



City of Portland
Bureau of Development Services
Land Use Services Division

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Portland, Oregon 97201
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www.portlandonline.com/bds

Date: April 16, 2008
To: Interested Person
From: Douglas Hardy, Land Use Services
503-823-7816 / dhardy@ci.portland.or.us

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 this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-113143 AD

GENERAL INFORMATION

Applicants: Michael D. Henry and Barbara L. Hilty, property-owners
254 NW Macleay Blvd.
Portland, OR 97210-3374

Site Address: 254 NW MACLEAY BLVD.

Legal Description: TL 2600 LOT 6&7 BLOCK 5, ST FRANCES HILL
Tax Account No.: R737901630
State ID No.: 1N1E32DA 02600
Quarter Section: 3026
Neighborhood: Hillside, contact Gary Berger at 503-228-7606
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212
Zoning: R7, Single-Dwelling Residential 7,000
Case Type: Adjustment Review (AD)
Procedure: Type II, Administrative decision with appeal to Adjustment Committee

Proposal:

The applicants are proposing to build an uncovered deck at the southwest corner of the single-dwelling residence on the 6,600 square foot site. The outer dimensions of the deck will measure approximately 19 feet by 18 feet (290 square feet), and be approximately 20 to 30 feet above the adjacent, sloping grade of the site. The maximum allowed building coverage on the site is 2,490 square feet. The existing house covers 2,463 square feet of the site, with the proposed deck bringing the total building coverage to 2,753 square feet.

The applicants are requesting an Adjustment Review to increase the maximum allowed building coverage on the site from 2,490 square feet to 2,753 square feet.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805 of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The site is developed with a single-dwelling structure, that because of the steep slope of the site, is single-story as viewed from NW Macleay Boulevard, and two-stories

from the rear. Large, mature deciduous trees separate the house from development to the southwest, as well as to the southeast. Along the rear of the dwelling, decks exist on a portion of the upper floor, and across the majority of the lower floor.

The surrounding neighborhood is also characterized by a sloping terrain, and developed with single-dwellings, two to three stories in height.

Zoning: The site, and surrounding lots, are located in a Single-Dwelling Residential 7,000 (R7) zone. The Single-Dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A Notice of Proposal was mailed March 19, 2008. The following City service bureaus have responded with no issues or concerns:

- Bureau of Environmental Services;
- Bureau of Transportation Engineering;
- Water Bureau;
- Fire Bureau;
- Bureau of Development Services/Site Development Section; and
- Portland Parks & Recreation/Forestry Division.

The Bureau of Development Services/Life Safety provided written comments that are pertinent to the building permit application; no objection to the requested land use review was expressed.

Neighborhood Review: 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

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 applicants have 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 applicants are requesting an Adjustment to the maximum allowed building coverage. The purpose for maximum building coverage, as stated in Zoning Code Section 33.110.225.A, is as follows:

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

The proposal is limited to constructing a deck, approximately 290 square feet in area, which will be located to the rear of the house. The deck will be uncovered, and open from the ground up to the bottom surface of the deck. The deck will be set back from the side and rear lot lines in excess of the minimum required five feet, and will be integrated into an L-shaped corner of the house. The open nature of the proposed deck, its limited size, and its integration into the layout of the house all ensure that the bulk of the deck will be minimized, and that the deck, in combination with the existing house, will not overwhelm the site or adjacent houses. Additionally, with the deck, development on the site will exceed the maximum allowed building coverage on the 6,600 square foot site by only 260 square feet, with this 260 square feet equaling a building coverage of approximately four percent. This small increase in building coverage will not have a significant impact on the character of the neighborhood.

As proposed, the requested Adjustment will result in development that is consistent with the intent of the regulation to be modified, and this standard 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 proposed deck will not significantly detract from the livability or appearance of the surrounding Single-Dwelling residential area. The deck is limited in size (with dimensions of approximately 19 feet by 18 feet), and will be set back from the adjacent side and rear lot lines in excess of the minimum required building setbacks. This size and location ensure that the deck will not overwhelm the nearest two residences to the south and west. Additionally, the deck will not protrude substantially from the side or rear wall of the house. Instead, the deck is proposed within an L-shaped cut-out at the rear corner of the house, so that it extends beyond the building wall between three to five feet. This positioning of the deck, and its open character, helps to significantly reduce its overall bulk, and blend the appearance and design of the deck with that of the house.

