



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

Chloe Eudaly, Commissioner
Rebecca Esau, Director
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Date: February 22, 2018
To: Interested Person
From: Marguerite Feuersanger, Land Use Services
503-823-7619 / mfeuersanger@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 17-271581 AD

GENERAL INFORMATION

Applicant: Holly J Braun | (503) 319-7984 | mustard.seed@ymail.com
4520 NE Mason St | Portland, OR 97218

Owner: Holly J Braun
3384 SE Gladstone St | Portland, OR 97202-3467

Site Address: 3384 SE Gladstone Street

Legal Description: BLOCK 13, E 1/2 OF LOT 15&16, KENILWORTH
Tax Account No.: R443104300
State ID No.: 1S1E12DC 05500
Quarter Section: 3434

Neighborhood: Creston-Kenilworth, contact Zachary Smith at 503-866-8575.
Business District: Greater Brooklyn, contact David Weislogel at 503-872-9320.
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Zoning: R5, Single Dwelling Residential 5,000 Zone

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

Proposal:

The applicant proposes to convert the basement and basement-level garage of the existing house into an accessory dwelling unit (ADU). The site is a corner lot and the existing vehicle access is from SE 34th Avenue. The existing driveway is approximately 12 feet in length and does not qualify for replacement on-site parking, which must be at least 18 feet in length and located outside of the front and side building setbacks. Portland's Zoning Code requires one on-site parking per residential unit (Section 33.266.110, Table 266-1, Table 266-2). Therefore, the applicant is requesting an Adjustment to waive the on-site parking space requirement.

NOTE: In response to a complaint received by the City's code enforcement group in April 2017, the City investigated and confirmed that work was completed on the site that required a building permit. The property owner was notified about the violations. On October 24, 2017, the property owner submitted a building permit application to add an ADU to the site, to legalize the unpermitted work. During the zoning review of the building permit plans, the applicant was notified that because the house's attached garage was removed to make way for the new ADU, either a new parking space would need to be added to the site, or an Adjustment to waive the required parking space would need to be submitted and approved. The on-site parking issue must be resolved before zoning approval of the building permit plans. The applicant chose to request the Adjustment to waive the on-site parking space.

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 5,000 square-foot corner lot is located at the southwest intersection of SE Gladstone Street and SE 34th Avenue. While the house on the lot is elevated a few feet above the sidewalk level, much of the lot is relatively flat. A small curb cut is located at the side of the lot along SE 34th Avenue, providing access to a former tuck-under garage in the house's basement level. The remainder of the lot is landscaped and a mature evergreen tree in the front yard facing SE Gladstone Street is a prominent feature of the site.

Designated as a City Bikeway, SE Gladstone Street has two vehicle lanes and two bicycle lanes. Dispersed along some of its intersections are small landscaped "traffic circles". One such feature is located at the site's intersection with SE 34th Avenue. Development of the nearby neighborhood is a mix of single-dwelling houses and low-scale multi-dwelling residential buildings. A church is located near the site, at the northeast corner of SE Gladstone and SE 34th Avenue. Kenilworth public park and Grout Elementary School are located approximately 300 feet southeast of the site.

Zoning: The site is within the R5 zone, a single-dwelling residential zone 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 **July 20, 2016**. The following Bureaus have responded with the following information:

- The Bureau of Environmental Services responded with no concerns and provided information on stormwater disposal (Exhibit E-1);
- The Portland Bureau of Transportation responded with no concerns and noted the requirement of a condition of approval that the applicant must close the existing curb cut/driveway and reconstruct the sidewalk at the location of the existing curb cut/driveway (Exhibit E-2); and
- The Life Safety section of the Bureau of Development Services (BDS) responded with Building Code information but no concern regarding approvability of the Adjustment (Exhibit E-6).

