



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

Dan Saltzman, Commissioner
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Date: September 24, 2015
To: Interested Person
From: Sheila Frugoli, Land Use Services
 503-823-7817 / 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 15-207659 AD

GENERAL INFORMATION

Applicant: Amy Griffith, Designer / Broken Box Designs. LLC
 1123 SE 34th Ave / Portland, OR 97214

Owner: Brandon Bickford
 1331 SE 32nd Ave / Portland, OR 97214

Site Address: 1331 SE 32ND AVE

Legal Description: BLOCK 3 LOT 8, BUNGALOW GLADE
Tax Account No.: R116600360
State ID No.: 1S1E01BD 21900
Quarter Section: 3133
Neighborhood: Sunnyside, contact Daniel Rutzick at drutzick@gmail.com
Business District: Hawthorne Blvd. Bus. Assoc., contact Hilda Stevens at 503-774-2832.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Plan District: None
Zoning: R2.5- Single-Dwelling Residential 2,500 zone
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant is requesting an Adjustment to reduce the side (south) building setback from 5 feet to 1 foot, 4 inches and to reduce the required setback for an eave from 4 feet to 4 inches for a new detached accessory structure. The new structure, that will replace the existing detached garage, will be two stories. The lower level will provide garage space and the upper level will include an approximately 410 square-foot Accessory Dwelling Unit (ADU). The detached structure will have no windows or opening on the south elevation. Entrance to the upper ADU will be on the west side. The structure will be located 5 feet from the rear (west) property line and therefore complies with the setback requirement.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are 33.805.040. A-F, Adjustments.

ANALYSIS

Site and Vicinity: The subject 4,700 square foot lot is developed with a 2.5-story early 1900's four-square style home and detached garage. The nearby lots are comparable in size, ranging from 4,300 to 5,800 square feet in size with early-1900 era one and two story homes. Many of the lots have detached garages. The site is located approximately 300 feet north of SE Hawthorne Blvd, a corridor developed with a myriad of commercial and high density residential uses.

Zoning: The site and adjacent properties are located in an R2.5, Single-Dwelling Residential 2,500 zone. This zone allows both detached and attached homes with an allowed density of 1 dwelling per 2,500 square feet. The regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The development standards work together to preserve the character of neighborhoods, and promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **August 25, 2015**. The following Bureaus responded with no issues or concerns regarding the Adjustment request. The Site Development Section and Life Safety Sections of BDS, BES and Water provided information that relates to the Building Permit requirements. This information was transmitted separately to the applicant.

- Bureau of Environmental Services (Exhibit E.1)
- Water Bureau (Exhibit E.2)
- Site Development Section of BDS (Exhibit E.3)
- Life Safety Plan Review Section of BDS (Exhibit E.4)
- Bureau of Transportation (Exhibit E.5)
- Fire Bureau (Exhibit E.5)

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the "Notice of Proposal".

ZONING CODE APPROVAL CRITERIA**33.805.040 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: Section 33.110.220 identifies the purpose of the building setback regulation. Each purpose statement is addressed individually below.

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

The proposed ADU/garage will be located in approximately the same location of the existing garage. The structure will be larger and taller, with a full second-story. However, it will be within the 18 foot height allowance for detached ADU structures and far below the R2.5

zone height allowance of 35 feet. There are no detached structures located at the rear of the abutting lots. Therefore, light, air and fire protection separation will not be diminished between the ADU and other structures. Access for firefighting will be available from SE 32nd Ave. The Fire Bureau stated “no concerns” in its response to the proposal (Exhibit E.5). Consistent with the Building Code requirements, there will be no openings on the east and south exterior wall. The BDS Life Safety Plan Review Section response states that walls, less than 3 feet to the property line, shall be one-hour fire rated with no openings allowed. Eaves less than three feet to a property line must be protected on the underside as required for one-hour fire-rated construction (Exhibit E.4).

- *They reflect the general building scale and placement of houses in the City’s neighborhoods;*
- *They promote a reasonable physical relationship between residences;*

The ADU will replace the existing detached garage and although larger, will have a small—approximately 550 square foot footprint and be within the 18 foot height allowance. Therefore, the general building scale and placement of the structure will not significantly change.

- *They promote options for privacy for neighboring properties;*

As noted above, there will be no windows or other openings on the south wall. Therefore, the privacy currently enjoyed by those who reside at the home to the south will not be compromised.

- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*

The Adjustment request is to reduce only the side setback. The front yard is not impacted.

- *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 location of the ADU will provide adequate outdoor area and will continue to fit within the neighborhood development pattern.

