



Date: April 22, 2014
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / Kathleen.Stokes@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 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 14-119699 AD

GENERAL INFORMATION

Applicant: Yianni Doulis / Yianni Doulis Architecture Studio
723 NW 18th Avenue / Portland, OR 97209

Owners: Noah and Dena Lieberman
4907 NE Ainsworth Street / Portland, OR 97218

Site Address: 4907 NE Ainsworth Street

Legal Description: BLOCK 6 E 1/2 OF LOT 8 EXC N 18.74', ENGLEWOOD PK
Tax Account No.: R252801940
State ID No.: 1N2E18CA 05900 **Quarter Section:** 2435
Neighborhood: Cully, contact David Sweet at 503-493-9493.
District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.
Zoning: R10h - R10,000, Low Density single-Dwelling Residential, with an Aircraft Landing (height) Overlay

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

Proposal: The property owners are planning to remodel the existing residence on this site. The proposed alterations include raising the roof line by three feet, along the existing building line, "to provide for additional headroom and usable space in the remodeled second story."

The R10 zone requires buildings to be set back 20 feet from the front (shortest street-abutting) property line and 10 feet from the side and rear property lines. The location of the existing building walls of this residence meets these required setbacks on the front, rear and west side, but are located a distance of about 7 feet, 9 inches (7.75 feet) to 9 feet, 4 inches (9.34 ft) from the east side property line.

Existing structures that were legally constructed, but do not meet the setback requirements, may remain. Raising the height of a nonconforming building wall that is located within the setback area is only allowed when approved as an exception through an Adjustment Review. Adjustments are approved, in accordance with state land use laws, when the relevant approval criteria are met or if the criteria can be met through conditions of approval. Therefore, the applicant is requesting approval of an adjustment to Code Section 33.110.220 B, to reduce the

required minimum building setback for the proposed addition, from 10 feet to a distance that varies from about 7.75 feet to 9.34 feet from the east side property line.

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 site is a 17,010 square-foot property that is located on the northwest corner of the intersection of NE 50th Avenue and NE Ainsworth Street. The site is developed with a single-dwelling residence that was constructed in 1949. The house and a detached garage are located in the south end of the property with a large open area comprising the northern two-thirds of the site. Access to the garage is from NE 50th Avenue, while the front entrance to the house faces NE Ainsworth Street. The area around the site is developed with other single-dwelling residences that are generally from about the same era. Many of the properties in the area have large yards with gardens and numerous small accessory structures. Setbacks and the amount of building coverage appears to vary widely, from lot to lot.

Zoning: This site is zoned R10, or R10,000, Low Density Single-Dwelling Residential. This zone is intended for areas with public services but which are subject to significant development constraints. Single-dwelling residential is the primary use. The maximum density is generally 4.4 units per acre. The R10 zone requires minimum building setbacks of 20 feet from front lot lines and 10 feet from side and rear lot lines. Exceptions to the required setbacks may be approved through the Adjustment Review process.

Land Use History: City records include only one former land use review for the site. In 1979, a variance that requested a reduction in the minimum lot size was denied (VZ 2929-79).

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **March 17, 2014**. The following Bureaus have responded with no issues or concerns:

- Environmental Services provided information for the applicant on the existing sanitary infrastructure and the requirements for stormwater management (Exhibit E-1).
- Water Bureau provided information for the applicant regarding the existing water service for the site and the requirements for any needed or requested upgrades to the existing service (Exhibit E-2).
- Site Development Section of BDS offered a general summary of the physical characteristics of the site and noted that there are nondecommissioned cesspools on the site but that decommissioning is not a requirement at this time (Exhibit E-3).
- BDS Life Safety Plan Review Section, the Fire Bureau, Transportation Engineering, and the Bureau of Parks-Forestry Division each provided a response of "no concerns," (Summary sheet, Exhibit E-4).

Neighborhood Review: One written response was received from a notified property owner, in response to the proposal. The neighbor stated that there was no objection to approval of the requested Adjustment, but asked that there be a requirement to install a sidewalk on the Ainsworth Street frontage. The same neighbor also sent the same comment to the Cully Neighborhood Association, who forwarded the comment to staff (Exhibits F-1 and F-2).

