



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

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Date: December 6, 2013
To: Interested Person
From: Dave Skilton, 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 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 13-228093 HRM – SETBACK MODIFICATION

GENERAL INFORMATION

Applicant: Guy Bryant, 503-309-3461 / GPB Construction Inc.
6027 SE Main Street / Portland, OR 97215

Site Address: 1730 NE Schuyler Street

Legal Description: BLOCK 12 LOT 9 W 1/2 OF LOT 10, JOHN IRVINGS 1ST ADD
Tax Account No.: R430303540
State ID No.: 1N1E26DC 05500 **Quarter Section:** 2832
Neighborhood: Irvington, contact Dean Gisvold at 503-284-3885.
Business District: Northeast Broadway BA, Murray Koodish at info@nebroadway.com.
District Coalition: NE Coalition of Neighborhoods, Shoshana Cohen at 503-388-5004.
Plan District: Albina Community
Other Designations: Vacant property in the Irvington Historic District, which was listed in the National Register of Historic Places on October 22, 2010.

Zoning: R1a, Multi Dwelling Residential 1000, with Historic Resource Protection and Alternative Design Density Overlay zoning.

Case Type: HRM, Historic Resource Review with a Modification
Procedure: Type II, an administrative review with appeal to the Historic Landmarks Commission

Proposal: The applicant is seeking modification of 33.120.220 Setbacks for a side setback reduced from 5' to 3' facing a property line adjoining CS (Storefront Commercial) Zoning. This modification should have been processed as part of LU 12-215057 HDZ but was inadvertently missed. Historic Resource Review is only required as a vehicle for the modification which cannot be processed independently.

Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria specified in the Portland Zoning Code (Title 33 of the City Code). The approval criteria in this case are:

- 33.846.060 G Other Approval Criteria
- 33.846.070 Modifications Considered in Historic Resource Review

ANALYSIS

Site and Vicinity: The subject property is currently vacant, but new development of five attached dwelling units on separate parcels was approved in case number LU 12-215057 HDZ.

Platted in the late Nineteenth Century, today's Irvington Historic District represents the first additions to Portland that employed restrictive covenants from the outset. These included the exclusion of most non-residential uses from the interior of the neighborhood, and where non-residential uses were allowed, such as the fire station and the telephone exchange, the buildings were purposely disguised to appear more residential in character. Other deed restrictions excluded minority groups, established uniform front setbacks, and required minimum expenditure on new buildings. The area developed generally from southwest to northeast and its growth was greatly influenced by the installation of streetcar lines that introduced an easy commuting option to downtown.

The contributing resources in Irvington range in design character from expressions of the late Victorian Era styles, especially Queen Anne, through the many Period Revival modes of the early decades of the Twentieth Century, to a few early modernist examples. There is also a wide diversity in the sizes of lots and houses. In terms of the streetscape, the numbered north-south avenues in Irvington vary dramatically in width, and they mostly form rather long block faces which the houses generally face. The named east-west street block faces are more consistent in length, almost all being traditional 200' Portland blocks. All are lined with mature street trees. Original development in many cases included garages or other accessory structures, typically at rear corners and accessed by a variety of driveway types on mid-block sites, and facing side streets on corner lots. Garages that were added in the historic period, were sometimes built at the sidewalk and/or out of architectural character with the house.

Historic multi-dwelling development is also a significant typology in the Irvington Historic District, largely concentrated in the corridor bracketed by NE Broadway and the mid-block between NE Tillamook and NE Thompson Streets. As with the development of the entire district, these buildings responded to the availability of streetcar transportation. Those closest to NE Broadway did not tend to provide onsite parking, but courtyard type complexes further north occasionally did, often displaying a full-facade array of garage doors on the secondary street face. Stylistically, the historic apartment buildings in Irvington tend to represent the same design modes that were popular for single dwelling structures during the period of historic significance.

Another residential building type, far less common than single-family houses and apartment buildings, is a purpose built duplex, triplex, or fourplex that falls between the two more common types in terms of appearance. These may feature multiple private entries or mimic a large house with a single entry door, and they are generally more elaborated than the larger apartment buildings. However, all the multi-dwelling examples tend toward a less elaborate expression of any given mode than the individual house. Stucco is the predominant finish material for multi-dwelling structures, but contributing examples clad with brick and board siding, and combinations also exist. A significant amount of post-historic apartment redevelopment occurred within the same general area outside the period of significance. Examples from the mid-to-late 20th Century often have large parking lots at street lot lines. These paved areas are often without any buffering or internal planting.

