



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

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**Date:** February 23, 2015  
**To:** Interested Person  
**From:** Mark Walhood, City Planner  
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**NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

**NOTICE OF A TENTATIVE APPEAL HEARING DATE 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.

**To accommodate the 120-day review timeframe, a tentative appeal hearing date of Tuesday March 3<sup>rd</sup>, 2015 at 9:00am has been reserved for this case in the event an appeal is filed. If an appeal is filed by February 26, 2015 by 4:30 pm, there will be no separate mailed public notice for the appeal hearing before the Adjustment Committee. Adjustment Committee appeal hearings are held at 1900 SW 4<sup>th</sup> Avenue, Room 2500A, Portland, OR 97201.** You may contact the planner above for verification that an appeal has been filed, and once an appeal is filed it will be officially noted in the online Adjustment Committee agenda on the BDS website (select Zoning/Land Use > Public Hearings > Adjustment Committee Agenda) <http://www.portlandoregon.gov/bds/42441>.

**CASE FILE NUMBER: LU 14-224638 AD**

**GENERAL INFORMATION**

**Applicant:** Trevor Lewis / William Kaven Architecture  
4080 N. Williams Ave., Suite 100 / Portland, OR 97227

**Property Owner:** James F. Baldwin Trust  
4645 SW Fairview Blvd  
Portland, OR 97221-2624

**Interested Party:** David A Carter  
4645 SW Fairview Blvd / Portland, OR 97221

**Site Address:** 2486 NW RALEIGH ST

**Legal Description:** BLOCK 9 W 37' OF LOT 17, GOLDSMITHS ADD  
**Tax Account No.:** R331301570  
**State ID No.:** 1N1E28CC 17400

**Quarter Section:** 2927

**Neighborhood:** Northwest District, contact John Bradley at 503-313-7574.  
**Business District:** Nob Hill, contact Mike Conklin at 503-226-6126.  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

**Zoning:** R2 (Multi-Dwelling Residential 2,000 base zone)  
**Case Type:** AD (Adjustment Review)  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**PROPOSAL:** The applicant is working with the property owner to demolish the existing house at 2486 NW Raleigh Street, and construct a new house with internal accessory dwelling unit (ADU) at the site. Located on the southeast corner of the intersection of NW 25<sup>th</sup> and Raleigh Street, the home site is directly across the street from Wallace Park to the west. The house is three stories tall, with a ground floor that includes a two-car garage and the ADU. A fenced entry courtyard facing NW Raleigh Street encloses re-graded soil that supports an exterior uncovered stairway leading to the main entry door on the second level, facing NW 25<sup>th</sup> Avenue. The rectilinear massing of the home at the upper two floors contains east- and west-facing private elevated and retained terraces as well as top floor partially-enclosed courtyard spaces, all accessible only from inside the home. Projecting metal trellis elements extend beyond the building below the covered second level entry porch above the garage door (garage trellis), as well as between the second and third floors of the west-facing elevated and retained courtyard terrace.

Regulations of the R2 base zone require a minimum 10'-0" front building setback. The front building setback is defined by code as the setback along NW Raleigh Street in this instance (the shorter street lot line). The front building setback of the proposed house, at 13'-5", exceeds the standard.

The minimum east and west side setbacks are based on the area of the plane of the building wall that faces each property line, with a minimum setback ranging from 5'-0" to 14'-0" depending on the size of the wall. Along the east façade, the original proposal included 1,862 square feet of wall plane with a 5'-0" setback, where a wall of this size would normally trigger an 8'-0" setback. The remaining 288 square feet of east façade, at the interior wall of the double-height retained courtyard terrace, is set back 14'-8<sup>3</sup>/<sub>4</sub>", in keeping with the required setbacks.

**FINAL REVISIONS:** *In response to neighbor and staff concerns, the applicant made minor revisions to the design of the home. The top floor at the southeast corner, in an area of east-facing wall on the upper floor, has been pulled back an additional 3'-0" to provide for an 8'-0" setback from the lot line. The area is 16'-0" wide by 10'-0" tall, for a wall area of 160 square feet. This reduces the scope of the setback Adjustment on the east side somewhat, with 1,702 versus 1,862 square feet of wall area in the setback.*

The minimum garage entrance setback is 18'-0". As proposed, the garage doors are located at 4'-0" from the west side lot line (NW 25<sup>th</sup> Ave.). Therefore, the applicant has requested the following three Adjustments:

1. Reduce the east side setback for 1,702 ~~1,862~~ square feet of façade from 8'-0" to 5'-0" (33.120.220.B.1/Table 120-3);
2. Reduce the west side setback for the projecting metal garage trellis from 5'-0" to 1'-0", from 5'-0" to 3'-0" for 420 square feet of façade, and from 7'-0" to 4'-0" for an additional 902.5 square feet of façade, as shown on the attached elevation (33.120.220.B.1/Table 120-3); and
3. Reduce the garage entrance setback from 18'-0" to 4'-0" (33.120.220.E.1/Table 120-3).

**RELEVANT APPROVAL CRITERIA:** In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at **33.805.040.A-F, Adjustment Approval Criteria.**

## ANALYSIS

**Site and Vicinity:** The site is a rectangular residential parcel of 3,700 square feet located at the southeast corner of NW 25<sup>th</sup> and Raleigh in Northwest Portland. The site is developed with an existing two-story home with basement that was originally constructed in 1904. The existing house has the same design and massing as the 1904 house adjacent to the east (2480 NW Raleigh Street), both of which have full-length front porches and open landscaped front yards. Like most of the other homes on the block and in the nearby vicinity, the main portion of the lot is elevated above the street with banks and retaining walls, including stairways that lead up from the sidewalk level to an elevated grade level at the first floor. The home features a basement garage and garage door with access to NW 25<sup>th</sup> Avenue, and a raised, fenced backyard area on the south portion of the site.

The surrounding area is primarily residential, with a mix of older apartments, smaller plexes and single-family homes. The neighborhood has structures predominantly built during the early twentieth century in the years surrounding the Lewis and Clark Exposition of 1905. Houses in the neighborhood are remarkably well-maintained and feature a typical pattern of a street-facing front porch, shallow front and deeper open rear yards, and two or more stories over a basement. Several older 'bricker' 3-story apartment buildings are found nearby, including two within one block on the north side of NW Raleigh Street. Directly east of the site across NW 25<sup>th</sup> Avenue are the open spaces of Wallace Park, with Chapman School immediately beyond. The abutting property to the south of the site, as well as the entire western half of the block on which the proposal is located, consist of single-family homes of similar massing, size and vintage as the existing home.

