



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

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Portland, Oregon 97201
503-823-7300
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TTY 503-823-6868
www.portlandonline.com/bds

Date: March 14, 2011
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / Kathleen.Stokes@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 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 11-100690 AD

GENERAL INFORMATION

Applicant: C Richard Adelman, III and Rebecca M Adelman
5118 SW Lowell St
Portland, OR 97221-2056

Site Address: 5118 SW LOWELL ST

Legal Description: BLOCK 2 LOT 7, ORCHARD PK
Tax Account No.: R630100490
State ID No.: 1S1E07DC 01600
Quarter Section: 3424

Neighborhood: Bridlemile, contact Karen Tabata at 503-292-4377.
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: R10 (R10,000, Low Density Single-Dwelling Residential)

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

Proposal: The applicants constructed an 8 by 12-foot shed in the southeast corner of their property. The shed is located 2 feet from the east property line and 6.5 feet from the south or rear property line. The shed has one-foot roof eaves and a trellis is proposed on the south side that will project approximately 3 inches from the building wall. The Portland Zoning Code, Title 33, requires accessory structures that are over 6 feet tall to be located a minimum of 10 feet from the side and rear property lines in the R10 zone. Eaves may project up to 8 feet from these property lines.

Exceptions to these regulations are approved through Adjustment Reviews if all of the relevant approval criteria are met or can be met through conditions of approval. Therefore, the applicants request approval of Adjustments to Code Section 33.110.220, to reduce the required setbacks for the structure:

- from 10 feet to 2 feet from the east side property line, for the building wall, and from 8 feet to one foot, for the roof eave, and
- from 10 feet to 6.5 feet from the south or rear property line, for the building wall, and from 10 feet to a distance that is between 6 to 6.25 feet for the trellis, and from 8 feet to 5.5 feet for the roof eave.

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 applicants' site is a 10,080 square-foot lot that is located on the south side of SW Lowell Street, one lot to the east of the intersection with SW 52nd Avenue. The property is developed with a single-story, single-dwelling residence that was constructed in 1948. The area around the site is developed with other single-dwelling structures, in a variety of sizes and architectural styles. Homes that front onto the same block on SW Lowell were generally built in the late 1940s. Homes to the south of the applicants' site, which front onto the SW 51st Place cul-de-sac, are part of a development that was mainly built in 1964 and 1965.

Zoning: This site is zoned R10, Low Density Single-Dwelling Residential. This zone is intended for areas with public services but which are subject to significant development constraints. Single-dwelling residential is the primary use. The maximum density is generally 4.4 units per acre.

Land Use History: City records include the following prior land use review for this site:

LUR 99-00153 AD (aka LU 99-016568) Approval of a 1999 Adjustment to reduce the minimum side building setback to 6 feet for a proposed building addition.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **February 10, 2011**. The following Bureaus have responded with a statement of "no concerns." Agencies that provided written responses are noted with an exhibit number:

- Environmental Services
- Transportation Engineering
- Water Bureau noted that there are no objections and provided information on the water service that exists for this property (Exhibit E-1).
- Fire Bureau
- Site Development Section of BDS
- Life Safety Plan Review Section of BDS noted that structures of this size that are not over 10 feet tall do not require a building permit (Exhibit E-2).
- Parks-Forestry Division

Neighborhood Review: Six written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. Five of these responses were in support of approving the requested Adjustments and one was in opposition. The letters that were in favor stated that the shed has a sensitive and attractive design, that it will have no adverse impacts and is both aesthetically and environmentally sound and is small and located in an area with no negative impacts, due to the slope of the terrain and the surrounding landscaping. One of the letters especially praised the proposed use of rain barrels to manage storm water runoff (Exhibits F-1 through F-5).

The letter that was in opposition stated that the structure is located directly behind the backyard of the respondents' home and that it significantly detracts from the livability and physical appearance of the view from their backyard. They further stated that the shed impacts their privacy, as well as the visual aesthetics of their backyard and maintained that approval of the adjustments would have a cumulative effect that would be inconsistent with the

purpose of the R10 zone and would devalue their property. They specifically objected to the rain water barrels and their distance from the common property line (Exhibit F-6).

