



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: December 12, 2019
To: Interested Person
From: Andrew Gulizia, Land Use Services
503-823-7010 / Andrew.Gulizia@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 19-246464 AD

GENERAL INFORMATION

Applicant: Joel Fraley
Fraley + Company
4784 SE 17th Ave., Ste. 111
Portland, OR 97202

Property Owner: Jennifer Laxer
3815 SE Berkeley Way
Portland, OR 97202

Site Address: 3815 SE Berkeley Way

Legal Description: BLOCK 41 E 15' OF LOT 21 LOT 22, BERKELEY
Tax Account No.: R070912620
State ID No.: 1S1E24DD 03300
Quarter Section: 3834
Neighborhood: Ardenwald-Johnson Creek, contact Lisa Gunion-Rinker at astrantialgr@gmail.com

Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010 x313
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 proposes an interior remodel of the existing house on this site. In the building permit for the remodel, the applicant will also attempt to legalize an existing, attached RV shelter on the west side of the house. The applicant states the RV shelter was constructed

by a previous owner without a permit only 1.5 feet from the west side lot line. Since Zoning Code Section 33.110.220.B requires a minimum 5-foot building setback from side lot lines, the applicant requests an Adjustment to reduce the minimum building setback from the west lot line from 5 feet to 1.5 feet for the RV shelter. The applicant proposes a new garage door on the south, street-facing side of the structure and a new, 1-hour fire-rated wall on the west side of the structure. However, the existing building footprint would not change.

Relevant Approval Criteria: To be approved, this proposal must comply with the Adjustment Review approval criteria in Zoning Code Section 33.805.040.A-F.

ANALYSIS

Site and Vicinity: The subject site is a 10,000-square-foot lot on SE Berkeley Way, just west of SE Cesar E Chavez Blvd. The site is developed with a one-story house that was constructed in 1923. On the west side of the house is an attached RV shelter which is accessed by a gravel driveway. No prior building permit record for the RV shelter was found. On this block, the SE Berkeley Way right-of-way is mostly unimproved, and the narrow, gravel roadway to the subject site does not provide access to any other properties. The neighboring house to the east of the subject site is accessed from SE Cesar E Chavez Blvd., and the neighboring house to the west is accessed from SE Tenino Street. The Springwater Corridor Trail abuts SE Berkeley Way to the south, but views between the subject site and the trail are blocked by dense vegetation.

Zoning: The R5 single-dwelling residential zone is intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

Land Use Review History: There are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal” was sent November 13, 2019. The following Bureaus responded with no concerns about the proposed Adjustment:

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

Neighborhood Review: In response to the mailed “Notice of Proposal,” the Eastmoreland Neighborhood Association submitted written comments (Exhibit F-1). The Association stated their only concern was that the front of the RV shelter should be in line with the front of the house rather than extending forward.

Staff response: Staff considered the Neighborhood Association’s comment but did not impose a condition of approval requiring the RV shelter to be cut back. The Zoning Code does not require such a change because of the covered front porch on the house (Zoning Code Section 33.110.253.E.4). More importantly, the situation of this property is unique because the front of the house and the front of the RV shelter are largely hidden from public view. The property fronts on a narrow roadway connection to SE Cesar E Chavez Blvd. This roadway looks and functions like a private driveway to the subject site, as it does not provide access to any other properties. Furthermore, trees block the view of the property from SE Chavez Blvd. and from the Springwater Trail. For these reasons, staff finds that cutting back the front of the RV shelter would not significantly improve the aesthetics of the neighborhood and is not necessary for the Adjustment Review approval criteria to be met.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated that approval criteria A through F, below, have been met.

