



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

FROM CONCEPT TO CONSTRUCTION

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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** March 13, 2015  
**To:** Interested Person  
**From:** Matt Wickstrom, Land Use Services  
503-823-6825 / [Matt.Wickstrom@portlandoregon.gov](mailto:Matt.Wickstrom@portlandoregon.gov)

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

The Bureau of Development Services has **approved** a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 15-105611 AD**

#### **GENERAL INFORMATION**

**Applicant:** Bodie L Davies  
1504 NE 56th Ave / Portland, OR 97213

**Site Address:** 1504 NE 56TH AVE

**Legal Description:** BLOCK 26 LOT 10, ELMHURST  
**Tax Account No.:** R248503940  
**State ID No.:** 1N2E30DC 16200  
**Quarter Section:** 2836  
**Neighborhood:** Rose City Park, contact Tamara DeRidder at 503-249-6977  
**Business District:** Hollywood Boosters, contact Angela McKenzie at 503-281-1800  
**District Coalition:** Central Northeast Neighbors, contact Alison Stoll at 503-823-3156  
**Zoning:** R5 (Residential 5,000)  
**Case Type:** AD (Adjustment)  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant proposes to convert the upper floor of this existing house to an accessory dwelling unit (ADU). ADUs are allowed in residential zones developed with a house, attached house or manufactured home. However, the Portland Zoning Code limits the size of the ADU to 800 square feet or 75% of the living area of the primary dwelling unit, whichever is less. The upper floor of this house and a reconfigured entryway on the ground floor measures 1,032 square feet (the primary dwelling unit measures 2,054 square feet). The applicant proposes An Adjustment to increase the allowed size of the ADU from 800 square feet to 1,032 square feet. Minimal exterior alterations are proposed as part of this project such as adding two new windows.

#### **Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown

that approval criteria A through F of Section 33.805.040, Adjustment Approval Criteria, have been met.

## ANALYSIS

**Site and Vicinity:** The approximately 4,000 square foot site is developed with a single dwelling residence. The 2<sup>nd</sup> floor of the house has had one or more additions. The site is located at the corner of NE 56<sup>th</sup> Avenue and NE Halsey Street. The house faces NE 56<sup>th</sup>. The site is across the street from a large park. The surrounding vicinity is developed with single-dwelling homes and a small retail node at NE Halsey Street and NE 60<sup>th</sup> Avenue.

**Zoning:** The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet. Duplexes and attached houses are allowed on corner lots in the R5 zone provided the lot is at least 4,500 square feet in area and that each unit have a main entrance oriented toward a different street frontage.

**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 **February 5, 2015**. The following Bureaus have responded:

- The Site Development Section of the Bureau of Development Services (BDS) responded with information about site characteristics and erosion control (Exhibit E-1).
- The Life Safety Section of BDS responded with information on obtaining a building permit (Exhibit E-2).
- The Urban Forestry Section of Portland Parks & Recreation responded with no objections (Exhibit E-3).
- The Water Bureau responded with information on water service (Exhibit E-4)

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

## ZONING CODE APPROVAL CRITERIA

### 33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

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

**Findings:** The applicant requests one Adjustment to increase the maximum allowed size for a proposed ADU from 800 square feet to 1,032 square feet. The purpose of the ADU design standards is listed below:

*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 ADU is proposed to be located on the existing second floor of the home and therefore will not result in any exterior changes to the site, aside from two new windows intended to add light. Considering the lack of exterior changes and that the ADU will occupy existing area within the home, versus a newly constructed structure or addition, the proposal to increase the allowed size of the ADU by 232 square feet will not impact the character of the surrounding vicinity or the livability of the area. The location of the ADU on the second floor of the existing home will not result in any changes to the scale and placement of structures in the vicinity and will still allow for the sharing of common space on the site. The living area in the main house is 2,054 square feet including a partially finished basement. At 1,032 square feet or 50 percent of the living area of the main house, the ADU is significantly smaller in size than the house. The ADU is not located in a new building so the flexibility to site a building to fit the topography of the site is not an issue. 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:** As mentioned in the findings above, the ADU will be located on the second floor of the existing home and will not result in extensive exterior alterations aside from two new windows. Therefore, the ADU and request to allow a larger ADU than allowed by right, will not detract from the appearance of the residential area. The requested increase in ADU size does not result in a floor plan that would allow more intensive use of the ADU than is typical. Two-bedroom ADUs are common and can easily be constructed at or below the 800 square foot limit. Furthermore, duplexes are allowed by right on corner lots in the R5 zone, provided the site is at least 4,500 square feet. Although the site of the proposed ADU is less than 4,500 square feet, the overall project is consistent with the regulation because it allows for an additional dwelling unit on a site where its appearance and impact will be compatible with the surrounding houses. Based on this information, the ADU will not significantly detract from the livability of the surrounding area as well. 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 has been requested; therefore, this criterion does not apply.

- 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 is not applicable.

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

**Findings:** The proposal is not expected to result in any impacts; therefore, mitigation is not necessary. This criterion is met.

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

**Findings:** The site is not within an environmental zone. This criterion is not applicable.

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

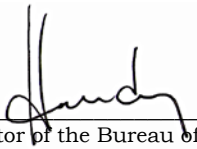
The applicant proposes one Adjustment to increase the allowed size of a second floor ADU from 800 square feet to 1,032 square feet. The proposal meets the applicable approval criteria

## ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum allowed size of an Accessory Dwelling Unit from 800 square feet to 1,032 square feet (33.205.030.C.6), per the approved site plans, Exhibits C-1 through C-3, signed and dated March 10, 2015, 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.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-105611 AD."

**Staff Planner: Matt Wickstrom**

**Decision rendered by:**  **on March 11, 2015**

By authority of the Director of the Bureau of Development Services

**Decision mailed: March 13, 2015**

**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 January 15, 2015, and was determined to be complete on **February 2, 2015**.

*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 January 15, 2015.

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, applicant did not waive or extend the 120-day review period. (Unless further extended by the applicant, **the 120 days will expire on: June 2, 2015**.)

**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 March 27, 2015** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> 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](http://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 **March 30, 2015 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