The following Bureaus have responded with no concerns:

- The Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4); and
- The Site Development Section of BDS (Exhibit E-5).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on January 9, 2018. Two written responses were received from notified property owners in response to the proposal. Issues raised in the letters are as follows:

- *The proposal removes an on-site parking space in a neighborhood experiencing a significant amount of new infill development.*
Staff response If the applicant's request to waive the required parking space is approved, the applicant will be required to restore the curb and sidewalk in the location of the existing curb cut for the driveway. The length of curb restoration is approximately 11 feet. While not long enough to provide space for one parked car (16 to 22 feet is needed for a full space), the additional 11 feet will add to the current supply of on-street parking. The site has approximately 130 linear feet of street frontage with available on-street parking for approximately seven vehicles.
- *The house and ADU are being rented which adds to the number of cars parked on the street and moving through the neighborhood.*
Staff response The Zoning Code does not require an on-site parking space for ADUs and does not prohibit the house or the ADU from being rented.
- *On-street parking is restricted near the four corners of the intersection. This is due to a traffic island and the need to provide vehicle circulation around the traffic island. Other concerns about the traffic island include limited visibility for pedestrians and drivers, speeding, and reduced safety. The neighbor requests that the island be removed and stop signs be installed.*
Staff response The Bureau of Transportation staff reviewed the proposal and does not object to the loss of one parking space on this site. To request a review of the issues raised about the traffic island, please leave a message with the Bureau of Transportation's request line at (503) 823 SAFE.
- *An ADU has already been added to the site but the mailed public notice describes the proposal as if the work is proposed and not completed.*
Staff response While not common, it does happen that improvements are made to a site or building without the benefit of an approved building permit. Although the City does not have dedicated staff that actively review for this type of activity, the City will investigate when complaints are filed. And the City may require legalization and/or removal of existing unpermitted work.

For this site and proposal, a complaint was filed with the City regarding construction occurring without a permit. As a result, the applicant has filed a building permit application for the unpermitted work and is in the process to legalize the work. Staff has also added a note about the process to the "Proposal" section in this report.

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 required parking space from one space to zero spaces as part of the process to legalize the conversion of the existing attached garage into an accessory dwelling unit (ADU). The purpose of the minimum number of parking spaces is stated below:

33.266.110 Minimum Required Parking Spaces

The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street

connectivity, and good pedestrian facilities may need little or no off-street parking. Multi-dwelling development that includes a large number of units may require some parking to support existing and future uses in the area and serve residents and guests, especially those with disabilities. Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long-term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.

Streets adjacent to the site and within the surrounding area (SE Gladstone, SE 34th Avenue, SE 33rd Avenue and SE 33rd Place) are improved with sidewalks. The street network is a grid system generally forming 200-foot by 400-foot blocks and provides good street connectivity. While the site is not defined as “well-served by transit” per the Zoning Code definition, bus routes are located along SE Holgate and SE Powell Boulevards, each approximately 1,000 feet from the site. Southeast Gladstone is designated as a “City Bikeway” and contains two striped bike lanes. Because of the above conditions adjacent or near the site, staff finds that multiple transportation options are available to and from the site.

With the removal of the required on-site parking space, the applicant is required to construct a new concrete curb which will close off the driveway entrance and allow for 11 linear feet of additional parallel parking on the street. Effectively, the proposal is providing additional area for public on-street parking in exchange for elimination of the private on-site parking space. Closure of the driveway improves pedestrian safety along SE 34th Avenue by reducing potential vehicle conflicts.

Transportation staff reviewed the proposal and conditions of the site and nearby area. Relevant findings from their written comments (Exhibit E-2) are added below:

A survey of the applicant's property suggests that there are 1-2 parking spaces available along the site's SE Gladstone frontage and 3-4 spaces along the site's SE 34th Ave frontage (it is noted that the available curb-length for on-street parking along SE 34th Ave will be extended by the closure of the existing curb-cut/driveway). The anticipated on-street parking supply along the site's SE 34th Ave frontage is 4-5 spaces.

The expected parking demand for the existing house is 2 spaces based on the current ITE Parking Generation Manual. For the ADU, the demand is one additional space. Therefore, the total of 5-7 available on-street parking spaces along the site's frontages is sufficient to accommodate the 3-space demand generated by the uses on-site. The current on-street parking supply is more than adequate to accommodate the majority of traffic generated by the range of uses which might locate at the site and in the area over time. There is a robust sidewalk system throughout the area in question. Therefore, eliminating the required off-street parking space is striking a balance with the pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. The site is located within reasonable proximity to transit (north and south of the subject lot), has excellent street connectivity and an abundance of pedestrian facilities.

