



City of Portland
Bureau of Development Services
Land Use Services Division

1900 SW Fourth Ave. Suite 5000
Portland, Oregon 97201
Telephone: 503-823-7300
TDD: 503-823-6868
FAX: 503-823-5630
www.portlandonline.com/bds

Date: July 9, 2008
To: Interested Person
From: Nan Stark, Land Use Services
503-823-7828 / nstark@ci.portland.or.us

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 08-131158 AD

GENERAL INFORMATION

Applicant: Sharon Libby
Ernest R. Munch, Architect and Urban Planner, LLC
111 SW Oak St., Ste 300
Portland, OR 97204

Owner: Martin and Carolyn Winch
19300 Innes Market Rd.
Bend, OR 97701

Site Address: 7176 SW LAVIEW DRIVE

Legal Description: BLOCK 5 LOT 13&14 TL 10800, CORBETT TERR RPLT
Tax Account No.: R178201950
State ID No.: 1S1E22BA 10800
Quarter Section: 3729
Neighborhood: South Portland NA., contact Jim Davis at 503-248-9820
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592
Zoning: R5, Single-Dwelling Residential 5,000
Case Type: AD, Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant is requesting an Adjustment to side setback standards for a proposed multi-story, single-garage residence with eaves that measure 2 feet. The required side building setback in the R5 zone is 5 feet. Minor features such as eaves, chimneys, fire escapes, bay windows, and uncovered balconies may extend up to 20 percent into the depth of the setback. The building walls of the proposed house will be 5 feet from the side property lines. However, eaves along the north and south sides of the house will extend 2 feet into the required side building setbacks. This will result in a 40 percent encroachment into the side setbacks rather than the allowed 20 percent.

An Adjustment is necessary because the design of the house includes eaves along its north and south sides that exceed the allowance for minor extensions into the required building setbacks (Portland Zoning Code 33.110.220.C).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Section 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The site is approximately 7,450 square feet and is currently undeveloped. The lot slopes steeply from west to east and is heavily vegetated with shrubland/woodland and forest. Development in the vicinity is predominately single-dwelling residences on lots of a similar size. Due to the topography of the area, many existing homes are built with reduced front or side setbacks. The Interstate 5 corridor is located approximately 250 feet west of the site, and commercial development is concentrated along SW Macadam Avenue to the east. The nearest park is Willamette Park.

Zoning: The zoning on the site is R5 (Residential 5,000). The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 5,000 square feet. Development on lots that slope up or down from the street with an average slope of 20 percent or greater is exempt from base zone design standards, which regulate main entrances, window coverage on front facades, and garage widths and garage setbacks. The average slope of the site is greater than 20 percent; the proposed residential development is therefore exempt from the base zone design standards.

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 on **June 6, 2008**. The following Bureaus have responded with no issues or concerns:

- Site Development Section of BDS
- Portland Office of Transportation
- Fire Bureau
- Water Bureau
- Parks Bureau – Urban Forestry

The Life Safety Section of BDS responded that a building permit is required for the work proposed, that exterior walls less than 3 feet to a property line should be one-hour fire rated, and that eaves less than 3 feet to a property line must be protected on the underside as required for one-hour fire rating.

The Bureau of Environmental Services responded with information on sanitary services, stormwater management, and water resources. BES recommended several strategies to reduce stormwater runoff from the site, since this proposal involves the removal of vegetation and an increase in impervious surfaces. The response states no objections to the proposed Adjustment.

Neighborhood Review: A “Notice of Proposal in Your Neighborhood” was mailed on June 6, 2008. No written responses have been received from either the Neighborhood Association or from 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 to provide 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: Per Zoning Code section 33.110.220, the setback regulations for buildings 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, and options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards; and*
- *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 submitted site plan shows that side building walls will not extend closer than 5 feet to side property lines. Along the south side of the proposed house, an approximately 18-foot section of eaves will extend 2 feet into the 5-foot side setback. Along the north side of the house and attached garage, an approximately 40-foot section of eaves will extend 2 feet into the 5-foot side setback. For both of these sections, eaves will be 3 feet from side property lines.

The existing house on the adjacent lot north of the site is set back more than 30 feet from the side property line. The house on the adjacent lot south of the site is set back more than 9 feet from the side property line and is located toward the back of the lot, behind a detached garage that, at its closest point, is approximately 2 feet from the side property line. Because of the separation that will exist between the new residence and houses on these adjacent lots, eaves extending 2 feet into the side setbacks will have no adverse impact on the maintenance of light and air for adjacent homes, nor on adequate separation for fire protection and access for fire fighting.

