



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

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

Date: June 3, 2022
To: Interested Person
From: David Besley, Land Use Services
503-865-6715 / 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 22-103493 AD

GENERAL INFORMATION

Applicant: Dave Spitzer, DMS Architects
2325 NE 19th Ave
Portland, OR 97212

Owner: Dustin Travis Vance and Jonathan Edwards III Adams
6823 N Sky St
Portland, OR 97203

Site Address: 6823 N SKY ST

Legal Description: BLOCK 1 LOT 20, HIGH SCHOOL ADD
Tax Account No.: R383300390
State ID No.: 1N1E07BA 09500
Quarter Section: 2123

Neighborhood: St. Johns, contact Patrick Theiss at landuse@stjohnspdx.org
Business District: St. Johns Boosters Business Association, contact at info@stjohnsboosters.org
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877.

Plan District: NONE
Zoning: R2.5 (Residential 2,500)

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

Proposal:

The applicant is proposing to convert an unpermitted 390 square foot detached garage into an accessory dwelling unit (ADU). The Portland Zoning Code requires that structures be set back a

minimum of 5 feet from the side lot lines in this zone (Section 33.110.220; Table 110-4). The existing garage is 3 feet from the side (west) lot line. An Adjustment is therefore requested to reduce the minimum side (west) building setback from 5 feet to 3 feet for a garage-to-ADU conversion.

Relevant Approval Criteria:

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 4,811 sq.ft. site is located on the north side of N Sky Street, about 150 feet west of the intersection of N Gilbert Avenue and N Sky Street. The site is relatively flat and developed with a 936 sq.ft. single story dwelling and 390 sq.ft. detached garage at the northwest corner of the site. This area is developed primarily with 1-to-2-story single dwelling residences.

Zoning: The R2.5 base 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.

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 **April 6, 2022**. The following Bureaus have responded as follows:

- The Portland Bureau of Transportation responded with no concerns regarding the Adjustment review and included information about Title 17 (Transportation Plan) requirements (Exhibit E.1);
- The Bureau of Environmental Services responded with no concerns regarding the Adjustment review and included information about (Exhibit E.2);
- The Life Safety Review Section of the Bureau of Development Services (BDS) responded with no concerns regarding the Adjustment review, and noted that a Building Permit has been applied for and is currently under review (Exhibit E.3); and
- The Water Bureau responded with no concerns regarding the Adjustment review, and included water meter information (Exhibit E.4).

The following Bureaus have responded with no concerns (Exhibit E.3):

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

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 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:** An Adjustment is requested to reduce the minimum side (west) building setback from 5 feet to 3 feet for a garage-to-ADU conversion. The relevant purpose statement and associated findings 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.*

While the proposed ADU has a relatively small footprint (24' by 16'-2"), it is relatively tall, at 14'-11" due to attic storage. The attic, ranging from 3' to 6' in height, is not a full second story nor will it be occupied. The structure is over 20 feet from the nearest residence to the west (most impacted by the Adjustment request) which will promote a reasonable physical relationship between properties. Because of this distance and the ADU's location at the northwest corner of the site, light and air will be maintained. No windows are proposed on the western façade of the building, maintaining options of privacy for the neighboring property. The structure itself fits the topography of the site (which is relatively flat in the area proposed) and meets the minimum outdoor area requirement.

Detached accessory structures built within side setbacks are common in this area, including a few structures on N Sky Street. This proposal will therefore be reflective of and compatible with the general building pattern of the area, as well as the building scale and placement of residences, including ADUs, in this neighborhood.

The Fire Bureau has reviewed the request for reduced building setbacks and offered no concerns with regards to separation for fire protection, or access for fire fighting.

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, and is in a neighborhood with primarily 1-to-2-story single dwelling residences. As noted above, detached accessory structures built within side setbacks are common in this area. The proposed ADU, located over 60 feet from the street and over 20 feet to the nearest neighbor to the west, will not detract from the livability or appearance of the residential area.