- *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 structure will contain a lower-level garage and will be setback approximately 75 feet from the front property line. The garage and long driveway will provide sufficient space for on-site parking.

For all the reasons described above, the proposal meets this approval criterion.

- 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 subject site and most of the other nearby lots have homes that were constructed in the early 1900’s. It is not unusual for these older homes and their accessory structures to be built closer to the property lines than the 5-foot setback currently requires. Approving the proposed Adjustment to allow an ADU to replace an existing detached garage will not detract from the appearance or livability of the area. The ADU windows and access is oriented away from the lot to the south. Furthermore, the structure will be located outside of the required 5 foot rear setback area. The ADU regulations (Zoning Code

Chapter 33.205) require the new ADU structure to be within the 18 foot height limit and have elements that match the houses—roof pitch, exterior siding, trim and window orientation. The submitted plans show compliance with these provisions. For these reasons, the new detached ADU/garage structure will fit within the neighborhood. 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 standard—building setback—is being adjusted. Therefore, 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

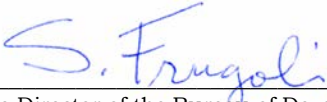
As reflected in the findings of this report, the proposed setback reduction meets the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the required side building setback from 5 feet to 1 foot, 4 inches and to reduce the required setback for the eave from 4 feet to 4 inches, per the approved site plan, Exhibits C.1, signed and dated September 22, 2015, subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-207659 AD."

Staff Planner: Sheila Frugoli

Decision rendered by:  **on September 22, 2015**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 24, 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 27, 2015, and was determined to be complete on **August 21, 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 27, 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.

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 October 8, 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 **October 9, 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;

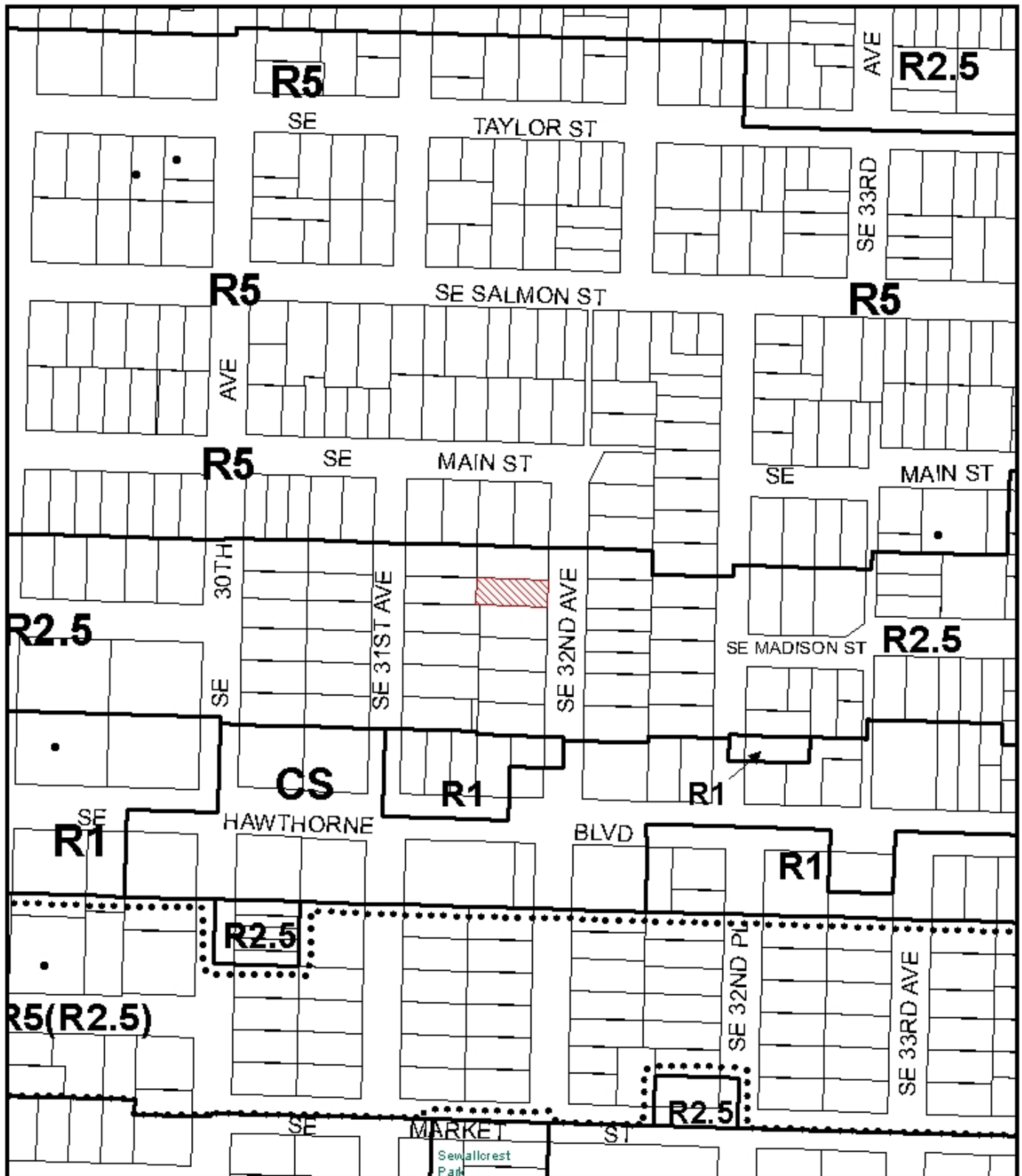
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Exterior Elevations (attached)
 - 3. Floor Plans
 - 4. Photos of Existing House and Garage
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Site Development Review Section of BDS
 - 4. Life Safety Plan Review Section of BDS
 - 5. TRACS Print-Out Showing "No Concerns" from Bureau of Transportation and Fire Bureau
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Application Letter from Staff to Applicant

