



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

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**NOTICE OF FINAL
FINDINGS, CONCLUSIONS, AND DECISION
OF THE CITY OF PORTLAND HISTORIC LANDMARKS COMMISSION
ON AN
APPEALED ADMINISTRATIVE DECISION
(Type II Process)**

CASE FILE: LU 12-139918 HDZ
LOCATION: 2327 NE 8th Avenue

The administrative decision for this case, published on September 13, 2012, was appealed to the Historic Landmarks Commission by the applicant.

The Historic Landmarks Commission modified the administrative decision of denial and granted the request. The original analysis, findings and conclusion have been revised by the Historic Landmarks Commission and follow. This decision is available on line:

<http://www.portlandonline.com/bds/index.cfm?c=46429&>

GENERAL INFORMATION

- Applicant:** Portland Redevelopment LLC
PO Box 11930 / Portland, OR 97211-0930
- Representative:** Vladimir Ozeruga
PO Box 11778 / Portland, OR 97211-1778
- Site Address:** 2327 NE 8th Avenue
- Legal Description:** BLOCK 118 LOT 8, IRVINGTON
Tax Account No.: R420425740
State ID No.: 1N1E26CB 10600
Quarter Section: 2831
Neighborhood: Irvington, contact Dean Gisvold at 503-284-3885.
Business District: North-Northeast Business Assoc, Joice Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, Chris Lopez at 503-823-4575.
Other Designations: Contributing resource in the Irvington Historic District, which was listed in the National Register of Historic Places on October 22, 2010.
- Zoning:** R5a, Single Dwelling Residential 5000, with Historic Resource Protection and Alternative Design Density Overlays
- Case Type:** HDZ, Historic Design Review
Procedure: Type II, an administrative decision with appeal to the Historic Landmarks Commission.
- Proposal:**
- The applicant originally sought Historic Design Review approval to replace the recently installed non-historic windows on the front of the house with new wood windows and legalize the installation of new fiber cement clapboard-style siding with a 5" reveal over the entire body of the building.

In the appeal process the proposal was changed to include only the following alterations:

- Replacement of the fiber-cement siding installed after March 15, 2012 with wood siding to match the historic pattern shown in photographs taken by Compliance Inspector David Melzer on March 26, 2012. These materials are identified as Double Drop siding on the lower floor and wood shingles on the upper floor;
- Replacement of the windows on the sides of the house that were changed to vinyl units after March 15, 2012, i.e. those on approximately the forward two-thirds of the side walls, with one-over-one, double hung, wood window units;
- On the front of the house, where new wooden windows with multi-light upper sashes have been installed, replacement of the upper sashes with single-light units;
- Replacement of the recently installed columns and guard rails with columns and guard rails more similar to those in place prior to March 15, 2012
- Installation of double-drop siding skirt around front porch; and
- Removal of all added decorative elements, e.g. the dentils at the main porch beam.

Historic Design Review is required because the proposal is for non-exempt exterior alterations to a primary structure within the Irvington Historic District.

Relevant Approval Criteria:

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

- 33.846.060 G – Other Approval Criteria

ANALYSIS

Site and Vicinity: The subject property, a vernacular two story structure with a full-width front porch in the traditional "Foursquare" form, was built in about 1910. It is identified as the Margaret Roberts house, presumably after its first owner, in the National Register documentation for the Irvington Historic District, and was evaluated as a contributing resource in spite of being fully clad with vinyl siding.

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 after original construction, but still within the historic period, were sometimes built at the sidewalk and/or out of architectural character with the house.

Zoning: The single-dwelling zones, including R5, are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing.

The Historic Resource Protection Overlay zone 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.

The purpose of the Alternative Design Density Overlay Zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

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

Public Notice: A "Notice of Proposal in Your Neighborhood" was mailed on August 21, 2011.

Agency Review: None of the notified Bureaus has responded with issues or concerns.