Zoning: The R1 zone is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses. Generally, R1 zoning will be applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

The Historic Resource Protection Overlay zone protects certain historic resources in the region and preserves significant parts of the region's heritage. The regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region. The regulations foster pride among the region's citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties.

The purpose of the Alternative Design Density Overlay Zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

Land Use History: City records indicate that prior land use reviews include:

- LU 07-182808 HDZ, approving a three story, five-unit multi-dwelling structure with five on-site parking spaces.
- LU 12-150927 LDS, related to the current case and approving a Preliminary Plan for a five-lot subdivision, with easements for shared access and utilities.
- LU 12-215057 HDZ, approving a new five unit development.

Public Notice: A "Notice of Proposal in Your Neighborhood" was mailed November 19, 2013.

Agency Review: None of the notified Bureaus has responded with significant issue or concerns:

Neighborhood Review: No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

(1) 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 within the Irvington Historic District and the proposal is for non-exempt treatment. Therefore Historic Resource Review approval is required. The approval criteria are those listed in *33.846.060 G – Other Approval Criteria*.

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

33.846.060 G - Other Approval Criteria

10. Hierarchy of compatibility. Exterior alterations and additions will be designed to be compatible primarily with the original resource, secondarily with adjacent properties, and finally, if located within a Historic or Conservation District, with the rest of the district. Where practical, compatibility will be pursued on all three levels.

Findings: The building typology which the proposal appears to emulate, that of a historic smaller scale multi-dwelling structure, is appropriate because the subject site lies within the three block deep swath along the southern edge of the district where the

historic examples of this building type are concentrated. These examples tend to combine traditional proportions and fenestration patterns with a limited number of window types and materials. The revised proposal, while including some diversity of elements like windows, dormers, and railing treatments, does present a cohesive background of building wall to support the exceptions. The proposal also calls for a reduced setback at the side of the southernmost lot, adjoining a commercially zoned site. In similar situations narrow side setbacks are a characteristic of buildings of the typology being imitated and the proposed reduction to 3'-0" will help the new building to better fit into the historic context. *This criterion is met.*

(2) 33.846.070 Modifications Considered During Historic Resource Review

The approval criteria for modifications considered during Historic Resource Review are:

- A. Better meets Historic Resource Review approval criteria.** The resulting development will better meet the approval criteria for Historic Resource Review than would a design that meets the standard being modified; and
- B. Purpose of the standard.**
1. The resulting development will meet the purpose of the standard being modified; or
 2. The preservation of the character of the historic resource is more important than meeting the purpose of the standard for which a modification has been requested.

33.120.220 Setbacks

A. Purpose. The building setback regulations serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
- Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.
- They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.

Modification: The applicant is seeking modification of 33.120.220 Setbacks for a side setback reduced from 5' to 3' facing a property line adjoining CS (Storefront Commercial) Zoning.

Findings for A: As evidenced in the findings under Criterion 10 above, the resulting development will better meet the approval criteria because it duplicates a historic pattern of narrow setbacks on multi-dwelling buildings, especially where they abut commercially zones.

Findings for B: The purpose of the regulation is met because the property line in question is on a site to be developed with a multi-dwelling building, and that adjoins a commercially zoned property. The extent of the encroachment into setback is also minor because it occupies only a small percentage of the property line in question.

The proposed Modification meets the approval criteria and the purpose of the standard and therefore merits approval.

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 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 and modification criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of a modification to reduce the south setback from 5'-0" to a minimum of 3'-0" at ground level and 1'-9" at the eave, as previously approved, on new construction in the Irvington Historic District;

Approval is per Exhibits C-1 through C-3, signed and December 4, 2013, subject to the following conditions:

- 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 through C-3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-228093 HRM. No field changes allowed."

Staff Planner: Dave Skilton

Decision rendered by:  on December 4, 2013.
By authority of the Director of the Bureau of Development Services

Decision mailed: December 6, 2013

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 November 14, 2013, and was determined to be complete on November 14, 2013.

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 November 14, 2013.

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.

