



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

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Portland, Oregon 97201
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www.portlandonline.com/bds

Date: May 4, 2010
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / kstokes@ci.portland.or.us

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 10-116106 AD

GENERAL INFORMATION

Applicant: J Scott Forrest
8400 NE Alberta St
Portland, OR 97220-4751

Site Address: 8400 NE ALBERTA ST

Legal Description: BLOCK 6 LOT 24, HELENSVIEW & RPLT
Tax Account No.: R374602950
State ID No.: 1N2E21BC 02600
Quarter Section: 2539

Neighborhood: Sumner, contact Joanne Johnson at 503-257-3458.
Business District: Parkrose Business Association, contact Wayne Stoll at 503-284-1921.
District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.

Zoning: R7h (Medium Density Single-Dwelling Residential, with Aircraft Landing (height) Overlay)

Case Type: Adjustment Review

Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The applicant constructed a shed that is located behind the house, in the southeast corner of the property, 3 feet, 5 inches from the east side property line. An older existing shed, a box-like structure that is about 6 to 8 feet tall, is located in the southwest corner of the property and is located with no setback from the rear property line. Structures in the R7 zone are required to be set back a minimum distance of 5 feet from side and rear property lines. Exceptions to these standards may be approved through Adjustment Review, if all of the relevant approval criteria are met, or can be met through conditions of approval. Therefore, in order to legalize the construction of the new shed, as well as the location of the older shed, the applicant is requesting approval of Adjustments to Code Section 33.110.220 B (Table 110-3), to reduce the minimum setback from the east side property line, from 5 feet to 3 feet, 5 inches to the building wall and from 4 feet to approximately 1 foot, 5 inches for the roof eave, for

the new shed, and also to reduce the minimum setback from the rear property line, from 5 feet to zero feet for the older shed.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The applicant's site is a 5,980 square-foot parcel that is located on the south side of NE Alberta Street, approximately midway between the closest intersections, at NE 82nd and NE 89th Avenues. The site is developed with a one-story, single-dwelling residence that was built in 1951. The area around the site is developed with other single-dwelling residences that are generally similar in age and architectural style.

Zoning: The site is zoned R7, Medium Density Single-Dwelling Residential. This zone designation is intended for areas with adequate public services but minor development constraints. Single-dwelling residential will be the primary use. The maximum density is generally 6.2 units per acre or an average of one lot for every 7,000 square feet. Buildings are required to be set back 15 feet from the front property line and 5 feet from side or rear property lines.

The site also has an h" or Aircraft Landing Overlay, which restricts the height of structures in areas that are located under the flight patterns for airplanes that are approaching or departing from Portland International Airport. The regulations of this overlay zone do not effect this proposal.

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 April 6, 2010. The following Bureaus have responded with no issues or concerns. Electronic responses are copied below. Written responses are noted with exhibit numbers:

- Environmental Services (BES) has no objections to the proposed adjustments to the rear and east side property lines, provided that at the time of building permit a discharge point is shown on the utility plans that meets the requirements of the 2008 Stormwater Management Manual requirements. If surface infiltration is proposed, infiltration testing may be required.
- Transportation Engineering stated that the proposed work is estimated at a value that is minimal as compared to the assessed property value. Based on this proposal, no impact to the public transportation system is anticipated, no work is proposed within the public ROW. Transportation has no objection to this adjustment for reduced setback distances. Any additional work outside of the scope of this proposal will need to be assessed for transportation impacts and requirements at the time of submittal (i.e. permitting).
- Water Bureau noted that there are no objections to approval of the requested Adjustment and provided information on existing water service for the site (Exhibit E-1).
- Fire Bureau – no concerns.
- Site Development Section of BDS would have no objection to on-site stormwater infiltration at this location, and would support approval of the proposed Adjustment to setback standards if the applicant meets BES' requirements for stormwater management. Although no cesspool decommissioning requirements will apply to this proposal, the applicant is advised that the property owner was released from the obligation to decommission the cesspool on the property at the time the house was connected to the public sewer system in 1989. Future development may require approval of a decommissioning permit.
- Life Safety Plan Review Section of BDS stated that a permit has been applied for and is currently under review. The applicant is to refer to any permit requirements that are sent in connection with permit review (Exhibit E-2).
- Parks-Forestry Division – no concerns.

