



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: June 23, 2016
To: Interested Person
From: Amanda Rhoads, Land Use Services
503-823-7837 / Amanda.Rhoads@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 16-172580 AD

GENERAL INFORMATION

Applicant: Patricia Nossen-Johnson
Metta Architecture
50 NE 43rd Ave
Portland, OR 97213

Owner: Darryl O'Beirne and Elizabeth Marre
2544 SE 34th Ave
Portland, OR 97202-1435

Site Address: 2544 SE 34TH AVE

Legal Description: LOT C TL 8000, EAST PORTLAND HTS
Tax Account No.: R226703390
State ID No.: 1S1E12AB 08000
Quarter Section: 3334
Neighborhood: Richmond, contact Douglas Klotz at 503-233-9161.
Business District: Division-Clinton Business Association, contact at 503-706-3730.
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Plan District: None
Zoning: R2.5 – Single-Dwelling Residential 2,500
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to build a sunroom addition onto the existing house in the location of an earlier unpermitted addition, which will be removed. This addition would be located on the previous driveway, leaving a driveway length of 25 feet, 2 inches between the property line and the building wall. The addition would cause the 9-foot by 18-foot onsite parking space on the driveway to be located 2 feet, 10 inches in the required 10-foot front setback. Therefore, the

applicant requests an Adjustment to Zoning Code Section 33.266.120.C.1.a to reduce the front setback from 10 feet to 7 feet, 2 inches for the onsite parking space.

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 4,000-square-foot lot is developed with a one-story house constructed in 1967 and a pergola in the rear yard. The house is located in a residential area with lots that are commonly between 3,000 and 7,000 square feet. The site is only a few lots south of SE Division Street, in an area with newer commercial development and recent street improvements.

Zoning: The Residential 2,500 (R2.5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The minimum density for new lots in this zone is 1 unit per 5,000 square feet and the maximum density is based on lot size and street configuration. Both detached and attached single-dwellings are allowed. Minimum lot size for both types of development is 1,600 square feet with minimum front lot line of 30 feet and minimum depth of 40 feet. There is no required minimum lot width or front lot line for lots that are developed with structures that meet certain additional development standards related to design.

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 on **May 27, 2016**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Bureau of Transportation (Exhibit E.2);
- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4);
- Site Development Section of BDS (Exhibit E.5);
- Bureau of Parks-Forestry Division (Exhibit E.6); and
- Life Safety (Building Code) Plans Examiner (Exhibit E.7).

Neighborhood Review: One written response was received from the Neighborhood Association in response to the proposal. The Land Use Chair for the Richmond Neighborhood Association raised a concern that the site plan did not reflect any right-of-way between the sidewalk and the property line. Staff informed him that there is no right-of-way between the sidewalk and the property line, and the site plan was accurate in this regard.

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 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 purpose of the parking regulations applicable to Houses and Duplexes is found at 33.266.120.A, *Purpose*, which states:

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

The applicant wishes to continue parking within the driveway area immediately in front of the new sunroom, which is taking the place of an addition built earlier without benefit of permit. This is allowed by the Zoning Code as long as the distance from the street lot line is 28 feet. However, the distance from the street lot line to the façade of the sunroom is a total of 25 feet, 2 inches. Therefore, the applicant requests an Adjustment to allow parking within 2 feet, 10 inches of the required 10 foot setback.

This segment of SE 34th Ave. is improved with a paved roadway, curb, planting strip and sidewalk. There are two mature street trees in the planting strip and the front yard has several more mature trees in front of the house, as well as shrubs to the north of the house. Given the foliage and the relatively modest intrusion into the 10-foot setback, the pedestrian experience will remain pleasant and safe under the proposal. Granting the Adjustment will result in a neighborhood appearance that is equally attractive. For these reasons, 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 site is zoned single-dwelling residential. The proposal will preserve existing livability in the immediate residential area as one off street parking space is proposed, thus lessening pressure for on-street parking along SE 34th Ave. so close to the commercial district along SE Division St. The new, modest sunroom is well-integrated into the architectural vernacular of the mid-century ranch-style home. 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 requested. This criterion is not applicable.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. 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. 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). As the site is not within an environmental zone, 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

A previous homeowner built an addition onto the house in the area of the driveway without benefit of a building permit. The current owner seeks to tear that addition down and replace it with a legal, permitted sunroom. The applicant wishes to continue parking within the driveway area immediately in front of the new sunroom. This is allowed by the Zoning Code as long as the distance from the street lot line is 28 feet. However, the distance from the street lot line to the façade of the house where the garage entrance used to be is a total of 25 feet, 2 inches. Therefore, the applicant requests an Adjustment to allow parking within 2 feet, 10 inches of the required 10 foot setback.

