



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

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**Date:** May 22, 2008  
**To:** Interested Person  
**From:** Suzanne Savin, 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 this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

**CASE FILE NUMBER: LU 08-106691 AD**

**GENERAL INFORMATION**

**Applicant:** William J. Hawkins III, Architect  
1425 SW 20th Ave  
Portland, OR 97201  
  
Phil Sydnor  
Integrate  
1715 N Terry St  
Portland, OR 97217

**Owner:** John Reilly  
3233 NE Thomas St  
Portland, OR 97212-4911

**Site Address:** No address assigned. Site is on the east side of SW 18<sup>th</sup> Avenue, south of Highway 26.

**Legal Description:** BLOCK C W 57 1/2' OF S 100' OF LOT 26, CARTERS ADD TO P  
**Tax Account No.:** R140407580  
**State ID No.:** 1S1E04BD 12800  
**Quarter Section:** 3127

**Neighborhood:** Goose Hollow, contact Jerry Powell at 503-222-7173.  
**Business District:** None  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.  
**Plan District:** None  
**Zoning:** R1 (Multi-Dwelling Residential 1,000)

**Case Type:** AD (Adjustment Review)  
**Procedure:** Type II, administrative decision with appeal to Adjustment Committee.

**Proposal:**

The applicant plans to construct a multi-dwelling structure on the site, which will accommodate 4 residential units and will include a basement-level parking garage. The applicant is requesting 4 Adjustments to the Zoning Code standards for the proposed development.

Height Adjustment. Per Zoning Code Section 33.120.215 (Height) and Table 120-3, the maximum allowed building height within 10 feet of a front property line and maximum allowed overall height are 25 feet and 45 feet, respectively. As indicated in the Notice of Proposal, the applicant originally proposed that the north portion of the building be approximately 49 feet, 4 inches in height, including the portion of the building within 10 feet of the front (west) property line. However, in response to letters of comment and Staff feedback, the applicant has revised the proposal to request that the height of the north portion of the building be reduced by 2 feet, 4 inches. The applicant is requesting an Adjustment to Section 33.120.215 and Table 120-3, to allow the proposed building to have a maximum height of approximately 47 feet, including the portion within 10 feet of the front (west) property line.

Setback Adjustment for West Building Wall. Per Zoning Code Section 33.120.220 (Setbacks) and Table 120-3, the minimum front building setback is 3 feet. However, the west building wall is proposed to be set back 1 foot from the west (front) property line. Therefore, the applicant is requesting an Adjustment to Section 33.120.220 and Table 120-3, to allow the proposed building to have a minimum setback of 1 foot from the west property line.

Setback Adjustment for North Building Wall. Per Zoning Code Section 33.120.220 (Setbacks) and Table 120-4, the minimum side building setback is 5 feet when the area of the plane of the building wall is 1,000 square feet or less. However, the bay window projections of the north building wall, which total under 1,000 square feet in area, are proposed to be set back approximately 2 feet, 6 inches from the north property line.

In addition, the minimum side building setback is 11 feet when the area of the plane of the building wall is between 2,501 to 2,800 square feet. The remainder of the proposed north building wall is within this area range, but is proposed to be set back approximately 5 feet from the north property line. (Note: The Notice of Proposal for this request incorrectly stated that the area of the plane of the north building wall was between 1,601 to 1,900 square feet and thus subject to a minimum 8-foot building setback.)

Therefore, the applicant is requesting an Adjustment to Section 33.120.220 and Table 120-4, to allow the proposed bay window projections to have a minimum setback of 2 feet, 6 inches from the north property line, and the remainder of the north building wall to have a minimum setback of 5 feet from the north property line.

Building Coverage Adjustment. Per Zoning Code Section 33.120.225 (Building Coverage) and Table 120-3, maximum building coverage is limited to 60% of the site area. The site is approximately 5,750 square feet in size, and 60% of the site area is approximately 3,450 square feet. However, the first floor/garage level of the proposed building has a building coverage of approximately 4,730 square feet, which equals a building coverage of approximately 82% of the site area. Therefore, the applicant requests an Adjustment to Section 33.120.225 and Table 120-3, to allow the proposed building to have a maximum building coverage of approximately 82% of the site.

It should be noted that after the Notice of Proposal for these adjustments was mailed, the applicant revised aspects of the site plan and building elevations. The revisions do not affect the requested adjustments (except to reduce the scope of the requested height adjustment), nor do they trigger additional adjustments. The revised site plan and elevations have been attached to this Notice of Decision. The revisions consist of the following:

- The proposed height of the north portion of the building has been reduced from a height of 49 feet, 4 inches to a height of 47 feet.
- The proposed lowest finished grade at the northwest corner of the site has been reduced from an elevation of 185 feet to an elevation of 183 feet.
- A gable has been added to the roof at the southeast corner of the north portion of the building.
- The east wall of the north portion of the building has been revised to abuts the adjacent site grade, rather than being separated from the adjacent grade by a reinforced cliff as shown on the original site plan and east elevation.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are the Adjustment Approval Criteria of Section 33.805.040.A – F.

**ANALYSIS**

**Site and Vicinity:** The site is located on the east side of SW 18<sup>th</sup> Avenue, at the intersection of SW 18<sup>th</sup> Avenue and SW Mill Street. The site is approximately 5,750 square feet in size, slopes steeply upward to the south and east, and is presently vacant.

To the north of the site is a pedestrian trail, and the Highway 26 right-of-way. To the east of the site are R1-zoned properties, with frontage on SW Montgomery Street, that are developed with detached and attached single-dwelling residences. To the south of the site, on the east and west sides of SW 18<sup>th</sup> Avenue, are R1-zoned properties with multi-dwelling residential structures. To the west of the site, on the west side of SW 18<sup>th</sup> Avenue, are R1-zoned properties developed with multi-dwelling residential structures.

**Zoning:** The site is zoned R1 (Multi-Dwelling Residential 1,000). The R1 zone is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses.

**Land Use History:** City records indicate the following prior land use reviews for this site.

ZC 4684: A zone change that included several dozen properties abutting and to the north of Highway 26. No additional documentation of this case, such as a Final Decision or conditions, was found in the log book or microfiche record.

LUR 94-00988 MP: A 1994 approval of a 10-lot minor subdivision of a site that included the subject property as well as two abutting properties to the east and two abutting properties to the south.

LUR 97-00714 SU: A request for a 10-lot minor subdivision. The case was withdrawn before a decision was issued.

LUR 99-00980 AD: A request to waive the front setback requirement and reduce the height requirement for a site that included the subject property as well as the two abutting properties to the south. The case was withdrawn by the applicant before a decision was issued.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **March 24, 2008**. The notified agencies responded with the following comments:

The Bureau of Environmental Services (BES) responded that BES cannot recommend approval of the requested adjustments at this time, due to insufficient evidence that stormwater runoff from the development can be accommodated in a manner consistent with the Stormwater Management Manual. BES requests stormwater calculations, a revised site plan showing that applicable pollution reduction and flow control requirements of the Stormwater Management Manual can be met, and a stormwater report that clearly shows there is available area for flow-through planters that are sized according to the Stormwater Management Manual and that meet facility setback requirements to lot lines. In addition, there is a public sewer easement over the northwest corner of the subject site that the applicant has not shown on their site plan, and it appears that the proposed structure encroaches in this easement. This is not acceptable to BES. (Exhibit E-1)

**Staff:** The applicant submitted the information requested in the BES response. BES then provided an addendum to their initial response, summarized below.

The BES Addendum to Land Use Response stated that BES has no further objections to the proposed adjustments. Since the initial land use review comments were submitted, BES has conducted additional research on the public sewer easement that is over the northwest corner of the subject property. BES Maintenance Engineering anticipates that the easement will likely not be needed for future BES maintenance of the existing combination sewer located north of the subject property in the adjacent right-of-way, and therefore encroachment in the easement would be possible. At the time of building permit, the applicant must complete an encroachment agreement with BES that would be recorded with Multnomah County. Alternately, it is possible that the easement may be vacated/quit-claimed to the property owner. BES has received and reviewed the memo from KPFF dated 4/23/08 regarding stormwater management for the proposed development, and has no further objections to the proposal. (Exhibit E-2)

The Bureau of Transportation Engineering responded that there are no transportation-related approval criteria associated with the requested adjustments, and therefore, Portland Transportation has no objections to the proposed adjustments. The response included comments about right-of-way requirements that will affect the building permit review of the project. (Exhibit E-3)

The Fire Bureau responded that there will be several conditions of approval that will apply to the project at the time of development, including the possible provision of a fire hydrant, two means of fire apparatus access, and approved aerial fire department access roads (or compliance with the allowed exceptions to those standards). (Exhibit E-4)

The Site Development Section of BDS responded that it is not clear from the proposal how the applicant intends to comply with the requirements of the Stormwater Management Manual. Excavation, temporary shoring and tie backs, and retaining wall construction, will be reviewed more closely at the time of building permit review. The applicant is advised that a temporary shoring plan will be required and must include measures for supporting structures on adjacent properties during construction. The developer's geotechnical engineer should provide a brief memo discussing the feasibility of a temporary shoring system before this land use case is approved. A significant amount of truck traffic will result from export of excavated material from this site. The erosion control plan that will be required at time of plan review must include measures sufficient to prevent sediment from entering the public right-of-way. (Exhibit E-5)

**Staff:** In response to the original Site Development memo, the applicant submitted additional information to Site Development that indicated the proposed location of shotcrete and the shored cliff face and retaining walls. After receipt of this information, Site Development issued the revised response below.

The Revised Site Development response stated that the preliminary information indicates that a permanent vertical cut greater than 40 feet high will be constructed as part of the development.

