



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

Dan Saltzman, Commissioner
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Date: March 3, 2016
To: Interested Person
From: Andrew Gulizia, Land Use Services
503-823-7010 / Andrew.Gulizia@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 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 16-109452 AD

GENERAL INFORMATION

Applicant: Jack Barnes
Jack Barnes Architect, PC
615 SE Alder St. #304
Portland, OR 97214

Property Owners: Sam Anderson and Marisa McLaughlin
3026 SW Bennington Dr.
Portland, OR 97205

Site Address: 3026 SW Bennington Dr.

Legal Description: BLOCK 9 LOT 1, ARLINGTON HTS & RPLT
Tax Account No.: R037502090
State ID No.: 1N1E32DC 14900
Quarter Section: 3026
Neighborhood: Arlington Heights, contact Shawn Wood at 503-329-2497
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212
Zoning: R7 – Single-Dwelling Residential 7,000
Case Type: AD – Adjustment Review
Procedure: Type II administrative decision with appeal to the Adjustment Committee

Proposal: The applicant proposes to construct an addition to the existing house on this site. An existing dormer on the front of the house is proposed to extend 1.5 feet closer to the front lot line than it does currently. The applicant is requesting approval of an Adjustment to Zoning Code Section 33.110.220 to reduce the minimum front setback for the front dormer from 15 feet to 2'10".

Relevant Approval Criteria: In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Section 33.805.040.A-F of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The site is a 6,686-square-foot lot located on the east side of SW Bennington Drive, west of SW Fairview Boulevard. The site is developed with a single-dwelling house which is 1½ stories in height along the street frontage but 2½ stories in the back where the ground elevation is lower. Surrounding properties are also developed with single-dwelling houses on sloping lots. Washington Park is approximately two blocks east of the site.

Zoning: The R7 designation is one of the City’s single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

Land Use History: City records indicate one prior land use review for this site. In 2002, an Adjustment was approved to reduce the required front setback for a dormer (LUR 01-00787).

Agency Review: A “Notice of Proposal” was mailed February 5, 2016. The following Bureaus have responded with no concerns:

- Bureau of Transportation Engineering (Exhibit E-2);
- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4); and
- Life Safety Review Section of BDS (Exhibit E-6).

The Bureau of Environmental Services responded with no concerns about the Adjustment but noted sewer and stormwater issues that will apply at the time of building permit review (Exhibit E-1).

The Site Development Review Section of BDS responded with concerns about the Adjustment but noted specific requirements that will apply at the time of building permit review, given the steep slopes on the site (Exhibit E-5).

Neighborhood Review: One written comment was received from a neighbor in response to the “Notice of Proposal.” This neighbor expressed support for the project but did not make specific comments relevant to the approval criteria (Exhibit F-1).

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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 is requesting an Adjustment to the minimum front setback requirement in order to expand an existing dormer. The purpose of the setback requirement in the R7 zone is stated in Zoning Code Section 33.110.220.A:

Purpose. *The setback regulations for buildings and garage entrances 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.*

The proposed expansion of the front dormer will have no negative impacts on neighbors' access to light, air, or privacy, and the expanded dormer will have little impact on the general building scale of the neighborhood or the physical relationship between residences. The expanded dormer will be 1'5" closer to the street lot line than it is currently, but it will not be any wider or taller than it is today, and it will not be any closer to neighboring homes on either side of the site. The proposal will bring the dormer 1'5" closer to the house across the street (3025 SW Bennington Drive), but the living space of that house is more than 60 feet from the dormer to be expanded, and is built on significantly higher grade. The reduced front setback for the dormer will have no impact on fire separation or fire safety, since the front setback Adjustment for the dormer will not bring the dormer unreasonably close to any other home. The Fire Bureau reviewed the proposal and responded with no concerns (Exhibit E-4).

