



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

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Paul L. Scarlett, Director  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** March 18, 2016  
**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 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 16-111861 AD**

#### **GENERAL INFORMATION**

**Applicant:** Alan Case  
Case Remodeling  
369 NE 19th Ave.  
Canby, OR 97013

**Property Owners:** Reewen D'Souza-Kamath and Monika D'Souza-Kamath  
7831 NW Blue Pointe Ln.  
Portland, OR 97229

**Site Address:** 7831 NW Blue Pointe Ln.

**Legal Description:** LOT 23 UND INT TRACT C, BLUE POINTE  
**Tax Account No.:** R082700540  
**State ID No.:** 1N1W36BA 02600  
**Quarter Section:** 2921  
**Neighborhood:** Northwest Heights, contact Charles Clark at 503-297-6159  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212  
**Plan District:** Northwest Hills - Skyline  
**Zoning:** R10 – Single-Dwelling Residential 10,000  
**Case Type:** AD – Adjustment Review  
**Procedure:** Type II administrative decision with appeal to the Adjustment Committee

**Proposal:** Zoning Code Section 33.110.225 limits the allowable building coverage on this 13,147-square-foot site to 3,472 square feet. The existing building coverage on this site is 3,415 square feet, with 57 square feet of allowable building coverage remaining. Recently, the applicant obtained a building permit to construct a 285-square-foot open pergola attached to the rear of the house, covering a rear patio (building permit # 15-250859 RS). While a solid patio cover would be counted toward the building coverage limit, an open pergola is not counted. The applicant is requesting approval of an Adjustment to increase the allowable

building coverage on this site by 228 square feet (from 3,472 square feet to 3,700 square feet) in order to convert the 285-square-foot open pergola into a solid patio cover.

**Relevant Approval Criteria:** In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Section 33.805.040.A-F of the Portland Zoning Code.

## ANALYSIS

**Site and Vicinity:** The site is an 13,147-square-foot lot located on the east side of NW Blue Pointe Lane, a private street accessed from NW Skyline Boulevard. The site slopes steeply upward from the street, and is developed with a single-dwelling house. Neighboring lots in the Blue Pointe subdivision are also steeply sloping and developed with single-dwelling houses.

**Zoning:** The R10 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. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The site is within the Skyline subdistrict of the Northwest Hills plan district. The regulations of the Northwest Hills plan district are intended to protect sites with sensitive and highly valued resources and functional values. However, the associated regulations do not affect the Adjustment request.

**Land Use History:** City records indicate that prior land use reviews include the following:

- LUR 91-00373 ZC SU: 1991 approval of a zone change and a 59-lot subdivision.
- LUR 94-00170 AD: 1992 Adjustment approval to reduce front setback requirements in the subdivision approved in LUR 91-00373 ZC SU.

**Agency Review:** A "Notice of Proposal" was mailed February 22, 2016. The following Bureaus have responded with no concerns about the proposal:

- Bureau of Environmental Services (Exhibit E-1);
- Bureau of Transportation Engineering (Exhibit E-2);
- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4);
- Site Development Section of BDS (Exhibit E-5); and
- Life Safety Review Section of BDS (Exhibit E-6).

**Neighborhood Review:** No written responses have been received from either the Neighborhood Association or notified property owners in response to the mailed "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 maximum building coverage requirement. The purpose of the building coverage standard is stated in Zoning Code Section 33.110.225.A:

**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.*

The proposed Adjustment will allow an open pergola attached to the back of the house (constructed over a back patio) to be converted to a solid patio cover. The exterior envelope of the house is not proposed to change, but a building coverage Adjustment is needed because a solid roof is counted toward the building coverage standard while an open pergola is not. The patio cover is behind the house and not visible from the street. The patio is constructed on the lowest grade in the back yard, with the grade sloping upwards towards the lot lines. The lowered grade, existing vegetation, and the modest height of the patio cover (about 13 feet from the patio surface to the peak of the roof) all make the structure difficult to see from neighboring properties. Therefore, approval of the Adjustment will not increase the perceived bulk of the house as viewed from the street and from neighboring lots. As the views of the house from the street and from neighboring lots will not significantly change, the Adjustment will not cause the house on this site to overwhelm any other home or affect the character of the neighborhood. Based on these reasons, staff finds the proposal equally meets the intent of the building coverage regulation. 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. As discussed above, approval of the Adjustment will not increase the perceived bulk of the house on this site, as the patio cover is in the lowest part of the back yard, is only 13 feet tall to the peak of the roof, and is mostly obscured from view from neighboring properties. Approval of this Adjustment will only allow an existing open pergola to be converted to a solid patio cover, and will not affect neighborhood livability factors such as residential density or demand for street parking. For these reasons, staff finds the proposal will not result in 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 Adjustment to increase the building coverage allowance for the patio cover will have 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 increase the maximum building coverage for a patio cover equally meets the intent of the building coverage regulation and will not adversely affect the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Because the approval criteria are met, the proposal should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.110.225 to increase the allowable building coverage on the site by 228 square feet (from 3,472 square feet to 3,700 square feet), per the approved site plans and elevations, Exhibits C-1 through C-3, signed and dated March 16, 2016, 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 16-111861 AD."

