



**Date:** August 17, 2015  
**To:** Interested Person  
**From:** Sylvia Cate, Land Use Services  
 503-823-7771 / [Sheila.Frugoli@portlandoregon.gov](mailto:Sheila.Frugoli@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 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 15-195793 AD**

**GENERAL INFORMATION**

**Applicant/ Owners:** Jonathan W Jwayad & Meghan K Kahn  
 7026 N Vincent Ave / Portland, OR 97217-5135

**Architect:** Jeremy Spurgin / Mvmt Design + Architecture  
 240 N Broadway / Portland OR 97227

**Site Address:** 7026 N VINCENT AVE

**Legal Description:** BLOCK 14 LOT 4, ARBOR LODGE  
**Tax Account No.:** R032702880  
**State ID No.:** 1N1E16BB 17300  
**Quarter Section:** 2327  
**Neighborhood:** Arbor Lodge, contact Nate Young at 503-679-9929.  
**Business District:** None  
**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

**Zoning:** R5a, Single Dwelling Residential 5,000 with an Alternative Design Density overlay

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

**Proposal:**  
 The applicant proposes to build a 17-foot long addition to the existing home, maintaining the established building wall. A prior Lot Confirmation process established a new south property line that varies from as close as 4-inches to as far as 12-inches. The site has a 5-foot 8-inch wide no build easement that was established along the south property line to ensure adequate separation of buildings and structures between the site and the abutting lot to the south. Because of the existing conditions, the applicant requests an Adjustment to reduce the side setback of the addition as described above. Attached to this Notice is a Zoning Map and Site plans that graphically depict the proposal.

**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 site is a 3,633 square foot lot developed with a 1,252 square foot house built circa 1905. The surrounding residential neighborhood is zoned R5 and is developed with residential uses in all directions. The majority of homes are older and built in the classic bungalow style typical in Portland during the early decades of the 20<sup>th</sup> century. Homes range from one to two stories, some have detached garages. Some newer development is interspersed throughout the area.

**Zoning:** The site is zoned *Single Dwelling Residential 5,000* with the Alternative Design Density overlay. 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 R5 zone is a high density single-dwelling zone. The R5 zone allows attached and detached single-dwelling structures and duplexes.

The purpose of the *Alternative Design Density Overlay Zone* is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

**Land Use History:** City records indicate the following land use review for this site:

PR 10-180662 LS approved a Lot Segregation and re established the lot lines for Lots 3 & 4, Arbor Lodge, Block 14.

**Public Review:** A "Notice of Proposal in Your Neighborhood" was mailed July 22, 2015.

**Agency Review:** The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Bureau of Transportation Engineering

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

**ZONING CODE APPROVAL CRITERIA****33.805.010 Purpose (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 purpose for setback regulations in the single dwelling zones is found at 33.110.220, *Setbacks*, which describes the purpose of the relevant regulations as follows:

*The building setback regulations serve several purposes:*

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

The applicant notes that the 1905 home had originally been built on two lots, which have been established per PR 10-180662 LS. As a result, the existing house is now setback between 4-inches to 12-inches from the reestablished south property line. The required side setback in the R5 zone is 5-feet. The applicant also notes that a recorded No-Build easement exists along the south property line that is 5-feet 8-inches wide. The result of the easement separates the subject house from the adjacent residence to the south a minimum of 6-feet, which also meets the minimum dimension between structures for building code compliance.

In addition, a building code appeal [Appeal ID. 7426] was approved, with conditions, that allows the exterior walls to be separated 3-feet or greater with the No-Build easement, which includes provisions for access and maintenance and prohibits any construction within the No-Build easement, including fences.

In regards to the setback regulations, the proposal complies with the purpose to *maintain light, air, separation for fire protection, and access for firefighting* because the two structures will have at least 6 feet of separation between them, which will allow light and air to both the subject site and the abutting lot to the south; the Fire Bureau notes no objection, so the proposal does not impinge on fire access or fire protection between properties.

In regards to the setback regulations, the proposal complies with the purpose to *reflect the general building scale and placement of houses* because the proposed addition is configured to maintain the same building lines on the north and south sides of the home. This will result in the existing home retaining the same appearance from the street when the proposed addition is completed, as the addition is toward the rear property line and a majority of the bulk of the proposed addition will be near or beyond the rear building wall of the adjacent home. The proposal will add additional floor area that is consistent with the scale of neighboring two-story homes.

