



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

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Date: December 17, 2013
To: Interested Person
From: Sheila Frugoli, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 13-218202 AD

GENERAL INFORMATION

Applicant: Steve A Mihaltan
16921 SE Main St / Portland, OR 97233-4459

Site Address: 16921 SE MAIN ST

Legal Description: BLOCK 10 LOT 2, BRAECROFT **Tax Account No.:** R096902230
State ID No.: 1S3E06BD 05600 **Quarter Section:** 3147
Neighborhood: Centennial, contact Tom Lewis at 503-347-5715.
District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550.
Zoning: R7, Single-Dwelling Residential 7,000 zone with the "h", Aircraft Landing overlay zone

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

Proposal: In order to construct a 102 square-foot kitchen addition, the applicant is requesting an Adjustment to exceed the maximum building coverage allowance from 2,666 to 2,884 square feet. The applicant states that the covered deck, which is located in the northwest corner of the property and the shed, which is located in the northeast corner will be removed so that the cumulative building coverage on the lot will be 2,884 square feet.

The Zoning Code allows 34 percent coverage—on this 7,776 square foot lot. The applicant proposes to increase the coverage to 37 percent. Earlier this year the applicant was issued a Building Permit for an upper-story addition, adding bedrooms, bathrooms and a great room to serve the existing Adult Care Home that operates in this residence.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria are met.

ANALYSIS

Site and Vicinity: The subject site is a developed 7,776 square foot single-dwelling residential lot. The existing home is one-level, ranch-style with an attached two-car garage. The immediate area is developed with single-dwelling homes.

Zoning: The site and surrounding properties are located in an R7h Single-Dwelling Residential 7000 zone and the “h”, Aircraft Landing overlay zone. The regulations of the Single-Dwelling zones are intended to create, maintain and promote single-dwelling neighborhoods. The development standards work together to preserve the character of neighborhoods, and promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

The h, Aircraft Landing overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation near the airport. The height limit of the R7 zone is below the height restriction of the “h” overlay zone.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **November 14, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1)
- Bureau of Transportation (Exhibit E.6)
- Water Bureau (Exhibit E.2)
- Fire Bureau (Exhibit E.3)
- Bureau of Parks-Forestry Division (Exhibit E.6)
- Life Safety Plan Review Section of BDS (Exhibit E.5)

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

Site topography. The site is relatively flat.

Potential Landslide Hazard Area. The site is not located in the Potential Landslide Hazard Area.

Floodplain. The site is not within the 100-year floodplain.

Stormwater discharge and treatment. The Bureau of Environmental Services will review the project for conformance to the 2008 Stormwater Management Manual. Site Development has no concerns with the slope/building setbacks.

Septic system. City records do not show that the septic system on the site was decommissioned in 1998 when the house was connected to the public sewer system. The residence at 16921 SE Main Street was connected to a cesspool at the time that the house was constructed.

The exact location of the abandoned cesspool is unknown. Historic plumbing records suggest that the cesspool may be located near the NE corner of the residence, possibly under the footprint of the existing house. Please provide a site plan that indicates the location of bathroom(s), plumbing ventilation stack(s), and sewer clean-out(s).

If the proposed addition to the house will be constructed within 10 feet of the assumed location of the abandoned cesspool, the cesspool will be required to be decommissioned. If

the abandoned cesspool is located under the existing building footprint, no action will be required.

Erosion control. Erosion prevention and sediment control requirements found in Title 10 apply to both site preparation work and development. Full compliance with the erosion control requirements of Title 10, as well as maintenance of the erosion control elements, such as silt fences on private property, storm drain inlet protection and bio bags in the public right-of-way, is the responsibility of the property owner, the developer of the land division and the builders of structures on the individual lots. Please refer to the City of Portland *Erosion and Sediment Control Manual* for additional information regarding erosion and sediment control requirements.

Site Development requests that the following conditions of approval be required as part of the decision:

1. A portion of the existing house may have been constructed over top of an abandoned cesspool. Please provide a site plan that indicates the location of bathroom(s), plumbing ventilation stack(s), and sewer clean-out(s). If the proposed addition to the house will be within 10 feet of the abandoned cesspool, the cesspool will be required to be decommissioned. If the abandoned cesspool has already been built over, no action will be required. Prior to final approval of the adjustment request to increase maximum building coverage, the applicant is required to submit a site plan to Site Development for review. (Exhibit E.4)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 14, 2013. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

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

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

Findings: Zoning Code Section 33.110.225 describes the purpose of the building coverage standard as follows:

Purpose. *The building coverage standards, together with the height and setback standards control the overall bulk of structures. They are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site.*

Based upon Zoning Code Table 110-4, up to 2,666 square feet may cover the 7,776 square foot site. The proposed new 102 square-foot kitchen addition, combined with the existing building footprint, will exceed the maximum allowance for coverage by 218 square feet. The existing buildings/structures on the site currently exceeds the building coverage standard. Attached to the house is a covered deck that is approximately 828 square feet and a detached shed that is approximately 400 square feet. Aerial photos show the site is almost entirely covered with structures. However, the applicant intends to remove the large existing covered deck and the freestanding shed to reduce the overall percentage. Without their removal, even a 102 square foot addition would result in a very large footprint that is not consistent with the development character of the area. Therefore, a condition will require the structures be demolished/removed as part of the building permit submittal for the kitchen addition.

Further, given the current and proposed amount of building coverage on the lot, the BDS Site Development team has flagged a concern that the proposed addition will be located on an abandoned cesspool. To address this concern, a condition will require the applicant to include in the building permit application, the following information: (1) location of bathrooms, (2) plumbing ventilation stack(s), sewer clean out(s). The information must be reviewed by Site Development staff. If the addition will be located within 10 feet of the abandoned cesspool, then the cesspool must be decommissioned, as part of the permit.

The kitchen addition is located in the center of the “courtyard-shaped” home. The central portion of the home is one-level and setback at least 50 feet from the rear property line and separated by building walls from the side property lines. With the removal of the covered deck and shed, the proposed addition will not overwhelm adjacent homes or depart from the desired character of the R7 zone. Thus, the proposal supports the purpose of the building coverage standard and therefore satisfies this criterion.

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

Findings: BDS did not receive any comments from notified nearby property owners. The proposed kitchen addition will not significantly alter the overall scale of the home. Most of the homes in the immediate area were constructed in the mid-1900s, many are single-story, ranch style homes with large yards. The proposed demolition/removal of additional buildings/structures on the site, even with the 102 square foot addition, will be more in-keeping with the appearance of the area.

With compliance of Condition C, this criterion will be met.

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

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

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

Findings: City designated resources are shown on the zoning map by the ‘s’ overlay; historic resources are designated by a large dot, and by historic and conservation districts. The site is not within either overlay zone; thus, this criterion is not applicable.

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

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

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

Findings: The site is not within an environmental zone, which is designated on the zoning map by either a “c” or “p” overlay. Therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of

Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

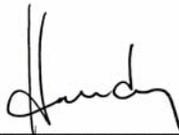
As the findings under the approval criteria demonstrate, with conditions, the proposed kitchen addition will not overwhelm the site. As part of the required Building Permit, this decision requires demolition/removal of the existing deck and shed on the site. The applicant must identify the location of the abandoned cesspool. BDS Site Development staff will determine if the cesspool must be decommissioned before the kitchen addition is constructed. Because the proposal meets all the applicable approval criteria, with conditions, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to exceed the allowed building coverage from 2,666 to 2,884 square feet, for a 102 square foot kitchen addition, per the approved site plans, Exhibits C.1 and C.2, signed and dated December 13, 2013, subject to the following conditions:

- A. As part of the building permit application (RS 13-195252 REV 01) submittal, the following development-related conditions (B and C) must be noted on the required site plans and addressed. The sheet on which this information appears must be labeled "ZONING COMPLIANCE - Case File LU 13-218202 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The permit application must identify on the site plan and floor plans the location of bathroom(s), plumbing ventilation stack(s), and sewer clean-out(s). At time of building permit review, the plans must be reviewed by Site Development staff. If the proposed addition to the house will be within 10 feet of the abandoned cesspool, the cesspool will be required to be decommissioned. Note: If the abandoned cesspool has already been built over, no action will be required.
- C. Prior to final building permit approval of the additions, including the kitchen addition, the covered deck, approximately 800 square feet in size and the detached shed, approximately 400 square feet both must be demolished/removed.

Staff Planner: Sheila Frugoli



Decision rendered by: _____ **on December 13, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 17, 2013

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

Procedural Information. The application for this land use review was submitted on October 17, 2013, and was determined to be complete on November 7, 2013.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on October 17, 2013.

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

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

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

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

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

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on December 31, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

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

Recording the final decision.

