



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
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www.portlandoregon.gov/bds

Date: August 25, 2016
To: Interested Person
From: Amanda Rhoads, Land Use Services
503-823-7837 / Amanda.Rhoads@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 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 16-157234 AD **ACCESSORY BIKE SHELTER IN REQUIRED SETBACKS**

GENERAL INFORMATION

Applicants/Owners: Jim Piper and Jane Ediger
Tillamook, LLC
2506 NE 40th Ave
Portland, OR 97212

Site Address: 2111 NE 15TH AVE

Legal Description: BLOCK 64 LOT 9&10, IRVINGTON
Tax Account No.: R420413850
State ID No.: 1N1E26DB 18600
Quarter Section: 2832
Neighborhood: Irvington, contact Dean Gisvold at 503-284-3885.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032.
District Coalition: Northeast Coalition of Neighborhoods, contact Zena Rockowitz at 503-388-5070.

Plan District: Albina Community
Other Designations: Noncontributing Structure in the Irvington Historic District
Zoning: R1a – Moderate-Density Multi-Dwelling Residential 1,000 Zone with “a” Alternative Design Density Overlay Zone

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

Proposal:

The applicant has constructed a covered bike shelter in the northwest corner of the site. Zoning Code Paragraph 33.120.280.C.2 states that covered accessory structures are subject to required building setbacks. In this case, the required minimum accessory structure setbacks would be 5 feet from both the north and west property lines for the walls, and 4 feet for the eaves. Since the structure was built within these setbacks, the applicant is requesting approval of the following two Adjustments:

- To reduce the north setback from 5 feet to 9 inches for the building wall, and from 4 feet to 3 inches for the eaves; and
- To reduce the west setback from 5 feet to 10 inches for the building wall, and from 4 feet to 5 inches for the eaves.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The 10,000-square-foot subject site, developed with a 6-unit apartment building constructed in 1967, is listed as a noncontributing resource in the Irvington Historic District. The apartment building has an associated parking lot, which previously had 9 spaces and now, with the addition of the accessory bike shelter, has 8. No parking is required due to the proximity of the 8 bus line on NE 15th Ave.

Platted in the late Nineteenth Century, today's Irvington Historic District represents the first additions to Portland that employed restrictive covenants from the outset. These included the exclusion of most non-residential uses from the interior of the neighborhood, and where non-residential uses were allowed, such as the fire station and the telephone exchange, the buildings were purposely disguised to appear more residential in character. Other deed restrictions excluded minority groups, established uniform front setbacks, and required minimum expenditure on new buildings. The area developed generally from southwest to northeast and its growth was greatly influenced by the installation of streetcar lines that introduced an easy commuting option to downtown.

The contributing resources in Irvington range in design character from expressions of the late Victorian Era styles, especially Queen Anne, through the many Period Revival modes of the early decades of the Twentieth Century, to a few early modernist examples. There is also a wide diversity in the sizes of lots and houses. In terms of the streetscape, the numbered north-south avenues in Irvington vary dramatically in width, and they mostly form rather long block faces which the houses generally face. The named east-west street block faces are more consistent in length, almost all being traditional 200' Portland blocks. All are lined with mature street trees. Original development in many cases included garages or other accessory structures, typically facing side streets on corner lots and accessed by a variety of driveway types on mid-block sites. Garages that were added after original construction, but still within the historic period, were sometimes built at the sidewalk and/or out of architectural character with the house.

Zoning: The Residential 1,000 (R1) is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouse, and rowhouses. Generally, R1 zoning will be applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets. Newly created lots in the R1 zone must be at least 10,000 square feet in area for multi-dwelling development. There is no minimum lot area for development with detached or attached houses or for development with duplexes. Minimum lot width and depth standards may apply.

The Alternative Design Density "a" overlay is in place to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

The Historic Resource Protection overlay is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks and protects certain historic resources in the region and preserves significant parts of the region’s heritage. The regulations implement Portland’s Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region. The regulations foster pride among the region’s citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city’s economic health, and helps to preserve and enhance the value of historic properties.