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

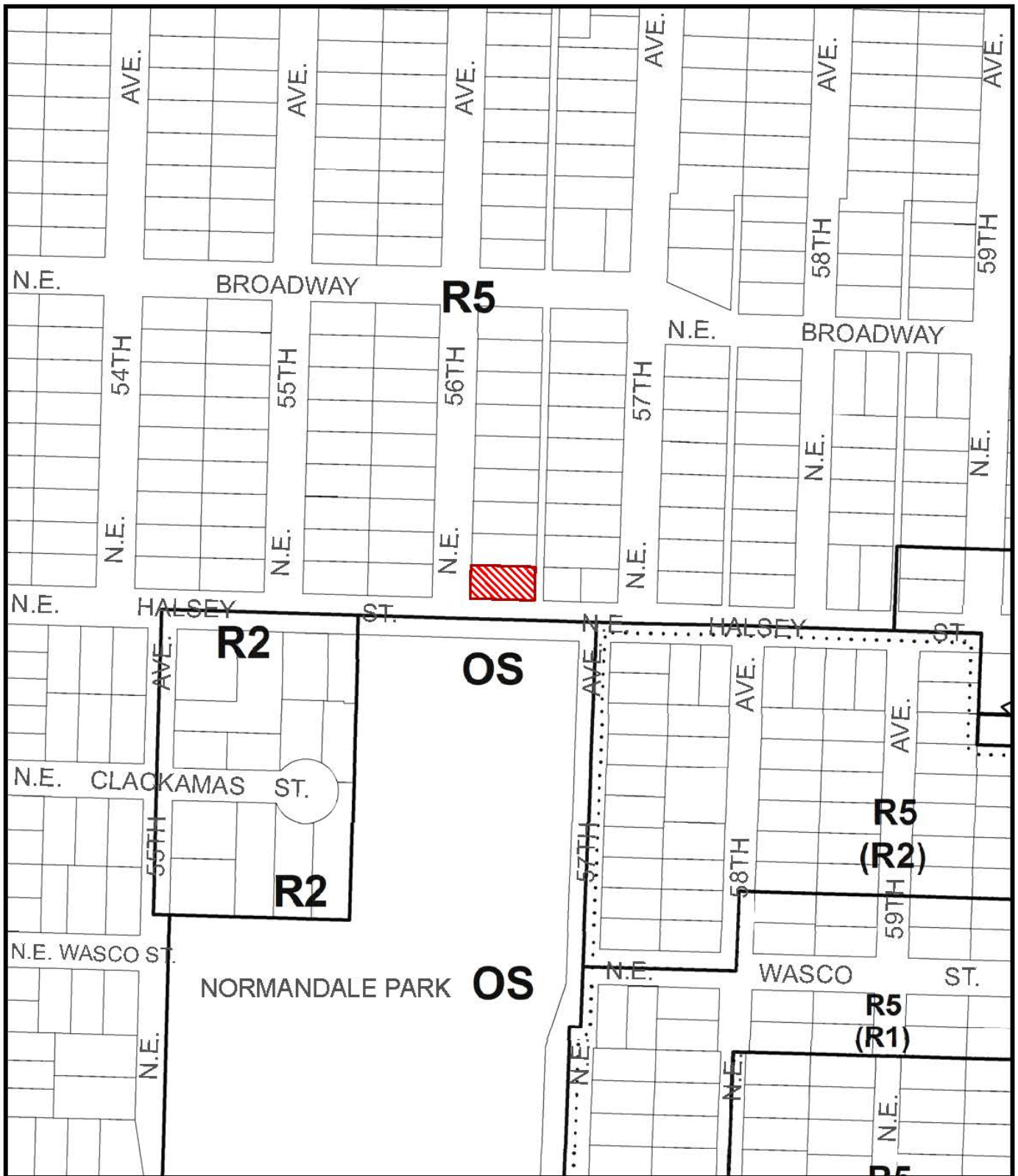
#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevation Drawings (attached)
  - 3. Floor Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Site Development section of BDS
  - 2. Life Safety section of BDS
  - 3. Urban Forestry section of Portland Parks & Recreation
  - 4. Water Bureau

**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 15-105611 AD  
 1/4 Section 2836.2936  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E30DC 16200  
 Exhibit B (Jan 20,2015)

NE 56th Ave

Sidewalk

fence

property line

21

Existing front entry - to be exclusive entrance for proposed Add -

Existing front entry - to be exclusive entrance for proposed Add -

fence

property line

11'6"

side walk

1504 NE 56th Ave

existing foot print (no changes proposed)

existing impervious patio

Existing side entry

permeous pavers

Existing sliding glass door

existing alley access

property line + 10' →

Halsbury

Planner

Midstrom

City of Portland - Bureau of Development Services

Date

3-10-15

Sealed

1" = 10'

\* This approval applies only to the reviewed conditions of approval. Additional zoning code

\* Approved \*

LU 15-105611 AD

Exhibit C-1



Proposed new  
ADU on upper  
floor

1504 NE 56th Ave

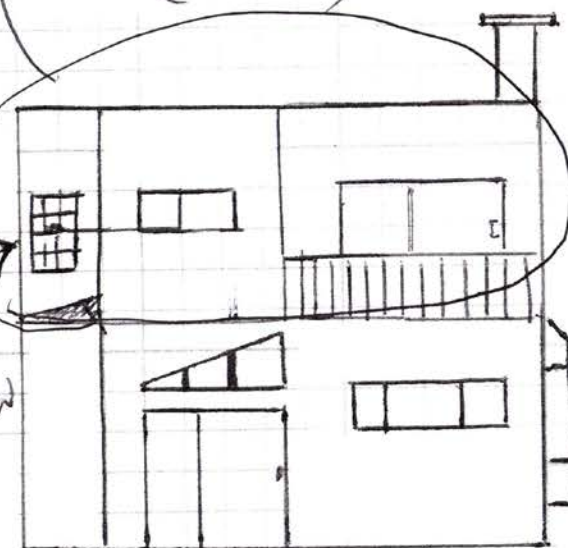
Front Elevation  
(West)



