

ANALYSIS

Site and Vicinity: The site is 16,763 square feet in area, developed with a two-story house and attached single-car garage. The site is a through lot, with frontage on three streets: NW Harris and Midway Ave to the north and south, and Bailey St, to which the house is oriented. Beyond the house's footprint, the lot slopes fairly steeply downward to the east and south.

The neighborhood is characterized primarily by the steep terrain which slopes up from NW St Helens Road, two blocks to the east of Bailey St.

Zoning: The site is zoned R7, Residential 7,000, which allows new lots with an average size of 7,000 square-feet in area. The site and vicinity are in the Northwest Hills Plan District and in the Forest Park subdistrict. The Plan District protects sites with sensitive and highly valued resources and functional values. In the Forest Park subdistrict, activities which expose soil to direct contact with stormwater between October 1 and April 30 are prohibited.

Land Use History: City records indicate a 1995 land use review, LUR 95-00364 ZC, approved modifying the location of the 'c' Environmental Conservation zone to align with the center of the creek that runs through this area. The review was associated with twenty properties located adjacent to the creek, including the subject property.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed February 14, 2011. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

The Bureau of Transportation Engineering responded affirmatively to the proposed Adjustment, noting that it is unlikely that the applicant would park vehicles that would encroach into the right-of-way, given that such a situation would create conflicts to motorists using Bailey St. The narrow width of the street does not provide sufficient space for both passing and parked vehicles, so with no cars parked along the right-of-way, vehicles backing out can more easily exit the site. Consequently, Portland Transportation has no objection to the proposal.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed February 14, 2011. Staff received one letter from a neighboring property owner in response to the proposal, expressing support for the Adjustment. The neighbor noted that several adjacent properties have similar or more reduced setbacks than what is proposed, and the proposal will not create impacts.

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: The setback regulations for buildings and garage entrances 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 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 enhance driver visibility when backing onto the street.

The subject site is one of only a few developed residential properties on NW Bailey Street. The area is characterized by steep topography sloping up from St Helens Rd, two blocks to the east. Due to the topography, some lots are developed with garages closer to the street, so the proposed setback reduction is fairly consistent with the general placement of houses in this neighborhood. The single-car addition to the existing single-car garage is along the same wall plane, thus not presenting a change in distance of the front building wall to the street. The proposed garage entrance location is on a flat part of the site, and meeting the 18-foot standard would pose more difficulty due to the steep grade change further into the site.

Portland Transportation responded that because the roadway is narrow, residents do not park on the street. As a result, visibility is easier for drivers backing out onto the street. Also due to the narrowness of the roadway, residents are not apt to park close to the roadway from their driveways, as the right-of-way is needed for passing of vehicles. For all of these reasons, the proposal supports the purpose of the setback regulation, thus satisfying this criterion.

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 for a single-car addition to the existing attached single-car garage. The existing and proposed garage doors would be the same size, 10 feet wide. The new garage entrance would line up with the existing one, at a distance of approximately 12 feet from the front (street) property line. Garages on some of the nearby properties are similarly situated, and thus the proposed reduced setback would not be inconsistent with the existing appearance of the residential area. The narrowness of the street and its somewhat rural character cannot be compared to the typical urban street, in which a 12-foot long driveway might cause impacts from a vehicle overhanging the driveway into the street or public sidewalk. Such a situation is not likely given that it could cause conflicts with vehicles using the narrow street, and that the new garage provides the opportunity to fully contain a vehicle. Therefore, 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

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

Findings: Only one adjustment is requested. 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, criteria C and D are 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. The adjustment would allow an additional garage bay attached to the house on a part of the lot that is not topographically challenged, and in a way that fits in with the existing house and neighboring development. Therefore, 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, which is designated on the zoning map by either a "c" or "p" overlay. Therefore, 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.

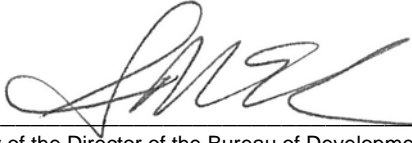
CONCLUSIONS

The proposed reduction of approximately 6 feet to the garage entrance setback satisfies all of the relevant Adjustment approval criteria. The subject garage is accessed from NW Bailey St, which is paved with a single-lane roadway. The garage addition is proposed to line up alongside the existing garage, thus not creating a significant change to the existing situation either visually or functionally. Staff does not see that at the reduced setback would result in impacts that need mitigation.

ADMINISTRATIVE DECISION

Approval of an Adjustment to the garage entrance setback standard (33.110.220 C and Table 110-3) to allow the entrance to the garage addition to be flush with the entrance to the existing garage, at approximately 12 feet from the property line, thus reducing the setback from the required 18 feet to 12 feet. This approval is subject to the approved site plan, Exhibit C-1, signed and dated March 9, 2011.

