



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

FROM CONCEPT TO CONSTRUCTION

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

Date: May 18, 2016
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 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 16-149099 AD

GENERAL INFORMATION

Applicant: Margaret A Skenderian Phone: 503-823-5334
4505 SE Clinton St
Portland, OR 97206-1623

Site Address: 4505 SE CLINTON ST

Legal Description: BLOCK 7 W 1/2 OF S 1/2 OF LOT 5 W 1/2 OF LOT 6&7,
MCMAHONS ADD

Tax Account No.: R552500960
State ID No.: 1S2E07BB 01800
Quarter Section: 3335

Neighborhood: Richmond, contact Douglas Klotz at 503-233-9161
Business District: Division-Clinton Business Association, contact at 503-706-3730
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Zoning: R5 (Residential 5,000)

Case Type: AD (Adjustment Review – 2 concurrent Adjustments)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant plans to demolish the existing detached garage on this site and construct a new single-story accessory dwelling unit (ADU) in generally the same location as the garage. The Portland Zoning Code allows some detached structures within the 5-foot side and rear setbacks but the dimensions can be no larger than 24 feet by 24 feet. The proposed ADU has dimensions of 28 feet 6 inches by 17 feet; therefore its location 1-foot 6 inches from the rear (north) and side (east) property lines requires approval through an Adjustment Review. The project will also eliminate parking within the detached garage and locate the only on-site parking space within the 5-foot side (west) street setback where the Portland Zoning Code does

not allow on-site parking; therefore the location of this on-site parking space also requires approval through an Adjustment Review. In summary, the applicant requests two Adjustments to regulations of the Portland Zoning Code:

1. Reduce the rear (north) setback and side (east) setback from 5 feet to 1 foot 6 inches (1 foot to the eave) (33.110.220.B); and
2. Allow the required 9-foot by 18-foot on-site parking space to encroach 3 feet into the side (west) street setback (33.266.120.C.1.a).

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 lot is located at the northeast corner of SE Clinton Street and SE 45th Avenue. The lot is developed with a single-dwelling residence facing SE Clinton Street and a detached single-car garage facing SE 45th Avenue. The detached garage is located approximately 1-2 feet from the side (east) and rear (north) property lines. The driveway is approximately 20 feet in depth with an additional 3 feet between it and the inside edge of the sidewalk.

Zoning: The R5 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

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 **April 20, 2016**. The following Bureaus have responded:

- The Life Safety Section of the Bureau of Development Services (BDS) responded with information on obtaining a building permit and fire-rating requirements (Exhibit E-1).
- The Water Bureau responded with information on water service (Exhibit E-2).
- The Bureau of Environmental Services responded with information on sanitary service and stormwater management (Exhibit E-3).
- The Portland Bureau of Transportation responded with no concerns and stated that the existing sidewalk corridor meets or exceeds standards and no sidewalk development would be required with this proposal (Exhibit E-4).
- The Site Development Section of BDS responded with information about erosion control and other site-related issues (Exhibit E-5).
- The Fire Bureau responded with no concerns (Exhibit E-6).

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the Notice of 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 two Adjustments – the first to reduce the rear (north) setback and side (east) setback from 5 feet to 1 foot 6 inches (1 foot to the eave) and the second to allow the 9-foot by 18-foot on-site parking space to encroach 3 feet into the side setback. 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 proposed ADU will be located in the same location as the current detached garage. The height of the ADU as well as the building footprint are generally the same as well. The single-story height of the detached garage maintains light and air for the property to the north and therefore the ADU will as well, especially considering it will be adjacent to the neighbor's detached garage. The adjacency to a garage rather than the neighbor's home also promotes a reasonable physical relationship between residences. The similarities in building location, height and footprint between the proposed ADU and existing detached garage demonstrate that the ADU will reflect the general building scale and placement of buildings in the neighborhood. The ADU is proposed to be located at the rear of the site and therefore does not conflict with the potential to provide an open, visually pleasing front yard. The proposed location of the ADU fits the topography of the site and allows for a shared outdoor area with the house. The Life Safety section addressed fire rating requirements in their response. The Fire Bureau confirmed that fire access is adequate through their response of no concerns.

