



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: December 24, 2013
To: Interested Person
From: Andrew Gulizia, Land Use Services
503-823-7010 / Andrew.Gulizia@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 the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 13-228115 AD

GENERAL INFORMATION

Applicant/Owner: Ralph Cook
10301 NE 6th Drive / Portland, OR 97211

Site Address: 10301 NE 6th Drive

Legal Description: LOT 1, PARTITION PLAT 2007-117
Tax Account No.: R649874650
State ID No.: 1N1E03DA 01301 **Quarter Section:** 2030
Neighborhood: East Columbia, contact Maryhelen Kincaid at 503-286-3354.
Business District: Columbia Corridor Association, Peter Livingston at 503-796-2892.
District Coalition: North Portland Neighborhood Serv, Mary Jaron Kelley at 503-823-4099.

Zoning: R10hx – Single-Dwelling Residential 10,000 with Aircraft Landing and Airport Noise Impact Overlay Zones

Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to construct a 45-foot by 40-foot (1,800 square-foot) storage building in the back yard. Because the footprint of the house on the site is 1,400 square feet, the applicant is requesting an Adjustment to Zoning Code Section 33.110.250.D.2, which requires an accessory structure in the R10 zone to have a footprint no larger than the footprint of the house (primary structure). The applicant requests an Adjustment to allow the accessory structure to exceed the footprint of the house by 400 square feet.

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 14,400 square-foot lot is located on the west side of NE 6th Drive, between NE Middlefield Road and NE South Shore Road. The site is developed with a two-story

single-family residence that is located approximately 35 feet back from the street lot line. The proposed accessory structure would be behind the existing house, set back approximately 120 feet from the street lot line.

Surrounding lots to the west, north and east are zoned residential. Some neighboring residential lots are vacant and others are developed with single-family houses. Properties to the south are zoned industrial. The site directly to the south is zoned General Industrial (IG2) with a buffer overlay zone. The area immediately south of the subject site (on the other side of the landscape screen) is used as a parking area for large trucks.

Zoning: The R10 designation is one of the City's single-dwelling zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The R10 zone implements the comprehensive plan policies and designations for single-dwelling housing.

The Aircraft Landing ("h") overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. The allowed height limit for buildings and vegetation on the site per the "h" overlay is 180 feet above the lowest base point at Portland International Airport. The airport low base point is at an elevation of 18.3 feet. Therefore, the topographical elevation of the site *plus* the proposed building cannot exceed 198.3 feet. The height of the proposed accessory structure will be well below the limit of the "h" overlay zone.

The Portland International Airport Noise Impact Zone ("x") overlay zone addresses specific residential density, noise insulation, and other issues for development in the landing and take-off flight paths. As no residential construction is proposed, the requirements of this overlay are not applicable to this project.

A Buffer ("b") overlay zone applies to the neighboring property to the south. This overlay requires landscaping along the boundary between a residential zone and an industrial zone. In this location, the landscaping forms a screen which blocks views between the subject property and the neighboring industrial use.

Land Use History: City records indicate that prior land use reviews include the following:

- LU 00-00057 SU CL. In September 2000 a four-lot subdivision was approved which included this site. The final plat was not recorded and the approval subsequently expired.
- LU 06-154431 LDP. In October 2006 a two-lot partition was approved which included this site as Parcel 1. The final plat (Partition Plat 2007-117) was approved and recorded.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **November 27, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (responded with no concerns but with information relevant to the building permit review)
- Bureau of Transportation Engineering and Development Review
- Water Bureau
- Site Development Review Section of BDS
- Life Safety Review Section of BDS
- Parks Bureau, Urban Forestry Division

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **November 27, 2013**. No written response was received from the Neighborhood Association. One unsigned letter from an area resident was received which questioned the need for the storage building to be so large and expressed concern that commercial activity would occur on the site. The letter also expressed concern about storm water drainage, and about impacts to the neighborhood from the industrial property next door to the subject property.

