



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** August 24, 2016  
**To:** Interested Person  
**From:** David Besley, Land Use Services  
503-823-7282 / [David.Besley@portlandoregon.gov](mailto:David.Besley@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 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 16-190337 AD**

**GENERAL INFORMATION**

**Applicant/Owner:** Donna Marshall,  
2328 NE Highland St  
Portland, OR 97211

**Site Address:** 2328 NE HIGHLAND ST

**Legal Description:** BLOCK 59 W 1/2 OF LOT 9&10, IRVINGTON PK  
**Tax Account No.:** R421321720  
**State ID No.:** 1N1E14DA 09400  
**Quarter Section:** 2432

**Neighborhood:** Concordia, contact Garlynn Woodsong at 503-936-9873  
**Business District:** North-Northeast Business Assoc, contact Joice Taylor at 503-841-5032  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Zena Rockowitz at 503-388-5070

**Zoning:** R5ah (Single Family Residential 5,000 with Alternative Design Density Zone and Aircraft Landing Zone overlays)

**Case Type:** AD (Adjustment Review)

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

**Proposal:**  
The applicant is proposing to remove the required parking space on site in order to use a patio that was constructed in the location of the current driveway. The Portland Zoning Code states that one parking space is required per residential unit (Section 33.266.110, Table 266-1, Table 266-2). An Adjustment is therefore necessary to reduce the required parking space from one space to zero spaces. No new residential construction is proposed, but a new concrete curb is

proposed which will close off the driveway entrance and allow for additional parallel parking in the street.

**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 3,800 square-foot site is on the south side of NE Highland Street between NE 23<sup>rd</sup> Avenue and NE 24<sup>th</sup> Avenue. The site is relatively flat and developed with a single-story 885 square-foot residence. The surrounding vicinity is developed primarily with single-dwelling residences.

**Zoning:** The R5 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. Regulations of the "a" zone overlay (Alternative Design Density Zone) and "h" zone overlay (Aircraft Landing Zone) are not applicable to 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 **July 20, 2016**. The following Bureaus have responded with the following information:

- The Portland Bureau of Transportation responded with no concerns and noted the requirement of a condition of approval that the applicant must close the existing curb cut/driveway and reconstruct the sidewalk at the location of the existing curb cut/driveway (Exhibit E-1);
- The Bureau of Environmental Services responded with no concerns and provided information on stormwater disposal (Exhibit E-2); and
- The Life Safety section of the Bureau of Development Services (BDS) responded with Building Code information but no concern regarding approvability of the Adjustment (Exhibit E-3).

The following Bureaus have responded with no concerns:

- The Water Bureau; and
- The Site Development Section of BDS.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on July 20, 2016. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## 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 an Adjustment to reduce the required parking space from one space to zero spaces in order to use a patio that was constructed in the location of the current driveway. The purpose for the vehicle parking regulations is as follows:

**33.266.110 Minimum Required Parking Spaces**

*The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. Multidwelling development that includes a large number of units may require some parking to support existing and future uses in the area and serve residents and guests, especially those with disabilities. Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.*

Despite the removal of the required on-site parking space, the applicant is proposing to construct a new concrete curb which will close off the driveway entrance and allow for additional parallel parking on the street. Effectively, the proposal is exchanging an off-street parking space for an on-street parking space, which will better accommodate parking needs in the area than the required off-street parking space, which would only accommodate the applicant's parking needs.

PBOT noted no concerns to the request, subject to the condition that the applicant must close the existing curb cut/driveway and reconstruct the sidewalk at the location of the existing curb cut/driveway via a curb cut permit (see Condition B at the end of this letter).

***As conditioned, 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 parking space removal will not detract from the livability or appearance of the residential area as there is no new construction proposed, but for the new curb and sidewalk reconstruction noted above. Having an additional on-street parking space will improve livability in the residential area by providing additional parking.

***As conditioned, 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:** Only one Adjustment is proposed; therefore, this criterion is not applicable.

- 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:** As noted above, the proposal will effectively exchange an off-street private parking space for an on-street public parking space, which will accommodate parking needs in the area. With the condition that the existing curb cut/driveway be closed and

the sidewalk at the location of the existing curb cut/driveway be reconstructed, impacts resulting from the Adjustment are mitigated to the extent practical.

***As conditioned, 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 proposal meets the applicable approval criteria and should therefore be approved.