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

Findings: The Adjustment request is to reduce the minimum building setback requirement from the west side lot line from 5 feet to 1.5 feet for the existing RV shelter. The purposes of the building setback requirements in the R5 zone are stated in Zoning Code Section 33.110.220.A:

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.*

Staff finds the purpose of the west side building setback requirement is equally met for the following reasons:

- The RV shelter is a single story, and the west wall is approximately 25 feet from the neighboring house. This building scale and separation will preserve light, air, and fire fighting access for the neighboring property, and a reasonable physical relationship between the homes will be maintained. The Life Safety Review Section of BDS will enforce fire safety requirements for the west wall in the building permit review, and the Fire Bureau reviewed this proposal and responded with no concerns (Exhibit E-4).
- There are no existing or proposed windows in the west-facing wall, so the reduced setback will not impact the privacy of the neighboring property.
- An RV shelter on the side of a house and within the side building setback is not necessarily typical in a residential neighborhood. However, the situation of this property is unique because the roadway to the site does not serve any other properties. Except for the west building wall discussed above, the house and the RV shelter are largely hidden by trees from public view. Therefore, the reduced side setback for the RV shelter does not significantly affect neighborhood compatibility or the neighborhood's general building scale.
- The subject site exceeds the R5 zone requirements for the minimum front building setback and the minimum outdoor area. The reduced side setback does not affect the front yard or vehicle parking and maneuvering on the driveway.

Since the purpose of the building setback requirement is equally met, approval criterion A 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: Since the site is in a residential zone, the proposed Adjustment must not detract from the livability or appearance of the surrounding residential area.

As discussed above, the RV shelter is a single story and is relatively far (approximately 25 feet) from the closest neighboring home. The roadway to the subject site does not serve any other properties, and except for the west wall facing the adjacent lot, the RV shelter is obscured from public view by vegetation.

For these reasons, staff finds the reduced side setback for the RV shelter does not significantly detract from the livability or appearance of the neighborhood. Approval criterion B 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: As only one Adjustment is requested, this criterion is not applicable.

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

Findings: City-designated scenic resources are identified on the official zoning maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

Findings: As discussed in the findings above, staff finds the proposed Adjustment for the RV shelter is consistent with the purpose of the building setback requirement and will not significantly detract from the livability or appearance of the area. There are no adverse impacts related to the Adjustment request for which mitigation is needed. Therefore, this criterion is not applicable.

- 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 there are no environmental overlay zones mapped on the site, this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all requirements of Title 11 can be met, and that all development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review, prior to the approval of a building or zoning permit.

CONCLUSIONS

The proposed Adjustment for the existing RV shelter equally meets the intent of the minimum building setback regulation and will not have significant adverse impacts on the livability and appearance of the neighborhood. The applicable approval criteria are found to be met. Since the approval criteria are met, the Adjustment must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.110.220.B to reduce the minimum building setback from the west side lot line from 5 feet to 1.5 feet for an existing RV shelter, per the approved plans, Exhibits C-1 through C-4, signed and dated December 6, 2019, subject to the following condition:

- A. As part of the building permit application submittal, each of the 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 through C-4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 19-246464 AD."

The applicant must demonstrate in the building permit submittal that either:

- The driveway area on the subject site has nonconforming development rights (Zoning Code Section 33.258.038); or
- The driveway area on the subject site does not exceed the 40% vehicle area limitation between the front building line and the front lot line (Zoning Code Section 33.266.120.C.3.a).

Staff Planner: Andrew Gulizia

Decision rendered by:  **on December 6, 2019**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 12, 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 October 29, 2019 and was determined to be complete on November 8, 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 October 7, 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 March 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 26, 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 **December 26, 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 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 permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

