



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

Chloe Eudaly, Commissioner
Rebecca Esau, Interim Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: September 1, 2017
To: Interested Person
From: Lauren Russell, Land Use Services
503-823-7817 / Lauren.Russell@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 17-201555 AD

GENERAL INFORMATION

Applicant: Kevin Partain
Urban Visions
223 NE 56th Ave
Portland, OR 97213

Owner: Ostercraft Homes Inc
3318 SE Salmon St
Portland, OR 97214

Site Address: 3318 SE SALMON ST

Legal Description: BLOCK 45 N 100' OF LOT 3, SUNNYSIDE & PLAT 2 & 3
Tax Account No.: R810411220
State ID No.: 1S1E01AC 19900
Quarter Section: 3134
Neighborhood: Sunnyside, contact Neil Heller at board@sunnysideneighborhood.com
Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Plan District: None
Zoning: R5 – Single-Dwelling Residential 5,000
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to construct a new detached single-family dwelling with a tuck under garage accessed by an 11'-6" wide driveway. This property is subject to an easement recorded in 1927 for a Community Driveway Agreement that states that the easternmost 5'-1" of the subject property must serve as a driveway for the adjoining property to the east, 3324 SE Salmon Street. Because the applicant's site plan approved under building permit number 16-

270016 RS did not show the portion of the subject site that serves as the neighbor's driveway, the applicant has requested a building permit revision to include that portion of the driveway.

Per Zoning Code Section 33.266.120.C.3.a, no more than 40 percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. For the subject property, 40 percent of the land area is 240 square feet. The driveway leading to the new tuck-under garage will be 207 square feet. The portion of the subject site in front of the building that is paved for use as the neighbor's driveway is 92 square feet. Because the total land area paved and used for vehicle areas will be greater than 40%, the applicant requests an Adjustment to increase the amount of land area between the front lot line and the front building line to be paved and used for vehicle area from 240 square feet to 299 square feet.

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 subject site is a 3,333 square foot lot located on the south side of SE Salmon Street between SE 33rd Avenue and SE 34th Avenue. The site is currently developed with a newly constructed two-story single-dwelling residence with an attached tuck-under one-car garage. Adjacent properties are similarly developed with one- to two-story single-dwelling residences and duplexes.

Zoning: The R5 designation is one of the City's single-dwelling residential zones, which are intended to preserve land for housing and provide housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

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 August 2, 2017. The following Bureaus have responded with no issues or concerns regarding the requested Adjustment:

- Bureau of Environmental Services (BES) responded that the proposed building and stormwater management plan were reviewed under RS 16-270016 and approval of this application does not alter BES requirements as identified under that building permit (Exhibit E-1);
- Bureau of Transportation Engineering (PBOT) responded that PBOT has no requirements for this Adjustment and in relation to the expected building permit revision, the applicant is advised that all pertinent Title 17 requirements must be met (Exhibit E-2);
- Water Bureau responded with no concerns (Exhibit E-3);
- Fire Bureau responded with no concerns (Exhibit E-4);
- Site Development Section of BDS responded with no concerns (Exhibit E-5); and
- Life Safety Review Section of BDS responded that there appears to be no conflicts between the proposal and applicable building codes and that a revision to building permit RS 16-270016 is required (Exhibit E-6).

Neighborhood Review: One written response has been received from a notified neighbor in response to the proposal. The respondent expressed concerns that increasing the vehicle area increases the amount of impermeable surface on the site and recommended permeable pavers or equivalent permeable surface on the new driveway and any other surface as mitigation.

Staff response: The Bureau of Environmental Services reviewed the proposal to increase the amount of front yard vehicle area and found that it will not impact the approved stormwater management system on site, which includes a drywell in the back yard. Issues relevant to the approval criteria will be discussed in the Adjustment findings, below.

