



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
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www.portlandoregon.gov/bds

Date: May 23, 2016
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 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 16-125319 AD **ACCESSORY STRUCTURE HEIGHT ADJUSTMENT**

GENERAL INFORMATION

Applicant: Victor Lopes
3D Design Northwest
2500 NE 148th Ct
Vancouver, WA 98684

Owners: Robbin and Debra Mayfield
12304 SE Sherman St
Portland, OR 97233-1444

Site Address: 12304 SE SHERMAN ST

Legal Description: LOT 17 TL 6300, BUCKLEY PK & PLAT 2
Tax Account No.: R114300140
State ID No.: 1S2E02CC 06300
Quarter Section: 3243
Neighborhood: Mill Park, contact Doug Reed at doughomes@aol.com.
Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-3910 & Midway, contact David Day at 503-760-7572.

District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: None
Zoning: R2a – Multi-Dwelling Residential 2,000 with “a” Alternative Design Density Overlay Zone
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to convert the existing one-story garage behind the house to a two-story accessory structure with a garage on the first story and a 796-square-foot Accessory Dwelling

Unit (ADU) on the second story. Accessory structures are limited in height to 20 feet tall. This ADU is proposed at 23 feet, 2 inches tall, roughly the same height as the primary house on the site. Therefore, the applicant requests an Adjustment to Zoning Code Section 33.120.280.C.1 to increase the allowed height for this accessory structure from 20 feet to 23 feet, 2 inches.

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 13,950-square-foot site is L-shaped and currently developed with a house built in 1947 with detached garage measuring 34 feet wide and 38 feet deep. The site is adjacent to commercial zoning along SE 122nd Ave. to the west and to the south, toward SE Division St. Nearby residential development consists of mostly one-story and one-and-a-half-story modest mid-century development on 11,000 to 13,000 square foot lots.

Zoning: The Residential 2,000 (R2) zone is a low density multi-dwelling zone. It allows approximately 21.8 dwelling units per acre. Density may be as high as 32 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to three story buildings, but at a slightly larger amount of building coverage than the R3 zone. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments. These housing types are intended to be compatible with adjacent houses. Generally, R2 zoning will be applied near Major City Traffic Streets, Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets. Newly created lots in the R2 zone must be at least 4,000 square feet in area for multi-dwelling development, 1,600 square feet for development with attached or detached houses, and 2,000 square feet for development with duplexes. Minimum lot width and depth standards may apply.

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. This proposal does not make use of the provisions of the “a” overlay.

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 **April 22, 2016**.

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);
- Fire Bureau (Exhibit E.4);
- Site Development Section of BDS (Exhibit E.5); and
- Life Safety (Building Code) Plans Examiner (Exhibit E.6).

Neighborhood Review: One written response was received from a notified property owner, who raised concerns in response to the proposal regarding traffic. The neighbor stated the property is being used as a “rehab/care facility” which has resulted in a “dramatic increase in traffic” in the area. He was concerned that new living area would increase traffic further and asked that the proposal be denied.

Staff Comment: Development of an Accessory Dwelling Unit is allowed by right for the site. Additional traffic will not result from granting an Adjustment for the height of an

accessory structure. Since only the regulation being Adjusted is under consideration in this review, traffic concerns caused by allowed activities are not relevant and cannot be examined in this land use review.

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 purpose for the height limit for accessory structures is stated below. Each purpose statement will be addressed separately.

33.120.280 Detached Accessory Structures

A. Purpose. This section regulates detached structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards limit the height and bulk of the structures and promote compatibility of design for larger structures when they are in conjunction with single-dwelling development. The standards provide for necessary access around structures, help maintain privacy to abutting lots, and maintain open front yard areas.

This section regulates detached structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site.

The height Adjustment requested will result in an accessory structure, a garage with an ADU above, to have a height very close to the height of the primary house on the site. In this case, the Adjustment will not result in the accessory structure becoming the predominant element on the site for several reasons. First, the accessory structure sits over 98 feet from the front property line, and more than 21 feet behind the back wall of the house. This significant distance, and the clear use of the building for parking at the end of the driveway, will clearly communicate that it is not the primary building on the site.

