



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
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Date: June 3, 2014
To: Interested Person
From: Matt Wickstrom, Land Use Services
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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 14-134967 AD

GENERAL INFORMATION

Applicant: Larry R Cowlshaw
14604 SE Mill St
Portland, OR 97233-2667

Site Address: 8742 N DELAWARE AVE

Legal Description: BLOCK 3 LOT 9 EXC PT IN ST, NATIONAL ADD
Tax Account No.: R598300980, R598300980, R598300980
State ID No.: 1N1E09AC 01700, 1N1E09AC 01700, 1N1E09AC 01700
Quarter Section: 2128

Neighborhood: Kenton, contact Steve Rupert at 503-317-6573
Business District: Kenton Business Association, contact Jessie Burke at 971-404-9673
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099

Plan District: Kenton
Zoning: R2ad (Residential 2,000 with an Alternative Design Density Overlay zone and a Design Overlay zone)

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

Proposal:

The applicant proposes to construct a single-dwelling residence with an accessory dwelling unit on this 25-foot wide, steeply sloping site. Side building setbacks in the R2 zone are based on area of the building wall. The north building wall of the proposed home measures 1,886 square feet in area and the south building wall measures 1,893 square feet in area. Building walls of this size require 8-foot setbacks. Through this Adjustment Review, the applicant has proposed 5-foot side setbacks. As mitigation for the proposed side setback Adjustments, the applicant proposes broad horizontal bands between each floor to break up the massing of the façade.

The applicant also proposes to plant evergreen trees and/or shrubs to help screen a lower portion of the rear of the house.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- 33.805.040 Adjustments Approval Criteria

ANALYSIS

Site and Vicinity: The 2,500 square foot lot is currently undeveloped. It is located in between two undeveloped lots owned by the City of Portland Bureau of Environmental Services. The site has a steep drop off from N Delaware Avenue. Surrounding development includes attached houses and single-dwelling detached residences. Development across N Argyle Way and to the north is primarily industrial.

Zoning: The site is zoned R2ad (Residential 2,000 with an Alternative Design Density Overlay Zone and a Design Overlay Zone). The R2 zone allows multi-dwelling residential development up to a maximum density of one unit per 2,000 square feet of site area, and requires a minimum density of one unit per 2,500 square feet of site area. The “a” overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. The “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review. Accessory dwelling units may be added to any house, attached house or manufactured home in a residential zone.

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 25, 2014**. 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 building code parameters (Exhibit E-1).

The Water Bureau responded with information on water service (Exhibit E-2).

The Site Development Section of BDS responded with information on site conditions (Exhibit E-3).

The Bureau of Environmental Services responded with information on sanitary service and stormwater management (Exhibit E-4).

The Portland Bureau of Transportation and Parks Bureau responded with no concerns (Exhibit E-5).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 25, 2014. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA**Title 33.805.040 Adjustments**

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

Findings: The applicant proposes one Adjustment to reduce the north and south side setbacks from 8 feet to 5 feet for a new single-dwelling residence with an ADU.

The purpose of the setbacks in multi-dwelling residential zones is found in Section 33.120.220 of the Portland Zoning Code:

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 multi-dwelling development 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*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.*
- *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.*

Side setbacks in the R2 zone are determined by the plane of the building wall – the larger the side building wall, the further it needs to be pulled back from the property line. The side building walls for the proposed home measure 1,886 and 1,893 square feet. Building walls this large require an 8-foot setback in the R2 zone. For a 5-foot setback to be required, the plane of the building wall would need to be 1,000 square feet or less. However, in certain single-dwelling zones, the side setback is 5 feet regardless of the size of the building wall. Considering that the residential portion of this neighborhood is primarily built with single-dwelling houses and attached houses, the 5-foot setback is consistent with that of other areas of the city that are zoned for single-dwelling residences.

