



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

Date: December 15, 2022
To: Interested Person
From: Matt Wickstrom, Land Use Services
503-865-6513 / 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 22-191058 AD

GENERAL INFORMATION

Applicant: Philip Sydnor | Integrate Architecture & Planning
1715 N Terry St | Portland, OR 97217
Email: phil@integratearch.com | Phone: 503-312-2561

Owners: Ken and Barbara Francis
1834 SW Vista Ave | Portland, OR 97201

Site Address: 1834 SW VISTA AVE

Legal Description: BLOCK 45 TL 8700, CARTERS ADD TO P
Tax Account No.: R140401590
State ID No.: 1S1E04BD 08700
Quarter Section: 3127

Neighborhood: Goose Hollow, contact at board@goosehollow.org & Southwest Hills Residential League, contact at landuse@swhrl.org

Business District: None
District Coalition: Neighbors West/Northwest, contact Darlene Urban Garrett at darlene@nwnw.org

Zoning: R10cz (Residential 10,000 with a Constrained Sites overlay zone and an Environmental Conservation overlay zone)

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

Proposal:

The applicant proposes to demolish the current detached two-car garage and replace it with another two-car detached garage located toward the southeast corner of the site. Portland Zoning Code Section 33.110.245.C.1 limits the height of detached accessory structures like

garages to 20 feet. Due to the topography at the proposed location of the replacement detached two-car garage and the need to construct a portion of it on top of steel piles, the garage measures 24 feet 8 inches in height. The applicant requests one Adjustment to increase the allowed height of the detached two-car garage from 20 feet to 24 feet 8 inches.

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 20,500 square foot site is developed with a large single-dwelling home and two-car detached garage located in a steeply sloped area of Southwest Portland. The site is located on the downhill side of SW Vista Ave and the home and detached garage cannot be seen from the street. The existing detached garage is accessed via a steep downhill driveway and is located south of the house. A steeply sloped vegetated area is located to the west of the house and detached garage. It is planted with many smaller dogwood trees as well as larger cedar trees along the west property line and a couple much larger fir trees in the northwest corner. The west side of the property between the house and the street is attractively landscaped and has a boulder wall and retaining wall which create a flat portion of yard between the house and SW Vista.

For the purposes of this review, the surrounding vicinity is defined as the area within 400 feet of the site. The uphill vicinity to the west and south is developed with large single-dwelling homes as is the slightly downhill area to the north. The downhill vicinity to the east is developed with single-dwelling homes and attached homes fronting on SW Montgomery Dr. This area is located approximately 100 feet below the site. Some of the homes (as are others in the larger vicinity) are built on steel beams or other means to address the steep slope.

Zoning: The site is zoned R10cz (Residential 10,000 with a Constrained Sites overlay zone and an Environmental Conservation overlay zone). The R10 zone is a Single-Dwelling Zone. Single-Dwelling Zones are intended to preserve land for housing and to provide housing opportunities for individual households. The Constrained Sites overlay zone reduces development potential in areas with environmental, flood and landslide constraints. The Environmental Conservation zone is applied at locations of designated significant resources. The first 25 feet of the Environmental Conservation zone is referred to as “transition area” and allows for development that meets Portland Zoning Code guidelines.

Land Use History: City records indicate there is one prior land use review at this site:

- 96-00951 EN (22-013838 EN): Approval of an Environmental Review for landslide repair work and installation of a retaining wall.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **November 3, 2022**. The following Bureaus have responded with no issues or concerns:

- The Life Safety Section of BDS responded with no objections to the proposal and noted that a separate building permit is required for the work proposed which includes revisions to meet the prescriptive lateral design requirements (Exhibit E.1)
- The Site Development Section of BDS, the Fire Bureau, the Bureau of Environmental Services, the Portland Bureau of Transportation and the Water Bureau responded with no concerns (Exhibit E.2).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 3, 2022. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

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 requirement for the accessory structure height to be limited to 20 feet, as to the proposed 24 feet 8 inches is in Portland Zoning Code Section 33.110.245.A:

33.110.245 Detached and Connected Accessory Structures

This section regulates detached and connected structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards limit the height and bulk of these structures, promote compatibility of design for larger structures, provide for necessary access around larger structures, help maintain privacy between abutting lots, and maintain open front setbacks.

