



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

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**NOTICE OF FINAL  
FINDINGS, CONCLUSIONS AND DECISION  
OF THE CITY OF PORTLAND ADJUSTMENT COMMITTEE  
ON AN  
APPEALED ADMINISTRATIVE DECISION  
(Type II Process)**

**CASE FILE: LU 14-217263 AD  
LOCATION: 6282 SW 63<sup>rd</sup> Way**

The administrative decision for this case, published on December 19, 2014, was appealed to the Adjustment Committee by Claire Carder, Land Use & Planning Committee Chair for Maplewood Neighborhood Association.

A public hearing was held on Tuesday, February 3, 2015. The Adjustment Committee denied the appeal and upheld the Administrative Decision which approved the Adjustment. This document is only a summary of the decision. 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.

**GENERAL INFORMATION**

**Applicant:** Pahlisch Homes Inc  
63088 NE 18th St #100 / Bend, OR 97701-7102

**Representative:** Shannon McDonald / Pahlisch Homes Inc  
12725 SW 66th Ave, Suite 101 / Tigard, OR 97223

**Site Address:** 6282 SW 63RD WAY

**Legal Description:** LOT 3 INC UND INT TRACTS A&B, WHITAKER HEIGHTS  
**Tax Account No.:** R905020150  
**State ID No.:** 1S1E19BB 03403  
**Quarter Section:** 3723

**Neighborhood:** Maplewood, contact Claire Carder at 503-880-6503.  
**District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

**Zoning:** R10, Single Dwelling Residential 10,000

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

**Proposal:**

The applicant proposes to build a new 3,599 square foot single dwelling home and a 704 square foot detached garage with an Accessory Dwelling Unit (ADU) on the second floor. Both the new home and detached garage/ADU will be two stories and be finished in similar materials and with similar architectural details. As part of this proposal, the applicant requests the following Adjustments:

An Adjustment to 33.110.253.E.3., to allow the length of the street facing garage wall of the house to be greater than the 50% maximum allowed by the zoning code; and

An Adjustment to 33.205.030.D.1.&2., to allow the ADU atop the detached garage to exceed the 18-foot maximum height limit and be 24' 2" in height and allow the ADU to not meet the required ADU setback of 60 feet from the front lot line or 6 feet behind the house.

**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 site is an irregularly shaped, 10,687 square foot lot at the end of a 'Y' shaped cul de sac that serves a 6-lot subdivision. The terrain gently slopes to the south, slightly uphill from the terminus of SW 63<sup>rd</sup> Way. Southwest 63<sup>rd</sup> Way is a public right of way with a 36 foot wide paved roadway. The immediate area has significant tree canopy, and the applicant has proposed the configuration of development to ensure that 3 significantly sized trees are preserved, consistent with conditions of approval imposed by the original subdivision review.

**Zoning:** The site lies within the R10, Single Dwelling Residential 10,000 zone. The R10 zone is a low density single-dwelling zone. The R10 zone allows attached and detached single dwelling structures, duplexes, and ADUs.

**Land Use History:** City records indicate that the subject lot was created via Land Use Review 04-094246 LDS AD which approved a six lot land division served by SW 63<sup>rd</sup> Way.

A "Notice of Proposal in Your Neighborhood" was mailed **November 5, 2014.**

**Agency Review:** The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

**Neighborhood Review:** One letter was received from the Maplewood Neighborhood Association in response to the proposal. The letter states that the Neighborhood Association opposes both adjustments. The letter notes that although the house does not directly front the street, the garage will be clearly visible and have visual impacts on both the residence on Lot 2, at 6117 SW 63<sup>rd</sup> Way and the street. The letter notes that the fire lane backing stub is much narrower than a city street and will make the impact of the longer garage wall much more significant. Concerns were also raised that the proposal will result in shadows cast on both of the lots mentioned above, and have significant negative impacts on gardens and front yard aesthetics. Lastly, the Neighborhood Association notes that the house has a large footprint and that there is a concern that the building coverage/impervious surface areas exceed the maximum allowed. The full commentary is contained in Exhibit F.1.

