



City of Portland
Bureau of Development Services
Land Use Services Division

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Portland, Oregon 97201
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www.portlandonline.com/bds

Date: September 9, 2008
To: Interested Person
From: Ronda Fast, Land Use Services
(503) 823-7839 / FastR@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 08-142763 AD

GENERAL INFORMATION

Applicant/Owner: Hamish and Catherine Rickett
6210 SE 32nd Ave
Portland, OR 97202-8505

Site Address: 6210 SE 32ND AVE
Legal Description: S 30' OF LOT 11 & N 35' OF LOT 12 BLOCK 40, EASTMORELAND
Tax Account No.: R231510160
State ID No.: 1S1E13DC 13600
Quarter Section: 3634
Neighborhood: Eastmoreland, Kathy Ten Pas at 503-771-0010.
District Coalition: Southeast Uplift, Cece Hughley Noel at 503-232-0010.
Plan District: Eastmoreland
Zoning: R5, Single-Dwelling Residential 5,000
Case Type: AD, Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal: The applicants are requesting an Adjustment in order to build a new shed 1' 4" and 1' 6" from the side and rear property lines at its closest point (with eaves no greater than 2"). An existing shed was located in approximately the same location until 2005 when it was torn down. The new shed is proposed to be pentagon-shaped with 8' long sides along the side and rear property lines. The structure is proposed to be approximately 9 feet tall, measured to the average height of the highest gable. Because the site is zoned R5, the required setback for storage sheds greater than 6 feet in height is 5 feet (33.110.250.C). The applicant requests an Adjustment to Section 33.110.220 and Table 110-3 of the Zoning Code to reduce the side and rear (north and east) setback for the shed from 5' to 1' 4" at its closest point (with eaves no greater than 2").

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805.040.A-F of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The site is located south of Reed College in the Eastmoreland Neighborhood and Plan District. The 6,825 square foot lot is developed with a single-dwelling home and attached garage. The site slopes up from the street slightly but is flat for the remainder including the area where the shed is proposed in the back yard. The colonial-style home was built in 1940 and is similar in character to other homes in the neighborhood. Many homes in the vicinity of the site are developed with detached garages in side or rear setbacks.

Zoning: The Zoning on the site is R5, a single-dwelling residential zone with a maximum density of 1 unit per 5,000 square feet of site area. The single-dwelling zones are intended to preserve lands for housing and to provide housing opportunities for individual households. The Eastmoreland Plan District is characterized by homes with larger than normal street/front setbacks.

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 **July 23, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Bureau of Parks-Forestry Division
- Life Safety/Plan Review Section of BDS

The Bureau of Environmental Services and the Site Development Section of BDS both responded with advisory comments regarding on-site stormwater management requirements for permit review. On-site stormwater management, in accordance with the Stormwater Management Manual (SWMM), must be provided on the site (Exhibit E-1 and E-2).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 23, 2008. A total of four written responses have been received from notified property owners in response to the proposal. Three responses were in support of the proposal and one in opposition.

The letter in opposition identified concerns with access to their fence for maintenance purposes and drainage concerns. They noted that a large tree on an abutting property creates a large amount of debris which “will be falling on the roof of the proposed pavilion as well as around it, including between the building and our fence.” They also note that access “would be difficult for a Fire Fighter or Emergency Personnel”. They request a compromise of 3 feet to create a safe fire zone between the two properties.

Staff note: Maintenance of the fence and clean-up of the debris from the tree are civil issues. A Zoning Permit will be required to ensure that zoning code requirements are met. The applicants are required to meet the requirements of the Stormwater Management Manual at time of Zoning Permit review. Additionally, the Fire Bureau and the Life Safety/Plan Review Section of BDS responded to the proposal with no concerns. Further discussion of these comments are incorporated into the findings below.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (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

The setback regulations for buildings and garage entrances serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of houses in the city's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- They 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; and
- They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.

Findings: The proposed shed will be located slightly east of a previous shed that was demolished in 2005. The new shed is proposed 1'-6" from the north (side) property line and will range between 1'-4" and 2'-5" to the east (rear) property line. The proposed shed has 8-foot long walls along the side and rear property lines, is pentagonal-shaped, and will be approximately 60 square feet in size. The average height of the shed will be approximately 9 feet tall and only a small section of the hipped roof (no more than 1 foot) will likely be visible to the rear-yard neighbors due to an existing 6-foot tall fence that sits on top of a 1-2 foot high retaining wall along the rear property line.

