



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

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Date: April 10, 2017
To: Interested Person
From: Mark Moffett, City Planner
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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 17-117525 AD

GENERAL INFORMATION

Applicant: Robert Price | Planning and Development Services
3935 NE 72nd Ave.
Portland, OR 97213

Property Owners: Sarah and Stuart Allen
1211 SW Hessler Dr.
Portland, OR 97239-2806

Site Address: 1211 SW HESSLER DR

Legal Description: LOT 39 & 41 TL 1200, HESSLER HILLS
Tax Account No.: R380801250
State ID No.: 1S1E16AB 01200
Quarter Section: 3528

Neighborhood: Hillsdale, contact Glenn Bridger at 523-245-0729.
Business District: None.
District Coalition: Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.

Zoning: **R10** (Single-Dwelling Residential 10,000)

Case Type: **AD** (Adjustment Review)
Procedure: **Type II**, an administrative decision with appeal to the Adjustment Committee.

PROPOSAL: The applicant is working with the property owners at 1211 SW Hessler Drive to legalize an expanded paved parking area and driveway in the front yard area of the home which was added sometime in the Summer of 2016. The new paved area can accommodate two cars, measures approximately 21'-0" by 23'-0" in plan, and is located to the left of the existing historic driveway to the attached two-car garage as one enters the site from SW Hessler Drive. The owners have temporarily provided large ceramic planters along the driveway edge of this

new paving area to prevent it from being used for parking, pending the outcome of this Adjustment.

Parking regulations for houses allow a maximum of 40% of the “front yard” area to be paved for parking and vehicle areas (33.266.120.C.3.a). The front yard area is the area between the closest point of the building and the street lot line. On this pie-shaped lot the “front yard” area is an arcing, irregular shape that is 27'-6” deep extending from the edges of each side lot line abutting the SW Hessler Drive lot line. With approximately 1,123 square feet of vehicle paving in the approximately 1,987 “front yard”, the area is now 56.5% paved.

Parking regulations for houses also state that non-required parking is only allowed in the front setback if placed in a driveway immediately behind a required parking area (33.266.120.C.2). At this site, the required parking area is located in the existing attached garage, located outside the 20'-0” front setback. The two new parking spaces to the left of the historic driveway both encroach somewhat into the minimum 20' front setback, but are not placed in a driveway immediately behind the required parking spaces in the garage.

Therefore, to comply with parking regulations for houses, and allow use of the new parking area to the left of the original driveway, the applicant has requested the following two Adjustments:

1. Increase the maximum front yard paving from 40% to 56.5% of the front yard area; and
2. Allow two new parking spaces to project fully or partially into the minimum 20'-0” front building setback.

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at 33.805.040.A-F, Adjustment Approval Criteria.

ANALYSIS

Site and Vicinity: The site is a large single parcel of 45,000 square feet, located on a hilltop site with frontage on the uphill side abutting SW Hessler Drive, and frontage on the downhill site along SW Northwood Ave. The upper portion of the lot is relatively flat as it faces west towards SW Hessler Drive, and this portion of the lot is where the house, driveway and developed yard areas are located. The easternmost and northeastern edges of the site are steeply-sloped, heading downhill from the Hessler frontage towards Northwood. The existing house is a single-story ranch house with attached garage as it faces the street, similar to other homes in the immediate surrounding neighborhood.

The abutting street frontage in SW Hessler Drive is improved with a curving asphalt two-way roadway, but no formal paved pedestrian sidewalk or curbing. The immediately adjacent right-of-way in SW Hessler Drive has a widened roadway and shoulder area along the street lot line that appears to be a part of the private on-site driveway, but which is actually in the public right-of-way, providing access to the site and limited guest parking along the roadway. Southwest Hessler Drive is a Local Service Street for all classifications in the City of Portland Transportation System Plan.

Zoning: The Residential 10,000 (R10) base zone is a single-dwelling zone which is intended to preserve land for single-dwelling neighborhoods, and to preserve and enhance the character of the same. Parking-related standards apply the same for houses in all the residential zones, with the exception that some zones, including R10, have larger than average street setbacks where parking areas are often not allowed.