*Staff Comment:* The relevant concerns are addressed below in the findings of this decision.

**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 purpose for the ADU regulations is found at 33.205.030.A., which states:

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 requested Adjustment to maximum height is for the detached garage with a second floor ADU. This building has been designed to have a shed roof form, matching the shed roof elements of the main house; these shed forms are dominant on the street facing façade of the house. ADU's are required to match the main house in terms of roof pitch, windows, exterior materials, trim, etc. While the shed roof form meets this requirement, it also exceeds the 18 foot height limit for ADU's because the Zoning Code measures the height of shed roof forms differently (to the peak rather than to the mid-point) than the more typical gable roof form. Staff notes that the applicant amended the original submittal to the City and reduced the total roof height of the ADU by 4½ inches by reducing floor plate heights and compressing the framing depth to the extent allowed by the building code.

The extra height requested would result in the ADU still being lower than the main house, and because of the shared design elements, the main house and detached ADU/garage structure will have a consistent appearance and scale that is not unusual in residential development. Additionally, the detached garage has a footprint of 18 x 22 feet to accommodate one car, so the overall size and scale of the structure is significantly smaller than the house, which further minimizes the visual impacts of the additional height of the shed roof.

The greatest visual impact of the additional height is to the interior of the lot as the highest point of the shed roof faces the main house on the site. The roof slopes down toward the street and front lot line, thereby reducing its visual impact of height and mass as viewed from the street. Furthermore, the full height of the shed roof will be screened by a border of dense vegetation and mature trees along the east and southeasterly property line that will provide significant screening of the structure from the east and the southeast. The applicant also proposes to plant three red alder trees to further screen the structure from views along both 'legs' of the Y-shaped terminus of SW 63<sup>rd</sup> Way. With a condition of

approval to ensure that the proposed alders are planted, this criterion is met for the requested Adjustment to height.

The applicant also requests an Adjustment to allow the ADU to be closer than 60 feet from the front lot line or 6 feet behind the main house. The purpose statement is the same as above, found at 33.205.030.A.

As noted earlier, the site is an irregularly shaped lot, compounded by the Y shaped terminus. The detached accessory structure will be situated in an area that is between the two stub 'legs' of the street and located more than 17 feet and as much as 24 feet from the street lot line. Additionally, three significantly sized deciduous trees (27", 32", and 14") in the northeasterly area of the lot are required to be preserved through the previous subdivision review which further constrains placement of the house and detached structure. While the ADU structure will be located closer to the street than the main house, the main house will still be viewed as the prominent structure on the site, given its overall scale and footprint and given its location at a higher grade. Additionally, while the ADU structure contains a garage, the garage entrance is oriented internally to the site and is not visible from the street. This orientation allows the shared use of the vehicle area between the house and the ADU. Given the site constraints, the orientation of the detached garage toward the house, combined with the shed roof forms, exterior finish materials, and shared driveway area, this criterion is met for the requested Adjustment to the ADU setbacks.

The purpose of the regulation to be Adjusted to allow the length of the street facing garage wall of the main house to be greater than the 50% maximum allowed is found at 33.110.253.A., which states:

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.

The request to allow the street facing garage wall of the main house to exceed 50% maximum is triggered because the floor plan of the house includes a 'mud room' that is also a recessed bay of the garage itself. This bay is accessed by a door facing the back yard of the house, and will have a shed roof form, a window, and is recessed from the main street facing façade. As such, this additional 'garage wall' does not visually appear to be part of the garage due to the design, and reads as living area to a passer-by. The prominent window provides a strong visual connection to the street. The main entrance and front porch extend closer to the street than the garage façade; the main entrance is further emphasized by the change from lap siding to cultured stone framing the porch and main entrance. The additional garage wall width will not diminish the prominence of the main entrance.

Because the additional width of the garage wall is comprised of living area (mud room) with a street facing window and change in materials, the pedestrian environment remains pleasant as the additional garage width will not result in a dominating view, nor will it block views of the street.

