

City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

Date: March 27, 2014 **To:** Interested Person

From: Amanda Rhoads, Land Use Services

503-823-7837 / Amanda.Rhoads@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 14-116944 AD – ADU DESIGN STANDARDS GENERAL INFORMATION

Applicant: Daniel Lajoie / Departure Architecture

143 John Adams St / Oregon City, OR 97045

Owners: Lilly Windle and Douglas Sigstad

2525 SE 22nd Ave / Portland, OR 97202

Site Address: 2525 SE 22ND AVE

Legal Description: BLOCK 2 LOT 7, HENRYS ADD Tax Account No.: R376600180

State ID No.: 1S1E11AA 02600 Quarter Section: 3332

Neighborhood: Hosford-Abernethy, contact Joanne Stainbrook at 503-231-9245.

Business District: Division-Clinton Business Assoc, Darice Robinson at 503-233-1888.

District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.

Zoning: R2.5 – Residential 2,500 AD – Adjustment Review

Procedure: Type II, an administrative decision with appeal to the Adjustment

Committee.

Proposal:

The applicant proposes to build a new structure to serve as an Accessory Dwelling Unit (ADU) behind the existing house. The proposed structure is 12 feet, 6 inches wide by 19 feet, 9 inches long with a shed roof, and is oriented on the property such that the tallest part of the shed roof faces south.

The proposed roof pitch of the new shed roof is 4:12 while the roof line of the hipped roof of the primary house is 8:12. Zoning Code Section 33.205.030.C.8 states that the roof pitch of the ADU must be the same as the predominant roof pitch of the primary house. Therefore, the applicant is requesting an Adjustment to allow the shed roof on the ADU to have a pitch of 4:12.

The proposed ADU also has two windows on its south side that are angled, following the line of the shed roof. Zoning Code Section 33.205.030.C.10 states that windows must match those in the primary structure in proportion (relationship of width to height) and orientation (horizontal

or vertical). Since the primary house does not contain any angled windows, an Adjustment is required to this standard as well.

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 a flat, 5,000 square foot lot in the R2.5 single-dwelling zone. The site is immediately adjacent to a commercial building that fronts to Division St. That commercial building is 100% built-out on the lot, such that the building wall sits at the property line of the subject site. The house on the site was built in 1916, consistent with the era of most of the neighboring single-dwelling structures. The site is located two blocks from the southeastern corner of Ladd's Addition Historic District. Existing development in the area of the site is a mix of single and multi-dwelling residential and small- to medium-scale commercial development. A number of new commercial and apartment buildings are under construction or have recently been completed, changing the streetscape of Division in the area to a more built-up urban form.

Zoning: The Residential 2,500 (R2.5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The minimum density for new lots in this zone is 1 unit per 5,000 square feet and the maximum density is based on lot size and street configuration. Both detached and attached single-dwellings are allowed. Minimum lot size for both types of development is 1,600 square feet with minimum front lot line of 30 feet and minimum depth of 40 feet. There is no required minimum lot width or front lot line for lots that are developed with structures that meet certain additional development standards related to design.

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 **March 3, 2014**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Transportation
- Life Safety (Building Code) Plans Examiner

Neighborhood Review: A total of four written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

One neighbor wrote in opposition, making the case that Adjustments should be reserved for constrained sites where it would be difficult to develop in compliance with the regulations. Since this site does not have such constraints, Adjustments to the standards should not be allowed.

Staff response: Section 33.805.010 of the Portland Zoning Code describes the purpose for the Adjustment process. While constrained sites are one reason to allow Adjustments to Zoning Code standards, it is not the only reason. The purpose statement for Adjustments reads in part:

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...Adjustment reviews provide flexibility for unusual situations <u>and</u> allow for alternative ways to meet the purposes of the code... [*emphasis added*]. (see entire text for this section below in Zoning Code Approval Criteria)

The Zoning Code does not require that a site be constrained or otherwise unusual in order to request an Adjustment Review, just that it meets the approval criteria (including equally or better meeting the intended purpose of the relevant regulations). The argument to deny the Adjustment simply because it differs from the code does not work since the Zoning Code provides for a process to adjust the standards.

Neighbors from three nearby properties wrote in support of the proposal. One letter discussed the "eclectic mix of buildings" that make up the neighborhood character of this rapidly-developing area, stating that the design is attractive and "does match the look and scale of the other structures in our immediate area." The second letter also stresses the diversity of style in recent development in the area, and states that the windows in the primary structure on the site "are not similar even to themselves," making the requirement that the ADU windows match the primary structure "unreasonable." The third states that from their vantage point, the 4:12 roof pitch better matches the roof over the bay window on the south side of the house; "[t]he roof slope of the proposed ADU is not a problem visually."

