



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
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www.portlandoregon.gov/bds

Date: April 10, 2015
To: Interested Person
From: Amanda Rhoads, Land Use Services
503-823-7837 / Amanda.Rhoads@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 15-118805 AD

GENERAL INFORMATION

Applicant: Edward Radulescu / EPR Design, LLC
919 NE 19th Ave., Suite 155 / Portland, OR 97232

Site Address: 8508 SE 70TH AVE

Legal Description: BLOCK 2 N 1/2 OF LOT 14, LUTHER PL
Tax Account No.: R516501110
State ID No.: 1S2E20CD 09700
Quarter Section: 3837
Neighborhood: Brentwood-Darlington, contact David Messenheimer at trimess@hotmail.com

Business District: Eighty-Second Ave of Roses Business Association, contact Frank Harris at 503-774-2832.

District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Plan District: None
Zoning: R5a – High-Density Single Dwelling Residential 5,000 with “a”
Alternative Design Density Overlay

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

Proposal:

The applicant is working to permit a 28-foot by 13-foot, 3.5-inch rear addition to the house that was built earlier, before the current owner took possession. The addition was built 1 foot into the required building setback on the east side of the property with no eaves. Therefore, the applicant requests an Adjustment to 33.110.220.B and Table 110-3 to reduce the side setback in the area of the addition from 5 feet to 4 feet for the building wall. The addition has no eaves.

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 6,800-square-foot corner lot is developed with a one-story, single dwelling constructed in 1979. The site is directly across SE 70th from the 7-acre Harney Park. Surrounding development is residential of a similar modest size and scale, mostly built from the 1960s through the present. One block to the south is the border of Clackamas County.

Zoning: The Residential 5,000 (R5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

The Alternative Design Density “a” overlay is in place to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

Land Use History: City records indicate there are no prior land use reviews for this site.

Public Review: A “Notice of Proposal in Your Neighborhood” was mailed **February 27, 2015**.

Agency Review: The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1)
- Bureau of Transportation (Exhibit E.2);
- Water Bureau (Exhibit E.3);
- Site Development Section of BDS (Exhibit E.5);
- Life Safety (Building Code) Plans Examiner (Exhibit E.6).

Neighborhood Review: One written response has been received from the Brentwood-Darlington Neighborhood Association in support of the proposal. The board voted unanimously in support of the Adjustment at their March 5 meeting. The letter says, “We recognize that this addition will substantially add value and appeal to this house, and support improvements of our existing housing stock (when possible), compared to demolition and rebuilds.”

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

33.110.220 Setbacks

Purpose: 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 houses 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
- 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.

Findings: The subject site is separated from the adjacent property to the south with a chain link fence. While the fence is transparent, there is still a clear delineation between the two properties, minimizing the impact of the 1-foot setback reduction 4 feet back from the fence. The house on the adjacent site to the south is over 10 feet from the north property line, more than compensating for the reduced setback on the subject site with regards to access for firefighting and ensuring airflow and light.

The height of the addition is low, measuring 11 feet on the tall, west end of the addition and only 8 feet on the low, east end. The scale of the addition is appropriate for the house and the neighborhood, where a one-story typology is predominant, especially with the homes from the 1960s and 1970s. There is a window on the south façade of the addition, but being on the first story, the views created are limited. The reduction in setback 1 foot does not create additional or better views into the adjacent property than would be possible at 5 feet from the property line; privacy is not compromised.

Due to a large fir tree and arborvitae shrubs in the southwest corner of the lot, the addition, and the overhang into the setback, is not visible from the street. While the building wall is built into the setback 1 foot, the addition does not have eaves, and the building wall lines up with the ends of the eaves on the main part of the house. The lack of eaves reduces the impact of the reduced setback.

For these reasons, 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 one-story addition is consistent in scale and style with the rest of the house and the numerous one-story homes nearby. Being located behind the house, the visibility of this side of the addition is limited. The 1-foot encroachment into the setback will not result in compromised privacy for any neighbor, and the diminutive height of the addition further minimizes the impact of the setback reduction. 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 requested. This criterion is not applicable.

