



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

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**TENTATIVE REVISED
STAFF RECOMMENDATION
TO THE HISTORIC LANDMARKS COMMISSION
ON AN
APPEALED ADMINISTRATIVE DECISION
(Type II Process)**

CASE FILE: LU 13-145895 HR
LOCATION: 2433 NE Klickitat Street

The administrative decision for this case, published on August 15, 2013, was appealed to the Historic Landmarks Commission by the applicant. At the appeal hearing on March 10, 2014, it was concluded by the majority of the Historic Landmarks Commission that an alternative design could potentially meet the approval criteria.

The applicant has revised the proposal in a manner that responds to Historic Landmarks Commission guidance. The original analysis, findings, and conclusion have been revised and follow. This document is available on line:

<http://efiles.portlandoregon.gov/webdrawer.dll/webdrawer/rec/5894732/>

NOTE: Changes in this decision from the previously rendered Decision of Denial, dated August 15, 2013, are boxed. Deletions of text are left in the document as ~~strikethrough~~ but will be deleted in the Final Findings & Decision document.

CASE FILE NUMBER: LU 13-145895 HR – REPLACEMENT WINDOWS

GENERAL INFORMATION

Applicant: Ira Zarov, Owner
Darcy Norville, Owner
2433 NE Klickitat St
Portland, OR 97212-2511

Site Address: 2433 NE KLICKITAT ST

Legal Description: BLOCK 7 E 1/2 OF LOT 9&10, EDGEMONT
Tax Account No.: R237502020
State ID No.: 1N1E25BB 05400
Quarter Section: 2733

Neighborhood: Irvington, contact Dean Gisvold at 503-284-3885. Alameda, contact Jim Brown at 503-284-6455.

Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.
District Coalition: Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-388-5004.

Designations: Contributing resource in the Irvington Historic District, listed in the National Register of Historic Places on October 22, 2010.

Zoning: R5h – Residential 5,000 with Aircraft Landing Zone overlay

Case Type: HR – Historic Resource Review

Procedure: Type II, an administrative decision with appeal to the Historic Landmarks Commission.

Proposal:

The applicant proposes to legalize the replacement of original divided-light double-hung ~~and fixed wood windows~~ with divided-light double-hung ~~and fixed fiberglass windows~~ installed in February 2012, including:

- ~~• Two fixed windows on the south street facing (front) façade;~~
- Three double-hung windows on the east street-facing (side) façade;
- Three double-hung windows on the north (rear) façade;
- Five double-hung windows on the west (side) façade; and
- Removal of non-historic wood trim around the window frames.

Two fixed windows on the south-facing front façade, previously replaced with fixed fiberglass windows, are now proposed to be replaced with two custom wood windows designed to match the historic windows and recessed 3½”-4” from the exterior wall plane.

Four other windows on the house, including two on the east façade and two on the west façade, as well as a pair of French doors, were replaced by previous owners prior to the historic district listing and are not subject to review.

Historic resource review is required because the proposal is for non-exempt alterations to a contributing resource in the Irvington Historic District.

Relevant Approval Criteria:

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

- 33.846.060.G Other Approval Criteria

ANALYSIS

Site and Vicinity: The subject property is located at the northwest corner of the intersection of NE 25th Avenue and NE Klickitat street and faces south on NE Klickitat. It is a one-story Mediterranean Revival house with a 4-6 foot garden wall surrounding the rear and a portion of the east façade and connecting the house to the garage facing NE 25th Avenue. The house is listed as a contributing resource in the Irvington Historic District, as is the garage.

The Irvington Historic District was platted in 1887 and was one of the first subdivisions in Portland to employ restrictive covenants, including uniform setbacks, minimum construction expenditures, the exclusion of minorities and the exclusion of non-residential uses. The few non-residential uses allowed at the interior of the district were required to be designed to resemble residential buildings. Development of the neighborhood spread slowly from the south east corner toward the northeast, following the patterns of streetcar development, first along NE Broadway, followed by extensions north into the neighborhood. As the restrictive covenants expired, more commercial development occurred at the edge of the subdivision along NE Broadway through conversion of residential properties and new development. The district comprises an eclectic assortment of late 19th and early 20th century architectural styles, including Queen Anne, Craftsman, and Period Revival styles. Garages built during the period of significance were either built at the same time as the associated residences for the later developments, or were later additions to the earlier residences, and were most commonly located at the rear or front of the property.

