



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

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Date: July 29, 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 10-111707 DZ
(145-147 NE 108TH AVENUE)

GENERAL INFORMATION

Owner	Applicant
John L. Platt Penelope K. Platt 540 Logus St Oregon City, OR 97045	Scott Rowland Empire Contractors 8790 SW Turquoise Loop Beaverton OR 97007

Site Address: 145-147 NE 108TH AVE
Tax Account No.: R649756010
State ID No.: 1N2E34CA 07402
Quarter Section: 3041

Neighborhood: Hazelwood, contact Arlene Kimura at 503-252-9429.
Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-3910.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: East Corridor (Gateway)

Zoning: R2ad: Low-density Multi-dwelling zone with an Alternate Density overlay and Design Review overlay

Case Type: DZ, Design Review
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant seeks design review approval to construct a new one-story duplex building on an existing flag lot located in the East Corridor Plan District. An existing duplex building of a

similar size and L-shaped configuration exists on the site, and the applicant proposes to mirror the same form of the existing building around a new parking court. The new building will match the low-slope pitched roof form of the existing building, with the placement of garages, entrance doors and patios similarly mirroring their placement on the existing building. The new building measures approximately 13'-0" tall. The development is setback approximately 90'-0" from NE 108th Avenue, and the existing 20'-0" wide driveway is to be improved with new "shared court" design with new plantings. Five new mimosa trees are proposed to be placed along the north (side) and east (front) facades of the new building, placed at the eastern end of the building and between the two buildings, respectively. An existing 2'-0" diameter fir tree located in the central portion of the property will be preserved.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The relevant criteria are:

Portland Zoning Code. The relevant approval criteria are:

- Chapter 33.825 Design Review
- Chapter 33.521 East Corridor Plan District
- Community Design Guidelines

ANALYSIS

Site and Vicinity: The site is roughly a rectangle 128 feet north to south and 95 ft. to 105 ft. east to west. The north property line is 95 feet long and the south property line is about 105 feet east to west. This part of the site is connected to NE 108th Avenue by an access drive about 100 ft. long and 18 wide. The site is developed with a duplex along the north and north half of the west property line. The remainder of the site is undeveloped with one notable tree on site, a 24" Douglas fir located at near the east property line near the driveway.

The site is surrounded by residential properties. Two properties are situated between the site and NE 108th Avenue. Other residential properties to the west and south are located away from the site. The new proposed duplex will be located adjacent to the rear yards of these properties.

East Burnside is located approximately 420 feet to the south and this area is located within the East Corridor Plan District associated with the Max light rail line.

Zoning: Properties along NE 108th Avenue, including this site are zoned R2ad: Low-density Multi-dwelling zone with an Alternate Density overlay and Design Review overlay.

The R2 zone is a low density multi-dwelling zone. In this case, as the proposal is to add unit, the applicant may add the proposed duplex and move closer into compliance with minimum density. The R2 zone allows duplexes.

The "a" overlay zone allows additional density that meets additional design compatibility requirements. The applicant is not taking advantage of "a" overlay zone opportunities.

The East Corridor plan district includes three light rail stations and three Pedestrian Districts. The area is targeted to receive a significant share of the city's growth. It is envisioned that future development will transform the areas surrounding the light rail stations into vibrant mixed-use areas of retail, office, and housing with a high level of pedestrian amenities. Lower density residential and commercial development will continue to surround the Pedestrian Districts. Additional development standards apply.

The "d" Design Overlay Zone is applied to areas where design and neighborhood character are of special concern. This overlay zone is applied to this site and other sites within the East Corridor Plan District. Application of the Design Overlay Zone must be accompanied by adoption of design guidelines, or by specifying which guidelines will be used. The Community Design Guidelines apply.

Land Use History: City records indicate that prior land use reviews were granted in 1995 and 1996 to split the lots off along NE 108th Avenue, leaving this site in its current configuration (95-00179 MP and 96-00672 MP).

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **March 31, 2010**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering and Development Review
- Water Bureau
- Fire Bureau
- Site Development Review Section of BDS
- Bureau of Parks, Forestry Division

The applicant continues to work with the Bureau of Environmental Services to ensure that stormwater can be managed. Stormwater management will be addressed as part of the subsequent building permit reviews.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 31, 2010. One written response has been received from either the Neighborhood Association or notified property owners in response to the proposal. The concerns expressed, about new renters and associated impacts, are not relevant to the zoning code approval criteria.

