

Date:

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

April 1, 2016

To: Interested Person

From: Marguerite Feuersanger, Land Use Services

503-823-7619 / mfeuersanger@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.

GENERAL INFORMATION

CASE FILE NUMBER: LU 16-105022 AD

Applicant and Owner: Aimee Erickson

6559 SW Capitol Highway Portland, OR 97239-1941

Site Address: 6559 SW Capitol Highway

Legal Description: BLOCK 4 LOT 1&2 TL 8000, BERTHA

Tax Account No.: R074300480 **State ID No.:** 1S1E16CC 08000

Quarter Section: 3627

Neighborhood: Hillsdale, contact Duane Hunting at 503-245-7998.

Business District: Hillsdale Bus. & Professional, contact Mike Roach at 503-246-8311. **District Coalition:** Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Plan District: Hillsdale

Zoning: R2d, Multi-Dwelling Residential 2,000 Zone. With the Design Overlay

Zone (d).

Case Type: AD, Adjustment

Procedure: Type II, an administrative decision with appeal to the Adjustment

Committee.

PROPOSAL:

The applicant proposes to add a one-story living area addition to connect the existing house with the garage. The existing garage, also used as the resident's artist's studio (a home business), will be renovated and expanded. The existing roof will be removed to create a taller structure and a new workshop addition, 8 feet by 20 feet, is proposed at the north side of the garage. The proposed additions will be two stories in height.

The property is within the Hillsdale Pedestrian District and has street frontage on SW Capitol Highway, designated as a Transit Street. New development is required to be located near the transit street in order to create an inviting environment for transit users and pedestrians. A maximum transit building setback of 20 feet from SW Capitol Highway applies to the site (Zoning Code Section 33.120.220.C). The proposed additions to the house and garage are set back between 21 and 30 feet, which exceeds this maximum requirement. An Adjustment is requested to allow the new additions to be located up to 30 feet from the front property line at SW Capitol Highway.

Note that the Zoning Code allows home businesses if certain requirements are met (Chapter 33.203). The owner operates a Type A Accessory Home Occupation, where the resident uses their home as a place of work but no employees or customers come to the site.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria around found in Section 33.805.040.

ANALYSIS

Site and Vicinity: The site is developed with a one-story detached single-dwelling house and detached garage. It is a corner lot, located at the intersection of SW Capitol Highway and SW Idaho Street. The front lot line is adjacent to SW Idaho and the side lot line is adjacent to SW Capitol Highway. The site slopes gently downward from the street.

Southwest Capitol Highway is designated as a Transit Access Street and a District Collector Street; it is improved with two vehicle lanes with wide shoulders. Near the site, sidewalks and landscape strips have been installed at certain locations but for much of its length, such public improvements are absent. The immediate area is a mix of houses, rowhouses, duplexes and apartment buildings. Landscaping is prevalent on most residential properties. Approximately 200 feet west of the site is the Mittleman Jewish Community Center, a large institutional development. Commercial development is located along SW Capitol Highway approximately 800 feet northeast of the site.

Zoning: The R2 Zone is a low density multi-dwelling zone; it is intended to preserve land for urban housing and to provide opportunities for a wide range of housing types, including rowhouses, townhomes, condominiums, and apartment buildings. Multi-dwelling zones are distinguished from single-dwelling zones primarily by density and development standards. The R2 zone allows approximately 21.8 dwelling units per acre. Residential buildings are typically one to three stories in height. Allowed housing types include duplexes, townhouses, rowhouses and garden apartments. Generally, R2 zoning is applied near Major City Traffic Streets, Neighborhood Collector and District Collector streets, and Local streets adjacent to commercial areas and transit streets.

The site is within the Hillsdale Plan District (Chapter 33.534). The regulations of the plan district promote compatibility between existing and new residential and commercial development and support the Hillsdale Town Center.

The site is also within the Design Overlay Zone (Chapter 33.420). This overlay zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The Design Overlay Zone also promotes quality high-density development adjacent to transit facilities. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review or compliance with the Community Design Standards. In addition, design review or compliance with the Community Design Standards ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

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 **March 1, 2016**. The following Bureaus have responded with no issues or concerns:

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 1, 2016. A written response was received from a notified property owner in response to the proposal. The property owner requested information about City requirements for sidewalk improvements (Exhibit F-1).

<u>Staff Response</u>: Because the proposal is for additions to an existing house and additional residential units are not proposed, street improvements are not required. Refer to Exhibit G-2.

A second written response was received from the Hillsdale Neighborhood Association's interim president, who wrote to confirm that the neighborhood's Board of Directors voted unanimously in support of the proposal. The letter also references art classes that are held at the site. Refer to Exhibit F-2.