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

Findings: *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.*

The accessory storage structure is located 2 feet from the east side property line and 6.5 feet from the rear property line. The building is small in size, 8 by 12 or 96 square feet, with walls that are about 7 feet tall and a maximum height of 10 feet at the roof peak. The neighbor who lives in the residence to the east wrote a letter in support of approving the requested adjustments, stating that she did not feel that the structure created any negative impacts on her property. The residents who own the property that abuts the rear property line, to the south, wrote a letter in opposition. The portion of the shed that faces their property is the narrow, 8-foot-wide side wall, which is proposed to be largely covered with a trellis that will support a vine, if the project can be completed according to the applicants' plan. The shed is located to the north of these neighbors and is also located on a lower grade level so it will not have any impacts on light or air. While this structure is small enough that it does not require a building permit, the 6.5-foot distance from the south property line is more than twice the distance that would be required for the separation of structures to meet the Fire Code. Since there are no openings on this wall and the wall faces a 6-foot tall fence, there are no impacts on privacy. Placing a small shed in the corner of a lot is a common practice in Portland neighborhoods. In most single-dwelling zones, single garages are allowed to be located, by right, in side and rear setbacks. The style of the shed includes attractive architectural details and is not imposing in size or visual effects. Additional screening that will be provided by the proposed trellis and vine, plus a condition of approval which will require evergreen shrubs to be planted between the south wall of the building and the adjacent property line, will address the concerns raised in opposition to the proposal. Therefore, with this condition, the purposes of the regulation are equally fulfilled and this criterion can be 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 shed is attractive and is quite small in size. The east side, that is closest to the property line, is completely acceptable to the adjacent neighbor. The south side of the building is only 8 feet wide, with 7-foot-tall walls that abut a 6-foot-tall fence. That building wall and the gable end, which rises to a peak of 10 feet, will be predominantly covered with a trellis and vine. The shed will not be used for any activities that would impact the livability of the adjacent neighbors, as it is proposed for storage of household items, such as gardening tools. The shed would be allowed without approval of an adjustment to the rear setback, if it were moved just 3.5 feet farther from the south property line. Nevertheless, a condition of approval will require additional screening, to address the concerns expressed by the neighbors to the south. With this condition, there is not expected to be any negative impact on the livability or appearance of the residential area and so, this criterion can be 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: Two Adjustments have been requested. However, staff finds that the impacts from approval of the Adjustments will not be cumulative, due to the modest size and residential architectural elements that have been incorporated into the design of the shed. The purpose of the R10 zone is to preserve land for housing and to provide housing opportunities for individual households. The shed provides storage as an accessory structure to the primary residential dwelling structure that is located on this site. Therefore, this criterion is met.

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

Findings: There are no scenic or historic resources on the site. Therefore, this criterion does not apply.

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

Findings: The applicants have proposed a vegetative screen on the south building wall, by incorporating a trellis and planting a vine. Staff has determined that a condition of approval will require additional screening, with a requirement to plant evergreen shrubs between the south building wall and the adjacent property line. With this condition, any impacts that have been perceived to occur can be mitigated and this criterion can be 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 in an environmental zone. 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

The requested adjustments can meet all of the relevant approval criteria. The small size and attractive appearance of the shed, coupled with the proposed screen and a requirement for additional planting of vegetative screening on the south side of the building will ensure that any potential impacts are mitigated and the plans can be approved, subject to the aforementioned conditions of approval.

ADMINISTRATIVE DECISION

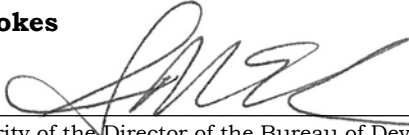
Approval of Adjustments to Code Section 33.110.220 for the proposed shed:

- to reduce the required setbacks for the structure, from 10 feet to 2 feet from the east side property line, for the building wall, and from 8 feet to one foot, for the roof eave, and
- to reduce the required setback from the south or rear property line, from 10 feet to 6.5 feet for the building wall, and from 10 feet to a distance that is approximately 6 to 6.25 feet for the trellis, and from 8 feet to 5.5 feet for the roof eave.