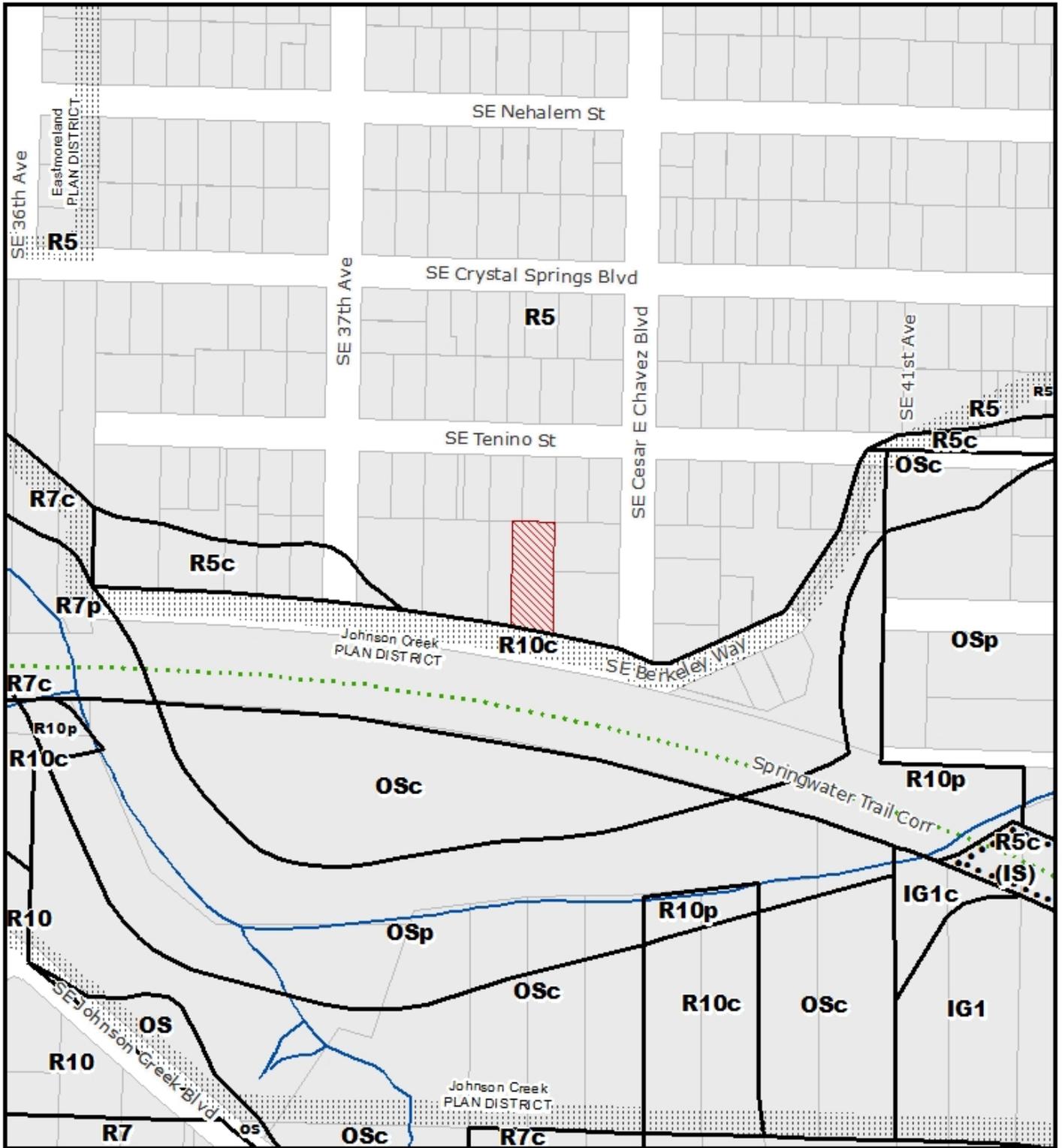
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Applicant's narrative
 - 2. Originally-submitted site plan, superseded by Exhibit C-1 (the extent of vehicle area on the original site plan was shown incorrectly)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. South building elevation (attached)
 - 3. West building elevation (attached)
 - 4. Southeast and north building elevations (attached)
- D. Notification Information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland 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:
 - 1. E-mail from Eastmoreland Neighborhood Association, received November 22, 2019
- G. Other:
 - 1. Land use application form and receipt

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



-  Site
-  Stream
-  Recreational Trails

File No.	LU 19 - 246464 AD
1/4 Section	3834
Scale	1 inch = 200 feet
State ID	1S1E24DD 3300
Exhibit	B Nov 01, 2019



