



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

Dan Saltzman, Commissioner  
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**Date:** April 14, 2016  
**To:** Interested Person  
**From:** Marguerite Feuersanger, Land Use Services  
503-823-7619 / [mfeuersanger@portlandoregon.gov](mailto:mfeuersanger@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 16-126576 AD**

#### **GENERAL INFORMATION**

**Applicant:** Sarah J Galbraith  
1615 SE 43rd Avenue  
Portland, OR 97215

**Owners:** Sarah J and Robert A Galbraith  
1615 SE 43rd Avenue  
Portland, OR 97215

**Site Address:** 1615 SE 43<sup>rd</sup> Avenue

**Legal Description:** BLOCK 13 E 1/2 OF LOT 1-4, HAWTHORNE AVE ADD  
**Tax Account No.:** R366402900  
**State ID No.:** 1S2E06CB 14000  
**Quarter Section:** 3235

**Neighborhood:** Richmond, contact Douglas Klotz at 503-233-9161.  
**Business District:** Hawthorne Blvd. Bus. Assoc., contact Hilda Stevens at 503-774-2832.  
**District Coalition:** Southeast Uplift, contact Anne Dufay at 503-232-0010.

**Zoning:** R5, Single-Dwelling Residential 5,000 Zone

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

#### **Proposal**

The applicant proposes to convert the existing detached garage into an accessory dwelling unit (ADU). The existing garage is approximately 10 feet in height and measures 18 feet wide by 30 feet long. A new 4-foot by 8-foot covered porch will be added to the proposed ADU entrance door on the east façade, and the garage door at the north elevation will be replaced with sliding

glass doors. The new parking space for the house is proposed on the existing 22-foot long driveway at SE Clay Street.

In order to convert the existing detached garage to an ADU and relocate the onsite parking to the existing driveway, two Adjustments are requested:

1. Allow the proposed ADU to be located in front of the existing house (33.205.040.C.4); and
2. Allow the on-site parking space to extend 6 feet within the 10-foot front setback (33.266.120.C).

### **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 site is a corner lot, 5,000 square feet in area; it contains a one-story house and detached garage. Mature shrubs and small trees are prevalent on the site, on nearby properties, and within landscape strips of public street rights-of-way. Development of the nearby residential area consists mainly of one- to two-story houses. The intersecting streets, SE Clay Street and SE 43<sup>rd</sup> Avenue, are designated as local service streets. Approximately 250 feet north of the site is SE Hawthorne Boulevard, a major commercial and transit street.

**Zoning:** The R5 zone is a single-dwelling zone that is intended to preserve land for housing, and to provide housing opportunities for individual households. Development standards are intended to 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 **March 10, 2016**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E-1);
- Bureau of Transportation Engineering (Exhibit E-2);
- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4);
- Site Development Section of BDS (Exhibit E-5); and
- Life Safety Plan Examiner of BDS (Exhibit E-6).

**Neighborhood Review:** One written response was received from a notified property owner in support of the proposal (Exhibit F-1).

## **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:**

Adjustment #1 The applicant requests an Adjustment to allow the proposed ADU to be located in front of the house. The purpose of the ADU development standards states:

*Standards for creating accessory dwelling units address the following purposes:*

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

The existing house is located far back on the lot, close to the side and rear property lines. The house's front door faces the side street, SE 43<sup>rd</sup> Avenue. A new ADU or other detached accessory structure, could not be placed behind the house, there simply is no room for it. The location of the existing garage near the front lot line along SE Clay Street is reasonable, given these conditions.

The strength of the proposal is that relatively small changes are proposed to an existing one-story garage, and the changes will improve the building's overall appearance. The footprint, height and roof of the garage will be maintained. New sliding doors will replace the blank garage door facing SE Clay Street. Windows will be added at the east and south elevations and will be compatible with the existing house windows. A small 4-foot by 8-foot covered porch will be added to the interior, east elevation. Because these improvements maintain an existing building on the site and add interest and create a more welcoming presence from the sidewalk view, the proposal is therefore compatible with the desired character and livability of the R5 zone.

While new detached ADUs are required to be behind the house or at least 40 feet back from the front lot line, the proposal to retain an existing building on the site continues to respect the general building scale and placement of structures, and will allow for sharing of common outdoor areas. Additionally, the garage is less than 16 feet in height and measures 18 feet by 30 feet. It is smaller in footprint and lower in height than the existing house. The site is relatively flat and therefore no special considerations are needed for slope or topography conditions.

