



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

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

**CASE FILE: LU 13-113608 HDZ – 1321 SE Birch Alterations**

**LOCATION: 1321 SE Birch St.**

The administrative decision for this case, published on October 29, 2013, was appealed to the Historic Landmarks Commission by the applicant.

The Historic Landmarks Commission modified the administrative decision of denial and added a new condition of approval, granting the appeal and requiring a modified arrangement of exterior alterations to the house. The original analysis, findings and conclusion have been revised by the Historic Landmarks Commission and follow. This decision is available on line: <http://www.portlandonline.com/bds/index.cfm?c=46429&>

**GENERAL INFORMATION**

**Applicant/Appellant:** D. Ben Henzel  
0224 SW Hamilton St., Ste. #300  
Portland, OR 97239-6418

**New Property Owners:** Brandon Holmes and Macy Martinson  
1321 SE Birch St.  
Portland, OR 97214-5335

**Site Address:** 1321 SE BIRCH ST

**Legal Description:** BLOCK 8 SELY 42' OF LOT 1&4, LADDS ADD  
**Tax Account No.:** R463301560  
**State ID No.:** 1S1E02CD 05000  
**Quarter Section:** 3231

**Neighborhood:** Hosford-Abernethy, contact Joanne Stainbrook at 503-231-9245.  
**Business District:** Division-Clinton Business Association, contact Darice Robinson at 503-233-1888.

**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.

**Zoning:** **R5** (Single-Dwelling Residential 5,000 base zone), **Ladd's Addition Historic District**

**Case Type:** **HDZ** (Historic Design Review)  
**Procedure:** **Type II**, an administrative decision by BDS Staff that can be appealed to the Landmarks Commission.

**PROPOSAL:** The applicant recently purchased the home at 1621 SE Birch Street. In late 2012 the applicant obtained a building permit to do some interior plumbing, mechanical and electrical work in the house. Unfortunately the applicant also proceeded to complete exterior changes to the building, including replacement of original wood windows with vinyl windows, without benefit of the required Historic Design Review. A neighbor complained and a code compliance case was started (12-219099 CC), prompting the applicant to apply for the Historic Design Review that is required prior to exterior alterations to a home in the Ladd's Addition Historic District.

The applicant states that the project includes the following elements:

- Removal of the prior aluminum siding, and replacement of the siding on the home with a hardie plank smooth lap siding;
- Removal of original wood windows and replacement of these with vinyl windows;
- Removal of a wheelchair ramp and exterior side door;
- Modification of the roof form of the attached garage from a gable to a shed roof;
- A new open metal railing at the stair to an existing side door off the alley; and
- Repair or replacement of the exterior paint finish, asphalt shingle roofing, aluminum rain gutters, wood fascia boards, and wood soffits.

The applicant states that areas where the original materials were retained and no alterations were made include the following:

- Front porch archway;
- Front porch columns;
- Front porch railings; and
- Exterior stair railings.

**REVISED PROPOSAL:** In response to staff concerns about the approvability of the vinyl windows, the applicant submitted revised drawings dated August 18, 2013 showing metal-clad wood windows on the home. In response to staff concerns about the approvability of the hardie lap siding, the applicant did not modify the proposal but submitted a 'compromise' plan and drawings to restore the two boxed front porch columns on the home if staff were to allow the siding as installed to remain. Therefore, this decision will be based on the final revised proposal with the new metal-clad wood windows, hardi lap siding as installed, and no changes to the front porch columns.

**APPEAL FILING PROPOSAL:** With the appeal documents submitted on November 12, 2013, the applicant included a revised set of plans with a modified proposal. The appeal drawings show the siding to remain as installed, the majority of the windows to remain as installed, and with the following changes from earlier proposals:

- Reconstruction of both front porch columns with a wooden, boxed column design is now included in the proposal;
- The window design of the two banks of windows just west of the main door and closest to the front of the house on the west elevation are now grouped into three or four individual casement windows, instead of two casement windows each;
- These two banks of windows and the main living room picture window facing onto the porch would be replaced with the metal-clad wood windows with a deeper profile as proposed earlier; and
- All other windows on the building would remain vinyl as installed.

Exterior alterations to a primary structure in an Historic District require Historic Design Review (33.445.320.A.1), and the project valuation of \$22,633.11 results in a Type II procedure (33.846.060.B.4.d).

**RELEVANT APPROVAL CRITERIA:** In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are the *Ladd's Addition Conservation District Guidelines*.

## ANALYSIS

**Site and Vicinity:** The site is a single residential lot of 3,360 square feet in the southwest quadrant of Ladd's Addition. The site has frontage on both SE Birch Street and the alley that runs mid-block between SE Birch and SE Harrison Streets. The site is developed with a rectangular single-story home with a low-pitched hip roof with deep projecting boxed eaves. The prominent central front porch has a gable roof with a pedimented end and boxed eaves matching those elsewhere on the home. The house has recently been remodeled with new exterior siding, vinyl windows, roofing, and paint. The house is one of three in a row, including the other two homes directly west of the site on the same block face of SE Birch Street, that were built on speculation at the same time in 1924 and are very similar in massing and appearance with minor differences between them.

The surrounding area is exclusively single-family in nature, with late 19<sup>th</sup> and early 20<sup>th</sup> Century homes of various architectural styles. The abutting street is improved with paved concrete sidewalks, planting strips with street trees, curbing, and two-way paved roadways with on-street parking. The adjacent alley is also improved with a paved roadway.

**Zoning:** The Residential 5,000 base zone (R5) is intended to create, maintain, and promote single-dwelling neighborhoods. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. There are no requested modifications or other issues regarding development standards or use regulations from the R5 zone in this application.

The Ladd's Addition Historic District boundaries are indicated on the City of Portland official zoning maps. The Ladd's Addition Historic District is regulated through the provisions of the Historic Resource Protection overlay zone, which requires all non-exempt exterior alterations to receive prior approval through the Historic Design Review process. A code change in May, 2013 changed the name of this process to Historic Resource Review, well after the submittal date for this application, but the process and approval criteria otherwise remain the same for this project before and after the May, 2013 code changes. These regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region. The regulations foster pride among the region's citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties.

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

**Summary of Applicant's Statements:** The applicant has submitted a series of written statements in support of the application, all of which are included in this file as the 'A' exhibits.

In Exhibit A.1, the applicant argues that the home itself is not a 'historic resource' under the Zoning Code definition. Specifically, because this specific home is classified in the Ladd's Addition Historic District as 'Non-Contributing: Compatible/Historic', the applicant argues that the focus of the review should be on how the changes impact the district and contributing properties, but not the home in question. The applicant also argued that the applicable approval criteria include both the Ladd's Addition

Conservation District and 33.846.060.G guidelines instead of just the Ladd's Addition guidelines.

