



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** June 20, 2016  
**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 16-122411 AD**

#### **GENERAL INFORMATION**

**Applicant:** Steve & Mihaela 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, contact Richard Bixby at 503-823-4550.

**Zoning:** R7h – 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 finalize a Building Permit for a 102 square foot kitchen remodel and replace a previously approved land use review—LU 13-218202 AD, the applicant is requesting an Adjustment to exceed the maximum building coverage allowance from 2,666 to 3,397 square feet. The previous 2013 Adjustment decision approved an approximate 218 square foot building coverage increase for the kitchen expansion. The applicants stated that they would remove additional covered areas, including sheds on the property. A condition of approval required the removal of the sheds. The applicant now wishes to retain the two sheds—241 square foot shed in the northwest corner and the 272 square foot shed in the northeast corner—for storage space that is needed for the existing Adult Care Home.

The Zoning Code allows 34 percent coverage on this 7,776 square foot lot. The applicant is requesting to increase the percentage to 43.6 percent.

**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.

## 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 the only prior land use review was the recent Adjustment—LU 13-218202 AD.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **May 19, 2016**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.2)
- Bureau of Transportation Engineering (Exhibit E.2)
- Water Bureau (Exhibit E.1)
- Fire Bureau (Exhibit E.2)
- Site Development Section of BDS (Exhibit E.2)
- Bureau of Parks-Forestry Division (Exhibit E.2)

**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

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria 33.8050.040.A.-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 of building area may cover the 7,776 square foot site. The 2013 Adjustment decision approved an increase in building coverage for a proposed new 102 square-foot kitchen addition. When combined with the existing building footprint, the home would exceed the maximum allowance for coverage by 218 square feet. As part of the 2013 request, the applicant stated that he intended to remove a patio cover and two detached accessory buildings that also contributed to the overall coverage of the site.

After further consideration, the applicant is now requesting approval to increase the amount of building coverage in order to retain the two detached accessory buildings. The owners have determined that they need the two buildings for storage of equipment and supplies that are used for the Adult Care Home that is operated at the site. In total, the applicant wishes to exceed the building coverage allowance by 731 square feet.

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. The covered deck has recently been removed. The two accessory structures have been on the site for at least 5 years. The accessory buildings are located in the rear corners of the property and are only one-story, approximately 10 feet tall. The buildings are set back from the adjacent property lines by at least 5 feet (Exhibit C.3). And, fencing and tall shrubs provide separation between the accessory buildings and the adjacent properties. Given their size and the existing screening along the property lines, staff finds that the retention of the two small accessory buildings will not overwhelm adjacent homes or depart from the desired character of the R7 zone. Therefore, the proposal equally supports the purpose of the building coverage standard. 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:** There were no comments submitted from notified nearby property owners. The proposed kitchen addition and retention of the two accessory buildings 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. As explained above the structures are relatively small, are set back from the side and rear property lines and are screened by vegetation and fencing. Therefore, the increase in building coverage will not significantly detract from the livability or appearance of the residential area. 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 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

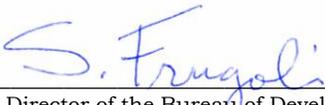
As reflected in the findings of this report, the request to exceed the allowed building coverage to complete a small kitchen expansion and retain two existing detached accessory buildings meets the approval criteria and therefore should be approved.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to exceed the allowed building coverage from 2,666 to 3,397 square feet, for a 102 square foot kitchen addition and the retention of two detached accessory structures--a 240 square foot structure in the northwest corner and a 273 square foot structure in the northeast corner, per the approved site plans, Exhibits C.1 and C.2, signed and dated June 16, 2016, subject to the following condition:

- A. Building Permit application 13-195252 RS must be updated to reflect this decision. The application submittal, with 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-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-122411 AD. No field changes allowed."

**Staff Planner: Sheila Frugoli**

**Decision rendered by:**  **on June 16, 2016**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: June 20, 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 February 17, 2016, and was determined to be complete on May 16, 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 February 17, 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.

**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 July 5, 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 **July 6, 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.

