



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

Dan Saltzman, Commissioner
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www.portlandoregon.gov/bds

Date: February 7, 2012
To: Interested Person
From: Mark Bello, Land Use Services
503-823-7810 / Mark.Bello@portlandoregon.gov

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

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 11-198116 AD 1310 SW TAYLORS FERRY ADU

GENERAL INFORMATION

Applicant: Georgene Bernards-Martin
1310 SW Taylors Ferry Rd
Portland, OR 97219-4367

Guy Snyder
3537 SW Council Crest Dr
Portland OR 97239

Site Address: 1310 SW TAYLORS FERRY RD

Legal Description: BLOCK E LOT 1&2 TL 6700, NORTHROP AC; BLOCK E LOT 2 TL 6600, NORTHROP AC

Tax Account No.: R616103040, R616103060, R616103040

State ID No.: 1S1E28AB 06700, 1S1E28AB 06600, 1S1E28AB 06700

Quarter Section: 3828

Neighborhood: Marshall Park, contact John DeLance at 503-246-4382.

Business District: None

District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: R10c, Residential 10,000 with 'c', environmental overlay zoning

Case Type: AD Adjustment to modify or waive Zoning Code development standard(s)

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

Proposal: This site is developed with a house and a detached studio/garage building. The house contains 1,772 sq. ft. of living area. The applicant proposes to convert the studio to an Accessory Dwelling Unit (ADU) -- 1,220 sq. ft. in area. The scope of work includes installation of

plumbing for one bathroom and one kitchenette. No modification to the existing building envelope is proposed.

Adjustment approval is requested to allow an increase in floor area from a zoning code maximum 800 sq. ft. to 1,220 sq. ft. (Section 33.205.030 C.6). Note that the applicant intends to meet zoning code maximum height requirements.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are contained in 33.805.040 A-F of the Zoning Code.

ANALYSIS

Site and Vicinity: The site is approximately 52,496 sq. ft. in area, with a gentle slope down from west to east. There are two structures along the south property line, a house and an accessory studio/garage structure in the southwest corner of the site. The house is near the west property line but about 25 feet from the south property line. The accessory structure is about 50 ft. east of the house and is about 30 feet from the south property line. The area between the accessory structure and house is formally landscaped. The area between the accessory structure and south property line contains native vegetation. The vegetation includes holly, alder, rhododendron and ferns.

Across the south property line are two houses on two lots. One lot fronts on SW Taylors Ferry Ct. and behind is a flag lot to the east. The closest house to the accessory structure is the house located at 1320 SW Taylor's Ferry Court. This house is approximately 5 ft. from the common property line and approximately 35 ft. from the accessory structure on the applicant's site.

The applicant's house is one-story; it has a 2,440 sq. ft. footprint. The accessory structure is two-stories but sited into the hillside; it has a 2,100 sq. ft. footprint. A garage is tucked below the studio above. Access to the site is via SW Dolph Court.

An open stream channel flows east along SW Dolph Court and then south near the eastern property line.

The residential area east of SW Taylors Ferry Road is characterized by large lots, - about 11,700 sq. ft. in area or multiples of that. These lots are deep but of normal widths. Open, natural areas are the significant characteristics of the area.

Zoning: The Residential 10,000 (R10) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 6,000 square feet, with minimum width and depth dimensions of 50 and 60 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 10,000 square feet of site area.

The Environmental Conservation Zone "c" overlay conserves important resources and functional values in areas where the resources and functional values can be protected while following environmentally sensitive urban development.

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 **December 27, 2011**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering and Development Review

- Water Bureau
- Fire Bureau
- Site Development Review Section of BDS
- Bureau of Parks, Forestry Division
- Life Safety Plans Examiner, BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on December 27, 2011. No written responses have been received from notified property owners in response to the proposal. The Marshall Park Neighborhood Association requested information from staff but did not submit an official response.

ZONING CODE APPROVAL CRITERIA

33.805.10 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 to 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 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

Findings: The standards that regulate Accessory Dwelling Units are intended to address the following purposes:

- Ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones;
- Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;
- Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and
- Provide adequate flexibility to site buildings so that they fit the topography of sites.

