



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

Dan Saltzman, Commissioner
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www.portlandoregon.gov/bds

Date: April 13, 2016
To: Interested Person
From: Amanda Rhoads, Land Use Services
503-823-7837 / Amanda.Rhoads@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 15-182264 AD ADJUSTMENT TO CONVERT EXISTING STUDIO TO ADU

GENERAL INFORMATION

Applicant: Aaron M Wallach
2008 SW Taylors Ferry Rd
Portland, OR 97219

Owners: Sera and Aaron Wallach
2008 SW Taylors Ferry Rd
Portland, OR 97219

Site Address: 2008 SW TAYLORS FERRY RD

Legal Description: BLOCK 4 LOT 4, BALMER TR
Tax Account No.: R052000760
State ID No.: 1S1E28BB 09900
Quarter Section: 3927

Neighborhood: Marshall Park, contact John DeLance at 503-246-4382.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Plan District: None
Zoning: R10cp – Single-Dwelling Residential 10,000 with areas of Environmental Conservation and Environmental Protection Overlay Zones

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

Proposal:
The applicant proposes to convert the existing permitted hobby studio at the front of the site to an Accessory Dwelling Unit (ADU). Because of the location of the accessory structure at the

front property line, the applicant requests an Adjustment to Zoning Code Section 33.205.030.D.1.a to reduce the required setback for the ADU from 60 feet to 0 feet. No exterior changes are proposed to the accessory structure.

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 site is a 37,400 square foot through-lot with frontage on both SW Taylors Ferry Rd. and SW 20th Pl. The site is developed with a barn-style primary house, currently largely open to the elements and on temporary shoring, and an accessory structure, permitted as an art studio with plumbing and a second story addition. A garage that also had structural issues was recently removed. The site has a creek running through it, is largely wooded and has significant grade changes.

Nearby development includes single and multi-story houses on 5,000-square-foot or larger lots. The general area is hilly and many of the lots are wooded. This area is within a landslide hazard area, and the project site is within 1,000 feet of the Tryon Creek floodplain.

Zoning: The Residential 10,000 (R10) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 6,000 square feet, with minimum width and depth dimensions of 50 and 60 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 10,000 square feet of site area.

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

The Environmental Protection Zone “p” overlay provides the highest level of protection to the most important resources and functional values. These resources and functional values are identified and assigned value in the inventory and economic, social, environmental, and energy (ESEE) analysis for each specific study area. Development will be approved in the environmental protection zone only in rare and unusual circumstances.

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

Public Review: A “Notice of Proposal in Your Neighborhood” was mailed **February 11, 2016**.

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

- Bureau of Environmental Services (Exhibit E.1);
- Bureau of Transportation (Exhibit E.2);
- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4);
- Site Development Section of BDS (Exhibit E.5); and
- Life Safety (Building Code) Plans Examiner

Neighborhood Review: One written response was received from notified property owners in support of the proposal. The neighbors wrote in support of the efforts of the new owners to restore the buildings on the site. They clearly demonstrated the placement of other accessory structures on nearby sites which matched that of the

subject site. They provided context on the history of the site and the annexation of the area to the City of Portland.

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 relevant purpose statement is from the Design Standards Purpose from Zoning Code Section 33.205.030 that was in effect on June 8, 2015 when the land use review application was submitted. Each of the statements below will be addressed individually.

33.205.030 Design Standards

- A. Purpose.** Standards for creating accessory dwelling units address the following purposes:
- Ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones;
 - Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;
 - Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and
 - Provide adequate flexibility to site buildings so that they fit the topography of sites.
- *Ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones;*

The “desired character and livability of Portland's residential zones” is expressed in the purpose statement for the single-dwelling zones in Zoning Code Section 33.110010.A and B. Particularly,

“...the development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities...The development standards are generally written for houses on flat, regularly shaped lots. Other situations are addressed through special regulations or exceptions.”

The existing accessory structure proposed to be converted into an ADU has been on the site for decades. In fact, the structure pre-dates annexation of the area into Portland in September 1971, and the subsequent implementation of the 60-foot-wide right-of-way along SW Taylor's Ferry Road, as described by the neighbor to the east (Exhibit F.1).

Both the applicant and the neighbor speak of the site's history as a dairy farm, with the barn house as the original dairy barn, and the accessory structure as a milkhouse/creamery. Some remnants of that history is still evident today in the unfinished basement of the accessory structure.

