



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

Carmen Rubio, Commissioner  
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**Date:** May 22, 2023  
**To:** Interested Person  
**From:** Matt Wickstrom, Land Use Services  
503-865-6513 / Matt.Wickstrom@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 23-023841 AD**

#### **GENERAL INFORMATION**

**Applicant:** Sasha Beckwith | SAB Design and Drafting  
7728 SE Tolman St | Portland OR 97206  
Phone: 541-231-6318 | Email: sasha.a.beckwith@gmail.com

**Owner:** Mark Pilliod  
15534 SE Martins St | Portland, OR 97236

**Site Address:** 15536 SE Martins St

**Legal Description:** LOT 35&36 EXC PT IN ST, SYCAMORE AC  
**Tax Account No.:** R816601340  
**State ID No.:** 1S2E13DC 00400  
**Quarter Section:** 3646

**Neighborhood:** Pleasant Valley, contact Steve Montgomery at foxtrotlove@hotmail.com.  
**Business District:** Midway, contact info@midwaybusiness.org.  
**District Coalition:** East Portland Community Office, contact at info@eastportland.org

**Plan District:** Johnson Creek Basin - South

**Zoning:** R20z (Residential 20,000 with a Constrained Site Overlay zone)

**Case Type:** AD – Adjustment Review (3 Adjustments)  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant proposes to add a second floor in an existing garage structure to create an accessory dwelling unit (ADU) which will be accessed via a new exterior stairway and landing. The Portland Zoning Code limits the size of ADUs to 800 square feet or 75% of the living area of the house, whichever is less. The proposed ADU will be less than 75% of the living area of the

house but will be 1,200 square feet rather than 800 square feet. The garage structure and a barn building already have a combined building footprint that is larger than the house, making it nonconforming since the Portland Zoning Code requires that the building footprint of accessory structures be less than that of the primary structure. The exterior landing for the stairway to access the ADU will increase building coverage by 50 square feet. In addition, the Portland Zoning Code limits the amount of total building coverage allowed for a site this size to 9,207 square feet. The site already has 10,354 square feet of building coverage, making it nonconforming in this regard as well. The exterior landing for the stairway to access the ADU will increase the total building coverage for the site to 10,404 square feet.

The applicant proposes three Adjustments associated with the proposed conversion of existing garage structure area to an ADU and addition of an exterior stairway and landing:

1. Increase the allowed size of the ADU from 800 square feet to 1,200 square feet (33.205.040.C.2);
2. Increase the amount of building coverage the accessory structures, including the garage/ADU, are allowed to exceed the building coverage of the primary structure by 50 square feet (33.110.245.C.3.b); and
3. Increase the overall allowed building coverage on the site from 10,354 square feet to 10,404 square feet (33.110.225.B and Table 110-5).

**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 82,764 square foot lot is located close to the eastern edge of Portland. It is developed with a 2,622 square foot two-story house, a 4,778 square foot barn and a 2,711 square foot garage. The site was formerly used as a horse riding academy. Johnson Creek runs through the southern portion of the site and the Springwater Corridor Trail is located to the north of the site. For the purpose of this review, the surrounding vicinity is defined as the area within 400 feet of the site. This area is developed with other very large lots with single-dwelling homes and often large accessory structures.

**Zoning:** The site is zoned R20czp (Residential 20,000 with a Constrained Sites Overlay zone and a portion of the site is located in the Environmental Conservation Overlay zone and the Environmental Protection Overlay zone). It is also located in the Johnson Creek Basin Plan District and South subdistrict.

The R20 zone is a single-dwelling zone that allows some of the largest lot sizes in Portland. The purpose of the single-dwelling zones is to preserve land for housing and to provide housing opportunities for individual households. The Constrained Sites Overlay zone reduces development potential to comply with protective measures adopted and acknowledged pursuant to statewide land use planning goals. The Environmental Conservation Overlay zone and the Environmental Protection Overlay zone provide different levels of protection for environmental resources.

The Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. Regulations in the South subdistrict of the Johnson Creek Basin Plan District mitigate the negative impacts that may result from the development of areas where flooding and landslides are common.

**Land Use History:** City records indicate one prior land use reviews for this site:

- CU 085-72: Approval of a conditional use review for a horse riding academy which is no longer operational.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **April 14, 2023**. The following Bureaus have responded:

- The Life Safety Section of BDS responded with no objections and stated that a building permit is currently under review (Exhibit E.1);
- The Fire Bureau responded that a separate building permit is required and all applicable Fire Code requirements must be met (Exhibit E.2);
- The Site Development Section of BDS responded that the building where work is proposed is located in a FEMA Special (100-year) Flood Hazard Area and if the proposed work qualifies as a substantial improvement, the entire building where work is proposed will be required to be in compliance with the regulations of Title 24.50 – Flood Hazard Areas (Exhibit E.3);
- The Bureau of Environmental Services responded with no objections and noted that the ADU conversion project is currently under review with permit #23-000893 RS. The lack of BES objection does not alter any BES requirements identified in the BES review of the permit (Exhibit E.4); and
- The Portland Bureau of Transportation and the Water Bureau responded with no concerns (Exhibit E.5).