Staff Response: The property south of the subject site is zoned to allow industrial use, but the subject property is zoned R10, where commercial activity is prohibited. The applicant has indicated the storage building is intended for personal rather than business use. The applicant understands that if there are complaints from neighbors about commercial use, or about any other code compliance issues, the Bureau of Development Services will investigate to enforce the residential zone requirements. Storm water requirements apply to the proposal and will be reviewed by the Bureau of Environmental Services during the building permit review process. The decision on the Adjustment request is based solely on whether the proposal for 400 square feet of additional building footprint area meets the approval criteria discussed below.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated that approval criteria A through F, below, have been met.

- A.** Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant is requesting an Adjustment to the requirement that an accessory structure in the R10 zone have a footprint no larger than the footprint of the primary structure (house). The purpose of the accessory structure regulations is stated in 33.110.250.A:

***Purpose.** This section regulates structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards provide for necessary access around structures, help maintain privacy to abutting lots, and maintain open front setbacks.*

Although the accessory structure would have a footprint 400 square feet larger than the footprint of the house, the accessory structure will not appear as the predominant element of the site because the accessory structure will be placed 50 feet behind the house and 120 feet from the street lot line. The applicant's narrative states the accessory structure will not be visible from the street behind the two-story house. Although the accessory structure will, in fact, be visible from the street from some vantage points, the distance from the street will make the difference in footprint size difficult to discern from the public right-of-way. In addition, because of the development pattern and existing vegetation in the vicinity, the accessory structure will not be directly visible from structures on neighboring lots.

Necessary access around the proposed structure would be provided by the ten-foot setbacks from the south and west property lines, which complies with the R10 zone standards. No Adjustment to setback requirements is requested, nor is one necessary.

Neighboring lots to the north and west are vacant, while existing landscaping will obscure the accessory structure from view from the neighboring industrial property to the south and from the house on the neighboring property to the northwest. In addition, no windows that would face neighboring properties are proposed. Therefore, no adverse impacts to neighbors' privacy are anticipated.

As the accessory structure would be placed 120 feet from the street lot line, an open front setback would be maintained.

Based on these reasons, the proposed Adjustment equally meets the intent of the regulation and 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: Because the site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area.

As discussed above, the proposed accessory structure would not be directly visible from structures on neighboring lots. Although the structure would be visible from the street from some vantage points, it would be set back 50 feet behind the house and 120 feet from the street lot line. The residential area surrounding the site on the west, north, and east has a low-density, semi-rural appearance, which is contrasted by the industrial property adjacent to the site on the south, which is dominated by a parking area for large trucks. The accessory structure would be adjacent to the industrial use and would not be close to, or visible from, any residence on neighboring lots. Therefore, the storage building proposed by the applicant, although larger in footprint than the house, would not appear out of place in its immediate context and would not detract from the livability or appearance of the surrounding residential area.

This criterion is met.

- C. If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: As only one Adjustment is being requested, this criterion is not applicable.

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

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

Findings: As discussed in the findings for approval criterion B, the proposal will have no adverse impacts on the livability or appearance of the surrounding residential area. As there are no identified adverse impacts for which mitigation would be 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: Environmental overlay zones are designated on the Official Zoning Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on site, this criterion is not applicable.

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 has demonstrated that the applicable approval criteria have been met. The proposal for an accessory structure with a larger footprint than the house equally meets the intent of the regulation, and does not have adverse impacts on the livability and appearance of the surrounding residential neighborhood.

ADMINISTRATIVE DECISION

Approval of the Adjustment to allow the 1,800 square-foot accessory structure to exceed the footprint of the primary structure by 400 square feet, per the approved site plans and building elevations, Exhibits C-1 through C-3, signed and dated December 19, 2013, subject to the following conditions:

- A. As part of the building permit application submittal, each of the four 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.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-228115 AD. No field changes allowed."

Staff Planner: Andrew Gulizia



Decision rendered by: _____ **on December 19, 2013.**

By authority of the Director of the Bureau of Development Services

Decision mailed: December 24, 2013

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 November 14, 2013, and was determined to be complete on November 25, 2013.

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 November 14, 2013.

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: March 25, 2014.**

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 January 7, 2014** 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.

