



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

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**Date:** December 06, 2021  
**To:** Interested Person  
**From:** Arthur Graves, Land Use Services  
503.865.6517 | [Arthur.Graves@portlandoregon.gov](mailto:Arthur.Graves@portlandoregon.gov)

## **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 21-085411 HR: SOLAR PANEL INSTALLATION**

#### **GENERAL INFORMATION**

**Applicant:** Molly Beckel | Elemental Energy LLC  
1339 SE 8th Ave Ste B | Portland OR 97214  
503-937-5786 | [permits@elementalenergy.net](mailto:permits@elementalenergy.net)

**Owners:** Mary De La Fuente / Kent Sundberg  
3022 NE 13th Ave | Portland, OR 97212

**Site Address:** 3022 NE 13<sup>th</sup> Avenue

**Legal Description:** BLOCK 73 LOT 18 POTENTIAL ADDITIONAL TAX, IRVINGTON  
**Tax Account No.:** R420415730  
**State ID No.:** 1N1E26BA 16200  
**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@nnebaportland.org](mailto:Info@nnebaportland.org)  
**District Coalition:** Northeast Coalition of Neighborhoods, contact at [info@necoalition.org](mailto:info@necoalition.org)  
**Plan District:** None  
**Other Designations:** Contributing Resource in the Irvington Historic District, listed in the National Register of Historic Places on October 22, 2010.

**Zoning:** R5: Residential 5,000 with Historic Resource Overlay  
**Case Type:** HR: Historic Resource Review  
**Procedure:** Type II, an administrative decision with appeal to the Landmarks Commission.

#### **Proposal:**

The applicant seeks Historic Resource Review approval for alterations to the existing contributing resources on the site in the Irvington Historic District.

Proposed alterations include:

House:

- The installation of 13 solar panels to the dominate portion of the east facing roof pitch, and 2 solar panels to the secondary south facing roof pitch. (Both roof pitches are facing into the site.) Each panel is approximately 3'-8" x 5'-4" in siz. Panels will be off-set a maximum of 6 ½" from the roof to the face of the solar panel. The gang of 11 panels are offset approximately 3-feet from the roof ridge and 4-feet from the edge of the roof to the south. These panels are offset 8-inches from the east roof edge. The gang of 2 panels are offset 4-feet from the roof ridge, approximately 2-feet from the roof edge to the west, and no less than 8-inches from the roof edge to the south.
- Ancillary equipment is proposed to be located on the north elevation of the building adjacent to the entry door on this elevation.

Garage:

- The installation of 5 solar panels to the south facing roof pitch. (This roof pitch is south facing and into the site.) Each panel is approximately 3'-8" x 5'-4" in size. Panels are ganged in the center of the proposed roof. Panels will be off-set a maximum of 6 ½" from the roof to the face of the solar panel. The 5 panels are offset approximately: 1-foot from the roof ridge; 1-foot from the roof eave; 5-feet from the edges of the roof to the east and west.

Historic Resource Review is required for proposals including non-exempt exterior alterations on a resource in the Irvington Historic District.

**Relevant Approval Criteria:**

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

- 33.846.060 Other Approval Criteria

**ANALYSIS****Site and Vicinity:**

The subject site is a standard 5000 square foot lot located in the north-west quadrant of the Irvington Historic District. The site contains a primary contributing resource (the house), and a non-contributing garage. Both, the dwelling and the garage were constructed in 1927.

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. Other deed restrictions excluded minority groups, established uniform front setbacks, and required minimum expenditure on new buildings. The area developed generally from southwest to northeast and its growth was greatly influenced by the installation of streetcar lines that introduced an easy commuting option to downtown.

The contributing resources in Irvington range in design character from expressions of the late Victorian Era styles, especially Queen Anne, through the many Period Revival modes of the early decades of the Twentieth Century, to a few early modernist examples. There is also a wide diversity in the sizes of lots and houses. In terms of the streetscape, the numbered north-south avenues in Irvington vary dramatically in width, and they mostly form rather long block faces which the houses generally face. The named east-west street block faces are more consistent in length, almost all being traditional 200' Portland blocks. All are lined with mature street trees. Original development in many cases included garages or other accessory structures, typically facing side streets on corner lots and accessed by a variety of driveway types on mid-block sites. Garages that were added within the historic period, were sometimes built at the sidewalk and/or out of architectural character with the house.