**Commission Response and Finding:** The definition of 'historic resource' includes historic districts, which include both contributing and non-contributing resources in any individual district. Therefore this property is a historic resource under the Portland Zoning Code (33.910, Definitions). Review triggers and approval criteria in 33.445 and 33.846 apply the same to both contributing and noncontributing resources in a district. In this case, the changes to the windows, siding, wheelchair ramp and open metal side door stair railings are exterior alterations triggering review at 33.445.320.A.1, and are not identified as exempt from review at 33.445.320.B. This case was submitted in February, 2013 prior to adoption of legislative changes to these chapters on May 1, 2013. While there are some review exemptions that use contributing versus noncontributing language in the post May 1, 2013 regulations, these are not applicable to the project since we apply the regulations in place at the date of application (33.700.080.A.1). Even if we were reviewing the project under the post May 1, 2013 regulations, the project would still trigger review as there are alterations on the street-facing façade, and more than 150 square feet of alterations on the side façade (33.445.320.A.1, 33.445.320.B.3). In historic districts the wholesale replacement (defined in 33.910 as 'actions to substitute one material or system for another') of all siding and windows are not exempt from review, even if they occur on a noncontributing structure, as this meets the definition of 'exterior alteration' in 33.910, Definitions. The only approval criteria are the Ladd's Addition Conservation District Guidelines, and the 'other' criteria at 33.846.060.G do not apply, as explained in the code at 33.846.060.E.1.a. The guidelines apply to all non-exempt alterations on a primary structure in the district regardless of contributing or noncontributing status.

In Exhibits A.2 and A.3, the applicant continues to state that the vinyl windows being proposed are only relevant in terms of how they impact the overall district and surrounding properties, but not the home itself.

**Commission Response and Finding:** As discussed in the findings addressing the applicable guidelines, the Ladd's Addition Conservation District guidelines speak specifically to the exterior alterations being made to the home itself, including changes to window and siding types and materials. The 'Exterior Rehabilitation' guidelines apply because there is an existing structure. The 'Community' (Street System, Open Space) and 'New Construction' guidelines do not apply. Any individual project in Ladd's Addition usually only has to meet one of the three subsets of guidelines, as this is how this specific guideline document is organized.

Exhibit A.4 contains a detailed written response to the siding and window guidelines. Exhibit A.5 includes an excerpt from a 2007 Historic Design Review that the applicant underwent on another property in Ladd's Addition that specifically approved new 7" exposed hardie horizontal siding. Exhibit A.5 also includes signed statements and an affidavit from the contractor who removed the aluminum siding and saw the original siding underneath.

**Commission Response and Finding:** The specific approvability issues with regards to siding and windows are addressed in the findings later in this report. The referenced findings in LU 07-137886 HDZ were for the exterior remodel of a noncontributing 1952 minimalist ranch house on SE Elliott Avenue, which went from weatherboard siding with a small section of board and batten siding to the wide reveal horizontal lap siding. These two different homes require a different analysis and outcome in terms of the Ladd's Addition siding guideline: wide reveal horizontal siding may be appropriate on a 1950's ranch, but not necessarily on a 1924 bungalow.

Exhibit A.6 is a letter to staff from William Hawkins III with a discussion of the history of the house, discussion of windows and siding, and discussion with drawings of a 'compromise' proposal involving reconstruction of the boxed wood front porch columns. This letter suggests it was unreasonable to ask the owner to switch-out the windows, especially on a noncontributing property. This letter also suggests that the siding as installed is appropriate and approvable.

**Commission Response and Finding:** This letter clarified a staff question/issue about the original dining room windows. From historic photographs submitted, it is hard to tell the original type and style of dining room windows on the home (window left of door on main/south elevation and first window around corner beyond). The dining room windows apparently changed from a five-bank and three-bank casement window opening to matching two-bank casement window openings of the same width, with the west/side elevation opening reduced in size.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **April 8, 2013**. The following agencies/departments have responded with comments:

The *Water Bureau* has reviewed the proposal and responded with informational comments regarding water services for the site, which presently come from an existing water main in the alley between SE Spruce and Elliott Avenues. No objections or concerns are raised regarding the requested Historic Design Review. Exhibit E.1 contains staff contact and additional information.

The *Life Safety Section of the Bureau of Development Services* has reviewed the proposal and responded with informational comments, but no objections or recommendations regarding the requested Historic Design Review. A separate building permit is required for the project, and the proposal must be designed to meet all applicable building codes and ordinances. Exhibit E.2 contains staff contact and additional information.

The following agencies/departments have reviewed the proposal and responded with no objections or specific comments:

- The *Site Development Section of the Bureau of Development Services* (Exhibit E.3);
- The *Fire Bureau* (Exhibit E.4);
- The *Bureau of Environmental Services* (Exhibit E.5);
- The *Development Review Section of Portland Transportation* (Exhibit E.6); and
- The *Urban Forestry Division of Portland Parks and Recreation* (Exhibit E.7).

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on April 8, 2013. A total of 14 written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

The majority of the letters express strong support for the proposal, and especially note how dramatic an improvement the current owner has made of the home in comparison to its recent and prior condition. These supporting letters often specifically mention support for the new vinyl windows and wider hardie lap siding as appropriate to and compatible with the surrounding neighborhood. Many of these letters get into specific details of the poor condition of the house and site prior to being purchased by the present owner (e.g. non-original windows, broken windows tall grass, trash and debris, etc.). Many of these letters also express concern about the financial and environmental waste involved in replacing the recently installed windows and siding.

One letter went into greater detail on the recent history of the house, noting that the house fell into disrepair after the death of the previous owner, with broken windows, broken gutters, water damage, and other physical deterioration. Problems with enforcing property nuisance and police/squatter concerns continued until the new owner brought the property and made the current improvements. This letter claims that the damaged condition included rotten window sills, a destroyed roof, and basement water damage, and that all the improvements made were a significant improvement and should be allowed to remain in place.

A letter from Richard Ross expresses support for the overall project, but raises questions regarding permitting, violations, and other systemic bureaucratic issues within BDS. The letter tells the story of over a decade of neglect and deterioration at the site before the Henzels purchased and remodeled the property. Citing the example of another nearby abandoned property that had squatter issues and a fire before being completely re-built (2220 SE Spruce), the letter emphasizes the physical changes made by the new owners to the benefit of the site and surrounding neighborhood. The letter also questions why city staff (building inspectors) did not advise the applicant sooner as to why permitted interior remodel work was expanded onto the exterior of the home without citation of the need for Historic Design Review. Specifically, the letter asks why BDS did not put a stop work order on an active interior remodel permit when inspectors came to the site in December, 2012 or January, 2013. A chronology of inspection dates was attached to this letter.

The Hosford-Abernethy Neighborhood Development (HAND) Historic Resources Subcommittee submitted written comments on the proposal. The letter notes that several neighbors contacted HAND in support because of the dramatic improvement in appearance at the site since the renovation by the new owners. The letter identifies two ‘missed opportunities’ with the current project that could have been closer to the original design and characteristics:

- Restoring the existing wood windows and non-original windows with matching wood windows would have been preferred to replacement with vinyl windows; and
- Restoring the original wood siding that was underneath the aluminum siding and patching where there was decay would have been the recommended approach. If that was not possible, siding to match the original scale and profile would have been a second choice.

