



City of Portland
Bureau of Development Services
Land Use Services Division

1900 SW Fourth Ave. Suite 5000
Portland, Oregon 97201
Telephone: 503-823-7300
TDD: 503-823-6868
FAX: 503-823-5630
www.portlandonline.com/bds

Date: September 17, 2008
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / kstokes@ci.portland.or.us

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 this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-149432 AD

GENERAL INFORMATION

Applicant: Jorge I Solis (property owner)
2407 SE 93rd Avenue
Portland, OR 97216-2034

Luis Miramontes, Jobdesign (applicant)
1881 NE Liberty Ave
Gresham, OR 97030

Site Address: 2407 SE 93rd Avenue

Legal Description: TL 2400 LOT 3&4, HACKING ADD
Tax Account No.: R350600070
State ID No.: 1S2E04DC 02400
Quarter Section: 3240
Neighborhood: Montavilla, contact Sandra McDaniel at 503-257-3346.
Business District: Eighty-Second Avenue, contact Nancy Chapin at 503-774-2832.
District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.
Zoning: R2a (R2000, Low Density Multi-Dwelling Residential with an Alternative Design Density Overlay)

Case Type: Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The applicant is proposing conversion of an existing 24 by 21-foot garage, that is located in the north side and rear setbacks, for use as a detached accessory dwelling unit (ADU), as allowed under the Code provisions in 33.120.280 C. 4. The regulations of Title 33, Section 33.205 place further requirements on structures that are to be used as accessory dwelling units. Section 33.205.030 D. 1 requires that detached units be located either 60 feet from the front property line or 6 feet behind the primary residence. Section 33.205.030 C.6

limits the size of ADUs to 33% of the floor area of the main residence, up to an absolute maximum of 800 square feet. Exceptions to these regulations are approved through Adjustment Reviews, when all of the relevant approval criteria are met or can be met through conditions of approval.

The applicant has requested approval of an Adjustment to reduce the required setback for the structure, which is adjacent to the side of the primary residence, from 60 feet to 42 feet, 7 inches from the front property line. The main residence on this site has a living area of 1,200 square feet and the proposed ADU has a floor area of 496 square feet. Therefore, the applicant is also requesting approval of an adjustment to increase the maximum allowed size of the ADU, from 400 square feet to 496 square feet.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The applicant's site is a 5,775 square-foot parcel that is located on the west side of SE 93rd Avenue, one lot to the south of the intersection with SE Caruthers Street. The site is developed with a single-dwelling residence that is placed on the south side of the lot and a detached garage that is situated to the north of the house. Both structures abut the rear lot line. The residence is one story in the front half of the building and two-stories in the rear half of the structure. An open front yard area extends from the front wall of the house to the front property line for a little more than 25 feet. The main entrance to the residence is located on the north façade of the house and is accessed by a porch that is located at the northeast corner of the structure. A 17-foot-wide driveway currently provides access to the garage and also provides additional parking spaces in front of the garage and to the north of the house.

The site faces the I-205 freeway, which abuts the east side of SE 93rd Avenue. The other lots on the west side of the block are all developed with single-dwelling residences. To the west of this block of single-dwelling houses there is a small multi-dwelling development that occupies the majority of the middle portion of the block. The far western portion of the block, which fronts onto SE 92nd Avenue, consists mostly of commercial development. There is also a mix of commercial uses along the south side of SE Division Street and to the west of SE 92nd Avenue.

Zoning: This site is zoned R2, Low Density Multi-dwelling Residential, which allows approximately 21.8 dwelling units per acre. The major type of new development is duplexes, townhouses, rowhouses and garden apartments. These housing types are intended to be compatible with adjacent houses. Generally, R2 zoning is applied near neighborhood collector and district collector streets, and local streets adjacent to commercial areas or major streets.

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 **August 20, 2008**. The following Bureaus have responded with no issues or concerns:

- Environmental Services provided information on requirements for sanitary sewer and storm water management requirements (Exhibit E-1)
- Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS detailed requirements for utility plans that are needed for building permit submittal (Exhibit E-2)
- Life Safety Plan Review Section of BDS noted building permit requirements (Exhibit E-3).
- Parks-Forestry Division

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of 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 to provide 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. stated below, have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: *Standards for creating accessory dwelling units address the following purposes:*

- *Ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones;*
- *Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;*
- *Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and*
- *Provide adequate flexibility to site buildings so that they fit the topography of sites.*

