

**From:** [Tony Schwartz](#)  
**To:** [Council Clerk – Testimony](#)  
**Subject:** LU 18-187493 HRM, AD – 1727 NW Hoyt  
**Date:** Thursday, November 29, 2018 11:48:39 AM  
**Attachments:** [1727 NW Hoyt - statement.pdf](#)  
[Attachments \(CH, PHLC, Zonino\).pdf](#)

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Hello,

I am one of the appellants, Please find an attached letter with 5 pages of attachments. Please note argument related to Hierarchy of Compatibility and "new development" versus "exterior alterations."

Thanks ...

Tony

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November 29, 2018

Portland City Council  
1221 SW 4<sup>th</sup> Avenue  
Portland, Oregon 97204

*Re: LU 18-187493 HRM, AD – 1727 NW Hoyt*

Dear Commissioners:

I write to supplement my appeal notice filed October 22, 2018 and my letter submitted November 28, 2018, and to respond to the applicant's submission received November 26, 2018.

## **INTRODUCTION**

This case is about equal justice under the law. No more, no less. The law must be applied equally, uniformly, without passion or prejudice. As now-deceased developer and preservationist Art DeMuro stated, after the final Portland Historic Landmarks Commission's vote on the Blanchett House, "we need to be blind to the applicant and the mission."

Indeed, the rule of law requires that commissions, city councils, judges, reviewing bodies apply the law consistently, without favor, and blind to an applicant's relative worth or "goodness." Otherwise, the law will be used to reward some, suppress others, and contribute to an increasing distaste and distrust with our system of government.

I suggest that in this case the political winds surrounding housing and the applicant's "goodness" overwhelmed the Portland Historic Landmarks Commission (PHLC), and has the power to overwhelm this City Council.

## **GUIDELINES AND BURDEN OF PROOF**

In this case, a land use case – the criteria guiding development are the Community Design Guidelines (effective November 1, 1997, applicable to Historic Alphabet District April 6, 2000, updated September 2008), and the three listed Historic Alphabet District guidelines (effective April 6, 2000) that function as the mandatory approval criteria for all land use cases within the Historic Alphabet District (District). The District was approved on April 6, 2000 by Portland City Council.

The applicant has the burden of proof and must show with "substantial evidence" that each and every element of the applicable approval criteria will be satisfied. See

## **BACKGROUND**

### a. PHLC

In 2014, a land use application was filed for demolition of the Buck Prager building, and replacement of the Buck Prager with construction of a 4-6 apartment building that included a variety of studio, 1-bedroom, and 2-bedroom apartments to be rented at market-rate and at “work force” rates. After reviewing the application, and receiving testimony and exhibits, the PHLC denied the request for demolition, and later construction. The applicant appealed to the City Council. This body reviewed the appeal, received testimony and exhibits, and, on December 14, 2014, this City Council denied the appeal.

### b. City Council

On January 7, 2015, City Council issued its Findings and Conclusions. The Findings extensively discussed the background of the application, the site, the District, and weighed the Comprehensive Goals and the guidelines of the Northwest District Plan and the Historic Alphabet District. The Findings made numerous statements that the proposed 4-6 story replacement building, even with the possibility of some affordable work force housing, was too big for the site.

In particular, the Findings state “the proposed replacement building would not enhance the character of the neighborhood as it is wholly incompatible with regard to its proposed scale, massing, form and character.” See page 23.

The Findings continue: “Council also noted that the existing building is appropriately scaled for the historic district and the proposal to demolish did not include a compatible replacement building, particularly with regard to the adjacent Landmarks.” See page 24.

The Findings continue: “the existing historic building and the existing noncontributing resource are considered small-scale developments; the proposed replacement building is a rather large-scale development at 4-6 stories tall. A smaller-scale, and more appropriately scaled, development would potentially include 2 to 2 ½ story rowhouse-type development which takes cues from the neighboring Landmark buildings.

