



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

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**NOTICE OF FINAL
FINDINGS, CONCLUSIONS AND DECISION
OF THE CITY OF PORTLAND ADJUSTMENT COMMITTEE
ON AN APPEALED ADMINISTRATIVE DECISION
(Type II Process)**

CASE FILE: LU 16-136475 AD

LOCATION: vacant lot at SW corner of NE 53rd Ave. and NE Couch St.

The administrative decision for this case (approval with conditions) was published on January 6, 2017, and was appealed to the Adjustment Committee by the North Tabor Neighborhood Association.

A public hearing was held on February 21, 2017, and the Adjustment Committee deliberated further on March 7, 2016. The Adjustment Committee denied the appeal and upheld the administrative decision. The original administrative analysis, findings and conclusion have been revised by the Adjustment Committee and follow. The original administrative decision can be found on-line at: <http://www.portlandoregon.gov/bds/article/622958>

GENERAL INFORMATION

Applicant/Owner: Chris Wall
Northwest Classic Homes, LLC
10100 NE 116th Circle
Vancouver, WA 98662

Site Address: SW corner of NE 53rd Ave. and NE Couch St.

Legal Description: BLOCK 17 LOT 1, CENTER ADD
Tax Account No.: R145802120
State ID No.: 1N2E31DB 16600
Quarter Section: 3036
Neighborhood: North Tabor, contact Sam Fuqua at sam@sjfpdx.com
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010
Zoning: R1 – Multi-Dwelling Residential 1,000
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal: The applicant proposes to construct 8 attached houses on this site, and is requesting approval of the following Adjustments to Zoning Code standards in order to:

- Reduce the required setback from the east lot line on Lot 1 (abutting NE 53rd Ave.) from 3 feet to 1'-7" for the main wall, and from 3 feet to 7 inches for bay windows projections (Zoning Code Section 33.120.220.B);
- Reduce the required setback from the west lot line on Lot 8 from 8 feet to 4'-5" (Zoning Code Section 33.120.220.B); and
- Increase the maximum allowable building length from 100 feet to 146 feet (Zoning Code Section 33.120.230.B). (The applicant originally requested an increase to 148 feet in Exhibit A-1, but the building length on the plans measures only 146 feet.)

Adjustments to these standards were approved with the previously approved 8-lot land division for this site (LU 06-130855 LDS AD); however, a new Adjustment Review was necessary because the current building design for the attached houses is different from the originally approved design. The original approval in LU 06-130855 LDS AD also included Adjustments to increase the allowable building coverage and to reduce the minimum garage entrance setbacks, but those standards are met outright in the current design.

Each of the attached houses will include a garage, with additional parking available in the driveway serving each unit.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Section 33.805.040.A-F of the Portland Zoning Code.

Procedural History:

- The administrative decision (approval with conditions) was mailed January 6, 2017.
- The North Tabor Neighborhood Association appealed the administrative decision on January 20, 2017.
- On January 26, 2017, a Notice of Appeal Hearing was mailed, which announced a public hearing before the Adjustment Committee on February 21, 2017.
- On February 21, 2017, a public hearing before the Adjustment Committee was held at 1900 SW 4th Avenue, Portland, Oregon, Room 2500A. The Committee heard testimony from the Bureau of Development Services (BDS), the applicant, the appellant, and others opposed to the proposal. At the hearing, a request was made to hold the record open for additional evidence. The Adjustment Committee agreed to hold the record open until February 28, 2017, to allow for the submittal of new evidence by all parties. The applicant was allowed until noon on March 3, 2017, to submit final comment and rebuttal of materials submitted into the record. The Adjustment Committee then closed the hearing, and announced they would reconvene on March 7, 2017, to deliberate on evidence in the record.
- On March 7, 2017, the Adjustment Committee reconvened and re-opened the record to hear additional testimony from all parties, and to accept plan revisions submitted by the applicant (Exhibit H-13). These plan revisions lowered the roof at the middle and left sides of the building, matching the already lowered roof line at the right side of the building. The Committee then closed the record and deliberated on the evidence. The Adjustment Committee voted 5-0 to deny the appeal and approve the Adjustments with the revised design. The Adjustment Committee instructed BDS staff to prepare findings for consideration by the Adjustment Committee at their next meeting scheduled for March 21, 2017.
- On March 21, 2017, the Adjustment Committee voted 5-0 to adopt these findings.

ANALYSIS

Site and Vicinity: The site is located on the southwest corner of NE 53rd Avenue and NE Couch Street. An 8-lot subdivision for attached houses was approved for this site in 2006 (LU 06-130855 LDS AD), and the final plat for that approved subdivision is currently under review. The immediate neighborhood surrounding the site is characterized by a mix of single-dwelling houses and multi-dwelling residential development. Buildings in the neighborhood have a variety of ages and architectural styles. E Burnside Street is one block south of the site, and Providence Portland Medical Center is about a quarter mile to the north.

Zoning: The site is zoned R1. The R1 zoning designation is one of the City's multi-dwelling zones, which are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The development standards work together to create desirable

residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

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

- LU 04-055897 ZC. 2005 approval of a zone change from R2 to R1. (The site was already designated R1 in the City's Comprehensive Plan.)
- LU 06-130855 LDS AD. 2006 approval of an 8-lot subdivision for attached houses, with Adjustments approved for side setbacks, building length, building coverage, and garage entrance setback standards for a specific building design. The final plat for this approved subdivision is currently under review.

Agency Review: A "Notice of Proposal" was mailed December 9, 2016. The following Bureaus responded with no concerns:

- Water Bureau (Exhibit E-3); and
- Site Development Section of BDS (Exhibit E-5).

The following Bureaus responded with information on requirements that will apply at the time of building permit review, but with no concerns about the proposed Adjustments:

- Bureau of Environmental Services (Exhibit E-1);
- Portland Bureau of Transportation (Exhibit E-2);
- Fire Bureau (Exhibit E-4); and
- Life Safety Review Section of BDS (Exhibit E-6).

Neighborhood Review: Two written responses were submitted in response to the mailed "Notice of Proposal."

The first response, from a neighboring property owner, objected to the 4-story scale of the proposal and to Adjustments that would increase the project's footprint (Exhibit F-1). This neighbor also expressed concerns about a "luxury design" that seems geared toward AirBnb rentals rather than families, privacy impacts from the proposed decks, and the lack of landscaping details in the proposed plans. The neighbor stated the proposal would not be consistent with the purposes listed in Zoning Code Chapter 33.120 to promote a reasonable physical relationship between residences, promote privacy, reflect the general building scale of multi-dwelling development in the City's neighborhoods, provide a building that is compatible with the neighborhood, and create an environment that is inviting to pedestrians and transit users.

