



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

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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** February 11, 2013  
**To:** Interested Person  
**From:** Shawn Burgett, Land Use Services  
503-823-7618 / [shawn.burgett@portlandoregon.gov](mailto:shawn.burgett@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 12-212483 AD**

#### **GENERAL INFORMATION**

**Applicant:** Adrian Petrisor / Adrian'S Quality Fencing & Decks  
21275 SW Tualatin Valley Hwy / Aloha,OR 97006

**Owner:** Robert Ross  
10238 SW Lancaster Rd / Portland, OR 97219-6305

**Site Address:** 10238 SW LANCASTER RD

**Legal Description:** BLOCK 4 LOT 15 TL 4700, BALMER TR; BLOCK 4 LOT 15 TL 4800, BALMER TR

**Tax Account No.:** R052002130, R052002140

**State ID No.:** 1S1E28CB 04700, 1S1E28CB 04800

**Quarter Section:** 4027

**Neighborhood:** Marshall Park, contact John DeLance at 503-246-4382.

**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

**Zoning:** R10 (Single Family Residential 10,000 sq. ft.)

**Case Type:** AD (Adjustment)

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

#### **Proposal:**

The applicant is requesting a setback Adjustment in order to reconstruct an elevated deck on the east side of the house. New exterior stairs will provide access to the deck from the side yard. The deck will follow the side building wall and be set back approximately 32 feet from the front property line abutting SW Lancaster Road. It will extend within 5.5 feet of the east property line. Uncovered decks and stairs may extend only 20 percent into required setbacks. Therefore, the applicant is requesting an Adjustment to reduce the required side (east) setback from 8 feet to 5.5 feet.

#### **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 14,431 square foot residential lot is located in the Southwest Hills residential area. The site has frontage on SW Lancaster Road and is sloped slightly downward from the street. The homes located south of the subject site, across SW Lancaster Rd. are located on lots which slope upward from the street. Most of the residential lots in the immediate area, including the subject site have mature vegetation. The homes surrounding the subject site were built in a variety of eras. The lot adjacent to the sites western property line was built in 1983, while the home located directly to the east was built in 1961. The homes located south of the subject site across SW Lancaster Road were built in 1975 (to the southwest) and 1953 (to the southeast).

**Zoning:** R10, Single-Dwelling Residential 10,000 zone. The regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The development standards work together to preserve the character of neighborhoods, and promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. The development standards are generally written for houses on flat, regularly shaped lots.

**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 **January 10, 2013**. No Bureaus have responded with issues or concerns.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on January 10, 2013. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 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 applicant is seeking an Adjustment to the front building setback. The purpose of the building setback standards are found in Section 33.110.220, which states:

**Purpose:** The building setback regulations 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.

The Portland Zoning Code allows uncovered decks and stairs to extend within required building setbacks by 20 percent. The required side and rear setback for properties that are located in the R10 single-dwelling residential zone is 10 feet. Therefore, uncovered, elevated decks may extend within 8 feet of a side or rear property line. The applicant is requesting the Adjustment in order to rebuild a deck in the same general area as the homes original exterior deck which was permitted in 1988 when the home was originally built. The deck will provide useable outdoor space and has a direct connection to the interior of the home. The home currently has a two story deck located along the north and northeastern façade of the home that extends within approximately 5 feet of the side setback (see exhibits A-1 and C-3). The existing deck has an exterior staircase within the side setback connecting the second story of the deck to the lower story of the deck, along with another stairway located within the side setback connecting the lower story of the deck to ground level via a staircase underneath the deck. The applicant has proposed to rebuild the deck, eliminating the staircase between the second story of the deck and the lower story of the deck, while adding an uncovered stairway along the southeastern side façade 5.5 ft. from the eastern property line (see exhibits C-1 and C-2).

The stairs connect the home to the side yard. The deck and associated stairway will not restrict access for light, air, and fire fighting. No concerns were raised from nearby property owners regarding impacts to privacy. Therefore, the requested setback Adjustment will not conflict with the several purposes of the regulation. Therefore, this criterion is met.

