



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

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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** December 31, 2012  
**To:** Interested Person  
**From:** Mark Bello, Land Use Services  
503-823-7810 / [Mark.Bello@portlandoregon.gov](mailto:Mark.Bello@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 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 12-186480 AD**

#### **GENERAL INFORMATION**

**Applicant:** Makahokovalu Ita  
3632 N Trenton St / Portland, OR 97217

**Site Address:** 3632 N TRENTON ST

**Legal Description:** BLOCK 7 LOT 7, DAHLKE ADD  
**Tax Account No.:** R194103520  
**State ID No.:** 1N1E08AA 15600  
**Quarter Section:** 2126  
**Neighborhood:** Kenton, contact Steve Rupert at 503-317-6573.  
**Business District:** Kenton Business Association, contact Jessie Burke at 971-404-9673.  
**District Coalition:** North Portland Neighborhood Serv, Mary Jaron Kelley at 503-823-4099.

**Zoning:** R7a, Residential 7,000 with 'a' Alternative Design Density Overlay zone  
**Case Type:** AD, Adjustment  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant has constructed a 900 sq. ft. addition to the existing house, which exceeds the maximum building coverage allowed on this lot – 2,563 sq. ft. – by 726.5 sq. ft. However, after a review of the approval criteria with staff the applicant is willing to reduce the size of the addition. Therefore, the revised project would exceed the building coverage standard by 276.5 square feet.

An adjustment review is required to exceed the maximum building coverage development standard (Section 33.110.225).

#### **Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are listed in Section 33.805.040 of the Zoning Code

## ANALYSIS

**Zoning:** The R7 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This application does not use any of the "a" overlay provisions.

**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 **November 29, 2012**. The following Bureaus have responded with no issues or concerns regarding this adjustment request:

1. Bureau of Environmental Services
2. Bureau of Transportation Engineering and Development Review
3. Water Bureau
5. Site Development Review Section of BDS
6. Bureau of Parks, Forestry Division
7. Life Safety Plans Examiner, BDS

The Fire Bureau did not respond.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on November 29, 2012. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

**33.805.010 Purpose of Adjustments** The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

### **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. stated below, have been met.

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area; and
- 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
- D. City-designated scenic resources and historic resources are preserved; and
- E. Any impacts resulting from the adjustment are mitigated to the extent practical.

- 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 AND CONCLUSIONS**

The applicant's house is composed of the one-story house originally built in 1971, a two-story addition built in 2008, and a 900 sq. ft. addition added recently without benefit of a city permit (Exhibit G.3). This addition comes within 9 ft. of the east property line and 16 ft. of the south property line. As proposed by this adjustment request, the addition will be reduced in size and the setback to the south property line will increase to approximately 41 ft. This will create an outdoor area that is approximately 27 ft. by 41 ft. or 1,107 sq. ft.

Surrounding lots to the west and south are developed with single detached houses. The impact of the extra building area proposed is not expected to negatively affect the lot to the west as the addition is one-story in height, 9 ft. from the property line, and on the other side of a 6 ft. height masonry wall (approximate height of wall). To the south, the addition will be at least 41 ft. away and separated by a wood fence, also about 6 ft. tall. This meets the purpose of the regulation that the total bulk will not "overwhelm" the adjacent homes.

Regarding the appearance or livability of the residential area, this addition is tucked behind the existing garage and is placed behind tall walls that screen the addition. The applicant's lot is an internal lot so visibility is restricted and only adjacent property owners to the west or south would be aware of the addition.

Only one adjustment is requested. There are no scenic or historic resources on the site; no impacts have been identified and the site is not located in an environmental zone, so the C – F criteria related to these issues do not apply.

Therefore, the applicants' proposal meets all of the relevant approval criteria.

## **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.

## **ADMINISTRATIVE DECISION**

Approval of an Adjustment to Section 33.110.225 to allow an addition that exceeds the maximum building coverage allowed on this lot – 2,563 sq. ft. – by 277 sq. ft. for a total of 2,840 sq. ft.

Per the approved site plan, Exhibit C-1, signed and dated December 27, 2012, 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 Exhibit C.1 The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-186480 AD".

**Staff Planner: Mark Bello**



**Decision rendered by:** \_\_\_\_\_ **on December 27, 2012**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: December 31, 2012**

**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 September 25, 2012, and was determined to be complete on **November 21, 2012**.

