



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

FROM CONCEPT TO CONSTRUCTION

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Date: December 30, 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 16-251100 AD

GENERAL INFORMATION

Applicant: James N Saul
4074 NE 7th Ave
Portland, OR 97212

Owner: James N Saul, Alexandra R Delucenay, and Kent J Delucenay
4074 NE 7th Ave
Portland, OR 97212

Site Address: 4074 NE 7TH AVE

Legal Description: BLOCK 18 LOT 1, LINCOLN PK ANX
Tax Account No.: R497302820
State ID No.: 1N1E23CB 17600
Quarter Section: 2631
Neighborhood: King, contact Andrew Neerman at andrew.neerman@kingneighborhood.org.

Business District: North-Northeast Business Assoc, contact at chair@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Zena Rockowitz at 503-388-5070.

Zoning: R2.5a – Single-Dwelling Residential 2,500, Alternative Design Density Overlay

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

Proposal:

The applicant proposes to convert a portion of the existing basement and all of the one-car tuck under garage to a 500 square foot accessory dwelling unit (ADU). The proposed conversion will remove the existing required on-site parking space and the existing driveway that leads to the tuck under garage is too short to accommodate the required 9-foot by 18-foot parking space. Per Zoning Code Section 33.266.110.B.1 and Table 266-2, one on-site parking space is required per household living unit; however, if the site is located fewer than 500 feet from a transit street with peak hour service occurring at 20-minute or fewer intervals, no parking is required

(Zoning Code Section 33.266.110.D.1.) Because the subject site is located over 700 feet from NE Martin Luther King Jr. Boulevard, a transit street where the Number 4 bus line provides frequent peak hour service, the applicant requests an Adjustment to reduce the one required on-site parking space to zero.

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 5,000 square foot lot located on the southeast corner of the intersection of NE Mason Street and NE 7th Avenue. The site is currently developed with a one-and-a-half story single-dwelling residence with an attached tuck-under garage. Adjacent properties are similarly developed with one- to two- story single-dwelling residences or duplexes, many with attached tuck-under garages though some with no garages.

Zoning: The R2.5 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.

Accessory dwelling units can be added to a house in the R2.5 zone. No additional parking is required for the accessory dwelling unit.

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 December 1, 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; 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 with no objection to the proposed Adjustment and provided information about Title 17 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: No written responses have been received from either the Neighborhood Association or notified property owners in response to the "Notice of 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 reduce the one required on-site parking space to zero.

The Development Review Section of Portland Transportation provided the following response (Exhibit E-2):

The Development Review Section of Portland Transportation (PBOT) has reviewed the proposal for potential impacts regarding the public right-of-way, traffic impacts, and conformance with adopted policies, designations, Title 33, Title 17, and for potential impacts upon transportation services.

*As stated in Zoning Code section 33.266.110.A, the purpose of required on-site parking “is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. **Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking.** Multi-dwelling development that includes a large number of units may require some parking to support existing and future uses in the area and serve residents and guests, especially those with disabilities. **Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle, and vehicle conflicts as much as possible.**”*

The subject site includes 100-ft of frontage on NE Mason and 50-ft of frontage on NE 7th. The applicant has proposed to convert the existing garage to an accessory dwelling unit and close the existing curb-cut, approximately 8'-10" wide, located on NE Mason. Given that there isn't sufficient space in front of the garage to accommodate an on-site parking space, conversion of the garage will eliminate on-site parking from this lot.

With the closure of the curb-cut, there will be sufficient space abutting this lot to accommodate 4 on-street parking spaces on NE Mason and 2 on-street spaces on NE 7th. These 6 spaces are sufficient to accommodate the expected demand for parking generated by the existing/proposed uses.

Any attempt to accommodate a new on-site parking space to the east of the existing structure on NE Mason would result in the removal of one on-street parking space and create a potential conflict point between vehicles and pedestrians. The site is located within an area that has good street connectivity, pedestrian facilities, and access to transit services. For the reasons stated herein, PBOT has no objections to the requested Adjustment.

