



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

Dan Ryan, Commissioner  
Rebecca Esau, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portland.gov/bds](http://www.portland.gov/bds)

**Date:** October 19, 2021  
**To:** Interested Person  
**From:** Marguerite Feuersanger, Land Use Services  
503-823-7619 / [Marguerite.Feuersanger@portlandoregon.gov](mailto:Marguerite.Feuersanger@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 21-061011 AD**

**GENERAL INFORMATION**

**Applicant:** Dmitri and Maria Yudin  
6033 NE 23rd Avenue  
Portland, OR 97211  
[dmitri.wfjrealty@yahoo.com](mailto:dmitri.wfjrealty@yahoo.com) (503) 515-9841

**Owner:** Residential Home Solution LLC  
12904 SE Knapp Street  
Portland, OR 97236

**Site Address:** 6033 NE 23<sup>rd</sup> Avenue

**Legal Description:** BLOCK 9 LOT 10&12&14, IRVINGTON PK  
**Tax Account No.:** R421301970  
**State ID No.:** 1N1E14DA 13900  
**Quarter Section:** 2432

**Neighborhood:** Concordia, contact Garlynn Woodsong at 503-936-9873.  
**Business District:** Soul District Business Association, contact at [Info@nnebaportland.org](mailto:Info@nnebaportland.org)  
**District Coalition:** Northeast Coalition of Neighborhoods, contact at 503-388-5004.

**Zoning:** R5ah, Residential 5,000 Zone, with the Alternative Design Density (a) and Aircraft Landing (h) Overlay Zones

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

**Proposal:** The applicant has requested a Lot Confirmation (20-218708 PR) to separate the southernmost Lot 10 from the 7,500 square-foot site:

- Proposed property with existing house (Lots 12 and 14), to be 5,000 square feet in area, and
- Proposed vacant property (Lot 10) to be approximately 2,450 square feet in area.

The R5 zone requires a minimum building setback of 5 feet from side and rear property lines. (Section 33.110.220). Due to the location of the existing house and the location of the property line to be confirmed (north property line of Lot 10), the applicant is requesting an Adjustment to reduce this minimum 5-foot side building setback for the south wall of the house as follows:

- For the south wall of the house, from 5 feet to 3 feet-4 inches, and for the eave, from 4 feet to 8 inches.
- For the bay window (located along the south wall of the house, 1 foot-6 inches deep), to be 1 foot-10 inches for its wall and 10 inches for its eave, from the property line.

A building code appeal was granted, with the condition that 5-foot-wide “no-build easement” be established on Lot 10.

**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 7,500 square-foot subject site is a relatively flat rectangular lot at the west side NE 23<sup>rd</sup> Avenue, approximately 100 feet north of NE Ainsworth Street. Existing development includes a two-story foursquare-style house, constructed in 1908. There are no detached accessory structures.

The house is set back approximately 20 feet from the street; the front yard is landscaped with shrubs, grasses, and a small birch tree. Side setbacks are generous: the house is located nearly 20 feet from the north side property line and 28.4 feet from the south property line (Lot 10, to be confirmed, is located in this south setback area). An existing 34-inch diameter Douglas fir tree is located near the southeast corner of the site, 27 feet from the street lot line.

The site is situated in an established single dwelling residential area. Lots within the subject block (bounded by NE 22<sup>nd</sup> and NE 23<sup>rd</sup> Avenues and NE Ainsworth and NE Holman Streets) and lot sizes along the east side of NE 23<sup>rd</sup> are generally 5,000 square feet but range from 2,500 to 10,000 square feet. Most lots are developed with detached houses, generally one story or one-and-one-and-one-half stories in height, with 10- to 20-foot landscaped front setbacks. Mature trees, including nearly a dozen Douglas fir trees, are located on the subject block and are a defining characteristic of the neighborhood area. Another defining characteristic of the neighborhood is the relative uniformity of placement of houses with respect to their side property lines. Most houses have side setbacks of more than 5 feet, resulting in more than 10 feet of separation between houses.

