



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

FROM CONCEPT TO CONSTRUCTION

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Date: October 13, 2016
To: Interested Person
From: Lauren Russell, 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 16-225727 AD

GENERAL INFORMATION

Owner/Applicant: Kimberli K Ransom,
5419 NE Everett St
Portland, OR 97213

Site Address: 5419 NE EVERETT ST

Legal Description: LOT 1, PARTITION PLAT 2000-73
Tax Account No.: R649802890
State ID No.: 1N2E31DB 13201
Quarter Section: 3036
Neighborhood: North Tabor, contact Terry Dublinski-Milton at terry.dublinski@gmail.com.

Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Plan District: None
Other Designations: None
Zoning: R2 – Multi-Dwelling Residential 2,000
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to convert the existing attached garage into living space. Although on-site vehicle parking is not required at this site, the applicant would like to retain a parking space in the existing driveway. A parking space must be at least 9 feet by 18 feet per Zoning Code Section 33.266.120.D.1 and must be located outside the 10-foot front setback per Zoning Code Section 33.266.120.C.1.a, which means that a driveway must be at least 28 feet in length measured from the front lot line. Because the existing driveway is 18 feet instead of the required 28 feet, the applicant requests an Adjustment to allow the on-site parking to extend 10 feet into the front setback.

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 subject site is a 2,150 square foot lot on the north side of NE Everett Street between NE 53rd Avenue and NE 55th Avenue. It is developed with a two-story attached house with attached garage. The neighboring properties are developed with a variety of detached houses, attached houses, and duplexes, some with garages and some with parking pads.

Zoning: The R2 designation is one of the City's multi-dwelling residential zones, which are intended to create and maintain higher density residential neighborhoods. The development standards work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

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 15, 2016. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services responded that the pollution reduction and flow control requirements of the Stormwater Management Manual are not triggered; however, a safe stormwater disposal location that does not impact adjacent properties or structures must be shown at the time of building permit submittal (Exhibit E-1);
- Bureau of Transportation Engineering responded that the proposed adjustment provides sufficient space for one vehicle to park without extending over the sidewalk corridor and has no impacts on transportation (Exhibit E-2);
- Water Bureau responded with no concerns (Exhibit E-3);
- Fire Bureau responded with no concerns (Exhibit E-4);
- Site Development Section of BDS responded that Site Development takes no exception to the proposal to convert the existing attached garage to living space (Exhibit E-5); and
- Life Safety Review Section of BDS responded that a separate building permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances (Exhibit E-6).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on September 15, 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**33.805.010 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 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 allow the on-site parking space to extend 10 feet into the front setback. 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 existing driveway is 9 feet wide and 18 feet long as measured from the front property line. The applicant's proposed conversion of the existing attached garage to living space would not change the dimensions of the garage so the driveway will still be long enough to accommodate the required 9-foot-wide by 18-foot-long parking space without overhanging into the public right-of-way. No changes are proposed to the width of the driveway so the proposal has no effect on the appearance of the front yard or the surrounding residential neighborhood. Additionally, surrounding properties contain driveways that extend into the front setback area with vehicles parked in the driveway. 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 subject 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. The garage conversion would not change the dimensions of the garage so the driveway will still be long enough to accommodate the on-site parking space, which prevents the displacement of the parking space to the street where neighborhood livability could be affected. Additionally, the 18-foot-long driveway will ensure that the required 9-foot-wide by 18-foot-long parking space will not extend into the adjacent sidewalk, thereby maintaining safe access for pedestrians. Lastly, no changes are proposed to the width of the driveway so the proposal has no effect on the appearance of the front yard or surrounding residential neighborhood. 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: Because 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. Because there no scenic or historic resource designations are 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 for which mitigation would be required. Therefore, 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 Maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). Because no environmental overlay zone is mapped on subject 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 proposal to allow the on-site parking space to extend 10 feet into the front setback equally meets the intent of the regulations and does not have adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Because the approval criteria are met, the proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to allow the on-site parking space to extend 10 feet into the front setback (Zoning Code Section 33.266.120.C.1), per the approved site plans, Exhibits C-1 through C-3, signed and dated October 11, 2016, 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 information and design approved by this land use review as indicated in Exhibits C-1 - C-3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-225727 AD. No field changes allowed."

