Application Summary

Revised 10/18/10

Applicant/Owners	Bill and Cindy Perkins
	19740 Wildwood Drive
	West Linn, OR 97068
Applicant's Representative	CESNW, Inc.
	Tony Weller
	15573 Bangy Road, Suite 300
	Lake Oswego, OR 97035
	503-968-6655
	tweller@cesnw.com
	wall to the
Site Location	Wildwood Drive
Size	+/25 Acres
	•
Size Map and Tax Lot No	+/25 Acres 2 1E 23AC TL 9004
	•
Map and Tax Lot No Current Zoning	2 1E 23AC TL 9004 R-10 Single Family Detached
Map and Tax Lot No	2 1E 23AC TL 9004 R-10 Single Family Detached March 4, 2010
Map and Tax Lot No Current Zoning	2 1E 23AC TL 9004 R-10 Single Family Detached
Map and Tax Lot No Current Zoning Pre-Application Conference	2 1E 23AC TL 9004 R-10 Single Family Detached March 4, 2010
Map and Tax Lot No Current Zoning	2 1E 23AC TL 9004 R-10 Single Family Detached March 4, 2010 PA-10-02
Map and Tax Lot No Current Zoning Pre-Application Conference	2 1E 23AC TL 9004 R-10 Single Family Detached March 4, 2010 PA-10-02

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Summary of request: Per Community Development Code (CDC) 99.325, the applicant is requesting extensions to previous approvals VAR-06-04 & MISC 06-47, for setback and height variances and Natural Drainageway Permit (now called Water Resources Area Permit) for a new single family dwelling located adjacent to 19740 Wildwood Drive. There are no proposed changes to the VAR-06-04. However for MISC 06-47, CDC Chapter 32 Water Resources Area Protection has changed significantly and is fully addressed in the following narrative. A fee in lieu of street improvements is proposed.

32.000 WATER RESOURCE AREA PROTECTION

32.050 APPROVAL CRITERIA

No application for development on property containing a water resource area shall be approved unless the decision-making authority finds that the following standards have been satisfied, or can be satisfied by conditions of approval.

A. Proposed development submittals shall identify all water resource areas on the project site. The most currently adopted Surface Water Management Plan) shall be used as the basis for determining existence of drainageways. The exact location of drainageways identified in the Surface Water Management Plan, and drainageway classification (e.g., open channel vs. enclosed storm drains), may have to be verified in the field by the City Engineer. The Local Wetlands Inventory shall be used as the basis for determining existence of wetlands. The exact location of wetlands identified in the Local Wetlands Inventory on the subject property shall be verified in a wetlands delineation analysis prepared for the applicant by a certified wetlands specialist. The Riparian Corridor inventory shall be used as the basis for determining existence of riparian corridors.

Response: One water resource has been identified on the subject property. The open channel emerges from an 18-inch storm pipe and energy dissipater near the northwest property corner and runs northeasterly and crosses the northwest corner of the site. Based on the existing slopes, the entire site is located within the Water Resource Area. A Water Resource Report has been prepared by Schott & Associates and is included with this application. No wetlands were identified on the Local Wetland Inventory Map and no wetlands were determined present during the onsite visit by Schott and Associates. No Riparian Corridor was mapped on the City Natural Resource Inventory Maps. The existing drainageway is shown on the existing conditions map.

B. Proposed developments shall be so designed as to maintain the existing natural drainageways and utilize them as the primary method of stormwater conveyance through the project site unless the most recently adopted West Linn Surface Water Management Plan calls for alternate configurations (culverts, piping, etc.). Proposed development shall, particularly in the case of subdivisions, facilitate reasonable access to the drainageway for maintenance purposes.

Response: The proposed house has been sited as far away from the existing drainageway as practicable. This maintains the existing drainageway as the primary stormwater conveyance in the area. No changes to access to the existing drainageway are proposed.

- C. Development shall be conducted in a manner that will minimize adverse impact on water resource areas. Alternatives which avoid all adverse environmental impacts associated with the proposed action shall be considered first. For unavoidable adverse environmental impacts, alternatives that reduce or minimize these impacts shall be selected. If any portion of the water quality resource area is proposed to be permanently disturbed, the applicant shall prepare a mitigation plan as specified in CDC 32.070 designed to restore disturbed areas, either existing prior to development or disturbed as a result of the development project, to a healthy natural state.

 Response: Since the entire lot is within the water resource area, there are no alternatives available to construct a home that avoids all impacts. The house has been sited as close to the road as possible, designed to be appropriate for
- alternatives available to construct a home that avoids <u>all</u> impacts. The house has been sited as close to the road as possible, designed to be appropriate for the neighborhood, and placed as far away as possible from the drainageway. This alternate requires variances for interior side yard setback and height as well as the front yard adjustment allowed in 32.050 (O) to minimize impacts to the resource area.
- D. Water resource areas shall be protected from development or encroachment by dedicating the land title deed to the City for public open space purposes if either: 1) a finding can be made that the dedication is roughly proportional to the impact of the development; or, 2) the applicant chooses to dedicate these areas. Otherwise, these areas shall be preserved through a protective easement. Protective or conservation easements are not preferred because water resource areas protected by easements have shown to be harder to manage and, thus, more susceptible to disturbance and damage. Required 15-foot wide structural setback areas do not require preservation by easement or dedication.

Response: The lot has an existing Natural Drainageway Easement that was created when the area was originally platted. The disturbance area limits restrict residential uses to the area closest to the roadway and protects the remaining resource area. No additional dedication or conservation easements are proposed.

E. The protected water resource area shall include the drainage channel, creek, wetlands, and the required setback and transition area. The setback and transition area shall be determined using Table 32-1:

Response: The entire lot is within the water resource area, the placement of the house combined with the disturbance area limits per 32.090, provides protection for the drainageway and resource area closest to the drainageway. The design and placement of the home have minimized impacts and protected the largest resource area possible.

F. Roads, driveways, utilities, or passive use recreation facilities may be built in and across water resource areas when no other practical alternative exists.

Construction shall minimize impacts...

Response: No roads are proposed. All home improvements are located as far as practicable from the drainageway. Proper erosion controls and construction protection will be placed along the disturbance limits to minimize any potential construction impacts.

- G. Prior to construction, the water resource area shall be protected with an anchored chain link fence (or approved equivalent) at its perimeter and shall remain undisturbed except as specifically allowed by an approved water resource area permit. Such fencing shall be maintained until construction is complete. The water resource area shall be identified with City-approved permanent markers at all boundary direction changes and at 30- to 50-foot intervals that clearly delineate the extent of the protected area.

