



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner  
Paul L. Scarlett, Director  
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Fax: (503) 823-5630  
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[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** February 20, 2014  
**To:** Interested Person  
**From:** Dave Skilton, Land Use Services 503-823-0660  
dave.skilton@portlandoregon.gov

**NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has a approved 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 13-184191 HR - ACCESSORY DWELLING UNIT**

**GENERAL INFORMATION**

**Applicant:** Grant Garner  
527 NE Monroe Street / Portland, OR 97212-3155

**Owners;** Frederic Hardy, et al  
PO Box 12506 / Portland, OR 97212  
  
Michelle and Grant Garner  
PO Box 12506 / Portland, OR 97212

**Site Address:** 3137 NE 11<sup>th</sup> Avenue

**Legal Description:** BLOCK 97 LOT 7, IRVINGTON **Tax Account No.:** R420421890  
**State ID No.:** 1N1E26BA 09000 **Quarter Section:**2731  
**Neighborhood:** Irvington, contact Dean Gisvold at 503-284-3885.  
**Business District:** North-Northeast Business Assoc, Joice Taylor at 503-445-1321.  
**District Coalition:** NE Coalition of Neighborhoods, Claire Adamsick at 503-388-9030.  
**Other Designations:** Contributing Resource in the Irvington Historic District which was listed in the National Register of Historic Places on October 22, 2010.

**Zoning:** R5, Single Dwelling Residential 5000, with Historic Resource Overlay  
**Case Type:** HR, Historic Resource Review  
**Procedure:** Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

**Proposal:**

The applicant is seeking Historic Resource Review approval for a proposal to demolish an attached garage and construct a new 468 square foot accessory dwelling unit in the rear yard of the subject property. The new building will include smooth lapped siding, fiberglass windows, composition shingle roofing and painted wood trims. Historic Resource Review is required because the proposal is for non-exempt new construction in a historic district.

**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 Portland City Code). The approval criteria are:

- 33.846.060 G – Other Approval Criteria

**ANALYSIS**

**Site and Vicinity:** The subject resource is a single story house, described as a WWII Era Cottage in the National Register documentation for the Irvington Historic District. The house was built in 1942, within the period of significance, and is evaluated as contributing to the character of the district in spite of being clad with vinyl siding.

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 facing side streets on corner lots and accessed by a variety of driveway types on mid-block sites. Garages that were added within the historic period, were sometimes built at the sidewalk and/or out of architectural character with the house.

**Zoning:** The single-dwelling zones, including R5, are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing.

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.

**Land Use History:** City records indicate no prior land use reviews for this site:

**Public Notice:** A "Notice of Proposal in Your Neighborhood" was mailed January 14, 2014, and a revised notice was mailed on January 21, 2014.

**Agency Review:** None of the notified Bureaus has responded with issues or concerns.

**Neighborhood Review:** Two written response has been received from either the Neighborhood Association or notified property owners in response to the proposal.

- Dean Gisvold, on behalf of the Irvington Community Association, wrote on February 4, 2014, expressing concern about the proposed fiberglass window material and that the window sashes on the proposed accessory dwelling unit are not divided horizontally into two panes as those on the primary structure are.

- Sarann Beson wrote on February 5, 2014 also objecting to the sash type proposed, and to the small size of the proposed accessory dwelling unit.

**Staff Response:** The provisions of 33.205 Accessory Dwelling Units include a requirement that the windows "match those in the house, attached house, or manufactured home in proportion (relationship of width to height) and orientation (horizontal or vertical)." As architectural terminology the word "proportion" is generally understood to refer to approximate relationships rather than exact mathematical ratios. The provision is also ambiguous because the primary structure can, and in this case does, have windows of various proportions. When code language is unclear reference to the purpose statement at the beginning of the section can often lend clarity, and in this case the relevant purpose is to "ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones." In this case the desired character is retention of historic character and, when new elements are added, compatibility and subordination. See the findings below for further discussion.

## 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 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

**7. Differentiate new from old.** New additions, exterior alterations, or related new construction will not destroy historic materials that characterize a property. New work will be differentiated from the old.

