



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner  
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**Date:** December 18, 2015  
**To:** Interested Person  
**From:** Sheila Frugoli, Land Use Services  
503-823-7817 / [Sheila.Frugoli@portlandoregon.gov](mailto:Sheila.Frugoli@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 mailed copy of this document is only a summary of the decision. 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 15-258539 AD**

#### **GENERAL INFORMATION**

**Applicant:** Laura Migliori, Architect  
812 NW 17th Ave  
Portland, OR 97209  
503-228-4921

**Owner:** Karen Kastle  
3004 SE 18th Ave  
Portland, OR 97202-2305

**Site Address:** 3004 SE 18TH AVE

**Legal Description:** BLOCK 36 LOT 4, TIBBETTS ADD  
**Tax Account No.:** R834302290  
**State ID No.:** 1S1E11AC 00900  
**Quarter Section:** 3332  
**Neighborhood:** Hosford-Abernethy, contact Michael Wietecki @ [mjwietecki@gmail.com](mailto:mjwietecki@gmail.com)  
**Business District:** Division-Clinton Business Association, contact Darice Robinson at 503-233-1888.

**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.  
**Plan District:** None  
**Zoning:** R2.5 – Single-Dwelling Residential 2,500 zone  
**Case Type:** AD – Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

**Proposal:** In order to enlarge and convert an existing garage into living space, the applicant is requesting an Adjustment from 5 feet to 1 foot, 8 inches along the east (rear) property line. The existing structure will remain. A small two-story addition is proposed at the rear of the structure, approximately 75 square feet, to provide an enclosed stairway to the upper floor. Also, a west-facing dormer will be constructed in the new roof. The upper floor will be used as a home office while the lower floor will be converted into a guest bedroom and bath. The

existing driveway off SE Brooklyn will be removed and a new driveway and parking pad will be constructed on the south side of the house off SE 18<sup>th</sup> Avenue.

The Portland Zoning Code allows detached garages to be built up to the side and rear property lines and the conversion of such garages into another type of detached accessory structure is allowed under the following circumstances: (1) the garage was legally constructed before January 1, 2005, (2) the structure is at least 40 feet from a front lot line, and if on a corner lot, at least 25 feet from a side street lot line, (3) the structure has dimensions that do not exceed 24 feet by 24 feet, excluding eaves, (4) the structure is no more than 15 feet high and the structure walls are no more than 10 feet high. Because the subject garage is on a corner lot and not located 25 feet from a side street lot line a setback Adjustment is required.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are 33.805.040.A-F, Adjustments.

## ANALYSIS

**Site and Vicinity:** The 5,000 square foot corner lot site is developed with a 1.5 story home and detached garage. The site, like other nearby residential lots, was developed in the early 1900s. Most of the homes have bungalow or cottage style homes with detached garages or shops. This residential area is primarily developed with homes. Approximately a block to the south and west is an industrial/employment area.

**Zoning:** The site and adjacent properties are located in an R2.5, Single-Dwelling Residential 2,500 zone. This zone allows both detached and attached homes with an allowed density of 1 dwelling per 2,500 square feet. 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.

**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 23, 2015**. The following Bureaus raised no concerns about the requested setback Adjustment, but submitted information about requirements that will apply at Building Permit Review:

- Portland Bureau of Transportation (Exhibit E.1)
- Bureau of Environmental Services (Exhibit E.2)
- Water Bureau (Exhibit E.3)
- Life Safety Plan Review Section of BDS (Exhibit E.4)
- Site Development Section of BDS (Exhibit E.5)

**Neighborhood Review:** In response to the "Notice of Proposal", one written response has been received from the Hosford Abernethy Neighborhood District (HAND). Joanne Stainbrook, Land Use Chair, submitted the following comments:

- The curb cut to the existing driveway should be removed so a street parking spot is added. It would be great if a new street tree were planted in that location.
- The HAND board supports ADU infill as a way to create density and still maintain the scale and character of the neighborhood. This project is a nice example of that.
- If the unit gets rented out, HAND hopes it is a long-term rental to help with the housing shortage in Portland. If a short-term rental, an additional Accessory Short-Term Rental Permit would be required.
- It's great that the existing tree near the new driveway will be saved.
- There appears to be many spots in the adjacent sidewalk pavement that are raised up. It would be great if these could be repaired at the same time as the other work. (Exhibit

F.1)

**Staff Response:** *The Zoning Code allows short-term rentals (ASTR) in detached structures. A separate permit would be required to establish an ASTR on the site. Sidewalk disrepair is regulated by the Portland Bureau of Transportation. Therefore, this decision cannot address those issues. The other comments that directly speak to the approval criteria are discussed below.*

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 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:** Section 33.110.220 identifies the purpose of the building setback regulation. Each purpose statement is addressed individually below.

- *They maintain light, air, separation for fire protection, and access for firefighting;*

The proposed conversion from a garage to a structure with living space—home office and guest room will not change the location or height of the structure. Access for firefighting will not change. The small addition at the rear of the structure will be located 20 feet from the south property line and 3 feet from the east property line. Therefore, light, air and fire protection separation will not be diminished between this detached structure and other adjacent structures. The BDS Life Safety Plan Review Section response states that, “walls, less than 3 feet to the property line, shall be one-hour fire rated with no openings allowed. Eaves less than three feet to a property line must be protected on the underside as required for one-hour fire-rated construction. This applies to the existing structure as well as the new addition.” (Exhibit E.4). Consistent with the Building Code requirements, the submitted plans show no openings on the east exterior wall.

- *They reflect the general building scale and placement of houses in the City’s neighborhoods;*
- *They promote a reasonable physical relationship between residences;*

The existing structure will remain in place with only a small addition at the rear of the building. The proposed improvements will not depart from the general building scale, placement and physical relationship between the structures.

- *They promote options for privacy for neighboring properties;*

As noted above, there will be no windows or other openings on the east wall. Therefore, the privacy currently enjoyed by those who reside at the home to the east will not be compromised.

- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*

The Adjustment request is to reduce only the rear setback. The front yard is not impacted.

- *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*

The detached structure will not substantially reduce the amount of outdoor area on the site

and will continue to fit within the neighborhood's development pattern.

- *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.*

With the conversion of the garage into living space, the applicant proposes to construct a driveway and on-site parking space on the south side of the home, with access off SE 18<sup>th</sup> Avenue. The existing driveway, which is approximately 7 feet deep between the detached structure and the north (SE Brooklyn) property line. To ensure that vehicles will not be parked in that area and extend into the public sidewalk, a condition will require the removal of the curb cut approach. The letter from the HAND neighborhood association noted that the removal of the curb cut will result in additional on-street parking. Further, the driveway approach/curb cut will be replaced with a planter strip available for landscaping that would provide a buffer between the home office/guest room and the street. Under the authority of Title 17 (Section 17.88.020), the Portland Bureau of Transportation will require the existing driveway/curb-cut on SE Brooklyn be closed and the curb line re-established. (Exhibit E.1)

For the reasons described above, with a condition that requires the removal of the curb cut on SE Brooklyn, the proposal will meet this approval 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:** The subject site and most of the other nearby lots have homes that were constructed in the early 1900s. It is not unusual for these older homes and their accessory structures to be built closer to the property lines than the required minimum 5-foot setback. Approving the proposed Adjustment to allow a small addition to the existing accessory structure will not detract from the appearance or livability of the area. The proposed exterior alterations maintain the architectural character and scale of accessory structures that are commonly found in Portland's inner-City neighborhoods. The north façade of the structure will retain the look of a shop with carriage-style doors. The proposed dormer addition and windows are directed inward towards the back yard and not towards the adjacent properties. For these reasons, 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:** Only one standard—building setback—is being adjusted. Therefore, 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. There are no such resources present on the site. Therefore, 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:** 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 the site is not within an environmental zone, 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 conversion and addition to the existing detached garage into a structure with living area necessitates a setback Adjustment. The location and overall size of the structure will remain unchanged. Because the structure will no longer be used for vehicle parking, the use of the curb cut and short driveway between the structure and street must be removed. With this condition, the approval criteria are met.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the rear setback from 5 feet to 1 foot, 8 inches along the east property line for a 75-square foot, two-story addition to an existing detached accessory structure. The structure will be converted from a garage into living space, per the approved plans, Exhibits C.1 and C.2, signed and dated December 15, 2015, subject to the following conditions:

- A. As part of the building permit application submittal, Condition B must be noted on each of the required site plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 15-258539 AD." All requirements must be graphically represented on the site plan or other required plan and must be labeled "REQUIRED."
- B. The existing driveway/curb-cut on SE Brooklyn must be closed and the curb line re-established, per PBOT review and inspection requirements.

**Staff Planner: Sheila Frugoli**

**Decision rendered by:**  **on December 15, 2015**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: December 18, 2015**

**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 30, 2015, and was determined to be complete on November 16, 2015.

*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 30, 2015.

*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 January 4, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> 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 **January 5, 2016 – (the day following the last day to appeal).**
- 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:

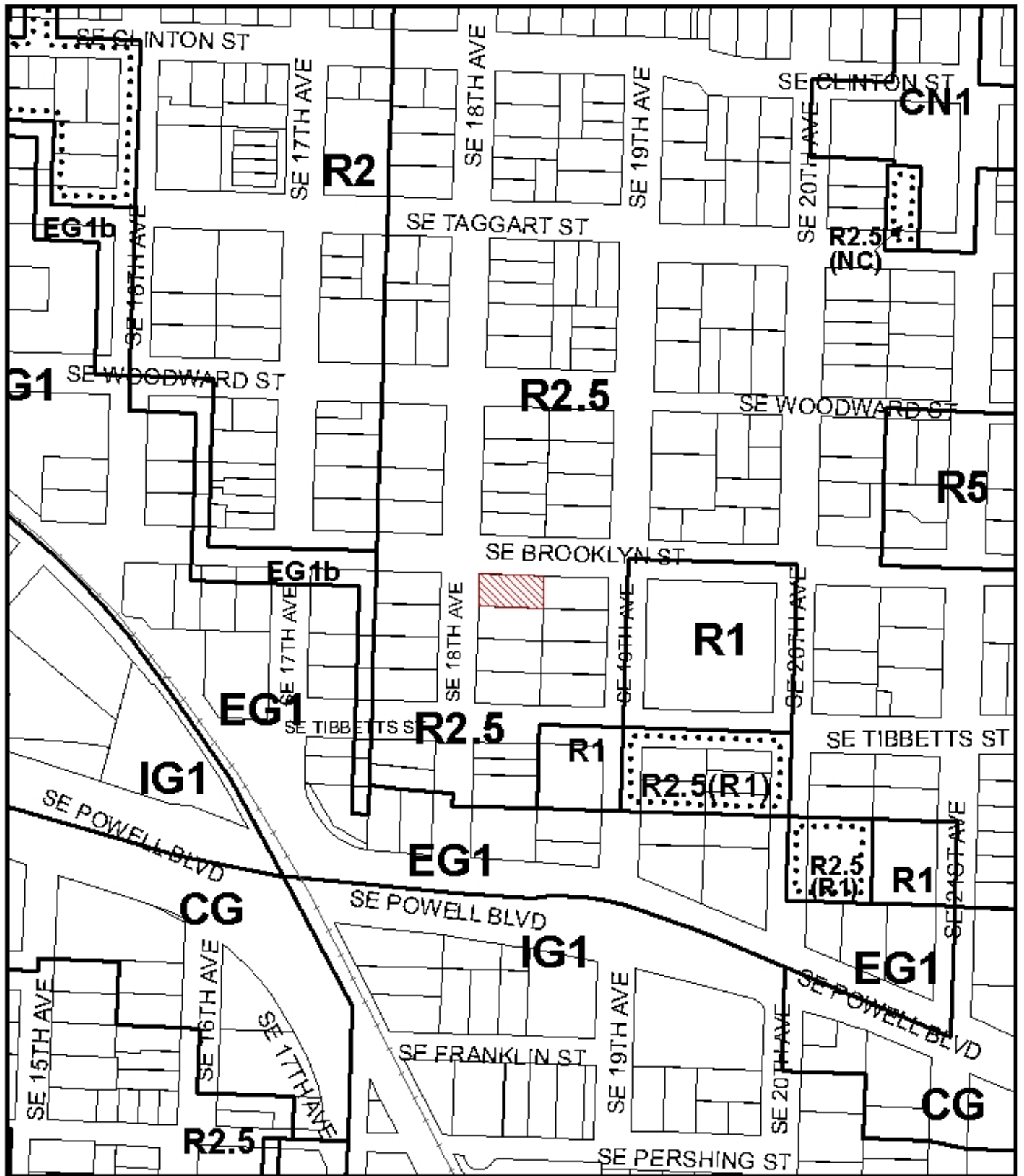
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**


NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Exterior Elevations (attached)
- D. Notification information:
  1. Mailing list
  2. Mailed notice
  3. Revised/Corrected notice
- E. Agency Responses:
  1. Bureau of Transportation Engineering and Development Review
  2. Bureau of Environmental Services
  3. Water Bureau
  4. Life Safety Plan Review Section of BDS
  5. Site Development Review Section of BDS
- F. Correspondence:
  1. Joanne Stainbrook, HAND Land Use Chair, provided comments.
- 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

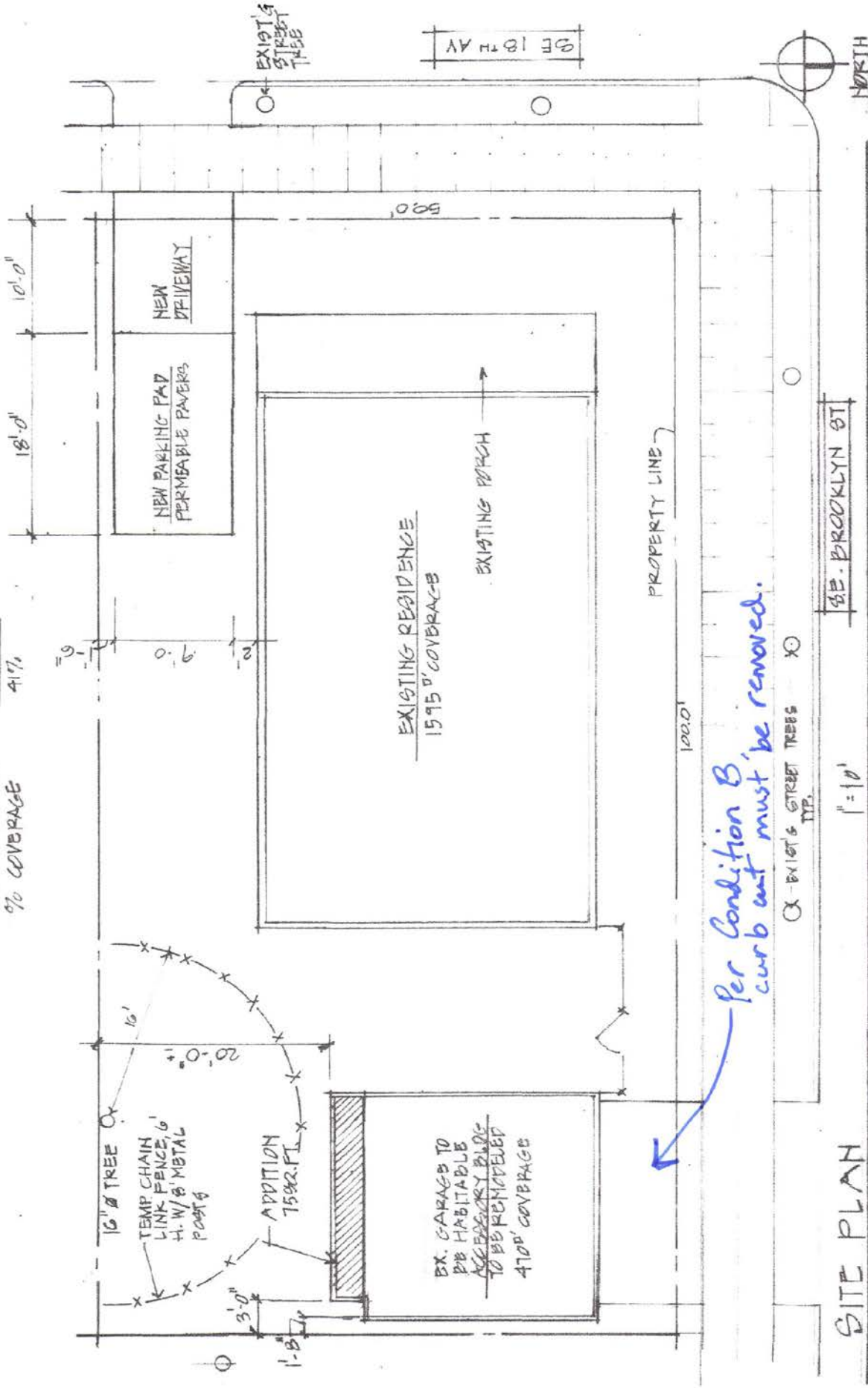
 Site



File No. LU 15-258539 AD  
 1/4 Section 3332  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E11AC 900  
 Exhibit B (Nov 03, 2015)



TOTAL BLDG COVERAGE = 2065 SF  
 TOTAL LOT AREA = 4980 SF  
 % COVERAGE = 41%



SITE PLAN  
 7004 SE 18TH AVE

\*Approved\*  
 City of Portland - Bureau of Development Services  
 S. Frangola Date Dec. 15, 2015  
 Approval applies only to the reviews requested and is subject to all other applicable zoning requirements. Additional zoning requirements may apply.

