



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

Dan Saltzman, Commissioner
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Date: February 29, 2016
To: Interested Person
From: Mark Walhood, City Planner
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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 15-267134 AD

GENERAL INFORMATION

Applicant: Jon Spurgeon / Husky Construction And Remodel
P.O. Box 8000 PMB 8198 / Black Butte Ranch, OR 97759

Property Owners: Susanne Olin and Tom Soma
4224 NE 19th Ave / Portland, OR 97211

Site Address: 4224 NE 19TH AVE

Legal Description: BLOCK 76 SLY 2.745' OF W 64' OF LOT 1 W 64' OF LOT 2, VERNON
Tax Account No.: R860713820
State ID No.: 1N1E23DA 06700
Quarter Section: 2632
Neighborhood: Sabin Community Assoc., contact Rachel Lee at 503-964-8417.
Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032.
District Coalition: Northeast Coalition of Neighborhoods, contact Lokyee Au at 503-388-9030.

Zoning: **R5h** (Single-Dwelling Residential 5,000 base zone with Aircraft Landing overlay zone)

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

PROPOSAL: The applicant and former owner of the house are in the process of legalizing exterior changes that were made to the side and rear of the house at 4224 NE 19th Avenue. Other work done without permit at the site since 2008 (new second floor, changes to detached garage) has recently been corrected, but a trapezoidal shed and projecting roof covers on either side of the shed at the northeast rear corner of the site are still unresolved. The shed has a footprint of approximately 10'-0" by 10'-0", with a sloping roof that is taller near the house and lower towards the northeast corner. The shed itself and attached covered areas abutting the shed to the west in the side yard, and to the south in the rear yard, also project out from the house toward the property lines, connecting with the new shed to form one interconnected, attached

structure. On the submitted drawings and site plan, the applicant notes the shed as distinct from both "cover B" (covered area west of shed in side yard) and "cover A" (covered area south of shed in rear yard).

Regulations for the R5 base zone at the site require a minimum 5'-0" building setback for structures over 6'-0" tall (33.110.220.B/Table 110-3). As shown on the submitted site plan and drawings, the proposed and covered areas near the shed are located closer than 5'-0" from the abutting side and/or rear lot lines. Therefore, in order to approve the shed and adjacent roof coverings as built, the applicant has requested the following two Adjustments:

1. Reduce the west side setback from 5'-0" to 2'-0" for the 'cover B' post, 1'-4" for the shed wall, 1'-2" for the shed eaves, and 1'-0" for the 'cover B' eaves; and
2. Reduce the north rear setback from 5'-0" to 2'-0" for the 'cover A' eaves, 1'-4" for the shed wall, and 1'-2" for the shed eave.

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at 33.805.040.A-F, Adjustment Approval Criteria.

CONCLUSIONS

The applicant is in the process of correcting several violations as a result of unpermitted building activity at the site that did not meet Zoning or Building Codes. Most of the corrections have been made or are in the process of being made, with the exception of the attached roofing and shed at the northeast corner of the site. Because of the proximity of these features to the lot line and adjacent homes, and because the proposed type and placement of building features are not typically found in the neighborhood, the large unenclosed covered area projections from the house should be removed. A smaller garden shed in the same corner, if detached from the house and made to function as a separate building, is less impactful to the abutting neighbors and more in keeping with typical neighborhood development patterns. With a partial approval and partial denial of the project as noted in this decision, the relevant approval criteria are met and the request can be approved.

ADMINISTRATIVE DECISION

Denial of an **Adjustment** to the north side setback for the "cover B" posts and eaves.

Denial of an **Adjustment** to the east rear setback for the "cover A" eaves.

Approval of an **Adjustment** to reduce the north side setback from 5'-0" to 1'-4" for the shed wall, and from 5'-0" to 1'-2" for the shed eaves.

Approval of an **Adjustment** to reduce the east rear setback from 5'-0" to 1'-4" for the shed wall, and from 5'-0" to 1'-2" for the shed eaves.

