



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

1900 SW 4th Avenue, Suite 5000  
Portland, Oregon 97201  
503-823-7300  
Fax 503-823-5630  
TTY 503-823-6868  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** April 7, 2009  
**To:** Interested Person  
**From:** Suzanne Savin, Land Use Services  
503-823-5888 / [Suzanne.Savin@ci.portland.or.us](mailto:Suzanne.Savin@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 09-107352 AD**

#### **GENERAL INFORMATION**

**Applicant:** James Beane  
P O Box 25687  
Portland, OR 97225

**Owner:** William Rossman  
P O Box 396  
Gladstone, OR 97027

**Site Address:** No address assigned; the property is located on the north side of the point at which SW Fulton Park Boulevard intersects with SW Taylors Ferry Road.

**Legal Description:** BLOCK G LOT 1, FULTON PK  
**Tax Account No.:** R300405480  
**State ID No.:** 1S1E22BD 05601  
**Quarter Section:** 3729

**Neighborhood:** South Portland NA., contact Jim Davis at 503-248-9820.  
**Business District:** None  
**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

**Plan District:** None

**Zoning:** R5s (Single-Dwelling Residential 5,000, with Scenic Resource Overlay Zone)

**Case Type:** AD (Adjustment Review)  
**Procedure:** Type II, administrative decision with appeal to Adjustment Committee.

#### **Proposal:**

The property owner is planning to construct a single-dwelling residence on the site. The site is within the Scenic Resource Overlay Zone (designated with an 's') because it has frontage on a

portion of SW Taylors Ferry Road that is part of a City-designated Scenic Corridor (the SW Macadam/SW Taylors Ferry/SW Boones Ferry/SW Terwilliger Loop).

The building area on the site is constrained by the fact that the site is relatively narrow, being approximately 90 feet wide at its widest point (along its north property line) and tapering in width to the south, adjacent to the intersection of SW Fulton Park Boulevard and SW Taylors Ferry Road. Because the site abuts a portion of SW Taylors Ferry Road that is part of a Scenic Corridor, Zoning Code Section 33.480.040.B.2.b requires a minimum building setback of 20 feet from the east property line and the Scenic Resource (SW Taylors Ferry Road). The applicant requests an Adjustment to this standard, to allow a portion of the proposed residence to be within the 20-foot setback, and to be approximately 10 feet from the east property line at its closest point. Please see the attached Site Plan and Elevations for graphic information on the location and appearance of the proposed residence.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are the Adjustment Approval Criteria of Section 33.805.040.A – F.

## ANALYSIS

**Site and Vicinity:** The site is located on the north side of the point at which SW Fulton Park Boulevard intersects with SW Taylors Ferry Road. The site contains a paved driveway with an access point onto SW Taylors Ferry Road, but does not contain any structures.

To the north of the site, also located between SW Fulton Park Boulevard and SW Taylors Ferry Road, are properties zoned R5s, developed with single-dwelling residences. To the east of the site, on the east side of SW Taylors Ferry Road, are two large properties that are zoned OSc and OSp. Of these, the property that is directly opposite the site is approximately 44,000 square feet in size and contains an electrical substation. Below the substation property is the northernmost tip of the Riverview Cemetery site. (The Riverview Cemetery covers several hundred acres and the vast majority of its land area lies to the south of the site, between SW Macadam and SW Taylors Ferry Road).

To the south of the site, on the west side of SW Taylors Ferry Road and SW Fulton Park Boulevard, are properties zoned R5c and R5s, developed with single-dwelling residences. To the west of the site, on the west side of SW Fulton Park Boulevard, are properties zoned R5, developed with single-dwelling residences.

**Zoning:** The site is zoned R5s, Single-Dwelling Residential 5,000 with the “s” denoting a Scenic Resource Overlay Zone. The R5 zone is intended to preserve land for housing and to provide housing opportunities for individual households.

The Scenic Resource Zone is intended to protect Portland’s significant scenic resources as identified in the *Scenic Resources Protection Plan*.