proposed  
new  
window

Rear Elevation  
(East)

proposed  
new window



entrance for  
proposed ADU

\*Approved\*

City of Portland - Bureau of Development Services

Planner Wickstrom Date 3-10-15

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

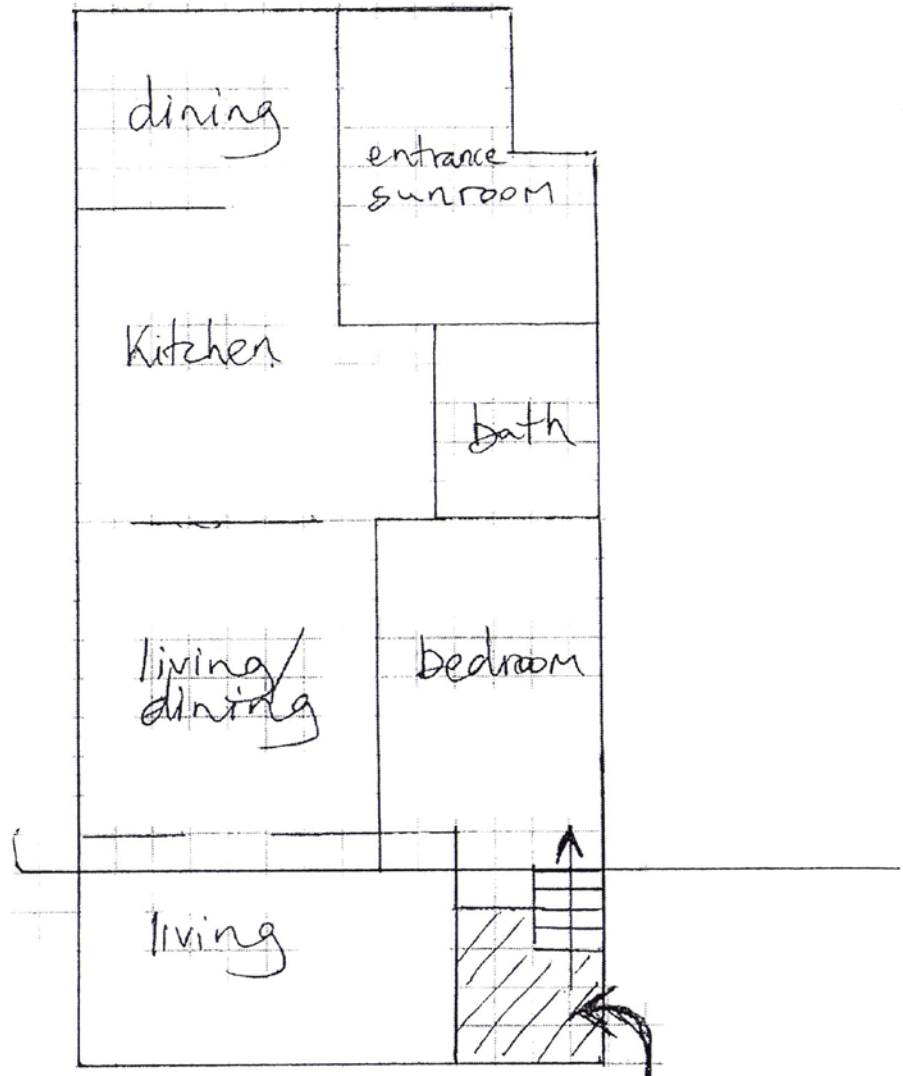
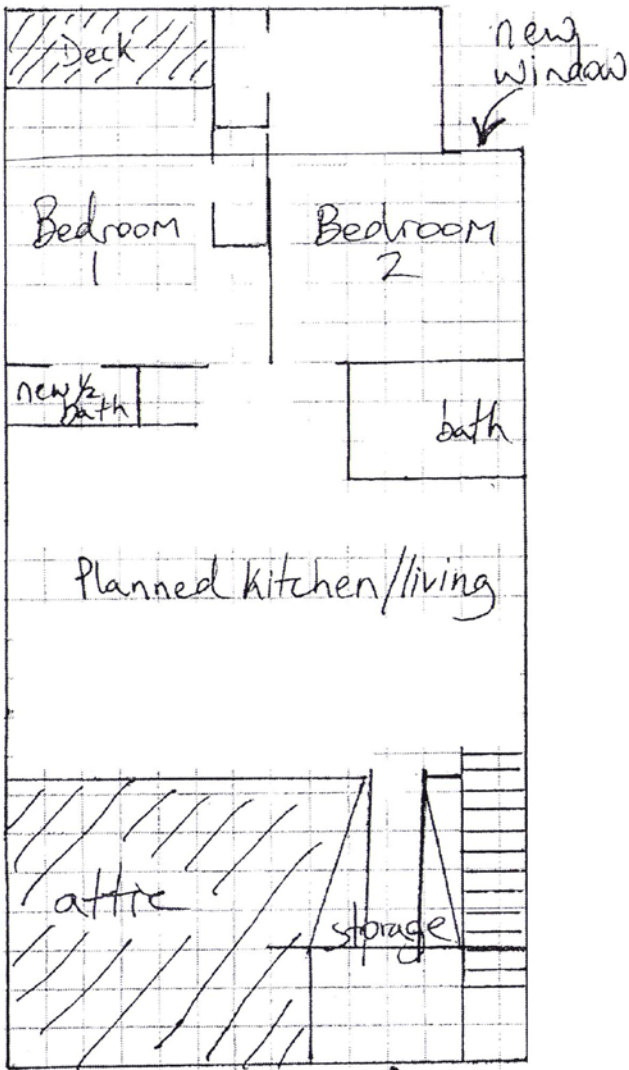
Scale: 1"=10'

