



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

1900 SW 4th Avenue, Suite 5000  
Portland, Oregon 97201  
503-823-7300  
Fax 503-823-5630  
TTY 503-823-6868  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**NOTICE OF A PUBLIC HEARING BEFORE  
THE CITY COUNCIL ON AN APPEAL OF THE  
PORTLAND HISTORIC LANDMARKS COMMISSION**

**CASE FILE:** LU 12-106944 HDZM – TWO NEW APARTMENT BUILDINGS  
**WHEN:** WEDNESDAY, JULY 18, 2012, AT 2:00 P.M.  
**WHERE:** COUNCIL CHAMBERS, 1221 SW FOURTH AVENUE

**Date:** June 15, 2012  
**To:** Interested Person  
**From:** Dave Skilton, Land User Services 503-823-0660  
dave.skilton@portlandoregon.gov

A public hearing will be held to consider an appeal of the Historic Landmarks Commission's decision to approve two new, five story apartment buildings as a single project, at the intersection of NW 19<sup>th</sup> Avenue and NW Johnson Street. The Historic Landmarks Commission decision of approval has been appealed by the Northwest District Association. At the hearing City Council will consider the appeal. You are invited to testify at the hearing.

This will be an Evidentiary hearing, one in which new evidence can be submitted to the City Council. For a general explanation of the City Council hearing process please refer to the last page of this notice.

**GENERAL INFORMATION**

**Appellant:** John Bradley  
Northwest District Association  
2257 NW Raleigh Street  
Portland, OR 97212

**Applicant:** Johnson Street Investors II LLC  
500 E Broadway #110  
Vancouver, WA 98660

Sam Rodriguez  
Mill Creek Residential Trust LLC  
220 NW 2nd Avenue Suite 900  
Portland, OR 97209

**Representative:** Kurt Schultz 503-445-7312  
SERA Architects  
338 NW 5th Avenue  
Portland, OR 97209

**Site Address:** Intersection NW 19<sup>th</sup> Avenue and NW Johnson Street  
**Legal Description:** BLOCK 177 LOT 2&3, COUCHS ADD; BLOCK 271 LOT 1&2 LOT 6&7  
E 6' OF LOT 10, COUCHS ADD

**Tax Account No.:** R180216190, R180225830  
**State ID No.:** 1N1E33AC 06200, 1N1E33AC 09700  
**Quarter Section:** 2928

**Neighborhood:** Northwest District, contact John Bradley at 503-313-7574.  
**Business District:** Nob Hill, contact Patricia Fielder at 503-407-6163.  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.  
**Plan District:** Northwest

**Other Designations:** One non-contributing property and one vacant property in the Alphabet Historic District, which was listed in the National Register of Historic Places on August 24, 2000

**Zoning:** RH, Residential High Density, with Historic Resource Protection Overlay (Building A); and EXd, Central Employment, with Historic Resource Protection and Design Overlays (Building B).

**Case Type:** HDZM, Historic Design Review with Modifications requested  
**Procedure:** Type III, with a public hearing before the Historic Landmarks Commission. The decision of the Historic Landmarks Commission can be appealed to City Council.

**Proposal:** The applicant sought Historic Design Review approval for a proposal to develop two new market rate apartment buildings as a single project, at the intersection of NW 19<sup>th</sup> Avenue and NW Johnson Street. Building A, with 5 floors, 86 dwelling units, and 66 below-grade parking stalls, is proposed on the southwesterly corner following demolition of a non-contributing building; and Building B with 5 floors and 48 dwelling units, is proposed on the northeasterly corner, which is currently occupied by a parking lot. Historic Design Review was required because the proposal is for non-exempt new construction in a historic district.

**Modifications:** The applicant also sought modification of the following standards:

- 33.266.310, for a non-standard loading stall height of 8'-2" in basement of Building A, and for rear-motion exiting from loading in Building B;
- 33.266.130, for a non-standard parking stall depths of some spaces in basement of Building A; and
- 33.140.215 C. 1. e. 5, for a facade less than 100% within the maximum setback.