The scenic resource associated with the subject property is the Scenic Corridor designation of the SW Macadam/SW Taylors Ferry/SW Boones Ferry/SW Terwilliger Loop. The ESEE Analysis of Scenic Corridors (Bureau of Planning, October 1990) contains the following description of the portion of this scenic corridor that includes SW Taylors Ferry Road: *“This scenic drive creates a loop...Southwest Boones Ferry connects SW Terwilliger to SW Taylor’s Ferry for a short distance. SW Taylor’s Ferry passes by several cemeteries and connects on the northern portion of the loop to SW Macadam Avenue. The northern segment of SW Macadam and the intersection with Taylor’s Ferry Road are planted as a boulevard, with an orderly spacing of street trees, shrubs and ground cover...Scenic elements along the drive include views of the Willamette River, forest cover, and parks. The river comes into view from the downhill Taylor’s Ferry approach to Macadam, and from intermittent locations along SW Macadam Avenue.”*

**Land Use History:** City records indicate there are no prior land use reviews for this site. However, the site was part of the subject area of a Lot Segregation that was approved in 2006 (06-135939 PR). That Lot Segregation recognized the site, and the two abutting lots to the north, as separate platted lots.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **March 4, 2009**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Bureau of Parks-Forestry Division

The Bureau of Environmental Services (BES) responded that BES has no objections to the proposed Adjustment. The response also included information that related to requirements applicable at the time of building permit review. (Exhibit E-1)

The Site Development Section of BDS responded that Site Development has no objections to the requested land use review. The response also included additional information for the benefit of the applicant. (Exhibit E-2)

The Life/Safety Plan Review Section of BDS responded that a building permit will be required for the work proposed. (Exhibit E-3)

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on March 4, 2009. 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 of Adjustments

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

### 33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., 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 Scenic Resource Zone (Section 33.480.010) is intended to:

- Protect Portland's significant scenic resources as identified in the *Scenic Resources Protection Plan*;
- Enhance the appearance of Portland to make it a better place to live and work;
- Create attractive entrance ways to Portland and its districts;
- Improve Portland's economic vitality by enhancing the City's attractiveness to its citizens and to visitors;

- Implement the scenic resource policies and objectives of Portland's Comprehensive Plan.

The purposes of the Scenic Resource zone are achieved by establishing height limits within view corridors to protect significant views and by establishing additional landscaping and screening standards to preserve and enhance identified scenic resources.

The Scenic Resource Zone chapter of the Zoning Code contains development standards that apply to View Corridors and development standards that apply to Scenic Corridors. The subject site is within a Scenic Corridor, and the applicant is requesting to adjust a development standard that applies to Scenic Corridors - the minimum 20-foot setback required by Subsection 33.480.040.B.2.b. The purpose of this development standard, as stated in Section 33.480.040.B.1, is as follows:

The scenic corridor designation is intended to preserve and enhance the scenic character along corridors, and where possible, scenic vistas from corridors. This is accomplished by limiting the length of buildings, preserving existing trees, providing additional landscaping, preventing development in side setbacks, screening mechanical equipment, and restricting signs.

The Scenic Corridor includes the area 20 feet west of the SW Taylors Ferry Road right-of-way. As shown on the attached Site Plan, the Scenic Corridor 20-foot setback area includes over half of the area of the subject site. Although the proposed house will be located within a portion of the 20-foot setback area (as close as 10 feet from the east property line abutting the SW Taylors Ferry Road right-of-way), the applicant states that a unique characteristic of the site will nonetheless preserve the scenic character along this corridor.

The site's unique characteristic is a wide, undeveloped portion of the SW Taylors Ferry right-of-way that abuts the site to the east, and that contains several trees. This undeveloped right-of-way area slopes upward from the paved portion of SW Taylors Ferry Road, and its width varies from just a few feet adjacent to north side of the site to approximately 20 feet adjacent to the southern portion of the site. The width of the undeveloped portion of the right-of-way, combined with the house's proposed setback from the east property line, will result in a separation distance of more than 20 feet between the proposed house and the paved portion of SW Taylors Ferry Road.

