



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

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Date: March 31, 2020
To: Interested Person
From: Don Kienholz, 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 20-105395 AD

GENERAL INFORMATION

Applicant: Lawrence McGraw
 Asset Property Remodeling And Maintenance LLC
 3439 NE Sandy Blvd, #403
 Portland OR 97232

Owner: Amy Jo Rist
 6 N Bryant St
 Portland, OR 97217-1702

Site Address: 6 N BRYANT ST

Legal Description: BLOCK 4 N 5' OF LOT 9 LOT 10, SARATOGA
Tax Account No.: R747200730
State ID No.: 1N1E15AC 07400
Quarter Section: 2330

Neighborhood: Piedmont, contact landuse@piedmontemerald.com.
Business District: Soul District Business Association, contact at info@nnebaportland.org
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877.

Plan District: None
Zoning: R5h – Single-Dwelling Residential 5,000 with an Aircraft Landing Zone ('h') overlay.
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, existing garage into an accessory dwelling unit (ADU) that faces N. Williams Avenue and relocate the required parking space to the existing driveway, which measures 12-feet by 20-feet. Required parking spaces must be at least

9x18-feet in size and be located outside the 10-foot front building setback. Because the relocated 9x18-foot parking space would encroach 8-feet into the 10-foot front building setback, an Adjustment 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 site is a 5,000 square foot corner lot developed with a single-family dwelling built in 1952 and a paved driveway accessed from N. Williams Avenue. A large tree providing significant canopy is located behind the home. It is located on the corner of N. Williams and N. Bryant in the Williams-Vancouver couplet in the Piedmont Neighborhood. The area is bounded by I-5 to the west; Martin Luther King, Jr. Blvd to the east; N. Lombard to the north; and N. Rosa Parks Way to the south. The area of N. Williams the site is on is characterized largely by lots generally around 5,000 square feet in size. The lots also generally have single-family homes.

Zoning: The subject site is zoned R5h – Single-Dwelling Residential 5,000 with the Aircraft Landing Overlay Zone.

The Single-Dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing. The site development standards allow for flexibility of development while maintaining compatibility with in the City's various neighborhoods. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed. The development standards are generally written for houses on flat, regularly shaped lots. Other situations are addressed through special regulations or exceptions.

The Aircraft Landing Overlay Zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment.

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 **February 19, 2020**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Bureau of Transportation Engineering and Development Review (Exhibit E.2);
- Life Safety (Exhibit E.3); and
- Site Development Review Section of BDS, Fire Bureau, Water Bureau and Bureau of Parks/Urban Forestry Division (Exhibit E.4).

Neighborhood Review: One written response was received from a notified property owners in response to the proposal. That comment was an emailed response (Exhibit F.1) from Peter Tiso in support for 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 proposal is to allow the required parking space that is currently in the garage but will be in the driveway once the garage is converted to living space to encroach 8-feet into the 10-foot minimum front setback. This location requirement is found in Portland Zoning Code Section 33.266.120.C.2 and the purpose of the standard is in 33.266.120.A:

“Purpose. The size and placement of vehicle parking areas are regulated in order to enhance the appearance and pedestrian experience of neighborhoods.”

The proposal to allow the parking space to encroach 8-feet into the front setback still allows 2-feet from the edge of the parking space to the property line and an additional foot to the sidewalk as there is a 1-foot planting strip. The proposal allows adequate space for a full-size vehicle to park on site without overhanging the property line or sidewalk and also allows the driver of a vehicle to spot a passing pedestrian before backing out.

The applicant provided data that a significant portion of the neighborhood routinely has a vehicle parked in the driveway in close proximity to the front property line – whether there is a garage or not. Staff confirmed the vehicular pattern with air-photos and Google street views. As such, a parking space within 2-feet of the property line matches the appearance of neighbors’ properties and therefore enhances the appearance of the neighborhood. Furthermore, the parking space will be located on an existing driveway, with no expansions to the driveway proposed and therefore not changing the appearance of the site or neighborhood.

