



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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Date: October 10, 2019
To: Interested Person
From: Rodney Jennings, Land Use Services
503-823-5088 / Rodney.Jennings@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 19-140454 AD

GENERAL INFORMATION

Applicant: Jeff Erwin Architect
6733 N Greeley Ave
Portland OR, 97217

Owner: Ernesto M and Lucia B Cantone
2716 NE Cesar E Chavez Blvd
Portland, OR 97212-2927

Site Address: 2716 NE CESAR E CHAVEZ BLVD

Legal Description: BLOCK 30 LOT 9, BEAUMONT
Tax Account No.: R060805000
State ID No.: 1N1E25AD 12500
Quarter Section: 2734

Neighborhood: None
Business District: None
District Coalition: None

Plan District: None
Other Designations: None

Zoning: R5 – Single-dwelling Residential 5,000

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

Proposal:

The applicant proposes to remove the existing mudroom and interior basement stairs on the north side of the house at this property and replace it with an enclosed addition that will include new stairs from the first floor to the basement, an interior closet and a storage area accessible

from outside the house. The existing mudroom that will be demolished is approximately 13.5' feet wide and is set back 1' from the north side lot line. The new enclosed basement stairs, closet and storage addition will be 23' 1" wide and be set back 3' from the north side lot line. Portland Zoning Code Section 33.110.220 and Table 110-3 require that buildings be set back 5' from side lot lines. The applicant is requesting an Adjustment to this standard to allow new enclosed basement stairs, closet and storage addition to be set back 3' from the north side lot line.

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 site is a relatively flat 5,000 square foot lot developed with a 1½ story bungalow style single family home. Surrounding lots in the immediate vicinity and for several blocks in each direction are zoned R5 like the subject property, and the preponderant development style is also 1½ to 2 story single family homes on 5,000 square foot lots.

Zoning: R5 – Single-dwelling Residential 5,000. The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Newly created lots must have a maximum density of 1 lot per 5,000 square feet of site area.

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 **September 9, 2019**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Bureau of Transportation (Exhibit E.2);
- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4);
- Site Development Section of BDS (Exhibit E.5);
- Life Safety Section of BDS (Exhibit E.6).

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the Notice of Proposal. The applicant submitted a letter of support signed by owners of the properties located immediately north, south and east of the subject property (Exhibit A.2).

ZONING CODE APPROVAL CRITERIA**33.805.040 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 requests an Adjustment to reduce the required side setback from 5' to 3' to allow enclosed 23' 1" long mudroom addition to the existing house (Exhibit C.1). The addition is to replace an existing mudroom at this site that extends 1' from the property to the north. The addition will include stairs from the 1st floor of the house that lead to the basement, an interior closet space, and a storage space accessible for the exterior of the house (Exhibit C.2). The addition includes a slope roof along its length that will be 8' 6½" high where it attaches to the existing house sloping

down to a height of approximately 7' 8" at the top of the wall that is proposed 3' from the north side lot line. The several purposes of the building setback regulations are listed in Zoning Code Section 33.110.220.A. They are listed below, followed by findings demonstrating that the proposal equally or better meets each purpose, where applicable.

