



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

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Date: September 3, 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 20-110390 AD

GENERAL INFORMATION

Owner/Applicant: Sean Schafer and Fern Russak
938 NE Hazelfern PL
Portland, OR 97232-2628

Site Address: 938 NE HAZELFERN PL

Legal Description: BLOCK 9 LOT 7, LAURELHURST
Tax Account No.: R479101730
State ID No.: 1N1E36AD 17400
Quarter Section: 2934

Neighborhood: Laurelhurst, contact Peter Meijer at <http://www.laurelhurstpdx.org>
Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010 x313

Plan District: Laurelhurst-Eastmoreland

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 site was recently developed with new landscaping and hardscaping in the front yard, including a 11'-7" wide by 18' deep parking pad on the left side of the front yard at the front property line. The site does not have any other parking area. Parking spaces are not allowed in the front building setback unless there is a parking space in a garage or driveway behind it (Portland Zoning Code Section 33.266.120.C.2), which the subject site does not have. The site is zoned R5, which has a 10-foot front building setback. However, the site is within the Laurelhurst Subdivision which has special front building setbacks of 20-feet. As such, the

parking space is required to be at least 20-feet from the front property line. Because the parking pad is at the front property line, an Adjustment to Zoning Code Section 33.266.120.C.2 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 applicants' site is a 4,805-square-foot, rectangular parcel, located on the south side NE Hazelfern Place, approximately 250-feet west of NE Cesar E. Chavez Blvd, the main north-south street through the Laurelhurst neighborhood. The lot is developed with an existing single-dwelling structure built in 1917 and a detached garage set in the southeast rear corner of the property. The area around the site is developed with similar early century single-dwelling residences. NE Hazelfern Place is lined with mature street trees providing significant tree canopy for the neighborhood. The Laurelhurst neighborhood has been listed as an Historic District and the house on the subject site classified as a contributing structure.

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 development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

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 **July 16, 2020**. The following Bureaus have responded with no concerns or objections:

- Life Safety (Exhibit E.1);
- Bureau of Transportation Engineering and Development Review (Exhibit E.2);
- Urban Forestry (Exhibit E.3);
- BES (Exhibit E.4); and
- Site Development, Fire Bureau and Water Bureau (Exhibit E.5).

Neighborhood Review: One written response was received from a notified property owner in response to the proposal. Jean Hester sent an email on July 21, 2020 (Exhibit F.1) in support of 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 applicant is requesting an Adjustment to allow a parking space within the front building setback (33.266.120.C.2), which because the site is within the Laurelhurst Subdivision, has a special front building setback of 20-feet. The purpose of the development standard is found 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 two purpose statements this criterion must evaluate are: 1. Enhance the appearance of the neighborhood and 2. Enhance the pedestrian experience.

The proposal is to locate the proposed parking space within the 20-foot required front building setback. The parking space is proposed to be 18-feet long, the required length for a residential parking space. Additionally, the sidewalk profile for NE Hazelfern Pl is 9-6-1, or a 9-foot planting strip, 6-foot sidewalk, and 1-foot landscaping strip between the sidewalk and property line. In all, the parking space is 16-feet from the street, fits entirely on the subject site and is large enough to ensure a vehicle doesn't overhang the sidewalk. The parking space is on the left side of the property with the remaining front yard being fully landscaped to enhance the appearance of the property and neighborhood. The size of the parking space also ensures that a passing pedestrian will not be impacted by a parked vehicle and combined with the existing landscaping and tree streets, will enhance the pedestrian experience in the neighborhood. Staff finds the proposal equally meets the purpose of the development standard.

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 subject site is zoned R5, a residential zone. Given the residential zoning, this criterion evaluates the livability and appearance of the residential area. Staff found in Criterion A that the proposal enhances the appearance of the residential area. Livability is not a defined term but generally includes privacy and safety as factors. Because the proposal does not include a building or structure in a setback, privacy is not applicable. Generally, safety is a concern when a vehicle may extend over the sidewalk or into the street due to potential conflicts with passing pedestrians or vehicles. In this case, the parking space is 18-feet in length and there is an additional one foot in front of the sidewalk, making it highly unlikely a parked car would adversely impact passing pedestrians. Additionally, the 16-feet from the edge of the parking space to the street provides adequate sight distance for a vehicle backing out into traffic to ensure the ability to see oncoming traffic and pedestrians and thereby avoiding accidents. PBOT provided a response (Exhibit E.2) that they have no concerns with the proposal. Part of their evaluation generally includes a review of potential impacts to passing traffic. Based on the above, staff finds the proposal will not detract from the appearance of the area and will not adversely impact livability.