Land Use History: City records indicate no prior land use reviews for this site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **February 24, 2017**. The following Bureaus have responded:

The *Bureau of Environmental Services* (BES) has reviewed the proposal and noted that the project appears to create or redevelop less than 500 square feet of impervious area, and therefore the pollution reduction and flow control requirements of the City of Portland Stormwater Management Manual (SWMM) do not appear to be triggered. However, a safe stormwater disposal location will be required to be shown during permitting. Because the requested adjustments do not appear to have an impact on the location of a stormwater management system for the project, BES has no objections to the land use review. Exhibit E.1 is a hard copy of this “no concerns” staff response from BES.

The *Development Review Section of Portland Transportation* (PBOT) has reviewed the proposal and responded with findings on the approval criteria, which will be considered in more detail later in this report. In summary, as the proposed improvements have been found to have no significant impacts on the transportation system, the requested Adjustments are supported by PBOT. Exhibit E.2 contains staff contact and additional information.

The following bureaus have reviewed the proposal and responded without comment or concern:

- The *Water Bureau* (Exhibit E.3);
- The *Fire Bureau* (Exhibit E.4);
- The *Site Development Section of the Bureau of Development Services* (Exhibit E.5); and
- The *Life Safety Section of the Bureau of Development Services* (Exhibit E.6).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 24, 2017. A total of three written responses have been received from nearby neighborhood residents. The abutting neighbors to the south wrote a letter with concern that the driveway and parking spaces on the lot in question at 1211 SW Hessler Drive not be allowed to project any further to the south from their current location, partially from a concern that the site plan is ambiguous. The neighbors living most directly opposite the front yard changes in the proposal, across SW Hessler to the west, wrote in support of the proposal, with no objections to the vehicle area paving adjustments, and comments that the front yard changes make a nice addition to the street. Finally, a neighbor one block to the west, writing as President of the Hessler Hills Neighborhood Association, expressed no objections to the proposal.

Staff Note: The site plan shows a large driveway area, most of which is located in the public right-of-way and outside of the private property regulated by the Zoning Code. The proposal is to legalize the existing driveway and parking area expansion, as opposed to expanding the existing driveway or public roadway paving in any direction. There is no proposal to expand the existing driveway to the south. Because the site is already exceeding the maximum limit of front yard paving, any additional paving in the front yard on the private property will require a subsequent Adjustment with public notice to further increase the maximum front yard vehicle area paving. Any additional paving in the public right-of-way would require a separate permit from Portland Transportation, and is not under consideration in this Adjustment Review.

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 providing 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. 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 for houses, as noted at 33.266.120.C.a, is as follows:

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

The applicant has requested Adjustments necessary to legalize a new paved area measuring approximately 21'-0" by 23'-0" in plan, placed next to an existing driveway in the front yard which leads to the attached two-car garage. The lot has a “pie-like” orientation to SW Hessler drive, with only a narrow curvilinear frontage on the street of 54.07 feet, creating a situation where the front yard area is constrained to only the southwest corner of the front yard, whereas the front yard area continues another 90'-0" or so to the north. As proposed, the request involves increasing the front yard area from 40% to 56.5%, and both of the two new parking spaces project partly into the normal (20'-0") front setback.

The nearby streets consist of paved asphalt roadways with no curbing or public sidewalks, many or relatively steep streets with tight switchbacks. The curving streets also create a diversity of street frontage situations, with some lots having long linear front yards on straight segments of street, and others with more “internal” lots that sit more interior to a larger block and with lesser street frontage. The majority of the paved area adjacent to this site in particular occurs in the public right-of-way, where a wide-angle approach to the driveway and wide roadway shoulders create a roadway width that is wider than typically found in the neighborhood.

When standing directly at the site frontage, the paved area and two new parking spaces in the front yard appear proportional to the deep front yard area extending north away from the street. The dense perimeter tree and shrub plantings on either side of the open lawn area in front of the house provide a green backdrop for the paving, and prevent the paved area from dominating the visual character of the front yard. The parking is designed in such a way that cars can easily back out into the driveway or new paving area to allow forward motion movement of parked cars when heading back onto Hessler Drive.

