



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
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Date: August 15, 2013
To: Interested Person
From: Shawn Burgett, 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 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 13-171039 AD

GENERAL INFORMATION

Applicants: Darin Yoder & Wes Haas
Cooper Design Builders
4076 N Mississippi Ave
Portland, OR 97227

Owners: Thomas J Kane & Donna Shu
2674 Takelma Way
Ashland, OR 97520

Site Address: 2690 SW BUCKINGHAM AVE

Legal Description: BLOCK 8 LOT 4, SEVENTH ST TERR
Tax Account No.: R755202980
State ID No.: 1S1E09AB 00200
Quarter Section: 3328
Neighborhood: Southwest Hills Residential League, contact Nancy Seton at 503-224-3840.

Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Zoning: R10 (Single Dwelling Residential 10,000 square feet)
Case Type: AD (Adjustment)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to raise a portion of the existing flat roof of the existing single story home on the site by approximately 1 foot. Currently there is a connected garage with a flat roof that is 24" above the main roof of the house. The proposed 1 foot addition to the roof will be 12 inches lower than the highest part of the existing garage roof. The existing home is located approximately 7.66 feet from the southern property line with an additional 3.40 foot roof overhang which is 4.25 feet from the southern property line. This development is out of

conformance with the current side setback standards in the Zoning Code which requires minimum 10 foot side setbacks (33.110.220.B, Table 110-3) and allows roof overhangs to encroach only a maximum of 20% into the required setback area. The addition pushes the southern façade of this home further out of conformance with the side setback standards. The applicant has requested an adjustment to this standard.

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 6,900 square foot through lot is developed with a two-story, single-dwelling residence. The site is steeply sloped (over 20%) downward from SW Buckingham Avenue (along the western property line) to SW Cross Avenue (along the eastern property line). The existing home on the site has a front façade which faces SW Buckingham Avenue. The first story of the existing home is located above street grade; while the lower story of the home is located below the highest street grade along SW Buckingham Avenue. The surrounding vicinity (identified in this decision as properties within roughly a two-block radius of the subject site) are developed predominantly with one to two-story homes built into the hillside facing east.

Zoning: The R10 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

Land Use History: City records indicate LU 79-027525 approved a reduced lot area and lot width on this site. In addition, the garage setback and south setback requirements were reduced along with an increase in overall building coverage.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 18, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Life Safety

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 18, 2013. No written responses have been received. It should be noted that a Notice of Proposal (exhibit D-3) was mailed out on July 12, 2013 with the incorrect zoning map attached to the document. The corrected notice was mailed out July 18, 2013.

ZONING CODE APPROVAL CRITERIA**33.805.010 Purpose**

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 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 requesting a reduction in the south side building setback from 10 feet to 7.66 feet in order to raise a portion of the flat roof of the existing home on the site by approximately 1 foot. The proposal includes a 3.4 foot roof overhang which encroaches into the reduced side setback and is located approximately 4.25 feet from the south property line which is the same distance as the overhang on the existing home on the site. A deck used to be located underneath this overhang, but has been removed. The intent for requiring minimum setbacks, as stated in Section 33.110.220.A (Purpose), is as follows:

- 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.

Light and Air

The existing home currently has a roof which measures approximately 7 feet above street grade encroaching 2.33 feet into the 10 foot side setback. Since the site is steeply sloped (more than 20%) downward from SW Buckingham Avenue, height is measured from street grade per Zoning Code section 33.110.215.D.1. The increase in height along the southern property line by 1 foot will increase the overall height of roof within the side facing façade to approximately 8 feet (measured to the top of the roof) which is well under the maximum height allowed in the R10 zone of 23 feet above street grade. The existing garage located adjacent to SW Buckingham Avenue measures approximately 9 feet above street grade. The 1 foot addition located within the south side setback is 1 foot lower than the attached garage and is not expected to adversely impact light and air reaching the adjacent property to the south. The home located on the property to the south which would be most impacted by the adjustment request is located approximately 85 feet southwest of the area where the roof will be slightly raised. No development is located on the adjacent lot to the south adjacent to the areas where the reduced setback is proposed. As such, adequate opportunity for light and air will be retained. The one foot roof addition within the reduced setback will have no significant impact on light reaching the adjacent properties.

