



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

FROM CONCEPT TO CONSTRUCTION

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Date: April 28, 2014
To: Interested Person
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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 14-120457 AD

GENERAL INFORMATION

Applicant: Allan Norris, Architect / TVA Architects, Inc.
920 SW 6th Avenue / Portland, OR 97204

Owners: Steven and Jeanne Neville
900 SW 13th Ave #210 / Portland, OR 97205

Site Address: 2572 SW BUCKINGHAM AVE

Legal Description: BLOCK 5 LOT 6&7 EXC PT IN ST, SEVENTH ST TERR
Tax Account No.: R755201840
State ID No.: 1S1E04DC 04000
Quarter Section: 3228
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.
Plan District: None
Zoning: R10c, Single-Dwelling Residential 10,000 zone with the "c" Environmental Conservation overlay zone

Case Type: AD, Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant is requesting two Adjustments to residential zone (R10) development standards in order to construct a new two-story home. The applicant is requesting to exceed the height limit by 9.5 feet. On steeply sloping lots that slope downhill from the street, the height limit is 23 feet above the average grade of the street (Zoning Code section 33.110.215.D). The applicant's submitted plans identify the highest point at 32.5 feet, at the top of a proposed large chimney. The plans also identify the highest roof parapet exceeding the 23 foot height limit by 5.5 feet. The Adjustment is needed to allow the parapet and chimney to exceed the height limit. Also, the applicant is requesting an Adjustment to exceed the allowed building coverage. The Zoning Code allows 3,319 square feet of coverage on this 12,123 square foot lot.

The proposed home, which includes elevated decks and balconies, will cover 3,700 square feet, 381 square feet over the maximum allowed.

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 a steeply-sloped, 12,132 square-foot, vacant lot with frontage on two public streets—SW Buckingham and SW Hoffman (where SW Sheffield and Hoffman merge). From the southwest corner, adjacent to SW Buckingham, to the northwest corner, the topographic elevation drops approximately 100 feet. The lowest corner of the lot is within the c, Environmental Conservation overlay zone.

The abutting residential lots are developed with homes that front SW Buckingham. The lots on the south side of SW Buckingham also have frontage on SW Chelmsford. The homes located near the SW Chelmsford right-of-way are elevated above those on NW Buckingham. Most of the homes have views to the City center and beyond to northwest and southeast Portland. Although varied in architectural style, most of the homes on the north side of SW Buckingham are multi-story, but appear to be one story in height from the street.

SW Buckingham is a 30-foot wide public right-of-way with a 20 foot wide paved roadway. Similar to other nearby residential streets, this street does not have sidewalks and has limited on-street parking.

Zoning: The site and surrounding properties are located in an R10, Single-Dwelling Residential 10,000 zone. A small portion of the site, at the northwest corner, is within the c, Environmental Conservation overlay zone. The use regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The development standards work together to preserve the character of neighborhoods, and promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. The development standards are generally written for houses on flat, regularly shaped lots.

The Environmental Conservation overlay zone is intended to conserve important environmental features and resources while still allowing compatible development. New development and exterior modifications to existing development must meet environmental standards or are subject to environmental review. The outer 25 feet of the area within the zone boundary is designated as “transition area” where most development is allowed without review.

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

Summary of Applicant’s Statement: On April 14, 2014, in response to comments received (see below), the applicant submitted the following response:

The owner is well aware of the potential landslide hazard zone that this lot is located in. The soils engineer was specific about not excavating at all in the steeply sloping area of the lot because of this hazard. This is why the house will be erected on all piling and located as close to the road as possible. In doing so, it is unfortunate that the three trees located at the upper portion of the property will need to be removed. Also, the location of the house minimized the lot coverage of the property but did not bring it within the maximum coverage allowed. In a sense, the coverage of the house will reduce the rain water run-off amount that will penetrate the soil below and has been mitigated by directing the water runoff to a flow-through planter located at the lower area of the property. I also would like to mention that the plants have been revised for a planter from the plant list provided by the City of Portland.

A checklist from the Bureau of Environmental Services brought this to my attention. While the house is being constructed, erosion control methods will be provided in order to minimize any water run-off on the property. After the house is completed, the owner is committed to maintaining the existing foliage on the property and will be doing whatever it takes, such as adding trees or shrubs, in order to protect the soil from erosion. The ivy will definitely be removed so that the existing foliage will remain healthy. These measures will definitely be in the owner's best interest to protect and preserve his investment. Exhibit A.2

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **March 17, 2014**. The following Bureaus have responded with no issues or concerns regarding the Adjustments:

- Portland Bureau of Transportation (Exhibit E.6);
- Fire Bureau (Exhibit E.4);
- Life Safety Plans Examiner, BDS (Exhibit E.5);
- Water Bureau (Exhibit E.2); and
- Urban Forester (Exhibit E.6).

The Bureau of Environmental Services responded with the following key comments (Exhibit E.1):

A. RESPONSE SUMMARY

BES has no objection to the requested adjustment. Note that the proposed development will be subject to BES standards and requirements during the permit review process. The following comments have been included as a courtesy to the applicant.

B. SANITARY SERVICE

1. *Existing Sanitary Infrastructure:*

- a. There is a 10-inch CSP public combination sewer located in the SW Hoffman right-of-way just north of the site.
- b. There is an 8-inch CSP public combination sewer (as-built # 2619) located on the west side of the property in a 10 foot wide public sewer easement (Ordinance #111830).
- c. These sewers are adequate to serve the sanitary disposal needs of this project.
- d. The applicant is proposing a sanitary connection directly west of the new structure. BES has no objection.