Findings: ADU standards are intended to maintain a subordinate relationship of the ADU to the main household's residential structure. The ADU regulations allow the ADU to be within a larger accessory structure that may also contain a garage as in this case. The floor area of the ADU is 1,220 sq. ft., 420 sq. ft. larger than allowed by the zoning code. However, the proposal is consistent with the purpose statement as follows:

The ADU standards are written with a general assumption that house and detached ADU are to be located on a lot roughly platted per residential zoning density and area standards. For example, an ADU in the R10 zone would be built on an approximately 10,000 sq. ft. lot. This site is almost an acre in size. Typically, a detached structure in the R10 zone may be 10 ft. from a side or rear property line. This accessory structure is 30 ft. away. The structure already exists so the additional impact on livability will be nil. *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; and

Findings: As described above, the existing structure is compatible with the general building envelop and siting of structures in the neighborhood. The house and accessory structure are located so as to easily meet R10 area, dimensional and setback development standards if the applicant's site were to be subdivided. The accessory structure is well designed and compatible with the naturalistic and modern designs of most structures in the neighborhood. The area between the accessory structure and the south property line is landscaped and the applicant intends to maintain this landscaping and add additional landscaping such as mock orange, Pacific crabapple, and vine maples. *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 being requested. *Therefore, this criterion does not apply.*

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

Findings: There are no City-designated scenic or historic resources on this site. *Therefore, this criterion does not apply.*

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

Findings: There are no impacts that are expected to result from this request. No building or site changes are proposed to result from the change in occupancy. *Therefore, this criterion does not apply.*

- 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: This site is partly located in the 'c' and 'p' environment overlay zones. The existing accessory structure is located partly within the 'c' overlay zone. However, no change is proposed to the physical characteristics of the site. So, no impacts are expected to result from the change in occupancy. *This criterion does not apply.*

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 proposal to increase floor area from a zoning code maximum of 800 sq. ft. to 1,220 sq. ft. is approvable given the circumstances of the applicant's site. The ADU/garage will not impact or "crowd" adjacent neighbors. The proposal meets all applicable approval criteria.

ADMINISTRATIVE DECISION

Approval of an Adjustment to zoning code standard, 33.205.030 C.6, to increase in floor area from 800 to 1,220 sq. ft. for an ADU per the approved site plans, Exhibits C-1 – C-3, signed and dated February 3, 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 Exhibit C-1 – C-3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 11-198116 AD.

Staff Planner: Mark Bello

Decision rendered by:  **on February 3, 2012**

By authority of the Director of the Bureau of Development Services

Decision mailed: February 7, 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 December 2, 2011, and was determined to be complete on **December 20, 2011**.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on December 2, 2011.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: April 10, 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 February 21, 2012** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **February 22, 2012**.
- 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:

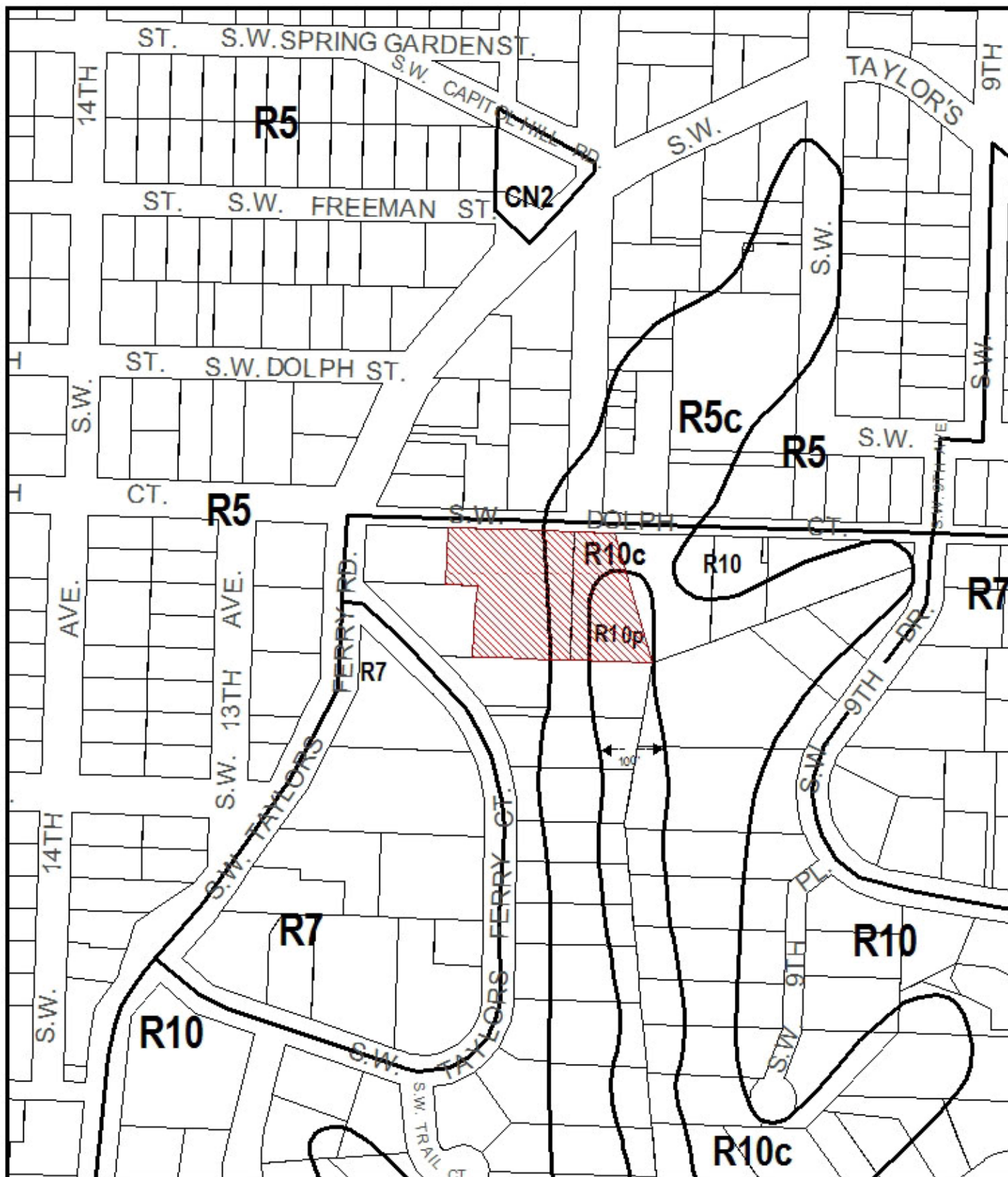
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings: (attached)
 - 1. Site Plan
 - 2. Living Space Floor Plan
 - 3. Elevations
- 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
 - 7. Life Safety Plans Examiner, BDS
- F. Correspondence:
 - 1. John DeLance, Marshall Park Neighborhood Association, January 11, 2012
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter to Applicant, December 12, 2012

