



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

Dan Saltzman, Commissioner
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www.portlandoregon.gov/bds

Date: February 3, 2016
To: Interested Person
From: David Besley, Land Use Services
503-823-7282 / David.Besley@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 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 15-199413 AD

GENERAL INFORMATION

Applicant: Clay Neal
215 Rockridge Loop
Eugene, OR 97405

Site Address: 1235 SE REYNOLDS ST

Legal Description: BLOCK 1 LOT 13, REYNOLDS
Tax Account No.: R700400250
State ID No.: 1S1E11CD 15600
Quarter Section: 3431
Neighborhood: Brooklyn Action Corps, Hotline at 503-241-4540
Business District: Greater Brooklyn, contact David Weislogel at 503-872-9320
District Coalition: Southeast Uplift, contact Anne Dufay at 503-232-0010
Zoning: R2.5 (Single Dwelling Residential 2,500)
Case Type: AD (Adjustment Review – 7 concurrent Adjustments)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant has converted a detached garage into an accessory dwelling unit (ADU). The ADU maintains the footprint of the garage, but a (108 square foot) second story loft was added when the structure was converted; this loft is proposed to be removed. The total floor area of the ADU is 200 square feet.

The Portland Zoning Code requires that buildings be set back a minimum of 5 feet from the side and rear lot lines in this zone. The ADU is proposed to be approximately 3 feet from the rear (north) lot line and 2 feet from the side (east) lot line; therefore, an Adjustment is required for these setback reductions.

The project requires five Adjustments to the regulations of the Portland Zoning Code ADU design standards (33.205.030). The first Adjustment request relates to the requirement that the

exterior finish materials be the same or visually match in type, size and placement, the exterior finish material of the house. The ADU and primary house both have horizontal lapped siding, and the paint color is proposed to match; however, the house has 5.5-inch width wood siding and the ADU has both 6-inch wood siding (south façade) and 7-inch fiber cement board siding (remaining facades). The second Adjustment request relates to requirements that the roof pitch be the same as the predominant roof pitch of the house. The house has a gabled roof and the ADU has a shallower-pitched shed roof. The third Adjustment request relates to the requirement that trim be the same in type, size, and location as the trim used on the house. The window and corner trim are the same size on the ADU as the house, but, unlike the house, the ADU does not have sloped window sills on the trim. The fourth Adjustment request relates to the requirement that windows match those in the house in proportion (relationship of width to height) and orientation (horizontal or vertical). The proposed ADU windows do not match those in the house. The fifth Adjustment request relates to requirements that ADUs be located at least 60 feet from the front lot line or 6 feet behind the house. The ADU is 52 feet the front lot line and is not at least 6 feet behind the house.

To summarize, the applicant is proposing to convert a detached garage into an ADU which requires 7 Adjustments, including 2 Adjustments for the following setbacks:

1. To reduce the minimum rear (north) setback from 5 feet to 3 feet; and
2. To reduce the minimum side (east) setback from 5 feet to 2 feet

and five Adjustments for the following design standards:

3. Exterior finish materials;
4. Roof pitch;
5. Trim;
6. Windows; and
7. Waive the requirement that the ADU be at least 60' from front line or 6' behind house.

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 3,750 square foot lot is on the north side of SE Reynolds St between SE 12th Avenue and SE Milwaukee Avenue in the Brooklyn neighborhood. The relatively flat site contains a 1,116 square foot single-story residence. The surrounding vicinity is developed with a mix of single-dwelling residences, multi-dwelling residential buildings, and commercial buildings.

Zoning: The R2.5 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 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 December 18, 2015. The following Bureaus have responded with the following information:

- The Water Bureau responded with information on water service, including the requirement that Title violations be resolved before any building permits will be issued (Exhibit E-1).
- The Life Safety Section of the Bureau of Development Services (BDS) responded with Building Code information (Exhibit E-2).
- The Site Development Section of BDS responded with septic and erosion control information (Exhibit E-3).