Light, air and fire separation will not be compromised by placing the 60 square foot shed 1'-4" from the property lines at its closest point. A large amount of open space is still preserved in the back yard and access around the building is feasible from either side. The 60 square foot shed has much less impact than a detached garage potentially up to 24' by 24' in dimension (up to 576 square feet) that would be allowed with a zero setback along the same property lines. Additionally, the scale of the proposed shed is considerably less than detached garages commonly seen in the neighborhood.

The uninhabited shed will be a considerable distance from other buildings and will not impact privacy for neighboring properties. Fences and established vegetation adequately screens the building from abutting properties. Also, the design of the structure and the quality of the materials used are comparable with the house and the general neighborhood.

The shed does not impact the front yard or the parking area on the site so the 4th and 7th bullet points above are not applicable. However, all applicable criteria are 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 design of the proposed shed is consistent with the style of the house, is located at the far back corner of the lot, and will likely not be seen by passersby due to the placement of existing structures and well-established vegetation on the applicant's site. It is not anticipated that the small shed structure will detract from the livability or appearance of the residential area. Therefore, 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: One adjustment is being requested, 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 preserved on this site. Therefore, this criterion does not apply.

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

Findings: No impacts are anticipated to result from the adjustment so no mitigation is required. This criterion is not applicable.

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 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.

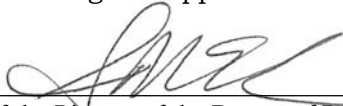
CONCLUSIONS

The applicant requests approval of an Adjustment to Zoning Code Section 33.110.220 and Table 110-3 to allow a new shed 1'-4", at its closest point, along the side (north) and rear (east) property lines. The applicant has demonstrated that all of the approval criteria are met. The applicant is required to obtain a Zoning Permit to verify that the proposal matches this land use review approval. With this condition, the request can be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the side and rear setbacks (Section 33.110.220 and Table 110-3) for a shed from 5 feet to 1'-4" at its closest point, per the approved plans, Exhibits C-1 through C-2, signed and dated September 9, 2008, subject to the following conditions:

- A. As part of the zoning 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 08-142763 AD."

Decision rendered by:  **on September 9, 2008.**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 9, 2008
Staff Planner: Ronda Fast

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 July 2, 2008, and was determined to be complete on July 22, 2008.

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 July 2, 2008.

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 September 23, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., 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 contact the receptionist at 503-823-7967 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 **September 24, 2008 – (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:

