

# City of Portland, Oregon

# **Bureau of Development Services**

# **Land Use Services**

FROM CONCEPT TO CONSTRUCTION

Charlie Hales, Mayor Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

**Date:** April 26 2013 **To:** Interested Person

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

503-823-6979 / Chris.Beanes@portlandoregon.gov

# 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 the version located on the BDS website <a href="http://www.portlandonline.com/bds/index.cfm?c=46429">http://www.portlandonline.com/bds/index.cfm?c=46429</a>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

# CASE FILE NUMBER: LU 13-105365 HDZM, PORCH ENCLOSURE AND NEW BACK DECK

Representative: Emmanuel D Ikejiani, Flow Design Studios

3515 NE 67th Ave / Portland OR 97213

Israel Rodriguez, Fulcrum Construction & Building Services LLC

Po Box 706 / Beaverton, OR 97075

**Owner:** Richard M Rubin

2147 NW Irving St / Portland, OR 97210

Site Address: 2147 NW IRVING ST

**Legal Description:** BLOCK 9 W 30' OF LOT 9, KINGS 2ND ADD

**Tax Account No.:** R452301610 **State ID No.:** 1N1E33BD 09900

Quarter Section: 2927

**Neighborhood:** Northwest District, contact John Bradley at 503-313-7574.

**Business District:** Nob Hill, contact Mike Conklin at 503-226-6126.

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

**Plan District:** Northwest

**Zoning:** RH, High Density Residential

**Case Type:** HDZM, Historic Design Review with Modification

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

Commission.

#### Proposal:

The applicant seeks Historic Design Review approval of enclosure of an existing semi-enclosed porch at the rear of a contributing home in the Alphabet Historic District in order to increase the functionality of the interior space where a half bath exists. The space measures approximately 8'-2" x 5'-10", with no increase in the footprint of the home. The porch would be enclosed with consistent wood lap siding and trim to match the existing home. In addition, the applicant proposes the addition of a rear deck measuring 24'-4" long by 10'-5-1/4" deep.

The applicant is requesting a modification to 33.110.220 Setbacks, to reduce the side yard setback from the required 5'-0" to 3'-2" along the east property line and 2'-10" along the west property line.

Because the proposal includes exterior alterations to a contributing resource within the Alphabet Historic District, Historic Design Review is required.

# 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:

- Historic Alphabet District Community Design Guidelines
- Community Design Guidelines
- Modifications Considered During Historic Design Review - Section 33.846.070

#### ANALYSIS

**Site and Vicinity:** The Oscar Ballou House, built in 1908, occupies a 30'x100' site in the Historic Alphabet District. The property is located mid-block on the north side of NW Irving Street Avenue between NW 22<sup>nd</sup> and NW 21<sup>st</sup> Avenues. The 2-1/2 story Secondary Contributing residence is of the Craftsman Style. It occupies roughly half of the site. The building has a rectangular plan and is characterized by a concrete foundation with wood lap and wood shingle siding. The building is of interest for its association with Oscar Ballou, who made a significant contribution to Portland's business development. Oscar B. Ballou opened a bicycle shop with Charles F. Wright in 1901. This building is considered to be contributing within the district as a good example of a Craftsman style residence and is therefore significant as part of the larger grouping of residential development that occurred in the Northwest Neighborhood.

The surrounding area is comprised mostly of multifamily apartment housing with some single family residences throughout. The area is zoned High Density Residential (RH) with commercial corridors located to the east (NW 21st Avenue) and west (23rd Avenue).

**Zoning:** The <u>High Density Residential Zone (RH)</u> is a high-density multi-dwelling residential zone. Certain retail sales and service and office uses are allowed as conditional uses to provide mixed-use development on larger sites that are close to light rail transit facilities. The maximum residential density is limited to a FAR of 2:1 on this site, and the minimum density is one unit per 1,000 square feet of site area. Newly created lots in the RH zone must be at least 10,000 square feet in area for multi-dwelling development, 3,000 square feet for development with detached houses, 800 square feet for development with attached houses, and 2,000 square feet for development with duplexes. Minimum lot width and depth standards may apply.