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 applicant has demonstrated 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 is requesting an Adjustment to increase the amount of land area between the front lot line and the front building line to be paved and used for vehicle area from 240 square feet to 299 square feet. The purpose of the vehicle parking requirements for houses and duplexes is stated in Zoning Code Section 33.266.120.A:

33.266.120.A Purpose: *The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.*

Within the front yard area, the new driveway leading to the tuck-under attached garage is 11'-6" wide and 18'-0" long, which is 207 square feet. The portion of the neighbor's existing driveway that is located on the subject site is 5'-1" wide and 18'-0" long, which is 92 square feet. Because the new driveway slopes down to the tuck-under garage and the neighbor's existing driveway slopes up from the street, the grade difference between the two driveways is approximately 5 feet. The retaining wall that was built between the two driveways to support the new driveway is approximately 1-foot wide. The grade change and retaining wall create the appearance that only the new driveway is on the subject site and that the existing driveway is on the neighboring property.

The retaining wall will ensure that only one car will be able to park in the new driveway on the subject site and that the neighbor will also only be able to park one car on the existing driveway, which will prevent the front yards from acting as parking lots. The limited widths of each driveway and the visual separation created by the retaining wall will enhance the appearance of the front yards and the surrounding residential neighborhood. Based on these reasons, the proposed Adjustment equally meets the intent of the regulation 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: Because the subject site is located in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or

appearance of the surrounding residential area. As stated above in the findings for Criterion A, the 5-foot grade change and the retaining wall between the new driveway to the tuck-under garage and the portion of the existing driveway that serves the neighboring property creates both physical and visual separation between the two driveways. The limited widths of the driveways ensure that only one car will be able to park on each driveway, which will prevent the front yards from acting as parking lots and maintain the residential character. For these reasons the proposal has no negative impacts to neighborhood livability or appearance. 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: Because only one Adjustment is being requested, this criterion is not applicable.

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

Findings: City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. Because there no scenic or historic resource designations are mapped on the subject site, this criterion is not applicable.

E. Any impacts resulting from the Adjustment are mitigated to the extent practical; and

Findings: As discussed in the findings for approval criterion B, the proposal has no adverse impacts on the livability or appearance of the surrounding residential area for which mitigation would be required. 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 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). Because no environmental overlay zone is mapped on subject site, 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 proposal to increase the amount of land area between the front lot line and the front building line to be paved and used for vehicle area from 240 square feet to 299 square feet equally meets the intent of the regulations and does not have adverse impacts on the livability and appearance of the surrounding residential neighborhood. The applicant has demonstrated that the applicable approval criteria have been met. Because the approval criteria are met, the proposal should be approved.


ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the amount of land area between the front lot line and the front building line to be paved and used for vehicle area from 40%, or 240 square feet, to 50%, or 299 square feet (Zoning Code Section 33.266.120.C.3.a), per the approved plans,

Exhibits C-1 through C-2, signed and dated August 28, 2017, 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-2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 17-201555 AD. No field changes allowed."

Staff Planner: Lauren Russell

Decision rendered by:  on **August 28, 2017.**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 1, 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 July 11, 2017, and was determined to be complete on July 25, 2017.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on July 11, 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: November 22, 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 September 15, 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 **September 18, 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.