The HAND letter also expresses regret that the land use review occurs after the work has been done, and that this makes the process more painful for the homeowner and neighborhood volunteers seeking to provide input. The letter closes with a suggestion on other areas to work with on the City regarding the following four issues:

- Contributing versus Noncontributing Status – There appears to be significant confusion among homeowners in the community about review triggers. Specifically, there is a perception that noncontributing resources are not subject to review or the guidelines, when this is not the case;
- BDS Inspections – Building inspectors working in historic districts should be more proactive in stopping unpermitted exterior work before it proceeds further. In this case, inspectors were on the site when unpermitted exterior work was being done, and no stop work order was placed on the building permit. Being proactive could have perhaps saved the original windows and siding from being removed;
- Wood Windows and Energy Efficiency – Homeowners need education on how to make their old wood windows more energy efficient without damaging original historic material (interior storm windows, glass-only replacement with double pane, etc.). Providing more information to homeowners on appropriate window/energy efficiency concerns in historic districts would be helpful; and
- Blighted Properties – The neighborhood would like to better understand what resources they have to prevent homes in probate, foreclosure or other states of abandonment from becoming a nuisance or worse.

**Commission Response and Finding:** The Historic Design Review process reviews proposed alterations against the relevant design guidelines. Strictly speaking, if the work has already occurred and approval is requested later, this does not change the review procedure. Although the building may have been cleaned up, inhabited, and made presentable and attractive in the eyes of the neighbors, this does not necessarily mean that the proposal meets the approval criteria. In this application, as discussed further in the findings below, staff has raised issues regarding whether the siding as installed meets the relevant guideline. Staff understands and sympathizes with the idea of making a ‘balancing’ decision that gives greater weight to the improved appearance and allows some relaxation of the language in specific guidelines, but this flexibility is not currently built into the process. If the relevant guidelines cannot be met, the proposal must be denied, regardless of how much better the site is this year versus last year.

The site was issued a building permit for interior-only remodel work in November, 2012(12-207314 RS). Inspections under this permit were approved over time, and a final inspection was granted in March, 2013. During this time, the applicant expanded work to include exterior alterations and, after a neighborhood complaint in December, the owner was cited for this code violation in January, 2013. Staff understands the frustration that comes from inspectors not clearly issuing stop work orders when work expands beyond the scope of permit authority, but unfortunately it took a neighbor complaint in this case to flag the issue.

Staff worked directly with HAND in April-May, 2013 to raise these specific issues up to the BDS Management level. Land Use Services staff will continue to raise the issue about the need for better coordination between historic district locations and a need for inspectors to be vigilant about unpermitted exterior work in these areas. The Commission encourages the neighborhood and homeowners nearby to continue and press for a solution to these larger concerns, which are beyond the scope of this individual land use application.

## **ZONING CODE APPROVAL CRITERIA**

### **Chapter 33.846.060 - Historic Resource Review**

#### **Purpose of Historic Resource Review**

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

#### **Historic Resource Review Approval Criteria**

Requests for Historic Resource Review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

**Findings:** The site is located within the Ladd's Addition Historic District and the proposal is for a non-exempt treatment not requiring a new foundation. Therefore Historic Resource Review approval is required. The approval criteria are the *Ladd's Addition Conservation District Design Guidelines – Exterior Rehabilitation*.

*The Commission has considered all guidelines and addressed only those applicable to this proposal.*

### **Ladd's Addition Conservation District Guidelines – Exterior Rehabilitation**

**1. Façades Oriented to a Street.** In rehabilitating existing buildings, the architectural integrity of street-oriented façades should be maintained. Additions and structural alterations should be limited to the rear and side yard façades and be minimally visible from the street.

**Findings:** The street-facing façade was altered by removal of a wooden wheel chair ramp in the front yard. No other structural changes were made to the primary street-facing façade, and no building additions or expansions are proposed. In the revised proposal presented during the appeal, two compatible boxed wooden columns on the front porch will be installed to replace the incompatible midcentury steel supports, in keeping with the original character of the home. Restoring these columns to a near-original appearance improves the architectural integrity of this historic resource. *Therefore, this guideline is met.*

**2. Foundations.** Changes to the foundation should match or be compatible with the original foundation in height and materials.

**Findings:** No change has been made to the original exposed concrete foundation, or to the five existing wood basement windows with metal security screens. *Therefore, this guideline does not apply.*

**3. Exterior Siding Material.** Restoration and maintenance of original siding materials is encouraged. Materials used on additions should match or be compatible with the predominant materials used on the original structure. Most single family residences and duplexes in Ladd's Addition feature stucco, horizontal wood siding, wood shingles, brick or a combination of these materials. Most commercial and multi-family structures feature stucco or brick. The following materials are discouraged: plywood, used brick, shakes, exposed concrete block and metal.

**Findings:** The original exterior siding material on the home is not indicated in the Ladd's Addition Historic District documents, which note only that the site had (non-original) aluminum siding. No photographic or other visual evidence of the original siding has been submitted to this case file. The applicant states that he did not see the original siding, as he was not on site at the time the contract removed the old aluminum siding and immediately installed a new layer of Tyvek protective material (Exhibit A.5).

The applicant provided a written statement and affidavit from the contractor who removed the aluminum siding and inspected the original siding underneath (Exhibit A.5). The contractor "found that some areas of siding have been damaged by dry rot, some was mismatched and a significant portion of the siding was missing altogether, perhaps related to the installation of aluminum siding". The contractor states that "In my opinion, the original wood siding was not in a condition which could be salvaged". The contractor statements did not identify the specific type or design of original siding that was discovered underneath the aluminum siding (e.g. bevel with 3" reveal, shiplap with 4" reveal, etc.).

William Hawkins III provided a written statement to the file that specifically identified the original siding as 'inexpensive "false-bevel" siding' which made 'a single board appear as two narrow siding boards' (Exhibit A.6). Mr. Hawkins says that this was a common siding material for smaller, inexpensive homes of the era, along with lap siding. Mr. Hawkins references the siding on an adjacent similar home (presumably 1313 SE Birch) as similar in type and problematic, having become "warped unevenly" and "unattractive, if not irreparable". Mr Hawkins does not appear to have inspected the original siding on the building in question, and presumably has taken his information from the siding on a similar home built by the same firm next door, and perhaps by the written statements provided by the contractor noted above. Mr. Hawkins concludes his statements on the siding with "As lap siding was part of the Bungalow/Craftsman era, and its installation greatly improves the appearance of this house, I recommend that it be kept and not replaced".



No drawings, photographs, reveal dimensions or other specific information has been submitted to this case file on the actual original siding on the home, nor is it clear how much of the original siding, if any, remains underneath the recently installed siding.

The applicant argues that the hardie plank lap siding as installed is complementary to the neighboring homes. Woodgrain finish hardie siding was originally delivered and installed, but the applicant required the contractor to remove this siding and replace it with a smooth lap siding. The applicant notes that the same material applied as lap siding with a 7" reveal was used on his most recent Historic Design Review for his main home nearby on SE Elliott Avenue.

This guideline encourages restoration and maintenance of original siding, with matching or compatible siding for additions to the original building. Unfortunately we have no photographic evidence (e.g. historic photos, remove new siding and take pictures of what's underneath) verifying the original siding material. Without documentation of the original siding material we can only make an educated guess as to the original siding.