The abutting streets are improved with paved roadways, curbing, planting strips and concrete sidewalks. On-street parking is allowed on both adjacent streets, and the adjacent intersection has stop signs on each approaching street. There is only one street tree within the abutting planting strips, on the NW 25<sup>th</sup> Avenue side near the intersection.

**Zoning:** The Multi-Dwelling Residential 2,000 (R2) base zone is a low density multi-dwelling zone. Allowed housing is characterized by one to three story buildings, but at a slightly larger amount of building coverage than the R3 zone. Most new or redevelopment projects will include duplexes, rowhouses, and garden apartment buildings. One dwelling unit is allowed per 2,000 square feet of land. With 3,700 square feet of land, this site has a maximum density of one dwelling unit. The amenity bonus options of the R2 zone do not allow an increase in density when the maximum density is only one unit, but an Accessory Dwelling Unit is always allowed as a second unit when a house is proposed. In addition to the setback standards previously mentioned, the R2 zone allows a maximum building height of 40'-0", and a maximum building coverage of 50% of site area.

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

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **December 3, 2014**. The following Bureaus have responded with comments:

The *Bureau of Environmental Services* has reviewed the proposal and offered cautionary and technical comments, but no specific objections to the requested Adjustments. The applicant has not submitted the minimum amount of information required to assess the feasibility of the proposed drywell. If the drywell is not feasible, vegetated stormwater facilities will be required which will impact the site design as currently proposed. The proposal must be designed to meet all applicable regulations of the City's Stormwater Management Manual that is current at the time of building permit submittal. Exhibit E.1 contains staff contact and additional technical details.

The *Development Review Section of Portland Transportation* (PBOT) has reviewed the proposal for potential impacts regarding the public right-of-way, and for relevant transportation-related codes and criteria. PBOT has expressed support for the garage entrance setback reduction, as detailed in the findings, below. During the building permit process, the applicant will be required to reconstruct the sidewalk corridors adjacent to the home to comply with current city standards. Exhibit E.2 contains staff contact and additional technical details.

The *Water Bureau* has reviewed the proposal and has no objections to the requested Adjustments. Technical details about water service connections and permitting are provided with staff contact information in Exhibit E.3.

The *Fire Bureau* has reviewed the proposal and responded with standard comments indicating that all fire-related codes and regulations must be met at the time of building permit review. The Fire Bureau recommends a preliminary review of fire department access, fire flow and aerial fire department access issues. It appears that this structure may be greater than 30 feet in height, and aerial fire access will be required. No objections are raised with regards to the proposed Adjustments. Exhibit E.4 contains staff contact and additional information.

The *Site Development Section of the Bureau of Development Services* has reviewed the proposal and provided comments regarding floodplain or landslide designations (none). The proposal must meet erosion and sediment control regulations during construction. No objections are raised with regards to the requested Adjustments. Exhibit E.5 contains staff contact and additional information.

The *Urban Forestry Division of Portland Parks and Recreation* has reviewed the proposal and notes that existing street trees are to be protected and preserved, and that a street tree review will be required for the new house construction. Urban Forestry has no objection to the requested Adjustments provided that all tree regulations are met. Because the tree regulations apply regardless of the outcome of this Adjustment process, and because they will be addressed during the building permit review, there is no need for additional conditions of approval or other measures to that affect in this land use review process. Exhibit E.6 contains staff contact and additional information.

The *Life Safety Section of the Bureau of Development Services* has reviewed the proposal and responded with standard comments, but no objections or concerns regarding the requested Adjustments. A separate building permit is required, and the permit must document conformance with all applicable building codes and ordinances. Exhibit E.7 contains staff contact and additional information.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on December 3, 2014. A total of 12 written responses have been received from nearby property owners, the neighborhood association, and residents living further away. Ten letters were written in objection to the proposal, and two letters were written in support. Two letters were received after the comment deadline of December 24, 2014, but these latter two letters raise issues that were already addressed by earlier comments.

Those opposed to the requested Adjustments make the following arguments:

- The house is historic and well-maintained, in a neighborhood of similar homes. The modernistic design of the home will significantly detract from the livability and appearance of the neighborhood;
- The home's "looming nature would be far oversized and honestly quite invasive. It simply just doesn't feel right." Other comments also emphasized how the new house would "loom" over the street and surroundings;
- The proposal "makes no attempt to blend into the neighborhood with its modern use of glass, steel and Dryvit which completely lacks any of the charm and historical look and feel of the neighborhood";

- The proposal does not include open front and rear yards which are characteristic of the neighborhood;
- The proposal will reduce light, air space, and privacy options between the subject structure and adjacent homes to the south and east;
- One neighbor submitted a shadow study showing the shading impacts of the proposed home on adjacent properties, generally indicating increased afternoon shading and enclosure of the rear yard for the home immediately to the east of the site;
- The owners of the home to the east spend a lot of time on their backyard deck which will see loss of light access with the new home blocking the former back yard area;
- The proposal will conflict with the general building scale of the neighborhood;
- Approving this proposal for reduced setbacks will lead to more demolitions and oversized houses in the neighborhood, and for this reason the city should reject the requests;
- The closer garage door will reduce driver visibility when backing into the street, and create unsafe conditions for pedestrians and motorists;
- A house with an ADU should be considered 'multi-dwelling housing', and is inappropriate for the area;
- A modernistic building built 'right up to the sidewalk' is inappropriate for this location;
- The demolition of the existing home will negatively impact the livability and appearance of the neighborhood;
- Demolition of the home is at odds with sustainability-related goals and language in Portland's existing and proposed Comprehensive Plans;
- Development standards in the code, including setbacks, are intended to ensure wise use of resources, waste-minimization, energy efficiency and other sustainability objectives articulated by the Bureau of Planning and Sustainability in numerous instances of their Comprehensive Planning work. Allowing an exception to the setbacks is tantamount to not adequately ensuring these sustainability objectives will be met;
- The large size/square footage of the home is contrary to City density, environmental and sustainability goals. The house is much larger than the mean (1,897 sq. ft.) or median (1,881 sq. ft.) size of nearby homes, with an 'overall dominating rectilinear shape' that completely fills what is now a backyard, and which will be too large/out of scale with the nearby neighborhood and adjacent houses;
- The placement of the house on the lot is also out of step with the nearby homes, both in the back and front yard areas. The house sits both further north into the front yard and further south into the rear yard than is common for homes in the area, which is aggravated by the request for reduced setbacks;
- The various cut-outs of the building do not mitigate for the large mass of the structure;
- The concrete wall along the street, especially at the northwest corner, has had soil piled up against the wall to prevent the wall from being counted as a fence which would not be allowed, and results in a bunker-like appearance that blocks the corner;
- The concrete 'bunker walls' encroach into the public right-of-way;
- There is inadequate open space, impervious area and trees in the house proposal;
- Providing increased side setbacks per code would create a better pedestrian environment along the street, whereas now the west façade creates the impression of a very long wall with only a shallow planter for plants;
- The concrete perimeter walls in the front yard along Raleigh are not open or visually pleasing, and only block off the sidewalk with as much concrete as possible, creating an "our-space-not-your-space private compound feel";
- The varied setbacks of the wall planes do not mitigate for the sheer mass, height and bulk of the building because the overall outline of the building is a huge rectangle. Allowing setback reductions will make the home more overwhelming to pedestrians and other street users;
- The proposal will "remove the topography of the site altogether and do nothing to make the project compatible with the neighborhood which has a preponderance of very modestly-sized homes";