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 Aircraft Landing Zone “h” overlay provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. A height contour map is available for review in the Development Services Center.

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:

- LU 13-147214 HR – Approval of the replacement of two wood windows at the basement level of the east façade with new bronze color vinyl windows, including one in the existing opening and one opening enlarged to provide egress.

Summary of Applicant’s Statement: The applicant provided a written statement with their land use application. The applicant noted that many of the windows had dry rotted frames and broken or cracked panes. The homeowners consulted four window contractors, none of which informed them that historic review was required. The four contractors also advised the homeowners that fiberglass would be a better replacement material than wood due to the Mediterranean style of the house, which lacks protective eaves. The homeowners noted that it was very important to them to preserve the historic character of the house and they intentionally chose these replacement windows to match the original windows. The homeowners also noted that four other fiberglass windows had been installed by a previous homeowner.

Please see Exhibit A-1 for additional details.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **May 23, 2013**. The following Bureaus responded with comments:

- The **Life Safety Division of BDS** responded noting that new or enlarged openings would require a Building Permit and that exterior walls less than 3’-0” to a property line shall be one-hour fire-rated with no openings allowed. Life Safety notes that in order to replace a window in an existing opening less than 3’-0” to the property line would require an administrative appeal.

Staff Response: All replacement windows were installed within existing openings, with no new or enlarged openings created. Though the site plan was crudely drawn, the site plan provided for the previous land use application shows that the furthest west window appears to be about 3’-0” from the property line, though an exact dimension is not provided. Staff suggests that this measurement be verified to determine if the window is allowed to be replaced in the existing opening without an administrative appeal.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **May 23, 2013**. Three written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. Portions of the letters are copied here with minor spelling edits.

- Jim Brown, from the Land Use and Transportation Committee of the Alameda Neighborhood Association, wrote on June 13, 2013 in **support** of the proposal to legalize the fiberglass replacement windows and voiced his opposition to the boundary of the historic district in principle. With regard to the replacement windows, he stated the new windows do not detract from the appearance or style of the home, that recreating the

original appearance exactly would be very expensive, and that if the same materials were used the same risk of deterioration would exist. Please see Exhibit F-1 for additional details.

- Kathryn Krygier, a neighbor, wrote on June 13, 2013 in **support** of the proposal to legalize the fiberglass replacement windows, noting that the windows were replaced within the original openings and therefore the change to the character of the house is insignificant and is also compatible with the architecture. Please see Exhibit F-2 for additional details.
- Dean Gisvold, Land Use Committee Chair for the Irvington Community Association, wrote on June 13, 2013, wrote in **opposition** of a complete approval of the proposal, and suggested a compromise that includes requiring the replacement of the two front fixed windows with new fiberglass windows that replicates the historic muntin pattern exactly. Mr. Gisvold noted the troubling nature of this application, ultimately concluding that fiberglass may be considered an acceptable replacement material; however, criteria #1 *Historic character* and #4 *Historic features* are not met because the 2nd horizontal muntin on the front windows was not replicated. The Committee recommended that the two front windows be replaced to accurately reflect the pattern of the original windows, either with Milgard fiberglass windows like the rest of the house, or with custom windows. Please see Exhibit F-3 for additional details.

Applicant Response to Neighborhood Review:

The applicant provided a response to the neighborhood comments, agreeing with the Alameda Neighborhood Association and Kathryn Krieger. The applicant disagreed with the comments of the Irvington Community Association, stating that the historic character is not diminished and that replicating the original windows exactly would not have been “practicable” and that cost must be considered. The applicant further noted that they were unaware of the requirements for historic review since a permit was not required for the work yet they made a concerted effort to replicate the aesthetic of the original windows while heeding the advice of the consultants. Please see Exhibit A-7 for additional details.

Staff Response: Staff notes that the decision must be based on the approval criteria which, for this application, are listed under Code Section 33.846.060.G *Other approval criteria*. Staff’s decision does not account for financial considerations, as these are not listed as a criterion for approval. Staff notes that the term “practicable”, defined in Section 33.910 of the Portland Zoning Code as “Capable of being done after taking into consideration, cost, existing technology, and logistics in light of overall project purposes.” However, while the term “practicable” is used in the approval criteria for Environmental overlay zones (33.430.250), it does not appear in the approval criteria for Historic Resource Protection overlay zones. Staff’s response to each of the applicable approval criteria are listed below under Zoning Code Approval Criteria.