The Historic Resource Protection overlay is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks. The regulations that pertain to these properties protect certain historic resources in the region and preserve significant parts of the region's 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:

• LUR 94-00043 AD, Denial of requested parking adjustment.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed March 11, 2013.

The following Bureaus have responded with no issues or concerns:

- Life Safety Division of BDS
- Water Bureau
- Bureau of Environmental Services
- Fire Bureau

• Site Development Section of BDS

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on March 11, 2013. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

# Historic Design Review (Chapter 33.846.060)

## 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 a designated Historic Landmark. Therefore the proposal requires historic design review approval. The relevant approval criteria are listed in 33.846.060 G. 1.-10. In addition, because the site is located within the Alphabet Historic District, the relevant approval criteria are the Community Design Guidelines and the Historic Alphabet District Community Design Guidelines Addendum [33.846.060 E.1.c]

# 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.

#### (1) Historic Alphabet District Approval Criteria

**1. Historic Changes.** Most properties change over time; those changes that have acquired historic significance will be preserved.

**Findings:** The proposal includes alteration of the east porch wall, which is currently semi-open to elements. The slatted screen wall would be replaced with a solid wood wall which will incorporate new wood lap siding to match existing siding of the body of the house. Detailing of the rear porch indicates a later addition, however no change is proposed to the footprint, thus massing will remain the same. An exising half bath is within the area, however there are no shower facilities for use on the ground floor; the proposal will allow for a full bathroom for the applicant's use on the ground floor. A new door will be introduced to the rear porch, thus allowing functional use of the interior space. *This guideline is therefore met*.

**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:** The proposed new east wall will incorporate wood lap siding to match the original siding of the house. Rear porch framing, existing roof, and level of floor will be retained for seamless and compatible continuity. By virtue of being added on in the past as a porch addition, differentiation is maintained. The proposed deck will read as a new element due to construction technique, materials introduced, and modern functional use. The simple squared off footprint of the deck further compliments the historic structure and is consistent with the district pattern of rear decks. *This quideline 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.

**Findings:** The proposed alteration to the porch will incorporate the existing traditional frame construction and wood lap siding similar to those found on the adjacent properties and in 20th century Craftsman architecture. The deck maintains existing side building lines thus promoting compatibility with the home. The proposed deck is similar to those found throughout the district, where outdoor space is a premium and typically relegated to the rear of homes on narrow lots close to side property lines. *This quideline is therefore 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. **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:** The Alphabet Historic District is a rather dense area of development with a mix of single-family and multi-dwelling buildings. The single dwelling lots tend to be small and mostly built out with development located closer than the typically required setbacks to property edges. With limited areas for outdoor use the deck at the rear of the lot is consistent with the compact development character of the area. In addition, the wall for the porch exists and massing will remain as is, however the present diagonal latticework facing the side property line will be replaced with horizontal lap siding, which is more typical of historic material found in the district. *These guidelines are therefore met.* 

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

**Findings**: Typical of most single family residential development in the district, the front yard is a minimal grassy space. The proposed deck will provide a usable private outdoor space for the applicant and maintains the pattern of private and functional backyards, thus maintaining the typical character of front and back yards in the district. *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.
- **D8. Interest, Quality, and Composition.** All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.

**Findings:** The original character of the house will be maintained by addition of the proposed material and design of new side wall. The horizontal wood siding on the wall will match the existing siding of the house. Massing from the east property line will remain the same as well and no change is proposed to the existing roof line of the porch addition. An existing fence around the perimeter of the rear yard will obscure the proposed deck, thus there will be no visible change from the adjacent parking lot and neighboring property. *These quidelines are therefore met.* 

- (2) Modifications Considered During Historic Design Review (Chapter 33.846.070)

  The approval criteria for modifications considered during historic design review are:
  - **A.** Better meets historic design review approval criteria. The resulting development will better meet the approval criteria for historic design review than would a design that meets the standard being modified; and

## B. Purpose of the standard.

- 1. The resulting development will meet the purpose of the standard being modified; or
- 2. The preservation of the character of the historic resource is more important than meeting the purpose of the standard for which a modification has been requested.