- The Bureau of Environmental Services responded with stormwater management information (Exhibit E-4).

The following Bureaus have responded with no concerns:

- The Fire Bureau; and
- The Bureau of Transportation.

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

33.805.040 Approval Criteria

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

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant has requested an Adjustment to reduce the minimum rear (north) setback from 5 feet to 3 feet, and a second Adjustment to reduce the minimum side (east) setback from 5 feet to 2 feet to convert an existing detached garage into an ADU. The relevant purpose statements and associated findings for setbacks are found below:

33.110.220 Setbacks

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.*

Because the existing detached garage is being converted to an ADU, and the second story/loft is being removed, there will be no additional impacts to the physical relationship between residences, the amount of light, air, and separation, and the availability of outdoor areas. No windows are proposed on the eastern facade of the ADU, which promotes privacy for the neighboring properties closest to the ADU. Though two windows are proposed on the north elevation, they will likely have to be removed as wall faces that are 3 feet or closer must be fire rated and cannot have openings (including windows). If the applicant can demonstrate that the north wall is farther than 3 feet from the property line, the proposed windows can remain; they will not impact privacy as these narrow, horizontal windows are proposed at a minimum height of 6 feet – 6 inches. Many of the surrounding houses in this area have similar accessory structures built within side and rear setbacks. An ADU within the side and rear setbacks will therefore be compatible with this neighborhood.

The Fire Bureau has reviewed the request for reduced setbacks, and responded with no concerns with regards to separation for fire protection, or access for fire fighting. The

Portland Bureau of Transportation has no concerns regarding the proposed adjustment, which does not include parking or driveway components. The applicants will continue to use their driveway for on-site parking.

This criterion is met.

The applicant has requested 5 additional Adjustments to the ADU Design Standards for exterior finish materials, roof pitch, trim, windows, and to waive the requirement that the ADU be at least 60' from front line or 6' behind house. The relevant purpose statement is found below:

33.205.030 Design Standards

A. These standards:

- *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.*

With regards to the **exterior finish materials** (33.205.030.C.7), the house has 5.5-inch width lapped wood siding and the ADU has both 6-inch lapped wood siding (south façade) and 7-inch fiber lapped cement board siding (remaining facades). The 7-inch fiber cement board siding would be visible from the backyard and neighbors, but not the street. The differences in siding width are minor; the 6-inch wood siding of the ADU will face the street and closely resemble the 5.5-inch wood siding of the house.

With regards to the **roof pitch** (33.205.030.C.8), the house has a gabled roof and the ADU is proposed to have a shallower-pitched shed roof. While the ADU roof style differs from that of the house, it is a smaller, shorter structure (with a maximum height of 11 feet – 2 inches) and will appear accessory to the house. Given the small height and size of this structure (200 square feet), granting this Adjustment will not impact the character or livability of this residential area.

With regards to the **trim** (33.205.030.C.9), the window and corner trim are the same size on the ADU as the house, but, unlike the house, the ADU will not have sloped window sills on the trim. The absence of window sills is a minor difference; this change will not appear visually different from the street or from neighboring properties and it will not impact the character or livability of this residential area.

With regards to the **window proportion and orientation** (33.205.030.C.10), no windows are proposed on the south, street facing façade; from the street, the differences in window proportion and orientation will therefore be unnoticeable. The eastern façade also contains no windows and, as noted above, the narrow, horizontal windows to the north will likely need to be removed. The Adjustment is therefore required for a single window on the west elevation which faces the backyard and will be minimally visible from neighbors. Granting this Adjustment will not impact the character or livability of this residential area.

With regards to the **ADU setbacks** (33.205.030.D.1), the ADU will be converted from an existing detached garage; therefore there will be no additional impacts to the shared common spaces on the lot, including driveways and yards. Additionally, due to the prominent location of the house on site and a lot length of only 75 feet, it would be very difficult to build an ADU at least 60' from front line or 6' behind house. The 200 square foot ADU will be significantly smaller in size than the house on the lot and is located to the right of the house at the rear of the property.

