



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

Dan Ryan, Commissioner
Rebecca Esau, Director
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www.portland.gov/bds

Date: August 19, 2022
To: Interested Person
From: Andrew Gulizia, Land Use Services
503-865-6714 / Andrew.Gulizia@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 22-144526 AD

GENERAL INFORMATION

Applicant: Greg Felfoldi | Telford Brown Studio Architecture
2132 NE Alberta St.
Portland, OR 97211
(503) 223-4957 | gregf@telfordbrownstudio.com

Property Owners: Caitlin and Hans Gustafson
10740 SW Lancaster Rd.
Portland, OR 97219

Keith Davis
10740 SW Lancaster Rd.
Portland, OR 97219

Site Address: 10740 SW Lancaster Rd.

Legal Description: LOT 106&107 TL 5100, EDGECLIFF
Tax Account No.: R236504840
State ID No.: 1S1E28CC 05100
Quarter Section: 4027

Neighborhood: Marshall Park, contact at Albertsonzuelke@hotmail.com
Business District: None
District Coalition: Office of Community & Civic Life, contact Leah Fisher at leah.fisher@portlandoregon.gov
Plan District: None

Zoning: R20/R20c – Single-Dwelling Residential 20,000 base zone with part of the site also in the Environmental Conservation (“c”) overlay zone

Case Type: AD – Adjustment Review

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

Proposal: The applicant proposes to construct a single-story, detached accessory dwelling unit (ADU) in the southwestern part of this property. Zoning Code Section 33.205.040.C.3 requires detached ADUs to be either set back at least 40 feet from the front lot line or placed behind the main house. In the applicant's proposal, the ADU would be set back 20.5 feet from the front lot line and would not be behind the main house. Therefore, the applicant requests an Adjustment to reduce the minimum setback from the front lot line to the proposed ADU from 40 feet to 20.5 feet.

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 24,000 square feet in area and is located on the south side of SW Lancaster Road, just north of SW Arnold Street. The site is developed with a single-story, single-dwelling house that was constructed in 1956. The site contains several large, mature trees, and a stream runs through the northeastern part of the property (on the opposite side of the house from the proposed ADU). Neighboring properties are also developed with single-dwelling houses.

Zoning: The R10 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.

Part of the site is also within the Environmental Conservation ("c") overlay zone (Exhibit B). The "c" overlay is intended to conserve important environmental features and resources while still allowing compatible development. The proposed construction will be outside the "c" overlay zone.

Land Use Review History: City records include one prior land use review for this site. In 1995, a Zoning Map Error Correction was approved to adjust the "c" zone boundary (case file LUR 94-00768).

Agency Review: A "Notice of Proposal" was sent July 21, 2022 (Exhibit D-2). The following Bureaus responded with no concerns about the proposed Adjustment:

- Bureau of Environmental Services (Exhibit E-1);
- Water Bureau (Exhibit E-3);
- Fire Bureau (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).

The Portland Bureau of Transportation (PBOT) also responded with no concerns about the Adjustment request (Exhibit E-2), and the applicant has applied separately for a Driveway Design Exception (22-166312 TR). That application is currently pending, and PBOT would need to approve the Driveway Design Exception for the driveway to be as illustrated in Exhibit C-1.

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: The Adjustment request is to the ADU setback requirement in Zoning Code Section 33.205.040.C.3.a. Zoning Code Section 33.205.040.A states the purposes for the ADU development standards:

Standards for creating accessory dwelling units address the following purposes:

- *Ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones;*
- *Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;*
- *Ensure that accessory dwelling units are smaller in size than primary dwelling units; and*
- *Provide adequate flexibility to site buildings so that they fit the topography of sites.*