**Zoning:**

The Residential 5,000 (R5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 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 **October 21, 2021**.

1. Bureau of Development Services Site Development: Jason Butler-Brown, October 28, 2021. With no concerns. (Exhibit E-1).
2. Fire Bureau: Dawn Krantz, November 02, 2021. With no concerns. (Exhibit E-2).
3. Bureau of Development Services Life Safety/Building Code Section: Chanel Horn, November 08, 2021. With the following comments. (Exhibit E-3).

*Building Permits have been applied for and are currently under review. A Life Safety plans examiner has been in contact with the applicant. Please refer to correspondence from the Life Safety plans examiner for building code-related comments.*

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on October 21, 2021. A total of two written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

1. M. Elizabeth de la Fuente and Kent Sundberg, owners of site, with support for the proposal. October 25, 2021. Exhibit F-1.
2. Irvington Community Association, Dean Gisvold, Chair of Land Use Committee, with support for the proposal but with the following comments – in italics below: November 07, 2021. Exhibit F-2.

*Since the ICA has approved the solar panel code changes in HRCP, we are okay with the layout of panels so long as they comply with either the current code language of*

*"The system must be mounted flush, with the plane of the system parallel with the roof surface, with the system no more than 12 inches from the surface of the roof at any point, and set back 3 feet from the roof edge and ridgeline. See Figure 445-3." Or*

*The new dimensional provisions in the solar panel exemption in the HRCP.*

*Staff Response: Responding to ICA concerns, the applicant made alterations to panel layout to comply with the new dimensional provisions in the solar panel exemption in the HRCP.*

## ZONING CODE APPROVAL CRITERIA

### Chapter 33.846.060 - Historic Resource Review

#### **Purpose of Historic Resource Review**

Historic Resource Review ensures the conservation and enhancement of the special characteristics of historic resources.

#### **Historic Resource Review Approval Criteria**

Requests for Historic Resource Review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

**Findings:** The site is within the Irvington Historic District and the proposal is for non-exempt treatment. Therefore Historic Resource Review approval is required. The approval criteria are those listed in *33.846.060 G – Other Approval Criteria*.

*Staff has considered all guidelines and addressed only those applicable to this proposal.*

### **33.846.060 G - Other Approval Criteria**

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

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

The thirteen (13) solar panels proposed to be located on the primary resource's roof are facing into the property and are not visible from the right of way. Similarly, the proposed five (5) solar panels located on the garage's roof are also internally facing and will not be visible from the right of way. (Note: The site grade is approximately 4-feet higher than the adjacent right of way to the west) In addition, and in response to ICA concerns (see Exhibits F-2 and G-4) proposed solar panels on both structures will be mounted flush with the roof plane and set back a minimum of 8-inches from roof edges and ridgelines. Proposed panels are clearly a removable contemporary exterior addition and do not impact, degrade or detract from the historic character of the home or the garage.

Proposed ancillary equipment will be located on the north elevation of the primary resource (see Exhibits C-3 and C-8) along the utilitarian portion of the site adjacent to the driveway. Specifically, the proposed utility meter, AC disconnect, and enphase combiner will be located between the existing secondary access door and an existing window.

There are no historic changes or historic features that will be impacted as a result of the proposed solar panel addition to the primary resource or the garage. Historic materials will

be protected and no chemical or physical treatments, such as sandblasting, that cause damage to historic materials will be used.

*Therefore, these criteria have been 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 ground disturbance is proposed.

*Therefore, this criterion does not apply.*

**7. Differentiate new from old.** New additions, exterior alterations, or related new construction will not destroy historic materials that characterize a property. New work will be differentiated from the old.

**8. Architectural compatibility.** New additions, exterior alterations, or related new construction will be compatible with the resource's massing, size, scale, and architectural features. When retrofitting buildings or sites to improve accessibility for persons with disabilities, design solutions will not compromise the architectural integrity of the historic resource.