In regards to the setback regulations, the proposal complies with the purpose to *promote options for privacy for neighboring properties*. The applicant notes that they have involved the adjacent neighbor in discussing the addition, and included a letter of support for the proposal from this neighbor. In addition, the segment of the addition

that has the most potential to impinge on privacy has clearstory style windows installed that allows natural light in but blocks full on views between the two homes.

In regards to the setback regulations, the proposal complies with the purpose to *require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards* because there will be no changes to the existing larger front setback of the subject home.

In regards to the setback regulations, the proposal complies with the purpose to *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* because the combination of the No-Build easement and successful building code appeal allows flexibility for the applicant in configuring the addition so that it is consistent with the existing architectural style of the home. The site will continue to comply with required outdoor areas and the result of the proposed addition will be a home that is compatible and integrates well into the surrounding residential neighborhood.

For all of these reasons, 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 site is located within the R10 residential zone. There are no aspects of the proposal that would impinge on the livability of the residential area. The applicant is working with an architect, contractor and structural engineer to ensure that the proposed addition is safe and consistent with the existing architecture of the house. The proposed addition will provide additional floor area and living space for the applicant's family. The elevations depict a soundly designed addition that will integrate well with the rest of the existing house resulting in an attractive addition that improves the appearance of the residential area. 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 proposes to build a 17-foot long addition to the existing home, maintaining the established building wall. A prior Lot Confirmation process established a new south property line that varies from as close as 4-inches to as far as 12-inches. The site has a 5-foot 8-inch wide no build easement that was established along the south property line to ensure adequate separation of buildings and structures between the site and the abutting lot to the south.

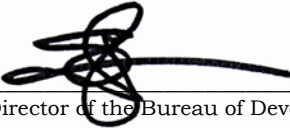
The proposal meets all of the applicable approval criteria and therefore should be approved.

## ADMINISTRATIVE DECISION

Approval of:

- An Adjustment to 33.110.220, *Setbacks*, and Table 110-3, to allow a 17 foot long addition to the existing home to be from 4- to 12-inches from the southerly property line, adjacent to a recorded no build easement, per the approved site plans, Exhibits C-1 through C-2, signed and dated August 13, 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 15-195793 AD."

**Staff Planner: Sylvia Cate**

**Decision rendered by:**  **on (August 13, 2015.)**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: August 17, 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 July 2, 2015, and was determined to be complete on **July 17, 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 July 2, 2015.

*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: November 14, 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 August 31, 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 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 1, 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.
- 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:

