



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** October 15, 2013  
**To:** Interested Person  
**From:** Shawn Burgett, 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 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 13-199210 AD**

#### **GENERAL INFORMATION**

**Applicant:** Prince R Agbonze  
2817 NE 156th Ave / Portland, OR 97230

**Site Address:** 2817 NE 156TH AVE

**Legal Description:** BLOCK 2 LOT 3, HOLCOMB HEIGHTS  
**Tax Account No.:** R394700540  
**State ID No.:** 1N2E25AC 02000  
**Quarter Section:** 2746  
**Neighborhood:** Wilkes Community Group, contact Ed Zarins at 503-254-1625.  
**Business District:** Parkrose Business Association, David Ableidinger at 503-258-2607.  
**District Coalition:** East Portland Neighborhood Office, Richard Bixby at 503-823-4550.  
**Zoning:** R7h (Single Dwelling Residential 7,000 square feet with "h" aircraft landing overlay)

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

#### **Proposal:**

The applicant has proposed to convert the existing garage into living area. The conversion of the garage into living area moves the parking pad on the site out of conformance with the Zoning Code's setback standards. Zoning Code section 33.266.120.C.1.a states that required parking spaces are not allowed within the first 10 feet from a front lot line or in a required front setback. In this case the front setback required is 15 feet. Zoning Code section 33.266.120.D.1 states that a parking space must be at least 9 feet wide by 18 feet in depth.

The Zoning Code allows a garage with an associated driveway to be set back 18 feet from a front property line in this zone. However, if a garage is not located at the end of a driveway, the Zoning Code requires the 18 foot deep parking pad to be located entirely outside of the required 15 foot front setback. This standard requires driveways not leading to garages to be at least 33 feet in depth.

In this case, the applicant's driveway is 19' 2" in depth between the garage and the front property line (based on City GIS mapping, the front property line begins 6" behind the sidewalk), since 33 feet is required the applicant has requested an adjustment to allow the parking pad to encroach within the front setback.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are located in Section 33.805.040 of the Zoning Code.

## ANALYSIS

**Site and Vicinity:** The 8,233 square foot lot is developed with a single dwelling residence. NE 156<sup>th</sup> Ave is fully improved with sidewalks, curbs, planter strip and a paved road. The majority of the homes located along NE 156<sup>th</sup> Ave on this block have driveways which provide off street parking. The dominant garage type associated with homes along this street are two car attached garages located along the front facade of homes with wide driveways with room for two cars to park side by side in front of the double garages. For example, the home located directly south of the subject site has a first story double garage within the front façade similar to the garage proposed for conversion on the subject site, while the home located across the street (east) of the subject site also have a first story double garage.

**Zoning:** The R7 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The Aircraft Landing ("h") overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation.

**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 **September 19, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Life Safety Plans Examiner

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on September 19, 2013. One written response has been received from a notified property owner in response to the proposal.

**Neighborhood Letter:** The respondent stated that the applicant did not need additional living space because only two people reside at the home and the existing living area within the home is plenty of space for two occupants. In addition, the letter stated that the two occupants of the home have 6 cars between them, so the garage should be maintained in order maintain additional space for all the vehicles.

**BDS response:** Please see the findings below for information on how staff determined this proposal meets the approval criteria in the Zoning Code. The concerns expressed in the neighbor's letter did not address the approval criteria which is the basis for this adjustment request.

## 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 of the standards for parking and loading standards related to the development of houses and duplexes is explained under Section 33.266.120.a as follows:

*The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.*

The proposed adjustment is for existing development. The applicant has proposed to convert the existing garage into living area. The conversion of the garage into living area moves the parking pad on the site out of conformance with the Zoning Code's setback standards. The Zoning Code requires a garage with an associated driveway to be set back a minimum of 18 ft. from a property line in this zone. However, if a garage is not located at the end of a driveway, the Zoning Code requires the 18 ft. deep parking pad to be located entirely outside of the required 15 ft. front setback. This standard requires driveways that don't lead to a garage to be at least 33 ft. in depth, in this zone.

In this case, the applicant's driveway is approximately 19'2" in depth between the converted living area and the front property line. Since 33 feet is required, the applicant has requested an adjustment to allow the parking pad to encroach within the required 15 ft. front setback.

The will maintain existing parking in-between the converted space and the front property line. The home is not getting any closer to the right of way. The 19 feet of driveway area provided allows for light and air, and separation for fire protection and access for fire fighting will be maintained. The Fire Bureau has no objection to this request. It should also be noted that there is approximately 6" between back of the sidewalk and the front property line.

The general building scale and placement will also be maintained. The driveway will continue to be used for vehicle parking, so the appearance of this area which will not change when viewed from the properties located to the north and the south. Converting the double garage into living space allows several windows and a door to replace the garage doors. A better connection between the residence and the sidewalk results from this change. In addition, the front yard of the home will become more open and visually pleasing, which will be enhanced with the new windows at the end of the driveway.

