



City of Portland, Oregon
Bureau of Development Services
Land Use Services
 FROM CONCEPT TO CONSTRUCTION

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Date: May 17, 2013
To: Interested Person
From: Mark Bello, Land Use Services
 503-823-7810 / Mark.Bello@portlandoregon.gov

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

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

CASE FILE NUMBER: LU 13-119233 AD

GENERAL INFORMATION

Applicant/Owner:	Owner:
Kevin L Kraus 1810 SE Pine Street Portland, OR 97214	Steve Dotterrer 1810 SE Pine Street Portland, OR 97214

Site Address: 2018 SE OAK ST

Legal Description: TL 16600 0.10 ACRES, SECTION 35 1N 1E
Tax Account No.: R941350440
State ID No.: 1N1E35DD 16600
Quarter Section: 3032
Neighborhood: Buckman, contact Susan Lindsay at 503-725-8257.
Business District: East Burnside Business Association, Matt Bender at 503-803-4224.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Zoning: R2.5 Residential 2,500
Case Type: AD Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:
 The applicant wishes to build an Accessory Dwelling Unit (ADU) inside the existing basement. The existing vehicle area between the house and street will be redesigned as an outdoor area for the new tenant.

- Two Adjustments are requested:
- Waive the zoning code development standard that requires off-street parking (33.266.110)
 - Allow the ADU entrance to be a second entrance that faces SE Oak Street (33.205.030 C)

Relevant Approval Criteria:
 In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are cited in Section 33.805.040 of the Zoning Code.

ANALYSIS

Site and Vicinity: The site is an interior lot, with approximately 44 feet of frontage along the south side of SE Oak between SE 20th and SE 21st Avenues. The lot is approximately 96 feet deep and is developed with a 744 sq. ft. house according to city records. There is a basement at grade with access to an interior garage space at sidewalk grade. The garage would be redeveloped into an Accessory Dwelling Unit (ADU).

The lot slopes from south to north and a second entrance to the ADU would be located at this sidewalk/basement grade. There is parking and a curb cut at this location and this would be removed as well.

The main entrance to the house is accessed by a flight of stairs that leads from the sidewalk near the west property line. The existing garage has a standard garage door entrance.

Adjacent to this property, to the east, is a similar, but narrower lot - approximately 33 ft. in width. This lot also has a house with garage at basement level, built into the hillside. Elsewhere on the block the remaining two lots are corner lots that face to the west and east. The north frontage along this block segment is developed with a garden court apartment project consisting of three "bars" of structure with additional landscaping. So, only two houses on this block front SE Oak Street.

The block face is part of the R2.5 zoned area between SE Stark and SE Pine. The R2.5 zone extends generally 700 – 800 feet along Oak. Most properties are residential structures in the Buckman neighborhood -- house, duplexes or apartments. Lone Fir Cemetery and Central Catholic High School are also close. The proposed Buckman Historic District lies west of SE 20th Avenue.

The closest bus is available on SE Morrison, approximately 1,000 feet to the south or East Burnside, also approximately 1,000 feet to the north.

Zoning: The R2.5 zone is a high density single-dwelling zone. The R2.5 zone allows attached and detached single-dwelling structures and duplexes.

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.

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 15, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering and Development Review
- Water Bureau
- Fire Bureau
- Site Development Review Section of BDS
- Life Safety, BDS

The Bureau of Transportation Engineering and Development Review has no objection to eliminating the required on-site parking space as long as the driveway opening is closed. This will result in no net change in the parking supply.

Urban Forestry has no objection provided that all existing street trees are preserved.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 15, 2013. 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.

Adjustment requests will be approved if the review body finds that the applicant has shown that specific approval criteria are met. These relate to the purpose of the regulation, livability, and cumulative effect, preservation of scenic, historic and environmental effects. Also, negative impacts must be mitigated.

Findings regarding the Adjustment Request regarding the request to eliminate the one on-site parking space parking: (33.266.110)

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

A. Purpose. 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. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.

Finding: The property is currently a single dwelling house and the applicant intends to add an Accessory Dwelling Unit (ADU). The zoning code requires one on-site parking space for the house and none for the ADU. The applicant will be eliminating on-site parking but also closing the driveway and a new on-street parking space will be created. Transportation has no objection as the net parking supply will remain the same.

