



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

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: May 10, 2010
To: Interested Person
From: Mark Bello, Land Use Services
503-823-7810 / mark.bello@ci.portland.or.us

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 10-109842 AD

GENERAL INFORMATION

Applicant: James W. Kehoe Jr.
Brenda L Kehoe
9180 SW 23rd Drive
Portland, OR 97219-5506

Michael Troyer
3718 SW Huber St
Portland, OR 97219

Site Address: 8954 SW 5TH AVE

Legal Description: BLOCK 6 LOT 11 S 20' OF LOT 12, KILPATRICK COLLINS TRACT
Tax Account No.: R450501270
State ID No.: 1S1E28AA 05400
Quarter Section: 3928

Neighborhood: Collins View, contact Dave and Dixie Johnston at 503-636-0959.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: R7 Residential 7,000

Case Type: AD Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicants wish to construct a new two-story single family home on a vacant lot. The proposed design features living space at one corner of the house closest to the street, an inset middle portion (foyer and utility room), and then a garage at the other corner. The garage is located approximately four feet in front of the main entrance/foyer. There is a covered porch that extends from the den to the garage.)

The applicants are requesting an Adjustment to waive the garage standard that does not allow garages to be located closer to the street lot line than the street-facing wall of the house, in this case the main entrance/foyer/utility room (Zoning Code Section 33.110.253.F.3). The garage will be set back 21 feet from the front (NE 151st Avenue) property line. That is four feet in front of the main entrance.

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 currently vacant and has approximately 92 feet of street frontage along SW 5th Avenue. The site is approximately 110 feet in depth, for a total site area of approximately 10,120. The site slopes down – about 10 feet - away from SW 5th Avenue.

SW 5th Avenue has a right-of-way width of 50 feet but is unpaved and there is no sidewalk in front of this site. From SW Lobelia Street - to the north, to SW Primrose Street - to the south, a distance of approximately 560 feet, only the south half of SW 5th Avenue is paved, an 18-ft. asphalt strip.

Most lots along SW 5th Avenue are approximately 8800 sq. ft. in area. Some lots are larger, up to 12,000.

Zoning: the R7 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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 **February 19, 2010**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- The Bureau of Parks, Forestry Division

The Bureau of Transportation Engineering has no objection provided that the garage entrance setback requirement is met. The proposed setback is 20 feet.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 19, 2010. 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**

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. They also allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria have been met. Those approval criteria are as follows:

- A.** Granting the adjustment will equally or better meet the **purpose** of the regulation to be modified;
- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in a C, E, or I zone, the proposal will be consistent with the desired character of the area; and
- 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
- D.** City-designated scenic resources and historic resources are preserved; and
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.
- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

Regarding approval criterion A, the purpose of setbacks is as follows:

33.110.253 Garages

Purpose: These Standards:

- Together with the window and main entrance standards, ensure that there is a physical and visual connection between the living area of the residence and the street;
- Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;
- Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;
- Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and
- Enhance public safety by preventing garages from blocking views of the street from inside the residence.

FINDINGS

The house is well-placed on the lot in relation to SW 5th Avenue. The majority of the front façade is living area – den, foyer, and utility room. A porch spans between the den and the garage. The main entrance is enhanced by adding side lights that flank the door and a transom light above. The porch is enhanced by adding railings and columns. These enhancements create a larger presence for the living areas of the house. The prominence of the main entrance is further emphasized by a direct connection (pervious pavers) from SW 5th Avenue with a flare at the front property line

The geometry of the proposed design allows views of SW 5th Avenue from all living areas of the house – den, foyer, and utility room. The garage would be set back 20 feet from the front property line and 13'-11" away from the side property line. The garage would project only four feet beyond the foyer and approximately two feet beyond the den. So, the location of the garage

does not break the connection between living areas and street. The large lot dimensions also help to reduce the prominence of the garage.

Only one adjustment is requested.

The site is not in a scenic or environmental zone.

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

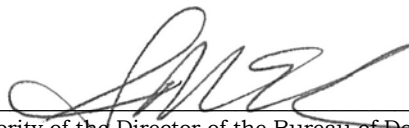
The design submitted proposes an alternative to the garage standards for Single-Dwelling zones. It meets the purpose of the garage standard due to site planning for the house on this oversized lot and by providing an attractive main entrance and porch with good detailing (Approval criterion A.) It meets other applicable approval criteria as well.