- Adjustments to setbacks and lot coverage increase pervious surfaces in Portland, creating conflicts with our sewer overflow efforts and federal Clean Water Act compliance;
- The applicant's submitted narrative does not show that the approval criteria have been met, including the argument that the request should be approved because the 40-foot tall house that could be built by right would have greater impacts on neighbors;
- In more than one letter, all of the relevant approval criteria (33.805.040.A-F) have been identified as unable to be met.

Those in support of the project made the following arguments:

- The project will create architectural diversity in the neighborhood with a sense of scale that is respectful of the neighbors;
- Quality materials and thoughtful landscaping will be enjoyed by neighbors and passersby for generations to come;
- The site has no historic designation and the house can be demolished by-right;
- The house "comports with the shifting urban aesthetic of the neighborhood";
- The design will offer more privacy and solar access to the neighbors than would a taller and cruder structure that could be built outside the setbacks.

**Staff Note:** The comment letters above raise several issues that are relevant to the approval criteria for this Adjustment Review: these issues will be discussed in the findings below. Several other issues raised are not directly relevant to the Adjustment Review or approval criteria, including the following:

- *Architectural Style.* Although issues of building scale and placement are relevant, the specific design features of the building are not otherwise under consideration. The applicant has chosen a neo-modernist style instead of Spanish Colonial Revival or Craftsman Bungalow, for example, but architectural style is not under review here;
- *Historic Resource Considerations.* The existing house and both adjacent homes have no city-designated historic resource status, despite the cohesive early 20<sup>th</sup> century character of the surrounding neighborhood. The nearest historic district is over five blocks away to the south. The approval criteria address issues of building scale and placement, as well as reasonable physical relationships between residences, but do not require evaluation of impacts to historic resources as there are none on or abutting the site;
- *Demolition of the existing house.* There are no Zoning Code protections for the existing home on the site, which can be demolished by-right with a Demolition Permit;
- *Conformance with existing or proposed City of Portland Comprehensive Plan or sustainability policy language, initiatives, etc.* The proposal must be found to meet the Adjustment Approval Criteria in order to be approved, but no analysis is required of how the project does or does not comply with broader city goals and objectives. Stormwater Management issues are given a preliminary evaluation during this land use review by Bureau of Environmental Services (BES) staff, and the proposal will have to meet all other relevant City development-related regulations during the building permit process. For example, the Building Code requires that the home meet certain energy efficiency standards, but this applies regardless of the separate analysis required for an Adjustment;
- *Density (unit count).* The site is a multi-dwelling zone, but at only 3,700 square feet the maximum density allowed is a house with accessory dwelling unit (ADU). The site is too small to allow either a duplex or multi-dwelling development under the R2 base zone. The code allows the ADU by right subject to development standards that limit its size, etc., but beyond this staff cannot restrict future redevelopment to only a house alone;
- *Lot/Building Coverage.* The building complies with the building coverage standard. Note that the two elevated courtyards tucked into the mass of the building on the east and west sides, as they have only retained fill dirt below them and no building area, do not count towards maximum building coverage; and
- *Concrete walls at the front yard.* No setback reductions are requested for the enclosed "front" courtyard along Raleigh Street, which is surrounded by 6'-0"-tall fencing and retaining walls immediately at the street lot line. Along the west portion of this enclosed

“front” courtyard, behind the concrete wall on the inside, the applicant has created a berm by piling soil against the wall to create a retaining wall condition which ensures that no fencing within the 5'-0” side setback along 25<sup>th</sup> Avenue is taller than 3'-6”. As a corner lot in the R2 zone, and with a main entrance facing the side street lot line (25<sup>th</sup>), the applicant has elected to use the option of treating the front lot line along Raleigh as the side lot line for fence height purposes, allowing fencing over 3'-6” in height in the “front” yard area, per 33.120.285.C.3.

## 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 statement for all setbacks in the R2 zone is as follows (33.120.220.A):

**Purpose.** *The building setback regulations serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The applicant has requested three adjustments. Each of the three distinct Adjustments will be considered separately in these findings under paragraphs headed by underlined text.

East Side Setback (8'-0” to 5'-0” for 1,702 ~~1,862~~ square feet of façade):

All but three of the above bulleted purpose statements are relevant to the east side setback. The purpose of promoting open, visually pleasing front yards applies only to front setback reductions, which are not proposed. The house complies with the maximum transit street setbacks along both street frontages, so the statement

regarding creating an inviting environment for pedestrians and transit users is not relevant. The final bulleted statement applies only to garage entrance setbacks, and is considered separately below.

With regards to light, air, and fire protection or access, the east side setback maintains a 5'-0" setback from the lot line to the east, which is a typical setback distance for detached houses in most of the city's residential zones. There will be less light and air access to the rear yard of the adjacent home to the east in the afternoon, but not significantly less than would be created by a building wall at the required setback distance of 8'-0". The Fire Bureau has reviewed the proposal and offered no objections with regards to fire protection or access for fire fighting, as all Fire Code regulations continue to apply and must be met during the building permit process.