PBOT responded with no concerns to the proposed Adjustment request including the request to allow the on-site parking space to be located in the side setback. The 20-foot depth of the driveway as well as the additional 3 feet between the property line and the sidewalk provides room for a vehicle to parking without overhanging the street or sidewalk. Driver visibility is maintained as well. 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 proposed ADU is located adjacent to the neighbor's detached garage and therefore will not negatively impact privacy. The height of the proposed ADU is comparable to the existing garage and therefore won't block any additional sunlight even though it is located to just south of the neighbor's property. The proposed ADU is designed with features that complement the existing house such as the roof form and window location and therefore will not detract from the appearance of the residential area. 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 north setback for the new ADU and one to allow the on-site parking to encroach into the side setback. 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: No City-designated scenic or historic resources are located on the site. 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 proposes two Adjustments associated with the demolition of the existing detached garage on the site and construction of a new ADU in the same location. The proposal meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

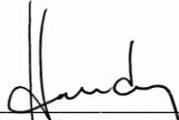
Approval of two Adjustments:

1. Reduce the rear (north) setback and side (east) setback from 5 feet to 1-foot 6 inches (1-foot to the eave) (33.110.220.B); and

2. Allow the required 9-foot by 18-foot on-site parking space to encroach 3 feet into the side (west) street setback (33.266.120.C.1.a), per the approved site plans, Exhibits C-1 through C-3, signed and dated May 13, 2016, 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 Exhibits C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-149099 AD."

Staff Planner: Matt Wickstrom

Decision rendered by:  **on May 16, 2016**
By authority of the Director of the Bureau of Development Services

Decision mailed: May 18, 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 April 11, 2016, and was determined to be complete on April 15, 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 April 11, 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: August 12, 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 June 1, 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 5th 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 **June 2, 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:

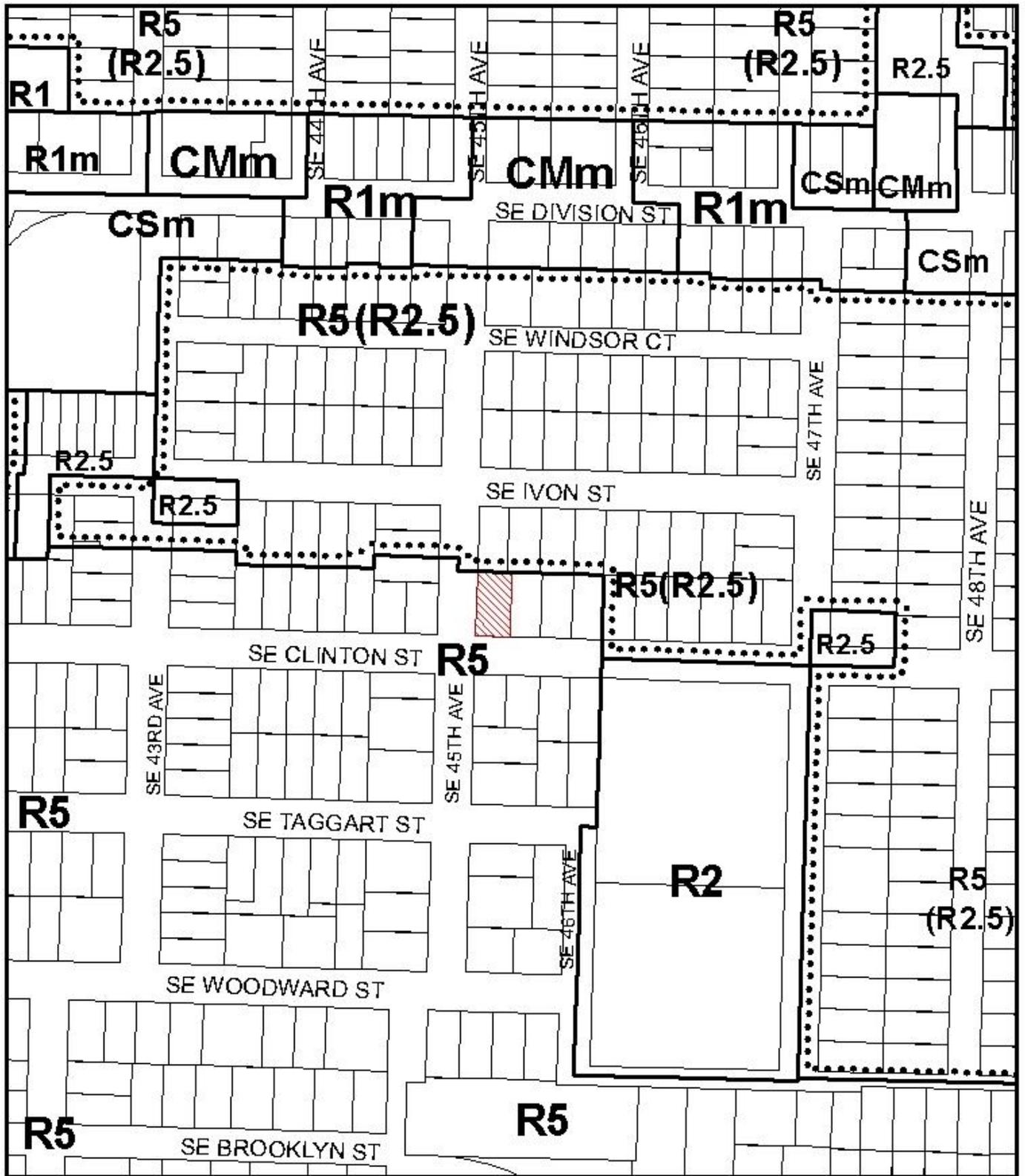
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Proposed ADU Elevations (attached)
 - 3. Existing and Proposed Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section of BDS
 - 2. Water Bureau
 - 3. Bureau of Environmental Services
 - 4. Portland Bureau of Transportation
 - 5. Site Development Review Section of BDS
 - 6. Summary sheet of agency responses
- F. Correspondence: None