Separation for Fire Protection/Access for Fire Safety

The proposed addition will be on top of the existing house. The south side wall of the house is currently 7.66 feet from the side lot line with a 3.4 foot roof overhang located approximately 4.33 feet from the southern property line encroaching into the reduced setback area; both dimensions will remain unchanged under the proposal. As such, the proposal to reduce the south side setback for the one foot roof addition and roof overhang will have no increased impact on access for fire safety. The Fire Bureau has reviewed the

proposal and has no concerns. Based on these findings, the proposal will have no impact on separation for fire protection and access for fire safety.

Reflect the General Building Scale and Placement of Houses/Reasonable Physical Relationship Between Building

The scale and mass of the house, with the proposed 1 foot addition, will remain consistent with the scale and mass of the houses in the surrounding area. Many of houses on the SW Buckingham Avenue block front appear to be one to two full two stories in height. The one foot roof addition will increase the height of the roof within the reduced setback area to 8 feet above street grade, which will be lower than the height of the garage along the front façade of the home which is approximately 9 feet above street grade. The proposed addition will not impact general building scale since the slight increase in height within the reduced setback area is still well below the maximum height in the zone which allows a home to be a maximum of 23 feet above highest street grade. In addition no homes are located directly south of the subject site within the area where the slight increase in roof height is being proposed, so a reasonable physical relationship between buildings is maintained.

Options for Privacy

The 1 foot roof addition within the reduced setback will contain no windows or living area. The proposed addition will have no impacts on privacy for adjacent residents. In addition, the deck located along the south façade has been removed, so more privacy will be provided to the property located to the south.

Larger Front Setbacks

The requested Adjustment is for a reduction in one of the side building setbacks. The front setback currently meets the minimum 10 foot setback required in the R10 zone for steeply sloped lots (over 20%).

Room for a Car to Park in Front of the Garage

The requested Adjustment is for a reduction in one of the side building setbacks so this criterion is not applicable.

Based on these findings, the proposal will result in development that equally meets the purpose of the minimum side building setback regulations. 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: The requested Adjustment to reduce the side setback for the 1 foot roof addition will not detract from the livability or appearance of the residential area. As indicated above, the home currently is within the side setback area, the addition will raise the south facade to 8 feet above street grade, 1 foot lower than the height of the garage located along SW Buckingham Avenue which is located approximately 9 feet above street grade. This minor increase in height will not be a significant departure from the existing conditions on the site and the resulting massing of the dwelling on the lot will be consistent with the established character of the surrounding neighborhood which has many homes which appear to be one story or above in height at street grade.

The proposal will have no impact on livability issues. As proposed, 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: As only one Adjustment is requested, this criterion is not applicable.

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

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As the subject site, or adjacent sites, are not designated as scenic or historic resources, this criterion is not applicable.

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

Findings: As described above in response to Approval Criteria A and B, there are no significant adverse impacts for which mitigation is required. This criterion is not applicable.

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). As there are no such designations on this 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 via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant has demonstrated that the applicable Adjustment approval criteria have been met. The request to reduce the south side setback for the 1 foot roof addition will result in development that meets the intent of the minimum setback regulation, and will not adversely impact the appearance or livability of the surrounding residential neighborhood.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum south side building setback (Zoning Code Section 33.110.220.B, Table 110-3) for the proposed one foot high roof addition from 10 feet to 7.66 feet and from 10 feet to 4.25 feet for the 3.40 foot roof overhang extending into the reduced setback area (Zoning Code Section 33.110.220.C.1), per the approved site plan (Exhibit C.1) signed and dated August 13, 2013, and subject to the following condition:

- A. As part of the building permit application submittal, each of the four 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. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-171039 AD."

Staff Planner: Shawn Burgett

Decision rendered by: S. Burgett **on August 13, 2013**

By authority of the Director of the Bureau of Development Services

Decision mailed: August 15, 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 June 21, 2013, and was determined to be complete on **July 5, 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 June 21, 2013.

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 8/29/13** 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.

