



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

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

**Date:** July 22, 2011  
**To:** Interested Person  
**From:** Sheila Frugoli, Land Use Services  
503-823-7817 / [Sheila.Frugoli@portlandoregon.gov](mailto:Sheila.Frugoli@portlandoregon.gov)

## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 11-143442 AD**

#### **GENERAL INFORMATION**

**Applicant:** Tara Doherty  
Tara Doherty Architect  
1831 SE Knapp  
Portland OR 97202

**Owners:** Ali and Matthew Wilkinson  
6106 SE 13th Ave  
Portland, OR 97202

**Site Address:** 6106 SE 13TH AVE

**Legal Description:** BLOCK A N 65.36' OF LOT 3&4, P J MARTINS TR  
**Tax Account No.:** R635400040  
**State ID No.:** 1S1E14CD 04200  
**Quarter Section:** 3631

**Neighborhood:** Sellwood-Moreland, contact Mat Millenbach at 503-239-1134.  
**Business District:** Westmoreland, contact Tom Brown at 53-381-6543.  
**District Coalition:** Southeast Uplift, contact Leah Hyman at 503-232-0010.

**Plan District:** None  
**Zoning:** R5a, Single-Dwelling Residential 5,000 zone and Alternative Design Density overlay zone

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

**Proposal:** The owners wish to construct a new wrap-around covered porch with a new second story addition above. In order to obtain building permit approval, the applicant is requesting an Adjustment to reduce the required front building setback from 10 to 9 feet. Stairs will provide connections from the front yard area on both the west and north sides to the elevated

porch landing. The upper-story addition will be used as a bedroom. Windows are proposed on the west-facing façade.

**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:** The site is a 6,500 square foot lot on the southeast corner of SE 13<sup>th</sup> Avenue and SE Martins Street. The lot is developed with a 2-story single-dwelling residence and a 2-story detached accessory building, with parking below and living area above. The subject site and nearby homes appear to be constructed close to the street (front) property line. Both SE 14<sup>th</sup> Avenue and SE Martins Street are 60-foot wide rights-of-way with paved streets, curbs, planting strips and six-foot wide sidewalks. There are large mature street trees along both frontages. The subject site and nearby homes enjoy the habitat and scenic qualities of the City-owned Oaks Bottom Wildlife Refuge and the Willamette River, immediately south (below) of SE 14<sup>th</sup> Avenue.

**Zoning:** The site is zoned R5a—Single-Dwelling Residential 5,000 with an Alternative Design Density ('a') Overlay Zone. The R5 zone allows single-dwelling residential development on 5,000 square foot lots. The Alternative Design Density ('a') Overlay Zone allows increased density for development that meets additional design compatibility requirements. This proposal is not using the provisions of the 'a' Overlay Zone.

**Land Use History:** City records indicate that prior land use reviews include the following:

- **LU 02- 110979 AD:** Approval of an Adjustment to reduce the minimum south side building setback from five feet to one foot six inches and the eave line from five feet to one foot for a 2-story detached accessory building.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **June 16, 2011**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (E.4)
- Bureau of Transportation Engineering (E.4)
- Water Bureau (E.3)
- Fire Bureau (E.4)
- Site Development Section of BDS (E.4)
- Life Safety Section of BDS (E.2)

The **Bureau of Parks-Forestry Division** responded with the following comment: Street trees will be required along all public street frontages and will be reviewed and approved by the City Forester during street plan review or building permit application. Street trees required for residential sites are to be 2 inch caliper in size. Mitigation for the loss of existing right-of-way trees will be required if construction designs require removal. A written permit from the City Forester is required to remove, destroy, cut, break, or injure, any tree of any size in or upon any street, park, or public area as detailed in Title 20.40.090 D