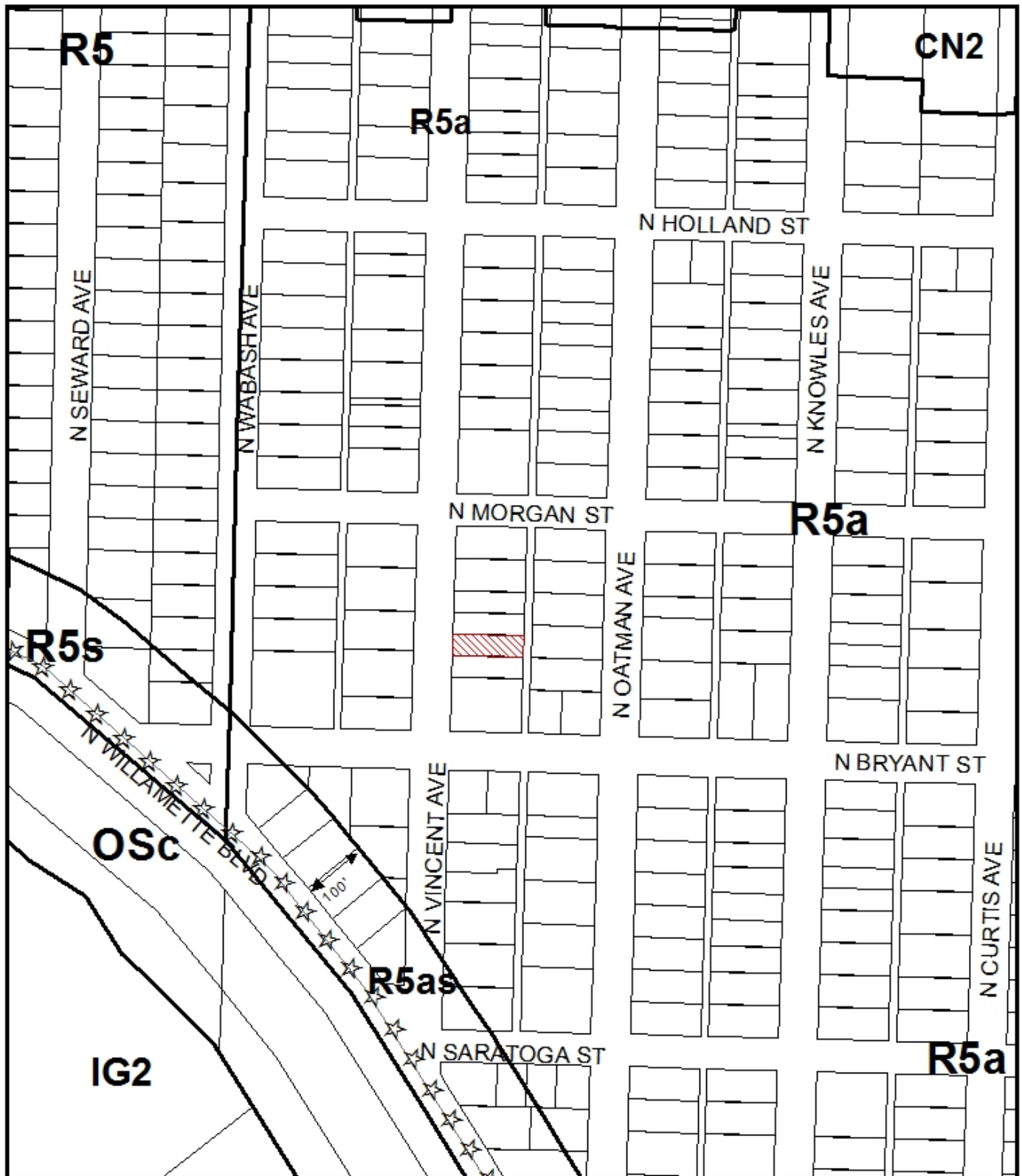
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED



- |  |  |
|--|--|
| A. Applicant's Statement                                       | 3. Water Bureau                              |
| B. Zoning Map (attached)                                       | 4. Fire Bureau                               |
| C. Plans/Drawings:   | 5. Site Development Review Section of BDS    |
| 1. Site Plan (attached)  | 6. Bureau of Parks, Forestry Division        |
| 2. Elevations  | 7. Life Safety/Plans Examiner Section of BDS |
| D. Notification information:                                   | F. Correspondence: <i>None received</i>      |
| 1. Mailing list  | G. Other:                                    |
| 2. Mailed notice   |  |
| E. Agency Responses:   |  |
| 1. Bureau of Environmental Services                            |  |
| 2. Bureau of Transportation Engineering and Development Review |  |
| 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).**



