



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
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Date: June 30, 2014
To: Interested Person
From: Amanda Rhoads, Land Use Services
503-823-7837 / Amanda.Rhoads@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 14-153473 AD

GENERAL INFORMATION

Applicant: Mary Hogue / MKM Architecture
3304 SE 52nd Ave / Portland OR 97206

Owners: Walter and Patricia Robertson
7601 SE 28th Ave / Portland, OR 97202

Site Address: 7601 SE 28TH AVE

Legal Description: BLOCK 3 N 10' OF LOT 19 LOT 20, EASTMORELAND
Tax Account No.: R231500770
State ID No.: 1S1E24BD 14100 **Quarter Section:** 3733
Neighborhood: Eastmoreland, contact Clark Nelson at clark@pbsenv.com
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Plan District: Eastmoreland
Zoning: R5 – Residential 5,000
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to relocate the main entry of the house to the center of the east-facing façade. The new entry would have an 11-foot by 5-foot covered front porch with a 6-foot by 4-foot concrete landing. The proposal also removes the existing entry at the northeast corner of the home with its associated roof addition and concrete landing, as well as the original rear entry landing on the south side of the east façade, which has been converted into living space.

The Laurelhurst/Eastmoreland Plan District calls for a 25-foot front setback along SE 28th Ave. The main building wall on the east façade is located exactly 25 feet from the east property line; however, the two areas described above extend up to 4 feet, 2 inches into the required front setback. The proposal would remove the existing encroachments but add a new entry, which would extend 5 feet into the front setback. The applicant requests an Adjustment to Zoning Code Section 33.540.030 to reduce the front setback from 25 feet to 20 feet for the area of the new east entry, per the attached plans.

The steps and concrete landing at the entry are exempt from the setback standard as per Zoning Code Section 33.110.250.C.3.b(2).

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: This 8,100-square-foot corner lot is developed with a one-and-a-half story, 3,400-square-foot home built in 1925. The site has frontage on SE 28th Ave. and SE Rex Street, and is located one block from the Eastmoreland Golf Course and two blocks south of SE Bybee.

The surrounding residential area is characterized by slightly hilly terrain (sloping up from the west to the east), streets that are developed in a modified grid pattern with long blocks and curving streets, and lots that range in size from 5,000 to 10,000 square feet. Most of the lots are developed with two-story residences. The houses generally have front setbacks of 25 feet, and side setbacks of 5 feet or more.

Zoning: The Residential 5,000 (R5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

The Laurelhurst/Eastmoreland Plan District enforces the special setback requirements of Ordinances 70343 and 70342 shown on maps available for review in the Development Services Center. This plan district maintains the established character of the Laurelhurst and Eastmoreland areas, characterized by homes with larger than normal building setbacks from the street.

Land Use History: City records indicate there are no prior land use reviews for this site.

Public Review: A "Notice of Proposal in Your Neighborhood" was mailed **May 22, 2014**.

Agency Review: The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Site Development Section of BDS
- Life Safety (Building Code) Plans Examiner
- Bureau of Transportation

Neighborhood Review: No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

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 providing 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:

33.540.010 Purpose – Laurelhurst/Eastmoreland Plan District

The regulations of the Laurelhurst/Eastmoreland plan district enforce the special setback requirements of Ordinances 70343 and 70341. This plan district maintains the established character of the Laurelhurst and Eastmoreland areas, characterized by homes with larger than normal building setbacks from the street.

While the base zone standard for front setbacks in the R5 zone is 10 feet, the larger setback standards for Laurelhurst and Eastmoreland were established by ordinance in 1937, 12 years after the house on the subject site was built. The house fronts onto SE 28th Ave., which has a required 25-foot setback. The main building line of the house on this side is the full 25 feet back from the property line. However, the house was built with two areas that extend into the 25-foot setback: (1) the northeast corner entry, which over the years has gained a roof and measures 7 feet, 2 inches wide by 4 feet, 2 inches deep; and (2) an original, uncovered stoop which has since been converted into enclosed living space. This area is 9 feet, 1.5 inches wide and extends into the front setback 4 feet, 1.5 inches.