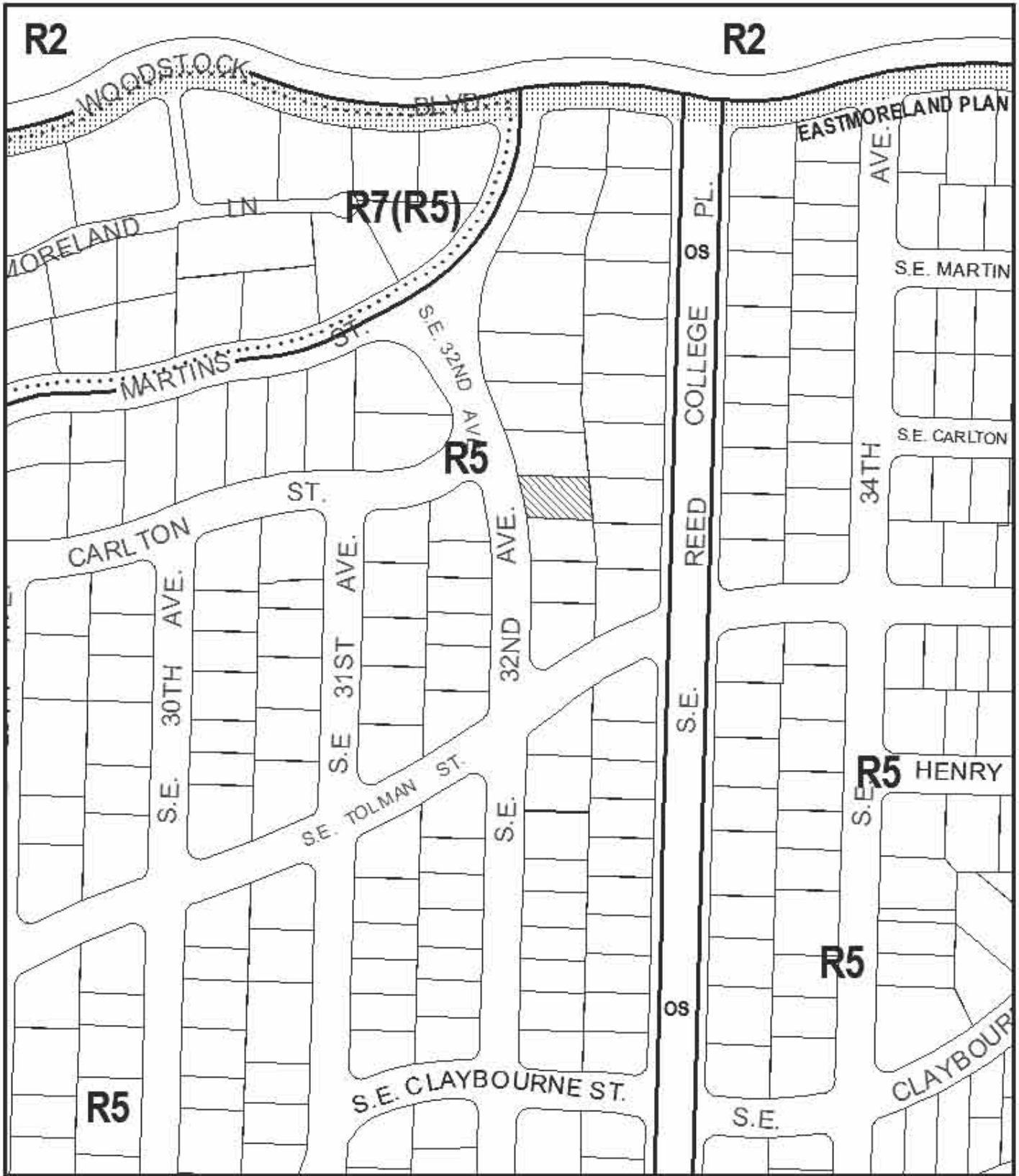
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations 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 and Additional Details (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Site Development Review Section of BDS
 - 3. Bureau of Transportation Engineering and Development Review
 - 4. Water Bureau
 - 5. Fire Bureau
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Tim and Marianne Chapman, July 26, 2008, letter in opposition citing concerns with maintenance, access, tree debris, and fire separation
 - 2. Robert Lincoln, July 24, 2008, letter in support of the proposal
 - 3. Robert and Ernestine Oringdulph, July 31, 2008, letter in support of the proposal
 - 4. Mike Moscoe, July 28, 2008, letter in support of the proposal.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