With regards to general building scale and placement, the large east-facing wall of the home is significantly larger in scale than those found on the adjacent and nearby detached single-family homes. The placement of the building is also different from the adjacent houses, as it extends closer to both the front and rear lot lines of the property than is typical, resulting in a shallower front yard and virtually no rear yard. While this is out of step with the adjacent houses, it is not dissimilar to the red brick apartment buildings in the area, which occupy nearly the entirety of their lots with minimal side and rear setbacks, with no yard area of any significance. Because the site is in a multi-dwelling zone, and because this portion of the purpose statement addresses multi-dwelling versus single-dwelling development, the east setback is in keeping with the general building scale and placement of nearby apartment buildings.

With regards to a reasonable physical relationship between residences, the proposal provides a 5'-0" setback, which is typical for most residential neighborhoods in Portland. The east façade features an inset portion of wall at the center of the façade, creating an impression of two primary building volumes. While the relationship between the proposed house and the neighboring house to the east is not in keeping with other homes nearby because it occupies the traditional back yard zone, this pattern is found elsewhere nearby where apartment buildings abut houses.

With regards to providing options for privacy, there are a relatively limited number of windows on the east-facing façade. The primary windows facing into the neighbors back yard to the east are narrow horizontal windows set high in the wall, or larger vertical windows in a stairwell. The impacts to privacy are not significantly different than they would be with a wall at 8'-0" from the property line.

The proposal does site the building in a way that is compatible with how apartment buildings abut homes in the neighborhood. Topography of the site is being modified to provide for at-grade entries to the building and an enclosed courtyard along Raleigh, but is elevated at a similar level to that on the adjacent home in the area between the east wall and the lot line. Required outdoor areas are provided with the project. Architectural diversity is established with a new house that radically departs from the form, massing, and scale of nearby homes.

Therefore, for the purposes of the reduced east side setback, this criterion is met.

West Side Setback (5'-0" to 1'-0" for trellis, 5'-0" to 3'-0" for 420 square feet of façade, 7'-0" to 4'-0" for an additional 902.5 square feet of façade):

All but three of the above bulleted purpose statements are relevant to the west side setback. The purpose of promoting open, visually pleasing front yards applies only to front setback reductions, which are not proposed. The house complies with the maximum transit street setbacks along both street frontages, so the statement regarding creating an inviting environment for pedestrians and transit users is not relevant. The final bulleted statement applies only to garage entrance setbacks, and is considered separately below.



With regards to light, air, and fire protection or access, the west side setback impacts primarily the adjacent public right-of-way, as the wall is not moving closer than allowed to any nearby dwelling. There will be somewhat less light and air access to the adjacent sidewalk in the morning, but not significantly less than would be created by a building wall at the required setback. The Fire Bureau has reviewed the proposal and offered no objections with regards to fire protection or access for fire fighting, as all Fire Code regulations continue to apply and must be met during the building permit process.

With regards to general building scale and placement, the large west-facing wall of the home is significantly larger in scale than those found on the adjacent and nearby detached single-family homes. The placement of the building is also different from the adjacent houses, as it extends closer to both the front and rear lot lines of the property than is typical, resulting in a shallower front yard and virtually no rear yard. While this is out of step with the adjacent houses, it is not dissimilar to the red brick apartment buildings in the area, which occupy nearly the entirety of their lots with minimal side and rear setbacks, with no yard area of any significance. Also, many of the nearby older homes along NW 25<sup>th</sup> have side walls at or near the street lot line, as does the brick apartment building diagonally across the intersection. Because the site is in a multi-dwelling zone, and because this portion of the purpose statement addresses multi-dwelling versus single-dwelling development, the west setback is in keeping with the general building scale and placement of nearby apartment buildings, and reflects the smaller street setback of several nearby homes.

With regards to a reasonable physical relationship between residences, the reduced west side setback does not create a significantly different relationship between the house and the adjacent home to the south than would a proposal that met the setbacks. There is no code requirement to provide an open rear yard as is the common pattern for nearby homes, and the 5'-0" rear setback at the southwest corner of the home is in keeping with the physical relationship provided between apartment buildings and homes nearby.

With regards to providing options for privacy, there are no abutting homes to the east whose privacy could be impacted. The south-facing area of the west wall of the house that is in the west side setback has no windows.

The proposal does site the building in a way that is compatible with how apartment buildings abut street lot lines when on a corner in the neighborhood. Topography of the site is being modified to provide for at-grade entries to the building and an enclosed courtyard along Raleigh. Required outdoor areas are provided with the project. Architectural diversity is established with a new house that radically departs from the form, massing, and scale of nearby homes.

Therefore, for the purposes of the reduced west side setback, this criterion is met.

Garage Entrance Setback (18'-0" to 4'-0"):

The last bullet item in the setback purpose statement is the only one that addresses garage entrance setbacks. The regulatory intention is to "provide room for a car to park in front of a garage door without overhanging the street or sidewalk", and to "enhance driver visibility when backing onto the street". Some comment letters have objected to the garage entrance setback based on visibility and safety concerns, as well as concerns about blocking the sidewalk with parked cars. Staff from Portland Transportation (PBOT), however, has reviewed the proposal in detail for transportation-related impacts and offered no objections or concerns (Exhibit E.2). Specifically, PBOT staff notes that given the proposed garage entrance setback of 4'-0", it is unlikely that the property owner or visitors will park vehicles across the pedestrian corridor and significantly into the street (as would be the case in this situation) given that the

vehicles would create conflicts and impacts with other motorists along the street. With regard to a vehicle backing out onto the street from the proposed garage, exiting speeds from the garage onto the abutting NW 25<sup>th</sup> Avenue will likely be slower than if the standard 18'-0" driveway was provided given there will be less time/distance for vehicles to accelerate. Also, this proposed condition (garage entrance near the back of sidewalk) is found in several locations nearby on both NW 25<sup>th</sup> and NW Raleigh. As such, pedestrians in this area should not be surprised to encounter the garage (or potentially exiting vehicle). Again, given the proximity of the garage to the street and sidewalk, the inherent driver behavior will be to exit slowly from the proposed garage to minimize any potential conflict with other vehicles or pedestrians.

Therefore, for the purposes of the Garage Entrance Setback reduction, this criterion is met.

