



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
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Date: January 21, 2014
To: Interested Person
From: Shawn Burgett, 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 mailed copy of 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. 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 14-238813 AD

GENERAL INFORMATION

Applicant: Jennifer Martin / Colab Architecture and Urban Design
421 SW 6th Ave Suite #1250 / Portland OR 97204

Owners: Alex & Julie Bond
700 NW Marlborough Ave / Portland OR 97210

Site Address: 700 NW Marlborough Avenue

Legal Description: BLOCK 7 N 2/3 OF LOT 11 LOT 12, ST FRANCES HILL
Tax Account No.: R737902470
State ID No.: 1N1E32AD 06600
Quarter Section: 2926
Neighborhood: Hillside, contact Peter Stark at 503-274-4331. /Northwest District, contact John Bradley at 503-313-7574.

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Zoning: R7 (Single Family Residential 7,000 square feet)
Case Type: AD (Adjustment)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to build a new attached garage along the southeast façade of the existing house. The new garage is proposed to be approximately 19 ft. wide by 23 feet 4 inches in depth (for a total of approximately 443 square feet) and will be set back approximately 40 feet 9 inches from the front property line. The garage will be approximately 12 feet in height as measured to the top of the proposed eco-roof. The applicant had originally proposed a zero setback from the adjacent side property line, which does not conform to current Zoning Code side setback standards. In response to feedback received from the neighbors located southeast of the subject site, the applicant has modified the proposed to include a 1 foot setback from the proposed garage to the adjacent (side) property boundary.

In addition, the applicant is proposing a roof top deck, which will be set back approximately 5 feet 4 inches from the proposed garage wall located along the southeast property line where the reduced set back is requested. A 3 ft. high eco-roof is proposed along the perimeter of the garage roof, approximately 5 feet 4 inches in width. The eco-roof is proposed in order to buffer the proposed new deck from the adjacent property to the southeast.

The applicant is requesting an adjustment to standards found in Zoning Code sections 33.110.220 (Table 110-3, Setbacks):

- 1) Zoning Code section 33.110.220 (Table 110-3) requires a 5 ft. building setback between a structure and the side property lines. The applicant is proposing a 1 foot side setback between the proposed detached garage and the adjacent property line to the southeast.

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 site is a sloped interior lot with frontage along NW Marlborough Ave which is improved with a curb tight sidewalks. The existing home on the site was built in 1930. Many of the homes in this area were built during the same era, and have historical architectural features.

Zoning: The R7 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-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 **December 9, 2014**.

The following agencies had no concerns:

- Bureau of Environmental Services;
- Bureau of Transportation Engineering;
- Water Bureau;
- Fire Bureau;
- Site Development Section of BDS;
- Bureau of Parks-Forestry Division; and
- Life Safety

Neighborhood Review: One written response (exhibit F-1) has been received from a notified property owner in response to the proposal. The letter is discussed in the findings below.

ZONING CODE APPROVAL CRITERIA**Title 33.805.10 Purpose of Adjustments**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the code's regulations would preclude all use of the site. Adjustment reviews provide flexibility for unusual situations and to allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.40 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below are met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant has requested Adjustments to the Zoning Code setback standards in order to construct the new attached garage. The adjustment is to Zoning Code section 33.110.220.A and table 110-3 which requires a 5 foot side setback. The applicant is proposing a 1 foot side setback along the southeast property boundary for the new attached garage (see attached site plan).

The purpose of the setback and parking regulations are listed below:

Purpose 33.110.220 Setbacks

- *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.*

The request to reduce the required side setback from 5 feet to 1 foot equally meets the purpose of the regulation. The proposed structure will be set back approximately 40 feet 9 inches from the front property line. The proposed garage will have a façade which is 23'4" feet in length along the southeast property line. The existing driveway slopes down from the street approximately 8 feet below street grade. The garage is approximately 12 feet in height as measured to the top of the proposed eco-foot, which is below the height of the existing second story home located on the abutting lot to the southeast. The grade difference between NW Marlborough Ave (public street) and the subject site will partially conceal the view of the garage from the adjacent sidewalk located on the public street. The Zoning Code allows detached garages located 40 feet from the front property line, less than 24' by 24' with an overall building height less than 15 feet to be located within the side and rear setback by right. While the proposed garage is not detached, it meets the same size, height and setback standards described above.