The lot to the north of the site as well as the lot to the south are both vacant. Therefore, the reduced setback will not be readily visible, until those lots are developed. Considering the lots are owned by the City of Portland, Bureau of Environmental Services, but are not considered to be providing any significant function, development would only be likely if the lots were declared surplus or the Bureau of Environmental Services found a new function for those lots. Considering that the 5-foot setbacks are provided, sufficient light, air, access for fire fighting and separation for fire protection are maintained. . In addition, a reasonable physical relationship between residences is also maintained and privacy for neighboring properties is also maintained. If development occurs on the adjacent lots, that development can address the reduced setbacks of proposed house and ADU at 8742 N Delaware Avenue.

One purpose of the setback regulations is to provide adequate flexibility to site a building so that it is compatible with the neighborhood and fit the topography of the site. In this situation, it is the topography of the site that influences the large side building walls. The size of the building walls don't appear vastly larger than those of the attached houses two lots to the south. The plane of the side building walls are also broken up by a horizontal band between each floor. This helps to reduce the visual impacts of the large building walls.

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 and appearance of the side walls and reduced setback is generally consistent with the attached houses to the south. Due to the slope of the lots in this location, homes appear to be one to two stories from the street but are actually three to four stories in height. The horizontal bands between each floor help to reduce the overall massing of the large side walls of the home and therefore reduce visual impacts of the larger side walls and reduced setbacks. Based on this information, the proposal will not significantly detract from the livability or 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: Only one Adjustment is being requested therefore this criterion does not apply.

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

Findings: There are no scenic or historic resources at this site therefore this criterion does not apply.

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

Findings: Impacts are mitigated from having a 5-foot side setback consistent with the single-dwelling development and character in the vicinity. Impacts of the large plane of the side building walls are mitigated through the inclusion of horizontal bands between each floor which break up the massing of these facades. Finally, and although not entirely related to the side building setbacks, plans indicate that the applicant intends to plant evergreen trees and shrubs in the rear yard to help screen the tall rear side of the home.

- 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 located in an environmental zone therefore this criterion does 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

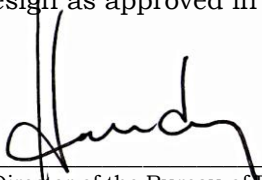
The applicant proposes one Adjustment to the side setbacks for a proposed home with an ADU on this site. The proposal meets the approval criteria above due to the 5-foot setbacks that reflect the surrounding neighborhood, the large size of other side building walls of nearby homes and the horizontal bands delineating each floor of the home which helps reduce the overall massing of the sides of the home. The proposal should be approved.

ADMINISTRATIVE DECISION

Approval of one Adjustment to reduce the required north and south side building setbacks from 8 feet to 5 feet (33.120.220.B.1), per the approved site plans, Exhibits C-1 through C-4, signed and dated May 30, 2014, 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.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-134967 AD."

Staff Planner: Matt Wickstrom

Decision rendered by:  **on May 30, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: June 3, 2014

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 3, 2014, and was determined to be complete on April 23, 2014.

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 3, 2014.

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 21, 2014.**

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 17, 2014** 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 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 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 18, 2014**.
- 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:

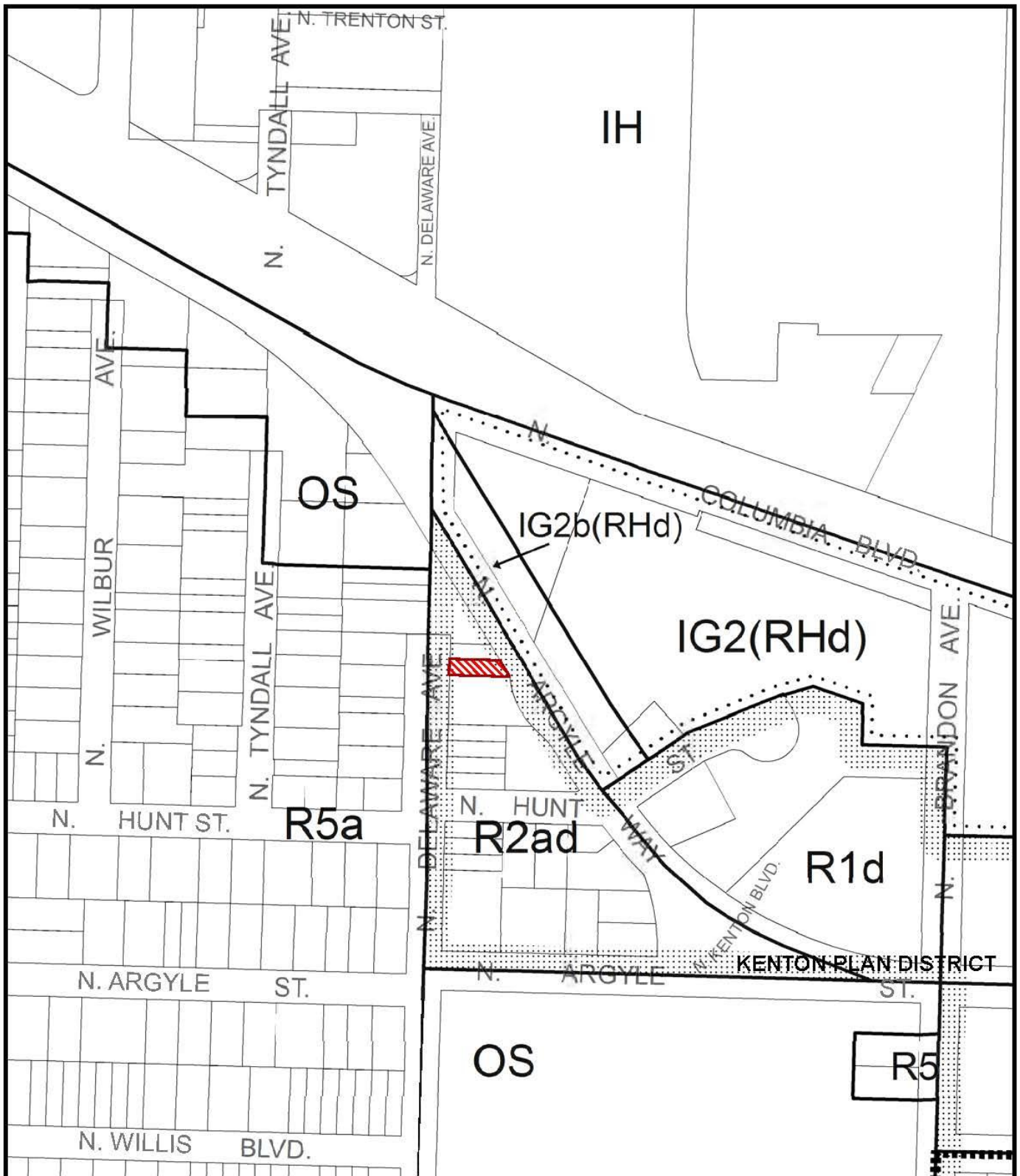
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations 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. Front and Rear Elevation Drawing
 - 3. North Side Elevation
 - 4. South Side Elevation
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section of BDS
 - 2. Site Development Review Section of BDS
 - 3. Water Bureau
 - 4. Bureau of Environmental Services
- F. Correspondence: None received

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



This site lies within the:
KENTON PLAN DISTRICT

File No.	LU 14-134967 AD
1/4 Section	2128
Scale	1 inch = 200 feet
State_Id	1N1E09AC 1700
Exhibit	B (Apr 07, 2014)

PLOT PLAN

Approved
City of Portland - Bureau of Development Services
MLW Date **5/30/14**

Approval applies only to the reviews requested, and is subject to all other provisions of approval. Additional zoning requirements may apply.

