



**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](http://www.portlandoregon.gov/bds)

**Date:** April 20, 2016  
**To:** Interested Person  
**From:** Matt Wickstrom, Land Use Services  
503-823-6825 / [Matt.Wickstrom@portlandoregon.gov](mailto:Matt.Wickstrom@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 mailed copy of this document is only a summary of the decision. 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 16-128556 AD**

#### **GENERAL INFORMATION**

**Applicant:** Geno Salimena  
Gusto Design, LLC  
7637 SE 13<sup>th</sup> Avenue  
Portland, OR 97202

**Property Owner:** Richard Taipale  
1906 NW 29<sup>th</sup> Avenue  
Portland, OR 97210

**Site Address:** 1906 NW 29TH AVE

**Legal Description:** BLOCK 2 S 51' OF LOT 15, MERIWETHER  
**Tax Account No.:** R561700400  
**State ID No.:** 1N1E29DC 02200  
**Quarter Section:** 2826

**Neighborhood:** Northwest District, contact John Bradley at 503-313-7574  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212

**Zoning:** R1 (Multi-Dwelling Residential - Residential 1,000 Zone)

**Case Type:** AD (Adjustment Review)  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant proposes renovations to the existing house on this site. The project calls for replacing the existing addition above the garage on the west side of the house with a new addition that is better integrated into the overall house design. The new addition would have a gabled roof facing NW 29<sup>th</sup> Avenue and would continue the existing wall of the house. The project also includes constructing a new rooftop deck on top of the existing garage. The

Portland Zoning Code requires a 5-foot setback for building walls measuring 1,000 square feet or less. The existing north wall of the house is 3 feet from the property line with eaves extending an additional 22 inches toward the property line. The new deck on top of the garage is located 0 feet from the north property line. The applicant requests one Adjustment to the side setback requirements of the Portland Zoning Code (33.120.220.B). The request is to reduce the side setback for the building addition from 5 feet to 3 feet (1-foot 2 inches to the eave) for the proposed 610 square foot wall and to reduce the side setback from the rooftop deck above the garage from 5 feet to 0 feet.

**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 3,600 square foot lot is located at the corner of NW 29<sup>th</sup> Avenue and NW Upshur Street. The site is developed with a one-story house with a basement and an attached garage. Pedestrian and vehicle access to the house comes from NW 29<sup>th</sup> Avenue. The surrounding vicinity is developed with a mix of single-dwelling homes and multi-dwelling apartments.

**Zoning:** The site is zoned R1 (Residential 1,000), a multi-dwelling zone. The multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing.

**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 **March 22, 2016**. The following Bureaus have responded with no issues or concerns:

- The Site Development Section of the Bureau of Development Services (BDS) responded with information related to site conditions and erosion control. The response states no conflicts with the proposed Adjustment (Exhibit E-1).
- The Life Safety Section of BDS responded with information about obtaining a building permit and building code information (Exhibit E-2).
- The Bureau of Environmental Services responded that the requested Adjustments don't impact the location of a stormwater management system and that a disposal system that does not impact adjacent properties or structures must be shown on building permit plans (Exhibit E-3).
- The Water Bureau provided information on water service and stated no concerns with the proposed Adjustment (Exhibit E-4).
- The Fire Bureau and Portland Bureau of Transportation responded with no concerns (Exhibit E-5).

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the Notice of Proposal.

**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 requests one Adjustment to reduce the north side building setback from 5 feet to 3 feet (1-foot 2 inches to the eave) for an addition to the west side of the home at this site. The applicant also requests to reduce the north side building setback from the rooftop deck above the garage from 5 feet to 0 feet. The purpose for the setback regulations in Portland's multi-dwelling residential zones is found in Portland Zoning Code section 33.120.220 and states:

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 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;
- Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users; 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 proposed Adjustments will maintain light and air for the adjacent property to the north. The addition only adds a very small amount of wall height and the new roof slopes away from the adjacent property. The rooftop deck above the garage does not result in additional building mass which would restrict light or air. The same can be said for the eave projection on the addition. Adequate access for fire fighting and separation for fire protection as evidenced by the responses from the Fire Bureau and the Life Safety Section of BDS. In terms of building placement, the proposed addition is generally consistent with the existing situation, albeit more attractive, and will still reflect the general building scale and placement of development in the neighborhood. A reasonable physical relationship is maintained between the house on this site and the adjacent lot because the addition follows the existing wall of the house. The rooftop deck above the garage is in front of both houses and will not disrupt the physical relationship between the two residences. Rooftop decks can sometimes restrict privacy for neighbors, but in this situation, the deck will be adjacent to the neighbor's garage and driveway and will not impact privacy. Based on this information, 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:** As mentioned above, the proposal will not significantly detract from the livability or appearance of the residential area. The addition to the home follows the existing building wall of the home and therefore will not detract from the availability of

light and air for the adjacent property to the north, nor will the addition impact privacy since it has no windows. Similarly, the rooftop deck on the garage will not impact privacy since it is adjacent to the neighbor's garage and driveway. The addition will improve the appearance of the house and will be better integrated into its design compared to the existing addition; therefore, it will help to enhance the appearance of the residential area. This criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Only one Adjustment is requested; therefore this criterion is not applicable.

- 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 is not applicable.

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

**Findings:** There are no discernible impacts that would result from granting the requested adjustments. This criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** The site is not within an environmental zone. This criterion is not applicable.

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

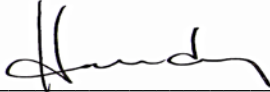
The applicant proposes one Adjustment to reduce the north side setback from 5 feet to 3 feet (1-foot 2 inches to the eave) for an addition to the existing house and to reduce the north side setback from 5 feet to 0 feet for a rooftop deck above the existing garage. The proposed addition follows the existing building wall of the house and integrates the addition into the design of the house better than the current addition. The rooftop deck above the garage is adjacent to the neighbor's garage and driveway and will not impact privacy. The proposal meets the applicable approval criteria and should be approved.

## ADMINISTRATIVE DECISION

Approval of one Adjustment to reduce the north side setback from 5 feet to 3 feet (1-foot 2 inches to the eave) for an addition to the existing house and to reduce the north side setback from 5 feet to 0 feet for a rooftop deck above the existing garage, per the approved site plans, Exhibits C-1 through C-3, signed and dated April 15, 2016, subject to the following conditions:

- A.** As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-128556 AD."

**Staff Planner: Matt Wickstrom**

**Decision rendered by:**  **on April 15, 2016**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: April 20, 2016**

**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 March 1, 2016, and was determined to be complete on March 17, 2016.

*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 March 1, 2016.

*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: July 15, 2016.**

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**Appealing this decision.** This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 4, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> 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](http://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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

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

**Recording the final decision.**

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

- *Unless appealed*, The final decision may be recorded on or after **May 5, 2016 – (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.