4784 SE 17th Ave #111
Portland, OR 97202
503.246.9799
fraleycompany.com

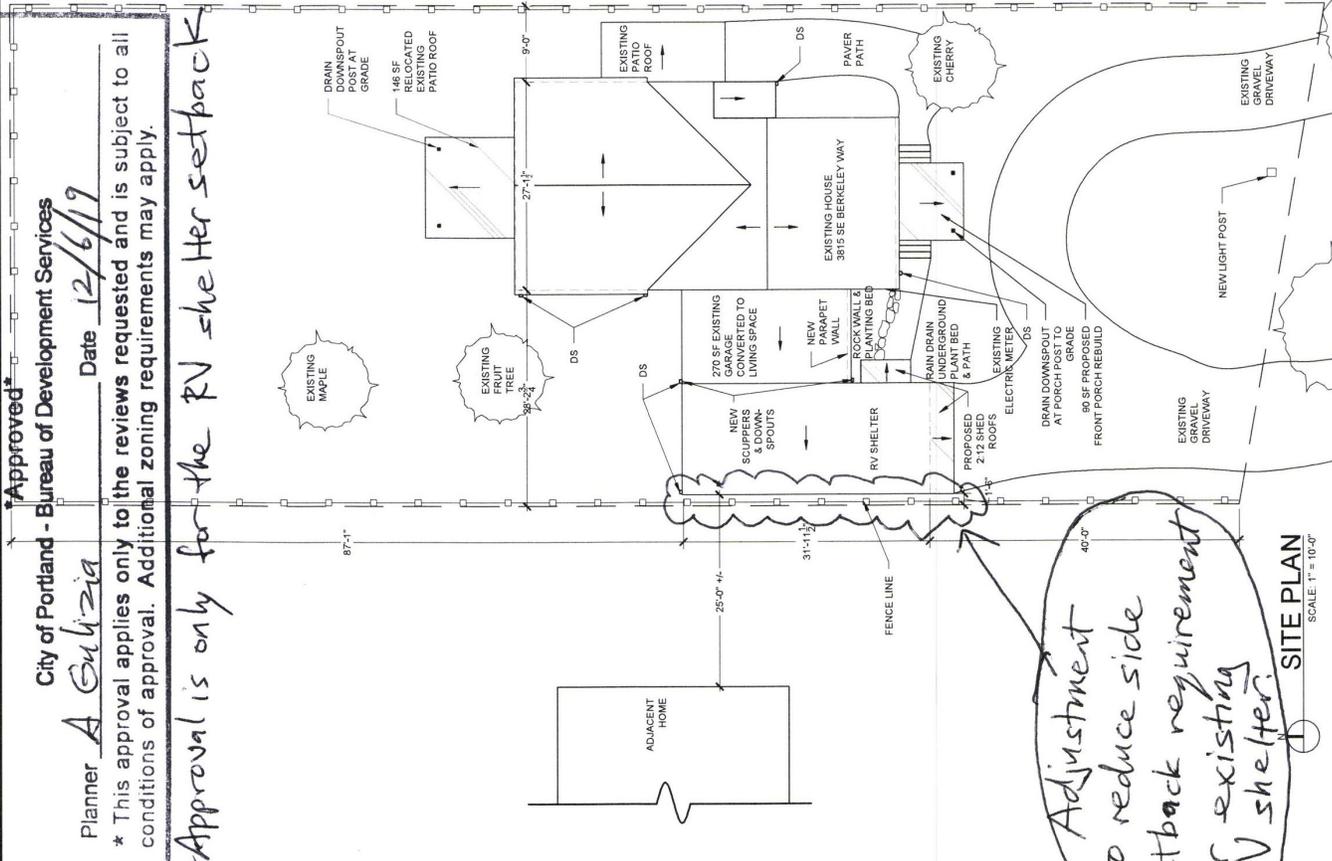
JENNIFER LAXER
3815 SE BERKELEY WAY
PORTLAND, OR 97202

SITE PLAN &
GENERAL NOTES
SCALE: 1" = 10'-0"

DATE: 11/20/2019

SHEET #

A0.0



Approved*
City of Portland - Bureau of Development Services
Planner A Gulizia Date 12/6/19
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

**Approval is only for the RV shelter setback*

Adjustment to reduce side setback requirement for existing RV shelter.

