



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

Dan Saltzman, Commissioner
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Date: February 17, 2016
To: Interested Person
From: Sheila Frugoli, Land Use Services
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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 15-279836 AD

GENERAL INFORMATION

Applicants/Owners: Betsy Power and Craig Porter
4647 NE Ainsworth St.
Portland, OR 97218

Site Address: 4647 NE AINSWORTH ST

Legal Description: BLOCK 6 E 1/2 OF LOT 13, ENGLEWOOD PK
Tax Account No.: R252802150
State ID No.: 1N2E18CA 06700
Quarter Section: 2435
Neighborhood: Cully, contact David Sweet at 503-493-9434.
Business District: None
District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.
Plan District: None
Zoning: R10h – Single-Dwelling Residential 10,000 zone with the “h” Aircraft Landing overlay zone

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

Proposal: The applicants are requesting an Adjustment to increase the allowed maximum size of an Accessory Dwelling Unit (ADU) from 800 to 932 square feet. The applicant intends to convert the upper-story of a detached accessory structure into the ADU. The detached structure, that is currently under construction (permit # 15-161550 RS), was originally permitted with a garage and shop and habitable sleeping space (living area) on the upper floor.

The proposed ADU will be 932 square feet. The size of an ADU may be no more than 75 percent of the living area of the house or 800 square feet of living area, whichever is less (33.205.040.C.3). Because the floor area of the house is 1,082 square feet (based on Multnomah County Tax Assessor information), the maximum allowed size is 800 square feet. The applicant does not intend to alter the exterior of the “barn-like” structure.

The Zoning Code requirements that address ADUs were amended recently. The new standards became effective January 1, 2016. This application addresses the ADU standard that limits the size of the ADU. This specific standard did not change. This Adjustment Review addresses only that specific standard. At time of Building Permit Review, the applicant will be required to address all current regulations that apply to the interior conversion of the detached accessory structure.

Relevant Approval Criteria:

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

ANALYSIS

Site and Vicinity: The subject site is a 20,160 square foot lot with a single-story home. The residential lots in this area are generally deep with expansive backyards. Most of the lots have large trees and mature landscaping. There are a variety of housing styles, size and architectural periods in the immediate area, from the early 1900 farm houses to the 1950s ranch-style homes. NE Ainsworth and other nearby streets are not fully improved. The street has a paved roadway but no curbs and sidewalks.

Zoning: The site is zoned R10h – Single-Dwelling Residential 10,000 zone with the “h” Aircraft Landing overlay zone. The overlay zone is applied to areas near the Portland International Airport. At this location, the height limit of the R10 zone supersedes the “h” overlay zone as it is more restrictive.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **January 15, 2016**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering (Exhibit E.4)
- Fire Bureau (Exhibit E.4)
- Site Development Section of BDS (Exhibit E.4)
- Life Safety Plan Review Section of BDS (Exhibit E.3)
- Bureau of Parks-Forestry Division (Exhibit E.4)

The **Bureau of Environmental Services** (BES) submitted written comments that include the following: BES does not object to approval of the land use type application. The proposed development will be subject to BES standards and requirements during the permit review process.

1. *Existing Sanitary Infrastructure:* According to best available GIS data, the following public sewer infrastructure is located in the vicinity of the project site:
 - 8-inch sanitary sewer in NE Ainsworth Street (BES as-built # 4415).
2. *Existing Stormwater Infrastructure:* According to best available GIS data, the following public stormwater infrastructure is located in the vicinity of the project site:
 - There are no public storm-only sewers available to this property.
3. *Onsite Stormwater Management:* Stormwater runoff from this project must comply with all applicable standards of the SWMM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director’s designee.
 - The proposed ADU project will redevelop greater than 500 square feet of new impervious area and will therefore trigger the requirements of the SWMM. BES has approved two flo-wells to manage stormwater runoff from the ADU (see permit #15-161550 RS).
 - The requested adjustment does not appear to have an impact on the location of a stormwater management system for this project. Therefore, BES has no objections. (Exhibit E.1)

The **Water Bureau** responded with no concerns regarding the Adjustment, but submitted the following information regarding water service to the ADU:

- There is an existing 5/8” metered service (Serial #20801834, Account #2950929300) which is provided water from the 8” DI water main in NE Ainsworth St.
- The estimated static water pressure range for this location is 64 psi to 80 psi at the existing service elevation of 177 ft.
- This living space which is being converted to an ADU should have gone through a Water Bureau review at the original time of submittal of the building permit, but the Water Bureau was not assigned and so the property and this development will need to be reviewed for City Title 21.12.010 and 21.12.070 compliance issues.
- An addition of a separate living space or ADU to the current water service will require per City Title 21.12.070 a Separate Service Agreement to be provided by the applicant prior to Building Permit approval by the Water Bureau.
- All new and existing water services must meet City Title 21 requirements for location and sizing.
- State of Oregon OAR 333 Rules apply for a minimum of 5’ horizontal spacing between water service lines and all sanitary laterals in the public right of way. (Exhibit E.2)

Neighborhood Review: One written response has been received from notified property owners in response to the “Notice of Proposal”. The neighbors wrote that increase in the size of the ADU in the barn’s upper story “will not detract in any way from the look and the additional flow of the neighborhood”. The neighbors note that because the lots are large in the neighborhood, they “can easily accommodate this degree of change in the size of the upstairs of their barn project.” (Exhibit F.1)

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose

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 to provide 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 either 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 33.205.030 identifies the purposes of the ADU design standards, as follows:

- *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.*

To retain the single-dwelling character, where the house on the lot is the predominant structure, the code limits the size of ADUs to 75 percent of the living area of the house or 800 square feet, whichever is less. In order to internally convert the upper floor of a detached accessory structure into an ADU, the applicant is requesting to exceed the maximum size of the ADU from the allowed 800 to 932 square feet.

As stated above this site is zoned R10, Single Dwelling Residential 10,000. Zoning Code Section 33.110.010 states, "The single-dwelling zones are intended to preserve land for housing opportunities for individual households." The findings under approval criterion B directly address the purpose statement that calls for compatibility with the desired character and livability of residential zones.

This internal conversion will maintain the existing building scale and placement of the structure on the lot. Although there is a difference in the allowed size of the ADU, the detached structure has the appearance of a barn which evokes similar scale and placement of "out buildings" on large lots. The structure is set back over 200 feet from the house and meets the setback requirements from the property lines. The home will continue to be a prominent element from the street. For these reasons, staff finds that 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 ADU development standards are intended to reduce impacts to single-dwelling residential areas. The upper-story of the detached structure was designed for "living space" with windows on the north, south and east elevations. The entrance to the upper-story is from an east-facing elevation. And, the structure is located at least 10 feet from the side and rear property lines, meeting R10 zone setback requirements. Based on these features, the proposal will not significantly detract from the livability or appearance of the residential area. A letter received from nearby neighbors noted that an increase in the size of the ADU in barn's upper story "will not detract in any way from the look and the additional flow of the neighborhood". (Exhibit F.1) For these reasons, staff finds this approval 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 applicant is requesting only one Adjustment. 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 zone. Historic resources are designated by a large dot. The site is within the "s" overlay. The proposed exterior improvements that are associated with the ADU will not conflict with the Scenic overlay setback and landscaping standards. Therefore, this criterion is met.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: There are no significant adverse impacts that would result from adjusting the ADU size allowance. No mitigation is necessary. Therefore, no mitigation is necessary. This criterion is satisfied.

- 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 there are no such designations on this site, 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 is proposing to convert the upper-story of a detached accessory structure with living space to an Accessory Dwelling Unit. The internal conversion of existing living space into an ADU will not adversely impact the surrounding properties. This proposal meets the approval criteria and should therefore be approved.

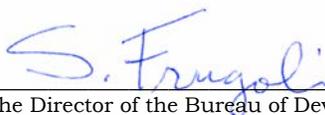
ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum allowed size of an Accessory Dwelling Unit from 800 to 932 square feet to convert the upper floor of a detached accessory structure, per the approved plans, Exhibits C.1 and C.2, signed and dated February 12, 2016, subject to the following condition:

- A. As part of the required Building Permit application submittal for the ADU, each of the 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 15-279836 AD."

NOTE: At Building Permit submittal, the Water Bureau and all other development-related requirements must be addressed to convert a portion of the detached structure into an ADU.