The existing home on the adjacent lot (located southeast of the site) is located 4 feet from the common property line. Since the applicant has proposed a 1 foot setback for the proposed garage along the common property line, there will be 5 feet of separation between the two structures. The 1 foot setback proposed along the side set back in combination with the 4 foot setback on the adjacent lot maintains light, air and separation for fire protection.

The owners of the home southeast of the proposed garage would be most impacted by the setback (604 NW Marlborough Ave) reduction have provided correspondence (Exhibit F-1) requesting the garage proposed along the southeast property line be setback 1 foot (the applicant had proposed a zero setback). The letter indicated that their house is located 4 feet from the side property line where proposed garage will abut (the plans provided show a 5 foot setback). Providing an additional 1 foot of separation between the garage and the common property line will allow their home to be located 5 feet from the proposed garage. This request was passed onto the applicant, who has agreed to modify the adjustment request from zero to 1 foot.

The detached garage includes a roof top deck and eco-roof. The deck will be set back 5 feet 4 inches from the proposed garage wall. A 3 foot high eco-roof is proposed along the perimeter of the garage roof, approximately 5 feet 4 inches in width. The proposed eco-roof provides a visual buffer between the proposed roof top deck on the new attached garage on the subject site and the primary residence on adjacent property to the southeast. No windows are proposed along the side facing façade of the new garage, which maintains privacy along the side property line for the adjacent property. In addition, the proposed garage encroachment into the side setback is located in approximately the same location as the side facing facade of the adjacent home to the southeast; a portion of the adjacent home where the first floor garage is located does not have any windows. The second story of the adjacent home has two windows in a second story dormer which will face the same direction as the proposed garage, but will not be impacted since the proposed garage will be located well below the height of the windows.

Therefore, a reasonable physical relationship between residences will be maintained. In addition, adequate outdoor area is provided for the existing home.

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 proposal will not detract from the livability or appearance of the residential area. The garage is proposed to be located 1 foot from the southeast property line. The structure will be built without windows located along the southeast façade, facing the southeast property line and the neighboring property – this helps to reduce adverse impacts on privacy for the neighbors. The existing driveway slopes down approximately 8 feet from the street elevation. This steep grade change allows the garage to be concealed from view by the natural slope. As indicated above, the roof top deck proposed on the garage will be set back 5 feet 4 inches from the garage wall within the reduced set back and buffered from the adjacent property by a 3 foot high eco-roof.

Based on this information, 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: One adjustment has been requested, this criterion is not applicable.

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

Findings: As indicated above, the owners of the existing home southeast of the proposed garage that likely would be most impacted by the proposed setback adjustment (604 NW Marlborough Ave) have provided a letter (Exhibit F-1) requesting the new garage be set back 1 foot from the common property line. The applicant has agreed to this request. In addition, the roof top deck proposed on the garage will be set back 5 feet 4 inches from the garage wall within the reduced setback and buffered from the adjacent property by a 3 foot high eco-roof which mitigates this element of the proposal.

This criterion is met.

- D.** City designated scenic resources and historic resources are preserved; and
F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resources and resource value as is practical.

Findings: The site does not contain any identified scenic or historic resources and the site is not located in an environmental zone; therefore, these criterion are 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 an Adjustment associated with plans to construct a new one story garage with a roof top deck attached to the existing home on the site. The adjustment requests a reduction to the side setback standards for the new structure along its southeast property boundary. As noted in this report, the proposal is able to meet the Adjustment approval criteria with approval requiring that the permit drawings substantially conform with the site plan and elevation drawings attached.

ADMINISTRATIVE DECISION

Approval of Adjustments to 33.110.220.A (table 110-3) to reduce the southeast (side) setback of the proposed attached garage with a rooftop deck from 5 feet to 1 foot per the approved site plans, Exhibits C-1 through C-2, signed and dated January 15, 2015, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-238813 AD

Staff Planner: Shawn Burgett

Decision rendered by:  **on January 15, 2015**

By authority of the Director of the Bureau of Development Services

Decision mailed: January 21, 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 November 17, 2014, and was determined to be complete on **December 4, 2014**.

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 November 17, 2014.