**Approval Criteria:**

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

- *Community Design Guidelines*
- *Historic Alphabet District Community Design Guidelines Addendum*
- 33.846.070 Modifications Considered in Historic Design Review

**REVIEW BODY DECISION**

It is the decision of the Historic Landmarks Commission to approve Historic Design Review for new construction of two, five story, apartment buildings with 134 dwelling units and 70 below grades parking spaces, on the site of one non-contributing property and one vacant property, in the Alphabet Historic District.

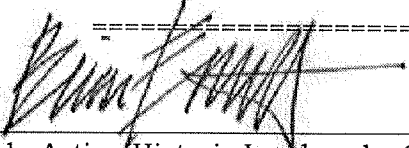
It is further the decision of the Historic Landmarks Commission to approve the following four modifications:

1. 33.266.310, for a non-standard loading stall height of 8'-2" in basement of Building A, and

2. for rear-motion exiting from loading in Building B;
3. 33.266.130; for a non-standard parking stall depths of some spaces in basement of Building A; and
4. 33.140.215 C. 1. e. 5, for a facade less than 100% within the maximum setback.

Approvals are per Exhibits C-1 through C-48, signed, stamped, and dated May 17, 2012, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (A – D) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled “ZONING COMPLIANCE PAGE- Case File LU 12-106944 HDZM. All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled “REQUIRED.”
- B. No field changes allowed.
- C. The stamped drawing shall reflect that the distance from the face of the stucco to the face of the window frame is a minimum of three inches.
- D. The stamped drawing shall reflect the dimensions of the side trims of vertically stacked windows.

By:   
Brian Emerick, Acting Historic Landmarks Commission Chair

Application Filed: January 24, 2012  
Decision Rendered: May 14, 2012  
Decision Mailed: May 21, 2012

Decision Filed: May 15, 2012

### APPEAL

The Historic Landmarks Commission's decision of approval has been appealed by the Northwest District Association. According to the appellants' statement, the appeal of the Historic Landmarks Commission's decision is based on the following argument:

"The Historic Landmarks Commission (the "HLC"), acting in consideration of advice of City staff, erroneously construed PCC 33.445.320, and possibly other code sections, in such a way as to exclude from consideration certain street trees (four mature elms). The HLC also failed to consider the contribution made by the street trees to the fabric and context of the district as characterized in the Community Design Guidelines and the Historic Alphabet District Community Design Guidelines Addendum in making their findings and arriving at their final decision. PCC 33.846.060, 33.420.010 and 33.420.045A.

**Review of the case file:** The Historic Landmarks Commission's decision and all evidence on this case are now available for review at the Bureau of Development Services, 1900 SW 4<sup>th</sup> Avenue, # 5000, Portland OR 97201. Copies of the information in the file can be obtained for a fee equal to the City's cost for providing those copies. I can provide some of the information over the phone.

**We are seeking your comments on this proposal.** The hearing will be held before the City Council. To comment, you may write a letter in advance, or testify at the hearing. In your

comments, you should address the approval criteria, as stated above. Please refer to the file number when seeking information or submitting testimony. Written comments **must be received by the end of the hearing** and should include the case file number and the name and address of the submitter. It must be given to the Council Clerk, in person, or mailed to 1221 SW Fourth Avenue, Room 140, Portland, OR 97204. A description of the City Council Hearing process is attached.

