



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
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www.portlandoregon.gov/bds

Date: August 16, 2012
To: Interested Person
From: Sylvia Cate, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 12-155076 AD

GENERAL INFORMATION

Applicant: Christopher M Abbott and Martha Abbott-Shim, property owners
2737 NE 64th Ave / Portland, OR 97213-4612

Site Address: 2737 NE 64TH AVE

Legal Description: BLOCK 11 LOT 6, BELLE CREST
Tax Account No.: R065301570
State ID No.: 1N2E29BC 08300
Quarter Section: 2737
Neighborhood: Rose City Park, contact Tamara DeRidder at 503-249-6977.
Business District: Portland International District Business Association, contact Thomas Wright at 503-249-3926.

District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.
Zoning: R5h, Single Dwelling Residential 5,000 with Aircraft Landing overlay
Case Type: AD, Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicants intend to construct an addition to the existing house, which will include a second floor to replace the existing converted attic living space. The proposed remodel will include a wide bay extending from the first story to the top of the second story. Generally, the zoning code allows minor projections into the setback if the extension qualifies by meeting the requirements for an exception.

However, in this situation, the proposed bay is wider than the zoning code allows via the exception, and extends slightly further into the setback than the exception allows. Therefore, the applicant requests an Adjustment to 33.110.220, *Setbacks*, and Table 33.110-3, which require a 5-foot setback from the side [northerly] property line. Because of the proposed bay, the eave along the north façade of the house will also extend into the required 5 foot setback. The setback request is to allow the proposed bay to be 3 feet 6 inches from the property line

and the associated eave to be 2 feet 6 inches from the property line. Attached to this Notice are site plans and elevations depicting the proposed addition.

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 5000 square foot lot with an existing single dwelling home and detached garage, built circa 1915. The house has a basement and a finished attic. The surrounding area in all directions is zoned R5, further west of the site, the lots are zoned R2.5. This area is developed with residential uses in all directions. The block face of the subject site, as well as the block face across NE 64th Avenue from the site is developed with single dwelling houses that were built between 1911 and 1926. Most are one story with basement and a finished attic, 3 are two-story. All are in the architectural vernacular popular during the early 20th century in Portland.

Zoning: The site is zoned R5h, single dwelling residential 5,000 with the aircraft landing overlay. The R5 zone is one of several zones that implement the comprehensive plan designation for single dwelling. The Aircraft Landing overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. The h overlay has no bearing on the requested setback Adjustment.

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 July 19, 2012. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Bureau of Environmental Services
- Water Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Fire Bureau
- Life Safety

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 19, 2012. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA**33.805.010 Purpose (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: The purpose for setback regulations is found at 33.110.220, Setbacks which states:

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.

The existing house, built circa 1915, has a foundation that meets the 5 foot setback from the north property line, but the deep 3-foot eaves extend into the north setback such that the eave is 2 feet 6 inches from the property line. The proposed home remodel will include a first and second floor bay 'bump out' that extends 3 feet 6 inches from the property line, with the eave 2 feet 6 inches from the property line.

The abutting lot to the north is configured such that the driveway to a detached garage running parallel to the shared property line provides separation from the subject structure and the adjacent house. The adjacent house itself is set more than 12 feet from this property line, thus the two structures are set apart despite the closer setback of the existing subject home. Given this inherent separation and the proposed second floor addition with a bay and eave extending into the setback, there will remain a similar separation between the two houses that exists now. The Fire Bureau notes no concerns regarding the proposal.

Because most of the homes on these two block faces were developed near the turn of the 20th century, there is variation in setbacks in this area, with a number of homes set relatively close to one property line. Therefore the requested Adjustment will result in a project that is consistent with the overall development pattern in the immediate area, which in turn creates a typical physical relationship between homes along this block of NE 64th Avenue.

Because of the additional separation between the subject home and the house immediately north as a result of the driveway location, there are no anticipated impacts on privacy. The front yard setback will not change, thus the front yard will remain open albeit visually enhanced by the remodeled front porch which will remain oriented to the street.