At this time, all existing trees on private property that are 12 inches in diameter and greater may not be removed unless specifically permitted through Title 33 or through a written permit issued from the City Forester as detailed in Title 20/Chapter 20.42. All trees regulated by city code must be retained and protected until the proper pruning or removal permits are issued through the regulating authority. Exhibit E.1.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on June 16, 2011. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 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 seeking an Adjustment to the front building setback. The purpose of the building setback standards are found in Section 33.110.220, which states:

**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 requested Adjustment is to reduce the required front building setback from 10 to 9 feet in order to construct a covered porch with additional living space above. The porch will provide a new front entry and outdoor seating along the west and north side of the front of the home. The addition will be located near the corner, where SE 14<sup>th</sup> Avenue and SE Martins intersection. The reduced setback will not reduce access to light, air, and fire protection. There will remain a reasonable physical relationship with nearby homes and the location of the residence will remain consistent with the general scale of homes in the Sellwood neighborhood. A reduction of 1 foot from the required 10 foot setback will not reduce the open visually pleasing character of the site and surrounding area. Therefore, the requested setback Adjustment will not conflict with the several purposes of the regulation. 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:** As stated above the addition is located away from lot lines that abut other residential lots. The reduced setback will not detract from the livability of the residential area. The addition is designed with architectural elements that were commonly found in homes constructed in the 1920s. The proposed porch will provide outdoor space for residents who will enjoy views of the river and the picturesque character of the street and nearby residential gardens. 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

**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. The site is not within either overlay zone; thus, 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.

## 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

Based upon the findings of this report, each applicable approval criterion is met.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the required front building setback (Section 33.110.220.B) from 10 to 9 feet for a porch and living area above in substantial conformance with the approved plans, Exhibits C.1 and C.2, signed and dated July 19, 2011, 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 11-143442 AD."

**Staff Planner: Sheila Frugoli**

**Decision rendered by:**  **on July 19, 2011**

By authority of the Director of the Bureau of Development Services

**Decision mailed: July 22, 2011**

**About this Decision.** This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on May 27, 2011, and was determined to be complete on **June 10, 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 May 27, 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.

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

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://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 8, 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.

