



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

Date: August 1, 2019
To: Interested Person
From: David Besley, Land Use Services
503-823-7282 / 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 19-171686 AD

GENERAL INFORMATION

Applicant: Jen Wentzien | Guide Architecture
3331 SE Schiller St | Portland, OR 97202

Owner: Blair Darney & Michael Sterner
3729 SE 27th Ave | Portland, OR 97202

Site Address: 3729 SE 27TH AVE

Legal Description: BLOCK 4 N 16 2/3' OF LOT 13 S 16 2/3' OF LOT 14, EVANSTON
Tax Account No.: R260300440
State ID No.: 1S1E12CB 08000
Quarter Section: 3433

Neighborhood: Creston-Kenilworth, contact Joe Hovey at ckna.landchair@gmail.com
Business District: Greater Brooklyn, contact at greaterbrooklynba@gmail.com
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010

Zoning: R2.5 (Single-dwelling Residential 2,500)

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

Proposal:

The applicant is proposing a remodel which includes a 1 foot – 7 inch height increase to an existing 1.5-story home, as well as the addition of two full length dormers. The Portland Zoning Code limits the side setbacks in this zone to 5 feet (Section 33.110.220, Table 110-3). The existing house is 4 feet – 6 inches from the south side lot line and 4 feet – 8.5 inches from the north side lot line. An existing bay window is 2 feet 11.5 inches from the north side lot line. While the new dormers will be set back a minimum of 5 feet from the property lines to meet the

setback requirements, a 1 foot – 7 inch increase in height is proposed along the existing building wall planes, including the aforementioned bay window.

Additionally, the Portland Zoning Code allows eaves to extend into required building setbacks up to 20 percent of the depth of the setback (in this case, a 1-foot encroachment into side setback); however, they must be at least three feet from a lot line (Section 33.110.220.C.1; Table 110-3). Portions of the existing 1.5-foot long eaves are currently about 2 feet - 6 inches from the north and south (side) property lines. As noted above, the proposed addition will not expand the house (including eaves) farther to the north or south, but the proposed addition is above the existing house and new eaves will be constructed as part of this addition. Additional Adjustments are therefore required to allow eaves to be up to 2 feet - 6 inches from the north and south property lines.

As a result of the 1 foot – 7 inch vertical expansion of the wall façade and rebuilding the eaves, four Adjustments are requested as follows:

1. Reduce the south side setback from 5 feet to 4 feet - 6 inches;
2. Reduce the north side setback from 5 feet to 4 feet - 8.5 inches;
3. Reduce the north side setback from 5 feet to 2 feet – 11.5 inches for the bay window;
and
4. Allow eaves to be up to 2 feet - 6 inches from the north and south (side) property lines.

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 3,300 square-foot site is located on the west side of SE 27th Avenue, between SE Rhone Street on the north and SE Francis Street on the south. It is currently developed with a 1,412 square foot house (912 square foot main floor and a 500 square foot finished attic). The surrounding vicinity is developed with primarily one and two-story single-dwelling residences. One block to the west there is employment and industrial zones and development, and two blocks to the north, along SE Powell Boulevard, are commercial zones and development.

Zoning: The R2.5 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

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 June 21, 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 included Building Code information (Exhibit E-1);
- The Bureau of Environmental Services responded with no concerns (Exhibit E-2); and
- The Portland Bureau of Transportation (PBOT) responded with no concerns and provided information on street classification and Title 17 requirements (Exhibit E-3).

