



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

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**Date:** February 15, 2018  
**To:** Interested Person  
**From:** Don Kienholz, Land Use Services  
503-823-7771 / [Don.Kienholz@portlandoregon.gov](mailto:Don.Kienholz@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 17-238343 AD**

#### **GENERAL INFORMATION**

**Applicant:** Anne Schmidt | Lewallen Build  
319 NE Cedar St | Camas, WA 98607

**Owner:** Jesus Munoz-Olmos  
7114 N Columbia Way | Portland, OR 97203

**Site Address:** 7114 N COLUMBIA WAY

**Legal Description:** BLOCK N, LOT 20-22 TL 7200, EAST ST JOHNS  
**Tax Account No.:** R227416090  
**State ID No.:** 1N1E06CD 07200  
**Quarter Section:** 2023

**Neighborhood:** St. Johns, contact [sjnalanduse@gmail.com](mailto:sjnalanduse@gmail.com).  
**Business District:** St. Johns Business Boosters, contact Mike Johnson at 503-206-8633./St. Johns Center for Opportunity, contact Emily Stanfield at 503-841-5522.

**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

**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 subject property currently has an active code complaint against it regarding parking on the lawn and paving placed for parking areas in the front setback without a permit and this review evaluates only that issue. The house was originally approved for a single-wide driveway leading to an attached garage. The current existing conditions include a paved area that consists of what would be considered a four (4) car driveway approximately 35-feet in width.

Parking and vehicle areas for houses and duplexes are regulated under Portland Zoning Code Section 33.266.120. The development standards require parking spaces provided for houses and duplexes to measure 9x18 feet. Since the subject site has a garage, the required parking space is considered in the garage. The development standards of 33.266.120 require parking spaces to be outside the 10-foot front yard setback unless the space is behind a legal required parking space. The distance between the front property line and the front building line on the subject site is 25-feet 3-inches. Since parking spaces are 18-feet in depth, the three parking spaces not in front of the garage encroach 2-feet 9-inches into the front building setback and are not permitted. The applicant is proposing to keep one of the unpermitted parking spaces that encroach into the front yard setback; remove two of the spaces by replacing the northeastern most space with a landscaped area; and removing the one space immediately in front of the main entrance by reducing the width to 6-feet for a pedestrian connection to the sidewalk and locating a 2-foot wide planting strip between the pedestrian path and driveway in front of the garage.

Because the applicant is proposing to keep one non-required parking space that encroaches into the front setback 2-feet 9-inches and it is not behind a required parking space, an Adjustment to 33.266.120.C.1.a is required.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in Portland Zoning Code section 33.805.040.A through F

## ANALYSIS

**Site and Vicinity:** The subject property is a 6,650-square foot property with an existing single-family dwelling constructed in 1952 zoned R5 located in the St. Johns neighborhood. The dwelling was originally approved with a single wide driveway leading to a one car garage. The site is located off N. Smith Street immediately north of Roosevelt High School. North Lombard, the main east-west arterial for the St. Johns neighborhood is approximately 1,500-feet south of the site. The subject property is also approximately 1,500-feet from the railroad tracks that separate St. Johns from the Portsmouth Neighborhood. The area is relatively flat, contains a mix of housing stock from the early 20<sup>th</sup> century to mid-century with significant contemporary infill homes.

**Zoning:** The Residential 5,000 zone (R5), is a Single-Dwelling zone intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50-feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

**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 **December 7, 2017**. The following Bureaus have responded with no concerns (Exhibit E.1):

- Site Development;
- Fire Bureau;
- Bureau of Transportation; and
- Water Bureau.

The Bureau of Environmental Services responded noted that the proposal did not create or redevelop more than 500 square feet of impervious area so the Stormwater Management Manual is not triggered (Exhibit E.2).

The Life Safety Plans Examiner noted they did not object to the proposal and current project. However, they did note that their review of permit history for the site did not turn up a building permit for the large building along the east side of the house. They went on to say that if the

building was not permitted, it would need to be legalized or demolished and that both actions would require a building permit (Exhibit E.3).

