

# City of Portland

# **Bureau of Development Services**

Land Use Services Division

1900 SW Fourth Ave. Suite 5000 Portland, Oregon 97201 Telephone: 503-823-7300 TDD: 503-823-6868

FAX: 503-823-5630 www.portlandonline.com/bds

Date: October 17, 2008

To: Interested Person

**From:** Chris Beanes, Land Use Services

503-823-7983 / chris.beanes@ci.portland.or.us

# NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

# CASE FILE NUMBER: LU 08-105172 HDZM, NEW COVERED DECK

#### **GENERAL INFORMATION**

**Applicant:** Chuck Olson, Contractor 503-750-5619

Greenview Homes 5805 N Depauw Portland OR 97203

Stephen S Halsey, Owner 2381 NW Johnson St Portland, OR 97210-3231

Site Address: 2381 NW JOHNSON ST

**Legal Description:** W 47.7' OF S 12' LOT 17 BLOCK 3 W 47.7' OF LOT 18 BLOCK 3,

KINGS 2ND ADD

**Tax Account No.:** R452300680 **State ID No.:** 1N1E33BC 08000

Quarter Section: 2927

**Neighborhood:** Northwest District, contact John Bradley at 503-227-7484.

**Business District:** Nob Hill, contact Kay Wolfe at 503-227-0898.

**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

**Plan District:** None

**Other Designations:** Alphabet Historic **Zoning:** R1, Residential 1,000

Case Type: HDZM, Historic Design Review with Modification request

**Procedure:** Type II, an administrative decision with appeal to the Landmarks

Commission.

**Proposal:** The applicant proposes construction of a new covered deck measuring approximately 16'-0" length and 8'-6"-to 3'-0" in width at 2'-0" above the ground. The deck will be constructed of wood and a polycarbonate roofing material between the rafters.

Because the site for the proposed exterior alterations is within a design overlay zone, Design Review is required.

#### Modification requested Through Historic Design Review [PZC 33.845.070]:

1. (PZC 33.110.220 Setbacks) Reduce the side building setback from the standard 5-0", to 3'-0".

#### **Relevant Approval Criteria:**

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

- Chapter 33.445 Historic Resource Protection Overlay Zone
- Chapter 33.846 Historic Reviews
- Chapter 33.845.070 Modifications That Will Better Meet Historic Review Requirements
- Community Design Guidelines
- Historic Alphabet District Design Guidelines Addendum

## **ANALYSIS**

**Site and Vicinity:** The site is a corner lot located in the midst of the dense Alphabet Historic District. The building footprint occupies a good portion of the rectangular 2,862 square foot lot and is characteristic of the district, with building footprints occupying most of the lot. Mature vegetation exists amongst the streets and on this particular lot a mature magnolia, evergreen, and other deciduous tree are located on the side yard (west) facing NW 24<sup>th</sup> Avenue. A parking space is also located along NW 24<sup>th</sup>, and a fence delineates the small yard where the deck is located along the north property line.

The Italianate home, built in 1885 is a Primary Contributing resource within the Alphabet Historic District and is rectilinear in plan. Some of the unique characteristics of the home include shiplap siding with corner boards, and a two-panel door with a single light and transom. Window type is one-over-one double-hung, wood sash. The building is considered to be contributing within the district as a good example of an Italianate style residence and is therefore signficant as part of the larger grouping of residential development that occurred in Northwest Portland.

**Zoning:** The R1 zone is a medium density multi-dwelling zone. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than the R3 zone. Generally, R1 zoning will be applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

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

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **April 9, 2008**. The following Bureaus have responded with no issues or concerns:

The Site Development Section of BDS responded with the following comment: "Drywell located and meets setback requirements per site visit with Mike Ebeling". See Exhibit E.1 for more information.

The Life Safety Plans section of BDS responded with the following comment: "Roofs and eaves may not project no closer than two feet to a property line. Eaves less than three feet to a property line must be protected on the underside as required for on-hour fire rated construction." See Exhibit E.2 for more information.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **April 9**, **2008**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

#### ZONING CODE APPROVAL CRITERIA

#### Chapter 33.846, Historic Reviews

## **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 located within the Alphabet Historic District. Therefore the proposal requires Historic Design Review approval. The applicable design guidelines are the Community Design Guidelines and the Historic Alphabet District Community Design Guidelines Addendum.

