



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: February 26, 2015
To: Interested Person
From: Katie Waldman, Land Use Services
503-823-7344 / Katherine.Waldman@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 mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 14-246692 AD

GENERAL INFORMATION

Owner: Janel Hanson
2203 SE 60th Ave / Portland OR 97215-4020

Applicant Tracy Davis
2203 SE 60th Ave #B / Portland OR 97215

Site Address: 2203 SE 60TH AVE

Legal Description: BLOCK 3 LOT 11, HUTCHINSONS ADD
Tax Account No.: R410900690
State ID No.: 1S2E06DD 11100
Quarter Section: 3236
Neighborhood: Mt. Tabor, contact Stephanie Stewart at 503-230-9364.
Business District: Division-Clinton Business Association, contact Darice Robinson at 503-233-1888.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Plan District: None
Zoning: R5, Single-Dwelling Residential 5,000
Case Type: AD, Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to relocate an existing shed on this site. Zoning Code Section 33.110.220.B requires five foot rear and side building setbacks. The applicant is requesting approval of an Adjustment to decrease the rear setback to one foot and the side setback to three feet four inches for the ten foot by twenty foot shed, which has a roof peak height of ten feet and wall height of eight feet.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are: 33.805.040.A.-F.

ANALYSIS

Site and Vicinity: The subject site is a 5,700 square foot, 50-foot x 114-foot lot in the Mount Tabor neighborhood. The house on the site was built in 1911. The site sits near the southwest entry to Mount Tabor, on a busy street surrounded by single-dwelling development. Some of the homes are from the early 20th century, including many to the west, while the houses across the street, on property formerly owned by nearby Warner Pacific College, all date to the early 1980s. Many lots in the neighborhood contain detached accessory structures, sheds, and garages close to rear and/or side property lines.

SE 60th is a City Walkway, a Local Service Bikeway (with a City Bikeway one block north on Lincoln), and a Neighborhood Collector Street. There is a lane of on-street parking on the west side of the street.

Zoning: The site is zoned **Residential 5,000 (R5)**. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing. The R5 zone is a high density single-dwelling zone. The R5 zone allows attached and detached single-dwelling structures and duplexes. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

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

LU 13-213220 AD, a 2013 approval of an Adjustment to allow an Accessory Dwelling Unit in the basement of the existing home of a size (1,151 square feet) in excess of the standard allowed amount of 797 square feet (75% of the size of the living space of the home).

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **January 22, 2015**. The following Bureaus have responded with no concerns about the proposal:

- Bureau of Environmental Services
- Water Bureau
- Site Development review section of BDS
- Portland Fire Bureau

The Life Safety Plan Review Section of BDS responded with the following comment: A separate building permit is required for the work proposed. Exterior walls less than three feet to a property line shall be one-hour fire-rated with no openings allowed. Roofs and eaves may project not closer than two feet to a property line. Eaves less than three feet to a property line must be protected on the underside as required for one-hour fire-rated construction. Please see Exhibit E-4 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on January 22, 2015. A total of five written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. One letter from an adjacent neighbor was in support of the proposal. Two letters from adjacent neighbors were in opposition to the proposal, as was a letter from a non-adjacent neighbor and one from the Mount Tabor Neighborhood Association Land Use Chairs.

The arguments against the location of the shed focused on livability and fire safety issues, as well as concerns regarding the Adjustment request, which is the result of a Zoning Code Compliance case; the shed was placed within setbacks prior to requesting the Adjustment to the standard. Additionally, a neighbor submitted a survey of their property, showing that the fence, which the applicant had assumed was placed directly on their west property line, is over

one foot west of that property line. The shed is currently located with its west edge over that property line. The applicant will relocate the shed so that its edge roof edge is two feet from the west property line, rather than one foot from the fence, increasing the west setback beyond the one foot shown on the submitted site plan.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose

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. They also 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 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.

- 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 minimum 5-foot setback requirement. The purpose of the setback requirement is stated in Zoning Code Section 33.110.220.A:

Purpose. 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.*

Since the shed will be 93 feet from the front lot line, seven feet from a nearby carport on an adjacent parcel, over 8 feet from the house on the same property, and will be located in the back yard of the house, the proposal will not negatively impact the open front yard, the physical relationship between residences, light, air, or fire protection.