The general scale of the proposed house and its placement on the site are consistent with other homes in the neighborhood. Most other homes in the area are multi-story and, because of steep topography, many have reduced front and side setbacks. An Adjustment to allow eaves to extend 2 feet into side setbacks will not adversely impact the physical relationship between adjacent residences, nor will the eaves reduce privacy for adjacent homes. Extended eaves, which are common on sloped roofs within the neighborhood, provide increased cover and shading along the perimeter of a house. They will provide a greater degree of privacy for both residents of the proposed development and for neighbors to the north and south.

The requested Adjustment is only to side setback standards. Because the average slope of the site is greater than 20 percent, the proposed development does not need to meet base zone design standards, which include standards for minimum garage setbacks. As shown on the submitted site plan, the corner of the garage extends to within 5 feet of the front property line, which is permitted by Section 33.110.220 D of the Zoning Code. The front building wall of the residence meets front setback standards. In

addition, the development will provide a large outdoor area to the rear of the house with landscaping to make the area accessible.

For the reasons stated above, 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: An Adjustment to allow eaves to extend 2 feet into side setbacks will not adversely impact the appearance or livability of the residential area. As stated above under criterion A, the extended eaves will not reduce light, air, or privacy for adjacent residences. Extended eaves generally contribute to the attractiveness of residential homes by providing greater depth and contrast. They also help to preserve the physical appearance of homes by providing increased protection from rain and harsh weather. Within the immediate area, sloped roofs with larger eaves are common, so the proposed development will be consistent with what can typically be found in the neighborhood. 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 being requested. This criterion is therefore not applicable.

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

Findings: The site does not contain any scenic or historic resources. This criterion is therefore not applicable.

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

Findings: There will be no significant impacts created by allowing portions of eaves along the north and south sides of the proposed house to extend 1' 10" into the side setbacks. No mitigation is necessary. This approval 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 therefore 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

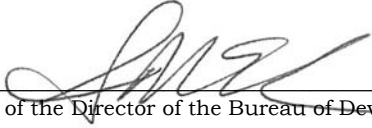
The applicant has demonstrated that the approval criteria have been met. The Adjustment will still meet the intent of the Zoning Code for setbacks in single-dwelling residential areas, will not diminish the livability or appearance of the residential neighborhood, and will not result in

any adverse impacts that require mitigation. The extended eaves will contribute to the attractiveness of the new home and will be consistent with the appearance of other homes within the neighborhood. This proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the required side setback for eaves within the R5 zone from 4 feet to 3 feet (33.110.220.C) per the approved plans, Exhibits C.1 through C.4, signed and dated July 7, 2008, 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.4. The sheets on which this information appears must be labeled "Proposal and design as approved in Case File # LU 08-131158 AD."

Decision rendered by:  on July 7, 2008.
By authority of the Director of the Bureau of Development Services

Decision mailed: July 9, 2008

Staff Planner: Nan Stark

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 May 22, 2008, and was determined to be complete on June 4, 2008.

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 May 22, 2008.

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 July 23, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., 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. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 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 **July 24, 2008 – (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.

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 the following:

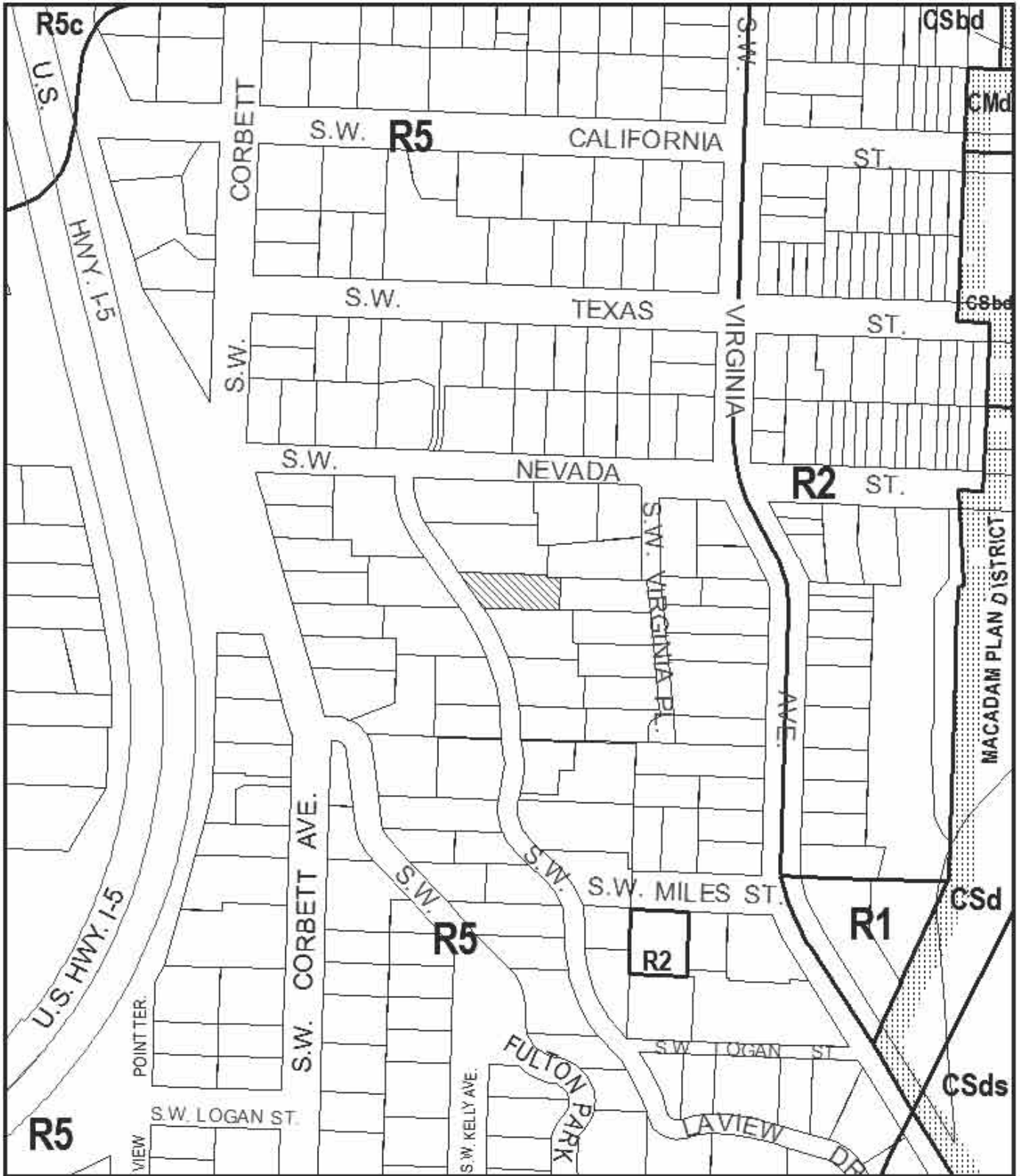
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. North and West Elevation (attached)
 - 3. South and East Elevation (attached)
 - 4. Landscape Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Site Development Section of BDS
 - 2. Portland Office of Transportation
 - 3. Fire Bureau
 - 4. Water Bureau
 - 5. Parks Bureau – Urban Forestry
 - 6. Life Safety Section of BDS
 - 7. Bureau of Environmental Services
- F. Other:
 - 1. Original LU Application
 - 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



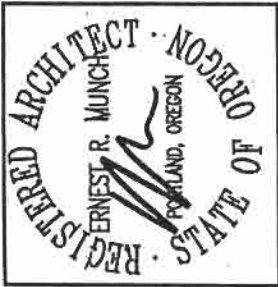
ZONING

 Site



File No.	<u>LU 08-131158 AD</u>
1/4 Section	<u>3729</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S1E22BA 10800</u>
Exhibit	<u>B</u> (May 28, 2008)

4008-15128-11



ERNEST R. MUNCH
ARCHITECT-URBAN PLANNER-LLP
111 S.W. OAK ST., SUITE 300
PORTLAND, OREGON 97204
PHONE: (503)224-1262
FAX: (503)224-7931

