Date: November 7, 2008
To: Interested Person
From: Dave Skilton, Land Use Services
503-823-0660 / dave.skilton@ci.portland.or.us

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 this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-166719 HDZ – REPLACEMENT WINDOWS AND SIDING

GENERAL INFORMATION

Applicant: Martin Muller, Owner
Ladd LLC
3909 NW Thurman Street
Portland, OR 97210

Representative: Mark Solon, Agent
Stellar Realty And Management
1503 SE Harrison Street
Portland, OR 97214

Site Address: 1940 SE 12th Avenue

Legal Description: Lot 21&24 Block 11, Ladds Addition
Tax Account No.: R463302340
State ID No.: 1S1E02CA 09200
Quarter Section: 3231

Neighborhood: Hosford-Abernethy, contact Kina Voelz at 971-207-9243.
Business District: Division-Clinton Business Association, contact Katherine Cosgrove at 503-234-8585.
District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.
Other Designations: Non-contributing resource, Ladd's Addition Historic District
Zoning: R1, Residential 1000

Case Type: HDZ, Historic Design Review
Procedure: Type II, an administrative decision with appeal to the Historic Landmarks Commission.
Proposal:
The applicant is seeking Historic Design Review for a proposal to replace all the windows and siding on a non-contributing apartment complex within the Ladd’s Addition Historic District. The building is non-contributing because it was built in 1960, outside the period of significance for the District. The existing windows are of an aluminum-framed, horizontal sliding design and the proposed replacements are wooden, vinyl-clad units in the same configuration. The existing siding is T1-11 plywood and the proposed replacement is horizontal 1”x4” tongue-and-groove half-beveled siding. The new siding will be installed over the existing. Historic Design Review is required because the property is within the Ladd’s Addition Historic District, which was listed in the National Register of Historic Places on August 31, 1988.

Relevant Approval Criteria:
In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The relevant criteria are:

- 33.846.060 Historic Design Review
- Ladd’s Addition Conservation District Guidelines

ANALYSIS

Site and Vicinity: The Ladd’s Addition Historic District, with its distinctive pattern of streets, alleys, and public gardens, is significant as an early example of planned suburban development related to the extension of streetcar lines east of the Willamette River in the late nineteenth and early twentieth centuries. The period of significance of the Ladd’s Addition Historic District is 1891-1939, and it was listed in the National Register of Historic Places on August 31, 1988.

The historic character of the neighborhood is one of small to medium-sized houses, set back consistently from tree-lined streets, with five public gardens incorporated into the distinctive layout of the subdivision at significant nodes. A few historic churches, small apartment buildings, and modest commercial properties, similar in character to the single-family housing, are sprinkled throughout the district. Denser traditional storefront commercial and apartment development is concentrated along SE Hawthorne, the northern boundary, and SE Division at the south. These were the streets that carried the original streetcar lines. The east side of SE 12th Avenue also includes a several small scale apartment buildings, both historic and, as in this case, non-historic.

Although addressed as if it faced west onto SE 12th Avenue, this two-story apartment building in reality focuses inward on a parking area embraced by the two wings of its L-shaped footprint. The building occupies the eastern and northern edges of the property, and has windowless concrete block shear walls facing both SE 12th and SE Harrison at the sidewalk edge. The parking area occupies the corner. While it is essentially intact in terms of its 1960 materials and International Style design, the building is counted as non-contributing because it postdates the period of significance, 1891 to 1939; and as incompatible because of the stark contrast of its style and materials with the historic character of the district.

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.

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 to all City of Portland Service Bureaus on October 14, 2008. None responded with concerns.
Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on October 14, 2008. One written response has been received from a notified individual in response to the proposal. Mr. Doug Klotz wrote, on October 30, 2008, to point out that the site plan provided in the notice does not accurately represent the relationship between the property and the right-of-way. It shows the property line at the inner sidewalk edge while, according to City records, the line is in fact two feet inside the sidewalk. Mr. Klotz notes further that the plantings along the SE Elliott Street side of the parking lot, which abut the sidewalk are therefore partially in the right-of-way, making the development technically out of conformance with parking lot screening requirements.

