



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 22, 2008
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / kstokes@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 08-135263 AD

GENERAL INFORMATION

Applicant: Jeffrey M. Wapner
1400 NE Sumner St.
Portland, OR 97211

Site Address: 1400 NE SUMNER ST

Legal Description: E 17' OF LOT 10 BLOCK 4 W 16' OF LOT 11 BLOCK 4, SERENE PK
Tax Account No.: R754200610
State ID No.: 1N1E23BA 16800
Quarter Section: 2531

Neighborhood: Vernon, John Fall at 503-310-8264
Business District: North-Northeast Business Assoc, Joyce Taylor at 503-445-1321
District Coalition: Northeast Coalition of Neighborhoods, Robin Denburg at 503-823-4135

Zoning: R2.5ah, Attached Residential, with Alternative Design Density and Aircraft Landing (height) Overlays

Case Type: AD, Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The applicant recently received approval to construct a second story addition to the residence on this site. As an amendment to the approved plan, the applicant is now proposing construction of a new covered front porch. The primary wall of the existing first floor of the house is located 3 feet, 8 inches from the west property line. The applicant wishes to continue this wall line about 8 feet forward, to allow the addition of a covered porch that will extend across the front of the house. The west wall of the new front entry steps will also continue along this line for an additional 4 feet.

The Portland Zoning Code requires minimum building setbacks of 5 feet from side and rear property lines in the R2.5 zone. Roof eaves may extend to 4 feet from side and rear property lines. Stairs that provide access to the main entrance are allowed to be located within

setbacks. Exceptions to minimum building setbacks that are required for other structures can be allowed if approved through an Adjustment Review. The applicant is requesting approval of an adjustment to Code Section 33.110.220, to reduce the minimum building setback from the west property line from 5 feet to 3 feet, 8 inches to the edge of the proposed porch and from four feet to 3 feet, 6 inches to the porch roof eave.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The applicant's site is a 2,805 square-foot parcel, located on the south side of NE Sumner Street, between NE 13th Avenue, to the west, and a cul-de-sac, to the east. The site is developed with a one-and-one-half story residence that was built in 1913. The adjacent area is mainly developed with single-dwelling residences, in a variety of architectural styles, that are similar in age to the applicant's house. The houses that are immediately adjacent to the site, on the east and west, are both one-story structures but a number of residences in the area have two stories.

Zoning: The zoning for this site is R2.5, Attached Residential. This zone is intended for areas with complete public services and without development constraints. The zone allows a mixture of housing types of a single-dwelling character, including attached houses. The maximum density is generally 17.4 units per acre or one unit per 2,500 square feet. To allow the fulfillment of these densities, the allowed scale of development is greater than for other single-dwelling housing structure types.

The site also has an "a" or Alternative Design Density Overlay. This zone provides the opportunity for additional residential density in some situations, when design standards are met. The provisions of this zone are not applicable to this proposal.

This site also has an "h" or Aircraft Landing Overlay. The provisions of this overlay zone that limit the height of structures within the aircraft landing approach patterns for the Portland International Airport are not relevant to this proposal.

Land Use History: City records include the following prior land use reviews for this site:

LU 07-183520 AD Approval of an Adjustment to Code Section 33.110.220 to reduce the minimum required building setbacks from the west property line, from five feet to three feet, eight inches for the proposed building walls and from four feet to two feet for the roof eave, in general compliance with the approved site plan and elevation drawings.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **June 20, 2008**. The following Bureaus have responded with no issues or concerns related to approval of the requested adjustment. Agencies that provided written comments on requirements for building permits are noted with exhibit numbers:

- Environmental Services provided information on sanitary sewers and requirements for storm water management. As a part of building permit review, the existing party sewer must be replaced (Exhibit E-1).
- Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section noted that, in addition to replacing the party sewer line with a private connection, storm water drains must be relocated so that they are not within the building setback (Exhibit E-2).
- Life Safety Plan Review Section of BDS noted that a building permit is required (Exhibit E-3).
- Parks-Forestry Division

Neighborhood Review: A "Notice of Proposal in Your Neighborhood" was mailed on June 20,

2008. One written response was received from a notified property owner in response to the proposal (Exhibit F-1). The response states that the extended eave over the second-story porch should be reduced to better fit the character of other homes in the area and to prevent a reduction in light for homes west of the site.

Staff Comment: This issue has been resolved and is shown on the attached revised elevation drawing (Exhibit C-3).

