



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

Ted Wheeler, Mayor  
Rebecca Esau, Director  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** April 17, 2019  
**To:** Interested Person  
**From:** David Besley, Land Use Services  
503-823-7282 / [David.Besley@portlandoregon.gov](mailto:David.Besley@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 19-122298 AD**

#### **GENERAL INFORMATION**

**Applicant:** Tyler Hensley, Hensley Builders LLC  
1481 NW 13th Ave #826, Portland, OR 97209

**Owner:** Anna R Ingoglia Family Tr  
3609 NE Flanders St, Portland, OR 97232

**Party of Interest:** Angela Todd, Angela Todd Studios  
7505 SE Stark St, Portland, OR 97215

**Site Address:** 3609 NE FLANDERS ST

**Legal Description:** BLOCK 70 LOT 1, LAURELHURST  
**Tax Account No.:** R479114100  
**State ID No.:** 1N1E36DB 01900  
**Quarter Section:** 3034

**Neighborhood:** Laurelhurst, contact Peter Meijer at [info@pmapdx.com](mailto:info@pmapdx.com)  
**Business District:** None  
**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010

**Plan District:** Laurelhurst-Eastmoreland

**Zoning:** R5 (Single Dwelling Residential 5,000)  
**Case Type:** AD (Adjustment Review)  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant is proposing to construct a 130 square foot mudroom addition to connect an existing 324 square foot detached garage to an existing 2,386 square foot 2-story house. The applicant is also proposing a 45 square foot second floor dormer addition.

The Portland Zoning Code requires minimum side and rear setbacks in this zone of 5 feet (Section 33.110.220, Table 110-3). The existing house is 4 feet from the north side lot line and the additions are proposed to continue along this established building line (as allowed by Section 33.110.220.D.5). The detached garage is 0 feet from the east (rear) property line. While setback reductions are permitted for detached structures (meeting the standards of Section 33.110.250.C.2.b), the proposed addition will result in the garage no longer being detached. An Adjustment is therefore required to reduce the minimum rear (east) setback for the garage from 5 feet to 0 feet.

**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 4,468 square-foot lot is located on the northeast corner of NE Flanders Street and NE Laurelhurst Place, in the Laurelhurst neighborhood. The site is currently developed with a 2,386 square foot 2-story house and a 324 square foot detached garage. The surrounding vicinity is developed with single-dwelling and multi-dwelling residences.

**Zoning:** The R5 zone is a single-dwelling zone that is 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 Laurelhurst-Eastmoreland Plan is intended to enforce the special setback requirements of Ordinances 70343 and 70341. This plan district maintains the established character of the Laurelhurst and Eastmoreland areas, characterized by homes with larger than normal building setbacks from the street.

**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 **March 15, 2019**. The following Bureaus have responded with the following information:

- The Life Safety section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information (Exhibit E-1);
- The Bureau of Environmental Services (BES) responded with no concerns and provided stormwater management information (Exhibit E-2); and
- The Bureau of Transportation (PBOT) responded with no concerns and noted street classification information (Exhibit E-3).

The following Bureaus have responded with no concerns regarding the requested Adjustment (Exhibit E-4):

- The Fire Bureau;
- The Site Development Section; and
- The Water Bureau.

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## 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

1. **Findings:** The applicant has requested an Adjustment to reduce the minimum rear (east) setback for an existing 324 square foot garage from 5 feet to 0 feet that will be connected to an existing 2,386 square foot house. The relevant purpose statements and associated findings are found below:

**33.110.220 Setbacks**

*The setback regulations for buildings and garage entrances serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the city's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

While the requested Adjustment is to reduce the rear (east) setback from 5 feet to 0 feet, no new development is proposed in this area; it is only because of the proposed mudroom connection that the detached garage (allowed in the setbacks due to its size and location) becomes attached and thus nonconforming. Because no changes are proposed to the garage itself, light and air are maintained, and because the eastern façade of the garage does not have any windows privacy will be maintained as well. Furthermore, many of the surrounding houses in this area have structures built within side and rear setbacks. An attached garage within the rear setback will therefore be compatible with this neighborhood.

The proposed 130 square-foot one story mudroom and 45-square foot second floor dormer addition meet all development standards and do not require an Adjustment.

The Fire Bureau has reviewed the request and responded with no concerns with regards to separation for fire protection, or access for fire fighting. The Portland Bureau of Transportation has no concerns regarding the proposed adjustment.