The cut will be a few feet away from the adjacent structure to the east. Although the conceptual shoring proposal is sufficient for the purposes of this Adjustment review, additional information will be required at the time of building permit review. Regarding stormwater treatment and disposal, the clay silt soils noted in the geotechnical report will not support on-site infiltration of stormwater at this location. Flow-through planters with overflow to the public sewer system will be required, with BES approval. (Exhibit E-6)

The Life/Safety Plan Review Section of BDS responded that a geotech report may be required, and sprinkler system is required. (Exhibit E-7)

Oregon Department of Transportation (ODOT) responded that the applicant is advised that a residential development on the proposed site may be exposed to traffic noise levels that exceed federal noise guidelines. Builders should take appropriate measures to mitigate this impact. An ODOT drainage permit is required for connection to state highway drainage facilities. Connection will only be considered if the site's drainage naturally enters ODOT right-of-way. (Exhibit E-8)

**Staff:** After this response was submitted, the applicant provided additional information to ODOT. In response to the additional information, the Assistant District Manager of ODOT – District 2A sent Staff and the applicant an e-mail confirming that the proposed development drainage will not affect ODOT right-of-way directly. The e-mail stated that the development may proceed with the provision that any work on the state right-of-way will require a permit issued by ODOT, District 2A. (Exhibit E-9)

The Bureau of Parks – Urban Forestry Division responded that there are right-of-way trees located adjacent to SW 18<sup>th</sup> Avenue. The applicant will have to file for a tree removal permit before removing any tree located in the City right-of-way. (Exhibit E-10)

The Water Bureau responded that the site has an existing ¾-inch metered water service located to the west side of SW 18<sup>th</sup> Avenue. This service may be used for future development, or be removed permanently at the applicant's expense. There is an existing 6-inch water main in SW 18<sup>th</sup> Avenue located approximately 13 feet west of the northwest corner of the property. Please show the existing water main clearly in all plans and be cautious during construction. (Exhibit E-11)

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on March 24, 2008. It should be noted that a letter of support from the Goose Hollow Foothills League, dated January 10, 2008, was included in the applicant's submittal. The letter stated, *"In general, the committee felt your project does a very good job of addressing some particularly difficult site concerns. The slopes are extreme, the constraints provided by the odd building line and an adjacent pedestrian trail are difficult...all of which results in a tight building area and in little additional site area. We note that the building, as proposed, requires some adjustment of applicable development standards in that zone and we concur that the solutions shown us do meet and/or exceed the standards generally applicable in that zone. We therefore will support your request for setback adjustments based on the difficult topography of the site itself and the topography of the adjacent and nearby landscape."*

Five letters in opposition to the request were received from notified property owners in response to the proposal. One of the letters was signed by the owners of seven properties. The opposition letters expressed the following concerns about the Adjustments:

#### General Concerns

- No adjustments to Zoning Code standards should be granted for this project. The city puts these standards together and owners and purchasers of surrounding properties review these standards when purchasing their properties, to ensure they are protected from undesirable

future construction. Adjacent property owners should not be impacted beyond the setback and height standards that currently apply to the site.

- The proposed structure and requested adjustments are not in keeping with the character of the neighborhood, and the requested adjustments will compromise standards carefully made for livability, safety, and aesthetic reasons.
- The boundaries of the walking and bike path should be maintained for the enjoyment of the public and to ensure that open space is maintained.

**Staff:** The Zoning Code contains development standards for multi-dwelling zones, but it also includes an adjustment review process (Section 33.805). According to the purpose statement for adjustments, Section 33.805.010.A, “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...Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.”

The compliance of each requested Adjustment with the Adjustment Approval Criteria will be discussed in the following section of this report, and will include a discussion of livability impacts under Adjustment Approval Criteria A and B.

Regarding the walking and bike path located north of the site, it should be noted that the path is within the Highway 26 right-of-way area and is entirely outside of the site. The applicant’s proposed building will be located within the limits of the site, and no portion will extend north into the Highway 26 right-of-way area.

#### Concerns about the Proposal’s Scale

- The proposed structure will be taller, wider, and take up more of the lot area than what is allowed under the R1 base zone. The applicant hasn’t shown how allowing a structure that is taller and bulkier than anything else on SW 18<sup>th</sup> Avenue will equally or better meet the reasonable building scale and relationship standard for height, or the overall bulk standard for building coverage.
- The proposed structure, if the height adjustment is approved, will result in an incongruous relationship between the new structure and the condominium structure on the abutting property to the south, which does meet the reduced height restriction within the first 10 feet of the front property line.
- The proposed building’s size and site coverage will require much of the material on the site to be removed in order to accommodate large retaining walls on the eastern and southern sides. In combination with the requested increase in maximum building height, the resultant structure will overwhelm adjacent development at the street level.
- A structure that meets the height limits and that only covers 60% of the lot will more closely match the more townhome-type residential characteristic of the neighborhood, considering both the residences on SW 18<sup>th</sup> Avenue and the residences to the east on SW Montgomery Drive.
- Though the Cable Village Apartments on the west side of SW 18<sup>th</sup> Avenue across from the site are fairly bulky on their lots, those structures were built in the 1990’s under different regulations, and should therefore not be used as a template for determining a reasonable building scale for the area.

- The applicant's proposed structure would clearly be the tallest structure, from ground level, in the immediate vicinity – even over the Cable Village Apartment buildings to the west.
- While the setback adjustments alone may be warranted in order to help alleviate inherent topographic constraints, the cumulative effect of all four requested adjustments would be the tallest, bulkiest structure in the immediate area, with no apparent mitigation for such an overwhelming structure. The effect of a 5-story residential structure with no stepped-back height, and situated very close to lot lines, is more consistent with structures in the RH base zones.

**Staff:** The issues listed above are discussed in the following section of this report. Specifically, these issues are discussed under Adjustment Approval Criterion A, which addresses whether the requested adjustments equally meet the purpose of the regulations; and under Adjustment Approval Criterion C, which addresses the cumulative impacts of requested adjustments.

With regard to the last bulleted concern, that the effect of the structure is more consistent with structures in the RH base zones, the applicant notes that the RH zone allows maximum building heights of up to 100 feet, may allow mixed-use development to include retail and/or office use if the site is within 1,000 feet of a light rail transit station, requires no outdoor areas, and requires more residential density. The applicant notes that the proposal is dissimilar to allowable development in the RH zone in the respects listed above.

#### Concerns about Hillside Stability

- Removal of trees, shrubs, and a good part of the hillside will endanger other properties to the east.
- Allowing 82% of the lot to be developed raises concerns about the constructability of the proposed retaining walls on the east and south sides of the site, especially considering the very close proximity to the residences to the east that sit atop the steep slope.
- Several letter writers stated that the owner of the site was sued for poor construction of the condominium buildings on the abutting property to the south. They stated that this situation caused them to doubt that the owner of the site can manage the proposed project without jeopardy to the hillside that abuts the properties to the east and south.

**Staff:** The site slopes steeply upward along its east and south sides. The proposal involves excavation into this steeply sloped area, and the placement of retaining walls that are approximately 40 feet in height at their highest point, to retain the soil upslope. Per the applicant's site plan, the south retaining wall will be located approximately 2 feet from the south property line and the east retaining wall will be located approximately 3 feet from the east property line. Given these facts, it is understandable that property owners to the south and east would be concerned about this proposal from a hillside stability standpoint. However, the proposed grading and hillside stability is a life/safety issue that the applicant will be required to address at time of building permit; it is not a Zoning Code issue that can be addressed as part of this Adjustment Review.

As noted in the Revised Site Development response (Exhibit E-6), at the time of building permit review, the applicant will be required to submit additional information, including a detailed slope stability analysis and cut slope engineering.

### Privacy and Livability Concerns

- The adjustments, particularly the height adjustment, will compromise the privacy of the property owners to the east. The east side of the building will have windows that will look into the homes of the property owners to the east.
- The proposed Adjustment to the west (front) building setback, in combination with the height adjustment to allow the building to be taller than allowed within 10 feet of the west property line, will detract from the livability of the area by impacting privacy. Due to the stepped-back nature of the St. Andrews condominium buildings on the abutting property to the south, a large portion of the living spaces in those buildings are concentrated toward the back of the structures. Approving the west setback adjustment and approving the adjustment to the height restriction within 10 feet of the west property line will cause the upper units in the proposed building to have a more direct sight line into the northern units of the St. Andrews condominium building to the south. This will result in a loss of privacy for the northern-most units of that building, and will reduce the view to the north that the residents expected to enjoy from their terraces when they bought their units.

**Staff:** The issues listed above are discussed in the following section of this report. Specifically, these issues are discussed under Adjustment Approval Criterion A, which addresses whether the requested adjustments equally meet the purpose of the regulations; and under Adjustment Approval Criterion B, which addresses how the proposal will impact the livability of the residential area.

Regarding potential view impacts of the proposal, the applicant notes that views to the north from the northern-most units of the St. Andrews condominium will not be compromised by the adjustment to height for the portion of the building within 10 feet of the front property line, for the following reasons:

- The proposed building will be located far enough to the east of the St. Andrews Condominium building that the primary north views from those existing condominium units will remain the same; and,
- The existing topography and vegetation north of the St. Andrews condominium building already block the view to the northeast from the northernmost units.

## **ZONING CODE APPROVAL CRITERIA**

### **33.805.010 Purpose of Adjustments**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations.

Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

### **33.805.040 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 of the development standards requested for Adjustment are:

1. Height Standards. The intent of the standards, as stated in Section 33.120.215.A, is as follows:

The height standards serve several purposes:

- They promote a reasonable building scale and relationship of one residence to another;
- They promote options for privacy for neighboring properties; and
- They reflect the general building scale of multi-dwelling development in the City's neighborhoods.