DECK:
UPPER FLOOR 305 SQ FT
LOWER FLOOR 802 SQ FT
MAIN FLOOR 802 SQ FT
BOTTOM FLOOR ADD'D 30 SQ FT
TOTAL AREA 2497 SQ FT
DRIVEWAY UPPER 409 SQ FT

25# SNOW LOAD

N. ARGYLE WAY

DELaware AVE

PROPERTY LINE

PROPOSED LOT LINE

SIDEWALK

DRIVEWAY

CURB

EVERGREEN SHRUB TYP

OAK

PAVING

DM

ESTORM WATER

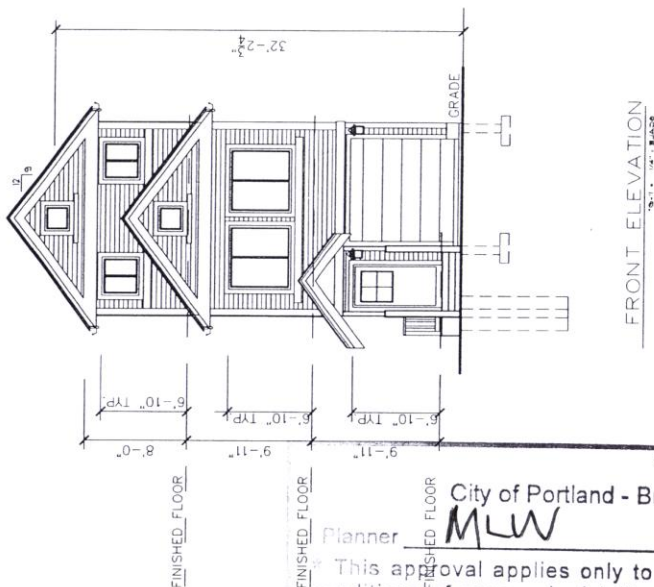
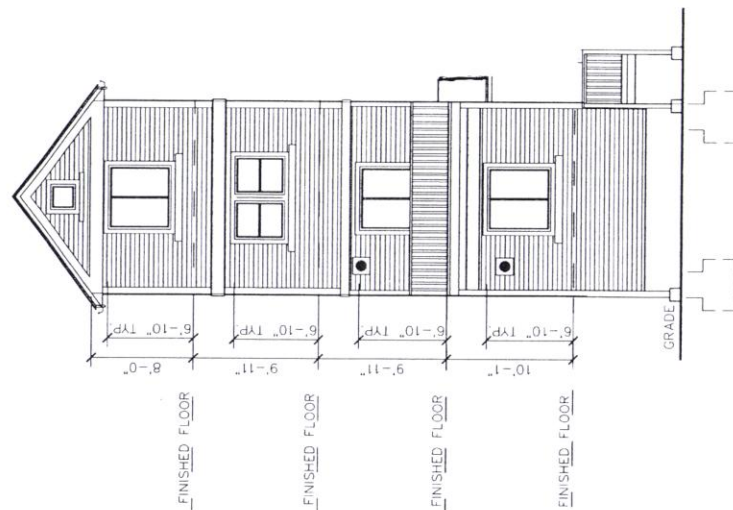
REAR YARD TO BE PLANTED WITH EVERGREEN TREES OR SHRUBS TO SCREEN LOWER PORTION OF HOUSE

DWG. NO. 1 REV. 1	DRAWN BY: LBC DATE: 3/6/2014 SCALE: 1/4"=1'-0" HALF SCALE: 1/8"=1'-0"	PLOT PLAN - ADU DELAWARE : PROPERTY ID R224798 PORTLAND, OR 97217	METHOD CONSTRUCTION INCORPORATED LARRY COWLISHAW PO Box 33822 Portland, OR 97292 Tel.: (503) 688-8298 OR CCB #189698 Email rick_lrc@yahoo.com
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Exhibit C-1 W 14-134967A0

