



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

FROM CONCEPT TO CONSTRUCTION

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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** February 28, 2014  
**To:** Interested Person  
**From:** Andrew Gulizia, Land Use Services  
503-823-7010 / [Andrew.Gulizia@portlandoregon.gov](mailto:Andrew.Gulizia@portlandoregon.gov)

## **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 14-106796 AD**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Timothy G. Meier  
1612 SE 55th Ave / Portland, OR 97215

**Site Address:** 1612 SE 55th Ave

**Legal Description:** LOT 29, NIXON TERR & PLAT 2 & 3 **Tax Account No.:** R606300640  
**State ID No.:** 1S2E06DB 08200 **Quarter Section:** 3236  
**Neighborhood:** Mt. Tabor, contact Stephanie Stewart at 503-230-9364.  
**Business District:** Hawthorne Blvd. Bus. Assoc., contact Hilda Stevens at 503-774-2832.  
**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.  
**Zoning:** R5 – Single-Dwelling Residential 5,000  
**Case Type:** AD – Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

The applicant proposes to reconstruct an existing attached garage and construct a new second-story addition above it. The wall of the new garage and second-story addition will be four feet from the south side property line, and the eave will be three feet from the south side property line. As the Zoning Code requires a minimum five-foot setback from the property line to the wall, and a minimum four-foot setback to the eave, the applicant is requesting approval of an Adjustment to reduce the minimum required south side setback.

*Note:* Subsequent to the mailing of the Notice of Proposal, the applicant submitted revised plans which reduced the size of the second story of the proposed addition. The proposed setback distance from the south property line was not changed.

#### **Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805.040.A-F of the Portland Zoning Code.

#### **ANALYSIS**

**Site and Vicinity:** The site is a 5,400 square-foot lot located on the east side of SE 55<sup>th</sup> Avenue, between SE Hawthorne Boulevard and SE Lincoln Street. The site is developed with a two-story single-family residence that is set back approximately 25 feet from the street lot line. Most neighboring lots are developed with two-story houses.

**Zoning:** The R5 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households.

**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 February 3, 2014. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services;
- Bureau of Transportation Engineering;
- Water Bureau;
- Fire Bureau;
- Site Development Section of BDS;
- Life Safety Review Section of BDS; and
- Bureau of Parks-Forestry Division

**Neighborhood Review:** No written responses were received from either the Neighborhood Association or notified property owners in response to the Notice of Proposal.

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 Approval Criteria

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

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

**Findings:** The applicant is requesting an Adjustment to the minimum five-foot side setback requirement for structures in the R5 zone. The purpose of the setback requirement is stated in Zoning Code Section 33.110.220.A:

**Purpose.** *The setback regulations for buildings and garage entrances serve several purposes:*

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

The addition will be constructed over the existing building footprint, and although the proposal is taller and more massive than the existing garage, the one-foot reduction in the setback requirement will not unreasonably affect light, air, and separation from the neighboring residence. The house on the subject site will be separated from the southerly neighbor's house by 10 feet, and the Portland Fire Bureau responded with no concerns. In

addition, the applicant reduced the size of the proposed second story in response to the southerly neighbor's concerns about massing and back yard privacy. (A condition of approval will require the south elevation to be constructed as shown in the attached plans.)

Because the addition will be toward the back of the house, the change in the home's visual presence in the streetscape will be fairly modest, and the house will still appear consistent with the overall scale and placement of structures in the neighborhood. Architectural details of the addition will match the rest of the house and will be compatible in design with the surrounding neighborhood.

Placement of the addition close to the south property line maximizes the usable outdoor area of the back yard, and since the addition is 52 feet from the street lot line, the Adjustment does not affect the open front yard. As the driveway to the new garage extends 52 feet from the street lot line, the proposal will not affect visibility for drivers backing onto the street and there will be ample space for cars to park on the driveway without overhanging the street or sidewalk.

Based on these reasons, the Adjustment equally meets the intent of the regulation and this criterion is met.

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

**Findings:** Because the site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. The addition will have a quality architectural design which matches the rest of the house and will contribute positively to the neighborhood. The massing of the proposed addition has been arranged to minimize impacts on neighbors' privacy. For these reasons, the proposal will not result in any significant negative impacts to neighborhood livability or appearance. This criterion is met.