The ADU will have an attractive, minimal appearance that is compatible with the ADU design standards.

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: Because the existing detached garage is being converted to an ADU, and the second story/loft is being removed, there will be no additional visual impacts to the area. The relatively small ADU is proposed to be approximately 52 feet from the front property line and the street-facing portion of the ADU will appear to be stylistically similar to the existing house as described in Criterion (A) above. The absence of windows to the north and east will protect the privacy of these closest neighbors. Many of the surrounding houses in this area contain accessory structures built within side and rear setbacks. This ADU proposal is therefore consistent with the development pattern in the area and will not significantly detract from the livability or appearance of the 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: The overall purpose of the R2.5 zone is to preserve land for housing, and to provide housing opportunities for individual households. The proposed ADU will increase housing opportunities. ADUs are allowed in residential zones on lots developed with single-dwelling houses. The applicant has requested seven separate Adjustments to applicable Development Standards. As discussed under Criterion A. above, each Adjustment is relatively minor and does not result in significant cumulative impacts. 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;

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. 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: As noted above, the relatively small existing detached garage is being converted to an ADU, and the second story/loft is being removed; therefore, there will be no additional visual impacts to the area. The absence of windows on the north and east facing façades of the ADU mitigate privacy impacts to the closest neighbors.

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 Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, 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 has requested seven Adjustments to convert an existing detached garage into an ADU. This includes two Adjustments to reduce the minimum rear and side setbacks and five Adjustments for ADU Design Standards (exterior finish materials, roof pitch, trim, window proportion and orientation, and ADU setbacks). Because the existing detached garage is being converted to an ADU, and the second story/loft is being removed, there will be no additional impacts to the physical relationship between residences, the amount of light, air, and separation, and the availability of outdoor areas. The exterior finish materials and trim of the ADU will closely resemble those of the house. The absence of windows on the north and east facing façades of the ADU mitigate privacy impacts to the closest neighbors. Given the small height and size of this structure (200 square feet), and the fact that it is converted from an existing detached garage and not new, granting this Adjustment will not impact the character or livability of this residential area. The proposal meets the applicable approval criteria and should therefore be approved.

Note: This Adjustment approval and approved site plan does not approve the vehicle parking area as shown. Parking is not allowed within the first 10 feet from a front lot line (33.266.120.C.1.a) and the standard parking space size for a house is 9 feet by 18 feet (33.266.120.D.1). There is a fence at 25 feet from the front lot line which must be shifted at least 3 feet to the north (for a minimum 28 feet in length) to accommodate parking requirements. At the time of building permit submittal, the applicant must include a revised site plan to reflect vehicle parking changes.

Unless the applicant can demonstrate that the north wall is farther than 3 feet from the property line, the two windows proposed on the north elevation will likely have to be removed because wall faces that are 3 feet or closer must be fire rated and cannot have openings (including windows).

ADMINISTRATIVE DECISION

Approval of 7 Adjustments including 2 Adjustments for the following setbacks:

1. To reduce the minimum rear (north) setback from 5 feet to 3 feet (Section 33.110.220.B); and
2. To reduce the minimum side (east) setback from 5 feet to 2 feet (Section 33.110.220.B);

and 5 Adjustments for the following design standards:

3. Exterior finish materials (33.205.030.C.7);
4. Roof pitch (33.205.030.C.8);
5. Trim (33.205.030.C.9);
6. Windows (33.205.030.C.10); and
7. Waive the requirement that the ADU be at least 60' from front line or 6' behind house (33.205.030.D.1).

per the approved site plans, Exhibits C.1 and C.2, signed and dated January 27, 2016, 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 and C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-199413 AD."

