



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

FROM CONCEPT TO CONSTRUCTION

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Date: October 29, 2013

To: Interested Person

From: Mark Walhood, City Planner 503-823-7806 / mark.walhood@portlandoregon.gov

NOTICE OF A TYPE II DECISION AND POTENTIAL LANDMARKS
COMMISSION APPEAL HEARING DATE FOR A PROPOSAL IN
YOUR NEIGHBORHOOD

The Bureau of Development Services has **denied** a proposal in your neighborhood. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. If you disagree with the decision, you can appeal it and request a public hearing. **Staff anticipates that the applicant/owner will be appealing this decision to the Historic Landmarks Commission.** Information on how to appeal this decision is listed at the end of this notice.

If a timely and valid appeal is filed by the end of the appeal period at 4:30pm on November 12, 2013, there will be an appeal hearing on this case before the Portland Historic Landmarks Commission. **IF APPEALED, THE APPEAL HEARING WILL BE HELD MONDAY DECEMBER 9, 2013 @ 1:30PM IN ROOM 2500A, 1900 SW 4TH AVENUE, PORTLAND, OR 97201.**

If appealed, the appeal hearing will be listed on the Landmarks Commission hearing agenda. Online hearing agendas are available on the BDS web page (www.portlandoregon.gov/bds → Zoning & Land Use → Public Hearings → Historic Landmarks Commission Agenda). The actual start time will depend on where the item appears on the agenda: please contact the case planner for an estimated start time within a few business days of the hearing.

This tentative appeal hearing date will be cancelled if Portland Public Schools are closed due to inclement weather or other similar emergency. Check local television and radio reports for school closures. The hearing will be rescheduled for the earliest possible date. A renotification notice will not be sent. **PLEASE CONTACT THE CASE PLANNER, MARK WALHOOD, AT 503-823-7806 WITH ANY QUESTIONS.**

CASE FILE NUMBER: LU 13-113608 HDZ – 1321 SE BIRCH ALTERATIONS
GENERAL INFORMATION

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

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 Assoc, 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.

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 19th and early 20th 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 approval criteria includes both the Ladd's Addition Conservation District and 33.846.060.G guidelines, versus just the Ladd's Addition guidelines.

STAFF NOTE: 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. Review triggers and approval criteria in 33.445 and 33.846 apply the same to both contributing and noncontributing resources in a district, although there are some review exemptions that use contributing versus noncontributing language. In historic districts the wholesale replacement of all siding and windows specifically identified in the district nomination documents for a site are not exempt from review, even if they occur on a noncontributing structure. The only approval criteria are the Ladd's Addition Conservation District guidelines per 33.846.060.E.1.a, and the 'other' criteria at 33.846.060.G do not apply. The guidelines apply to any work proposed 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.

STAFF NOTE: 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.

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.

STAFF NOTE: Staff will address the specific approvability issues with regards to siding and windows 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. Staff suggests that 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 and a drawing of a 'compromise' proposal involving reconstruction of the boxed wood front porch columns. This letter also 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.

STAFF NOTE: 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 versus 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 replacing with 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.

STAFF RESPONSE: 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. Staff 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*.

Staff 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. *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 is met.*

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.

However, even if we take the statements of the contractor as fact that the siding was not reparable, along with the conjecture of the consultant that original siding was false bevel siding in poor condition, staff finds that the siding as installed is not appropriate to the house. While lap siding may have been commonly used on bungalows of this type, typically the reveal dimension was much narrower than the 7- or 8-inch dimension as installed at this site, and often in the range of 3 to 6 inches. The wider reveal lap siding as installed is more characteristic of homes constructed later than the 1924 date of this home. Wider reveal lap siding as installed is often found on ranch homes from the 1940’s and 1950’s, like the applicant’s other property nearby on SE Elliott , which is a 1952 ‘minimalist ranch’.

Unfortunately we have no definitive information on the type or condition of the original siding on the home which was found during the recent removal of the aluminum siding. Also, although the lap siding type as installed may be potentially approvable, the wide reveal dimension of 7 to 8 inches on the main body of the home is not matching or compatible with other homes in the district of similar style and vintage. While a narrower reveal in hardie lap siding may be approvable, this is not proposed. Photographic evidence of the type and condition of any remaining original siding on the home would also be helpful in evaluating the new siding against the current proposal, but this information has not been provided.

