



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

Dan Saltzman, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** May 3, 2012  
**To:** Interested Person  
**From:** Sylvia Cate, Land Use Services  
503-823-7771 / [Sylvia.Cate@portlandoregon.gov](mailto:Sylvia.Cate@portlandoregon.gov)

**NOTICE OF A TYPE II**  
**AMENDED DECISION**  
**ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services approved a proposal in your neighborhood. You received a previous Notice of the Decision, postmarked March 27, 2012.

**This Amended Decision Notice supersedes the previous Notice and approves a modified proposal with design changes.**

You can find an electronic copy of the complete Decision document, including Findings and Conclusions on the city website at: [www.portlandonline.com/bds/index.cfm?c=46575](http://www.portlandonline.com/bds/index.cfm?c=46575). Click on the appropriate listing for the Neighborhood, address and case number.

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.

**Procedural History:** During the processing of this application, both the neighbors, who expressed concerns and opposition and the applicant, had a series of discussions regarding the proposal and possible impacts to the neighborhood. Because the on-going discussions between the applicant and neighbors had not reach a final agreement, an Administrative Decision was issued by the City on March 27, 2012, approving the original decision and a subsequent appeal of that decision was filed by John Rettig on April 10, 2012. A public hearing before the Adjustment Committee was scheduled for May 15, 2012; notice of the hearing was mailed on April 23, 2012. However, a signed agreement between the applicant and appellant was reached on April 22, 2012 and a request to withdraw the appeal was received by the City on April 24, 2012. As a result, the appeal hearing has been cancelled, and this Amended Decision approves a modified proposal. The full text of the signed agreement is contained in Exhibit H.2, which is part of the record for this review. The attached plans to this decision reflect the design modifications that the parties accepted.

**CASE FILE NUMBER: LU 12-107661 AD**

**GENERAL INFORMATION**

**Applicant:** Richard E. & Juliana R. Gellman, listed property owners  
3472 NW Savier St  
Portland, OR 97210-1939

**Representative:** Jeff Guggenheim  
Giulietti/Schouten AIA Architects  
2800 NW Thurman St  
Portland, OR 97210

**Site Address:** 3472 NW SAVIER ST

**Legal Description:** BLOCK 26 LOT 15, WILLAMETTE HTS ADD  
**Tax Account No.:** R913404050  
**State ID No.:** 1N1E29CD 14800  
**Quarter Section:** 2825

**Neighborhood:** Northwest District, contact John Bradley at 503-313-7574.  
**Business District:** None  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

**Plan District:** Northwest Hills - Forest Park  
**Zoning:** R5, Single Dwelling Residential 5,000

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

**Proposal:**

The applicants propose to construct a 'sitting room' atop the existing attached garage where an outdoor patio already exists. The applicants note that by enclosing and roofing this area, it will eliminate water leakage through the garage roof and provide additional living area above the garage. Although the garage is allowed to have a 5 foot front setback due to the steepness of the lot, the R5 zone requires a 10 foot front setback for the residence. Because the sitting room is considered living area, it is subject to the 10 foot setback, per 33.110.220. Therefore, the applicants request an Adjustment to reduce the required setback from 10 to 5 feet so that the full garage roof foot print can be incorporated into the sitting room. The revisions to the proposal include a lower roof height, a reduced roof pitch and a raised interior floor of the sitting room to ensure that the visual appearance of the structure will not have significant impacts on neighbors or intrude into views from adjacent homes. A zone map, site plan and elevations depicting the **modified request** are attached to this Notice.

**Relevant Approval Criteria:**

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

**ANALYSIS**

**Procedural History:** After receiving letters from neighbors, the applicant put this review on hold in order to talk to neighbors and hear their concerns. After considering the objections, the applicant asked that this application continue to be processed.

**Site and Vicinity:** The site is a 5,000 square foot lot developed with a single dwelling residence. The immediately surrounding area, within a City block [200 feet] of the site, is developed as single-dwelling residential within the R5 zone. Significant Open Space zoned lands [Forest Park] are in close proximity to the west and south of the site.