Following an in depth review of the proposal, staff spoke with the applicant and sent an email (Exhibit G-6) indicating that several of the approval criteria were not met, including #1, #4, #7, #8, #9, and #10.

The applicant responded by providing a second letter (Exhibit A-9), dated July 30, 2013, reiterating their previous statements and expanding on their previous points, in response to these six criteria.

The applicant’s window installation contractor, Mohsen Salama of Clear Choice Construction Inc., also provided a letter (Exhibit A-10), dated July 17, 2013. Mr. Salama noted the condition of the windows at the time of their removal, stating that dry rot had infiltrated to the basement and was extensive enough to warrant replacement of a structural beam. Mr. Salama also noted that fiberglass was suggested as an appropriate replacement material due to the lack of protective eaves on the house and because they were less expensive than wood. Mr. Salama noted that repair was never an option because of the extent of the dry rot.

Appeal Hearing: At the March 10, 2014 Appeal hearing the Historic Landmarks Commission heard testimony from Ira Zarov, the applicant/appellant, and Joe Johnson, a local building envelope consultant. Mr. Zarov and Mr. Johnson testified that this was a unique situation and that due to the residence’s lack of overhanging eaves, fiberglass windows were more appropriate as they would be less susceptible to water damage and require less maintenance.

James Paul Brown, Irvington resident, spoke in favor of the original proposal, and in opposition of the regulations imposed by the creation of the Irvington Historic District.

Barb Christopher, on behalf of the Irvington Community Association Land Use Committee, spoke in support of staff’s Decision of Denial, noting support for replacement fiberglass windows on the side and rear façades but suggesting that the two front windows should be replaced with two new custom windows that better match the historic windows.

The Historic Landmarks Commission noted that the original wood windows had lasted nearly 100 years prior to their removal and noted personal knowledge of wood windows in similar situations that perform rather well. In addition, the Commission noted that all 13 of the removed windows were subject to review but their priority was restoring the character of the front façade as it is the most visible and character-defining façade, and thus a compromise that addressed these two windows was favored. The Commission noted that the original window features, including the muntin pattern, the scale of the muntins, the depth of the window recess from the exterior wall plane, and the inability of fiberglass to replicate these conditions, established wood, or aluminum-clad wood as the most appropriate material for the replacement windows. Thus, the Commission suggested that the applicant/appellant return on April 14, 2014 with a proposal to replace the two front fixed windows with wood windows to closely match the historic windows that were removed.

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 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: The applicant provided a two-page Inspection Report that included a cover sheet and six photos, with the original application. No written narrative was provided by the inspection company, Pacific NW Home Inspections, to explain the level of damage perceived. By the photos provided, it appears that there may have been some damage to individual elements of some of the wood windows; however, it is impossible to determine the extent of the damage with the limited photographic evidence provided. On August 2, 2013, the record was supplemented with a letter from Mohsen Salama of Clear Choice

Windows & Doors, Inc., which described the extent of the damage, including extensive dry rot “throughout the windows and into the building structure.” Mr. Salama stated that the front windows has so much dry rot “that it had infiltrated to the basement and as a result it was necessary to replace a structural beam” and replace the floors. Staff accepts that the dry rot damage to the historic windows was likely enough to warrant replacement, but notes that full-scale replacement does constitute a compromise of the historic character of the property.

Staff notes that the City incentivizes repair and maintenance of historic wood windows and other historic material by making repair and maintenance exempt from historic resource review. In this case, Mr. Salama indicated that repair was never an option due to the extent of the dry rot.

The building maintains much of its unique historic character through the preservation of its walls and clay tile roof representing its Mediterranean Revival style; however, the only remaining original wood window is the small arched window on the south façade. In the Irvington Historic District National Register nomination, under the *Narrative Description* on page 5 which describes *Architectural Styles, Type, and Materials* characteristic of the district, it states:

“In general, Irvington’s architectural styles and building types are composed of architectural details that are considered characteristic of their particular style and period of construction. These details typically included the use and integration of natural building materials such as... double-hung sash and fixed pane wood windows. Window type (i.e. double hung, single hung, six-over-six, etc.), fenestration and overall pattern are also typically character-defining components that contribute to a building’s stylistic composition.”

