



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

Ted Wheeler, Mayor
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Date: May 7, 2019
To: Interested Person
From: David Besley, Land Use Services
503-823-7282 / David.Besley@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 19-120698 AD

GENERAL INFORMATION

Applicant: Bonnie Harold | Bwh Design
1705 Fern Pl | Lake Oswego, OR 97034

Owner: Christopher Veatch
7903 SE 76th Pl | Portland, OR 97206

Site Address: 7903 SE 76TH PL

Legal Description: BLOCK 1 LOT 3 INC UND 1/3 INT TRACT A, ART'S PLACE
Tax Account No.: R039800160
State ID No.: 1S2E20DB 07700
Quarter Section: 3838

Neighborhood: Brentwood-Darlington, contact bdlanduse@gmail.com
Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010

Zoning: R5a (Single Dwelling 5,000, with an Alternative Design Density Overlay Zone)

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

Proposal:

The applicant is proposing to convert an attached garage into living area, which results in the driveway being used for the required off-street parking space. The Portland Zoning Code states that required parking spaces are not allowed within the first 5 feet of side street lot lines on corner lots in this zone (Section 33.266.120.C.1.a). The landscaped area to the north of the driveway will be expanded to the south, narrowing the proposed parking area (aka the existing driveway) to accommodate a single car (currently this area is wide enough to accommodate two

cars). While no other changes are proposed to the parking area, the southeastern corner of the parking space will only be 1 foot from the eastern (side) property line. An Adjustment is therefore required to reduce the minimum distance a parking space can be on a corner lot from 5 feet to about 1 foot from the property line.

Note: A 120 square foot addition to the house is also proposed but is unrelated to this Adjustment review.

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 7,143 square foot site is located on the west side of SE 76th Place, about 100 feet south of the intersection of SE 76th Place and SE Lambert Street. It is a corner lot, bordered by a cul-de-sac extension of SE 76th Place to the south. The relatively flat site is developed with a 1,128 square foot single-story house. An attached garage is accessed by a driveway that leads to SE 76th Place. The surrounding vicinity is developed with a mix of single-dwelling and multi-family residences.

Zoning: The R5 zone is a single-dwelling zone that is intended to preserve land for housing, and to provide housing opportunities for individual households. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. Regulations of the "a" zone overlay (Alternative Design Density Zone) are not applicable to the Adjustment 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 **April 3, 2019**. The following Bureaus have responded with the following information:

- The Life Safety section of the Bureau of Development Services (BDS) responded with no concerns and provided Building Code information (Exhibit E-1);
- The Bureau of Environmental Services (BES) responded with no concerns and provided stormwater management information (Exhibit E-2); and
- The Bureau of Transportation (PBOT) responded with no concerns regarding the Adjustment request, and notes that the driveway approach will need to be narrowed with a driveway throat to match the 9-foot width of the proposed legal parking area at the time of Building Permit review (Exhibit E-3).

The following Bureaus have responded with no concerns (Exhibit E-4):

- The Site Development Section of BDS;
- The Fire Bureau; and
- The Water Bureau.

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

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

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

Findings:

The applicant has requested an Adjustment to reduce the minimum distance a parking space can be on a corner lot from 5 feet to about 1 foot from the property line because of a garage-to-living area conversion and subsequent displacement of their required off-street parking. The relevant purpose statements and associated findings are found below:

33.266.120 Development Standards for Houses and Duplexes

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

Of the standard 18-foot parking space length, only about 3.5 feet will be within the 5-foot side setback. Though a parked car will be closer to the right-of-way than the zoning code allows, the visual impacts will be minimal because the driveway area is not expanding, and this area has previously been used for vehicle parking. The width of the driveway area will be reduced to prevent a second car from being parked in the driveway because a second car would encroach into the right-of-way due to the diagonal orientation of the lot. The applicant is proposing to narrow the driveway width by removing the pavement and extending the existing landscaped area to the north of the driveway to the south by 3 feet (as shown in exhibit C.1). As a condition of approval this landscaped area must comply with the shrub and groundcover requirements of the low screen (L2) landscaping standards (Section 33.248.020.B), which requires enough low shrubs to form a continuous screen 3 feet high. The shrubs must be evergreen. Ground cover plants must fully cover the remainder of the landscaped area. No new trees are required in this area. This will enhance the appearance of the neighborhood by increasing the amount of vegetation and reducing the amount of vehicle area.