Again, the Council noted that the RH base zone was not necessarily an entitlement, and new multi-dwelling developments, while generally desirable, if located within a historic district, must be compatible with the surrounding historic resources.” See page 25.

The Findings continue: “the compatibility of the proposed replacement building should be considered primarily with regard to its compatibility with the Landmark structures rather than other nearby buildings of lesser significance...the proposed

replacement building is not integrated with the existing urban fabric as it is not set back from the street, it does not feature intricate architectural detailing, and most significantly, it is much taller and more massive than the modest Landmark residential structures in the immediate vicinity.” See page 27.

Finally, in its Conclusion, the Findings state that “while the existing historic building is an appropriate scale for the adjacent properties, the proposed replacement building is severely out of scale and character, and would significantly detract from the historic character of nearby Landmarks.” See page 30.

c. Joe Zehnder

After City Council denied the application, the applicant elected to forgo appeal to the Land Use Board of Appeals. Thereafter, in 2016, Joe Zehnder – then and current Chief Planner of the Bureau of Planning and Sustainability (BPS) – approached various neighborhood associations that included historic districts – and asked whether the associations would support “right-zoning” portions of the historic districts in order to alleviate the incongruity between base zone allowances and overlay zoning. Indeed, his plan is now codified in the 2035 Comprehensive Plan at Policy 4.49 that reads: “Resolution of conflicts in historic districts. Adopt and periodically update design guidelines for unique historic districts. Refine base zoning in historic districts to take into account the character of the historic resources in the district.”

Specifically, his plan called for “right-zoning” about 50% of the Historic Alphabet District that sits north of Glisan in a roughly 5 by 6 block area – mostly between 18<sup>th</sup> and 24<sup>th</sup> and Glisan and Kearney, and to reduce the 4:1 FAR to 2:1 FAR. The Northwest District Association supported his proposal. Nevertheless, this City Council denied the plan proposed by BPS and essentially punted the zoning conflict issue.

d. PHLC redux

In 2017, the applicant in this case proposed a program that went through early advice and three design advice reviews (DAR). The program generally maxed out the base 4:1 FAR. The PHLC struggled with massing and scale, particularly with the North Building – that is essentially a 58-60 foot high square. Indeed, at the 3<sup>rd</sup> DAR, on April 23, 2018, five of the commissioners articulated concerns about mass and scale of the North Building. Three specifically felt the North Building’s scale and massing would overwhelm the Landmark structures on NW Irving. There was discussion of removing a floor, or reducing the height of the ceilings. Nevertheless, at the later filed land use application, at issue here, the changes between DAR 3 and the LU, on the North Building, were minimal, and the FAR stayed nearly the same.

Yet, despite the reservations of the majority of the PHLC, they approved the program by a 5-1 vote. I don’t know the reasons for the change in attitude. However, it seems to me that the politics of housing and the relative “worth” of the applicant and its mission likely contributed to the change in vote especially since the PHLC’s final findings make several mentions of affordability even though that is not an approval criteria.



However, during the entire process, the PHLC struggled to find the balance between the 4:1 base zone allowance and the overlay.

e. City Council redux

Now the issues of “right-zoning” and Block 162 are once again back before City Council. The FAR on this program is 3.6:1. The North Building is, by far, the biggest structure in the program and likely has a 4:1 FAR or greater given the relative size of the Buck Prager building and the South Building.

## **ARBITRARY AND CAPRICIOUS**

Nothing in the physical environment has changed since 2015. NW Hoyt and NW Irving are still one block long one way, one lane streets. They are still the narrowest streets in all of Northwest Portland. They are still the only one block long one-way, one-lane streets in Northwest Portland. As noted in the 2015 decision, around 1978 “NW Hoyt and NW Irving, between 17<sup>th</sup> and 18<sup>th</sup> Avenues, were designated one-way streets, a property owner driven initiative to reduce traffic on these streets and preserve the residential character of these distinctive blocks.” See page 27. There are still 13 Landmark structures adjacent to the site. And, in 2015, City Council stated time and again that a 4-6 story building on this site was too massive.