The second response, from the North Tabor Neighborhood Association, summarized a meeting that was held between the applicant and neighbors and provided comments from the Neighborhood Association about the proposal (Exhibit F-2). The Neighborhood Association objected to Adjustments that would increase the project's footprint, stating that such Adjustments would come at the expense of the surrounding area. The Neighborhood Association expressed specific concerns about:

- trees and landscaping;
- the loss of privacy and sunlight for neighboring properties;
- privacy impacts from the proposed upper-story decks; and
- impacts to the pedestrian environment resulting from reduced building setbacks.

BDS Staff response: The proposed building will be slightly lower in height and slightly smaller in footprint than the maximum building height and maximum building coverage allowances for the R1 zone (Zoning Code Sections 33.120.215.B, 33.120.225.B). The proposed Adjustments will allow the building to be wider, but as discussed in detail in the approval criteria findings below, staff finds the specific Adjustments requested will be consistent with the purposes of the

standards, will not significantly detract from the aesthetics or livability of the neighborhood, and will be consistent with the overall purpose of the R1 zone.

Short-term rentals through AirBnb could be allowed as an accessory use (though not a primary use) in any of the proposed dwelling units if all standards in Zoning Code Chapter 33.207 are met. However, staff finds this possibility is not relevant to the approval criteria for the Adjustments requested.

The proposal will meet the minimum setback requirement from the south lot line outright. Therefore, this Adjustment Review will not cause any greater impacts to the existing apartment building to the south than could occur without the Adjustment Review.

Impacts to the abutting apartment building to the west are discussed in detail in the approval criteria findings below.

Staff notes the proposed upper-story decks facing NE Couch Street will be outside of the required setbacks, and therefore are not specifically relevant to this review. However, staff notes the decks will be set back 12 feet from the north lot line abutting NE Couch Street, and that NE Couch Street is within a 60-foot-wide right-of-way at this location. While the decks will allow views overlooking the properties on the other side of NE Couch Street, the front lot lines of these properties will be 72 feet away from the decks.

Although not illustrated in the plans attached to this Adjustment Review, during building permit review the applicant will be required to comply with tree planting requirements of the City's Tree Code (Title 11). One street tree is required per 25 feet of street frontage (Tree Code Section 11.50.060.C.1). In addition to the street trees, one or more trees will be required on each of the eight lots to comply with the Tree Density requirement in Tree Code Section 11.50.050. The Tree Code allows exceptions and alternatives for certain site constraints, but it's likely that several new trees will be planted around the new building, and that these trees will help soften the appearance of the development as they grow. A variety of tree species may be chosen by the applicant, but the selections will be reviewed for compliance with various Tree Code standards during the building permit review. At the time of inspection, new broadleaf trees must be at least 1.5 inches in trunk diameter and new conifer trees must be at least 5 feet in height (Tree Code Section 11.60.020.B).

The purpose of the setback standard to "create an environment that is inviting to pedestrians and transit users" is related to development abutting designated transit streets (Zoning Code Section 33.120.220.A). This site does not abut any designated transit streets. However, staff notes the street lot lines of the subject property are set back about 16 feet from the curbs of both abutting streets, and the Portland Bureau of Transportation will require the applicant to reconstruct and improve the public sidewalks along both streets to current standards (Exhibit E-2).

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated that approval criteria A through F, below, have been met.

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

Findings: The applicant is requesting approval of the following Adjustments:

- Reduce the required setback from the east lot line on Lot 1 (abutting NE 53rd Ave.) from 3 feet to 1'-7" for the main wall, and from 3 feet to 7 inches for bay windows projections (Zoning Code Section 33.120.220.B);

- Reduce the required setback from the west lot line on Lot 8 from 8 feet to 4'-5" (Zoning Code Section 33.120.220.B); and
- Increase the maximum allowable building length from 100 feet to 146 feet (Zoning Code Section 33.120.230.B).

The purposes of the setback requirements in the R1 zone are stated in Zoning Code Section 33.120.220.A:

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 multi-dwelling development in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *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;*
- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The east side of the site abuts the public right-of-way for NE 53rd Avenue, which is 50 feet wide adjacent to this site. The minimum building setback from a street lot line in the R1 zone is 3 feet (Zoning Code Section 33.120.220.B). The proposed setback Adjustment from the east lot line on Lot 1 will bring the main wall of the building to a 1'-7" setback, which is 1'-5" closer to the east lot line than required. Bay window projections could extend 7 inches (20%) into the required 3-foot setback without an Adjustment (Zoning Code Section 33.120.220.D.1), but the proposed plans show 8-foot-wide bay windows at 7 inches from the east lot line.

Since the adjacent right-of-way is 50 feet wide, the setback Adjustment from the east lot line will reduce the required separation between the main wall of the new building and the easterly neighbor's street lot line by less than 3%. The reduction in the required separation between the bay windows (features which will be less prominent than the main wall) and the easterly neighbor's street lot line will be less than 5%. The house on the easterly neighbor's lot is set back about 12 feet from its street lot line on NE 53rd Avenue, further minimizing the effect of the setback Adjustment from the east lot line on separation between homes.

Furthermore, the east lot line of the subject property is set back about 16 feet from the curb, behind landscaping and a sidewalk within the public right-of-way. So the new building will be set back a substantial distance from the paved street, even though the setback from the east lot line will be minimal. The actual location of the east lot line on the ground will probably not be apparent to neighbors or people passing through the neighborhood.

The maximum building height and maximum building coverage standards will be met in the applicant's proposal. No Adjustments to these standards regulating the size of new development are requested.

For these reasons, the reduced setback from the east lot line will not significantly affect neighborhood compatibility, the general building scale or placement of structures in the neighborhood, or the physical relationship between residences. Adequate separation for light, air, fire safety, and privacy will be maintained given the width of the adjacent right-of-way. More outdoor area than required will be provided for each dwelling unit (Zoning Code

Section 33.120.240). The reduced setback from the east lot line will have no effect on garages or driveways, but code-compliant garages and driveways will be provided on the north side of the site. The building will also fit the topography of the site, since the shed roof line will somewhat parallel the existing hillside.

The Adjustment Committee finds the proposed Adjustment to the setback requirement from the east lot line equally meets the purpose of the regulation.

The west side of the site is adjacent to a one-story apartment building. Based on the plane area of the west building wall, the minimum setback from the west lot line would be 8 feet (Zoning Code Section 33.120.220.B). The proposed setback Adjustment from the west lot line on Lot 8 will bring the west building wall to a 4'-5" setback, which is 3'-7" closer to the west lot line than required.

