



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

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Date: July 8, 2019
To: Interested Person
From: Amanda Rhoads, Land Use Services
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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 19-167978 AD

GENERAL INFORMATION

Applicant: Ed Spencer | Endpoint Design, Inc.
PO Box 55333, Portland OR 97238
503-460-9313 | ed@endpointdesign.com

Owners: Gregory & Chris Yeoumans
1239 SE 35th Ave, Portland, OR 97214

Site Address: 1239 SE 35TH AVE

Legal Description: BLOCK 46 LOT 13, SUNNYSIDE & PLAT 2 & 3
Tax Account No.: R810411480
State ID No.: 1S1E01AC 14600
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.
Zoning: R2.5 – Single-Dwelling Residential 2,500
Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to demolish the existing garage on the site and replace it with an Accessory Dwelling Unit (ADU) in its place. The site is required to have an off-street parking space. The applicant instead proposes to close the existing curb cut and reestablish the curb in this area. To do so, the applicant requests an Adjustment to Zoning Code Section 33.266.110.B.2 to reduce the required number of parking spaces onsite from 1 to 0, per the attached site plan.

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 3,333-square-foot lot is developed with a single-dwelling house constructed in 1922 and a likely non-original garage accessed from SE Main St that has stood for 50 or more years. The site is a corner lot, with 133 feet of street frontage. The Portland Mennonite Church is located at the opposite corner of the intersection, with the Southeast Uplift District Coalition office next to the church. Sunnyside Environmental School is located a block to the north. All three institutions have their own parking lots. The SE Hawthorne commercial district is two blocks to the south; the SE Belmont commercial district is four blocks to the north. Other surrounding properties are developed with a mix of one- and two-story single-dwelling houses and duplexes dating from the early 1900s.

Zoning: The Residential 2,500 (R2.5) single-dwelling zone is 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. The minimum density for new lots in this zone is 1 unit per 5,000 square feet and the maximum density is based on lot size and street configuration. Both detached and attached single-dwellings are allowed. Minimum lot size for both types of development is 1,600 square feet with minimum front lot line of 30 feet and minimum depth of 40 feet. There is no required minimum lot width or front lot line for lots that are developed with structures that meet certain additional development standards related to design.

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 **June 7, 2019**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Water Bureau (Exhibit E.3);
- Fire Bureau (Exhibit E.4);
- Site Development Section of BDS (Exhibit E.5); and
- Life Safety (Building Code) Plans Examiner (Exhibit E.6).

The Bureau of Transportation (PBOT) staff has reviewed the proposal and responded with comments relating to the impact on neighborhood on-street parking supply and the proposal to close the existing curb cut and driveway. PBOT staff has no opposition to the requested Adjustment (Exhibit E.2). Further PBOT comments are included in the findings below.

Neighborhood Review: No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

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 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: Relevant portions of the purpose statement for minimum parking requirements are as follows (33.266.110.A):

“The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking... Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible... The required parking numbers correspond to broad use categories, not specific uses, in response to this long-term emphasis.”

PBOT staff has reviewed the proposal for potential impacts regarding the public right-of-way, including traffic impacts and conformance with adopted policies, street designations, relevant portions of Titles 17 and 33, and for overall potential impacts upon transportation services, including the availability of on-street parking (Exhibit E.2). PBOT staff found the following:

“The subject site is surrounded by frequent transit service on SE Belmont, Hawthorne, and Caesar Chavez, however is just outside the 500-ft boundary from these transit streets. The applicant noted the current garage and parking pad has not been utilized for vehicles, as its elevated grade, steep driveway creates an awkward entrance and dangerous site line; therefore, he has been parking on-street for many years. The applicant has proposed to close the existing curb cut and replace with full height curb and street tree, adding to the on-street parking supply within the neighborhood. Based upon the information provided, the applicant has noted there is sufficient on-street parking within the immediate vicinity to accommodate the nominal increase in on-street parking demand to support the requested adjustment. Accordingly, PBOT has no opposition to the requested Adjustment” (Exhibit E.2).