The Albina Community Plan District implements the Albina Community Plan. The plan district’s provisions are intended to ensure that new higher density commercial and industrial developments do not overwhelm nearby residential areas. Infill housing compatibility and affordability is encouraged by eliminating off-street parking requirements for small multi-dwelling projects. The plan district’s provisions also encourage the development of new housing along Martin Luther King Jr. Boulevard by allowing new housing projects to include ground level commercial uses that orient to King Boulevard.

Land Use History: City records indicate there are no prior land use reviews for this site.

Public Review: A “Notice of Proposal in Your Neighborhood” was mailed **July 21, 2016**.

Agency Review: The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Bureau of Transportation (Exhibit E.2);
- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4);
- Site Development Section of BDS (Exhibit E.5); and
- Life Safety (Building Code) Plans Examiner (Exhibit E.6).

Neighborhood Review: A total of two written responses were received from the Irvington Community Association Land Use Committee and a notified property owner in response to the proposal. Both were generally in support of the proposal.

- An anonymous letter, signed “A neighbor,” stated the shelter was very unobtrusive and promotes biking (Exhibit F.1).
- Dean Gisvold, Chair of the Irvington Community Association Land Use Committee, said that while the committee normally doesn’t support setback reductions, they had not heard complaints from neighbors and given the context of garages on the adjacent properties, they “will not complain” about the reduced setbacks (Exhibit F.2).

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 providing 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. 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 for setbacks in multi-dwelling zones is stated in Zoning Code Section 33.120.220.A. Staff has considered all purpose statements and has addressed only those considered applicable to this project.

- *They maintain light, air, separation for fire protection, and access for fire fighting;*

The bike shed is a COR-TEN steel structure with a metal and plastic roof. Its proximity to the garages on the adjacent structures will not promote fire since the building is largely metal and thus not likely to burn. The structure is 18 feet by 7.5 feet and, at its peak, is just over 9 feet tall (though closer to 7 feet tall along the north property line). The structure is smaller and shorter than a covered accessory structure that a house in the same zone would be allowed to place in the reduced setback by right.

At its peak, the bike shelter is about the same height as the garage on the adjacent property to the north. To the west, the adjacent property has extensive bamboo and other foliage growing in the area of the bike shed, along with another accessory structure. Therefore, the bike shed will not impede light or air from circulating to adjacent properties in either reduced setback.

The bike shed is in the parking lot of the apartment building on the site; there is sufficient room to access structures on the subject site and the adjacent properties on the remaining area of parking lot.

- *They reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods;*

The bike shed is located approximately 90 feet from the street, in an appropriate location for an accessory structure serving an apartment building. The scale for the structure is modest, measuring 18 feet by 7.5 feet. The placement within the side and rear setbacks is not immediately evident given the distance from the street and the proximity of the accessory structure to the north and the dense foliage and accessory structure to the west.

- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*

The bike shed is tucked in the corner of the site, with limited visibility from adjacent sites due to the location of accessory structures on adjacent properties. The shed has no windows and has a solid door. It affords no views onto adjacent properties, maintaining privacy. Because of the context of the other accessory structures next to and behind the bike shed, the shed has little to no impact on the adjacent properties at all. No letters were received from neighbors or notified homeowners, indicating the structure is not compromising adjacent properties.

For the reasons discussed above, the proposal equally meets the purpose of the regulation. 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: The applicant has stated that prior to the construction of the bike shed, bikes were locked up to railings along NE Tillamook and on the stair rail within the building footprint. They make the case, and staff concurs, that the bike shed allows for more organized storage of bicycles on the site, which results in a cleaner appearance. The one neighbor who wrote in commented on how unobtrusive the structure is. Its modest size, height and simple design does not detract from the appearance of the area.