- 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: There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

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

Findings: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). As the site is not within an environmental zone, this criterion is not applicable.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

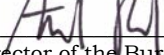
The request is for a 1-foot extension into the side setback for an addition onto the home that was built at least 20 years ago, according to aerial photos. The addition is appropriately scaled and the encroachment into the setback is minimally visible from the street. The approval criteria are found to be met for the request to extend into the setback 1 foot, and so the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.110.220.B and Table 110-3 to reduce the side setback in the area of the addition from 5 feet to 4 feet for the building wall, per the approved site plan and elevation drawings in Exhibit C.1, signed and dated April 8, 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.XX. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-118805 AD."

Staff Planner: Amanda Rhoads

Decision rendered by:  **on April 8, 2015**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 10, 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 February 12, 2015, and was determined to be complete on **February 25, 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 February 12, 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, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: June 25, 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 April 24, 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 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 **April 27, 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.

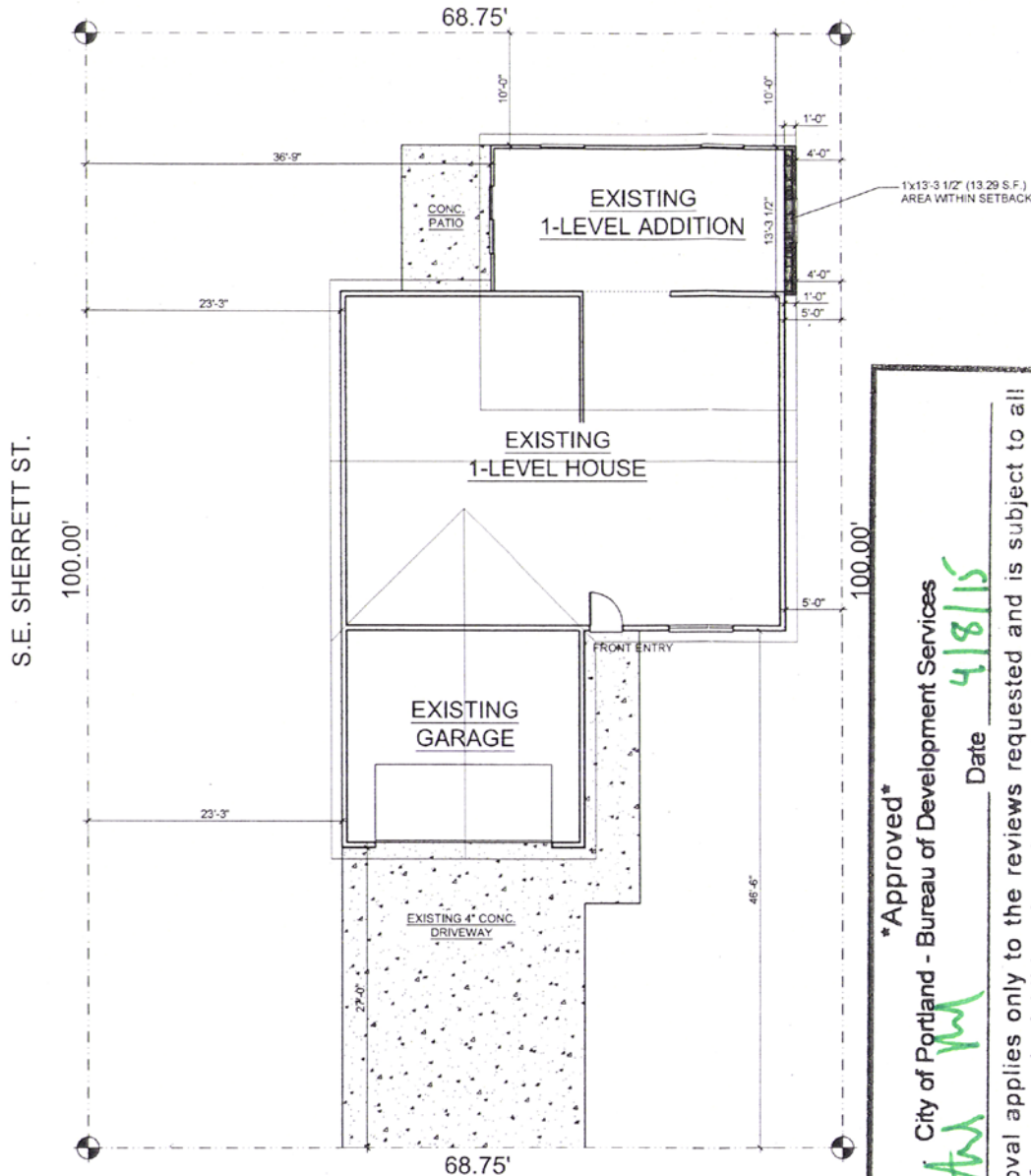
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan and Elevations (attached)
 - 2. Full-Sized, Scaled Site Plan and Elevations
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation
 - 3. Water Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety (Building Code) Plans Examiner
- F. Correspondence:
 - 1. Dave Messenheimer, Land Use/Transportation Chair of the Brentwood-Darlington Neighborhood Association, March 9, 2015, in support
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter, February 20, 2015