JOBSITE ADDRESS:
LEGAL: 3815 SE BERKELEY WAY,
PORTLAND, OR 97202
TAX LOT ID: R115430

CONTACT INFORMATION:
DESIGNER: FRALEY AND COMPANY, (503) 756-2797
BUILDINGS DEPARTMENT, CITY OF PORTLAND
INSPECTION REQUESTS: (503) 823-7000
CONTRACTOR: OLSON AND JONES
MARK MAYO/TELE: (971) 334-5383

GENERAL NOTES:
GENERAL PROJECT SCOPE: REMODEL & ADDITION
EXISTING LIVABLE SQFT: 1,457
EXISTING GARAGE SQFT: 270
NEW LIVABLE SPACE SQFT: 270
TOTAL SQFT: 1,727

THIS PROJECT IS DESIGNED UTILIZING THE LATEST EDITION OF THE INTERNATIONAL RESIDENTIAL CODE (IRC). NOTIFY DESIGNER IMMEDIATELY IF ANY DISCREPANCIES ARE FOUND BETWEEN THIS PROJECT AND THE CODE OR ANY OTHER APPLICABLE REGULATIONS SPECIFICALLY COVERED WITHIN THESE DRAWINGS SHALL MEET THE REQUIREMENTS OF THE IRC.
ALL EXISTING CONDITIONS HAVE BEEN DOCUMENTED AS SHOWN - NOTIFY DESIGNER IMMEDIATELY OF ANY DISCREPANCIES BETWEEN EXISTING CONDITIONS AND DRAWINGS.
ALL DIMENSIONS ARE TO FACE OF 2" DRYWALL FINISH SURFACE UNLESS NOTED OTHERWISE.
ALL WINDOW AND DOOR OPENINGS ARE FINISHED SIZE. CONTRACTOR TO VERIFY ROUGH OPENINGS.

THESE PLANS PROVIDE THE IDEAL REPRESENTATION OF THE PROPOSED PROJECT. HOWEVER, THE FINAL PRODUCT MAY VARY IN METHODS OF CONSTRUCTION, ATTACHMENT, DIMENSIONS WITHIN A TOLERANCE OF PLUS OR MINUS 1/8" CONNECTING DETAILS AND/OR SPECIFIC FINISHING DETAILS.
THESE PLANS HAVE BEEN LICENSED TO THE CLIENT AND ARE SUBJECT TO THE CONDITIONS ACCEPTED. USE OF ANY PART OF THE PLANS BY ANY PARTY OTHER THAN THE CLIENT, EXCEPT ON THE CLIENT'S OWN PROPERTY, IS PROHIBITED. THE PLANS MAY NOT BE REPRODUCED, COPIED, OR REPRODUCED WITHOUT WRITTEN PERMISSION FROM FRALEY & COMPANY, WHICH RETAINS COPYRIGHTS TO & OWNERSHIP OF THE PLANS.

SYMBOL LEGEND	
	NEW WALLS TO BE CONSTRUCTED
	EXISTING WALLS TO REMAIN
	WALL TO BE REMOVED
	PAGE NOTE
	FF&E TAG
	DOOR TAG
	WINDOW TAG

