



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

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Date: January 12, 2012
To: Interested Person
From: Kathleen Stokes, 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 reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 11-197674 AD

GENERAL INFORMATION

Applicant: Brian Conroy
Ricks Custom Fencing & Decking Inc
4543 SE TV Highway
Hillsboro, OR 97123

Ann K Friday
3340 SW Fairmount Blvd
Portland, OR 97239

Site Address: 3340 SW FAIRMOUNT BLVD

Legal Description: LOOKAWAY HILL LOT 2
Tax Account No.: R508500060
State ID No.: 1S1E08DB 02200
Quarter Section: 3426

Neighborhood: SWN, Southwest Hills Residential League, contact Nancy Seton at 503-224-3840.

Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: R10s (R10,000, Medium Density Single-Dwelling Residential with a Scenic Resource Overlay)

Case Type: Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The applicants are proposing the construction of a deck on the west side of the existing house on this property. The proposed deck would be located 10 to 13 feet from the west property line, which abuts the cul-de-sac on SW Fairmount Lane. The deck would also extend along the northern side of the house, with a four-foot-wide access walkway. The western edge of the deck platform would be 10 feet, 6 inches above grade level. A 3-foot railing

would project above the deck platform for a total height on the western edge of the deck of 13 feet, 6 inches above grade level.

The Portland Zoning Code, Title 33, requires most structures in the R10 zone to be located at least 20 feet from the front property line. The front property line is generally the shortest street-facing property line. On lots that have two parallel property lines that abut street frontages, the property is determined to be a “through lot” and both frontages are considered to be front property lines with a minimum building setback (in the R10 zone) of 20 feet. Along SW Fairmount Boulevard, this 20-foot setback is also considered to be the Scenic Corridor Setback.

Exceptions to the setback standards are approved through Adjustment Reviews when all of the relevant approval criteria are met or if the criteria can be met through conditions of approval. Therefore, the applicants are requesting approval of an adjustment to Code Section 33.110.220 to reduce the minimum front setback for the proposed deck, from 20 feet to a distance of 10 to 13 feet from the west property line. The setback requirements of 20 feet from the east property line will be met.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The applicant’s site is a 10,300 square-foot property that is located on the west side of SW Fairmount Boulevard and extends through to the east side of the cul-de-sac on SW Fairmount Lane. Because the site fronts onto two nonintersecting street frontages, that are roughly parallel, it is considered to be a “through lot,” and so it has a front setback requirement from both the west and the east property lines. The site is developed with a single-dwelling residence that was constructed in 1964. The home is a one-story structure, with a day-light basement on a lot that slopes down, to the west, from Fairmount Boulevard to Fairmount Lane.

The area around the site is developed with distinctive, single-dwelling residences that are built on steep slopes and take advantage of the densely wooded scenic character of the area.

Zoning: This site is zoned R10, or R10,000, Low Density Single-Dwelling Residential. This zone is intended for areas with public services but which are subject to significant development constraints. Single-dwelling residential is the primary use. The maximum density is generally 4.4 units per acre. The R10 zone requires minimum building setbacks of 20 feet from front lot lines and 10 feet from side and rear lot lines.

The site is also within an “s” or Scenic Resource Overlay because it is located in the Fairmount Boulevard Scenic Corridor. The Scenic Resource zone is intended to

- Protect Portland's significant scenic resources as identified in the Scenic Resources Protection Plan;
- Enhance the appearance of Portland to make it a better place to live and work;
- Create attractive entrance ways to Portland and its districts;
- Improve Portland's economic vitality by enhancing the City's attractiveness to its citizens and to visitors;
- Implement the scenic resource policies and objectives of Portland's Comprehensive Plan.

The purposes of the Scenic Resource zone are achieved by establishing height limits within view corridors to protect significant views and by establishing additional landscaping and screening standards to preserve and enhance identified scenic resources. These standards are being met for this proposal.

