



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

Ted Wheeler, Mayor  
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**Date:** June 15, 2017  
**To:** Interested Person  
**From:** Lauren Russell, Land Use Services  
503-823-7817 / [Lauren.Russell@portlandoregon.gov](mailto:Lauren.Russell@portlandoregon.gov)

**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 17-167154 AD**

**GENERAL INFORMATION**

**Applicant:** Eric Arndt  
Arndt Buildt LLC  
7117 N Lancaster Ave  
Portland, OR 97217

**Owner:** Angela M Martin  
5246 NE 17th Ave  
Portland, OR 97211

**Site Address:** 5246 NE 17TH AVE

**Legal Description:** BLOCK 18 LOT 4, VERNON  
**Tax Account No.:** R860703530  
**State ID No.:** 1N1E23AB 13900  
**Quarter Section:** 2532  
**Neighborhood:** Vernon, contact Carson Mead at [carson.mead@gmail.com](mailto:carson.mead@gmail.com).  
**Business District:** North-Northeast Business Assoc, contact at [chair@nnebaportland.org](mailto:chair@nnebaportland.org)  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030.

**Plan District:** None  
**Zoning:** R2.5ah – Single-Dwelling Residential 2,500, Alternative Design Density Overlay, Aircraft Landing 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 existing one-car tuck under garage to an approximately 435 square foot accessory dwelling unit (ADU). Access for the ADU is proposed to utilize the existing garage carriage doors. No exterior alterations are proposed. Per Zoning Code Section 33.205.040.C.1, only one entrance may be

located on the façade of a house. Because both the entrance to the main house and the entrance to the ADU would be located on the front façade of the house, the applicant requests an Adjustment to allow a second street-facing entrance for a house with a basement ADU.

**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 east side of NE 17<sup>th</sup> Avenue between NE Emerson Street and NE Sumner Street. The site is currently developed with a one-and-a-half-story single-dwelling residence with an attached tuck under garage and a small shed in the rear yard. Adjacent properties are similarly developed with one- and two-story single-dwelling residences, some with attached tuck under garages and others with no garages or detached garages located toward the rear of the properties.

**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.

The Alternative Design Density (a) overlay zone is an optional overlay zone that provides opportunities for increased density in limited situations, provided that additional design compatibility requirements are met for the project. The overlay zone does not apply to this proposal.

The Aircraft Landing (h) overlay zone provides for safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment. In Residential zones, structures are regulated by the base zone height limits rather than the height limits of the overlay zone. The overlay zone does not apply to this proposal.

**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 May 18, 2017. The following Bureaus have responded with no issues or concerns regarding the requested Adjustment:

- Bureau of Environmental Services (BES) responded that the pollution reduction and flow control requirements of the Stormwater Management Manual are not triggered and BES does not object to the requested Adjustment (Exhibit E-1);
- Bureau of Transportation Engineering (PBOT) responded that there are no transportation-related approval criteria associated with the proposed land use request and PBOT has no requirements for the Adjustment (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 building permit was been applied for and a plans examiner has been in contact with the applicant (Exhibit E-6).

**Neighborhood Review:** A total of two written responses have been received from notified property owners in response to the "Notice of Proposal." Both respondents stated that they have no objections to the requested Adjustment.

## 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 allow a second street-facing entrance for a house with a basement ADU.

The purpose of the ADU development standards is stated in Zoning Code Section 33.205.040.A:

**Purpose.** *Standards for creating accessory dwelling units address the following purposes:*

- *Ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones;*
- *Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;*
- *Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and*
- *Provide adequate flexibility to site buildings so that they fit the topography of sites.*

The one-and-a-half story house sits up on the sloped lot. The main entrance is a full flight of stairs up from the street level and the basement-level garage is visible below. The existing driveway is cut into the hillside and is bordered by retaining walls. Because the proposed ADU entrance would utilize the carriage doors that lead to the existing garage, there would be no exterior changes to the front elevation. The internal conversion would maintain the style of the house, which is common along this section of NE 17<sup>th</sup> Avenue, and would therefore be compatible with the desired character and livability of the residential area. No exterior change also means that the existing building scale and placement on the lot would be maintained, which would allow for the sharing of common space on the lot.

The proposed ADU would be approximately 435 square feet, compared to the primary unit, which is at least 1,540 square feet, so the ADU would be smaller in size than the main house. The main entrance to the primary unit is on the main level of the house and is composed of a full flight of stairs leading to a covered porch, which is a prominent feature of the building. The main entrance to the ADU would continue to utilize the existing carriage doors, which are set back more than 21 feet from the front lot line and are somewhat hidden beyond the stairs to the main entrance, the sloping front yard, and slight overhang of the main level of the house beyond the carriage doors. Although there would be two main entrances on the same façade, the ADU entrance would be subordinate to the main unit entrance. Therefore, 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, although there would be two entrances on the same façade, the ADU entrance would be subordinate to the main unit entrance, which includes a full flight a stairs leading to a covered porch on the main level. The ADU entrance would utilize the existing carriage doors on the lower level of the house. No exterior changes are proposed. The style of the house would be maintained, as would the scale and placement of the building on the lot, which would be compatible with the desired character and livability of the residential area. 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.