PBOT responded with no concerns regarding the Adjustment request, and notes that the driveway approach will need to be narrowed with a driveway throat to match the 9-foot width of the proposed legal parking area at the time of Building Permit review (Exhibit E-3).

As conditioned, this criterion is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: As noted above, the applicant is proposing to narrow the driveway width by removing the pavement and extending the existing landscaped area to the north of the driveway to the south by 3 feet, which will be required as a condition of approval. This will enhance the appearance of the neighborhood by increasing the amount of vegetation and reducing the amount of vehicle area. As such, the proposal will not detract from the livability or appearance of the residential area.

As conditioned, 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: Only one Adjustment is being requested; therefore, this criterion is not applicable.

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

Findings: City designated scenic resources are identified on the Official Zoning Map with a lower case “s” and historic resources are designated by a large dot or as being within the boundaries of a Historic or Conservation district. There are no such resources present on the site; therefore, this criterion is not applicable.

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

Findings: As noted above, the applicant is proposing to narrow the driveway width by removing the pavement and extending the existing landscaped area into this area, thereby enhancing the appearance of the neighborhood.

As conditioned, this criterion is met, 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 Map with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). No environmental zoning is applied to the site; therefore, 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 applicant has requested an Adjustment to reduce the minimum distance a parking space can be on a corner lot from 5 feet to about 1 foot from the property line because of a garage-to-living area conversion and subsequent loss of their required off-street parking. Of the standard 18-foot parking space length, only about 3.5 feet will be within the 5-foot side setback. The width of the driveway area will be reduced to prevent a second car from being parked in the driveway. The applicant is proposing to narrow the driveway width by removing the pavement and extending the existing landscaped adjacent to the driveway, which will be required as a condition of approval. This will enhance the appearance of the neighborhood by increasing the amount of vegetation and reducing the amount of vehicle area. The proposal meets the relevant approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the minimum distance a parking space can be on a corner lot from 5 feet to about 1 foot from the side property line (Section 33.266.120.C.1.a), per the approved site plan, Exhibit C-1, signed and dated April 30, 2019, 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 19-120698 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

- B. At the time of building permit approval, the northernmost 3 feet of the driveway must be removed and replaced with landscaping (as shown in exhibit C.1) in compliance with the shrub and groundcover requirements of the low screen (L2) landscaping standards (Section 33.248.020.B), which requires enough low shrubs to form a continuous screen 3 feet high. The shrubs must be evergreen. Ground cover plants must fully cover the remainder of the landscaped area. No new trees are required in this area.

Staff Planner: David Besley



Decision rendered by: _____ **on April 30, 2019.**
By authority of the Director of the Bureau of Development Services

Decision mailed: May 7, 2019

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 14, 2019, and was determined to be complete on March 28, 2019.

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 14, 2019.

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: July 26, 2019.**

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 May 21, 2019** 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 **May 21, 2019** 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.

