



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** April 30, 2014  
**To:** Interested Person  
**From:** Sheila Frugoli, Land Use Services  
503-823-7817 / [Sheila.Frugoli@portlandoregon.gov](mailto:Sheila.Frugoli@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 14-127964 AD**

#### **GENERAL INFORMATION**

**Applicant:** Vincent O'Malley / 2775 NW Raleigh St / Portland, OR 97210-2456  
**Site Address:** 2775 NW RALEIGH ST  
**Legal Description:** BLOCK 31 LOT 15, GOLDSMITHS ADD  
**Tax Account No.:** R331305640  
**State ID No.:** 1N1E29DC 12900  
**Quarter Section:** 2826  
**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.  
**Plan District:** None  
**Zoning:** R2, Multi-Dwelling Residential 2,000 zone  
**Case Type:** AD, Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:** The applicant is requesting an Adjustment Review to reduce the required building setback from 5 feet to 2 feet on the side (west) and to 6 inches on the rear (north) for a new 328 square foot detached accessory structure that will be used as an art/work studio. The studio will replace an existing detached garage. The structure will be 14 feet tall and designed to complement the architectural elements of the house. There will be no windows or other openings on the north and west sides of the building.

The Portland Zoning Code allows detached garages to be constructed up to the side and rear property lines. Because the new detached structure is not a garage, the Adjustment to the setback requirement is necessary.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are 33.805.040. A-F, Adjustments.

**ANALYSIS**

**Site and Vicinity:** The site is developed with a two-story home. Like most in the Northwest District, the subject property was developed in the early 1900s. There is a long, narrow driveway located between the house and the west property line. A small detached garage, that is partially visible from the street, is located in the northwest corner of the lot. A tall hedge runs along the west property line and creates a physical and visual separation between the subject property and the western abutting lot.

NW Raleigh Avenue is a fully improved street, with on-street parking on both sides of the street. Both sides of the street also have sidewalks and planter strips with mature street trees. Most of the homes fronting the street, between NW 27<sup>th</sup> and 28<sup>th</sup> Avenues are similar in scale and architectural character. Many homes on the block of the subject site, and nearby have small detached garages or accessory structures located at or on side and/or rear property lines.

**Zoning:** The subject property is zoned R2, Multi-Dwelling Residential 2,000. The R2 zone is a low density multi-dwelling zone. It allows approximately 21.8 dwelling units per acre. Allowed housing is characterized by one to three story buildings. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments. These housing types are intended to be compatible with adjacent houses. Generally, R2 zoning is applied near Major City Traffic Streets, Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

**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 27, 2014**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering;
- Bureau of Environmental Services;
- Water Bureau;
- Fire Bureau;
- Bureau of Parks-Forestry Division;
- Life Safety Plan Review Section of BDS; and
- Site Development Section of BDS.

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the notice of 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 purpose of the standards for accessory structures is explained under Section 33.120.280.A as follows:

*This section regulates structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards provide for necessary access around structures, help maintain privacy to abutting lots, and maintain open front setbacks.*

Specifically, the purpose of the setback standard requested for Adjustment is found in Section 33.120.220, Setbacks. 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.*

The proposed studio will be located in the same general area as the existing detached garage. The new structure will be 328 square feet (16' x 18') and located the same distance from the north and west property lines as is the garage. The Adjustment request is to reduce the required rear (north) setback from 5 feet to 6 inches and the side (west) setback from 5 to 2 feet. The proposed new studio will be taller than the existing garage. However, it will be lower than the adjacent homes and will be consistent with the development pattern of nearby sites. The responses from the Fire Bureau, BDS Life Safety Plan Review Section and Bureau of Transportation did not identify any concerns regarding fire separation, fire fighting access and safety within the public right-of-way. The existing driveway will continue to provide the residents an on-site parking area. The one-story studio will not have opening on the north and west walls and therefore will not impact neighbors' privacy. Because the structure will be no closer to the property lines than the existing garage, the new structure, access to light and air will be maintained.

For the reasons stated above, 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; and

**Findings:** The site is located in a residential zone. As described above, the studio location is similar to other detached structures in the neighborhood. The studio is designed to replicate architectural elements of the home. The proposal shows, on the south (street-facing elevation) garage-like swinging carriage-house doors. There is a dormer with windows that match the dormer on the street-facing façade of the home. There are windows and additional doors on the east side of the studio structure that are oriented to the back yard of the site. The windows, horizontal siding, and trim help reduce the bulk of the structure at street level and offer an attractive residential structure. There are no windows on the west and north walls. Therefore the livability of the abutting neighbors will not be reduced. The studio will be small in terms of size and scale to the house and adjacent homes.

For these reasons, the proposal will not significantly detract from the livability or appearance of the residential area. 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:** Two Adjustments have been requested. However, both are to modify the setback requirement—side and rear—for the detached accessory structure. Both individually and cumulatively, the requested setback Adjustments are still consistent with the purpose of the R2 zone. This criterion is met.

**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:** As explained above, no impacts are anticipated from these Adjustments. Therefore, no mitigation is needed. This approval criterion is satisfied.