The following Bureaus have responded with no concerns (Exhibit E-4):

- The Site Development Section of BDS;
- The Fire Bureau; 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 is proposing a remodel which includes a 1 foot – 7 inch height increase to an existing house located in the side setbacks, which requires four Adjustments to reduce the south side setback from 5 feet to 4 feet - 6 inches, reduce the north side setback from 5 feet to 4 feet - 8.5 inches, reduce the north side setback from 5 feet to 2 feet – 11.5 inches for a 1 foot – 7 inch height increase to a bay window; and allow eaves to be up to 2 feet - 6 inches from the north and south (side) property lines. The proposal also includes the addition of two full length dormers, which will meet setback requirements. The relevant purpose statement 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.*

The addition is not proposed to expand the house farther to the north or south, where the existing setback encroachments are. The proposed addition, however, includes an additional 1 foot – 7 inches of height directly above the existing house in these areas and will also encroach into the setbacks. This is a relatively minor addition which does not include any new windows, thus promoting privacy.

Because there will continue to be over 9 feet between the two adjacent houses to the north and south, and because the house footprint is not expanding closer to the neighboring houses, light and air are preserved and a reasonable physical relationship between residences is maintained. The existing 1,412 square-foot house is relatively small, and is in a neighborhood with a mix of one, two, and three-story houses. As such, the house with the remodeled attic will still reflect the general building scale and placement of houses in the neighborhood.

The existing roof eaves are about 1.5 feet in length and the proposed replacement eaves will also be 1.5 feet long. This will be consistent with the appearance of the area as the adjacent houses also have homes with 1 to 2-foot-long eaves.

The Fire Bureau has reviewed the request for reduced setbacks and eave allowances and offered 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, which does not include parking or driveway components. No changes are proposed to the driveway or garage.

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: The subject lot is in the R2.5 zone, a residential zone. As noted above, the existing house is relatively small, and is in a neighborhood with a mix of one, two and three-story houses. An additional story on this house will be consistent with the appearance of homes in the area. Despite the reduced side setback, there is a reasonable physical relationship between residences that will retain privacy (consistent with the purpose of setbacks). Because there are no new windows, there will continue to be over 9 feet of distance between the house and adjacent neighbors, and the addition is not proposed any closer to the property lines, the proposal will not significantly 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: The overall purpose of the R2.5 zone is to preserve land for housing, and to provide housing opportunities for individual households. Development standards in single-dwelling zones work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. Based on the findings included in response to approval criteria A and B above, the project is consistent with the overall purpose of the 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 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 as the setback distances are the same before and after the remodel.

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 a remodel which includes a 1 foot – 7 inch height increase to an existing 1.5-story home located in the north and south side setbacks. As a result of the 1 foot – 7 inch vertical expansion of the wall façade in the side setbacks and rebuilding the eaves, four Adjustments are requested as follows:

1. Reduce the south side setback from 5 feet to 4 feet - 6 inches;
2. Reduce the north side setback from 5 feet to 4 feet - 8.5 inches;
3. Reduce the north side setback from 5 feet to 2 feet – 11.5 inches for the bay window;
and
4. Allow eaves to be up to 2 feet - 6 inches from the north and south (side) property lines.

Because there will continue to be over 9 feet between the two adjacent houses to the north and south, and because the house footprint is not expanding closer to the neighboring houses, light and air, fire-fighter access, and privacy are preserved. The existing 1,412 square-foot house is relatively small, and is in a neighborhood with a mix of one, two, and three-story houses on similarly sized lots.

The existing roof eaves are about 1.5 feet in length and the proposed replacement eaves will also be 1.5 feet long. This will be consistent with the appearance of the neighborhood. The proposal meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of four (4) Adjustments:

1. Reduce the south side setback from 5 feet to 4 feet - 6 inches (Section 33.110.220, Table 110-3);
2. Reduce the north side setback from 5 feet to 4 feet - 8.5 inches (Section 33.110.220, Table 110-3);
3. Reduce the north side setback from 5 feet to 2 feet – 11.5 inches for the bay window (Section 33.110.220, Table 110-3); and
4. Allow eaves to be up to 2 feet - 6 inches from the north and south (side) property lines (Section 33.110.220).

to increase the height of an existing 1.5-story home by 1 foot – 7 inches, per the approved site plans, Exhibits C-1 through C-3, signed and dated July 19, 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.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 19-171686 AD. No field changes allowed."