The Maplewood Neighborhood Association noted that they oppose this request because the [t]he lane is much narrower than a city street and will make the impact of the longer garage much more significant to the front of the Li residence (6117 SW 63rd Way) which is served by the other leg in the Y-terminus of SW 63rd Way. The letter also notes that the terrain slopes uphill from the Li lot to the site.

The applicant notes that face of the proposed garage wall is over 85 feet from the center of the street (SW 63rd) and 100 feet from the Li's property line. As noted previously, without the recessed storage/mudroom area to the left of the garage, the garage wall would be 48% and meet the code requirements outright.

Staff notes that the closest point of the garage façade to the nearest Y leg stub is 27.8 feet, with the majority of this façade setback over 32 feet from the end of the right of way. The additional curve of right of way and the width of the second Y stub of SW 63rd Way provide further separation. For these reasons, this criterion is met for this Adjustment to garage wall width for the house.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** The proposed Adjustments will result in an integrated residential development on a constrained and irregularly shaped lot. The proposal preserves three significant deciduous trees by placement of the house, and given the irregular shape of the lot, placement of the detached garage appears logical and compatible with the appearance of the residential area.

Concerns were raised by neighbors that the Adjustment to increase the height would result in shade that would impact Lot 2, at 6117 SW 63rd Way, as well as potentially shading the lot at 6805 SW 62nd Place. The applicant has responded to this concern with the following comments:

The MNA is also concerned about the detached garage creating shade onto the Li and Moneymaker properties. Luckily this will not be a problem because its shadow will not reach either residence. I calculated where the garage casts its shadow on the winter solstice (the worst case scenario with the sun at its lowest angle) and this 24' foot roof will cast a 50 foot shadow. The Li residence is 72 feet and the Moneymaker residence is 119 feet from the high point of the roof. The shadow from the detached garage will only be cast into the street and the front of the main house on our own lot.

Because of the shed roof style, the maximum height of the roof will be oriented away from the street and interior to the lot itself. This orientation of the shed roof will also be screened from views to the east by a significant hedge of mature vegetation. The additional height requested for the ADU is three feet below the height of the main house, and the floor area of the ADU is well below the maximum allowed. The similar shed roof elements of the house and ADU combined with the small footprint of the detached structure results in the house appearing predominant on the lot. Given the irregular shape of the lot and the location at the end of a Y terminus, the overall layout of the house and ADU still results in a residential appearance that has no significant impacts on the appearance of the immediately surrounding residential area.

The Neighborhood has also raised concerns about stormwater treatment and building and impervious surface area on the lot. Per their request, staff has reviewed the applicant's plans and calculations, and has confirmed the following:

The lot is 10,687 square feet in area.

The maximum allowed building coverage is 3,103 square feet.

The total building coverage, including both the house and the detached garage is 2,810 square feet. The proposal complies with the zoning code requirements, and is below the maximum allowed.

In the R10 zone, no more than 40 percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. The plans state that the front yard paving comprises 1,346 square feet, which calculates out to be 37.2 %; below the 40 % maximum allowed. The proposal meets all other applicable development standards.

For the reasons stated above, 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:** The purpose of the R10 zone is to allow low density single dwelling residential development and uses on larger residential lots. Three adjustments are requested. The cumulative effect of each of the adjustments results in a well-designed single dwelling residential project that includes a new home and a detached garage with a second story ADU. This is consistent with the purpose of the R10 zone. 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. 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:** As discussed earlier in this report, the proposal is consistent with the purpose of the regulations to be adjusted, and will not significantly detract from the appearance and livability of the residential area. The applicant also proposes to install three red alder trees as shown on the plans to provide further vegetative buffering for the detached garage. With a condition of approval that these trees are installed, 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). As 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 a new single dwelling home and a detached 2 story garage with an ADU on the second floor. The applicant has revised the plans to reduce impacts and provide additional screening on the lot. The proposal meets all of the approval criteria and therefore should be approved.

## DECISION

Deny the appeal and uphold the Administrative Decision of approval with conditions.

