



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

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Date: May 21, 2013
To: Interested Person
From: Mark Bello, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 13-126986 AD

GENERAL INFORMATION

Applicant: Ian Krist
1160 NE Lenore St / Portland OR 97211

Site Address: 1160 NE LENORE ST

Legal Description: BLOCK 29 LOT 7&8 TL 2800, WOODLAWN
Tax Account No.: R925803920, R925803920
State ID No.: 1N1E14BD 02800, 1N1E14BD 02800
Quarter Section: 2331
Neighborhood: Woodlawn, contact Anjala Ehelebe at 503-388-5004.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.
District Coalition: NE Coalition of Neighborhoods, Shoshana Cohen at 503-388-5004.
Zoning: R5h Residential 5,000, "h" Aircraft Landing [height] overlay zone
Conservation District Woodlawn
Case Type: AD Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

A new parking space located between the house and NE Lenore Street is too shallow to allow for a code-mandated 18'-long parking space and 10'-deep front setback. The house is approximately 21' from the front property line. The required sum of front setback and parking is 28'. So, the adjustment request is to reduce the front setback from 10' to 3' (21' - 18' = 3').

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are contained in Section 33.805.040 of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The subject site is developed with a single-dwelling, one-story ranch style house. The house is located 3'-4" from the east property line. Across the east property line, a new house is under construction. A low masonry wall separates the two properties.

The area is zoned and developed primarily with single family houses that vary in building age, style, and number of stories. Lots are fairly consistently sized at 5,000 square feet (50' x 100'), with the occasional property made up of two 5,000 square foot lots for a 10,000 square foot property (100' x 100').

Zoning: The site is zoned R5, Single-dwelling residential with an average density of one lot per 5,000 square feet. Individual lots may be 3,000 square feet and 36' wide. Smaller lots are allowed in some cases on vacant sites. The property also has an "h" overlay zone, which limits the height of structures and vegetation in the vicinity of the Portland International Airport; a height contour map is available for review in the Development Services Center. This adjustment does not include proposals for new development.

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

- LU 12-138165 PR – lot confirmation and property line adjustment to relocate a property line parallel to NE Bellevue Avenue and create a building site where the garage of this house once was located. With creation of this corner lot, the garage was demolished (12-163793 RS).
- LU 12-149676 LU – approval of an adjustment to reduce the side setback for the building wall from 5' to 3.3' (and eaves to 2.3') resulting from this lot confirmation and property line adjustment.

The adjustment decision noted that parking would not be required "because it is located within 500' of a transit street with 20-minute peak hour service". However, subsequently a curb cut was made and an illegal parking space was created on this property. Per code compliance City action, the parking space was converted to a patio (12-196653 ZC). New owners have now applied for this adjustment to allow the patio to be used for parking.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **April 9, 2013**. The following Bureaus have responded with no issues or concerns:

1. Bureau of Environmental Services
2. Bureau of Transportation Engineering and Development Review
3. Water Bureau
4. Fire Bureau
5. Site Development Review Section of BDS
6. Bureau of Parks, Forestry Division
7. Life Safety Plans Examiner, BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 9, 2013. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose 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, B and E - stated below - have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified;

The purposes of the setback regulations and relevant parking regulations are as follows:

33.110.220 Setbacks

A. Purpose. 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;
- 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.

33.266.120 Development Standards for Houses and Duplexes

A. Purpose. The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.

Findings: The proposed adjustment is for existing development. The applicant acquired this property in this condition and no exterior alterations are proposed. Since no exterior changes will be made light, air, separation for fire protection and access for fire fighting will be maintained. The general building scale and placement will also be maintained.

The house under construction will place a driveway on the other side of the shared property line, so no privacy impacts are expected.

The space is designed with large pavers that are separated by gravel so the space functions as a pleasant outdoor space when a car is not parked there. The driveway is 21'-3" from the property line and 23'-3" back from the sidewalk. This allows most cars to be parked somewhat away from the sidewalk. Existing retaining walls further obscure the parked car when it is parked.

Portland Transportation/Development Review has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services. Transportation has no objections:

“At this location, NE Lenore Street has a 4-6-2 sidewalk configuration. This means there is 12-ft from the face of the curb to the property line. With a 3-ft garage door setback, there will be 21-ft from the garage door to the face of the curb. PBOT has no objection to granting the adjustment since there will be adequate space for a standard passenger vehicle to park without blocking the sidewalk. (Exhibit E-2).

As will be noted in the findings that address criterion B, allowing a car to park within the front setback will not impact the appearance of the neighborhood.

