



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
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Date: November 21, 2011
To: Interested Person
From: Kathy Harnden, Land Use Services
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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 11-183313 AD

GENERAL INFORMATION

Applicant: Anne Dewolf
Arciform LLC
2303 N Randolph Ave
Portland, OR

Owners: Philip and Paris Schaefer
2900 NE Brazee Ct
Portland, OR 97212-4947

Site Address: 2900 NE BRAZEE CT

Legal Description: BLOCK 4 LOT 14-18, CHARLESTONS ADD
Tax Account No.: R150300440
State ID No.: 1N1E25BD 24200
Quarter Section: 2733

Neighborhood: Grant Park, contact Geoff Hyde at 503-281-4097.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-823-4575.

Plan District: None
Other Designations: None

Zoning: R5 – Residential 5,000, high density, single dwelling residential
Case Type: AD – Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicants propose to construct a 24-foot by 24-foot, L-shaped storage building and garbage enclosure area on the west side of their property, approximately one foot from their

west property line. The structure, as seen from the property to the west, will look much like a wooden fence, approximately 8 feet tall and 25.25 feet long, and will be stained black with a “standing-seam” metal roof. The structure will also screen an existing carport area on the subject property.

This structure will intrude 4 feet into the 5-foot wide side-yard setback area on the property, and the 4-inch eave will be 8 inches from the property line. The adjoining property is a 5-foot wide strip of land, belonging to, and running the length of, the neighboring property located at 2835 NE Brazee Court. Because the neighbor’s house is set back 5 feet from its east property line, and because of the additional 5-foot wide property between 2835 and 2900 NE Brazee Court, the proposed structure will be located 11 feet from the house on the adjacent property.

The Portland Zoning Code, Title 33, requires that accessory structures over 6 feet tall be located a minimum of 5 feet from side and rear property lines in the R5 zone. It also requires eaves to be located at least 4 feet from side and rear property lines. Exceptions to these requirements are approved through Adjustment Reviews if all of the relevant approval criteria are met or if the criteria can be met through conditions of approval. Therefore, the applicant is requesting approval of an Adjustment to Code Section 33.110.220, to reduce the minimum required building setback from the west side property line from 5 feet to 1 foot for the building wall and from 4 feet to 8 inches for the roof eaves of the structure.

The purpose 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.

Relevant Approval Criteria:

To be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The applicants’ site is a 17,094 square-foot parcel located at the end of SE NE Brazee Court. The site is located in a fully developed single-dwelling, residential neighborhood that contains a large array of lot sizes, varying from around 4,000 to over 32,000 square feet. A number of developments in the area have structures built either on property lines or within the setback areas. Garages constructed immediately adjacent to each other, for example, if not common, are at least familiar throughout the neighborhood.

The subject property is developed with a two level, single-dwelling house that was originally constructed around 1937. Although the property is large, all of the development on the site is clustered near the southwest corner of the lot, adjacent to the driveway. The front of the house faces the end of NE Brazee Court and is located about 30 feet from the end of the street. The driveway curves to the north in front of the house, and ends at an existing carport located adjacent to the patio at the north end of the house. The main entrance to the home is also near the north end of the house. The existing carport is about 11 feet from the west property line.

Zoning: The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet. Newly created lots must have a minimum density of 1 lot per 5,000 square feet of site area. The provisions of this zone allow this use.

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 **October 20, 2011**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Urban Forestry Division of Bureau of Parks
- Life Safety

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on October 20, 2011. A total of one written response was received in opposition from a notified property owner in response to the proposal. Concerns expressed were that the structure would be too close to the property line and that the property is large enough to place storage and garbage enclosure area elsewhere on the site. (Staff comment: The approval criteria do not include a requirement that structures be placed outside the setback area if possible.)

ZONING CODE APPROVAL CRITERIA

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

Findings: 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 impacts on light and air from this proposal will not directly impact either the residence on the subject property or the adjacent neighbor to the west of the proposal. There was a 9-foot wide by about 6-foot tall hedge, located partially on both the subject and west neighbor’s property, which provided some screening between the two properties. However, the hedge has been removed to make room for the new storage and garbage enclosure structure.

