



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

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**Date:** April 5, 2018  
**To:** Interested Person  
**From:** Lauren Russell, Land Use Services  
 503-823-7817 / [Lauren.Russell@portlandoregon.gov](mailto: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 18-123648 AD**

**GENERAL INFORMATION**

**Applicant’s Representative:** Alan Armstrong | Strongwork Architecture LLC  
 3309 SE Sherrett St, Unit A | Portland, OR 97222

**Applicant/Owner:** Adam Caviezel | 7656 SE Madison LLC  
 6960 SW Canyon Dr | Portland, OR 97225

**Site Address:** 7656 SE MADISON ST

**Legal Description:** BLOCK 9 LOT 4, KINZEL PK  
**Tax Account No.:** R453301510  
**State ID No.:** 1S2E05AC 02300  
**Quarter Section:** 3138  
**Neighborhood:** Montavilla, contact Land Use Chair at [hello@montavillapdx.org](mailto:hello@montavillapdx.org)  
**Business District:** Montavilla-East Tabor, contact Stephan Rice at [montavilla.biz@gmail.com](mailto:montavilla.biz@gmail.com).

**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010.  
**Plan District:** None  
**Zoning:** R5a – Single-Dwelling Residential 5,000, Alternative Design Density Overlay

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

**Proposal:**  
 The applicant proposes to convert the attached one-car garage to living space, which will require the relocation or removal of the one required parking space from the site. A parking space must be at least 9 feet by 18 feet per Zoning Code Section 33.266.120.D.1 and must be located outside the 10-foot front setback per Zoning Code Section 33.266.120.C.1.a, which means that a driveway must be at least 28 feet in length as measured from the front lot line. Because the existing driveway is 22’-8” in length instead of the required 28 feet, the applicant requests an Adjustment to allow the relocated on-site parking space to extend 5’-4” feet into the 10-foot front setback.

**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 5,225 square foot lot located on the south side of SE Madison Street between SE 76<sup>th</sup> Avenue and SE 80<sup>th</sup> Avenue. The site is currently developed with a one-story single-dwelling residence with a one-story attached garage. Adjacent properties on the subject block are also developed with one- to two-story single-dwelling residences, most with attached garages and some with detached garages. Mount Tabor Park is located three blocks to the west and the SE 82<sup>nd</sup> Avenue commercial corridor is located two blocks to the east.

**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.

The Alternative Design Density (a) overlay zone is an optional overlay zone that provides opportunities for increased density in limited situations, provided that additional design compatibility requirements are met for the project. The overlay zone does not apply to this proposal.

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

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed March 7, 2018. The following Bureaus have responded with no issues or concerns regarding the requested Adjustment:

- Bureau of Environmental Services responded with no objections to the requested Adjustment (Exhibit E-1);
- Bureau of Transportation Engineering responded with no objections to the request Adjustment (Exhibit E-2);
- Fire Bureau responded with no concerns (Exhibit E-3);
- Site Development Section of BDS responded with no concerns (Exhibit E-4);
- Life Safety Review Section of BDS responded with no objections to the approval of this proposal and advised that a separate building permit is required for the work proposed (Exhibit E-5); and
- Urban Forestry responded with no objections to the proposal (Exhibit E-6).

**Neighborhood Review:** One written response has been received from a notified neighbor in response to the Notice of Proposal expressing support for the requested Adjustment.

## 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 allow the relocated on-site parking space to extend 5'-4" feet into the 10-foot front setback. 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.*

The existing driveway is 9'-6" wide and 22'-8" long as measured from the garage to the front property line. The driveway is long enough to accommodate the required 9-foot-wide by 18-foot-long parking space without overhanging into the public right-of-way. The existing garage door is proposed to be replaced by a solid wall with siding and windows to match the existing house. No changes are proposed to the width of the driveway and a new pedestrian walkway is proposed just west of the driveway to connect the main entrance to the sidewalk, which will enhance the appearance of the front yard and the surrounding residential neighborhood. There is an existing tree just east of the driveway and the front yard contains substantial plantings, which enhances the appearance near the proposed parking area. Additionally, surrounding properties contain driveways with vehicles parked in the driveway within the front setback, so the proposal will fit with an existing pattern found in the 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. The driveway is long enough to accommodate the on-site parking space, which prevents the displacement of the parking space to the street where neighborhood livability could be affected. Additionally, the 22'-8" long driveway will ensure that the required 9-foot-wide by 18-foot-long parking space will not extend into the adjacent sidewalk, thereby maintaining safe access for pedestrians. Lastly, no changes are proposed to the width of the driveway and a new pedestrian walkway is proposed just west of the driveway to connect the main entrance to the sidewalk, which will enhance the appearance of the front yard and the surrounding residential neighborhood. The landscaping that borders the driveway further enhances the site's appearance. 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 equally meets the purpose of the parking standard and 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 requirements of Title 11 can be met, and 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 allow the on-site parking space to extend 5'-4" into the front setback 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 allow the relocated on-site parking space to extend 5'-4" into the front setback (Zoning Code Section 33.266.120.C.1), granted per the approved site plan, Exhibit C-1, signed and dated March 30, 2018, subject to the following condition:

- 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 18-123648 AD. No field changes allowed."

