Department of Community Services
Land Use Planning Division
www.multco.us/landuse

Multnomah County

1600 SE 190th Ave, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-2016-4749

Permit: Forest Development Standards

Location: 41206 SE Trout Creek Road
Tax Lot 100, Section 18D
Township 1S, Range 5E, W.M.
Tax Account #R995180370

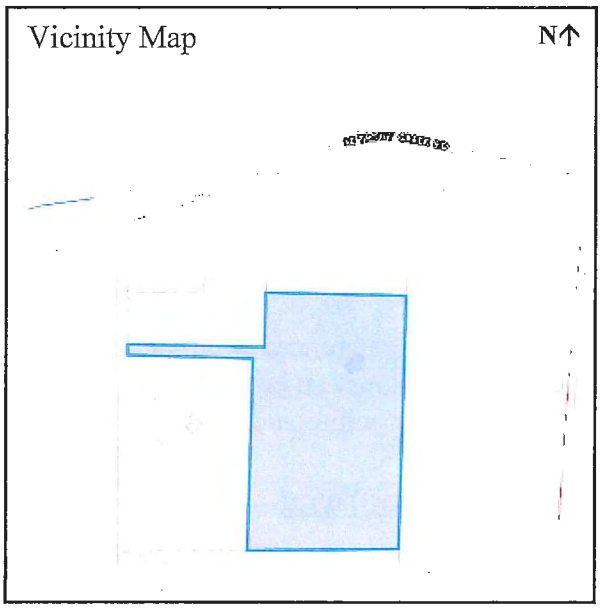
Applicants: Kaitlin Aho
Aho Custom Homes

Owners: David and Karen Barker

Base Zone: Commercial Forest Use-4 (CFU-4)

Overlays: None

Vicinity Map N↑



Summary: Construction of a 40x60-foot accessory storage building

Decision: Approved with Conditions

Unless appealed, this decision is effective Friday, July 29th, at 4:00 PM.

Issued by:

By: Don Kienholz
Don Kienholz, Planner

For: Michael Cerbone, AICP
Planning Director

Date: Friday, July 15, 2016

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a $250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Friday, July 29, 2016 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR): 37.0560 Code Compliance, 35.2250 Height, 35.2256 Forest Practice Setbacks and Fire Safety Zones, 35.2261Development Standards, 35.2220(T) Accessory Uses.

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at http://www. multco.us/landuse

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.

2. **This land use permit expires two years from the date the decision is final pursuant to MCC 37.0690(B) as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

Conditions of Approval

Note: Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off, the applicant shall drop off the plans to the Planner on Duty for review and approval of the conditions and to sign the building permit plans. The review can take up to two weeks. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Gresham. Three (3) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee will be collected. In addition, an erosion control inspection fee may be required.

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. **The roof of the accessory structure shall be constructed of fire retardant materials. Building plans for zoning sign-off for building permit review shall clearly state the roofing materials [MCC 35.2261(C)(3)].**

2. **Prior to zoning sign-off for building permit review, the property owner shall obtain an Access Permit for the subject property. Please contact the Right-of-Way office at 503-988-3582.**

Notice to Mortgagee, Lien Holder, Vendor, or Seller:
ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as '**Staff:**' and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1.00 Project Description:

Staff: The applicant is seeking approval for an open format 40x60-foot accessory storage building in the Commercial Forest Use-4 (CFU4) zone. Originally the accessory building was proposed to be located roughly 240-feet from the dwelling at the west end of the property. The applicant then modified the application by moving the proposed location to be within 100-feet of the dwelling.

2.00 Property Description & History:

Staff: The subject property is a landlocked property south of Trout Creek Road. The property is rectangular in shape with a roughly 600-foot 'flag' pointing west. Access to the dwelling and proposed building site is along a private easement from Trout Creek Road to the 'flag' portion of the property where it continues east roughly 1,000 feet to the home site. The entire site outside of the dwelling, garden, septic area and geothermal field is havily forested.

The dwelling on site was approved through County Case PRE 15-92. The property was created as a result of the County's approval of a two lot partition in case MC 9-80.