Appeal fee waivers. Multnomah County may cover the appeal fees for their recognized associations. An appeal filed by a recognized association must be submitted to the City with either the appropriate fee or the attached form signed by the County. Contact Multnomah County at 503-988-3043, 1600 SE 190th, Portland, OR 97233.

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

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

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

Recording the final decision.

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

- *Unless appealed,* The final decision may be recorded on or after **January 8, 2014.**
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

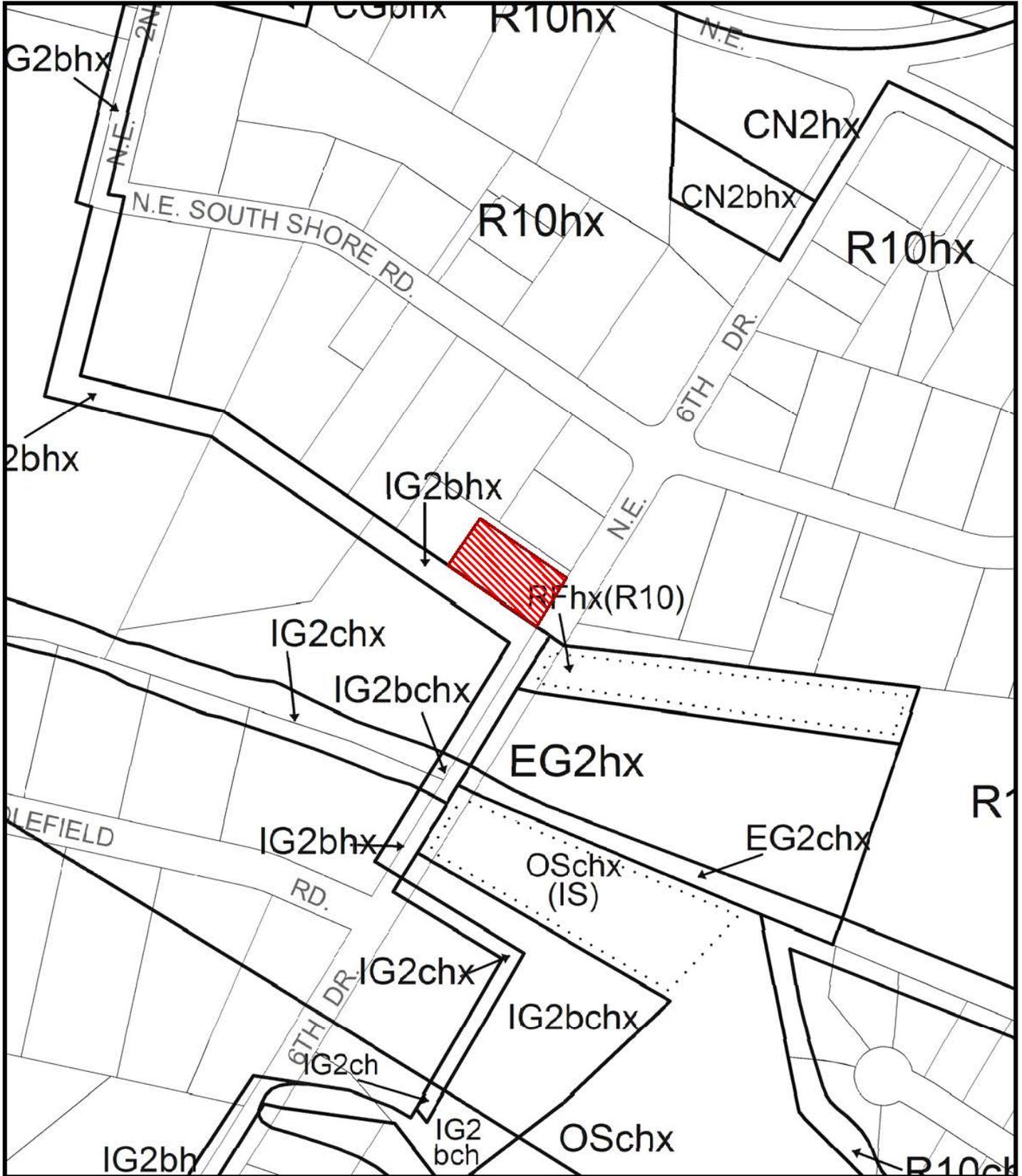
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Full Site Plan (attached)
 - 2. Site Plan Details (attached)
 - 3. Building Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Site Development Review Section of BDS
 - 5. Life Safety Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Unsigned letter in opposition, received 12/17/13
- 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

