



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

Ted Wheeler, Mayor  
Rebecca Esau, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** July 11, 2019  
**To:** Interested Person  
**From:** Don Kienholz, Land Use Services  
503-823-7771 / [Don.Kienholz@portlandoregon.gov](mailto:Don.Kienholz@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 19-161789 AD**

#### **GENERAL INFORMATION**

**Applicant:** Kari Lloyd-Jones  
Weitzer Company  
3909 SE Lincoln Street  
Portland OR 97214

**Owner:** Kara Mc Fall  
11844 SW 23rd Ave  
Portland, OR 97219

**Site Address:** 11844 SW 23RD AVE

**Legal Description:** LOT 10, DICKINSON SUB  
**Tax Account No.:** R209000370  
**State ID No.:** 1S1E33CB 01100  
**Quarter Section:** 4227

**Neighborhood:** Arnold Creek, contact at [contact@arnoldcreek.org](mailto:contact@arnoldcreek.org)  
**Business District:** None  
**District Coalition:** Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.

**Plan District:** None

**Zoning:** R10 – Single Dwelling Residential, 10,000.

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

#### **Proposal:**

The applicant is proposing to construct a one-story, 732-square foot addition to an existing house in the R10 zoning district. The addition is proposed to be just over 18-feet from the

property line along SW 23<sup>rd</sup> Avenue on the west side of the lot. The lot also has a street lot line along SW Dickenson Court on the eastern side of the lot, making it a Through Lot. Through Lots have two Front Lot Lines instead of a Front and Rear Lot Line. In the R10 zone, the minimum required front building setback is 20-feet (Portland Zoning Code section 33.110.220 and Table 110-3). Because the proposed addition encroaches approximately 2-feet into the front building setback along SW 23<sup>rd</sup> Avenue, an Adjustment is required.

**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 subject site is a 20,473 square foot, through lot with frontage along SW 23<sup>rd</sup> and SW Dickinson Court. The site is part of the Dickinson Subdivision, a subdivision of unusually large lots in the R10 zone that center around a horseshoe shaped road that connects to SW Stephenson Street. The site is in the middle of a large swath of R10 residential land that includes substandard right of way development, hilly topography and significant tree canopy. The subject site includes several trees over 12-inches in DBH in the northwest corner and an existing one-story house built in 1960 that is part of the overall mid-century development pattern of the area. The house is oriented to SW 23<sup>rd</sup> Avenue, with a driveway accessed from SW 23<sup>rd</sup> Ave.

The site is approximately 1,800 feet from the Lake Oswego/Portland city boundary

**Zoning:** R10 – Single-dwelling residential, 10,000.

**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 **June 7, 2019**. The following Bureaus have responded with no issues or concerns:

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

**Neighborhood Review:** One written response has been a notified property owner, Andrea Hall, expressing support for the proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 Approval Criteria

**The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.**

**A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and**

**Finding:** The applicant is proposing a one-story addition to the existing house that will be 18-feet 1-inch from the western property line adjacent to SW 23<sup>rd</sup> Avenue. Because the property is a Through Lot, the western property line is Front Property Line as defined. The required minimum setback to a front property line in the R10 zone is 20-feet. Because the

addition encroaches into the minimum front building setback, an Adjustment is required. The purpose of a front building setback is found in Portland 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.”*

***Applicable purpose statements in bold***

They maintain light, air, separation for fire protection, and access for fire-fighting;

The subject site is a Through Lot with two front lot lines. The existing house is in the approximate middle of the property with an approximate 51-foot setback to the eastern front property line and an approximate 43-foot setback to the western front property line. The approximate 25x25-foot addition is proposed to the western side of the house and will be just over 18-feet from the western property line, encroaching 2-feet into the front building setback. A 2-foot encroachment is 10% of the required setback. The addition runs along 25-feet of the 90-foot long house, leaving 65-feet of the house outside the front setback. With only 25-feet of the proposed house encroaching 2-feet into the 20-foot minimum setback, there is significant space to allow light and air access to the house west of the subject site. The 18-foot setback along the western property line and the public right-of-way on SW 23<sup>rd</sup> Ave. provide ample space for a fire apparatus and access to the structure for fire-fighting purposes. This purpose is met.

