



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** February 13, 2014  
**To:** Interested Person  
**From:** Andrew Gulizia, Land Use Services  
503-823-7010 / [Andrew.Gulizia@portlandoregon.gov](mailto:Andrew.Gulizia@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 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 14-102065 AD**

#### **GENERAL INFORMATION**

**Applicants/Owners:** Christian and Lisa Mckee  
3313 NE Fremont Dr. / Portland, OR 97220-5275

**Site Address:** 3313 NE Fremont Dr.

**Legal Description:** BLOCK 3 LOT 20, DOLORES HTS  
**State ID No.:** 1N2E28BB 12200  
**Tax Account No.:** R212000650  
**Neighborhood:** Madison South, contact Frank Walsh at 503-261-8090.  
**Business District:** Parkrose Business Association, David Ableidinger at 503-258-2607.  
**District Coalition:** Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.  
**Zoning:** R5h – Single-Dwelling Residential 5,000 with Aircraft Landing Overlay Zone  
**Case Type:** AD – Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee.

#### **Proposal:**

Zoning Code Section 33.266.120 requires at least one parking space to be located at least 10 feet from the street lot line. Since a parking space must be at least 18 feet long, this standard requires the driveway to be at least 28 feet long when a property lacks a garage. On this site, the former garage has been converted to living space and the driveway is only 24.75 feet long between the street lot line and the house. Therefore, the applicants are requesting an Adjustment to reduce the distance from the street lot line to the parking space from 10 feet to 6.75 feet.

#### **Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805.040.A-F of the Portland Zoning Code.

#### **ANALYSIS**

**Site and Vicinity:** The 5,500 square-foot lot is located on the southwest side of NE Fremont Drive, between NE 84th Avenue and NE 85th Avenue. The site is developed with a one-story

single-family residence that is set back 24.75 feet from the street lot line. Neighboring properties are also developed with one-story single-family homes.

**Zoning:** The R5 designation is one of the City's single-dwelling zones, which are intended to preserve land for housing and to promote housing opportunities for individual households.

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. However, in residential zones such as R5 the base zone height limits apply instead of the height limits of the "h" overlay. This property is in compliance with the 30-foot height limit of the R5 zone.

**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 17, 2014. 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;
- Life Safety Review Section of BDS; and
- Bureau of Parks-Forestry Division.

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

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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 is requesting an Adjustment to reduce the setback from the street lot line to the parking space from 10 feet to 6.75 feet.

The purpose of the vehicle parking requirements for houses and duplexes is stated in Zoning Code Section 33.266.120.A:

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

The purposes of the setback requirements related to parking in single-dwelling zones are stated in Zoning Code Section 33.110.220.A:

**33.110.220.A Purpose:**

- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The former garage which was converted to living space has been finished with horizontal lap siding and painted green to match the rest of the house. A street-facing window has been

installed. This finished space has a more positive impact on the appearance of the neighborhood than did the former garage, which projected forward from the house in a manner no longer permitted for new garages in the R5 zone. Although the applicant is requesting an Adjustment to the setback requirement for the parking space, the house itself is set further back from the street lot line than required, and the proposal does not obstruct the open front yard. The driveway between the house and the sidewalk is nearly 25 feet long, which is sufficient to park a full-sized vehicle without overhanging the street or sidewalk. Finally, driver visibility when backing onto the street is not affected by this proposal.

Based on these reasons, the proposed Adjustment equally meets the intent of the regulation and 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:** Because the site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area.

As discussed above, the conversion of the garage to finished living space has contributed positively to the aesthetics of the neighborhood. Since there is sufficient parking area for a vehicle on the driveway, the required parking is not displaced to the street where neighborhood livability could be affected. For these reasons, the proposal has no negative impacts to neighborhood livability or appearance. 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:** As only one Adjustment is being requested, 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 Maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resource designations mapped on the subject site, this criterion is not applicable.

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

**Findings:** As discussed in the findings for approval criterion B, the proposal has no adverse impacts on the livability or appearance of the surrounding residential area. As there are no identified adverse impacts for which mitigation would be required, this criterion is not applicable.

