



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

Ted Wheeler, Mayor
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: November 18, 2019
To: Interested Person
From: Mark Moffett, City Planner
503-823-7806 / Mark.Moffett@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 19-215684 AD

GENERAL INFORMATION

Applicant: Peter Zaik, Zaik Associates
2340 NW Thurman St., #201
Portland, OR 97210

Property Owner: Robert Dorste
30965 Dutch Canyon Rd.
Scappoose, OR 97056

Site Address: **7047 N OATMAN AVE**

Legal Description: BLOCK 14 S 16 2/3' OF LOT 11 LOT 12, ARBOR LODGE
Tax Account No.: R032702980
State ID No.: 1N1E16BB 16700
Quarter Section: 2327

Neighborhood: Arbor Lodge, contact landuse@arborlodgeneighborhood.com.
Business District: None
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877.

Zoning: **R5a** (Single-Dwelling Residential 5,000 base zone with "a" or Alternative Design Density overlay zone)

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

PROPOSAL: The applicant is proposing to add an Accessory Dwelling Unit (ADU) atop an existing detached garage behind the home at 7047 N. Oatman Avenue. The existing garage is located along the alley at the rear of the site, and would include a new open carport element north of

the existing garage structure. Overall, the new structure has a building footprint of 948 square feet, whereas the existing house on the site has a footprint of 744 square feet.

Regulations in the R5 zone limit the building coverage for all accessory structures to 15% of the site area (33.110.250.C.3.a). Fifteen percent of this 5,450-square-foot lot is 817.5 square feet. Regulations in the R5 zone also limit the footprint of any one detached accessory structure from being larger than the footprint of the primary structure (33.110.250.C.3.b).

Therefore, in order to construct the ADU and carport addition to the existing detached garage as proposed, the applicant has requested the following two Adjustments:

- Increase the maximum building coverage for a detached accessory structure from 15% (817.5 sq. ft.) to 17.5% (948 sq. ft.) of the overall site area; and
- Allow a detached accessory structure to have a larger footprint than the primary structure or house (948 sq. ft. detached structure versus 744 sq. ft. house).

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at **PCC 33.805.040.A-F, Adjustment Approval Criteria**. You can find the full citation of the approval criteria online at www.portlandoregon.gov/zoningcode, then scroll down to Chapter 33.805, Adjustments.

ANALYSIS

Site and Vicinity: The site is located on the west frontage of N. Oatman Avenue in the Arbor Lodge neighborhood, between N. Morgan and Bryant Streets. With 5,450 square feet of land, the lot is typical of the surrounding area, although individual properties nearby are both smaller and larger in size. The subject site and nearby residential blocks have north-south alleys at the rear of the lots, most of which are passable but not fully improved. The home on the site is 1.5-stories tall, and surrounding homes range from 1 to 2 stories in height, ranging in age from early twentieth century homes to more recent infill construction, with a majority of homes constructed in the midcentury period of the 1940's through the 1970's.

The surrounding north-south avenues are improved with paved roadways, on-street parking on both sides of the street, curbing, planting strips with street trees, and concrete public sidewalks. Nearby east-west streets are generally improved with a combination of asphalt paving or gravel, with grassy unimproved shoulders and no curbing or sidewalks. North Oatman Avenue is a local service street for all modes in the City of Portland Transportation System Plan.

Zoning: The Residential 5,000 (R5) base zone is a single-dwelling zone that seeks to preserve land for housing, and to enhance and preserve the livability and character of single-dwelling residential areas. Development standards in the R5 zone work together to provide desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation and recreational opportunities. The "a" or Alternative Design Density overlay zone provides opportunity for additional density in some situations provided additional design requirements are met, but this overlay zone is not relevant to the current proposal.

Land Use History: City records indicate no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **October 15, 2019**. The following Bureaus have responded with no issues or concerns:

The *Bureau of Environmental Services* (BES) has reviewed the proposal and responded with comments, but no objections or concerns related to the requested Adjustments. The project will add more than 500 square feet of new impervious surface and will therefore trigger the City of Portland Stormwater Management Manual. It does not appear that approval of the requested Adjustment will preclude the construction of adequately sized stormwater management facilities, therefore BES does not object to approval. A detailed stormwater management plan

will be required by BES during the building permit review. Exhibit E.1 contains staff contact and additional information.