Staff Planner: David Besley



Decision rendered by: _____ **on January 27, 2016.**

By authority of the Director of the Bureau of Development Services

Decision mailed: February 3, 2016

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 10, 2015, and was determined to be complete on **December 14, 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 10, 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: April 12, 2016.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on February 17, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the

organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **February 18, 2016**
- 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:

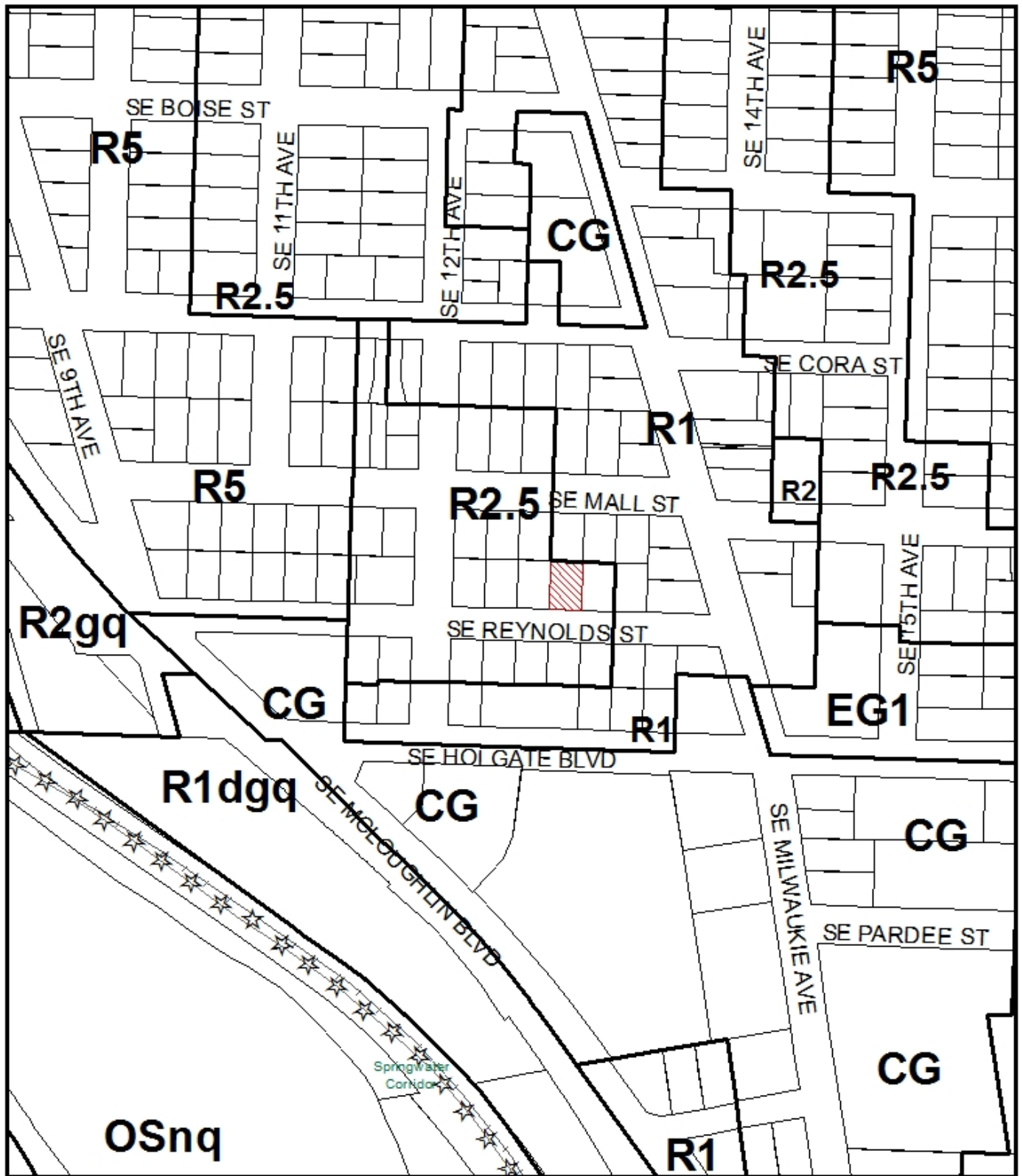
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS



NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. ADU Elevations (attached)
 - 3. Front House Elevation
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Life Safety Section of BDS
 - 3. Site Development Review Section of BDS
 - 4. Bureau of Environmental Services
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application Form and Receipt
 - 2. Incomplete letter from staff to applicant, sent July 21, 2015

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



NORTH

File No.	<u>LU 15-199413 AD</u>
1/4 Section	<u>3431</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S1E11CD 15600</u>
Exhibit	<u>B (Jul 13, 2015)</u>

1235 SE REYNOLDS
PORTLAND, OR 97202



SITE PLAN
1"=10'

GARAGE CONVERSION TO ADU

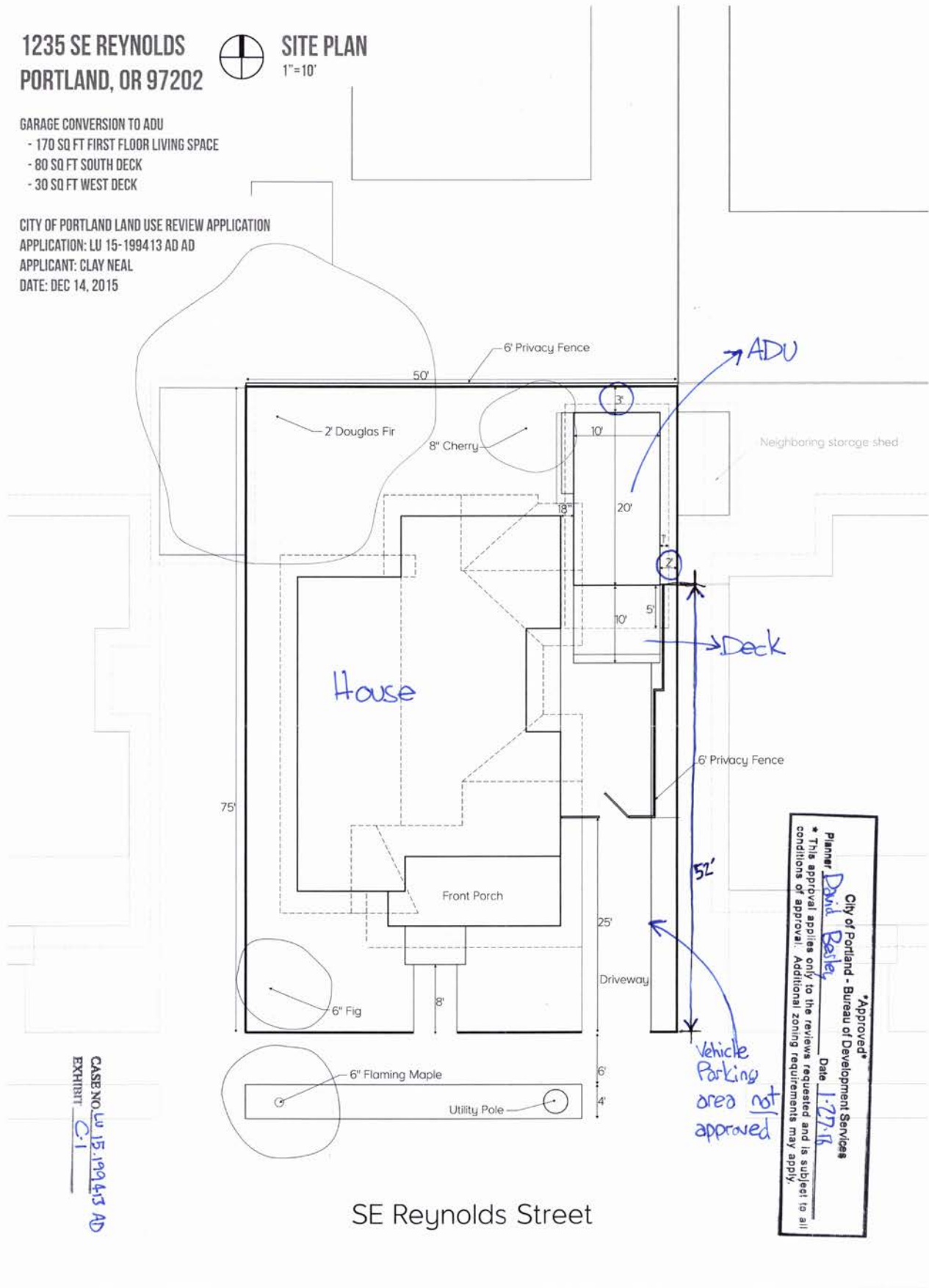
- 170 SQ FT FIRST FLOOR LIVING SPACE
- 80 SQ FT SOUTH DECK
- 30 SQ FT WEST DECK

CITY OF PORTLAND LAND USE REVIEW APPLICATION

APPLICATION: LU 15-199413 AD AD

APPLICANT: CLAY NEAL

DATE: DEC 14, 2015



Approved

City of Portland - Bureau of Development Services