#### I. Historic Alphabet District - Community Design Guidelines Addendum

These guidelines were adopted on September 5, 2000 and were developed to work with the Community Design Guidelines to provide a set of guidelines specific to the district.

#### Community Design Guidelines

These guidelines provide the constitutional framework for all design review areas outside the Central City that are not covered by their own specific area design guidelines. The Community Design Guidelines focus on three general categories: **(P) Portland Personality,** which establishes Portland's urban design framework; **(E) Pedestrian Emphasis,** which states that Portland is a city for people as well as cars and other transportation systems; and **(D) Project Design,** which assures that each development is sensitive to both Portland's urban design framework and the users of the city.

Staff has considered all guidelines and only has addressed those considered applicable to this proposal. Historic Alphabet District Guidelines and Community Design Guidelines are addressed concurrently.

#### Historic Alphabet District Approval Criteria

**2. Differentiate New from Old.** New additions, exterior alterations, or related new construction will retain historic materials that characterize a property to the extent practicable. Replacement materials should be reasonable facsimiles of the historic materials they replace. The design of new construction will be compatible with the historic qualities of the district as identified in the Historic Context Statement.

**Findings:** Preservation of the resource is of utmost importance when dealing with additions to a historic building. As such, the trellis and deck structure will be primarily independent from the home, as the supporting structure not attached to the home. In addition, the trellis and deck structure will be located on the secondary façade, thus the integrity of the primary façade will be maintained.

As the trellis structure is accessory in nature to the primary structure, and as the new structure is not enclosed, the proposal does not inherently conflict with existing massing and does not overpower the dominant structure. A distinction is also evident between the old and new as the trellis and deck maintains a contemporary garden aesthetic and function, while the resource maintains its original appearance. *This guideline is therefore met.* 

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.

**P2. Historic and Conservation Districts.** Enhance the identity of historic and conservation districts by incorporating site and building design features that reinforce the area's historic significance. Near historic and conservation districts, use such features to reinforce and complement the historic areas.

**Findings for 3 and Community Design Guideline P2:** Established patterns of accessory garden structures such as trellises within the neighborhood reveal simply detailed wood construction elements, with natural stain as a preferred finished appearance. Trellis structures identified tend to be located in the rear of side yards, as homes within the neighborhood typically include small front yards, with larger side and rear yards for outdoor living space. The proposed trellis structure will incorporate similar design details and location as others found in the neighborhood, including decorative exposed rafters, non-obtrusive, lightly detailed post structure and a side yard location. *These guidelines are therefore met.* 

## **Community Design Guidelines**

**P2. Historic and Conservation Districts.** Enhance the identity of historic and conservation districts by incorporating site and building design features that reinforce the area's historic significance. Near historic and conservation districts, use such features to reinforce and complement the historic areas.

**Findings:** Within the Alphabet Historic District there are examples of accessory structures which are largely informal in character, and mature plantings which, in many cases, screens or obscures these outdoor areas, a response for the need for privacy in the densely populated neighborhood. The applicant's proposal continues the trend as the structure is located in the backyard, along a space surrounded by mature plantings, thus incorporating a feature found throughout the residential portions of the Alphabet Historic District. *This guideline is therefore met.* 

**D3.** Landscape Features. Enhance site and building design through appropriate placement, scale, and variety of landscape features.

**Findings:** As the applicant's goal is of creating a private space for outdoor use, the proposal is to be located in the rear yard, which is most private, and includes a majority of the landscaping and buffering which currently exists. The structure is one story, and its scale does not overwhelm the main structure. *This guideline is therefore met.* 

**D6. Architectural Integrity.** Respect the original character of buildings when making modifications that affect the exterior. Make additions compatible in scale, color, details, material proportion, and character with the existing building.

