



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

Dan Saltzman, Commissioner  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** September 4, 2012  
**To:** Interested Person  
**From:** Mark Bello, Land Use Services  
503-823-7810 / [Mark.Bello@portlandoregon.gov](mailto:Mark.Bello@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 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 12-162351 AD**

#### **GENERAL INFORMATION**

**Applicant:** Cory Omev / Ernest R Munch Architect LLC  
111 SW Oak #300 / Portland, OR 97204  
  
Arthur O'Sullivan  
3334 NW Vaughn St / Portland, OR 97210-1245

**Site Address:** 3334 NW VAUGHN ST

**Legal Description:** BLOCK 29 LOT 15, WILLAMETTE HTS ADD  
**Tax Account No.:** R913404730  
**State ID No.:** 1N1E29CD 05400  
**Quarter Section:** 2825  
**Neighborhood:** Northwest District, contact John Bradley at 503-313-7574.  
**Business District:** None  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.  
**Zoning:** R5 Residential 5,000  
**Plan District:** Northwest Hills  
**Case Type:** AD Adjustment.  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:**

The applicant proposes to construct a detached accessory structure (10' wide by 10' deep by 9' high) to be located at the front property line. (See attached proposed site plan and elevation.) The structure will be used for bike storage, and trash/recycling space. The structure will be located at the front property line due to the steep slope of the lot.

An adjustment review is required because the structure will be located at the property line with a zero setback rather than the zoning code 10' minimum setback (section 33.110.220).

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are cited in Section 33.805.040 of the zoning code.

## ANALYSIS

**Site and Vicinity:** The applicant's site is a 4,860 sq.-ft. parcel located on the south side of NW Vaughn Street adjacent to an unimproved right-of-way apparently intended for a staircase (never constructed). The properties on this block slope downwards, to NW Vaughn, at approximately 66% +/-.

NW Vaughn is improved with 36-ft. of paving and includes a 3'-6'-3' pedestrian corridor within the 60' right of way. The area between the sidewalk and the house above is vegetated with the exception of a narrow path leading down to the street from the house.

To the west, the neighbor's property is similar, with similar house placement, steeply sloping site, and a newly renovated/constructed detached accessory structure. The area is generally developed with single-dwelling homes of various ages, sizes and styles. NW Vaughn is classified in the City's Transportation System Plan as a Local Service street for all modes.

**Zoning:** The Residential 5,000 (R5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

**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 **July 31, 2012**. The following Bureaus have responded with no issues or concerns:

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. Bureau of Parks, Forestry Division
7. Life Safety Plans Examiner, BDS

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on July 31, 2012. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## 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 to provide certainty and rapid processing for land use applications.

### 33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below have been met.

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

The purpose of the setback regulations, per 33.110.220, is to:

- maintain light, air, separation for fire protection, and access for fire fighting;
- reflect the general building scale and placement of houses in the city's neighborhoods;
- promote a reasonable physical relationship between residences;
- promote options for privacy for neighboring properties;
- require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- 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
- 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.

- 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
- 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
- D.** City-designated scenic resources and historic resources are preserved; and
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and
- 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 AND CONCLUSIONS**

The applicant requests an adjustment to locate a bike garage at the front property line. Due to the small size of the structure, the bike garage is considered a detached accessory structure, not a garage. The front setback in the R5 zone is 10 ft. Reducing the setback to zero, would allow the structure to be constructed 3 ft. behind the sidewalk.

The bike structure is small in scale at 10 ft. wide, 10 ft. deep, 9 ft. high, and buried into the hillside. (The front wall will be approximately 7 ft. exposed and the back wall will be totally below the vegetated slope.) The structure is at sidewalk/street level, and separated from the adjacent properties by the right-of-way to the north and a vacant lot to the east. This spacing, in combination with the structure's 9 ft. height, ensures that there will be more than adequate light, air, separation for fire protection, and access for fire fighting. The Fire Bureau responded with no concerns.

