



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

Dan Saltzman, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** March 15, 2016  
**To:** Interested Person  
**From:** Matt Wickstrom, Land Use Services  
503-823-6825 / [Matt.Wickstrom@portlandoregon.gov](mailto:Matt.Wickstrom@portlandoregon.gov)

## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 16-104201 AD**

#### **GENERAL INFORMATION**

**Applicant:** Keira A Coburn-Spry and Brandon Spry  
12131 SE Lexington St  
Portland, OR 97266

**Site Address:** 12131 SE LEXINGTON ST

**Legal Description:** LOT 38 INC UND INT TRACT A THRU G, DEERHAVEN  
**Tax Account No.:** R201421260  
**State ID No.:** 1S2E22DA 03617  
**Quarter Section:**  
**Neighborhood:** Pleasant Valley, contact Steve Montgomery at [foxtrotlove@hotmail.com](mailto:foxtrotlove@hotmail.com).  
**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

**Zoning:** R10c (Residential 10,000 with an Environmental Conservation Overlay Zone)

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

#### **Proposal:**

The applicants are in the process of rebuilding a two-level deck behind their house on SE Lexington Street. A new stairway leading from the upper deck to the lower is also proposed. Maximum building coverage for this lot in the Deerhaven subdivision is 2,698 square feet. When the house was built, the building coverage measured 2,650 square feet. As the new stairway and landings add approximately 148 square feet of building coverage, the house will exceed the maximum allowed building coverage which requires approval through an Adjustment Review. The applicants may also add a stairway from the lower deck to the backyard. The applicants request one Adjustment to increase the maximum allowed building coverage for the lot from 2,698 square feet to 2,798 square feet.

**Relevant Approval Criteria:**

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

**ANALYSIS**

**Site and Vicinity:** The 7,709 square foot lot is developed with a two-story house with a three car attached garage. The surrounding vicinity is developed with single-dwelling homes to the west and north, and undeveloped to the east and south.

**Zoning:** The R10 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 6,000 square feet. The “c” overlay is intended to conserve important environmental features and resources while still allowing compatible development. New development and exterior modifications to existing development must meet environmental standards or are subject to environmental review. Decks more than 6 feet above grade are considered building coverage by the Portland Zoning Code (33.910 Definitions). Decks and stairways that allow rainwater to pass through and are not above a paved surface are not considered impervious surface. The site is zoned with Environmental Conservation Zoning; however, the applicable environmental standards were reviewed as part of the subdivision mentioned below.

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

- LUR 98-00090 SU PU EN AD – 1998 approval of a 39 lot subdivision with Adjustments for tree removal on all lots.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **February 8, 2016**. The following Bureaus have responded:

- The Bureau of Environmental Services replied with no concerns (Exhibit E-1).
- The Life Safety Section of the Bureau of Development Services (BDS) responded that a building permit is necessary and a lateral design analysis is required (Exhibit E-2).
- The Water Bureau responded with information on water service and no concerns (Exhibit E-3).
- The Parks Bureau responded that the project has no impact on street trees and with no concerns (Exhibit E-4).
- The Site Development Section of BDS, Fire Bureau, and Portland Bureau of Transportation responded with no concerns (Exhibit E-5).

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

**ZONING CODE APPROVAL CRITERIA****33.805.010 Purpose (Adjustments)**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

**33.805.040 Approval Criteria**

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

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

**Findings:** The applicants are rebuilding a two-level deck and adding a stairway and landing. They also may add another stairway leading from the lower deck to the backyard. The new stairways and landing will cause the house to exceed maximum building coverage for this site by 100 square feet so approval through an Adjustment Review is required. The purpose for the building coverage limitations is found in 33.110.225.A and states:

*The building coverage standards, together with the height and setback standards control the overall bulk of structures. They are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site.*

While the deck, stairs and landing count toward building coverage because they are generally more than six feet above grade, they do not add a considerable amount of bulk to the home because they are not enclosed with walls, are located behind the house and are not readily visible from the street. Furthermore, the proposal increases the maximum allowed building coverage for the site by only 3 percent which is a minimal amount and should not be readily apparent by neighbors or visitors. 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 deck, landing and stairway are built of quality materials and the majority of the project replaces a previous deck. The requested 100 square foot increase to the maximum allowed building coverage is minimal and because the deck and stairways are not enclosed, they add little additional bulk to the home. The project is located behind the house and is not readily visible from the street. Based on this information, the proposal will not significantly detract from the livability or appearance of the residential area. This criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Only one Adjustment is requested, therefore this criterion is not applicable.

