

**STAFF REPORT**  
**CITY OF LAKE OSWEGO**

**PLANNING DIVISION**

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APPLICANT/OWNER:

Dr. Saad Jazrawi

FILE NO:

LU 12-0035

APPLICANT'S REPRESENTATIVE:

Deca Architecture, Inc.

STAFF:

Johanna Hastay

TAX LOT REFERENCE:

Tax Lot 3401 of Tax Map 21E 03DC

DATE OF REPORT:

September 20, 2012

LOCATION:

518 5<sup>th</sup> Street

120-DAY DECISION DATE:

December 28, 2012

COMP. PLAN DESCRIPTION:

R-2

NEIGHBORHOOD ASSOCIATION:

First Addition-Forest Hills

ZONING DESIGNATION:

R-2

**I. APPLICANT'S REQUEST**

The applicant is requesting Residential Infill Design (RID) Review approval for the following exceptions to the R-2 zone standards in order to enclose an existing open breezeway between the alley-loading garage and the dwelling:

- A 5-foot exception to the required 5-foot north side yard setback; and,
- A 235-square foot exception to the Side Yard Appearance and Screening standards requiring a maximum north side wall plane of 500 square feet.

**II. PRELIMINARY DECISION**

**Approval** of LU 12-0035 with conditions. The complete listing of conditions is provided on pages 9-10 of this report.

**III. APPLICABLE REGULATIONS**

A. City of Lake Oswego Community Development Code [LOC Chapter 50]:

LOC 50.01.006	Non-Conforming Structures and Uses
LOC 50.03.002.2	Residential High Density Zones Use Table (R-2)
LOC 50.04.001.3	Residential High Density Zones Dimensional Standards
LOC 50.05.004	Downtown Redevelopment Design District Overlay
LOC 50.06.001.2	Structure Design-Residential Zones
LOC 50.06.002	Parking
LOC 50.06.006.3	Drainage Standard for Minor Development
LOC 50.06.007.2.C	Maximum Shade Point Height Standard
LOC 50.07.003.1.b	Burden of Proof
LOC 50.07.003.5	Conditions of Approval
LOC 50.07.003.6	Effect of Decision
LOC 50.07.003.7.b	Appeal of Minor Development Decision
LOC 50.07.003.14	Review of Minor Development Applications
LOC 50.08.007	Residential Infill Design Review Standards

B. Prior Approvals:

SD 7-89/VAR 7-89

**IV. FINDINGS**

A. Background/Existing Conditions:

1. The property is 2,520 square feet in size and is located on the west side of 5<sup>th</sup> Street, a local street (Exhibit E1).

This dwelling was approved as a part of a six-unit housing project (SD 7-89/VAR 7-89). At the time of approval, the site was zoned East End Commercial (EC). There were no setbacks except a 25-foot rear yard setback as the site abutted lots zoned R-7.5 to the west. The project site was subject to a later zone change to R-2. The abutting lots to west of the site have been since rezoned to R-6.

The existing dwelling is now non-conforming to certain R-2 zone standards. A residential structure which is classified as a nonconforming structure may be expanded if the expansion does not increase the degree of nonconformity. If exceptions to the R-2 zone standards are approved through the RID process, it is considered an expansion of a non-conforming structure in a conforming manner. However, any other nonconformity not addressed by the subject RID request remains non-conforming and subject to the standards of LOC 50.01.006.

2. Surrounding properties to the east, north, and south are also zoned R-2 and are developed with single-family dwellings or zero-lot line dwellings (south). To the west, the site is adjacent to properties zoned R-6 that are developed with single family dwellings.

3. The site is in the First Addition-Forest Hills Neighborhood. The First Addition Neighborhood adopted a Neighborhood Plan in 1996, and that was subsequently updated in 2008 to include the Forest Hills neighborhood. Predominant residential architectural styles include Bungalow, Vernacular, Gothic, Prairie, Craftsman, Ranch, and Shed styles.