*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 September 25, 2012.

*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: March 21, 2013**.

**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, which will hold a public hearing. Appeals must be filed **by 4:30 PM on January 14, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617,

to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://www.portlandonline.com).

**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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **January 15, 2013**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
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:

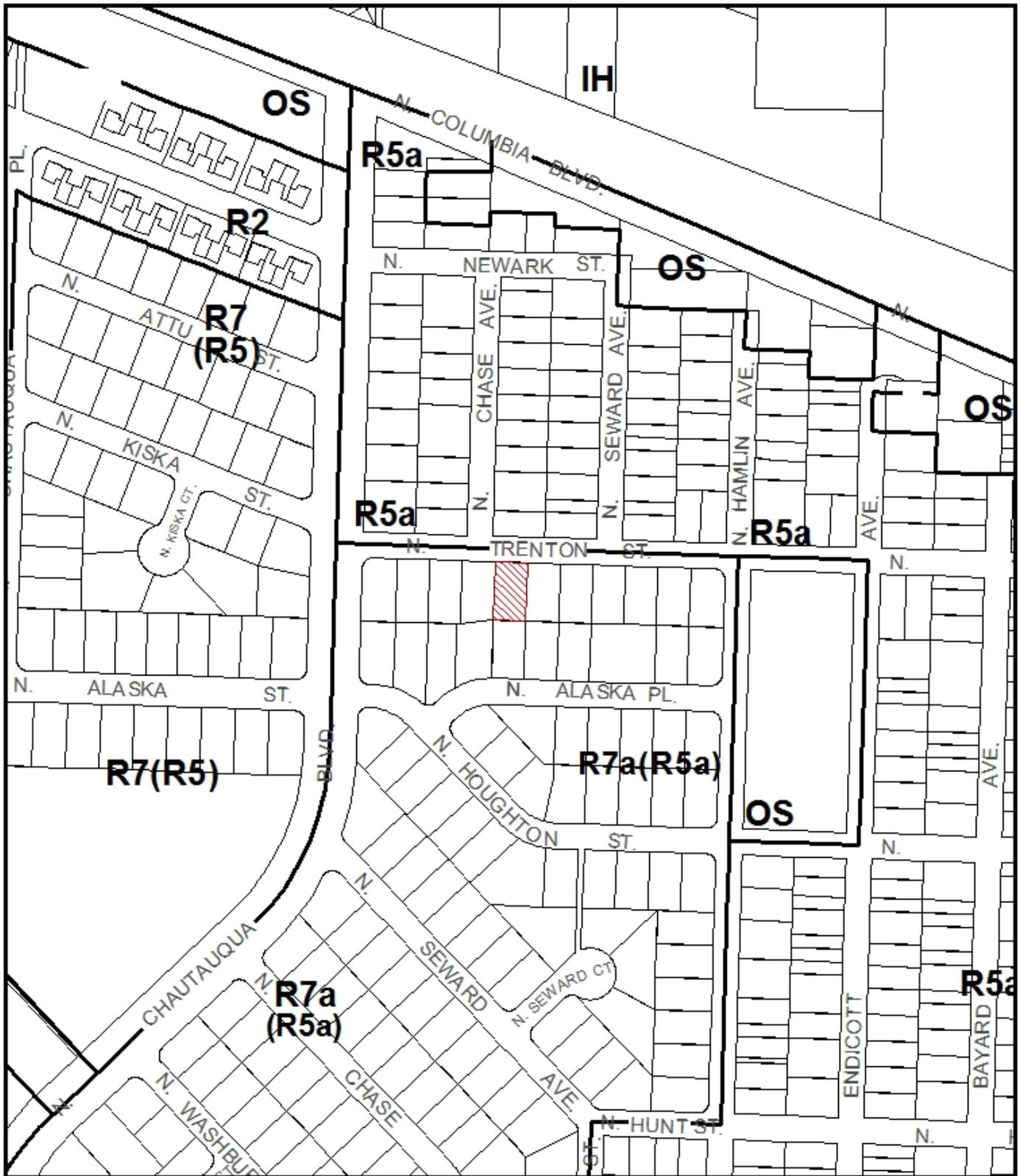
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2.
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau (no response)
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Plans Examiner, BDS
- F. Correspondence:(none)
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter to Applicant, October 1, 2012
  - 3. Notice of Violation – Property Maintenance Code, September 13, 2012