Transit is available on East Burnside to the north and SE Morrison to the south. SE Oak is a local service bikeway; city bikeways are located at SE 16th Avenue and East Burnside. Given the small block size and fully improved streets with sidewalks and flat topography, alternative modes of travel such as by foot, bike, or bus are likely to contribute to the non-automobile travel mode split. *Therefore, 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,
- E. Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings for Criteria B and E: The block face between SE 20th and 21st Avenues is residential with only this site and the adjacent site providing parking between the house and street. The effect of granting this adjustment means that there will be no car in the paved space between the house at 2018 SE Oak and the sidewalk. The space will be used as a

forecourt for the ADU. The curb cut will be removed as well. The absence of the car will not detract from livability or the pedestrian experience. Street trees should remain. Also, since there will be no net effect on parking supply there will be no additional traffic or parking congestion. Transportation has no objection to this proposal as long as the driveway is closed. Neither neighbors nor the Buckman Neighborhood Association has written to object. *Therefore, with conditions of approval that the driveway be closed and existing street trees be retained, these criteria are 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

Finding: The effect of granting both an adjustment to remove the on-site parking space and installation of a main entrance behind a privacy screen will still allow a pleasant residential environment in the R2.5 zone. The dominant house entrance will remain the same; the ADU will provide an appropriate housing opportunity with the screen reducing its presence to an accessory status. With conditions of approval, the driveway will be removed, the curb re-installed and street trees preserved. *Therefore, this criterion is met.*

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

Finding: The site is not within a City-designated scenic resource area or a historic resource area. *Therefore, this criterion does not apply.*

- F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Finding: The site is not within an environmental zone. *Therefore, this criterion does not apply.*

Findings regarding the Adjustment Request to allow a second entrance that faces SE Oak Street (33.205.030 C)

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

33.205.030 Design Standards

- A. **Purpose.** Standards for creating accessory dwelling units address the following purposes:

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

Finding: As stated in Portland's Comprehensive Plan, the R2.5 zone allows a mixture of housing types of a single-dwelling character. On this block, there is only one other house facing SE Oak, the house adjacent to this site to the east. The two other houses on the south side of SE Oak orient west and east and not north to SE Oak. Across the street, a garden court apartment is oriented to north-south courtyards. So, this block face is a mix of different types of housing with different orientations.

The applicant's site slopes steeply down to SE Oak and the house foundation's structural characteristics prevent an entrance to the ADU from the east or west side. Approval of this second adjustment will eliminate the garage door. Further, the door will be located behind a privacy screen so, visually, the main entrance will remain at the top of the steps above the dug-in ADU grade. Like the garage, the ADU will remain visually subordinate to the main living area above. *Therefore, 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; and

Finding: As described above, the block and area is a mix of different development types which still provides a pleasant physical environment, primarily due to the small scale of development, front setbacks, and lack of preponderance of parking. A change from the garage door to a second entrance behind a privacy screen does not have a discernable negative effect on livability or appearance. *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

Finding: The effect of granting both an adjustment to remove the on-site parking space and installation of a main entrance behind a privacy screen will still allow a pleasant residential environment in the R2.5 zone. The dominant house entrance will remain the same; the ADU will provide an appropriate housing opportunity with the screen reducing its presence to an accessory status. With conditions of approval, the driveway will be removed, the curb re-installed and street trees preserved. *Therefore, this criterion is met.*

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

Finding: The site is not within a City-designated scenic resource area or a historic resource area. *Therefore, this criterion does not apply.*

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

Finding: The effect of granting both an adjustment to remove the on-site parking space and installation of a main entrance behind a privacy screen will still allow a pleasant residential environment in the R2.5 zone. The dominant house entrance will remain the same; the ADU will provide an appropriate housing opportunity with the screen reducing its presence to an accessory status. With conditions of approval, the driveway will be removed, the curb re-installed and street trees preserved. *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;

Finding: The site is not within an environmental zone. *Therefore, this criterion does not apply.*

CONCLUSIONS

The applicants' proposal meets all of the relevant approval criteria. As proposed, the Accessory Dwelling Unit will provide additional housing will little or no effect on residential livability, including no change in parking supply.

ADMINISTRATIVE DECISION

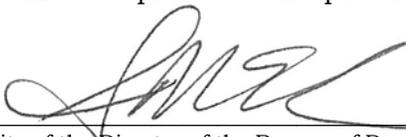
Approval of two Adjustments:

- Waive the zoning code development standard that requires off-street parking (33.266.110)
- Allow the ADU entrance to be a second entrance that faces SE Oak Street (33.205.030 C)

per the approved site plans, Exhibits C-1 through C-2, signed and dated May 15, 2013, 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 13-119233 AD".
- B. The driveway must be closed per permitting requirements of Title 17.
- C. All existing street trees must be protected and preserved.