***This criterion is met.***

**B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** As noted above, no new development is proposed in the rear setback area. This proposal is consistent with the development pattern in the area, which includes development in side setbacks, and, as such, will not significantly detract from the appearance of the area. The absence of windows to the east protects privacy, a key component of livability for adjacent neighbors who could be impacted by the setback reduction.

***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 requested; therefore, this criterion is not applicable.

- 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 is not applicable.

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

**Findings:** There are no discernible impacts that would result from granting the requested adjustments for which mitigation would be required.

***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 a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, 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 applicant is proposing to construct a 130 square foot mudroom addition to connect an existing 2,386 square foot house and 324 square foot detached garage. While the requested Adjustment is to reduce the rear (east) setback from 5 feet to 0 feet, no new development is proposed in this area; it is only because of the proposed mudroom connection that the detached garage (allowed in the setbacks due to its size and location) becomes attached and thus nonconforming. Because no changes are proposed to the garage itself, light and air are maintained, and because the eastern façade of the garage does not have any windows privacy will be maintained as well. Many of the surrounding houses in this area have structures built within side and rear setbacks; this proposal will therefore be compatible with this neighborhood. The proposal meets the applicable approval criteria and should therefore be approved.

## **ADMINISTRATIVE DECISION**

Approval of an Adjustment to reduce the minimum rear (east) setback from 5 feet to 0 feet for an attached garage (Section 33.110.220, Table 110-3), per the approved site plans, Exhibits C.1 through C.4, signed and dated April 11, 2019, subject to the following conditions:

- 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.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 19-122298 AD. No field changes allowed."

**Staff Planner: David Besley**



**Decision rendered by:** \_\_\_\_\_ **on April 11, 2019.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: April 17, 2019**

**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 February 19, 2019, and was determined to be complete on March 11, 2019.

*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 February 19, 2019.

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: July 9, 2019.**

**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 May 1, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing

the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://www.portlandonline.com).

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **May 1, 2019** 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.

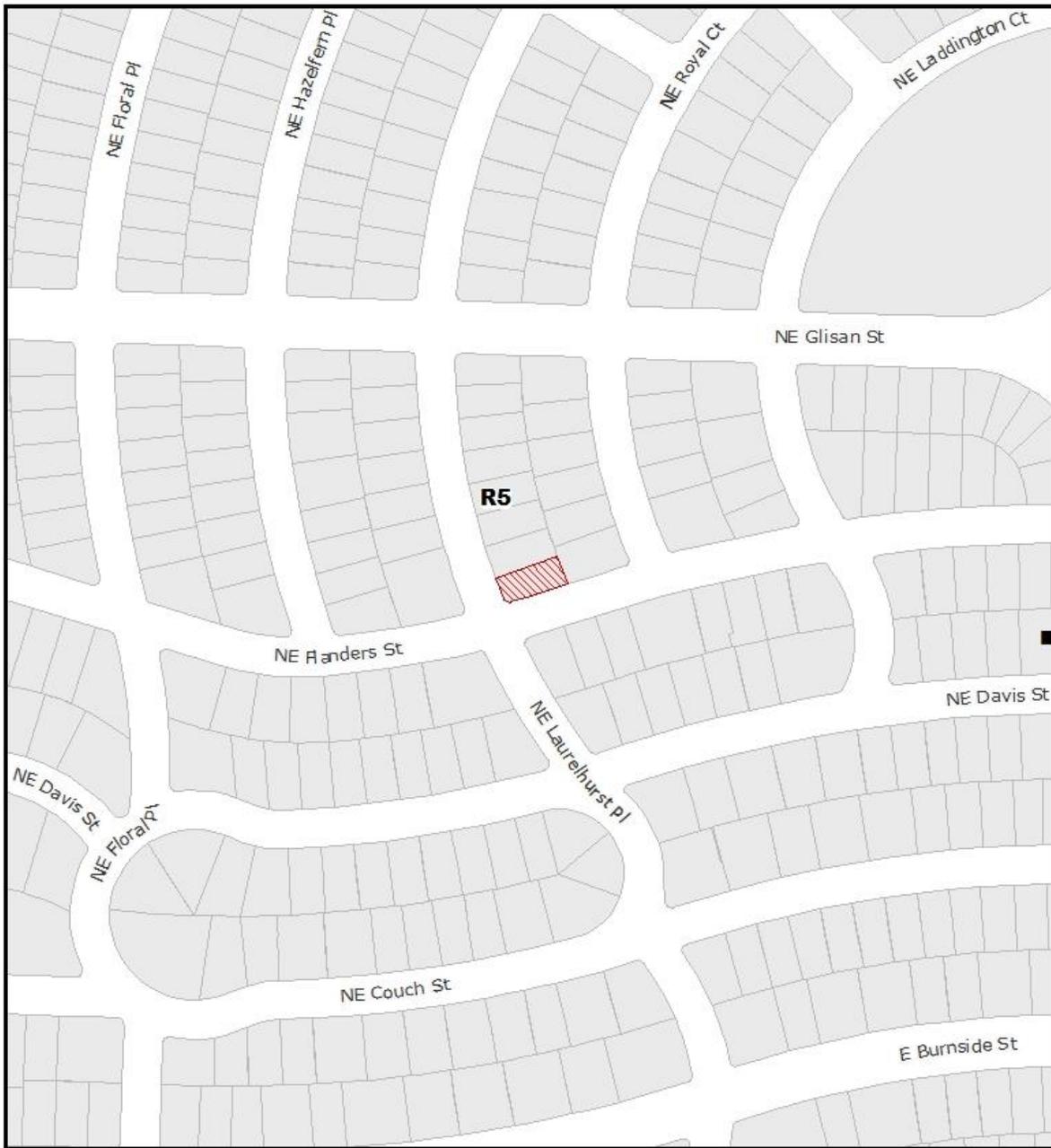
**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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. South Elevation Drawing (attached)
  - 3. East Elevation Drawing (attached)
  - 4. North Elevation Drawing (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Life Safety Section of BDS
  - 2. Bureau of Environmental Services
  - 3. Bureau of Transportation Engineering and Development Review
  - 4. Bureaus responding with no concerns
- F. Correspondence: None
- G. Other:
  - 1. Original LU Application and Receipt
  - 2. Incomplete letter from staff to applicant, sent March 5, 2019

