



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

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Date: March 5, 2018
To: Interested Person
From: Marguerite Feuersanger, 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 17-278214 AD

GENERAL INFORMATION

Applicant: Dave Spitzer, DMS Architects Inc.
2325 NE 19th Ave
Portland, OR 97212 dave@dmsarchitects.com

Owners: Alison Backus and Daniel Garrison
6125 NE 31st Ave
Portland, OR 97211

Site Address: 6125 NE 31st Avenue

Legal Description: BLOCK 41 LOT 26&28, IRVINGTON PK
Tax Account No.: R421315290
State ID No.: 1N1E13CA 13000
Quarter Section: 2433

Neighborhood: Concordia, contact Garlynn Woodsong at 503-936-9873.
Business District: Soul District Business Association, contact at outreach@nnebaportland.org

District Coalition: Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030.

Zoning: R5ah: Single Dwelling Residential 5,000 Zone, within the Alternative Design Density Overlay Zone (a) and the Aircraft Landing Overlay Zone (h)

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

PROPOSAL: The applicant proposes to build a new detached accessory dwelling unit (ADU) at the rear of the lot. The lot contains a house and a detached garage with access to the adjacent alley. The garage will be removed but a replacement parking space is not proposed.

The Portland Zoning Code states that one on-site parking space is required for the main house (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 that the existing Western red cedar tree (28 inches in diameter) will be preserved as part of this proposal.

RELEVANT APPROVAL CRITERIA:

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 site is located on the west side of NE 31st Avenue, in the middle of a block between NE Holman and NE Ainsworth Streets. The block is served by an alleyway, 14 feet in width, which is adjacent to the site's rear lot line. The site is developed with a single-dwelling residence with a detached single-car garage accessed from the alley. The residential area near the site is generally developed with single-dwelling residences that date from the early 1900s. Northeast Ainsworth Street is designated as a Neighborhood Collector street. Its improvements are distinguished with a wide center median strip containing a row of mature trees that separate the two traffic lanes. Streets in the area are developed with curbs, sidewalks and planting strips. Approximately 300 feet south of the site is a small commercial area, located along NE Ainsworth Street between NE 29th and NE 31st Avenues.

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.

The site is also within two Overlay Zones:

- The Alternative Design Density Overlay Zone ("a") focuses development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements. *The proposal is not affected by these regulations and is not using the development options of this overlay zone.*
- The Aircraft Landing Overlay Zone ("h") provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment. Development proposed on residential-zoned sites, such as the subject site, must adhere to the base zone height limits and are not affected by the regulations of this overlay zone.

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 **January 17, 2018**. The following Bureaus have responded with the following information:

- The Bureau of Environmental Services (BES) responded with no concerns and provided information about stormwater requirements of the building permit review (Exhibit E-1);
- The Portland Bureau of Transportation has no objection to the proposed Adjustment. With the reduction of one on-site parking space on this site, an adequate supply of on-street parking is available and adequate to serve the surrounding neighborhood (Exhibit E-2); and
- The Life Safety section of the Bureau of Development Services (BDS) responded with no concern regarding the Adjustment request but provides Building Code information pertaining to the building permit review (Exhibit E-6).

The following Bureaus 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: One written response was received from a notified property owner in response to the Notice of Proposal. The neighbor raises concerns about the availability of on-street parking along NE 31st Avenue, and requests designated on-street parking in front of their house, if the Adjustment request is approved. Transportation staff have reviewed the proposal and find that the current supply of on-street parking is adequate to serve the site (Exhibit E-2). On-street parking is a public resource and for this site and neighborhood area; it is not intended to be assigned to adjacent residents.

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 on-site parking space from one space to zero spaces. The existing detached garage will be removed and the applicant plans to construct a new 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 (including NE 30th Avenue, NE 31st Avenue, NE 32nd Avenue, NE Holman Street, and NE Ainsworth Street) are improved with sidewalks. The street network is a grid system generally forming 200-foot by 600-foot blocks (with interior alleyways) 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 NE 27th Avenue (bus line #17) and NE 33rd Avenue (bus line #70), each approximately 900 feet from the site, or less than a ¼ mile away, and therefore the site has good access to transit service. Northeast Ainsworth Street is designated as a “City Bikeway” and a “City Walkway” and is approximately 300 feet south of the site. Because of the above conditions adjacent or near the site, staff finds that multiple transportation options are conveniently available to and from the site.

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

The proposed development on the site includes the conversion of the garage (accessed from the alley) into an ADU. The existing house and the

ADU combined generate a demand for four daily on-street parking spaces. The applicant conducted a parking survey to identify current supply and demand of on-street parking. The existing on-street parking occupancy rate on NE 31st Ave between NE Holman and NE Ainsworth Streets is 41 percent. The increased demand for four additional spaces creates an on-street parking occupancy rate of 49%. This is a minimal increase to existing demand for on-street parking. There will continue to be significant opportunities for on-street parking throughout the study survey area for current and future uses. PBOT has no objections to the proposed Adjustment.