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of Adjustments The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the 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 Adjustment 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 relevant purposes of building setback requirements are:

- to maintain light, air, separation for fire protection, and access for fire fighting
- to reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences
- to promote options for privacy for neighboring properties and
- to 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 development standards for lots in the R2.5 zone require structures to be set back a minimum of 5 feet from side property lines. Roof eaves may be located 4 feet from side property lines. The applicant is requesting approval of an adjustment to reduce the side setback, in order to allow the porch to be located 3 feet, 8 inches and the porch roof eave to be located 3 feet, 2 inches from the west property line.

The proposed porch is an open structure that will not create any significant impacts on light and air. The porch meets the standards of the Building Code, which require structures to be 3 feet from side and rear property lines, to preserve separation for fire protection and access for fire fighting. The design of the porch is in keeping with the style of houses in the neighborhood, reflecting the variable scale and placement of structures in Portland's older neighborhoods. The porch continues the existing building line of the applicant's house and is placed forward of the front façade of the adjacent house to the west, thereby maintaining a reasonable physical relationship between the two residences. The request is only to reduce the setback by 1 foot, 4 inches for the porch deck. This minimal distance should not cause any impacts on privacy. Therefore, the proposed setback equally meets the purposes of the regulation and 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 to reduce the required setback from the rear property line will not have a significant impact on the appearance or livability of the residential area because it will still meet the purpose of the setback requirement, by preserving fire safety, privacy, light and air. The proposed development will still reflect the scale and placement of buildings in the area and preserve a reasonable relationship between residences. The proportionate scale and architectural style of the porch is compatible with the character of the existing development on the site. The porch will enhance the appearance of the structure from the street. Therefore, there are no inherent impacts on livability or appearance of the residential area as a result of this request and 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. 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. Therefore, this criterion does not apply.

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

Findings: The applicant had requested an extension of the second story roof line above the upper deck. While this roof extension was not located within the reduced setback area, it gave the structure an appearance that would tend to dominate or loom over the adjacent property to the west. This feature was removed, at the request of staff. No features of the current proposal indicate that there would be any impacts that require mitigation, so 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 in an environmental zone. 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 reduce the required setback from the west side property line for the proposed porch is not expected to have any significant impacts on the adjacent property to the west or on the livability or appearance of the residential area. The applicant modified the second story roof-line so that it complies with the earlier plan approved under LU 07-183520. This modification improves the appearance of the structure and reduces any potential visual impacts on the neighboring property. The Adjustment request can be approved, subject to compliance with the site plan and elevation drawings.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Code Section 33.110.220 to reduce the minimum required building setback from the west side property line, from 5 feet to 3 feet, 8 inches to the foundation wall for the porch and from 4 feet to 3 feet, 2 inches for the porch roof eave, in

general compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-3, signed and dated July 18, 2008, subject to the following condition:

- 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.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-135263 AD."

Decision rendered by:  **on July 18, 2008.**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 22, 2008

Staff Planner: Kathleen Stokes

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 June 6, 2008, and was determined to be complete on June 18, 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 June 6, 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 August 5, 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 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 **August 6, 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:

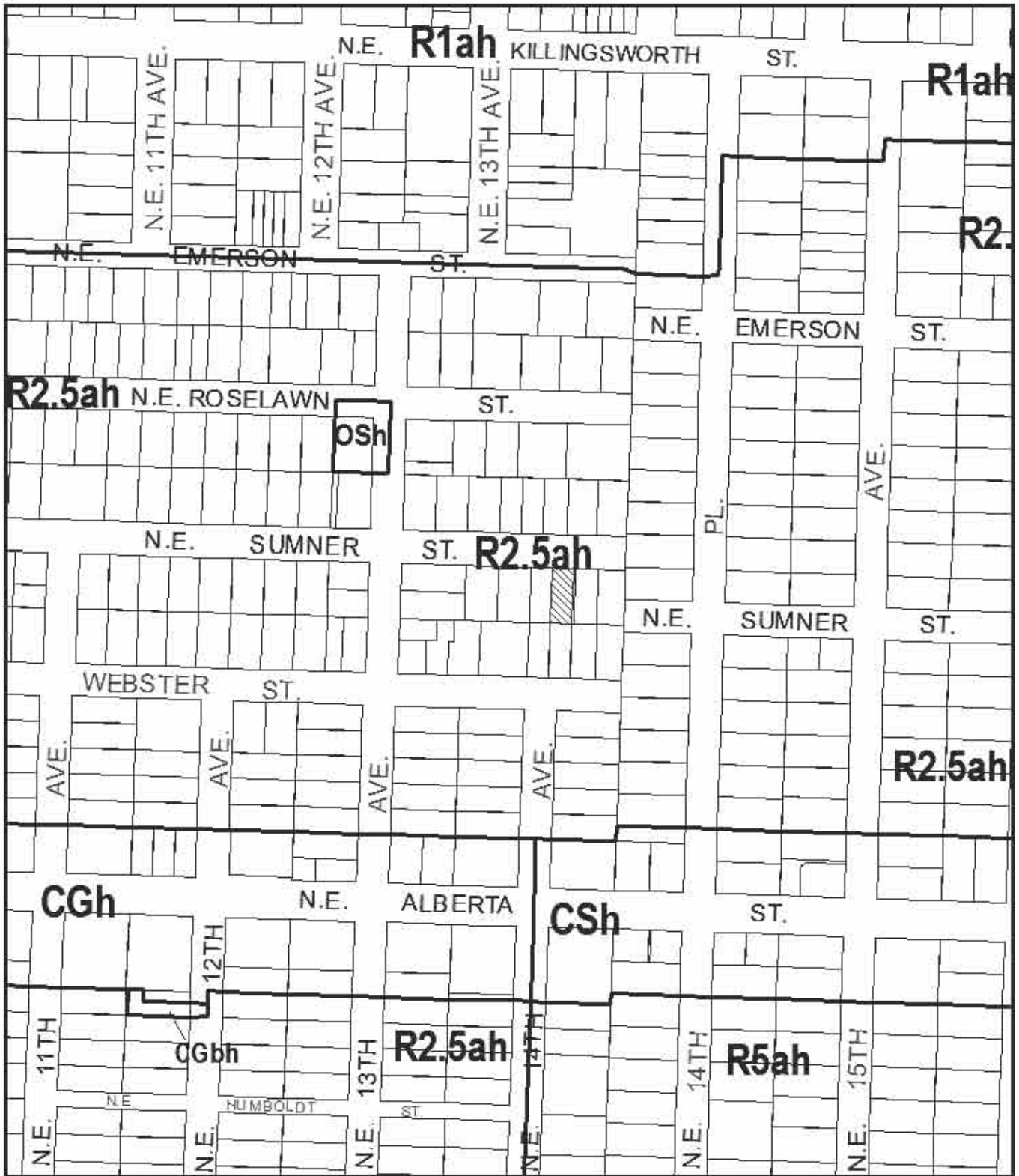
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings
 - 3. Revised Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Site Development Review Section of BDS
 - 3. Life Safety Plan Review Section of BDS
- F. Correspondence:
 - 1. Patrick Bardel, June 25, 2008
- 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. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING

 Site



File No.	<u>LU 08-135263 AD</u>
1/4 Section	<u>2531</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1N1E23BA 16800</u>
Exhibit	<u>B (Jun 09,2008)</u>