The primary house is over 50 feet wide including the side wing, while the garage is 34 feet wide. The width, coupled with a new porch on the front of the house, will both work to make the house the predominant element on the site. The garage is set behind the house such that almost half of the first-story façade will be blocked from the one-story side wing of the house. While the new ADU will be visible above that wing, that part of the house will break up the massing of the accessory structure and emphasize the primacy of the house.

The standards limit the height and bulk of the structures and promote compatibility of design for larger structures when they are in conjunction with single-dwelling development.

The design standards of Zoning Code Section 33.120.280.C.4 work to integrate taller accessory structures into sites by having them reflect major characteristics of the primary house, or meet a set of objective criteria. Regarding this proposal, the siding, trim size, roof pitch, eaves, and windows on the ADU have been designed to match those of the existing house or meet the standards. For the height standard proposed for Adjustment, the site and area context enable the design to equally meet this purpose statement.

The applicant proposes to add a front porch to the house to “break up the front elevation line and soften the appearance of the structure from the street view” (Exhibit A.1). The porch addition on the house will increase the building coverage for the house while also giving it more presence. The accessory structure currently has a building coverage of 1,292 square feet, with a 391-square-foot lean-to attached the back of the garage. This building coverage is not changing. The structure meets all Zoning Code regulations for building coverage for accessory structures, one of the central ways the Code regulates bulk.

The alterations to both structures will make them more compatible. Both will have matching horizontal lap siding with hipped roofs at the first story, and matching roof gable-ends facing the street. Because the accessory structure will be set back almost 100 feet from the front property line, meets standards for building coverage, and will become more compatible with the primary house in siding, roof pitch and other elements, the increased height requested will not result in a development where the accessory structure appears to have more bulk or height than the primary house.

The standards provide for necessary access around structures, help maintain privacy to abutting lots, and maintain open front yard areas.

Granting the Adjustment to height will not have an impact on access, privacy or the front yard. The accessory structure is located 5 feet, 9 inches from the west property line, and has ample space on all other sides due to the larger 13,950-square-foot site. While the proposal includes a second-story covered deck at the back of the ADU, there are no windows or deck closer than 100 feet from any adjacent residence, with the exception of the CG-zoned apartments to the southwest, where significant tree and shrub screening separates the subject site from the adjacent development. Therefore, the increase in height which might allow a somewhat taller second floor or higher windows will not impact privacy in the area. Finally, the front yard of the site is not affected by increasing the height of the accessory structure behind the house.

For the reasons stated above, 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 height Adjustment for the accessory structure will not impact the appearance of the site since the garage/ADU will be located almost 100 feet back from the front property line. New cladding, matching roof pitch and coordinating hipped roofs on the first story of both structures will ensure the two structures are compatible. Granting the height Adjustment will have no impact on privacy on adjacent lots, as described in Criterion A above, nor other livability factors beyond what is allowed outright on the property already.

As mentioned, the site has commercially-zoned properties to the west and south and multi-dwelling zoning to the east. The maximum density on the subject site (without using the provisions of the “a” overlay) is 7 units. Increasing the allowed height of the

proposed accessory structure by 3 feet, 2 inches will not significantly detract from the area's appearance or livability. 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

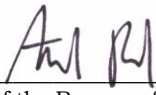
The proposal is to allow a new garage with accessory dwelling unit above to be 23 feet, 2 inches in height, 3 feet, 2 inches taller than the maximum allowed height of 20 feet. The proposal to increase the height has no identified impacts given the mixed zoning in the area, the large distances from the accessory structure to houses on other sites, and the compatible design of the upgraded accessory structure. The proposal meets the Adjustment approval criteria and should be granted.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.120.280.C.1 to increase the height for an accessory structure from 20 feet to 23 feet, 2 inches, per the approved plans, Exhibits C.1-C.5 and C.7-C.8, signed and dated May 19, 2016, 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.5 and C.7-C.8. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-125319 AD."

