



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

Ted Wheeler, Mayor
Rebecca Esau, Director
Phone: (503) 823-7300
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www.portlandoregon.gov/bds

Date: March 15, 2019
To: Interested Person
From: Don Kienholz, Land Use Services
503-823-7771 / Don.Kienholz@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 18-247568 AD

GENERAL INFORMATION

Applicant/ Owner: Sheri N McGahey
2051 NE 137th Ave
Portland, OR 97230-4052

Representative: Jennifer Hughes

Site Address: 2051 NE 137TH AVE

Legal Description: LOT 6 TL 1800, RICHLAND
Tax Account No.: R703303130
State ID No.: 1N2E26DB 01800
Quarter Section: 2844

Neighborhood: Russell, contact Ron Glanville at 503-341-1402.
Business District: Gateway Area Business Association, contact at info@gabanet.com
District Coalition: East Portland Community Office, contact Victor Salinas at 503-823-6694.

Plan District: Glendoveer

Zoning: R7h – Single-Dwelling Residential, 7,000 with an Aircraft Landing Zone ('h') overlay.

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

Proposal:

The applicant is proposing to site a 10-foot wide, 20-foot long and 10-foot tall accessory building in the northeast corner of the subject lot up to 1-foot from the rear (west) property line and up to 1-foot from the side (north) property line. The subject property is zoned R7 and is

within the Glendoveer Plan District. In most single-dwelling zones, including the R7 zone, detached accessory structures measuring 24-feet by 24-feet that are 15-feet in building height or less are allowed within rear and side setbacks (33.110.250.C.2.b). However, the Glendoveer Plan District has larger rear and side building setbacks for accessory structures other than garages to reflect the original Ascot zoning adopted by Multnomah County when the area was unincorporated. In the Glendoveer Plan District, detached garages measuring 24-feet by 24-feet and no taller than 15-feet in building height are allowed in rear and side setbacks. However, all other detached accessory buildings must be 15-feet from the rear property line and 10-feet from a side property line (33.530.040.A). Because the applicant is proposing to locate the detached accessory building up to 1-foot from the rear and up to 1-foot from the side property lines, an Adjustment is necessary.

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 subject property is an approximately 9,800 square foot lot with an existing single-family dwelling and attached garage built in 1953. The property is zoned R7 and within the Glendoveer Plan District about 1,500 feet away from the Glendoveer Golf Course in East Portland. The house, like the vast majority in the vicinity, are mid-century ranches placed centrally with generous setbacks on over-sized lots ranging from about 7,500 square feet to about 15,000 square feet. The development pattern in this area of NE Portland reflects the original Ascot Zoning adopted by Multnomah County when it was under the county's jurisdiction. The subject lot, like most lots in the area, has mature landscaping including several substantial and large trees. The driveway on the subject lot is 12-feet wide but widens approximately 10-feet into the lot to approximately 24-feet, providing an additional parking area deeper in the lot.

Zoning: The Residential 7,000 zone (R7), is a Single-Dwelling zone intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 4,200 square feet, with minimum width and depth dimensions of 40 and 55-feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 7,000 square feet of site area.

Aircraft Landing Zone – The Aircraft Landing zone is shown on the Official Zoning Maps with a letter "h" map symbol. The zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment. In residential zones, the maximum height is regulated by the R7 base zone and not the heights of the 'h' overlay.

Glendoveer Plan District – The regulations of the Glendoveer plan district are intended to ensure that the special development patterns fostered by Ascot zoning and succeeding zoning provisions established by Multnomah County are protected and continued under City zoning regulations following annexation.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **January 23, 2019**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Portland Bureau of Transportation (Exhibit E.2);
- Water Bureau and Fire Bureau (Exhibit E.3);

- Site Development Section of BDS (Exhibit E.4);
- Urban Forestry (Exhibit E.5); and
- Life Safety (Exhibit E.6)

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

33.805.010 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

The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.

