



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

Ted Wheeler, Mayor
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Date: June 19, 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 17-162692 AD

GENERAL INFORMATION

Applicant: Kristian Thordarson | Thordarson Construction Inc
PO Box 2170
Clackamas, OR 97015

Owners: Amy and Jessie Spatrisano
1203 SE 53rd Ave
Portland, OR 97215

Site Address: 1203 SE 53RD AVE

Legal Description: BLOCK 8 LOT 26, SEWICKLY ADD
Tax Account No.: R758201720
State ID No.: 1S2E06AC 09100
Quarter Section: 3136

Neighborhood: Mt. Tabor, contact Stephanie Stewart at 503-230-9364.
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Zoning: R5 (Residential 5,000, High Density Single-Dwelling)

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

Proposal: The applicant wishes to demolish the existing small garage that is located on this property and build a detached accessory dwelling unit (ADU) in its previous location, to the rear of the primary dwelling unit. The applicant proposes to remove the driveway and close the curb cut, which will eliminate onsite parking for the property. The Portland Zoning Code generally requires that there is one onsite parking space for each primary dwelling unit. Exceptions to this requirement are approved through Adjustment Reviews if all of the relevant approval criteria are met or if the criteria can be met through reasonable conditions of approval. Therefore, the applicant is requesting approval of an Adjustment to Portland Zoning Code Section 33.266.110, to waive the requirement for an onsite parking space for this site.

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 4,100 square-foot property that is located on the southwest corner of the intersection of SE Salmon Street with SE 53rd Avenue. The site is developed with a single-dwelling residence that was constructed in 1912. A single-car garage is located to the west of the house, with access on a driveway that connects to SE Salmon Street. The area around the site is generally developed with other single-dwelling residences of varying sizes and ages. Southeast Salmon Street has a 48-foot wide right-of-way. Southeast 53rd Avenue has a 60-foot wide right-of-way. Both streets are classified as Local Service Streets in the City's Transportation System Plan.

Zoning: The site is zoned Residential 5,000 (R5, High Density Single-Dwelling). This zone is intended to accommodate single-dwelling development, with an average of one primary unit per 5,000 square feet of site area. Each lot is generally required to have at least one onsite parking space, with a minimum size of 9 by 18 feet and is allowed to have a driveway that is at least 9 feet wide.

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 **May 16, 2017**. The following Bureaus have responded with no issues or concerns:

- Portland Bureau of Transportation stated that they had reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Titles 33 and 17, and for potential impacts upon transportation services and found no objections to the proposal (Exhibit E-1).
- Site Development Section of BDS found no issues with the proposal. In their response, they noted that a cesspool previously was in operation on the site and would be required to be decommissioned prior to approval of any building permits (Exhibit E-2).
- Life Safety Plan Review Section of BDS noted permit requirements for demolition of the garage and construction of the proposed ADU (Exhibit E-3).
- Environmental Services, Water Bureau and Fire Bureau each sent a response of, "no concerns," without providing additional comments (Exhibit E-4).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on May 16, 2017. One written response has been received from either the Neighborhood Association or notified property owners in response to the proposal. A neighbor wrote, on behalf of their family, to oppose approval of the requested Adjustment. In the letter, the neighbor stated that the street was narrow and that on-street parking reduces the right-of-way to one-way traffic. The neighbor also was opposed to having an Accessory Dwelling Unit (ADU) adjacent to their property (Exhibit F-1).

(Staff Note: ADUs are allowed by the Zoning Code in all zones. Detached ADUs are required to be either 40 feet from the front property line or 6 feet behind the rear wall of the primary dwelling unit. Therefore, the proposed location of the ADU is allowed and so it is not a consideration of this review. The issue regarding the impact of waiving the requirement for an on-site parking space is addressed later in the findings for this decision).

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 proposal is a request to approve an Adjustment to Portland Zoning Code Section 33.266.110, to waive the requirement for an onsite parking space for this site.

The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of the traffic generated by the range of uses which might locate at the site over time. The Portland Zoning Code generally requires one on-site parking space for each primary dwelling unit. No on-site parking is required for ADUs. When there is a garage, the on-site parking space is considered to be located in the garage. When a garage is converted to a different use, an on-site space must be created, unless an exception for on-site parking is approved through an Adjustment Review. In this case, the applicant is proposing to convert the garage to use as an ADU but also to remove the driveway and close the curb cut. This will restore an on-street space, making an even trade of the one required on-site space for one new on-street parking space. Therefore, waiving the on-street parking requirement for one parking space will have a net-zero effect on the availability of on-street parking in the area.

