



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

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www.portlandonline.com/bds

Date: November 1, 2010
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / kstokes@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 10-174635 AD

GENERAL INFORMATION

Applicant: Donna A Avedisian and Craig L Chanti
2840 SW Fairmount Blvd
Portland, OR 97239

Adrienne Goodwin, Construct Design
3720 SW Baird St
Portland, OR 97219

Site Address: 2840 SW FAIRMOUNT BLVD

Legal Description: LOT 2&3 TL 4202, PARTITION PLAT 1996-202
Tax Account No.: R649768060
State ID No.: 1S1E09BC 04202
Quarter Section: 3327

Neighborhood: Southwest Hills Residential League, Nancy Seton at 503-224-3840.
District Coalition: Southwest Neighborhoods Inc., Leonard Gard at 503-823-4592.

Zoning: R7c, s (R7,000, Medium Density Single-dwelling Residential with Environmental Conservation and Scenic Resource Protection Overlay Zones)

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

Proposal: The applicants are proposing construction of an addition on the east side of the existing residence. This site is located within a scenic resource overlay zone. The scenic resource designation is intended to preserve views from the scenic corridor along Fairmount Boulevard. Code Section 33.480.040 B requires that development along scenic corridors be set back a minimum of 20 feet from the street lot line that abuts the corridor. This required setback area must be landscaped to at least the L1 standard (requiring a certain number of shrubs, trees and living ground cover). Limited vehicular and pedestrian access are allowed through the required landscaped setback area. Modifications to existing development, such as the proposed addition must meet these standards, unless an exception is approved through an Adjustment Review. Existing on-site development that does not conform to these standards

must be brought into compliance when a development proposal is made that has a building permit valuation that is beyond a certain threshold. Exceptions to this requirement to upgrade nonconforming development may also be granted through approval of an Adjustment Review.

The house was built within the required setback area from the scenic corridor on SW Fairmount and the addition will also extend into the setback area. Due to the width of the street shoulder on Fairmount, the landscaped area extends beyond the front property line to the edge of the curb and paved roadway. The applicants are requesting approval of an exception to the on-site scenic corridor street setback, to reduce the width of the required landscaped setback on their property, from 20 feet to a varying width that is as little as 5 feet. They are also asking to modify the L1 planting requirements to allow the existing flagstone pavers to remain in the on-site landscaped area, in lieu of the living ground cover requirement.

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 applicants' site is a 16,134 square-foot parcel that is located on the north side of SW Fairmount Boulevard. The property, which slopes very steeply down from the street, is developed with a single-dwelling residence with an attached garage. The residence was built in 1957 and consists of one story at the street front, with additional living area at a lower level at the rear of the building, as is typical in this hillside area. The area around the site includes other single-dwelling residences that are typically built close to the street, with lower levels that follow the topography of the heavily wooded and steeply sloped terrain.

Zoning: The site is zoned R7, Medium Density Single-dwelling Residential. This zone designation is intended for areas with adequate public services but minor development constraints. Single-dwelling residential will be the primary use. The maximum density is generally 6.2 units per acre or an average of one lot for every 7,000 square feet.

The site also has a "c" or Environmental Conservation Overlay. This zoning overlay protects environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site's protected resources. Proposed development must meet the special development standards for the "c" Overlay or be approved through Environmental Review, in order to ensure that impacts on environmental resources are minimized. No development is being proposed within the "c" overlay.

The site is also within an "s" or Scenic Resource Overlay because it is located in the Fairmount Boulevard Scenic Corridor.

Land Use History: City records include the following prior land use review for this site:

LUR 95-00400 1995 approval of a 3-lot partition

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **October 5, 2010**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services provided information on the existing sanitary sewers and also information on a private sewer easement that was previously created. A copy of the private easement is being requested for City records. Information on meeting the requirements for storm water management were also provided (Exhibit E-1)
- Transportation Engineering stated that there are no issues regarding approval of the proposed on-site development, but noted that the proposal does not include any review of any development in the right-of-way (Exhibit E-2)
- Water Bureau provided information on the existing water service and requirements for review

of upgrades, if needed (Exhibit E-3)

- Fire Bureau stated that there are no concerns and noted that at the time of development, the applicant shall verify that there is existing fire flow that meets code requirements, based on the size of the structure with the addition (Exhibit E-4)
- Site Development Section of BDS sent an electronic response, stating that there is no objection to this proposal, however a geotechnical report will be required at the time of building permit application to verify the proposed foundation system is suitable for this site.
- Life Safety Plan Review Site Section of BDS noted that a building permit is required (Exhibit E-5)
- Parks-Forestry Division provided information on requirements for tree protection, as required by Title 20 (Exhibit E-6).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on October 5, 2010. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. Two letters from neighbors were provided to the applicants and submitted with the application for this proposal. Both of these letters expressed support for approval of the requested Adjustment (Exhibits A-2 and A-3).

