



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

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Rebecca Esau, Director
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Date: February 25, 2020
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 19-259712 AD

GENERAL INFORMATION

Applicant Rep: Danelle Isenhart
Isenhart Consulting LLC
PO Box 2364
Beaverton, OR 97075

Owner/Applicant: Slavik Dezhnyuk
Dez Development LLC
10117 SE Sunnyside Rd #F1123
Clackamas, OR 97015-7708

Site Address: 36 NE BEECH ST

Legal Description: BLOCK 25 E 1/2 OF LOT 1&2, ALBINA HMSTD
Tax Account No.: R010505150
State ID No.: 1N1E22DD 19600
Quarter Section: 2630

Neighborhood: Boise, contact at boiselanduse@gmail.com
Business District: Soul District Business Association, contact at info@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Jessica Rojas at jessica@necoalition.org

Zoning: R2.5a (Single-Dwelling Residential 2,500 with an 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 in the process of going through a Property Line Adjustment (PLA) with Lot Confirmation (19-246804 PR) to separate two existing dwellings on one existing lot, which would result in each dwelling being on its own lot. The existing dwelling unit on the southern lot (Tract 2) is 6.3 feet from the eastern lot line and the elevated/covered front porch is 1.9 feet from the eastern lot line. As a result of the PLA/Lot Confirmation, the eastern lot line will become the “front” lot line. The Portland Zoning Code requires a 10-foot minimum front setback in this zone (Section 33.110.220, Table 110-3). An Adjustment is therefore required to reduce the minimum front (east) setback from 10 feet to a range of 1.9 feet to 6.3 feet for the existing dwelling.

Note: No changes are proposed to expand either dwelling.

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 5,000 square-foot site is located on the southwest corner of the NE Beech Street and NE Cleveland Avenue intersection. It is currently developed with a 1,634 square foot 1.5 story house and 640 square foot detached structure. The surrounding vicinity to the north, east, and south is developed with primarily 1-to-2.5-story single-dwelling residences and detached accessory structures. Two blocks to the south, along SE Hawthorne Boulevard, is a mixed-use/commercial zone and higher density development. One block to the west is a busy commercial corridor (N Williams Avenue), which is developed with commercial and mixed-use/residential buildings.

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, regulations of the “a” zone overlay (Alternative Design Density Zone) are not applicable to the Adjustment proposal.

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 **January 9, 2020**.

The following Bureaus have responded with the following information:

- The Portland Bureau of Transportation (PBOT) responded with no concerns and provided information on street classification and Title 17 requirements (Exhibit E.1);
- The Life Safety section of the Bureau of Development Services (BDS) responded with no concerns to the Adjustment request and included Building Code information (Exhibit E.2); and
- The Bureau of Environmental Services responded with no concerns and includes stormwater management information (Exhibit E.3).

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

- The Fire Bureau;
- Site Development Review Section of BDS; and
- The Water Bureau.

Neighborhood Review: One written response was received noting concerns that the applicant is not being forthright because there has been unpermitted demolition of a garage on site and a subsequent stop work order (Exhibit F.1).

Staff Response: The applicant applied for a demolition permit for the garage (19-248903 RS) three days after the complaint was received, which has since been issued.

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 in the process of going through a PLA with Lot Confirmation to separate two existing dwellings on one existing lot, which would result in each dwelling being on its own lot. An Adjustment is required to reduce the minimum front (east) setback from 10 feet to a range of 1.9 feet to 6.3 feet for the existing dwelling on the southern lot. The relevant purpose statement and associated findings for the setback standards 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.*

As noted in the proposal section above, the existing dwelling unit on the southern lot (Tract 2) is 6.3 feet from the eastern lot line and the elevated/covered front porch is 1.9 feet from the eastern lot line. As a result of the PLA/Lot Confirmation, the eastern lot line will become the "front" lot line. While a setback reduction from 10 feet to a range of 1.9 feet to 6.3 feet is substantial, the dwelling is existing, and no changes are proposed to expand it. As such, granting the Adjustment will maintain the same amount of light, air, and separation for fire protection that currently exists. The relatively small, one-story 640 square foot dwelling will maintain the general building scale and placement of houses in this neighborhood as well as the physical relationship between residences. There will be no additional impact on privacy for neighboring properties.

Because front setbacks are intended to promote open, visually pleasing front yards, as a condition of approval, the applicant must remove the shrubs that provide a visual screen between the main entrance on the front of the house (east façade) and NE Cleveland Street (as shown in Exhibit C.1).

PBOT responded with no concerns regarding the Adjustment request (Exhibit E.1). 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 (Exhibit E.4).

With the condition that the shrubs on the east side of the dwelling be removed, 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. The 640 square foot one-story existing house is relatively small in comparison to the rest of the houses in the neighborhood, which include many 2 and 2.5-story residences. As noted above, the dwelling is existing, and no changes are proposed to expand it. Furthermore, a condition of approval that the applicant remove the shrubs on the east side of the dwelling will ensure that the front of the house is connected visually to the street, which will be consistent with the other single-dwelling residences in this neighborhood. The proposal will therefore not detract from the livability or appearance of the residential area.

