



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

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Date: October 19, 2022
To: Interested Person
From: Hillary Adam, Land Use Services
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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 22-186032 HR – WINDOW REPLACEMENT DUE TO FIRE

GENERAL INFORMATION

Applicant: Zac Horton zac@fasterpermits.com | 503-438-9654
Faster Permits
2000 SW 1st Ave Suite 420
Portland, OR 97201

Owner: Joseph L Squires & Stacey Marie Squires Rev Liv Tr
2711 NE 23rd Ave
Portland, OR 97212

Site Address: 2711 NE 23RD AVE

Legal Description: BLOCK 11 LOT 9&10, IRVINGTON
Tax Account No.: R420402250
State ID No.: 1N1E26AD 12500
Quarter Section: 2732

Neighborhood: Alameda, contact at stevebacker@gmail.com, 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: Contributing Resource in the Irvington Historic District, listed on the National Register of Historic Places

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 proposes window replacement on a contributing resource in the Irvington Historic District as a result of fire damage to the attic floor. New windows are proposed to be made of wood. No other changes are proposed.

Historic Resource Review is required because the proposal is for non-exempt alterations to a contributing resource 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 historic approval criteria

ANALYSIS

Site and Vicinity: The subject property is located at the northwest corner of the intersection on NE Knott Street and NE 23rd Avenue and oriented east toward NE 23rd. The building is a 2-½-story Craftman house clad with horizontal wood siding with shake at the attic level. An uncovered brick patio extends to the south of the gabled front porch. The property features low brick garden walls and is surrounded by mature street trees on both streets.

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 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.

Land Use History: City records indicate the following no prior land use reviews:

- LU 17-281555 HR – Historic Resource Review approval for a new heavy timber pergola in the side (north) yard.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **September 30, 2022**. No responses were received.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **September 30, 2022**. Two written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

- Graig Spolek, on October 11, 2022, wrote in support of the proposal, noting that decisions such as these should be left to the Land Use Services Department [rather than seeking public comment] to expedite the process.
- Tony Greiner, Chair of the Irvington Community Association Land use committee, wrote on October 11, 2022, noting support for the proposal provided the new windows will be the same dimension, shape, and material as the original windows.

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.
- 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 resources 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 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.
- 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.
- 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.
- 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: No damaging chemical or physical treatments are proposed, nor is any excavation. The proposal is to replace nine attic-level windows which were damaged due to fire, rendering them deteriorated beyond repair as a result of smoke and water damage. The proposed replacement windows will be custom four-over-one wood sash windows, designed to match the original windows and fit within the existing frames. As such, the building will remain a record of its time, place, and use and the historic character of the resource and the district will be preserved. The new windows replace ones that cannot be repaired, but are appropriate replicas, compatible with the resource and the district. Because no detail was provided for the muntins in the four-light sash, staff has added a condition that, if these are not to be true divided-light windows, then they shall have interior and exterior muntins with a spacer bar between the windowpanes.

With the condition that the four-light sashes, if not true-divided lights, shall have interior and exterior muntins with a spacer bar between the windowpanes, 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 of window replacement on a contributing resource in the Irvington Historic District as a result of fire damage to the attic floor. The New windows are proposed to be made of wood. No other changes are proposed.

This approval is per the approved site plans, Exhibits C-1 through C-2, signed and dated October 14, 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 22-186032 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.
- D. If the four-light sashes are not true-divided lights, then they shall have interior and exterior muntins with a spacer bar between the windowpanes.

Staff Planner: Hillary Adam

Decision rendered by:  **on October 14, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed: October 19, 2022

Procedural Information. The application for this land use review was submitted on September 21, 2022 and was determined to be complete on September 28, 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 September 21, 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: January 26, 2023.**

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 **October 19, 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 Submittal
 - 1. Approval Criteria
 - 2. Plans
 - 3. Window Specifications
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevations (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses: No responses were received.
- F. Correspondence:
 - 1. Graig Spolek, on October 11, 2022, wrote in support of the proposal, noting that decisions such as these should be left to the Land Use Services Department [rather than seeking public comment] to expedite the process.
 - 2. Tony Greiner, Chair of the Irvington Community Association Land use committee, wrote on October 11, 2022, noting support for the proposal provided the new windows will be the same dimension, shape, and material as the original windows.
- 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).