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

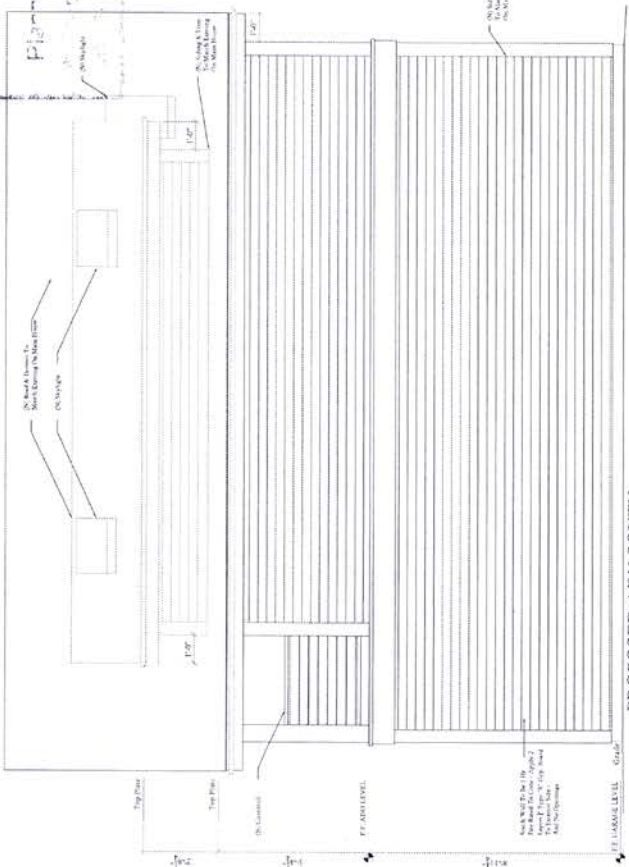
- Site
- Historical Landmarks



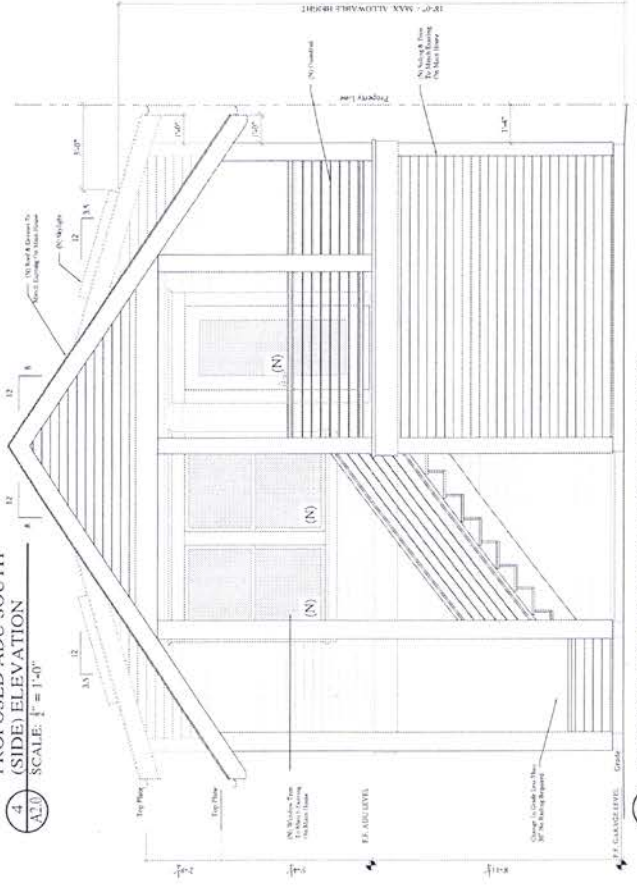
NORTH

File No.	<u>LU 15-207659 AD</u>
1/4 Section	<u>3133</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E01BD 21900</u>
Exhibit	<u>B (Jul 30, 2015)</u>