The structure has not changed in footprint since the addition of the loft space, permitted in 1977. Other accessory structures in the area are similarly placed, such as the garage on the site to the west, and a large accessory structure that was removed from the site of 2031 SW Taylors Ferry across the street in the mid-2000s. With a development pattern that reflects the changes to elevation, the extensive foliage in the area, and the more recent annexation, the existing accessory structure is not out of character with the area, and in fact is part of the history of the site and area.

- *Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;*
- *Provide adequate flexibility to site buildings so that they fit the topography of sites.*

The proposal equally supports the intent of respecting the general placement of structures that is expected in the single-dwelling zones, given the steeply sloping lots and the application of the environmental overlay zoning in the area. For other structures on the site, the front setback is reduced to 0 feet so that owners have the flexibility to build outside of the environmental overlay zoning. Having the "c" or "p" overlay on a site, though, does not waive the requirement that an ADU be located behind a house. In this case, though the proposed ADU is located right at the front property line, the southwest corner of both the building and the rear deck is still located within the environmental conservation overlay. Allowing the ADU to be located at the front property line will make it compatible with the other structures in the area that have a 0-foot required setback, including a similarly-placed garage on the property to the west. It will also allow the ADU to avoid the most steeply-sloping parts of the site, which are also the most forested.

- *Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and*

The current hobby studio is approximately 360 square feet on the main floor, and another 120 square feet in the loft. The barn house is significantly larger, taller, longer and clearly the dominant structure on the property, despite the fact that they are both located at the front property line. Multnomah County records lists the house as being 2,252 square feet.

While the new owners planned to restore the barn house, unfortunately the structural challenges have proved to be too great to overcome. While the notice for this review was out for review, the owners learned more about the costs to shoring up the structure. They have since decided to demolish the barn house and intend now to develop plans to build a new house while living in the ADU.

Since the decision to demolish the barn house was just made, currently there is no design for the new house against which to compare the proposed ADU. Therefore, this decision contains several conditions of approval designed to ensure the ADU is clearly the accessory structure to the new primary house. These conditions include the following:

- The new house must be a minimum of 2 stories tall as viewed from the street;
- The street-facing façade of the primary house must be longer than the street-facing façade of the accessory dwelling unit; and
- The front setback for the new house must be no greater than 10 feet.

With these conditions, the ADU will clearly be the smaller, accessory structure on the site, given its limited footprint and its relative size compared with the new primary structure.

For the reasons stated above, the proposal equally meets the purpose for the regulation being modified. 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 accessory structure has been in place for decades, with no exterior changes since 1977. As discussed above, other structures nearby have or had similar placement in proximity with the street. Given the environmental overlay zoning on portions of the properties on the south side of SW Taylors Ferry Rd., front building setbacks can be reduced to 0 feet for new accessory structures that are not also ADUs. Converting this existing structure to an ADU will not detract from the livability or the 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. This criterion is not applicable.

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

Findings: City designated resources are shown on the zoning map by the ‘s’ overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: There are no discernible impacts that would result from granting the requested Adjustment to allow the proposed ADU to remain in its existing location. This criterion is met.

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

Findings: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). The subject site has both “p” and “c” environmental overlay zoning over most of the property, with the exception of the north section along SW Taylors Ferry Rd. The ADU is being created by converting an existing structure that is at the front of the property, mostly outside of the Environmental Conservation overlay zone. Allowing the Adjustment to be granted will have the effect of reducing the likelihood of development within the environmental overlay area. The condition that the front setback of the new primary house is no greater than 10 feet will ensure the new house will also be located outside the resource area. This criterion is met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans

submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The request to reduce the required setback of ADUs from 60 feet to 0 feet to accommodate a conversion of an existing accessory structure to an ADU results in a proposal that is still consistent with the intent of the regulation being adjusted, and with the intent of the single-dwelling zones. The proposal will minimize impacts on the environmental resources on the site. The applicant has demonstrated that the relevant approval criteria for the requested Adjustment have been met or can be with the proposed conditions of approval. Therefore, the proposal should be approved.

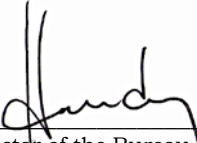
ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.205.030.D.1.a to reduce the required ADU setback from 60 feet to 0 feet, per the approved plans, Exhibits C.1 through C.5, signed and dated April 11, 2016, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through D) 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 15-182264 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The new house must be a minimum of 2 stories tall as viewed from the street.
- C. The street-facing façade of the new house must be longer than the street-facing façade of the accessory dwelling unit
- D. The front setback for the new house must be no greater than 10 feet

NOTE: The applicant will be required to record a covenant with Multnomah County to allow the Accessory Dwelling Unit to remain on the site after the primary house is demolished for up to two years, as per Zoning Code Section 33.110.250.B.3.c.

