



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
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Date: April 26, 2016
To: Interested Person
From: Andrew Gulizia, 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 16-134455 AD

GENERAL INFORMATION

Applicant/Owner: Larry Cowlshaw
14604 SE Mill St. / Portland, OR 97233

Site Address: 14604 SE Mill St.

Legal Description: N 114.5' OF W 98' OF LOT 54, NEWHURST PK
Tax Account No.: R602307630
State ID No.: 1S2E01CB 03400
Quarter Section: 3245
Neighborhood: Centennial, contact Tom Lewis at 503-347-5715
Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-3910. Midway, contact David Day at 503-760-7572
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550
Zoning: R7 – Single-Dwelling Residential 7,000
Case Type: AD – Adjustment Review
Procedure: Type II administrative decision with appeal to the Adjustment Committee

Proposal: The applicant proposes to convert the upper story of an existing detached garage into an accessory dwelling unit (ADU). No exterior changes to the building are proposed. Since Zoning Code Section 33.205.040.C.4 requires detached ADUs to be set back at least 40 feet from the front lot line, and the second floor of the garage is only 27 feet from the front lot line, the applicant is requesting approval of an Adjustment to that requirement.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Section 33.805.040.A-F of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The site is an 11,172-square-foot lot located on the south side of SE Mill Street, just west of SE 148th Avenue. The site is developed with a one-story single-dwelling house which was constructed in 1941 and a two-story detached accessory building which was finished in 2014. The accessory building has a garage on the ground floor and storage space on the second floor. Surrounding properties are developed with a mix of one-story and two-story houses.

Zoning: The R7 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

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

Agency Review: A "Notice of Proposal" was mailed March 30, 2016. The following Bureaus have responded with no concerns about the Adjustment:

- Bureau of Environmental Services (Exhibit E-1);
- Bureau of Transportation Engineering (Exhibit E-2);
- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4);
- Life Safety Review Section of BDS (Exhibit E-5); and
- Site Development Review Section of BDS (Exhibit E-6).

Neighborhood Review: One written comment was received from a neighbor in response to the "Notice of Proposal." This neighbor expressed opposition to the project based on traffic and gentrification concerns (Exhibit F-1).

Staff response: The Portland Bureau of Transportation reviewed the proposal and responded with no concerns (Exhibit E-2). As discussed below under the findings for criterion B, staff finds the proposal will not significantly detract from the livability of the area.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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 is requesting an Adjustment to the minimum front setback requirement for a detached ADU. The purpose of the ADU development standards is stated in Zoning Code Section 33.205.040.A:

Purpose. *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 proposed ADU will be contained within the existing second story of the existing accessory building on this site. No additions or exterior alterations to the existing building

are proposed. After the ADU conversion is complete, it will not be readily apparent from the outside that the use of the building has changed. Therefore, even though the ADU will be less than 40 feet from the front lot line, the ADU conversion will not, in itself, have any impacts on the building's compatibility with the neighborhood or the general building scale and placement of structures in the neighborhood. Furthermore, the living area of the ADU (680 square feet) will be substantially smaller than the living area of the house on this site (1,050 square feet). Based on these reasons, the proposed Adjustment equally meets the intent of the regulation and 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 site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. As discussed above, the ADU will be contained within the existing second story of the existing accessory building on this site, and no additions or exterior alterations are proposed. After the ADU conversion is complete, it will not be readily apparent from outside the building that the use inside the second story of the building has changed. Therefore, even though the ADU will be less than 40 feet from the front lot line, the ADU conversion will not, in itself, result in any significant negative impacts to neighborhood livability or appearance. 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: As only one Adjustment is being requested, this criterion is not applicable.

- D.** City-designated scenic resources and historic resources are preserved; and

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case "s," and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

Findings: As discussed in the findings for approval criterion B, the proposal will have no adverse impacts on the livability of the surrounding residential area. As there are no identified adverse impacts for which mitigation would be required, this criterion is not applicable.

- 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 environmental overlay zones mapped on 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 proposal to reduce the front setback requirement for an ADU equally meets the intent of the regulation and will not adversely affect the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Since the approval criteria are met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.205.040.C.4 to reduce the minimum front setback for a detached ADU from 40 feet to 27 feet per the approved site plan and elevations, Exhibits C-1 and C-2, signed and dated April 21, 2016, subject to the following condition:

- A. As part of the building permit application submittal, 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 and C-2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-134455 AD."

Staff Planner: Andrew Gulizia

Decision rendered by:  **on April 21, 2016.**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 26, 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 March 14, 2016, and was determined to be complete on March 25, 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 March 14, 2016.