**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 Approval Criteria

**The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.**

**A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and**

**Finding:** The applicant is requesting an Adjustment to 33.266.120.C.1 to allow a non-required parking space to encroach into the front building setback. The purpose of the parking requirements for houses and duplexes is found in 33.266.120.A:

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

Based on the purpose statement, vehicles are not allowed to park within the front building setback (10-feet for the R5 zone) to protect the appearance of neighborhoods. This includes ensuring the neighborhood streetscape is not dominated by automobiles with having them parked in every off-site and on-site area available, creating a barrier that breaks up the visual balance that open and landscaped front yards bring to the urban fabric of steel and concrete. The standard and purpose also help keep vehicles from overhanging the sidewalk areas and impacting an individual home's visual clearance for vehicles backing out of driveways.

Currently, the vehicle area on site extends from the east side lot line westward to in front of the residence's main entrance. The applicant has proposed planting landscaping, consisting of lawn and shrubs, for a distance of approximately 13-feet from the east side lot line. This will remove the unpermitted vehicle area, and increase the amount of landscaped front yard. A condition of approval will require the planting of this area.

The applicant is also proposing to remove a two-foot wide section of concrete from the existing vehicle area, which will result in separating a 6-foot wide pedestrian connection from the 18-foot wide vehicle area. The proposal originally called for grass to be planted in the two-foot strip. However, a condition of approval will require the two-foot concrete strip being removed to be replaced with landscaping that meets the L2 standard (shrubs and ground cover) to ensure appropriate long-term separation between the pedestrian connection and the vehicle area. The condition of approval will remove one of the unpermitted and non-conforming non-required parking spaces from the site and return the area in front of the main entrance to the established development pattern in the neighborhood and into a more visually attractive condition.

As proposed, the area between the building and property line where the non-required parking space is located measures 25-feet 3-inches. An 18-foot long parking space would encroach into the front building setback 2-feet 9-inches. When considering the 2-foot planting strip located between the sidewalk and the property line, the parking space will visually and practically appear to be outside of the front building setback as most individuals are not aware the planting strip is not part of the subject site's front yard, and there rarely is a physical barrier to identify the location of the property line. Having a double-car driveway limited by a condition of approval to 18-feet in width, while not the

most common development pattern in this area of the city, is common enough that it would not stand out visually. Staff found through visual inspection and Google Street View that it is very common in the neighborhood for properties to have vehicles parked in front of their garages and visible from the street. Having a vehicle park in the non-required parking space and encroaching nearly three feet into the front setback will not visually stand out. Considering the above, the proposal will equally meet the purpose of the parking space location standard to enhance the appearance of the neighborhood.

*Criterion 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**

**Finding:** The subject property is in a residential zone so the proposal must be found not to detract from the livability or appearance of the residential area. Staff found in Finding A above that the proposal will not detract from the appearance of the residential area.

Livability is a broad concept that incorporates neighborhood character and safety. The property is a residential property with a house built in the mid twentieth century like other homes in the area. Staff previously found that double-car driveways like the one proposed, while not the most common development pattern, are common enough that it does not visually stand out and fits into the character of the neighborhood. Additionally, reducing width of the driveway to 18-feet results in the vehicle area not exceeding the maximum allowed vehicle area in the front yard.

One of the reasons to not allow vehicles to park within the front building setback is to allow for greater visual clearance when backing out of a driveway and to ensure parked vehicles do not overhang the sidewalk and pose a safety risk to pedestrians. As proposed, the 9x18-foot parking space will be just over 7-feet from the property line and just over 9-feet from the sidewalk due to the 2-foot planting strip between the property line and sidewalk. The 9-feet will allow adequate visual clearance to either side of the driveway and provide the driver of a vehicle enough time to identify a pedestrian and stop before a potential collision. The 9-feet will also allow a pedestrian time to identify the vehicle is running and could back out at any moment without being right behind the vehicle. Lastly, a vehicle parked in the proposed space will be approximately 9-feet from the sidewalk, and therefore will not overhang it.

Based on the above, the proposal will not detract from the livability or appearance of the residential area.

*Criterion 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**

**Finding:** The proposal only includes a request for one Adjustment.

*Criterion not applicable.*

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

**Finding:** City-designated scenic resources are identified on the Official Zoning Maps with a lower case "s," while historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. The subject property is not within a City-designated 's' overlay zone nor within an Historic or Conservation District. Considering the

lack of proximity to city-designated scenic and historic resources, staff finds the proposal will not adversely impact scenic or historic resources and they will be preserved.