Though set back only 20.5 feet from the front lot line, the new ADU will be set back about 40 feet from the edge of the roadway, and views of the single-story ADU from the street will be largely obscured by existing, tall shrubs in the street right-of-way (Exhibit C-1). At 796 square feet, the ADU building will be only about 36% as large as the existing, 2,238-square-foot house on the property. Therefore, the reduced front setback for the ADU will not create a crowded or incompatible appearance and will not cause the main house to appear less like the primary structure. If the ADU were placed further back on the lot, as would be required without this Adjustment, the usable back yard area available for residents of both homes would be reduced and construction impacts would occur closer to a stream channel on the opposite side of the lot (Exhibit C-1). Also, placing the ADU further back would likely require removal of two large trees (a 42-inch western redcedar and a 44-inch Douglas fir) which the applicant intends to preserve (Exhibits C-1 and A-6). Since impacts from placing the ADU closer to the street are minimal in this case, staff finds removing large trees in order to meet the setback requirement outright would have much greater detrimental impacts on the character and livability of the neighborhood. The tall trees behind the ADU will also lower the apparent scale of the new building and minimize its already limited visual presence in the streetscape. For all these reasons, and with a condition of approval to preserve the 42-inch western redcedar and the 44-inch Douglas fir, staff finds the proposal will better meet the purpose of the regulation and that criterion A is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: Since the site is in a residential zone, the Adjustment proposal must not significantly detract from the livability or appearance of the residential area. The residential area around this site is characterized by narrow roadways and large, heavily treed lots with detached houses. As explained above, though the ADU will be only 20.5 feet from the site's front lot line, it will be set back approximately 40 feet from the roadway and largely obscured from view by existing vegetation in the street right-of-way. Also, two large trees behind the ADU that will be preserved (but which would likely be removed if the ADU were placed further back) will be much more prominent than the single-story ADU building and will continue to support the forested character of the area. For these reasons, and with a condition of approval to preserve the 42-inch western redcedar and the 44-inch Douglas fir shown on Exhibit C-1, staff finds the proposal will not significantly detract from the livability or appearance of the area and that 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: Only one Adjustment is requested, so this criterion is not applicable.

- D. City-designated scenic resources and historic resources in Historic, Conservation and National Register Districts and within the boundaries of Historic, Conservation and National Register Landmarks 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: Potential impacts from placing the ADU closer to the front lot line will be mitigated by preserving two mature trees (a 42-inch western redcedar and a 44-inch Douglas fir) that would likely be removed if the ADU were placed further back. The large trees behind the ADU will be much taller and more prominent than the new building, effectively mitigating visual impacts from placing the ADU closer to the street. With a condition of approval to preserve these two trees, staff finds criterion E 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: The proposed construction is entirely outside the Environmental Conservation (“c”) environmental zone on the opposite side of the lot (Exhibits B and C-1). Placing the ADU further from the front lot line, as would be required without this Adjustment, would place construction impacts closer to the “c” zone and the stream channel within it. Therefore, staff finds the proposed Adjustment minimizes impacts to environmental resources and that 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

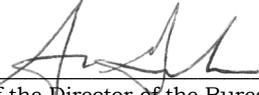
With a condition of approval to preserve two large trees behind the proposed ADU, staff finds the proposed Adjustment to be consistent with the purpose of the ADU setback requirement and with the livability and aesthetics of the neighborhood. No significant negative impacts related to the setback Adjustment are expected. With the condition of approval, staff finds the Adjustment meets each of the applicable approval criteria and therefore must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.205.040.C.3.a to reduce the minimum setback from the front lot line to the proposed ADU from 40 feet to 20.5 feet per the approved plans, Exhibits C-1 and C-2, signed and dated August 15, 2022, subject to the following conditions:

- 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 and C-2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 22-144526 AD."
- B. The 42-inch western redcedar and 44-inch Douglas fir located behind the proposed ADU as illustrated in Exhibit C-1 must be preserved. These trees must be protected during the construction of the ADU as described in the applicant's arborist report (Exhibit A-6) and as required by Title 11. However, either of these trees may be removed in the future without the need for another land use review if found by a certified arborist to be dead, dying, or hazardous.

Staff Planner: Andrew Gulizia

Decision rendered by:  **on August 15, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 19, 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 May 18, 2022 and was determined to be complete on July 18, 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 May 18, 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 November 15, 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.portland.gov/sites/default/files/2020/lu_type2_2x_appeal_form_071116.pdf. Appeals must be received **by 4:30 PM on September 2, 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 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 **September 2, 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 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;

