



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: December 31, 2014
To: Interested Person
From: Amanda Rhoads, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 14-219319 AD **HEIGHT ADJUSTMENT FOR NEW DEVELOPMENT**

GENERAL INFORMATION

Applicant/Owner: Stephen R Smiley / 3629 NW Gordon St / Portland, OR 97210
Site Address: 3499 and 3505 NW THURMAN ST
Legal Description: LOT 6, GORDON GREEN; LOT 7, GORDON GREEN
Tax Account No.: R334700300, R334700350
State ID No.: 1N1E29CB 00406, 1N1E29CB 00407
Quarter Section: 2825
Neighborhood: Northwest District, contact John Bradley at 503-313-7574.
Business District: Northwest Industrial, contact Stephanie Kennedy at 503-823-4288.
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Plan District: Northwest Hills - Forest Park
Zoning: R5c – Single-Dwelling Residential 5,000 with “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 proposes to change the roof form on two attached houses currently under construction so that flat roofs on a portion of each structure become shed roofs at a 2/12 roof pitch. This would increase the overall height of the buildings to 26 feet, 11 inches for the building to the south and 26 feet, 4 inches for the building to the north.

The height limit for houses in the R5 zone is 30 feet as per Zoning Code Section 33.110.215.B and Table 110-3. However, there is an alternative height limit for steeply sloping lots described in 33.110.215.D which applies to the site. It states that, for sites which have greater than 20 percent average slope, and which slope downhill from the street, the height limit can be either the base zone height limit or 23 feet above the average grade of the street. This normally is coupled to an exception to setbacks, 33.110.220.D; however, because of the environmental

zoning on the site, the buildings and garages are already allowed to have a front setback of 0 feet, so the exception does not apply.

The applicant requests an Adjustment to the height standard to allow the maximum height of the south house (labeled by the applicant as House 7) to measure 26 feet, 11 inches instead of 23 feet; and to allow the north house (labeled by the applicant as House 6) to measure 26 feet, 4 inches instead of 23 feet.

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 two sites in the review are comprised of 10,445 square feet total and make up two of the nine lots in the Gordon Green Subdivision approved in 2004. Most of the area on each site, especially the site to the northwest, is in the “c” Conservation environmental overlay zone. This environmental zoning limits where development can occur. The lots are also extremely steeply sloping, and are triangular in shape, compounding the challenges in developing the lot. Immediately to the north of the two lots is a new creek channel/stormwater drainage system that was constructed as part of the subdivision. A 10-foot-wide private sanitary and storm sewer easement runs along the back of the northern property. The sites are also in the Northwest Hills Plan District, Forest Park Subdistrict.

Zoning: The Residential 5,000 (R5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

The Environmental Conservation Zone “c” overlay conserves important resources and functional values in areas where the resources and functional values can be protected while following environmentally sensitive urban development.

Land Use History: City records indicate that prior land use reviews include the following:

- LUR 99-00942 SU EN – An approved subdivision that created 9 lots.
- LUR 91-00170 MP – A proposed minor partition to create 3 lots on NW Gordon Street.
- VC 33-88 - Two variances were approved to facilitate development of two attached single family houses. The variances included a reduction of the front yard setback from 15 feet to zero and the garage setback from 22 feet to zero for both houses.
- ZC 7777-87 – Approval of a zone change from R10 to R5.
- VZ 248-77 - Approval of a variance to reduce lot depth on three lots in order to divide the property.
- VZ 69-90 – Two variances were approved to reduce the minimum front yard from the required 15 feet to zero and reduce the minimum garage setback from the required 22 feet to zero to allow construction of two single family houses.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **November 18, 2014**. The following Bureaus have responded with no issues or concerns, most citing the permits that have already been approved to issue and are currently under inspection:

- Bureau of Environmental Services
- Water Bureau

- Fire Bureau
- Site Development Section of BDS
- Bureau of Transportation
- Bureau of Parks-Forestry Division
- Life Safety Section of BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 18, 2014. No written responses were received from either the Neighborhood Association or notified property owners in response to the 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 Zoning Code contains the following purpose statement for height in single-dwelling zones. Each purpose statement will be addressed individually.

33.110.215 Height

Purpose: 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.
- *They promote a reasonable building scale and relationship of one residence to another;*

Findings: The attached houses have several building elements proposed at differing heights and at different distances from the front property line, which breaks up the façade and results in a house that is largely under the height limit. Garages at the front of the property, a partial second story on House 7 and a full second story with differing roof lines on House 6 contribute to a sense that the building is approachable and interesting from the pedestrian scale. The sloping shed roofs that require the height Adjustment are at their highest on the interior of the two properties, with the impact of the increased height minimized on adjacent properties. The change from flat roofs to shed roofs on the second-story master suites will continue to result in new attached houses that have a reasonable building scale and relationship to adjacent homes.