Staff Planner: Amanda Rhoads

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

Decision mailed: April 13, 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 June 8, 2015, and was determined to be complete on December 7, 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 June 8, 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 waived the 120-day review period, as stated in Exhibit G.5. **The 120 days will expire on: December 6, 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 April 27, 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 5th floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

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

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

Recording the final decision.

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

- *Unless appealed*, The final decision may be recorded on or after **April 28, 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.

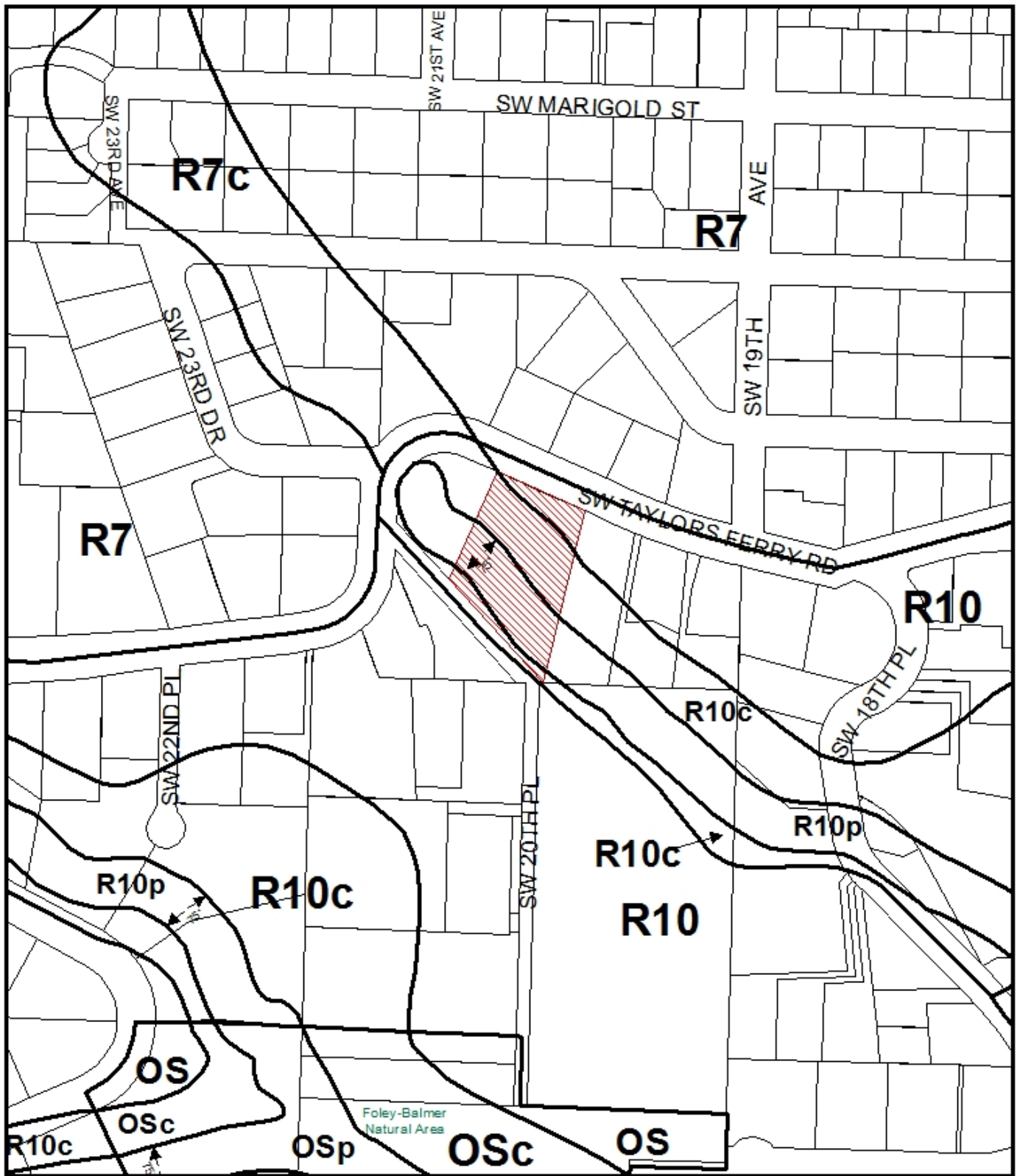
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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. Applicant's Statement
 - 1. Response to Incomplete Letter, October 12, 2015
 - 2. Applicant Narrative, December 7, 2015
 - 3. Plan Set (additional to C Exhibits), December 15, 2015
 - 4. Applicant Email about ROW Encroachment Permit result, January 11, 2016
 - 5. Applicant Email with digital floor plans and elevations, February 8, 2016
 - 6. Applicant Email with garage/driveway information and direction to proceed, February 9, 2016
 - 7. Applicant Email with new information about demolishing main house, February 12, 2016
 - 8. Applicant Email with more information on demolition of main house, February 25, 2016
 - 9. Applicant Email with process questions and demolition determination, March 16, 2016
 - 10. Applicant Email with process proposal on permit/land use sequencing, March 23, 2016
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. East and North Elevations (attached)
 - 3. South and West Elevations (attached)
 - 4. ADU Main Floor Plan
 - 5. ADU Loft Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety (Building Code) Plans Examiner
- F. Correspondence:
 - 1. James and Norma Abbott, February 15, 2016, in support of saving accessory studio and barn house
- G. Other:
 - 1. Original Land Use Application and Receipt, originally submitted June 8, 2015 and then resubmitted with signature December 15, 2015
 - 2. Incomplete Letter, June 22, 2015
 - 3. Notice of Upcoming Incomplete Period Expiration, November 5, 2015
 - 4. Planner Email with follow-up incompleteness items, December 8, 2015
 - 5. Request for Extension of 120-Day Review Period, 245 additional days requested, December 15, 2015
 - 6. Planner Emails, January 20-27, 2016
 - 7. Planner Email, February 9, 2016
 - 8. Site Photos from 13-171974 HS, taken October 12, 2015
 - 9. Site Permit Research, conducted for 13-171974 HS, documenting legal, permitted expansion of accessory structure as per permit #507924
 - 10. Permit Drawings from permit #507924, May 24, 1977