<u>Staff Response</u>: Note that while the neighborhood association's letter references art classes held at the site, the applicant states that the art studio is a Type A home occupation, where no employees or customers (art students) visit the site. Refer to the Applicant's Statement, Exhibit A. If art classes are proposed, a Type B home occupation permit is required and is subject to certain limitations. Refer to Zoning Code Chapter 33.203, Accessory Home Occupations, and the BDS website: https://www.portlandoregon.gov/bds/36684.

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: The purpose for the transit street setback is found in Section 33.120.220, which states:

Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.

The applicant is requesting an adjustment to increase the maximum transit street setback, from 20 feet to 30 feet, in order to construct living area additions to the existing house and garage. The site has frontage along SW Capitol Highway, designated as a Transit Street. In addition, the site is within the Hillsdale Pedestrian District. Because of its location along a transit street, new additions are subject to a maximum setback of 20 feet.

Regarding site conditions and designations: From one standpoint, the site and surrounding sites are adjacent to a busy street; SW Capitol Highway is designated as a District Collector and Transit Access street. Bus service is provided by Line #45, Garden Home. At this time, however, line #45 is not well-served and does not provide frequent

service as the schedule shows 20 to 30 minute intervals during peak travel times. Additionally, there are no sidewalks adjacent to the site. These conditions – a busy traffic street, infrequent bus service and lack of sidewalks – are impediments to transit use and walking. From another standpoint, the site is zoned R2, multi-dwelling residential, and can accommodate one or two additional dwelling units. In the future, as development of the site and surrounding area intensifies, it is expected to transition into a more inviting pedestrian and transit-user environment.

Regarding site specifics and proposal: The existing house is located within 20 feet of SW Capitol Highway and complies with the maximum transit street setback. The existing garage, however, is located farther back on the site, with a setback distance between 22 and 26 feet. Currently the garage provides space for two vehicles but its front elevation has only a garage door, without windows or person doors/entrances. Although the existing street-facing garage wall and garage door will remain, street-facing windows are required and are proposed within the walls of proposed street-facing additions.

An existing exterior deck adjacent to the front of the house will remain and is incorporated into the new addition connecting the garage and house. The deck is visible from the street and serves to enliven the front elevation from the pedestrian perspective. Even though the new additions are up to 30 feet from SW Capitol Highway, the presence of a larger house and addition with street-facing windows will provide interest and improve the pedestrian environment.

Regarding the current proposal to retain, improve and expand the existing house and garage, the adjustment to increase the maximum transit street setback is reasonable, given the site conditions and proposal characteristics cited above. Therefore, 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: The site is located within the R2 zone. The proposal to expand the existing house and garage is relatively small in scope, considering the additional housing density afforded by the R2 zone. The proposed Adjustment to increase the maximum transit street setback from 20 feet to 30 feet is not expected to detract from the appearance or livability of the residential area.

The immediate area is a mix of houses, townhomes and apartment buildings. Still, one-and two-story houses are the predominant housing type, especially within the block containing the subject site. While the proposed addition and new roof above the existing garage is somewhat out of character with the small one-story house, it is consistent with nearby houses in terms of height, roof pitch, bulk and building coverage. Additionally, the site slopes downward from the street, which will lessen the impact of the new additions as viewed from the street.

In addition to the R2 base zone development standards, such as maximum height, maximum building coverage and minimum setbacks, the site is within the Design Overlay Zone ("d") and therefore, the proposed additions must meet certain design standards that promote compatibility with residential development.

For these reasons, the proposal will not significantly detract from the appearance or livability 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 does not apply.

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 City designated resources on the site. Therefore, this criterion does not apply.

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

Findings: The proposal retains the existing house, exterior front deck, garage, and driveway. New additions will connect the house and garage, and increase the height and footprint of the garage.

Locations of the new additions, while exceeding the maximum setback, are integrated well into the existing buildings, given that the location of the existing garage exceeds the maximum 20-foot setback, and onsite parking is required to be retained on the site.

As proposed, no impacts are expected to result from the proposed 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. This criterion does not apply.

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 site contains an existing house and detached garage and has frontage on SW Capitol Highway, which is designated as a transit street. Even though the proposed locations of new additions do not meet the 20-foot maximum transit street setback, the existing house and existing exterior deck are located near the street and will remain, integrated into one building on the site. Thus, approval of the Adjustment to increase the maximum setback from 20 feet to 30 feet will have no negative impacts on the pedestrian environment or on the appearance and livability of the nearby residential neighborhood.