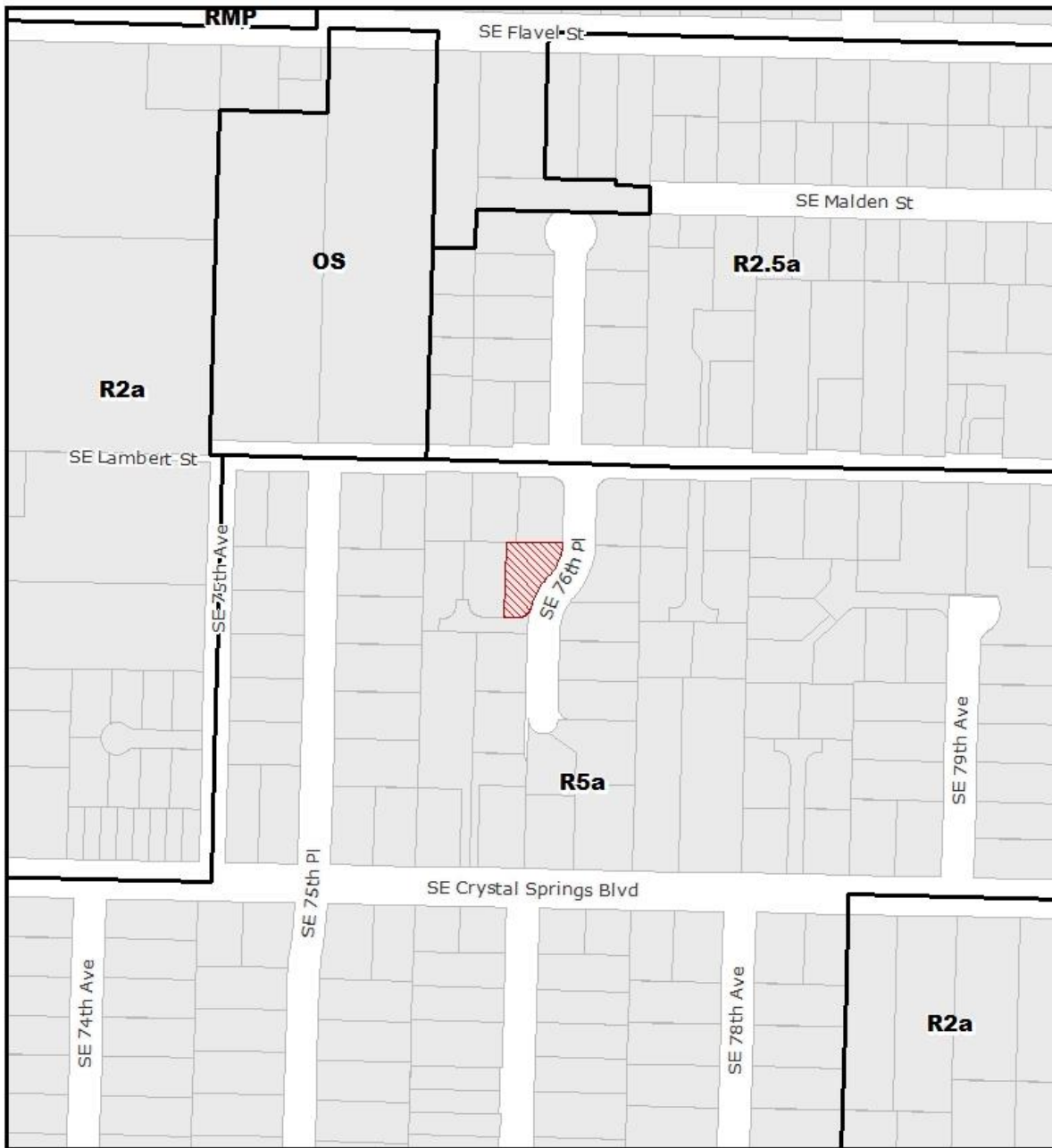
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section of BDS
 - 2. Bureau of Environmental Services
 - 3. Bureau of Transportation Engineering and Development Review
 - 4. Bureaus responding with no concerns
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application and receipt
 - 2. Incomplete letter from staff to applicant, sent February 28, 2019