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

Finding: The applicant is requesting a reduction to the minimum rear and side building setbacks of the Glendoveer Plan District. The purpose of the special Glendoveer Plan District and the associated setbacks is found in Portland Zoning Code Section 33.530.010:

“The regulations of the Glendoveer plan district are intended to ensure that the special development patterns fostered by Ascot zoning and succeeding zoning provisions established by Multnomah County are protected and continued under City zoning regulations following annexation.”

The original Ascot Zoning was established in 1949 by a number of neighborhoods near the Ascot Acres subdivision. The original development standards required 70-foot wide lots, minimum setbacks of 30-feet for the front, 10-feet for the sides, and 25-feet for the rear. Lot sizes were a minimum of 7,500 square feet. Once Multnomah County adopted zoning for the area in 1955, the current minimum building setback standards of 30-foot for the front, 10-feet for the sides, and 15-feet for the rear were established and kept when finally annexed into the City in 1986. These standards provided for much larger, auto-oriented suburban development pattern, including attached garages.

The Glendoveer Plan District moved the area's unique development standards into a plan district rather than the base zone. As part of the plan district, development standards for detached garages were included that mimicked Portland's base single-dwelling zones and allowed detached garages to be located in the rear and side building setbacks under certain conditions. This is important to note because were the proposed accessory structure a garage, it would be allowed by right 1-foot from the rear and side setbacks under the Plan District in 33.530.040.B.

From the adjacent street, the use of a detached structure as a garage, toolshed or workshop would be essentially indistinguishable, particularly since the accessory building is buffered

from the street by portions of the existing house. The subject property is also lined with 6-foot tall fences and high shrubs that mostly obscure views into the yard from adjacent properties. With the proposed accessory building measuring 10-feet deep and 20-feet wide, it has a smaller footprint than a detached garage allowed by right could have.

Considering the proposed accessory building could be allowed by right in the proposed location if it were a garage; the building will not be visible from the adjacent street; and the front of the property will maintain the historic Ascot development pattern, the purpose of the Glendoveer Plan District is equally met.

Criterion met.

B. If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Finding: The subject property is in a residential zone, so the proposal must not significantly detract from the livability or appearance of the residential area. The subject property and the vast majority of others in the Glendoveer Plan District have unusually large lots, even for R7 zoned properties, due to the historic Ascot zoning pattern perpetuated first by Multnomah County and second by the City of Portland. Lot sizes range from 7,500 square feet to 15,000 square feet with some exceptions above and below the stated square footage. These larger lots accommodate larger homes built in the mid-20th century and their one and two-car attached garages.

The homes in the Glendoveer Plan District tend to be variations of the ranch style with wide, linear forms on the wider than normal lots rather than deep dwellings on deep lots. This development pattern provides for large back yards where accessory structures can be located without being noticeable from the adjacent streets. Because the proposed building is an enclosed accessory shed, it will not contain uses that conflict with the residential use of the adjacent properties. The proposed structure extends along only 22% of the length of the rear lot line, and only 9% of the northside lot line, thereby leaving adequate setbacks to provide light, air, and opportunities for landscaping. Additionally, the proposed location reflects where larger detached garages are allowed by right to be located. As such, the proposal will not detract from the livability or appearance of the residential area.

Criterion 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

Finding: Two Adjustments are requested for the proposal – reductions to the rear and side setbacks for a detached accessor structure. They include a reduction from 15-feet to 1-foot to the western rear setback and a reduction from 10-feet to 1-foot to the northern side building setback. As the Adjustments only relate to setbacks and do not impact maximum building coverage, height, or minimum outdoor space, there is no cumulative impact and the proposal is still consistent with the overall purpose of the R7 zone and Glendoveer Plan District as stated in Zoning Code Section 33.530.010.

Criterion met.

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

Finding: City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s,” while historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. The subject property is not within a City-

designated 's' overlay zone nor within proximity to an Historic Resource. Considering the lack of proximity to city-designated scenic and historic resources, staff finds development will not adversely impact scenic or historic resources and they will be preserved.