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. **The 120 days will expire on: 4/3/2015.**

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 2/4/15** 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 5th 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 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 **2/5/15 – (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:

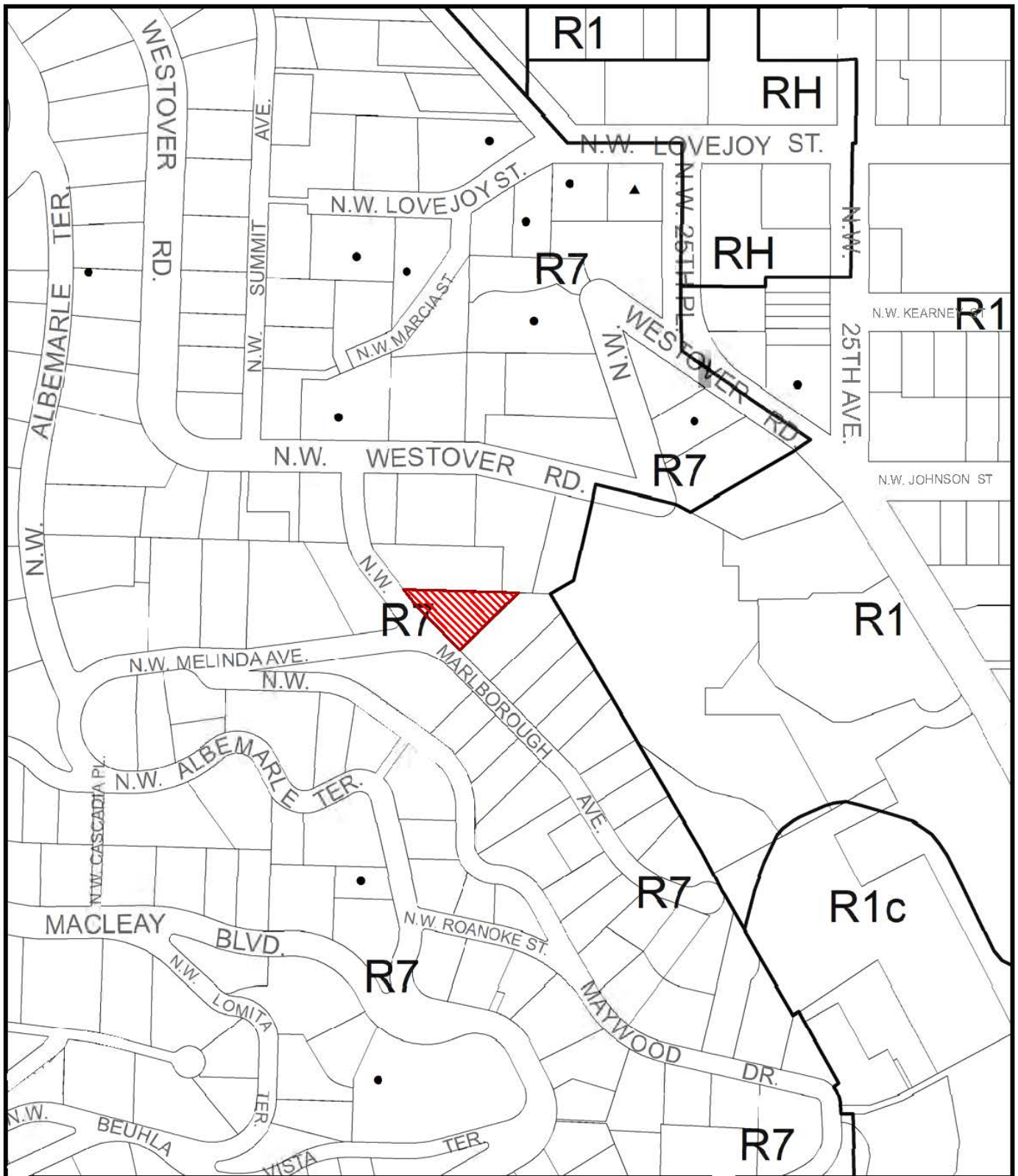
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- | | |
|--|--|
| A. Applicant's Statement | 3. Water Bureau |
| B. Zoning Map (attached) | 4. Fire Bureau |
| C. Plans/Drawings: | 5. Site Development Review Section of BDS |
| 1. Site Plan (attached) | 6. Bureau of Parks, Forestry Division |
| 2. Elevations, 3 pages (attached) | 7. Life Safety |
| 3. Existing conditions site plan | F. Correspondence: |
| D. Notification information: | 1. Jerry & Judy Sawyer, 604 NW |
| 1. Mailing list | Marlborough Ave Portland, OR 97210 |
| 2. Mailed notice | |
| E. Agency Responses: | G. Other: |
| 1. Bureau of Environmental Services | 1. Original LU Application |
| 2. Bureau of Transportation Engineering and Development Review | 2. E-mail correspondence between applicant and staff planner |

