



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

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**NOTICE OF FINAL
FINDINGS, CONCLUSIONS AND DECISION
OF THE CITY OF PORTLAND REVIEW BODY
ON AN
APPEALED ADMINISTRATIVE DECISION
(Type II Process)**

CASE FILE: LU 15-122386 AD
LOCATION: 1970 SW Mill Street Terrace

The administrative decision for this case, published on June 19, 2015, was appealed to the Adjustment Committee by the Goose Hollow Foothills League and a neighbor, Julie Clifford.

A public hearing was held on August 18, 2015. The Adjustment Committee modified the administrative decision of approval and partially approved the request. The original analysis, findings and conclusion have been revised by the Adjustment Committee and follow.

This document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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.

GENERAL INFORMATION

Applicant: Rahim Abbasi / Abbasi Design Works
510 SW 5th Ave Suite 200 / Portland, OR 97204

Appellant: Julie Clifford
1964 SW Mill Street Terrace / Portland, OR 97201

Appellant: Jerald Powell / Goose Hollow Foothills League
2257 NW Raleigh St / Portland, OR 97210

Site Address: 1970 SW MILL STREET TER

Legal Description: LOT 9, VISTA HTS
Tax Account No.: R868500250
State ID No.: 1S1E04BA 11500
Quarter Section: 3127
Neighborhood: Goose Hollow, contact Jerry Powell at 503-222-7173
Business District: Goose Hollow Business Association, contact Angela Crawford at 503-223-6376

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212
Zoning: R2 (Residential 2,000)
Case Type: AD Adjustment Review (3 concurrent Adjustments)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to demolish the existing house on this lot and construct a duplex. The lot has frontage on SW Mill Street Terrace to the east and a public pedestrian connection to the

west. It slopes steeply uphill from SW Mill Street Terrace. The applicant has designed a home that has frontage on both the street and the pedestrian connection. The project requires exceptions to three development standards of the Portland Zoning Code. The first Adjustment is to increase the maximum allowed height from 40 feet to 47 feet 7 inches. The second Adjustment is to reduce the front building setback along SW Mill Street Terrace from 10 feet to 5 feet 6 inches (1-foot 7 inches to balconies and cantilevered living space on the second and third floors). The third Adjustment is to reduce the garage entrance setback from 18 feet to 7 feet 6 inches.

Note #1: The applicant has revised the project since the Notice of Proposal was mailed on March 18, 2015. Revisions include reducing the height of the proposed duplex, increasing the garage entrance setback and increasing the front setback. Revisions also include converting upper floor living area to deck space to reduce bulk and massing.

Note #2: The Notice of Proposal listed the proposed height of the duplex as 59 feet. However, the Portland Zoning Code states that for steeply sloping lots, height is measured from a distance 10 feet above the lowest grade. Therefore, the Notice of Proposal should have listed the originally proposed height as 49 feet. This height has now been reduced to 47 feet and 7 inches.

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.

Appeal: The proposal was approved through an Administrative Decision with one condition of approval. The appellants filed an appeal of the decision based on:

- The proposal is out-of-scale with surrounding development;
- The design includes too much building height close to the narrow street;
- The project will negatively impact privacy for neighboring lots and lots across SW Mill Street Terrace;
- Staff erred in the application of the approval criterion C;
- Setback averaging should not be allowed;
- The proposal does not include adequate mitigation;
- Views of the downtown Portland would be compromised; and
- The proposal does not include a visually pleasing front yard.

Procedural History: At the August 4, 2015 hearing, the Bureau of Development Services (BDS) staff planner, Matt Wickstrom, presented the proposal and administrative decision, showing pictures of the site and surrounding area (Exhibit H7). The appellants gave testimony to support their arguments that the administrative decision should be denied. The applicant answered questions and spoke in favor of the staff decision. At the conclusion of the hearing, the record was held open for additional evidence to be submitted and a follow-up hearing scheduled.

At the August 18, 2015 hearing, Matt Wickstrom presented a summary of the additional information submitted by the applicant and appellants. Additional information submitted by the applicant included additional narrative regarding the adjustments and graphics of the garage parking layouts, garage setbacks on SW Mill Street Terrace, and building height comparisons (Exhibits H8). The applicant also submitted an addendum from his geotechnical engineer (Exhibit H11). The appellants submitted a summary of testimony and follow-up email as well as a diagram of the bulk of the duplex and relation of height and setback proposed versus allowed (Exhibits H9, H13, and H14). Another neighbor submitted emailed comments on the applicant's additional submittals (Exhibit H15). The Adjustment Committee deliberated and voted to approve the height and front setback Adjustments but to deny the garage entrance setback Adjustment.

ANALYSIS

Site and Vicinity: The 4,081 square foot site has street frontage on SW Mill Street Terrace to the east and a pedestrian connection to the west. The site slopes steeply upward from SW Mill Street Terrace toward the pedestrian connection. Overall the site has a 44% average slope. The site is developed with an approximately 4-story single-dwelling residence built atop open metal framing. The home appears 2 stories from the pedestrian connection. A paved approximately 30-foot deep parking area is located off SW Mill Street Terrace. The view of the home and site from SW Mill Street Terrace is uninviting and has little street presence. The home has a long history of housing violations and nuisance complaints and violations including components of the home having been built without permits.

The immediate vicinity is developed with single-dwelling homes of varying heights and time periods of development. A single-dwelling home located south of the site is accessed from SW Mill Street Terrace via a lengthy uphill stairway. It is also accessed from an upper pedestrian connection shared with the site. A detached 2-car garage with living area is also located on this lot. The garage entrance is almost zero feet from SW Mill Street Terrace. A vacant lot and two single-dwelling homes are located on three lots north of the site. Both have driveways and aren't readily visible from SW Mill Street Terrace. Two single-dwelling homes are located across SW Mill Street Terrace from the site. These homes appear single-level from the street but, like many of the homes in the vicinity, are built on a slope and are multi-level with living space located below street grade. The greater vicinity is developed with primarily single-dwelling homes although some condominiums are located further south on SW Mill Street Terrace. The greater vicinity generally has a steep slope. This area of Southwest Portland is unique in Portland for its many stairways and urban trails. Stairways and pathways meander throughout the area.

The vicinity and site have a great deal of visual prominence. They are located on a hill above the I-26 tunnel leaving Downtown Portland.