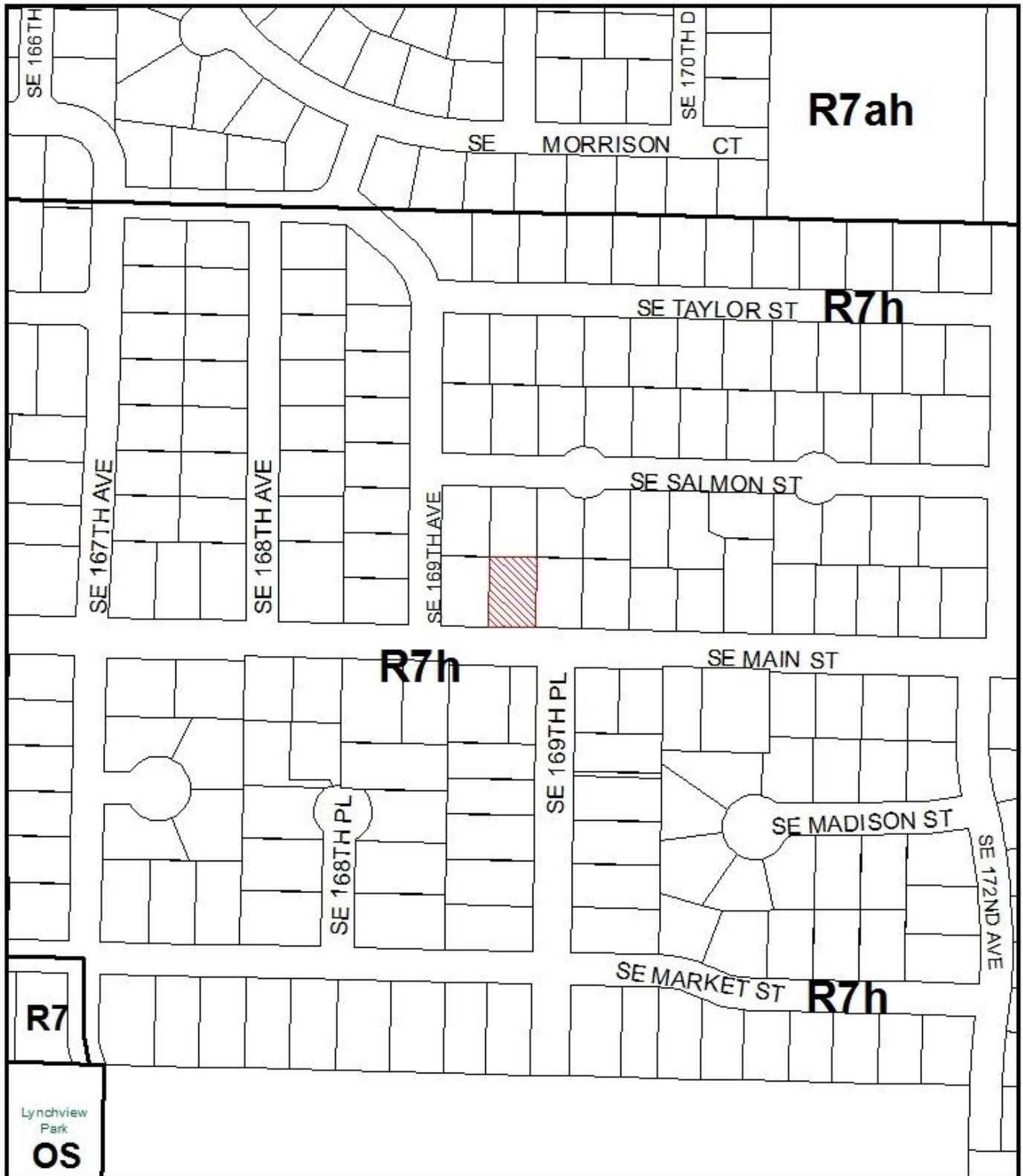
**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan – Identifying Kitchen Addition and 2 Detached Accessory Buildings (attached)
  2. Site Plan – Detached Accessory Structures
  3. Site Plan – With Setback Measurements, Submitted May 16, 2016
  4. Exterior Elevations – Detached Accessory Structures
- D. Notification information:

1. Mailing list
  2. Mailed notice
- E. Agency Responses:
1. Water Bureau
  2. TRACS Print-Out Showing “No Concerns” from Bureau of Environmental Services, Bureau of Transportation Engineering and Development Review, Fire Bureau, Site Development Review Section of BDS, Life Safety Review Section of BDS, and Bureau of Parks, Forestry Division
- F. Correspondence: NONE
- G. Other:
1. Original LU Application
  2. Incomplete Application Letter from Staff to Applicant
  3. Letter from Applicant to BDS Inspections Section – Seeking Permit Extension to Complete Land Use Review

