



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: February 19, 2015
To: Interested Person
From: Sheila Frugoli, Land Use Services
503-823-7817 / Sheila.Frugoli@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 15-102916 AD

GENERAL INFORMATION

Applicant/Owner: James B O'Banion / 4789 N Amherst St
Portland OR 97203-4537 / 503-459-3494

Site Address: 4789 N AMHERST ST

Legal Description: BLOCK 77 W 1/2 OF LOT 21 LOT 22, UNIVERSITY PK
Tax Account No.: R851310890
State ID No.: 1N1E17BB 11200
Quarter Section: 2325
Neighborhood: University Park, contact Tom Karwaki at
chair@universityparkneighbors.org
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at
503-823-4099.
Plan District: None
Zoning: R5, Single-Dwelling Residential 5,000 zone
Case Type: AD, Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: In order to construct a detached accessory structure with a two-car garage and 797 square-foot Accessory Dwelling Unit (ADU) above, the applicant is requesting an Adjustment to exceed the maximum height limit for a proposed detached Accessory Dwelling Unit (ADU) from 18 to 22 feet (33.205.030.D.2). The proposed two-story structure will be located behind the house and will be located 6 feet from the side (west) property line and 15 feet from the rear property line. The existing detached garage will be demolished.

Per Zoning Code section 33.930.050, the height of the structure is measured from ground level to the mid-point of the pitched roof. Apart from the height limit for the ADU, the proposed structure is designed to comply with the other applicable ADU development standards such as setbacks and the 800 square-foot maximum size limit. The ADU will match key elements of the house—roof pitch, horizontal siding and window style.

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. A-F, Adjustments.

ANALYSIS

Site and Vicinity: The site is a 5,500 square foot residential lot with a one-story residence. A small detached garage is located near the rear of the property, with vehicle access from an alley. The alley is a functioning right-of-way, with clear passage for vehicles. On this block, there are numerous detached garages that vary in size and have access from the alley. Homes on the block vary in size. Newer homes are two or more stories in height while the older homes that are located near the middle of the block are generally one story in height. There is an approximate 3,600 square foot vacant lot immediately west of the subject site. The vacant lot abuts another approximate 3,600 square foot lot that has a newer 2.5-story home with a one-car garage that fronts N Amherst.

Zoning: The site and surrounding properties are located in an R5, Single-Dwelling Residential 5,000 zone. The regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The development standards work together to preserve the character of neighborhoods, and promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

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 **January 22, 2015**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

The Bureau of Environmental Services, Water Bureau and BDS Life Safety Plan Review submitted responses that address Building Permit related requirements. No concerns were raised about the requested height Adjustment. (Exhibits E?-E.)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on January 22, 2015. One written response has been received from a notified property owner in response to the proposal. The neighbor raised concerns about the construction impacts to the alley. The neighbor does not oppose the proposal as long as the alley is kept clean and graveled. He notes that he has spent money to keep the alley clean, graveled and accessible and wants it kept that way. (Exhibit F.1)

Staff Comments: *These concerns were shared with the applicant. The alley is a City-owned public right-of-way. Damage to and/or obstruction of the thoroughway is regulated by Title 17, Public Improvements.*

ZONING CODE APPROVAL CRITERIA

Adjustment requests will be approved if the review body finds that the applicant has shown that either 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: Section 33.205.030 identifies the purposes of the ADU design standards, as follows:

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

The applicant has requested an Adjustment to exceed the maximum allowed height of a detached ADU from 18 to 22 feet. The ADU design standards are based on the expectation that ADU structures blend into a residential area when the dominant architectural elements of the primary structure are repeated on the ADU structure. The height and other regulations such as the floor area limit are intended to make the ADU smaller so that the structure appears related, but subordinate to the house.