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, OR 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 **8/30/13**. 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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;

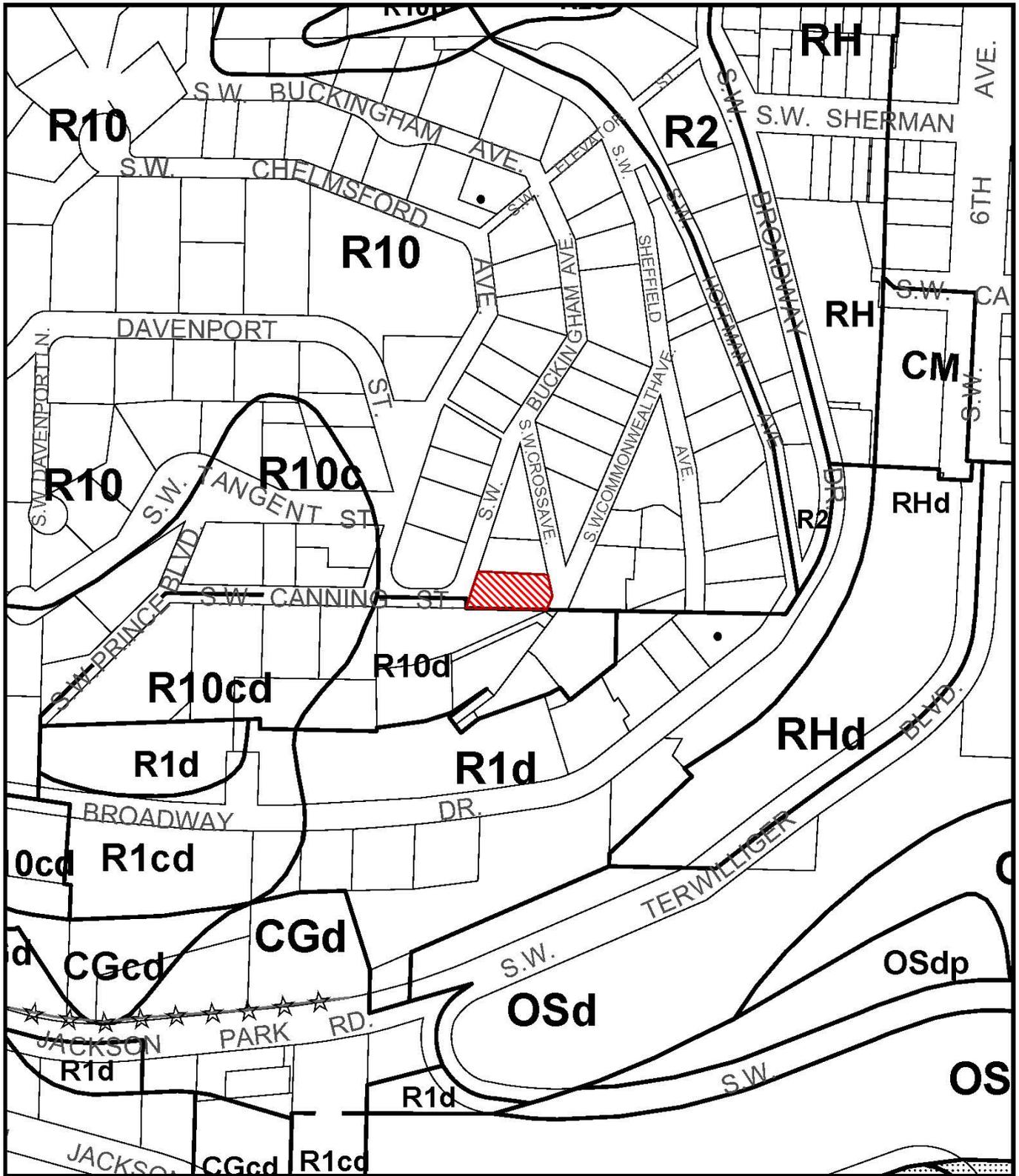
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicants narrative
 - 2. Email correspondence from applicant
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations
- D. Notification information:
 - 1. Mailing list for notice dated 7/18/13
 - 2. Mailed notice for notice dated 7/18/13
 - 3. Mailing list for notice dated 7/12/13
- 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
- F. Correspondence: (none received)
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