During the appeal hearing, extensive testimony, questions of the applicant team, and deliberation occurred on the issue of the siding material and dimensions. Mr. Hawkins in particular made convincing arguments that for this particular home, the 8-inch reveal on the siding was appropriate and in keeping with the broad, horizontal look of bungalow homes in Portland in the 1920's. When asked what siding he would install on the home if he was designing it prior to installation, he indicated it would be 8-inch siding. Based on this testimony and the discussion at the appeal hearing, Landmarks Commission finds that the 8-inch smooth hardie lap siding as installed on this specific home is compatible with the original structure.

*Based on the testimony and evidence summarized above, the Commission finds this guideline is met.*

**4. Roof Form.** Repair and alteration of roofs should retain:

- a. The original roof shape and pitch;
- b. Original structural and decorative features such as gables , dormers, chimneys, cornices, parapets, pediments, frieze boards , exposed rafters and other ornamental details; and,
- c. Whenever possible the original type, size, color, and pattern of roofing materials. New roof features including roof additions and new dormers should be compatible in size, scale, materials, and color with the original building. Skylights, solar, mechanical and service equipment, and new roof features should be inconspicuous from the street.

**Findings:** The roof form of the primary home has not been changed. The existing single-car garage attached at the rear of the home previously had a low gable roof with the gable end facing the alley, but this was changed to make a low-pitched shed roof sloping away from the house. This is a relatively modest change that does not significantly change the appearance of the structure as viewed from SE Birch Street, and retains the approximate same difference in height and massing between house and garage. *Therefore, this guideline is met.*

**5. Front Façade Detailing.** Original entrances to buildings, front porches and projecting features, such as balconies, bays, and dormer windows should be retained or restored.

**Findings:** The only details that have changed on the front façade are the exterior siding and windows, which are addressed under separate findings elsewhere in this report. The size and location of the door, windows, pedimented gabled porch, porch railings and other key features of the front façade are not changing. *Therefore, this guideline is met.*

**6. Windows and Doors.** Original windows and doors, including trim, should be retained or restored. If repair is not feasible, new windows or windows on additions should match or be compatible with original windows in form, materials, type, pattern and placement of openings. On residences, the removal of original wood sash windows and replacement with aluminum sash is especially discouraged. Restoration of commercial storefront windows with large fixed glass panes below and smaller glass panes above is especially encouraged.

**Findings:** The applicant installed a combination of fixed, casement, and single-hung vinyl windows in the home without benefit of Historic Design Review. Older photographs of the home in the file indicate a combination of original wood and replacement aluminum windows on the home prior to the recent remodel, almost all of which were covered further with exterior unpainted metal storm windows. It is unclear from historic photographs what type of window was installed in each location, but clues can be found on the adjacent similar home immediately to the west.

The windows as installed have bright, glossy white sashes as is typical with standard vinyl windows, and have been installed without the appropriate depth or inset of the window sashes within the window surround (header, jambs, sill). However, details have been provided for the installation of all new metal-clad wood windows on the home, appropriately set into the window surround to create the sense of depth and profile as typically found on bungalows in Ladd's Addition.

In his appeal, the applicant submitted a slightly revised proposal, which would include reconstruction of only the two areas of window on the south/street façade, and the first bank of windows closest to the street on the west façade. The two banks of double casement windows were changed to groups of 3 or 4 casement windows, in keeping with the historic pattern found on the home and concerns raised by staff in the original decision. The revised appeal proposal included leaving the vinyl windows as installed on the remainder of the home.

After extensive discussion before Landmarks Commission, a compromise position was reached in terms of the windows on this house and how the guidelines have been met. The Commission concluded that not all of the vinyl windows as installed need to be removed for three reasons: (1) the overall character and appearance of the home has been significantly improved, (2) the deeper inset metal-clad wood windows on the front of the home will improve the most prominently visible public views from the street and are most consistent with the appearance of the original windows, and (3) irregularities in the permitting and inspection process weigh against requiring all of the installed vinyl windows to be removed.

To adequately improve the front portions of the home most visible from the street consistent with this guideline and compromise position, Landmarks Commission determined that additional vinyl windows must be replaced with the inset metal-clad wood windows. With a condition of approval imposed during the final motion on the appeal decision, Landmarks Commission determined the applicant's compromise proposal satisfied this guideline. The condition requires that two separate groups of windows must be replaced; (1) the three front and west side banks of windows as proposed in the appeal package, and (2) the first five windows closest to the street on

the east elevation (two hung windows flanking the chimney, two hung and one fixed dining room window). The windows affected in this condition of approval are numbered 1-8 on the approved elevations, Exhibit C.2, for clarity.

With the replacement of the most visible primary windows on the front of the home with the appropriate inset metal-clad wood windows as proposed in the appeal package and required by the new condition of approval, Landmarks Commission finds that the new windows are sufficiently compatible with the original windows on the home, as required by this guideline.

*Therefore, this guideline is met.*

**7. Awnings.** On commercial structures, retractable fabric awnings, which are architecturally compatible with the historic integrity of the structure are encouraged. Awnings should fit within window bays. Existing traditional awnings should be rehabilitated.

**Findings:** No existing or proposed awnings occur at the site. *Therefore, this guideline does not apply.*

**8. Color.** Restoration of original colors, or colors appropriate to the style and era of the building, is encouraged.

**Findings:** The body of the house has been painted a light sage green with off-white trim, and a black color has been used on trim between the top of the wall and the eave, as well as at the porch wall caps. These colors are neutral, muted earth tones which complement the historic homes in the neighborhood. *Therefore, this guideline is met.*

**9. Signs.** Whenever possible retention or restoration of original pre-1940 signs is encouraged. For commercial buildings, wall signs, window signs, canopy, and projecting signs attached to the building are encouraged; freestanding signs are discouraged. Sign materials and design and letters appropriate to pre-1940 buildings, such as painted wood and neon are encouraged. Plastic sign faces are discouraged. Signs should not be the dominant feature of a building or site.

**Findings:** No existing or proposed exterior signage is found at the site. *Therefore, this guideline does not apply.*

**10. Front Lawn.** On sites of non-commercial structures, retention of front lawns, mature trees, and older shrubs and perennials are encouraged. Plants popular in the 1910's and 1920's are encouraged. The predominant use of ground covers, such as bark mulch and broadleaf evergreens, is discouraged. Original grades should be retained; berms and excavations are discouraged.

**Findings:** The site maintains a grassy front yard with several foundation shrub plantings, and the original grade that descends down from the front yard area to the sidewalk by a foot or two. Two of the older foundation shrubs in the front yard were severely pruned during the exterior work, but are still in place and now joined by new ferns and other plants along the foundation. The front yard maintains the traditional appearance of lawn and foundation plantings found at the site in the past. *Therefore, this guideline is met.*

**11. Fences and Retaining Walls.** Front and side yards, which abut a street should be visually open to the street. Hedges, retaining walls and fences, which visually obscure front yards are discouraged. Fences should be kept behind building lines, as viewed from the street.