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).



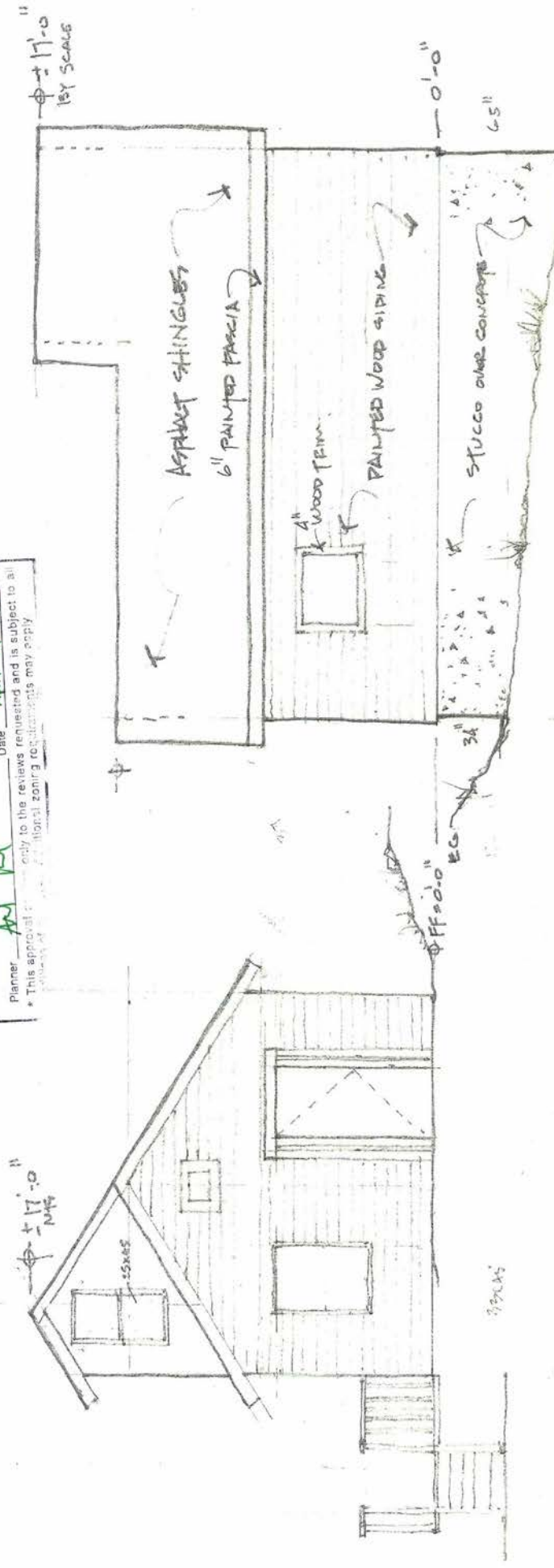
ZONING

 Site



File No. LU 15-182264 AD
 1/4 Section 3927
 Scale 1 inch = 200 feet
 State_Id 1S1E28BB 9900
 Exhibit B (Jun 10, 2015)

Approved
 City of Portland - Bureau of Development Services
 Planner MM Date April 11, 2016
 * This approval is only to the reviews requested and is subject to all other zoning requirements that may apply.