The neighbor who opposed approval of the Adjustment based their argument on the idea that the narrow streets, with parked cars, cause drivers to operate as if it were a one way street, taking turns driving in opposite directions. In Portland, where many of the rights-of-way were platted when cars were much scarcer than today, there are many neighborhood streets where this situation occurs. The width of SE Salmon Street (48 feet) and SE 53rd Avenue (60 feet) are not unusually narrow and the addition of one more car parked in the newly acquired on-street space is not expected to create any noticeable increase in traffic congestion on these adjacent roadways.

Therefore, because the proposal does not decrease the amount of available parking, but instead increases the number of on-street parking spaces, the majority of traffic that is generated by the use will be equally well accommodated 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: The proposal to waive an on-site parking space will actually make the street edge more attractive, due to the removal of the driveway and curb cut. This will also improve livability because it will provide greater protection for pedestrians who may otherwise be interrupted in their use of the sidewalk by cars that would be entering or exiting the site. A condition of approval will require the replacement of the driveway paving with a landscaped area, with living groundcover, and the establishment of a continuation of the planting strip, in the area between the curb and the sidewalk, which will also enhance the visual aspect of the public area. With this requirement, the proposal will not significantly detract from the livability or appearance of the residential area, but can be expected to improve both of these aspects. Therefore, 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: Due to the part of the proposal that includes removal of the existing driveway and closing the curb cut, no impacts are expected to occur. Therefore, this criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

Findings: Environmental 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.

CONCLUSIONS

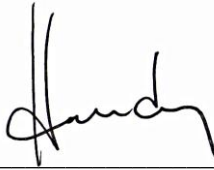
All of the relevant approval criteria are met for the requested Adjustment to waive the required on-site parking space. Because the applicant has included removal of the driveway and the closure of the curb cut as a part of the proposal, there will be no net change in the parking inventory for the residential area. Replacement of the driveway area with landscaping and the continuation of the planting strip between the curb and sidewalk will enhance the livability and appearance of the area. The proposal can be approved in general compliance with the site plan and elevation drawings and subject to the previously described condition of approval.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Code Section 33.266.110, to waive the requirement to have an on-site parking space, in general compliance with the approved site plan, Exhibits C-1, signed and dated June 15, 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 17-162692 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The existing driveway paving must be removed and replaced with a landscaped area that includes living ground cover. The curb cut must also be closed, the curb re-established and the area between the curb and the sidewalk planted with living ground cover to connect with the planting area that exists to the east and west of the current curb cut/driveway location. This condition must be met before final occupancy permits are approved for the proposed ADU.

Staff Planner: Kathleen Stokes



Decision rendered by: _____ **on June 15, 2017**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 19, 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 28, 2017, and was determined to be complete on May 11, 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 28, 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: September 8, 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 July 3, 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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **July 5, 2017** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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, narrative, drawings, photos and plans
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list

