



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

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Date: 11/21/2022
To: Interested Person
From: Tanya Paglia, 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 22-130821 HR – SIDEYARD ALTERATIONS AND REAR STAIR

GENERAL INFORMATION

Owner/Applicant: Norberto Vergara,
23 SW Pennoyer St | Portland, OR 97239
nvergarajr@yahoo.com

Site Address: 23 SW PENNOYER ST

Legal Description: BLOCK 147 E 45' OF LOT 5, CARUTHERS ADD
Tax Account No.: R140913930
State ID No.: 1S1E10CB 02700
Quarter Section: 3429

Neighborhood: South Portland NA., contact at landuse@southportlandna.org
Business District: South Portland Business Association, contact info@southportlanddba.com.

District Coalition: Office of Community & Civic Life, contact at CivicLife@portlandoregon.gov

Plan District: None
Other Designations: Contributing Resource in the South Portland Historic District
Zoning: **RM1** – Residential Multi-Dwelling 1 with Historic Resource Protection
Case Type: **HR** – Historic Resource Review
Procedure: **Type II**, an administrative decision with appeal to the Landmarks Commission.

Proposal:

The applicant is seeking Historic Resource Review approval for a proposal to construct a new 9' x 28' driveway on the west side of the property, build a retaining wall, create a pedestrian path, build two new raised garden beds, and re-landscape the existing front garden bed. The proposed raised garden bed towards the northwest corner of the lot will be planted with one

evergreen magnolia tree surrounded by dwarf boxwoods. The proposed raised garden bed at the front of the site adjacent to the new driveway will be planted with dwarf boxwoods and other plantings. The existing raised garden bed at the front of the site, east of the stairs, will be planted with two Italian cypress trees, multiple hydrangea bushes, and winter boxwoods. The project also involves rebuilding rear stairs.

Historic Resource Review is required because the proposal is for non-exempt exterior alterations in the South Portland Historic District.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- Lair Hill Historic Conservation District Design Guidelines

ANALYSIS

Site and Vicinity: The house, whose historic name is the *Osias Sussman House*, is a single-family, one-and-a-half-story house built in 1914 and it is a contributing resource in the South Portland Historic District. The house sits on a 1,378 SF lot facing south onto SW Pennoyer St.

South Portland Historic District As the surviving piece of a district that was greatly diminished by the construction of the I-5 and I-405 freeways, and by large scale clearance under the auspices of Urban Renewal, during the 1960s and 1970s, the South Portland Historic District is significant as the remnant of an early, originally much larger, working class and immigrant neighborhood. The area was originally home to concentrations of ethnic and religious minorities from southern and eastern Europe, especially Italian Catholics and Jews from Poland, the Baltic States, and the Russian Empire. The majority of the district's remaining historic resources were built as residences, but with supporting commercial buildings, religious and social institutions, and small scale industrial structures scattered throughout the neighborhood fabric. Originally associated with workers at the shipping, manufacturing, and processing enterprises dependent on the nearby Willamette River, the area today is among the best remaining examples of a late Nineteenth Century working class residential neighborhood in Portland.

Zoning: The RM1 zone is a low-scale multi-dwelling zone that is generally applied in locations intended to provide a transition in scale to single-dwelling residential areas, such as the edges of mixed-use centers and civic corridors, and along or near neighborhood corridors. Allowed housing is characterized by one to three story buildings that relate to the patterns of residential neighborhoods, but at a somewhat larger scale and building coverage than allowed in the single-dwelling zones. The major types of new development will be duplexes, triplexes, rowhouses, courtyard housing, small apartment buildings, and other relatively small-scale multi-dwelling and small-lot housing types that are compatible with the characteristics of Portland's residential neighborhoods.

The historic resource overlay zone protects historic resources that have been identified as significant to the history of the city and region. The regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting education and enjoyment for those living in and visiting the region. The regulations foster awareness, memory, and pride among the region's current and future residents in their city and its diverse architecture, culture, and history. Historic preservation recognizes social and cultural history, retains significant architecture, promotes economic and environmental health, and stewards important resources for the use, education, and enjoyment of future generations.