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

File No. LU 11-198116 AD

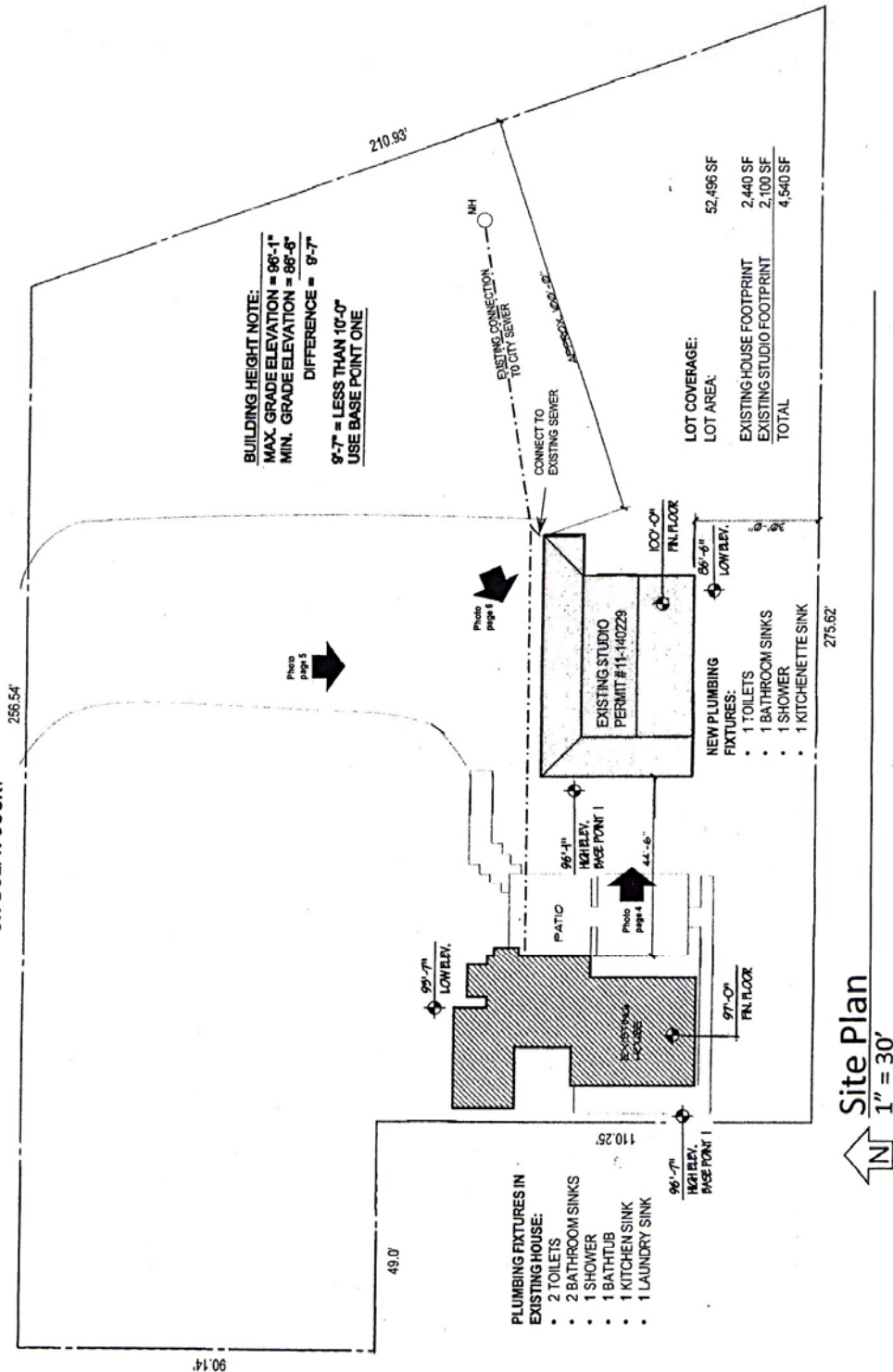
1/4 Section 3828,3928

Scale 1 inch = 200 feet

State_Id 1S1E28AB 6700

Exhibit B (Dec 08,2011)