The requested Adjustment will allow a significant remodel to the existing home while maintaining the original foundation footprint and providing sufficient room to incorporate the proposed bay bump out and eave such that the north facing façade has visual interest from the articulation. For all of these reasons, 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: The site is in a residential zone. The proposed remodel will provide additional living area in the home for the property owners, thus enhancing the livability of the subject house. Given the separation between the existing façade and the new façade that is proposed to extend into the required setback area, there is no anticipation of impacts from the reduced setback along the northerly property line. The proposed remodel is in keeping with the existing architecture of the home and will have no impact on the appearance of the immediate residential neighborhood. For these reasons, 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: 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

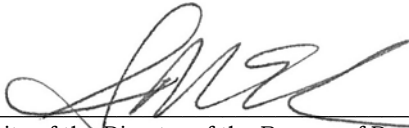
The applicants request an Adjustment to the required 5 foot side setback from the north property line to allow a remodel of the house including a second story with a bay bump out and an eave extending into the setback similar to what currently exists. Because the proposal meets all of the applicable approval criteria, the request should be approved.

ADMINISTRATIVE DECISION

Approval of:

- Adjustment to 33.110.220, Setbacks, to allow a bay bump out to extend to within 3 feet 6 inches from the north property line and for the eave to extend to within 2 feet 6 inches of the north property line, per the approved site plans, Exhibits C-1 through C-3, signed and dated August 13, 2012, subject to the following conditions:
- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-155076 AD."

Staff Planner: Sylvia Cate

Decision rendered by:  **on August 13, 2012**

By authority of the Director of the Bureau of Development Services

Decision mailed: August 16, 2012

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 June 26, 2012, and was determined to be complete on **July 16, 2012**.

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 June 26, 2012.

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: November 13, 2012.**

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 August 30, 2012** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

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

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

Recording the final decision.

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

- *Unless appealed,* The final decision may be recorded on or after **August 31, 2012.**
- A building or zoning permit will be issued only after the final decision is recorded.