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 extended by the applicant, **the 120 days will expire on: July 23, 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 May 10, 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 **May 11, 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:

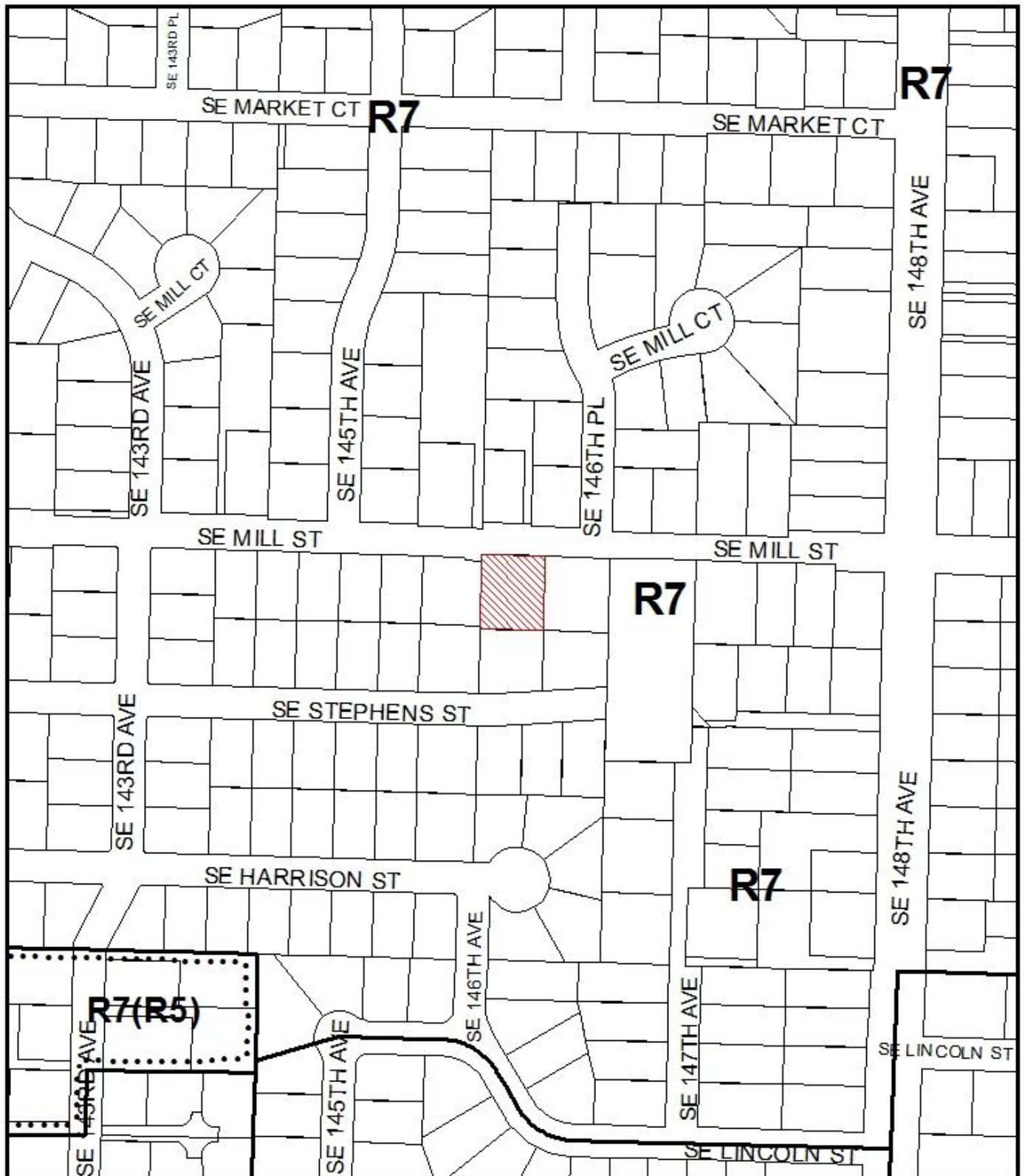
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Approval criteria responses
 - 2. Revised approval criteria responses, received March 25, 2016
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. Building elevations (attached)
 - 3. Floor plans and foundation plan
- D. Notification Information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence
 - 1. E-mail in opposition from Milan Hornik, received April 4, 2016
- G. Other:
 - 1. Original LU application form and receipt
 - 2. Incompleteness determination letter, dated March 25, 2016

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).



