



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

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Date: May 26, 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 20-126095 AD

GENERAL INFORMATION

Applicant/Owner: Amanda and Filip Schmole
2216 SE 24th Ave
Portland, OR 97214

Site Address: 2216 SE 24TH AVE

Legal Description: BLOCK 5 LOT 1&2, MURRAYMEAD
Tax Account No.: R595000950
State ID No.: 1S1E01CC 14900
Quarter Section: 3232, 3233

Neighborhood: Hosford-Abernethy, contact Michael Wade at wade.michael@comcast.net.

Business District: Division-Clinton Business Association, contact at info@divisionclinton.com

District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010 x313.

Plan District: None
Zoning: R5 – Single-Dwelling Residential, 5,000

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

Proposal:

The applicant is currently processing a Lot Confirmation and Property Line Adjustment to confirm the existing historic underlying subdivision lot located just north of the existing house. Once confirmed and adjusted for building setback purposes, the existing driveway parking space will be located on the newly confirmed lot, separated from the existing house, meaning it is no longer associated with the house and leaves the house without an on-site parking space. Portland Zoning Code Section 33.266.110.C and Tables 266-1 and 266-2 list the required

minimum parking space requirements. The site is more than 500-feet from a transit street with frequent bus service so 1 parking space for the existing house is required. Because the applicant is requesting to reduce the on-site parking space requirement from one to zero, an Adjustment is required. No Adjustment is requested for the newly confirmed lot north of the house.

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 9,300 square foot corner lot developed with a two-story single-family dwelling built in 1910. The neighborhood is all zoned R5 and developed with similarly sized and designed early 20th century houses and detached garages. The house sits above SE 24th by approximately 8-feet while the property is level with SE Grant Avenue along the north. While the site is bordered by mature street trees measuring over 40-feet in height, the site is void of meaningful tree canopy. The site is three blocks north of SE Division Street and its commercial corridor and two blocks east of historic Ladd's Addition.

Zoning: 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 use regulations are intended to create, maintain and promote single-dwelling neighborhoods. They allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood. The development standards preserve the character of neighborhoods by providing six different zones with different densities and development standards. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

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 27, 2020**. The following Bureaus have responded with no issues or concerns:

- Site Development, Fire Bureau and Bureau of Environmental Services (Exhibit E.1);
- Water Bureau (Exhibit E.2);
- Life Safety (Exhibit E.3); and
- The Bureau of Transportation Engineering (Exhibit E.4)

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;

Finding: The proposal is to eliminate the on-site parking space required in Portland Zoning Code Section 33.266.110.B and Table 266-1. The purpose of the minimum on-site parking requirement is found in 33.266.110.A:

*“Purpose. 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 car pool parking, and locating it close to the building entrance, will encourage car pool use.” (Emphasis added).*

The relevant portion of the purpose statement above to the proposal 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.”

The use of the subject site is Household Living. The subject site is zoned R5, so no retail or office uses are allowed and none are proposed. The parking standards require one on-site vehicle parking space per Household Living unit based on expected demand (33.266.110 and Table 266-1) unless a site is close to frequent service transit. In this case, the site is not within the required proximity to frequent service, so one parking space is required since there is a single-family dwelling on site.

Generally, removing the on-site parking space from a site and closing the driveway access creates one on-street parking space where the driveway and apron once were. This one-for-one exchange usually satisfies the expected parking demand of the site. However, the subject property is undergoing a Lot Confirmation and Property Line Adjustment action that will create another building site to the north of the existing house. As such, the usual one-for-one exchange will not occur. In cases like this where no off-site space will be created and the site is more than 500 feet from frequent transit, the off-site parking availability must be evaluated to ensure the street-parking nearby can accommodate the increased demand. The applicant provided an on-site parking analysis (Exhibit A.1) of the immediate vicinity. After reviewing the analysis, the Portland Bureau of Transportation (PBOT) responded they have no concerns with the proposed removal of the on-site parking space (Exhibit E.4). They noted the neighborhood has a complete street and sidewalk system, frequent service transit is just outside the 500-foot distance considered ‘close’ so is an option for the occupants, and that removing the parking space is supportive of PBOT’s 2018 Transportation System Plan (TSP) that was refined for the City’s climate action Goals.

Based on the above, staff finds the purpose of the vehicle parking requirement is equally met.

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;**

Finding: The subject site is zoned R5, a residential zone. 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.

As discussed in the findings for Approval Criterion A, PBOT evaluated the proposal and found the site is in a neighborhood with a complete street and sidewalk system,

allowing for vehicle travel as well as pedestrian travel to and from main streets that have frequent transit service. SE Division Street is three blocks to the south and has frequent transit service. SE 20th two blocks to the west has bus service as well. Off-site parking is available in the immediate vicinity with the complete street system and transit is available nearby. Because of the infrastructure and services in place, removal of the on-site parking space will not detract from livability.

The request to waive the required on-site parking space does not directly impact the appearance of the residential area. The site is in an older, close-in neighborhood where street parking is common and part of the neighborhood fabric. Because of the commonality of the on-street parking, removal of the on-site parking space and potential of an additional vehicle parking on the street will still maintain the residential appearance of the subject site.

Based on the above, staff finds the proposal will not significantly detract from the livability and appearance of the surrounding residential area. With the condition of approval, this 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;

Finding: Since only one Adjustment is requested, this criterion is not applicable.

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

Finding: City-designated scenic resources are identified on the Official Zoning Maps with a lower case “s,” while historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. The subject property is not within a City-designated ‘s’ overlay zone nor within proximity to an Historic Resource.

Criterion not applicable.

