



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
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Date: December 6, 2016
To: Interested Person
From: Marguerite Feuersanger, Land Use Services
503-823-7619 / Marguerite.Feuersanger@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 16-245357 AD

GENERAL INFORMATION

Applicant: Brint Riggs
Studio Eccos Architecture
5835 N Omaha Avenue
Portland, OR 97217

Owner: Miriam Garcia
3054 NE Everett Street
Portland, OR 97232-3251

Site Address: 3054 NE Everett Street

Legal Description: BLOCK 14 LOT 6, HAWTHORNES 1ST ADD
Tax Account No.: R367801540
State ID No.: 1N1E36CA 09900
Quarter Section: 3033

Neighborhood: Kerns, contact Steve Russell at 503-784-8785.
Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Zoning: R5, Single-Dwelling 5,000 Zone

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

Proposal: The applicant is proposing to demolish the existing detached garage that currently serves the existing house. The site is a corner lot: the house faces NE Everett Street and the detached garage faces NE 31st Avenue. A new detached two-story accessory dwelling unit (ADU) is proposed at the southeast corner of the site, in the location of the existing garage. The Zoning Code requires at least one parking space for this site. Rather than

replace the required on-site parking space, the applicant is requesting an Adjustment to Zoning Code Section 33.266.110 to reduce the minimum required parking on-site from one to zero parking spaces. Note that on-site parking is not required for ADUs. The applicant plans to remove the existing driveway and restore the curb within the NE 31st Avenue right-of-way. This will increase the amount of available on-street parking. A site plan showing the existing house and proposed ADU footprints is attached to this notice.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section 33.805.040.A-F, Adjustment Approval Criteria.

ANALYSIS

Site and Vicinity: The site is a 5,000 square-foot corner lot, with street frontage on both NE Everett Street and NE 31st Avenue. The main entry of the existing house faces NE Everett Street. The small detached garage is located near the property line along NE 31st Avenue. The site and surrounding properties are developed with similar two-story homes dating from the early 1900s.

Adjacent public rights-of-way are improved with paved public sidewalks, planter strips with street trees and curbs. The site is approximately 510 feet south of Bus Line #19 along NE Glisan Street, and 620 feet north of Bus Line 20 along E Burnside Street.

Zoning: The R5 zone is intended to preserve land for housing, and to provide housing opportunities for individual households. Parking regulations are intended to provide adequate on-site parking spaces for the intended use of the land, while avoiding significant impacts to nearby on-street parking.

Land Use History: City records indicate one land use review for this site:

VZ 096-78 Approval to reduce the garage setback from the required 22' to zero, to permit substitution of a one-hour firewall in the south wall of the garage instead of 8" masonry wall in order to replace existing garage.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **December 3, 2015**. The following Bureaus have responded with no concerns regarding the proposed Adjustment:

- Bureau of Environmental Services (Exhibit E-1);
- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4);
- Site Development Section of BDS (Exhibit E-5); and
- Life Safety Plans Examiner of BDS (Exhibit E-6).

Note that these Bureaus cited requirements that will apply to the building permit for the proposed accessory dwelling unit.

Transportation (PBOT) has reviewed the proposal and responded with comments relating to closure of the existing curb cut and driveway (Exhibit E-2).

Neighborhood Review: No written responses were received in response to the proposal. The public comment period ended on November 21, 2016.

ZONING CODE APPROVAL CRITERIA**33.805.010 Purpose of Adjustment Reviews**

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 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: Relevant portions of the purpose statement for minimum parking requirements read as follows (33.266.110.A):

“The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking... Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible... The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis.”

The Development Review Section of Portland Transportation (PBOT) has reviewed the proposal for potential impacts regarding the public right-of-way, including traffic impacts and conformance with adopted policies, street designations, relevant portions of Titles 17 and 33, and for overall potential impacts upon transportation services, including the availability of on-street parking (Exhibit E-2).

With both site frontages on NE Everett and NE 31st, the property has a combined frontage length of 150 feet. Removal of the existing on-site parking and restoring the sidewalk and landscape strip, provides for an additional on-street vehicle space without impacting neighboring properties. In addition, the proposal to close the driveway will reduce potential vehicle conflicts with pedestrian and bicycle travel.

Many of the surrounding properties have driveways and room for one on-site parking space. The area is within the R5 zone, a single-dwelling residential zone, without on-street parking demand from commercial or multi-family development. Transportation has no objection to the requested Adjustment with conditions requiring the closing of the curb cut in NE 31st Avenue, to allow additional on-street parking along the east frontage of the site.