Zoning: The site is zoned R2 (Residential 2,000). The R2 zone allows multi-dwelling residential development up to a maximum density of one unit per 2,000 square feet of site area, and requires a minimum density of one unit per 2,500 square feet of site area. Portland Zoning Code Section 33.120.205.C.1 states that in the R2 zone, if the maximum density is two units, the minimum density is two units; therefore, this site requires two dwelling units when redeveloped. Portland Zoning Code Section 33.120.220.B.2.a allows the minimum front building setback and the setback of decks, balconies and porch to be reduced to the average of the respective setbacks on the abutting lots. If a lot is vacant the Base Zone minimum setback is used to compute the average. The lot to the north is zoned R7 which has a minimum front setback of 15 feet.

Land Use History: City records indicate that prior land use reviews on the subject site include the following:

VZ 105-74 1974 approval of variances to reduce the minimum lot area from 7,000 square feet to 2,880 square feet, to reduce the south side yard from the required 5 feet to 4.5 feet and to reduce the number of off-street parking spaces from 1 space to zero, in order to construct a single-family dwelling.

VZ 114-77 1977 approval of variances to reduce the garage setback from the required 22 feet to zero, to increase the height of a fence from the permitted 3.5 feet to 8 feet in the front yard, to permit parking in the required front yard, to increase the maximum height from 2.5 stories, or 34.5 feet, to 3 stories or 40 feet and to reduce the north side yard from the required 5 feet to zero, in order to construct a single-family dwelling.

VZ 212-80 1980 approval of variances to reduce the east front yard from the required 20 feet to zero, the south side yard from the required 6 feet to zero, to reduce the minimum distance between the street property line and the entrance to the garage from the required 22 feet to zero, in order to construct a 2-story garage.

06-109528 ZC 2006 approval of a Zoning Map Amendment, from R7 to R2. Approval of Adjustments to:

- Reduce the garage entrance setback from 18 feet to 1-foot 10 inches;
- Increase the maximum building coverage from 50% to 67.4%; and
- Reduce the front building setback from 10 feet to zero and the minimum north side building setbacks from 11 feet to as little as 3 feet 10 inches and the minimum south side setback from 8 feet to as little as 1-foot 9 inches.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **March 18, 2015**. The following Bureaus have responded:

The Bureau of Environmental Services responded with information about sanitary service and stormwater management (Exhibit E-1).

The Portland Bureau of Transportation (PBOT) responded with no concerns about the garage entrance setback adjustment, and cited other PBOT requirements (Exhibit E-2).

The Water Bureau responded with information about water service (Exhibit E-3).

The Fire Bureau responded that the applicant must meet all applicable Fire Code requirements which based on past evaluations have included the installation of sprinklers (Exhibit E-4).

The Site Development Section of the Bureau of Development Services (BDS) responded with site and erosion control information and related requirements (Exhibit E-5).

The Life Safety Section of BDS responded with building code information (Exhibit E-6).

Neighborhood Review: A total of three written responses were received within the public comment period in response to the Notice of Proposal mailed on March 18, 2015.

The first response came from a neighbor who lives two lots to the south of the proposed development. The response states that the neighborhood is generally developed with smaller one and two story homes. The neighbor states that the approval criteria are not met and reviews history of the current home that is proposed to be demolished. The response also discusses a land use review that approved the site to be zoned R2 from R7 in 2006. The neighbor refers to the purpose of the R2 zone and questions whether 2 dwelling units are required on the site. The response questions whether standards requiring 30% of the site area to be landscaped and the maximum 50% building coverage in the R2 zone are met. The neighbor refers to Adjustment approval criteria G-I that require a hardship approval. The neighbor discusses the availability of street parking and the lack of on-site parking for the neighbor’s property. The neighbor states that the original house burned down in 1991 because fire trucks could not access the property. The neighbor provides responses to approval criteria A-F and states the approval criteria are not met (Exhibit F-1).

Staff response: The 2006 Zoning Map Amendment Review was approved by City Council and is not the subject of this review. The density requirements of the Portland Zoning Code require two dwelling units on this 4,081 square foot site (See Zoning section above). The proposed landscape area and building coverage were reviewed as part of this proposal and meet requirements. The Fire Bureau responded that Fire Code requirements must be met at time of building permit review and that a previous appeal required residential fire sprinklers. Comments regarding approval criteria A-F are addressed in findings below. Because the applicant is addressing approval criteria A-F, approval criteria G-I do not need to be addressed.

The second letter came from neighbors to the northeast of the site across SW Mill Street Terrace. The letter states that the “design project has our unqualified support” (Exhibit F-2).

The third letter came from neighbors to the east of the site directly across SW Mill Street Terrace. The neighbors state they have discussed the plans in detail with the applicant and have no objection to the requested Adjustments (Exhibit F-3).

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 applicant proposes three Adjustments associated with plans to construct a duplex at this site. The first Adjustment is to increase the maximum allowed height from 40 feet to 47 feet 7 inches. The second Adjustment is to decrease the minimum front setback from 10 feet to 5 feet 6 inches (1 foot 7 inches to balconies and cantilevered living space on the second and third floors). The third Adjustment is to decrease the minimum garage entrance setback from 18 feet to 7 feet 6 inches. The Adjustment requests are discussed according to height and setback below.

Height Adjustment

The purpose of the height regulations is found in Portland Zoning Code Section 33.120.215.A and states:

The height standards serve several purposes:

- They promote a reasonable building scale and relationship of one residence to another;
- They promote options for privacy for neighboring properties; and
- They reflect the general building scale of multi-dwelling development in the City's neighborhoods.

The applicant proposes to increase the maximum height of the duplex from 40 feet to 47 feet 7 inches. The height increase allows the duplex to utilize the two site frontages, SW Mill Street Terrace to the east and the pedestrian connection to the west. This allows the project to maintain a development style unique to this area of Southwest Portland where homes have frontages on pedestrian connections and trails that traverse the hillside neighborhood.

Whereas the current house (although some elements were unpermitted) was built so that two stories protrude above the pedestrian connection at the upper area of the site, the proposal is designed so that only one story of the duplex protrudes above the pedestrian connection. This height above the pedestrian connection is comparable or less than the house to the south that shares access from the pedestrian connection. It is also about 6 or 7 feet less in height than the current structure. This helps minimize visual prominence from both the pedestrian connection but also from I-26, especially when compared to the highly visible derelict structure on the site today.

The proposed duplex includes design features that minimize the additional height, including a great deal of articulation. Stepping certain portions of the structure back varies its appearance and allows the duplex to better reflect the contour of the hillside. This reduces the visual impacts of the height by breaking up the massing of the structure. The decks and patios and large protruding eaves allow for living area without as much bulk and mass as enclosed living space. The glass railings around the decks help reduce massing through the use of a visually translucent material. These features create voided space that increases views of surrounding properties, provides greater visual interest and less visual dominance of the duplex among other homes and condominiums on the hillside.