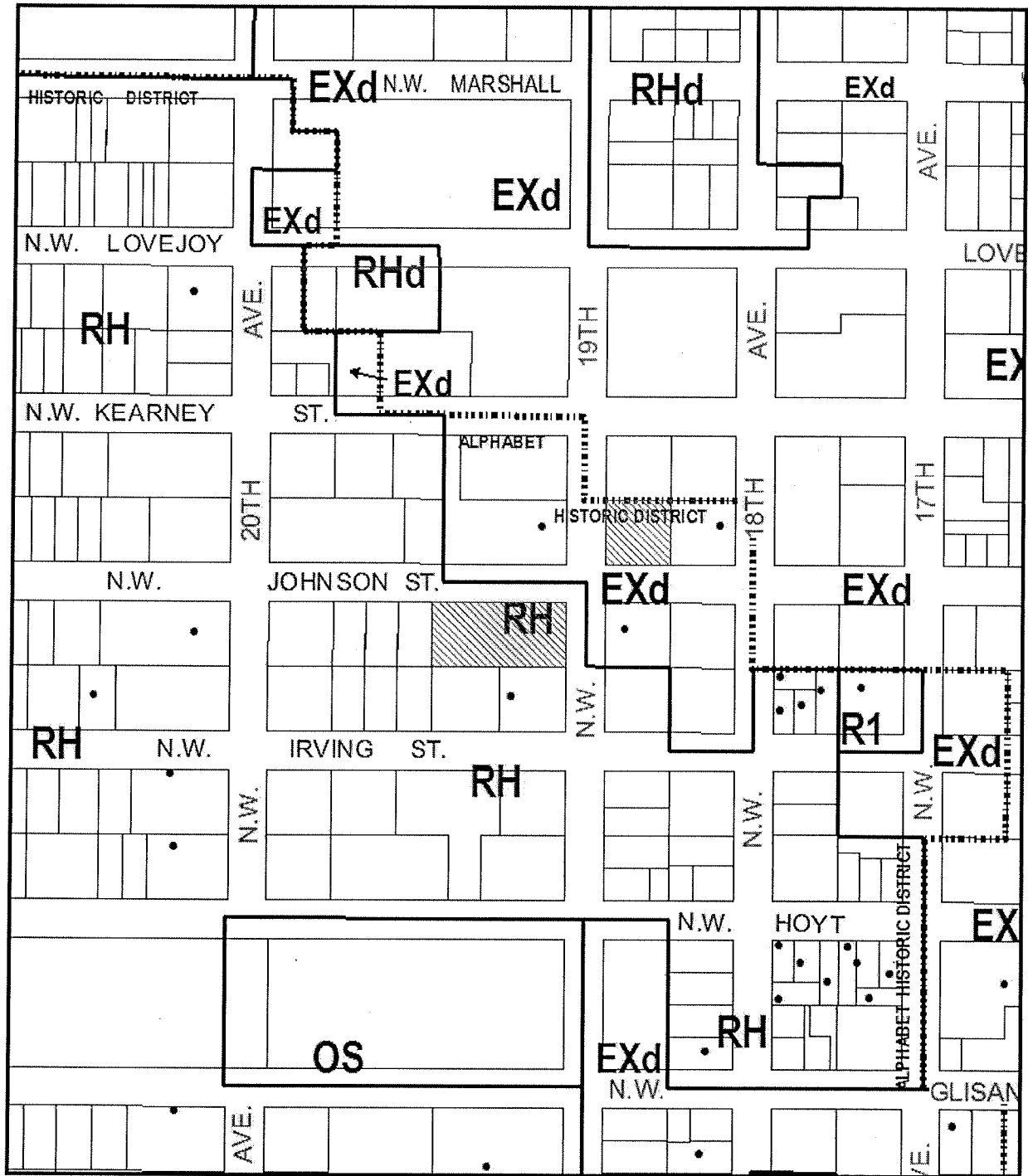
If you choose to provide testimony by electronic mail, please direct it to the Council Clerk (Karla.Moore-Love@portlandoregon.gov]. Due to legal and practical reasons, City Council members cannot accept electronic mail on cases under consideration by the Council. Any electronic mail on this matter must be received no less than one hour prior to the time and date of the scheduled public hearing. The Council Clerk will ensure that all City Council members receive copies of your communication.

City Council's decision is final. Any further appeal must be filed with the Oregon Land Use Board of Appeals (LUBA). Failure to raise an issue in a hearing, in person or by letter, by the close of the record or at the final hearing on the case or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to LUBA on that issue. Also, if you do not provide enough detailed information to the City Council, they may not be able to respond to the issue you are trying to raise. For more information, call the Auditor's Office at (503) 823-4086.