EXISTING EAST ELEVATION
 1/4" = 1'-0"

LING AND SPAGE ARCHITECTS
 LES WALLACH, FAIA

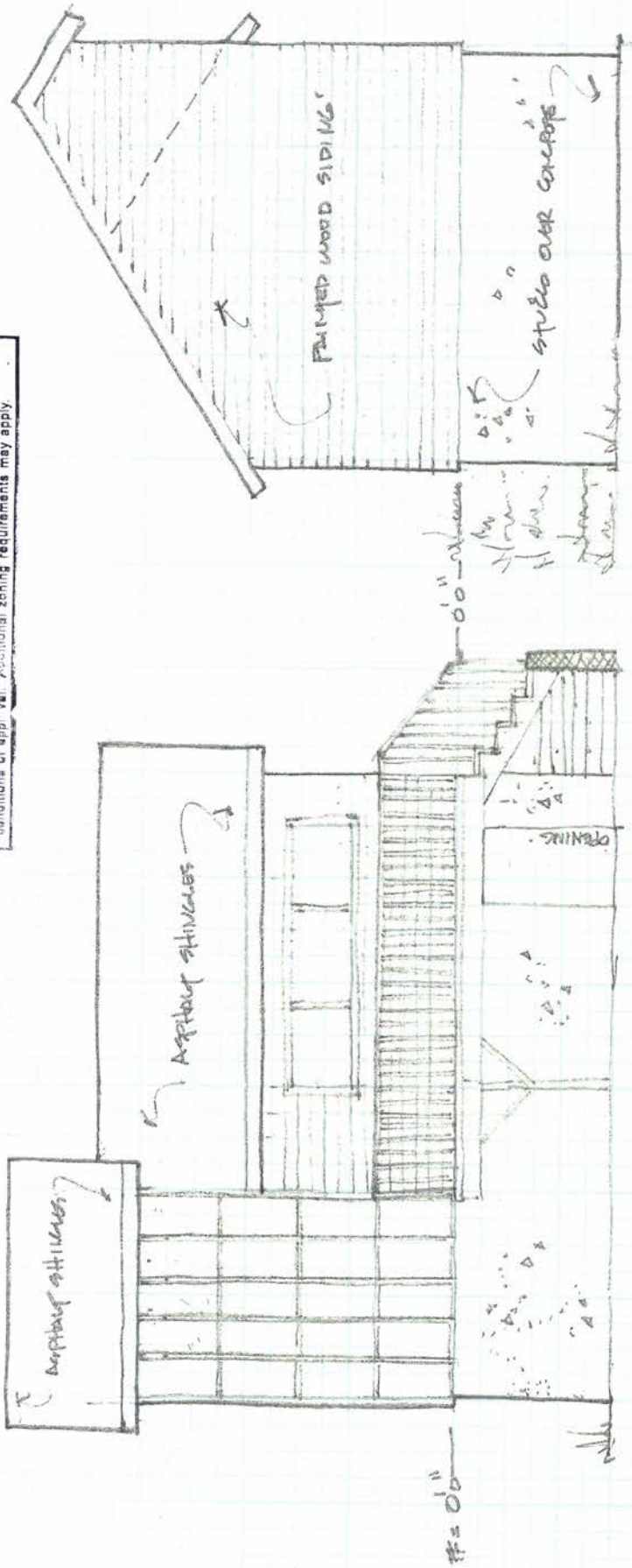


EXISTING - NORTH ELEVATION
 1/4" = 1'-0"

EXISTING RESIDENCE UPGRADE
 2008 SW TAYLOR'S FERRY ROAD
 REF CASE # 13-171974 - H.S.

CASE NO. LD-132261 AD
 EXHIBIT C-2

City of Portland - Bureau of Development Services
 Approved*
 Planner: *Jul M* Date: *April 11, 2016*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



EXISTING SOUTH ELEVATION
 1/4" = 1'-0"

EXISTING WEST ELEVATION
 1/4" = 1'-0"



LINE AND SPACE ARCHITECTS
 LES WALLACH, FAIA

EXISTING RESIDENCE UPGRADE
 2008 SW TAYLORS PERRY ROAD
 REF CASE # 13-171974-H.S.
 CASE NO. LB-133264AD
 EXHIBIT C.3