Staff response: These arguments will be addressed in the approval criteria below.

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 has requested Adjustments to two Zoning Code design standards in the Accessory Dwelling Unit chapter, 33.205. The relevant purpose statement for these design standards is listed below. Each bullet point will be addressed separately.

33.205.030 Accessory Dwelling Unit Design Standards

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.

• Ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones;

Findings: The design standards of Zoning Code Section 33.205.030 work to integrate ADUs into sites by having them reflect major characteristics of the primary house. In this proposal, the siding reveal, trim size, eaves and most of the windows on the ADU have been designed to match those of the existing house. For the two standards proposed for Adjustment (windows and roof pitch), the site and area context enable the design to equally meet this purpose statement.

First, the immediate neighborhood is going through a transformation as development is focused along inner SE Division. Multi-story buildings are being constructed, providing apartments and storefronts for the area but changing the character of the neighborhood in the process. Two of the letters of support referenced these rapid changes and the mixed architecture types that have resulted. Given the proximity of the site to the commercial zone, and the modern, sometimes called "funky" development visible along Division and SE Clinton, a modern-looking ADU with a shed-style roof and slanting windows to match does not seem out of place or out of character for the area.

Adjustment 1, Roof Pitch: The shed roof style is not at issue, but rather the pitch of the shed roof, which is 4:12 rather than 8:12 to match that of the hipped roof of the house. The applicant makes the point that there are several other roof pitches on the site: the porch roof and the south side bay window each have a 3:12 slope while the adjacent detached garage has a 12:12 slope. Given the diversity in roof types and pitches, and the desire to maintain a view from the primary house's master bedroom to the tree in the backyard, an 8:12 roof pitch on the shed roof would not necessarily be more compatible with the site or the nearby residential area. Matching the pitch would in fact make a more imposing, taller and more extreme structure given the shed roof style.

Second, the ADU has only limited visibility from the street because of the primary house and a mature street tree planted in the right-of-way. While the structure will be visible from the property to the south and from SE Ivon, the proposal meets the height limit and is located outside the setbacks. The Adjustment requested does not make the ADU more visible or less compatible than one that meets all the standards.

Adjustment 2, Window Proportion: The slanted windows proposed for the west side of the ADU are invisible from any other property, being on the side that faces away from the street and adjacent to a mature tree in the southwest corner of the yard. The slanted windows work within the context of the design as they follow the line of the shed roof. The shed roof is allowed on ADUs, and the windows are responding to that context. Further, the windows on the primary house are of many different proportions and do not provide a unified pattern to follow. Given their invisibility from any vantage point, these windows do not make the ADU incompatible with this changing neighborhood.

• Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;

Findings: The placement of the ADU on the southern part of the lot behind the main house enables an existing tree at the southwest corner of the lot to be retained, and allows views to that tree from both the main house (second story) and the ADU. The placement also facilitates separate entry points to the property for the resident of the ADU and the residents of the primary house on the site. However,

the north side of the backyard remains open and available for outdoor recreation for both units, with an additional outdoor area behind the existing garage adjacent to the side door of the primary house. Neither requested Adjustment impacts the ADU's placement on the site.

• Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and

Findings: The ADU is proposed to have just under 200 square feet of living space, with a 54-square-foot storage loft above with no permanent stairs. This is significantly smaller than the primary house, which is approximately 1,850 square feet. The two requested Adjustments do not impact the proposed size of the ADU.

• Provide adequate flexibility to site buildings so that they fit the topography of sites.

Findings: The ADU is sited in accordance with the relevant Zoning Code standards. It is proposed to be located outside of the setbacks and behind the existing house 6 feet, as well as back from the street over 60 feet. The flat lot does not constrain the site for development, but the design was arrived at to maximize outdoor space. Because the proposal meets all Zoning Code standards regarding siting the ADU, the proposal equally meets this purpose statement.

This approval 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: As described above, this area near inner SE Division has seen a transition from low-slung buildings often industrial in use to an area rapidly developing with modern multi-story mixed-use apartment buildings and award-winning restaurants. The subject site, adjacent to the commercial zone, is impacted by this transition, as are the rest of the properties near this development. A one-story commercial building with a flat roof is built up to the north property line of the subject site. Given the site's location and its role as a transition property from commercial space to residential, the proposal fits in with the variety of styles that already occur within the existing neighborhood.