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

**Findings:** The applicant has requested three adjustments. Each of the three distinct Adjustments will be considered separately in these findings under paragraphs headed by underlined text.

East Side Setback (8'-0" to 5'-0" for 1,702 ~~1,862~~ square feet of façade):

As discussed above under findings for criterion A, the proposed east side setback reduction will not significantly detract from the livability or appearance of the multi-dwelling-zoned area. Therefore, for the purposes of the east side setback reduction, this criterion is met.

West Side Setback (5'-0" to 1'-0" for trellis, 5'-0" to 3'-0" for 420 square feet of façade, 7'-0" to 4'-0" for an additional 902.5 square feet of façade):

As discussed above under findings for criterion A, the proposed west side setback reduction will not significantly detract from the livability or appearance of the multi-dwelling-zoned area. Therefore, for the purposes of the west side setback reduction, this criterion is met.

Garage Entrance Setback (18'-0" to 4'-0"):

As discussed above under findings for criterion A, the proposed garage entrance setback reduction will not significantly detract from the livability or appearance of the residential area. Therefore, for the purposes of the garage entrance setback reduction, 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 overall purpose of the R2 zone is to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The cumulative impact of the requested Adjustments is for a building that approaches both the east and west property lines closer than would otherwise be allowed. This change in the scale and placement of the building does not reduce or impact the ability of the land on the site to provide housing opportunities for multiple households, as potentially two households will occupy the new house and ADU. Therefore, 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 or immediately abutting the site. Therefore, this criterion is not applicable.

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

**Findings:** Any impacts resulting from the proposed Adjustment are mitigated to the extent practical by a setback along the east lot line that is in keeping with most residential areas in Portland, and by mimicking the form and massing of nearby apartment buildings. The building massing on the east and west sides is broken up with open courtyards on the upper floors. The garage entrance is placed close enough to the street that drivers are likely to back out only slowly, and the residents are unlikely to leave a car parked blocking the sidewalk as it would overhang into the roadway. Therefore, 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.

The applicant has designed the project with specific features that prevent additional Adjustments from being required, but these features are not immediately apparent. Piling soil up behind retaining walls is used as a means to allow the taller street-facing concrete wall along NW 25<sup>th</sup>, as less than 3’-6” of the wall is considered a fence. The second, upper flight of uncovered main entry stairs running up to the main level front porch is only allowed in the side setback because it is less than 6’—0” above the adjacent grade. Finally, the placement of soil and not building space in the area underneath the two primary east- and west-facing main level courtyards within the building envelope prevents the raised terrace areas from being counted towards building coverage. Therefore, the berming within the west side of the front courtyard, as well as the placement of soil versus habitable space underneath the two raised terraces must be maintained over time. Removing the berming in the front courtyard or placing building area beneath the raised terraces will trigger additional Adjustments under current regulations.

## CONCLUSIONS

The applicant has proposed a new house and ADU which are a significant departure from the form and scale of nearby homes, with a massing that is more in keeping with the nearby red brick apartment buildings. The site is in the R2 zone, and the intention of the setback regulations is to allow development that is in keeping with that found in the city’s multi-dwelling zones. Although the abutting homes to the south and east will have a large new structure that occupies what used to be an open rear yard area, the impacts of the requested Adjustments are not dramatically different than those which would occur with a building placed out of the setbacks. Because the approval criteria can be met, the request is approved.

**ADMINISTRATIVE DECISION**

**Approval of an Adjustment** to reduce the east side setback for 1,702 square feet of façade from 8'-0" to 5'-0" (33.120.220.B.1/Table 120-3).

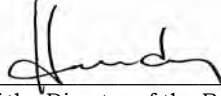
**Approval of an Adjustment** to reduce the west side setback for the projecting metal garage trellis from 5'-0" to 1'-0", from 5'-0" to 3'-0" for 420 square feet of façade, and from 7'-0" to 4'-0" for an additional 902.5 square feet of façade, as shown on the attached elevation (33.120.220.B.1/Table 120-3); and

**Approval of an Adjustment** to reduce the garage entrance setback from 18'-0" to 4'-0" (33.120.220.E.1/Table 120-3).

The above approvals are granted based on the approved site plan and drawings, Exhibits C.1 through C.7, all signed and dated February 6, 2015, and 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.7. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-224638 AD. No field changes allowed."

**Staff Planner: Mark Walhood**

**Decision rendered by:**  **on February 6, 2015.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: February 27, 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 October 13, 2014, and was determined to be complete on **November 21, 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 October 13, 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 provided a short 7-day extension to the record, in order to allow staff to consider the revised drawings (Exhibit A.7). Unless further extended by the applicant, **the 120 days will expire on March 27, 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 February 24<sup>th</sup>, 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 5<sup>th</sup> 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](http://www.portlandonline.com).

**Attending the appeal hearing. If this decision is appealed, a hearing will be held on Tuesday March 3<sup>rd</sup>, 2015 at 9:00am. The appeal will be held at 1900 SW 4<sup>th</sup> Avenue, Room 2500A, Portland, Oregon 97201. Please contact the planner, Mark Walhood, at 503-823-7806 with any questions.**

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 **February 25<sup>th</sup>, 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.

**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 Statements
  1. Original narrative statements
  2. Original drawing set – reference only/not approved
  3. Revised drawing set including drawings with applicant's setback calculations for reference only, rec'd. 11/21/14
  4. E-mail statements from applicant in e-mail correspondence with staff, 12/24/14
  5. Outdated site plan, east elevation, and upper floor plan replaced by revised Exhibits C.1 and C.4 as revised 2/4/15
  6. Cover e-mail from applicant to staff with revised drawings, rec'd. 2/4/15
  7. 120-day extension, received 2/5/15
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. REVISED 2/4/15 Site Plan (attached)
  2. Lower Level Plan (attached)
  3. Main Level Plan
  4. REVISED 2/4/15 East Elevation (attached)
  5. Color Rendering
  6. West Elevation (attached)
  7. North and South Elevations

## D. Notification information:

1. Mailing list
2. Mailed notice

## E. Agency Responses:

1. Bureau of Environmental Services
2. Development Review Section of Portland Transportation
3. Water Bureau
4. Fire Bureau
5. Site Development Section of BDS
6. Urban Forestry Division of Portland Parks and Recreation
7. Life Safety Section of BDS

