



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

Amanda Fritz, Commissioner
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Date: January 6, 2014
To: Interested Person
From: Brandon Rogers, 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 mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 14-238639 AD

GENERAL INFORMATION

Applicant: Mike Montgomery,
5531 SW Buddington St / Portland, OR 97219

Owner: Jennifer M D Howe & Ryan C Howe
5456 SE Lincoln St / Portland, OR 97215-3938

Site Address: 5456 SE LINCOLN ST
Legal Description: BLOCK 1 W 16 2/3' OF LOT 1 E 16 2/3' OF LOT 2, GROVELAND PK
Tax Account No.: R346100020
State ID No.: 1S2E06DC 09300
Quarter Section: 3236
Neighborhood: Mt. Tabor, contact Stephanie Stewart at 503-230-9364.
Business District: Division-Clinton Business Association, contact Darice Robinson at 503-233-1888.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Zoning: Residential 5,000 (R5).
Case Type: Adjustment
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to construct a 13-foot long dormer addition on the roof of the east side of the existing residence located at the site. The Portland Zoning Code Section 33.110.220.B requires structures in the R5 zone to be set back 5 feet from side lot lines. The applicant requests an Adjustment to reduce the setback for the dormer from 5 feet to 4 feet, which matches the existing setback for the residence. A site plan (Exhibit C.1) and building elevations (Exhibit C.3) are attached.

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 2,970 square foot parcel located on the south side of SE Lincoln Street and is developed with a single family residence built in 1915. The vicinity is characterized by single dwelling development, where many of the parcels on the block are raised above street grade.

Zoning: The site is zoned Residential 5,000 (R5, High Density Single-Dwelling). This zone is intended to accommodate single-dwelling development, with an average of one primary unit per 5,000 square feet of site area.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **December 3, 2014**. The following Bureaus have responded with no issues or concerns:

The Water Bureau responded with the following comment: The Water Bureau has no issues regarding the proposed Adjustment. Please see Exhibit E.1 for additional details.

The Life Safety Section of BDS responded with the following comment: A separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances. Please see Exhibit E.2 for additional details.

The Bureau of Parks-Forestry Division responded with the following comment: Title 20.40 requires a street tree review for new construction projects and improvements to existing structures that exceed \$25,000 in value and to all land divisions. Please see Exhibit E.3 for additional details.

Neighborhood Review: One written response was received from a notified property owner, Kayren N. Shepherd of 2143 SE 55th Avenue, who stated no objection to the proposal (Exhibit F.1). No response was received from the Neighborhood Association 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 providing 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. below have been met.

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

The purpose statement for setbacks is listed below:

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.

Findings: The applicant is requesting approval of an Adjustment to Zoning Code Section 33.110.220 to reduce the required setback from 5 feet to 4 feet for a proposed 14-foot long dormer addition to an existing residence. The existing residence is setback four feet from the eastern property line. The dormer addition is proposed on the eastern elevation and will have the same 4-foot setback as the residence. The proposed dormer is approximately fourteen feet long, while the length of the existing roof is approximately 43 feet long. Therefore, the proposed reduced setback would apply only to a small portion of the existing roof of the dwelling.

The applicant's statement (Exhibit A.2) states that the adjacent houses are setback at least 4 feet from the side property lines, resulting in at least 8 feet between each of the adjacent structures. This separation maintains light, air, separation for fire protection and access, and promotes a reasonable physical relationship between residences. The Portland Fire Bureau has no concerns regarding the proposal. The applicant's statement includes a list of addresses of homes in the surrounding neighborhood reflecting a development pattern of side yard setbacks less than the required 5 feet (Exhibit A.2).

The reduced setback will promote options for privacy for neighboring properties because the proposed dormer does not include any windows. The site is 2,970 square feet in size, (33 by 90 feet) and the existing building encompasses a majority of the site. The reduced setback allows flexibility to allow construction of a dormer that mirrors the dormer on the west side of the structure. The proposed Adjustment supports construction of an addition that is within the existing building envelope, thereby preserving required outdoor areas, allowing for architectural diversity and compatibility with the neighborhood. 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 will not significantly detract from the appearance or the livability of the residential area. The proposed Adjustment will result in a building addition mirroring the existing roof dormer located on the east elevation of the residence. Also, the proposed Adjustment will result in a building addition matching the same building setback that exists today. Therefore, based on the requested minimal reduction in the setback, no potential impacts on livability or appearance are anticipated. 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. 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

All of the relevant approval criteria have been met for the requested Adjustment. The purpose statement for setbacks in single dwelling zones will be equally met because the proposed structure will still be set back four feet, matching the existing building setback. The location will not appear out of scale or character with the surrounding area because homes within the surrounding neighborhood have similar side yard setbacks. The proposal can be approved in substantial compliance with the approved site plan and elevation drawings.