In regards to this specific proposal, the two-story detached structure is designed to match the existing home. The roof pitch, window, and exterior siding appear to mirror major architectural elements of the house. Although taller, it only exceeds the ADU height allowance by 4 feet. It is considerably lower than 30 feet which is the maximum height allowed for standard 5,000 square foot lots. Because the western abutting lots were originally platted as 3,600 square foot lots (110 feet deep and 33.33 feet wide), homes are allowed to be 34.5 feet tall (1.5 feet x the width). The new home has a height of 31.5 feet. The height allowance also applies to the adjacent vacant lot. Given the narrow width of the lot, a home of comparable scale is expected to be constructed on that lot. Therefore, the 22 foot tall detached garage/ADU structure is compatible with the immediate development. The garage/ADU structure will be located 6 feet from the west property line and 15 feet from the alley. The ADU will be within the allowed maximum size of 800 square feet and be less than 50 percent of the floor area of the primary home (1,600 square feet). For the reasons stated above, the requested height Adjustment equally meets the purpose of the regulation. 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: A nearby neighbor raised concerns regarding construction impacts to the well-maintained alley. As noted above, City Code Title 17 regulates the public right-of-way. Because the proposed detached structure will be set back 15 feet from the rear property line, staff does not expect any impacts to the function of the alley. The garage will be oriented to the alley and therefore, a functioning roadway will be essential for the subject site.

The proposed 2-story detached structure will be located 6 feet from the west property line. The applicant has designed the upper story of west-facing façade with only two small windows. The lower level will be screened from the adjacent lot by a 6-foot tall fence. As stated above, there are taller homes to the west and the adjacent narrow vacant lot will most likely be at least 22 feet tall. Lastly, the proposed structure has been designed to match the architectural features of the existing home.

For all these reasons, 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: The applicant is requesting only one Adjustment. 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 zone. Historic resources are designated by a large dot. 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: As found under criterion A and B, the requested Adjustment will not create impacts and therefore does not require mitigation to lessen its impact. 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 there are no such designations on this site, 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

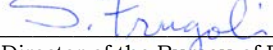
As reflected in the findings, the proposed 22-foot tall detached structure, with an upper-story Accessory Dwelling Unit, meets the Adjustment approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to exceed the maximum height limit for a proposed upper-story 797 square foot detached Accessory Dwelling Unit (ADU), with ground-level garage, from 18 to 22 feet (33.205.030.D.2), per the approved plans, Exhibits C.1 through C.3, signed and dated February 17, 2015, subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-102916 AD."

Staff Planner: Sheila Frugoli

Decision rendered by:  **on February 17, 2015**
By authority of the Director of the Bureau of Development Services

Decision mailed: February 19, 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 9, 2015, and was determined to be complete on **January 20, 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 9, 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.

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 5, 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 **March 6, 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.

