



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

Dan Saltzman, Commissioner  
Paul L. Scarlett, Director  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** July 20, 2012  
**To:** Interested Person  
**From:** Tim Heron, Land Use Services  
503-823-7726 / [Tim.Heron@portlandoregon.gov](mailto:Tim.Heron@portlandoregon.gov)

## **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 11-200573 HDZ – NEW DECK AND RAILING**

#### **GENERAL INFORMATION**

**Applicant:** Mike Montgomery  
5531 SW Buddington St  
Portland, OR 97219

Stevan Allred  
22625 S Stormer Rd  
Estacada, OR 97023

**Site Address:** 2341 NW EVERETT ST

**Legal Description:** BLOCK 6 LOT 10, MEADS ADD  
**Tax Account No.:** R556500610  
**State ID No.:** 1N1E33CB 02800  
**Quarter Section:** 3027

**Neighborhood:** Northwest District, contact John Bradley at 503-313-7574.  
**Business District:** Nob Hill, contact Patricia Fielder at 503-407-6163.  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

**Plan District:** Northwest District Plan  
**Other Designations:** Primary Contributing resource in the Alphabet Historic District, listed in the National Register November 16, 2000.  
**Zoning:** RH – High Density Residential with Historic Resource Protection overlay

**Case Type:** HDZ – Historic Design Review  
**Procedure:** Type II, an administrative decision with appeal to the Historic Landmarks Commission.

**Proposal:**

The applicant proposes to correct a violation of Section 33.445.320 of the City of Portland Zoning Code for the construction of a deck and fence without Historic Design Review. The applicant proposes to:

- remove the existing front yard deck and fence and the fence on the East side of the house;
- replace the East fence with a continuous 36” high open-rail balustrade in the same location to serve as a guardrail from the driveway below;
- reduce the width of the existing stair to the main entrance on the East façade, with same open-rail balustrade on either side of the stair at the top of the landing; and
- construct a wooden deck with no railing, no more than 30” above grade.

Construction of the new open-rail balustrade and guard rail requires Historic Design Review because it is a non-exempt alteration to a Contributing resource in the Alphabet Historic District. Construction of the wooden deck 30” above grade does not require a building permit and therefore is not subject to Historic Design Review; it is included here for informational purposes only.

**Relevant Approval Criteria:**

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

- Community Design Guidelines
- Historic Alphabet District: Community Design Guidelines Addendum

**ANALYSIS**

**Site and Vicinity:** The subject property, known as the George A. Marshall House, was built in 1904 in the Colonial Revival style and is a Primary Contributing resource in the Historic Alphabet District. George A. Marshall was a dentist and one of five children of Sarah E. Davis and John Marshall, a riverboat captain, for whom Marshall Street is named. The building has had some alterations since its original construction and has since been divided into three separate apartments. The house has frontage on NW Everett Street but is oriented East on a raised plinth. It shares a common driveway with the house to the East at 2337 NW Everett, with steps leading from the sidewalk to the front door several feet above the driveway. Currently, a deteriorating tall wooden slat fence runs along the East side of the house at the edge of the steps and wooden deck, blocking the view of the house from the driveway. A newly constructed 53” solid fence is located at the South end of the building surrounding a newly constructed wooden deck, approximately 4’-6” above grade.

The Historic Alphabet District is located at the base of the West Hills, roughly bounded by W Burnside Street to the South, NW 17<sup>th</sup> Avenue to the East, NW Marshall Street to the North and NW 24<sup>th</sup> Avenue to the West. The district is predominantly residential in character but also has two main commercial corridors along NW 21<sup>st</sup> and NW 23<sup>rd</sup> Avenues, as well as institutional properties. Originally platted as a residential district for the upper class, the Lewis and Clark Exposition of 1905 prompted the construction of several apartment buildings by notable Portland architects. The neighborhood is still one of the city’s more densely populated historic neighborhoods.

**Zoning:** The multi-dwelling zones, including RH, are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing. The RH zone is a high density multi-dwelling zone. Density is not regulated by a maximum number of units per acre. Rather, the maximum size of buildings and intensity of use is regulated by floor area ratio (FAR) limits and other site development standards. Generally the density will range from 80 to 125 units per acre. Allowed housing is characterized by medium to high height and a relatively high percentage of building coverage. The major types of new housing development will be low,

medium, and high-rise apartments and condominiums. Generally, RH zones will be well served by transit facilities or be near areas with supportive commercial services.

The Historic Resource Protection chapter 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.

