



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** April 28, 2016  
**To:** Interested Person  
**From:** David Besley, Land Use Services  
503-823-7282 / [David.Besley@portlandoregon.gov](mailto:David.Besley@portlandoregon.gov)

## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 16-117973 AD**

#### **GENERAL INFORMATION**

**Applicant:** Ken Dyrsson  
Ivon Street Studio  
1001 SE Water Ave #224  
Portland, OR 97214

**Owners:** Bradley and Kristine Walhood  
7505 SE 22nd Ave  
Portland, OR 97202

**Site Address:** 7505 SE 22ND AVE

**Legal Description:** BLOCK 32 LOT 16, WESTMORELAND  
**Tax Account No.:** R899006830  
**State ID No.:** 1S1E23AD 00900  
**Quarter Section:** 3732

**Neighborhood:** Sellwood-Moreland, contact David Schoellhamer at 916-752-2208  
**Business District:** Sellwood-Westmoreland, contact Tom Brown at 503-381-6543  
**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010

**Zoning:** R5a (Single Family Residential 5,000 with Alternative Design Density Zone overlay)

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

#### **Proposal:**

The applicant is proposing to deconstruct an existing garage and greenhouse and construct a new detached accessory structure which includes a 273 square foot garage and a 2-story, 618 square foot Accessory Dwelling Unit (ADU). The garage and ADU will share a wall, but will not

be connected internally. The garage will be in the same approximate location as an existing garage, which is 1 foot from the side (north) lot line, while the ADU will meet setbacks. The Portland Zoning Code requires that buildings be set back a minimum of 5 feet from side lot lines in this zone; therefore, an Adjustment is required to reduce the side setback from 5 feet to 1 foot for the construction of a detached garage.

The total size of the detached accessory structure exceeds the size requirement to allow a reduced setback by right.

**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 5,000 square foot site is on the west side of SE 22<sup>nd</sup> Avenue, approximately 175 feet north of the intersection of SE 22<sup>nd</sup> Avenue and SE Rex Street. The site is relatively flat and developed with a single story 1,232 square-foot residence, an approximately 200 square-foot detached garage, and an approximately 80 square foot greenhouse. The surrounding vicinity is developed primarily with a mix of single-dwelling residences and open space.

**Zoning:** The R5 zone is a single-dwelling zone that is intended to preserve land for housing, and to provide housing opportunities for individual households. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. The "a" zone overlay (Alternative Design Density Zone) is not impacted by the Adjustment proposal.

**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 28, 2016**.

The following Bureaus have responded with the following information:

- The Water Bureau responded with no concerns and provided information on water service (Exhibit E-1);
- The Site Development Section of the Bureau of Development Services (BDS) responded with no concerns and provided information on stormwater discharge and erosion control (Exhibit E-2); and
- The Bureau of Environmental Services responded with no concerns and provided information on stormwater disposal (Exhibit E-3).

The following Bureaus have responded with no concerns:

- The Life Safety section of BDS;
- The Portland Fire Prevention Division; and
- The Portland Bureau of Transportation.

**Neighborhood Review:** One written response was received from the Sellwood Moreland Improvement League Land Use Committee noting that they had no objections to the Adjustment (Exhibit F-1).

**ZONING CODE APPROVAL CRITERIA****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. 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 an Adjustment to reduce the side (north) setback from 5 feet to 1 foot for the construction of a detached garage/ADU. The relevant purpose statements and associated findings are found below:

**33.110.220 Setbacks**

*The setback regulations for buildings and garage entrances 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 existing detached garage is currently 1 foot from the side (north) property line and the new replacement detached garage is proposed in the same location. Only the garage portion of the new accessory structure is within the side setback – the ADU portion will meet setback requirements – so there will be no additional impacts to the physical relationship between residences, the amount of light, air, and separation, and the availability of outdoor areas. Furthermore, given its location, size, and height, the garage would be allowed in its proposed location without an Adjustment if it was detached from the ADU (Portland Zoning Code Section 33.110.250.C.2.b).

No windows are proposed on the northern facade of the garage portion of the accessory structure, so there will be no additional impacts to privacy. Many of the surrounding properties in this area have detached accessory structures built within side setbacks; therefore, this development is compatible with and reflective of development patterns in this neighborhood.