The roof of the shed structure will be 7 feet high next to the property line, but will slope up to 8 feet, 2 inches at the front, or east side of the structure. The structure will provide privacy to both the applicants and to the west side neighbor as it will screen the site’s existing carport, garbage storage, and outdoor living areas from view. Its appearance from the west neighbor’s view will be that of a sight-obscuring wooden fence, although the very top of the existing carport will still be visible above the new structure’s roof line. (An eight-foot tall fence is allowed within this side setback.)

Further, there will be adequate fire protection from this proposal because the garage must have a one-hour fire-rated construction on the west side per the City’s Building Code.

Conclusions: As discussed above, this proposal will have no direct impacts to light and air,

or to fire safety. 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 in a residential zone; therefore, the second half of the above criterion does not apply. The proposed structure will have little impact on the surrounding neighborhood. The outside wall will have the appearance of a wooden fence and will be stained black to further diminish its appearance. It will be located approximately 32 feet north of the existing driveway along a 150-foot long property line. It will also be located about midway along the north façade of the adjacent neighbor's home, and well out of site from this neighbor's entryway and driveway. The structure will be visible from the end of NE Brazee Court, which dead ends in a circle turn around at the entrance to the subject property. Further, none of the adjacent neighbors commented on the proposal.

Conclusions: Based on the above, this criterion is met.

- C.** If more than one adjustment is being requested, the cumulative affect of the adjustments results in a project which is still consistent with the overall purpose of the zone;

Findings: Only one adjustment is requested.

Conclusions: Therefore, this criterion does not apply.

- D.** City-designated scenic resources and historic resources are preserved; and

Findings: There are no scenic or historic resources on the site.

Conclusions: Therefore, this criterion does not apply.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.

Findings: No impacts have been identified from the proposed adjustment, provided that the structure meets fire code regulations, as noted above.

There are no discernible land use impacts that would result from granting the requested adjustment.

Conclusions: Because no land use impacts were identified from the proposed storage structure, 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 located within an environmental zone.

Conclusions: Therefore, 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

All of the relevant approval criteria have been met. The applicant has minimized impacts by designing the outside of the structure to look like a typical fence between properties and will paint the structure black to further diminish its appearance. All of the relevant approval criteria are met and the proposal can be approved, in substantial conformance with the proposed site plan and elevation drawings, per LU 11-183318 AD.

ADMINISTRATIVE DECISION

Approval of a proposal to construct a storage shed and garbage enclosure area within the west side setback (33.110.220), per the approved site plans, Exhibit C.1 and C.2, signed and dated November 17, 2011.

Staff Planner: Kathy Harnden

Decision rendered by:  on November 17, 2011.
By authority of the Director of the Bureau of Development Services

Decision mailed: November 21, 2011

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on October 6, 2011, and was determined to be complete on October 19, 2011.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on October 6, 2011.

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 requested that the 120-day review period be extended for a period of 5 days. Unless further extended by the applicant, **the 120 days will expire on: February 21, 2012.**

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 by December 5, 2011** 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. 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 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 **December 6, 2011 – (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.

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.

