



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

Chloe Eudaly, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: June 20, 2018
To: Interested Person
From: Lauren Russell, Land Use Services
503-823-7817 / 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 18-161835 AD

GENERAL INFORMATION

Applicant/Owner: John M Donnell and Tana Hall
5731 NE 23rd Ave | Portland, OR 97211

Site Address: 5731 NE 23RD AVE

Legal Description: BLOCK 7 LOT 2&4, IRVINGTON PK
Tax Account No.: R421301160
State ID No.: 1N1E14DD 07700
Quarter Section: 2432
Neighborhood: Concordia, contact Garlynn Woodsong at 503-936-9873.
Business District: Soul District Business Association, contact at info@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030.

Plan District: None
Zoning: R5a,h – Single-Dwelling Residential 5,000, Alternative Design Density Overlay, Aircraft Landing Overlay

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

Proposal:

The applicant proposes to convert the existing one-story, 18-foot by 20-foot detached garage into a new 323 square foot detached accessory dwelling unit (ADU), which would result in the loss of the existing on-site parking space. Per Zoning Code Section 33.266.110.B.1 and Table 266-2, one on-site parking space is required per household living unit (ADUs are not required to have a parking space); however, if the site is located fewer than 500 feet from a transit street with 20-minute peak hour service, no parking is required for household units where there are up to 30 units on the site (Zoning Code Section 33.266.110.D.1.) Because the subject site is located over 1,000 feet from NE 27th Avenue, a transit street whose Number 17 bus line provides the closest 20-minute peak hour service, the applicant requests an Adjustment to reduce the one required on-site parking space to zero.

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 lot is located at the southwest corner of NE Jarrett Street and NE 23rd Avenue. The site is currently developed with a one-and-a-half story single-dwelling residence that faces NE 23rd Avenue with a detached two-car garage, which is accessed by a driveway on NE Jarrett Street. There is an alley along the rear lot line. Adjacent properties are similarly developed with one- to two-story single-dwelling residences, some with detached or attached garages. Alberta Park, a large city park, is located one block to the west

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.

Accessory dwelling units can be added to a house in the R5 zone. No additional parking is required for the accessory dwelling unit.

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 Aircraft Landing (h) overlay zone provides for safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment. In Residential zones, structures are regulated by the base zone height limits rather than the height limits of the overlay zone, which in this location is 180 feet.

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 May 22, 2018. The following Bureaus have responded with no issues or concerns regarding the requested Adjustment:

- Bureau of Environmental Services (BES) responded that BES does not object to approval of the requested Adjustment review (Exhibit E-1);
- Bureau of Transportation Development Review responded with no objection to the proposed Adjustment and provided information about Title 17 requirements (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 Section of BDS responded with no objections to the approval of this proposal (Exhibit E-6).

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 one required on-site parking space to zero.

The purpose of the minimum parking standard is stated in Zoning Code Section 33.266.110.A:

***Purpose:** 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. 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.*

The Development Review Section of Portland Transportation (PBOT) reviewed the request to waive the on-site parking space and provided the following response (Exhibit E-2):

"The applicant proposes a reduction of required parking spaces from one space to zero, to allow the conversion of an existing garage into an accessory dwelling unit (ADU). The proposed development is located approximately 1,000 feet from frequent service transit. The site has a 16-foot sidewalk corridor on both adjacent frontages, NE Jarrett Street and NE 23rd Avenue, that provides pedestrian access to the surrounding area, including restaurants and amenities on NE Killingsworth Street, which is approximately 500 feet from the proposed development. The surrounding street network is gridded and connected, providing easy pedestrian and bicycle access. Therefore, PBOT considers the impacts generated by the removal of one on-site parking space to be minor. PBOT has no objection to the subject request for an adjustment to on-site parking."