**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;

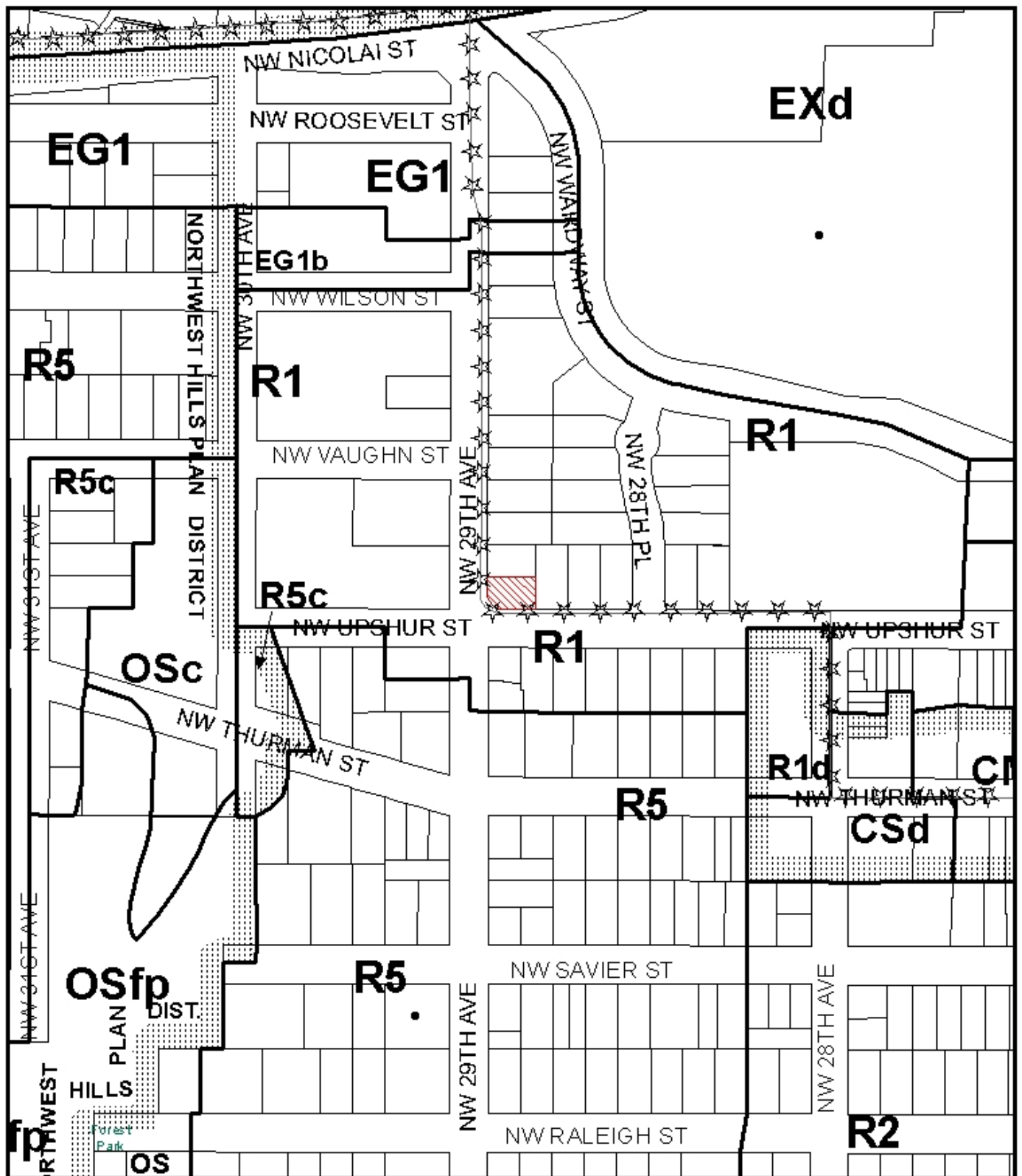
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. West Elevation Drawing (attached)
  - 3. North Elevation Drawing (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Site Development Section of BDS
  - 2. Life Safety Section of BDS
  - 3. Bureau of Environmental Services
  - 4. Water Bureau
  - 5. Summary of Bureau responses
- F. Correspondence: None

