



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
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TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: February 28, 2014
To: Interested Person
From: Matt Wickstrom, Land Use Services
503-823-6825 / 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 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 14-103482 AD

GENERAL INFORMATION

Applicant: John Hasenberg
2104 NE 45th Avenue / Portland, OR 97213

Owners: Scott and Phyong Christian
8615 SE 11th Avenue / Portland, OR 97202

Site Address: 8615 SE 11TH AVE

Legal Description: BLOCK 41 LOT 2, SELLWOOD
State ID No.: 1S1E26BA 13700
Tax Account No.: R752704010
Quarter Section: 3931
Neighborhood: Sellwood-Moreland, contact Ellen Burr at 503-754-3868
Business District: Sellwood-Westmoreland, contact Tom Brown at 503-381-6543
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010
Zoning: R2.5ad (Residential 2,500 with an Alternative Design Density Overlay Zone and a Design Overlay Zone)

Case Type: AD (Two concurrent Adjustment reviews)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The property owners are proposing to convert the existing detached garage to a 2-story structure with a garage on the ground floor and an accessory dwelling unit on the 2nd floor. The project requires two Adjustments to the regulations of the Portland Zoning Code. The first adjustment request is to reduce the side setback from 5 feet to 2 feet 5 inches (2 feet to the eave) and to reduce the rear setback from 5 feet to 3 feet 1 inch (2 feet to the eave). These setbacks are consistent with the existing detached garage. The second adjustment request relates to requirements that eaves of accessory dwelling units extend the same distance as the eaves on the primary house. In order to meet building code firewall requirements the applicant requests to allow the rear eave to extend 1 foot 1 inch.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown

that approval criteria A through F of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The site is 5,000 square feet in area. It is developed with a craftsman-style single-dwelling residence and a tall metal garage. Development in the immediate vicinity is a mix of single-dwelling residences, duplexes, row houses, and small apartments. Detached garages located in the side and rear setbacks are common occurrences.

Zoning: The site is zoned R2.5ad. The R2.5 zone is intended to foster single-dwelling and duplex development. An accessory dwelling unit may be added to a house, attached house or manufactured home in the R2.5 zone. The “a” overlay is intended to allow increased density that meets design compatibility requirements. The “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.

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 **January 27, 2014**. The following Bureaus have responded with no issues or concerns:

The Bureau of Environmental Services responded with no objections and provided information on sanitary service and stormwater management. Please see Exhibit E-1 for additional details.

The Site Development Section of BDS responded with no objections and provided information on erosion control and other site development issues. Please see Exhibit E-2 for additional details.

The Life Safety Section of BDS responded with information about the permitting process and exterior walls located closer than 3 feet to property lines. Please see Exhibit E-3 for additional details.

The Water Bureau responded with no conditions of approval and provided information on water service. Please see Exhibit E-4 for additional details.

The Fire Bureau responded with no concerns and provided information on clearly posting the address of the accessory dwelling unit. Please see Exhibit E-5 for additional details.

The Bureau of Parks-Forestry Division responded with no objections and provided information on street trees. Please see Exhibit E-6 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on January 27, 2014. 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 (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 providing certainty and rapid processing for land use applications.

33.805.040 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 requests one adjustment to reduce the side setback from 5 feet to 2 feet 5 inches (2 feet to the eave) and to reduce the rear setback from 5 feet to 3 feet 1 inch (2 feet to the eave). The applicant requests a second adjustment to allow the rear eave of the accessory dwelling unit to project a different distance from the other eaves or the eaves of the primary house.

The purpose for the setback regulations for single-dwelling zones is found in 33.110.220, which states:

Purpose: *The building setback regulations serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The purpose of the design standards for accessory dwelling units is found in 33.205.030, which states:

Purpose: *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 houses, attached houses, or manufactured homes; and*
- *Provide adequate flexibility to site buildings so that they fit the topography of sites.*

The proposal meets the intent of the setback standards. The setbacks are no different than the detached garage previously located on the site. The proposed structure is approximately 16 feet 6 inches in height where as the previous garage was almost 12 feet, a difference of only about 4 feet. The proposed garage/accessory dwelling unit is not immediately adjacent to any other homes so a reasonable physical relationship between residences is maintained. Detached garages in the setback are common occurrences in the vicinity, this allows for larger and more useful outdoor areas. The garage is set back 65 feet from the street property line which provides ample room to park a car in the driveway without overhanging the sidewalk. Based on this information this criterion is met.

