



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

Charlie Hales, Mayor
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Date: May 16, 2013
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 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 13-109246 AD

GENERAL INFORMATION

Applicant: Mike Coyle /Faster Permits
14334 NW Eagleridge Lane / Portland, OR 97229

Owner: Steve Slocum
5555 NE 18th Ave / Portland, OR 97211-5542

Site Address: 5555 NE 18TH AVE

Legal Description: OAKHURST, BLOCK 4, LOT 5&8
Tax Account No.: R622300770
State ID No.: 1N1E14DC 19500
Quarter Section: 2432
Neighborhood: Vernon, contact Chris Miller at 503-228-3122.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.
District Coalition: NE Coalition of Neighborhoods, Shoshana Cohen at 503-388-5004.
Zoning: R2.5ah (Single Family Residential 2,500 with "a" alternative design density and "h" aircraft landing zone overlays)

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

Proposal:

The 10,000 sq. ft. subject site has two historic lots (5 and 8) located on it. The existing home (5555 NE 18th Ave) is located on historic lot 8. The applicant has applied for a Lot Confirmation/Property Line Adjustment (13-107667 PR) to re-establish historic lot 5 on the site and reconfigure this property boundary. If approved, it will result in a developable lot south of the existing house on the site.

Based on the proposed Lot Confirmation/Property line adjustment, the new lot line proposed would be located 3 feet from the bay window associated with the existing house, with an eave located on the bay window extending an additional 1 foot into the 3 foot side setback proposed. In addition, a varying setback of 3 to 4.81 feet is proposed between the southwestern corner of the existing house and the new lot line. Zoning Code section 33.110.220.B (table 110-3)

requires a 5 foot side setback. The applicant has requested an adjustment to this standard. (Note: The Lot Consolidation/Property Line Adjustment proposed includes the use of a reciprocal access easement and a no build easement)

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: Many of the homes along NE 18th Avenue have architecturally interesting design elements. NE 18th Avenue is fully improved with sidewalks, curbs, paved road and planter strips. The property located directly east (slightly to the south) of the subject site is vacant with two lots. The property directly south of the subject site is Zoned CS (Commercial Storefront).

Zoning: The R2.5 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.

The "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This proposal is not using any of the provisions of the "a" overlay.

The Aircraft Landing ("h") overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. This proposal is not using any of the provisions of the "h" overlay.

Land Use History: The applicant has applied for a Lot Confirmation/Property Line Adjustment (13-107667 PR) to re-establish historic lot 5 on the site and reconfigure this property boundary. If approved, it will result in a developable lot south of the existing house on the site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **April 12, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Bureau of Parks-Forestry Division
- Life Safety

The Site Development Section of BDS responded with comments that are associated with the Lot Confirmation/Property Line Adjustment (13-107667 PR). Site Development is requiring the applicant to decommission the cesspool on the site. Exhibit E-5 contains additional details.

The Bureau of Environmental Services responded with the following comment: The applicant is reminded that BES cannot recommend approval of concurrent property line adjustment #13-107667-PR until it can be confirmed that the sanitary service for each lot will not cross the proposed new property line which is the subject of this application. Exhibit E-1 contains additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 12, 2013. No written responses have been received from either the Neighborhood Association or notified property owners in response to the 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 is requesting an Adjustment to **Section 33.110.220, Setbacks**. The purpose statement for this regulation is as follows:

Purpose: 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 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; 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 potential impact of the reduced side setback is two-fold; one to the existing development which will have a reduced distance to the property line, and one to the future vacant lot which will have abutting development (the existing house) with a reduced setback. The setback reduction is minimal, .19' to 2' for the existing house and 2' for the bay window (including an additional 1' eave) on the existing house causing little if no effect on the applicable purposes of the setback regulations. The applicant is proposing to build a new home on the vacant lot to the south, which is proposed to be located an additional 7.95' from the new property line proposed and will include a new driveway leading to a new detached garage in the rear of the lot. The applicant has proposed to locate part of the future driveway serving future development on the vacant lot within the reduced setback area next to the existing house through the use of an access easement.

The distance between the existing home and the proposed new home on the vacant lot to the south will provide a distance of 10.95-12.76 feet. Even if the proposed development on the abutting vacant lot to the south were moved closer to the common property line, a 5 foot setback would be required, which would still provide a minimum of 8' to 9.81' of distance between buildings. The reduced setback provides equal potential for light, air, fire protection, privacy, and physical relationship between residences. The reduced setback will allow the future developable lot to the south to have more flexibility of site planning. The building scale and placement of the future development will either need to meet zoning

code standards or be reviewed through another adjustment review at a future date if any standards cannot be met. 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 reduction in side setback between .19' and 2' is a minimal adjustment request and will have no significant effects on the livability or appearance of the neighborhood, since a reasonable distance will be maintained between the buildings. Future development on the vacant developable lot to the south will need to meet the 5' setback, or be reviewed under a separate adjustment application that will address that development future development specifically. 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. This criterion is not applicable

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the 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 adjustment. 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 proposal for a reduced side setback of 4.81' to 3' and 3' for the bay window (2' for the bay window eave) is consistent with the purpose of setback regulations and will not detract from the appearance or livability of the area.