*Criterion met.*

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

**Finding:** As found in staff responses to criteria A and B, with conditions of approval, the requested adjustment equally meets the purpose of the parking space location standards and does not adversely impact the livability or appearance of the residential neighborhood. Additional open landscaped area will be added to the front yard; the driveway will be limited in width so that it is approximately 25% of the front yard; and a clearly identified pedestrian connection between the front door of the house and the front sidewalk will be created by physically separating the vehicle area from the pedestrian path. All these aspects of the proposal provide additional mitigation to adjusting the standard to allow a parking space to encroach into the front building setback. As a result, staff finds there are no adverse impacts resulting from the Adjustment.

*Criterion 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;**

**Finding:** The subject property is roughly 4,500-feet from the nearest environmental zone. The proposed Adjustment will have no detrimental impacts on the protected resource.

*Criterion met*

## **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.

As previously noted, the Life Safety Plans Examiner researched the permit history for the site did not find a building permit for the large building along the east side of the house. If the building was not permitted, it would need to be legalized or demolished and both actions require a building permit.

## **CONCLUSIONS**

The applicant has demonstrated that with conditions of approval, the applicable approval criteria have been met for the requested Adjustment. The Adjustment equally meets the purpose of the Parking Area Location standards found in the Development Standards for Houses and Duplexes (33.266.120.C.1) and will not significantly detract from the livability or appearance of the residential area.

## **ADMINISTRATIVE DECISION**

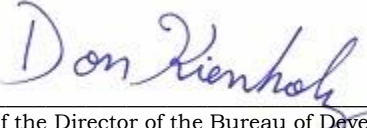
Approval of a parking space encroaching up to 3-feet in the front building setback (33.266.120.C.1), per the approved site plans, Exhibit C.1, signed and dated February 9, 2018, subject to the following conditions:

- 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 Exhibit C.1. The sheets on which this information

appears must be labeled, "Proposal and design as approved in Case File # LU 17-238343 AD. No field changes allowed."

- B. The new driveway shall not be more than 18-feet in width as shown in Exhibit C.1.
- C. The front yard area east of the driveway shall be landscaped with lawn grass and shrubs as illustrated in Exhibit C.1.
- D. A two (2) foot planting strip shall be provided between the double car driveway and the pedestrian path leading up to the main entrance as depicted in Exhibit C.1. The planting strip may have one break in the landscaping for a pedestrian connection of no more than 5-feet in width from the driveway to the concrete walkway leading to the main entrance. The planting strip shall be planted to meet the L2 landscaping standard in 33.248.020.B.

**Staff Planner: Don Kienholz**

**Decision rendered by:**  **on February 9, 2018**

By authority of the Director of the Bureau of Development Services

**Decision mailed: February 15, 2018**

**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 September 11, 2017, and was determined to be complete on November 28, 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 September 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 requested that the 120-day review period be extended 245-days. **The 120 days will expire on: November 28, 2018.**

**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 March 1, 2018** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> 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](http://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 **March 1, 2018** 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.