ZONING CODE APPROVAL CRITERIA

1. Chapter 33.825 Design Review

Section 33.825.010 Purpose of Design Review

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

Section 33.825.055 Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

Findings: The site is designated with design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site’s location, the applicable design guidelines are the Community Design Guidelines.

Community Design Guidelines

The Community Design Guidelines consist of a set of guidelines for design and historic design cases in community planning areas outside of the Central City. These guidelines address the unique and special characteristics of the community plan area and the historic and conservation districts. The Community Design Guidelines focus on three general categories: **(P) Portland Personality**, which establishes Portland's urban design framework; **(E) Pedestrian Emphasis**, which states that Portland is a city for people as well as cars and other movement systems; and **(D) Project Design**, which assures that each development is sensitive to both Portland's urban design framework and the users of the city.

Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.

P1. Plan Area Character. Enhance the sense of place and identity by incorporating site and building design features that respond to the area’s desired characteristics and traditions.

Findings: Although this is a medium density residential zone, most lots are developed with single family dwelling in a ranch-style. The existing duplex on the site fits in with the neighborhood character in terms of massing and architectural design. The new duplex will be sited and designed as a mirror image of the existing duplex. Due to the existing configuration of the site, the new project will not be readily apparent from the street. The existing 24" Doug fir will be retained. *This guideline is met.*

D1. Outdoor Areas. When sites are not fully built on, place buildings to create sizable, usable outdoor areas. Design these areas to be accessible, pleasant, and safe. Connect outdoor areas to the circulation system used by pedestrians;

D2. Main Entrances. Make the main entrances to houses and buildings prominent, interesting, pedestrian accessible, and transit-oriented.

D3. Landscape Features. Enhance site and building design through appropriate placement, scale, and variety of landscape features.

D5. Crime Prevention. Use site design and building orientation to reduce the likelihood of crime through the design and placement of windows, entries, active ground level uses, and outdoor areas.

Findings for D1, D2, D3 and D5: The site will provide a 10 ft. landscaped buffer from all property lines. The Doug Fir will be retained. The access drive will be designed to function like a shared court and will be landscaped as well.

The design of the new duplex will create a roughly 50' x 50' area between the main entrances and the shared court access. Main entrances are prominent and front on this active area.

A major new feature is the upgrade of the driveway from the current unimproved car drive to a shared court design with landscape design features to slow motorists and provide a shared space for pedestrians and cars within a constrained 18' width.

These guidelines are met.

D6. Architectural Integrity. Respect the original character of buildings when making modifications that affect the exterior. Make additions compatible in scale, color, details, material proportion, and character with the existing building.

D8. Interest, Quality, and Composition. All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.

Findings: This site is 50% built out and the new duplex will complete the project. The duplex will mirror the existing duplex. New materials are improved upon the exiting with fiberglass windows and quality fibrocement siding.

These guidelines are met

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, including the landscaping standards of Chapter 33.248, 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's proposal completes development of this site in a way that complements the existing duplex and improves the access to NE 108th Avenue. The shared court design is a notable improvement to the site.

ADMINISTRATIVE DECISION

Approval of **Design Review** of a duplex in the East Corridor Plan District, per the approved plans, Exhibits C-1 and C-2, signed and July 27, 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.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-111707 DZ. No field changes allowed."

Staff Planner: Mark Bello

Decision rendered by:  **on July 27, 2010**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 29, 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 16, 2010, and was determined to be complete on March 31, 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 16, 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 waived the 120-day review period, as stated with Exhibit G.3. Unless further extended by the applicant, **the 120 days will expire on October 5, 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 Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on August 12, 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 Design Commission 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 Design Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

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

- *Unless appealed*, The final decision may be recorded on or after **August 13, 2010 – (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.