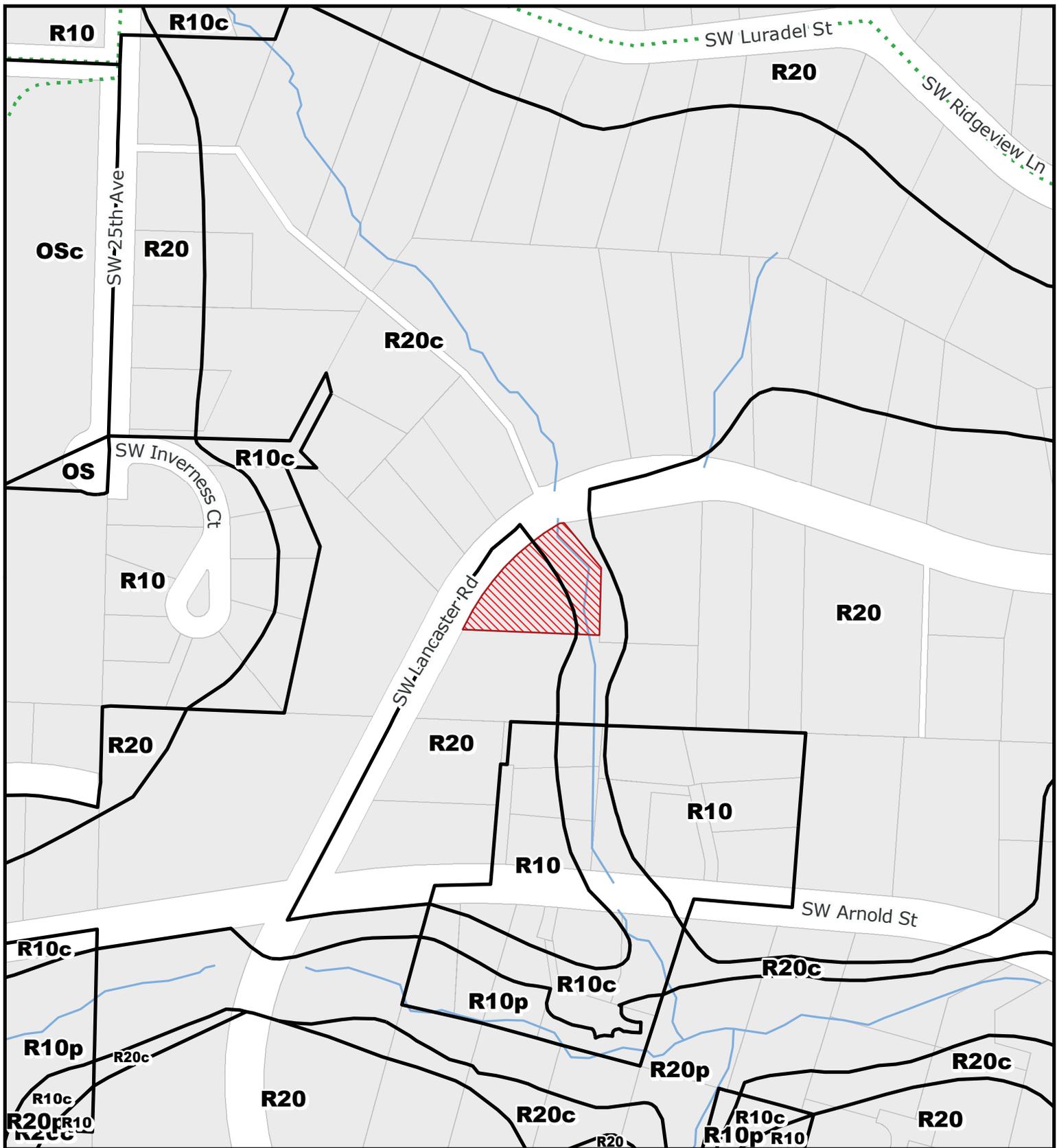
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Original narrative
 - 2. Original plan set
 - 3. Arborist's report
 - 4. Revised narrative submitted July 18, 2022
 - 5. Supplemental site plan, submitted August 11, 2022
 - 6. Revised arborist's report, submitted August 11, 2022
- 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 Environmental Services
 - 2. Portland Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence (none received)
- G. Other:
 - 1. Land use review application form
 - 2. Incompleteness determination letter, dated May 27, 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

