



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

Chloe Eudaly, Commissioner
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Date: August 10, 2017
To: Interested Person
From: Lauren Russell, Land Use Services
503-823-7817 / 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 17-174565 AD

GENERAL INFORMATION

Applicant: Steven Jacobsen
SJ Designs
17680 NW Shadyfir Loop
Beaverton, OR 97006

Owner: Yemanebrhan Berhe
10905 NE Knott St
Portland, OR 97220-2969

Site Address: 10905 NE KNOTT ST

Legal Description: LOT 1, PARTITION PLAT 2009-58
Tax Account No.: R649892290
State ID No.: 1N2E27BD 05401
Quarter Section: 2741
Neighborhood: Parkrose Heights, contact Tom Badrick at tbadrick@aol.com.
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.
Plan District: None
Zoning: R7h – Single-Dwelling Residential 7,000, 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 lower level of the existing split-level single-dwelling residence into a 950 square foot accessory dwelling unit (ADU). No exterior changes or increases in floor area are proposed. Per Zoning Code Section 33.205.040.C.3, the size of the ADU may be no more than 75-percent of the living area of the primary dwelling unit or 800

square feet of living area, whichever is less. The living area of the primary dwelling unit is over 2,500 square feet, which would limit the size of the proposed ADU to 800 square feet. Because the proposed ADU would not meet the maximum allowed size, the applicant requests an Adjustment to increase the size of the proposed ADU from 800 square feet to 950 square feet.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A through F of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The subject site is a 9723 square foot lot located on the north side of NE Knott Street between NE 108th Avenue and NE 111th Drive. It is currently developed with a one-and-a-half story split-level single-family residence with an attached 2-car garage and a detached shed in the side yard. Adjacent properties are similarly developed with one- to two-story single-dwelling residences with mostly attached one- to two-car garages and small detached structures.

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.

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 that prior land use reviews include the following:

- LU 15-217178 AD: Approval of an Adjustment to exceed the maximum allowed building coverage for a 357 square foot addition to the existing adult foster home.
- LU 07-185552 LDP: Approval of a Preliminary Plan for a 2 parcel partition that will result in 1 standard lot that will retain the existing dwelling unit and 1 flag lot that will be made available for development consistent with Residential 7,000 (R7) zone standards.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed July 10, 2017. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services responded that pollution reduction and flow control requirements of the Stormwater Management Manual are not triggered (Exhibit E-1);
- Bureau of Transportation Engineering responded that there are no transportation-related approval criteria associated with the proposed land use request and that there are no transportation 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: Five written responses opposing the project have been received from four different neighbors in response to the Notice of Proposal.

The first two responses came from the neighbor who lives on the flag lot to the north of the subject site. This neighbor raised several concerns including that the site plan included in the notice did not accurately show where the property lines are, that a tree was removed that was required by the 2007 land division to be retained, that the property has more vehicle area in the front yard than is allowed, that additional structures have been built on the property that were not shown on the site plan included in the notice, and that adding an ADU to an existing adult foster care home will change the character of the property from single-dwelling to multi-dwelling. The second response from this neighbor included photographs of the issues raised in the first response.

The third response came from the neighbor who lives to the west of the subject property. This neighbor raised similar concerns, including the inaccuracies on the site plan included in the notice, that the ADU will change the character of the subject site to multi-dwelling, and that the property has more vehicle area in the front yard than is allowed. This neighbor was also concerned that the ADU would make traffic and parking problems worse.

The fourth response came from the neighbor who lives to the southwest of the subject property. This neighbor also raised concerns about the ADU's impact on the character of the single-dwelling area, that the property has more vehicle area in the front yard than is allowed, and that the tree required to be retained was removed.

The fifth response came from the neighbor who lives to the southeast of the subject property. This neighbor wrote that he agreed with the issues raised by the neighbor who submitted the first two responses.

Staff response: The four neighbors raised a number of issues and concerns in their letters and emails in opposition to the proposal.

