



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 REVIEW BODY
ON AN
APPEALED ADMINISTRATIVE DECISION
(Type II Process)**

December 8, 2015

**CASE FILE: LU 15-147693 AD
LOCATION: 350 NW Royal Blvd.**

The administrative decision for this case, issued on September 1, 2015, was appealed to the Adjustment Committee by the abutting property owner.

A public hearing was held on October 20, 2015. The record was held open for new information, until October 27, 2015. During this time, several additional submittals were received from the appellants, the applicant and other interested parties. A response to these submittals was provided by staff on November 3, 2015. An additional time for final argument by the applicant extended through November 10, 2015 but no additional argument was received. The Adjustment Committee reconvened to resume their deliberations on November 17, 2015. At that time, the majority of the Committee stated that they had not been convinced to change their opinion by the additional information that had been received. One member, Linda Bauer, stated that she did not agree with approval of the Adjustment request because she believed that the extension of the deck into the setback area reduced access for fire fighting to an unacceptable degree. Ms. Bauer voted to grant the appeal and deny the Adjustment request. The remainder of the Committee disagreed and called the vote. The appeal was denied, four to one, and the approval of the Adjustment was upheld. The Committee directed staff to prepare additional findings that reflected their discussion of the approval criteria. These findings are contained below.

Applicant: Curtis Eschman and Mark Dane
Mark Dane Planning
12725 SW Glenhaven St
Portland, OR 97225

Owners: Shaun and Jolyn Hancock
350 NW Royal Blvd
Portland, OR 97210

Appellant: Eileen Wong
340 NW Royal Blvd
Portland, OR 97225

Site Address: 350 NW ROYAL BLVD

Legal Description: BLOCK 4 LOT 3, ROYAL
Tax Account No.: R731000680
State ID No.: 1N1E31CB 02500
Quarter Section: 3023

Neighborhood: Forest Park, contact Jerry Grossnickle at 503-289-3046.
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: Northwest Hills - Balch Creek and Skyline Subdistricts
Zoning: R20 (Residential 20,000, Limited Single-Dwelling Residential)

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

Proposal: A wooden platform that is about 4 feet, 5 inches wide by 5 feet, 4 inches deep and about 5 feet, 11 inches tall was constructed adjacent to the southeast corner of the residence on this site. The platform was located in this position to give access to infrastructure, including trash storage and a meter for the electrical service for the house, in accordance with the requirements of Portland General Electric, who are the providers of the electrical service. The wooden platform extends to the northeast from the surface of a concrete deck that caps a retaining wall and crawl space that is located to the east of the garage. The surface that was placed on top of the upper grade of the retaining wall/crawl space forms a continuous grade with the driveway and allows pedestrian access along the east side of the garage and the southeast corner of the house. A railing that is approximately 3.5 feet tall encloses the deck surface on the south and east sides. The concrete deck was included in the drawings for the revisions to the down-slope retaining walls that were approved under Permit Number 13-196465 RS, Rev. O1. The wooden extension was not shown on any approved permits.

Title 33, the Portland Zoning Code, requires uncovered horizontal structures that are more than 2.5 feet above grade level to be located outside of the minimum required building setbacks, which are 20 feet from the front property line and 10 feet from the side and rear property lines in the R20 zone. On lots that slope steeply up or downhill from the street edge, the setback from the front property line may be reduced for the residence and for the garage but this exception does not apply to other structures. Exceptions to these setback standards can be allowed if they are approved through Adjustment Reviews. Exceptions requested through Adjustment Reviews are approved, if all of the relevant approval criteria are met or if the criteria can be met through reasonable conditions of approval.

An Adjustment Review should have been required for approval of the concrete deck and railing that forms the eastward extension of the driveway beyond the building wall because it encroaches into both the front and the east side building setbacks. An Adjustment Review is also required for the wooden extension to the deck that was added without a permit. Therefore the applicants have requested approval of an Adjustment to Code Section 33.110.250, Accessory Structures (and by reference, 33.110.220, Setbacks), to reduce the minimum required setback for the concrete deck on top of the retaining wall/crawl space and for the wooden platform extension of the deck. The reduced setback that is being requested is, from 20 feet to about 3.5 feet from the front property line and also from 10 feet from the angled east side property line, to as little as 0.72 feet for the concrete portion of the deck and as little as 5 feet, 8 inches, for the wooden portion of the deck.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

Appeal: The proposal was approved with a condition of approval that required landscaping to screen and buffer the structure from the adjacent property. The adjacent property owner filed an appeal of the decision, stating that:

- "The structures come to within 6.6 inches of the property line in violation of the codes, and there were no permits issued for these structures."