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

**10. Hierarchy of compatibility.** Exterior alterations and additions will be designed to be compatible primarily with the original resource, secondarily with adjacent properties, and finally, if located within a Historic or Conservation District, with the rest of the district. Where practical, compatibility will be pursued on all three levels.

**Findings for 7, 8, 9 and 10:**

The proposed alterations including the installation of: 13 solar panels to the primary contributing resource's main (dominate) east facing roof, and 2 solar panels to the secondary south facing roof pitch; 5 solar panels to the south facing roof pitch of the non-contributing detached garage, and three ancillary equipment components to the exterior of the north facing elevation of the contributing resource, will not affect the form, footprint or architectural integrity of the house or garage. Proposed solar panels will be mounted to the existing roof using "Ironridge Flashfoot2" attachments, approximately two per panel, that will leave the existing composition roof intact. Each attachment is approximately 9" x 12", is secured to the existing composition roof, and is further attached to existing roof rafters with 5/16" x 4-1/2" stainless steel lag screws. Proposed panels will be mounted parallel to the roof and set approximately 8" (from roof to face of solar panel) off the existing composition roof.

In addition, while the proposed 18 solar panels are a new feature to the roofs, they are removable and do not permanently impact the architectural character of the building, and by extension, the character of the historic district that the building is in. As mentioned previously, in response to ICA concerns (see Exhibits F-2 and G-4) proposed solar panels on both structures will be mounted flush with the roof plane and set back a minimum of 8-inches from roof edges and ridgelines.

Collectively, this proposal preserves the form and integrity of contributing historic resources and if removed in the future, the essential form and integrity of the historic resource and its environment will be unimpaired. In addition, the proposed alterations

will not negatively impact the contributing resource on site, adjacent neighbors or the Irvington Historic District as a whole.

*Therefore, these guidelines are met.*

## **DEVELOPMENT STANDARDS**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## **CONCLUSIONS**

The proposed alterations to add solar panels to the primary contributing resource on site and the non-contributing garage maintain the historic integrity and architectural character of the site.

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. As indicated in detail in the findings above, this proposal meets the applicable Historic Resource Review criteria and therefore warrants approval.

## **ADMINISTRATIVE DECISION**

Approval of proposed alterations including the addition of 13 solar panels to the primary contributing resource, and 5 solar panels to the non-contributing garage, within the Irvington Historic District, per the approved site plans, Exhibits C-1 through C-8, signed and dated December 01, 2021, 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 21-085411 HR." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. NO FIELD CHANGES ALLOWED.

**Staff Planner: Arthur Graves**



**Decision rendered by:** \_\_\_\_\_ **on December 01, 2021.**

By authority of the Director of the Bureau of Development Services

**Decision mailed: December 06, 2021.**

**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 September 8, 2021, and was determined to be complete on October 18, 2021.

*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 September 8, 2021.

*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: February 15, 2022.**

**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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on December 20, 2021. The completed appeal application form must be emailed to [LandUseIntake@portlandoregon.gov](mailto:LandUseIntake@portlandoregon.gov) and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

**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 on or after **December 21, 2021** 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 Submittal
  - 1. Initial Submittal: 09.08.2021
  - 2. Revised Drawings: 10.18.2021
  - 3. Revised Drawings: 12.01.2021
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Cover Sheet/Vicinity Map
  - 2. Site Plan (attached)
  - 3. Roof Plan with Modules
  - 4. Panel – Branch Layout
  - 5. Section/Details (attached)
  - 6. Attachment Details (attached)
  - 7. Attachment Details
  - 8. Ancillary Equipment Elevation (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Development Services- Site Development: Jason Butler-Brown, October 28, 2021.
  - 2. Fire Bureau: Dawn Krantz, November 02, 2021.
  - 3. Bureau of Development Services Life Safety/Building Code Section: Chanel Horn, November 08, 2021.
- F. Correspondence:
  - 1. M. Elizabeth de la Fuente and Kent Sundberg: October 25, 2021.
  - 2. Irvington Community Association, Dean Gisvold, Chair of Land Use Committee: November 07, 2021.
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter: October 05, 2021
  - 3. Historic information
  - 4. Page of new HRCF code referenced by ICA (Exhibit F-2)

**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).**