Staff Planner: Mark Bello

Decision rendered by:  **on May 15, 2013**

By authority of the Director of the Bureau of Development Services

Decision mailed May 17, 2013

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 22, 2013, and was determined to be complete on April 9, 2013.

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 22, 2013.

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 13, 2013.**

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 31, 2013** at 1900 SW

Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 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 **June 3, 2103.**
- 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:

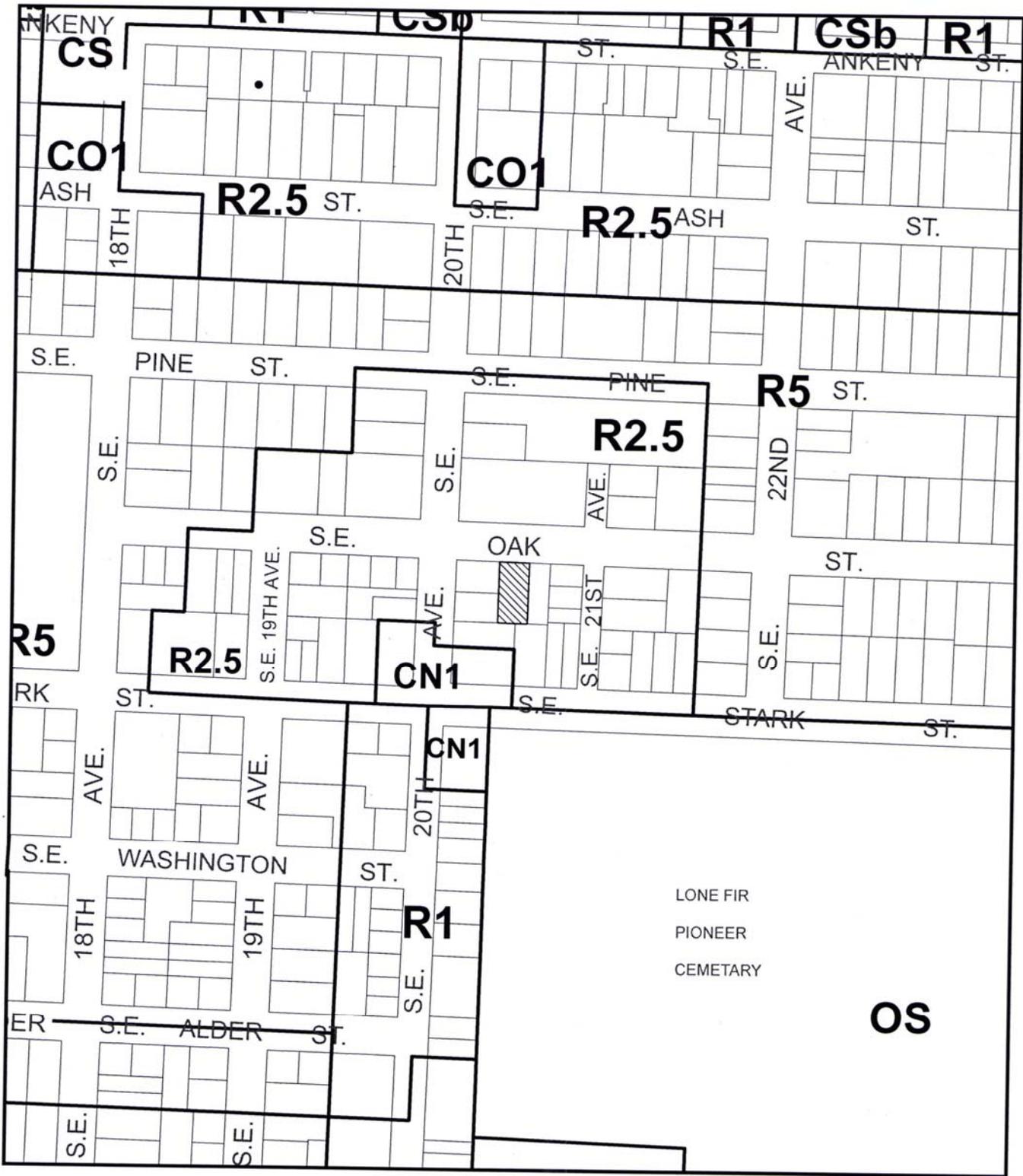
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations 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 North Elevation (attached)
 - 3. Existing North Elevation
 - 4.
- 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. Bureau of Parks, Forestry Division
 - 7. Life Safety, BDS
- F. Correspondence: (none)
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter to Applicant (March 7, 2013)