The above two approvals are granted based on the approved and staff-modified plans, Exhibits C.1 through C.5, all signed and dated February 24, 2016, and subject to the following conditions:

- A. As part of the building permit documents, the following development-related condition (B) must be noted on each site plan and elevation drawing showing the "cover A", "cover B" and shed features addressed in this decision. The sheets on which condition of approval language appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 15-267134 AD."
- B. The triangular section of roofing between the shed and the house must be removed, establishing the shed as a fully detached structure otherwise of the same size. The removed roof area may be replaced with an eave that projects no more than 1'-0" outwards or upwards towards the house in the area where the triangular roof section was removed.

Staff Planner: Mark Walhood

Decision rendered by: MARK WALHOOD **on February 24, 2016.**
By authority of the Director of the Bureau of Development Services

Decision mailed: February 29, 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 November 19, 2015, and was determined to be complete on **January 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 November 19, 2015.

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 12, 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 March 14, 2016** 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 15, 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

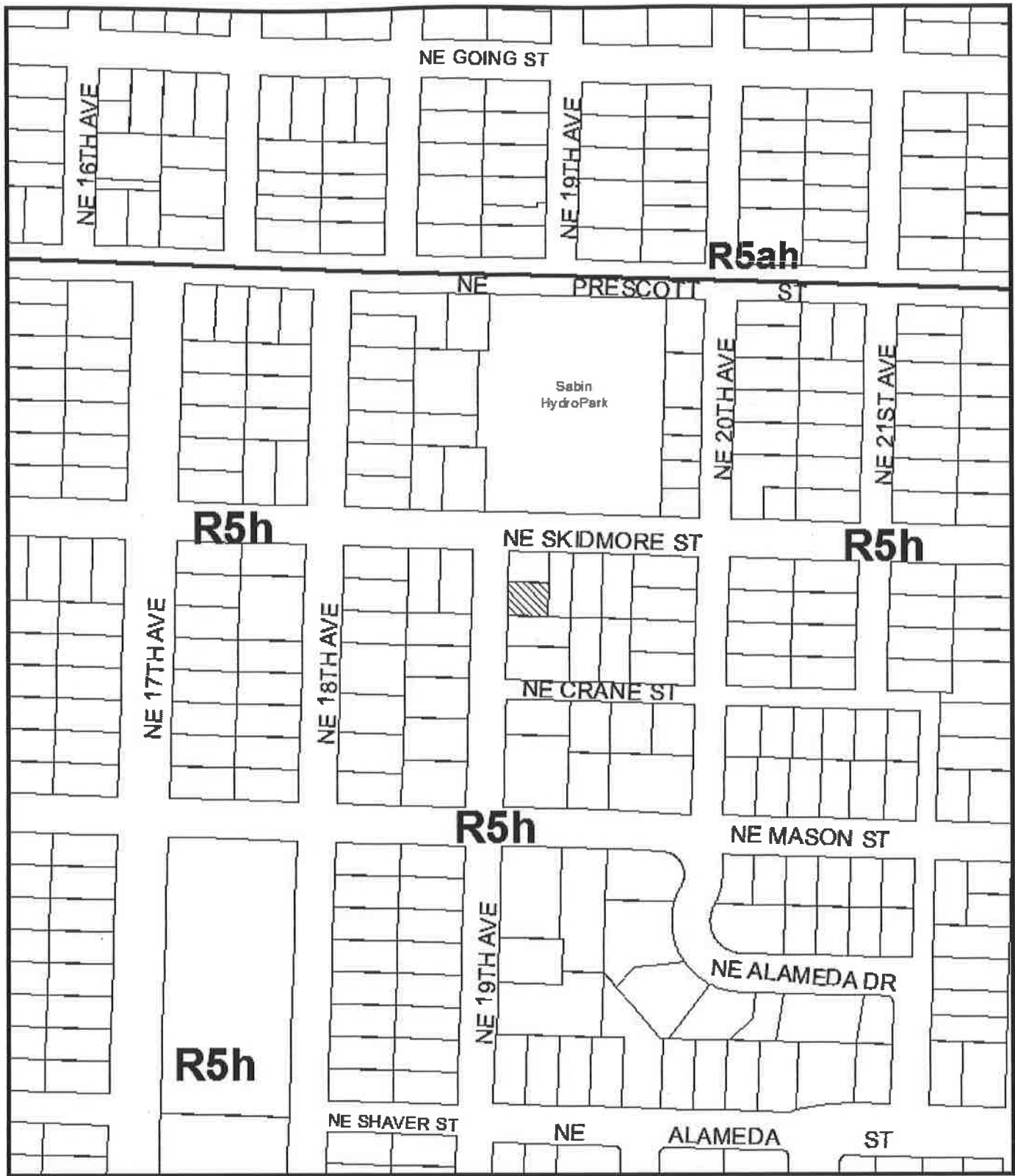
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
 - 1. Original narrative on the approval criteria, including 2012 violation notice for case #12-185767 VI
 - 2. Original, outdated plan set – reference only/not approved
 - 3. Supplemental narrative, rec'd. 1/14/16
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. South Elevation (attached)
 - 3. North Elevation (attached)
 - 4. East Elevation (attached)
 - 5. West Elevation
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
- F. Correspondence:
 - 1. Letter with concerns from Sabin Community Association, rec'd. 2/17/16
- G. Other:
 - 1. Original LU Application Form and receipt
 - 2. Incomplete letter from staff to applicant, sent 12/7/15
 - 3. Site photos from violation case (12-185767 VI), taken 10/2/15