PBOT has been made aware of correspondence from nearby neighbors in relation to this proposed land use request. One neighbor voices concerns relative to the reduction in available on-street parking opportunities as a result of the proposed Adjustment. PBOT offers its assessment of the parking impacts above. The other neighbor primarily focuses on concerns regarding the existing landscaped island located at the center of the SE Gladstone/SE 34th Ave intersection. This matter is not relevant to any applicable approval criterion associated with the subject Adjustment request.

PBOT concludes that the proposed Adjustment to eliminate the required off-street parking space from the subject site will not adversely impact the surrounding area and equally or better meets the purpose(s) of the off-street parking requirement.

In summary, Transportation staff express no concerns about the Adjustment request, subject to the condition that the applicant close the existing curb cut/driveway and reconstruct the sidewalk (Exhibit E-2). With this condition, 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: The site is within the R5 residential zone. The applicant will legalize the completed work that removed the house garage door and added the ADU entrance door and window. These changes to the east elevation of the house are minor and do not negatively impact the appearance of residential area. A new curb and sidewalk will replace the existing driveway as noted above in Criterion A. Thus, removal of the on-site parking space results in minimal changes to the site and will not detract from the livability or appearance of the residential 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 does not apply.

- 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 does not apply.

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

Findings: The proposal will result in one less private on-site parking space but will increase the supply of on-street public parking. With condition of approval to close the curb cut/driveway and restore the sidewalk, any impacts resulting from the requested Adjustment are mitigated to the extent practical. Therefore, with this condition, 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 “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, this criterion does not apply.

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 is required to finalize a building permit to remove the garage and add an ADU to the site.

CONCLUSIONS

The applicant has requested an Adjustment to remove the required on-site parking. The driveway and curb cut will be removed, and the sidewalk, landscape strip and curb will be restored. Because the proposal essentially trades an on-site parking space for an additional on-street parking area, there will be no significant impacts to neighborhood appearance and livability. With the conditions of approval, the proposal meets applicable Adjustment approval criteria and must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to remove the required on-site parking space (Section 33.266.110, Table 266-1, Table 266-2) per the approved site plans, Exhibits C-1 and C-2, signed and dated February 20, 2018, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related Condition B must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 17-271581 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The existing curb cut/driveway along the site's frontage with SE 34th Avenue must be closed within 6 months of the final decision for this land use review per the requirements of the Bureau of Transportation. The required work within the public right-of-way must be included in the building permit plans for legalizing the basement and garage conversion into an ADU (Permit #17-260574 RS).

Staff Planner: Marguerite Feuersanger

Decision rendered by:  **on February 20, 2018.**
By authority of the Director of the Bureau of Development Services

Decision mailed: February 22, 2018.

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 November 16, 2017, and was determined to be complete on December 27, 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 November 16, 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: April 26, 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 March 8, 2018**, 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 **March 8, 2018**, 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:

