



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: July 13, 2022
To: Interested Person
From: Benjamin Nielsen, Land Use Services
503-865-6519 / Benjamin.Nielsen@portlandoregon.gov

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

The Bureau of Development Services has a approved 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 22-146718 HR **CHIMNEY REPLACEMENT**

GENERAL INFORMATION

Applicant: Selene Rayl, Reid Remodeling LLC, dba Oregon Chimney Repair
5320 SE 26th Ave, Portland, OR 97202
(503) 231-2588, oregonchimney@gmail.com

Owners: Arya & Lily Sadri
2943 NE 18th Ave, Portland, OR 97212

Site Address: 2943 NE 18TH AVE

Legal Description: BLOCK 45 LOT 6, IRVINGTON
Tax Account No.: R420409640
State ID No.: 1N1E26AC 01600
Quarter Section: 2732

Neighborhood: Irvington, contact Tony Greiner at tony_greiner@hotmail.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: Eligible Contributing Resource in the Irvington Historic District
Zoning: R5 – Residential 5,000 with 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 requests Historic Resource Review to demolish and replace an existing stucco-clad brick chimney on the south side elevation of the eligible contributing resource in the Irvington Historic District. The existing chimney is structurally compromised and will be replaced with a new brick chimney in the same location and with the same general dimensions and style.

Historic Resource Review is required for non-exempt exterior alterations in the Irvington 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:

- Portland Zoning Code Section 33.846.060.G, Other Approval Criteria

ANALYSIS

Site and Vicinity: The subject site is a typical 5,000 square foot block containing an eligible/contributing structure in the Irvington Historic District. The primary structure is a 2.5-story tall, Colonial Revival style house with horizontal board siding and distinctive eyebrow dormers, built in 1921. In addition to the eyebrow dormers, the house has a centered front porch with a barrel vaulted roof, matching the shape of the eyebrow dormers. A stucco-clad brick chimney rises through the central peak of the roof on the building's south side. The house sits within the middle of its block of NE 18th Ave and is surrounded on either side by additional eligible/contributing, single-dwelling houses. Most houses within the immediate vicinity are similarly scaled at 1 to 2.5 stories and are designed in a variety of historic styles.

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 overlay zone protects historic resources that have been identified as significant to the history of the city and region. The regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting education and enjoyment for those living in and visiting the region. The regulations foster awareness, memory, and pride among the region's current and future residents in their city and its diverse architecture, culture, and history. Historic preservation recognizes social and cultural history, retains significant architecture, promotes economic and environmental health, and stewards important resources for the use, education, and enjoyment of future generations.

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.

Land Use History: City records indicate there are no prior land use reviews for this site.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **June 10, 2022**. One written response has been received from either the Neighborhood Association or notified property owners in response to the proposal.

1. Tony Greiner, Chair, Irvington Neighborhood Association Land Use Committee, 06/23/2022. Letter in support of the proposal, noting that the committee did not feel it necessary to add stucco cladding to the new chimney. See Exhibit F.1.

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 Historic 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.

Findings: Removal and replacement of the existing chimney with a new brick chimney in the same location and of the same dimensions will not destroy significant historic material or reduce the significance of the contributing resource.

Therefore, this criterion is met.

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.

Findings: The proposed replacement chimney is not a conjectural feature or architectural element from other buildings. Replacement of the chimney will still allow the contributing resource house to retain a physical record of its time, place, and use.

Therefore, this criterion is met.

3. Historic changes. Most resources change over time. Those changes that have acquired historic significance will be preserved.

Findings: The stucco cladding on the existing chimney may be a change that was made after construction of the house in 1921. However, the stucco cladding has not acquired historic significance (indeed, brick chimneys are common features on

Colonial Revival style houses), and its removal and replacement with a new brick chimney will not reduce the significance of the house.

Therefore, this criterion is 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: Evidence provided by the applicant indicates that deterioration of the existing chimney is severe and requires full replacement. The replacement brick chimney will match the original in material, size, and dimension. Only the stucco cladding will be excluded in the replacement, and as noted in Findings for Criterion 3, this material change is not significant.

Therefore, this criterion is met.

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: Only the existing stucco-clad brick chimney will be removed. No chemical treatments are proposed, and no other physical treatments, such as sandblasting, have been proposed.

Therefore, 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: Removal and replacement of the chimney is unlikely to affect any archaeological resources, particularly since the area upon which the new chimney will be built has already been disturbed.

Therefore, this criterion is met.

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.

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 for 7, 8, 9, & 10: The proposed removal and replacement of the chimney will not destroy historic material that characterize the contributing resource. The new chimney will integrate well with the existing contributing house in form, material, and composition. Replacing the existing chimney with a new brick chimney of the same size and dimension will preserve and retain the essential form and architectural integrity of the contributing resource (and will likely save the building from more significant damage and repairs in a seismic event). The proposed replacement brick chimney is also compatible with and retains the historic character of other houses within 200 feet and with the rest of the district.

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

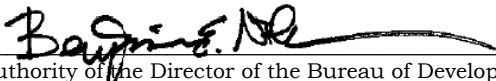
The purpose of the Historic Resource Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. This proposal meets the applicable Historic Resource Review criteria and therefore warrants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

ADMINISTRATIVE DECISION

Approval to demolish and replace an existing stucco-clad brick chimney on the south side elevation of the eligible contributing resource in the Irvington Historic District, per the approved site plans, Exhibits C.1 through C.2, signed and dated 07/08/2022, 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 22-146718 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: Benjamin Nielsen

Decision rendered by:  **on July 8, 2022.**
By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) July 13, 2022.

Procedural Information. The application for this land use review was submitted on May 25, 2022, and was determined to be complete on June 8, 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 May 25, 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, Unless further extended by the applicant, **the 120 days will expire on: October 6, 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 **July 13, 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 Submittals
 - 1. Narrative
 - 2. Site Plan
 - 3. Elevation Drawing
 - 4. Building Code Chimney Diagram
 - 5. Photographs
 - 6. FIR Program Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawing (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses: No responses were received.
- F. Correspondence:
 - 1. Tony Greiner, 06/23/2022, letter in support
- G. Other:
 - 1. Original LU Application

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).