



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

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Date: November 7, 2019
To: Interested Person
From: Andrew Gulizia, Land Use Services
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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 19-219238 AD

GENERAL INFORMATION

Applicant: Brian Melton
DiLoreto Architecture
200 NE 20th Ave., Ste. 200
Portland, OR 97232

Property Owner: China Forbes
Fern Valley Rev Trust
3186 SW Fairmount Blvd.
Portland, OR 97239

Site Address: **3186 SW FAIRMOUNT BLVD**

Legal Description: LOT 3, MOUNTAIN CREST
Tax Account No.: R589800120
State ID No.: 1S1E16BB 01300
Quarter Section: 3527
Neighborhood: Hillsdale, contact at contact@hna-pdx.com
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592
Zoning: R10c,s – Single-Dwelling Residential 10,000 with portions of the site in the Environmental Conservation (“c”) and Scenic (“s”) overlay zones

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

Proposal: The applicant proposes an addition to the front of the house which will include a one-car garage accessed from the existing driveway bridge. One 10-inch-diameter pine tree will be removed for the new addition, and one new tree will be planted in the eastern part of the front yard. The R10 zone’s minimum building setback requirement from the front lot line does not apply because part of the site is in the Environmental Conservation (“c”) overlay zone

(Zoning Code Section 33.110.220.D.3). However, the Scenic (“s”) overlay zone still requires a 20-foot minimum building setback from the front lot line (Zoning Code Section 33.480.040.B.2.a). The applicant requests an Adjustment to reduce the minimum front building setback requirement in the “s” overlay zone from 20 feet to 6 feet for the new addition.

Relevant Approval Criteria: To be approved, this proposal must comply with the Adjustment Review approval criteria in Zoning Code Section 33.805.040.A-F.

ANALYSIS

Site and Vicinity: The site is a 16,325-square-foot lot on SW Fairmount Blvd., in Portland’s Southwest Hills. The property is developed with a single-dwelling house that was constructed in 1975. The ground slopes steeply downward from the street, and most of the bulk of the house is below the street elevation. The site contains many tall trees. Surrounding properties are also steeply sloping lots developed with single-dwelling houses and dense tree canopy. Council Crest Park is about a mile northwest of the site and the Hillsdale commercial area is about a mile to the south.

Zoning: R10 is a single-dwelling residential zone which is intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The back of the site is in the Environmental Conservation (“c”) overlay zone (Exhibit B). 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 in the “c” overlay must meet environmental standards or are subject to environmental review. No construction within the “c” overlay zone on this site is proposed.

The part of the site that is not within the “c” overlay zone is in the Scenic (“s”) overlay zone (Exhibit B). The “s” overlay zone establishes additional landscaping and screening standards to preserve and enhance identified scenic resources. The subject of this Adjustment Review is a request to reduce the minimum front building setback requirement of the “s” overlay zone.

Land Use Review History: There has been one prior land use review for this site. In 1974, a Variance was approved to reduce the minimum building setbacks and increase the allowable height for a parking deck (file # VZ 033-74).

Agency Review: A “Notice of Proposal” was sent October 10, 2019. The following Bureaus responded with no concerns about the proposed Adjustment:

- Bureau of Environmental Services (Exhibit E-1);
- Portland 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 Review Section of BDS (Exhibit E-6).

Neighborhood Review: One written response to the mailed “Notice of Proposal” was received from a neighbor (Exhibit F-1). The neighbor expressed support for the application and said the proposal would improve the home and the surrounding area.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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 Adjustment request is to reduce the minimum front building setback requirement in the Scenic (“s”) overlay zone from 20 feet to 6 feet for a new addition. The 20-foot minimum setback requirement applies because the “s” overlay area on the site is part of a designated scenic corridor along SW Fairmount Blvd. The purpose of the development standards for scenic corridors is stated in Zoning Code Section 33.480.040.B.1:

The scenic corridor designation is intended to preserve and enhance the scenic character along corridors, and where possible, scenic vistas from corridors. This is accomplished by limiting the length of buildings, preserving existing trees, providing additional landscaping, preventing development in side setbacks, screening mechanical equipment, and restricting signs. Property owners and others are encouraged to make every effort to locate buildings, easements, parking strips, sidewalks, and vehicle areas to preserve the maximum number of trees.

