



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

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Date: April 6, 2022
To: Interested Person
From: Don Kienholz, 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 21-108050 AD

GENERAL INFORMATION

Applicant: Kathy Kremer | kkremerdesigns@msn.com
K. Kremer Designs Inc
1040 Oak Terrace
Lake Oswego, OR 97034

Owner/Applicant: Brett Murphy
1833 SW Laurel St
Portland, OR 97201

Site Address: 1833 SW LAUREL ST

Legal Description: BLOCK 80 LOT 5&6, CARTERS ADD TO P
Tax Account No.: R140405590
State ID No.: 1S1E04CA 09700
Quarter Section: 3227

Neighborhood: Southwest Hills Residential League, contact at contact@swhrl.org.
Business District: None
District Coalition: Neighbors West/Northwest, contact at admin@nwnw.org

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 is proposing to build a new 672-sf detached covered accessory structure in the backyard and outside of the required 5-foot setbacks to both the rear and side property lines. The 10,000-sf site has an existing 640-sf double car garage and an existing house with a footprint of 2,041-sf. With the new detached accessory building, the cumulative building coverage will be 3,353-sf. The R5 zone regulates building coverage under Portland Zoning Code

Section 33.110.225 and Table 110-5. Based on the allowances in Table 110-5, a 10,000-sf site is allowed a maximum of 3,000-sf of building coverage. Since the proposal would put the site's cumulative building coverage at 3,353-sf, an Adjustment to increase the maximum building coverage is required.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in Portland Zoning Code Section 33.805.040.A through F.

ANALYSIS

Site and Vicinity: The subject site is a 10,000-sf, R5 zoned property in the Southwest Hills Residential League neighborhood developed with an existing dwelling and detached garage. The area consists of large, approximately 10,000-sf lots developed with large single-family dwellings built in the early 20th century. The neighborhood is in the southwest hills of Portland, just south of Highway 26 and west of the I-405 loop in south downtown. The area is unusual for SW Portland because it maintains a typical grid pattern where the lots and streets do not follow the topography. As a result, many lots have significant slopes and in-ground garages or daylight basements.

Zoning: The site is zoned R5, a medium density single-dwelling zone. 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 and provide options for infill housing that is compatible with the scale of the single-dwelling neighborhood.

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 18, 2022**. The following Bureaus have responded with no issues or concerns:

- The Portland Bureau of Transportation (Exhibit E.1); and
- Site Development, Fire Bureau and Water Bureaus.

The Life Safety Section of BDS provided a response (Exhibit E.3) that they have no objection to the proposal but that building permits will be required for the new structure.

The Bureau of Environmental Services provided a response (Exhibit E.4) noting they have no objection to the proposal but a detailed stormwater plan will be required at building permit submission.

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

33.805.040 Approval Criteria

The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.

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

Finding: The request is to allow the maximum building coverage to be increased. The relevant purpose statement is found in 33.110.225.A:

“Purpose. The building coverage standards limit the footprint of buildings and work together with the height, setback, and floor area ratio standards to control the overall bulk of structures. They are intended to ensure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site.”

The purpose as described above is to limit the overall bulk of structures on the site. In this case, the site is 10,000 square feet in size and limited to a total building coverage of 3,000 square feet. The proposal is to increase the building coverage dispersed among the existing house, existing detached garage, and new detached accessory building (pool house) to a total of 3,353-sf. The difference is just over a 12% increase. With the pool house being located in the northeast corner of the back yard, more than 50-ft from either road frontage for the corner lot, and with the existing house and detached garage obstructing views of the new pool house, the increase in building coverage will not be discernable from the public right-of-way.

The proposed location of the new pool house includes 5-foot setbacks to both the north and east property lines. The R5 zone has 5-foot minimum rear and side building setbacks so the new pool house will satisfy the standard.

The pool house is proposed to be a single-story building with a 15-ft building height and 20-ft overall height. The area of the yard the pool house is proposed is approximately 4-ft below the grade of the sidewalks around the home. The existing home is a two-story home built on the site's highest grade to the south. The existing garage is a single-story, flat roofed structure in the site's lowest area of the northwest corner. All-together, the three buildings will consist of 4,991 sf of Floor Area. The R5 zone allows a Floor Area ration of .5 for a site with one dwelling unit and with a lot of 10,000-sf, the addition of the new pool house will not exceed the maximum floor area ratio.

The adjacent site to the east has a single-car garage on the common property line that is attached to the house. The house is effectively a three-story home that stands taller than the proposed pool house. There is a line of a continuous hedge along the north property line that will separate the proposed pool house from the house on the adjacent property to the north.