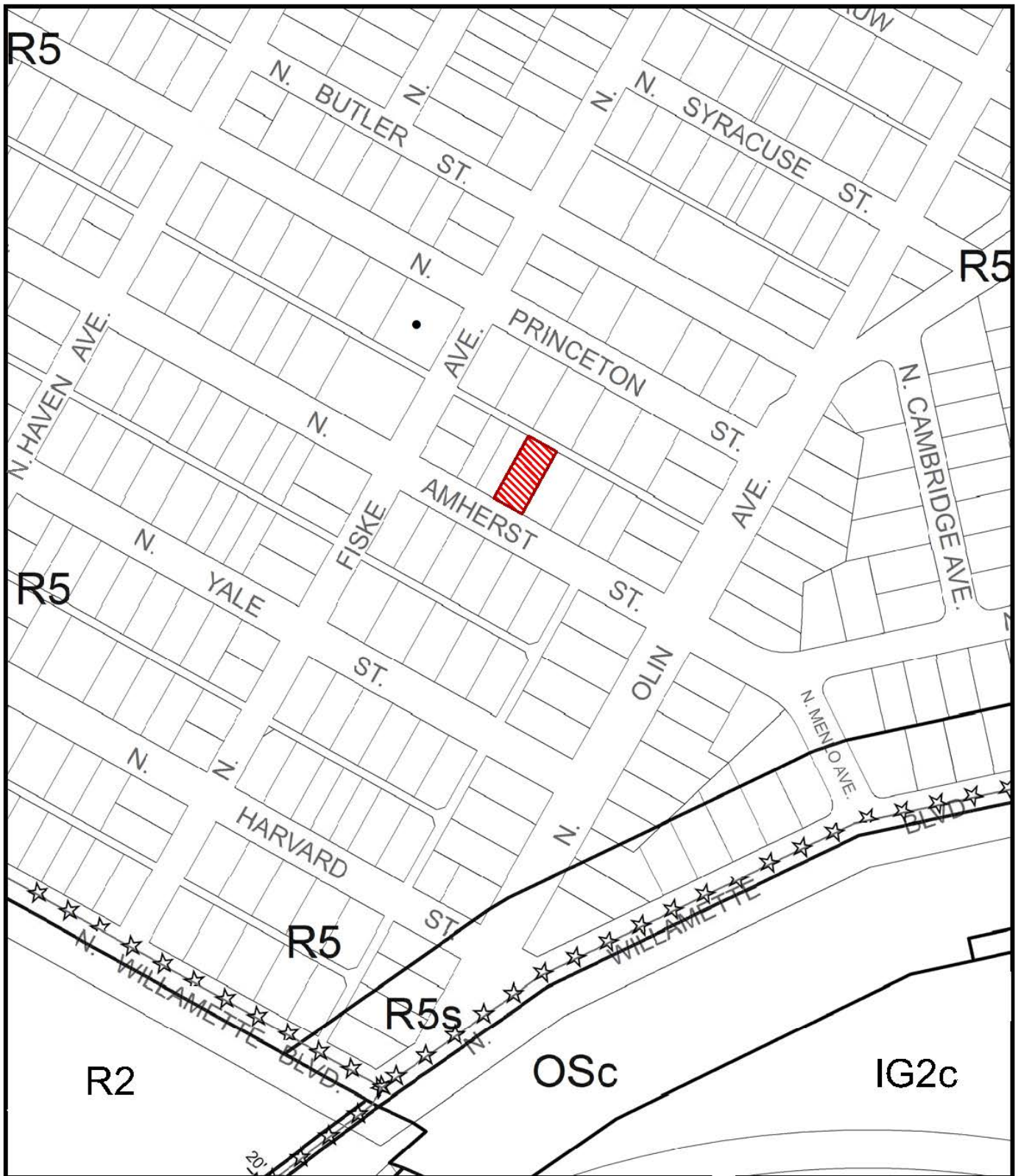
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
 - 1. Written Response to Approval Criteria
 - 2. Photos and Portland Map Property Information – Nearby Properties
 - 3. Additional Information Submitted by Applicant, Submitted Jan. 20, 2015
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. East/West Elevations (attached)
 - 3. South/North Elevations (attached)
 - 4. Main Floor Plan/Upper Floor Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Bureau of Parks, Forestry Division
 - 4. Life Safety Plan Review Section, BDS
 - 5. TRACS Print-out Showing "No Concerns" from: Bureau of Transportation Engineering and Development Review, Fire Bureau, Site Development Review Section of BDS
- F. Correspondence:
 - 1. Rich Peppe, Jan. 26, 2015, E-Mail Comments
- G. Other:
 - 1. Original LU Application

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



Historic Landmark



Recreational Trail



File No. LU 15-102916 AD

1/4 Section 2325

Scale 1 inch = 200 feet

State_Id 1N1E17BB 11200

Exhibit B (Jan 12, 2015)

FINAL

LOT INFORMATION:

LOT AREA = 5,500 Φ
 LOT DIMENSIONS = 50' x 110'
 LOT ID = R292214

(A) EXISTING DWELLING:

FOOTPRINT = 800 Φ
 MAIN FLOOR = 800 Φ
 FIN. BASEMENT = 800 Φ
 TOTAL = 1,600 Φ

(B) EXISTING GARAGE:

FOOTPRINT = 280 Φ
 * TO BE REMOVED **

(C) PROPOSED ADU:

FOOTPRINT = 768 Φ
 MAIN = 29 Φ
 UPPER = 738 Φ
 TOTAL = 797 Φ
 GARAGE = 660 Φ

SETBACK FROM STREET = 63 FT.
 WALK = 15 FT.
 LOT LINE = 6 FT.
 ALLEY = 15 FT.