Thus, the dwelling's proposed setback from the east property line will equally meet the purpose of the 20-foot setback requirement. 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 site is in a residential zone. Due to the substantial width of the undeveloped portion of the SW Taylors Ferry right-of-way abutting the site, the proposed house will have a separation distance of more than 20 feet from the paved portion of SW Taylors Ferry Road. Due to that generous separation distance, the proposed house's setback will appear visually consistent with the 20-foot setback requirements of the Scenic Corridor, and will not significantly detract from the livability or appearance of the residential area.

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 being requested. Therefore, this criterion is not applicable.

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

**Findings:** There are no City-designated historic resources present. The designated scenic resource, which is the scenic corridor associated with SW Taylors Ferry Road, will be preserved via a separation distance of more than 20 feet between the proposed house and the paved portion of SW Taylors Ferry Road. This separation distance will contain a substantial amount of screening vegetation (the existing trees within the undeveloped right-of-way, as well as proposed trees to be planted within the 20-foot setback area on the site). This criterion is met.

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

**Findings:** No impacts are expected to result from the adjustment. Due to the substantial width of the undeveloped portion of the SW Taylors Ferry Road right-of-way abutting the site, the proposed house will have a separation distance of more than 20 feet from the paved portion of SW Taylors Ferry Road. Thus, the house's setback from the road will appear visually consistent with the 20-foot setback requirements of the Scenic Corridor.

As shown on the attached Site Plan, the undeveloped portion of the SW Taylors Ferry Road right-of-way contains approximately 4 to 5 existing trees that the applicant is not proposing to disturb. The eastern portion of the site also contains a couple of existing trees within the 20-foot setback area, which the applicant is proposing to retain as required by Section 33.480.040.B. In addition, the applicant is proposing to plant 9 additional trees within the 20-foot setback area (7 small species trees, and 2 large species trees), and this proposed planting scheme meets or exceeds the L1 landscaping requirement within the 20-foot setback area that is required by Section 33.480.040.B.2.b. These proposed trees, in combination with the existing trees on the site and the existing trees within the abutting undeveloped right-of-way, will provide a landscape screen that will buffer views of the proposed house from SW Taylors Ferry Road.

This criterion is met.

- 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. Therefore, 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

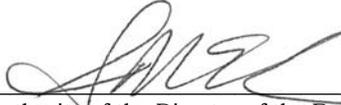
The purpose of the regulation is met. The proposed dwelling will have minimal to no impact on the scenic resource (the scenic corridor associated with SW Taylors Ferry Road) due to a separation distance of more than 20 feet between the dwelling and the paved portion of SW Taylors Ferry Road. Therefore, the adjustment can be approved, per the plans and elevations. Approval of building permits is still required, after the decision is final and has been recorded with Multnomah County.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.480.040.B.2.b to allow a portion of the proposed residence to be within the 20-foot setback, and to be approximately 10 feet from the east property line at its closest point, per the approved site plan, Exhibit C-1, signed and dated April 3, 2009, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-107352 AD."

**Staff Planner: Suzanne Savin**

**Decision rendered by:**  **on April 3, 2009.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: April 7, 2009**

**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 February 9, 2009, and was determined to be complete on February 27, 2009.

*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 February 9, 2009.

*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 requested that the 120-day review period be extended until April 10, 2009, as stated with Exhibit A-2.

**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 April 21, 2009** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 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. 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. 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 3 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](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 **April 22, 2009 – (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.