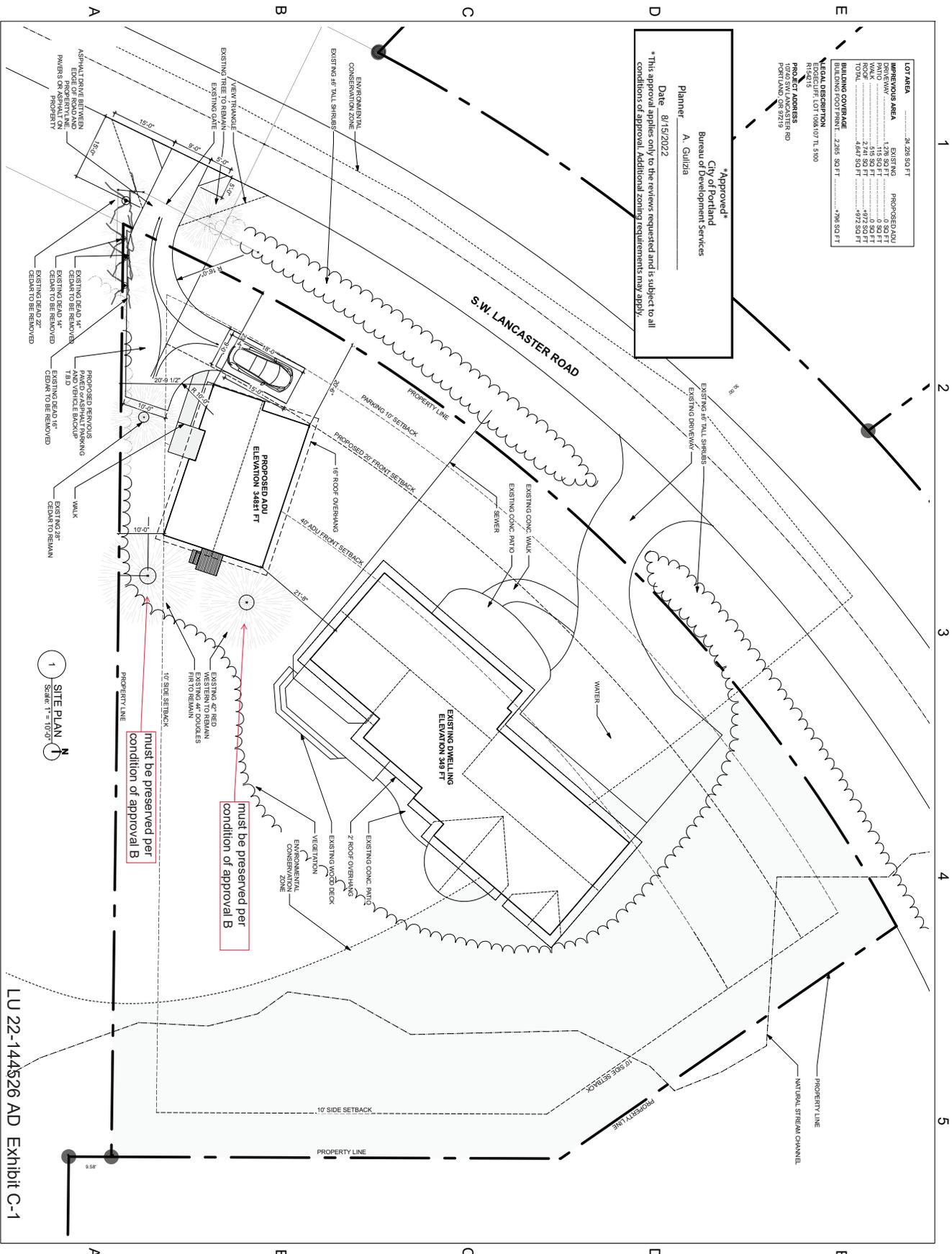


Recreational Trails

File No.	LU 22 - 144526 AD
1/4 Section	4027
Scale	1 inch = 200 feet
State ID	1S1E28CC 5100
Exhibit	B May 19, 2022

LOT AREA	24,268 SQ FT	PROPOSED ADU	1,278 SQ FT
IMPROVED AREA	1,278 SQ FT	PROPOSED DWELLING	1,278 SQ FT
DRIVEWAY	1,278 SQ FT	PROPOSED WALK	0 SQ FT
WALK	515 SQ FT	PROPOSED ROOF	2,744 SQ FT
ROOF	2,744 SQ FT	PROPOSED 10' SIDE SETBACK	492 SQ FT
10' SIDE SETBACK	492 SQ FT	PROPOSED 10' SIDE SETBACK	492 SQ FT
BUILDING COVERAGE	2,295 SQ FT	PROPOSED 10' SIDE SETBACK	492 SQ FT
LEGAL DESCRIPTION	REDEVELOPMENT LOT 10081.07 T.L. 9100		
PROJECT ADDRESS	10720 S.W. LANCASTER ROAD		
PORTLAND, OR 97219			

Approved
 City of Portland
 Bureau of Development Services
 Planner: A. Guitiza
 Date: 8/15/2022
 *This approval applies only to the options requested and is subject to all conditions of approval. Additional zoning requirements may apply.



