



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

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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** November 16, 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 17-250456 AD**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Daniel A Sadowsky  
1731 N Jarrett St  
Portland, OR 97217-4621

**Site Address:** 1731 N JARRETT ST

**Legal Description:** BLOCK 5 TL 8400, HAVELOCK  
**Tax Account No.:** R365400920  
**State ID No.:** 1N1E16DD 08400  
**Quarter Section:** 2428  
**Neighborhood:** Overlook NA, contact [landuse@overlookneighborhood.org](mailto:landuse@overlookneighborhood.org).  
**Business District:** None  
**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

**Plan District:** Albina Community  
**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 proposes to remove the existing detached garage located along the eastern side property line and construct a new approximately 432 square foot accessory dwelling unit (ADU) located near the northeast corner of the property. Per Zoning Code Section 33.110.250.C.2.b(4), a detached covered accessory structure is allowed in the side building setback if the structure is no more than 15 feet high and the walls are no more than 10 feet high. Because the proposed ADU would have walls 12'-6" high at its south elevation, it is not allowed within the required building setbacks. Therefore, the applicant requests an Adjustment to reduce the required side setback from the east property line from 5 feet to 1 foot for the proposed 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 4,500 square foot lot located on the north side of N Jarrett Street between N Campbell Avenue and N Concord Avenue. The site is currently developed with a one-and-a-half-story single-dwelling residence with a one-story detached garage toward the northeast corner of the property. Adjacent properties are similarly developed with one- to two-story single-dwelling residences, some with attached garages and some with one-story detached accessory structures located near or within side and rear setbacks. Low-scale commercial development is located along N Interstate Avenue, which is one-and-a-half blocks to the east.

**Zoning:** The R5 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 Albina Community plan district implements the Albina Community Plan. The plan district's provisions are intended to ensure that new higher density commercial and industrial developments do not overwhelm nearby residential areas. The provisions of the plan district do 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 October 19, 2017. The following Bureaus have responded with no issues or concerns regarding the requested Adjustment:

- Bureau of Environmental Services responded with no objections to the requested Adjustment and provided information about stormwater management that will be required at the time of the building permit (Exhibit E-1);
- Bureau of Transportation Engineering responded with no objections to the requested Adjustment (Exhibit E-2);
- Water Bureau responded with no concerns (Exhibit E-3);
- Bureau of Parks-Forestry Division responded with no concerns (Exhibit E-4); and
- Life Safety Review Section of BDS responded with no objections to the requested Adjustment and provided information about fire-rating that will be required at the time of the building permit (Exhibit E-5).

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified neighbors in response to the "Notice of Proposal."

**ZONING CODE APPROVAL CRITERIA****33.805.010 Purpose (Adjustments)**

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

allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

### **33.805.040 Approval Criteria**

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

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

**Findings:** The applicant is requesting an Adjustment to reduce the required side setback from the east property line from 5 feet to 1 foot for the proposed ADU.

The purpose of the setback requirement in the R5 zone is stated in Zoning Code Section 33.110.220.A:

**Purpose.** *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.*

Maintain light, air, and separation: The proposed ADU would have 10-foot high walls on the west, north, and east elevations and a portion of the wall on the south elevation would be 12'-6" adjacent to the sunken porch. The overall height would be 14 feet as measured to the midpoint of the highest gable. It would be located approximately 58 feet from the house on the property to the west, 66 feet from the house on the property to the northwest, 45 feet from the house on the property to the north, 20 feet from the house on the property to the northeast, and 12 feet from the house on the property to the east. Therefore, the location of the ADU would maintain light and air. Access to the structure for fire fighting would be available from the front and side. Therefore, the location of the ADU would also maintain separation for fire protection and access for fire fighting.

Reflect general building scale and placement: There are several neighboring properties that also have detached accessory structures behind the house near the side or rear property lines. 1824 N Simpson Street has a 400 square foot detached garage located along the side property line. 1825 N Jarrett Street has a 504 square foot detached garage located near the rear property line. 1732 N Jarrett Street has a 336 square foot detached garage located at the southeast corner of the lot. 1714 N Jarrett Street has a 480 square foot detached garage located at the southwest corner of the lot. These structures on neighboring properties are also limited to one story in height. While these structures may not have walls as high as 12'-6", because this tallest wall is partially below-grade, the difference in height would not be readily perceived. Therefore, the size and placement of the proposed ADU on the subject site would reflect the general building scale and placement of development in the neighborhood.