In summary, in consideration of the above site conditions and recommendation from Transportation staff, the proposed Adjustment meets the purpose of the regulation to be Adjusted. 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. A new detached accessory dwelling unit will be constructed in place of the existing detached garage at the rear of the lot. Except for the required on-site parking space, the ADU building plans meet all other Zoning Code regulations (such as maximum ADU size, building height and building coverage). The new ADU is located 76 feet from the front property line and behind the existing house. It is 24 feet by 18.5 feet in footprint (444 square feet of site area). An existing western red cedar tree (28 inches in diameter), located at the rear of the lot, will be preserved. Transportation staff confirms that the existing on-street parking supply is adequate to serve the site (Exhibit E-2). Because of these conditions, the removal of the on-site parking space 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 the existing supply of on-street public parking is adequate. No impacts are expected from the requested Adjustment. 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 requests an Adjustment to remove the required on-site parking. A new ADU is proposed and the existing detached garage will be removed. Transportation staff reviewed the request and note that the existing on-street parking supply is adequate to serve the site. A mature evergreen tree located at the rear of the lot will be preserved. Thus, there will be no significant impacts to neighborhood appearance and livability. 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 plan, Exhibits C-1, signed and dated March 1, 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 Exhibit C-1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-278214 AD. No field changes allowed."

Staff Planner: Marguerite Feuersanger

Decision rendered by:  **on March 1, 2018.**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 5, 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 4, 2017, and was determined to be complete on January 9, 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 4, 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 9, 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 19, 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 19, 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:

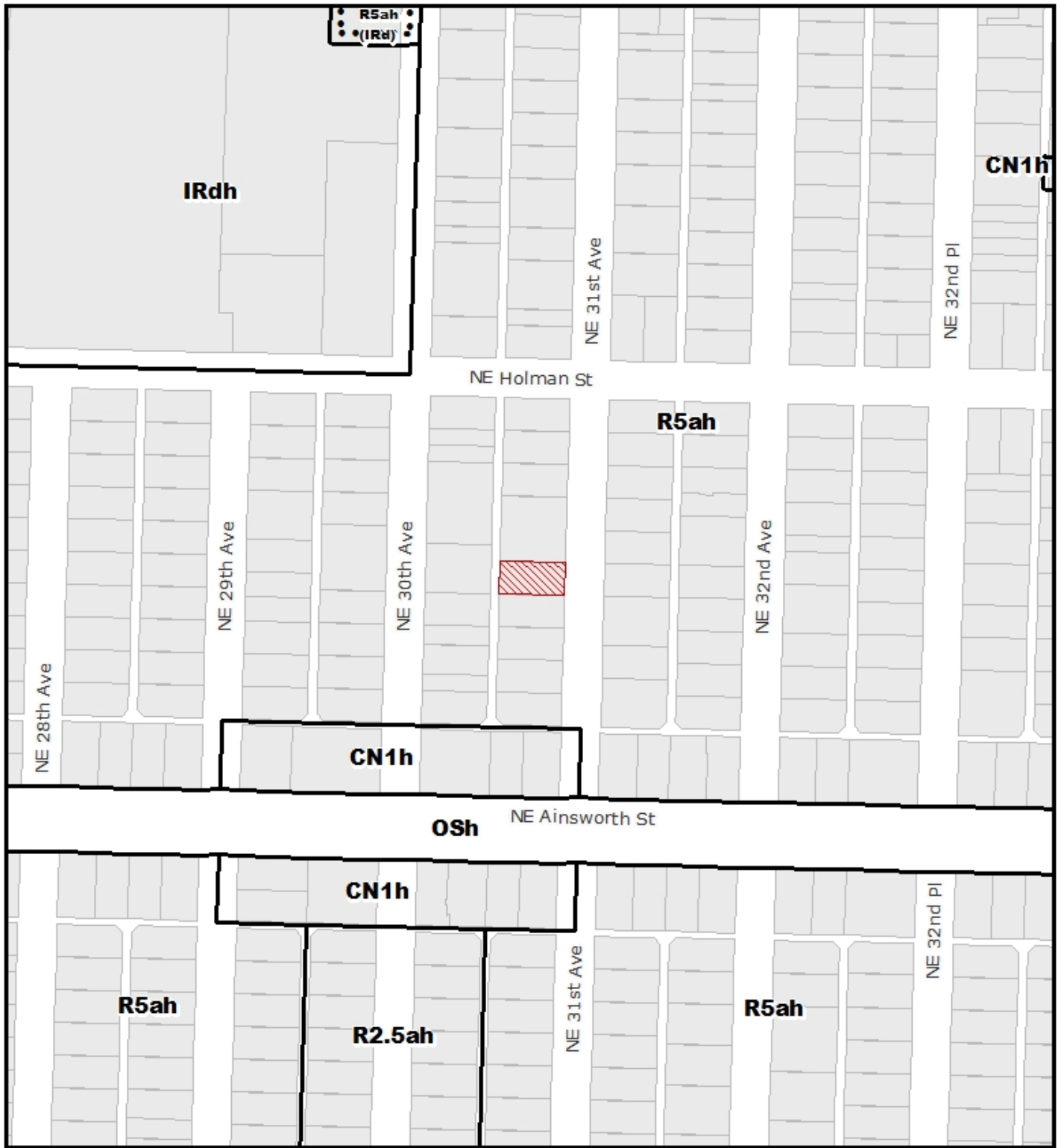
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Original Submittal, December 4, 2018
 2. Updated Submittal, January 9, 2018
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Proposed ADU Elevations
- 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. Celeste and Herschel Soles, letter received January 25, 2018, concern about on-street parking supply.
- 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