There is extensive topography in the immediate area, with many lots, including the subject site, having a 20 percent or greater slope. Because of this topography, two of the homes along the southerly side of NW Savier Street, including the subject site, have garages setback 5 feet from the front property line. This placement is allowed by right when a lot qualifies as 'steeply sloping' per 33.110.220.D.4. The subject site has an attached garage setback 5 feet from the front property line, which is allowed because the lot qualifies as steeply sloping.

All of the homes along the south side of NW Savier Street were built between 2001-2007, as follows: 3482 NW Savier, which is a duplex at the southeast corner of SW Aspen Avenue and

NW Xavier Street, was built in 2001. Frontage improvements for both SW Aspen and SW Xavier were required when this duplex was built. Going east, the next lot which is also the subject site, which was developed in 2002; the next lot to the east was developed in 2003; the next in 2004; the next in 2003; and the next in 2007. All of these lots qualify as steeply sloping, as well as all of the lots on this entire block. This is also true for all the lots on the block to the south of the subject site, as well as all but one lot on the block to the north of the subject site.

Because of this terrain, the overall development pattern in the immediate area is similar to other residential areas with steep topography: generally the uphill side of the street has relatively tall homes [generally 3-storey] set back the minimum distance from the street, while the downhill side of the street has homes that are also set back relatively close to the street, but configured to be lower in height [generally 1 or 2 storey]. This development pattern allows each block face of homes to have relatively unimpeded views to the north.

NW Xavier Street is a designated Local Service Street for all transportation modes, as well as a City Bikeway and City Walkway.

**Zoning:** Single-Dwelling Residential 5,000 [R5]. This is one of several zones that implement the comprehensive plan designation for single dwelling residential. Residential 5,000 is designated by the Comprehensive Plan as High Density Single Dwelling Residential.

**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 **February 9, 2012**. The following Bureaus have responded with no issues or concerns:

- *Bureau of Environmental Services* noted no concerns and stated that stormwater from the addition should be directed to the flow through planter constructed via 02-120075 RS.
- *Bureau of Transportation Engineering* notes no concerns.
- *Water Bureau* noted no concerns, and stated that there is an existing 1” metered service which provides water to this location from the existing 6” DI water main in NW Xavier St. The estimated static water pressure range for this location is 44 psi to 55 psi at the existing service elevation of 318 ft.
- *Fire Bureau* noted no concerns.
- *Site Development Section of BDS* noted no concerns.
- *Life Safety Section of BDS* noted that a building permit will be required.
- *Bureau of Parks-Forestry Division* noted no concerns.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on February 9, 2012. A total of 3 written responses have been received from notified property owners in response to the proposal. These written responses, as described below, were received regarding the original proposal, which has since been modified. The original comments and concerns are as follows:

A letter addressed directly to the property owners, noting the narrow width of NW Xavier in this location and concerns about the visual impacts of the proposal, particularly for neighbors across the street and to the north of the site. The letter included a request for the proposal to be redesigned to address these concerns, and is signed by 10 neighbors.

A second letter, from the Aspen Trail Condominium Association, and signed by 3 neighbors raises a number of objections to the proposal. The objections include concerns that the proposal will stand out and detract from the south block face of this block of NW Xavier because of granted adjustments for all the houses along this entire block being granted an exemption such that most residences are already closer to the street and have a uniform look.

Staff Note: None of the houses along the south side of NW Xavier have received Adjustment approvals to reduce the front setback from the street. The code allows, by right, garages to be placed 5 feet from the front property line when a lot qualifies as steeply sloping. All of the

houses along the southern edge of NW Savier Street are set back at least 10 feet, which is the required minimum. The house on the subject site, for example, is set back 19 feet 6 inches from the front property line.

The letter notes that NW Savier Street is more narrow in front of the subject site, as well as the next 2 lots, and because the street is more narrow, the proposal will be even more prominent, and because of the narrow street any reduced setback on the subject site will be visually accentuated. *Staff Note:* The public right of way width for NW Savier remains unchanged. As part of required street frontage improvements associated with the building permits for the development of the house on the abutting lot to the west, the subject site, as well as the adjacent 2 lots to the east also have this street frontage design. The curb and sidewalk was bumped out, per the City Engineer, to create a typical residential street traffic calming design. The location of the front property lines for each of these lots remain in the same place as before these frontage improvements.