Approvals are subject to general compliance with the approved site plan and elevation drawings, Exhibits C-1 through C-2 signed and dated March 10, 2011, and to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 11-100690 AD ." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Evergreen shrubs must be planted in the area between the rain barrels and the south property line. The shrubs must be an acceptable species, according to the Portland Plant List, and must be of a type that will be at least 6 feet tall at maturity. The shrubs must also be of a type that will not grow to a height that interferes with the utility easement that was reported to exist in this general area of the property. The plant species must be specified on the building plans, in order to determine that it will comply with this condition.
- C. The vine that is proposed for the trellis on the south wall of the structure must be an evergreen species that is found to be an acceptable species, according to the Portland Plant List. The plant species must be specified on the building plans, in order to determine that it will comply with this condition.

Staff Planner: Kathleen Stokes

Decision rendered by:  **on March 10, 2011**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 14, 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 January 4, 2011, and was determined to be complete on **February 7, 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 January 4, 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 did not waive or

extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: June 8, 2011.**

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 March 28, 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 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 **March 29th – (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:

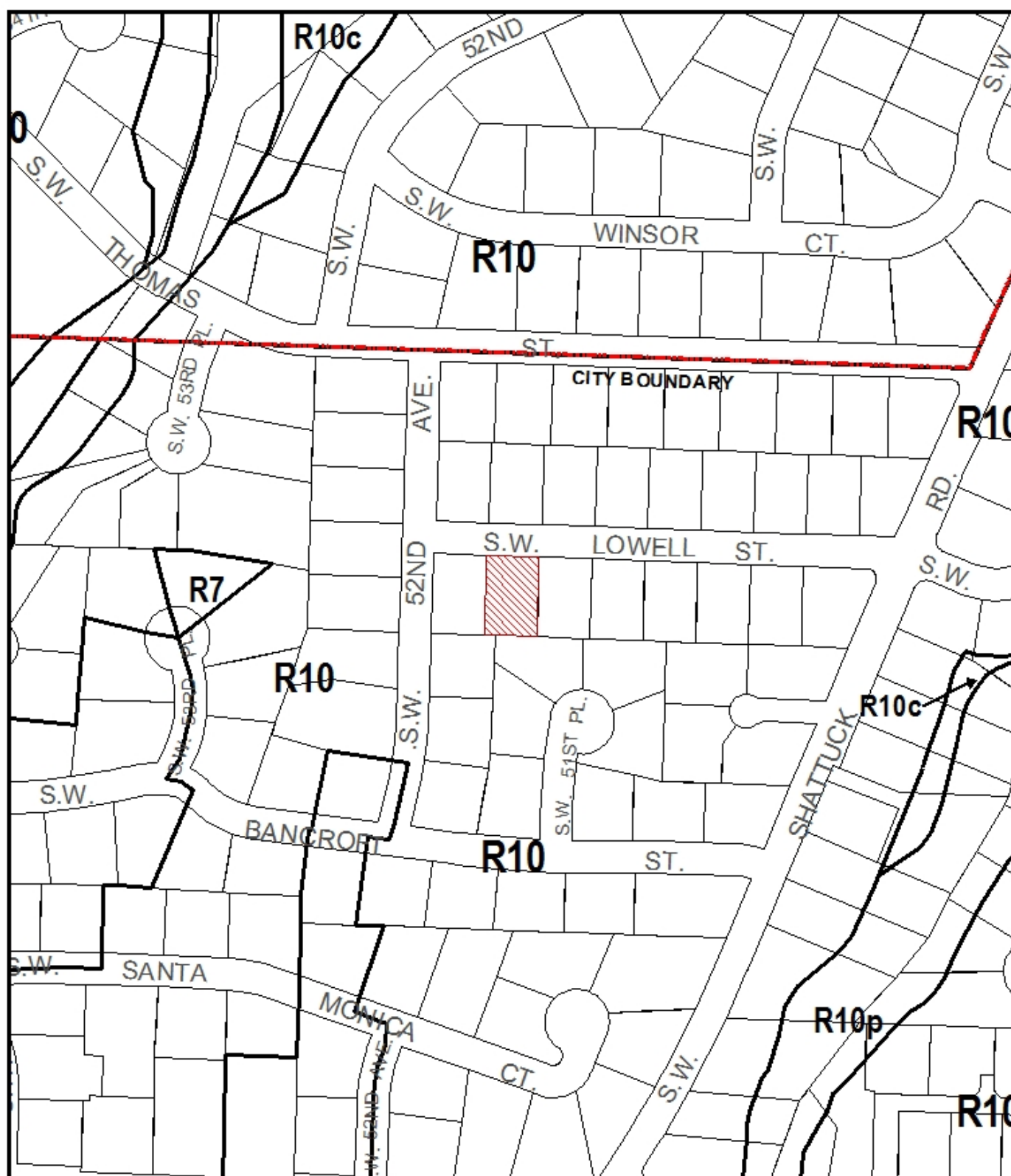
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Application and original narrative and plans
 - 2. Supplemental information, submitted February 4, 2011
- 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 City agencies
- F. Correspondence:
 - 1. Holly Hendricks
 - 2. Larry McCarty
 - 3. Mrs. Gladys Hall
 - 4. Evelyn Rogers
 - 5. Sally and Jerry Fish
 - 6. Jim and Jenny Gilbert
- G. Other:
 - 1. Site History Research
 - 2. Letter from Kathleen Stokes to C. Richard Adelman, January 14, 2011

