



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: October 27, 2011
To: Interested Person
From: Kathy Harnden, Land Use Services
503-823-3581 / Kathy.Harnden@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 reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 11-176862 AD

GENERAL INFORMATION

Applicant: Lisa Barker
LMB Permit Services
307 NW 16th Ave.
Battleground, WA 98604

Owner: Robert Farnes
11367 SE Lavender LN
Boring, OR 97009-9404

Site Address: 13510 SE BUSH ST

Legal Description: BLOCK 2 E 188' OF LOT 1 EXC S 26' & EXC PT IN ST, SILVER PARK
Tax Account No.: R770000600
State ID No.: 1S2E11DB 04800
Quarter Section: 3444
Neighborhood: Powellhurst-Gilbert, contact Mark White at 503-761-0222.
Business District: Midway, contact Bill Dayton at 503-252-2017.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: Johnson Creek Basin
Other Designations: None
Zoning: R2a – Residential 2000 is a low density multi-dwelling zone with the “a” (Alternative Design Density) overlay zone
Case Type: AD – Adjustments
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to construct four attached houses as the second component of a proposal to construct eight attached houses on this site. The first four houses are under construction. Altogether, the eight attached houses will total 8,000 square feet of building coverage on a 14,914 square foot lot. Allowed building coverage for the site is 50 percent of the site area, or 7,461.5 square feet. The applicant's proposal exceeds the allowed building

coverage by 538.5 square feet, and covers 53.6 percent of the site. The requested adjustment, therefore, is to exceed the allowed building coverage on the site by 538.5 square feet.

Relevant Approval Criteria:

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 site is located on the northeast corner of SE Bush Street and SE 136th Avenue. SE Bush Street makes a T-intersection with SE 136th Avenue at the corner. Immediately adjacent to the site on the west is a driveway and parking lot that serves three multi-dwelling, two and three-level apartment buildings originally constructed in the 1940s and recently remodeled. Across SE Bush from the site are two single dwellings on 8700 to 12,000 square-foot, individual lots. Opposite the “T” intersection are two single dwellings on two lots, each approximately 4350 square feet in size. Immediately south of the site is a large, 25,135 square-foot vacant lot. The remainder of the neighborhood is composed of a wide range of developments, from smaller, older homes on small to large lots, a number of large vacant lots, and in-fill development composed primarily of condominiums, row houses, and apartment buildings.

Zoning: The site is zoned R2, a low density, multi-dwelling residential zone. This zone allows approximately 21.8 dwelling units per acre. Density may be as high as 32 units per acre if amenity bonus provisions are used.

Allowed housing is characterized by one to three story buildings, but at a slightly larger amount of building coverage than the R3 zone. The major types of new development will be duplexes, townhouses, rowhouses and garden apartments. These housing types are intended to be compatible with adjacent houses. Generally, R2 zoning will be applied near Major City Traffic Streets, Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

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 **September 26, 2011**. The following Bureaus responded with advice for the applicants, but with no issues, concerns, or conditions of approval:

- Bureau of Environmental Services
- Transportation Bureau
- Water Bureau
- Fire Bureau

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on September 26, 2011. One written response was received from a notified property owner in opposition to the proposal. The letter was signed by eight people in opposition to the property being developed with rowhouses (Exhibit F-1), although only 6 legible signatures were provided. The comments included:

- concerns about rising crime rates in the area;
- concerns about personal safety due to the increased number of people living in the neighborhood;
- concerns about decreasing home values as more multi-dwelling development occurs;
- concerns about over-crowding in neighborhood schools that is resulting from multi-dwelling development.

*(Staff note: The expressed concerns imply that **any** multi-dwelling unit that could be built on this legally developable lot would have these projected impacts. It should be noted that existing zoning on the site allows up to eight residential units to be developed on the lot without a land use review. The stated concerns are not directly related to the requested building coverage adjustment.)*

ZONING CODE APPROVAL CRITERIA

33.805.040 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, have been met.

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

Findings: The purpose of the building coverage standard is to control the overall bulk of structures. This standard is intended to ensure that buildings will not have such large footprints that their total bulk will overwhelm adjacent development. .

The project site contains approximately 14,923 square feet and is being developed with two structures that will have 4 residences each. Housing density regulations allow 8 dwelling units on the site. Each structure will cover approximately 4,000 square feet of the site, or 8,000 square feet altogether. Each of the structures will have two levels, approximately 23 feet in height, contain 4 units with four at-grade garages, gabled roofs over each unit, and entrances on SE Bush Street. The allowed building coverage in the R2a zone is 50 percent of the site area, which would allow a total building footprint of 7,461.5 square feet. The applicants request a combined building coverage of 8,000 square feet, or approximately 3.6 percent more (538.5 square feet) than is allowed by right on this site.