Because there will no longer be a garage on the site and an on-site parking space is not required due to proximity to a frequent transit bus line, the applicant proposes to close the curb cut and rebuild the sidewalk. This work will need to meet the requirements of Title 17.

## CONCLUSIONS

The proposal to allow a second street-facing entrance for a house with a basement ADU 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 allow a second street-facing entrance for a house with a basement ADU, per the approved site plans, Exhibits C-1 through C-3, signed and dated June 12, 2017, 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 17-167154 AD. No field changes allowed."

**Staff Planner: Lauren Russell**



**Decision rendered by:** \_\_\_\_\_ **on June 12, 2017.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: June 15, 2017**

**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 May 5, 2017, and was determined to be complete on May 12, 2017.

*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 May 5, 2017.

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: September 9, 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 June 29, 2017** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> 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](http://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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **June 30, 2017** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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:

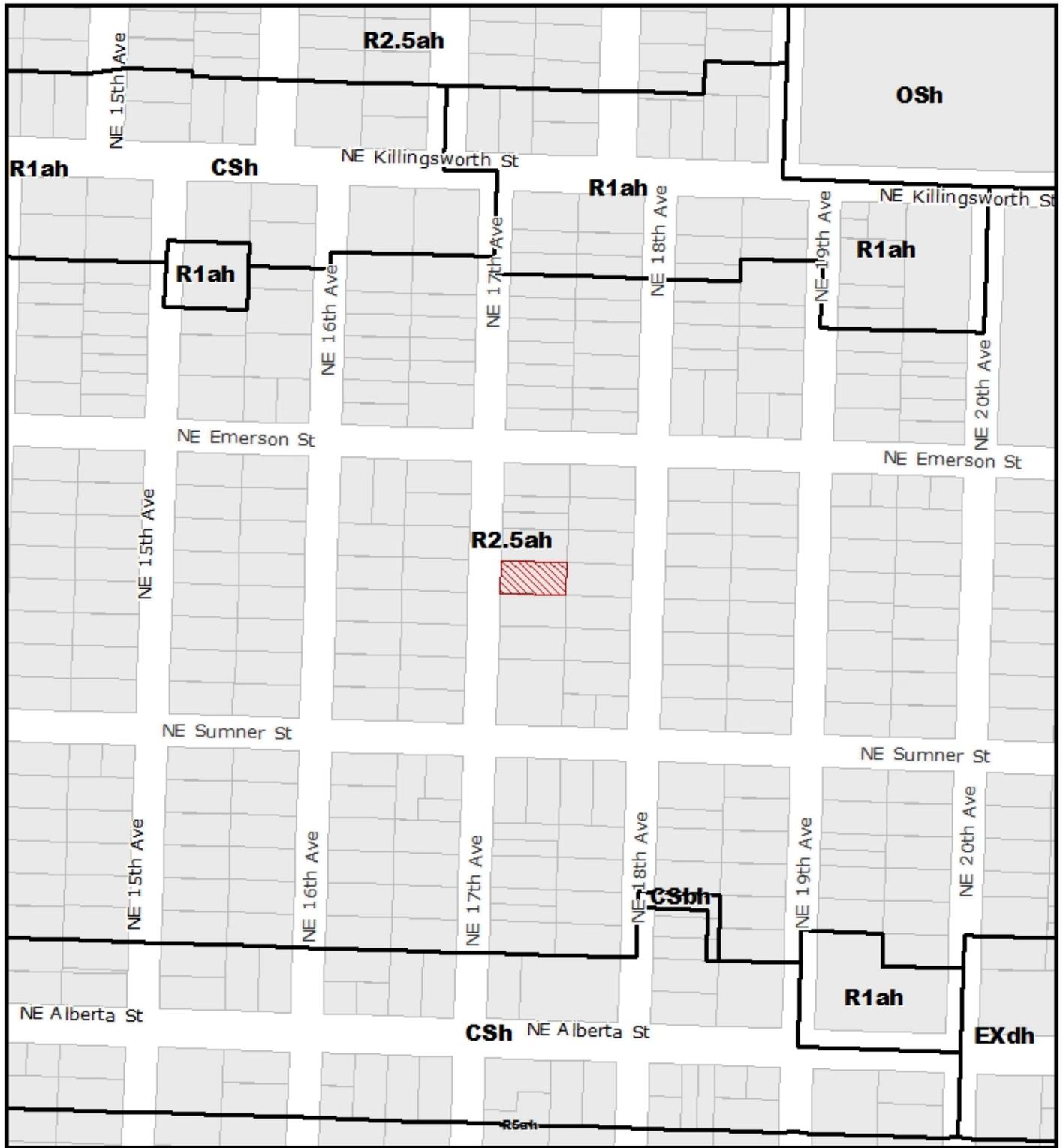
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Narrative, Site Plans, and Photographs received 5/5/17
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevation (attached)
  - 3. Basement Floor Plan (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. Jean Rogers and Robert Haslam, received 5/22/17, email of no objections
  - 2. Alexandra Campbell, received 5/22/17, email of no objections
- G. Other:
  - 1. Original LU 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**   
NORTH

