



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

Charlie Hales, Mayor
Paul L. Scarlett, Director
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www.portlandoregon.gov/bds

Date: April 4, 2013
To: Interested Person
From: Shawn Burgett, Land Use Services
503-823-7618 / shawn.burgett@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 13-113246 AD

UNINCORPORATED MULTNOMAH COUNTY

GENERAL INFORMATION

Applicant: Eric Hess / O H Architecture
3805 N Michigan Ave / Portland OR 97227

Owners: Curtis & Kathryn Matthews
1106 NW 112th St / Vancouver, Wa 98685-4225

Site Address: SW Sheridan St.

Legal Description: LOT 16&17&C TL 106, CANYON CREEK NO 2
Tax Account No.: R133050300
State ID No.: 1S1E07BB 00106
Quarter Section: 3323
Neighborhood: Southwest Hills Residential League, Nancy Seton at 503-224-3840.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Zoning: R20/R20c (Single Family Residential with "c" environmental conservation overlay)

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

PROPOSAL:

The applicant has requested an adjustment to the alternative height limits for steeply sloping lots (Section 33.110.215.D). Because the lot slopes downhill from the street with a 20% slope, the Code allows a maximum height of 23 feet above the average grade of the street. The applicant has proposed a new home which measures approximately 26.5 feet above street grade (see attached elevations, Exhibit C-2).

Relevant Approval Criteria:

Adjustment request will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

ANALYSIS

Site and Vicinity: The site is sloped downward from the street (SW Sheridan) and is currently covered in large fir trees. The property abutting the subject site to the south is an unbuildable Open Space Tract covered in large fir trees which is approximately 9 acres in area. The open space tract separates the subject site from SW Scholl's Ferry Road to the south and has a stream running through it. The subject site is the last vacant lot within the subdivision surrounding SW Sheridan Street. Many of the homes within this subdivision were built in the 1990's and have various architectural styles. The home located west of the subject site was built in 1996, while the home located to the east was built in 1997. The home located directly north of the subject site was built in 1995. The majority of the subject site is Zoned R20 (Single Family Residential), however, the southern portion of the site is R20c; the "c" zone designation is an environmental conservation overlay with additional regulations.

Zoning: The R20 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.

The "c" overlay is intended to conserve important environmental features and resources while still allowing compatible development. New development must meet environmental standards or are subject to environmental review. In this case, the proposed development is outside of the "c" overlay.

Land Use History: MUP 3-81, was the land division that created the lots within this subdivision.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **February 28, 2013**. The following Bureaus have responded with no issues or concerns:

It should be noted that this site is located outside of the City of Portland city limits and is within a Multnomah County pocket which is regulated by the City of Portland. At this location, the property is not within the service area for the Portland Water Bureau, the Bureau of Environmental Services (BES), Portland Bureau of Transportation (PBOT) or the Portland Fire Bureau.

The Site Development Section of BDS responded with the following comment:

The site is relatively steep, and is located in the Potential Landslide Hazard Area. Additionally, there are two landslides mapped on the site, as shown on the DOGAMI landslide inventory. The applicant must submit a geotechnical report that demonstrates that the building location as proposed will provide an acceptable factor of safety for slope stability. The report should include the following: A review of current landslide inventory and hazard maps, geologic literature, LIDAR, etc for this site. A description of current topography and observable geologic features and hazards. Subsurface exploration logs and laboratory strength testing results. Slope stability calculations showing a minimum static factor of safety of 1.5 and a minimum seismic factor of safety of 1.1, with the house in the proposed location, including the impact of tree removal on slope stability. A statement of the estimated effect of the development on stormwater runoff and ground water, and the subsequent impact of stormwater runoff and ground water on slope stability and landslide hazard. If applicable, include a proposed method of control for stormwater runoff and groundwater. At the time of plan review, additional information and engineering recommendations will be required. Exhibit E-1 contains additional details.

The Life Safety section of BDS responded with the following comment:

A separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances. Please see Exhibit E-2 for additional details.

Multnomah County Land Use and Transportation Planning had the following comment:

SW Sheridan is a private access drive. Because of this, Multnomah County does not have any transportation comments. The applicant should be informed that the property may be subject to access and street improvement standards through covenants, conditions, and restrictions (CC&Rs) or some other similar agreement. It is their responsibility to research and understand any such restrictions. Exhibit E-3 contains additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 28, 2013. One written response has been received from a notified property owner in response to the proposal. The letter questioned the accuracy of the Zoning Map sent out with the public notice, stating that the City of Portland Boundary shown on the map did not appear to be accurate. The letter stated that they had no objection to the adjustment request.