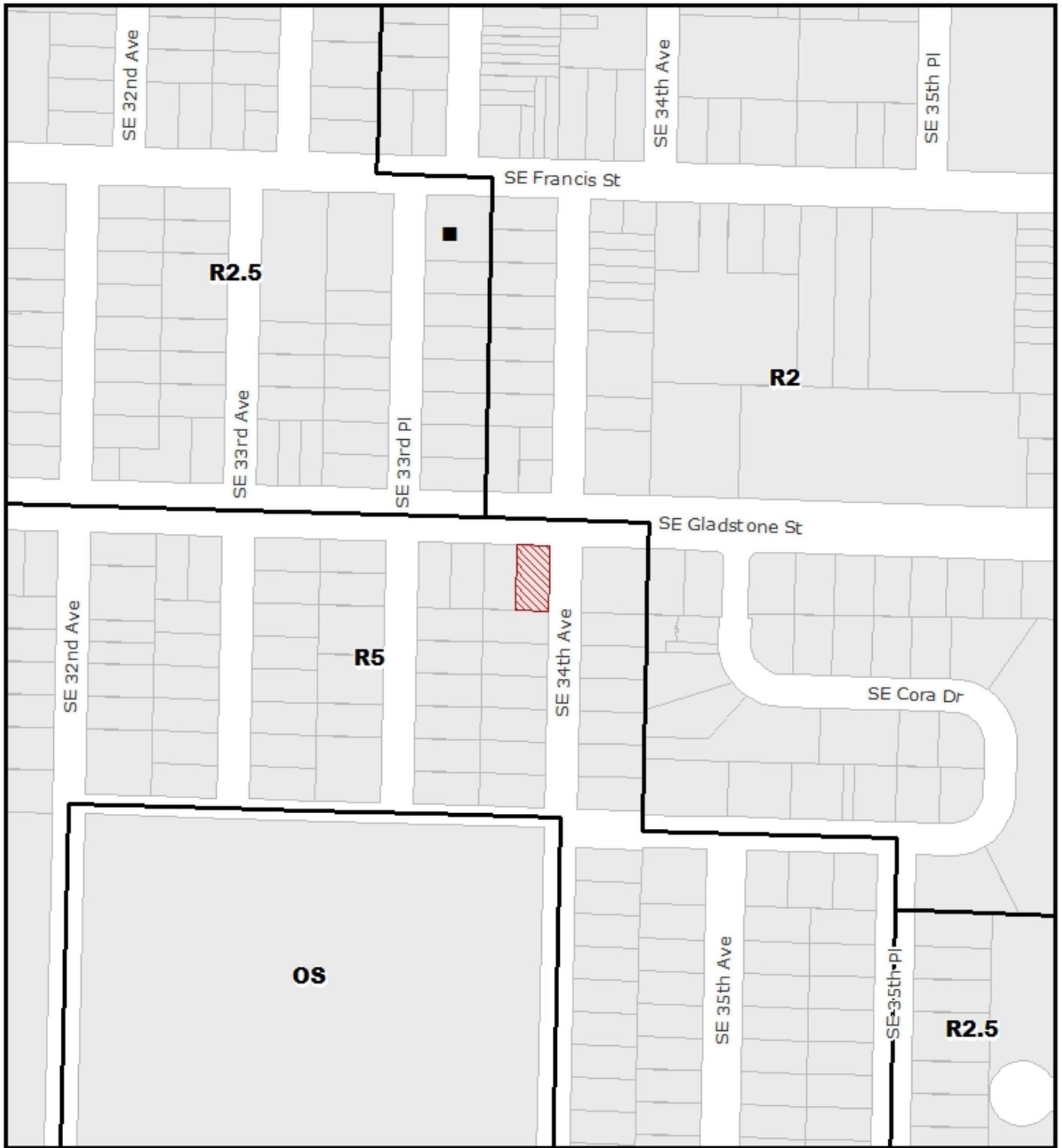
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. House 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. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Plans Examiner of BDS
- F. Correspondence:
 - 1. Eric Herr and Elizabeth Willard-Herr, January 27, 2018, concern about loss of off-street parking
 - 2. Kathy Clevinger, January 30, 2018, concern about safety and right-of-way improvements
- G. Other:
 - 1. Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
NORTH

-  Site
-  Historic Landmark

File No.	<u>LU 17-271581 AD</u>
1/4 Section	<u>3434</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1S1E12DC 5500</u>
Exhibit	<u>B</u> <u>Nov 21, 2017</u>

BRAUN RESIDENCE
 3384 SE Gladstone Street, Portland, Oregon 97202
 BASEMENT ADU | JULY 28, 2017

ISSUED TO:
 CLIENT/OWNER



3 VICINITY MAP
 N.T.S.

PROJECT DESCRIPTION

THIS PROJECT CONSISTS OF A PERMITS-REQUIRED DWELLING UNIT IN THE (R) ZONING DISTRICT WITH EXISTING RESIDENCE, EXISTING GARAGE, RECREATIONAL, AND A PERMITS-REQUIRED GARAGE CONVERSION TO A PERMITS-REQUIRED DWELLING UNIT.