The proposal to expand the existing house and garage meets applicable Adjustment approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to the maximum transit street building setback along SW Capitol Highway, from 20 feet to 30 feet (Zoning Code Section 33.120.220.C). Adjustment approval is for an addition that connects the existing house and garage, and for new additions above and along the south side of the existing garage, per the approved site plans, Exhibits C-1 and C-2 signed and dated March 30, 2016, subject to the following conditions:

A. As part of the building permit application submittal, each of the 4 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 and C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-105022 AD. No field changes allowed."

Staff Planner: Marguerite Feuersanger

Decision rendered by: ______ on March 30, 2016

By authority of the Director of the Bureau of Development Services

Decision mailed: April 1, 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 13, 2016, and was determined to be complete on February 25, 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 13, 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 April 15, 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 5th floor. **An appeal fee of \$250 will be charged**. The appeal fee will be refunded if the appellant prevails. There is no fee

for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

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

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

Recording the final decision.

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

- Unless appealed, The final decision may be recorded on or after April 18, 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:

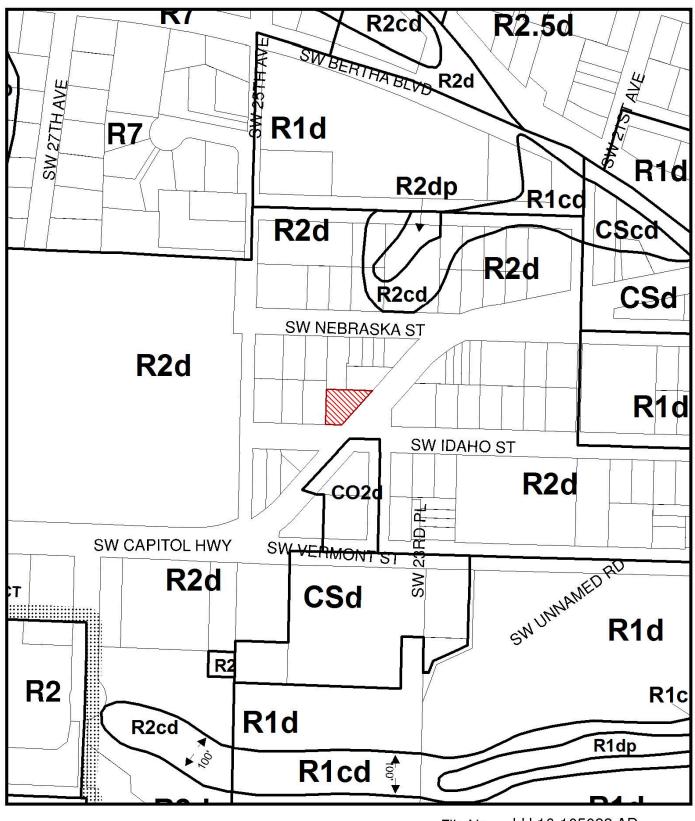
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Proposed Elevations (attached)
 - 3. Foundation/Basement Plan
 - 4. Main Floor Plan
 - 5. Roof Plan
 - 6. Existing Elevations
 - 7. Proposed Sections
 - 8. Proposed Front Elevations
- 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. Site Development Review Section of BDS
 - 5. Fire Bureau
 - 6. Life Safety Plans Examiner of BDS
- F. Correspondence:
 - 1. Wynn Parker, requests sidewalk improvements for the proposal, March 3, 2016
 - 2. Duane Hunting, Interim President of Hillsdale Neighborhood Association, writing in support of the proposal, March 3, 2016
- G. Other:
 - 1. Original LU Application
 - 2. M. Feuersanger and Jeremy Finkle, Bureau of Transportation, staff response to Wynn Parker, March 3, 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