3.00 Code Compliance:

MCC 37.0560 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

(2) It is necessary to protect public safety; or

(3) It is for work related to and within a valid easement over, on or under an affected property.

Staff: There are no identified or known compliance issues associated with the property. The property is a lot of record as determined in finding #4 and the development on the site received the appropriate reviews and approvals as discussed in finding #2.

The property is in full compliance

4.00 Lot of Record:

MCC Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 35.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) "Satisfied all applicable zoning laws" shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) "Satisfied all applicable land division laws" shall mean the parcel or lot was created:

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or

2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or

3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or

4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and

5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter,

but not be subject to the minimum area and access requirements of this district.

2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.

* * *

MCC 35.2275 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 35.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of par-cels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception, urban, or Columbia River Gorge National Scenic Area zones.

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record

that remain separately transferable, even if they were held in the same ownership on February 20, 1990.

(b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

(c) Disaggregation of a Lot of Record for consideration of a new template or heritage tract dwelling may be allowed subject to the standards in (E) below.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, F-2 zone applied;

(2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;

(4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;

(5) February 20, 1990, Lot of Record definition amended, Ord. 643;

Staff: The subject parcel was created through an approved partition as part of case MC 9-80. The property was confirmed as a Lot of Record in case PRE 9-80 when the dwelling was approved.

Criteria met.

5.00 CFU-4 Development Standards:

5.01 **MCC 35.2215 USES**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 35.2220 through 35.2240 when found to comply with MCC 35.2245 through 35.2310.

MCC 35.2220 ALLOWED USES

(T) Accessory Structures:

(1) Other structures or uses listed below when customarily accessory or inci-dental to any use permitted or approved in this district located within 100 feet of the dwelling.

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;

(i) Swimming pools, pool houses, hot tubs, saunas, and changing rooms;

(j) Sport courts;

(k) Gazebos, pergolas, and detached decks;

(l) Fences, gates, or gate support structures; and

(m) Similar structures.

(2) If the accessory structure is a building, then to be an "allowed use" the foot print of the building in combination with the footprint of all other accessory buildings on the property shall not exceed 2500 square feet.

(3) If the accessory structure has a bathroom or kitchen facilities, then prior to issuance of the building permit the property owner shall record a deed restriction with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling.

(4) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions.

Staff: The proposed structure is 40x60-feet, or 2,400 square feet. There is an existing, detached 96-square foot well house/shed on the site (Exhibit B.4). With the proposed accessory structure, the cumulative square footage of all accessory buildings will be less than 2,500 square feet. The submitted floor plans (Exhibit A.9) show an open floor plan for the storage building. No kitchen or bathroom facilities are proposed.

Criteria met.

5.02 **MCC 35.2256 Forest Practices Setbacks and Fire Safety Zones**

Table 1.

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Accessory structures within 100 ft. of the dwelling	N/A	30	30	Primary required

(D) Fire Safety Zones on the Subject Tract

(1) Primary Fire Safety Zone

(a) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches with-in 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

(b) On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

Percent Slope	Distance In Feet
Less than 10	No additional required
Less than 20	50 additional
Less than 25	75 additional
Less than 40	100 additional

Staff: The applicant has proposed the accessory building to be located within 100-feet of the existing dwelling (Exhibit A.10 and A.11). With the building proposed to be within 100-feet of the dwelling, the structure has 30-foot forest practice setbacks and a 30-foot primary fire safety zone if slopes are 10% or less.

County GIS maps show the area of the proposed development as being partially between 0-10% and partially 10-25%. However, the County's contour map shows a 40-foot elevation difference over a 470-foot distance in the area of proposed development, or 8% slope. The applicant has provided contours on the site plan (Exhibit A.12) that show a 5.5-foot elevation difference over a roughly 80-foot distance, or 7% slope. Based on the County and applicant's contour information, the slope is less than 10% and the required Primary Fire Safety zone is only 30-feet.

As seen in the June 2, 2016 site plans (Exhibits A.10 and A.11), the accessory structure is 38-feet from the nearest property line. The structure meets both the Forest Practice Setbacks and Primary Fire Safety Zones as required.

