



**STAFF REPORT
PLANNING MANAGER DECISION**

DATE: July 25, 2017
FILE NO.: LLA-17-04/VAR-17-02/VAR-17-03
REQUEST: Lot Line Adjustment (LLA) between two legal lots: 1822 5th Avenue, Lots 7 and 8 of block 12, "Willamette Falls"
PLANNER: Jennifer Arnold, Associate Planner

Planning Manager

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GENERAL INFORMATION

OWNER/ APPLICANT:

Phill Chek & Associates
148 B Avenue; Suite 100
Lake Oswego, OR 97034

SITE LOCATION: The corner of 13th Street and 5th Avenue (1822 5th Avenue)

SITE SIZE: Lot 1: 5,113 sq. ft.
Lot 2: 4,887 sq. ft.

LEGAL

DESCRIPTION: Tax lot 6800 of Assessor's Map 31E02BA Lots 7 and 8 of block 12 of "Willamette Falls"

COMP PLAN

DESIGNATION: Medium Density Residential

ZONING: R-5 (single family residential detached and attached/duplex, R-5; 5,000 square foot minimum lot size)

APPROVAL

CRITERIA: Community Development Code (CDC) Chapter 13 R-5 Zone; Chapter 85 Land Division; Chapter 75 Variances and Special Waivers.

120-DAY RULE: The application became complete on June 8, 2017. The 120-day period therefore ends on October 6, 2017.

EXECUTIVE SUMMARY

This lot line adjustment (LLA) involves two historical lots (referred to collectively for taxation purposes only as tax lot 6800). Although, these lots have been under single ownership for many years, Oregon land use law is clear that such old lot divisions must be honored. The historical lot line will be adjusted per this lot line adjustment. Both lots are currently owned by Elizabeth Warren. No additional lots are being created by the LLA. The LLA will move the common lot line to allow for a more functional building envelope(s) on the eastern most lot (Lot 2), and for the existing historical home to meet the east side yard setback requirements. The applicant is requesting two Class I variances. The first Class I variance request is to reduce the minimum lot size by 5% on proposed lot 2. The second Class I variance is to

reduce the minimum lot width by 10% on proposed lot 2. These requests are to insure proposed lot 2 meets the dimensional standards and other provisions of the underlying R-5 zone. Proposed lot 2 is currently vacant of any structures.

	Prior to Lot Line Adjustment	After Proposed Lot Line Adjustment
Lot 1	5,000 sq. ft.	5,113 sq. ft.
Lot 2	5,000 sq. ft.	4,887 sq. ft.

DECISION

The Planning Manager (designee) approves this application (LLA-17-04/VAR-17-02/VAR-17-03), based on: 1) the findings submitted by the applicant, which are incorporated by this reference; 2) supplementary staff findings included in the Addendum; and, 3) by the conditions of approval below:

Condition of Approval

- 1. The final plat shall conform to the submittal dated May 11, 2017. (See Staff Finding 1)**

The provisions of the Community Development Code Chapter 99 have been met.


Jennifer Arnold, Associate Planner

7/25/17
DATE

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date. Cost is \$400. An appeal to City Council of a decision by the Planning Manager shall be heard on the record. The appeal must be filed by an individual who has established standing by submitting comments prior to the decision date. Approval will lapse 3 years from effective approval date if the final plat is not recorded.

Mailed this 25th day of July 2017.

Therefore, the 14-day appeal period ends at 5 p.m., on August 8th, 2017.

ADDENDUM
APPROVAL CRITERIA AND FINDINGS
LLA-17-04/VAR-17-02/VAR-17-03

This decision adopts the findings for approval contained within the applicant's submittal, with the following exceptions and additions:

Chapter 13

SINGLE-FAMILY RESIDENTIAL ATTACHED AND DETACHED/DUPLEX, R-5

13.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

Except as may be otherwise provided by the provisions of this code, the following are the requirements for uses within this zone:

A. *The minimum lot size shall be:*

- 1. For a single-family detached unit, 5,000 square feet.*
- 2. For each attached single-family unit, 4,500 square feet. No yard shall be required between the units.*

B. *The minimum front lot line length, or the minimum lot width at the front lot line, shall be 35 feet.*

C. *The average minimum lot width shall be 50 feet.*

Staff Finding 1: Currently, both lots are 5,000 square feet which meets the minimum lot size for the R-5 zone. Currently, the existing single family historic home on proposed lot 1 encroaches on proposed lot 2 by 1.9 feet. The purpose for the LLA is to address this issue and insure the existing home meets the setback requirements of the R-5 zone. The existing home meets the setback requirements with the proposed lot line adjustment as shown on S-2 of the applicant's submittal. The proposed lot sizes, after the LLA, will be 5,113 square feet (Lot 1), 4,887 square feet (Lot 2). See condition of approval 1.

Both lots will exceed the minimum front lot line width of 35 feet and have a front lot line width of 50 feet. The proposed average width is 49.14 feet. A Class I variance has been requested with this application for average lot width reduction. The criteria has been satisfied.

E. *Except as specified in CDC 25.070(C)(1) through (4) for the Willamette Historic District, the minimum yard dimensions or minimum building setback areas from the lot line shall be:*

1. For a front yard, 20 feet; except for steeply sloped lots where the provisions of CDC 41.010 shall apply.

2. For an interior side yard, five feet.

3. For a side yard abutting a street, 15 feet.

4. For a rear yard, 20 feet.

F. The maximum building height shall be 35 feet except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.

G. The maximum lot coverage shall be 40 percent.

H. The minimum width of an accessway to a lot which does not abut a street or a flag lot shall be 15 feet.

I. The floor area ratio shall be 0.45. Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a "non-conforming structures" permit under Chapter 66 CDC

J. The sidewall provisions of Chapter 43 CDC shall apply. (Ord. 1538, 2006; Ord. 1622 § 24, 2014)

Staff Finding 2: No new structures are proposed on the subject properties at this time. Any proposed future structure must be approved by the Historic Review Board in a separate land use action. There is an existing single family historic home on proposed lot 1 which encroaches on lot 2. The existing historic home is to be preserved per Planning Department file number DR-16-05. The purpose of this proposed LLA and Class I variances are to insure dimensional standards are satisfied for the underlying R-5 zone. The criteria has been satisfied.

85.210 PROPERTY LINE ADJUSTMENTS – APPROVAL STANDARDS

A. The Director shall approve or deny a request for a property line adjustment based on the criteria stated below:

1. An additional lot or parcel shall not be created by the line adjustment.

Staff Finding 3: This LLA comprises two lots. With this LLA decision, there will still be two lots. No additional lots have been created. The criteria has been satisfied.

2. *The existing property shall not be reduced in size by the adjustments below the minimum lot or parcel size established by the approved zoning for that district.*

Staff Finding 4: The proposed lot sizes, after the LLA, will be 5,113 square feet (Lot 1) and 4,887 square feet (Lot 2) which will meet or exceed the 4,500 square feet minimum lot size of the R-4.5 zone. The criteria has been satisfied.

3. *Reducing the lot or parcel size shall not violate the site development regulations for that district. For example, the property line adjustment shall not result in an overall loss of density below 70 percent except as allowed by CDC [85.200\(J\)](#) (7).*

Staff Finding 5: The re-alignment of the lot lines which has the net effect of adding 113 square feet to lot 1 from lot 2 will not compromise future development of either lot. Any future development of these lots will be reviewed under the applicable criteria at such time that a development permit application is submitted to the City. The criteria has been satisfied.

4. *The property line adjustment is as defined by ORS Chapter [92](#).*

92.192 Property line adjustment; zoning ordinances; lot or parcel size. (1) Except as provided in this section, a unit of land that is reduced in size by a property line adjustment approved by a city or county must comply with applicable zoning ordinances after the adjustment.

(2) Subject to subsection (3) of this section, for properties located entirely outside the corporate limits of a city, a county may approve a property line adjustment in which:

(a) One or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment and, after the adjustment, one is as large as or larger than the minimum lot or parcel size for the applicable zone; or

(b) Both abutting properties are smaller than the minimum lot or parcel size for the applicable zone before and after the property line adjustment.

