be met for the exterior siding Adjustment.

As discussed above under findings for criterion A, and with only two exceptions, the request will not significantly detract from the livability or appearance of the residential area. Those two exceptions can be addressed by imposing conditions of approval that require an unpermitted roof cover addition on the existing covered deck to be removed, and a condition that eliminates the privacy impacts of the west-facing gable window, as noted above. With the two conditions of approval noted under findings for criterion A, and for all but the exterior siding materials Adjustment, this criterion can be 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 overall purpose of the R5 zone is to preserve land for housing, and to provide housing opportunities for individual households. The proposed ADU will increase housing opportunities. Therefore, the project is still consistent with this overall purpose, and this 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: With regards to the exterior siding Adjustment, the impacts cannot be mitigated with the siding as proposed, as the structure does not integrate well with the original home as intended by the regulations. Because the impacts cannot be mitigated, the exterior siding Adjustment must be denied.

There are potential privacy impacts related to the west-facing gable end window in the

uppermost portion of wall on the ADU, but this has been mitigated through a condition of approval requiring that the window be removed and replaced with siding or translucent privacy glass. Similarly, to ensure that the covered deck already in the setback along the west lot line is brought back to its previously-approved configuration, another condition of approval will require that the roof area added to the southwest corner of the structure be removed. With these two noted conditions, and concerning every Adjustment except to the exterior siding request, this criterion can be 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.

The applicant has been advised throughout the Adjustment process to provide **scaled plans** for review, but has not done so to date (Exhibits G.2 & G.4). The applicant has been notified that scalable plans will be required for the building permit review, to verify interior floor area of the ADU, setback dimensions, and footprint of the ADU, which must match the dimensions noted on the plans in this Adjustment decision. For the purposes of this Adjustment Review, staff has relied on the noted dimensions on the plans, as scaled plans were never submitted by the applicant.

CONCLUSIONS

The applicant has requested six Adjustments to legalize additions made to an existing detached accessory structure, and to permit the structure as an Accessory Dwelling Unit (ADU). The building is nestled into the descending slope of a steep hillside site, such that only the uppermost portion of the roof projects above the back yard fence of the closest abutting neighbor to the west. The request to allow only portions of two out of four exterior walls to have siding that matches the existing house cannot meet the applicable approval criteria, and must be denied. The other five Adjustments are approvable if conditions of approval are imposed which bring the existing covered deck back to its approved configuration, and which require siding or privacy glass in place of the west-facing window that looks directly into the neighbors private back yard space.

ADMINISTRATIVE DECISION

Denial of an **Adjustment** to allow the ADU to have different siding than the existing house (33.205.030.C.7).

Approval of an **Adjustment** to allow segments of roof on the ADU that are both steeper and shallower slope than that of the existing house (33.205.030.C.8).

Approval of an **Adjustment** to allow the ADU to have modified, slightly smaller trim around windows and doors than that found on the existing house (33.205.030.C.9).

Approval of an **Adjustment** to allow the ADU to have windows with a different proportion and orientation than those found on the existing house (33.205.030.C.10).

Approval of an Adjustment to allow the west side of the ADU to have little or no projecting eaves, which neither match the house nor project at least 1'-0" from the building walls (33.205.030.C.11).

Approval of an Adjustment to reduce the west side setback for the proposed ADU from 5'-0" to 2'-8" for the wall, and to reduce the setback slightly more for the projecting eaves.

All of the above approvals are granted based on substantial conformance with the design and dimensions noted on the approved plans and drawings, and understanding that revised scalable plans may be required during the building permit review process, as shown on Exhibits C.1 through C.6, all signed and dated April 6, 2015, and subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B and C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 14-248295 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The area of additional roof added to the existing covered deck at the southwest corner of the structure, within the west side setback (see Exhibits C.1, C.6 and G.5 for location), must be removed during the building permit process for the ADU, thereby restoring the covered deck to the size and footprint approved during LU 03-106734 AD.
- C. The west-facing upper gable window on the west elevation (Exhibit C.3) must be removed and replaced with either siding or translucent privacy glass, as documented during the building permit process for the ADU.