Testimony: At the first hearing, the BDS staff planner, Kathleen Stokes, presented the proposal and the administrative decision, showing pictures of the site and surrounding area that supported the decision and the conditions that were placed on the approval. The appellant's attorney and the appellant then gave testimony that included a detailed discussion of the history of the development of the site and the issues that the appellant had experienced with that development. The appellant's attorney raised speculation regarding the potential impacts of the deck on future development of the appellant's property and asked that the record be held open to allow additional written testimony to be submitted.

The applicant for this Adjustment request also provided testimony at the hearing, reviewing the difficult situation presented by the topography of the site and emphasizing that this case was a unique situation and would not set a precedent for any future development in the area, as had been suggested in the testimony by the appellant's attorney.

Deliberation: The Adjustment Committee began preliminary deliberations at the October 20th hearing, indicating that the projection of the deck into the required front and side setbacks did not present an obstruction that would cause any detrimental impacts for the adjacent property owner. The Committee recognized that a request had been received to leave the record open and pledged to consider any additional information that was submitted before arriving at a final determination on the case.

When the Committee reconvened on November 17, the members found, by a vote of four to one, that the location of the deck meets all of the purposes of the setback requirement, regardless of impacts on the neighbor or any mitigation provided. The Committee directed staff to provide findings which more thoroughly reflected this determination.

ANALYSIS

Site and Vicinity: The site is a 19,000 square-foot property that is located on the east side of NW Royal Boulevard, one lot to the north of the intersection with NW Manor Drive. The property is developed with a single-dwelling residence that was constructed in 2013, making it the newest house in the immediate area. This house, including an attached garage on the southeast corner of the structure, is positioned so that it is roughly parallel with the front, curving property line but at an angle in relation to the side property lines. The site slopes downhill from the street at an average that exceeds 20%. The rear of the house follows the slope and so contains additional living area on the north side of the structure that is above the adjacent grade on the north side but below the grade on the south side. The area around the site is developed with other single-dwelling residential structures that date from the late 1950s through the 1970s but also include a small number that have been built within the last 10 to 12 years. The home on the abutting property to the east was constructed in 1972 and is part of an ownership that also includes several undeveloped parcels.

Zoning: The zoning for this site is R20, Limited Single-dwelling Residential. This zone is intended for areas with long term service limitations and significant development constraints. Single-dwelling residential is the primary use. The maximum density is generally 2.2 units per acre, or an average of about one unit per 20,000 square-foot lot.

Land Use History: City records include the following prior land use review for this site:

LU 12-149752 AD This 2012 decision granted an appeal and reversed the administrative decision of approval, thereby denying Adjustments to reduce the front setback from 20 feet to 5 feet (Zoning Code Section 33.110.220.B) and increased the height within the reduced setback area from 8 feet to 23 feet (Zoning Code Section 33.110.220.D.4.C). (The site was subsequently developed, under Permit Number 13-196465 RS, with a residence that was deemed to meet the

development standards without requiring any Adjustments. The issue with Revision 01 for this permit was described in the proposal, above).

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **July 23, 2015**. The following Bureaus have responded with no issues or concerns. Agencies that provided comments regarding building permit requirements are noted with exhibit numbers:

- Water Bureau provided information on the existing water service for the site (Exhibit E-1).
- Life Safety Plan Review Section of BDS noted that a building permit is required for the proposed work (Exhibit E-2).
- The following City service agencies provided a response of no concerns without any additional comments: Environmental Services, Transportation Engineering, Fire Bureau and Site Development Section of BDS (Exhibit E-3).