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

**Findings:** As only one Adjustment is being requested, this criterion is not applicable.

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

**Findings:** City-designated scenic resources are identified on the Official Zoning Maps with a lower case "s," and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

**Findings:** As discussed in the findings for approval criterion B, the proposal has no adverse impacts on the livability or appearance of the surrounding residential area. As there are no identified adverse impacts for which mitigation would be required, this criterion is not applicable.

- 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:** Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental

Conservation overlay zone). As there are no environmental overlay zones mapped on the site, 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

The proposal to reduce the south side setback for an addition equally meets the intent of the setback regulation, and does not have adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Since the approval criteria are met, the proposal should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum south side setback for an addition from five feet to four feet for the wall, and from four feet to three feet for the eave (Zoning Code Section 33.110.220), per the approved site plans and building elevations, Exhibits C-1 through C-3, signed and dated February 26, 2014, subject to the following conditions:

- A. As part of the building permit application submittal, each of the required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C-1 through C-3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-106796 AD."
- B. No field changes to the south elevation are allowed.

**Staff Planner: Andrew Gulizia**

**Decision rendered by:** \_\_\_\_\_ **on February 26, 2014**

By authority of the Director of the Bureau of Development Services

**Decision mailed: February 28, 2014**

**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 January 17, 2014, and was determined to be complete on January 29, 2014.

*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 January 17, 2014.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be

waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: May 29, 2014.**

**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 March 14, 2014**, 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](http://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 **March 17, 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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

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

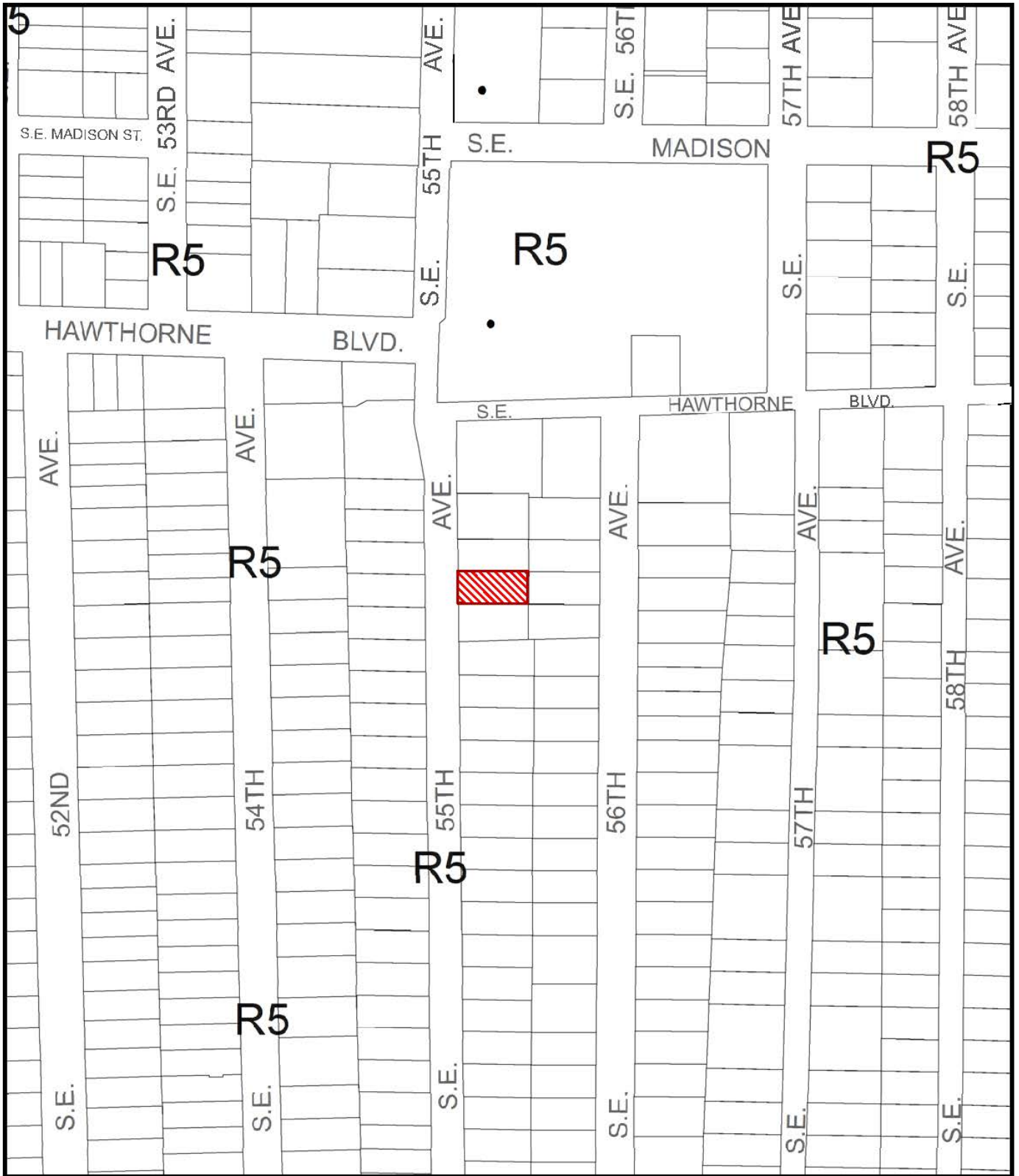
#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site plan (attached)
  2. South and East Building Elevations (attached)
  3. West and North Building Elevations (attached)
  4. Overall West Elevation
  5. First Floor Plan
  6. Second Floor Plan
- D. Notification Information:
  1. Mailing List
  2. Mailed Notice
- E. Agency Responses:

1. Bureau of Environmental Services
  2. Bureau of Transportation Engineering and Development Review
  3. Water Bureau
  4. Fire Bureau
  5. Site Development Review Section of BDS
  6. Life Safety Review Section of BDS
  7. Parks Bureau, Urban Forestry Division
- F. Correspondence – none received
- 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



Historic Landmark



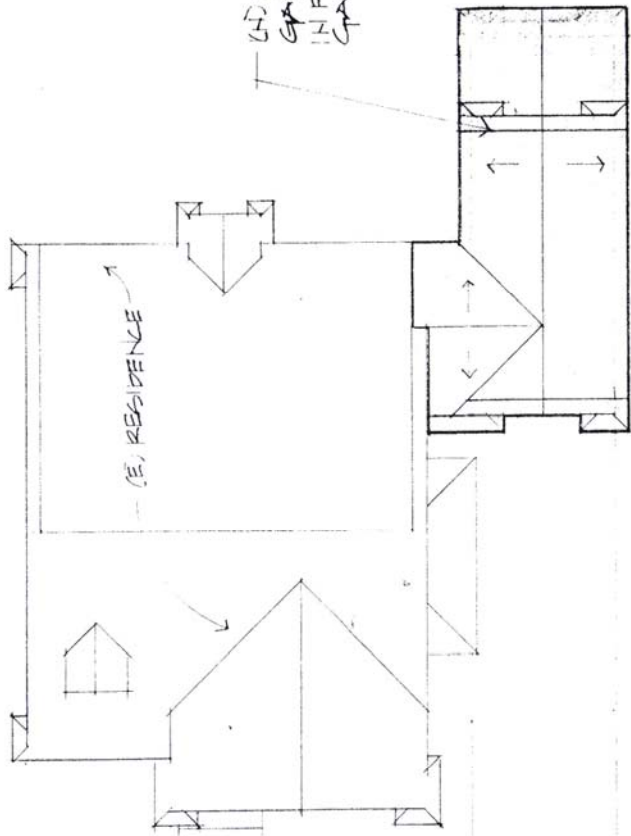
NORTH

File No. LU 14-106796 AD  
 1/4 Section 3236  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E06DB 8200  
 Exhibit B (Jan 27, 2014)



**APPROVED**  
 FEB 20 2014  
 By AG

(H) BEDROOM OVER (H)  
 GARAGE CONSTRUCTION  
 IN FOOTPRINT OF (E)  
 GARAGE



SE 55TH AVE.