Therefore, this guideline is not 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). After concerns were raised by staff, the applicant has agreed to replace the vinyl windows with all new metal-clad wood windows of the type and style indicated on the final revised elevations. Section details have been provided to show that the new metal-clad wood windows will be appropriately set into the window surround to create the sense of depth and profile as typically found on bungalows in Ladd's Addition. For the majority of the window openings, therefore, and based on the revised drawing packet and enlarged window section details, this guideline can be met.

However, one concern remains about the type and size of the multi-bank casement dining room windows. These are the two windows wrapping the southwest corner of the home: one faces the street just left of the entry door/porch, and the other is just around the corner on the west side. Using the description provided by a consultant to the applicant (Mr. Hawkins), in combination with another evaluation of the old house photographs provided by the applicant, it appears that these were a 3-window bank of casements facing the street, and a 5-window bank of casements facing the side yard to the west. Both dining room window openings now are the same size, with the opening on the west/side elevation being considerably narrower in width, and no longer symmetrically centered in and filling up the projecting bay on the façade. Although staff has agreed that the material (metal-clad wood) is appropriate for the home, this

change at the dining room windows is a significant departure from the form, type, pattern and placement of openings on the façade.

Although the materials and typical profiles and trim conditions for windows proposed by the applicant in the revised proposal are generally acceptable, the two dining room window openings should be returned to the smaller 3-window bank and enlarged/full bay 5-window bank of casements as found on the home previously.

Therefore, this guideline is not 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. *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. *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.

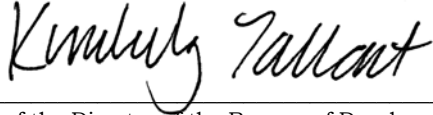
Staff sympathizes with several issues raised by the neighbors, including the need to better train and educate building inspectors to be aware of historic district review procedures, as well as to do outreach clarifying that noncontributing buildings in Ladd's Addition and elsewhere are also subject to review.

What we have before us with this application is a request to legalize work that was done without benefit of review. Much of the work done qualifies as repair and maintenance, and the revised proposal with properly inset metal-clad wood windows is generally able to meet the guidelines. However, the wide reveal on the siding as installed is inappropriate for this particular home, and the size and type of dining room windows at the southwest corner of the home are not of the type, pattern, and placement of window openings on the home originally, and should be modified. Because two of the relevant guidelines (#3 – Exterior Siding Materials & #6 – Windows and Doors) are not met, the proposal must be denied.

ADMINISTRATIVE DECISION

Denial.

Staff Planner: Mark Walhood

Decision rendered by:  **on October 22, 2013.**
By authority of the Director of the Bureau of Development Services

Decision mailed: October 29, 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 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.**

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 Tuesday, November 12, 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 www.portlandonline.com.

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 775 Summer St NE, Suite 330, Salem, OR 97301-1283, 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.