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

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

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

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

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a

new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

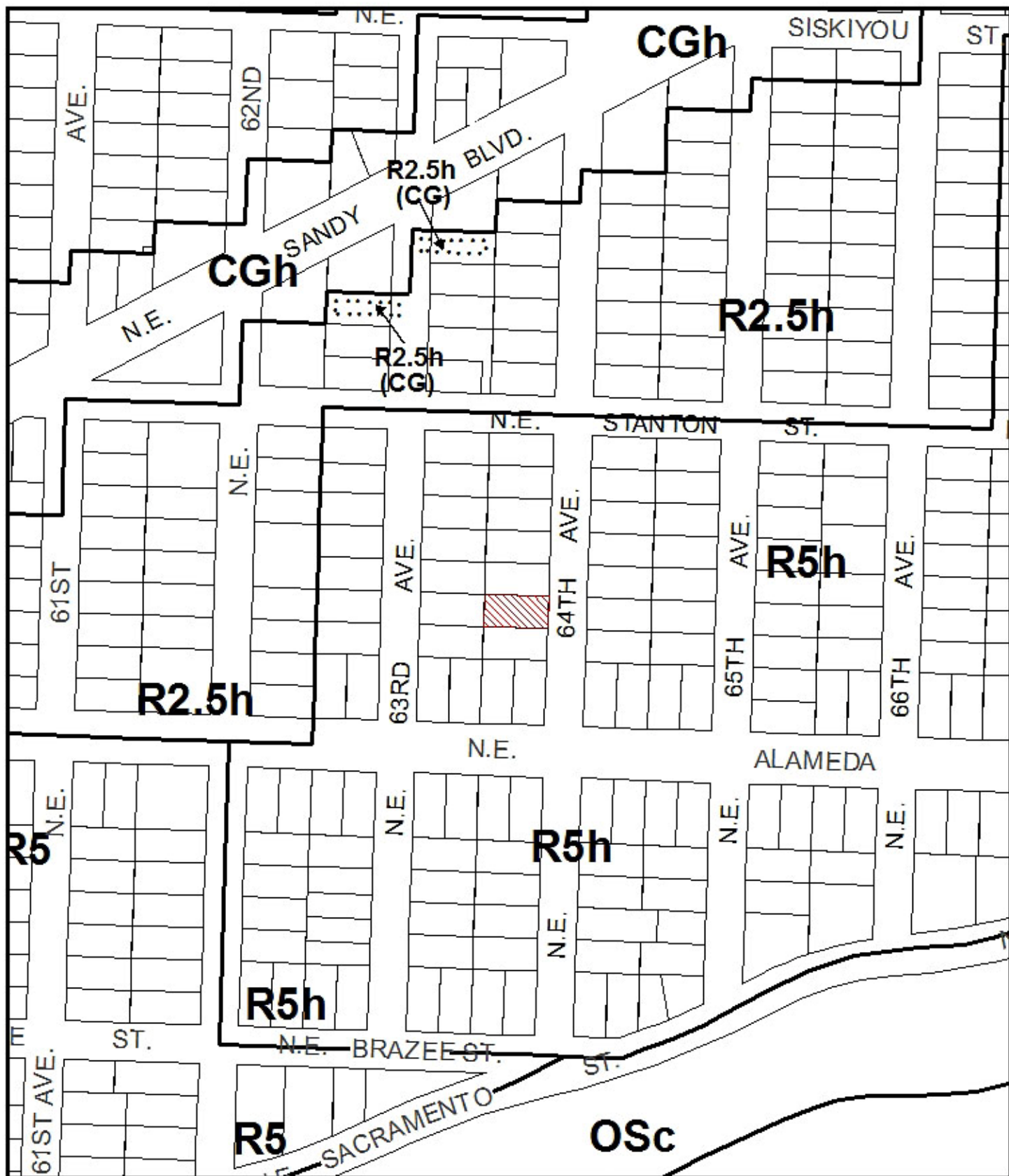
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. East Elevation (attached)
 - 3. North Elevation (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety
- F. Correspondence: None received
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research [No prior land use reviews]
 - 3. Letter to applicant, July 11, 2012; re: need additional information
 - 4. Construction year of homes in immediate area
 - 5. Pattern of setbacks in immediate area

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



NORTH

File No.	LU 12-155076 AD
1/4 Section	2737
Scale	1 inch = 200 feet
State_Id	1N2E29BC 8300
Exhibit	B (Jun 29, 2012)