Staff finds the proposal to increase the allowed height of the detached garage from 20 feet to 24 feet 8 inches is equally consistent with the purpose statement above for the following reasons:

- The existing 452 square foot detached garage appears secondary to the primary structure on the site – the existing two-story house. At roughly the same square footage the new detached garage will also appear secondary to the house.
- The function of the proposed detached garage (the parking of vehicles) will also appear and remain secondary to that of the existing house (the provision of housing for an individual household).
- Due to the slope in the vicinity, the proposed detached garage, and the existing home, are not easily visible from SW Vista Ave; therefore, pedestrians and passersby are not cognizant of the height of either structure. However, if viewed from SW Vista Ave, the proposed detached garage will appear as a one-story structure that is 20 feet or less in height. This is due to the rear of the structure being elevated on steel beams whereas the front of the structure is flush with existing grade.
- The existing trees along SW Montgomery Dr and the sharp contrast in elevation between the site and homes on SW Montgomery block and obscure views of the rear of the detached garage – the portion that will be constructed on steel beams that cause the overall structure to exceed the 20-foot height limit. Therefore, the excess height proposed as part of the replacement detached garage is not readily visible or apparent.
- The 24-foot by 24-foot dimensions of the proposed detached garage meets Portland Zoning Code requirements for detached structures located in the side or rear building setbacks; therefore, while the proposal exceeds the allowed height for detached structures, it does meet other standards related to its overall bulk.
- The detached garage is designed to complement the design of the house while addressing slope and topographical challenges of the site. Its location also maintains necessary access to and around the garage and the existing house.
- The one-story (of constructed floor area) of the garage, the existing trees to the east and north and the sharp contrast in elevation between the proposed garage and homes on SW Montgomery Dr maintain privacy for abutting and nearby lots.
- The proposed detached garage will be located in a side setback and its location will not impact the existing front yard on the site.

The proposal equally or better meets the height requirements for detached accessory structures due to the slope and elevation of the site, the existence of existing trees to its north and east, its one-story (of constructed floor area) design and its overall dimensions which meet requirements for detached accessory structures located in the side setback.

Since the proposal is found to equally meet the purpose of the standard to be modified, this criterion is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The subject site is in a residential zone, so the proposed Adjustment must not significantly detract from the livability or appearance of the residential area.

As for appearance, the proposed detached garage is attractively designed to complement the design of the home. Furthermore, as noted above the detached garage is not readily visible from SW Vista Ave due to the topography of the area. It will also not be visible from SW Montgomery Dr due to the sharp contrast in elevation between the site and homes located along SW Montgomery as well as due to the existing trees to the east and north of the proposed garage. As for livability, the proposed location of the detached garage as well as its one-story design (of constructed floor area) will not impact livability of the residential area. Furthermore, due to the slope in the vicinity, use of the garage will not be readily apparent from either SW Vista Ave or SW Montgomery Dr. Based on this information, 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: Since only one Adjustment is requested, this criterion is not applicable.

- 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. As there are no scenic resources or historic resources mapped on the subject site, this criterion is not applicable.

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

Findings: Staff has not identified any negative impacts on neighbors or on the neighborhood specifically resulting from this Adjustment request. Since no negative impacts are identified which require mitigation, this criterion is not applicable.

- 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: City-designated environmental resources and functional values are identified on the official zoning maps with a lower case “p” or “c,” the Environmental Protection or Environmental Conservation Overlay zones. The proposal is located entirely within the Environmental Transition area of the Environmental Conservation Overlay zone and meets associated standards in the Portland Zoning Code therefore, the proposal will have few detrimental environmental impacts on the resources and resource values at the site. 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 applicant has requested one Adjustment to standards of the Portland Zoning Code to allow a replacement detached garage to exceed allowed height limits by 4 feet 8 inches. Due to the slope of the area, the existing trees to the east and north of the site, the one-story (of constructed floor area) design of the garage and the dimensions of the garage which meet zoning code allowance, the proposal meets the Adjustment Review approval criteria and is approved.

ADMINISTRATIVE DECISION

Approval of and Adjustment to Portland Zoning Code Section 33.110.245.C.1 to increase the allowed height of the replacement detached garage from 20 feet to 24 feet 8 inches, per the approved site plans, Exhibits C-1 through C-2, signed and dated December 7, 2022, 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 Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 22-191058 AD. No field changes allowed."

Staff Planner: Matt Wickstrom



Decision rendered by: _____ **on December 7, 2022**

By authority of the Director of the Bureau of Development Services

Decision mailed: December 15, 2022

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 October 6, 2022, and was determined to be complete on October 31, 2022.

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 October 6, 2022.

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 28, 2023.**

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 December 29, 2022.** **The completed appeal application form must be emailed to 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 **December 29, 2022** 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.

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
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Proposed Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section of the BDS
 - 2. Site Development Section of BDS, Fire Bureau, Bureau of Environmental Services, Portland Bureau of Transportation, Water Bureau
- F. Correspondence: None received
- G. Other: Original LU Application

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).