



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
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Date: September 28, 2016
To: Interested Person
From: David Besley, 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 16-202109 AD

GENERAL INFORMATION

Applicant/Owner: Eric R Knott
5504 NE Skidmore St
Portland, OR 97218-2171

Applicant: Matt Mansfield
Confluence Design Build Inc
5504 NE Skidmore St
Portland, OR 97218

Site Address: 2239 NE ELROD DR

Legal Description: LOT 52 TL 500, SUNDERLAND AC & PLAT 3
Tax Account No.: R809216510
State ID No.: 1N1E12CB 00500
Quarter Section: 2233

Neighborhood: Sunderland, contact CNEN at 503-823-3157
Business District: Columbia Corridor Association, contact Debbie Deetz-Silva at 503-978-6044
District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156

Plan District: Portland International Airport - Middle Columbia Slough Subdistrict

Zoning: RFhc (Residential Farm/Forest with an Aircraft Landing Zone overlay. The southernmost portion of this site contains the "c" Environmental Conservation Zone overlay, but the proposed development will be approximately 130 feet from this designation and will not be impacted by the proposal.)

Case Type: AD (Adjustment Review – 3 concurrent Adjustments)

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to construct a new detached accessory structure for agricultural equipment storage and a woodshop. The Portland Zoning Code requires that the building coverage of a detached covered accessory structure not be greater than the building coverage of the primary structure (Section 33.110.250.C.3.b). The existing residence (the primary structure) is 1,104 square feet and the detached accessory structure is proposed to be 2,000 square foot; therefore, an Adjustment is required to waive the requirement that building coverage of a detached covered accessory structure not be greater than the building coverage of the primary structure.

For all detached covered accessory structures that are more than 15 feet tall, certain design standards must be met. The exterior finish material must visually match that of the primary structure or be made from wood, composite boards, vinyl or aluminum products, and composed in a shingle pattern, or in a horizontal clapboard or shiplap pattern of 6 inches or less in width (Section 33.110.250.C.4.a). The primary structure is made of T-111 and painted wood shingles, while the detached accessory structure is proposed to be made of standard seam metal siding. A second Adjustment is therefore required to waive the exterior finish material requirements. Additionally, the predominant roof pitch must be the same as the predominant roof pitch of the primary structure or at least 6/12 (Section 33.110.250.C.4.b). The primary structure has a range of roof pitches from 3/12 to 8/12, with the predominant roof pitch on the street facing façade being 4.5/12, while the detached accessory structure is proposed to have a roof pitch of 4/12. A third Adjustment is therefore required to waive the roof pitch requirements.

To summarize, the applicant is proposing to construct a new detached accessory structure which requires 3 Adjustments:

1. to waive the requirement that building coverage of a detached covered accessory structure not be greater than the building coverage of the primary structure; and
2. to waive the exterior finish material requirements; and
3. to waive the roof pitch requirements.

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 35,284 square-foot lot is located on the north side of NE Elrod Drive, about 750 feet east of the intersection of NE Elrod Drive and NE 21st Avenue. The relatively flat lot is developed with a single-story 1,104 square-foot residence located on the southerly portion of the site, closer to NE Elrod Drive. The accessory structure is proposed to be located on the northerly portion of the site, behind the residence. The surrounding vicinity is developed with a mix of single-dwelling residences, agricultural buildings, and industrial buildings.

Zoning: The RF 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. The "h" and "c" zone overlays (Aircraft Landing Zone and Environmental Conservation Zone respectively) are not impacted by the Adjustment proposal. The Portland International Airport Plan District is intended to provide safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment.

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 19, 2016**. The following Bureaus have responded with the following information:

- The Fire Bureau responded with no concerns and provided information on the Fire Code (Exhibit E.1);
- The Life Safety section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information (Exhibit E.2);
- The Site Development noted that the applicant will need to obtain a Septic Certification review with a site visit before they can support the proposal (Exhibit E.3);
- The Bureau of Environmental Services responded with no concerns and provided information on sanitary service and stormwater management (Exhibit E.4); and
- The Portland Bureau of Transportation (PBOT) responded with no concerns and noted that Title 17 requirements must be met (Exhibit E.5).

The following agencies have responded with no concerns:

- Multnomah County Drainage District (Exhibit E.6); and
- The Water Bureau (Exhibit E.7).