Section 33.120.215 and Table 120-3 limit maximum building height within 10 feet of a front property line and maximum overall height to 25 feet and 45 feet, respectively. The applicant requests an Adjustment to allow the proposed building to have a maximum height of 47 feet, including the portion within 10 feet of the front (west) property line.

The applicant states that the height adjustment will equally meet the purpose of promoting options for privacy for neighboring properties for the following reasons:

- There are no existing buildings to the north of the proposed structure.
- There are no existing buildings directly across SW 18<sup>th</sup> Avenue to the west of the proposed structure, where Mill Street Terrace intersects with SW 18<sup>th</sup> Avenue.
- The right-of-way width of SW 18<sup>th</sup> Avenue is approximately 30 feet to the south of the site, but increases to approximately 60 feet where it abuts the site's west property line. Due to this 60-foot separation distance, none of the residential units to the west or southwest will look directly into the windows of the proposed structure.
- The closest structure to the east, a single-dwelling residence, is situated on a grade that is approximately 45 to 50 feet higher than the grade on which the proposed building on the site will be located. As a result of this grade difference, the single-dwelling residence to the east will look across the roof of the proposed building.

The applicant states that the adjustment will equally meet the purpose of promoting a reasonable building scale and relationship of one residence to another, and reflecting the general building scale of multi-dwelling development in the neighborhood, for the following reasons:

- The site slopes steeply upward from the northwest to the southeast. The development proposal will involve excavating into this upward slope and nestling the proposed building into the hillside. Because the building will be deeply recessed into the hillside, only a portion of the building will be visible from the abutting properties to the east and south.
- The right-of-way widens to 60 feet in front of the proposed building, while the right of way is only 30 feet wide in front of the condominium buildings to the south. Due to the additional right-of-way width in front of the proposed building, the perception of its height is less severe when compared with the existing condominiums further south on SW 18<sup>th</sup> Avenue.
- All of the surrounding existing buildings are on a higher grade than the proposed building will be, and will therefore remain above the proposed building.
- The proposed building's roof level on the east side of the property is below the elevation of SW Montgomery Street to the east, and is lower than the closest structure (single-dwelling residence) on the abutting property to the east.
- The general building scale of the neighborhood will be maintained, as on 18<sup>th</sup> Avenue south of the Highway 26 overpass, the existing structures are multi-story condominiums, and there are no single-dwelling residences.

- The existing multi-story condominiums to the south of the proposed structure, on both sides of SW 18<sup>th</sup> Avenue, are approximately 48 feet in height.
- The existing condominium buildings on the west side of SW 18<sup>th</sup> Avenue also reach their maximum heights within 10 feet of the front property line, and do not have a height step-back.
- The mansard-type roof and gables on the north portion of the building, closest to Highway 26 and furthest from the nearby structures to the south, are the only elements of the building that will extend above the allowed 45-foot height limit. Since the maximum height of these building elements is proposed to be 47 feet, they will only exceed the height limit by 2 feet.
- After the Notice of Proposal was mailed for this request, the applicant reduced the proposed building's overall height from 49 feet, 4 inches to a maximum height of 47 feet. In addition, the applicant reduced the level of the lowest finished grade on which the building would be set. The level of the lowest finished grade was reduced from an elevation of 185 feet (which is approximately 4 feet above the sidewalk at the northwest corner of the property) to an elevation of 183 feet (which is approximately 2 feet above the sidewalk at the northwest corner of the property). This change in the level of the lowest finished grade places the base of the building closer to the sidewalk and two feet lower in relation to pedestrians and motorists on SW 18<sup>th</sup> Avenue.
- The building height steps down to the south, toward the existing condominiums on the abutting property to the south. From the 47-foot height of the mansard roof on the building's north portion, the building height steps down to the central portion of the building (topped with the 6<sup>th</sup> floor garden terrace), which is approximately 42 feet in height – below the maximum allowed 45-foot height limit. The building height steps down again to the southern portion of the building, which consists of the covered first floor garage, which is primarily at or below grade and thus well below the 45-foot height limit.
- The condominium building on the abutting property to the south, which is on a higher grade, is closest to the portions of the proposed building that comply with the height standards, and is separated by a distance of approximately 50 feet from the portion of the building for which the height adjustment is requested.
- The overall height adjustment will allow a mansard-type roof with dormers and gable ends, to add scale and compatibility with adjacent structures. The proposed design provides an architectural language that is similar to the other buildings in the neighborhood and the most appropriate roof type for the area.

*Staff Conclusions.* Regarding privacy impacts, property owners to the south and east expressed concerns that the height adjustment would compromise their privacy. Staff disagrees that the height adjustment will result in privacy impacts, for the reasons cited by the applicant and based on the following additional facts:

- The part of the building that exceeds the height requirements is limited to the portion within 10 feet of the west (front) property line, and the portion that comprises the mansard-type roof. The privacy of the properties to the east will not be impacted by either of these building portions. The building portion within 10 feet of the west property line does not have any east-facing windows, and the east elevation of the mansard-type roof does not contain any windows. As a result, no views of the properties to the east are possible from the portion of the building for which the height adjustment is requested.
- The proposed building's location is offset to the east, relative to the closest residential structure (condominium) to the south. Specifically, the proposed building's front (west) building wall is located approximately 4 to 5 feet east of the condominium building's rear (east) wall. Therefore, the proposed building's south-facing windows will not have a direct line of sight into the condominium building's north-facing windows. In addition, the proposed building's south-facing windows that are within the portions of the building for which the height adjustment is

requested, are limited to the southwest-facing portions of two bay windows, and the upper halves of the windows within the mansard-type roof. The bay windows have a separation distance of approximately 25 feet from the closest portion of the condominium to the south. The windows within the mansard-type roof have a separation distance of approximately 50 feet from the closest portion of the condominium to the south. Due to the proposed building's offset location, the limited south-facing window area on the portion of the building for which the height adjustment is requested, and the significant separation distance between these south-facing windows and the closest portion of the condominium building to the south, it is reasonable to conclude that the height adjustment will not result in privacy impacts to the south.

Regarding the height adjustment and scale impacts, property owners to the south and east expressed concerns that the proposed height of the building does not reflect the general building scale of the neighborhood. This issue will be examined separately for the two aspects of the requested height adjustment: the request for the building to exceed the overall height limit of 45 feet, and the request for the building to exceed 25 feet in height within 10 feet of the front property line.

Overall Height Adjustment. Staff concurs that the proposed building will promote a reasonable relationship of one residence to another, and will reflect the general building scale of multi-dwelling development. This conclusion is based on the following information:

- The site grade is significantly lower than that of the closest property to the east. As a result, and as shown on the applicant's perspective renderings, the tallest portion of the proposed building will be located approximately level with, or somewhat lower than, the first floor of the two-story residence on the abutting property to the east.
- The north portion of the building, which is the portion that exceeds the height standard, will have a separation distance from the nearest properties to the south and west of at least 50 feet.
- The north portion of the building exceeds the height standard by only approximately 2 feet. This two feet in additional height will be minimally perceptible to pedestrians and motorists passing the building along the SW 18<sup>th</sup> Avenue right-of-way. The additional height will also be minimally perceptible from the nearest properties to the south and west, due a separation distance of at least 50 feet between the north portion of the building and those properties.

Adjustment Approval Criterion A is met for the overall height adjustment request.

Height Adjustment within 10 feet of the front property line. The site is unique along this portion of SW 18<sup>th</sup> Avenue in terms of the relationship of its front property line with the SW 18<sup>th</sup> Avenue right-of-way. The front property lines of the properties to the south are aligned, and form a SW 18<sup>th</sup> Avenue right-of-way corridor that is approximately 30 feet wide. In contrast, the site's front property line is offset approximately 30 feet further east, due to a significant increase in right-of-way width in front of the site. If the site's front property line were aligned with the front property line on the abutting property to the south, and if the proposal complied with the minimum front building setback and the 25-foot height maximum within 10 feet of the front property line, the result would be a building whose 25-foot stepped-back height portion and maximum height portion would be directly north of, and in line with the condominium building to the south.

However, because of the site's unique 30-foot offset to the east, no part of the proposed building will be directly north of and in line with the condominium building to the south, and the proposed building will be further from the properties to the west.

In this instance, the stepping back function of the 25-foot height limit within 10 feet of the front property line is equally met by the additional setback of the site's front property line, relative to the adjacent properties. The multi-dwelling building on the abutting property to the south is allowed to have a maximum height of 45 feet at 15 feet from the western edge of the sidewalk (based on the sidewalk width of 5 feet, plus 10 feet back from the front property line). The proposed building will reach its maximum height at approximately 15 feet from the western edge of the sidewalk, which is consistent with the relationship between building height relative to the sidewalk that exists on the abutting property to the south. For these reasons, Staff concludes that the request to exceed the 25-foot height maximum within 10 feet of the front property line equally meets the purpose of the regulation, and reflects the general building scale of multi-dwelling development in the neighborhood.

Therefore, an Adjustment to the height limit within 10 feet of the front property line will comply with Criterion A. Adjustment Approval Criterion A is met for the height adjustment within 10 feet of the front property line.

2. Building Setback Standards. The intent of the standards, as stated in Section 33.120.220.A, is:

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 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
  - Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.
- a) Building Setback from West property line. The site's west property line, which abuts the SW 18<sup>th</sup> Avenue right-of-way, is the site's front property line. Section 33.120.220 and Table 120-3 require a minimum front building setback of 3 feet. The applicant requests an Adjustment to this standard to allow the building to have a setback of 1 foot from the west property line.

