



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

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**NOTICE OF FINAL
FINDINGS, CONCLUSIONS AND DECISION OF THE
CITY OF PORTLAND HISTORIC LANDMARKS COMMISSION
ON AN
APPEALED ADMINISTRATIVE DECISION
(Type II Process)**

CASE FILE: LU 18-130462 HRM
LOCATION: 2248 NW Hoyt Street

The administrative decision for this case, published on October 8, 2018 was appealed to the Historic Landmarks Commission by the homeowner, Tim Tees.

A public hearing was held January 7, 2019. The hearing was continued to March 25, 2019. At the March 25, 2019 hearing the Historic Landmarks Commission voted to deny the appeal, and approve an amended proposal. The original analysis, findings and conclusion have been revised by the Historic Landmarks Commission as follows. This decision is available on line: <https://efiles.portlandoregon.gov/Record?q=recAnyWord%3A137884&sortBy=recCreatedOn&pagesize=100> 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.

GENERAL INFORMATION

Applicant: Lou Montgomery | SIMPL Home Designs
4931 SW 76th Avenue, PMB 211 | Portland, OR 97225
503-516-4823

Owner: Timothy H Tees
2248 NW Hoyt Street | Portland, OR 97210

Site Address: **2248 NW HOYT ST**

Legal Description: BLOCK 17 W 1/2 OF LOT 10, KINGS 2ND ADD
Tax Account No.: R452302880
State ID No.: 1N1E33BD 17200
Quarter Section: 2927 & 3027
Neighborhood: Northwest District, contact John Bradley at 503-313-7574.
Business District: Nob Hill, contact Nob Hill at nobhillportland@gmail.com.
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Plan District: Northwest
Other Designations: Contributing Resource in the Alphabet Historic District
Zoning: RH – *High Density Residential w/ Historic Resource Protection overlay zone*

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

Proposal:
The applicant seeks Historic Resource Review for the following:

- Three elevated porches, at the first-floor level, the second floor, and the attic level, on the rear façade of this single-family residential home. Second-level deck spans full width of the house. Attic level deck spans from spiral stair to east corner of the house.
- The porches are proposed to be connected by a spiral staircase in the east side setback.
- The lower deck, second story deck, third story deck and spiral staircase are proposed to be located in the side setback, approximately 40” from the property line on the east side. The distance to the property line on the west side is not provided.
- A new door to replace the south dormer window.
- New French Doors to replace a pair of original second-story windows.
- No changes are proposed, reviewed or approved to the massing or structure of the attic dormer or existing roof form.

Staff Notes: 1. The Residential Fee-Based Inspection identified existing vinyl windows and skylights that were installed without the required Historic Resource Review. The applicant opted not to include these items in the scope of this review. These items will need an additional Historic Resource review to determine compliance with Historic Review approval criteria. Both Life Safety and Historic Resource Review staff requested the applicant would benefit from this meeting. It was suggested in the March 27, 2018 Incomplete Letter, an email from Life Safety staff on July 27, 2018; email from Historic Review staff on July 13, 2018; September 28, 2018 and October 4, 2018;

A Modification to reduce the setback from six feet to 3'-4" inches is requested.

Modification request - Setbacks [PZC 33.120.220]:

1. Reduce the setback for two porches, at the second- and third-story from the standard six feet to 3'-4" inches (33.120.220.B.1). *Staff Note: Staff measurements on site indicate a span of approximately 6'-8" between the structures at the rear of the houses. Pending a survey, staff estimates that the property line is approximately 3'-4" from the primary wall plane of the sidewall (east elevation). Any new construction (more than 3 1/2-feet above grade) within 3 feet of the property line will require a fire-rated wall, per Life Safety. If the property line is not exactly halfway between structures, this fire wall may be required.*

Historic Resource Review is required for non-exempt exterior alterations in a Historic District.

Relevant Approval Criteria:

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

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

ANALYSIS

Site and Vicinity: This 3000 square foot lot is located in the Alphabet Historic District and the Northwest Plan District. It is located mid-block on NW Hoyt, between NW 22nd and NW 23rd. It is set within a group of six contributing resources on similar sized lots. Of these, five are single-family residential homes and one is a duplex. Built in 1898, in conjunction with the house to the east, the two were built as a mirror-images, and are separated by approximately three feet.

The subject property is known as the Oscar & William Streibig home. It is an intact and notable example of Queen Anne/Colonial Revival architecture in the Alphabet Historic District. While there is permit history indicating that the house may have been a duplex in the 1930s, it was constructed and is currently used as a single-family home.

The Alphabet Historic District is a densely populated neighborhood of historic homes and apartment buildings and tree lined streets. The surrounding neighborhood is consistent with these typologies. NW 23rd Avenue is a half block to the west and is lined with commercial and storefront retail uses. Northwest Hoyt is primarily residential, with a mix of historic apartment buildings and single-family homes on the smaller mid-block lots.

Portland Transportation System Plan classifies NW Hoyt Street as a Local Service Bikeway, a Local Service Walkway, and a Minor Emergency Response Street. It is located in the Northwest Pedestrian District.

Zoning: The High Density Residential (RH) is a high-density multi-dwelling zone which allows the highest density of dwelling units of the residential zones. Density is not regulated by a maximum number of units per acre. Rather, the maximum size of buildings and intensity of use are 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. Newly created lots in the RH zone must be at least 10,000 square feet in area for multi-dwelling development. There is no minimum lot area for development with detached or attached houses or for development with duplexes. Minimum lot width and depth standards may apply.

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.

The Northwest Plan District implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this chapter: promote housing and mixed-use development; address the area's parking scarcity while discouraging auto-oriented developments; enhance the pedestrian experience; encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment; and minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary.

