



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

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Date: March 1, 2018
To: Interested Person
From: Lauren Russell, 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 17-289172 AD

GENERAL INFORMATION

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

Owner: Erin G Crowell
 618 Dimmick Dr | Los Angeles, CA 90065

Site Address: 81 NE IVY ST

Legal Description: BLOCK 6 W 40' OF LOT 11&12, WILLIAMS AVE ADD
Tax Account No.: R916401490
State ID No.: 1N1E27AA 03500
Quarter Section: 2730
Neighborhood: Eliot, contact Mike Warwick at 503-284-7010.
Business District: Soul District Business Association, contact at outreach@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030.
Plan District: Albina Community
Other Designations: Eliot Conservation District
Zoning: R2a – Multi-Dwelling Residential 2,000, Alternative Design Density Overlay
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:
 The applicant proposes to construct a new one-story, 360 square foot accessory dwelling unit (ADU). Per Zoning Code Section 33.120.280.C.2.b(2), detached covered accessory structures are allowed in the side and rear building setbacks if the structure has dimensions that do not exceed 24 feet by 24 feet, excluding eaves. Because the proposed ADU would have a footprint of 30 feet by 13 feet, it is not allowed within the required 5-foot side and rear building setbacks. Therefore, the applicant requests the following Adjustments:

- Reduce the required side setback from the west property line from 5 feet to 3 feet for the ADU building wall and from 4 feet to 2 feet for the eave; and
- Reduce the required rear setback from the north property line from 5 feet to 3 feet for the ADU building wall and from 4 feet to 2 feet for the eave.

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 4,200 square foot lot located on the north side of NE Ivy Street between N Williams Avenue and NE Rodney Avenue. The site is currently developed with a one-and-a-half-story single-dwelling residence and a small detached shed at the northeast corner of the lot. Adjacent properties are similarly developed with one- to two-story single-dwelling residences, some with one-story detached accessory structures located near or within side and rear setbacks. Dense mixed-use development is located along the N Williams Avenue corridor, which is one block to the west.

Zoning: The R2 zone is one of the City's multi-dwelling zones, which are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The development standards work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The Alternative Design Density (a) overlay zone is an optional overlay zone that provides opportunities for increased density in limited situations, provided that additional design compatibility requirements are met for the project. The overlay zone does not apply to this proposal.

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.

The Eliot Conservation District is an area with common historic values significant to the neighborhood and seeks to contribute to the preservation of significant features of Portland's development history. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to historic resource review.

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 February 1, 2018. The following Bureaus have responded with no issues or concerns regarding the requested Adjustments:

- Bureau of Environmental Services responded with no objections to the requested Adjustment (Exhibit E-1);
- Bureau of Transportation Engineering responded with no concerns (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 with no objections to the approval of this proposal and advised that a separate building permit is required for the work proposed (Exhibit E-6).

Neighborhood Review: Two written responses have been received from one notified neighbor in response to the “Notice of Proposal.” The respondent’s first email expressed concern about how the structure would affect the respondent’s southern sunlight and asked to see the plans for more details about the proposal. The respondent’s second email reiterated the respondent’s concern about sunlight and asked if the architect had a three-dimensional mock-up of the proposal. This email also asked about stormwater management.

Staff response: Impacts on light are discussed in Criterion A, below. Regarding stormwater management, the Bureau of Environmental Services reviewer responded that a safe stormwater disposal location that does not impact adjacent properties or structures must be shown at the time of building permit submittal.

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 the following two Adjustments:

- Reduce the required side setback from the west property line from 5 feet to 3 feet for the ADU building wall and from 4 feet to 2 feet for the eave; and
- Reduce the required rear setback from the north property line from 5 feet to 3 feet for the ADU building wall and from 4 feet to 2 feet for the eave.

The purpose of the setback requirement in the R2 zone is stated in Zoning Code Section 33.120.220.A:

Purpose. *The building setback regulations 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 multi-dwelling development in the city’s neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *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;*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users; 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 9-foot high walls within the side and rear setbacks and an overall height of 11'-10" as measured to the top of the shed roof. It would be located approximately 21 feet from the house on the property to the west, approximately 50 feet from the house on the property to the southeast, approximately 15 feet from the house on the property to the east, approximately 70 feet from the house on the property to the northeast, and approximately 70 feet from the house on the property to the northwest. Therefore, the location of the ADU and its limited height would maintain light and air. The Fire Bureau reviewer had no concerns about the requested Adjustments and 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 near the side or rear property lines. 3419 NE Rodney Avenue has a 220 square foot detached garage located along the side property line. 3405 NE Rodney Avenue has a 240 square foot detached garage located along the rear property line. 57 NE Ivy Street has a 396 square foot detached garage located in the northwest corner of the property. 3323 NE Rodney Avenue has a 324 square foot detached garage located along the side property line. 43 NE Ivy Street has a 360 square foot detached garage located near the side property line. These structures on neighboring properties are similar in size to the proposed ADU and are similarly limited to one story in height. 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 21 feet from the house on the property to the west, approximately 50 feet from the house on the property to the southeast, approximately 15 feet from the house on the property to the east, approximately 70 feet from the house on the property to the northeast, and approximately 70 feet from the house on the property to the northwest. Each of these distances is greater than the distance if both the ADU and neighboring buildings only met the minimum 5-foot side or rear setback for a total of 10 feet. Therefore, despite being located within the side and rear setbacks, 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 walls that are entirely located within the side and rear setback. The window proposed on the east-facing wall would also be set back more than 5 feet from the north property line. Therefore, the proposed ADU would promote options for privacy for neighboring properties.

Setback requirements along transit streets: NE Ivy Street is not classified as a transit street.

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 48 square feet of outdoor area, and allow for architectural diversity.

Provide room for a car: There is no existing driveway or on-site parking space and neither would be added as part of this project.

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 multi-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; and promote options for privacy. 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: Two Adjustments have been requested. The overall purpose of the R2 zone is to preserve land for urban housing and provide opportunities for multi-dwelling housing. The proposal to locate the proposed ADU within the side and rear setbacks would not preclude the site from preserving land for urban housing or providing opportunities for multi-dwelling housing. The development standards of the R2 zone work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. As stated in Approval Criteria A and B above, 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; and promote options for privacy, which together promote a desirable residential area. Therefore, the requested Adjustments maintain consistency with the purpose of the R2 zone. This criterion is met.

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. The subject site is a contributing resource located within the boundaries of the Eliot Conservation District. The requested Adjustments are limited to the location of the proposed ADU in the rear yard. The proposed ADU was designed to meet the applicable community design standards, which would promote the residential character of the area. Therefore, this proposal would not negatively impact the preservation of the Eliot Conservation District. This criterion is met.

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 and rear setbacks equally meets the intent of the regulations, does not have any adverse impacts on the livability and appearance of the surrounding residential neighborhood, and preserves the Eliot Conservation District. 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 west property line from 5 feet to 3 feet for the ADU building wall (Zoning Code Section 33.120.220.B.1) and from 4 feet to 2 feet for the eave (Zoning Code Section 33.120.220.D.1.a).

Approval of an Adjustment to reduce the required rear setback from the north property line from 5 feet to 3 feet for the ADU building wall (Zoning Code Section 33.120.220.B.1) and from 4 feet to 2 feet for the eave (Zoning Code Section 33.120.220.D.1.a).

The above approvals are granted per the approved site plan and elevations, Exhibits C-1 through C-2, signed and dated February 26, 2018, 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 17-289172 AD. No field changes allowed."

Staff Planner: Lauren Russell

Decision rendered by: Lauren Russell **on February 26, 2018.**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 1, 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 December 28, 2017, and was determined to be complete on January 26, 2018.

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 December 28, 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: May 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 15, 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 15, 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
 1. Narrative and Plans submitted 12/28/17
 2. Revised Plans received 1/2/18
 3. Revised Narrative and Plans received 1/26/18
- 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. Fire Bureau
 5. Site Development Review Section of BDS
 6. Life Safety Review Section of BDS
- F. Correspondence:
 1. Jack Lewis, received 2/12/18, email with concerns
 2. Jack Lewis, received 2/20/18, email with concerns
- G. Other:
 1. Original LU Application
 2. Incomplete Letter mailed 1/5/18

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
 ELIOT CONSERVATION DISTRICT