BDS response: The City of Portland Boundary shown on the Zoning Map (Exhibit B) is located directly south of the text on the Zoning Map which reads "City of Portland Boundary". This boundary line appears to run farther south on the zoning map than it actually does because the City Boundary line connects to a Zoning Boundary (for the R20c zone) line just northwest of the text indicating "SW Sheridan Street" on the Zoning Map. The property north of the text indicating "City of Portland Boundary" on the Zoning Map is within the City of Portland limits.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

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

Findings: The regulation the applicant requests to adjust is maximum height. The purpose of the height regulations is found at 33.110.215.A. which states:

Purpose. 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 and placement of houses in the city's neighborhoods.

The intent of Section 33. 33.110.215.D, which provides an alternative height measurement for steeply sloping lots, is to address the challenges of constructing a

home on a steep site while preventing excessive massing and/or vertical bulk close to the street. A 23-foot height applies to downhill sloping lots. This height will generally allow a home that appears, from the street to be two-stories. This provision allows the homes to be multiple stories at the back of the house where the slope lowers. In this case, the applicant's home is proposed to be approximately 26.5 feet above street grade, 3.5 feet more than the code would allow.

The R10 zone typically requires a 20 foot front setback in order to utilize the 23 foot height allowance. However, since the rear portion of the subject site is "c" (environmental conservation overlay) zoned, the setback provision of 33.110.220.D.3 apply, which states: *The front building and garage entrance setback may be reduced to zero where any portion of the site is in an environmental overlay zone. All other provisions of this Title apply to the building and garage entrance.* The proposed new home has varying front set backs. The home has a two car garage, the first garage door is set back approximately 20 feet, while the second garage door entrance is set back approximately 26 feet. The covered porch along the front facade of the home is set back approximately 10 feet and is approximately 9'2" in height to the mid point of the porch roof, while the primary wall of the house is set back approximately 15 feet where the height of the proposed home increase to approximately 26'6". The varying setbacks and roof lines will enhance the visual depth of the front façade and reduce the appearance of excessive bulk or massing.

The topography has a strong influence on the location of most of the homes on SW Sheridan St. and the surrounding area. There is a myriad of architectural styles. Many of the homes appear to have at least 2-stories along SW Sheridan Street and many are set back 20 to 30 feet from the street. The proposed home meets the 10 foot side set backs, so the overall relationship to adjacent homes is typical. In addition, the property directly south of the subject site is an Open Space Tract approximately 9 acres in size covered in large fire trees. The Open Space Tract is commonly owned by the Canyon Creek Homeowners Association. This area provides a visual buffer between the rear of the subject site from SW Scholl's Ferry Road to the south.

The proposed home will be approximately 20 feet from the homes located to the east and to the west. This distance separating the homes is ample space to minimize privacy impacts from window to window. Overall an additional 3.5 feet of height (from 23 feet to 26.5 feet) will not impact privacy, the new home will promote a reasonable building scale and relationship with other residences along the street while reflecting the general building scale and placement of houses in the vicinity.

Based on the discussion above, this criterion will be met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: As indicated above, the distance between the home on the subject site and the adjacent homes will be typical of the area. The home will not stand out from the eclectic mix of homes found in the immediate vicinity. The roof lines, front porch and varying front setbacks of the proposed home will provide visual interest to the street, allowing it to blend in well with the homes in the surrounding area.

This approval criterion is satisfied.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one adjustment is requested. This criterion is not applicable.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

Findings: No negative impacts from this adjustment request to increase height by 3.5 feet are evident, therefore no mitigation is necessary. This criterion is satisfied.

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: No development is proposed within the environmental zone in the rear of the site. Therefore, this criterion is 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 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

As reflected in the findings, an increase in height of 3.5 feet for the proposed home, measured at street grade (from 23 feet to 26.5 feet) meets the approval criteria. The varying setbacks and roof lines will enhance the visual depth of the front façade and reduce the appearance of excessive bulk or massing. Therefore, the adjustment request should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum height limit, on a steeply sloping lot, from 23 feet to 26.5 feet for a new house (Zoning Code Section 33.110.215.D), per the approved site plans, Exhibits C.1 and C.2, signed and dated April 2, 2013, subject to the following conditions:

A. As part of the building permit application submittal, each of the 4 required site plans any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheet on which this information appears must be labeled "Proposal and design as approved in Case File LU 13-113246 AD."

Staff Planner: Shawn Burgett

Decision rendered by:  **on April 2, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 4, 2013

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 6, 2013, and was determined to be complete on February 21, 2013.

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 6, 2013.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

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 April 18, 2013** 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.

Appeal fee waivers. Multnomah County may cover the appeal fees for their recognized associations. An appeal filed by a recognized association must be submitted to the City with either the appropriate fee or the attached form signed by the County. Contact Multnomah County at 503-988-3043, 1600 SE 190th, Portland, OR 97233.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within

21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

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

Recording the final decision.