The house on the subject site is set close to the street, with little usable front yard. However, the front setback Adjustment will not affect the front yard, as the Adjustment will only benefit the upper story dormer. No change to the ground level footprint within the front setback is proposed. The dormer expansion will result in a fairly modest change to the front façade (Exhibit C-2), so the front setback Adjustment will not substantially affect the overall design of the house or its compatibility with the neighborhood. The site will retain substantial outdoor area on the sides of the house and behind the house. The site has no garage, and no garage is proposed. The existing off-street parking pad north of the house is not affected by the front setback Adjustment for the dormer. Based on these reasons, the proposed Adjustment equally meets the intent of the regulation and 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: Because the site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. The front setback Adjustment will allow the existing front dormer to be expanded 1'5" closer to the street lot line. However, the existing width and height of the dormer will not be increased, and the finished appearance of the dormer will be similar to the existing condition (Exhibit C-2). The proposed setback Adjustment will only benefit the front dormer, and will not, in itself, affect the ground level building footprint of the house. (Though the applicant does intend to expand the footprint on the south side of the house, this expansion is proposed to meet the setback requirements without the need for Adjustments.) For these reasons, the proposed front setback Adjustment will not result in any negative impacts to neighborhood livability or appearance. 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: As only one Adjustment is being requested, this criterion is not applicable.

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

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s,” and there are no City-designated scenic resources on this site. The site is listed on the City’s Historic Resource Inventory, which makes the site a City-designated historic resource per Zoning Code Chapter 33.910. Staff finds the subject of the proposed setback Adjustment, the dormer expansion on the front of the house, does not detract from the historic character of the house. While the expanded dormer will extend 1’5” closer to the street than it does currently, the width of the dormer, the roof pitch, and the shingle siding are not proposed to change. This criterion is met.

E. Any impacts resulting from the Adjustment are mitigated to the extent practical; and

Findings: As discussed in the findings for approval criterion B, the proposal will have no adverse impacts on the livability of the surrounding residential area. As there are no identified adverse impacts for which mitigation would be required, this criterion is not applicable.

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 environmental overlay zones mapped on 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


The proposed setback Adjustment equally meets the intent of the setback regulation, and will not have adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Since the approval criteria are met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.110.220.B to reduce the minimum front setback for the front dormer from 15 feet to 2’10” per the approved site plan and building elevations, Exhibits C-1 through C-4, signed and dated February 29, 2016, subject to the following condition:

- A. As part of the building permit application submittal, each of the 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 through C-4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-109452 AD."

Staff Planner: Andrew Gulizia

Decision rendered by:  _____ **on February 29, 2016.**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 3, 2016

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 22, 2016, and was determined to be complete on **February 3, 2016.**

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 22, 2016.

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 extended by the applicant, **the 120 days will expire on: June 2, 2016.**

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 17, 2016**, 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 18, 2016**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

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

For further information on recording, please call the County Recorder at 503-988-3034. For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

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

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

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

- All conditions imposed herein;