 Response: All improvements are located as far as practicable from the drainageway. Proper erosion controls and construction protection will be placed along the disturbance limits to minimize any potential construction impacts. After construction, the disturbance limits will be marked to clearly delineate the protected area.
- H. Paved trails, walkways, or bike paths shall be located at least 15 feet from the edge of a protected water feature except for approved crossings. All trails, walkways,

and bike paths shall be constructed so as to minimize disturbance to existing native vegetation. All trails, walkways, and bike paths shall be constructed with a permeable material and utilize Low Impact Development (LID) construction practices.

Response: No trails, walkways or bike paths are proposed.

I. Sound engineering principles regarding downstream impacts, soil stabilization, erosion control, and adequacy of improvements to accommodate the intended drainage through the drainage basin shall be used. Storm drainage shall not be diverted from its natural watercourse. Inter-basin transfers of storm drainage shall not be permitted.

Response: Grading, erosion control and stormwater management will all be based on current engineering requirements of the City of West Linn. Storm drainage will not be diverted from its natural watercourse and no interbasin transfers of storm drainage will occur.

J. Appropriate erosion control measures based on CDC Chapter <u>31</u> requirements shall be established throughout all phases of construction.

Response: Erosion control measures, as required by the City of West Linn, will be implemented prior to construction and will be maintained throughout construction.

Κ. Vegetative improvements to areas within the water resource area may be required if the site is found to be in an unhealthy or disturbed state, or if portions of the site within the water resource area are disturbed during the development process. "Unhealthy or disturbed" includes those sites that have a combination of native trees, shrubs, and groundcover on less than 80% of the water resource area and less than 50% tree canopy coverage in the water resource area. "Vegetative improvements" will be documented by submitting a revegetation plan meeting CDC Section 32.080 criteria that will result in the water resource area having a combination of native trees, shrubs, and groundcover on more than 80% of its area, and more than 50% tree canopy coverage in its area. Where any existing vegetation is proposed to be permanently removed, or the original land contours disturbed, a mitigation plan meeting CDC Section 32.070 criteria shall also be submitted. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Upon approval of the mitigation plan, the applicant is responsible for implementing the plan during the next available planting season.

Response: The site contains a combination of native trees and groundcover in more than 95% of the water resource area. Approximately 90% of the tree canopy coverage of the native tree cover was present in the water resource area. No revegetation improvements are required per the Schott Report. As described above, erosion control measures will be fully implemented during construction. Mitigation for the 4,700 square feet of developed area will be accomplished on City owned park property, see 30.070.

L. Structural Setback area: where a structural setback area is specifically required, development projects shall keep all foundation walls and footings at least 15 feet from the edge of the water resource area transition and setback area if this area is located in the front or rear yard of the lot, and 7 ¾ feet from the edge of the water resource area transition and setback area if this area is located in the side yard of the lot. Structural elements may not be built on or cantilever over the setback area. Roof overhangs of up to three feet are permitted in the setback. Decks are permitted within the structural setback area.

Response: The entire lot is in the water resource area therefore no structural setback is possible. However, the developed area has been minimized and is in compliance with 32.090. The home is over 50-feet from its northwest corner to the drainageway and 70-feet from its northeast corner to the drainageway.

M. Stormwater Treatment Facilities may only encroach a maximum of 25 feet into the outside boundary of the water resource area; and the area of encroachment must be replaced by adding an equal area to the water quality resource area on the subject property. Facilities that infiltrate storm water onsite, including the associated piping, may be placed at any point within the water resource area outside of the actual drainage course so long as the forest canopy and the areas within ten feet of the driplines of significant trees are not disturbed. Only native vegetation may be planted in these facilities.

Response: Proposed stormwater treatment facilities will be located within the proposed disturbance area. The facility will consist of a stormwater planter, designed and constructed per City of West Linn requirements.

N. As part of any proposed land division or Class II Design Review application, any covered or piped drainageways identified on the Surface Water Quality Management Plan Map shall be opened...

Response: There are no covered or piped drainageways on the site.

O. The decision-making authority may approve a reduction in applicable front yard setbacks abutting a public street to a minimum of fifteen feet and a reduction in applicable side yard setbacks abutting a public street to 7 ¾ feet if the applicant demonstrates that the reduction is necessary to create a building envelope on an existing or proposed lot of at least 5,000 square feet.

Response: The garage has been situated 15 feet from the front property line to minimize impacts to the water resource area per this standard. No other reductions were requested under this standard. This adjustment along with the requested variances, allows a disturbance envelope of 4,700 square feet for the home, yard improvements and driveway. The existing house next door is also located with one corner of the garage at 15 feet from the front property line.

P. Storm Drainage Channels not identified on the Surface Water Management Plan Map, but identified through the development review process, shall be subject to the same setbacks as equivalent mapped storm drainage channels.

Response: No additional storm drainage channels have been identified on site and none are believed to be present.

32.070 MITIGATION PLAN

A mitigation plan shall be required if any portion of the water resource area is proposed to be permanently disturbed by development.

- A. All mitigation plans must contain an alternatives analysis demonstrating that:
 - 1. No practicable alternatives to the requested development exist that will not disturb the water resource area; and,
 - 2. Development in the water resource area has been limited to the area necessary to allow for the proposed use; and,
 - 3. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to the water resource area will be avoided and/or minimized.

Response: Since the entire lot is within the water resource area, there are no alternatives available to construct a home that avoids <u>all</u> impacts. Per 32.090, the house has been sited as close to the road as possible, designed to be appropriate for the neighborhood, and placed as far away as possible from the

drainageway. This alternate requires variances for interior side yard setback and height as well as the front yard adjustment allowed in 32.050 (O) to minimize impacts to the resource area.

- B. A mitigation plan shall contain the following information:
 - 1. A description of adverse impacts that will be caused as a result of development.

Response: Approximately 4700 square feet of the water resource transition area will be disturbed with the home construction and related improvements. No impacts are anticipated for the drainageway or the water resource area nearest the drainageway.

2. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not limited to, the revegetation provisions of CDC Section <u>32.050(K)</u>.

Response: Situating the house as close as possible to the street minimizes adverse impacts to the site. The adjustment allowed in 32.050(O) together with the requested variances for the interior side yard setback and building height, provide the greatest protection to the largest and most significant portion of the water resource area. Mitigation has been provided on City owned park property. Since this is an existing lot of record which is fully located within the water resource area, provisions of 32.090 were utilized to minimize the impact areas and provide a developable area of 4,700 square feet which is less than the allowed 5,000 feet under this section.

3. A list of all responsible parties including, but not limited to, the owner, applicant, contractor, or other persons responsible for work on the development site.

Response: Persons responsible for work on the development site will be identified at the time of submittal for building permit.

- 4. A map showing where the specific mitigation activities will occur.
- 5. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting, and a contingency

plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife water work periods.