**8. Architectural compatibility.** New additions, exterior alterations, or related new construction will be compatible with the resource's massing, size, scale, and architectural features. When retrofitting buildings or sites to improve accessibility for persons with disabilities, design solutions will not compromise the architectural integrity of the historic resource.

**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 for 7, 8, and 10:** The proposed new accessory dwelling unit is small, and while it takes design cues including overall size, roof pitch and type, and siding style from the primary structure, it is subtly differentiated by the use of a slightly different window type, one-over-one double hung units as opposed to the two-over-two units on the house. The proposed windows have the same general proportions and orientation as the various window types on the primary structure. The constituent elements of the windows, while made of fiberglass, have a scale and dimensions similar to traditional wood windows and the proposal is to install them within the

wall depth rather than at the surface as current building practice would dictate. The siding, a smooth, painted composite board material is very similar in exposure and appearance to the siding on the primary structure. These elements help the proposal to achieve the desired balance between compatibility and differentiation. Compatibility with the historic district is further bolstered by the fact that the new structure will be difficult to see from the public right-of-way due to its small size and obscured location behind the larger existing house. *These criteria 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 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 therefore warrants approval.

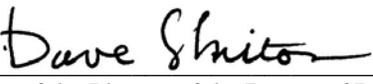
## **ADMINISTRATIVE DECISION**

Approval of a new accessory dwelling unit, on the site of a contributing resource, in the Irvington Historic District;

Approval is per Exhibits C-1 through C-5, signed and dated February 6, 2014, 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 13-184191 HR."

**Staff Planner: Dave Skilton**

**Decision rendered by:**  **on February 6, 2014.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: February 20, 2014**

**Procedural Information.** The application for this land use review was submitted on July 24, 2013, and was determined to be complete on January 10, 2014.

*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 July 24, 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.

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further 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).

**Recording the final decision.**

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder. A building or zoning permit will be issued only after the final decision is recorded. The final decision may be recorded on or after **February 21, 2014**.

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:

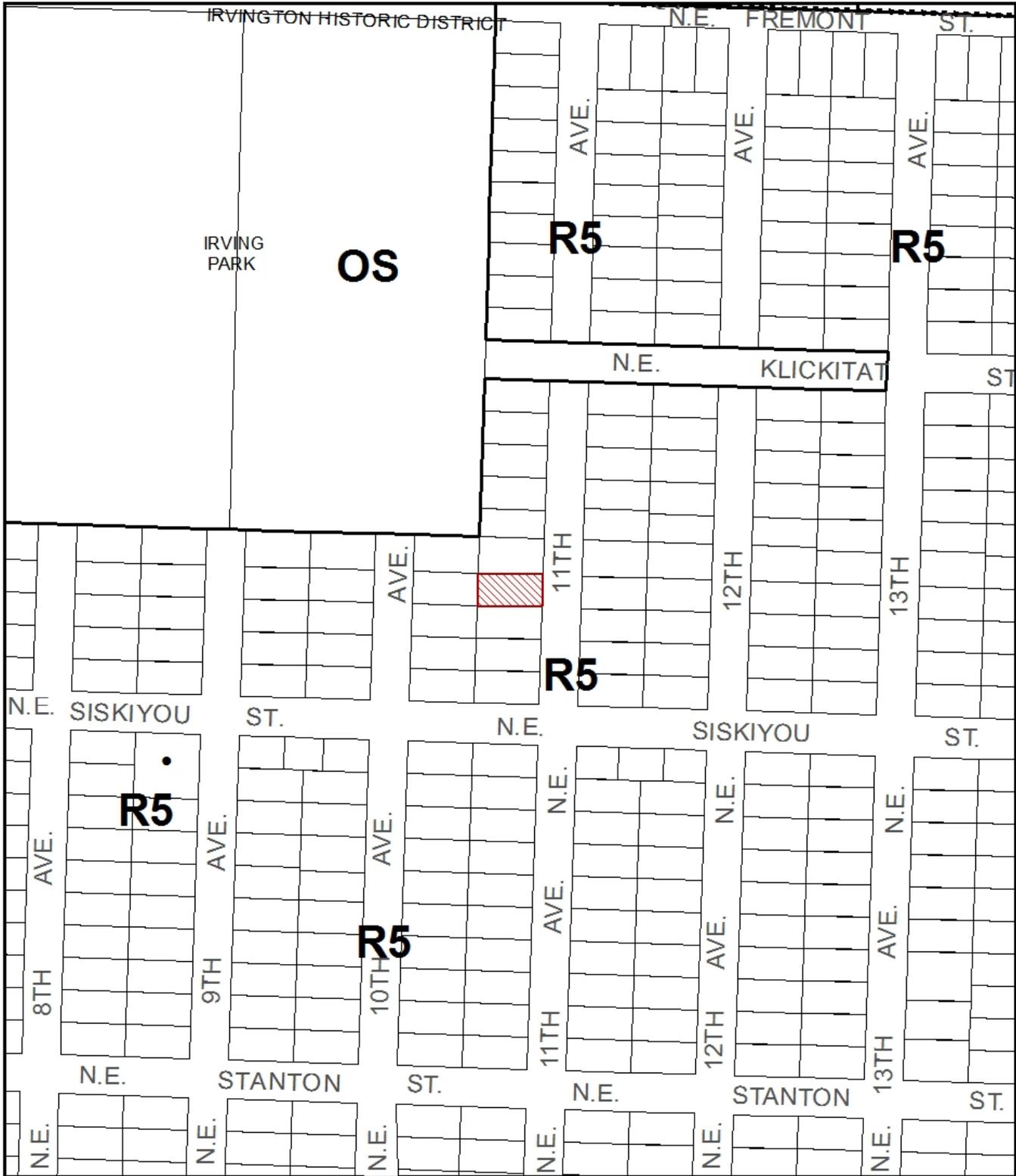
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Existing House and Proposed ADU Elevations
  - 3. Existing House and Proposed ADU Elevations
  - 4. Proposed ADU Elevations and Window Section (attached)
  - 5. Window Information
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
  - 3. Revised mailing list
  - 4. Revised mailed notice
- E. Agency Responses: none
- F. Correspondence:
  - 1. Dean Gisvold, on behalf of the Irvington Community Association, wrote on January 4, 2014, expressing concern that the window sashes on the proposed accessory dwelling unit are not divided horizontally into two panes as those on the primary structure are.
  - 2. Sarann Beson wrote on February 5, 2014 also objecting to the sash type proposed and to the small size of the proposed accessory dwelling unit.
- G. Other:
  - 1. Original LU Application

**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



NORTH

This site lies within the:  
IRVINGTON HISTORIC DISTRICT

File No.	LU 13-184191 HR
1/4 Section	2731
Scale	1 inch = 200 feet
State_Id	1N1E26BA 9000
Exhibit	B (Jul 25, 2013)

**Designer:** Grant Gomer  
Hardy Gomer Papp, Inc.  
PO Box 5733  
Portland, OR 97232  
(503) 515-3842

**Engineer:** Scott Bowman  
Angie Design  
30421 NE Hurst Rd.  
Tualo, OR 97060  
(503) 695-5951

**PROJECT:**

**HISTORIC DESIGN REVIEW IRVINGTON**

ADU for 3137 NE 11th Ave.  
City of Portland - Bureau of Development Services  
Date: 2.6.17  
Planner: Dave Miller