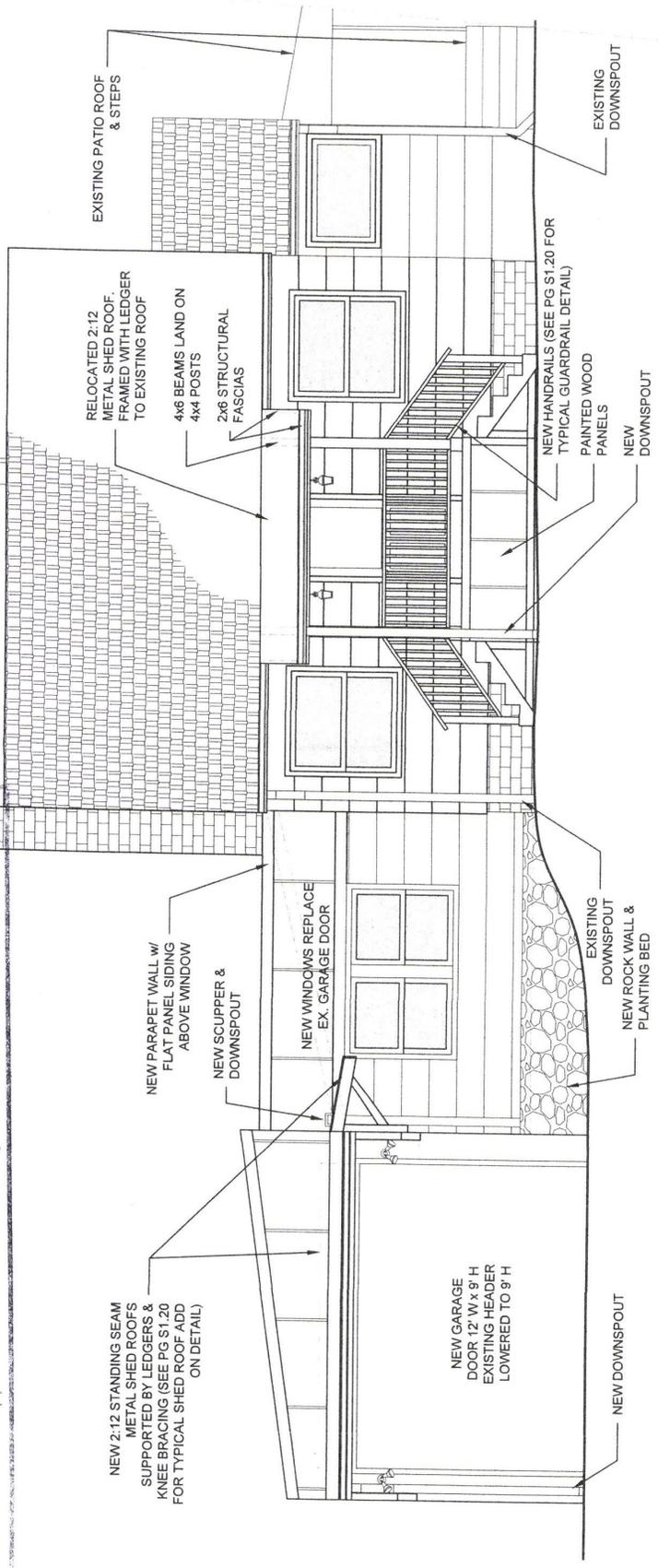
SHEET INDEX

A0.0	SITE PLAN & GENERAL NOTES
A0.1	DEMOLITION PLAN
A0.2	FOUNDATION PLAN
A1.1	EXTERIOR ELEVATIONS
A2.0	FRAMING PLAN
A3.0	ELECTRICAL PLAN
A4.0	SECTIONS AND DETAILS
11.0	FINISH FLOOR PLAN
11.1	ENLARGED FLOOR PLANS
12.0	INTERIOR ELEVATIONS
12.1	INTERIOR ELEVATIONS

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

LN 19-246464 AD
Exhibit C-2

Approved
 City of Portland - Bureau of Development Services
 Planner A. G. L. Z. G. Date 12/6/19
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