Land Use History: City records include one prior land use review for this site. In 1962, a Variance (VZ 330-62) approved

- reducing the setback for an attached carport, from the east front lot line, on SW Fairmount Blvd, from 40 feet to 18 feet and

- reducing the west front yard, along SW Fairmount Lane and cul-de-sac, from 30 feet to 27 feet and 21 feet and
- reducing the east front yard, along SW Fairmont Boulevard, from 30 feet to 27 feet to construct a “two story single family dwelling.”

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **December 16, 2011**. The following Bureaus have responded with no issues or concerns:

- Transportation Engineering

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

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of 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 to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

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

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- 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
- 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
- D.** City-designated scenic resources and historic resources are preserved; and
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.
- 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 AND CONCLUSIONS

The applicants' proposal meets all of the relevant approval criteria: *The purposes of building setback requirements are to maintain light, air, separation for fire protection, and access for fire fighting. Setback standards also reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences. They promote options for privacy for neighboring properties and 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. Front setbacks are required to be larger than side and rear setbacks to promote open, visually pleasing front yards.*

The applicants' request for an exception to the front setback requirement is to allow the addition of a deck on the west side of the house, with an extension along the north side of the house for pedestrian access.

The proposed location of the deck is at the rear of the house, adjacent to the cul-de-sac and so it will have no impacts light, air or privacy for the adjacent residents. The 10 to 13-foot distance from the edge of the cul-de-sac will ensure that fire safety is maintained and access for fire fighting is preserved. The proposed changes are to a structure that was built as a part of this residentially developed neighborhood and will still maintain the reasonable physical relationship between residences, on both the applicant's site and the neighboring properties. The deck is in character with the architectural style of the applicant's residence and other dwelling units in the vicinity, so there will not be any detrimental impacts to the appearance or the livability of the residential area. The lot has two front yard areas and the front entrance is on the opposite side of the house from the deck. Therefore, the yard on the side of the house with the main entrance will not be impacted and the yard on the west side of the house will still have a reasonably-sized wooded area that is preserved for an open and visually pleasing yard.

No cumulative impacts have been identified and the proposal is consistent with the purpose of the R10 zone, which is to preserve land for single-dwelling residential uses. There are no historic resources on this site. Scenic resources will not be impacted because the resource is the Fairmount Boulevard Scenic Corridor and the proposed deck will be located on the side and the rear of the existing house, outside of the required scenic setback from the Fairmount Boulevard frontage. No impacts have been identified and the site is not located in an environmental zone, so the criteria related to these issues do not apply. Therefore, all of the relevant approval criteria are met and the proposal can be approved, in substantial compliance with the proposed site plan and elevation drawings.

DEVELOPMENT STANDARDS

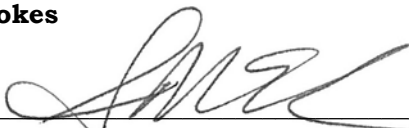
Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be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

ADMINISTRATIVE DECISION

Approval of an Adjustment to Code Section 33.110.220, to reduce the minimum front building setback for the proposed deck, from 20 feet to a distance of 10 to 13 feet from the west property line, in general compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-4, signed and dated January 10, 2012, subject to the following condition:

- 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.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 11-197674 AD."

Staff Planner: Kathleen Stokes

Decision rendered by:  **on January 10, 2012.**

By authority of the Director of the Bureau of Development Services

Decision mailed: January 12, 2012

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 November 30, 2011, and was determined to be complete on **December 14, 2011**.

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 November 30, 2011.

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 extended by the applicant, **the 120 days will expire on: April 3, 2012.**

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 January 26, 2012** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 **January 27, 2012 – (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.