The duplex also includes a darker metal siding on the upper floors and an abundance of glass, both helping to reduce the massing and visual prominence of the structure. It includes a prominent pop-out feature at the second and third floor levels sided with a lighter wood material. The design allows the structure to stand out on the lower levels but loose visual prominence on the upper level. It is located in a very prominent location of Portland, where I-26 leads into the tunnel leaving Portland. Yet, the choice of materials allows it to be more subdued on the upper levels and will provide visual interest while also blending into the hillside and development fabric of this hillside neighborhood.

Articulation is also included along the sides of the proposed duplex as certain portions are set back further than other portions. This helps reduce massing and perceptions of height when compared to a structure with large continuous facades. Furthermore, the sides of the structure include ample window area, especially toward the street, which also reduces perceptions of massing by allowing additional visual permeation on the sides of the proposed duplex. Furthermore, the proposed window placement, sizes and orientations promote visual interest.

Based on this information, the request to increase the maximum allowed height from 40 feet to 47 feet 7 inches meets the approval criterion.

Front Setback Adjustment

The applicant proposes to reduce the front building setback from 10 feet to 5 feet 6 inches (1 foot 7 inches to balconies and cantilevered living space on the second and third floors). The purpose of the setback regulations is found in Portland Zoning Code Section 33.120.220.A and is listed below.

The building setback regulations serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of multi-dwelling development 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
- Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.
- 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 reduction to front building setback maintains light and air for adjacent properties because the location of the reduction is between the building and the street. The homes across SW Mill Street Terrace from the site orient away from the street and therefore light and air will be maintained for those homes. Access for firefighting is preserved. The side and rear setbacks (ranging from 6 feet to 8 feet on the south façade and from 5 feet to 9 feet on the north façade) are greater than required. The Fire Bureau responded that applicable Fire Code requirements must be met at the time of building permit review and that a previous development proposal required sprinklers.

The proposed duplex is comparable to the general building scale and placement of multi-dwelling development in the City's neighborhoods. Many lots in Portland are in neighborhoods with steep slopes and have an extremely steep upward slope from the street. This often requires a home to be built closer to the street than the Portland Zoning Code allows. The scale of homes built into a hillside, especially when a pedestrian connection encompasses the upper portion of the site, invariably increases. In this situation, however, the reduced setbacks will not have a significant impact on the appearance of the building scale and placement from the street. The reduced setbacks bring the home closer to SW Mill Street Terrace allowing it to front on and have a presence on the small cul-de-sac whereas the current home has a very uninviting street frontage.

The proposed setback of the pop-out and balconies on the second and third floors is less than the overall front setback Adjustment request. The second and third floors are requested to project to 1-foot 7 inches from the SW Mill Street Terrace property line. These projections are located above the street and pedestrian-level and are separated from most surrounding lots by the street, aside from the neighboring garage/living space structure to the south that has an almost zero foot setback. No other house on SW Mill Street Terrace has much street presence. These features will bring more street presence to SW Mill Street Terrace, which it is currently lacking.

The neighboring garage/living space is located around a slight corner in the street which reduces perceived and actual proximity. Other homes are located along driveways or orient away from SW Mill Street Terrace. The pop-out and balconies on the second and third floors won't impose visual or livability impacts; they promote interaction of the house with the street. The 5-foot 6-inch proximity of the lower level of the structure and the eaves and the decks on the upper levels also won't adversely impact the street. A vacant lot is located to the north of the site. A reasonable physical relationship between residences is provided.

Privacy for neighboring properties is preserved. The front and garage entrance side of the proposed duplex face the street and will not adversely impact privacy for neighbors across the street because those homes orient toward the east. The duplex is designed with a greater amount of windows on its sides closer to the street than at its rear where it is closer to neighboring properties. This conscious window placement promotes privacy for both the existing neighbors and new neighbors.

Homes in this vicinity in Portland do not always have a typical visually pleasing front yard. The hillside terrain, meandering streets, pedestrian connections and pathways can preclude the ability to provide a typical front yard. Due to the steep slope of the site and intent to maintain both frontages – the street and the pedestrian connection, the applicant proposes a front yard dominated by the house. This will include a two-car garage with wood siding, a main entrance to one unit and a stairway to the upper unit, which also has an entrance off of the pedestrian connection. The front yard in this situation addresses the street appropriately and provides a solid presence for the duplex. The choice of wood materials at the garage and entry way-level helps soften the overall appearance. The first three floors of the duplex, which would be the most apparent at street level, provide a visually interesting appearance from the street. The applicant does however propose to

improve the “backyard” of the house which is the side that fronts on the pedestrian connection. The duplex is proposed to be set back between 15 and 25 feet from the pedestrian connection so that the upper floor is accessed via a pathway. The remaining area will be landscaped and include a planter area.

The proposed duplex provides adequate outdoor area for both residences. Outdoor area for the upper unit is located between the proposed duplex and the pedestrian connection as well as decks. Outdoor area for the lower unit is located on the proposed decks. The lower unit also has access to the outdoor area between the duplex and the pedestrian connection.

The Portland Zoning Code allows for the averaging of front setbacks when neighboring properties are built to the street. In this situation the garage with living space on the lot to the south has almost a zero-foot setback from the street whereas the Base Zone minimum front setback (15 feet) of the R7 zoned vacant lot is used to compute the average. Therefore, the front setback for the proposed duplex could be reduced to approximately 7 feet 6 inches by right. The proposed 5-foot 6-inch setback for the majority of the structure is only 2 feet less than the average of the two abutting lots.

It is also important to note that the reduced setbacks are measured to a curve in the cul-de-sac. The primary front building setback is proposed to be approximately 7 feet from the SW Mill Street Terrace property line. The setback of the pop-out and balconies is proposed to be approximately 4 feet to the street property line. These proposed front setbacks for most of the duplex are only slightly greater than the allowed setback using setback averaging.

In order to ensure the duplex is designed as proposed, elevation and site plan drawings have been stamped and siding materials are called out on the drawings. Any development on the site will be required to conform to the approved plans. Based on this information, the front setback Adjustment requests meet the approval criterion.

Garage Entrance Setback Adjustment

The applicant also proposes to reduce the garage entrance setback from 18 feet to 7 feet 4 inches. The purpose of the setback regulations in multi-dwelling zones are listed above. In particular, the portion of the purpose statement that refers to garage entrance setbacks states, “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” (33.120.220.A).

