



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

Ted Wheeler, Mayor
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Date: May 31, 2017
To: Interested Person
From: Kathleen Stokes, Land Use Services
503-823-7843 / Kathleen.Stokes@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 17-152899 AD

GENERAL INFORMATION

Applicant: John Stapleton II, John Arien David LLC
12409 SE Mill St
Portland, OR 97233

Owners: Carol M and Larry E Whittington
15876 NE Holladay St
Portland, OR 97230-5446

Site Address: 15876 NE HOLLADAY ST

Legal Description: LOT 3, RICE PADDY
Tax Account No.: R701900120
State ID No.: 1N2E36AD 05000
Quarter Section: 2946

Neighborhood: Wilkes Community Group, Alice Blatt at 503-253-6247.
Business District: Gateway Area Business Association, Paul Wild at paul.wild@mhcc.edu
District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550.

Plan District: Glendoveer
Zoning: R7h - Residential 7,000, Medium Density Single-Dwelling with an Aircraft Landing (height) Overlay

Case Type: Adjustment Review
Procedure: Type II, administrative decision with appeal to Adjustment Committee.

Proposal: The applicant proposes to convert the existing double-car garage to living area, in order to create an accessory dwelling unit. The proposed conversion would remove the parking spaces from the garage and relocate them onto the driveway. Title 33, the Portland Zoning Code requires that parking spaces be at least 9 feet wide by 18 feet deep and that they be located outside of the front building setback. In this case, the Glendoveer Plan District dictates a front building setback of 30 feet, which is the depth of the existing driveway. Exceptions to the regulation that restricts the location of parking spaces are approved through Adjustment

Reviews when all of the relevant approval criteria are met or if the criteria can be met through conditions of approval. Therefore, the applicant is requesting approval of an Adjustment to Zoning Code Section 233.266.120.C.1., to allow two parking spaces to be located on the driveway in front of the converted garage.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of 33.805.040 A.-F., Adjustments, cited below.

ANALYSIS

Site and Vicinity: The site is a 7,500 square-foot property that is located on the south side of NE Holladay Street, three lots to the west of the intersection with NE 160th Avenue. The site is developed with a ranch-style, single-dwelling residence that was constructed in 1981. The structure includes an attached double garage and has 30-foot deep by 27-foot-wide driveway. The surrounding area consists of similar single-dwelling residences. The property owners and many of the surrounding neighbors regularly park vehicles on the driveways in front of their attached garages.

Zoning: The site is zoned R7, or Residential 7,000, Medium Density Single-Dwelling. This zone designation is intended for areas with adequate public services but minor development constraints. Single-dwelling residential will be the primary use. The maximum density is generally 6.2 units per acre or an average of one lot for every 7,000 square feet.

The R7 standards generally require buildings to be set back 15 feet from the front property line and 5 feet from the side and rear property lines. However, because the site is located in the Glendoveer Plan District, the plan district regulations override the R7 regulations. Sites in this plan district must have a minimum area of 7,500 square feet and a minimum width of 70 feet. Buildings must be set back 30 feet from the front property line, 10 feet from the side property line and 15 feet from the rear property line.

This site also has an “h” or Aircraft Landing Overlay. The provisions of this overlay zone, that limit the height of structures within the aircraft landing approach patterns for the Portland International Airport, are not relevant to this proposal.

Land Use History: City records do not include any prior land use reviews for this site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **April 27, 2017**. The following Bureaus have responded with no issues or concerns:

- Environmental Services stated that the requirements of the City’s Stormwater Manual do not apply to this proposal but that a safe stormwater disposal location that does not impact adjacent properties and/or structures must be shown at the time of building permit submittal (Exhibit E-1).
- Transportation Engineering noted that the location of the proposed parking space is sufficiently long enough to accommodate a standard-sized vehicle without impacting the public right-of-way (Exhibit E-2).
- Life Safety Plan Review Section of BDS commented that life safety requirements will be made through the building permit review (Exhibit E-3).
- The following City service agencies sent a response of “no concerns,” without any additional comments: Water Bureau, Fire Bureau, Site Development Section of BDS (Exhibit E-4).

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

Letters from the neighbors who live at 15861 NE Holladay (across the street and one lot to the west) and 15873 NE Holladay (directly across the street) were submitted as a part of the application. These neighbors state that they have no objections to the proposal to convert the

garage into an apartment and park vehicles on the driveway (Exhibits A-2 and A-3, respectively).