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:

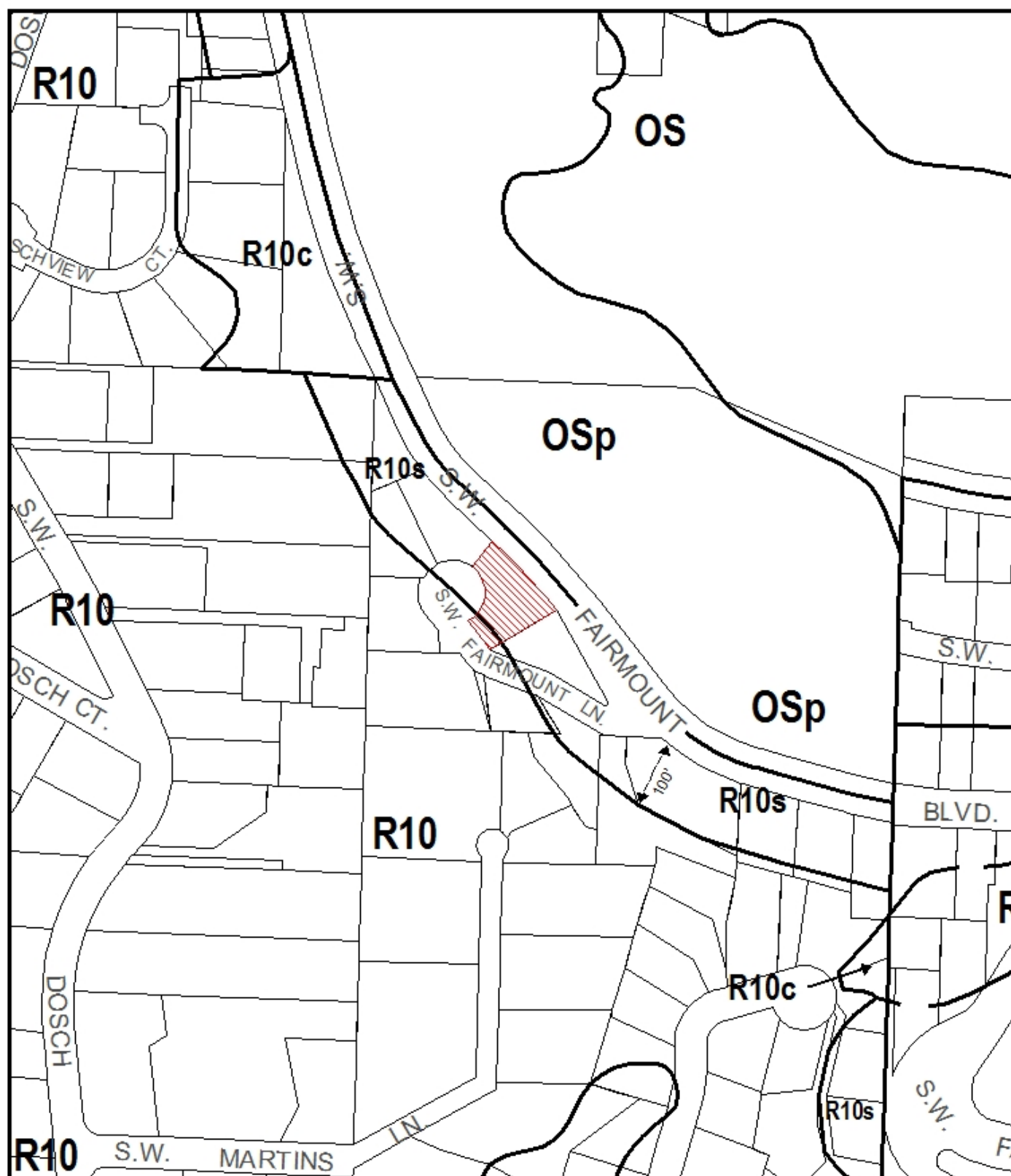
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. General Site Plan (attached)
 - 2. Site Plan Detail (attached)
 - 3. Section/Elevation Side and Detail of Railing Construction
 - 4. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation Engineering and Development Review
- F. Correspondence: (none received)
- G. Other:
 - 1. Site History Research