Staff Response: Staff contacted Mr. Klotz by e-mail and confirmed that his assessment is correct. The drawing error is noted on the approved site plan. Staff also checked all applicable permits to determine if upgrades to the nonconforming landscaping would be triggered by this proposal, but the value of the work proposed is below the cost threshold.

ZONING CODE APPROVAL CRITERIA

Chapter 33.846, Historic Reviews
Purpose of Historic Design Review
Historic Design Review ensures the conservation and enhancement of the special characteristics of historic resources.

Historic Design Review Approval Criteria
Requests for historic design 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 Ladd’s Addition Historic District. Therefore the proposal requires historic design review approval. The relevant approval criteria are the Ladd’s Addition Conservation District Design Guidelines for Exterior Rehabilitation.

Ladd’s Addition Conservation District Guidelines

The revised Ladd’s Addition guidelines were adopted in 1988, with both the Ladd’s Addition Conservation District Advisory Council and the Landmarks Commission and staff participating in their formulation. The basic intent of the guidelines is to ensure that new development in the district is compatible with the character and the architecture, which distinguish Ladd’s Addition. The guidelines document is organized around three general topic areas: community design, new construction, and exterior remodeling.

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

Exterior Rehabilitation Guidelines

3. Exterior Siding Material. Restoration and maintenance of original siding materials is encouraged. Materials used on additions should match or be compatible with the predominant materials used on the original structure. Most single family residences and duplexes in Ladd’s Addition feature stucco, horizontal wood siding, wood shingles, brick or a combination of these materials. Most commercial and multi-family structures feature stucco or brick. The following materials are discouraged: plywood, used brick, shakes, exposed concrete block, and metal.

6. Windows and Doors. Original windows and doors, including trim, should be retained or restored. If repair is not feasible, new windows or windows on additions should match or be compatible with original windows in form, materials, type, pattern and placement of openings. On residences, the removal of original wood sash windows and replacement with
aluminum sash is especially discouraged. Restoration of commercial storefront windows with large fixed glass panes below and smaller glass panes above is especially encouraged.

**Findings:** The use of two types of horizontal siding – stained, half-beveled, tongue-and-groove, wood siding facing the parking area, and lapped, painted, Hardi-Plank at the alley and side yard -- improves compatibility with the historic district by replacing an inappropriate texture, vertically-grooved T1-11 plywood, with a preferred one. The same is true for the replacement of aluminum sliding windows with bronze colored, vinyl-clad windows; the structural elements of the proposed windows have a thicker dimension, more characteristic of the historic district than the thin dimensions in the aluminum windows and the dark color helps the windows to recede visually. *These Guidelines are therefore 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 will make the subject property, a non-contributing and incompatible resource, more compatible with the character of the Ladd Addition Historic District. This will allow it to blend into its surroundings better. The proposal therefore merits approval.

**ADMINISTRATIVE DECISION**

Approval of replacement windows and new siding per the approved drawings, Exhibits C-1 through C-5, signed and November 5, 2008, 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 Exhibits C-1 through C-5. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-166719 HDZ . No field changes allowed."

Decision rendered by: ____________________________________________ on November 5, 2008.

By authority of the Director of the Bureau of Development Services

Decision mailed: November 7, 2008

Staff Planner: Dave Skilton

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 September 30, 2008, and was determined to be complete on October 10, 2008.

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 September 30, 2008.

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 November 21, 2008 at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., 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. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 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 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 550 Capitol St. NE, Suite 235, 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 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 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 **November 24, 2008 – (the first business 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**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 Statements
   1. Proposal justification
   2. Hold Harmless Agreement
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Site Plan and South Elevation (attached)
   2. West, North, and East Elevations (attached)
   3. Window details
   4. Window section details
   5. Wood siding detail
D. Notification information:
   1. Mailing list
   2. Mailed notice
E. Agency Responses: None
F. Correspondence:
   1. Doug Klotz, October 31, 2008, noting a drawing error that inaccurately shows property lines at the inner edge of sidewalk.
G. Other:
   1. Original LU Application
   2. Site History Research
   3. Case Communication Log

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).
PLANNER NOTE: SITE PLAN INACCURATELY SHOWS PROPERTY LINE AT BACK OF SIDEWALK. IT IS 2' BEHIND BACK OF SIDEWALK.

*Approved*
City of Portland
Bureau of Development Services
Planner [Signature]
Date 11.5.8

* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.