Promote a reasonable physical relationship between residences: The proposed ADU would be located approximately 58 feet from the house on the property to the west, 66 feet from the house on the property to the northwest, 45 feet from the house on the property to the north, 20 feet from the house on the property to the northeast, and 12 feet from the house

on the property to the east. Each of these distances is greater than the distance if both the ADU and neighboring houses only met the minimum 5-foot side or rear setback for a total of 10 feet. Therefore, despite being located within the side setback, the proposed ADU would maintain a reasonable physical relationship between residences.

Promote options for privacy: No windows or doors are proposed to be located on the wall that is entirely located within the side setback. The skylights that face east would be set back more than 5 feet from the east property line. The windows and doors on the south-facing wall would also be set back more than 5 feet from the east property line. There is one window on the north-facing wall that would be set back approximately 3 feet from the east property line. It would be located within the ADU's bathroom and would face the rear property line, which would be 5 feet to the north. Because of its orientation to the rear of the property, where the setback is met, instead of the side and its location in the bathroom where windows are primarily for light rather than views, this window would not impact the privacy of the neighboring house to the east. Therefore, the proposed ADU would promote options for privacy for neighboring properties.

Require larger front setbacks: The applicant's proposal would not affect the front setback.

Provide adequate flexibility: As stated above, the proposed ADU would reflect the general building scale and placement of development in the neighborhood so it is therefore compatible with the neighborhood. Additionally, the proposed ADU would fit with the topography of the site, maintain the required 250 square feet of outdoor area that fits a 12-foot by 12-foot square within it, and allow for architectural diversity.

Provide room for a car: The applicant's proposal would not affect the on-site parking area. Although the garage is proposed to be demolished, the driveway would still be more than 50 feet in length from the front property line, which would provide room for the 9-foot by 18-foot parking space outside the 10-foot front setback. Therefore, there would continue to be room for a car to park without overhanging the street or sidewalk and driver visibility would remain enhanced when backing onto the street.

Based on these reasons, the proposed Adjustments equally meet 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 in the findings for Approval Criterion A, the location of the proposed ADU would maintain light, air, and separation; reflect general building scale and placement; promote a reasonable physical relationship between residences; promote options for privacy; and provide room for a car to park on-site. For these reasons, the proposal would 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 Criterion B, the proposal would have no adverse impacts on the livability or appearance of the residential area. 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.

## CONCLUSIONS

The proposal to reduce the required side setback 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 reduce the required side setback from the east property line from 5 feet to 1 foot for the ADU (Zoning Code Section 33.110.220.B), granted per the approved site plan and elevations, Exhibits C-1 through C-2, signed and dated November 13, 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-2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-250456 AD. No field changes allowed."

**Staff Planner: Lauren Russell**

**Decision rendered by:** Lauren Russell **on November 13, 2017.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: November 16, 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 October 3, 2017, and was determined to be complete on October 13, 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 October 3, 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: February 10, 2018.**

**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 30, 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 **November 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