Note: Title 33, the Portland Zoning Code, does not give jurisdiction to make requirements for improvements in the right-of-way. Only the Bureau of Transportation, in their authority under Title 17, can make this requirement and they will follow the regulations of that code at the time of building permit review.

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. stated below, have been met.

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

Findings: Adjustment to Code Section 33.110.220, to reduce the required minimum building setback for the proposed addition, from 10 feet, to a distance that varies from about 7.75 feet to 9.34 feet from the east side property line. *The purpose of building setback requirements are to maintain light, air, separation for fire protection, and access for fire fighting. Setback standards also reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences. They promote options for privacy for neighboring properties and 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 location of the building footprint is not changing. The addition will extend the existing building wall upward, within the east side setback, so that the east wall is somewhat taller, but as this wall faces the street frontage, rather than an abutting property, there will be no impacts on adjacent neighbors from the raised height of the wall. The new roof line will follow the existing wall and raise the height of a portion of the wall, but it will not rise above the height of the main north/south roof peak, as illustrated in the attached elevation drawings. Therefore, the proposed addition within the east side setback area will not create any changes or impacts on light, air, separation for fire protection or access for fire fighting. The proposed building wall will still reflect the general building scale and placement of development in the neighborhood. There will be no impacts on privacy as a result of the proposal. The addition will be consistent with the existing development of the property. Therefore, the purposes of the regulation are equally met 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: Approval of the request to reduce the required setback for an addition to the upper part of the east wall of the existing residence will not significantly detract from the appearance or the livability of the residential area. The original structure has been in this location for many years, The remodeled and enlarged building will still be below the maximum height limit for the zone and the height of the wall will not exceed the height of the main north-south roof line. The design includes features that are in keeping with the main house and with the general architectural character of the neighborhood. Therefore, no potential impacts on livability or appearance, based on the proposed addition have been noted and so, 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: City-designated scenic resources are shown on the City's zoning maps by an "s" or Scenic Overlay Zone. City-designated historic resources are shown on the City's zoning maps, either as an adopted landmark, or as a site that is located within the boundaries of a Historic Conservation or Historic Design District. There are no City-designated 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: No potential impacts from approval of the requested Adjustment have been identified by staff. Therefore, no mitigation is needed and 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: Environmental zones are designated with either a lower case "c," for the Environmental Conservation Overlay, or "p," for the Environmental Protection Overlay. 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

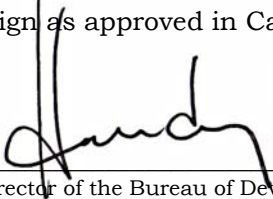
All of the relevant approval criteria have been met for the requested Adjustment. The purpose for building setbacks will be equally met because the proposed building will not have any impacts on light, air or privacy and will not cause fire safety issues. It will be in keeping with the scale and placement of structures in the area and will not significantly detract from the appearance or the livability of the surrounding area. The proposal can be approved in general compliance with the site plan and elevation drawings.

ADMINISTRATIVE DECISION

Approval of an adjustment to Code Section 33.110.220 B, to reduce the required minimum building setback for the proposed addition, from 10 feet to a distance that varies from about 7.75 feet to 9.34 feet from the east side property line, in general compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-3, signed and dated April 18, 2014, 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 14-119699 AD."

Staff Planner: Kathleen Stokes

Decision rendered by:  **on April 18, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 22, 2014

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 February 21, 2014, and was determined to be complete on **March 13, 2014.**

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 February 21, 2014.

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 extended by the applicant, **the 120 days will expire on: July 12, 2014.**

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 May 6, 2014** 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 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, 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 **May 7, 2014**.
- 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.