The *Development Review Section of Portland Transportation* (PBOT) has reviewed the proposal and provided comments, but no objection to approval of the requested Adjustments. No right-of-way improvements or property dedication will be required for this site frontage. Sufficient alley back-up maneuvering space, ensuring a 20-foot maneuvering area behind the parking space, must be documented to the satisfaction of PBOT staff during the building permit process. Transportation System Development Charges may be assessed for this development. Exhibit E.2 contains staff contact and additional information.

The *Life Safety Section of the Bureau of Development Services* has reviewed the proposal and responded with comments, but without objection or concern regarding the requested Adjustments. A separate permit is required, and the proposal must be designed to meet all applicable building codes and ordinances. The construction as proposed will not meet prescriptive lateral design requirements, and a lateral design analysis by an Architect or Engineer licensed in Oregon and based on the Oregon Structural Specialty Code is required. Exhibit E.6 contains staff contact and additional information.

The following agencies have responded with out objection, comment or concern:

- The *Water Bureau* (Exhibit E.3);
- The *Fire Bureau* (Exhibit E.4); and
- The *Site Development Section of the Bureau of Development Services* (Exhibit E.5).

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

33.805.010 Purpose of 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 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The purpose statement for the building coverage standards that apply to detached accessory structures in the R5 zone is as follows (33.110.250.A):

“Purpose. This section regulates detached structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards limit the height and bulk of the structures, promote compatibility of design for larger structures, provide for necessary access around larger structures, help maintain privacy to abutting lots, and maintain open front setbacks.”

The applicant has requested the following two Adjustments:

- Increase the maximum building coverage for a detached accessory structure from 15% (817.5 sq. ft.) to 17.5% (948 sq. ft.) of the overall site area; and
- Allow a detached accessory structure to have a larger footprint than the primary structure or house (948 sq. ft. detached structure versus 744 sq. ft. house).

The proposal involves constructing a new Accessory Dwelling Unit (ADU) atop an existing detached two-car garage at the rear of the site, abutting the existing alley. The garage function of the current structure would be re-located to a new single-level carport attached to the side of the building, expanding the former footprint to the north. The footprint of the new structure is 39'-6" long facing the alley, which is relatively large for a detached accessory structure in the surrounding area. The two-story height of the structure is also somewhat uncommon for alley-facing outbuildings in the surrounding area. However, the scale and mass of the structure is mitigated for by the following factors:

- The solid wall facing the alley is only 24'-0" long, which is comparable to the existing two-car garage on the site and others nearby in the neighborhood;
- The carport portion of the structure is limited to one story and open on all three sides without solid walls, featuring relatively narrow corner support walls that are 3'-0" wide facing the side yard to the north, but only 2'-0" wide facing the alley. As a percentage of the alley-facing length of the building, walls occupy 26'-0" or 65% of the façade;
- The majority of the footprint is directly behind the existing home when viewed from the public sidewalk or street in N. Oatman Avenue, therefore resulting in a limited visual presence from the street. Mature street trees and relatively dense front yard shrubs and other landscaping at the site also help to conceal the structure from view along N. Oatman;
- The two-story volume of the structure is also situated directly behind the existing home, with only the carport portion of the structure being in direct visual alignment when viewed from the public street in N. Oatman;
- The simple design and gable-roofed structure is compatible with the architectural design of many homes in the area, and the applicant modified the initial design to lower the roof and ceiling height to comply with the maximum 20'-0" height for such structures in the R5 zone; and
- The structure is located outside the required side building setbacks, and is also set back 5'-7" from the alley lot line.

Based on these considerations, the enlarged structure and new ADU/carport in the rear yard will not result in a structure that becomes the predominant element of the site. The existing house will still be visually and functionally primary when viewed from N. Oatman Avenue, and the single-story carport structure is visually open. The height of the structure meets Zoning Code standards, and the simple gable-roofed design of the building is harmonious with the existing house and surrounding 20th-century residential architecture. Generous access is provided around the structure by placing the building out of the required setbacks, as well as 5'-7" from the alley where no setback is required. Privacy impacts are limited in scope given the location of the structure outside the required setbacks, and because the new building abuts other detached outbuildings on the lots both to the north and south of the site, as opposed to open yard areas or windows on the adjacent homes. There are no impacts with regards to the front yard area on the site along N. Oatman Avenue, which is not changing with this proposal.