**Findings:** The proposed trellis and deck are subordinate to the main structure, and continues an established building height and line as the structure is adjacent to a one story portion of the house, most likely added at a later date. The trellis structure, at 7'-7-1/2" in height is deliberately scaled to be accessory and compatible to the house. In addition, the design incorporates a garden aesthetic with exposed rafters and slender columns to convey a sense of lightness. *This quideline is therefore met.* 

**II. 33.846.070 Modifications That Will Better Meet Historic Review Requirements:** The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. These modifications are done as part of design review and are not required to go

through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

**Better meets design guidelines.** The resulting development will better meet the applicable design guidelines; and

**Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

Modification: Setbacks, PZC 33.110.220 -reduce the Minimum Side Building Setback from the standard 5'-0" to 3'-0".

Purpose Statement for Setbacks: *The setback regulations for buildings and garage entrances serve several purposes:* 

- They maintain light, air, separation for fire protection, and access for fire fighting;
- They reflect the general building scale and placement of houses in the city's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
- They provide room for a car to park in front of a garage door without overhanging the street or sidewalk and they enhance driver visibility when backing onto the street.

Standard: 33.110.220 and Table 110-3, Minimum Setbacks. Required minimum side setbacks must be at least 5'-0" from a property line.

**A. Better meets design guidelines.** The resulting development will better meet the applicable design guidelines; and

**Findings:** The proposal better meets Community Design Guideline D3, Landscape Features, and Guideline P2, Enhance the identity of historic and conservation districts by incorporating site and building design features that reinforce the area's historic significance. Near historic and conservation districts, use such features to reinforce and compliment the historic areas.

The modification to reduce the side building setback for the proposed trellis and deck will allow for the inclusion of an outdoor space, similar to other outdoor spaces within the neighborhood. Physical characteristics of the neighborhood include undersized lots, with buildings covering a majority of the lot, leaving remnant smaller, delineated spaces for outdoor decks, patios, trellises, and parking areas. A final layer to the dense historic fabric is typically mature vegetation covering remaining areas of lots. *Therefore this modification request merits approval.* 

**B. Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

**Findings:** The proposed development is within the Alphabet Historic District. A pattern of dense development and smaller lots are characteristic of the neighborhood, especially within blocks of the applicant's proposal. In addition, lots tend to be narrow, and houses are built close to each other. Existing footprints of homes renders many lots without outdoor areas, and where the opportunity exists, a pattern of informal outdoor spaces with associated decks, fencing and accessory structures has occurred.

The applicant's proposed design is not enclosed, and features of the accessory structure reflect lightness in material and form, reflective of and an acknowledgement of the architectural diversity found within the neighborhood. The 3 foot distance between the posts and the neighboring lot meets the minimum fire separation distance required, in addition, a mature, tall hedge separates the deck and trellis from the neighbor's property. Therefore this modification request merits approval.

#### 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 applicant's proposed deck and trellis is an accessory feature to the main resource contributing structure, and is located along the side and rear yards, away from the primary frontage, thus minimizing conflict with the main resource frontage.

The modification request for a setback reduction is a reasonable request as the existing pattern of development and the nature of the structure are seen as mitigating factors in light of the request.

The proposal merits Historic Design Review approval.

#### ADMINISTRATIVE DECISION

Approval of construction of a new covered deck measuring approximately 16'-0" length and 8'-6"-to 3'-0" in width at 2'-0" above the ground. The deck will be constructed of wood and a polycarbonate roofing material between the rafters.

Approval for the modification request to reduce the rear setback distance (per PZC 33.110.220) from the required 5'-0" to a reduced distance of 3'-0".

Approval per the approved site plans, Exhibits C-1 through C-4, signed and dated October 15, 2008, 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-C.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-105172 HDZM . No field changes allowed."

Decision rendered by:

By authority of the Director of the Bureau of Development Services

on October 15, 2008

Decision mailed: October 17, 2008

Staff Planner: Chris Beanes

**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 January 28, 2008, and was determined to be complete on **April 4, 2008**.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on January 28, 2008.

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 waived the 120-day review period, as stated with Exhibit G.3.

# Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**Appealing this decision.** This decision may be appealed to the Landmarks Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on October 31, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged**. The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <a href="https://www.portlandonline.com">www.portlandonline.com</a>.

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Landmarks Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Landmarks Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

## Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

• Unless appealed, The final decision may be recorded on or after **November 3, 2008 – (the day following the last day to appeal).** A building or zoning permit will be issued only after the final decision is recorded.