ADMINISTRATIVE DECISION

Approval of an adjustment to set the garage four feet closer to SW 5th Avenue than the main entrance, per the approved site plans, Exhibits C-1 through C-3, signed and dated May 3, 2010, 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 10-109842 AD. No field changes to the west elevation allowed."

Staff Planner: Mark Bello

Decision rendered by:  **on May 5, 2010**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 10, 2010

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 5, 2010, and was determined to be complete on February 17, 2010.

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 5, 2010.

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 20, 2010 to April 29, 2010. Unless further extended by the applicant, **the 120 days will expire on: August 27, 2010.**

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 May 24, 2010** 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. 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 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.

- A building or zoning permit will be issued only after the final decision is recorded.

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

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

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

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

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

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

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

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

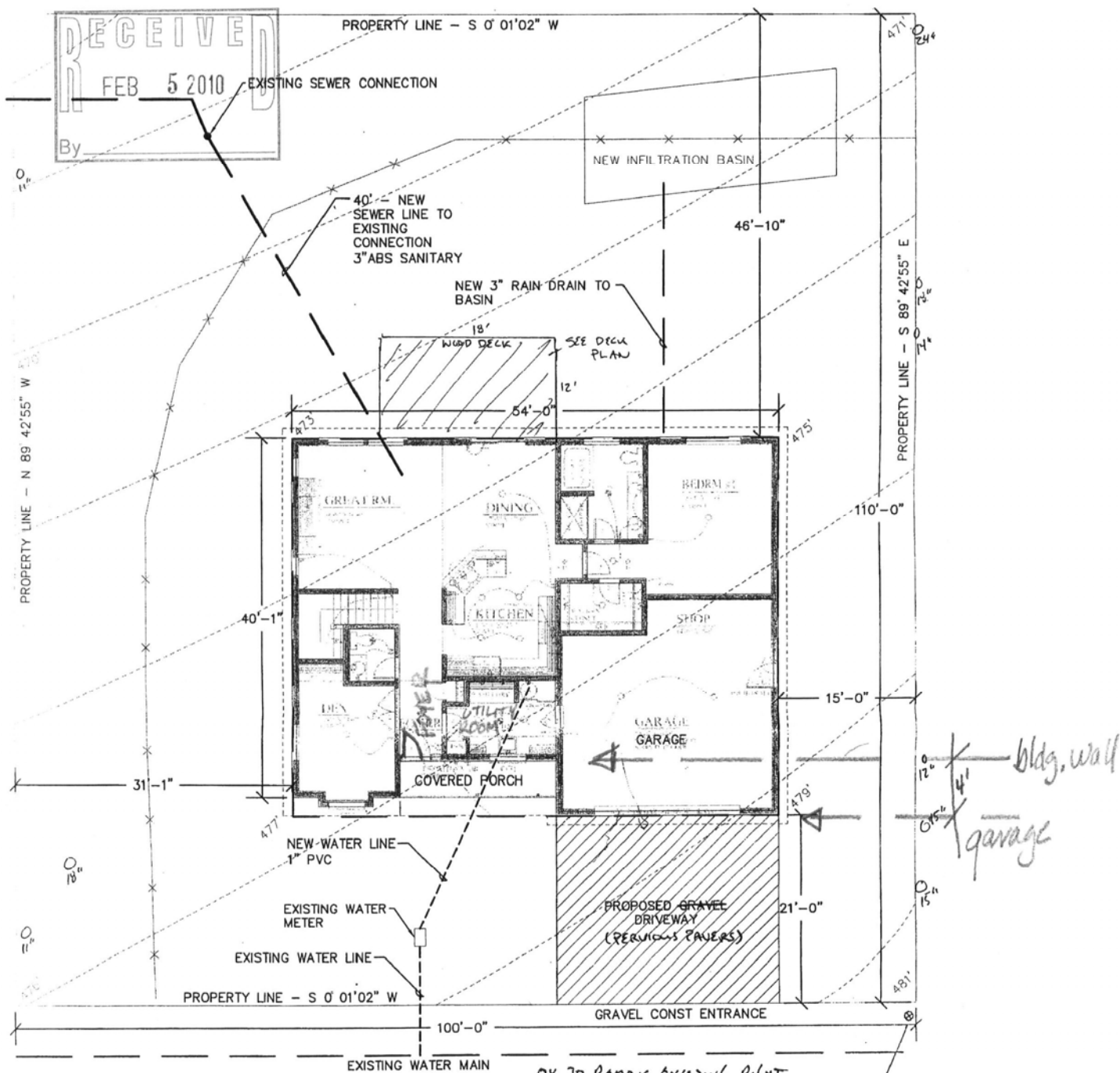
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings: (attached)
 - 1. Site Plan
 - 2. Proposed Paver Layout
- 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
- F. Correspondence (none)
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Applicant's Waiver

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).