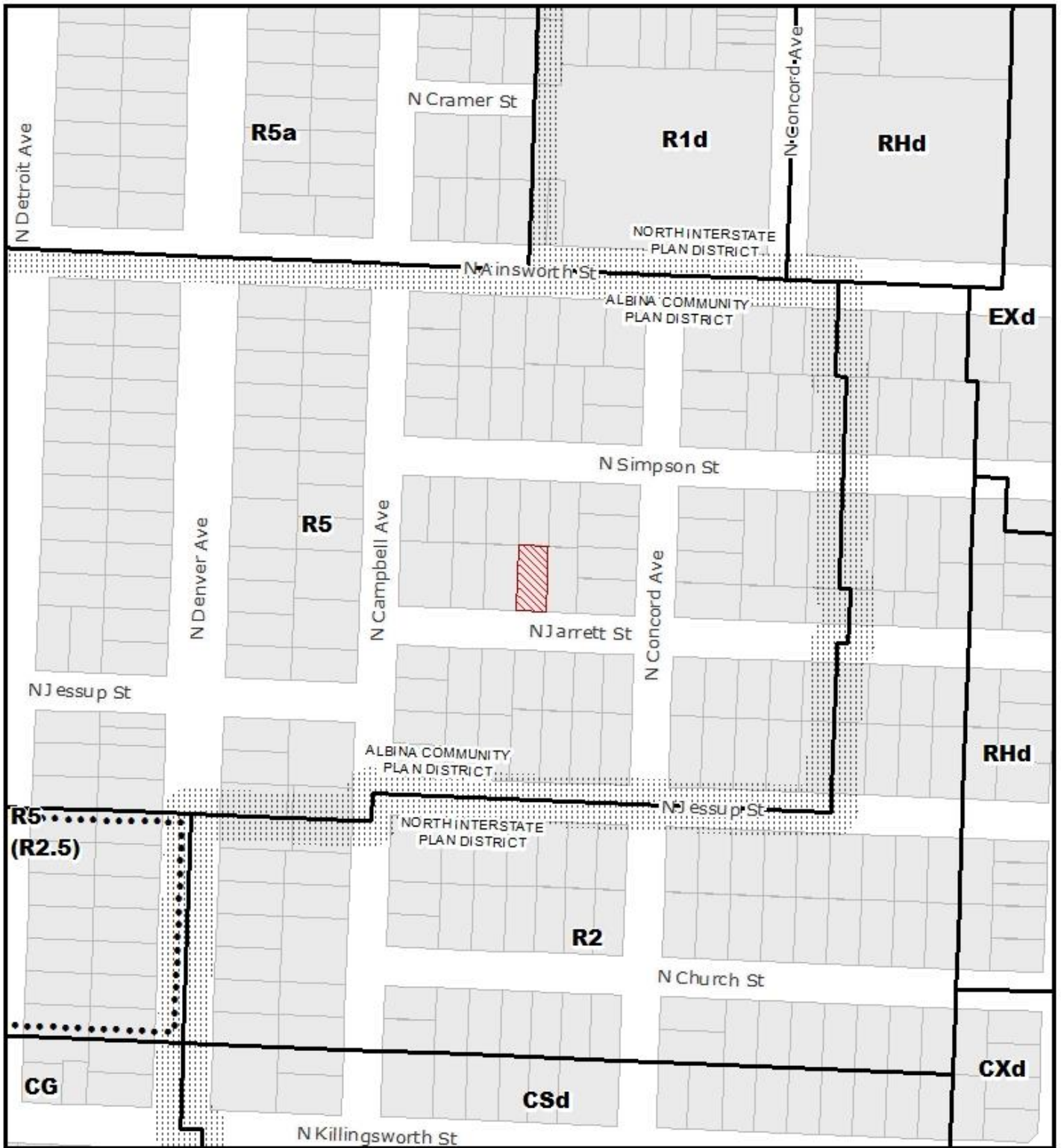
- A. Applicant's Statement
  1. Narrative, Plans, and Letter in Support from Neighbor to the East submitted 10/3/17
  2. Revised Narrative received 10/13/17
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Elevations (attached)
- D. Notification Information:
  1. Mailing List
  2. Mailed Notice
- E. Agency Responses:
  1. Bureau of Environmental Services
  2. Bureau of Transportation Engineering and Development Review
  3. Water Bureau
  4. Bureau of Parks, Forestry Division
  5. Life Safety Section of BDS
- F. Correspondence: none received