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. Because there is neither a scenic nor

historic resource designation on the site, or on adjacent sites, 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, because the proposal is found to be consistent with the purpose of the maximum building coverage regulation, and will not significantly detract from the appearance or livability of the surrounding residential area, there are no adverse impacts for which mitigation would be required. As such, 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 is no “c” or “p” zone mapped on the 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 the land use review process. The plans subsequently 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.

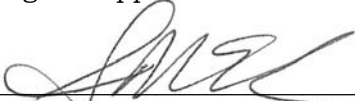
CONCLUSIONS

The applicants have demonstrated that the proposal meets all the applicable approval criteria. As proposed, the requested Adjustment to increase the maximum building coverage will result in development that meets the intended purpose of the regulation, and that will not detract from the appearance or livability of the surrounding residential area.

ADMINISTRATIVE DECISION

Approval of an Adjustment to exceed the maximum allowed building coverage (Zoning Code Section 33.110.225) for a proposed deck (and existing house) from the allowed 2,490 square feet to 2,753 square feet, with the deck of the size and in the location identified on the site plan (Exhibit C1) and elevation drawing (Exhibit C2), signed and dated April 16, 2008, 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 approved by this land use review as indicated in Exhibits C1 and C2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-113143 AD."

Decision rendered by:  **on April 16, 2008.**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 16, 2008

Staff Planner: Douglas Hardy

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 4, 2008, and was determined to be complete on March 19, 2008.

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 4, 2008.

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 extended at the request of the applicant. In this case, the applicants did not extend the 120-day review period.

Some of the information contained in this report was provided by the applicants.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicants to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicants, 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 applicants 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 April 30, 2008**, at 1900 SW Fourth Avenue. Appeals can be filed on the first floor in the Development Services Center until 3:00 p.m. After 3:00 p.m., 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. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow three working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 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 before the Adjustment Committee, 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 Street 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 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 applicants for recording the documents associated with their final land use decision.

- *Unless appealed*, the final decision may be recorded on or after **May 1, 2008** (the day following the last day to appeal).
- A building or zoning permit will be issued only after the final decision is recorded.

The applicants, 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 is required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

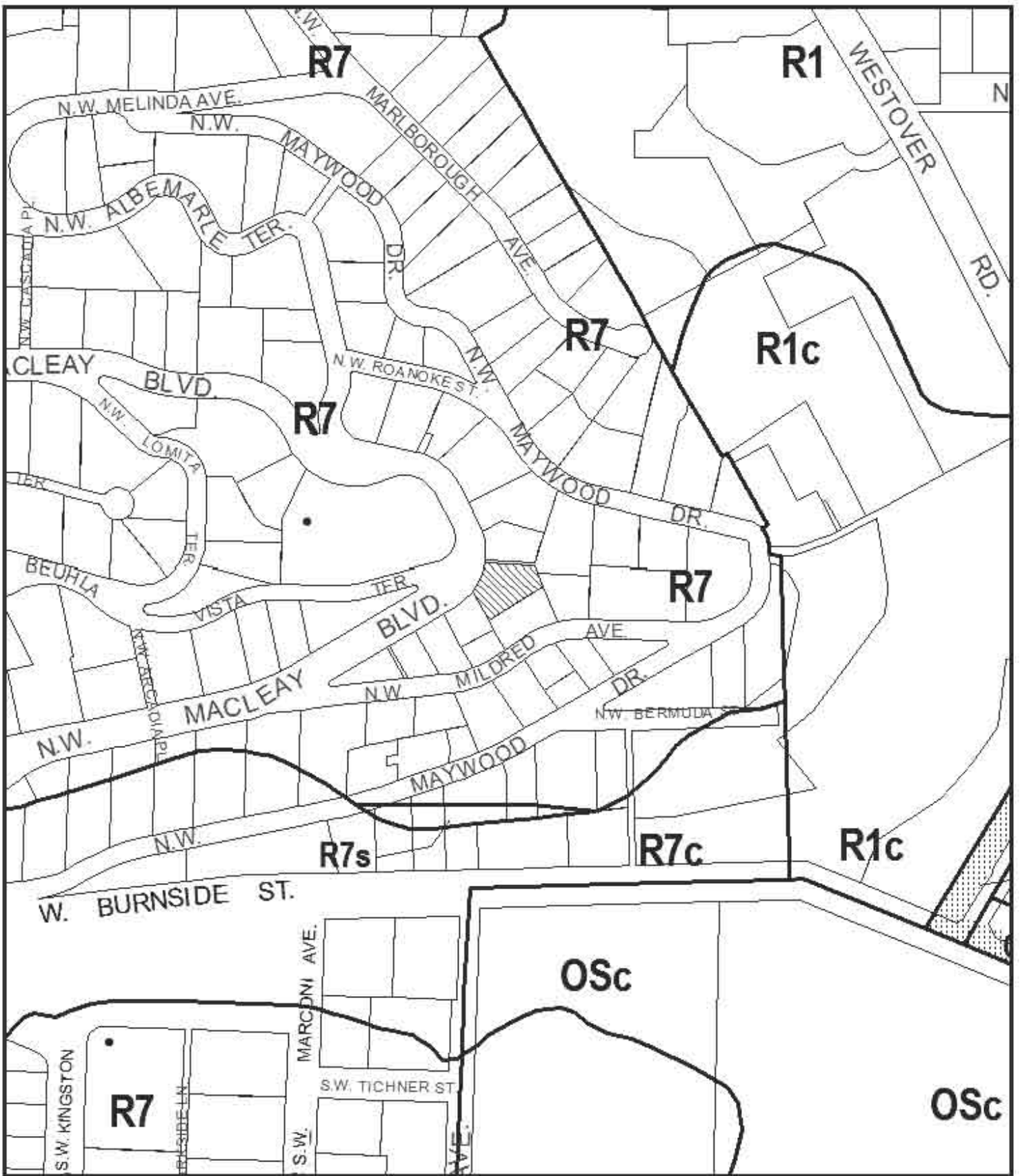
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicants' Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations (attached)
- 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. Bureau of Development Services/Site Development Review Section
 - 6. Portland Parks & Recreation/Forestry Division
 - 7. Bureau of Development Services/Life Safety
- F. Correspondence (none)
- G. Other:
 - 1. Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING



Site



Historic Landmark



NORTH

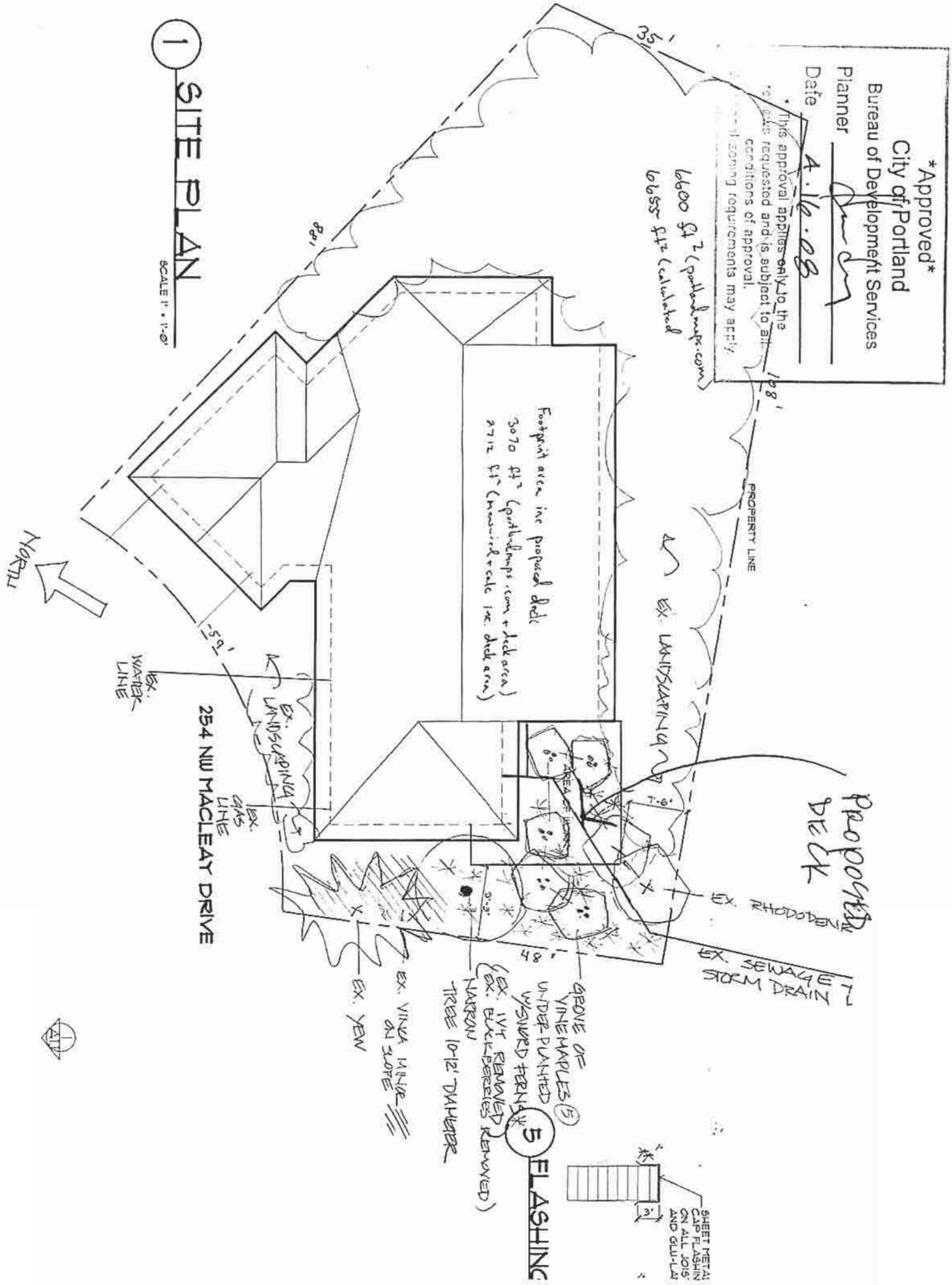
File No.	LU 08-113143 AD
1/4 Section	3026
Scale	1 inch = 200 feet
State_Id	1N1E32DA 2600
Exhibit	B (Mar 07,2008)