Staff Planner: Mark Walhood

Decision rendered by: MARK WALHOOD **on April 6, 2015.**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 10, 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 December 12, 2014, and was determined to be complete on **January 15, 2015.**

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 December 12, 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 requested that the 120-day review period be extended by 30 days (Exhibit A.4. With this one 30-day extension, **the 120 days will expire on June 13, 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 April 24, 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 **April 27, 2015 – (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; **OR**

- **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:

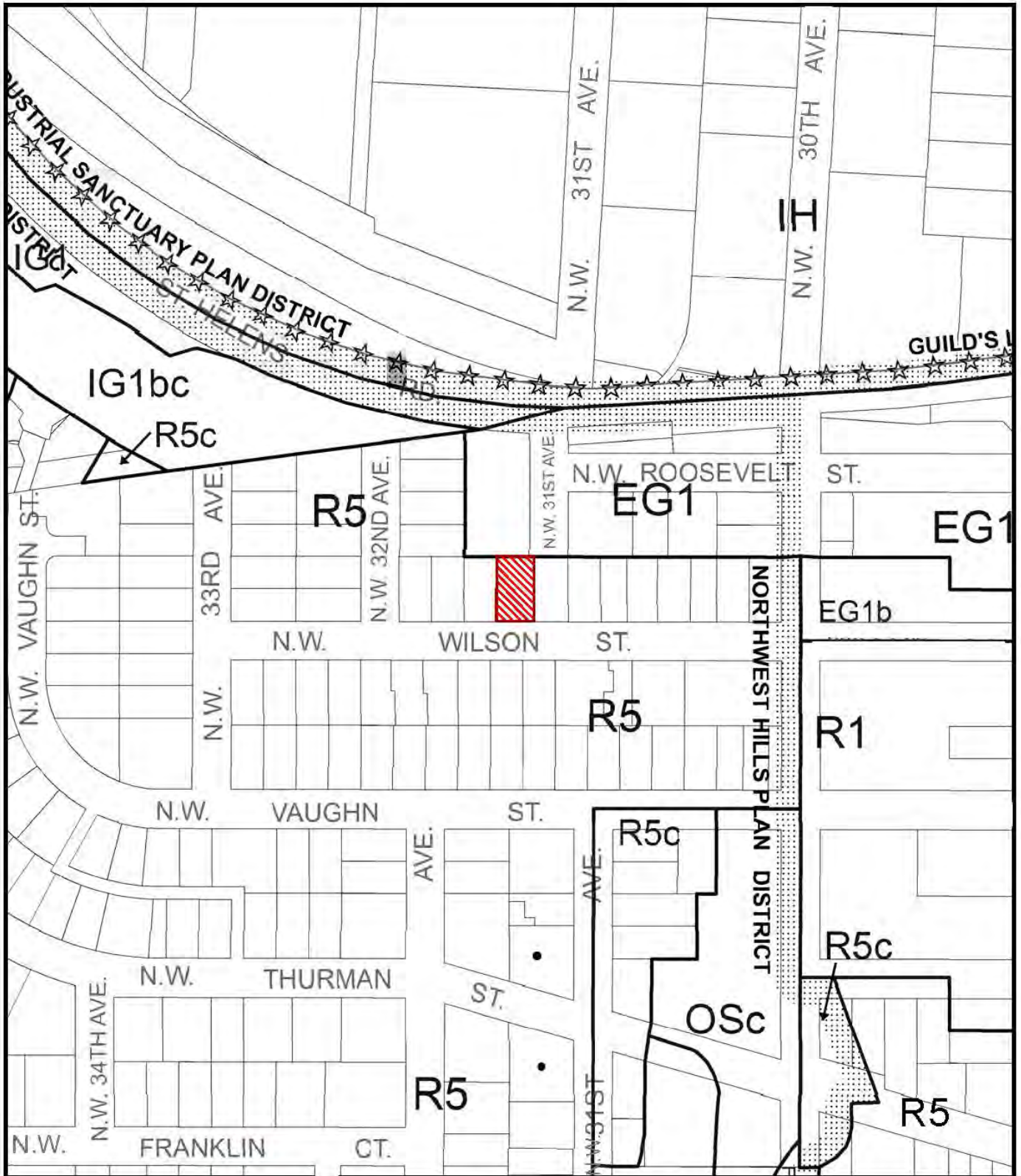
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
 - 1. Original narrative statement
 - 2. Site photos submitted by applicant with original application
 - 3. E-mail statements about actual outbuilding setback location and other site features, rec'd. 2/4/15, with staff response
 - 4. 120-day clock extension, rec'd. 2/26/15
 - 5. E-mail statements about parking, rec'd. 3/16/15
 - 6. Supplemental statements from applicant with revised site plan, rec'd. 2/13/15
 - 7. Final applicant submittal, including drawings of existing house and floor plan with notes (floor plan dimensions don't match revised site plan, and therefore the floor plan was not included in the approved plan set)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. East Elevation (attached)
 - 3. West Elevation (attached)
 - 4. North Elevation (attached)
 - 5. South Elevation
 - 6. Large Site Plan
- D. Notification information:
 - 1. Original mailing list from 1/23/15 notice
 - 2. Original mailed notice from 1/23/15 notice
 - 3. Revised mailing list from 3/2/15 notice
 - 4. Revised mailed notice from 3/2/15 notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Site Development Section of the Bureau of Development Services
 - 3. Life Safety Section of the Bureau of Development Services
 - 4. Development Review Section of Portland Transportation
 - 5. Fire Bureau
 - 6. Bureau of Environmental Services
 - 7. Urban Forestry Division of Portland Parks and Recreation
- F. Correspondence:
 - 1. Original letter with concerns from Tom and Linda Saward, rec'd. 1/29/15
 - 2. Supplemental letter directed to BES Staff but forwarded to BDS, rec'd. 2/8/15
 - 3. Letter of concerns from Tom and Linda Saward to Northwest District Association, copied to BDS 3/12/15
- G. Other:
 - 1. Original LU Application Form and receipt
 - 2. Incomplete letter from staff to applicant, sent 1/8/15
 - 3. Zoning Checksheet from permit 14-116935 RS, dated 1/18/14
 - 4. E-mail from staff to applicant documenting missing/conflicting information on original plan set, sent 1/20/15
 - 5. Photos of site taken by staff on site visit, March 2015
 - 6. Decision from LU 03-106734 AD (prior Adjustment for covered deck)