**Purpose:** The building setback regulations serve several purposes:

- They maintain light, air, separation for fire protection, and access for firefighting;
- They reflect the general building scale and placement of multi-dwelling development 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
- Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.
- 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.

**Modification request:** 1. Decrease the 5'-0" required side setback to 3'-2" along the east property line, and 2'-10" to the west property line.

**Findings for A:** The existing porch wall is semi-enclosed on the side proposed to be modified. Meeting current setback requirements would involve a change in the footprint of the building, thus being out of historic character of existing development. The design incorporates existing exposed framing elements including the cornerboard and horizontal beam framing. Horizontal wood siding will match existing siding on the walls of the home. Where a half bath exists, the applicant proposes finishing out the space for full bath use for the elderly occupants. No new footprint of the home is proposed, thus the proposal better meets the approval criteria as evidenced in previous findings above. Uncovered horizontal structures over 30" above the ground are required to be setback 5'-0" from the side and rear property lines similar to primary buildings. The proposed deck is similar and consistent with other decks found throughout the district where usable outdoor space is premium, and where other uncovered decks are built less than required side setbacks to property lines.

**Findings for B:** Meeting the side setback standard for new development would be inconsistent with patterning within the district, primarily since lots within the neighborhood tend to be narrower than the required 70'-0" width for lots within the RH

zone. A number of lots within the surrounding area are substandard in width, thus development tends to share the characteristics of this proposal, where houses and accessory structures, including decks, are built closer to property lines than the required minimum for the zone. A surface parking lot is adjacent to the east property line, thus privacy issues related to residential use are mitigated. In addition to the west, the proposed development will be mitigated by an existing neighbor's garage wall built on the property line.

The proposal meets the historic design review criteria of approval and the purpose of the standard, therefore this Modification 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 purpose of the historic design review process is to ensure that exterior alterations to existing buildings protect the integrity of the special characteristics of the historic resources. The rear porch enclosure is compatible with the design and materials of the existing home and the modification better meets the purpose of the setback regulation in terms of neighbor privacy and maintaining visually open front yards. The proposal meets the applicable design guidelines and modification criteria and therefore warrants approval.

#### ADMINISTRATIVE DECISION

Approval of enclosure of an existing semi-enclosed porch at the rear of a contributing home in the Alphabet Historic District in order to increase the functionality of the interior space. The space measures approximately 8'-2" x 5'-10", with no increase in the footprint of the home. The porch would be enclosed with consistent wood lap siding and trim to match the existing home. Approval of an uncovered rear deck measuring 24'-4" long by 10'-5-1/4" deep.

Approval per the site plans, Exhibits C-1 through C-7, signed and April 23, 2013, subject to the following condition:

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.7. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-105365 HDZM . No field changes allowed."

Staff Planner: Chris Beanes

Decision rendered by: \_\_\_\_\_ on April 23, 2013

By authority of the Director of the Bureau of Development Services

Decision mailed: April 26, 2013

**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 16, 2013, and was determined to be complete on March 6, 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 January 16, 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 did not waive or extend the 120-day review period.

#### 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 May 10, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, 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. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <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 May 13, 2013.
- 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.