- 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 Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on site, 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

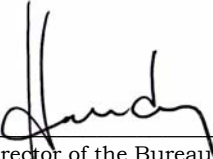
The applicant has demonstrated that the applicable approval criteria have been met. The proposal to reduce the setback from the street lot line to the parking space equally meets the intent of the regulation, and does not have adverse impacts on the livability and appearance of the surrounding residential neighborhood.

## ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the setback from the street lot line to the parking space from 10 feet to 6.75 feet (Zoning Code Section 33.266.120), per the approved site plan (Exhibit C-1), signed and dated February 11, 2014, 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 Exhibit C-1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-102065 AD. No field changes that would shorten the driveway between the street lot line and the house are allowed."

**Staff Planner: Andrew Gulizia**

**Decision rendered by:**  **on February 11, 2014.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: February 13, 2014**

**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 January 7, 2014, and was determined to be complete on January 14, 2014.

*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 January 7, 2014.

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 extended by the applicant, **the 120 days will expire on: May 14, 2014.**

**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 February 27, 2014** 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, 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 **February 28, 2014.**
- 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:

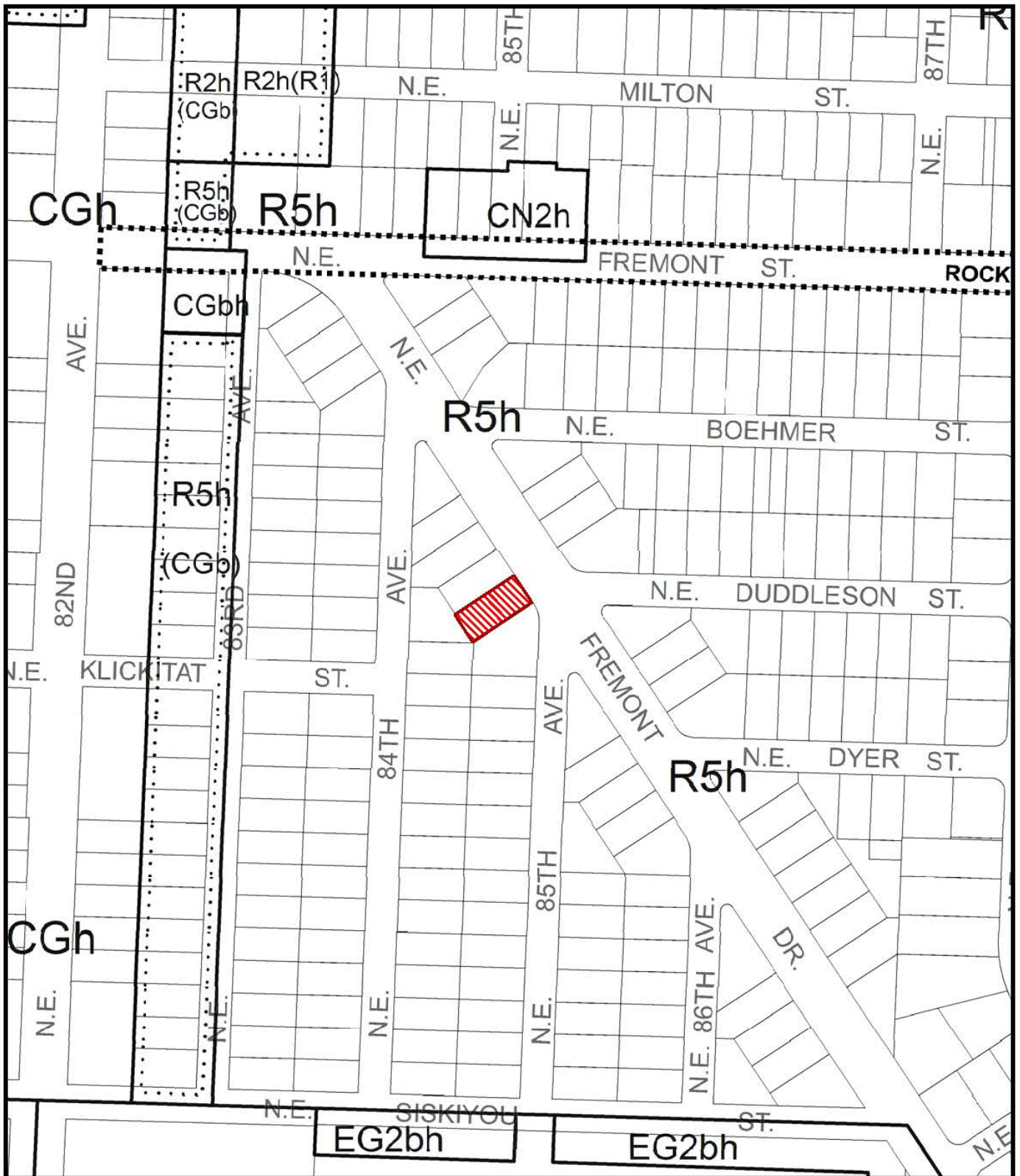
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Front 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
  - 6. Life Safety Review Section of BDS
  - 7. Parks Bureau, Urban Forestry Division
- 8. Correspondence – none received
- G. Other:
  - 1. Original LU Application