The bike garage is proposed to be free-standing at the north property line and three feet behind the sidewalk. The proposed location reflects the general building scale and placement of similar structures in the neighborhood. Specifically, the property to the west illustrates how the new structure will conform to the appearance of the residential area. The front yard other than the structure and connection between sidewalk and house will remain landscaped.

Parking is on-street and no curb cut will be required or necessary for the proposed use.

Only one adjustment is being requested.

The site is not within a City-designated scenic resource area or a historic resource area or an environmental zone.

No impacts are anticipated from the proposed adjustments as applicant's proposal is similar to an existing development to the west and no impacts were discerned during a staff visit.

*Therefore approval criteria A and B are met and C, D, E and F are not applicable. The proposal meets all applicable approval criteria and may be approved.*

## 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.

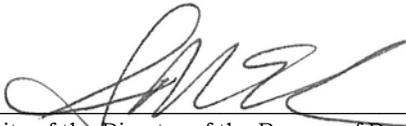
## ADMINISTRATIVE DECISION

Approval of an Adjustment to zoning code section 33.110.220, to reduce the minimum front yard setback from 10 ft. to zero for a detached accessory structure

Per the approved site plans, Exhibits C-1 and C-2, signed and dated August 30, 2012, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-162351 AD.

**Staff Planner: Mark Bello**

Decision rendered by:  on August 30, 2012  
By authority of the Director of the Bureau of Development Services

**Decision mailed: September 4, 2012**

**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 July 17, 2012, and was determined to be complete on **July 27, 2012**.

*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 July 17, 2012.

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 23, 2012.**

**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 September 18, 2012** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 **September 19, 2012.**
- 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:

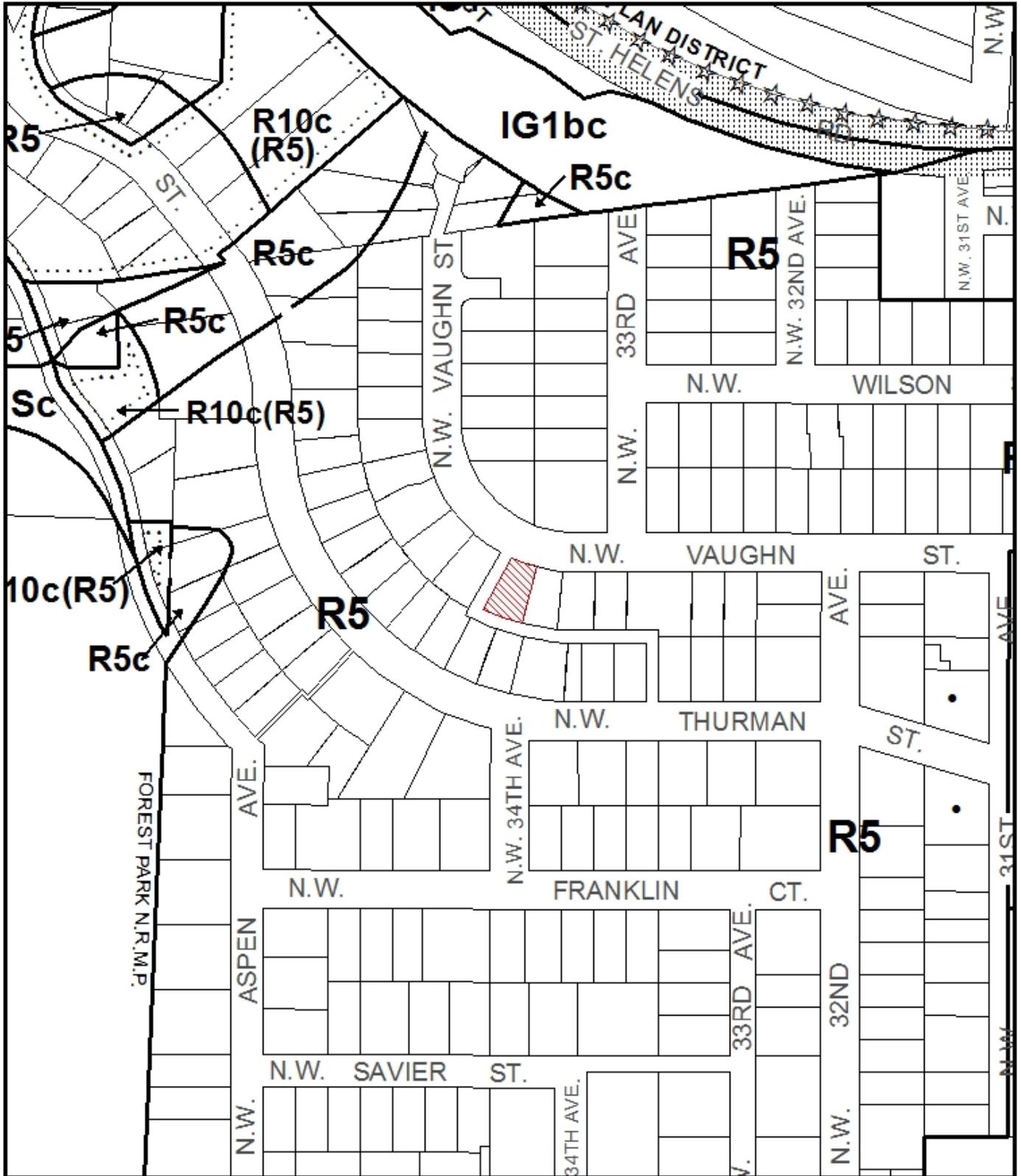
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings: (attached)
  - 1. Site Plan
  - 2. North Elevation
- 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. Bureau of Parks, Forestry Division
  - 7. Life Safety Plans Examiner, BDS
- F. Correspondence: (none)
- 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