2. Mailed notice

E. Agency Responses:

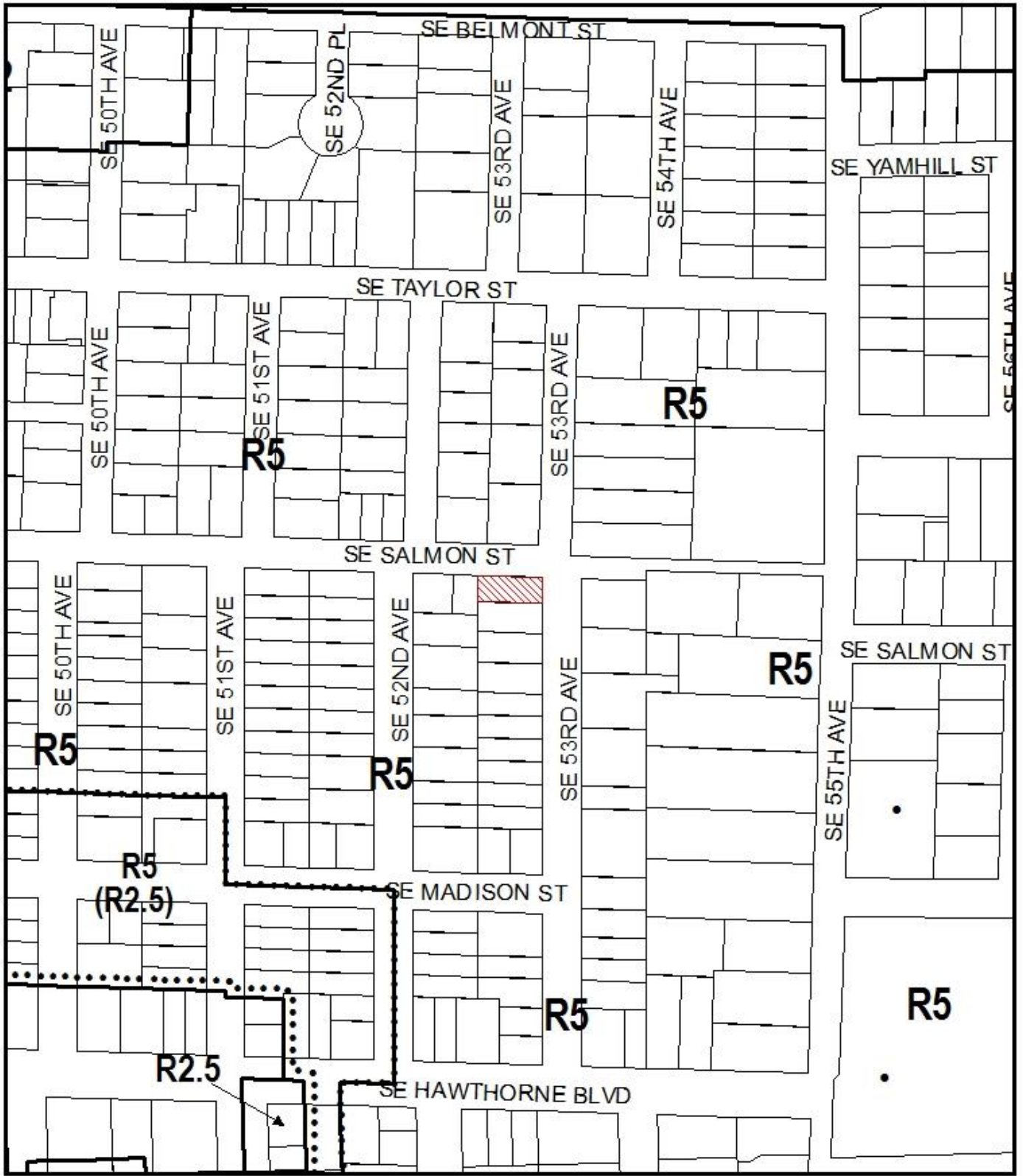
1. Bureau of Transportation Engineering and Development Review
2. Site Development Review Section of BDS
3. Life Safety Plan Review Section of BDS
4. Summary of City service agency responses (including Bureau of Environmental Services, Water Bureau, Fire Bureau)

F. Correspondence:

1. Daniels (family), postmarked May 24, 2017

G. Other: (none)

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
-  Historic Landmark



File No.	<u>LU 17-162692 AD</u>
1/4 Section	<u>3136</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E06AC 9100</u>
Exhibit	<u>B</u> (May 01, 2017)

