



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

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Date: October 18, 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 17-221512 AD

GENERAL INFORMATION

Applicant: Kendra Shippy | DMS Architects
2325 NE 19th Ave | Portland, OR 97212

Owner: David A Griswold
2504 SE Taylor St | Portland, OR 97214-2871

Site Address: 2504 SE TAYLOR ST

Legal Description: BLOCK 11 LOT 5, TILTONS ADD
Tax Account No.: R835603800
State ID No.: 1S1E01BC 13900
Quarter Section: 3133

Neighborhood: Buckman, contact Rick Johnson at rickjohnson77@comcast.net
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Zoning: R5 (Single-dwelling Residential 5,000)
Case Type: AD (Adjustment Review)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to convert a detached accessory structure into an Accessory Dwelling Unit (ADU) and build an approximately 80 square foot addition to the east of the structure. The total size of the proposed ADU is 296 square feet. The Portland Zoning Code requires that structures be set back a minimum of 5 feet from the side and rear lot lines in this zone (Section 33.110.220; Table 110-3). The existing structure is located 1 foot – 9 inches from the side (west) lot line. This portion of the structure is proposed to be remodeled such that it will be 2 feet from the from the side (west) lot line. The existing structure is located 1 foot - 5 inches from the rear (south) lot line and the expansion will be in line with this distance. Two Adjustments are therefore required for the ADU conversion:

1. To reduce the minimum side (west) setback from 5 feet to 2 feet; and
2. To reduce the minimum rear (south) setback from 5 feet to 1 foot - 5 inches.

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 4,000 square-foot site is on the southeast corner of SE Taylor and SE 25th Avenue. The site is relatively flat and developed with a 2,966 square foot two-story house. A one-story detached accessory structure is located in the southwest corner of the lot, within both the side and rear setbacks. The surrounding vicinity is developed primarily with single-dwelling residences. Many of the properties in the immediate area have detached accessory structures located at the rear and side property lines.

Zoning: The R5 zone is a single-dwelling zone that is intended to preserve land for housing, and to provide housing opportunities for individual households. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

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 **September 11, 2017**. The following Bureaus have responded with the following information:

- The Bureau of Transportation responded with no concerns and provided information regarding driveways and curb cuts (Exhibit E-1);
- The Life Safety Section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information (Exhibit E-2);
- The Bureau of Environmental Services (BES) responded no concerns and included stormwater management requirements (Exhibit E-3); and
- The Bureau of Parks, Forestry Division responded with no concerns, but noted that street trees will need to be planted as required in the Tree Code (Section 11.50.060) (Exhibit E-4).

The following Bureaus have responded with no concerns (Exhibit E-5):

- Site Development Review 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 Adjustment 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 an Adjustment to reduce the minimum west side setback from 5 feet to 2 feet and to reduce the minimum rear setback from 5 feet to 1 foot - 5 inches to convert an existing detached accessory structure to an ADU and build an approximately 80 square foot addition to the east of the structure. The relevant purpose statements and associated findings are found below:

33.110.220 Setbacks

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

- *They maintain light, air, separation for fire protection, and access for fire fighting;*

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

The existing one-story detached accessory structure is currently 2 feet from the side (west) property line and 1 foot - 5 inches feet from the rear (south) property line. The proposed addition includes a 6 foot – 8 inch expansion to the east, into the rear setback. Because the adjacent property to the south is topographically elevated approximately 2 feet and significantly screened with fencing and vegetation, there will be no additional impacts to the physical relationship between residences, the amount of light, air, and separation, and the availability of outdoor areas. No windows are proposed on the southern facade of the ADU, which promotes privacy for the neighboring property closest to the ADU. The proposed ADU will not be closer to the (west) side property line than the existing structure; therefore, there will be no additional impacts to the physical relationship between residences, the amount of light, air, and separation, and the availability of outdoor areas on this side. The west-facing windows will look onto the street rather than onto neighboring properties, and SE 25th Avenue is a wide right-of-way which separates the structure from the house across the street; so there will be no impacts to neighbors' privacy. Many of the surrounding houses in this area have similar accessory structures built within side and rear setbacks. An ADU constructed within the side and rear setbacks will therefore be compatible with this neighborhood.

The Life Safety Plan Review Section and the Fire Bureau have reviewed the request for reduced setbacks, and responded with no concerns with regards to separation for fire protection, or access for fire fighting. The Portland Bureau of Transportation has no concerns regarding the proposed adjustment. There is no existing driveway or curb cut on site.

For all the reasons discussed above, 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 surrounding neighborhood includes detached accessory structures built within side and rear setbacks. The relatively small 296 square foot ADU reads as a one-story structure and proposes an architectural style and materials similar to the primary dwelling unit. This proposal is consistent with the development pattern in the area and will not significantly detract from the appearance of the area. The absence of windows on the south facades protects privacy and livability for adjacent neighbors.

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: The overall purpose of the R5 zone is to preserve land for housing, and to provide housing opportunities for individual households. The proposed ADU will

increase housing opportunities. ADUs are allowed in residential zones on lots developed with a single-dwelling houses. Other than setbacks, the proposed ADU meets development standards. Therefore, the project is still consistent with this overall purpose.

This criterion is met.

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 that would result from granting the requested adjustments for which mitigation would be required.