- *They promote options for privacy for neighboring properties; and*

Findings: As stated above, the areas that are above the height limit are highest on the interior of the two lots. No new views onto adjacent properties are created because of the change to the shed roof. The highest part of the shed roof coincides with the master bathrooms of the two houses; use of the space will be light and will not result in an increase of activity near the interior lot lines. Also, the peaks are centralized on each separate property, so the highest area is roughly equidistant from each adjacent property, minimizing privacy concerns.

- *They reflect the general building scale and placement of houses in the city's neighborhoods.*

Findings: The area is notably steep and constrained, with conservation (environmental) zoning on most of both properties and multiple easements running adjacent to and on the sites. The area was first divided for development in 1991, and again in 1999, but these are the first two houses built on the sites. The nearby properties are largely constrained by the steeply sloping lots, and this has resulted in houses built close to the property line in many cases. Several of these houses have multiple stories on their front façades. The proposed height Adjustment would result in a house that is consistent with other houses on the street both in placement and building scale.

As demonstrated above, this approval 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: As described above, the proposed increase in height is well-integrated into the design. The shed roof will not look imposing or overly tall and is consistent with the height of adjacent properties. The design fits in well with the other homes on the street, many of which are built close to the property line with two-and-a-half stories at the front façade. The proposed shed roofs match the existing architectural elements and provide more visual interest for these new houses.

As noted in the response to Approval Criterion A above, there will be no impacts on privacy for adjacent residences related to the height increase. 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 requested. This criterion is not applicable.

- 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. There are no such resources present on the site. Therefore, 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: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). The project overall has been approved through permit review and meets the environmental standards as described in the Zoning Code. The change to the roof form of these two portions of the houses currently under construction does not impact the environmental zone. This criterion is met.

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 Adjustment is required because the applicant has proposed to change from a flat roof over the master suite of the proposed two attached townhouses to a shed roof in this area. Shed roofs are measured to their highest point given the impact the increased bulk could have on a development. However, in this case, the shed roof is only one form of several on the proposed houses, and the highest points are toward the interior of the development. The approval criteria are met and the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of requests an Adjustment to the height standard of Zoning Code Section 33.110.220 to allow the maximum height of the south house (labeled by the applicant as House 7) to measure 26 feet, 11 inches instead of 23 feet; and to allow the north house (labeled by the applicant as House 6) to measure 26 feet, 4 inches instead of 23 feet, per the approved site plans, Exhibits C.1 through C.2, signed and dated December 29, 2014, 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 Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-219319 AD."

Staff Planner: Amanda Rhoads

Decision rendered by:  on **December 29, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 31, 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 September 30, 2014, and was determined to be complete on November 14, 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 September 30, 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. Unless further extended by the applicant, **the 120 days will expire on: March 14, 2015.**

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 January 14, 2015** 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 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 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 **January 15, 2015 – (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.

