



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

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Portland, Oregon 97201
503-823-7300
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www.portlandonline.com/bds

Date: May 12, 2010
To: Interested Person
From: Sylvia Cate, Land Use Services
503-823-7771 / scate@ci.portland.or.us

**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 10-110153 AD

GENERAL INFORMATION

Applicant: Daniel O and Sallie I Herzig, listed property owners
Arnold H Israelit, listed property owner
2612 SW Talbot Rd
Portland, OR 97201

Representative: Wade Estes, builder
20888 SW Dutton Ct
Beaverton, OR 97007
503 442 8441

Site Address: 2612 SW TALBOT RD

Legal Description: BLOCK C LOT 10, MELBOURNE ADD
Tax Account No.: R557500620
State ID No.: 1S1E05DD 01800
Quarter Section: 3226

Neighborhood: 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.

Plan District: None
Other Designations: None
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 applicant proposes to construct an addition to the rear of the existing house with a three story addition and a single level basement with roof deck addition. Both additions are approximately located within the footprint of an existing elevated deck. The zoning regulations limit the amount of building coverage on this site to a maximum of 2,385 square feet. However, with the proposed modifications and additions, the building coverage on the site would become 2,899 square feet, an additional 514 square feet over the maximum allowed. . Therefore, the applicant is requesting an adjustment to allow an increase in the amount of building coverage as proposed. Attached to this notice are site plans and elevations depicting the proposal.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. 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

Site and Vicinity: The site is a 5900 square foot lot developed with a single dwelling house built in 1928. The site, as well as surrounding lots and parcels have significant topography, with several areas of slopes exceeding 20% grade. Residential uses and development immediately south of the site are zoned R10. Residential uses and development in the R5 zone surround the site on the other three sides. A small OS zoned triangular parcel at the intersection of SW Patton and SW Talbot is to the northwest of the site. The houses in the immediately surrounding area include a number of larger multi-story homes with significant building coverages on their respective lots. The site has frontage on SW Talbot Road, which is designated as a Local Service Street. SW Patton is a designated Neighborhood Collector Street.

Zoning: The site is zoned High-Density Single Dwelling Residential 5,000.

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 24, 2010**. The following Bureaus have responded with no issues or concerns:

Bureau of Parks-Forestry Division has no concerns, but notes street trees may be required at time of building permit review.

The Bureau of Environmental Services responded with no objections to the proposed adjustment to building coverage as stormwater management appears feasible and sanitary requirements do not appear to be affected.

The Bureau of Transportation Engineering responded with no concerns but noted that improvements may still be required at time of development and permits will also be accessed at that time if they are applicable.

The Water Bureau responded with no concerns regarding the adjustment but notes that an upgraded water meter service may be required at time of building permit review.

The Fire Bureau responded with the following comment: The minimum fire-flow requirements for one and two family dwellings having a fire flow calculation area, which does not exceed 3,600 square feet, shall be 1,750 gallons per minute. Fire flow and flow duration for dwellings having a fire flow calculation area in excess of 3,600 square feet shall not be less than that specified in Table B105.1. The fire flow for the new total square footage will be required to be met at time of development. The applicant may want to verify existing fire flow to ensure the requirements from Table B105.1 can be met. If not, an approved Fire Code Appeal will be required prior to approval of development.

The Site Development Section of BDS responded with no objection to the proposed Adjustment to building coverage requirements, provided that stormwater requirements specified by BES can be met. Site Development does not recommend on-site infiltration of stormwater at this location and will waive infiltration testing requirements.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 24, 2010. One written response has been received from a notified property owner in response to the proposal. The letter, written by a neighbor who lives down the hill from the site expresses concerns that the increase in coverage would reduce available drainage area on the site, and is concerned that the proposal would result in an increase in stormwater run off affecting her property, as well as others down hill from the site. *Staff note:* These concerns are addressed below, under the relevant criterion.

After initial review by the Bureau of Environmental Services [BES] the applicant placed this review on hold until additional stormwater management information could be submitted for review. Additional materials submitted on April 16 and May 7, 2010 for BES review enables this land use to be completed.

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 purpose statement for building coverage is found at 33.110.225 A, Building Coverage, which states:

Purpose: The building coverage standards, together with the height and setback standards control the overall bulk of structures. They are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site.

The applicant is meeting the height and setback standards and requests a building coverage adjustment to allow total coverage on the site to increase from the maximum allowed 40% to 49%. The building coverage results from a proposed addition on the back of the house that will generally be located within the footprint of an existing elevated deck. The proposed addition is to the rear of the house and because it will be located generally within the footprint of an existing elevated deck, the overall sense of bulk and mass will not change significantly. The proposed addition is well integrated into the architectural lines of the existing house and therefore appears appropriately proportional to the existing mass of the house. Due to the location of surrounding homes to the site, sufficient distance and space exists between the

proposed addition and the adjacent homes such that the increased building coverage will not result in visually overwhelming neighboring homes. 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 site is in a residential zone. The proposed addition is appropriately integrated into the architectural lines and features of the existing house and will not result in a detrimental appearance. The additional living area of the home will provide increased livability of the site, but is not anticipated to have any adverse impacts on the livability of the immediately surrounding residential area. As noted previously, the immediate residential area has a number of large homes with robust building coverage. 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: An increase in building coverage inherently adds additional impervious surface to the site. The resultant stormwater must be managed to ensure that all applicable requirements of the Stormwater Management Manual are met, and no impacts occur to adjacent lands. Given the existing stormwater management from the house is directed to a combination sewer, the additional new development will also flow directly to the combination sewer. Additional runoff from the house will be directed to a flow through planter, prior to discharge, and per BES requirements at time of building permit review. With the required stormwater management methods proposed, 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 applicant proposes to construct an addition to the rear of the existing house with a three story addition and a single level basement with roof deck addition. Both additions are approximately located within the footprint of an existing elevated deck. The zoning regulations