612 SE 55TH PORTLAND OR  
 MEIER RESIDENCE  
 10'-0"

Lot 14-100716 AD  
 EXHIBIT C-1

SITE PLAN

\*Approved\*  
 City of Portland - Bureau of Development Services  
 Planner AG Date 2/20/14  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

BEDROOM ADDITION

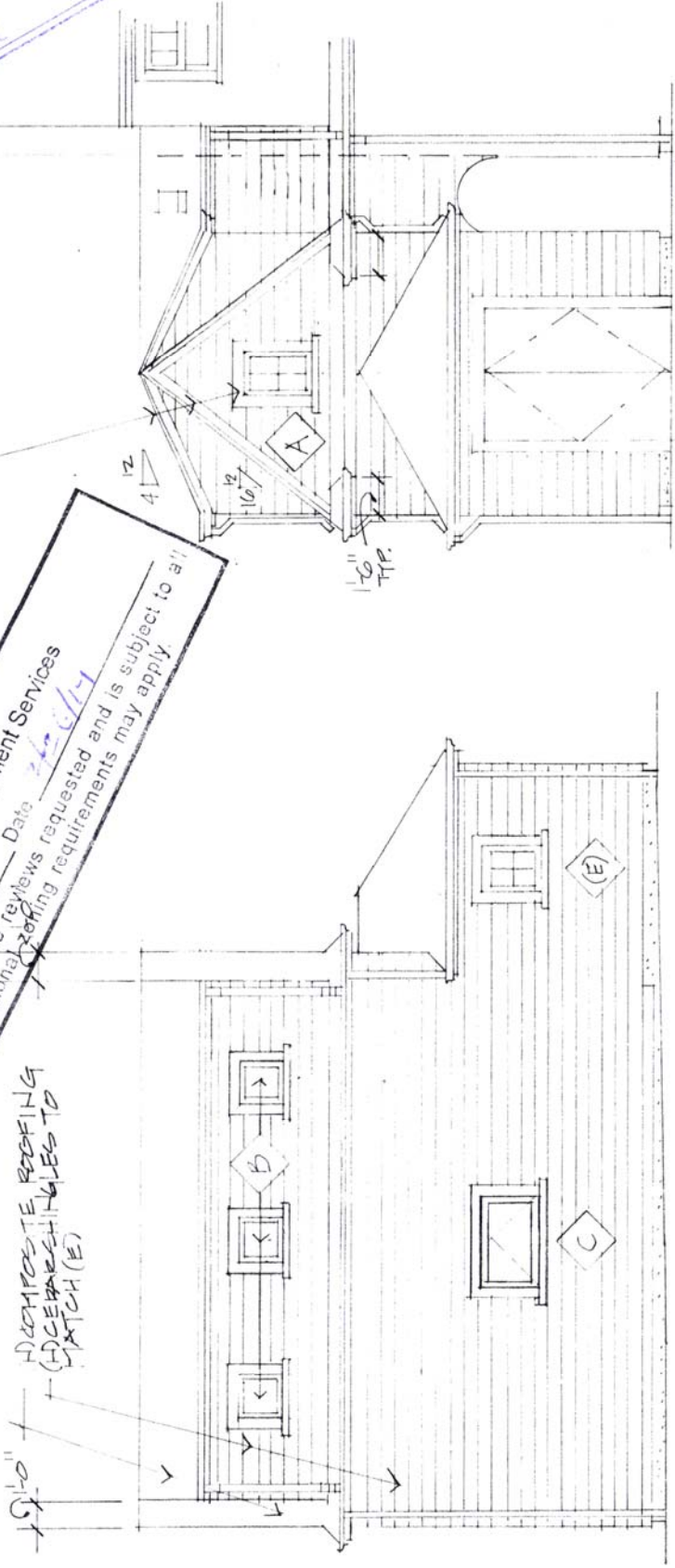
RECEIVED  
 FEB 20 2014  
 By \_\_\_\_\_

NEW EXISTING

TRIM TO MATCH (E)

Planner \_\_\_\_\_  
 City of Portland - Bureau of Development Services  
 \* Approved \*  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.  
 Date 2/20/14

COMPOSITE ROOFING  
 (H) CEILING MATCHES TO  
 MATCH (E)