(3) On land zoned for exclusive farm use, forest use or mixed farm and forest use, a property line adjustment under subsection (2) of this section may not be used to:

(a) Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;

(b) Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or

(c) Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard. [2008 c.12 §2]

Staff Finding 6: The provisions of ORS 92 are met by this LLA application. ORS 92.010 Definitions for ORS 92.010 to 92.192 defines LLA or property line adjustment as follows:

(12) "Property line adjustment" means a relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel.

This LLA meets the ORS definition in that the existing lot lines are being relocated and no additional parcel is created. All lots meet the dimensional standards of the underlying R-5 zone with the requested Class I variances.

In 2014, Ordinance 1635 was adopted by the West Linn City Council. This ordinance removed approval criteria related to 'Acceptable Lot Line Adjustment' and 'Unacceptable Lot Line Adjustment.' See the amendment below:

~~4. The lot lines shall be generally straight with only a few deviations. Lot lines shall not gerrymander or excessively zigzag long to accommodate tool sheds, accessory structures, other buildings, etc. The figure below serves as a guide to lot line adjustments.~~

Research on this legislation found the intent was to remove the two diagrams referred to in this subsection. However, removal of the diagrams was overlooked in publication. Since the intent was removal of the criteria and the diagrams, these criteria have been deleted and are no longer applicable.

Even if the diagrams were retained, the graphics standing alone are not clear enough to apply as criteria. It therefore cannot be a basis for denial.

The criteria has been satisfied.

5. The lot line adjustment will not affect existing easements or existing utilities unless an easement vacation is obtained, replacement easements are dedicated or any required utility relocations are paid for by the applicant.

Staff Finding 7: There are no easements along the common lot line between lots 1 and 2.

6. *Any appeal must be filed in accordance with CDC [99.240](#).*

Staff Finding 8: This only applies to appeals and is therefore not applicable.

B. *The provisions of CDC [85.070](#) shall also apply to lot line adjustments.*

Staff Finding 9: The provisions of CDC section 85.070 “ADMINISTRATION AND APPROVAL PROCESS” are satisfied by this application and by the applicant’s proof of ownership. The application is being processed in agreement with the provisions of CDC Chapter 99. The criteria has been satisfied.

75.020 CLASSIFICATION OF VARIANCES

A. *Class I Variance. Class I variances provide minor relief from certain code provisions where it can be demonstrated that the modification will not harm adjacent properties, and it conforms with any other code requirements. Class I variances are allowed for the following code provisions:*

1. *Required Yard and Minimum Lot Dimensional Requirements. Required yards may be modified up to 20 percent, lot dimensions by up to 10 percent and lot area by up to five percent if the decision-making authority finds that the resulting approval:*

- a. *Provides for a more efficient use of the site;*
- b. *Preserves and incorporates natural features into the overall design of the project;*
- c. *Does not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards; and*
- d. *Provides for safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.*

2. *Off-street parking dimensional and minimum number of space requirements may be modified up to 10 percent if the decision-making authority finds that the use is designed for a specific purpose, which is intended to be permanent in nature.*

3. *Dimensional sign requirements may be modified up to 10 percent if the decision-making authority finds that the proposed larger sign is:*

- a. *Necessary for adequate identification of the use on the property; and*

b. Compatible with the overall site plan, the structural improvements, and with the structures and uses on adjoining properties.

4. Landscaping requirements in the applicable zone may be modified up to 10 percent if the decision-making authority finds that the resulting approval:

a. Provides for a more efficient use of the site;

b. Preserves and incorporates natural features into the overall design of the project; and

c. Will have no adverse effect on adjoining property.

Staff Finding 10: The applicant has requested two Class I variances. The first Class I variance is to reduce the lot area by approx. 3%. The proposed lot size is 4887 square feet for proposed lot 2. Staff adopts the applicant's findings (see page 4 of applicant's submittal). The second Class I variance is to reduce the lot dimension up to 10%. The lot dimension proposed to be altered is the average lot width requirement which is proposed to be 49.14 feet. Staff adopts the applicant's findings (see page 5 of applicant's submittal).

PD-1 COMPLETENESS LETTER



CITY OF
West Linn

June 8, 2017

Phil Chek & Associates
148 B Ave Suite 100
Lake Oswego, OR 97034

SUBJECT: LLA-17-04 application for a Lot Line Adjustment and two Class I variances at 1822 5th Avenue.

Dear Phil:

You submitted this application on May 11, 2017. The Planning Department found that this application was **incomplete** on May 30, 2017. You then submitted supplemental materials on June 6, 2017. The Planning Department found this application is now **complete**. The City has 120 days to exhaust all local review; that period ends October 6, 2017.

Please be aware that a determination of a complete application does not guarantee a recommendation of approval from staff for your proposal as submitted – it signals that staff believes you have provided the necessary information for the Planning Director to render a decision on your proposal.

A 14-day public notice informing property owners of the lot line adjustment and Class I variances that are associated with this property will be prepared and mailed. This notice will identify the earliest potential decision date.

Please contact me at 503-742-6057, or by email at jarnold@westlinnoregon.gov if you have any questions or comments.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Arnold". The signature is written in a cursive, flowing style.

Jennifer Arnold
Associate Planner

PD-2 APPLICANT'S SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT <i>Jennifer Arnold</i>	PROJECT NO(S) <i>LLA-17-04/VA-17-02/VA-17-03</i>	
NON-REFUNDABLE FEE(S) <i>2650-</i>	REFUNDABLE DEPOSIT(S)	TOTAL <i>2650-</i>

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Historic Review | <input type="checkbox"/> Subdivision (SUB) |
| <input type="checkbox"/> Appeal and Review (AP) * | <input type="checkbox"/> Legislative Plan or Change | <input type="checkbox"/> Temporary Uses * |
| <input type="checkbox"/> Conditional Use (CUP) | <input checked="" type="checkbox"/> Lot Line Adjustment (LLA) */** | <input type="checkbox"/> Time Extension * |
| <input type="checkbox"/> Design Review (DR) | <input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan) | <input checked="" type="checkbox"/> Variance (VAR) |
| <input type="checkbox"/> Easement Vacation | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Extraterritorial Ext. of Utilities | <input type="checkbox"/> Planned Unit Development (PUD) | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP) |
| <input type="checkbox"/> Final Plat or Plan (FP) | <input type="checkbox"/> Pre-Application Conference (PA) */** | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG) |
| <input type="checkbox"/> Flood Management Area | <input type="checkbox"/> Street Vacation | <input type="checkbox"/> Zone Change |
| <input type="checkbox"/> Hillside Protection & Erosion Control | | |

Home Occupation, Pre-Application, Sidewalk Use, Sign Review Permit, and Temporary Sign Permit applications require different or additional application forms, available on the City website or at City Hall.

Site Location/Address: <i>1822 5TH AVE WEST LINN, OR 97068</i>	Assessor's Map No.: <i>31E02BA</i>
	Tax Lot(s): <i>6400</i>
	Total Land Area: <i>10,000 S.F.</i>

Brief Description of Proposal: *LOT LINE ADJUSTMENT
& (2) CLASS I VARIANCES
• LOT SIZE • LOT DIMENSIONS*

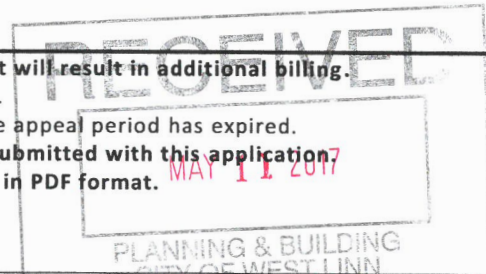
Applicant Name: <i>PHIL CHEK & ASSOCIATES</i> <small>(please print)</small>	Phone: <i>503.224.4500</i>
Address: <i>148 B AVE SUITE 100</i>	Email: <i>phil@philchek.com</i>
City State Zip: <i>LAKE OSWEGO, OR 97034</i>	

Owner Name (required): <i>PHIL CHEK</i> <small>(please print)</small>	Phone: <i>503.224.4500</i>
Address: <i>148 B AVE SUITE 100</i>	Email: <i>philephilchek.com</i>
City State Zip: <i>LAKE OSWEGO, OR 97034</i>	

Consultant Name: <i>CENTERLINE CONCEPTS</i> <small>(please print)</small>	Phone: <i>503.650.0188</i>
Address: <i>19370 HOLMAN AVE, SUITE 120</i>	Email:
City State Zip: <i>OR CITY, OR 97045</i>	

- All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
- The owner/applicant or their representative should be present at all public hearings.
- A denial or approval may be reversed on appeal. No permit will be in effect until the appeal period has expired.
- Three (3) complete hard-copy sets (single sided) of application materials must be submitted with this application.**
One (1) complete set of digital application materials must also be submitted on CD in PDF format.
If large sets of plans are required in application please submit only two sets.

