



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

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: November 24, 2010
To: Interested Person
From: Mark Bello, Land Use Services
503-823-7810 / mark.bello@ci.portland.or.us

**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 this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 10-184087 AD

GENERAL INFORMATION

Applicant: Alicia V Ramirez
13939 SE Center St
Portland, OR 97236-3526

Site Address: 6437 SE 92ND AVE

Legal Description: BLOCK 3 LOT 5, CAMPBELL ADD
Tax Account No.: R130400330
State ID No.: 1S2E16CD 22400
Quarter Section: 3739

Neighborhood: Lents, contact David Hyde at 503-772-1376.
Business District: Eighty-Second Avenue, contact Ken Turner at 503-484-6225.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Zoning: R2.5a Residential 2,500 with alternative design density overlay zoning

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

Proposal: The house at 6437 NE 92nd Avenue was built with the garage located closest to the street. Now, the garage is converted into living space. This leaves insufficient space for a parking space outside the front setback for parking. Specifically, by the zoning code a minimum parking dimension is 18 ft in length (by 9 ft width) and the minimum setback is 10 ft. for the parking area.

There is only 26' 6" between the house and front property line rather than the required 28 feet (18' plus 10'). An adjustment is required to eliminate the requirements of Section 33.266.120 that does not allow a required parking space within the first 10 feet from a front property line.

ANALYSIS

Zoning: The site is zoned R5a, Single-Dwelling Residential with an "a" overlay zone. This zone is intended to accommodate single-dwelling development, with an average of one unit per 2,500 square feet of site area. Provisions of the "a" overlay zone, intended to encourage new development compatible with residential neighborhoods, are not triggered by this request.

Land Use History: City records indicate that prior land use reviews include a 1974 variance request (VZ 046-74). No conditions of approval from such an old land use review apply to this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **October 22, 2010**. The following Bureaus have responded with no issues or concerns:

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on October 22, 2010. One neighbor has written and expressed only concern about potential construction noise. *Staff note:* no construction is associated with this adjustment request.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose of 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 to provide certainty and rapid processing for land use applications.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are: **33.805.040, A-F**, listed below.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
 - Purpose: The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.

- 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
- 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
- D.** City-designated scenic resources and historic resources are preserved;
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and
- 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 AND CONCLUSION

The applicant's proposal can meet all of the relevant approval criteria: The purpose for the regulations that govern the size and placement of parking spaces for houses and duplexes is to enhance the appearance of the neighborhood. Therefore, the impact that has to be considered in this proposal is its effect on the appearance and livability of the neighborhood.

The applicant's lot is approximately 44'-wide. The house is located roughly in the center of the lot. A 15' 4"-wide driveway led to a double-car garage; the garage has now been converted to storage and living space (see attached exhibit C3).

The main entrance is to the side of the house. The main entrance is oriented to the side lot line rather than the front lot line. The main entrance is further obscured by a fence. The walkway from the house leads to the driveway rather than to the front sidewalk. There are no trees in the front yard. Additional landscaping would offset the small additional negative impact of allowing the car closer to NE 92nd Avenue. A condition that two small shrubs be planted in the front yard will enhance the front yard. Therefore, Criteria A and B are met.

Only one adjustment is requested as there is 18 linear feet available for parking between the house and an 8½'-deep front setback. There are no scenic or historic resources on the site; no impacts have been identified, and the site is not located in an environmental zone, so Criteria C, D, E, and F do not apply. Therefore, because all of the relevant approval criteria are met, the proposal can be approved, in substantial compliance with the proposed site plan and the condition noted above.

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.

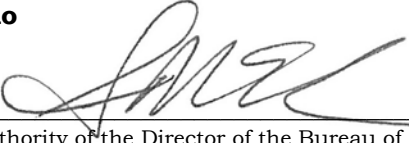
ADMINISTRATIVE DECISION

Approval of an Adjustment to Code Section 33.266.120 C, to reduce the required setback from the front property line from 10 to 8½ feet, per the approved site plan, Exhibit C-1, signed and dated November 18, 2010, subject to the following condition:

- A.** As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 10-184087 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

- B. Two one-gallon container shrubs must be planted along the north side of the driveway set back at least 8 feet from the street/front property line.

Staff Planner: Mark Bello

Decision rendered by:  **on November 22, 2010**
By authority of the Director of the Bureau of Development Services

Decision mailed: November 24, 2010

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 13, 2010, and was determined to be complete on October 18, 2010.

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 13, 2010.

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 15, 2010.**

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 8, 2010** 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. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 **December 9, 2010.**
- 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.

