



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

FROM CONCEPT TO CONSTRUCTION

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Date: December 6, 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 16-261205 AD

GENERAL INFORMATION

Owner/Applicant: Christopher B Dearth and Rosemary N Furfey
7022 SW 33rd Ave
Portland, OR 97219

Site Address: 7022 SW 33RD AVE

Legal Description: LOT 15, LAUDENKREST
Tax Account No.: R476800670
State ID No.: 1S1E20AB 10500
Quarter Section: 3726
Neighborhood: Multnomah, contact James Peterson at 503-246-0725.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.
Plan District: None
Other Designations: None
Zoning: R7 – Single-Dwelling Residential 7,000
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to construct a new 18-foot high, two-story accessory dwelling unit (ADU) that would be approximately 800 square feet. The ADU would be located behind the house and 3 feet from SW 32nd Avenue in line with the existing detached garage. Because the subject house fronts SW 33rd Avenue, the SW 32nd Avenue property line serves as the rear of the property; however, the subject lot is a through lot so both the SW 33rd Avenue and SW 32nd Avenue property lines are front property lines. Per Zoning Code Section 33.110.220.B and Table 110-3, the minimum front building setback in the R7 zone is 15 feet. Because the proposed ADU would be located 3 feet from the SW 32nd Avenue front lot line, the applicant requests an Adjustment to reduce the required front building setback from 15 feet to 3 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 an 11,908 square foot through lot located between SW 33rd Avenue and SW 32nd Avenue with SW Texas Street to the north and SW Nevada Court to the south. The site is currently developed with a two-story single-dwelling residence that faces SW 33rd Avenue and a detached two-car garage that faces SW 32nd Avenue located 3 feet from the front property line. The subject site contains several large mature trees. In this location, SW 32nd Avenue is very narrow and serves almost as an alley for several through lot properties that also have detached garages that face SW 32nd Avenue located very close to the front property line. Directly across SW 32nd Avenue from the subject site is Texas Hydropark, a Portland Water Bureau facility that serves as a neighborhood greenspace.

Zoning: The R7 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 there are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed November 4, 2016. The following Bureaus have responded with no issues or concerns regarding the requested Adjustment:

- Bureau of Environmental Services responded that the proposed project will add greater than 500 square feet of new impervious area and will therefore trigger the requirements of the City's Stormwater Management Manual. It does not appear that approval of the requested adjustment will preclude the construction of adequately sized stormwater management facilities so the Bureau of Environmental Services does not object to approval (Exhibit E-1);
- Bureau of Transportation Engineering responded that there are no transportation-related approval criteria associated with the proposed land use request. In relation to the expected building permit, the applicant is advised that all pertinent Title 17 requirements must be met (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 based on the information provided, there appears to be no conflicts between the proposal and applicable building codes. 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: Five written response have been received in response to the notice of proposal.

The first response came from residents of the Multnomah Neighborhood who live several blocks away. The respondents sent an email in opposition to the proposal and raised concerns that the reduced setback of the ADU would be inconsistent with neighboring properties, thus significantly detracting from the appearance and livability of the area.

The other four responses came from neighbors who live either next to the subject site or within close proximity to it. These emails of support expressed the proposed location of the ADU would

reflect the reduced setback of nearby garages and that the overall distance of about 18 feet between the front of the ADU and the road would help mitigate any impacts of the reduced setback.

Staff response: The ADU's impact on livability and appearance of the surrounding residential area is discussed in Approval Criteria A and B below.

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 reduce the required front building setback from 15 feet to 3 foot.

The purpose of the setback requirement in the R7 zone is stated in Zoning Code Section 33.110.220.A:

Purpose. *The setback regulations for buildings and garage entrances serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the city's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

Maintain light, air, and separation: The proposed ADU would have 18-foot high walls and a roof peak of 23 feet, although the overall height is 20 feet as measured to the midpoint of the gable, which meets the height limit for detached structures. It would be located at least 50 feet from the house and at least 10 feet from the garage on the property to the north, at least 70 feet from the house on the property to the south, and approximately 30 feet to both the house and garage on the subject site. There is no house on the property to the east because of the location of the Texas Hydropark. The ADU would be no closer to any of these existing structures than 10 feet, which is the distance that would result if both the ADU and the existing structure were set back 5 feet each from a shared property line. Therefore the location of the ADU would maintain light and air. The Fire Bureau reviewer had no

concerns about the requested Adjustments and access to the structure for fire fighting would be available from the front, side, and rear. Therefore the location of the ADU would also maintain separation for fire protection and access for fire fighting.

This purpose statement is met.