The proposal meets the intent of the accessory dwelling unit design standards. The eaves on the front and sides match the existing house and the eave on the rear projects 1-foot and 1-inch which is the maximum projection allowed by the building code. The difference in eave appearances will be minimal especially considering that the eave which projects differently faces the rear property line. In addition, the accessory dwelling unit is well-designed and complements the architectural style of the existing house (much more so than the existing detached garage to be replaced). It is also smaller; the 688 square feet size of the accessory dwelling unit is only about 65% of the living area of the house. Based on this information, this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The proposal will not detract from the livability or appearance of the residential area. The accessory dwelling unit/detached garage is well-designed and complements the architectural style of the existing house. The reduced setbacks are consistent with the setbacks of detached garages in the vicinity. 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: Two adjustments are being requested – one to reduce the required side and rear setbacks and another to allow the rear eave projection to be different from the house and the other eaves on the accessory dwelling unit. The purpose of the single-dwelling zones is to preserve land for housing and to provide housing opportunities for individual households. The cumulative effect of the two adjustments is consistent with this purpose, in fact, the project results in the construction of a smaller and presumably more affordable housing type. This criterion is met.

- D.** City-designated scenic resources and historic resources are preserved; and

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. 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: There are no discernible impacts that would result from granting the requested adjustments. 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 within an environmental 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

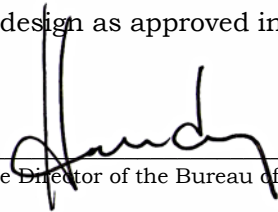
The applicant requests two adjustments to development standards of the Portland Zoning Code. One, to reduce the side setback from 5 feet to 2 feet 5 inches (2 feet to the eave) and to reduce the rear setback from 5 feet to 3 feet 1 inch (2 feet to the eave, and the other to allow the rear eave of the accessory dwelling unit. All applicable approval criteria are met, and therefore the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of two adjustments. The first to reduce the side setback from 5 feet to 2 feet 5 inches (2 feet to the eave) and to reduce the rear setback from 5 feet to 3 feet 1 inch (2 feet to the eave), the second to allow the rear eave of the accessory dwelling unit to project differently than the eaves on the house or the accessory dwelling unit, per the approved site plans, Exhibits C-1 through C-2, signed and dated February 25, 2013, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-103482 AD."

Staff Planner: Matt Wickstrom

Decision rendered by:  **on February 26, 2014**

By authority of the Director of the Bureau of Development Services

Decision mailed: February 28, 2014

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 10, 2014, and was determined to be complete on January 22, 2014.

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 10, 2014.

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: May 22, 2014.**

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 March 14, 2014** 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.

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 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 **March 17, 2014**.
- 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:

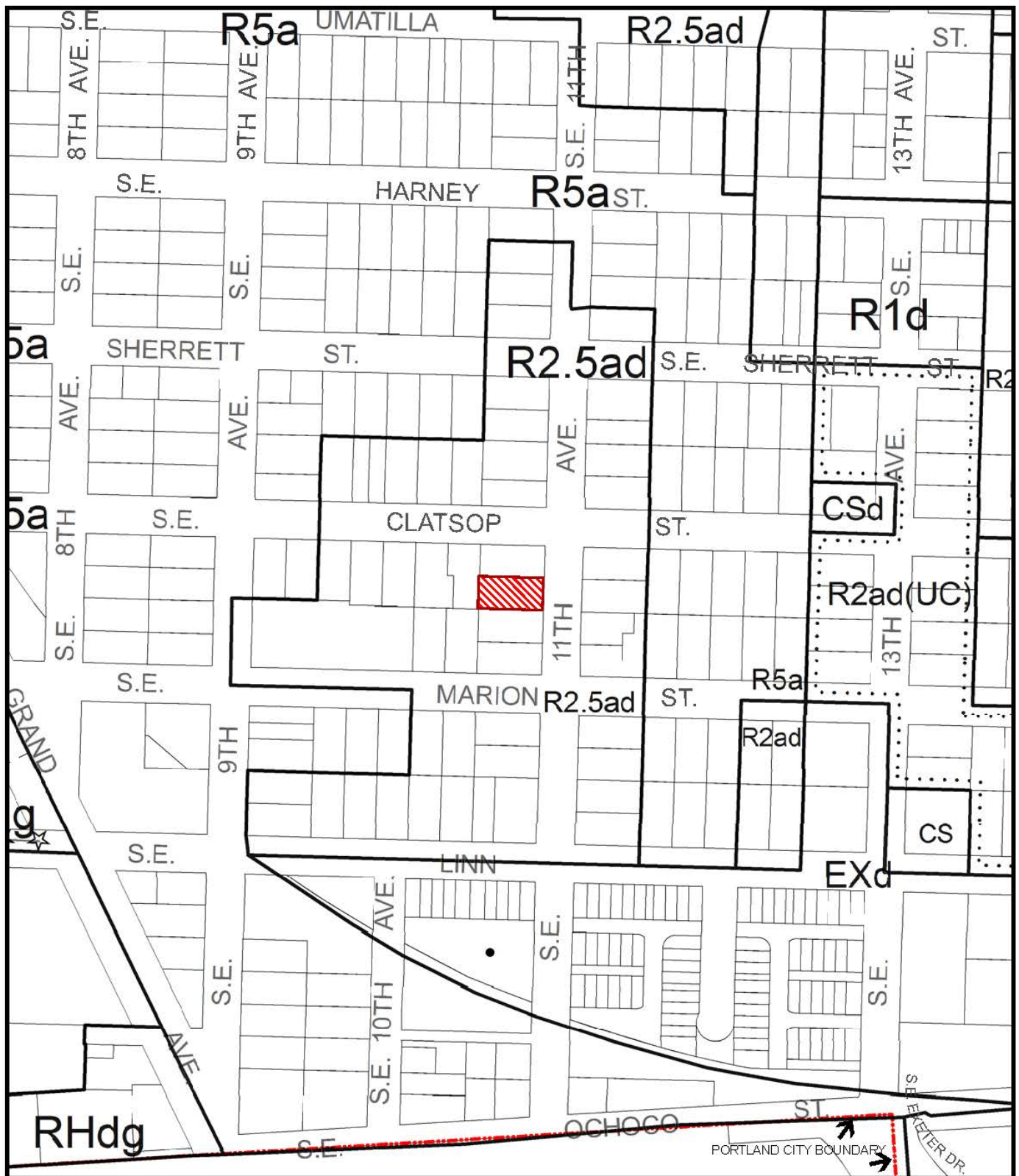
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Site Development Review Section of BDS
 - 3. Life Safety Review Section of BDS
 - 4. Water Bureau
 - 5. Fire Bureau
 - 6. Bureau of Parks, Forestry Division
- 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).



ZONING



Site



Historic Landmark



NORTH

File No. LU 14-103482 AD

1/4 Section 3931

Scale 1 inch = 200 feet

State_Id 1S1E26BA 13700

Exhibit B (Jan 14, 2014)

Approved

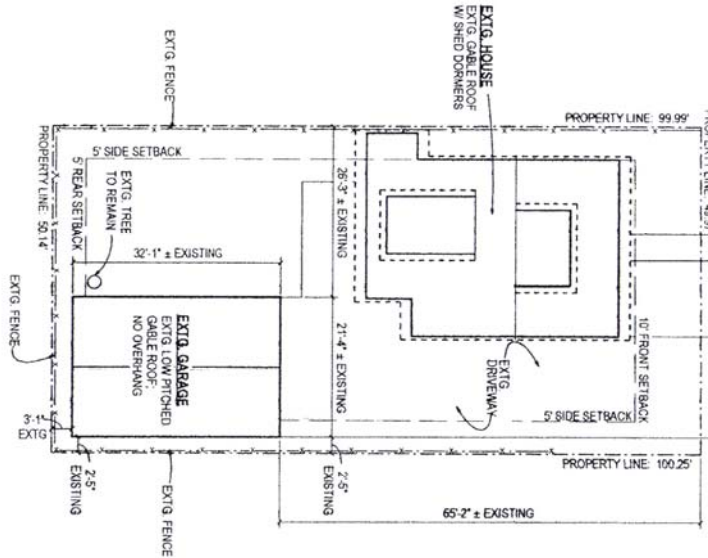
City of Portland - Bureau of Development Services