Staff Planner: Amanda Rhoads

Decision rendered by:  **on May 19, 2016**
By authority of the Director of the Bureau of Development Services

Decision mailed: May 23, 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 February 23, 2016, and was determined to be complete on April 15, 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 February 23, 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 further extended by the applicant, **the 120 days will expire on: August 13, 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 June 6, 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 **June 7, 2016 – 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;

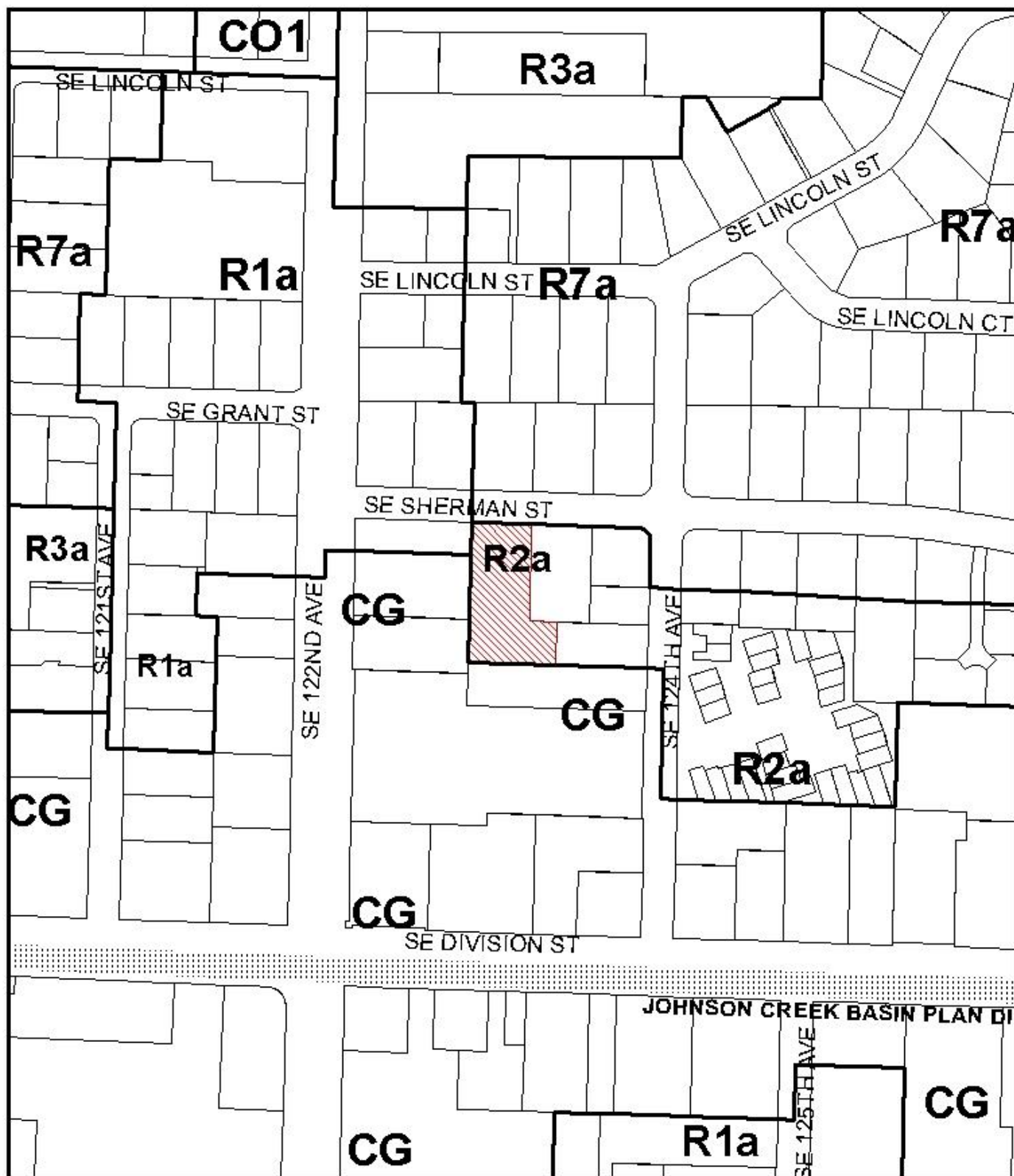
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS


NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant Narrative
 - 2. Site Photos
 - 3. Original, Scaled Plans (superseded)
 - 4. Response to Incomplete Letter, April 4, 2016
 - 5. Applicant Email, April 15, 2016
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. North and South Elevations, House and Accessory Structure (attached)
 - 3. Accessory Structure Front Elevation (attached)
 - 4. East Elevation (attached)
 - 5. West Elevation (attached)
 - 6. Foundation Drawing
 - 7. Garage Floor Plan
 - 8. ADU Floor Plan
 - 9. Roof Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety (Building Code) Plans Examiner
- F. Correspondence:
 - 1. Kirt Paresi, May 5, 2016, with traffic concerns
- G. Other:
 - 1. Original Land Use Application and Receipt
 - 2. Incomplete Letter, March 3, 2016
 - 3. Planner Email, April 6, 2016

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 16-125319 AD
 1/4 Section 3243
 Scale 1 inch = 200 feet
 State_Id 1S2E02CC 6300
 Exhibit B (Feb 25, 2016)

3D DESIGN NORTHWEST
2500 NE 148TH COURT
VANCOUVER, WA 98684
360-980-3208
3ddesignnw@gmail.com

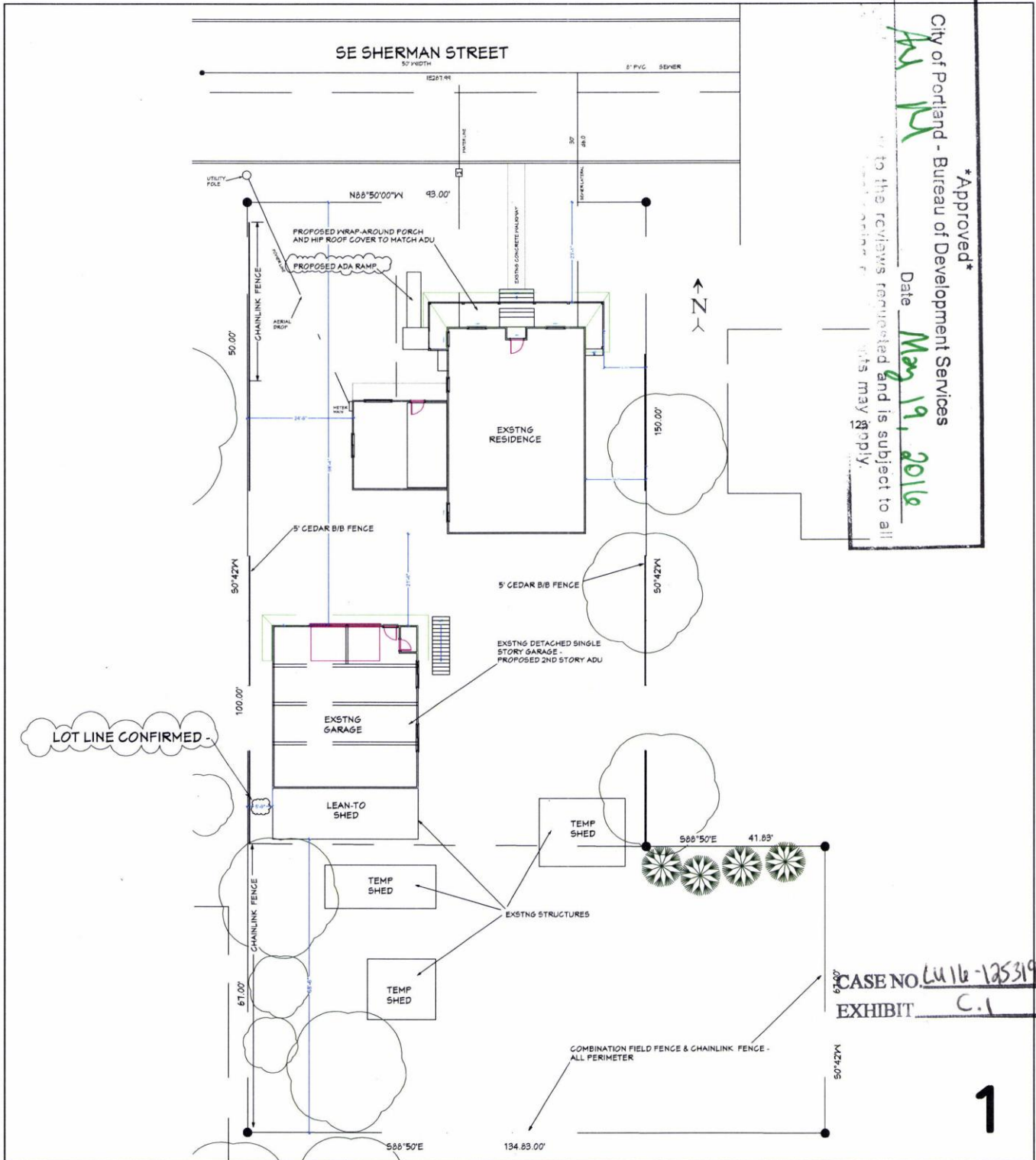
* This app
Planner

City of Portland - Bureau of Development Services

* Approved *

Date May 19, 2016

to the reviews requested and is subject to all
its may apply.



CASE NO. LU 16-125319 AD
EXHIBIT C.1

OWNER: R&D MAYFIELD
DATE: 02/23/16 REV 040416

12304 SE SHERMAN ST
PORTLAND, OR 97233

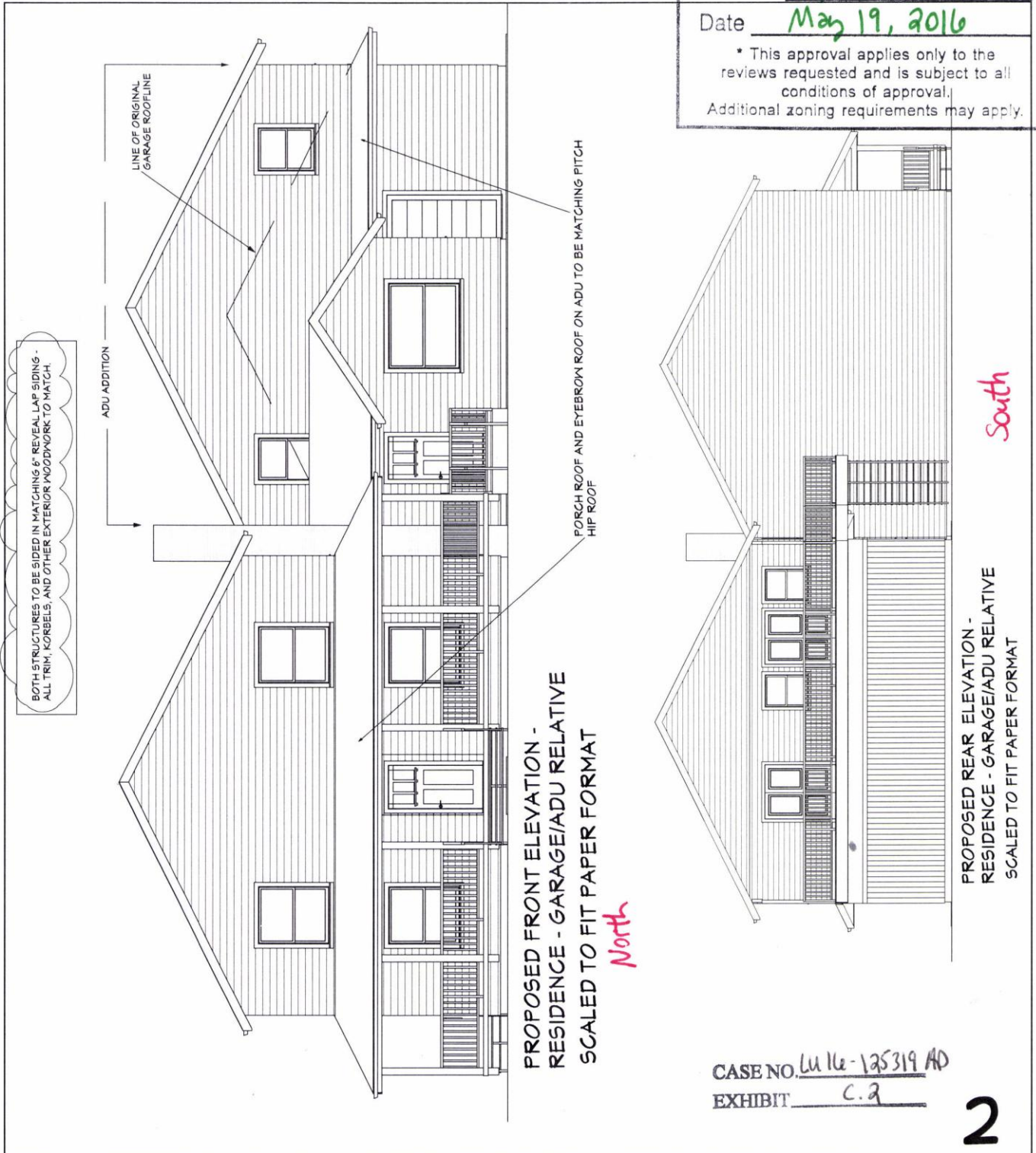
DESCRIPTION: ADU ADDITION
ADJUSTMENT REVIEW

