



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

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Date: March 29, 2016
To: Interested Person
From: Matt Wickstrom, 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 16-113496 AD

GENERAL INFORMATION

Applicant: Dave Spitzer
DMS Architects
2325 NE 19th Avenue
Portland, OR 97212

Owner: Carole L Carmichael
8428 N Hendricks St
Portland, OR 97203

Site Address: 8428 N HENDRICKS ST

Legal Description: LOT 19 TL 3219, CHARLESTON PARK PLACE
Tax Account No.: R150600620
State ID No.: 1N1W01AD 03219
Quarter Section: 1922
Neighborhood: St. Johns, contact Josh Leslie at 503-505-8495
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099

Zoning: R2 (Multi-Dwelling Residential 2,000 Zone)
Case Type: AD (Adjustment Review)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant plans to convert the existing detached garage on this site to an accessory dwelling unit (ADU). The proposal will eliminate vehicle parking in the garage, however, the applicant proposes to keep the existing driveway off N Ziegler Avenue for off-street parking. The Portland Zoning Code requires off-street parking spaces for a house or duplex to be a minimum of 9 feet wide and 18 feet deep. Parking spaces are also not allowed in the street setback. The applicant requests one Adjustment to allow the proposed parking space to be located within the 5-foot street side setback (33.266.120.C.2).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A through F of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The 4,590 square foot site is located at the southwest corner of N Hendricks Street and N Ziegler Avenue. It is developed with a single-dwelling house facing N Hendricks Street and a detached garage and driveway accessed from N Ziegler Avenue. The surrounding vicinity is developed with single-dwelling homes, many of which have parking pads in front of the home with no garage.

Zoning: The site is zoned R2 (Residential 2,000). The R2 zone is a low density multi-dwelling residential zone. Multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing.

Land Use History: City records indicate there is prior land use reviews for this site, as follows:

LUR 96-00234 CP ZC SU – 1996 approval with conditions of a Comprehensive Plan Map Amendment, a Zoning Map Amendment and a Subdivision Review for a 103-lot subdivision.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **February 29, 2016**. The following Bureaus have responded:

- The Water Bureau responded with comments about water service and stated no concerns relating to the proposed Adjustment (Exhibit E-1).
- The Life Safety Section of the Bureau of Development Services (BDS) responded that there appears to be no conflicts between the proposal and applicable building codes. The response also provides building permit information (Exhibit E-2).
- The Site Development Section of BDS, the Fire Bureau, the Bureau of Environmental Services and the Portland Bureau of Transportation responded with no concerns (Exhibit E-3).

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the Notice of Proposal.

ZONING CODE APPROVAL CRITERIA**33.805.010 Purpose (Adjustments)**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

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; and

Findings: The applicant requests one Adjustment to allow a required 9-foot by 18-foot parking space to extend 4 feet within the required 5-foot side setback at this site so that the existing detached garage can be converted to an ADU. The purpose of the parking and loading development standards for houses and duplexes is stated in 33.266.120.A and states:

The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.

This site is located on a corner with the main entrance and front porch facing N Hendricks Street which makes that street-frontage of the site more visually distinct than the street-frontage along N Ziegler Avenue where the parking space is proposed to be located in the side setback. Therefore, the proposed location of the parking space won't restrict views of the home or conflict with the visual prominence of the main entrance and front porch. Furthermore, the proposed location of the parking space will be in front of an accessory structure so it will not restrict views of the side of the home. Finally, many homes in the vicinity have parking pads and no garages; therefore, a parking pad located in front of the ADU will not appear unusual or out of the ordinary. Based on this information, the proposed parking space will not detract from the appearance of the neighborhood. This criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: As described above under Criterion A, the proposed location of the parking pad will not detract from the appearance of the residential area. It also will not detract from the livability. The proposed location of the parking pad will not obscure vehicles from view and therefore a car backing out into the street will remain visible to pedestrians and others. The proposal also maintains an off-street parking space for use by the resident, tenant or guests. This criterion 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: Only one Adjustment is being requested; therefore, this criterion is not applicable.

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

Findings: No City-designated scenic or historic resources are located at this site; therefore, this criterion is not applicable.

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

Findings: There are no discernible impacts that would result from granting the requested adjustments. This criterion 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: The site is not within an environmental zone. 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

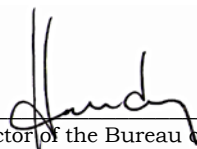
The applicant proposes one Adjustment to allow a required 9-foot by 18-foot on-site parking space to be located within the side setback of this site at the corner of N Hendricks Street and N Ziegler Avenue. The proposal meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to allow a required parking space to be located within the 5-foot west side setback (33.266.120.C.2), per the approved site plan, Exhibit C-1, signed and dated March 25, 2016, 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 16-113496 AD."