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

- LUR 79-003614 CU (reference file # CU 103-79): Approval, with conditions, of conditional use for an office in an AO zone.
- LUR 80-037143 VZ (reference file # VZ 479-80): Approval to reduce the number of off-street parking spaces from the required 3 spaces to 1, as part of the building’s conversion from single-family dwelling to a triplex.

**Public Notice:** A “Notice of Proposal in Your Neighborhood” was mailed **June 22, 2012**.

**Agency Review:** The following notified Bureau responded with issues or concerns:

- The Life Safety Division of BDS indicated that the applicant will be required to provide a site plan showing the dimensioned distance from the deck to the interior lot line to be greater than 3’-0”.

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

## ZONING CODE APPROVAL CRITERIA

### Chapter 33.846.060 - Historic Design Review

#### **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 Alphabet Historic District and the proposal is for a non-exempt treatment. Therefore Historic Design Review approval is required. The approval criteria are the *Community Design Guidelines* and the *Historic Alphabet District Community Design Guidelines Addendum*.

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

### Historic Alphabet District - Community Design Guidelines Addendum

**1. Historic Changes.** Most properties change over time; those changes that have acquired historic significance will be preserved.

**Findings:** The proposal includes the removal of two non-historic tall fences and an approximately 54” deck and their replacement with a 36” high open balustrade along the East side of the house. No other changes to the historic resource are proposed. *This guideline is therefore met.*

**2. Differentiate New from Old.** New additions, exterior alterations, or related new construction will retain historic materials that characterize a property to the extent practicable. Replacement materials should be reasonable facsimiles of the historic materials they replace. The design of new construction will be compatible with the historic qualities of the district as identified in the Historic Context Statement.

**3. 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. New development will seek to incorporate design themes characteristic of similar buildings in the Historic Alphabet District.

**Findings:** No historic materials are proposed to be removed or replaced. The existing newly constructed solid fence and deteriorating slat fence, which block the historic resource from view and are incompatible with the historic character of the subject property and the district will be removed. The proposed railing at the new stair and along the East side of the porch and deck will be an open-balustrade guardrail, much more in keeping with the character of the historic district where a number of other contributing resources also have open balustrade railings. The proposed open-balustrade railing along the East and openness at the South of the property will significantly improve the view of this historic resource from the public right-of-way. *These guidelines are therefore met.*

### **Community Design Guidelines**

**P2. Historic and Conservation Districts.** Enhance the identity of historic and conservation districts by incorporating site and building design features that reinforce the area's historic significance. Near historic and conservation districts, use such features to reinforce and complement the historic areas.

**Findings:** The proposed open-balustrade railing will enhance the identity of this primary contributing resource in the district, unmasking it from its current condition where the existing fence obscures the historic character of the building. Removal of the existing fence and its replacement with an open deck and open balustrade will strengthen the historic character of the district as a whole. *This guideline is therefore met.*

**D6. Architectural Integrity.** Respect the original character of buildings when making modifications that affect the exterior. Make additions compatible in scale, color, details, material proportion, and character with the existing building.

**Findings:** The new open balustrade railing on the East side of the building is proposed to be 36" high and constructed of wood, which is in keeping with the historic character of the building. The removal of the solid wood fence and deteriorating slat fence will significantly improve the current condition, which is not in keeping with the historic character of the building. *This guideline is therefore met.*

**D7. Blending into the Neighborhood.** Reduce the impact of new development on established neighborhoods by incorporating elements of nearby, quality buildings such as building details, massing, proportions, and materials.

**Findings:** Though information relating to the existence of an original guardrail along the East side of the building has not been found, the proposed open-balustrade takes cues from other guardrails in the immediate vicinity, vis-à-vis material and massing, and provides both fall protection and a view to the historic resource from the public right-of-way. *This guideline is therefore met.*

**D8. Interest, Quality, and Composition.** All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.

**Findings:** The proposed open-balustrade railing and openness at the South end of the property will provide additional opportunities to view the historic resource. The proposal is intentional in its design and will provide additional interest between the public and private realm as it is utilized by the occupants of the building. *This guideline is 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 purpose of the Historic Design Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. The proposal, to replace the deteriorating slat fence and the newly-constructed solid wood fence with an open-balustrade railing, will enhance the presence of the historic resource in the district by providing a better view to the resource from the public right-of-way. The proposal is in keeping with the character of the resource and the district and meets the applicable Historic Design Review guidelines and therefore warrants approval.