The applicant's originally-submitted plans (Exhibit A-5) showed a single primary wall plane on the west side of the building, so the entire primary wall plane and the highest point of the shed roof would have been 4'-5" from the west lot line. Bay windows were proposed to project further, to 3'-5" from the west lot line. In response to staff's concerns about this design, the applicant submitted revised plans (Exhibits C-1 through C-7) which eliminated the bay windows on the west side of the building and provided more articulation in the west-facing wall. About 25% of the west wall plane (toward the back of the building) was moved one foot further from the west lot line, and the highest point of the primary shed roof was moved 15 feet further back, reducing the proposed building height within the 8-foot setback from the west lot line by about 3 feet. In the applicant's final design (Exhibit H-13), eave projections were also eliminated from both the east and west building walls.

These plan revisions preserve neighborhood compatibility, a reasonable building scale relationship, and a reasonable physical relationship between residences. While the applicant's original plans already complied with the maximum height and building coverage allowances for the R1 zone, the revisions to step down the height and bulk next to the smaller adjacent building will help to mitigate the visual contrast and provide a transition between the two buildings as viewed from the street.

The new building will still be taller than the adjacent apartment building, but the proximity of the two buildings to each other will not result in a crowded appearance or an unreasonable loss of light, air, privacy, or fire safety for the residents of either property. Most of the west-facing wall of the new building will be higher than the roof line of the adjacent apartment building, which is built to a retaining wall on its east side and has no east-facing windows and no usable outdoor space on the east side of the building. Residents of the adjacent apartment building will not see the new building from within their homes, and no windows in the proposed building will look directly into neighboring apartments. The Fire Bureau reviewed the proposal and raised no objections (Exhibit E-4).

More outdoor area than required will be provided for each dwelling unit (Zoning Code Section 33.120.240). The reduced setback from the west lot line will have no effect on garages or driveways, but code-compliant garages and driveways will be provided on the north side of the site. The building will also fit the topography of the site, since the shed roof line will somewhat parallel the existing hillside, making the west elevation read as only a three-story building in a zone that would allow a building up to 45 feet tall or four stories.

For these reasons, the Adjustment Committee finds the proposed Adjustment to the setback requirement from the west lot line equally meets the purpose of the regulation.

The purpose of the building length requirement in the R1 zone is stated in Zoning Code Section 33.120.230.A:

Purpose. *The maximum building length standard, along with the height and setback standard, limits the amount of bulk that can be placed close to the street. The standard*

assures that long building walls close to streets will be broken up into separate buildings. This will provide a feeling of transition from lower density development and help create the desired character of development in these zones.

The building length standard limits building length within 30 feet of street lot lines to 100 feet (Zoning Code Section 33.120.230.B). The applicant's proposal is for 8 attached houses with a combined length of 146 feet within 30 feet of the north lot line abutting NE Couch Street. However, the design recesses a 13-foot-wide section in the middle of the structure 13 feet further back from the street lot line than the adjacent walls. The back wall of this recessed portion will be 25 feet from the street lot line, and both adjacent building areas on either side of the recessed section will be less than 100 feet long.

Recessing the middle of the building in this way will visually divide the building into two distinct halves as viewed from the street. The amount of bulk near the street will be reduced, breaking up the mass of the building and giving an impression of more than one building. The visual mass of the building is further diminished by a heavily articulated front façade and roof line, keeping the building to a height of about 37 feet, less than what the R1 zone allows, and at a building coverage slightly less than the maximum allowed by the base zone.

For these reasons, the Adjustment Committee finds the proposed Adjustment to the building length requirement equally meets the purpose of the regulation.

Since the Adjustment Committee finds that each of the proposed Adjustments equally meets the purpose of the regulation to be modified, the Adjustment Committee finds criterion A 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: Because the site is located in a multi-dwelling residential zone, the applicant must demonstrate that the proposal will not significantly detract from the livability or appearance of the surrounding residential area.

As discussed in the findings for criterion A, the setback Adjustment from the east lot line will bring the building slightly closer to NE 53rd Avenue, but the east lot line is set back about 16 feet from the curb, behind landscaping and a sidewalk within the public right-of-way. Also, the 50-foot-wide public right-of-way adjacent to the east lot line will ensure ample separation between the new building and the neighboring property to the east.

In response to staff's concerns about the originally-submitted design (Exhibit A-5), the applicant submitted a revised design (Exhibits C-1 through C-7) which reduced the bulk and height of the building close to the west lot line. Proposed bay windows on the west side of the building were eliminated, and about 25% of the west wall plane (toward the back of the building) was set back one foot further from the west lot line. The highest point of the primary shed roof was moved 15 feet further back, and the proposed building height within the 8-foot setback from the west lot line was reduced by about 3 feet. In the applicant's final design (Exhibit H-13), eave projections were also eliminated from both the east and west building walls. The revised design will help to mitigate the visual contrast between the two buildings as viewed from the street, and light, air, privacy, and fire safety can be maintained for residents of both properties. Because the neighboring apartment building has no east-facing windows, residents of the apartment building will not see the new building from within their homes.

The middle portion of the building facing NE Couch Street will be significantly recessed from the street, breaking up the bulk of the building in a manner consistent with the

purpose of the building length standard. The Committee recognizes that the applicant put significant effort into the design of the proposal, in an effort to present a development that transitions from the lower-scale, single-dwelling development to the north and the higher-density, mixed-use development along E Burnside Street to the south. In contrast to the blocky, four-story building that could have been built on the site, the proposed development is one that is attractive and appropriate in scale for a transitional site.

The height and scale of the building and its modern design will contrast with the smaller scale and more traditional design of many older buildings in the neighborhood. However, the proposal meets the building height and building coverage standards of the R1 zone outright; no Adjustments to these standards regulating the size of new development are requested. While the style of the building is not specifically regulated because the site is not within a design or historic overlay zone, there are a variety of building ages and building styles in the surrounding area. The proposed design contributes to neighborhood aesthetics and livability by providing ample street-facing windows, articulated building facades, and off-street parking even though none is required at this location (Zoning Code Section 33.266.110.D).

For these reasons, the Adjustment Committee finds the proposed Adjustments to minimum setbacks and maximum building length will not significantly detract from the livability or appearance of the surrounding area. The Adjustment Committee finds 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: The applicant is requesting approval of the following Adjustments:

- Reduce the required setback from the east lot line on Lot 1 (abutting NE 53rd Ave.) from 3 feet to 1'-7" for the main wall, and from 3 feet to 7 inches for bay windows projections (Zoning Code Section 33.120.220.B);
- Reduce the required setback from the west lot line on Lot 8 from 8 feet to 4'-5" (Zoning Code Section 33.120.220.B); and
- Increase the maximum allowable building length from 100 feet to 146 feet (Zoning Code Section 33.120.230.B).

The site is designated with the R1 multi-dwelling residential zone. The use regulations in multi-dwelling residential zones are "intended to create and maintain higher density residential neighborhoods" (Zoning Code Section 33.120.010.A). The development standards in multi-dwelling residential zones are intended to "work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities" and "generally assure that new development will be compatible with the City's character" (Zoning Code Section 33.120.010.B).

