



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

FROM CONCEPT TO CONSTRUCTION

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Date: October 24, 2016
To: Interested Person
From: Lauren Russell, 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 16-226579 AD

GENERAL INFORMATION

Owner/Applicant: Kenneth H Hoesch Jr and Edna L Wilson-Hoesch
7205 N Portsmouth Ave
Portland, OR 97203

Site Address: 7205 N PORTSMOUTH AVE

Legal Description: BLOCK 10 SWLY 1/2 OF LOT 11 LOT 12-14, PORTSMOUTH
Tax Account No.: R669901950
State ID No.: 1N1E07DD 10500
Quarter Section: 2224
Neighborhood: University Park, contact Tom Karwaki at karwaki@yahoo.com.
Business District: None
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.
Plan District: None
Other Designations: None
Zoning: R5 – Single-Dwelling Residential 5,000
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is requesting an adjustment to increase maximum building coverage in order to legalize an existing elevated deck. Per Zoning Code Section 33.110.225.B and Table 110-4, the maximum combined building coverage allowed on the site is 3,425 square feet, or 26.7% of the site. The existing building coverage on the site without the deck is 4,475 square feet. The elevated deck is approximately 130 square feet and brings the total building coverage on the site to 4,605 square feet, or 35.9% of the site. Therefore the applicant requests an adjustment to increase the maximum allowed building coverage from 3,425 square feet to 4,605 square feet.

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 subject site is a 12,833 square foot lot located on the northwest corner of N Portsmouth Avenue and N Syracuse Street. It is developed with single-dwelling residence composed of a one-story structure with attached garage and a two-story structure with elevated deck connected by a breezeway. The garage is accessed by the N Van Houten Avenue-Portsmouth Avenue Alley. The adjacent properties are mostly developed with one- and two-story single-dwelling residences and accessory structures. The Portsmouth Trinity Lutheran Church is located on the southwest corner of the intersection.

Zoning: The R5 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and provide 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 prior land use reviews include the following:

- LU 88-031854 VZ: Approval of a variance for parcel II (the south parcel) to reduce the minimum rear yard (north) from the required 6 feet to 5 feet in order to divide a lot into 2 parcels.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed September 26, 2016. The following Bureaus have responded with no issues or concerns regarding the requested Adjustment:

- Bureau of Environmental Services responded that the pollution reduction and flow control requirements of the Stormwater Management Manual are not triggered with this proposal; however, a safe stormwater disposal location that does not impact adjacent properties or structures must be shown at the time of building permit submittal (Exhibit E-1);
- Bureau of Transportation Engineering responded that there are no transportation-related approval criteria associated with the proposed land use request and that if the scope remains the same at the time of permit, Transportation will have no requirements (Exhibit E-2);
- Water Bureau responded with no concerns (Exhibit E-3);
- Fire Bureau responded with no concerns (Exhibit E-4);
- Site Development Section of BDS responded with no concerns (Exhibit E-5); and
- Life Safety Review Section of BDS responded that a separate building permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances (Exhibit E-6).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on September 26, 2016. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA**33.805.010 Purpose (Adjustments)**

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 providing certainty and rapid processing for land use applications.

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 increase the maximum allowed building coverage from 3,425 square feet to 4,605 square feet. The purpose of the building coverage standards is stated in Zoning Code Section 33.110.225.A:

33.110.225.A Purpose: *The building coverage standards, together with the height and setback standards control the overall bulk of structures. They are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site.*

The subject site is developed with single-dwelling residence composed of a one-story structure with attached garage and a two-story structure with elevated deck connected by a breezeway. The structures meet both the setback and height standards, which limits the total bulk of the structures. Due to the large size of the property, the structures appear to sit low and deep in the yard, which is also reinforced by the perimeter fence and mature trees on the property. As viewed from the adjacent streets and neighboring lots, the increased building coverage does not overwhelm other homes or affect the character of the neighborhood. 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 subject 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, approval of the Adjustment will not increase the perceived bulk of the structures on the site because the structures meet both the setback and height standards and appear to sit low and deep in the yard, which is reinforced by the perimeter fence and mature trees on the property. For these reasons the proposal has no 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: Because 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. Because there no scenic or historic resource designations are 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 has no adverse impacts on the livability or appearance of the surrounding residential area for which mitigation would be required. Therefore, this criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). Because no environmental overlay zone is mapped on subject 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 increase the maximum allowed building coverage equally meets the intent of the regulations and does not have any adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Because the approval criteria are met, this proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum allowed building coverage from 3,425 square feet to 4,605 square feet (Zoning Code Section 33.110.225.B and Table 110-4), per the approved site plan, Exhibit C-1, signed and dated October 20, 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 Exhibit C-1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-226579 AD. No field changes allowed."

Staff Planner: Lauren Russell

Decision rendered by:  **on October 20, 2016.**
By authority of the Director of the Bureau of Development Services

Decision mailed: October 24, 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 August 18, 2016, and was determined to be complete on September 2, 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 August 18, 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 31, 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 November 7, 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 **November 8, 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.