For the reasons stated above the proposed Adjustment meets the purpose of the regulation to be modified and satisfies this approval criterion.

Adjustment #2 The applicant requests an Adjustment to allow the on-site parking space for the existing house to be within the front setback, at SE Clay Street. The purpose of the parking standards for houses and duplexes states:

*The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.*

Generally, the intent of the regulation is to allow for open, visually pleasing front yards that are not visually cluttered by parked vehicles. The proposed parking area

is 10.5 feet wide by 22 feet deep. It is long enough to ensure that a parked vehicle will not extend into the sidewalk.

In addition to not allowing parking in the front setback, vehicle areas are also limited to 40 percent of the front yard area. This standard-sized lot could accommodate a 20-foot wide driveway. Compared with this allowance, the proposed parking area is modest in width at only 10.5 feet. It will be suitable for one parked vehicle and provide area for landscaping in the front yard.

To ensure that neighborhood appearance will not be negatively impacted by future changes to the site, a condition will restrict the width of the driveway and on-site parking space to 10.5 feet. With this condition, this approval 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 site is located within a residential area and zone.

Adjustment #1 Improvements proposed to the detached accessory structure will create a more welcoming and interesting building, as viewed from the street. For this reason and the reasons described in under Criterion A, the proposal does not significantly detract from the livability or appearance of the residential area. This criterion is met.

Adjustment #2 On-site parking for the existing house will be relocated from the garage to the existing 10.5-foot by 22-foot driveway accessed from SE Clay Street. The site is a corner lot, with frontage on SE Clay Street and SE 43<sup>rd</sup> Avenue. The front setback is applied to the shortest street frontage along SE Clay Street. The front door of the house, however, faces SE 43<sup>rd</sup> Avenue. Because the house is oriented to the side street and side yard, from the sidewalk view, the driveway appears to be oriented to the side of the house. Further, the driveway will not be widened and will not interrupt the landscaped front yard of the house.

For the above reasons, 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:** Two Adjustments are requested. The overall purpose of the single-dwelling zones is to preserve land for housing and to provide housing opportunities for individual households. The proposal to convert an existing garage to an ADU is consistent with this purpose. Further, the garage footprint, height, and roof will remain unchanged. Additions to the façade include windows and doors, and a small covered porch and entrance. These improvements are complimentary to nearby residential development. The requested Adjustments maintain consistency with the purpose of the single-dwelling development standards which is to preserve the character of neighborhoods. This criterion is met.

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

**Findings:** City-designated scenic resources are identified on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation district boundaries. The site does not contain City-designated scenic or historic resources. Therefore, this criterion does not apply.

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

**Findings:** With conditions of approval described above, there will be no discernible impacts resulting from the 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:** 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

Even though the proposal to convert the existing garage to an accessory dwelling unit (ADU) requires two Adjustments, the proposed design fits the character of the lot and the nearby residential development. One Adjustment is needed because the existing house is located at the rear of the lot, making it difficult to place an ADU behind the house, or on a location that is not readily visible from the street view. A second Adjustment allows the owners and residents to maintain one parking space on the site. While the parking space is partially located within the front setback area, its impact is greatly reduced because the existing driveway will be used, which is only 10.5 feet in width. With a condition limiting the driveway width, the proposal meets the applicable approval criteria and should be approved.

## ADMINISTRATIVE DECISION

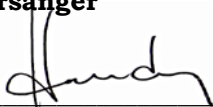
Approval of two Adjustments to convert the existing detached garage to an ADU:

1. Allow the proposed ADU to be located in front of the existing house (33.205.040.C.4); and
2. Allow the on-site parking space to extend 6 feet within the 10-foot front setback (33.266.120.C).

Approvals are per the approved site plans, Exhibits C-1 through C-3, signed and dated April 12, 2016, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related Condition B must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 16-126576 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Driveway and parking space width at SE Clay Street shall be limited to 10.5 feet within the front setback area.

**Staff Planner: Marguerite Feuersanger**

**Decision rendered by:**  **on April 12, 2016.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: April 14, 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 25, 2016, and was determined to be complete on March 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 February 25, 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.