The Adjustments will facilitate redevelopment of the site with 8 attached houses. The proposed development is consistent with the 8-lot subdivision that was approved for the site in 2006 (LU 06-130855 LDS AD), and meets the 8-unit minimum density requirement for the site (Zoning Code Section 33.120.205.C). This new housing on a vacant lot will help to create a higher density residential neighborhood, as envisioned in the purpose statement cited above. As discussed in the findings for criteria A and B, the Adjustment Committee finds the specific Adjustments requested will not significantly detract from the aesthetics of the surrounding area, and compatibility, privacy, and safety will be maintained. Furthermore, the Committee finds the proposed development provides a suitable transition between the single-dwelling neighborhood to the north and the higher-density, mixed-use area to the south along E Burnside Street. More outdoor area than required will be provided for each dwelling unit (Zoning Code Section 33.120.240). Opportunities for energy conservation are enhanced by the building length Adjustment compared to an alternative

plan that would meet the building length standard by separating the development into two or more buildings.

The cumulative effect of the proposed setback reductions will make the building about 5 feet wider than could be achieved without the Adjustments, which is an increase of only 3.5%. As discussed in the findings for criterion A, the proposed design is found to meet the purpose of the building length requirement even though a single building across the site is proposed. All zoning standards not addressed in this Adjustment decision will be met outright, including maximum building height and maximum building coverage. Therefore, the cumulative effect of the Adjustments will not create a significantly larger development than could be achieved otherwise, and will not be inconsistent with the purpose of the R1 zone.

For these reasons, the Adjustment Committee finds this criterion is met.

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

Findings: City-designated scenic resources are identified on the official zoning maps with a lower case "s," and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

Findings: The setback Adjustment from the east lot line will bring the building slightly closer to NE 53rd Avenue, but the east lot line is set back about 16 feet from the curb, behind landscaping and a sidewalk within the public right-of-way. Also, the 50-foot-wide public right-of-way adjacent to the east lot line will ensure ample separation between the new building and the neighboring property to the east. Therefore, the Adjustment Committee anticipates no negative impacts from the reduced setback from the east lot line which would require mitigation.

As discussed in the findings for criterion A, the proposed setback Adjustment from the west lot line initially raised staff concerns about the proposed height and scale close to the west lot line, which abuts a property developed with a one-story apartment building. In response to those concerns, the applicant submitted revised plans (Exhibits C-1 through C-7) which eliminated the bay windows on the west side of the building and provided more articulation in the west-facing wall. About 25% of the west wall plane (toward the back of the building) was moved one foot further from the west lot line, and the highest point of the primary shed roof was moved 15 feet further back, reducing the proposed building height within the 8-foot setback from the west lot line by about 3 feet. The applicant's final plans (Exhibit H-13) also eliminated the eave on both the east and west building walls. By stepping down the height and bulk close to the neighboring building, these revisions effectively mitigate potential impacts related to the setback Adjustment from the west lot line.

The building length standard limits building length within 30 feet of street lot lines to 100 feet (Zoning Code Section 33.120.230.B). The applicant's proposal is for 8 attached houses with a combined length of 146 feet within 30 feet of the north lot line abutting NE Couch Street. However, the design recesses a 13-foot-wide section in the middle of the structure 13 feet further back from the street lot line than the adjacent walls. The back wall of this recessed portion will be 25 feet from the street lot line, and both adjacent building areas on either side of the recessed section will be less than 100 feet long. The recessed notch in the middle of the building, combined with heavy articulation in the rest of the façade, will mitigate impacts by breaking up the mass of the building and giving an impression of more than one building. The lowered roofline at the middle and at both ends of the building (Exhibit H-13) will further reduce the building's mass.

The increased building length is also mitigated by a proposed building height (approximately 37 feet) which is lower than the maximum for the R1 zone (45 feet). Since

the shed roof will somewhat parallel the slope of the site, the building will read as three stories from any side. (As illustrated in the section drawing in Exhibit H-13, the upper story dormers facing NE Couch Street would be set back substantially from the NE Couch Street façade.) The proposed building coverage for the site is 59%, which is lower than the maximum allowed in the R1 zone (60%). No building coverage Adjustment is requested for the current plans, while the 2006 land division (LU 06-130855 LDS AD) included an approved Adjustment to increase the maximum building coverage on each lot to 70%.

The Adjustment Committee finds that the above factors will result in a building that provides a suitable transition from single-dwelling residential lots to the north and the higher-intensity, mixed-use corridor along E. Burnside to the south. The proposed design provides a better transition than would other development types that could be permitted outright for this R1-zoned site, such as two 100-foot-long apartment buildings.

The Adjustment Committee finds 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 there are no environmental overlay zones mapped on site, 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 proposed Adjustments equally meet the purposes of the regulations to be modified, and the Adjustments will not have significant negative impacts on the livability or appearance of the area. The cumulative effect of the Adjustments is still consistent with the overall purpose of the R1 multi-dwelling residential zone. Aspects of the design will mitigate for potential negative impacts from the development. The applicant has demonstrated that the applicable approval criteria are met. Since the approval criteria are met, the proposal should be approved.

DECISION

Denial of the appeal and approval of the following Adjustments (superseding Adjustments approved in LU 06-130855 LDS AD):

- Reduce the required setback from the east lot line on Lot 1 (abutting NE 53rd Ave.) from 3 feet to 1'-7" for the main wall, and from 3 feet to 7 inches for bay windows projections (Zoning Code Section 33.120.220.B);
- Reduce the required setback from the west lot line on Lot 8 from 8 feet to 4'-5" (Zoning Code Section 33.120.220.B); and
- Increase the maximum allowable building length from 100 feet to 146 feet (Zoning Code Section 33.120.230.B).

per the approved plans in Exhibits C-1 through C-7, and with the roof design and eaves as revised in Exhibit H-13, subject to the following condition:

- A. As part of the building permit application submittal, each of the 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 through C-7. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-136475 AD."

Staff Planner: Andrew Gulizia

Date of Tentative Decision: March 7, 2017

First Hearing Date: February 21, 2017

These findings and conclusions were adopted by the Adjustment Committee on March 21, 2017.

By: _____

**Adjustment Committee
Roger Alfred, Chair**

Date Final Decision Effective/Mailed: March 27, 2017

120th day date: March 27, 2017

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 17, 2016, and was determined to be complete on September 13, 2016.

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 17, 2016.

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 requested that the 120-day review period be extended by a total of 60 days (Exhibits A-2 and A-4). Unless further extended by the applicant, **the 120 days will expire on: March 12, 2017.**

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, 2017**, at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 23, 2017**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

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

For further information on recording, please call the County Recorder at 503-988-3034.