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of Adjustments The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. stated below, have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- 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
- 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
- D.** City-designated scenic resources and historic resources are preserved; and
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.
- 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 AND CONCLUSIONS

The applicants' proposal meets all of the relevant approval criteria: *The purposes of building setback requirements are to maintain light, air, separation for fire protection, and access for fire fighting. Setback standards also reflect the general building scale and placement of development in the City's neighborhoods and promote a reasonable physical relationship between residences. They promote options for privacy for neighboring properties and 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.*

The applicants' request is to allow two utility sheds to be located within the required building setbacks. One shed was recently constructed and is located 3.5 feet from the east side setback. The other shed has been on the property for several decades and is located in the rear of the property, with no setback from the rear property line. There will be no impacts on light, air, separation for fire protection or access for fire fighting from this proposal because the shed along the east property line is adjacent to the abutting driveway and the shed that is located at the rear property line is a low profile structure that does not extend significantly above the height of the fence. The sheds are similar to other structures in the neighborhood and so they appear to be compatible with the surrounding development, in regards to the general building scale and placement of development and the reasonable physical relationship between residences. The location of the proposed development will not create any impacts on privacy

for surrounding neighbors because they are located in areas on the lot that have substantial separation from the private areas on the adjacent properties and they will not cause any significant activity that would impact privacy. The proposal will maintain the building's compatibility with the neighborhood and the existing architectural diversity of the area and will not have any effect on the outdoor areas on the site. No cumulative impacts are expected to occur from approval of the requested Adjustments and the proposal is consistent with the purpose of the R7 zone, which is to preserve land for housing and to provide housing opportunities for individual households. There are no scenic or historic resources on this site; and it is not located in an environmental zone, so the criteria related to these issues do not apply. Therefore, all of the relevant approval criteria are met and the proposal can be approved, in substantial compliance with the proposed site plan and elevation drawings.

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.

ADMINISTRATIVE DECISION

Approval of Adjustments to Code Section 33.110.220:

- to reduce the minimum required east side building setback for the "new" utility shed, from 5 feet to 3 feet, 5 inches for the building wall, and from 4 feet to approximately 1 foot, 5 inches for the roof eave, and
 - to reduce the minimum required rear building setback for the "older" shed, from 5 feet to zero feet. Approval is subject to substantial compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-2, signed and dated April 30, 2010 and the following condition:
- 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-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-116106 AD."

Staff Planner: Kathleen Stokes

Decision rendered by:  **on April 30, 2010**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 4, 2010

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 March 4, 2010, and was determined to be complete on April 2, 2010.

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 March 4, 2010.

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 May 18, 2010** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 **May 19, 2010 – (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.

