



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

Charlie Hales, Mayor
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Date: March 8, 2013
To: Interested Person
From: Sheila Frugoli, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 13-105895 AD

GENERAL INFORMATION

Applicant: Ryan Walsh, Design Contractor / DRW Design Build
3812 SE Malden St / Portland OR 97202

Property Owners: David and Catherine Willmott
2608 SW Buena Vista Pl / Portland, OR 97201-1785

Site Address: 2608 SW BUENA VISTA PL

Legal Description: LOT 16 TL 2600, ALTAVISTA
Tax Account No.: R019900330
State ID No.: 1S1E05DA 02600
Quarter Section: 3226
Neighborhood: Southwest Hills Residential League, Nancy Seton at 503-224-3840.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Zoning: R10, Single-Dwelling Residential 10,000
Case Type: AD, Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant is requesting an Adjustment Review to waive the Zoning Code required 10 foot setback. The applicant wishes to construct an accessory structure in the southwest corner of the property, adjacent to the property lines. The proposed structure will provide partial enclosure and a cover for an outdoor kitchen. The 175 square foot structure will be 8 feet wide and 19.5 feet long and at its highest point, will be 9.5 feet tall. A chimney flue will extend up beyond the roof.

The plans identify a tall retaining wall on the western abutting lot (2681 SW Buena Vista Dr.) that will screen the view of the proposed structure. The property owners also own the southern abutting undeveloped lot. The attached zoning map and plans identify the property and the proposed improvements.

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 subject property is comprised of a 11,250 square foot lot with a multi-story house that was built in 1925. The owners also own the adjacent 12,068 square foot vacant lot to the south. The subject property is located at the terminus of SW Buena Vista Place, which is a short, narrow street. The property also has frontage on SW Montgomery Street along the north and east property lines. Due to steep topography, the home is located near the SW Buena Vista Place property line.

The surrounding lots also have stately architecturally-designed homes that were constructed in the early 1900s. Houses to the west and southwest of the site are higher in elevation than the subject property, while houses to the east and north (across SW Montgomery Drive) are much lower in elevation.

Zoning: The site is zoned R10, Single Dwelling Residential 10,000. Generally, the allowed density in this zone is one dwelling unit per 10,000 square feet.

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 **January 24, 2013**. Setback Adjustment Reviews for accessory structures are reviewed by the Portland Bureau of Transportation (PBOT) and the Bureau of Environmental Service (BES) teams. The PBOT staff responded with no issues or concerns (Exhibit E.3). BES responded with the following comments:

As identified under LU 13-105895 AD, the applicant is currently coordinating with BES Development Engineering and BES Maintenance regarding locating the proposed structure over the existing public combined sewer in the location of the proposed project. The applicant has provided survey information and a proposal for maintaining the integrity of the public combined sewer if the proposed structure were allowed to be located over it. **Based on additional information provided by the applicant and additional coordination, BES recently determined that the structure will be allowed to be located over the combined sewer. However specific requirements will apply, which are being identified in detail through a separate BES review process.** Some of the requirements include: lining the public combined sewer prior to constructing the structure, providing BES access to the sewer for maintenance purposes, and not impacting the sewer during construction.

In addition to specific requirements for constructing the structure over the public combined sewer on this site, BES is also coordinating with the property owner regarding easement requirements that apply for the public sewers located along the west and south property boundaries of this site. Requirements shall be identified through a BES review process that is separate from the BDS land use review process. (Exhibit E.1).

BDS Comments: *This land use review addresses applicable Zoning Code requirements only. Other City requirements that apply to the protection of a public sewer must be addressed before the applicant may obtain development permits and/or complete work in the area of the existing public sewer.*

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on January 24, 2013. One written response has been received from notified property owners in response to the proposal. Nearby neighbors wrote that they support the proposal because the project is in keeping with development in the neighborhood and will be a positive improvement to the applicants' property. (Exhibit F.1)

ZONING CODE APPROVAL CRITERIA

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: Setback: The purpose for setbacks is found in Zoning Code Sections 33.110.250 and 33.110.220 A, as follows:

33.110.250. A. *This section regulates structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards provide for necessary access around structures, help maintain privacy to abutting lots and maintain open front setbacks.*