The subject site is in close proximity to frequent transit with the Number 17 bus line on NE 27th Avenue located approximately 1,090 feet (four blocks) away, which is a 5-minute walk. The Number 72 bus line on NE Alberta Street is located approximately 1,830 feet (six blocks) away, which is a 10-minute walk. The Number 8 bus line is located approximately 2,000 feet (seven blocks) away, which is an 11-minute walk. All three of these bus lines are frequent service bus lines that run every 15 minutes or better most of the day, every day (<https://trimet.org/schedules/frequentservice.htm>). The streets around the subject site are laid out in a regular block pattern and do not dead end, so there is good street connectivity. The rights-of-way around the subject site are fully improved and contain sidewalks, so there are good pedestrian facilities. For these reasons and per PBOT's response, the proposed Adjustment can equally meet the intent of the regulation.

In order to ensure that the existing on-site parking space is replaced with an on-street parking space, as a condition of approval, the applicant must close the existing curb cut, remove the portion of the driveway within the right-of-way, and reconstruct the sidewalk corridor and curb at this location. The additional on-street parking space would be able to accommodate parking for the existing house on the subject site. With this condition of approval, there will be no net loss in on-street parking capacity. Therefore, 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 subject site is proximate to frequent service transit, has good street connectivity, and good pedestrian facilities, all of which support not requiring off-street parking. Additionally, closing the curb cut will result in additional on-street parking and there will be no net loss in parking capacity. The condition of approval that the applicant must close the existing curb cut, remove the portion of the driveway within the right-of-way, and reconstruct the sidewalk corridor and curb at this location ensures that additional on-street parking spaces will be available.

The request to waive the required on-site parking space does not directly impact the appearance of the residential area; however, providing on-street parking spaces rather than an on-site parking space allows for the residential appearance of the subject site to be maintained.

Therefore, the proposal will not significantly detract from the livability and appearance of the surrounding residential area. With the condition of approval, 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 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 Criteria A and B, the condition of approval that the applicant must close the existing curb cut, remove the portion of the driveway within the right-of-way, and reconstruct the sidewalk corridor and curb at this location will ensure that there will be additional on-street parking spaces. This condition mitigates for the potential negative impact on the on-street parking supply and equally accommodates the parking demand created by the single-dwelling residence. With this condition of approval, 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 the 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 requirements of Title 11 can be met, and 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 one required on-site parking space to zero, with the condition of approval that the applicant close the existing curb cut and driveway and reconstruct the sidewalk corridor and curb at this location, equally meets the purpose of the regulations and does not have any adverse impacts on the livability or appearance of the surrounding residential neighborhood. The applicant has demonstrated that the approval criteria have been met. Because the approval criteria have been met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the one required on-site parking space to zero, granted per the approved site plan, Exhibit C-1, signed and dated June 14, 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 18-161835 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The applicant is required to close the existing curb cut, remove the portion of the driveway within the right-of-way, and reconstruct the sidewalk corridor and curb at this location. The closed curb cut and reconstructed sidewalk corridor must be shown on the final building permit plans.

Staff Planner: Lauren Russell

Decision rendered by: Lauren Russell on June 14, 2018.

By authority of the Director of the Bureau of Development Services

Decision mailed: June 20, 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 April 30, 2018, and was determined to be complete on May 18, 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 April 30, 2018.

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: September 15, 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 July 5, 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 **July 5, 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.