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

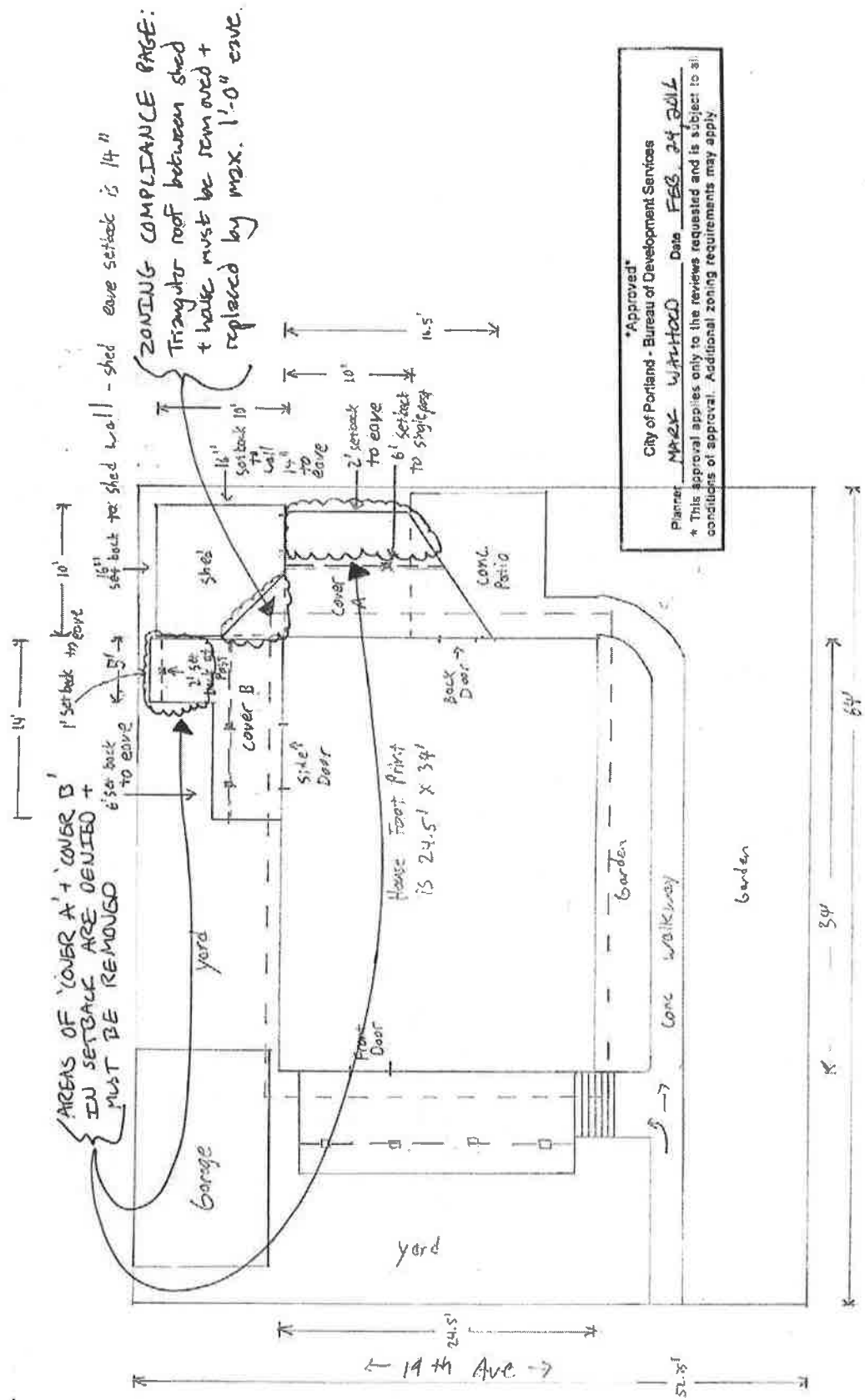


NORTH

 Site

File No. LU 15-267134 AD
 1/4 Section 2632
 Scale 1 inch = 200 feet
 State_Id 1N1E23DA 6700
 Exhibit B (Nov 23, 2015)

Plot Plan 4224 NE 19 Ave POX



AREAS OF 'COVER A' + 'COVER B' IN SETBACK ARE DENIED + MUST BE REMOVED

16' setback for shed wall - shed eave setback is 14"

ZONING COMPLIANCE PAGE:
 Triangular roof between shed + house must be removed + replaced by max. 1'-0" eave.

Approved
 City of Portland - Bureau of Development Services
 Planner: **MARK WATKINS** Date: **FEB. 24 2011**
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Scale 1/8" = 1'

Lot Size 3432 sq' / 140 sq'
 House Footprint ~ 190 sq'
 Garage ~ 190 sq'
 Tool Shed ~ 80 sq'
 Covered Area A ~ 140 sq'
 Covered Area B ~ 120 sq'

posts
 conc. posts x 100 sq'
 Zoned R5
 North Side house
 set back ~ 11'6"
 East Side house
 set back ~ 11'9"