Neighborhood Review: One written response has been received from a representative of a notified property owner in response to the proposal. An attorney who represents the neighbor on the abutting property to the south of the site sent a letter in opposition that stated that the entire deck, including both the concrete extension of the driveway to the east of the building and the wooden platform that was added to north side of the concrete deck are located within the required setback and would need to be approved through an Adjustment Review. The letter further alleges that, “there is no authority to grant a variance for the existing structure.” This is apparently based on the concept that is discussed in the letter, that decks may project 20% into a required setback area but must be at least 3 feet from property line. The letter continues to say that, if the possibility of an exception to the setback were to be considered, under the Adjustment Review approval criteria, the proposal would not meet these criteria. The discussion cited a recent LUBA decision that considered an Adjustment to a different code standard, the limitation on height. The letter then discussed the reasons why the neighbor and her attorney believed that Criteria 33.805.040 A-F are not met. The letter also discussed the inability of the proposal to meet Criteria 33.805.040 G-I. Finally, the letter recounts an event that is alleged to have occurred during the original construction of the house on the subject site, stating that the survey flags were removed and discarded, being replaced by substitute stakes that were located at a farther distance from the house (Exhibit F-1).

Note: Staff acknowledges that further research into the revision for the permit that was issued for the retaining wall/crawl space failed to acknowledge that the concrete deck that caps the structure would have required approval through an Adjustment Review. Therefore, this portion of the deck has been included in this review and the proposal was revised to reflect this. The limitation that states that the development must be at least 3 feet away from a property line is part of the exception to setbacks that allow an encroachment of up to 20% into the required setback area. The Adjustment Review process allows review of exceptions to the setback requirement that would approve development that is closer than 3 feet from a side or rear property line. Portland Zoning Code Section 33.805.030 notes which standards may be modified through Adjustment Reviews and grants the authority for the requested Adjustment. The approval Criteria 33.805.040 G-I are not applicable in this case, as they only apply in the extremely rare occasions where there is no reasonable economic use of the property without granting the exception that has been requested. The discussion of whether the proposal meets Criteria 33.805.040 A-F is contained in the findings, below. The circumstances that were reported regarding the removal of the original survey flags and replacement with inaccurate flags is a civil matter that is not under the City’s purview.

ZONING CODE APPROVAL CRITERIA AND ADJUSTMENT COMMITTEE FINDINGS:

33.805.010 Purpose of 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 to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

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

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

Findings: Portland Zoning Code Section 33.110.250 A states that, “this section regulates structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards provide for necessary access around structures, help maintain privacy to abutting lots, and maintain open front setbacks.”

The deck that extends for about 4.5 feet to the east from the edge of the driveway and for about 15.5 feet along the east side of the house consists of a flat surface of concrete on the southern 10 feet and a small platform constructed of wood on the northern 5 feet, 4 inches, all of which has a largely open metal railing that is 42 inches (3.5 feet) tall. The deck is intended, in part, to provide access around the corner of the house. The deck is not an element that is large enough or pronounced enough to become a predominant element of the site.

Decks which are identical in size are allowed by right in certain circumstances. If this same deck provided access to a pedestrian entrance on the east side of the house or garage, it would be allowed under Code Section 33.110.250 C.3.b.(2). Also, if the applicants chose to backfill the area adjacent to the retaining wall/crawlspace that provides the foundation under the concrete deck, it would meet the Code standards because the floor of the deck would not be more than 2.5 feet above the adjacent grade and it would no longer need the hand rail. The two examples cited above are allowed outright in the setback, as the Zoning Code finds they are insignificant enough in scale that they will not become predominant elements of a site. Because the concrete and wood deck on the subject site is similar to these situations that are allowed by right, it can also be determined to not be a predominant element of the site.

Privacy for the adjacent neighbor to the southeast will be maintained because the major use of the deck is for storage of the garbage and recycling bins for the residence and access to the electric meter that is attached to the east wall of the house. The deck is an extension of the front entrance deck that extends across the house and actually creates an open front “yard” space over the descending topography that aligns the north/northeast edge of the street. The metal railing has an open character and provides for safety while serving a similar visual purpose to a low fence that would be allowed by right in the front and side setback area. Therefore, this purpose statement is met, but the general purpose for building setbacks must also be considered.