The Life Safety Plan Review Section and the Fire Bureau have reviewed the request for reduced setbacks, and responded with no concerns with regards to separation for fire protection, or access for fire fighting. The Portland Bureau of Transportation has no concerns regarding the proposed adjustment.

***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:** This proposal is consistent with the development pattern in the area, which includes many detached structures that are built within side setbacks. The proposed detached garage will be in the same location as the existing detached garage, and will not detract from the livability or appearance of the area. The garage/ADU is designed to match the existing style of the house including windows, trim, and exterior materials. The absence of windows on the north facade of the garage protects privacy and livability for adjacent neighbors.

***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 proposed; therefore, this criterion is not applicable.

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

**Findings:** City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. 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:** Impacts resulting from the adjustment are mitigated to the extent practical. The replacement detached garage will not encroach farther into setbacks than the existing detached garage, and the ADU portion will not be within the setbacks. There will be no windows on the northernmost façade of the garage, which will mitigate any privacy impacts to the neighboring properties.

***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 Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; 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 requested to deconstruct an existing garage and greenhouse and construct a new detached accessory structure which includes a garage and ADU; an Adjustment is required to reduce the side setback from 5 feet to 1 foot for the construction of the garage portion. The new garage will be in the same approximate location as an existing garage, which is 1 foot from the side (north) lot line, while the ADU will meet setbacks. There will be no additional impacts to the physical relationship between residences, the amount of light, air, and separation, and the availability of outdoor areas. No windows are proposed on the northern facades of the garage portion of the accessory structure, so there will be no additional impacts to privacy. Many of the surrounding properties in this area have detached accessory structures built within side setbacks; therefore, this development is compatible with development patterns in this neighborhood. The proposal meets the applicable approval criteria and should therefore be approved.

**ADMINISTRATIVE DECISION**

Approval of an Adjustment to reduce the side setback from 5 feet to 1 foot for the construction of a detached garage (Section 33.110.220.B) per the approved site plans, Exhibits C-1 through C-2, signed and dated April 25, 2016, 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 16-117973 AD."

**Staff Planner: David Besley**



**Decision rendered by:** \_\_\_\_\_ **on April 25, 2016.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: April 28, 2016**

**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 8, 2016, and was determined to be complete on March 21, 2016.

*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 8, 2016.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: July 19, 2016.**

**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 May 12, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> 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 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 **May 13, 2016 – (the day following the last day to appeal)**.
- 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:

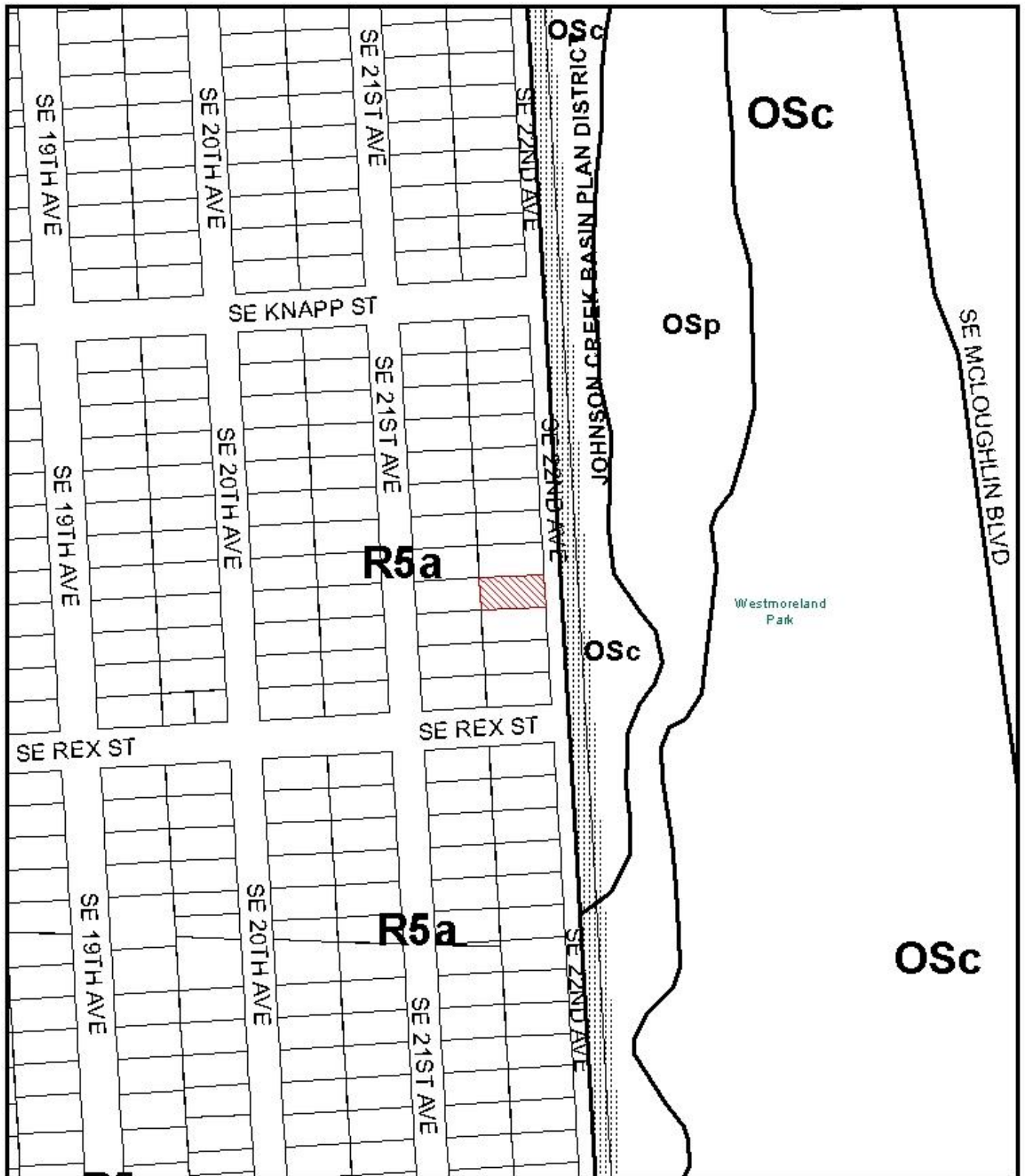
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations 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. Water Bureau
  - 2. Site Development Review Section of BDS
  - 3. Bureau of Environmental Services
- F. Correspondence:
  - 1. Letter of support from the Sellwood Moreland Improvement League, sent April 13, 2016
- G. Other:
  - 1. Original LU Application and Receipt
  - 2. Incomplete letter from staff to applicant, sent February 18, 2016