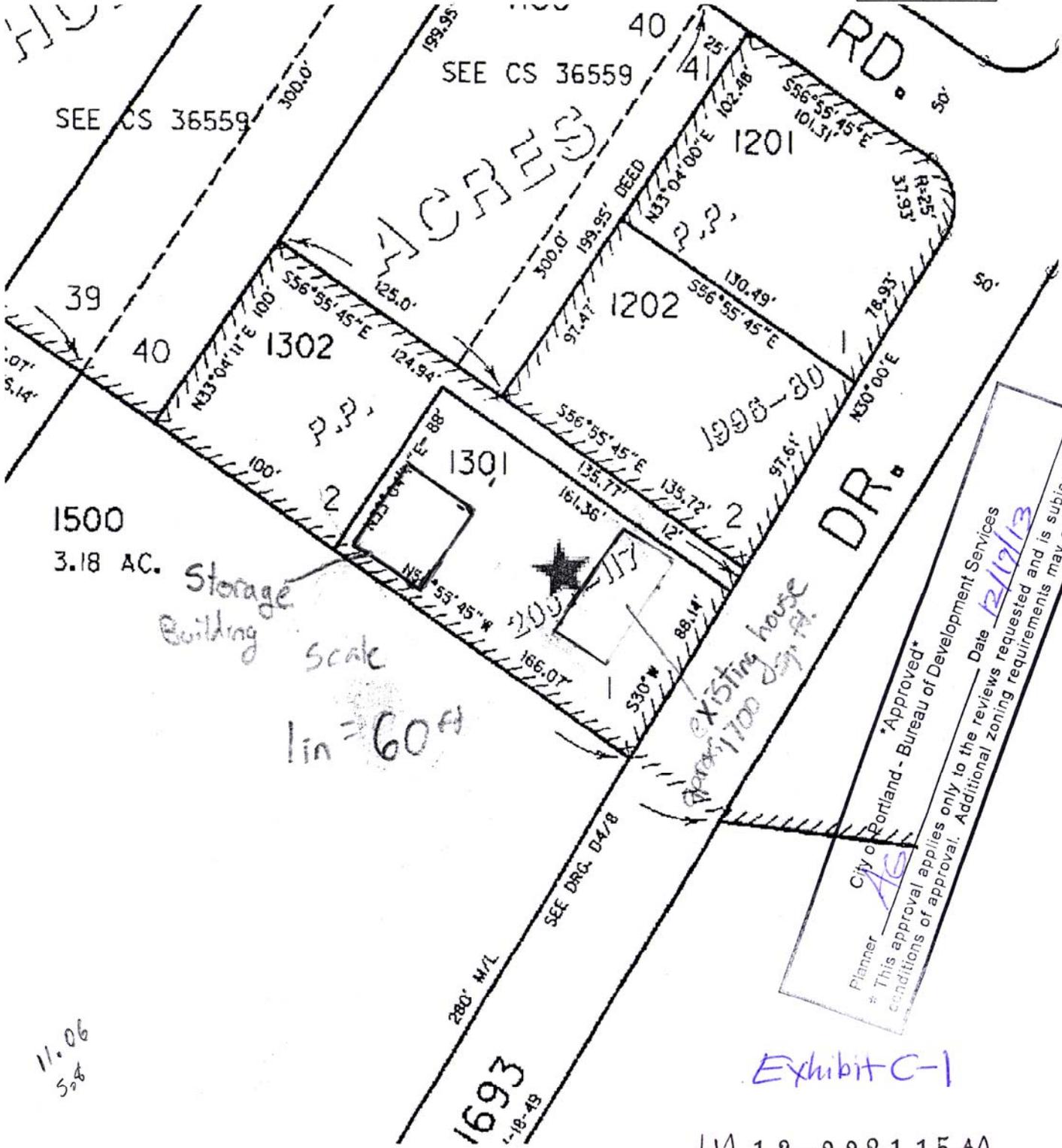
 Site



File No. LU 13-228115 AD
 1/4 Section 2030,2031
 Scale 1 inch = 200 feet
 State_Id 1N1E03DA 1301
 Exhibit B (Nov 18, 2013)