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
 - The wall of the new addition that will extend into the north side setback is approximately 7' 8" high and its north facing length is 23' 1". While the length of the addition within the setback is 23' 1", the length of the side lot line is 100'. As the length of the addition is only about 23% of the length of the north lot line, there will be ample light and air reaching the property to the north.
 - At approximately 7' 8", the north facing wall of the mudroom is less than 8' high from the ground to the bottom of the roof. The Zoning Code, in Section 33.110.255, allows fences up to 8' in height within side setbacks. The effects on light and air from the wall on the neighboring property to the north would be less than that from a fully site-obscuring 8' high fence built at the property line. Also, the standards of the R5 zone would allow a 30' high wall to be built at the 5' setback line, which would have a greater impact on the light and air available on the neighboring lot than the proposal.
 - The Life Safety Review Section of the Bureau of Development Services responded with no concerns with approval of the Adjustment, indicating that there is adequate separation to provide fire protection that meets the requirements of the building code (Exhibit E.6).
 - The Fire Bureau responded with no concerns with approval of the Adjustment (Exhibit E.4). Access for fire fighting to the mudroom addition is available from the NE Cesar E Chavez Blvd right-of-way.
- *They reflect the general building scale and placement of houses in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
 - The mudroom addition is setback 32' 6" from the front lot line and attached to the main body of the house. The Zoning Code in Section 33.110.280.C.2 allows detached accessory structures in the setback up to 15' high, with walls up to 10' high, if they are more than 40' back from the front lot line. Although closer than 40' to the front lot line, the maximum height of the entire mudroom addition, at 8' 6½", is less than the 10' wall height, and significantly less than the 15' total height, allowed for a detached accessory structure in the setback and is thus reflective of the general scale and placement of buildings in the City's neighborhoods.
 - A separation of 10' is a common and reasonable physical relationship between houses in Portland. The main body of the subject house is separated 11' 6" from the house on the adjacent lot north of the site. The proposed mudroom addition, which is 8' 6" from the adjacent house to the north, is located behind the front facades of the two houses. Thus, the sense of the two houses being placed over 10' apart from one another is maintained as the bulk of the two structures when viewed from NE Cesar E Chavez maintains the appearance of more than 10' spacing.
- *They promote options for privacy for neighboring properties;*
 - There are no windows, doors, or other openings in the north facing wall of the proposed mudroom addition within the setback that reduce the actual or perceived privacy in the side yard of the neighboring lot.
 - The west facing wall of the converted garage is less than 8' high from the ground to the bottom of the roof. The Zoning Code, in Section 33.110.255, allows fences privacy fences up to 8' in height within side setbacks.

- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
 - No Adjustment is requested to the front setback, and all existing structures and the proposed mudroom addition meet the required 10' minimum front setback in the R5 zone.
- *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*
 - Approval of the proposal will allow to flexibility build a mudroom addition to the existing house that, as shown in the findings above, is compatible with the scale and placement of houses in City neighborhoods while retaining a reasonable relationship between the subject residence and neighboring residences. This can be achieved, while allowing for outdoor area to remain on the lot in the rear yard of the site.
- *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.*
 - This purpose is not applicable, as the proposed mudroom is not located in the front of the house and no changes are proposed to the location of the existing garage or driveway. However, the existing garage is located at the basement level on the south side of the house and there is a paved driveway more than 29' long between the front property line and this garage. This provides more than adequate space for a vehicle to park in the driveway without overhanging the street or sidewalk and to enhance driver visibility when backing on the street.

For the reasons listed in the findings above, the request equally or better meets the applicable purposes of the setback regulations in the R5 zone. 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 this site is in the R5 residential zone, it must be demonstrated that the proposal does not significantly detract from the livability or appearance of the residential area. The applicant requests an Adjustment to reduce the required side setback from 5' to 3' to allow an enclosed 23' 1" long mudroom addition to the existing house (Exhibit C.1). The addition is to replace an existing mudroom at this site that extends 1' from the property line to the north. The addition will include stairs from the 1st floor of the house that lead to the basement, an interior closet space, and a storage space accessible for the exterior of the house (Exhibit C.2). The addition includes a slope roof along its length that will be 8' 6½" high where it attaches to the existing house, sloping down to a height of approximately 7' 8" at the top of the wall proposed 3' from the north side lot line. Livability concerns in residential areas include impacts to light and air and to privacy available on neighboring properties. The proposal does not significantly detract from the availability of light and air because:

- The wall of the new addition that will extend into the north side setback is approximately 7' 8" high and its north facing length is 23' 1". While the length of the addition within the setback is 23' 1", the length of the side lot line is 100'. As the length of the addition is only about 23% of the length of the north lot line, there will be ample light and air reaching the property to the north.
- At approximately 7' 8", the north facing wall of the mudroom is less than 8' high from the ground to the bottom of the roof. The Zoning Code, in Section 33.110.255, allows fences up to 8' in height within side setbacks.