Staff Planner: David Besley



Decision rendered by: _____ **on July 19, 2019.**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 1, 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 May 30, 2019, and was determined to be complete on June 14, 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 May 30, 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: October 12, 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 August 15, 2019** 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 must be recorded with the Multnomah County Recorder.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **August 15, 2019 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034. For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-7617.

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, or
- In situations involving only the creation of lots, the land division has been recorded.

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:

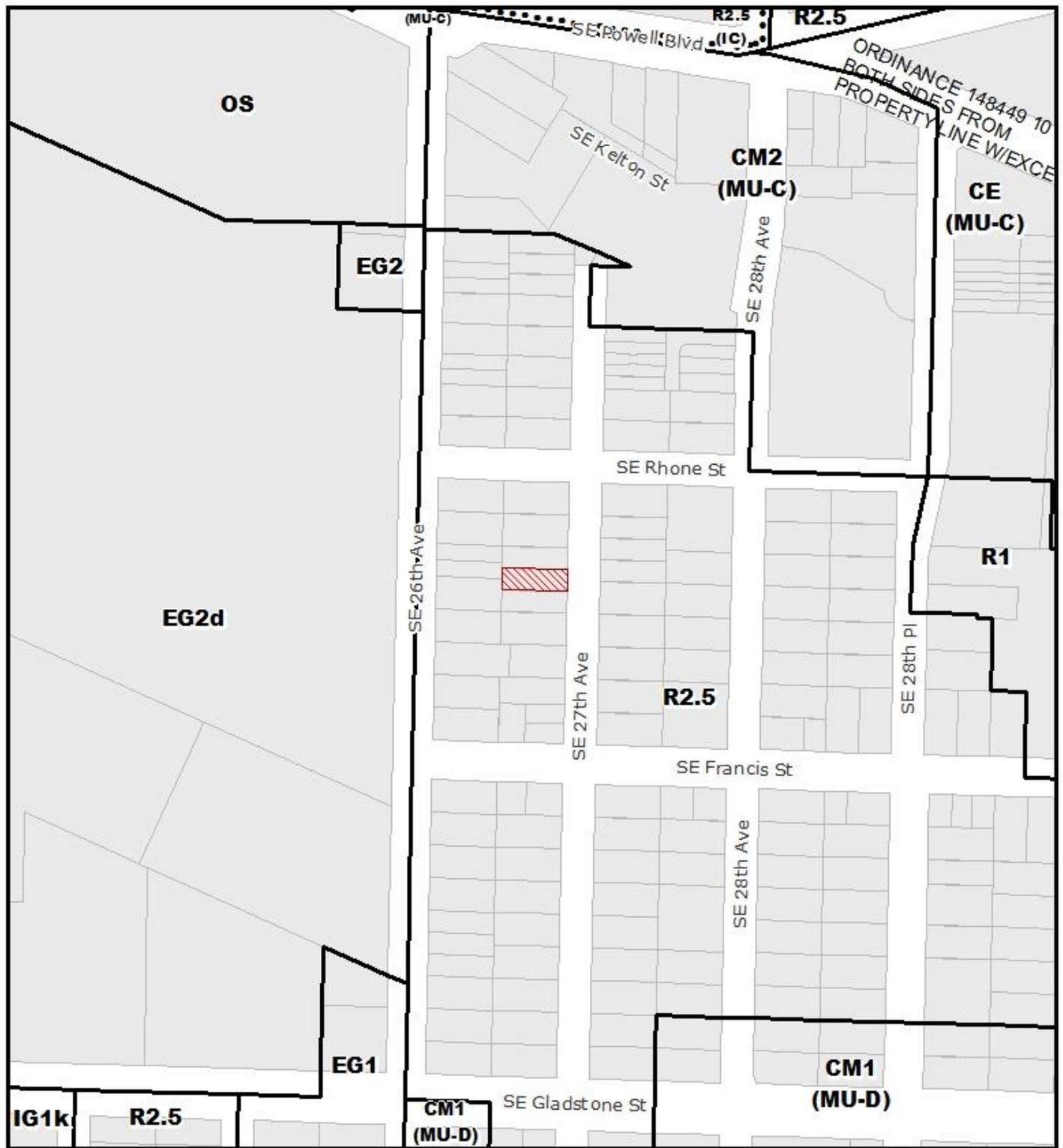
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. North and East Elevation Drawing (attached)
 - 3. South and West Elevation Drawing (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. The Life Safety section of the Bureau of Development Services
 - 2. Bureau of Environmental Services
 - 3. Bureau of Transportation Engineering and Development Review
 - 4. Agencies responding with no concerns
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incompleteness determination letter, dated June 13, 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).