**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 28, 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 5<sup>th</sup> floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://www.portlandonline.com).

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is

final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **April 29, 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:

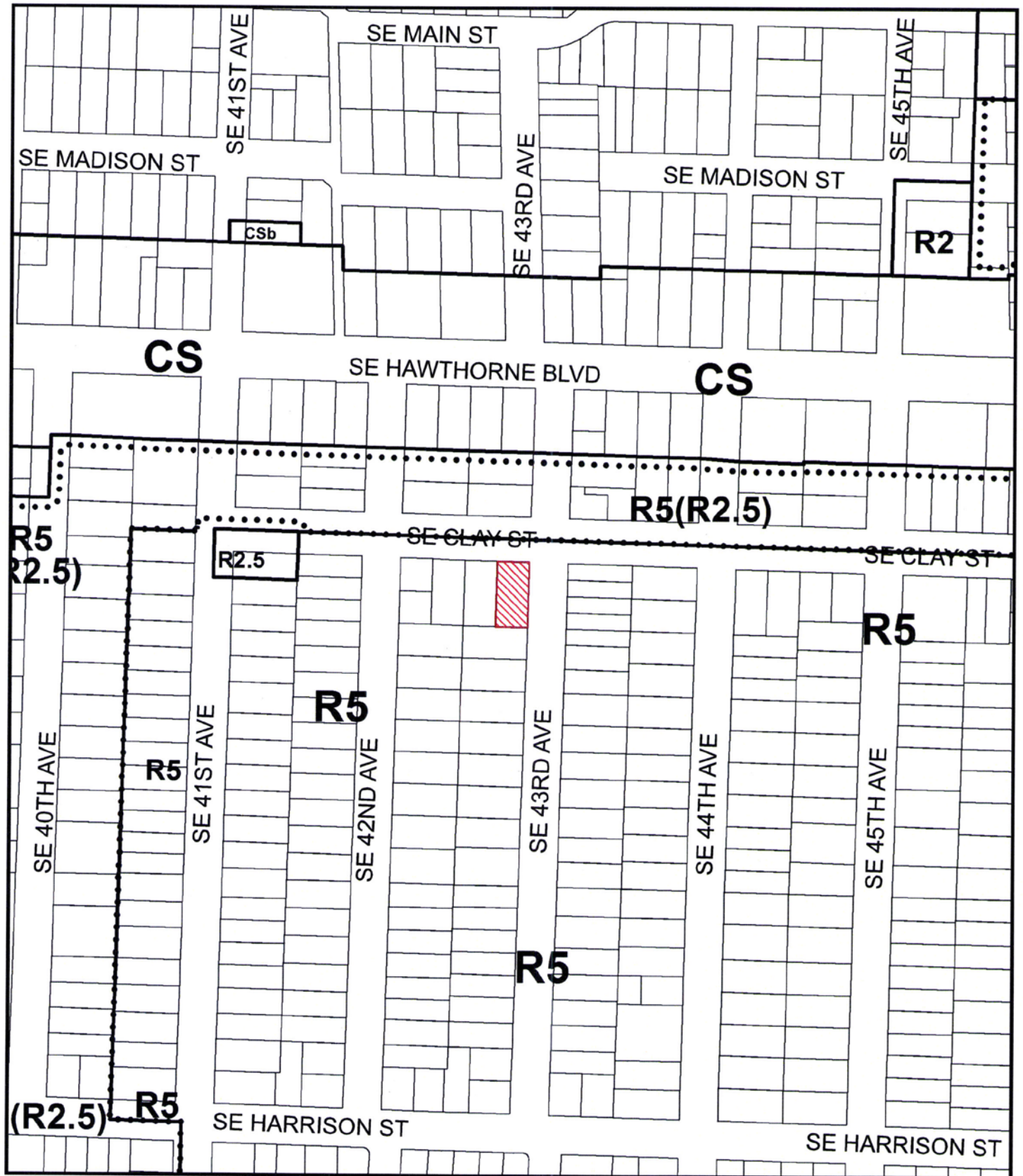
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED


- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Proposed ADU Elevations (attached)
  - 3. Existing Garage Plan and Proposed ADU Floor Plan (attached)
- 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 Plan Examiner of BDS
- F. Correspondence:
  - 1. Russell Watt, 1710 SE 43<sup>rd</sup> Avenue, expressed support for the proposal, March 18, 2016
- 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