**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

As reflected in the findings of this report, the proposal addresses the approval criteria and therefore should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment Review to reduce the required building setback (Zoning Code Section 33. 120.220) from 5 feet to 2 feet on the side (west) and to 6 inches on the rear (north) for a new 328 square foot detached accessory structure that will be used as an art/work studio, per the approved plans, Exhibits C.1 and C.2, signed and dated April 28, 2014, 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 and C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-127964 AD".

**Staff Planner: Sheila Frugoli**

**Decision rendered by:**  **on April 28, 2014**

By authority of the Director of the Bureau of Development Services

**Decision mailed: April 30, 2014**

**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 March 18, 2014, and was determined to be complete on March 24, 2014.

*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 March 18, 2014.

*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 May 14, 2014** 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 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 **May 15, 2014 – (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:

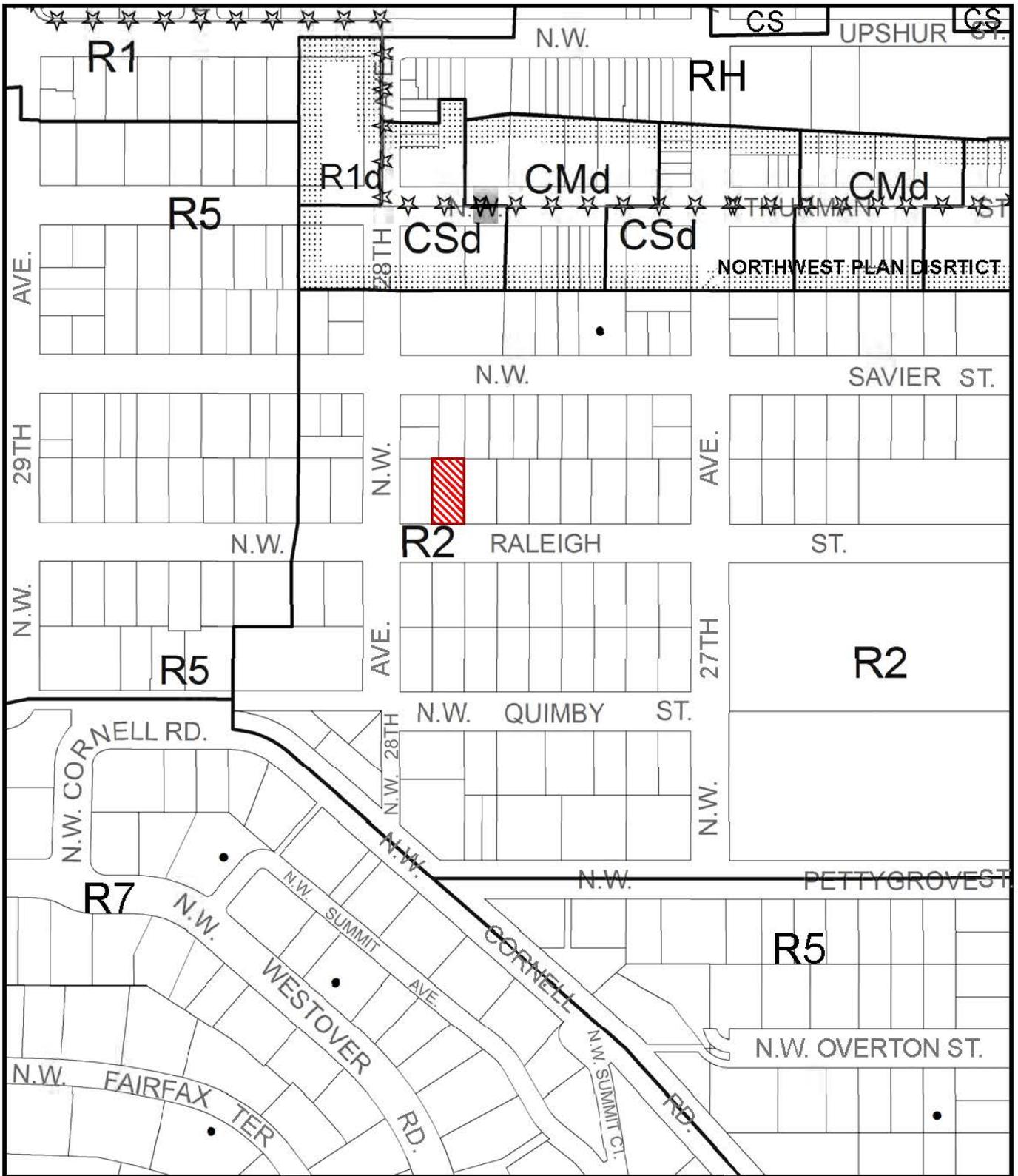
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Floor Plan and Exterior 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 Review Section of BDS
  - 4. Life Safety Plan Review Section of BDS
  - 5. TRACS Print-Out Showing "No Concerns" from Bureau of Transportation, Fire Bureau, Bureau of Parks, Forestry Division
- 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