Staff finds the proposed Adjustment equally meets the purpose of the “s” overlay’s building setback requirement for the following reasons:

- The proposed addition will not become a prominent feature of the scenic corridor because the footprint of the addition is only about 635 square feet and only one story of the addition will be visible above the adjacent street grade. The addition will be smaller in footprint and lower in height than the existing portion of the house to remain.
- Except for the existing driveway bridge in front of the house, the house on this site is surrounded on all sides by trees. The addition will not block scenic vistas from SW Fairmount Blvd.
- The site has many mature trees, and only one, relatively small tree (a 10-inch-diameter pine) will be removed for the project. The applicant proposes to plant a new Douglas fir tree elsewhere in the front yard to mitigate for the loss of the pine tree (Exhibit C-1).
- The street-facing length of the addition is only 33 feet, which is only about 30% of the length of the site’s 109-foot-long frontage along SW Fairmount Blvd. Most of the front setback area along SW Fairmount Blvd. will remain undeveloped forest land.
- No development is proposed within the side building setbacks. The addition will be set back 22 feet from the nearest side lot line, more than twice as far as required.

For these reasons, and with a condition of approval for a new tree to replace the tree to be removed, staff finds approval criterion A 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: This site is in a residential zone. Staff finds the proposal will not significantly detract from the livability or appearance of the residential area for the same reasons cited above for approval criterion A:

- The footprint of the proposed addition is only about 635 square feet, and only one story of the addition will be visible above the adjacent street grade.
- Except for the existing driveway bridge in front of the house, the house on this site is surrounded on all sides by trees.

- Only one, relatively small tree (a 10-inch-diameter pine) will be removed for the project. The applicant proposes to plant a new tree in the front yard to mitigate for the loss of the pine tree (Exhibit C-1).
- The street-facing length of the addition is only 33 feet, which is only about 30% of the length of the site's 109-foot-long frontage along SW Fairmount Blvd. Most of the front setback area along SW Fairmount Blvd. will remain undeveloped forest land.

With a condition of approval for a new tree to replace the tree to be removed, staff finds approval criterion B 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: Since only one Adjustment is requested, this criterion is not applicable.

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

Findings: The front portion of the site is in the Scenic ("s") overlay zone (Exhibit B), which is a City-designated scenic resource. As discussed in the findings for approval criterion A, the proposal's visual impact on the "s" overlay will be minimal, and the purpose of the "s" overlay requirement is equally met. Views of the site are dominated by dense tree canopy surrounding the house, and the proposal will not change that. For these reasons, staff finds approval criterion D is met.

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

Findings: Most of the proposed addition will be within the existing footprint of the house and driveway bridge, but one tree (a 10-inch pine) will be removed for the project. The applicant proposes to plant a new tree in the front yard to replace the tree to be removed (Exhibit C-1). With the replacement tree, staff finds impacts from the Adjustment request are sufficiently mitigated. With a condition of approval for the new tree, staff finds approval criterion E 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 back portion of the site is in the Environmental Conservation ("c") environmental overlay zone (Exhibit B). The proposed addition will be at the front of the property, entirely outside the "c" overlay zone. Since the proposal will have no impacts on the "c" overlay zone, 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 requirements of Title 11 can be met, and 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 proposal equally meets the intent of the building setback regulation and will not significantly detract from the livability or appearance of the surrounding area. With a condition of approval for a new tree to replace the 10-inch pine tree to be removed, the scenic quality of

the SW Fairmount Blvd. corridor will be preserved, and impacts will be sufficiently mitigated. The applicant has demonstrated the approval criteria are met. Since the applicable approval criteria are found to be met, the Adjustment must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.480.040.B.2.a to reduce the minimum front building setback requirement in the “s” overlay zone from 20 feet to 6 feet for a new addition, per the approved plans, Exhibits C-1 through C-3, signed and dated November 1, 2019, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 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-3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 19-219238 AD."
- B. At least one new tree must be planted within 20 feet of the front lot line. The new tree may be a different variety than the one illustrated in Exhibit C-1, but a native tree variety from the Portland Plant List (www.portlandoregon.gov/citycode/article/322280) must be selected. The new tree must be at least 1.5 caliper inches at the time of planting for a broadleaf variety or at least 5 feet tall at the time of planting for a conifer.

Staff Planner: Andrew Gulizia

Decision rendered by:  **on November 1, 2019.**

By authority of the Director of the Bureau of Development Services

Decision mailed: November 7, 2019

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 August 30, 2019 and was determined to be complete on October 7, 2019.

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 August 30, 2019.

