



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

Ted Wheeler, Mayor
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Date: September 12, 2019
To: Interested Person
From: Hannah Bryant, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The 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 19-186145 HRM - GARAGE REPLACEMENT IN IRVINGTON

GENERAL INFORMATION

Applicant: Robert Hayden | PDS LLC
 3344 NE 25th Ave.
 Portland, OR 97212
 (503) 680-1087

Owner: Joanne Fuller & Paul Pierce
 2933 NE 17th Ave
 Portland, OR 97212-3351

Site Address: **2933 NE 17TH AVE**

Legal Description: BLOCK 54 LOT 7, IRVINGTON
Tax Account No.: R420411820
State ID No.: 1N1E26AC 02800
Quarter Section: 2732
Neighborhood: Irvington, contact Dean Gisvold at 503-284-3885.
Business District: Soul District Business Association, contact at info@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Laura Becker at 503-388-6088.

Plan District: None
Other Designations: Contributing Resource in the Irvington Historic District
Zoning: R5 – Residential 5,000 and Historic Resource Protection Overlay
Case Type: HRM - Historic Resource Review
Procedure: Type II, an administrative decision with appeal to the Landmarks Commission.

Proposal:
 The applicant seeks Historic Resource Review to:

- replace and rebuild an existing garage with the same dimensions and footprint; and

- to remove two existing tiered retaining walls and stairs in the front and replace with three-tiered retaining walls and new stairs.

Two Modifications are requested:

1. Side Setback (33.110.220 and Table 110-3) – Reduce the side setback from 5’ to 0’ for attached garage. *Both the existing and replacement garage are attached to the house at the basement level. Therefore, they are additions to the primary resource, and are subject to the 5’ side setback.*
2. Garage Entrance (33.110.220 and Table 110-3) – Reduce the garage entrance setback from 18’ to 4’ from the front property line. *Garage entrance setbacks are required to be 18’ or more. Since the proposal is to rebuild an existing nonconforming attached garage that does not meet this standard, the proposal requires a Modification to be allowed.*

The garage is located at the northwest corner of the property, just behind the sidewalk and adjacent to the north property line. It is constructed between the house and the street. The garage is at street level, whereas the main level of the house is set up above the street. The primary resource on the property is the Helen Jones house, a bungalow constructed in 1920. While the house is listed as a contributing resource in the Irvington Historic District Nomination, the garage is not listed.

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 Title 33, Portland’s Zoning Code. The relevant approval criteria are:

- *Other Approval Criteria: 33.846.060.G*

ANALYSIS

Site and Vicinity: The Helen Jones House is an existing single dwelling home, built in 1920. The house is classified as a contributing resource in the Irvington Historic District. Platted in the late Nineteenth Century, today's Irvington Historic District represents the first additions to Portland that employed restrictive covenants from the outset. These included the exclusion of most non-residential uses from the interior of the neighborhood, and where non-residential uses were allowed, such as the fire station and the telephone exchange, the buildings were purposely disguised to appear more residential in character. 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. 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 after original construction, but still 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 1 lot per 5,000 square feet of site area.

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 **July 31, 2019**. The following Bureaus have responded with no issues or concerns:

The Bureau of Transportation responded with the following comment: No work or encroachments may take place in the right-of-way. Please see Exhibit E-1 for additional details.

The Life Safety Section of BDS responded with the following comment: Structural design will need revisions prior to permit approval. Please see Exhibit E-2 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 31, 2019. One written response has been received from either the Neighborhood Association or notified property owners in response to the proposal.

- Gisvold, Dean. August 20, 2019. The ICA does not object to rebuilding an existing garage in the same footprint. The ICA does not support the railings, as shown at time of public notice.

Staff Note: The railings and garage roof deck have all been removed from the proposal.

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.
- 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 1, 2, 3, 4, 5, 7, 8 and 9: The proposal is to rebuild an existing street-level garage in the same footprint, with the same dimensions and in the same style. Replicating the existing historic features, the new garage will have concrete columns with a small concrete entablature over new wood bifold carriage doors. The existing garage is failing due to water pressure over time, and the walls are cracking and leaning. As part of this project, the applicant also intends to replace the existing tiered retaining walls and concrete front steps. The new tiered retaining walls, columns, and stairs will be set two feet further back from the sidewalk, per direction from the Portland Bureau of Transportation. The stairs proposed are four-feet wide. Wider stairs would be more compatible with the Irvington Historic District, where entrances are celebrated through a sequence of wide stairs to front porches and front entries are often flanked by sidelights to increase their scale. To preserve the form of the historic resource and to strengthen compatibility with the District, Condition of Approval C states that the front stairs shall be a minimum of 56” wide and a maximum of 78” wide.