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

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. 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 County 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.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and

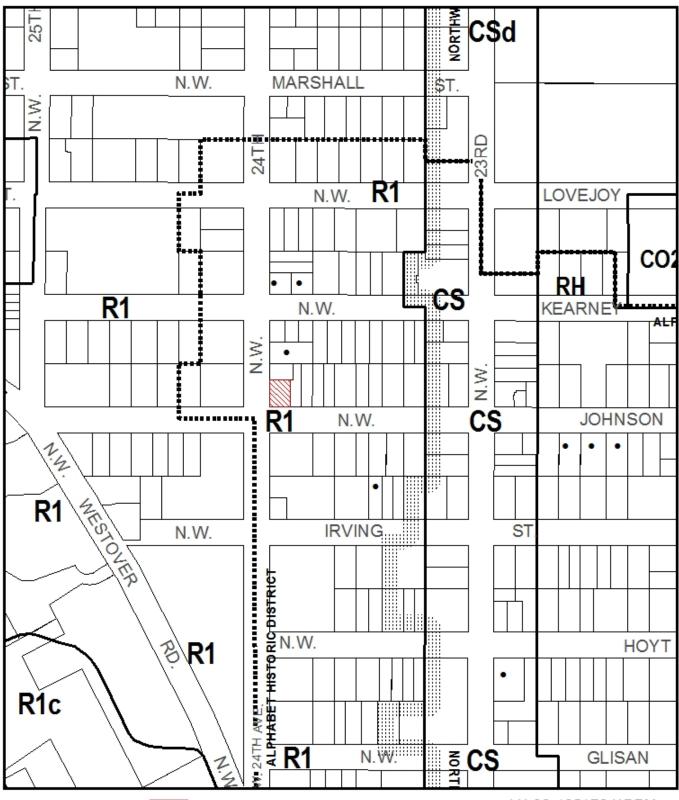
• All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. West Elevation (attached)
  - 3. North Elevation (attached)
  - 4. Construction Details
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Site Development Review Section of BDS
  - 2. Life Safety Plans Section of BDS
- F. Correspondence: None
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. 120 day waiver signed form

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



**ZONING** 

Site

Historic Landmark



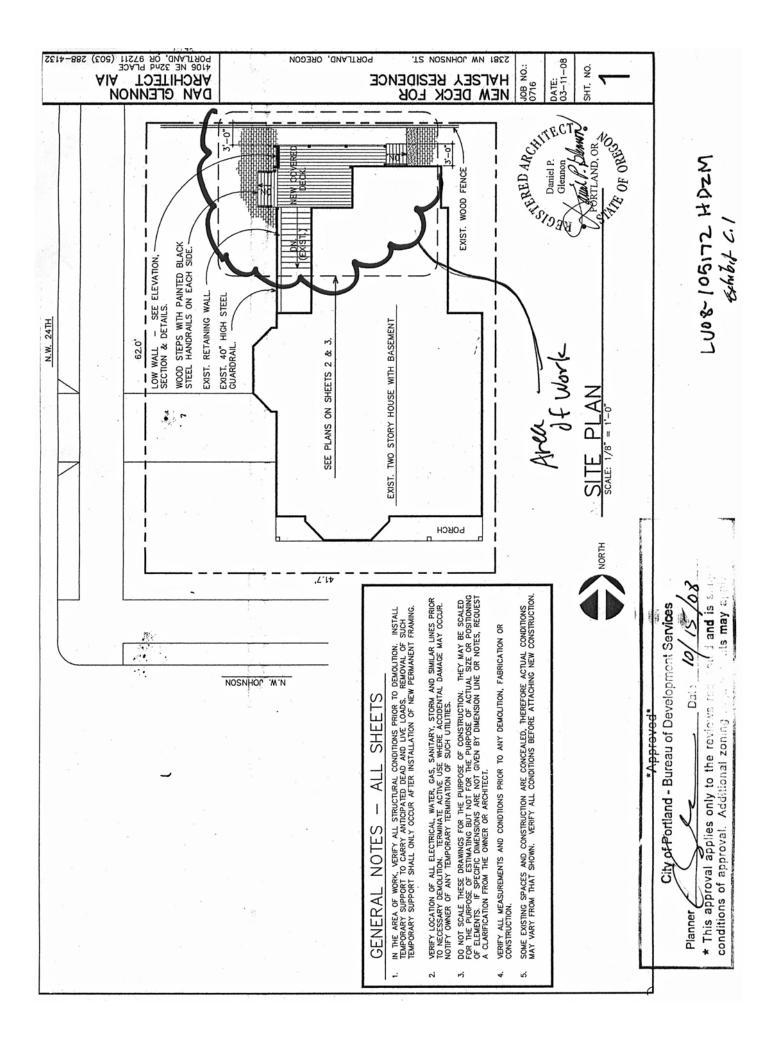
This site lies within the: ALPHABET HISTORIC DISTRICT File No. LU 08-105172 HDZM