**V. REVIEW AND APPROVAL PROCEDURES**

**A. Public Notice to Surrounding Area:**

Pursuant to LOC 50.07.003.3.d, the City will send written notice of the preliminary decision of a RID Review application to the neighborhood association, all adjacent neighborhood associations, and all property owners within 300 feet of the site. If no written comments are received during the 14-day comment period, then the decision becomes final. If written comments are received within the comment period, a final decision will be made upon consideration of the comments and a Notice of Final Decision will be provided [LOC 50.07.003.14.d.iii].

**B. Burden of Proof:**

Per LOC 50.07.003.1.b, the applicant for a development permit shall bear the burden of proof that the application complies with all applicable review criteria or can be made to comply with applicable criteria by imposition of conditions of approval. The applicant has provided sufficient evidence to enable staff to evaluate the proposal. These documents are listed as exhibits at the end this report.

**C. Classification of Application**

LOC 50.07.003.14.a.ii(15) describes RID Review as a minor development.

**D. Criteria for Review of Application**

Per LOC 50.07.003.14.d.ii, for any minor development application to be approved, it shall first be established that the proposal complies with:

**1. ZONES AND SITE SPECIFIC STANDARDS**

**DIMENSIONAL AND BUILDING DESIGN STANDARDS [LOC 50.04.001 and 50.06.001]**

The site is zoned R-2 and is located in the Downtown Redevelopment Design District. The applicant proposes to enclose an existing breezeway between the garage and dwelling (Exhibits E3, E5, and F1). The matrix, below, illustrates the zoning standards and compliance.

<b>R-2 Site Limitations</b>		
<b>Future structures on the site will be reviewed for compliance with the zoning standards in effect at the time of building permit application.</b>		
	<b>Required</b>	<b>Proposed</b>
<b>Setbacks</b>		
<b>Front Yard</b>	20 feet	10.5 feet (existing, no change)
<b>Side Yards</b>	5-foot min, 15-foot cumulative total	0 feet (north) <sup>1</sup> and 0 feet (south, existing with no change)
<b>Rear Yard</b>	20 feet	24 feet (existing, no change)
<b>Height</b>	28 feet	30 feet (existing, no change)
<b>Lot Coverage</b>	35% or 882 sq. ft.	1,182.5 sq. ft. or 47% (existing, no change and including a 200-sq. ft. exception for the rear-loading garage)
<b>Floor Area</b>	3,024 sq. ft.	2,096 sq. ft.

As noted, above, the existing dwelling is non-conforming to a number of the R-2 standards. The only zoning dimensional standard impacted by the proposed modification is the north side yard setback as the applicant is proposing to enclose a previously open breezeway with a solid wall (Exhibit E5). The existing non-conforming lot coverage is not increased as the enclosure is under an existing roof form and already counted towards the total lot coverage. The applicant is requesting a RID exception to the north side yard setback standard, as discussed, below (Exhibits E5 and F1). This standard is met.

**BUILDING DESIGN [LOC 50.06.001]**

In addition to dimensional standards, the proposed dwelling must comply with the following residential building design standards.

**Street Front Setback Plane [LOC 50.06.001.2.b]**

The front profile of a structure is required to fit behind a plane that starts at the front setback line and extends upward to 20 feet in height, sloping towards the center of the lot at a 6:12 pitch up to the maximum allowed height.

As shown on the site plan, the proposed modification is located behind the taller front portion of the dwelling (Exhibit E6). Compliance with this standard is not applicable due to the scope of the proposed development.

**Side Yard Setback Plane [LOC 50.06.001.2.e]**

The side profile of a structure is required to fit behind a plane that starts at the side property line and extends upward to 12 feet in height, sloping towards the center of the lot at a 12:12 pitch up to the maximum allowed height.

<sup>1</sup> The existing dwelling is non-conforming; a setback exception is requested pursuant to LOC 50.08.007, RID.