Therefore, 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; and

Findings: The proposed adjustment will not detract from the livability or appearance of the area. There is adequate room to allow the existing driveway to function as a parking space when required. Otherwise, the pavers and gravel pattern makes an attractive space. The retaining wall will be skim-coated and could be landscaped. A second street tree will be planted. *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: No impacts are anticipated from the proposed adjustments. *Therefore, this criterion does not apply.*

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

Findings: The site is not within a City-designated scenic resource area or a historic resource area. *Therefore, this criterion does not apply.*

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

Findings: No impacts are anticipated from the proposed adjustments. *Therefore, this criterion does not apply.*

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. *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

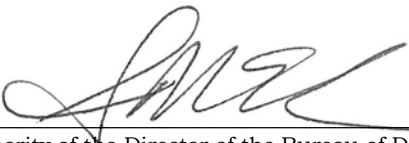
The proposal meets applicable approval criteria and the adjustment request should be granted. The driveway paver design provides a model for attractive parking areas between house and sidewalk.

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.110.220 and 33.266.120 A to allow parking within the required front setback to 3 feet, per the approved site plans, Exhibit C-1 signed and dated May 17, 2013, 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-126986 AD .

Staff Planner: Mark Bello

Decision rendered by:  **on May 17, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: May 21, 2013

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

Procedural Information. The application for this land use review was submitted on March 12, 2013, and was determined to be complete on April 4, 2013.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 12, 2013.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: August 13, 2013.**

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 June 4, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional

information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **June 5, 2013**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

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

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

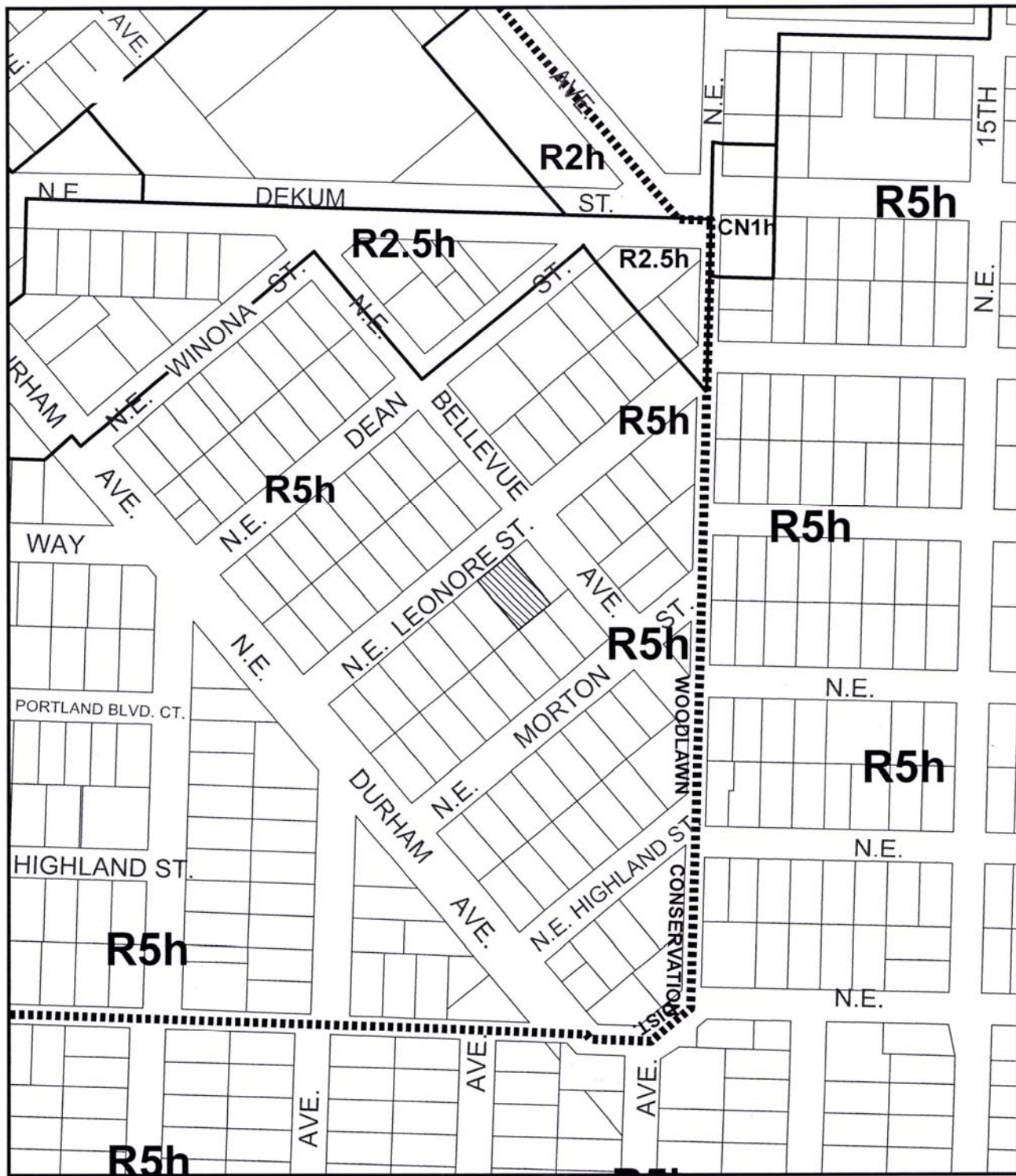
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner, 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).