Pursuant to building code requirements, the wall closest to the west lot line will have no openings and will be one-hour fire rated. The Fire Bureau reviewed the proposal and had no concerns. Because the shed will be set back so far from the street, and will only be 10 feet in height above grade, the shed will not be visually prominent from the street and the proposal is not incompatible with the general building scale and placement of structures in the neighborhood. No windows are proposed, so no privacy impacts to the neighbors will result from approval of this Adjustment. Placement of the structure near the west and north lot lines will maximize the usable outdoor area of the site. The proposal will not affect the existing driveway length, which allows adequate room for parking without overhanging the sidewalk or street, nor will it affect driver visibility since the driveway is located on the south side of the lot and the shed is on the north

side of the lot. Based on these reasons, the proposal equally meets the intent of the setback 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. The proposal will maintain parking on the site and will not increase the demand for on-street parking in the neighborhood. The shed is painted the same color as the house on the site; its roof peak is ten feet above grade, taller than the adjacent fence to the west by several feet. Since the shed is ten feet wide by twenty feet long, the added height will have minimally more visual impact than the typical screening wall or solid fence. Since the shed is located in the back yard, it will have little visual impact on the neighborhood as a whole. The walls have no windows, and the one door faces south, into the interior of the lot. In the R5 zone, within side and rear setbacks, the Zoning Code allows the construction of detached garages with walls up to 10 feet high and building height no more than 15 feet, with dimensions no greater than 24 feet by 24 feet. The proposal is smaller in building height, wall height, and area, than a detached garage that could be built in the same location by right. For these reasons, the proposal will not result in any significant negative impacts to neighborhood livability or appearance. 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: Only one adjustment is requested. *This criterion is not applicable.*

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. *Therefore, 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 has 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 the site is not within an environmental zone, *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 proposal to reduce the minimum side setback requirement for a shed equally meets the intent of the setback regulation, if a condition of approval is added that the shed roof and eaves may not project closer than two feet to a property line, with exterior walls and eaves within 3 feet of a property line requiring one-hour fire-rated construction, and will not have adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Since the approval criteria are met, the proposal should be approved.

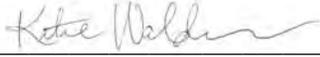
ADMINISTRATIVE DECISION

Approval of:

An Adjustment to reduce the setbacks for a 20 foot x 10 foot shed, from 5 feet to 2 feet, 3 inches from the building wall to the rear property line and 5 feet to 3 feet 2 inches from the building wall to the side property line, per the approved site plans, Exhibits C-1 through C-4, signed and dated 1/9/2015, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) 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 14-246692 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The proposal must comply with Life Safety Plan Review requirements:
Exterior walls less than three feet to a property line shall be one-hour fire-rated with no openings allowed. Roofs and eaves may project not closer than two feet to a property line. Eaves less than three feet to a property line must be protected on the underside as required for one-hour fire-rated construction. A separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances.
- C. The proposal must comply with Bureau of Environmental Services' requirements regarding stormwater runoff.

Staff Planner: Katie Waldman

Decision rendered by:  **on 2/23/2015.**
By authority of the Director of the Bureau of Development Services

Decision mailed: 2/26/2015

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 8, 2014, and was determined to be complete on **January 15, 2015.**

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 8, 2014.

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 further extended by the applicant, **the 120 days will expire on: June 23, 2015.**

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 12, 2015** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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 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 **March 13, 2015** .
- 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