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

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

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

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

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

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

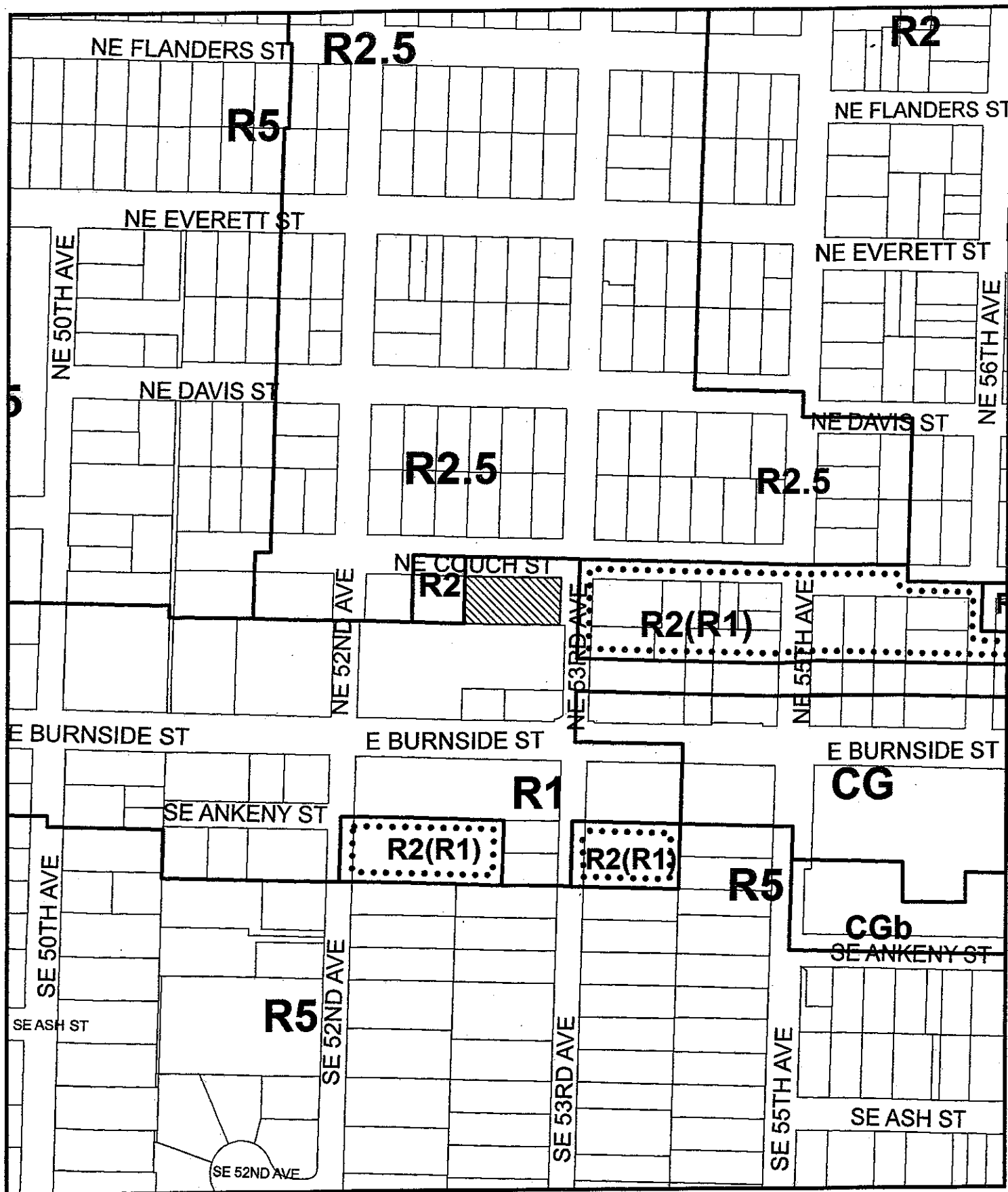
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Applicant's narrative
 - 2. Request to extend 120-day review period by 30 days, received September 13, 2016
 - 3. Supplemental approval criteria responses, received December 30, 2016
 - 4. Request to extend 120-day review period by 30 days, received December 30, 2016
 - 5. Original plan set, prior to revisions (replaced by Exhibits C-1 through C-7)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site plan (attached)
 - 2. Front and side building elevations (attached)
 - 3. Rear building elevation (attached)
 - 4. Lower floor plan
 - 5. Main floor plan
 - 6. Upper floor plan
 - 7. Attic floor plan
 - 8. Full-sized site plan
 - 9. Full-sized front and side building elevations
 - 10. Full-sized rear building elevation
 - 11. Full-sized lower floor plan
 - 12. Full-sized main floor plan
 - 13. Full-sized upper floor plan
 - 14. Full-sized attic floor plan
- D. Notification Information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Bureau of Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS

6. Life Safety Review Section of BDS
- F. Correspondence:
 1. Letter from Stephanie Kaza, received December 30, 2016
 2. E-mail from North Tabor Neighborhood Association, received December 30, 2016
- G. Other:
 1. Original LU application form and receipt
 2. Incompleteness determination letter, dated April 1, 2016
 3. LU 06-130855 LDS AD decision
- H. Appeal:
 1. Appeal submittal
 2. Notice of Appeal Hearing mail list
 3. Notice of Appeal Hearing, dated January 26, 2017
 4. Letter in opposition from Janice McCann, dated February 19, 2017
 5. E-mail in opposition from Celine Mazoyer, dated February 20, 2017
 6. Letter in opposition from Edward Love, received February 21, 2017
 7. Request for Extension of 120-Day Review Period form
 8. Staff PowerPoint presentation to Adjustment Committee
 9. Letter in opposition from Stephanie Kaza, received February 28, 2017
 10. Letter in opposition from North Tabor Neighborhood Association, received February 28, 2017
 11. Letter from applicant, received March 3, 2017
 12. Public hearing sign-in sheet
 13. Revised plans and renderings submitted by applicant March 7, 2017
 14. Full-sized version of revised plans in Exhibit H-13

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 16-136475 AD
 1/4 Section 3036
 Scale 1 inch = 200 feet
 State_Id 1N2E31DB 16600
 Exhibit B (Mar 21, 2016)