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

**Findings:** Large decks and balconies that provide outdoor space and afford views are commonly found in the residential areas in the southwest and northwest hills. The proposed new deck design is smaller than the existing deck due to the new design which eliminates the exterior stairs between the second story of the deck and the lower story. In addition, the location of the new stairway connecting the lower story of the deck to ground level is flush with the eastern side façade of the home, which provides a visual back drop to the stairs and allow it to blend into the homes side façade. The overall scale of the home will not change. The deck will not create impacts that will diminish the livability of the adjacent residences. Therefore, this criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Only one adjustment is requested. This criterion is not applicable.

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

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. The site is not within either overlay zone; thus, this criterion is not applicable.

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

**Findings:** There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

## 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

Based upon the findings of this report, each applicable approval criterion is met.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the required side (east) setback from 8 feet to 5.5 feet (33.110.220.C) for a deck and stairs, in substantial conformance with the approved plan, Exhibits C.1 and C-2, signed and dated February 7, 2013, 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 Exhibit C.1 and C-2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-212483 AD."

**Staff Planner: Shawn Burgett**

**Decision rendered by:**  **on February 7, 2013**

By authority of the Director of the Bureau of Development Services

**Decision mailed: February 11, 2013**

**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 December 6, 2012, and was determined to be complete on January 4, 2013.

*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 December 6, 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.

**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 February 25, 2013** 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 **February 26, 2013.**
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to:

Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

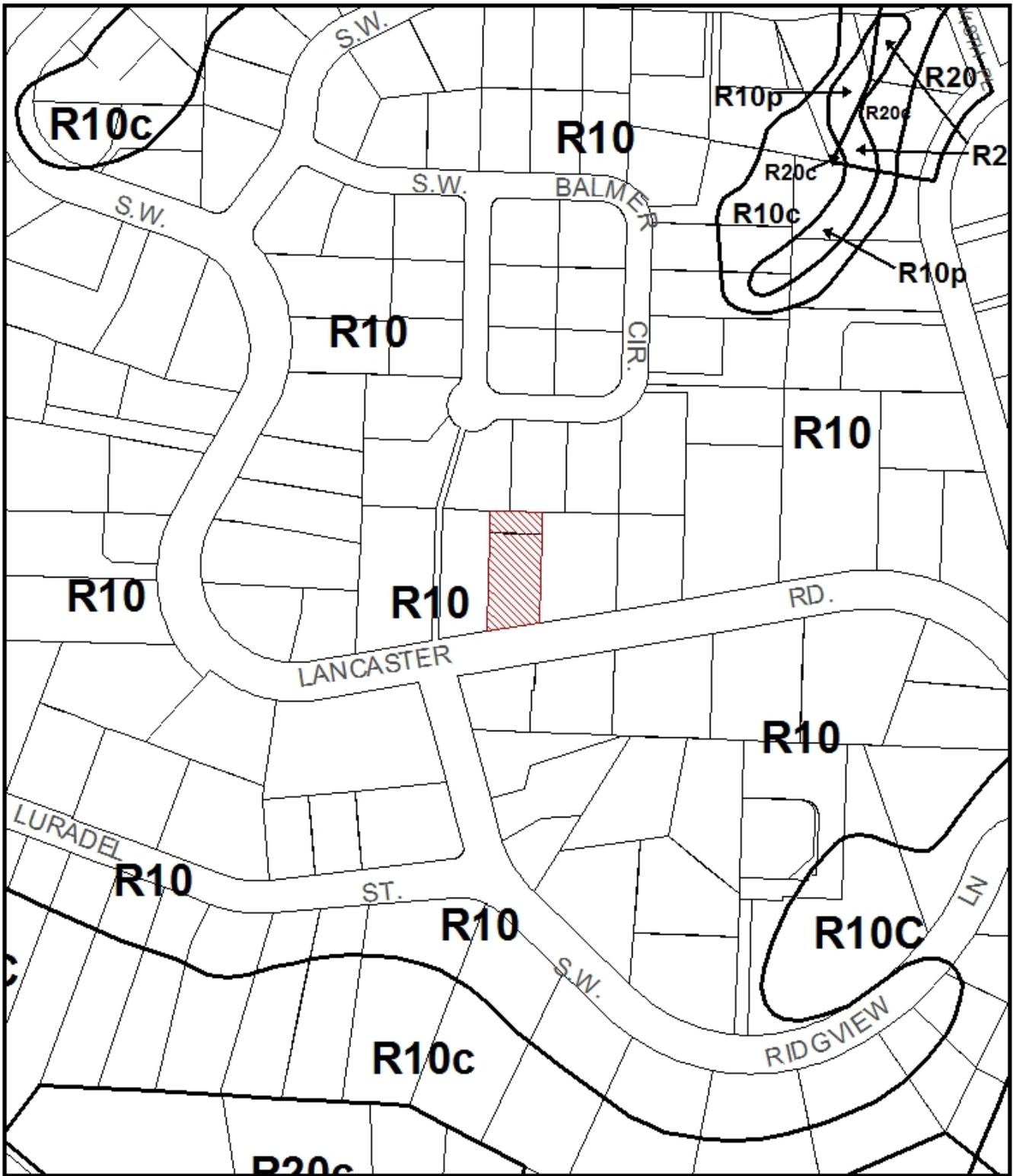
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Applicants Narrative and photos of site
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevation of new deck (attached)
  - 3. Site Plan of existing conditions
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Transportation Engineering and Development Review
- F. Correspondence: (None received)
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Incomplete Letter dated 12/20/12
  - 4. Applicants e-mail correspondence with planning staff