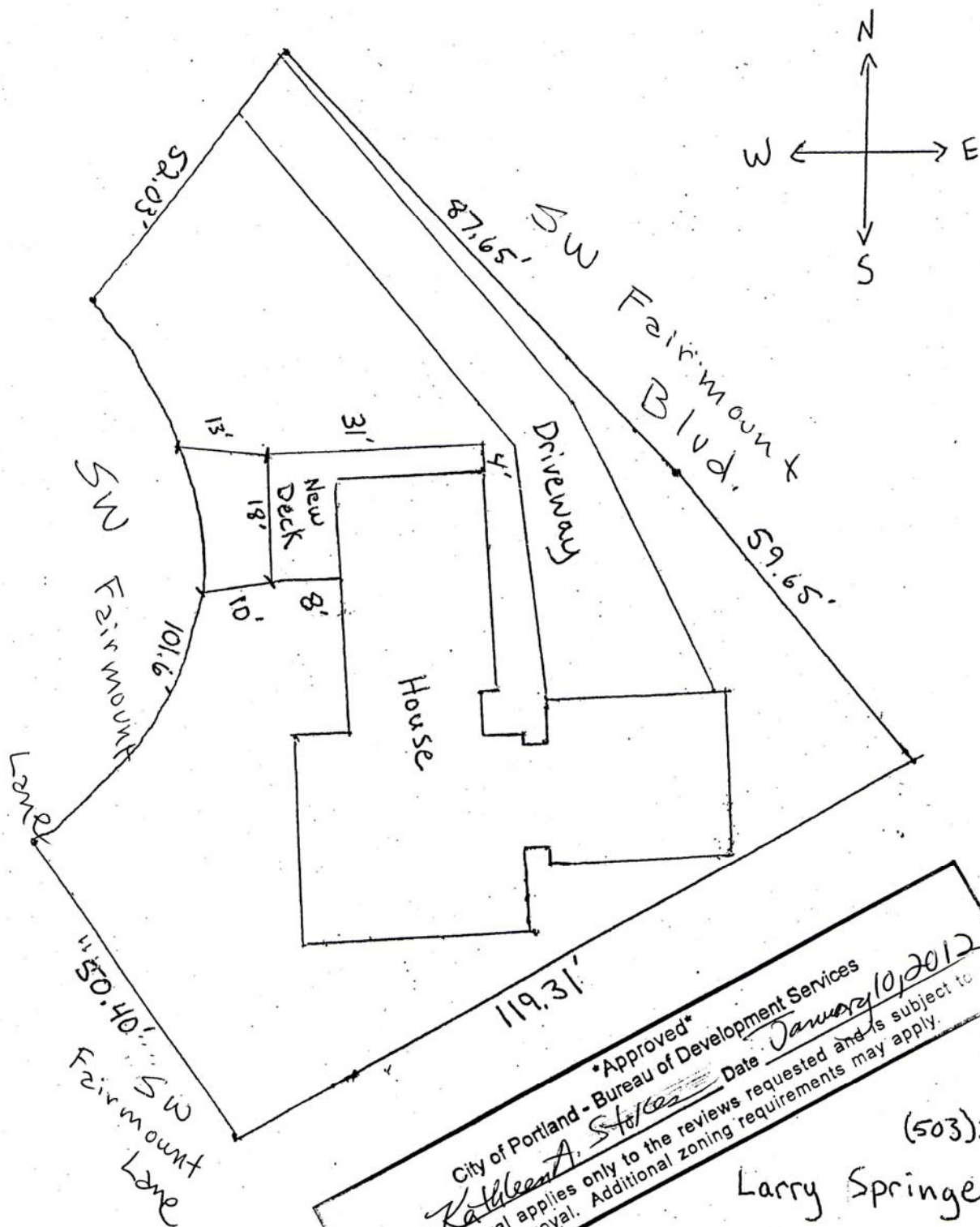
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



File No. LU 11-197674 AD
 1/4 Section 3426
 Scale 1 inch = 200 feet
 State_Id 1S1E08DB 2200
 Exhibit B (Dec 06, 2011)



