



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

**FROM CONCEPT TO CONSTRUCTION**

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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**NOTICE OF FINAL FINDINGS, CONCLUSIONS AND DECISION  
OF THE CITY OF PORTLAND REVIEW BODY ON AN  
APPEALED ADMINISTRATIVE DECISION  
(Type II Process)**

**CASE FILE: LU 12-218315 AD**  
**LOCATION: 4063 SE Pine Street**

The administrative decision for this case, published on January 16, 2014, was appealed to the Adjustment Committee by the applicant, Bill Kabeiseman. The Adjustment Committee upheld the administrative decision of denial, thereby denying the requested Adjustment as proposed.

A public hearing was held on March 4, 2014. The original administrative analysis, findings and conclusions were adopted by the Adjustment Committee. The administrative decision can be found on line at: <http://www.portlandonline.com/bds/index.cfm?c=46429>

**GENERAL INFORMATION**

**Applicant/Owner/Appellant:** Bill Kabeiseman, 4063 SE Pine St Portland, OR 97214-2024

<b>Site Address:</b>	4063 SE PINE STREET
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<b>Legal Description:</b>	BLOCK 100 LOT 15&16, LAURELHURST
<b>Tax Account No.:</b>	R479124900
<b>State ID No.:</b>	1N1E36DD 05300
<b>Quarter Section:</b>	3034
<b>Neighborhood:</b>	Laurelhurst, contact Eric Fruits at 503-928-6635.
<b>Business District:</b>	None
<b>District Coalition:</b>	Southeast Uplift, contact Bob Kellett at 503-232-0010.
<b>Plan District:</b>	Laurelhurst
<b>Zoning:</b>	R5 (Single Family Residential 5,000 square feet)
<b>Case Type:</b>	AD (Adjustment)
<b>Procedure:</b>	Type II, an administrative decision with appeal to the Adjustment Committee.

**PROPOSAL:**

The applicant requested an adjustment to the minimum required rear setback standard. The applicant has constructed in the northwest corner of the subject site a 188.5 square foot shed (13 feet wide by 14.5 feet in depth) which is 10 feet tall. The shed wall is located approximately 5.5 feet from the side property boundary to the west, and is located approximately 2 inches from the rear property boundary to the north. The existing eave along the north façade of the shed currently crosses the northern property boundary. The applicant has indicated that they will remove all portions of the eave which cross the northern property line to ensure no encroachments exist.

Zoning Code Section 33.110.220.B (Table 110-3) requires a minimum 5 foot side and rear setback for all covered accessory structures over 6 feet in height. Since a 2 inch setback is

proposed along the northern rear property line for the existing shed, the applicant has requested an adjustment to this standard.

**33.805.040 Approval Criteria**

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

**CONCLUSIONS**

As reflected in the findings, this proposal does not meet the approval criteria. The reduced rear setback would allow a 10 foot tall shed to be built 2 inches from the rear property line which creates a substantial visual impact on the adjacent property to the north of the subject site since the shed is located 13 feet above the rear yard of this home. Therefore, the adjustment should not be approved.


**REVIEW BODY DECISION**

Deny the appeal and uphold the administrative decision of denial.

Denial of an Adjustment to reduce the rear setback from 5 feet to 2 inches (Zoning Code Section 33.110.220.A and Table 110-3) for the existing shed identified on the site plan (Exhibits C.1) and building elevation (Exhibit C.2).

**Staff Planner: Shawn Burgett**

**The original staff findings, conclusions and decision were adopted by the Adjustment Committee on March 4, 2014**

By:  \_\_\_\_\_  
**Adjustment Committee**  
**Roger Alfred - Chair**

**Date Final Decision Effective/Mailed: March 11, 2014**

**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 December 21, 2012, and was determined to be complete on March 13, 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 December 21, 2012.

