



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
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TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: September 5, 2014
To: Interested Person
From: Andrew Gulizia, Land Use Services
503-823-7010 / Andrew.Gulizia@portlandoregon.gov

NOTICE OF AN AMENDED 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 14-177644 AD

GENERAL INFORMATION

Applicant: Geoffrey Harker / Richard Brown Architect, AIA
239 NW 13th Avenue, Room 305 / Portland, OR 97209

Property Owners: Priscilla M. Bernard and Dan G. Wieden
0930 SW Palatine Hill Rd. / Portland, OR 97219

Site Address: 3125 SW FAIRMOUNT BLVD.

Legal Description: LOT 1 EXC PT IN ST, HESSLER HILLS
Tax Account No.: R380800010
State ID No.: 1S1E16BA 02200
Quarter Section: 3527

Neighborhood: Hillsdale, contact Duane Hunting at 503-245-7998
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592

Zoning: R10s (Residential 10,000 with a Scenic Resource Zone overlay)

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

Proposal:

The applicant proposes to construct a single-dwelling residence and an accessory dwelling unit (ADU) on this site. The Portland Zoning Code includes many specific rules pertaining to the size, location and appearance of ADUs in relation to the primary structure (the house). One regulation states that the ADU must be at least 60 feet from the front lot line or 6 feet behind the house. In this situation, due to the curved lot line, the location of the ADU in relation to the house is based on the location of the main entrance of the home. Because the main entrance of the house faces west, the ADU is considered to be in front of the house. To remedy this situation, the applicant proposes one Adjustment to allow the ADU to be in front of the house.

The site plan and elevations attached to the previous Notice of Proposal and Notice of Decision illustrated two additional Zoning Code standards that require Adjustment Review. First, the maximum building coverage on this 39,000 square-foot lot is 5,925 square feet, and the applicant's plans indicate 7,750 square feet of building coverage. Second, the Zoning Code requires garages to be no closer to street lot lines than the longest street-facing wall of the dwelling. In the applicant's proposal, this standard is met in relation to the street frontage of this lot *except* in relation to the west lot line.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A through F of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The 39,000 square foot site is vacant. It is located at a curved corner of SW Fairmount Boulevard. The site slopes up from the street. It has a few large trees but relatively no shrubs.

The surrounding vicinity is developed with large single-dwelling houses on large lots. SW Fairmount is an attractive street with a large amount of tree canopy.

Zoning: The site is zoned R10s (Residential 10,000 with a Scenic Resource Zone overlay). The R10 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 6,000 square feet and an average lot area of 10,000 square feet. The "s" overlay zone is intended to protect Portland's significant scenic resources. In this situation, the "s" overlay follows SW Fairmount Boulevard. For corner lots or lots with multiple street frontages, the Portland Zoning Code defines front property line as the shortest of the lot lines that abut a street.

Land Use History: City records indicate there are no prior land use reviews for this site. A land use review in 2005 (LU 05-172259 LDP AD) approved a 2-lot land division at this site; however, the decision was never recorded and is now void.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 23, 2014**. The following Bureaus have responded:

The Bureau of Environmental Services responded with information on sanitary service and stormwater management (Exhibit F-1).

The Life Safety section of the Bureau of Development Services responded with information on obtaining a building permit (Exhibit F-2).

The Water Bureau responded with information about water service (Exhibit F-3).

The Urban Forestry section of the Parks Bureau responded with information on street tree requirements (Exhibit F-4).

The Fire Bureau responded that applicable Fire Code requirements will apply at time of permit review (Exhibit F-5).

The Portland Bureau of Transportation responded with no objections and information on System Development Charges, driveways and curb cuts (Exhibit F-6).