They reflect the general building scale and placement of houses in the city's neighborhoods;

The R10 zoning district includes larger front building setbacks (20-feet) than other residential zones, such as the R7 zone and its 15-foot minimum front building setback or the R5 zone and its 10-foot setback. The subject property has a 180-foot long western front property line and the proposed addition will encroach 2-feet into the minimum front building setback for a 25-foot length, or approximately 14% of the setback length. Small encroachments into the minimum building setbacks are fairly common throughout Portland's neighborhoods. The property immediately to the north also has a small encroachment into their front building setback. A 10% encroachment along 14% of the front property line will not visually appear from the street as an encroachment due to the small nature of the encroachment. Given the minor encroachment and commonality of such minor encroachments, the proposal meets this purpose statement.

They promote a reasonable physical relationship between residences;

The proposed addition is approximately 20-feet from the house to the north; approximately 150-feet from the house across SW 23<sup>rd</sup> Ave. to the west; approximately 150-feet from the house to the southwest; approximately 130-feet from the house to the immediate south; and approximately 180-feet from the house to the east and across from SW Dickinson Court. These distances are all greater than the combined distance between residences if they were located the minimum setback distance from the common property lines. Given these distances, the addition promotes a reasonable physical relationship between residences. This purpose statement is met.

They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;

The property is a Through Lot with two front property lines. The existing house is approximately 50-feet from the eastern front property line and approximately 40-feet from the western front property line. The existing house site also a 25-foot setback to the north side property line and 17-feet to the south side property line. The proposed addition will encroach 2-feet into one of the two, front building setbacks for a 25-foot segment. With the small encroachment along 25-feet of the western front building setback, 91% of the total front building setbacks are greater in size than the two side building setbacks. The front yards remain large and open and include landscaping. This purpose statement is met.

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;

The proposed addition will match the architecture of the existing house and reflect the mid-century homes in the neighborhood. The addition will encroach 10% into the required 20-foot front setback but will not be visually noticeable as encroaching because of its relatively minor encroachment along approximately 25-feet of the 180-foot long setback. The site will continue to have more than the minimum outdoor area required and will have a 50-foot deep front yard on the other front building setback along SW Dickinson Court. This purpose statement is met.

*Criterion met.*

- B. If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and**

**Finding:** The subject site is in the R10 zone, a residential zone. As found in Finding A above, the proposed approximately 25x25-foot one-story addition will encroach into the 20-foot minimum front building setback along SW 23<sup>rd</sup> a total of only 2-feet. The encroachment will be consistent with the general building pattern and placement of homes in the R10 zone in the area and as such will not detract from the appearance of the area. Additionally, the addition will be more than 45-feet from the closest neighboring home and therefore will not impact privacy, a key component in livability. The addition will increase living area in the existing house on the site and will not add uses not generally found in the R10 zone. Considering these factors, the proposed encroachment into the setback will not detract from the livability of the area.

*Criterion 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**

**Finding:** Only one Adjustment has been requested. Therefore, this criterion is not applicable.

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

**Finding:** City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s,” while historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. The subject property is not within a City-designated ‘s’ overlay zone nor within proximity to an Historic Resource. Considering the lack of proximity to city-designated scenic and historic resources, staff finds development will not adversely impact scenic or historic resources and they will be preserved.

*Criterion met.*

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

**Finding:** As found in staff responses to criteria A and B, the requested adjustment equally meets the purpose of the Setback purpose statement. Staff found there are no adverse impacts resulting from the Adjustment and as such no mitigation is required.