C. STORMWATER MANAGEMENT

1. *Existing Stormwater Infrastructure:*

- a. There is no public storm-only sewer available to this property.

2. *General Stormwater Management Requirements:* All development and redevelopment proposals are subject to the requirements of the City of Portland Stormwater Management Manual (SWMM). The SWMM is periodically updated; projects must comply with the version that is adopted when permit applications are submitted. **A new version was adopted in January 2014.** The 2014 SWMM can be found at: www.portlandoregon.gov/bes/SWMM.

3. Development projects are evaluated using the criteria described in [Section 1.3](#) of the SWMM. The Stormwater Hierarchy guides the applicant in determining where stormwater runoff should be conveyed (i.e. infiltrated on-site or discharged off-site). The highest technically feasible category must be used. Regardless of the discharge point, vegetated surface facilities are required to the maximum extent feasible to meet SWMM pollution reduction and flow control requirements.

4. *On-Site Stormwater Management Comments:* BES reviews stormwater management facilities on private property for the feasibility of infiltration, pollution reduction, flow control, and off-site discharges. The Site Development Section of BDS determines if stormwater infiltration

on private property is feasible when slopes on or near the site present landside or erosion related concerns, or where proximity to buildings might cause structural problems.

- a. The provided site plan shows a stormwater planter at the north edge of the subject property with a connection directly to the north.
 - 1) Without having the stormwater report, the planter appears to be of adequate approximate size for the proposed structure. The final sizing will be reviewed through the building permit.
 - 2) The planner should note that the west corner of the planter appears to be just within the C zone. There appears to be adequate space to keep the planter outside of the Environmental Zone. Planters are typically poured concrete boxes. The proximity of the planter would likely include temporary disturbance in the C zone.
 - 3) While only the corner of the lot is within environmental zone, the back of the lot appears to have significant trees that should be protected from disturbance where possible. Setting forms and concrete work in the vicinity could affect the existing tree root health. BES recommends locating the stormwater facility and temporary disturbance outside of resource areas and closer to the building footprint.
5. *TMDL Requirements:* The project site is located in the Willamette River Watershed, in the Marquam-Woods subwatershed. Total Maximum Daily Load (TMDL) water quality requirements apply in the Willamette River Watershed, as required by Oregon DEQ. The Stormwater Management Manual (SWMM) requires that applicants use pollution reduction facilities that are capable of reducing TMDL pollutants. Vegetated facilities sized according to the Simplified or Presumptive Approaches meet these requirements.

D. SITE CONSIDERATIONS

The following information relates to specific site conditions or features that may impact the proposed project.

1. *Sewer Easement Present:* A 10 foot sewer easement granted to the City of Portland exists over the public combination sewer that runs across this site. Please be aware, all sewer easements granted to the City of Portland are exclusive. No other utilities, facilities, or easements are to be located within the boundaries of these sewer easements without prior written consent of the Director of the Bureau of Environmental Services. Sewer easements granted to the City of Portland include the right of access for construction, inspection, maintenance, or other sewerage system activities. In addition, no building construction, material storage, grade reduction, or tree planting shall be permitted within these sewer easements without the prior written consent of the Chief Engineer of the Bureau of Environmental Services, City of Portland. Landscaping, which by its nature is shallow rooted and may be easily removed to permit access to sewer lines, shall be allowed to be planted within sewer easements granted to the City of Portland. However, no deep-rooted vegetation (such as certain trees) is to be located within the boundaries of these sewer easements.
2. *Plantings:* Portland's Zoning Code (33.248) includes specific requirements for mitigation and restoration plantings, including that the plant materials must be native and selected from the [Portland Plant List](#). Where mitigation and/or restoration plantings are not required, BES still recommends the use of native plants to help stabilize soils and minimize erosion.
3. *Mature Trees:* The site contains mature trees which are beneficial because they intercept at least 30% of precipitation that falls on the canopy, filter stormwater, help prevent erosion, and provide shade which cools the air and stormwater runoff. Trees also help Portland's adaptation to climate change. It is difficult to mitigate for the removal of mature trees as it can take decades for new trees to provide equivalent benefits. BES recommends that future development at this site include measures to preserve as many of the site's existing trees as possible. Financial incentives for existing trees taller than 15 feet on private property may

be available for ratepayers who register with [Clean River Rewards](#), the City's stormwater discount program. Call 503-823-1371 for more information.

4. *Nature in Neighborhoods Inventory Information:* The natural resources at this site were identified in Metro's Nature in Neighborhoods inventory of regionally significant riparian corridors and wildlife habitat. Specified resources and functions include the following:
 - a. *Regionally Significant Wildlife Habitat:* The forest and woodlands on and adjacent to this site provide important feeding, breeding and nesting habitat for native wildlife.

To protect the natural functions provided by these resources, BES recommends that the applicant minimize site disturbance and replant disturbed areas with native vegetation. Doing so will help minimize erosion, protect slope stability, and restore lost functions.
5. *Slope Information:* This site is steeply sloped; therefore, BES recommends that slope stability be carefully considered in all aspects of site development. This may include strategies such as replanting disturbed areas with native plants to help stabilize soils and minimize erosion, and placing stormwater facilities in areas that will protect slope stability.

E. CONDITIONS OF APPROVAL

BES has no recommended conditions of approval.

The Site Development Section of BDS responded with the following comments (Exhibits E.3):

Site topography. The site is relatively steep.