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 Adjustment 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 3 Adjustments to construct a new detached woodshop/farm equipment building, including waiving the requirement that building coverage of a detached covered accessory structure not be greater than the building coverage of the primary structure, waiving the exterior finish material requirements, and waiving the roof pitch requirements. The purpose for the detached accessory structures is as follows:

33.110.250 Detached Accessory Structures

This section regulates detached structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards limit the height and bulk of the structures, promote compatibility of design for larger structures, provide for necessary access around larger structures, help maintain privacy to abutting lots, and maintain open front setbacks.

While the building coverage of the proposed woodshop/farm equipment building will exceed that of the house by 896 square feet, the structure will not appear to be the predominant element of the site due to its location 90 feet north of the house, which is behind the house and approximately 130 feet from the road (NE Elrod Drive); this maintains open front setbacks and provides necessary access around structures. The large, 35,284 square foot site is adjacent to other large agricultural sites which also contain metal agricultural buildings which exceed the size of the residences. The proposed structure will therefore be compatible with abutting lots. Privacy will be maintained due to the large lot and the separation between the new woodshop/farm equipment building and the side property lines: 40 feet from the western property line and 12 feet from the eastern property line.

While the standard-seam metal siding/roofing material proposed for the new structure will be different from that of the house (T-111 and painted wood shingles), it will keep the appearance of an accessory agricultural structure which, as noted above, is compatible with the area. If the proposed woodshop/farm equipment building were to match the material of the house, it would likely appear to be the predominant element of the site.

The primary structure has a range of roof pitches from 3/12 to 8/12, with the predominant roof pitch on the street facing façade being 4.5/12, while the detached accessory structure is proposed to have a roof pitch of 4/12. The difference in roof pitch between 4.5/12 and 4/12 is not significant and, as noted above, differences in appearance between the house and the proposed structure are beneficial in this case because they allow the proposed structure to look like an accessory agricultural building which is compatible with the area, rather than a larger residential structure.

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: As noted above, the accessory detached structure will be located behind the house at a significant distance from NE Elrod Drive and all property lines; therefore, it will not significantly detract from the livability or appearance of the residential 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 RF zone is to preserve land for housing, and to provide housing opportunities for individual households. The proposed accessory structure will support the residential use of the site. Accessory structures are allowed in residential zones; therefore, the project is still consistent with this overall purpose.

- 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: There are no discernible impacts that would result from granting the requested Adjustment for which mitigation would be required.

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 3 Adjustments to construct a new detached woodshop/farm equipment building, including waiving the requirement that building coverage of a detached covered accessory structure not be greater than the building coverage of the primary structure, waiving the exterior finish material requirements, and waiving the roof pitch requirements. While the building coverage of the proposed building will exceed that of the house, it will be 90 feet behind the house and about 130 feet from the NE Elrod Drive, which maintains open front setbacks and provides necessary access around structures. The large site is adjacent to other large agricultural sites which also contain metal agricultural buildings which exceed the size of the residences. The proposed structure will therefore be compatible with abutting lots. The metal siding/roofing material will keep the appearance of an accessory agricultural structure which is compatible with the area. The proposal meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of 3 Adjustments:

1. to waive the requirement that building coverage of a detached covered accessory structure not be greater than the building coverage of the primary structure (Section 33.110.250.C.3.b); and
2. to waive the exterior finish material requirements (Section 33.110.250.C.4.a); and
3. to waive the roof pitch requirements (Section 33.110.250.C.4.b)

to construct a new detached accessory structure per the approved site plans, Exhibits C.1 through C.4, signed and dated September 22, 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-C.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-202109 AD. No field changes allowed."

Staff Planner: David Besley



Decision rendered by: _____ **on September 22, 2016.**

By authority of the Director of the Bureau of Development Services

Decision mailed: September 28, 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 8, 2016, and was determined to be complete on August 10, 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 July 8, 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 further extended by the applicant, **the 120 days will expire on: December 8, 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 October 12, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 13, 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.