As conditioned, 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 proposed; therefore, this criterion is not applicable

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: As noted above, a condition of approval will require that the applicant remove the shrubs on the east side of the dwelling to ensure that the front of the house is connected visually to the street, which will be consistent with the other single-dwelling residences in this neighborhood. No changes or expansions are proposed to the dwelling itself. Impacts resulting from the Adjustment are therefore mitigated to the extent practical.

As conditioned, 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 in the process of going through a PLA with Lot Confirmation to separate two existing dwellings on one existing lot, which would result in each dwelling being on its own lot. The existing dwelling unit on the southern lot (Tract 2) is 6.3 feet from the eastern lot line and the elevated/covered front porch is 1.9 feet from the eastern lot line. As a result of the PLA/Lot Confirmation, the eastern lot line will become the "front" lot line. An Adjustment is therefore required to reduce the minimum front (east) setback from 10 feet to a range of 1.9 feet to 6.3 feet for the existing dwelling.

While a setback reduction from 10 feet to a range of 1.9 feet to 6.3 feet is substantial, the dwelling is existing, and no changes are proposed to expand it. As such, granting the Adjustment will maintain light, air, and privacy. The relatively small, one-story 640 square foot dwelling will maintain the general building scale and placement of houses in this neighborhood as well as the physical relationship between residences. A condition of approval that the applicant remove the shrubs on the east side of the dwelling will ensure that the front of the house is oriented toward and visible from the street, which will be consistent with the other single-dwelling residences in this neighborhood.

The proposal meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum front (east) setback from 10 feet to a range of 1.9 feet to 6.3 feet for an existing dwelling (Section 33.110.220, Table 110-3) as a result of a PLA and Lot Confirmation, per the approved site plans, Exhibits C.1 through C.2, signed and dated February 18, 2020, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 19-259712 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Prior to PLA/Lot Confirmation approval, the applicant must remove the shrubs that provide a visual screen between the main entrance on the front of the house on Tract 2 (east façade) and NE Cleveland Street (as shown in Exhibit C.1).

Staff Planner: David Besley



Decision rendered by: _____ **on February 18, 2020.**

By authority of the Director of the Bureau of Development Services

Decision mailed: February 25, 2020

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 December 3, 2019, and was determined to be complete on December 30, 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 December 3, 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: April 28, 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 March 10, 2020** 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 **March 10, 2020** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
 - 3. Survey
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. The Life Safety section of BDS
 - 3. Bureau of Environmental Services
 - 4. Agencies responding with no concerns
- F. Correspondence:
 - 1. Sean Rea, January 14, 2020, letter of objection
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incomplete letter from staff to applicant, sent December 16, 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