5TH AVENUE
UNIMPROVED ROAD (DIRT/GRAVEL)

OK TO REMOVE EXISTING RIGHT OF WAY TREES.

LOT AREA: 11,000 SQ FT
ALLOWABLE (2250SF+15%>5000SF)=3150 max
BUILDING AREA 2160 SQ FT

IMPERVIOUS AREA:
ROOF AREA 2,460 SQ FT
BUILDING COVERAGE = 19.6% (2160 SF)
BUILDING FOOTPRINT 2,160 SQ FT

SOAKAGE TRENCH
ROOF AREA 2460
X .06
147

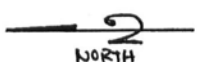
LEGAL DESCRIPTION:
KILPATRICK COLLINS TRACT
BLOCK 6
LOT 11, S 20' OF LOT 12
R197872

EXISTING POWER POLE

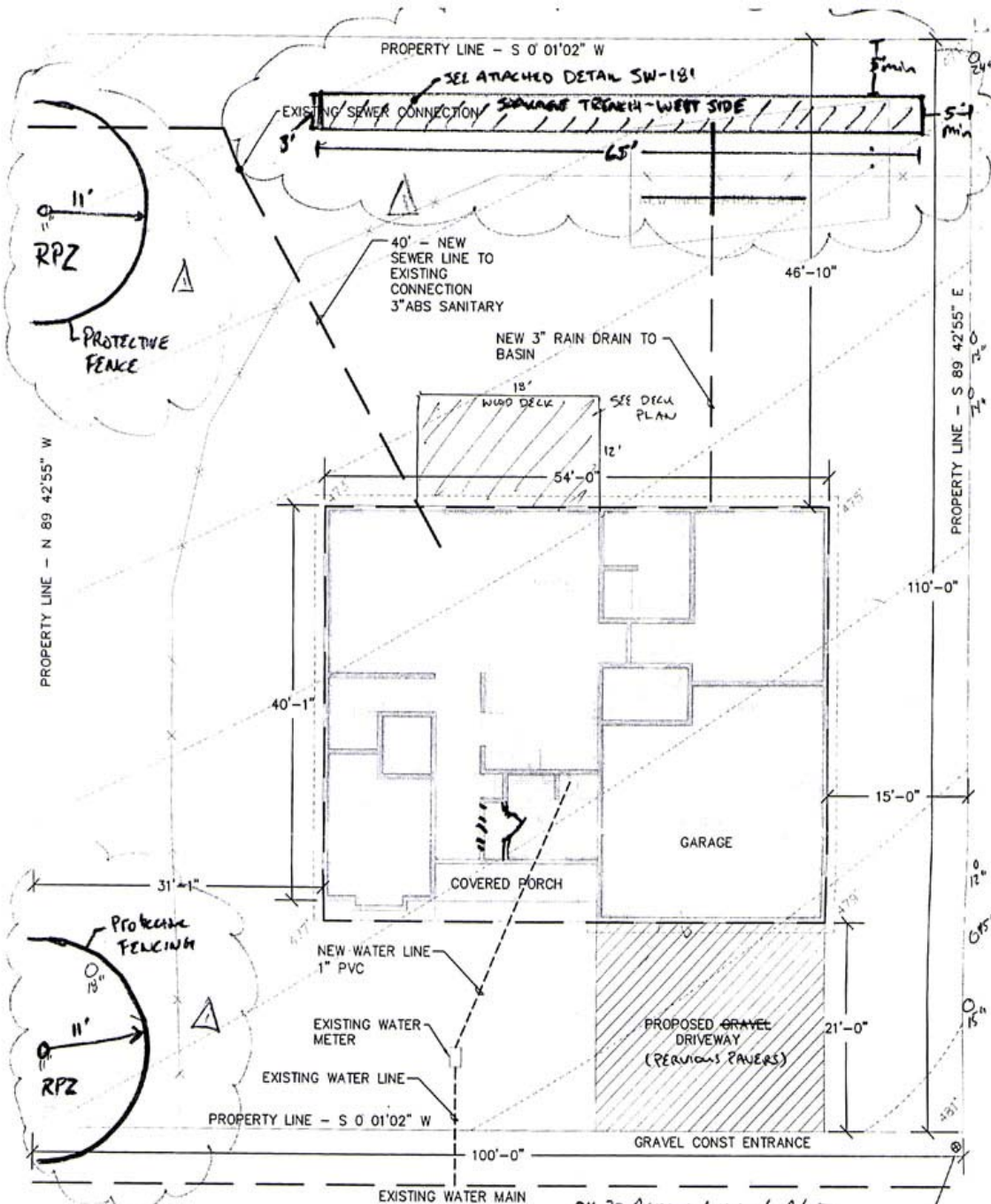
TREE PRESERVATION/REFORESTATION
LOT AREA 11000 SQ FT
CALIPER REQ'D (2/1000SF) 22 INCHES
EXISTING CALIPER ON SITE 30 INCHES
TREE CALIPER TO ADD NONE