DWG. NO. 4 DRAWN BY: LBC DATE: 3/6/2014 SCALE: 1/4"=1'-0" HALF SCALE: 1/8"=1'-0"	FRONT AND REAR ELEVATIONS DELAWARE : PROPERTY ID R224798 PORTLAND, OR 97217	METHOD CONSTRUCTION INCORPORATED LARRY COWLSHAW PO Box 3382 Portland, OR 97292 Tel.: (503) 688-8298 OR CCB #189698 Email rick_lnc@yahoo.com
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DECK	9.6 SQ. FT.	753 SNOW LOAD
UPPER FLOOR	505 SQ. FT.	
SECOND FLOOR	802 SQ. FT.	
MAIN FLOOR	350 SQ. FT.	
BOTTOM FLOOR	40,600 SQ. FT.	
TOTAL AREA	2457 SQ. FT.	
DRIVEWAY UPPER	409 SQ. FT.	



11-6

Approved

City of Portland - Bureau of Development Services

Planner MLW Date 5/30/14

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

Exhibit C-2

METHOD CONSTRUCTION INCORPORATED
LARRY COWLISHAW PO Box 33822 Portland, OR 97292
Tel: (503) 688-8298 OR CCB #189698 Email: lckinc@yahoo.com

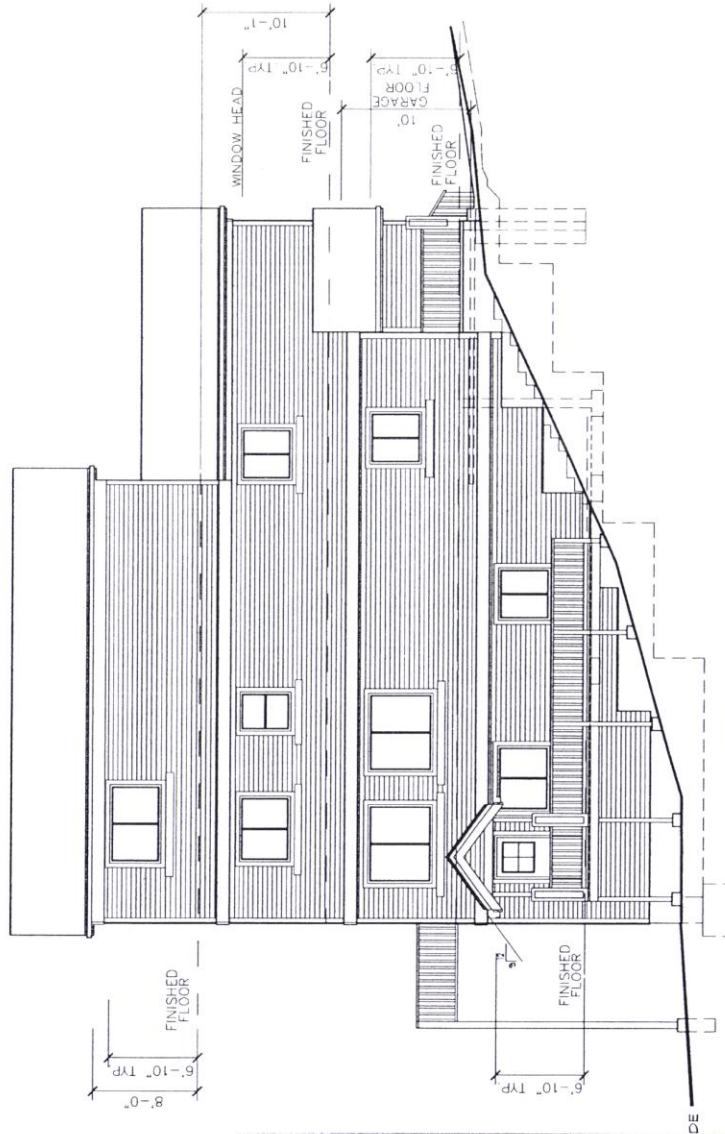
LEFT ELEVATION
DELAWARE : PROPERTY ID R224798
PORTLAND, OR 97217

DRAWN BY: LBC
DATE: 3/6/2014
SCALE: 1/4"=1'-0"
HALF SCALE: 1/8"=1'-0"

DWG. NO. 3
rev. 1

DECK	96 SQ. FT.
UPPER FLOOR	505 SQ. FT.
SECOND FLOOR	802 SQ. FT.
MAIN FLOOR	1000 SQ. FT.
BOTTOM FLOOR	4000 SQ. FT.
TOTAL AREA	2457 SQ. FT.
DRIVEWAY UPPER	409 SQ. FT.