Potential Landslide Hazard Area. The site is located in the Potential Landslide Hazard Area.

At the time of building permit application, please submit a soils report stamped by a registered design professional licensed in the State of Oregon that meets the requirements of Section 1803 of the 2010 Oregon Structural Specialty Code. The report must be commensurate with the difficulty of the proposed development and the site geology.

Stormwater discharge and treatment. The Bureau of Environmental Services will review the project for conformance to the 2008 Stormwater Management Manual.

The applicant is proposing to locate a flow-through stormwater planter on an approximately 1H : 1V slope and connect the overflow to an existing 10 inch combination pipe. Site Development requests that the geotechnical engineering report submitted at the time of building permit application include recommendations for the construction of the planter and for stormwater disposal. In addition, retaining wall calculations for the planter walls will be required if the walls retain more than 4 ft of soil or are surcharged by sloped backfill.

Erosion control. Erosion prevention and sediment control requirements found in Title 10 apply to both site preparation work and development. Full compliance with the erosion control requirements of Title 10, as well as maintenance of the erosion control elements, such as silt fences on private property, storm drain inlet protection and bio bags in the public right-of-way, is the responsibility of the property owner, the developer of the land division and the builders of structures on the individual lots. Please refer to the City of Portland *Erosion and Sediment Control Manual* for additional information regarding erosion and sediment control requirements.

At the time of building permit application, an Erosion, Sediment, and Pollutant Control Plan (ESPCP) will be required to be submitted. And, at the time of building permit application the following information will be requested:

1. Please submit a soils report stamped by a registered design professional licensed in the State of Oregon that meets the requirements of Section 1803 of the 2010 Oregon Structural

Specialty Code. The report must be commensurate with the difficulty of the proposed development and the site geology. The report must include recommendations specific to the development that is proposed.

Neighborhood Review: One written response has been received from the Neighborhood Association in response to the Notice of Proposal.

Nancy Seton, Southwest Hills Residential League (SWHRL) neighborhood association chair submitted a letter with the following:

The applicant wishes to build a new house on a vacant lot and is requesting adjustments to exceed both the allowed height and allowed building coverage. The uphill neighbor is not concerned that the height variance will impact her view – it is mainly just a chimney and a parapet that would protrude 5.5' above the allowable height.

However, we do have concerns about the request to exceed the allowable building coverage on this very steep lot (average slope 71% per applicant plans) in a potential landslide hazard zone, per [www.portlandmaps](http://www.portlandmaps.com) site description. (DOGAMI's LIDAR map shows a 2006 landslide just up the street from this site.) The applicant proposes to exceed the 3,319 S.F. allowable lot coverage by 381 S.F. with a building footprint of 3,700 S.F, and total impervious area of 3,798 S.F.

Portland's clean water goals as described in the Portland Stormwater Management Manual (Ch.2) urge residents to minimize impervious areas, plant trees and shrubs, and use eco-roofs to reduce stormwater runoff into city sewers. "Trees intercept precipitation and provide several stormwater management benefits: they hold water on the leaves and branches and allow it to evaporate, retaining flow and dissipating the energy of runoff." This also enhances slope stability.

It appears that much of the historic tree canopy that completely covered the site as shown on the 2012 aerial map on www.portlandmaps.com has been cut down since 2012. Aside from the three trees at the top of the lot, that are scheduled to be removed for the house, the central portion of the lot is relatively bare, except for stumps. Some (ivy covered) trees remain below at the foot of the lot around the environmental zone.

We would urge the applicant to not exceed the allowable lot coverage area, to restore the tree canopy to the lower slope, preferably with a variety native trees (including evergreens) and shrubs adapted to the conditions, to add an eco-roof, to remove ivy infesting the remaining trees, and to carefully establish and maintain the flow-through planter that is just above the environmental conservation zone at the lower end of the property, according to the Stormwater Manual procedures.

I am confused by the plant list that appears in the applicant's documents. It includes lupine, bald hip rose, kinnickinnick, Oregon stonecrop (sedum) and needle spike rush. Is this for the flow-through planter? Most of these plants require well-drained soil and little water – of these only the rush is recommended for planters (Stormwater Manual, Appendix F.4), as being tolerant of periodic inundation.

We believe the proposal does not meet the approval criteria 33.805.040 A., B., E and F., nor does it comply with the principles of the Portland Stormwater Management Manual. Granting the extra lot coverage and height will not equally or better meet the purpose of the regulation, which is intended to minimize impact on the livability and desired character of the neighborhood by limiting oversized structures out of proportion to the site, and potentially destabilizing to the slope. Nor is the impact of the proposed 3,798 S.F. impermeable area imposed on the site mitigated by a large planting of trees and shrubs, or installation of an eco-roof, as far as I could determine from the documents on file at BDS.

We request that BDS not allow the lot coverage adjustment, and add conditions of approval to restore tree canopy, add layers of native plants to protect the site, and remove invasives from the environmental zone. (Exhibit F.1)

BDS Staff Comment: Below, under relevant approval criteria, findings address the issues raised by the neighborhood association.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below, have been met.

A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant is requesting an Adjustment to the height and building coverage standards that apply to sites within the R10, Single-Dwelling Residential zone.