**Staff Planner: Lauren Russell**

**Decision rendered by:** Lauren Russell **on March 30, 2018.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: April 5, 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 February 16, 2018, and was determined to be complete on March 1, 2018.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on February 16, 2018.

*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 29, 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 April 19, 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 **April 19, 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.

**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:

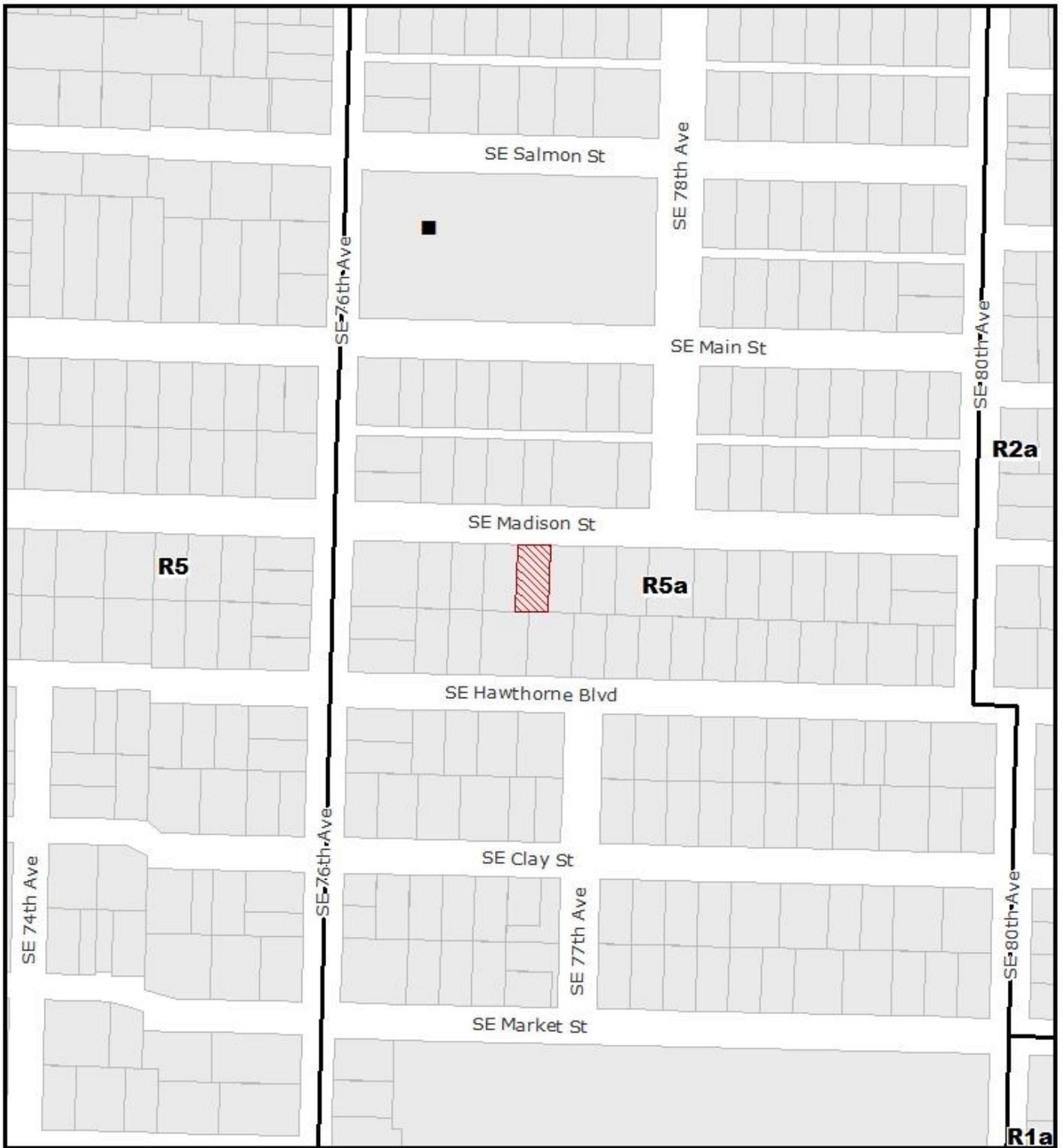
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  1. Narrative and Plans submitted 2/16/18
  2. Revised Site Plan received 3/1/18
- 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 Environmental Services
  2. Bureau of Transportation Engineering and Development Review
  3. Fire Bureau
  4. Site Development Review Section of BDS
  5. Life Safety Review Section of BDS
  6. Bureau of Parks, Forestry Division
- F. Correspondence:
  1. Verna Triller, received 3/13/18, email in support
- G. Other:
  1. Original LU Application

