



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

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Date: September 20, 2021
To: Interested Person
From: Andrew Gulizia, Land Use Services
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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 21-071079 AD
UNINCORPORATED MULTNOMAH COUNTY

GENERAL INFORMATION

Applicant: Minh Nguyen
SI Decor Architectural & Interior
36 NE 113th Pl.
Portland, OR 97220
(360) 690-6320
si.decor.inar@gmail.com

Property Owners: Mychael Mai and Chuynyan Mai
157 NW Miller Rd.
Portland, OR 97229

Owners: Mychael Mai and Chuynyan Mai
400 N Thompson St.
Portland, OR 97227

Site Address: 157 NW Miller Rd.

Legal Description: TL 900 4.31 ACRES, SECTION 36 1N 1W (see Recording Number 2016-148952)

Tax Account No.: R961360110
State ID No.: 1N1W36CD 00900
Quarter Section: 3021

Neighborhood: Forest Park, contact Jerry Grossnickle at 503-289-3046
Business District: None
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212

Plan District: Northwest Hills - Skyline
Other Designations: Unincorporated Multnomah County

Zoning: R10c,p – Single-Dwelling Residential 10,000 with parts of the site in the Environmental Conservation (“c”) and Environmental Protection (“p”) overlay zones

Case Type: AD – Adjustment Review

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal: The applicant proposes to add approximately 3,022 square feet to the existing house on this site. The addition to the east side of the house will expand the garage and the addition to the south side of the house will add two new bedrooms and bathrooms. The applicant requests approval of the following Adjustments to Zoning Code requirements for this project:

- To increase the maximum distance between the longest street-facing wall of living space and the main entrance to the house from 8 feet to 75 feet (Zoning Code Section 33.110.230.C.1). The existing main entrance to the house will not change, but the new addition to the south side of the house will move the longest street-facing wall of living space further from the existing main entrance.
- To increase the maximum width of the street-facing garage wall from 56 feet to 63 feet, or from 50% to 57% of the total street-facing width of the house (Zoning Code Section 33.110.253.D.3.a).

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 outside the City of Portland but is subject to City of Portland zoning regulations through an intergovernmental agreement with Multnomah County. The site is 4.3 acres in area and is located in the Northwest Hills. The property is developed with a 4,570-square-foot, single-story house which is set back approximately 240 feet from the property’s frontage on West Stark Street. Most of the property is undeveloped, and a stream crosses through the northernmost part of the site. The surrounding neighborhood is characterized by low-density residential development.

Zoning: The R10 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.

Northern areas of the site are within the Environmental Conservation (“c”) and Environmental Protection (“p”) overlay zones. The “c” overlay is intended to conserve important environmental features and resources while still allowing compatible development. The “p” overlay zone provides the highest level of protection and allows development only in unusual circumstances through environmental review. The proposed construction on this site will be outside the “c” and “p” overlay zones.

The site is within the Skyline subdistrict of the Northwest Hills plan district. The regulations of the Northwest Hills plan district are intended to protect sites with sensitive and highly valued resources and functional values. The associated regulations do not affect the Adjustment requests.

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

Agency Review: A “Notice of Proposal” was sent August 11, 2021. The following agencies responded with no objections to the proposed Adjustments:

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

Neighborhood Review: No written responses to the mailed “Notice of Proposal” were received from either the Neighborhood Association or notified neighbors.

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: Two Adjustments are requested:

- To increase the maximum distance between the longest street-facing wall of living space and the main entrance to the house from 8 feet to 75 feet (Zoning Code Section 33.110.230.C.1); and
- To increase the maximum width of the street-facing garage wall from 56 feet to 63 feet, or from 50% to 57% of the total street-facing width of the house (Zoning Code Section 33.110.253.D.3.a).

The purposes of these requirements are discussed below.

Main entrance requirement

The purpose of the requirement for the main entrance to be set back no more than 8 feet from the longest street-facing wall of living area is stated in Zoning Code Section 33.110.230.A:

These standards:

- *Together with the street-facing facade and garage standards, ensure that there is a physical and visual connection between the living area of the residence and the street;*
- *Enhance public safety for residents and visitors and provide opportunities for community interaction;*
- *Ensure that the pedestrian entrance is visible or clearly identifiable from the street by its orientation or articulation; and*
- *Ensure that pedestrians can easily find the main entrance, and so establish how to enter the residence.*
- *Ensure a connection to the public realm for development on lots fronting both private and public streets by making the pedestrian entrance visible or clearly identifiable from the public street.*

The existing main entrance does not face toward the street and is not within 8 feet of the longest street-facing wall of the living area (Exhibit A-3). The existing main entrance will not be altered, but this Adjustment is necessary because the addition to the south side of the house will increase the distance between the existing main entrance and the longest street-facing wall of the living area. However, the subject site is 4.3 acres in area

and the expanded house will be set back far (approximately 225 feet) from the property's frontage on West Stark Street. The applicant submitted photographs showing that views of the house from the street are obscured and will remain obscured by existing trees that are not affected by this proposal (Exhibits A-5 and C-1). In this context, even though the existing main entrance is not oriented toward the street and does not support the purposes listed above, the proposed addition will not make the house less pedestrian-oriented and street-oriented than it is now. Again, the existing main entrance will not be altered, and the Adjustment is only triggered by a separate building addition which will be obscured from the street.