- 6. Assurances shall be established to rectify any mitigation actions that are not successful. This may include bonding or other surety.
- 7. Evidence that a Joint Permit Application (to the U.S. Army Corps and OR DSL) if impacts to wetlands are greater than 0.10 acres, has been submitted and accepted for review.

Response: As agreed upon with the City, the mitigation will consist of payment of a fee in lieu for 4700 square feet of the Field's Bridge Park wetland restoration as designed and implemented by the City of West Linn. All construction, reporting, monitoring, permitting, etc. associated with the mitigation will be managed by the City of West Linn.

C. Mitigation of any water resource areas that are not wetlands that are permanently disturbed shall be accomplished by creation of a mitigation area equal in size to the area being disturbed...

Response: The mitigation will consist of payment for 4700 square feet of the Field's Bridge Park wetland restoration which is equal to the proposed disturbance area for this project.

- D. The Mitigation Plan for any wetland area to be disturbed shall be 1) prepared and implemented with the guidance of professionals with experience and credentials in wetland areas and values, and 2) be consistent with requirements set forth by regulatory agencies (U.S. Army Corps and OR DSL) in a Joint Permit Application, if such an Application is necessary for the disturbance. Where the alternatives analysis demonstrates that there are no practicable alternatives for mitigation on site, off-site mitigation shall be located as follows:
 - 1. As close to the development site as is practicable above the confluence of the next downstream tributary, or if this is not practicable;
 - 2. Within the watershed where the development will take place, or as otherwise specified by the City in an approved wetland mitigation bank.

Response: The City of West Linn will manage the project per the requirements herein.

E. To ensure that the mitigation area will be protected in perpetuity, proof that the area has been dedicated to the City or a conservation easement has been placed on the property where the mitigation is to occur is required.

Response: The mitigation project site is located on Fields Bridge Park, which is owned by the City of West Linn.

32.080 REVEGETATION PLAN REQUIREMENTS

Metro's native plant list is incorporated by reference as a part of CDC Chapter <u>32</u>, and all plants used in revegetation plans shall be plants found on the Metro native plant list. Performance standards for planting upland, riparian and wetland plants include the following:

A. Native trees and shrubs will require temporary irrigation from June 15 to October 15 for the three years following planting.

Response: There will be no disturbance area on the site outside of the development area. No irrigation or revegetation improvements are required or proposed.

B. Invasive non-native or noxious vegetation shall be removed within the area to be revegetated prior to planting.

Response: There will be no disturbance area on the site outside of the development area. No revegetation improvements are required.

C. Replacement trees must be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round) unless they are oak or madrone, which may be one gallon size. Shrubs must be in at least a one-gallon container or the equivalent in ball and burlap and must be at least 12 inches in height.

Response: There will be no disturbance area on the site outside of the development area. No revegetation improvements are proposed.

D. Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on-center, or clustered in single species groups of no more than 4 plants, with each cluster planted between 8 and 10 feet on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing requirements.

Response: There will be no disturbance area on the site outside of the development area. No revegetation improvements are required.

E. Shrubs must consist of at least two different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same species.

Response: There will be no disturbance area on the site outside of the development area. No revegetation improvements are required.

F. The responsible party shall provide an appropriate level of assurance documenting that 80 percent survival of the plants has been achieved after three years, and shall provide annual reports to the Planning Director on the status of the revegetation plan during the three year period.

Response: Per the Schott report, the site contains a combination of native trees and groundcover in more than 95% of the water resource area. Approximately 90% of the tree canopy coverage of the native tree cover was present in the water resource area. No revegetation improvements are required.

32.090 REDUCTION IN STANDARDS FOR HARDSHIP

The purpose of CDC Section <u>32.090</u> is to ensure that compliance with CDC Chapter <u>32</u> does not cause unreasonable hardship. To avoid such instances, the requirements of CDC Chapter <u>32</u> may be reduced. Reductions are also allowed when strict application of CDC Chapter <u>32</u> would deprive an owner of all economically viable use of land. The decision making authority may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief.

A. Lots located completely inside the water resource area. Development may occur on lots located completely within the water resource area that are recorded with the County Assessor's Office on or before the effective date of this ordinance. Development shall disturb the minimum necessary area to allow the proposed use or activity, and in any situation no more than 5,000 square feet of the water resource area, including access roads and driveways, subject to the erosion and sediment control standards in CDC Chapter 31, and subject to a finding that the proposed development does not increase danger to life and property due to flooding and erosion.

Response: The lot is a lot of record and is located entirely within the water resource area. Proposed development will disturb the minimum necessary area in constructing the proposed dwelling and related improvements. The proposed disturbance area of 4700 square feet, is less than the maximum of 5000 square feet allowed under this section. Erosion and sediment control standards will be strictly adhered to. Based on the proposed location of the home, the proposed development does not increase danger to life and property due to flooding or erosion.

75.000 VARIANCE

75.060 THE APPROVAL CRITERIA

The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The approval authority shall deny the variance if any of the criteria are not met.

Response: A Class II Variance for height and west interior side-yard setback was approved by the Planning Commission in VAR-06-04. Chapter 75 has not changed since the original application. The circumstances that require the variance still exist as in the previous application.

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances over which the applicant has no control.

Response: The lot is an existing lot of record that has steep topography and is fully contained within a water resource area. The proposed interior side yard variance from the required 7.5 foot setback to 5-foot allows the proposed home to be placed as close as practicable to the street, protecting as much of the water resource area as possible. The proposed height variance allows the home to be constructed with the least amount of grading, again protecting as much of the water resource area as possible. The two variances taken together provide a home more in character with those in the neighborhood while protecting as much of the resource area as possible.

2. The variance is necessary for the preservation of a property right of the applicant, which is substantially the same as a right possessed by owners of other property in the same zone or vicinity.

Response: The lot is an existing lot of record that has steep topography and is fully contained within a water resource area. The lot also narrows as you get closer to the street. The most developable area of the lot is near the street which also allows protection of the most sensitive portion of the water resource area.

The proposed interior side yard variance from the required 7.5 foot setback to 5-foot allows the proposed home to be placed as close as practicable to the street, protecting as much of the water resource area as possible. This property line is adjacent to an open space tract and will not negatively impact any adjoiners.

The proposed height variance to allow 57'-8" verses 45 feet at the rear of the home. It allows the home to be constructed with the least amount of grading, again protecting as much of the water resource area as possible. The proposed home will look appear like a typical two story home from the street and no adjacent property owners will be impacted from the height variance. The two variances taken together provide a home more in character with those in the neighborhood while protecting as much of the resource area as possible.

3. The authorization of the variance will not be materially detrimental to the purposes and standards of this Code, will not be inconsistent with all other regulatory requirements, and will not conflict with the goals and policies of the West Linn Comprehensive Plan.