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on April 14, 2023. 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

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 three Adjustments associated with plans to add a second floor inside an existing garage structure to create an Accessory Dwelling Unit (ADU).

- The first Adjustment is to increase the maximum allowed size of an ADU from 800 square feet of living area to 1,200 square feet (33.205.040.C.2);
- The second Adjustment is to allow an increase to the accessory structure building coverage from 7,489 square feet to 7,539 square feet for the site when accessory structure building coverage already exceeds the 1,518 square foot building coverage of the primary structure (33.110.245.C.3.b); and
- The third Adjustment is to increase the maximum allowed building coverage on the site from 9,207 to 10,404 (33.110.225.B and Table 110-5).

The purpose statement for the ADU regulation that limits the square footage to 800 square feet rather than the proposed 1,200 square feet is found in 33.205.040.A and reads:

#### **33.205.040 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.*

The proposed 1,200 square foot ADU equally or better meets the purpose statement for the following reasons:

- The proposed ADU will be compatible with the desired character of the single-dwelling zone in that it will provide a housing opportunity for an individual household. Furthermore, this housing opportunity will occur in such a way that it repurposes a portion of an existing building on an already developed and very large property, thus maintaining the character of the surrounding vicinity through the subtle addition of an ADU.
- Livability will not be negatively impacted by the conversion of space within the existing garage structure to an ADU because the nearest structure on an adjacent lot is almost 100 feet away.
- Conversion of existing space within the garage structure will respect the general building scale and placement of structures in that no new building will be constructed for the ADU.
- The ADU is proposed to be constructed within an existing building. The size of the ADU whether it is 800 square feet or 1,200 square feet will not be apparent to passersby or those viewing the site from the public realm.
- The Portland Zoning Code allows conversion of basement living area to an ADU by right, even if the 800 square foot size limitation is exceeded as long as the primary dwelling has been on the site for at least 5 years (33.205-040.C.2). This proposal applies the same concept of converting existing space within a building which has been located on the site for more than 5 years.
- No new building is proposed to be sited at this location; therefore adequate flexibility to suit the topography of the site is provided.

Based on the information above, and with desired character further described below, this portion of the criterion to allow the proposed ADU to be larger than 800 square feet is met.

The purpose statement for the building coverage of accessory structures on a site to not exceed the building coverage of the primary structure reads:

**33.110.245 Detached and Connected Accessory Structures**

*This section regulates detached and connected structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards limit the height and bulk of these structures, promote compatibility of design for larger structures, provide for necessary access around larger structures, help maintain privacy between abutting lots, and maintain open front setbacks.*

The proposal to increase the amount that the accessory structure building coverage on the site that exceeds the building coverage of the primary structure by 50 additional feet equally or better meets the purpose statement for the following reasons:

- The proposal represents a less than 1 percent increase in accessory structure building coverage. It would take existing building coverage for accessory structures from 7,489 square feet to 7,539 square feet for the site, exceeding the 1,518 building coverage of the house by 6,021 square feet rather than the current 5,971 square feet.
- The additional building coverage is not proposed as enclosed space, it is a landing and steps at the proposed second floor entrance for the ADU. Therefore no new impervious surface is proposed to be added as part of this land use review. This maintains consistency of the proposal with the desired character of the base zone, because a housing opportunity is provided, the Constrained Sites Overlay zone, because the additional dwelling unit proposed is entirely within an existing building, the Environmental Overlay zones, because the proposal is not located within an identified environmental resource area, and the Johnson Creek Basin Plan District and South Subdistrict, because the proposal does not create new impervious surface area.

Based on the information above, this portion of the criterion to allow the proposed building coverage for accessory structures on the site to exceed the building coverage of the primary structure by an additional 50 square feet is met.

The purpose statement for the building coverage regulations in single dwelling zones is found in 33.110.225.A and reads:

**33.110.225 Building Coverage**

*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.*

Staff finds the proposal to increase the allowed building coverage on the site from 9,207 to 10,404 square feet meets the purpose of the regulation (33.110.225.B and Table 110-5) for the following reasons:

- The proposal represents a less than 1 percent increase in building coverage for the site. The allowed building coverage for the site is 9,207 square feet. Building coverage on the site is currently, 10,354 square feet. The proposal would increase overall building coverage to 10,404 square feet which is only a 50 square foot increase. The 50 square foot increase does not increase building area other than portions of a second floor landing and steps being more than 6 feet above grade and thus are counted toward the building coverage measurements per Portland Zoning Code Section 33.910).
- The proposal limits the footprint of buildings in that no new building is proposed, only building coverage due to the portion of the landing and steps being more than 6 feet above grade.
- No new building height or encroachments that require applying setback regulations are proposed, other than the proposed landing and steps. Floor area is well within maximum allowances for a lot of this size. The proposal creates no new building bulk other than the landing and steps which are located more than 6 feet below grade.
- The proposal does not add new building bulk other than the landing and stairs at the second floor entry addition as well as the deck which is less than 6 feet below grade.
- The proposal does not add new building footprint area, other than the pervious 2<sup>nd</sup> floor entry and a few stairs and is located more than 100 feet away from structures on adjacent lots, it therefore won't overwhelm adjacent homes.
- The character of the different zones and how they relate to the proposal is described above as is the description of the site and vicinity. Other homes with large accessory structures, such as large garages and barns, are found in the vicinity. The applicant is proposing the repurposing of a portion of one existing accessory structure as a dwelling unit and only 50 additional square feet of building coverage is requested on this 82,764 square foot site.