The Adjustment Committee found that the garage entrance setback reduction request did not equally or better meet the purpose of the regulation. Committee members heard testimony from PBOT concerning the small size of the cul-de-sac, the depth of the proposed driveway and visibility for drivers to see when backing out of the garage. The Committee determined that if a car parked in the driveway in front of the garage doors it would overhang the street. The Committee also saw photos of a car parked in front of the garage with the nonconforming setback to the south of the site and concluded the proposed reduced depth of the driveway wouldn’t adequately discourage drivers from parking in front of the garage doors. Committee members stated that the portion of the purpose statement related to the garage entrance setback does not allow for flexibility, for instance, either a vehicle can park in front of the garage without overhanging the street, or it cannot. Based on this information, this portion of the criterion is not 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 duplex is located in a residential zone. It will not significantly detract from the livability or appearance of the residential area, in fact, it will add to it. Aside from the garage/living space structure next door, the duplex is the only structure on the street to provide living space that addresses SW Mill Street Terrace. This helps liven the cul-de-sac and provides more eyes on the street. This helps to improve safety, a key component of livability.

The proposed duplex is attractively designed. The design includes ample street-facing windows, substantial articulation on both the front and side facades, as well as varied siding materials that add visual interest and often transparency. The design will add a distinctive home to the hillside area and complement the overall appearance of this hillside neighborhood.

The Adjustment Committee determined that livability for adjacent properties could be compromised due to the proposed depth of the garage entrance setback which could allow drivers to park in front of the garage doors so that the vehicle hangs onto the street. With regards to other aspects of livability, the proposed duplex is an improvement over the derelict home currently at the site. Notwithstanding the current condition of the site, the design of the duplex addresses privacy for adjacent properties by strategically placing side facing windows so that views orient toward the street and beyond. Additional glazing is located in the portions of the structure closer to the street, not toward the back of the site. Living area is also located at the street level where no living area is currently found.

Based on this information, this criterion is met for the Adjustment requests to height and front setback, but is not met for the garage entrance setback.

- 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: The overall purpose of the Multi-dwelling Residential zones is to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The three proposed Adjustments do not conflict with this purpose because the site will be used to provide housing.

The purpose of the zone is also composed of use regulations and development standards. The use regulations are intended to create and maintain higher density residential neighborhoods. Based on the size of the site and the required density, the proposal meets this aspect of the purpose of the zone.

The development standards work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation and recreational opportunities. The project is consistent with these aspirations. The development standards explanation also emphasizes that the development standards are generally written for development on flat, regularly shaped lots. The Adjustment Committee acknowledged that the site is not flat, in fact it is very steeply sloped, and therefore the development of the site is expected to require Adjustments to development standards of the zone. Based on this information, this criterion is met.

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

Findings: No City-designated scenic or historic resources are located on this site; therefore, this criterion does not apply.

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

Findings: The Adjustment Committee determined the proposal adequately mitigates for impacts resulting from the increased building height and decreased front setback, but not the reduction to the garage entrance setback.

The proposed duplex is designed with ample articulation on the front and side elevations. A great deal of glazing is also provided on the street-facing façade and area of the sides closest to the street. A variety of different siding materials are also being used. These features increase visual interest and reduce perceived building height, therefore, helping to mitigate for the additional height. The applicant also reduced the size and increased the setbacks of the proposed duplex, and converted some upper floor living space to balcony space in order to mitigate for the overall height of the structure. No impacts are associated with the reductions to front building setback and garage entrance setback. The front building setback reduction is greater than the garage with living space structure to the south which does not pose any negative impacts.

The Adjustment Committee determined the garage entrance setback reduction was not adequately mitigated because it would not be possible to park a vehicle in the driveway behind the garage doors without overhanging the street.

Based on this information, this criterion is not 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 requested three Adjustments. One Adjustment is to increase the maximum allowed building height from 40 feet to 47 feet 7 inches. The second Adjustment is to reduce the front building setback from 10 feet to 5 feet 6 inches (1-foot 7 inches to balconies and cantilevered living space on the second and third floors). The third Adjustment is to reduce the garage entrance setback from 18 feet to 7 feet 6 inches. The Adjustment Committee found that the requested Adjustments to height and front building setback met the relevant approval criteria, but the requested Adjustment to garage entrance setback did not.

Reasons the proposed height and front building setback Adjustments meet the approval criteria for several reasons. First, the proposed duplex is attractively designed with ample articulation on the front and side façade, ample glazing on the street-facing façade, and it uses a variety of siding materials. These design features add visual interest and reduce perceptions of height. Second, the site has frontage on SW Mill Street Terrace to the east and a pedestrian connection to the west. The proposal is designed so that the duplex fronts on both the street and the pedestrian connection, albeit at a lower height than the current structure. This continues a unique development pattern in this hillside neighborhood where homes have frontages on pedestrian connections and urban trails that traverse this part of SW Portland. Third, the front setback reduction is relatively small. A home could be built at a 7-foot 6-inch front setback by right and the primarily 5-foot 6-inch setback is relatively comparable. Furthermore, the reduction to front building setback primarily occurs at the portion of site that abuts the cul-de-

sac. Finally, the proposed duplex increases living area on SW Mill Street Terrace where it is currently lacking. This helps activate the street and increases surveillance.

The primary reason the proposed garage entrance setback Adjustment does not meet the approval criteria is that were a vehicle to park in the driveway in front of the garage doors, it would hang out over the street.

The Adjustment Committee determined that the proposed height and front building setback Adjustments met the approval criteria and should be approved, but the garage entrance setback Adjustment did not meet the approval criteria and should be denied.

DECISION

The applicant and appellants both prevailed, and the decision was revised.

1. Deny the appeal of the Adjustments to the building height and setback thereby upholding the Administrative Decision of approval; and
2. Grant the appeal of the Adjustment to the garage entrance setback, thereby overturning the Administrative Decision.

Approval of two Adjustments for the proposed construction of a duplex:

1. Increase the maximum allowed height from 40 feet to 47 feet 7 inches (33.120.215.B); and
2. Decrease the minimum front building setback from 10 feet to 5 feet 6 inches (1-foot 7 inches to balconies and cantilevered living space on the second and third floors).

Denial of one Adjustment for the proposed construction of a duplex:

1. Decrease the minimum garage entrance setback from 18 feet to 7 feet 6 inches,

subject to the following original 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.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-122386 AD."