Per PBOT's response, the proposed Adjustment can equally meet the intent of the regulation. In order to ensure that the on-site parking space is replaced with an on-street parking space, as a condition of approval, the applicant must close the existing curb cut and driveway and reconstruct the sidewalk corridor and curb at this location. With the condition of approval, 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 subject site is located within close proximity to transit, has good street connectivity, and good pedestrian facilities so does not require off-street parking. Additionally, closing the curb-cut will result in room for 6 on-street parking spaces along the site's NE Mason Street and NE 7th Avenue lot lines. The condition of approval that the applicant must close the existing curb cut and driveway and reconstruct the sidewalk corridor and curb at this location ensures that these 6 on-street parking spaces will be available after the conversion of the garage to the ADU. According to PBOT, these spaces are sufficient to accommodate the expected demand for parking generated by the existing and proposed uses of the site. Therefore the proposal will not significantly detract from the livability and appearance of the surrounding residential area. With the condition of approval, 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 condition of approval that the applicant must close the existing curb cut and driveway and reconstruct the sidewalk corridor and curb at this location will ensure that the on-site parking space is replaced with an on-street parking space. This condition mitigates for the potential negative impact on the on-street parking supply. With this condition of approval, 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 one required on-site parking space to zero, with the condition of approval that the applicant close the existing curb cut and driveway and reconstruct the sidewalk corridor and curb at this location, 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 approval criteria have been met. Because the approval criteria have been met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the one required on-site parking space to zero (Zoning Code Section 33.266.120.B.1 and Table 266-2, per the approved site plans, Exhibits C-1 through C-3, signed and dated December 23, 2016, subject to the following conditions:

- 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 – C-3, except as modified in Condition B below. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-251100 AD."
- B. The applicant is required to close the curb cut and driveway and reconstruct the sidewalk corridor and curb at this location. The closed curb cut and reconstructed sidewalk corridor must be shown on the final building permit plans.

Staff Planner: Lauren Russell

Decision rendered by: Lauren Russell **on December 23, 2016.**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 30, 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 September 29, 2016, and was determined to be complete on November 21, 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 September 29, 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 21, 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 January 13, 2017** 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 **January 17, 2017**. 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:

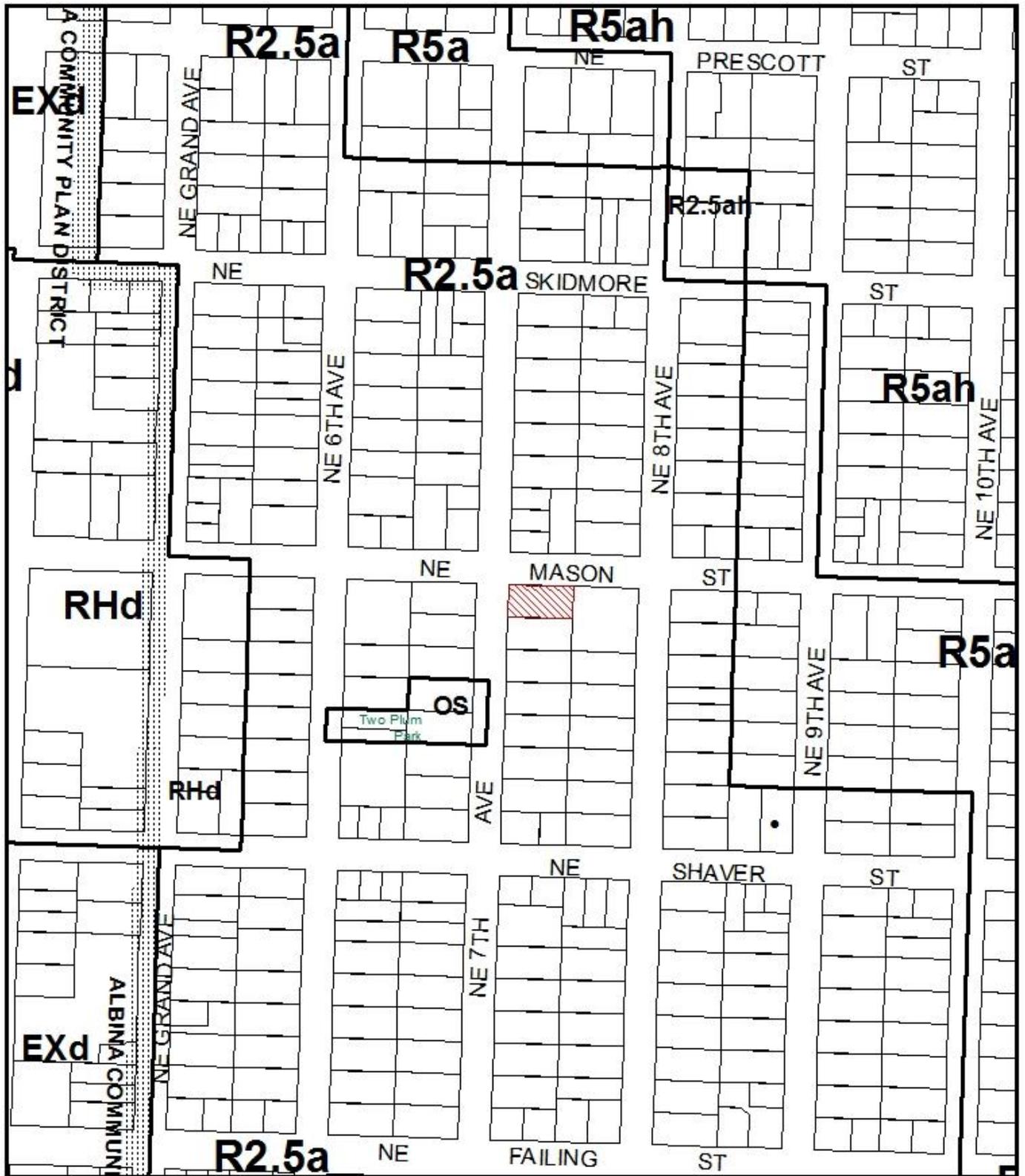
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative and Plans 9/29/16
 - 2. Revised Plans 11/21/16
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Side Elevation (attached)
 - 3. Existing Basement/Garage 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 Section of BDS
- F. Correspondence: none received
- G. Other:
 - 1. Original LUR 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
- Historic Landmark