— X — X — SILT FENCE

KEHOE RESIDENCE
SITE PLAN - ADDRESS: 8954 SW 5TH AVE



LU 10-109842 AD



Approved*
City of Portland - Bureau of Development Services

Planner: *11/2*
Date: *5/15/10*
Additional zoning requirements may apply.

APU 1 - FEB 12 ENT'D

5TH AVENUE
UNIMPROVED ROAD (DIRT/GRAVEL)

OK TO REMOVE EXISTING RIGHT OF WAY TREES.

LOT AREA: 11,000 SQ FT
ALLOWABLE (2250SF+15%>5000SF): 3150 max
BUILDING AREA: 2160 SQ FT

IMPERVIOUS AREA:
ROOF AREA: 2,460 SQ FT

BUILDING COVERAGE = 17.6% (2160 SF)
BUILDING FOOTPRINT 2160 SQ FT

SOAKAGE TRENCH
ROOF AREA: 2460
X: .06
147

LEGAL DESCRIPTION:
KILPATRICK COLLINS TRACT
BLOCK 6
LOT 11, S 20' OF LOT 12
R197872

EXISTING POWER POLE
TREE PRESERVATION/REFORESTATION
LOT AREA: 11000 SQ FT
CALIPER REQ'D (2/1000SF): 22 INCHES
EXISTING CALIPER ON SITE: 30 INCHES
TREE CALIPER TO ADD: NONE