The applicant is requesting approval of two exceptions to the standards for Accessory Dwelling Units: to reduce the required setback from the front lot line and to increase the allowed size of the ADU. The structure will be compatible with the desired character of the R2 zone, which is a low density multi-dwelling designation that allows two full-sized units to be located on this parcel. By designating the building as an ADU, rather than as a second dwelling unit, the position of the structure, relative to the front lot line and the primary residence, as well as the size of the unit are regulated. The proposed ADU would be located in the northwest corner of the site and be set back 42 feet from the front lot line and 16 feet back from the east wall of the house. The proposed location takes advantage of the existing driveway and curb cut, so that there will still be adequate onsite parking. The proposed location also maintains the outdoor recreation area in the southeast corner of the site, which has three trees and other mature landscaping. The existing accessory building has a floor area of 496 square feet, which is only 96 square feet over the allowed 400-square-foot size for an ADU on this lot. Therefore, due to the smaller size, the fact that it is only a one-story building and that it is set back farther on the lot than the main residence, it will still appear to be less dominant than the primary residence. Therefore, the proposed setback and size of the unit equally meet the purposes of the regulations and 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 primary residence is a larger structure that is set farther forward on the lot and has a second story on the rear portion of the building. The proposed ADU would be created from a structure that is tucked into the opposite corner of the lot from the residence, so that it will not compete with the presence of the house as the primary residence. The proposed alterations to the garage, in order to convert it into a living unit,

will enhance the appearance of the structure. The existing outdoor area and the parking area on the driveway will be retained, so there should not be any impacts on livability for the residents or their neighbors. Therefore, 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. Findings for the criteria above noted that no impacts are expected to occur from approval of the requested adjustments. The purpose

of the R2 zone is to preserve land for urban housing and provide opportunities for multi-dwelling housing. The proposed ADU is in keeping with the purpose of the zone and the general development pattern allowed by its standards. Therefore, this criterion is met.

- D.** City-designated scenic resources and historic resources are preserved; and
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.
- 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: There are no scenic or historic resources on the site. No impacts are expected to occur from approval of the requested Adjustments. The site is not located in an environmental zone. Therefore, these criteria do not apply.

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

Approval of the request to reduce the required setback from the front property line for the proposed ADU will allow the conversion of an existing structure that is placed in the most logical location on the site. Neither the location, nor the size, of the unit will detract from the predominance of the primary residence. The proposed ADU is in keeping with the scale and character of the R2 zone, so it is not expected to have any impacts on the livability or appearance of the residential area. The relevant approval criteria have been met and the Adjustment can be approved, subject to compliance with the site plan and elevation drawings.

ADMINISTRATIVE DECISION

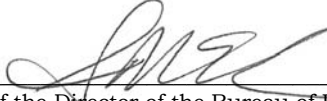
Approval of Adjustments:

- to Code Section 33.205.030 D.1, to reduce the minimum required setback for the proposed ADU, from 60 feet from the front lot line to 42 feet, and
- to Code Section 33.205.030 C.6, to increase the maximum allowed size of the ADU from 400 square feet to 496 square feet,

in general compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-2, signed and dated September 15, 2008, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-149432 AD."

Decision rendered by:  **on September 15, 2008**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 17, 2008

Staff Planner: Kathleen Stokes

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 July 25, 2008, and was determined to be complete on August 18, 2008.

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 July 25, 2008.

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.

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 October 1, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., 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. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the

required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 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 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 **October 2, 2008 – (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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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:

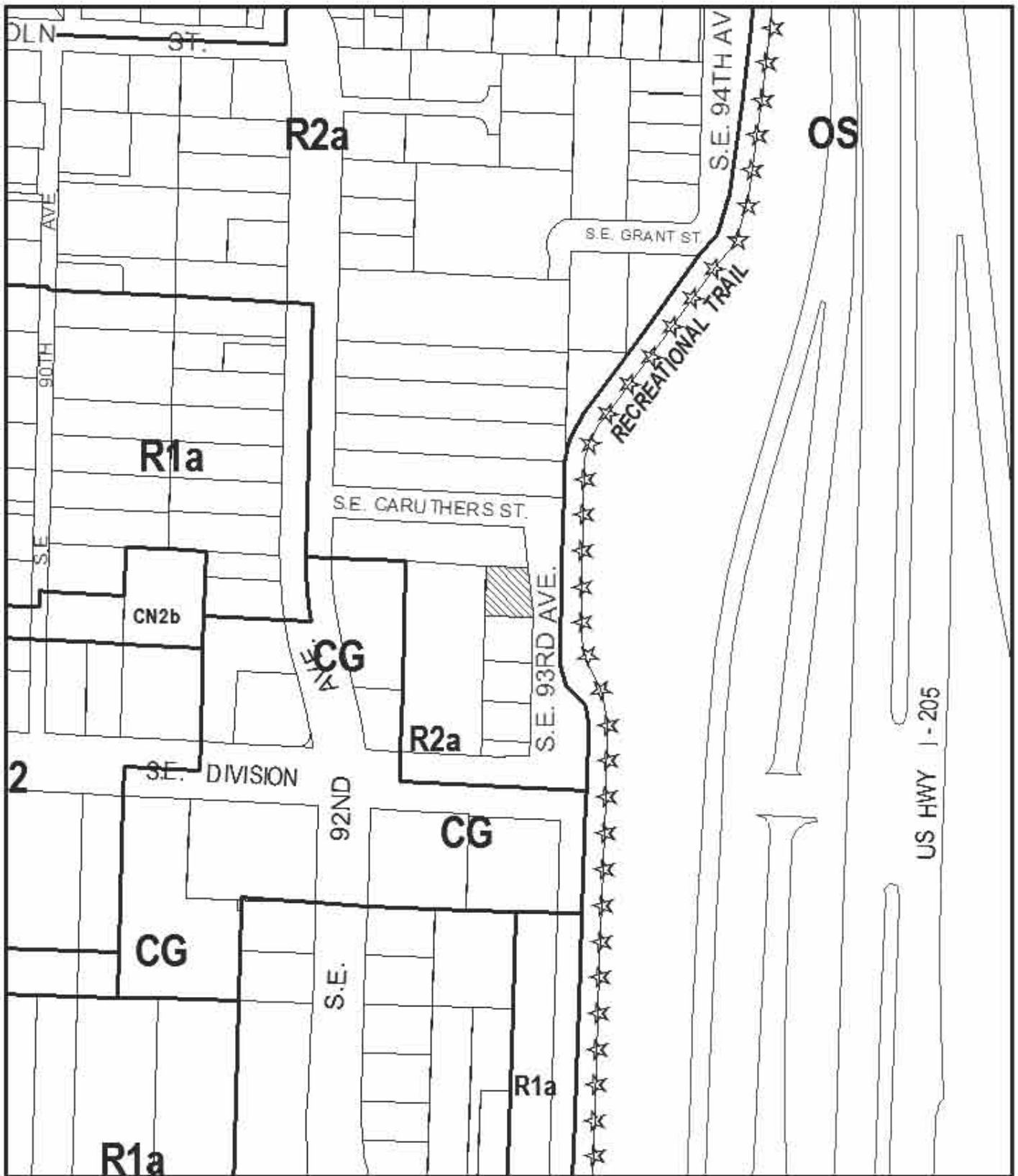
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Application and original submittal
 - 2. Supplemental information, August 14, 2008
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Site Development Review Section of BDS
 - 3. Life Safety Plan Review Section of BDS
- F. Correspondence: (none received)
- G. Other:
 - 1. Letter from Kathleen Stokes to Luis Miramontes, August 6, 2008

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING

 Site



File No.	LU 08-149432 AD
1/4 Section	3240
Scale	1 inch = 200 feet
State_Id	1S2E04DC 2400
Exhibit	B (Jul 28, 2008)

Approved

City of Portland - Bureau of Development Services

Planner Kathleen A. Stokes Date September 15, 2008

NEIGHBOR PROPERTY

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

77.0'