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



Historic Landmark



NORTH

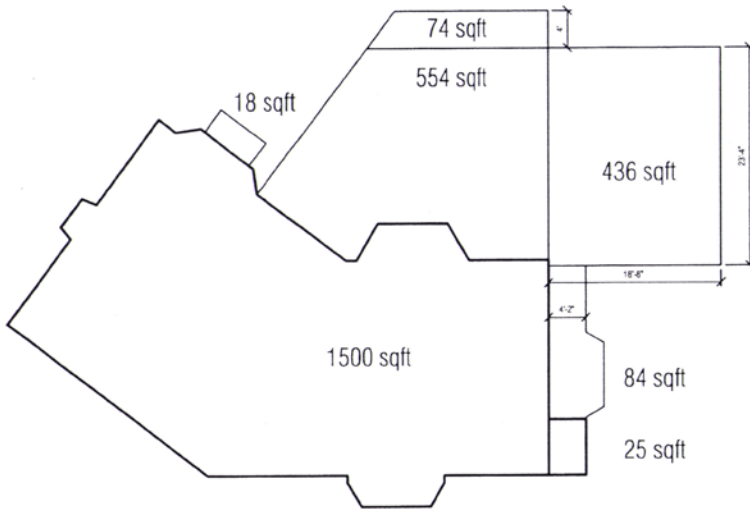
File No. LU 14-238813 AD

1/4 Section 2926

Scale 1 inch = 200 feet

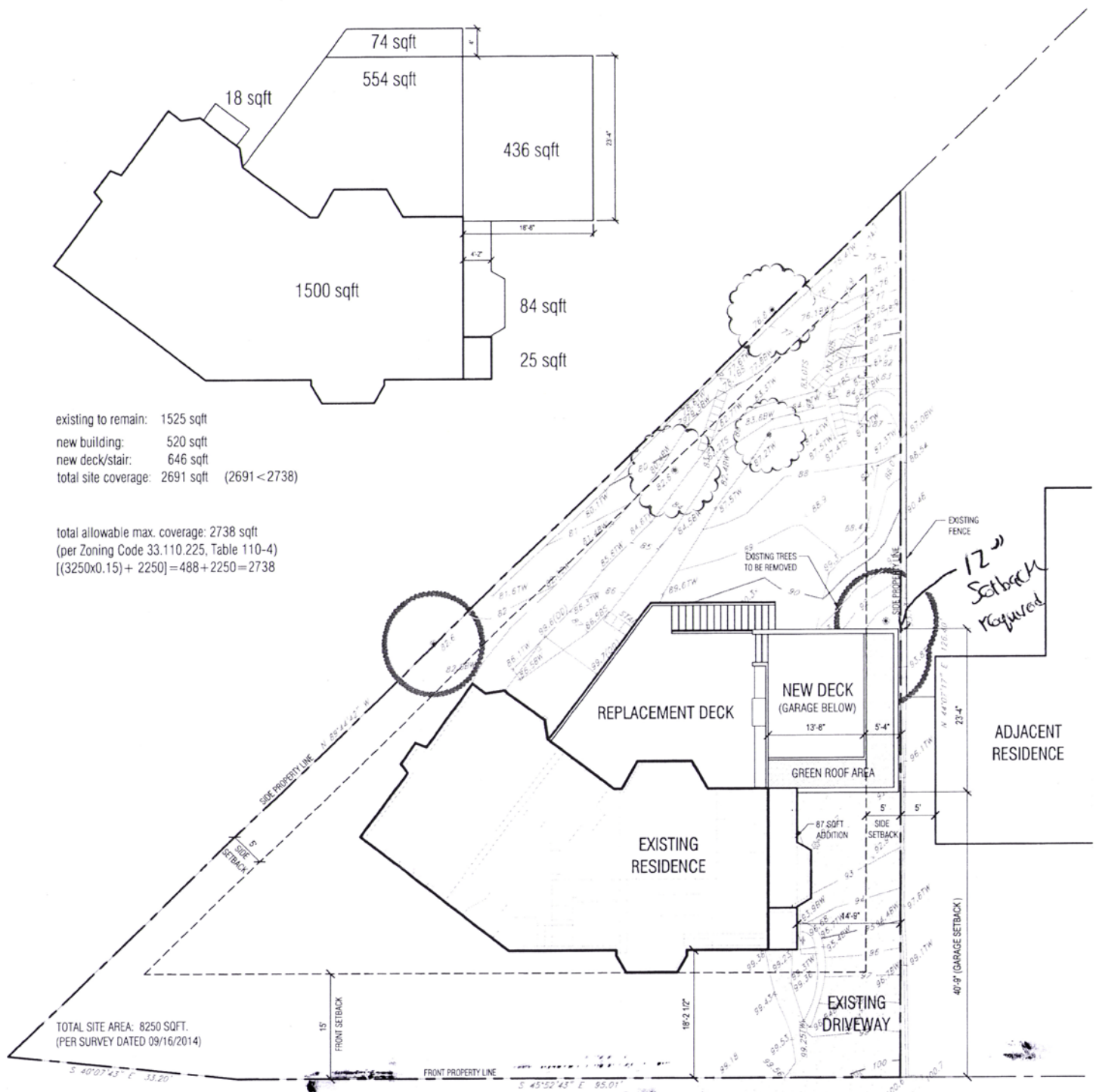
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Exhibit B (Nov 18, 2014)