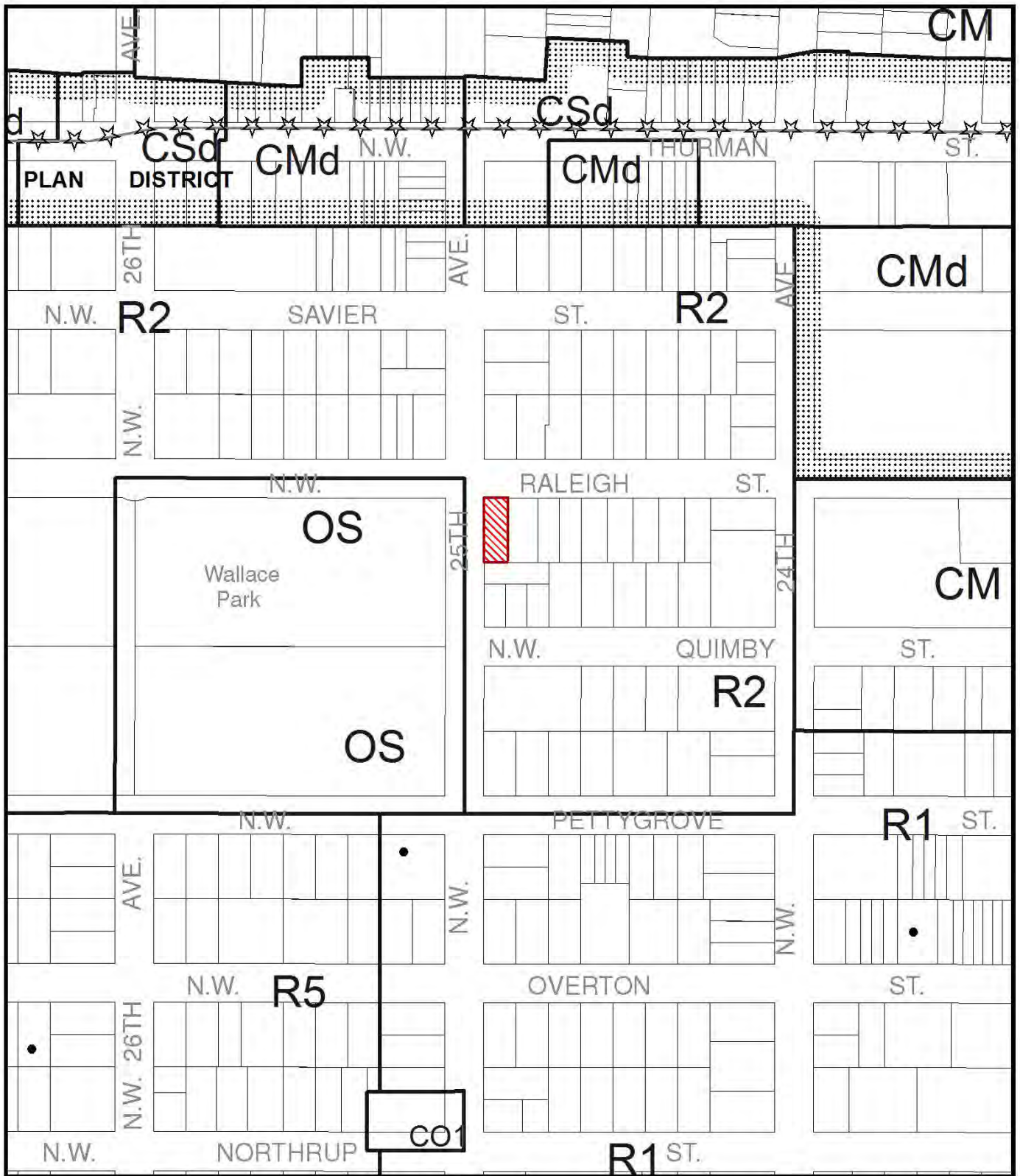
## F. Correspondence:

1. Letter with concerns from Catherine Paglin & Vern Luce, rec'd. 12/24/14
2. Letter with concerns from Julia Poduch, rec'd. 12/24/14
3. E-mail dialogue between applicant and Julia Poduch regarding her comments as copied to staff, rec'd. 12/24/14
4. E-mail with concerns from Lance Zaklan, rec'd. 12/24/14
5. E-mail with concerns from Karen Crichton, rec'd. 12/5/14
6. E-mail with concerns from Teresa Blackwell, rec'd. 12/19/14
7. E-mail with concerns from Robert Trismen and Leslie Hammond, rec'd. 12/21/14
8. E-mail with concerns from Patricia Morgan, rec'd 12/22/14 (*postal address requested but not provided – not copied on mailed decision*)
9. Letter with concerns from Nina Bell, rec'd 12/24/14
10. E-mail in support of request from David Pilz, rec'd. 12/24/14 (*postal address requested but not provided – not copied on mailed decision*)
11. E-mail in support of request from Kevin Diller, rec'd. 12/22/14 (*postal address requested but not provided – not copied on mailed decision*)

## G. Other:

1. Original LU Application Form and Receipt
2. Incomplete letter from staff to applicant, sent 11/12/14
3. Two comment letters received after the close of public comments
4. Northwest Examiner article "Demolition Wave Rising", January 2015 edition, pp. 1, 6-7

**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



Recreational Trail



NORTH

File No. LU 14-224638 AD  
 1/4 Section 2927  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E28CC 17400  
 Exhibit B (Oct 15, 2014)