As illustrated on Exhibits E5-E6, the proposed enclosure is less than 12 feet in height and therefore complies with the north side yard setback plane with no projections. There are no modifications proposed that impact the south side yard setback plane. This standard is met.

Side Yard Appearance and Screening [LOC 50.06.001.2.f.i]

The development must comply with one of the side yard appearance and screening treatments: Maximum Side Yard Plane (500 square feet), Side Yard Features, or Screening.

Due to the dwelling's existing proximity to the north side property line, compliance with the Side Yard Features or Screening options is not possible. As indicated on Exhibit E6, the existing north side wall plane is approximately 550 square feet in total area. The applicant proposes to enclose the connecting breezeway, adding 185 square feet to the total wall plane for a total of 735 square feet. The applicant is requesting a RID exception to this standard, as discussed below (Exhibits E6 and F1). There are no modifications proposed that impact the existing non-conforming south side wall plane. This standard can be met.

Long Wall Planes [LOC 50.06.001.2.f.v]

To break up building mass and provide greater privacy on narrow lots, a lot with greater than a 2.5:1 ratio of lot depth to lot width shall not have a cumulative length greater than 60 feet for portions of the structure over 18 feet in height.

The lot is 21 feet wide and approximately 120 feet deep with an approximate ratio of 5.7:0:1; therefore, the lot is considered a long narrow lot (Exhibit E2). While the length of the north wall plane is 76.5 feet in length, the breezeway is located under an existing roof form that is less than 18 feet in height and is within the initial 60 feet in length (Exhibit E2). The proposal to enclose the breezeway does not increase the degree of non-conformity to this standard.

Staff finds that the proposal either complies or is non-conforming with the R-2 zone dwelling design standards, with the exception of the Side Yard Appearance and Screening standards for the north wall plane for which the applicant is requesting a RID exception.

**RESIDENTIAL INFILL DESIGN REVIEW STANDARDS [LOC 50.08.007]**

These standards provide an alternative review process for construction or alteration of outright permitted residential dwellings and accessory structures in residential zones that do not meet the clear and objective development standards of the Code, but may be found to be otherwise compatible with the character of the neighborhood and surrounding residential development.

The City Manager may grant exceptions to the requirements of the underlying zone if the applicant demonstrates that the proposed design results in development that is equal to or better than that which would meet the clear and objective standards. In making this determination, the City Manager shall consider the dwelling size, relationship to the street, and relationship to the neighbors. In considering additions to existing structures, the analysis is not focused solely on the impact of the addition without looking at the resulting structure. The question for RID approval is whether the resulting structure with the addition, is equal or better than development that would meet the clear and objective standards [LU 05-0056, Lühr], [LU 07-0042, Zmrhal].

The applicant is requesting the following exceptions in order to remodel the existing single family dwelling (Exhibit F1):

- A 5-foot exception to the required 5-foot north side yard setback; and,
- A 235-square foot exception to the Side Yard Appearance and Screening standards that limits the north wall plane to a maximum of 500 square feet.

### ***NEIGHBORHOOD CHARACTER & PATTERNS OF DEVELOPMENT***

When applying the RID criteria, the City Manager shall consider the pattern and character of development of lots within 200 feet of the subject site and any neighborhood design objectives or guidelines for residential development that have been adopted by the local neighborhood association. As noted earlier, the First Addition-Forest Highlands Neighborhood Association has adopted a neighborhood plan. This plan is addressed more specifically, below.

The applicant has provided a photo inventory of dwellings within 200 feet of the site in order to demonstrate patterns and the character of development within the immediate neighborhood (Exhibit E7). The photos demonstrate that this portion of the neighborhood is the transitional edge between the lower density residential area into the downtown which is characterized as commercial and mixed use development. The nearest residential development is characterized by a mix of duplexes, zero-lot line dwellings, and detached single family dwellings with commercial to the south of the subject site. The architectural styles are a mix of Modern, Vernacular, Bungalow, Craftsman, and Ranch.