Later in the Nomination, on page 8, under *Contributing or Non-Contributing Status*, the document states:

“In general, a resource was found to be non-contributing if alterations blurred its historical associations with the larger district. In many cases, rather than one type of alteration, it was the totality of alterations that determined whether a resource was noncontributing. These alterations included the replacement (or resizing) of more than 25 percent of visible windows, re-fenestration of the house...”

With all of the original ground floor windows now removed, the 25% threshold is clearly surpassed, with re-fenestration of the entire house having occurred. By this standard, the subject property, a contributing resource in the Irvington Historic District, could potentially now be considered “non-contributing” if a reassessment were conducted. Despite this, staff notes that the majority of the house’s historic character remains intact and that replacement of the original windows appears to have been necessary for the preservation of the house as a whole. In addition, removal of the non-historic trim around the windows returns this aspect of the house closer to its original condition. *This criterion is met.*

2. Record of its time. The historic 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: No conjectural features from other buildings have been added. The house exists now as a record of its time with the majority of the house representing its period of construction (1924) and the windows representing later alterations reflecting contemporary technology. Staff recognizes that buildings exist across time and can remain a physical record of their original construction period as well as their existence through time concurrently. As such, the house’s “time” should be considered to be 1924, as well as 2013. *This criterion is met.*

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

Findings: No changes, such as the two west-facing windows, the two east-facing windows, and the rear French doors replaced by others, have achieved historic significance. No other known historic changes are affected by this proposal. *This criterion is not applicable.*

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: As indicated under Guideline #1 *Historic character*, Mr. Salama’s letter described extensive dry rot necessitating the replacement of the original wood windows. The applicant made a notable effort to mimic the original style of the wood windows, by selecting simulated-divided-light fiberglass windows with similar muntin patterns to the original; however the August 15, 2013 Decision of Denial noted certain differences expose the contemporary character of the new windows. These include the profile of the muntins, which is relatively flat compared to the original which created significant shadow lines as seen in the Inspection Report provided by the applicant. Also, the pattern of the muntins on the fixed windows of the front façade show only one horizontal muntin at the top of the new windows, while photos of the original condition show two horizontal muntin at the top of the fixed windows. In addition, contemporary simulated-divided-light windows do not have the same visual or textural aesthetic as true-divided light windows have several panes of glass which reflect light at slightly different angles, creating a varied texture, whereas a single sheet of glass reflects light at a single angle in simulated-divided-light windows, resulting in a relatively flat aesthetic. Lastly, the replacement windows are located nearer to the exterior wall plane than the historic wood windows, adding to the overall flatness of the new aesthetic, where the original aesthetic had a richer texture. This is most evident of the front façade, where the two picture windows feature large panes of glass that greet the public realm and are in close proximity to the only remaining original wood window.

Again staff notes that the applicant made a concerted effort to mimic the historic character of the original wood windows and notes that fiberglass was suggested by Mr. Salama as the preferred material choice due to the building’s architectural style and lack of eaves to protect the windows from persistent rain. Staff has determined that the fiberglass double-hung windows on the side and rear façades, which were designed to match the historic windows in their muntin pattern and operation, meet this criterion to a sufficient degree, particularly since they are less visible from the public realm and obscured by screens. However, staff does not consider the fiberglass picture windows on the front façade to be sufficient in their attempt to match the historic windows, particularly because of the overall flatness of the window pane and muntins, the loss of the 2nd horizontal muntin, and the nearness of the glass to the exterior wall plane. Therefore, they do not match the old in design, texture, other visual qualities, or material. Staff further notes that the four previously replaced windows have muntins with greater dimension and do not have exterior screens, making them more successful in their imitation of the historic windows than the later replacement windows which are the subject of this review. ~~*Therefore, this criterion is not met, but with the replacement of the two front façade picture windows with wood windows, featuring muntins matching the original design and set further back in the wall plane, this criterion could be met.*~~

Since the March 10, 2014 Appeal hearing, the applicant has contracted with Chosen Wood Windows to address the Commission’s comments and to replace the front two windows. Chosen Wood Windows has provided details to replace the two front windows

with custom-designed wood (fir) windows with simulated divided-lite muntin pattern to match the historic pattern, including the provision of two horizontal muntins across the top of the windows. The proposed windows are shown to be recessed 3½”-4” from the exterior wall plane and the muntins are shown to be 3/8” deep and 7/8” wide. At the March 10th Appeal hearing, the Commission indicated an acceptance of simulated-divided-lite windows provided a spacer bar was included between the panes and the exterior muntins provided enough relief to add texture to the windows. *With the proposal to replace the two front windows with new wood windows to match the historic condition, this criterion is now 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: No chemical or physical treatments are proposed. *This criterion is not applicable.*

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 archaeological resources are affected by the proposal. *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 property. New work will be differentiated from the old.