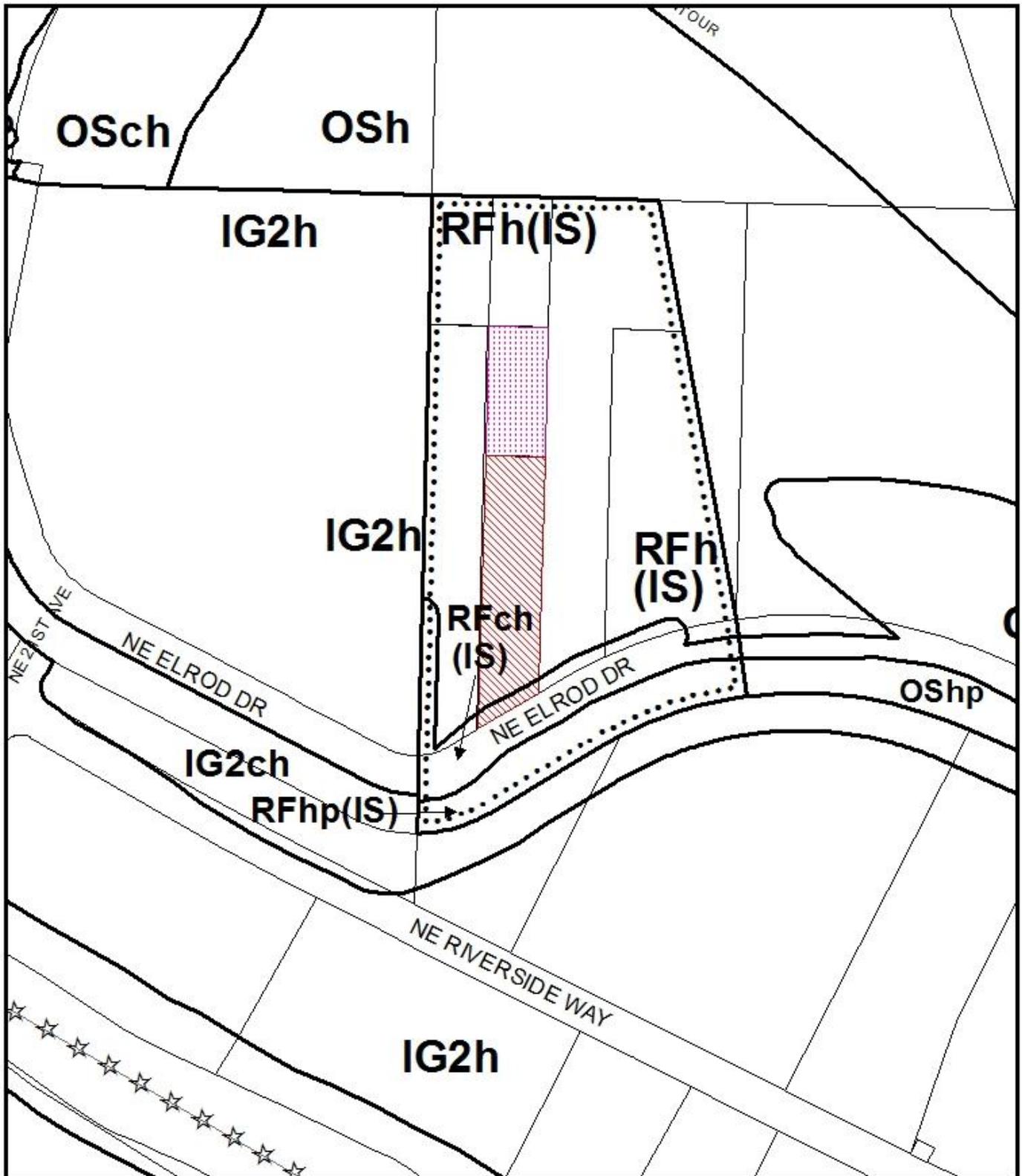
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. North and South Elevation Drawings (attached)
 3. East and West Elevation Drawings (attached)
 4. Floor Plans
- D. Notification information:

1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Fire Bureau
 2. The Life Safety Section of BDS
 3. Site Development Review Section of BDS
 4. Bureau of Environmental Services
 5. The Portland Bureau of Transportation
 6. Multnomah County Drainage District
- F. Correspondence: None
- G. Other:
1. Original LU Application and Receipt
 2. Incomplete letter from staff to applicant, sent July 21, 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
-  Also Owned Parcels
-  Recreational Trails



This site lies within the:
 PORTLAND INTERNATIONAL AIRPORT PLAN DISTRICT
 MIDDLE COLUMBIA SLOUGH SUBDISTRICT

File No.	<u>LU 16-202109 AD</u>
1/4 Section	<u>2233</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E12CB 500</u>
Exhibit	<u>B</u> (Jul 12, 2016)