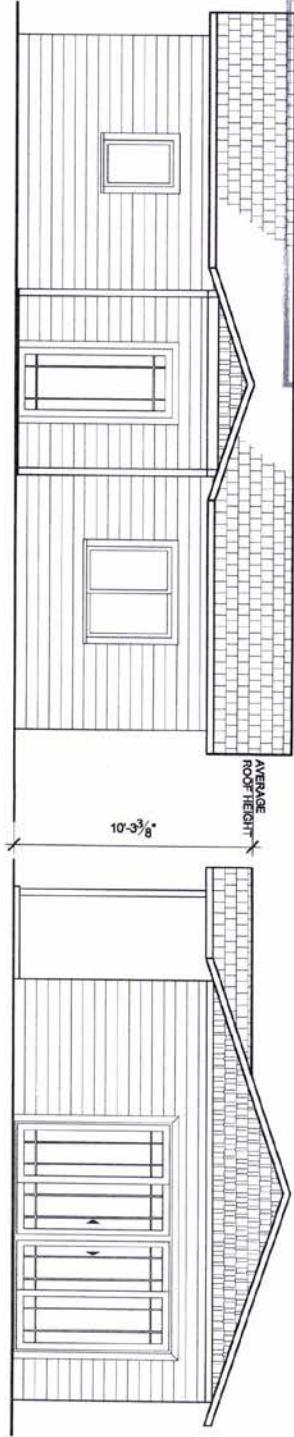
 Site



|             |                          |
|-------------|--------------------------|
| File No.    | <u>LU 16-126576 AD</u>   |
| 1/4 Section | <u>3235</u>              |
| Scale       | <u>1 inch = 200 feet</u> |
| State_Id    | <u>1S2E06CB 14000</u>    |
| Exhibit     | <u>B</u> (Feb 25, 2016)  |

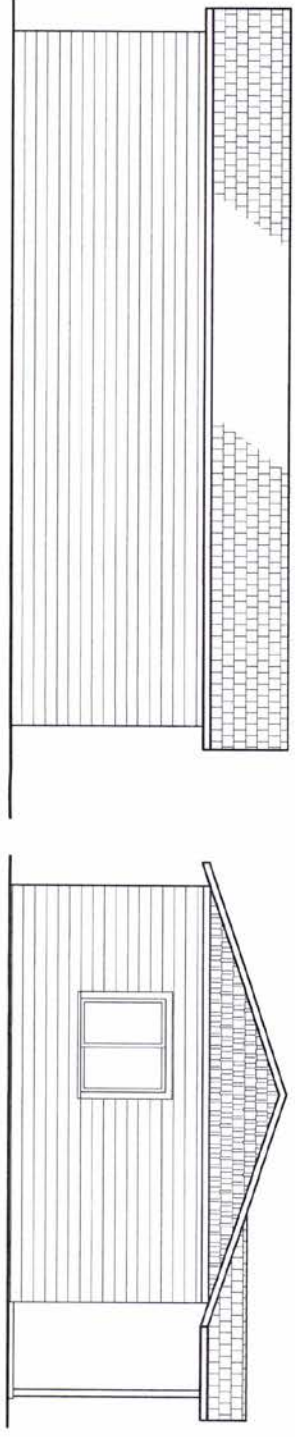
EXHIBIT C-1  
16.126576 AD

City of Portland  
 Bureau of  
 Development Services  
 By Life Date 4/12/16  
 Approved by  
 Planning & Zoning Review



1 EAST ELEVATION  
 A3 1/4"=1'

2 NORTH ELEVATION  
 A3 1/4"=1'



3 WEST ELEVATION  
 A3 1/4"=1'

4 SOUTH ELEVATION  
 A3 1/4"=1'

Sarah Galbraith ADU  
 1615 SE 43rd Ave.