**Findings:** There are no fences or retaining walls indicated on the site plan or submitted project drawings. There is an existing concrete landing and steps on the east elevation abutting the alley that has retaining wall-like characteristics abutting the alley, but this arrangement is not changing. No new fencing is shown or proposed in the front yard area. The front and side yards of the home are visually open to the street, a situation which has improved recently with the pruning of large shrubs in the front and side yards. *Therefore, this guideline is met.*

**12. Parking.** Required on-site parking should be located in the rear yard and within original garages, if possible. Original garages should be maintained for vehicle storage and parking and not converted to other uses. Parking areas, providing space for three or more cars, should be screened from adjacent properties; hedges and canopy trees are recommended for screening. Parking areas and driveways should not be placed in the front yard.

**Findings:** The on-site parking remains in an attached garage at the rear of the property, with access from the alley. The existing garage is a single-car garage. *Therefore, this guideline is met.*

**13. Crime Prevention.** Crime prevention elements should be included in the design with specific attention to landscaping, parking areas, walkways, lighting, entries, and visibility. Windows and entries should not be obscured. Parking areas, walkways, and entries should be adequately illuminated for visibility.

**Findings:** The applicant removed a non-original wheelchair ramp from the front yard. The applicant painted, repaired and generally improved the appearance of the home and site and made the property habitable again. Overgrown foundation plantings were trimmed and broken windows were repaired. Interior lighting and functioning front and side/alley porch lights provide adequate illumination. Windows and entries are not obscured. Well-kept and maintained homes, adequate night-time lighting, and visual connections from inside a home to the abutting streets, alleys and side yards are specific crime prevention elements incorporated into this refurbished property. *Therefore, this guideline is met.*

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

The applicant is to be commended for taking responsibility for cleaning up a long-standing series of code violations, nuisance conditions, and lack of maintenance at this home, which was apparently having a blighting influence on the immediate surroundings. Several thousand dollars of liens have been discharged, and the home presents a generally attractive and cared-for appearance in stark contrast to its condition only one year ago. Unfortunately, in the process the applicant removed or concealed extensive original building materials, including exterior windows and siding, without benefit of the required Historic Design Review. The regulations and review process exist to protect historic resources in the region and preserve

significant parts of Portland's heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of older properties.

After extensive testimony and deliberation, Landmarks Commission was convinced that the siding issue raised by staff in the denial had been addressed. Specifically, 8-inch reveal horizontal siding is compatible with and appropriate for the broad, horizontal lines of this 1924 bungalow, even if it may or may not match the original siding, whose exact type, appearance and dimensions remain unknown. With regards to the windows, Landmarks Commission was able to reach a compromise. The Commission accepted the deeper inset windows as proposed in the appeal package, but concluded that in order to comply with the applicable design guidelines the same type of window replacement must be extended to the first five windows closest to the street on the alley/east elevation. Inclusion of the restored front porch columns, the noncontributing status of the home, and the specific permitting history and timing for this project were also discussed in reaching the compromise position. The Landmarks Commission indicated clearly that the compromise approved here should not be viewed as a precedent to allow future approval of otherwise inappropriate replacement siding or windows. With a condition of approval requiring the most visible windows closest to the street to be replaced with a quality inset metal-clad wood window system, and with the restored front porch columns now formally added to the application, Landmarks Commission finds that the relevant design guidelines have been satisfied.

## COMMISSION DECISION

Grant the appeal, overturn the administrative decision of denial, and approve Historic Design Review for the applicant's revised proposal as presented during the appeal proceedings, including the following specific exterior alterations to the home at 1321 SE Birch Street:

- Installation of smooth hardi lap siding on the exterior walls of the home, with an 8-inch horizontal reveal;
- Installation/legalization of the white vinyl windows as installed on the rear portions of the side facades;
- Replacement of the vinyl windows as installed on the south/street façade of the home with new inset metal-clad wood windows (Sierra Pacific);
- Replacement of the first bank of vinyl windows as installed on the west/side façade of the home with new inset metal-clad wood windows (Sierra Pacific);
- Removal of a wheelchair ramp and exterior side door on the west/side elevation; and
- Installation of a new open metal railing at the stair to the side door on the east/alley elevation.

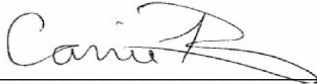
This approval is granted based on the final revised and approved drawings and details, Exhibits C.1 through C.10 all exhibits being signed and dated December 9, 2013, and subject to the following condition of approval:

- A. In addition to the three banks of vinyl windows proposed to be replaced on the south/front and west/side facades of the home, the applicant shall remove vinyl windows as installed and replace these with inset metal-clad wood windows per previous details in the case file on the east/alley elevation at the two hung windows straddling the fireplace, and at the two hung and single fixed windows of the dining room just beyond. The entire group of specific windows which must be changed from flush vinyl to inset metal-clad wood are numbered 1-8 on Exhibit C.2.

**Staff Planner: Mark Walhood**

**These findings and conclusions were adopted by the Historic Landmarks Commission at the initial appeal hearing on December 9, 2013.**

By: \_\_\_\_\_



**Historic Landmarks Commission  
Carrie Richter, Chair**

**Date Final Decision Effective/Mailed: December 26, 2013.**

**120<sup>th</sup> day date: April 1, 2014.**

**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 February 6, 2013, and was determined to be complete on April 2, 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 February 6, 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 waived the 120-day review period, as stated with Exhibit A.7. With a full signed waiver/extension, **the 120 days will expire on April 1, 2014.**

**Appeal of this Decision.** This decision is final and becomes effective the day the notice of decision is mailed (noted above). This decision may not be appealed to City Council; however, it may be challenged by filing a "Notice of Intent to Appeal" with the State Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed, pursuant to ORS 197.0 and 197.830. A fee is required, and the issue being appealed must have been raised by the close of the record and with sufficient specificity to afford the review body an opportunity to respond to the issue. For further information, contact LUBA at the Public Utility Commission Building, 775 Summer St NE, Suite 330, Salem, OR 97301-1283. [Telephone: (503)373-1265]

**Recording the Final Decision.**

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

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

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

County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034. For further information on your recording documents, please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** This decision expires three years from the date the Final Decision is rendered unless:

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

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

- All conditions imposed here.
- All applicable development standards, unless specifically exempted as part of this land use review.
- All requirements of the building code.
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the city.

