



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

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**Date:** May 16, 2017  
**To:** Interested Person  
**From:** Megan Sita Walker, Land Use Services  
503-823-7294 / [MeganSita.Walker@portlandoregon.gov](mailto:MeganSita.Walker@portlandoregon.gov)

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

The Bureau of Development Services has approved a 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 16-177668 HR – REPLACEMENT OF MUDROOM WINDOWS**

### **GENERAL INFORMATION**

**Applicants/Owners:** Linda L Behny & Eric K Behny  
2510 NE Thompson St  
Portland, OR 97212

**Site Address:** 2510 NE THOMPSON ST

**Legal Description:** TL 17700 0.11 ACRES, SECTION 25 1N 1E

**Tax Account No.:** R941250850

**State ID No.:** 1N1E25CB 17700

**Quarter Section:** 2833

**Neighborhood:** Irvington, contact Dean Gisvold at 503-284-3885.

**Business District:** North-Northeast Business Assoc, contact at [chair@nnebaportland.org](mailto:chair@nnebaportland.org)

**District Coalition:** Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5070.

**Plan District:** None

**Other Designations:** Contributing resource in the Irvington Historic District

**Zoning:** R5 – Residential 5,000, Single Dwelling Zone with Historic Resource Protection 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 to replace two (2) wood windows on the north and east façades of an existing mudroom that is located on the east façade of a

contributing resource in the Irvington Historic District. The north facing window currently proposed to be replaced is setback approximately 31' from the property line fronting onto NE Thompson Street. The two (2) windows have already been removed and the applicant is now seeking Historic Resource Review approval to install two (2) all-wood double hung windows to be set back in the wall plane as existing/ original double-hung windows located elsewhere on the house. The all-wood out-swinging casement windows that were removed, opened up onto the existing concrete steps that serve as primary access to the house from the existing detached garage and side yard and the applicant is proposing a double hung window as to not conflict with ingress and egress.

Historic Resource Review is required for non-exempt exterior alterations within the Irvington Historic District.

**Relevant Approval Criteria:**

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

- 33.846.060.G *Other approval criteria*

## ANALYSIS

**Site and Vicinity:** The subject property is oriented to the north on NE Thompson Street. It was constructed in 1925 in a Georgian style with Craftsman characteristics. The house is located on a block with many other contributing resources, primarily single dwellings.

The Irvington Historic District was platted in 1887 and was one of the first subdivisions in Portland to employ restrictive covenants, including uniform setbacks, minimum construction expenditures, the exclusion of minorities and the exclusion of non-residential uses. The few non-residential uses allowed at the interior of the district were required to be designed to resemble residential buildings. Development of the neighborhood spread slowly from the south east corner toward the northeast, following the patterns of streetcar development, first along NE Broadway, followed by extensions north into the neighborhood. As the restrictive covenants expired, more commercial development occurred at the edge of the subdivision along NE Broadway through conversion of residential properties and new development. The district comprises an eclectic assortment of late 19<sup>th</sup> and early 20<sup>th</sup> century architectural styles, including Queen Anne, Craftsman, and Period Revival styles. Garages built during the period of significance were either built at the same time as the associated residences for the later developments, or were later additions to the earlier residences, and were most commonly located at the rear or front of the property.

**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 1 lot per 5,000 square feet of site area.

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.

Irvington Historic District Platted in the late Nineteenth Century as the first addition to Portland that employed restrictive covenants, the Irvington area developed intensely with a mix of middle class housing types and sizes during the first two decades of the Twentieth

Century. 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. These patterns help to lend the neighborhood the distinctive and homogeneous historic character.

**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 on **December 6, 2016**. No Bureau responses or comments were received.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **December 6, 2016**. A total of two written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

- Paul Morris and Janet Malloch, neighbors to the subject property, on December 8, 2016, wrote in support of the proposal and recommended its approval.
- Dean Gisvold, Chair of the Irvington Land Use Committee, on December 19, 2016, wrote, that the supporting material was insufficient to offer a fact based analysis and that there was not enough detail on the notice drawings.