## ADMINISTRATIVE DECISION

Approval of removal of existing fencing at the South and East of the building and replacement with a new wooden open-balustrade railing, per the approved site plans, Exhibits C-1 through C-3, signed and dated July 18, 2012, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) 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 11-200573 HDZ." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

**Staff Planner: Tim Heron**



**Decision rendered by:** \_\_\_\_\_ **on July 18, 2012.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: July 20, 2012**

**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 December 13, 2011, and was determined to be complete on June 8, 2012.

*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 December 13, 2011.

*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 August 3, 2012** 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](http://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 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 Historic 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 **August 6, 2012 – (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.

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**

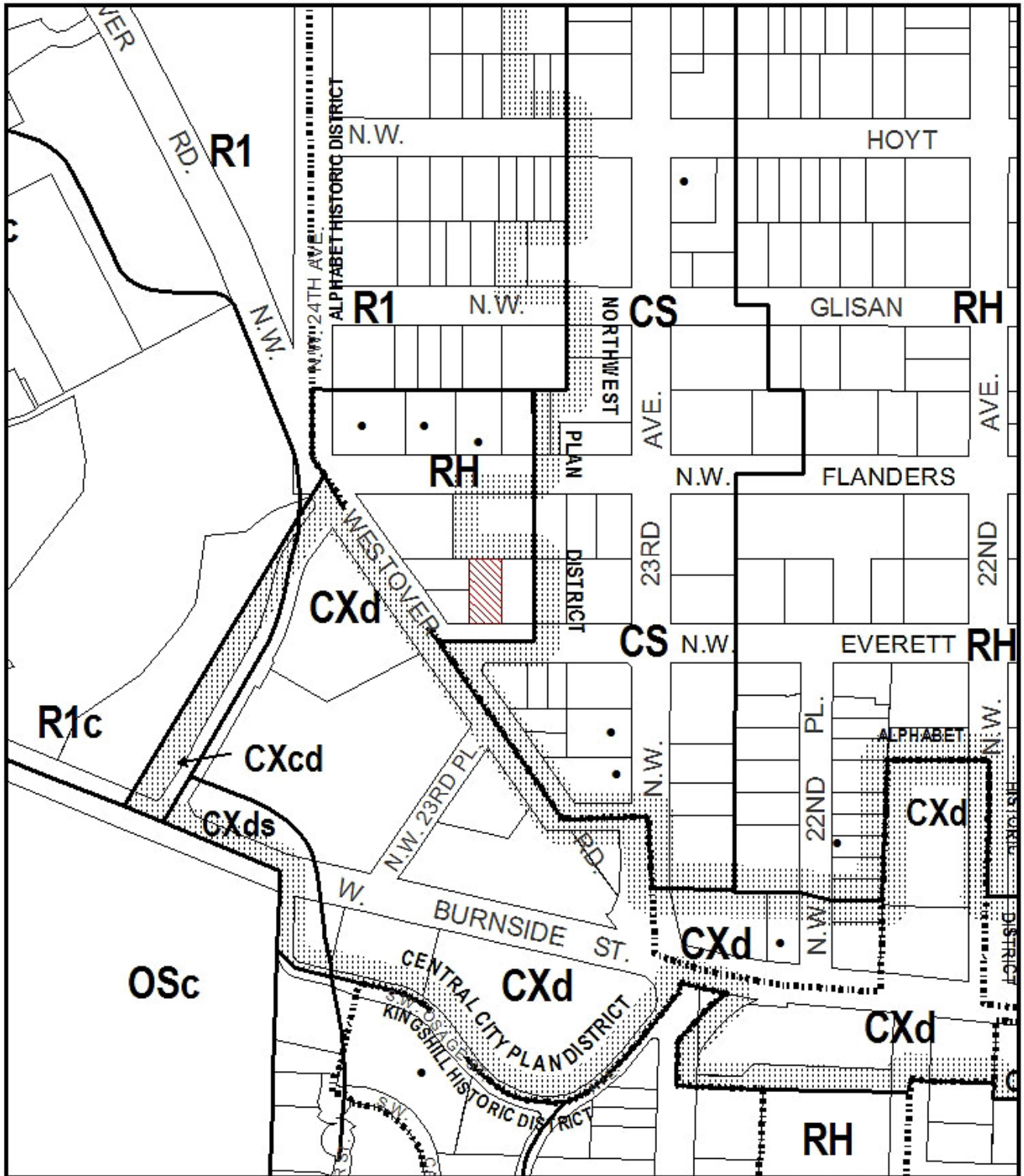
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)