The letter notes that most of the proposed sitting room can be built meeting the required 10 foot setback, and therefore the Adjustment is not needed. *Staff Note:* Whether or not a proposed development can meet the standards is not an approval criterion. The letter also raises concerns that the Adjustment request fails at the first criterion, as the proposal cannot 'equally or better' the regulation to be adjusted. The letter also states that the proposal will detract from the livability or appearance of the residential area and that the 'applicant's house should be required to maintain scale and appearance.' The letter notes that the applicant has not offered any mitigation for the identified impacts. *Staff Note:* All comments specifically relevant to applicable approval criteria are addressed below, in this decision.

The letter discusses how the proposal cannot meet the approval criteria at 33.805.040.G through I. *Staff Note:* the subject site does not qualify to use these approval criteria, therefore they are not applicable.

The letter notes that no side elevations were included in the Notice, and that side elevations should be included with an appropriate additional period of time for public comment. *Staff Note:* The Notice included a site plan and a front elevation. The Notice also states that the entire file is available for inspection by all interested parties during [and after] the open public comment period. No one contacted the assigned planner to request additional plan views to be emailed or mailed to them. This decision has all supplied elevations attached.

The letter states that the house immediately east "...currently enjoys a view to the west from both a terrace and the balcony of their garage-top sitting room. The proposed addition would completely obscure this view from both locations, which is a significant impact that would be impractical to mitigate." *Staff Note:* All comments specifically relevant to applicable approval criteria are addressed below, in this decision.

Finally, the letter notes that there is no provision for granting an adjustment based on water seepage into a structure, and if the adjustment were granted would set an unusual precedent, because there are numerous ways to address flat roof problems.

The third letter raises concerns that the Adjustment, if granted, will block the views of Forest Park currently enjoyed by the abutting neighbor to the east; it will also result in a towering windowed wall looking down on the only outside living area and covered porch of the abutting lot to the west. *Staff Note:* All comments specifically relevant to applicable approval criteria are addressed below, in this decision.

## **ZONING CODE APPROVAL CRITERIA**

### **33.805.010 Purpose (Adjustments)**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity,

some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

### 33.805.040 Approval Criteria

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

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** The zoning code, at 33.110.220, *Setbacks*, Section A states:

*Purpose:* *The building setback regulations serve several purposes:*

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *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.*

The existing home is on a steeply sloping lot, which allows the garage to be set back 5-feet from the front property line. While the zoning code requires a 10 foot front setback in the R5 zone, the existing home is set back 19.5 feet, which creates a sense of a small but open front yard between the street and the steps to the main entrance of the home. The applicants propose to construct a 'sitting room' atop the existing attached garage where an outdoor patio area already exists. Because the sitting room is considered living area, it is subject to the 10 foot setback, per 33.110.220.

The proposed **modified** addition will have no impact on light, air or access for fire fighting as the sitting room will be within the footprint of the existing garage roof and the side setbacks between residences will remain unchanged. The **modified** proposal would place the sitting room closer to the street and closer to the homes across the street. However, the proposed location of the structure will still be at least 65 feet from the homes to the north [Requested 5 foot setback + Right of Way width of 50 feet + 10 foot setback]. Given this amount of separation, there is no impingement for fire fighting or access for fire fighting for the subject site or other lots in the immediate area. The Fire Bureau has responded to the proposal, noting no concerns.

The existing garage is located in the northeast corner of the lot, meeting the allowed 5 foot front setback as well as at the required 5 foot side setback from the abutting lot to the east. Because of the northerly location of the garage on the subject site,

and the site having frontage on the south side of NW Savier, shadows cast from the existing house are in a northerly direction, shading the sidewalk and street, rather than any residential lots to the north. Because the existing home is a three story structure and is to the south of the existing garage, the **modified** proposed sitting room will not add any significant additional shading to the shadow print the home already casts throughout the year.

Given the topography of the lots along the south side of NW Savier, there are two instances where garages are placed the allowed 5 feet from the front property line: the subject site, and the lot immediately east. The south block face of the five houses from the corner of NW Savier and NW Aspen are all relatively large homes and are three storeys, with garages at grade along the sidewalk, and with a main and second floor above. This results in relatively tall massing of the front facades of all of these homes from the pedestrian perspective along the sidewalk. However the fact that some of these homes have front setbacks greater than the required 10 feet mitigates the tall massing. Both the subject site and the adjacent house to the east are setback more than the required 10 feet. In addition, none of these homes have garages placed behind the house, toward the rear property line, due to the topographical constraints. As a result, all of these homes have garages at grade that are relatively prominent features of each of these homes. The block face is also characterized by flat roofs of some of the garages being utilized as open air patios. Other homes have open or semi enclosed porches or living area directly above the garages.