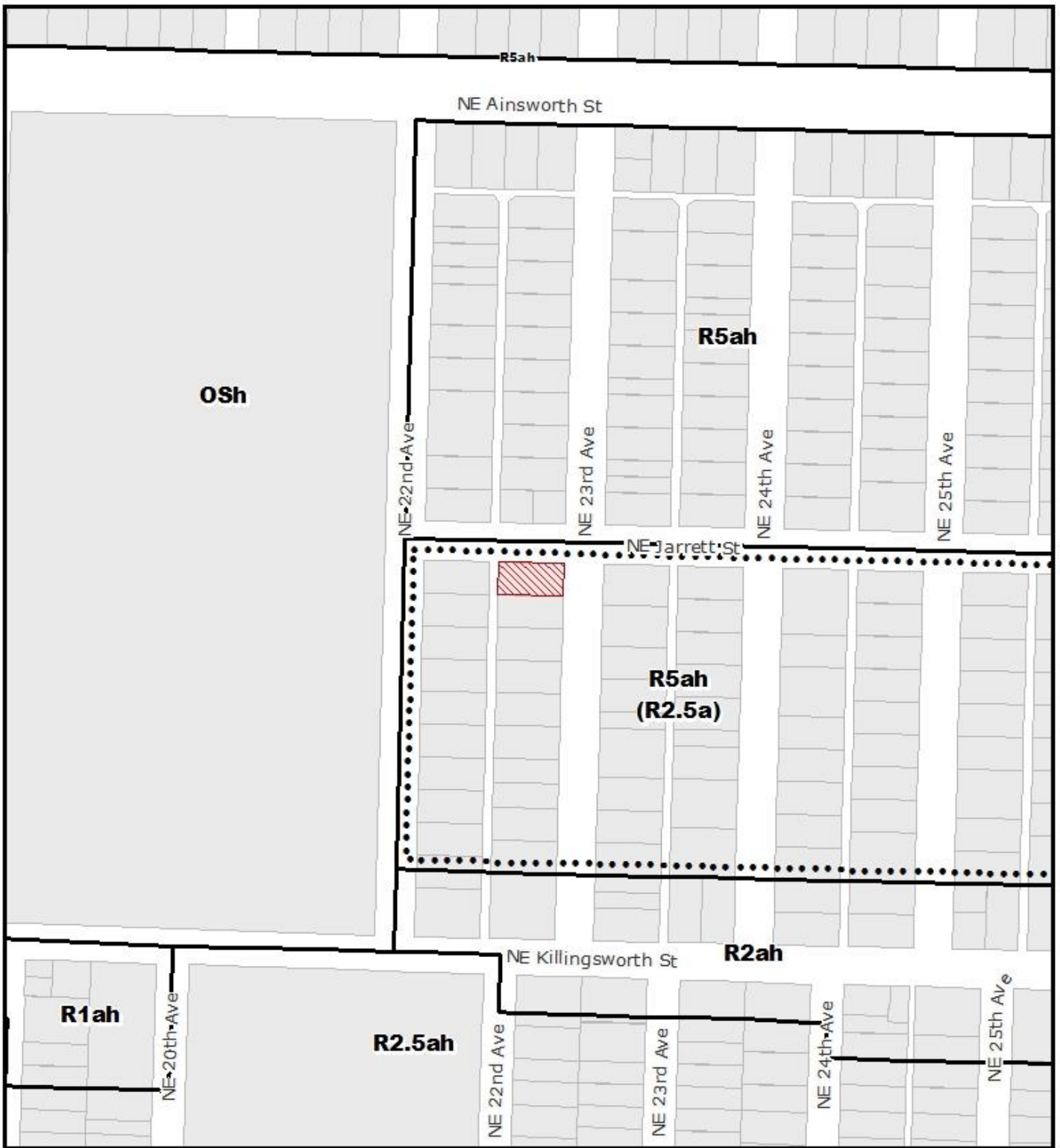
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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, Photos, and Drawings submitted 4/30/18
 - 2. Revised Narrative received 5/18/18
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification Information:
 - 1. Mailing List
 - 2. Mailed Notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Section of BDS
- F. Correspondence: none received
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter mailed 5/14/18

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 
NORTH

 Site

File No.	LU 18-161835 AD
1/4 Section	2432
Scale	1 inch = 200 feet
State ID	1N1E14DD 7700
Exhibit	B May 03, 2018

PLAN - 1" = 20'-0"