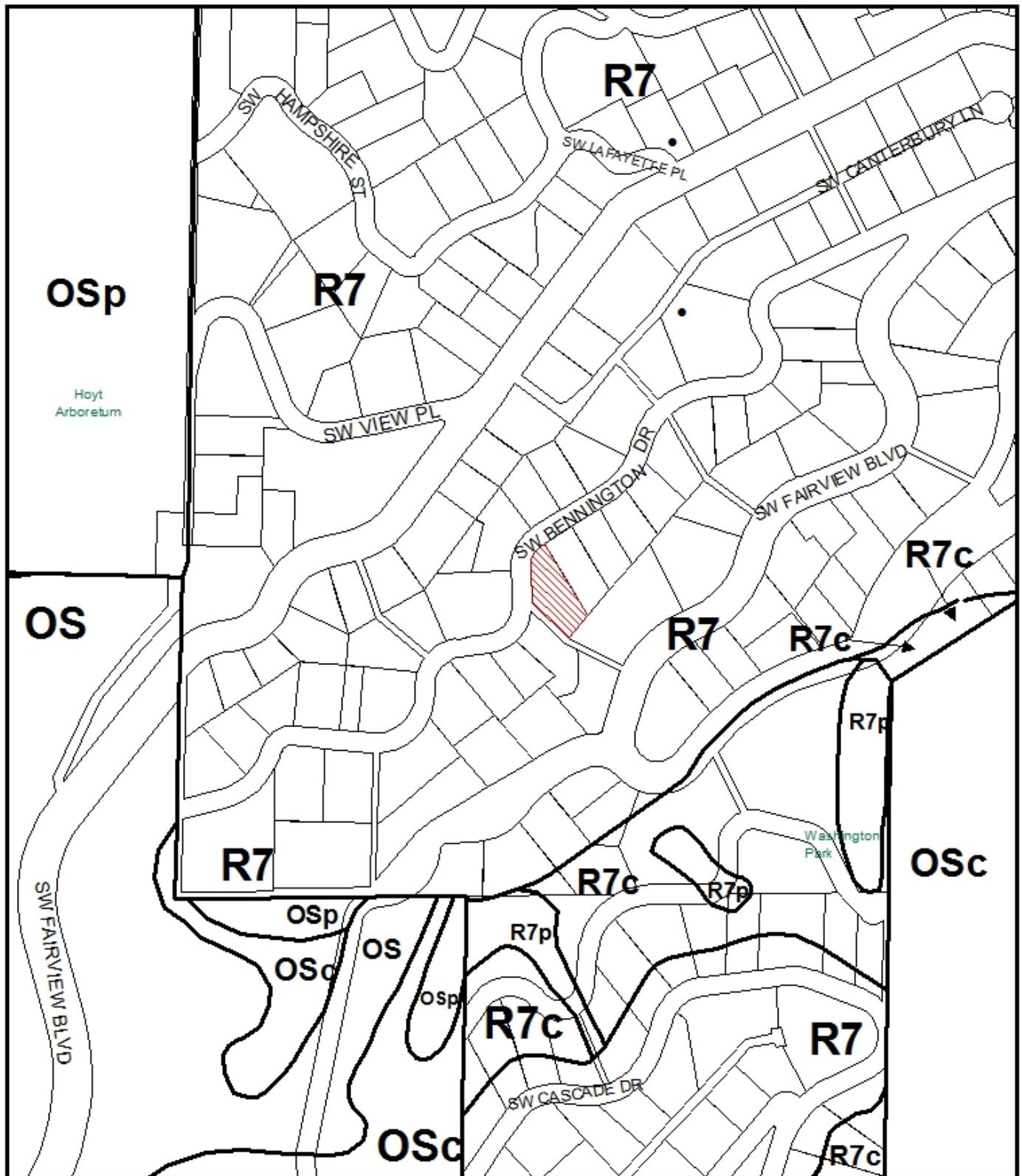
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. West building elevation (attached)
 - 3. South building elevation (attached)
 - 4. North building elevation (attached)
 - 5. Full-sized, scalable plan set (7 pages)
- D. Notification Information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence:
 - 1. E-mail in support from Kiki Hillman, dated February 11, 2016
- G. Other:
 - 1. Original LU application form and receipt

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

File No.	<u>LU 16-109452 AD</u>
1/4 Section	<u>3026</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1N1E32DC 14900</u>
Exhibit	<u>B</u> (Jan 27, 2016)

JACK BARNES ARCHITECT
 615 SE Alder Street, Suite 304
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 T 503.232.1620
 jack@jackbarnesarchitect.com
 www.jackbarnesarchitect.com