The site has 75 feet of frontage on NE 23<sup>rd</sup> Avenue, which is classified as a Local Service street and is improved with sidewalks, landscape strips and on-street parking. Two alleys are adjacent to the site:

- the alley at the south property line is 10 feet in width (aligned in an east-west direction); and
- the alley at the west property line is 14 feet in width (aligned in a north-south direction).

The alleys provide through access to adjacent streets; they are unpaved, partial gravel surfaces but are used for vehicle access to the surrounding lots. The site obtains vehicle access from NE Ainsworth via a newly constructed driveway at the north side of the house.

**Zoning:** The following designations are mapped on the subject site:

- Residential 5,000 (R5) base zone: The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing. The development standards preserve the character of neighborhoods by providing six different zones with different densities and development standards. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed. The development standards are generally written for houses on flat, regularly shaped lots. Other situations are addressed through special regulations or exceptions. (Section 33.110.010)
- Aircraft Landing (h) overlay zone: The Aircraft Landing Overlay Zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment. (Section 33.100.010)

*Staff comment: The regulations of the "h" overlay zone do not affect the proposal.*

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

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **August 11, 2021**. The following Bureaus have responded with no issues or concerns:

- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4); and
- Site Development Section of BDS (Exhibit E-5).

The Bureau of Environmental Services has no objection to the proposal but notes stormwater requirements that will apply during the building permit review stage (Exhibit E-1).

The Bureau of Transportation Engineering has no objection to the proposal, but states that on-site parking is no longer required on the site (Section 33.266.120). If parking is proposed in the future (for the existing house, or development of Lot 10, to be confirmed), it must be located from the alley. The two existing alleys abutting the parent site are narrower than City standards, therefore any proposed development on either of the two parcels that propose parking would need to provide additional setbacks for vehicular maneuverability. Furthermore, in order to maintain the operation and safety of all users the alley right-of-way, Adjustments to reduce sight distance or clearance may not be supported (Exhibit E-2).

The Residential Life Safety Plan Review Section has no objection to the proposal but notes the following:

- Exterior walls less than three feet to a property line shall be one-hour fire-rated with no openings allowed. Roofs and eaves may project not closer than two feet to a property line. Eaves less than three feet to a property line must be protected on the underside as required for one-hour fire-rated construction; and
- The No-Build Easement required by Building Code Appeal #24718 must be reviewed and approved by the Life Safety Plans Review Section of BDS, as specified in the appeal decision, and recorded with Multnomah County. A copy of the BDS approved

and recorded “Covenant to Record an Easement” must be provided to the Land Use Services Division of BDS prior to approval of the proposed Lot Confirmation #20-218708 PR (Exhibit E-6).

An arborist with the Urban Forestry Division of the Bureau of Parks and Recreation conducted an onsite visual inspection of the existing 34-inch Douglas fir tree and provided detailed information about the tree’s condition, appearance, and overall health. The Urban Forester concludes that the tree is healthy, in fair condition, and a good candidate for preservation (Exhibit E-7).

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on August 11, 2021. Three written responses were received from nearby neighbors in response to the proposal. One neighbor wrote in support of the proposal (Exhibit F-1). A second neighbor expressed concerns that a new house on Lot 10 would be out of character with the neighborhood and result in removal of a fir tree (Exhibit F-2). Another neighbor expressed concerns that development of Lot 10 would block access to their garage, which is accessed via the narrow 10-foot alley, and requests that this issue be considered (Exhibit F-3).

Staff response: The existing 34-inch Douglas fir tree is relevant to the approval criteria and is discussed in the findings contained in this report.

The issue of access to a garage on a nearby site via the adjacent alleys is not relevant to this proposal, which is to reduce the side setback for the existing house (located away from the alleys). While future buildings on the site are not required to be set back from alleys (the Zoning Code has a zero setback from property lines adjacent to alleys), Transportation staff note that proposed vehicle access may be required to be set back given the narrow width of both adjacent alleys.