As noted in one of the letters from the neighbors, this side of NW Savier Street was developed within the past 10 years, thus the architecture of these homes are of distinctly differing styles from the older homes on the north side of the street. The subject site is developed with a three storey brick and cedar shake residence. The lot to the west is developed with a three storey duplex and has a large front porch over a double car garage facing NW Savier; the second garage faces NW Aspen. Both garages on this lot have living area above these garages. The lot to the east of the subject site is developed with a three storey home with a garage setback at 5 feet, with a sitting room and open air balcony atop the garage. The next lot to the east of the subject site is also developed with a three storey home, and has a double car garage at grade, with an open air patio area atop the garage. The next lot to the east is also developed with a three storey house, again with a double car garage at grade, and a semi enclosed porch and living area above the garage.

The **modified** proposed sitting room atop the existing garage will add additional living area over the garage which is not inconsistent with other homes along this block face. Opponents note that the adjacent property to the east has a sitting room atop the existing garage, and express concerns that views from that sitting room would be blocked by the proposed addition to the rooftop of the subject garage. The **modified** proposal includes a lowered roof height and reduced roof pitch to reduce any views that neighbors enjoy from abutting properties that might otherwise have been blocked by the originally proposed configuration. However, the neighbor's sitting room atop the next door garage meets the 5 foot side yard setback, as does the house on the subject site, providing the standard 10 foot setback between homes in the R5 zone.

Additionally, there are no windows in the adjacent sitting room facing west, toward the subject site. Because both the subject garage and the adjacent garage to the east are both set back 5 feet from the front property line, the small balcony on the adjacent garage already has constrained views to the west. Given the orientation of the windows of the adjacent sitting room and the relatively narrow garage rooftop balcony, it appears that the main views to the north and west enjoyed from this vantage point will remain relatively unimpeded by the **modified** proposal. The

applicant submitted an email from the adjacent neighbor to the east who expresses appreciation for the applicant to make the modifications and notes that she has no further issues. This communication is found at Exhibit H.2 in the record for this review.

Neighbors raised the concern that views would also be blocked by the proposed sitting room from the adjacent open air terrace on the abutting lot to the east. However, that open air terrace is set behind the sitting room atop the garage on the lot to the east, and as such is well behind the required 10 foot front yard setback and is nearly even with the front façade of the subject house. Therefore due to this location the terrace already has sight lines that are limited or blocked by the subject home. If the proposed sitting room was built atop the garage and met the 10 foot front setback, sightlines from this elevated terrace would still be limited. In general the views from that terrace are to the north and west; however as previously noted, the westerly views from this terrace are already partially blocked by the 3 storey home on the subject site.

The proposed sitting room will have a gabled roof oriented north-south, so only the upper few feet of this roof would impinge on any views from the adjacent elevated terrace. However, given the layout of the adjacent terrace in relation to the proposed sitting room, westerly views would be similarly affected even if the proposed sitting room was set back 10 feet from the front property line. It should be noted that the angled façade of the adjacent home to the east that faces the subject property has no windows for the first 20+ feet, so the proposed sitting room will have no impact on any views from those windows, as they are well back from the existing garage to begin with.

The zoning regulations do not provide protections of views unless there is a designated viewpoint or view corridor. In general, such view points or scenic corridors are identified on official zoning maps by a lower case 's' which denotes the scenic overlay zone. The closest scenic overlay zone to the subject site is uphill and approximately 1,000 feet to the southeast, which is a scenic corridor running parallel to NW Cornell Road.

Neighbors have raised concerns regarding the loss of privacy associated with the proposed sitting room as the proposed Adjustment would place the sitting room atop the existing garage which is set back 5 feet from the front property line. This placement would allow the proposed addition to be closer to the street, rather than closer to an abutting lot. Given that the views from the existing patio area atop the garage already include some partially blocked views into neighboring yards, the proposed sitting room will not change these sightlines, except to potentially be further blocked by the wall area between the windows of the structure. Because of this configuration, there appears to be no impingement on privacy options for adjacent neighbors.