Criterion 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

Finding: The site is zoned R5, a residential zone. Livability is not a defined term in the Zoning Code but generally includes safety, privacy and appearance. As staff found in Criterion A above, the proposal does not detract from the appearance of the residential area. The Adjustment request is limited to relocating the required parking space to the existing driveway, and therefore will have no adverse impacts on privacy for the adjacent neighbor. Because the parking space will be 3-feet from the sidewalk, a vehicle will not overhang the sidewalk and cause pedestrian safety issues. Considering the above, the criterion is met.

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: Only one adjustment is requested. This criterion is not applicable.

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

Finding: Scenic resources are identified on the zoning map with an ‘s’ designation. The site does not have a scenic overlay on the zoning map. Historic resources are identified as being in a historic district, conservation district, or individual properties may be identified as part of the Historic Resource Inventory (HRI). The subject site is not in an historic or conservation district and is not listed on the HRI list.

Criterion not applicable.

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

Finding: The conversion of the ground level garage to living area and moving the required parking space into the driveway will have no adverse impact on the neighboring properties or the immediate neighborhood because a vehicle in the space will not cross over the property line; will not overhang the sidewalk; will be located in an existing driveway; and will match the development pattern of the area. As such, no mitigation is necessary.

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: Environmental zones are identified on the zoning map with either an ‘e’ or ‘c’ designation. The subject site does not have an environmental overlay identified on the zoning map.

Criterion 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 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 carried the burden necessary to demonstrate the Adjustment to allow the required parking space to encroach 8-feet into the 10-foot front setback (33.266.120.C.2) equally meets the purpose of the parking development standards; will not detract from the appearance or livability of the residential area; and will not impact historic, scenic or environmental resources.

ADMINISTRATIVE DECISION

Approval of an Adjustment to allow the required parking space to encroach 8-feet into the 10-foot front setback (33.266.120.C.2) per the approved site plan, Exhibits C.1, 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 Exhibits C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 20-105395 AD. No field changes allowed."

Staff Planner: Don Kienholz

Decision rendered by:  **on March 27, 2020**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 31, 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 January 14, 2020, and was determined to be complete on February 12, 2020.

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 January 14, 2020.

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 11, 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. Appealing this decision. This decision may be appealed, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received by 4:30 PM on April 14, 2020. **Towards promoting social distancing to combat COVID-19, the completed appeal application form must be emailed to the planner listed on the first page of this decision and to BDSLUSTeamTech@portlandoregon.gov.** An appeal fee of \$250 will be charged. Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations for the appeal of Type II and IIX decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front

page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that due to COVID-19 and accessibility to files, only digital copies of material in the file are available for viewing. 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 on or after **April 15, 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 Materials
 - 1. January 14, 2020 Narrative
 - 2. February 5, 2020 Amended Narrative
 - 3. January 14, 2020 Full Site Plan
 - 4. January 14, 2020 Close Up Site Plan
 - 5. January 14, 2020 Elevation Plan
 - 6. January 14, 2020 Site Photos by Applicant
 - 7. January 14, 2020 ADU SDC Waiver
 - 8. January 14, 2020 Systems Development Charge Form
- 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. Bureau of Development Services/Life Safety
 - 4. Site Development Review Section of BDS, Fire Bureau, Water Bureau and Bureau of Parks/Urban Forestry Division
- F. Correspondence:
 - 1. March 4, 2020 Email from Peter Tiso in support of the proposal
- G. Other:
 - 1. Original LU Application
 - 2. Copy of Receipt of Fee Payment
 - 3. January 28, 2020 Incomplete Letter

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 20 - 105395 AD
1/4 Section	2330
Scale	1 inch = 163 feet
State ID	1N1E15AC 7400
Exhibit	B Jan 16, 2020

