



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

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**Date:** December 17, 2020  
**To:** Interested Person  
**From:** Hillary Adam, Land Use Services  
503-823-3581 / [Hillary.Adam@portlandoregon.gov](mailto:Hillary.Adam@portlandoregon.gov)

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

The Bureau of Development Services has denied 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 19-183153 HR – VINYL WINDOWS**

#### **GENERAL INFORMATION**

**Applicant:** Serge Arbuzov | 360-904-4247 | [arbuzov@domuscd.com](mailto:arbuzov@domuscd.com)  
Statewide Restoration  
19140 NE Portal Way  
Portland, OR 97230

**Owner:** Sally Sifdol-Denzler  
Po Box 12263  
Portland, OR 97212-0263

**Site Address:** 2822 NE 9TH AVE

**Legal Description:** BLOCK 102 LOT 18 EXC S 5/6', IRVINGTON  
**Tax Account No.:** R420423030  
**State ID No.:** 1N1E26BD 06200  
**Quarter Section:** 2731

**Neighborhood:** Irvington, contact Dean Gisvold at [deang@mcewengisvold.com](mailto:deang@mcewengisvold.com)  
**Business District:** Soul District Business Association, contact at [info@nnebaortland.org](mailto:info@nnebaortland.org)  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Jessica Rojas at [jessica@necoalition.org](mailto:jessica@necoalition.org).

**Plan District:** None  
**Other Designations:** Contributing resource in the Irvington Historic District

**Zoning:** R5 – Residential 5,000 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 seeks approval for two vinyl windows which replaced original wood windows on the front façade following a house fire in 2018.

Other exterior alterations made following the 2018 fire are not included in this review as this application was made to address Code Compliance case #18-269643 CC, which initially documented only the two front windows and front door being replaced. While staff encouraged the applicant to address all of the exterior alterations made following the fire as part of this review, the applicant declined to do so.

Historic Resource Review is required because the proposal is 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 specified in the Portland Zoning Code. The relevant approval criteria are:

- 33.846.060.G Other approval criteria

**Procedural History:**

This land use review application was submitted on June 14, 2019. An incomplete letter was issued on July 2, 2019. The application was deemed complete, as requested by the applicant, on December 23, 2019, 180 days after the original submittal. On December 23, 2019, the original applicant submitted an extension form, extending the review period a full 365 days. Staff has worked with three separate individuals representing this application and has repeatedly requested the same information necessary to review the application. In February 2020, information was provided indicating that the two front windows would be replaced with new wood windows to match the historic condition; however, insufficient information was provided for staff to verify that the resulting alterations would match the historic condition. Specifically, cutsheets were provided of wood windows with divided lites, but no elevation or section drawings were provided showing how these windows would be set within the wall. The application will expire on December 22, 2020, and there is no more time available for the applicant to submit information for staff to review under this application. No additional information has been provided since February 25, 2020, confirming the applicant's intent to replace the two front windows with wood. Therefore, staff must review the application with the information available, which is the existing vinyl windows.

## ANALYSIS

**Site and Vicinity:** The subject property is a contributing resource in the Irvington Historic District, constructed in 1921 in the Colonial Revival style. The nomination notes that cement fiber siding was present on the house at the time of the nomination.

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.

**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.

**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 January 28, 2020.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on January 28, 2020. One written response has been received from either the Neighborhood Association or notified property owners in response to the proposal.

- Dean Gisvold, Chair of the Irvington Community Association Land Use Committee, on February 11, 2020, wrote in opposition to the proposal to keep the existing two front vinyl windows on the front façade and also noting that other windows and the siding on the resource had been changed without historic resource review.

*Staff Response:* Staff can only review the applicant's request. Since the initial Code Compliance inspection, the rest of the building has been included in the Code Compliance case. Nevertheless, this application was submitted, requesting only approval of the two front windows and that is the extent of the review under this application. Because the Code Compliance case now includes the full scope of changes (all windows and siding), a subsequent Historic Resource Review will be required to resolve the Code Compliance issues.