NORTH

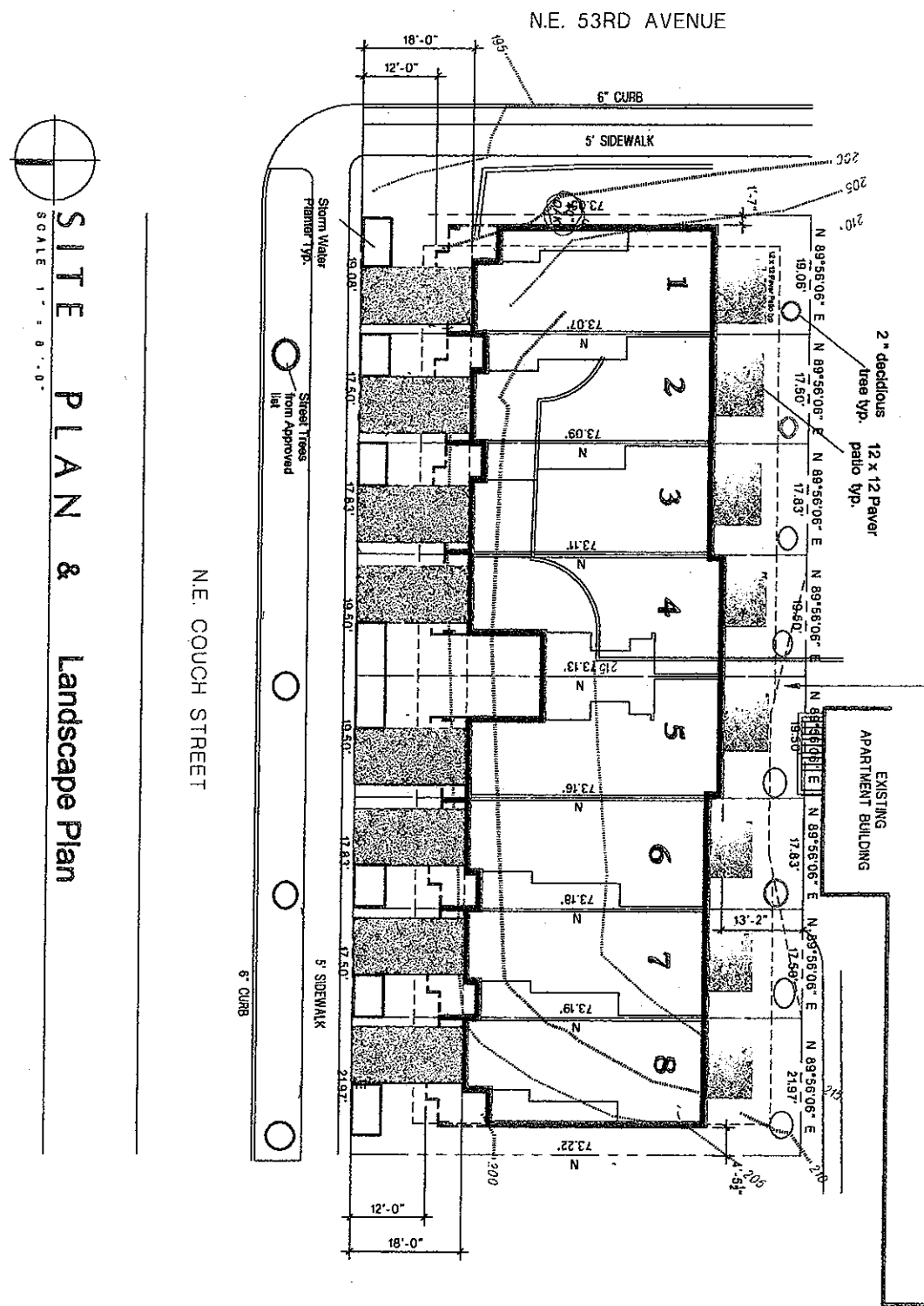
City of Portland - Bureau of Development Services

* Approved *

Planner A. Gullis Date 1/11/17

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

PRIVATE MAINTENANCE AND ACCESS EASEMENT FOR THE BENEFIT OF THE ADJACENT PROPERTY TO THE SOUTH



22 FEB 2016 MRR

CITY OF PORTLAND
HILLSIDE ROW
LOTS 1-8
(0000 SQ. FT.)

CUSTOM

BY: NW CLASSIC HOMES

ALAN MASCOPO DESIGN ASSOCIATES, INC. IS NOT
LIABLE FOR THE ACCURACY OF THE TOPOGRAPHIC
INFORMATION. IT IS THE SOLE RESPONSIBILITY OF THE
OWNER TO VERIFY ALL SITE OCCUPANCY, INCLUDING
ANY FILL PLACED ON THE SITE AND NOTIFY THE
OWNERS OF ANY POTENTIAL FILL REVISIONS.

Masco Design Associates, Inc.
ALAN MASCOPO DESIGN ASSOCIATES, INC.
1000 NW 10th Ave, Suite 200, Portland, OR 97209
503.227.1111

11112-136175AD Exhibit #1

Approved

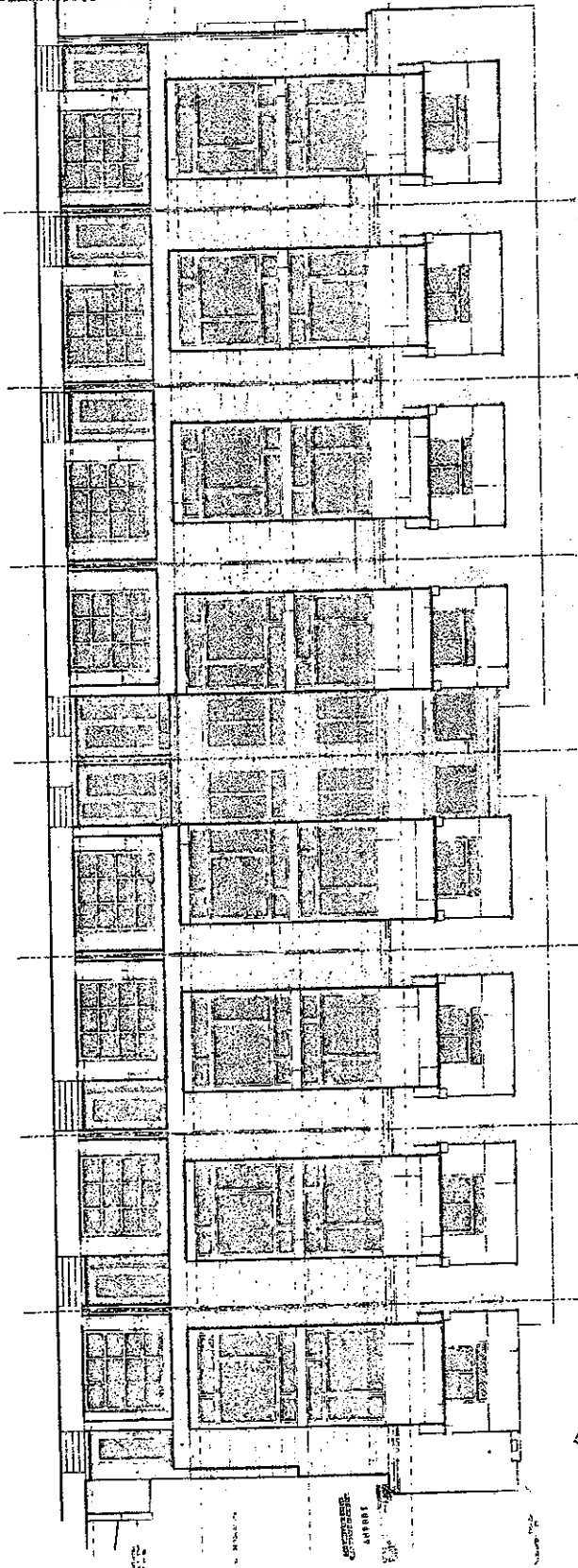
City of Portland - Bureau of Development Services