## **ADMINISTRATIVE DECISION**

Approval of an Adjustment to reduce the required parking space from one space to zero spaces to use a patio that was constructed in the location of the current driveway (Section 33.266.110, Table 266-1, Table 266-2), per the approved site plans, Exhibit C-1 through C-2, signed and dated August 17, 2016, subject to the following conditions:

- 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 16-190337 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The applicant must obtain and receive final inspection on a curb cut permit to close the existing curb cut/driveway and reconstruct the sidewalk at the location of the existing curb cut/driveway. Curb cuts and driveway construction must meet the requirements in Title 17.

**Staff Planner: David Besley**



**Decision rendered by:** \_\_\_\_\_ **on August 17, 2016.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: August 24, 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 June 17, 2016, and was determined to be complete on July 18, 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 June 17, 2016.

*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: November 15, 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 September 7, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> Avenue Monday through Friday between 8:00 am and 4:30 pm. **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 **September 8, 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:

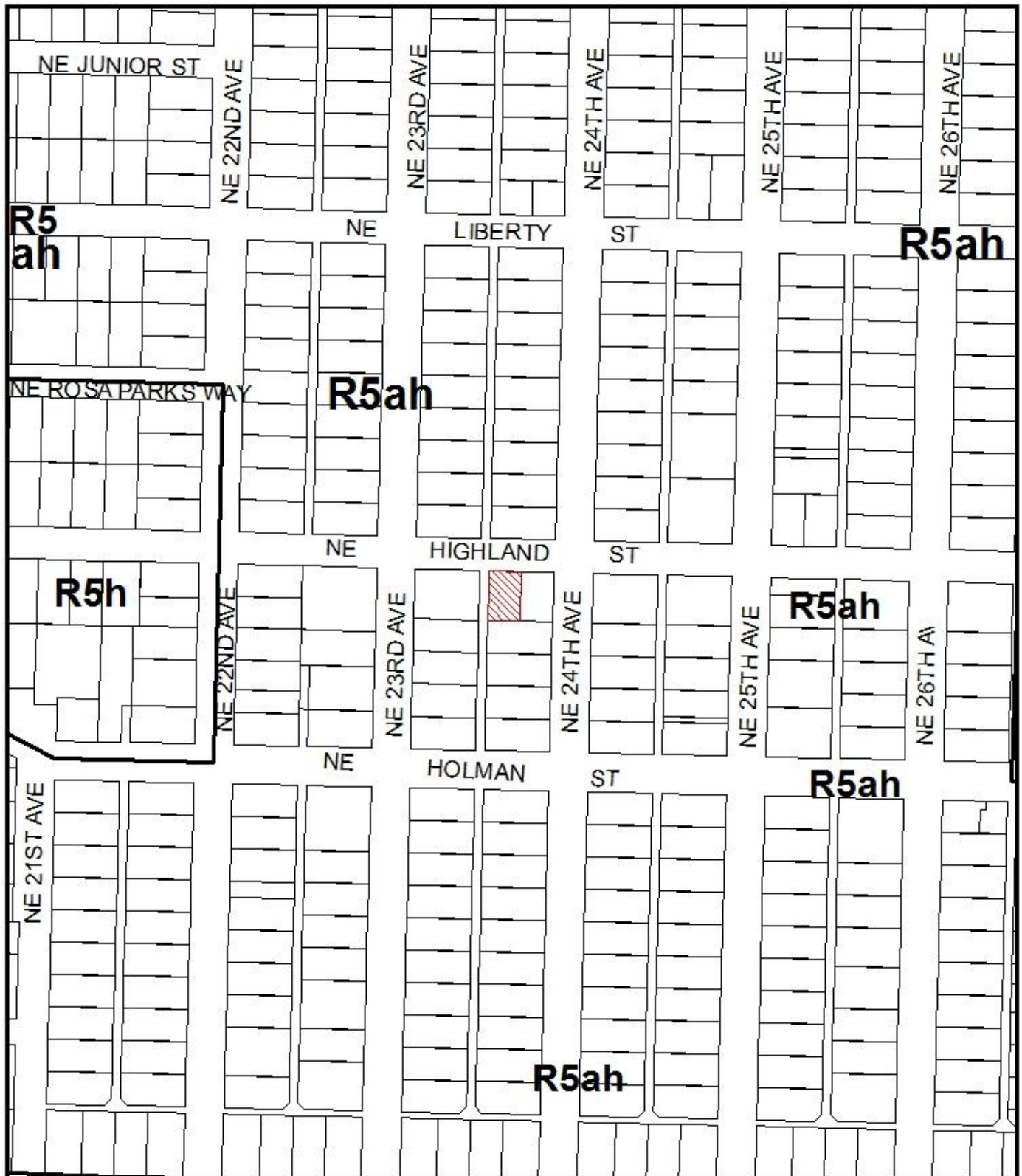
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**


NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Photograph of constructed porch in driveway
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Transportation Engineering and Development Review
  - 2. Bureau of Environmental Services
  - 3. The Life Safety section of BDS
- F. Correspondence: None
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete letter from staff to applicant dated July 1, 2016

**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 16-190337 AD  
 1/4 Section 2432  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E14DA 9400  
 Exhibit B (Jun 21, 2016)



Adjustment requested to reduce <sup>required</sup> parking space from 1 to 0 to use a patio constructed in the driveway. Curb cut will be closed to allow additional space to park on street.