Map #

This map has been copied from the public records and is provided solely for the purpose of assisting in locating the premises. No liabilities are assumed for inaccuracies contained herein or for variations, if any, in dimensions, area or location of the premises or the location of improvements ascertained by actual survey.



City of Portland - Bureau of Development Services
Planner *AG*
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.
Date *12/17/13*

Exhibit C-1

LN 13-228115AD

1500
3.18 AC.

Storage Building

Scale

1 in = 60 ft

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508

1693
1-18-49

Existing house
Approx 1700 sq ft

SEE CS 36559

SEE CS 36559

SEE DRG. D4/8

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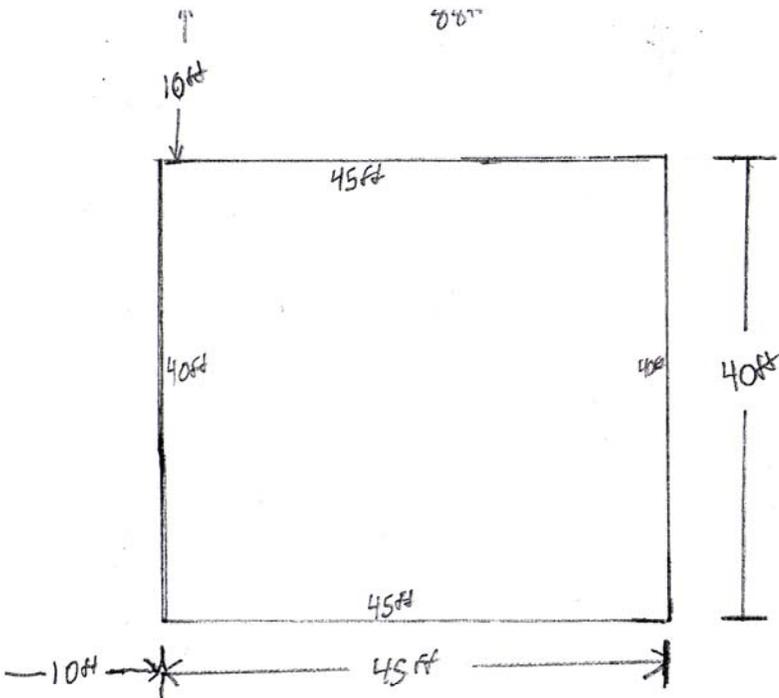
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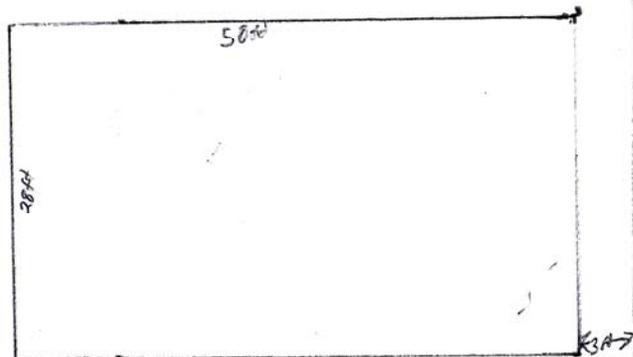
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Scale
1 in = 15 ft

Approved
City of Portland - Bureau of Development Services
Planner AG Date 12/19/13
* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