* No CD required / ** Only one hard-copy set needed



The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

[Signature] 5/10/17
Applicant's signature Date

[Signature] 5/10/17
Owner's signature (required) Date

Proposed lot line adjustment with Historic lot line & (2) Class I Variances for lot size and dimensions

Site Information

Site Address: 1822 5th Ave

Area: 10,000 sq. ft.

Zoning Classification: R-5 (5,000 square foot minimum lot size)

Subdivision Name: Willamette Falls Blocks 1-17

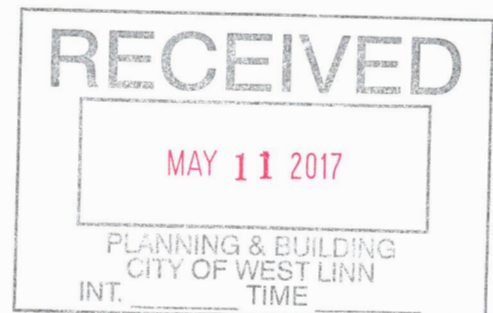
Block: 12

Lots: 7&8

Tax Lot: 31E02BA06800

Project Details

The applicant proposes to reestablish the existing historical lot line and adjust it so as to make the existing home conform to the setback requirements. The two legal lots were created by the original plat "Willamette Falls" Block 12; Lots 7 and 8 (TL 6800). In adjusting the lot line to reestablish two legal lots and maintaining setback requirements, Lot 8 would be reduced below the 5,000 square feet requirement of the R-5 underlying zone. The first Class I Variance is to reduce the lot dimensions requirement by the zone by up to 10 percent. The second Class I Variance is to reduce the average lot width requirement.



Class I Variance Narratives:

13.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

Except as may be otherwise provided by the provisions of this code, the following are the requirements for uses within this zone:

A. The minimum lot size shall be:

1. For a single-family detached unit, 5,000 square feet.

CLASS 1 VARIANCE TO REDUCE BY 5% (4750 sf min lot size; 4887 sf lot area proposed)

2. ~~For each attached single family unit, 4,500 square feet. No yard shall be required between the units.-N/A~~

B. The minimum front lot line length, or the minimum lot width at the front lot line, shall be 35 feet.
COMPLIANT.

C. The average minimum lot width shall be 50 feet.

CLASS 1 VARIANCE TO REDUCE BY 10% (45' avg min lot width; 49.14'avg min lot width proposed)

VARIANCE 1-

CLASS 1 VARIANCE TO REDUCE MINIMUM LOT SIZE BY 5%, WHICH RESULTS IN A 4,750sf MINIMUM LOT SIZE. (4,887sf LOT SIZE PROPOSED)

NARRATIVE: (FROM CH. 75.020 - CLASSIFICATION OF VARIANCES)

A. Class I Variance. Class I variances provide minor relief from certain code provisions where it can be demonstrated that the modification will not harm adjacent properties, and it conforms with any other code requirements. Class I variances are allowed for the following code provisions:

1. Required Yard and Minimum Lot Dimensional Requirements. Required yards may be modified up to 20 percent, lot dimensions by up to 10 percent and **lot area by up to five percent** if the decision-making authority finds that the resulting approval:
 - a. Provides for a more efficient use of the site;
The reduced lot area provides for a more practical and efficient use of the lot for both properties and allows for yard space and required setbacks around the existing home that currently encroaches on the dividing line between the two lots while maintaining the maximum lot area possible.
 - b. Preserves and incorporates natural features into the overall design of the project;
The existing fruit trees will be preserved and future landscaping will be designed to create a greenspace with natural features between the two lots.
 - c. Does not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards; and
The reduced lot area has no effect on adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards
 - d. Provides for safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.
This criterion is not applicable as no changes are being made to vehicular and pedestrian access or circulation.
2. Off-street parking dimensional and minimum number of space requirements may be modified up to 10 percent if the decision-making authority finds that the use is designed for a specific purpose, which is intended to be permanent in nature.
This criterion is not applicable as there is no proposed change to off-street parking.
3. Dimensional sign requirements may be modified up to 10 percent if the decision-making authority finds that the proposed larger sign is:
This criterion is not applicable as there is no proposed change to dimensional signs.
 - a. Necessary for adequate identification of the use on the property; and
 - b. Compatible with the overall site plan, the structural improvements, and with the structures and uses on adjoining properties.
4. Landscaping requirements in the applicable zone may be modified up to 10 percent if the decision-making authority finds that the resulting approval:
This criterion is not applicable as there is no proposed change to landscaping requirements.
 - a. Provides for a more efficient use of the site;
 - b. Preserves and incorporates natural features into the overall design of the project; and
 - c. Will have no adverse effect on adjoining property.