SILT FENCE

CASE NO. *10 107842*
EXHIBIT *C1*

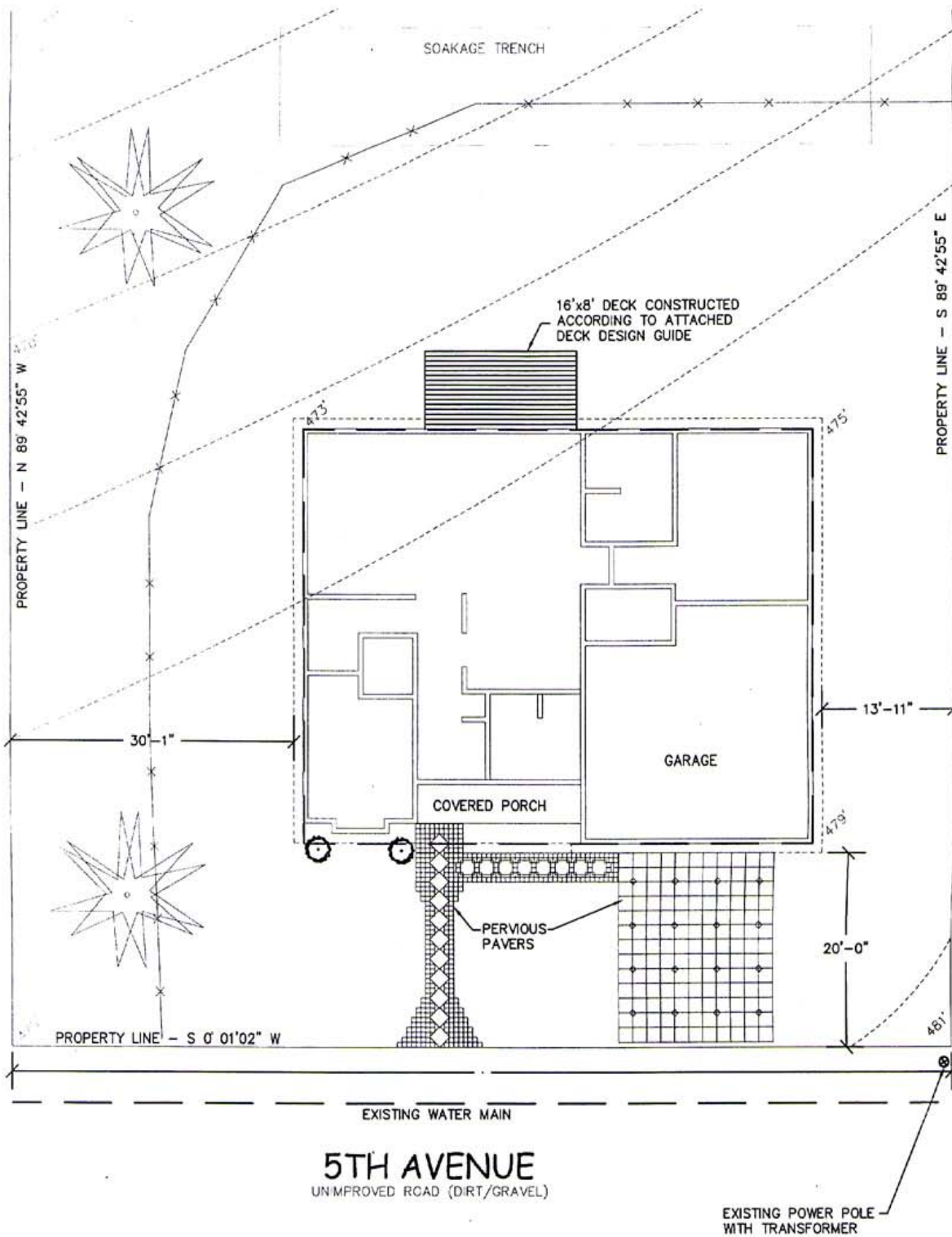
KEHOE RESIDENCE
SITE PLAN - ADDRESS: 8954 SW 5TH AVE

0 10' 20'
SCALE: 1"=10'-0"

2
NORTH

10-101375-KS

N



8954 SW 5TH AVENUE

KEHOE RESIDENCE PROPOSED PERVIOUS PAVER LAYOUT

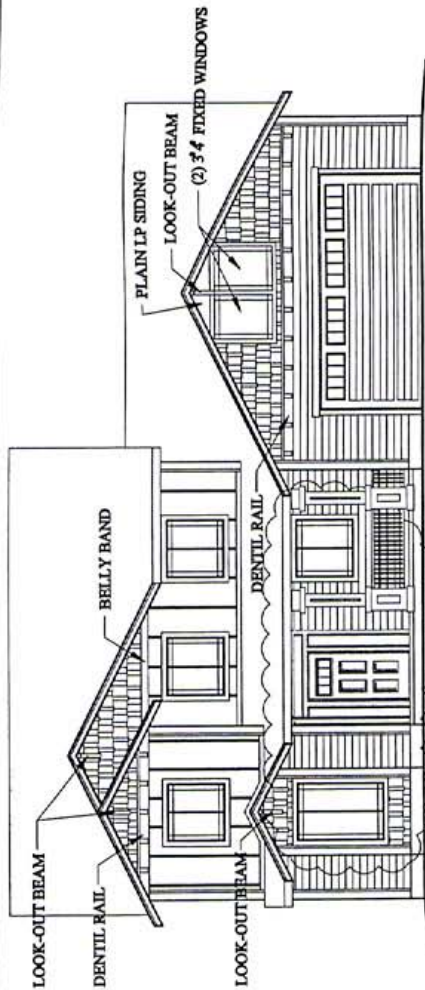
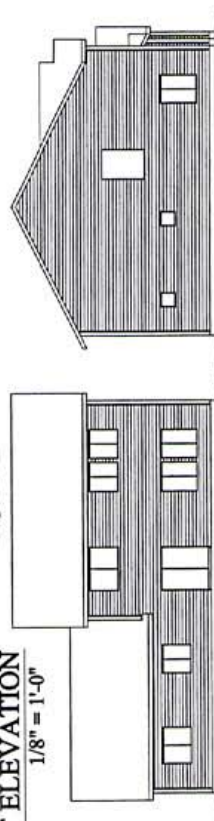
0 10' 20'