33.110.220.A. *The setback regulations for buildings and garage entrances 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 applicant's narrative explains that the proposed accessory structure will be located on the downhill side of two large retaining walls that separate the site from the western abutting lot. The submitted site plan shows that the location for the outdoor kitchen and patio area was selected because it will be adjacent to the house in a relatively flat portion of the site. The rear of the lot is dramatically sloped. An elevated deck would have to be constructed to accommodate similar outdoor activities, if located behind the house. The proposed outdoor kitchen structure will be located adjacent to the vacant lot and retaining wall that separates the landscaped rear yard of the property at 2681 SW Buena Vista Place. The reduction of the side building setback from 10 feet to approximately 6 inches will have no significant impact on privacy, light, air, or emergency access. Fire fighting access will be provided off of SW Buena Vista Place and will not be impeded by the proposed location of the accessory structure.

Therefore, 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 proposed outdoor kitchen structure will not be more prominent than the large home on the site. As stated above, the structure will be located in the southwest corner of the lot, away from the abutting streets and behind a relatively tall retaining wall. A letter of support was received from owners of a nearby home. The letter stated the proposal would be in keeping with the neighborhood (Exhibit F.1). No concerns were raised by other notified neighbors about the appearance or livability impacts. 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: This proposal requires only one Adjustment. 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 historical resources present on the site itself. A home with historic landmark status is located adjacent to the site at 2681 SW Buena Vista Drive. The proposed adjustments will not negate the preservation status of this historic residence. Therefore, this criterion is met.

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

Findings: There are no discernible adverse impacts from the Adjustment that would require mitigation. Therefore, this criterion is not applicable.

- 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. Therefore, 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

As reflected in the findings, this proposal meets the approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to waive the required 10 foot side building setback (33.110.250) for a 175 square foot accessory structure, per the approved plans, Exhibits C.1 through C.5, signed and dated March 6, 2013, subject to the following conditions:

- A. A Zoning Permit is required. As part of the 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.XX. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-105895 AD."

NOTE: The Zoning Permit application must address the Bureau of Environmental Services requirements described by staff (Exhibit E.1).

Staff Planner: Sheila Frugoli



Decision rendered by: _____ **on March 6, 2013**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 8, 2013

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 17, 2013, and was determined to be complete on January 18, 2013.

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 17, 2013.

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.

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 March 22, 2013** 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 **March 25, 2013 – (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:

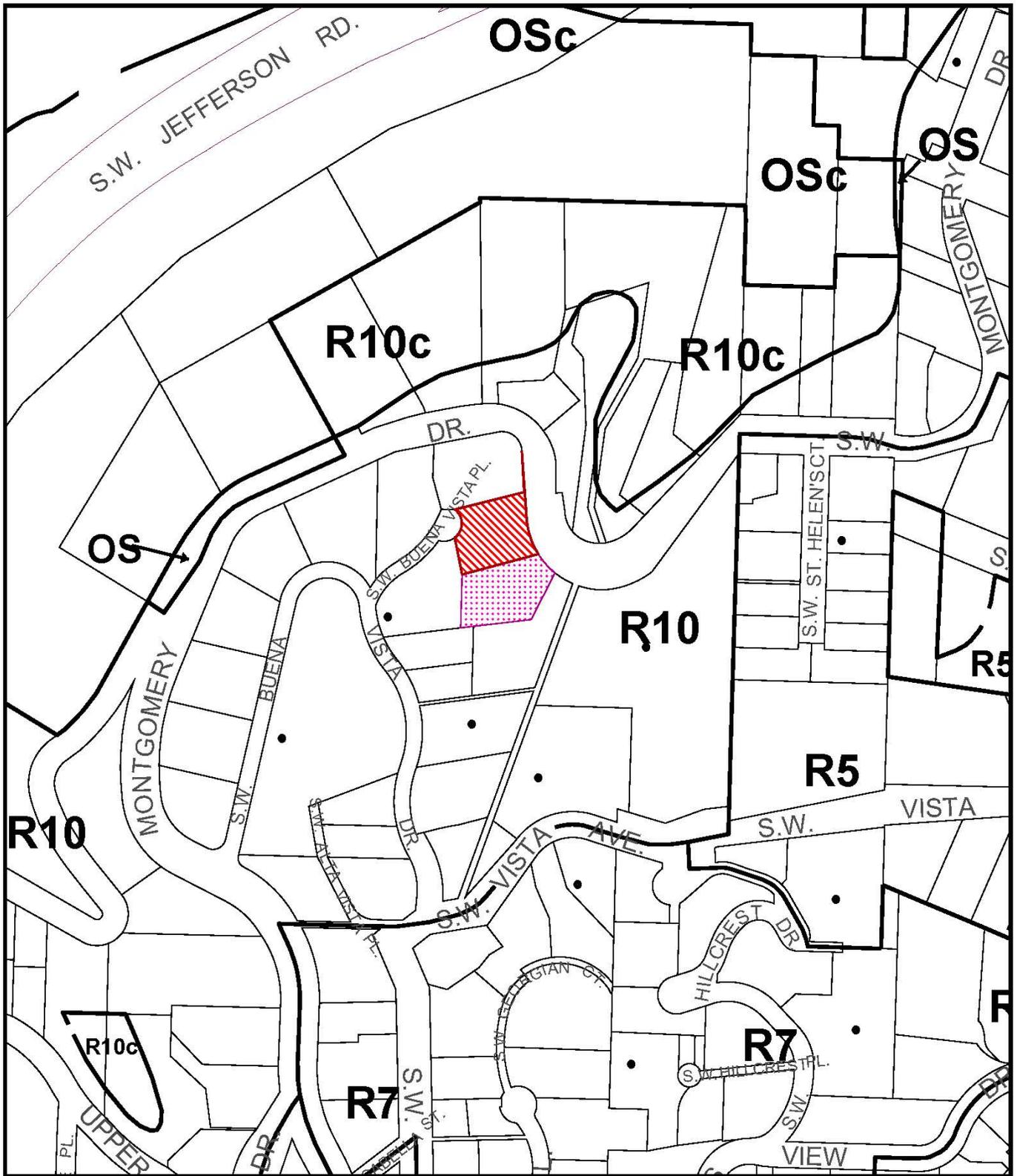
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Site Plan – Enlarged (attached)
 - 3. Site Cross-Section (attached)
 - 4. Side Elevation (attached)
 - 5. Rear Elevation (attached)
 - 6. Front Elevation
 - 7. Foundation Plan
 - 8. Main Level Plan
 - 9. Roof Plan
 - 10. Photos of Existing Conditions—Rear Yard
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services, Addendum Response, March 6, 2013
 - 2. Bureau of Environmental Services, February 14, 2013
 - 3. Bureau of Transportation Engineering and Development Review
- F. Correspondence:
 - 1. Susan and Robert Bond, February 8, 2013, letter from neighbors supporting the proposal.
- G. Other:
 - 1. Original LU Application

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
-  Historic Landmark



File No. LU 13-105895 AD
 1/4 Section 3226
 Scale 1 inch = 200 feet
 State_Id 1S1E05DA 2600
 Exhibit B (Jan 17, 2013)



