



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: December 8, 2017
To: Interested Person
From: David Besley, Land Use Services
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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 17-173844 AD

GENERAL INFORMATION

Applicant: Anthony Iaccarino | Webster Row LLC
6307 SE 34th Ave | Portland, OR 97202

Owner: Robert P Macleod
5036 N Maryland Ave | Portland, OR 97217

Site Address: 5036 N MARYLAND AVE

Legal Description: BLOCK 33 LOT 4, M PATTONS ADD & 2ND
Tax Account No.: R520502840
State ID No.: 1N1E22BB 14500
Quarter Section: 2529

Neighborhood: Overlook NA, contact landuse@overlookneighborhood.org
Business District: None
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099

Plan District: North Interstate
Zoning: RHd (High Density Residential with a Design Overlay Zone)
Case Type: AD (Adjustment Review)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee

Proposal:

The applicant is proposing to build 6 attached townhouse units, and a 2.5-foot by 24-foot covered trash enclosure with a height of 6 feet along the eastern edge of the property. The Portland Zoning Code requires that structures be set back a minimum of 5 feet from the rear lot lines in this zone (Section 33.120.220; Table 120-4). An Adjustment is therefore requested to reduce the minimum rear (east) setback from 5 feet to 0 feet for a 60 square foot trash enclosure.

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 5,000 square-foot site is on the southeastern corner of N Maryland Avenue and N Webster Street. The site slopes gradually downward from southeast to northwest and is currently developed with a 1,274 square-foot single-story residence. The surrounding vicinity is developed with a mix of single-dwelling residences, multi-dwelling residential buildings, and commercial uses.

Zoning: The multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The RH zone is a high density multi-dwelling zone. Density is not regulated by a maximum number of units per acre. Rather, the maximum size of buildings and intensity of use is regulated by floor area ratio (FAR) limits and other site development standards. Generally the density will range from 80 to 125 units per acre. Allowed housing is characterized by medium to high height and a relatively high percentage of building coverage. The major types of new housing development will be low, medium, and high-rise apartments and condominiums. Generally, RH zones will be well served by transit facilities or be near areas with supportive commercial services. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. The "d" zone overlay (Design Overlay Zone) is not impacted by the Adjustment proposal because the Community Design Standards are being used (Sections 33.218.110 and 33.218.140).

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed November 3, 2017. The following Bureaus have responded with the following information:

- The Life Safety section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information (Exhibit E-1).

The following Bureaus have responded with no concerns (Exhibit E-2):

- The Bureau of Environmental Services;
- The Site Development Section of BDS
- The Water Bureau; and
- The Portland Bureau of Transportation.

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. 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 has requested an Adjustment to reduce the minimum rear setback from 5 feet to 0 feet for a 60 square foot trash enclosure. The relevant purpose statements and associated findings are found below:

33.120.220 Setbacks

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 multi-dwelling development 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*

- *Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.*

The relatively small, 6-foot tall structure will be screened from the neighbor to the east and N Webster Street to the north by a 6-foot tall fully sight-obscuring wood fence. A condition of approval will require the retention of a 6-foot-high fully sight-obscuring fence along the east lot line and along the north edge of the trash enclosure (see Exhibit C.1). Light and air will therefore not be impacted beyond what currently exists. Because the trash enclosure will not include windows or doors, there will be no privacy impacts to neighboring properties. Many of the surrounding residential buildings include development that encroaches into setbacks. The addition within the rear setback will therefore be compatible with this neighborhood.

A 3.5 foot distance will exist between the trash enclosure structure and the east wall of the building, allowing access for pedestrians and fire-fighters in the remaining east rear setback. N Maryland Avenue is classified as a Major Transit Priority Street, but the addition will not be visible from this street, so it will have no impacts to pedestrians and transit users; furthermore, the Portland Bureau of Transportation has no concerns regarding the proposed Adjustment.