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

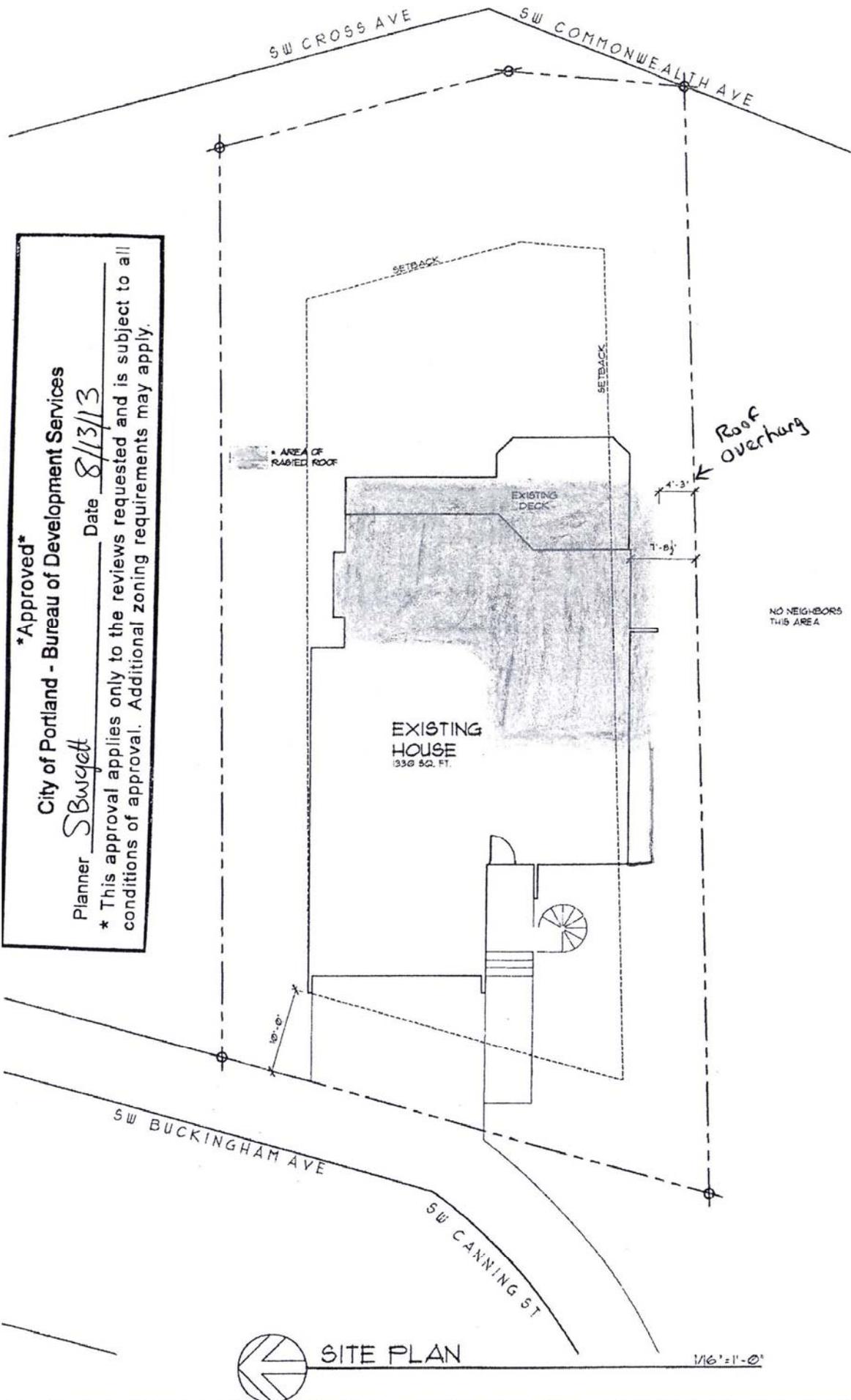


Historic Landmark

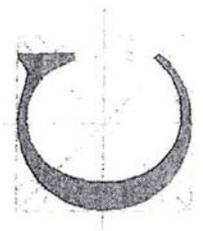


File No. LU 13-171039 AD
 1/4 Section 3328
 Scale 1 inch = 200 feet
 State_Id 1S1E09AB 200
 Exhibit B (Jun 25, 2013)

Approved
City of Portland - Bureau of Development Services
 Planner S. Swiggett Date 8/13/13
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



COOPER
 DESIGN BUILDERS



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 www.cooperdesignbuilders.com • ccb 77239

NOT FOR
 DESIGN
 SET
 CONSTRUCTION

REMODEL
 FOR:

**DONNA SHU
 & TOM KANE**

2690 SW BUCKINGHAM AVE
 PORTLAND, OR 97201

3.25.13	AS-BUILTS	DLY
5.03.13	DESIGN SET I	DLY
6.05.13	LAND USE REVIEW SET	DLY
6.15.13	INTERIOR DETAILS UPDATE	DLY

SITE PLAN

S

13SHU0016

SITE PLAN

1/6" = 1'-0"

CASE NO. 13-171039
 EXHIBIT G-1