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 being requested; therefore, 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 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: No adverse impacts have been identified for which mitigation would be required.

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 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 requesting an Adjustment to reduce the minimum side (west) building setback from 5 feet to 3 feet for a 390 square foot garage-to-ADU conversion. While the proposed ADU has a relatively small footprint, it is 14'-11" tall due to attic storage. The structure is over 20 feet from the nearest residence to the west which will promote a reasonable physical relationship between properties. Because of this distance and the ADU's location at the northwest corner of the site, light and air will be maintained. No windows are proposed on the western façade of the building, maintaining options of privacy for the neighboring property. The structure itself fits the topography of the site and meets the minimum outdoor area requirement. Detached accessory structures built within side setbacks are common in this area. The proposed ADU will therefore not detract from the livability or appearance of the residential area.

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

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum side (west) building setback from 5 feet to 3 feet (Section 33.110.220; Table 110-4) for a 390 square foot garage-to-ADU conversion, per the approved site plans, Exhibits C-1 through C-2, signed and dated May 23, 2022, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 22-103493 AD. No field changes allowed."

Staff Planner: David Besley



Decision rendered by: _____ **on May 23, 2022.**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 3, 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 January 13, 2022, and was determined to be complete on April 1, 2022.

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 January 13, 2022.

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: July 30, 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 June 17, 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 the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that only digital copies of material in the file are available for viewing. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <https://www.portlandoregon.gov/citycode/28197>.

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 **June 17, 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

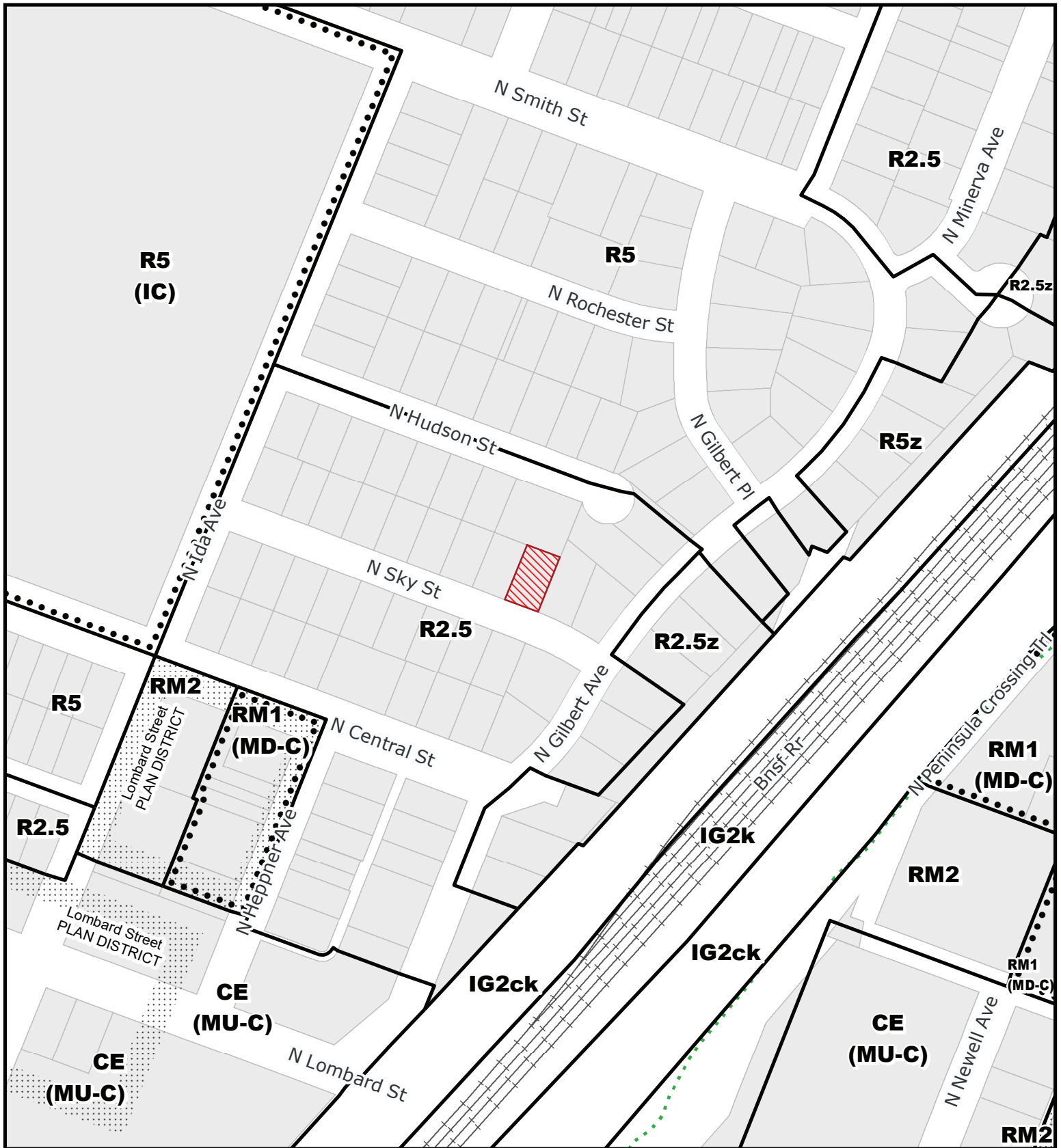
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Building Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Bureau of Environmental Services
 - 3. Life Safety Section of BDS
 - 4. Water Bureau
 - 5. Bureaus responding with no concerns (Site Development and Fire Bureau)
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incompleteness determination letter, dated February 9, 2022