*Staff Response: Staff worked with the applicant to provide additional documentation and has added a conditional of approval to ensure that the proposed windows will be set into the wall plane to match existing/ original conditions on the resource. See findings below.*

## **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.

**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.

**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.

**Findings for 1, 2, 3, 4, 7, and 9:** The applicant is seeking Historic Resource Review approval to replace two (2) windows on the north and east façades of an existing mudroom on the east façade of a contributing resource in the Irvington Historic District. The two (2) windows have already been removed and were replaced with vinyl double hung windows. The applicant is now seeking Historic Resource Review approval to install two (2) all-wood double hung windows to be set back in the wall plane to match existing/ original double-hung windows located elsewhere on the resource. The north facing window on the mudroom is setback approximately 31' from the property line along NE Thompson Street and the east facing window faces a narrow walkway between the primary resource and the contributing detached garage. The all-wood out-swinging casement windows, removed without review, opened up onto to the existing concrete steps that serve as the primary access to the house from the existing detached garage and side yard. Noting safety concerns, the applicant is proposing double-hung windows to be installed in the existing openings that can open without impeding access into and out of the house. The replacement windows are proposed to be constructed of wood and will be recessed to match the other windows in the house to retain the historic character of the resource and ensure that it remains a record of its time. The new windows will be installed in the existing openings, ensuring the retention of original material. In addition, the new work will be differentiated with the relatively contemporary products and materials proposed. With the condition of approval that the proposed windows shall be set back approximately 4" from face of exterior trim to the bottom sash, to match existing conditions, the proposed alterations are compatible with the resource and will not compromise the architectural integrity of the historic home or its significant in the Irvington Historic District. *With a Condition of Approval that the proposed windows shall be set back approximately 4" from face of exterior trim to the bottom sash, these criteria are met.*

**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:** No chemical treatments are proposed. *This criterion is not applicable.*

**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:** No ground surfaces will be disturbed. *This criterion is not applicable.*

**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 8 and 10:** The two (2) replacement all-wood double-hung windows are proposed to correct a violation where two (2), seemingly original, all-wood out-swinging casement windows were replaced with two (2) double hung vinyl windows on an existing mudroom located on the east façade of the resource. The applicant noted that safety concerns and deterioration led them to opt for a window that did not open out onto the stairs leading out to the narrow space between the existing mudroom and the existing detached garage. The proposed double-hung windows reference existing/ original double hung-windows on the resource in terms of materiality, profile, and location in the wall plane. Based on photos of the existing double-hung windows to remain, Staff has added a condition of approval that the two (2) proposed all wood double hung windows be set back into the wall plane a minimum of 4” from the face of exterior trim to the bottom sash of the window. This condition has been added to ensure that the proposed windows are setback into the wall plane a similar distance to the existing/ original double-hung windows on the resource. The new windows will be compatible with the historic resource, adjacent properties, and the district as a whole. *With a Condition of Approval that the proposed windows shall be set back approximately 4” from face of exterior trim to the bottom sash, 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**

Replacement of the existing non-historic windows is intended to correct a violation for the removal of seemingly original all-wood casement windows. The two (2) proposed all-wood double hung windows maintain the existing opening on the north and east façades of the existing mudroom, better match the existing/ original all wood double-hung windows on the resource to remain, and will not impact the significance of the resource. The new window is designed to match the existing window in material, style, and character. It is compatible with the resource, adjacent properties, and the district as a whole. 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.

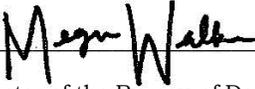
## **ADMINISTRATIVE DECISION**

Approval of exterior alterations to a contributing resource in the Irvington Historic District to include the replacement of two (2) windows on the north and east elevations of an existing mudroom, per the approved Exhibits C-1 through C-6, signed and dated May 11, 2017, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through D) must be noted on each of the four 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 16-177668 HR." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- 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.
- D. The proposed windows shall be set back in the wall plane approximately 4” from the face of exterior trim to the face of the bottom sash on the window to match existing conditions.