Street-level garages are typical on some blocks in this Historic District, where the houses are set significantly above the sidewalk. While the garages were typically added after the original home was constructed, the garage typology has acquired historic significance over time. Replacing and replicating the existing garage will retain the historic character of this contributing property and its street context. The new garage will utilize contemporary construction techniques, including drainage and structural engineering to mitigate the water pressure that has caused the current garage to fail. The historic quality of the garage will be retained while the replica will clearly be a record of its time and easily differentiated by a careful observer.

While the existing and replacement garages are both attached to the primary resource at the basement level, the proposal will not increase the area of the attachment. If the garage was removed in the future, the basement level opening could easily be closed over and concealed, and there would be no visual impact to the integrity of the contributing resource. *Therefore, with Condition of Approval C that the front stairs shall be a minimum of 56” wide and a maximum of 78” wide, these criteria are met.*

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: Side Setback (33.110.220 and Table 110-3) – Reduce the side setback from 5’ to 0’ for attached garage. The side building setback for primary structures is 5’-0”. Since the existing garage is attached to the house, it is subject to the setback for the primary structure. If it is rebuilt in the same footprint, the primary building setbacks will now apply. The current proposal to rebuild the garage in the same location within setbacks will not meet this 5’ side setback requirement.

Modification #2: Garage Entrance Setback (33.110.220 and Table 110-3) – Reduce the garage entrance setback from 18’ to 4’ from the front property line. Garage entrance setbacks are required to be 18’-0” or more. Since the proposal is to rebuild a non-conforming attached garage, it is now subject to the 18’ setback. The current proposal to rebuild the garage in the same location within the setback will not meet this requirement.

Purpose Statement:

The setback regulations for buildings serve several purposes:

- They maintain light, air, separation for fire protection, and access for firefighting;
- They reflect the general building scale and placement of houses in the city's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards; and
- 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.

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 allow the street level garage to be reconstructed in the side and front setback, 4’ back from the property line, meets historic resource review approval criteria 1, 7, 8 and 10 because the resulting development will maintain the footprint, dimensions and contextual relationship with the Historic District that was set by the existing garage. It is typical in Irvington for street-level garages to be set at the side and front property line. The proposal does not compromise the contributing resource or the Historic District.

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: Preservation of the character of the historic resource is more important than meeting the purpose of the standard because to meet the setback standards, the garage would be required to be set back 18’ from the front property line and at least 5’ from the side property line. This would require the basement level of the existing contributing resource to be remodeled to serve as a garage, and a driveway would be required through the raised front yard. This condition is not compatible with the Historic District and would compromise the integrity of the historic resource. Since the proposal intends to rebuild an existing condition that is typical in the District and has established a compatible character, it warrants a Modification.

Therefore, these Modifications 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 requirements of Title 11 can be met, and that all development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review, prior to the approval of a building or zoning permit.

CONCLUSIONS

The purpose of the Historic Resource Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. This proposal meets the applicable Historic Resource Review criteria and modification criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

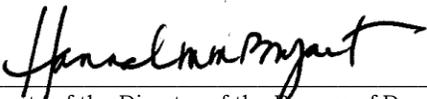
Approval of the replacement and reconstruction of an existing street-level garage, front stairs and tiered retaining walls, per the approved site plans, Exhibits C-1 through C-4, signed and dated September 9, 2019. Approval for the following Modification requests:

1. Side Setback (33.110.220 and Table 110-3) – Reduce the side setback from 5' to 0' for attached garage.
2. Garage Entrance (33.110.220 and Table 110-3) – Reduce the garage entrance setback from 18' to 4' from the front property line.

Approval subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) 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 19-186145 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 front stairs shall be a minimum of 56" wide and a maximum of 78" wide.
- D. No field changes allowed.

Staff Planner: Hannah Bryant

Decision rendered by:  **on September 9, 2019**
By authority of the Director of the Bureau of Development Services

Decision mailed: September 12, 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 June 28, 2019 and was determined to be complete on July 12, 2019.

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 June 28, 2019.

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: November 9, 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.