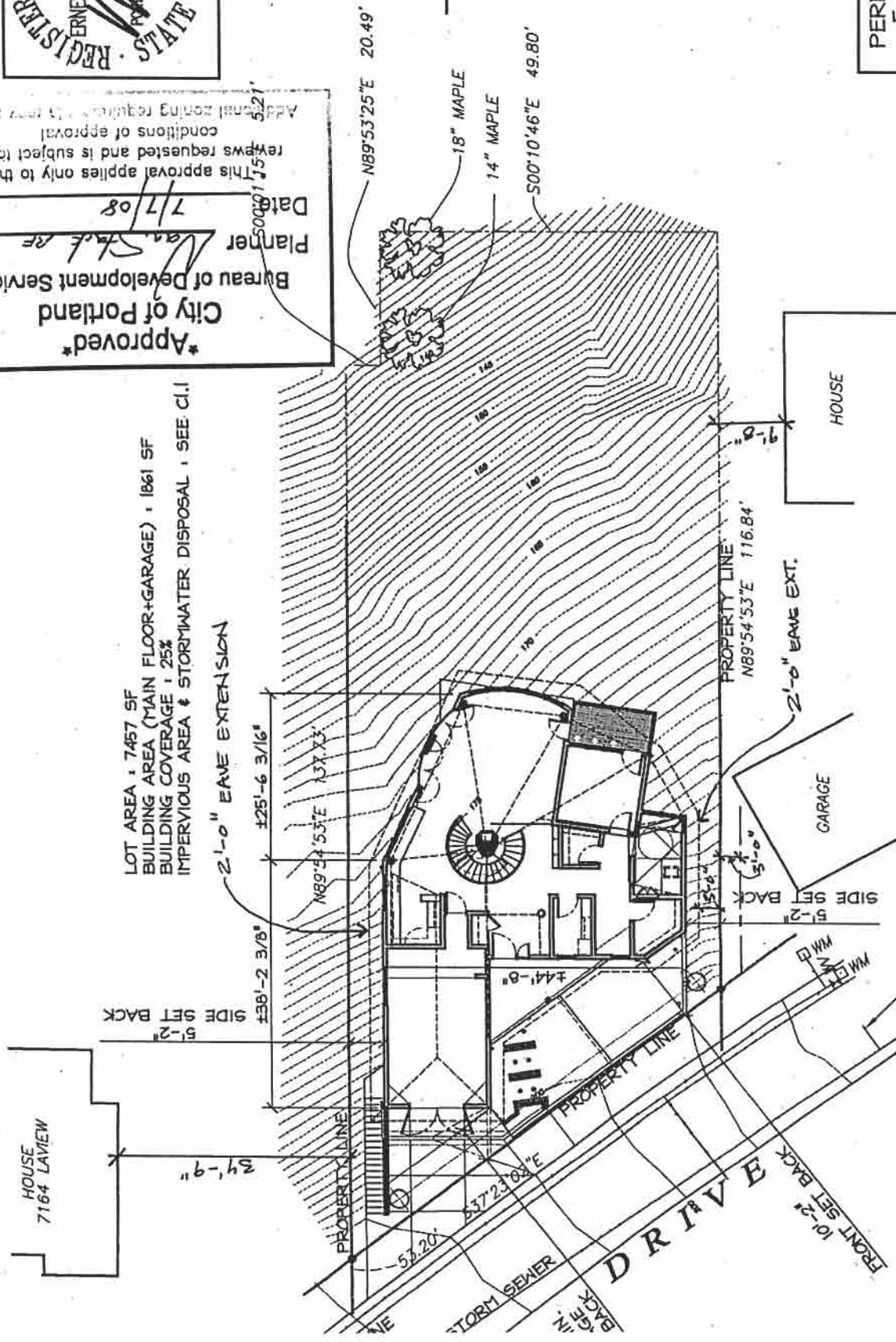
Winch Residence
7176 SW Laview Drive
Portland, Oregon 97219

PERMIT SET
5/22/08
ADJUSTMENT

A1.1

Approved
City of Portland
Bureau of Development Services
Planner *W. Stack RF*
Date *7/7/08*
50007175
This approval applies only to the
reviews requested and is subject to all
Additional zoning requirements.
4008-15128-11

LOT AREA : 7457 SF
BUILDING AREA (MAIN FLOOR+GARAGE) : 1861 SF
BUILDING COVERAGE : 25%
IMPERVIOUS AREA & STORMWATER DISPOSAL : SEE C.I.1



