



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

Carmen Rubio, Commissioner  
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**Date:** June 1, 2023  
**To:** Interested Person  
**From:** Matt Wickstrom, Land Use Services  
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## **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 23-030809 AD**

#### **GENERAL INFORMATION**

**Applicant:** Kari Lloyd-Jones | JDL Development  
2314 NW Savier St | Portland, OR 97210  
Phone: 503-548-8258 | Email: [kari@jdl.build](mailto:kari@jdl.build)

**Owner:** Nelson Davis  
5029 SE 36th Ave | Portland, OR 97202

**Site Address:** 5029 SE 36TH AVE

**Legal Description:** S 75' OF LOT 45, REEDWOOD  
**Tax Account No.:** R695900980  
**State ID No.:** 1S1E13AC 02300  
**Quarter Section:** 3534

**Neighborhood:** Reed, contact Nadyne Rosin at [Nadynerosin@yahoo.com](mailto:Nadynerosin@yahoo.com)  
**Business District:** Greater Brooklyn, contact at [greaterbrooklynba@gmail.com](mailto:greaterbrooklynba@gmail.com)  
**District Coalition:** Southeast Uplift, contact Matchu Williams at [matchu@seuplift.org](mailto:matchu@seuplift.org)

**Zoning:** R7 (Residential 7,000)  
**Case Type:** AD – Adjustment Review (1 Adjustment)  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant proposes a single-story 334 square foot addition to the existing home on this 8,710 square foot lot. The addition will be located behind the home and obscured from view by the house, fencing and hedges. The Portland Zoning Code limits the amount of building coverage allowed on a lot this size to 2,806 square feet. Generally, eaves are not included in the building coverage measurement unless the eaves are greater than 2 feet in depth. The eaves on this home are 4 feet in depth and the applicant proposes for the eaves of the addition to match those of the existing house which already slightly exceeds the maximum building coverage

allowance. Due to the eaves, the proposal will exceed the maximum allowed building coverage by 486 square feet. The applicant proposes one Adjustment to increase the allowed building coverage for the site from 2,806 to 3,292 square feet for the 334 square foot addition (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 8,710 site contains a 3,208 square foot split level home with very deep 4-foot eaves. The home was built in the 1960s and is set back 30 feet from the street property line. The home is built close to the required 5-foot side setbacks and is set back about 40 feet from the rear property line. A two-car garage is accessed from SE 36<sup>th</sup> Ave.

For the purposes of this review, the surrounding vicinity is defined as the area within 400 feet of the site. The vicinity is filled with one to one and a half story homes constructed during the same time period, the 1960s, as the subject house. Homes in the vicinity are generally set back a similar 30-foot distance from the street property line. Backyard depth is similar to the subject site but some backyards have other development or the home is built closer to the rear property line.

**Zoning:** The site is zoned R7 (Residential 7,000). The R7 zone is a single-dwelling zone. The purpose of single-dwelling zones is to provide housing opportunities for individual households. Accessory dwelling units and mother-in-law quarters are allowed in single-dwelling zones.

**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 **May 4, 2023**. The following Bureaus have responded:

- Bureau of Environmental Services (Exhibit E.1);
- Water Bureau, Fire Bureau, Site Development Section of BDS and the Portland Bureau of Transportation; (Exhibit E.2); and
- Life Safety Section of BDS (Exhibit E.3).

**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 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 purpose of the requirement for the building coverage on the site to be a maximum of 2,806 is stated in Zoning Code Section 33.110.225.A:

#### **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 for the site from 2,806 square feet to 3,292 equally or better meets the purpose statement above for the following reasons:

- The definition of building coverage is the most important aspect to consider as part of this Adjustment Review. Portland Zoning Code Section 33.910 definition of building coverage states that “eaves that are greater than 2 feet in depth are included in building coverage”. In this vicinity, eaves that are more than 2 feet in depth are typical characteristics of the mid-century style of construction which was popular during the era the home and surrounding vicinity were developed. Measuring the building coverage without including the 4-foot eaves of the house plus the addition, as is the case for most other homes in Portland, the resulting building coverage would measure 2,823 square feet which is only 15 feet over the maximum building coverage of 2,806 square feet allowed for the site.
- The home with the addition will not increase height, reduce setbacks or result in an increase in floor area that is not allowed by development standards. Due to its small footprint in relation to the house as well as the tuck under design approach, it also doesn’t result in any great deal of additional bulk.
- Even with the addition, ample yard area both in the front and rear yards is preserved and the addition doesn’t reduce existing side yard area because the home is already built to the side setbacks. Based on this information and due to the one-story design of the addition, it will not overwhelm adjacent houses.
- The proposal compliments the character of the vicinity through a one-story design approach that matches the existing house and is located to the rear of the existing home.

Based on the information above and especially because the request is to match the eaves of the addition to those of the house and the 4-foot eave depth on both counts toward the building coverage measurement, 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. The addition will provide semi-private living quarters for an aging parent which increases livability and housing available for a greater diversity of family living arrangement now and in the future. The addition is designed in the same visually engaging architectural style as the home with 4-foot eaves and a tuck under connection to the home. The addition is also located to the rear of the house and will not be visible from the street or alter the unique and visually interesting street-facing view of the home.

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:** 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 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 resulting from this Adjustment request especially considering the addition is located to the rear of the home and will not change the street-facing façade; as well as because the Adjustment is mostly the result of the building coverage measurement of eaves for this home and others in the vicinity. No mitigation is necessary to meet this criterion and 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 is not located in an environmental zone, therefore this criterion is not applicable.

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

The applicant has proposed a single-story 334 square foot addition to the existing home located in a vicinity of other homes developed in the mid-century modern housing style. The addition respects the building style of the existing home and will occupy a portion of the current rear yard. The home has 4-foot eaves and the addition is proposed to have the same eave depth. Were eaves of a 4-foot depth not included in the building coverage, the proposal would only exceed the maximum building coverage allowance by 15 square feet. The addition is thoughtfully designed and appropriately located on the site. Based on the findings above, this land use review is approved.

## ADMINISTRATIVE DECISION

Approval of one Adjustment to increase the maximum allowed building coverage for the site from 2,806 to 3,292 square feet for the 334 square foot addition (33.110.225.B and Table 110-5), subject to the following conditions:

- 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.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 23-030809 AD."

**Staff Planner: Matt Wickstrom**



**Decision rendered by:** \_\_\_\_\_ **on May 26, 2023**

By authority of the Director of the Bureau of Development Services

**Decision mailed: June 1, 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 April 11, 2023, and was determined to be complete on April 12, 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 April 11, 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: August 10, 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 15, 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 County Recorder. *Unless appealed*, the final decision will be recorded by the Bureau of Development Services.

**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 and Original Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. West and South Elevation Drawings of the Addition (attached)
  3. East, South and North Drawings (attached)
- D. Notification information:
  1. Mailing list
  2. Mailed notice
- E. Agency Responses:
  1. Bureau of Environmental Services
  2. Water Bureau, Fire Bureau, Site Development Section of BDS and the Portland Bureau of Transportation
  3. Life Safety Section of BDS
- F. Correspondence: None
- G. Other:
  1. Original LU Application
  2. Summary of Fees Paid
  3. April 24, 2023 incomplete letter

**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).**