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

- *Unless appealed*, The final decision may be recorded on or after **April 19, 2013**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

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

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

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

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

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

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

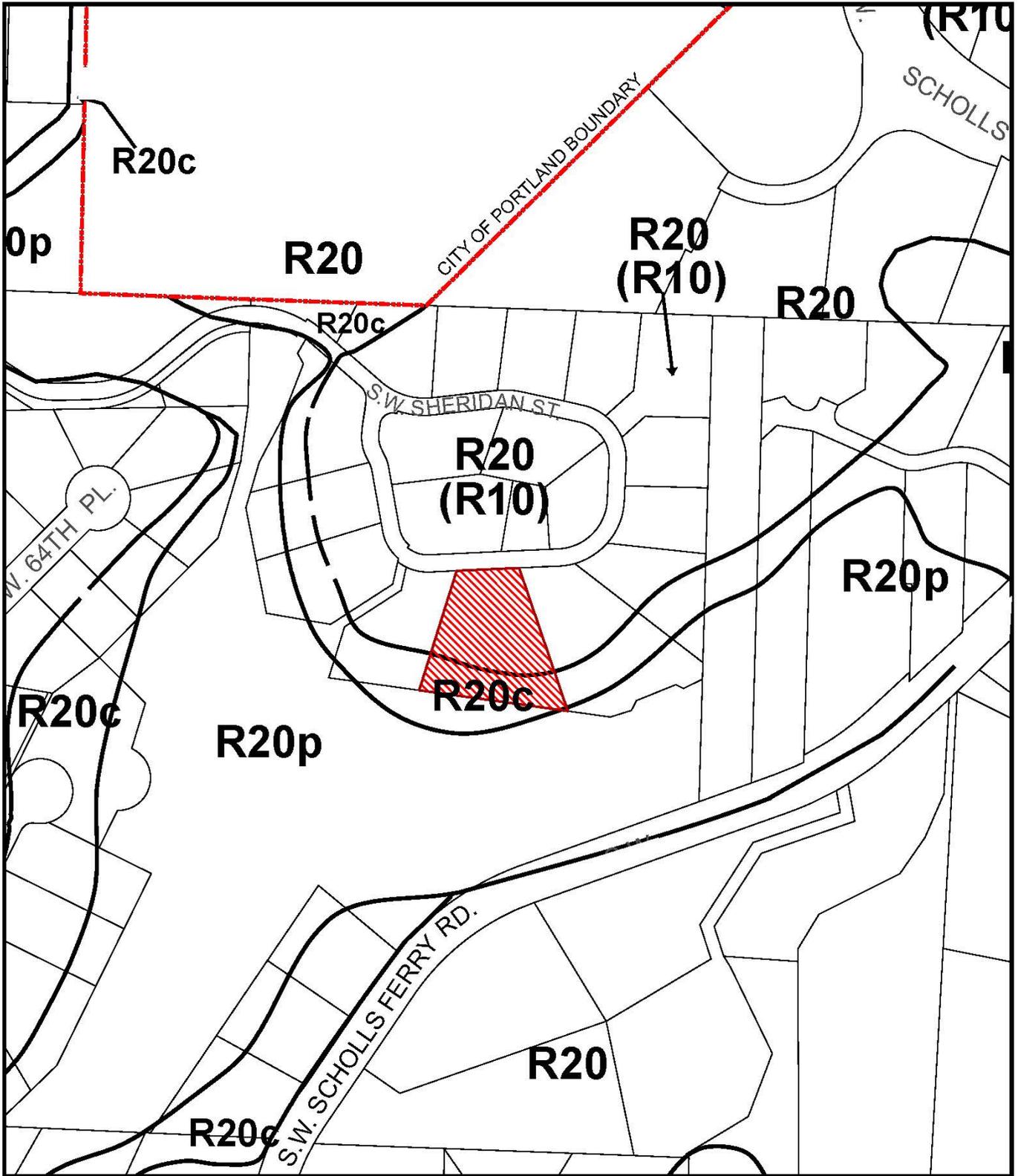
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)

- 2. Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Site Development Review Section of BDS
 - 2. Life Safety
 - 3. Multnomah County Land Use and Transportation Planning
- F. Correspondence:
 - 1. Richard Seemel, 2763 SW Scholl's Ferry Rd. Portland, OR 97221
- 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. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



Site



NORTH

File No. LU 13-113246 AD
 1/4 Section 3323
 Scale 1 inch = 200 feet
 State_Id 1S1E07BB 106
 Exhibit B (Feb 06, 2013)