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 11-100690 AD |
| 1/4 Section | 3424 |
| Scale | 1 inch = 200 feet |
| State_Id | 1S1E07DC 1600 |
| Exhibit | B (Jan 06, 2011) |

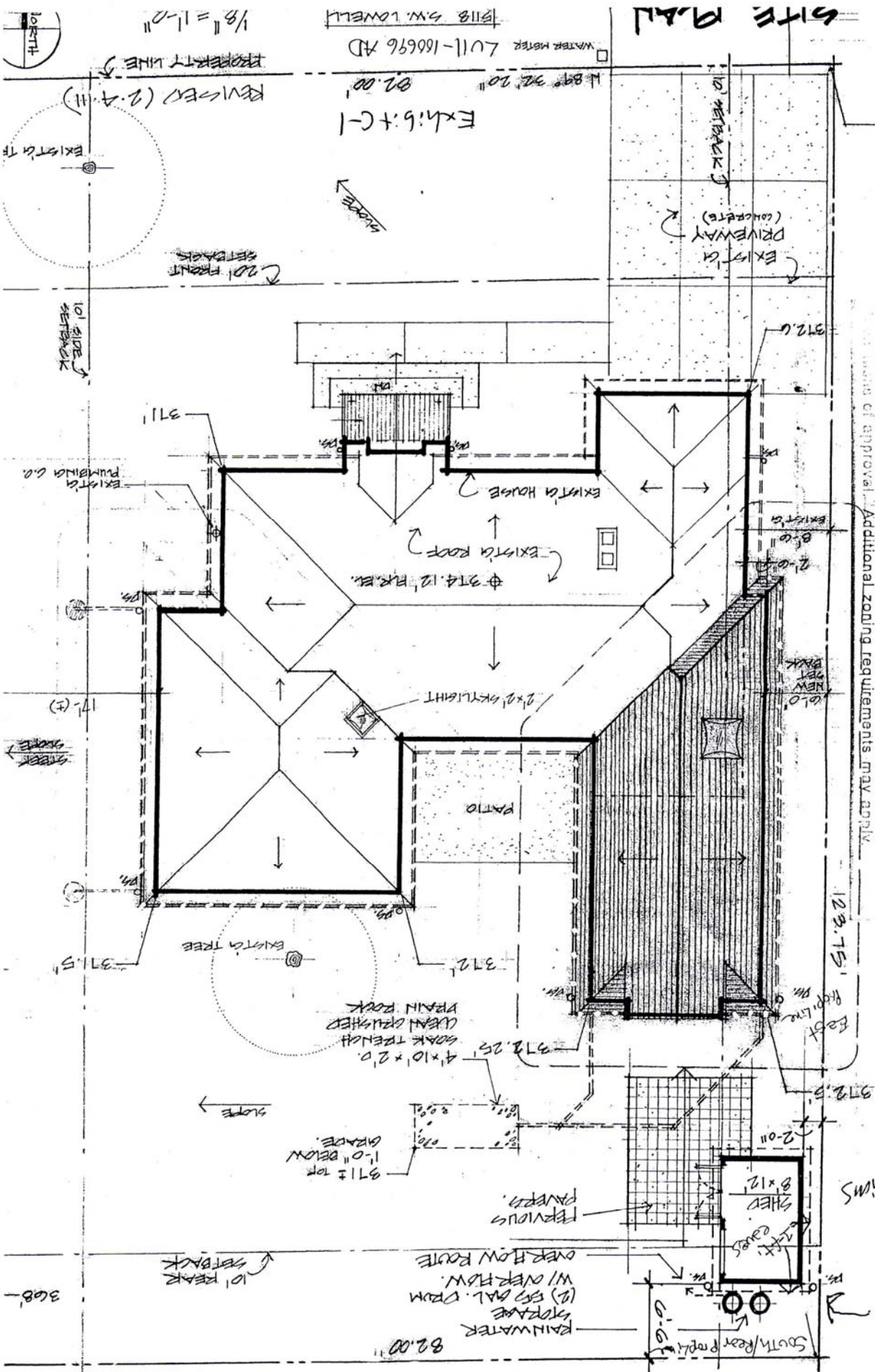
City of Portland - Bureau of Development Services