GENERAL NOTES

- ALL DIMENSIONS ARE UNLESS OTHERWISE SPECIFIED.
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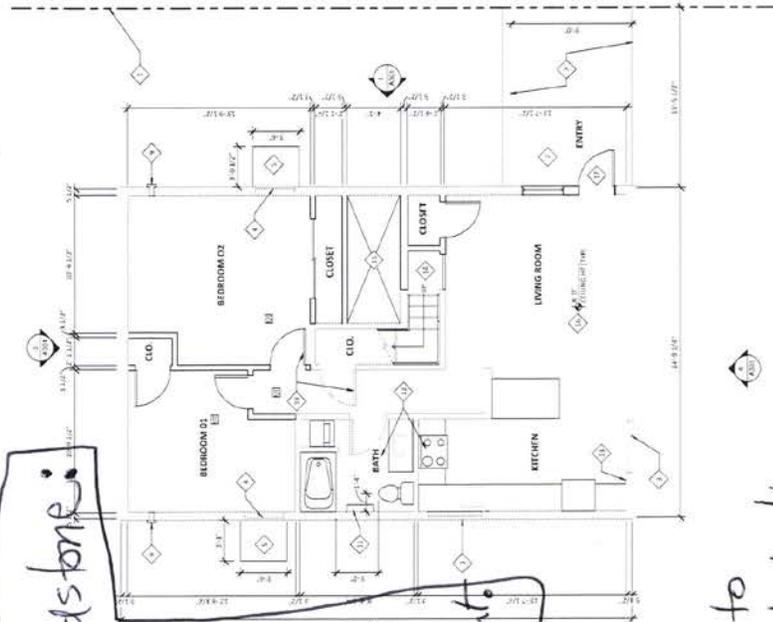
DRAWING NOTES

- ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
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DRAWING LEGEND

- FINISH FLOOR
- FINISH CEILING
- FINISH WALL
- FINISH DOOR
- FINISH WINDOW
- FINISH STAIR
- FINISH RAMP
- FINISH BALCONY
- FINISH TERRACE
- FINISH PATIO
- FINISH DRIVEWAY
- FINISH DRIVEWAY CURB
- FINISH DRIVEWAY CURB CUT
- FINISH DRIVEWAY CURB CUT DRIVEWAY
- FINISH DRIVEWAY CURB CUT DRIVEWAY PER CONDITION B

4 BASEMENT LEVEL DEMO PLAN
 1/8" = 1'-0"



1 BASEMENT LEVEL FLOOR PLAN
 1/8" = 1'-0"

3384 SE Gladstone
 Adjustment to waive the on-site parking space requirement.

Existing garage to be converted to an ADU (accessory dwelling unit)

REQUIRED: CLOSE CURB CUT/DRIVEWAY PER CONDITION B.

Approved
 City of Portland
 Bureau of Development Services
 Planner *M. Lee*

DATE: 2/20/2018
 500033101
 * This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements apply.