Criteria met.

5.03 **MCC 35.2261 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES**

All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):

(A) For the uses listed in this subsection, the applicable development standards are limited as follows:

(1) Expansion of existing dwelling

(2) Replacement or restoration of a dwelling.

(3) Accessory buildings.

Staff: The proposal is for an accessory building.

5.04 **(a) Accessory buildings within 100 feet of the existing dwelling: Shall meet the development standards of MCC 35.2261(C);**

(b) Accessory buildings located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 35.2261(B)&(C);

Staff: The proposal is for an accessory building within 100-feet of an existing dwelling, therefore the development needs to satisfy the standards of only MCC 35.2261(C).

5.05 **(C) The dwelling or structure shall:**

(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;

(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;

Staff: The proposal does not include a mobile home.

5.06 **(3) Have a fire retardant roof; and**

Staff: A condition of approval shall require the building to have a fire retardant roof.

Criterion met with condition of approval.

5.07 **(4) Have a spark arrester on each chimney.**

Staff: The structure is an open design storage building with no interior rooms and no proposed chimney's.

Criterion met.

6.00 Transportation Standards and Access

6.01 MCC 35.2273 ACCESS

All lots and parcels in this district shall abut a public street or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 35.2275(C).

Staff: The subject parcel is an existing parcel that does not abut a public road. Access is taken over an access easement to the subject property. The local fire district has reviewed the proposed building and has signed the Fire Service Agency Form indicating there is adequate access.

Criterion met.

6.02 MCRR 4.000 Access to County Roads

MCRR 4.200 *Number*: Reducing the number of existing and proposed access points on Arterials and Collectors and improving traffic flow and safety on all County roads will be the primary consideration when reviewing access proposals for approval. One driveway access per property will be the standard for approval. Double frontage lots will be limited to access from the lower classification street. Shared access may be required in situations where spacing standards cannot be met or where there is a benefit to the transportation system.

Staff: The subject property is served by one driveway that is a shared access with 41204 SE Trout Creek Road. County Transportation does not have a record of an access permit for the subject property and address. An access permit is required for all dwellings, uses and access points onto the County right of way in order to adequately record and analyze trip generation and patterns on County roadways for maintenance and improvement purposes. A condition of approval shall require the property owner to obtain an access permit.

Criterion met with condition of approval.

7.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Forest Development Standards to establish a 40x60-foot accessory storage building gin the Commercial Forest Use-4 zone. This approval is subject to the conditions of approval established in this report.

8.00 Exhibits

'A' Applicant's Exhibits
'B' Staff Exhibits
'C' Comments Received
All exhibits are available for review in Case File T2-2016-4749 at the Land Use Planning office.

Exhibit #	# of Pages	Applicant Exhibits
A.1	2	General Application Form
A.2	2	Applicant's February 4, 2016 Narrative
A.3	1	February 4, 2016 Storm Water Certificate for Land Divisions
A.4	2	February 4, 2016 Fire Service Agency Review Form
A.5	2	February 4, 2016 Septic Certification Form and Signed Site Plan
A.6	1	February 4, 2016 Detailed Site Plan Of Northern Portion of Property with Vegetation Shown
A.7	1	Site Plan of Entire Property With Structures Displayed
A.8	2	Building Elevation Plan
A.9	1	Building Floor Plan
A.10	1	June 2, 2016 Site Plan of Entire Property Showing New Accessory Building Location Within 100-feet of Dwelling
A.11	1	June 2, 2016 Close Up Site Plan Displaying Accessory Dwelling New Location Within 100-feet of Dwelling
A.12	1	June 2, 2016 Site Plan Displaying Ground Contours Of Area Near the Proposed Accessory Building
'B'	#	Staff Exhibits
B.1	2	A&T Property Information
B.2	2	March 4, 2016 Complete Letter
B.3	5	March 8, 2016 Opportunity to Comment and Mailing List
B.4	1	Assessment and Taxation Property Improvement Sheet
B.5	1	Air Photo of Property Displaying Area Within 100-feet of Existing Dwelling
B.6	1	County Site Plan Documenting Topography Contours of Northern Area of Property
'C'	#	Comments Received
C.1	5	Comment Letter From Rebecca Bruns