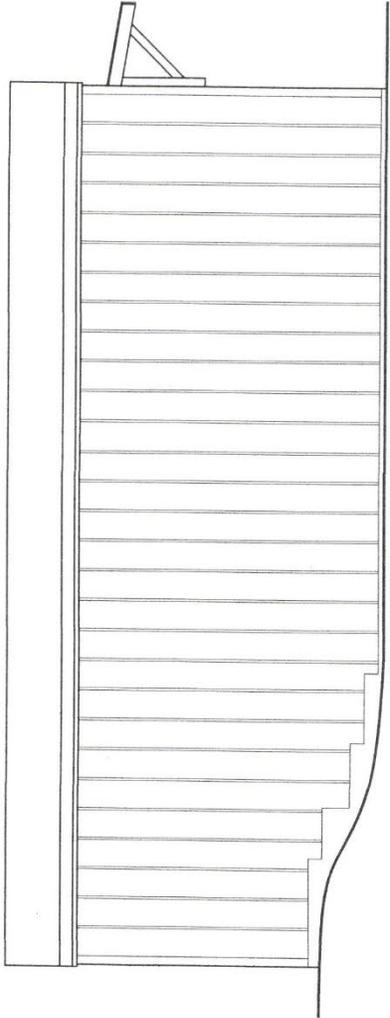


EXTERIOR ELEVATION - SOUTH
 SCALE: 1/4" = 1'-0"

	4784 SE 17th AVE #111 PORTLAND, OR 97202 (503) 758-2797 fraleighcompany.com	LEGAL: 3815 SE BERKELEY WAY, PORTLAND, OR 97202 TAX LOT ID: R115430	DATE: 10/22/2019
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LN 19 - 246464 AD

LM 19-2464 AD
Exhibit C-3



EXTERIOR ELEVATION - WEST

SCALE: 1/4" = 1'-0"

Planner *A Gali*
City of Portland - Bureau of Development Services
Approved*
Date *10/16/19*
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

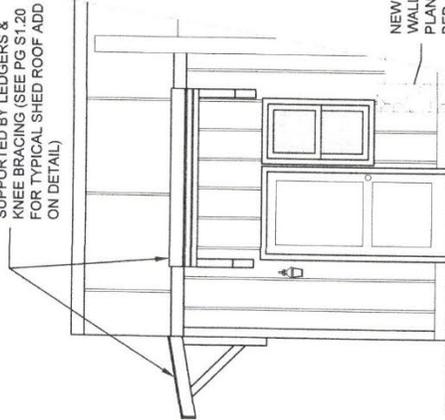
	4784 SE 17th AVE #111 PORTLAND, OR 97202 (503) 756-2757 fratleycompany.com	LEGAL: 3815 SE BERKELEY WAY, PORTLAND, OR 97202 TAX LOT ID: R115430	DATE: 10/22/2019
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LM 19 - 2464 AD

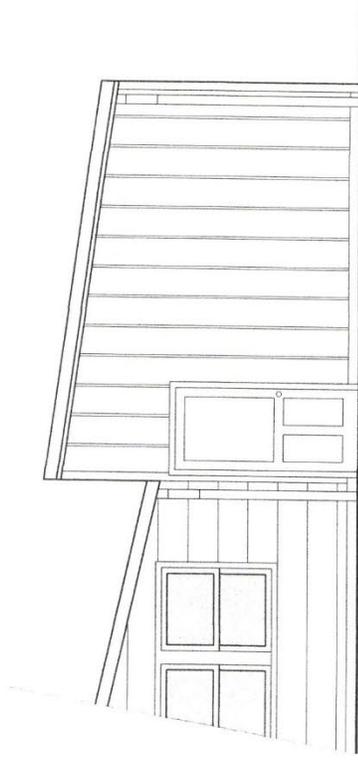
LU 19-246464 AD
EXHIBIT C-4

Approved
City of Portland - Bureau of Development Services
Planner A Gutzak Date 12/6/19
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

NEW 12:12 STANDING STEAM
METAL SHED ROOFS
SUPPORTED BY LEDGERS &
KNEE BRACING (SEE PG S1:20
FOR TYPICAL SHED ROOF ADD
ON DETAIL)



NEW ROCK
WALL &
PLANTING
BED



EXTERIOR ELEV. - SE

SCALE: 1/4" = 1'-0"

EXTERIOR ELEVATION - NORTH

SCALE: 1/4" = 1'-0"

4784 SE 17th AVE #111
PORTLAND, OR 97202
(503) 758-2787
freileycompany.com



LEGAL: 3815 SE BERKELEY WAY,
PORTLAND, OR 97202
TAX LOT ID: R115430

DATE:
10/22/2019

LU 19 - 246464 AD