Planner *A. Gubiza*

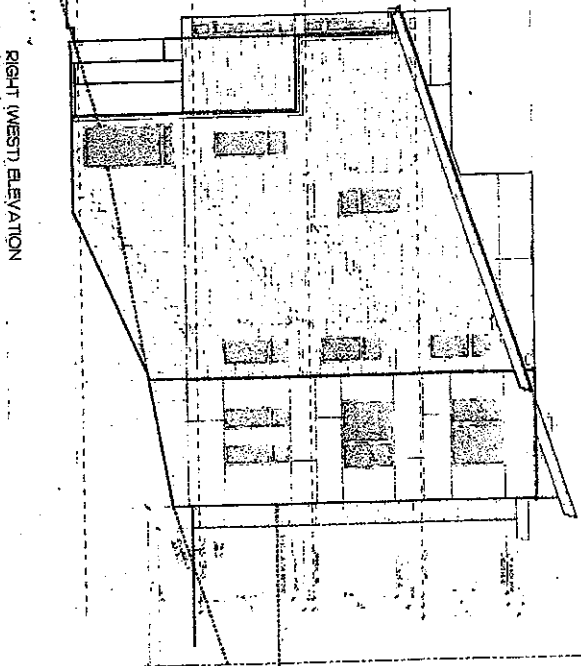
Date *1/4/17*

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

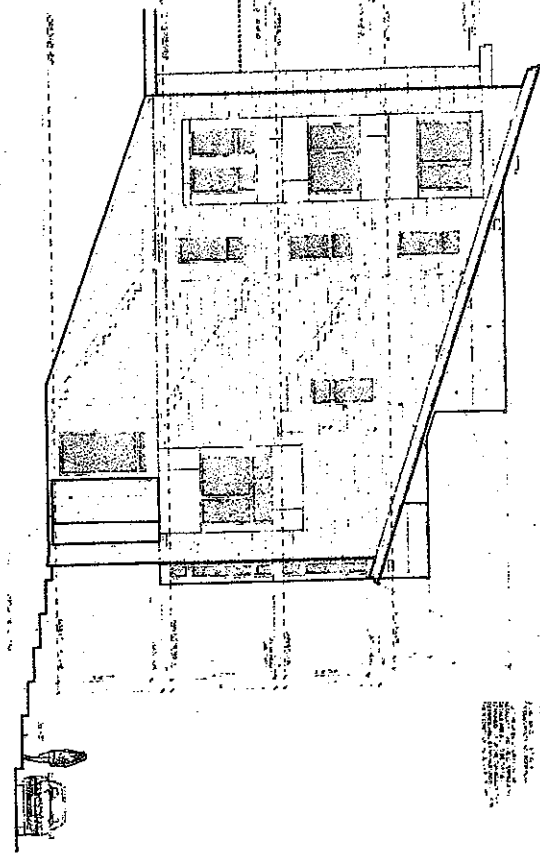
FRONT (NORTH) ELEVATION



RIGHT (WEST) ELEVATION



LEFT (EAST) ELEVATION

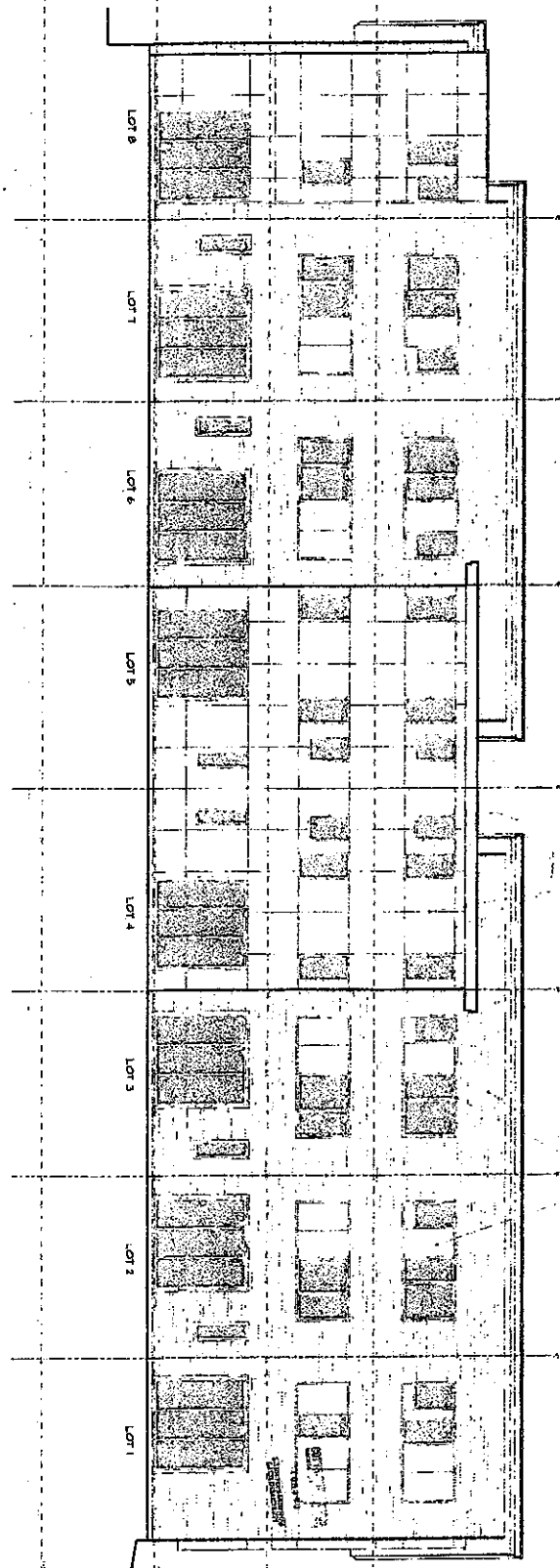


NW Classic Homes Construction LLC

Alasford

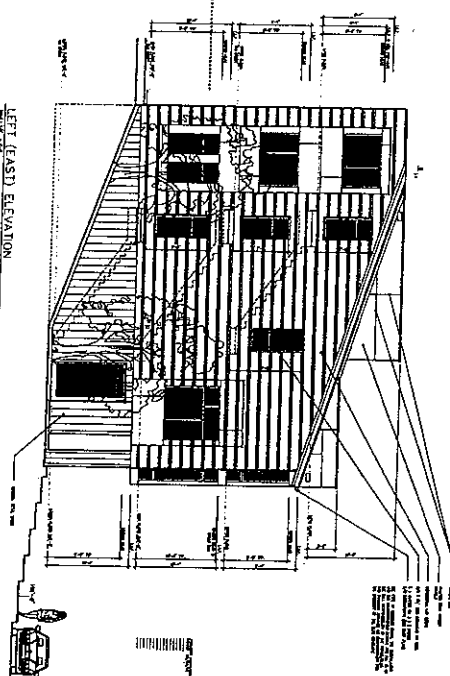
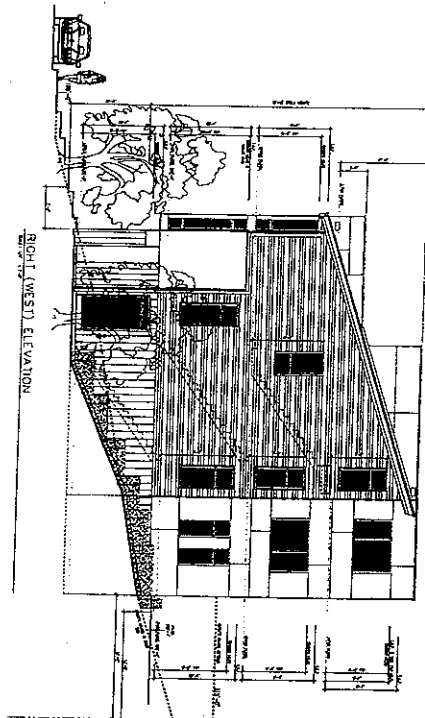
116 16-136475 AD Exhibit-2

Approved
 City of Portland - Bureau of Development Services
 Planner A. Calista
 Date 1/4/17
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