Portland Zoning Code Section 33.110.220 A. states that the setback requirements serve several purposes. These are:

- To maintain light, air, separation for fire protection, and access for fire fighting;
- To reflect the general building scale and placement of development in the City’s neighborhoods;
- To promote a reasonable physical relationship between residences;

- To promote options for privacy for neighboring properties;
- To promote open, visually pleasing front yards, and
- To 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.

The applicants have requested approval of Adjustments to Code Section 33.110.220, to reduce the setbacks for the deck:

- from the front property line, from 20 feet to 3.5 feet, and
- from the diagonal east side property line, from 10 feet to as little as 0.72 feet for the concrete portion of the deck and as little as 5 feet, 8 inches, for the wooden portion of the deck.

The deck structure consists of a concrete surface that tops a crawl space under the house. It also includes a wood extension, to the north of the concrete surface. The deck is at grade level at the street edge. The appearance from the neighboring property mainly includes the steel railing that extends for 3.5 feet above the deck surface. The deck therefore has an open character and, because there are no walls or roof to create bulk, allowing the Adjustment for its location equally meets the purpose of maintaining light and air for the adjacent property. Further, and in addition, the deck is located at a fair distance from the appellant's residence, so that its location within the setback has no impact on the provision of light and air for the adjacent property, and therefore equally meets this purpose statement as it relates to the appellant's home.

The Fire Bureau stated, "no concerns," regarding this Adjustment request. The deck is immediately adjacent to the roadway and because the Fire Bureau gains primary access for fire fighting from the roadway, the deck does not prevent or otherwise affect this access. In the place where the deck is close to the neighbor's fence, the fire bureau personnel may quite easily pass over the edge of this concrete portion of the deck to gain access to the rear of the building on the east side. Access may also be gained by going around the building from the west side. In regards to maintain adequate separation for fire protection, the portion of the deck that is closest to the east property line is made only of concrete and metal. The portion of the deck that is constructed of wood is located a minimum of 5 feet, 8 inches from the common property line which exceeds the 3-foot separation that is required by the Fire Code. For these reasons, allowing the Adjustment equally meets the purpose statement of maintaining access for fire fighting and separation for fire protection.

The deck does not alter the scale or placement of the residence on this site. Hillside development often contains decks and stairs that help to knit the residential structures into their environment. The low profile and open character of the deck does not add to the bulk of the developed presence on the site and so there is no alteration to the building scale or placement of development. As such, the physical relationship between residences is maintained.

The deck is not created for nor could it accommodate entertaining or outdoor recreation. The deck is not immediately next to the neighboring residence and the distance between the deck and the neighbor's house includes existing mature vegetation. Therefore, the Adjustment for the location of the deck will still ensure that options for privacy for the neighboring properties are maintained.

The site has a downhill slope from the roadway of greater than 20% so the only front yard that exists is as a result of the deck that runs across the front of the house and the structure that is the subject of this review is an extension of that deck, for 4 feet, 5 inches, to the south and

east of the garage wall. The deck does not create any visual obstruction, due to the open character of the design of the deck and railing. The location of the deck in the front setback therefore equally meets the purpose to maintain an open and visually pleasing front yard.

The deck definitely conforms to the topography of the site and offers a solution to the problems that are created by the slope. Therefore, allowing the Adjustment to the setbacks equally or better meets the purposes of providing flexibility to fit the topography of the site, while allowing for required outdoor areas and for architectural diversity.

Therefore, the purposes of the setback regulations for both the front and the side setback are equally met and 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: Approval of the request to reduce the required setbacks from the front and the east side property lines for the extension of the entry deck to the east of the garage wall does not present an imposing structure that would significantly detract from the appearance or the livability of the residential area. For any negative impact to the appearance of the area that may be attributed to the structure, in contrast to this assessment by staff, a condition of approval will require the installation of landscaping to screen and soften the view of the east side of the structure from the abutting property to the east. With this condition, which requires planting of evergreen shrubs and living ground cover, this criterion can be 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: Technically, only one adjustment is being requested, to provide an exception to the setback regulations, which are cited in 33.110.250 and detailed in 33.110.220, for the deck that extends to the east from the wall of the house. Because this structure extends the front entry deck, it also projects into the front setback and is more than 2.5 feet above grade level. Therefore, as two parts of the setback standards are being addressed, it could be argued that there are two Adjustments. As noted in the findings for the other approval criteria, this structure has a very open appearance and creates no impacts on the appearance or livability of the residential area.