Impacts on light and air from this proposal are negligible as compared to what would be expected if the proposal were to meet the building coverage standard; i.e., if the total building coverage of the eight units were reduced by 538.5 square feet. For example, reducing the length of one building by 10.75 feet, or approximately half the width of one unit, would bring the proposal into compliance with the building coverage standard. However, this reduction would provide no real difference in the appearance or feel of the area covered, because the overall appearance, bulk, and shading from the structures would be nearly identical to that being proposed. For example, the two structures will be 2 stories tall, 151 feet long and 82.4 feet wide. Cutting off 10.75 feet to create a 141-foot long, two-story structure would make little difference in the overall bulk of the buildings or the shade they project.

In addition, there will be adequate separation for fire protection and access for fire fighting from this proposal as the structures are situated on a corner lot and will meet all other setback standards.

Conclusions: 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 is to increase the amount of building coverage on this site from the allowed 50 percent of site area to 53.6 percent, an increase of 538.5 square feet. This area is approximately half the width of one unit.

The site is located in the multi-dwelling residential 2,000 zone where there has been a relatively large amount of redevelopment occurring. The property adjacent to and west of the site is developed with a set of three two-story apartments with on-site parking. In the

block to the south, lots have also been redeveloped with apartments and duplexes. A couple of blocks to the north are a series of rowhouse developments. As a multi-dwelling residential structure in a multi-dwelling zone, the proposed development is allowed by right, i.e., if the two structures met the building coverage requirement, a land use review would not be required. The proposed structures will reflect the scale and placement of buildings in the area and preserve a reasonable relationship between residences, because it will meet all required setbacks, even with the requested square footage added in, and is consistent with the developing growth pattern and existing zoning in the neighborhood.

The additional 538.5 square feet will increase the length of the structure by 10.5 feet, which should not substantially detract from the livability or appearance of the neighborhood in this multi-dwelling residential zone. In addition, the applicants state that the site will be fenced and garages will allow cars to be parked on-site instead of on the street, further protecting livability and appearance of the neighborhood.

Conclusions: Based on the above, this criterion is met.

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

Findings: Only one adjustment is requested: to allow 538.5 additional square feet.

Conclusions: Therefore, this criterion does not apply.

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

Findings: There are no scenic or historic resources on the site.

Conclusions: Therefore, this criterion does not apply.

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

Findings: No impacts have been identified for the adjustment. The use is allowed by right. The requested additional 538.5 square feet is approximately half the width of one of the proposed units. Several neighbors responded to the notice about the property by signing a letter submitted by one property owner. The concern was with the use itself: more rowhouses in an area that is changing from single residential dwellings to multi-residential dwellings. The letter discussed social issues, such as the perceived rising crime rate in the area, personal safety, and dropping property values. Staff explained to the letter's author that the only part of the proposal subject to the land use review was the request for 538.5 square feet more building coverage than allowed by code, not the multi-dwelling use, which is allowed by right in the R2 zone.

There are no discernible land use impacts that would result from granting the requested adjustment.

Conclusions: Because no land use impacts were identified from the proposed additional square-footage, 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 located within an environmental zone.

Conclusions: Therefore, this criterion does not apply.

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

All of the relevant approval criteria have been met. Approval of the request to increase building coverage by 538.5 square feet, or 3.6 percent more than allowed by right, will allow development that is consistent with the overall development pattern in the area and with the R2000 zoning. All setbacks will be met.

Therefore, approval of the requested adjustment to building coverage is not expected to have significant impacts on adjacent properties or on the livability or appearance of the residential area. The adjustment request can be approved, subject to compliance with the site plan, and elevation drawings, per LU 11-176862 AD.

ADMINISTRATIVE DECISION

Approval of a proposal to exceed the site's allowed building coverage of 7,461.5 square feet by 538.5 square feet, or 53.6 percent of the site, for a total of 8,000 square feet of building coverage for a 2-level, 2 building multi-dwelling development with a maximum of 8 units, per the approved site plan, Exhibit C.1, signed and dated October 25, 2011, subject to the following conditions:

- A. As part of the building permit application submittal, each of 2 required site plans and any additional drawings must reflect the information approved by this land use review as indicated in Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and elevations as approved in Case File # LU 11-176862 AD."