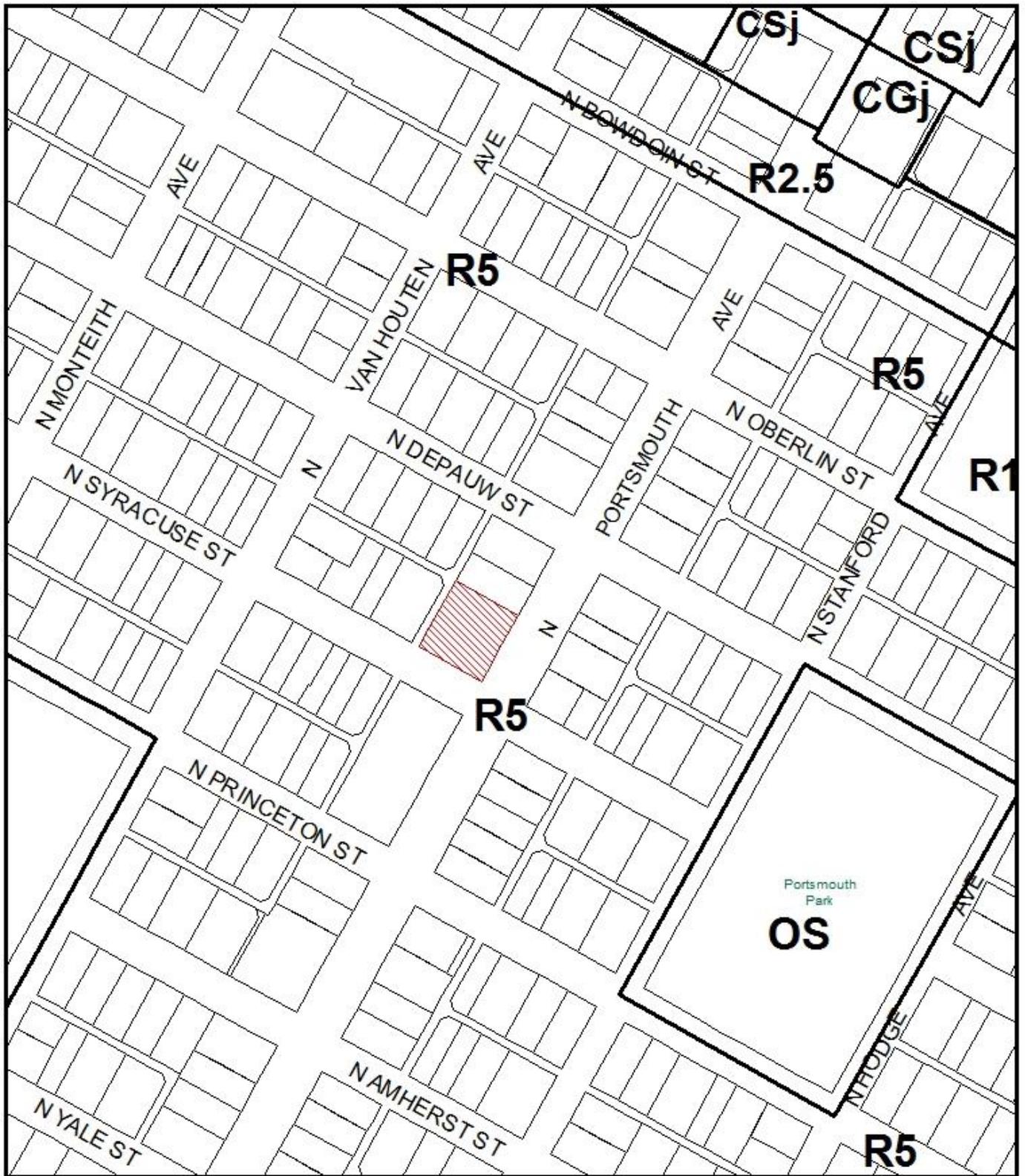
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 1. Narrative and Plans 8/18/16
 2. Revised Site Plan 9/2/16
- B. Zoning Map (attached)

- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Full Size Site Plan
 - 3. Deck Elevation
- 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 Section of BDS
- F. Correspondence – none received
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter

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

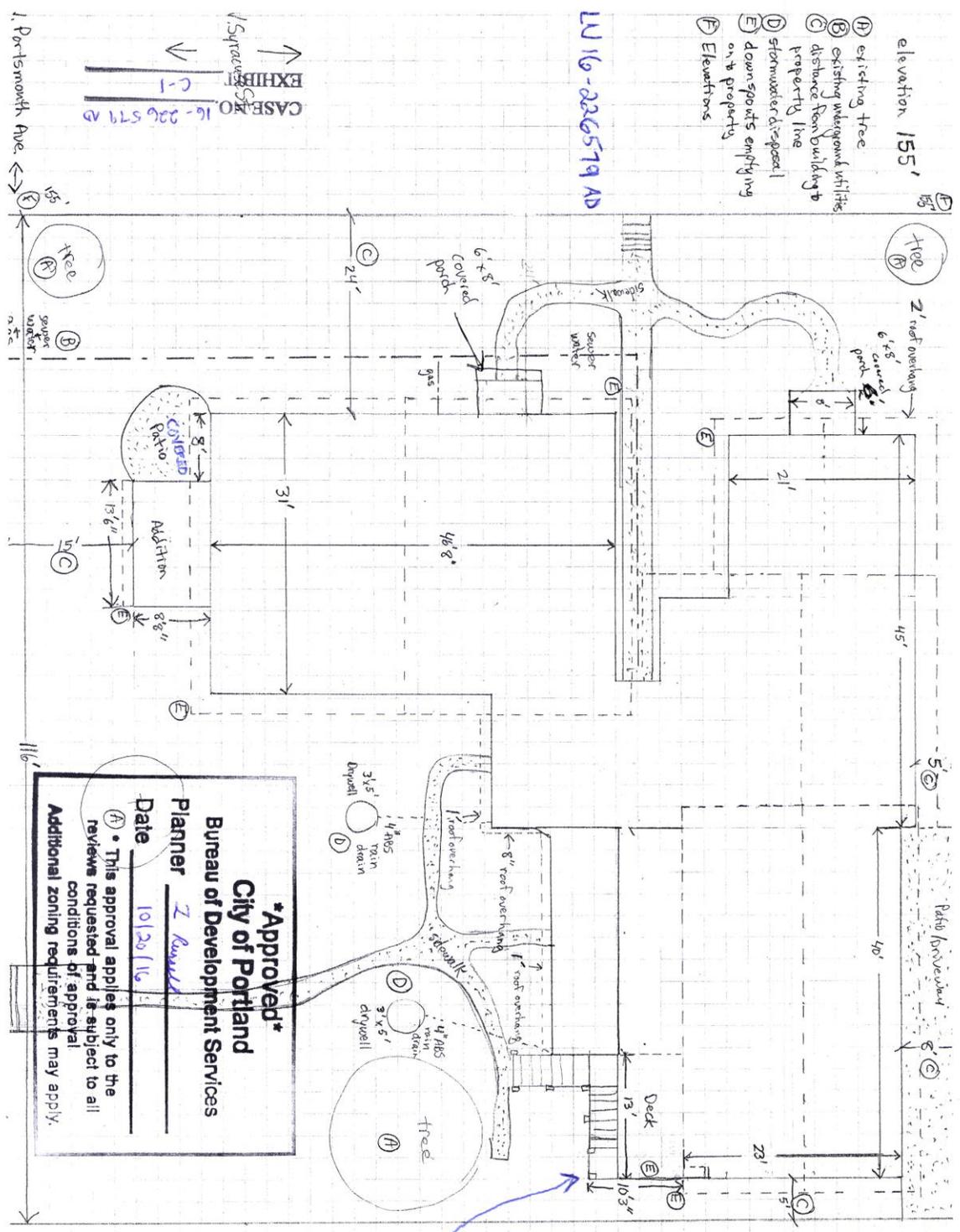
 Site



File No.	<u>LU 16-226579 AD</u>
1/4 Section	<u>2224</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1N1E07DD 10500</u>
Exhibit	<u>B</u> (Aug 22, 2016)

- ① existing tree
- ② existing underground utilities
- ③ distance from building to property line
- ④ stormwater disposal
- ⑤ downspouts emptying on to property
- ⑥ Elevations

LU 16-226579 AD



*** Approved ***
 Bureau of Development Services
 City of Portland
 Planner Z. Rowles
 Date 10/26/16
 (A) * This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.

ELEVATIONS DECK
 THAT NEEDS
 A PERMIT

Impermeable area	360 sqft
Driveway / patio	644 sqft
Sidewalks	100 sqft
Patio	5045 sqft
Roof area (with overhang)	6149 sqft
Total	6149 sqft
Building Footprint (incl. decks)	41533 sqft
deck (no permit)	130 sqft
addition	115 sqft

Site Plan
 7205 N. Portsmouth
 97203
 R5
 Lot area 12,700 sq
 Scale 1" = 10'

9-2-16 KH
 Legal Description
 The Southwesterly one-half of Lot 11 and all of Lots 12 through 14 inclusive, Block 10, PORTSMOUTH in the City of Portland, County of Multnomah and State of Oregon
 11 Portsmouth Ave.

LOT SIZE - 12,833 SF
 MAXIMUM ALLOWED BUILDING COVERAGE - 3,425 SF
 BUILDING COVERAGE WITH DECK - 4,605 SF

REQUEST FOR ADJUSTMENT TO INCREASE
 ALLOWED BUILDING COVERAGE FROM
 3,425 SF TO 4,605 SF