2737 NE 64th Street



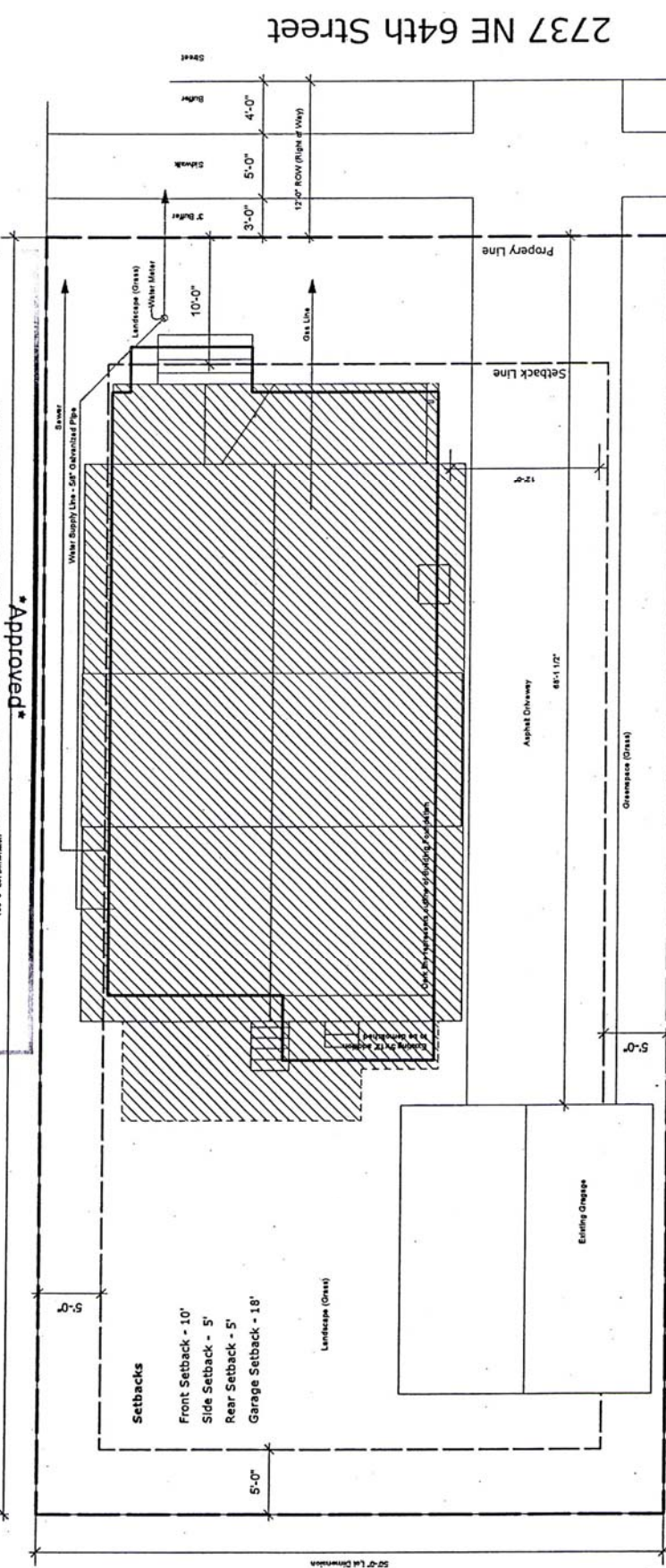
Demo =

Planner S. Buehler for City of Portland Date 8/13/12
 This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

City of Portland - Bureau of Development Services

Approved

10/27/2011



LOT AREA	5,000 SF
IMPERVIOUS AREA	
Main House	1,080 SF
Detached Garage	396 SF
Covered Patio	140 SF
Driveway (Blacktop)	1,000 SF
Walkway (concrete)	300 SF
Deck	280 SF
TOTAL	3,196 SF
BUILDING COVERAGE/FOOTPRINT	
House	1,080 SF
Garage	396 SF
Covered Patio	140 SF
TOTAL	1,616 SF

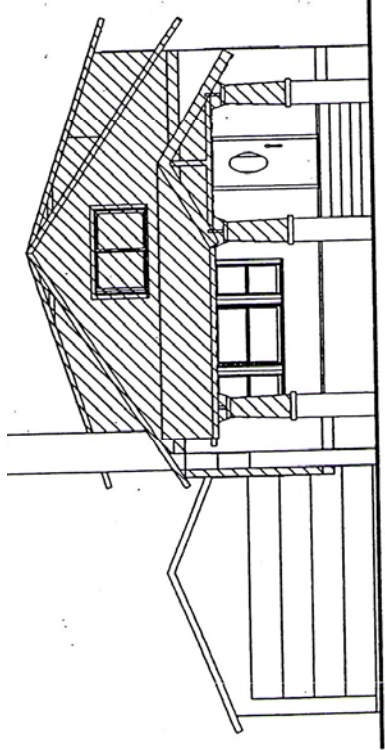
1 Existing Site Plan
 1/8"=1'