The effects on light and air from the wall on the neighboring property to the north would be less than that from a fully site-obscuring 8' high fence built at the property line. Also, the standards of the R5 would allow a 30' high wall to be built at the 5' setback line, which would have a greater impact on the light and air available on the neighboring lot than the proposal.

The proposal does not significantly detract from the privacy on neighboring lots because:

- There are no windows, doors, or other openings in the north facing wall of the proposed mudroom addition within the setback that reduce the actual or perceived privacy in the side yard of the neighboring lot.
- The west facing wall of the converted garage is less than 8' high from the ground to the bottom of the roof. The Zoning Code, in Section 33.110.255, allows fences privacy fences up to 8' in height within side setbacks.

The proposal does not significantly detract from the appearance of the surrounding R5 zoned residential area because:

- The mudroom addition is setback 32' 6" from the front lot line and attached to the main body of the house. The Zoning Code in Section 33.110.280.C.2 allows detached accessory structures in the setback up to 15' high, with walls up to 10' high, if they are more than 40' back from the front lot line. Although closer than 40' to the front lot line, the maximum height of the entire mudroom addition, at 8' 6½", is less than the 10' wall height, and significantly less than the 15' total height, allowed for a detached accessory structure in the setback and is thus reflective of the general scale and placement of buildings in the City's neighborhoods.
- A separation of 10' is a common and reasonable physical relationship between houses in Portland. The main body of the subject house is separated 11' 6" from the house on the adjacent lot north of the site. The proposed mudroom addition, which is 8' 6" from the adjacent house to the north, is located behind the front facades of the two houses. Thus, the sense of the two houses being placed over 10' apart from one another is maintained as the bulk of the two structures when viewed from NE Cesar E Chavez maintains the appearance of more than 10' spacing.

For the reasons listed in the findings above, the request does not significantly detract from the livability or appearance of the surrounding 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 requested. This criterion is not applicable.

- D.** City-designated scenic resources and historic resources are preserved; and

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. 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 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 Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As the site is not within an environmental zone, 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

Due to the short height and length of the mudroom addition, the minimal impacts it will have on light and air will be less than development allowed by right in the side setback. The mudroom addition will not reduce access for fire fighting to the subject site or neighboring sites. It will include no windows or doors facing the neighboring lot north of the site that would reduce privacy available to the neighboring lot. The size, scale, and placement of the mudroom addition is consistent with the residential appearance of this neighborhood of single family homes.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum required building setback from the north side lot line (33.110.220 and Table 120-4) from 5’ to 3’ for the mudroom addition per the approved site and elevation plans, Exhibits C.1 through C.4, signed and dated October 8, 2019, subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 19-140454 AD. No field changes allowed."

Staff Planner: Rodney Jennings

Decision rendered by:  **on October 8, 2019.**
By authority of the Director of the Bureau of Development Services

Decision mailed: October 10, 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 March 29, 2019, and was determined to be complete on September 5, 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 March 29, 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: January 3, 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 October 24, 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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after October 24, 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:

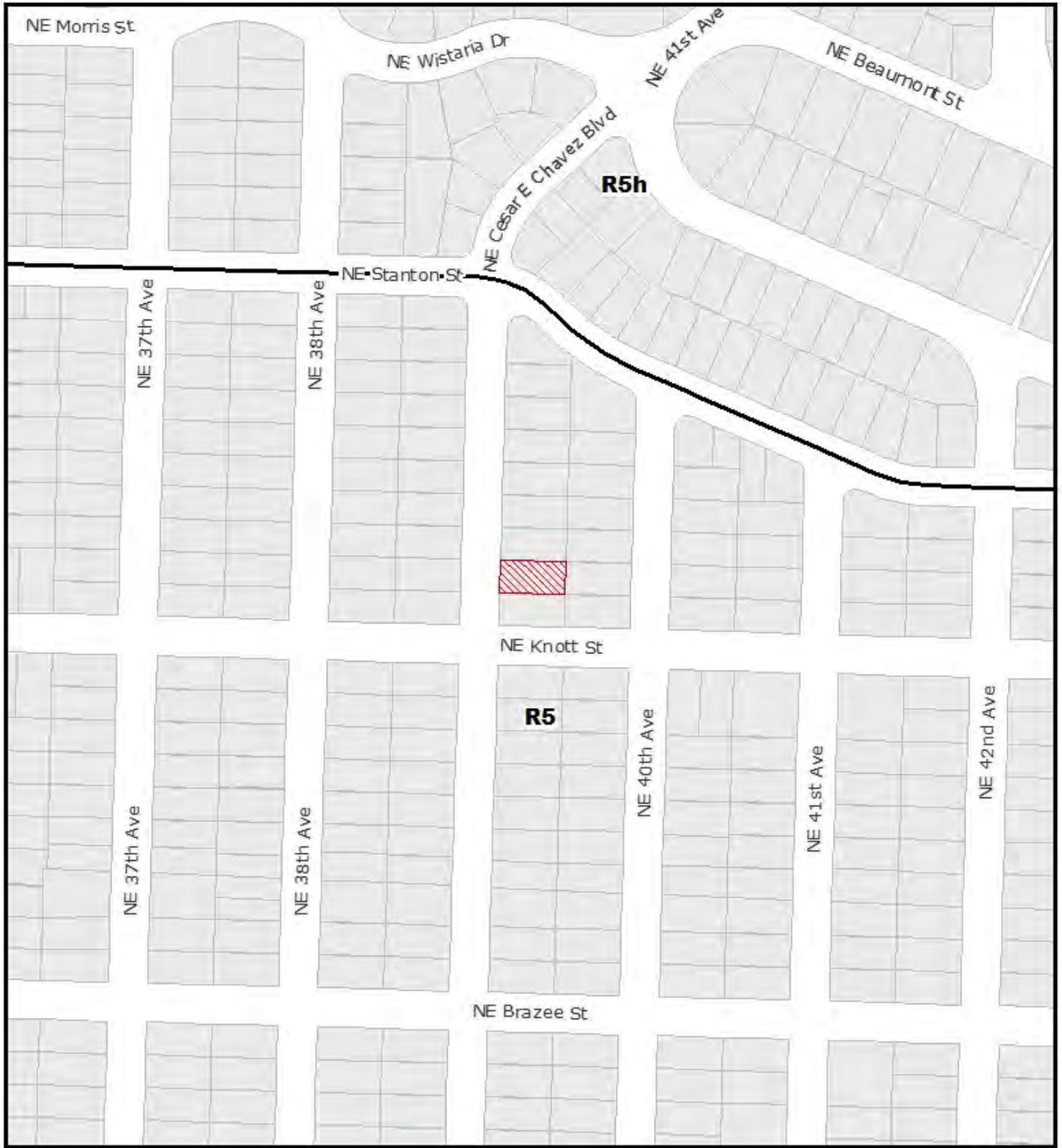
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
 1. Applicant's original statement and plans, received March 29, 2019
 2. Applicant's revised statement, plans, and letter of support, received September 3, 2019
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Floor Plan – Level 1 (attached)
 3. Elevations – North and West (attached)
 4. Elevation – East (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Life Safety Review Section of BDS
- F. Correspondence:
- G. Other:
 1. Original application and receipt
 2. Incomplete letter
 3. 180-day expiration reminder letter