Site plan inaccuracies. In response to neighbor concerns that the site plan included in the July 10th notice did not accurately identify the location of the eastern property line and did not contain all structures that have been built on the property, the applicant submitted an updated site plan on July 31, 2017 (Exhibit A-3). The revised site plan contains the correct property dimensions that were created through the 2007 land division that created the subject lot and also the shed and portico over the side entrance. See below for additional information regarding these recently-added features.

Tree removal. The 2007 land division approval included a condition that the subject site must be in conformance with the approved tree preservation plan. This plan required that trees numbered 268 and 270 are required to be preserved. Tree 268 has since been removed and is being addressed through an open enforcement case. The removal of this tree is not related to the requested adjustment and therefore cannot be considered as part of this review.

Vehicle area. Per Zoning Code Section 33.266.120.C.3.a, no more than 40 percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. The subject site currently has more than 40 percent of the front yard as vehicle area. The applicant indicates that the owner will resolve this issue at a later date through a future building permit review. The existing vehicle area in the front yard is not related to the requested adjustment and therefore cannot be considered as part of this review. The attached site plan shows a front yard condition with vehicle area paving under the 40% limit, as proposed by the applicant.

Other structures: It appears that a shed and a portico over the side entrance have been added to the house since the most recent building permit for the addition to the back of the house in 2015. Before being able to add onto the house, a land use review was required to increase the maximum allowed building coverage for the site. This review approved a maximum coverage of 3,315 square feet. The new square footage of the shed and portico exceed the allowed coverage. This issue will have to be resolved before a building permit may be issued; however, because the building

coverage is not related to the requested adjustment to increase the size of the ADU within the existing basement, these structures cannot be considered as part of this review.

Neighborhood character: Both adult foster care and ADUs are allowed in single-dwelling zones by right if development standards are met. The Zoning Code defines household as “one or more persons related by blood, marriage, domestic partnership, legal adoption, or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit; or one or more handicapped persons as defined in the Fair Housing Amendments Act of 1988, plus not more than 5 additional persons, who live together in one dwelling unit.” Therefore, if this adult foster care facility meets the Zoning Code definition of household, it is an allowed use in single-dwelling zones. Additionally, Zoning Code Section 33.205.020 states that an accessory dwelling unit may be added to a house, attached house, or manufactured home in an R, C, or EX zone. Therefore ADUs are allowed to be added to houses in single-dwelling zones. No Type B home occupations will be allowed, but the ADU is allowed by right.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated that approval criteria A through F, below, have been met.

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

Findings: The applicant is requesting an Adjustment to increase the size of the ADU from 800 square feet to 950 square feet.

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 desired character and livability of the R7 zone is stated in the purpose and development standards of the zone. The R7 zone is intended to preserve land for housing and provide housing opportunities for individual households. The one-and-a-half story split-level house contains a main floor and a basement floor that is partially visible on the western portion of the street-facing façade and is only fully visible on the west side elevation. The main unit entrance is accessed from NE Knott Street at the middle of the building and the proposed ADU entrance would be through an existing door leading to the basement at the rear of the

house. No exterior changes are proposed so the style of the house would be maintained. Because the ADU would be accessed by a door in the backyard, the house would preserve the structure's clear appearance as a single-dwelling residence with just one entrance door visible from the street.

The R7 zone development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. Because the ADU would be located within the existing house and no exterior changes are proposed, the aesthetics of the house would be maintained, as would safety and privacy. The attached ADU would promote energy conservation because it would not result in a brand new building on site. The existing building scale and placement on the lot would be maintained, which would allow for the sharing of common space on the lot, which can be used for recreational opportunities. The proposed ADU would therefore support the livability of the residential area.