SARAH GALBRAITH  
 1615 SE 43RD AVE.  
 PORTLAND, OR 97215  
 Sheet Contents: Elevations

5719 SW Corbett Ave.  
 Portland, OR 97239  
 (503) 545-0000  
 mjgalbraith@seattle.gov

A3  
 02/16/2016

PROPOSED ADU ELEVATIONS

W16-126576 AD

EXHIBIT C-2  
 16-126576 AD



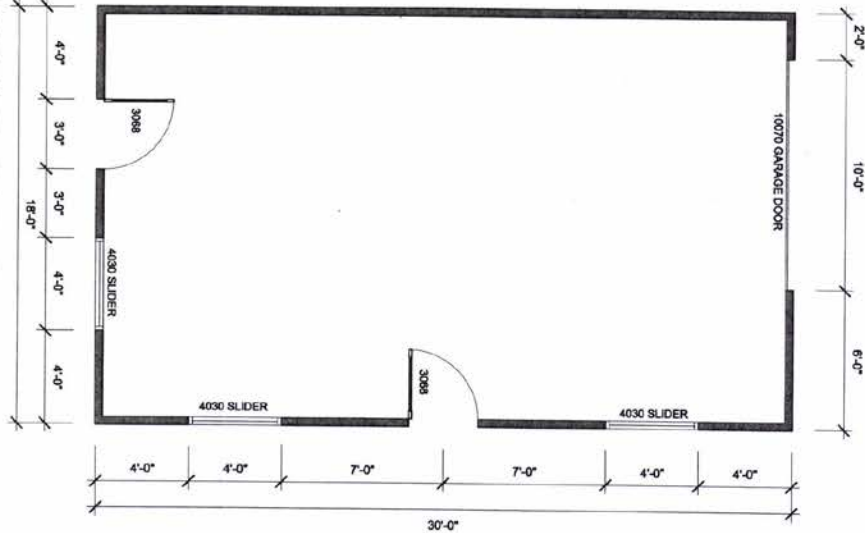


PROPOSED ADU FLOOR PLAN

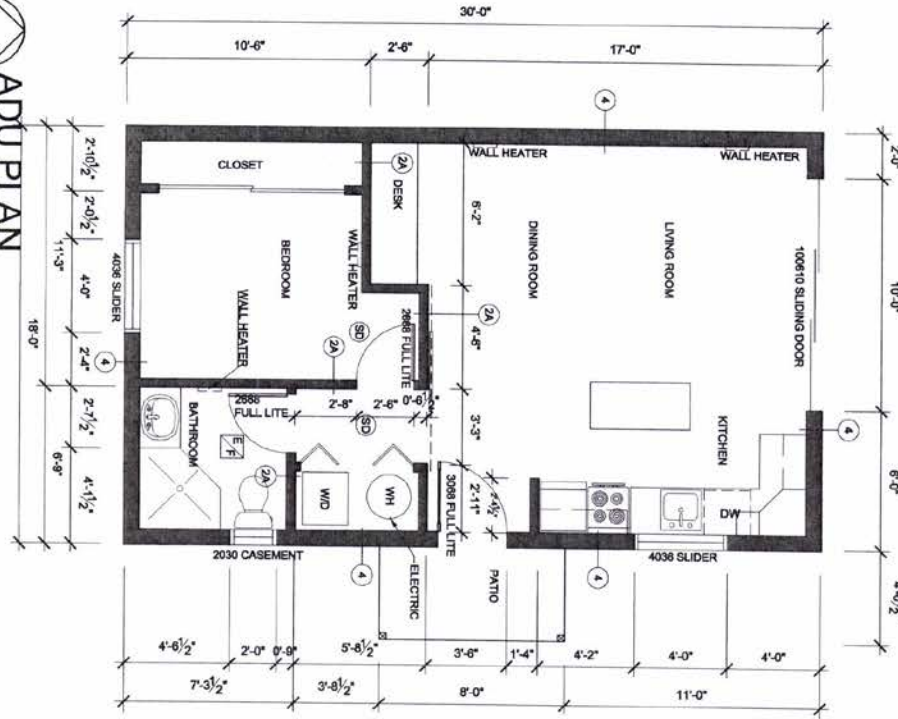
EXHIBIT C-3  
16.124576 AD

LU16-126576AD

# EXISTING GARAGE PLAN



# ADU PLAN



A2

SARAH GALBRAITH  
1615 SE 43RD AVE  
PORTLAND, OR 97215  
Sheet Contents: Floor Plans

Sarah Galbraith ADU  
1615 SE 43rd Ave.

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mjb@nchambers@gmail.com