Land Use History: City records indicate no prior land use reviews.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **June 14, 2018**. The following Bureaus have responded with no issues or concerns:

- Life Safety (exhibits E.1 and G.9)
- Site Development Section of BDS (exhibits E.2)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 14, 2018. Three written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

- Citovic, Djordje – June 19, 2018 – Lives in the adjacent mirror-image home. Wrote to support a deck that is similar to the one on his home. (exhibit F.1)

Staff Note: The deck at the adjacent property, 2242 NW Hoyt, pre-dates the formation of the Historic District. Permit history indicates that in 1988, a permit was requested to repair and replace a previously existing deck. Records do not demonstrate that the permit was approved or finalized. A subsequent permit request was submitted in 2004 to remove and replace with new decks. This permit was not approved. For the purposes of this review, the deck at the adjacent property was not reviewed through Historic Resource Review and may not have been permitted.

- NWDA Planning Committee – July 2, 2018 – The committee supports the proposal, with the caveat that it would not normally support such a significant Modification request to the side

setback. However, due to the existing proximity of the two homes, the committee offers its support. (exhibit F.2)

- Ozanne, Peter – June 8, 2018 – Thanking the applicant for a heads up about the Public Notice they would receive. (exhibit F.3)

PROCEDURAL HISTORY

The Historic Resource Review application was submitted on March 13, 2018. An Incomplete Letter was mailed on March 27, 2018. The applicant requested the application remain Incomplete on May 20, 2018. The applicant paid for the Modification review and deemed the proposal complete on June 11, 2018. A Public Notice was mailed on June 14, 2018. Following the end of the Notice period, the applicant requested multiple extensions. Staff met with the applicants on August 7, 2018 to discuss issues still outstanding. On September 4, 2018, the applicant requested a full extension. (See exhibit A.3)

During the case review, the applicant did not make substantial revisions to the exterior elements subject to review in order to address issues highlighted in the March 27, 2018 Incomplete Letter. As such, Staff has not received the detailed drawings necessary to determine whether the proposal as a whole can be constructed as proposed, or if it meets building code or the applicable approval criteria.

While interior uses are not subject to Historic Resource Review a 3rd floor ADU was added to the proposal following the Life Safety Review, making the originally proposed exterior stair to the third floor a necessary part of the proposal, as the applicant stated the ADU could not be accommodated with the existing interior stair without extensive interior work. The ADU component has since been removed from the scope of the review.

A residential fee-based inspection, requested by the applicant, identified vinyl windows and skylights installed without the required Historic Resource Review. The applicant was advised that these elements could be added to the scope of this review without additional fees or process but elected not to do so. As such, these elements are out of compliance and will require an additional review in order to be legalized.

On October 8, 2018, Staff issued a Decision that approved part of the proposal and denied other elements of the proposal.

The homeowner appealed the Staff-level Type II Decision to the Landmarks Commission. The first appeal hearing was held on January 7, 2019. At the hearing, the Landmarks Commission indicated that it needed more information to understand the proposal. There was conceptual support for the replacement of the second story windows with French doors, and for small decks at the attic level and second story, provided the stair was internalized and integrated within the decks. The hearing was continued to February 25, 2019. The applicant requested to reschedule the second appeal hearing to March 25, 2019.

At the March 25, 2019 hearing, the Commission struggled with the lack of detail and consistency in the applicant's drawings. It accepted all recommended Conditions of Approval in the tentative Staff report, and added a Condition of Approval to detail conditions that were not shown in the submittal. It was determined that the proposal to build in the side setbacks did not meet the Modification approval criteria, and the Commission denied the Modification.

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 located within the Alphabet Historic District and the proposal is for a non-exempt treatment. Therefore, Historic Resource 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 for 1: Built in 1898, the Oscar & William Streibig home is an intact and notable example of Queen Anne/Colonial Revival architecture in the Alphabet Historic District. It is constructed as a mirror image twin to the neighboring house, and the two homes are constructed approximately three-feet apart. It has had minimal alterations to its exterior over the past 120 years and is considered a primary contributing resource in the Alphabet Historic District.

The Residential Fee Based Inspection, requested by the homeowner to determine the legality of existing attic-level living space, identified existing vinyl windows and skylights that were installed without the required Historic Resource Review. Aerial images demonstrate that the skylights were installed within the past year. These elements will need a Historic Resource Review to determine compliance with the Historic Resource Review approval criteria. A Condition of Approval requires that this review is completed prior to receiving permits for the attic-level interior living space with the skylights and vinyl windows.

With a Condition of Approval H, work previously done without Historic Resource Review, such as changes to windows and new skylights, shall receive a land use review approval prior to issuing a permit for that work, this criterion is 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.

Findings for 2: The replacement of an existing dormer window with a new exterior door will require the flared hip roof and eaves beneath the window to be removed and new sidewalls added between the roof surface and the new door. This alteration at the attic level will result in a condition that is clearly not original. Such alterations are common throughout the Historic District, where many properties made similar revisions prior to the formation of the Alphabet Historic District. While significant, the substitution of one existing window with a door would not dramatically alter the roof forms or fenestration patterns typical of this architectural style, provided all other windows remain to convey the original architectural intent of the resource.

To ensure that new materials are reasonable facsimiles of the historic materials they replace, a Condition of Approval C has been added that states the new attic dormer door shall be trimmed with painted wood trim, to match the existing painted wood trim around second-story windows in all dimensions and profiles. In order to ensure the new door is a reasonable facsimile of the original attic window, a Condition of Approval D has been added that states that the new attic dormer door will be wood. Due to the high visibility of this new door at the attic level, and the atypical nature of attic level doors, it is critical that it consists of materials and detailing to integrate it with the original structure as much as possible.

Per Condition of Approval F, the deck and columns will be trimmed with painted wood

trim to cover joist hangers and other fasteners not typical of the period of significance. The spiral stair will be a prefabricated aluminum unit with factory finished paint coating. Condition of Approval D states that to ensure compatibility the historic materials that characterize this property, the second story windows shall be replaced with wood doors.

The prefabricated spiral stair is clearly differentiated from the original façade. With Condition of Approval E, that the stair is structurally supported by its center pole, and not by the rear wall of the house, and shall be located near the center of the rear elevation, the stair will meet this guideline.