MLW

Date 2-25-14

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

EXISTING
AS-BUILT SITE PLAN
NOTE
GARAGE LOCATION & PROPERTY LINES
BASED ON SURVEY



PROPOSED SITE PLAN
NOTE
1\"/>

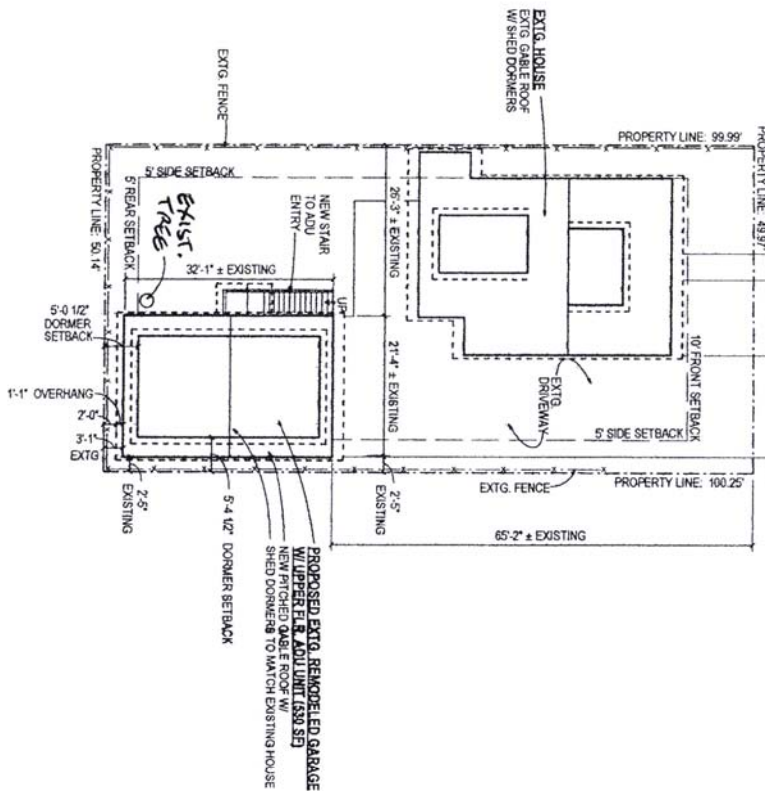


EXHIBIT #1

JOHN
HASENBERG
ARCHITECT
jha

2104 NE 45TH AVE
PORTLAND, OREGON 97213
503.281.3113
john@hasebergarchitect.com

CHRISTIAN RESIDENCE ADU

8615 SE 11th AVE
PORTLAND, OREGON 97202

Job No. 1302
Date: 1-10-14

Drawn By: [Signature]

LV 14 - 103 482 AD

Exhibit C-1

Approved*
 City of Portland - Bureau of Development Services
 Date 2-25-14
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