The purpose of the single dwelling zones is to preserve land for housing and to provide housing opportunities for individual households. As the deck provides a service area for this residence that lacks flat ground area for this purpose, it furthers the enjoyment of the property for this household use. The development standards of the single dwelling zones are defined by the different zones, in order to preserve the character of the neighborhoods with different densities and different development standards for each zone. The standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The deck does not conflict with creating an aesthetically pleasing presentation of this residential development. The deck actually enhances safety by providing a level protected area for pedestrian access to the southeast corner of the house. As noted before, there are no impacts on privacy from the deck area, which is largely used for storage of garbage and recycling bins. The deck has no association with any aspects of energy conservation or recreational opportunities. Based on this assessment, this criterion does not apply if this is seen as one Adjustment, and if seen as two Adjustments, this criterion is met.

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

Findings: City-designated scenic resources are shown on the City's zoning maps by an "s" or Scenic Overlay Zone. City-designated historic resources are shown on the City's zoning maps, either as an adopted landmark, or as a site that is located within the boundaries of a Historic Conservation or Historic Design District. There are no City-designated scenic or historic resources on the site. Therefore, this criterion does not apply.

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

Findings: The view of the deck from the adjacent property to the east is generally minimal as there is no open area for active use on the neighboring property that is immediately adjacent to the common property line. In spite of this, the neighbor has registered opposition to the encroachment into the setbacks. In the interests of addressing the neighbor's concerns and further, as a precaution against possible erosion of the bare hillside, a condition of approval will require planting a row of evergreen shrubs, with living ground cover to stabilize the soil, in the remaining area, between the foundation wall and the property line, as the terrain allows. The requirement will serve to screen and buffer the east side of the structure from the neighboring property. With this condition, adequate mitigation for any projected impacts would be assured and this criterion can be 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 zones are designated with either a lower case "c," for the Environmental Conservation Overlay, or "p," for the Environmental Protection Overlay. The site is not located in an environmental zone. Therefore, this criterion does not apply.

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

All of the relevant approval criteria have been met for the requested Adjustment. The purpose of the regulations for accessory structures and for building setbacks will be equally met because the deck is not an imposing structure and maintains light, air, separation for fire protection, access for fire fighting and privacy. The deck could have been allowed by right, with minor modifications to the situation, such as adding a pedestrian door on the side of the garage or backfilling the enclosed crawl space beneath the deck, so that it was truly a retaining wall and the deck would not then have been more than 2.5 feet above that grade level. The structure does not alter the character of the scale of structures or the relationship of house in the area, but instead serves to address the issues of the topography by providing a flat pedestrian service area next to the house. The deck does not cause any impacts to appearance or livability of the residential area that cannot be addressed by the condition to plant landscaping for screening between the deck and the adjacent property line. With this condition, the requested adjustments to the front and east side setbacks can be approved, in general compliance with the site plan and elevation drawings.

ADJUSTMENT COMMITTEE DECISION:

The Adjustment Committee denies the appeal and upholds the original decision and conditions of approval:

Approval is granted for an Adjustment to Code Section 33.110.250 (and by reference to Code Section 33.110.220), to reduce the setbacks for the deck, which includes a 3.5-foot tall railing, as follows:

- from the front property line, from 20 feet to 3.5 feet and,
- from the east side property line, from 10 feet to a varying distance that is as little as 0.72 feet for the concrete portion of the deck and as little as 5 feet, 8 inches, for the wooden portion of the deck.

Approval is subject to general compliance with the approved site plan and elevation drawing, Exhibits C-1 through C-2, signed and dated August 28, 2015, and is also subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (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 15-147693 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Landscaping must be installed along the east side of the deck to provide a screen and buffer for the abutting property. A continuous row of evergreen shrubs, that will be at least as tall as the platform of the deck at maturity, must be planted in the area between the retaining wall/crawlspace that forms the foundation for the deck and the adjacent east side property line. The remaining ground area in this space must be planted with living ground cover to control erosion and stabilize the soil to ensure the viability of the shrubs. The plants may be of the choice of the property owner except that they cannot include any species that are listed among the nuisance plants or the prohibited plants of the City of Portland Plant List. These plants must be installed before October 30, 2015 (or within 30 days of a final decision if that occurs at a date that requires a later deadline).

