



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

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Date: January 25, 2016
To: Interested Person
From: David Besley, 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 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 15-269793 AD

GENERAL INFORMATION

Applicants/Owners: Nerissa Lindenfelser & Brian Zahora
7815 N Holmes Ave
Portland, OR 97217

Site Address: 7815 N HOLMES AVE

Legal Description: BLOCK 3 S 1/2 OF LOT 3 LOT 4, WABASH PK
Tax Account No.: R870000490
State ID No.: 1N1E09CC 10600
Quarter Section: 2227
Neighborhood: Kenton, contact Webly Bowles at weblybowles@gmail.com
Business District: Kenton Business Association, contact Mo Bachmann at info@kentonbusiness.com
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099
Zoning: R5a (Single Dwelling 5,000, with an Alternative Design Density Overlay Zone)
Case Type: AD (Adjustment Review – 2 concurrent Adjustments)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicants are proposing to convert an attached garage into living space, which results in the driveway being used for the required parking space. The Portland Zoning Code requires parking spaces to be at least 9 feet by 18 feet (Section 33.266.120.D.1). The Portland Zoning Code also states that required parking spaces are not allowed within the first 10 feet of a front lot line (Section 33.266.120.C.1.a). The proposed parking area (aka the existing driveway) is approximately 8 feet by 15 feet. Two Adjustments are therefore required:

1. Reduce the minimum parking space from 9 feet by 18 feet to 8 feet by 15 feet; and
2. Allow parking within the first 10 feet of a front lot line.

No new construction or modifications to the driveway are proposed.

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 4,380 square-foot site is on the west side of N Holmes Avenue, between N Terry Street and N Winchell Street in the Kenton neighborhood. The relatively flat site is developed with a single-story 1,566 square foot residence. The surrounding vicinity is developed primarily with single-dwelling residences.

Zoning: The Residential 5,000 zone is a single-dwelling zone that is intended to preserve land for housing, and to provide housing opportunities for individual households. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. The "a" zone overlay (Alternative Design Density Overlay Zone) is not impacted by the Adjustment proposal.

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 **December 16, 2015**. The following Bureaus have responded with the following information:

- The Water Bureau responded with no concerns and provided information on water service (Exhibit E.1);
- The Life Safety section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information (Exhibit E.2); and
- The Bureau of Environmental Services responded with no concerns and provided information on stormwater management (Exhibit E.3).

The following Bureaus have responded with no concerns:

- The Fire Bureau;
- The Site Development Section of BDS; and
- The Portland Bureau of Transportation (PBOT).

Neighborhood Review: Four letters of support were received from neighboring property owners in response to the proposal (Exhibits F.1 – F.4).

ZONING CODE APPROVAL CRITERIA

33.805.040 Adjustment 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 applicant has requested to convert an attached garage into living space, which results in the driveway being used for the required parking space. This requires an Adjustment to reduce the minimum parking space from 9 feet by 18 feet to 8 feet by 15 feet, and a second Adjustment to allow parking within the first 10 feet of a front lot line. The purpose for the vehicle parking regulations is as follows:

33.266.120 Development Standards for Houses and Duplexes

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

Behind the proposed 8-foot by 15-foot parking space is a 17-foot long driveway. This driveway is technically right-of-way (ROW), however, the ROW in this area is unimproved (containing no sidewalks or paved roadway) and the driveway appears to be part of the property; therefore, a parked car overhanging into the right-of-way will not block pedestrian or vehicular access. It is common in this area for cars to park within the first 10 feet of a front lot line and overhang into the ROW. The proposed 8-foot by 15-foot parking space, which will be within the first 10 feet of a front lot line, will be consistent with the appearance of the neighborhood.

PBOT noted no concerns to the request.

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: As noted above, the proposal is consistent with the appearance of the neighborhood. A parked car overhanging into the ROW will not block pedestrian or vehicular access due to a long driveway and no sidewalks in the neighborhood. Furthermore, no exterior construction is proposed as part of this application. As such, the proposal will not significantly detract from the livability or appearance of the residential area.

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: The overall purpose of the R5 zone is to preserve land for housing, and to provide housing opportunities for individual households. The proposed expansion of living area and resulting reduction in parking standards supports the residential use and the cumulative effect of the adjustments will therefore be consistent with the overall purpose of the zone.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case "s" and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. 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: There are no discernible impacts that would result from granting the requested Adjustment for which mitigation would be required. No changes to the footprint of the structure are proposed.