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

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

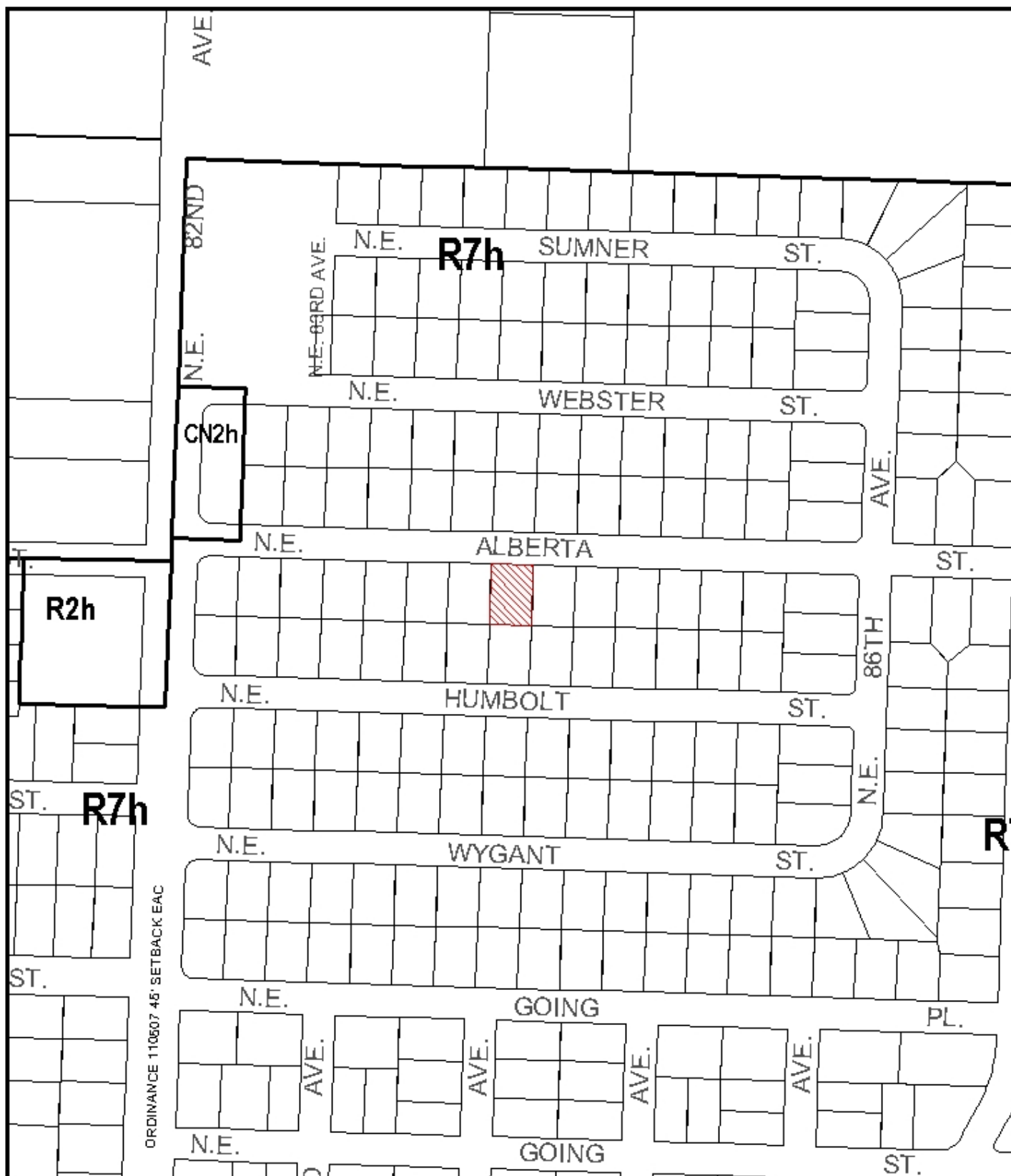
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Life Safety Plan Review Section of BDS
 - 3. Summary of electronic responses from service agencies
- F. Correspondence: (none received)
- G. Other:
 - 1. Letter from Kathleen Stokes to J. Scott Forrest, March 12, 2010