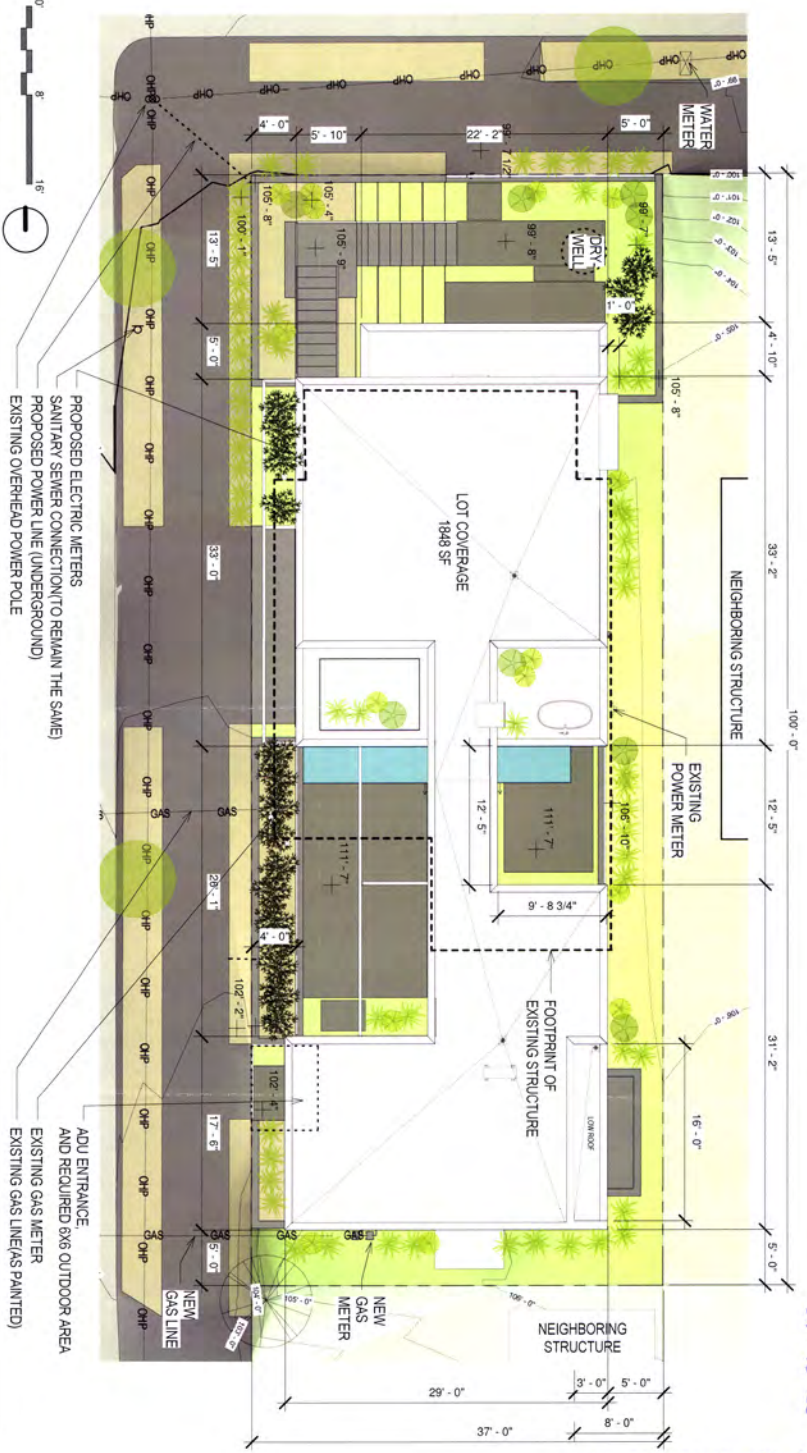


**WILLIAM KAVEN ARCHITECTURE**  
 4080 N. Williams Ave. Studio 100  
 Portland, Oregon 97227  
 www.williamkaven.com  
 503.841.5239

**Approved\***  
 City of Portland - Bureau of Development Services  
 Planner: Marek Watahara Date: EC3 6, 2015  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

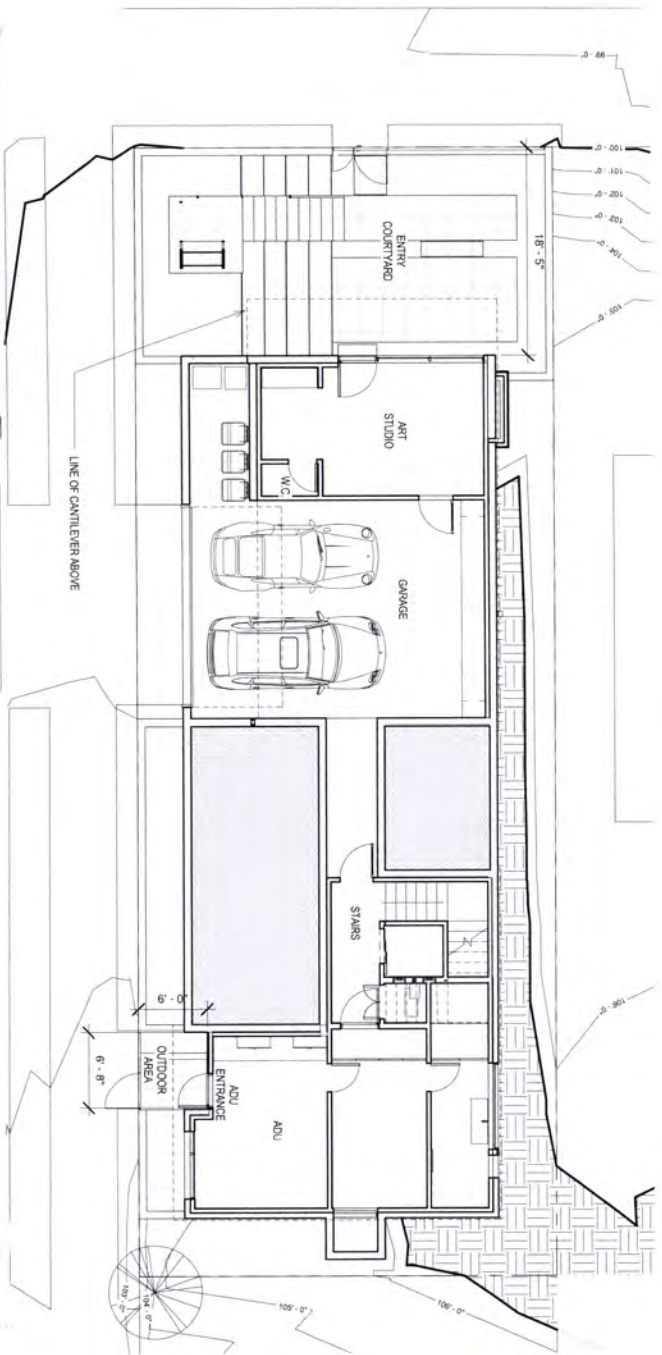
**XXV Raleigh**  
 2486 NW RALEIGH ST.  
 PORTLAND OR 97210  
 2/4/2015 1:27:23 PM