existing to remain: 1525 sqft
new building: 520 sqft
new deck/stair: 646 sqft
total site coverage: 2691 sqft (2691 < 2738)

total allowable max. coverage: 2738 sqft
(per Zoning Code 33.110.225, Table 110-4)
[(3250x0.15) + 2250] = 488 + 2250 = 2738

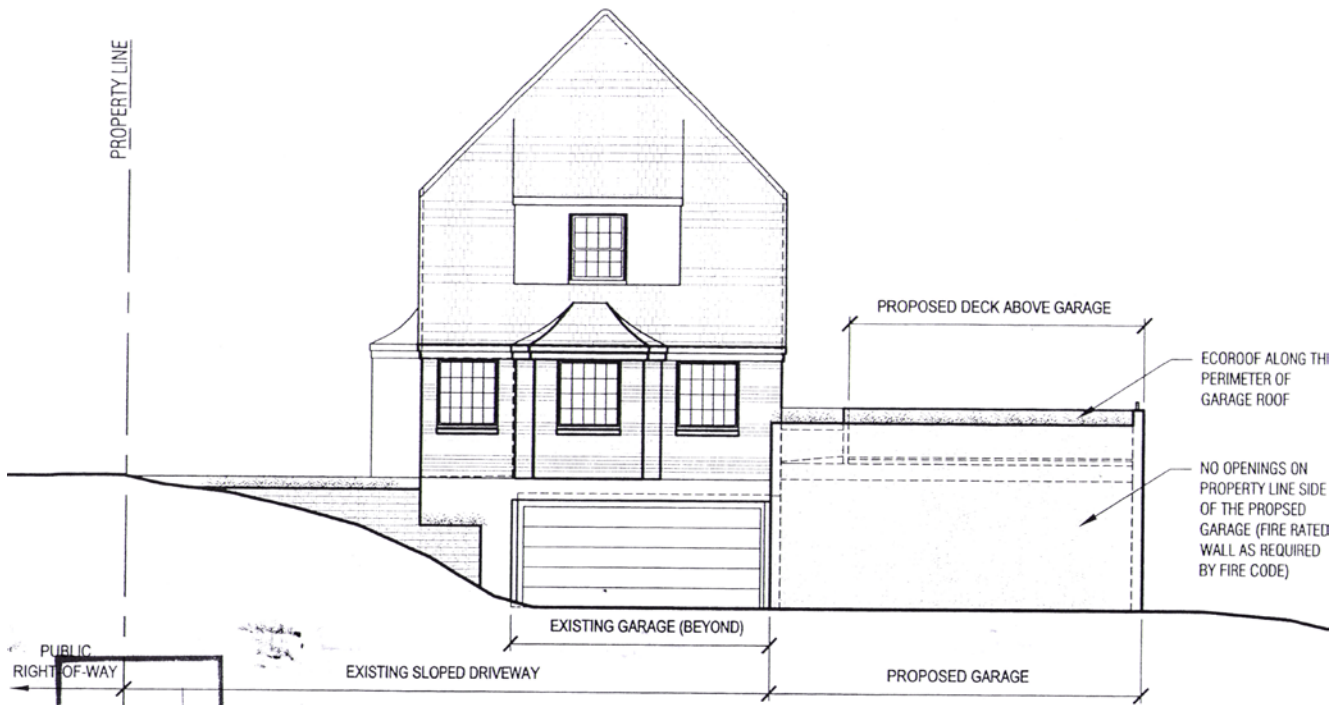


700 NW MARLBOROUGH AVE.

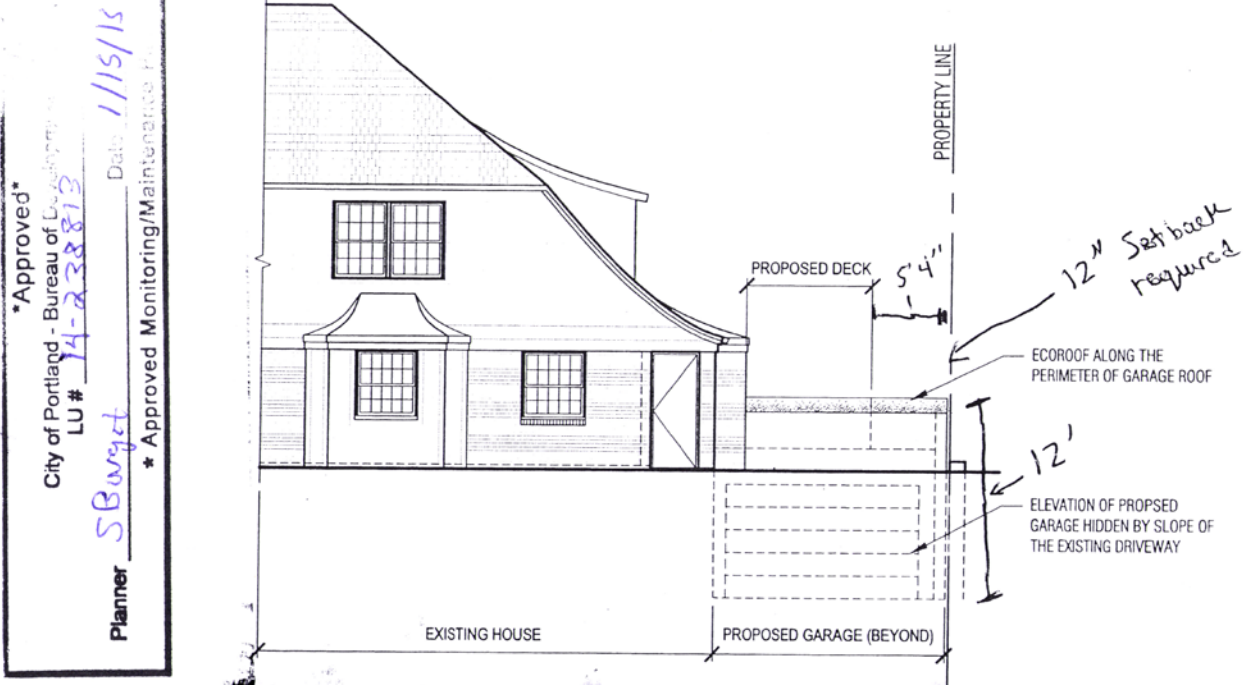
Approved
City of Portland - Bureau of Development Services
LU # 14-238813

