



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

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Date: October 23, 2012
To: Interested Person
From: Emily Sandy, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 12-179537 AD

GENERAL INFORMATION

Applicant: Mike Coyle, Faster Permits
14334 NW Eagleridge Lane / Portland, OR 97229

Owner: George Hale, Kloh, Inc
9700 SW Capital Hwy, Suite 100 / Portland OR 97219

Site Address: 5336 SE 60TH AVE

Legal Description: BLOCK 20 LOT 1&2, TREMONT PK
Tax Account No.: R842204890
State ID No.: 1S2E18AD 06900
Quarter Section: 3536
Neighborhood: Mt. Scott-Arleta, contact Erika Palmer at 541-991-1113.
Business District: Woodstock Community BA, contact Sean Daugherty at 503-754-2636.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Other Designations: None
Zoning: R2.5a, single-dwelling residential 2,500 with an "a" alternative design density overlay zone.

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

Proposal:

The site has an administrative application currently under review for a lot confirmation and property line adjustment (12-179526 PR) to relocate a property line parallel to SE 60th Avenue and enable a building site on the corner of SE Insley Street and SE 60th Avenue. In order to meet the minimum lot width of the R5 zone, 36', the relocated property line will be located 4.27' from the side of the existing house. The required minimum building setback from side lot lines in R5 zone is 5'. Therefore, the existing house will not meet the minimum side building setback. An adjustment to side setback from the existing house to the relocated property line from 5' to 4.27' is required. The lot confirmation and property line adjustment application is not the subject of this land use review. Rather, only the reduced setback for the existing house to the relocated property line is the subject of this land use review.

Relevant Approval Criteria:

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

- 33.805.040.A-E

ANALYSIS

Site and Vicinity: The area is zoned for and developed primarily with single family houses that vary in building age, style, and number of stories. Lots are fairly consistently sized at 5,000 square feet (50' x 100'), with the occasional property made up of two 5,000 square foot lots for a 10,000 square foot property (100' x 100'). The subject site is currently made up of two 5,000 square foot lots for a total of 10,000 square feet. The subject site is developed with a single-dwelling, one-story ranch style house and detached garage located on the east part of the lot (on the right side of the lot, if facing the house). The larger side yard at the corner of SE 60th and SE Insley is vacant, but populated with several large trees.

Zoning: The R2.5 zone is a high density single-dwelling zone. The R2.5 zone allows attached and detached single-dwelling structures and duplexes up to an average density of one unit per 2,500 square feet of land area. The purpose of the "a" Alternative Design Density Overlay Zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements. This proposal is not utilizing any of the optional provisions of the "a" overlay.

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 **September 24, 2012**. The following Bureaus have responded with no issues or concerns:

- Fire Bureau

The Life-Safety Section of the Bureau of Development Services responded with no concerns other than eaves closer than 3' to the property line must have one-hour fire-rated construction. Please see Exhibit E.1 for additional details. Information about the location of eaves will be requested through the property line adjustment. If the eaves are closer than 3' to the proposed property line, verification of fire-rating will be necessary prior to approval of the property line adjustment.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on September 24, 2012. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA**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.

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 applicant is requesting an Adjustment to **Section 33.110.220, Setbacks**. The purpose statement for this regulation is as follows:

Purpose: The building setback regulations serve several purposes:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The potential impact of the reduced side setback is two-fold; one to the existing development which will have a reduced distance to the property line, and one to the future vacant corner lot which will have abutting development (the existing house) with a reduced setback. The setback reduction is minimal, .73' causing little if no effect on the applicable purposes of the setback regulations. With a distance of 9.27' between buildings, coupled with the fact that the existing development is one-story, the reduced setback provides equal potential for light, air, fire protection, privacy, and physical relationship between residences. The reduced setback will allow the future Tract 1 to meet the minimum lot width of 36' for adjusted lots which will provide for flexibility of site planning, adequate front yard and other outdoor areas. The building scale and placement of the future development will either need to meet zoning code standards or be reviewed through another adjustment review at a future date. This criterion is met.

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

Findings: The reduction in side setback by just under 1' is a minimal adjustment request and will have no significant effects on the livability or appearance of the neighborhood as 9.27' of distance between buildings will be maintained. Future development on future Tract 1 will need to meet the 5' setback, or be reviewed under a separate adjustment application that will address that development future development specifically. This criterion is met.

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

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

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

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

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

Findings: There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not within an environmental zone. This criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a property line adjustment, or 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 proposal for a reduced side setback of 4.27' is consistent with the purpose of setback regulations and will not detract from the appearance or livability of the area.