3D DESIGN NORTHWEST
2500 NE 148TH COURT
YANCOUVER, WA 98684
360-980-3208
3ddesignnw@gmail.com

Approved
City of Portland
Bureau of Development Services
Planner AKM

Date May 19, 2016

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



OWNER: R&D MAYFIELD
DATE: 02/23/16 REV 040416

12304 SE SHERMAN ST
PORTLAND, OR 97233

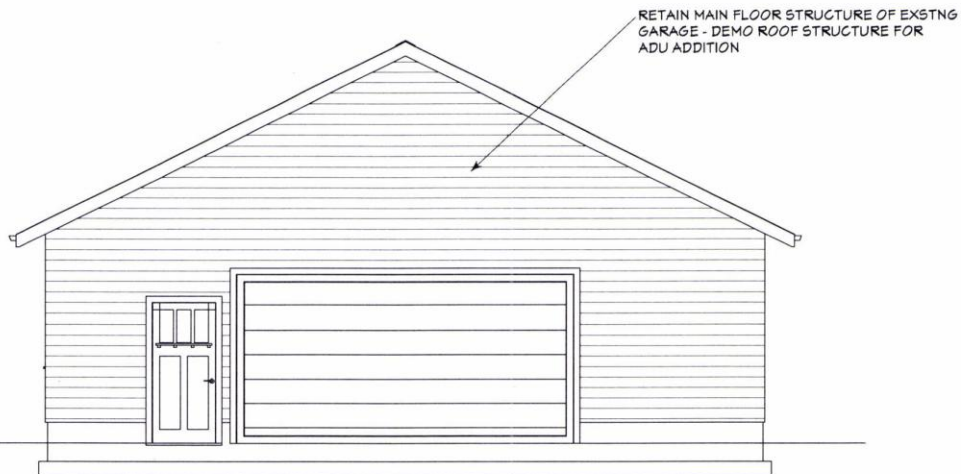
DESCRIPTION: ADU ADDITION
ADJUSTMENT REVIEW

3D DESIGN NORTHWEST
2500 NE 148TH COURT
VANCOUVER, WA 98684
360-980-3208
3ddesignnw@gmail.com



PROPOSED FRONT ELEVATION - North

1/8" = 1'



EXSTNG FRONT ELEVATION

1/8" = 1'

CASE NO. LU 16-125319 AD
EXHIBIT C.3 **3**

Approved
City of Portland - Bureau of Development Services
Planner Jul M Date May 19, 2016
* This approval is valid only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