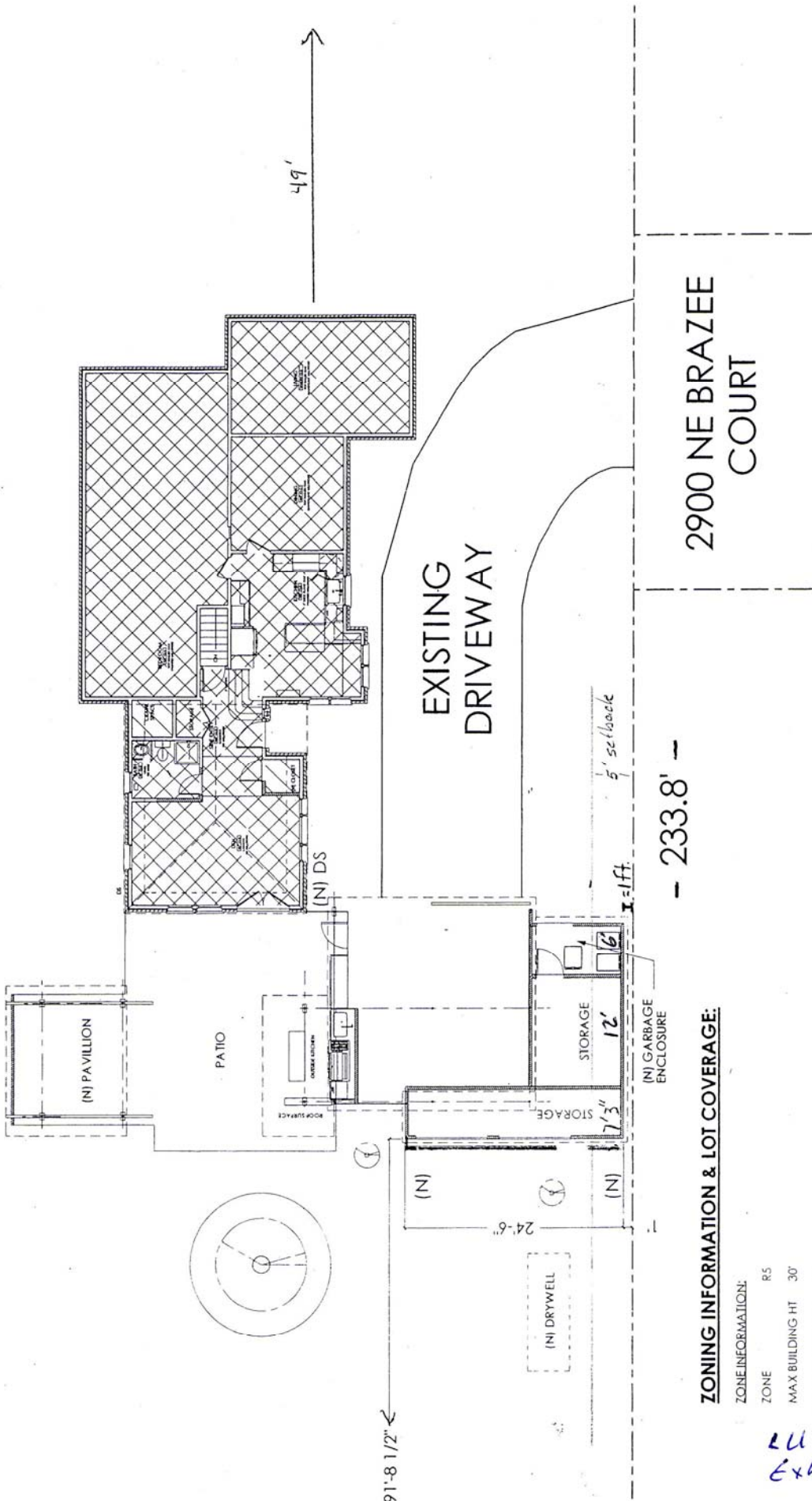
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Original narrative
 2. Supplemental Narrative, received October 14, 2011
 3. Applicant's request to extend the review period, dated November 16, 2011
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Building Elevations (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Water Bureau
 3. Life Safety Plan Review Section of BDS
- F. Correspondence:
 1. Douglas E. and Ann A. Ferguson, November 1, 2011, in opposition to the proposal
- G. Other:
 1. Original LU Application