* Approved*
 City of Portland
 Bureau of Development Services
 Planner _____
 Date 4.16.08

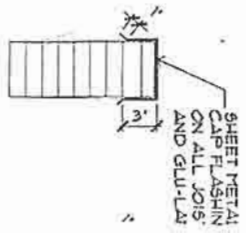
This approval applies only to the conditions requested and is subject to all zoning requirements that may apply.

6600 sq² (gartholmings.com)
 6655 sq² (calculated)

1 SITE PLAN
 SCALE 1" = 1'-0"



5 FLASHING



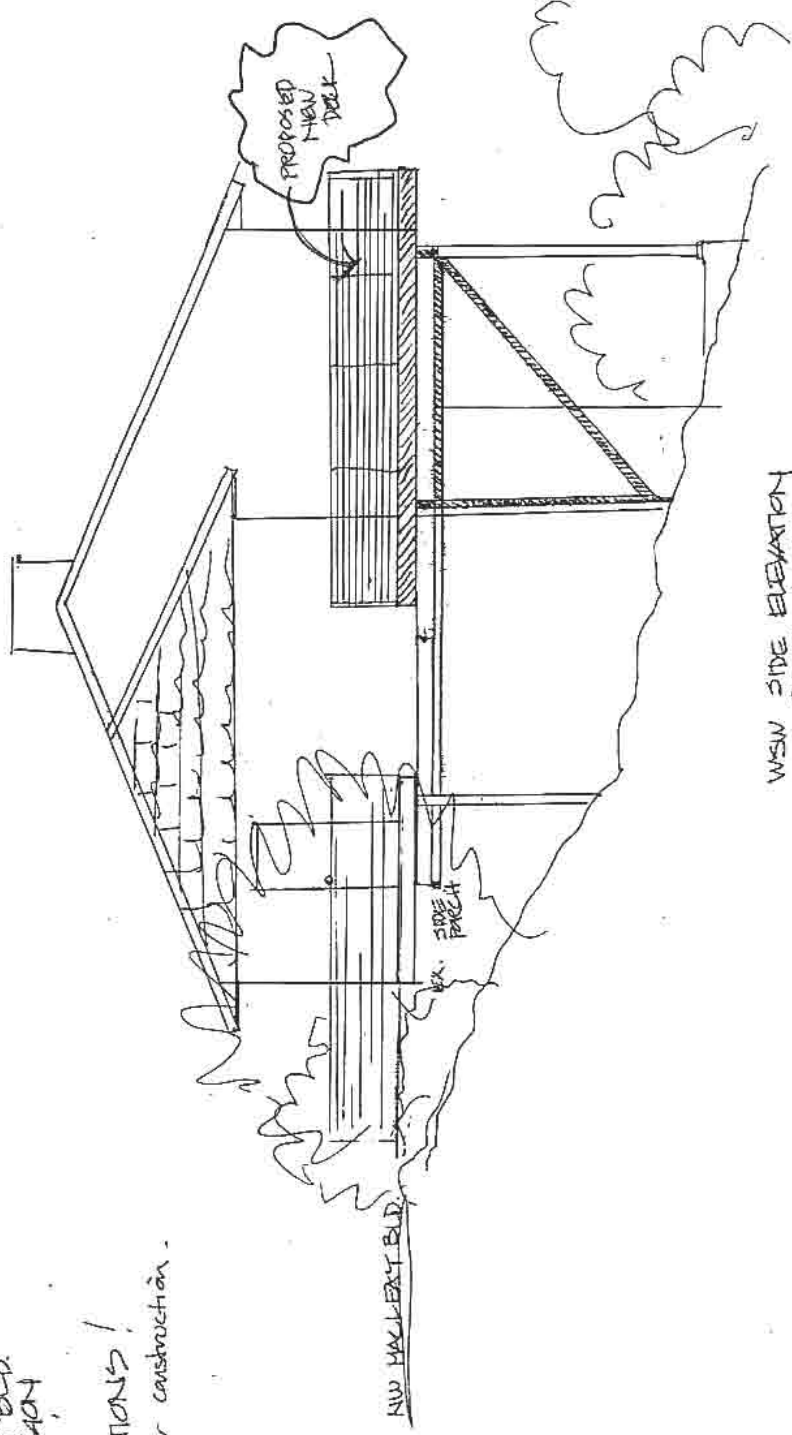
HILTY HENRY RESIDENCE
 284 NW HALEY BLVD.
 PORTLAND, OREGON