- C. Plans/Drawings:
  - 1. Deck and Stairs Floor Plan (attached)
  - 2. Right Elevation (East) (attached)
  - 3. Front Elevation (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Life Safety Division of BDS
  - 2. Water Bureau
- F. Correspondence: none
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. National Register listing
  - 4. Incomplete Letter

**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



Historic Landmark



This site lies within the:  
ALPHABET HISTORIC DISTRICT

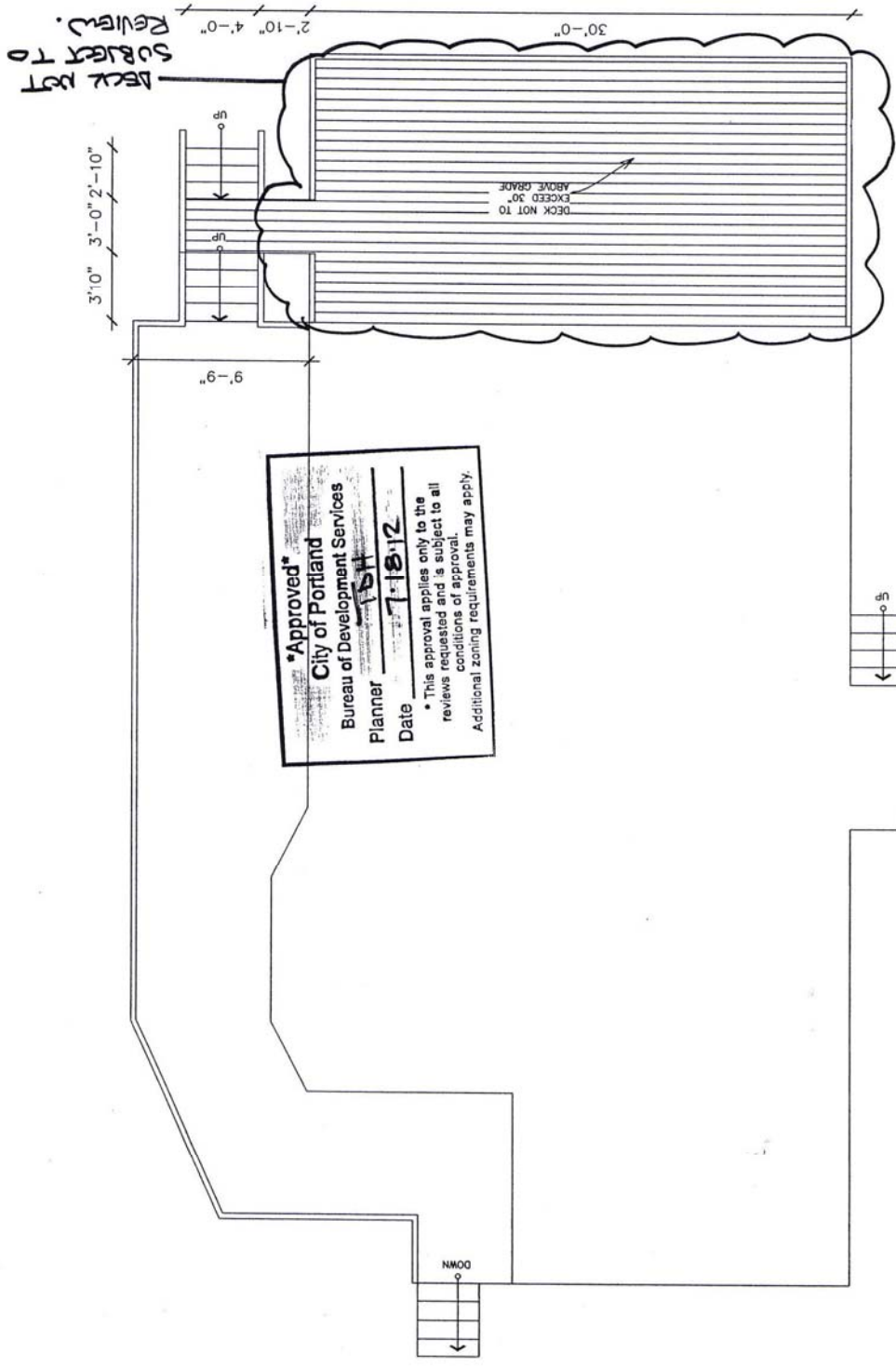
File No.	LU 11-200573 HDZ
1/4 Section	3027
Scale	1 inch = 200 feet
State_Id	1N1E33CB 2800
Exhibit	B (Dec 20, 2011)