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.

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., stated below, have been met.

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The request is for an Adjustment to Code Section 33.266.120 C.1. to allow two parking spaces to be located on the driveway in front of the converted garage.

The Code states that the purpose of the regulations for the size and placement of vehicle areas for houses and duplexes is to enhance the appearance of neighborhoods.

In this situation, the proposal is to locate the parking spaces on an existing driveway that is 30 feet deep and 27 feet wide. The neighborhood is regularly filled with cars that are parked on driveways in front of attached single and double garages. As noted by Portland Transportation, this property has adequate room to park two vehicles, side by side, without encroaching into the public right-of-way. The driveway does not exceed the allowed amount of vehicle paving and the appearance will not change as a result of approving this Adjustment request. Therefore, the appearance of the neighborhood will still be enhanced 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: As noted in the analysis portion of this decision, the site is located in the Glendoveer Plan District. This plan district has an extra-deep front setback requirement of 30 feet. The structures on this site meets that minimum building setback requirement. The proposal to allow vehicles to park on the existing driveway, in front of the converted garage will not detract from the appearance of the residential area because this is a common practice on the street. The conversion of the garage can be completed so that it does not detract from the appearance of the residential area, as long as the former garage area is made to look like an integral part of the residence. To ensure this, the garage door must be removed and the walls of the former garage must be finished with doors, windows and siding that match the rest of the structure in type and style of orientation, trim and materials. With this condition, this criterion can be 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 being requested. Therefore, this criterion does not apply.

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

Findings: City-designated scenic resources are shown on the City's zoning maps by an "s" or Scenic Overlay Zone. City-designated historic resources are shown on the City's zoning maps, either as an adopted landmark, or as a site that is located within the boundaries of a Historic Conservation or Historic Design District. There are no City-designated scenic or historic resources on the site. Therefore, this criterion does not apply.

E. Any impacts resulting from the adjustment are mitigated to the extent practical.

Findings: No potential impacts from approval of the requested Adjustment have been identified. Therefore no mitigation is required and 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 zones are designated with either a lower case "c," for the Environmental Conservation Overlay, or "p," for the Environmental Protection Overlay. The site is not located in an environmental zone. Therefore, this criterion does not apply.

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.

CONCLUSION

All of the relevant approval criteria are met. The purpose of the regulations for the size and placement of vehicle areas is to enhance the appearance of neighborhoods. The proposed parking space location will be adequate to park two vehicles without having them encroach into the right-of-way and will appear the same as other houses in the neighborhood where vehicles are regularly parked in the driveway. The structure will not be enlarging and so will still maintain the minimum 30-foot front building setback of the Glendoveer Plan District. With a condition that requires the garage door to be removed and the conversion to use building materials, including doors, windows and siding that match the remainder of the existing residence, it can be ensured that the alterations do not significantly impact the appearance of the residential area. With this condition, the proposal can be approved, subject to general compliance with the site plan, landscape plan and elevation drawings.

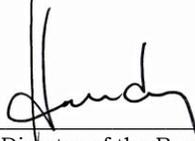
ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 233.266.120.C.1., to allow two parking spaces to be located on the driveway in front of the converted garage, in general compliance with the approved plans, Exhibits C-1 through C-2, signed and dated May 26, 2017 and 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 17-152899 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

- B. To ensure that the garage conversion does not detract from the appearance of the residential area, the former garage area must be made to look like an integral part of the residence. To do this, the garage door must be removed and the wall of the former garage walls must be finished with doors, windows and siding that match the rest of the structure in type and style of orientation, trim and materials.

Staff Planner: Kathleen Stokes

Decision rendered by:  **on May 26, 2017**
By authority of the Director of the Bureau of Development Services

Decision mailed: May 31, 2017

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 April 13, 2017, and was determined to be complete on April 25, 2017.

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 April 13, 2017.

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: August 23, 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 June 14, 2017** 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 **June 15, 2017– (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.