Staff Planner: Lauren Russell

Decision rendered by:  on **October 11, 2016.**

By authority of the Director of the Bureau of Development Services

Decision mailed: October 13, 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 August 17, 2016, and was determined to be complete on September 12, 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 August 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: January 10, 2017.**

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 27, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th 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.

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 **October 28, 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.

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.

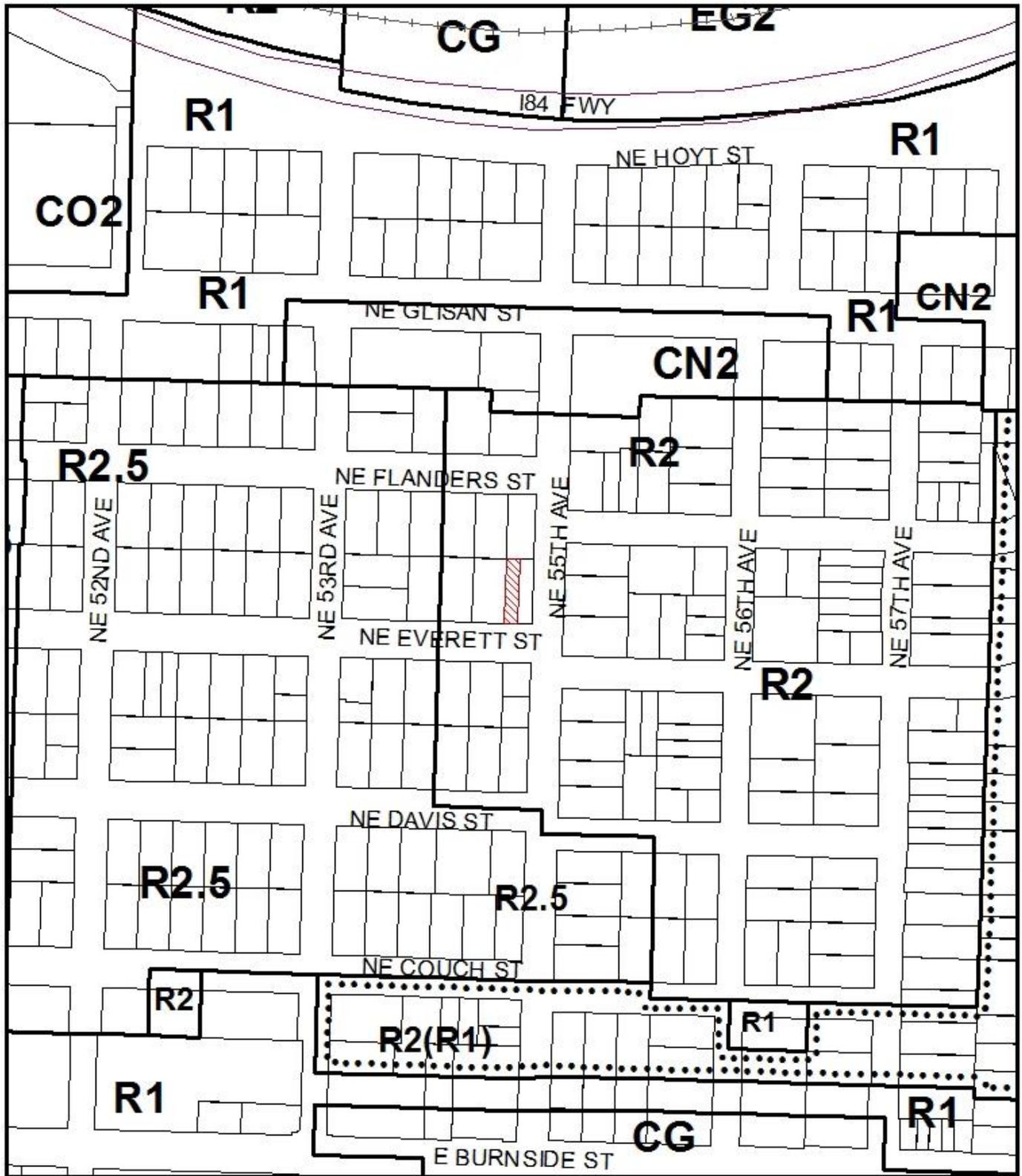
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 1. Narrative and Plans 8/17/16
 2. Front Elevation 9/9/16
 3. Additional Site Plan 9/12/16
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Detailed Site Plan (attached)
 2. Overall Site Plan (attached)
 3. Front 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. Life Safety Review Section of BDS
- F. Correspondence: none received
- G. Other:
1. Original LUR Application
 2. Incomplete Letter
 3. Email Correspondence with the Applicant