Staff Planner: Sheila Frugoli

Decision rendered by:  **on February 12, 2016**
By authority of the Director of the Bureau of Development Services

Decision mailed: February 17, 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 December 21, 2015, and was determined to be complete on **January 13, 2016**.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on December 21, 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 March 2, 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 **March 3, 2016 – (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:

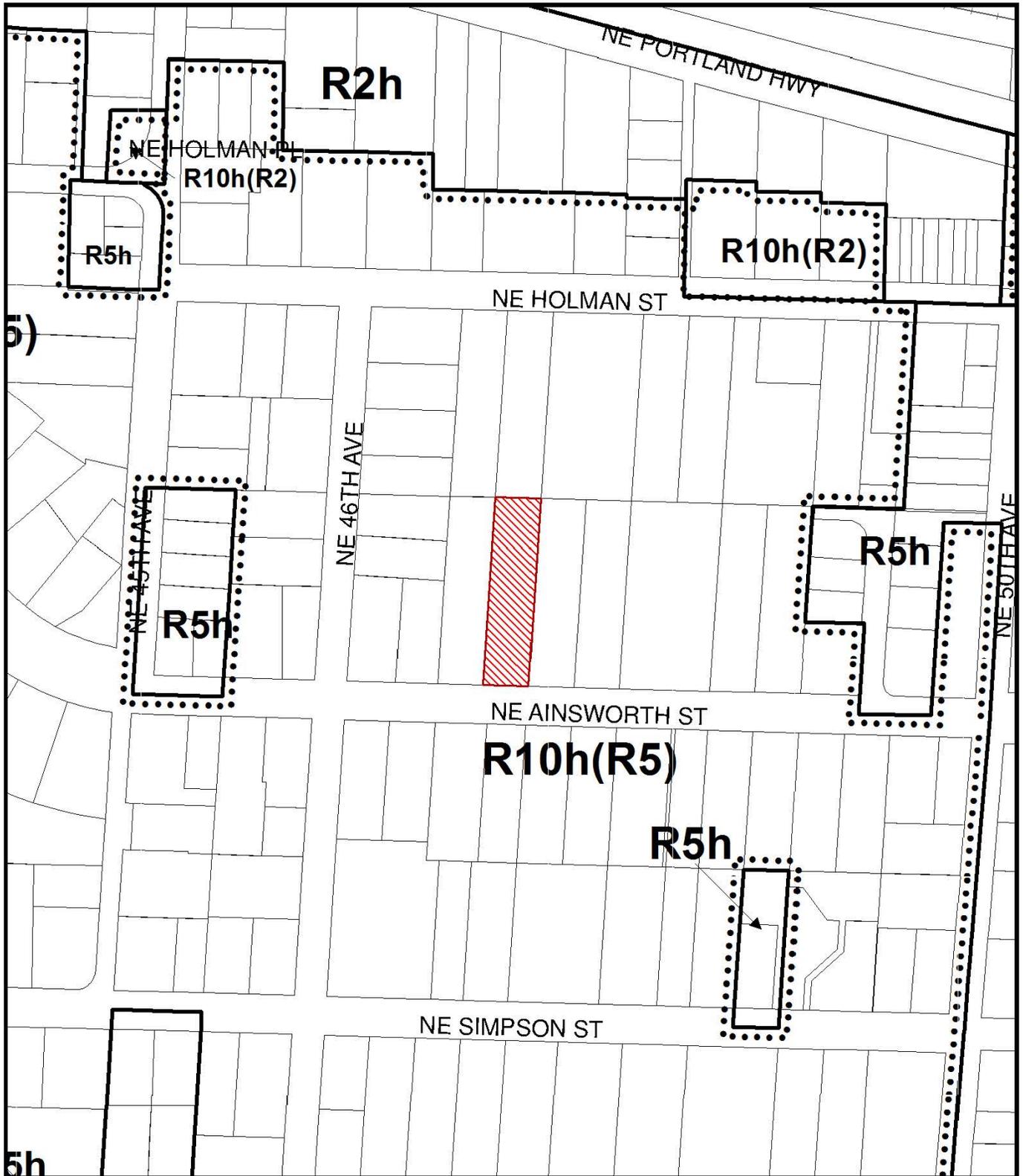
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- | | |
|--|---|
| <ul style="list-style-type: none"> A. Applicant's Statement B. Zoning Map (attached) C. Plans/Drawings: <ul style="list-style-type: none"> 1. Site Plan (attached) 2. ADU Floor Plan (attached) 3. Exterior Elevations – Detached Accessory Structure 4. Photo – Front (south) Façade Detached Accessory Structure D. Notification information: <ul style="list-style-type: none"> 1. Mailing list 2. Mailed notice E. Agency Responses: <ul style="list-style-type: none"> 1. Bureau of Environmental Services | <ul style="list-style-type: none"> 2. Water Bureau 3. Life Safety Plan Review Section of BDS 4. TRACS Print-out Identifying “No Concerns” from: Bureau of Transportation, Fire Bureau, Site Development Review Section of BDS, and Bureau of Parks, Forestry Division F. Correspondence: <ul style="list-style-type: none"> 1. Sue Davis and Mona Cordell, January 27, 2016, supports proposal G. Other: <ul style="list-style-type: none"> 1. Original LU Application |
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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).