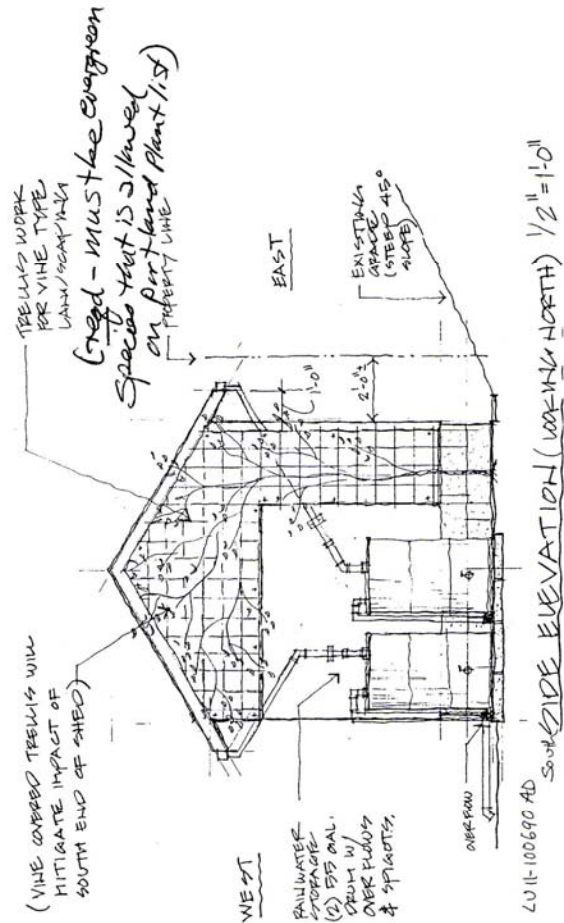
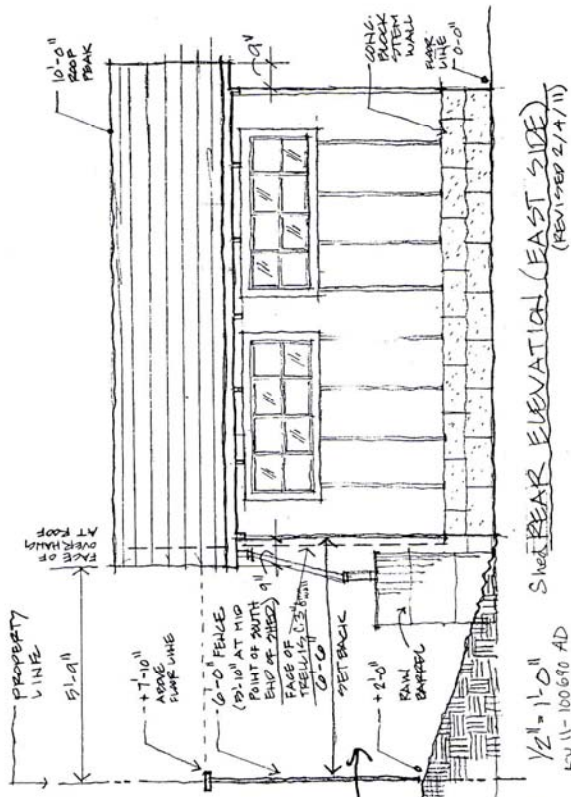
Date March 10, 2011