LW 15 - 267134 AD
 Exhibit C-1

REC'D 1/14/11

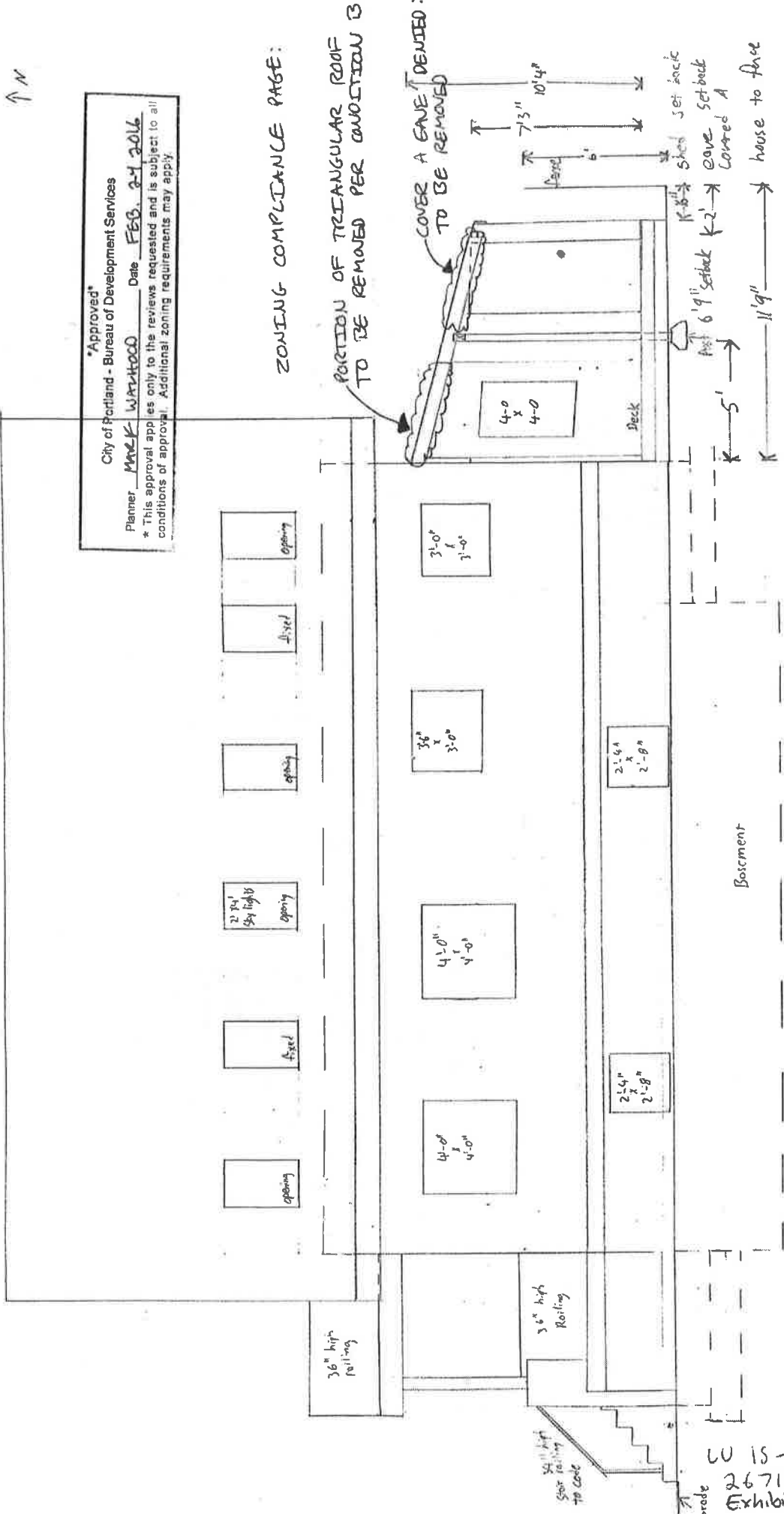
South Side
Elevation
1/4" = 1'



Approved
City of Portland - Bureau of Development Services
Planner Mark Whitlock Date FEB. 24 2016
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

ZONING COMPLIANCE PAGE:

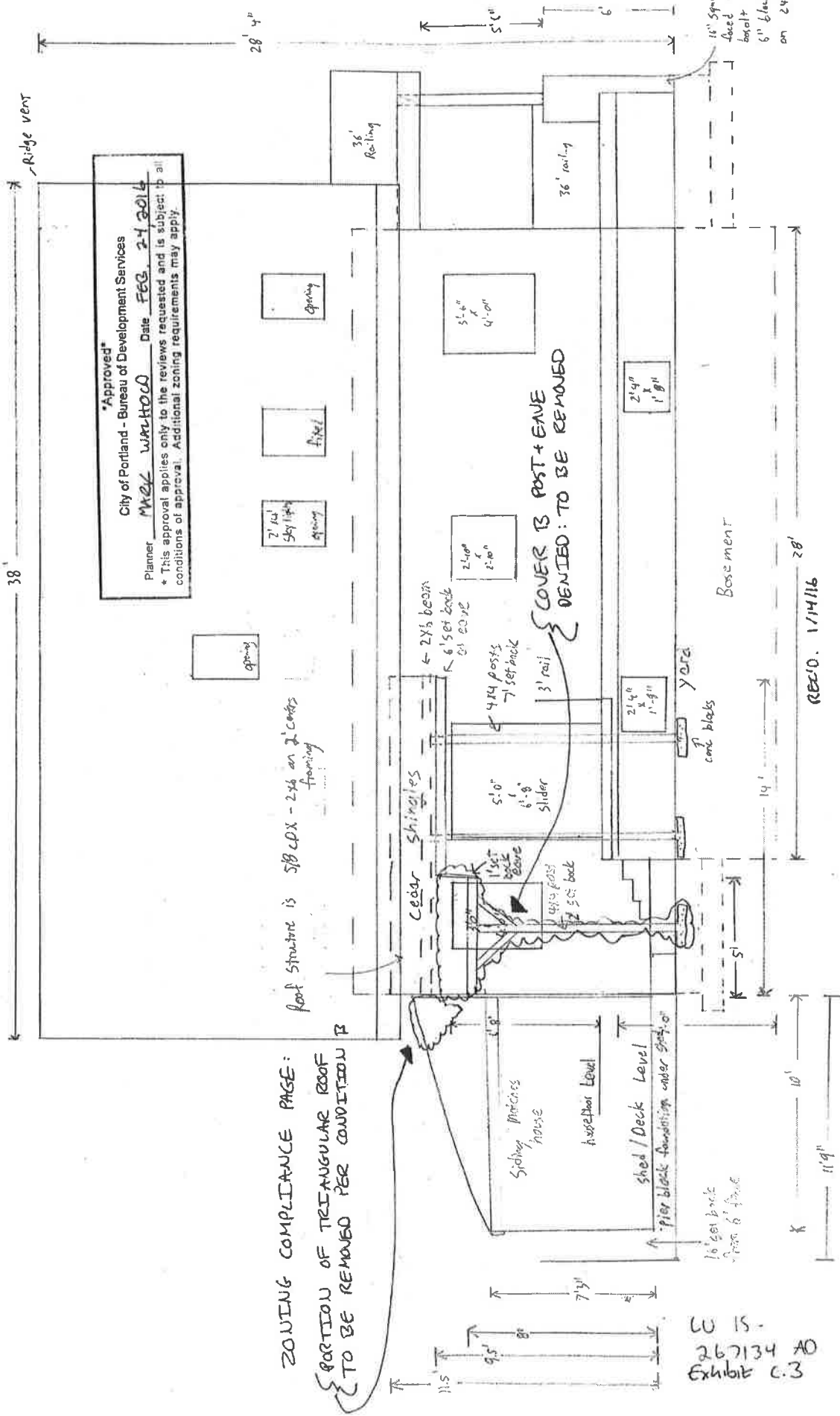
PORTION OF TRIANGULAR ROOF TO BE REMOVED PER CONDITION B
COVER A GABLE TO BE REMOVED



REC'D. 1/14/16

LU 15-
267134 AD
Exhibit C.2

North Side
Elevation
1/4" = 1"



Approved
City of Portland - Bureau of Development Services
Planner MARK WATHOLO Date FEB. 24 2014
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

ZONING COMPLIANCE PAGE:
PARTION OF TRIANGULAR ROOF
TO BE REMOVED PER CONDITION B

COVER IS POST + RAWE
DENTED: TO BE REMOVED

LU 15 -
267134 AD
Exhibit C.3

15" square black pillar
base with 6" which
basalt all tied into
6" black wall and set
on 24" square footer