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 Historic Landmarks Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on December 20, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth 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 Historic 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, 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 Historic Landmarks Commission an opportunity to respond, it 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 **December 23, 2013.**
 - 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:

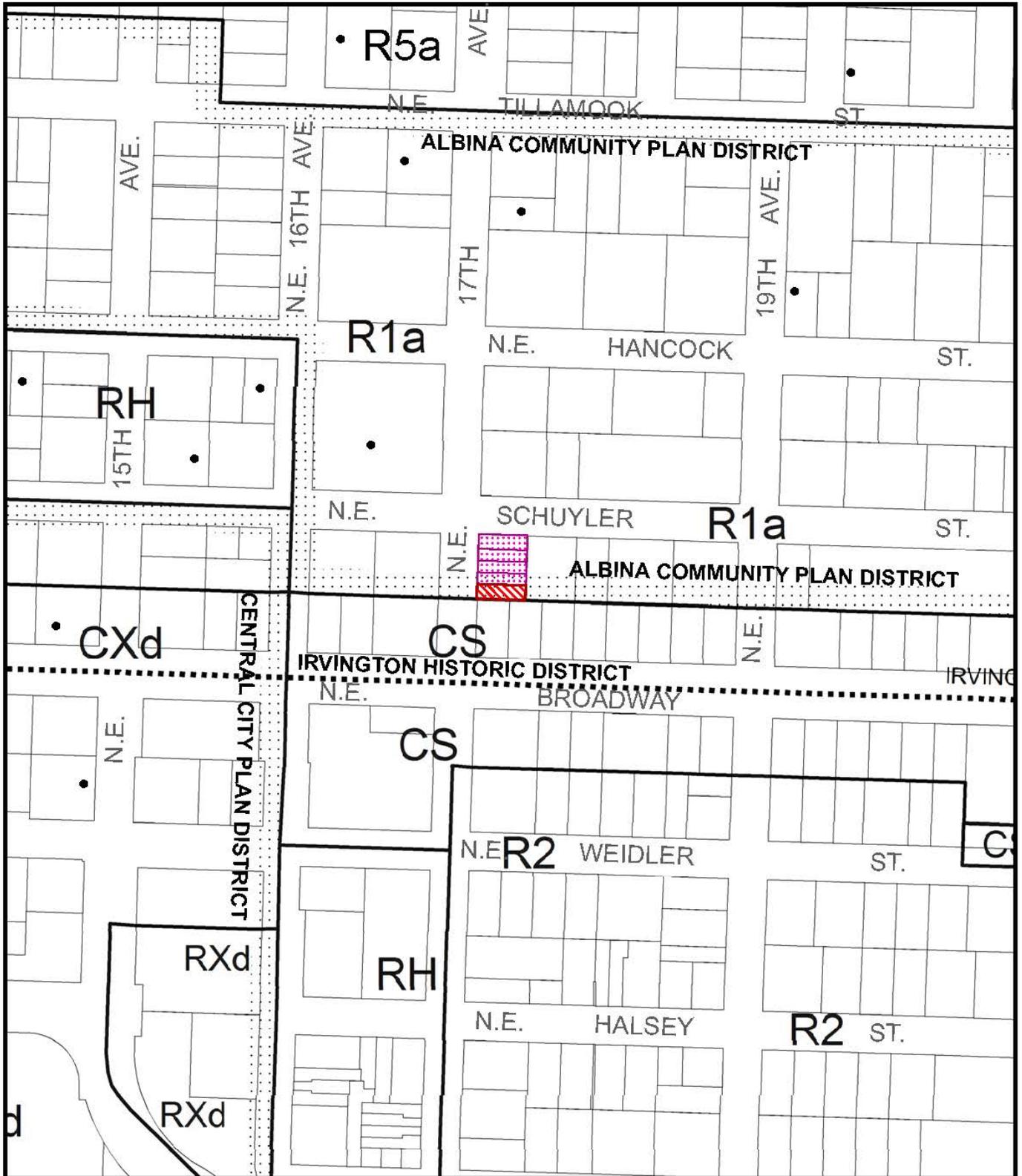
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement: none
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Approved West Elevation
 - 3. Approved South Elevation
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Review Section of BDS
- F. Correspondence: none

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

-  Site
-  Also Owned
-  Historic Landmark

This site lies within the:
IRVINGTON HISTORIC DISTRICT
ALBINA COMMUNITY PLAN DISTRICT



File No. LU 13-228093 HRM
 1/4 Section 2832
 Scale 1 inch = 200 feet
 State_Id 1N1E26DC 5505
 Exhibit B (Nov 15, 2013)