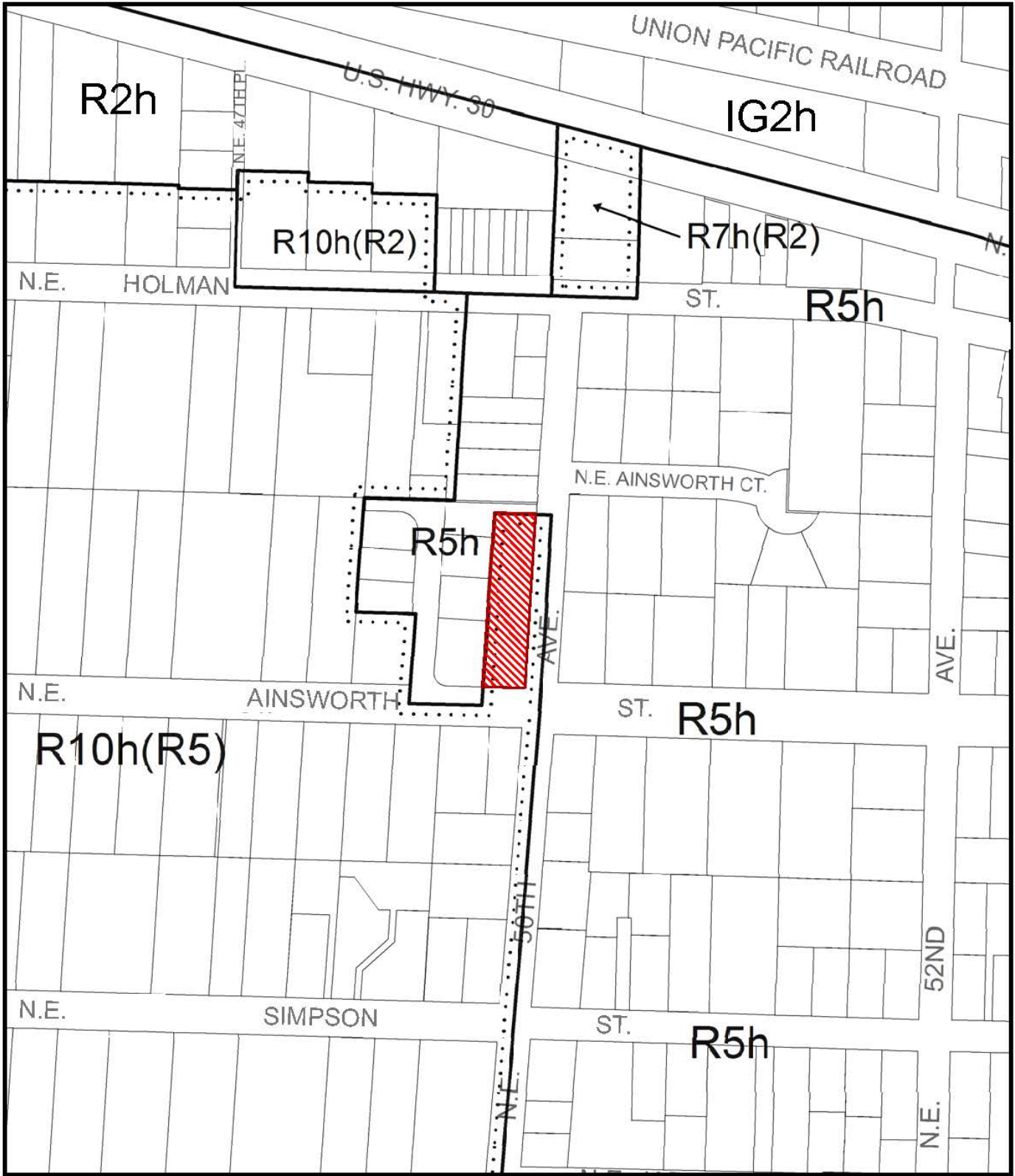
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Application, original plans and narrative
 2. Supplemental information, submitted March 12, 2014
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Detail Plan (attached)
 3. Elevation Drawings (attached)
- D. Notification information:

1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Water Bureau
 3. Site Development Review Section of BDS
 4. Summary of electronic responses from City service agencies
- F. Correspondence:
1. Hillary Miller
 2. David Sweet, Cully Association of Neighbors
- G. Other:
1. Letter from Kathleen Stokes to Yianni Doulis, March 5, 2014

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).