Staff Planner: Kathleen Stokes

These findings, conclusions and decision were adopted by the City of Portland Adjustment Committee on November 17, 2015.

First Hearing Date: October 20, 2015

By: 

Adjustment Committee
Chair person name: Roger Alfred

Date Final Decision Effective/Mailed: December 8, 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 April 10, 2015, and was determined to be complete on **July 20, 2015**.

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 April 10, 2015.

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 requested that the 120-day review period be extended. Unless further extended by the applicant, **the 120 days expires on: December 8, 2015.**

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 December 8, 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.

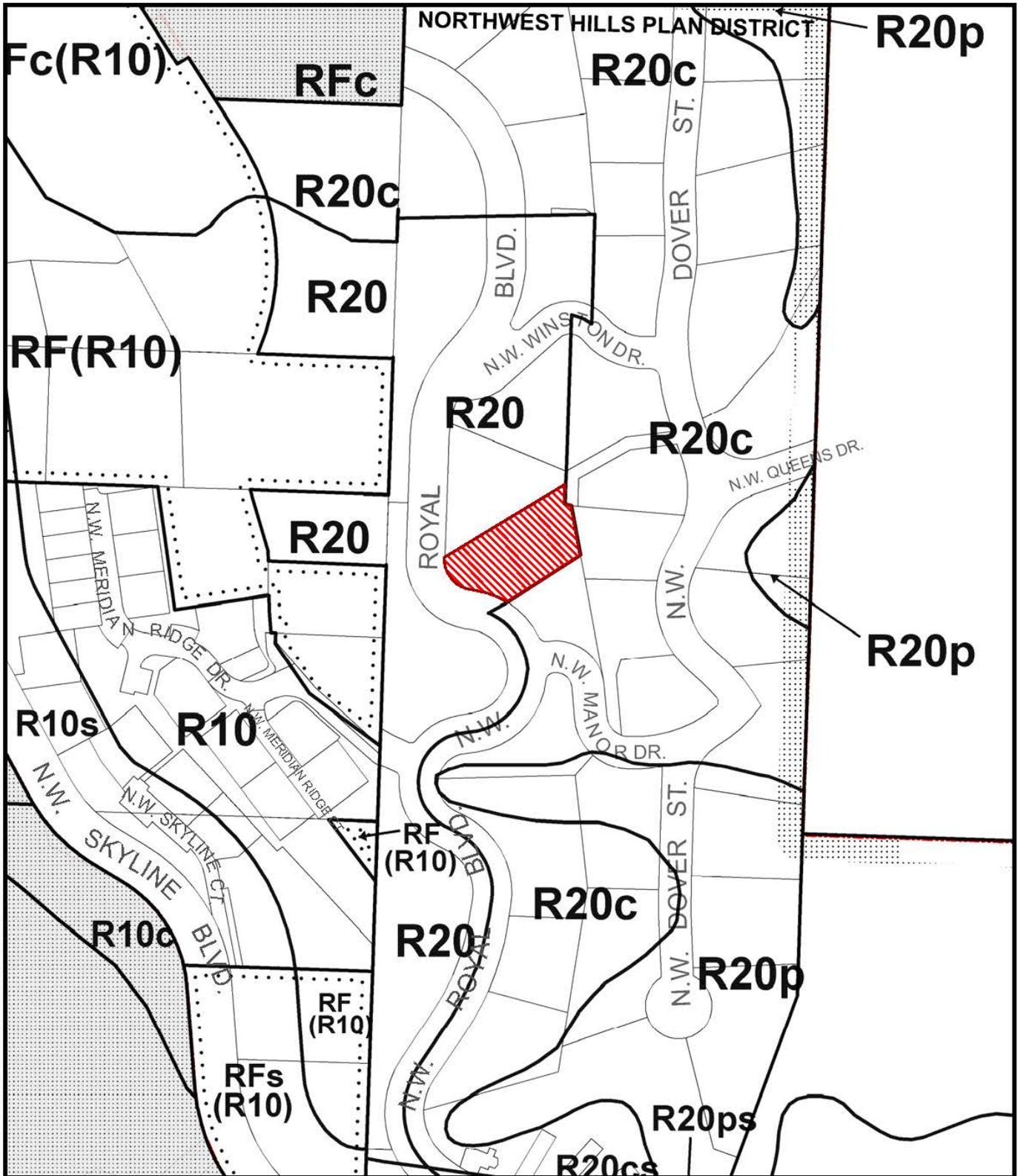
Applying for permits. A building permit, occupancy permit, or development permit must be obtained before carrying out this project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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