Staff Planner: Kathy Harnden

Decision rendered by:



on October 25, 2011

By authority of the Director of the Bureau of Development Services

Decision mailed: October 28, 2011

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 September 15, 2011, and was determined to be complete on September 22, 2011.

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 September 15, 2011.

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 extended by the applicant, **the 120 days will expire on: January 20, 2012**

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 November 10, 2011** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

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

Recording the final decision.

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

- *Unless appealed*, The final decision may be recorded on or after **November 14, 2011 – (the next business day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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

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

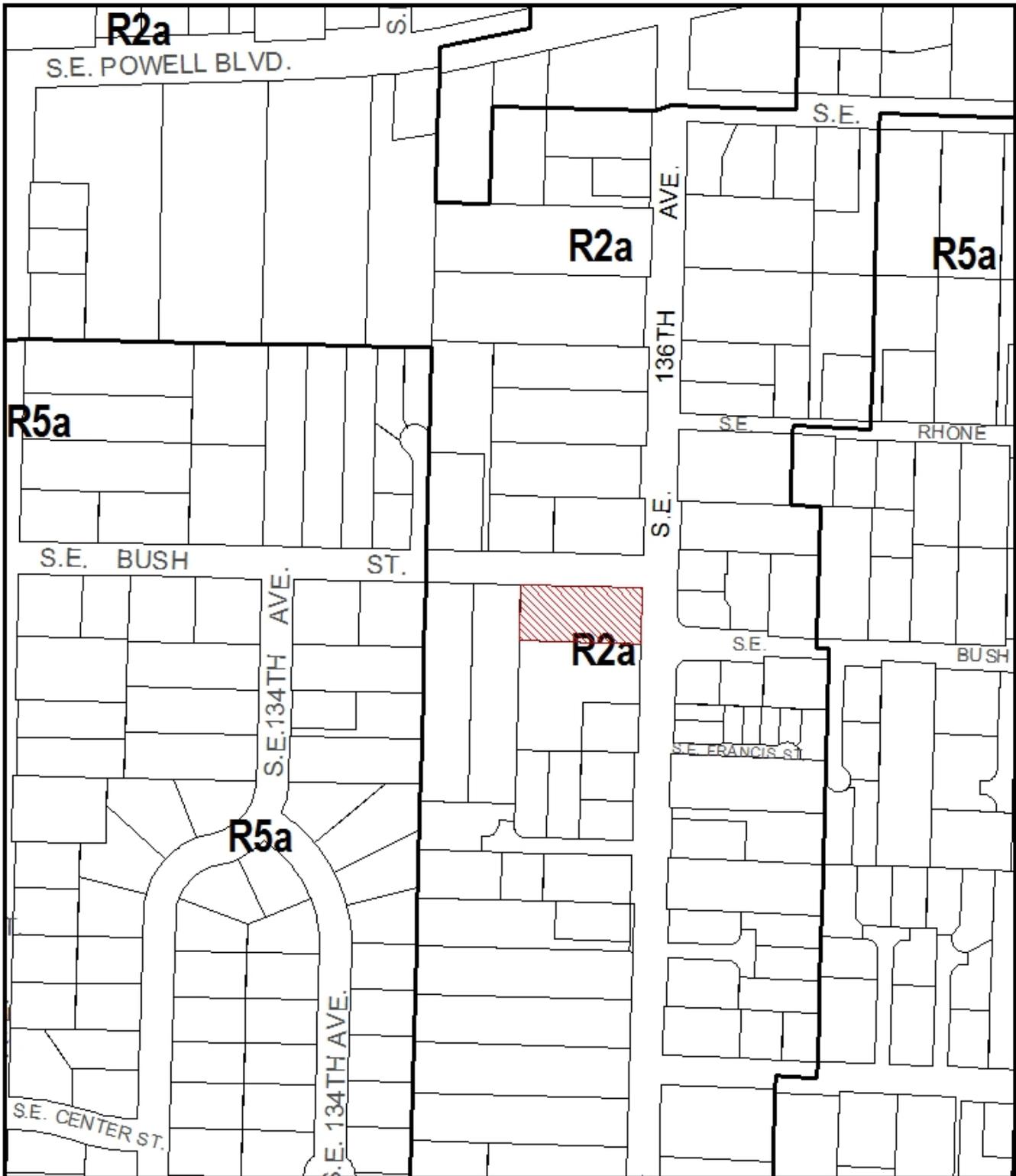
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Building Elevation Plan
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services

2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
- F. Correspondence:
1. Abigail McAuley, 10/14/2011, in opposition to proposal due to social impacts to neighborhood
Also signed by:
Jerry Phillips
Pearl Morgan
Jeff Jackson
Mark Bauman
Aida Monge
- G. Other:
1. Original LU Application
 2. Site History Research