**SITE PLAN**  
**LU1.00**  
 © MARK WILLIAM KAVEN ARCHITECTURE



2/11/15 DS

W114-22463P AD Exh. C.1



**WILLIAM KAVEN ARCHITECTURE**

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**\*Approved\***  
 City of Portland - Bureau of Development Services

Planner WAKE WATKINS Date FEB. 6, 2015

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

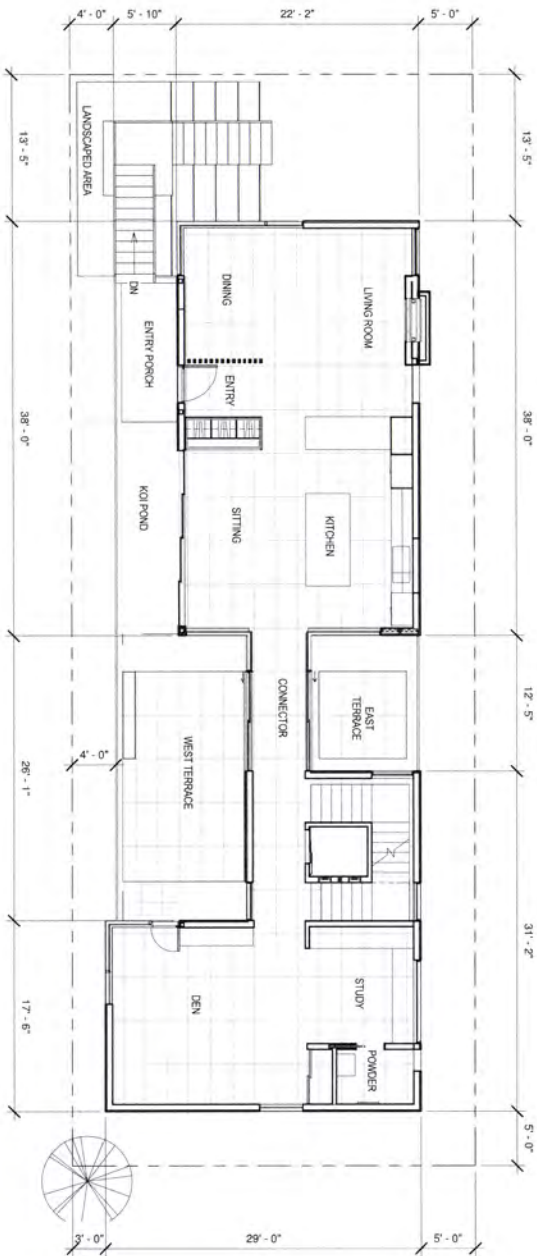
2486 NW RALEIGH ST.  
 PORTLAND OR 97210

LOWER LEVEL PLAN

**LU1.02**

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WILLIAM KAVEN ARCHITECTURE



**\*Approved\***  
 City of Portland - Bureau of Development Services

Planner Mick Wallace Date Feb. 6, 2015

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

XXV Raleigh  
 2486 NW RALEIGH ST.  
 PORTLAND OR 97210  
 11/21/2014 11:51:03 AM

MAIN LEVEL PLAN  
**LU1.03**  
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2/14/15 AS

40' PERMISSIBLE HEIGHT PER ZONING



ADJUSTMENT AS REUSED 2/14/15:  
REDUCE EAST SIDE SETBACK FOR  
4,702# OF WALL FROM 8'-0" TO 5'-0"

\*Approved\*

City of Portland - Bureau of Development Services

Planner: MARIE WATKINS Date: FEB 6, 2015

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

# WILLIAM KAVEN ARCHITECTURE

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503.841.5239

XXV Raleigh

EAST ELEVATION

2486 NW RALEIGH ST.  
PORTLAND OR 97210

# LU2.02

2/4/2015 1:27:50 PM

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W 14-224638 AD 6x4 C.4



City of Portland - Bureau of Development Services  
Planner: **MARLE LUTCHER**  
Date: **FEB 6 2015**  
\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

W 14-274638 AD Exhibit C5

**WILLIAM KAVEN ARCHITECTURE**

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503.941.5239

**XXV Raleigh**

2486 NW RALEIGH ST.  
PORTLAND OR 97210  
11/20/2014 2:03:12 PM

**LU3.02**

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WEST SETBACK ADJUSTMENT:

- ① REDUCE SETBACK FROM 5'-0" TO 1'-0" FOR METAL GARAGE TRELLIS;
- ② REDUCE SETBACK FROM 5'-0" TO 3'-0" FOR 420# OF FACADE; +ND
- ③ REDUCE SETBACK FROM 7'-0" TO 4'-0" FOR 902.5# (TOTAL 1322.5#) OF FACADE.

40' PERMISSABLE HEIGHT PER ZONING



1 West Elevation Copy 1  
1/16" = 1'-0"

③ REDUCE GARAGE ENTRANCE SETBACK FROM 18'-0" TO 4'-0"



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Oregon 97227  
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503.841.5239

2486 NW RALEIGH ST.  
PORTLAND OR 97210

11/20/2014 3:1:21 PM

City of Portland - Bureau of Development Services  
 Approved\*  
 Date FEB 6 2015  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.  
 Planner Mark Wittrock

CU 14-224638 AD

Exhibit C.6

LU4.02

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**\*Approved\***  
City of Portland - Bureau of Development Services

Planner MARIE WATKINS Date FEB 6, 2015

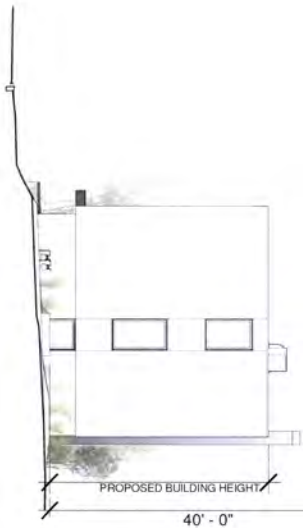
\* This approval applies only to the reviews requested and is subject to the requirements of the City of Portland Zoning Code. Additional zoning requirements may apply. 12/18/14

40' PERMISSABLE HEIGHT PER ZONING



1 North Elevation Copy 1  
1/16" = 1'-0"

40' PERMISSABLE HEIGHT PER ZONING



2 South Elevation Copy 1  
1/16" = 1'-0"

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LU4.04

11/21/2014 10:06:10 AM

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