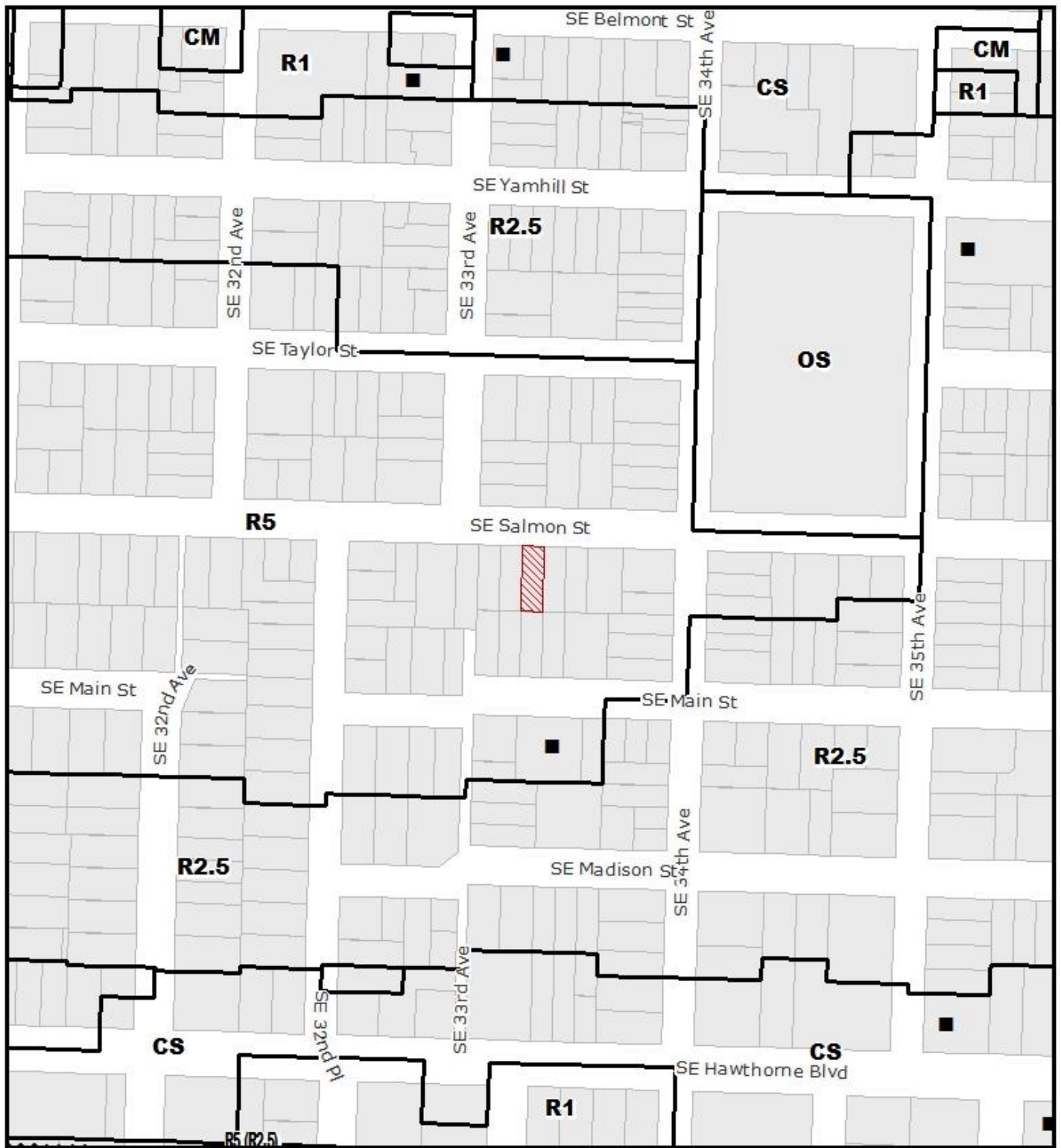
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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. Narrative and Site Plan received 7/11/17
 - 2. Elevation Drawing received 7/25/17
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Front Elevation (attached)
- D. Notification Information:
 - 1. Mailing List
 - 2. Mailed Notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Review Section of BDS
- F. Correspondence:
 - 1. Diane Dulken, received 8/23/17, email with concerns
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter mailed 7/25/17

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 
NORTH

 Site
 Historic Landmark

File No.	LU 17-201555 AD
1/4 Section	3134
Scale	1 inch = 200 feet
State ID	1S1E01AC 19900
Exhibit	B Jul 13, 2017