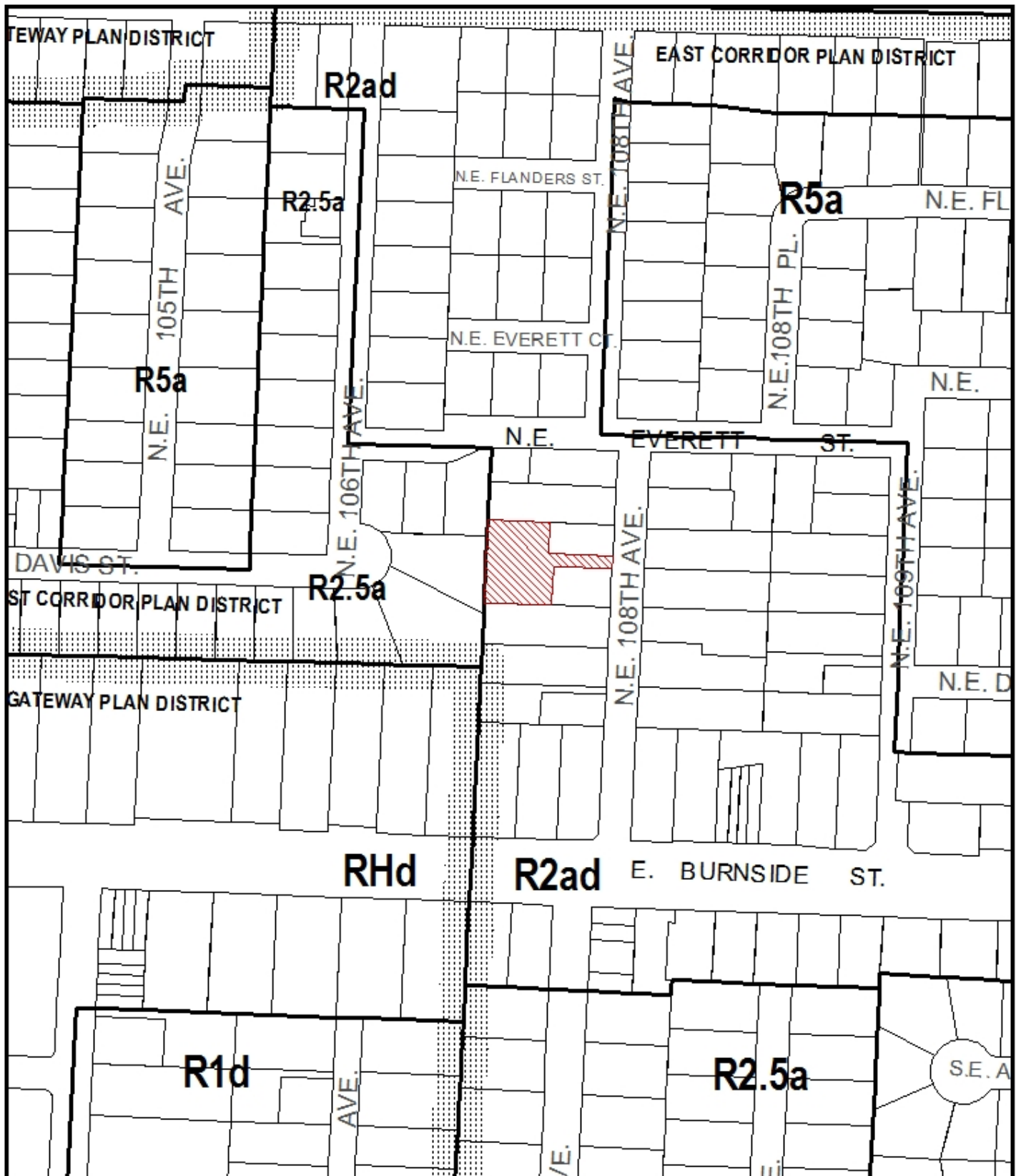
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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.

XHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations
- 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:
 - 1. Amy Lachenmeier, 37 NE 108th Avenue, Portland, OR 97220
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter
 - 4. 120 Day Waiver