drwdesignbuild

gran waltsh, architect
503-577-2824
info@drwdesignbuild.com

willmott outdoor kitchen

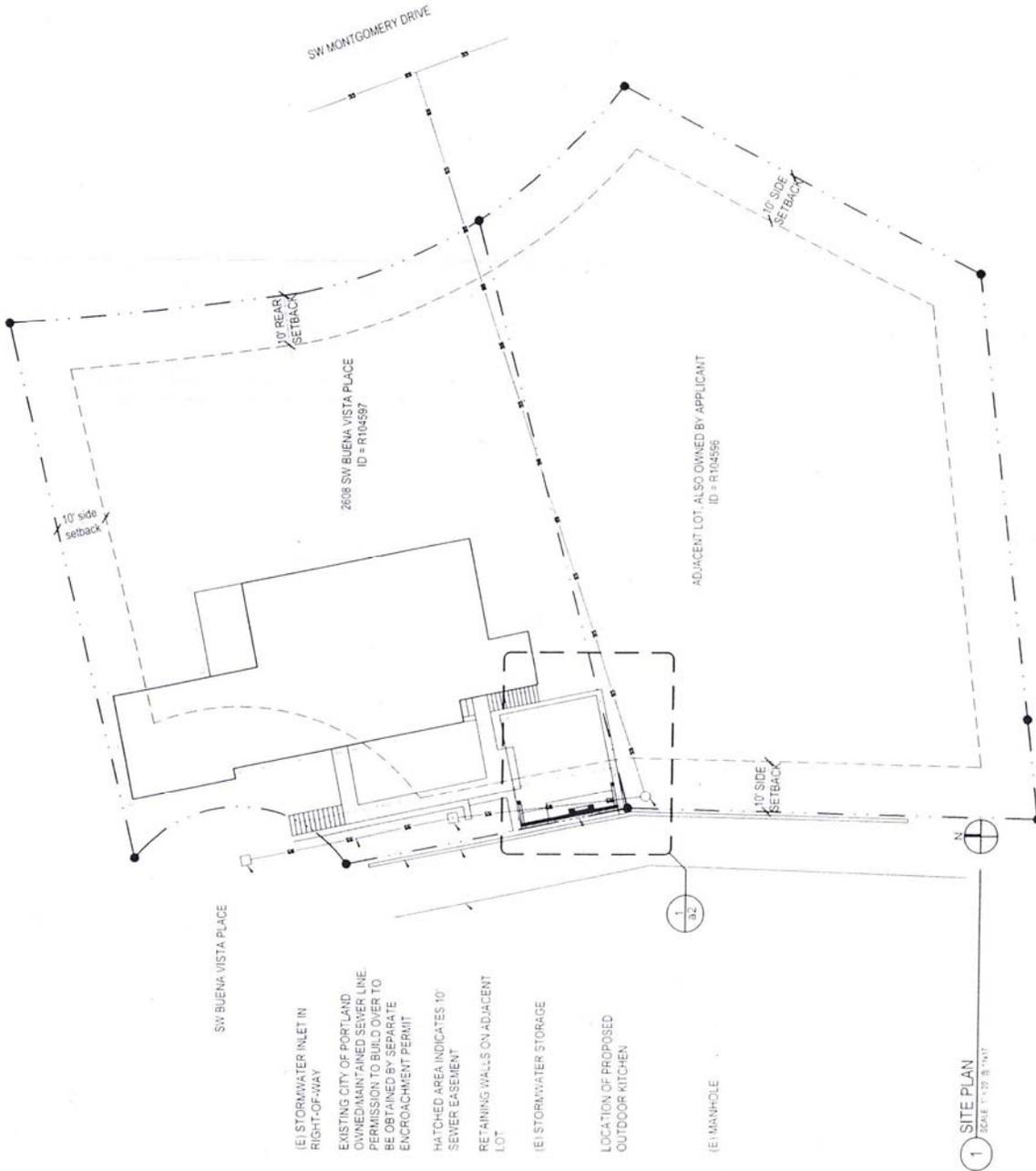
ADJUSTMENT
site plan
REVISION REVIEW SET

2608 sw buena vista pl
portland, or 97201
january 17th 2013

a1

Approved
 City of Portland - Bureau of Development Services
 Planner *S. Truitt* Date *March 6, 2013*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Exhibit C.1
UM 13-105895 AD



SW BUENA VISTA PLACE

SW MONTGOMERY DRIVE

2608 SW BUENA VISTA PLACE
ID = R104597

ADJACENT LOT, ALSO OWNED BY APPLICANT
ID = R104595

- (E) STORMWATER INLET IN RIGHT-OF-WAY
- EXISTING CITY OF PORTLAND OWNED/MAINTAINED SEWER LINE. PERMISSION TO BUILD OVER TO BE OBTAINED BY SEPARATE ENCROACHMENT PERMIT
- HATCHED AREA INDICATES 10' SEWER BASEMENT
- RETAINING WALLS ON ADJACENT LOT
- (E) STORMWATER STORAGE
- LOCATION OF PROPOSED OUTDOOR KITCHEN
- (E) MANHOLE

1 SITE PLAN
SCALE 1" = 20' @ 1/4" = 1'



drwdesignbuild

ryan.walsh@architect.com
503.577.2824
info@drwdesignbuild.com

REVISION REVIEW SET
ADJUSTMENT

2608 SW BURNS AVENUE
PORTLAND, OR 97203
JANUARY 17th 2013

Willmott outdoor kitchen

(E) RESIDENCE

DN

(E) ROCK WALLS

OUTLINE OF ROOF
OVER: 175 SQ. FT.