Criterion met.

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

Finding: As found in staff responses to criteria A and B, the requested adjustment to the front building setback equally meets the purposes of front building setbacks and will not significantly detract from the livability or appearance of the residential area. As such, no mitigation is necessary

Criterion 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;

Finding: The subject property is not within an environmental zone.

Criterion 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 requirements of Title 11 can be met, and 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.

It is noted there an extension of the house along the north property line identified as a 'covered patio' on the site plan (Exhibit C.1) that is not included as part of this land use view and approval. At some point it may need to be further reviewed if its legal non-conforming status cannot be verified.

CONCLUSIONS

The applicant has demonstrated that reducing the 15-foot minimum rear and 10-foot side building setbacks of the Glendoveer Plan District (33.530.040.A) down to 1-foot for the proposed 10x20-foot detached accessory shed equally meets the purpose of the special setback regulations of the Glendoveer area. The setback reductions will maintain the historic Ascot development pattern of large, open back yards that allow also detached accessory garages up to 24x24-feet in the rear and side setbacks by right. The proposed shed will not significantly detract from the livability or appearance of the neighborhood or be sited in a scenic, historic or environmentally significant area. As the application has met the approval criteria, the proposal must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum north side setback from 10-feet to 1-foot, and reduce the minimum rear setback from 15-feet to 1-foot (Zoning Code Section 33.530.040.A) for a 10-foot by 20-foot, one-story detached accessory structure, subject to the following condition:

- 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 through C.6, signed and dated on March 13, 2019. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 18-247568 AD. No field changes allowed."

Staff Planner: Don Kienholz

Decision rendered by:  **on March 13, 2019**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 15, 2019

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 October 3, 2018, and was determined to be complete on January 25, 2019.

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 October 3, 2018.

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: May 25, 2019.**

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 29, 2019** 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 **March 29, 2019** 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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 Materials
 - 1. Cover Letter
 - 2. Applicant's Narrative and Site Photos
 - 3. Jose and Ludy Poox Letter of Support Submitted with Application
 - 4. Travis and Raechel Gordon Letter of Support Submitted with Application
 - 5. Summary of New Materials
 - 6. Revised Narrative
- B. Zoning Map (Attached)
- C. Plans/Drawings:
 - 1. Site Plan (Attached)
 - 2. East Elevation (Attached)
 - 3. South Elevation (Attached)
 - 4. North Elevation (Attached)
 - 5. West Elevation (Attached)
 - 6. Floor Plan (Attached)
- D. Notification information:
 - 1. Mailing List
 - 2. Mailed Notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Bureau of Transportation
 - 3. Water Bureau and Fire Bureau
 - 4. Site Development Section of BDS
 - 5. Urban Forestry
 - 6. Life Safety
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application
 - 2. Copy of Receipt of Fee Payment
 - 3. October 12, 2018 Incomplete Letter