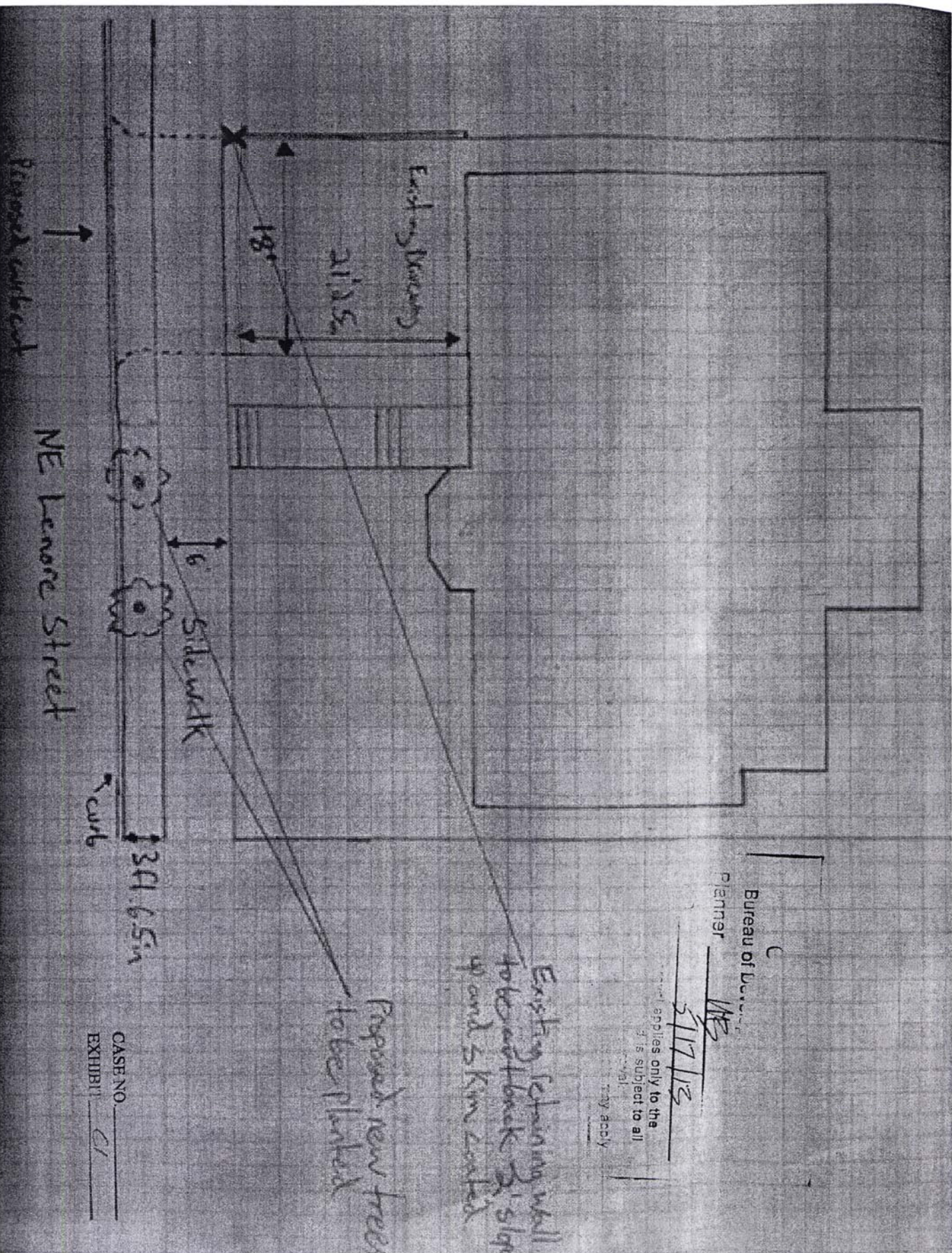
ZONING

 Site



This site lies within the:
WOODLAWN CONSERVATION DISTRICT

File No.	LU 13-126986 AD
1/4 Section	2331,2431
Scale	1 inch = 417 feet
State_Id	1N1E14BD 2800
Exhibit	B (Mar 13,2013)



Bureau of Development
Planner

WES

3117112

Applies only to the
is subject to all
may apply

Existing retaining wall
to be cut back 3' slope
up and 5' from center

Proposed new trees
to be planted

CASE NO. _____
EXHIBIT C1