For the reasons stated above, 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 proposed adjustment will not detract from the livability or appearance of the area. There is adequate room to allow the existing driveway to continue to function as two parking spaces, which is consistent with the character in the area. In addition, the applicant has proposed to replace the garage doors with two windows and a door where the two garage doors are being removed. The addition of the new windows and door allows the conversion of the garage to living space to blend in nicely with the residential character of the existing neighborhood. Once the conversion occurs and cars are parked on the existing parking pad, it will appear no different that it does today. 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:** Not applicable, only one adjustment has been requested.

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

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

**Findings:** As found under criterion A and B, the applicant has proposed to replace the garage door with two windows where the garage door is being removed. This improvement mitigates for parking occurring within the front setback. For these reasons, this approval criterion is satisfied.

- 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:** 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

All of the approval criteria have been met for the requested Adjustment. The proposed adjustment will not detract from the livability of the neighborhood because additional residential use of the garage will not reduce the amount of on-site parking provided. For these reasons, the Adjustment should be approved.

## ADMINISTRATIVE DECISION

In order to allow conversion of the existing garage space to living space, Approval of an Adjustment to 33.266.120.C.1.a to allow the 18 foot long parking pad to encroach within the

front setback in substantial conformance with the approved site plan Exhibits C.1 and C.2, signed and dated October 10, 2013 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 setback approved by this land use review as indicated in Exhibits C.1 and C.2. The sheets on which this information appears must be labeled, "Proposal as approved in Case File # LU 13-199210 AD."
- B. The applicant shall install new windows replacing the garage door as shown on exhibit C.2

**Staff Planner: Shawn Burgett**

**Decision rendered by:**  **on October 10, 2013**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: October 15, 2013**

**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 August 29, 2013, and was determined to be complete on September 12, 2013.

*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 August 29, 2013.

*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.

**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 October 29, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth 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](http://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, OR 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 **October 30, 2013.**
- 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:

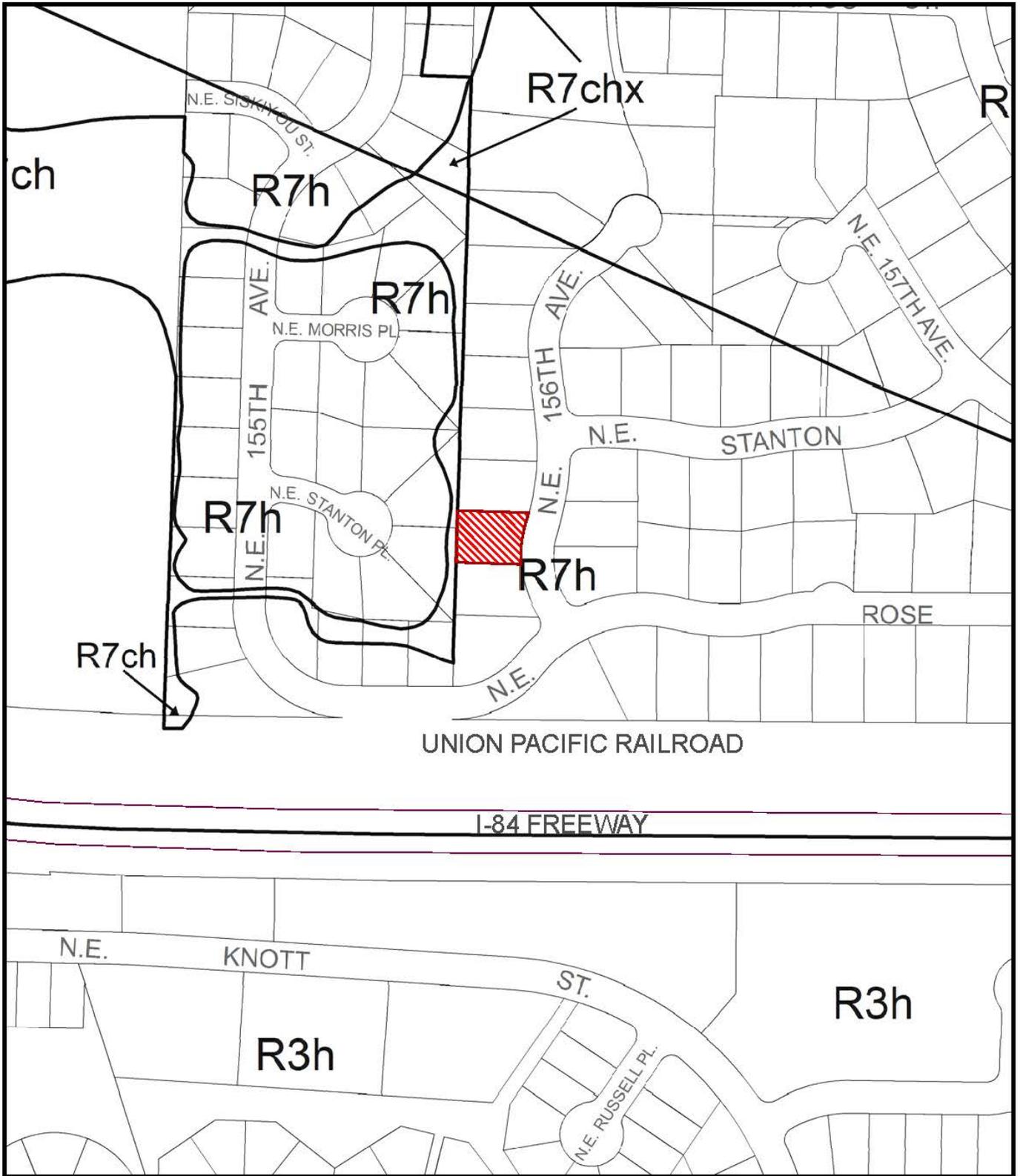
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Elevation (attached)
- 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
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Plans Examiner
- F. Correspondence:
  - 1. Elisabeth & Craig Mendenhall, 2801 NE 156<sup>th</sup> Ave Portland, OR 97230
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Google street view images of site