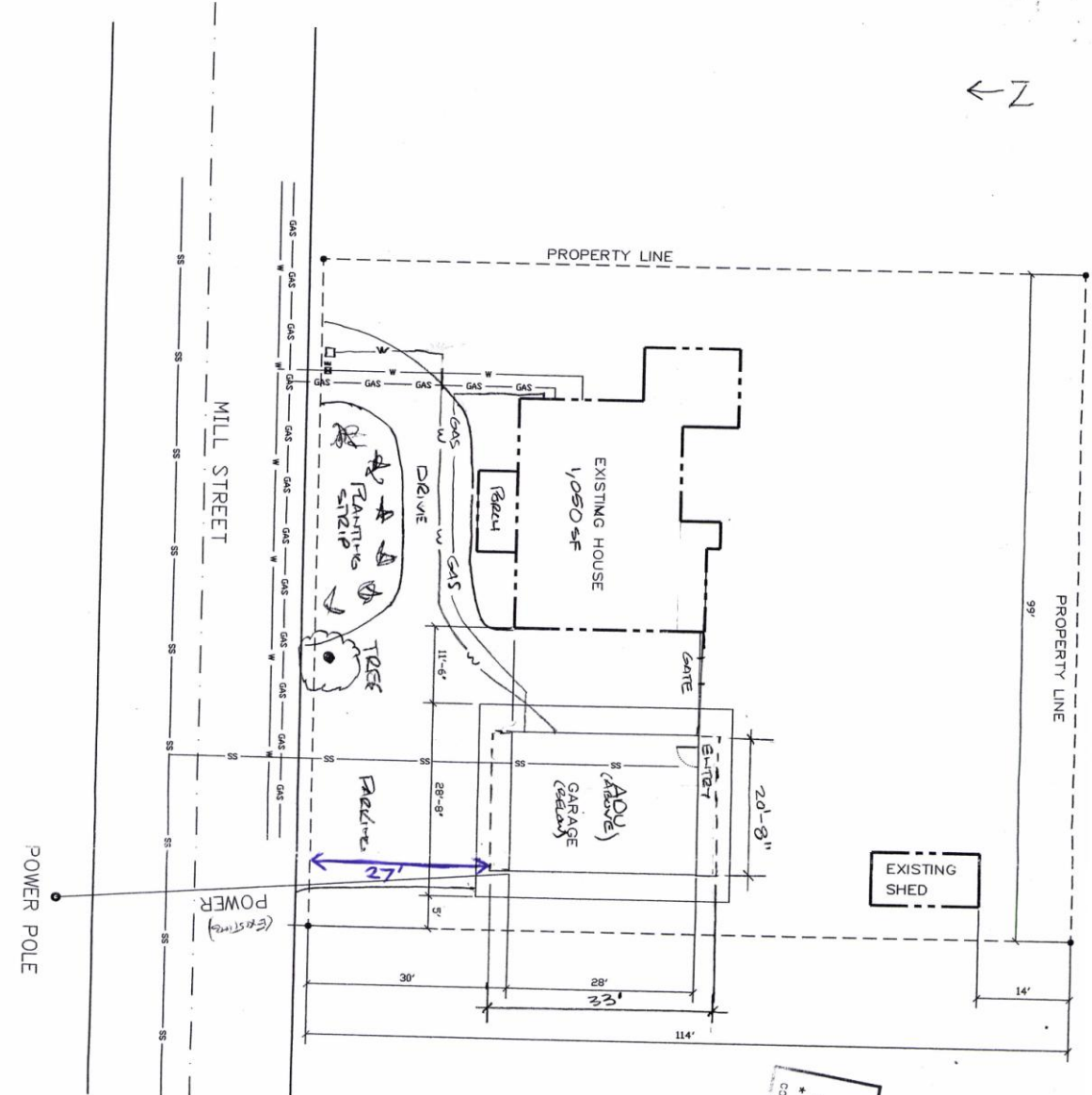
ZONING

 Site



File No. LU 16-134455 AD
 1/4 Section 3245
 Scale 1 inch = 200 feet
 State Id 1S2E01CB 3400
 Exhibit B (Mar 15, 2016)

↖ N



- NOTES**
- 1) MAIN HOUSE = 1,050 SF
PROPOSED ADU = 600 SF
 - 2) ADU CALC = 1,050 SF X .75 = 787 SF OR 800 SF - WHICH EVER
 - 3) LOT AREA = 99' X 114' = 11,286 SF
 - 4) PROJECT SCORE - ADD KITCHEN, BEDROOM, LAUNDRY, AND FIBERGLASS.
 - 5) UTILITY SCORE - ADD WATER METER - ADD 2ND GAS METER
 - 6) HEAT - HEAT PUMP.