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).

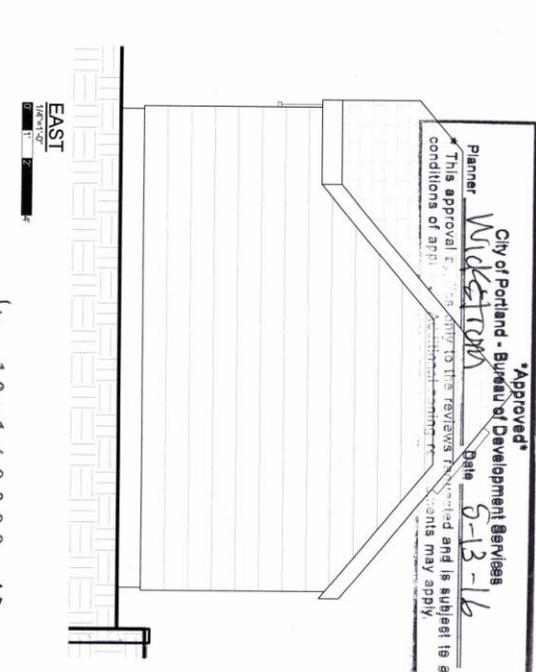
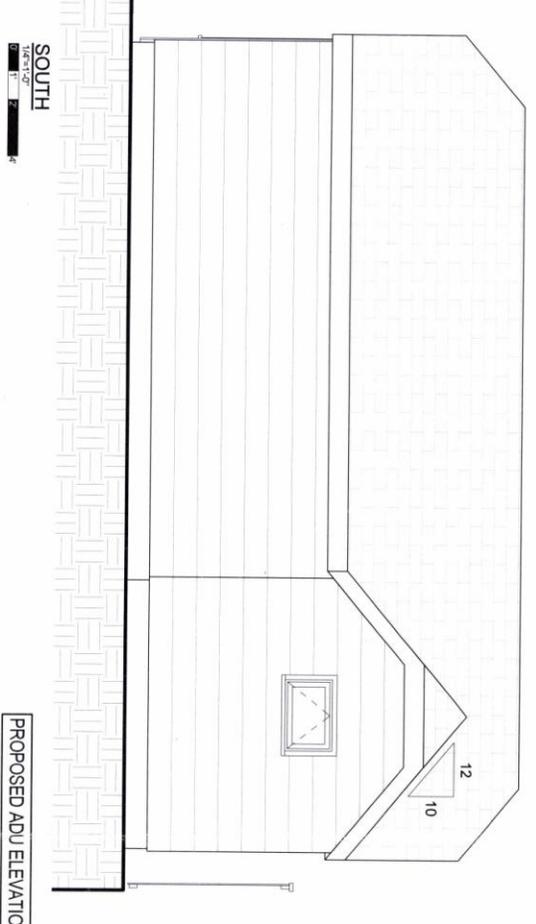
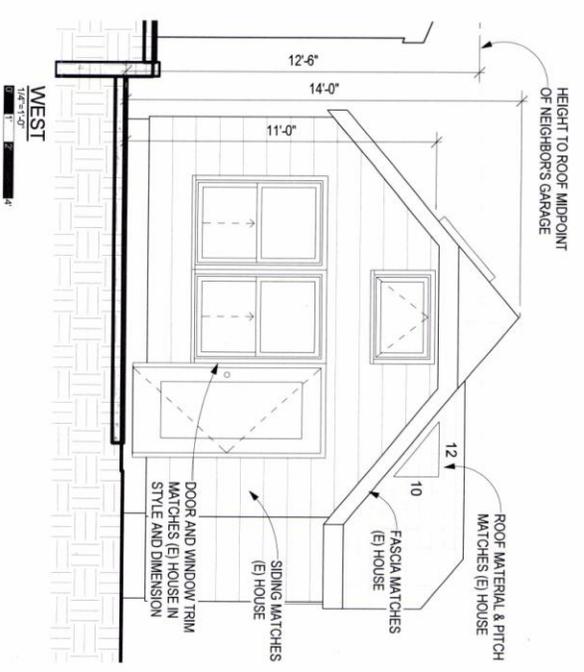
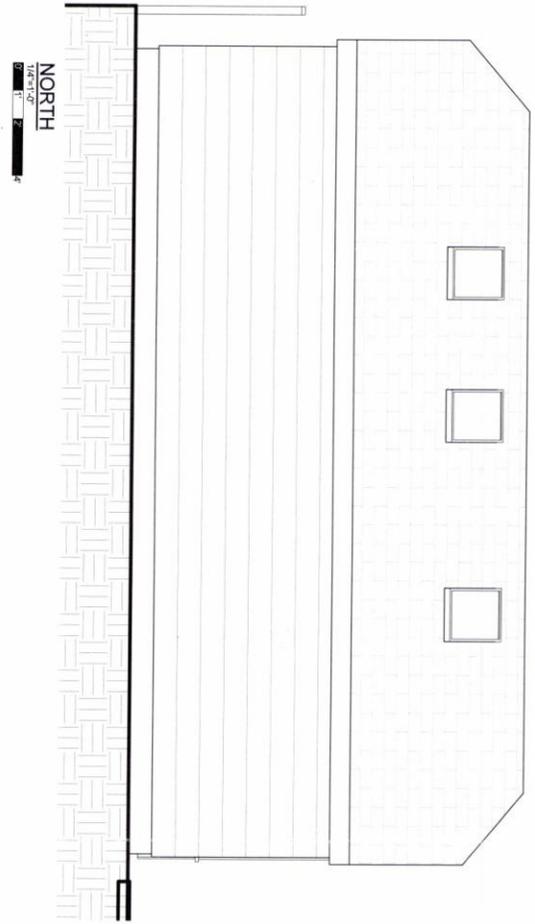


ZONING



 Site

File No. LU 16-149099 AD
 1/4 Section 3335
 Scale 1 inch = 200 feet
 State_id 1S2E07BB 1800
 Exhibit B (Apr 12, 2016)



PROPOSED ADU ELEVATIONS

Approved
 City of Portland - Bureau of Development Services
 Planner: *Wickstrom*
 Date: *5-13-16*
 This approval is contingent upon the reviewer's findings and is subject to all conditions of approval. Additional conditions may apply.