Staff Planner: Nan Stark

Decision rendered by:  on March 9, 2011
By authority of the Director of the Bureau of Development Services

Decision mailed: March 14, 2011

About this Decision. This land use decision is not a permit for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. 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 18, 2011, and was determined to be complete on February 9, 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 January 18, 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 further extended by the applicant, the 120 days will expire on: May 17, 2011.

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 March 28, 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 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 March 29, 2011 – (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.

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

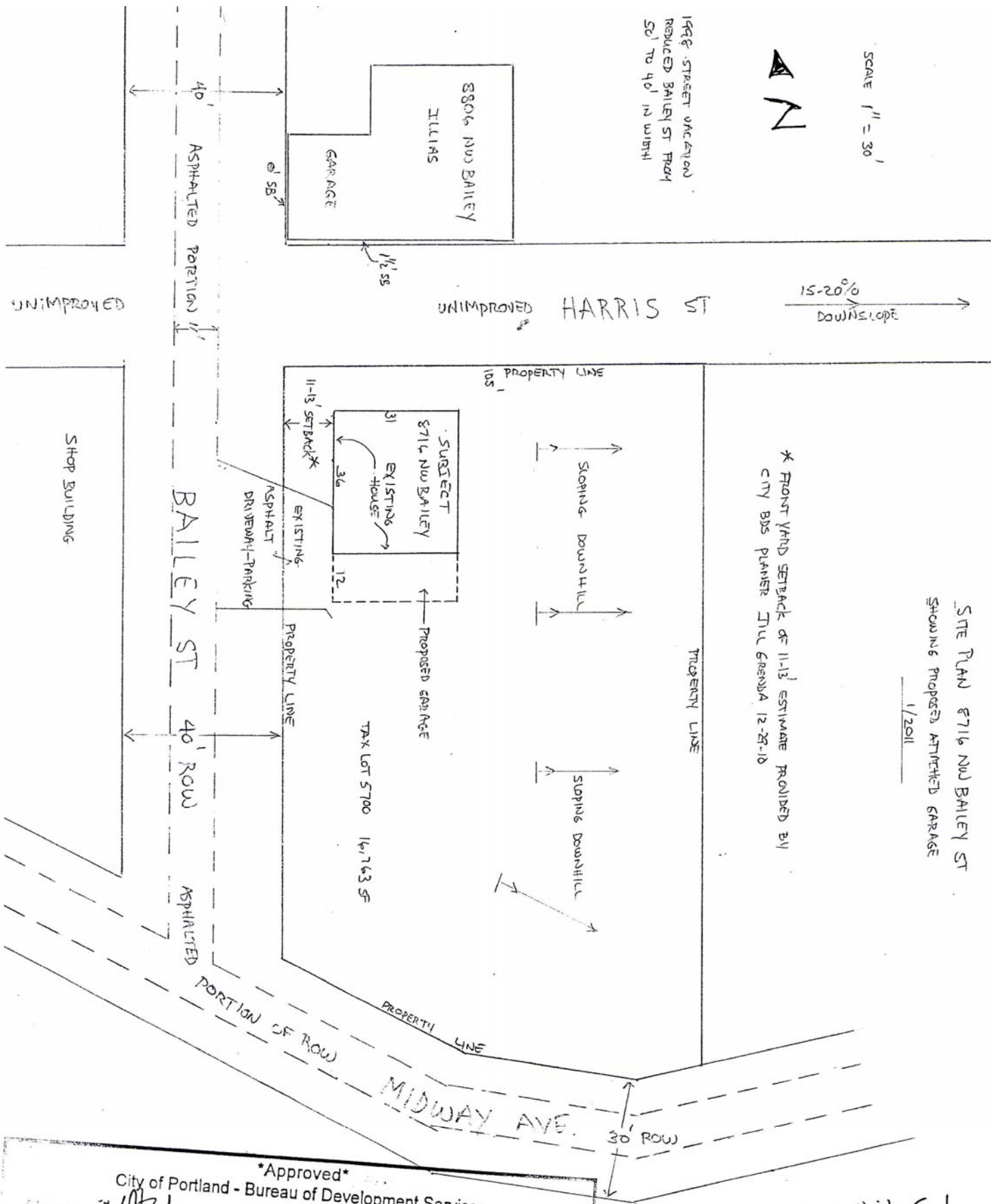
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Elevation drawings (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses, listed as "No concerns":
 1. Bureau of Environmental Services, Fire Bureau, Site Development Review Section of BDS, Bureau of Parks, Forestry Division
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
- F. Correspondence:
 1. J. Illias, Feb 28, 2011, in support
- G. Other:
 1. Original LU Application

