



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

Carmen Rubio, Commissioner
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Date: February 23, 2023
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 23-002992 HR – BASEMENT WINDOWS

GENERAL INFORMATION

Applicant: Byron Kellar 503-522-7386 / byronk@neilkelly.com
Neil Kelly Company
804 N Alberta
Portland, OR 97217

Owner: Samuel Hughes
2043 NE Tillamook St
Portland, OR 97212

Site Address: 2043 NE TILLAMOOK ST

Legal Description: BLOCK 22 LOT 9&10, IRVINGTON
Tax Account No.: R420404710
State ID No.: 1N1E26DA 14000
Quarter Section: 2832

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: Historic Landmark, individually listed in the National Register of Historic Places and 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 proposes exterior alterations to the basement level of a Historic Landmark in the Irvington Historic District to include:

- On the front (south) façade – replacement of three original wood casement windows with three new wood casement egress windows and the creation of two 27” deep window wells;
- On the west (side) façade – replacement of two existing wood casement windows with two new wood casement windows in the same openings; and
- On the rear (north) façade – replacement of one small wood window with one new wood window in the same opening.

No other exterior alterations are proposed.

Historic Resource Review is required because the proposal is for non-exempt exterior alterations within 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 James C. and Mary A. Costello House was designed by Jacob Jacobberger in the Arts and crafts style and built in 1910. It is oriented south at the northwest corner of NE Tillamook Street and NE 21st Avenue and sits on an elevated lot a few feet above the sidewalk, articulated by a contemporary ashlar granite garden wall and iron fence with landscaping around the perimeter. The house is 2-1/2-stories with a basement and features rusticated granite, stucco, cross gables and various dormers.

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 there are no prior land use reviews for this site.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on February 2, 2023. The following agencies responded with no concerns.

- Life Safety Division of BDS (Exhibit E-1)
- Urban Forestry Division of Parks and Recreation (Exhibit E-2)
- Site Development Section of BDS (Exhibit E-3)
- Fire Bureau (Exhibit E-3)
- Bureau of Transportation (Exhibit E-3)
- Water Bureau (Exhibit E-3)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on February 2, 2023. No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

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 a designated Historic Landmark outside the Central City Plan District and not within in a Historic or Conservation District, and the proposal is for non-exempt treatments. Therefore, the proposal requires Historic Resource Review approval. The approval criteria are those listed in *33.846.060 G – Other Historic Approval Criteria*.

Staff has considered all of the approval criteria 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.

Findings: All proposed changes are located at the basement level of the resource. The basement level is not noted as distinctly significant in the National Register nomination describing the property and its significance except to note that it is rusticated granite which extends partially up the first-floor exterior wall. The basement windows are not specifically described and are not among the primary features of the house. Almost all basement windows proposed for replacement are located at grade and exposed to the elements at ground level. The three windows at the west and north elevations will be replaced within the same openings, thus minimally impacting the historic resource. Over time, these windows have shrunk, thus repair would require replacement of most of the existing window material. These windows are also not visible from the public right-of-way due to their location, facing the interior of the lot as well as the presence of fencing and landscaping on the elevated lot. The two basement windows proposed to be replaced at the south (front) elevation will be increased in size in the downward direction only. Therefore, this expansion will not be easily visible from the sidewalk also due to the elevated grade and the fencing and landscaping obscuring views to these areas. The window wells are not so deep as to require fall protection around them which will ensure the historic character of the street-facing façade is maintained.

Because the replacement windows are to be located within the existing openings or, in the case of the front windows only expand downward, and because the material (wood) and method of operation (casement) will match the existing, the historic character will be preserved and the resource will remain a record of its time. *Therefore, these criteria are 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.*

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: The three windows not facing south are designed to match the historic condition, with the exception of including dual glazing, thus differentiating from old while remaining compatible in their matching material and design. These windows are not visible from the street and this change will have a negligible impact on the landmark. The two egress windows on the front façade are designed to match the historic condition except that they will be extended in the earthward direction, dropping below grade and opening to a window well, and they will be dual paned.

This change will be minimally visible from the sidewalk and physically affects only the basement level of the landmark. The proposal allows for expansion of habitable area within the landmark's existing envelope and if removed in the future, the proposed changes would still allow the landmark to retain its essential form and integrity. The proposed changes, which retain the essential historic character of the resource, are compatible with the landmark as well as nearby contributing resources, and the district as a whole. 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. The proposal is limited in scope, restricted to the basement level of the resource, and expands interior living area within the existing envelope of the building. The proposed windows changes will largely match the existing in design and material. This proposal meets the applicable Historic Resource Review criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of exterior alterations to the basement level of a Historic Landmark in the Irvington Historic District to include:


- On the front (south) façade – replacement of three original wood casement windows with three new wood casement egress windows and the creation of two 27” deep window wells;
- On the west (side) façade – replacement of two existing wood casement windows with two new wood casement windows in the same openings; and
- On the rear (north) façade – replacement of one small wood window with one new wood window in the same opening.

No other exterior alterations are proposed.

This approval is per the approved site plans, Exhibits C-1 through C-12, signed and dated February 17, 2023, 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 23-002992 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: Hillary Adam

Decision rendered by:  on February 17, 2023
By authority of the Director of the Bureau of Development Services

Decision mailed: February 23, 2023

Procedural Information. The application for this land use review was submitted on January 11, 2023, and was determined to be complete on January 25, 2023.

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 January 11, 2023.

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: May 25, 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 **February 23, 2023** 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 Drawing Submittal
 - 2. Revised Drawings
 - 3. Photos
 - 4. Response to Criterion #4
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Existing South (Front) Elevation
 - 3. Proposed South (Front) Elevation (attached)
 - 4. Proposed West (Side) Elevation
 - 5. Proposed North (Rear) Elevation
 - 6. Existing Basement Plan
 - 7. Proposed Basement Plan
 - 8. Window Details
 - 9. Window Details
 - 10. Window Plan Detail
 - 11. Window Section Details
 - 12. Window Section Details
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Division of BDS
 - 2. Urban Forestry Division of Parks and Recreation
 - 3. Site Development Section of BDS, Fire Bureau, Bureau of Transportation, and Water Bureau
- F. Correspondence: none
- 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).