



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

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

Date: June 9, 2022
To: Interested Person
From: Grace Jeffreys, Land Use Services
503-865-6521 / Grace.Jeffreys@portlandoregon.gov

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

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 22-135346 HR – 2536 NE 17TH AVE – Removal of 2 Rear Windows

GENERAL INFORMATION

Applicant: John Mac Neela, Corrib Construction LLC
5211 SE 33rd Ave., Portland, OR 97202
corribconstruction@gmail.com, 503-317-9988

Owners: Edel Whelan and Gerry Murphy
2536 NE 17th Ave., Portland, OR 97212-4238

Site Address: 2536 NE 17TH AVE

Legal Description: BLOCK 47 LOT 14, IRVINGTON
Tax Account No.: R420410370
State ID No.: 1N1E26AC 15300
Quarter Section: 2732

Neighborhood: Irvington, contact Dean Gisvold at deang@mcewengisvold.com
Business District: Soul District Business Association, contact at Info@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact at info@necoalition.org

Plan District: None
Other Designations: Considered a contributing resource to the Irvington Historic District
Zoning: R5, Residential 5,000 with a historic resource 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 Historic Resource Review approval to remove two non-original side-facing windows near the rear of a contributing resource in the Irvington Historic District. The resource, called the Povey House, is a craftsman style, 2.5 story residence built in 1912.

Historic Resource Review is required for non-exempt exterior alterations in a Historic District per Portland Zoning Code Section 33.445.320.A.

The plan drawings received with the application also indicated the removal of a chimney (Exhibit A.1). The applicant has advised that this chimney was removed by the homeowner. The applicant advised that the chimney in question was an interior vent type, and the only external visible portion would have been above the roof and thus considered exemption under 33.445.200.D.2.aa. The applicant requested this review to be limited to review of the removal of the two windows. (Exhibit A.5).

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:

- *Portland Zoning Code Section 33.846.060.G*

ANALYSIS

Site and Vicinity: The subject property sits on the east side of NE 17th, four lots north of NE Brazee Street. The house is considered contributing resources to the historic district (Exhibit G.2). The 2.5 story house was built in 1912 in the Craftsman Style with horizontal board siding.

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 that prior land use reviews include the following:

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **May 19, 2022**. No responses were received from City Bureaus.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **May 19, 2022**. Two written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

1. Tony Greiner, tony_greiner@hotmail.com for the Irvington Community Association (ICA), on May 31, 2022, wrote with ICA's comments that the lack of elevations made it hard to ensure the scope of the proposal would be limited to just the removal of these rather hidden windows. The ICA would also prefer these 2 non-original windows were replaced, as there likely were windows here originally. If they are not replaced, the replacement siding should match the existing.
2. Tony Greiner, tony_greiner@hotmail.com for the Irvington Community Association (ICA), on June 2, 2022, in response to receiving an email from staff that morning with the existing and proposed elevations, wrote asking if the review time would be extended.

Staff response: The elevations sent out on June 2, 2022 did not change the scope of the proposed work, they provided another format to further explain the scope of this minor project, and the review timeline was not extended by the applicant. Staff note the photos provided with the proposal notice showed the scope of this minor work - the removal of two non-original rather hidden side windows located near the rear of the residence.

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 landmark or contributing resource will be retained and preserved. Removal of historic materials or alteration of features and spaces that contribute to the historic significance of the landmark or contributing resource will be avoided.
2. **Record of its time.** The landmark or contributing 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.

Findings: The proposed changes will have little effect on the historic character of the house. The proposed changes are to a non-street facing, side elevation located near the rear of the house.

The project proposes to remove two non-original side-facing windows. While there may originally have been two windows on this side elevation, this area of the elevation is stepped back so it is not visible from the street frontage. The infill siding materials will be 1x6 beveled cedar siding to match the profiles of the original/existing siding. Additionally, the applicant notes that they do not believe that these windows are representative of this house, because the spacing of the

opposing sets of windows with minimal framing between at the corner does not match the window spacing at the other corner of the house (Exhibit A.3).