The proposed ADU would be approximately 950 square feet, compared to the primary unit, which is over 2,000 square feet, so the basement-level ADU would be smaller substantially in size than the main unit on the main level of the house. The ADU would be located within the existing house and not within a new, separate detached structure, so it would not be apparent from the street that the ADU is any larger than the allowed 800 square feet. Based on these reasons, the proposed ADU size Adjustment equally meets the intent of the regulation and this criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: Because the subject site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. As discussed above in the findings for Approval Criterion A, the ADU would be located within the existing house and not within a new, separate detached structure, so it would not be apparent from the street that the ADU is any larger than the allowed 800 square feet. No exterior changes are proposed so the style of the house would be maintained. Because the ADU would be accessed by a door in the backyard, the house would preserve the structure's clear appearance as a single-dwelling residence with just one entrance door visible from the street. The proposed ADU would therefore be compatible with the desired character and livability of the residential area. For these reasons, the proposal will not significantly 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.

The applicant will be required to correct or remove the portico and detached shed that were added to the property during the permit stage. Front yard paving limit and other relevant development standards must also be met. This Adjustment review only addresses the ADU size limitation.

CONCLUSIONS

The proposal to increase the size of the ADU equally meets the intent of the regulations and does not have any impacts on the livability and appearance of the surrounding residential area. 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 increase the size of the ADU from 800 square feet to 950 square feet (Zoning Code Section 33.205.040.C.3), per the approved site plan and details, Exhibits C-1 through C-3, signed and dated August 3, 2017, subject to the following condition:

- 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 17-174565 AD. No field changes allowed."

Staff Planner: Lauren Russell

Decision rendered by:  **on August 3, 2017.**

By authority of the Director of the Bureau of Development Services

Decision mailed: August 10, 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 22, 2017, and was determined to be complete on June 30, 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 22, 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: October 28, 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 August 24, 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 **August 25, 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 and Plans received 5/22/17
 - 2. Revised Narrative and Site Plan received 6/30/17
 - 3. Revised Narrative and Site Plan received 7/31/17
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations (attached)
 - 3. ADU 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. George Curtis, received 7/14/17, letter in opposition
 - 2. George Curtis, received 7/21/17, email in opposition
 - 3. Barbara Breese, received 7/21/17, letter in opposition
 - 4. Ken and Pauline Juber, received 7/28/17, letter in opposition
 - 5. Stephen Marshall, received 7/31/17, email in opposition
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter mailed 6/5/17

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).