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



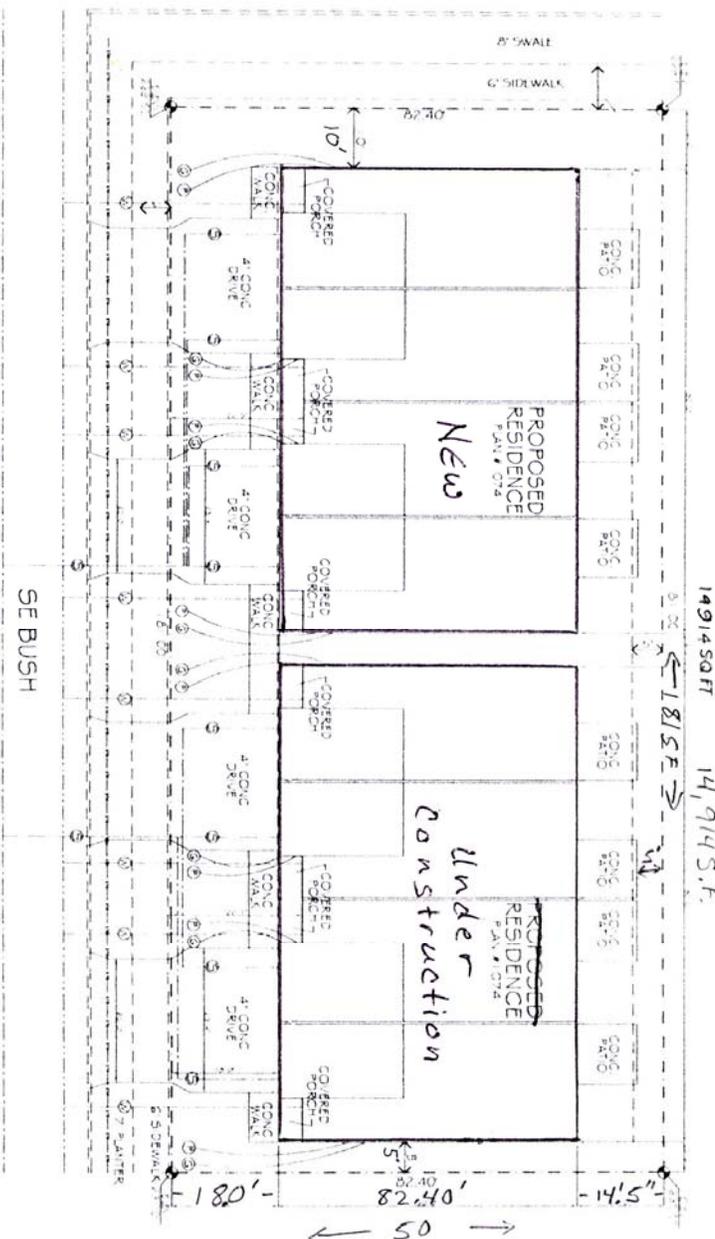
NORTH

This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	LU 11-176862 AD
1/4 Section	3444
Scale	1 inch = 200 feet
State_Id	1S2E11DB 4800
Exhibit	B (Sep 20, 2011)



SE 136TH AVE



14,914 SQ FT 14,914 S.F.

LEGEND

- ⑨ 4 SEWER
- ⑧ 1 WATER
- ⑦ GAS
- ⑥ POWER
- ⑤ RAIN DRAIN

SITE PLAN

VEHICULAR SURFACE AREA

DRIVEWAY	1,628 SQ FT
PATIO	807 SQ FT
PORCH	234 SQ FT
ALK. WALK	222 SQ FT
WALKWAY	9,638 SQ FT
TOTAL	12,529 SQ FT

LOT COVERAGE

LOT AREA	83,914 SQ FT
VEHICULAR AREA	12,529 SQ FT
COVERAGE	15.0%
PERMITTED	24.0 SQ FT

TROXEL'S HOME DESIGN

1100 N. 136TH AVE
SILVER HAWK, IA 50571

PHONE: 563-385-1100
FAX: 563-385-1101
WWW.TROXELSDH.COM

DATE: 08/20/11
DRAWN BY: S. LARSEN
SCALE: 1/8" = 1'-0"

LEGAL DESCRIPTION

R270337
S2E1, 24, 4600
SILVER HAWK
BLK 2 E 85 OF LOT 57'S 26

LU11-176802 AD