*Criterion 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;**

**Finding:** The subject property is not within an environmental zone.

*Criterion 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 requirements of Title 11 can be met, and 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**

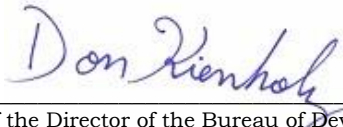
The applicant has demonstrated that reducing the 20-foot minimum west front building setback (33.110.220) down to 18-feet for the addition will equally meet the setback purposes of providing light, air, and adequate separation access and for fire-fighting purposes; reflect the general scale and pattern of development in the R10 zone; promote privacy and a reasonable relationship between houses; and keep the development consistent with the character of the area. The reduced setback will not adversely affect the livability or appearance of the neighborhood nor environmental resources. Lastly, the proposal will not impact scenic or historic resources. With the applicant demonstrating compliance with the Adjustment approval criteria, the Adjustment must be approved.

**ADMINISTRATIVE DECISION**

Approval of an Adjustment to reduce the minimum west front building setback down from 20-feet (33.110.220) to 18-feet, per the approved site plans, Exhibits C.1 through C.3, signed and dated July 5, 2019, 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 through C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 19-161789 AD. No field changes allowed."

**Staff Planner: Don Kienholz**

**Decision rendered by:**  **on July 5, 2019**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: July 11, 2019**

**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 May 8, 2019, and was determined to be complete on June 5, 2019.

*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 May 8, 2019.

*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: October 5, 2019.**

**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 July 25, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **July 25, 2019** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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:

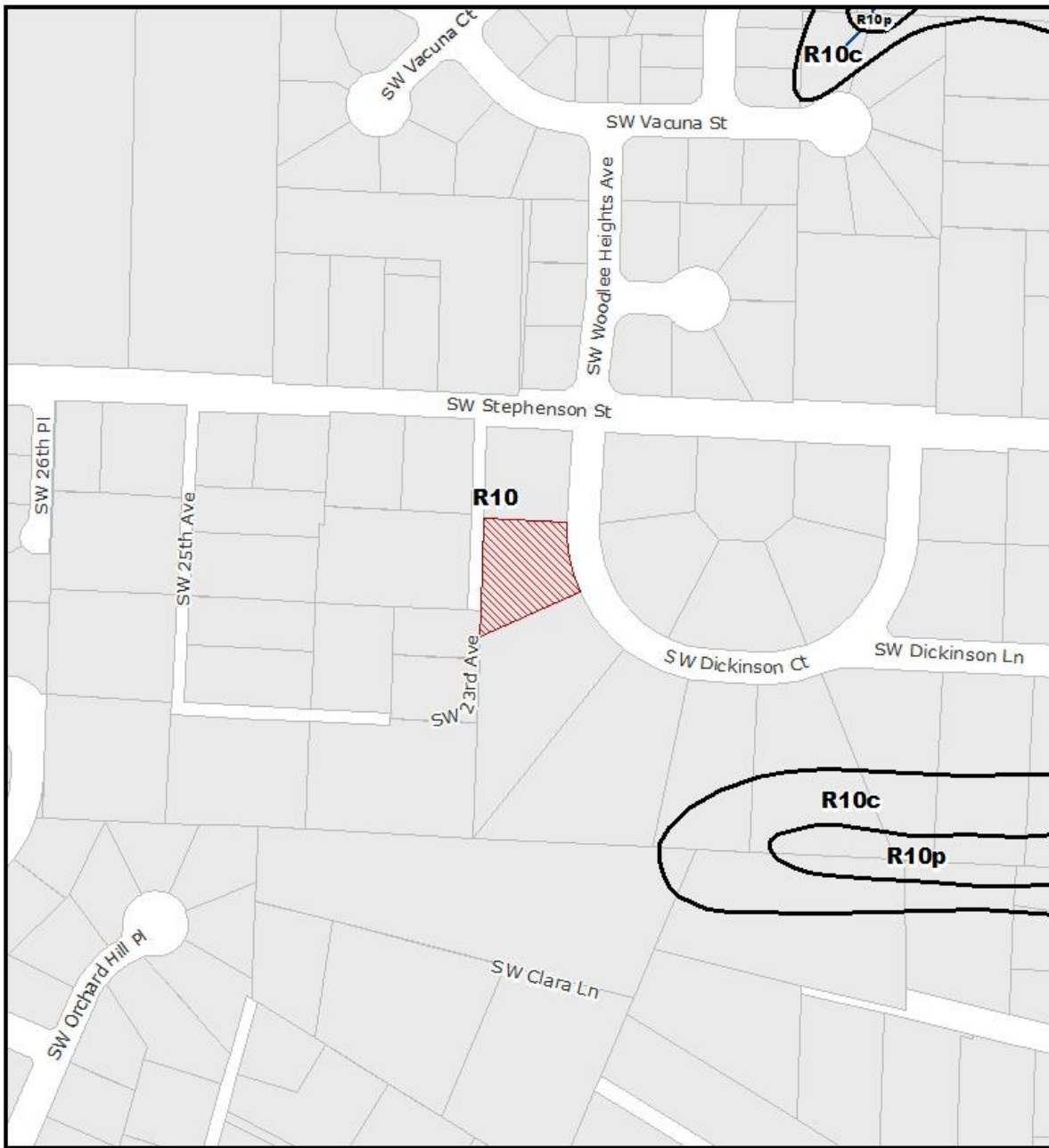
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Materials
  - 1. Applicant's May 8, 2019 Narrative
  - 2. May 8, 2019 Site Plan
  - 3. Applicant's Site Photos
  - 4. Letter's in Support Submitted by Applicant
  - 5. Full Size May 8, 2019 Site Plan
  - 6. Full Size May 8, 2019 Elevation Plans
  - 7. Applicant's May 24, 2019 Narrative
  - 8. May 24, 2019 Site Plan
  - 9. May 24, 2019 Full Size Site Plan
  - 10. June 4, 2019 Arborist Report
- B. Zoning Map (Attached)
- C. Plans/Drawings:
  - 1. Site Plan (Attached)
  - 2. South and North Building Elevations (Attached)
  - 3. West Building Elevations (Attached)
- D. Notification information:
  - 1. Mailing List
  - 2. Mailed Notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Water Bureau
  - 3. Site Development Section of BDS
  - 4. Portland Bureau of Transportation
  - 5. Life Safety Division (Exhibit E.5)
  - 6. Fire Bureau
- F. Correspondence:
  - 1. Andrea Hall, June 12, 2019, Email in Support of Project
- G. Other:
  - 1. Original LU Application
  - 2. Copy of Receipt of Fee Payment
  - 3. May 17, 2019 Incomplete Letter

**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
-  Stream

File No.	<u>LU 19-161789 AD</u>
1/4 Section	<u>4227</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1S1E33CB 1100</u>
Exhibit	<u>B May 10, 2019</u>

WEITZER COMPANY DREAM · DESIGN · BUILD	WEITZER COMPANY 3909 SE LINCOLN ST PORTLAND OR 97214 P (503) 251-9500 F (503) 251-1600	MCFALL - O'NEILL REMODEL & ADDITION 11844 SW 23rd	THIS DRAWING AND ALL INFORMATION CONTAINED HEREIN IS THE PROPERTY OF WEITZER COMPANY AND IS NOT TO BE REPRODUCED OR USED FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN CONSENT OF WEITZER COMPANY.	CLIENT'S SIGNATURE:
				DATE: 6/4/2019