Additionally, objections to the proposal include comments that the sitting room would "overshadow" the abutting lot to the west and would result in a "towering windowed wall" looking down on both abutting properties. The subject garage is approximately 30 feet from the side property line of the abutting lot to the west, the duplex is approximately 17 feet from further west. The west wall and windows of the proposed sitting room will be approximately 47 feet away from the front porch of the duplex to the west. Views of both abutting lots are currently available from the patio area on the rooftop of the subject garage and the spatial separation between the rooftop of the garage and adjacent lots will remain unchanged with an addition of a sitting room. Because the proposed addition is well within the maximum height limit allowed in the R5 zone, and is significantly lower than the upper floor of the subject house, there is no specific aspect of the proposal that can be described as

particularly ‘towering’ especially along a block face that is dominated by the massing of 3 storey street facing facades of these individually designed homes. As noted above, given the configuration of the subject property in relation to sunlight, the proposal will not add any significant additional shading to the existing shadow print cast by the home itself.

The proposed sitting room will be consistent with the scale and placement of other homes in the immediate area as all of the homes along this block face have either living area above the garage, or outdoor patio areas atop the garage. The sitting room allows additional ‘eyes on the street’ opportunities as well as reducing the visual emphasis of the existing garage by the additional living area.

The proposal will maintain a reasonable physical relationship between homes, as the sitting room will meet the required side setback and will not alter the physical relationship between existing homes. There is no change to the front yard area of the subject site, thus the proposal does not impact the visual appearance of the front yard. The proposed sitting room is consistent with the goal of providing flexibility to development on a site in order to be compatible with the neighborhood and provide an interesting architectural element to the existing residence and streetscape. There is no impact to on-site parking. For these reasons, this criterion is met.

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

**Findings:** The **modified** proposal is a sitting room to be situated atop the roof of the existing garage. Nothing about the project appears to have any detrimental characteristics that would impinge on the appearance of the immediately surrounding residential neighborhood. The sitting room will be integrated into the existing architecture of the home and will utilize the flat roof of the existing garage and enclose the space that is currently utilized as an outdoor patio. The sitting room is proposed to have multiple windows and skylights, resulting in a relatively transparent glassed-in feature of the existing home. The sitting room is a residential use proposed to augment a residential development in the R5 zone. There is no aspect of the proposal that would result in additional traffic, increased levels of noise, increased levels of litter or hidden areas that could promote unsavory behavior of passers-by. For these reasons, this criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Only one adjustment is requested. This criterion is not applicable.

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

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

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

**Findings:** There are no discernible impacts that would result from granting the requested adjustment for the **modified** proposal. The modifications themselves [lower



roof height, reduced roof pitch and raised interior floor] provide practical mitigation for potential visual impacts on adjacent neighbors and nearby residents. 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:** The site is not within an environmental zone. This criterion is not applicable.

## 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 applicants **modified** a proposal to build a sitting room atop the flat roof of the existing attached garage. Because the subject site is steeply sloping, the zoning code allows the garage to have a 5 foot setback, but the sitting room is considered living space, and thus is required to meet the 10 foot front setback per 33.110.220.

Neighbors and the applicant have reached a signed agreement of modifications to the proposed sitting room in response to the concerns raised during the public comment period. The **modified** proposal continues to meet all applicable approval criteria while providing additional mitigation to avoid and reduce potential visual impacts on adjacent neighbors.

The applicants request an adjustment to reduce the setback to 5 feet for the **modified** sitting room atop of the garage. Because the **modified** proposal complies with all applicable approval criteria, it should be approved.

## ADMINISTRATIVE DECISION

Approval of:

- An Adjustment to 33.110.220, to reduce the required 10 foot front setback to 5 feet for a second story living space addition [**modified** sitting room] to existing garage; per the approved site plans, Exhibits C-1A "Modified" through C-3A "Modified", signed and dated April 30, 2012, 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-1A "Modified" through C-3A "Modified". The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-107661 AD."