**ANDERSON-
 McLAUGHLIN
 ADDITION**
 3026 SW Bennington Drive
 Portland, OR 97205

client:
 Sam Anderson & Marisa McLaughlin

ISSUE DATE: 1/20/2016
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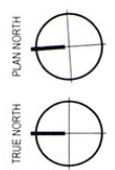
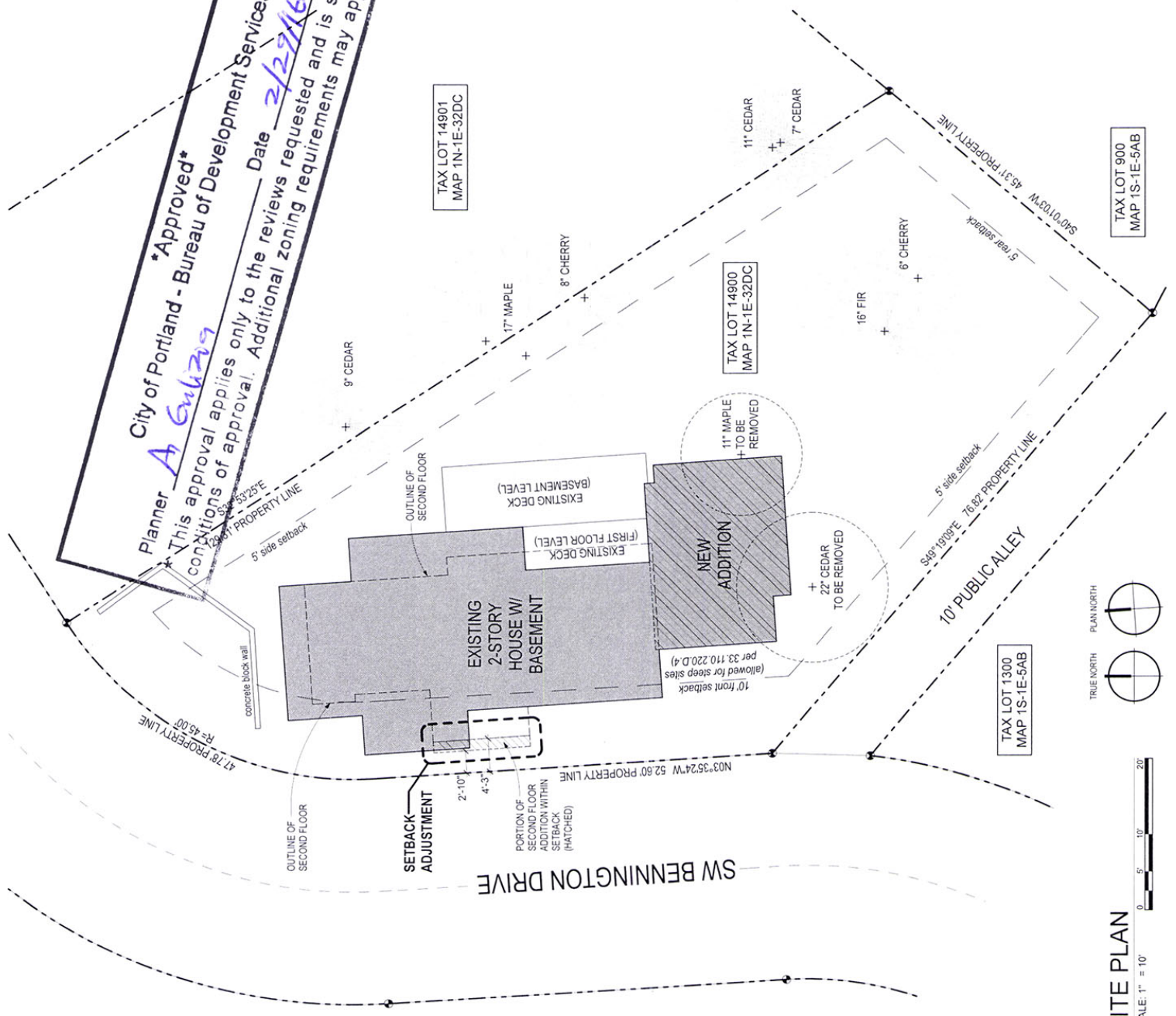


Site Plan
 1/2 SIZE PLANS

ADJ-1

Plotted On: 1/21/16

City of Portland - Bureau of Development Services
 Planner *A. Gulizia* Date *2/29/16*
 Approved
 This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