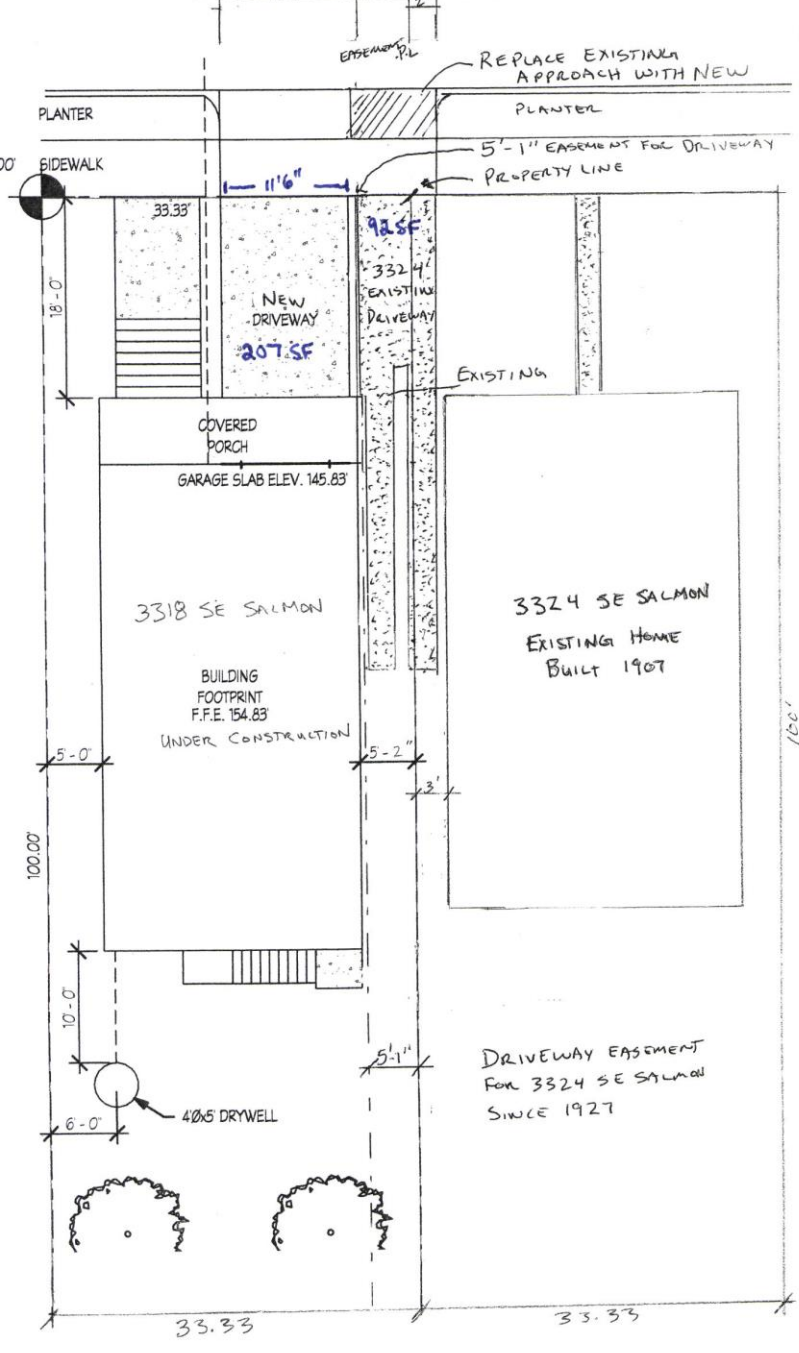
Approved
City of Portland - Bureau of Development Services

SI Planer *John Russell* Date *8/28/17*

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

ADJUSTMENT REQUEST TO INCREASE THE AMOUNT OF LAND AREA BETWEEN THE FRONT LOT LINE AND FRONT BUILDING LINE TO BE PAVED AND USED FOR VEHICLE AREAS FROM 240 SF TO 299 SF.

SCALE 1"=10'