DRAWING REVISIONS
 NO. DATE DESCRIPTION



BRAUN RESIDENCE
 3384 SE GLADSTONE ST
 CONTRACT DOCUMENTS
 07.28.2017

FLOOR PLANS
 A101

EXHIBIT C-1
 LM 17-271581AD

Approved

City of Portland

Bureau of Development Services

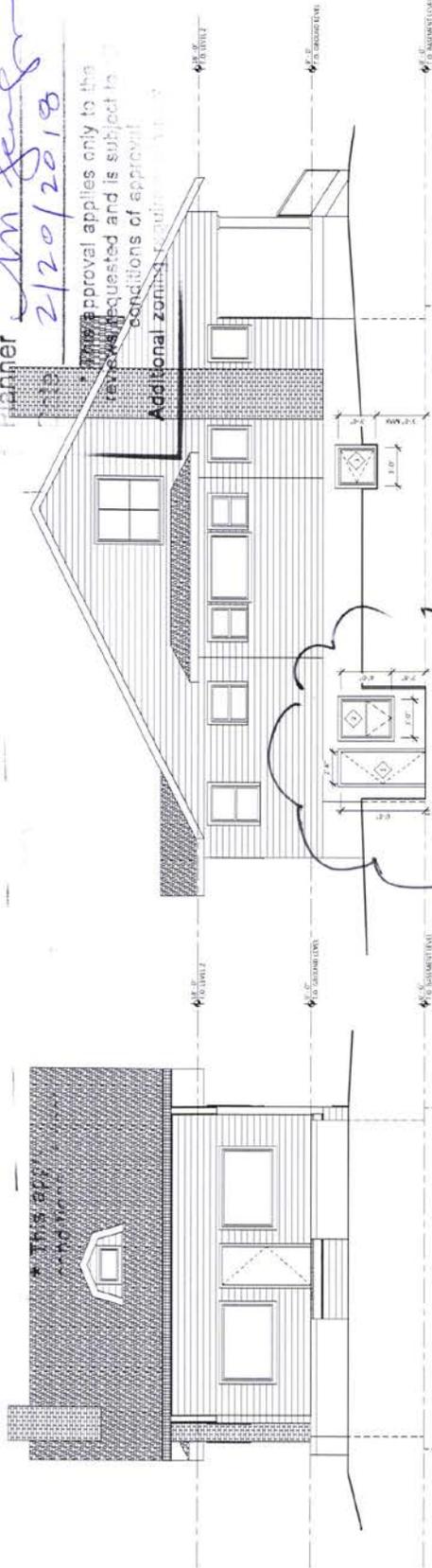
Planner *M. Senger*
2/20/2018

KEYNOTES

- 1. HATCHES FOR ROOF
- 2. HATCHES FOR BRICK
- 3. HATCHES FOR SIPS

Approval applies only to the request requested and is subject to conditions of approval.

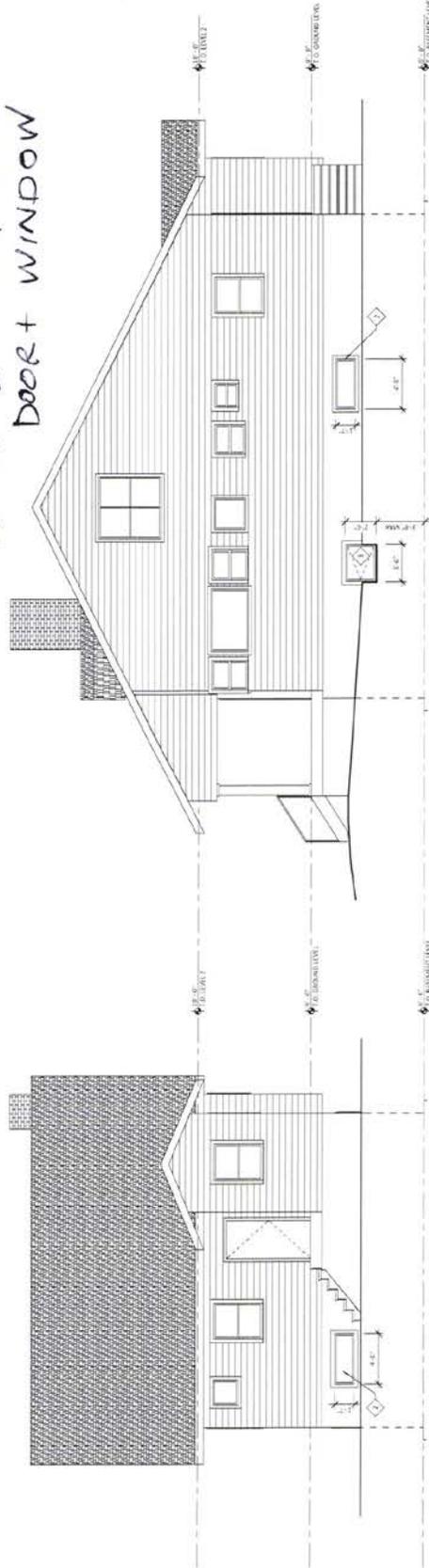
Additional zoning requirements apply.



3 NORTH ELEVATION
14'-11\"/>

1 EAST ELEVATION
14'-11\"/>

PROPOSED!
K GARAGE DOOR TO BE REPLACED WITH A DOOR + WINDOW



4 SOUTH ELEVATION
14'-11\"/>

2 WEST ELEVATION
14'-11\"/>

EXISTING HOUSE ELEVATIONS

3384 SE Gladstone

EXHIBIT C-2

LA 17-271581 AD

NO.	DATE	DESCRIPTION



BRUNN RESIDENCE
3384 SE GLADSTONE ST
CONTRACT DOCUMENTS
07.28.2017
EXTERIOR ELEVATIONS

A301