TER CON  
 APPING TANK FRC  
 WATER CONN  
 RAPPING & TANK FRC  
 GAS CONN  
 ST LIGHT FLOOR  
 H. TO BASE FLOOR

**\*Approved\***  
**City of Portland**  
 Bureau of Development Services  
 Planner David Besley  
 Date 8-17-2016  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

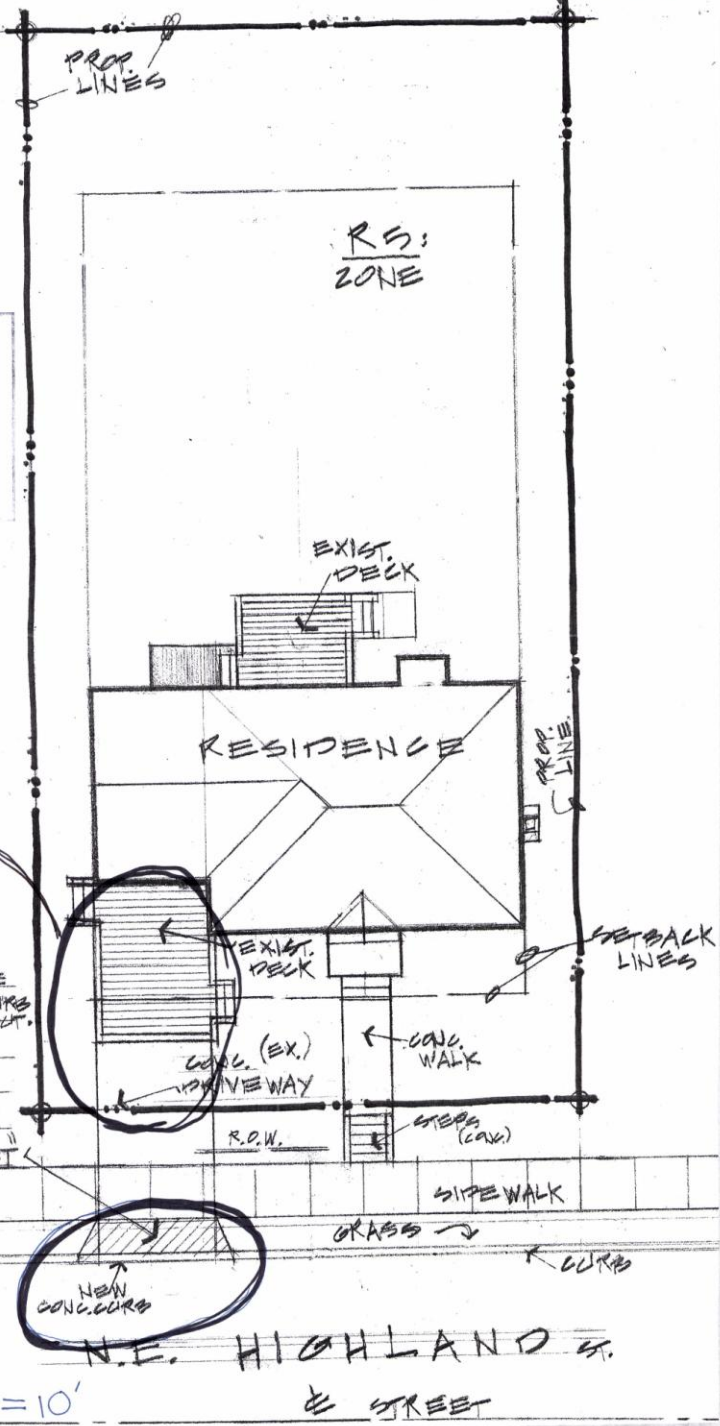
H.



Existing parking space

**NOTE:**  
 REMOVE: CONCRETE  
 ENTRY DRIVE & CURB CUT.  
 PLANT: SOIL/GRASS IN BUFFER STRIP FOR: (ONE) PARKING SPACE "OFF-STREET" FOR: RESIDENCE TO PARK

CASE NO. 1116190337 AD  
 EXHIBIT C1



1"=10'