**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

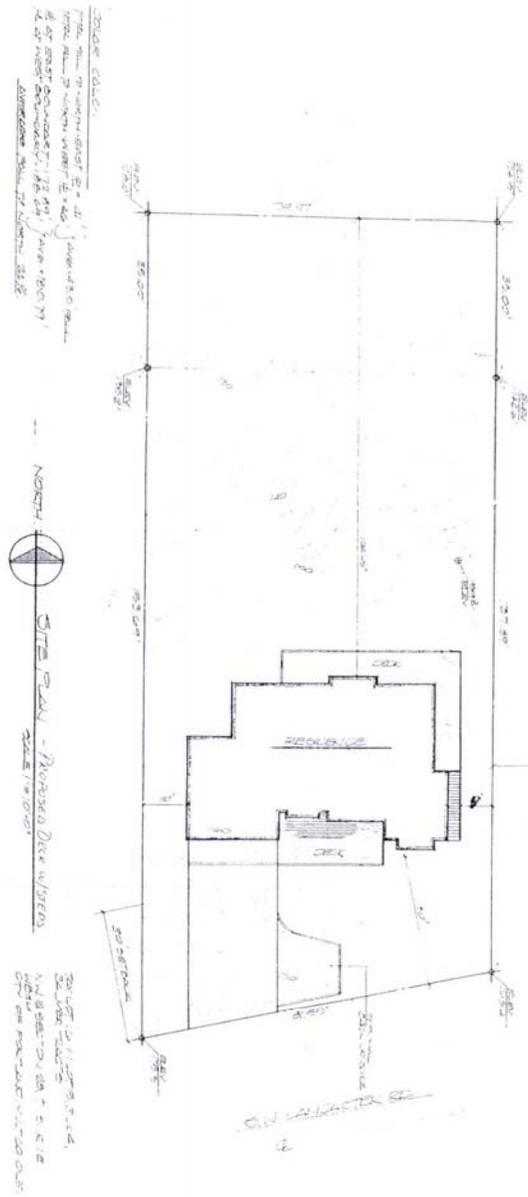


File No.	<u>LU 12-212483 AD</u>
1/4 Section	<u>4027</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E28CB 4700</u>
Exhibit	<u>B (Dec 10,2012)</u>

LN 12-212483 A

	<b>GOLA &amp; MEI DESIGN ASSOC INC</b>	client: <i>1234567890</i> sheet title: <i>1234567890</i>
	ASS 12/21 1234567890 1234567890	area:

date:	<i>12/21/13</i>
drawn:	<i>MEI</i> checked: <i>LL</i>
design no.:	<i>1234567890</i>
revision date:	