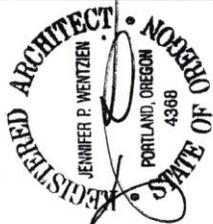


ZONING  NORTH

 Site

File No.	LU 19-171686 AD
1/4 Section	3433
Scale	1 inch = 200 feet
State ID	1S1E12CB 8000
Exhibit	B Jun 04, 2019

GUIDE
ARCHITECTURE
3331 SE Schiller Street
Portland, OR 97202
Phone: 503.340.7272
jen@guidearchitecture.com



Phase II - Dormer Addition
3729 SE 27th Ave.
Portland, OR 97202
Darney/Stern Residence

SITE PLAN

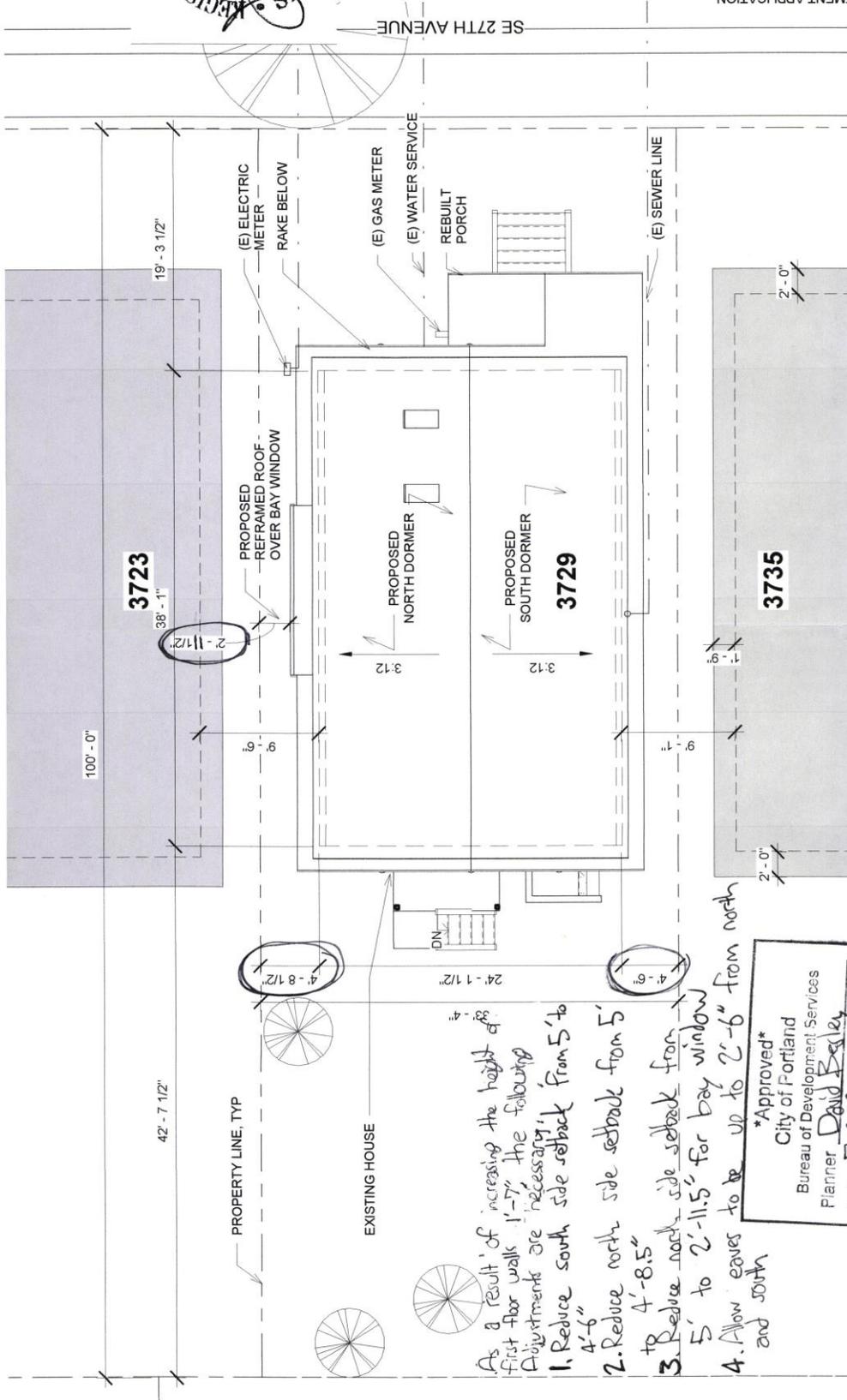
ADJUSTMENT APPLICATION

Project #: 17040
Date: 2019.05.30
Scale: 1/8" = 1'-0"

A1

EA C1

LA 19-171686 AD



- As a result of increasing the height of first floor walls 1'-7", the following adjustments are necessary:
1. Reduce south side setback from 5' to 4'-6"
 2. Reduce north side setback from 5' to 4'-8.5"
 3. Reduce north side setback from 5' to 2'-11.5" for bay window
 4. Allow eaves to be up to 2'-6" from north and south

Approved
City of Portland
Bureau of Development Services
Planner David Bailey
Date 7.19.19

*This approval applies only to the Zoning - Site Plan requested and is subject to all conditions of approval. 1/8" = 1'-0" Additional zoning requirements may apply.