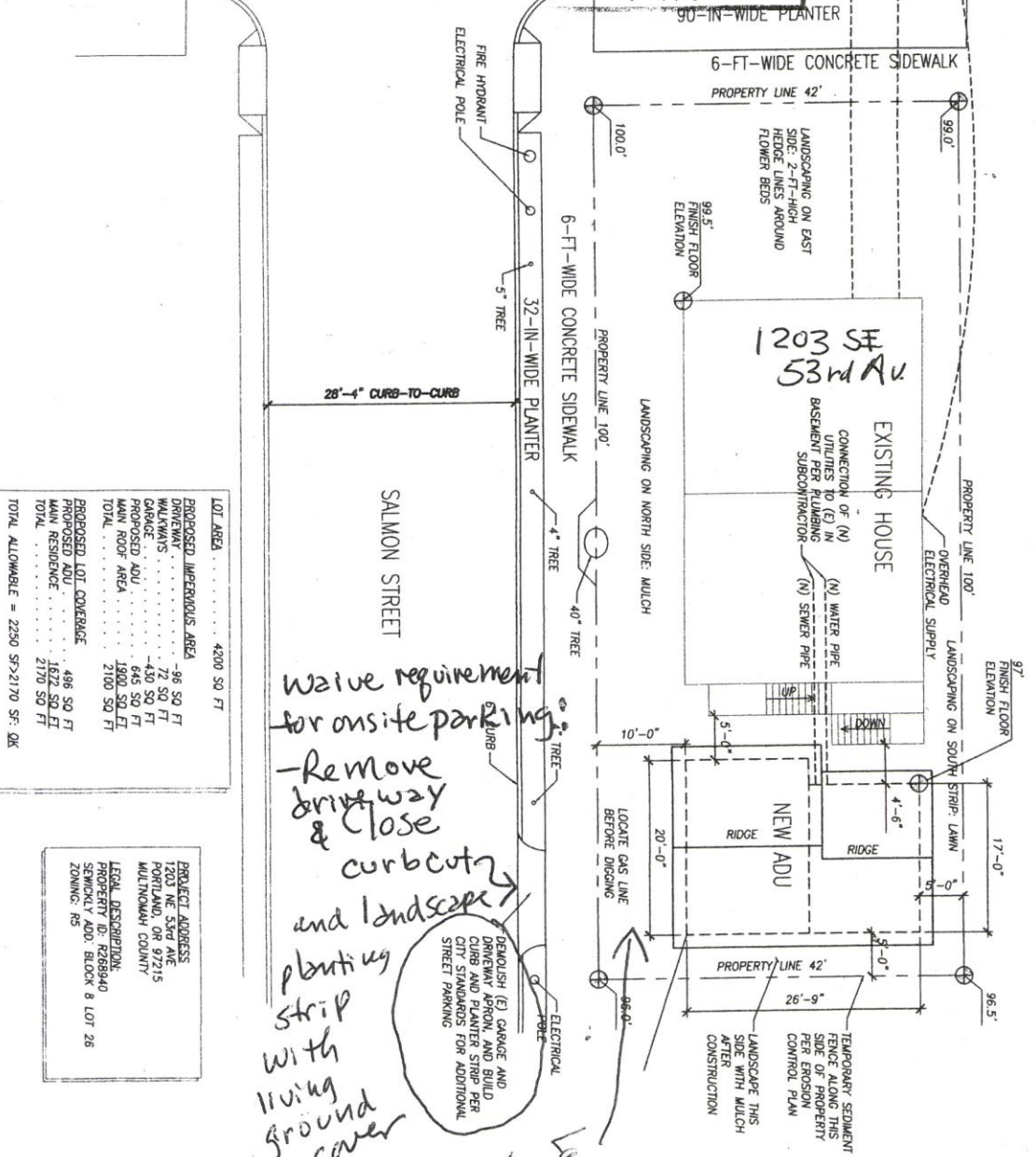
SITE, UTILITY AND LANDSCAPE PLANS

SCALE: 1"=10'-0"

LU 17-162692 AD



Approved
 City of Portland - Bureau of Development Services
 Planner Kathleen A. Stokes Date June 15, 2017
 * This approval is subject to the reviews requested and is subject to all conditions of the zoning ordinance. Additional requirements may apply.



LOT AREA	4200 SQ FT
PROPOSED IMPERVIOUS AREA	96 SQ FT
DRIVEWAY	72 SQ FT
WALKWAYS	432 SQ FT
GRABBLE	1680 SQ FT
PROPOSED ADU	496 SQ FT
MAIN RESIDENCE	1672 SQ FT
TOTAL	2170 SQ FT
PROPOSED LOT COVERAGE	496 SQ FT
PROPOSED ADU	1672 SQ FT
MAIN RESIDENCE	2170 SQ FT
TOTAL	2250 SQ FT
TOTAL ALLOWABLE	= 2250 SF > 2170 SF: OK

PROJECT ADDRESS
 1203 SE 53RD AVE
 PORTLAND, OR 97215
 MULTNOMAH COUNTY
 LEGAL DESCRIPTION:
 PROPERTY ID: R288940
 SEMICKLY ADD. BLOCK 8 LOT 26
 ZONING: RS

Waive requirement for onsite parking - Remove driveway & close curb cuts and landscape planting strip with living ground cover

Landscape former driveway inspection for ADU - must include living ground cover

LU17-162692 AD Exhibit C-1