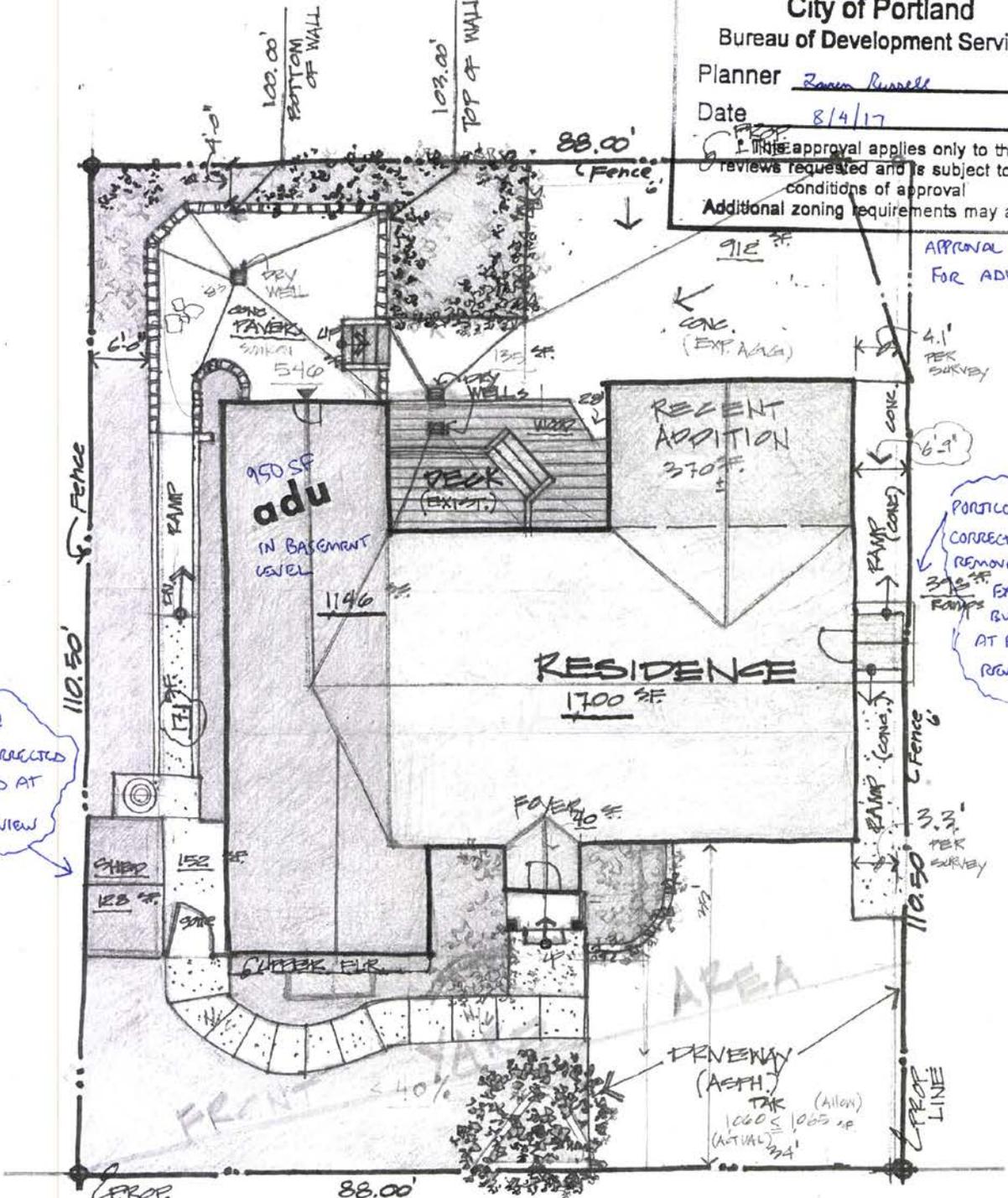


ZONING 
NORTH

 Site

File No.	LU 17-174565 AD
1/4 Section	2741
Scale	1 inch = 200 feet
State ID	1N2E27BD 5401
Exhibit	B May 24, 2017

Approved
City of Portland
 Bureau of Development Services
 Planner Zoan Russell
 Date 8/4/17
 This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.



APPROVAL ONLY FOR ADU SIZE.

PORTICO MUST BE CORRECTED OR REMOVED FROM EXISTING BUILDING AT PERMIT REVIEW

SHED MUST BE CORRECTED OR REMOVED AT PERMIT REVIEW

ADJUSTMENT REQUEST TO INCREASE THE SIZE OF THE PROPOSED ADU FROM 800 SF TO 950 SF.

N.E. KNOTT ST.
32'



SITE PLAN

SCALE: 1" = 10'

CASE NO. 17-174565 AD
 EXHIBIT C-1

10905 N.E. KNOTT ST.

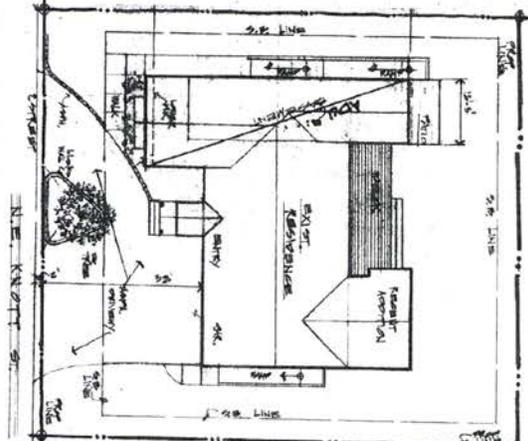
Designatory agency reviews

Designatory agencies are required to review and comment on the proposed project within the time frame specified in the project schedule. The designatory agency reviews are required to be completed by the date specified in the project schedule. The designatory agency reviews are required to be submitted to the Bureau of Development Services (BDS) for review and comment. The designatory agency reviews are required to be submitted to the BDS in a separate envelope from the project schedule. The designatory agency reviews are required to be submitted to the BDS in a separate envelope from the project schedule.