**Staff Planner: Sylvia Cate**

**Decision rendered by:**  **on April 30, 2012**

By authority of the Director of the Bureau of Development Services

**Decision mailed on May 3, 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 January 26, 2012, and was determined to be complete on February 6, 2012.

*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 January 26, 2012.

*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 extend the 120-day review period per Exhibit A-2. The additional time taken to process this application was 18 days. Unless further extended by the applicant, **the 120 days will expire on: June 23, 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 May 17, 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](http://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 **May 18, 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:

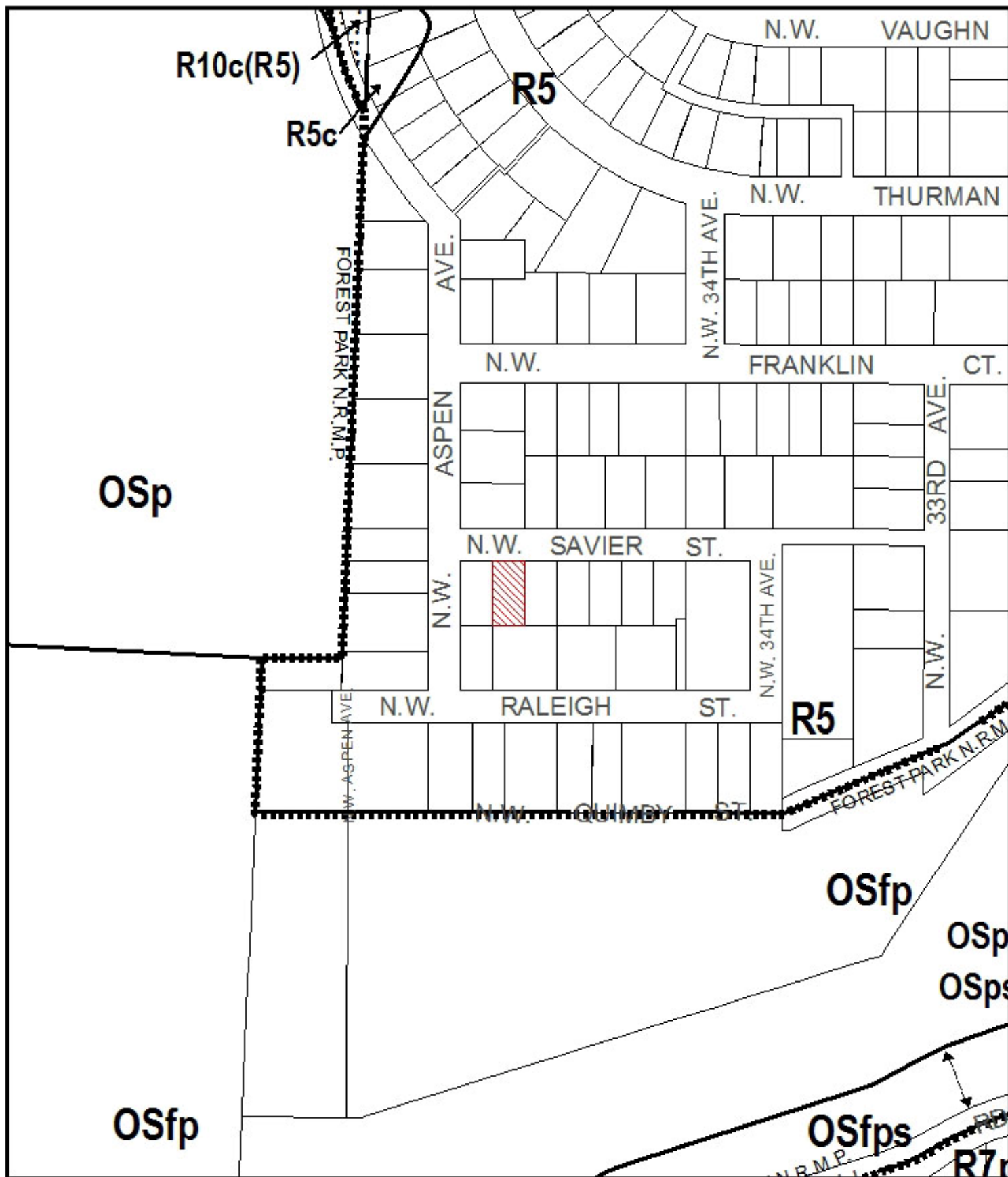
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

## NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittals
  - 1. Project Narrative
  - 2. Time extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Original Site Plan/superseded
  - 2. Original Front Elevation/superseded
  - 3. Original Side Elevation/superseded
  - 4. 11 x 17 plan set with photographs in support of project narrative
  - 1.A **Modified** Site Plan and Modified North elevation [Attached]
  - 2.A **Modified** Perspective Drawings: Existing & Proposed
  - 3.A **Modified** East Elevation and Section
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
  - 1. Letter to applicant dated February 2012 stating objections, signed by 10 neighbors
  - 2. Letter March 1, 2012, with objections, signed by 2 neighbors [J. Rettig]
  - 3. Fax March 1, 2012, with objections [J. Weigler]
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
- H. Materials Received after Appeal was filed
  - 1. Request to withdraw the appeal
  - 2. Signed Mutual Agreement of **modified** proposal
  - 3. Email, April 25, 2012; re: Next door neighbor's comments regarding modifications

**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



NORTH

This site lies within the:  
NORTHWEST HILL'S PLAN DISTRICT

File No.	LU 12-107661 AD
1/4 Section	2825
Scale	1 inch = 200 feet
State_Id	1N1E29CD 14800
Exhibit	B (Feb 02, 2012)

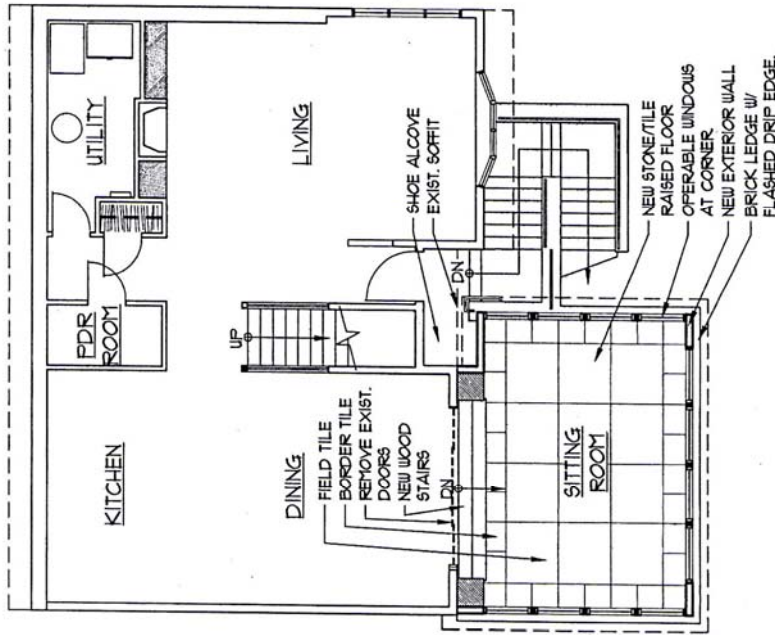




Approved\*  
 City of Portland  
 Bureau of Development Services

PROPOSED ELEVATION - NORTH

Planmark  
 Date: 1/26/12  
 This approval applies only to the specific conditions of approval. Additional zoning requirements may apply.



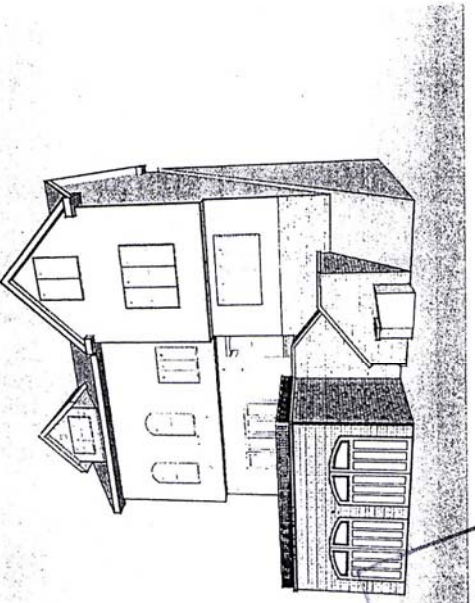
MODIFIED

PROPOSED FLOOR PLAN

SCALE: 1/8" = 1'-0"