ORS 227.178 states the City must issue a final decision on land use review applications within 120 days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on February 4, 2020.**

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 November 21, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 will be recorded with the Multnomah County Recorder. *Unless appealed*, the final decision will be recorded after **November 21, 2019** by the Bureau of Development Services. The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder. For further information on 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:

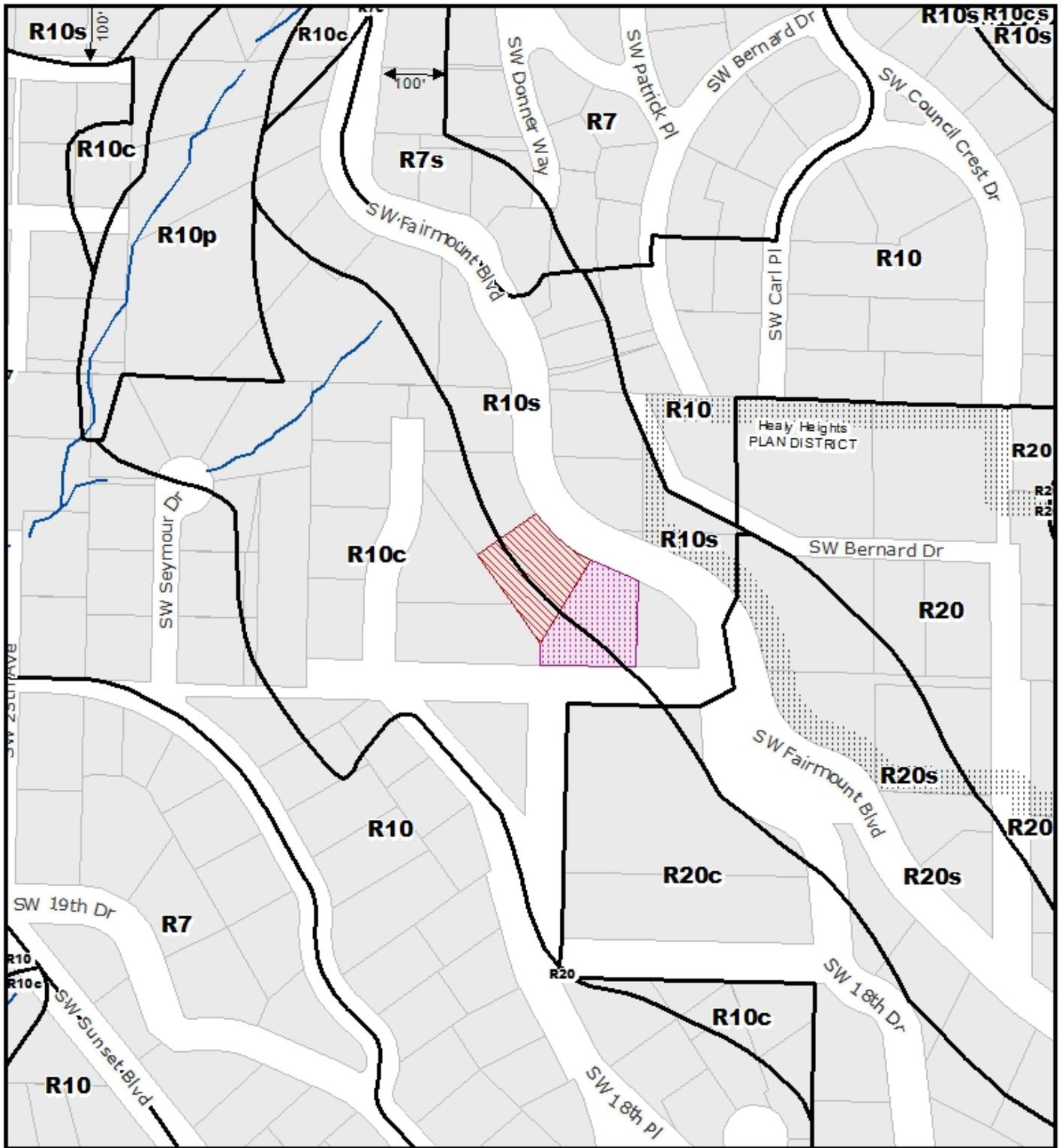
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Original narrative
 - 2. Cover letter
 - 3. Revised narrative dated October 1, 2019
 - 4. Original plans, prior to revision (superseded by Exhibits C-1 through C-3)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. North, west, and partial south building elevations (attached)
 - 3. East building elevation (attached)
 - 4. Floor plans
- D. Notification Information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence:
 - 1. Letter from Tanya Selvaratnam, received October 24, 2019
- G. Other:
 - 1. Land use application form and receipt
 - 2. Incompleteness determination letter dated September 13, 2019

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).