Allowing the shed to be located in the setbacks minimizes the number of parking spaces lost; as currently situated, the parking lot maintains 8 parking spaces. Placing the bike shelter outside the setbacks would compromise a second parking space as well, leaving 7 total parking spaces on the site. The site requires no off-street parking due to the proximity to frequent bus service, but often neighbors appreciate larger developments that maintain off-street parking options for residents. From this perspective, minimizing the number of lost parking spaces while encouraging bike use can be considered maintaining livability in the residential area.

For the reasons discussed above, 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: The applicant has requested reductions in both the north and the west required building setbacks in order to place the bike shed close to the corner of the property.

The site is designated with the R1 multi-dwelling zoning. The purpose of the multi-dwelling residential zones generally is stated in Zoning Code Section 33.120.010:

The multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing.

The purpose of the R1 zone specifically is stated in Zoning Code Section 33.120.030.C:

The R1 zone is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses. Generally, R1 zoning will be applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

The cumulative effect of both of these setback reductions results in a project that is still consistent with the overall purpose of the R1, Residential 1,000 zone. Accessory structures are not described in these paragraphs, nor would reducing the required setbacks for an accessory bike shed impact the intensity of the development or the ability for the site to provide multi-dwelling housing. This criterion is met.

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. The site is located in the Irvington Historic District. The building on the site, constructed in 1967, is listed as noncontributing to the district. The accessory structure on the property to the north is listed as noncontributing. The flat-roofed garage on the property to the west is contributing to the historic district; however, because of the extensive vegetation on the site, the garage has only limited visibility and placing the bike shelter in the setback does not impact this historic resource. Allowing the accessory structure to be located in the side and rear setbacks does not affect historic resources in the Irvington Historic District. This criterion is met.

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

Findings: There are no discernible impacts that would result from granting the requested adjustment. This criterion is 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: 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

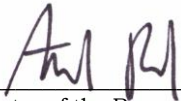
The context of the bike shed location, with accessory buildings on adjacent properties blocking views and minimizing the impact of the modestly-scaled structure, results in a condition where the proposal equally meets the purpose of required setbacks and has no impact on the livability or appearance of the area. 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 Adjustments to Zoning Code Paragraph 33.120.280.C.2 and Table 120-4 to reduce the required building setbacks for an accessory structure from 5 feet to 9 inches for the building wall and 3 inches for the eaves on the north side; and from 5 feet to 10 inches for the building wall and 5 inches for the eaves on the west side, per the approved plans, Exhibits C.1 through C.2, signed and dated August 23, 2016, subject to the following conditions:

- A. As part of the building 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 16-157234 AD."

Staff Planner: Amanda Rhoads

Decision rendered by:  on August 23, 2016
By authority of the Director of the Bureau of Development Services

Decision mailed: August 25, 2016

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 April 21, 2016, and was determined to be complete on July 14, 2016.

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 April 21, 2016.

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: November 11, 2016.**

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 8, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 **September 9, 2016 – 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.

