



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

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Date: January 7, 2020
To: Interested Person
From: Andrew Gulizia, 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 19-250059 AD

GENERAL INFORMATION

Applicant/Owner: Delvin Gaither and Mary Gaither
6811 NE 162nd St.
Vancouver, WA 98686

Site Address: 4070 NE 8th Ave.

Legal Description: BLOCK 19 LOT 1, LINCOLN PK ANX
Tax Account No.: R497302980
State ID No.: 1N1E23CB 16100
Quarter Section: 2631
Neighborhood: King, contact Michael Barrett at landuse@kingneighborhood.org
Business District: Soul District Business Association, contact at info@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Laura Becker at 503-388-6088

Zoning: R2.5a – Single-Dwelling Residential 2,500 base zone with Alternative Design Density (“a”) overlay zone

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

Proposal: The house on the subject site has a one-car, basement garage accessed from NE Mason Street which the applicant proposes to convert to living space. Since one off-street parking space for the property is required (Zoning Code Section 33.266.110.B.2), the applicant is requesting an Adjustment to reduce the required number of off-street parking spaces from one to zero. The applicant will create a new curb in front of the current driveway in order to create additional on-street parking area on NE Mason Street.

Relevant Approval Criteria: To be approved, this proposal must comply with the Adjustment Review approval criteria in Zoning Code Section 33.805.040.A-F.

ANALYSIS

Site and Vicinity: The site is a 5,000-square-foot lot on the southeast corner of NE 8th Avenue and NE Mason Street. The site is developed with a one-story, single-dwelling house. A two-story, detached accessory dwelling unit (ADU) is currently under construction in the rear yard. The main house contains a one-car, basement garage which is accessed from NE Mason Street, and the applicant proposes to convert this garage into living space. The surrounding neighborhood contains a mix of one-story and two-story houses. Northeast Fremont Street is four blocks south of the site, and NE Martin Luther King, Jr. Boulevard is four blocks to the west.

Zoning: The R2.5 single-dwelling residential zone is intended to preserve land for housing and to promote 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 site is also within the boundaries of the Alternative Design Density (“a”) overlay zone, though the “a” overlay regulations are not applicable to this Adjustment request. The purpose of the “a” overlay zone is to focus development on vacant sites, preserve existing housing, and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods.

Land Use Review History: There are no prior land use reviews for this site.

Agency Review: A “Notice of Proposal” was sent December 10, 2019. The following Bureaus responded with no concerns about the proposed Adjustment:

- Bureau of Environmental Services (Exhibit E-1);
- Portland Bureau of Transportation (Exhibit E-2);
- Water Bureau (Exhibit E-3);
- Fire Bureau (Exhibit E-4);
- Site Development Section of BDS (Exhibit E-5); and
- Life Safety Review Section of BDS (Exhibit E-6).

Neighborhood Review: No written responses to the mailed “Notice of Proposal” were received from either the Neighborhood Association or notified neighbors.

ZONING CODE APPROVAL CRITERIA

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 Adjustment request is to waive the requirement for one off-street parking space on the property. The purpose of the off-street parking requirement is stated in Zoning Code Section 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. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking

numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.

The neighborhood surrounding the site has a grid street pattern with good connectivity. Neighborhood streets, including those abutting the subject property, have continuous sidewalks on both sides, and the site is within easy walking distance (four blocks) to bus stops on NE Martin Luther King, Jr. Boulevard (bus #6) and NE Fremont Street (bus #24). The Portland Bureau of Transportation (PBOT) reviewed the application and responded with support for the Adjustment (Exhibit E-2).

If the 14.75-foot-long driveway were left on the site after the garage is converted to living space, it would not be long enough to meet zoning standards for a parking space or to prevent potential conflicts with the sidewalk. Closing the former driveway and restoring the curb in front of it will increase the curb space available for on-street parking adjacent to the site.

For these reasons, and with a condition of approval that the applicant restore the curb, staff finds the proposed Adjustment equally meets the purpose of the parking requirement. Approval criterion A 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: Since the site is in a residential zone, the proposed Adjustment must not significantly detract from the livability or appearance of the residential area.

The applicant proposes to landscape a portion of the current driveway with boulders and ferns and to restore the curb in front of the driveway (Exhibit C-1). The new landscaping will improve the aesthetics of the site, and the new curb will support neighborhood livability by increasing the curb space available for on-street parking. As mentioned above, PBOT reviewed the application and responded with support for the Adjustment (Exhibit E-2).

For these reasons, and with conditions of approval for the new landscaping and curb, staff finds the Adjustment will not significantly detract from the livability or appearance of the residential area. Approval criterion B 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: Since only one Adjustment is 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. As there are no scenic or historic resource designations 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: Restoring the curb in front of the current driveway will increase the availability of on-street parking adjacent to the site. With a condition of approval requiring the applicant to restore the curb, staff finds potential impacts from the Adjustment are mitigated to the extent practical. Approval criterion E 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 there are no environmental overlay zones mapped on the 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 intent of the off-street parking requirement is equally met, and the proposal will not significantly detract from neighborhood appearance or livability. Conditions of approval will require the applicant to landscape a portion of the existing driveway and restore the curb along NE Mason Street, improving the appearance of the site and increasing the curb space available for on-street parking adjacent to the site. With these conditions of approval, the applicable approval criteria are met.