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

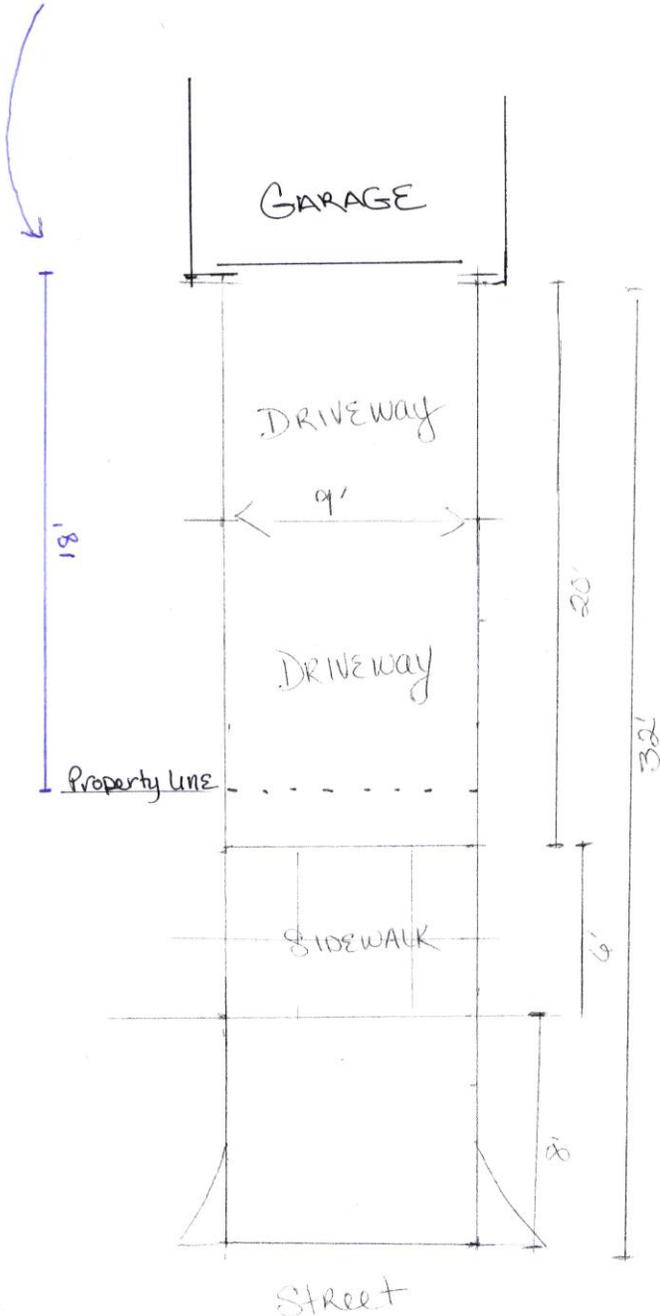


NORTH

File No. LU 16-225727 AD
 1/4 Section 3036
 Scale 1 inch = 200 feet
 State_Id 1N2E31DB 13201
 Exhibit B (Aug 22, 2016)

DETAILED SITE PLAN

REQUEST FOR ADJUSTMENT TO
ALLOW ON-SITE PARKING SPACE
TO EXTEND 10 FEET INTO THE
FRONT SETBACK



Approved
City of Portland
Bureau of Development Services
Planner L Russell
Date 10/11/16
• This approval applies only to the reviews requested and is subject to all conditions of approval
Additional zoning requirements may apply.