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



For Zoning Code in effect Post August 1, 2021



Site



Recreational Trails

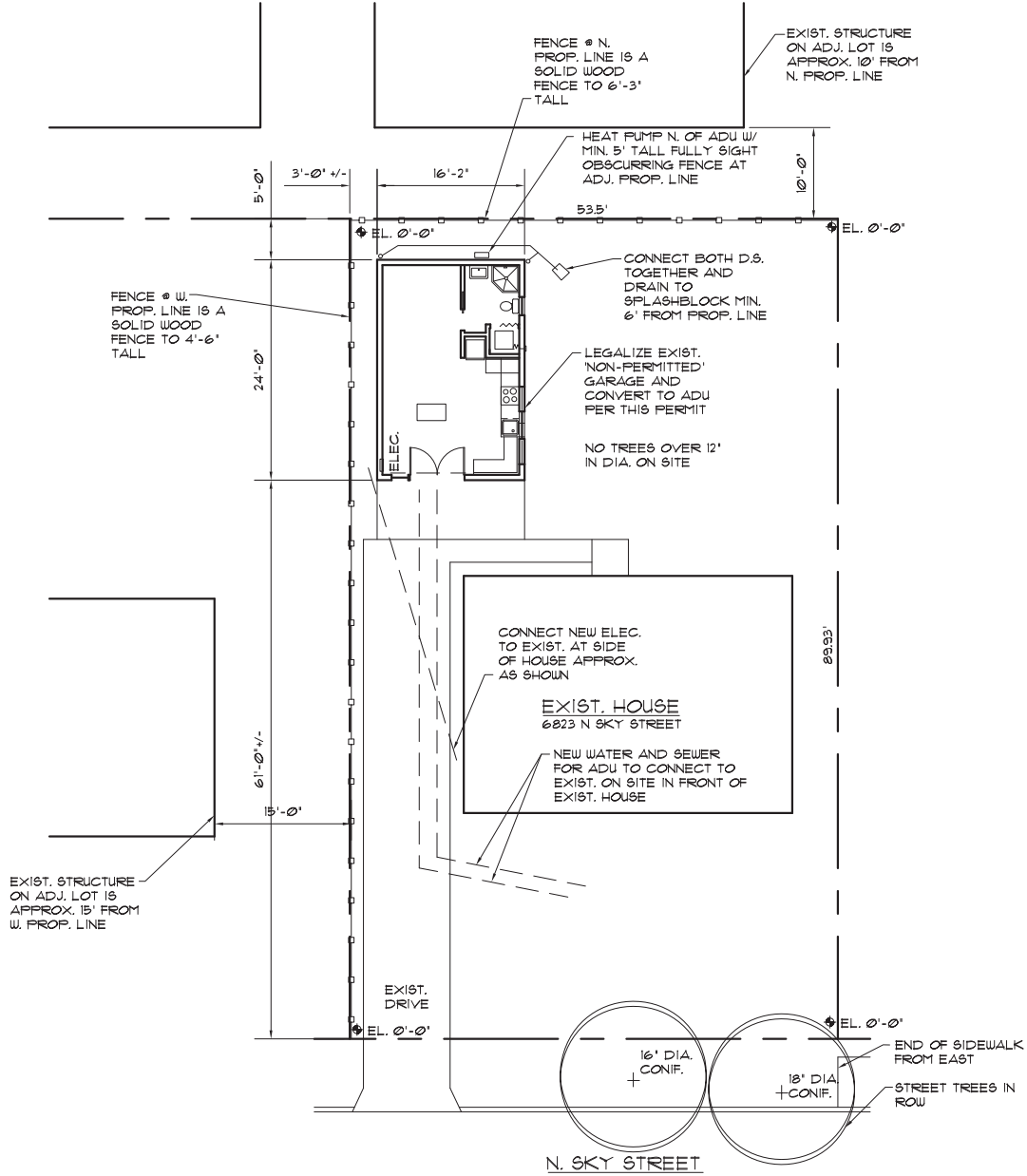
File No.	LU 22 - 103493 AD
1/4 Section	2123
Scale	1 inch = 200 feet
State ID	1N1E07BA 9500
Exhibit	B Jan 13, 2022

Approved
 City of Portland
 Bureau of Development Services