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 Submittal
  1. Applicant's Narrative
  2. Applicant's Request to Stop the 120-Day Clock from March 26, 2009 to April 10, 2009
- 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. Site Development Review Section of BDS
  3. Life Safety Plan Review Section of BDS
  4. Water Bureau
  5. "No concerns" responses from Bureau of Transportation Engineering and Development Review, Fire Bureau, Bureau of Parks - Forestry Division

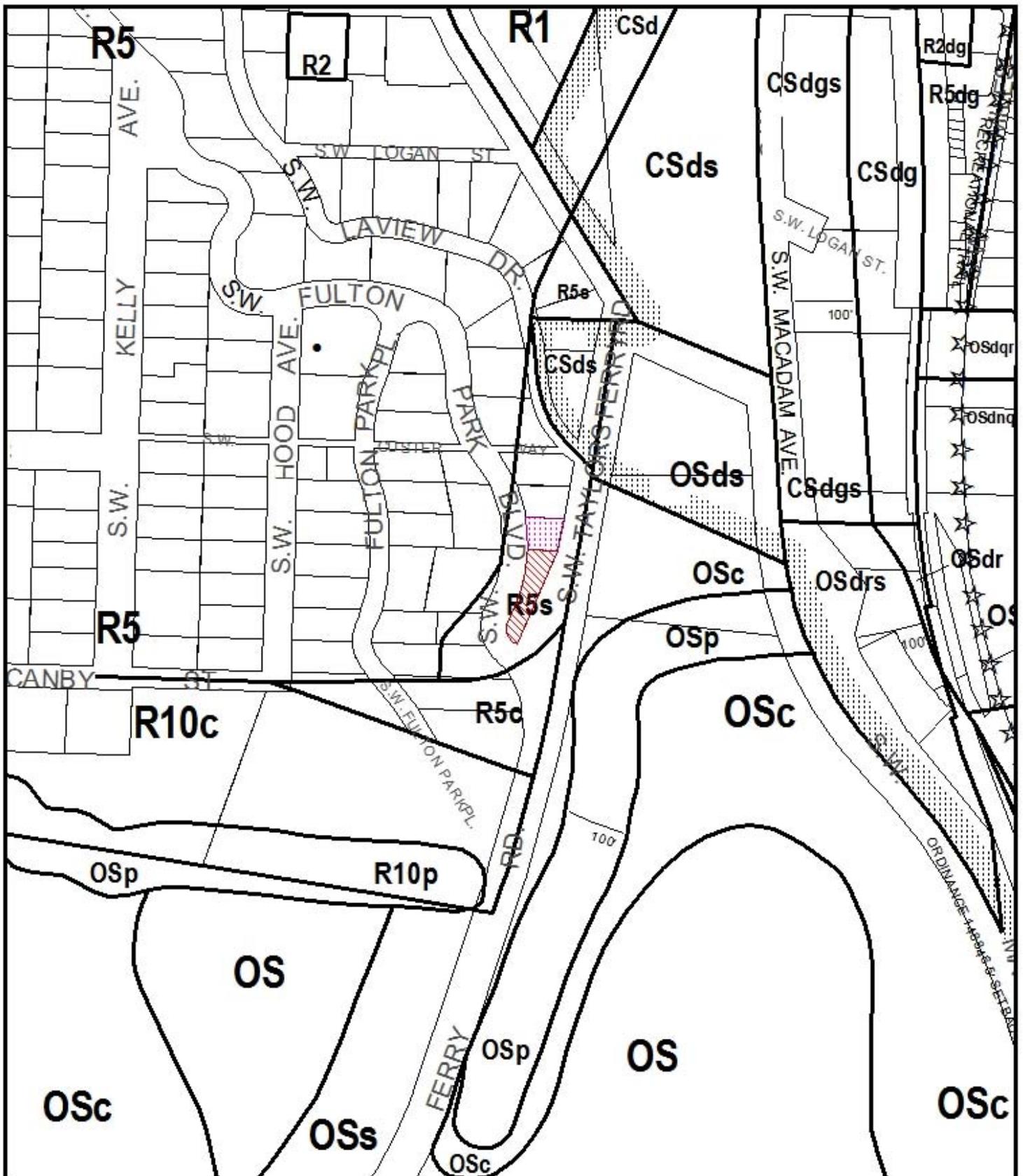
F. Correspondence:

1. No correspondence 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. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).**