OWNER: R&D MAYFIELD
DATE: 02/23/16 REV 040416

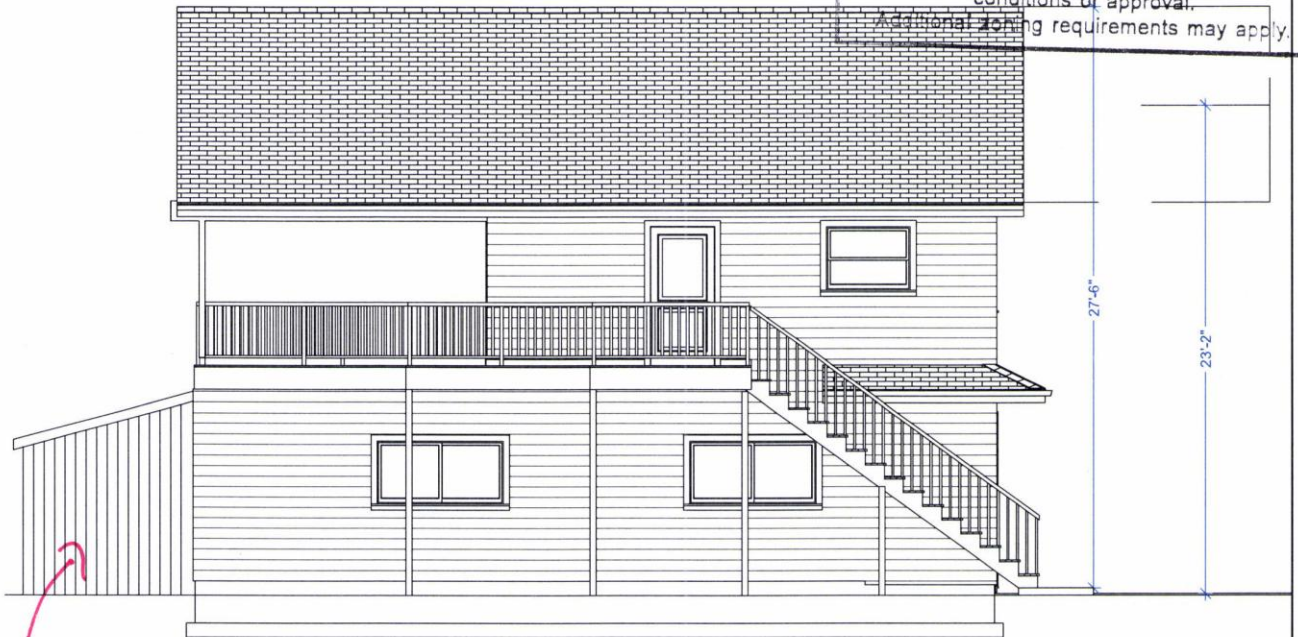
12304 SE SHERMAN ST
PORTLAND, OR 97233

DESCRIPTION: ADU ADDITION
ADJUSTMENT REVIEW

3D DESIGN NORTHWEST
2500 NE 148TH COURT
VANCOUVER, WA 98684
360-980-3208
3ddesignnw@gmail.com

Approved
City of Portland
Bureau of Development Services
Planner AM
Date May 19, 2016

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



In order to meet 33.170.280.C.4.2,
The siding on the attached lean-to
will need to be changed.

PROPOSED LEFT ELEVATION - East
1/8" = 1'



EXISTNG LEFT ELEVATION
1/8" = 1'