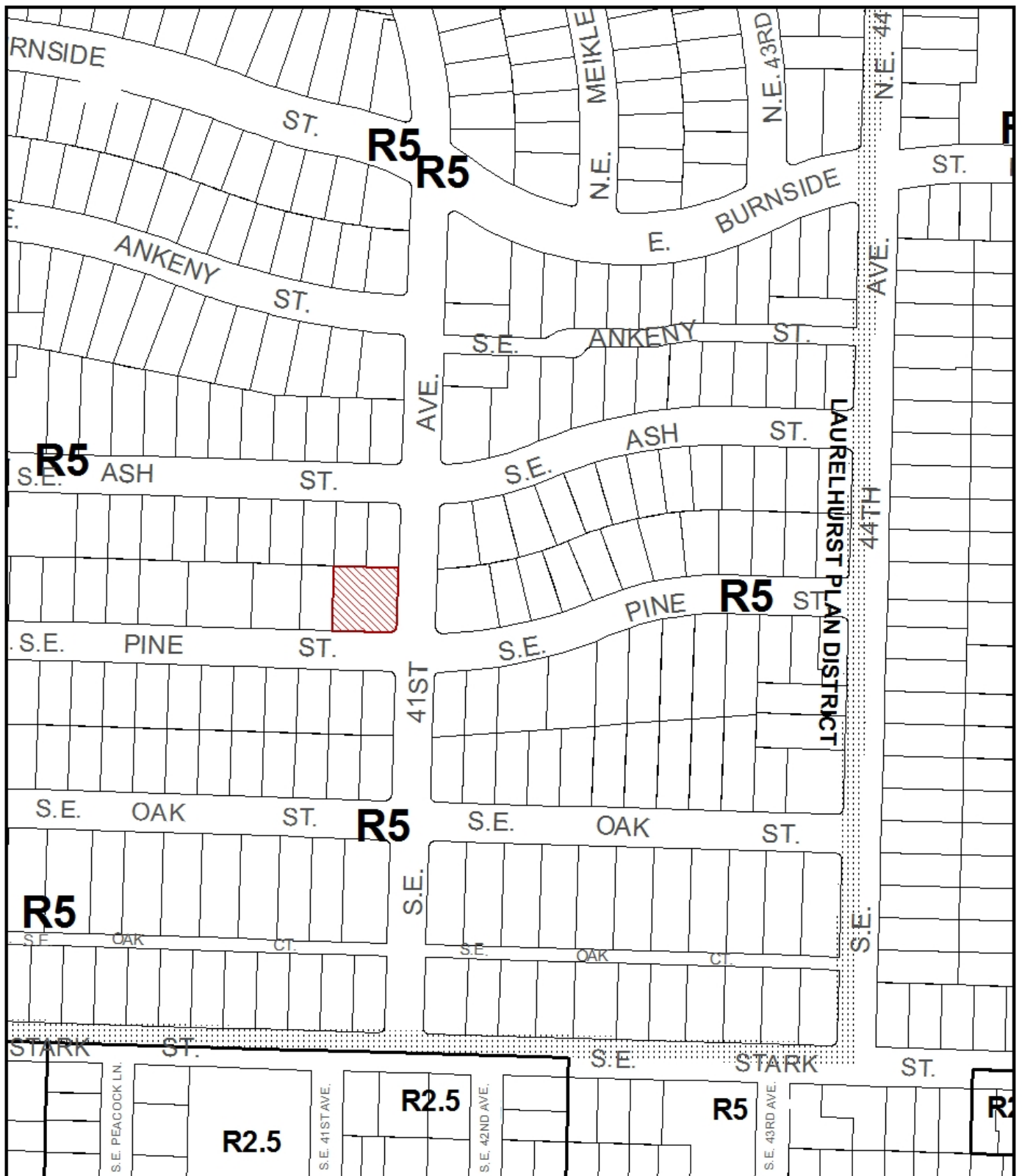
*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant waived the 120-day review period, as stated with Exhibit (Exhibits A-3 and A-4)

**Appeal of this Decision.** This decision is final and becomes effective the day the notice of decision is mailed (noted above). This decision may not be appealed to City Council; however, it may be challenged by filing a "Notice of Intent to Appeal" with the State Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed, pursuant to ORS 197.0 and 197.830. A fee is required, and the issue being appealed must have been raised by the close of the record and with sufficient specificity to afford the review body an opportunity to respond to the issue. For further information, contact LUBA at 775 Summer St NE, Suite 330, Salem, OR 97301-1283. [Telephone: (503)373-1265]

**EXHIBITS NOT ATTACHED UNLESS INDICATED**

- A. Applicant's Statement
  - 1. Applicants narrative
  - 2. Applicants revised narrative
  - 3. 60 day extension to 120 day clock
  - 4. Full extension to 120 day clock
  - 5. Applicants photos of existing detached garages in vicinity
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. 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. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Plans Examiner
- F. Correspondence:
  - 1. Jon Steele & Melodie Isgro, received 3/23/13, 4026 SE Pine St.
  - 2. Sara Rae & Kevin Knytych, received 3/23/13, 4064 SE Ash St.
  - 3. Dwayne Witzel & Greg Baumgardner, received 3/26/12, 4035 SE Pine St.
  - 4. Nancy Church, received 4/1/12, 4054 SE Ash St.
  - 5. Nancy Church, received 1/21/13, 4054 SE Ash St. Survey of common property line
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter dated 1/8/13
  - 3. Photos of site
  - 4. Land Use History
  - 5. E-mail correspondence between applicant and planner (dated 4/16/13)
  - 6. GIS map of subject site neighborhood block highlighting location of detached garages in vicinity
- H. Appeal:
  - 1. Appeal Submittal
    - 1.a Application Narrative
  - 2. Appealed Decision
  - 3. Notice of Appeal Hearing
  - 4. Appeal Mailing List  
(Received before Hearing)