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 **October 10, 2022**. The following six Bureaus, Divisions and/or Sections responded with no objections and two of these included comments found in Exhibits E1-E2:

- Bureau of Transportation Engineering and Development Review (Exhibit E.1)

- Life Safety Division of the Bureau of Development Services (Exhibit E.2)
- Fire Bureau
- Site Development Review Section of Bureau of Development Services
- Water Bureau
- The Bureau of Environmental Services provided the following comment:

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on October 10, 2022. A total of two written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

- James Gardner, Chair, SPNA Land Use Committee, wrote on August 31, 2022 with concerns about the proposed work having been done ahead of the land use review and noting that the amount of paved area proposed is not in line with the Historic Resource Review approval criteria which emphasize landscaping in the district.
- Lara Jones, Neighbor, wrote on October 31, 2022 with concerns about the site being fully paved and the drainage issues that it will exacerbate in the area.

Staff Response: Staff worked with the applicant to adapt their initial submittal which paved the majority of the site, to a design that incorporated more landscaping elements as well as three new on-site trees as well as a number of hydrangea bushes and other plantings. The site is extremely small, so the parking spot was kept to the minimum size required by the zoning code for a parking space, and there is also paved area for pedestrian connections.

The scope of the review is limited to the proposal's response to the Historic Resource Approval Criteria. The finding below detail how the proposal responds to the applicable approval criteria.

ZONING CODE APPROVAL CRITERIA

Chapter 33.846.060 - Historic Resource Review

Purpose of Historic Resource Review

Historic Resource Review ensures the conservation and enhancement of the special characteristics of historic resources.

Historic Resource Review Approval Criteria

Requests for Historic Resource Review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

Findings: The site is located within the original Lair Hill Conservation District boundary which is the western portion of the South Portland Historic District and the proposal is for a non-exempt treatment. Therefore, Historic Resource Review approval is required. The approval criteria are the *Lair Hill Historic Conservation District Design Guidelines*.

Staff has considered all guidelines and addressed only those applicable to this proposal.

Lair Hill Historic Conservation District Design Guidelines

1. How the Building Relates to the Street. How the Building Relates to Adjacent Buildings.

1. Front Yard. A distance equal to the average of the front setbacks of the immediately adjacent buildings. Where there are no adjacent buildings, the recommended setback is 8'.
2. Side Yard. Average of adjacent setbacks. If no adjacent buildings, the recommended setback is 5'.
3. Rear Yard. Average of adjacent setbacks. If no adjacent buildings, the recommended

setback is 15’.

2. **Parking**

1. It is strongly recommended that parking be in the building structure.
2. No ground floor street façade should be composed solely of parking or parking accesses. Ground floor facades must have pedestrian entrances and/or windows. (see Guideline 6)
3. On-site parking should be appropriately landscaped so as to screen the parking.
4. On-site parking should not completely fill any front or rear yard.
5. No parcel of land should be converted solely for parking.

6. **Architectural Specifics – Entryways.**

1. All buildings should have a permanently protected entryway. (Awnings are not permanent protection).
2. On corner lots the main entrance should be on the nearest major street.
3. All main entrances should face the street.

11. **Plantings.**

1. New buildings should be landscaped and the landscaping should include the parking strip.
2. No exposed plastic or bark mulch (except in rose beds or beds of other acid loving plants) should be used as a permanent ground cover.
3. New ground cover planting should be in sufficient density to fill out the area planted within a season or two. (Ex. Ivy should be spotted 12” to 18” apart or less.) Larger shrubs and smaller trees should infill no later than five years and sooner if possible.
4. Existing trees should be left in place if possible and appropriate.

Findings 1, 2, 6, and 11: The proposal to construct a new 9’ x 28’ driveway on the west side of the property, and other related exterior changes will not significantly impact the subject property’s relationship with the South Portland Historic District. The contributing 1914-built, one-and-a-half-story, Bungalow style *Osiias Sussman House* is the primary historic element of the property. The house will not be part of the proposed project other than the rebuilding of a rear stair. The proposed driveway alterations will not detract from the historic character of the contributing house and no original historic features of the house will be altered as part of the project.