SCALE: 1"=10'-0"

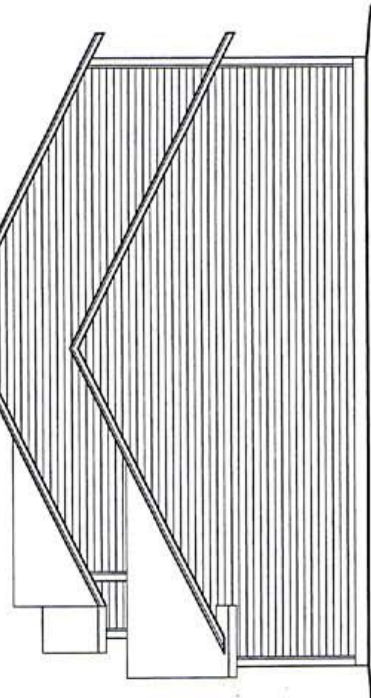
CASE NO. 10-109812
EXHIBIT C2

Approved
City of Portland - Bureau of Development Services
Project: 10-109812 Date: 5/15/10
This permit applies only to the reviews requested and is subject to a final decision of approval. Additional zoning requirements may apply.

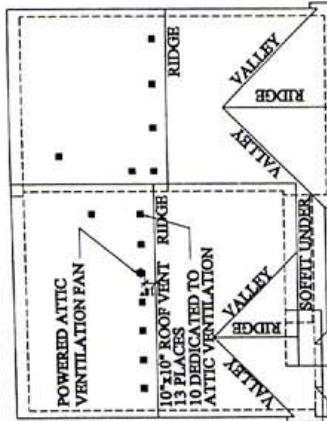
approval applies only to the reviews requested and is subject to future change of approval. Additional zoning requirements may apply.


$$\frac{1}{8}'' = 1'-0''$$

$$\frac{1/16'' = 1'-0''}{1'-0''}$$

LEFT ELEVATION
1/16" = 1'-0"

 $1/16" = 1'-0"$ 

1/8" = 1'-0"


$$\frac{1/16^n}{1/16^n} = 1'-0''$$

EXTERIOR SIDING & TRIM SPECIFICATIONS

1. Siding on walls - LP Smart Siding 3/8" thick X 8" wide horizontal lap siding.
2. Siding on upper portion of front wall & gables - LP Smart Panel plain siding with 4/4 X 2 LP Smart Trim vertical batts at 16" OC. 5/4 X 6 LP Smart Trim bell head located as shown on elevation drawings at bottom of gables & separating upper & lower portions of front wall.
3. Window trim on front of beams only, 5/4 X 4 LP Smart Trim all sides. On grouped windows the vertical corner muntins will be 1/16" LP Smart Panel plain siding ripped to fit the width between windows.
4. Window Grids. Integral window grids in perimeter style configuration (Patin Frame) fix only windows shown on front elevation.
5. Garage and Front Entry Door trim, 5/4 X 4 LP Smart Trim each side and 5/4 X 6 LP Smart Trim Header. Header overhangs sides 1 1/2" on each end. (Does not apply to other exterior doors.)
6. Wrapped porch support beam and pillars - Front, back, bottom (between posts) and exposed end of the support beam to be covered with LP Smart Trim (no groove) siding. 4 X 4 posts boxed in with 5/4 X 6 and 5/4 X 8 LP Smart Trim. The beam and top to be finished with 5/4 X 6 LP Smart Trim as a footing and crown. Pillar covers to terminate at the bottom 8" below the top of the rough floor elevation of the beam. The Owner will provide the front porch (wood deck or concrete slab) to match this elevation.
7. Look-out beam at peak of designated gable ends - 4 X 6 cedar beam, 4 X 4 cedar angled brace, and 2 X 4 cedar beam at peak.

CASE NO. 18-10784-2

EXHIBIT "C3"



ADAIR HOMES INC.

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SCALE AS SHOWN

DATE 10/9/09

DRAWN BY

REVISID 4/8/10

T 4-2659 G STANDARD

ELEVATIONS

DRAWING NUMBER

1