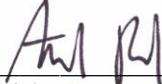
The proposal meets all of the applicable approval criteria and therefore should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.266.120.C.1.a to reduce the front setback from 10 feet to 7 feet, 2 inches for the onsite parking space, per the approved plans, Exhibits C.1 through C.4, signed and dated June 21, 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.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-172580 AD."

Staff Planner: Amanda Rhoads

Decision rendered by:  **on June 21, 2016**
By authority of the Director of the Bureau of Development Services

Decision mailed: June 23, 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 May 13, 2016, and was determined to be complete on May 25, 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 May 13, 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: September 22, 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 July 7, 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 **July 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.

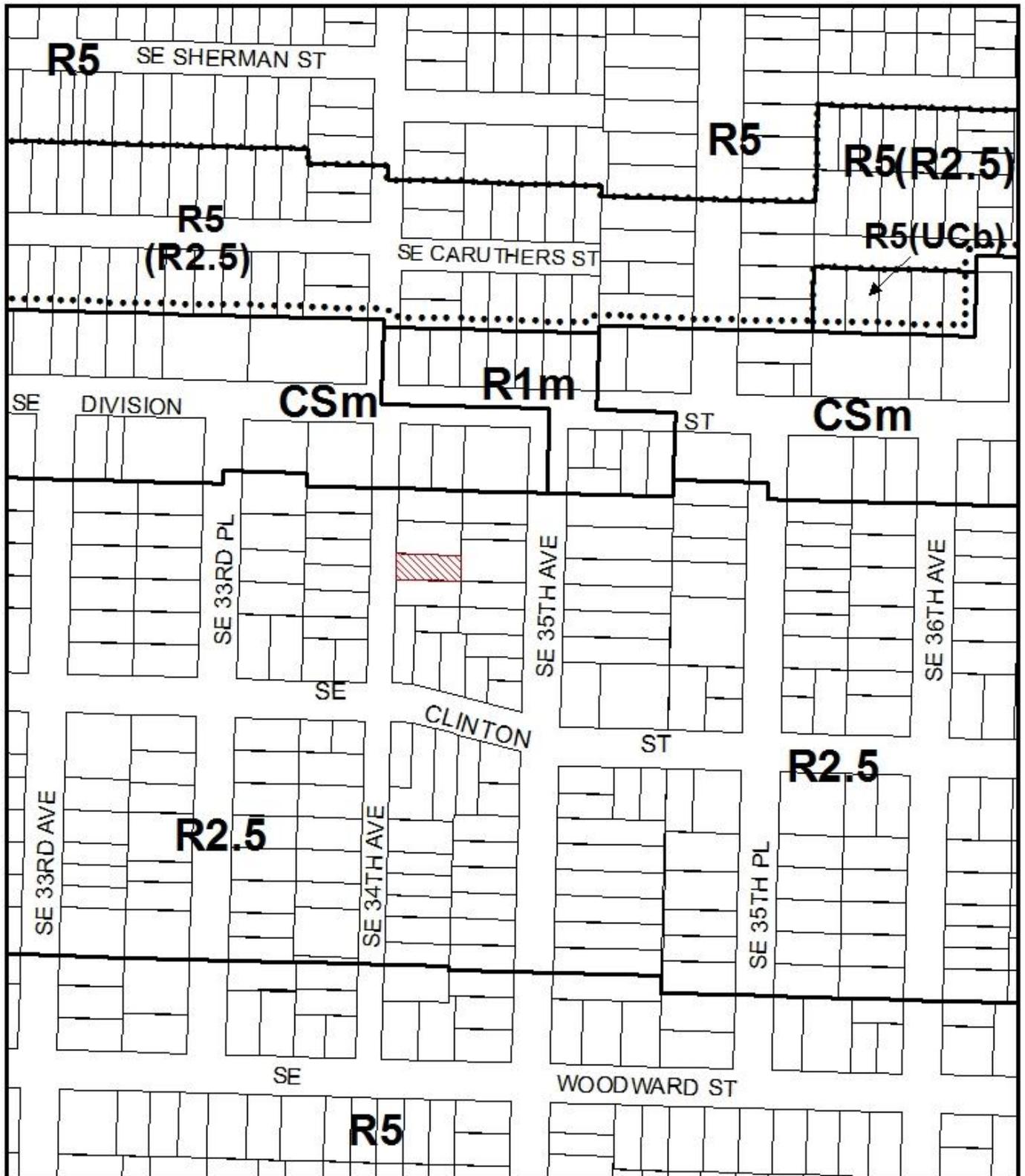
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Original Applicant Narrative (superseded)
 2. Original Plan Set (site plan superseded)
 3. Updated Applicant Narrative
 4. Site Photos
 5. Full-Size Plan Set (site plan superseded)
- B. Zoning Map (attached)
- C. Plans/Drawings:

1. Site Plan (attached)
 2. West Elevation (attached)
 3. South Elevation
 4. North Elevation
- D. Notification information:
1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Bureau of Transportation
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
 7. Life Safety (Building Code) Plans Examiner
- F. Correspondence:
1. Doug Klotz, Land Use Chair for the Richmond Neighborhood Association, with question
- G. Other:
1. Original Land Use Application and Receipt
 2. Incomplete Letter, May 20, 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).



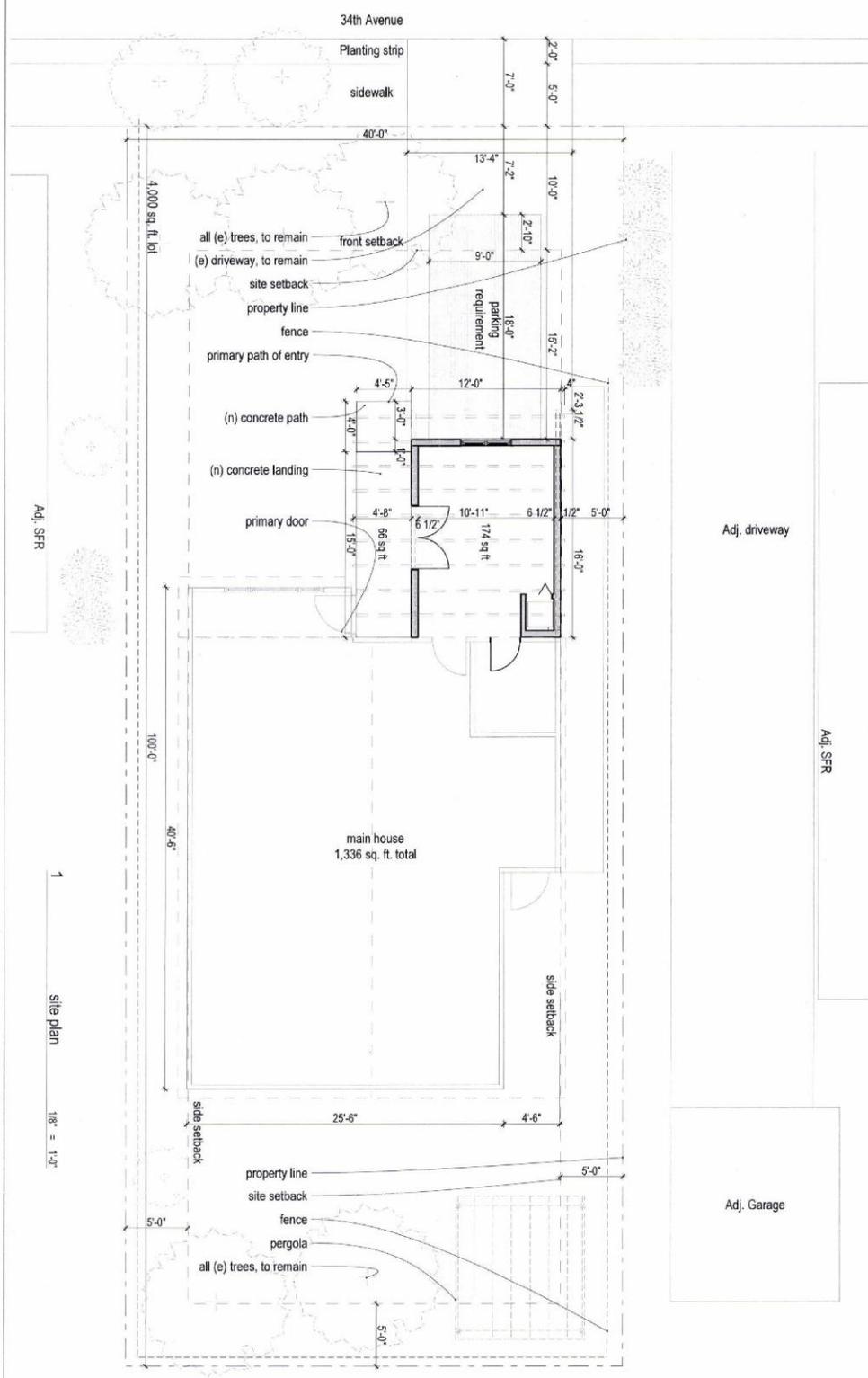
ZONING

 Site



File No. LU 16-172580 AD
 1/4 Section 3334
 Scale 1 inch = 200 feet
 State_Id 1S1E12AB 8000
 Exhibit B (May 17, 2016)

CONTACT METTA ARCHITECTURE: Patricia Nossen-Johnson, Architect