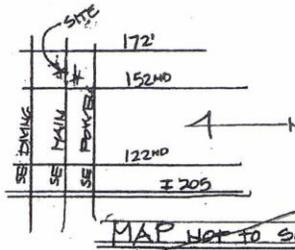
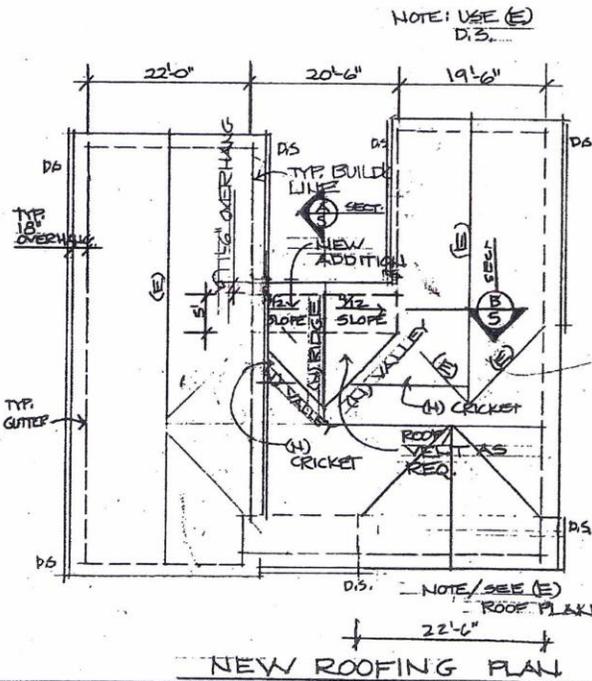
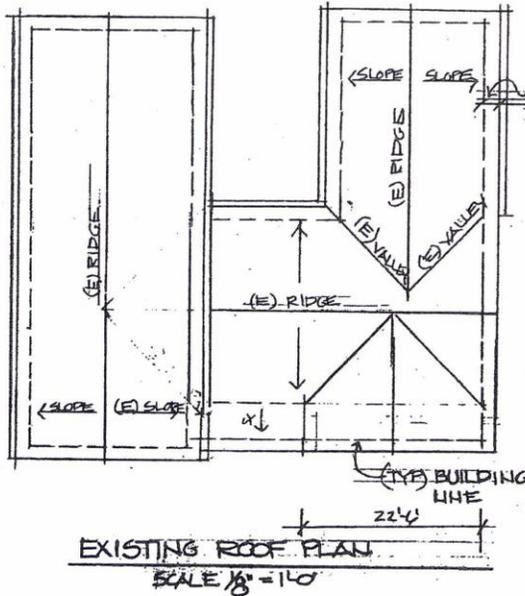
**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



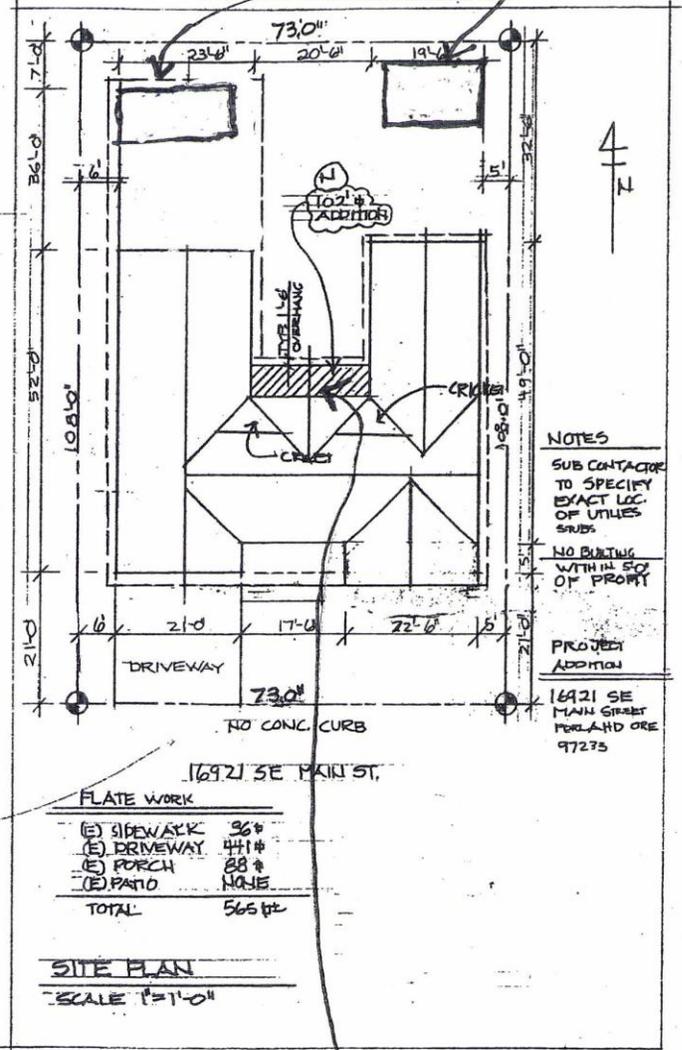
# ZONING



File No. LU 16-122411 AD  
 1/4 Section 3147  
 Scale 1 inch = 200 feet  
 State\_Id 1S3E06BD 5600  
 Exhibit B (Feb 19, 2016)



Retain accessory buildings



NOTES  
SUB CONTRACTOR TO SPECIFY EXACT LOC. OF UTILITIES SANDS  
NO BUILDING WITHIN 50' OF PROPERTY

PROJECT  
ADDITION

16921 SE MAIN STREET  
PORTLAND ORE  
97273

Kitchen Addition

City of Portland - Bureau of Development Services  
 Approved by S. Frugoli Date June 16, 2016  
 This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

LU 16-1224H AD  
Exhibit C.1