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

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

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

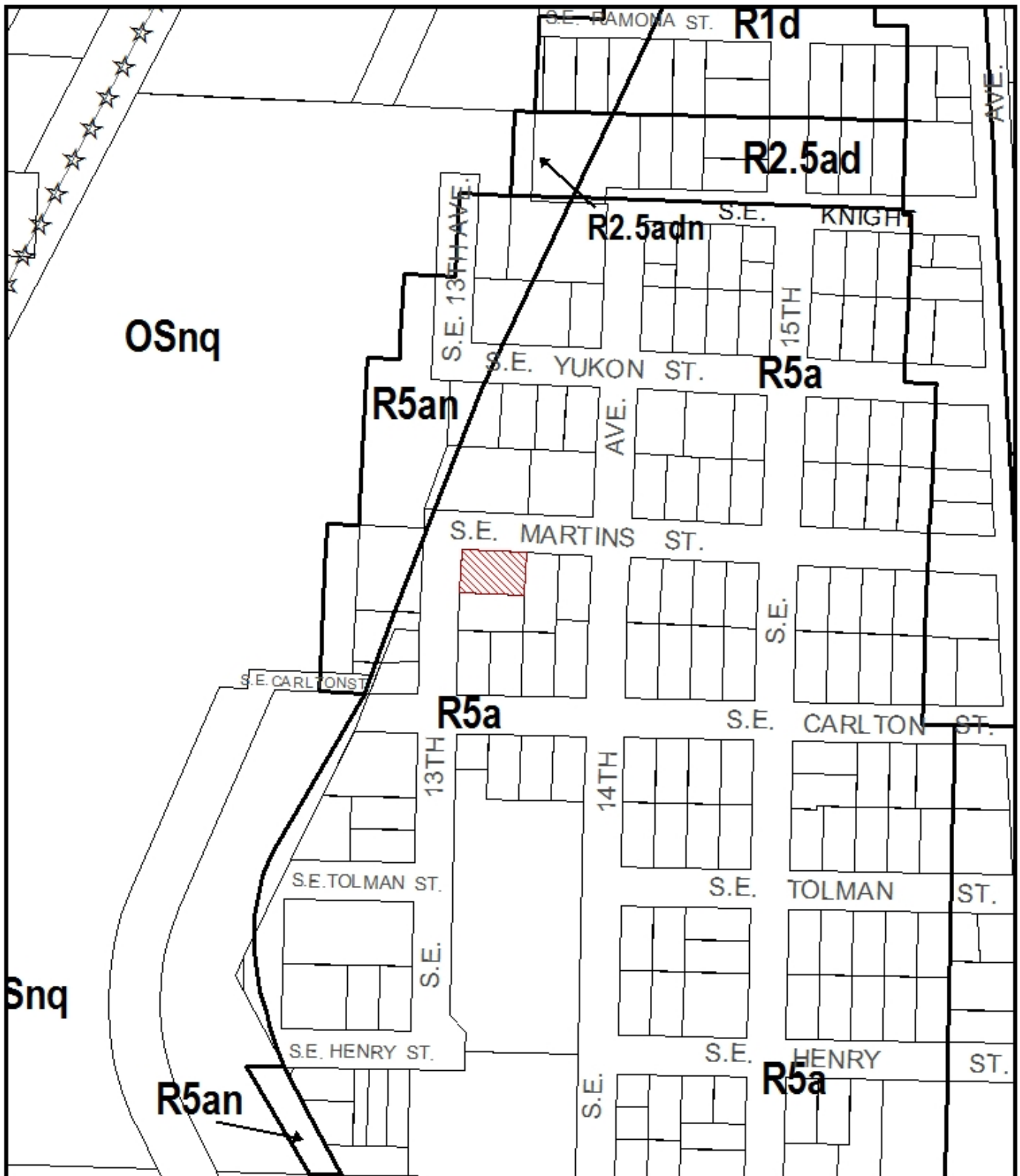
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Proposed West Elevation (attached)
  - 3. Proposed North Elevation (attached)
  - 4. Photos of House
  - 5. Proposed Partial Site Plan/Existing Partial Site Plan
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Parks, Forestry Division
  - 2. Life Safety Plan Review Section of BDS
  - 3. Water Bureau
  - 4. TRACS print-out showing "no concerns" from the following Bureaus: Bureau of Environmental Services, Bureau of Transportation, Fire Bureau and Site Development Review Section of BDS
- F. Correspondence: NONE
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research