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

LU 22-144526 AD Exhibit C-1

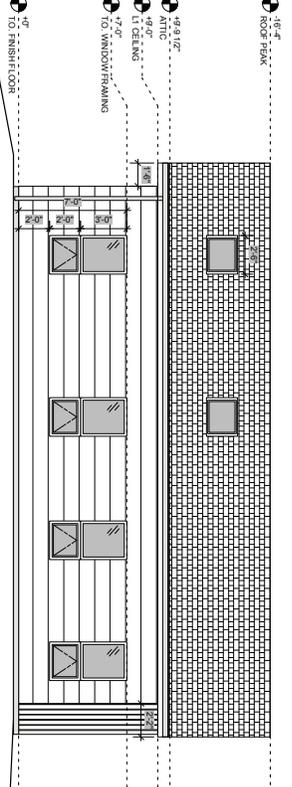
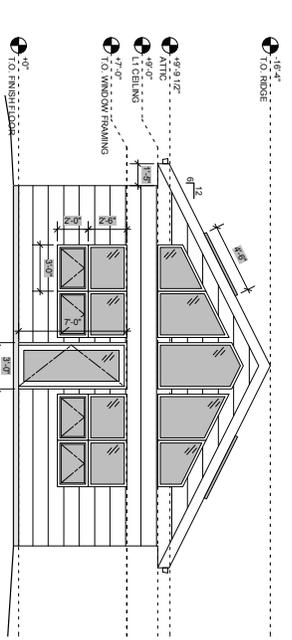
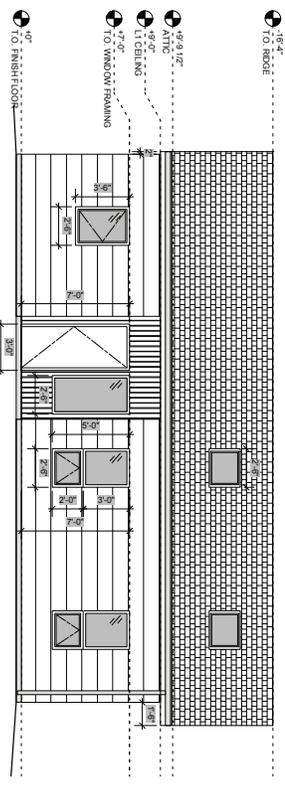
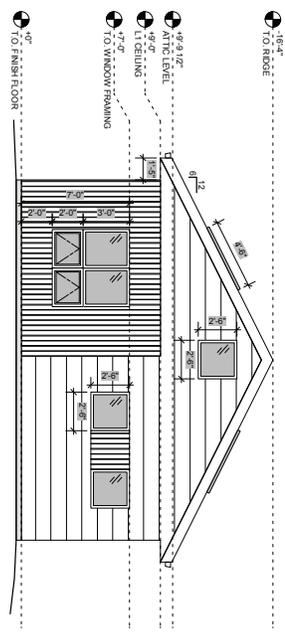
SEAL
**PRELIMINARY
 NOT FOR
 CONSTRUCTION**
 DAVIS ADU
 10720 S.W. LANCASTER ROAD
 PORTLAND, OREGON 97219

DESCRIPTION	THIS PROJECT #2020
PROGRESS SET DATE	2022.06.23
LAND USE ADD.	2022.07.18

SITE PLAN

A1.0

Approved
 City of Portland
 Bureau of Development Services
 Planner: A. Gullizia
 Date: 8/15/2022
 *This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



LU 22-144526 AD Exhibit C-2

SEAL
 PRELIMINARY
 NOT FOR
 CONSTRUCTION

DAVIS ADU

10740 SW LANCASTER ROAD
 PORTLAND, OREGON 97219

THIS PROJECT #2022
 DESCRIPTION DATE
 PROGRESS SET 2022.05.17

ELEVATIONS

A2.0