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 or conservation district, or individual properties may be identified as part of the Historic Resource Inventory (HRI). The subject site is in the

Laurelhurst Historical District and is a contributing resource to that district. However, the Adjustment is for the location of a parking space and not for any alterations to the existing home on site. Because the proposal does not alter the house, a contributing structure in the historic district, historic resources are preserved and this criterion is met.

Criterion met.

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

Finding: There are no anticipated impacts that will result from allowing a parking space to encroach into the front building setback. As such, this criterion is not applicable.

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). 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 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 demonstrated that allowing the 18-foot deep parking space to fully encroach into the 20-foot special Laurelhurst front building setback (33.266.120.C.1) and be located on the property line will equally meet the purpose of the parking standards for homes and not detract from the appearance and livability of the area. Additionally, the proposal will not adversely impact historic, scenic or environmental resources. As the application has met the approval criteria, the proposal must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to the parking space location standard of 33.266.120.C.1 to allow the subject site’s parking space to encroach 20-feet into the special Laurelhurst front building setback, 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 20-110390 AD. No field changes allowed."

Staff Planner: Don Kienholz

Decision rendered by:  **on September 1, 2020.**

By authority of the Director of the Bureau of Development Services

Decision mailed: September 3, 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 27, 2020, and was determined to be complete on July 13, 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 27, 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: November, 10, 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 September 17, 2020.** Towards promoting social distancing during the COVID-19 pandemic, the completed appeal application form must be emailed to LandUseIntake@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 paper 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 **September 17, 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. Generally, 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. Please refer to Zoning Code Section 33.730.130.B.1 for additional details.

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:

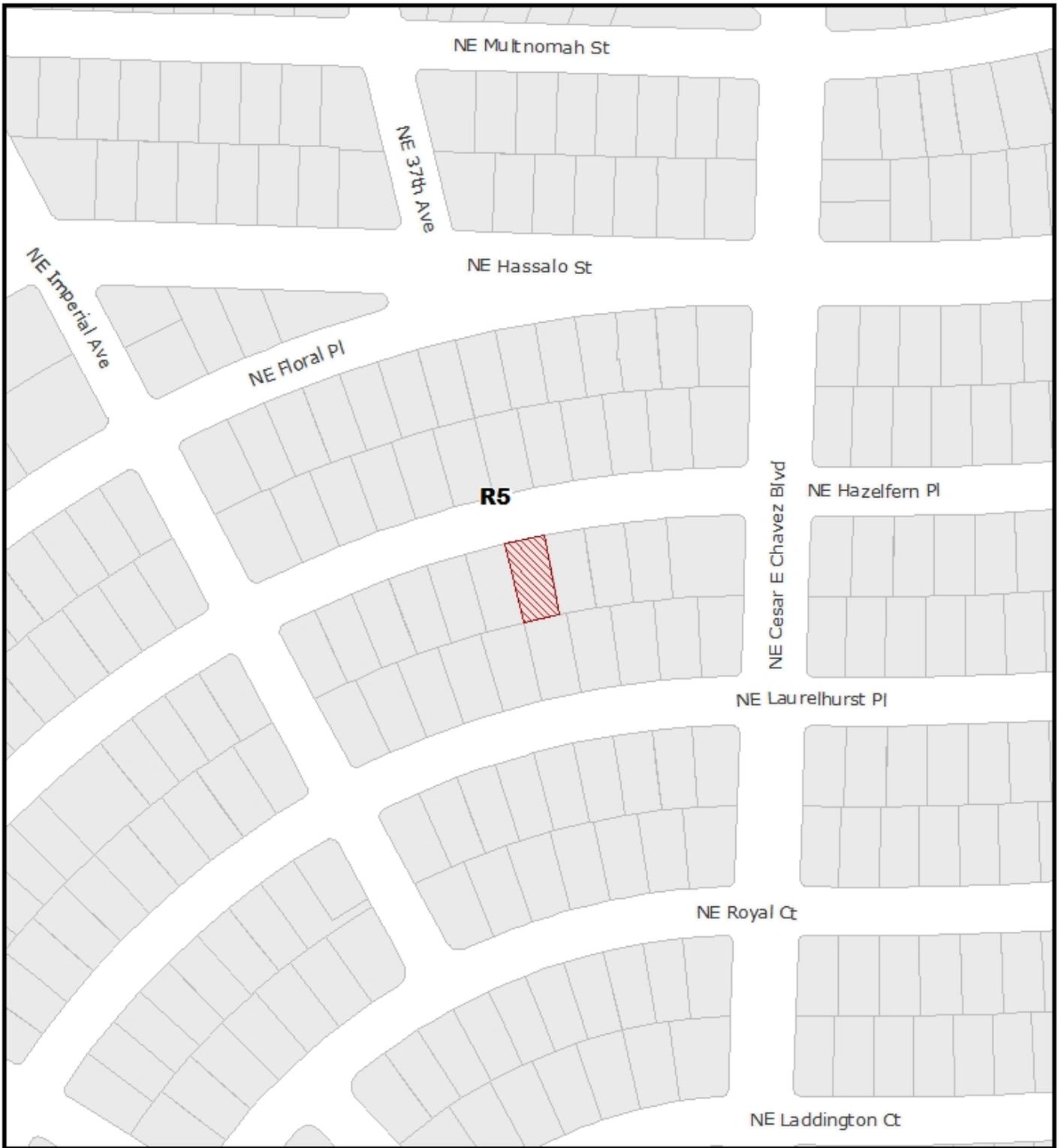
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Materials
 - 1. Original Narrative and Site Plan
 - 2. Updated Site Plan
 - 3. Updated Narrative
- 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
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Urban Forestry
 - 4. BES
 - 5. Site Development, Fire Bureau and Water Bureau
- F. Correspondence:
 - 1. Jean Hester, July 21, 2020 email in support of the proposal
- G. Other:
 - 1. Original LU Application
 - 2. Receipt of Payment
 - 3. February 10, 2020 Incomplete Letter
 - 4. Email Warning of 180-Day Incomplete Deadline