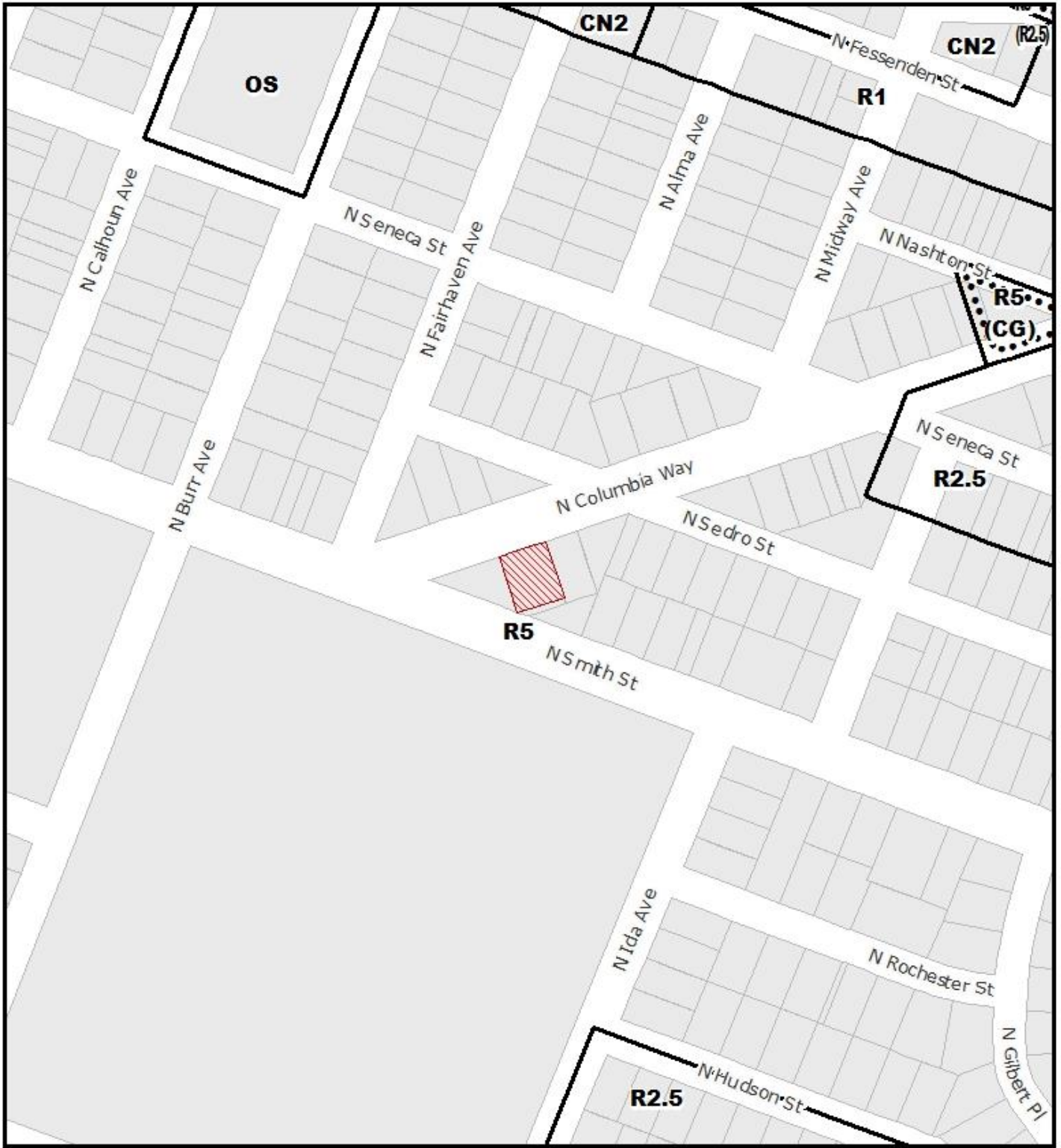
### **EXHIBITS**

#### NOT ATTACHED UNLESS INDICATED

- A. Applicant's Information
  1. Narrative Submitted September 11, 2017
  2. Copy of August 10, 2017 Letter From City of Portland Code Compliance
  3. September 11, 2017 Site Plan
  4. Pictures of Sidewalk and Driveway
  5. October 25, 2017 Supplemental Narrative and Pictures
  6. October 25, 2017 Full Site Plan
  7. October 25, 2017 Close Up Site Plan
  8. 245-Day Extension of the 120-Day Statutory Clock
- B. Zoning Map (Attached)
- C. Plans/Drawings:
  1. November 28, 2017 Site Plan (Attached)
- D. Notification Information:
  1. Mailing List
  2. Mailed Notice
- E. Agency Responses:
  1. Bureaus With No Concerns
  2. Bureau of Environmental Services
  3. Life Safety
- F. Correspondence: None
- G. Other:
  1. Original LU Application
  2. Receipt of Payment
  3. September 26, 2017 Incomplete Letter
  4. Historic Building Permits of Properties With Multiple Driveways In Vicinity