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

**Findings:** No City-designated scenic or historic resources are located on this site; therefore, this criterion is not applicable.

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

**Findings:** There are no discernible impacts that would result from granting the requested adjustments. This criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** The site is not within an environmental zone. This criterion is not applicable.

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

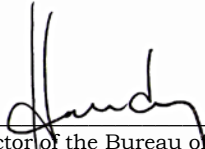
The applicants propose to increase the maximum allowed building coverage for this site by 100 square feet for a replacement deck, stairs and landing. The project does not add considerable bulk to the house and the amount of additional building coverage requested is minimal. The proposal meets the applicable approval criteria and should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to increase maximum building coverage from 2,698 square feet to 2,798 square feet for this site in the Deerhaven subdivision (33.110.225.B), per the approved site plan, Exhibits C-1, signed and dated March 11, 2016, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # 16-104201 AD".

**Staff Planner: Matt Wickstrom**

**Decision rendered by:**  **on March 11, 2016**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: March 15, 2016**

**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 January 12, 2016, and was determined to be complete on **January 28, 2016**.

*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 January 12, 2016.

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 applicants did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: May 27, 2016**.

**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 March 29, 2016** 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 hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after **March 30, 2016 – (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:

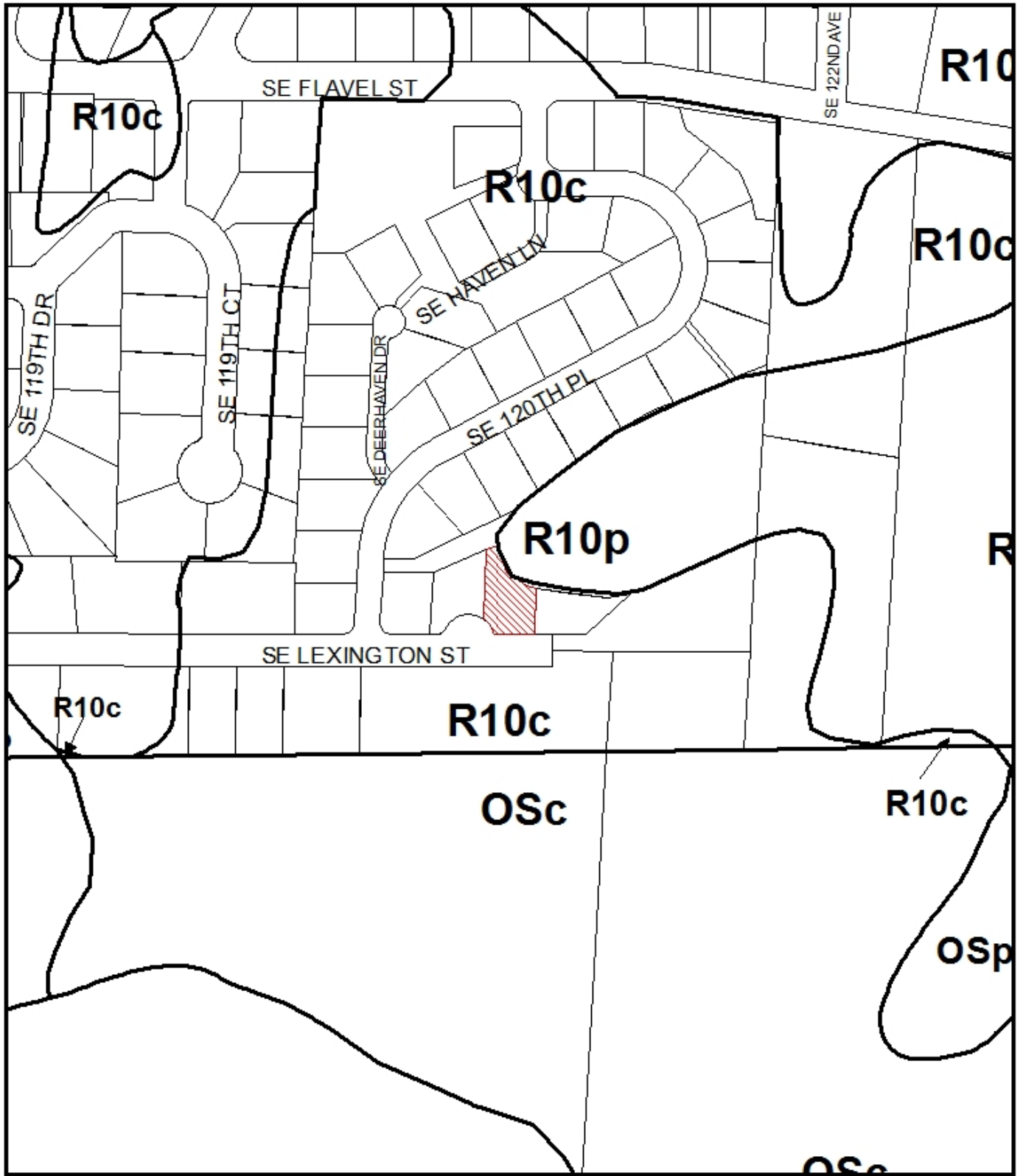
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**