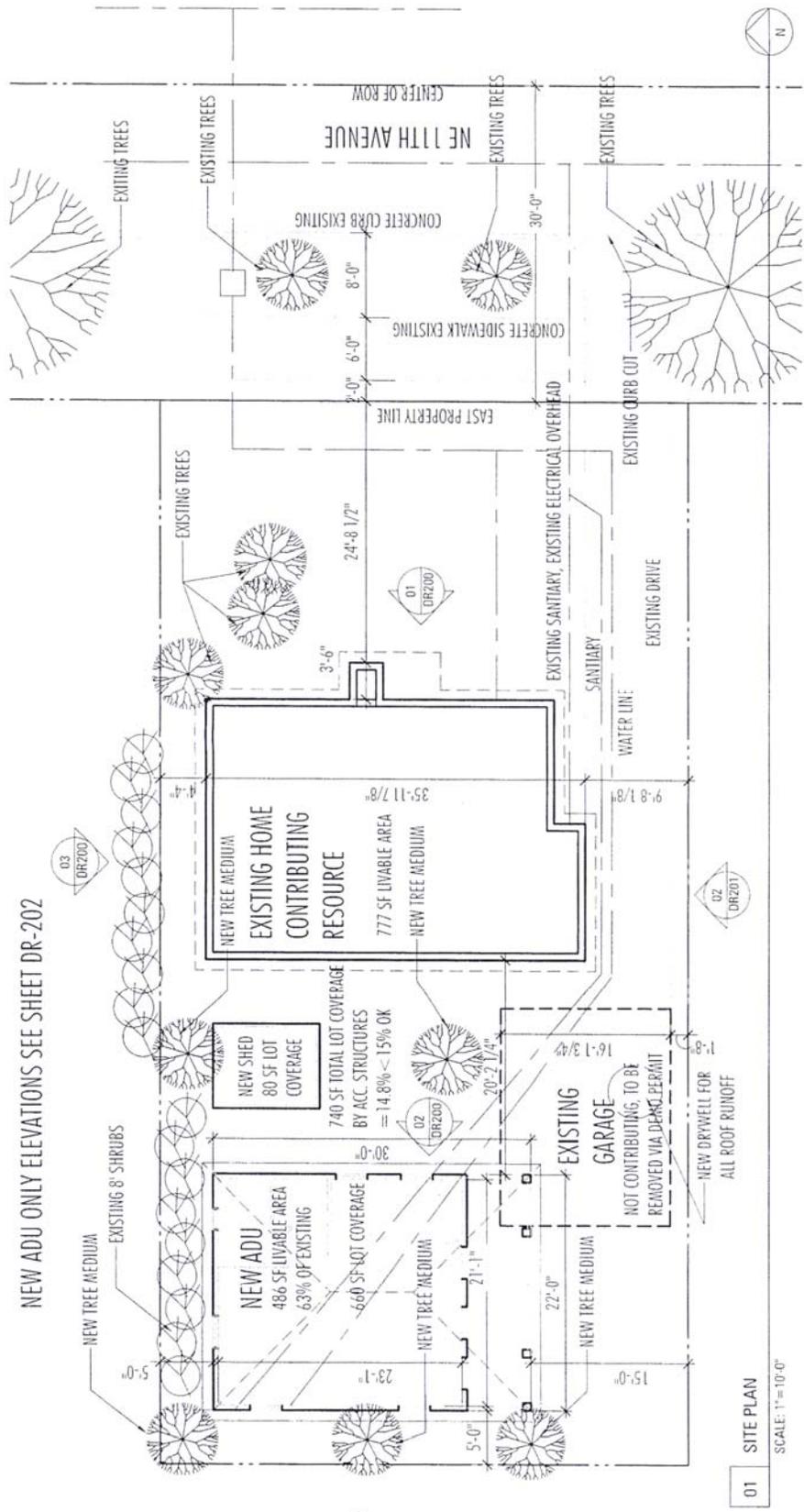
\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

**DRIVING:**

**DATE:** 07-24-13  
**SHEET:**

**SITE PLAN**

**DR-100**



**02 VICINITY MAP**  
NOT TO SCALE

1241	1242	1243	1244	1245	1246	1247	1248	1249	1250
1251	1252	1253	1254	1255	1256	1257	1258	1259	1260
1261	1262	1263	1264	1265	1266	1267	1268	1269	1270
1271	1272	1273	1274	1275	1276	1277	1278	1279	1280
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1291	1292	1293	1294	1295	1296	1297	1298	1299	1300
1301	1302	1303	1304	1305	1306	1307	1308	1309	1310
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1321	1322	1323	1324	1325	1326	1327	1328	1329	1330
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1471	1472	1473	1474	1475	1476	1477	1478	1479	1480
1481	1482	1483	1484	1485	1486	1487	1488	1489	1490
1491	1492	1493	1494	1495	1496	1497	1498	1499	1500