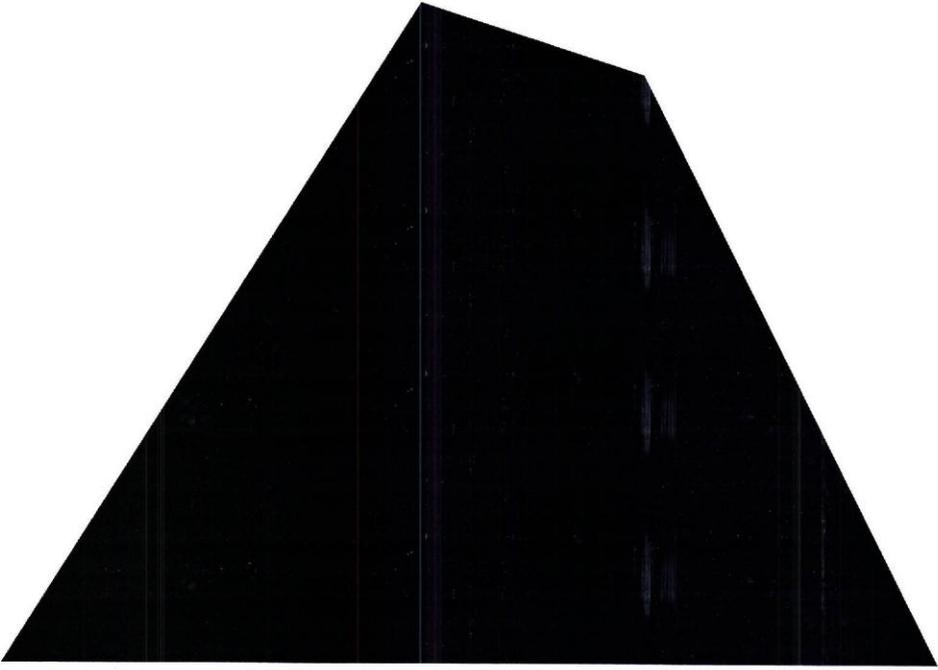
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Cancel
Print

Approved
City of Portland
 Bureau of Development Services
 Planner David Besky
 Date 9-22-16