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:

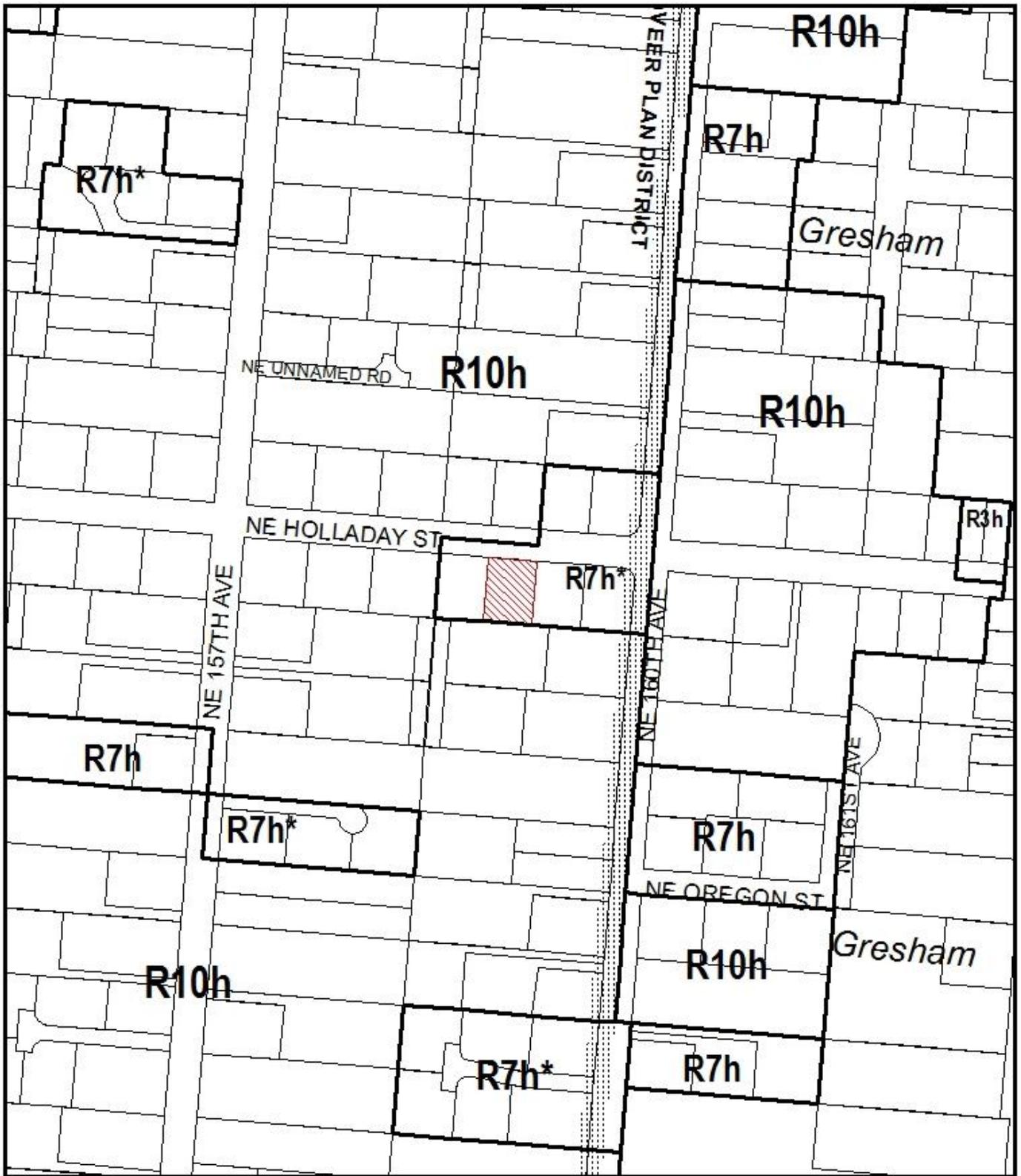
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Application, original narrative, plan and drawings
 2. Letter from neighbor at 15861 NE Holladay
 3. Letter from neighbors at 15873 NE Holladay
 4. Supplemental information & revisions, received April 25, 2017
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Elevation Drawing (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. Life Safety Plan Review Section of BDS
 4. Summary of City service agency responses (including Water Bureau, Fire Bureau and Site Development Review Section of BDS)
- F. Correspondence: (None received)
- G. Other:
 1. Letter from Kathleen Stokes to John Stapleton II, April 21, 2017