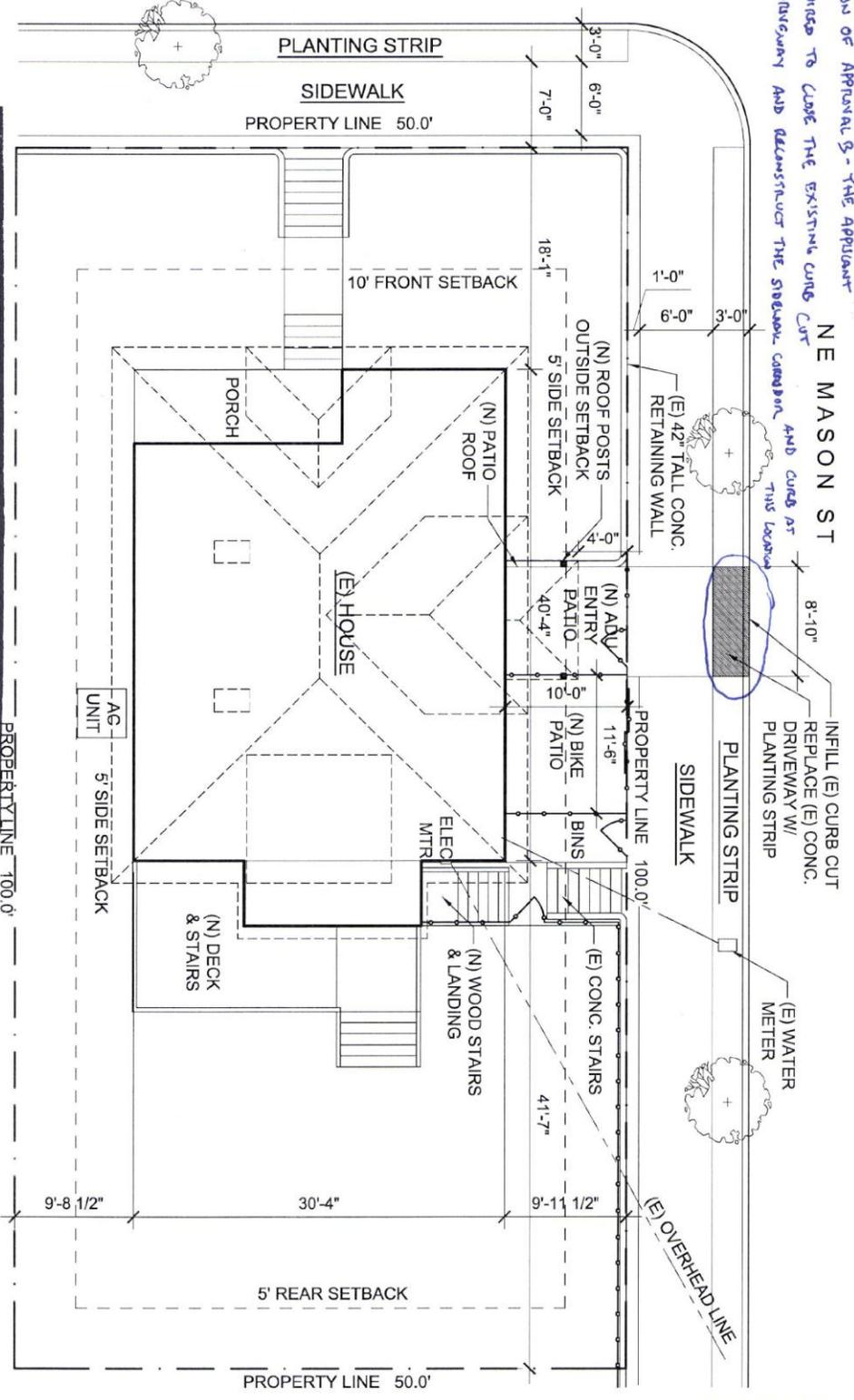
File No.	<u>LU 16-251100 AD</u>
1/4 Section	<u>2631</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1N1E23CB 17600</u>
Exhibit	<u>B</u> (Oct 02, 2016)

LU 16-251100 AD

OPTION OF APPROVAL 9 - THE APPLICANT IS REQUESTED TO CUT THE EXISTING CURB CUT AND DRIVEWAY AND RECONSTRUCT THE SIDEWALK CURB CUT AND DRIVEWAY AS SHOWN

NE 7TH AVE

NE MASON ST



Approved
 City of Portland - Bureau of Development Services
 Planner Jessica Randall Date 12/23/16
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