Additional zoning requirements may apply.

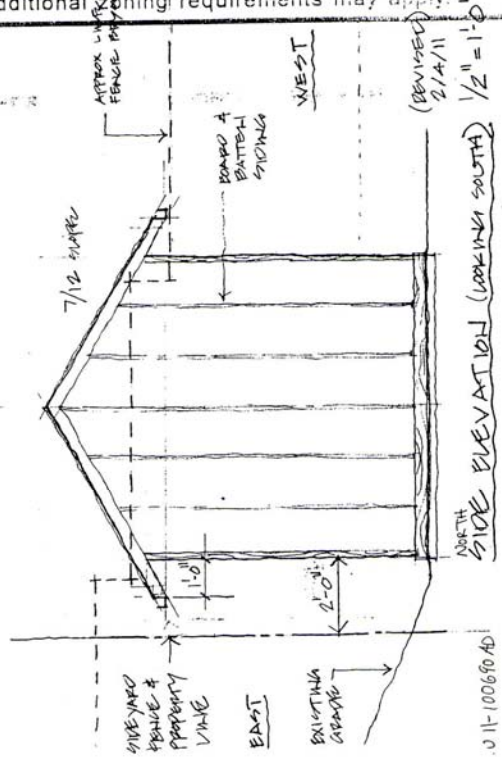
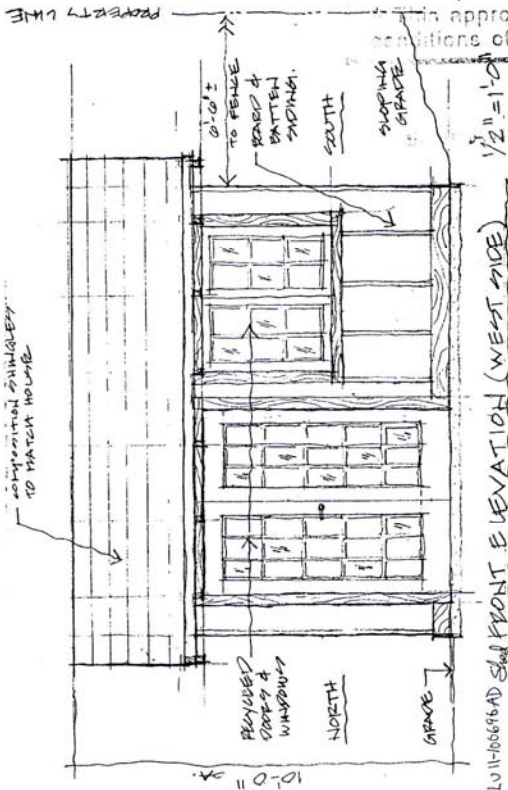
B3C
for
Screening
Tests.

Approved to
get back
for shed
(mud)





LVL 100690 AD Exhibit C-2



Approved
City of Portland - Bureau of Development Services

Kathleen A. Stokes Date March 10, 2011

This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

existing
slab
per
condition B