The area proposed for parking has been minimized to occupy as little of the site as possible and thus the property will not be dominated by vehicle area. Portland Zoning Code requires a parking space to be 9’ wide by 18’ deep and to be setback from the front property line by 10’, thus the minimum dimension a residential parking area can have, per code, is 9’ wide by 28’ deep. The proposed parking is 9’ wide by 28’ deep, which is the bare minimum zoning requirement. Thus, the parking area on this site is minimized to the full extent allowable by zoning code.

Altering the existing contributing house to add interior parking would adversely affect its historic character. Alternatively, if an additional garage structure were to be added to on the west side of the existing house, in order to meet zoning code requirements, it would create more vehicle area on the site than the driveway proposed. Nor would it better fit the character of the historic district than the less intensive driveway parking area proposed.

The house occupies a small, constrained site of 1,378 SF. The property is not being converted solely for parking and the parking does not completely fill the front yard. The parking is not in a structure, so the ground floor street façade is not comprised of any parking or parking access. The driveway will be located entirely to the west of the existing house, and the existing direct pedestrian access from Pennoyer to the main entrance will not be altered.

The new driveway will replace an area that was formerly filled with debris, weeds and decayed concrete, and the parking area is somewhat softened by the proposed landscaping. No exposed plastic or bark mulch will be used as permanent ground cover. The raised garden bed towards the northwest corner of the lot will be planted with one

evergreen magnolia tree surrounded by dwarf boxwoods. The proposed raised garden bed at the front of the site adjacent to the new driveway will be planted with dwarf boxwoods and other plantings. The existing raised garden bed at the front of the site, east of the stairs, will be planted with two Italian cypress trees, multiple hydrangea bushes, and winter boxwoods. The two garden beds at the front of the site will enhance the overall landscaped appearance of the front yard, with growing material and overall coherence. Also adding to the site's coherence is the new rear step's wood railings which will match the railing on the front steps.

These guidelines are met.

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 for a new single vehicle-width driveway of a total dimension of 9' wide by 28' deep and related exterior alterations will preserve the historic significance of the house, which is a contributing resource, while allowing the property to modernize in order to accommodate a new function. The area proposed for parking has been minimized to occupy as little of the site as possible and thus the property will not be dominated by vehicle area. The proposed driveway is respectful of the contributing house, and the neighborhood. The purpose of the Historic Resource Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. This proposal meets the applicable Historic Resource Review criteria and modification criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of a new 9' x 28' driveway on the west side of the property, retaining wall, pedestrian path, two new raised garden beds, and re-landscape of the existing front garden bed of the *Osius Sussman House*, a contributing resource in the South Portland Historic District, per the approved site plans, Exhibits C-1 through C-5, signed and dated 11/16/2022, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) 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 22-130821 HR." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. No field changes allowed.
- D. At least the landscaping shown on the plans is required per this land use review. All landscaping is therefore subject to these regulations: 33.248.040 Installation and Maintenance.

Staff Planner: Tanya Paglia



Decision rendered by: _____ **on 11/16/2022**

By authority of the Director of the Bureau of Development Services

Decision mailed: 11/21/2022

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 April 7, 2022, and was determined to be complete on October 3, 2022.

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 April 7, 2022.

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: 1/31/2023.**

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 Landmarks Commission, 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 12/5/2022. 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 Office of Community and Civic Life 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 this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

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 Landmarks Commission 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 Landmarks Commission 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 **12/5/2022** 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 Submittal
 - 1. Original Plan Set – NOT APPROVED/reference only
 - 2. Applicant's Site Photos
 - 3. Updated Plan Set – NOT APPROVED/reference only
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan – Pre-project Conditions
 - 2. Site Plan – Proposed (attached)
 - 3. Basement Floor Plan
 - 4. Stair Plan and Elevation
 - 5. Landscape Plan – Proposed (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Life Safety Division of the Bureau of Development Services
- F. Correspondence:
 - 1. James Gardner, Chair, SPNA Land Use Committee, wrote on August 31, 2022 with concerns about the proposed work having been done ahead of the land use review and noting that the amount of paved area proposed is not in line with the Historic Resource Review approval criteria which emphasize landscaping in the district; jimdonnachamois@msn.com.
 - 2. Lara Jones, Neighbor, wrote on October 31, 2022 with concerns about the site being fully paved and the drainage issues that it will exacerbate in the area; Lara--Jones@hotmail.com.
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter
 - 3. Oregon Historic Site Record

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).