5. Committee Appeal Packet Memo
6. Photos, Wm Kabeiseman, February 17, 2014  
(Received During Hearing)
7. Staff Power Point Presentation, Shawn Burgett
8. Power Point Presentation, Nancy Church, testified against appeal



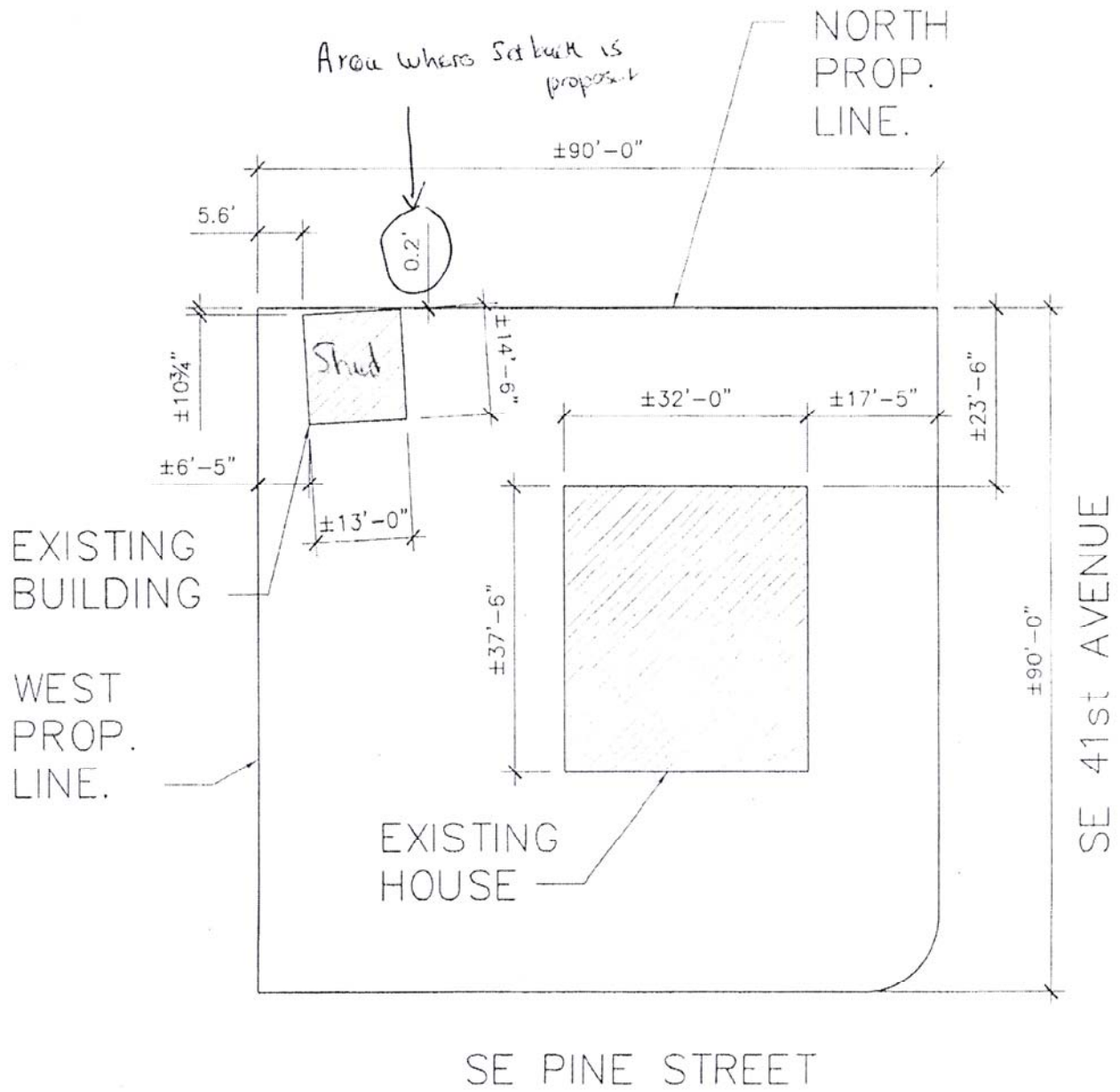
# ZONING

 Site



This site lies within the:  
LAURELHURST PLAN DISTRICT

File No.	<u>LU 12-218315 AD</u>
1/4 Section	<u>3034,3035</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E36DD 5300</u>
Exhibit	<u>B (Dec 27,2012)</u>