NOT ATTACHED UNLESS INDICATED

- A. Applicants' Statement and Original LU Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Life Safety Section of BDS
  - 3. Water Bureau
  - 4. Urban Forestry
  - 5. Summary of Agency Responses
- F. Correspondence: None

**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

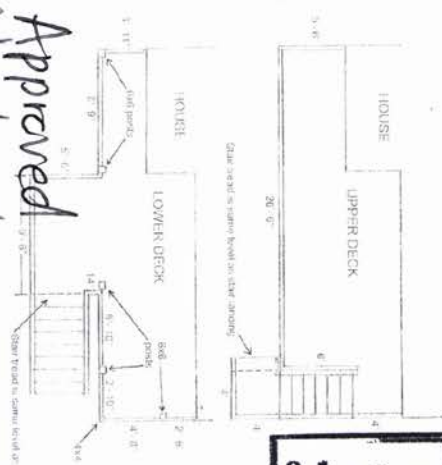
 Site



This site lies within the:  
 JOHNSON CREEK BASIN PLAN DISTRICT  
 SOUTH SUBDISTRICT

File No.	<u>LU 16-104201 AD</u>
1/4 Section	<u>3842</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S2E22DA 3617</u>
Exhibit	<u>B</u> (Jan 14, 2016)

EXHIBIT A



**\* Approved \***  
 City of Portland Bureau of Development Services  
**Approved**  
 Planner City of Portland - Bureau of Development Services  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.  
 Planner Wickstrom Date 5/15/16

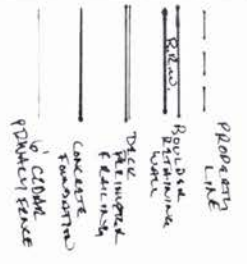
**Approved**  
 Adjustment request to increase maximum building coverage from 2,1698 square feet to 2,779 square feet for new stair way



LOT CHARACTER	IMPERVIOUS	FOREST WOODS
HOUSE 2,169.8	HOUSE 2,169.8	DOCKWOOD 11,141.5
LOT AREA 7,779	MAXIMUM 25	MAXIMUM 1,984.7
	MINIMUM 0.70	
	HOUSE 4,000	DOCKWOOD 7,779
	LOT AREA 7,779	

12131 SE LEXINGTON ST  
 PORTLAND, OREGON 97206

Potential stairs from lower deck to backyard approved with this review but not depicted on site plan.



LV16-104201AD

16-104201AD  
 Exhibit C-1