## 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 purpose of the setback requirement in the R5 zone is stated in Zoning Code Section 33.110.220.A:

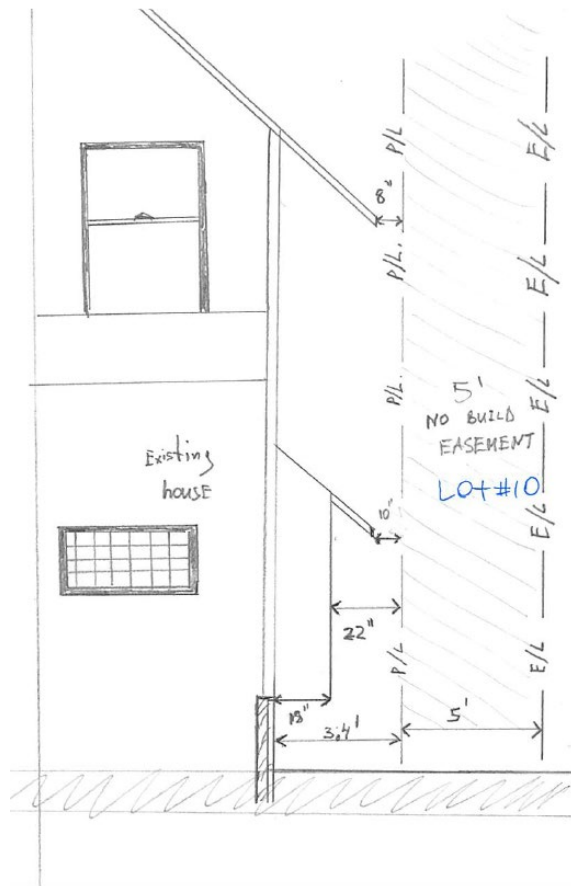
**Purpose.** *The setback regulations for buildings and garage entrances serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for firefighting;*
- *They reflect the general building scale and placement of houses in the city’s neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

Maintain light, air, and separation:

The proposed side setback from the future side (south) property line for the existing house is 3.4 feet and 8 inches for the eave. A 13-foot-long bay window is within the proposed setback;

it will be located 22 inches from the future south property line and the eave will be at 10 inches (Exhibits C-1 and C-2). The applicant provided the drawing below to illustrative the proposal with respect to the existing house features (Exhibit A-2).



**Fire protection and access:** The drawing above also identifies the required 5-foot no-build easement per the building code appeal decision. The Fire Bureau has no objection to the proposal (Exhibit E-4). Access to the house above ground for firefighting is available from the front and north side property lines. Therefore, the location of the new property line maintains separation for fire protection and access for firefighting. This part of the criterion is met.

**Light and air:** The existing house is a full two stories in height. While there is no house design to consider for Lot 10, the maximum height for houses in the R5 zone is 30 feet, and a future house is likely to be at least two stories in height, given the small lot area (less than 2,500 square feet). Placing the new house aligned with the existing house results in a separation distance of 8.4 feet, and even less when considering the bay window encroachment. The proposed reduction in the side setback significantly reduces the amount of light and air between the two-story houses if they are placed side-by-side. Placing a new house toward the rear of Lot 10, however, will dispel the loss of light and air caused by the reduced setback of the existing house, as the houses will be staggered and not aligned side-by-side.

