



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

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: September 15, 2015
To: Interested Person
From: Sylvia Cate, Land Use Services
503-823-7771 / Sylvia.Cate@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 15-208821 AD

GENERAL INFORMATION

Owner and Applicant: Stephen Planchon
6205 N Depauw St / Portland, OR 97203-5121

Site Address: 6205 N DEPAUW ST

Legal Description: BLOCK 3 LOT 6, MCKENNA PK
Tax Account No.: R550500620
State ID No.: 1N1E07DB 05600
Quarter Section: 2224
Neighborhood: University Park, contact Tom Karwaki at chair@universityparkneighbors.org
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.
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 to convert an existing second story of their detached garage to an Accessory Dwelling Unit (ADU). Circa 2012, the previous owner received permits for a remodel of the existing home and for a new 2-story garage in the northwest corner of the back yard. Because the second story is being converted to an ADU, the structure must meet certain development standards, such as setbacks, height, exterior materials, etc. In this instance, the height limit of an ADU is 18 feet. The existing structure has a height of 21-feet 6-inches [as measured to the mid-point of the gable roof form per 33.930.050]; however the height limit for ADU's is 18-feet. Therefore the applicant requests an Adjustment to the maximum height standard from 18 feet to 21 feet 6 inches.

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 5,800 square foot lot developed with a single dwelling house constructed circa 1950. Lands zoned R5 surround the site in all directions and are developed with residential uses. McKenna Park, zoned OS, is located one half-block to the south of the site.

Zoning: The site is zoned Single Dwelling Residential 5,000. The R5 zone is a high density single-dwelling zone, one of several that implement the Comprehensive Plan designation for single dwelling residential. The R5 zone allows attached and detached single-dwelling structures and duplexes. ADU's are allowed in all residential zones.

Land Use History: City records indicate there is one prior land use review for this site: Case File VZ 166-81, which approved a setback adjustment for a prior garage that was constructed on the site.

A "Notice of Proposal in Your Neighborhood" was mailed August 14, 2015.

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

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

The Water Bureau responded with no concerns regarding the proposal, and included a number of technical comments regarding water service at time of building permit review.

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 of the height regulations can be found at 33.205.030.A., Purpose, which states:

Standards for creating accessory dwelling units address the following purposes:

- *Ensure that accessory dwelling units are compatible with the desired character and livability of Portland’s residential zones;*
- *Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;*
- *Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and*
- *Provide adequate flexibility to site buildings so that they fit the topography of sites.*

The applicant is converting an existing two story garage into an ADU on the second floor. As the garage building has existed in this place for several years, there will be no significant change from existing conditions. The façade facing the adjacent property to the west will have no windows, thus ensuring privacy for these neighbors. The garage structure is located in a typical place for garages in this area, i.e. backyard corner. The general building scale of the existing structure is in keeping with the surrounding residential development. Given that the structure meets the 5-foot side and rear setbacks, the proposal is reasonable as the building scale is relatively small and fairly typical of some garages. For 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 in a residential zone. The proposal will not have any significant impacts on the surrounding residential uses. The existing structure is set back from the street a significant distance and the proposed changes to the exterior will be residential in nature. There is nothing proposed that is not consistent with the existing appearance and livability of the neighborhood. 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 proposes to convert an existing second story of their detached garage to an Accessory Dwelling Unit (ADU). The existing structure meets all of the setbacks and other development standards for ADU's except for height. A previous owner constructed the garage in 2012, and met all of the required development standards. Because the second story is being converted to an ADU, the structure has a height limit of 18 feet. The existing garage is 21 feet 6 inches in height. The proposal meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of:

- A height Adjustment from 18 feet to 21 feet 6 inches to allow conversion of the second story of the detached garage/accessory structure to an ADU, per the approved site plans, Exhibits C-1 through C-2, signed and dated September 10, 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-C2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-208821 AD."