As discussed, the pattern and character of development of the lots surrounding the subject site is varied. Although all the lots within a 200-foot radius are required to be considered, the transitional nature of this site as well as the differences in the character of development shall be taken into consideration. The lots within the original housing project shall be given considerable weight in the neighborhood compatibility analysis as they were subject to the same design analysis when initially approved.

As detailed in the neighborhood plan, the prevailing character of the First Addition-Forest Hills Neighborhood is “small-town” with walkable streets and alleys serving a variety of housing options. As the oldest platted neighborhood in the city, the area contains several historic structures built before the turn of the century as well as numerous old trees and gardens. Predominant residential architectural styles include Bungalow, Portland Vernacular, Gothic, Prairie, Craftsman, Ranch, and Shed styles. The subject housing project was constructed in the early 1990’s in the Portland Vernacular style characterized by horizontal lap siding, repetitive use of tall narrow windows in pairs with heavy trim, symmetrical and simple massing, front porches, and steeply pitched gable roof forms.

The proposed enclosed breezeway siding is primarily horizontal lap siding that matches the existing wall planes and does not detract from the architectural style of the dwelling. The proposal does not impact the neighborhood’s walkability, nor does it impact any historic structures or mature trees. Staff finds that the proposal to enclose the existing breezeway is in keeping with the desired residential character discussed in the First Addition-Forest Hills Neighborhood Plan.

***Residential Dwelling or Accessory Structure Size***

*Refers to exceptions to Floor Area, Lot coverage, Yard setbacks, Building Height, and Accessory Structures*

An exception to the standards listed above may be permitted when a more positive relationship between the size of the dwelling and the scale and character of a neighborhood can be demonstrated in other ways. The degree to which the dwelling design offers features that diminish the perceived scale and improves the perceived character is determined by consideration of distance and visibility from the street and adjoining properties, topography, building number, form, mass and orientation, and landscaping.

The applicant is requesting a 0-foot north side yard setback to enclose a breezeway at an existing non-conforming setback (Exhibit F1). The applicant's narrative and materials demonstrate that the proposed design offers the following site conditions and design features that diminish the perceived scale and improve the overall character of the proposal:

- The expanded wall plane will not be visible from the street. From the adjoining property, the new wall plane is going under the existing roof form without any increase in height.
- The applicant is proposing to side the expanded wall plane primarily with horizontal lap siding, the same as existing siding (Exhibit E6). No windows are proposed on the outside wall plane but the applicant is including a change in siding (to painted MDO paneling) in order to break up the new wall area and provide visual relief (Exhibits E6 and E9).

Staff finds that with regard to the dwelling size, the proposed north wall plane expansion and the north side yard setback exception are consistent with the scale and character of development along 5<sup>th</sup> Street and results in development that is equal to or better than what could be approved without the exception.

***Relationship to the Street***

*Refers to exceptions to Front Yard Setback, Street Front Setback Plane, and Garage Appearance and Location*

This consideration – relationship to the street - is not applicable to the north side yard setback exception or the maximum side wall plane exception as the area is not visible from the street due to distance, height, and the existing structure.

***Relationship to the Neighbors***

*Refers to exceptions to Side Yard Setback, Side Yard Setback Planes, Side Yard Appearance and Screening, and Long Wall Planes*

Infill that is compatible will not diminish the scale, character or privacy of neighboring houses and will avoid visual conflict with neighbors. The relationship between a proposed house and the neighboring dwellings is determined by evaluating distance and visibility from adjoining properties, preservation of existing landscape features perceived to be of value to adjacent properties, topography, perceived proportion relative to adjacent properties, perceived sight lines to and from windows and decks, treatment of elevations visible to adjacent properties, and landscaping and screening.