Garage width requirement

The purpose of the requirement for the garage wall to be no more than 50% of the street-facing width of the house is stated in Zoning Code Section 33.110.253.A:

These standards:

- *Together with the window and main entrance standards, ensure that there is a physical and visual connection between the living area of the residence and the street;*
- *Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;*
- *Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;*
- *Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and*
- *Enhance public safety by preventing garages from blocking views of the street from inside the residence.*

As discussed above, the existing house is set back far from the street, and views of the house from the street are obscured by existing trees. The house is not pedestrian-oriented and does not have a strong connection to the street, but the proposed garage expansion will not significantly affect this existing condition. The expanded garage will be at the back part of the house (approximately 265 feet from the street), and the garage will be only 7 feet wider than would be allowed outright. The expanded garage will not block any views or disrupt the pedestrian environment on the street, and the 7 feet of increased width allowed by this Adjustment will not affect any aspect of the purpose statement above.

Summary

The Adjustment requests are found to be equally consistent with the purposes of the requirements to be modified. 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 the R10 residential zone, the Adjustment proposal must not significantly detract from the livability or appearance of the residential area. Since the existing house is set back so far from the street, the Adjustments to increase the distance between the front door and the longest wall and to increase the width of the street-facing garage wall will not affect the livability or appearance of the neighborhood. The closest part of the expanded house will be set back about 225 feet from the street, and the expanded garage will be set back about 265 feet from the street. Views of the house from the street are obscured and will remain obscured by existing trees (Exhibits A-5 and C-1). All other zoning requirements including minimum building setbacks,

maximum building height, and maximum building coverage will be met outright. For these reasons, staff finds 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: The purpose of single-dwelling residential zones such as R10 is described in Zoning Code Section 33.110.010:

The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing.

A. Use regulations. The use regulations are intended to create, maintain and promote single-dwelling neighborhoods. They allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood.

B. Development standards. The development standards preserve the character of neighborhoods by providing six different zones with different densities and development standards. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed. The development standards are generally written for houses on flat, regularly shaped lots. Other situations are addressed through special regulations or exceptions.

The property will continue to be used as a residence for a household, as intended for the R10 zone. With the existing house located so far from the street, the proposed additions will not create safety or privacy issues and will not create an incompatible appearance. The Adjustment requests will have no effect on energy conservation or recreational opportunities. The Adjustments will provide flexibility on a lot that is unusually large for the R10 zone without imposing negative impacts on the surrounding neighborhood. For these reasons, staff finds the proposal is consistent with the overall purpose of the R10 zone. Approval criterion C is met.

- 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 resources or historic resources 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: Staff has identified no negative impacts specifically resulting from the Adjustment requests which require mitigation. Therefore, staff finds this approval 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: The Environmental Conservation ("c") and Environmental Protection ("p") overlay zones cover much of the northern area of the site (Exhibit B). However, the proposed construction will be entirely outside the environmental overlay zones.

Therefore, the proposal will not significantly impact the protected environmental resources. Approval criterion F is met.

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 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 subject property is 4.3 acres in area, and the expanded house will be set back approximately 225 feet from the street. The proposed Adjustments are found to be consistent with the overall purpose of the R10 residential zone and with the specific purposes of the requirements to be modified. Staff finds the Adjustments will not cause the new construction to significantly detract from the livability or appearance of the residential area. Staff finds that all applicable approval criteria are met. Since the approval criteria are found to be met, the proposal must be approved.

ADMINISTRATIVE DECISION

Approval of two Adjustments:

- To increase the maximum distance between the longest street-facing wall of living space and the main entrance to the house from 8 feet to 75 feet (Zoning Code Section 33.110.230.C.1); and
- To increase the maximum width of the street-facing garage wall from 56 feet to 63 feet, or from 50% to 57% of the total street-facing width of the house (Zoning Code Section 33.110.253.D.3.a)

per the approved plans, Exhibits C-1 through C-3, signed and dated September 14, 2021, 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 – C-3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 21-071079 AD."

Note: The applicant is advised to carefully review Exhibit E-1 for Bureau of Environmental Services requirements that will apply to the building permit review for this project.

Staff Planner: Andrew Gulizia

Decision rendered by:  **on September 14, 2021**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 20, 2021

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 July 27, 2021 and was determined to be complete on August 9, 2021.

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 July 27, 2021.

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 December 7, 2021.**

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, and if appealed a hearing will be held. The appeal application form can be accessed at https://www.portland.gov/sites/default/files/2020/lu_type2_2x_appeal_form_071116.pdf. Appeals must be received **by 4:30 PM on October 4, 2021. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to email, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

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 4, 2021 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. Original narrative
 - 2. Revised narrative, received August 9, 2021
 - 3. Existing floor plans
 - 4. Proposed floor plans
 - 5. Photos
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. Front and left-side building elevations (attached)
 - 3. Rear and right-side 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. Tualatin Valley Fire and Rescue
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence – none received
- G. Other:
 - 1. Land use application form
 - 2. Incompleteness determination letter, dated August 6, 2021

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).