The proposal is located within an established network of streets that provides connectivity to the surrounding neighborhoods and commercial services, including sidewalks, trails and other pedestrian facilities. Bicycle parking can easily be provided on the site, and there is adequate on-street parking capacity in the right-of-way immediately abutting the site to accommodate the likely maximum number of vehicles at the site at any one time.

With the condition of approval as requested by Transportation and discussed above, 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 request is to remove on-site parking and to construct a new accessory dwelling unit (ADU) on the southeast portion of the site. The existing driveway and curb cut will be removed; the sidewalk, landscape strip and curb will be restored. The ADU proposal must meet applicable Zoning Code requirements at the time of building permit review. The applicant has not requested an Adjustment to modify any of the ADU Zoning Code standards. For this Adjustment review, therefore, the design of the ADU is not considered.

The proposal will not significantly detract from the livability of the residential area, as the on-site parking space will be replaced with an on-street parking space. Removing the driveway and restoring the sidewalk, landscape strip and curb will result in an improved residential appearance, and improve the pedestrian environment along the west side of NE 31st Avenue.

Transportation recommends conditions of approval to remove the curb cut, ensuring the availability off-street parking without impacting the adjacent roadway functions. The curb cut must be removed as part of the demolition permit for the detached garage.

Therefore, with the conditions of approval recommended by Transportation, this approval 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 has been requested. Therefore, 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 does not apply.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: With conditions of approval as requested by Transportation to maximize on-street parking abutting the site, any impacts resulting from the requested Adjustment are mitigated to the extent practical. Therefore, 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.

Title 11 (Trees) requirements will apply during the building permit review process. No on-site trees are proposed to be removed, but the applicant must document tree preservation and possibly density standards. Tree removal in the right-of-way must also meet any applicable Title 11 requirements.

CONCLUSIONS

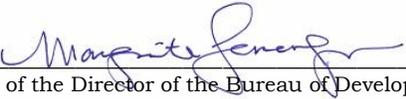
The applicant has requested an Adjustment to remove on-site parking. The driveway and curb cut will be removed, and the sidewalk, landscape strip and curb will be restored. Because the proposal essentially trades an on-site parking space for an additional on-street parking space, there will be no significant impacts to neighborhood livability. With the conditions of approval, the proposal meets applicable Adjustment criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to waive the minimum on-site parking requirement for the site (Section 33.266.110.B.1/Tables 266-1 & 266-2), per the approved site plan, Exhibit C-1, signed and dated November 29, 2016, subject to the following conditions:

- A. As part of the required demolition permit application submittal for the detached garage, the following development-related condition B must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 16-245357 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The applicant is required to close all curb cuts and driveways, adjacent to the site's street frontage, that do not access a legal parking space. The sidewalk corridor and curb will be reconstructed at that location.

Staff Planner: Marguerite Feuersanger

Decision rendered by:  **on December 1, 2016.**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 6, 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 September 19, 2016, and was determined to be complete on October 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 September 19, 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: February 24, 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 December 20, 2016**, at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 **December 21, 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.