Exhibit C-1 (Continued) 17 13-113246 AD
 Page 7

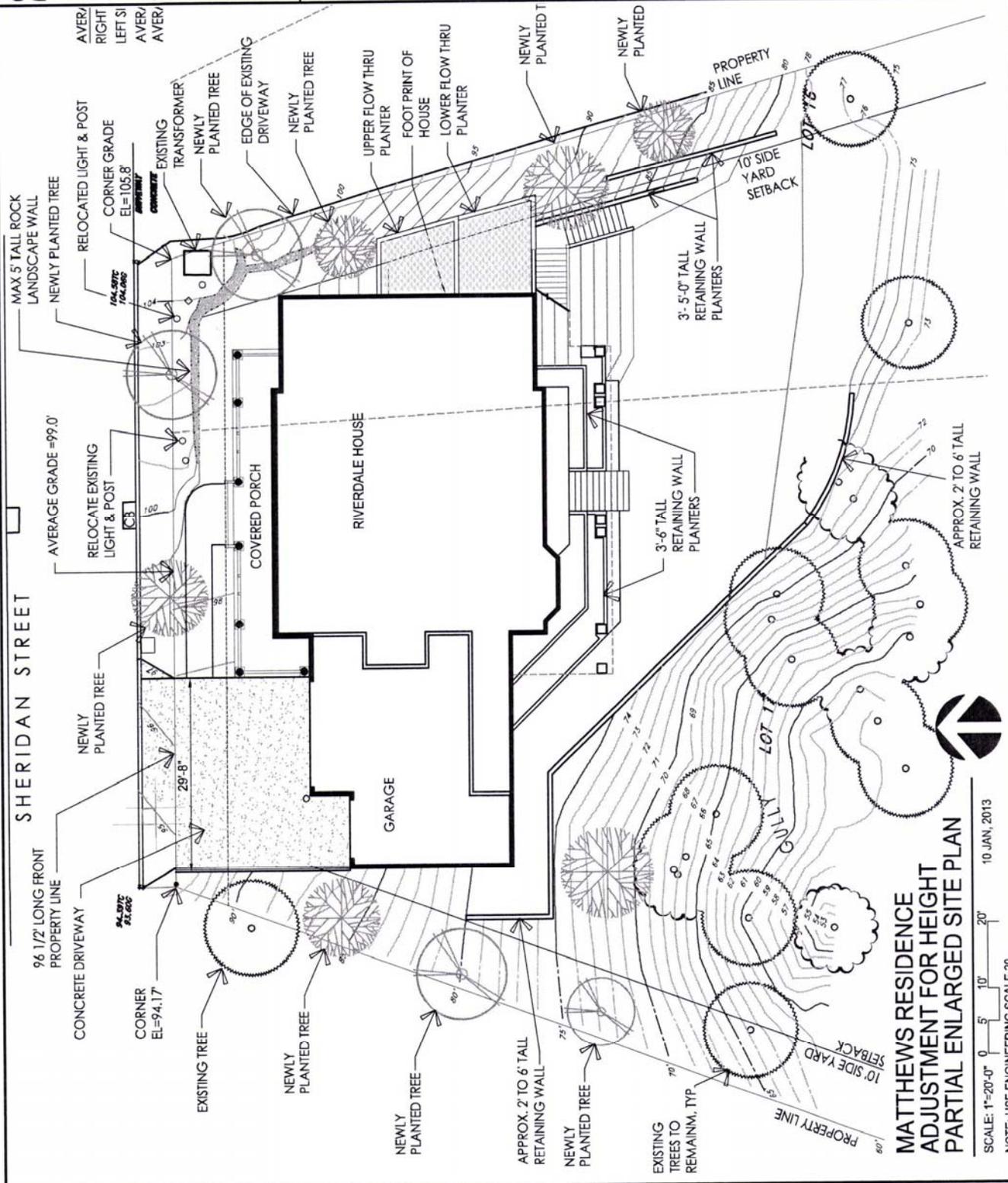
A2

APP: egh
DATE: 16 Jan, 2013
PROJ: Matthews Height Adjustment
FILE: a2 11x8 ps.dwg

**Matthews Residence
 Adjustment to Height**

6300 block SW Sheridan St., Portland, OR 97225

O H Architecture, PC
 Eric Hess, NCARB
 3805 N Michigan Ave.
 Portland, OR 97227
 ph: (503) 816-4858