In summary, the building is mostly tucked directly behind the existing house, and the increased footprint beyond what would normally be allowed is associated with the addition of a relatively open, single-story carport structure that is modest in scale. With approval granted based on the revised plans and drawings, the proposal is supportive of the relevant regulatory purpose statement noted above, and 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: For the reasons discussed under the findings for criterion A, above, the proposed modest increase in building coverage over the Zoning Code allowances for this project will not significantly detract from the livability or appearance of the residential area. With approval granted based on the revised site plan and elevation drawings, 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: Two adjustments have been requested. The overall purpose of the R5 zone is to provide land for housing, and to ensure housing opportunities for individual households. By providing an additional housing unit, this overall regulatory intent has been satisfied, and this criterion can be met.

- 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: With approval granted based on the revised site plan and elevations, and with consideration of the design considerations discussed above under findings for criterion A, 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.

Technical Requirements: the applicant must document conformance with the Stormwater Management Manual, Building and Fire Codes, and transportation-related requirements to document a 20'-0"-deep maneuvering area behind the parking space in the alley and on the site, prior to issuance of a building permit for the project.

CONCLUSIONS

The applicant has proposed to construct a new Accessory Dwelling Unit (ADU) atop an existing detached two-car garage along the alley of the home at 7047 N. Oatman Avenue, as well as a new attached carport north of the old garage. Although the footprint is somewhat large for the neighborhood, the height limit for such structures is met, and the carport element is relatively open and modest in scale. Given the compatible building design, and with approval granted based on the revised site plan and elevations, the request is able to meet the relevant criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum building coverage for a detached accessory structure from 15% (817.5 sq. ft.) to 17.5% (948 sq. ft.) of the overall site area (33.110.250.C.3.a).

Approval of an Adjustment to Allow a detached accessory structure to have a larger footprint than the primary structure or house (948 sq. ft. detached structure versus 744 sq. ft. house, Adjustment to 33.110.250.C.3.b).

Both the above approvals are granted based on the approved site plan and elevations, Exhibits C.1 and C.2, all signed and dated November 13, 2019, and 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 19-215684 AD."

Staff Planner: Mark Moffett

Decision rendered by: M. MOFFETT **on November 13, 2019.**
By authority of the Director of the Bureau of Development Services

Decision mailed: November 18, 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 August 23, 2019, and was determined to be complete on October 10, 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 August 23, 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 February 7, 2020.**

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 December 2, 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 on or after **December 3, 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:

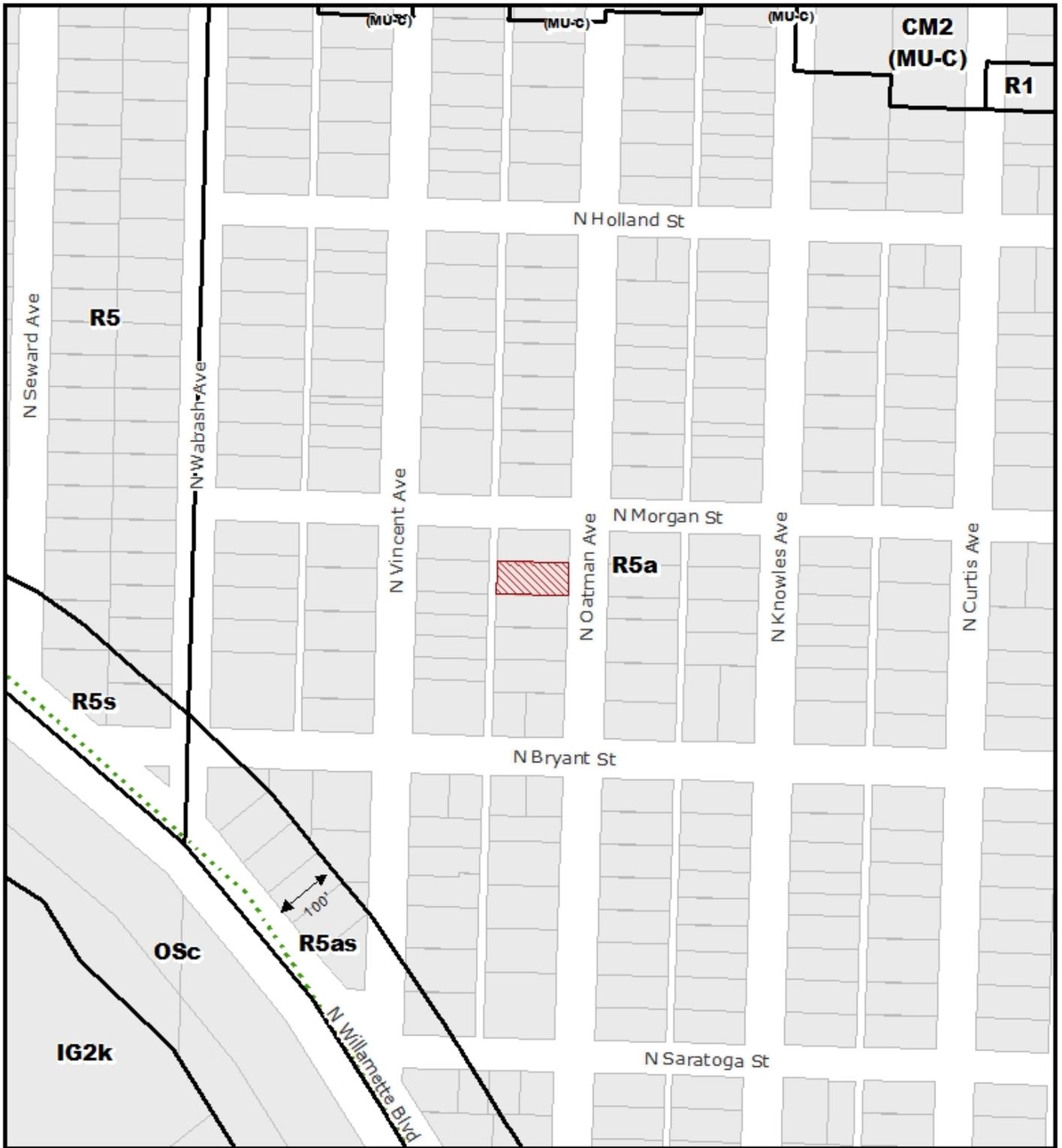
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
 1. Original narrative statement
 2. Stormwater information provided by applicant
 3. Site photos provided by applicant with original application
 4. Original drawing set – reference only/not approved
 5. Cover sheet submitted with revised drawing package, rec'd. 10/9/19
 6. Site photos provided by applicant with revised drawing package, rec'd. 10/9/19
 7. Drawings from revised package not included in approved C Exhibits (floor plans, sections) – reference only/not approved
- B. Zoning Map (**attached**)
- C. Plans/Drawings (*NOTE: per BDS Management Policy, both the large/scalable and reduced size plans are to be given the same exhibit number. For this specific case, that means there are four drawings in the file to represent the two exhibits below*):
 1. Site Plan (**attached**)
 2. Elevations (**attached**)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Development Review Section of Portland Transportation
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Section of the Bureau of Development Services
 6. Life Safety Section of the Bureau of Development Services
- F. Correspondence (*none received at time of decision mailing*)
- G. Other:
 1. Original LU application form and receipt
 2. Incomplete letter from staff to applicant, sent 9/5/19