The proposal would remove both of these areas from the house, restoring the original rooflines and relocating the main entry to the center of the east façade. The new entry would measure 11 feet wide and would encroach into the 25-foot setback 5 feet. A low stoop and attached stairs adjacent to the covered entry are exempt from the setback standard by Zoning Code Section 33.110.250.C.3.b(2).

The new entryway would be narrower than the total of the previous encroachments into the setback and would be open on all three exterior sides with arched openings to allow light and views into and through the porch, thus minimizing the impact of the structure.

In the immediate area, homes are generally set back at least 25 feet from SE 28th Street. The adjacent homes are generally consistent in their setback with the house on the subject site. Some variation does exist nearby: while some homes are set back further than the required 25 feet, several homes appear to be located approximately 20 feet from the property line.

Given the existing variation in the neighborhood, allowing the Adjustment will not negatively impact the character of Eastmoreland. Since the area within the setback will occur in only one location on the east façade of the house, and since the width of this area is smaller than the width of the two existing areas to be removed, the impact of the setback encroachment will be less than the current façade. The character of the neighborhood will be maintained. 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: Livability will not be impacted since the proposal simply replaces one entry with another, encroaching roughly the same amount into the setback. The condition that has existed since the home was built will continue: the entry will be located several feet within the setback. The proposed entry will arguably impact the front setback area less than the current façade configuration because the proposal reduces encroachments into the setback for the façade overall.

Houses in the immediate area are not uniform in the distance from their property lines, so this Adjustment to encroach into the setback will not detract from the overall appearance of the residential area because the work will not stand out. The appearance of the structure will be improved by simplifying the building lines on the east façade. Staff concurs with the applicant's statement that "[t]he proposal cleans up the confusion caused by earlier remodels and additions to create a much more aesthetically appealing appearance."

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. There are no such resources present on the site. Therefore, 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.

- 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 overlay zones are designated on the Official Zoning Maps with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental Conservation overlay zone). As the site is not within an environmental zone, 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

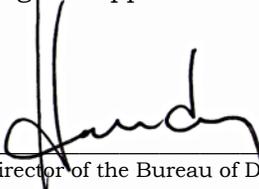
The proposal would remove two small sections of the house that encroach into the front setback and are not in their original open form. The exterior remodel will create a new, centralized entryway which reflects the architecture of the house and leaves the front and sides largely open with archways to allow light and views through the porch. The proposal meets all approval criteria and therefore the Adjustment should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to the front setback specified in the Laurelhurst/Eastmoreland Plan District, Zoning Code Section 33.540.030 and Map 540-2 from 25 feet to 20 feet for a new main entryway on SE 28th Ave., per the approved site plans, Exhibits C.1 through C.2, signed and dated June 26, 2014, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-153473 AD."

Staff Planner: Amanda Rhoads

Decision rendered by:  **on June 26, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: June 30, 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 May 7, 2014, and was determined to be complete on May 20, 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 May 7, 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 further extended by the applicant, **the 120 days will expire on: September 18, 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 July 14, 2014** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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 **July 15, 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:

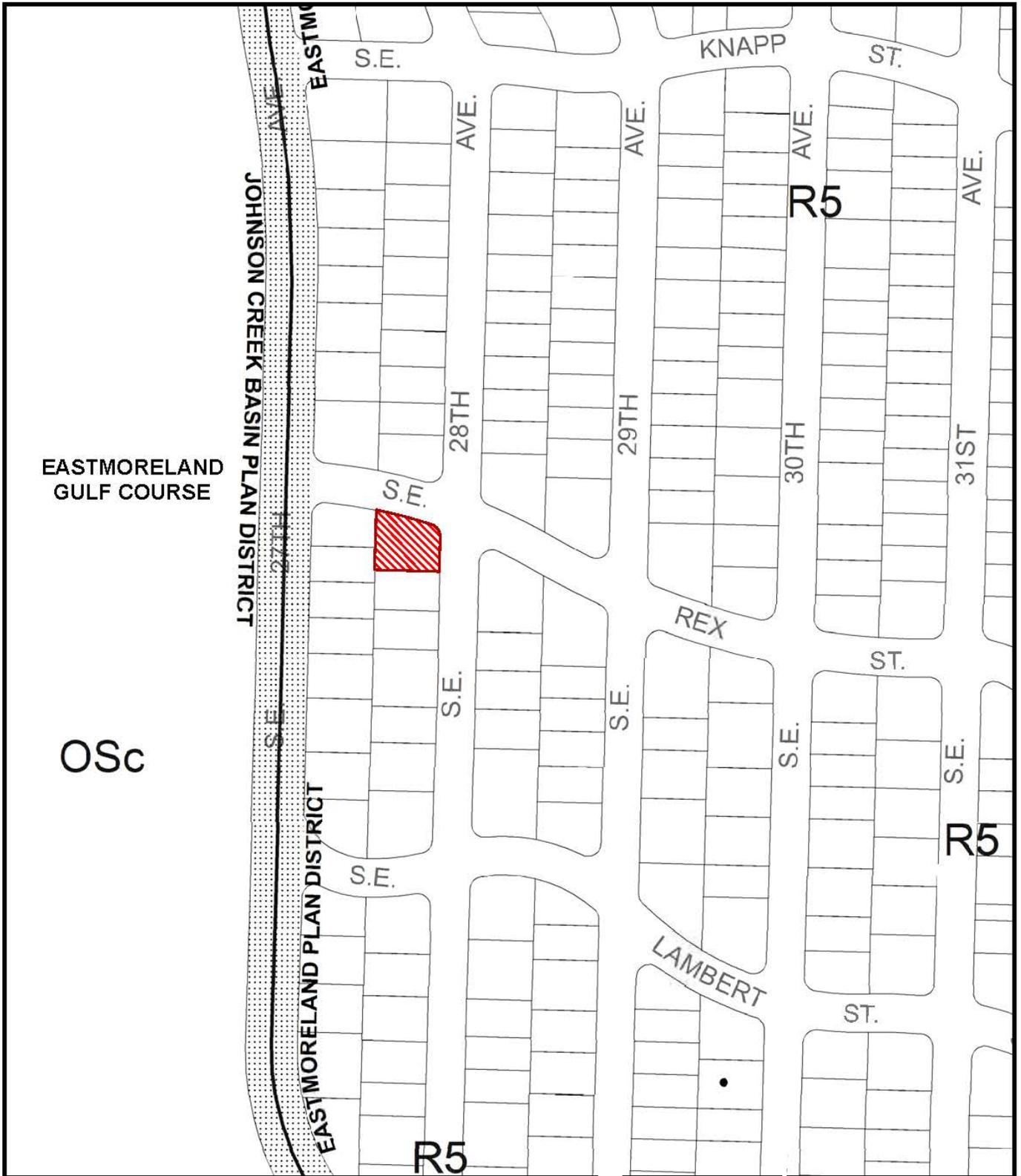
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Proposed Site Plan (attached)
 - 2. Proposed East Elevation (attached)
 - 3. Proposed First Floor Plan
 - 4. Existing Site Plan (attached)
 - 5. Existing East Elevation (attached)
 - 6. Existing First Floor Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 2. Bureau of Transportation
 - 3. Water Bureau
 - 5. Site Development Review Section of BDS
 - 7. Life Safety (Building Code) Plans Examiner
- F. Correspondence: none received
- G. Other:
 - 1. Original LU Application