Reflect general building scale and placement: The subject site is a through lot that contains a two-story house and a two-car, one-story detached garage 3 feet from the front property line along SW 32nd Avenue. There are four other through lots in the direct vicinity that share a similar development pattern. 7008 SW 33rd Avenue, which is located directly north of the subject site, contains a two-story house and a two-car, one-story detached garage about 3 feet from the front property line along SW 32nd Avenue. 7016 SW 33rd Avenue, which is located directly south of the subject site, contains a two-story house and a two-car, one-story detached garage about 3 feet from the front property line along SW 32nd Avenue. 6930 SW 33rd Avenue, which is located at the northwest corner of SW 32nd Avenue and SW Texas Street, contains a two-story house and a three-car, two-story detached garage with living space above it zero feet from the front property line along SW 32nd Avenue. This reduced garage setback was approved through a 1997 Adjustment Review. 6918 SW 33rd Avenue, which is located just north of 6930 SW 33rd Avenue, contains a two-story house and a two-car, one-story detached garage about 0 feet from the front property line along SW 32nd Avenue. The ADU is proposed to be located 3 feet from the front property line along SW 32nd Avenue, which would follow the established development pattern in the direct vicinity. Therefore the proposed ADU would reflect the general building scale and placement of houses in the neighborhood.

This purpose statement is met.

Promote a reasonable physical relationship between residences: The proposed ADU would be located at least 50 feet from the house on the property to the north and at least 70 feet from the house on the property to the south. There is no house on the property to the east because of the location of the Texas Hydropark. Therefore despite being located within the front setback, the ADU would maintain a reasonable physical relationship between residences.

This purpose statement is met.

Promote options for privacy: Although the ADU would be located within the front setback, there is no house directly across 32nd Avenue from the ADU because of the location of the Texas Hydropark. A 3-foot setback from the front property line would leave about 18 feet between the front of the ADU and the edge of the SW 32nd Avenue. There is an additional 15 feet of unpaved right-of-way between the front property line and the road. Within this right-of-way area, there are several large trees and thick vegetation, which would provide natural screening for the ADU. Therefore the proposed location of the ADU would promote options for privacy for the neighboring properties.

This purpose statement is met.

Require larger front setbacks: For the subject site and the four other through lots directly to the north and south of the subject site, although there are two front property lines rather than a front and a rear property line, the houses are oriented toward SW 33rd Avenue and SW 32nd Avenue acts more as a rear alleyway than a front street. Each of these five through lots has a garage accessed by SW 32nd Avenue and located close to the front property line. The open and visually pleasing front yards are located on the SW 33rd Avenue street frontage and not on SW 32nd Avenue. The proposed location of the ADU would not affect the front yard of the subject site, nor the front yards of the adjacent through lots and would continue the pattern of treating SW 32nd Avenue as a rear alleyway.

This purpose statement is not applicable.

Provide adequate flexibility: The proposed ADU would be located on the subject site so that it is compatible with the setbacks of the nearby detached garages along SW 32nd Avenue. It would fit the topography of the site and take advantage of natural screening provided by both public trees in the right-of-way between the road and the front property line and private trees on the subject site that together would limit views from the south, east, and north.

This purpose statement is met.

Provide room for a car: The applicant's proposal does not affect the on-site parking area. This purpose statement is not applicable.

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 in the findings for Approval Criterion A, the ADU would be located close to the front property line along SW 32nd Avenue just like the nearby existing detached structures on through lots. Reflecting the general building scale and placement would ensure that it is compatible with the site and surrounding residential area.

There are no identified livability impacts associated with privacy. Although the ADU would be located within the front setback, there is no house directly across 32nd Avenue from the ADU because of the location of the Texas Hydropark. A 3-foot setback from the front property line would leave about 18 feet between the front of the ADU and the edge of the SW 32nd Avenue. There is an additional 15 feet of unpaved right-of-way between the front property line and the road. Within this right-of-way area, there are several large trees and thick vegetation, which would provide natural screening for the ADU.

Additionally, there are no identified livability impacts associated with safety. The Fire Bureau responded with no concerns regarding the proposed ADU and did not raise any issues about access for firefighting. The ADU would be accessible from the front, side, and rear for firefighting and through the building permit review will have to meet all applicable fire and life safety code requirements.

For these reasons, the proposal will not detract from 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 Criteria A and 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 reduce the front setback 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, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the required front building setback from 15 feet to 3 feet (Zoning Code Section 33.110.220.B and Table 110-3), per the approved site plans, Exhibits C-1 through C-3, signed and dated December 1, 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-3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-261205 AD. No field changes allowed."