SITE PLAN NOTES

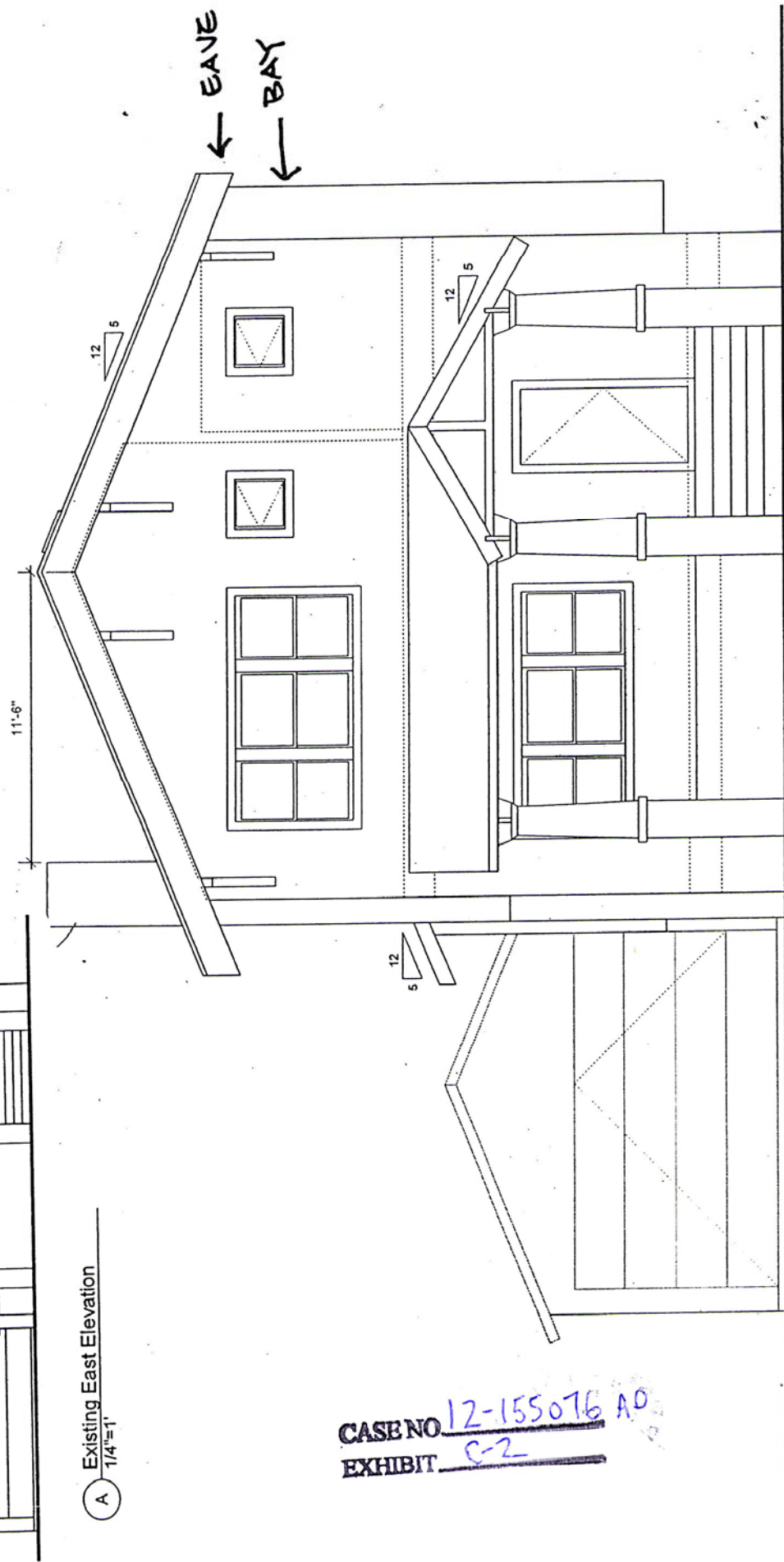
1. During Demolition; Salvage any usable material for donation to rebuilding center.
2. Before forming concrete foundation, field verify all dimensions.
3. Field Verify all critical dimensions.
4. Existing Garage to remain as is.
5. No trees on property.