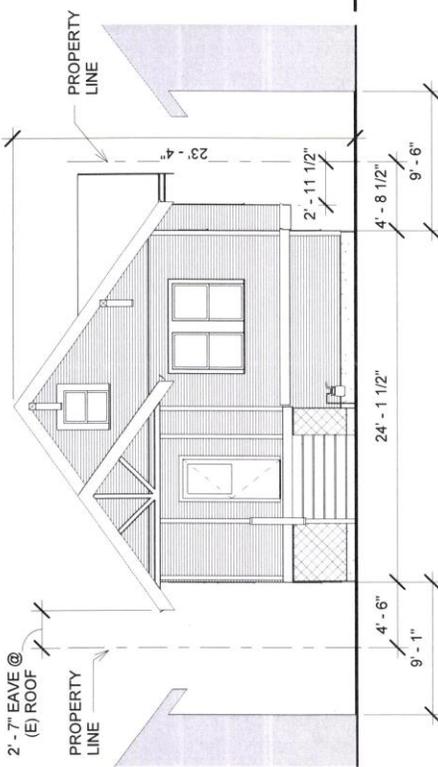


1 Zoning - Site Plan

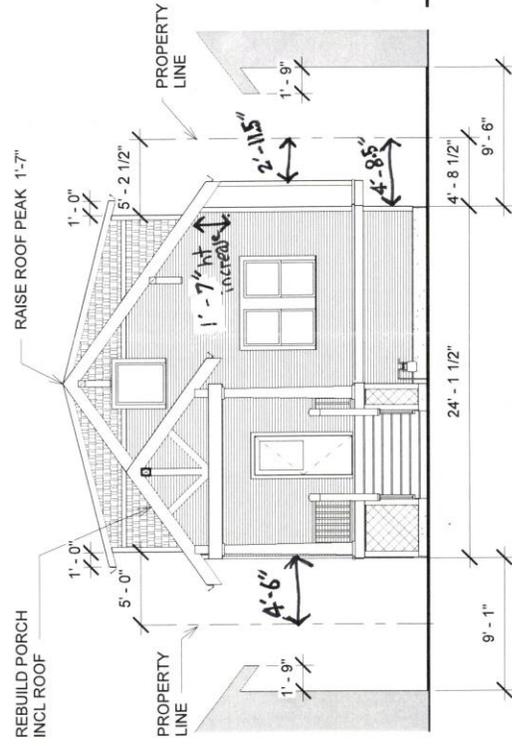
GUIDE ARCHITECTURE
 3331 SE Schiller Street
 Portland, OR 97202
 503.340.7726
 jen@guidearchitecture.com



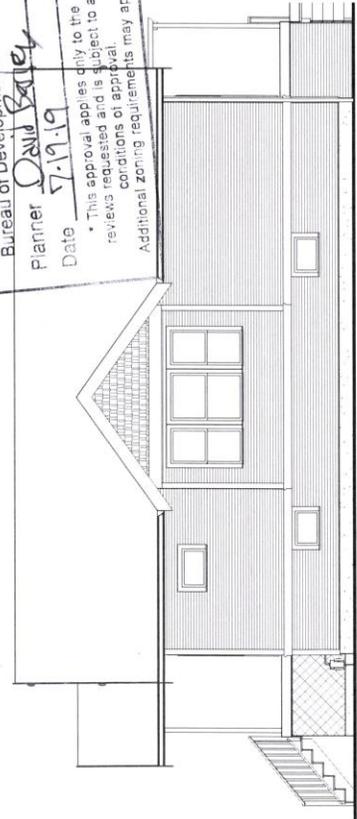
Approved
 City of Portland
 Bureau of Development Services
 Planner David Sauer
 Date 7.19.19
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



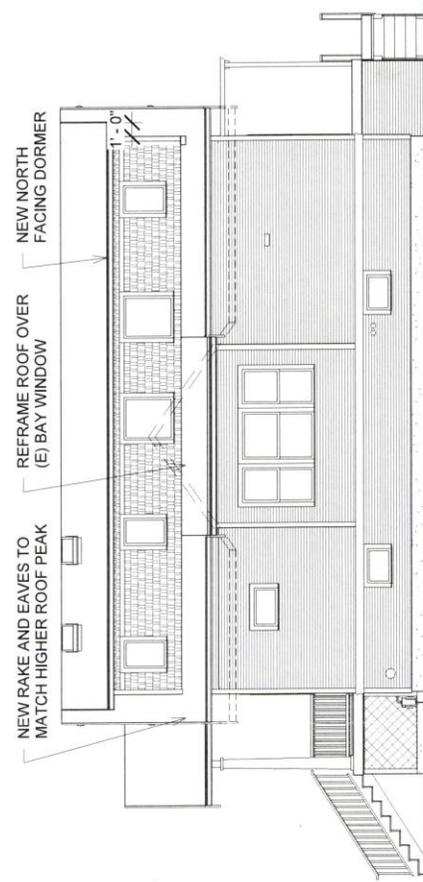
1 Existing East Elevation
 1/8" = 1'-0"



3 Proposed East Elevation
 1/8" = 1'-0"



2 Existing North Elevation
 1/8" = 1'-0"



4 Proposed North Elevation
 1/8" = 1'-0"

Phase II - Dormer Addition
 Darney/Sternmer Residence
 3729 SE 27th Ave.
 Portland, OR 97202

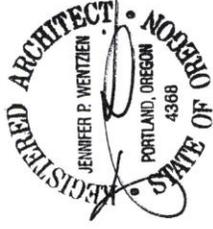
BUILDING ELEVATIONS

ADJUSTMENT APPLICATION

Project # 17040
 Date 2019.06.14
 Scale: 1/8" = 1'-0"