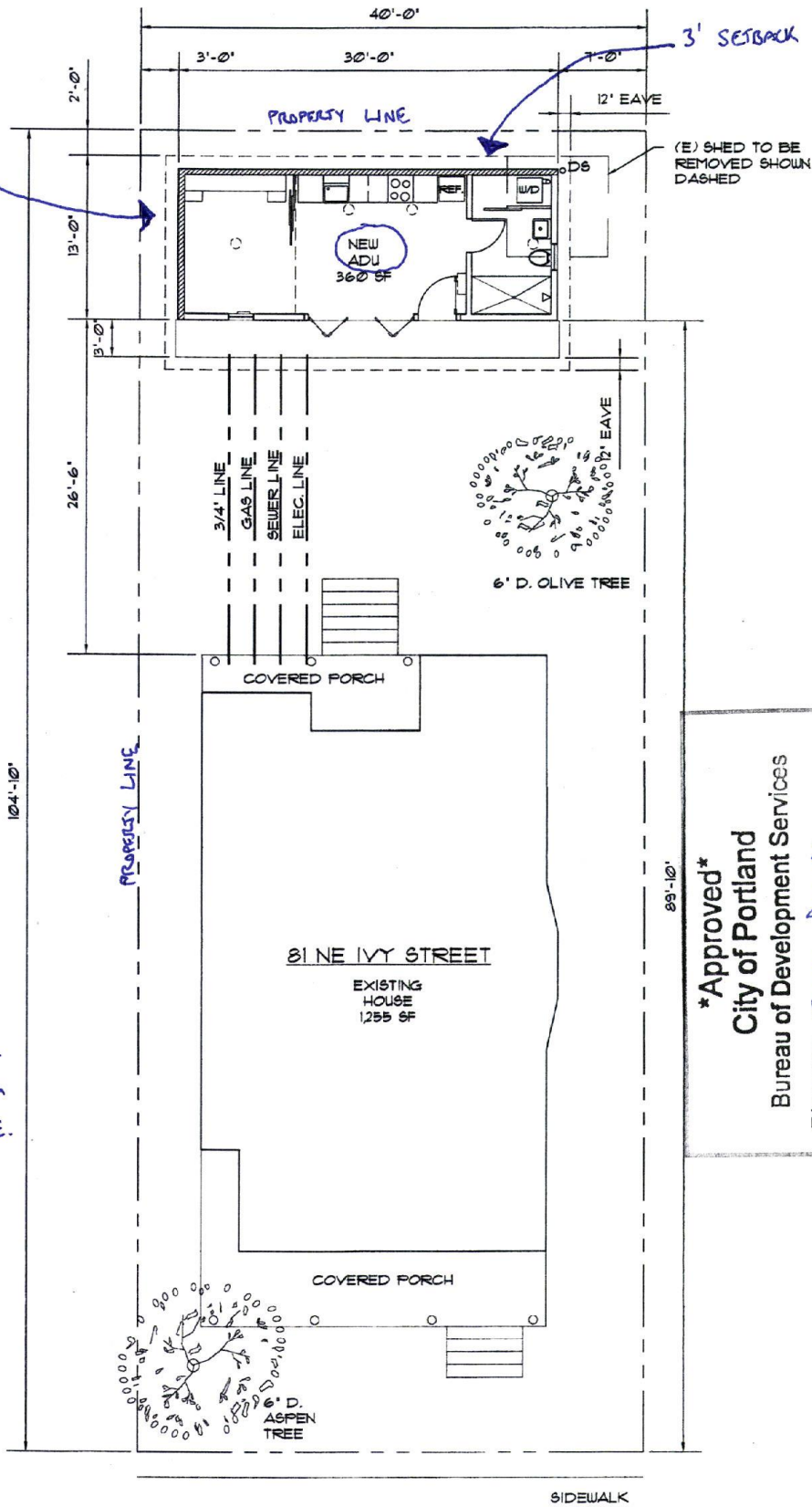
Site



Historic Landmark

File No.	LU 17-289172 AD
1/4 Section	2730
Scale	1 inch = 200 feet
State ID	1N1E27AA 3500
Exhibit	B Jan 02, 2018

ADJUSTMENT REQUEST TO REDUCE THE REQUIRED SIDE SETBACK FROM THE WEST PROPERTY LINE FROM 5' TO 3' FOR THE BUILDING WALL AND FROM 4' TO 2' FOR THE EAVE AND REDUCE THE REQUIRED REAR SETBACK FROM THE NORTH PROPERTY LINE FROM 5' TO 3' FOR THE BUILDING WALL AND FROM 4' TO 2' FOR THE EAVE.



SITE PLAN

LOCATION OF EXISTING/NEW UTILITES ARE APPROXIMATE, VERIFY IN FIELD
 NO EXISTING TREES OVER 12' D. ON PROPERTY
 DB: DOWNSPOUT TO SPLASH BOX, TYP.