1 SITE PLAN
 SCALE: 1" = 10'

16-109452 AD

Exhibit C-1

ANDERSON- MCLAUGHLIN ADDITION

3026 SW Bennington Drive
Portland, OR 97205

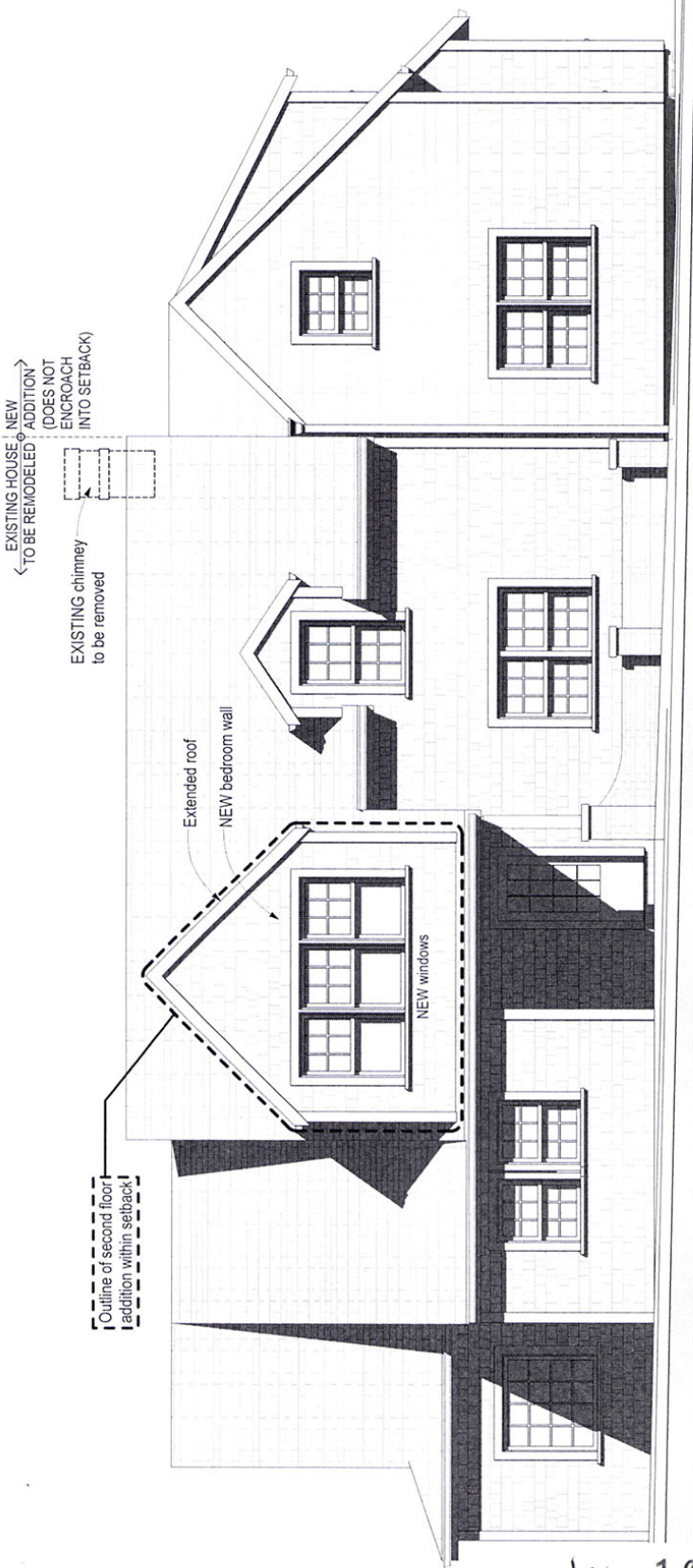
client:
Sam Anderson & Marisa McLaughlin

ISSUE DATE: 1/20/2016
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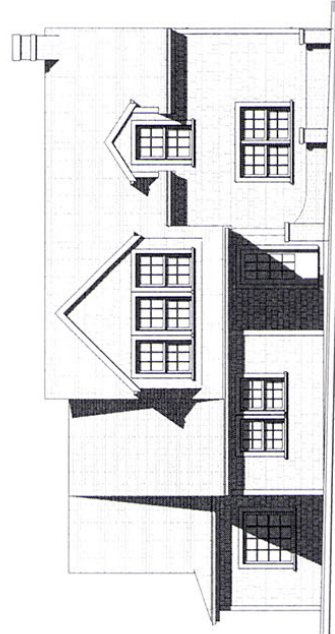
Elevation - West
1/2 SIZE PLANS

ADJ-5



1 WEST ELEVATION - PROPOSED

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



2 WEST ELEVATION - EXISTING

SCALE: 1/8" = 1'-0"

Approved
City of Portland - Bureau of Development Services
Planner *A. Gubizog* Date *2/29/16*
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

16-109452 AD Exhibit C-2

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 jack@jackbarnesarchitect.com
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**ANDERSON-
 McLAUGHLIN
 ADDITION**
 3025 SW Bennington Drive
 Portland, OR 97205

