



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: April 21, 2016
To: Interested Person
From: David Besley, Land Use Services
503-823-7282 / 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 16-121291 AD

GENERAL INFORMATION

Applicant: Mitchell Snyder / Mitchell Snyder Architecture, LLC
1722 NE Alberta St
Portland OR 97211

Owner: Stevan and Kristin Arychuk
5953 NE 18th Ave
Portland, OR 97211

Site Address: 5953 NE 18TH AVE

Legal Description: BLOCK 7 LOT 22, OAKHURST

Tax Account No.: R622301680

State ID No.: 1N1E14DC 02300

Quarter Section: 2432

Neighborhood: Vernon, contact Carson Mead at carson.mead@gmail.com

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 convert an existing attached garage to an Accessory Dwelling Unit (ADU). As a result, the required parking space will no longer be in the garage and must be relocated to the driveway. The Portland Zoning Code requires that vehicle parking on corner lots not be located within the side street setback (33.266.120.C.1.a) which is 5 feet in this zone. An Adjustment is required because the driveway parking space is 18 feet in length (the standard parking space length for this type of development), 5 feet of which is in the side street setback (east, along NE 18th Avenue).

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 5,000 square-foot lot is located on the southwest corner of NE Ainsworth Street and NE 18th Avenue. The relatively flat lot is developed with a single-story, 2,048 square-foot residence and an attached garage. 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. The "ah" zone overlays (Alternative Design Density Zone and Aircraft Landing Zone, respectively) are 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 **March 16, 2016**. 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); and
- The Life Safety section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information (Exhibit E.2).

The following Bureaus have responded with no concerns:

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

Neighborhood Review: 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 to convert an attached garage into an ADU, which results in the driveway being used for the required parking space. An Adjustment is required because the driveway parking space will be in the side street setback. 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.

No new development or expansions to the existing driveway are proposed as part of this request, so there will be no negative impacts to the appearance of the neighborhood. It is common in this area for cars to park within side setbacks on corner lots; the proposal is therefore consistent with the appearance of the neighborhood.

There are concrete pavers to the south of the driveway that have been used in the past for vehicle parking, and these pavers will need to be removed because parking is not allowed where there is no curb cut. The applicant has noted on the site plan that these pavers will be removed and a condition is required to ensure that this has been done. The removal of the pavers and the subsequent additional parking area will improve the appearance of the neighborhood.

PBOT noted no concerns with the request.

With the condition that the pavers be removed, 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, no new development is proposed as part of this request, so the proposal will not significantly detract from the livability or appearance of the area. A condition requiring the removal of pavers and subsequent additional parking will improve the appearance of the neighborhood.

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: 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 applicant has requested to convert an attached garage into an ADU, which results in the driveway being used for the required parking space. An Adjustment is required because the driveway parking space will be in the side street setback. No new development is proposed as part of this request, so the proposal will not significantly detract from the livability or appearance of the area. A condition requiring the removal of pavers and subsequent additional parking will improve the appearance of the neighborhood. It is common in this area for cars to park within side setbacks on corner lots and the proposal will therefore be consistent with the neighborhood. It meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to allow vehicle parking in the side street setback on a corner lot (33.266.120.C.1.a), per the approved site plans, Exhibit C-1, signed and dated April 19, 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 16-121291 AD."
- B. The pavers to the south of the parking space must be removed as noted on the Site Plan (Exhibit C-1).

Staff Planner: David Besley



Decision rendered by: _____ **on April 19, 2016.**

By authority of the Director of the Bureau of Development Services

Decision mailed: April 21, 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 February 16, 2016, and was determined to be complete on March 9, 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 February 16, 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: July 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 May 5, 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 **May 6, 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:

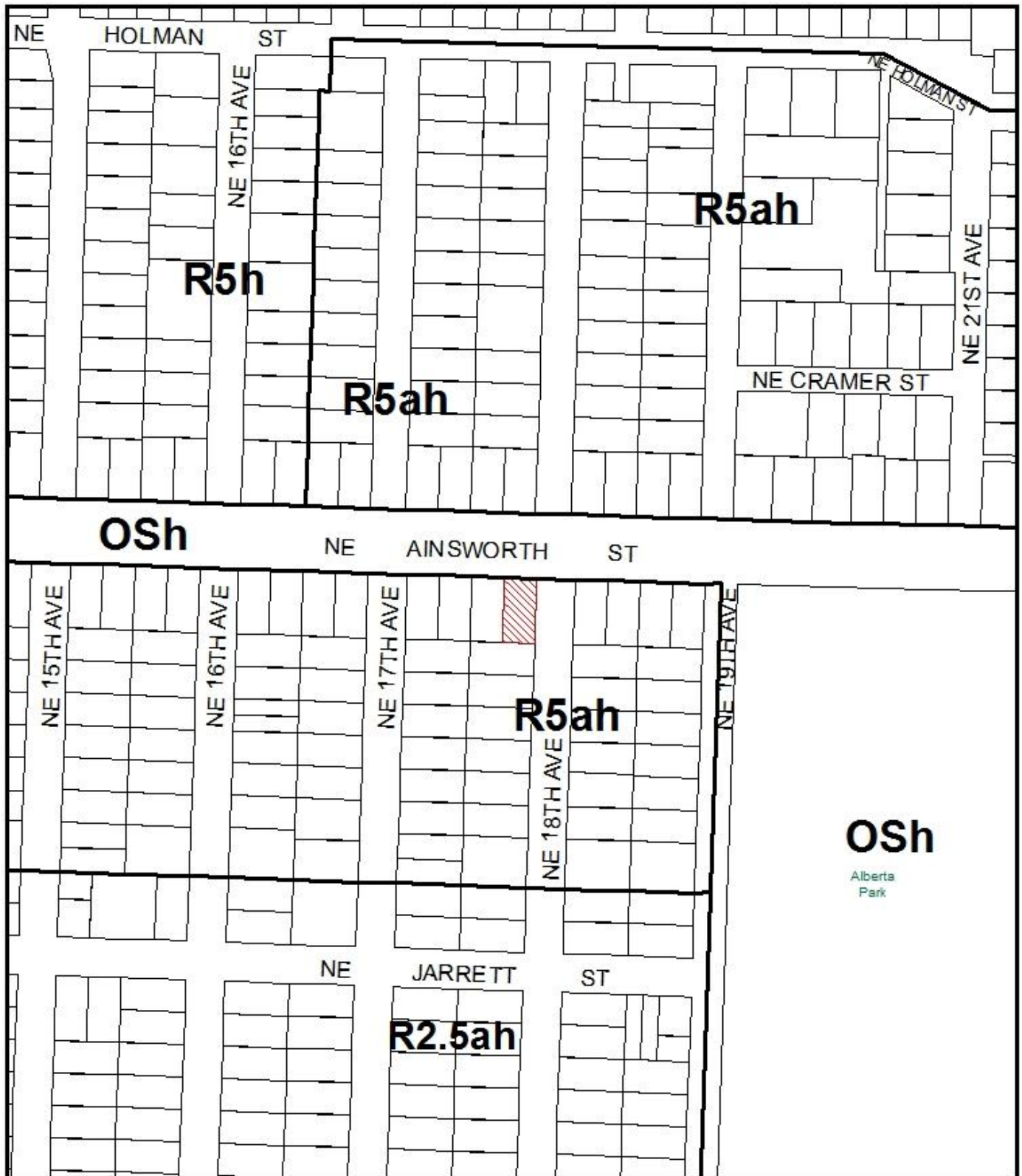
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Life Safety Section of BDS
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incomplete letter from staff to applicant, sent February 26, 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).