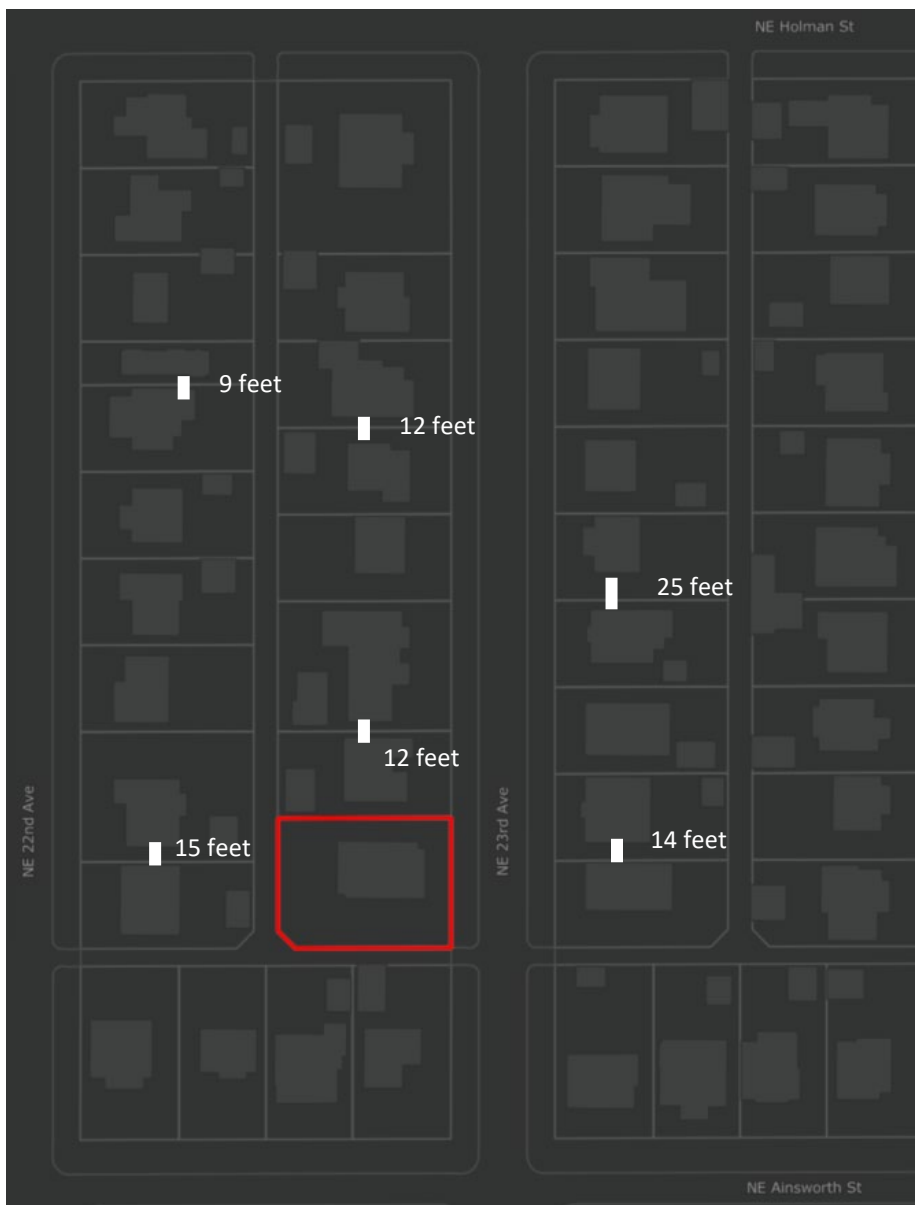
A related issue to this criterion is the location of the existing 34-inch Douglas fir tree, located within the southeast corner of Lot 10. Preservation of this tree is required in order to meet Criteria B and E (refer to findings below). This condition effectively results in limiting new development to the rear half of Lot 10. The potential building footprint area outside the root protection zone is shown in a plan drawing under Criterion B findings below. Locating the future house to the rear of the lot increases light and air, since it will be separated from the

existing house. Alternatively, if the new house were built at the front of the lot, the houses would be aligned, reducing the light and air that setbacks provide.

As a consequence of tree preservation, development on Lot 10 will be staggered with the existing house, therefore the impacts of light and air are not significant. As conditioned with tree preservation, this part of the criterion is met.

Reflect general building scale and placement; and Promote a reasonable physical relationship between residences:

Below is a map of the building footprints on the site, the subject block, and the east side of NE 23<sup>rd</sup> Avenue, facing the site. Note that the map does not represent accurate measurements of buildings with respect to property lines but illustrates the relationship/distances between houses. A sampling of approximate measurements between houses is shown in white font.



As shown in the map above, distances between houses are notable. With some exceptions, houses are comfortably spaced apart by more than 10 feet. The proposed reduced separation of 8.4 feet for the building walls and 8 inches for the eaves, does not

reflect this strong neighborhood characteristic. The proposed reduced setback condition is further magnified because the existing house is two stories in height and the future house will likely be as tall or taller than the existing house. In contrast, most existing houses in the neighborhood area are lower in scale, being one story or one-and-one-half stories in height.