ADMINISTRATIVE DECISION

Approval of an Adjustment to Zoning Code Section 33.266.110.B.2 to reduce the required number of off-street parking spaces from one to zero, per the approved site plan, Exhibit C-1, signed and dated January 2, 2020, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 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 19-250059 AD."
- B. The new 18-inch-tall boulders and sword ferns along the street lot line and the new curb illustrated on Exhibit C-1 are required. These elements must be shown on the site plan for any building permit to convert the basement garage to living space.
- C. Prior to the final inspection approval for any building permit to convert the basement garage to living space, the applicant must obtain final inspection approval of a Minor Improvement Permit through the Portland Bureau of Transportation (PBOT) to close the curb cut and restore the curb adjacent to the site's frontage on NE Mason Street. The sidewalk corridor, curb, and landscape strip must be reconstructed at that location per PBOT's specifications.

Staff Planner: Andrew Gulizia



Decision rendered by: _____ **on January 2, 2020**

By authority of the Director of the Bureau of Development Services

Decision mailed: January 7, 2020

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 November 6, 2019 and was determined to be complete on December 6, 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 November 6, 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 April 4, 2020.**

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 January 21, 2020** 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 **January 21, 2020** 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

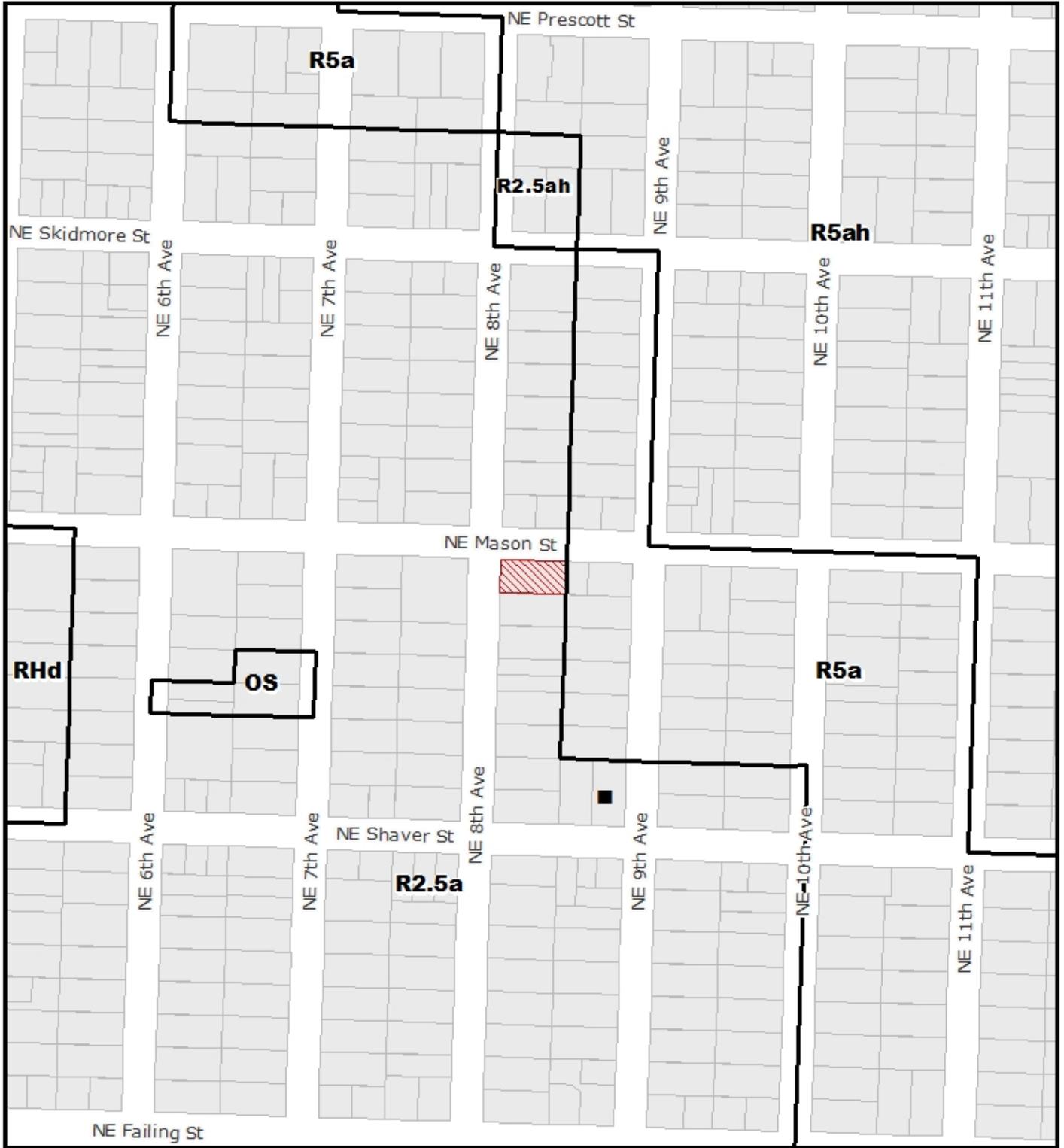
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 1. Applicant's narrative
 2. Site plan from building permit 18-229466 RS
 3. Originally-proposed site plan, prior to revision (superseded by Exhibit C-1)
- 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. Portland Bureau of Transportation
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Life Safety Review Section of BDS
- F. Correspondence – none received