REAR (SOUTH) ELEVATION

LA 16-136475 AD Exhibit C-3

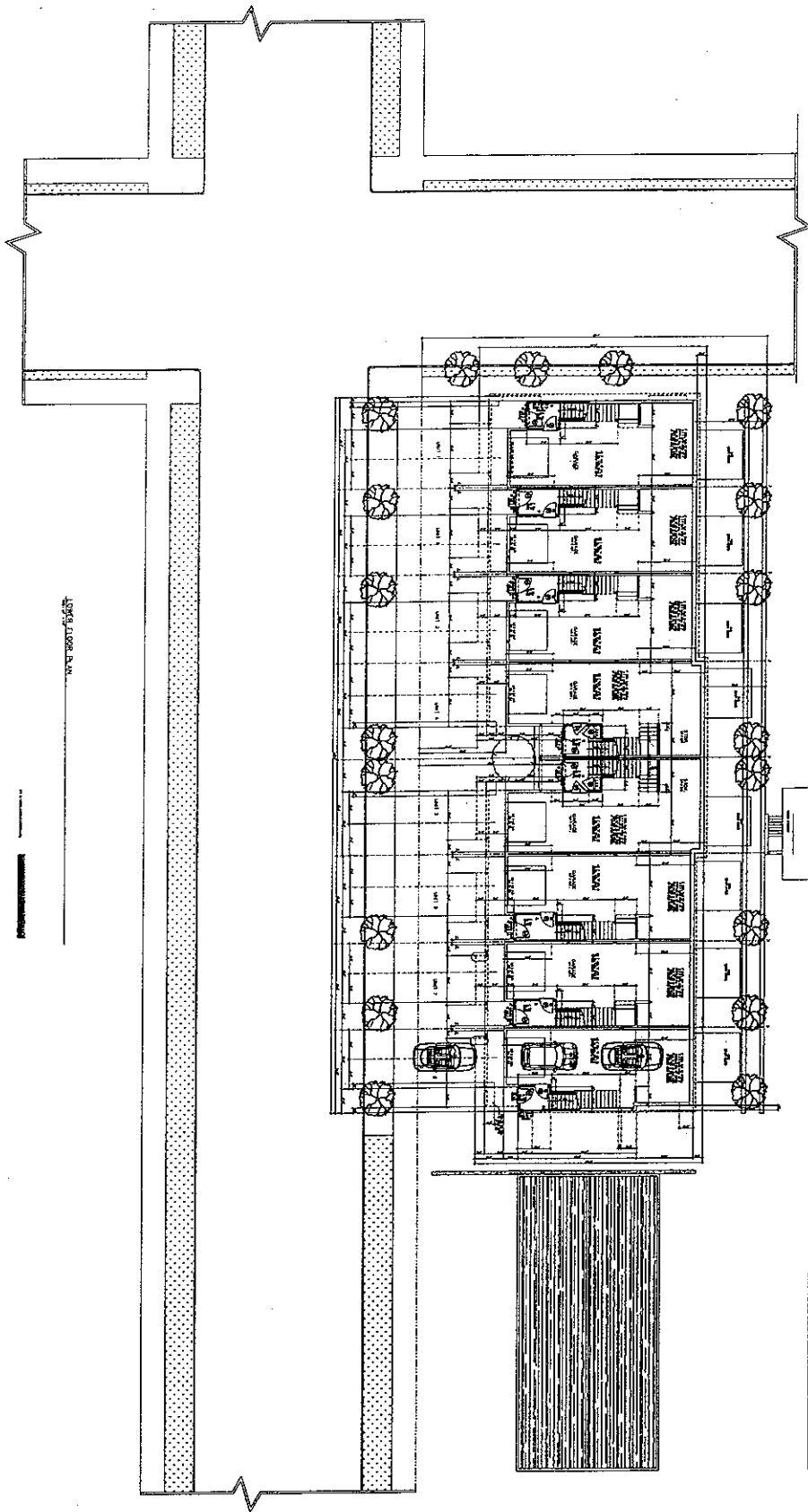


DRAWING DATE: JANUARY 2015
 DRAWING NO.: 16736475 AD
 PROJECT: NW Classic Homes Construction LLC
 ARCHITECT: J. L. L. ARCHITECTS, P.C.
 1000 N. 10TH AVE., SUITE 100
 DENVER, CO 80202
 TEL: 303.733.1111
 FAX: 303.733.1112
 WWW.JLLARCHITECTS.COM

16736475 AD
 NW Classic Homes Construction LLC

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	RESIDENCE BY:				
2	NW Classic Homes Construction LLC				

LU 16736475 AD
 Exhibit H-13



1ST FLOOR PLAN

1ST FLOOR PLAN