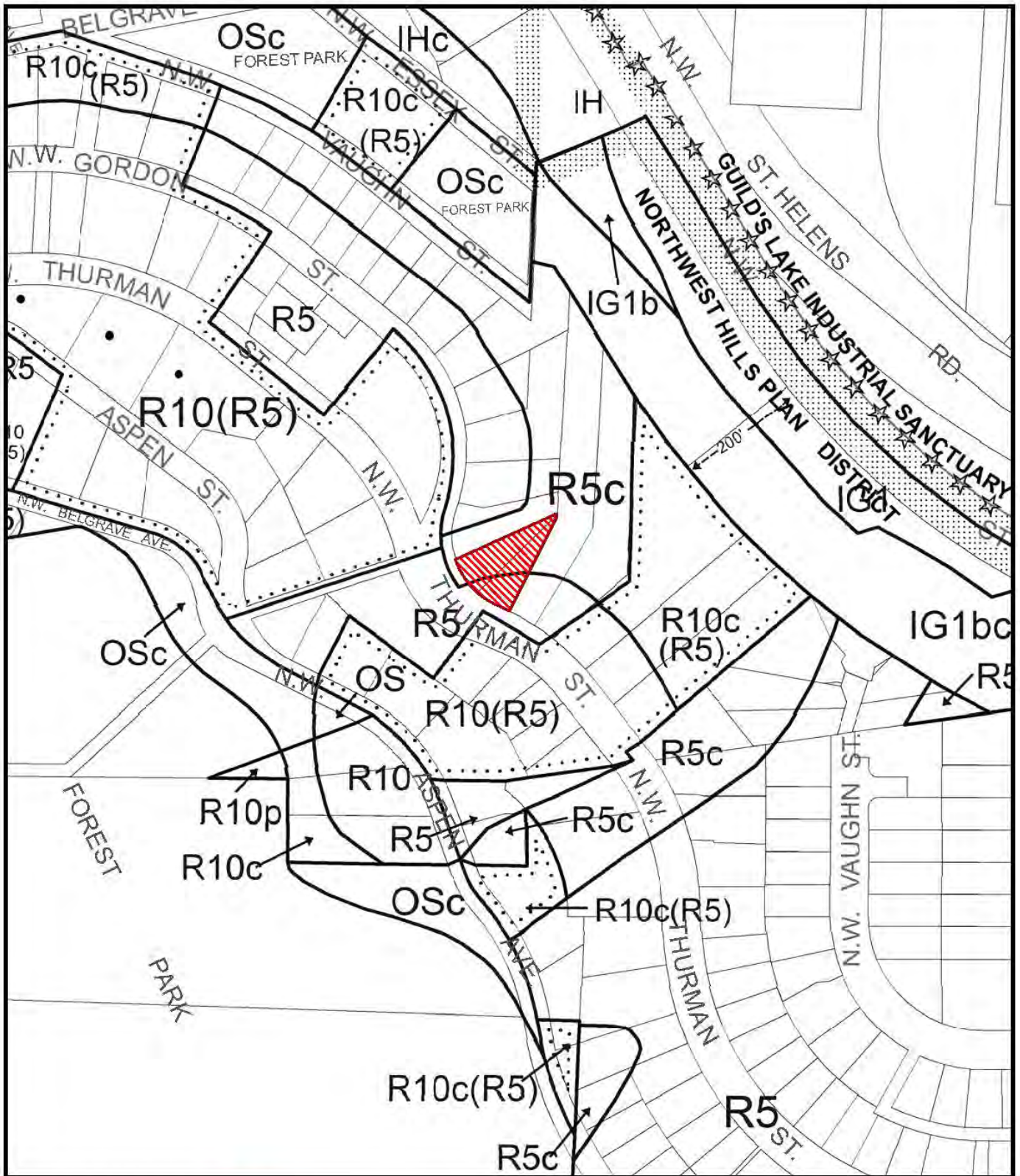
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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 Statement
 - 1. Applicant Narrative
 - 2. Site Plan, Front Elevations and Rendering
 - 3. Response to Incomplete Letter, November 3, 2014
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Front Elevations (attached)
 - 3. Height Comparison to Adjacent House
 - 4. Rendering – House 7
 - 5. Rendering – House 6
 - 6. All Elevations, Floor Plans and Section Drawings
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety (Building Code) Plans Examiner
- F. Correspondence: none received
- G. Other:
 - 1. Original Land Use Application and Receipt
 - 2. Second Land Use Application for Adjacent Site
 - 3. Incomplete Letter, October 22, 2014

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).