2 PROPOSED SITE PLAN
SCALE: 1" = 20'-0"

Planner S. Burch Date 1/15/15
* Approved Monitoring/Maintenance Plan



3 SIDE ELEVATION (SOUTH ELEVATION)
SCALE: 3/32" = 1'-0"



4 PARTIAL FRONT ELEVATION AS SEEN FROM THE STREET (WEST ELEVATION)
SCALE: 3/32" = 1'-0"

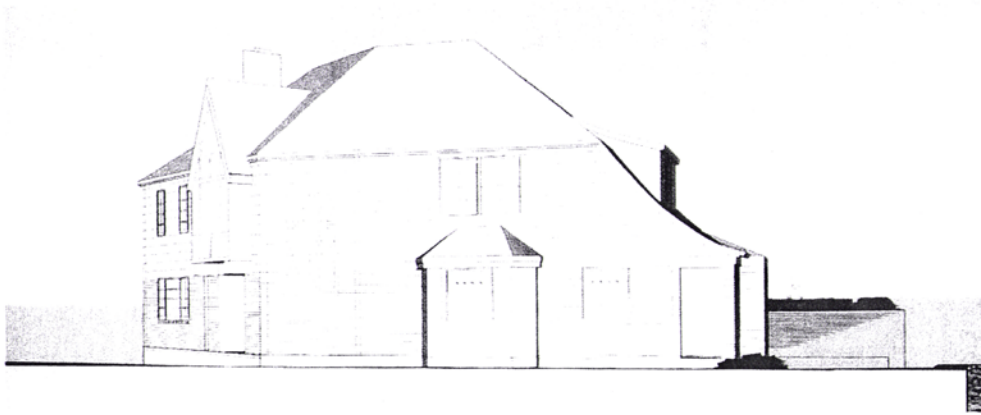
BOND RESIDENCE

700 NW MARLBOROUGH AVENUE
PORTLAND, OR 97210

CASE NO. 14-238813
EXHIBIT C-2
(Pages 1-3)

11/07/2014
PRELIMINARY - NOT FOR CONSTRUCTION

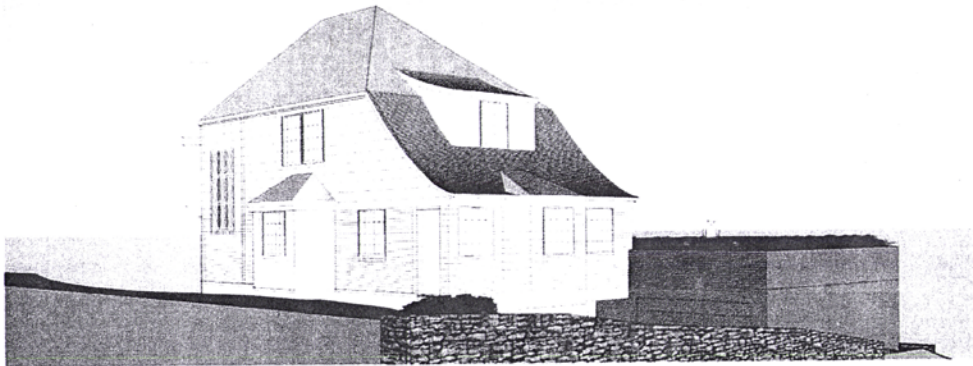
COLAB
ARCHITECTURE + URBAN DESIGN, L.L.C.
Page 1



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PROPOSED STREET VIEW (FRONT OF HOUSE)

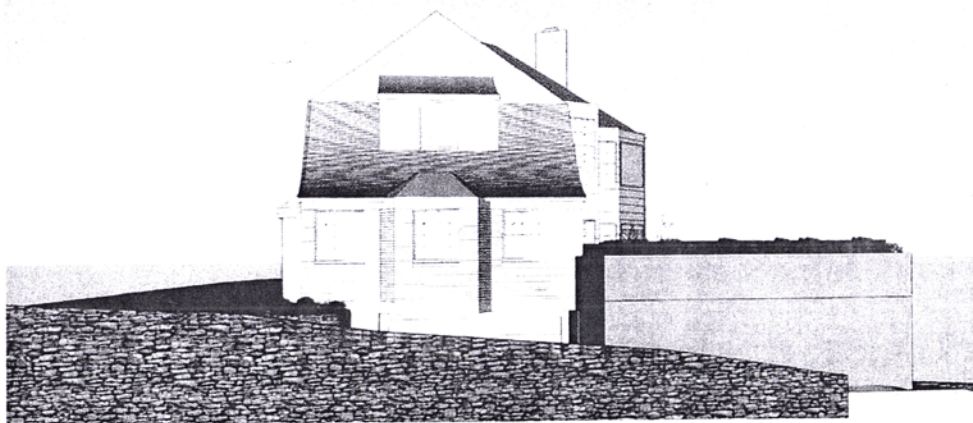
NOT TO SCALE



13

PROPOSED STREET VIEW (SOUTHWEST SIDE OF HOUSE)

NOT TO SCALE



14

PROPOSED ELEVATION (SOUTH SIDE OF HOUSE)