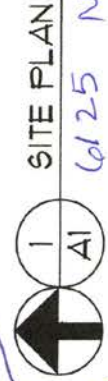
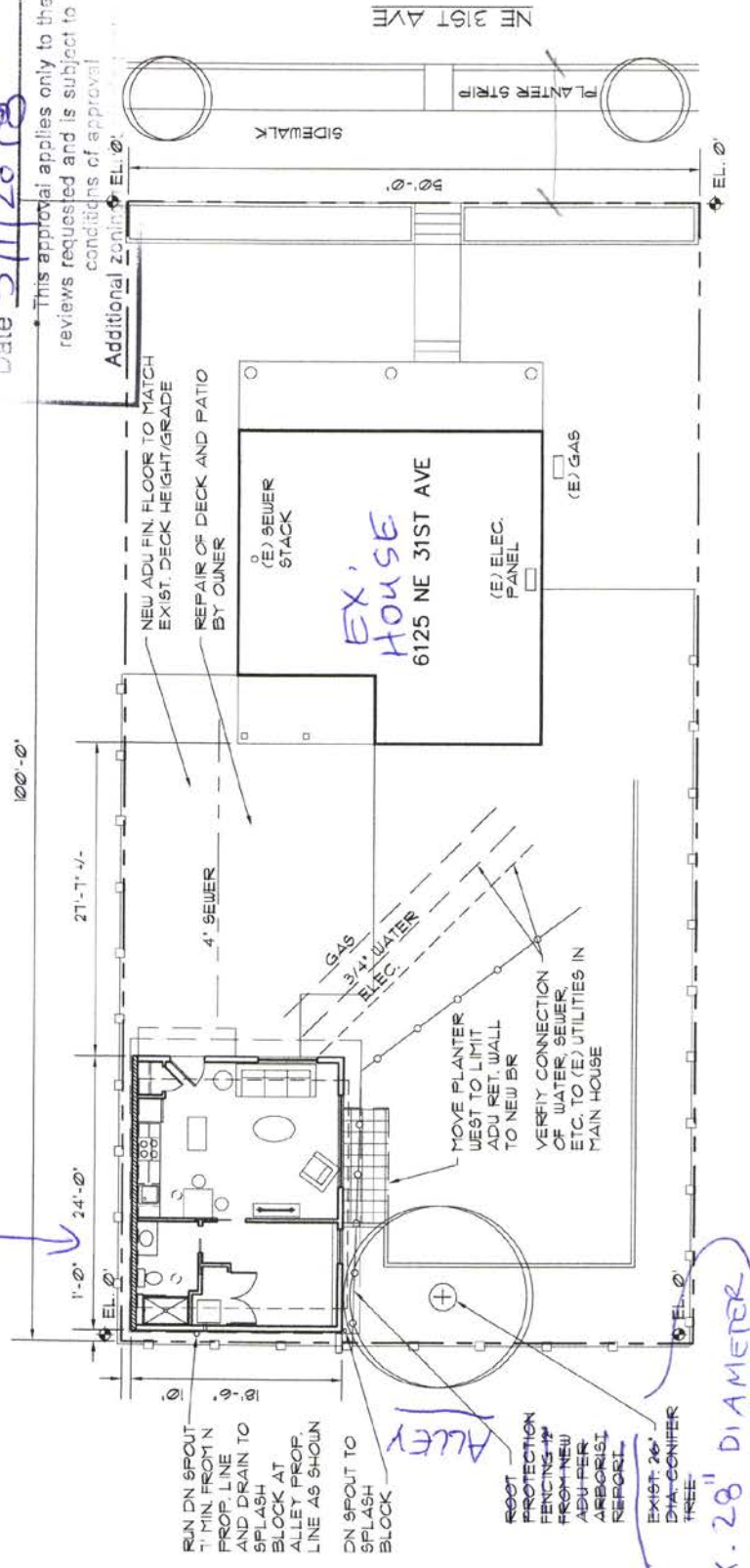
 Site

File No.	LU 17-278214 AD
1/4 Section	2433
Scale	1 inch = 200 feet
State ID	1N1E13CA 13000
Exhibit	B Dec 06, 2017

Approved
 City of Portland
 Bureau of Development Services
 Planner *[Signature]*
 Date *3/1/2018*

This approval applies only to the reviews requested and is subject to all conditions of approval
 Additional zoning EL. 0

NEW ADU located in area of existing garage to be removed



SITE PLAN
 A1
 6125 NE 31st Ave.

ADJUSTMENT REQUEST: TO WAIVE THE REQUIREMENT FOR AN ON-SITE PARKING SPACE

EXHIBIT C-1
 LW 17-278214 AD