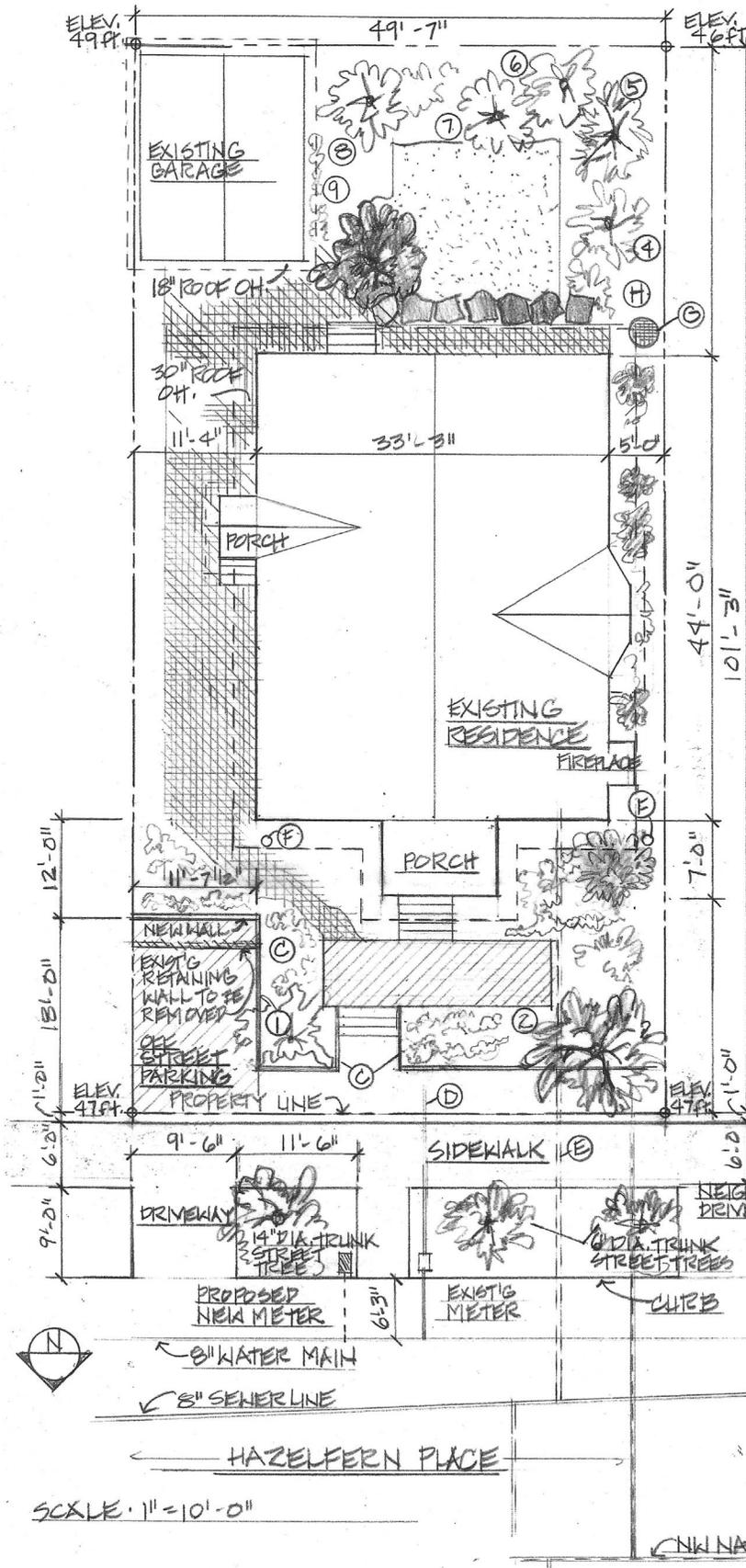
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
 NORTH
 LAURELHURST PLAN DISTRICT
 LAURELHURST HISTORIC DISTRICT

 Site

File No.	LU 20 - 110390 AD
1/4 Section	2934
Scale	1 inch = 163 feet
State ID	1N1E36AD 17400
Exhibit	B Jan 29, 2020



Existing Trees

- ① Japanese Maple - 4" trunk, 10' tall
- ② Japanese Maple - 4" trunk, 15' tall
- ③ Cherry - 6" trunk, 12' tall
- ④ Fig - 6" trunk, 15' tall
- ⑤ Cypress - 6" trunk, 25' tall
- ⑥ Cherry - 3" trunk, 8' tall
- ⑦ Persimmon - 6" trunk, 15' tall
- ⑧ Pear - 6" trunk, 12' tall
- ⑨ Espalier Pear - 3" trunk, 6' tall

Plan Notes

- (A) Existing paved off street parking area
- (B) Paved Entry Landing Area
- (C) 2' H. Retaining Wall - TOW - 49 ft.
- (D) Existing water line
- (E) Existing sewer line to Hazelfern Place
- (F) Existing rain drain sites
- (G) Basement Sump Pump Well

LEGEND

- Large plants - 8' plus
- Perrinial planting beds
- Gravel paths and sitting area
- Paved Area - 362 sq. feet
- Brick pavers
- Large stone pavers
- Property Line

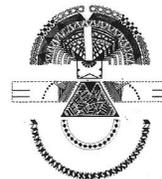
Property Description

Laurelhurst, Block 9, Lot 7
 938 NE Hazelfern Place
 Portland, Oregon 97232-2628

Site Data

Property ID - R202583
 County - Multnomah
 Statte ID - INIE36AD 17400
 Alt. Acct. # R479101730
 Zoning - R5
 Lot Size - 4,805 Sq. Ft.
 Residence Size - 3,126 Sq. Ft.

SITE PLAN - IMPROVED OFF STREET PARKING
 RUSSAK, SCHAFER RESIDENCE
 938 N.E. HAZELFERN PLACE
 PORTLAND, OR. 97232-2628 5.4.20



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