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

- *Unless appealed*, The final decision may be recorded on or after **January 2, 2014**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

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

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

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

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

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

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

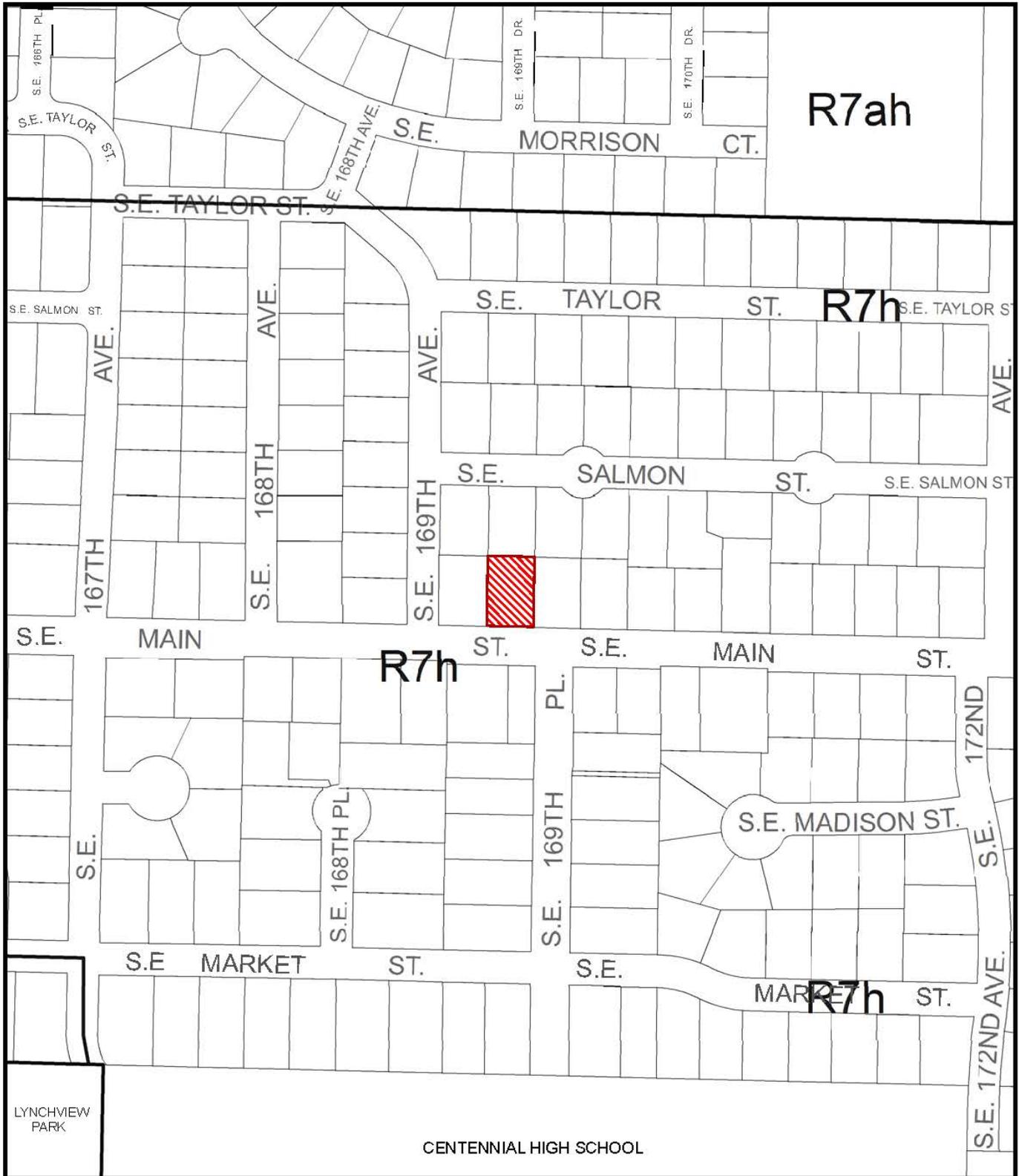
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan/Roof Plan (attached)
 2. Rear, Right and Front Elevations (attached)
 3. Left, Right and Front Elevation
 4. Existing Foundation
 5. Proposed New Foundation
 6. Existing Main Floor Plan
 7. Proposed New Main Plan
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:

1. Bureau of Environmental Services
 2. Water Bureau
 3. Fire Bureau
 4. Site Development Review Section of BDS
 5. Life Safety Plan Review Section of BDS
 6. TRACS Print-Out showing "No Concerns" from Bureau of Transportation and Bureau of Parks, Forestry Division
- F. Correspondence: NONE
- G. Other:
1. Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



Site



NORTH

File No. LU 13-218202 AD
 1/4 Section 3147
 Scale 1 inch = 200 feet
 State_Id 1S3E06BD 5600
 Exhibit B (Oct 25, 2013)