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



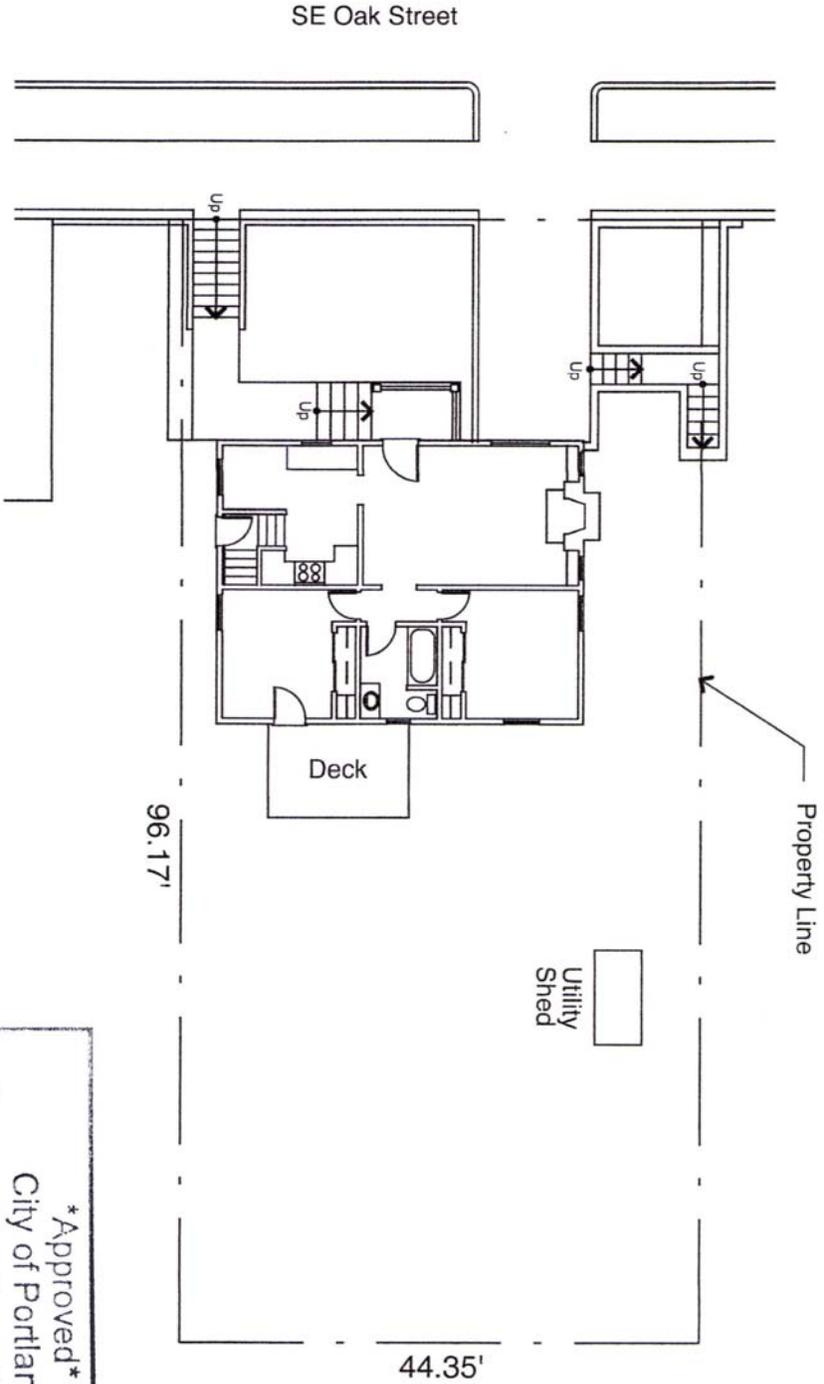
NORTH

File No. LU 13-119233 AD
 1/4 Section 3032
 Scale 1 inch = 200 feet
 State_Id 1N1E35DD 16600
 Exhibit B (Feb 27, 2013)



bbrewerdesign
 L. Britain A. Brewer
 1310 NE 24th Avenue
 Portland, Oregon 97232
 T 503 309 1675
 E bbrewer@me.com
 www.bbrewerdesign.com

Site Plan - Showing 1st Floor - Existing Conditions
 Basement ADU
Kevin Kraus, Owner
 2018 SE Oak Street
 Portland, Oregon 97214



CASE NO. 13-119233
 EXHIBIT 61

Approved
 Bureau of Development Services
 City of Portland
 Permit # _____
 Planner MB
 Date 5/15/13
 *Approved
 Maintenance F