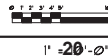
Planner **David Besley**

Date **5/23/22**

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



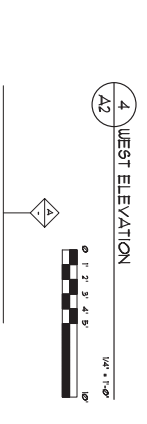
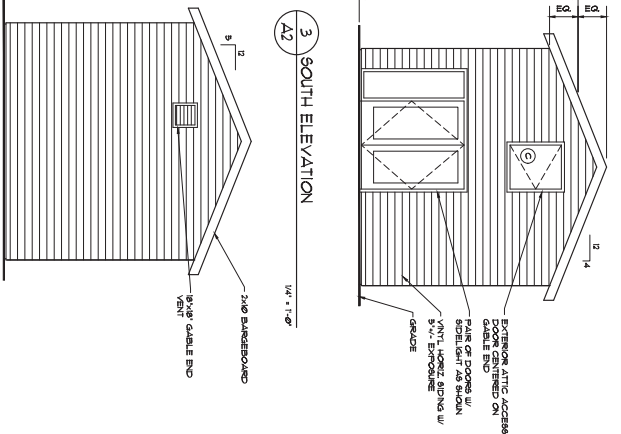
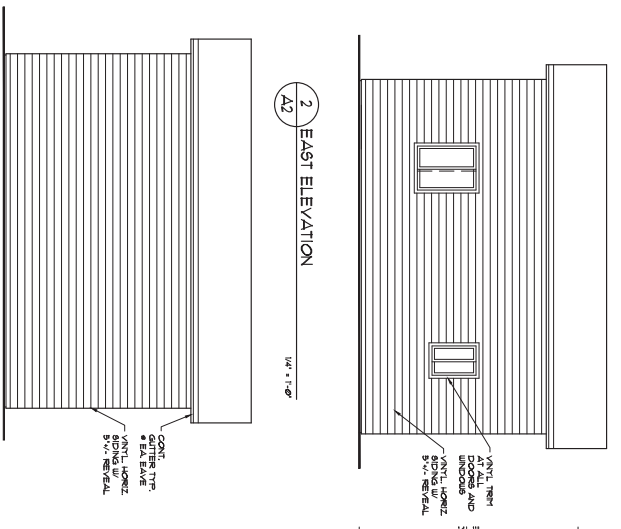
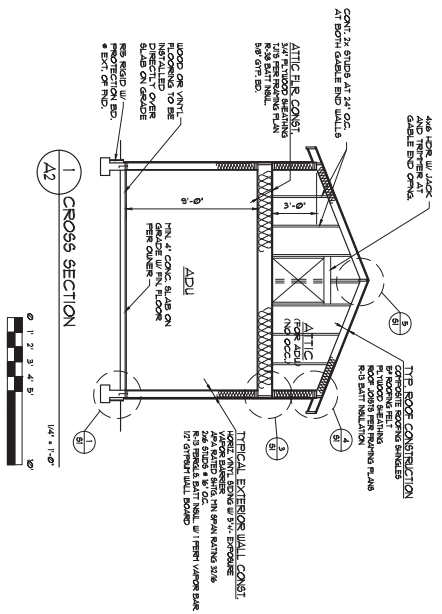
SITE PLAN