IMPERVIOUS AREA:

WALKWAY = 331 Φ
 ASPHALT APPROACH = 360 Φ
 GRAVEL PARKING = 200 Φ
 TOTAL = 891 Φ

GENERAL:

OR ELECTRICAL

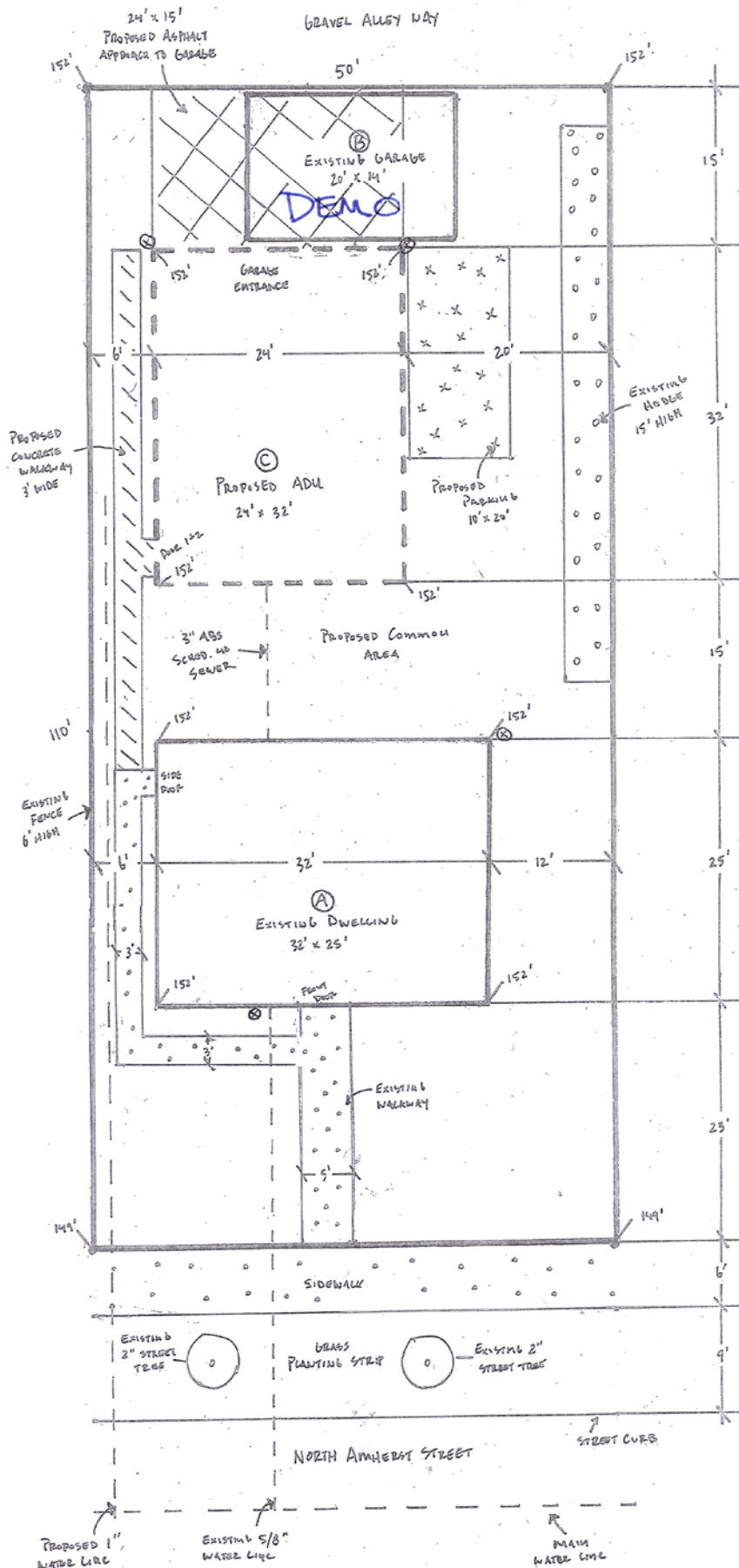
3' x 4' CONCRETE ENTRANCE PADS

(X) INDICATES "SPRINKLER BUCKS"

SITE PLAN

SCALE 1" = 10'

SITE ADDRESS:
 4784 N. AMHERST ST.
 PORTLAND, OR 97203



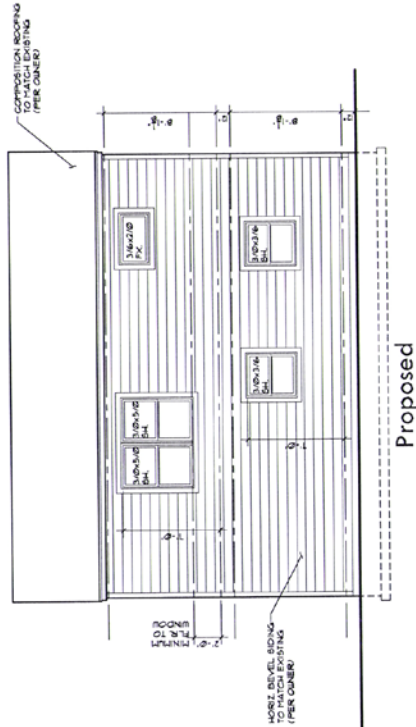
Approved
 City of Portland - Bureau of Development Services
 Planner C. Trugala Date Feb. 17, 2015
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

W15-102916-AD

Exh. C.1

Approved
 City of Portland - Bureau of Development Services
 Planner S. Frigoli Date Feb. 17, 2015
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

| | | | | | | |
|-------------|---------------------------|-----------------|---|---|---|---|
| 3 1 2 | SHEET NO. 1 OF 1 | DATE 1/15/15 | PROJECT 100 N. NORTON ST. PORTLAND, OREGON 97203 PHONE: 503-240-3022 | Bruinier & associates, inc. designers + architects | PLANS FOR THIS LOCATION ONLY 4783 N. AMHERST ST. PORTLAND, OREGON 97203 | These plans are to be used for construction only by the purchaser. The maker, in reproduction, is not liable for any errors or omissions. A professional seal is required for any reproduction. Copyright © 2015 Bruinier & Associates, Inc. All rights reserved. |
| | SHEET NO. 1 OF 1 | DATE 1/15/15 | PROJECT 100 N. NORTON ST. PORTLAND, OREGON 97203 PHONE: 503-240-3022 | Bruinier & associates, inc. designers + architects | PLANS FOR THIS LOCATION ONLY 4783 N. AMHERST ST. PORTLAND, OREGON 97203 | These plans are to be used for construction only by the purchaser. The maker, in reproduction, is not liable for any errors or omissions. A professional seal is required for any reproduction. Copyright © 2015 Bruinier & Associates, Inc. All rights reserved. |