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:
GLENDOVEER PLAN DISTRICT



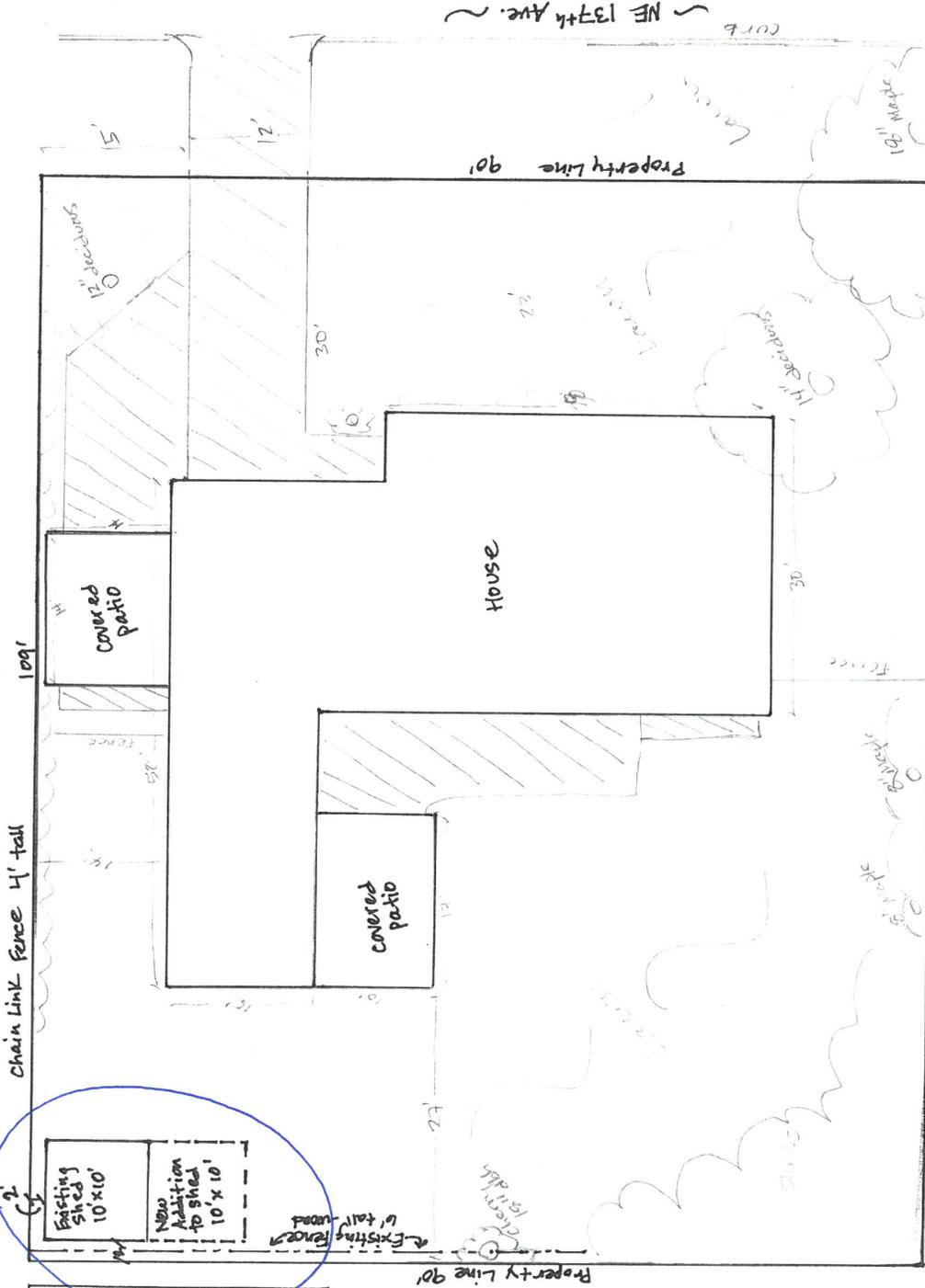
Site

File No.	LU 18-247568 AD
1/4 Section	2844
Scale	1 inch = 200 feet
State ID	1N2E26DB 1800
Exhibit	B Oct 08, 2018

Adjustment only applicable to this structure

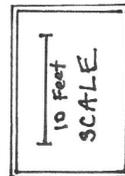
Site Address: 2051 NE 137th Ave, Portland, OR 97230

Figure 1: Site Plan



Site Coverage:	
Existing =	2,671 sq ft
Proposed =	2,771 sq ft
Maximum Per Table 110-4 =	2,971 sq ft
[2,250 + 15% of 4,810 = 2,971]	

CASE NO. LW 18-247568 AD
EXHIBIT C.1



City of Portland - Bureau of Development Services
Approved: [Signature] Date: 3/13/19