**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



File No. LU 13-199210 AD  
 1/4 Section 2746  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E25AC 2000  
 Exhibit B (Aug 30, 2013)

\* Approved \*

City of Portland - Bureau of Development Services

Planner S. Burgett Date 10/10/13

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

80'

BARCK YARD

110'

House  
2817 NE 156th Ave

28' 41"

Driveway  
Setback

NE 156th Ave

Garage  
(Proposed for conversion  
to living area)

19' 27"

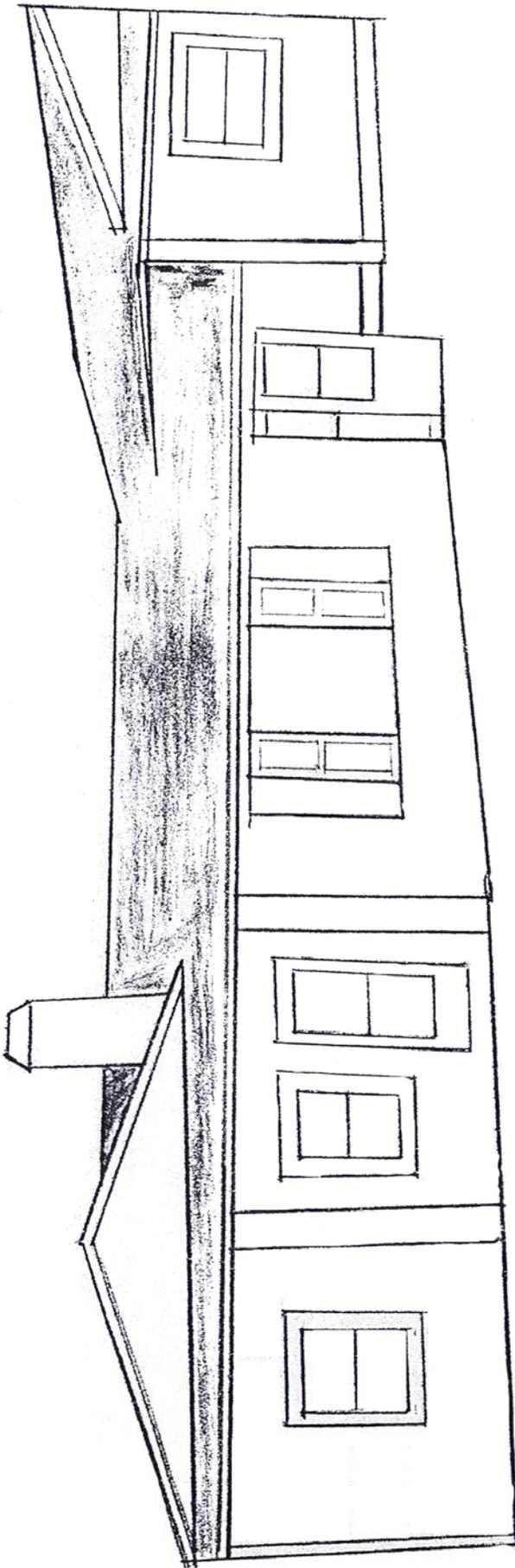
Driveway

6" between  
sidewalk  
and front  
property  
line

100'

CASE NO. 13-199210  
EXHIBIT C-1

LU 13-199210 AD



Garage area  
Proposed for  
Conversion  
(windows will match windows on 2<sup>nd</sup>  
rest of house)

CASE NO. 13-199210  
EXHIBIT C-2

LU 13-199210 AD