Staff Planner: Lauren Russell

Lauren Russell

Decision rendered by: _____ **on December 1, 2016.**

By authority of the Director of the Bureau of Development Services

Decision mailed: December 6, 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 October 19, 2016, and was determined to be complete on November 1, 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 October 19, 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: March 1, 2017.**

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 December 20, 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 **December 21, 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.

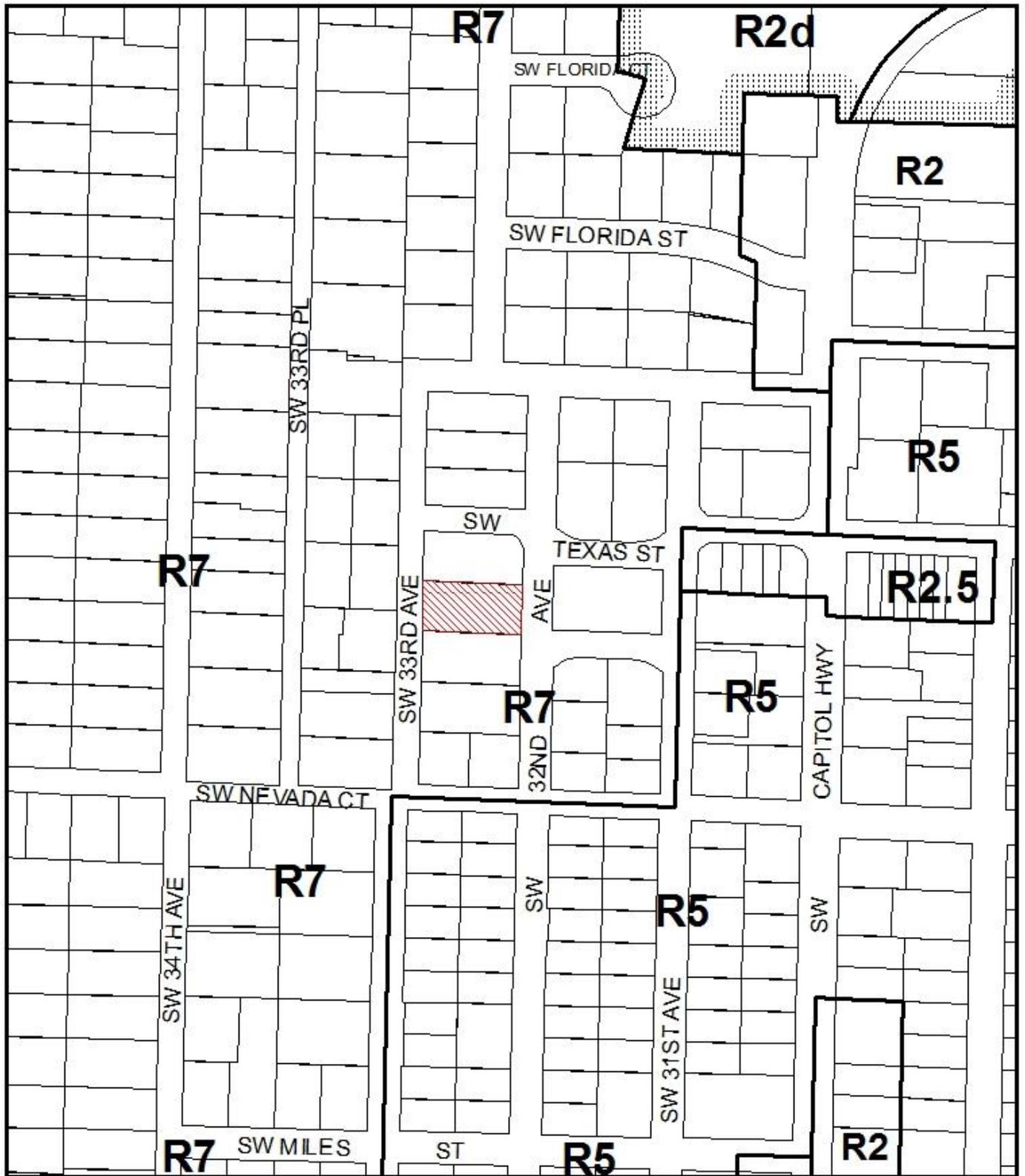
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Narrative and Plans 10/19/16
 2. Revised Plans 10/31/16
 3. Revised Narrative 11/1/16
 4. Revised Plans 11/2/16
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Full Size Site Plan