Findings: Although historic material that characterized the property was destroyed as part of the re-fenestration, the applicant has provided a letter from a professional indicating the removal of the windows was necessary for the overall preservation of this historic house. The new windows are indeed differentiated from the old in that the new windows are constructed of fiberglass and feature simulated-divided lights and double-paned glazing, where the original windows were wood and featured true-divided lights. *This criterion is met.*

9. Preserve the form and integrity of historic resources. New additions and adjacent or related new construction will be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic resource and its environment would be unimpaired.

Findings: The replacement windows were installed within existing openings, with no change to the overall form of the historic resource. If removed, the building’s essential form will remain. While re-fenestration of the building may result in a loss of the resource’s integrity as described under criterion #1 *Historic character*, Mr. Salama’s letter indicated that removal of the original windows was necessary in order to preserve the overall integrity of the structure. As such, staff has determined that the integrity of the historic resource is retained. *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: As discussed above, the replacement windows were installed within the existing openings of the historic windows, and for the most part, were replicated with regard to type and pattern. As such the replacement windows are compatible with the historic resource, adjacent properties and the district with regard to massing, size, and scale. With regard to their compatibility with the architectural features of the resource, adjacent properties, or the district, the replacement windows are less compatible due to their relatively flat appearance and the loss of the 2nd horizontal muntin on the two fixed front-facing windows. This is most visible on the front façade, where the only remaining wood window is located directly above the new fixed fiberglass window, providing a glimpse of the house’s history and demonstrating the difference in texture between the new and old windows. This distinction is blurred on the side and rear-facing double-hung windows as these now have insect screens obscuring them from full view. True-divided-light wood windows, which have a unique texture and warmth, resulting from the multiple panes of glass and the natural materials, are noted in the National Register nomination as character-defining components of the district. In comparison, the new windows have a relatively flat aesthetic, as a result of the flat muntins applied to a sheet of glass. In addition, the new windows are set nearer to exterior wall plane than the original windows, creating less of a natural shadow line and adding to the overall flat aesthetic.

~~Staff recognizes that the applicant made a significant effort to replicate the appearance of the original windows and that the replacement windows achieve a certain level of compatibility with the resource and the district. However, compatibility is not fully achieved. Therefore, this criterion is not met; however, with replacement of the two front-facing fixed windows with wood true-divided-light windows, set further back in the wall plane, these criteria could be met.~~

As noted above, the applicant now proposes to replace the two front fixed fiberglass windows with custom wood windows designed to match the historic muntin pattern, to be recessed 3½”-4” from the exterior wall plane. Spacer bars between the glazing and narrower and deeper muntins will provide more texture to the windows than the existing fiberglass windows. The proposed wood windows are compatible with the resource in that they match the historic wood windows. The proposed wood windows are compatible with adjacent properties and the historic district in that many of the adjacent properties and properties within the district have wood windows with various muntin patterns. *These criteria are now 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

Based on the threshold establishing the method for determination of contributing and non-contributing resources in the Irvington Historic District’s National Register Nomination, this contributing resource could potentially now be considered non-contributing under a reassessment. As such, the question is, “How can this property appropriately convey its remaining historic character?” ~~Staff recognizes that the applicant made the alterations in good faith and attempted to mimic the original design. However, had city staff been contacted, the applicant would have been informed that replacement of windows was subject to historic resource review, the extent of deterioration could have been investigated, and suggestions for maximum compatibility or other mitigation could have been provided. The applicant also would~~

~~have been informed that repair of the original wood windows, if feasible, would have been exempt from review.~~

~~While the majority of the new windows are now obscured by insect screens, the two front-facing fixed windows are clearly visible from the public way. The fiberglass simulated divided lights betray themselves as non-historic through their relatively flat appearance, particularly when compared to the last remaining wood window above. The two front-facing windows would be more compatible with the historic resource and the neighborhood if they were constructed of wood, featured true divided lights, and were set further back into the exterior wall plane.~~

The proposed custom windows, designed to match the historic muntin pattern and recessed in the exterior wall plane, will replace the two front-facing non-compatible fiberglass windows and will restore the historic character of this contributing resource.