ROUGH ELEVATIONS!

o Not to be used for construction.

* Approved*
 City of Portland
 Bureau of Development Services
 Planner Judy
 Date 4-6-08

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



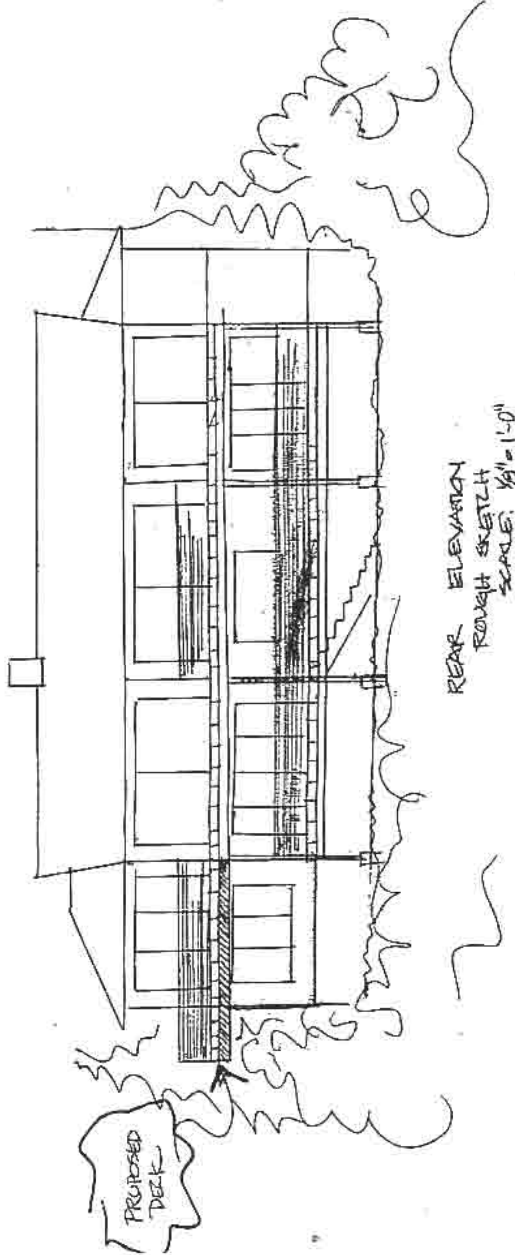
WSW SIDE ELEVATION
 ROUGH SKETCH

SCALE: 1/2" = 1'-0"

(SEE ARCHITECTURAL DRAWINGS FOR CONSTRUCTION DETAILS)

NOTE:

- INVASIVE SPECIES (IVT) TO BE REMOVED FROM PROPERTY.
- MULCH TO BE REPLANTED AFTER CONSTRUCTION WITH SWARD FERNS/VINE MADE/SALAL AND HAREWOOD/CANIFER



REAR ELEVATION
 ROUGH SKETCH

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

6608-113143 AD