**Staff Planner: Andrew Gulizia**

**Decision rendered by:**  **on March 16, 2016**

By authority of the Director of the Bureau of Development Services

**Decision mailed: March 18, 2016**

**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 27, 2016, and was determined to be complete on **February 17, 2016**.

*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 27, 2016.

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: June 16, 2016.**

**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 April 1, 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 **April 4, 2016 – the first business 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:

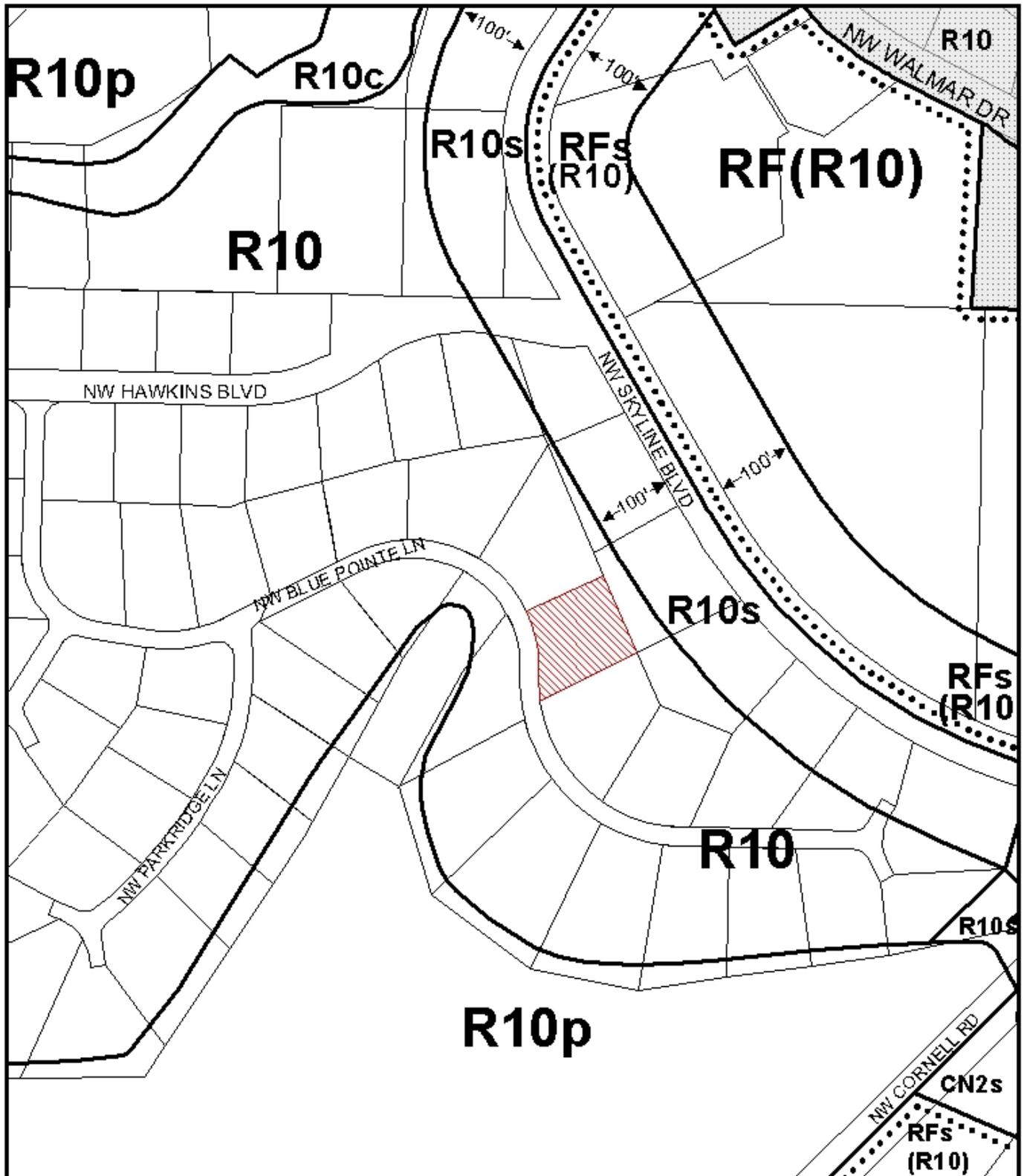
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site plan (attached)
  - 2. Rear elevation (attached)
  - 3. Side elevation (attached)
  - 4. Approved plans from building permit 15-250859 RS (3 pages)
  - 5. Full-sized, scalable site plan from building permit 15-250859 RS
- 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
- F. Correspondence – none received
- G. Other:
  - 1. Original LU application form and receipt
  - 2. Incompleteness determination letter, dated February 4, 2016