Height

Zoning Code Section 33.110.215 describes the purpose of the height standard as follows:

Purpose 33.110.215 Height

The height standards serve several purposes:

- *They promote a reasonable building scale and relationship of one residence to another;*
- *They promote options for privacy for neighboring properties; and*
- *They reflect the general building scale and placement of houses in the city's neighborhoods.*

The applicant is requesting a height increase from 23 feet (as measured from the average grade of the adjacent street) to 28.5 feet for the highest roof parapet and to 32.5 feet for a large chimney. This 23 feet foot allowance is required to be measured along the front lot line of the property. However, for the subject site, the front lot line is located from 4 to 16 feet back, with an average of 8 feet, from the paved roadway along SW Buckingham Avenue. As the submitted plans illustrate, if the height of the house was measured from the highest grade of the paved roadway, instead of the average, the proposed height would be less than 21 feet at its highest point. The south-facing wall shows the main level with tall ceilings. Given the house will be most visible from the paved roadway, and not from the site's front lot line, the proposed 23 feet above the paved roadway is consistent with the intent of the maximum allowed height limit on steeply sloping sites. This will result in a proposed height that is reasonable in terms of building scale and relationship to other residences in the nearby area.

The height increase will have no significant impact on the intent of the regulation to promote options for privacy. Even with the height increase, the house will be 1-story as viewed from the front (along SW Buckingham Avenue) and three stories as viewed from the rear (along SW Sheffield Avenue). This is approximately the height that is expected in the R10 zone, which allows (on a flat site) a house up to 30 feet in height measured to the midpoint of the highest gable, or roughly a 3-story structure. The proposed home is a modern design with limited glazing on the south side facing SW Buckingham. Furthermore, properties to the south and west are horizontally separated from the subject site by the 30 foot width of SW Buckingham Avenue and SW Sheffield Avenue rights-of-way. The significant difference in grade between the subject site and those to the north and east, places a substantial vertical distance between homes and further helps mitigate for any impacts on privacy.

The requested height increase will generally reflect the intended scale of houses in the City's single-dwelling neighborhoods. The proposed residence, at 1.5 stories as viewed from SW Buckingham Avenue, is what is typically seen in neighborhoods across the City. While the home will be two-stories, on a piling structure at the back, homes with this number of stories

or greater are typical in residential neighborhoods that are characterized by steeply sloping lots.

Based on these findings, the request to increase the maximum allowed building height for the proposed residence will equally meet the intent of the regulation and the criterion is met for this Adjustment.

Building Coverage

Zoning Code Section 33.110.225 describes the purpose of the building coverage standard as follows:

Purpose. *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 Zoning Code allows 3,319 square feet of coverage on this 12,123 square foot lot. The proposed home, which includes elevated decks and balconies, will cover 3,700 square feet, 381 square feet over the maximum allowed. The new home will cover approximately 30 percent of the site, rather than the allowed 27 percent. The proposed home has two full floors with the main level visible from SW Buckingham. Similar to most of the residential lots in the Southwest Hills area, the lots are severely sloped and are developed with large, multi-story homes that follow the slope. On the south side of SW Buckingham, the homes are significantly elevated above the street. Similarly, the residential lots to the north, with frontage on SW Sheffield sit lower than the homes on SW Buckingham. The required side building setbacks of 10 feet will be met. The proposed home will be located at least 15 feet from the home on the western abutting lot and over 20 feet from the home on the eastern abutting lot.

The scale and overall bulk of the proposed home is consistent with other nearby homes. The proposed new home will not overwhelm adjacent homes. Most of the homes in the immediate area cover more than 30 percent of their respective lots with structures. The SWHRL neighborhood chair raised concerns about the potential landslide hazard and the total amount of impervious area—3,789 square feet (Exhibit F.1). Even when the driveway paving area is included, the total impervious area is approximately 31 percent. This is far below the hard surface/building coverage seen on most residential lots, both flat and sloped, in the City of Portland. During permit review, the BDS Site Development Review staff will verify that a soils report that is prepared by a licensed engineer addresses the Oregon Structural Specialty code requirements. And a geotechnical report will be required to not only analyze the construction of the house but also verify that the proposed stormwater planter and retaining walls meet structural requirements. The BDS Life Safety Plan Review team will review structural engineering requirements. None of the Bureaus who review building code and life safety requirements—BDS Life Safety Plan Review, BDS Site Development and Fire Bureau—raised concerns or recommended conditions of approval, related to the requested land use review.

Lastly, it should be noted that most of the nearby homes are at least 15 years old or older. Prior to July 1, 2003, the Portland Zoning Code allowed 30 percent building coverage for all R10-zoned lots. Therefore, the proposed building footprint (coverage) does not stand apart from the development pattern found on other lots.

For all the reasons stated above, the proposal supports the purpose of the building coverage standard and therefore satisfies this criterion.

- 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: This proposal will necessitate the removal of trees that provide a visual barrier along the SW Buckingham frontage. The SWHRL neighborhood association chair noted in her letter that “much of the historic tree canopy on the lot has been cut down since 2012...the central portion of the lot is relatively bare...some (ivy covered) trees remain below at the foot of the lot.” The neighborhood association would like to see the tree canopy restored with a variety of native trees and shrubs, an eco-roof, and ivy removal.

In response to the SWHRL letter, the applicant states that in addition to meeting City code requirements, the homeowners will be “committed to maintaining the existing foliage on the property and will be doing whatever it takes, such as adding trees or shrubs, in order to protect the soil from erosion. The ivy will definitely be removed so that the existing foliage will remain healthy”.