client:
 Sam Anderson & Marisa McLaughlin

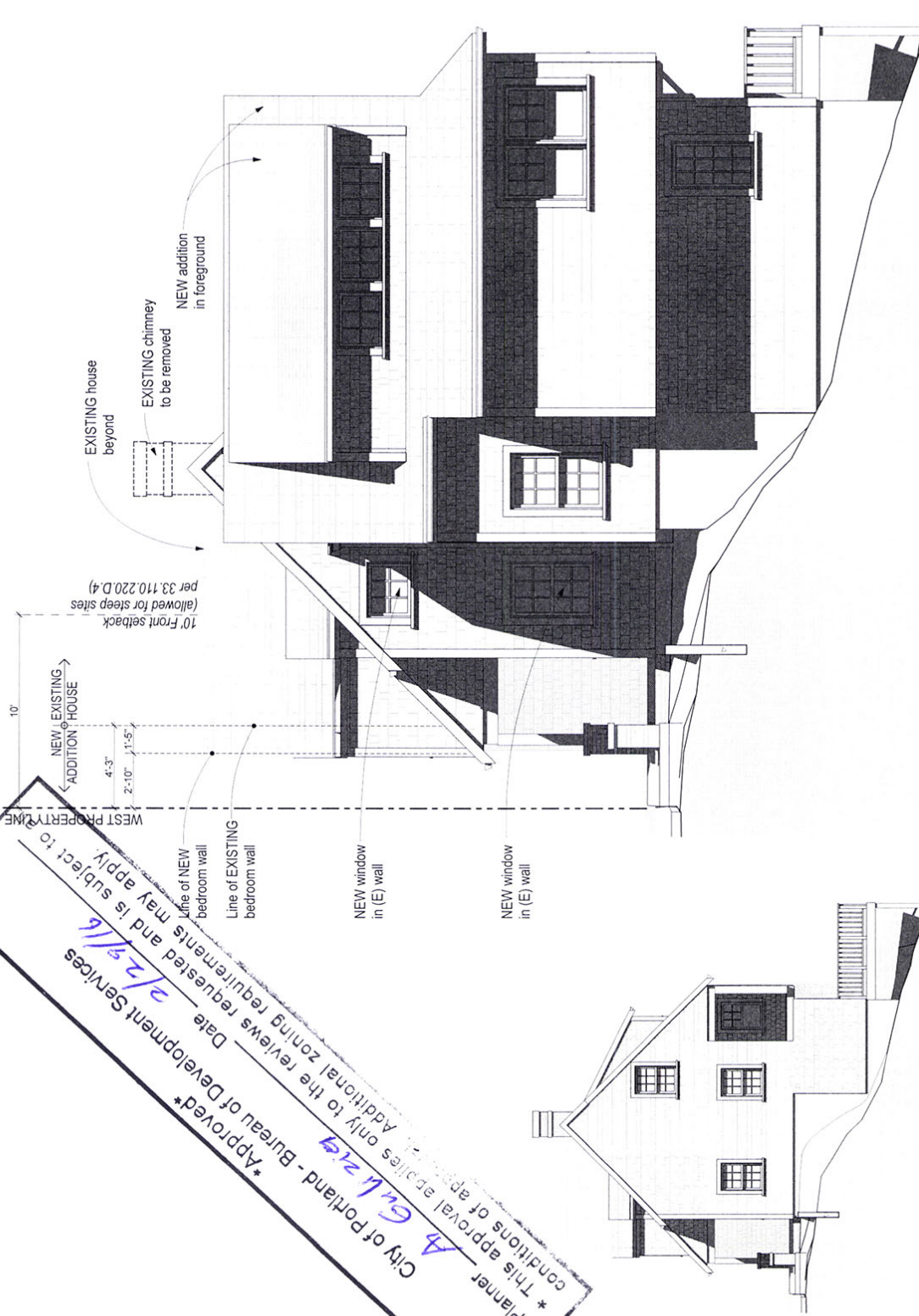
ISSUE DATE: 1/20/2016
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Elevation - South
 1/2 SIZE PLANS

ADJ-6

Printed On: 1/27/16



Planner
 * This approval applies only to the reviews requested and is subject to conditions of approval.
 City of Portland - Bureau of Development Services
 Date 2/28/16
 Approved *
 Additional zoning requirements may apply.