Typically, a house design's relationship to the neighbors is addressed through the following standards: side yard setback; side yard elevation appearance and screening; side yard setback plane; and, long wall plane. An exception to these standards may be approved when the proposed design of an addition is equal or better than development that would meet the clear and objective zone requirements, because the design demonstrates a more compatible, positive relationship to the scale, character and privacy of its neighbors.

The applicant is requesting a 0-foot north side yard setback and a 235-square foot exception to the maximum side wall plane (side yard appearance and screening standards) in order to enclose a breezeway located on the north side property line (Exhibits E5-E6, E9, and F1). The applicant's narrative and materials demonstrate that the proposed design offers the following site conditions and design features that diminish the perceived scale and improve the overall character of the proposal:

- The existing north elevation is broken into two distinct wall planes, that of the existing dwelling and the smaller garage wall, both built on the north property line. The two walls are connected by the open breezeway. The proposed remodel results in a one story connecting wall plane (Exhibit E9).
- The area of the new wall plane is broken into two areas horizontally through different siding material and colors (Exhibit E9). This visually activates the wall as viewed from the abutting northerly property.
- No trees will be impacted or removed with the expansion.
- The proposed wall does not require any grading on the site.
- No impacts to privacy are anticipated; all sight lines into abutting yards and windows are actually reduced with the proposal (Exhibits E6 and E9).

### **CONCLUSION**

Staff finds that the resulting design is equal or better to a dwelling that could meet the relevant standards and that the development is compatible with the neighborhood character in the vicinity of the site. Therefore, staff concludes that the remodel meets the requirements for the requested exceptions pursuant to the RID Review standards. The applicant shall be required to record a Notice of Development Restriction notifying current and future property owner that modifications to the approved design are subject to written approval of the City of Lake Oswego.

## **2. OVERLAY AND DESIGN DISTRICTS**

### **DOWNTOWN REDEVELOPMENT DESIGN DISTRICT OVERLAY [LOC 50.05.004]**

This section is applicable to projects located within the East End Design District and prescribes specific standards for building design and materials, landscaping, parking, sidewalks etc. The proposed breezeway enclosure is not a "substantial modification" per LOC 50.05.004.2.b.1. Due to the scope of the proposal, compliance with these standards is not required.

## **3. DEVELOPMENT STANDARDS**

The following discussion analyzes the applicable development standards.



**PARKING [LOC 50.06.002]**

This standard requires that a single-family dwelling provide one off-street parking space. This standard may be satisfied by garage parking for single-family residences. The required off-street parking is provided in the proposed 2-car garage (Exhibit E3). This standard is met.

**DRAINAGE FOR MINOR DEVELOPMENT [LOC 50.06.006.3.a.ii]**

This standard requires that drainage alterations, including new development, not adversely affect neighboring properties. The proposed wall will be constructed under an existing roof form; no impacts to the existing drainage system are proposed (Exhibit F1). This standard can be met.

**SOLAR ACCESS [LOC 50.06.007]**

**Maximum Shade Point Height Standard- LOC 50.06.007.2.C**

All single-family structures in any zone are required to meet the Maximum Shade Point Height Standard [LOC 50.06.007.2.c], which protects structures located to the north of the site from shading.

The proposal is for a new wall plane that is under an existing roof form. This standard is not applicable.

**4. ADDITIONAL STATUTORY, REGULATORY, OR LAKE OSWEGO CODE PROVISIONS WHICH MAY BE APPLICABLE; AND**

Staff found that there were no additional regulations applicable to this application.

**5. CONDITIONS OF APPROVAL IMPOSED PER ODPS OR PRIOR DEVELOPMENT PERMIT.**

All conditions of approval from the prior approval have been met.

**VII. CONCLUSION**

Based upon the materials submitted by the applicant and findings presented in this report, staff concludes that LU 12-0035 complies with all applicable criteria and standards or can be made to comply through the imposition of conditions.