Staff appreciates the issues raised by the SWHRL. However, this land use review is not the proper venue for achieving a well built residence. Rather, the building permit review process imposes a myriad of development requirements, including the following:

- Geotechnical (land stability) analysis and engineering – Building Code
- Structural code requirements for the home and any retaining - Building Code
- Stormwater management treatment and disposal including plant lists for the facilities – BES
- Tree planting/preservation requirements – Zoning Code
- Environmental Zone development standards, if construction activities are proposed within the resource area. – Zoning Code

The striking modern design of the home will compliment the variety of architecture styles found in the neighborhood. Through compliance with the various development code provisions and with owners who value plants and trees to both visually enhance and stabilize the site, the proposal will be safe and attractive. The project will not diminish the livability 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.

Findings: 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 cumulative effect of the Adjustments will result in the construction of a home that is compatible with other homes in the surrounding area. Due to the challenging topography of the site, the Adjustments allow land available for the construction of a single-dwelling home to be developed, whereas, without the adjustments development may not be feasible or practical. 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. The site is not within either overlay zone; thus, this criterion is not applicable.

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

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

- 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 northwest corner of the site is within the Environmental Conservation overlay zone. The submitted plans show a small portion of the proposed flow-through stormwater

planter in the “transition area” of the e-zone. Development is allowed within the transition area. The proposed new home is completely outside of the 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 applicant has demonstrated that the applicable Adjustment approval criteria have been met. The request to exceed the building coverage and height allowances will result in development that still meets the intent of the regulation and will not adversely impact the appearance or livability of the surrounding residential neighborhood.

ADMINISTRATIVE DECISION

Approval of an Adjustment to exceed the building coverage maximum (Section 33.110.225) from 3,319 to 3,700 square feet and to increase the maximum height (33.110.215) from 23 feet to 28.5 feet for the parapet roof of the main floor and from 23 to 32.5 for a large chimney for a new two-story home, per the approved plans, Exhibits C.1 through C.5, signed and dated April 23, 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- C.5. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-120457 AD."

NOTE: Stormwater management, as well as other building permit requirements, must be addressed as part of the building permit review.

Staff Planner: Sheila Frugoli



Decision rendered by: _____ **on April 24, 2014**

By authority of the Director of the Bureau of Development Services

Decision mailed: April 28, 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 February 25, 2014, and was determined to be complete on March 12, 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 February 25, 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 12, 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.

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 13, 2014**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

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

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

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

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

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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Written Response to Approval Criteria
 2. E-Mail Response to SWHRL letter, April 14, 2014
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. South (Front) Elevation (attached)
 3. West (Side) Elevation (attached)
 4. East (Side) Elevation (attached)
 5. North (Rear) Elevation (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. Fire Bureau
5. Life Safety Review Section of BDS
6. Comments in TRACS stating "No Concern" from Bureau of Transportation and City Forester

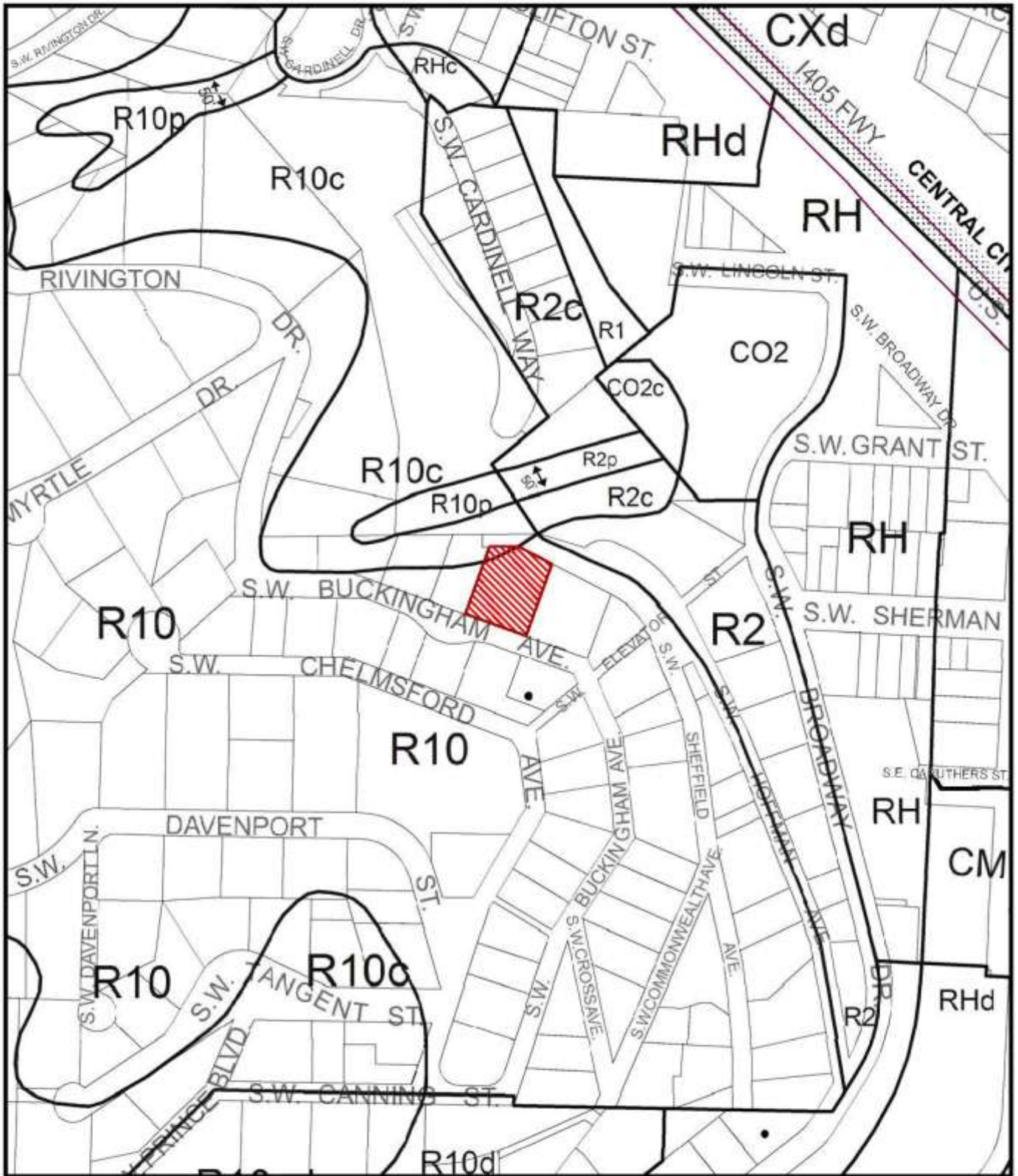
F. Correspondence:

1. Nancy Seaton, Southwest Hills Residential League Land Use Chair, April 3, 2014, opposes Adjustment request
2. Andrew Holtz, April 6, 2014, E-Mail Affirming Letter from Nancy Seaton.

G. Other:

1. Original LU Application
2. Incomplete Application Letter from Staff to Applicant

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



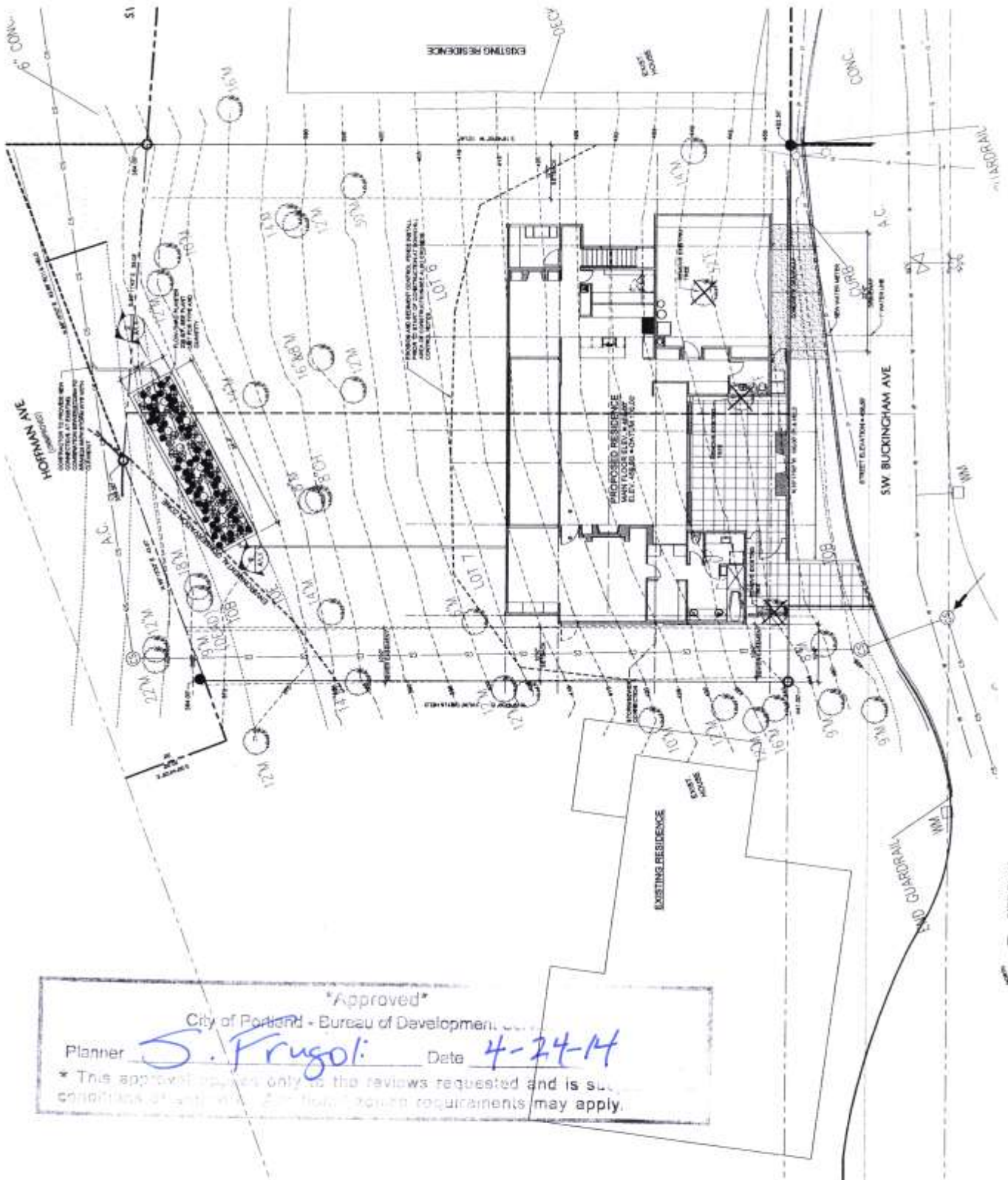
Site



Historic Landmark



File No. LU 14-120457 AD
 1/4 Section 3228
 Scale 1 inch = 200 feet
 State_Id 1S1E04DC 4000
 Exhibit B (Feb 27, 2014)