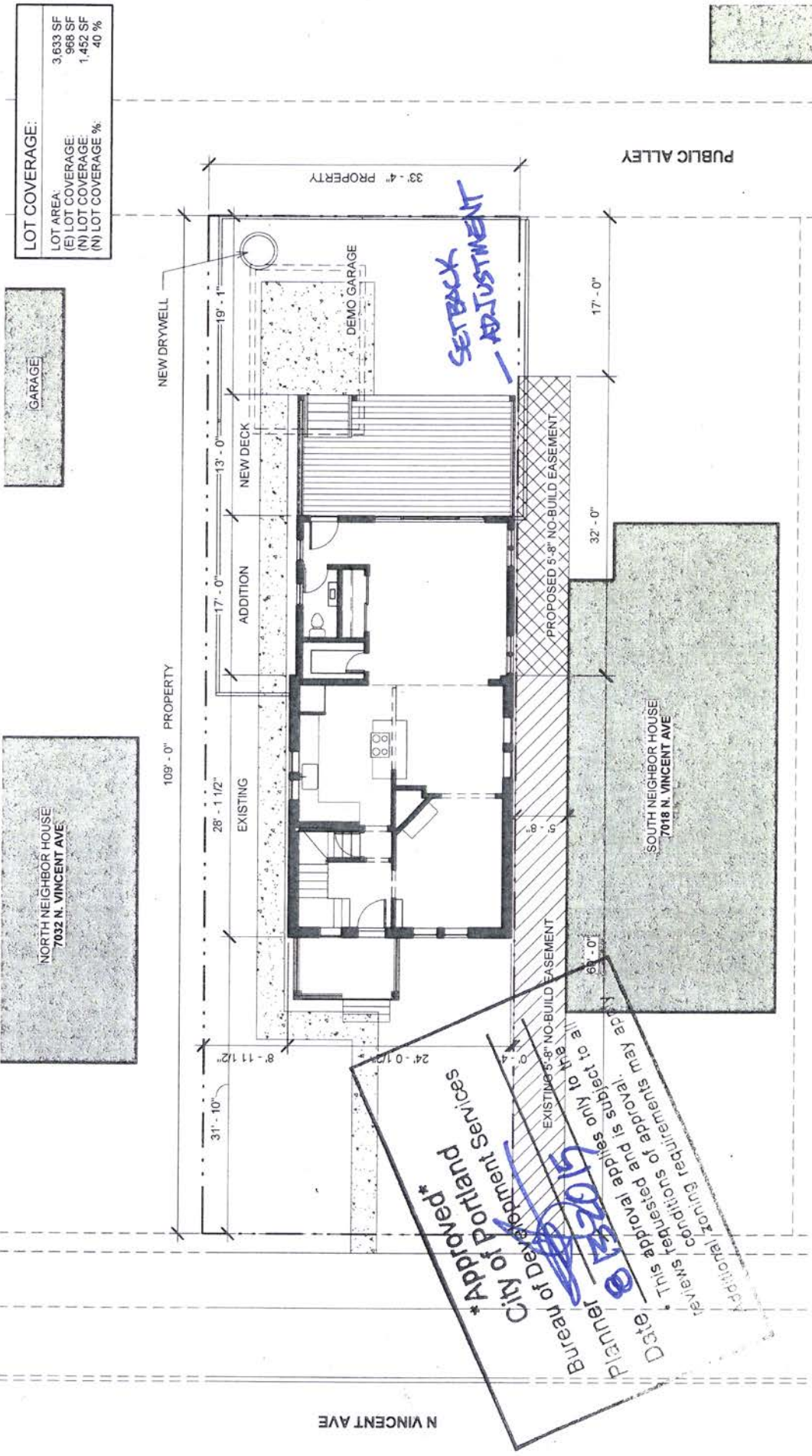
# ZONING



-  Site
-  Recreational Trails

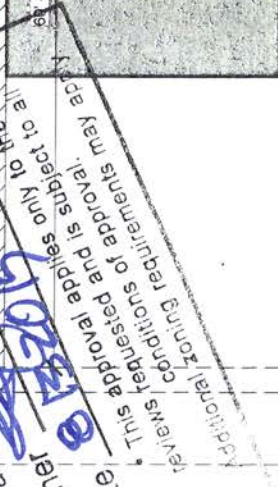
File No. LU 15-195793 AD  
 1/4 Section 2327  
 Scale 1 inch = 200 feet  
 State Id 1N1E16BB 17300  
 Exhibit B (Jul 06, 2015)





**LOT COVERAGE:**

LOT AREA:	3,633 SF
(E) LOT COVERAGE:	968 SF
(N) LOT COVERAGE:	1,452 SF
(N) LOT COVERAGE %:	40 %



② PROPOSED SITE PLAN  
1" = 10'-0"

MVMT design + architecture  
240 N. BROADWAY PORTLAND, OREGON 97217  
503.333.3161  
JSPURGIN@ME.COM

7026 N Vincent Ave  
Portland, OR 97217

**JONATHAN JWYAD & MEGHAN KAHN**  
VINCENT AVE ADDITION

Project number 15004  
Date 06.30.2015



**SITE PLAN**  
**A0.0**

W 15-195793 AD

EXHIBIT C-1

**\*Approved\***  
City of Portland  
Bureau of Development Services  
Date: 6/23/15  
Planner: [Signature]  
This approval applies only to the existing 5'-8" NO-BUILD EASEMENT and is subject to all additional zoning requirements may apply. Reviews requested and is subject to all conditions of approval.

**SETBACK ADJUSTMENT**

PUBLIC ALLEY

33'-4" PROPERTY

NEW DRYWELL

NEW DECK

DEMO GARAGE

ADDITION

EXISTING

EXISTING 5'-8" NO-BUILD EASEMENT

PROPOSED 5'-8" NO-BUILD EASEMENT

109'-0" PROPERTY

28'-1 1/2"

31'-10"

24'-0 1/2"

9'-11 1/2"

17'-0"

13'-0"

19'-1"

17'-0"

32'-0"

6'-0"

N VINCENT AVE