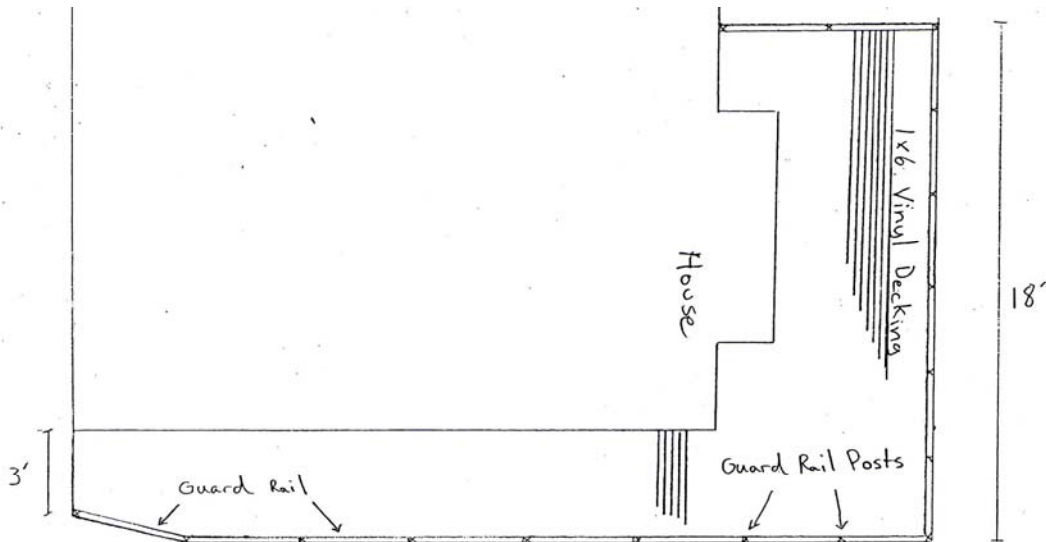
City of Portland - Bureau of Development Services
 Planner Kathleen A. Stokes Date January 10, 2012
 *This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