(E) TERRACE WITH
NEW REMOVABLE
BLUESTONE PAVERS
El. +9'-0"

Approved
City of Portland - Bureau of Development Services
Planner S. Fungel Date March 6 2013
* This approval is only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

1 SITE PLAN - ENLARGED
SCALE 1/8" = 1'-0"

EXISTING CITY OF PORTLAND
OWNED/MAINTAINED SEWER
LINE - PERMISSION TO BUILD
OVER TO BE OBTAINED BY
SEPARATE ENCROACHMENT
PERMIT

EXISTING RETAINING
WALL ON ADJACENT
PROPERTY



PROPERTY LINE

EXISTING MONUMENT
AT LOT LINES

EXISTING MANHOLE

a2

Exhibit C.2

LM 13-105895 AD

2608 SW BUENAVISTA PLACE (APPLICANT)
R104597

2681 SW BUENAVISTA DRIVE (NEIGHBOR)
R104595

property line
10' side setback

EXISTING RESIDENCE
EXISTING GARAGE
EXISTING GRADE @ SW
BUENAVISTA PLACE
EXISTING STEPS TO
STREET LEVEL

NEW OUTDOOR KITCHEN
EXISTING RETAINING WALLS
ON ADJACENT PROPERTY

TOP OF RETAINING WALLS
+ 13'-4"

TOP OF ROOF STRUCTURE
+ 9'-6"

EXISTING PAVED TERRACE
+ 0'-0"

EXISTING CITY OF PORTLAND
OWNED/MAINTAINED SEWER LINE
PERMISSION TO BUILD OVER TO
BE OBTAINED BY SEPARATE
ENCROACHMENT PERMIT

(E) TERRACE w/ NEW BLUESTONE
PAVERS

1 SITE SECTION
SCALE 1/8" = 1'-0"

Approved
City of Portland - Bureau of Development Services
Planner S. F. Fungel Date March 6, 2013
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



Willmott outdoor kitchen
Site section
REVISION REVIEW SET
January 17th 2013
2608 SW Buena Vista Pl
Portland, OR 97201

drdesignbuild
ryan walsh, architect
503-577-2824
info@drdesignbuild.com

a3

Exhibit C.3
LM 13-105895 AD



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 Ryan Walsh, architect
 503-577-2824
 info@drwdesignbuild.com

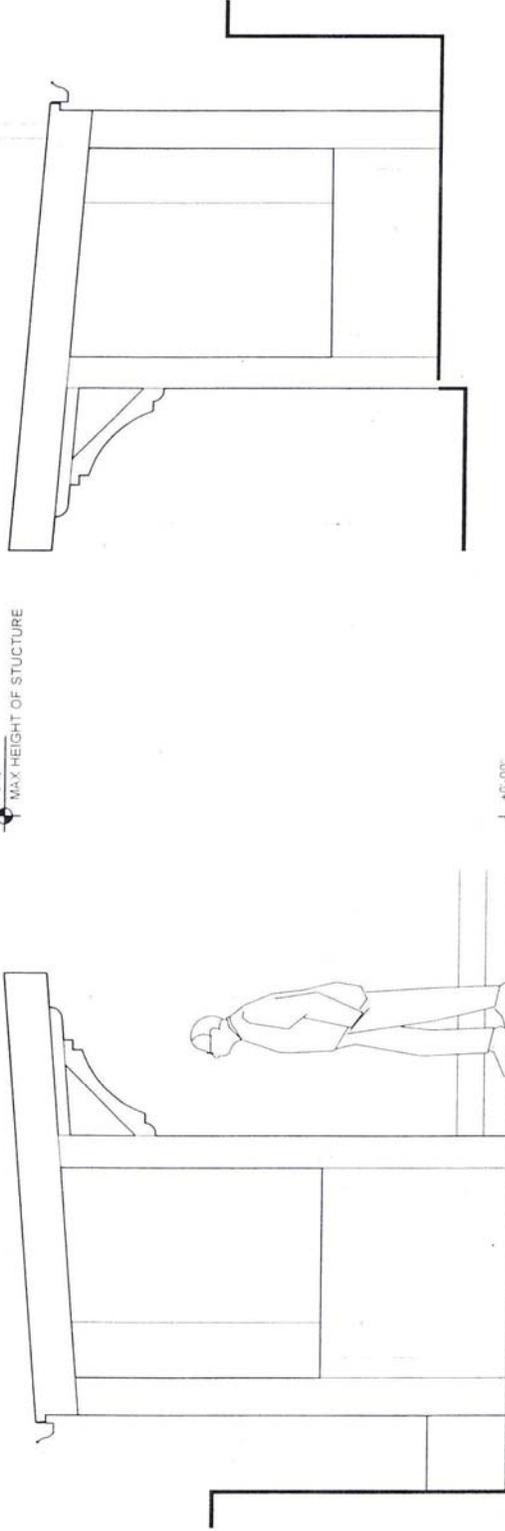
willmott outdoor kitchen
 elevations
 DESIGN REVIEW SET
 January 17th 2013