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:

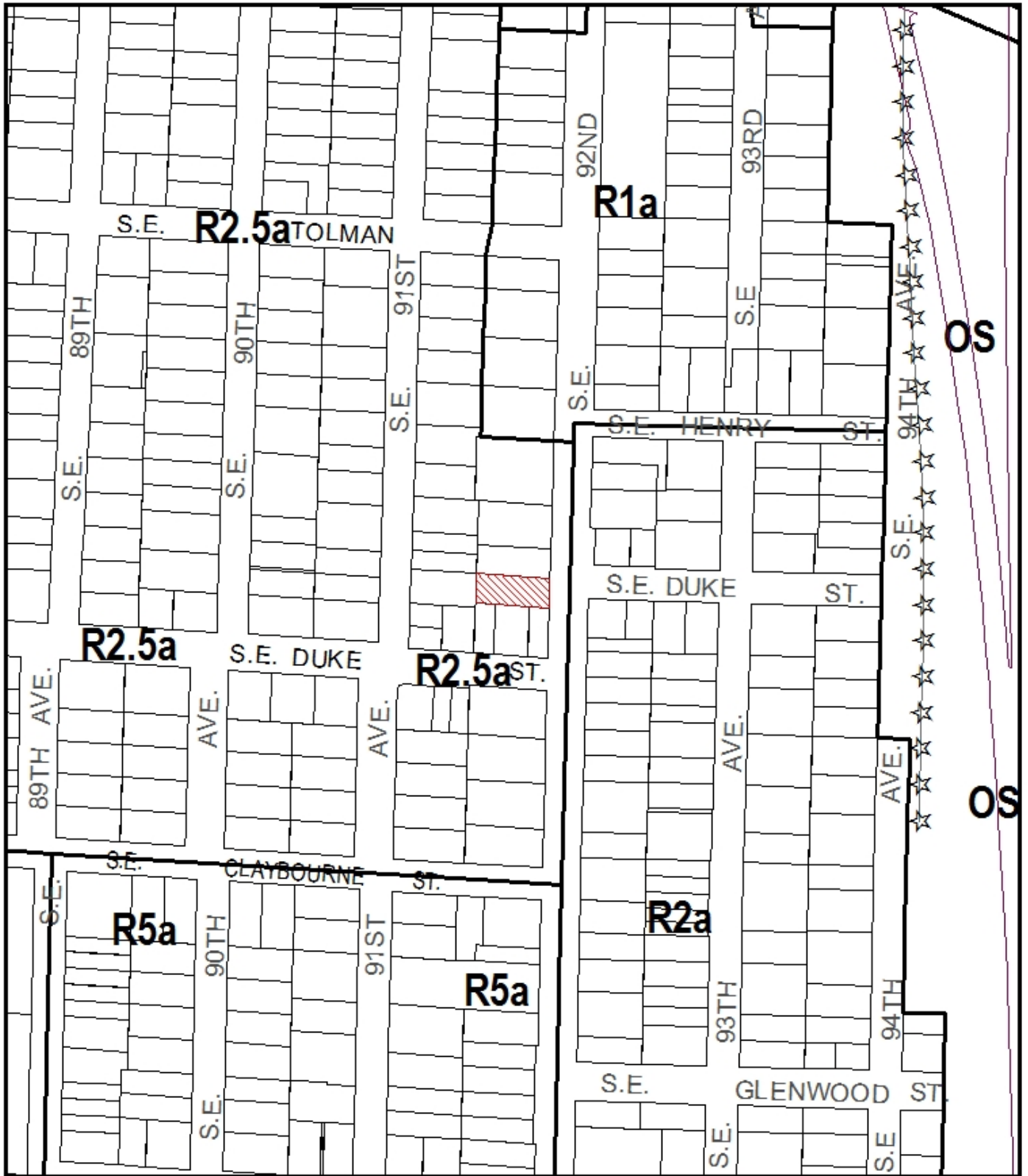
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Floor Plan Prior to Garage Conversion
 - 3. Floor Plan Post Garage Conversion
- 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
- F. Correspondence:
 - 1. Yue Li, 6420 SE 91st Avenue
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