- A. Applicant's Statement
 1. Application and original plans and narrative
 2. Supplemental information (revised plans and narrative, June 3, 2015)
 3. Supplemental information (revised plans and narrative, July 6, 2015)
 4. Supplemental information (revised detail plan, July 16, 2015)
 5. Supplemental information (revised detail drawing, July 20, 2015)
 6. Supplemental information (revised plans and detail information, August 27, 2015)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Elevation Drawings (attached)
- D. Notification information:
 1. Mailing list for Notice of Proposal
 2. Mailed Notice of Proposal
 3. Notice of Administrative Decision
- E. Agency Responses:
 1. Water Bureau
 2. Life Safety Plan Review Section of BDS
 3. Summary of responses from City service agencies (including Bureau of Environmental Services, Bureau of Transportation Engineering and Development Review, Fire Bureau, and Site Development Review Section of BDS)
- F. Correspondence:
 1. J. Michael Harris (Reeves, Kahn, Hennessy and Elkins, Attorneys at Law)
- G. Other:
 1. Letter from Kathleen Stokes to Mark Dane and Curtis Eschman, May 12, 2015
- H. Appeal:
 1. Appeal Statement, September 8, 2015
 2. Notice of Appeal Hearing, First - September 14, 2015 Second - September 25, 2015
 3. Letter from Ty Wyman, including copy of Exhibit F.2
 4. Letter from Eileen Wong, October 27, 2015
 5. Proposed landscape mitigation plan from Mark Dane, October 28, 2015
 6. Memo to Adjustment Committee from Kathleen Stokes, November 3, 2015
 7. Staff Power Point presentation
 8. Request to extend 120 days for final decision by 7 days, until November 24, 2015
 9. Second request to extend 120 days for final decision, by 14 days, until December 8, 2015