ADMINISTRATIVE DECISION

Approval of an adjustment to reduce the west side building setback (PCC 33.110.220) from 5' to 4.27' per the approved site plans, Exhibit C-1, signed and October 19, 2012, subject to the following conditions:

- A. As part of any 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. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 12-179537 AD."

Staff Planner: Emily Sandy

Decision rendered by:  **on October 19, 2012.**

By authority of the Director of the Bureau of Development Services

Decision mailed: October 23, 2012

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

Procedural Information. The application for this land use review was submitted on September 6, 2012, and was determined to be complete on **September 20, 2012**.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on September 6, 2012.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: January 18, 2012**.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on November 6, 2012** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

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

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

Recording the final decision.

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

- *Unless appealed*, The final decision may be recorded on or after **November 7, 2012**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

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

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

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

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

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

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

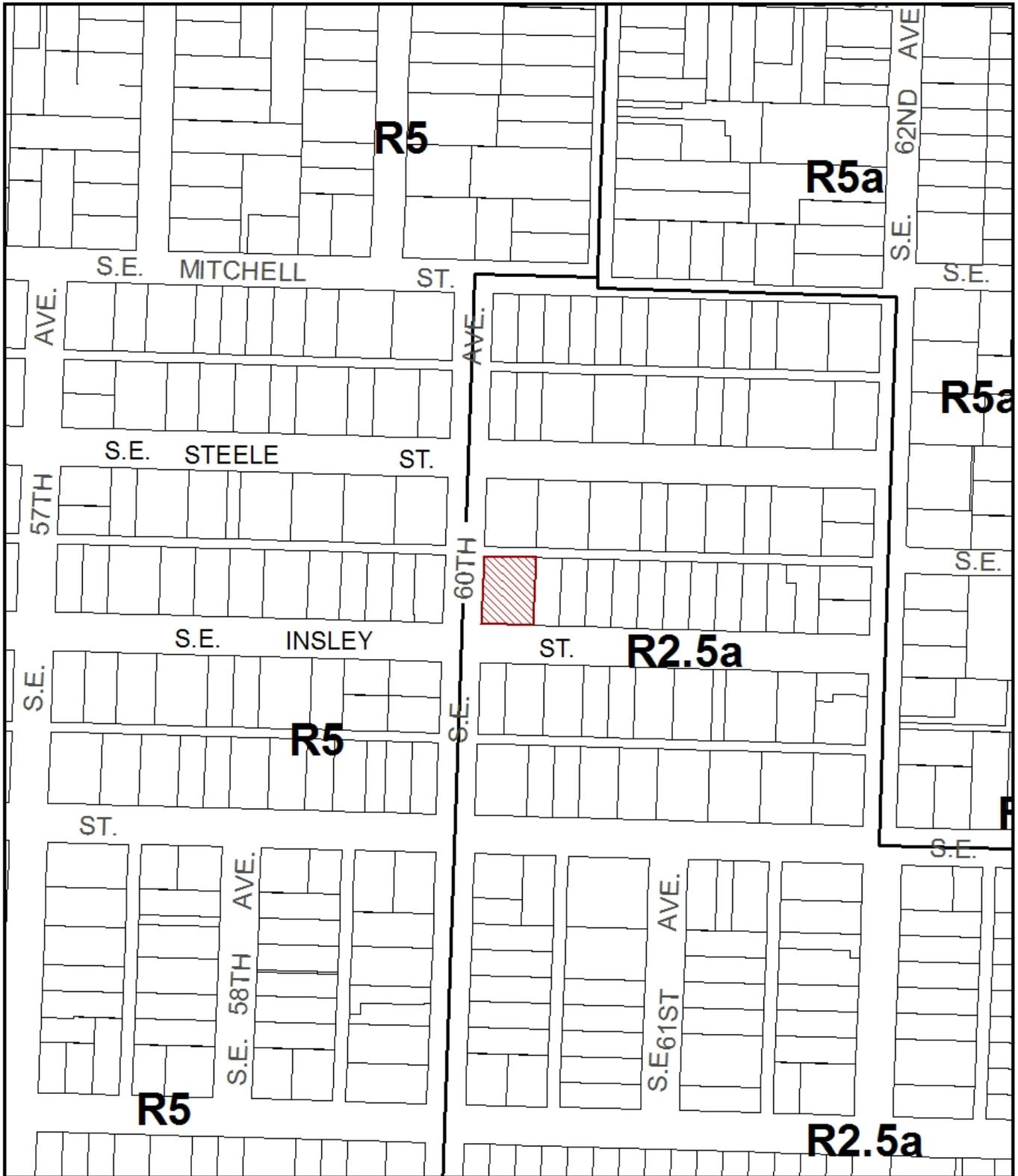
EXHIBITS

NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement

- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section of BDS
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application