Neighborhood Review: One written response has been received from either the Neighborhood Association or notified property owners in response to the proposal. Dean Gisvold, Chair, wrote on behalf of the Irvington Community Association Land Use Committee on September 2, 2012, finding that none of the applicable approval criteria are met by the proposed retention of replacement windows, siding, and porch alterations which were installed without benefit of Historic Design Review approval. Note: The Irvington Community Association also testified at the appeal hearing.

ZONING CODE APPROVAL CRITERIA

Chapter 33.846.060 - Historic Design Review

Purpose of Historic Design Review

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

Historic Design Review Approval Criteria

Requests for historic design 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 exterior alterations. Therefore Historic Design Review approval is required. The approval criteria are those listed in *33.846.060 G – Other Approval Criteria*.

Staff has considered all criteria 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.

Findings: With the exception of the installation of new wood windows on the street-facing facade, the applicant's prior proposal was essentially to legalize all of the unpermitted work. Although most of the historic exterior elements of the house have been irretrievably altered, new elements, that substantially match the removed historic ones in material and configuration, as required by Condition of Approval B, are proposed. *This criterion is met.*

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

Findings: Non-historic vinyl siding, applied over the original combination of double-drop lap siding and shingles, was removed from the house. The installation of the vinyl siding took place outside the period of significance and before listing of the district, and had therefore not achieved significance in its own right. *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 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.

Findings: While the historic windows, siding, and front porch elements may have been significantly deteriorated, no evidence to that effect was ever presented. New elements that substantially match the removed historic ones in material and configuration, as required by Condition of Approval B, are proposed. *This criterion is met.*

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.

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 8 and 10: The completed alterations have substantially obliterated the architectural character and materials of the house's exterior. However, the revised proposal is to reverse these changes with materials and a configuration that will convincingly approximating the historic configuration. Although the property will regrettably lose its contributing status, it will at least return to compatibility with the historic district. The revised proposal must substantially conform to the details of a memo sent to the applicant by staff on October 23, 2012. *With a condition of approval requiring conformance with the terms of the above-referenced memo, 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 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 return to a semblance of the historic character of this house will not undo the loss of historic district character, but it will create a better solution than the original proposal to approve the unauthorized alterations. The purpose of the Historic Design Review process is to ensure that additions, new construction, and exterior alterations to historic resources, including historic districts, do not compromise their ability to convey historic significance. Under the circumstances this proposal meets the applicable Historic Design Review criteria and therefore warrants approval.

DECISION

The applicant/appellant prevailed, and the decision was modified.

It is the decision of the Historic Landmarks Commission to grant the appeal and modify the administrative decision of denial, subject to the following conditions:

Approval of exterior alterations to a contributing resource in the Irvington Historic District; per Exhibits C-1 through C-6 and H-6 through H-9, signed and dated November 27, 2012, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C-1 through C-6 and H-7 through H-10. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 10-148927 HDZ. No field changes allowed."
- B. All work shall substantially conform to the details of the October 23, 2012 memo from Dave Skilton to the Vladimir Ozeruga, Exhibit H-10.

Staff Planner: Dave Skilton

First Hearing Date: October 23, 2012

Second Hearing date: November 26, 2010

Findings and conclusions adopted by the Historic Landmarks Commission on: November 26, 2012

By:  _____, Chair, Historic Landmarks Commission
Carrie Richter

Date Final Decision Effective/Mailed: December 3, 2012

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 March 11, 2010, and was determined to be complete on **August 17, 2012**.

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 11, 2012.

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 initially requested that the 120-day review period be extended for 37 days, see Exhibit A-1. The applicant has not requested any extension of the 120-decision period.

Appeal of this Decision. This decision is final and becomes effective the day the notice of decision is mailed (noted above). This decision may not be appealed to City Council; however, it may be challenged by filing a "Notice of Intent to Appeal" with the State Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed, pursuant to ORS 197.0 and 197.830. A fee is required, and the issue being appealed must have been raised by the close of the record and with sufficient specificity to afford the review body an opportunity to respond to the issue. For further information, contact LUBA at the Public Utility Commission Building, 550 Capitol Street NE, Salem, OR 97310. [Telephone: (503)373-1265]

Recording the Final Decision.