As the findings in Criterion B and E below describe, preservation of the existing Douglas Fir tree is required and causes future development to be located at the rear of Lot 10. This circumstance and condition support this criterion, as it will result in staggering the houses thereby providing a greater separation.–This will result in a reasonable physical relationship between the existing house and future development. As conditioned to preserve the tree, this part of the criterion is met.

Promote options for privacy: The existing house south wall, approximately 40 feet in length, contains windows, but will not be changed. A bay window, 13 feet in length, is located 22 inches from the property line. The Residential Life Safety Plan review requires a “no-build” easement on the new vacant lot (Lot 10), to ensure adequate separation between the house and new development on the vacant lot (Exhibit E-6). There are no other structures on the site along the proposed south property line. Privacy impacts are unknown as Lot 10 to the south is vacant of structures. Future development on Lot 10 will be subject to the development standards of the R5 zone, including minimum 5-foot side building setbacks. This 5-foot setback in combination with the proposed 22-inch setback for the bay window will allow for a horizontal distance of 6 feet-10 inches between the window and any new development on Lot 10. Due to tree preservation requirements identified in Criteria B and E below, the new development on Lot 10 will be located away from the house and bay window, therefore reducing potential impacts on privacy. As conditioned for tree preservation, this part of the criterion is met.

Require larger front setbacks: The minimum front building setback for new structures on the site is 10 feet. The applicant’s proposal does not affect the front setback of the existing house, which is located approximately 20 feet from the front property line (Exhibit C-1). The front yard is landscaped, and existing trees will remain. Because of these reasons, this part of the criterion is met.

Provide adequate flexibility: The existing house, at two stories in height, is taller than most nearby houses, but was constructed in 1908 and therefore reflects the historical building scale and placement of houses in the neighborhood. The structure fits with the topography of the site, maintains the required outdoor area for the house, and allows for architectural diversity. Lot 10, at 2,450 square feet, is a relatively small lot for the area but there is adequate area to accommodate a new house which can meet the development standards of the R5 zone. This part of the criterion is met.

Provide room for a car: The existing driveway at the north of the lot will remain with the house. Lot 10 is not required to provide on-site parking, but if it is proposed, the access must be taken from one of the adjacent alleys. Based on the above reasons, this criterion is met.

In summary, the proposal equally or better meets the purposes of the setback regulations, as a consequence of the required tree preservation described in Criteria B and E below. To protect the tree, new development on Lot 10 will be limited to the rear of the lot. This location provides adequate separation between the existing house and a new house on Lot 10, and alleviates potential impacts on light and air, physical relationships between structures, and privacy. With the condition of tree preservation identified in this report, 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:** Because the subject site is in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. For purposes of this criterion, the term “residential area” includes all properties on the subject block, and the ten properties facing the site along the east side of NE 23<sup>rd</sup> Avenue, shown on the map below.