1 SITE PLAN
18-212

Approved

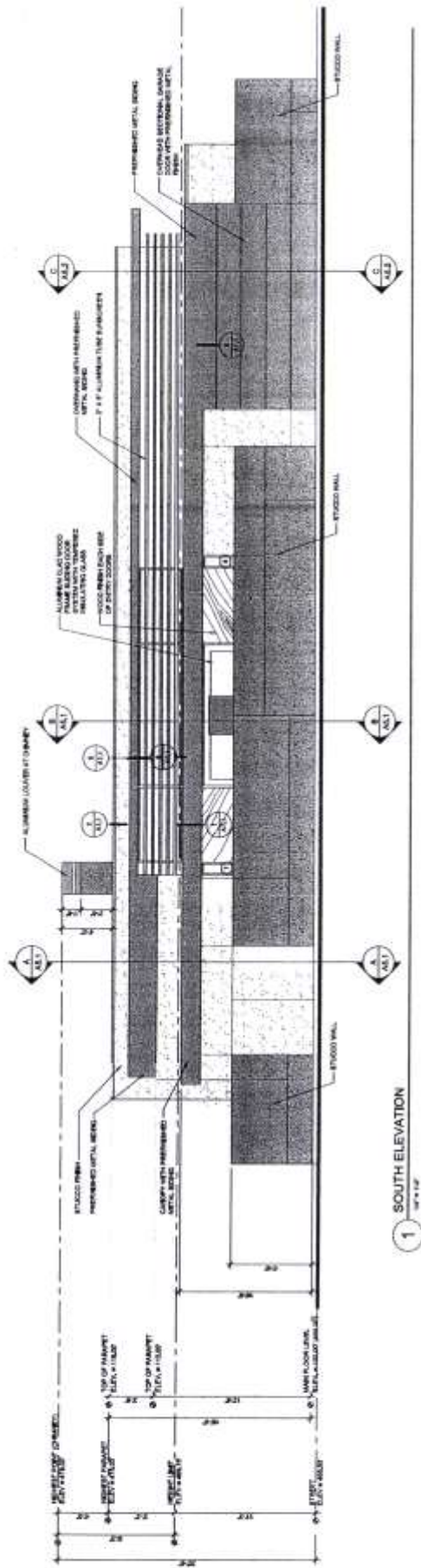
City of Portland - Bureau of Development Services

Planner S. Frugoli Date 4-24-14

* This approval applies only to the reviews requested and is subject to the conditions of any applicable zoning and other requirements that may apply.