Adjustment request to increase allowed size of accessory dwelling unit (ADU) from 800 square feet to 1,032 square feet.

LU 15-105611 AD Exhibit C-2

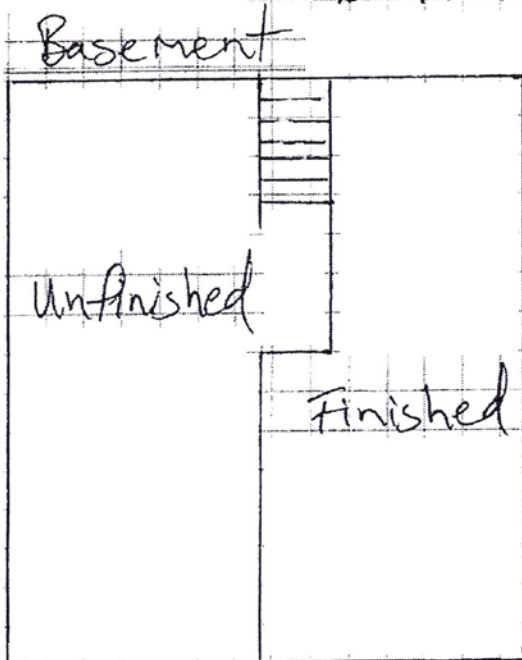
2nd floor

Main floor



new window

entrance for upstairs



Scale: 1" = 10'

*Approved*	
City of Portland - Bureau of Development Services	
Planner <u>Wickstrom</u>	Date <u>3-10-15</u>
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.	

LU 15-105611 AD

Exhibit C-3