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 does not meet the applicable Historic Resource Review criteria and therefore does not warrant approval.

TENTATIVE REVISED STAFF RECOMMENDATION

Approval of replacement of original divided-light double-hung with simulated divided-light double-hung installed in February 2012, including:

- Three double-hung windows on the east street-facing (side) façade;
- Three double-hung windows on the north (rear) façade;
- Five double-hung windows on the west (side) façade; and
- Removal of non-historic wood trim around the window frames; and
- Replacement of two fixed fiberglass windows on the south-facing front façade, with two new custom wood windows designed to match the historic windows and recessed 3½”-4” from the exterior wall plane.

Staff Planner: Hillary Adam, Land Use Services, 503-823-3581

Hillary.Adam@portlandoregon.gov

Date: April 11, 2014

Procedural Information. The application for this land use review was submitted on May 1, 2013, and was determined to be complete on **May 17, 2013**.

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 1, 2013.

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 requested that the 120-day review period be extended for a period of 245 days. Unless further extended by the applicant, **the 120 days will expire on: May 16, 2014.**

Appeal of A Decision. A decision from the Historic Landmarks Commission 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 the Mailed Date.

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, permittees 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
 1. Written Statement
 2. Inspection Report
 3. Photos, before June 2011 (2), After April 2013 (4)
 4. Elevation Sketches, indicating replaced windows
 5. Milgard 3371 & 3371U Picture Window Retro-Fit specifications
 6. Milgard 3285 & 3285U Series Vertical Sliding Replacement Double-Hung Windows specifications
 7. Applicant response to neighborhood comments, dated June 14, 2013
 8. Request for Extension of 120-Day Review Period, dated June 23, 2013
 9. Letter from the Applicant, dated July 30, 2013
 10. Letter from Mohsen Salama, Clear Choice Windows & Doors, Inc., dated August 2, 2013
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. South and West Elevations (attached)

3. East and North Elevations (attached)

4. Front Window Elevation (attached)

5. Front Window Sections (attached)

D. Notification information:

1. Mailing list
2. Mailed notice

E. Agency Responses:

1. Life Safety Division of BDS

F. Correspondence:

1. Jim Brown, from the Land Use and Transportation Committee of the Alameda Neighborhood Association, wrote on June 13, 2013 in support of the proposal.
2. Kathryn Krygier, a neighbor, wrote on June 13, 2013 in support of the proposal.
3. Dean Gisvold, Land Use Committee Chair for the Irvington Community Association, wrote on June 13, 2013, wrote in opposition of a complete approval of the proposal, and suggested a compromise.

G. Other:

1. Original LU Application
2. Site History Research
3. National Register Information
4. Irvington Historic District Photos (2)
5. Staff Site Visit Photos (8)
6. Email from Hillary Adam to Ira Zarov and Darcy Norville, June 20, 2013

H. Hearing

1. Appeal Form, dated August 26, 2014
2. Appealed Decision
3. Notice of Appeal Hearing, dated September 3, 2014
4. Appeal Hearing List
5. Notice of Rescheduled Appeal Hearing, dated October 4, 2013
6. Appeal Hearing List
7. Request for Extension of 120-Day Review Period, dated September 13, 2013
8. Notice of Rescheduled Appeal Hearing (long form), dated December 6, 2014
9. notice of Rescheduled Appeal Hearing, dated December 6, 2014
10. Appeal Hearing List
11. Request for Extension of the 120-Day Review Period, dated November 14, 2013
12. Applicant's Submittal to the Historic Landmarks Commission, dated January 27, 2014
13. Request for Extension of the 120-Day Review Period, dated February 10, 2014
14. Staff Memo to the Historic Landmarks Commission, dated January 31, 2014
15. Photos and Neighborhood Letters distributed to Commission with Staff Memo
16. Written Comments from James Paul Brown, dated December 21, 2012, March 1, 2013, and April 8, 2013
17. Letter from Vern Forrest, Chosen Wood Window Maintenance, Inc, dated March 28, 2014, and Elevation and Sections for proposed wood windows
18. Tentative Revised Findings and Decision, dated April 10, 2014

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).

- Custom wood windows
- Simulated divided-lite to match original windows (based on photos)
- Top rail to match bottom rail in profile
- Wood sill to match other sills (or existing to remain)

