



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

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Date: December 22, 2022
To: Interested Person
From: Don Kienholz, Land Use Services
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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 22-147436 AD
UNINCORPORATED MULTNOMAH COUNTY

GENERAL INFORMATION

Applicant: Alexis Kurland
Waechter Architecture
4224 N Mississippi Ave #201
Portland, OR 97217

Owners: Stephanie and Matthew Kelly
12230 S Edgecliff Rd
Portland, OR 97219

Site Address: 12230 S EDGECLIFF RD
Legal Description: BLOCK 97 TL 2700, DUNTHORPE
Tax Account No.: R220800690
State ID No.: 1S1E35CA 02700
Quarter Section: 4231

Neighborhood: None
Business District: None
District Coalition: None
Plan District: None

Zoning: R20z – Single-Family Dwelling, 20,000 with a Constrained Sites Overlay Zone ('z')

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

Proposal:

The applicant is proposing to build a new accessory building with a 1,145 sf of building coverage (1,030 sf footprint plus 115-sf of eave area over 2-ft which counts as building coverage) on a 25,275-sf lot. The property has an existing dwelling with a building coverage of 4,109-sf (3,834-sf footprint plus eaves of more than 2-ft). Portland Zoning Code Section 33.110.225 and Table 110-5 set out the maximum building coverage allowed for a lot in the single-dwelling zones based on the size of the lot. For a 25,275-sf lot, the maximum building coverage allowed is 4,918-sf. The addition of an accessory building with 1,145 sf of building coverage would bring the site's total building coverage to 5,254-sf, which exceeds the allowed building coverage by 336-sf. Therefore, an Adjustment is required for the additional building coverage.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in Portland Zoning Code Section 33.805.040.A through F.

ANALYSIS

Site and Vicinity: The subject site is a 25,275-ft square foot site located at the intersection of S Edgecliff Rd. and S. Breyman Ave. in the Dunthorpe area of unincorporated Multnomah County. While the area is within the unincorporated county, Multnomah County and the City of Portland have an intergovernmental agreement in place stipulating that the City of Portland provides city planning services. The subject site is currently developed with 3,309 sf home and a sports court facility. The composition of structures in the general vicinity is a mix of single-dwelling homes of varying styles and typically large in scale. As evidenced by the attached zoning map, the lots in the area are both regularly and irregularly shaped, and comparable in size to the subject site. S Breyman Avenue has a 60-foot right-of-way width while S Edgecliff Rd has only a 40-ft right-of-way. Both are improved with a center strip paved roadway with gravel shoulders with no curbs or sidewalks.

Zoning: The Single-Dwelling Residential 20,000 (R20) base zone is a low-density residential zone that provides housing opportunities for individual households. The maximum density for new lots is generally one parcel for every 20,000 square feet of land. The development standards of the R20 zone are intended to preserve the overall residential character of the area, as well as to address issues including appearance, livability, neighborhood character and other policy concerns.

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 **October 21, 2022**. The following Bureaus have responded with no issues or concerns:

- Site Development, PBOT and Water Bureau Response
- Dunthorpe-Riverdale Sewer Certification
- Lake Oswego Fire Department
- Life Safety Section of BDS
- Palatine Hill Water District

Neighborhood Review: No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA**33.805.010 Purpose of Adjustment Reviews**

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 statement for the building coverage standard in the R20 zone is as follows (33.110.225.A):

“The building coverage standards, together with the height and setback standards control the overall bulk of structures. They are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site.”

The requested Adjustment is to build a new detached accessory building with 1,145-sf of building coverage and increase the maximum building coverage allowed on the 25,275-sf lot from 4,918-sf to 5,254-sf. The total increase of 336-sf is an increase of under 7%.

The proposed accessory structure has a *building footprint* of 1,030-sf, but a *building coverage* of 1,145-sf because of the 3-ft eaves. By definition in 33.910.030, Building coverage includes eaves over 2-ft in length even though the eaves are at the roof line. Those eaves make up 115-sf of the 336-sf coverage of the maximum building coverage. Without the eaves, the increase would be 221-ft, less than a 5% increase.

The accessory building is proposed in the northwestern corner and meets the required building setbacks: 20-ft from the S. Edgecliff Rd. lot line, the front property line, and 10-ft from the S. Breyman Ave. lot line, a side property line (Exhibit C.1). The structure is a single story tall (Exhibit C.2) and below the maximum allowed building height. The house on the lot adjacent to the south will be approximately 160-ft away from the accessory structure. The house on the lot across the street to the west will be approximately 175-feet away from the accessory structure. The closest house to the north across the street will be approximately 100-ft away from the accessory structure.

Given the accessory buildings single-story height and large distances from adjacent homes, the additional 336-sf of technical building coverage will not be noticeable to the naked eye and will therefore not overwhelm adjacent houses. Additionally, given the coverage is a mere 336-sf on a lot more than 25,000 sf in size, it will not adversely impact the character of the R20 zone and immediate residential area. Given the facts above, purpose of the standard is equally 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

Findings: The site is in an area developed with large single-family homes built on large lots, many with accessory structures. The proposed accessory building is similar in design to the primary house with larger than normal eaves that increase the technical building coverage, long linear lines, and a single-story design. For these reasons in addition to the facts discussed above under criterion A, the proposed increase in building coverage at the site will not significantly detract from the livability or appearance of the surrounding residential 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

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: With approval granted based on the submitted plans, there are no discernible impacts that result from granting the requested adjustment.

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;

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). Because no environmental overlay zone is mapped on the subject 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 applicant has requested an Adjustment to increase the maximum building coverage on site from 4,918-sf to 5,254-sf in order to place a detached covered accessory building in the northwest corner of the site. The request is to increase the maximum allowed building coverage 336-sf over the maximum, or an increase of just under 7%. Considering the footprint of the new accessory building is 1,030 sf but includes 3-ft eaves that contribute to building coverage; the building has a low-profile, linear, single-story design; the large lot size of the subject site


and those in the surrounding area; and there are no extensions into the required setbacks, the proposal is able to meet the relevant criteria and must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum building coverage (33.110.225.B and Table 110-4) from 4,918 square feet to 5,254 square feet for a detached covered accessory building, per the plans in Exhibits C.1 and C.2, and subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 22-147436 AD. No field changes allowed."

Staff Planner: Don Kienholz

Decision rendered by:  **on December 16, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 22, 2022

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 June 3, 2022, and was determined to be complete on October 11, 2022.

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 June 3, 2022.

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: February 8, 2023.**

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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on January 5, 2023. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails.

Appeal fee waivers. Multnomah County may cover the appeal fees for their recognized associations. An appeal filed by a recognized association must be submitted to the City with either the appropriate fee or the attached form signed by the County. Contact Multnomah County at 503-988-3043, 1600 SE 190th, Portland, OR 97233.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

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 **January 5, 2023** 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. Original Narrative
 - 2. Original Drawings
 - 3. Topographic Survey
 - 4. August Incomplete Letter Response
 - 5. September Updated Narrative
 - 6. Building Coverage Comparison
 - 7. Survey with Site Area
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Site Development, PBOT and Water Bureau Response
 - 2. Dunthorpe-Riverdale Sewer Certification
 - 3. Lake Oswego Fire Department
 - 4. Life Safety Section of BDS
 - 5. Palatine Hill Water District
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Summary of Fees Paid
 - 3. 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).