Permit Management Site Plans Remodels Custom Plans 1429 SW Mitchell St Portland OR 97239 503.515.6955 OFFICE mlkewmontgomery@gmail.com	Drawing & Design 503.515.6955 OFFICE mlkewmontgomery@gmail.com
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**LU 11-200573 HDZ**  
**2341 NW EVERETT ST.**  
**PORTLAND OR**

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<b>FLOOR PLAN(S)</b>	
DATE 12/29/12 SCALE 1/4" = 1'-0" DRAWN [blank] CHECKED [blank]	PROJ. NO [blank] SHEET NO [blank] OF [blank]
<b>FP</b>	
3 of 4	



**DECK AND STAIRS FLOOR PLAN**  
 NTS

Permit Management Site Plans Remodels Kitchen Plans 1420 SW Market St Portland OR 97239	Drafting & Design 502.515.6455 OFFICE 502.515.6455 RESIDENT
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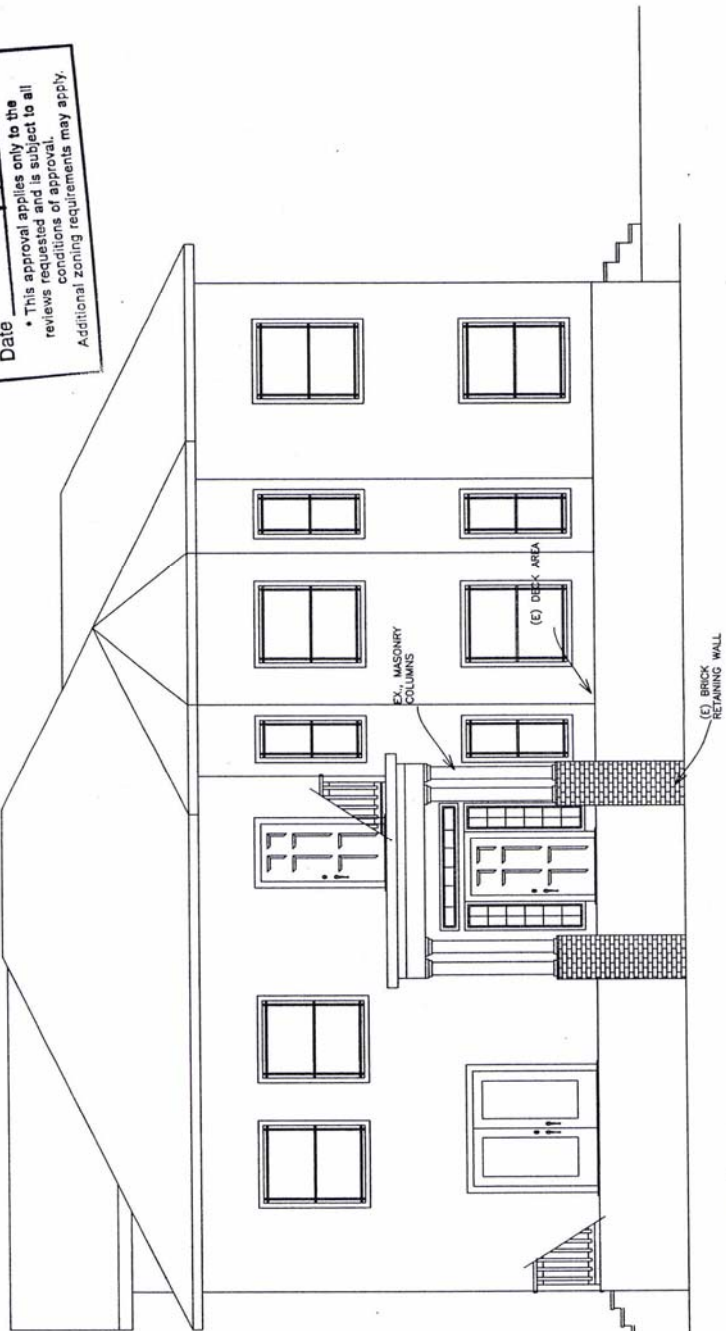
**LU 11-200573 HDZ**  
**2341 NW EVERETT ST.**  
**PORTLAND OR**