WAPNER RESIDENCE
 1400 N.E. SUMNER
 PORTLAND, OREGON

ISSUE DATE:
 05.19.08

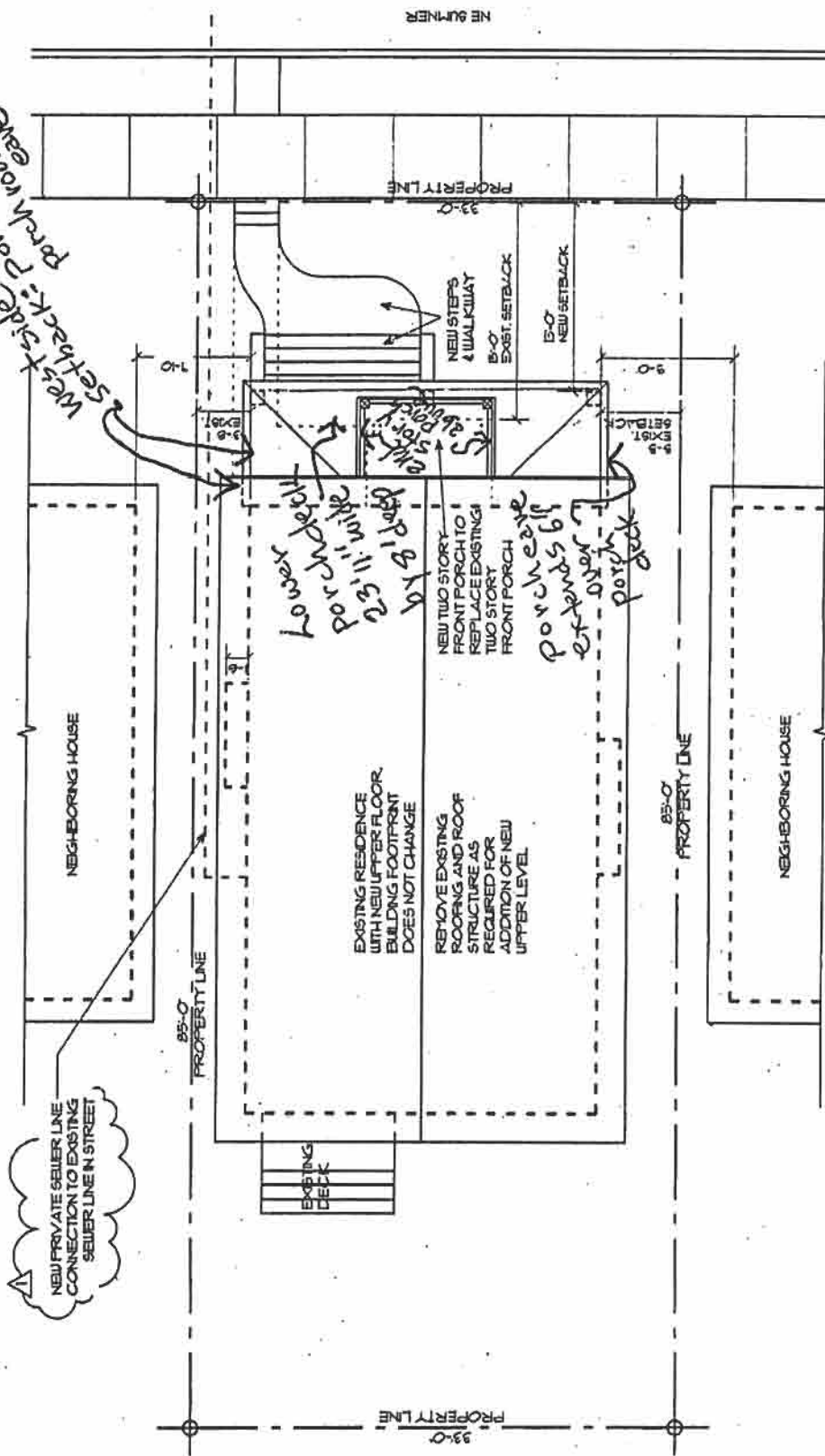
REVISION:
 1 5.29.08

DRAWN BY:
 TARA DOHERTY

SITE PLAN

A1.0

West side - porch deck - 8'18" porch gate - 3'2" set back - 3'2"