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



Recreational Trail

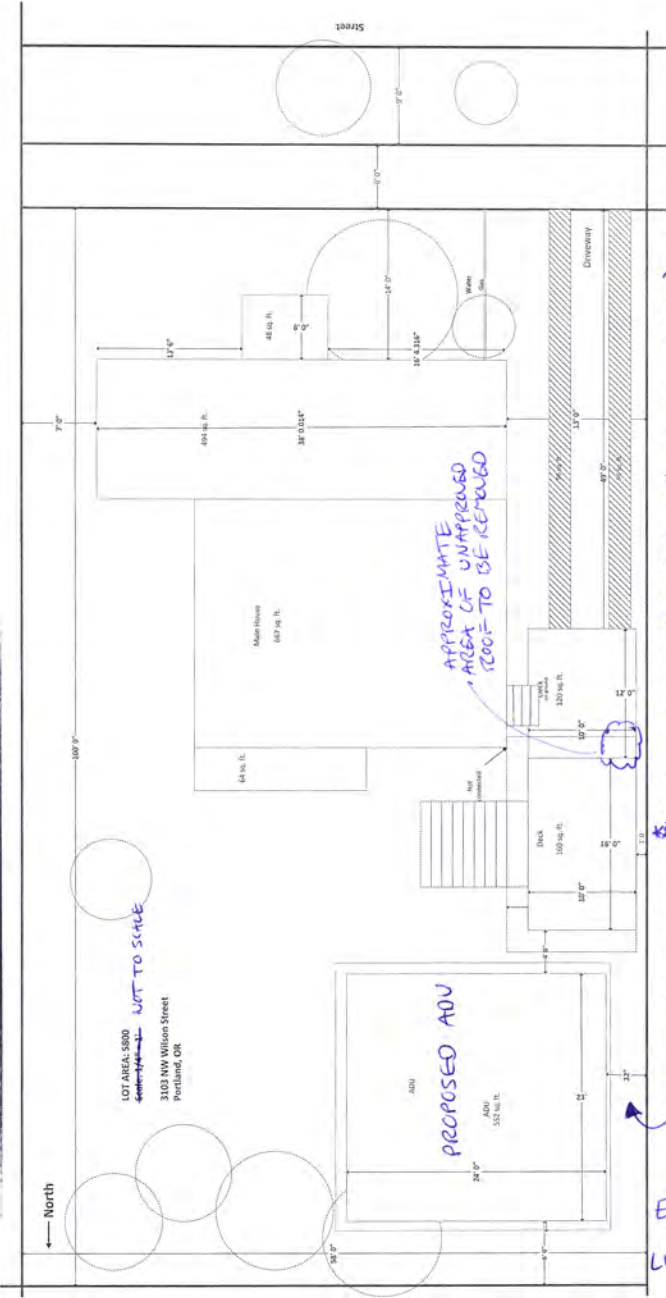


This site lies within the:
NORTHWEST HILLS PLAN DISTRICT

File No.	<u>LU 14-248295 AD</u>
1/4 Section	<u>2825</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E29CA 5501</u>
Exhibit	<u>B (Dec 15, 2014)</u>

Approved
 City of Portland - Bureau of Development Services
 Planner MARK WALHOCO Date APRIL 6, 2015
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

* APPROVE reduced west side setbacks and
 AOV roof pitch, trim, windows eaves; and
 DENT AOV siding Adjustment.



AREA OF CHANGE/REMOVED SETBACK (2'-8" TO WALL + EAVES)
 * PER REVISED/SECOND NOTICE ON 3/13/15

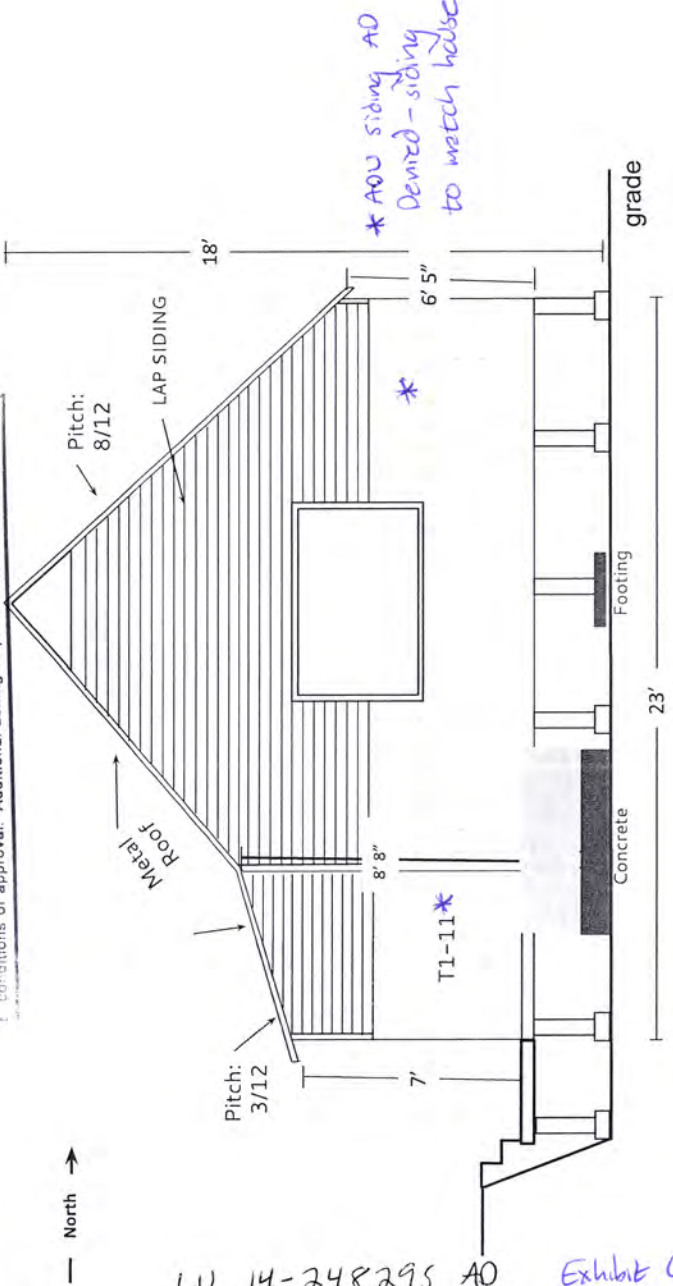
Exhibit C.1
 LU 14-248295
 AD

Scale: 1/4" = 1'