(503) 228-7891

Larry Springer
 3340 SW Fairmount Blvd.
 Portland, OR 97239
 # 151E08DB

General Site Plan

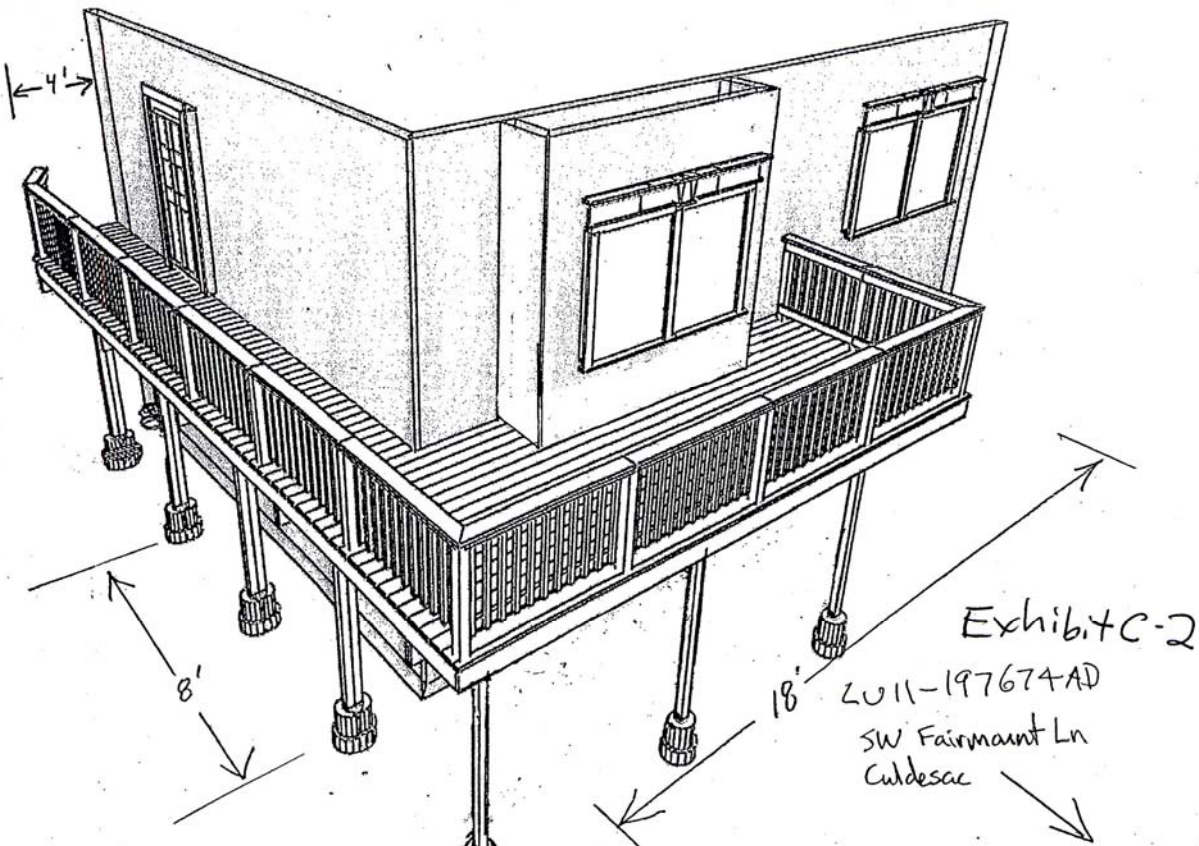
Exhibit C-1
 LU11-197674 AD



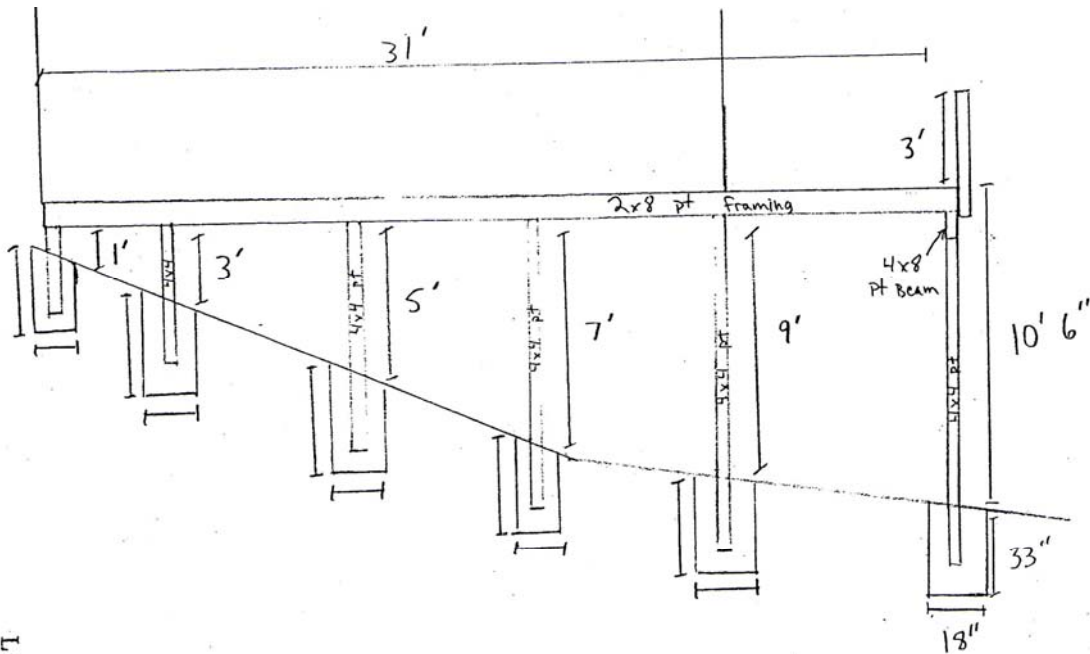
Approved
 City of Portland - Bureau of Development Services
 Planner Kathleen A. Stokes Date January 10, 2012
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Deck Plan Scale $\frac{1}{4}" = 1'$