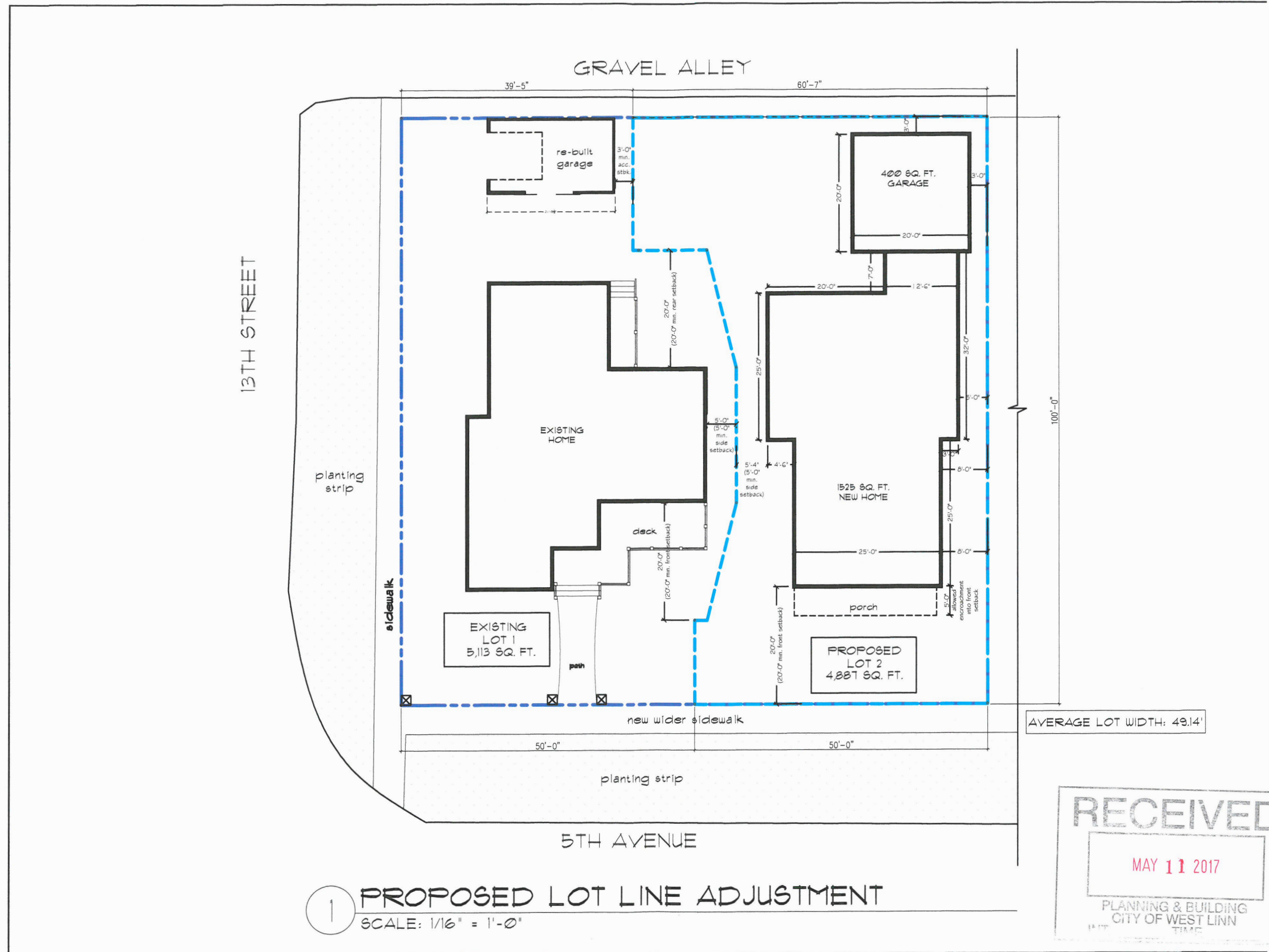
VARIANCE 2-

CLASS 1 VARIANCE TO REDUCE MINIMUM LOT WIDTH BY 10%, WHICH CREATES A MINIMUM 45' AVERAGE LOT WIDTH (49.14' AVERAGE LOT WIDTH PROPOSED)

NARRATIVE: (FROM CH. 75.020)

A. Class I Variance. Class I variances provide minor relief from certain code provisions where it can be demonstrated that the modification will not harm adjacent properties, and it conforms with any other code requirements. Class I variances are allowed for the following code provisions:

1. Required Yard and Minimum Lot Dimensional Requirements. Required yards may be modified up to 20 percent, **lot dimensions by up to 10 percent** and lot area by up to five percent if the decision-making authority finds that the resulting approval:
 - a. Provides for a more efficient use of the site;
The reduced average lot width provides a more practical and efficient use of the lot for both properties and allows for yard space and required setbacks around the existing home that currently encroaches on the dividing line between the two lots while maintaining the maximum lot width possible.
 - b. Preserves and incorporates natural features into the overall design of the project;
The existing fruit trees will be preserved and future landscaping will be designed to create a greenspace with natural features between the two lots.
 - c. Does not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards; and
The reduced average lot width has no effect on adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards
 - d. Provides for safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.
This criterion is not applicable as no changes are being made to vehicular and pedestrian access or circulation.
2. Off-street parking dimensional and minimum number of space requirements may be modified up to 10 percent if the decision-making authority finds that the use is designed for a specific purpose, which is intended to be permanent in nature.
This criterion is not applicable as there is no proposed change to off-street parking.
3. Dimensional sign requirements may be modified up to 10 percent if the decision-making authority finds that the proposed larger sign is:
This criterion is not applicable as there is no proposed change to dimensional signs.
 - a. Necessary for adequate identification of the use on the property; and
 - b. Compatible with the overall site plan, the structural improvements, and with the structures and uses on adjoining properties.
4. Landscaping requirements in the applicable zone may be modified up to 10 percent if the decision-making authority finds that the resulting approval:
This criterion is not applicable as there is no proposed change to landscaping requirements.
 - a. Provides for a more efficient use of the site;
 - b. Preserves and incorporates natural features into the overall design of the project; and
 - c. Will have no adverse effect on adjoining property.



1 **PROPOSED LOT LINE ADJUSTMENT**
 SCALE: 1/16" = 1'-0"

RECEIVED
 MAY 11 2017
 PLANNING & BUILDING
 CITY OF WEST LINN
 TIME

148 B AVENUE
 LAKE OSWEGO,
 OREGON 97034
 503.224.4500 phone
 503.636.4565 fax

Phil Chok
 AND ASSOCIATES

DATE:
 04/24/2017
 DRAWN BY:
 NS
 JOB NAME:
 Willamette
 REVISIONS:
 1
 2
 3
 APPROVED BY:
 PC

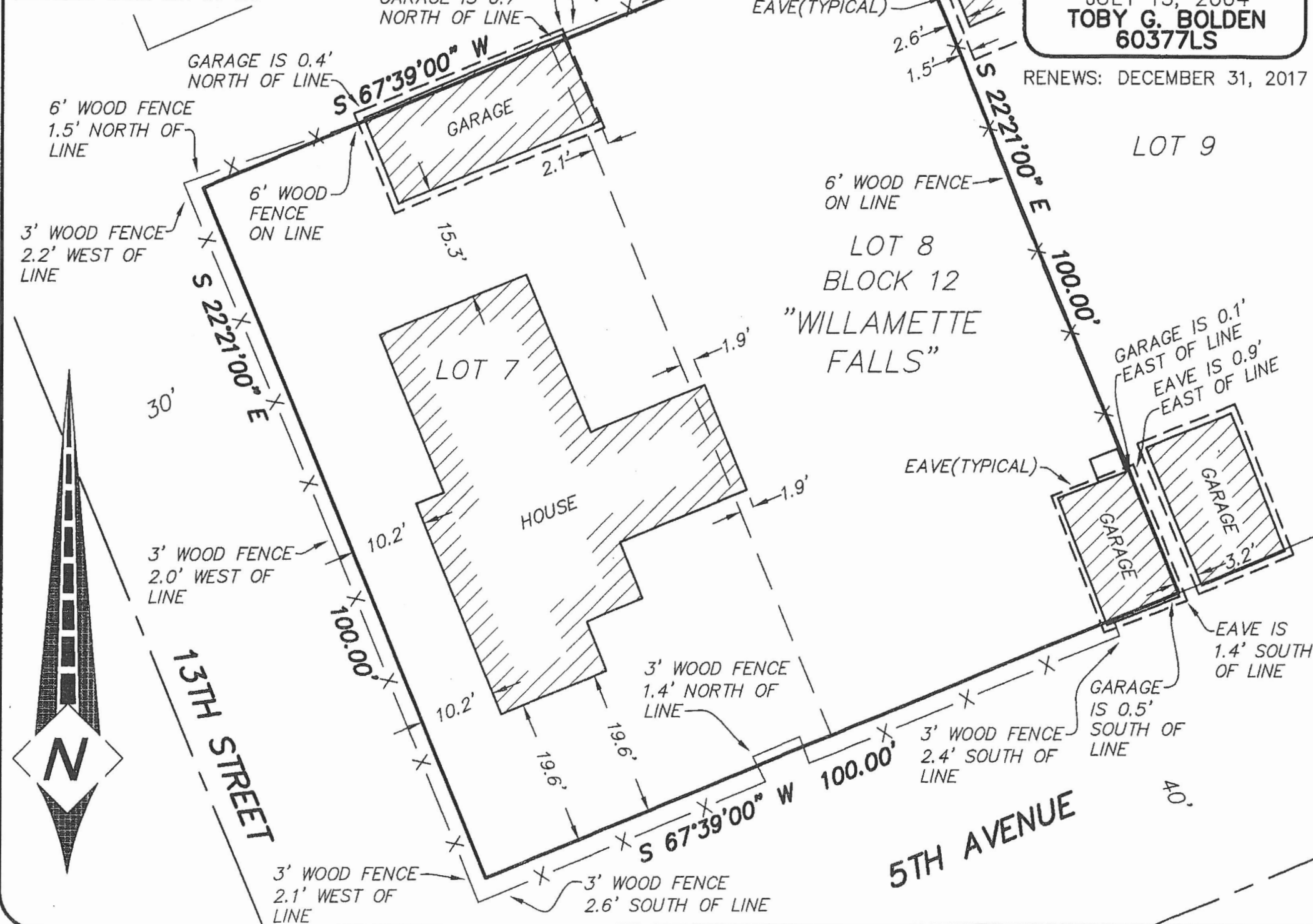
PROJECT:
WARREN RESIDENCE
 1822 5th Ave
 West Linn, OR 97068

S-2

SURVEY NOTES:

THE BASIS OF BEARINGS FOR THIS SURVEY IS PER MONUMENTS FOUND AND HELD PER RECORD OF SURVEY RECORDED UNDER PRIVATE SURVEY NUMBER 23603, RECORDS OF CLACKAMAS COUNTY.