SITE NOTES:

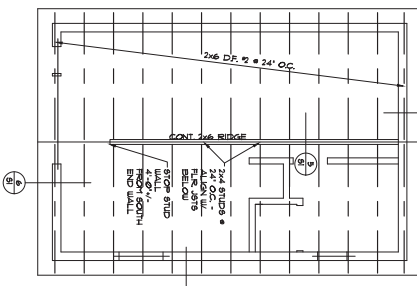
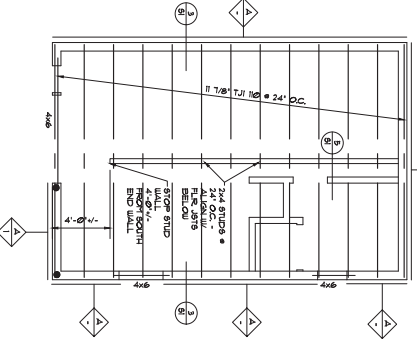
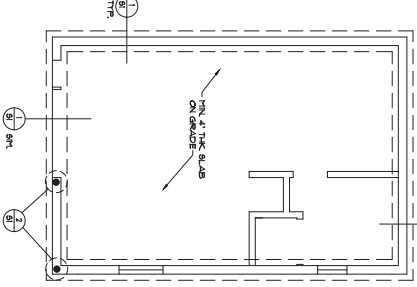
LOT COVERAGE:	
LOT AREA:	4,811 SF
EXIST. BLDG. COVERAGE:	936 SF
NEW ADU COVERAGE:	390 SF
TOTAL LOT COVERAGE:	1,326 SF

FLATWORK COVERAGE:	
EXIST. DRIVEWAY	550 SF +/-
EXIST. WALKWAYS	200 SF +/-



Approved
 City of Portland
 Bureau of Development Services
 Planner **David Besley**
 Date **5/23/22**

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



Exh. C.2
 LU 22-103493 AD

SHEET
 A2 of 2

JOB NO.	0000016
DRAWN	DWS
CHECKED	
DATE	12-20-21
REVISIONS	

SHEET CONTENT
 SECTIONS
 ELEVATIONS
 FND. FRAMING PLANS
 ROOF FRAMING PLANS

VANCE ADU
 6823 NORTH SKY STREET
 PORTLAND, OREGON

2225 NE 19TH AVE.
 PORTLAND, OR 97213
 503.335.9540
 dave@dmarchitects.com