**Staff Planner: Megan Sita Walker**

**Decision rendered by:** \_\_\_\_\_  \_\_\_\_\_ **on May 11, 2017**

By authority of the Director of the Bureau of Development Services

**Decision mailed May 16, 2017**

**Procedural Information.** The application for this land use review was submitted on May 24, 2016, was determined to be complete on November 15, 2016, and was on hold from November 15, 2016 to December 2, 2016 and from December 20, 2016 to May 9, 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 May 24, 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 requested that the 120-day review period be extended the full 245 days (See Exhibit A-6). Unless further extended by the applicant, **the 120 days will expire on: November 15, 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](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 **May 17, 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.

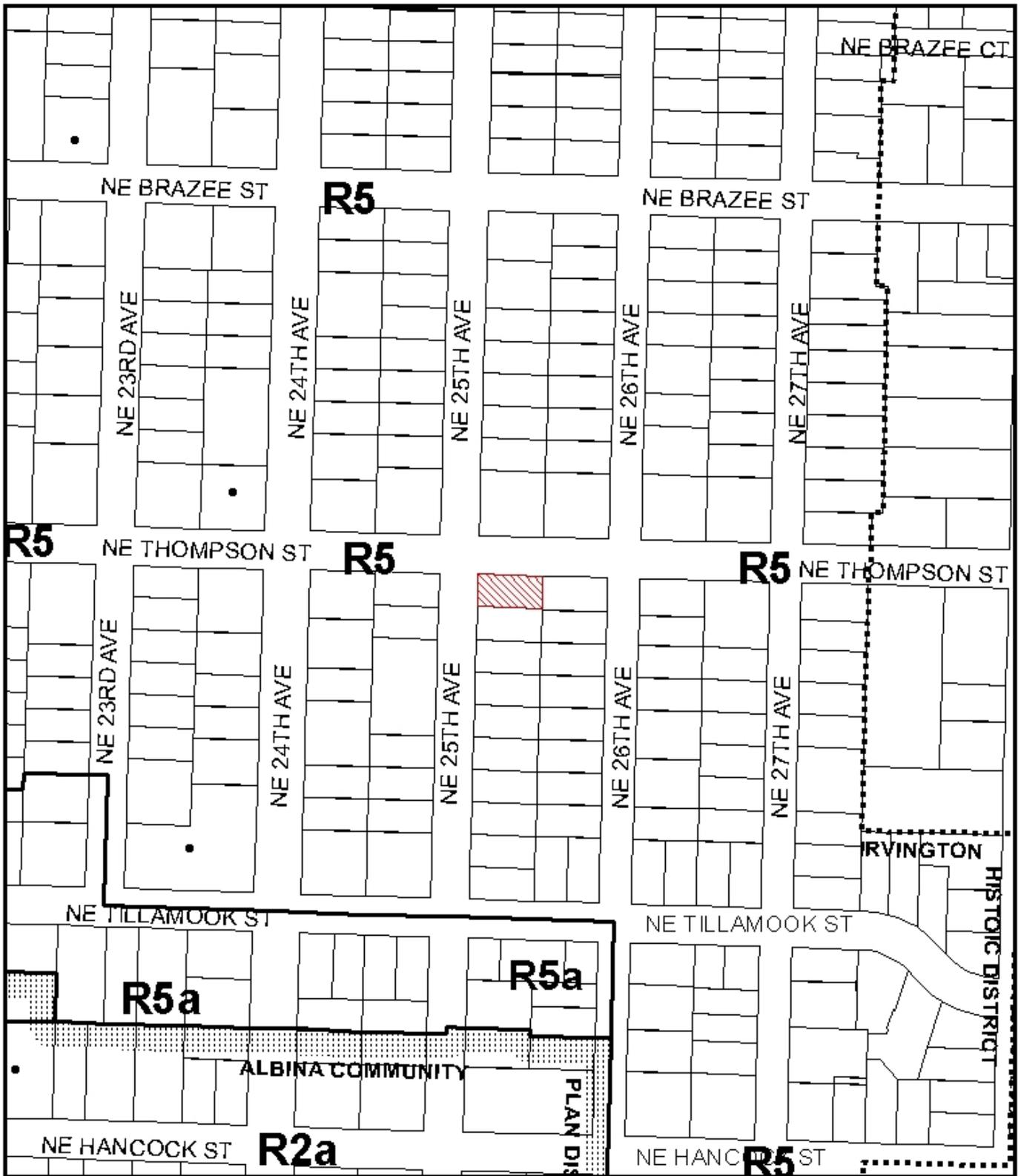
**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
1. Project Description
  2. Perspective Drawings provided by applicant
  3. Site Photos
  4. Code Compliance letter dated May 2, 2016, provided by applicant
  5. Photos of Existing/Original Double Hung Window - location in wall plane
  6. Extension to the 120-Day Review period

- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Proposed Site Plan (attached)
  - 2. Enlarged North Elevation (attached)
  - 3. Enlarged East Elevation (attached)
  - 4. Reference sheet – Existing/Original Double Hung Inset Condition (based on photos provided by the applicant)
  - 5. Reference sheet – Existing/ Proposed Mudroom Double Hung Inset Condition
  - 6. Specifications
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses: none
- F. Correspondence:
  - 1. Paul Morris and Janet Malloch, neighbors to the subject property, on December 8, 2016, wrote in support of the proposal and recommended its approval.
  - 2. Dean Gisvold, Chair of the Irvington Land Use Committee, on December 19, 2016, wrote, that the supporting material was insufficient to offer a fact based analysis and that there was not enough detail on the notice drawings.
- G. Other:
  - 1. Original LU Application
  - 2. Oregon Historic Site Record
  - 3. Sanborn Map, 1924-1928
  - 4. Incomplete Letter from Staff to the Applicant, sent on June 17, 2016
  - 5. Code Compliance Photos

**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:  
IRVINGTON HISTORIC DISTRICT



File No.	<u>LU 16-177668 HR</u>
1/4 Section	<u>2833</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E25CB 17700</u>
Exhibit	<u>B (May 25, 2016)</u>

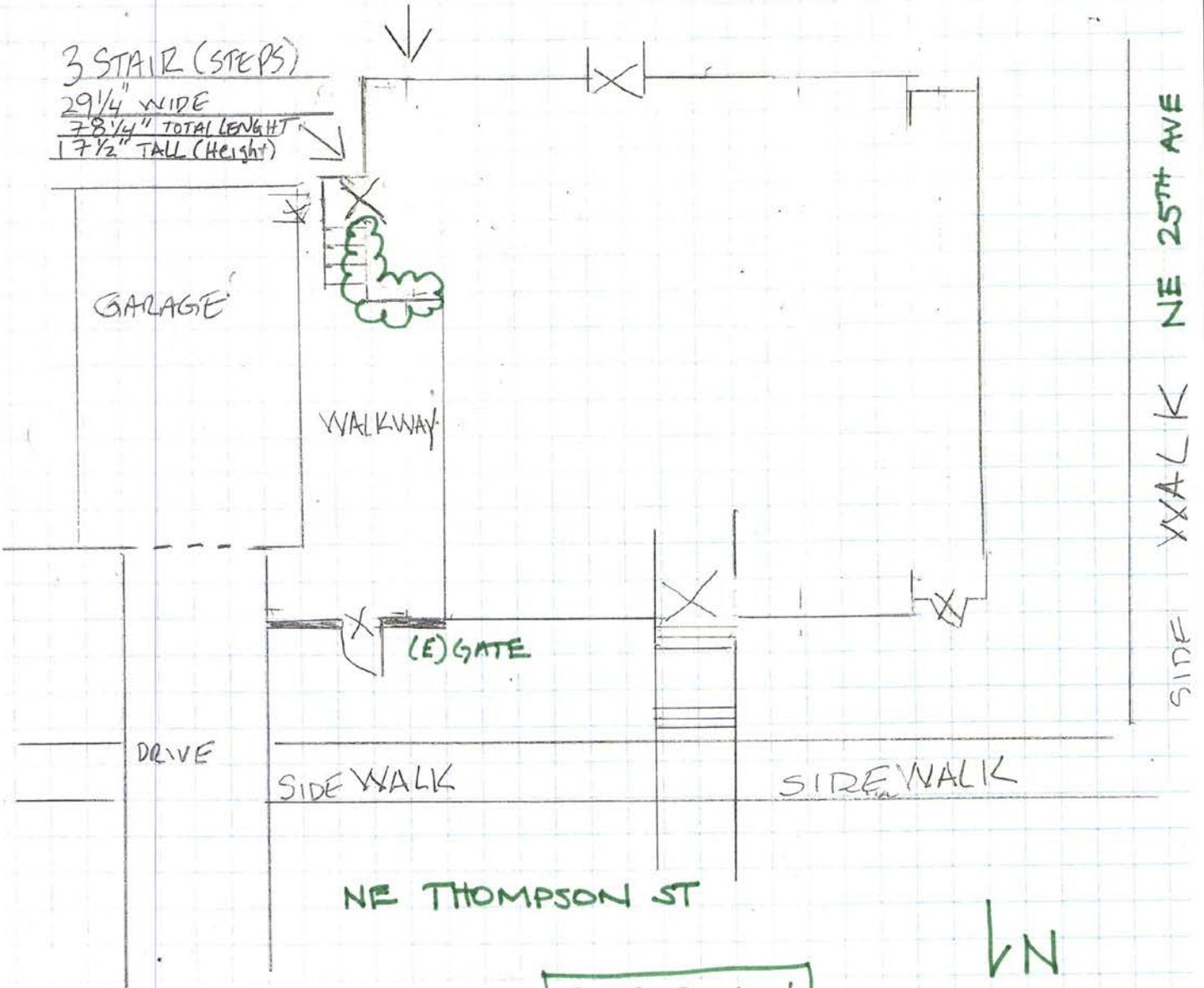
\*Approved\*

City of Portland - Bureau of Development Services

Planner *[Signature]* Date 05.11.17

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

COVERED PORCH