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

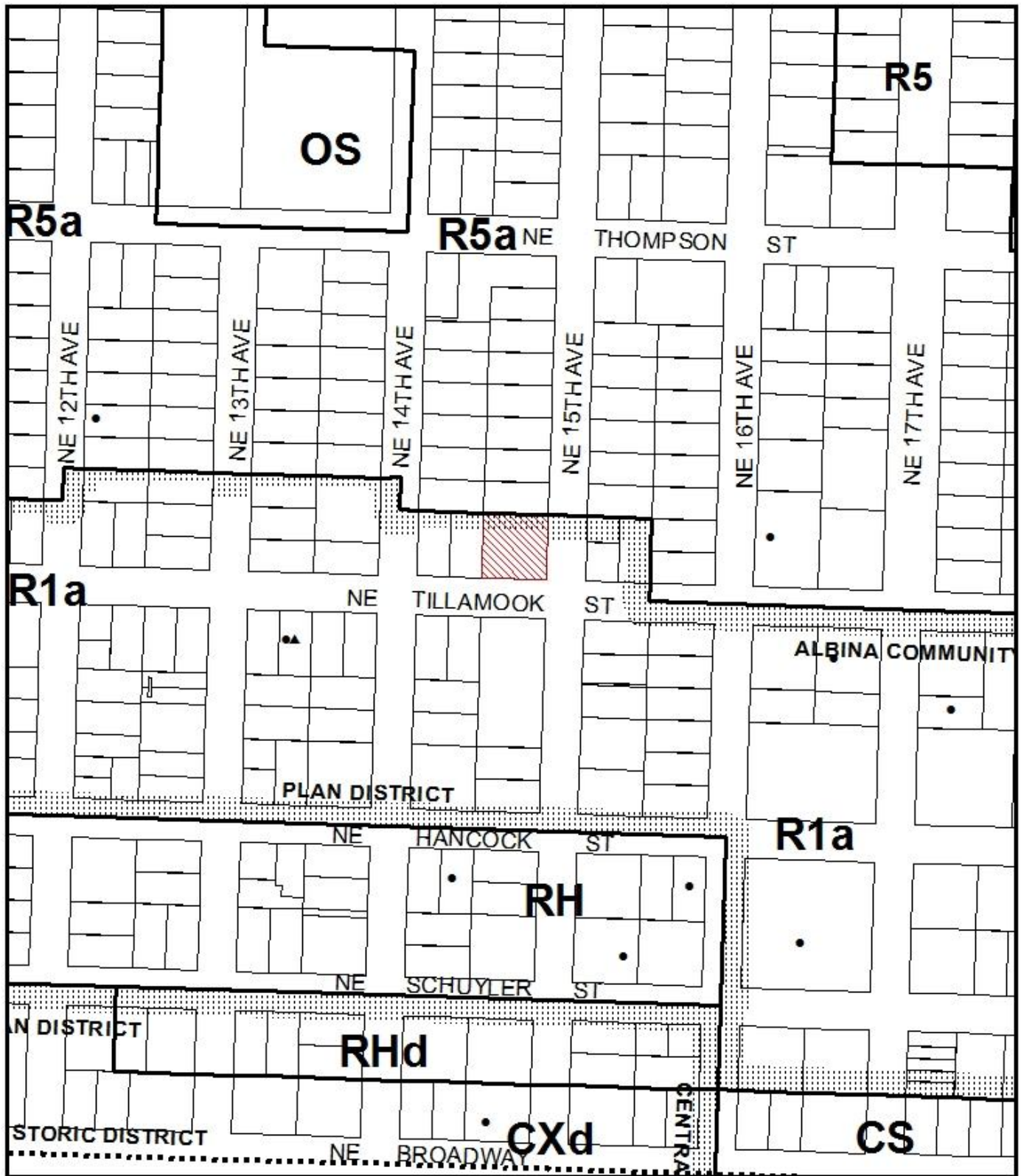
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Original Narrative, April 21, 2016
 2. Aerial Photograph of Site
 3. Site Photos
 4. Copy of Zoning Violation Notice
 5. Updated Narrative and Response to Incomplete Letter with Updated Plans, June 23, 2016
 6. Letter from Applicant with Updated Plans, July 14, 2016
- 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. Bureau of Environmental Services
 2. Bureau of Transportation
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Life Safety (Building Code) Plans Examiner
- F. Correspondence:
 1. Anonymous, August 7, 2016, in support
 2. Dean Gisvold, Chair of the Irvington Community Association Land Use Committee, August 9, 2016, no complaints
- G. Other:
 1. Original Land Use Application and Receipt
 2. Incomplete Letter, April 28, 2016
 3. Planner Email, June 23, 2016

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

This site lies within the:
 ALBINA COMMUNITY PLAN DISTRICT
 IRVINGTON HISTORIC DISTRICT