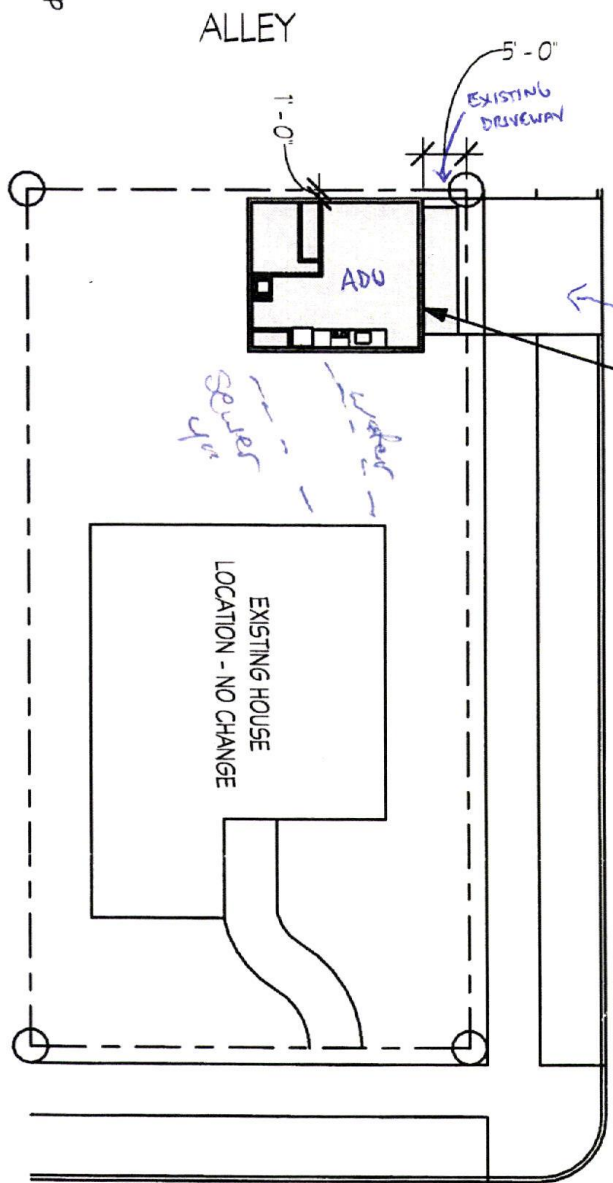
1 NE 23RD AVE
 PORTLAND, OR 97211
 PROPERTY

Built 1937

DESCRIPTION SINGLE FAMILY RESIDENTIAL
 1 ROOMS TWO FULL BATHS
 Living Area 2,278 sq ft
 Neighborhood CONCORDIA
 Subdivision Portland / Multnomah
 Zoning RS - Residential 5,000
 Lot Area 186 ft (approximate)
 Owner DONNELL JOHN M & HALL TANAKA
 Parcel Address
 1 NE 23RD AVE
 PORTLAND, OR 97211-5532

3 EXISTING TREES GREATER THAN
 4 INCHES IN DIAMETER ON SITE

VALUATION LESS THAN \$153,000. NO
 NEW TREE PLANTINGS ARE REQUIRED
 PROVIDE ADU WITH CLEARLY VISIBLE
 ADDRESS ON FRONT OF BUILDING AT NE JESSUP



ADJUSTMENT REQUEST TO REDUCE THE
 ONE REQUIRED ON-SITE PARKING
 SPACES TO ZERO

CONDITION OF APPROVAL B:
 CLOSE CURB CUT, REMOVE
 DRIVEWAY + RECONSTRUCT
 SIDEWALK CORRIDOR.

NE JARRETT ST.
 NEW ADU TO BE CREATED
 INSIDE EXISTING GARAGE SPACE

Approved
City of Portland
 Bureau of Development Services
 Planner Jamie Russell
 Date 6/14/18

* This approval applies only to the
 reviews requested and is subject to all
 conditions of approval
 Additional zoning requirements may apply

NE 23RD AVE

CASE NO. 18-161835 AD
 EXHIBIT C-1

LA 18-161