**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

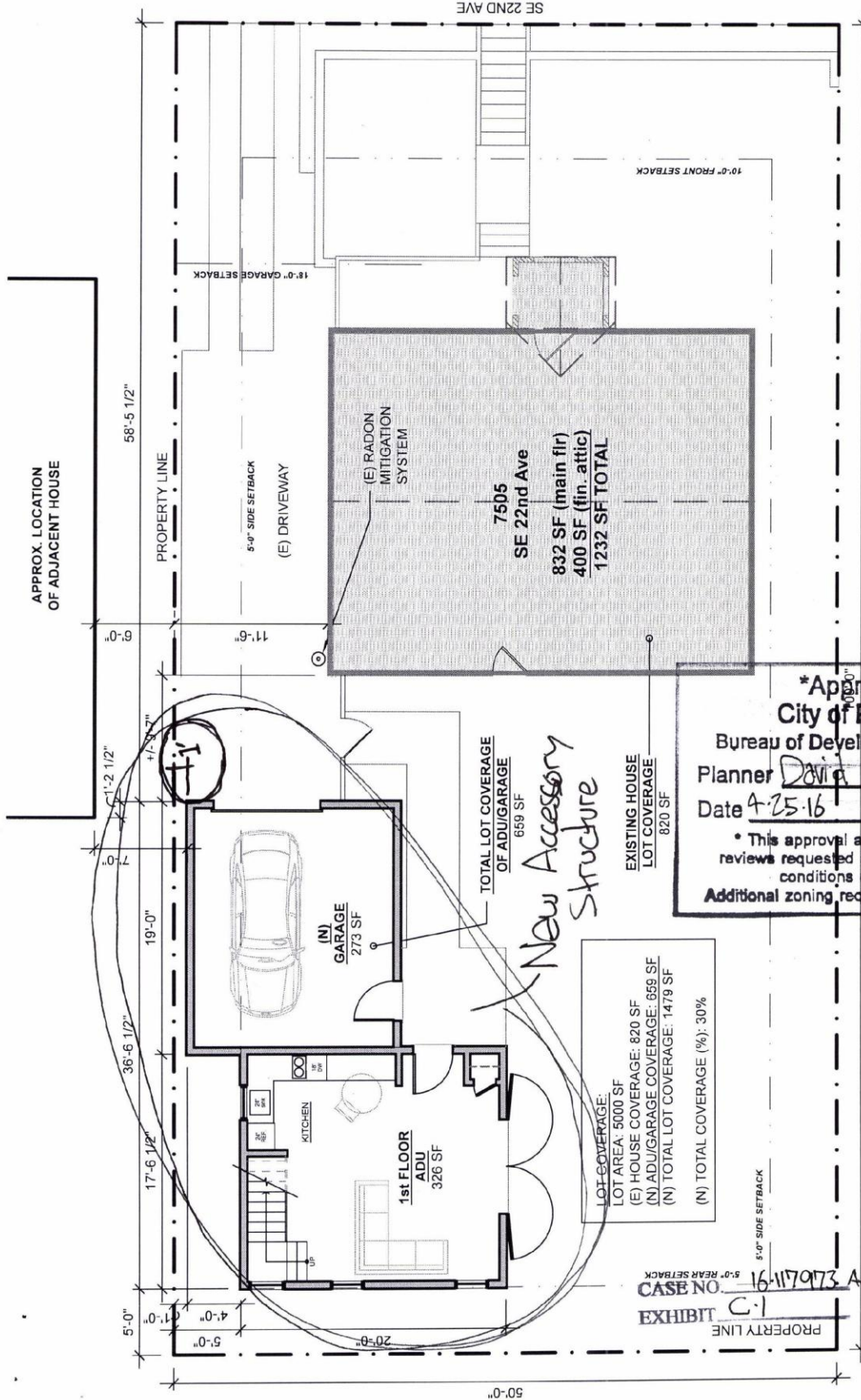
 Site



NORTH

File No.	LU 16-117973 AD
1/4 Section	3732
Scale	1 inch = 200 feet
State_Id	1S1E23AD 900
Exhibit	B (Feb 10, 2016)