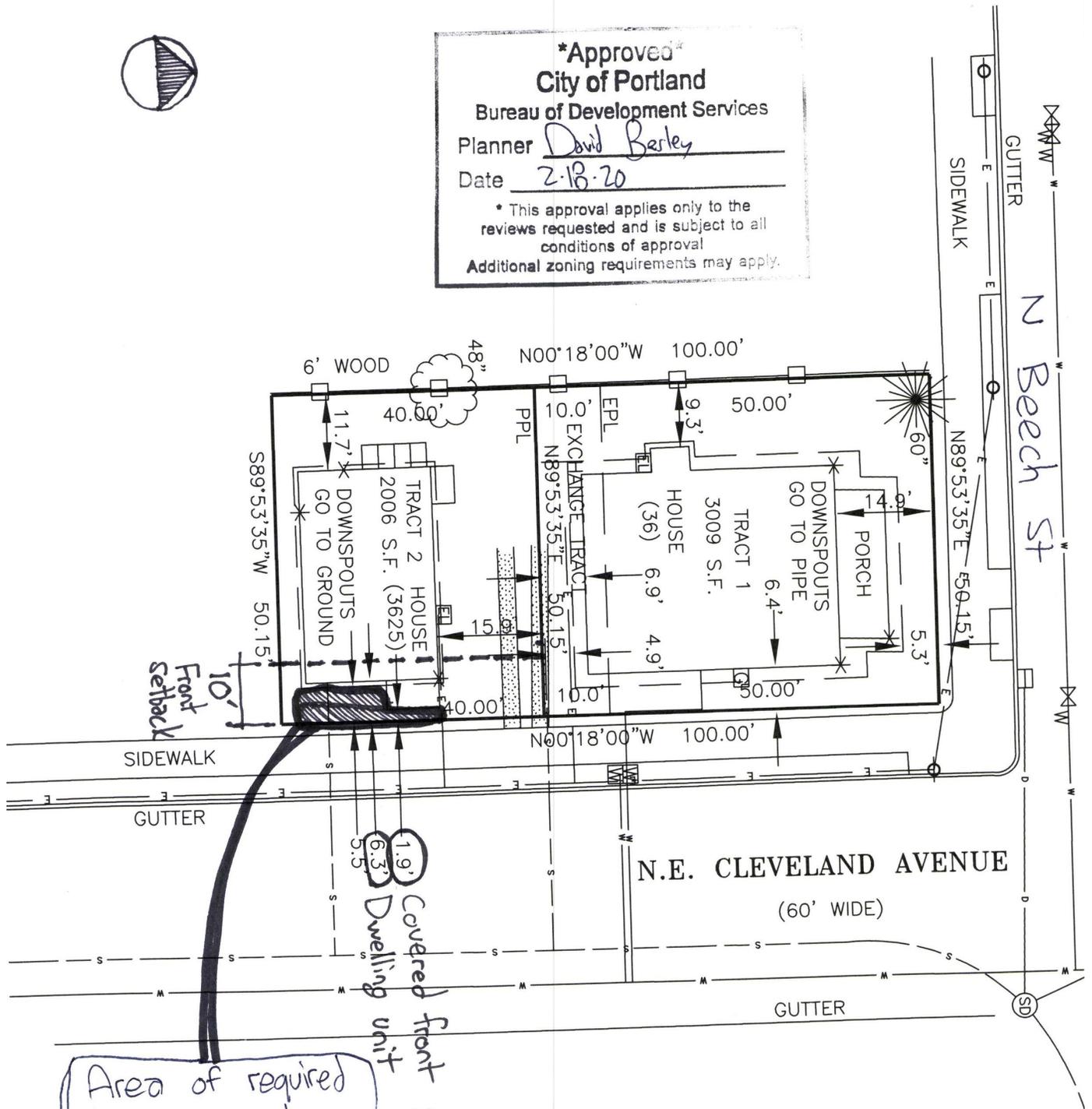
-  Site
-  Also Owned Parcels

File No.	LU 19 - 259712 AD
1/4 Section	2630
Scale	1 inch = 200 feet
State ID	1N1E22DD 19600
Exhibit	B Dec 06, 2019



Approved
City of Portland
 Bureau of Development Services
 Planner David Berley
 Date 2-18-20

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

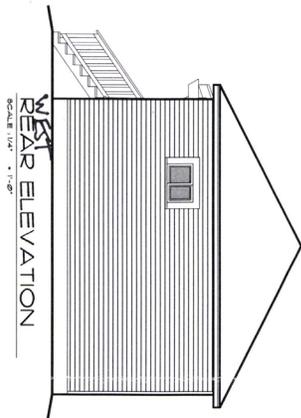
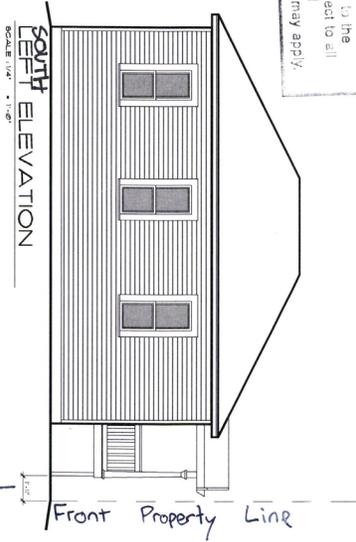
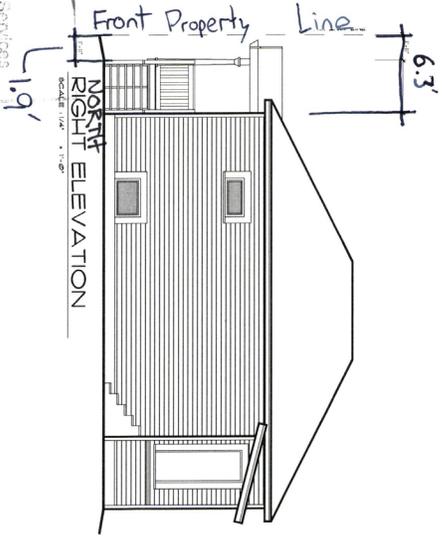


Area of required shrub removal per Condition B.

1.9' Covered front porch
 6.3' Dwelling unit
 5.5'

LU 19-259712 AD
 Ex. C.1

* Approved*
 City of Portland
 Bureau of Development Services
 Planner David Bailey
 Date 2.18.20
 * This approval applies only to the project as submitted and is subject to all applicable provisions of approval.
 Additional zoning requirements may apply.



Adjustment requested to reduce minimum front (east) setback from 10' to a range of 1.9' to 6.3' for the existing dwelling. No new development proposed; required for Property Line Adjustment.

LU 19-25972 AD
 CASE NO. C-7
 EXHIBIT C-7

LU 19-25972 AD

DATE	BY

DRAWINGS TITLE
ELEVATIONS
 36 NE BEECH STREET
 CITY OF PORTLAND, OREGON

REV	DATE	COMMENT

GAD: _____
 DRAIN TO: _____
 ENGR: _____
 CHECKED: _____
 DATE: _____
 VISRET: ©
 CREATED: 8/19/2018
 PLOTSCALE: 1:1

DEZ DEVELOPMENT LLC
 CLACKAMAS, OR 97115, PHONE (503) 259-7561
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