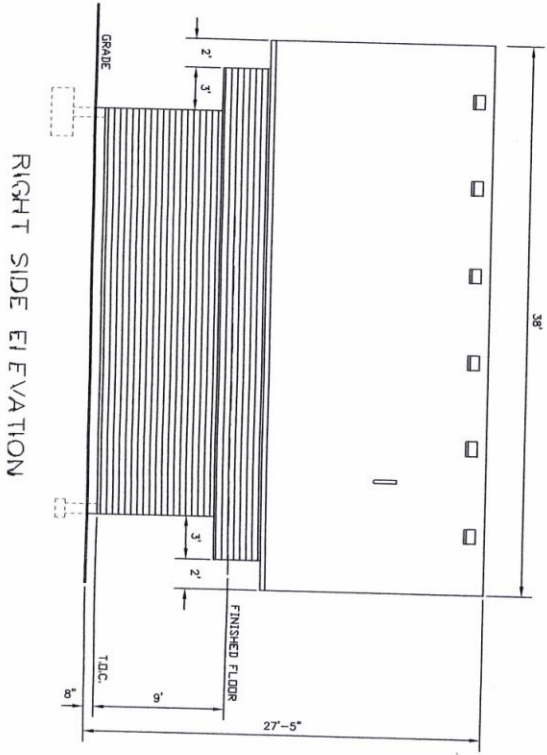
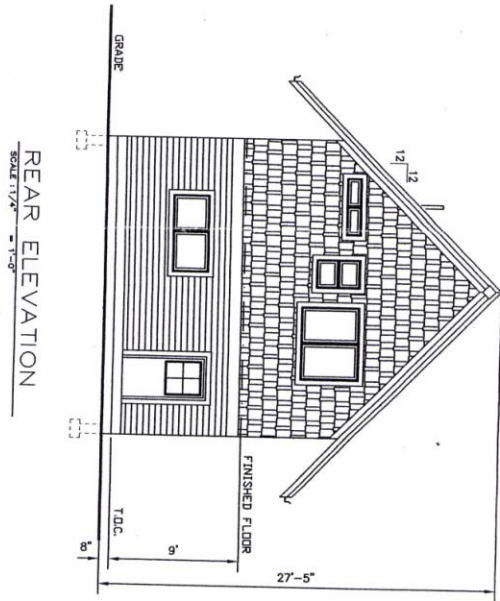
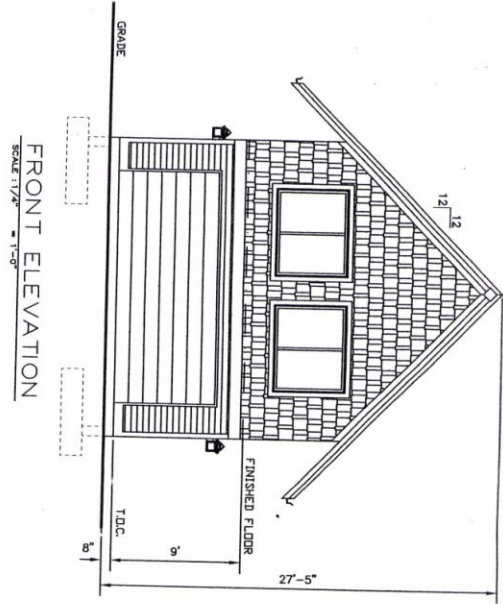
Approved
 City of Portland - Bureau of Development Services
 Planner: A. G. [Signature]
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.
 Date: 5/16/16

Exhibit C-1
 LU16-134455AD

DRAWN BY: LBC
 DATE: _____
 SCALE: _____
 HALF SCALE: _____

PLOT PLAN
MILL STREET
GARAGE W/LIVING SPACE

METHOD CONSTRUCTION INCORPORATED
 P.O. BOX 23052, TIGARD, OR 97281
 Tel.: (503) 688-8298 Email rick_lrc@yahoo.com



Approved

City of Portland - Bureau of Development Services

Planner A. Silveira Date 4/21/16

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

Exhibit C-2
LV16 - 1 3 4 4 5 5 AD

| | | |
|----------|-------------|------------|
| DWG. NO. | DRAWN BY: | LBC |
| | DATE: | 6/14/2011 |
| | SCALE: | |
| | HALF SCALE: | 1/8"=1'-0" |

**ELEVATIONS
MILL STREET
GARAGE W/LIVING SPACE**

METHOD CONSTRUCTION INCORPORATE
P.O. BOX 23052, TIGARD, OR 97281
Tel.: (503) 688-8298 Email rick_lrc@yahoo.c