



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

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Date: June 19, 2017
To: Interested Person
From: David Besley, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 17-159486 AD

GENERAL INFORMATION

Applicant: Dave Spitzer | DMS Architects Inc
2325 NE 19th Ave
Portland, OR 97212

Owner: Henry Vest
930 NW NAITO PKWY #K25
PORTLAND, OR 97209-3747

Site Address: 506 NE 114TH AVE

Legal Description: BLOCK 5 LOT 2, SILVEY ADD & PLAT 2
Tax Account No.: R770501390
State ID No.: 1N2E34AC 10200
Quarter Section: 2942

Neighborhood: Hazelwood, contact Arlene Kimura at 503-252-9429
Business District: Gateway Area Business Association, contact Paul Wild at paul.wild@mhcc.edu
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550

Zoning: R3a (Multi-Dwelling Residential 3,000 with an Alternative Design Density Overlay Zone)

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

Proposal:
The applicant proposes to convert approximately 1,040 square feet of a fully subterranean 1,180 square foot basement with into living area for an Accessory Dwelling Unit (ADU). The

Portland Zoning Code requires that the size of ADUs be no more than 75 percent of the living area of the primary dwelling unit or 800 square feet, whichever is less (33.205.040.C.3). In this case, the living area of what would be the primary dwelling unit (the main floor) is approximately 1,180 square feet, so 800 square feet is the maximum ADU size allowed. An Adjustment is therefore required to increase the maximum 800 square-foot ADU size to approximately 1,040 square feet for a basement-to-ADU conversion.

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 10,150 square foot lot is on the northeast corner of NE Glisan Street and NE 114th Street in the Hazelwood neighborhood. The relatively flat site contains a single story house that includes 1,180 square feet on the main level, a fully subterranean, partially finished basement of the same size, and a 399 square foot attached garage. The surrounding vicinity is developed primarily with single-dwelling and multi-dwelling residences, with commercial pockets along NE Glisan Street.

Zoning: The R3 zone is a low-density multi-dwelling zone that is intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. The "a" zone overlay (Alternative Design Density Zone) is not impacted by the Adjustment 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 12, 2017**. The following Bureaus have responded with the following information:

- The Life Safety Section of BDS responded with no concerns and included Building Code information (Exhibit E.1);
- The Bureau of Environmental Services responded with no concerns and noted that a stormwater disposal location must be shown at the time of building permit submittal (Exhibit E.2); and
- The Bureau of Transportation responded with no concerns as there are no transportation-related approval criteria (Exhibit E.3).

The following Bureaus have responded with no concerns (Exhibit E.4):

- The Site Development Section of BDS;
- The Water Bureau; and
- The Fire Bureau.

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant has requested to convert a fully subterranean basement to an ADU. An Adjustment is required to increase the maximum allowed ADU size to approximately 1,040 square feet of living area for the basement-to-ADU conversion. The purpose statement for the ADU Standards is as follows:

33.205.040 Design Standards

A. *These standards:*

- *Ensure that accessory dwelling units are compatible with the desired character and livability of Portland’s residential zones;*

The Portland Zoning Code defines “desired character” as “the preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district. It also includes the preferred and envisioned character based on any adopted area plans or design guidelines for an area.” In this instance, *Desired Character* is defined by the character statement of the C3 zone.

The R3 zone is a low density multi-dwelling zone. It allows approximately 14.5 dwelling units per acre. Density may be as high as 21 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one and two story buildings and a relatively low building coverage. The major type of new development will be townhouses and small multi-dwelling residences. This development is compatible with low and medium density single-dwelling development. Generally, R3 zoning will be applied on large sites or groups of sites.

The proposed basement-to-ADU conversion is compatible with the character statement as it is a single-story, low-density, multi-dwelling development with relatively low building coverage. Because the ADU would be completely underground and not visible, there will be no visual impacts to 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*

The ADU compatibility standard under consideration regulates the size of the ADU, which is fully contained within the existing house, not its appearance, placement on site, or physical relationship with abutting structures. Therefore, there are no issues with regard to the shared common spaces on the lot, such as driveways and yards.

With regards to the maximum size, the ADU will be approximately 140 square feet smaller than the primary dwelling unit on the main level. Also, as noted above, the approximately 1,040 square foot ADU would be completely underground and not visible. No additional floor area or changes to the structure placement are proposed as part of the basement-to-ADU conversion.