THE PURPOSE OF THIS SURVEY IS TO RESOLVE AND DETERMINE THE PERIMETER BOUNDARY OF THE SUBJECT PROPERTY, TO SHOW ALL PERTINENT BOUNDARY ISSUES AND ENCROACHMENTS. NO PROPERTY CORNERS WERE SET IN THIS SURVEY.



SIGNED ON: 02DEC16

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 13, 2004
TOBY G. BOLDEN
60377LS

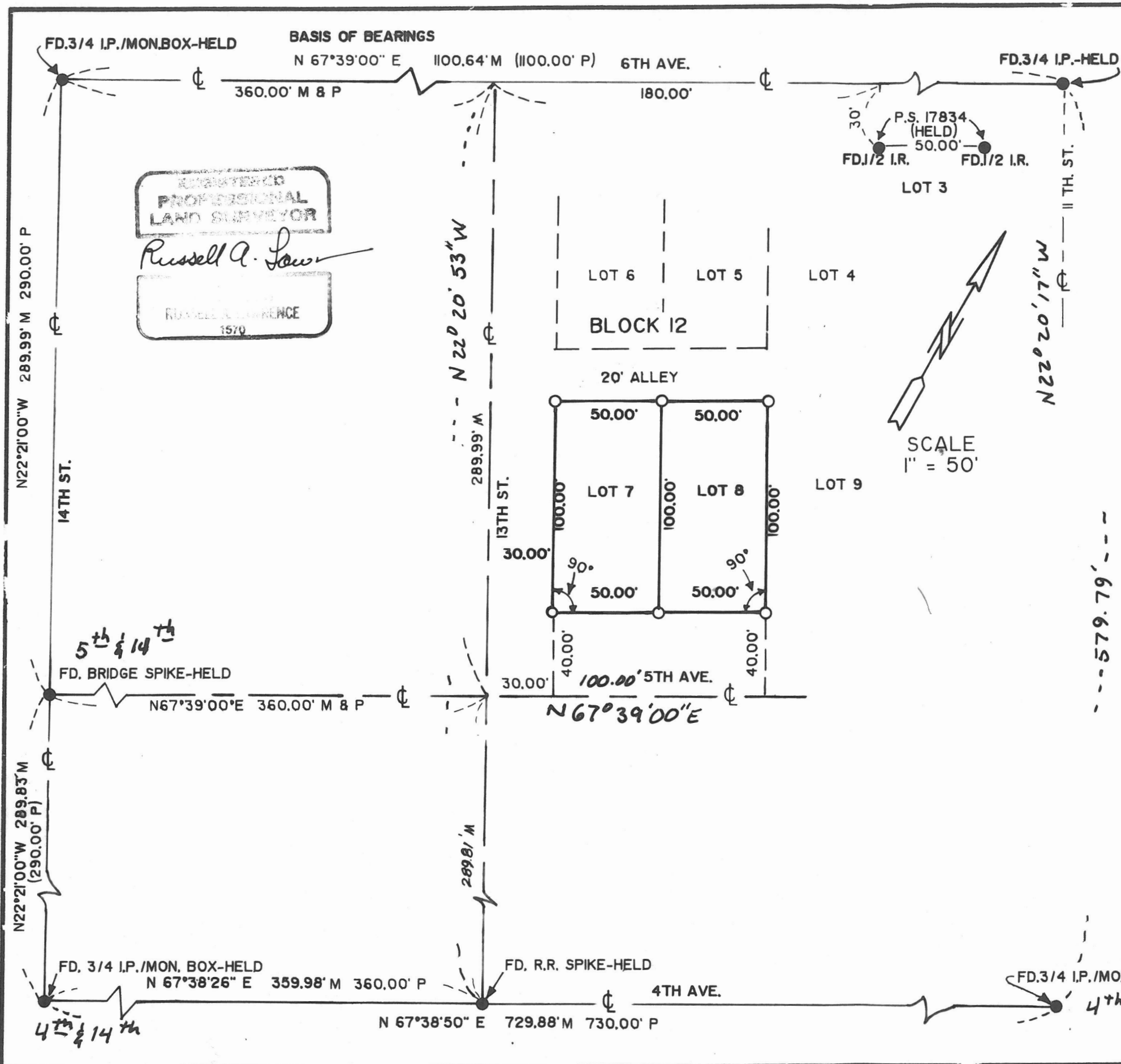
RENEWS: DECEMBER 31, 2017

CENTERLINE CONCEPTS LAND SURVEYING, INC.
19376 MOLALLA AVE., SUITE 120
OREGON CITY, OREGON 97045
PHONE 503.650.0188 FAX 503.650.0189

SCALE MAP
LOTS 7 AND 8, BLOCK 12,
WILLAMETTE FALLS
CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON
SCALE: 1"=20'

CLIENT:	PHIL CHECK
ORIG. DATE:	12-2-16
DRAWN BY:	RLC
SHEET No.	1 of 1

Plotted: 12/02/2016 - 3:29pm, M: \PROJECTS\PHIL CHECK & ASSOCIATES-5TH AVE-1822\dwg\SCALE.dwg, Layout: Model



REGISTERED
PROFESSIONAL
LAND SURVEYOR
Russell A. Lawrence
RUSSELL A. LAWRENCE
1570

A DEPENDENT RESURVEY

LOTS 7 & 8, BLOCK 12, "WILLAMETTE FALLS"
LOCATED IN THE N.W. 1/4 OF SEC. 2, T.3S., R.1E., W.B.8M.
CITY OF WEST LINN, CLACKAMAS CO., OREGON
M.K. PERRINE D.L.C. #50 DECEMBER 21, 1989

NARRATIVE:

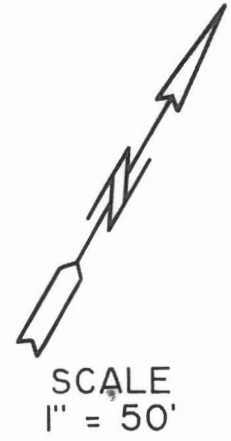
THE PURPOSE OF THIS SURVEY IS TO RE-ESTABLISH THE CORNERS OF LOTS 7 & 8, BLOCK 12. THE CONTROLLING ELEMENTS WERE THE PLAT OF "WILLAMETTE FALLS", MONUMENTS FOUND AND HELD, AND REFERENCED SURVEYS AS SHOWN. BASIS OF BEARINGS IS AS SHOWN, AND THE PLAT OF "WILLAMETTE FALLS".

REFERENCE SURVEYS:

PLAT OF WILLAMETTE FALLS P.S. 17834 P.S. 19493
P.S. 20232 P.S. 8466 P.S. 8038

LEGEND:

- MONUMENTS FOUND AS NOTED
- SET 5/8 x 30" IRON ROD W/ORANGE CAP "RAL ASSOC"
- P PLAT DISTANCE
- M MEASURED DISTANCE



CLACKAMAS COUNTY
RECEIVED

FEB 21 1990

Thomas A. Milne, County Surveyor
Deputy
Filed 4-16-96
PS 23603

R. A. LAWRENCE & ASSOCIATES, INC.

5001 WILLAMETTE FALLS DRIVE
WEST LINN, OREGON 97068
PHONE (503) 656-6804

ACCT # 689-1-89

PS 23603 (B)

Proposed lot line adjustment with Historic lot line & (2) Class I Variances for lot size and dimensions

Additional information as requested by Jennifer Arnold, associate planner for West Linn.