1 SITE PLAN  
 1" = 20'-0"

PLAN N

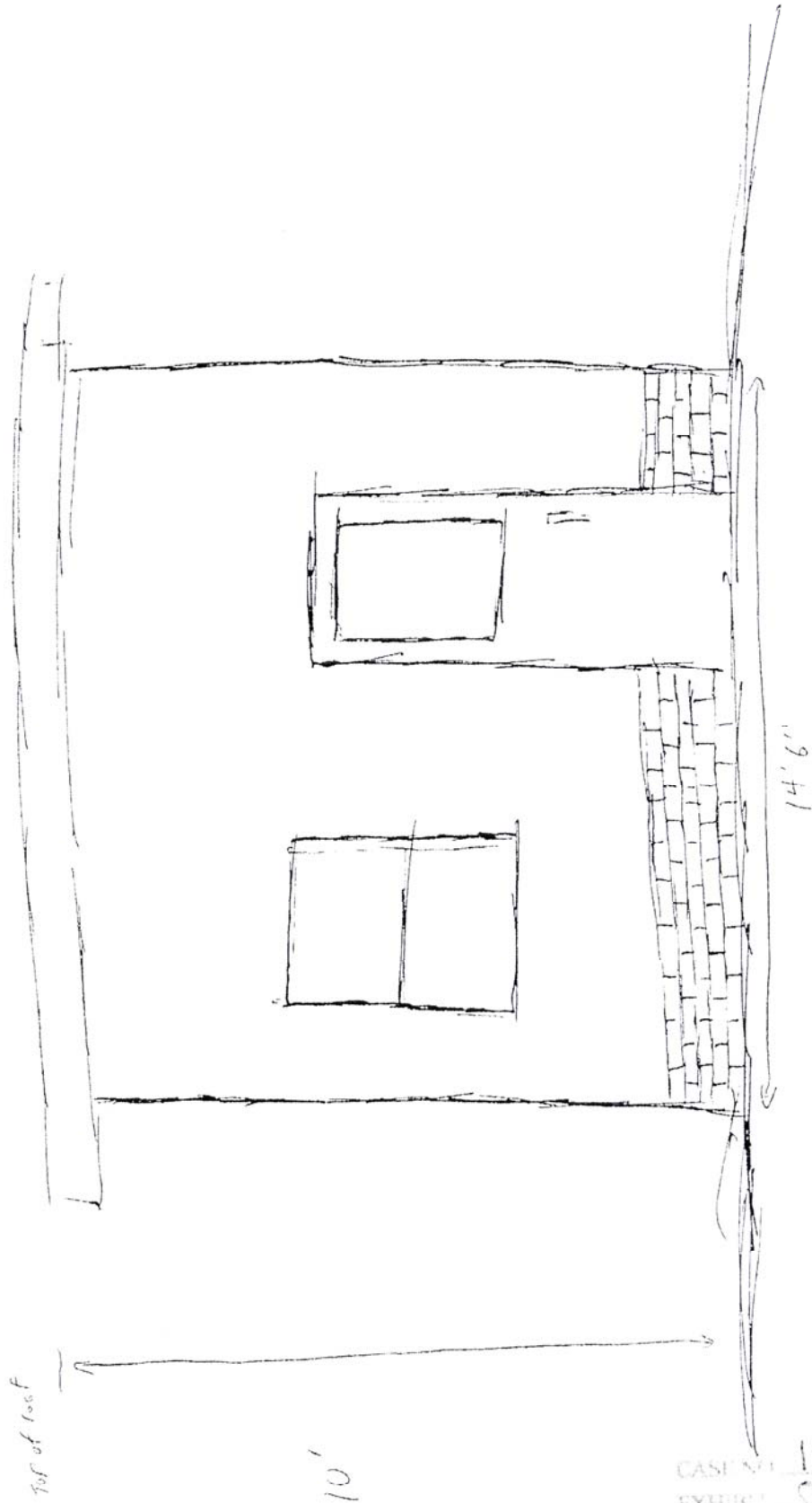
KABEISEMAN RESIDENCE  
 4063 SE PINE STREET, PORTLAND, OREGON

MARCH 12, 2013

SITE

CASE NO. 12-21831S  
 EXHIBIT C-1

Kabe. samon Shed - East Elevation



CASE NO. 12-218315  
EXHIBIT C-2