NOT TO SCALE

BOND RESIDENCE

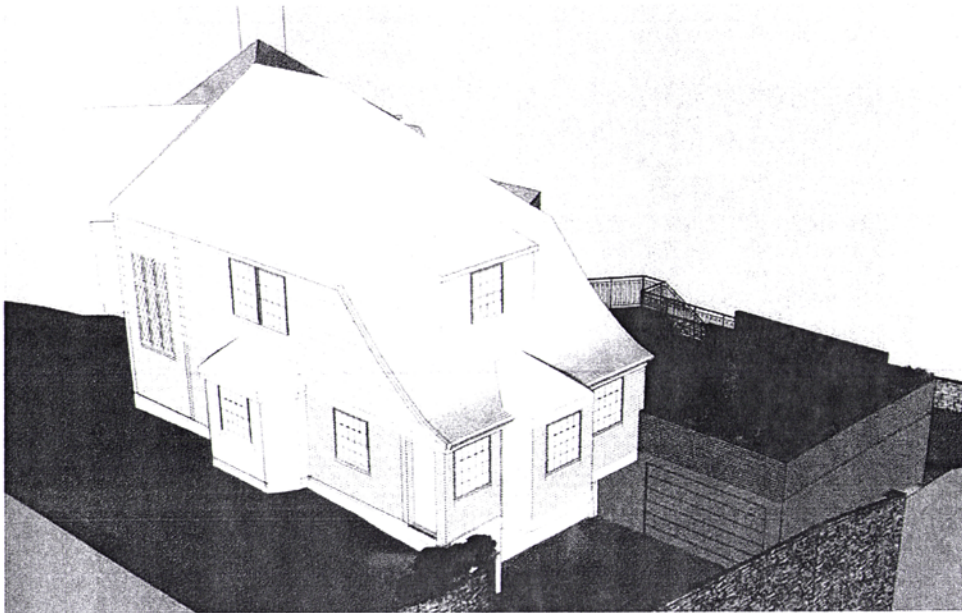
700 NW MARLBOROUGH AVENUE
PORTLAND, OR 97210

11/07/2014
PRELIMINARY - NOT FOR CONSTRUCTION

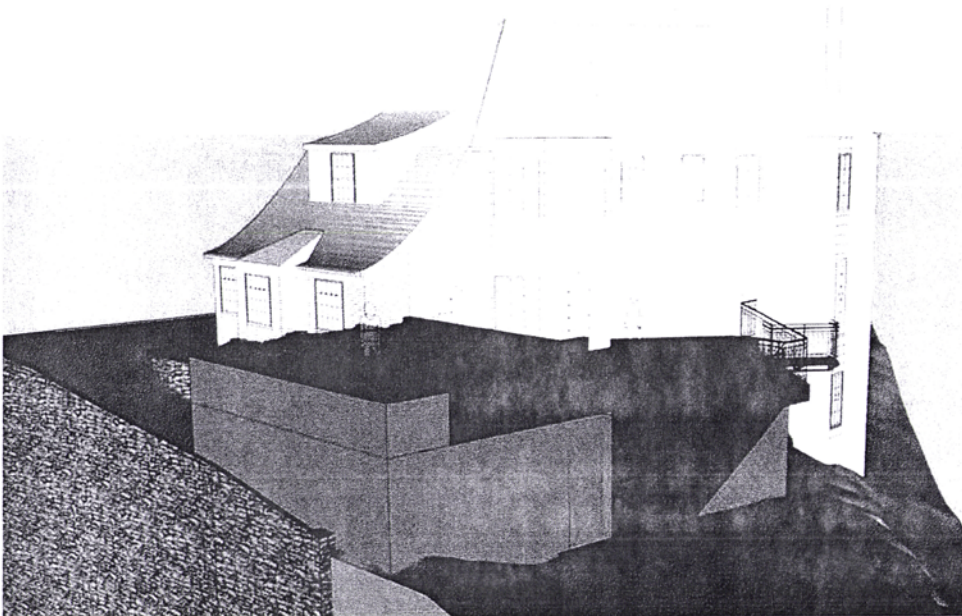
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14-238813

Exhibit C-2 (Page 2)



15 AERIAL VIEW (SOUTHWEST CORNER)
NOT TO SCALE



16 BACK VIEW (SOUTHEAST CORNER)
NOT TO SCALE

BOND RESIDENCE

700 NW MARLBOROUGH AVENUE
PORTLAND, OR 97210

11/07/2014
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14-238813 Exhibit C-2 (Page 3)