**SITE PLAN**

ONE POINT PERSPECTIVE BIRD'S EYE VIEW

2510 NE THOMPSON STREET

X = DOOR WAY

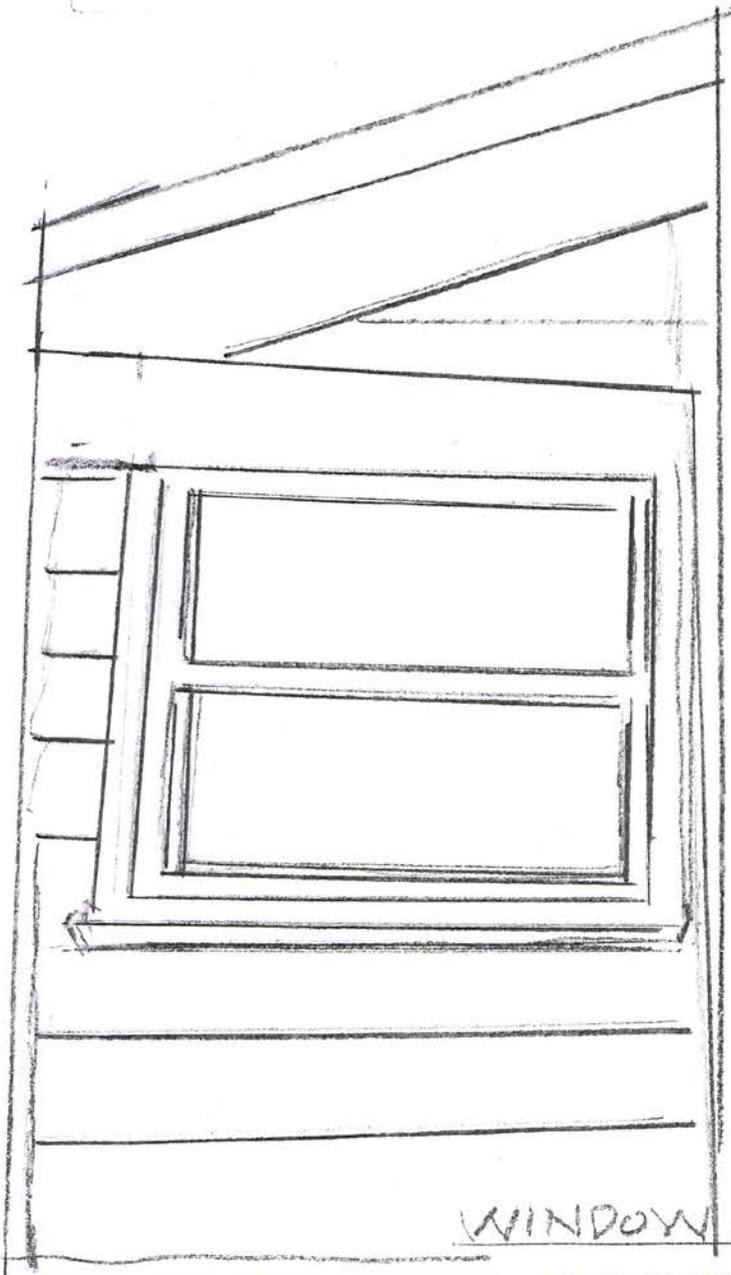
EXH C-1  
LU 16-17766B HR

\*Approved\*

City of Portland - Bureau of Development Services

Planner *M. J. [Signature]* Date 05.11.17

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



WINDOW 2 42 1/4" W x 41" T

ENLARGED NORTH ELEVATION ← → ↓

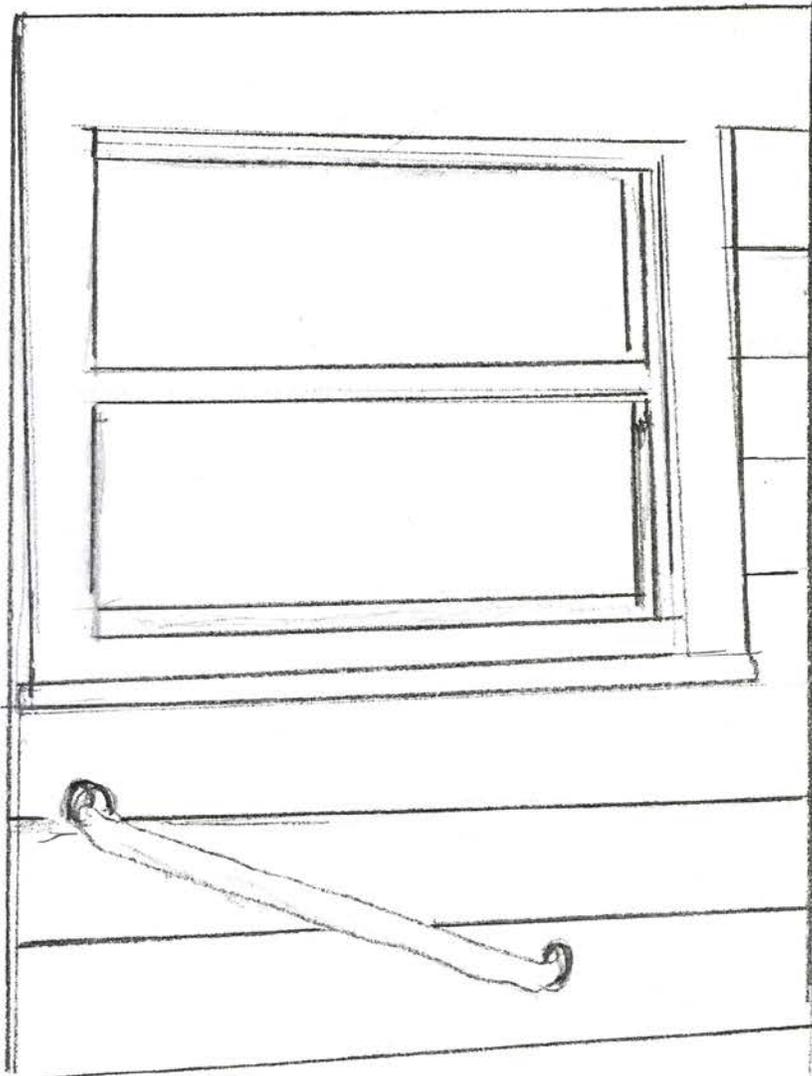
EXH C-2  
LU 16-17766B HR

**\*Approved\***

City of Portland - Bureau of Development Services

Planner M. Miller Date 05.11.17

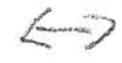
\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



WINDOW ENTRY AREA

ENLARGED EAST  
ELEVATION

$42\frac{1}{4}''$  W X  $41''$  T



EXIT-3

LU 16-177668 HR