**IVON STREET STUDIO**  
1524 se ivon street  
portland, oregon

**Walhood ADU**  
7505 SE 22nd Ave  
portland, oregon

**\*Approved\***  
**City of Portland**  
Bureau of Development Services  
Planner David Berkey  
Date 4-25-16

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



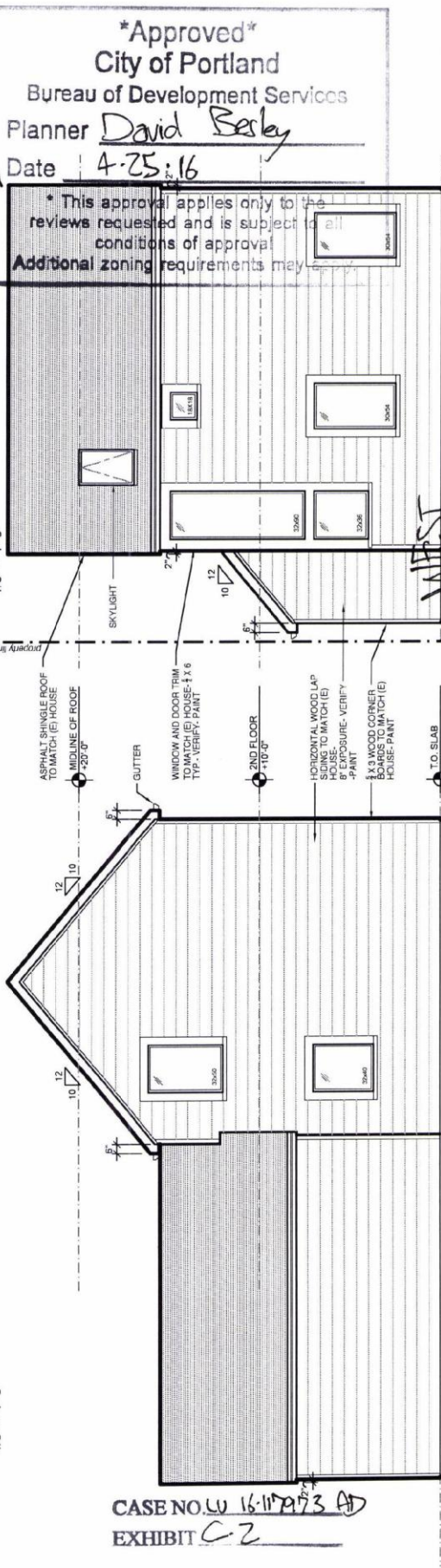
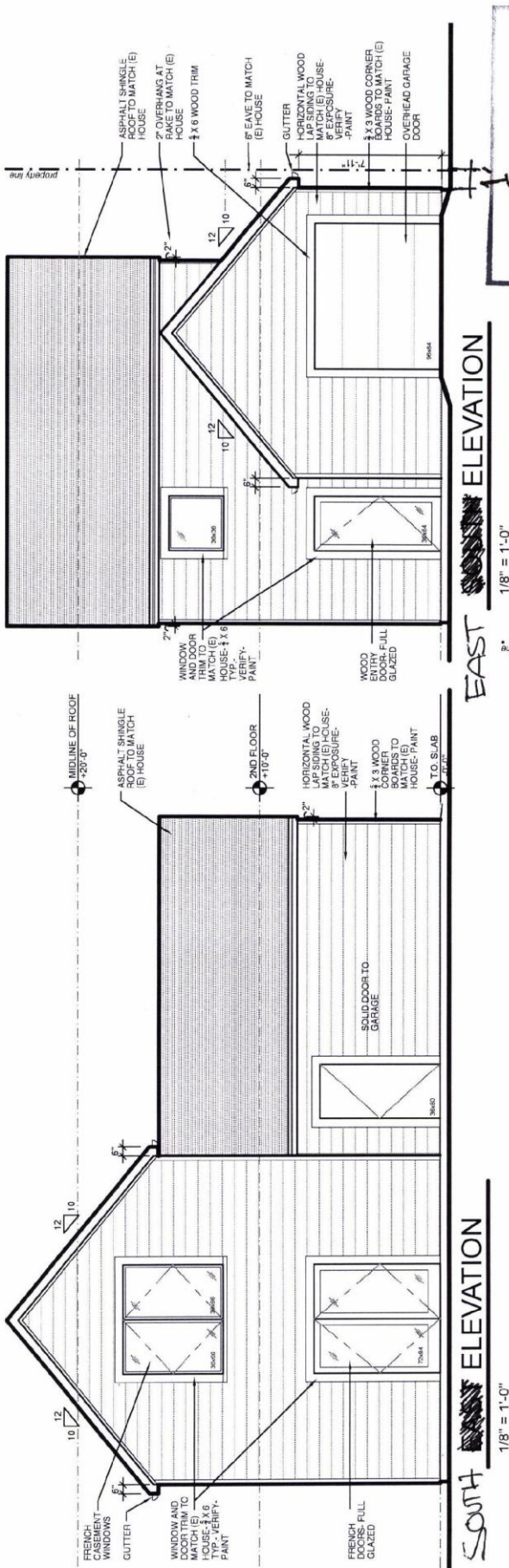
**SITE PLAN**

1" = 10'-0"

**1**

03.18.16

**CASE NO. 16-117973 AD**  
**EXHIBIT C-1**



**\*Approved\***  
**City of Portland**  
 Bureau of Development Services  
 Planner David Berley  
 Date 4-25-16

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

IVON  
 STREET  
 STUDIO  
 1524 se ivon street  
 portland, oregon

**Walhood ADU**  
 7505 SE 22nd Ave  
 portland, oregon

Adjustment requested to reduce min. 5' setback to 1' for a new ADU/Garage

CASE NO. W 16-117973 AD  
 EXHIBIT C-2

03.18.16