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

Finding: There are no anticipated impacts from the removal of the on-site parking space, therefore 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 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 the subject site, this criterion is not applicable.

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 proposal to reduce the one required on-site parking space down to zero equally meets the intent of the parking regulations and does not have any adverse impacts on the livability or appearance of the surrounding residential neighborhood. The applicant has demonstrated that the approval criteria have been met. Because the approval criteria have been met, the proposal must be approved.

ADMINISTRATIVE DECISION

- A. Approval of an Adjustment to reduce the required on-site vehicle parking space from one to zero (Zoning Code Section 33.266.110), per the approved site plan, Exhibit C.1.

Staff Planner: Don Kienholz

Decision rendered by:  **May 15, 2020.**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 26, 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 March 4, 2020, and was determined to be complete on March 18, 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 March 4, 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: July 16, 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, 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 June 9, 2020. **Towards promoting social distancing during the COVID-19 pandemic, the completed appeal application form must be e-mailed to BDSLUSTeamTech@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **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 limited 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 <https://www.portlandoregon.gov/citycode/28197>.

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 **June 9, 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:

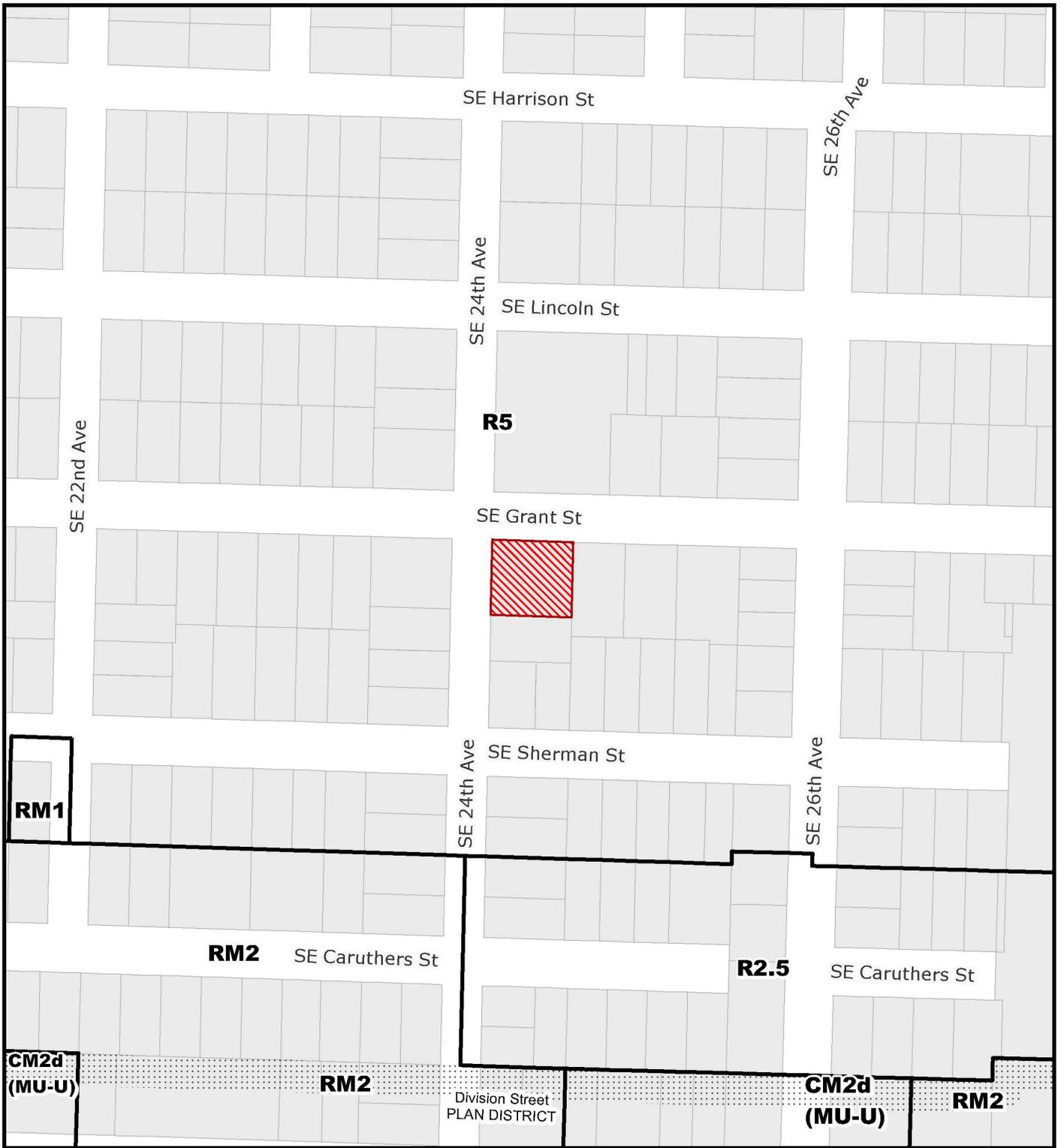
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
 - All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Materials
- B. Zoning Map (Attached)
- C. Plans/Drawings:
 - 1. Site Plan (Attached)
- D. Notification information:
 - 1. Mailing List
 - 2. Mailed Notice
- E. Agency Responses:
 - 1. Site Development, Fire Bureau and Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Life Safety
 - 4. The Bureau of Transportation Engineering
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Copy of Receipt of Fee Payment

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.	<u>LU 20 - 126095 AD</u>
1/4 Section	<u>3232,3233</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1S1E01CC 14900</u>
Exhibit	<u>B Mar 06, 2020</u>

Division Street
PLAN DISTRICT