Response: The request variances will not be detrimental to the purposes or standards of the City's Code. There will be no change in density or type of use anticipated for this property. The requested variances further the purposes of Chapter 32 while not impacting any adjoining properties or code standards.

4. The variance request is the minimum variance, which would alleviate the exceptional and extraordinary circumstance.

Response: The requested variances are the minimum necessary to alleviate the steep topography and fact that the lot is fully within a water resource area based on the recent Code change. The interior side yard setback variance was only requested on the side without adjoining structures. The height variance is only for the rear portion of the home to allow a reasonable sized home located as far as possible from the drainageway.

5. The exceptional and extraordinary circumstance does not arise from the violation of this ordinance.

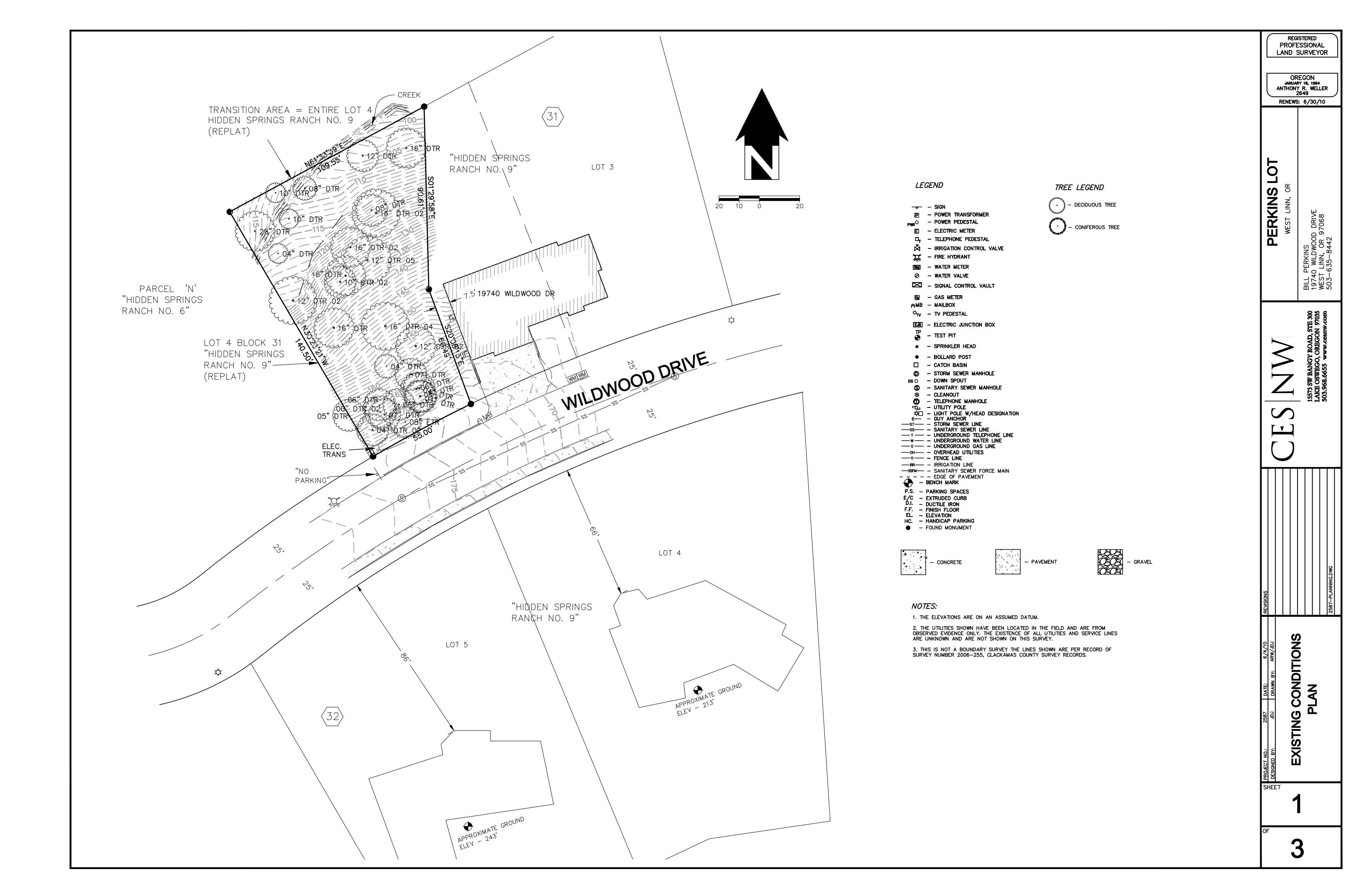
Response: There are no Code violations related to this request.

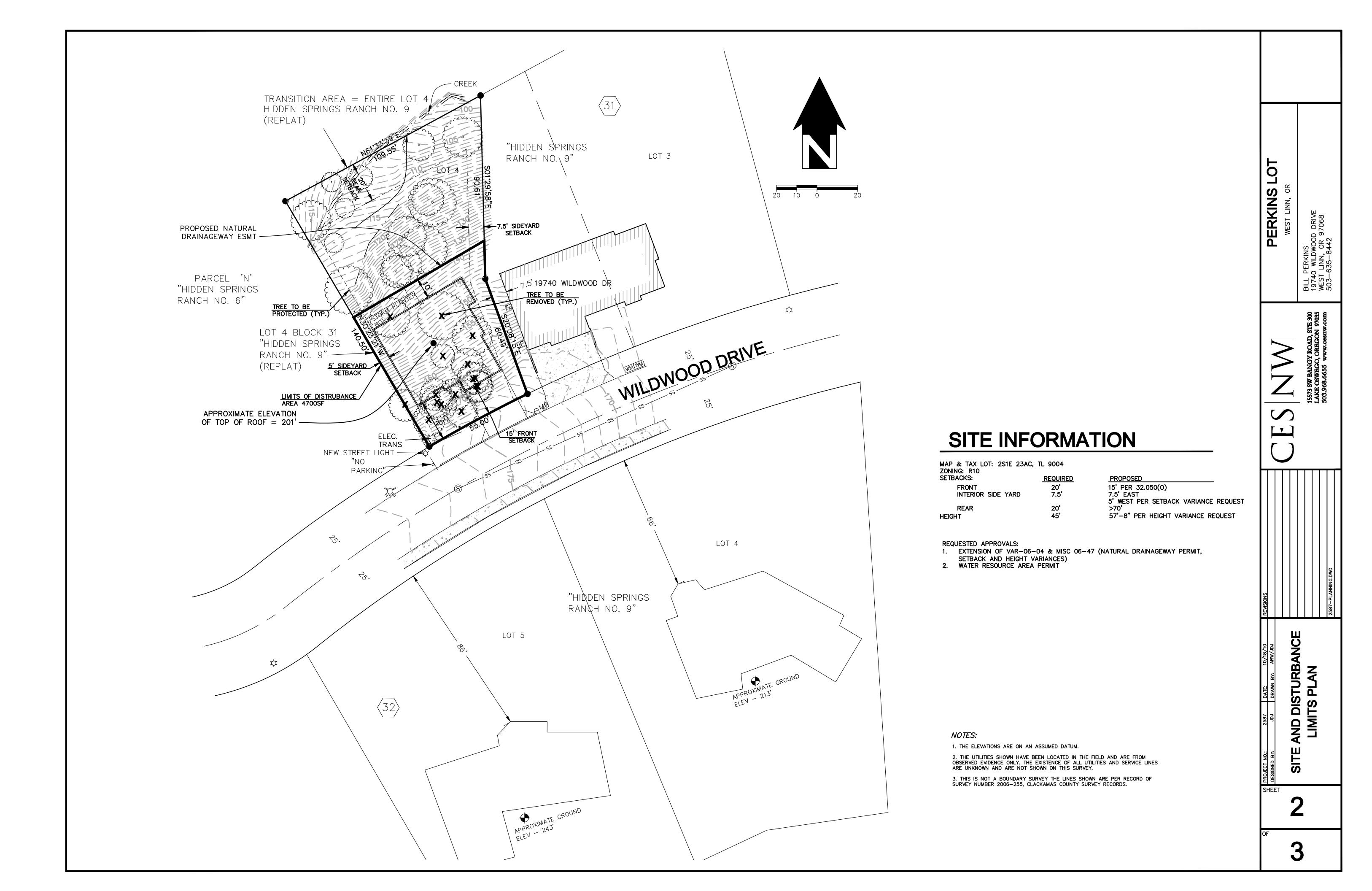
6. The variance will not impose physical limitations on other properties or uses in the area, and will not impose physical limitations on future use of neighboring vacant or underdeveloped properties as authorized by the underlying zoning classification.