**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

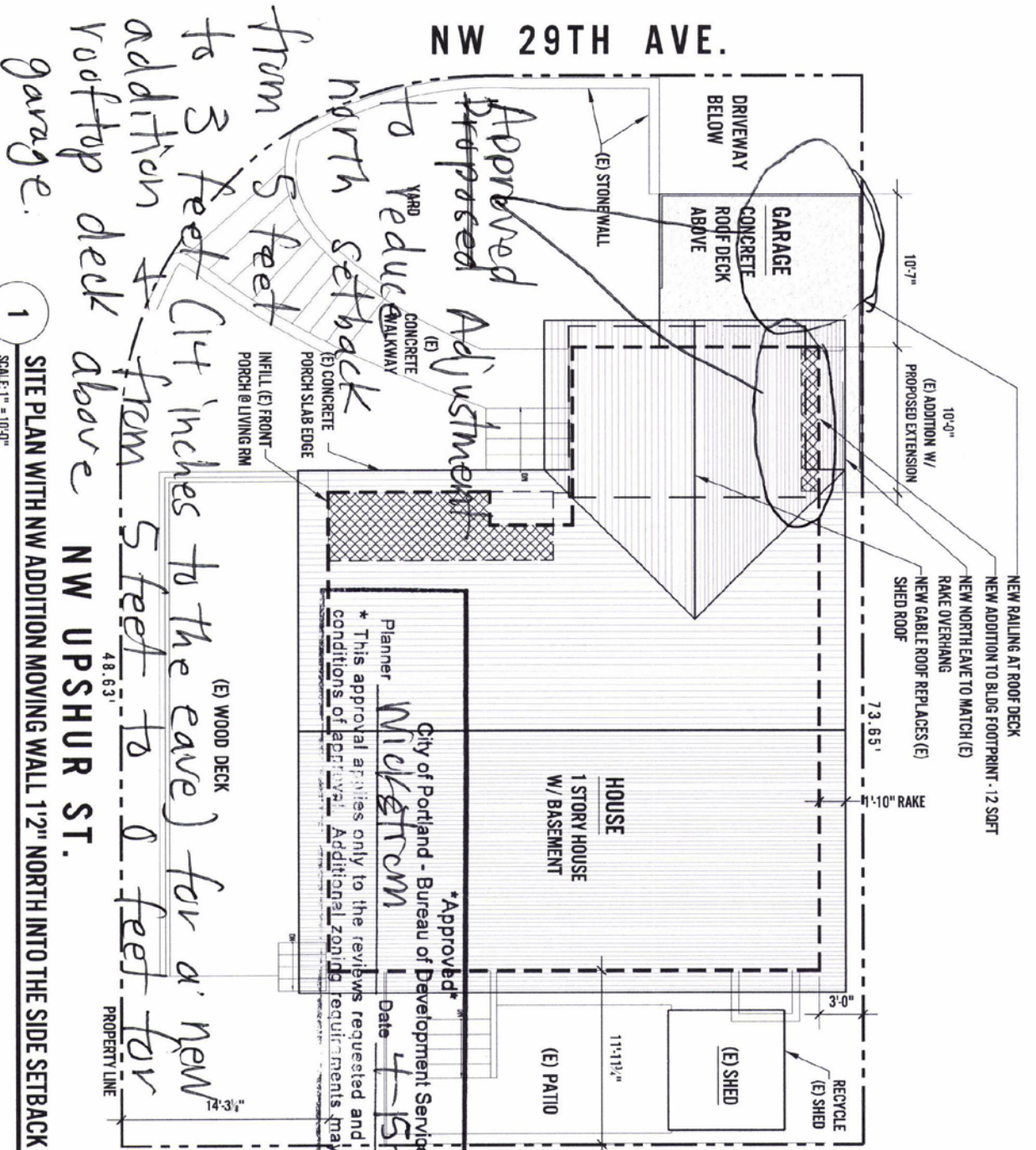


- Site
- Recreational Trails
- Historic Landmark

File No. LU 16-128556 AD  
 1/4 Section 2826  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E92DC 2200  
 Exhibit B (Mar 03, 2016)



NW 29TH AVE.



ZONING ADJUSTMENT LUR	
REQUESTING AN ADJUSTMENT TO MOVE THE EXISTING NORTHWEST ADDITION WALL NORTH AN ADDITIONAL 12' INTO THE NORTH SIDE SETBACK. THIS WILL ALIGN THE NORTH WALL OF THE ADDITION WITH THE NORTH WALL OF THE HOUSE.	
AREA	EXISTING S.F.
MAIN FLOOR AREA:	1,138
ADDITION AREA (NW CORNER):	1,170
(E) BUILDING ATTACHED GARAGE:	260

PROPERTY DESCRIPTION

1906 NW 29TH AVENUE  
PORTLAND, OR 97210  
ZONING: R1  
TAX ROLL: MERIWETHER, BLOCK 2, S 51' OF LOT 15  
PROPERTY ID: R217268  
LOT AREA: 3,600 SQFT OR .08 ACRES  
YEAR BUILT: 1926

Planner: *Michael*  
Date: *4-15-16*  
\* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

OWNER: RICHARD TAI PALE  
1906 NW 29TH AVENUE  
PORTLAND, OR 97210

DESIGNER: GUSTO DESIGN, LLC  
7637 SE 13TH AVE  
PORTLAND, OR 97202  
CONTACT: GENO SALIMENA  
503-200-0310  
GUSTODESIGNSTUDIO@GMAIL.COM

ZONING ADJUSTMENT LUR  
ADJUSTMENT FOR MOVING THE NORTH WALL OF EXISTING  
ADDITION INTO THE SIDE SETBACKS 33-120.220D  
NOT FOR CONSTRUCTION