ELEVATION PLAN(S)	
DATE: 12/26/12	PROJ. NO:
SCALE: 1/4" = 1'-0"	DRAWN: mm
DESIGNED: mm	DATE: 12/26/12

EP  
1 of 3

**\*Approved\***  
**City of Portland**  
**Bureau of Development Services**  
**Planner**  
**Date: 1.18.12**

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



RIGHT ELEVATION (EAST)

NTS

REPLACEMENT HANDRAIL  
 DECK NOT TO EXCEED 30" ABOVE GRADE

DECK NOT SUBJECT TO REVIEW  
 (NO BUILDING PERMIT REQ'D  
 30" ABOVE GRADE)

Permit Management  
 Site Plans  
 Custom Plans  
 1429 SW MICHIGAN ST  
 PORTLAND OR 97239  
 503.515.6495 OFFICE  
 mlk@monogometry.com

LU 11-200573 HDZ  
 2341 NW EVERETT ST.  
 PORTLAND OR

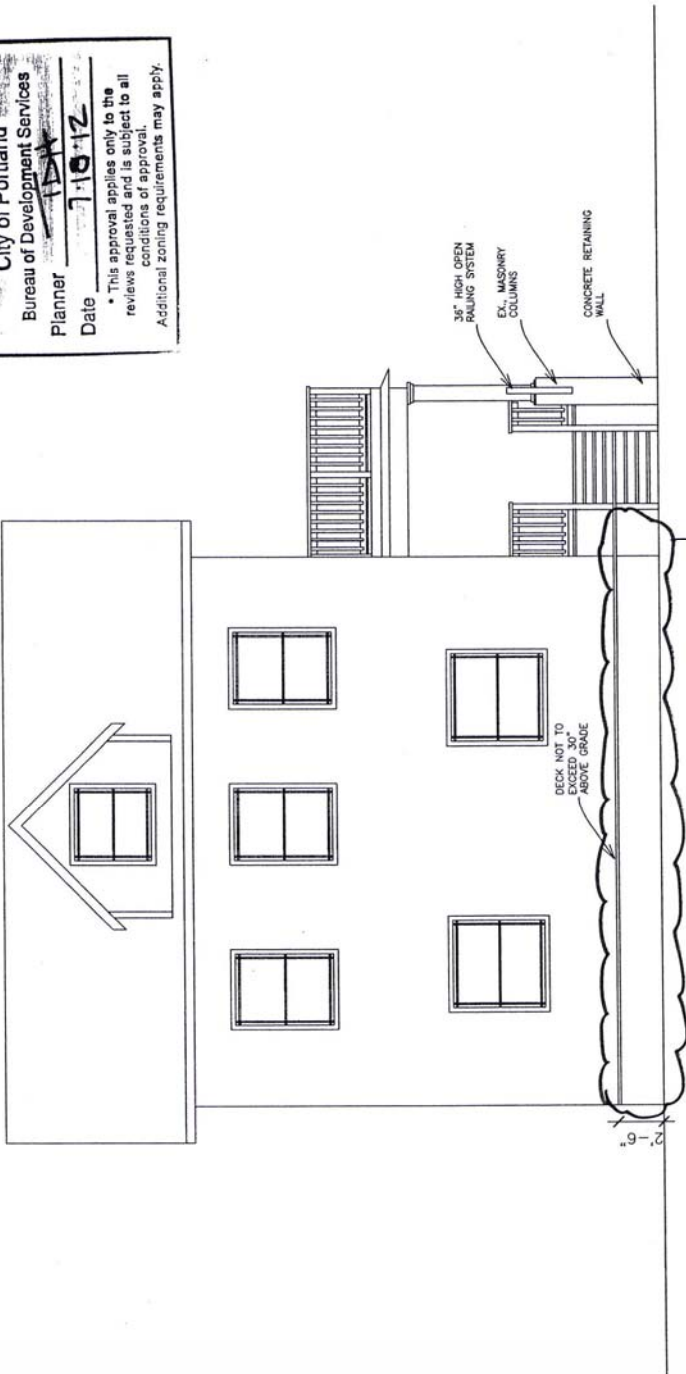
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ELEVATION  
 PLAN(S)

DATE	12/28/12
SCALE	1/4" = 1'-0"
PROJ. NO.	99
DRAWN	mm
CHECKED	js

EPI  
 2 of 3

**\*Approved\***  
 City of Portland  
 Bureau of Development Services  
 Planner  
 Date 7-16-12  
 \* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



**DECK NOT SUBJECT TO REVIEW (NO BUILDING PERMIT REQUIRED, 30" ABOVE GRADE)**

3  
 23