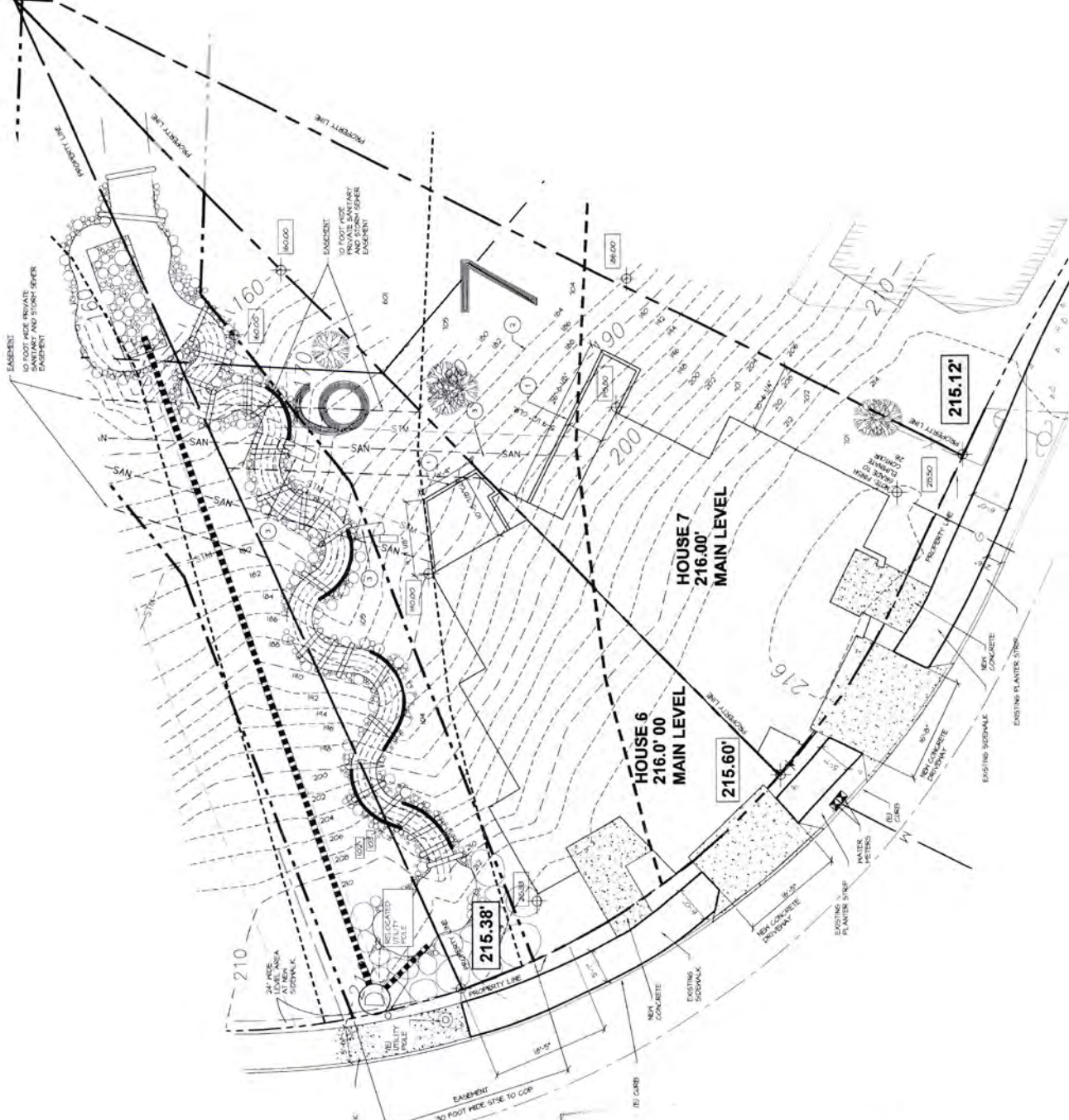
ZONING

-  Site
-  Recreational Trail
-  Historic Landmark



This site lies within the:
NORTHWEST HILLS PLAN DISTRICT
FOREST PARK SUBDISTRICT

File No.	LU 14-219319 AD
1/4 Section	2825
Scale	1 inch = 200 feet
State_Id	1N1E29CB 407
Exhibit	B (Oct 02, 2014)



PROJECT ADDRESS:
3505 + 3499 NW THURMAN ST
PORTLAND, OREGON 97210

LEGAL DESCRIPTION:
LOT 6 GORDON GREEN IN THE CITY OF PORTLAND COUNTY OF MULTNOMAH AND STATE OF OREGON.
LOT 7 GORDON GREEN IN THE CITY OF PORTLAND COUNTY OF MULTNOMAH AND STATE OF OREGON.

LOT COVERAGE	
HOUSE 6	HOUSE 7
5,303 S.F.	5,142 S.F.
1,601 S.F. COVERAGE;	1,723 S.F. COVERAGE;
30 %	34 %

IMPERVIOUS AREA	
HOUSE 6	HOUSE 7
129 S.F.	96 S.F.
1,601 S.F. BUILDING FOOTPRINT	1,723 S.F. BUILDING FOOTPRINT
1,724 S.F. TOTAL IMPERVIOUS AREA	1,819 S.F. TOTAL IMPERVIOUS AREA

Approved
City of Portland - Bureau of Development Services
Date 12/29/14
Approval applies only to the reviews requested and is subject to change without notice. Additional zoning requirements may apply.

PARTIAL SITE PLAN
3505 + 3499 NW THURMAN





AVERAGE GRADE AT STREET = 215'- 5 7/8" (215.49')

FRONT ELEVATION HOUSE 6

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



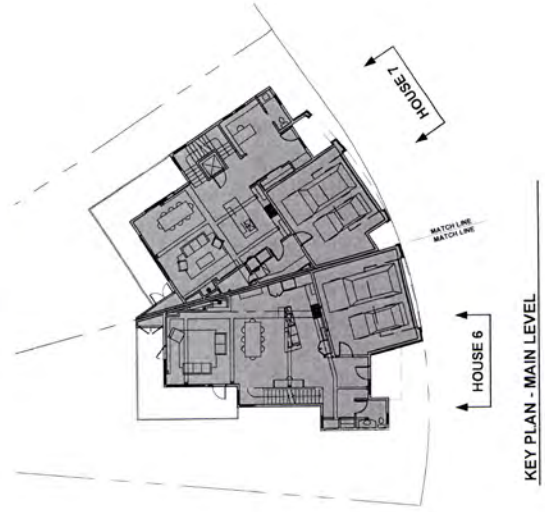
AVERAGE GRADE AT STREET = 215'- 4 3/8" (215.36')

FRONT ELEVATION HOUSE 7

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



Approved
 City of Portland - Bureau of Development Services
 Planner: Am M Date: 12/29/14
 This approval applies only to the reviews requested and is subject to the terms of approval. Additional zoning requirements may apply.



KEY PLAN - MAIN LEVEL