ZONING



Site

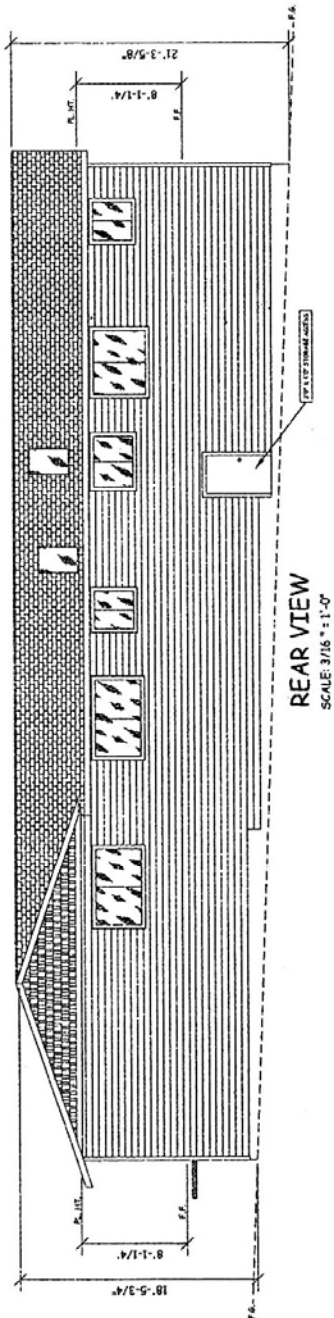


NORTH

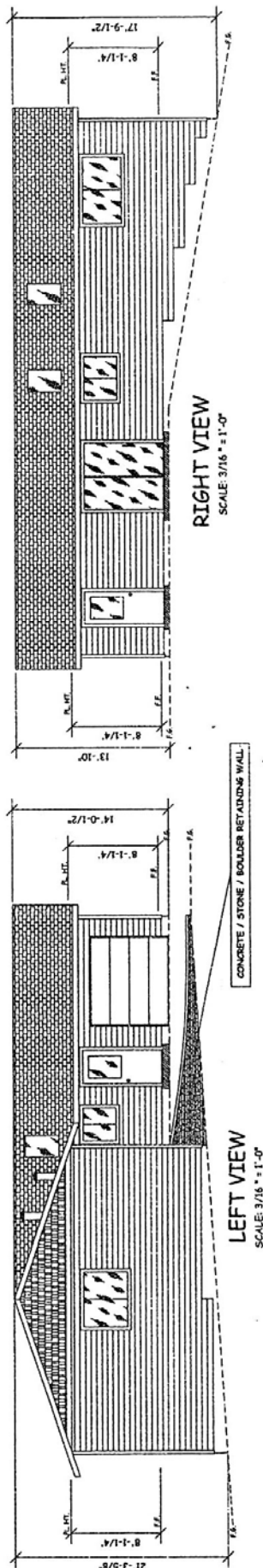
This site lies within the:
EAST CORRIDOR PLAN DISTRICT

File No.	LU 10-111707 DZ
1/4 Section	3041
Scale	1 inch = 200 feet
State Id	1N2E34CA 7402
Exhibit	B (Feb 17,2010)



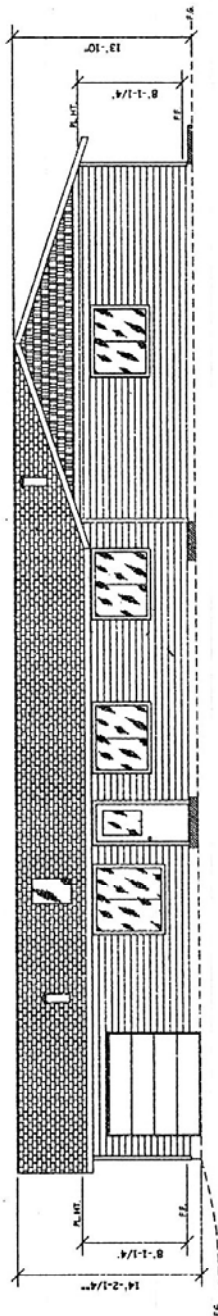


REAR VIEW
SCALE: 3/16" = 1'-0"



LEFT VIEW
SCALE: 3/16" = 1'-0"

RIGHT VIEW
SCALE: 3/16" = 1'-0"



FRONT VIEW
SCALE: 3/16" = 1'-0"

NOTE:

BUILDING CONTRACTOR AND / OR FRAMING CONTRACTOR
RESPONSIBLE TO READ AND COMPLY TO ALL 11 SHEETS OF
PROVIDED ENGINEERING FOR CONSTRUCTION OF THIS PROJECT

ELEVATION PLANS

Scale 1/4" = 1'-0"

CASE NO. 10-111707

EXHIBIT C2

LU10-111707DZ