The subject property has 100 feet of frontage along SE Main St. The applicant proposes, and PBOT staff requires, closure of the existing curb cut (restoring the curb, sidewalk and landscape strip) which will provide approximately 16 linear feet of additional on-street vehicle parking without impacting neighboring properties. In addition, restoration of the curb and removal of the site’s driveway will reduce potential vehicle conflicts with pedestrian and bicycle travel along the sidewalk.

Most of the properties within the block of the subject site have driveways and room for one on-site parking space. The block is within the R2.5 zone, which is a single-dwelling residential zone. PBOT has no objection to the requested Adjustment with a condition requiring closure of the curb cut in SE Main Street, to allow additional on-street parking along the frontage of the site.

The proposal is located within an established network of streets that provides connectivity to the surrounding neighborhoods and commercial services, including a complete sidewalk network. As determined by PBOT, there is adequate on-street parking capacity along streets in the immediate vicinity to accommodate the likely maximum number of vehicles at the site at any one time.

With the condition of approval to reconstruct the curb as requested by PBOT and discussed above, 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: The request is to remove on-site parking for the existing house to accommodate a new detached accessory dwelling unit (ADU) in the location of the existing garage. The existing driveway and curb cut will be removed, and the landscape strip and curb will be restored. The ADU proposal must meet applicable Zoning Code requirements at the time of building permit review. The applicant has not requested an Adjustment to modify any of the ADU Zoning Code standards. For this Adjustment Review, therefore, the design of the ADU is not considered.

The proposal will not significantly detract from the livability of the residential area, as the on-site parking space will be replaced with additional living area or storage within a new detached structure in the general area of the current garage. Restoring the adjacent landscape strip and curb will result in an improved residential appearance and improve the pedestrian and bicycle environment along SE Washington Street.

PBOT recommends a condition that requires removal of the curb cut as part of required building permits, ensuring the availability off-street parking without impacting the adjacent roadway functions. The curb cut must be removed as part of the demolition permit for removal of the garage.

Therefore, with the conditions of approval recommended by PBOT, this approval 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 requested. This criterion is not applicable.

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. 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: With the condition of approval as requested by PBOT to maximize on-street parking abutting the site, any impacts resulting from the requested Adjustment are mitigated to the extent practical. 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). As the site is not within an environmental zone, 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 remove the required on-site parking space for the house. The driveway and curb cut will be removed, and the sidewalk, landscape strip and curb will be restored. These improvements will result in additional area for on-street parking and will improve the pedestrian environment along SE Main Street. With the condition of approval, the proposal meets the applicable Adjustment criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an **Adjustment** to waive the minimum on-site parking requirement for the site (Section 33.266.110.B.2/Tables 266-1 & 266-2), per the approved site plan, Exhibit C.1, signed and dated July 3, 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 19-167978 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Prior to final inspection approval of the required demolition permit to remove the garage, the applicant is required to obtain and finalize work under a Minor Improvement Permit through the Bureau of Transportation to close the curb cut adjacent to the site's street frontage along SE Main St. The sidewalk corridor, curb, and landscape strip must be reconstructed at that location per PBOT's specifications.

Staff Planner: Amanda Rhoads



Decision rendered by: _____ **on July 3, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 8, 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 May 21, 2019, and was determined to be complete on June 5, 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 May 21, 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: October 3, 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 July 22, 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 **July 22, 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:

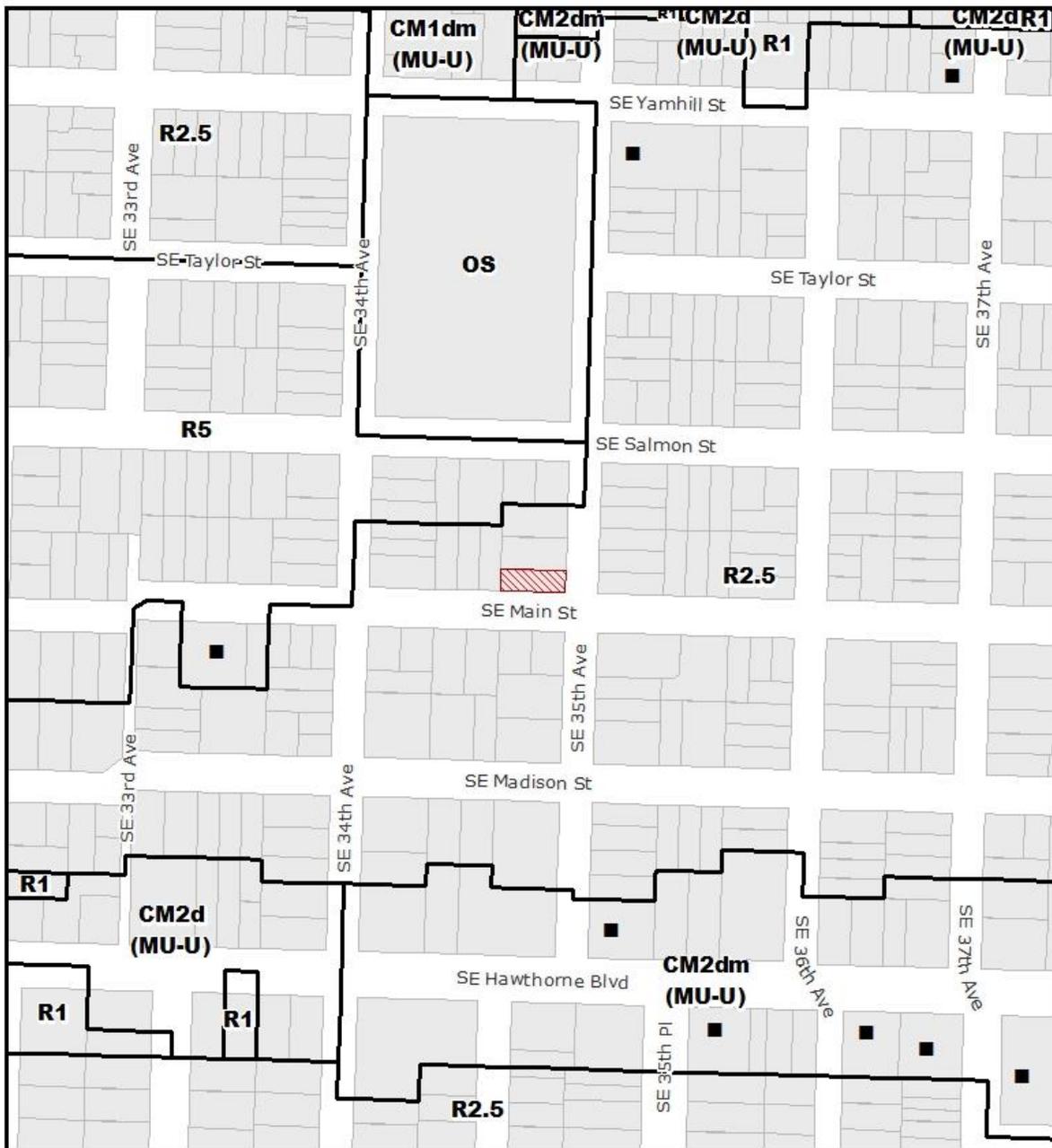
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Original Applicant Narrative
 2. As-Built Survey
 3. ADU Elevation Drawings
 4. Context Photos
 5. Updated Applicant Narrative, received June 5, 2019
 6. Scaled Existing Site Plan, received June 5, 2019
 7. ADU Floor Plans, received June 5, 2019
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Proposed Site Plan (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Life Safety (Building Code) Plans Examiner
- F. Correspondence: none received
- G. Other:
 1. Original Land Use Application and Receipt
 2. Incomplete Letter, May 31, 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



Site



Historic Landmark

File No.	LU 19-167978 AD
1/4 Section	3134
Scale	1 inch = 200 feet
State ID	1S1E01AC 14600
Exhibit	B May 23, 2019