The applicant states that the proposal will meet the purpose of the setback standards for the following reasons:

- The paved roadway width of SW 18<sup>th</sup> Avenue is substantially wider along the site's west property line (approximately 60 feet wide) than it is in front of the properties further south (approximately 30 feet wide). Although the building is proposed to be 2 feet closer to the west property line, the 60-foot right-of-way between the site and the nearest properties to the west will offset potential privacy impacts of the 2-foot reduction in the west building setback. In addition, the 60-foot separation distance between the site and the nearest properties to the west will ensure that light, air, separation for fire protection, and access for fire fighting is maintained.
- Due to the fact that both the paved portion of the right-of-way and the pedestrian corridor portion of the right-of-way are significantly wider along the site's west property line, bringing the proposed building closer to the west property line establishes a "front yard" that is visually more in proportion with

the existing properties to the south. In addition, although the building will be closer to the west property line, the proposal will also allow for a sidewalk adjacent to the curb that will be approximately 3 feet wider than the existing sidewalk to the south. Therefore, the site will visually appear to have a larger front setback. In addition, the building's location, relative to the sidewalk and the right-of-way, will appear similar to that of the buildings on the adjacent and nearby properties to the south, west, and southwest. As a result, the building's location relative to the west property line will reflect the general building scale and placement of multi-dwelling development in the neighborhood, will promote a reasonable physical relationship between residences, and will promote open, visually pleasing front yards.

- Vehicles will not be parked within the proposed driveway to the building, as the driveway is the entrance and exit for the proposed parking garage. As a result, no cars will be backing from the site into the street. Therefore, driver visibility for exiting vehicles will be better than for the existing garages on the remainder of SW 18<sup>th</sup> Avenue.

Staff Conclusions. Staff concurs that the requested adjustment equally meets the purpose of the regulation. The proposed location of the west wall, at 2 feet closer to the west property line than allowed by the setback standard, will nonetheless maintain light, air, separation for fire protection and access for fire fighting, between the site and the closest property to the west. These purposes will be achieved because of the significant separation distance (approximately 60 feet) between the site and the closest property to the west. This separation distance will also promote a reasonable physical relationship between the proposed building and the residences on the closest property to the west. Visually, the building will appear to have a similar relationship to the sidewalk as the buildings on either side of SW 18<sup>th</sup> Avenue to the south, because of the wider pedestrian corridor in front of the site. As a result, the west building setback will reflect the general building scale and placement in multi-dwelling development in the neighborhood, and will appear to have a larger front setback and front yard.

Property owners to the south expressed concern that the front setback adjustment, in combination with the height adjustment, would impact the privacy of the residential units to the south. Staff has addressed the potential privacy impact of the height adjustment under Item #1 above. Regarding the front setback adjustment's effects on privacy, Staff concludes that the front setback adjustment is unlikely to negatively impact the privacy of the residential structure on the abutting property to the south for the following reasons:

- The site's front (west) property line is offset 30 feet to the east, relative to the front property line of the abutting property to the south. As a result, and even with the proposed 2-foot reduction in front setback, the entire proposed building will be east of, and approximately 4 to 5 feet behind, the condominium building to the south.
- The south portion of the proposed building, located above the garage entrance, is closest to the condominium building to the south at approximately 25 feet away. However, the south portion of the proposed building above the garage complies with the 3-foot setback requirement from the west property line, as it is set back approximately 4 feet from the west property line.
- The north portion of the proposed building, which is at 1 foot from the west property line, is approximately 50 feet north of the condominium building to the south. Due to this large separation distance, coupled with the fact that this portion of the building does not have any south-facing windows within the area that is 3 feet back from the west property line, it is reasonable to conclude that the reduction in front building setback will not negatively impact the privacy of the condominium structure to the south.

Adjustment Approval Criterion A is met for the setback adjustment for the west building wall.

- b) Building Setback from North property line. Section 33.120.220 and Table 120-4 require a minimum side building setback of 5 feet when the area of the plane of a building wall is 1,000 square feet or less, and require a minimum side building setback of 11 feet where the area of the plane of the building wall is between 2,501 and 2,800 square feet.

The applicant requests an Adjustment to this standard to allow the north building wall, which is approximately 2,727 square feet in area, to be set back 5 feet from the north property line; and to allow the bay window projection on the north building wall, which is less than 1,000 square feet in area, to be set back 2 feet, 6 inches from the north property line. The applicant states that, due to the site's extreme rise (to 60 feet) to the east and south, the proposed building must be brought as far north and west on the site as possible.

The applicant states that the proposal will meet the purpose of the setback standards for the following reasons:

- The proposed north building setback maintains light, air, separation for fire protection, and access for fire fighting, because the closest residential structures to the north are on the north side of Highway 26, more than 100 feet away. To the immediate north of the property is a pedestrian trail, and the eastbound and westbound lanes of Highway 26 are located north of the pedestrian trail.
- The "reasonable physical relationship between residences" portion of the setback purpose is not applicable, because the closest residential structures to the north are separated from the site by the Highway 26 right-of-way and at least 200 feet of separation distance.
- The north setback adjustment will not affect the privacy of the closest residential structures to the north, due to the large separation distance between the proposed building and those structures.

Staff Conclusion. Staff concurs with the applicant's findings. Light, air, separation for fire protection, and access for fire fighting will be maintained between the north wall of the building and the nearest residential properties to the north, due to the fact that the site is adjacent to a highway right-of-way on its north side and thus the nearest residential properties are at least 100 feet away. Because there is such a significant separation distance between the north wall of the proposed building and the nearest residences to the north, a reasonable physical relationship between residences will be maintained, and the location of the building will appear similar to the general building scale and placement of multi-dwelling development in the neighborhood. The requested north setback adjustment equally meets the purpose of the setback regulation.

Adjustment Approval Criterion A is met for the north setback adjustment.

3. Building Coverage Standards. The intent of the standards, as stated in Section 33.120.255.A, is:

The building coverage standards, along with the height and setback standards, limit the overall bulk of structures. They assure that larger buildings will not have a footprint that overwhelms adjacent development. The standards help define the character of the different zones by determining how built-up a neighborhood appears.

Section 33.120.225 and Table 120-3 limit maximum building coverage to 60% of the site area. Given the site's area of approximately 5,750 square feet, a maximum building coverage of 3,450 square feet is allowed. The applicant requests an Adjustment to this standard to allow the first floor/garage level of the proposed building to have a building coverage of approximately 82% of the site area.

The applicant states that the proposal will meet the purpose of the building coverage standards for the following reasons:

- The footprint of the multi-story portion of the building has a building coverage of approximately 3,385 square feet (approximately 58.8% of the site), in compliance with the building coverage standards.
- The portion of the building that exceeds the building coverage standard, and triggers the adjustment request, is the portion of the first floor/garage level of the building that extends to the south and east of the multi-story portion of the building. (This portion of the building is labeled "Second Floor Garden Terrace, Top Of Below Grade Garage" on the Site Plan, Sheet A1.2). However, the majority of this portion of the building will be below the adjacent grades to the south and east, with an open garden terrace covering approximately 1,276 square feet of the site's south side. Due to its relationship with adjacent grades and its visual character as a garden terrace that is below or flush with adjacent grades, this portion of the building will not add visual bulk.
- If the proposed parking area on the south side of the site had been uncovered surface parking, rather than being covered by a garden terrace as proposed, the remaining building would comply with the building coverage requirement. However, the proposed landscaped terrace above the proposed parking level will be more attractive than an uncovered surface parking area.
- The only portion of the covered first floor/garage level that extends beyond the multi-story portion of the building, and is more than 6 feet above grade, is the vehicle entrance to the garage on the west building elevation.
- Although a larger building coverage is requested, the proposal will nonetheless comply with the Zoning Code's landscaped area requirements (a minimum of 20% of the site area must be landscaped). The 18% of the site that is not part of the site's building coverage will be landscaped. In addition, the applicant is proposing flow-through planters, to be planted with trees, within the east and south at-grade portions of the second floor garden terrace. The square footage of these planters, when added to the remaining area being landscaped, exceeds the 20% minimum landscaped area requirement.
- The proposal equally meets the purpose of the required maximum building coverage percentage because the area of the building's footprint that is over the required 60% maximum is below grade. The total area of open, recreational space and landscaped space on the site is 2,300 square feet or 40% of the site. The majority of this area is within or adjacent to the second floor garden terrace, and a large portion of this area is at grade.

**Staff Conclusions.** Property owners to the south have expressed concern that the building coverage adjustment will: a) result in a structure that is bulkier and wider; and b) in combination with the requested height adjustment, will result in a structure that will overwhelm adjacent development at the street level. Staff disagrees with this assessment and concurs that the building coverage adjustment will equally meet the purpose of the regulation, for the reasons cited by the applicant and for the following additional reason:

- As noted by the applicant, the only portion of the building that exceeds the building coverage requirement is the portion of the first floor/garage level that extends south and east of the multi-story portion of the building. And, the only portion of the first floor/garage level that extends beyond the multi-story portion of the building and is more than 6 feet above grade is the portion on the west

(street) side, where it is an average of 10 feet above the sidewalk, at the vehicle entrance for the garage. The additional wall area is located south of the garage entrance, and represents a minimal amount of additional wall area (approximately 100 square feet) that will be visible from SW 18<sup>th</sup> Avenue. In addition, this small amount of additional wall area will be partially screened from view by the landscaped berm lying between this wall area and the sidewalk.

Staff concludes that the building coverage adjustment will result in only a minimal amount of additional visual bulk, as compared with a proposal that otherwise complies with building coverage standards.