**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



# ZONING

 Site



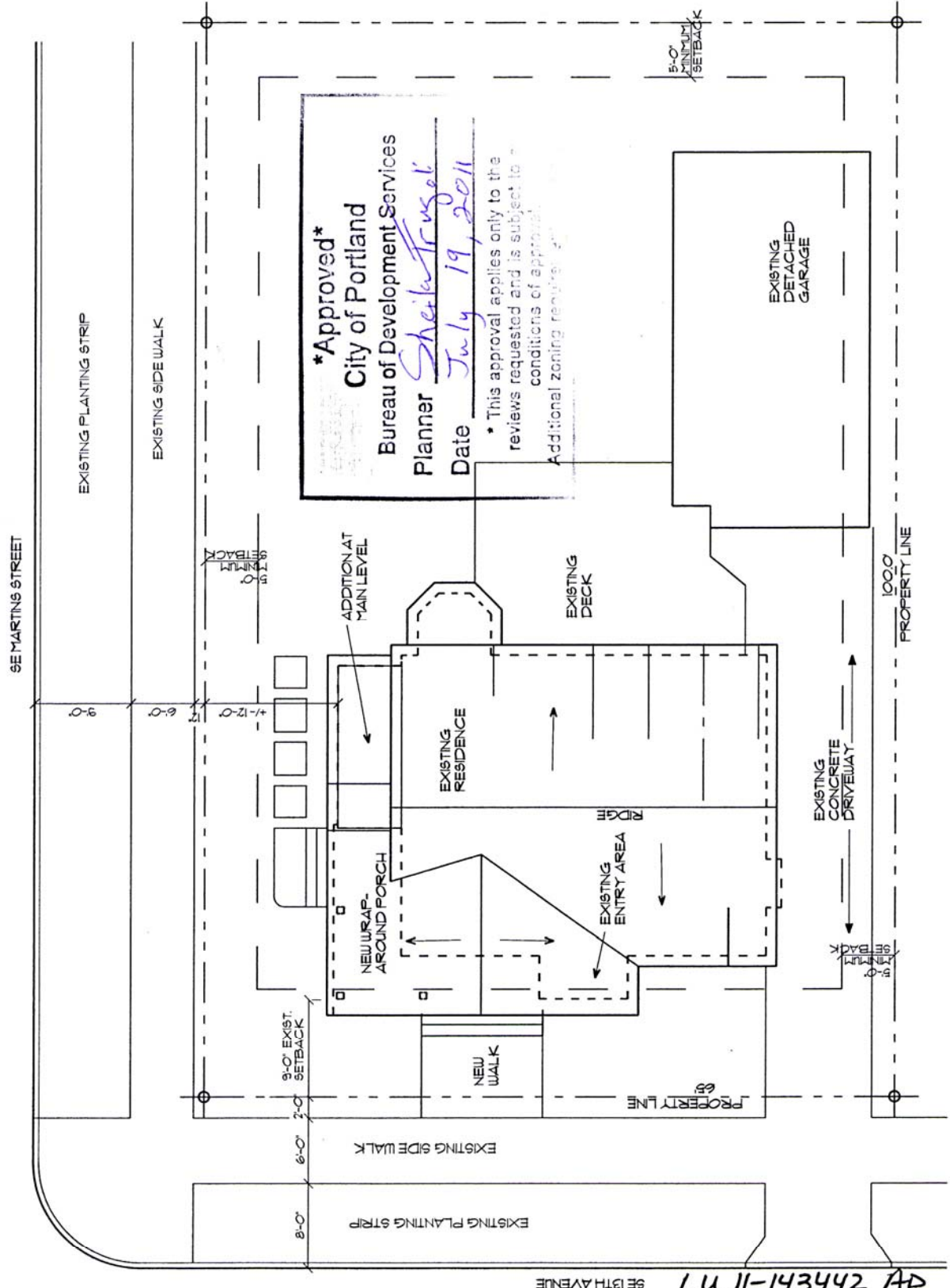
File No.	<u>LU 11-143442 AD</u>
1/4 Section	<u>3631</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E14CD 4200</u>
Exhibit	<u>B (Jun 06,2011)</u>



1 SITE PLAN  
SCALE: 1" = 20'-0"

NOTES

- A. ALL TREES TO REMAIN ON THIS SITE IN PLANTING STRIP AND ON ADJACENT PROPERTIES WILL BE PROTECTED FROM DAMAGE FROM THE CONSTRUCTION PROCESS AND MACHINE USAGE.
- B. SELECTIVELY CLEAR OR PRUNE ANY UNWANTED VEGETATION OR THOSE IMPEDING CONSTRUCTION WITH CONSENT OF OWNERS. COORDINATE REMOVAL AND DISPOSAL WITH OWNER.
- C. CONTRACTOR TO STORE ALL NEW MATERIALS IN DRY AND SECURE LOCATION ON SITE AS SPECIFIED BY OWNER.
- D. CONTRACTOR TO INSURE ALL EROSION CONTROL MEASURES HAVE BEEN ACCOMMODATED ACCORDING TO CITY REQUIREMENTS AND MAINTAINED INTACT THROUGHOUT THE CONSTRUCTION PROCESS.
- E. PROVIDE NEW GUTTERS AND DOWNSPOUTS TO DRAIN ON SITE. DOWNSPOUT LOCATIONS TO BE DETERMINED BY ARCHITECT OR OWNER ON SITE.