**MATTHEWS RESIDENCE
 ADJUSTMENT FOR HEIGHT
 PARTIAL ENLARGED SITE PLAN**

SCALE: 1"=20'-0" 0 5 10' 20'
 10 JAN, 2013
 NOTE: USE ENGINEERING SCALE 20

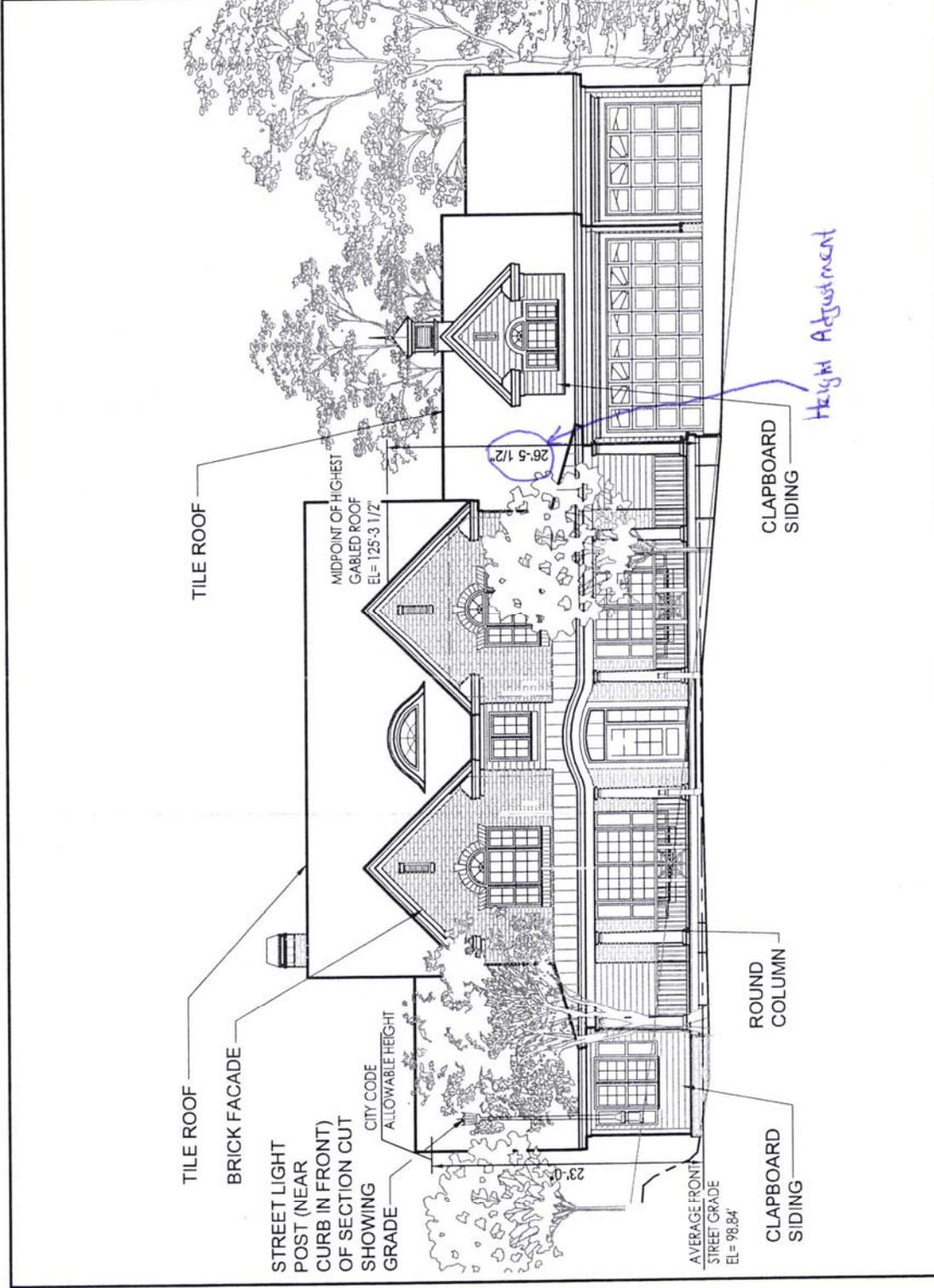


O H Architecture, PC
 Eric Hess, NCARB
 3805 N Michigan Ave.
 Portland, OR 97227
 ph: (503) 816-4858

Matthews Residence
 Adjustment to Height
 6300 block SW Sheridan St., Portland, OR 97225

APPR: egh
 DATE: 16 Jan, 2013
 PROJ: Matthews Height Adjustment
 FILE: a3 11x8 ps.dwg

A3



Approved
 City of Portland - Bureau of Development Services
 Planner SBurgelt Date 4/2/13
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

