



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

Chloe Eudaly, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: February 27, 2017
To: Interested Person
From: Marguerite Feuersanger, Land Use Services
503-823-7619 / Marguerite.Feuersanger@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 mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

**CASE FILE NUMBER: LU 16-288173 HR –
EXTERIOR ALTERATIONS**

GENERAL INFORMATION

Applicant: Keyan Mizani
eMZed Architecture LLC
3302 SE Salmon Street
Portland, OR 97214

Owners: David A and Stephanie L Gioia
3116 NE 12th Avenue
Portland, OR 97212-2241

Site Address: 3116 NE 12TH AVE

Legal Description: BLOCK 83 LOT 12, IRVINGTON
Tax Account No.: R420417320
State ID No.: 1N1E26BA 12500
Quarter Section: 2731

Neighborhood: Sabin Community Assoc., contact Rachel Lee at 503-964-8417.
Irvington, contact Dean Gisvold at 503-284-3885.

Business District: North-Northeast Business Assoc, contact at chair@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Zena Rockowitz at 503-388-5070.

Zoning: R5, Single Dwelling Residential 5,000 Zone.
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 proposes the following changes to the existing house:

- South (side) elevation: remove one window; replace two windows with three new windows.
- East (rear) elevation: replace three dormer windows.
- Remove existing service chimney.

All new windows will be Marvin traditional wood double-hung windows. New trim and horizontal lap wood siding will be added where necessary for repairs and will match the existing materials of the house. Building elevations attached to this notice depict the proposed alterations. Historic Resource Review is required because the proposal is for non-exempt exterior alterations on a contributing resource in an historic district.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria specified in the Portland Zoning Code. The relevant approval criteria are:

- 33.846.060 G Other Approval Criteria

ANALYSIS

Site and Vicinity: The 5,000 square-foot site is located on the east side of NE 12th Avenue, between NE Siskiyou and NE Klickitat Streets. A single-dwelling home and a detached garage are located on the site. The house style is a 1-1/2 story bungalow, built around 1926. Both the house and detached garage are identified as Contributing Resources in the Irvington Historic District.

Established 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 a 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 Residential 5,000 (R5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are one household unit per 5,000 square feet of site area. The current use is allowed by right.

The Historic Resource Protection overlay is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks and 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 there are no prior land use reviews for this site.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **January 27, 2017**. A total of two written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal:

- Dean Gisvold of Irvington Community Association wrote in support of the proposal but asked why the rear dormer windows needed to be replaced. The applicant responded and provided information about the dormer windows, which have failing seals and are not original to the house (Exhibits F-1, F-2 and F-3).
- Rachel Lee of Sabin Community Association wrote in support of the proposal (Exhibit F-4).

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

- 1. Historic character.** The historic character of the property will be retained and preserved. Removal of historic materials or alteration of features and spaces that contribute to the property's historic significance will be avoided.
- 2. Record of its time.** The historic resource will remain a physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings will be avoided.
- 3. Historic changes.** Most properties change over time. Those changes that have acquired historic significance will be preserved.
- 4. Historic features.** Generally, deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement, the new feature will match the old in design, color, texture, and other visual qualities and, where practical, in materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence.
- 5. Historic materials.** Historic materials will be protected. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used.

Findings for 1, 2, 3, 4 and 5:

The proposed alterations to the contributing resource will not damage or negatively affect the historic character of the resource. No changes are being proposed to the overall form of the contributing house and detached garage, roofline or building footprint. Proposed alterations to the structure will not unnecessarily remove or

cause damage to previous historic changes that have been made and require preservation. Historic features will not be damaged and historic materials will be protected; chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used. Detail drawings and specifications submitted by the Applicant indicate that all alterations will functionally and visually match existing house, thereby maintaining the resource's historic significance.

Proposed alterations to the west (front) elevation are limited to removal of the service chimney. Because the service chimney is located on the east (rear and non-street-facing) roof slope, it is a minor element of the residence and not readily visible from the street view. The main chimney at the north (side) elevation will remain (Exhibit C-2).

All new windows on the south and east elevations will be Marvin painted wood double hung windows. Existing windows to be removed or replaced on the south (side) elevation are made of vinyl and not original to the house. Three existing windows to be replaced on the east (rear) dormer elevation are wood windows but are not original to the house (Exhibits F-2 and F-3). These three windows were installed with a 1990s remodel of the existing home.

Collectively, the proposed alterations are consistent with the architectural character of the resource ensuring that the contributing resource will remain a record of its time. *Therefore, these guidelines are met.*

6. Archaeological resources. Significant archaeological resources affected by a proposal will be protected and preserved to the extent practical. When such resources are disturbed, mitigation measures will be undertaken.

Findings:

Archaeological resources have not been identified and there will not be significant earthwork on site; therefore this criterion is not applicable.

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.

9. Preserve the form and integrity of historic resources. New additions and adjacent or related new construction will be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic resource and its environment would be unimpaired.

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, 9 and 10:

The proposed alterations will not destroy or negatively impact historic materials or features true to the contributing resource. Collectively, the proposed alterations to the resource will not interrupt the architectural organization of the house and will ensure that the structure remain an accurate record of its time and continues to be a valuable contributing resource to the immediate adjacent neighborhood and the Irvington Historic District as a whole. The proposed alterations, particularly the replacement of vinyl windows with wood windows, are compatible with the existing house and the historic district as a whole. *Therefore, 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 in that the existing service chimney to be removed on the east roof slope is a minor element of the street-facing view; and the new east and south windows will be compatible in design and materials to the resource and the district. Therefore, the proposal warrants approval.

ADMINISTRATIVE DECISION

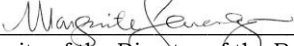
Approval of exterior alterations to the south (side) and east (rear) elevations of the residence in the Irvington Historic District. These alterations include:

- South (side) elevation: remove one window; replace two windows with three new windows.
- East (rear) elevation: replace three dormer windows.
- Remove existing service chimney.

Approved as per the approved site plans, Exhibits C.1 through C.7 signed and dated February 22, 2017, 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-C.7. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-288173 HR."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. No field changes allowed.

Staff Planner: Marguerite Feuersanger

Decision rendered by:  on February 23, 2017.
By authority of the Director of the Bureau of Development Services

Decision mailed: February 27, 2017.

Procedural Information. The application for this land use review was submitted on December 19, 2016, and was determined to be complete on January 16, 2017.

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 19, 2016.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: May 16, 2017**

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.

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 27, 2017. 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 503-823-7617.

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 and Roof Plans (attached)
 - 2. Proposed East and West Elevations (attached)
 - 3. Existing and Proposed South Elevations (attached)
 - 4. Proposed Main and Upper Floor Plans
 - 5. Existing Window Sections
 - 6. New Window Sections
 - 7. New Window Specifications
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses: No responses were received.
- F. Correspondence:
 - 1. Dean Gisvold, Irvington Community Association, January 31, 2017
 - 2. Keyan Mizani response to D. Gisvold letter, February 1, 2017
 - 3. K. Mizani, owner's photos of failing east dormer windows, to be replaced, February 14, 2017
 - 4. Rachel Lee, Sabin Community Association, February 10, 2017
- 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).