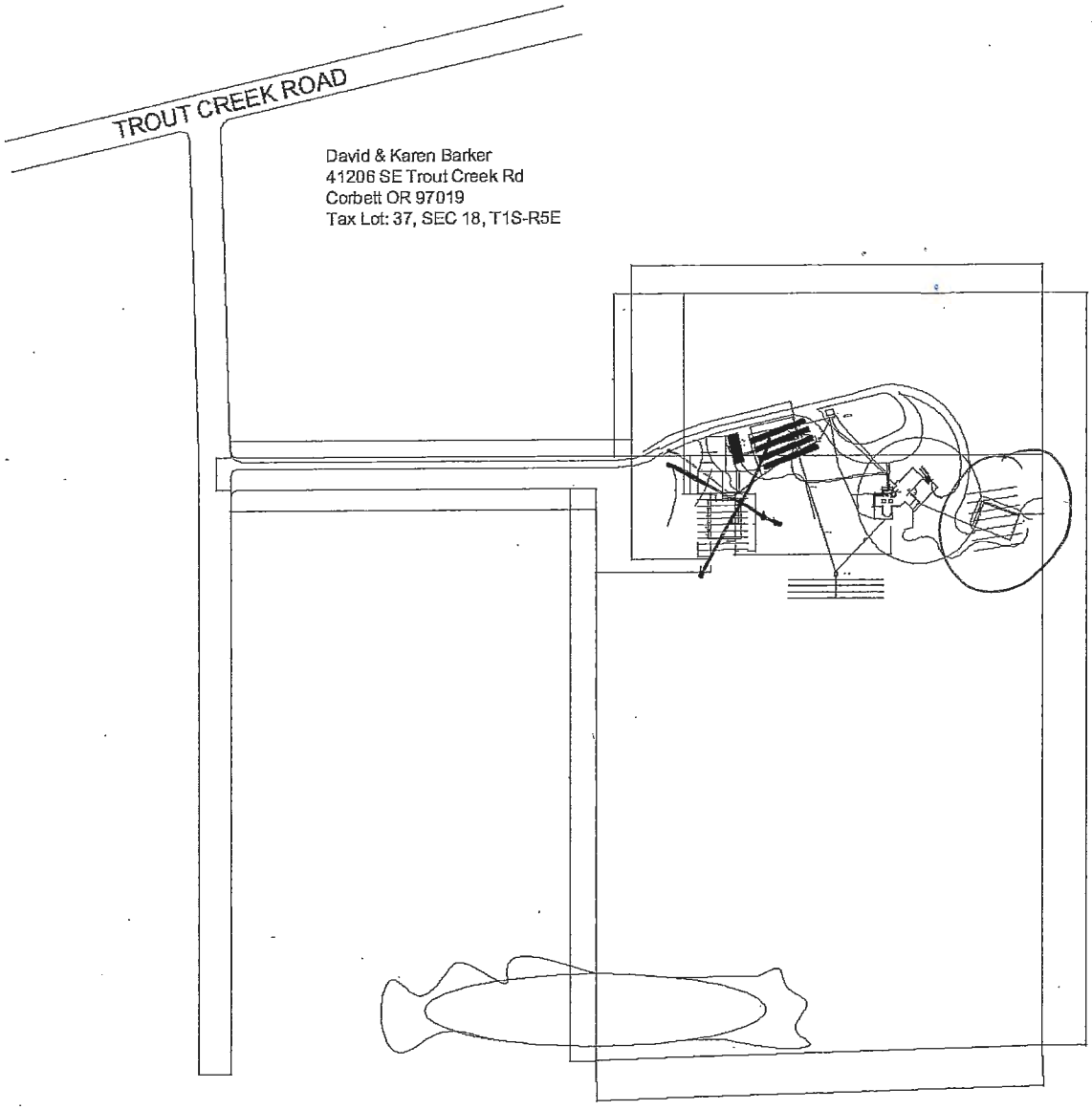


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EXHIBIT
A.10

6/3/2016