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

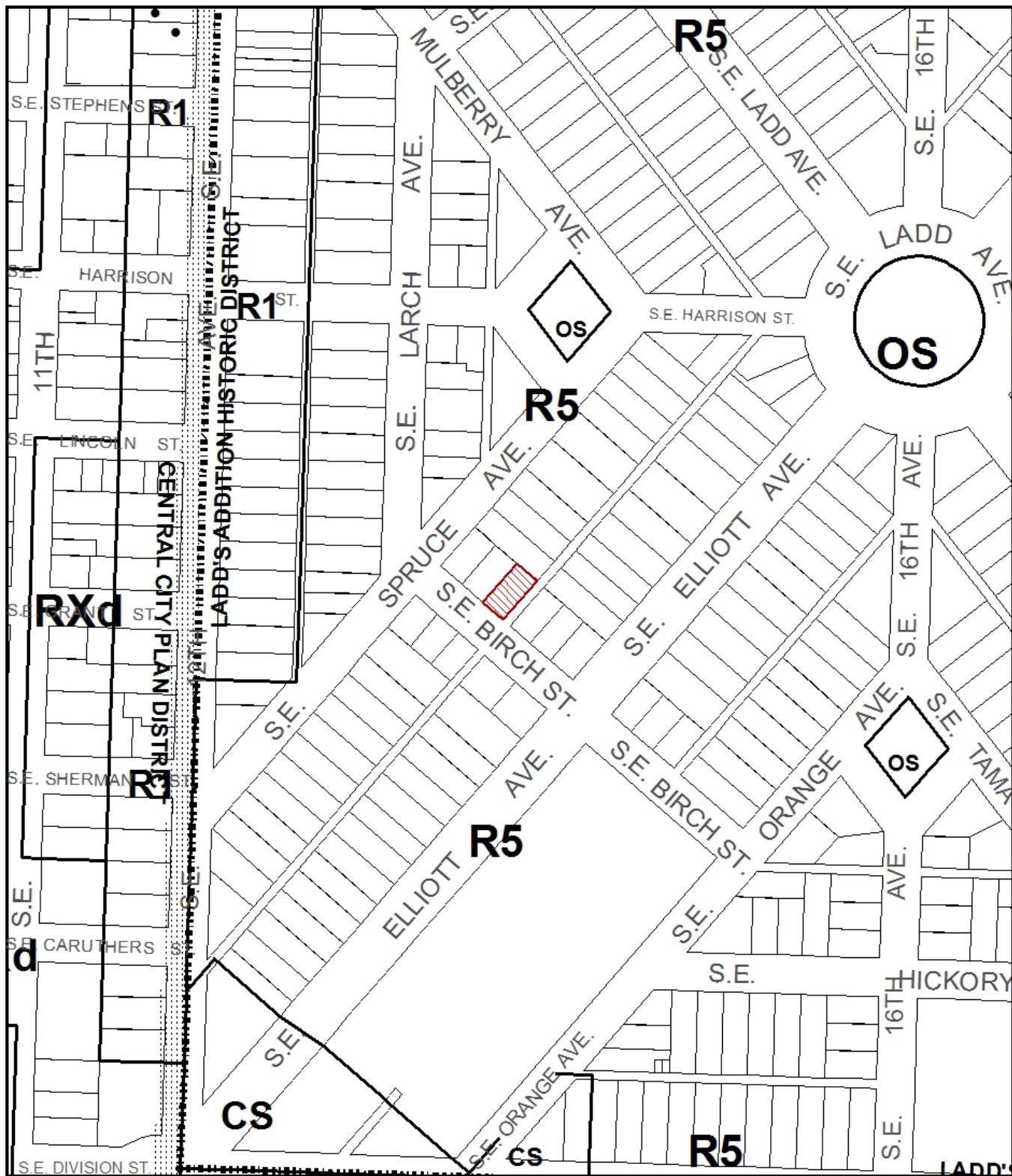
B. Zoning Map (attached)

C. Plans/Drawings:

1. Revised site plan, dated 8/18/13 (attached)
2. Revised exterior elevations, dated 8/18/13 (attached)
3. Revised window and boxed eave sections, dated 8/18/13
4. Revised door and fixed window sections, dated 8/18/13
5. Revised alley entry stair and railing details, dated 8/18/13
6. Revised exterior photos of current condition, dated 8/18/13
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 Krenek, rec'd. 5/22/13
 7. E-mail in support from Ann Krenek, 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 Krenek, rec'd. 6/14/13
- G. Other:
 1. Original LU application form and receipt
 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