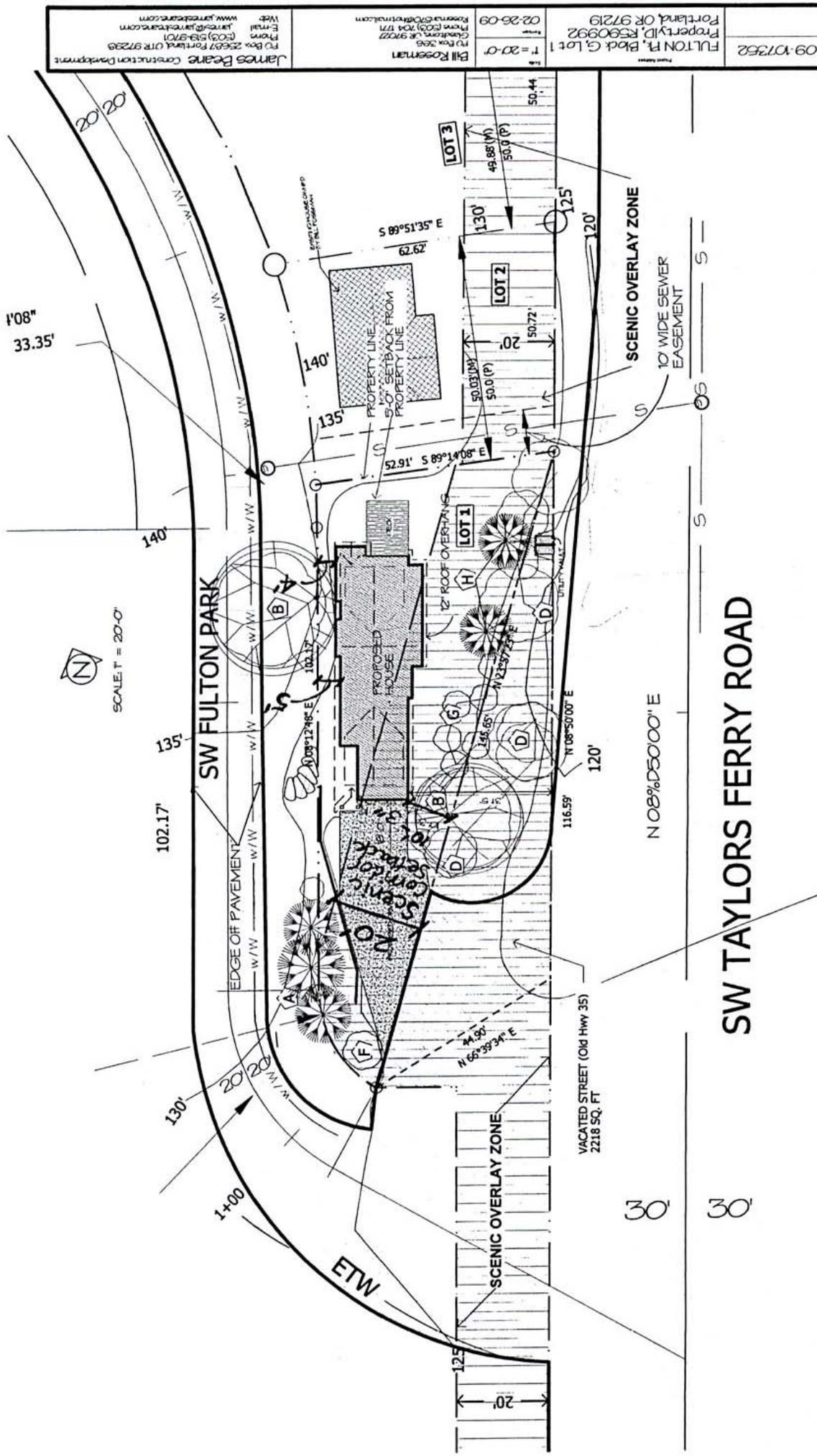


# ZONING

-  Site
-  Also Owned
-  Historic Landmark



File No. LU 09-107352 AD  
 1/4 Section 3729,3829  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E22BD 5601  
 Exhibit B (Feb 10,2009)