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

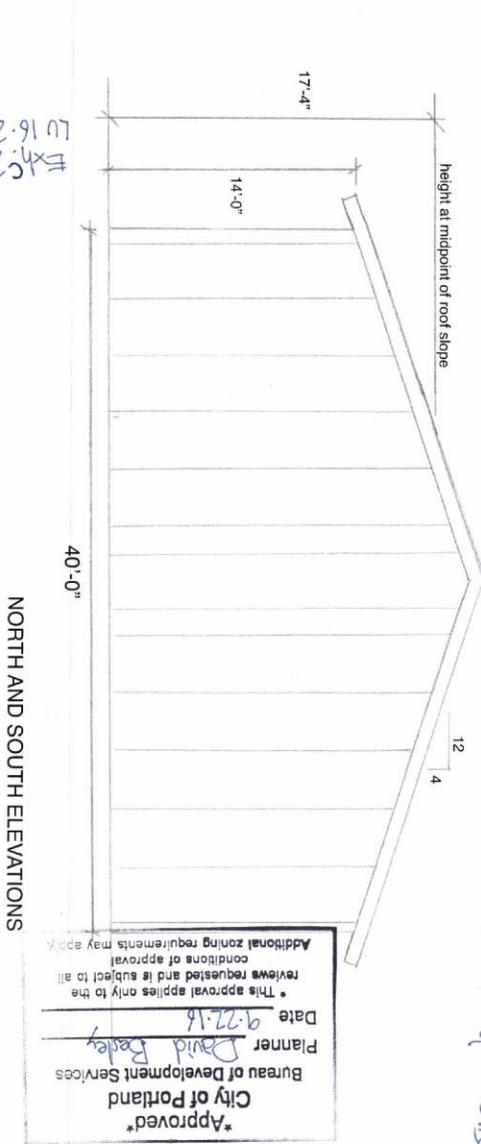
Exh 1
 LV16-202109AD



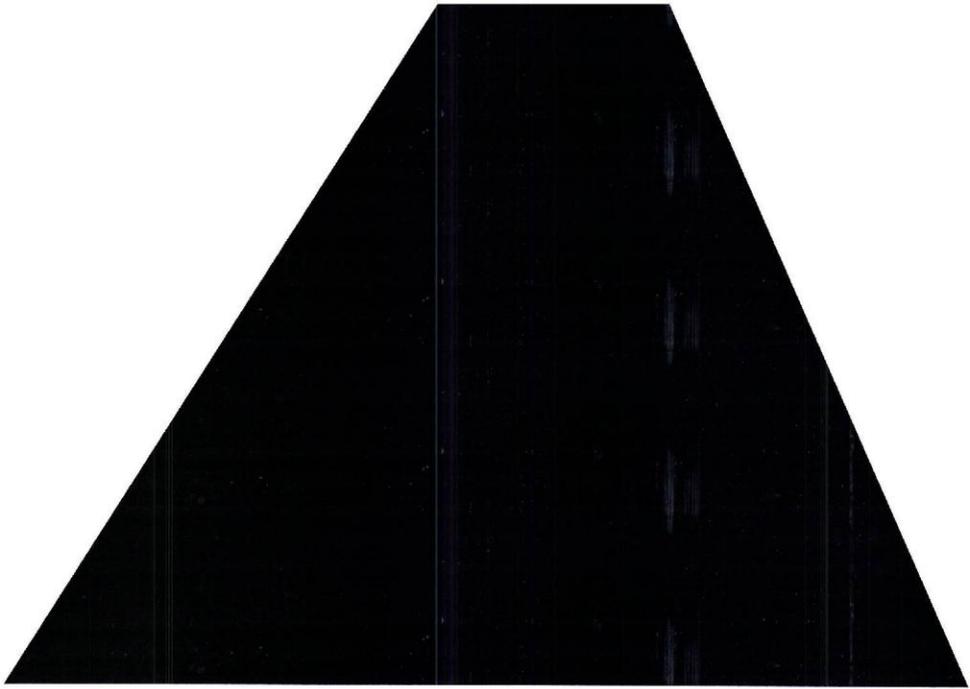
3 Adjustments requested to construct a new detached accessory structure:

2239 NE Elrod Drive Land Use Review LU 16-202109-AD

1. Waive requirement that building coverage of det. accessory structure not be greater than that of house
2. Waive exterior Finish requirements
3. Waive roof pitch requirements

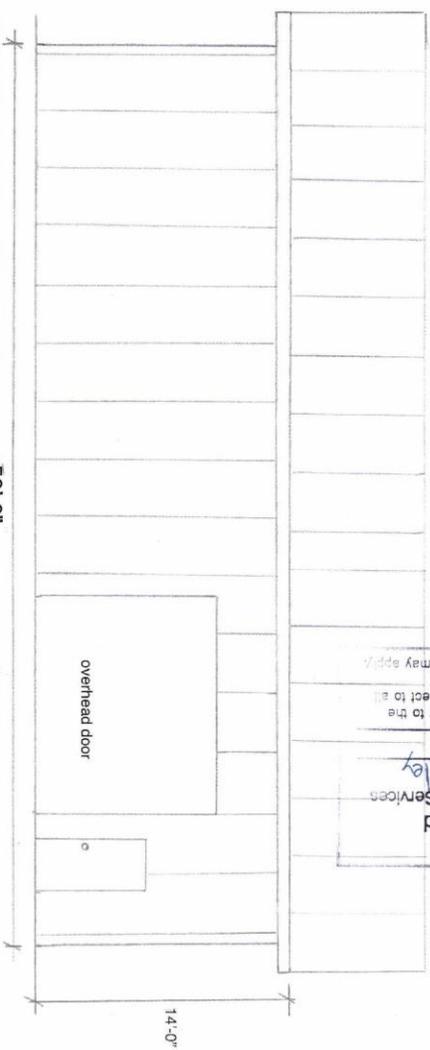


Approved
 City of Portland
 Bureau of Development Services
 Planner David Beley
 Date 9-22-16
 * This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.



2239 NE Elrod Drive Land Use Review LU 16-202109-AD

Approved
City of Portland
Bureau of Development Services
Planner David Beley
Date 9-22-18
* This approval applies only to the reviews requested and is subject to all conditions of approval.
Additional zoning requirements may apply.



WEST ELEVATION
EAST ELEVATION SIMILAR (NO DOORS)

EX. 5
LU 16-202109 AD