Approval of Adjustments, as follows:


- Adjustment to 33.205.030.D.2, to allow the ADU to be 24' 2" in height;
- Adjustment to 33.205.030.D.1, to allow the ADU to be closer to the front lot line than 60 feet and not 6 feet behind the house;
- Adjustment to 33.110.253.E.3 to allow the width of garage wall of the house to exceed 50% with a recessed bay, per the approved site plans, Exhibits C-1 through C-3, signed and dated December 17, 2014 subject to the following conditions:
  - A. As part of the building permit application submittal, the following development-related conditions (B) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 14-217263 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
  - B. Prior to final inspection, 3 red alders with a minimum caliper of 1.5 inches must be installed between the street and the detached garage/ADU in the locations as shown on Exhibit C-1.

**Staff Planner:** Sylvia Cate

**Decision Date: December 19, 2014**

**Hearing Date: February 3, 2015**

**These findings and conclusions were adopted by the ADJUSTMENT COMMITTEE on:  
February 3, 2015**

By:  \_\_\_\_\_

**Adjustment Committee**

**Chair person name: Roger Alfred**

**Date Final Decision Effective/Mailed: February 9, 2015**

**120<sup>th</sup> day date: February 17, 2015**

**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 24, 2014, and was determined to be complete on October 30, 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 24, 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: February 17, 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.

**Appeal of this Decision.** This decision is final and becomes effective the day the notice of decision is mailed (noted above). This decision may not be appealed to City Council; however, it may be challenged by filing a "Notice of Intent to Appeal" with the State Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed, pursuant to ORS 197.0 and 197.830. A fee is required, and the issue being appealed must have been raised by the close of the record and with sufficient specificity to afford the review body an opportunity to respond to the issue. For further information, contact LUBA at 775 Summer St NE, Suite 330, Salem, OR 97301-1283. [Telephone: (503)373-1265]

**Recording the Final Decision.**

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder. A building or zoning permit will be issued only after the final decision is recorded. The final decision may be recorded on or after the **February 9, 2015.**

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

- By Mail: Send the two recording sheets (sent in a separate mailing) and the final Land Use Review Decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, PO 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 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.** This decision expires three years from the date the Final Decision is rendered unless:

- A building permit has been issued, or
- The approved activity has begun, or
- In situations involving only the creation of lots, and the land decision has been recorded.

**Applying for permits.** A building permit, occupancy permit, or development permit must be obtained before carrying out this project. At the time they apply for a permit, permittees must demonstrate compliance with:

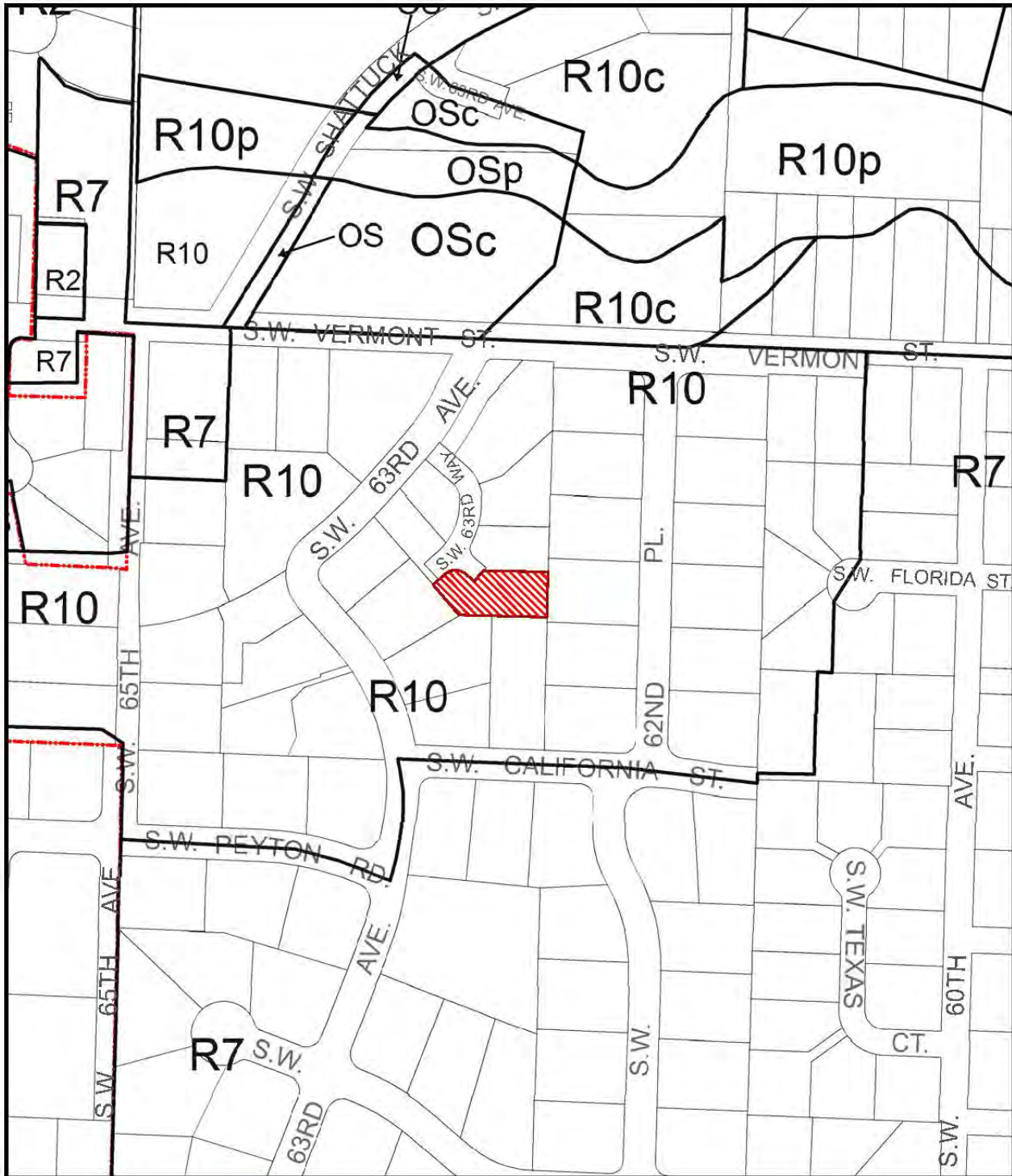
All conditions imposed here.

- All applicable development standards, unless specifically exempted as part of this land use review.
- All requirements of the building code.
- 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
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. ADU elevations
  - 3. Main house front elevations
- 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
- F. Correspondence:
  - 1. Claire Carder, for Maplewood Neighborhood Association; November 23, 2014: In opposition
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter October 16, 2014
- H. Appeal
  - 1. Appeal Submittal
  - 2. Appealed Decision
  - 3. Notice of Appeal
  - 4. NOA Mailing list
  - 5. Adjustment Committee Packet Memo  
(Received During Hearing)
- 6. Staff PowerPoint
- 7. Appellant's PowerPoint
- 8. Applicant's Power Point