## 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.

**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, 5, 7, and 9:** The proposed and already completed alterations under this review include replacement of original character-defining painted wood windows on the front façade. While the prior conditions, as apparent in photos taken prior to the alterations, are somewhat obscured by landscaping, it appears that both window on the front façade were wood with divided lites at the upper portions of the windows. The southern window (on the right when facing the front facade) was a tripartite window with substantial jambs between the vertically sliding sashes. The replacement windows are white vinyl sliding windows, that do not match the historic windows in either material, rail dimension, profile, paint-ability, or character. It has not been demonstrated that the windows were damaged beyond repair; therefore, removal of the original windows has not been justified. The applicant's narrative indicates that the window glass was compromised by smoke; however, glazing can be easily replaced without removal of the entire original window sashes.

No known building additions or new construction are proposed as part of this proposal; therefore, the essential form of the building appears to be preserved. While a new accessible ramp has been added to the front of the building, this alteration is exempt from review per, 33.445.320.B.17. Staff cannot verify if any recent changes occurred to the front porch, however, staff notes that this element is a later addition. It is clear, however, that alterations, such as replacement of the two front windows with vinyl, were made that compromised the integrity of the resource. In addition, per Exhibit A-3, all windows on the main floor of the house were replaced and visual observation confirms this is true, at least, for the front and side façades. However, due to the uncertainty of the extent of the possible changes that may or may not have been made, staff cannot determine that the essential form and integrity of the resource have been preserved. *These criteria are not met.*

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

**Findings:** No excavation is proposed. *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 front windows that are the subject of this review are neither compatible with the contributing resource, nor the historic district as a whole. As noted above, the proposed windows substantially and visually differ from the original windows in material, rail dimension, profile, paint-ability, and character. The period of significance for the Irvington Historic District is from 1891 to 1948. Vinyl windows did not exist until 1964 and did not become popular until the 1970s, making them inherently incompatible with the historic district. *These criteria are not 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 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 proposed vinyl windows are visually and substantively incompatible with the historic resource and the historic district as they differ substantially from the original windows in material, rail dimension, profile, paint-ability, and character. 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

Denial.

**Staff Planner: Hillary Adam**

**Decision rendered by:**  **on December 15, 2020**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: December 17, 2020**

**Procedural Information.** The application for this land use review was submitted on June 24, 2019, and was determined to be complete on December 23, 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 24, 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 waived the 120-day review period, as stated with Exhibit A-9. Unless further extended by the applicant, **the 120 days will expire on: December 22, 2020.**