- *Provide adequate flexibility to site buildings so that they fit the topography of sites.*

This purpose is not applicable as the ADU is located in the basement of the primary dwelling unit.

This criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be

consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: As noted above, the ADU will be fully contained within the existing house and will not be visible or have a different appearance from the single family dwelling unit is currently on site; therefore, this proposal will not significantly detract from the livability or appearance of the area.

This criterion is met.

- C.** If more than one Adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one Adjustment is proposed; therefore, this criterion is not applicable.

- D.** City-designated scenic resources and historic resources are preserved;

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. There are no such resources present on the site; therefore, this criterion is not applicable.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: There are no discernible impacts from adding an ADU accessory to a single family residence in a multi-dwelling zone or from granting the requested Adjustment to the maximum ADU size allowed that would require mitigation. As noted above, the ADU will be below grade and not visible.

This criterion is met.

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

Findings: Environmental overlay zones are designated on the Official Zoning Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

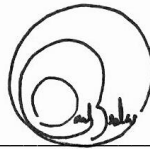
An Adjustment is required to increase the maximum 800 square-foot ADU size to approximately 1,040 square feet for a basement-to-ADU conversion. The ADU will be below grade and not visible. Therefore, this proposal will not significantly detract from the livability or appearance of the area and will not impact scenic, environmental, or historic resources. No additional floor area is proposed as part of the basement-to-ADU conversion. The proposal meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment is therefore required to increase the maximum 800 square-foot ADU size to approximately 1,040 square feet for a basement-to-ADU conversion (33.205.040.C.3), per the approved site plans, Exhibits C.1 and C.2, 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 and C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-159486 AD. No field changes allowed."

Staff Planner: David Besley



Decision rendered by: _____ **on June 12, 2017.**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 19, 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 April 24, 2017, and was determined to be complete on May 8, 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 April 24, 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 5, 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 July 3, 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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **July 5, 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

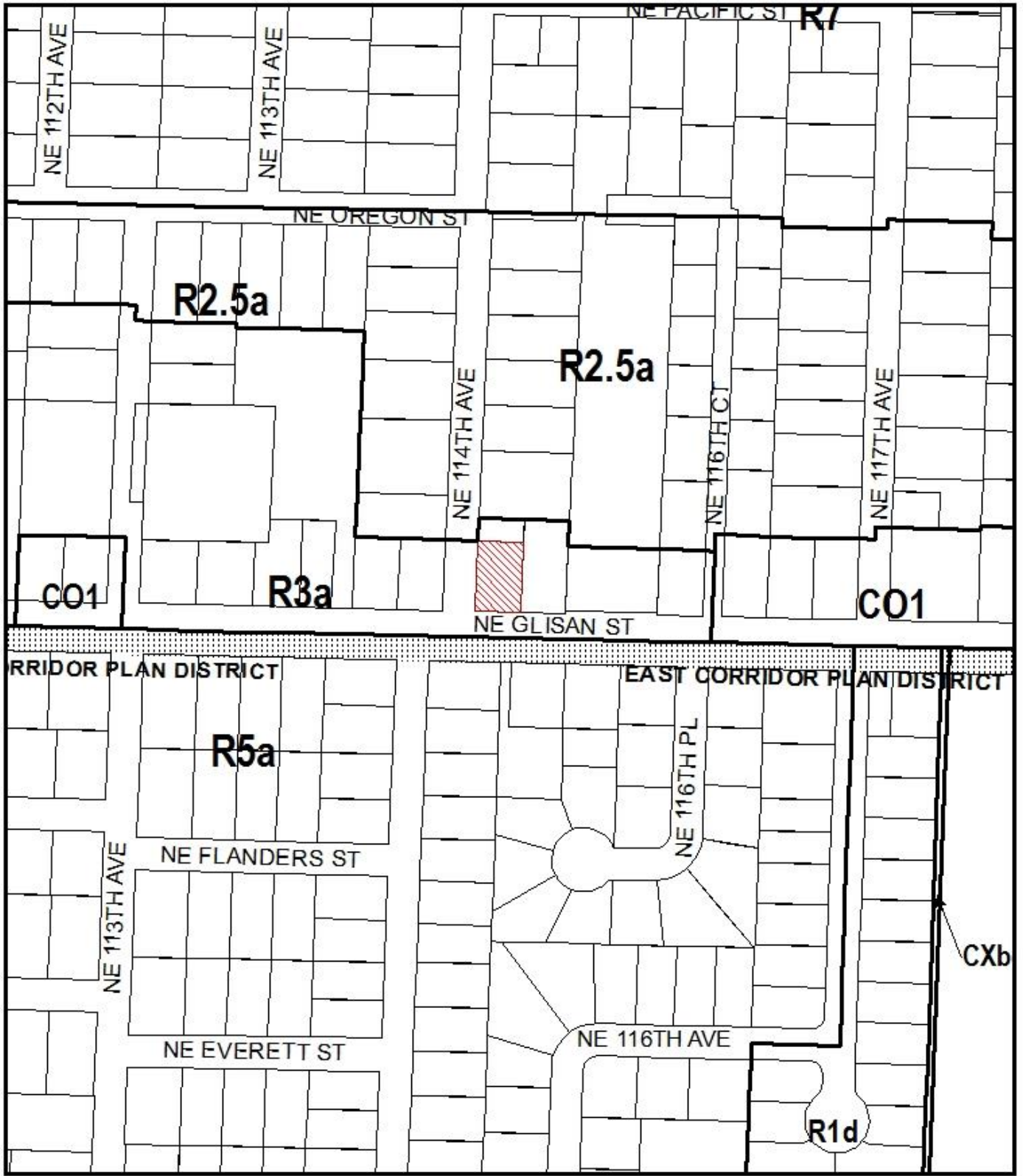
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS


NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Basement ADU Floor Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section of BDS
 - 2. Bureau of Environmental Services
 - 3. The Bureau of Transportation
 - 4. Bureaus responding with no concern
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application Form and Receipt

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

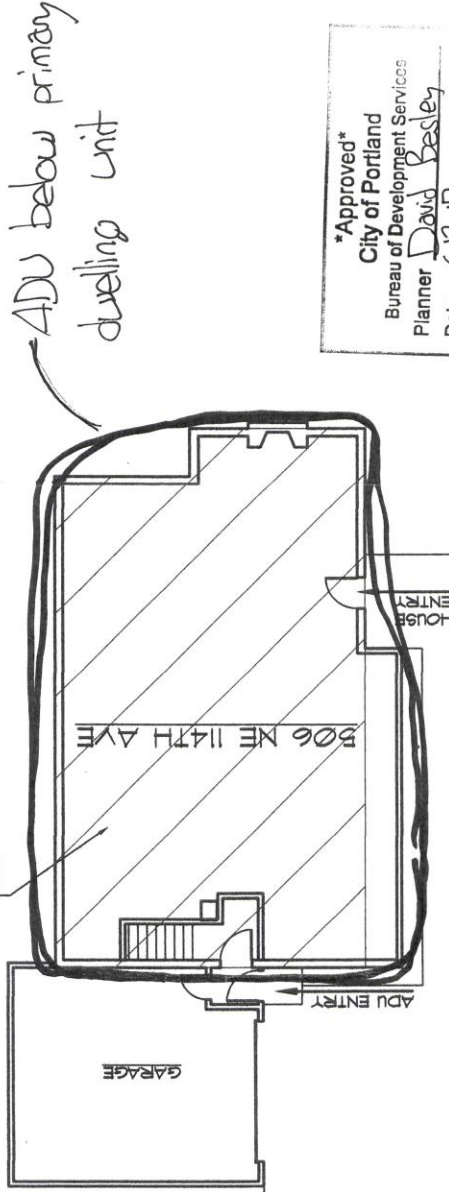
 Site



File No.	<u>LU 17-159486 AD</u>
1/4 Section	<u>2942</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N2E34AC 10200</u>
Exhibit	<u>B (Apr 26, 2017)</u>

Adjustment request to increase maximum 800 sq.ft. ADU size to approximately 1,040 sq.ft. for a basement-to-ADU conversion.

ADU BELOW AREA HATCHED OR HOUSE SHOWN



Approved
City of Portland
Bureau of Development Services
Planner David Besley
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.

EX C1
WL 17-159486 AD



NE GLISAN STREET

NE 144TH AVE

Exh C.2
LU 17-159486 AD

1" = 10'

1160 SF GROSS
1020 SF NET



Basement
ADU PLAN

* Approved*
City of Portland
Bureau of Development Services
Planner David Besley
Date 6-12-17
* This approval applies only to the
reviews requested and is subject to all
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Additional zoning requirements may apply.