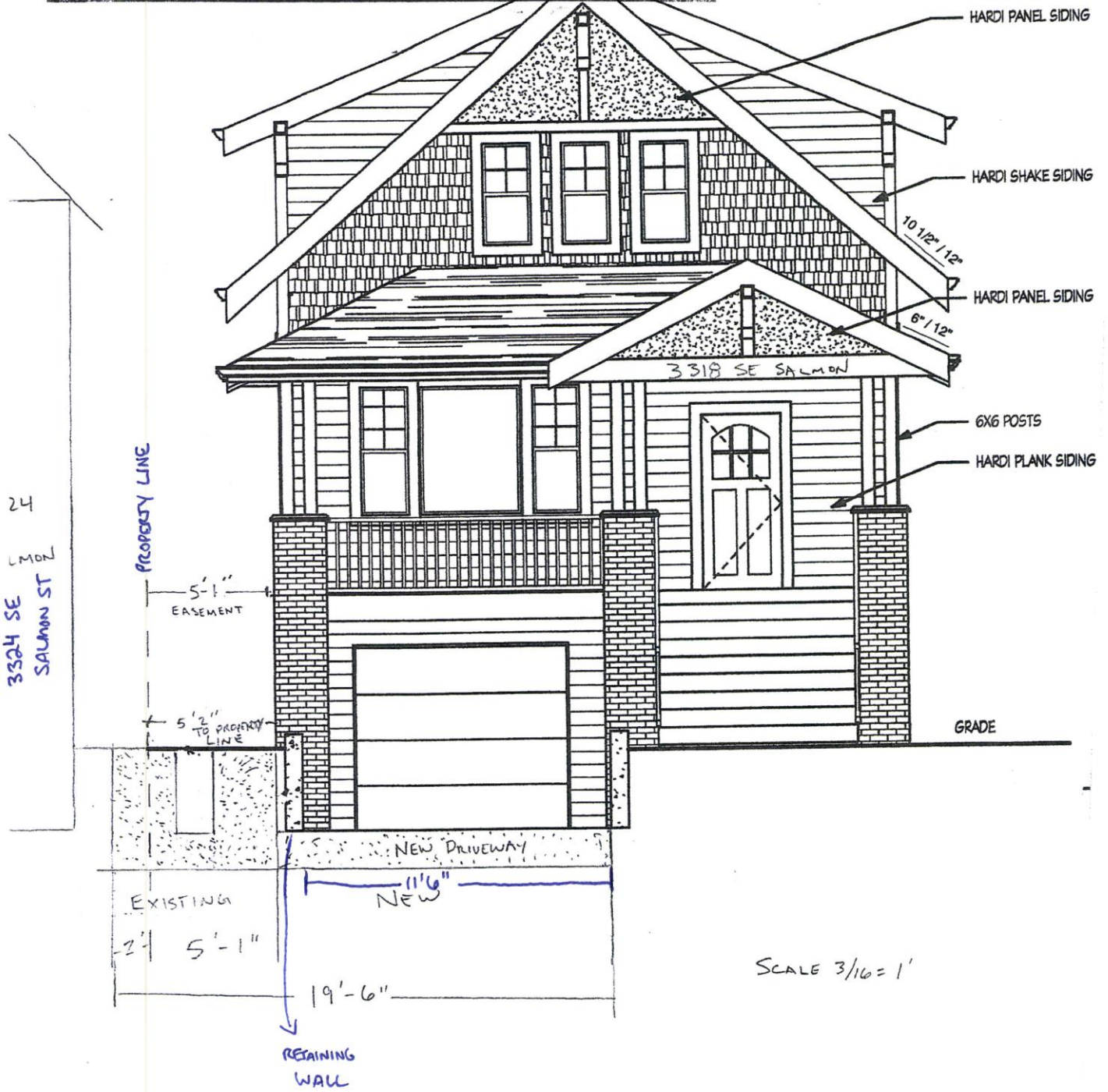
CASE NO. 17-201555 AD
 EXHIBIT C-1

LU 17-201555 AD

Approved
City of Portland - Bureau of Development Services

Planner Janice Russell Date 8/28/17

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



24
 MON
 3324 SE SALMON ST

PROPERTY LINE

5'-1" EASEMENT

5'-2" TO PROPERTY LINE

EXISTING
 2'-5'-1"

NEW DRIVEWAY
 11'-6" NEW

19'-6"

RETAINING WALL

HARDI PANEL SIDING

HARDI SHAKE SIDING

10 1/2" / 12"

HARDI PANEL SIDING

6" / 12"

3318 SE SALMON

6X6 POSTS

HARDI PLANK SIDING

GRADE

SCALE 3/16" = 1'

CASE NO. 17-201555 AD
 EXHIBIT C-2