ADMINISTRATIVE DECISION

Approval of an adjustment to reduce the south building setback (33.110.220), which varies from 5' to 4.81'-3', and adjust a Bay window setback located along the south façade from 5' to

3', including a 2' setback for the eave located along the Bay window per the approved site plans, Exhibit C-1 and C-2, signed and May 14, 2013, subject to the following conditions:

A. As part of any 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 and C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-109246 AD."

Staff Planner: Shawn Burgett

Decision rendered by:  **on May 14, 2013**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 16, 2013

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 January 25, 2013, and was determined to be complete on April 4, 2013.

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 January 25, 2013.

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.

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 30, 2013** 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 **May 31, 2013**.
- 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:

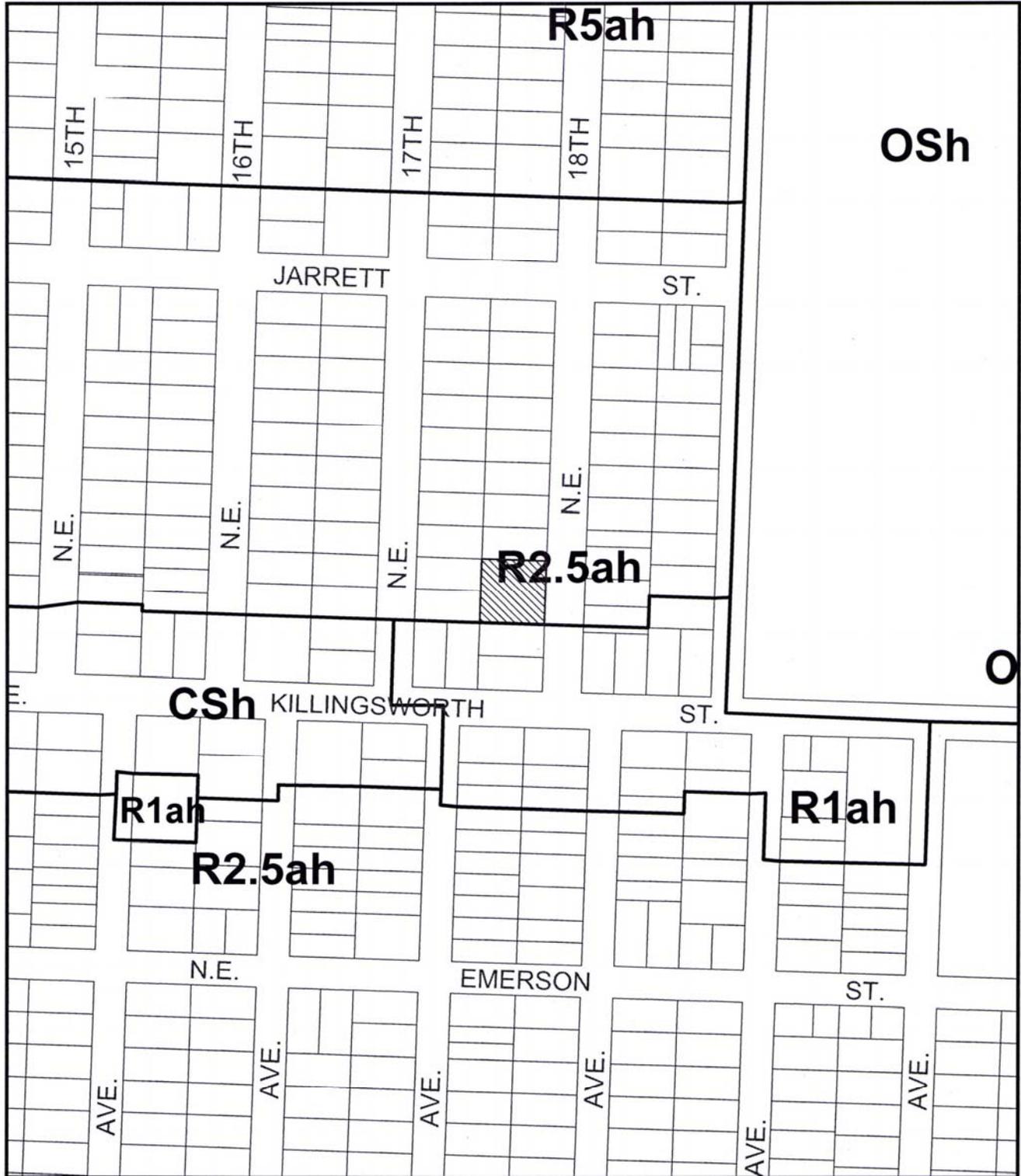
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Narrative dated 1/24/13
 2. Submittal dated 2/15/13
 3. Submittal dated 3/27/13
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Enlarged site plan detail (attached)
- 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
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
 7. Life Safety
- F. Correspondence: (None Received)
- G. Other:
 1. Original LU Application
 2. Site History Research
 3. Incomplete Letter