LW 18-247568 AD

RECEIVED
JAN 03 2019
By

Approved

City of Portland - Bureau of Development Services

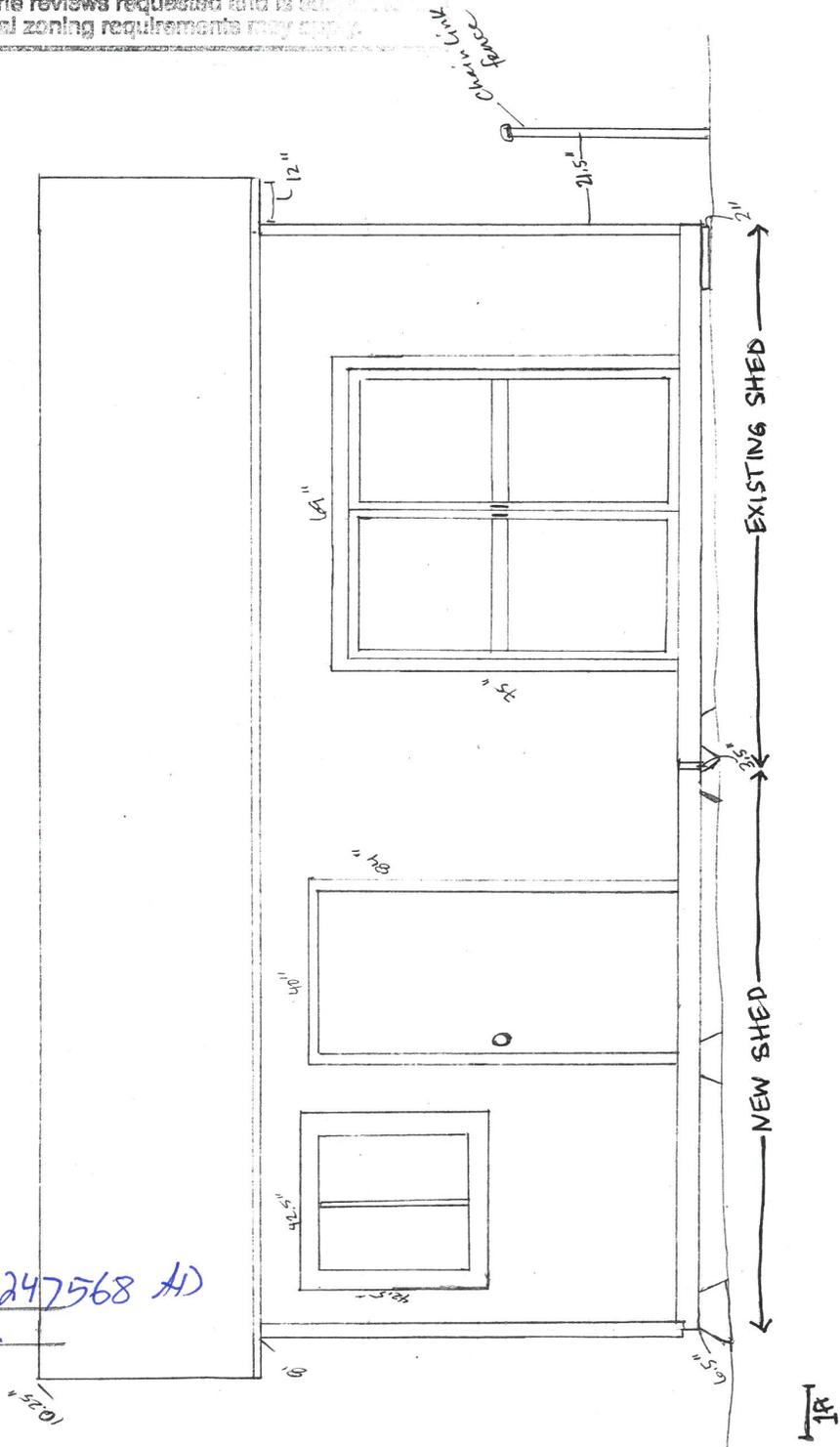
Don Kenkel Date *3/13/19*

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

Site Address: 2051 NE 137th Ave., Portland, OR 97230

Elevation 1: East Wall

CASE NO. *LV18-247568 AD*
EXHIBIT *C.2*

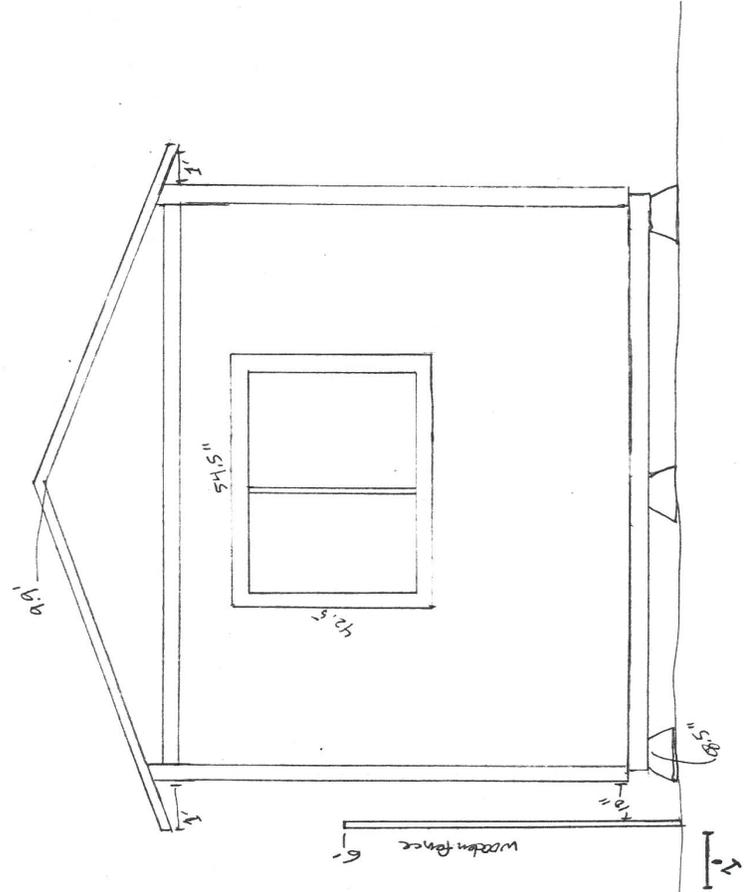


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JAN 03 2019
By

Site Address: 2051 NE 137th Ave., Portland, OR 97230

Elevation 2: South Wall

Approved
City of Portland - Bureau of Development Services
Don Ronkeby Date 3/13/19
This approval applies only to the reviews requested and is subject to the terms of approval. Additional zoning requirements may apply.