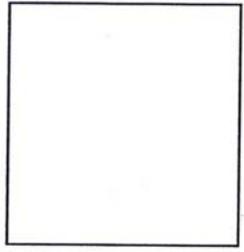
 Site



This site lies within the:  
NORTHWEST HILLS PLAN DISTRICT

File No.	LU 12-162351 AD
1/4 Section	2825
Scale	1 inch = 200 feet
State_Id	1N1E29CD 5400
Exhibit	B (Jul 23, 2012)

**\* Approved\***  
 City of Portland  
 City of Development Services  
 OR *MD*  
 8/30/12  
 PHOTO B  
 • This approval applies only to the reviews requested and is subject to all conditions of approval.  
 Additional zoning requirements may apply.

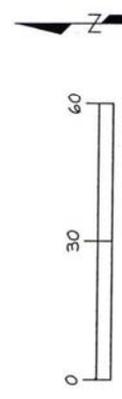
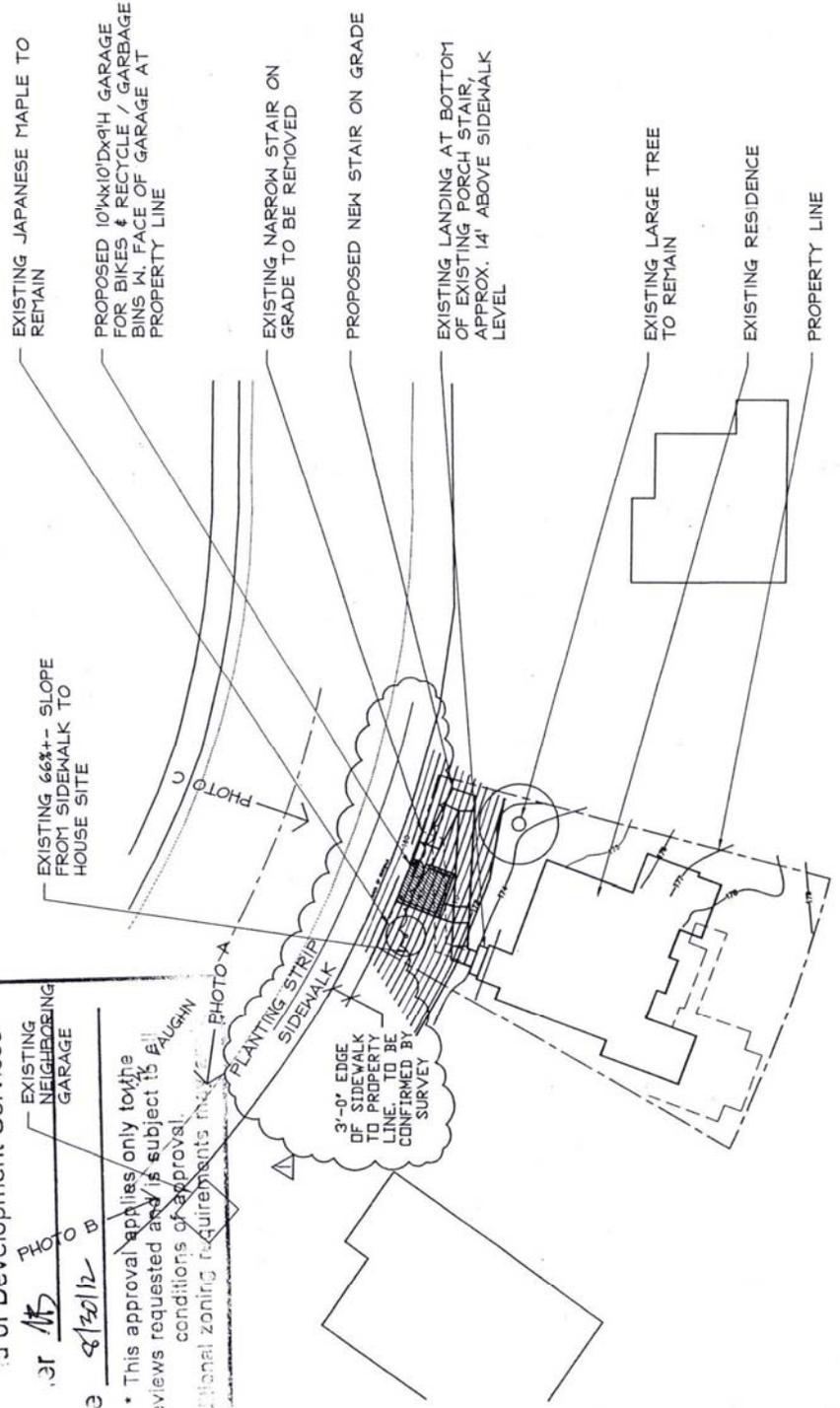


ERNEST R. MUNCH  
 ARCHITECT • URBAN PLANNER LLC  
 1111 S.W. OAK ST. • SUITE 300  
 PORTLAND, OREGON 97204  
 PHONE: (503) 224-1232  
 FAX: (503) 224-7911