Planner David Bestley Date 1-27-16

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

CASE NO. LU 15-199413 AD
 EXHIBIT C-1

SE Reynolds Street

1235 SE REYNOLDS
 PORTLAND, OR 97202

GARAGE CONVERSION TO ADU
 - 170 SQ FT FIRST FLOOR LIVING SPACE
 - 80 SQ FT SOUTH DECK
 - 30 SQ FT WEST DECK

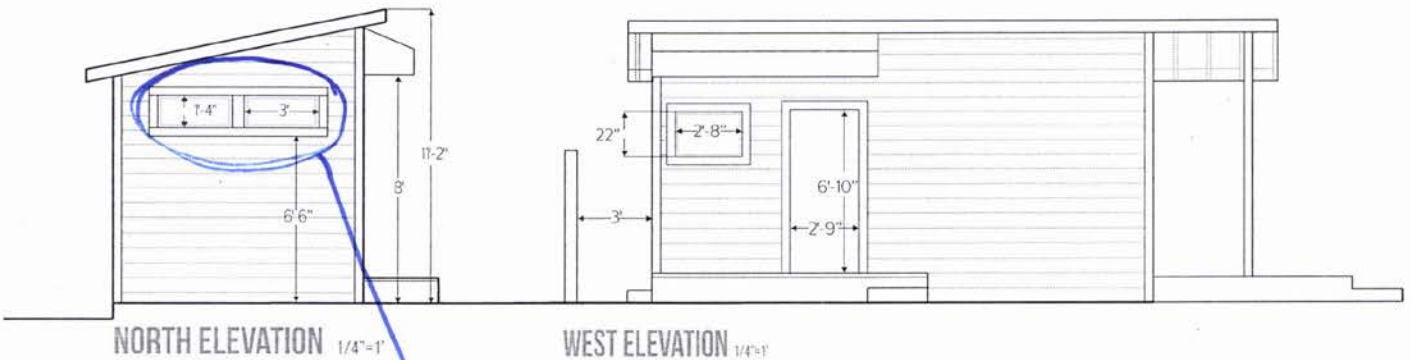
CITY OF PORTLAND LAND USE REVIEW APPLICATION
 APPLICATION: LU 15-199413 AD AD
 APPLICANT: CLAY NEAL
 DATE: DEC 14, 2015

- 7 Adjustments requested for ADU:
1. Reduce min rear (north) setback from 5' to 3'
 2. Reduce min side (east) setback from 5' to 2'
 3. Different exterior finish materials
 4. Different roof pitch
 5. Different trim
 6. Different windows
 7. Not located at least 60' from front lot line or 6' behind house

ADU Elevations



Approved
 City of Portland - Bureau of Development Services
 Planner David Berley Date 1-27-16
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



wall faces 3' or closer
 must be fire rated
 and cannot have openings

CASE NO. LU 15-199413 AD
 EXHIBIT C.2