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

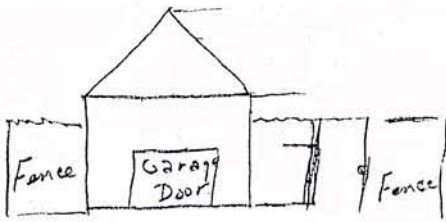


Site

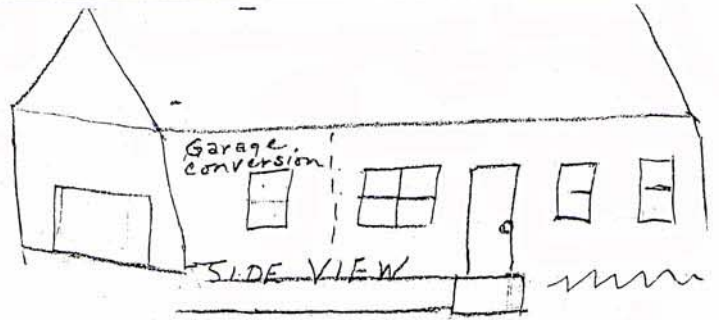


NORTH

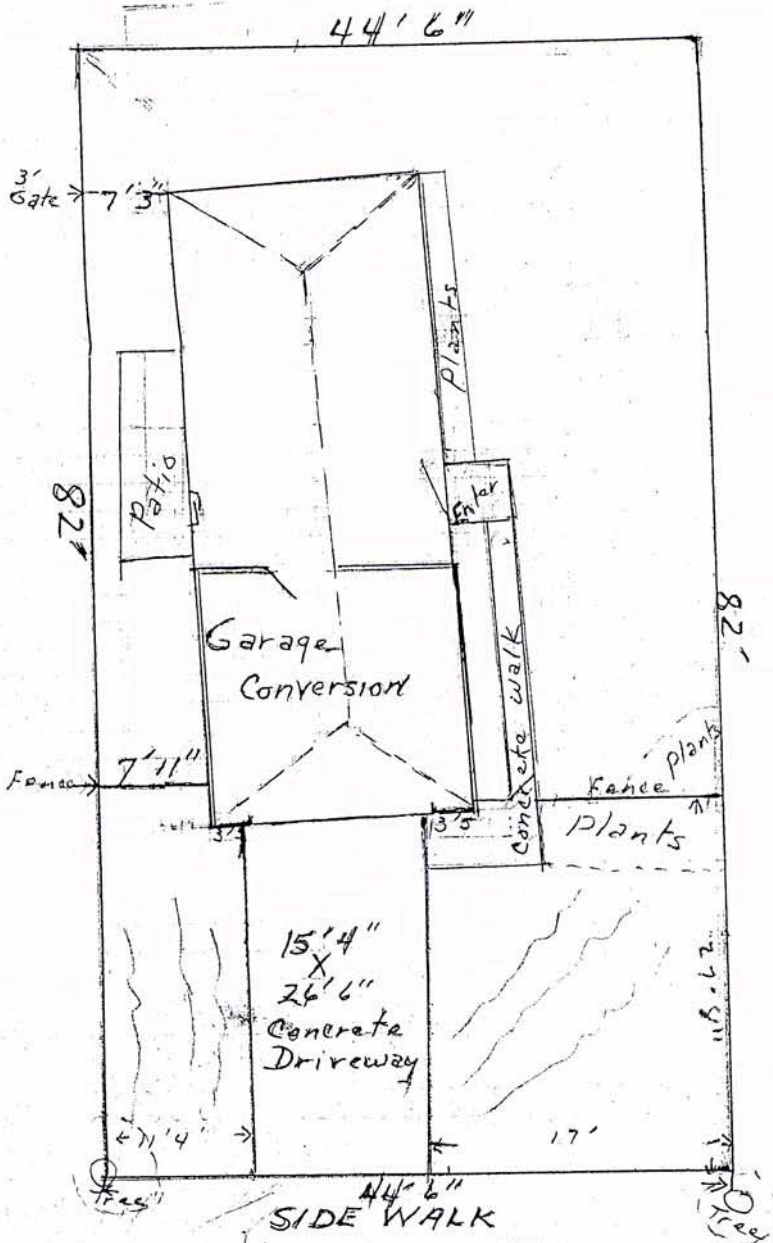
File No. LU 10-184087 AD
 1/4 Section 3739,3740
 Scale 1 inch = 200 feet
 State Id 1S2E16CD 22400
 Exhibit B (Oct 14,2010)



Front



SIDE VIEW



Approved*
 Bureau of Development Services
 Date 11/18/10
 to the reviews requested and is subject to
 additional zoning requirements may apply.

Dry Well
PROJECT LEGAL

6437 S.E. 92ND AVE.
PROJECT ADDRESS

SITE PLAN



CASE NO. LU 10-184087 AD
EXHIBIT 41