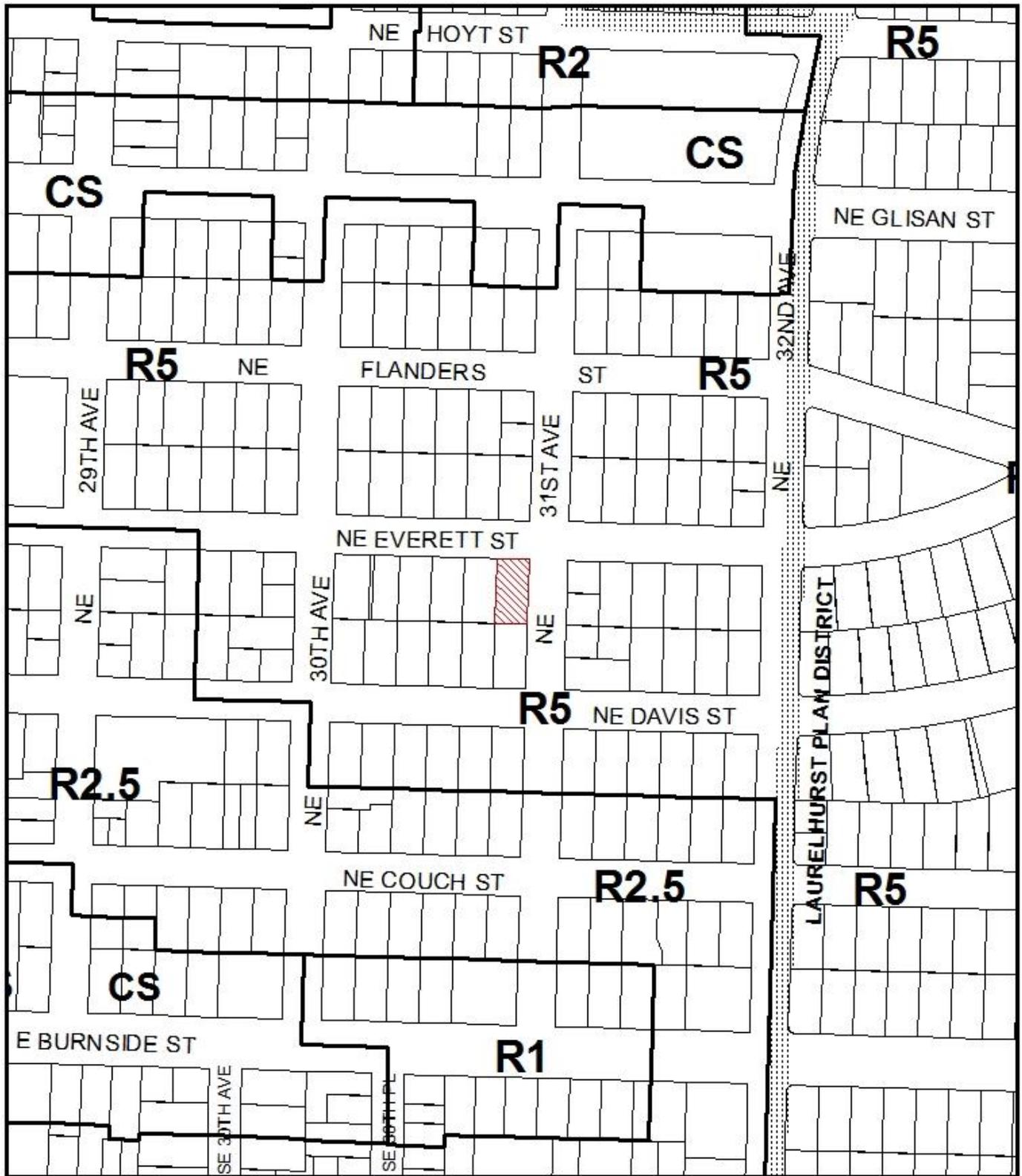
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Proposed ADU Elevations
 3. Existing House Elevations
 4. Proposed ADU Floor Plans
 5. ADU Building Coverage Calculation
 6. ADU Floor Area Calculation
 7. ADU Section and Attic Floor Plan
- 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
 6. Life Safety Plans Examiner of BDS
- 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