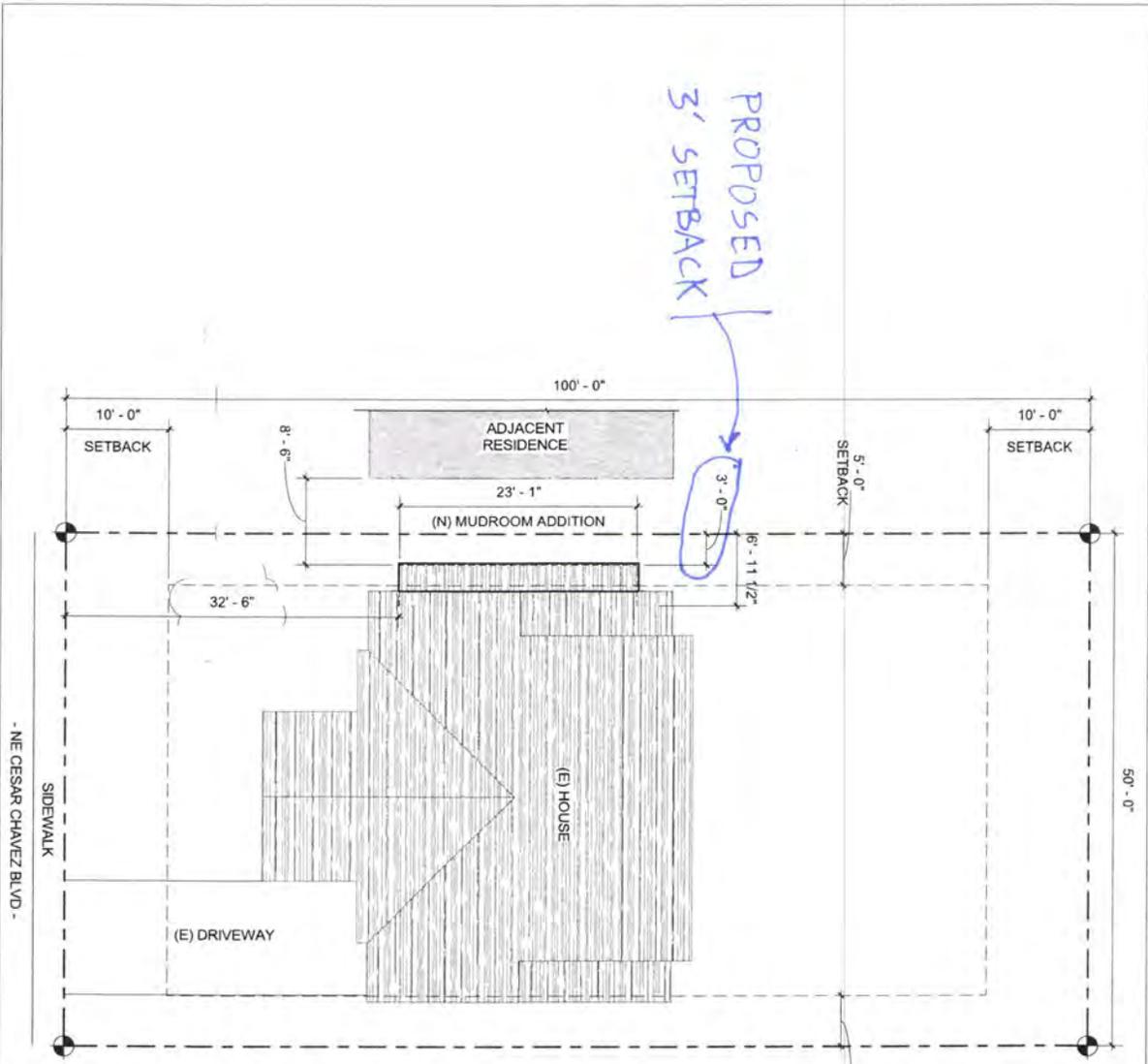
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
NORTH

 Site

File No.	LU 19-140454 AD
1/4 Section	2734
Scale	1 inch = 200 feet
State ID	1N1E25AD 12500
Exhibit	B Apr 02, 2019



- NE CESAR CHAVEZ BLVD -

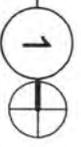
SIDEWALK

*** Approved ***
City of Portland
 Bureau of Development Services
 Planner *Rodney Jennings*
 Date *10/09/19*

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

SITE PLAN

3/32" = 1'-0"