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 Development Standards for Scenic Corridors are, *"intended to preserve and enhance the scenic character along corridors, and where possible, scenic vistas from corridors. This is accomplished by limiting the*

length of buildings, preserving existing trees, providing additional landscaping, preventing development in side setbacks, screening mechanical equipment, and restricting signs.”
(33.480.040 B.1.)

The applicants’ request for an exception to the scenic corridor setback requirement is in keeping with the existing development on the site, which already extends into the required setback area. In the Economic, Social, Environmental and Energy (or ESEE) Analysis for this scenic resource, the SW Fairmount Boulevard Loop (SD 30-03) is described as a 3.4 mile loop that circles Council Crest Park and curves to the southeast through a wooded residential area. The analysis further notes that the adjacent residential areas are zoned either R7 or R10. The required front setbacks that are noted in the document were based on the Code in effect at the time that the analysis was prepared and state that the R7 zone has a 20-foot front setback and the R10 zone has a 30-foot front setback. These development standards have since been amended, requiring a 15-foot front setback in the R7 zone and 20 feet in the R10 zone. (The Scenic Resource Overlay Zone requires a 20-foot setback from the street lot line in either case). The analysis notes, however, that most houses that are “built downhill from the street are constructed on pilings, with carports or garages placed at or near the front property line. Due to the steep terrain and the limited view impact on parcels on the opposite side of the street, major variances to reduce the front yard requirement generally receive approval.”

The proposed location of the new addition is consistent with the existing development on this site and, as noted above, is characteristic of the development in this designated scenic corridor. The exception to the L1 planting standard, which would allow the stone pavers to remain in the on-site planting area, instead of being replaced with living ground cover also maintains the attractive character of the residential development on the site, while providing an adequate vegetative buffer to maintain the natural aspects of the corridor. In the same sense, the existing and proposed development will continue to contribute to the attractive appearance of the residential area and will not create any negative impacts because the development is generally in character with the other residential properties in this hillside community

Only one Adjustment has been requested, so no cumulative impacts are expected to occur from approval of the proposal and it is consistent with the purpose of the R7 zone, which is to preserve land for housing and to provide housing opportunities for individual households. The site is located within a Scenic Resources Overlay zone that exists to protect the scenic corridor along SW Fairmount Boulevard. In the findings above, the impact on this resource was discussed, and it has been explained that the proposal will not have a negative impact on the scenic qualities of this corridor and so this resource will be preserved. There are no historic resources on this site. A portion of the site is located in an environmental zone, but the proposed development is outside of this zone, so the resource values will not be impacted. 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.

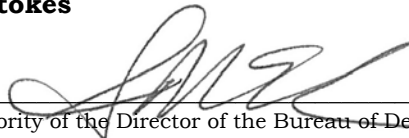
ADMINISTRATIVE DECISION

Approval of an Adjustment to Code Section 33.480.040 B.2, to reduce the width of the required scenic corridor setback on the property, from 20 feet to a varying width that is as little as 5 feet, and to modify the L1 planting requirements to allow the existing flagstone pavers to remain in the on-site landscaped area, in lieu of the living ground cover requirement. Approval

is subject to general compliance with the approved plans and elevation drawings, Exhibits C-1 through C-3, signed and dated October 28, 2010, 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.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-174635 AD."

Staff Planner: Kathleen Stokes

Decision rendered by:  **on October 28, 2010**
By authority of the Director of the Bureau of Development Services

Decision mailed: November 1, 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 September 10, 2010, and was determined to be complete on October 1, 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 September 10, 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 did not waive or extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: January 29, 2011.**

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 November 15, 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 **November 16, 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:

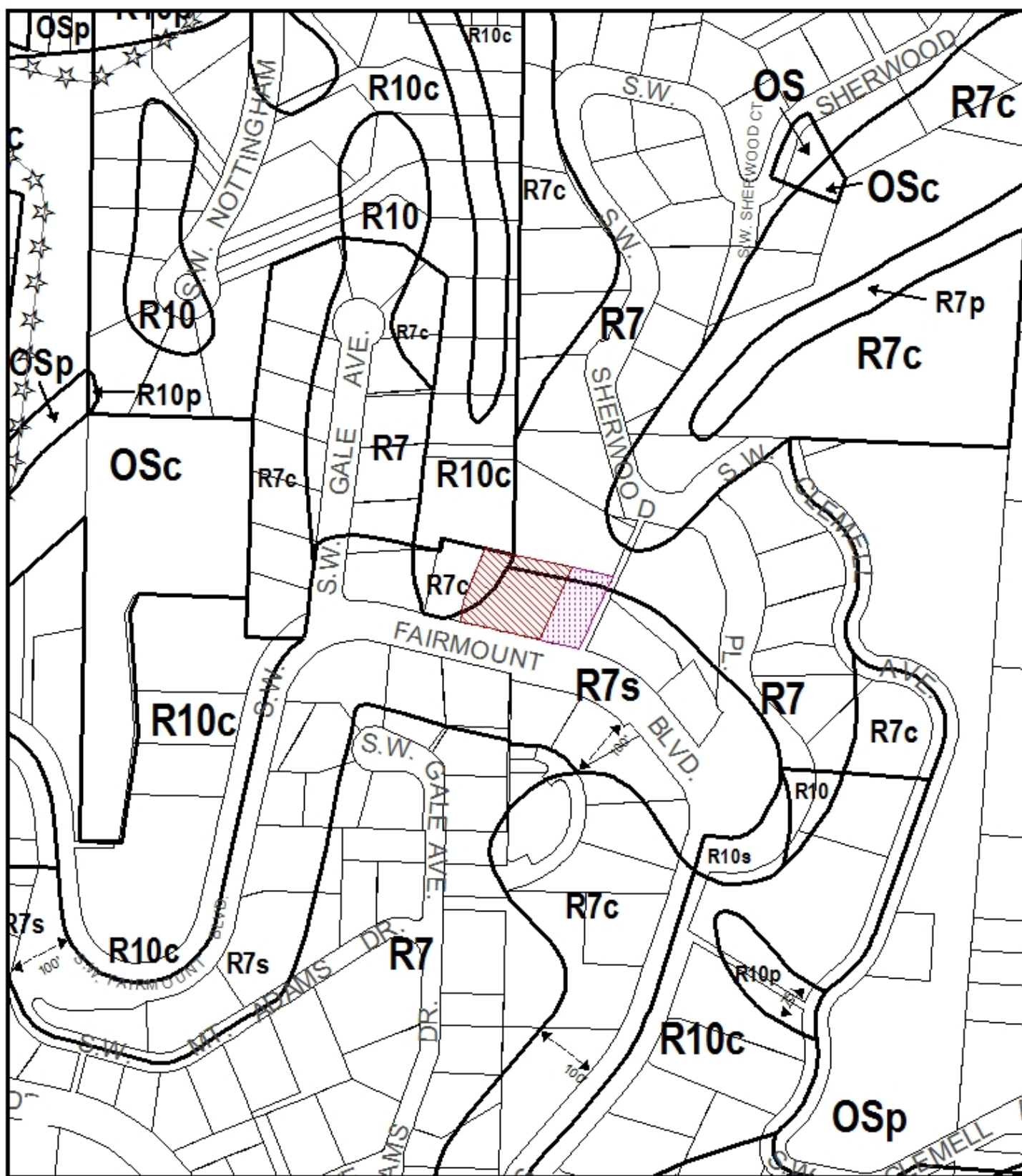
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Application and original plans and narrative
 - 2. Letter from Tess and Jim Durham, submitted by applicants
 - 3. Letter from Ann and Gary Johnson, submitted by applicants
 - 4. Supplemental information, dated September 30, 2010
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Landscape Plan (attached)
 - 3. Elevation Drawings (attached)
- 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. Life Safety Plan Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Summary of electronic responses from service agencies
- F. Correspondence: (none received, in response to notice of proposal)
- G. Other:
 - 1. Site History Research
 - 2. Letter from Kathleen Stokes to Adrienne Goodwin, September 24, 2010

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
 Also Owned



File No. LU 10-174635 AD
 1/4 Section 3327
 Scale 1 inch = 200 feet
 State_Id 1S1E09BC 4202
 Exhibit B (Sep 15,2010)

PRELIMIN
DOCUMENT

DRAWING:
EXTERIOR
ELEVATION

JOB NO. 0627

SHEET


A3.0

COMMENTS

THESE PLANS ARE AN A
SERVICE AND ARE THE I
CONSTRUCT DESIGN LU
NOT BE OUPLOADED, BE
REPRODUCED WITHOUT
CONSULT OF COMETRA
LLC. COPYRIGHTS AND
INFRINGEMENTS WILL BE
AND PROSECUTED.

LU10-174635

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

City of Portland


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