2 SOUTH ELEVATION - PROPOSED
 SCALE: 1/4" = 1'-0"

1 SOUTH ELEVATION - EXISTING
 SCALE: 1/8" = 1'-0"

16-109452 AD Exhibit C-3

JACK BARNES ARCHITECT

615 SE Alder Street, Suite 304
Portland, Oregon 97214

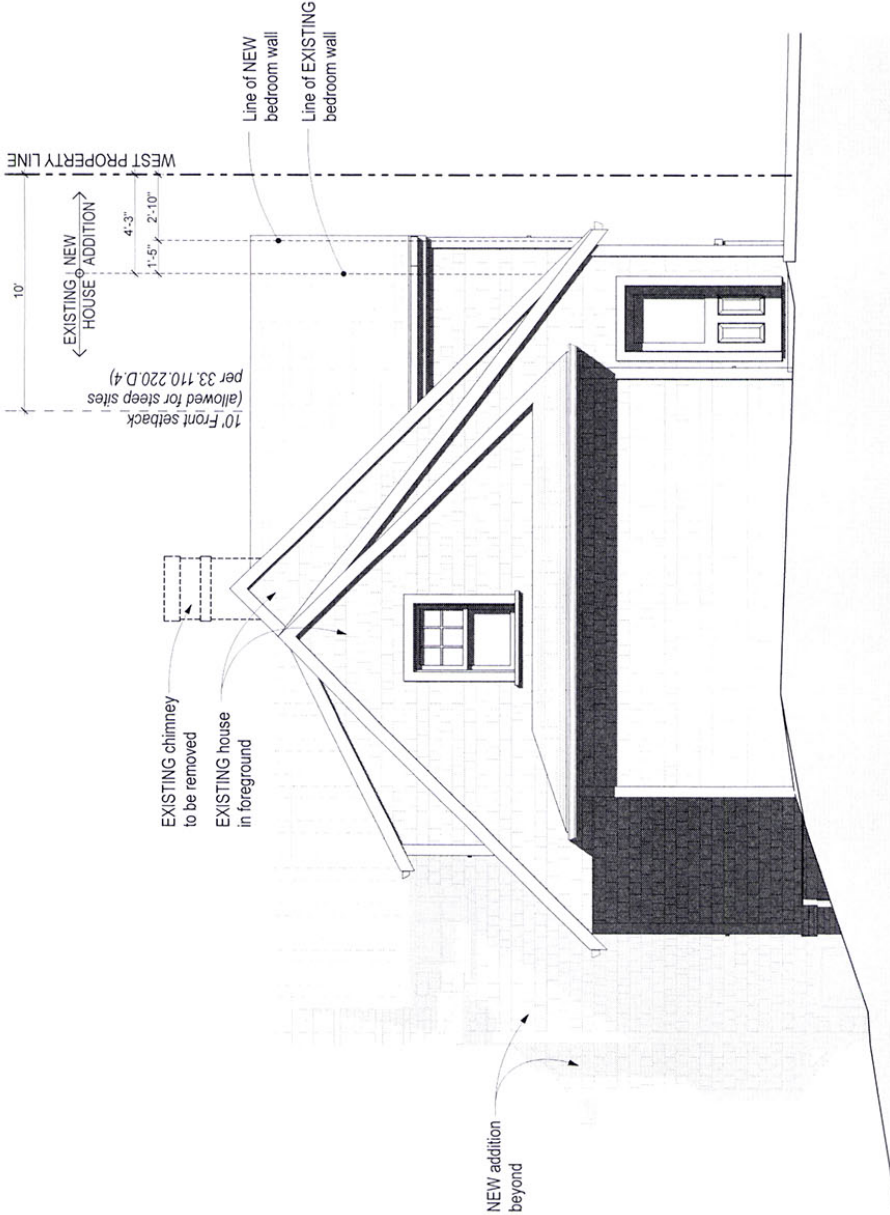
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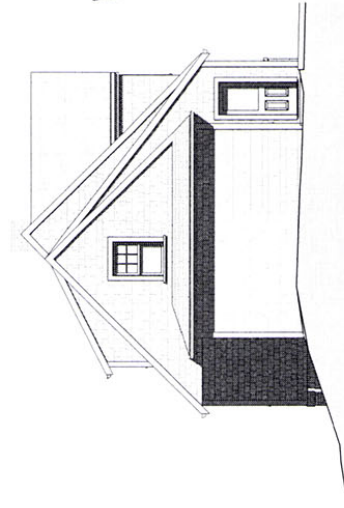
ANDERSON- MCLAUGHLIN ADDITION

3026 SW Bennington Drive
Portland, OR 97205

client:
Sam Anderson & Marissa McLaughlin



1 NORTH ELEVATION - PROPOSED
SCALE: 1/4" = 1'-0"



2 NORTH ELEVATION - EXISTING
SCALE: 1/8" = 1'-0"

ISSUE DATE: 1/20/2016
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PRELIMINARY. NOT FOR CONSTRUCTION.

Approved
Date 2/29/16
City of Portland - Bureau of Development Services
Planner A. Gulizay
* This approval applies only to the reviews requested and is subject to additional zoning requirements that may apply. Additional zoning requirements may apply.

Elevation - North
1/2 SIZE PLANS

ADJ-7

W 16 - 1 0 9 4 5 2 AD

Exhibit C-4