**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  
THIS SITE LIES WITHIN THE:  
LAURELHURST PLAN DISTRICT

-  Site
-  Historic Landmark

File No.	<u>LU 19-122298 AD</u>
1/4 Section	<u>3034</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1N1E36DB 1900</u>
Exhibit	<u>B Feb 26, 2019</u>

Site Plan for:  
**INGOLIA**

3609 NE FLANDERS ST  
PORTLAND, OR 97232

**SITE INFORMATION**

STATE ID#: NE36DB 1900  
PROPERTY ID#: R203510  
LAURELHURST, BLOCK 70, LOT 1  
COUNTY: MULTNOMAH  
LOT SIZE: 4,468 SF (0.10 ACRES)

ZONE: R-5

FRONT SETBACK: 10 FT  
GARAGE: 10 FT  
SIDE SETBACK: 5 FT  
REAR SETBACK: 5 FT  
BUILDING HEIGHT MAX: 30 FT

**SEGMENTS**

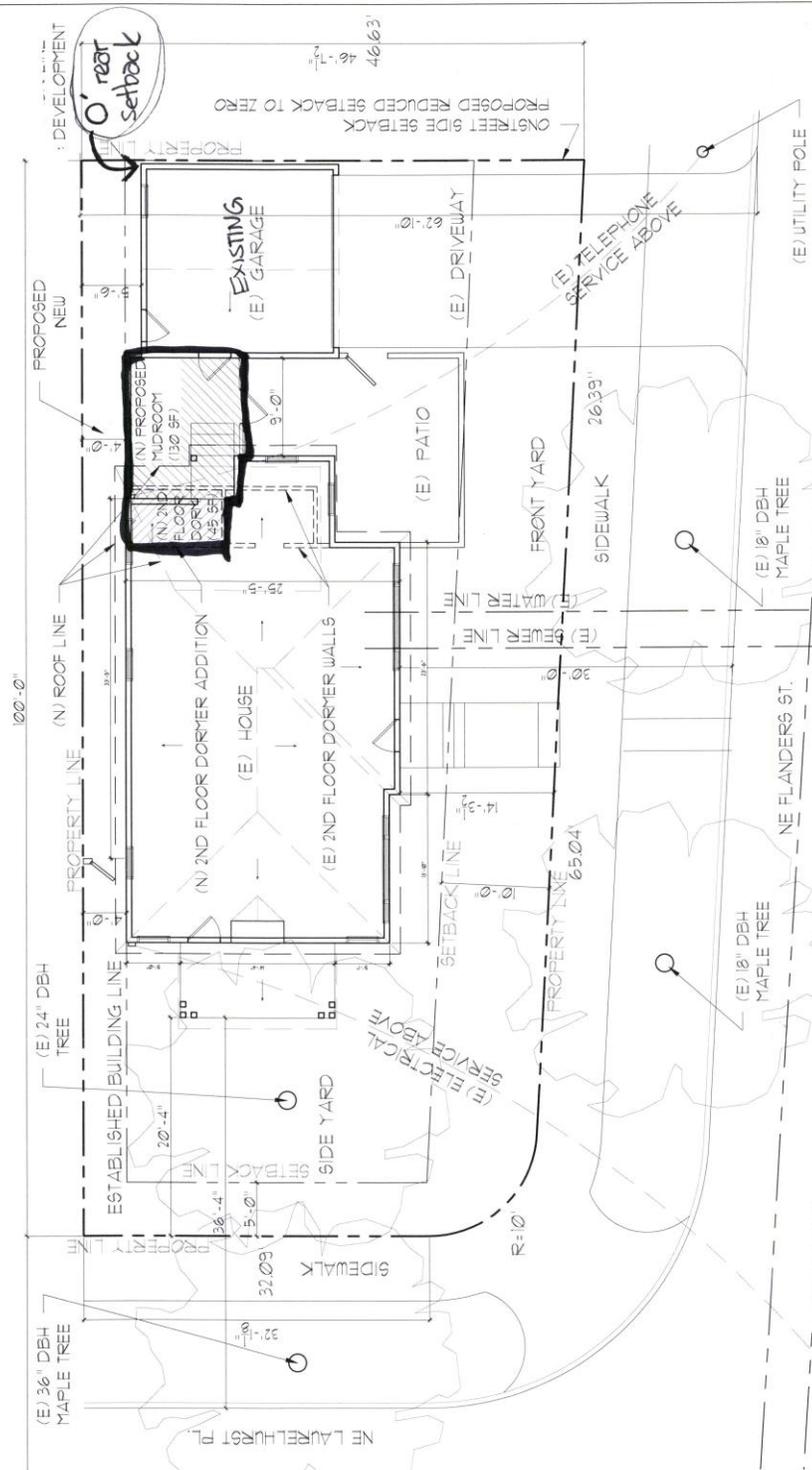
(E) DET. GARAGE: 324 SF  
(E) MAIN AREA: 1023 SF  
(E) CONCRETE: 600 SF  
(N) PROPOSED MUDROOM: 130 SF  
(N) 2ND FLOOR DORMER: 45 SF  
(N) BUILDING COVERAGE: 1,170 SF

(N) IMPERVIOUS AREA: 0 SF  
(N) BUILDING COVERAGE: 1,170 SF  
(E) PERCENTAGE OF COVERAGE:  
= (1,170 SF / 4,468 SF) = 26.2%  
= (1,500 SF + 0.315) / (4,468 + 3,000)  
= (1,500 SF + 0.315) / 7,468 = 20.2%

APR 11 2019  
LU CASE NO. 19-122298 AD  
2,050.5 SF ALLOWED

March 11, 2019 Revision

EXHIBIT C-1



**SITE PLAN**  
SCALE: 1" = 10'-0"

**Approved\***  
City of Portland  
Bureau of Development Services  
Planner Cand Bealy  
Date 4-11-19  
\* This approval applies only to the review requested and is subject to all conditions of approval. Additional zoning requirements may apply.