DR-01

CANTONE BASEMENT REMODEL

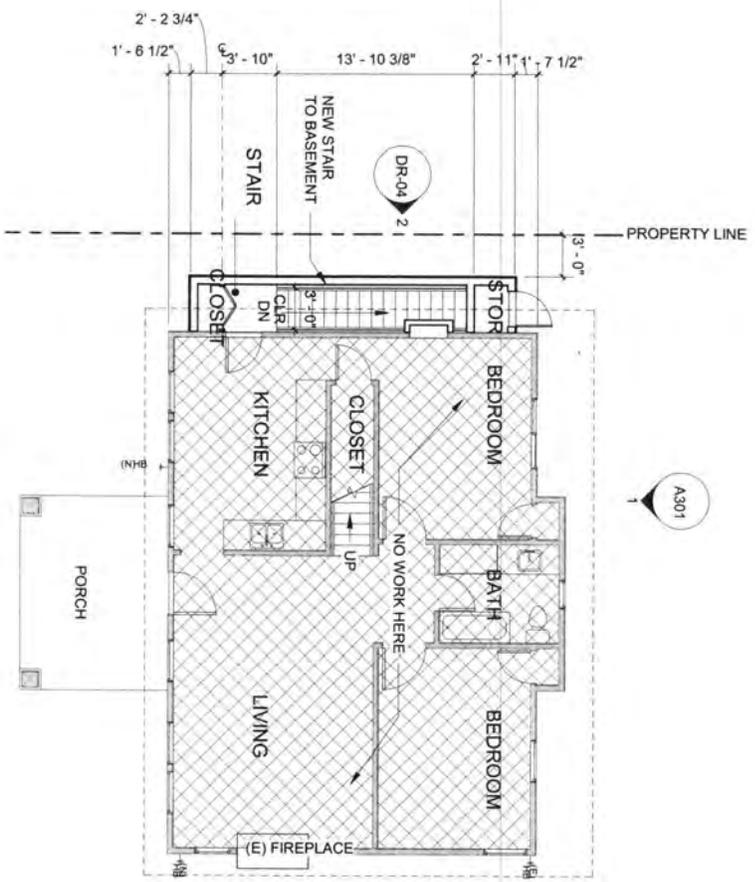
2716 NE CESAR CHAVEZ BLVD
 PORTLAND, OR 97212

CASE NO. *19-140454 AD*
 EXHIBIT *C.1*



LU 19-140454 AD

job no. 02-2019
 drawn JWE
 date 3.29.19
 scale: as noted
 sheet no.



FLOOR PLAN - LEVEL 1

1/8" = 1'-0"



Approved
 City of Portland
 Bureau of Development Services
 Planner *Rachael Jensen*
 Date *10/09/19*

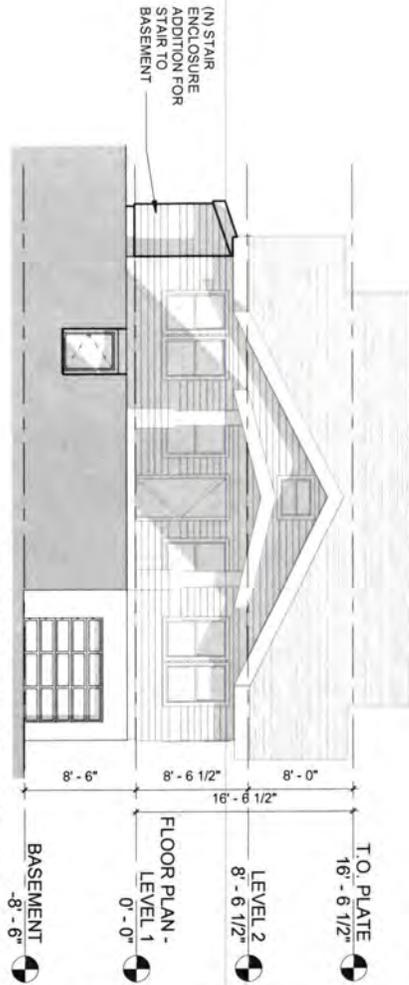
* This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.