**O'SULLIVAN RESIDENCE**

3334 NW VAUGHN STREET  
 PORTLAND, OR 97210

PRELIMINARY  
 07/13/2012  
 08/13/2012  
**A2.1**



FOR REFERENCE ONLY  
 CASE NO. *12 162351*  
 EXHIBIT *C1*

**NOT FOR CONSTRUCTION**

\*Approved\*

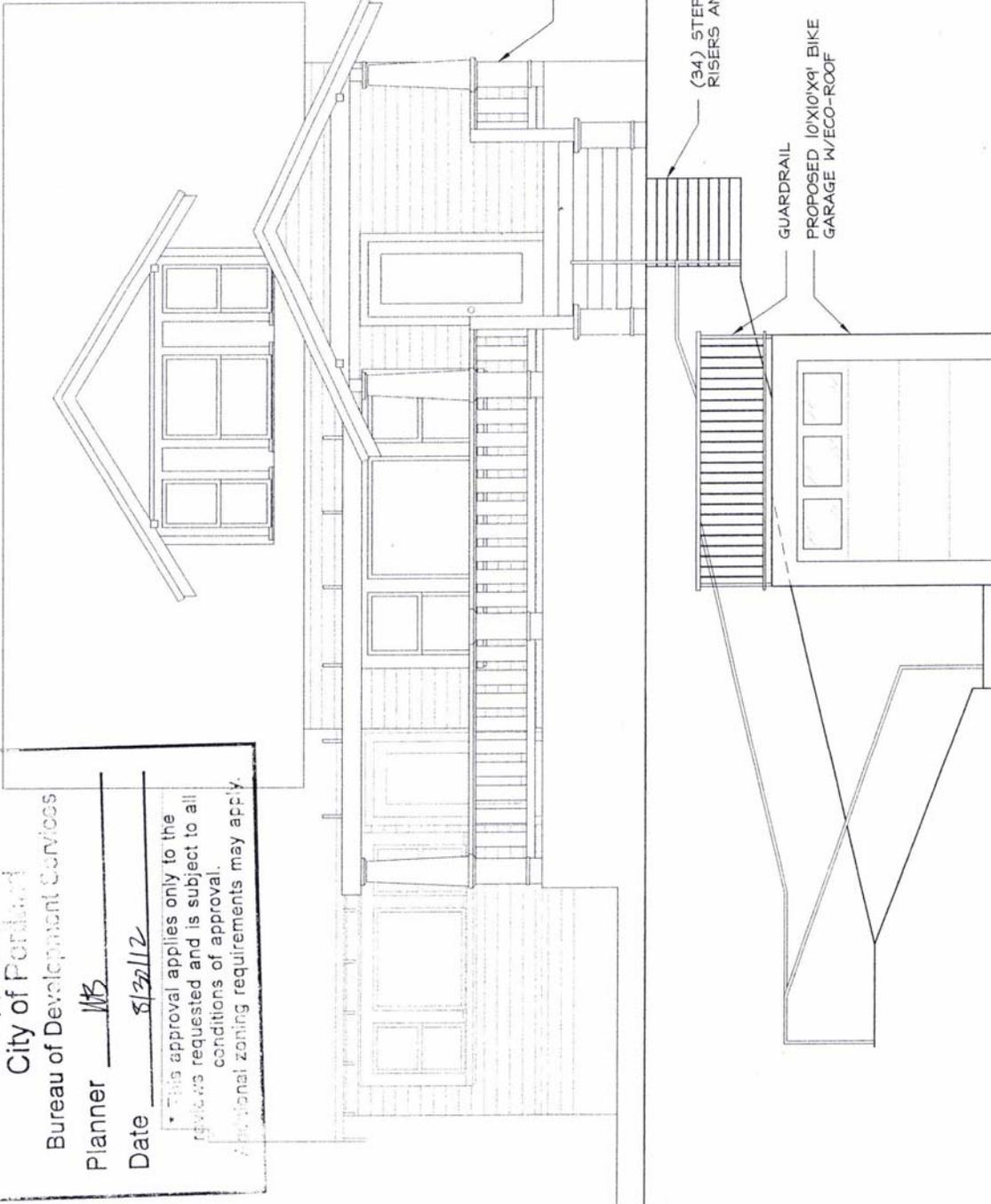
City of Portland

Bureau of Development Services

Planner MB

Date 8/22/12

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



NOT FOR CONSTRUCTION NORTH ELEVATION - STREET VIEW

1/8" = 1'-0"

FOR REFERENCE ONLY LEVEL

LU-12-162351AD

PRELIMINARY  
07/13/2012

A3.1

O'SULLIVAN RESIDENCE

334 NW VAUGHN STREET  
PORTLAND, OR 97210

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