The historic resource will remain a physical record of its time, place, and use. These changes fit with the architectural character of the house, and would not be considered conjectural and would not create a false sense of historic development. The removal of these two non-original windows and the new replacement siding will not substantively change the historic character of this property.

Therefore, these criteria are met.

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 historic feature 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.

Findings: This project doesn't propose the removal or replacement of any existing historic features. *This criterion is not applicable.*

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: Historic materials will be protected. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used. *This criterion is 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, therefore there is no potential for archaeological resources to be disturbed. *This criterion is not applicable.*

7. Differentiate new from old. New additions, exterior alterations, or related new construction will not destroy historic materials that characterize a landmark or contributing resource. New work may be differentiated from the old if the differentiation does not diminish the character, features, materials, form, or integrity of the landmark or contributing resource and, if in a Historic District, the district as a whole.

Findings: The removal of these two non-original windows and the replacement siding will not destroy historic materials that characterize the property. There may originally have been windows in this location, however, this part of the side elevation is near the rear of the property, and is located on part of the side elevation that is stepped back so is not visible from the street frontage. The new beveled cedar siding will be differentiated from the old merely by its inherent newness, however, once painted, it will maintain the historic character of the resource. *This criterion is met.*

8. Architectural compatibility. New additions, exterior alterations, or new construction will be compatible with the massing, size, scale, and architectural features of the landmark or contributing resource and, if in a district, the district as a whole. When retrofitting to improve accessibility for persons with disabilities or accommodate seismic improvements, design solutions will not compromise the architectural integrity of the landmark or contributing resource.

9. Preserve the form and integrity of historic resources. New additions, exterior alterations, or new construction will be undertaken in such a manner that if removed in the future, the essential form and integrity of the landmark or contributing resource and, if in a district, the district as a whole would be unimpaired.

10. Hierarchy of compatibility. New additions, exterior alterations, or new construction will be designed to be compatible primarily with the landmark or contributing resource and,

if located within a district, secondarily with contributing resources within 200 feet and, finally, with the rest of the district. Where practical, compatibility in districts will be pursued on all three levels.

Findings: As described in previous findings, the proposed replacement siding will match the existing siding on the house. As described in previous findings, this proposal meets compatibility on all three levels.

Therefore, these criteria are met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all 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. As indicated in the findings above, this proposal meets the applicable Historic Resource Review criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of the removal two non-original side-facing windows near the rear of a contributing resource in the Irvington Historic District.

Approval per the approved site plans, Exhibits C-1 through C-3, signed and dated June 6, 2022, 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 four required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE- Case File LU 22-135346 HRB." 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: Grace Jeffreys

Decision rendered by:  **on June 6, 2022**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 9, 2022

Procedural Information. The application for this land use review was submitted on April 22, 2022, and was determined to be complete on May 16, 2022.

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 April 22, 2022.

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: September 13, 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.

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.

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 **June 9, 2022** 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 for the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Original submittal – Plans
 2. Original submittal - Photos
 3. Narrative, 5-6-22
 4. Site Plan, 5-16-22
 5. Chimney letter,
 6. Elevation – existing
 7. Elevation - proposed
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Existing North Elevation
 3. Proposed North Elevation (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses: No responses were received.
- F. Correspondence:
 1. Tony Greiner, tony_greiner@hotmail.com for the Irvington Community Association (ICA), on May 31, 2022, wrote that the lack of elevations made it hard to ensure the scope of the proposal would be limited to just the removal of these rather hidden windows. The ICA would also prefer these 2 non-original windows were replaced, as there likely were windows here originally. If they are not replaced, the replacement siding should match the existing.
 2. Tony Greiner, tony_greiner@hotmail.com for the Irvington Community Association (ICA), on June 2, 2022, wrote asking if the review time would be extended.
- G. Other:
 1. Original LU Application
 2. SHPO form
 3. Incomplete letter, sent May 5, 2022

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).