ADMINISTRATIVE DECISION

Approval of a reduced setback from 5 feet to 4 feet for a 14-foot long dormer, per the approved site plans, Exhibits C.1 through C.3, signed and dated January 5, 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 14-238639 AD."

Staff Planner: Brandon Rogers

Decision rendered by:  **on January 5, 2015**
By authority of the Director of the Bureau of Development Services

Decision mailed: January 6, 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 November 17, 2014, and was determined to be complete on **November 24, 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 November 17, 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: March 25, 2015.**

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 January 20, 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 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 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 **January 21, 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:

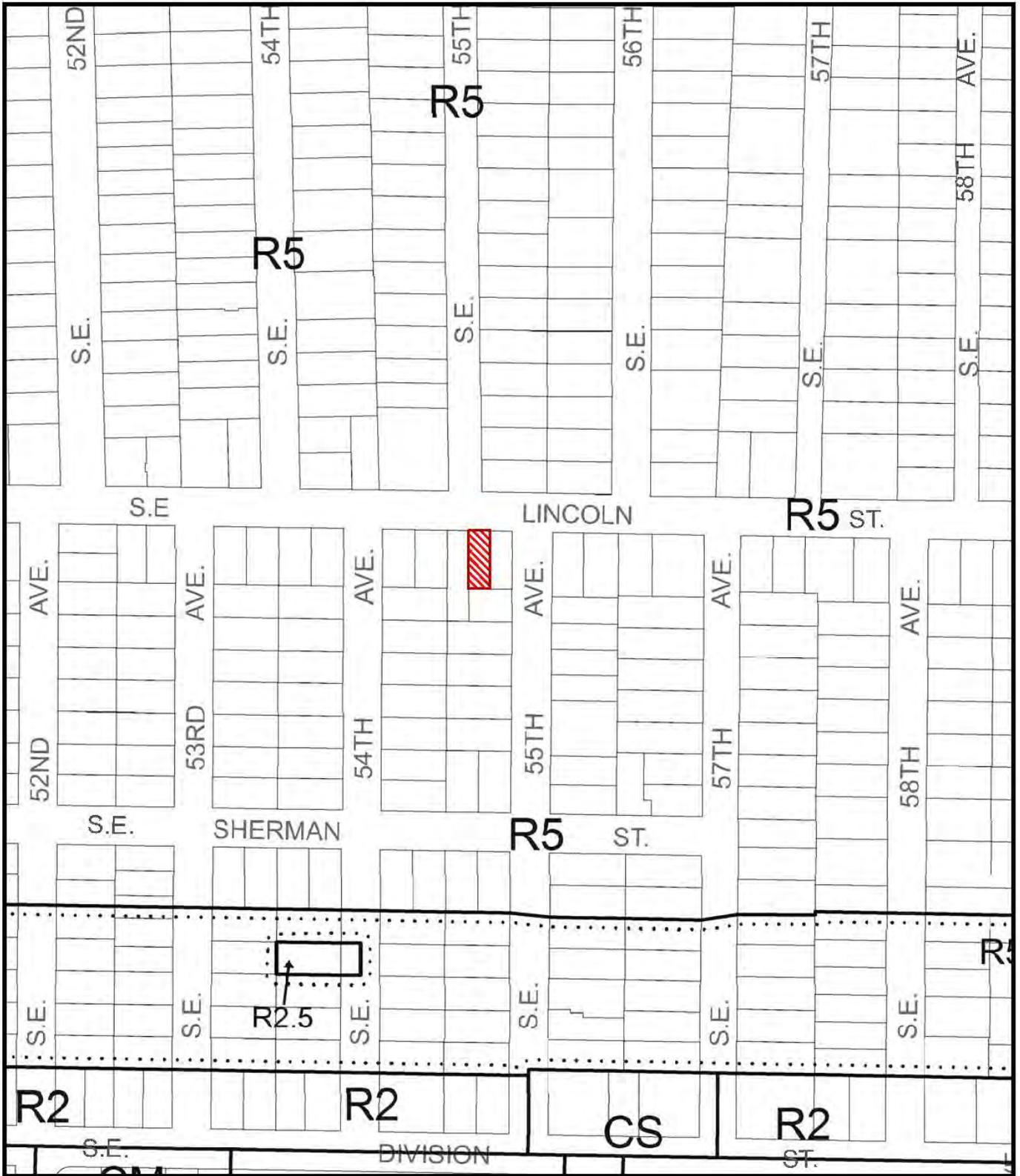
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Original Statement
 - 2. Revised Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Floor Plans
 - 3. Building Elevation Plans (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Life Safety Section of BDS
 - 3. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Kayren M. Shepherd, December 8, 2014, no objection.
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter

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).



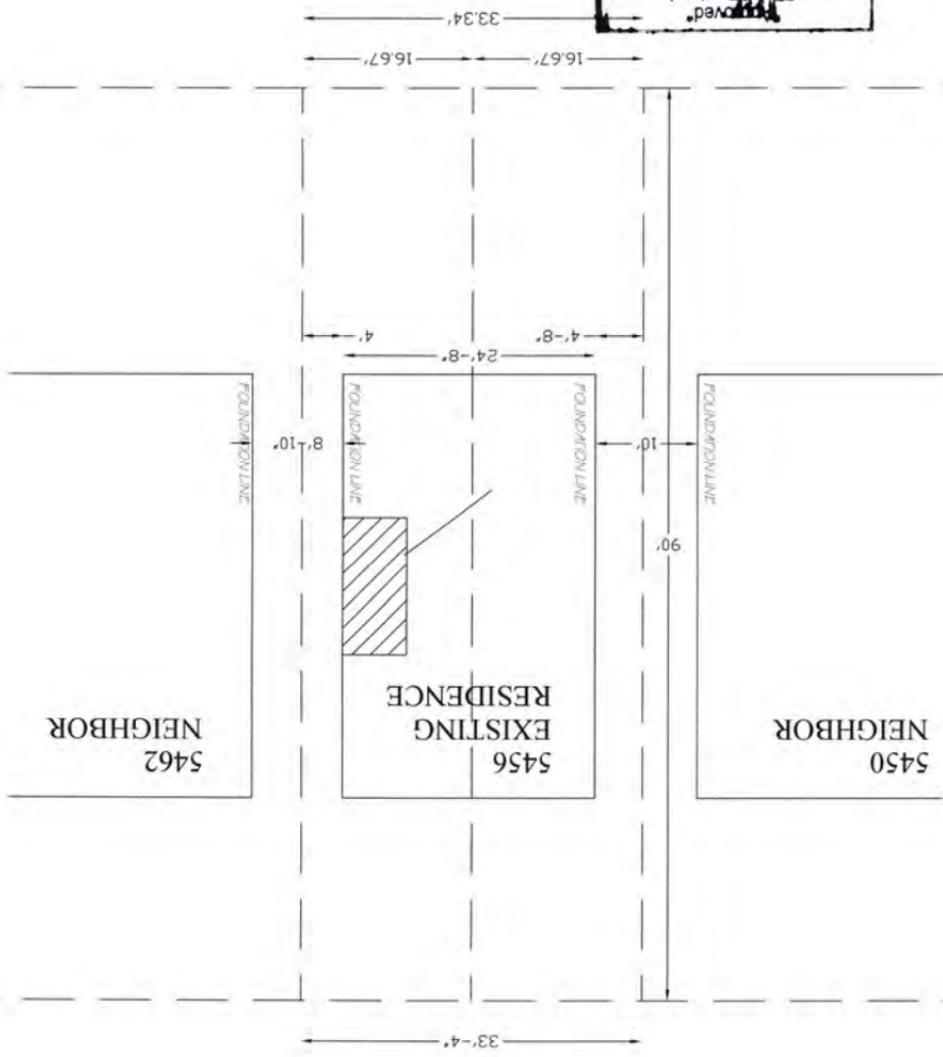
ZONING



File No. LU 14-238639 AD
 1/4 Section 3236
 Scale 1 inch = 200 feet
 State_Id 1S2E06DC 9300
 Exhibit B (Nov 18, 2014)