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the Notice of Proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (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 providing certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

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

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

Findings: The applicant proposes an Adjustment to the Portland Zoning Code regulation that requires detached ADUs to be located at least 60 feet from the front property line or at least 6 feet behind the home on the site. For this situation, the front lot line of the site is short segment of street along the western edge of the site. Because the main entrance also faces this segment of street and the ADU is between this main entrance and street segment, approval of the ADU location through an Adjustment Review is necessary. The purpose of the design standards for ADUs, including the location requirement, is found in Section 33.205.030.A of the Portland Zoning Code and reads:

Purpose: Standards for creating accessory dwelling units address the following purposes:

- *Ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones;*
- *Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;*
- *Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and*
- *Provide adequate flexibility to site buildings so that they fit the topography of sites.*

The Portland Zoning Code defines "desired character" as:

The preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district. It also includes the preferred and envisioned character based on any adopted area plans or design guidelines for an area.

In this location, the desired character is defined by the purpose statement for single-dwelling zones found in Section 33.110.010 and the *Southwest Community Plan*.

The purposes statement for single-dwelling zones states:

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 proposal is consistent with this stated purpose and the site will still provide land for housing and housing opportunities for individual households.

The *Southwest Community Plan* does not contain any goals or policies specific to ADUs; therefore, the proposal is not inconsistent with the desired character described in that plan.

The proposed location of the ADU will not impact the livability of the residential area. It will be located approximately 140 feet from the nearest house. The ADU and configuration on the site will respect the general scale and placement of structures. The site has multiple street frontages and the placement of the ADU in front of the house or in front of the main entrance will not be readily apparent. In fact, from most vantage points along SW Fairmount Boulevard, the ADU will not appear to be in front of the house. The ADU meets maximum size requirements of the Portland Zoning Code and is significantly smaller than the proposed house. The ADU and the house appropriately fit the topography of the site.

The second Adjustment is to increase the allowable building coverage on the site from 5,925 square feet to 7,750 square feet. The purpose of the building coverage standard is stated in Zoning Code Section 33.110.225.A:

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.

On this 39,000 square-foot lot, the 7,750 square feet of proposed building coverage represents less than 20% of the total site area. Therefore, even though the applicant's proposal exceeds the building coverage amount that would be allowable without an Adjustment, more than 80% of the site will be left open and uncovered by buildings. Additionally, the impact of the development on this lot will be limited by the distance from nearby houses. At its closest point, the new house on this lot will be approximately 32 feet from the nearest neighboring house. The relatively low, horizontal design for the proposed house will also prevent the building from overwhelming neighboring homes.

The third Adjustment is to allow the garage to be closer to the street lot line than the living space of the house. The purpose of this standard is stated in Zoning Code Section 33.110.253.A:

Purpose. These standards:

- *Together with the window and main entrance standards, ensure that there is a physical and visual connection between the living area of the residence and the street;*
- *Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;*
- *Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;*
- *Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and*
- *Enhance public safety by preventing garages from blocking views of the street from inside the residence.*

As mentioned previously, the proposed garage actually meets this standard in relation to most of the street frontage of the site. The garage will be further from SW Fairmount Boulevard than the living space *except* in relation to the street lot line on the west side of the site. However, the west lot line is only 45 feet long out of the site's total street frontage of approximately 520 feet. For a large majority of the site's street frontage, the garage will appear behind the house and will not impede the physical connection between the house and street or views between the street and the living space of the house. From most of the site's street frontage, the house will appear as more prominent than the garage, and the main entrance will not be obscured by the garage. Even in relation to the west lot line, the garage will not appear particularly prominent because it will be more than 100 feet from the street.

Based on the information above, this criterion is met for the three Adjustments requested.

- 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 proposal will not detract from the livability or appearance of the residential area. The site has abundant street frontage and from most vantage points, neither the garage nor the ADU will appear to be in front of the house. The ADU does not negatively impact livability as it is located at least 140 from any homes on nearby sites. The ADU also meets all other standards for Accessory Dwelling Units, including requirements for certain elements to match the proposed house. The house will have a relatively low, horizontal design that will limit impacts to neighbors and fit well into the neighborhood. The large size of this lot makes the proposed building coverage, though more than what could be approved without an Adjustment, less than 20% of the total site area. A large majority of the site will be left open and landscaped, buffering the new house and ADU from the street and from neighbors.