Appealing this decision. This decision may be appealed to the Landmarks Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on September 26, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Landmarks Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact

LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Landmarks Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **September 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:

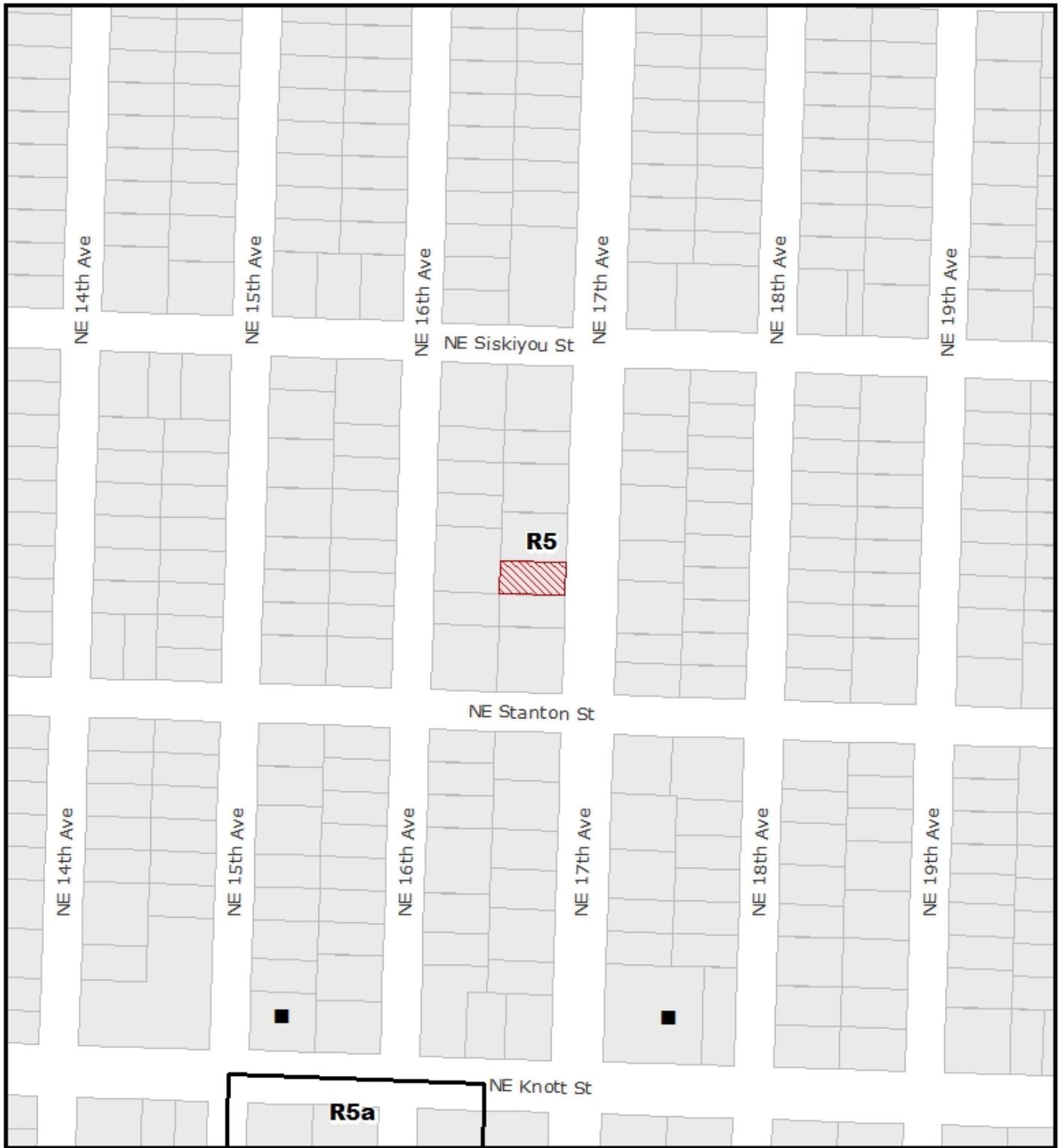
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittals
 - 1. Original Submittal
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Proposed Site Plan
 - 3. Sections
 - 4. Elevation
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice, July 17, 2019
 - 3. Revised Mailing List
 - 4. Revised Mailed notice, July 31, 2019
- E. Agency Responses:
 - 1. Bureau of Transportation and Development Review
 - 2. Life Safety Review Section of BDS
- F. Correspondence:
 - 1. Gisvold, Dean. August 20, 2019. ICA supports the proposal without the steel cable railing on the garage roof.
- G. Other:
 - 1. Original LU Application
 - 2. Email from Staff July 18, 2019
 - 3. Precedent Decision, LU 17-131939

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



THIS SITE LIES WITHIN THE:
IRVINGTON HISTORIC DISTRICT



Site



Historic Landmark

File No.	LU 19-186145 HR
1/4 Section	2732
Scale	1 inch = 200 feet
State ID	1N1E26AC 2800
Exhibit	B Jul 03, 2019