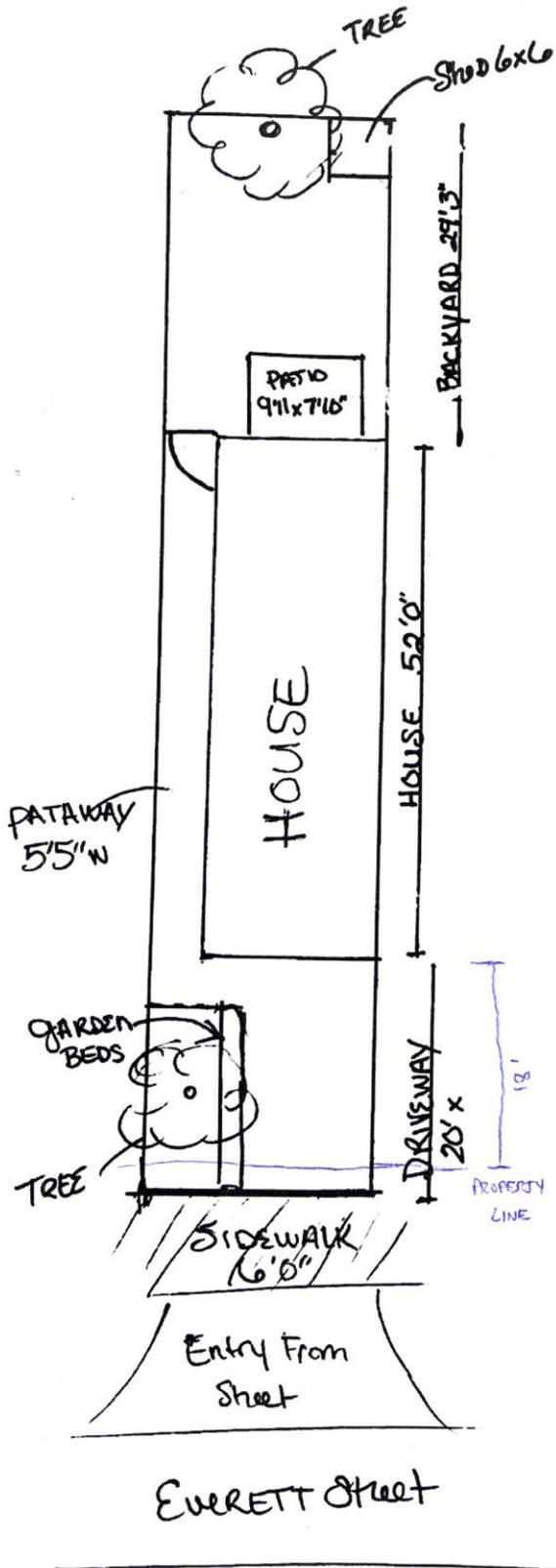
KIMBERLI RANSOM
5419 NE EVERETT ST
PORTLAND, OR 97213
DRIVEWAY PLAN (existing)
1/4" = 1'0"

North

CASE NO. 16-225727 AD
EXHIBIT C-1

LU 16-225727 AD

OVERALL SITE PLAN



KIMBERLI RANSOM
 5419 NE EVERETT ST
 PORTLAND, OR 97213

ELEVATION SITE PLAN
 1/16 = 1'0"

North

Approved
City of Portland
 Bureau of Development Services
 Planner L Russell
 Date 10/11/16
 * This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.

CASE NO. 16-225727 AD
 EXHIBIT C-2

LU 16-225727 AD

PROPOSED FRONT FACADE
CONVERSION OF GARAGE TO LIVING SPACE

KIMBERLI RANSOM
5419 NE EMERY ST
PORTLAND, OR 97213

$\frac{1}{4}'' = 1''$



32'

PROPERTY LINE

The only change
Glass (Frosted)
French doors
with side panels

Front Elevation
2 units

CASE NO. 16-225727 AD
EXHIBIT C-3

LU 16 - 225727 AD