Based on this information, 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 discussed in the findings for approval criteria A and B, approval of these three Adjustments will result in development that is consistent with the purposes of the regulations, and no significant negative impacts to the livability or appearance of the area are anticipated. Given the large size of the lot and the distance between the proposed development and neighboring homes, this development will fit well into the site and will not appear out of place or out of scale in the neighborhood. This criterion is met.

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

Findings: The proposal is located in the Scenic Resource Overlay zone and meets all applicable development standards of the section of the Portland Zoning Code. The site does not contain any City-designated scenic resources. Based on this information, this criterion is met.

- 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 adjustments. 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. 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 proposes three Adjustments to standards of the Portland Zoning Code to allow for greater building coverage, for the garage to be located closer to the street lot line than the house, and for the ADU to be located in front of the main entrance of the primary house. The proposal meets the intent of the regulations because of the relatively large, open lot, and the fact that from most vantage points along SW Fairmount Boulevard, neither the garage nor the ADU will appear to be in front of the proposed house. The proposal meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of the following three Adjustments:

- an Adjustment to Zoning Code Section 33.205.030.D.1 to allow the proposed ADU to be located in front of the proposed house;
- an Adjustment to Zoning Code Section 33.110.225.B to increase the allowable building coverage from 5,925 square feet to 7,750 square feet; and
- an Adjustment to Zoning Code Section 33.110.253.F.3 to allow the garage to be closer to the west street lot line than the longest street-facing wall of the dwelling unit

per the approved site plans, Exhibits C-1 through C-2, signed and dated August 26, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-177644 AD adjustment."

Staff Planner: Matt Wickstrom

Amended decision rendered by:  **on September 3, 2014**

By authority of the Director of the Bureau of Development Services

Amended decision mailed: September 5, 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 July 1, 2014, and was determined to be complete on July 15, 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 July 1, 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, applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: November 12, 2014.**

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 amended decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on September 19, 2014** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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 **September 22, 2014 (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

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

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

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

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

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

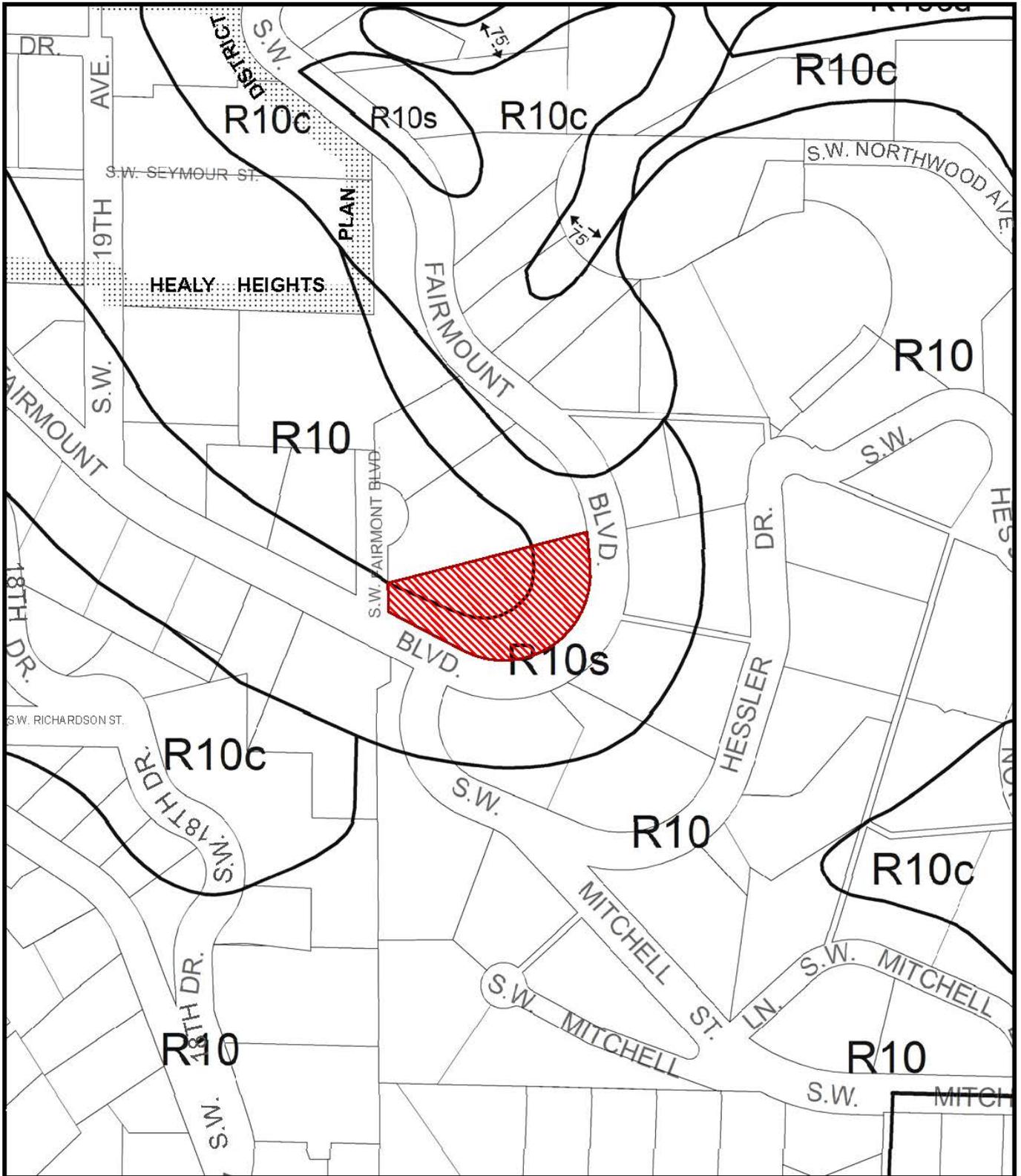
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
 - 1. Large plan set
 - 2. Supplemental submittal dated August 18, 2014
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Life Safety Section of BDS
 - 3. Water Bureau
 - 4. Bureau of Parks, Forestry Division
 - 5. Fire Bureau
 - 6. Portland Bureau of Transportation
- F. Correspondence: None received