Trout Creek Shop 40x60 area 2-Model b.jpg

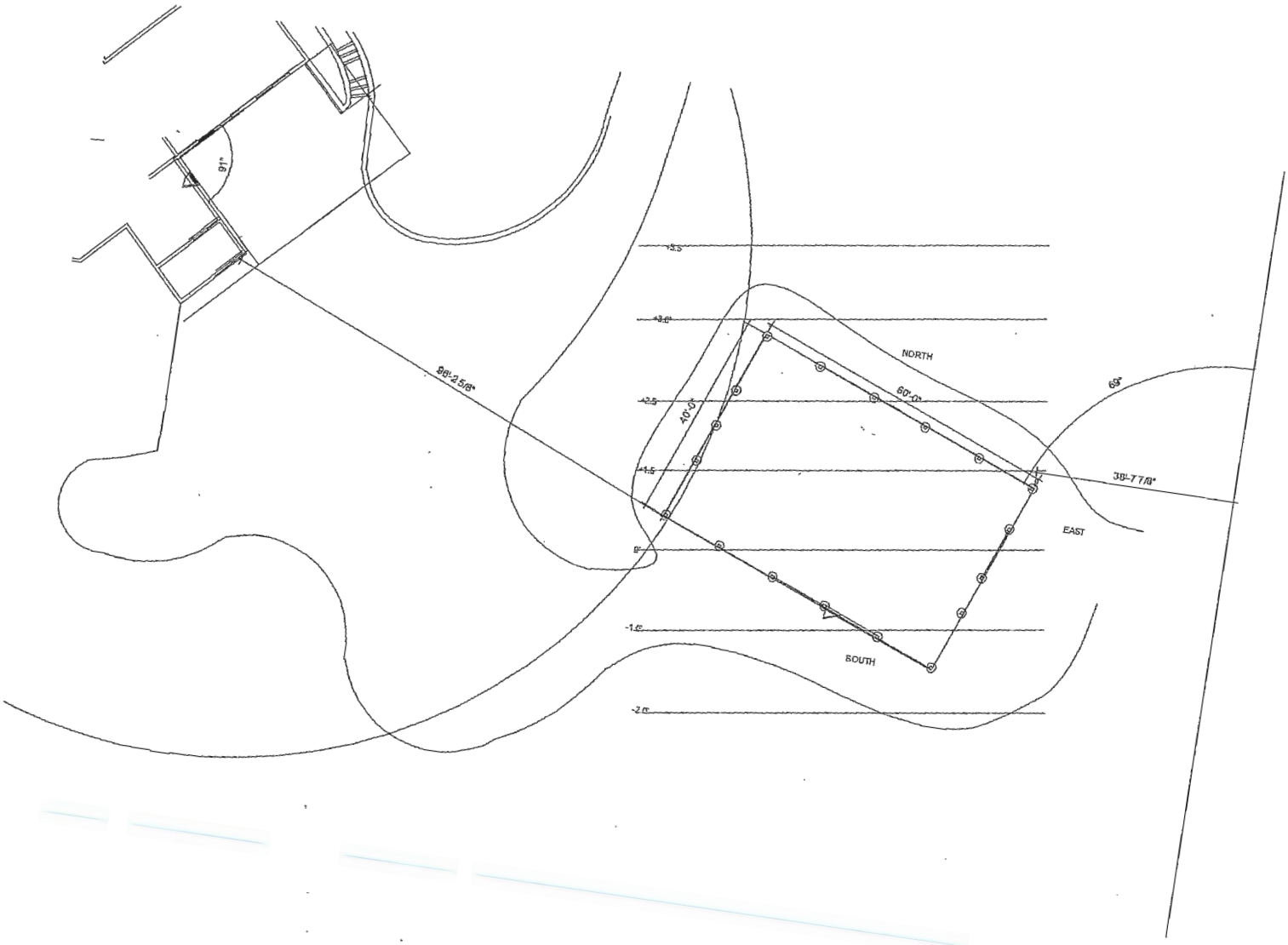

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EXHIBIT
A.11