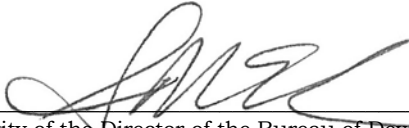
limit the amount of building coverage on the site to a maximum of 2,385 square feet. However, with the proposed modifications and additions, the building coverage on the site would become 2,899 square feet. Therefore, the applicant is requesting an adjustment to allow an increase in the amount of building coverage as proposed. The proposal meets all of the approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of:

- An Adjustment to 33.110.225, to allow an increase in building coverage on the site to a maximum 2,899 square feet for an addition and remodel, per the approved site plans, Exhibits C-1 through C-2, signed and dated May 10, 2010, 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 10-110153 AD."

Staff Planner: Sylvia Cate

Decision rendered by:  **on May 10, 2010**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 12, 2010

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 February 9, 2010, and was determined to be complete on February 23, 2010.

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 February 9, 2010.

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 for a total of 46 days. Unless further extended by the applicant, **the 120 days will expire on: August 8, 2010.**

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 26, 2010** 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. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 **May 27, 2010 – (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.

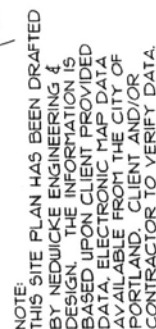
EXHIBITS

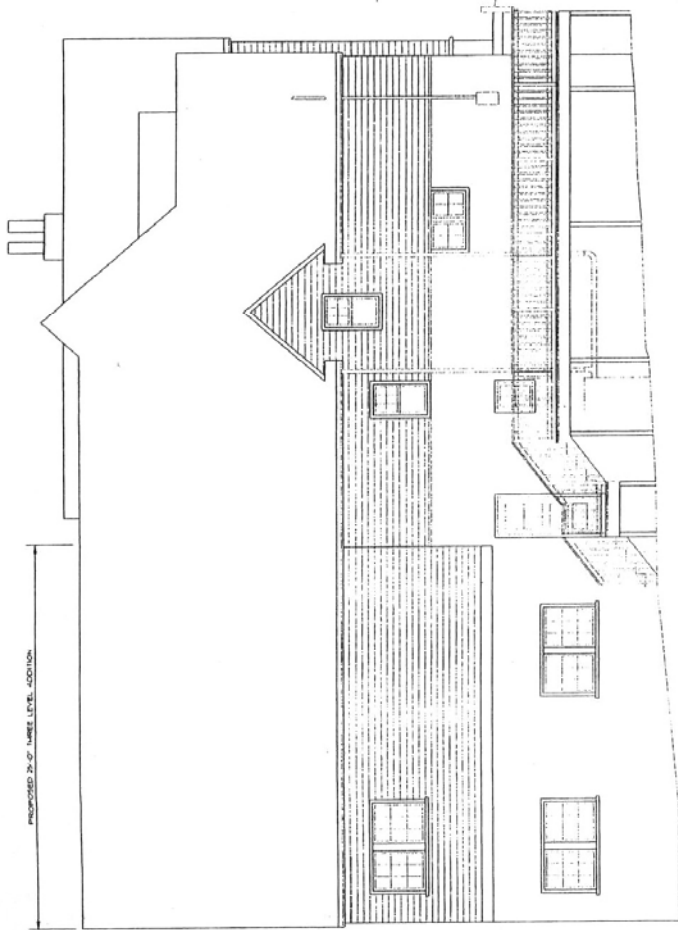
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations
 - 3. Stormwater Management report
- 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. V. Tagliafico, March 15, 2010, concerns regarding stormwater management
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

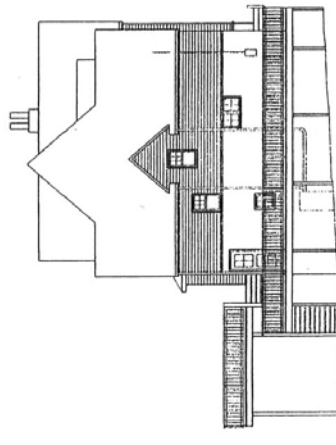


File No.	LU 10-110153 AD
1/4 Section	3226
Scale	1 inch = 200 feet
State_Id	1S1E05DD 1800
Exhibit	B (Feb 10,2010)

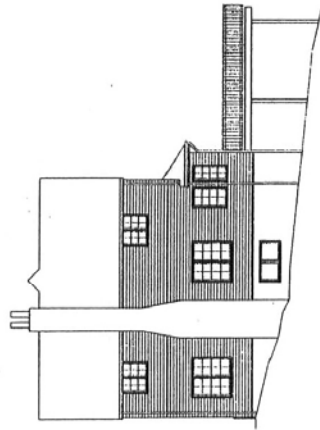




1 PROPOSED LEFT ELEVATION
A2 1/8" = 1'-0"



2 EXISTING LEFT ELEVATION
A2 1/8" = 1'-0"



3 EXISTING RIGHT ELEVATION
A2 1/8" = 1'-0"



4 PROPOSED RIGHT ELEVATION
A2 1/8" = 1'-0"

Approved
City of Portland
Bureau of Development Services
Planner *[Signature]*
Date **5.10.2010**
* This approval applies only to the
reviews requested and is subject to all
conditions of approval.
Additional requirements may apply.

Nedwicks Engineering & Design 11111 1st Ave. Seattle, WA 98101 P: (206) 441-1111 F: (206) 441-1111	
PROJECT NAME RENOVATION	SCALE AS SHOWN
DATE: 05/05/10	SHEET: 13

10-110153 AD

EXHIBIT C-2