**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



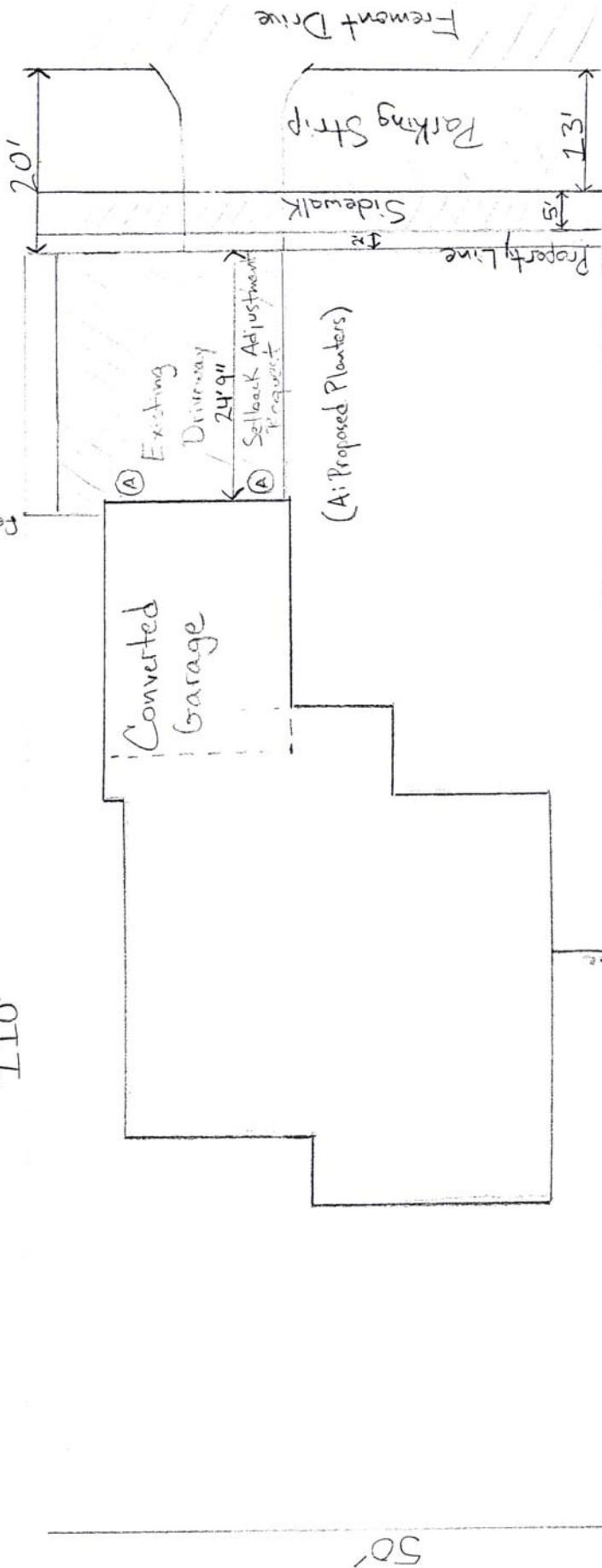
NORTH

File No. LU 14-102065 AD  
 1/4 Section 2739  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E28BB 12200  
 Exhibit B (Jan 08,2014)

North

110'

Fence line



Site Plan 3313 NE Fremont Drive

**\*Approved\***  
**City of Portland - Bureau of Development Services**

Planner HE Date 2/11/14

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

EXHIBIT C

LU 14 - 102 065 AD