**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).**



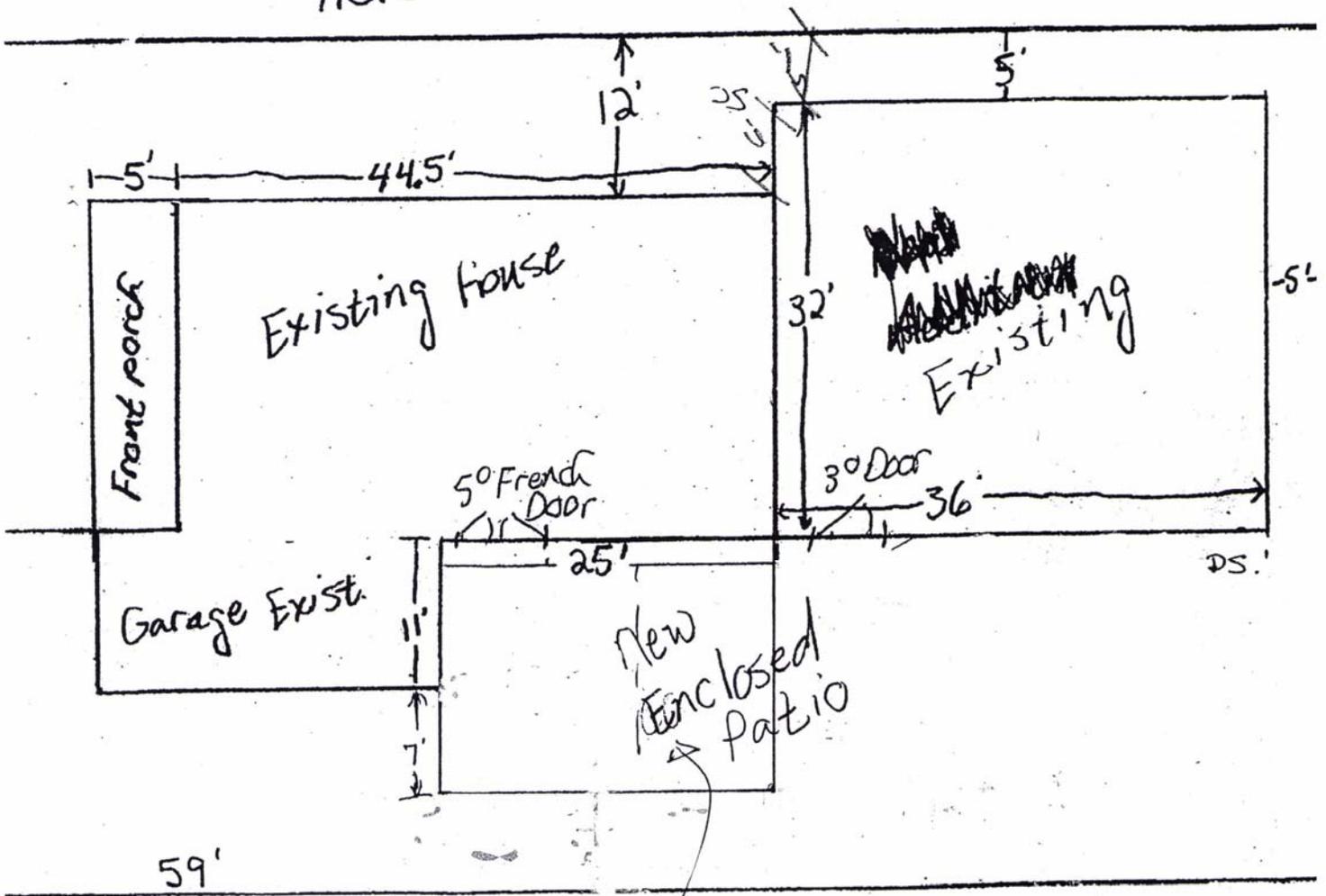
# ZONING

 Site



File No.	<u>LU 12-186480 AD</u>
1/4 Section	<u>2126</u>
Scale	<u>1 inch = 250 feet</u>
State Id	<u>1N1E08AA 15600</u>
Exhibit	<u>B (Sep 26, 2012)</u>

113.6'



ADDITIONAL BLDG. COVERAGE

\*Approved\*

City of Portland - Bureau of Development Services

Planner MB Date 12/27/12

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

CASE NO. 12-186480  
 EXHIBIT 4