**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

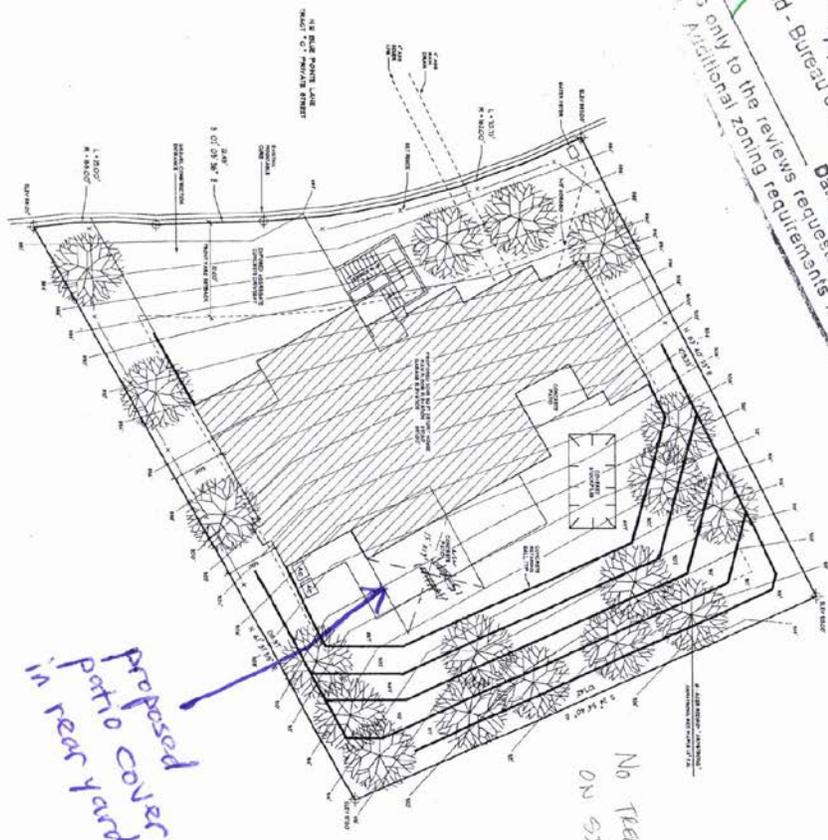
This site lies within the:  
**NORTHWEST HILLS PLAN DISTRICT**  
**SKYLINE SUBDISTRICT**



 **Site**

File No.	LU 16-111861 AD
1/4 Section	2921
Scale	1 inch = 167 feet
State_Id	1N1W36BA 2600
Exhibit	B (Feb 01, 2016)

Planner City of Portland - Bureau of Development Services  
 \* This approval is valid only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.  
 \* Approved\* Date March 16, 2016



*Proposed path to cover in rear yard*

*No TREES ON SITE*

City of Portland  
 Bureau of Development Services  
 1500 NE Oregon Street  
 Portland, Oregon 97232

LOT 33 BLUE POINT  
 100' x 100' (APPROXIMATE)  
 100' x 100' (APPROXIMATE)

SITE PLAN

LOCATED IN THE CITY OF PORTLAND, OREGON  
 IN THE CITY OF PORTLAND, OREGON  
 IN THE CITY OF PORTLAND, OREGON  
 IN THE CITY OF PORTLAND, OREGON

PERMITS	
PLANNING	APPROVED
ENGINEERING	APPROVED
ENVIRONMENTAL	APPROVED
HEALTH	APPROVED
WATER	APPROVED
SEWER	APPROVED
STREETS	APPROVED
UTILITIES	APPROVED
OTHER	APPROVED