LU08-135263

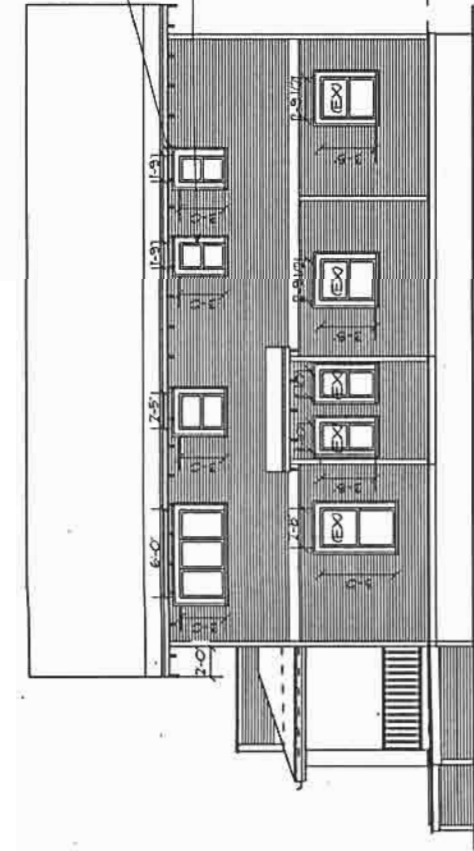


1 SITE PLAN
 SCALE: 1/8" = 1'-0"

City of Portland - Bureau of Development Services

Planner *Kathleen Johnson* Date *7/18/08*

* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply

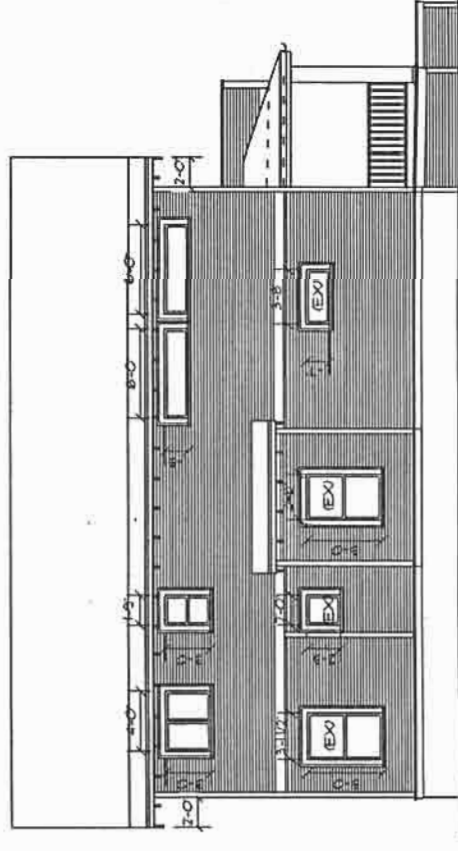
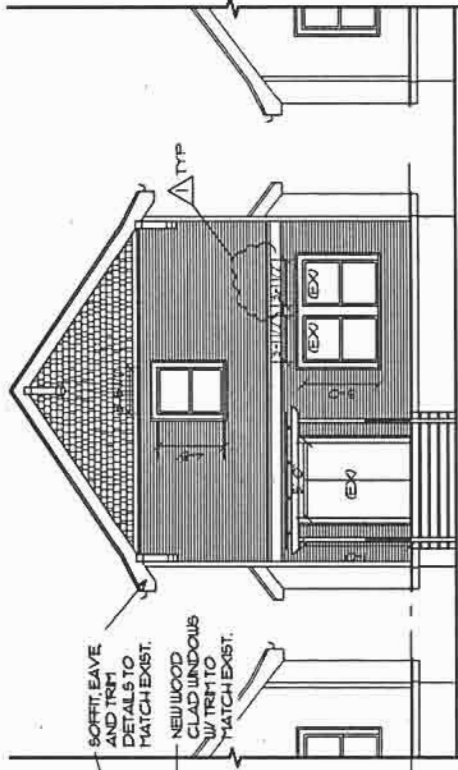


4 PROPOSED WEST ELEVATION

SCALE: 1/8" = 1'-0"

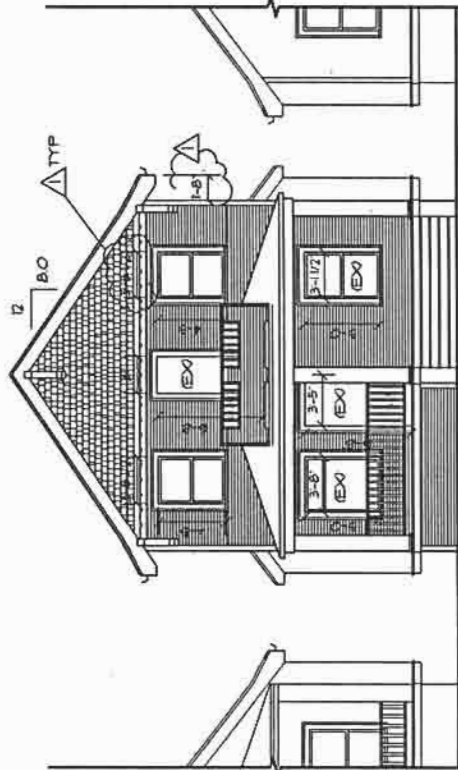
2 PROPOSED SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



3 PROPOSED EAST ELEVATION

SCALE: 1/8" = 1'-0"



1 PROPOSED NORTH ELEVATION

SCALE: 1/8" = 1'-0"

WAPNER RESIDENCE
1400 N.E. SUMNER
PORTLAND, OREGON

ISSUE DATE:
05.19.08

REVISION:

5.29.08



DRAWN BY:
TARA DOHERTY

PROPOSED ELEVATIONS

DRAWING NO.:

A3.1

City of Portland - Bureau of Development Services

Planner *Kathleen E. Fisher et* Date *7/18/08*

* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.