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

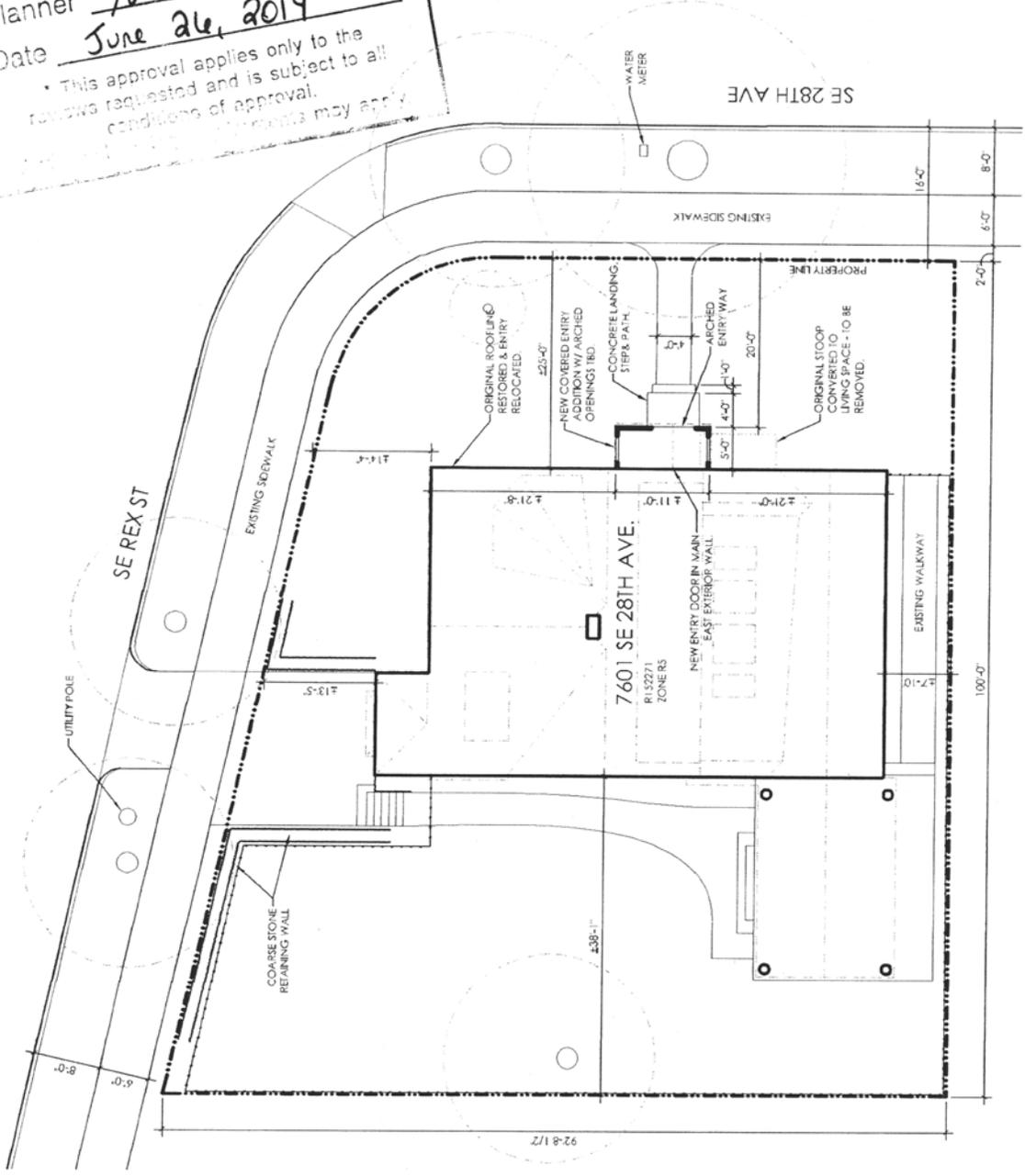


This site lies within the:
EASTMORELAND PLAN DISTRICT

File No. LU 14-153473 AD
 1/4 Section 3733
 Scale 1 inch = 200 feet
 State_Id 1S1E24BD 14100
 Exhibit B (May 08, 2014)

Approved
 City of Portland
 Bureau of Development Services
 Planner And M
 Date June 26, 2014

* This approval applies only to the review requested and is subject to all conditions of approval.
 Other applicable provisions may apply.