Adjustment 1, Roof Pitch: The style of the roof is a shed roof, which rises up to a high point on one side (enabling the addition of a storage loft in the ADU). Requiring the ADU's roof pitch to match the pitch of the primary house would result in a steeper roof, a taller structure and a starker contrast to the surrounding development. It would also reduce the amount of usable space within the ADU because the steep roof pitch and the ADU height limit would combine to lower the roof line in the lower part of the structure. The proposed 4:12 pitch closely matches the 3:12 pitch on the primary house's front porch and south side bay window. Visibility is limited because of the existing tree in the right-of-way. This well-designed ADU will not significantly impact the livability or appearance of this residential area.

Adjustment 2, Window Proportion: As discussed in A, the proposed windows that do not meet the proportions of any windows on the primary house are not visible from other sites and therefore do not impact livability or appearance. However, they do benefit the proposed ADU by maximizing natural light in the small living unit, while providing views to a mature backyard tree. All other proposed windows do

have a corresponding window on the primary house whose proportions match their own.

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 requested, both to the ADU design standards. As discussed above, the visibility of the ADU is limited because of a street tree, the primary structure itself, and, for the windows, because they are proposed on the west façade of the ADU which directly faces a mature tree. Since overall visibility is low and one of the changes, window proportion, results in a change on a façade that is invisible from adjacent properties, the cumulative impact still results in a project that is consistent with the overall purpose of the zone.

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 adjustment. 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: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). As 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

Both of the requested Adjustments stem from the fact that the ADU is proposed to have a shed roof. The roof pitch is appropriate for this shed roof-style structure; following the roof pitch of the primary house would result in a steeper roof with a more dramatic resulting architecture that would potentially be incompatible with the character of the neighborhood. The proposed windows on the west side of the ADU follow the line of the proposed shed roof. Roof style is not a requirement of the ADU design standards. However, given that the shed roof has been chosen for this design (based on the attempt to maximize natural light in the ADU from the south and west, and create additional storage in the loft above the living space), the choices to diverge

from the ADU regulations regarding roof pitch and window proportion for two of the seven window areas makes sense contextually and still provides architectural integration of the ADU with the main house. Because of the character of the neighborhood in which this ADU is located and the limited visibility of the structure, the proposal meets the approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of two Adjustments to the Zoning Code, Sections 33.205.030.C.8 and 33.205.030.C.10, to construct an ADU with a roof pitch of 4:12 and include two sets of windows in the west façade that are angled, following the roof pitch, per the approved site plans, Exhibits C.1 through C.4, signed and dated March 25, 2014, 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.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-116944 AD."

Staff Planner: Amanda Rhoads

Decision rendered by: on March 25, 2014.

By authority of the Director of the Bureau of Development Services

Decision mailed: March 27, 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 February 14, 2014, and was determined to be complete on February 26, 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 February 14, 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: June 27, 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 April 10, 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 April 11, 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:

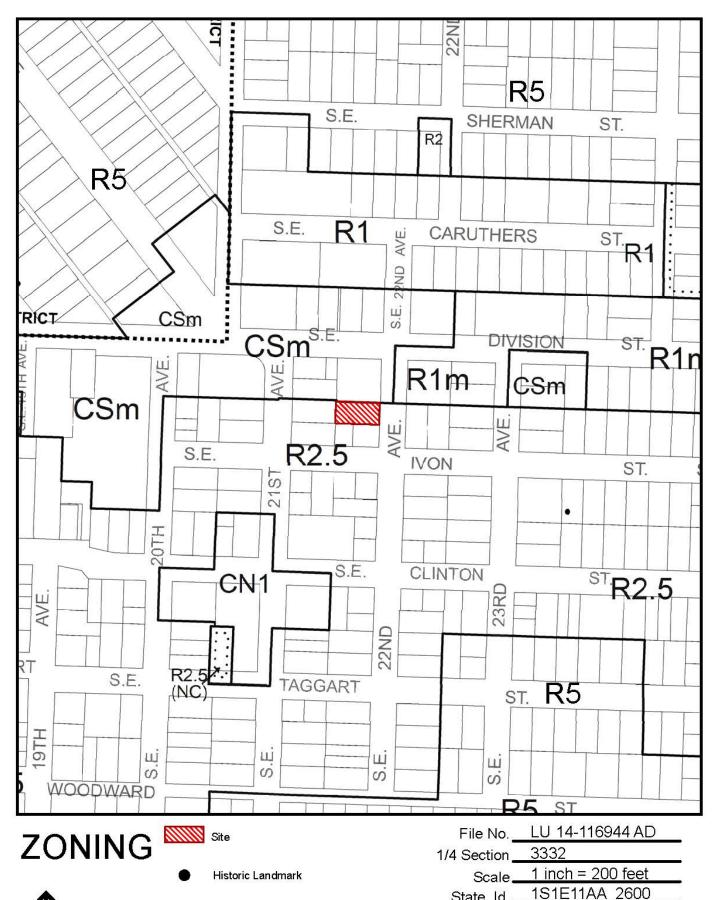
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. ADU Floor Plans (attached)
 - 3. West and South ADU Elevations (attached)
 - 4. East and North ADU Elevations (attached)
- 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
 - 5. Site Development Review Section of BDS
 - 7. Life Safety (Building Code) Plans Examiner
- F. Correspondence:
 - 1. Bob Schatz, March 12, 2014, in opposition
 - 2. Robert Hubatch, March 17, 2014, in support
 - 3. Rebecca Robinson and Charles Johnson, March 18, 2014, in support
 - 4. Chris Haverty and Leah Middlebrook, March 24, 2014, in support
- 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).