With Conditions of Approval C, D and F, that the new attic dormer door, decks and columns shall be trimmed with painted wood trim, to match the existing wood trim around second-story windows in all dimensions and profiles and that the new attic dormer door shall be wood, and Condition of Approval E that the stair is structurally supported by its center pole, and not by the rear wall of the house, and shall be located near the center of the rear elevation, this guideline is met for the proposed door, stair, attic-level balcony and eastern deck at the second story to the side setback.

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 for 3: The proposal is to enlarge an existing deck at the ground level; to add a nine-foot deep by 24.5-foot wide porch across the entire second level; to replace existing double-hung windows at the second level with French doors; and to replace an existing attic window with a door within the existing south dormer; to build an attic level deck; and to connect the three stories of porches with an exterior spiral staircase. The sum of the proposed would fundamentally alter the entire rear elevation, obscuring or replacing the original proportions and details.

The proximity to the side property lines on both the east and west sides and adjacent homes may require a three-story fire wall from grade to the top of the attic-level railing on one or both sides. Such a fire wall is not found to be compatible with the resource or the district. The firewalls are not required if the porches end at least 3' from the side property line, however a Modification would be required to construct the second-story and attic-level porches less than 6' from the side property line.

If the existing dormer height is sufficient to accommodate a door without removing or revising the roof, a Condition of Approval E has been added to ensure the spiral stair may be compatible with the historic resource. The Condition of Approval E states the stair shall be structurally supported by its center pole, and not by the rear wall of the house, and shall be located toward the center of the rear elevation, not within the setback. The five-foot wide spiral stair is integrated within the porches, to minimize its appearance. To maximize compatibility with the primary resource, and to ensure that the original character-defining features of the rear façade remain legible, Conditions of Approval I and J state that the second-story and attic-level decks shall be a maximum of 5' deep and shall not extend into the six-foot side setback or beyond the spiral stair to the west. This ensures that the railings do not rise above the roofline and that the corner trim, beveled wood siding and original window remain visible.

While exterior stairs are not a traditional element for this era of home, it can be constructed in such a way that it does not obscure the original architectural features of this façade and can be removed in the future to restore the original building form. Providing this stair through the interior would not require Historic Resource Review but may require substantial interior alterations. Located near the center of the rear

elevation, outside of the required setbacks and between existing doors and windows, the stairs will have minimal impact on adjacent properties, and may be easily detached and removed if they are no longer desired. Neither the stairs nor the ground-level porch are visible from the street and will not detract from the legibility of the historic district from the public realm. A Condition of Approval E ensures that the spiral stair is self-supported by its own central pole, to minimize damage from mounting it to the house. A conversion of a single attic-level window into a door, while maintaining the traditional proportions and original material of the other rear elevation windows preserves the elements of primary historic significance and maintains the legibility of the contributing façade. The existing attic dormer and roofline are not proposed to be changed.

Therefore, with Condition of Approval E that the spiral stair will be structurally supported by its own center pole, similar to the example provided by the applicant and exhibited in C.7, and shall be located toward the center of the rear elevation, not within the setback, and Conditions of Approval I and J, that the second-story and attic-level decks will be 5' deep and extend only from the stair to the 6' side setback on the east side, this guideline is met.

Community Design Guidelines

P1. Plan Area Character. Enhance the sense of place and identity by incorporating site and building design features that respond to the area's desired characteristics and traditions.

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 for P1 and P2: The Northwest Plan District and the Alphabet Historic District are characterized by a mixture of smaller commercial buildings, historic apartment buildings and single-family homes, and newer, large mixed-use development. Along streets such as NW Hoyt Street, where residential uses predominate, design elements should serve to reinforce the distinction between residential streets and the more intensely hardscaped main streets.

Porches: The proposal to extend deep decks across the full-width of the rear elevation, at the second story, and an additional deck at the attic level, would require a Modification to the side setback on both the east and west sides. Site visits by Staff, indicate that the property line is approximately 16"-21" from the property line at the front of the house, and 40" from the existing rear sidewall of the house, presuming the side property line is exactly halfway between the houses. If the property line is closer to this subject property, a solid fire wall may be required from the ground to the top of the attic-level railing to enclose any element within 36" of the property line.

The proposed second- and third-story decks would create more than 300 square feet of space at the second and third levels overlooking adjacent single-family residential yards. Upper story, unintegrated rear porches are not typical of this resource's architectural style, or of this Historic District. Conditions of Approval I and J state that both the second-story and attic-level decks shall be a maximum of 5' deep, and span only from the spiral stair (as shown in Option 2 Rear Elevation) to the 6' side setback on the east side of the building.

Stair: The proposed spiral stair, which provides necessary ingress and egress to the third floor, is approvable, provided it is located near the center of the applicant's property, where it will not require a Modification to a side setback, or need to be enclosed in a fire-rated wall. In this location it will have the least impact on neighbors' privacy and will allow for continued landscape buffers between adjacent rear yards. The elevations provided indicate that the stair may be located just to the west of the proposed attic door, and that in this location it will not block any existing windows in the applicant's rear façade. As noted under #3, Staff has added a Condition of Approval

E that states the spiral stair will be structurally supported by its center pole, and not structurally supported by the rear wall of the house and shall be located toward the center of the rear elevation, not within the setback.

The proposed spiral stair located at the center of the applicant's rear façade, and the enlarged wood deck and stairs at the ground level do not permanently or significantly impact the plan area character or the identity of the historic district.

Therefore, with Condition E that states the spiral stair will be structurally supported by its center pole, and not structurally supported by the rear wall of the house, and shall be located toward the center of the rear elevation, not within the setback, and Conditions I and J that both the second-story and attic-level decks shall be a maximum of 5' deep and span from the spiral stair to the 6' side setback on the east, these guidelines are met.