Detail-Site Plan



LU11-197674AD



Elevation side $\frac{1}{4}'' = 1'$

Section / Elevation Side
and Detail of Railing Construction

Railing Construction $\frac{Scale}{1'' = 1'}$

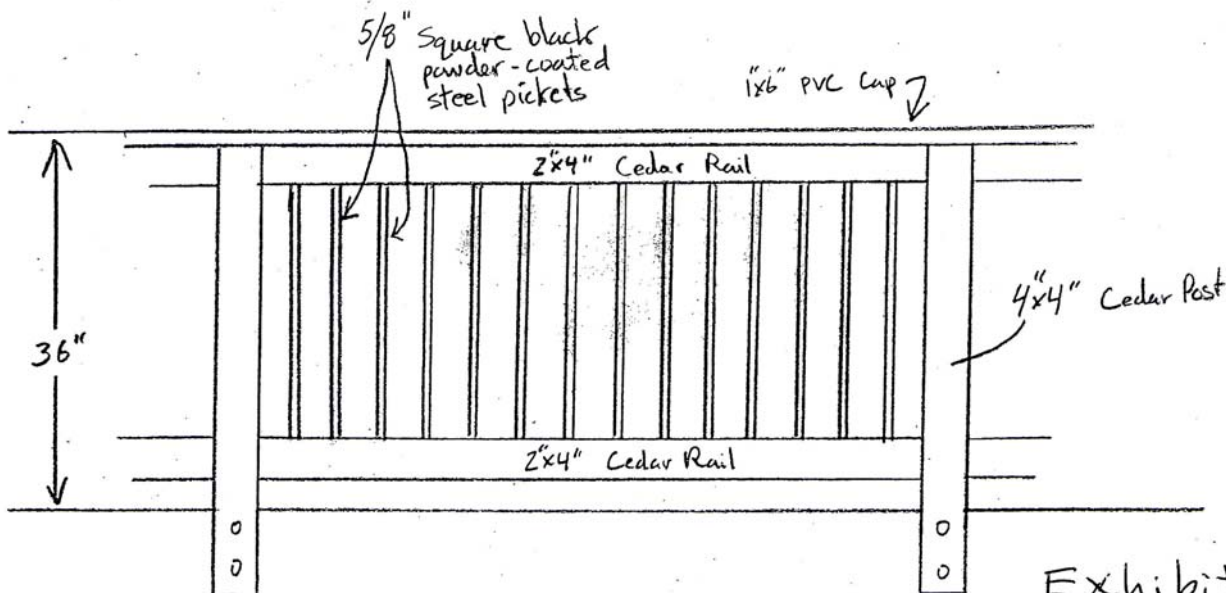


Exhibit C-3

LU 11-197674 AD

Approved

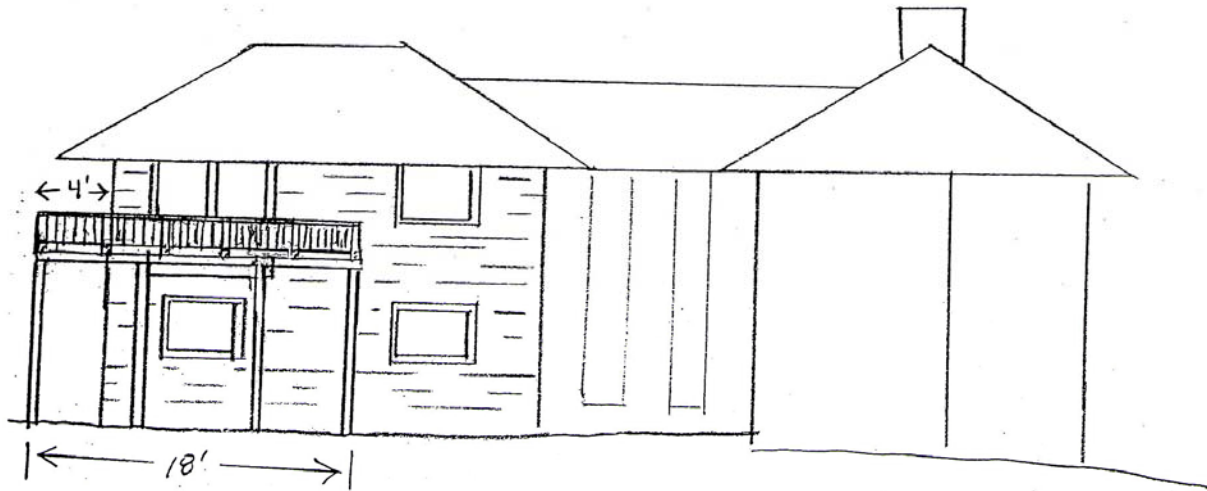
City of Portland - Bureau of Development Services