10' SIDE SEEBACK

property line

4'-0" MAX HEIGHT OF STRUCTURE

4'-0" EXISTING GRADE AT TERRACE



Approved
 City of Portland - Bureau of Development Services
 Planner S. Fungli Date March 6, 2013
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

1 SIDE ELEVATION
 SCALE 1/2" = 1'-0" @ 1/4"

2 SIDE ELEVATION
 SCALE 1/2" = 1'-0" @ 1/4"

ag

Exhibit C.4

LM 13-105895 AD

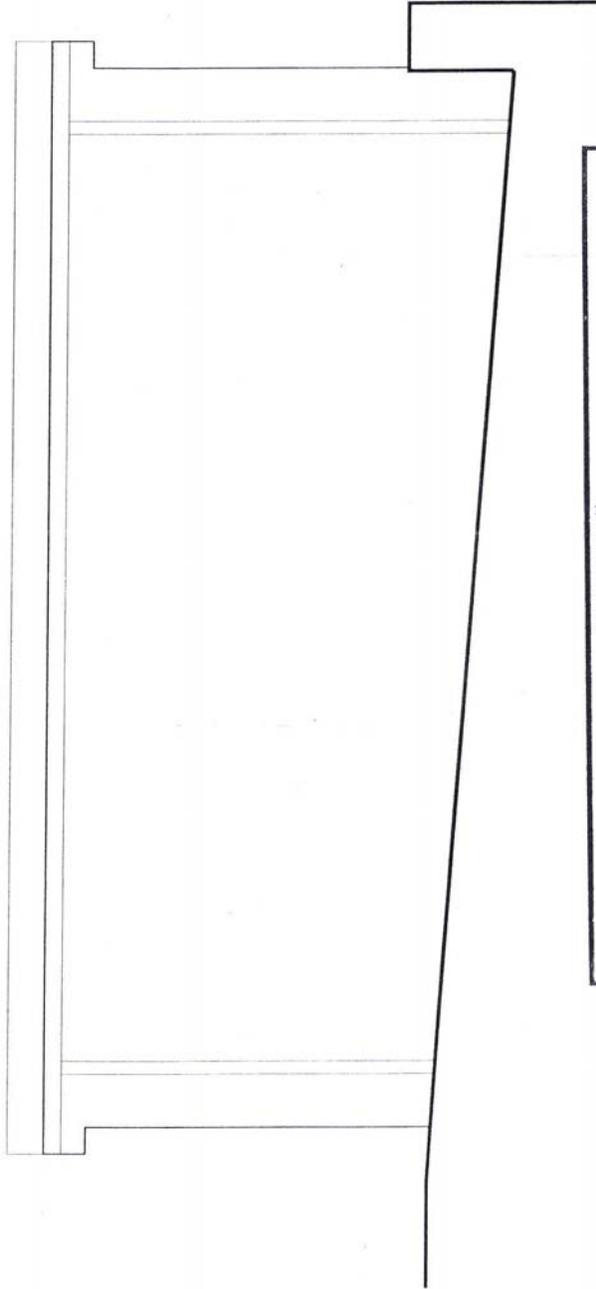


drwdesignbuild
 Ryan Walsh, architect
 503-577-2824
 info@drwdesignbuild.com

willmott outdoor kitchen
 elevations
 2608 sw buena vista pl
 portland or 97201
 january 17th 2013
 APPROVAL REVIEW SET
 APPROVED

+9'-6"
 MAX HEIGHT OF STRUCTURE

+0'-00"
 EXISTING GRADE @ TERRACE



Approved
 City of Portland - Bureau of Development Services
 Planner S. Fung Date March 6, 2013
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

1 REAR ELEVATION
 (Scale 1/8" = 1'-0")

a9

Exhibit C.5
 WA 13-105895 AP