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



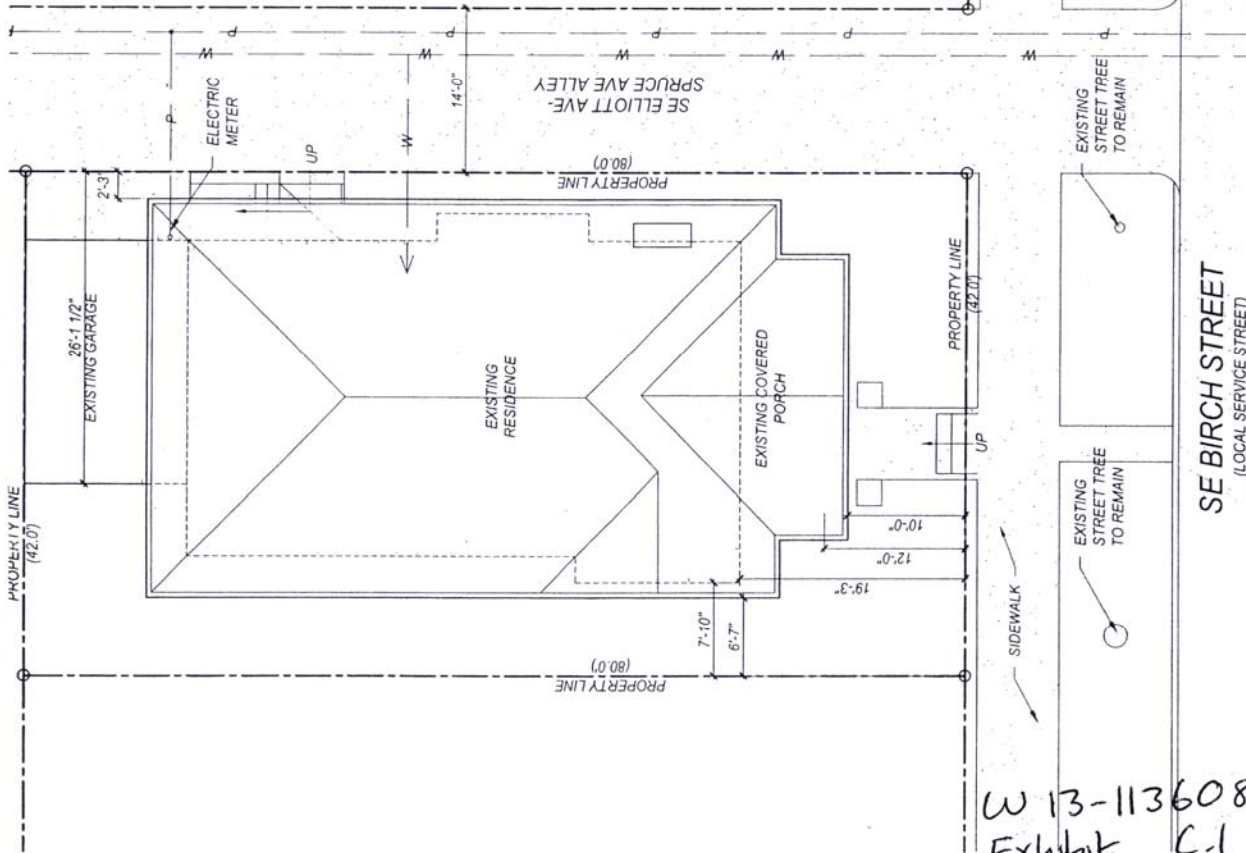
Site



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: 1S1E02CD 5000
 TAX ACCT NO: R463301560
 PROPERTY ID: R200242
 MAP NO: 3232 OLD
ADDRESS: 1321 SE BIRCH ST
 PORTLAND, OR 97214