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

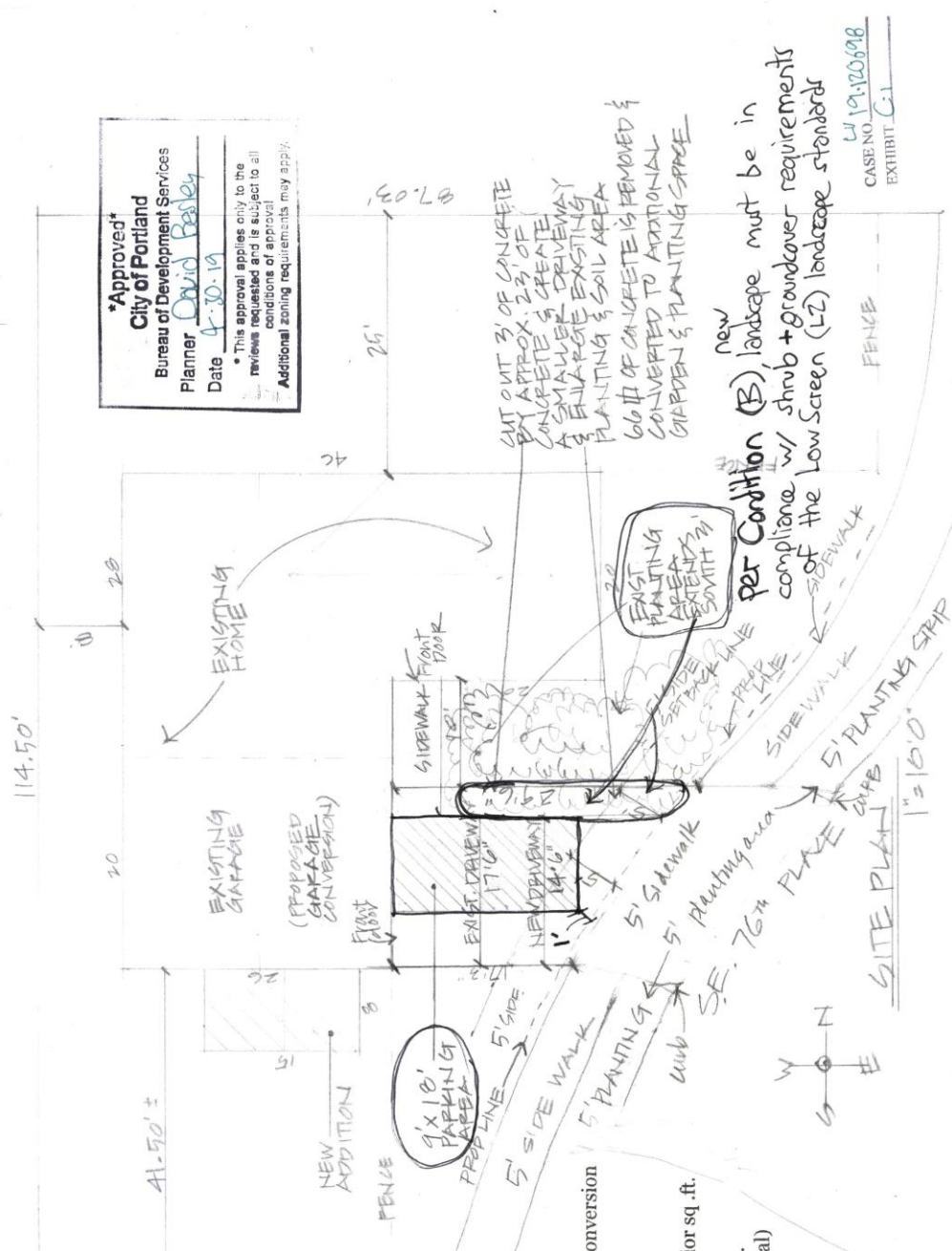


| | |
|-------------|--------------------------|
| File No. | <u>LU 19-120698 AD</u> |
| 1/4 Section | <u>3838</u> |
| Scale | <u>1 inch = 200 feet</u> |
| State ID | <u>1S2E20DB 7700</u> |
| Exhibit | <u>B Feb 19, 2019</u> |

Christopher Veatch
 7903 SE 76th Place
 Portland OR 97206

Slashed area in this drawing depicts code required 9' x 18' parking area.

Adjustment requested to reduce the min. distance a parking space can be on a corner lot from 5' to about 1' from the property line (due to garage-to-living area conversion)



Approved
 City of Portland
 Bureau of Development Services
 Planner David Basley
 Date 4-30-19
 * This approval applies only to the reviews requested and is subject to all conditions of approval.
 Additional zoning requirements may apply.

Scope of work: Attached garage conversion to living space, with addition.
 Existing lot: 7,143 sq. ft.
 Existing main house: 1,089 interior sq. ft.
 Proposed new garage conversion to living space: 507 interior sq. ft. (existing 492 + 105 new = 507 total)
 Existing footprint:
 Main house: 1128
 Att. Garage: 520
 Concrete: 224
 State Id: 1S2E20DE 7700
 Alt Acct: R200800160

CUT OUT 3' OF CONCRETE BY APPROX. 23' OF CONCRETE & CREATE A SMALLER DRIVEWAY & ENLARGE EXISTING PLANTING & SOIL AREA
 60% OF CONCRETE IS REMOVED & CONVERTED TO ADDITIONAL GARDEN & PLANTING SPACE

per Condition (B), landscape must be in compliance w/ shrub + groundcover requirements of the Low Screen (L2) landscape standard

CASE NO. LU 19-120698
 EXHIBIT G.1

LU 19-120698 AD