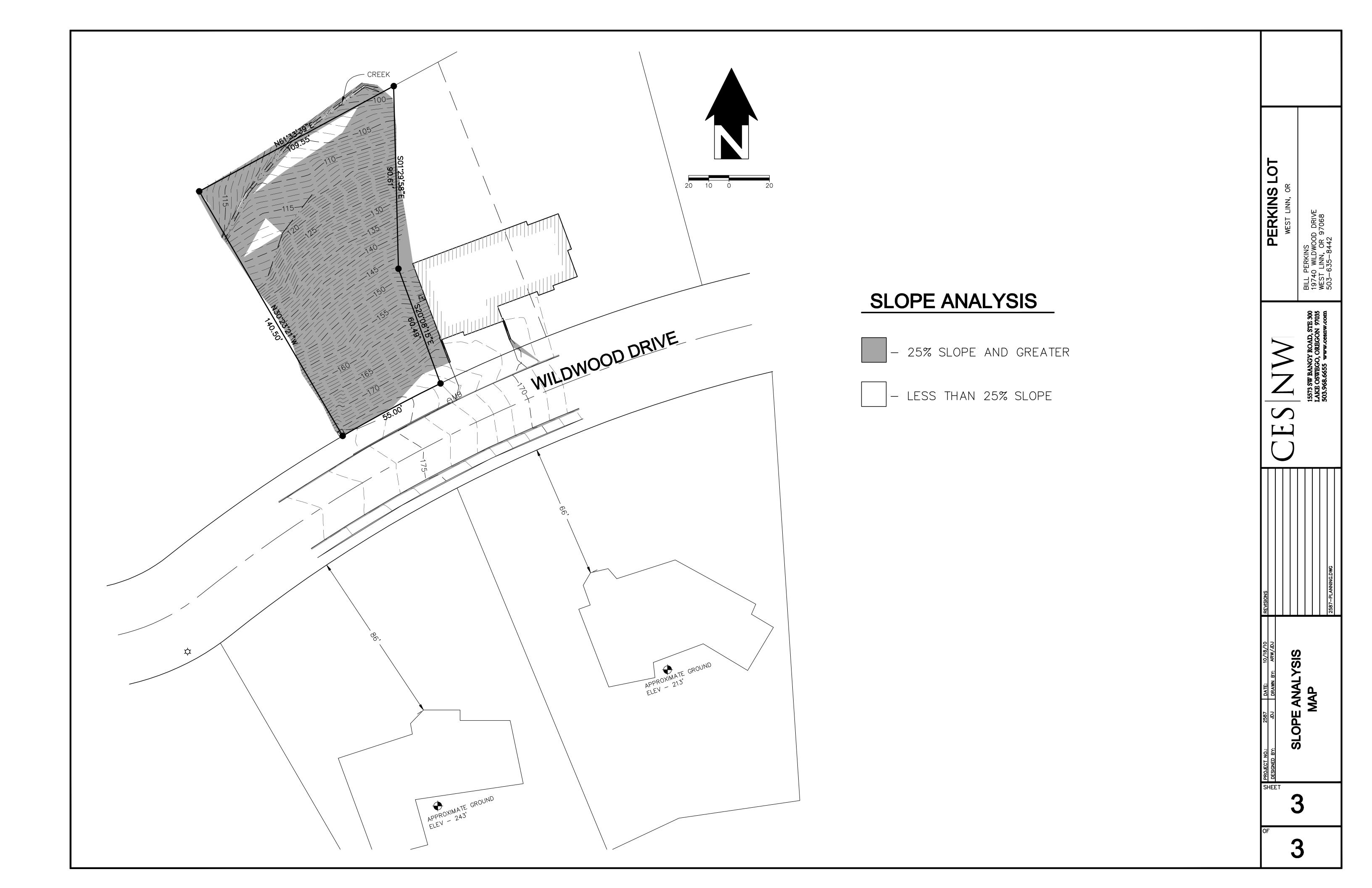
Response: The lot is located in an otherwise fully developed neighborhood. The requested variances will no impose physical limitations on any other properties or uses in the area.