Staff Planner: Matt Wickstrom

Date Decision: August 18, 2015

**These findings and conclusions were adopted by the Adjustment Committee on:
August 18, 2015**

By: 
**Adjustment Committee
Chair, Roger Alfred**

Date Final Decision Effective/Mailed: September 2, 2015

120th day date: September 25, 2015

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 20, 2015, and was determined to be complete on **March 16, 2015**.

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 20, 2015.

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 by 15 days. Unless further extended by the applicant, **the 120 days will expire on: September 25, 2015.**

Appeal of this Decision. This decision is final and becomes effective the day the notice of decision is mailed (noted above). This decision may not be appealed to City Council; however, it may be challenged by filing a "Notice of Intent to Appeal" with the State Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed, pursuant to ORS 197.0 and 197.830. A fee is required, and the issue being appealed must have been raised by the close of the record and with sufficient specificity to afford the review body an opportunity to respond to the issue. For further information, contact LUBA at 775 Summer St NE, Suite 330, Salem, OR 97301-1283. [Telephone: (503)373-1265]

Recording the Final Decision.

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder. A building or zoning permit will be issued only after the final decision is recorded. The final decision may be recorded on or after the **September 2, 2015.**

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in a separate mailing) and the final Land Use Review Decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, PO 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 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. This decision expires three years from the date the Final Decision is rendered unless:

- A building permit has been issued, or
- The approved activity has begun, or
- In situations involving only the creation of lots, and the land decision has been recorded.

Applying for permits. A building permit, occupancy permit, or development permit must be obtained before carrying out this project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed here.
- All applicable development standards, unless specifically exempted as part of this land use review.
- All requirements of the building code.
- 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 and Original LU Application
 - 1. Request to delay decision by 15 days received April 28, 2015
 - 2. Revised drawings submitted on May 21, 2015
 - 3. Full side site plan and elevation drawings received on June 1, 2015
 - 4. Email requesting 60-day extension to 120-day decision deadline dated July 6, 2015
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Front and Rear Elevation Drawings (attached)
 - 3. Side Elevations Drawings (attached)
 - 4. Renderings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Section of BDS
 - 7. Summary sheet of agency responses
- F. Correspondence:
 - 1. Robert J. Haydock, April 6, 2015, opposition
 - 2. Paul Silver and Janet Klapstein, April 8, 2015, support
 - 3. Tony Pfannenstiel, April 8, 2015, support
- H. Appeal
 - 1. Appeal Submittals – Julie Clifford and Jerald Powell, Goose Hollow Foothills League
 - 2. Appealed Decision
 - 3. Notice of Appeal
 - 4. NOA Mailing list
 - 5. Committee Appeal Packet Memo

(Exhibits/letters Received before hearing)

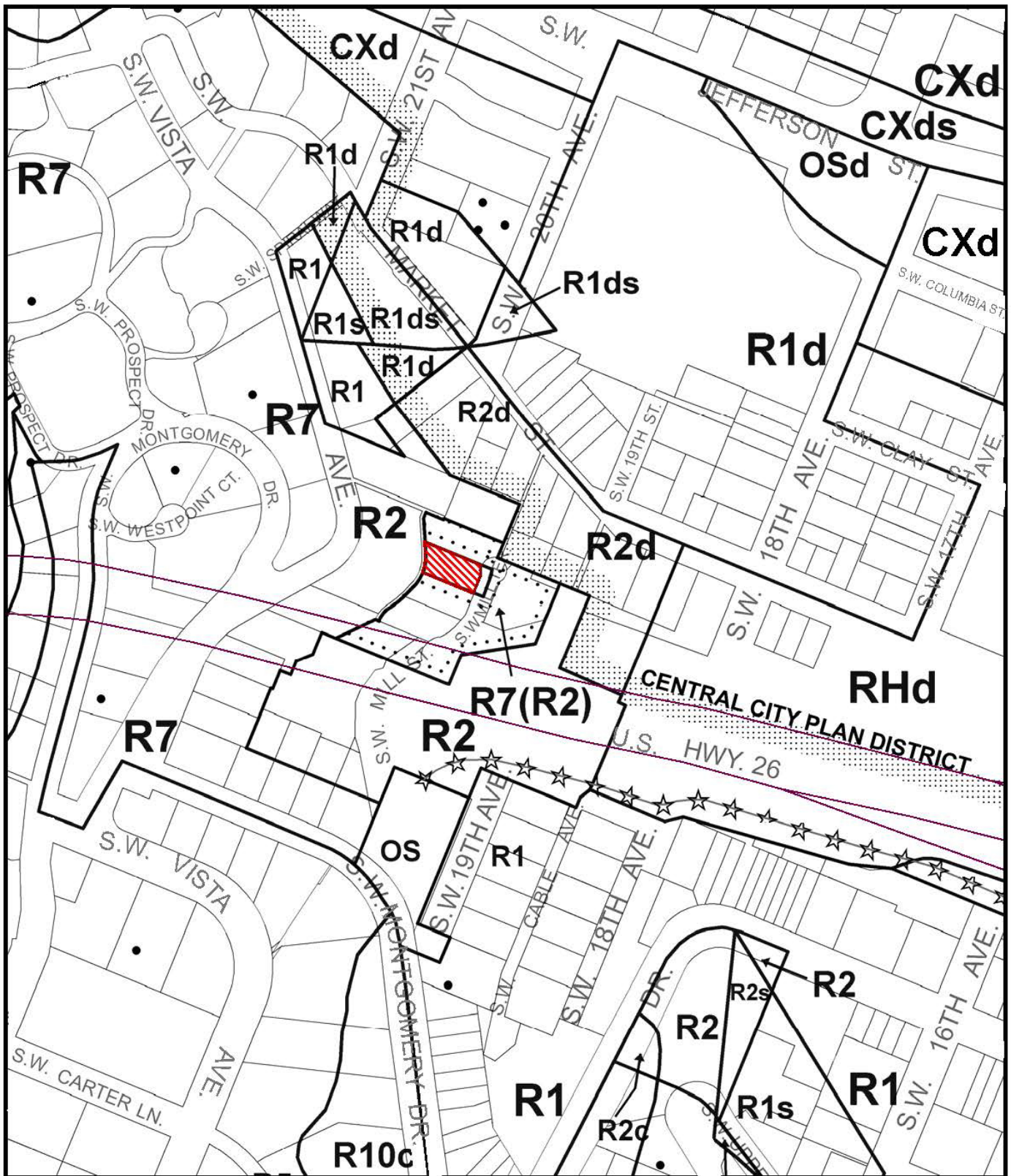
 - 6. Randel Acker (appellant attorney), August 3, 2015