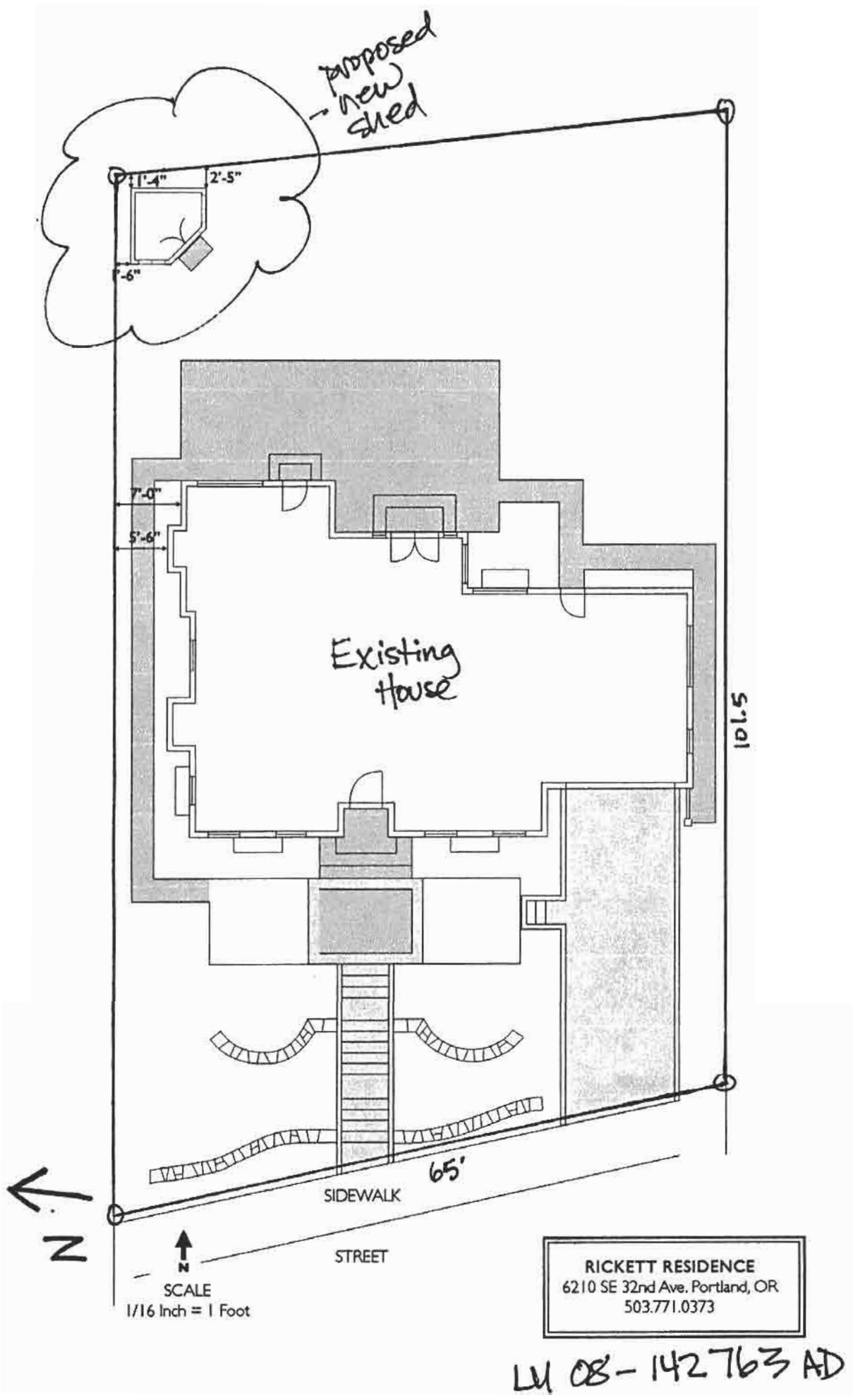
ZONING

 Site



This site lies within the:
EASTMORELAND PLAN DISTRICT

File No.	LU 08-142763 AD
1/4 Section	3634
Scale	1 inch = 200 feet
State Id	1S1E13DC 13600
Exhibit	B (Jul 07, 2008)



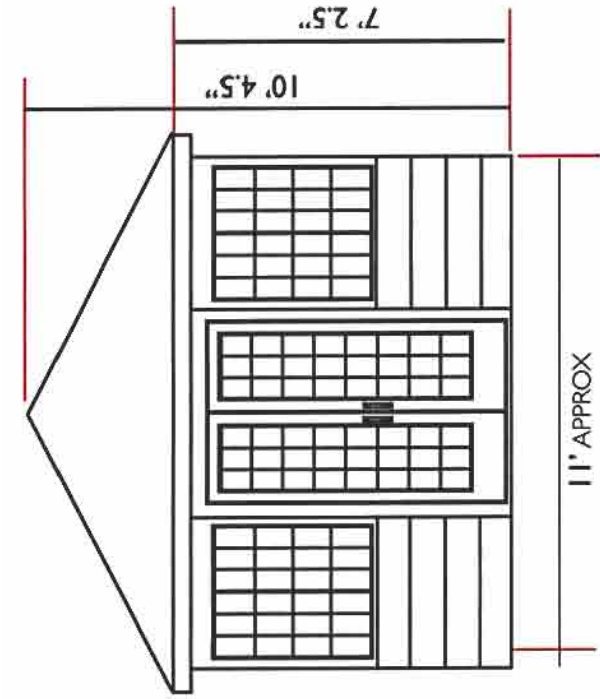
RICKETT RESIDENCE
 6210 SE 32nd Ave. Portland, OR
 503.771.0373

LU 08-142763 AD

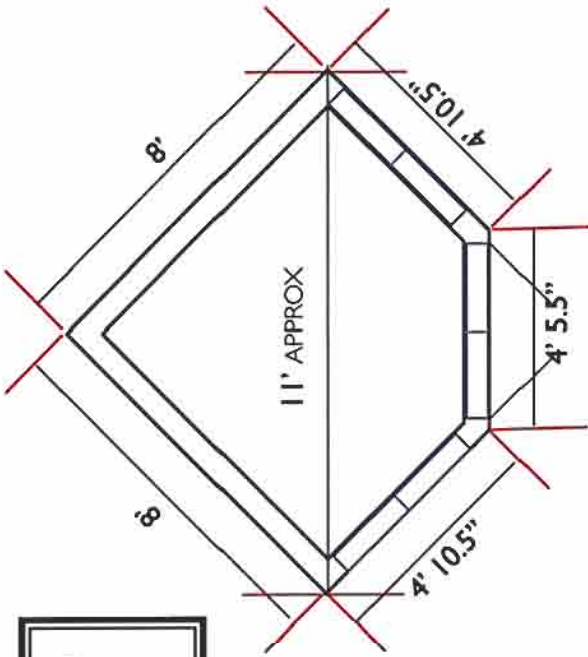
RICKETT GARDEN SHED
 6210 SE 32nd AVENUE
 PORTLAND, OREGON 97202