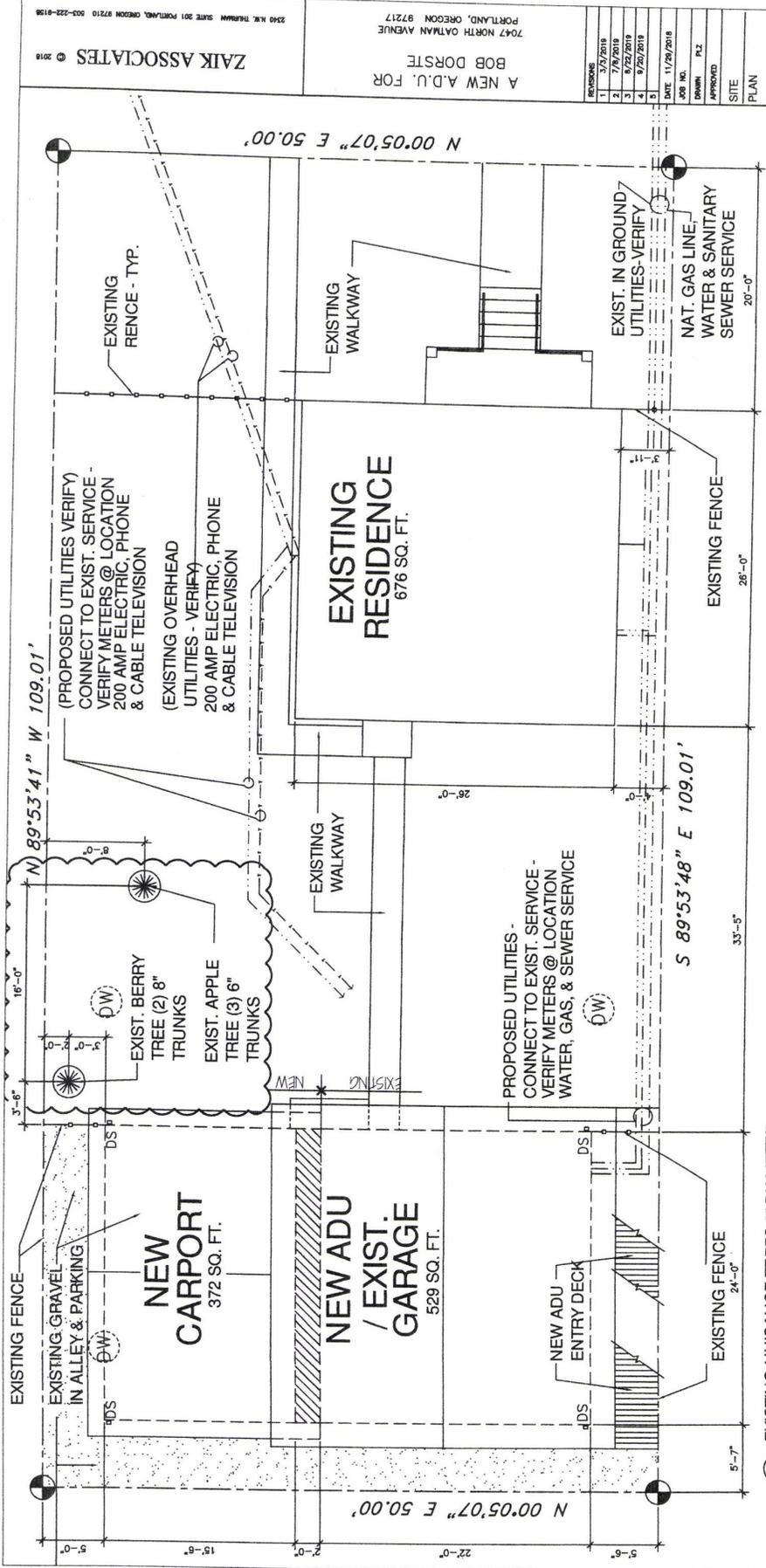
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
NORTH

-  Site
-  Recreational Trails

File No.	LU 19 - 215684 AD
1/4 Section	2327
Scale	1 inch = 200 feet
State ID	1N1E16BB 16700
Exhibit	B Aug 27, 2019



SITE PLAN

SCALE = 1/8" = 1'-0"

NOTE: ALL EXISTING MATURE LANDSCAPING TO REMAIN. NEW CONSTRUCTION WILL HAVE NO LASTING IMPACT ON EXISTING LANDSCAPING. NEW ADDITIONAL LANDSCAPING TO BE PLANTED UPON COMPLETION OF CONSTRUCTION.

NOTE: ALL NEW STORM WATER TO BE SENT THRU 24" x 24" DRYWELL IF NECESSARY. SIZE BASED ON CITY OF PORTLAND, OREGON STORM WATER MANAGEMENT MANUAL FIGURE 2-24 DRYWELL SIZING CHART - 376 TOTAL SQ. FT. OF NEW IMPERVIOUS AREA.

EXISTING NUISANCE TREES 6" DIAMETER OR GREATER TO BE REPLACED AND RELOCATED.

⊙ PREFERRED DRYWELL LOCATIONS IF NECESSARY

⊙ NEW STORM WATER TO BE SENT THRU 24" x 24" DRYWELL IF NECESSARY.

SIZE BASED ON CITY OF PORTLAND, OREGON STORM WATER MANAGEMENT MANUAL FIGURE 2-24 DRYWELL SIZING CHART - 376 TOTAL SQ. FT. OF NEW IMPERVIOUS AREA.