(Received During Hearing)

 - 7. PowerPoint Presentation to Hearing Body
 - 8. Julie Clifford (appellant) photos

(Received After Hearing, if Record is held open)

 - 9. Julie Clifford email dated August 11, 2015
 - 10. Rahim Abbasi additional materials
 - 11. Earth Engineers Inc., Rock Slope Excavation Report
 - 12. Earth Engineers Inc., Geotechnical Investigation Report
 - 13. GHNA letter
 - 14. Jerald Powell Fire Article
 - 15. Robert Hadock email dated August 15, 2015
 - 16. Julie Clifford email dated August 17, 2015
 - 17. Rahim Abbasi email dated August 17, 2015



ZONING



Site



Historic Landmark



Recreational Trail



NORTH

File No. LU 15-122386 AD

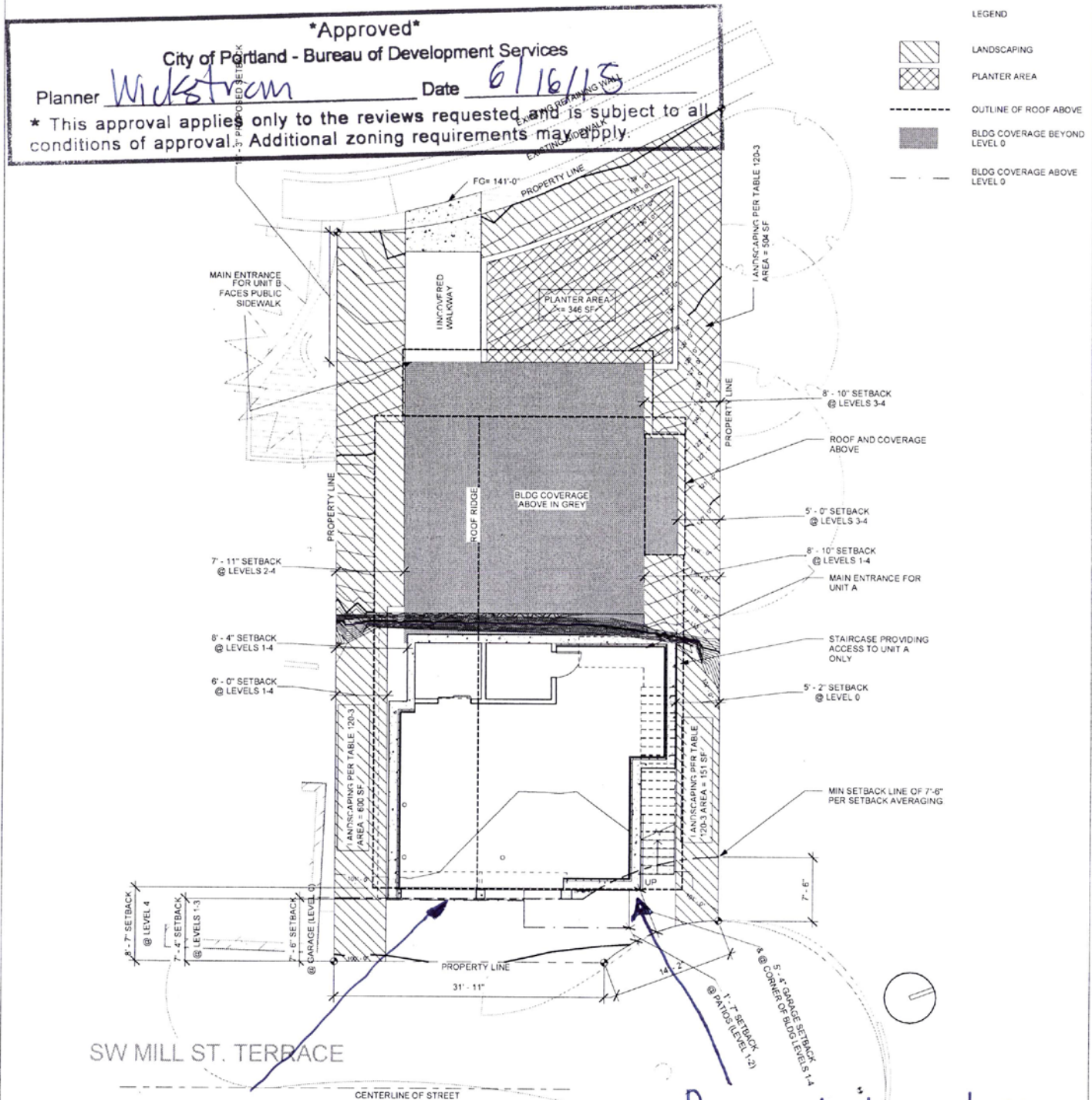
1/4 Section 3127

Scale 1 inch = 200 feet

State_Id 1S1E04BA 11500

Exhibit B (Feb 25, 2015)

Proposed duplex at 1970 SW Mill Street Terrace



Proposal to reduce garage entrance setback from 18 feet to 7 feet 6 inches

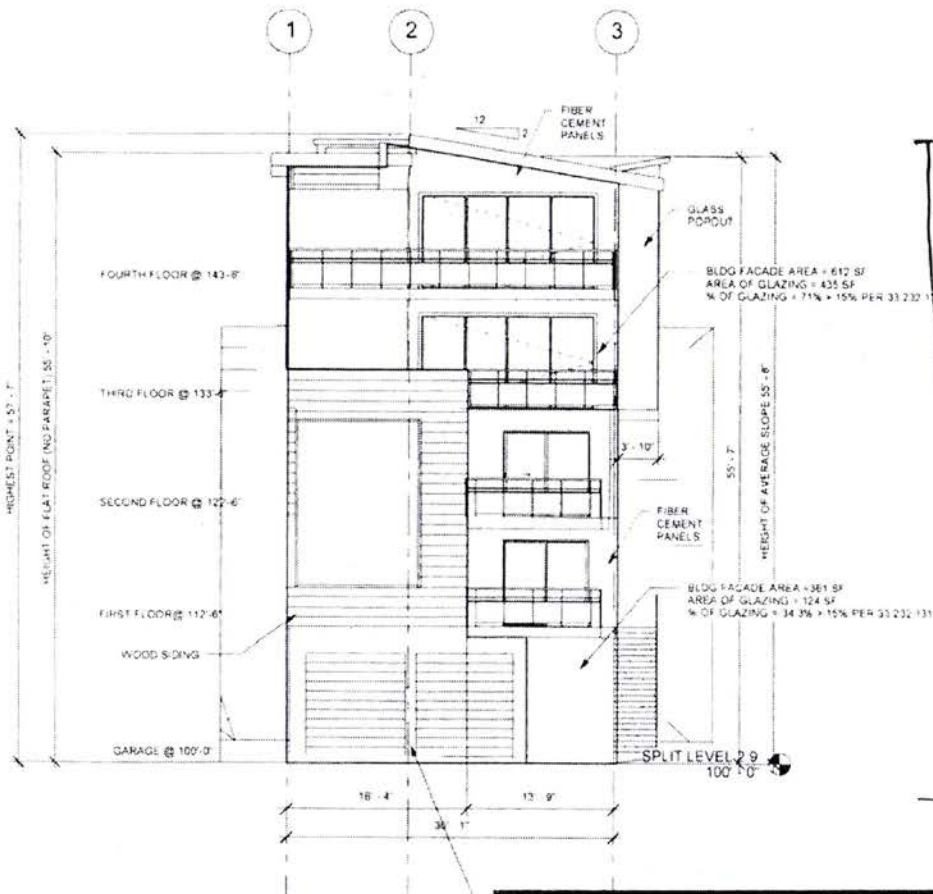
Proposal to reduce front setback from 10 feet to 5 feet 6 inches (1 foot 7 inches to 2nd + 3rd floor)