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



File No. LU 13-109246 AD
 1/4 Section 2432
 Scale 1 inch = 200 feet
 State_Id 1N1E14DC 19500
 Exhibit B (Jan 28, 2013)

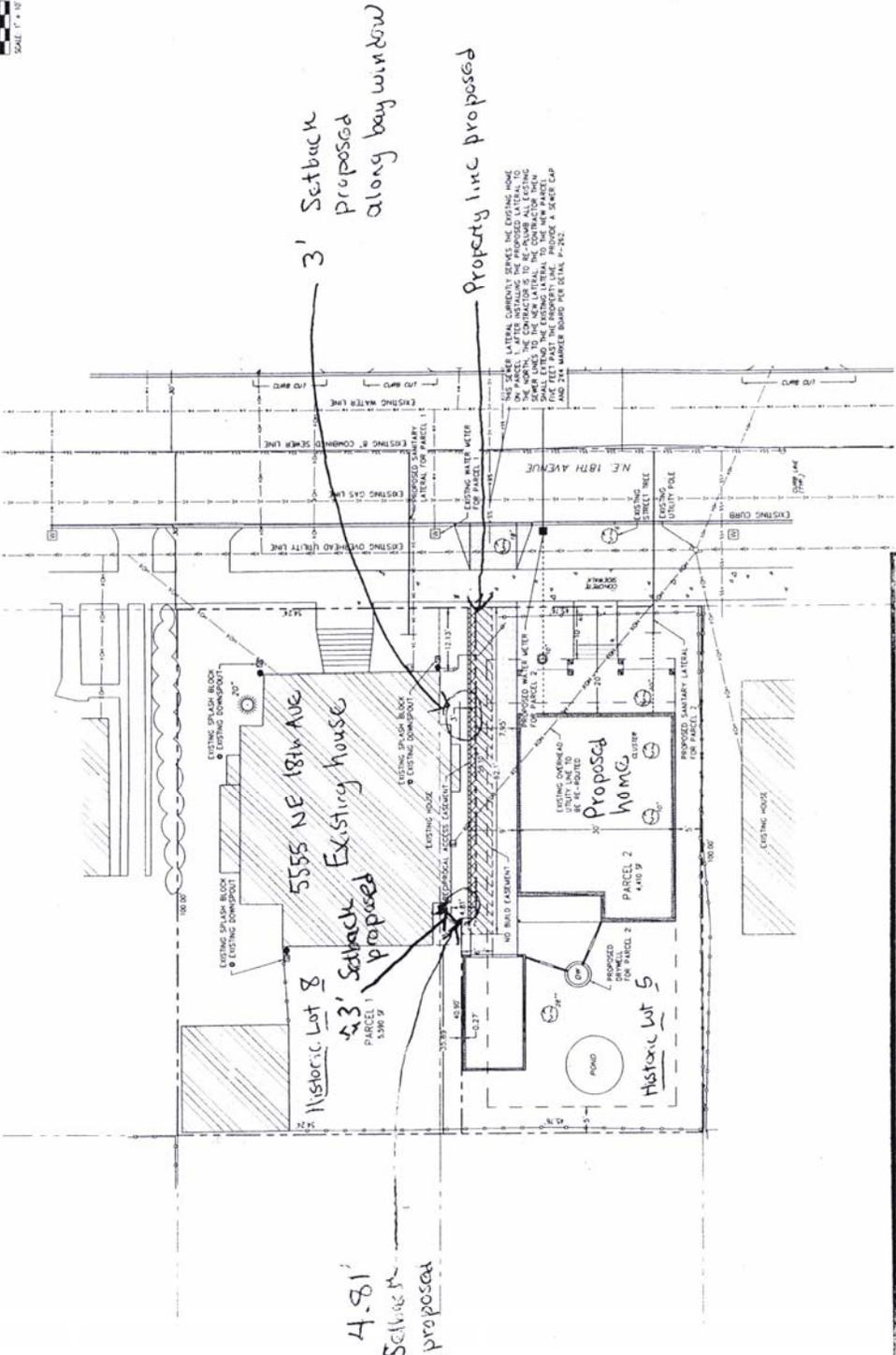
5555 NE 18TH AVENUE
TAX MAP T1N1R1E 14DC
TAX LOT 19500
MULTNOMAH COUNTY, OREGON

PLA/SITE UTILITY PLAN

NO	DATE	REVISIONS



SHEET 1 OF 1



Approved
 City of Portland - Bureau of Development Services
 Planner S. Burett Date 5/16/13
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