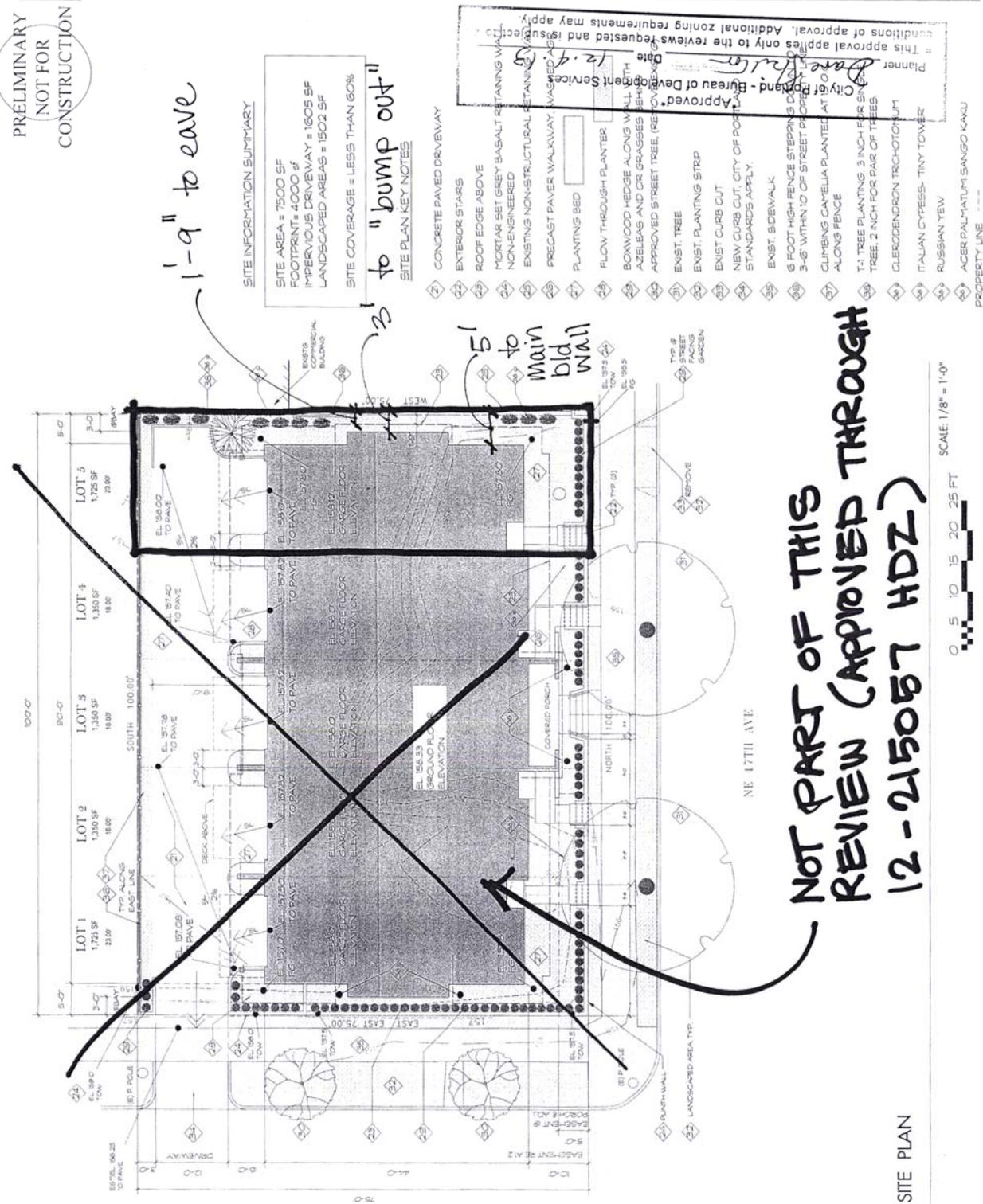
PRELIMINARY
NOT FOR
CONSTRUCTION



IRVINGTON ROW
PORTLAND, OREGON
DRAWING TITLE
SITE & LANDSCAPE PLAN

REV	DATE	DESCRIPTION
A	12 DEC 2012	ISSUE FOR HISTORIC DESIGN REVIEW
B	FEB 2013	ISSUE FOR HISTORIC DESIGN REVIEW

A1.1
DRAWING NUMBER
PR 12-40-16



LU 13.228093 HRM



SITE PLAN

1-1