235 SNOW LOAD



LEFT ELEVATION

North elevation

Approved

City of Portland - Bureau of Development Services

Planner

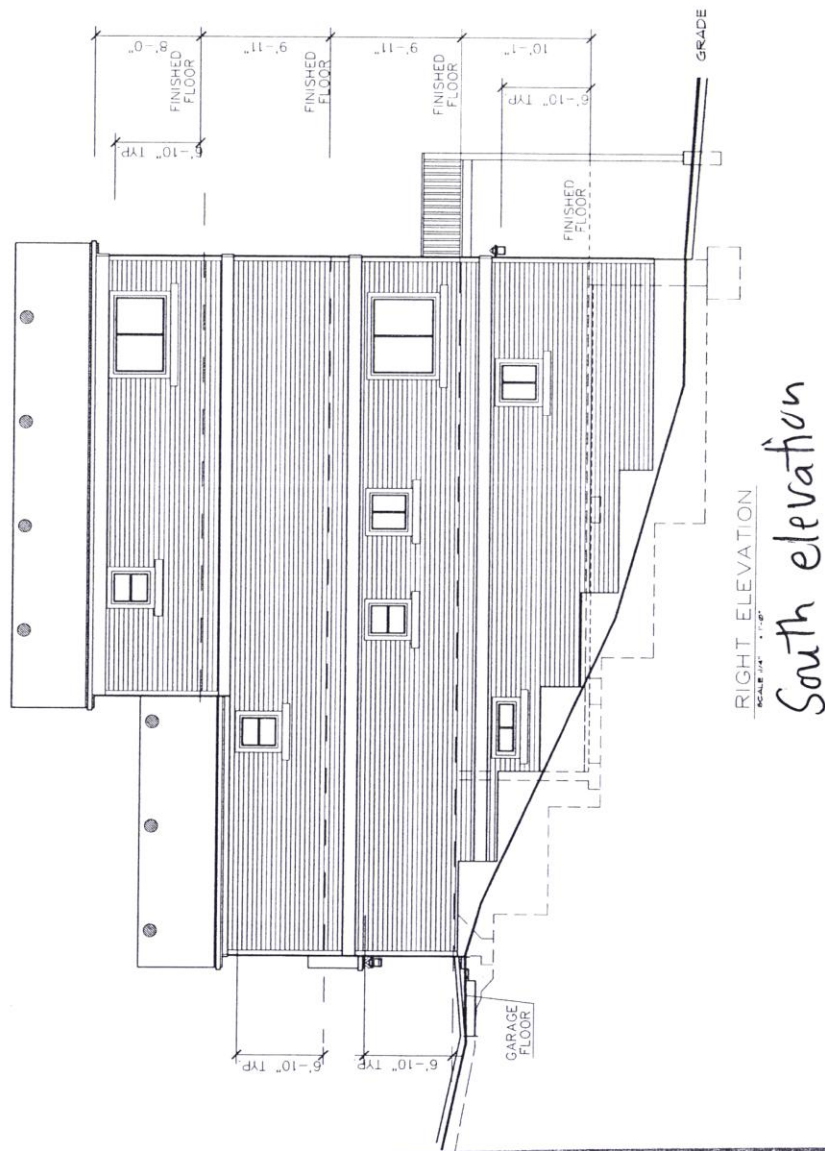
MLW

Date

5/30/14

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

Exhibit C-3



Approved

City of Portland - Bureau of Development Services

Owner MLW Date 5/30/14

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

Exhibit C-4