LU 15 - 25 853 9AD

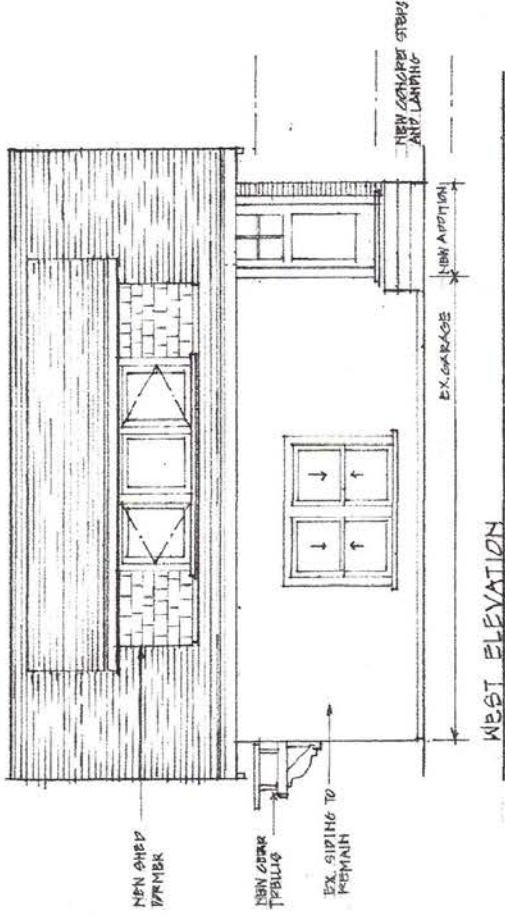
\*Approved\*

City of Portland - Bureau of Development Services

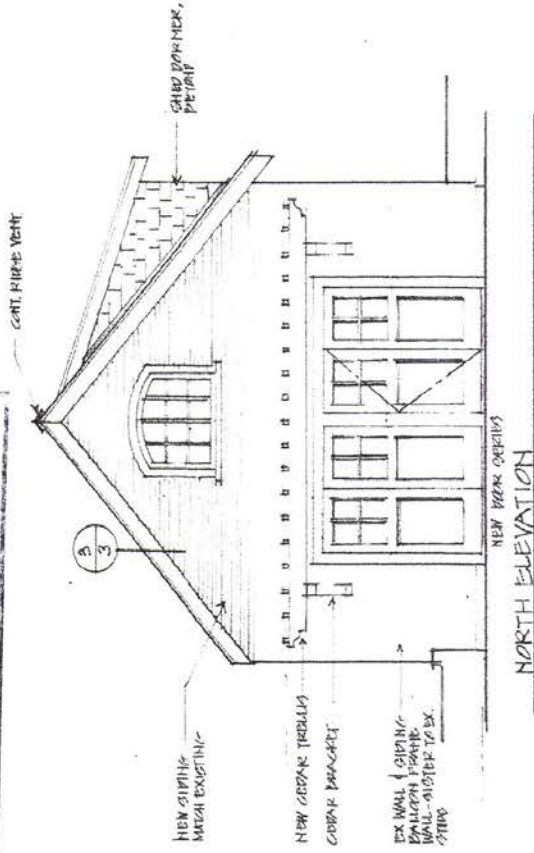
Planner *S. Fuzge*

Date *Dec. 15 2015*

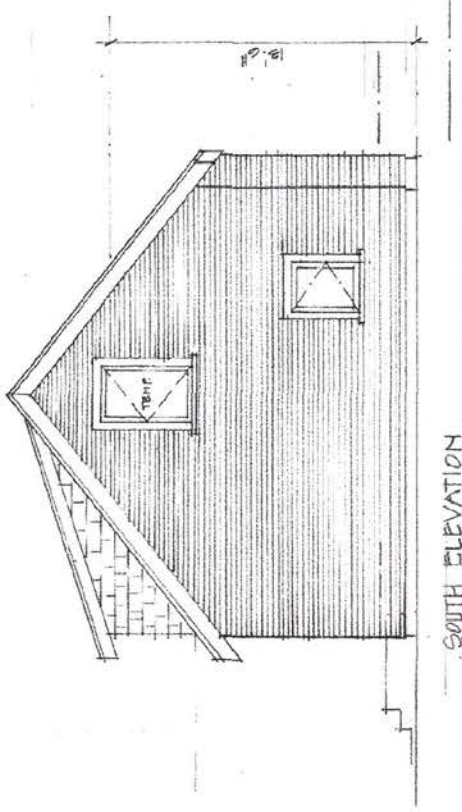
\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



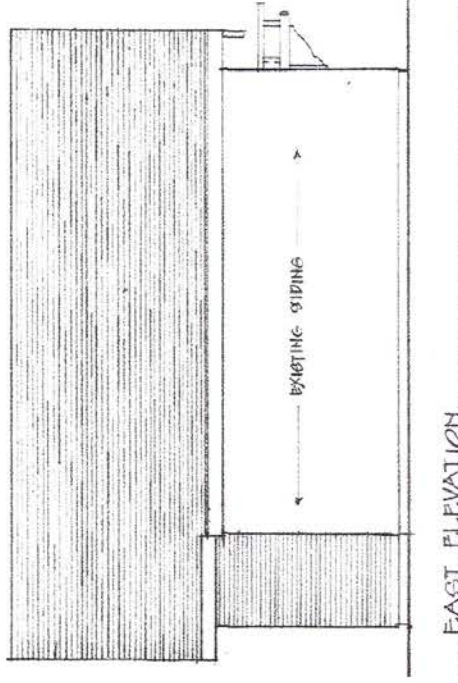
WEST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION



EAST ELEVATION

ELEVATIONS • 1/8" = 1'-0"  
2004 SE 18TH AVE.

LU 15 - 258539AD