Exhibit C.1

W 14-120 457 AD

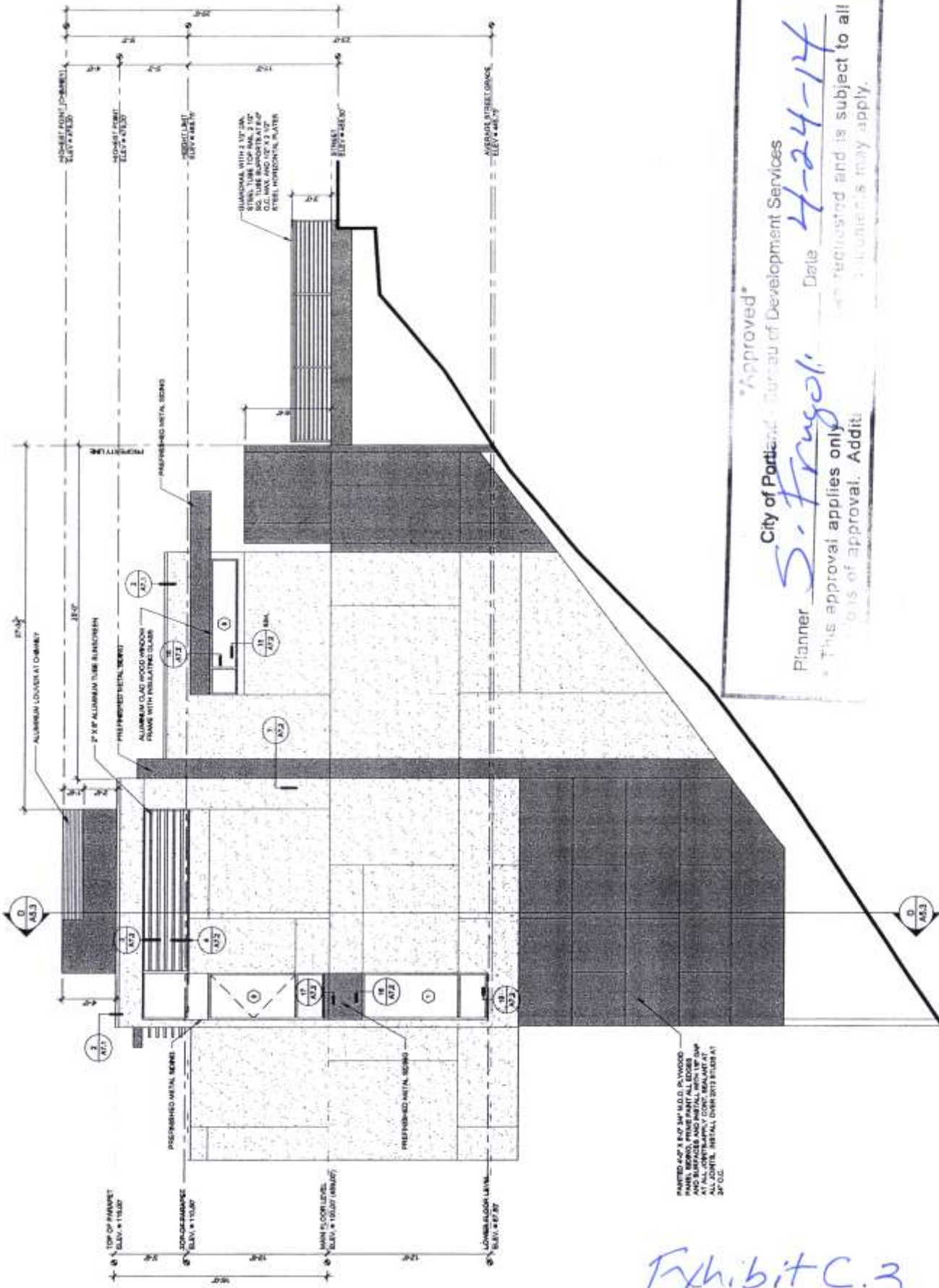


1 SOUTH ELEVATION

Approved
 City of Portland - Bureau of Development Services
 Planner S. Frydli Date 4-24-14
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Exhibit C.2

LU 14-120457AD

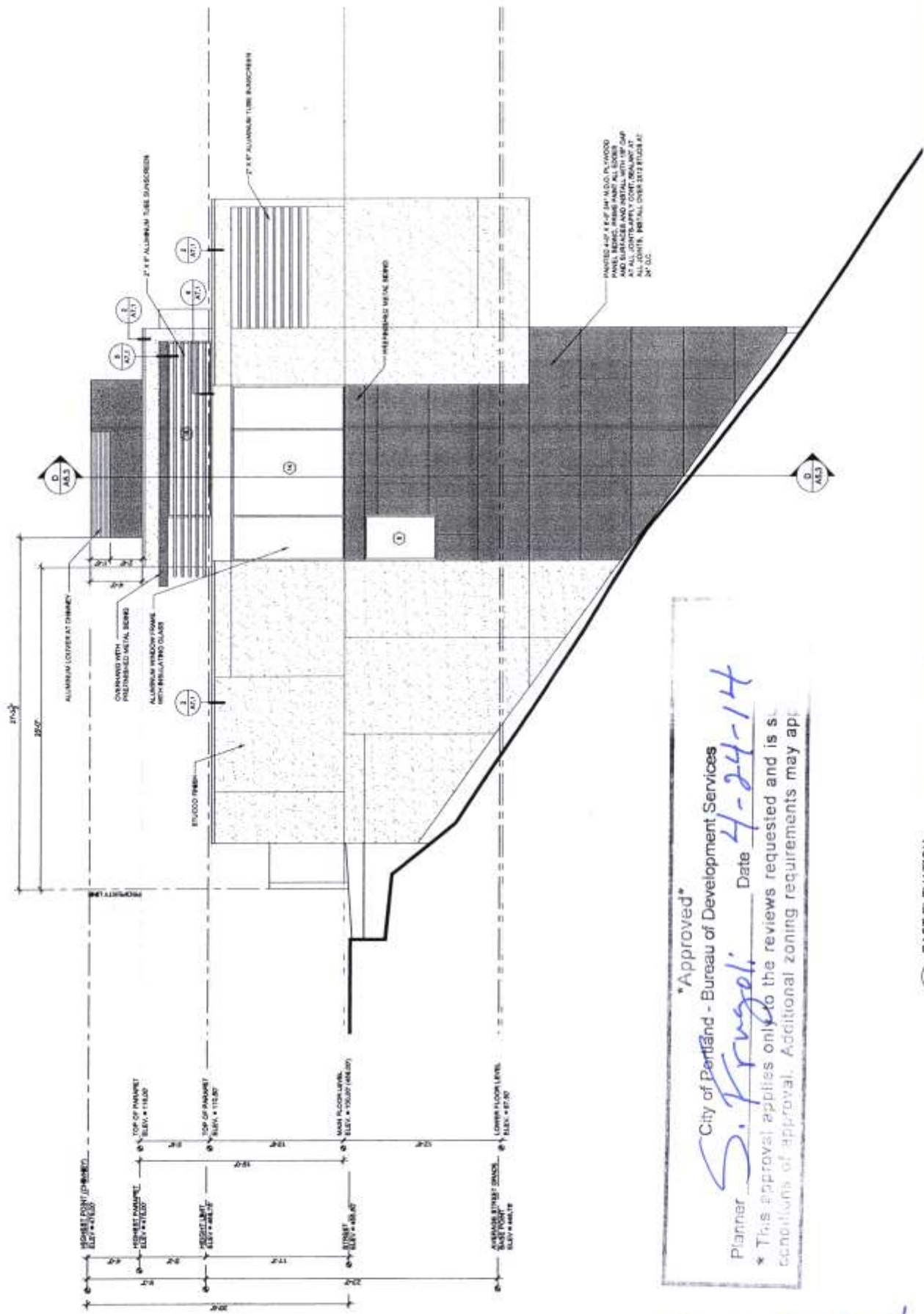


Approved*
 City of Portland Bureau of Development Services
 Planner *S. Frugal* Date *4-24-14*
 *This approval applies only to the project as presented and is subject to all conditions of approval. Additions or changes may apply.

PAINTED 1/2\"/>

3 WEST ELEVATION
 1/4\"/>

Exhibit C.3
 LU 14-120457A0



Approved

City of Portland - Bureau of Development Services

Planner S. Krugel Date 4-24-14

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

Exhibit C.4

W 14-120457 AD