Case No. 19-17086-AD
 EXHIBIT C-2
A2

GUIDE ARCHITECTURE
 331 SE Schiller Street
 Portland, OR 97202
 503.740.7722
 jen@guidearchitecture.com



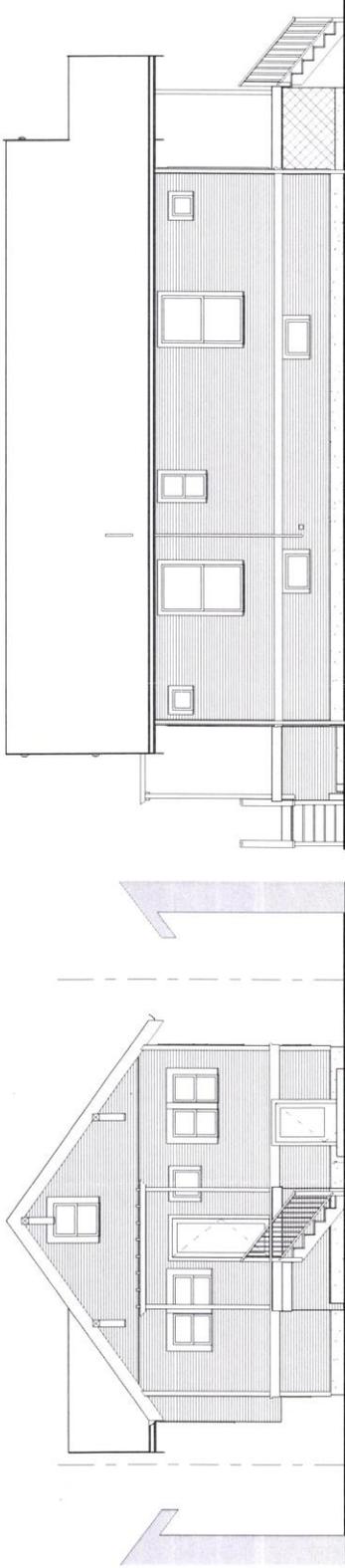
Phase II - Dormer Addition
 Darney|Sterner Residence
 3729 SE 27th Ave
 Portland, OR 97202

BUILDING ELEVATIONS

Project # 17040
 Date 2019.06.14
 Scale: 1/8" = 1'-0"

CASE NO. LV 19-171686 AG
 EXHIBIT C-3
A3

ADJUSTMENT APPLICATION



1 Existing West Elevation
 1/8" = 1'-0"

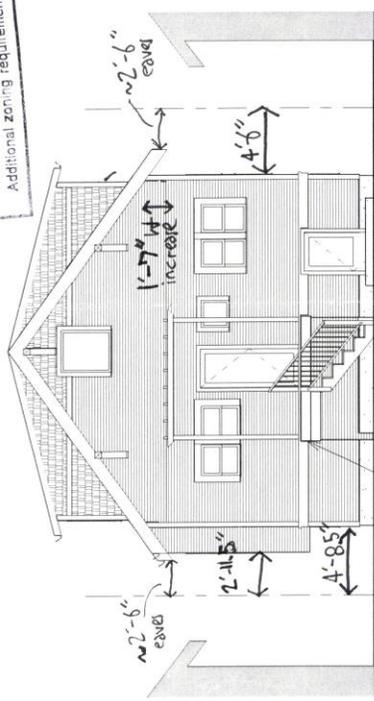
2 Existing South Elevation
 1/8" = 1'-0"

Approved
 City of Portland
 Bureau of Development Services
 Planner: David Bailey
 Date: 7.19.19

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

NEW RAKE AND EAVES TO MATCH HIGHER ROOF PEAK

NEW SOUTH FACING DORMER



3 Proposed West Elevation
 1/8" = 1'-0"

4 Proposed South Elevation
 1/8" = 1'-0"

(E) DECK AND TRELLIS