CASE NO. 12-55076 AD
 EXHIBIT C-1

Planner _____
 City of Portland - Bureau of Development Services
 Approved*
 Budget for Subject Date 8/13/12
 This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



Existing East Elevation
 1/4"=1'

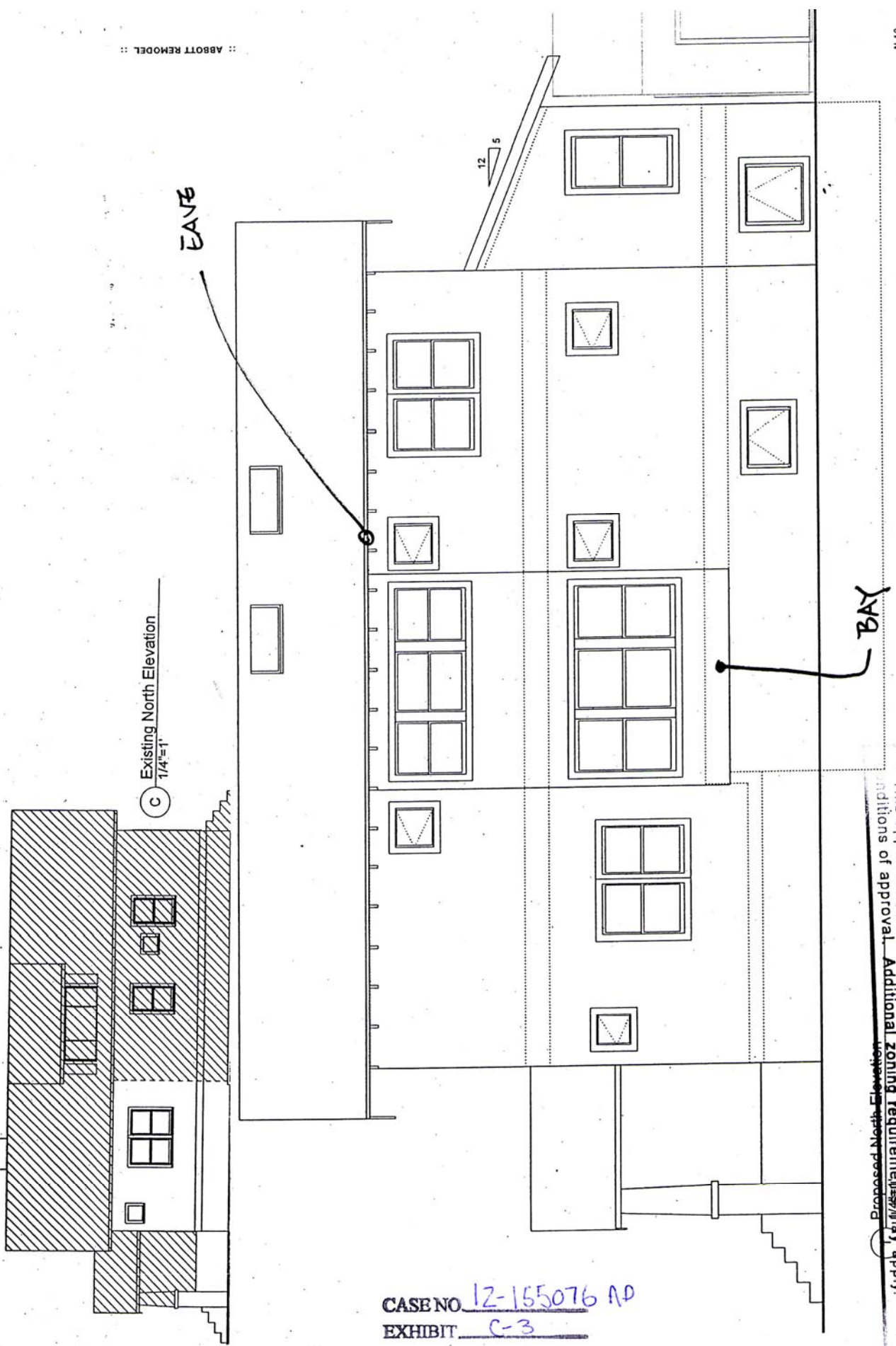


CASE NO 12-155076 AD
 EXHIBIT C-2

Proposed East Elevation
 1/4"=1'

Approved
City of Portland - Bureau of Development Services
Planner Sage K. Forster Date 8/13/12
This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.
UNAPPROVED FOR RECORD

CASE NO. 12-155076 AD
EXHIBIT C-3



ABBOTT REMODEL