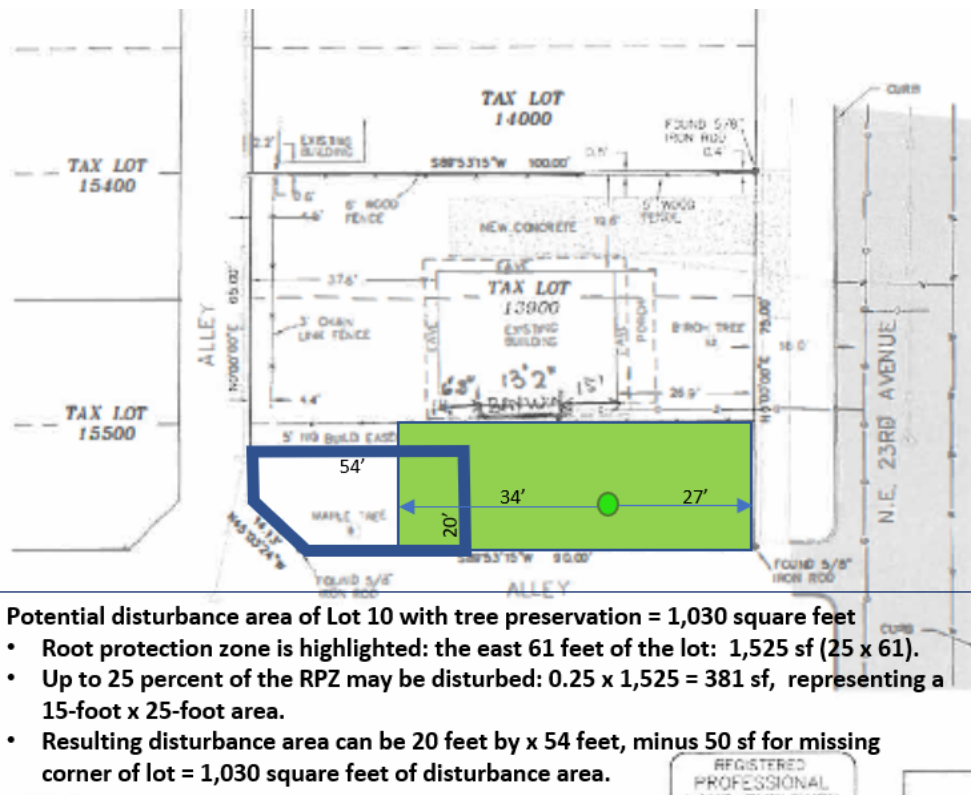
As the above aerial photograph shows, most houses on the subject block have spacious side setbacks. The proposal is not consistent with this defining characteristic, as the proposed setback from the house wall in combination with the bay window result in less than 2 feet from the new property line, and less than 7 feet of separation between the house and a future house on Lot 10. The proposal therefore detracts from the appearance of the residential area in this regard. However, consideration must be given to the existing 34-inch Douglas fir tree on the southeast portion of the lot. It is a defining feature of the site and contributes to the appearance and livability of the residential area. Within the residential area, the subject tree



along with nearly a dozen other Douglas firs make a striking contribution to the appearance of the area as they are the tallest features. Located 27 feet from the street lot line with no structures in front of it, the subject Douglas fir tree is visible from the surrounding properties. It is strongly linked to the character and livability of the area. Removing the Douglas fir tree for development of Lot 10 would result in a significant reduction of the neighborhood character and livability. The reduced setback between the existing house and future house on Lot 10 would be unmistakable and out of character with the neighborhood area. On the other hand, preserving the Douglas fir tree will maintain this positive character and will mitigate for the proposed reduced setback as the tree will buffer and screen the existing house and the future house on Lot 10.

Because of the large size of the tree, its location on Lot 10, and the limited 2,450 square feet of site area of Lot 10, tree preservation must be carefully considered. Staff explored whether a reasonable developable area could be maintained with tree preservation. Below is a concept site plan, showing a possible root protection zone for the tree, which meets the “prescriptive path” for preservation in the City’s Tree Code, Section 11.60.030.C.1, Prescriptive Path for Tree Protection. A root protection zone (rpz) of 34 feet from the trunk would require that a new house be set back approx. 61 feet from NE 23<sup>rd</sup> Avenue. This provides a buildable area at the lot’s west portion – approximately 20 by 54 feet as less than 25 percent of the rpz may be disturbed. This results in 1,030 square-foot area for disturbance for future development, representing 42 percent of the lot area, a reasonable area and footprint for a new house.

Note that while a 5-foot setback is required from the north (side) setback, no setback is required at the west (rear) and south (side), allowing the future house to have additional width of 20 feet. This is more than a typical 25 by 100 lot that would only allow 15 feet of width. However, Transportation staff may require that vehicle parking be set back from the alley if the alley(s) are not wide enough for maneuvering (Exhibit E-2).



In addition, an inspection of the tree was completed by a City tree inspector, who is also a certified arborist. The inspector provides details about the tree’s crown and condition and provides recommendations for removing a broken branch and root protection measures during

construction (Exhibit E-8). Overall, the inspector concludes that the tree is healthy but recommends that prior to development, an arborist create a protection plan that minimizes impacts to roots. This means that the applicant must provide an arborist's report detailing tree protection measures at the time of building permit application.