The Development Review Section of Portland Transportation has reviewed the proposal and responded without concerns or objections to the adjustments, noting no impact on transportation services or systems (Exhibit E.2). No dedications, frontage improvements or other requirements will apply during the Zoning Permit process to legalize the paving.

Because the proposal only legalizes the existing paved areas, and given the site layout and orientation considerations noted above, the proposed adjustments will still allow the parking areas at the site to enhance the appearance of the site and surrounding neighborhood. With approval granted based on the submitted site plan, 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: For the reasons discussed above under findings for criterion A, and with approval granted based on the site plan showing the outer boundaries and limits of new paving on the site, the proposal will not significantly detract from the livability or appearance of the residential area. 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: Two adjustments are requested, both the parking-related development standards for single-family homes. The overall purpose of the R10 zone is to provide housing for single-dwelling households, and to preserve and enhance the character of the city's single-family neighborhoods. There is no aspect of the two requested adjustments in this case that will be inconsistent with this overall purpose. This criterion is met.

- 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: With approval granted based on the site plan showing the limits of front yard paving and parking areas, there are no discernible impacts that would result from granting the requested adjustments. 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

The applicant has requested two adjustments to parking-related development standards, in order to legalize a two-car parking area added perpendicular to the original driveway at 1211 SW Hessler Drive. Providing a space for two parking spaces on this trapezoidal lot with limited street frontage in the front yard is not out of character with the surrounding neighborhood, and will not have negative impacts on the appearance of the area or the function of SW Hessler Drive. With approval based on the site plan which shows only the existing paved areas on the site, the request is able to meet the applicable criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum front yard paving on the lot from 40% to 56.5% of the front yard area (33.266.120.C.3.a).

Approval of an Adjustment to allow two new parking spaces to project fully or partially into the required 20'-0" minimum front building setback (33.266.120.C.2), without being in a driveway directly behind a required parking space.

Both the above approvals are granted based on the site plans which show the extent of existing paved areas on the site, Exhibits C.1 through C.3, all signed and dated April 5, 2017, and subject to the following condition:

- A. As part of the Zoning Permit application submittal to legalize the new pavement and parking area, each of the 4 required site plans 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 17-117525 AD. No field changes or additional paving expansion allowed."

Staff Planner: Mark Moffett

Decision rendered by: M. MOFFETT **on April 5, 2017.**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 10, 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 February 7, 2017, and was determined to be complete on February 22, 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 February 7, 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 further extended by the applicant, **the 120 days will expire on June 21, 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 April 24th, 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 **April 25th, 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.

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:

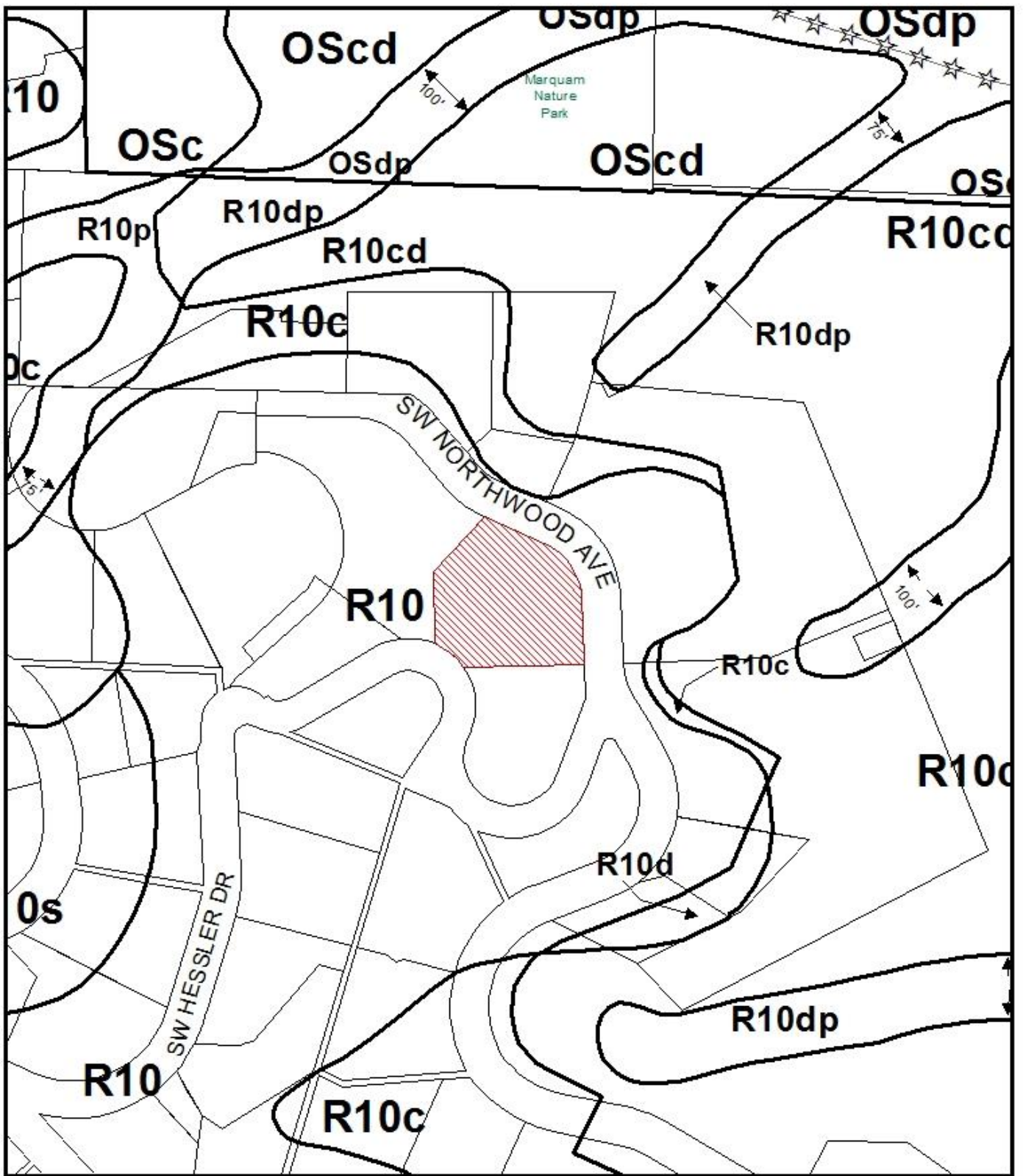
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
 1. Original narrative statement, including survey without new paved areas
 2. Site photos submitted by applicant
 3. E-mail with additional statements clarifying content of one of submitted photos
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Enlarged site plan with color highlighter on new paved areas
 3. Large/scalable full site plan/survey
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Development Review Section of Portland Transportation
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Section of the Bureau of Development Services
 6. Life Safety Section of the Bureau of Development Services
- F. Correspondence:
 1. E-mail with comments from John Durkheimer, rec'd. 3/3/17
 2. E-mail with comments from Kathy & Nils Jensen, rec'd. 3/8/17
 3. E-mail with comments from George Kalomiris, rec'd. 3/8/17
- G. Other:
 1. Original LU Application Form and Receipt
 2. Staff routing slip for large-size plans, dated 1/22/17

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).