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder. A building or zoning permit will be issued only after the final decision is recorded. **The final decision may be recorded on or after December 3, 2012.**

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in a separate mailing) and the final Land Use Review Decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, PO Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review Decision with a check made payable to the Multnomah Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034. 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. This decision expires three years from the date the Final Decision is rendered unless:

- A building permit has been issued, or
- The approved activity has begun, or
- In situations involving only the creation of lots, and the land decision has been recorded.

Applying for permits. A building permit, occupancy permit, or development permit must be obtained before carrying out this project. At the time they apply for a permit, the applicant must demonstrate compliance with:

- All conditions imposed here.
- All applicable development standards, unless specifically exempted as part of this land use review.
- All requirements of the building code.
- 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 Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. East Elevation
 - 3. South Elevation
 - 4. West Elevation
 - 5. North Elevation
 - 6. Window Details
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Review Section of BDS

Correspondence:

- 1. Dean Gisvold, Chair, wrote on behalf of the Irvington Community Association Land Use Committee on September 2, 2012, finding that none of the applicable approval criteria are met by the proposed retention of replacement windows, siding, and porch alterations which were installed without benefit of Historic Design Review approval.

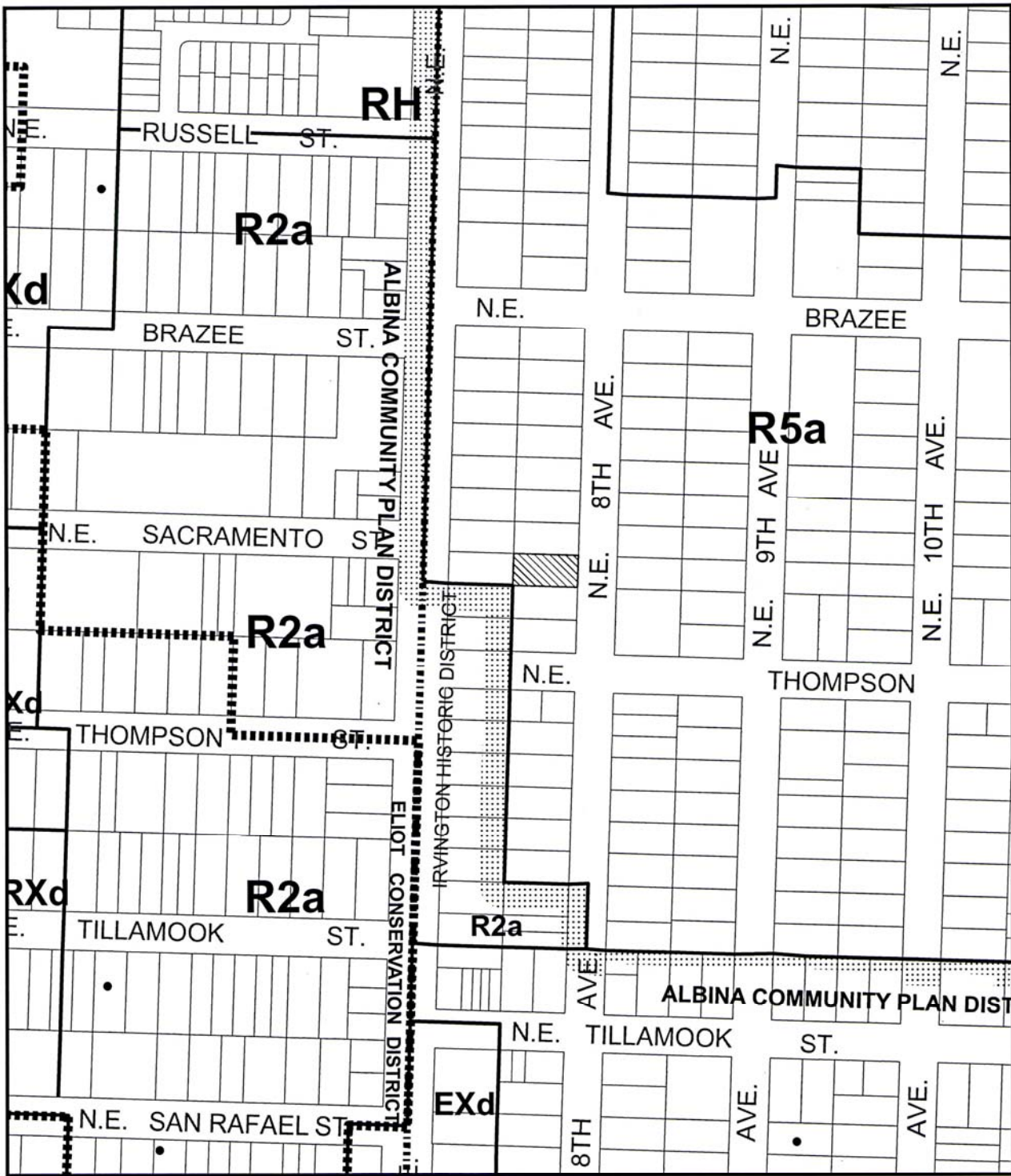
G. Other:

- 1. Original LU Application
- 2. Site History Research

H. Appeal

- 1. Appeal Submittal
- 2. Appealed Decision Mailing List
- 3. Appealed Decision
- 4. Notice of Appeal Mailing List
- 5. Notice of Appeal
- 6. Staff Presentation
- 7. Siding Details
- 8. Shingle Details
- 9. Window Details
- 10. October 23, 2012 Memo from Dave Skilton to Vladimir Ozeruga. (attached)

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).



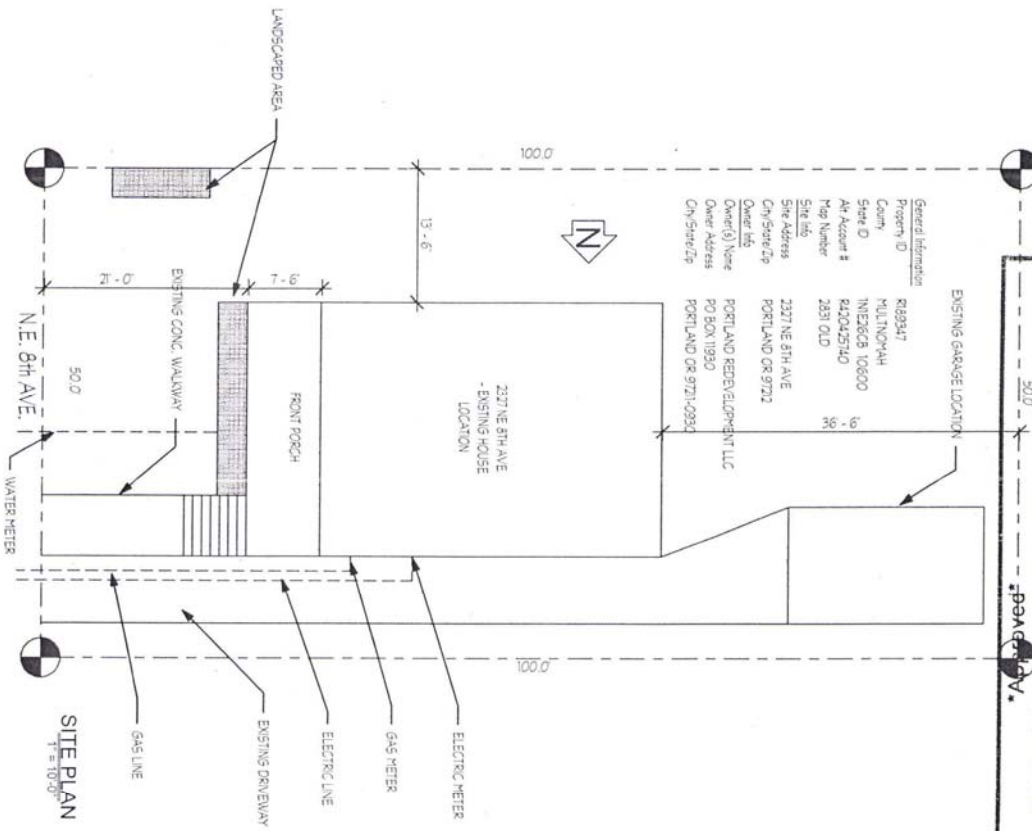
ZONING

 Site



This site lies within the:
IRVINGTON HISTORIC DISTRICT

File No. LU 12-139918 HDZ
 1/4 Section 2831
 Scale 1 inch = 200 feet
 State_Id 1N1E26CB 10600
 Exhibit B (May 17, 2012)



General Information
 Property ID: R188947
 County: MULTNOMAH
 State ID: W12826 10800
 Air Account #: R420425140
 Map Number: 2831 OLD
 Site ID:
 Site Address: 237 NE 8TH AVE
 City/State/Zip: PORTLAND OR 97112
 Owner ID:
 Owner Name: PORTLAND REDEVELOPMENT LLC
 Owner Address: PO BOX 11990
 PORTLAND OR 97111-0990
 City/State/Zip

Approved: _____ Date: 11.29.12
 City of Portland - Bureau of Development Services
 Planner: *Dave Fultz*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

Project number:	9695
Date:	6/5/2012
Drawn by:	BSY
Checked by:	
Area:	2,192 ft ²
Scale:	1" = 10'-0"

VLADIMIR OZERUGA
 SITE, UTILITY AND LANDSCAPING

BUILDERS DESIGN INC
 COMMERCIAL · RESIDENTIAL · REMODELING
 11125 NE WEIDLER ST. · PORTLAND, OR 97220
 PHONE: (503) 252-3453 · FAX: (503) 252-3454
 EMAIL: BUILDERSDESIGN@GMAIL.COM

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SITE PLAN
 1" = 10'-0"

C-1



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October 23, 2012

TO: Vladimir Ozeruga
 FROM: Dave Skilton, Land Use Services 503-823-0660
 dave.skilton@portlandoregon.gov
 RE: LU 139918 HDZ – Appeal, 2327 NE 8th Avenue, Irvington Historic District
 CC: Historic Landmarks Commissioners
 Mike Liefeld, BDS
 Susan McKinney, BDS
 Tim Heron, BDS