**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.

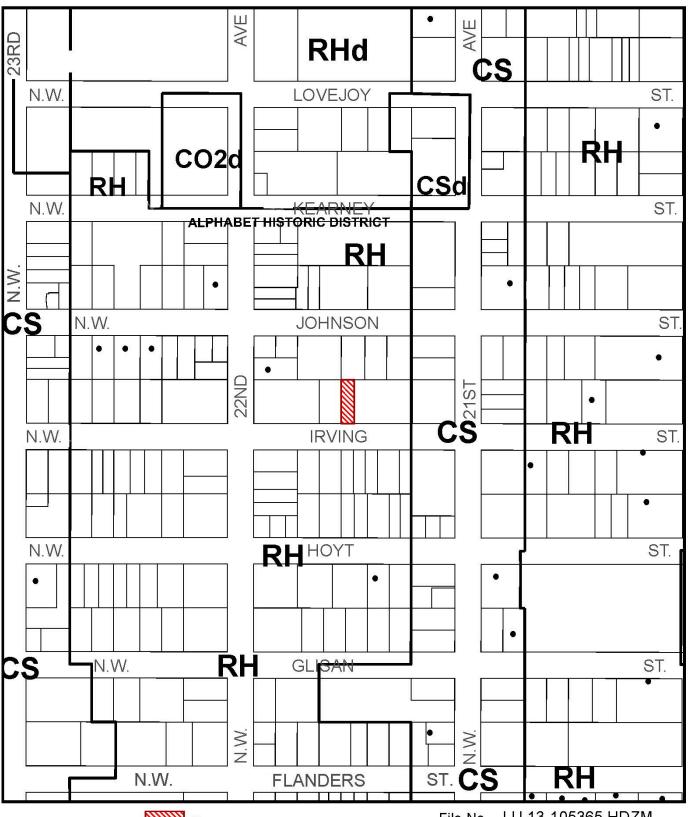
#### **EXHIBITS**

#### NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. East Elevation, Existing and Proposed (attached)
  - 3. North Elevation, New Deck (attached)
  - 4. Existing and Proposed Floor Plan (attached)
  - 5. East Wall Section (attached)
  - 6. Deck Sections (attached)
  - 7. Full Size Drawings-11x17
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice

- E. Agency Responses: none received
- F. Correspondence: none received
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Incomplete Letter sent to applicant 1/24/13