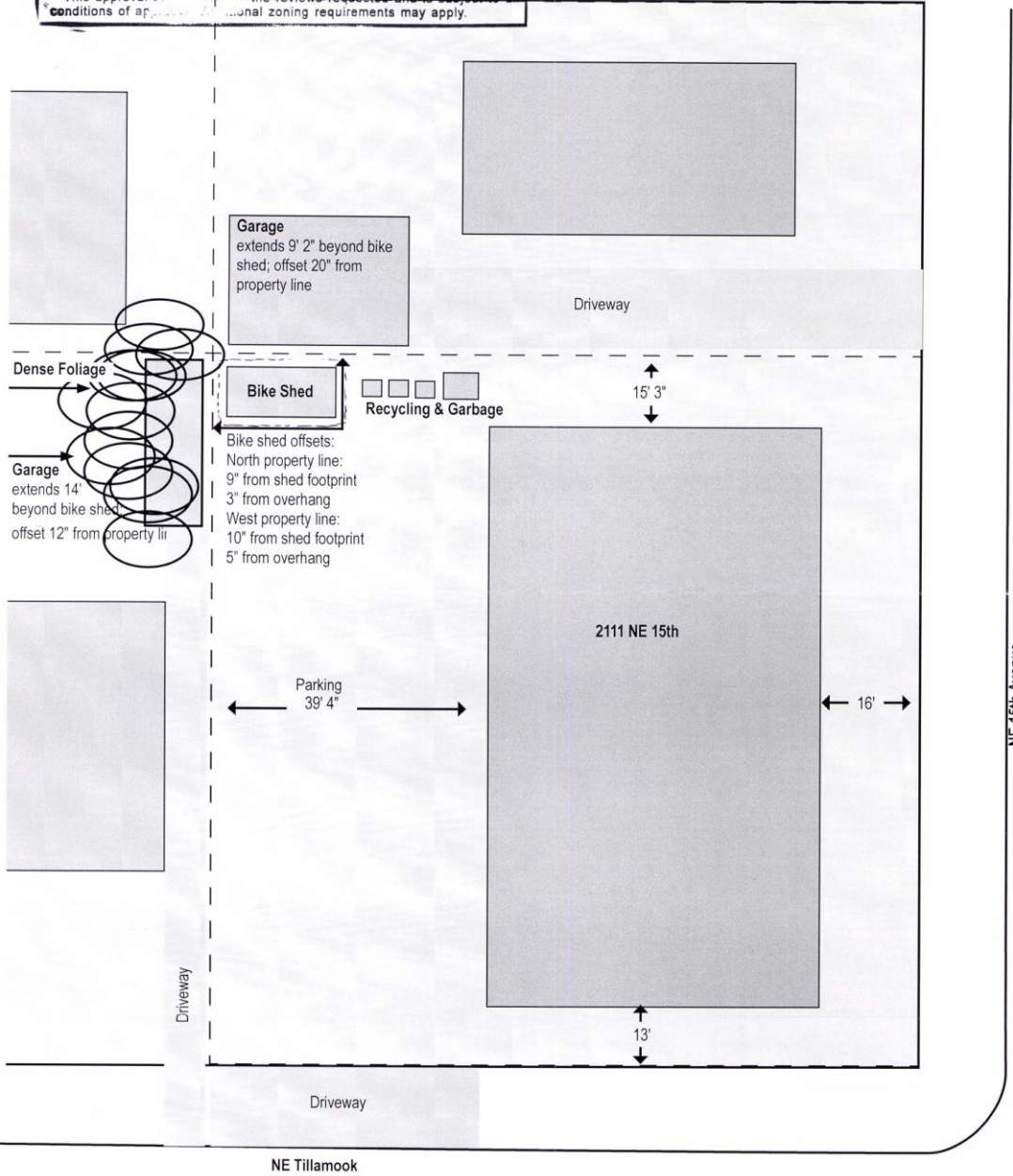
NORTH

-  Site
-  Historic Landmark
-  Conservation Landmarks

File No.	<u>LU 16-157234 AD</u>
1/4 Section	<u>2832</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E26DB 18600</u>
Exhibit	<u>B</u> (Apr 22, 2016)

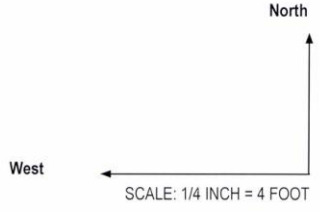
2111 NE 15th St.
 Site Plan
 Land Use Review 16-157234 AD

Approved
 City of Portland - Bureau of Development Services
 Planner AMM Date Aug 23, 2016
 *This approval is subject to all conditions of approval. Additional zoning requirements may apply.