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

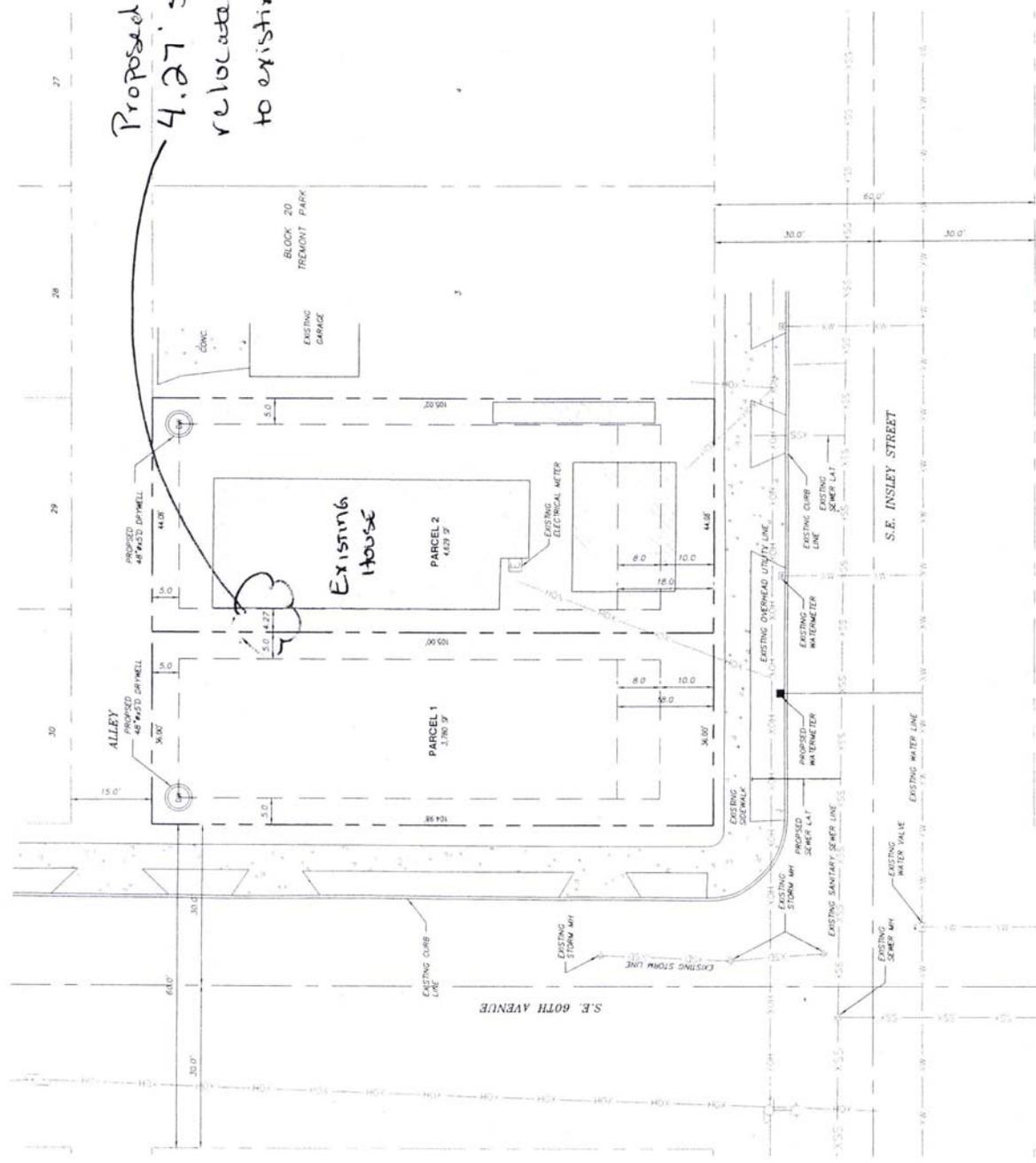


NORTH

File No.	<u>LU 12-179537 AD</u>
1/4 Section	<u>3109,3536</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S201BD01400</u>
Exhibit	<u>B</u> (Sep 19,2012)



Proposed
4.27' setback from
relocated property line
to existing house



5336 SE 60th Avenue
TAX MAP T1S R2E 184D
PORTLAND, OREGON

TENTATIVE PLAN MAP
AND
UTILITY PLAN

NO.	DATE	REVISIONS

EMERIO
6107 SW MURRAY BLVD. SUITE 147
BEAVERTON, OREGON 97008
PH (503) 515-5528

SHEET
1

EXHIBIT C.1
LU12-179537AD