Adjustment Approval Criterion A is met for the building coverage adjustment.

- 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 within a residential zone. The applicant states that the requested adjustments will not significantly detract from the livability or appearance of the residential area for the following reasons:

- The height adjustment does not detract from the appearance of the neighborhood. The proposed overall height adjustment provides space for architectural elements which break up the overall mass and height of the building. The adjustment to allow the building to exceed the 25-foot height limit within the first 10 feet of the front property line provides a building scale that is consistent with the buildings further south on the west side of SW 18<sup>th</sup> Avenue. Furthermore, the lower portion of the front façade has been broken up with posts and reveals in the stonework to provide human scale along SW 18<sup>th</sup> Avenue.
- The west (front) setback adjustment will add to the livability and appearance of the residential area. Placing the proposed building closer to the front property line continues the “building to street” relationship currently established on SW 18<sup>th</sup> Avenue, allowing the building to conform to the appearance of the surrounding area.
- The north (side) setback adjustment complies with this criterion because placement of the proposed structure closer to the north property line does not detract from the livability or appearance of the surrounding area. There is no existing neighbor to the north of the site, nor will there ever be a structure built to the north. Highway 26 and a bike trail are located to the north and therefore a large open area currently exists and shall continue to exist along the north property line. Furthermore, moving the structure to the north moves the building away from the existing adjacent structure to the south.
- The building coverage adjustment complies with this criterion because the proposed total increase in building coverage does not detract from the appearance of the neighborhood. The additional area of building is below grade and is not visible to any of the adjacent existing buildings. The garage entrance is visible only at its entry point on 18<sup>th</sup> Avenue. It should be noted that a maintained landscaped area will be provided on either side of the garage entrance.

Staff agrees that the overall height adjustment will comply with this criterion. The applicant has proposed that the north portion of the building exceed the 45-foot height limit by 2 feet (for a maximum height of 47 feet). This 2-foot increase in allowed height will be minimally perceptible to pedestrians and motorists passing the building along the SW 18<sup>th</sup> Avenue right-of-way. In addition, this 2-foot increase in allowed height will be minimally perceptible to residents of the closest properties to the south and west, due a separation distance of at least 50 feet between the north portion of the building and those properties. Furthermore, this 2-foot increase in allowed height will be minimally

perceptible to residents of the closest properties to the east, due to the fact that the grade of the site is approximately 45 to 50 feet lower than the grades of the properties to the east.

Regarding the height adjustment to exceed 25 feet in height within 10 feet of the front property line, Staff concludes that this portion of the adjustment will not significantly detract from the overall residential appearance. This conclusion is based on the fact that the entire site is set back to the east an additional 30 feet, compared with the abutting property to the south and the nearby properties to the west and southwest, which have a narrower right-of-way corridor along their frontage. The additional setback of the site's front property line, and the additional right-of-way width in front of the property, will result in the building reaching its maximum height at approximately 16 feet back from the western edge of the sidewalk. This distance between maximum building height and the western edge of the sidewalk is consistent with the allowable distance between those elements on the abutting property to the south, given the fact that the sidewalk on the property to the south directly abuts the that property's front lot line. Therefore, the stepping back function of the 25-foot height limit within 10 feet of the front property line is equally met by the additional setback of the site's front property line from the sidewalk, relative to the adjacent properties. This criterion is met for the height adjustment within 10 feet of the front property line.

Regarding the west (front) setback adjustment, Staff concludes that this adjustment will not significantly detract from the overall residential appearance. The west building wall is proposed to be two feet closer to the front lot line, and the sidewalk, than allowed by the Zoning Code standards.

The west building wall will be set back approximately 7 feet from the east edge of the sidewalk. The interior of the first floor immediately behind the west wall is comprised of utility areas for the building residents (a recycling area, an elevator shaft, a stairwell, and a lavatory). Due to the utilitarian nature of these areas, the applicant has not placed windows within the first floor west façade. However, the applicant has proposed architectural niches in the first floor west façade, to provide visual interest at the first floor level and to continue the pattern of the windows in the upper floors. In addition, the applicant has received preliminary approval from Portland Transportation to place planter boxes within the area between the west building wall and the sidewalk (a revocable permit for these items will be required before building permit approval). The west elevation setback from the sidewalk, the architectural niches along the first floor façade, and the proposed planters between the sidewalk and the west elevation, will assist in allowing the west setback adjustment to harmonize with the residential area.

Regarding the north (side) setback adjustment, Staff concurs with the applicant's findings. The north property line abuts the Highway 26 right-of-way, rather than other residential properties. Therefore, that setback adjustment will not significantly detract from the livability or appearance of the residential area. This criterion is met for the north setback adjustment.

Regarding the building coverage adjustment, Staff concurs with the applicant's findings. The multi-story portions of the building comply with the building coverage requirements. The portion of the building that does not comply, is the first floor/garage level that extends south of the multi-story portions of the building. The applicant could have left this area an uncovered surface parking area, in which case it would not have counted as part of the building coverage. However, the applicant instead covered the parking area with a garden terrace. The garden terrace is more attractive than a surface parking area, and will include planter boxes along the street-facing façade above the garage entrance, to add the softening effects of plantings. These elements will not detract from the

livability or appearance of the residential area, and can be expected to enhance it. This criterion is met for the building coverage adjustment.

- 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 states that the project complies with this criterion for the following reasons:

- The cumulative effect of the requested adjustments allows for an otherwise unbuildable site to be built upon;
- The overall adjustments provide space on the site for four condominium units and off-street parking for each unit;
- Without the requested Adjustments, a much smaller structure would have to be built, which would not maximize the intended density of the R1 zone;
- The requested adjustments provide conditions for a medium density structure as specified in the definition of the R1 zone.

On the other hand, comment letters from notified property owners expressed the view that the cumulative effect of all four requested adjustments will result in the tallest, bulkiest structure in the immediate area, and in an overheight structure situated very close to lot lines.

The applicant notes that the existing condominiums to the south and southwest along SW 18<sup>th</sup> Avenue are bulky in ways that the proposed building is not. The Cable Village Apartments to the southwest do not comply with the 25-foot height limit within 10 feet of the front lot line. Instead, the Cable Village buildings reach their maximum height within 5 feet of the front property line, and those buildings are much closer to the sidewalk that the proposed building on the site will be. Although the St. Andrews Condominiums to the south are stepped back in height within 10 feet of the front property line, the applicant notes that their west facades nonetheless overwhelm the street due to the close proximity of the buildings to the sidewalk and roadway, and the fact that the buildings have a continuous, repetitive front façade that is dominated by a series of garage doors at street level, which are set back approximately 9 feet from the street. In contrast, the proposed building on the site will be 16 feet from the roadway at its closest point, and will be more than 30 feet from the roadway at the south end of the site, closest to the St. Andrews Condominiums.

The overall height adjustment will not have cumulative impacts with the north and west setback adjustments, and will not have a cumulative impact with the building coverage adjustment, because the scope of the overall height adjustment is minimal. The overall height of the north portion of the building is proposed to exceed the maximum 45-foot building height by only 2 feet. This 2-foot difference will be minimally perceptible from the SW 18<sup>th</sup> Avenue right-of-way. This 2-foot difference will also be minimally perceptible to residents of the closest structures to the south and west, due to a separation distance of at least 50 feet between the north portion of the building and those structures. Lastly, this 2-foot difference in height will be minimally perceptible to the residents of the closest structures to the east, because the structures to the east are located on grades that are 45 to 50 feet higher than the grade of the site on which the proposed building will be located.

The height adjustment to allow the north portion of the structure to be a maximum of 47 feet in height within 10 feet of the front (west) property line, and the west setback adjustment, could potentially have cumulative impacts, particularly if the site had the same relationship with the right-of-way as the properties to the south. However, the proposed building will be set back from the roadway and sidewalk by minimum distances of 15 feet and 7 feet, respectively. This separation distance will increase to 30

feet at the southern end of the site. The condominium buildings on the abutting property to the south would be allowed to reach their maximum heights at 10 feet from the abutting 5-foot wide sidewalk. The proposed building will reach its maximum height at approximately 7 feet, 8 inches from the sidewalk. However, this closer relationship between maximum building height and sidewalk location is offset by the increased sidewalk width of 8 feet, 6 inches in front of the building. Due to the increased sidewalk width, along with the 6.5-foot separation distance between the sidewalk and the site's front property line, the setback and height adjustments will not result in cumulative impacts that could overwhelm the street.

The north setback adjustment will not have cumulative impacts with the west setback adjustment, or the height adjustment within 10 feet of the front (west) property line, because its potential effects are limited to the abutting area to the north of the building. The area to the north of the building is not in residential use, so no negative effects are anticipated.

The building coverage adjustment is triggered by covering what would otherwise be a surface parking area on the south side of the site, with a garden terrace. The building coverage adjustment will not have cumulative impacts with the north and west setback adjustments, because the garden terrace area is on the south side of the site. The building coverage adjustment will not have cumulative impacts with the height adjustment because the garden terrace will be at or near grade, well below the 25-foot height maximum within 10 feet of a front property line.

This criterion is met for all of the requested adjustments.

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

**Findings:** The site does not contain any city-designated scenic or historic resources. Therefore, this criterion is not applicable.