D1. Outdoor Areas. When sites are not fully built on, place buildings to create sizable, usable outdoor areas. Design these areas to be accessible, pleasant, and safe. Connect outdoor areas to the circulation system used by pedestrians;

D3. Landscape Features. Enhance site and building design through appropriate placement, scale, and variety of landscape features.

Findings for D1 & D3: Located near the center of the rear elevation, the spiral stair will facilitate access to attic living space, while maintaining usable space for the at-grade decks and outdoor landscape area. A Condition of Approval E has been added, that the spiral stair shall be structurally supported by its center pole, and not structurally supported by the rear wall of the house and shall be located toward the center of the rear elevation, not within the setback. The proposed first floor deck at the west side of the rear elevation will create 144 square feet of outdoor space approximately three feet above grade.

While approvable, the upper level decks and the exterior stair connecting them require careful detailing and scaling to create a coherent, unified architectural addition to this highly visible façade. To ensure the outdoor areas are appropriately placed and scaled, Conditions of Approval I and J state that the second-story and attic-level decks shall be a maximum of 5' deep, to allow for consistent, unified railings with the spiral stair, and shall not extend beyond the spiral stair to the west or be constructed within the 6' side setbacks. This condition is consistent with other porches and decks approved through Historic Resource Review in the Alphabet Historic District. It facilitates use of outdoor spaces, while maintaining the legibility of the contributing resource and the privacy of adjacent neighbors.

Therefore, with Condition of Approval E that the spiral stair shall be structurally supported by its center pole, and not structurally supported by the rear wall of the house, and shall be located toward the center of the rear elevation, not within the setback, and Conditions of Approval I and J that the second-story and attic-level decks shall be a maximum of 5' deep, and shall span a maximum of six feet from the east property line to the spiral stair these guidelines are 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 for D6: The Queen Anne style was the dominant style of domestic buildings during the period from about 1880 until 1900. The style is noted for its steeply pitched, multi-planed roof forms, patterned and mixed siding, bay windows, towers and other elements to create a more complex massing. In this style, full width first floor front porches are typical, and sometimes wrap from the front around the side. Second story porches are recessed within the building form. Within this style, all porches are well integrated within the building form, with sloping roofs, columns and railings that serve

to reinforce the ornate, classical detailing and articulated massing of the Queen Anne style.

Rather than responding to, and highlighting the architecture of the home, the proposed porches at the second-story and attic-level would obscure the rear façade. The proposed height of the attic-level deck indicates that railings will be required on all four sides, and that the decking will need to be installed in a way that facilitates the continued installation of the existing gutter. To ensure that the railings are compatible in scale, details and character with the existing building, Condition of Approval G states that the existing roof may be cut out only to the width necessary for egress and not for the added deck nor may the roof be used to support railings and that there should be a gap between the deck and the existing eave line.

The porches and associated columns and railings obscure much of the wall plane and remaining original fenestration, and the proposal may necessitate solid fire walls on both the east and west sides from grade to the top of the attic-level railing on the east side, and the second story railing on the west side. Conditions of Approval I and J facilitate usable outdoor living area, consistent with depth of many original front porches in the area, while ensuring that a unified railing system that integrates the spiral stair and eliminates the possible need for fire walls on the east and west side. To ensure that the additions are compatible in scale, color and details with the existing building, Condition of Approval F states that the deck and new porch steps shall be topped with ipe, and that the rim joists and columns shall be trimmed in a painted wood trim board finished to match the trim on the primary resource and Conditions of Approval C and D state that the new attic dormer door shall be wood, surrounded by wood trim.

Therefore, with Condition of Approval C which states the new attic dormer door shall be trimmed with wood trim, to match the existing wood trim around second-story windows in all dimensions and profiles, and Condition of Approval D that the new attic dormer door shall be wood, and Condition of Approval F, that the deck and new porch steps shall be topped with ipe, and that the rim joists and columns shall be trimmed in painted wood to match the trim on the primary resource, and Conditions of Approval I and J that the second-story and attic-level decks shall be 5' deep and span from the central spiral stair to 6' from the property line, and Condition of Approval G, that the existing roof may be cut out only to the width necessary for egress and not for the added deck nor may the roof be used to support railings and that there should be a gap between the deck and the existing eave line, this guideline is 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 for D7: Understanding the diverse nature of this Historic District, the Historic Resource Review process anticipates that while buildings may be converted from residential to commercial uses, or single-dwelling to multi-dwelling, preserving the original built typology of the district is critical. The interior of buildings is not subject to review and may be significantly altered to accommodate new uses. However, the non-exempt exterior alterations are evaluated as a sum of their parts, and on balance, must not create such significant alterations that the integrity of the primary contributing resource or the Historic District is permanently eroded.

Through this review, the applicant provided numerous examples of constructed projects on nearby properties that were stated by the applicant as similar in scope to this proposal. Staff research indicated that the examples provided were either not permitted or had been permitted prior to the formation of the Historic District. Further precedent cases provided by the applicant were for proposals that included singular elements proposed in this application: replacement of windows with doors or an upper level

porch, or an enlarged first-story deck. However, the impact of those land use reviews that included just one of the many elements proposed here was significantly lower in those cases. Additional factors in those approved reviews included lot sizes, distance from neighboring properties, visibility of the proposed elements from adjacent properties and from the street. The precedents provided by the applicant were sensitively detailed to match the contributing structures to which they were added.

While the full scope of this proposal, with decks extending to the corners of the house would have obscured the rear façade of this primary contributing resource, the Conditions of Approval reduce the width and depth of the decks to eliminate the possibility of required fire walls or Modifications to the side setbacks, and to facilitate outdoor space while ensuring coherency and integration with the original resource.

A prefabricated, self-supported spiral staircase to a new door at the attic dormer, limited decks at the attic-level and second-level, and the enlarged deck at the ground level are consistent with prior Historic Resource Reviews and allow the legibility of the building corners, roofline, original fenestration, massing, proportions or materials.