Staff Planner: Sylvia Cate

Decision rendered by:  **on September 10, 2015**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 15, 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 29, 2015, and was determined to be complete on **August 11, 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 29, 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: December 9, 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 September 29, 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 **September 30, 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:

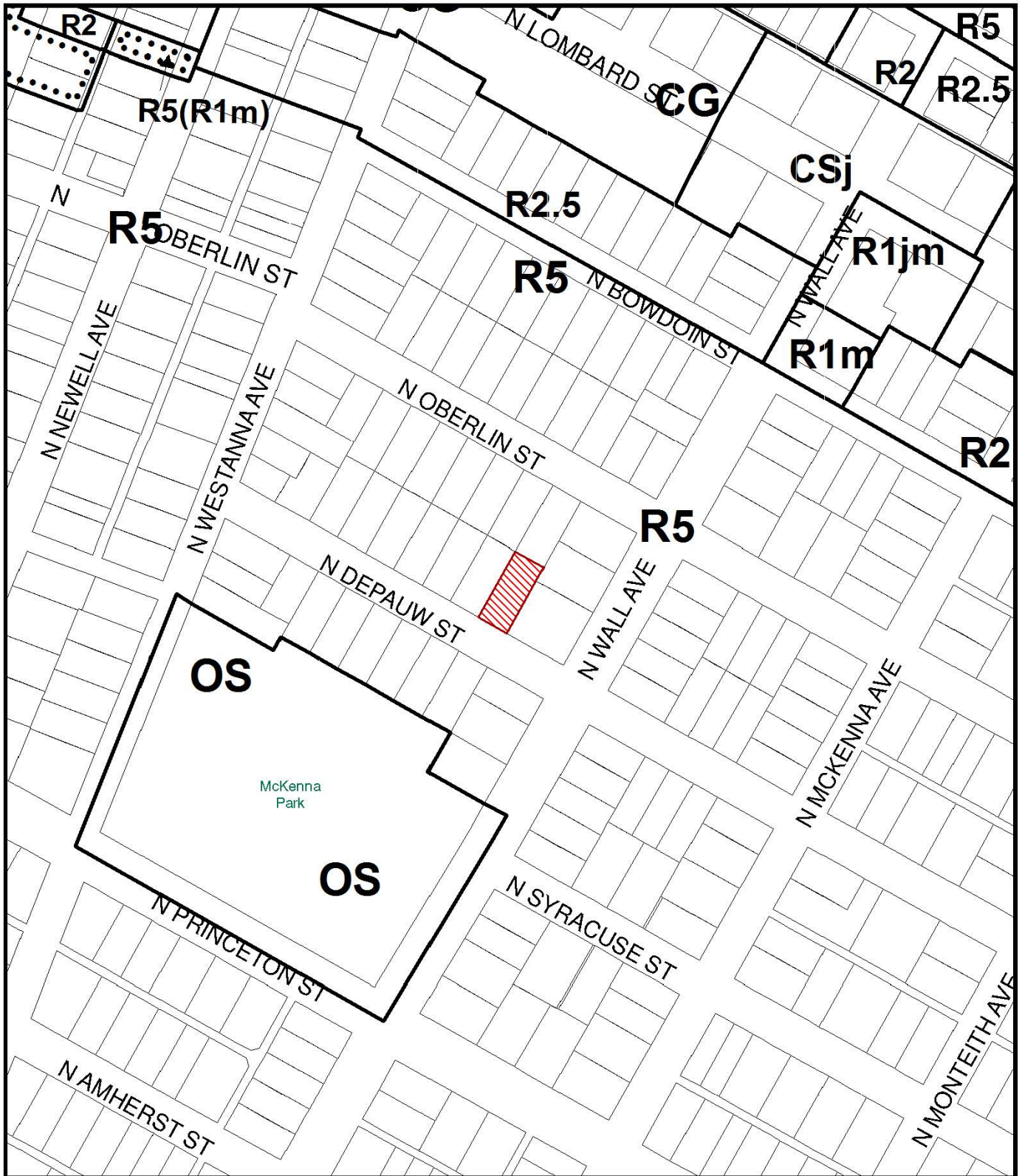
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

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



File No.	<u>LU 15-208821 AD</u>
1/4 Section	<u>2224</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1N1E07DB 5600</u>
Exhibit	<u>B</u> (Jul 31, 2015)