**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).

**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.

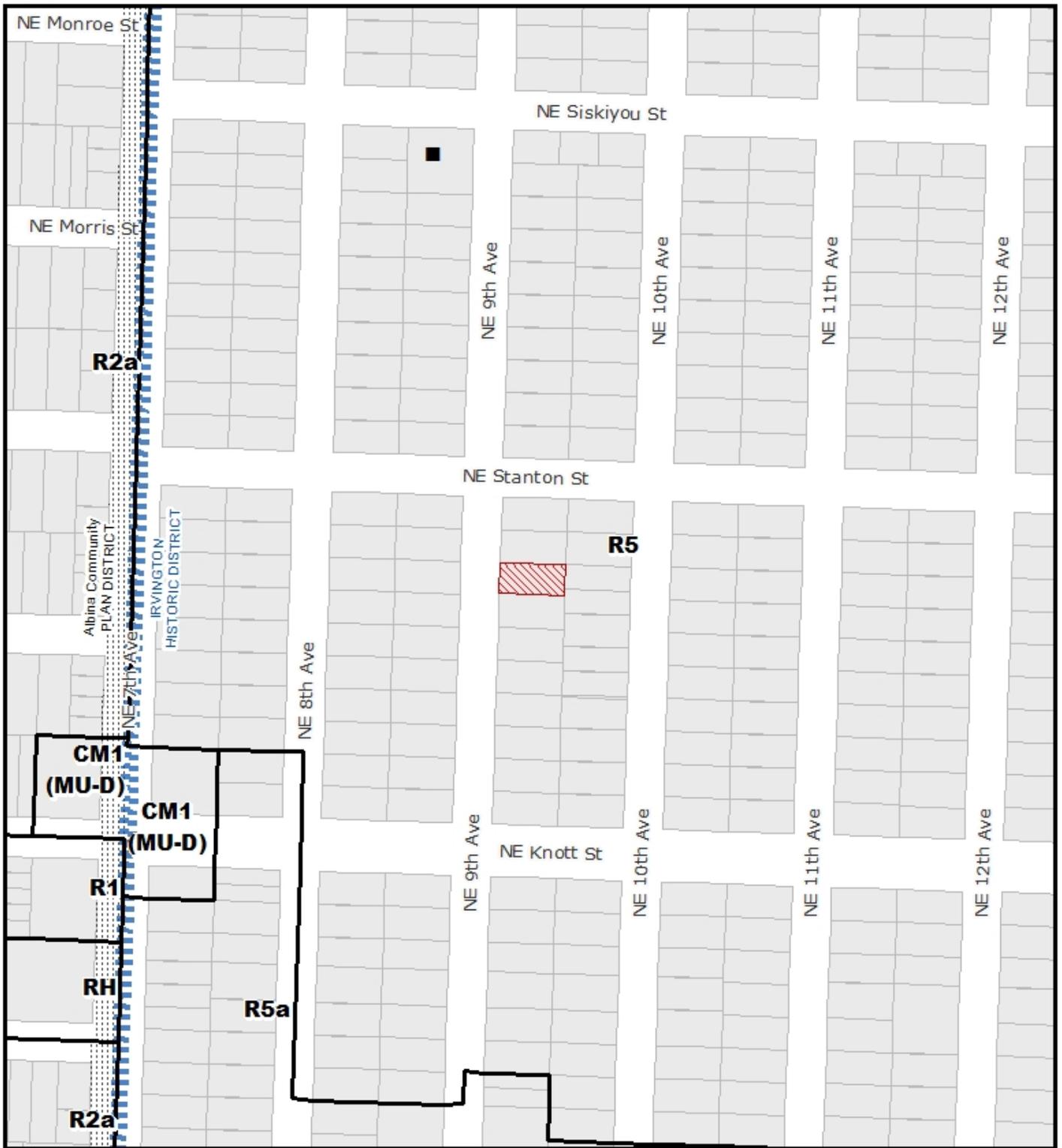
Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Response to Approval criteria
  - 2. Criteria checklist
  - 3. Permit indicating all main floor windows to be replaced "to match existing"
  - 4. After pictures
  - 5. Site Plan
  - 6. Front elevation
  - 7. Window Cutsheets
  - 8. Email from Serge Arbuzov, dated December 23, 2020
  - 9. Extension form
  - 10. Materials received February 25, 2020
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan – not approved
  - 2. Front elevation – not approved
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses: No responses were received.
- F. Correspondence:
  - 1. Dean Gisvold, Chair of the Irvington Community Association Land Use Committee, on February 11, 2019, wrote in opposition to the proposal to keep the existing two front vinyl windows on the front façade and also noting that other windows and the siding on the resource had been changed without historic resource review.
  - 2. Other:
    - 1. Original LU Application
    - 2. Incomplete Letter, dated July 2, 2019
    - 3. Before photo, dated March 20, 2009
    - 4. Google streetview image, dated August 2014
    - 5. Refund Request Form

**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 19-183153 HR
1/4 Section	2731
Scale	1 inch = 200 feet
State ID	1N1E26BD 6200
Exhibit	B Jun 25, 2019