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 surrounding neighborhood includes single-dwelling residences, multi-dwelling residential buildings, and commercial uses. As noted above, many of the surrounding houses include development that encroaches into setbacks. This proposal is therefore consistent with the development pattern in the area and will not significantly detract from the livability or appearance of the area due to its small size and fenced screening.

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 proposed; therefore, 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 Map with a lowercase “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. 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: There are no discernible impacts that would result from granting the requested adjustments for which mitigation would be required.

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 Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, 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 is requesting an Adjustment to reduce the minimum rear setback from 5 feet to 0 feet for a 60 square foot trash enclosure. The relatively small, 6-foot tall structure will be screened from the neighbor to the east and N Webster Street to the north by a 6-foot tall fence. Light and air will therefore be minimally impacted. Because the trash enclosure will not include windows or doors, there will be no privacy impacts to neighboring properties. Many of the surrounding residential buildings include development that encroaches into setbacks. The addition within the rear setback will therefore be compatible with this neighborhood. The proposal meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum rear (east) setback (Section 33.120.220; Table 120-4) from 5 feet to 0 feet for a 60 square foot trash enclosure, per the approved site plan, Exhibit. C.1, signed and dated December 5, 2017, 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-173844 AD."
- B. A 6-foot-high fully sight-obscuring fence shall be maintained along the east lot line and along the north side of the trash enclosure (see Exhibit C.1).

Staff Planner: David Besley



Decision rendered by: _____ **on December 5, 2017.**

By authority of the Director of the Bureau of Development Services

Decision mailed: December 8, 2017

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 May 18, 2017, and was determined to be complete on October 12, 2017.

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 May 18, 2017.

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: February 9, 2018.**

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 December 22, 2017** 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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **December 22, 2017** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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:

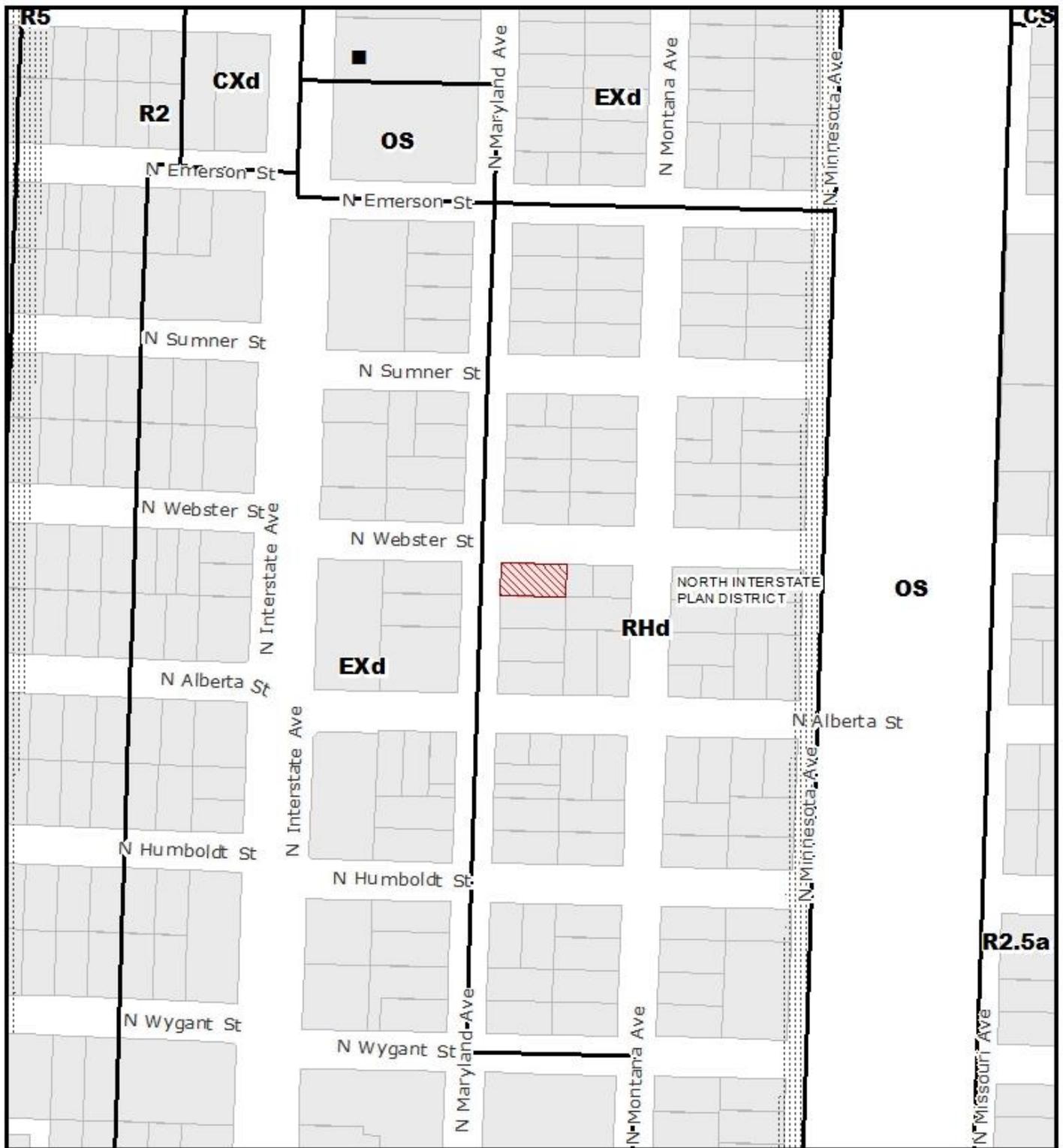
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan, Elevation Drawings, and Rendering (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section of BDS
 - 2. Agencies responding with no concerns
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incomplete letter from staff to applicant dated June 1, 2017