**EXHIBITS NOT ATTACHED UNLESS INDICATED****A. Applicant's Statements**

1. Original narrative with approval criteria discussion and project summary, rec'd. 2/6/13
  - a. Set of house photographs submitted by applicant with original application, showing in pre-remodel aluminum siding, dining room windows, front entry ramp, etc.
  - b. Original plan set – reference only
2. E-mail discussion between applicant and staff regarding process, required plans, etc., February-March, 2013
3. Cover letter, project summary sheet, and vinyl window cut sheet, rec'd. 4/2/13
  - a. First set of revised plans, as sent out with public notice, rec'd. 4/2/13
4. Supplemental memorandum with discussion of window and siding issues, rec'd. 5/22/13
5. Supplemental memorandum addressing siding issue, proposing new metal-clad wood windows, and with attachments including copies of page 5 findings for LU 07-137886 HDZ, and both note and affidavit regarding original siding condition from Eugene Sobol, Skyline Construction, rec'd. 6/17/13
6. Letter to staff with attached porch column drawings from William J. Hawkins III, letter dated 8/16/13
7. 120-day extension, signed 5/22/13
8. Outdated drawings removed from final appeal decision C exhibits

**B. Zoning Map (attached)****C. Plans/Drawings:**

1. Final revised site plan, dated 11/11/13 (**attached**)
2. Final revised exterior elevations, dated 11/11/13 (**attached**)
3. Final revised window and boxed eave sections, dated 11/11/13
4. Revised door and fixed window sections, dated 8/18/13
5. Revised alley entry stair and railing details, dated 8/18/13
6. Front porch column and revised window details, dated 11/8/13 (**attached**)
7. Sierra Pacific window cut sheets and company brochure, rec'd. 6/17/13
8. Steel garage door cut sheet and brochure, rec'd. 4/2/13
9. Custom wood front entry door description and receipt, rec'd. 4/2/13
10. Hardie lap siding cut sheet, rec'd. 4/2/13

**D. Notification information:**

1. Mailing list
2. Mailed notice

**E. Agency Responses:**

1. Water Bureau
2. Life Safety Section of the Bureau of Development Services
3. Site Development Section of the Bureau of Development Services
4. Fire Bureau
5. Bureau of Environmental Services
6. Development Review Section of Portland Transportation
7. Urban Forestry Division of Portland Parks and Recreation

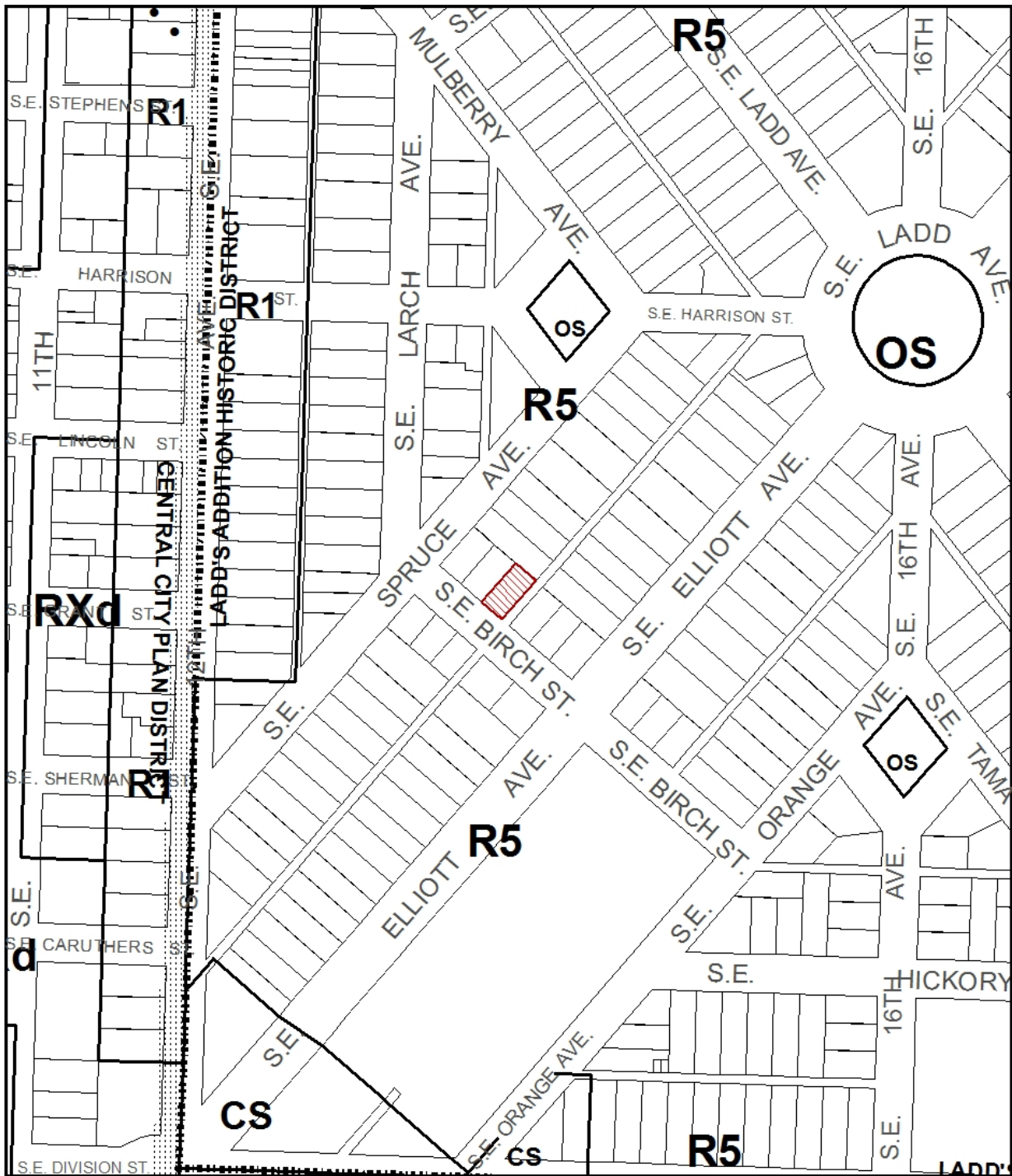
**F. Correspondence:**

1. E-mail in support from Jessica Duke, rec'd. 5/21/13
2. E-mail in support from David Audet, rec'd. 5/22/13
3. E-mail in support from Scott Urbatsch, rec'd. 5/22/13
4. E-mail in support from Alex Hoeflich, rec'd. 5/22/13
5. Letter with comments from Richard Ross, rec'd. 5/22/13
6. E-mail in support from Dale Krennek, rec'd. 5/22/13
7. E-mail in support from Ann Krennek, rec'd. 5/22/13
8. Letter with comments from Joanne Stainbrook, HAND Land Use Chair, rec'd. 4/29/13
9. Letter in support from Tony Tranquilli, rec'd. 5/6/13



10. Second letter in support from Tony Tranquilli, n.d.
  11. Follow-up e-mail in support from Jessica Duke, rec'd. 5/22/13
  12. E-mail in support from Naomi Hand, rec'd. 5/22/13
  13. E-mail from applicant to several neighbors regarding comments, rec'd. 6/13/13
  14. E-mail in support from Ann Krennek, rec'd. 6/14/13
- G. Other:
1. Original LU application form and receipt
    - a. Appeal statement: Ladd's Addition Siding Survey
    - b. General appeal statement with embedded photos and drawings
    - c. William J. Hawkins III letter and full set appeal revision plans
  2. Incomplete letter from staff to applicant, sent 2/20/13
  3. E-mail discussion between applicant and staff regarding outstanding issues, 7/8-9/13
  4. Site and surrounding area photos provided by applicant
  5. Excerpt from Ladd's Addition National Register: Resource 08-17, Walter and Winnifred Tebbetts House
- H. Appeal Exhibits  
(Received prior to hearing)
1. Appeal application form
  2. Appealed decision
  3. Notice of appeal hearing – same as H.2
  4. Appeal notice mailing list
  5. Cover memo from staff to Landmarks Commission, sent 11/27/13  
(Received during hearing)
  6. Staff powerpoint presentation, 12/9/13
  7. 'Cheat Sheet' for commissioner discussion, 12/9/13