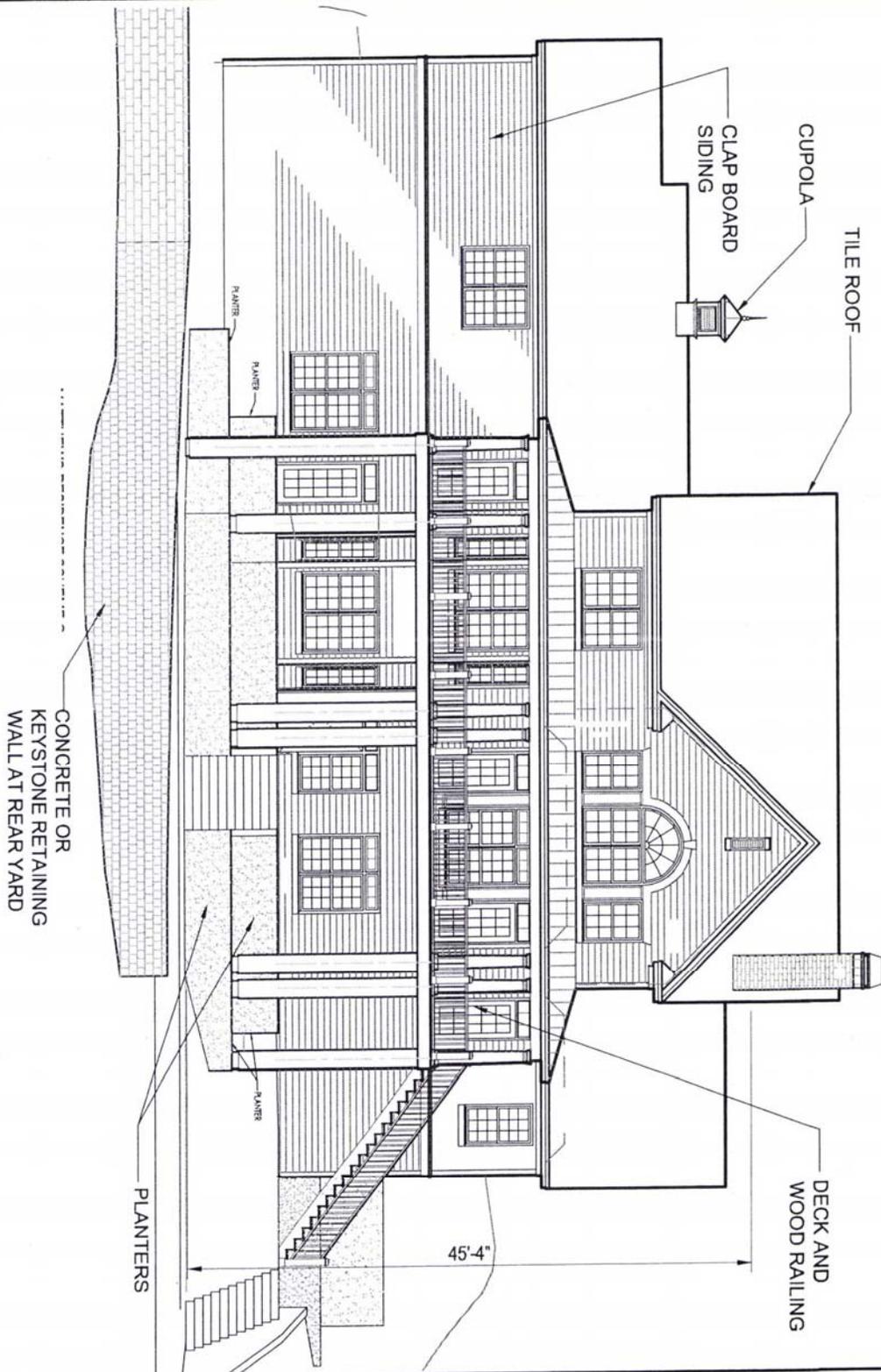
**MATTHEWS RESIDENCE
 ADJUSTMENT FOR HEIGHT
 FRONT ELEVATION**

SCALE: 1"=12'-0" 0 3' 6' 12'
 10 JAN, 2013
 NOTE: USE ENGINEERING SCALE 60, AND DOUBLE

71 13-113246 AD
 CASE NO. 13-113246 AD
 EXHIBIT C-2

**MATTHEWS RESIDENCE
ADJUSTMENT FOR HEIGHT
REAR ELEVATION**

SCALE: 1"=12'-0" 0 3' 6' 12'
NOTE: USE ENGINEERING SCALE 80, AND DOUBLE
10 JAN 2013



A4

APPR: egh
DATE: 16 Jan, 2013
PROJ: Matthews Height Adjustment
FILE: a4 11x8 ps.dwg