 Site

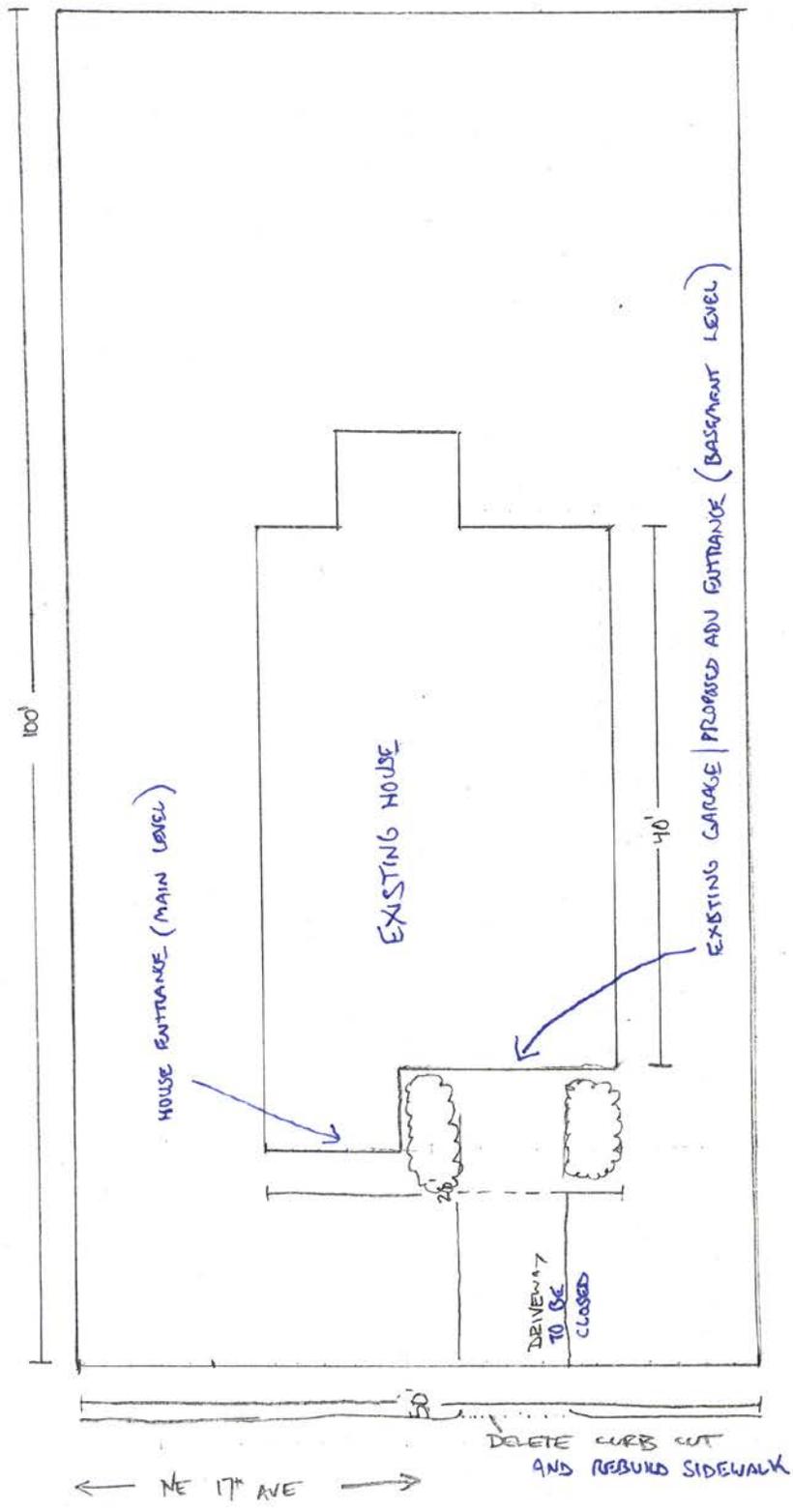
File No.	LU 17-167154 AD
1/4 Section	2532
Scale	1 inch = 200 feet
State ID	1N1E23AB 13900
Exhibit	B May 09, 2017