EXHIBIT #2

JOHN
 HASENBERG
 ARCHITECT
 iba

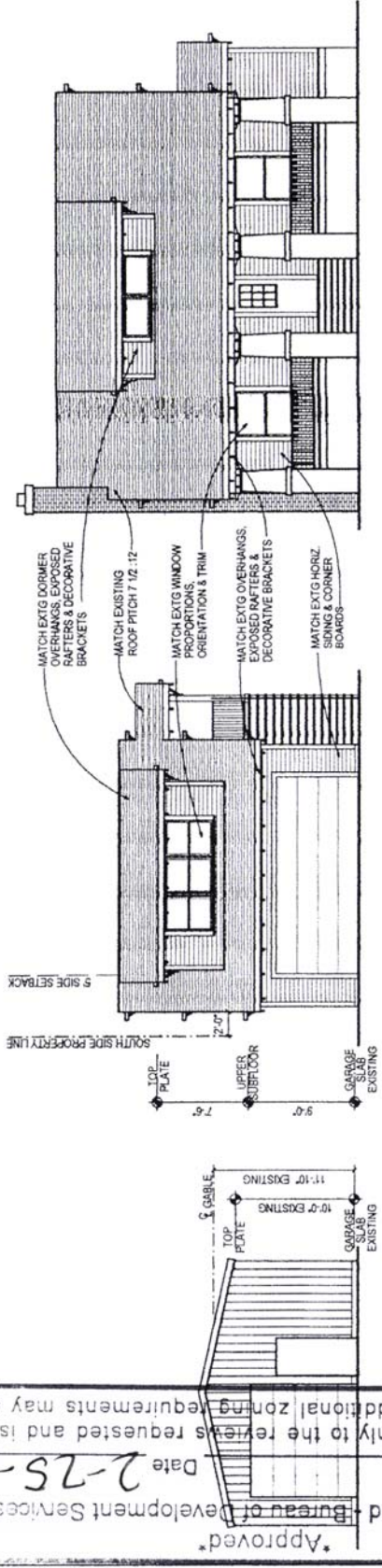
2104 NE 45th Avenue
 Portland, Oregon 97218
 Phone: 503.281.3313
 jh@johnhasenberg.com

CHRISTIAN RESIDENCE ADU
 8619 SE 14th Ave
 PORTLAND, OREGON 97202

Job No: 1302
 Date: 1-10-14
 Plan

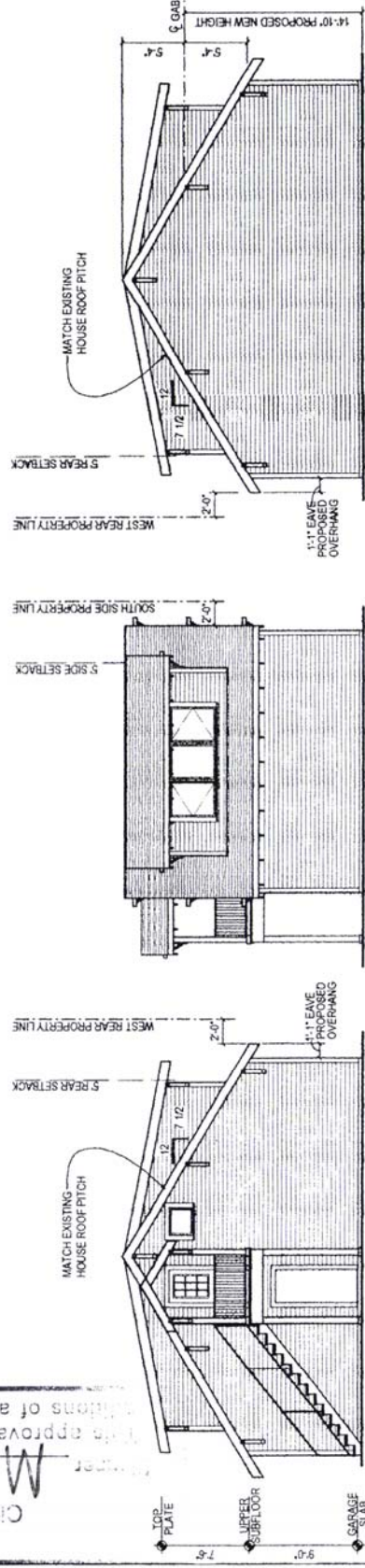
Drawn: CMH
 Sheet No:

2



EXISTING
 RESIDENCE EAST FRONT ELEVATION
 1/4" = 1'-0"

PROPOSED
 EAST FRONT ELEVATION
 1/4" = 1'-0"



PROPOSED
 NORTH ELEVATION
 1/4" = 1'-0"

PROPOSED
 WEST ELEVATION
 1/4" = 1'-0"

PROPOSED
 SOUTH ELEVATION
 1/4" = 1'-0"