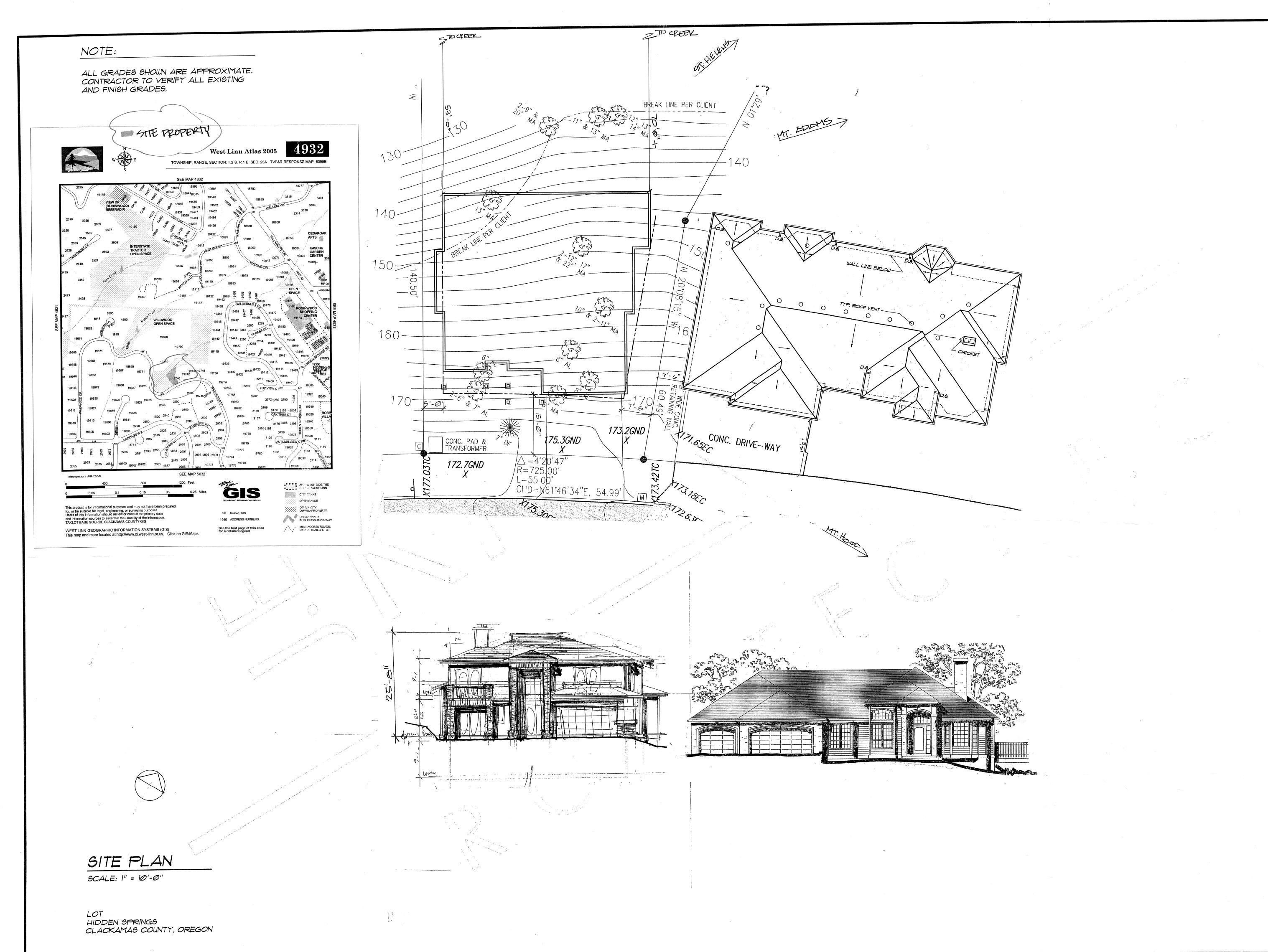
Engineering Requirements: The applicant proposes to pay a fee in lieu of street improvements.

Summary: Previously, the Planning Commission found that the variances were justified due to topography and presence of the drainageway, and that it is environmentally beneficial to fit as much of the house at the far front of the lot as possible. Nothing has changed from these findings with the exception that the entire lot is now located within a Water Resource Area. The requested variances continue to support these findings.





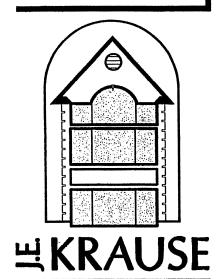




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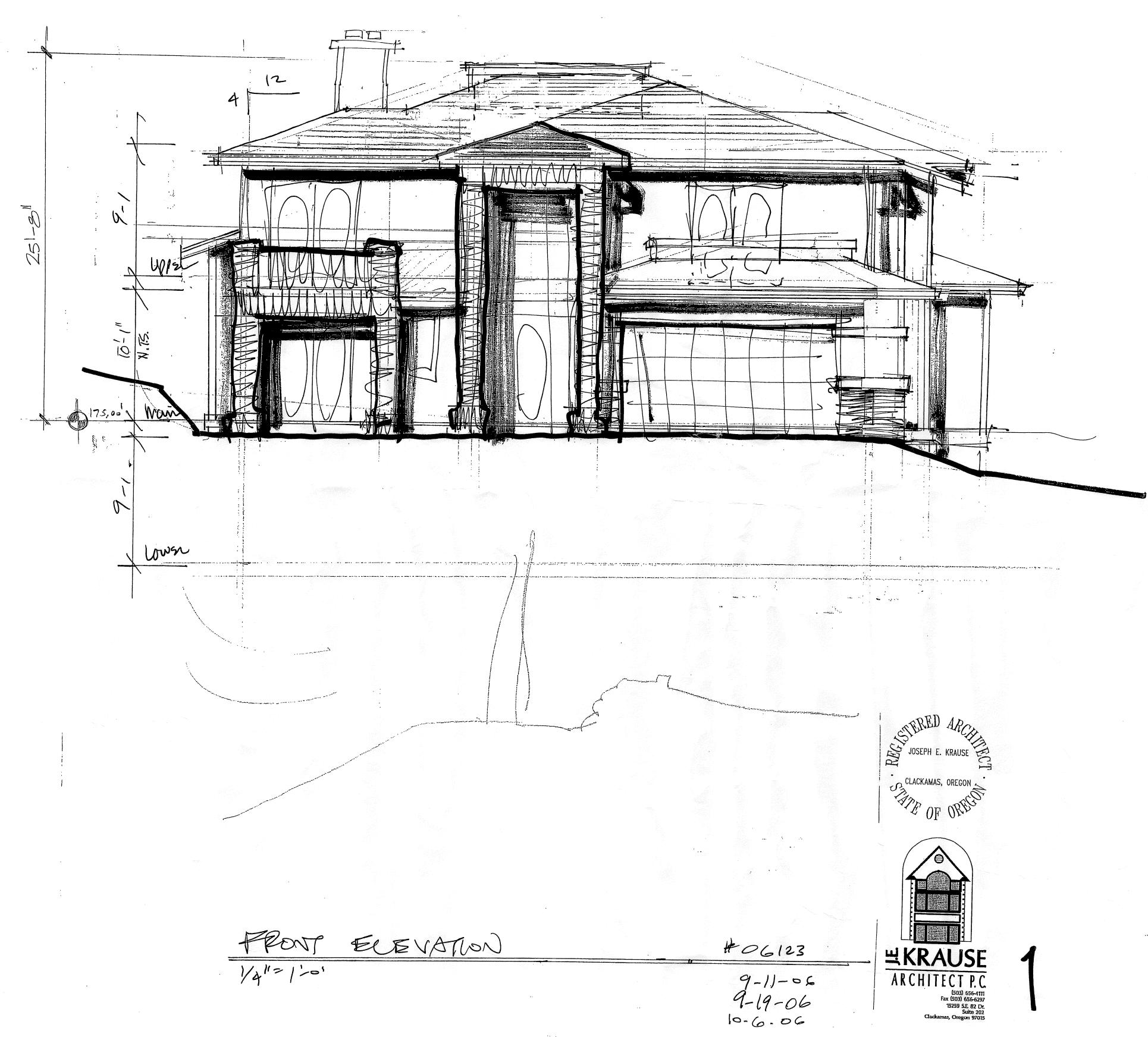
THESE PLANS ARE FOR THE CONSTRUCTION OF ONE BUILDING ONLY, AND ARE NOT TO BE REPRODUCED IN ANY WITHOUT THE EXPRESSED WRITTEN PERMISION OF THE ARCHITECT. THE CONTRACTOR IS TO CHECK AND VERIFY ALL DIMENSIONS AND SITE CONDITIONS AND REPORT ANY ERRORS OR OMISSIONS TO THIS OFFICE PRIOR TO THE START OF CONSTRUCTION. WRITTEN DIMENSIONS ALWAYS HAVE PRECEDENCE OVER SCALED DIMENSIONS.