Mark Larson
3103 NW Wilson Street
Portland, OR

ADU

Approved
 City of Portland - Bureau of Development Services
 Planner MARK WATKINS Date APRIL 6, 2015
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



EAST ELEVATION

~~1/4" = 1'~~ NTS

LU 14-248295 ADU

Exhibit C.2

Scale: 1/4" = 1'

Mark Larson
3103 NW Wilson Street
Portland, OR

ADU

WEST-FACING GABLE WINDOW TO BE REMOVED + REPLACED WITH SIDING OR TRANSLUCENT PRIVACY GLASS

Pitch: 8/12

North

Approved
City of Portland - Bureau of Development Services
Planner MARK WALHOW Date APRIL 6 2015
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Pitch: 3/12

Metal Roof

* ADU Siding AD Demired - siding to match house

T1-11

grade

Footing

Concrete

18' 23'

WEST ELEVATION

~~1/4" = 1'~~ MTS

W 14-248295 AD

Exhibit C.3

Scale: 1/4" = 1'

Mark Larson
3103 NW Wilson Street
Portland, OR

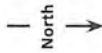
ADU

Approved

City of Portland - Bureau of Development Services

Planner MARK WATKINS Date APRIL 6 2015

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



W 14-24829 S AD

Exhibit C.4

~~1/4" = 1'~~ N.T.S.

NORTH ELEVATION

Scale: 1/4" = 1'