**\*Approved\***  
**City of Portland**  
 Bureau of Development Services  
 Planner *Sheila Truesel*  
 Date *July 19, 2011*

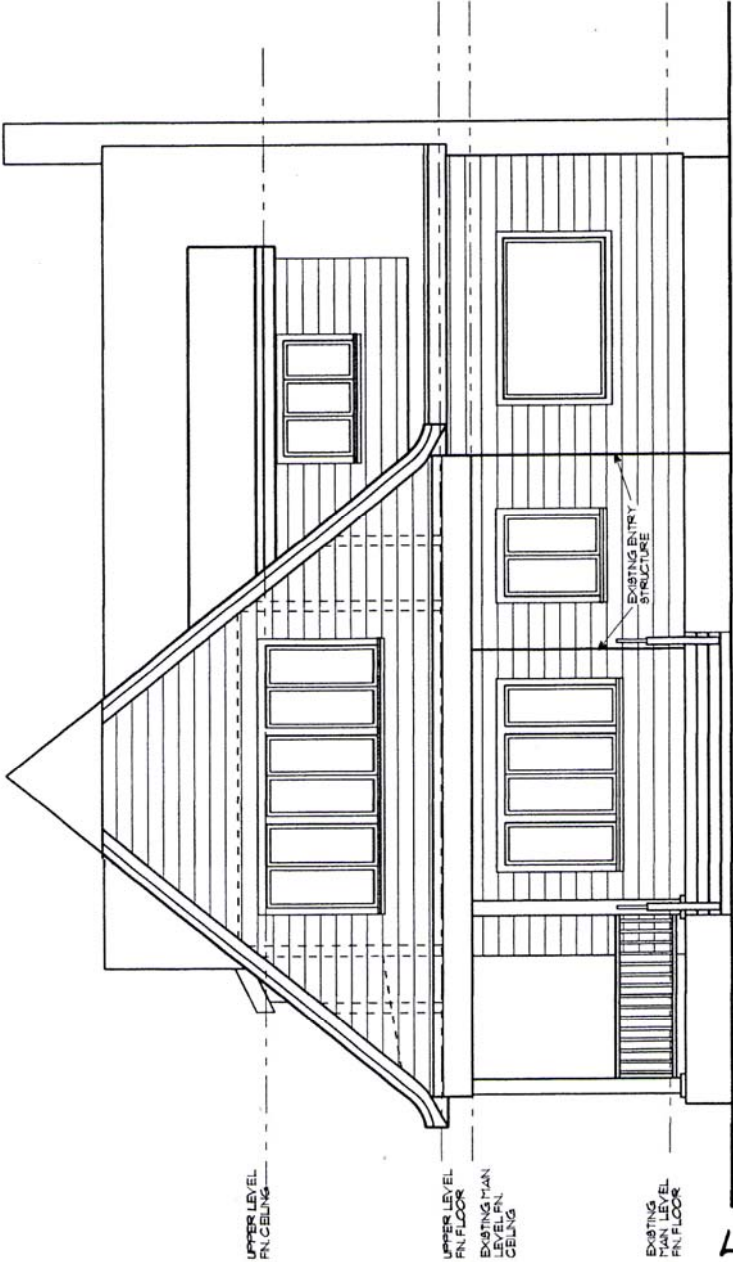
\* This approval applies only to the reviews requested and is subject to additional zoning requirements.