SW DOLPH COURT



Conversion of Existing Living Space to Accessory Dwelling Unit

Georgene Bernards
 1310 SW Taylors Ferry Road, Portland, OR

21 DECEMBER 2011

CASE NUMBER: LU 11-198116 AD

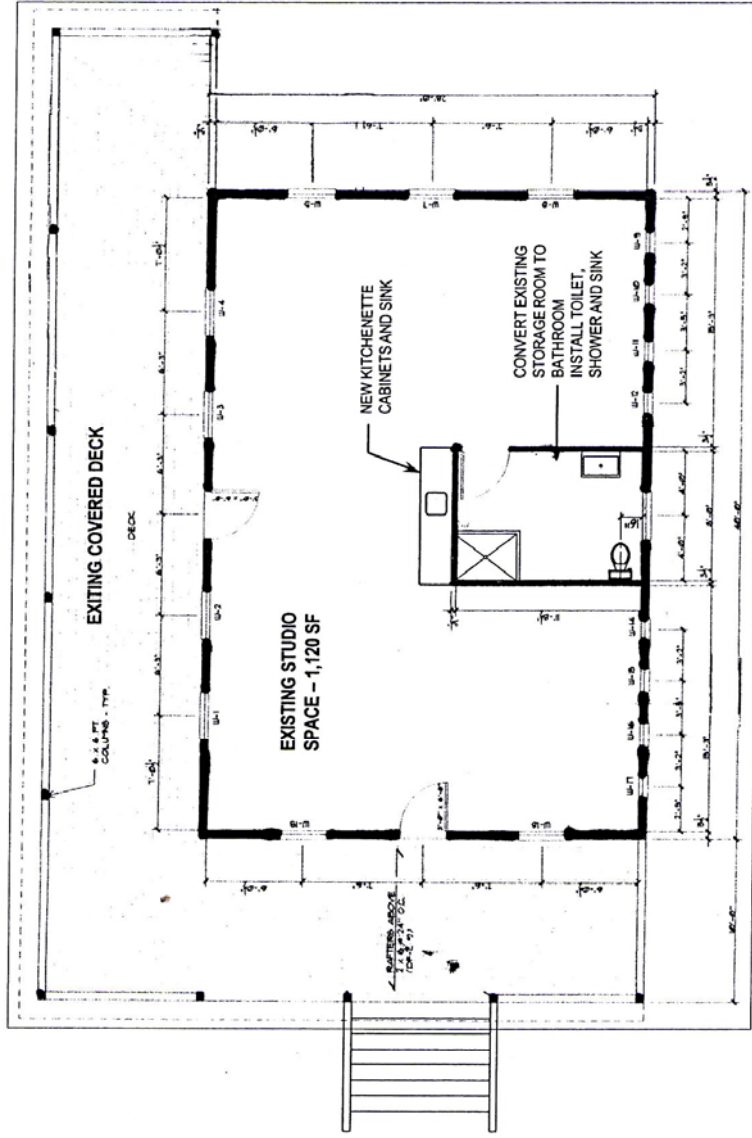
Approved

City of Portland - Bureau of Development Services

WB 2/3/12

CASE NO. 11-198116

EXHIBIT C1



Living Space Floor Plan
1/8" = 1'-0"

Conversion of Existing Living Space to Accessory Dwelling Unit

Georgene Bernards
1310 SW Taylors Ferry Road, Portland, OR

21 DECEMBER 2011

CASE NUMBER: LU 11-198116 AD

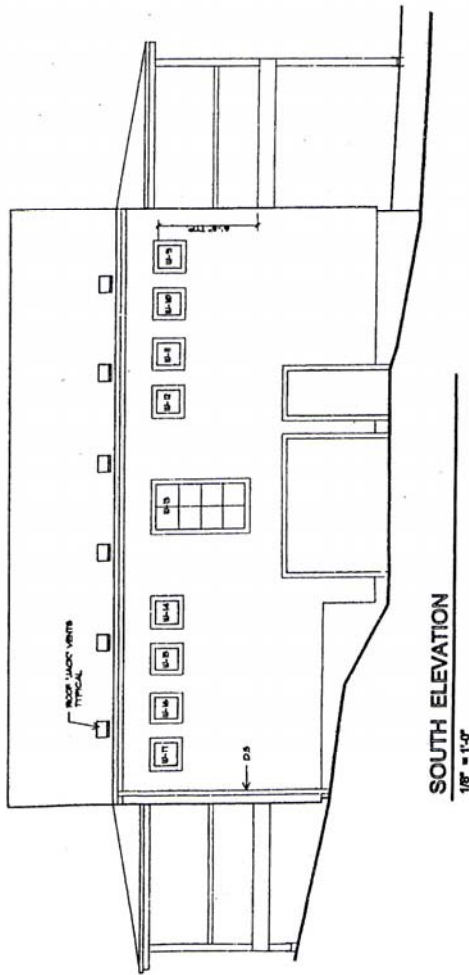
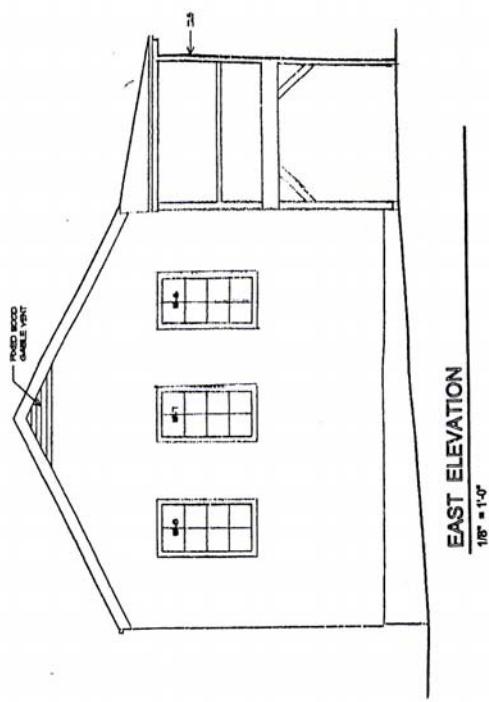
Approved

City of Portland - Bureau of Development Services

Date 2/3/12

CASE NO. 11-198116

EXHIBIT C2



Conversion of Existing Living Space to Accessory Dwelling Unit

Georgene Bernards

Georgiella Bernardas
1310 SW Taylors Ferry Road, Portland, OR

21 DECEMBER 2011

PROPOSED ADU OVER EXISTING GARAGE

CASE NUMBER: LU 11-198116 AD

Approved
 Bureau of Development Services

WBS Date 2/3/12

to the reviews requested and is not a condition of zoning requirements may be

CASE NO. 11-198116
EXHIBIT C3