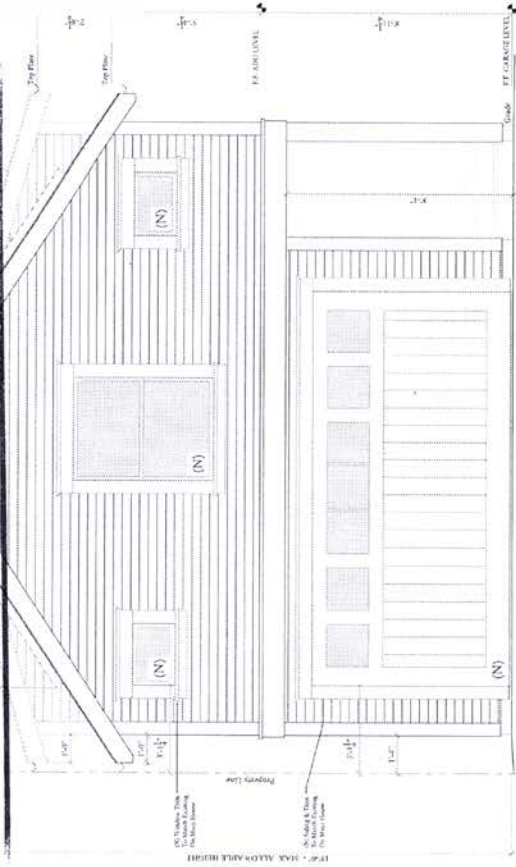
Approved
 City of Portland - Bureau of Development Services
 Planner: *FF* Date: *Sept. 22, 2015*
 Approval applies only to the reviews requested and is subject to all
 of approval. Additional zoning requirements may apply.



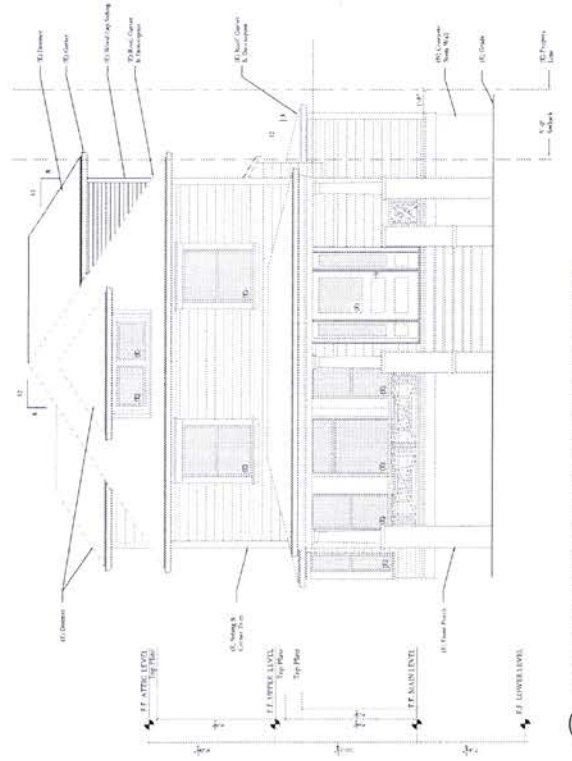
4
 A2.0
 PROPOSED ADU SOUTH
 (SIDE) ELEVATION
 SCALE: 1" = 1'-0"



3
 A2.0
 EXISTING HOUSE WEST (REAR) ELEVATION
 SCALE: 1" = 1'-0"



2
 A2.0
 PROPOSED ADU EAST (FRONT) ELEVATION
 SCALE: 1" = 1'-0"



1
 A2.0
 EXISTING HOUSE EAST (FRONT) ELEVATION
 SCALE: 1" = 1'-0"

Bickford - ADU
 RESIDENCE REMODEL
 131 SE 32nd Avenue
 PORTLAND, OR 97214
 A2.0
 Exterior
 Proposed Elevations
 14-252
 08.19.2015

LU 15-207659 AD

Exh. C.2