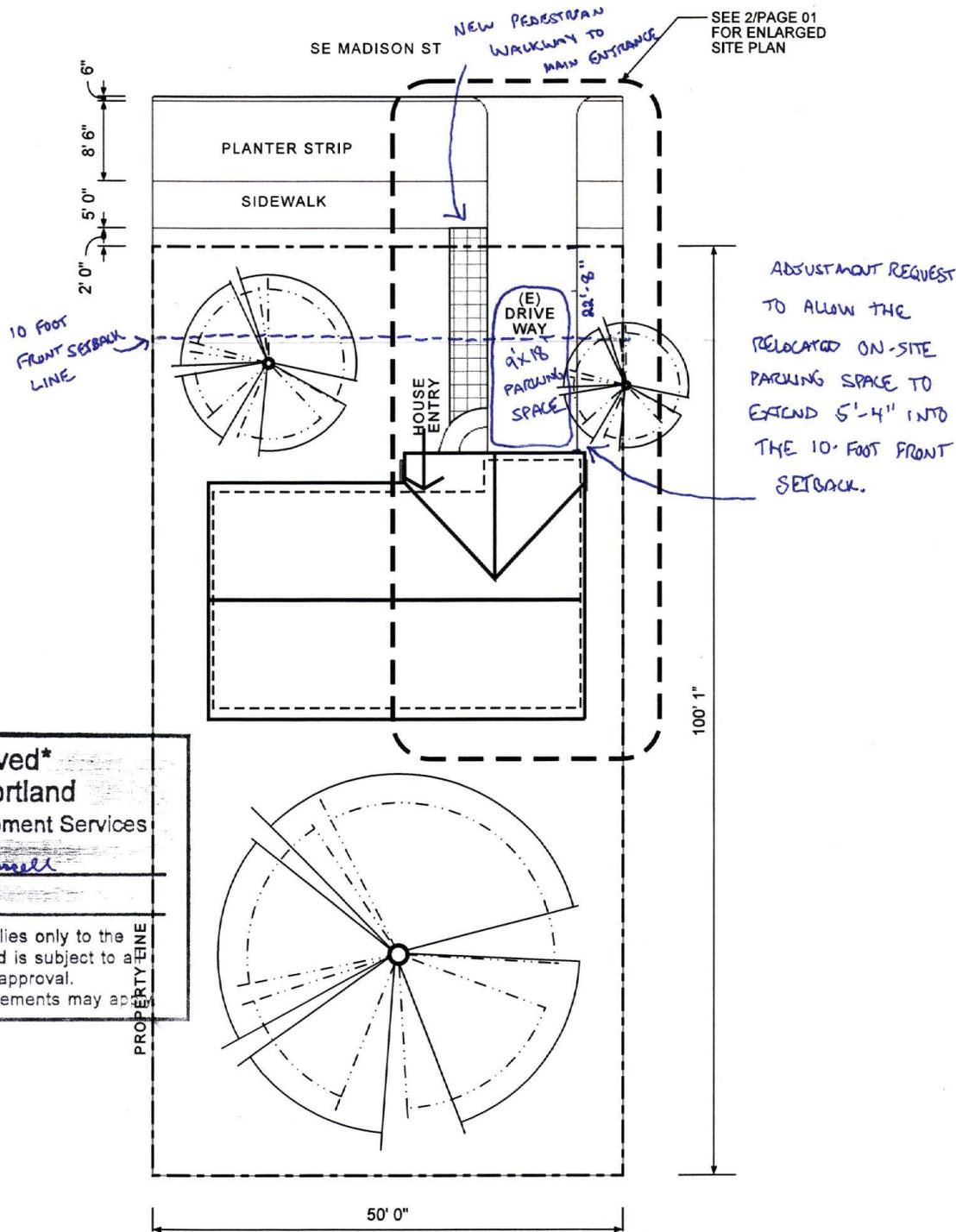
**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



**ZONING**   
NORTH

-  Site
-  Historic Landmark

File No.	LU 18-123648 AD
1/4 Section	3138
Scale	1 inch = 200 feet
State ID	1S2E05AC 2300
Exhibit	B Feb 24, 2018



SEE 2/PAGE 01 FOR ENLARGED SITE PLAN

**\*Approved\***  
**City of Portland**  
 Bureau of Development Services  
 Planner Lauren Russell  
 Date 3/30/18

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

**1 - SITE PLAN - OVERALL**  
 1/16" = 1'-0"



CASE NO. 18-123048AD  
 EXHIBIT C-1