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).



S.E. 70TH AVE.

S SITE PLAN
A1 SCALE: 1/8"=1'-0"

Approved
City of Portland - Bureau of Development Services
Planner AW Date 4/8/15
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

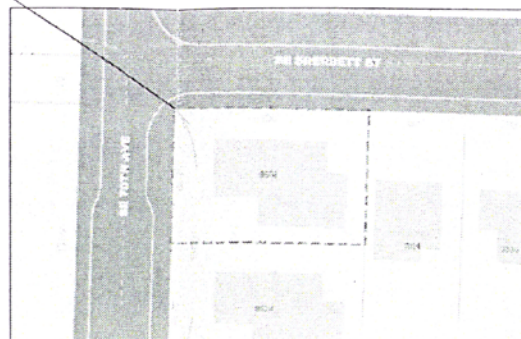
KHOI LE RESIDENCE
LEGALIZE EXISTING ADDITION
8508 SE 70th Ave.
Portland, Oregon 97206

These plans and the designs herein are copyrighted under Federal Law by EPR DESIGN LLC.

VICINITY MAPS N.T.S.



SITE



COVER SHEET /
SITE PLAN /
BUILDING
ELEVATIONS /
VICINITY MAP

DATE: 1/29/2015

DRAWN BY:

REVIEWED BY:

SHEET:

A1

CASE NO. Lu15-118805 AD

EXHIBIT C.1

DRAWING INDEX:

SHEET #: DESCRIPTION
A1 COVER SHEET / PROJECT DIRECTORY /
SITE PLAN / BUILDING ELEVATIONS /
GENERAL NOTES
A2 FLOOR PLAN

PROJECT DIRECTORY:

PROPERTY OWNER:
KHOI LE
1848 NE 140TH AVE.
PORTLAND, OR. 97230

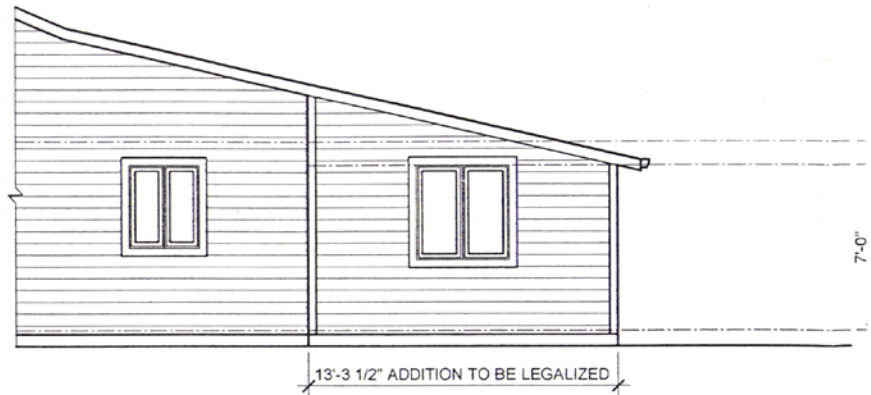
APPLICANT / DESIGNER:
EPR DESIGN, LLC.
EDWARD RADULESCU
919 NE 19TH AVE, SUITE 155
PORTLAND, OR. 97232
503.265.8461
EDDIE@EPRDESIGN.COM

PROJECT ADDRESS:

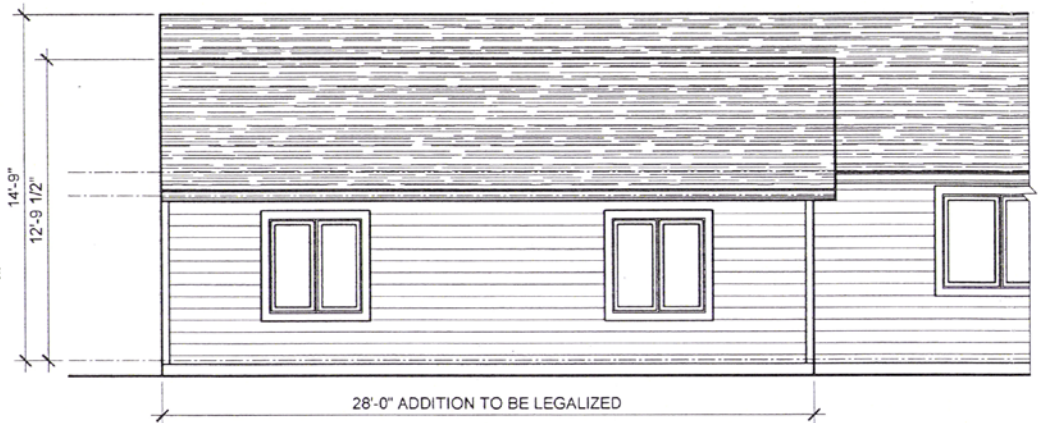
8508 SE 70TH AVE.
PORTLAND, OR. 97206
PROPERTY ID: R209928

SITE PLAN NOTES:

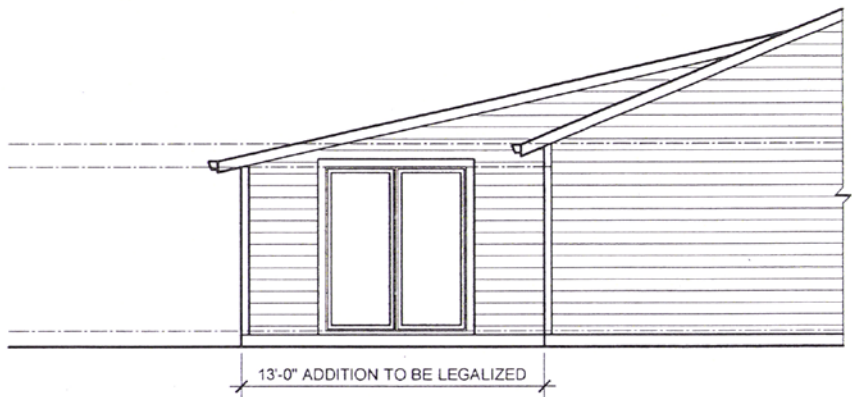
SITE ZONING: R5
OVERLAY: "A"
TOTAL SITE AREA: 6,800 S.F.
ALLOWABLE BUILDING COVERAGE: 2,520 S.F.
EXISTING BUILDING COVERAGE: 2,028 S.F.
(HOUSE, GARAGE, EXISTING ADDITION)
REQUIRED SITE SETBACKS:
10' - FRONT
18' - GARAGE
5' - LEFT SIDE
5' - RIGHT SIDE
10' - REAR
30'
ALLOWABLE HEIGHT LIMIT:
EXISTING SETBACK:
46'-6" - FRONT
27' - GARAGE
23'-3" - LEFT SIDE
4' - RIGHT SIDE
10' - REAR
REQUEST FOR A MODIFICATION TO REDUCE THE RIGHT SIDE
SETBACK FROM 5' TO 4' FOR A PORTION OF APPROX. 13'-6"
WHERE THE EXISTING ADDITION TO BE LEGALIZED IS
CONSTRUCTED. SEE SHADED AREA ON SITE PLAN.



A RIGHT SIDE ELEVATION
A1 SCALE: 1/4" = 1'-0"



D REAR ELEVATION
A1 SCALE: 1/4" = 1'-0"



C LEFT SIDE ELEVATION
A1 SCALE: 1/4" = 1'-0"

Approved
City of Portland - Bureau of Development Services

Planner AM Date April 8, 2015

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

CASE NO. Lu 15-118805 AD

EXHIBIT C.1