LUCAS HOUSE	8.5x11 Site Plan	Project number 14025 00	A1.13	abbasi design works LLC
		Date 6/12/2015 (REVISED)		
		Drawn by MAP		
		Checked by RAA	Scale 1/16" = 1'-0"	

6/15/2015 12:18:57 PM

LU 15-122386 AD

Exhibit C-1



Proposal to increase maximum allowed height of duplex from 40 feet to 47 feet 7 inches.

BLDG FACADE AREA = 625 SF
AREA OF GLAZING = 218 SF
% OF GLAZING = 34.8% + 15% PER 33.232.131

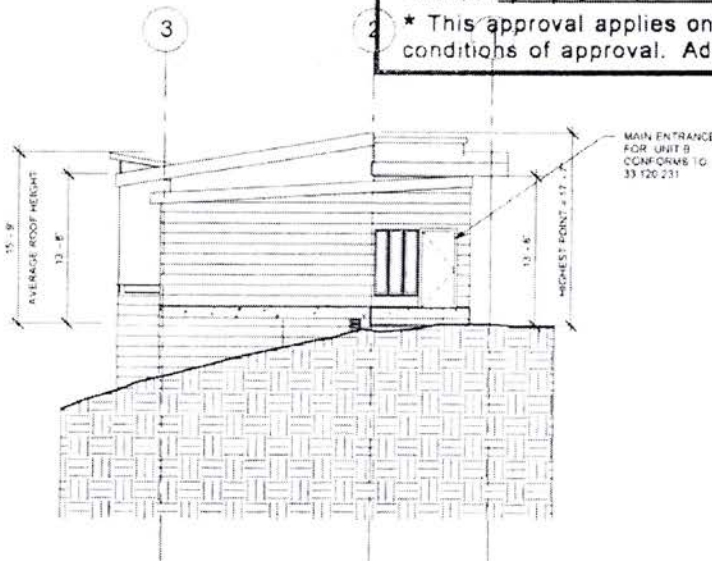
Approved

City of Portland - Bureau of Development Services

Planner W. J. Strom

Date 6/16/15

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



Proposed one story above pedestrian connection

SM North Zoning
1/8" = 1'-0" @ 17 x 22 SHEET 1/16" = 1'-0" @ 8.5 x 11 SHEET

LUCAS HOUSE ELEVATIONS

Project number 14075
Date 5/21/2015
Drawn by Author
Checked by Checker
Scale 1/8" = 1'-0"

A1.02

abbasi design works LLC

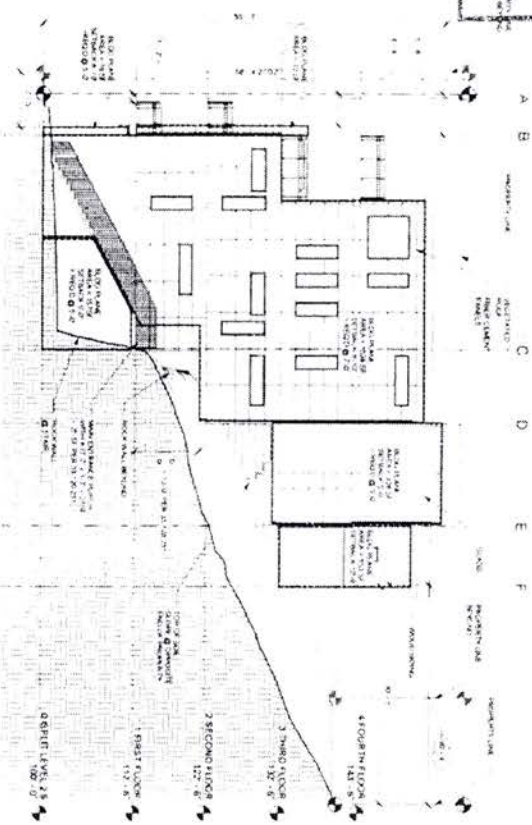
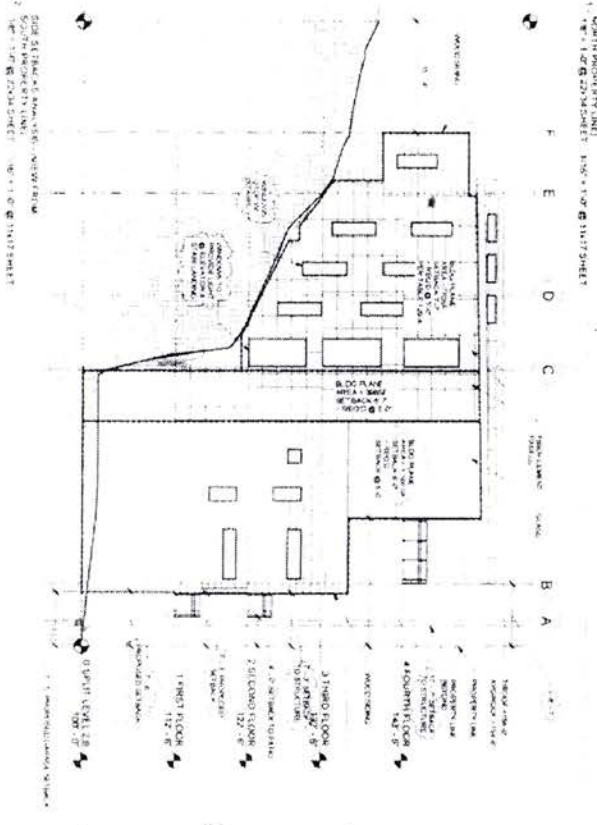
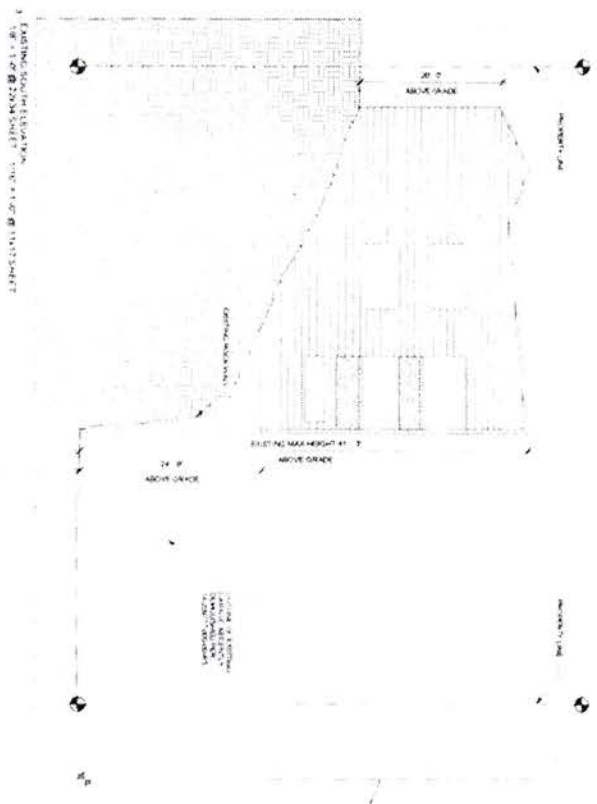