City Council can see the renderings of the program on pages 8-9 of the applicant’s November 26, 2018 submission. It can see the massing and scale of the North Building. It can see the massing and scale of the rest of the program. The North Building that is adjacent to NW Irving rises 58-60 feet, and is 5 ½ stories. The 2014 building started at 4 stories, stepped back to 5 stories, and then rose to 6 stories.

The North Building is not compatible with the surrounding Landmarks. If City Council decides that the North Building is compatible then any certainly provided by the 2015 decision would be negated and nullified. Landowners, neighbors, neighborhood associations, other interested persons rely on certainty in the law to guide and shape their everyday decisions and affairs. A decision to approve the massing and scale of the North Building would be contrary to the 2015 decision and provide little assurance that the law is equally applied regardless of the applicant and its mission.

A decision to approve the massing and scale of the North Building would be arbitrary and capricious.

## **NORTH BUILDING NOT PROPERLY EVALUATED**

a. HAD Guideline #3

Historic Alphabet District Guideline #3 titled “Hierarchy of Compatibility” states “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. New Development will seek to incorporate design themes characteristic of similar buildings in the Historic Alphabet District.”

The applicant asserted that the North Building is “new development” and in its application argued that as “new development” the North Building would not be subject to the Hierarchy of Compatibility and that it only must incorporate design themes characteristic of similar buildings in the District.

I argued that that made little sense given that “new development” is specifically included in this particular Guideline, and a hierarchy must mean more than the one criterium to incorporate design themes of similar buildings in the District.

The applicant, in its November 26, 2018 submission, states that the *Goose Hollow* decision (37 Or. LUBA 631 (2000)) provided the impetus to include the specific Guideline related to exterior alterations, additions, and new development so as to provide certainty to interested parties. Nevertheless, that argument does not resolve the fact that “new development” is specifically included in the Hierarchy of Compatibility.

The applicant further argues that “new development” must only take into account similar buildings in the District since the Guideline would make no sense if “new development” occurred on a vacant lot, or was otherwise lacking a contributing resource to be compared to. There is no reason to address that argument. Why? Because this site is not vacant, and does have a contributing resource – Buck Prager. Therefore, the “new development” must be evaluated under the Hierarchy listed in Guideline #3.

As the *Goose Hollow* decision makes clear, such evaluation would include a compatibility examination with the original resource (Buck Prager), and secondarily with adjacent properties. In this case there was no examination that the North Building was compatible with the Buck Prager, the contributing houses to its east and south, or the one-story office building to the east. Moreover, since the North Building shares a border (NW Irving) with the Landmark structures on NW Irving, the Landmark structures are adjacent to the North Building, and there was no evaluation of compatibility with those structures either. And, there was no evaluation with the Landmark houses on NW Hoyt that are also contiguous to the South Building even though that building was evaluated under the Hierarchy.

b. Is the North Building really “new development?”

Upon consideration of the applicant’s submission in which it states that the site is not vacant, and, of course, is incorporating the Buck Prager into its program, I wondered whether the North Building was really “new development.”

The Portland City Code, Title 33, Planning and Zoning, Chapter 33.910 answers that question in the negative. The North Building is not “new development,” rather it is an “exterior alteration” and therefore must be evaluated under the Hierarchy regardless of the argument above.



PCC 33.910 defines “Development, New” as “Development of a site that was previously unimproved or that has had previously existing buildings demolished.” In another word – vacant. The site here is not vacant. Not only does it include the Buck Prager building, it includes an “existing noncontributing 6-unit building...[that] has provided housing since 1940 and provides a relatively affordable option.” See Findings at page 20. It is clear that the site is not vacant and is improved. Any development of new structures on the site would be considered an “exterior alteration” and be subject to the Hierarchy.