TAI PALE RESIDENCE

1906 NW 29TH AVE. PORTLAND, OR 97210

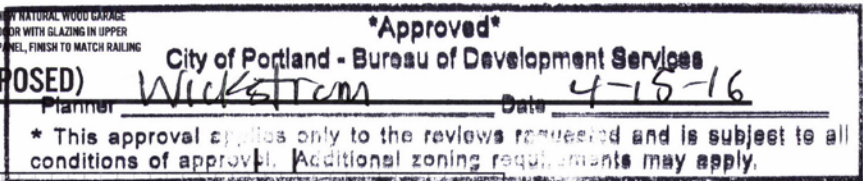
gusto DESIGN

LUR-1

PROJECT: TAI PALE  
JOB #: 1523  
DATE: 3-1-16

W16-128556AP

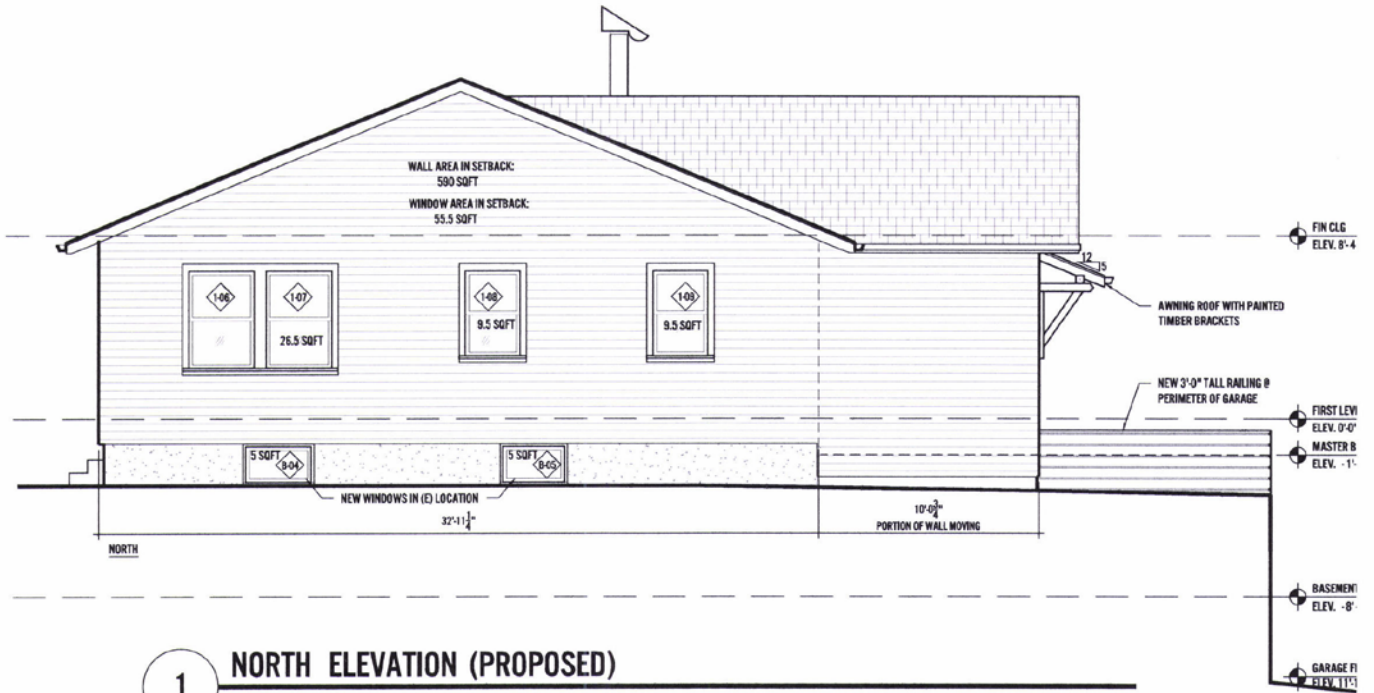
PORTLAND, OR 503.200.0310



DATE: 3-1-16  
Exhibit C-2

LV16-128556AD

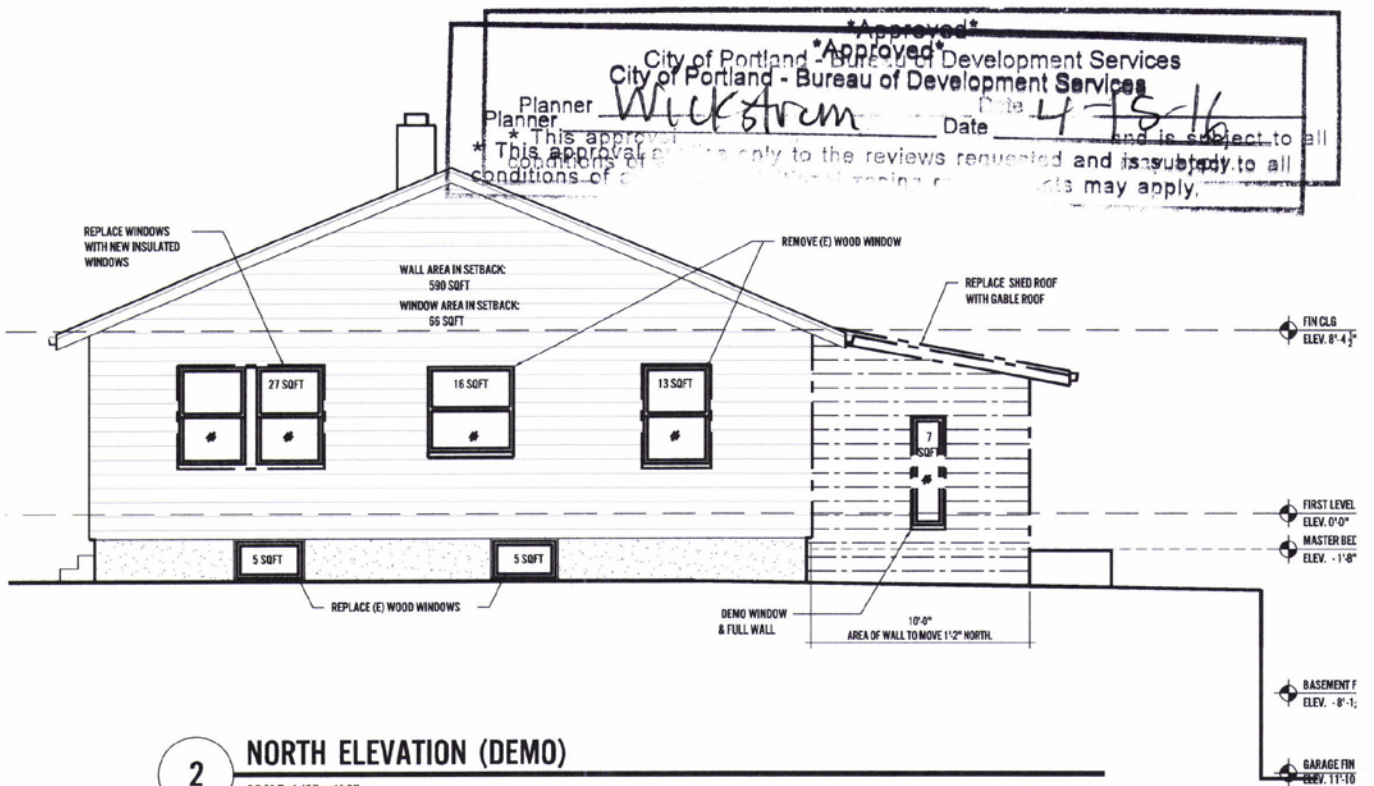




1

## NORTH ELEVATION (PROPOSED)

SCALE: 1/8" = 1'-0"



2

## NORTH ELEVATION (DEMO)

SCALE: 1/8" = 1'-0"

ZONING ADJUSTMENT LUR

ADJUSTMENT FOR MOVING THE NORTH WALL OF EXISTING

ADDITION INTO THE SIDE SETBACKS 33-120.220.D

NOT FOR CONSTRUCTION

## TAIPALE RESIDENCE

1906 NW 29TH AVE. PORTLAND, OR 97210

W 16 - 1 2 8 5 5 6 AD

# LUR-3

PROJECT: TAIPALE  
JOB #: 1523

DATE: 3-1-16

Exhibit C-3