**If you have a disability and need accommodations, please call 503-823-4085 (TDD: 503-823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.**

Attachments

1. Zoning Map
2. Site plan
3. Elevations
4. Appeal Statement
5. City Council Appeal Process



# ZONING

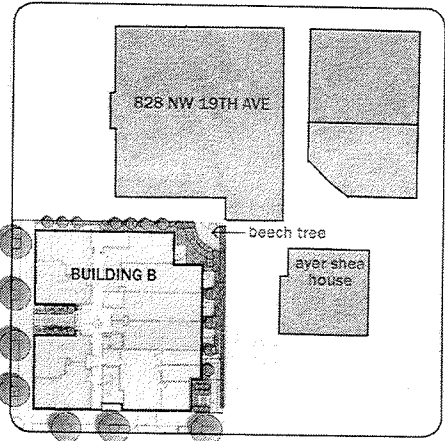
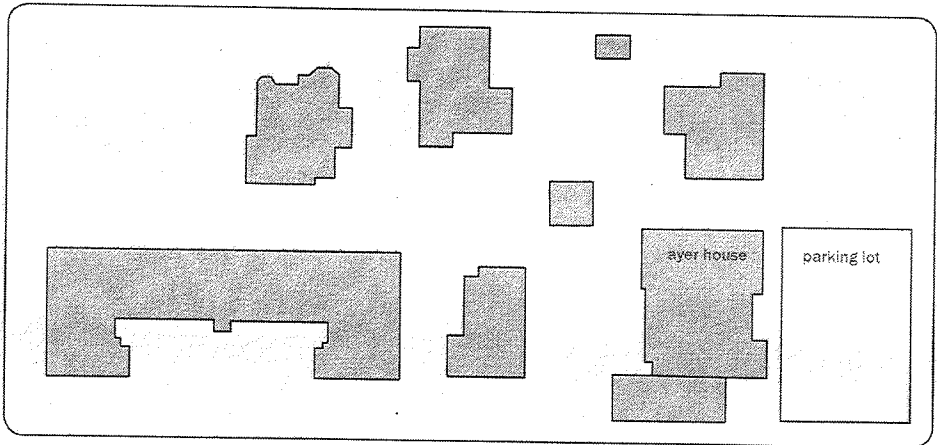
 Site

 Historic Landmark

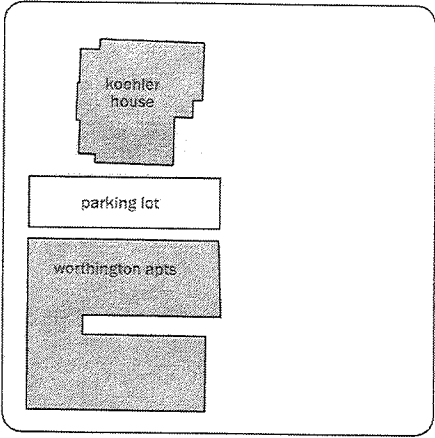
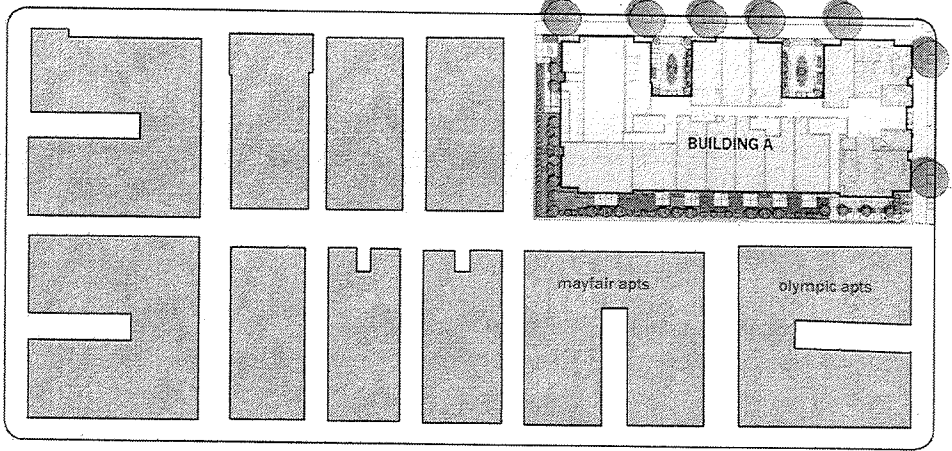
This site lies within the:  
**ALPHABET HISTORIC DISTRICT**  
**NORTHWEST PLAN DISTRICT**