Indeed, PCC 33.910 defines “Development, Exterior Alteration. A physical change to a site that is outside of any buildings...Exterior alteration does include the following...[c]hanges to other structures on the site or the development of new structures.” Here, the North and South Buildings are development of new structures, they are physical changes outside of the Buck Prager, and therefore they are for definitional purposes “exterior alterations” and not “new development.”

Given that the North Building is not “new development” as argued by the applicant in its application before the PHLC, and since the applicant did not conduct any analysis of the North Building under the Hierarchy of Compatibility as an “exterior alteration,” the applicant cannot satisfy its burden of proof to show with “substantial evidence” that HAD Guideline #3 has been met. The final findings of the PHLC that adopt the applicant’s points is, as a result, flawed.

## **CONCLUSION**

The PHLC was in a terrible spot trying to balance the 4:1 FAR with the competing overlay guidelines. There were multiple presentations because of the conflict between the base zone and the overlay guidelines, as the applicant and the PHLC tried to resolve the program needs with the zoning requirements and strike the right balance. Had City Council adopted the “right-zoning” plan advocated by BPS, there never would have been multiple presentations, nor would there have been any appeals. A compatible program would have been approved long ago.

Nevertheless, the City Council decided not to adopt the BPS designation for the northern half of the Historic Alphabet District, and so we have this current proposal. As noted earlier, the City Council stated time and again that a 4-6 story building on this site would be too big. And, now a 4-5 ½ story building is before you that specifically includes the North Building that is overwhelming in size and in relation to the Landmarks on NW Irving; this is particularly so given how narrow NW Irving is between 17<sup>th</sup> and 18<sup>th</sup>. Approval of the North Building would contravene the stated Findings and Conclusions from 2015, would seem to favor the applicant and its mission irrespective of the 2015 Findings, and would otherwise be arbitrary and capricious.

The North Building is not “new development” and should have been analyzed under the Hierarchy of Compatibility. And, that analysis should have included compatibility with the adjacent, contiguous houses on NW Irving. See applicant’s submission dated November 26, 2018 page 21 “west elevation in immediate context.” The North Building shares its north border with NW Irving Landmark homes.

I ask that you deny this program, or in the alternative work to reconfigure it and get it into development so there is a win-win for all parties. Right now, the neighborhood association, certain neighbors, and certain other interested parties consider it a win for the applicant but a loss for others. At the PHLC land use application hearing, there were 44 submissions with concerns about the proposal, and 26 submissions in support. Many, many people have reservations about the program and its impact on the neighborhood, the District, and the City. There are real concerns that approval of this program, despite the 2015 Findings, will provide precedent for development of other oversized programs. I ask that you treat this program with due care so that the parties can get to a "win-win" for the entire City of Portland.

Sincerely,  
s/ Tony Schwartz  
Tony Schwartz

scanned attachments

Carleton Hart's argument related to Historic Alphabet District Guideline #3

Final Findings pages 10-11 adopting Carleton Hart's argument

PCC, Title 33, Chapter 33.910 definitions of Exterior Alteration and New Development



## HISTORIC ALPHABET DISTRICT GUIDELINES

### Historic Alphabet District Guideline 3:

#### Hierarchy of Compatibility.

**Exterior alterations and additions will be designed to be compatible**

◀ Criterion specific to the South Addition

- 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.**

**New development will seek to incorporate design themes characteristic of similar buildings in the Historic Alphabet District.**

◀ Criterion specific to the North Building

#### GUIDELINE IS MET BY:

##### South Addition:

Designing the South Addition to be compatible with the original resource by:

- Maintaining the primary design composition of punched openings in a modular, running bond brick façade
- Use of the Buck-Prager's "A-B-A-B" bay rhythm of four wood wide rough opening and four-foot-wide brick wall surface
- Use of symmetrical facades with a centered entry bay and metal entrance canopy
- Use of a strong base that matches the height of the Buck-Prager's base, while using color for differentiation
- Alignment of rough opening sills from Buck-Prager to South Addition
- Alignment of Buck-Prager parapet eyebrow with South Addition third floor belt course
- Use of a cornice element to reduce the perceived parapet height and add articulation to the top of the building

Designing the South Addition to be compatible with adjacent properties by:

- Reinforcing the neighborhood's fine-grained pattern of development through use of a smaller quarter-block building and further breaking down the massing through material and plane changes

- Providing a landscaped buffer along the more residential Hoyt and Irving Streets while maintaining a strong urban edge along the more commercial 18th Avenue
- Providing mid-block entrances that facilitates the interaction between residents and neighbors

Designing the South Addition to be compatible with the Historic Alphabet District by:

- Use of quality, durable materials commonly found throughout the District
- Reinterpreting historic design features in a way that relates to the modern, commercial aesthetic of the Buck-Prager while still feeling residential
- Use of historic precedent to inform building ornamentation, including decorative metal guardrails, entrance canopy, and banding

##### North Building:

Designing the North Building to be compatible with the Historic Alphabet District by:

- Responding to the proportions of, and incorporating the architectural details from, similar buildings within the District
- Use of tripartite massing of base, middle and cap typical of five and six-story multifamily buildings.
- Providing a parge-coated concrete lower base with rustications, creating a strong base and marking the basement level
- Use of oriel windows found on five and six-story multifamily buildings, as well as the Campbell Townhomes located in the immediate context
- Incorporating historic window proportions and design, including a single-hung one-over-one configuration
- Use of quality materials found throughout the District. Brick is the primary cladding material, with precast concrete, fiber cement board, wood and cementitious parge coating used in accents
- Quality detailing of materials commensurate with similar District buildings
- Articulating each building façade along its face, with the west façade containing a wide center inset, and the north façade displaying a notch that both divides and reduces its massing
- Developing a simpler top floor above a top belt course, reminiscent of an attic level as seen in the District
- Capping the building with a projecting cornice similar to those found throughout the District

**3. 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. New development will seek to incorporate design themes characteristic of similar buildings in the Historic Alphabet District.

**Findings:** The following points are taken from the applicant's narrative, and staff agrees that this guideline is met by:

**South Addition** – This guideline is met by:

Designing the South Addition to be compatible with the original resource by:

- Maintaining the primary design composition of punched openings in a modular, running bond brick façade.
- Use of the Buck-Prager's "A-B-A-B" bay rhythm of four wood wide rough opening and four-foot-wide brick wall surface.
- Use of symmetrical facades with a centered entry bay and metal entrance canopy
- Use of a strong base that matches the height of the Buck-Prager's base, while using color for differentiation.
- Alignment of rough opening sills from Buck-Prager to South Addition.
- Alignment of Buck-Prager parapet eyebrow with South Addition third floor belt course
- Use of a cornice element to reduce the perceived parapet height and add articulation to the top of the building.

Designing the South Addition to be compatible with adjacent properties by:

- Reinforcing the neighborhood's fine-grained pattern of development through use of a smaller quarter-block building and further breaking down the massing through material and plane changes.
- Providing a landscaped buffer along the more residential Hoyt Street while maintaining a strong urban edge along the more commercial 18th Avenue.
- Providing mid-block entrances that facilitates the interaction between residents and neighbors.

Designing the South Addition to be compatible with the Historic Alphabet District by:

- Use of quality, durable materials commonly found throughout the District.
- Reinterpreting historic design features in a way that relates to the modern, commercial aesthetic of the Buck-Prager while still feeling residential.
- Use of historic precedent to inform building ornamentation, including decorative metal guardrails, entrance canopy, banding.