G. Other:

1. Original LU Application
2. Incomplete Letter mailed 10/10/17

**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

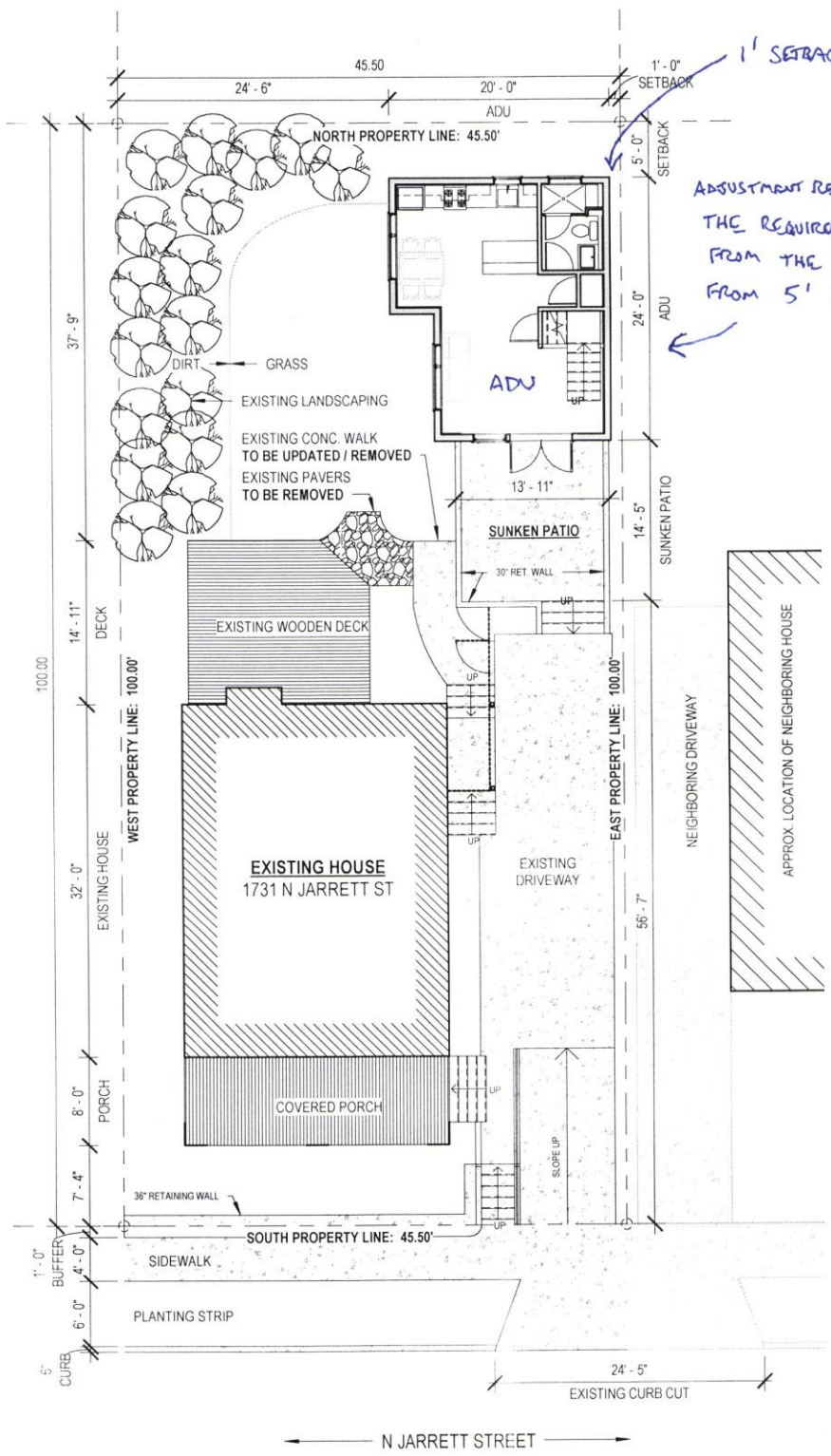


THIS SITE LIES WITHIN THE:  
ALBINA COMMUNITY PLAN DISTRICT

File No.	LU 17-250456 AD
1/4 Section	2428
Scale	1 inch = 200 feet
State ID	1N1E16DD 8400
Exhibit	B Oct 04, 2017

LV 17 - 250456 AD

**\*Approved\***  
**City of Portland - Bureau of Development Services**  
 Planner *Laura Russell* Date *11/13/17*  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