**Matthews Residence
Adjustment to Height**

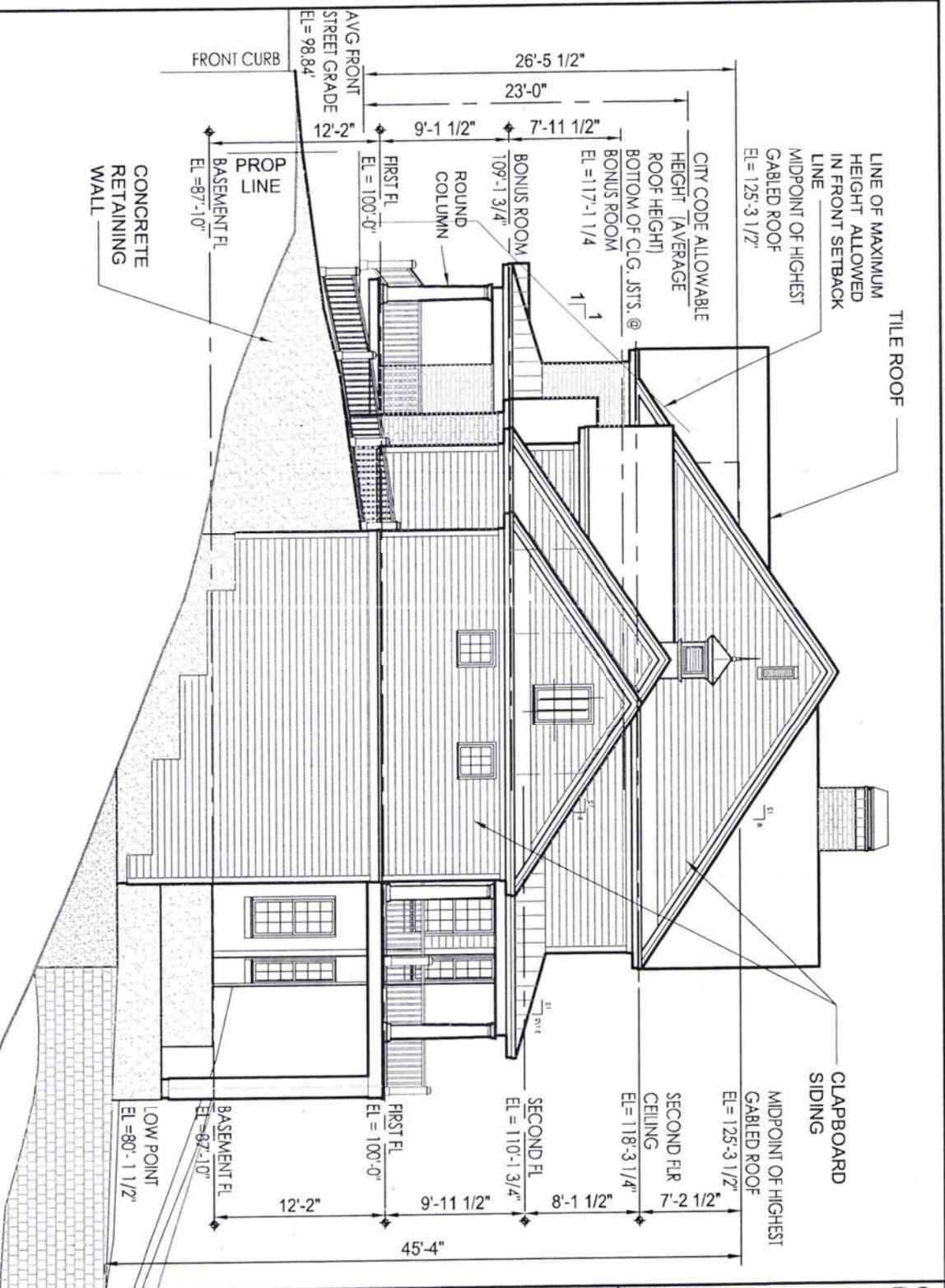
6300 block SW Sheridan St., Portland, OR 97225

O H Architecture, PC
Eric Hess, NCARB
3805 N Michigan Ave.
Portland, OR 97227
ph: (503) 816-4858

LN 13-113246 AD Exhibit C-2 (page 2)

**MATTHEWS RESIDENCE
ADJUSTMENT FOR HEIGHT
RIGHT SIDE ELEVATION**

SCALE: 1"=10'-0" 0 2' 4' 10'
NOTE: USE ENGINEERING SCALE 60, AND DOUBLE
10 JAN, 2013



A5

APPR: egh
DATE: 16 Jan, 2013
PROJ: Matthews Height Adjustment
FILE: a5 11x8 ps.dwg