**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



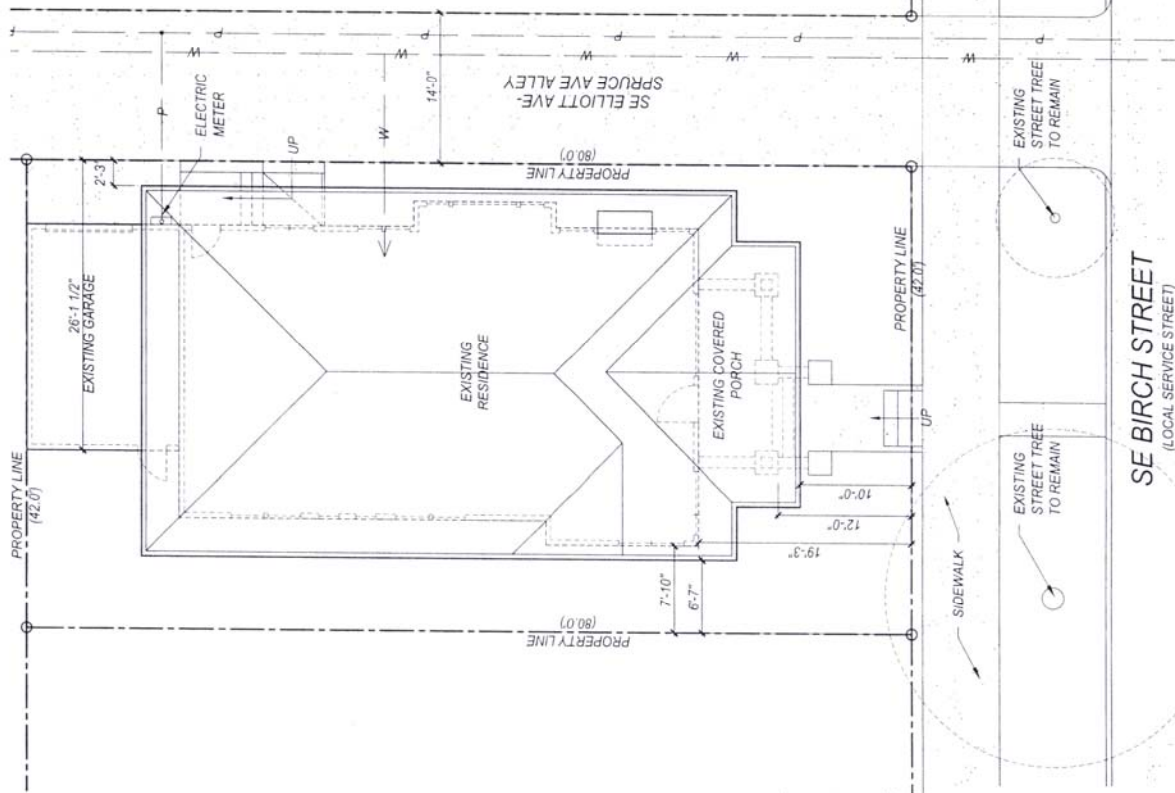
Site



NORTH

This site lies within the:  
LADD'S ADDITION HISTORIC DISTRICT

|             |                   |
|-------------|-------------------|
| File No.    | LU 13-113608 HDZ  |
| 1/4 Section | 3231              |
| Scale       | 1 inch = 200 feet |
| State_Id    | 1S1E02CD 5000     |
| Exhibit     | B (Feb 07, 2013)  |



|                     |          |
|---------------------|----------|
| LOT AREA:           | 3,360 SF |
| IMPERVIOUS AREA:    |          |
| WALKS:              | 249 SF   |
| ROOF AREA:          | 2140 SF  |
| TOTAL:              | 2389 SF  |
| BUILDING COVERAGE   |          |
| BUILDING FOOTPRINT: | 1703 SF  |

LEGAL DESCRIPTION:  
 STATE ID: 131E02CD 5000  
 TAX ACCT NO: R46301560  
 PROPERTY ID: R200242  
 MAP NO: 3232 OLD

ADDRESS:  
 1321 SE BIRCH ST  
 PORTLAND, OR 97214

\*Approved\*  
 City of Portland - Bureau of Development Services  
 Planner: MARK WALKHOO Date: DEC. 9 2014  
 This approval applies only to the reviews requested and does not constitute approval. Additional zoning requirements may apply.

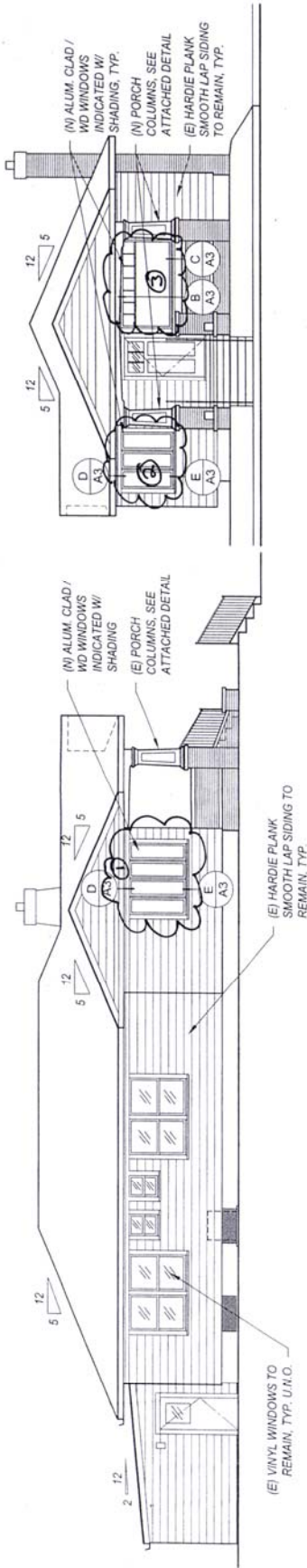


A SITE PLAN  
 A1 1" = 10'-0"