SITE PLAN

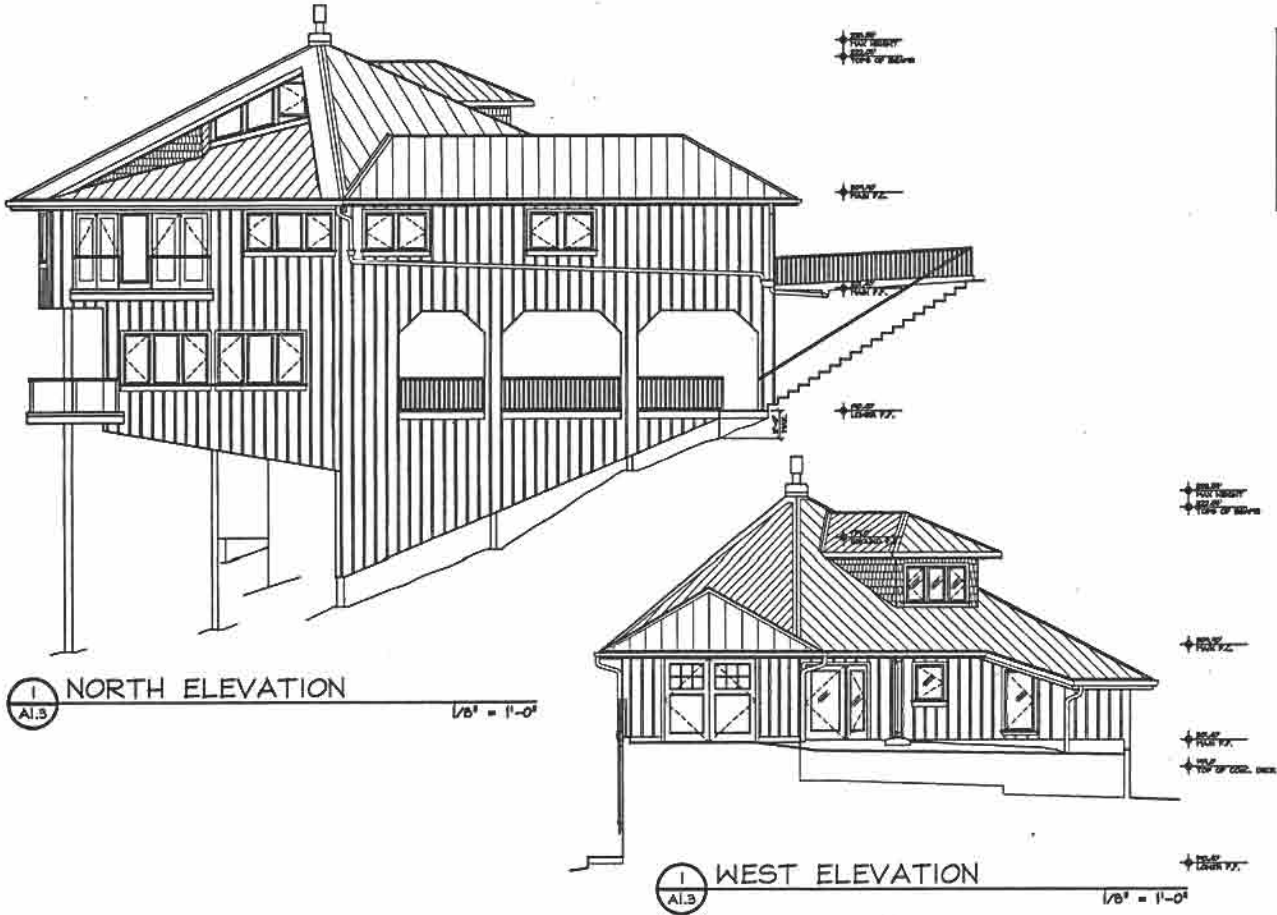


1
A1.1
SET BACK & UTILITY PLAN
1/16" = 1'-0"
NTS

PROPOSED CONNECTION TO
(E) STUB, CONTRACTOR TO
VERIFY STUB LOCATION

EXHIBIT C.1

LU08-131158 AD



ERNEST R. MUNCH
 ARCHITECT - URBAN PLANNER-LLP
 11, 877 OAK ST., SUITE 300
 PORTLAND, OREGON 97219
 P.E. 1000204-078

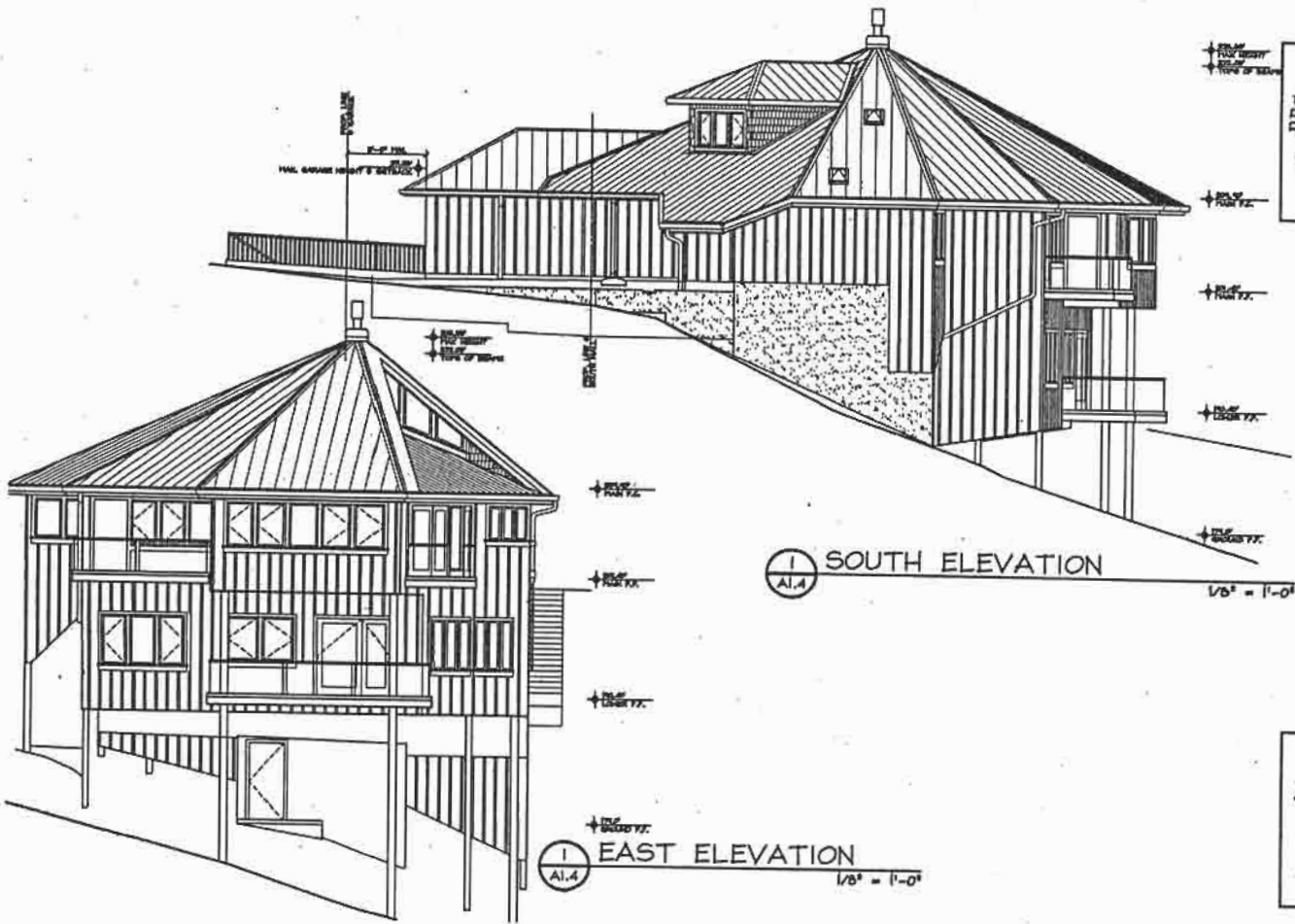
Winch Residence
 7176 SW LaView Drive
 Portland, Oregon 97219

PERMIT SET
 5/11/08
 ADJUSTMENT
 A1.3

Approved
 City of Portland
 Bureau of Development Services
 Planner Nan Stark AE
 Date 7/7/08
 * This approval applies only to the reviews requested and is subject to all conditions of approval
 Additional zoning requirements may apply

EXHIBIT C.2

LJ08-13158AD



ERNEST R. MUNCH
 ARCHITECT-DESIGN FIRM-LLC
 111 S.W. 4th St., Suite 200
 Portland, Oregon 97204-1222
 P.O. Box 100000-1000
 FAX (503) 224-1000

Winch Residence
 7176 SW LaView Drive
 Portland, Oregon 97219

PERMIT SET
 5/22/08
 ADJUSTMENT
 A1.4

Approved
City of Portland
 Bureau of Development Services
 Planner Nora Stark RE
 Date 7/7/08
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

EXHIBIT C.3