Site

File No. LU 16-105022 AD

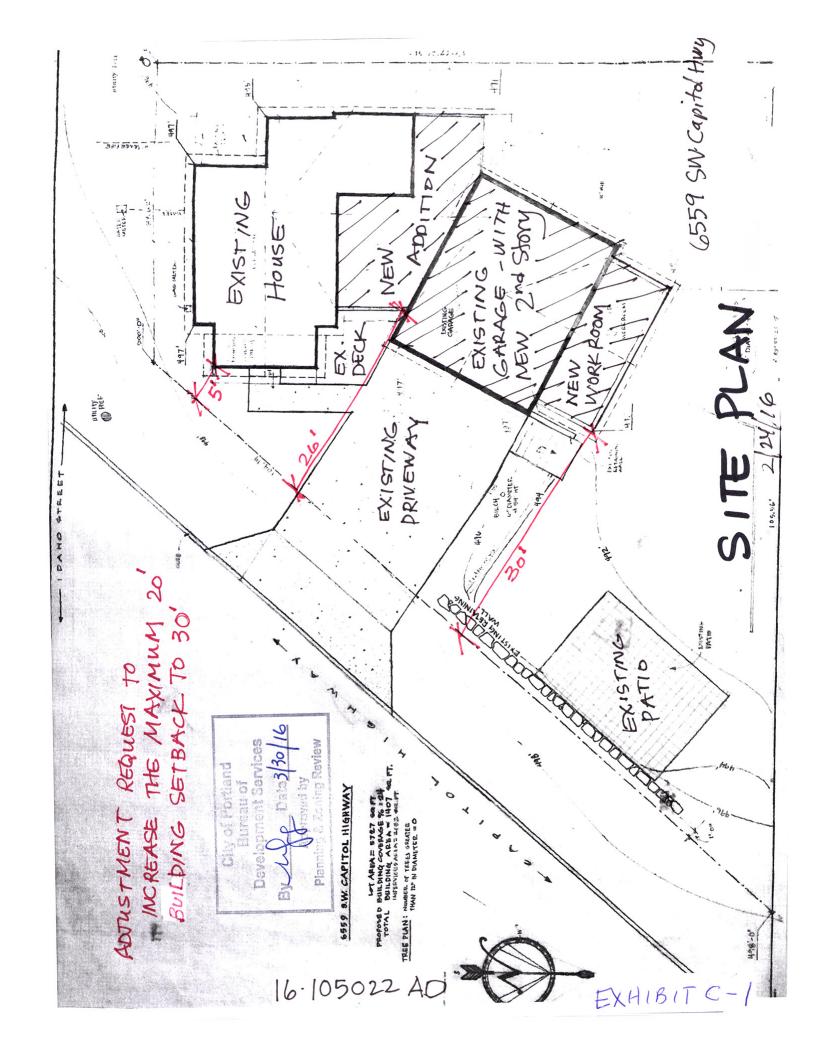
1/4 Section 3627

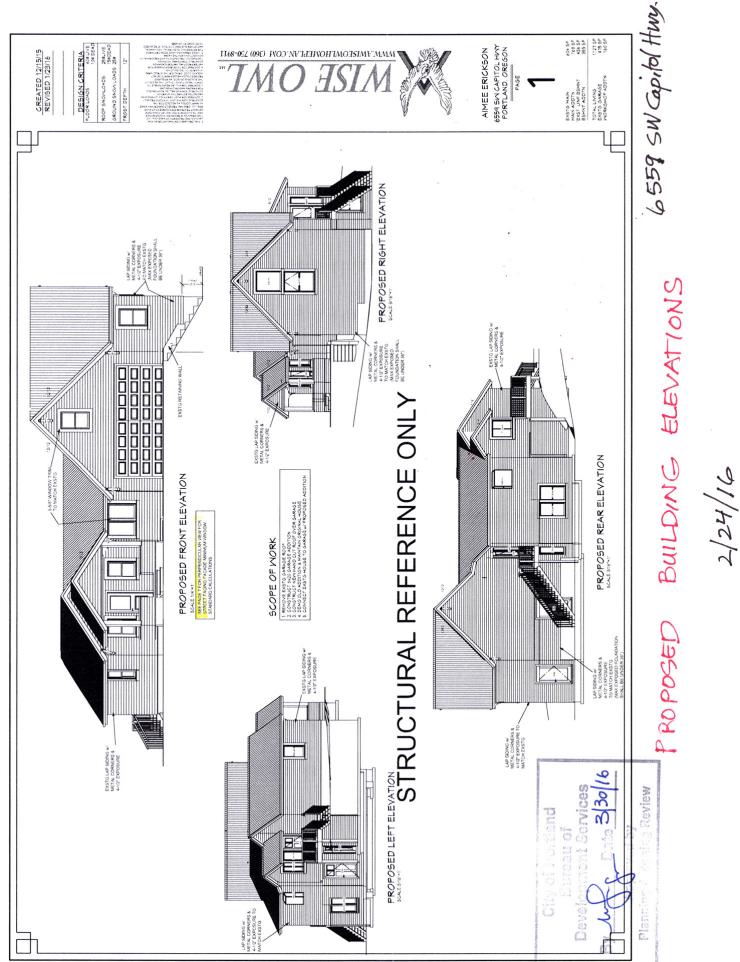
Scale 1 inch = 200 feet

State_Id 1S1E16CC 8000

Exhibit B (Jan 15, 2016)







16.105022AD EXHIBIT C