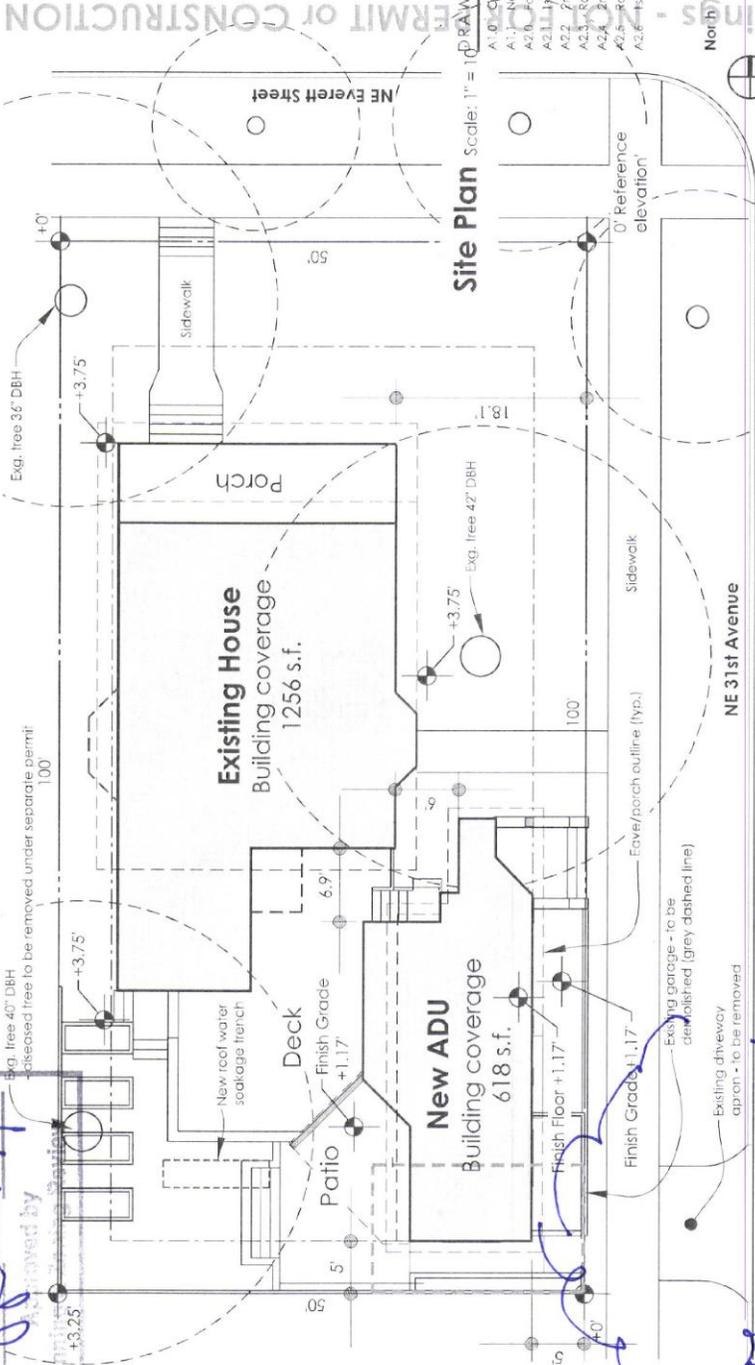
 Site



File No.	LU 16-245357 AD
1/4 Section	3033
Scale	1 inch = 200 feet
State_Id	1N1E36CA 9900
Exhibit	B (Sep 21, 2016)

City of Portland
Bureau of
Development Services
By *[Signature]* Date 12/1/16
Approved by
Planning

**studio
eccos
architecture**
5835 N Omaha Avenue
Portland, OR 97217
503-701-4494



Site Plan Scale: 1" = 10'

DRAWING INDEX

A1.0	Cover & Site Plan	A2.1.1	1st Floor Electric Elevations
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A2.5	Roof Framing		
A2.6	1st Floor RCP		

Garcia ADU
3054 NE Everett Street
Portland, OR 97232

PROJECT DIRECTOR

CLIENT: Miriam Garcia
3054 NE Everett Street
Portland, OR 97232
Phone: 503-753-4125
Email: miriam_g@me.com

ARCHITECT: Studio Eccos Architecture LLC
Britton Riggs
Phone: 503-701-4494
Email: bmir@studieccos.com

ENERGY EFFICIENCY ADDITIONAL MEASURES

Envelope Enhancement Measure 5:
Building tightness testing, ventilation & duct sealing
Heat recovery ventilator with ventilation rates as specified in Table N1101.1(3) or ASHRAE 62.2.
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Heat recovery ventilator with ventilation rates as specified in Table N1101.1(3) or ASHRAE 62.2. and

SITE & BUILDING INFORMATION

Lot area	5,000 sf
Impervious coverage	600 sf
Hardscape area:	440 sf
Deck	1,458 sf
Exg. building area (incl. porches & eaves - excluding exg. garage)	771 sf
New building area (incl. porches & eaves)	[240 sf]
Demolished garage area	3,289 sf
Total	3,289 sf

Building coverage (coverage/lot area) (incl. porches)

Existing house footprint: (25.1%) 1,256 sf
Proposed ADU: (12.3%) 618 sf
Total: (25.1 + 12.3 = 37.4%) 1,874 sf

ADU as % of exg. finished living space

Existing house: 750 sf
ADU: [to be determined]

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ADU %

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Tax Account # R367801340
Property ID IN1E36CA 9900

Issue: date: 2016.10.20

Prelim-I-I

Cover/Site

Building coverage (coverage/lot area) (incl. porches)

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Tax Account # R367801340
Property ID IN1E36CA 9900

Issue: date: 2016.10.20

Prelim-I-I

REQUIRED:
Close curb cut and Driveway.
Reconstruct Sidewalk corridor and curb.

SITE PLAN

1.0

16.24S357 AD
EXHIBIT C-1

REC. 10/21/16