**VIII. ACTION TAKEN**

**Approval** of LU 12-0035, subject to the following conditions:

**A. Prior to Issuance of a Building Permit for the Addition, the Applicant/Owner shall:**

1. Submit final building plans for review and approval of staff that are the same or substantially similar to the site plan, floor plans, and building elevations illustrated on Exhibits E5-E6, and E9.

2. Submit a Notice of Development Restriction containing the following restriction listed, below, for review and approval of City staff.

The dwelling on the site received exceptions to the north side yard setback and north side yard appearance and screening requirements of the R-2 zone through the Residential Infill Design Review process and was specifically approved for its design. No external additions or alterations of the dwelling (including changes to or removal of approved building design features or materials) shall be permitted, including changes during construction, without prior written approval by the City of Lake Oswego, per City of Lake Oswego Planning Division File No. LU 12-0035.

3. Record the approved Notice of Development Restriction as described in Condition A(2), above, with the Clackamas County Clerk's Office and provide evidence to staff that it has been recorded.

**B. Prior to the Final Building Inspection for the Addition, the Applicant/Owner shall:**

1. Request a final inspection by the Planning staff to assure that the addition complies with the approved final plans, per Condition A(1), above.

**Code Requirements:**

1. **Expiration of Development Permit:** Per LOC 50.07.003.17, the RID approved by this decision shall expire three years following the effective date of the development permit, and can be extended by the City Manager pursuant to the provisions of this section.

**Note:**

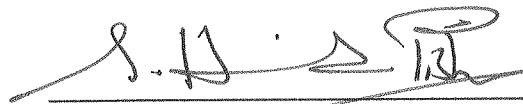
1. Development plans review, permit approval, and inspections by the City of Lake Oswego Development Review Section are limited to compliance with the Lake Oswego Community Development Code, and related code provisions. The applicant is advised to review plans for compliance with applicable state and federal laws and regulations that could relate to the development, i.e., Americans with Disabilities Act, Endangered Species Act. City staff may advise the applicant of issues regarding state and federal laws that the City staff member believes would be helpful to the applicant, but any such advice or comment is not a determination or interpretation of federal or state law or regulation.

Prepared by:

  
\_\_\_\_\_  
Johanna Hastay  
Associate Planner

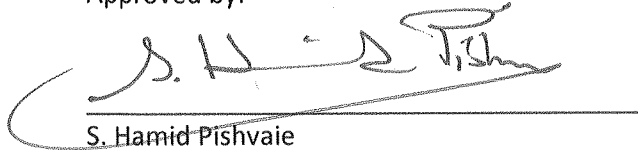
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Date

Reviewed by:

  
\_\_\_\_\_  
Evan Boone  
Deputy City Attorney

9/12/2012  
\_\_\_\_\_  
Date

Approved by:



S. Hamid Pishvaie  
Assistant Planning Director

9/20/2012

Date

**EXHIBITS**

**A-D** [No current exhibits; reserved for hearing use]

**E. GRAPHICS/PLANS**

- E1 Tax Map
- E2 Survey
- E3 Existing Conditions Site Plan
- E4 Detailed Site Plan of Breezeway (Existing)
- E5 Detailed Site Plan of Enclosed Breezeway (Proposed)
- E6 North & South Building Elevations (Existing and Proposed)
- E7 Photos of Structures/Dwelling within 200-foot Radius
- E8 Photos of Existing Residence
- E9 Perspective Drawings of Enclosed Breezeway (Proposed)
- E10 Vicinity Maps

**F. WRITTEN MATERIALS**

- F1 Applicant's Narrative
- F2 Fire Marshal's Memorandum

**G. LETTERS**

Neither For nor Against (G1-G99):

None

Support (G100-G199):

None

Opposition (G200-G299):

None

Date of Application Submittal: August 2, 2012

Date Application Determined to be Complete: August 30, 2012

State Mandated 120-Day Rule: December 28, 2012