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

Site

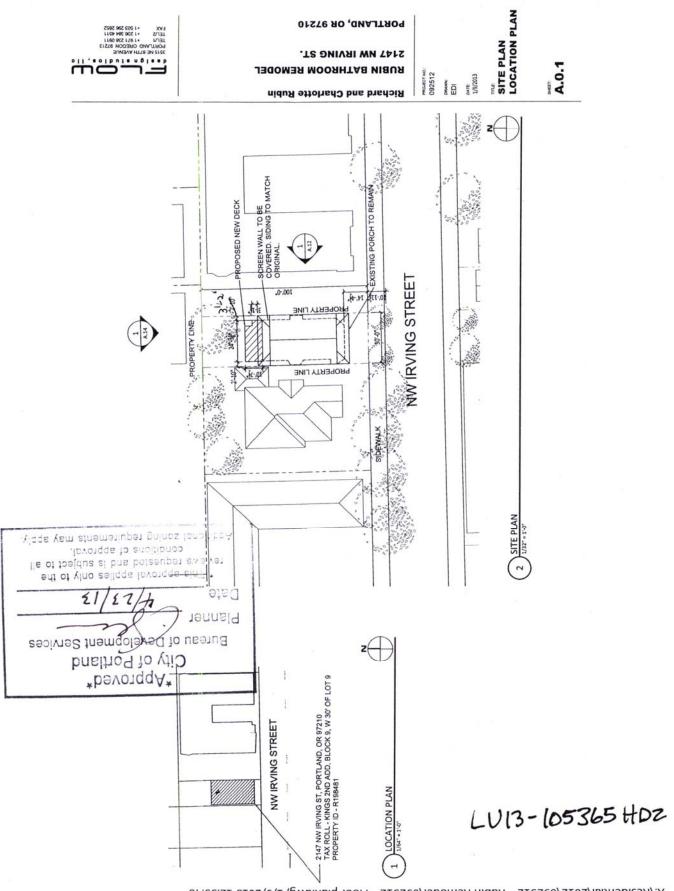
Historic Landmark

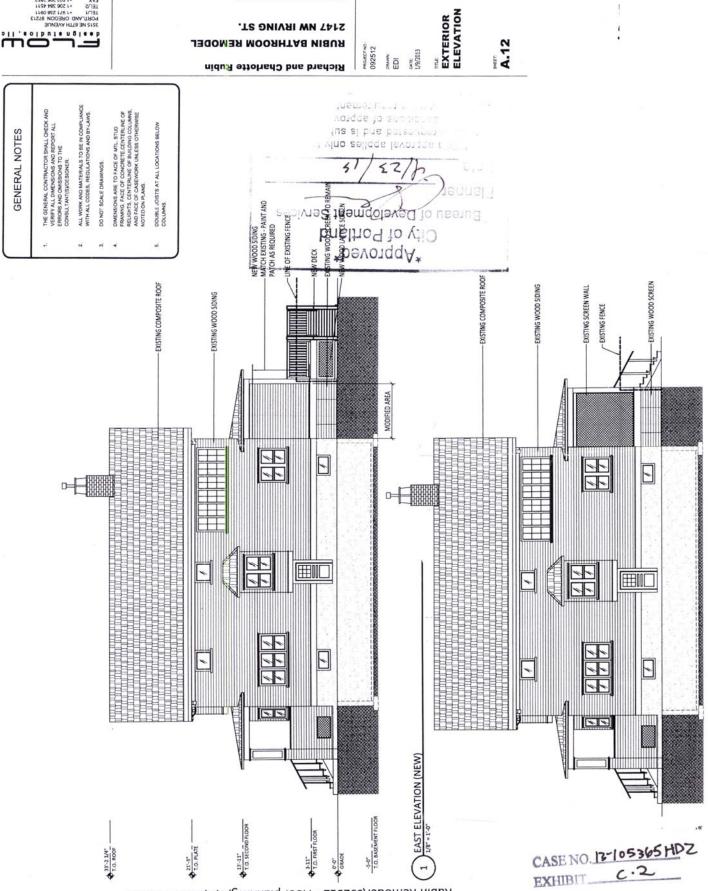


This site lies within the: ALPHABET HISTORIC DISTRICT NORTHWEST PLAN DISTRICT File No. <u>LU 13-105365 HDZM</u> 1/4 Section <u>2927</u>

Scale 1 inch = 200 feet State\_Id 1N1E33BD 9900

Exhibit B (Mar 06,2013)