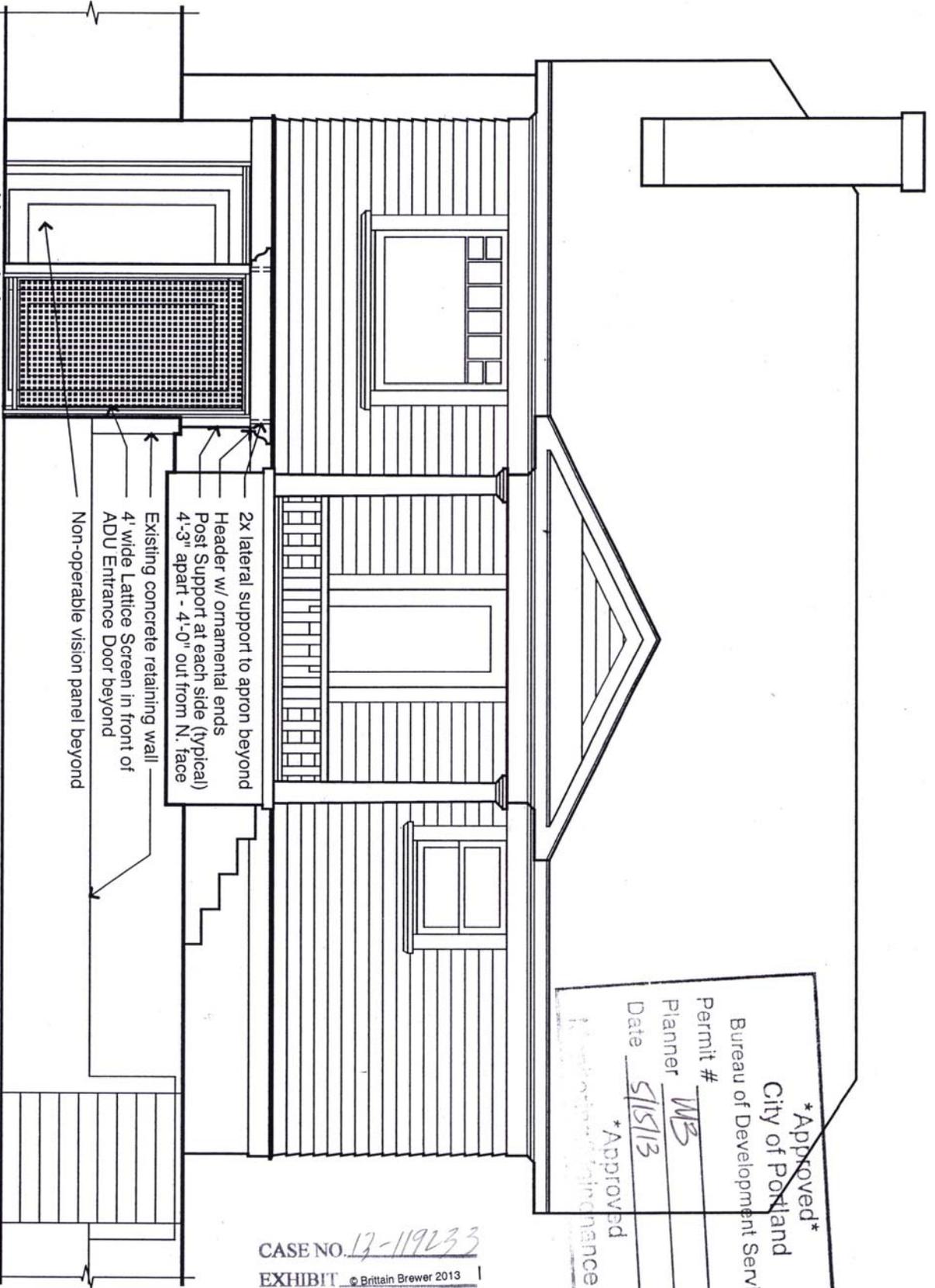


C2



bbrewerdesign
1310 NE 24th Avenue
Portland, Oregon 97232
T 503 309 1675
E bbrewer@me.com
www.bbrewerdesign.com

Elevation - North - Proposed Screen at ADU Entrance
Basement ADU
Kevin Kraus, Owner
2018 SE Oak Street
Portland, Oregon 97214



CASE NO. 13-119233
EXHIBIT © Brittain Brewer 2013

C2

*** Approved ***
City of Portland
Bureau of Development Services
Permit # WB
Planner _____
Date 5/15/13
*** Approved**
Performance Plan

March 11, 2013

A-08A