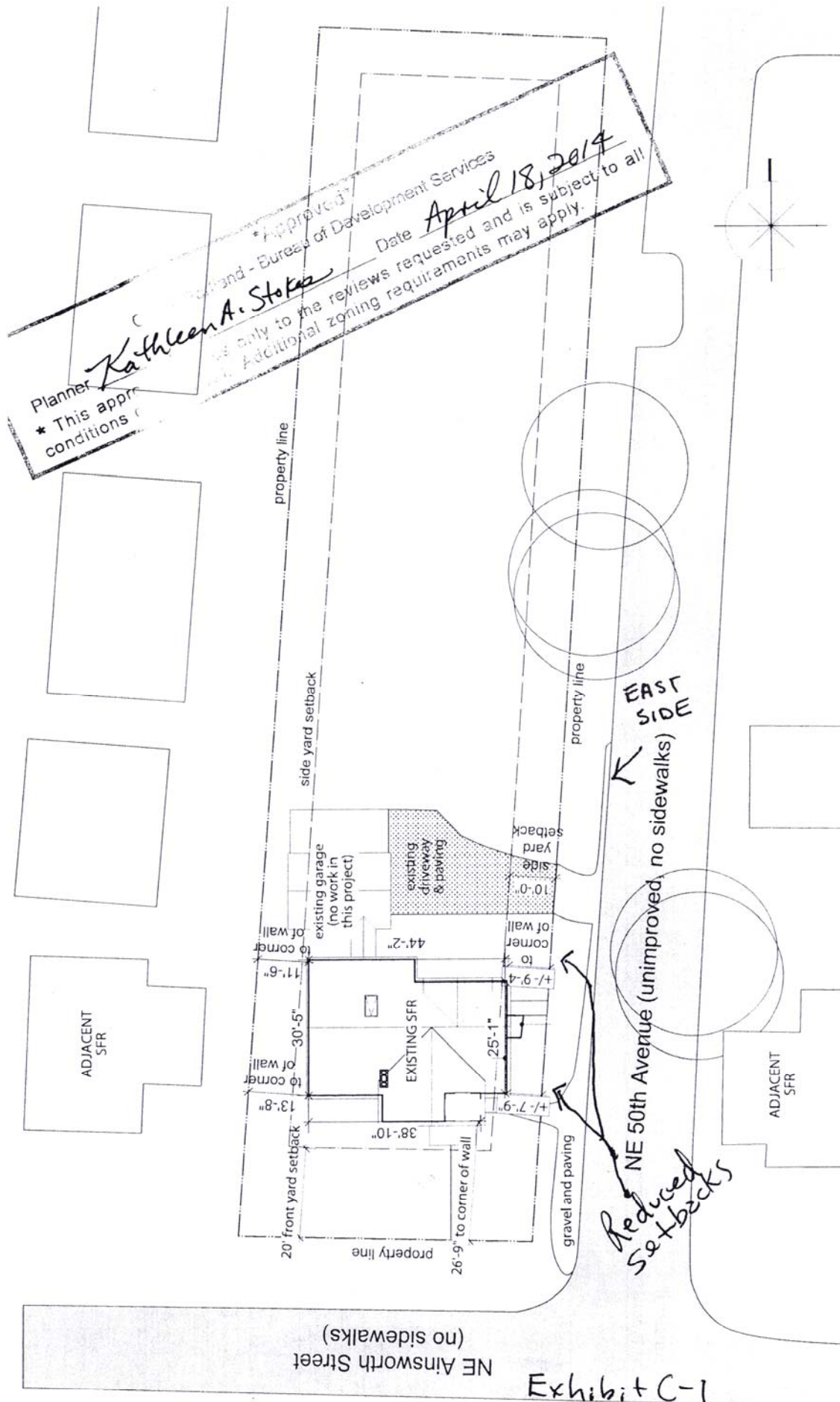


ZONING

 Site



File No. LU 14-119699 AD
 1/4 Section 2435
 Scale 1 inch = 200 feet
 State_Id 1N2E18CA 5900
 Exhibit B (Feb 26, 2014)



Approved by
 Planner *Kathleen A. Stokes*
 Portland - Bureau of Development Services
 Date *April 18, 2014*
 * This approval is only to the reviews requested and is subject to all applicable zoning requirements. Additional zoning requirements may apply.