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

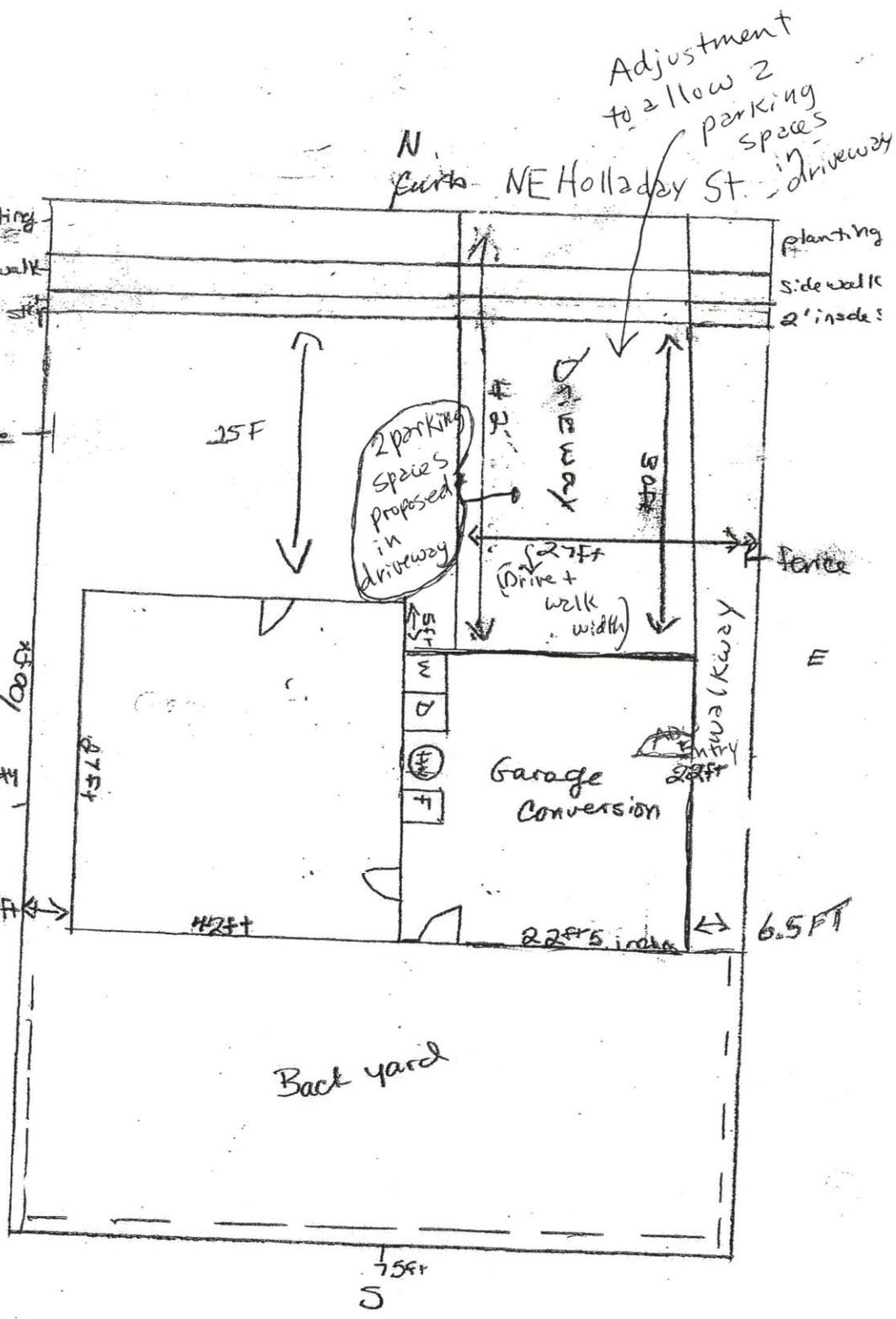
 Site



This site lies within the:
GLENDOVEER PLAN DISTRICT

File No.	<u>LU 17-152899 AD</u>
1/4 Section	<u>2946</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N2E36AD 5000</u>
Exhibit	<u>B (Apr 17, 2017)</u>

Approved
 City of Portland - Bureau of Development Services
 Planner Kathleen A. Stolcar Date May 25, 2017
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