3. Front ADU Elevation (attached)
- 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:
1. Stewart Rounds and Bernadine Bonn, 11/6/16, email in opposition
 2. Tye and Joan Steinbach, 11/21/16, email in support
 3. Len and Hester Carr, 11/22/16, email in support
 4. John and Elisa Mills, 11/22/16, email in support
 5. Christine Glenn, 11/28/16, email in support
- G. Other:
1. Original LUR Application

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 16-261205 AD
1/4 Section	3726
Scale	1 inch = 200 feet
State_Id	1S1E20AB 10500
Exhibit	B (Oct 21, 2016)

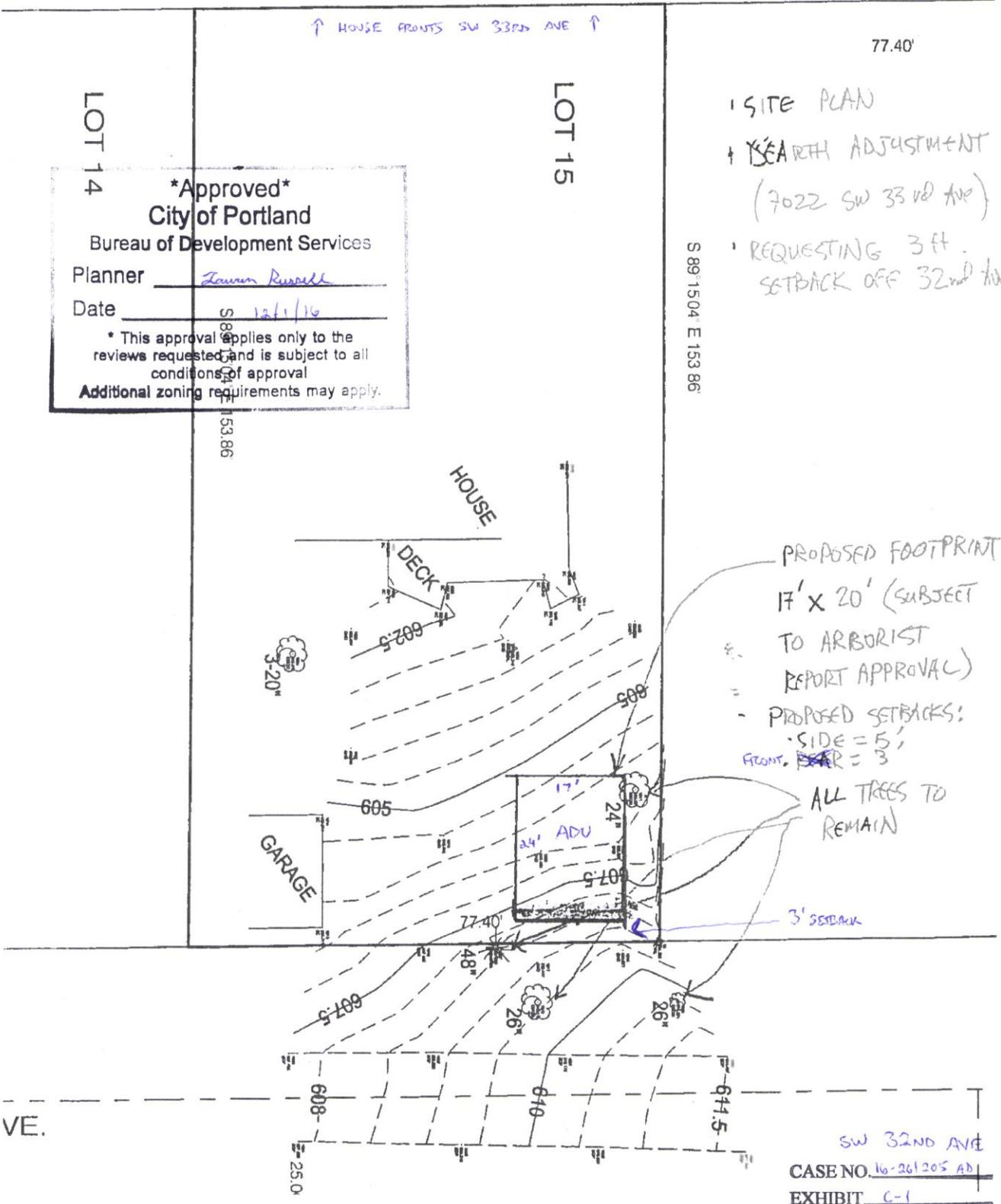
LU 16-261205 AD

N 00°09'30" W

ADJUSTMENT REQUEST TO REDUCE THE REQUIRED FRONT BUILDING SETBACK FROM 15' TO 3'.