NEW ADU ONLY ELEVATIONS SEE SHEET DR-202

**01 SITE PLAN**  
SCALE: 1" = 10'-0"

2-1

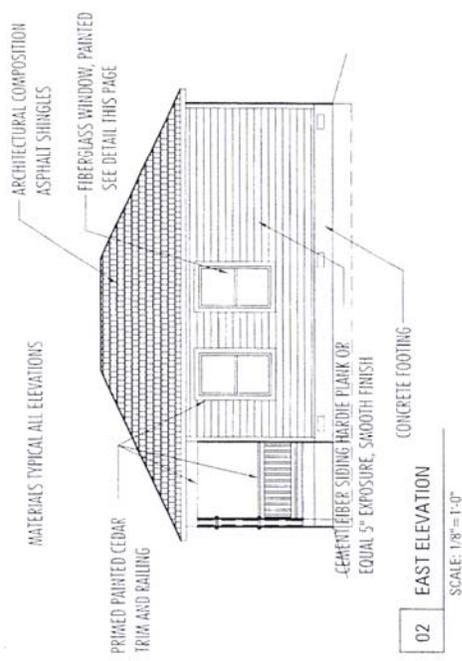
**Designer:** Grant Garner  
 Heery Geomer Plog, Inc.  
 PO Box 5733  
 Portland OR 97232  
 (503) 515-8842  
**Engineer:** Scott Bowman  
 Argle Design  
 30421 NE Hill Rd.  
 Tualuma, OR 97060  
 (503) 655-5551

PROJECT:

HISTORIC DESIGN REVIEW IRVINGTON

Approved  
 City of Portland - Bureau of Development Services  
 ADU for 3137 NE 11th Ave, Portland, OR  
 Date: 2-6-14  
 Planner: [Signature]  
 This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

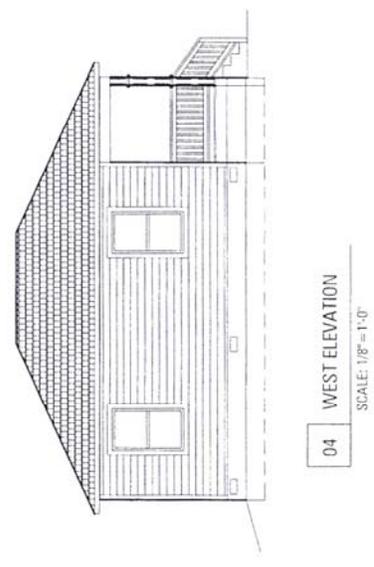
DRAWN BY:  
 DATE: 07-24-13  
 SHEET: ELEVATIONS  
 DR-202



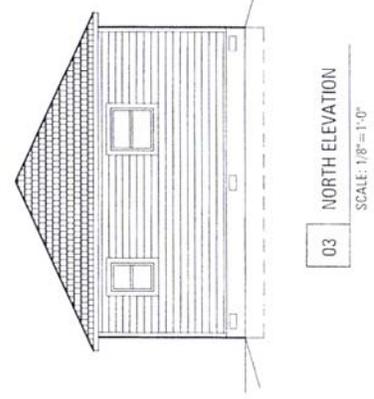
02 EAST ELEVATION  
SCALE: 1/8"=1'-0"



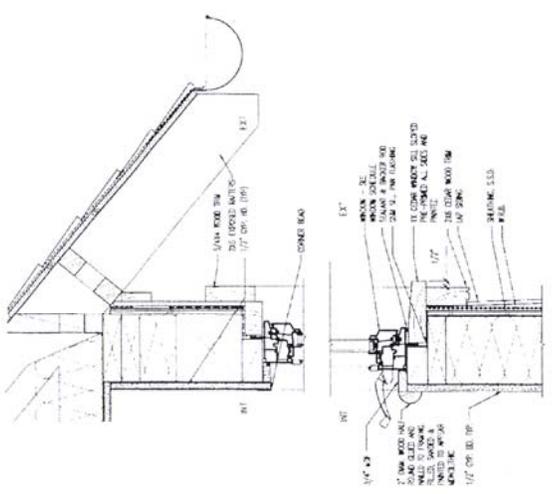
01 SOUTH ELEVATION  
SCALE: 1/8"=1'-0"



04 WEST ELEVATION  
SCALE: 1/8"=1'-0"



03 NORTH ELEVATION  
SCALE: 1/8"=1'-0"



05 FIBERGLASS RECESSED WINDOW DETAIL TYPICAL  
R.I.T.S.