**\*Approved\***  
 City of Portland - Bureau of Development Services  
 Planner Jessie Russell Date 6/18/17  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

LW 17-167154 AD

$\frac{1}{4}'' = 1.0'$

A  
N



$\frac{1}{8}'' = 1'$

CASE NO. 17-167154 AD  
 EXHIBIT C-1

**\*Approved\***  
 City of Portland - Bureau of Development Services

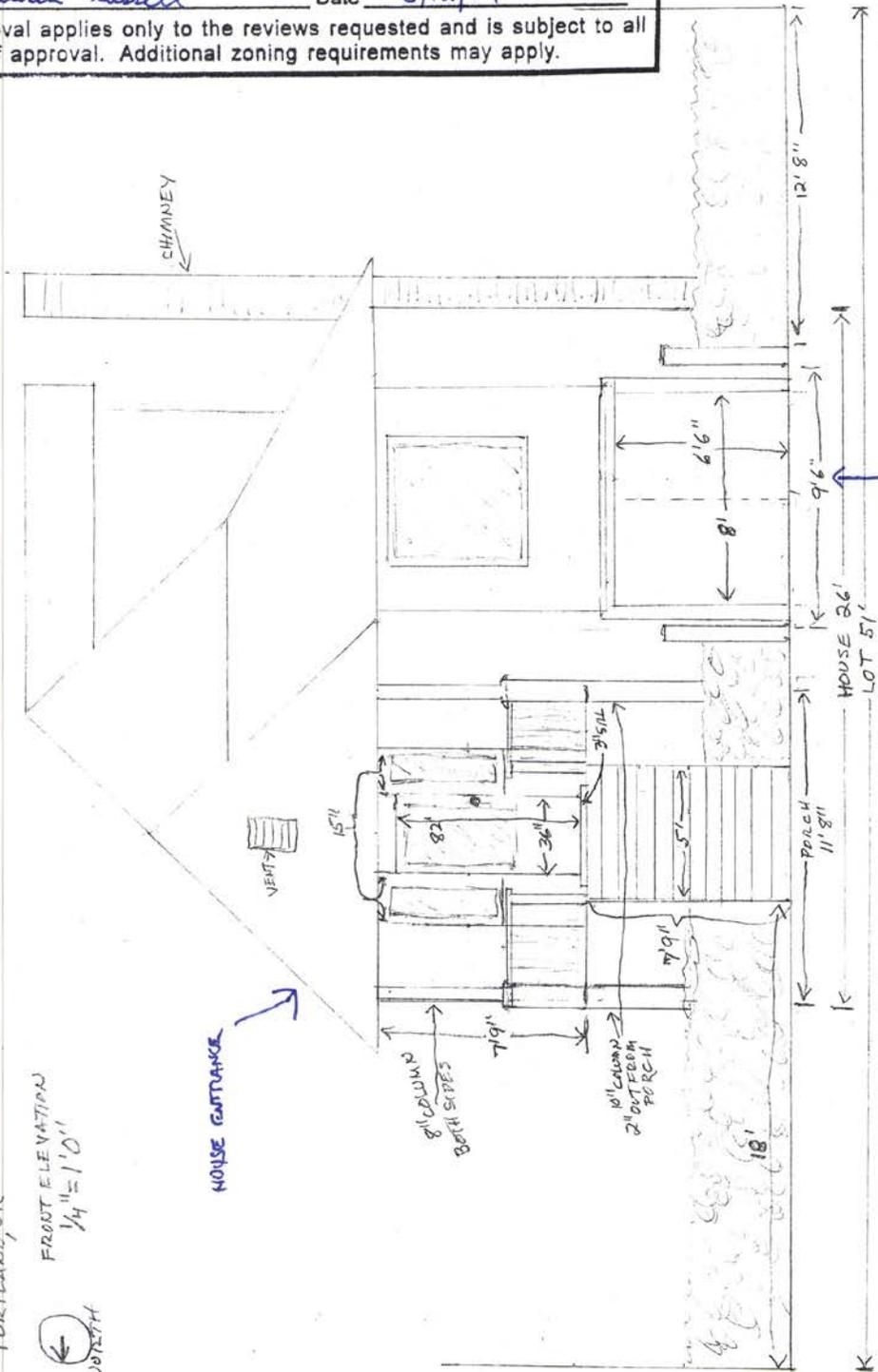
Planner Lauren Russell Date 6/12/17

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

ANGELA MARTIN  
 5246 NE 17TH AVE  
 PORTLAND, OR

FROST ELEVATION  
 1/4" = 1'0"

NORTH



PROPOSED ADU ENTRANCE  
 USING EXISTING CARTRIDGE  
 DOORS

CASE NO. 17-167154 AD  
 EXHIBIT C-2

LA 17-167154 AD