Overall, preservation of the existing Douglas fir tree is necessary to meet this approval criterion as the tree is a significant contribution to neighborhood appearance and livability. Tree preservation can be achieved with a reasonable developable area at the rear of Lot 10. To guide development of the lot and ensure successful tree preservation, a condition is needed that requires preservation of the tree per the "Performance Path" of Section 11.60.030.C.2. With this condition, 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:** One Adjustment is requested. This criterion does not apply.

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

**Findings:** City-designated scenic resources are identified on the Official Zoning Maps with a lower case "s" and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. Because no scenic or historic resource designations are mapped on the subject site, this criterion does not apply.

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

**Findings:** As discussed in the findings for Criterion B, preservation of the existing Douglas fir tree is required. Preservation of the tree is necessary mitigation to adequately reduce impacts on neighborhood appearance and livability of the proposal. Maintaining the tree on Lot 10 will effectively screen and buffer the south side of the existing house, result in adequate separate of existing and future development to maintain light and air and a reasonable separation of development, mitigating the impact of the reduced setback. With a condition that requires preservation of the Douglas fir tree, 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). Because no environmental overlay zone is mapped on subjectsite, 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**

With required preservation of a 34-inch Douglas fir tree, the proposal to reduce the south side setback for the existing house from the property line to be confirmed under the lot confirmation request (#20-218708 PR) not create adverse impacts on the livability and

appearance of the surrounding residential neighborhood. The tree is a significant feature of the site and the neighborhood area; its preservation is necessary to meet the Adjustment approval criteria.

A developable area at the rear of Lot 10 is adequate for future construction of a house on Lot 10. To guide development of the lot and ensure successful tree preservation, a condition is needed that requires preservation of the tree per the "Performance Path" of Section 11.60.030.C.2. With this condition, the approval criteria are met, and the proposal can be approved.

## ADMINISTRATIVE DECISION

Approval of an **Adjustment** to reduce the minimum 5-foot side (south) building setback (Section 33.110.220) for the existing house as follows:

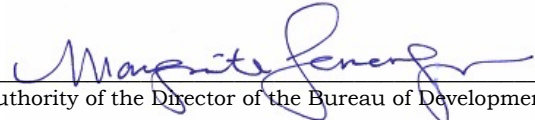
- For the south wall of the house, from 5 feet to 3 feet-4 inches, and for its eave, from 4 feet to 8 inches.
- For the bay window along the south wall of the house, to be 1 foot-10 inches for its wall and 10 inches for its eave.

The above approved setback measurements are to the future north property line of Lot 10.

Approval is per the approved site plans, Exhibits C-1 and C-2, signed and dated October 18, 2021, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related Condition B must be noted on the required site plan 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 21-061011 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The 34-inch Douglas fir tree identified on Exhibits C-1 and C-2 must be preserved. The applicant must submit a Tree Preservation and Protection Plan, prepared by a certified arborist, meeting the requirements of the "**Performance Path**" of **Section 11.60.030.C.2**. The Plan must also address the findings and recommendations of the City Tree Inspector, Exhibit E-7.

**Staff Planner: Marguerite Feuersanger**

**Decision rendered by:**  **on October 18, 2021.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: October 19, 2021.**

**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 25, 2021 and was determined to be complete on August 4, 2021.

*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 25, 2021.

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 the review period for an additional 30 days (Exhibit G-2). Unless further extended by the applicant, **the 150 days (120 + 30 days) will expire on December 30, 2021.**

**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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on November 2, 2021. The completed appeal application form must be emailed to [LandUseIntake@portlandoregon.gov](mailto:LandUseIntake@portlandoregon.gov) and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

**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 2, 2021** 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 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**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 Submittal
  - 2. Updated Submittal, August 4, 2021
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Site Plan showing existing dormer of house (attached)
- 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. Residential Life Safety Plan Review Section of BDS
  - 7. Urban Forestry Division of the Bureau of Parks and Recreation
- F. Correspondence:
  - 1. James Walters, August 17, 2021, writing in support of the proposal
  - 2. Garry Miller, August 21, 2021, writing in opposition of the proposal
  - 3. Gina Adorno, September 1, 2021, writing with concerns about the proposal
- G. Other:
  - 1. Incomplete application letter to applicant
  - 2. Applicant's signed extension to the 120-day decision timeline

**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).**