This memo is to summarize the specific changes to the house that the Historic Landmarks Commission requires in order for them to agree to your appeal and approve the project. You will need to cooperate closely with staff to develop and document acceptable details before returning to the Historic Landmarks Commission.

1. Siding.
 - a. Replace the fiber-cement (Hardi Plank) siding installed after March 15, 2012 with wood siding to match the historic pattern shown in the attached photographs (1-3) taken by Compliance Inspector David Melzer on March 26, 2012. These materials are identified as Double Drop siding on the lower floor and wood shingles on the upper floor.
2. Windows.
 - a. All windows on the sides of the house that were changed to vinyl units after March 15, 2012, i.e. those on approximately the forward two-thirds of the side walls, must be replaced with one-over-one, double hung, wood window units.
 - b. On the front of the house, where new wooden windows with multi-light upper sashes have been installed, replace the upper sashes with single-light units.
3. Front Porch.
 - a. Working with staff, replace the recently installed columns and guard rails with columns and guard rails more similar to those in place prior to March 15, 2012. See photo 4.
 - b. Remove all added decorative elements, e.g. the dentils at the main beam.
 - c. Replace the lattice skirting with properly detailed siding to match the lower level of the house.

I recommend a face-to-face meeting as soon as possible. Please call or e-mail me to set up a time. In order to return to the Historic Landmarks Commission on November 26 we will need ten copies of revised drawings, reflecting the above changes (1-3), by November 13, 2012.

Approved
 City of Portland - Bureau of Development Services
 Planner *Dave Skilton* Date *11.29.12*
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

H-10
~~_____~~