SITE INFORMATION

Site Address: 1822 5th Ave

Area: 10,000 sq. ft.

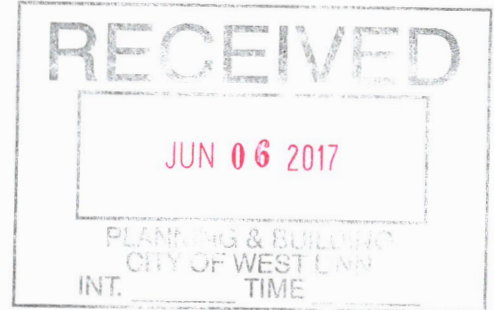
Zoning Classification: R-5 (5,000 square foot minimum lot size)

Subdivision Name: Willamette Falls Blocks 1-17

Block: 12

Lots: 7&8

Tax Lot: 31E02BA06800



85.070 ADMINISTRATION AND APPROVAL PROCESS

A. The application shall be filed by the record owner(s) of the property or by an authorized agent who has a letter of authorization from the property owners of record. The burden of proof will be upon the applicant to demonstrate the validity of the ownership, if challenged.

[Please see agent authorization form, attached.](#)

5.210 PROPERTY LINE ADJUSTMENTS – APPROVAL STANDARDS

A. The Director shall approve or deny a request for a property line adjustment based on the criteria stated below:

1. An additional lot or parcel shall not be created by the line adjustment.

[There is no additional lot or parcel created by the line adjustment. The line adjustment is to re-establish the historic lot line on the property.](#)

2. The existing property shall not be reduced in size by the adjustments below the minimum lot or parcel size established by the approved zoning for that district.

[The existing property is not reduced in size by the adjustments below the minimum lot or parcel size.](#)

3. Reducing the lot or parcel size shall not violate the site development regulations for that district. For example, the property line adjustment shall not result in an overall loss of density below 70 percent except as allowed by CDC [85.200\(j\)\(7\)](#).

[Reducing the lot size does not violate the site development regulations for this district.](#)

4. The property line adjustment is as defined by ORS Chapter [92](#).

[The property line adjustment meets the definitions as outlined in ORS Chapter 92.](#)

5. The lot line adjustment will not affect existing easements or existing utilities unless an easement vacation is obtained, replacement easements are dedicated or any required utility relocations are paid for by the applicant.

[The lot line adjustment will not affect existing easements or utilities.](#)

6. Any appeal must be filed in accordance with CDC [99.240](#).

[No appeals are being filed at this time.](#)

AGENT AUTHORIZATION FORM

PROPERTY LEGAL DESCRIPTION:

LOT NO. LOTS 748, BLOCK 12, WILLAMETTE FALLS

MAP/PLAN NO. 31E02BA

LOT/PARCEL ID: 6800

STREET ADDRESS:

1822 5th Avenue
West Linn, OR

Property Owner: Elizabeth Warren

The undersigned, registered property owners of the above noted property, do hereby authorize Phil Chek (Contractor / Agent), of Phil Chek and Associates (Name of consulting firm), to act on my behalf and take all actions necessary for the processing, issuance and acceptance of this permit or certification and any and all standard and special conditions attached.

Property Owner's Address (if different than property above):

Elizabeth Warren

2111 SW 21st Ave Portland OR 97201

Telephone: 503-208-3829

We hereby certify the above information submitted in this application is true and accurate to the best of our knowledge.

Authorized Signature: Elizabeth Warren Date: 6/3/17

Authorized Signature: Phil Chek Date: 6/5/17

PD-3 PUBLIC COMMENTS

To: West Linn Planning Department

From:

Charles and Diane Awalt, neighbors of 1822 Fifth Avenue

CC: Phil Chek

Date: July 12, 2017



RE: Comments on proposed Lot Line Adjustment and Variances Case File LLA-17-04/VAR-17-02/VAR-17-03 affecting property at 1822 Fifth Avenue

Any new building must meet underlying zoning setbacks. The inability to rebuild any of the zero setback buildings built at zero setback once they were removed, was discussed at length at the HRB hearing for demolition of the other two zero setback structures on the proposed lot. Applicants were advised to take this into consideration before demolishing any zero setback building they intended to rebuild after demolition.

There was no Demolition Hearing for the removal of the turn of the century barn on this property. A hearing was required for this demolition per (25.120.A.2) The Willamette National Register District survey criteria to protect structures built before 1930 protected this pre 1911 structure associated with a significant structure in the district. The barn was the first structure built on the property after the construction of the house, and unlike the other two structures was built on the original 50' X 100' lot as the house and was directly associated with it. This was also the last of the simple "box construction" barns that most houses had in 1910. It easily met the standards for denial of demolition set in (25.120.A.2 and 25.120.B)

To reward a lot line adjustment for the construction of a new building after the demolition of the barn is in violation of (25.120.B) that requires the demolition permit and new structure review happen together.

(25.120.A.2) Non-contributing or not in period primary structure, accessory structure. An application for the demolition of a non-contributing or not in period primary structure or an accessory structure shall be approved if it is determined that the property does not have historic significance based on its architectural style, construction method or materials, or other pertinent factors as determined by the approval authority.

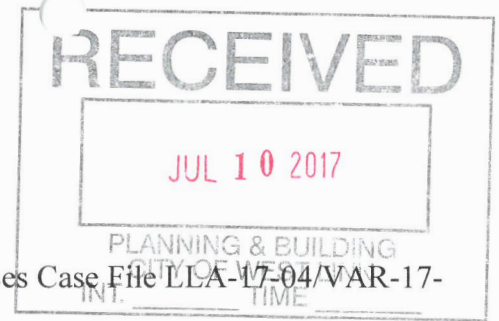
(25.120.B) Issuance of permits. A demolition permit for a historic resource shall not be issued prior to historic design review and any other required approval of plans for the site, if applicable, or the submittal of building plans for a permit for the site. (Ord. 1614 § 6, 2013)

B. Issuance of permits. A demolition permit for a historic resource shall not be issued prior to historic design review and any other required approval of plans for the site, if applicable, or the submittal of building plans for a permit for the site. (Ord. 1614 § 6, 2013)

Charles Awalt
Diane Awalt
1847 5th Ave
West Linn, OR

Charles Awalt Charles Awalt 1847 5th Ave
 DIANE AWALT Diane Awalt West Linn 7/12/17
 1847 5th Ave
 WEST LINN
 7/12/17

To: West Linn Planning Department
From: Neighbors of 1822 Fifth Avenue (see attached list)
CC: Phil Chek
Date: July 7, 2017
RE: Comments on proposed Lot Line Adjustment and Variances Case File LLA-17-04/VAR-17-02/VAR-17-03 affecting property at 1822 Fifth Avenue



Neighbors of the property located at 1822 Fifth Avenue, which is subject to a Lot Line Adjustment and Variance application, submit the following comments on the proposal. We would like to be considered as parties to this application and have standing for further actions on the application, both jointly and individually.

The subject property was part of the Willamette Falls subdivision plat recorded in 1894. The property consisted of lots 7 and 8 of block 12 of that plat. A home was constructed on the property in approximately 1899 - 118 years ago. The home was constructed across the platted common boundary between lots 7 and 8 effectively combining the two platted lots and negating the ability to develop a second home on the lots.

The applicant, Phil Chek & Associates, has submitted a request to “reestablish the existing historical lot line and to adjust it so as to make the existing home conform to the setback requirements.”