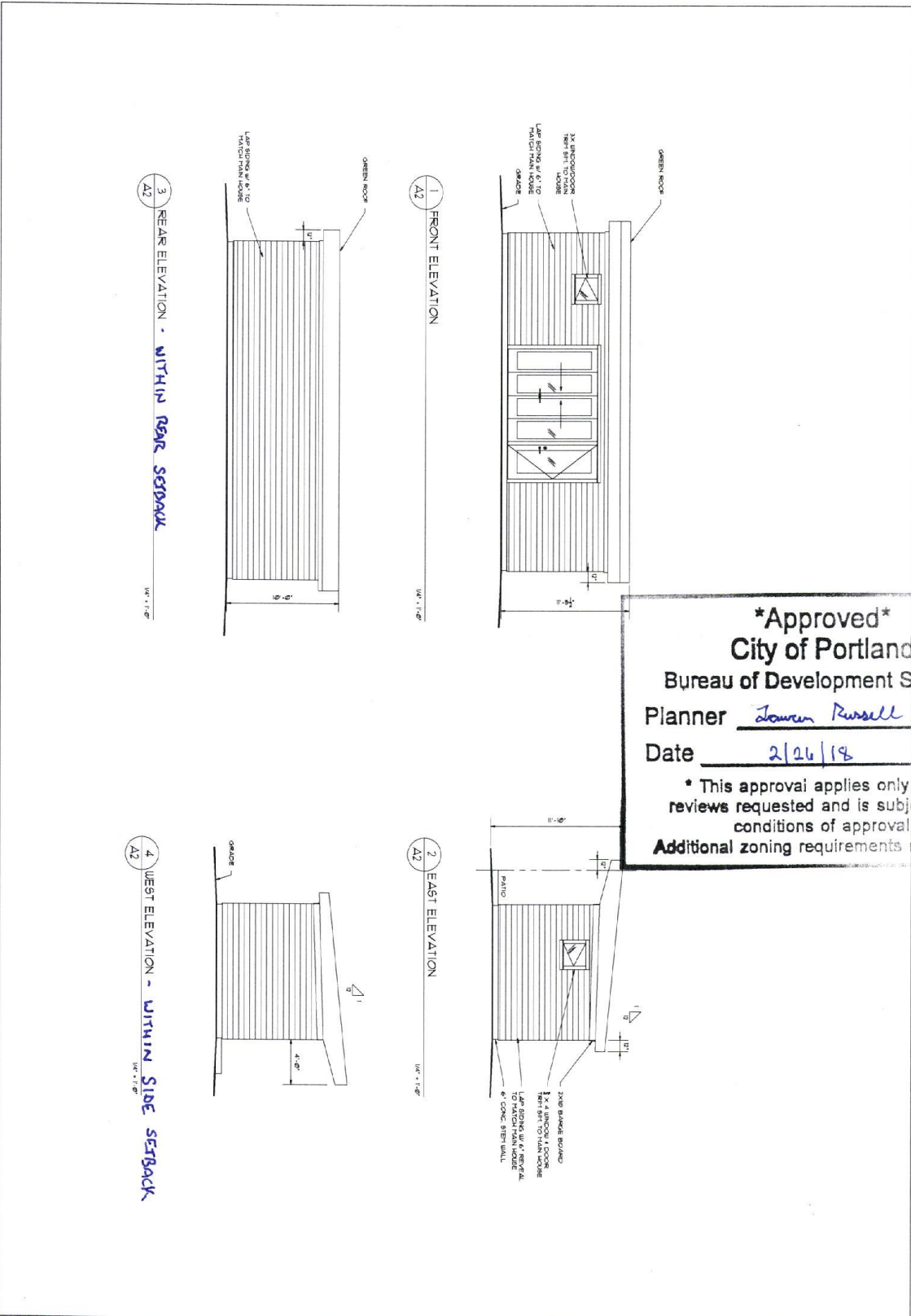
1/8" = 1'-0"

CASE NO. 17-289172 AD

EXHIBIT C-1

Approved
City of Portland
 Bureau of Development Services
 Planner Janeen Russell
 Date 2/26/18
 * This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.

LU 17-289172 AD



Approved
City of Portland
 Bureau of Development Services
 Planner Jawen Russell
 Date 2/26/18
 * This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.

SHEET A2 of 3	JOB No. 000018	SHEET CONTENT SECTIONS FOUNDATION PLAN ROOF FRAMING PLAN	CROWELL ADU	81 NE IVY ST. PORTLAND, OREGON 97212	2020 NE 15TH AVE PORTLAND, OR 97213 OFFICE 503.235.8040 FAX 503.235.9850 DAVID@DMSARCHITECTS.COM		
	DRAWN KLS						

CASE NO. 17-289172 AD
 EXHIBIT C-2