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





ZONING INFORMATION & LOT COVERAGE:

| | |
|---|-------------|
| ZONE INFORMATION: | |
| ZONE | R5 |
| MAX BUILDING HT | 30' |
| SETBACKS | FRONT 10' |
| | SIDE 5' |
| | REAR 5' |
| LOT COVERAGE = 2,250 SF + 1.5% AREA OVER 5,000 SF | |
| LOT COVERAGE INFORMATION: | |
| LOT AREA = | 17,094 SF |
| MAX ALLOWABLE COVERAGE = 2,250 + 2564.1 (17,094 x 15%) = 4814.10 SF | |
| (E) COVERAGE = | |
| RESIDENCE = | 1,824.65 SF |
| CARPORT = | 558.21 SF |
| TOTAL (E) = | 2382.86 SF |
| PROPOSED (N) = | |
| OUTDOOR KITCHEN = | 119.84 SF |
| SHED & STORAGE = | 295.00 SF |
| PAVILLION = | 243.00 SF |
| TOTAL (N) = | 657.84 SF |
| AVERAGE (E) + (N) = | 3040.70 SF |

Approved
 City of Portland
 Bureau of Development Services
 Planner S. Harnden
11/17/11

LU 11-188313 AD

LU 11-188313 AD
 Exhibit: C.1



ARCIFORM
2001 S. HANCOCK BLVD
PORTLAND, OR 97212
MAIN 503.493.7344

ON CCB H2C 11/1/11
W/101-183313 AD

PARIS & STANDARD SCHAEFER
2900 NE BRAZEE COURT
PORTLAND, OR 97212

PAGE TITLE:
(N) OUTDOOR
KITCHEN,
CARPORT & (N)
SHED ELEVATIONS

JOB NO.: 110220

DESIGNER:
ANNE DE WOLF

DATE: 8.16.11
CONSTRUCTION SET

REVISED: 10.05.11
ADJUSTMENT
SUBMITTAL

PAGE NO.:

A3.3

GENERAL NOTES
ALL DIMENSIONS ARE
FURNISHED UNLESS
NOTED OTHERWISE
NOTES ON THIS SHEET
APPLY TO THIS
SHEET

1. HIDE GUTTER
W/ FASCIA

2. RAIN CHAIN
DOWNPOUT

3. OUTLET BELOW
EAVE

HARDWARE NOTES
BLACK GATE
HARDWARE
CONNECTIONS TO MATCH
ATTACHMENT ON
PRIVATE SCREEN -
PASSION

2. BLACK FLATBACK
HARDWARE - SEE
SPEC FOR STYLE

3. BLACK BYPASS FLAT
BACK HARDWARE - SEE
SPEC FOR STYLE

CABINET NOTES
COUNTER MATERIAL TBD

CABINET DETAILS
WITH CLEAF & SIE

2. 1/2" X 1/2" X 1/2"
HIDE HOOD ROOF

FINISH NOTES
STANDING SEAM METAL ROOF
TYPICAL COLOR TBD

1. BOARD & BATTEN
PANEL SURFACE
STAINED BLACK, 1/4"
BATTENS & 2" OC

2. SCREEN WALL, SEE
PHOTOS ON A3.1

3. 1/2" X 1/2" X 1/2"
COUNTER

4. 5/4" THICK WOOD
OR STAINLESS 3/4"
AFF. SUPPORTED

5. 1/2" X 1/2" X 1/2"
EAVE & ABOVE (N)