Therefore, with Condition of Approval E, that the spiral stair shall be structurally supported by its center pole, and not structurally supported by the rear wall of the house, and shall be located toward the center of the rear elevation, not within the setback, and Condition of Approval I, that the second-second story deck shall be a maximum of 5' deep, and span a maximum of six feet from the east property line and to the west side of the spiral stair and Condition of Approval J, that the attic-level deck shall be a maximum of 5' deep, and shall span a maximum of six feet from the east property line to the spiral stair, this guideline is 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 for D8: The approvable elements in this review include the extended wood deck at the ground level, the replacement of the attic dormer window with a door, a five-foot deep deck at the attic-level and second-story, and a self-supported prefabricated metal stair from the attic door to the ground, integrated within the decks, at the center of the rear elevation. These elements are clearly additive to the original structure and could be removed without significant impact to the primary contributing resource. On balance, these elements are functional additions to an intact, primary contributing historic resource that allow the continued visibility of the cohesive composition of the existing façade. In order to ensure the proposed first floor deck is of lasting quality and results in a cohesive composition with the contributing resource, a Condition of Approval has been added that the decks and new porch steps will be topped with ipe, and that the rim joists will be trimmed in a wood trim board finished to match the front porch trim on the primary resource. Additional elements are of durable materials, and high quality.

With Condition of Approval F, that the decks and new steps will be topped with ipe, and that the rim joists will be trimmed in a wood trim board finished to match the front porch trim on the primary resource, this guideline is met for the first-floor deck, the replacement of an attic window with a door, and spiral stair only. This guideline is not met for the proposed second- and third-story porches or the replacement of the paired second-story windows with doors.

33.846.070 Modifications Considered During Historic Resource Review

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the historic resource review process. These modifications are done as part of historic resource review and are not

required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through historic resource review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- A. Better meets historic resource review approval criteria.** The resulting development will better meet the approval criteria for historic resource review than would a design that meets the standard being modified; and
- B. Purpose of the standard.**
1. The resulting development will meet the purpose of the standard being modified; or
 2. The preservation of the character of the historic resource is more important than meeting the purpose of the standard for which a modification has been requested.

Modification #1: Setbacks [PZC 33.120.220] - Reduce the setback for two upper level porches and the spiral staircase from the required six feet to 3'-4" inches (33.120.220.B.1).

Purpose Statement: The building setback regulations serve several purposes:

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of multi-dwelling development in the City's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity;
- Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users; and
- They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.

Standard: 33.120.220.B.1, Minimum Building Setbacks. The required minimum building setbacks, if any, are stated in Table 120-4.

- A. Better meets historic resource review approval criteria.** *The resulting development will better meet the approval criteria for historic resource review than would a design that meets the standard being modified; and*

Findings: The modification to reduce the setback to 40" does not meet the Historic Resource Review approval criteria. The purpose of the setback requirement is to promote light, air, separation for fire protection and privacy between residences. The existence of similar multi-level deck conditions that were constructed without the benefit of land use review or permits does not constitute an appropriate contextual reference. Staff and applicant research have not uncovered any comparable multi-level decks, built within side setbacks, that received Historic Resource Review approval.

Further, the Modification request presumes that the side property line is exactly halfway between the two houses. However, if the property line is less than 40" from this property, a solid, three-story fire wall may be required to be constructed from the ground to the top of the attic-level railing. Approval of decks that are outside of the side setback ensures that this possibility will not impact the design, create complications with permitting, or require a follow-up Historic Resource review for solid walls that are not part of the current proposal.

The Historic Alphabet District Guideline 2 directs new proposals to retain historic materials that characterize a property, and to be compatible with the historic qualities of the district. The proposal for a second and third story deck, which reduces the required setback from six feet to 40 inches does not better meet the approval criteria. Staff has developed Conditions of Approval

that facilitate the exterior stair and three levels of exterior decks without requiring a Modification.

B. Purpose of the standard. *The resulting development will meet the purpose of the standard being modified or the preservation of the character of the historic resource is more important than meeting the purpose of the standard for which a modification has been requested.*

Findings: The resulting development does not meet the purpose of the standard which is to ensure light, air and privacy separation between properties. The unique proximity of this house to its mirror-image neighbor, where the primary building walls are approximately 21-40 inches from the side property line, with bays that protrude to within 16” of the property line, already creates a narrow, canyon-like condition that does not meet current fire or building code. The proposal to extend two nine-foot deep decks out flush with this sidewall only exacerbates the narrow setback condition and triggers new concerns about fire separation and building code, and therefore does not meet the purpose of the standard.

The proposed Modification does not better meet the Historic Resource Review approval criteria, nor the purpose of the standard.

Therefore, this Modification does not merit approval.

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.

HISTORIC LANDMARKS COMMISSION 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. Portions of this proposal meet the applicable Historic Resource Review criteria and therefore warrant approval with Conditions of Approval.

HISTORIC LANDMARKS COMMISSION DECISION

Approval of a ground-level deck, a second story deck, an attic-level deck, the removal of a pair of second-story windows to replace with French doors; the removal of an attic dormer window to replace with an exterior door, and a new prefabricated metal spiral stair. Denial of a Modification request to locate any new development in the side setback.

Approval of Exhibits C-1 through C-7 that were signed and dated on November 6, 2018 and approved by the Landmarks Commission on March 25, 2019, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through K) 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 18-130462 HRM." 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. The new attic dormer door shall be trimmed with wood trim, to match the existing wood trim around second-story windows in all dimensions and profiles
- D. The new attic dormer door and second-story doors shall be wood.

- E. The spiral stair shall be structurally supported by its center pole, and not structurally supported by the rear wall of the house and shall be located toward the center of the rear elevation, not within the setback.
- F. The decks and new ground-level porch steps will be topped with ipe, and that the rim joists and columns will be trimmed in a painted wood trim board finished to match the trim on the primary resource.
- G. The existing roof may be cut out only to the width necessary for egress and not for the added deck nor may the roof be used to support railings and that there should be a gap between the deck and the existing eave line.
- H. Work previously done without Historic Resource Review (i.e. changes to windows and new skylights) shall receive a land use review prior to issuing a permit for that work.
- I. The second story deck shall be a maximum of 5' deep and span a maximum of six feet from the east property line to the west side of the spiral stair.
- J. The attic-level deck shall be a maximum of 5' deep and shall span a maximum of six feet from the east property line to the spiral stair.
- K. No field changes allowed.