Planner *Raithlen A. Stokes*

Date

January 19, 2012

*This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

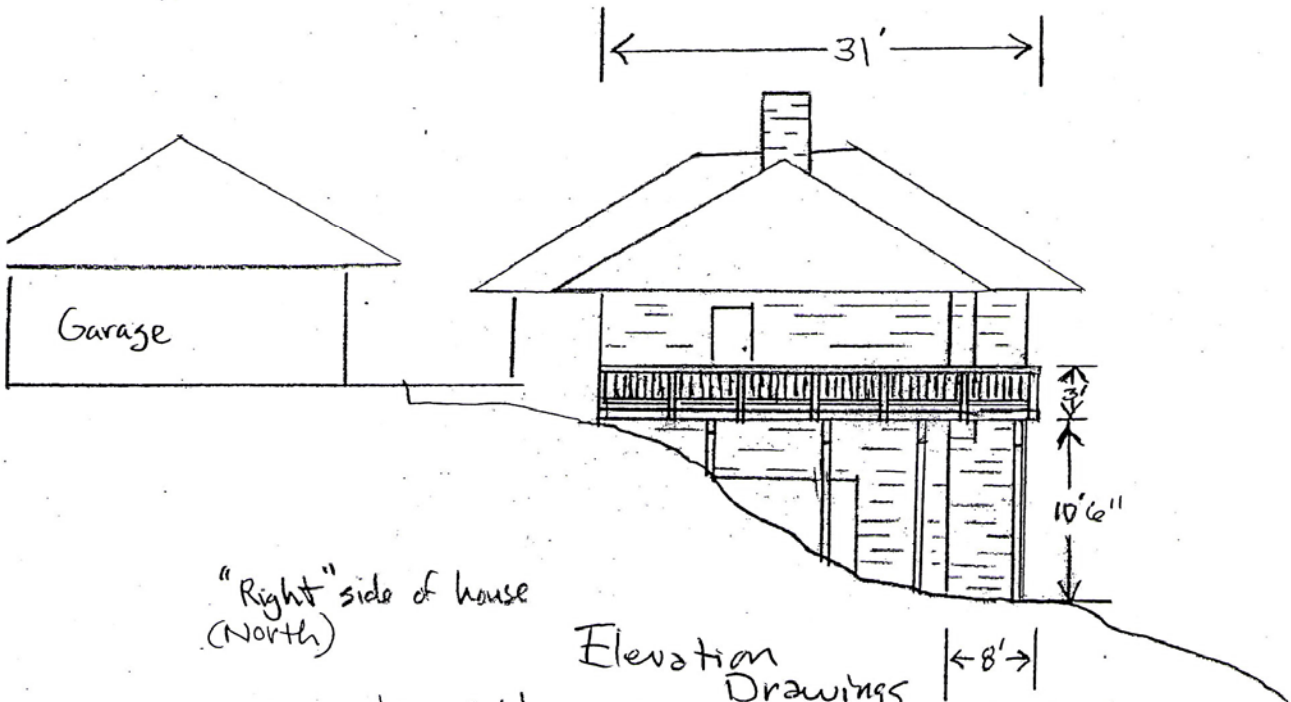


"Back" side of house
(West)

SW Fairmount Blvd.
SW Fairmount Ln. Culdesac

2011-197674 AD

Approved
City of Portland - Bureau of Development Services
Planner Kathleen A. Stokes Date January 10, 2012
* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.



"Right" side of house
(North)

Elevation
Drawings

SW Fairmount Ln Culdesac
SW Fairmount Blvd

Exhibit C-4
2011-197674 AD

Deck to extend
8' out from house
towards Culdesac