Exhibit C-2

Ralph Cook
10301 We 6th dr
Portland, OR, 97211
503-312-4559

LN 13-228115 AD

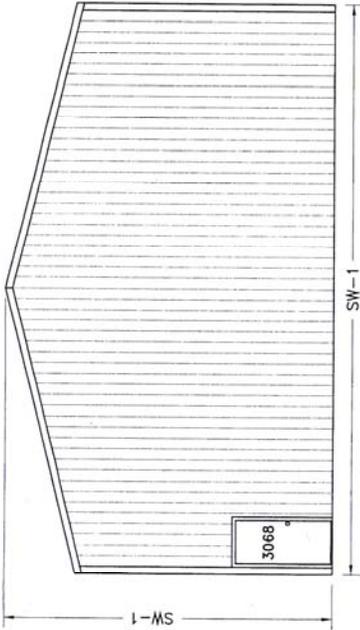
BUILDING
ELEVATIONS

RALPH COOK
40'x45'x18' POLE BUILDING
10301 N.E. 6th DRIVE
PORTLAND, OR 97211
CITY OF PORTLAND

2600 N. COLUMBIA CENTER
BLVD. SUITE #208
RICHLAND, WA 99352
PHONE: (509) 736-7552
FAX: (509) 736-7557

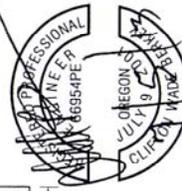
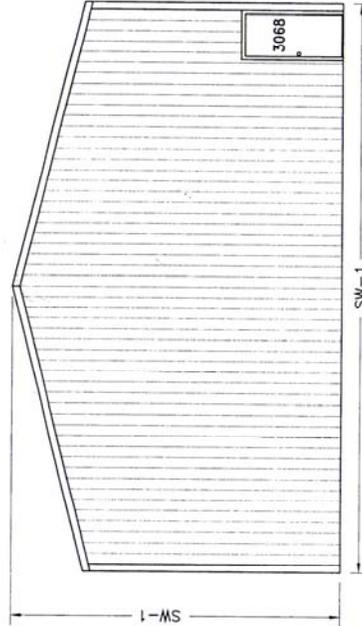


DRAWN BY: HJU
APPROVED BY: CWB
DATE: 7-2-13
SCALE: AS NOTED
PROJECT - REV
14002 . 0

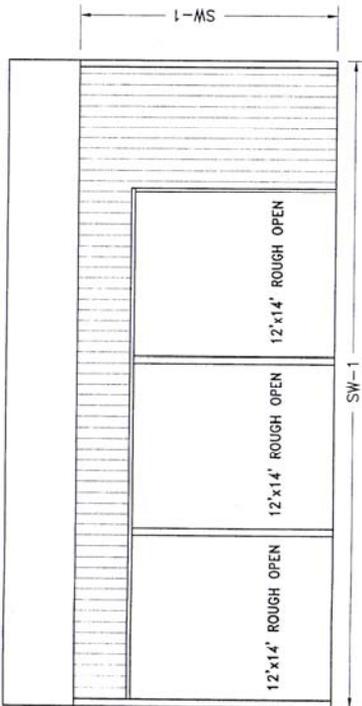


SCALE: 1/8"=1'

RIGHT ELEVATION

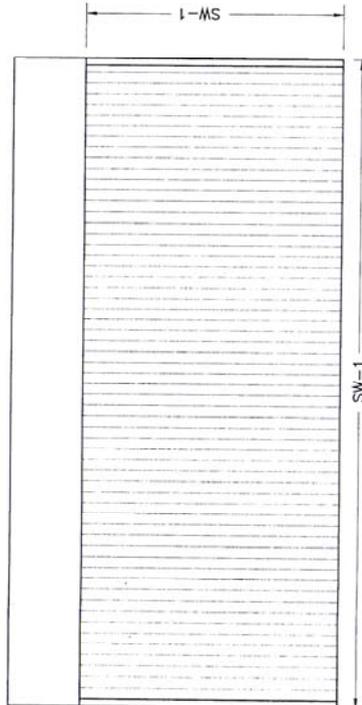


EXPIRATION DATE: 12/31/13



SCALE: 1/8"=1'

FRONT ELEVATION



Approved
City of Portland - Bureau of Development Services
Planner AC Date 12/17/13

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

Exhibit C-3

LM 13-228115 AD