Staff Note: The applicant has not requested review of the following: changes to dormer size; changes to roofline; previously installed windows or skylights. Therefore, no decision has been made on these elements.

Staff Planner: Hannah Bryant

First Hearing Date: January 7, 2019

Findings and conclusions by the Landmarks Commission on: March 25, 2019

Decision rendered by:  **on March 25, 2019**

Kristen Minor, Chair Historic Landmarks Commission

Original Decision mailed: October 8, 2018

Final Findings, Conclusion, and Decision mailed date: April 11, 2019

120th day date: April 30, 2019

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 March 13, 2018 and was determined to be complete on June 11, 2018.

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 March 13, 2018.

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 waived the 120-day review period, as stated with Exhibit A.3. Unless further extended by the applicant, **the 120 days will expire on: April 30, 2019.**

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. **Last date to appeal: April 25, 2019**

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 will be recorded with the Multnomah County Recorder.

- The final decision will be recorded on or after **April 26, 2019** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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 of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

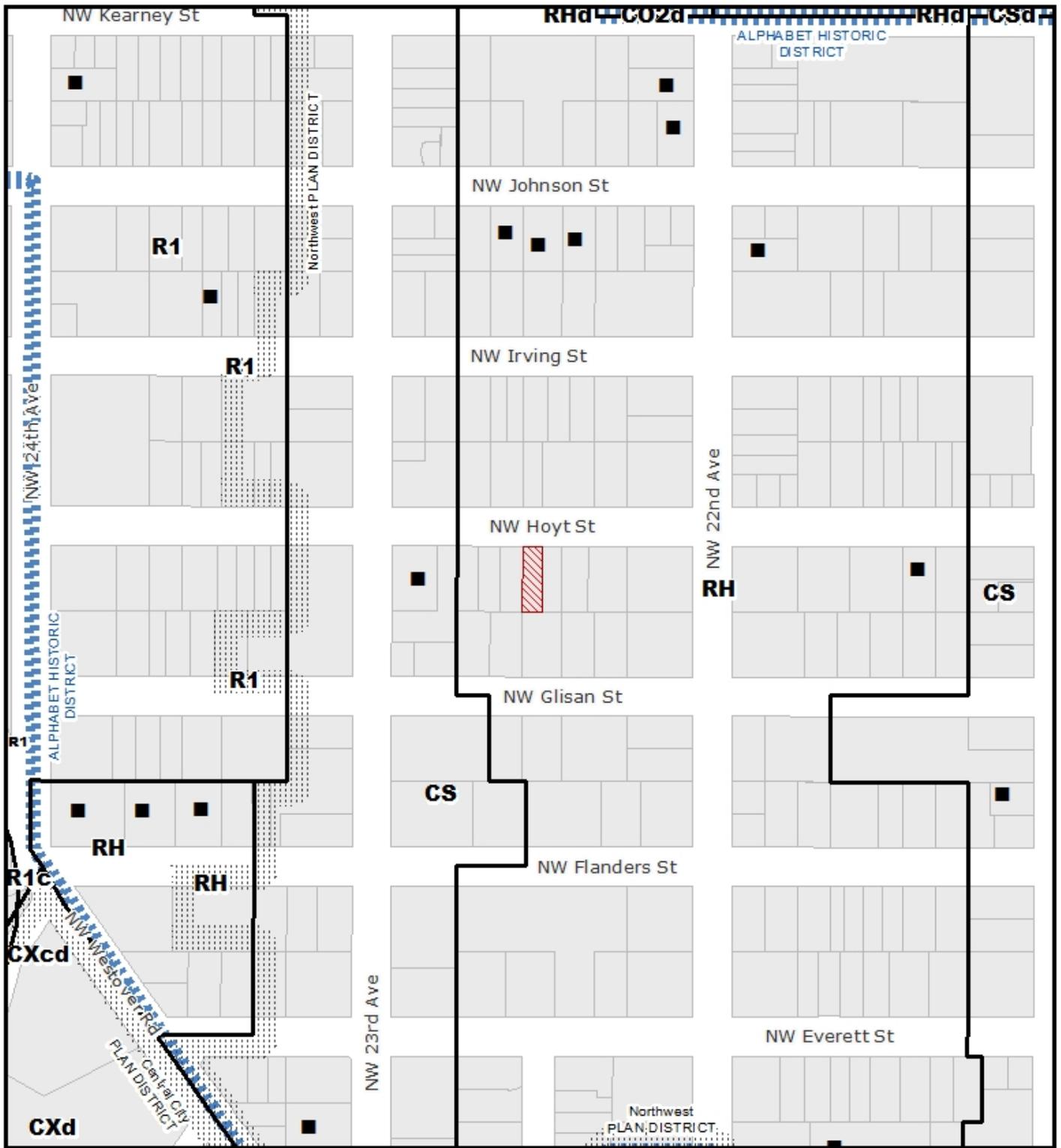
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittals
1. Original Submittal, dated March 4, 2018
 2. Original Narratives from designer and homeowner, dated February 24, 2018
 3. Extension Requests
 4. Request to remain incomplete, dated May 20, 2018
 5. Site Photos
 6. Revised Narrative and list of LU cases with related elements, received June 1, 2018
 7. Printed Decisions from past LU cases with related elements, submitted by applicant
 8. Floor Plan Diagrams
 9. Revised Narrative, received September 12, 2018
 10. Highlighted ADU Code Guide, submitted by applicant
 11. Existing Floor Plans
 12. Revised Site Plans showing deeper side setbacks between house and property line
 13. Aluminum-Clad Exterior Door cutsheet
 14. Permit history, 1931
 15. Email from homeowner stating that stairs to 3rd floor are top priority, dated August 2, 2018
 16. Email from homeowner to Mayor Wheeler, dated October 1, 2018
 17. Email from homeowner expressing frustration, dated October 12, 2018
 18. Email from homeowner, dated October 16, 2018
 19. Email from homeowner, dated October 18, 2018
 20. Email from homeowner in response to Staff email outlining path to approvability, dated October 23, 2018
 21. Email from applicant to Mayor Wheeler, dated October 29, 2018
- B. Zoning Map (attached)
- C. Plans/Drawings:
1. Site Plan (attached)
 2. ADU Plan
 3. Existing Rear Elevation
 4. Proposed Rear Elevation (attached)
 5. Existing West Elevation
 6. Proposed West Elevation
 7. Spiral Stair
- D. Notification information:
1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Life Safety
 2. Site Development Review Section of BDS
- F. Correspondence:
1. Citovic, Djordje – June 19, 2018 – Lives in the adjacent mirror-image home. Wrote to support a deck that is similar to the one on his home.
 2. NWDA Planning Committee – July 2, 2018 – The committee supports the proposal, with the caveat that it would not normally support such a significant Modification request to the side setback. However, due to the existing proximity of the two homes, the committee offers its support.
 3. Ozanne, Peter – June 8, 2018 – Thanking the applicant for a heads up about the Public Notice they would receive.
- G. Other:
1. Original LU Application
 2. Incomplete Letter, dated March 27, 2018
 3. Attic Inspection Report + Photos