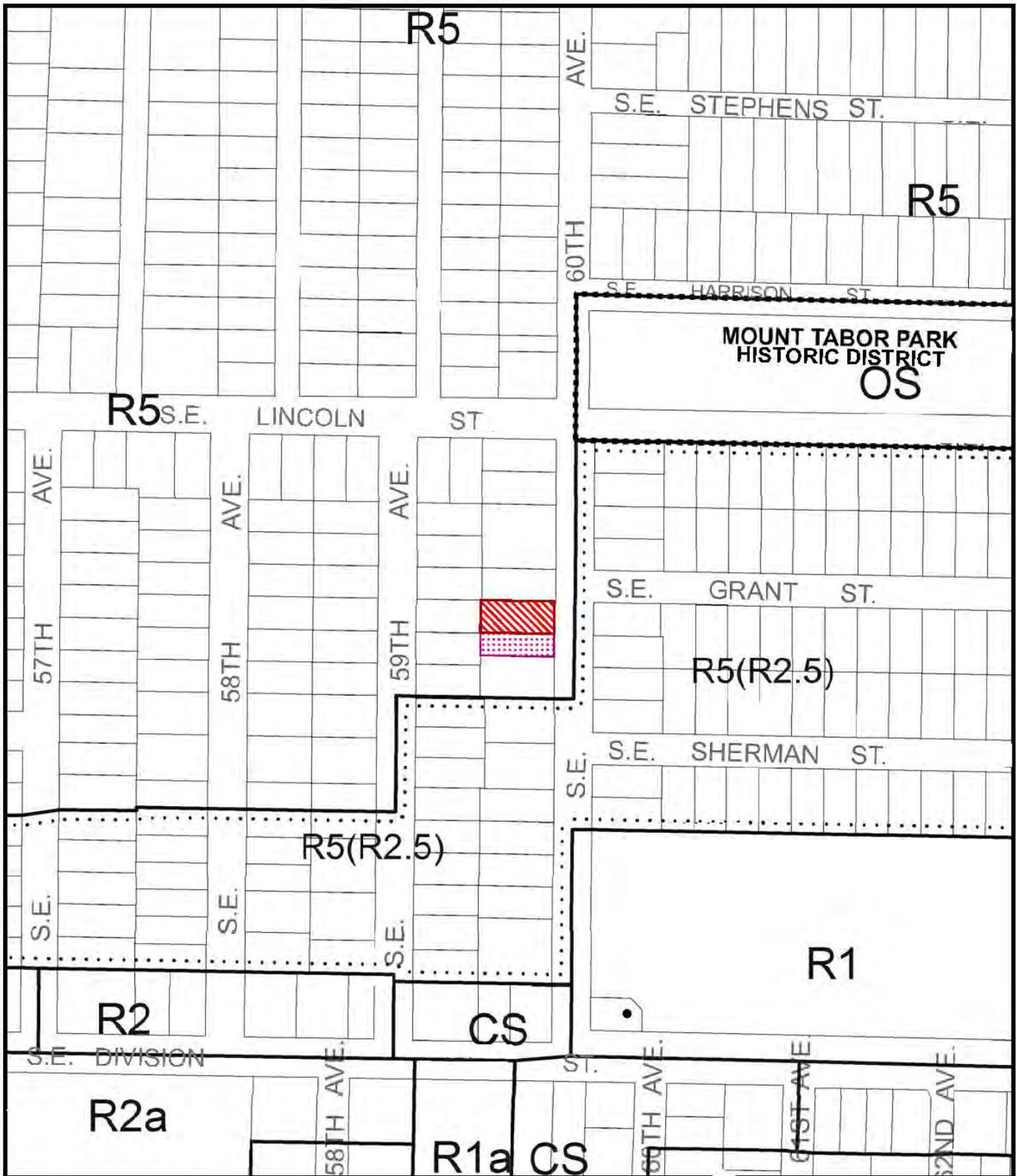
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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. South building elevation (attached)
 - 3. East building elevation (attached)
 - 4. Additional information
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Site Development Review Section of BDS
 - 4. Life Safety Review Section of BDS
- F. Correspondence:
 - 1. Sophia Harp, 1/26/2015, Supporting proposal
 - 2. Geoff Koch and Betty Izumi, 2/10/2015, Opposing proposal, concerns regarding shed height, safety, privacy.
 - 3. Floy Jones, 2/9/2015, Opposing proposal, concerns regarding zoning code violation case, height of shed, light and air impacts, safety, incompatibility with neighborhood, noise.
 - 4. Dana Hoyle, 2/11/2015, Opposing proposal, concerns regarding fire safety.
 - 5. Mt Tabor Neighborhood Association Land Use Chairs, 2/11/2015, Opposing proposal, concerns regarding zoning code violation case, privacy, physical relationship between residences, neighborhood compatibility, fire safety.
- 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
-  Also Owned