ZA1  
 1 SITE PLAN

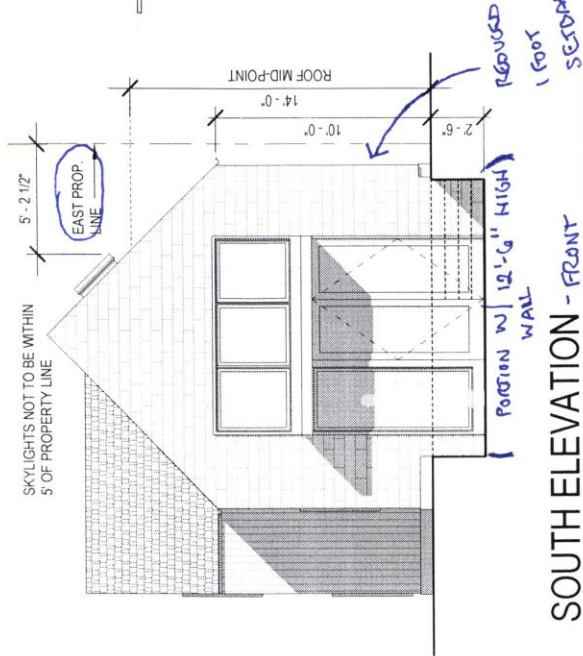


**ZA1**  
 SITE PLAN

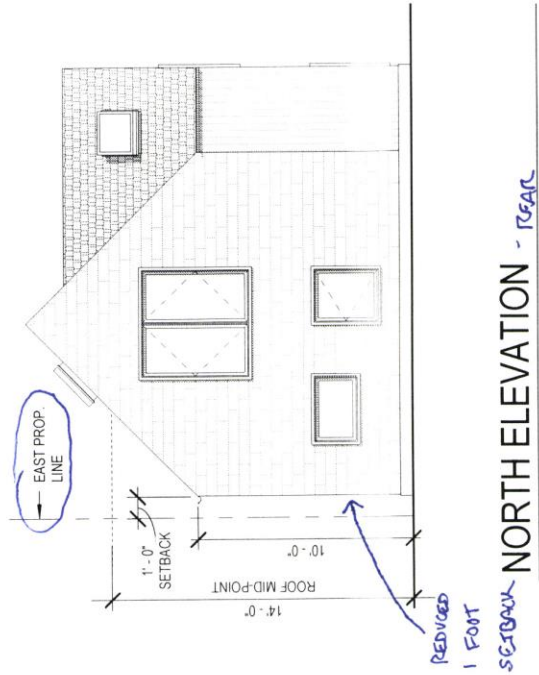
**SADOWSKY ADU**  
 1731 N JARRETT ST. PORTLAND OR, 97217  
 DAN & MOLLY SADOWSKY

**POLYPHON**  
 ARCHITECTURE & DESIGN, LLC polyphon.com  
 412 NW COUCH ST. | SUITE 309 | PORTLAND, OR 97209  
 CASE NO. 17-250456 AD  
 EXHIBIT C-1





SOUTH ELEVATION - FRONT



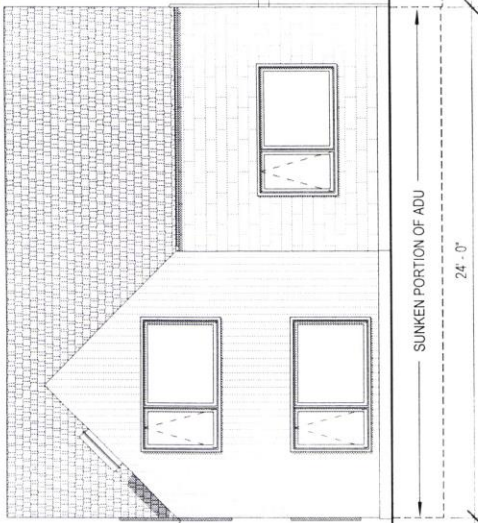
NORTH ELEVATION - REAR

LN 17-250456 A-O

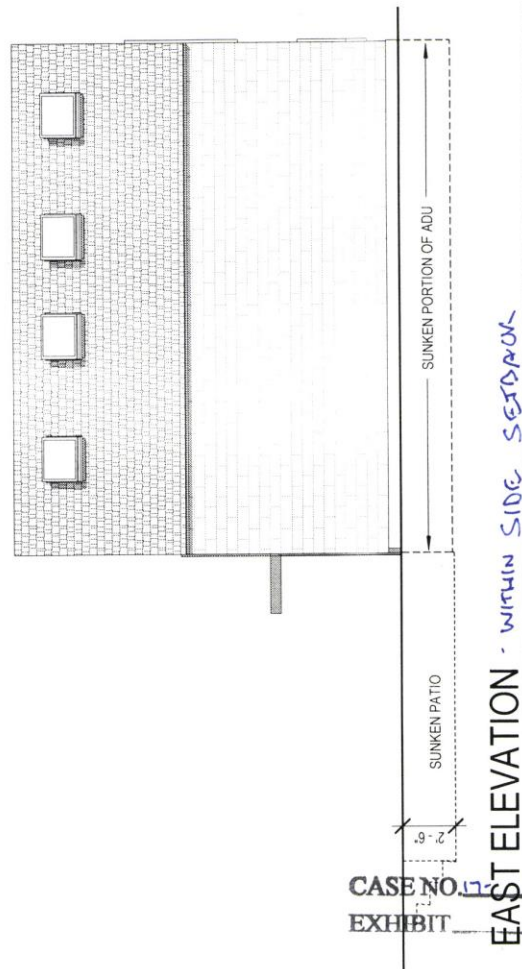
**\*Approved\***  
**City of Portland**  
 Bureau of Development Services  
 Planner Jensen Russell  
 Date 11/13/17  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

\* THIS APPROVAL PERTAINS TO THE HEIGHT/MASSING OF THE ADU AND THE EAST ELEVATION, PLUS ~~REVISIONS~~ THE SOUTH AND NORTH ELEVATIONS W/IN THE 5'

SIDE SETBACK. ALL OTHER CHANGES OK. \$



WEST ELEVATION



EAST ELEVATION - WITHIN SIDE SETBACK

CASE NO. 17-250456 AD  
 EXHIBIT C-2