4. Annotated Attic Plan demonstrating habitable space, per Attic Inspection Report
 5. Accessory Dwelling Units, chapter 33.205
 6. Staff diagram calculating primary building wall (related to Modification)
 7. Roof Image
 8. Staff Summary of phone call with Tim Tees, dated April 5, 2018
 9. Life Safety response to email from applicant, dated August 1, 2018
 10. Staff email overview of procedural history, dated October 30, 2018
 11. Annotated list of precedent projects from applicant
- H. Hearing
1. Hearing One Submittal
 2. Applicant's presentation, January 7, 2019
 3. Staff Memo to Commission, December 28, 2018
 4. Staff Presentation, January 7, 2019
 5. Draft Submittals, February 25, 2019
 6. Final Submittal from Applicant
 7. Staff Memo to Commission, March 15, 2019
 8. Applicant's Presentation, March 25, 2019
 9. Staff Presentation, March 25, 2019
 10. Tentative Decision, March 14, 2019
 11. Memo from Staff to Applicant, March 4, 2019
 12. Site Conditions Photos from Applicant
 13. Door Cutsheets
 14. Notice of Appeal Mailing List, November 30, 2018
 15. Notice of Appeal, November 30, 2018
 16. Staff Image: Represents Approved Conditions
- Testimony Sign-In Sheet: None*

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

NORTH

THIS SITE LIES WITHIN THE:
 NORTHWEST PLAN DISTRICT
 ALPHABET HISTORIC DISTRICT

-  Site
-  Historic Landmark

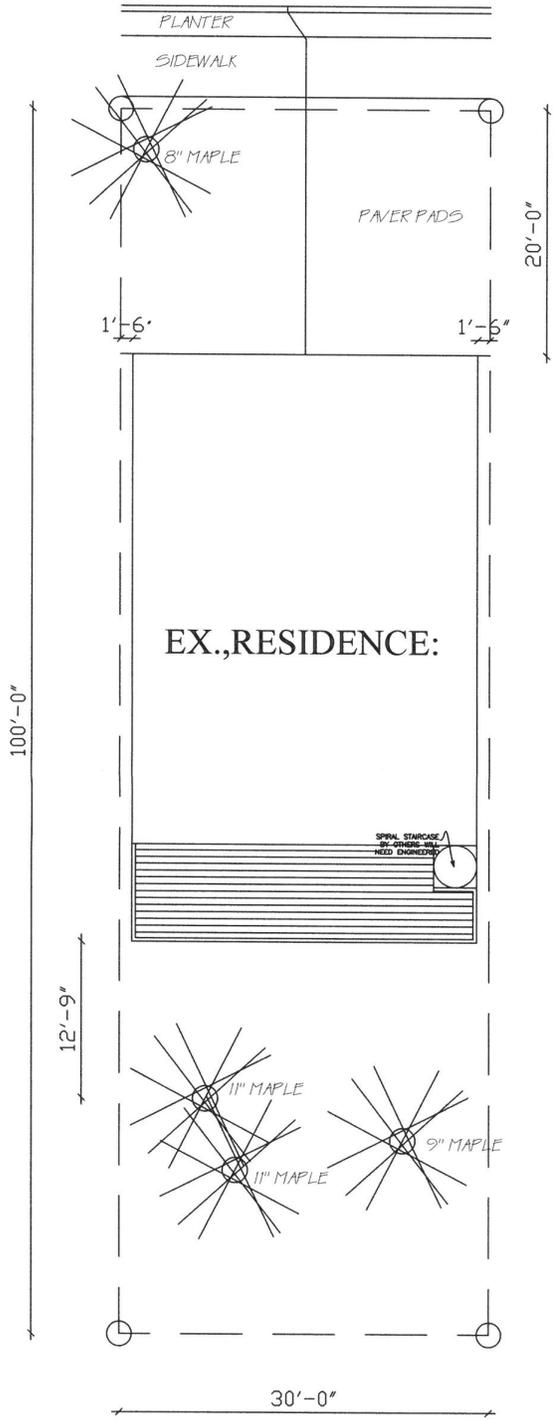
File No.	LU 18-130462 HRM
1/4 Section	2927,3027
Scale	1 inch = 200 feet
State ID	1N1E33BD 17200
Exhibit	B Jun 06, 2018

SITE PLAN

2248 NW HOYT ST.



C.1



Approved
 City of Portland - Bureau of Development Services
 Planner: *[Signature]* Date: 11-6-2018
 *This plan applies only to the reviews requested and is subject to all code and zoning approval. Additional zoning requirements may apply.