LU 12-107661 AD

EXHIBIT C-1.A



1 PERSPECTIVE IMAGES OF EXISTING CONDITION

SCALE NTS



2 PERSPECTIVE IMAGES OF PROPOSED ADDITION - MODIFIED

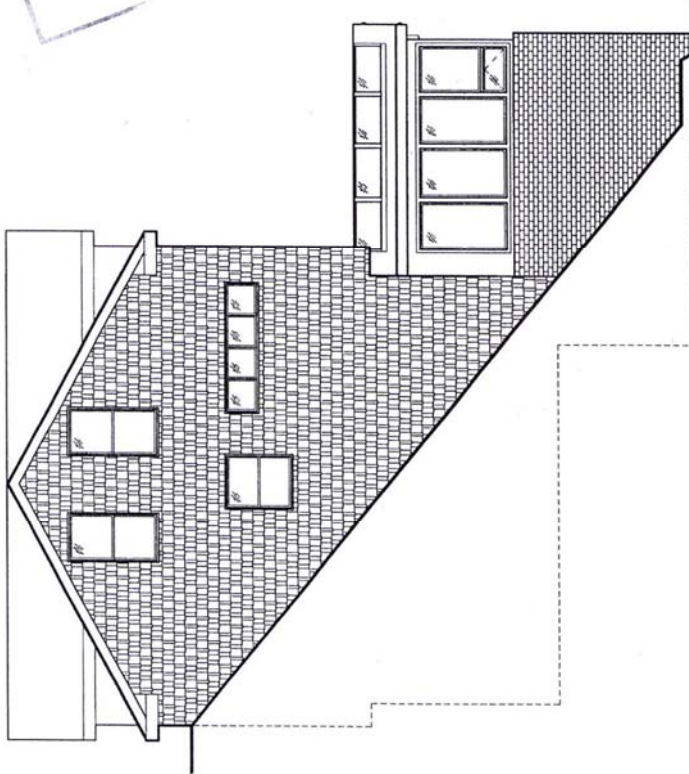
SCALE NTS

Date: 4/18/12  
 Planning Department  
 Bureau of Development Services  
 City of Portland  
 \*Approved\*  
 This approval applies only to the conditions of approval requested and is subject to all other zoning requirements may apply.

LU 12-107661 AD

EXHIBIT C-2.A





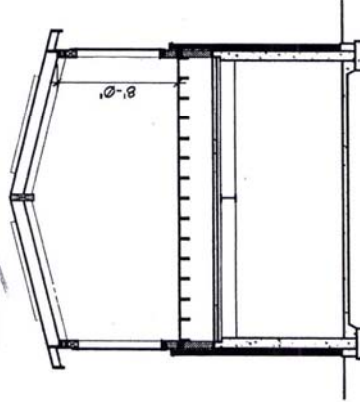
1 EAST ELEVATION

SCALE 1/8" = 1'-0"

MODIFIED

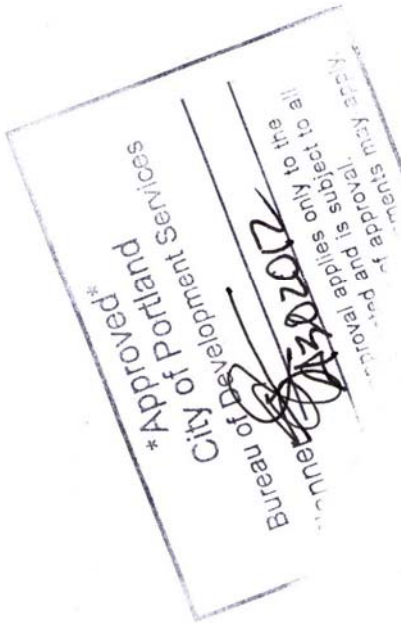
LU 12-107661 AD

EXHIBIT C-3 A



2 SECTION

SCALE 1/8" = 1'-0"



# CELLMAN RESIDENCE

Project No. 1108

By: JML

Date: April 18, 2011

Scale: As noted

Gillett/Schouten, AIA, Architects  
2800 NW Thurman Street  
Portland, OR 97210  
pk: 223-0335 fx: 241-9323  
email: daveg@gsaia.com

LUR-4A