Recreational Trail

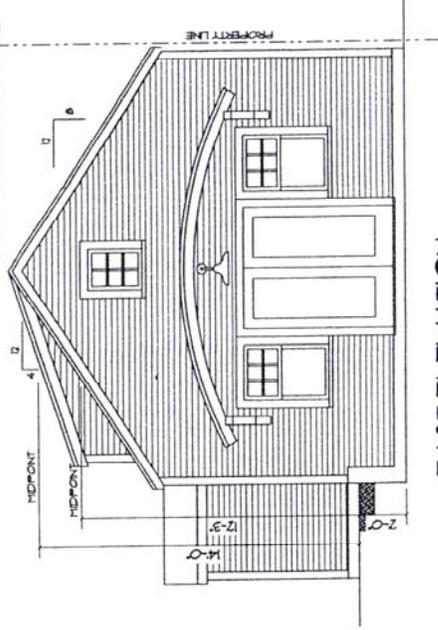


NORTH

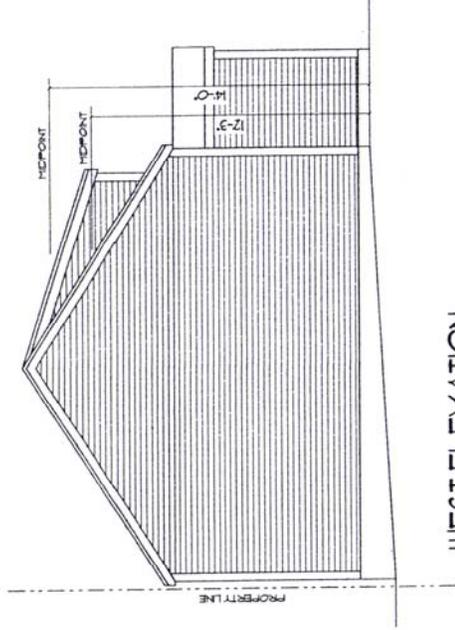
File No. LU 14-127964 AD  
 1/4 Section 2826  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E29DC 12900  
 Exhibit B (Mar 21, 2014)



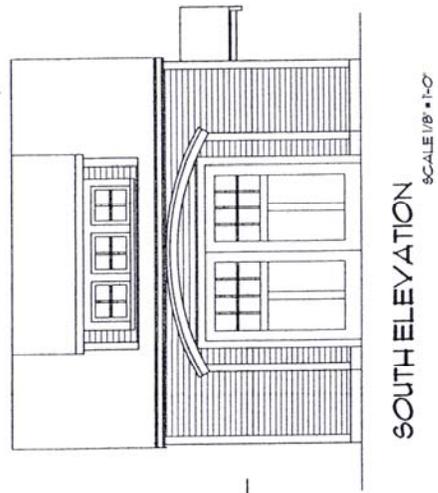
\*Approved\*  
 City of Portland - Bureau of Development Services  
 Planner S. Krugel Date 4-28-14  
 # This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.



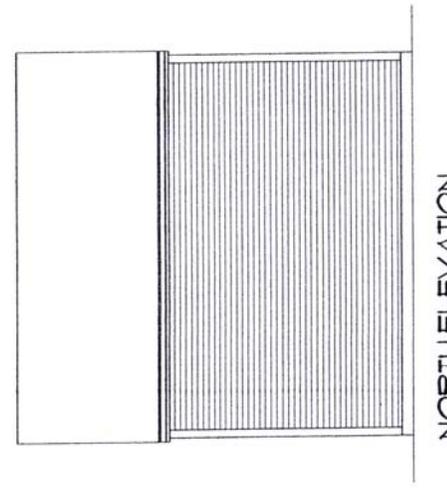
EAST ELEVATION  
 SCALE 1/8" = 1'-0"



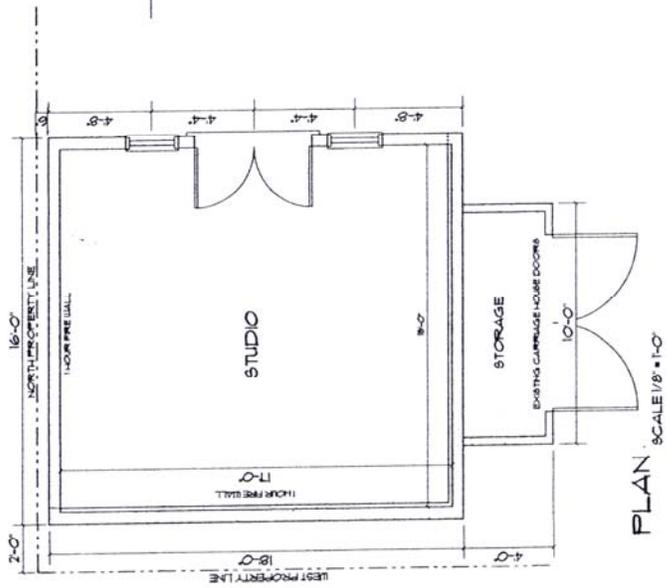
WEST ELEVATION  
 SCALE 1/8" = 1'-0"



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



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



PLAN  
 SCALE 1/8" = 1'-0"

LU14-127964 AD