**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).**

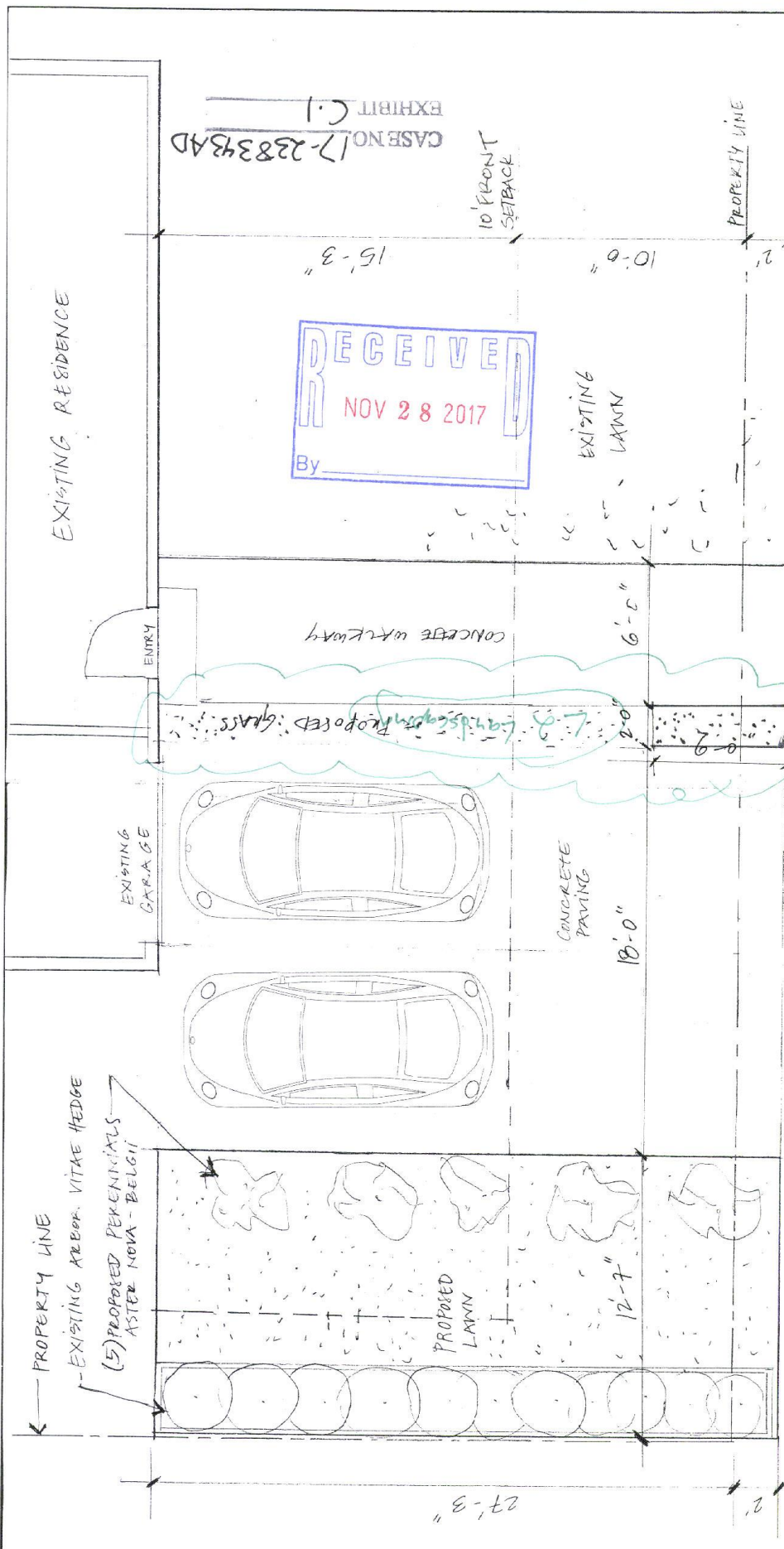




**ZONING**   
NORTH

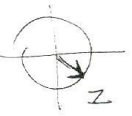
 Site

File No.	LU 17-238343 AD
1/4 Section	2123
Scale	1 inch = 200 feet
State ID	1N1E06CD 7200
Exhibit	B Sep 14, 2017



CASE NO. 17-238343AD  
EXHIBIT C.1

RECEIVED  
NOV 28 2017  
By \_\_\_\_\_



\*Approved\*  
City of Portland  
Bureau of Development Services  
Case # LU-17-238343  
Date 2/9/18  
Planner [Signature] 7114 N COLUMBIA WAY  
TROUT YARD

This approval applies only to the reviews requested and is subject to the conditions of any applicable zoning code.

SIDEWALK N. COLUMBIA WAY  
18'-0"  
PROPOSED CURB CUT

CASE NO. 17-238343 AD  
EXHIBIT C.1