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



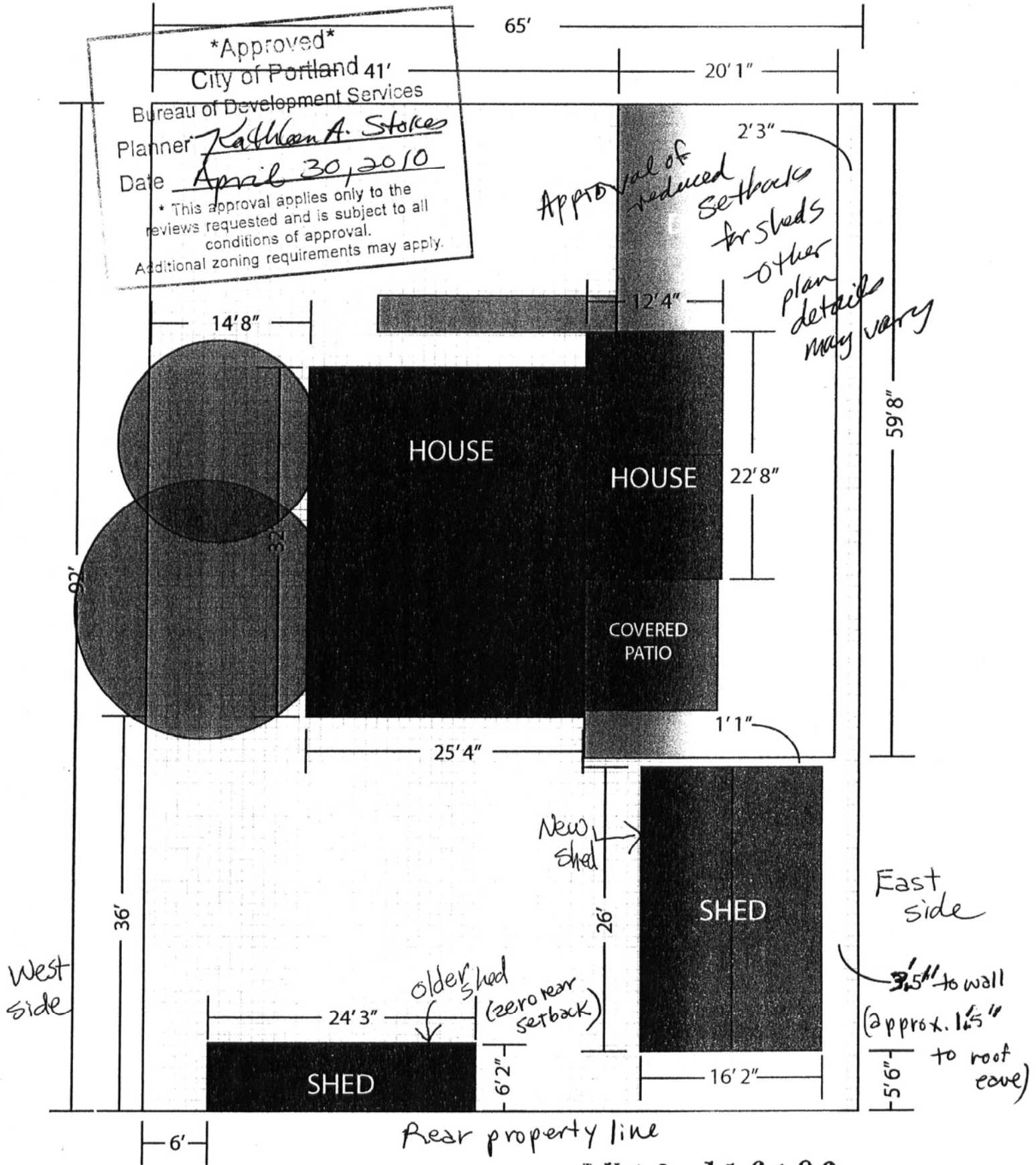
Site



NORTH

File No. LU 10-116106 AD
 1/4 Section 2539
 Scale 1 inch = 200 feet
 State_Id 1N2E21BC 2600
 Exhibit B (Mar 05, 2010)

Approved
 City of Portland 41'
 Bureau of Development Services
 Planner Kathleen A. Stokes
 Date April 30, 2010
 * This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.