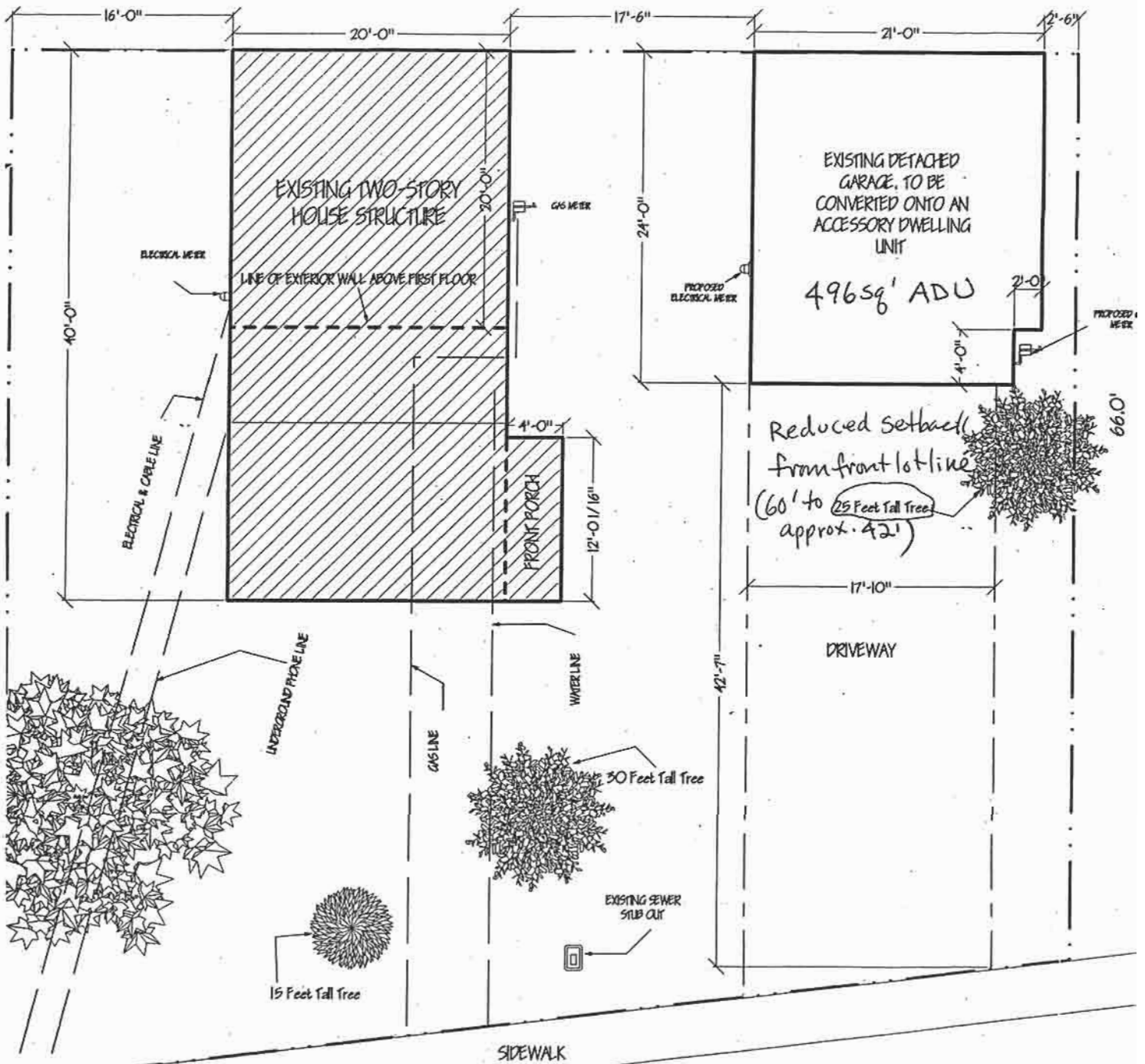


Exhibit C-1

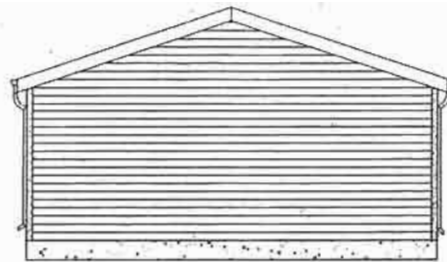
LU08-149432

SE 93rd AVENUE

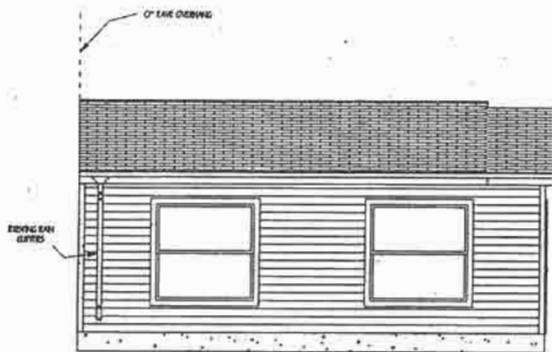
North →



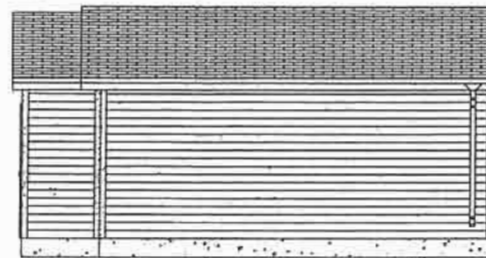
FRONT ELEVATION



REAR ELEVATION



(South)
LEFT SIDE ELEVATION



(North)
RIGHT SIDE ELEVATION

↑ This elevation
revised from original
notice - openings removed
to meet Building Code
standards

DRAWN BY:
LUIS F. MIRAMONTES
503-995-6526
luismiramontes@yahoo.com

SOLIS GARAGE CONVERSION (ACCESSORY DWELLING UNIT)

2407 SE 93rd AVENUE
PORTLAND OR, 97216

AUGUST, 2008

LU08-149432 Exhibit C-2

Approved

City of Portland - Bureau of Development Services

Planner Kathleen A. Stokes Date September 15, 2008

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