MILLWORK NOTES
5/4" X 4" CASING STAINED
BLACK

BOX FRAMING W/ CEDAR

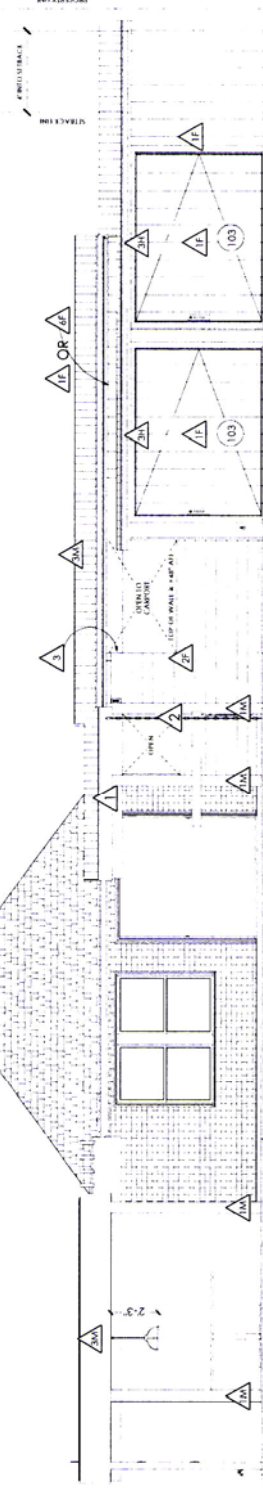
6. 1/2" X 1/2" POST BOX

BOX MEASUREMENTS
BE LESS THAN POST
BOX WIDTH IF MAX
WIDTH

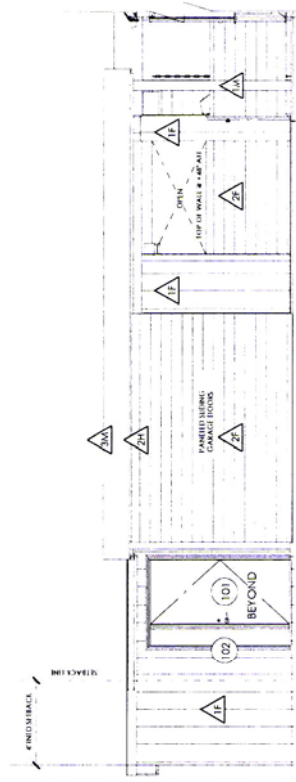
7. 1" FASCIA TO 1/4"
BELOW CERING
TOP EDGE TO TUCK
BELOW POST
BOX FRAMING
NOT DRAWN TYP

DOORS

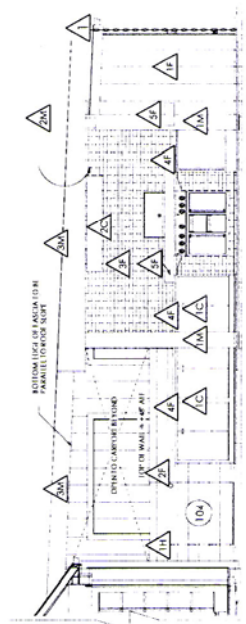
100 DOOR



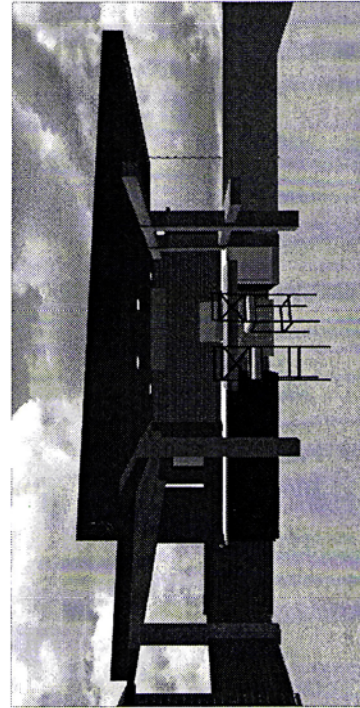
A OVERALL ELEVATION - NORTH
SCALE: 1/4" = 1'-0"



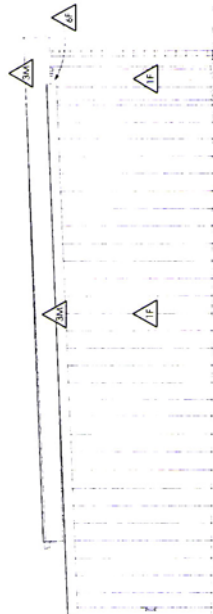
B CARPORT & (N) SHED ELEVATION - SOUTH
SCALE: 1/4" = 1'-0"



C (N) OUTDOOR KITCHEN, CARPORT & (N) SHED ELEVATION - EAST
SCALE: 1/4" = 1'-0"



D PERSPECTIVE
NO SCALE - CONCEPTUAL ONLY



E CARPORT & (N) SHED ELEVATION - WEST
SCALE: 1/4" = 1'-0"



Case No: 11-183313 AD
Exhibit: C.2

LU 11-183313 AD