SOUTH

EAST

OPEN

BEDROOM ADDITION

ELEVATIONS

MEIER RESIDENCE

1625 SE 55TH  
 PORTLAND, OR

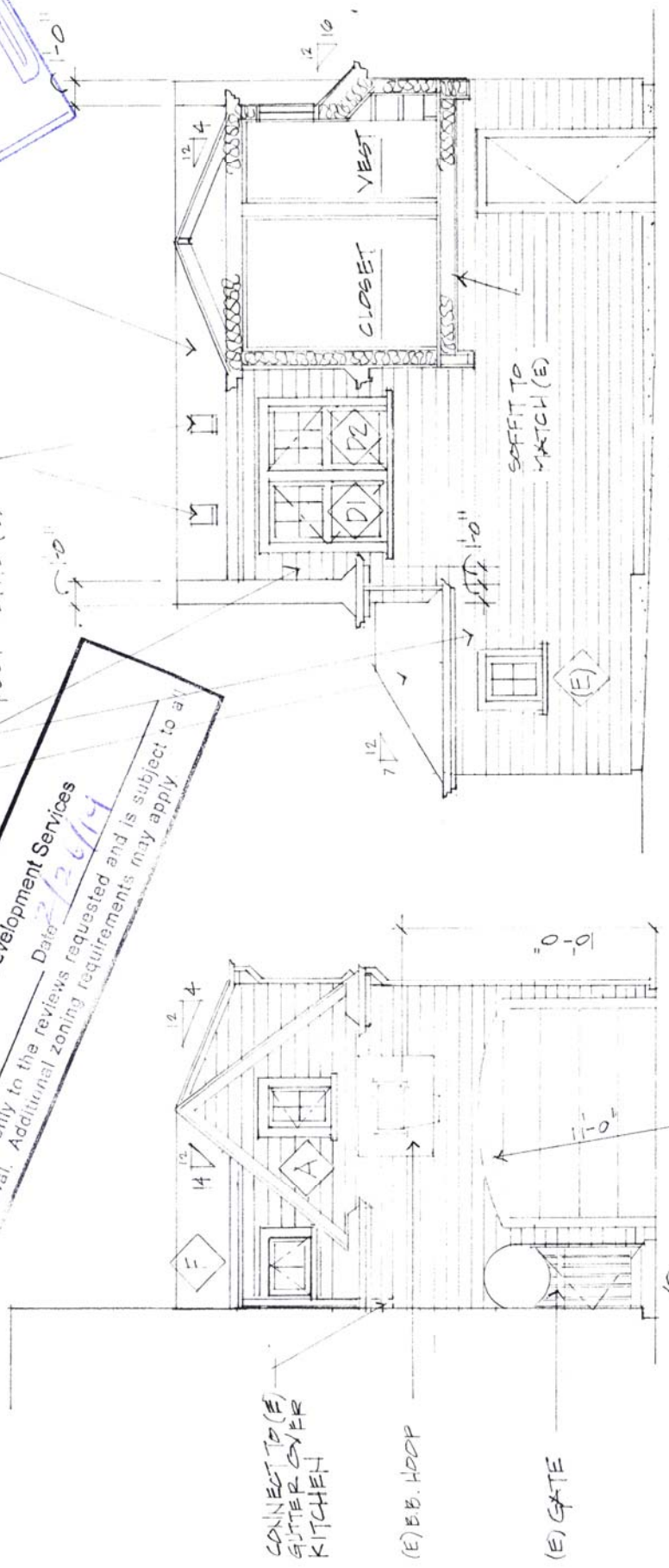
1/4" = 1'-0" 3

2014-106716AL  
 EXHIBIT 02

**RECEIVED**  
 FEB 20 2014  
 BY [Signature]

(N) COMPOSITE ROOFING  
 (H) CEDAR SHINGLES TO MATCH (E)  
 ROOF VENTS (S)

Planner [Signature]  
 City of Portland - Bureau of Development Services  
 \*Approved\*  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.  
 Date 2/26/14



BEDROOM ADDITION	ELEVATIONS	MEIER RESIDENCE	1/4"=1'-0"	4
		62 SE 55TH		
		PORTLAND, OR		

CU 14-106796 AC  
 EXHIBIT C-3