File No. LU 14-246692 AD
 1/4 Section 3236
 Scale 1 inch = 200 feet
 State_Id 1S2E06DD 11100
 Exhibit B (Dec 11, 2014)

N →

24

Prop line



Drive



City of Portland - Bureau of Development Services
 Keta Williams City 1915
 Additional zoning information

1 inch = 12 ft

Prop line

Prop line

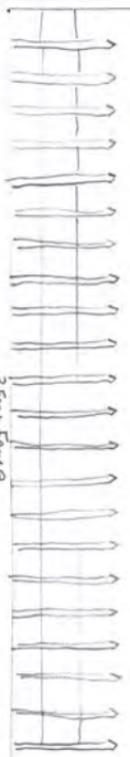
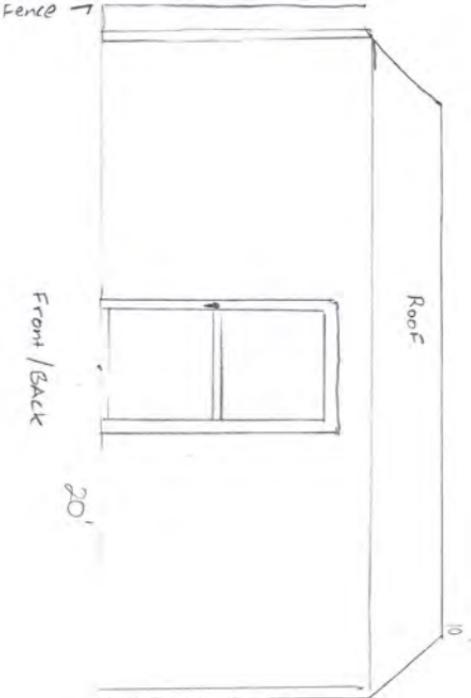
Prop line

Sidewalk

SE 60th Avenue

Exhibit C.1
 LU 14-24669Z AD

□ = 1 ft



Approved

City of Portland - Bureau of Development Services

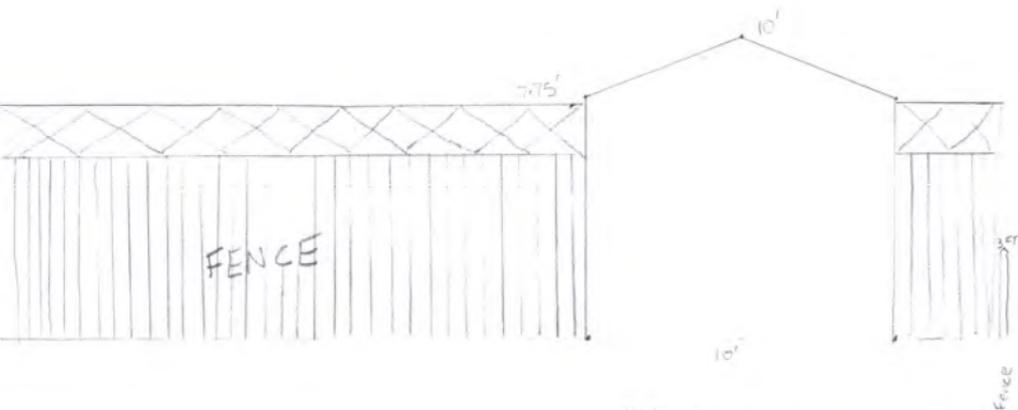
Project: Kate Waddell Date: 1/9/15

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

W14-246692 AD Exhibit C.2

Approved
City of Portland - Bureau of Development Services
Katie Webber Date 1/9/15
Subjecting only to the reviews requested and
Additional zoning requirements

□ = 1 Ft



Side views

W 14 - 24669270

Exhibit C.3

Land Use Case LU-14-246692 AD

I

1 See attached

2 Door is the only opening to the shed. There are no other doors or windows

3 Household storage only

II

7 ft 3 inches to the corner of Sherry's carport at 2144 SE 59th Ave.

Approved
City of Portland - Bureau of Development Services
Katrina Decker Date 1/9/15
Approval applies only to the reviews requested and the conditions of approval. Additional zoning requirements may apply.

W14-246692 AD

Exhibit C.4