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

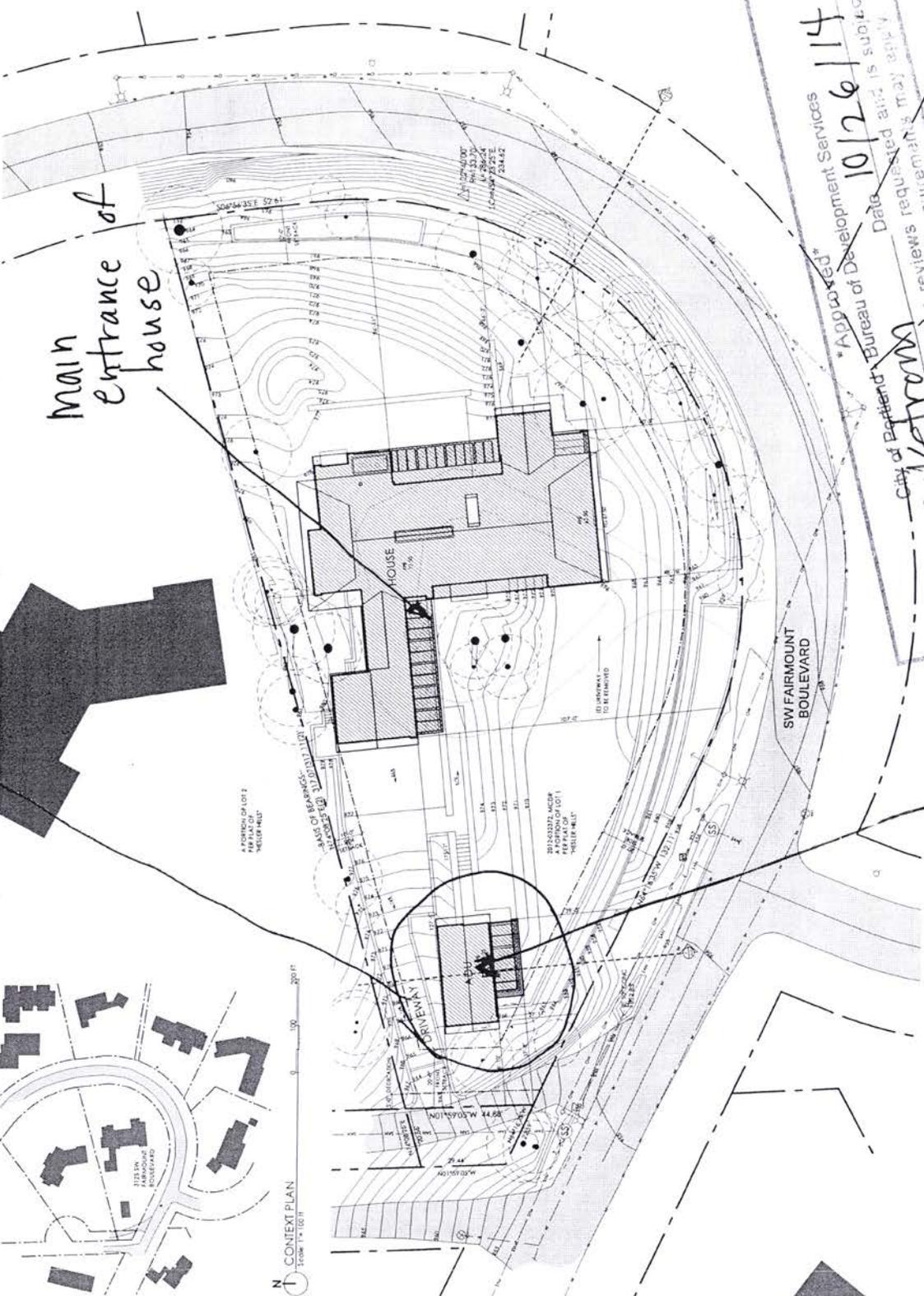


Site



File No. LU 14-177644 AD
 1/4 Section 3527
 Scale 1 inch = 200 feet
 State_Id 1S1E16BA 2200
 Exhibit B (Jul 03, 2014)

Approved proposal to allow ADU to be located in front of main entrance of house.



RBA
Richard Brown Architects, AIA
1000 NE Oregon Street, Suite 300
Portland, Oregon 97232
503.251.1811

PROJECT INFORMATION
PROJECT/LODE: NEW RESIDENCE
DWELLING USE
PROJECT NO.: R177147
LODE: IS
OVERLAY: S
CONING MAP: 3377
USE AREA: 31,000 SF
REARING: 1
COVERAGE: 14.75% MAXIMUM

UTILITIES
GAS: 1/4"
ELECTRIC: 1/4"
SEWER: 1/4"
WATER: 1/4"

**PRELIMINARY
NOT FOR
CONSTRUCTION**

**FAIRMOUNT
HOME**

3125 SW FAIRMOUNT BOULEVARD
PORTLAND, OREGON 97239

DESCRIPTION: RA PROJECT 1102
DATE: 10/26/14
ARCHITECT: RBA
PROJECT NO.: 20140818

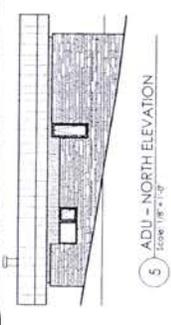
**ARCHITECTURAL
SITE PLAN**

A0.1

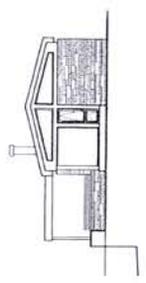
* Approved by Bureau of Development Services Data 10/26/14
City of Beaverton
Planner: **Wilkstrom**
* This approval applies only to the reviews requested and is subject to additional zoning requirements that may apply.
Conditions of approval.

