



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

Carmen Rubio, Commissioner
Rebecca Esau, Director
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Date: March 6, 2023
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 23-006192 AD

GENERAL INFORMATION

Applicant: Joel C Munson
3830 SW Comus St.
Portland, OR 97219-7420
(971) 378-3315
joel.munson@outlook.com

Property Owners: Melissa and Joel C Munson
3830 SW Comus St.
Portland, OR 97219-7420

Site Address: 8717 NE Webster St.

Legal Description: BLOCK 3 LOT 6, LOCHKNOWE
Tax Account No.: R503000550
State ID No.: 1N2E21BA 12700
Quarter Section: 2539
Neighborhood: Sumner, contact Dave Ganslein at daveganslein@hotmail.com
Business District: Parkrose Business Association, contact parkrosebusinessassociation@gmail.com
District Coalition: Central Northeast Neighbors, contact Alison Stoll at alisons@cnncoalition.org

Zoning: R7h – Single-Dwelling Residential 7,000 with Aircraft Landing (“h”) overlay

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

Proposal: The applicant proposes to separate the back part of the house on this site into an accessory dwelling unit (ADU). The back part of the house already has a separate kitchen, and the applicant proposes to add a bathroom as well. No exterior changes to the existing house are proposed. The applicant requests an Adjustment to Zoning Code Section 33.205.040.C.2 to increase the maximum living area of the proposed ADU from 800 square feet to 1,005 square 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 7,535 square feet in area and located on the north side of NE Webster Street, just east of NE 87th Avenue. The site is developed with a single-story, 2,396-square-foot house that was originally built in 1926. The house was previously expanded with additional bedrooms at the back and used as an adult foster care home. Neighboring properties are also developed with single-story homes. Helensview School is northwest of the site on the opposite side of NE 87th Avenue.

Zoning: The R7 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.

The Aircraft Landing (“h”) overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation in employment, industrial, and open space zones. The “h” overlay height regulations do not apply to the subject site because it’s in a residential zone (Zoning Code Section 33.400.030.B).

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

Agency Review: A “Notice of Proposal” was sent January 31, 2023 (Exhibit D-2). The following Bureaus responded with no concerns about the proposed Adjustment:

- Bureau of Environmental Services (Exhibit E-1);
- Portland Bureau of Transportation (Exhibit E-2);
- 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).

Neighborhood Review: No written responses to the mailed “Notice of Proposal” were received from either the Neighborhood Association or notified neighbors. Before the “Notice of Proposal” was mailed, the applicant submitted two letters in support from neighbors (Exhibit A-4).

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 applicant requests an Adjustment to Zoning Code Section 33.205.040.C.2 to increase the allowable living area size of an ADU. Zoning Code Section 33.205.040.A states the purpose of the development standards for ADUs:

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.*

The 1,005-square-foot ADU at the back of the house will be larger than allowed without an Adjustment but will be significantly smaller than the 1,391-square-foot main unit in the front. The proposal requires no exterior alterations to the existing house, and it will not be apparent from off-site that the back of the house is a separate unit. The proposed Adjustment will allow flexibility to create an ADU more affordably, using a part of the house that already has a separate kitchen and exterior entrances. The only construction required is for a new bathroom within the interior of the ADU. Since the exterior of the house will not change, the existing yard space will remain available for both units to share, and the interior work to create the ADU will have little effect on the character of the area. For these reasons, staff finds the proposal is equally consistent with the purpose of the regulation to be modified 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. Like the subject site, neighboring properties are developed with single-story houses. The proposal converts the rear part of the existing house into an ADU, but only interior work is required, and the exterior of the house will remain unchanged. It will not be apparent from off-site that the back of the house has been converted to an ADU. Therefore, staff finds the Adjustment to allow a larger living area for the ADU will not detract from the livability or appearance of the residential area. 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: 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: Staff anticipates no negative impacts specifically resulting from the Adjustment request that require mitigation. The proposal converts the back part of the existing house into an ADU, but no exterior alterations are proposed, and the living

area size of the ADU will not be apparent from the street or from neighboring properties. Therefore, staff finds criterion E 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: Environmental overlay zones are designated on the official zoning maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on the site, 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


Staff finds the proposed Adjustment to be consistent with the purpose of the ADU living area requirement to be modified. No negative impacts resulting from the Adjustment are expected, and the Adjustment will not detract from the appearance or livability of the surrounding residential area. Staff finds the proposal meets each of the applicable Adjustment Review approval criteria. Since the approval criteria are met, the proposal must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.205.040.C.2 to increase the maximum living area of an attached ADU from 800 square feet to 1,005 square feet, per the approved plan, Exhibit C-1, signed and dated February 22, 2023, 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 Exhibit C-1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 23-006192 AD."

Staff Planner: Andrew Gulizia

Decision rendered by:  **on February 22, 2023**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 6, 2023

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 20, 2023 and was determined to be complete on January 27, 2023.

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 20, 2023.