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

The applicant has requested an Adjustment to reduce the minimum side setback from 5 feet to 2 feet and to reduce the minimum rear setback from 5 feet to 1 foot - 5 inches to convert an existing detached accessory structure to an ADU and build an approximately 80 square foot addition to the east of the structure. The proposed addition includes a 6 foot – 8 inch expansion to the east, into the rear setback. Because the adjacent property to the south is topographically elevated approximately 2 feet and significantly screened with fencing and vegetation, there will be no additional impacts to the physical relationship between residences, the amount of light, air, and separation, and the availability of outdoor areas. No windows are proposed on the southern facade of the ADU, which promotes privacy for the neighboring property closest to the ADU. Many of the surrounding houses in this area have similar accessory structures built within side and rear setbacks. An ADU constructed within the side and rear setbacks will therefore be compatible with this neighborhood. The proposal meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of two Adjustments:

1. To reduce the minimum side (west) setback (Section 33.110.220; Table 110-3) from 5 feet to 2 feet; and

2. To reduce the minimum rear (south) setback (Section 33.110.220; Table 110-3) from 5 feet to 1 foot - 5 inches

to convert a detached accessory structure into an Accessory Dwelling Unit (ADU) and build an approximately 80 square foot addition to the east of the structure per the approved site plan and elevation drawings, Exhibit C.1, signed and dated October 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-221512 AD. No field changes allowed."

Staff Planner: David Besley



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

By authority of the Director of the Bureau of Development Services

Decision mailed: October 18, 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 August 11, 2017, and was determined to be complete on August 31, 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 August 11, 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: December 29, 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 November 1, 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 **November 1, 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;

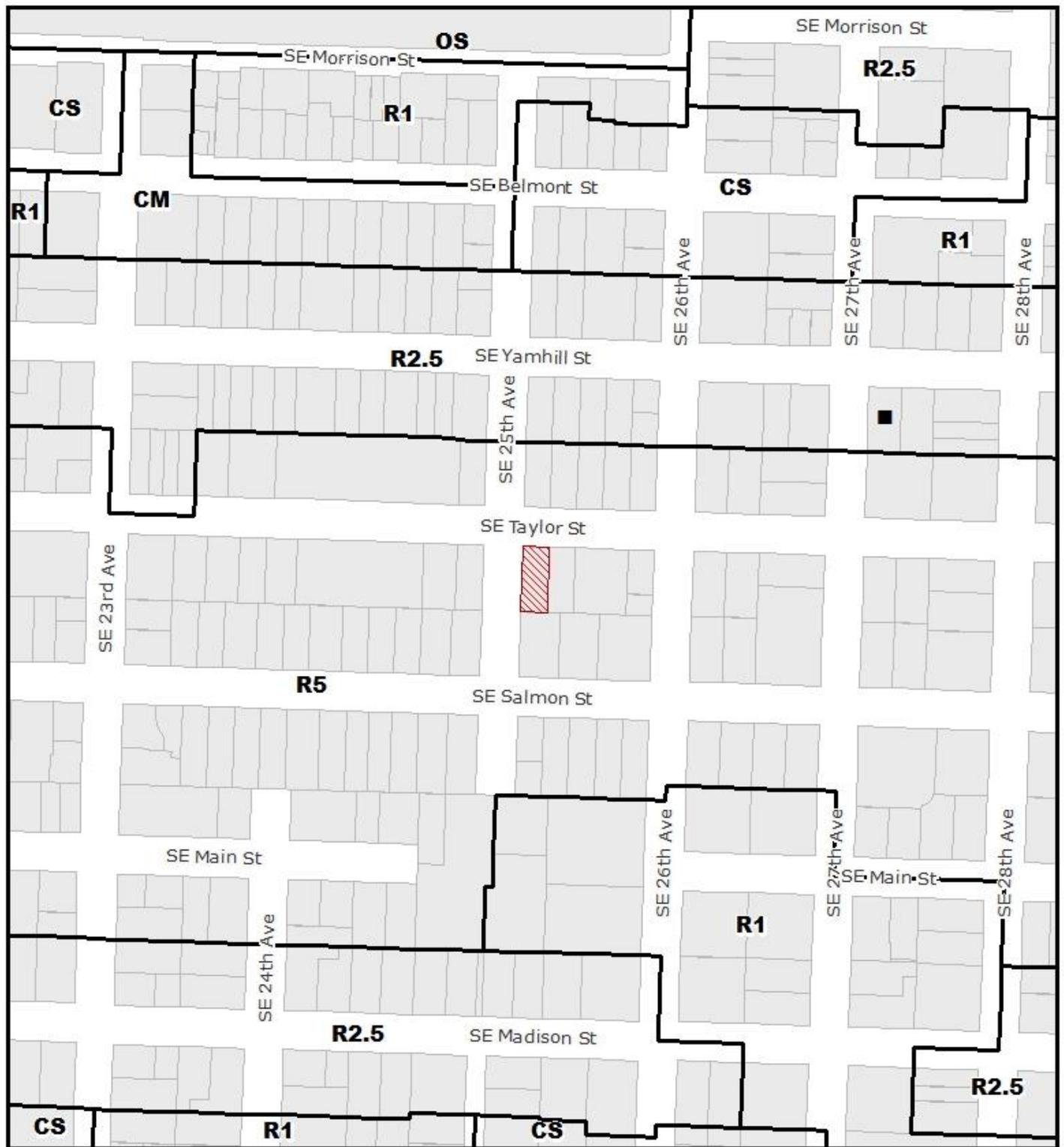
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan and Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Life Safety Section of BDS
 - 3. Bureau of Environmental Services
 - 4. Bureau of Parks, Forestry Division
 - 5. Agencies responding with no concerns
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incomplete letter from staff to applicant, sent September 28, 2017

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
 Historic Landmark

File No.	LU 17-221512 AD
1/4 Section	3133
Scale	1 inch = 200 feet
State ID	1S1E01BC 13900
Exhibit	B Aug 14, 2017