SCALE:
 1/4 inch = One
 Foot

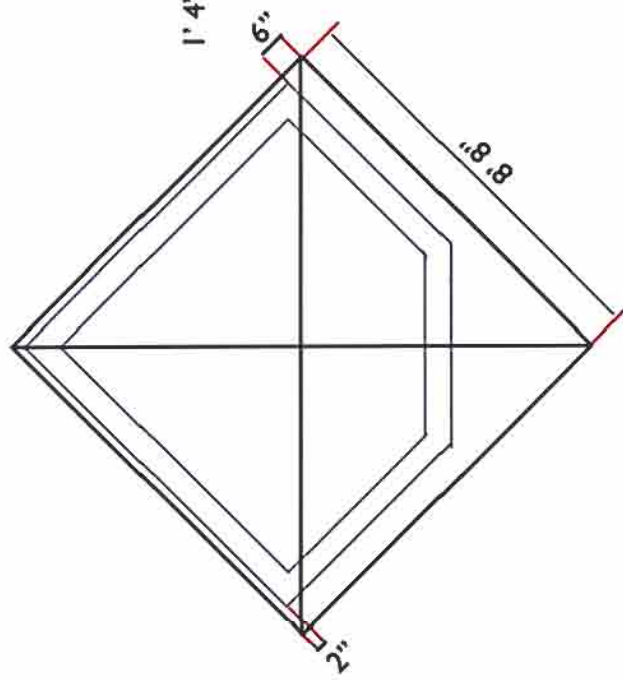
LU 08-142763 AD



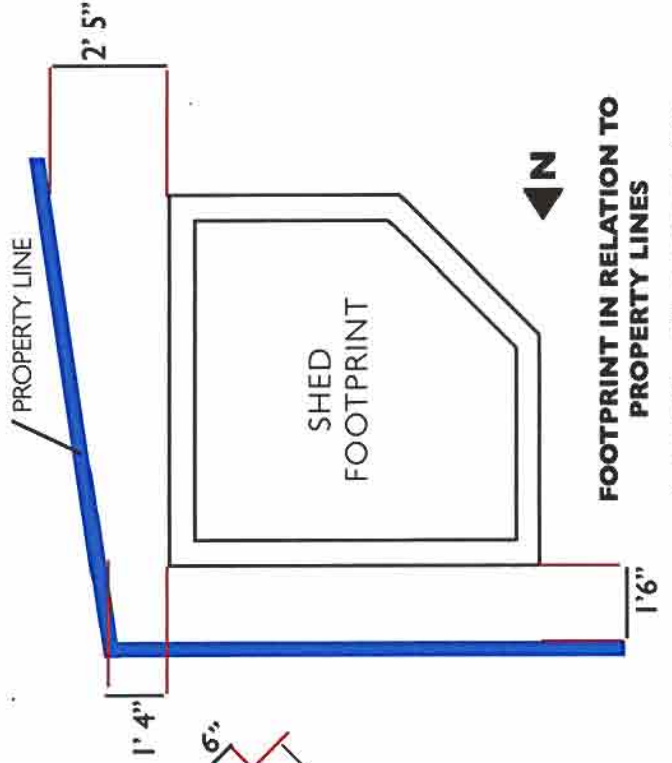
FRONT ELEVATION



PLAN VIEW

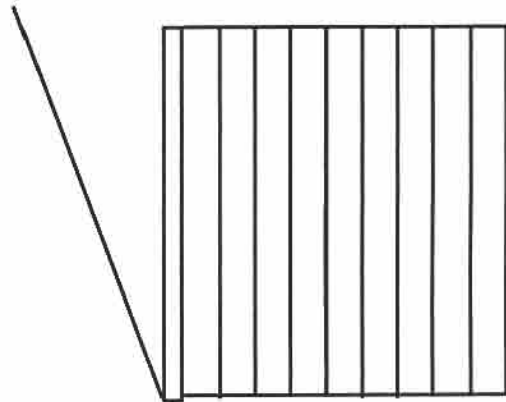


ROOF VIEW



**FOOTPRINT IN RELATION TO
 PROPERTY LINES**

LU08-142763 AD



REAR ELEVATION