 TEL: 412.596.2607
 MAIL: 50 NE 43rd Ave Portland, Oregon 97213
 EMAIL: pal@metcharchitecture.com



Approved
 City of Portland - Bureau of Development Services
 Planner [Signature] Date June 21, 2016
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

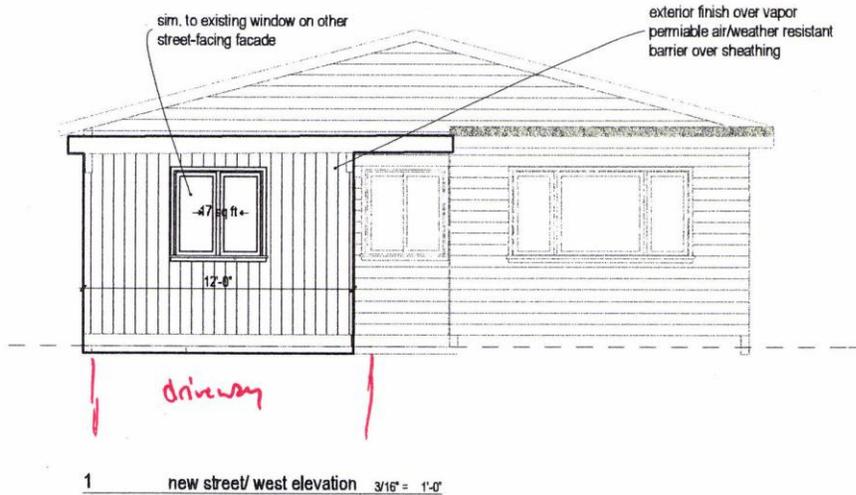
CASE NO. 14116-178580 AD
 EXHIBIT C.1

O'Brien Remodel 2544 SE 34th Avenue Portland, Oregon 97202
 Adjustment Review
 05/25/16
A1.7

Approved
City of Portland - Bureau of Development Services

Planner AKH Date 6/21/16

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



CONTACT metta architecture PATRICIA S. NOSSEN-JOINSON, ARCHITECT
 TEL 412.596.2607
 MAIL 50 NE 43RD AVE
 EMAIL pat@mettaarchitecture.com

Elizabeth and Darryl O'Beirne
 2544 SE 34th Avenue Portland
 OR 97202

Exhibit C.2
 LU 16-172580AD