**North Building** - This guideline is met by:

Designing the North Building to be compatible with the Historic Alphabet District by:

- Responding to the proportions of, and incorporating the architectural details from, similar buildings within the District.
- Use of tripartite massing of base, middle and cap typical of five and six-story multifamily buildings.
- Providing a parge-coated concrete lower base with rustications, creating a strong base and marking the basement level.
- Use of oriel windows found on five and six-story multifamily buildings, as well as the Campbell Townhomes located in the immediate context.
- Incorporating historic window proportions, including a single-hung one-over-one configuration.
- Use of quality materials found throughout the District. Brick is the primary cladding material, with precast concrete, metal, wood and cementitious parge coating used in accents.
- Use of quality detailing of materials commensurate with similar District buildings.



- Articulating each building façade along its face, with the west façade containing a wide center inset, and the north façade displaying a notch that both divides and reduces its massing.
- Developing a simpler top floor above a top belt course, reminiscent of an attic level as seen in the District.
- Capping the building with a projecting cornice similar to those found throughout the District.

To ensure compatibility with the original resource, adjacent properties, and the rest of the District, the following conditions have been added:

On NW Hoyt and NW Irving, Non-standard Development in the Rights-of-Way (ROW) are proposed. These include brick pavers, landscape planting in the furnishing zone (adjacent to the streets), and landscape planting in the frontage zone (adjacent to the buildings). These features incorporate design themes characteristic in the Historic Alphabet District. Brick pavers and landscape planting occur in the furnishing zone in the ROW directly across NW Irving, and, landscaped buffers that provide additional green and softening are characteristic along the more residential streets (such as NW Hoyt and NW Irving), while strong urban edges are characteristic along the busier streets (such as NW 18th). Additional review is required, however, for non-standard development in the ROW by Portland Bureau of Transportation (PBOT)/ Public Works (Exhibit E.2). Because this approval has not yet been received, there is a chance that these items in the ROW will not be allowed by PBOT.

- ***If proposed non-standard improvements in the Right-of-Ways, as shown in Exhibit C.48, are not approved by PBOT, standard improvements are acceptable. For non-standard development that differs from Exhibit C.48, additional reviews may be required.***

At the Hoyt and Irving front setback and ROW frontage zone landscaping, irrigation will be needed to ensure the planting remains successful.

At the hearing held on August 27, 2018, the Commission supported requiring irrigation, and a condition of approval has been added:

- ***Irrigation shall be provided for the street frontage landscaping, as shown in Exhibit C.48.***

As noted in above findings, additional conditions include:

- *The main entries of the NB and the SA shall be custom wood storefronts.*
- *The fiber cement detailing of the NB recesses shall match bays.*
- *The glazing of the SA patios shall have both faces operable and lie flush when closed.*

*With conditions noted above, this guideline will be met.*

### **Community Design Guidelines**

**P1. Plan Area Character.** Enhance the sense of place and identity by incorporating site and building design features that respond to the area's desired characteristics and traditions.

**Findings:** The site is located within the Northwest Plan District, and within the Urban Character Area C, the Eastern Edge. The site is also located in the Northwest Pedestrian District. NW 18th is a City Bikeway and is considered a Transit Access Street, City Bikeway, City Walkway, and NW Hoyt and NW Irving are considered Local Service Streets for all modes of Transportation.

According to the Community Design Guidelines, Appendix J, the Eastern Edge is characterized by a diverse assortment of architectural types and is a diverse, mixed-use area with a fine-grain mixture of employment, residential, and community services. This area serves as a transition and connection between the residential core of the Northwest District and the more intensely developed Central City. This area includes examples of the residential structures from the late nineteenth-century middle and working-class



**Delivery Days.** Days when deliveries of food or other goods are made to Food Membership Distribution Sites for later pick-up by members of Food Buying Clubs or Community Supported Agriculture Organizations.

**Dead-End Street.** See Street Types.

**Density.** A measurement of the number of people, dwelling units, living units in Single Room Occupancy (SRO) housing, or lots in relationship to a specified amount of land. Density is a measurement used generally for residential uses. See Chapter 33.205, Accessory Dwelling Units for how density is calculated for ADUs. See also Intensity.