NE Ainsworth Street (no sidewalks)

Exhibit C-1
 LU 1A-119689 AD

YIANNI DOULIS ARCHITECTURE STUDIO
 723 NW 18TH AVE PORTLAND, OR 97205
 T 503.467.4626 F 4830

Lieberman Residence
 4807 NE Ainsworth Street

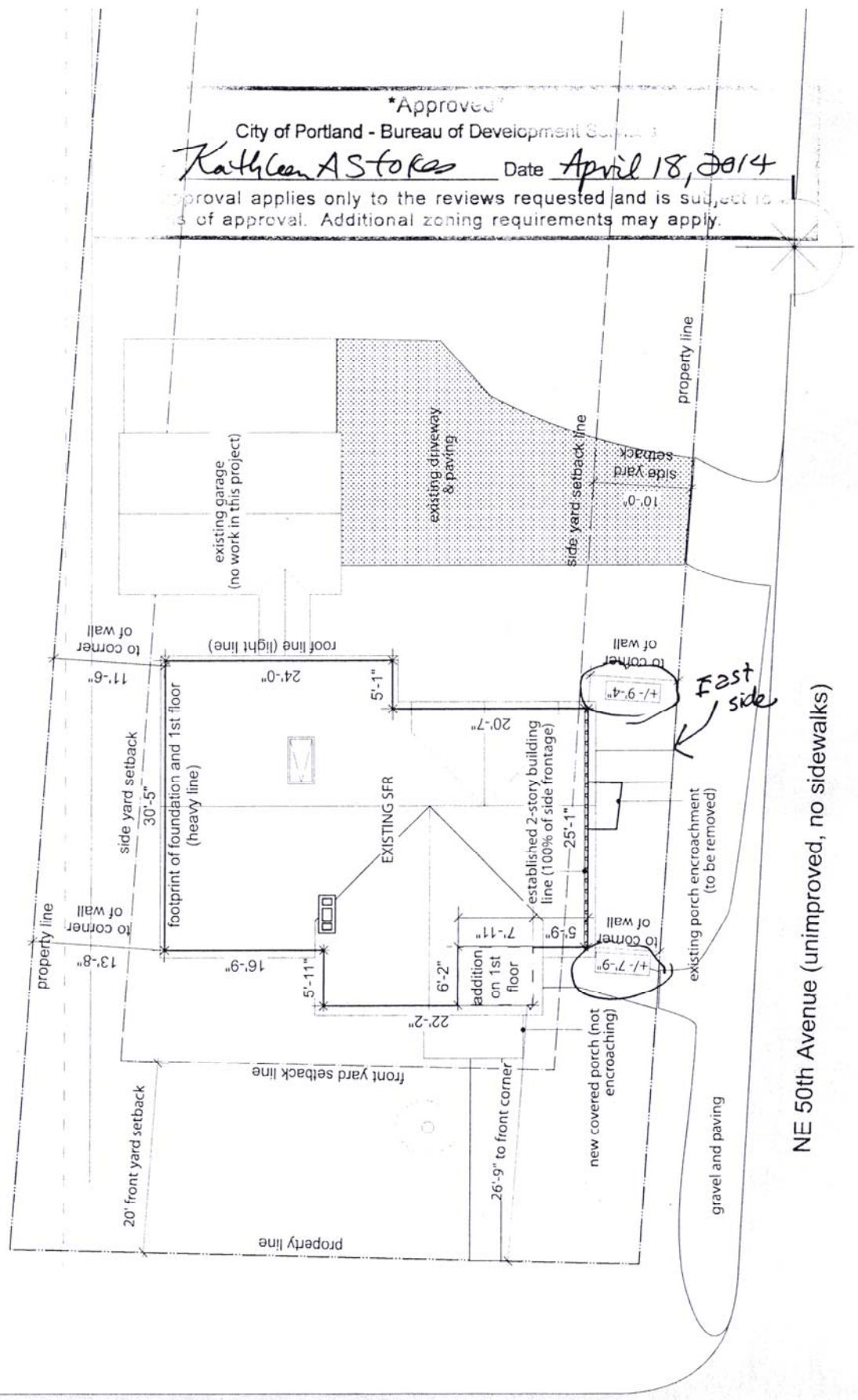
Site Plan - Vicinity Plan
 February 21, 2014
 Scale: 1" = 20' - 0"

Approved

City of Portland - Bureau of Development Services

Kathleen A Stokes Date *April 18, 2014*

Approval applies only to the reviews requested and is subject to the terms and conditions of approval. Additional zoning requirements may apply.