LU 10.116106

Exhibit C-1

8400 NE Alberta St.
 Portland OR 97220

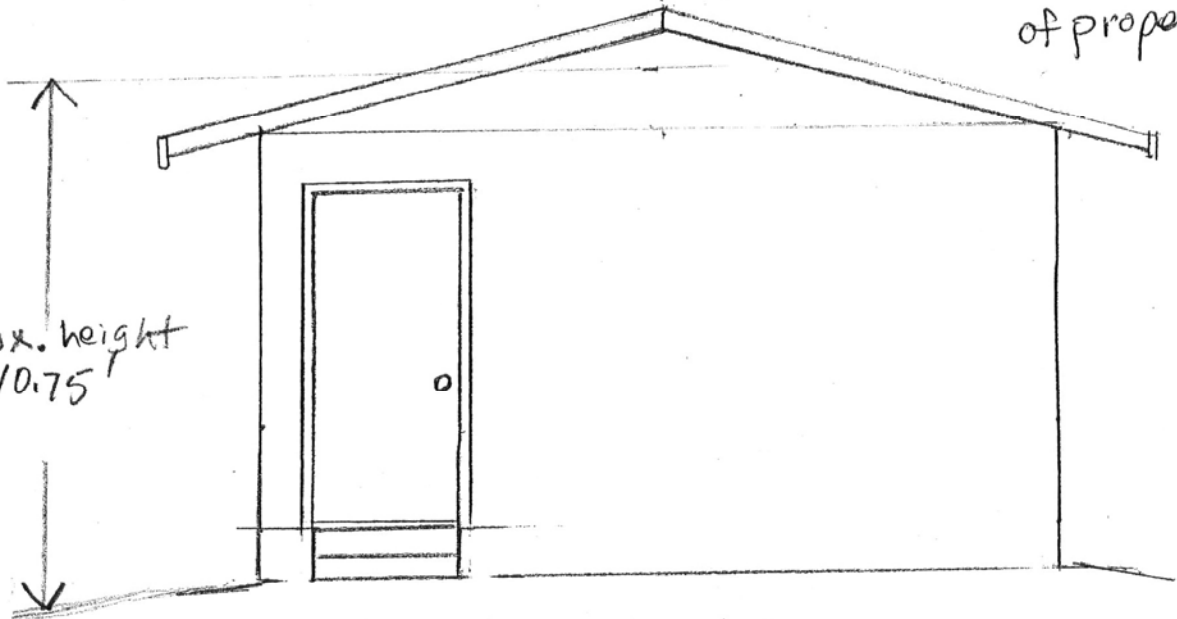
1" = 8'
 Scaled to fit
 Paper Size

N

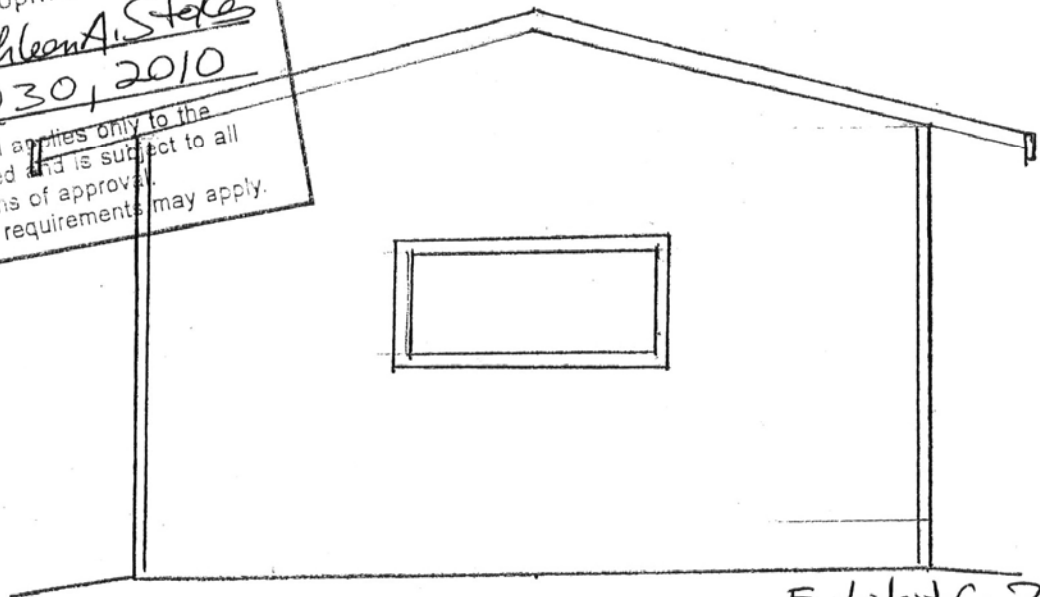
Approval of
reduced setbacks
for sheds

New Shed
(SE corner
of property)

approx. height
10.75'



FRONT ELEVATION



REAR ELEVATION

Exhibit C-2
LU 10.116106



**KRAMER
GEHLEN**
ASSOCIATES

PROJECT

FORREST SHED

CLIENT

SCOTT FORREST

CONSULTING ENGINEERS - STRUCTURAL/CIVIL

400 Columbia St.

360 / 693-1621

Suite 240

503 / 289-2661

Vancouver, WA

Fax: 360 / 696-1572

1/4" = 1'0"

DATE

1-21-10

DESIGN

MH

PROJECT NO.

04-204

SHEET

F1