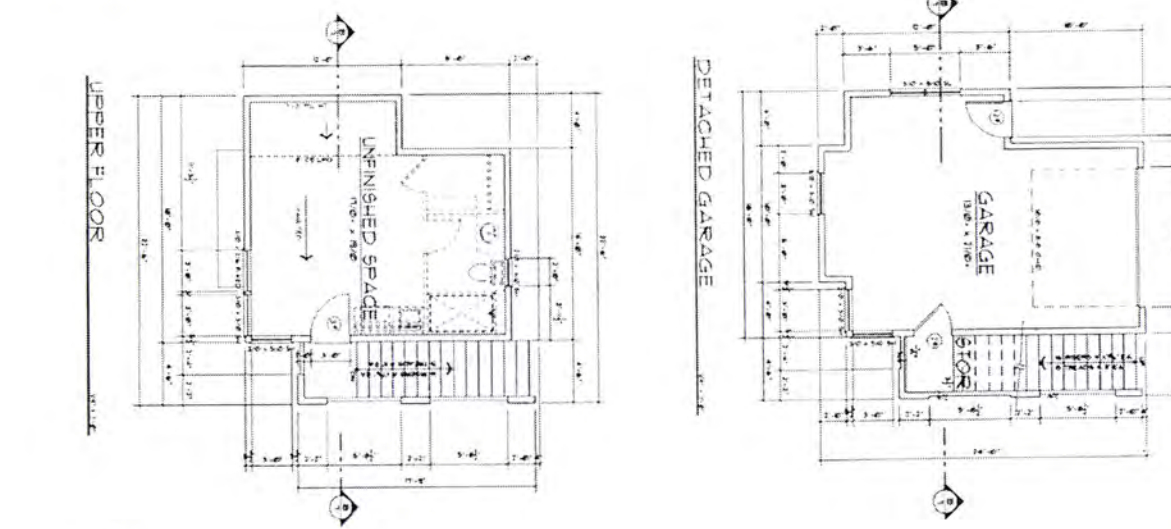
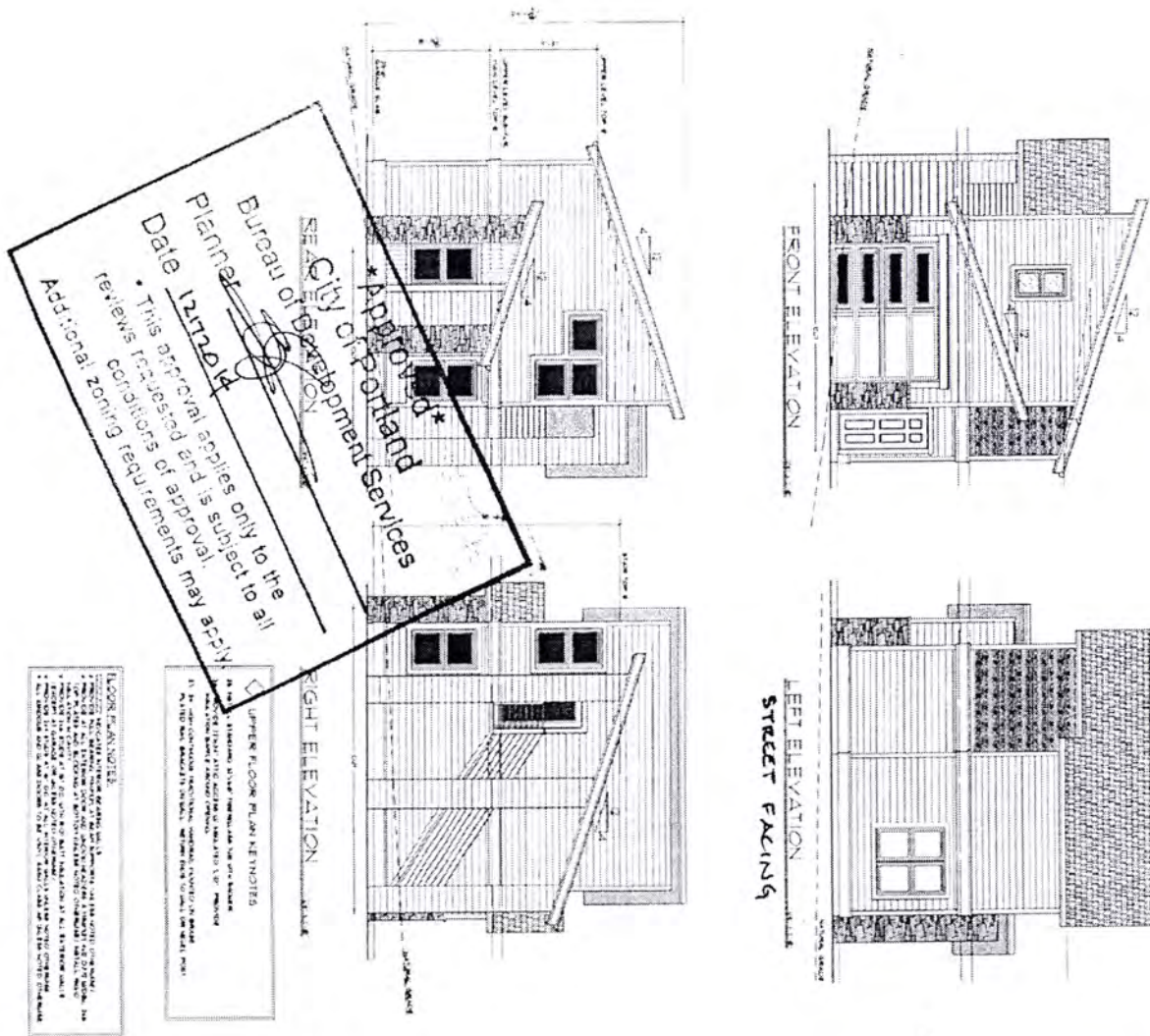
# ZONING