LV 16-111861 AD  
 Exhibit C-1

DATE	1
NO.	9

RAE DESIGN & ASSOCIATES  
 - PLAN - DESIGN - CONSULT -  
 800 SW KEARNEY COURT SEASIDE OREGON 97138  
 503-261-3562

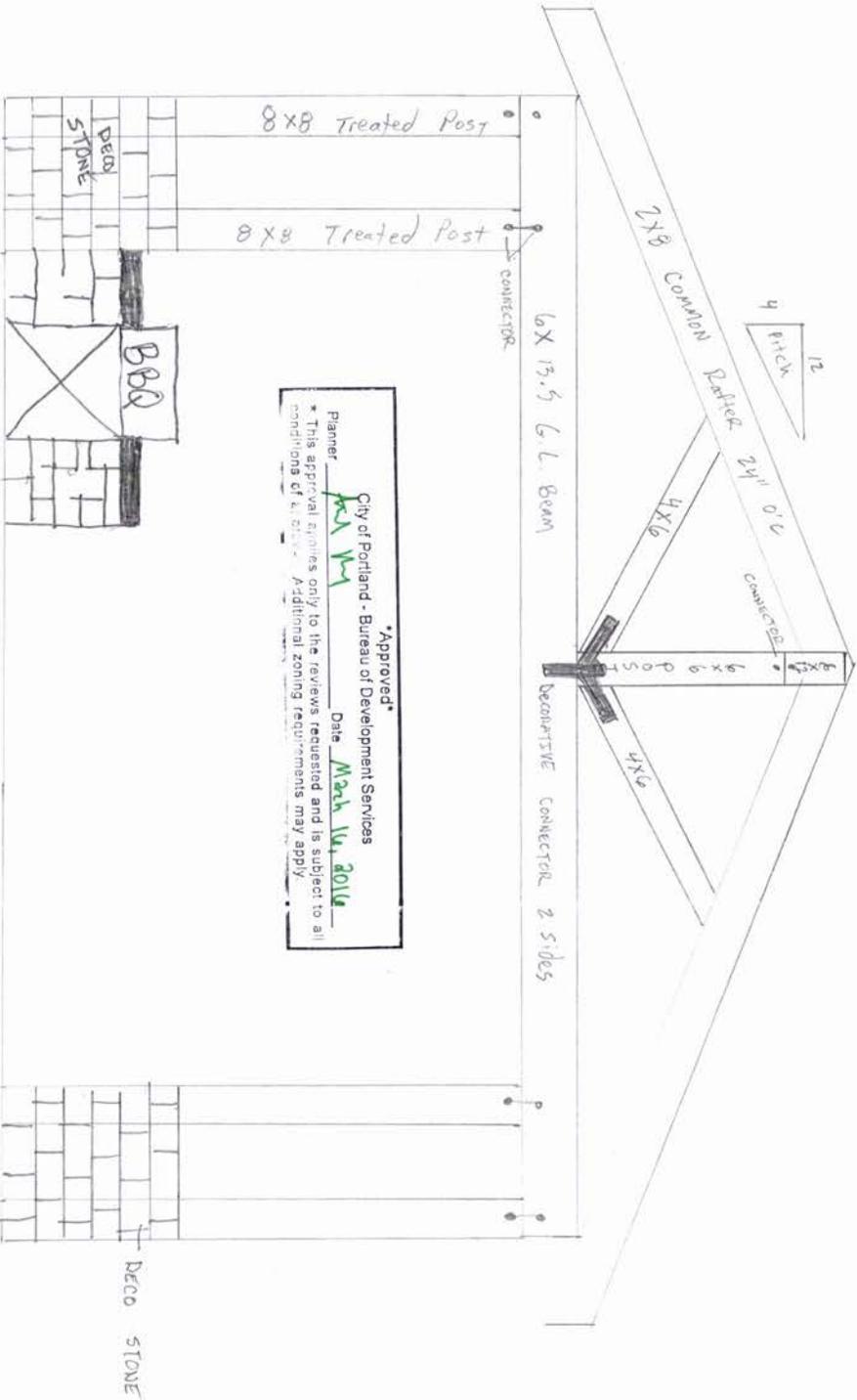
CUSTOM PLAN FOR  
 MR & MRS D'SOUZA-KAMATH  
 100 N BLUE POINT LANE  
 CITY OF PORTLAND OREGON 97216

SITE PLAN

52-658057-52

1

CASE NUMBER LU-16-111861



**\*Approved\***  
 City of Portland - Bureau of Development Services  
 Planner: Paul Van  
 Date: March 14, 2016  
 \* This approval applies only to the reviews requested and is subject to all conditions of all other zoning requirements that may apply.

END GOBLE PILE  
 19'6" OVERALL LENGTH

Exhibit C-2