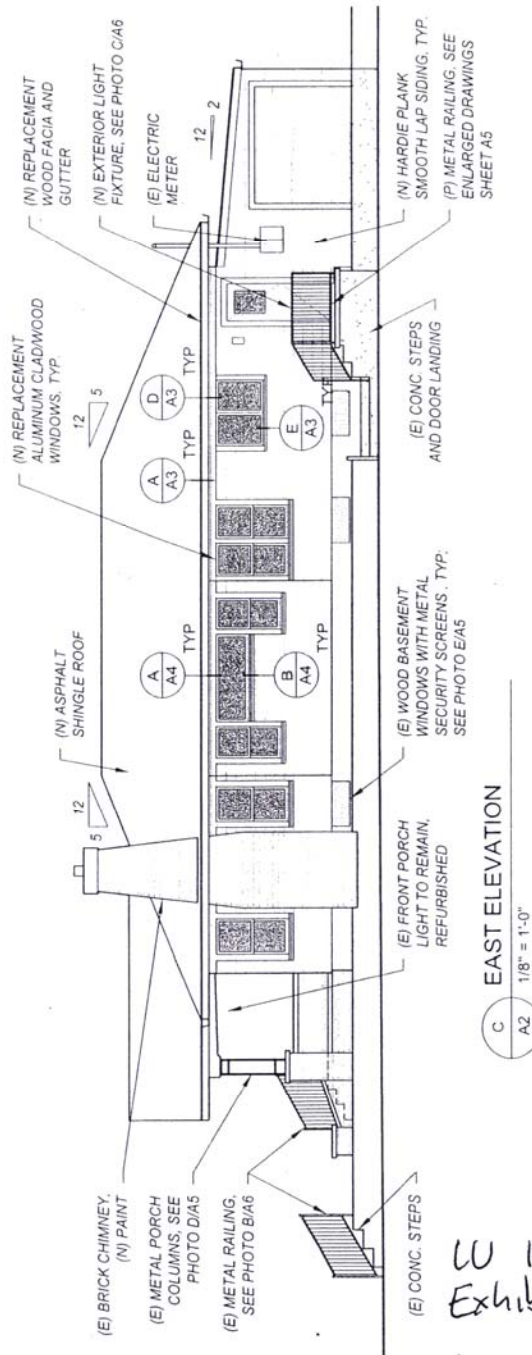
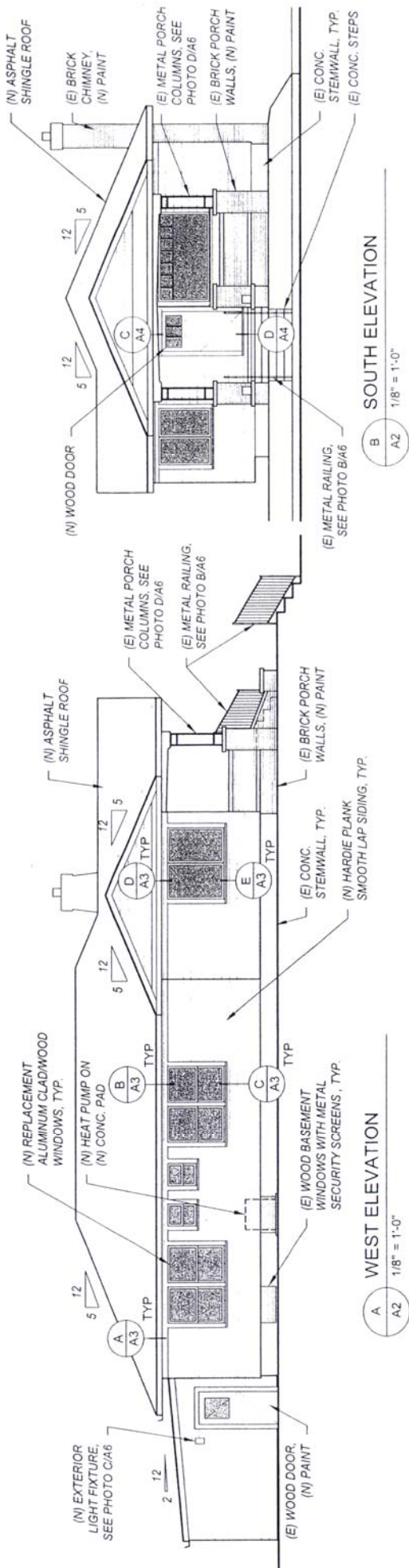


SITE PLAN A1

1321 SE BIRCH ST.
 PORTLAND, OR
 DATE: 8.18.2013

CASE NO. W 13-113608 H02
 EXHIBIT C.1

W 13-113608 H02
 Exhibit C.1



EXTERIOR ELEVATIONS

A2

1/8" = 1'-0"

NORTH ELEVATION

D

1/8" = 1'-0"

1321 SE BIRCH ST.
 PORTLAND, OR
 DATE: 8.18.2013

CASE NO. LU 13-113608 #02
 EXHIBIT C.2

LU 13-113608 #02
 Exhibit C.2