Based on the above, the pool house will meet the FAR standard, meet the building height standard, and meet the setback requirements. As such, the only standard the new pool house will not meet is the building coverage standard, which will not be discernable. Additionally, the proposed pool house will be shorter than the house to the east and buffered from the house to the north by a continuous tall hedge. Staff finds size and height of the proposed pool house will limit the overall bulk on the site and will not overwhelm the homes on the adjacent properties.

Criterion 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**

Finding: The subject site is zoned R5, a residential zone. Livability is not a defined term but generally includes safety and privacy issues. Safety concerns generally include visual clearance for vehicles backing out of garages; impacts to pedestrians passing by a property, etc. Privacy issues generally are focused on protecting views from buildings into neighboring properties' private outdoor space.

The proposed pool house is in the interior of the lot, behind the house and detached garage, and not near a street lot line that could impact visual clearance for vehicles or have an impact on passing pedestrians. The pool house is a single-story building and therefore would not have an elevated floor offering commanding views into neighboring yards. In fact, the property to the east has a garage along the common property line and at least two-stories of living area above the garage, preventing the proposed pool house from having any view into the neighboring private yard. To the north, a tall, continuous hedge separates the two lots. In any case, the proposed pool house is set outside of the required setbacks which generally means the City considers there to be adequate distance to protect private spaces in the R5 zone. Considering all this, staff finds the livability will not be impacted or detracted from.

The proposed pool house will not be readily visible from either public street the site abuts. From the west, the new building will be 77-feet from the property line and have the existing garage separating the building from the street, providing a visual screen. From the south, the new building will be 51-feet from the property line and SW Laurel St. and the site slope downward from SW Laurel to the location of the pool house, where the building site is approximately 4 or 5-ft lower than street grade. The pool house will present its narrowest side to that street. Additionally, the pool house has been designed to reflect the English Cottage style of the house on the site and will be consistent with the early 20th century designs of the homes and building in the vicinity. As such, staff finds the new pool house will not detract from the appearance of the area.

Criterion 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

Finding: Only one Adjustment is being requested therefore this standard is not applicable.

C. City-designated scenic resources and historic resources are preserved; and

Finding: City designated scenic resources are shown on the zoning map by the 's' overlay; historic resources are either in a historic district or designated by a large dot. There are no such resources present on the site. Therefore, this criterion is not applicable.

D. Any impacts resulting from the adjustment are mitigated to the extent practical; and

Finding: No adverse impacts have been identified as a result of the proposal therefore no mitigation is necessary.

Criterion met.

E. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Finding: The site is not within an identified environmental zone, which is designated on the zoning map by either a "c" or "p" overlay. 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 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

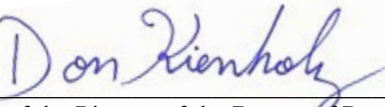
The applicant has demonstrated that an adjustment to increase the maximum allowed building coverage from 3,000 sf to 3,353-sf (33.110.225) equally meets the purpose of the building coverage standard to limit the overall bulk of structures through height, floor area, setback requirements and building coverage limitations to not overwhelm adjacent properties. Additionally, the proposed Adjustment will not adversely impact the appearance or livability of the immediate residential area; will not impact scenic, historic, or environmental resources; and will not create a cumulative impact that would not be consistent with the purpose of the zone. Since the proposal satisfies the approval criteria, the proposal must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum building coverage allowed from 3,000-sf to 3,353-sf (33.110.222) per the approved plans, Exhibits C.1 through C.3, signed and dated March 31, 2022, subject to the following conditions:

- 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.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 21-108050 AD. No field changes allowed."

Staff Planner: Don Kienholz

Decision rendered by:  **on March 31, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 6, 2022

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 November 19, 2021, and was determined to be complete on December 21, 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 November 19, 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 requested that the 120-day review period be extended 60-days (Exhibit A.8. Unless further extended by the applicant, **the 120 days will expire on: June 19, 2022.**

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.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on April 20, 2022. 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 e-mail, 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 and IIX 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 **April 20, 2022** 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 Materials
 - 1. Original Narrative
 - 2. Original Plan set
 - 3. Applicant's Site Photos
 - 4. Tree Removal Permit
 - 5. 12-21-22 Updated Narrative
 - 6. 12-21-22 Floor Plan
 - 7. Updated General Application
 - 8. Applicant's request to extend 120-day clock
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. North and South Elevation Plans (attached)
 - 3. West Elevation Plans (attached)
 - 4. East Elevation plans (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Site Development Section of BDS, Fire Bureau and Water Bureau
 - 3. Life Safety Section of BDS
 - 4. BES Response
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Receipt of Fee Payment
 - 3. Incomplete Letter

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