1
A0.0

SAUL + DELUCENAY ADU : SITE PLAN
SCALE: NTS

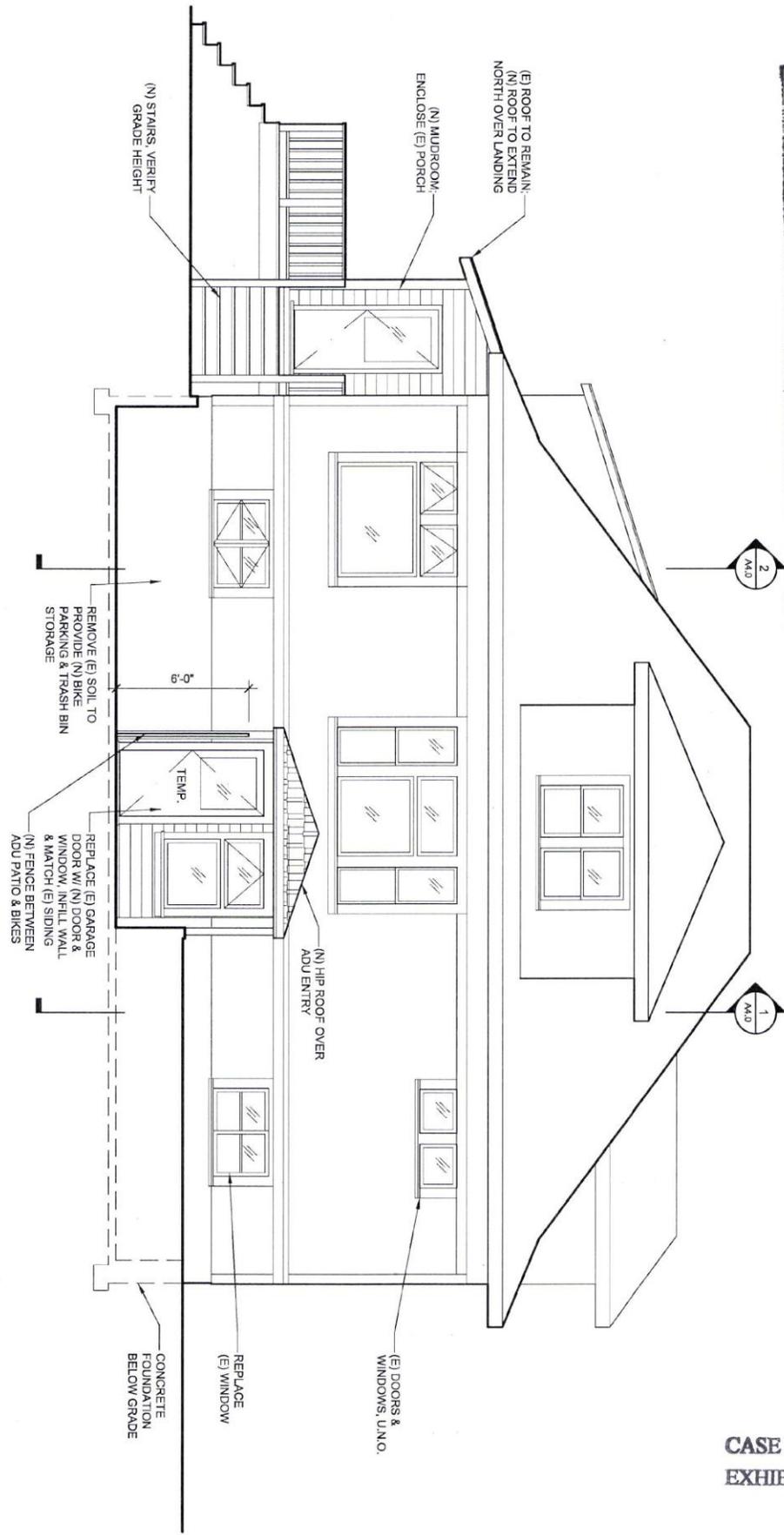


- SITE PLAN LEGEND**
- EXISTING STRUCTURES
 - PROPOSED STRUCTURES
 - PROPERTY LINE
 - SETBACK LINE
 - ROOF ABOVE
 - 6' TALL WOOD FENCE
 - WATER & METER
 - (E) POWER LINE
 - TREE OR PLANT

ADJUSTMENT REQUEST TO REDUCE THE ONE REQUIRED ON-SITE PARKING SPACE TO ZERO

CASE NO. 16-251100 AD
EXHIBIT C-1

Approved
 City of Portland - Bureau of Development Services
 Planner Tawana Russell Date 12/23/16
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



2
 A3.0

SAUL + DELUCENAY ADU : NORTH ELEVATION (ADU ENTRY)
 SCALE: NTS



CASE NO. 16-251100 AD
 EXHIBIT C-2