Staff Planner: Matt Wickstrom

Decision rendered by:  **on March 25, 2016**

By authority of the Director of the Bureau of Development Services

Decision mailed: March 29, 2016

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 29, 2016, and was determined to be complete on **February 12, 2016**.

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 29, 2016.

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 10, 2016.**

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 April 12, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **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 must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after **April 13, 2016 – (the day following the last day to appeal).**
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to:

Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034. 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:

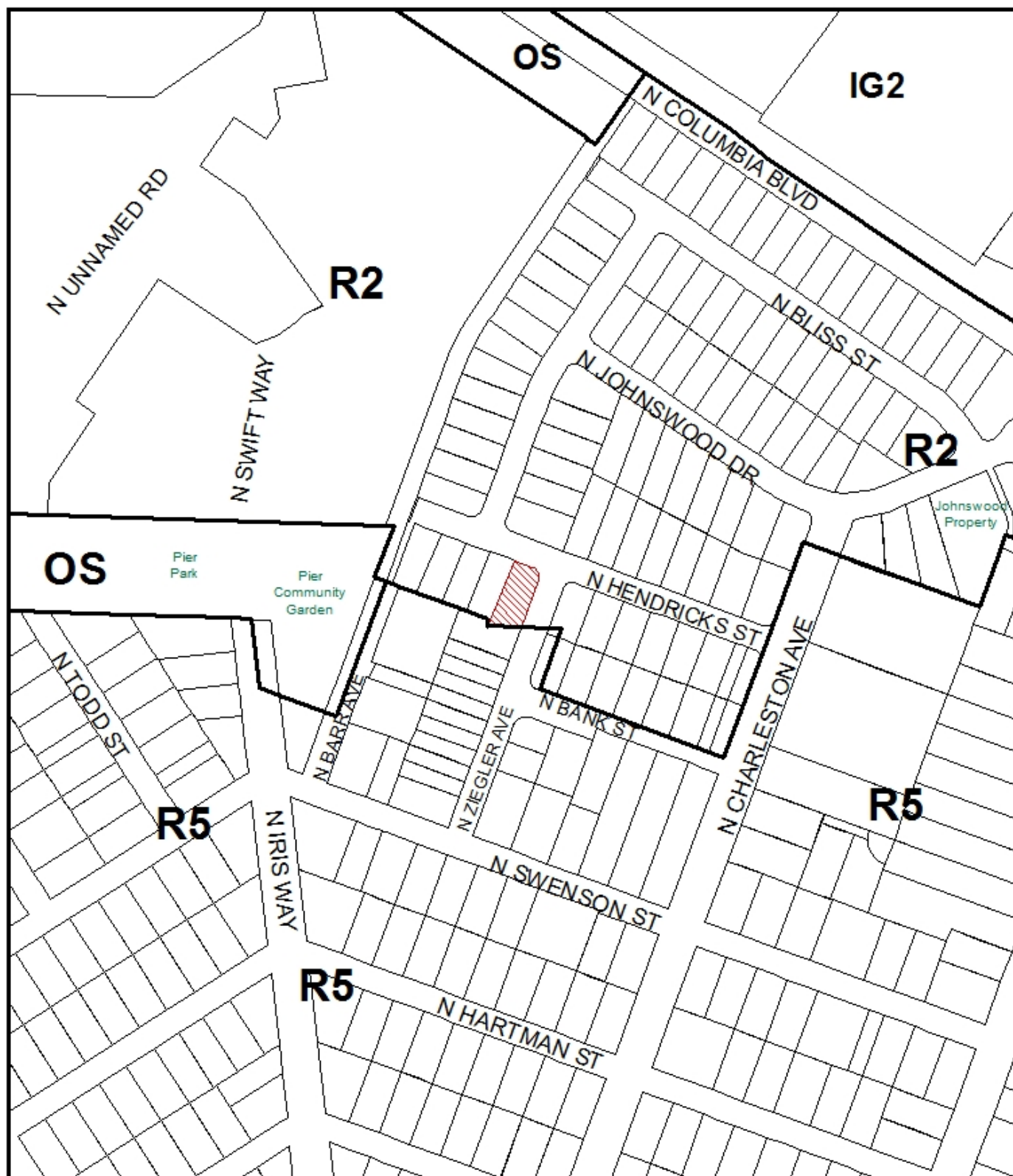
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Life Safety Section of BDS
 - 3. Summary Sheet of Bureau Responses
- F. Correspondence: None received

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).