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

**Findings:** The applicant states that the overall height adjustment complies with this criterion because no negative impacts are caused to the surrounding neighborhood; and the building does not obstruct views of any other adjacent buildings. The applicant states that the increase in height of the building is mitigated through the use of a rich architectural vocabulary; the stone pattern, columns, gables, and other decorative architectural features provide human scale to the building. Staff notes that the overall height adjustment is minimal in scope, as it is a request for the north portion of the building to exceed the maximum building height by only 2 feet. The proposed 2-foot increase in overall height will be minimally perceptible from the SW 18<sup>th</sup> Avenue right-of-way, and will also be minimally perceptible from the nearest buildings to the south and west, due to a significant separation distance between the portion of the proposed building that will exceed the height standard and the nearest buildings to the south and west. The proposed 2-foot increase in the proposed building's height will also be minimally perceptible from the east, as the grade of the closest properties to the east is approximately 45 to 50 feet higher than the grade of the site.

Although the scope of the overall height adjustment is minimal, the applicant has also proposed to mitigate for the 2 foot increase in building height by bringing the base of the building lower in relation to the SW 18<sup>th</sup> Avenue right-of-way. The applicant has lowered the lowest finish grade from an elevation of 185 feet at the northwest corner of the site (as depicted on the West Elevation attached to the Notice of Proposal), to an elevation of 183 feet at the northwest corner of the site (as depicted on the Revised West Elevation

attached to this Notice of Decision). No negative effects are expected to result from the overall height adjustment, given this mitigation.

No negative effects are expected to result from the height adjustment within 10 feet of the front (west) property line, and the west setback adjustment. Additional area will be provided in front of the structure (consisting of 6 feet between the front lot line and the sidewalk, a 9-foot wide sidewalk, and an approximately 60-foot wide roadway). The setback between the building and the sidewalk, coupled with a sidewalk width almost double what exists to the south, as well as a roadway width almost double what exists to the south, will result in the structure maintaining an adequate relationship to the sidewalk and street.

No negative effects are expected to result from the north setback adjustment, as the north property line abuts the Highway 26 right-of-way rather than residential properties.

No negative effects are expected to result from the building coverage adjustment, as it is triggered covering what would otherwise be a surface parking area on the south side of the site, with a garden terrace. The garden terrace, which is primarily at-grade, will not add appreciable visual bulk to the proposed structure.

This criterion is met for all requested adjustments, with the exception of the overall height adjustment.

- 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. Therefore, 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 applicant has requested 4 adjustments in conjunction with the proposed multi-dwelling structure. The adjustments are: height adjustment (including adjustment to maximum overall height, and adjustment to maximum height within 10 feet of a front property line); west setback adjustment; north setback adjustment; and building coverage adjustment. The applicant has demonstrated that the adjustments will comply with the Adjustment Approval Criteria. Therefore, the adjustments can be approved. Approval of building permits is still required, after the decision is final and has been recorded with Multnomah County.

## ADMINISTRATIVE DECISION

In order to construct a minimum 4-unit, multi-dwelling structure on this site,

Approval of:

A height adjustment to Section 33.120.215 and Table 120-3, to allow the proposed building to have a maximum height of 47 feet, including the portion of the building within 10 feet of the front (west) property line;

A setback adjustment to Section 33.120.220 and Table 120-3, to allow the proposed building to have a minimum setback of 1 foot from the west property line;

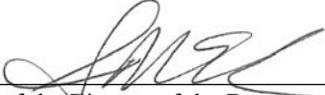
A setback adjustment to Section 33.120.220 and Table 120-3, to allow the proposed building's bay window projection to have a minimum setback of 2 feet, 6 inches from the north property line, and to allow the north building wall to have a minimum setback of 5 feet from the north property line;

A building coverage adjustment to Section 33.120.255 and Table 120-3, to allow the proposed building to have a maximum building coverage of approximately 82 percent of the site;

per the approved plans, Exhibits C-1 through C-5, signed and dated May 20, 2008, 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.5. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-106691 AD."

*NOTE:* The applicant must contact the Urban Forestry Division of Portland Parks and Recreation before removing any tree located in the City right-of-way.

**Decision rendered by:**  **on May 20, 2008.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: May 22, 2008.**

**Staff Planner: Suzanne Savin**

**About this Decision.** This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on February 4, 2008, and was determined to be complete on March 19, 2008.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on February 4, 2008.

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 from April 14, 2008 to May 20, 2008 (a period of 36 days), as stated with Exhibits A-2, A-3, A-4, and A-5.

**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 June 5, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., 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. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 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](http://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 **June 6, 2008 – (the day following the last day to appeal)**.
- 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 Submittal

1. Applicant's Written Narrative & Site Photographs
2. Applicant's Request to Extend the 120-day timeline from April 14, 2008 to May 5, 2008
3. Applicant's Request to Extend the 120-day timeline from April 28, 2008 to May 9, 2008
4. Applicant's Request to Extend the 120-day timeline from May 9, 2008 to May 14, 2008
5. Applicant's Request to Extend the 120-day timeline from May 14, 2008 to May 20, 2008
6. Geotechnical Evaluation Report, dated April 4, 2008
7. Memorandum from KPFF Consulting Engineers, dated April 23, 2008
8. Applicant's Written Response to Comment Letters, dated April 24, 2008

#### B. Zoning Map (attached)

## C. Plans/Drawings:

1. Revised Site Plan (attached)
2. Revised West Elevation (attached)
3. Revised East Elevation (attached)
4. Revised North Elevation (attached)
5. Revised South Elevation (attached)
6. Color Perspective Renderings
7. Survey
8. Vicinity Plan
9. Enlarged Partial Site Plans
10. Building Floor Plans
11. Building Sections
12. Original Site Plan
13. Original West Elevation
14. Original East Elevation
15. Original North Elevation
16. Original South Elevation

## D. Notification information:

1. Mailing list
2. Mailed notice

## E. Agency Responses:

1. Bureau of Environmental Services
2. Addendum to Bureau of Environmental Services Response
3. Bureau of Transportation Engineering and Development Review
4. Fire Bureau
5. Site Development Review Section of BDS
6. Revised Site Development Review Section of BDS Response
7. Life/Safety Plan Review Section of BDS
8. Oregon Department of Transportation (ODOT)
9. E-mail from Sam Hunaidi, Assistant District Manager, ODOT – District 2A
10. Bureau of Parks, Forestry Division
11. Water Bureau

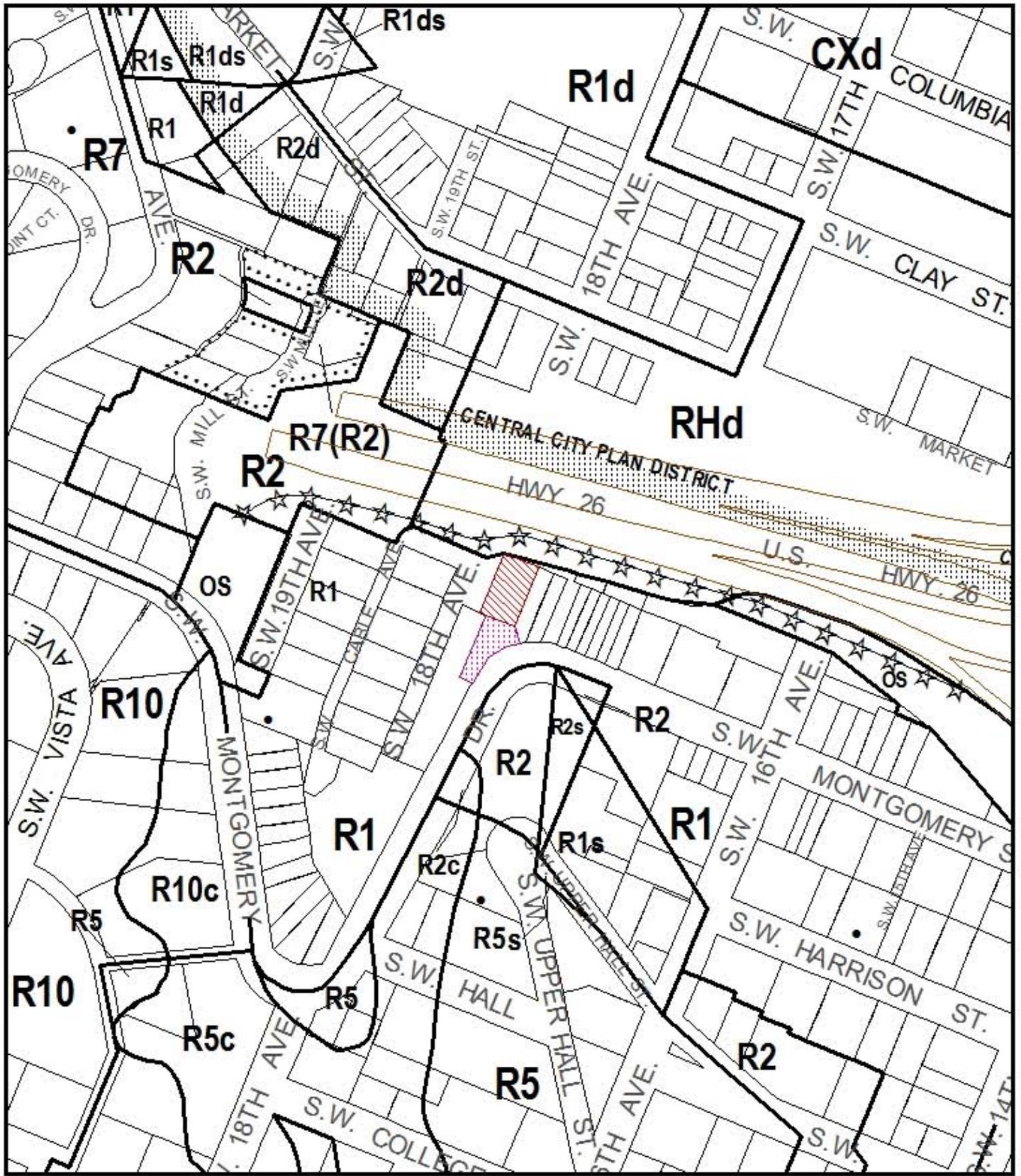
## F. Correspondence:

1. Betty Dagg, Michael Hartman, David Ibsen, Niki & Jeff Ganong, Darla Hailey, David Feinstein, and Kevin & Amy Williams, April 7, 2008, expressed opposition to the proposal.
2. Roland Cooke, April 7, 2008, expressed opposition to the proposal.
3. Woojin Yoo, April 8, 2008, expressed opposition to the proposal.
4. Charles Martin, April 9, 2008, expressed opposition to the proposal.
5. Chris Coleman (President, St. Andrew's Homeowners Association), April 11, 2008, expressed opposition to the proposal.