LOT	4464
ATTIC	394
2nd FL	793
1st FL	578
TOTAL	1765
ROOF	982
DRIVEWAY	684

- A- 4"- 6" dia FIR TREE
- B- 12" dia WALNUT TREE
- C- 6"- 10" dia DECIDUOUS TREE
- D- SMALLER DECIDUOUS TREE

- NEW PLANTINGS
- F- Japanese Maple- Acer Palatum
- G- Crabapple- Malus cv
- H- Western Red Cedar- Thuja Plucata

AREA OF SETBACK IN LOT 1 2675  
 25% OF 2675 SQ FT  
 DRIVEWAY IN SETBACK  
 684

- SCENIC OVERLAY
- VACATED STREET
- STREET PAVEMENT

# SW TAYLORS FERRY ROAD

02-08-09	LU 09-107352	FULTON P, Bld G, Lot 1	Property ID: R580992 Portland, OR 97219
02-26-09	T = 20'-0"	Bill Roseman 170 Box 266 Clatsop, OR 97122 Phone: 503-971-9701 E-mail: james@jamespeane.com www.jamespeane.com	James Peane Construction Development

\*Approved\*  
 City of Portland - Bureau of Development Services  
 Planner Suzanne Levin Date April 3, 2009  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



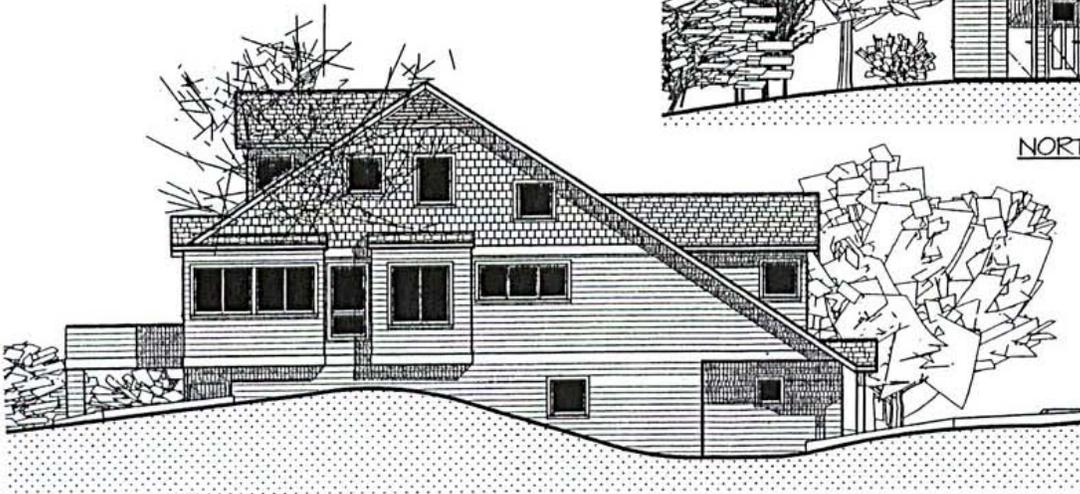
SOUTH ELEVATION



EAST ELEVATION



NORTH ELEVATION



WEST ELEVATION

02-08-09	LU 09-107352	Bill Rosenman 10 New Salem Portland, OR 97207 bill@billrosenman.com www.billrosenman.com	James E. Evans Construction Development 10 New Salem Portland, OR 97207 james@jamesevans.com www.jamesevans.com
02-08-09	2	FULTON Pt., Block G, Lot 1 Property ID: R5500992 Portland, OR 97219	Bill Rosenman 10 New Salem Portland, OR 97207 bill@billrosenman.com www.billrosenman.com

02-08-09	LU 09-107352	Bill Rosenman 10 New Salem Portland, OR 97207 bill@billrosenman.com www.billrosenman.com	James E. Evans Construction Development 10 New Salem Portland, OR 97207 james@jamesevans.com www.jamesevans.com
02-08-09	3	FULTON Pt., Block G, Lot 1 Property ID: R5500992 Portland, OR 97219	Bill Rosenman 10 New Salem Portland, OR 97207 bill@billrosenman.com www.billrosenman.com