In response, we would like to provide the following comments:

1. The West Linn Community Development Code does not provide a process to re-establish a prior lot line as the applicant has requested. The applicant has not provided a citation to a Code section which provides the City with authorization to approve a request to reestablish a historical lot line once it has been extinguished. The proper way to return the property to having the ability to contain two homes would be to divide the now combined lots 7 and 8 potentially through a subdivision replat or minor land partition process. We will not address the issues that might arise with such a proposal in these comments, but instead will stick with issues related to the current request.
2. Community Development Code Section 99.032.C.2. requires that “*an application shall be complete and shall contain the information requested on the form, shall address the appropriate submittal requirements and approval criteria in sufficient detail for review and action, and shall be accompanied by the deposit or fee required by CDC 99.033.* (emphasis added) The applicant has not submitted a narrative addressing the approval standards for a lot line adjustment of Code Section 85.210. The applicant has only addressed the minor variance approval standards. Although we do not believe that a lot line adjustment is the proper application for what the applicant seeks to achieve, the applicant has not met their burden of proof requirement for approval of the current request. Therefore, the application should be denied.
3. If - for argument sake - the request was to be reviewed against the lot line approval standards of Section 85.210, positive findings could not be made to several of the applicable approval standards for a lot line adjustment as described below. Absent findings that all applicable approval standards are satisfied, the application should be denied.

First, the request does not satisfy Section 85.210.A.1 which requires that an additional lot or parcel not be created by the proposed adjustment. As noted in the applicant's own request statement that reestablishment (emphasis added) of a historical lot line is desired, there currently is no lot line separating the prior individual lots. There currently is one buildable lot consisting of the prior platted lots 7 and 8. The request therefore seeks to create an additional lot or parcel through the lot line adjustment process – which is specifically prohibited by this subsection.

Second, Section 85.210.A.3. says that a lot reduced in size by the proposed lot line adjustment shall not violate the site development standards of that district. The subject property is located in the R-5 zoning district and also is within the Willamette Historic District overlay zone. The applicant has requested approval of (1) a minor variance to the 5,000 square foot minimum lot size standard of the R-5 district for the proposed eastern lot and (2) has requested a variance to the minimum average lot width standard of the R-5 district. While we cannot really quibble with the applicant's responses to the very simple approval standards for minor variances, we are surprised that the applicant can cite preserving the existing fruit trees in their response to preserving natural features when their site plan for the intended future home on the eastern lot would likely require removal of those very trees. Our bigger concern (and probably the biggest concern of most of the signers to this memo) is that the proposed "adjustment" would leave the proposed eastern lot of a size and shape that would be inconsistent with the historic lotting pattern of the Willamette Falls plat and with the surrounding lots. This sort of change would undermine the historic integrity of both the Willamette Historic District overlay zone and the Willamette National Register Historic District that the neighbors and City have been working to maintain. Further, we do not understand that a positive finding could be made to Code Section 25.070.B for any future Historic District Design Review application for construction of a new home on the eastern lot. That section says:

New construction shall complement and support the district. The historic district's defining characteristics include a discernible aesthetic rhythm of massing, scale, and siting. Infill buildings shall not deviate in a detracting manner from these elements, but appear as complementary members of the district, by conforming to the following:

Lot or parcel size, massing, scale, proportion, form (emphasis added), siting, floor area ratio, window patterns, building divisions, and height shall correspond to the contributing buildings within the district, and any specific historic district standards and the applicable requirements of the underlying zone.

4. In addition, Code Section 25.070.C says the following:

New lot configuration. In addition to other requirements of the CDC, all new lots in the historic district shall be perpendicular to the street and extend directly from the lot line along the street to the opposite lot line. The primary structure and any other contributing structures on the original property shall not be located on separate lots.

If – somehow it can be found that the eastern lot is not a new lot – we do not believe that anyone would think that this standard would not also apply to the lot which is proposed to be adjusted. Again, the proposed lot configuration's common boundary would be in conflict with this standard and would undermine the integrity of the Historic District.

5. The proposed common boundary between the proposed “lots” is not perpendicular to the street. Code Section 25.070 (Property Line Adjustment – Approval Standards) provides a diagram of an “acceptable lot line adjustment” and an “unacceptable lot line adjustment.” The diagram of the “unacceptable lot line adjustment” illustrates and note “gerrymandering/zig-zags” of the unacceptable side lot line. The current proposal for 1822 Fifth Avenue sure looks like the unacceptable lot line adjustment illustrated in this diagram.

The above highlight our joint concerns with the proposed Lot Line Adjustment application for 1822 Fifth Avenue. We do not find that the proposal to “re-establish” prior lot lines is something that can be accomplished through the lot line adjustment procedures of the West Linn Community Code. Further, we do not find that the applicant has addressed the approval standards for a lot line adjustment and thus has not met their burden of proof for this application. Further, the requested adjustment would be in conflict of the Community Development Code as outlined above and, most importantly, would undermine the integrity of the Willamette Historic District that the citizens of Willamette and the City of West Linn work so hard to maintain. We therefore request that application Case File LLA-17-04/VAR-17-02/VAR-17-03 be denied.

Additional comments:

The applicant’s site plan illustrates a “re-built garage” directly behind the existing house. The garage is in the general location of a prior shed and chicken coop. The applicant had those buildings removed. Neither of those buildings served as a garage to our collective knowledge and there was never vehicular access from the buildings to 13th Street. The applicant’s demolition of those buildings has negated any non-conforming status with regard to setbacks or lot coverage. The absence of any mapped record or physical evidence of a driveway to 13th Street from those buildings (or knowledge of such a driveway by the neighbors - some of who have lived here for 35 years), should serve to inform the City and the applicant that there is no non-conforming status which would allow a driveway directly to the street. Any new garage should conform to all current setback and other standards. Any driveway to the new garage or parking spaces should be from the alley consistent with Code Section 25.070.C.1.

The applicant has installed several new windows in the existing house that are not consistent with the windows which were approved through the recent Historic Design Review application for that house. The windows which have been installed are not of a design which is consistent with a home of this era in the Willamette District. Several neighbors have mentioned this inconsistency with the applicant and/or City of West Linn Planning staff. The windows should be changed to be consistent with the approved windows or the City should take enforcement action against the applicant which may include fines. Fines should run with the property since the applicant has renovated the house with the intention of selling it. Any prospective purchaser should be made aware of any fines that would be due.

Addendum A: Lot Line Adjustment Approval Criteria from West Linn Community Development Code