This criterion is 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;

Findings: Environmental overlay zones are designated on the Official Zoning Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, 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 applicants are proposing to convert an attached garage into living space, which results in the driveway being used for the required parking space. This requires an Adjustment to reduce the minimum parking space from 9 feet by 18 feet to 8 feet by 15 feet, and a second Adjustment to allow parking within the first 10 feet of a front lot line. Behind the proposed parking space area is a 17-foot long driveway. This driveway is technically in the ROW, however, this area contains no sidewalks or paved roadway and a parked car overhanging into the ROW will therefore not block pedestrian or vehicular access. It is common in this area for cars to park within the first 10 feet of a front lot line and overhang into the unimproved right-of-way. The proposed reduction in parking space size, which will also be within the first 10 feet of a front lot line, will be consistent with the appearance of the neighborhood. Furthermore, no exterior construction is proposed as part of this application. As such, the proposal will not significantly detract from the livability or appearance of the residential area. The proposal meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of two Adjustments:

1. Reduce the minimum parking space from 9 feet by 18 feet to 8 feet by 15 feet (Section 33.266.120.D.1); and
2. Allow parking within the first 10 feet of a front lot line (Section 33.266.120.C.1.a)

per the approved site plan, Exhibit C.1, signed and dated January 19, 2016, 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 15-269793 AD."

Staff Planner: David Besley



Decision rendered by: _____ **on January 19, 2016.**
By authority of the Director of the Bureau of Development Services

Decision mailed: January 25, 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 25, 2015, and was determined to be complete on **December 9, 2015.**

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 25, 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: April 7, 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 February 8, 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 **February 9, 2016**.
- 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)
- D. Notification information:
 1. Mailing list
 2. Mailed notice

E. Agency Responses:

1. Water Bureau
2. The Life Safety Section of BDS
3. Bureau of Environmental Services

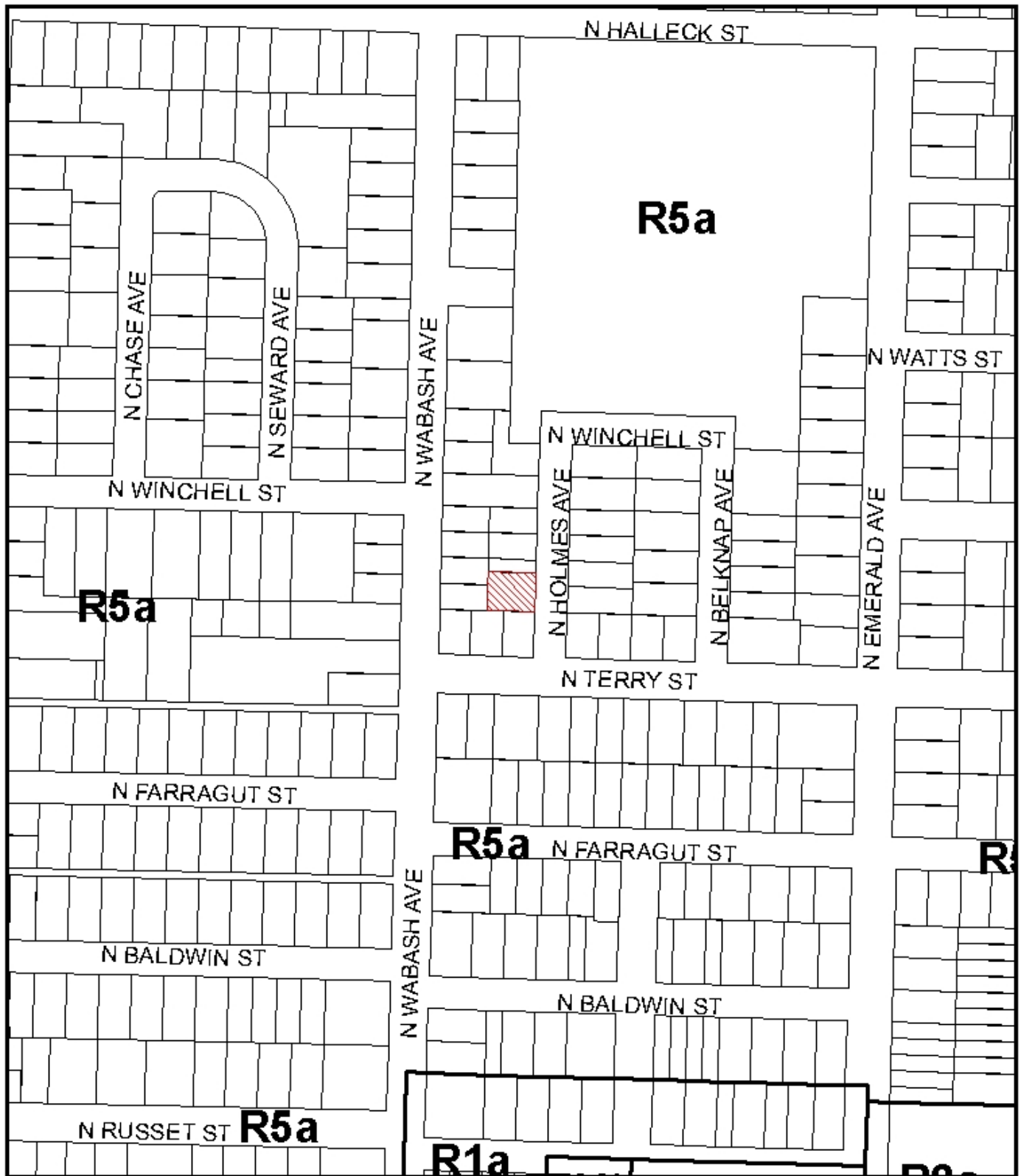
F. Correspondence:

1. Nate Polzel, November 25, 2015, letter of support
2. Daniel Evans, November 25, 2015, letter of support
3. Leslie Bucher and Brady Pearson, November 25, 2015, letter of support
4. Katie Sawicki, November 25, 2015, letter of support


G. Other:

1. Original LU Application Form and Receipt

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 15-269793 AD
 1/4 Section 2227
 Scale 1 inch = 200 feet
 State_Id 1N1E09CC 10600
 Exhibit B (Dec 02, 2015)

Approved
 City of Portland - Bureau of Development Services
 Planner David Basley Date 1.19.18
 * This approval applies only to the reviews of this project. It is subject to all conditions of approval. Additional zoning requirements may apply.

Z Adjustments requested to convert garage to living area:

1. Reduce min. parking space from 9'x18' to 8'x15'
2. Allow parking within first 10' of lot line front

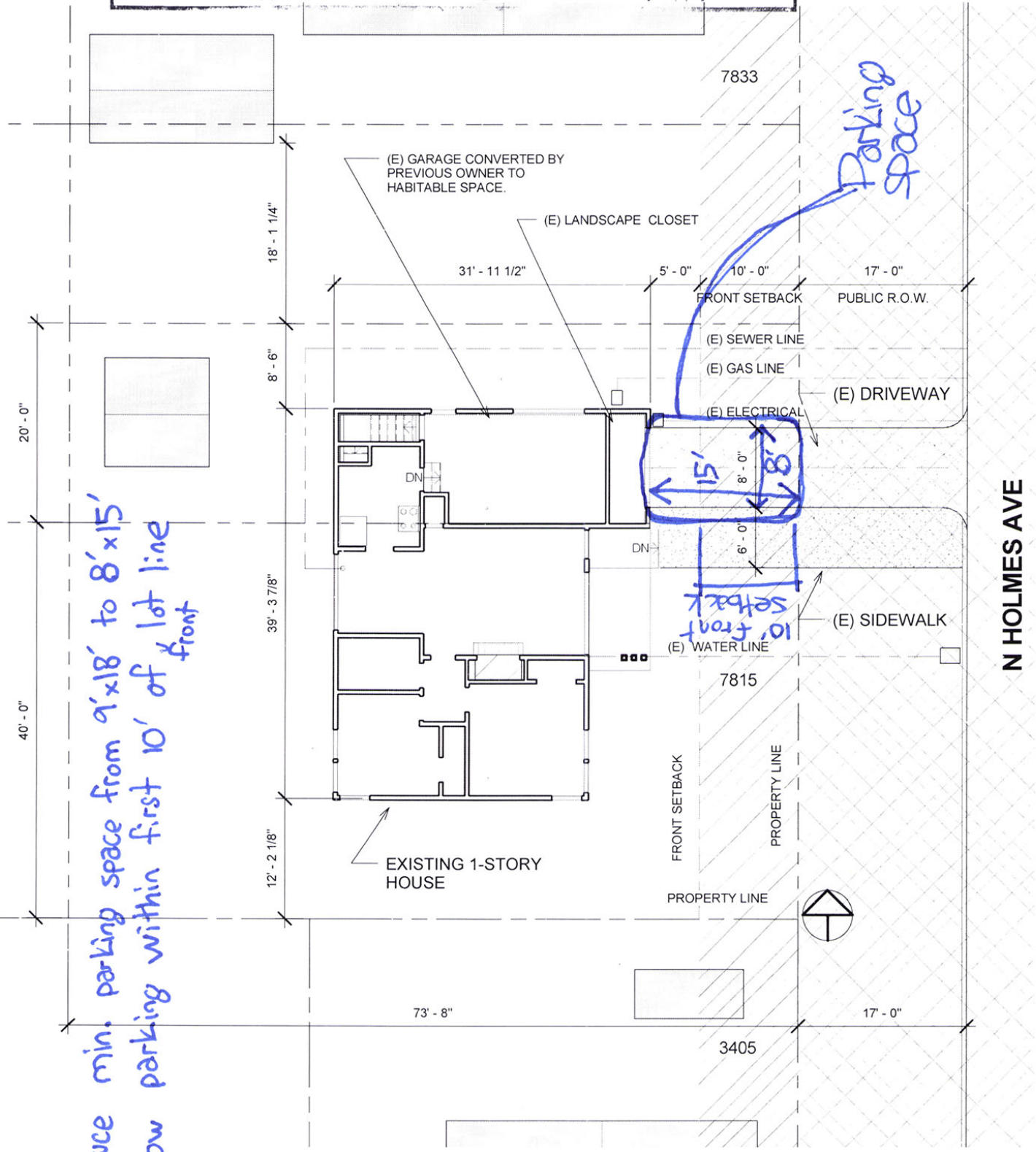


Exhibit C.1
 LU 15-269793 AD