Based on the information above, this portion of the criterion to allow the proposed building coverage on the site to exceed the maximum allowed by 50 additional square feet equally or better meets the building coverage purpose statement and therefore this portion of the criterion is met.

The proposal has been found to equally or better meet the purpose statements relating to the ADU size requirements, the requirements related to the size of accessory structures in relation to primary structures and the overall site building coverage purpose statements. Based on the information above, 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 proposed Adjustment will not significantly detract from the livability or appearance of the residential area. As mentioned above the ADU will be located with an

existing garage structure and will be almost more than 100 feet from any structure on adjacent lots. No impact to privacy or noise if therefore expected. The second floor landing and deck are thoughtfully designed to provide second story access and outdoor area for the proposed ADU. The proposed landing and deck will be located behind the current garage structure as viewed from the street and therefore will not be apparent to passersby. Based on this information, 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:** Three Adjustments are requested, therefore this criterion is applicable. This proposal to add an ADU by creating a second story within an existing garage structure does not create a cumulative effect that is inconsistent with the purpose of the zone. The purpose of the single-dwelling zones is to preserve land for housing and to provide housing opportunities for individual households. This proposal accomplishes those objectives by creating a new dwelling unit within existing building area. In addition, the proposal only adds 50 square feet of building coverage to an 82,764 square foot site, adds less than 1 percent of additional accessory structure building coverage, only adds exterior improvements consisting of a landing, steps and deck area rather than impervious surface, and proposes all improvements outside the environmental resource area. There is also no cumulative effect of the Adjustments because the proposed ADU is within an existing building and therefore the increase in size won't be noticeable. Furthermore, the two building coverage Adjustments only relate to a very minimal increase in overall building coverage allowed and of accessory structures in relations primary structures.

Based on this information, this criterion is met.

- D.** City-designated scenic resources and historic resources 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 has not identified any negative impacts on neighbors or on the neighborhood specifically resulting from these requested Adjustments especially considering the ADU will be constructed within an existing building and the exterior improvements only increase accessory structure and overall building coverage by 50 square feet. 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:** The site has environmental zoning but the proposal including the landing, deck and steps are outside of the environmental overlay zoning on this property by over 150 feet and from an adjacent property by over 40 feet. Development proposed is not even within the 25-foot Environmental Transition zone. This criterion 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

The applicant proposes three Adjustments associated with plans to convert a portion of an existing garage structure to an Accessory Dwelling Unit (ADU). The three Adjustments involve increasing the allowed maximum living area of the ADU from 800 square feet to 1,200 square feet, and adding 50 additional square feet of building coverage in the form of a second floor entry landing and some steps. The additional 50 square feet of building coverage would increase the allowed accessory structure building coverage in comparison to the primary structure, and increase the overall building coverage, by those 50 square feet on an 82.764 square foot lot. Based on the information above, the applicable approval criteria are met and this proposal is approved.

## ADMINISTRATIVE DECISION

Approval of three Adjustments:

1. Increase the allowed size of the ADU from 800 square feet to 1,200 square feet (33.205.040.C.2);
2. Increase the amount of building coverage the accessory structures, including the garage/ADU, are allowed to exceed the building coverage of the primary structure by 50 square feet from 7,489 square feet to 7,539 square feet (33.110.245.C.3.b); and
3. Increase the overall allowed building coverage on the site from 10,354 square feet to 10,404 square feet (33.110.225.B and Table 110-5);

per the approved site plans, Exhibits C.1 through C.2, signed and dated May 16, 2023, subject to the following condition:

- 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 23-023841 AD. No field changes allowed."

**Staff Planner: Matt Wickstrom**

Decision rendered by:  on May 17, 2023  
By authority of the Director of the Bureau of Development Services

**Decision mailed: May 22, 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 March 21, 2023, and was determined to be complete on March 29, 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 March 21, 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 further extended by the applicant, **the 120 days will expire on: July 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.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on June 5, 2023. The completed appeal application form must be emailed to [LandUseIntake@portlandoregon.gov](mailto: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 **June 5, 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 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
  - 1. Applicant Submittal dated 3-29-23
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Building Elevation Drawings (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Life Safety Section of BDS
  - 2. Fire Bureau
  - 3. Site Development Section of BDS
  - 4. Bureau of Environmental Services
  - 5. Portland Bureau of Transportation and Water Bureau
- F. Correspondence: None
- G. Other:
  - 1. Original LU Application

**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).**