LU 18-130462 HRM

SHEET 1 OF 1
 MAG CONSULTINGS, LLC dba Simpl Home Designs
 4921 SW 76TH AVE., PMB211 PORTLAND OR 97225
 (503) 515-6495, (FAX) 719-4825
 www.czpermits.biz email: mikerczpermits.biz

DESIGNED: rww
 DATE: 11/22/17
 SCALE: 1"=100'
 FILE NAME: #

TIM TEES
 2248 NW HOYT ST.
 PORTLAND OR 97210

LU 18-130462 HR

MAG CONSULTINGS LLC, dba SIMPL HOME DESIGNS IS NOT LIABLE FOR THE ACCURACY OF THE TOPOGRAPHY INFORMATION. IT IS THE SOLE RESPONSIBILITY OF THE BUILDER TO VERIFY ALL SITE CONDITIONS, INCLUDING ANY FILL PLACED ON THE SITE, AND INFORM OWNERS OF ANY POTENTIAL FIELD MODIFICATIONS.



SHARPHOMEDESIGNS
 104 & 213TH AVE
 GRESHAM, OR 97030
 503-341-6175
 tim@recreativem.com
 CCB #20283

Drawing & Design
 Remodels
 Custom Plans
 Permit Management

TIMOTHY H TEES
 2248 NW HOYT STREET
 PORTLAND OR 97210

ELEVATION
 PLAN(S)

DATE	05/16/18
SCALE	1/4" = 1'-0"
DRAWN	mm
CHECKED	tht
INTL	

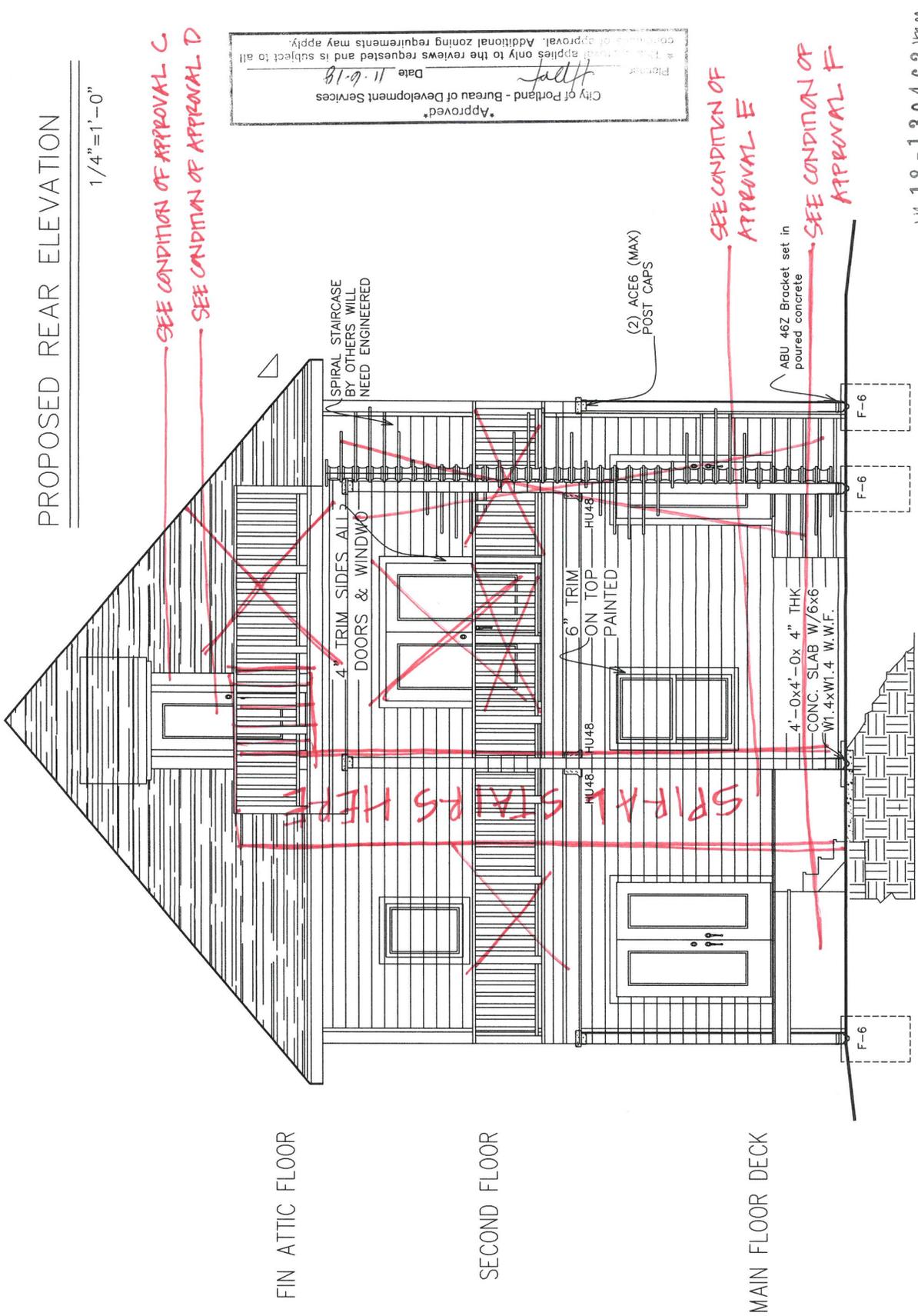
D2.0
 2 of 4

PROPOSED REAR ELEVATION

1/4" = 1'-0"

SEE CONDITION OF APPROVAL C
 SEE CONDITION OF APPROVAL D

"Approved"
 City of Portland - Bureau of Development Services
 Date 11-6-18
 Permit # [Signature]
 *This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



FIN ATTIC FLOOR

SECOND FLOOR

MAIN FLOOR DECK

W 18-130462 HW

9/16

C.4