740 WILDWOOD DRIVE VEST LINN, OR 97068 503.635.8442

PROJECT:
PERKING RESIDENCE
OWNER:

DATE: SEPT.28, 2006 PROJECT NO.: 06123 REVISIONS:

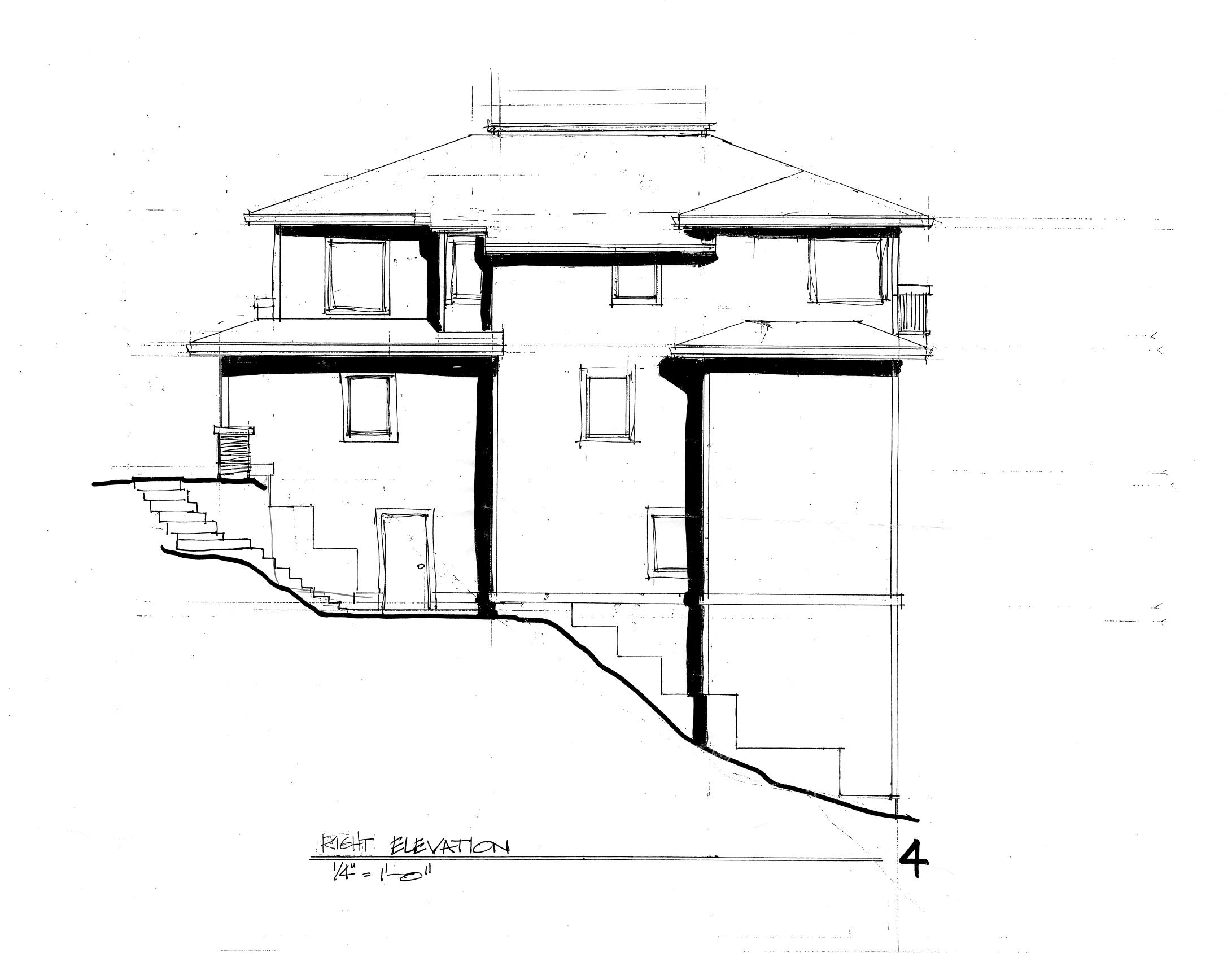
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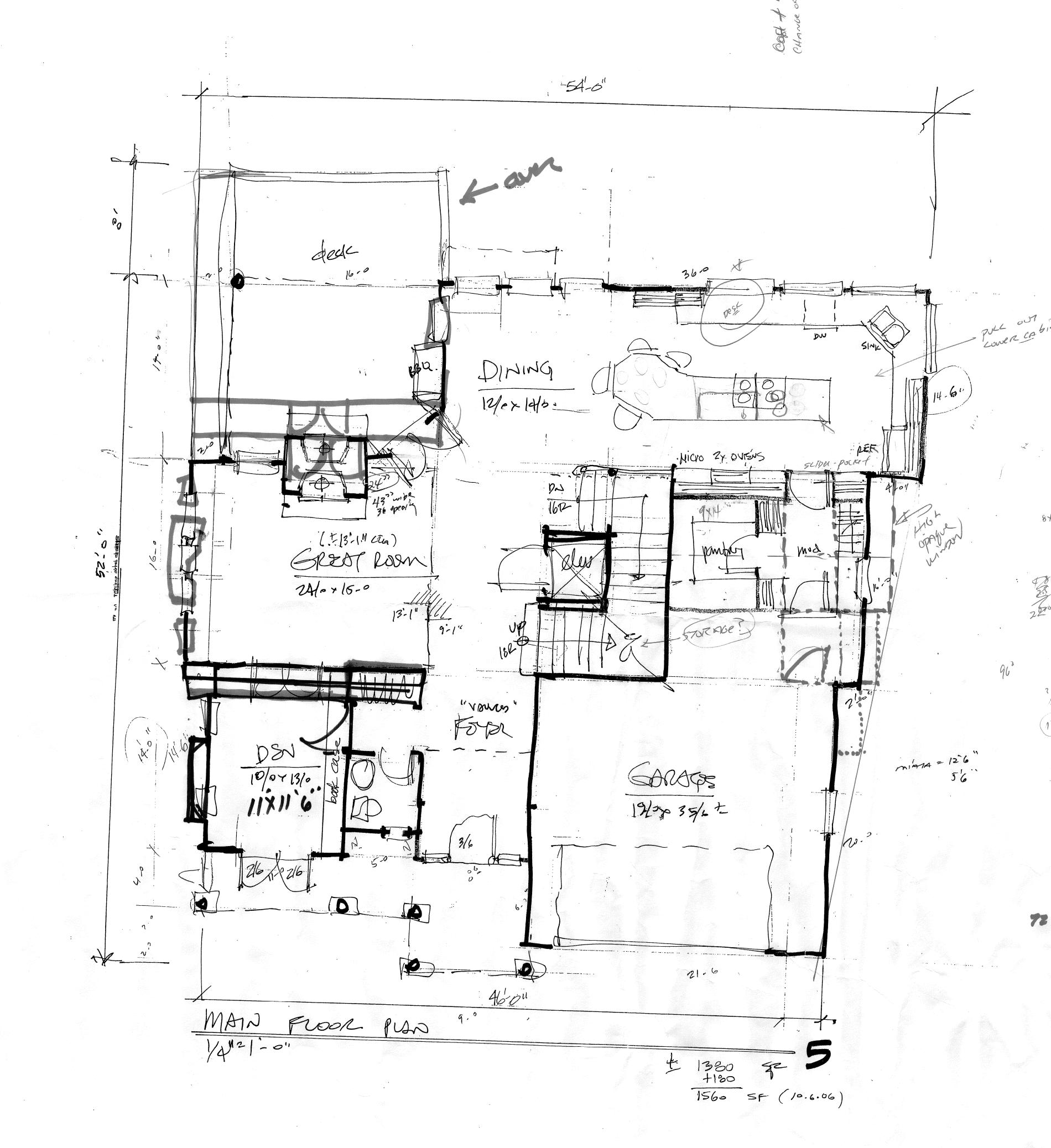