Exhibit C-1

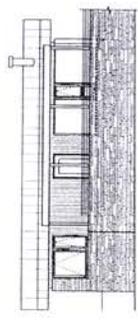
Proposed ADU



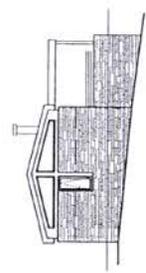
5 ADU - NORTH ELEVATION
Scale: 1/8" = 1'-0"



6 ADU - EAST ELEVATION
Scale: 1/8" = 1'-0"



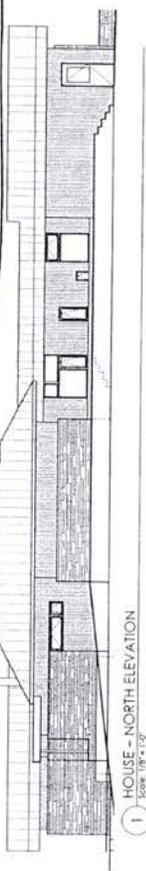
7 ADU - SOUTH ELEVATION
Scale: 1/8" = 1'-0"



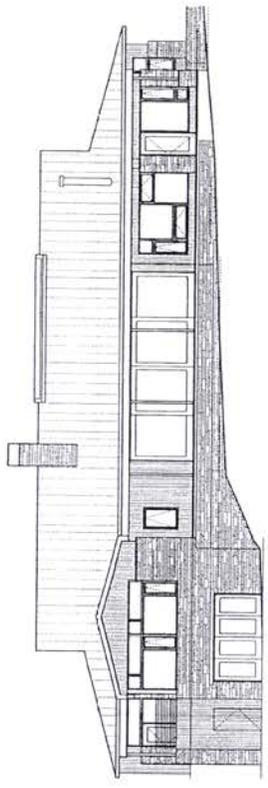
8 ADU - WEST ELEVATION
Scale: 1/8" = 1'-0"

Primary Structure (House)

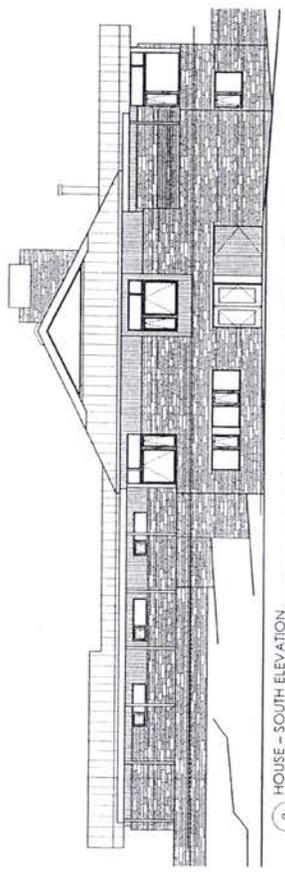
RBA
Richard Brown Architects
1910 SW 10th Avenue, Suite 300
Portland, OR 97205
503.222.4457
rba@rba.net



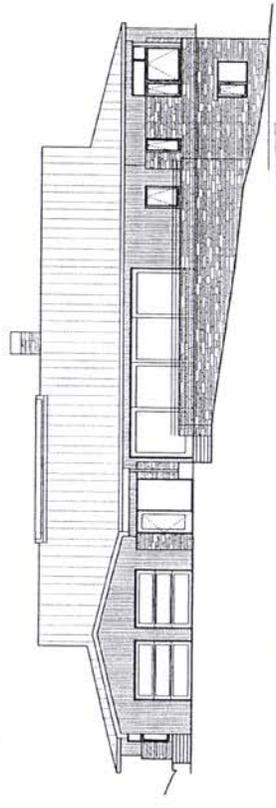
1 HOUSE - NORTH ELEVATION
Scale: 1/8" = 1'-0"



2 HOUSE - EAST ELEVATION
Scale: 1/8" = 1'-0"



3 HOUSE - SOUTH ELEVATION
Scale: 1/8" = 1'-0"



4 HOUSE - WEST ELEVATION
Scale: 1/8" = 1'-0"

DATE: PRELIMINARY NOT FOR CONSTRUCTION
FAIRMOUNT RESIDENCE & GUESTHOUSE
3335 FAIRMOUNT AVENUE
PORTLAND, OREGON 97212
DESCRIPTION: RBA PROJECT #202
DATE: 2014.06.30
ADJUSTMENTS: _____

HOUSE & ADU ELEVATIONS

A2.1

Approved*
City of Portland - Bureau of Development Services
Planner: Wickstrom Date: 10/26/14
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.