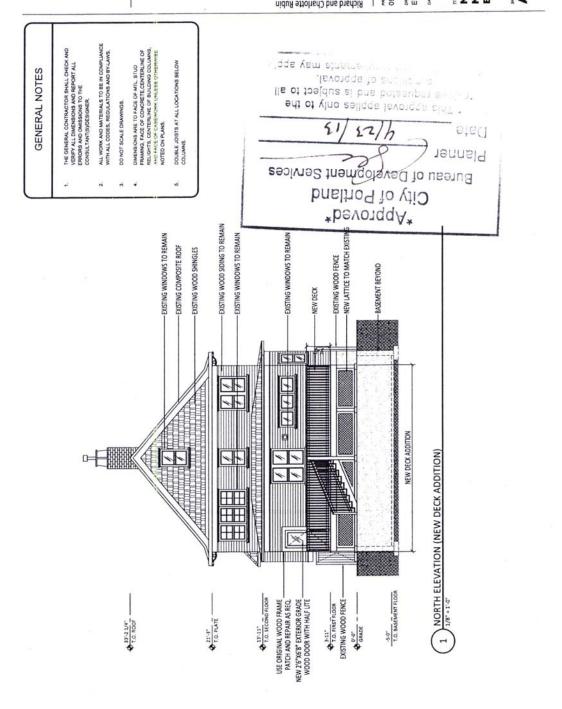


Rubin Remodel/092512 - Floor plan.dwg, 1/9/2013 12:46:24

2147 NW IRVING ST. **ВИВІМ ВАТНКООМ REMODEL** 

PORTLAND, OR 97210

# LU13-105365 HDZ

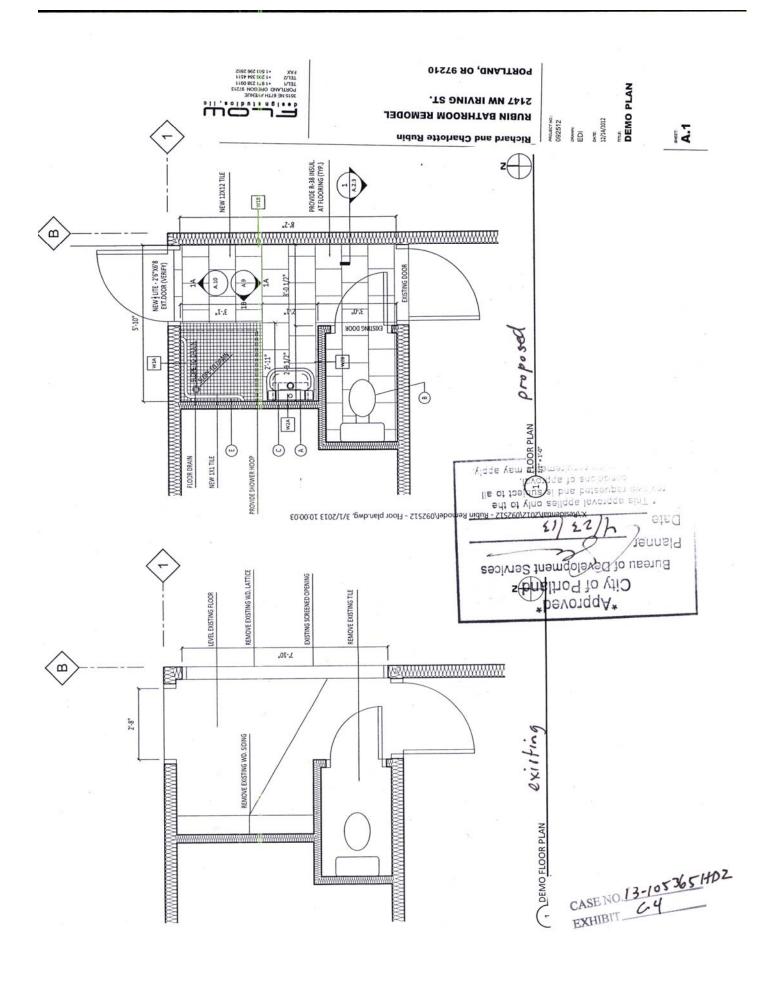


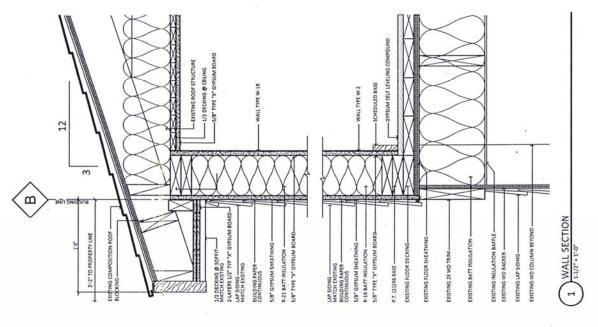


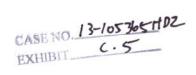
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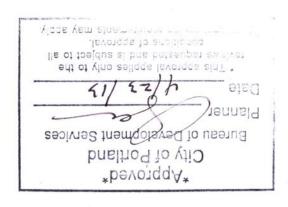
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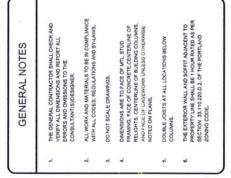
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Richard and Charlotte Rubin

PORTLAND, OR 97210

2147 NW IRVING ST. **ВИВІИ ВАТНКООМ КЕМОDEL** 

WALL SECTION EDI EDI AVI/2013

2 2/24/2013

A.2.3