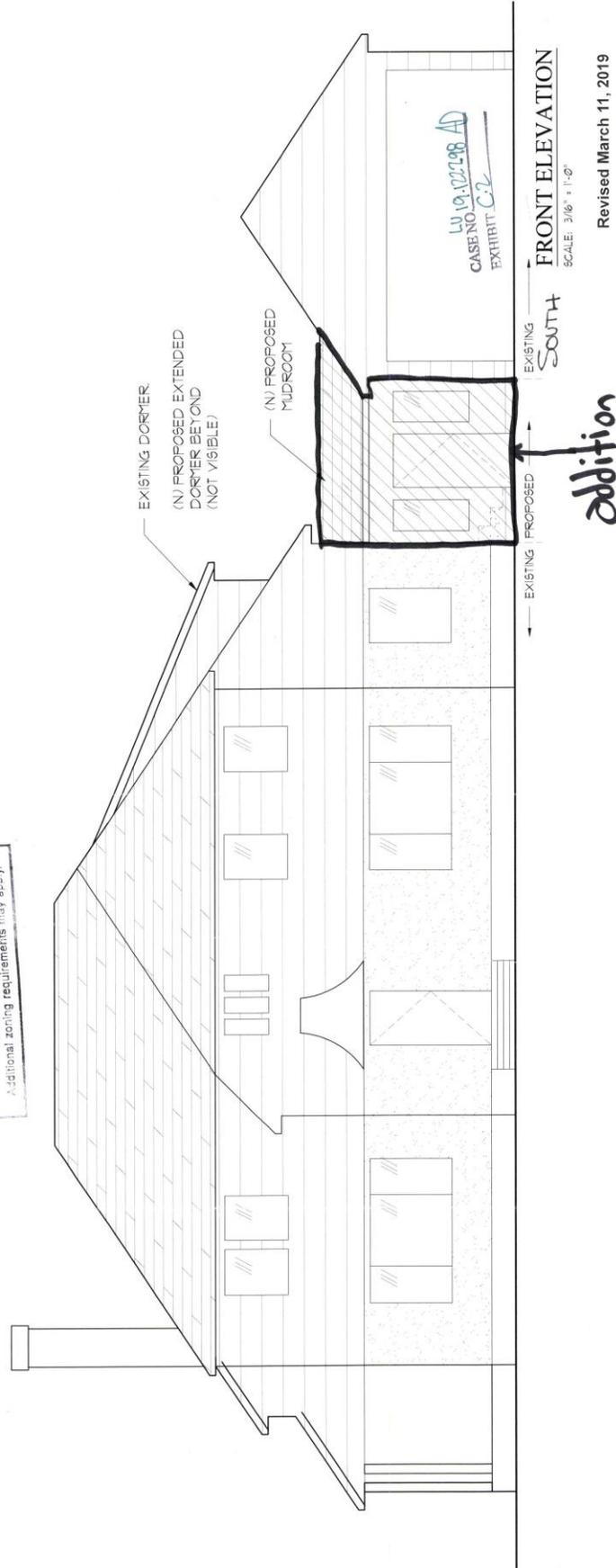
5336 N. Maryland Ave  
Portland, OR 97217  
tel: 503.943.9250

**MDS+TA**  
METROPOLITAN ARCHITECTURE  
DESIGN STUDIO

Adjustment requested to reduce minimum rear (east) setback from 5' to 0' for a 130 sqft mudroom addition to attach an existing house to an existing garage.

**MDSHA**  
METROPOLITAN ARCHITECTURE  
DESIGN STUDIO  
5336 N. Maryland Ave  
Portland, OR 97217  
tel: 503.943.9250

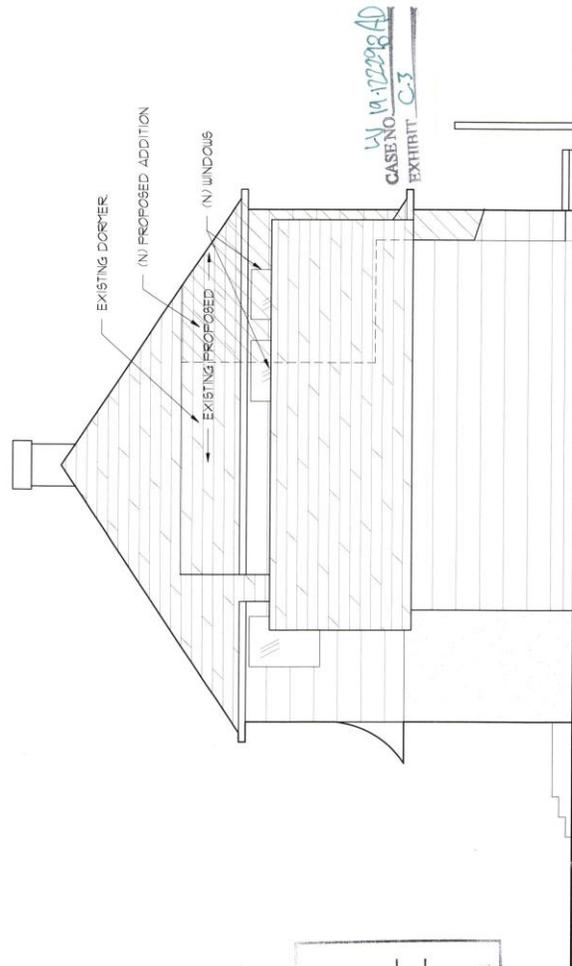
\*Approved\*  
City of Portland  
Bureau of Development Services  
Planner David Seelye  
Date 4.11.19  
• This approval applies only to the conditions of approval.  
Additional zoning requirements may apply.