ZONING



Site

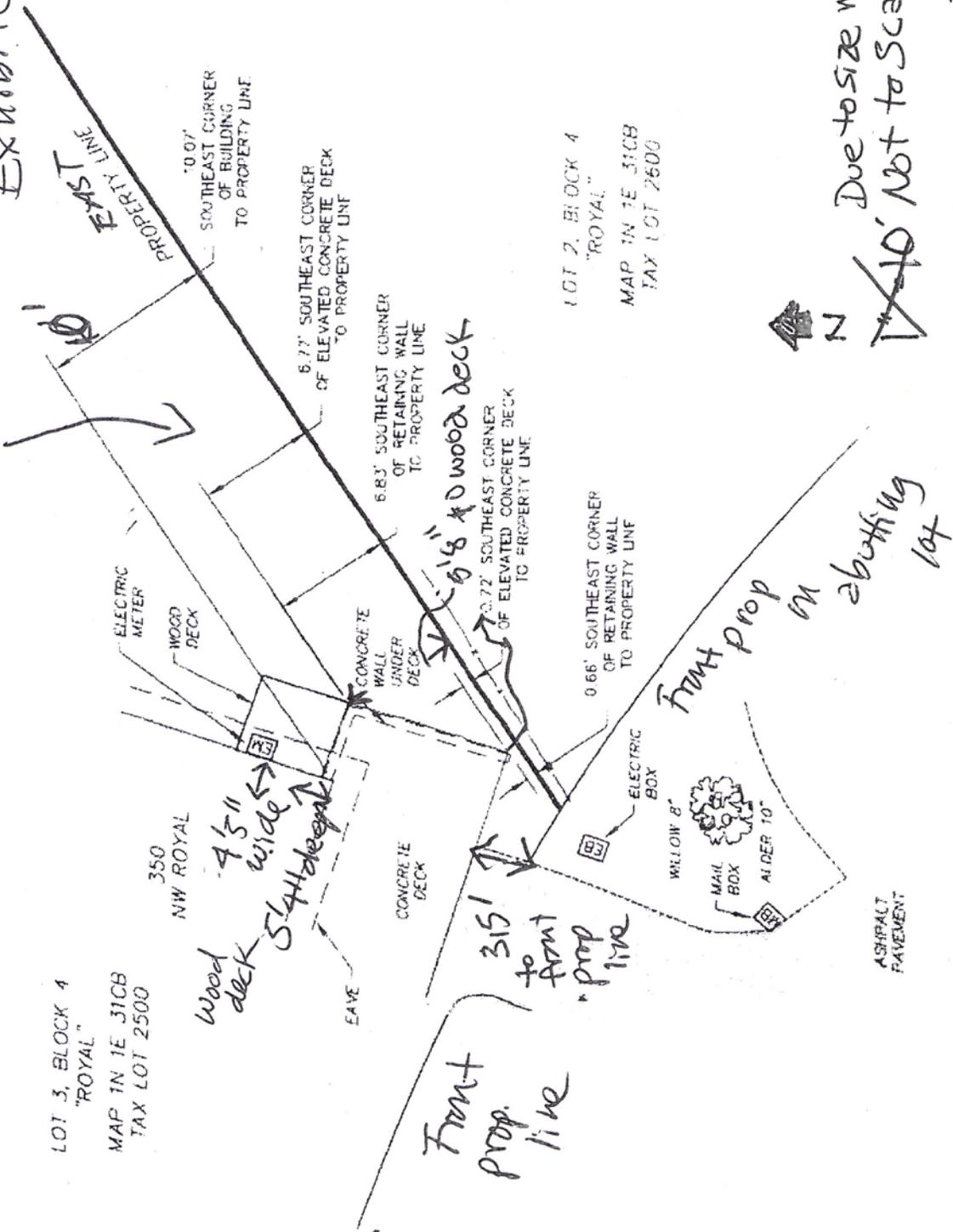


NORTH

This site lies within the:
NORTHWEST HILLS PLAN DISTRICT
BALCH CREEK/SKYLINE

File No.	LU 15-147693 AD
1/4 Section	3023
Scale	1 inch = 200 feet
State_Id	1N1E31CB 2500
Exhibit	B (Apr 13, 2015)

Landscaping required;
See Condition B and
Exhibit C-2



Approved
City of Portland - Bureau of Development Services

Planner Kathleen A. Stokes Date August 28, 2015

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

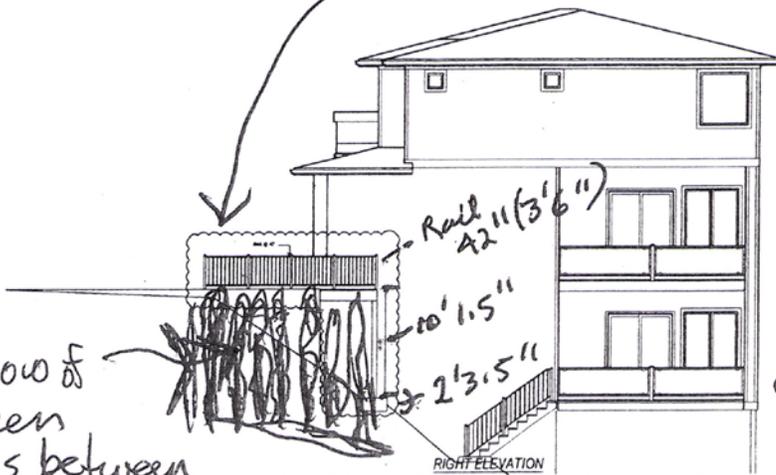
LU15-147693AD
Exhibit C-1

Approved
 City of Portland - Bureau of Development Services
 Planner Kathleen Stokes Date August 28, 2015
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



Area within side setback

FRONT ELEVATION



Plant row of evergreen shrubs between deck and East property line

← Not in setback, due to angled property line

Shrubs should be installed from point where deck platform is 2.5' above grade and extend in continuous row to north edge of wood deck. Shrubs must reach height of deck platform by maturity. Remaining area between deck and property must be planted with living ground cover.

Exhibit C-2
 LU 15-147693 AD

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