CASE NO. LV 18-247568 AD
EXHIBIT C.3

Site Address: 2051 NE 137th Ave. Portland, OR 97230

Elevation 3: North Wall

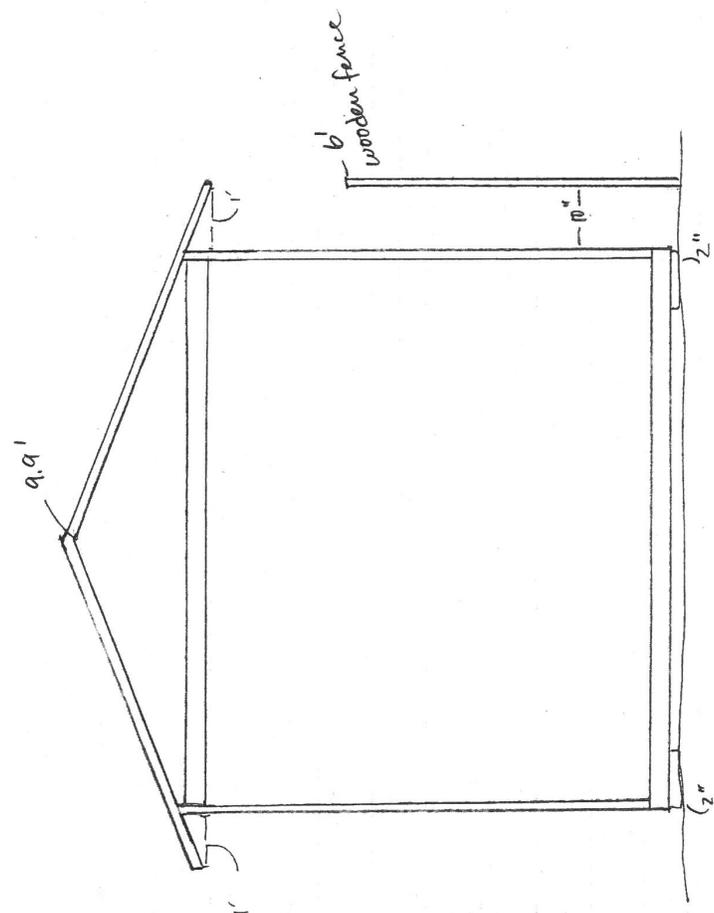
Approved

City of Portland - Bureau of Development Services

By Don Kenney Date 3/13/19

This approval applies only to the reviews requested and is not a guarantee of approval. Additional zoning requirements may apply.