CANTONE BASEMENT REMODEL CASE NO. 19-140454 AD
 2716 NE CESAR CHAVEZ BLVD EXHIBIT C.2
 PORTLAND, OR 97212

job no. 02-2019
 drawn JWE
 date 3.29.19
 scale: as noted
 sheet no. DR-03

LU 19-140454 AD

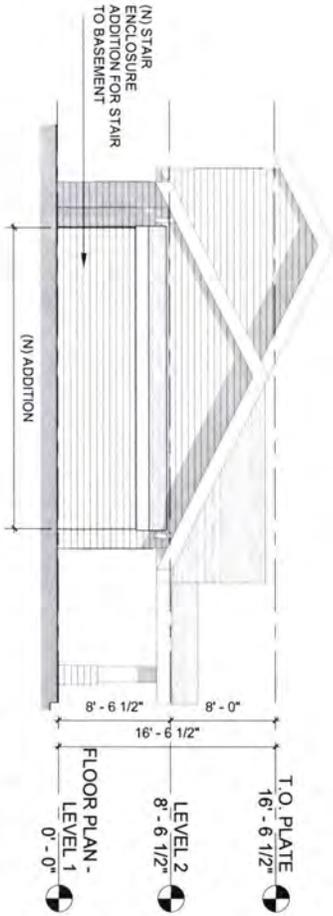
2019-10-09



ELEVATION - WEST

1

1/8" = 1'-0"



ELEVATION - NORTH

2

1/8" = 1'-0"

Approved

City of Portland - Bureau of Development Services

Rodney Jennings Date 10/08/19

This approval is only to the reviews requested and is not a final approval. Additional zoning requirements may apply.

CANTONE BASEMENT REMODEL

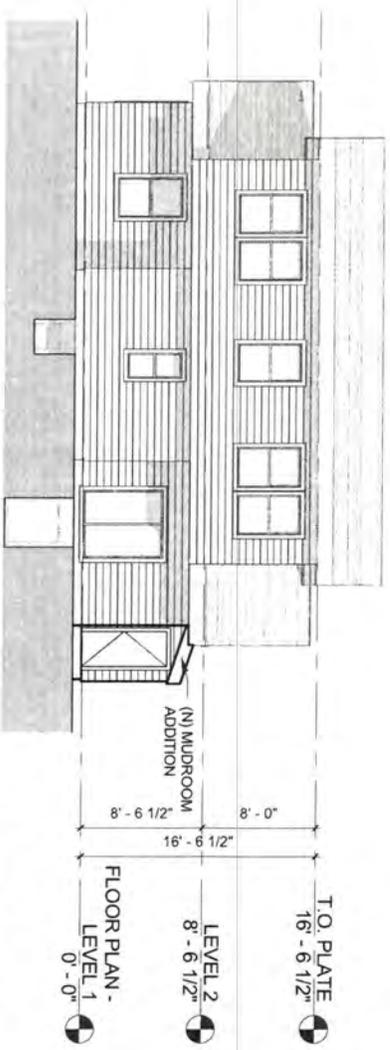
2716 NE CESAR CHAVEZ BLVD
PORTLAND, OR 97212

CASE NO. 19-140454 AD
EXHIBIT C.3

job no. 02-2019
drawn JWE
date 3.29.19
scale: as noted
sheet no.

DR-04

19-140454 AD



ELEVATION - EAST

1/8" = 1'-0" 1

Approved
City of Portland
 Bureau of Development Services
 Planner *Rodney Jennings*
 Date 10/09/19

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

2 LUR ADJUST. REV 1
 R/3/1/19

2
 sheet no.
DR-05

job no. 02-2019
 drawn JWE
 date 3.29.19
 scale: as noted

CANTONE BASEMENT REMODEL

2716 NE CESAR CHAVEZ BLVD
 PORTLAND, OR 97212

CASE NO. 19-140454 AD
 EXHIBIT C.4



LD 19-140454 AD