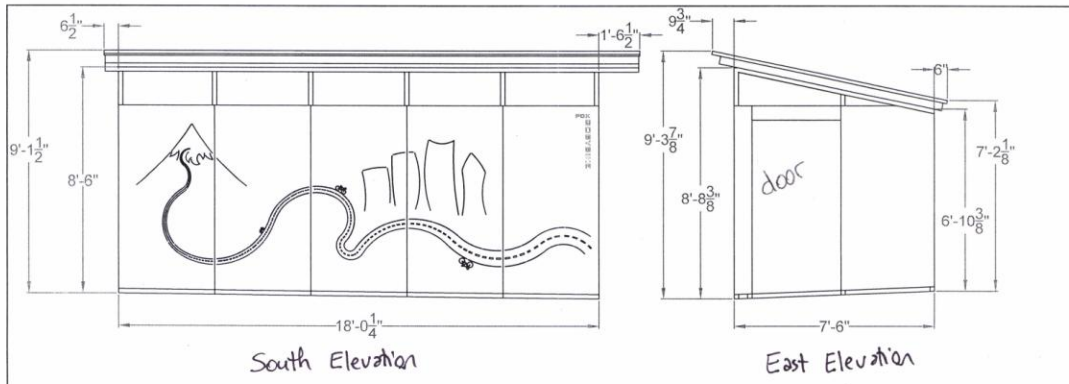


CASE NO. 16-157234 AD
 EXHIBIT C-1

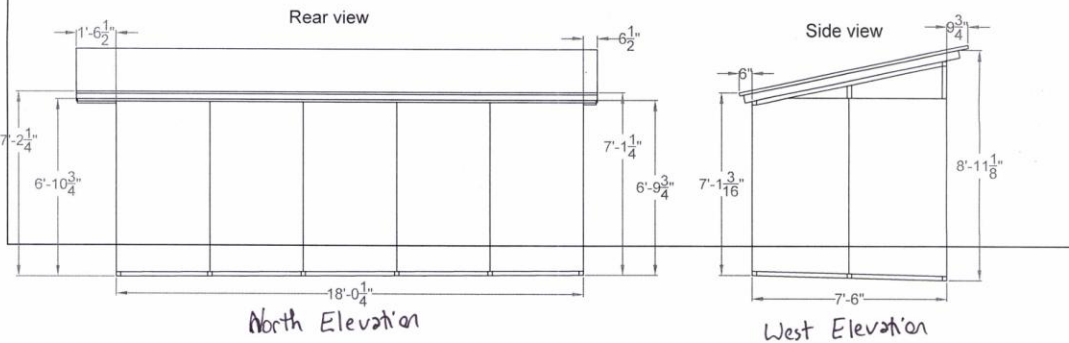
Note:
 Moving bike shed to 5' from north property line will eliminate one parking space.
 Moving bike shed 5' from west property line will necessitate moving recycling containers, resulting in loss of an additional parking space.



2111 NE 15th St.
 Bike Shed Elevations
 Land Use Review 16-157234 AD



Materials used
 14ga Steel panels for exterior
 2x2x.120" HSS tube frame
 .375" Steel plate for base plates
 .375"x5" wedge bolts x12
 Corrugated steel and acrylic roofing



Approved
 City of Portland - Bureau of Development Services
 Planner MM Date Aug. 23, 2016
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

CASE NO. LU 16-157234 AD
 EXHIBIT C 2