SITE PLAN  
 A1

1321 SE BIRCH ST.  
 PORTLAND, OR  
 DATE: 11/11/2013  
 CASE NO LU 13-113608 #02  
 EXHIBIT C.1

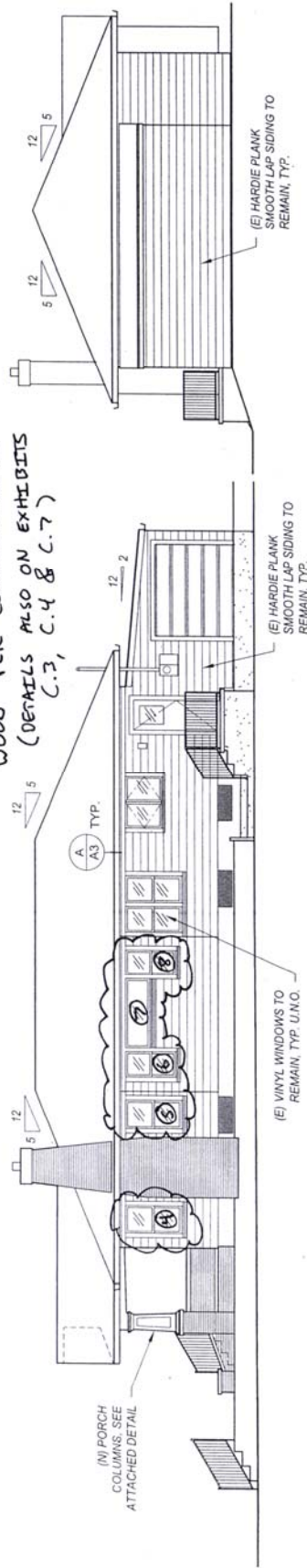
LU 13-113608 #02



A  
A2  
1/8" = 1'-0"

B  
A2  
1/8" = 1'-0"

WINDOWS # ① → ⑧  
TO BE REPLACED WITH  
INSET METAL CLAD  
WOOD PER CONDITION A.  
(DETAILS ALSO ON EXHIBITS  
C.3, C.4 & C.7)



C  
A2  
1/8" = 1'-0"

D  
A2  
1/8" = 1'-0"

City of Portland - Bureau of Development Services  
Planner: MARK WATROOD Date: DEC 9 2013  
This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

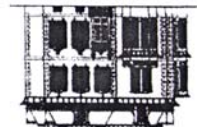
# EXTERIOR ELEVATIONS

1321 SE BIRCH ST.  
PORTLAND, OR  
DATE: 11/11/2013

CASE NO. W 13-113608 H02  
EXHIBIT: C-2

W 13-113608 H02





WILLIAM J. HAWKINS III FALA  
1425 SOUTHWEST 20TH AVENUE  
PORTLAND, OR 97201  
TEL: (503) 497-9084  
E: billhawkins@jwefirm.com

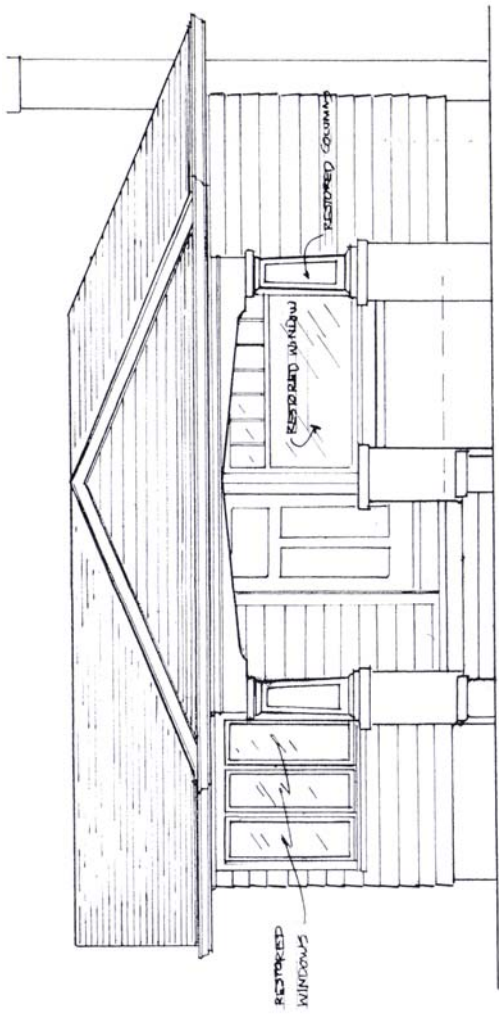
REVISED ELEVATIONS

1321 S.E. BIRCH ST, PORTLAND, OR

NOVEMBER 8, 2013

CASE NO. LU 13-113608 #02

EXHIBIT C.6



City of Portland - Bureau of Development Services

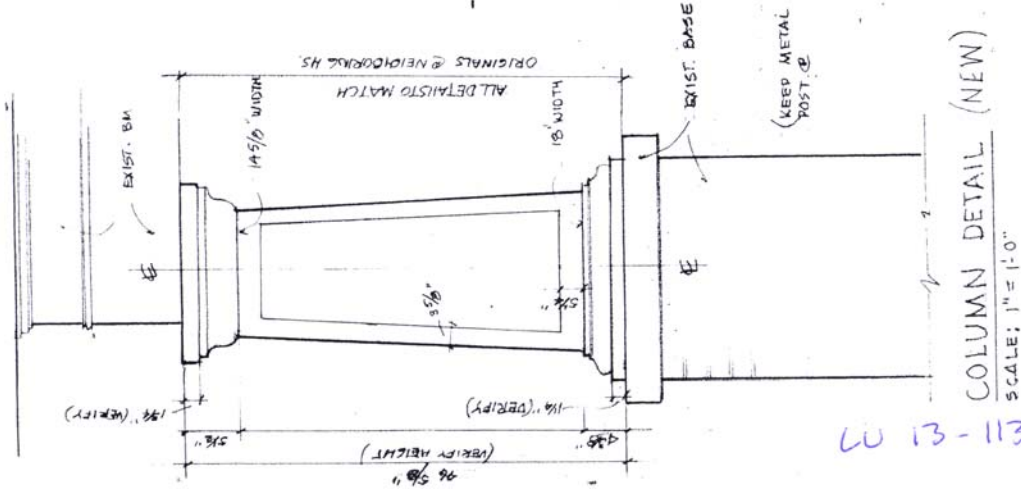
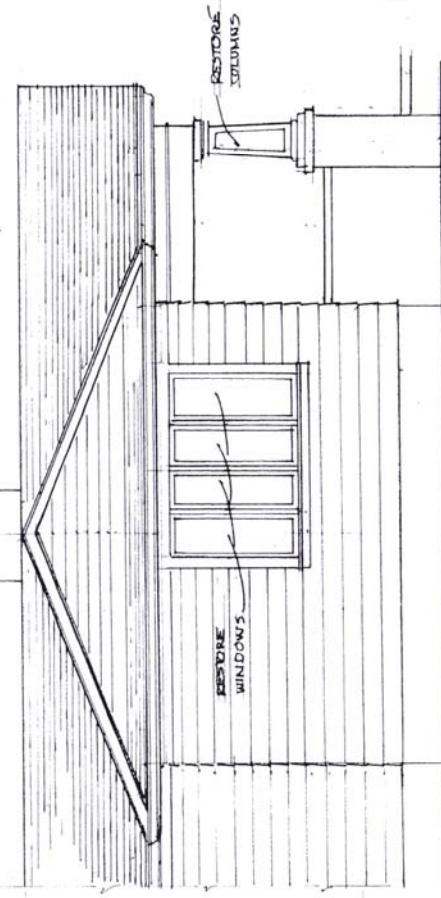
\*Approved\*  
 Applicant: MARK WATKINS Date: DEC. 9, 2013

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

↑ FRONT ELEVATION

↓ SIDE ELEVATION

SCALE: 1/4" = 1'-0"



LU 13-113608 #02