5.5' ft Setback  
proposed for Deck and Stairway

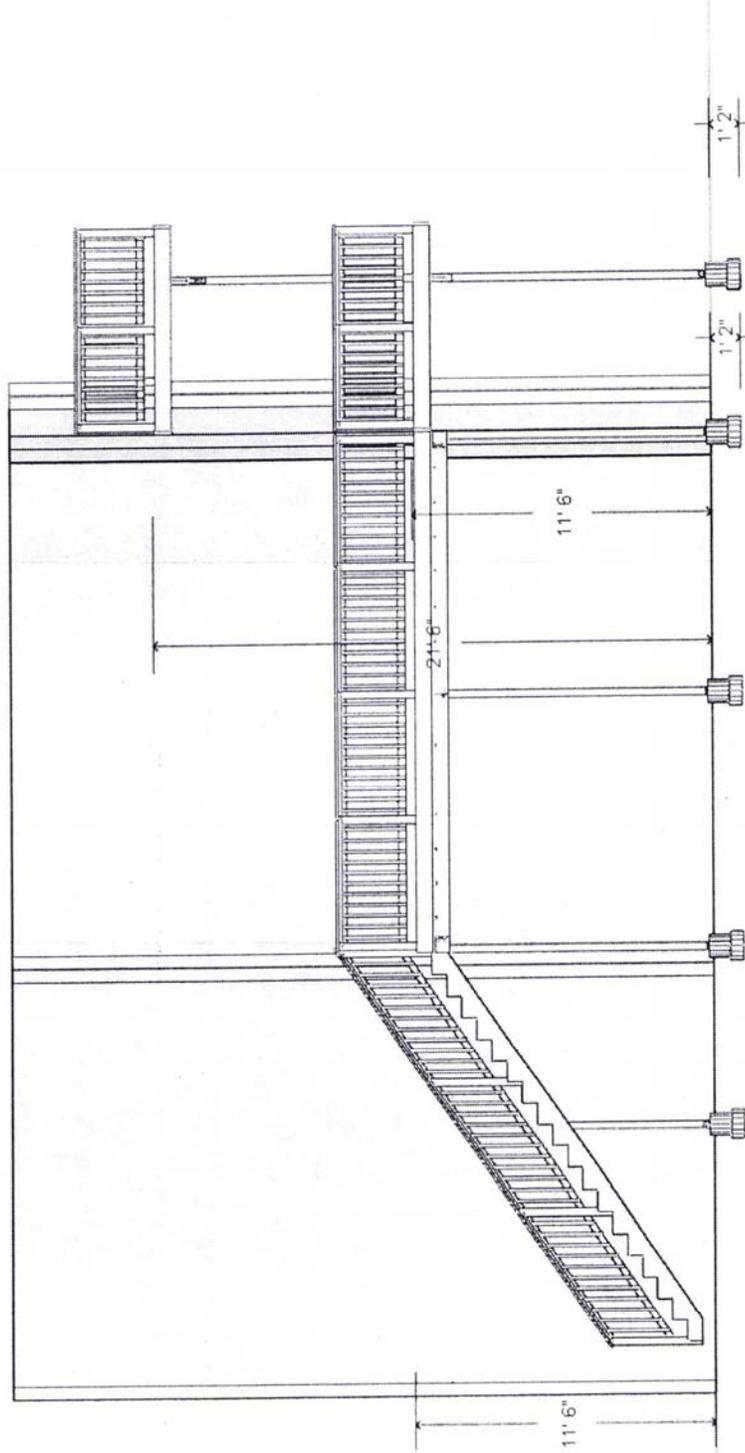
**\*Approved\***  
 City of Portland - Bureau of Development Services  
 Planner S. Buggett Date 2/7/13  
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

CASE NO. 12-212483  
 EXHIBIT C-1



<b>Bob Ross</b>
Elevation View from East and 3D View
29-Dec-12

**\*Approved\***  
 City of Portland - Bureau of Development Services  
 Planner S. Buxton Date 2/7/13  
 This approval applies only to the reviews requested and is subject to the conditions of approval. Additional zoning requirements may apply.



CASE NO. 12-212483  
 EXHIBIT C-2