NOTE: A PORTION OF LOT 11 & ALL OF LOT 12, BLOCK 14, ARBOR LODGE, IN THE N.W. 1/4 OF SECTION 16T1N, R1E, W1M., IN THE CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON



DRAWING NO. **SP**

REVISIONS	DATE	BY	APP'D
1	11/29/2018		
2	7/6/2018		
3	6/22/2018		
4	6/22/2018		
5	6/22/2018		

A NEW A.D.U. FOR BOB DORSTE
7047 NORTH OATMAN AVENUE
PORTLAND, OREGON 97217

ZAIK ASSOCIATES © 2018
2540 N.E. THURMAN STREET 201 PORTLAND, OREGON 97210 503-222-8150

Approved
City of Portland - Bureau of Development Services
Planner MARK MOFFETT Date NOV. 13, 2019
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

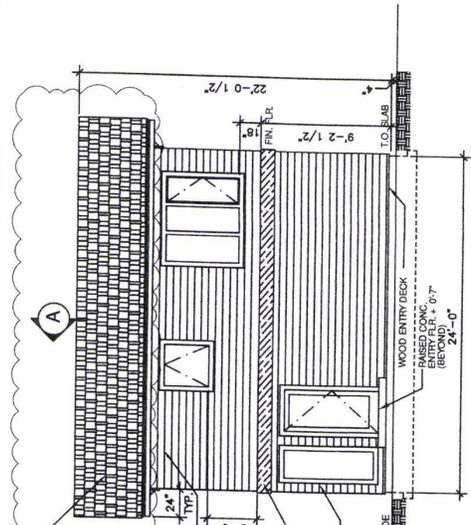
EXH.C.1 1/2
LU 19-215684 AD

REVISION	DATE	BY	APP
1	3/2/2018		
2	3/2/2018		
3	3/2/2018		
4	5/29/2019		
5			

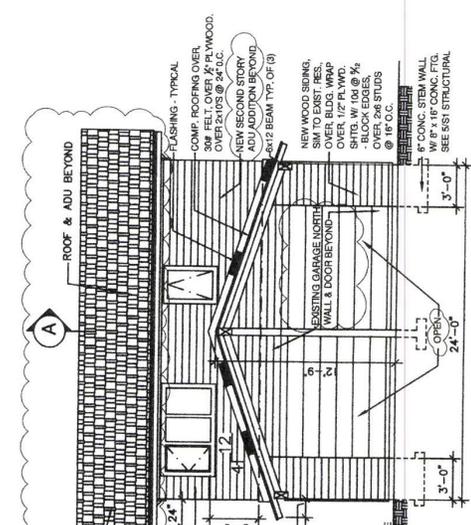
DATE 11/29/2018
 DRAWN PLZ
 APPROVED
 EXTERIOR ELEVATIONS

SCALE: 1/8" = 1'-0"
 TYP NAME

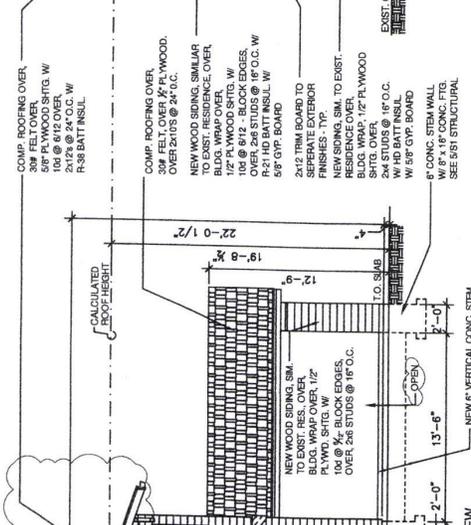
DRAWING NO. **A3**



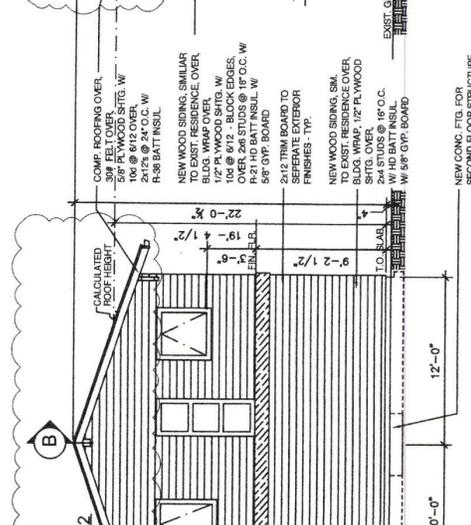
SOUTH ELEVATION
 SCALE = 1/8" = 1'-0"



NORTH ELEVATION
 SCALE = 1/8" = 1'-0"



EAST ELEVATION
 SCALE = 1/8" = 1'-0"



WEST ELEVATION
 SCALE = 1/8" = 1'-0"

Approved
 City of Portland - Bureau of Development Services
 Planner MARC MUFFETT Date NOV. 13, 2019
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

EXH. C.2 1/2
 W 19-215 684 AD