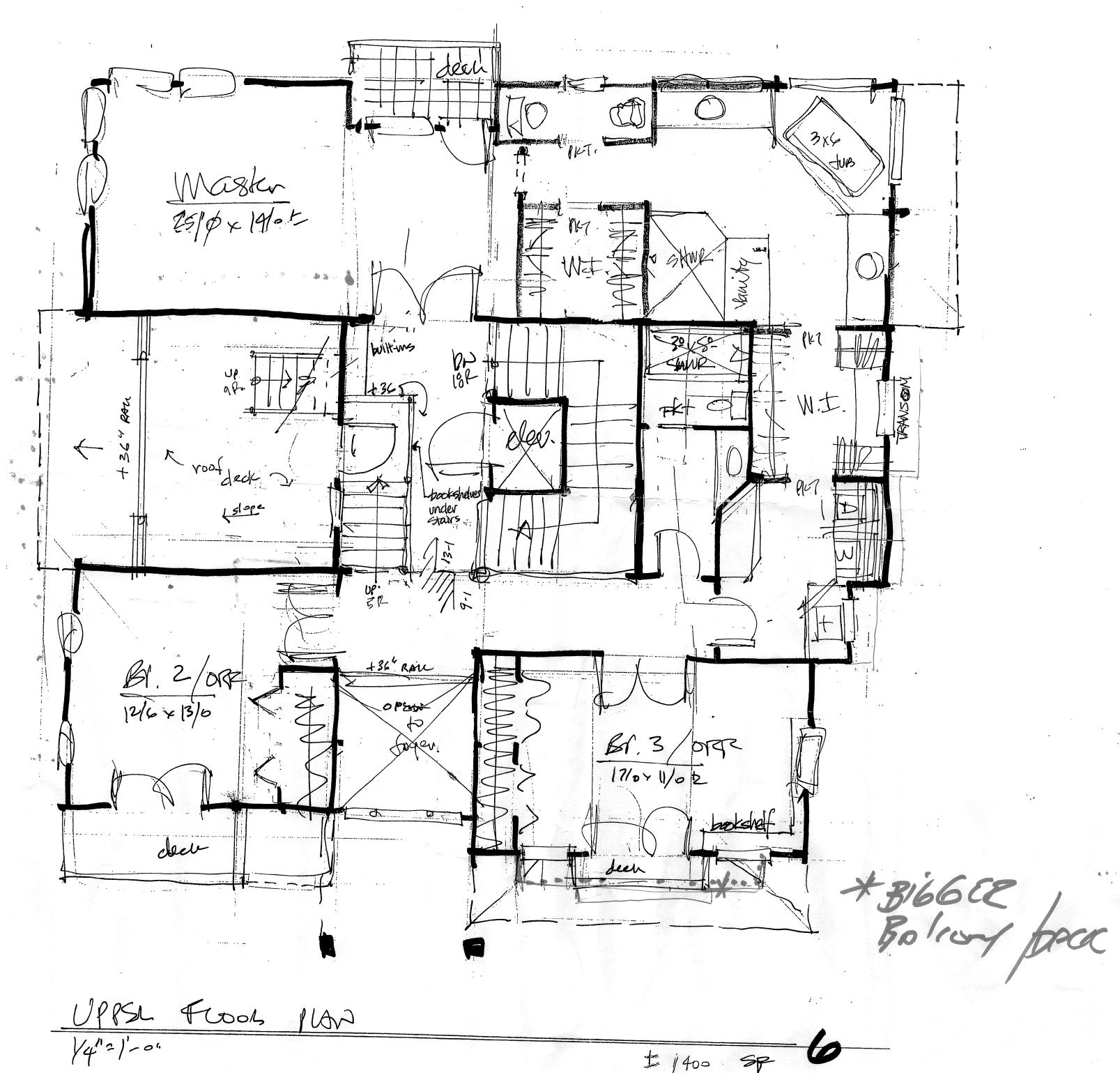




REAR ELEVATION
141-16"







100 SP (10.6.00)