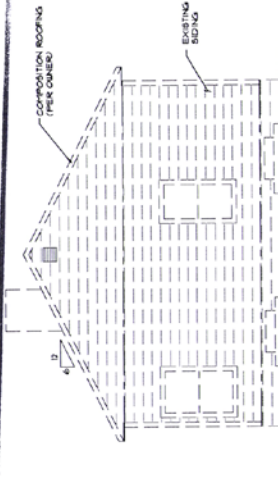


Proposed

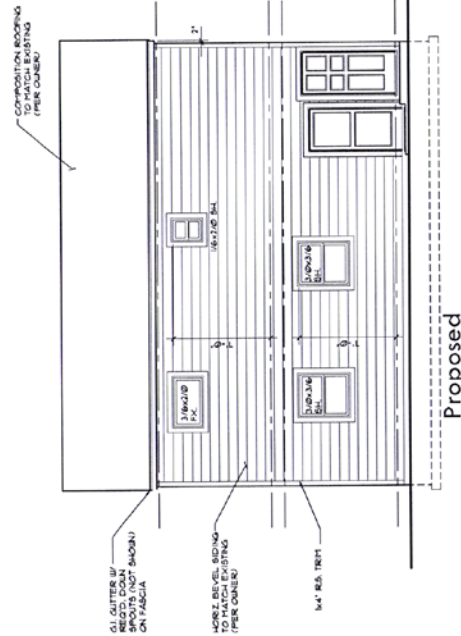
EAST ELEVATIONS

SCALE: 1/4" = 1'-0"

PROPOSED ELEVATIONS TO MATCH OVERHANG, FASCIA, SIDING, ROOFING, TRIM & WINDOWS OF EXISTING ELEVATIONS



Existing House



Proposed

WEST ELEVATIONS

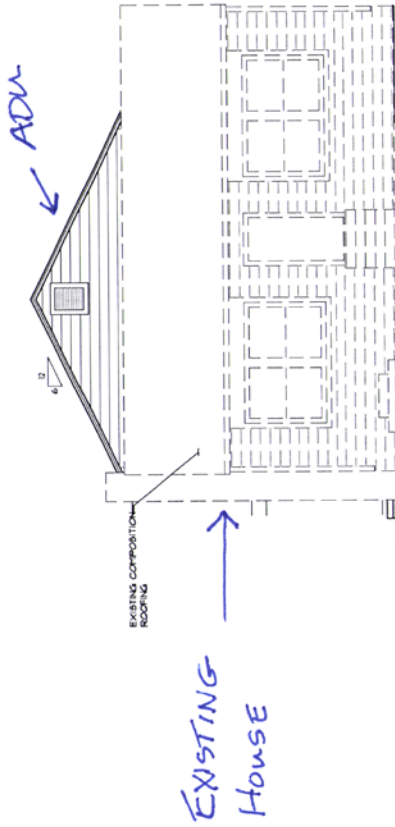
SCALE: 1/4" = 1'-0"

Existing House

LW15-102916 AD

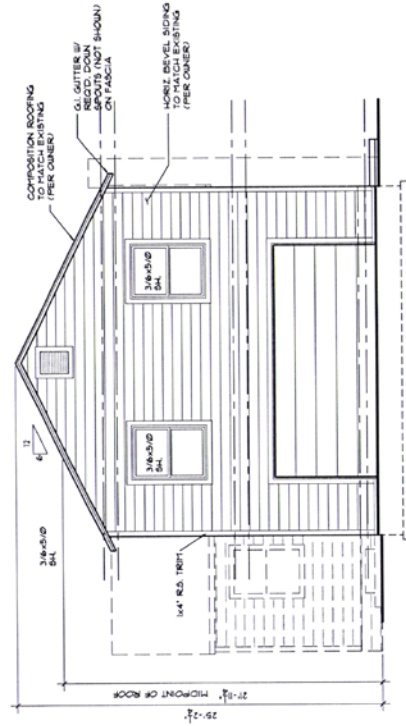
Exhibit C.2

EXHIBIT 4



SOUTH ELEVATIONS

SCALE: 1/4"=1'-0"



NORTH ELEVATIONS

SCALE: 1/4"=1'-0"

PROPOSED ELEVATIONS TO
MATCH OVERHANG, FASCIA,
SIDING, ROOFING, TRIM & WINDOWS
OF EXISTING ELEVATIONS

*Approved
City of Portland - Bureau of Development Services
Planner S. Krugot Date Feb. 12, 2015
* This approval applies only to the reviews requested and is subject to the conditions of approval. Additional zoning requirements may apply.