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:
NORTH INTERSTATE PLAN DISTRICT



Site



Historic Landmark

File No.	LU 17-173844 AD
1/4 Section	2529
Scale	1 inch = 200 feet
State ID	1N1E22BB 14500
Exhibit	B May 22, 2017

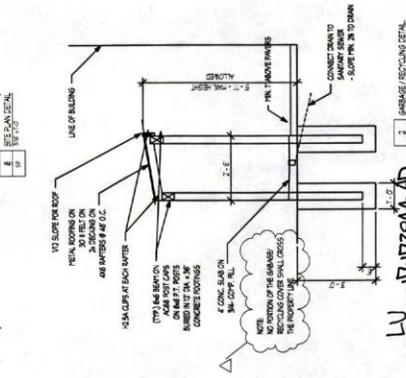
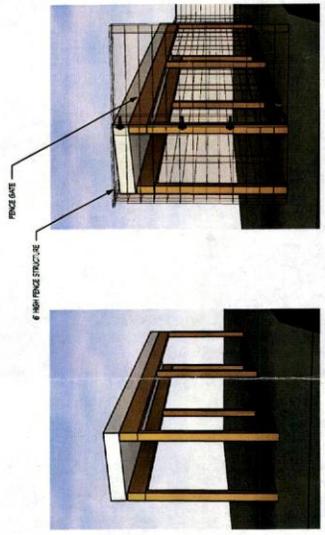
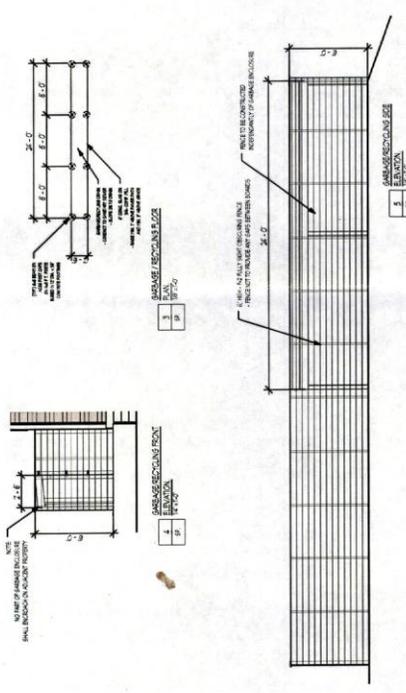
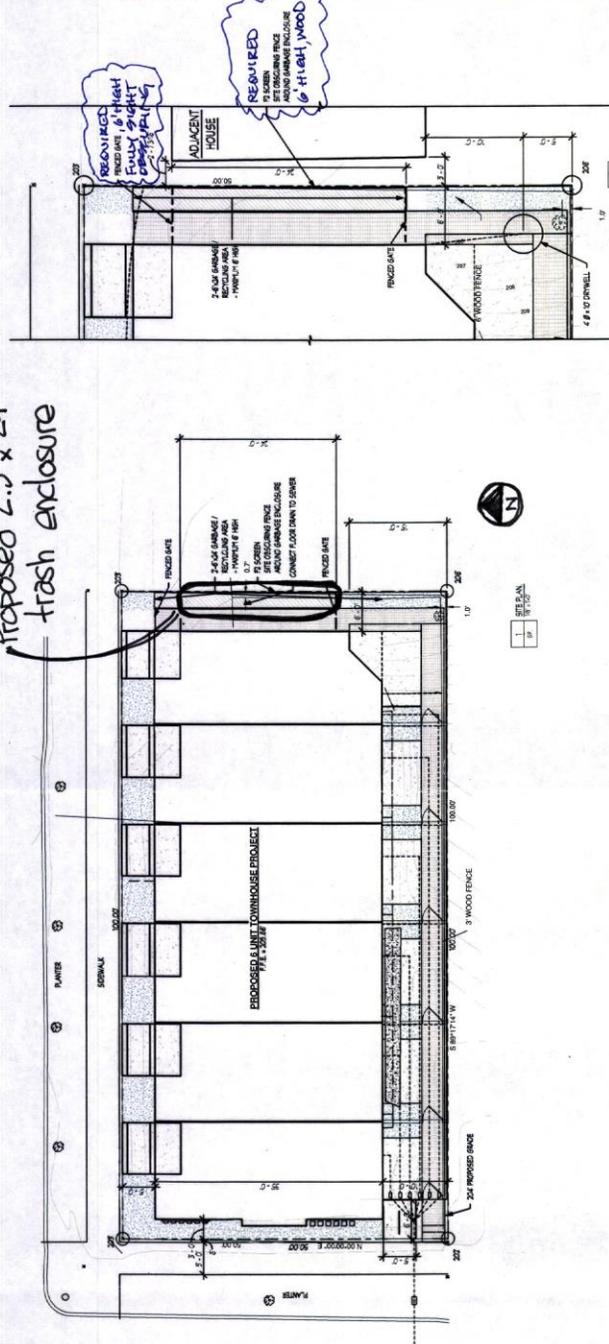
Adjustment requested to reduce min. rear setback from 5' to 0' for a 60 sq.ft. trash enclosure

Approved
 City of Portland
 Bureau of Development Services
 Planner David Beasley
 Date 12.5.17
 * This approval applies only to the reviews requested and is subject to all conditions of approval
 Additional zoning requirements may apply.

MARKETPLACE

OWNER: URBAN ROOST LLC
 PROJECT: 6 UNIT TOWNHOUSES
 ADDRESS: 5036 N MARYLAND AVE, PORTLAND, OR 97217
 SUBMITTER: URBAN ROOST LLC
 DATE: 12/5/17
 SCALE: AS SHOWN
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]
 PROJECT NO: [Number]
 SHEET NO: [Number]

Proposed 2.5' x 24' trash enclosure



BUILDERS DESIGN
 1122 NE WHEELER ST - PORTLAND, OR 97232
 (503) 255-4411
 EMAIL: BUILDERSDESIGN@GMAIL.COM

SP. PLAN DETAILS
 5036 N MARYLAND AVE - PORTLAND, OR 97217
 URBAN ROOST LLC - 6 UNIT TOWNHOUSES

DATE: 12/5/17 10:02:00 PM
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

LU 17173844 AD
 CASE NO. 17173844 AD
 EXHIBIT C-1