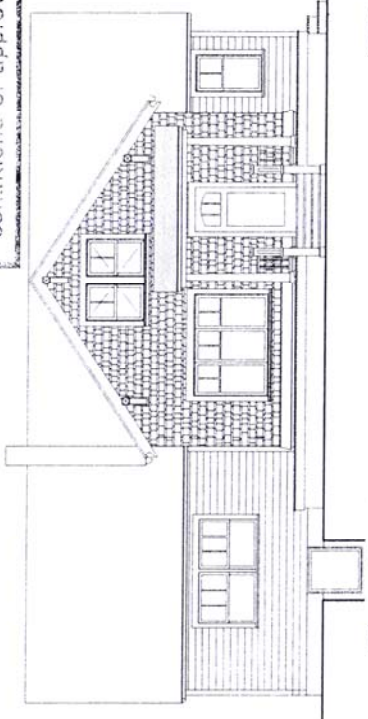


NE 50th Avenue (unimproved, no sidewalks)

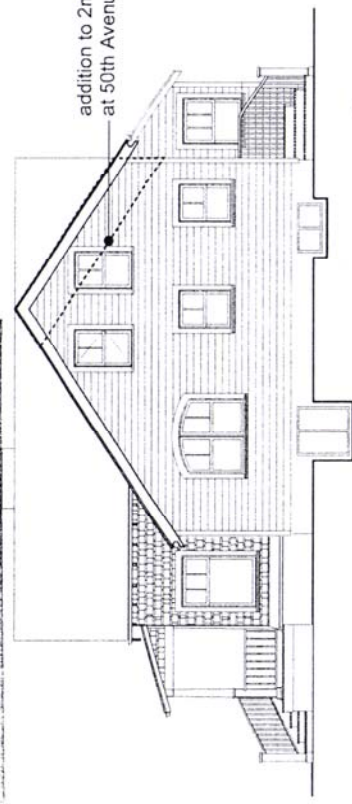
NE Ainsworth Street (no sidewalks)

Exhibit C-2
LU 14-119699AD

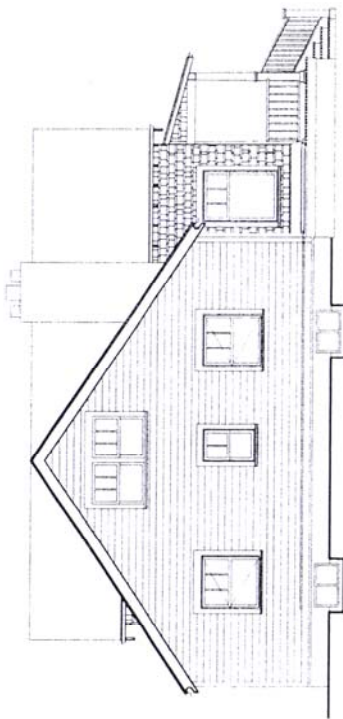
City of Portland - Bureau of Development Services
 Planner *Kathleen A. Stokes* Date *April 18, 2014*
 * This approval applies only to the revisions to the original application and is subject to all conditions of approval. Additional conditions of approval may apply.



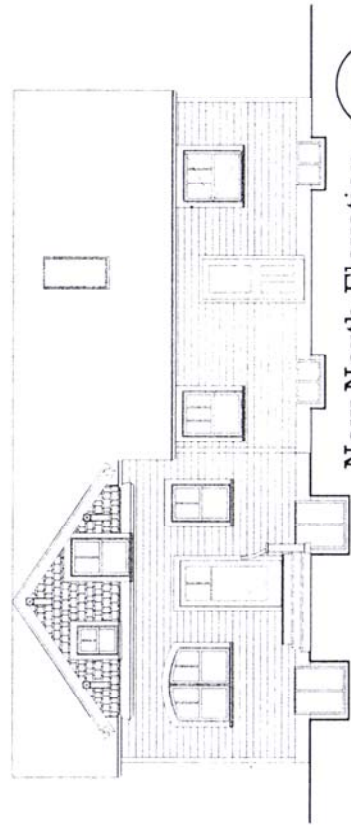
New South (Ainsworth St.) Elevation **4**
 Scale: 1/8" = 1' - 0"



New East (50th Ave) Elevation **3**
 Scale: 1/8" = 1' - 0"



New West Elevation **2**
 Scale: 1/8" = 1' - 0"



New North Elevation **1**
 Scale: 1/8" = 1' - 0"

Exhibit C-3
 LU14-119699AD

Proposed Elevations
 February 21, 2014
 Scale: 1/8" = 1' - 0"

Lieberman Residence
 4807 NE Ainsworth Street

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