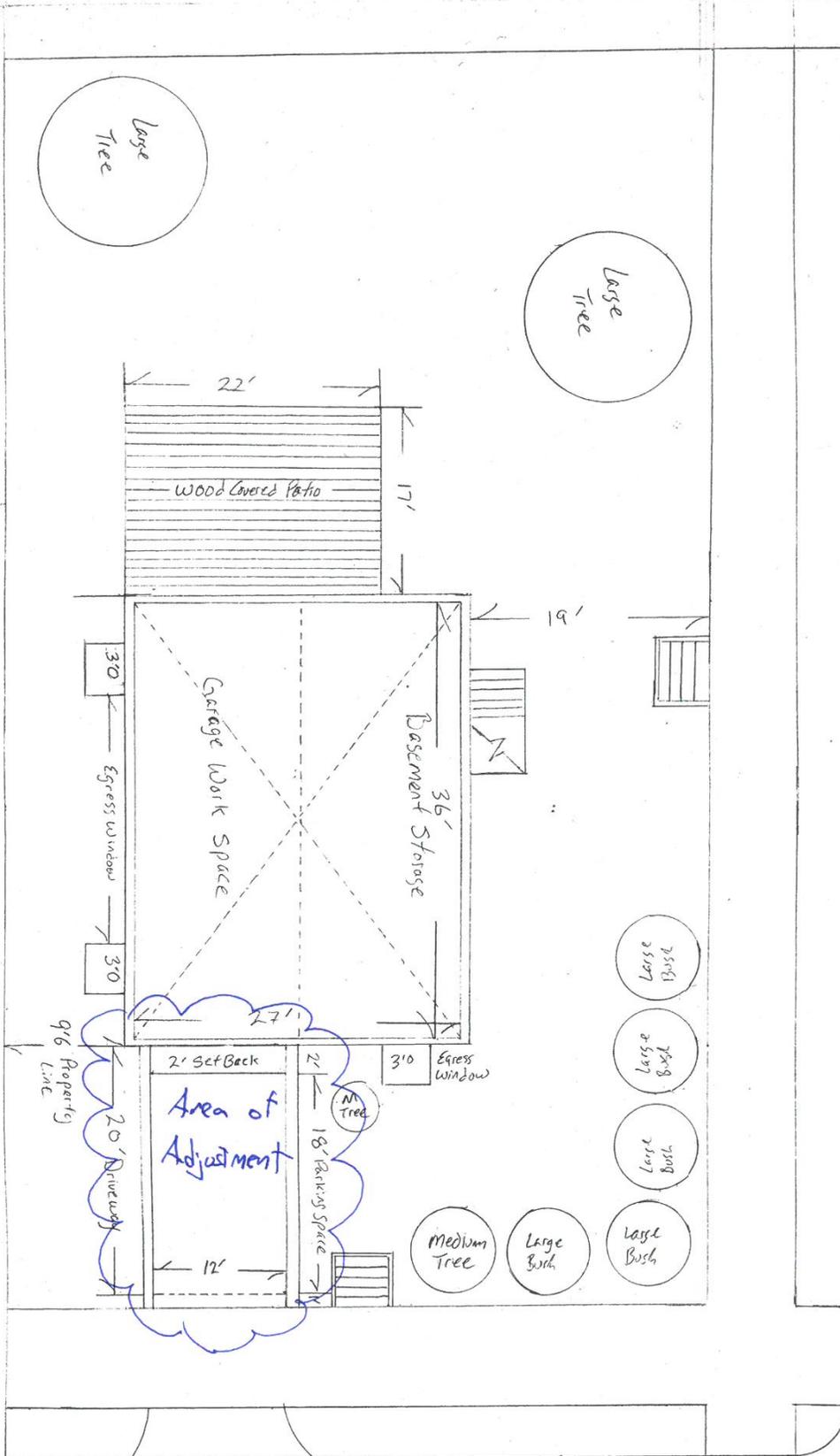
Contractor:
Asset Property Remodeling
and Maintenance LLC
CBB# 207146
SOJ-33-0194
Laurence M. Green

Home Owner:
Amy Jo Rist
610 Bryant St.
Portland, OR 97217

N Bryant St.

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EXHIBIT C.1



N Williams Ave

Scale =
1/8" = 1'

North