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 extended by the applicant, **the 120 days will expire on May 27, 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.portland.gov/sites/default/files/2020/lu_type2_2x_appeal_form_071116.pdf. Appeals must be received **by 4:30 PM on March 20, 2023. 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 **March 20, 2023** 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. Narrative
 - 2. Deed
 - 3. Photos
 - 4. Letters of support
 - 5. Original plan set
 - 6. Revised plan set, submitted January 27, 2023
- B. Zoning map (attached)
- C. Plans/Drawings:
 - 1. Site plan (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 application form

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).



For Zoning Code in Effect Post October 1, 2022

ZONING

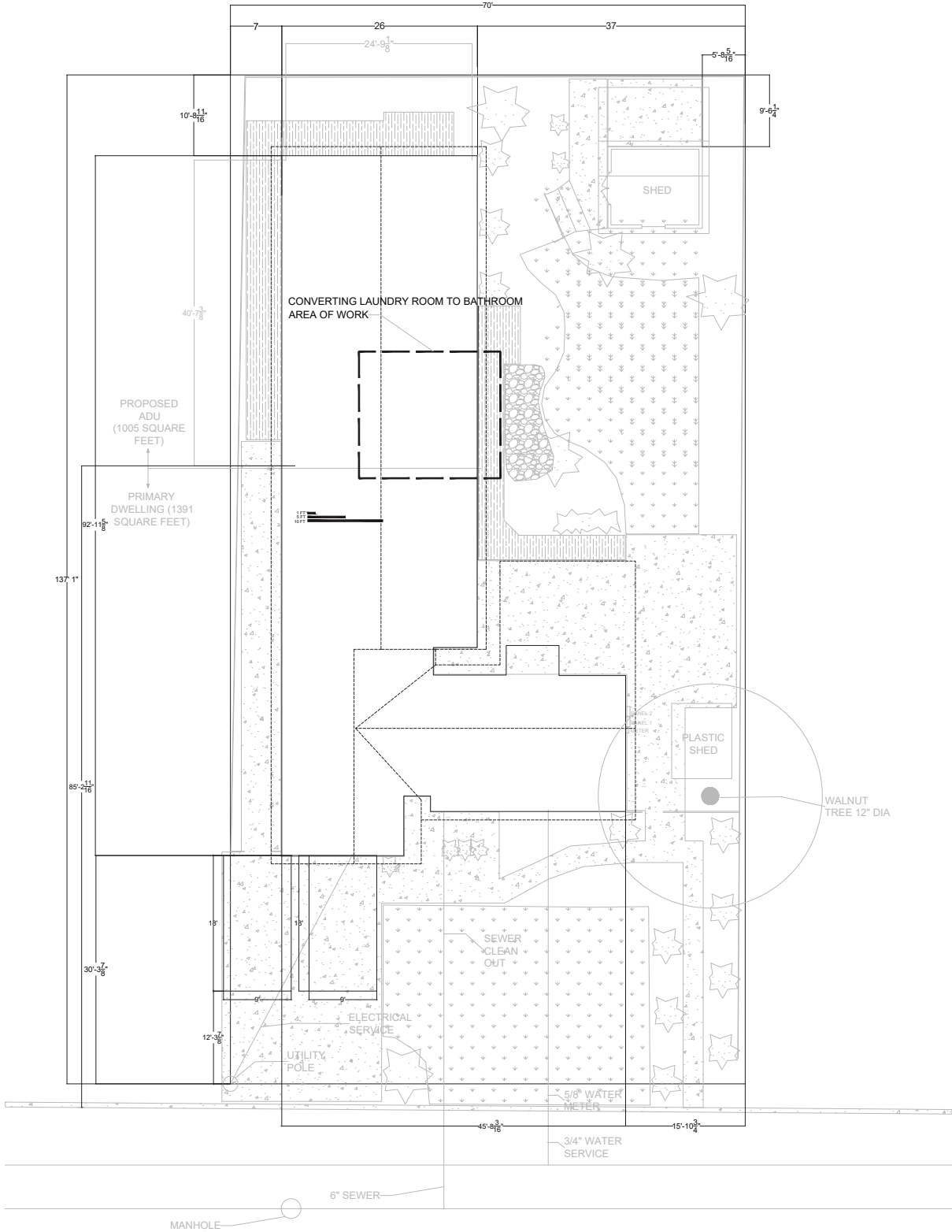
-  Site
-  Plan District

File No.	<u>LU 23 - 006192 AD</u>
1/4 Section	<u>2539</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1N2E21BA 12700</u>
Exhibit	<u>B</u> <u>Jan 23, 2023</u>

Approved
 City of Portland
 Bureau of Development Services

Planner A. Gulizia
 Date 2/22/2023

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



LEGAL DESCRIPTION:
 R-208047
 TAXLOT 1N2E21BA-12700

PROJECT ADDRESS:
 8717 NE WEBSTER ST,
 PORTLAND OR 97220

DRAWING TITLE: SITE PLAN

LU 23-006192 AD Exhibit C-1