Alberta
Park

ZONING



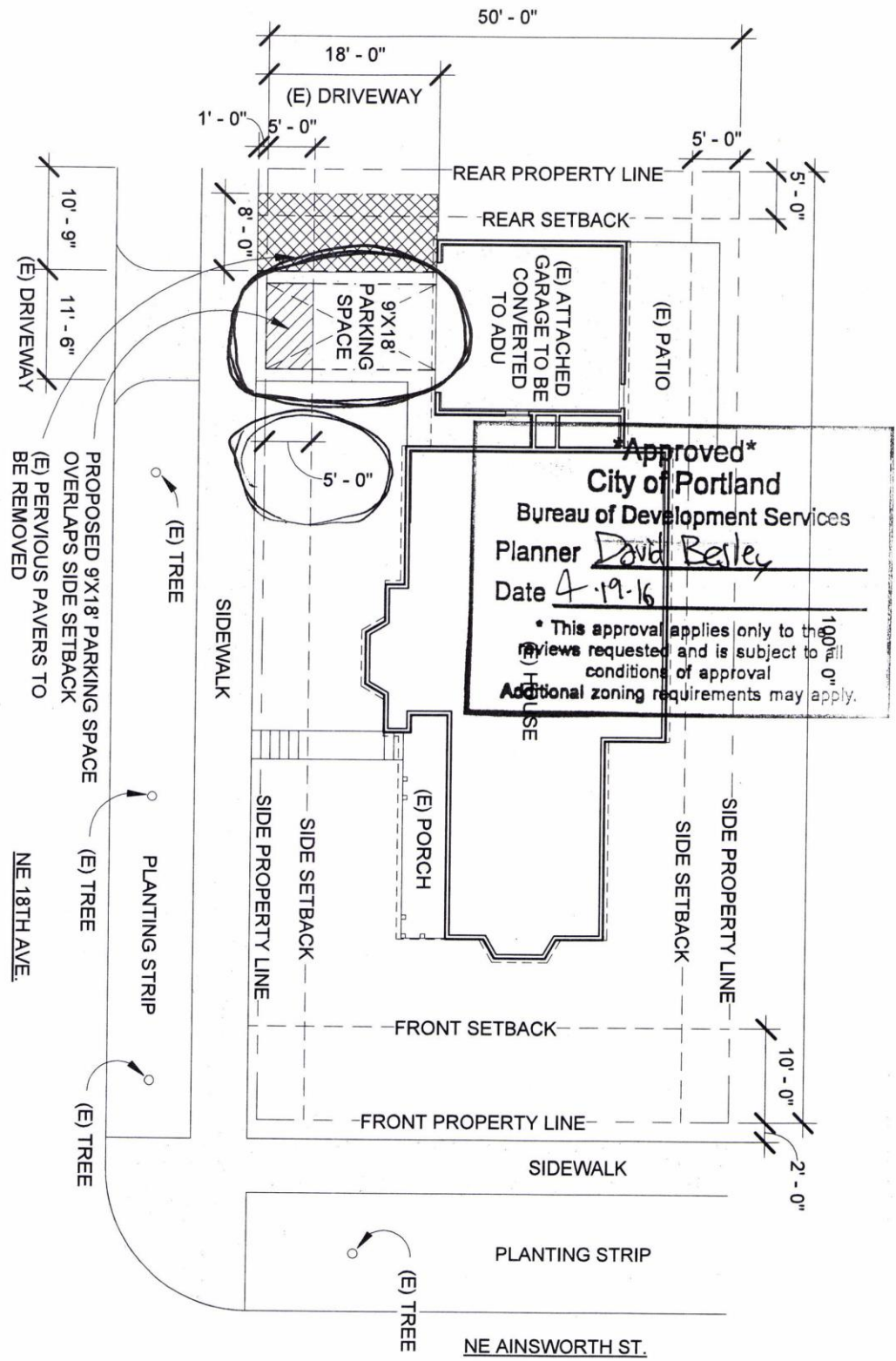
File No.	<u>LU 16-121291 AD</u>
1/4 Section	<u>2432</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E14DC 2300</u>
Exhibit	<u>B</u> (Feb 18, 2016)

Adjustment request to waive requirement that vehicle parking not be located within the side setback (5')

1 SITE PLAN - ZONING ADJUSTMENT
 1/16" = 1'-0"



IMPROVEMENT AREAS	
SITE AREA	5000 SF
LOT AREA	
MAIN FLOOR	1260 SF
FINISHED BASEMENT	788 SF
UNFINISHED BASEMENT	108 SF
CONCRETE	400 SF
ATTACHED GARAGE	360 SF
COVERED PORCH	144 SF



Approved*
City of Portland
 Bureau of Development Services
 Planner David Basley
 Date 4-19-16
 * This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

SITE PLAN - ZONING ADJUSTMENT

ARYCHUK ADU
 5953 NE 18TH AVE., PORTLAND, OR 97211
 DATE 03.09.2016

MITCHELL SNYDER ARCHITECTURE
 1722 NE ALBERTA ST
 PORTLAND, OR 97211
 503.319.4183
 MITCH@MSNYDERARCH.COM

CASE NO. LU 16-121291AD
 EXHIBIT C-1

A0