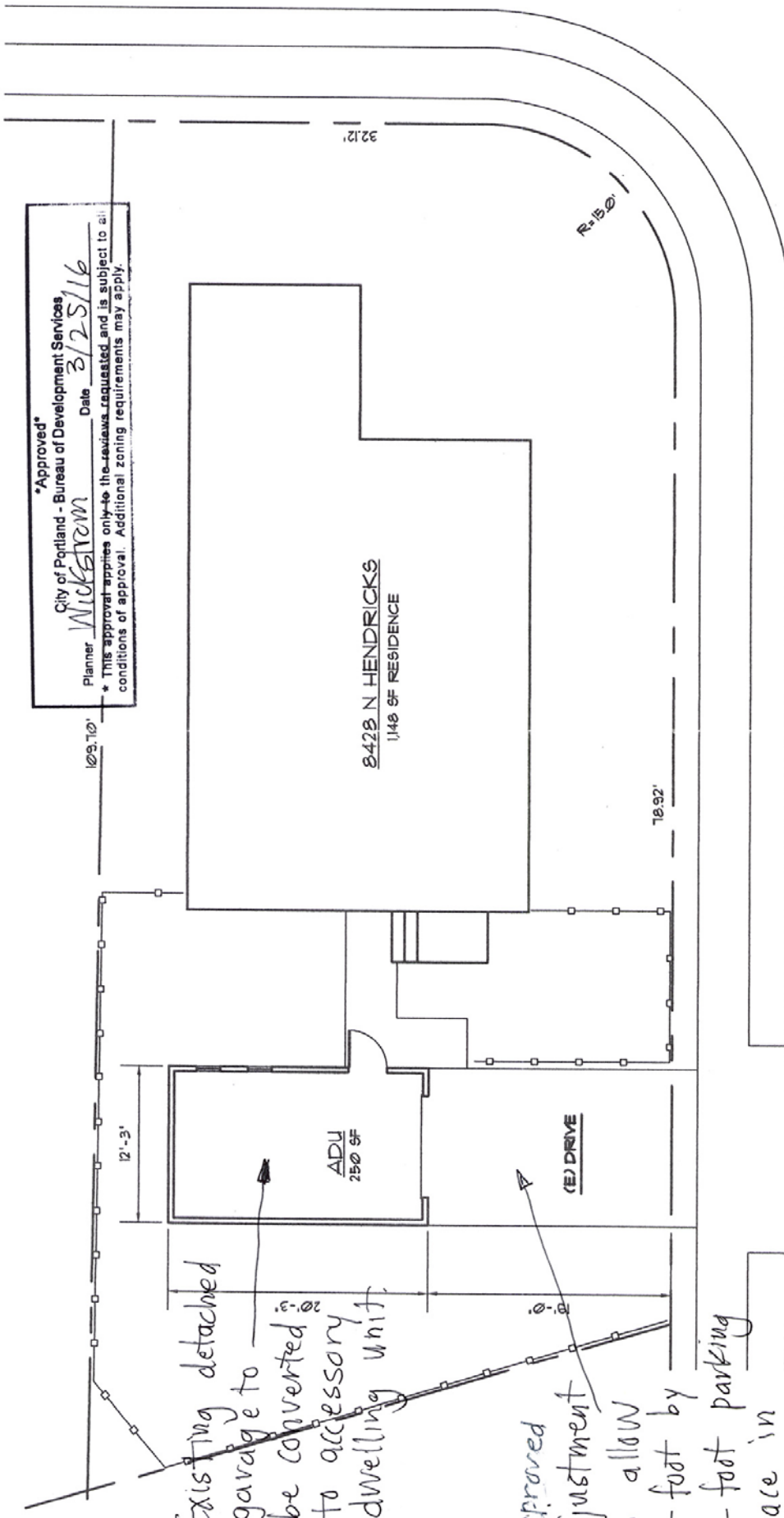


ZONING



File No.	<u>LU 16-113496 AD</u>
1/4 Section	<u>1922</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1N1W01AD 3219</u>
Exhibit	<u>B</u> (Feb 02, 2016)

Approved
 City of Portland - Bureau of Development Services
 Planner WICKSTROM Date 3/25/16
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



Existing detached
 garage to
 be converted
 to accessory
 dwelling unit.

Approved
 Adjustment
 to allow
 9-foot by
 18-foot parking
 space in

15-foot side setback

N. ZIEGLER AVE.

OVERALL SITE PLAN



1/8" = 1'-0"

E 16-113490

Exhibit C-1