Addendum B: Proposed Lot Line Adjustment Diagram from application package

Addendum C: Signatories to Memo

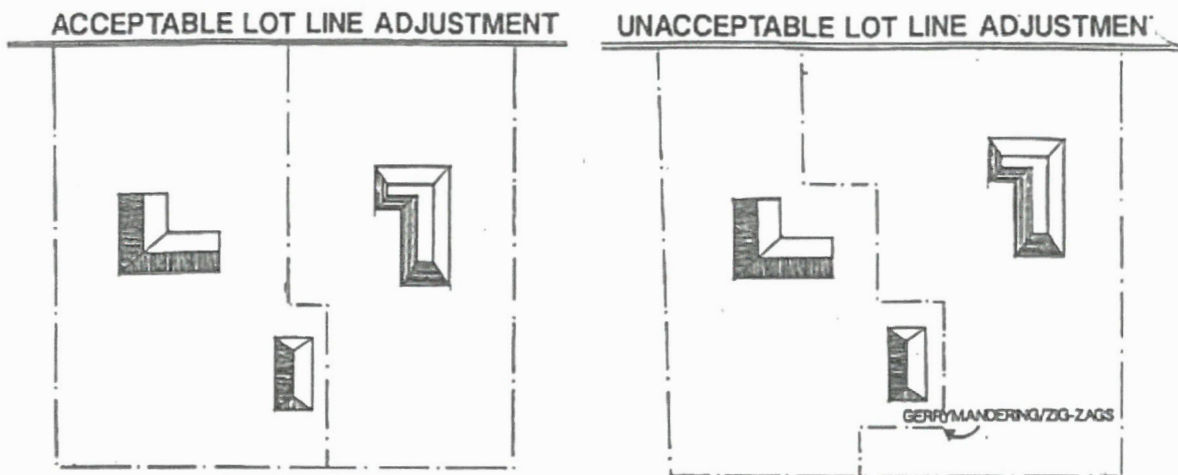
Addendum A

City of West Linn Community Development Code

85.210 PROPERTY LINE ADJUSTMENTS – APPROVAL STANDARDS

A. The Director shall approve or deny a request for a property line adjustment based on the criteria stated below:

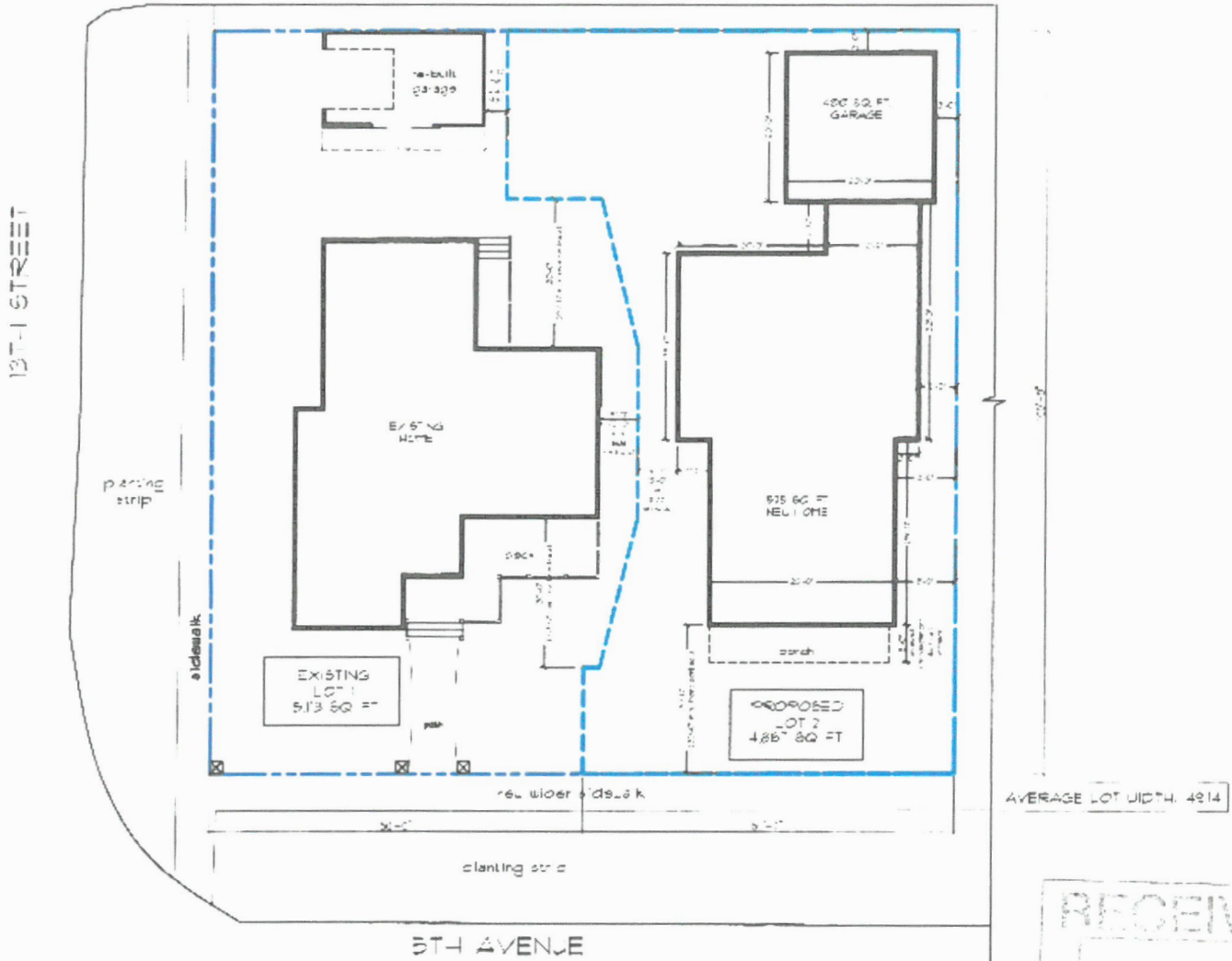
1. An additional lot or parcel shall not be created by the line adjustment.
2. The existing property shall not be reduced in size by the adjustments below the minimum lot or parcel size established by the approved zoning for that district.
3. Reducing the lot or parcel size shall not violate the site development regulations for that district. For example, the property line adjustment shall not result in an overall loss of density below 70 percent except as allowed by CDC [85.200\(J\)\(7\)](#).
4. The property line adjustment is as defined by ORS Chapter [92](#).



5. The lot line adjustment will not affect existing easements or existing utilities unless an easement vacation is obtained, replacement easements are dedicated or any required utility relocations are paid for by the applicant.
 6. Any appeal must be filed in accordance with CDC [99.240](#).
- B. The provisions of CDC [85.070](#) shall also apply to lot line adjustments.

Addendum B

Proposed Lot Line Adjustment Diagram from application package




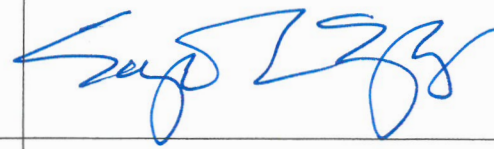

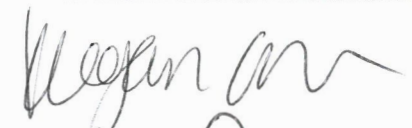
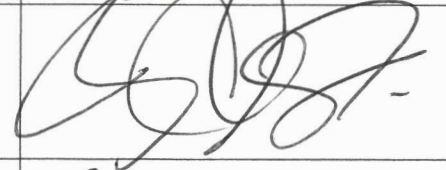
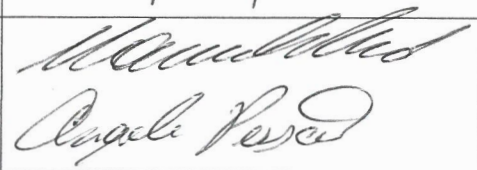

1 PROPOSED LOT LINE ADJUSTMENT
SCALE: 1/8" = 1'-0"

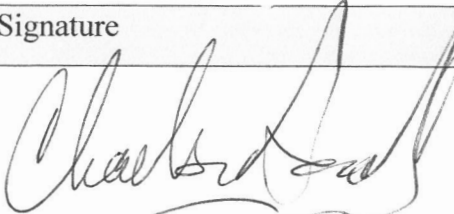


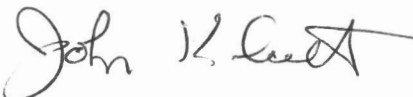
RECEIVED
MAY 11 2017
PLANNING & BUILDING
CITY OF WEST LAKEN

Addendum C

Signatories to Memo

We the undersigned have read the Memo entitled "Comments on proposed Lot Line Adjustment and Variances Case File LLA-17-04/VAR-17-02/VAR-17-03 affecting property at 1822 Fifth Avenue" and request our names be added as having standing in the hearing of the City of West Linn Planning Director related to Case File LLA-17-04/VAR-17-02/VAR-17-03. Further, we also request that the Planning Manager include us on the final decision and any further notices regarding this application.

Printed Name/Address	Signature	Date
Jerry & Ruth Offer 1822 Fifth Ave WL 97068	Jerry D. Offer Ruth C. Offer	7/6/17 7/6/2017
Elizabeth Smolens 1852 4th Ave		7/6/17
SONJA SOPHER 1883 5th AVE		7/6/17
MICHAEL SELVAGGIO 1790 FIFTH AVE.		7/6/17
Keegan Chastain 1831 5th ave		7/6/17
BRIAN CHASTAIN 1831 5th Ave		7/6/2017
BONNIE TAYLOR TALBOT 1242 13TH STREET	B. Taylor-Talbot	7.7.17
ANGELA & CLAUDIO FERNISCO 1798 4TH AVE	 Angela Fernisco	7-7-17
Diane Andri Kopowlos 1797 5th Ave		7/7/17

Printed Name/Address	Signature	Date
Charles Awalt 1847 5 th Ave		7/7/17
DIANE AWALT 1847 5 th Ave		7/7/17
Jody Carson 1296 12 th St.		7/7/17
John Klett 1296 12 th St		7/7/17