SHEET 29 OF 20

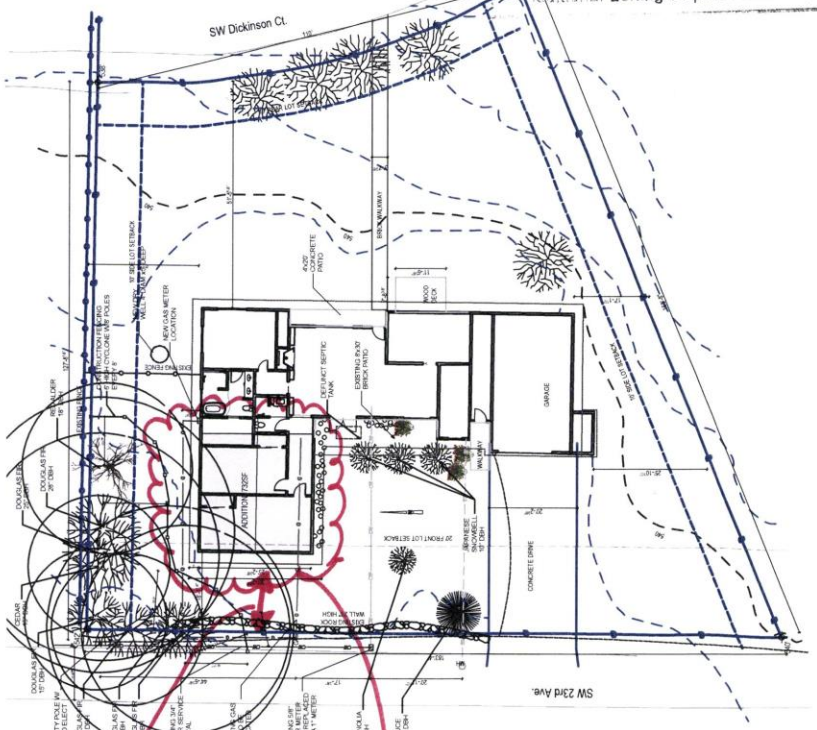
**\*Approved\***  
**City of Portland**  
 Bureau of Development Services  
 Planner Don Kenney  
 Date 7/5/19

\* 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: 1/32" = 1'-0"



*Adjustment to  
Front Building  
Setback*

*Addition*

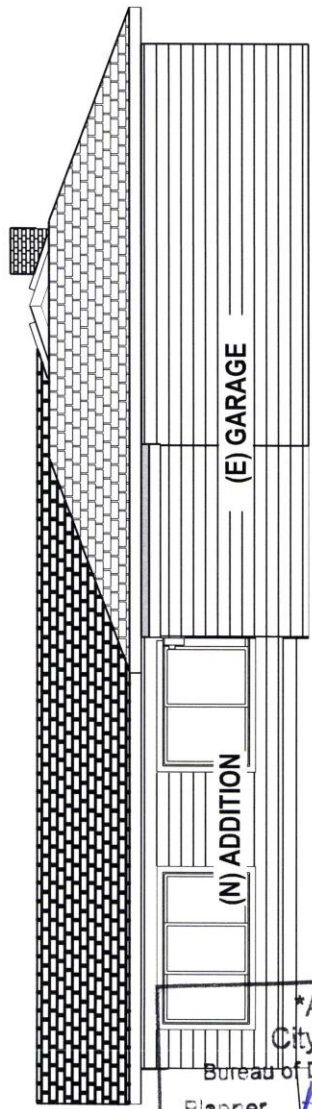
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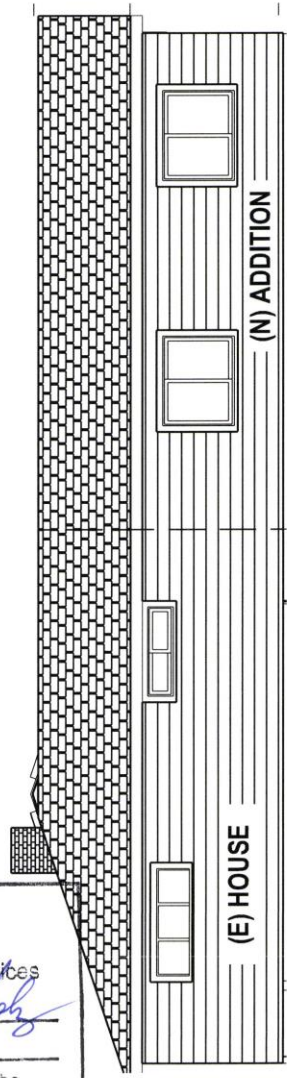
Bureau of Development Services