CASE NO. Lu 16-125319 AD
EXHIBIT C.4

4

OWNER: R&D MAYFIELD
DATE: 02/23/16 REV 040416

12304 SE SHERMAN ST
PORTLAND, OR 97233

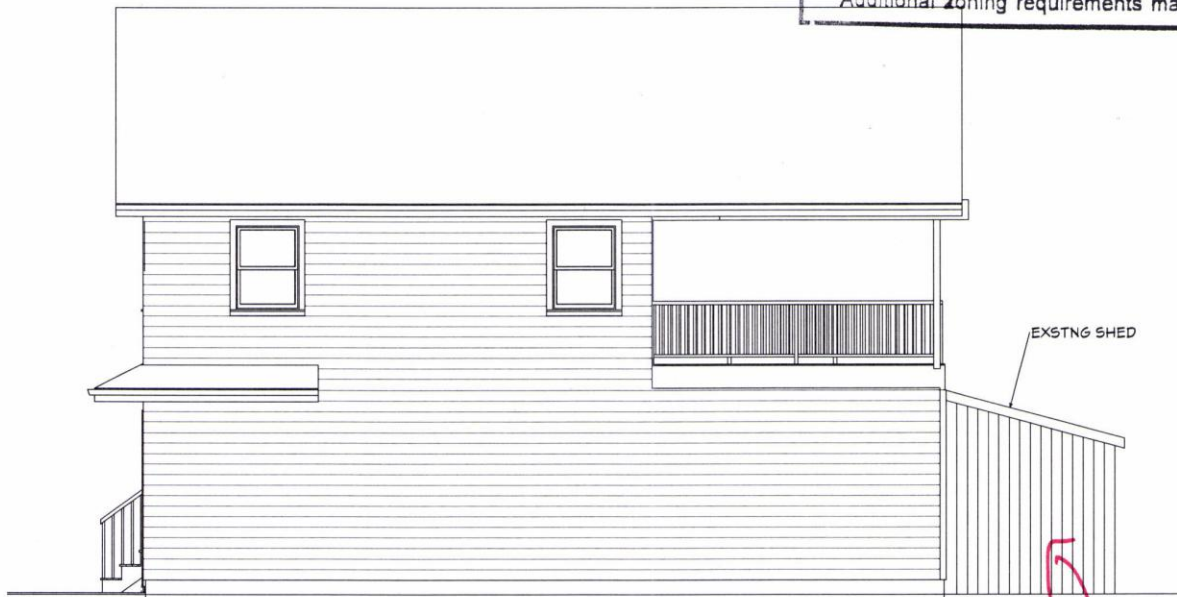
DESCRIPTION: ADU ADDITION
ADJUSTMENT REVIEW

3D DESIGN NORTHWEST
2500 NE 148TH COURT
VANCOUVER, WA 98684
360-980-3208
3ddesignnw@gmail.com

Approved
City of Portland
Bureau of Development Services
Planner Jul M

Date May 19, 2016

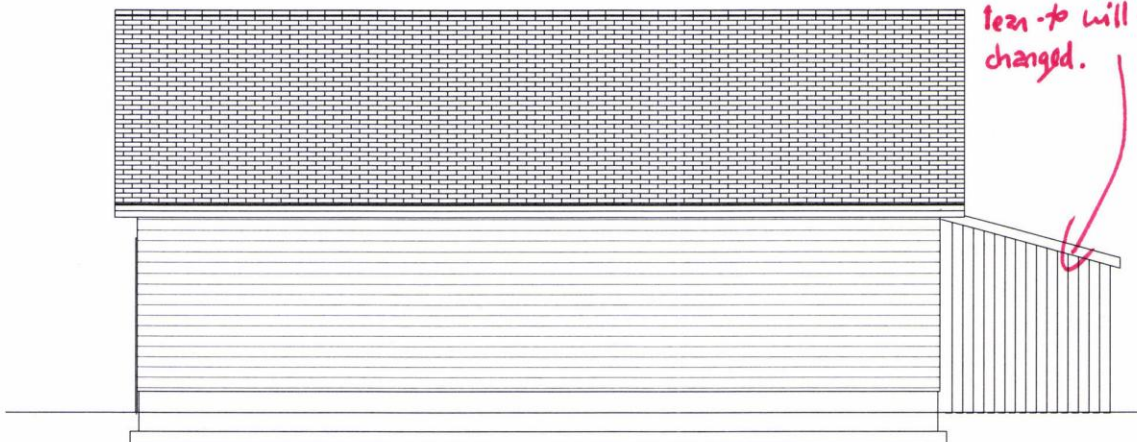
* This approval applies only to the reviews requested and is subject to all conditions of approval.
Additional zoning requirements may apply.



PROPOSED RIGHT ELEVATION - West

1/8" = 1'

In order to meet
33.120.280.C.4.2,
the siding on the attached
lean-to will need to be
changed.



EXISTNG RIGHT ELEVATION

1/8" = 1'

CASE NO. LU 16-125319AD
EXHIBIT C.5

5

OWNER: R&D MAYFIELD
DATE: 02/23/16 REV 040416

12304 SE SHERMAN ST
PORTLAND, OR 97233

DESCRIPTION: ADU ADDITION
ADJUSTMENT REVIEW