Mark Larson
3103 NW Wilson Street
Portland, OR

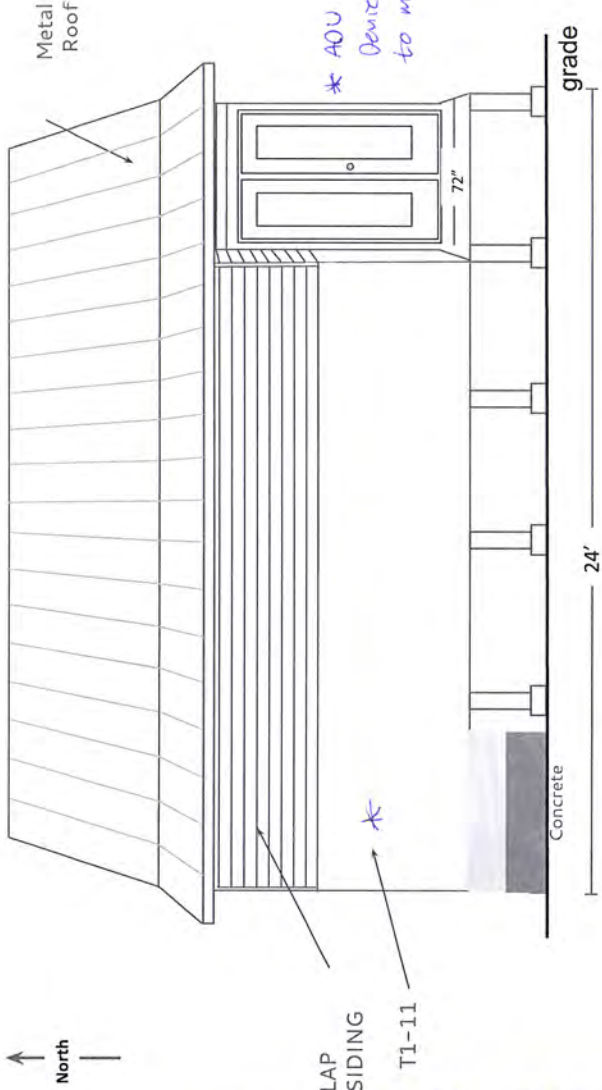
ADU

Approved

City of Portland - Bureau of Development Services

Planner MARK WALTHO Date APRIL 6, 2015

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



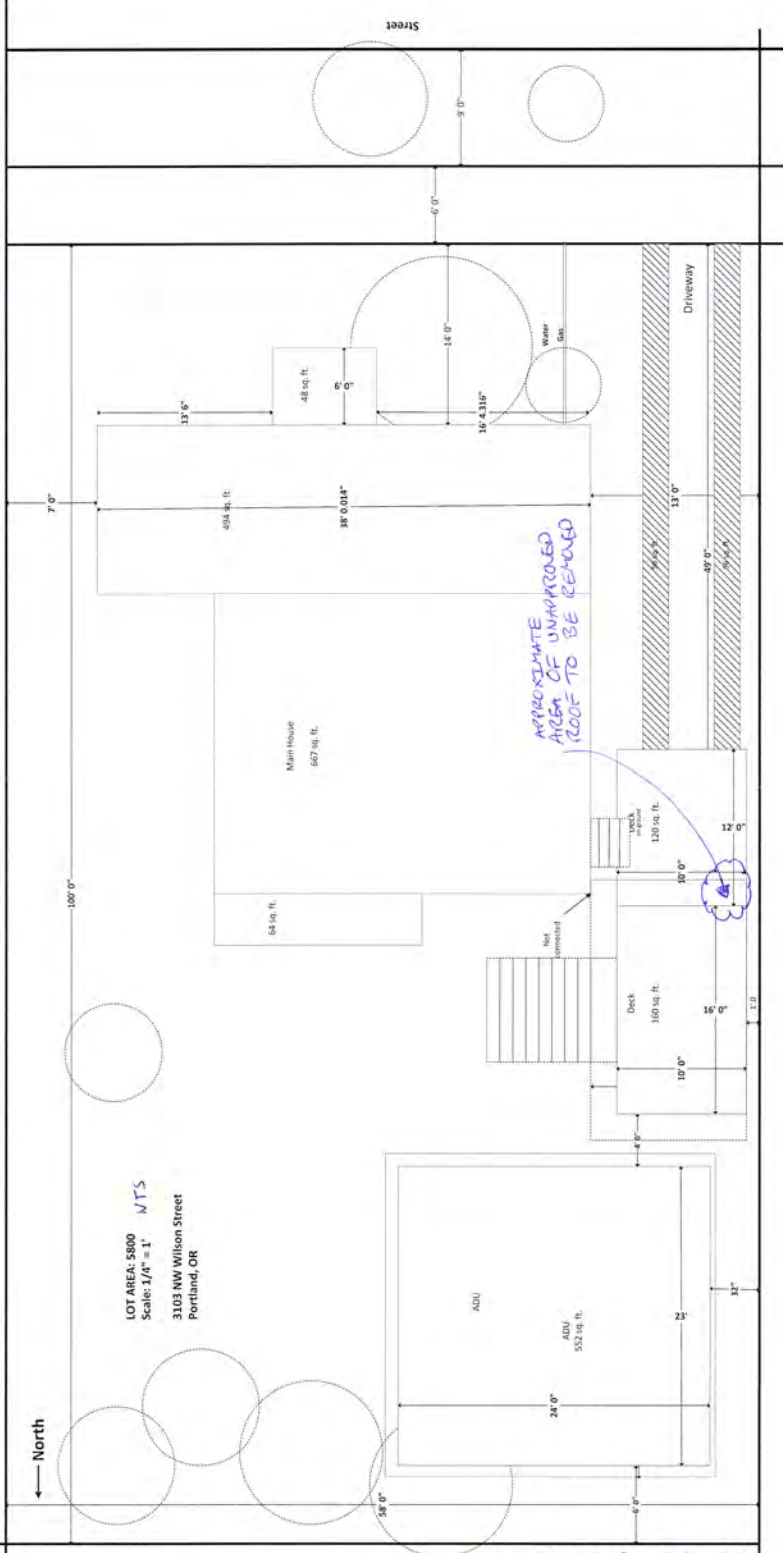
* ADU siding AD
Desired - siding
to match house.

~~3/4" = 1'~~ N.T.S

W 14-248295 AD Exhibit C.5

Approved
 City of Portland - Bureau of Development Services
 Planner MARIE WATCOO Date APRIL 6, 2015
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

* ADU siding adjustment denied siding not match house



W14-248295 AD Exh. C-6