SE 13TH AVENUE  
 LU 11-143442 AD  
*Exhibit C.1*



**WILKINSON RESIDENCE**  
 6106 SE 11TH AVENUE  
 PORTLAND, OR 97202  
 ISSUE DATE: 5.17.11  
 ADJUSTMENT SET  
 DRAWN BY: TARA DOHERTY

ELEVATION  
 DRAWING NO. **A2.1**



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

**\*Approved\***  
 City of Portland  
 Bureau of Development Services  
 Planner Sheila Frugoli  
 Date July 19, 2011  
 \* This approval applies only to the reviews requested and is subject to conditions.

Exhibit C.2

LU 11-143442AD

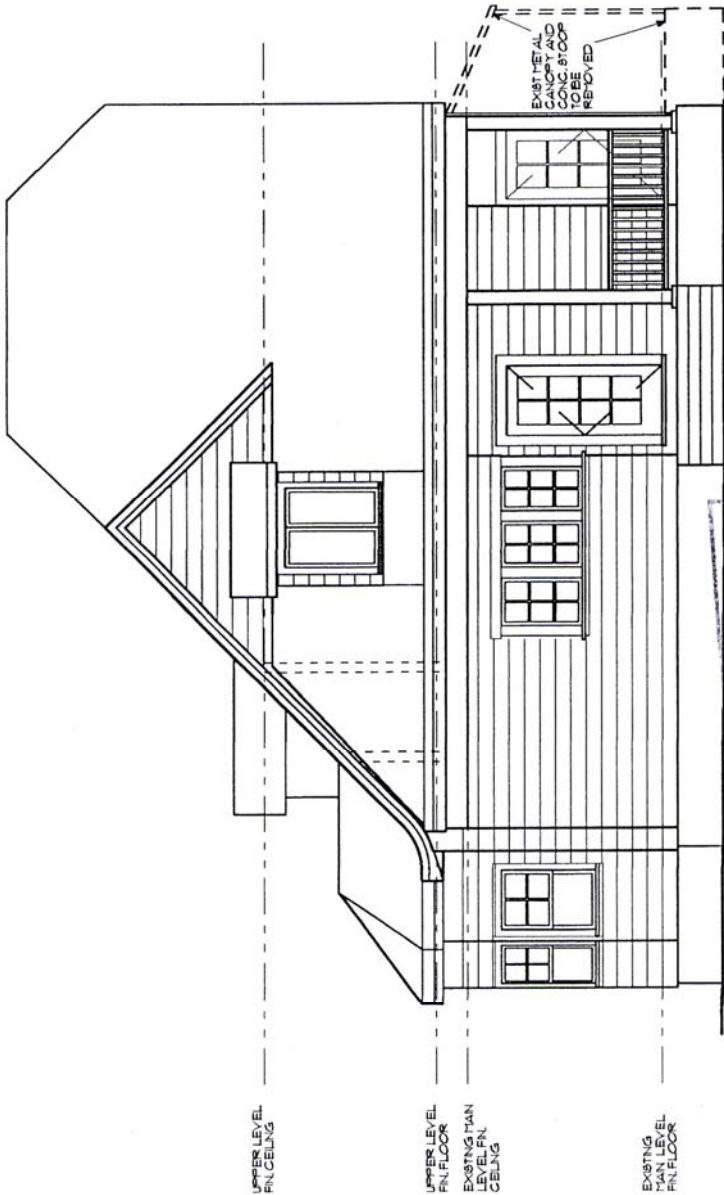


WILKINSON  
RESIDENCE  
6106 SE 13TH AVENUE  
PORTLAND, OR 97102

ISSUE DATE:  
5/7/11  
ADJUSTMENT SET

DRAWN BY:  
TARA DOHERTY

NORTH  
ELEVATION  
DRAWING NO:  
**A2.4**



PROPOSED  
NORTH ELEVATION  
1  
SCALE 1/8" = 1'-0"

**\*Approved\***  
City of Portland  
Bureau of Development Services  
Planner Sheila Krugli  
Date July 19, 2011

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

*Exhibit C.3*

LU 11-143442 AD