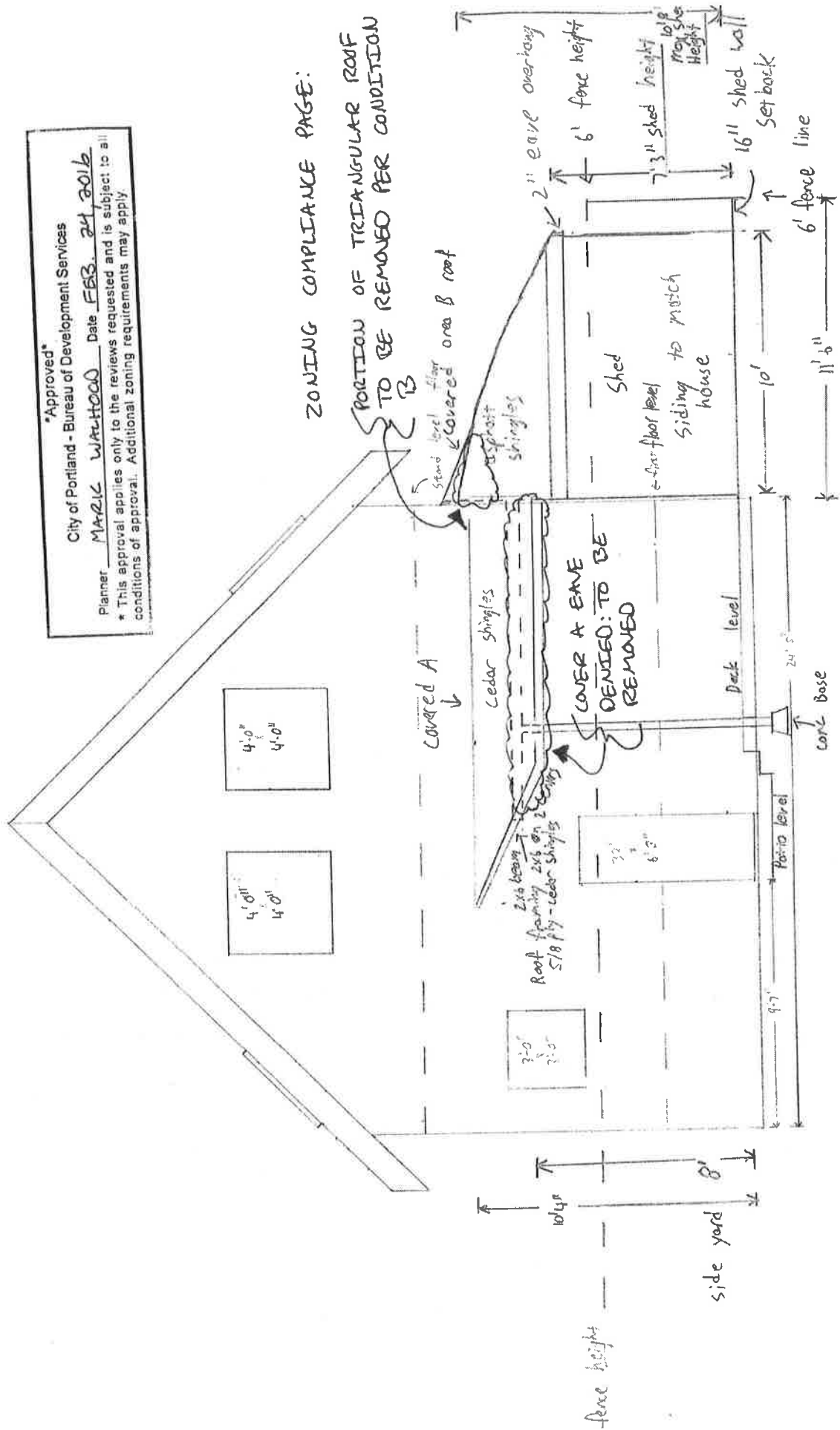
REC'D. 1/14/16

EAST Back Elevation
 14' = 1"
 N →

Approved
 City of Portland - Bureau of Development Services
 Planner MARIC WATKINS Date FEB. 24 2016
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

ZONING COMPLIANCE PAGE:

PORTION OF TRIANGULAR ROOF TO BE REMOVED PER CONDITION B



RES'D. 1/14/16

LU 15-267134 AD
 Exhibit C.4