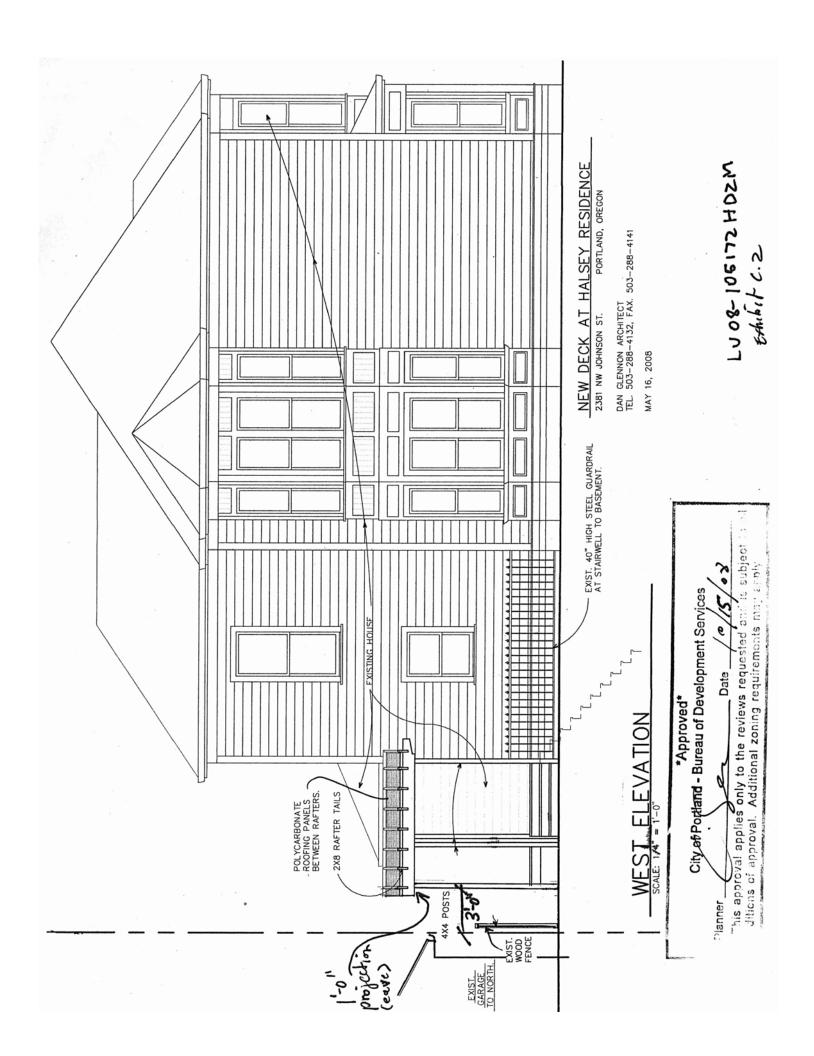
1/4 Section 2927

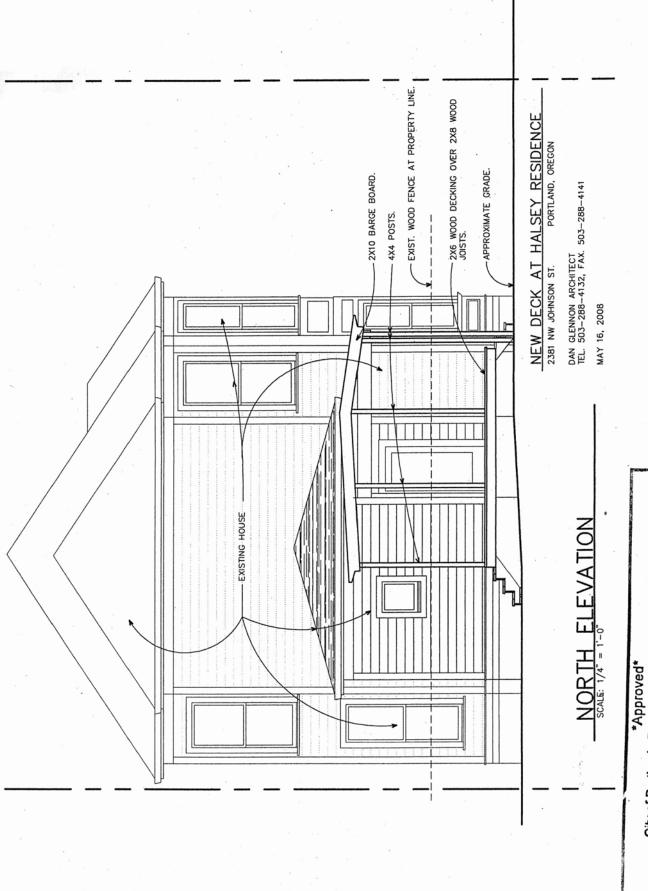
Scale 1 inch = 200 feet

State\_Id 1N1E33BC 8000

Exhibit B (Feb 08,2008)







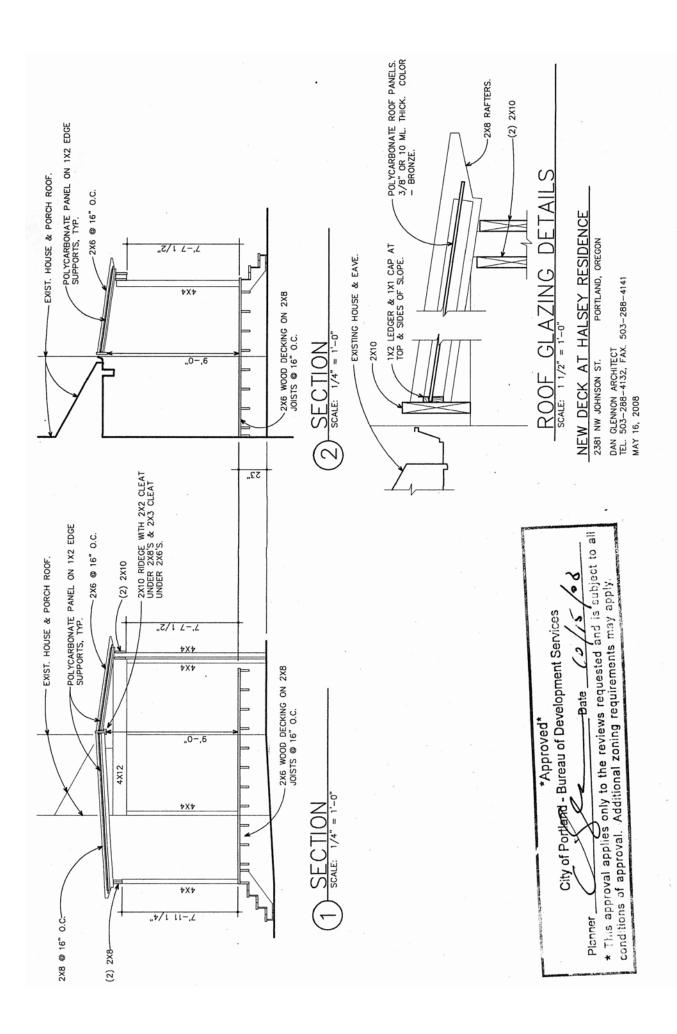
LU18- 105172 HDZM Exhibit C.3

This approval applies only to the reviews requested and is subject to all inditions of approval. Additional zoning requirements may apply.

Date

Planner

City of Portland - Bureau of Development Services



1,008-105172 HOZM