## G. Other:

1. Original LU Application
2. Site History Research

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).**



# ZONING

-  Site
-  Also Owned
-  Historic Landmark



File No.	LU 08-106691 AD
1/4 Section	3127
Scale	1 inch = 200 feet
State Id	1S1E04BD 12800
Exhibit	B (Feb 07, 2008)



\*Approved\*

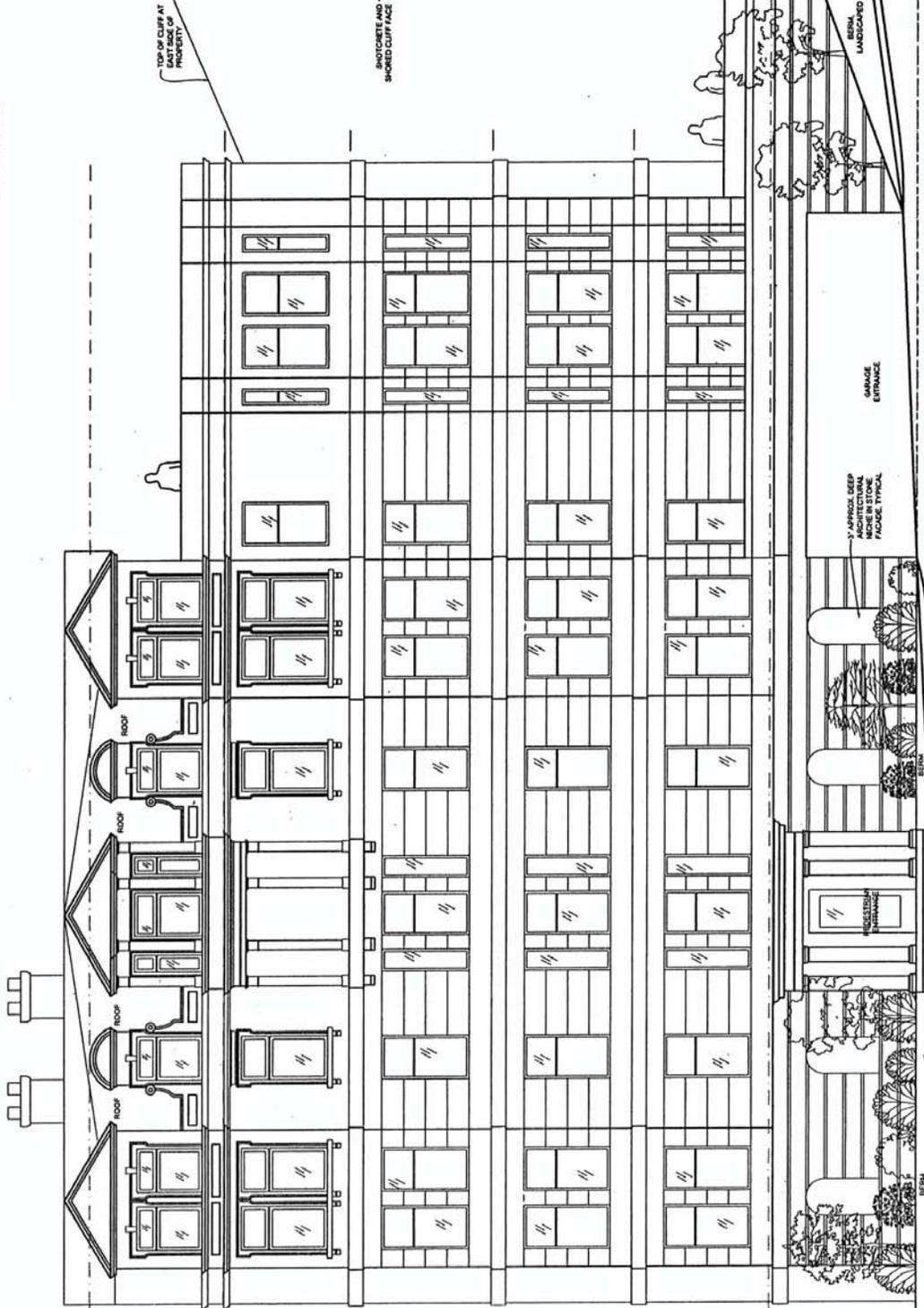
City of Portland - Bureau of Development Services

Planner *Suzanne Levin*

Date *May 29, 2008*

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

GRADE @ MONTGOMERY AVENUE



MIDPOINT OF GABLE  
+57'-0"

47'-0"

57'-0"

10'-0"

LOW GRADE &  
BASE POINT 2  
+10'-0" (183.0±)

LOWEST GRADE'S  
FINISH (183.0±)

LOW GRADE &  
FINISH FLOOR  
0'-0" (183.0±)

NORTH  
PROPERTY LINE

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

WILLIAM HAWKINS III  
ARCHITECT - FAIA  
1300 NORTHWEST 18TH AVENUE  
PORTLAND, OREGON 97209  
503-467-9044  
WILLIAMHAWKINS@GMAIL.COM

INTEGRATE  
PLANNING & DESIGN



ST. ANDREWS CONDOMINIUMS  
SW 18TH AVE. & MILL ST. TERRACE  
GOOSE HOLLOW, PORTLAND, OREGON

Job Number: \_\_\_\_\_  
Date: \_\_\_\_\_  
Scale: \_\_\_\_\_  
Construction: \_\_\_\_\_