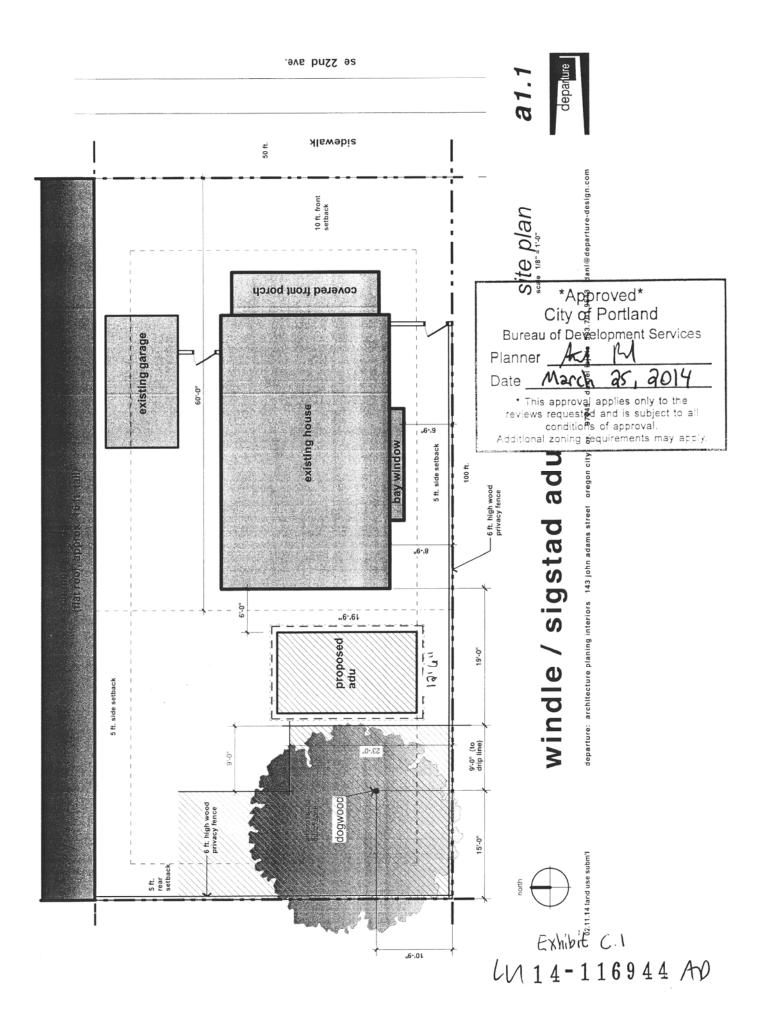


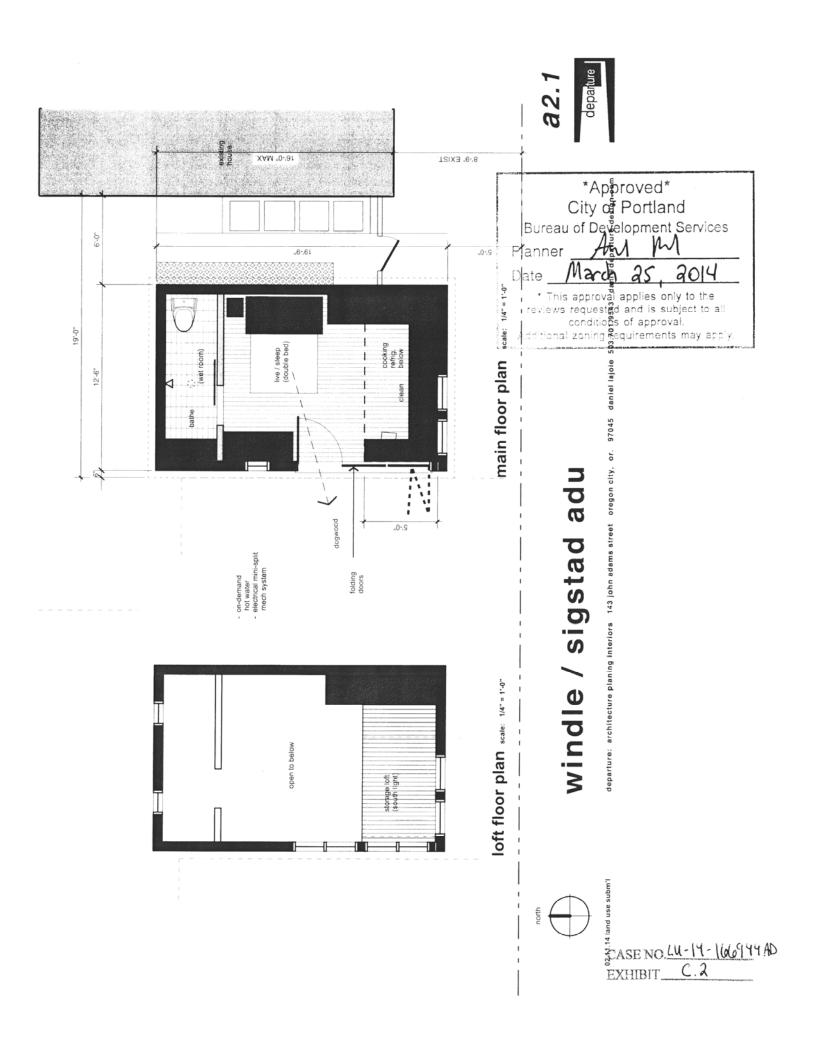
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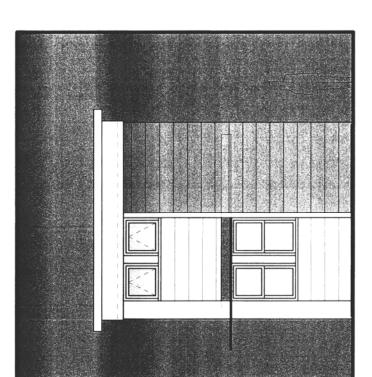
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NORTH





a3.1



south elevation

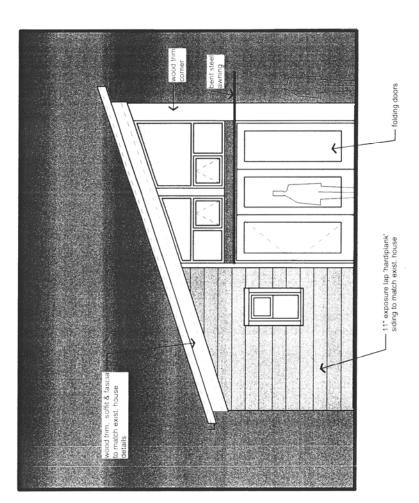
west elevation

Approved
City of Portland
Bureau of Development Services
Planner & ** 25,2014 Date * This approved applies only to the reviews requested and is subject to all conditions of approval.

Additional zening requirements may apply.

windle / sigstad adu

departure: architecture planing interiors 143 John adams street oregon city, or. 97045 daniel iajd



CASENO LU 14-166944 AD
EXHIBIT C.3

departure **a**3.2

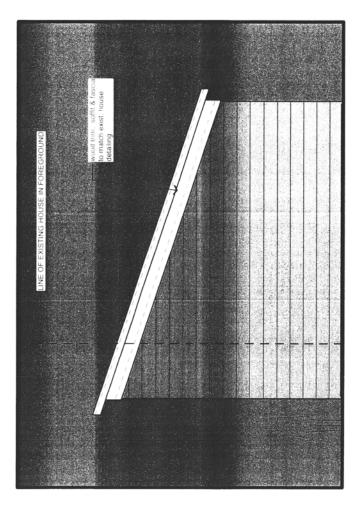
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2014

Planner

Date



east elevation

2525 se 22nd windle / sigstad adu

departure: architecture planing interiors 143 john adams street oregon city, or. 97045 daniel lajoie

north elevation

CASE TO LU 14-166944 AO EXHIBIT C. 9