Revised March 11, 2019

**MDS+TA**  
 METROPOLITAN ARCHITECTURE  
 DESIGN STUDIO

5336 N. Maryland Ave  
 Portland, OR 97217  
 tel: 503.943.9250



LU 19-122298 AD  
 EXHIBIT C-3

\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner Carol Brady  
 Date 3/11/2019

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

EAST  
 SIDE ELEVATION  
 SCALE: 3/16" = 1'-0"

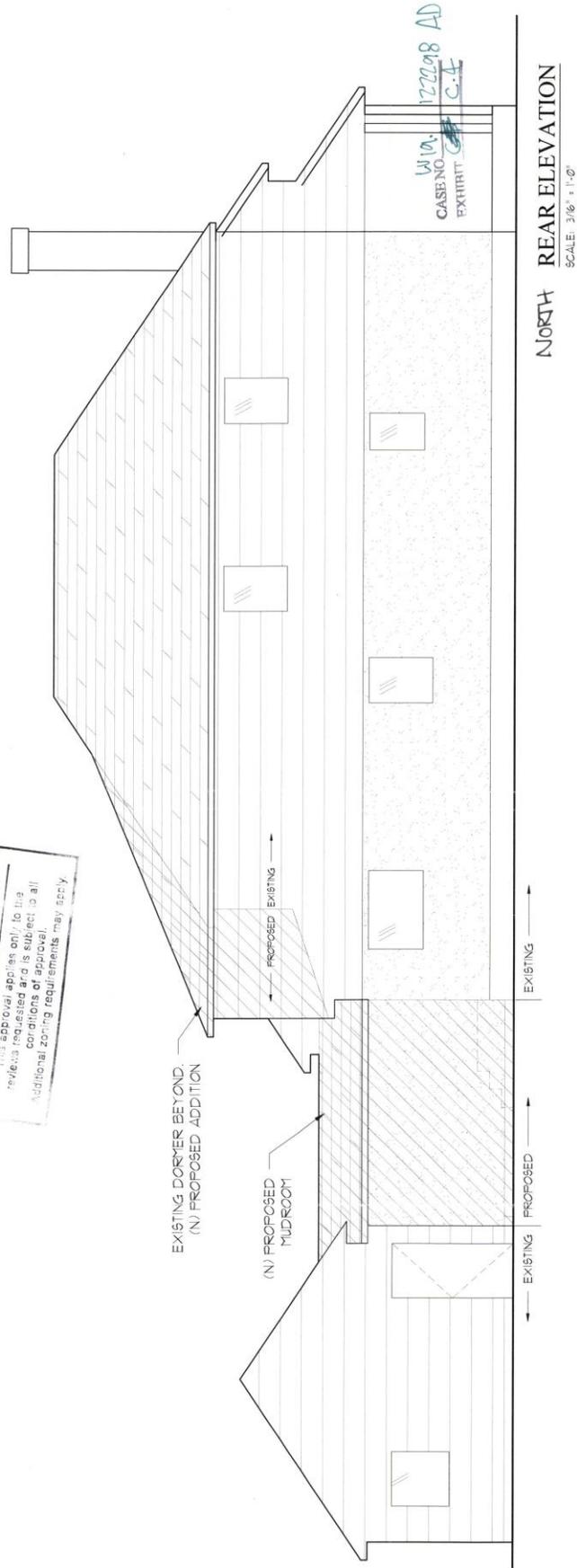
Revised March 11, 2019

**MDSHA**  
 METROPOLITAN ARCHITECTURE  
 DESIGN STUDIO

5336 N. Maryland Ave  
 Portland, OR 97217  
 tel: 503.943.9250

**\*Approved\***  
 City of Portland  
 Bureau of Development Services  
 Planner Dany Bely  
 Date 4-11-19

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



**NORTH** REAR ELEVATION  
 SCALE: 3/8" = 1'-0"

Revised March 11, 2019