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By _____

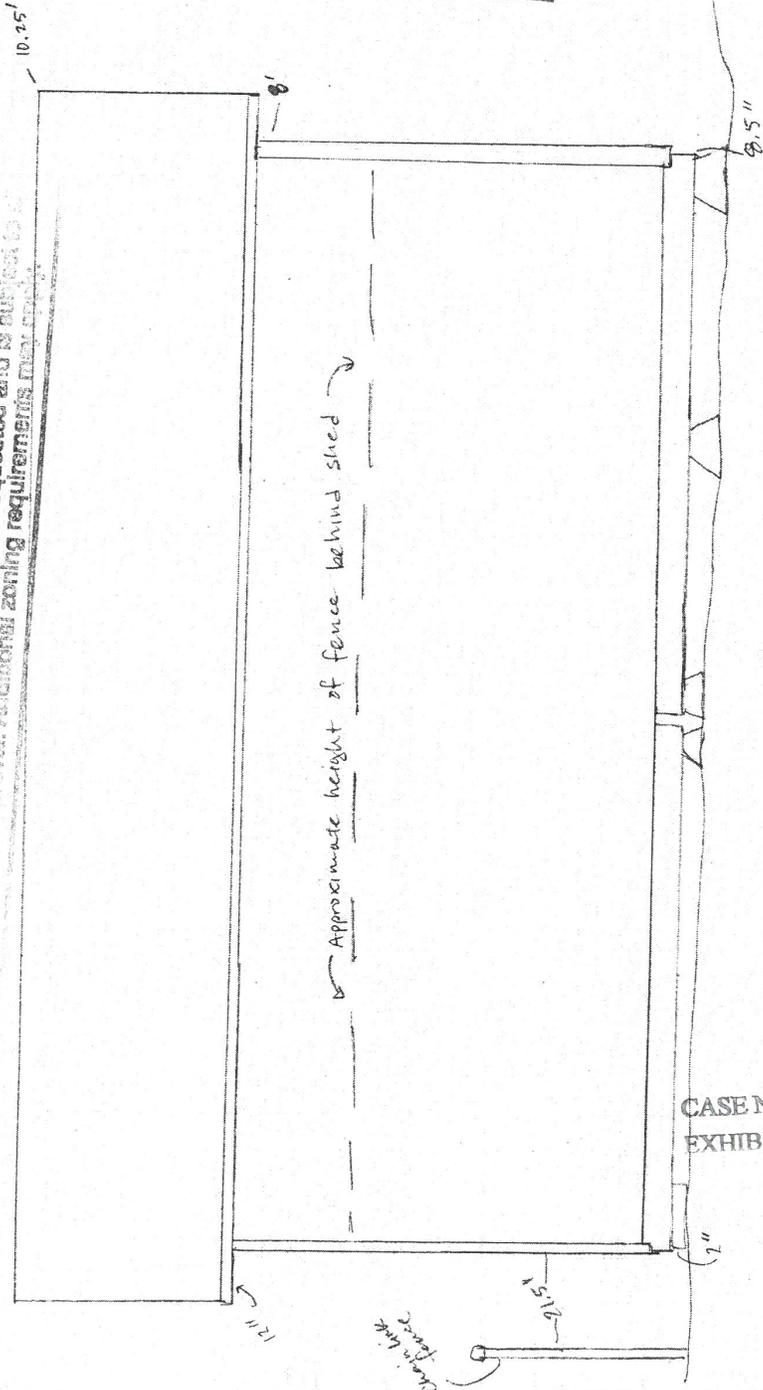


CASE NO. LV 18-247568 AD
EXHIBIT C.4

Elevation 4: West Wall

Site Address: 2051 NE 137th Ave., Portland, OR 97230

Approved*
 City of Portland - Bureau of Development Services
Don Rando
 Date 3/13/19
 Approval applies only to the reviews requested and is subject to all other applicable codes and regulations. Additional zoning requirements may apply.



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 JAN 17 2019
 By _____

CASE NO LU18-247568
 EXHIBIT C.5 AD

RECEIVED
JAN 03 2019
By

Approved

City of Portland - Bureau of Development Services

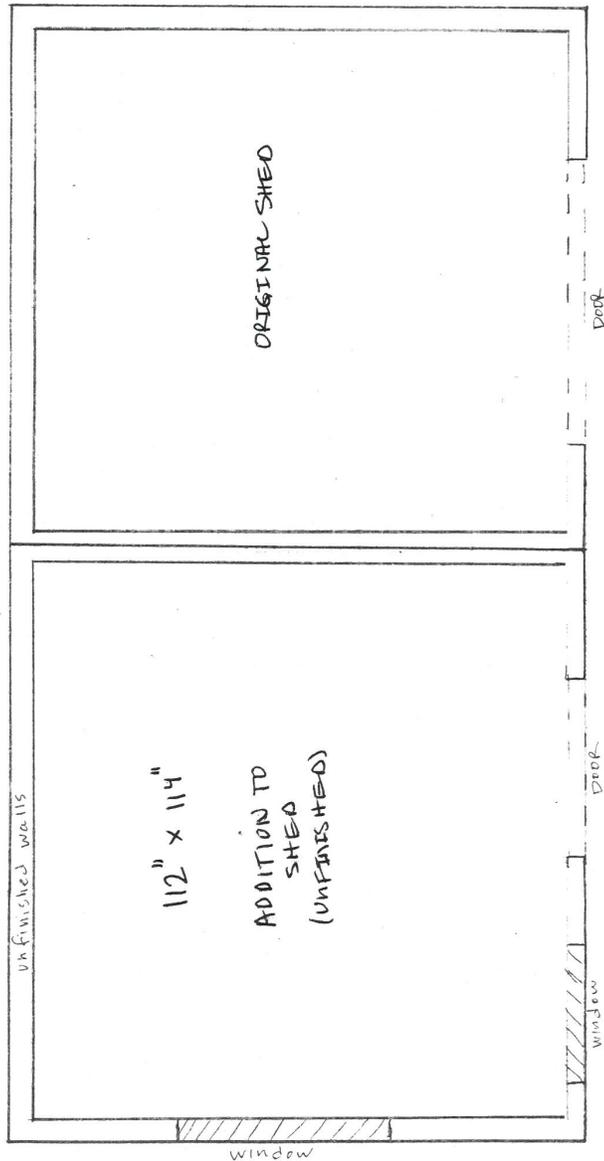
Don Kenkel

Date 3/13/19

This approval is only in the reviews requested and is subject to all applicable codes and requirements.

Site Address: 2051 NE 137th Ave., Portland, OR 97230

Floor Plan 1



CASE NO. LU 18-247568 AD
EXHIBIT C.6

1