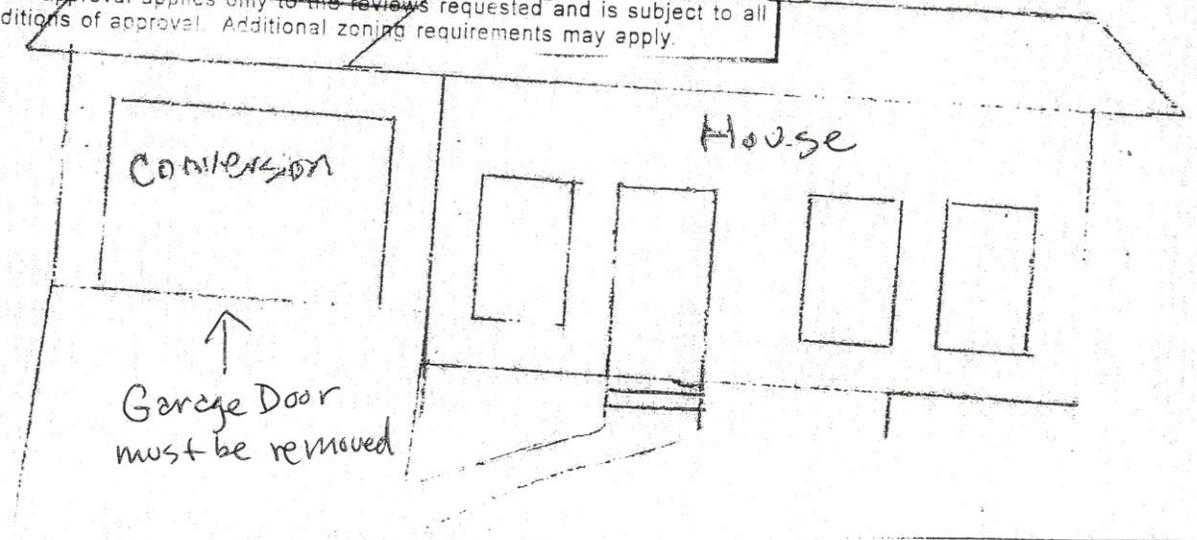


PROJECT ADDRESS
 15876 NE Holladay St
 Portland, OR 97230

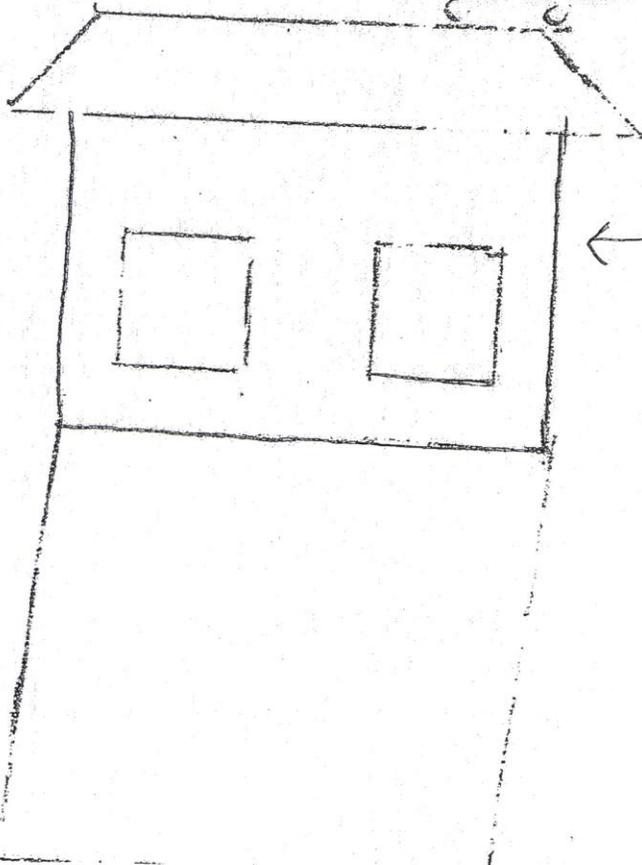
Exhibit C-1
SITE PLAN
 LU 17-15 2899 AD

North Elevation: (Existing)

Approved
City of Portland - Bureau of Development Services
Planner Kathleen A. Stola Date May 25, 2017
* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



Post Conversion Garage



← windows, door (inside)
and siding must
match remainder of
residence in type
and style of orientation,
trim and materials

Exhibit C-2
LU 17-15 2899 AD