20.00'

SW 33RD AVE



SW 32ND AVE
 CASE NO. 16-261205 AD
 EXHIBIT C-1

Approved
City of Portland
 Bureau of Development Services
 Planner Jawuan Russell
 Date 12/1/16
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

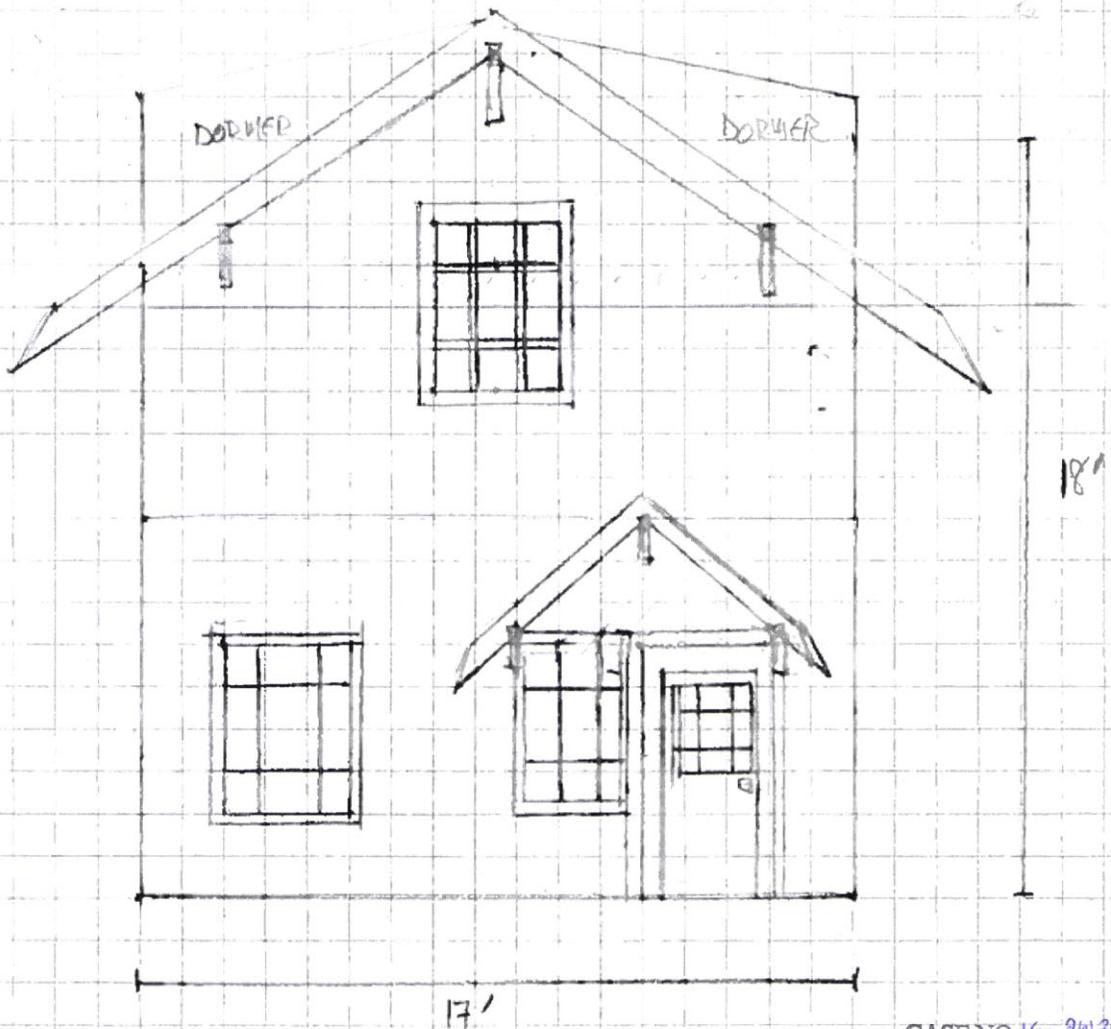
CHRIS DEARTEH
 7022 SW 33rd Ave

ADJUSTMENT ELEVATION

APPROVAL PERTAINS TO OVERALL HEIGHT AND EAVE OF ADU. MODIFICATIONS TO PLACEMENT / LOCATION OF WINDOWS, DOORS, PORCH, AND OTHER DESIGN DETAILS IS OURN WITHOUT HAVING TO AMEND THIS DECISION.

EAST ELEVATION

APPROX. 1" = 4'



CASE NO. 16-261205 AD
 EXHIBIT C-3

ADU FRONT ELEVATION - SW 32ND AVE