**Design Guidelines.** A set of design parameters for development which apply within a design district, subdistrict, or overlay zone. The guidelines are adopted public statements of intent and are used to evaluate the acceptability of a project's design.

**Desired Character.** The preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district. It also includes the preferred and envisioned character based on any adopted area plans or design guidelines for an area.

**Develop.** To construct or alter a structure or to make a physical change to the land including excavations and fills.

**Developed Portion of Right-of-way.** Those portions of a right-of-way that contain development, including retaining walls or other structures, vehicle travel lanes, parking and loading areas, curbs, landscape strips, sidewalks, shoulders, other paved or graveled areas, and other areas used for bicycle or pedestrian traffic. It does not include natural geologic forms or unimproved land.

**Development.** All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land. See also Exterior Improvements.

**Development, Alteration.** A physical change to a structure or site. Alteration does not include normal maintenance and repair or total demolition. Alteration does include the following:

- Changes to the facade of a building;
- Changes to the interior of a building;
- Increases or decreases in gross building area;
- Changes to other structures on the site, or the development of new structures;
- Changes to exterior improvements;
- Changes to landscaping; and
- Changes in the topography of the site.

**Development, Exterior Alteration.** A physical change to a site that is outside of any buildings. Exterior alteration does not include normal maintenance and repair or total demolition. Exterior alteration does include the following:

- Changes to the facade of a building;
- Increases or decreases in gross building area that result in changes to the exterior of a building;
- Changes to other structures on the site or the development of new structures;

- Changes to exterior improvements;
- Changes to landscaping; and
- Changes in the topography of the site.

**Development, New.** Development of a site that was previously unimproved or that has had previously existing buildings demolished.

#### **Development Types**

- **Auto-Accommodating Development.** Development which is designed to accommodate customers who use autos to travel to the site. This type of development usually has more than the minimum required number of parking spaces. Buildings feature entrances providing convenient access to parking areas. In many cases, the building will have parking between secondary streets and the building. Other typical characteristics are drive-through facilities, more than one driveway, and a low percentage of the site covered by buildings. Auto-accommodating development along transit streets and in pedestrian districts typically include a mix of auto-accommodating and pedestrian-oriented characteristics. See also Pedestrian-Oriented Development.
- **Pedestrian-Oriented Development.** Development which is designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building, rather than on auto access and parking areas. The building is generally placed close to the street and the main entrance is oriented to the street sidewalk. There are generally windows or display cases along building facades which face the street. Typically, buildings cover a large portion of the site. Although parking areas may be provided, they are generally limited in size and they are not emphasized by the design of the site. See also Auto-Accommodating Development.

**Director of BDS.** The Director of the City of Portland Bureau of Development Services, or the Director's designee.

**Disabled Person.** For the purposes of Chapter 33.229, Elderly and Disabled High Density Housing, a disabled person is a person who has a condition of physical or mental disability which substantially limits one or more major life activities as stated in Section 504 of the Federal Rehabilitation Act of 1973 and state law.

**Disturbance.** An action that causes an alteration to soil or vegetation. The action may create temporary or permanent disturbance. Examples include development, exterior alterations, exterior improvements, demolition and removal of structures and paved areas, cutting, clearing, damaging, or removing native vegetation.

**Disturbance Area.** The area where all temporary and permanent disturbance occurs. For new development the disturbance area must be contiguous. Native vegetation planted for resource enhancement, mitigation, remediation, and agricultural and pasture lands is not included. The disturbance area may contain two subareas, the permanent disturbance area and the temporary disturbance area:

- **Permanent Disturbance Area.** The permanent disturbance area includes all areas occupied by existing or proposed structures or exterior improvements. The permanent disturbance area also includes areas where vegetation must be managed to accommodate overhead