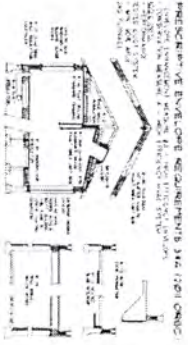
-  Site
-  City of Portland Boundary



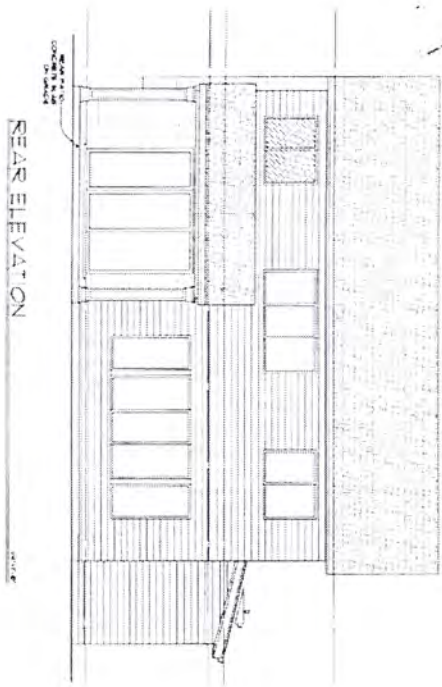
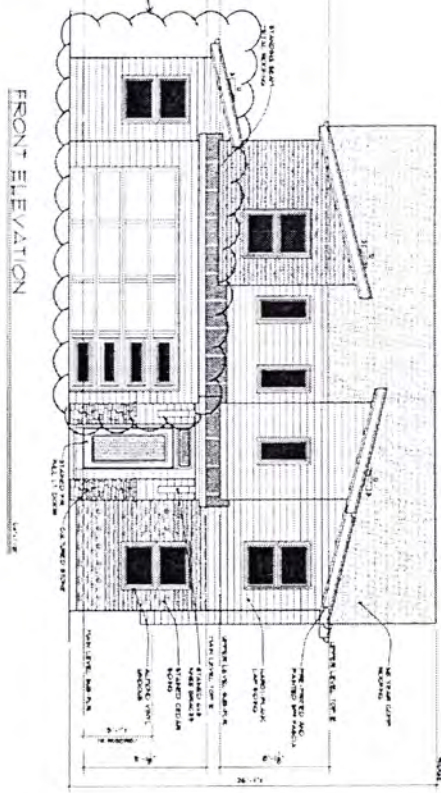
File No. LU 14-217263 AD  
 1/4 Section 3723  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E19BB 3403  
 Exhibit B (Sep 26, 2014)







\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner \_\_\_\_\_  
 Date: 12/17/2014



MAINHOUSE GARAGE WALL WIDTH

MAIN LEVEL	37,502 SF
2ND LEVEL	1,939 SF
TOTAL	39,441 SF
GARAGE	147,502 SF
COVERED PORCH	54,502 SF
COVERED PATIO	30,502 SF
GARAGE LEFT	

1

# WHITAKER HEIGHTS LOT 3

LU14-217263AD EXHIBIT C-3