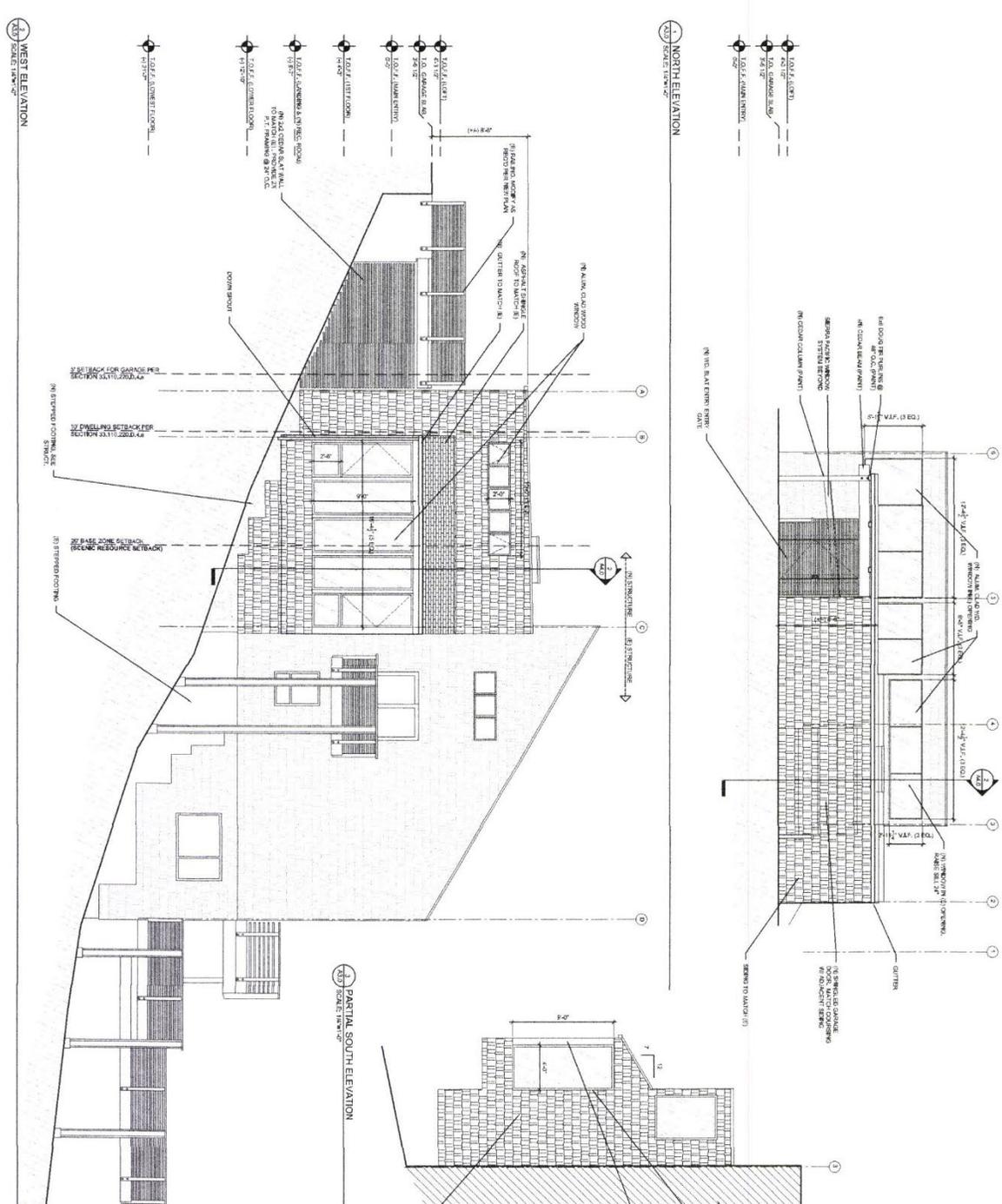


ZONING



-  Site
-  Also Owned Parcels
-  Stream

File No.	LU 19 - 219238 AD
1/4 Section	3527
Scale	1 inch = 200 feet
State ID	1S1E16BB 1300
Exhibit	B Sep 05, 2019



Approved
City of Portland - Bureau of Development Services
 Planner A. Gullizia Date 11/1/19
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

ELEVATIONS
A3.0
 10/22/19 10003

REVISIONS:

CONSTRUCTION DOCUMENTS
FORBES RESIDENCE
 3186 SW FAIRMOUNT BLVD.
 PORTLAND, OREGON

PRELIMINARY
 NOT FOR
 CONSTRUCTION

Exhibit
 C-2

LU 19-219238 AD