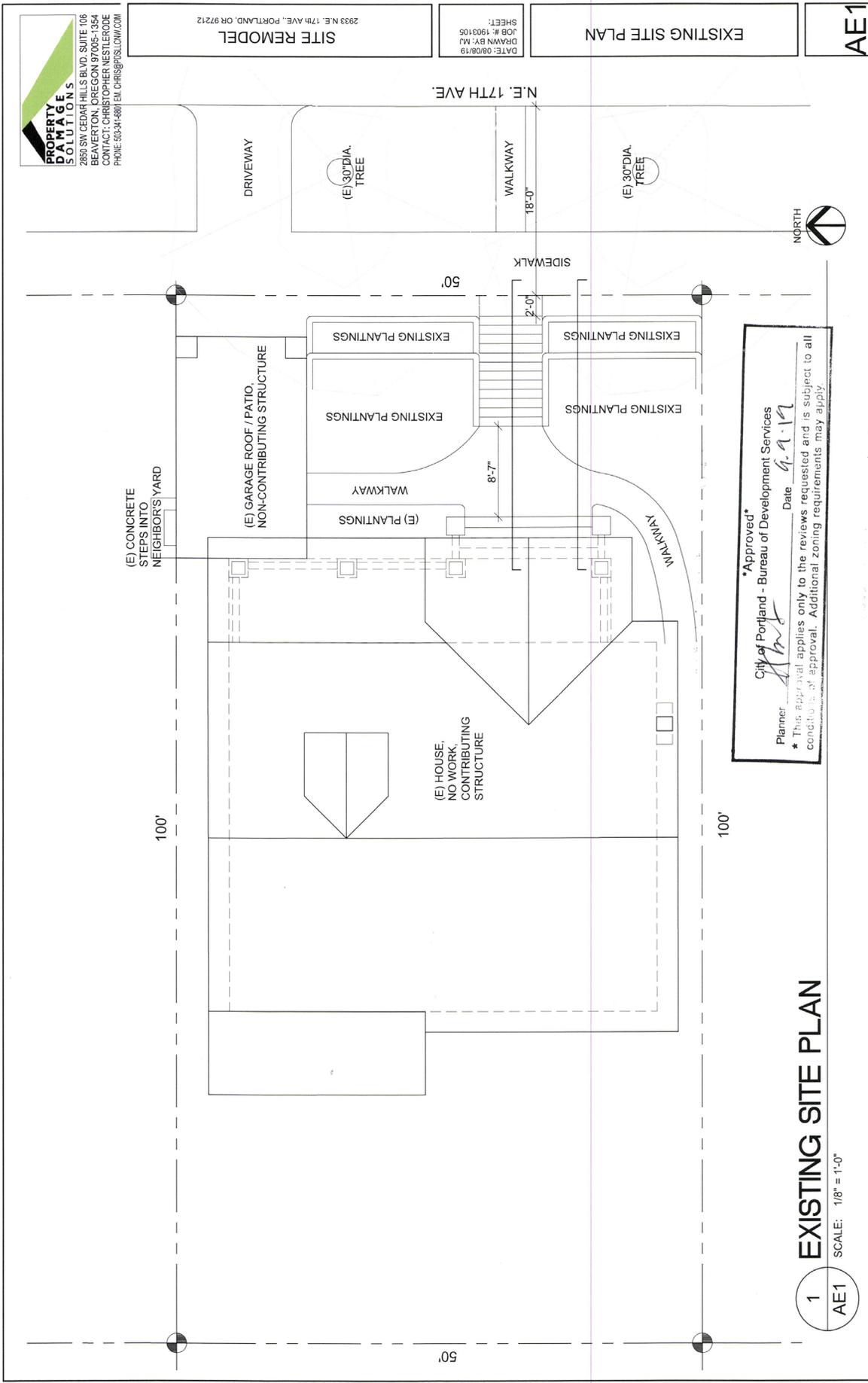
PROPERTY DAMAGE SOLUTIONS
 2850 SW CEDAR HILLS BLVD, SUITE 106
 BEAVERTON, OREGON 97005-1354
 CONTACT: CHRISTOPHER NESTLERODE
 PHONE: 503-341-6881 EMAIL: CHRIS@PDSOLUTIONS.COM

2933 N.E. 17TH AVE., PORTLAND, OR 97212

DATE: 08/08/19
 DRAWN BY: MJ
 JOB #: 1903105
 SHEET:

EXISTING SITE PLAN

AE1



Approved
 City of Portland - Bureau of Development Services
 Planner: *[Signature]* Date: 8-9-19
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

1 EXISTING SITE PLAN
 SCALE: 1/8" = 1'-0"

1 AE1

11-19-16-145 #1-M
 CI