Scale:
 1" = 20'-0"
 05.07.14

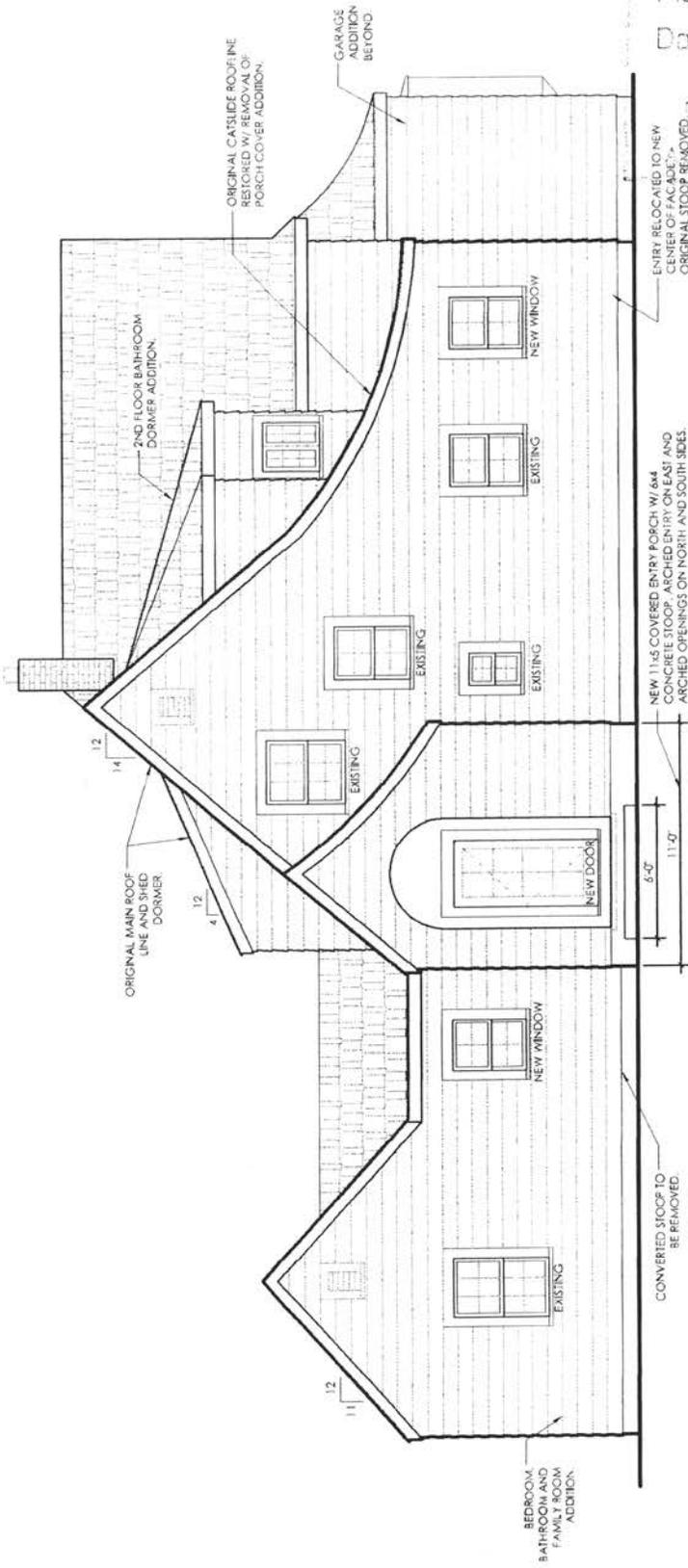
Robertson
 7601 SE 28th Ave.
 Portland, OR 97202

Type II Adjustment Review
 M&M Architecture

PROPOSED SITE PLAN



CASE NO. LU 14-153473 AD
 EXHIBIT C.1



Approved
 City of Portland
 Bureau of Development Services
 Planner Ann M
 Date June 24, 2014

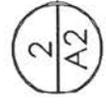
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Scale = 1/8" = 1'-0"
 05.07.14

Robertson
 7601 SE 28th Ave.
 Portland, OR 97202

Type II Adjustment Review
 MKM Architecture

PROPOSED EAST / FRONT ELEVATION



CASE NO. LU 14-153473 AD
 EXHIBIT C.2