16-149099 AD

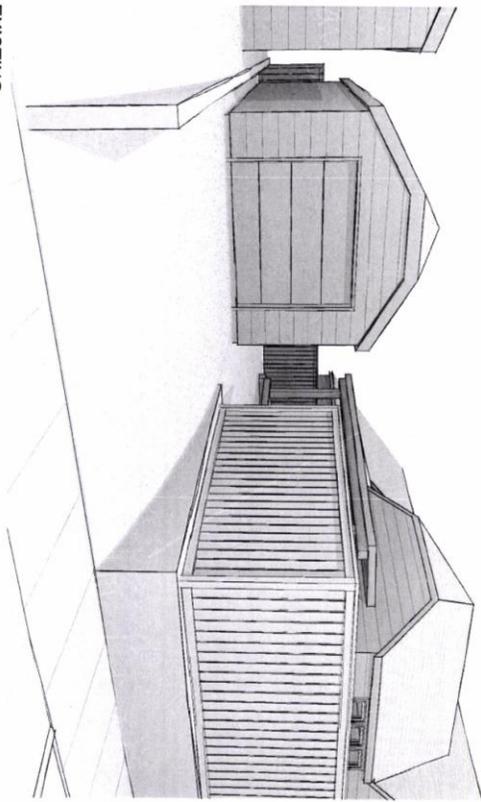
SHEET 2 OF 4

SCHUBERG-SKENDERIAN ADU
 4505 SE CLINTON ST. PORTLAND, OR 97206

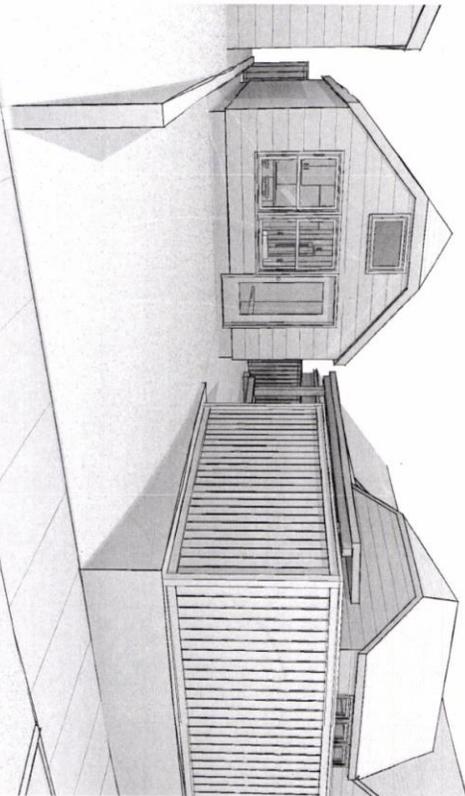
DES: ML
 DRF: ML
 DATE: 4-8-16

WALL DESIGN-BUILD, INC.
 16-149099 AD
 Exhibit C-2

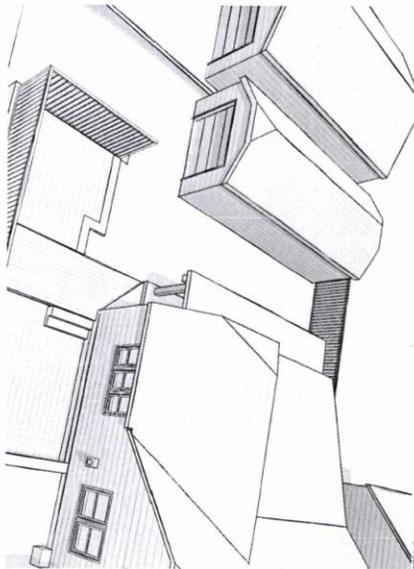
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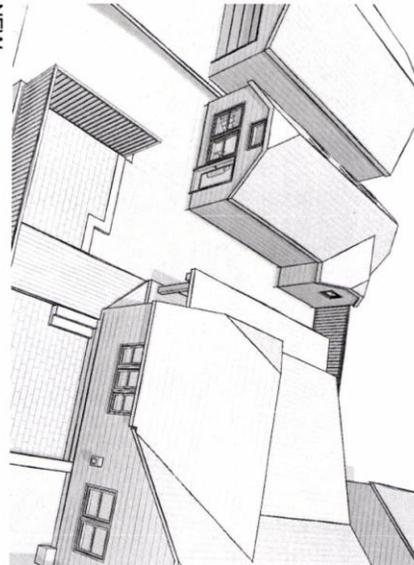
NEW



EXISTING



NEW



Approved
 City of Portland - Bureau of Development Services
 Planner: Widstrom Date: 5-13-16
 * This approval is based on the information provided and is subject to all conditions of approval. It is subject to all applicable laws, codes, and ordinances. All permits may apply.

W 16-149099 AD

SHEET 4 OF 4
APR 2016 12:26:57 PM

SCHUBERG-SKENDERIAN ADU
4505 SE CLINTON ST. PORTLAND, OR 97206

DES: ML
DRF: ML
DATE: 4-8-16

WALL DESIGN-BUILD, INC.
16-149099 AD
Exhibit C-3