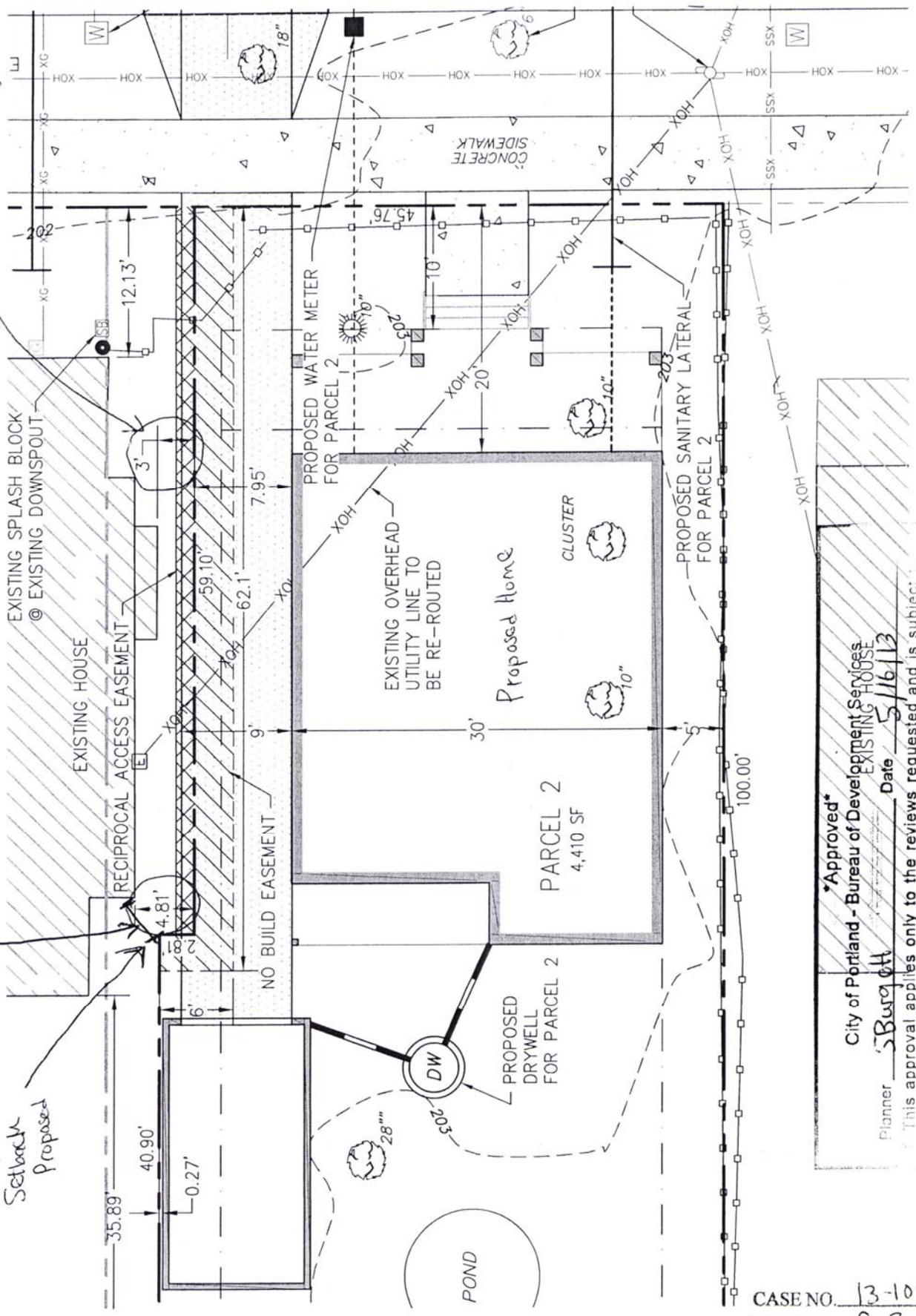
CASE NO. 13-109246
 EXHIBIT C-1

3' Setback proposed along Bay window

5555 NE 15th Ave

3' Setback proposed

4.81' Setback proposed



Approved*
 City of Portland - Bureau of Development Services
 Planner S. Burgett Date 5/16/13
 EXISTING HOUSE
 * This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

CASE NO. 13-109246
 EXHIBIT C-2