FRONT (WEST)  
ELEVATION  
Sheet Number

A3.1

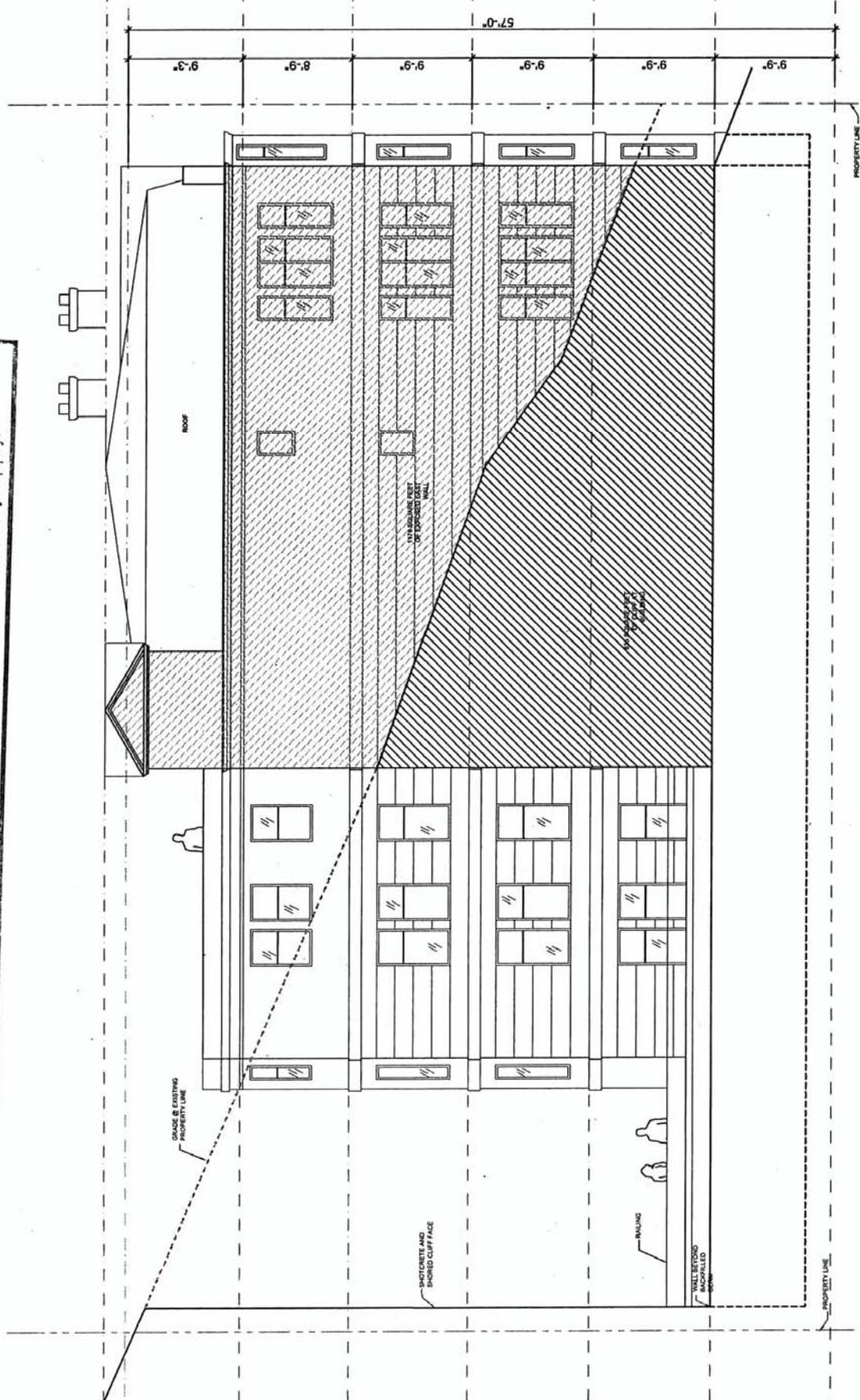
EX C-2

\*Approved\*

City of Portland Bureau of Development Services

Planner Suzanne Swin Date May 20, 2008

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



Ex C-3

1 REAR (EAST) ELEVATION

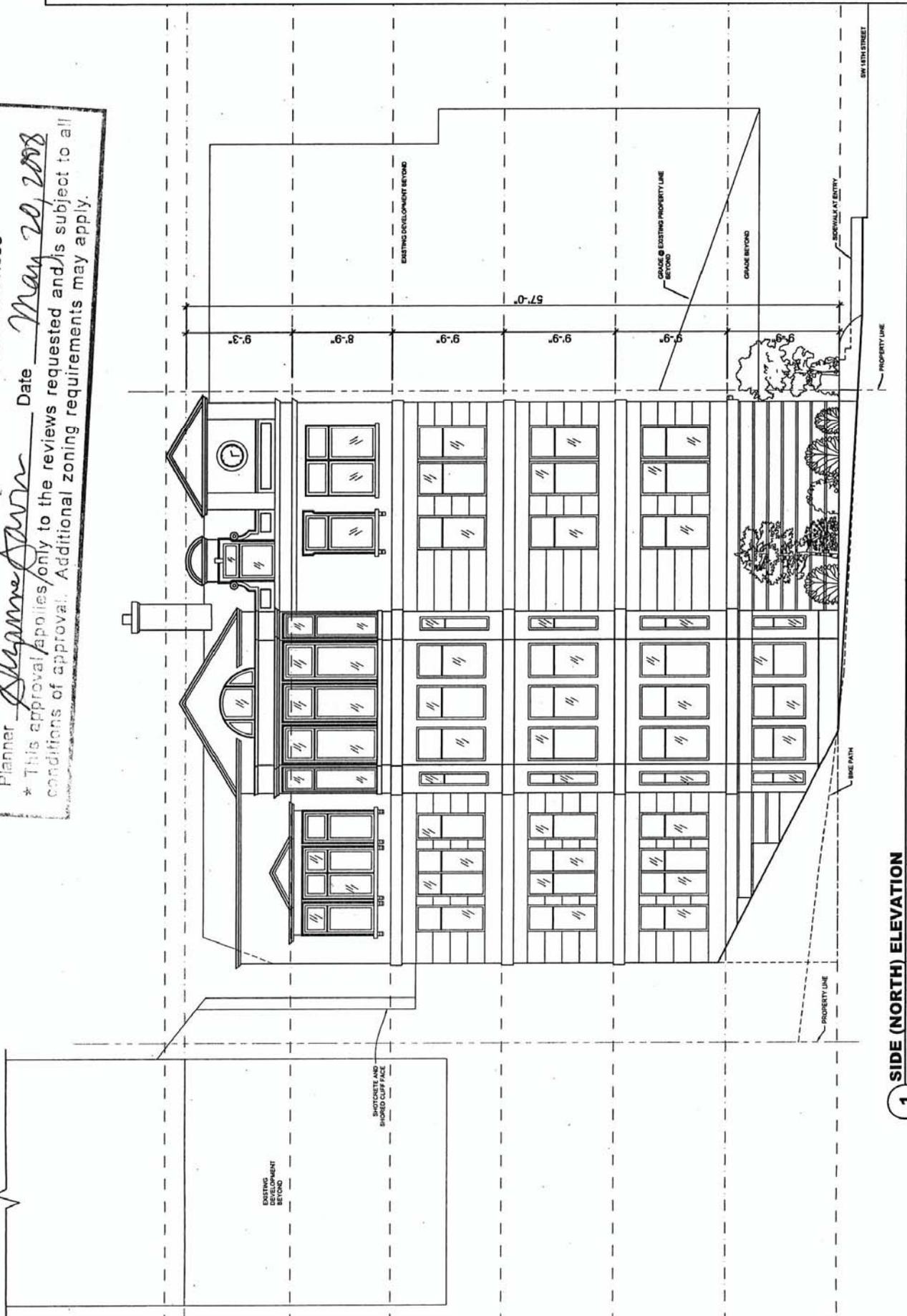
1/8" = 1'-0"

**\*Approved\***

City of Portland - Bureau of Development Services

Planner Suzanne Davis Date May 20, 2008

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



**1** SIDE (NORTH) ELEVATION  
 1/8" = 1'-0"

Ex C-4

WILLIAM HAWKINS III  
 ARCHITECT - P.A.  
 1420 NORTHWEST 17TH AVENUE  
 PORTLAND, OREGON 97209  
 503/241-1111  
 WWW.WILLIAMHAWKINSIII.COM

INTEGRATE  
 PLANNING & DESIGN

**\*Approved\***

City of Portland Bureau of Development Services

Planner Suzanne Levin Date May 20, 2008

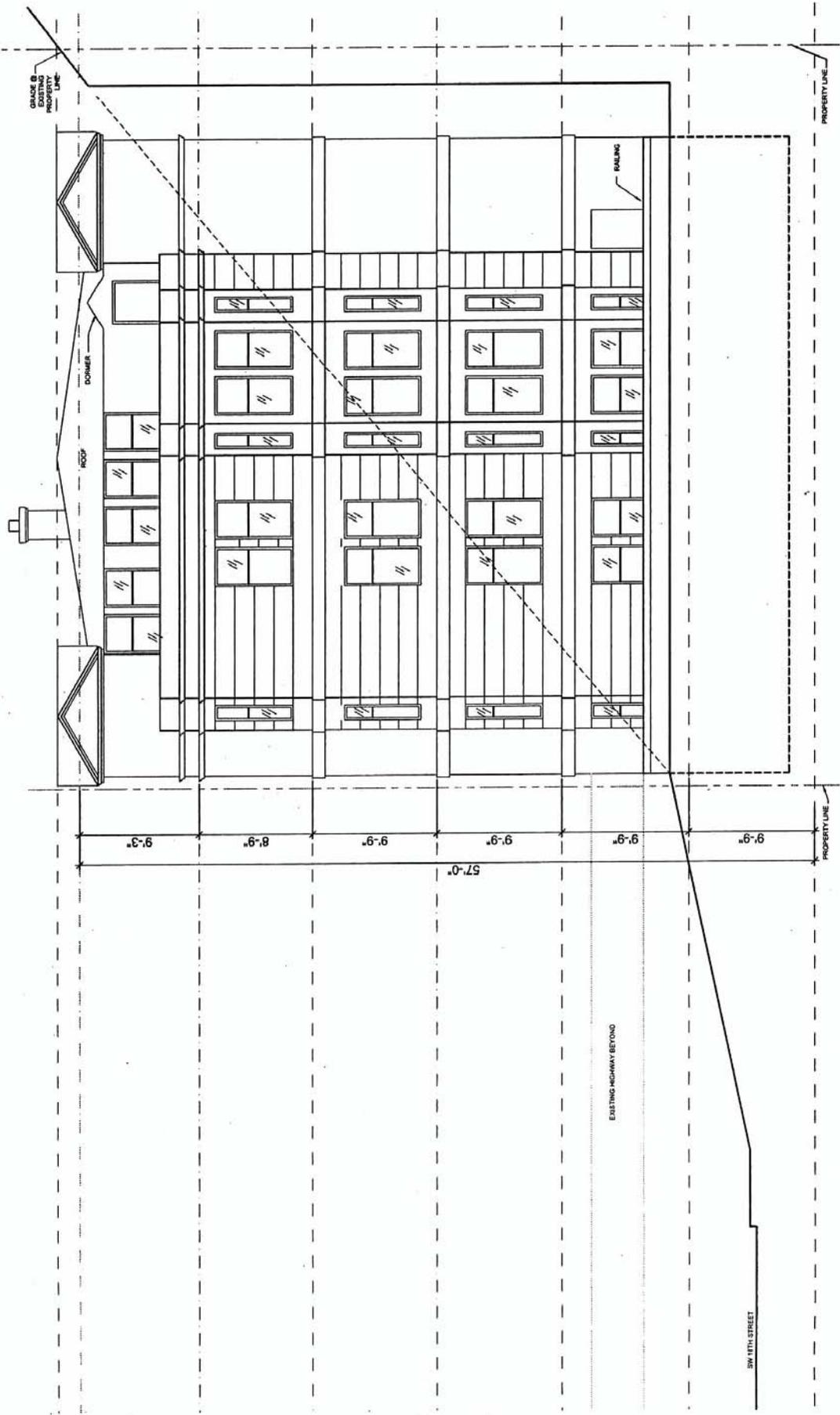
\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

ST. ANDREWS CONDOMINIUMS  
 SW 18TH AVE. & MILL ST. TERRACE  
 GOOSE HOLLOW, PORTLAND, OREGON

Job Number: \_\_\_\_\_  
 Date: 05/20/08  
 NOT FOR CONSTRUCTION

SIDE (SOUTH) ELEVATION  
 Sheet Number  
**A3.4**

INTEGRATE  
 MANNING  
 ARCHITECT - FAIA  
 145 SCHWABER STREET, AVONDALE  
 PORTLAND, OREGON 97203  
 WILLIAM HAWKINS III



EX C-5

**1** SIDE (SOUTH) ELEVATION  
 1/8" = 1'-0"