SITE PLAN

Zone: R1
 1000 sq. ft. ADU

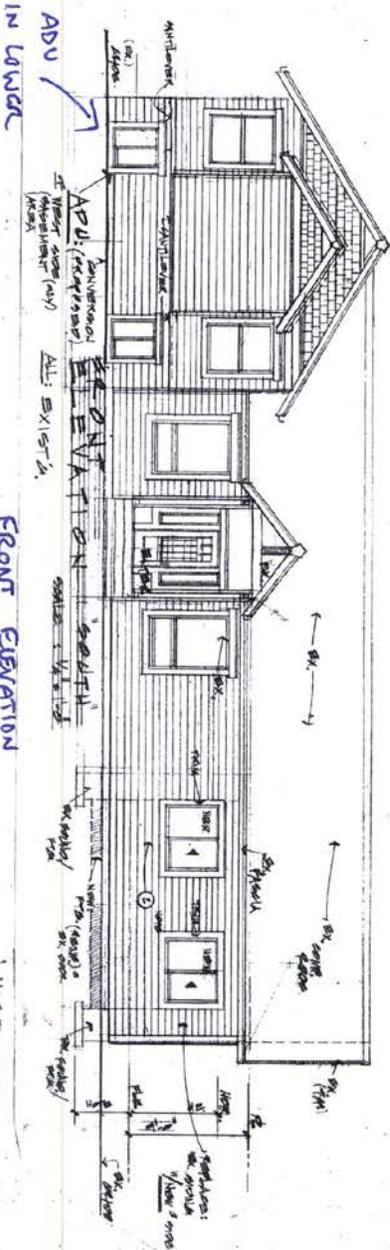


Approved
 City of Portland - Bureau of Development Services

Planner Jarvin Russell Date 8/4/17

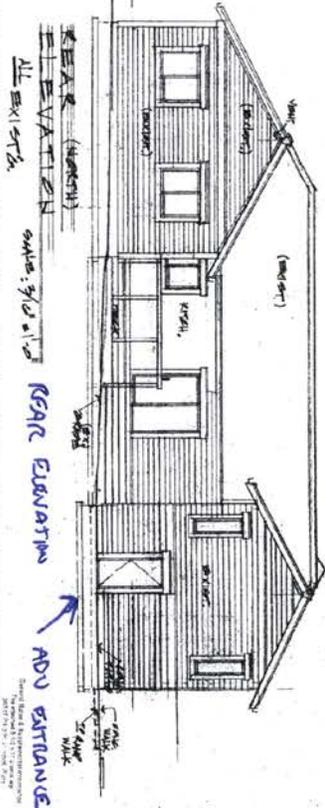
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

IN LOWER LEVEL
 (NO EXTERIOR CHANGES PROPOSED)



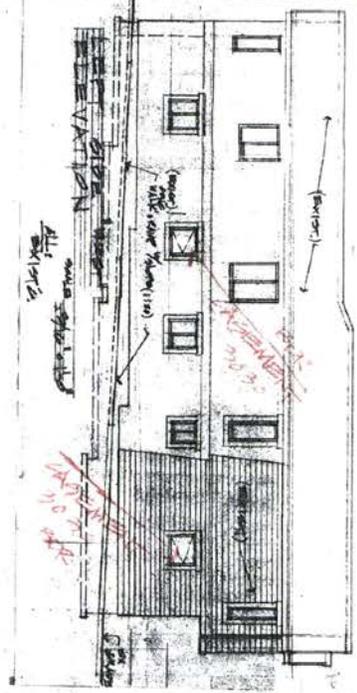
FRONT ELEVATION

LM 17-1745R (AD)



REAR ELEVATION

ADU ENTRANCE



APPROVAL ONLY FOR ADU SIZE

ADU

DATE	17-173345-RS		CASE NO. <u>17-174505AA</u> EXHIBIT <u>C-2</u>
	A GEMISE WALL FOR APPROX FOR MR. YEMANE BERHE 10005 NE. KNOTT ST. PORTLAND, OREGON		

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