



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: November 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 22-169865 AD

GENERAL INFORMATION

Applicant: Mike Perso
William/Kaven Architecture
4075 N Williams Avenue, Suite 440
Portland OR 97227
Email: mike@williamkaven.com
Phone: 503-308-8327

Owner: Jason Savich and Hillary Campbell
12351 S Northgate Ave
Portland, OR 97219

Site Address: 12351 S NORTHGATE AVE

Legal Description: TL 1100 0.99 ACRES, SECTION 34 1S 1E
Tax Account No.: R991340630
State ID No.: 1S1E34DC 01100
Quarter Section: 4230

Neighborhood: None
Business District: None
District Coalition: None

Plan District: None
Zoning: R20cz (Residential 20,000, with Environmental Conservation "c" and Constrained Sites "z" overlay zones)

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

Proposal:

The applicant is proposing to deconstruct an existing 3,647 square foot 2-story residence and construct a new approximately 4,645 square foot single-story residence, 615 square foot garage, and about 1,621 square feet of covered walkways/patios. The Portland Zoning Code requires that the maximum building coverage for a site of this size (40,200 square feet*) be limited to a maximum 6,015 square feet (Section 33.110.225; Table 110-5). The proposed building coverage for the development is 6,881 square feet. An Adjustment is therefore required to increase the maximum building coverage from 6,015 square feet (15.0%) to 6,881 square feet (17.1%).

*Note: This lot is considered a flag lot. Only the area of the flag portion of the flag lot (in this case, 40,200 square feet) is included when calculating building coverage. The area of the pole portion of the lot is not included (per Section 33.110.255B.1.c).

Relevant Approval Criteria:

To be approved, this proposal must comply with the approval criteria of Title 33, the Portland Zoning Code. Adjustment requests will be approved if the applicant has shown that approval criteria A through F of Zoning Code Section 33.805.040 have been met.

ANALYSIS

Site and Vicinity: The 40,200 square foot site is a flag lot located about 200 feet west of the intersection of S Terwilliger Blvd. and S. Northgate Ave, and about 150 feet south of S Northgate Ave, with access via an access easement through the neighboring lot to the north. The site slopes downward from northeast to southwest and is developed with a 3,647 square foot 2-story residence. The surrounding vicinity to the east is developed with primarily 1-to-2-story low-density single-dwelling residences. The adjacent area to the west is open space land.

Zoning: The R20 zone is a single-dwelling zone that is 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. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. The proposed development lies outside of the portion of the lot which contains the Environmental Conservation Overlay Zone ("c"); therefore the overlay zone will not be impacted by the Adjustment proposal. The Constrained Sites Overlay Zone ("z") relates to additional dwelling units; because only one dwelling unit is proposed, the "z" Overlay Zone will not be impacted by the Adjustment proposal.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **September 16, 2022**. The following Bureaus have responded:

- The Life Safety Review Section of the Bureau of Development Services (BDS) responded with no concerns regarding the Adjustment review, and included Life Safety and building permit submittal requirements (Exhibit E.1);
- The Lake Oswego Fire Department noted that the hydrant location is not adequate for this project. Distance to the first hydrant or (if needed for fire flow) the second hydrant is too far. One additional fire hydrant will be required in an approved location or an alternate method could be proposed like fire sprinklers throughout. Fire flow for fire protection is not adequate. Either fire flow volume needs to be increased or an alternate method could be proposed like fire sprinklers throughout (Exhibit E.2); and
- The Bureau of Environmental Services (BES) responded with no concerns regarding the Adjustment review and noted that the stormwater management plan is currently being reviewed (Exhibit E.3).

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

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

Findings: The applicant is proposing to construct a new approximately 4,645 square foot single-story residence, 615 square foot garage, and about 1,621 square feet of covered walkways/patios, which requires an Adjustment to increase the maximum building coverage from 6,015 square feet (15.0%) to 6,881 square feet (17.1%). The relevant purpose statement for this standard is as follows:

33.110.225 Building Coverage

The building coverage standards, together with the height and setback standards control the overall bulk of structures. They are intended to assure 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 proposed house is a single-story house with a flat roof and a height of about 15 feet, which half of the maximum 30-foot height allowance in this zone. The proposed house meets the 15-foot minimum building setbacks on the north and south lot lines and exceeds this from the east lot line (with a distance of about 48 feet) and the west lot line (with a distance of about 26 feet). The single-story design and increased building setbacks help reduce the bulk of the structure and offset the proposed building coverage Adjustment.

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 R20 zone, a single-dwelling residential zone, and is in a neighborhood with a mix of primarily 1 and 2-story single-dwellings. The 1-story ADU will therefore be consistent with development pattern in the area. The adjacent neighbors to the north and east of the subject site are separated with dense, mature, tree screening. There are no neighbors to the south and west because this is zoned for open space and is further restricted by the Environmental Protection overlay zone. As noted in the "Site and Vicinity" section above, the subject site has access via an access easement and is approximately 150 feet from S. Northgate Ave, and will not be visible from the street. Granting the proposed Adjustment will therefore 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 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). Because the proposed development lies outside of the portion of the lot which contains the “c” overlay zone, 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 proposing to construct a new approximately 4,645 square foot single-story residence, 615 square foot garage, and about 1,621 square feet of covered walkways/patios, which requires an Adjustment to increase the maximum building coverage from 6,015 square feet to 6,881 square feet. The proposed house is a single-story house with a flat roof and a height of about 15 feet, which half of the maximum 30-foot height allowance in this zone. The proposed house meets the 15-foot minimum building setbacks on the north and south lot lines and significantly exceeds this from the east and west lot lines, which helps reduce the bulk of the structure and offset the proposed increase in building coverage.

The adjacent neighbors to the north and east of the subject site are separated with dense, mature, tree screening. There are no neighbors to the south and west because this is zoned for open space and is further restricted by the Environmental Protection overlay zone. The subject site has access via an access easement and is approximately 150 feet from S. Northgate Ave, and will not be visible from the street. Granting the proposed Adjustment 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 increase the maximum building coverage from 6,015 square feet (15.0%) to 6,881 square feet (17.1%) (Section 33.110.225; Table 110-5) to construct a new

approximately 4,645 square foot single-story residence, 615 square foot garage, and about 1,621 square feet of covered walkways/patios, which requires, per the approved site plans, Exhibits C-1 through C-2, signed and dated October 25, 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-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 22-169865 AD. No field changes allowed."

Staff Planner: David Besley



Decision rendered by: _____ **on October 25, 2022.**

By authority of the Director of the Bureau of Development Services

Decision mailed: November 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 August 4, 2022, and was determined to be complete on September 9, 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 August 4, 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: January 7, 2023.**

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 November 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 **November 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 Submittal
 - 1. Narrative
 - 2. Building Coverage Plan Diagrams
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section of BDS
 - 2. Lake Oswego Fire Department
 - 3. Bureau of Environmental Services
 - 4. Bureaus responding with no concerns (Site Development, PBOT, and Water Bureaus)
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incompleteness determination letter, dated August 31, 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).