CASE NO. LU 19-161789  
 EXHIBIT C.1

<b>WEITZER COMPANY</b> DREAM · DESIGN · BUILD	WEITZER COMPANY 3909 SE LINCOLN ST PORTLAND OR 97214 P (503) 251 9900 F (503) 251 1600	11844 SW 23rd <b>REMODEL &amp; ADDITION</b> McFALL - O'NEILL	CLIENT'S SIGNATURE: _____ DATE: 5/5/2019
	THIS DRAWING AND DESIGN IS PROPERTY OF WEITZER COMPANY. IT IS NOT INTENDED FOR REUSE OR REPRODUCTION FOR USE BY ANYONE OTHER THAN WEITZER COMPANY.		<b>NORTH &amp; SOUTH ELEVATIONS</b> DATE: 5/5/2019 <b>SHEET 26 OF 20</b>



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



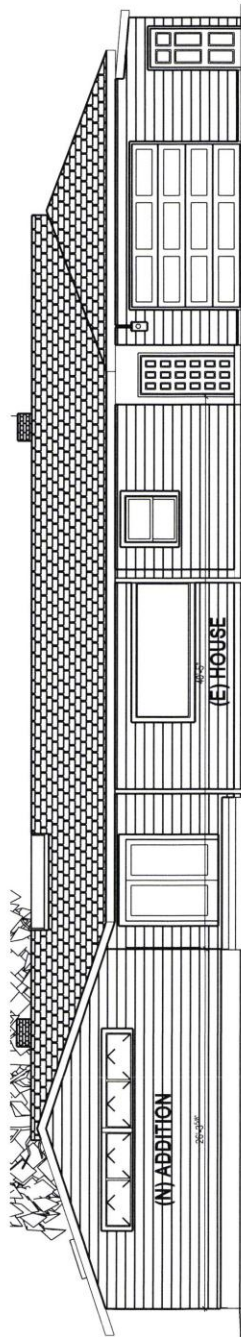
2 NORTH ELEVATION  
 SCALE: 1/8" = 1'-0"

**\*Approved\***  
 City of Portland  
 Bureau of Development Services  
 Planner Don Vanhook  
 Date 7/5/19  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval.  
 Additional zoning requirements may apply.

CASE NO. LU 19-161789  
 EXHIBIT C.2

LU 19-161789 AD  
 SHEET 26 OF 20

<b>WEITZER COMPANY</b> DREAM · DESIGN · BUILD	WEITZER COMPANY 1909 SE LINCOLN ST PORTLAND OR 97214 F (503) 251-9900	11844 SW 23rd	CLIENT'S SIGNATURE:	DATE: 5/5/2019
	McFALL - O'NEILL REMODEL & ADDITION	THIS DRAWING AND DESIGN IS PROPERTY OF WEITZER COMPANY. IT IS NOT INTENDED FOR REPRODUCTION FOR ANY OTHER THAN WEITZER COMPANY.	WEST ELEVATION	SHEET 27 OF 20



1 WEST ELEVATION

SCALE: 3/32" = 1'-0"



**\*Approved\***  
 City of Portland  
 Bureau of Development Services  
 Planner Jon Kenney  
 Date 7/5/19

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

CASE NO. LU 19-161789  
 EXHIBIT C3

LU 19-161789 AD SHEET 27 OF 20