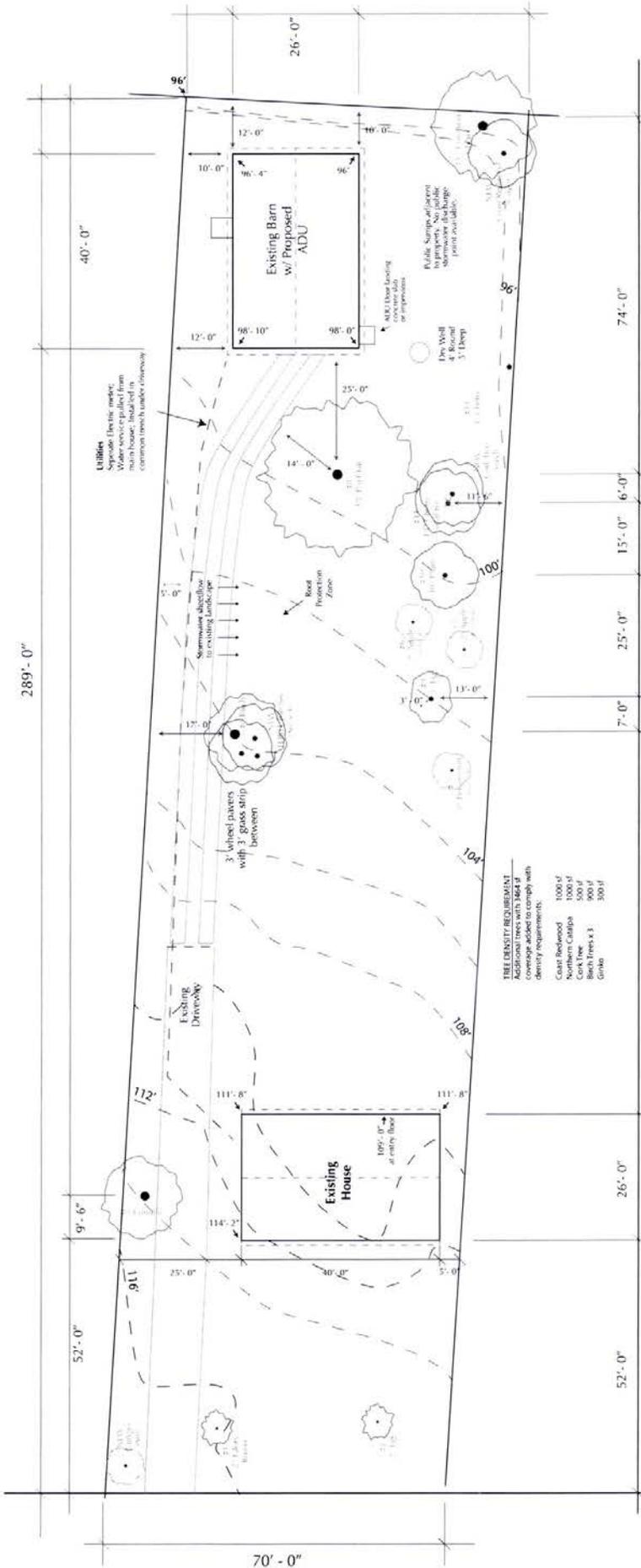


ZONING

 Site



File No. LU 15-279836 AD
 1/4 Section 2435
 Scale 1 inch = 200 feet
 State Id 1N2E18CA 6700
 Exhibit B (Dec 24, 2015)



URBAN SQUIRREL BARN

4647 NE Ainsworth Street
Portland, OR 97218

OWNER/BUILDERS:
Craig Porter - cportert@gmail.com · (425) 466-1010
Betsy Power - betsy@powerdeis.org · (415) 793-4529

Total Property = 20160 sf
Impervious Surface = 5287 sf
Barn: 1247 sf
Driveway Extension: ~1760 sf
Existing Driveway: 1120 sf
Existing House: 1160 sf

THE DENSITY REQUIREMENT coverage added to comply with density requirements:

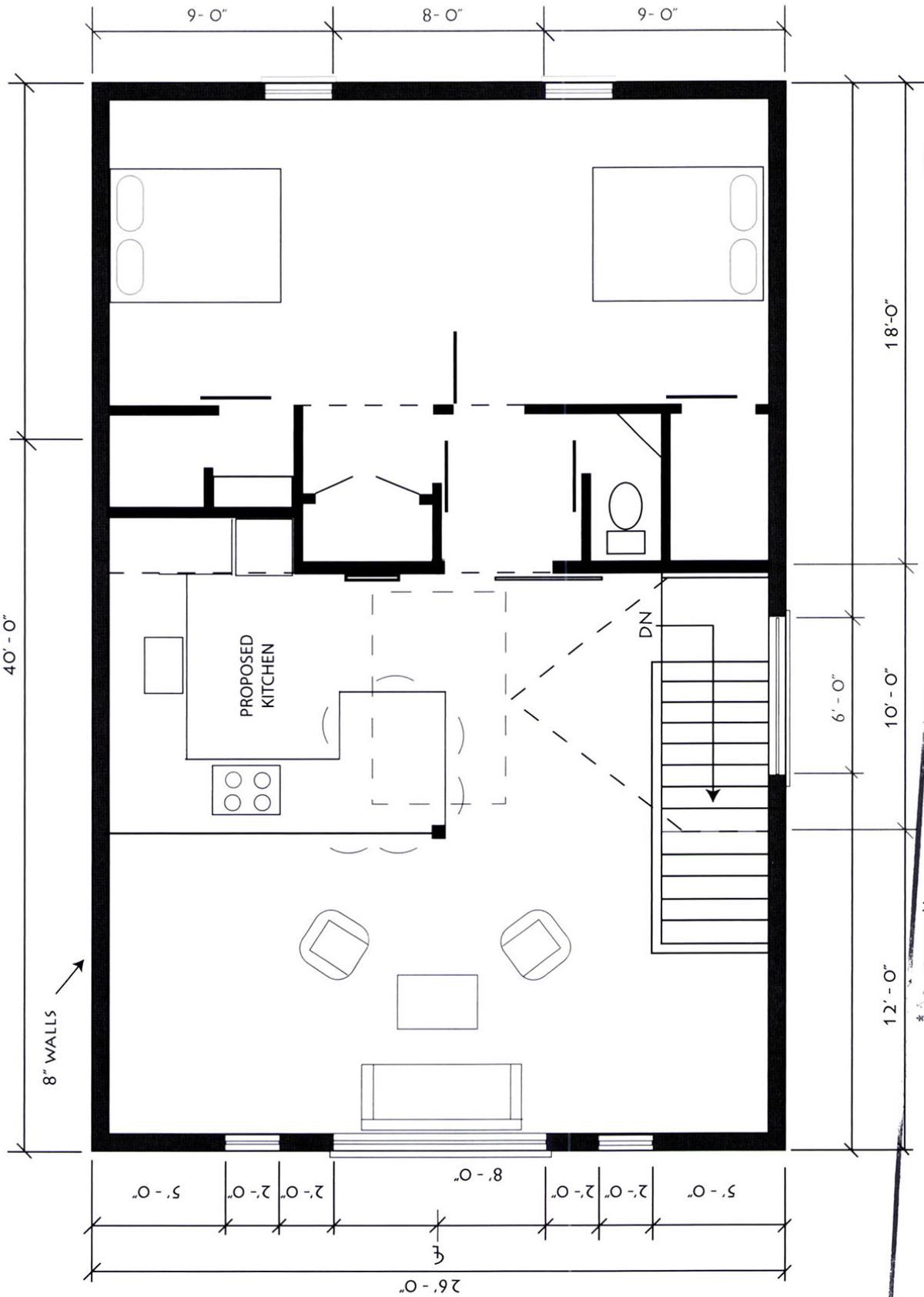
Cedar Redwood	1000 sf
Northern Catalpa	1000 sf
Cork Tree	500 sf
Birch Trees x 3	900 sf
Grass	500 sf



Approved
City of Portland - Bureau of Development Services
Planner Sheila F. Date Feb. 12, 2016
This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

LU 15-279836 AD

Exhibit C.1



SECOND FLOOR PLAN

SCALE 1/4" = 1' - 0"

* Approved*
 City of Portland - Bureau of Development Services
 Planner Sheila F. Date Feb. 12, 2016
 * This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

LW 15-279836 AD

Exhibit C.2