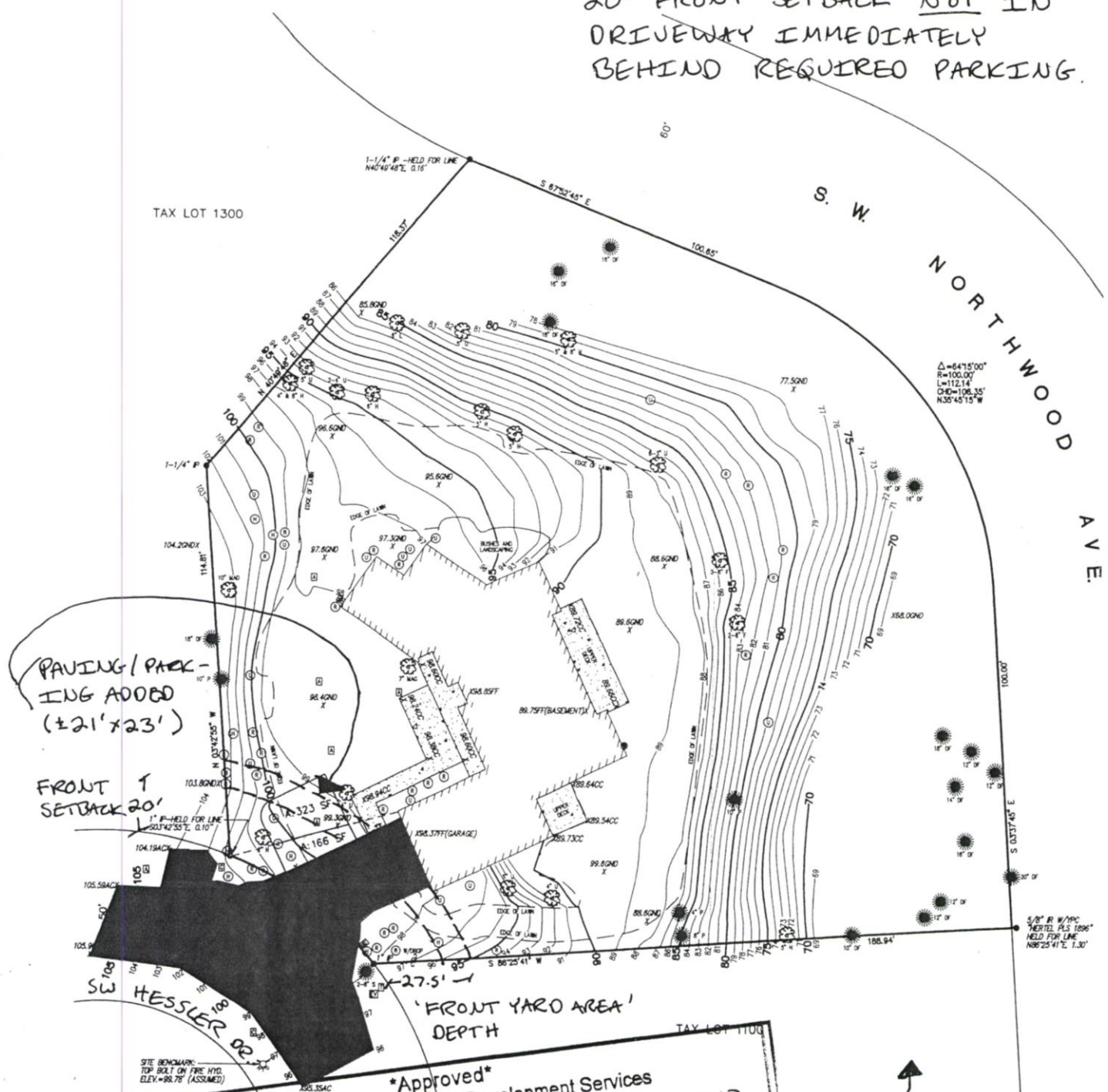
ZONING



-  Site
-  Recreational Trails

File No.	LU 17-117525 AD
1/4 Section	3528
Scale	1 inch = 200 feet
State_Id	1S1E16AB 1200
Exhibit	B (Feb 10, 2017)

- ADJUSTMENTS: ① INCREASE FRONT YARD VEHICLE PAVING FROM 40% → 56.5%; AND ② ALLOW NON-REQUIRED PARKING IN 20' FRONT SETBACK NOT IN DRIVEWAY IMMEDIATELY BEHIND REQUIRED PARKING.



Approved

City of Portland - Bureau of Development Services

Planner MARK MOFFETT Date APRIL 5, 2017

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



NTS

CASE NO. LU 17-117525 AD
 EXHIBIT C.1

Δ=6475'00"
 R=100.00'
 L=112.14'
 CHD=106.35'
 N35°45'15" W

3/8" R/W 1/4" METREL 25' 1086" HELD FOR LINE N86°25'41" E 1.30'

TAX LOT 1300

60'

S. W.

NORTHWOOD AVE.

PAVING/PARKING ADDED (±21' x 23')

FRONT 1 SETBACK 20'

SW HESSLER DR.

'FRONT YARD AREA' DEPTH 27.5'

STAKE BENCHMARK: TOP BOLT ON FIRE HYD. ELEV.=98.78' (ASSUMED)

TAX LOT 1100