SCALE 1" = 30'



1998 STREET VARIATION
REDUCED BAILEY ST FROM
50' TO 40' IN WIDTH

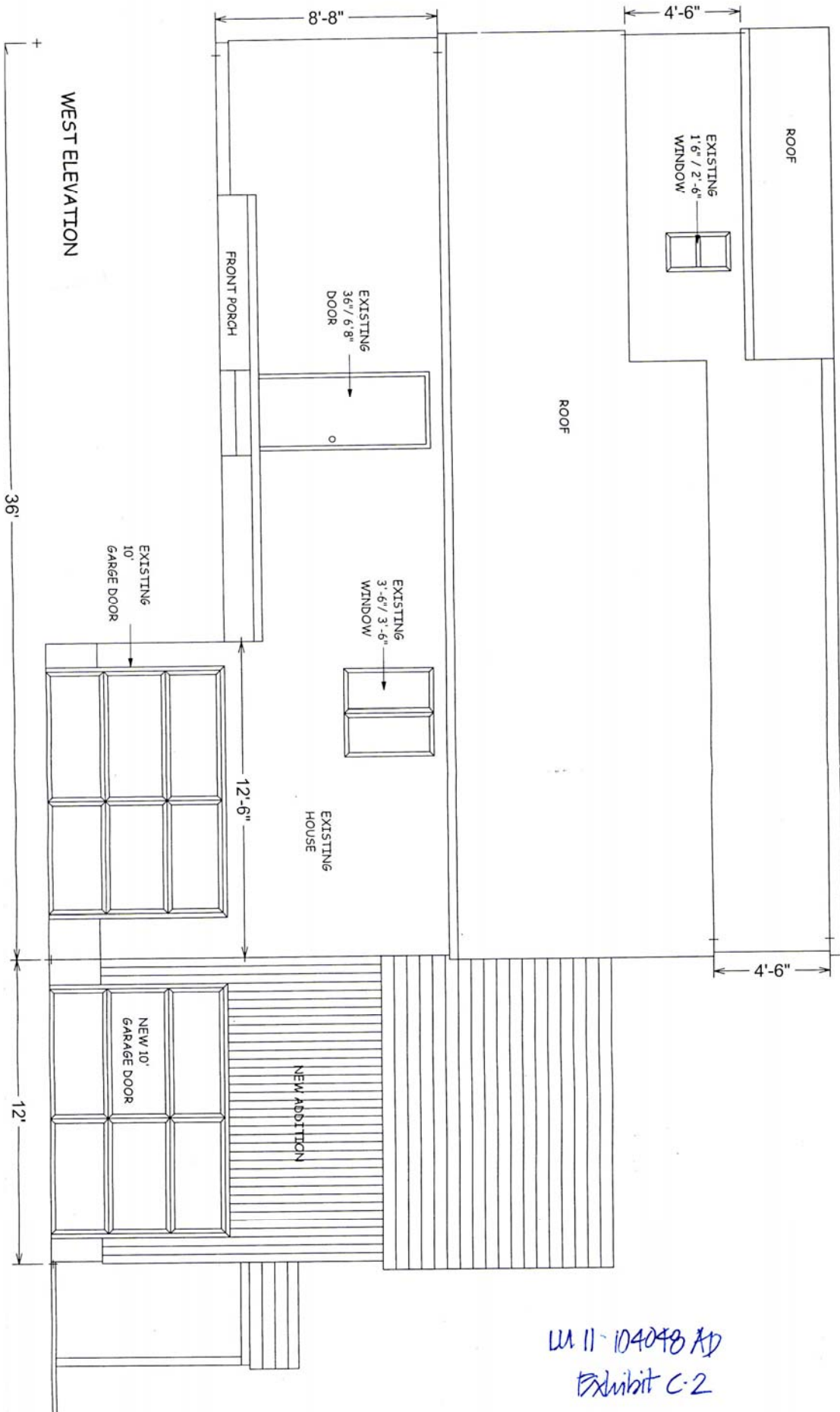


SITE PLAN 8714 NW BAILEY ST
SHOWING PROPOSED ATTACHED GARAGE
1/2011

* FRONT YARD SETBACK OF 11-13' ESTIMATE PROVIDED BY
CITY BDS PLANNER TILL GRANADA 12-28-10

Approved
 City of Portland - Bureau of Development Services
 Planner [Signature] Date March 9, 2011
 This approval applies only to the reviews requested and is subject to the jurisdiction of approval. Additional zoning requirements may apply.

Exhibit C.1
LU 11-104048 AD



LU 11-104048 AD
Exhibit C-2