5/22/2015 11:26:54 AM

LU 15-122386 AD

Exhibit C-2

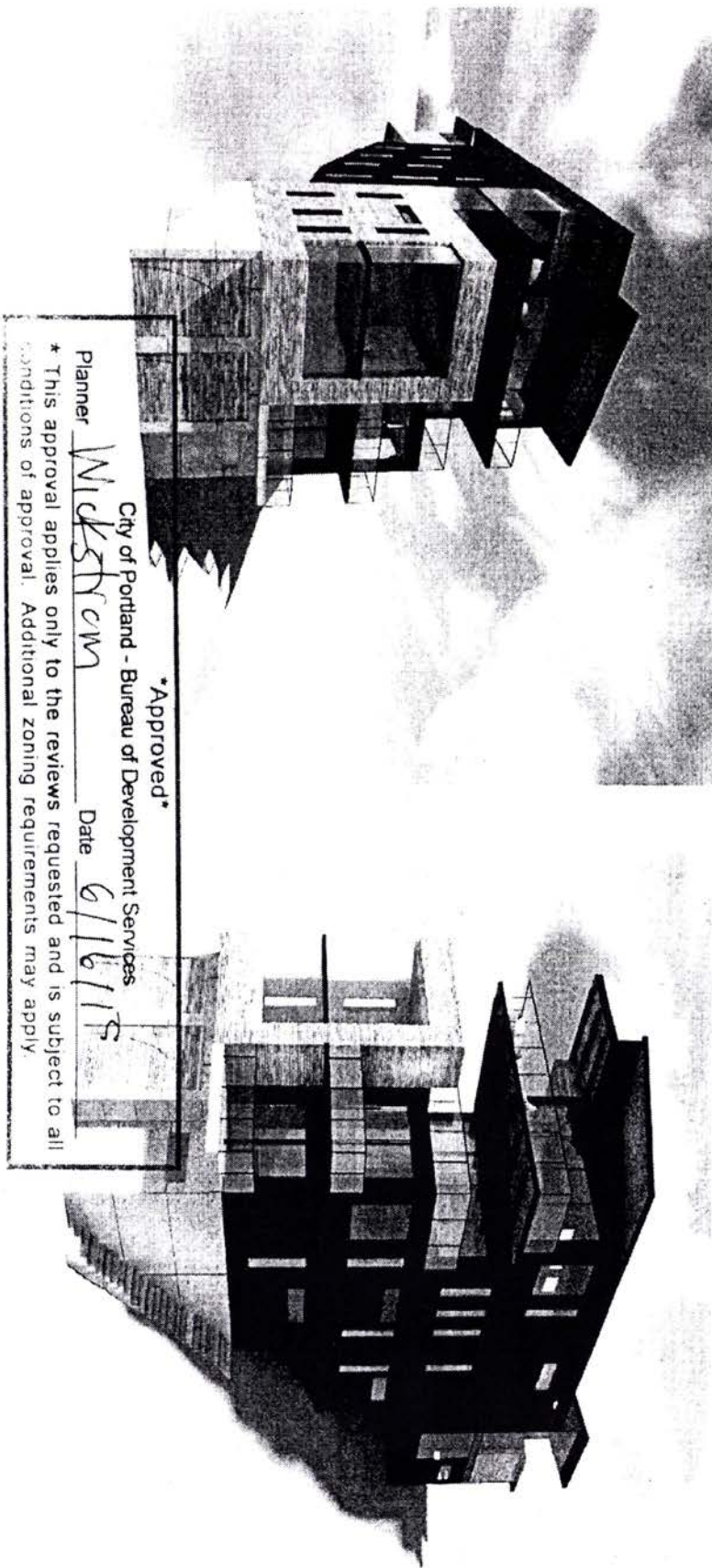
Approved
 City of Portland - Bureau of Development Services
 Planner Wickstrom Date 6/16/15
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



ZONING CODE ELEVATIONS
A13
LUCAS HOUSE
 1470 SW Mill Street, Terrace
 Portland, OR 97201
abbasi design works
 117 SW 2nd Ave, Suite 270
 Portland, OR 97204
 phone: 503.228.1111
 www.abbasidesignworks.com

LU 15-122386 AD

Exhibit C-3



Approved

City of Portland - Bureau of Development Services

Planner

Wickstrom

Date

6/16/15

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



ARROW HOUSE **abbasi**

design
works LLC

510 SW Fifth Ave, Suite # 200
Portland, Oregon 97204
www.abbasidesign.com
rahim@abbasidesign.com
503.816.9466

LU 15-122386 AD

Exhibit C-4