**Matthews Residence
Adjustment to Height**
6300 block SW Sheridan St., Portland, OR 97225

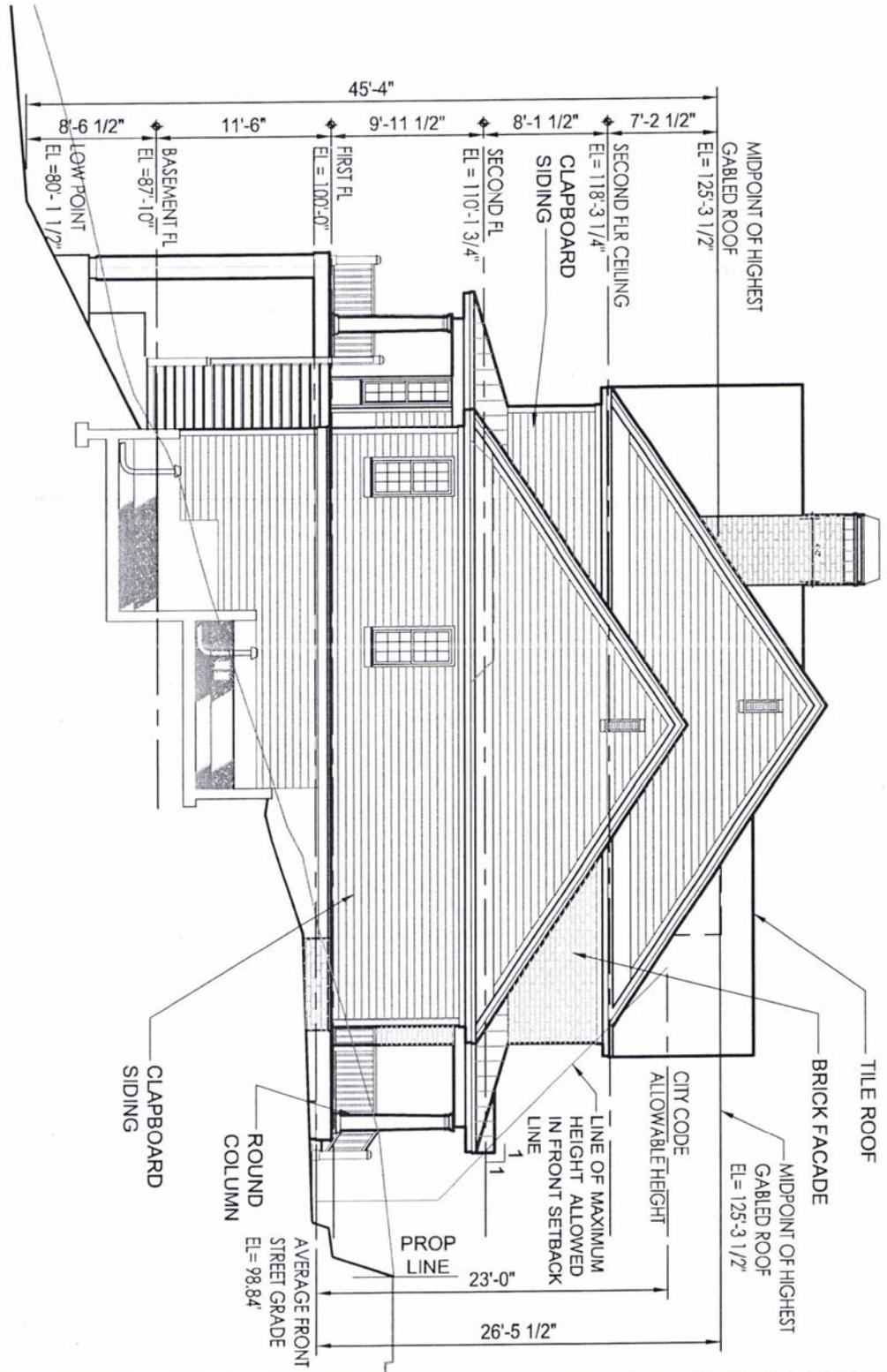
O H Architecture, PC
Eric Hess, NCARB
3805 N Michigan Ave.
Portland, OR 97227
ph: (503) 816-4858

LU 13-113246 AD Exhibit (-2 page 3)

**MATTHEWS RESIDENCE
ADJUSTMENT FOR HEIGHT
LEFT SIDE ELEVATION**

SCALE: 1"=10'-0"
NOTE: USE ENGINEERING SCALE 60, AND DOUBLE

10 JAN. 2013



A6

APPR: egh
DATE: 16 Jan, 2013
PROJ: Matthews Height Adjustment
FILE: a6 11x8 ps.dwg

**Matthews Residence
Adjustment to Height**

6300 block SW Sheridan St., Portland, OR 97225

O H Architecture, PC
Eric Hess, NCARB
3805 N Michigan Ave.
Portland, OR 97227
ph: (503) 816-4858

LN 13-113246 AD Exhibit C-2 (page 4)