	W — WATER LINE S — SEWER LINE PS — FROSTED WATER PW — WOOD CLAMP EAVE — SILT FENCE	DESIGNER: HOWE JENNIFER M D & RYAN C DATE: 11/10/14 SCALE: 1"=10'-0" FILE NAME: 04	SHEET: 1 OF 1 Simple Home Designs 5521 SW BLOOMINGTON ST, PORTLAND OR 97225 (503) 215-6495, (503) 775-1825
	W — WATER LINE S — SEWER LINE PS — FROSTED WATER PW — WOOD CLAMP EAVE — SILT FENCE	(S) SWELL (D) DRY WELL (C) CATCH BASIN PROTECTION (W) WATER METEORITE	(S) SWELL (D) DRY WELL (C) CATCH BASIN PROTECTION (W) WATER METEORITE

APPROVED
 City of Portland
 Bureau of Development Services
 Planner: ROBERTS
 Date: 1-5-15
 This approval applies only to the
 review requested and is subject to all
 conditions of approval.
 Additional zoning requirements may apply.



5456 SE LINCOLN ST





www.sheldonandassociates.com

2025 ASAY'S OFFICE
5313 NE Multnomah Street
Portland, OR 97218

Trading & Design
Creative Teams
Sustainable
Strategy Management

HOWE JENNIFER M D & HOWE RYAN C
5456 SE LINCOLN ST
PORTLAND OR 97215-3938

ELEVATION
PLAN(S)

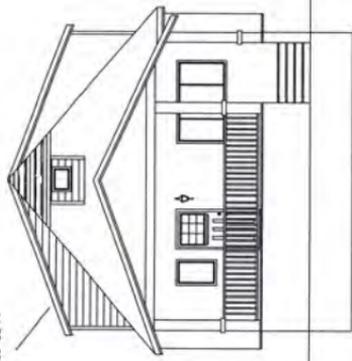
DATE	10/20/24
SCALE	1/8" = 1'-0"
DATE	10/20/24
SCALE	1/8" = 1'-0"
DATE	10/20/24
SCALE	1/8" = 1'-0"

D1.0
1 of 2

Approved
City of Portland
Bureau of Development Services
Planner *COBERTS*
Date *1-5-15*

* This approval applies only to the conditions of approval reviewed and approved. Any other zoning requirements may apply.

2409 COMPOSITION SHINGLES
15 LB FELL
R-38 MIN. ATTIC BLOW
ATTIC VENT PER 150' 50 FT
OF ROOF AREA.

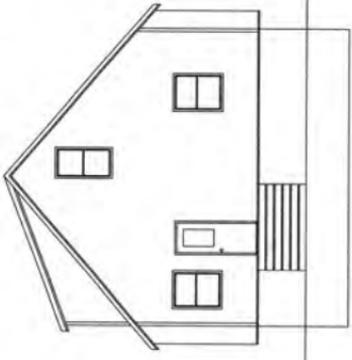


24'-8"
(N) FRONT ELEVATION
1/8"=1'-0"

2409 COMPOSITION SHINGLES
15 LB FELL
R-38 MIN. ATTIC BLOW
ATTIC VENT PER 150' 50 FT
OF ROOF AREA.

NOTE: ALL SPACES SHOWN ARE APPROXIMATE. MATERIALS, FINISHES, COLORS, AND DETAILS TO BE DETERMINED BY ARCHITECT.

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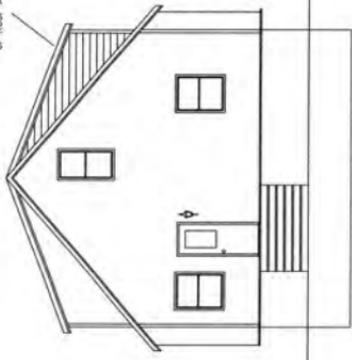


24'-8"
(E) REAR ELEVATION
1/8"=1'-0"

2409 COMPOSITION SHINGLES
15 LB FELL
R-38 MIN. ATTIC BLOW
ATTIC VENT PER 150' 50 FT
OF ROOF AREA.

NOTE: ALL SPACES SHOWN ARE APPROXIMATE. MATERIALS, FINISHES, COLORS, AND DETAILS TO BE DETERMINED BY ARCHITECT.

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24'-8"
(N) LEFT ELEVATION
1/8"=1'-0"