G. Other:

1. Land use application form and receipt
2. Incompleteness determination letter, dated November 20, 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 
NORTH

 Site
 Historic Landmark

File No.	LU 19 - 250059 AD
1/4 Section	2631
Scale	1 inch = 200 feet
State ID	1N1E23CB 16100
Exhibit	B Nov 12, 2019

City of Portland - Bureau of Development Services
Approved

Planner *A. Galiza*

Date *12/20*

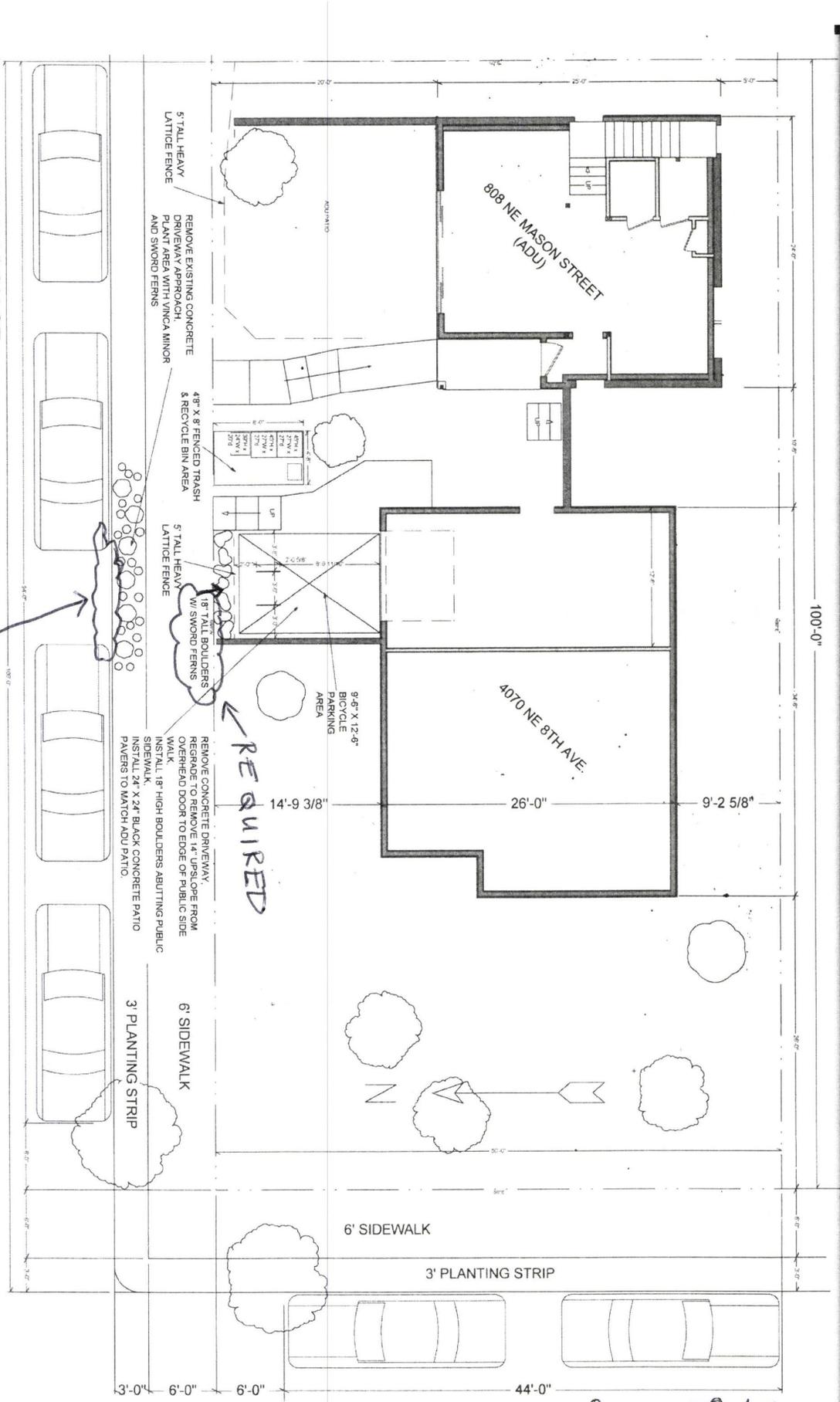
AD 19-250059 AD

SITE PLAN REVISION # 1

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

CURB TO BE RESTORED

NE MASON ST.



REQUIRED

NE 8TH AVE

*AD 19-250059 AD
Exhibit C-1*