File No. LU 12-106944 HDZM  
 1/4 Section 2928  
 Scale 1 inch = 200 feet  
 State Id 1N1E33AC 9700  
 Exhibit B (Feb 02,2012)



NW JOHNSON ST

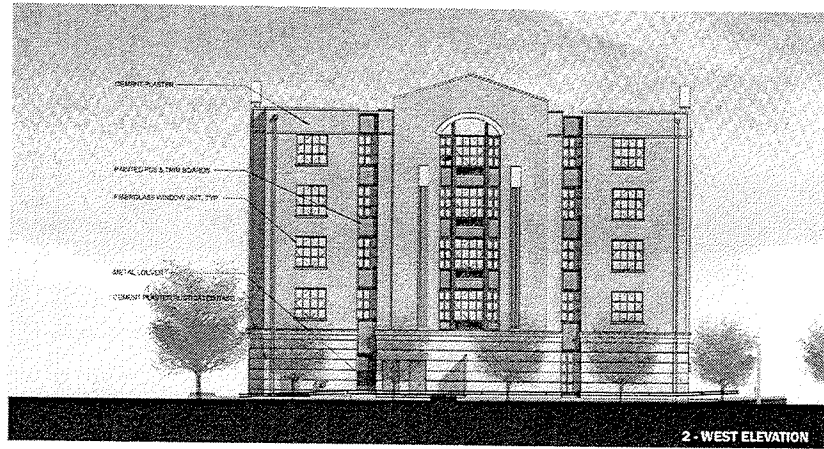


NW 19TH AVE

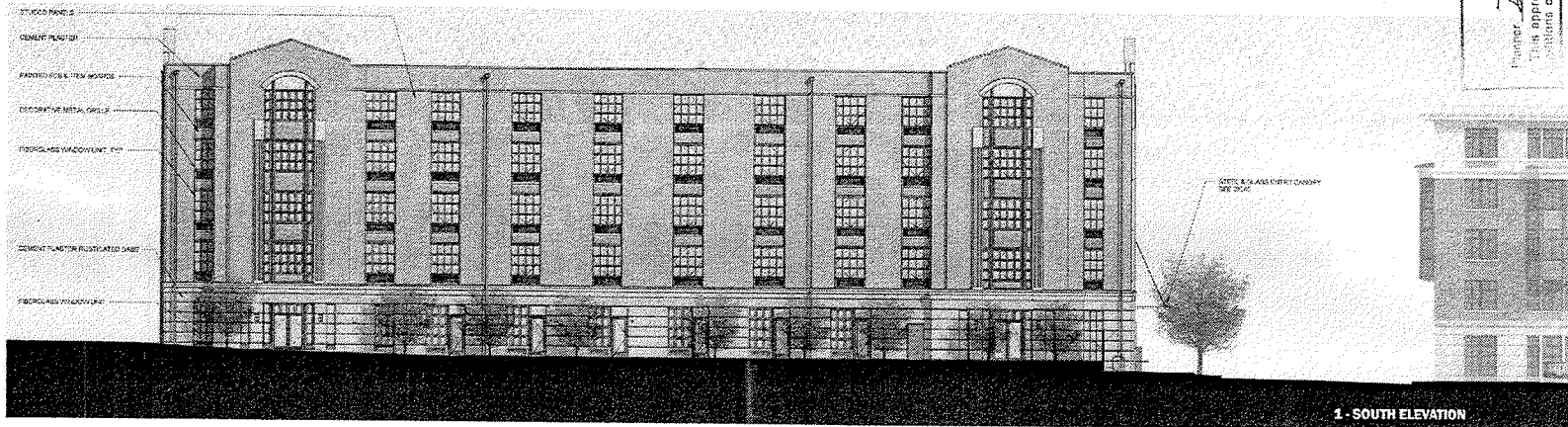
NW 19TH & JOHNSON  
 DESIGN REVIEW APPLICATION # 1111210054410001  
 2017 MAY 12

\*Approved\*  
 City of Popland - Bureau of Development Services  
 Date 5.17.17  
 This approval applies only to the review requested and is subject to the terms of approval. Additional zoning requirements may apply.

1112-106944 HDZM



2 - WEST ELEVATION

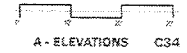


1 - SOUTH ELEVATION

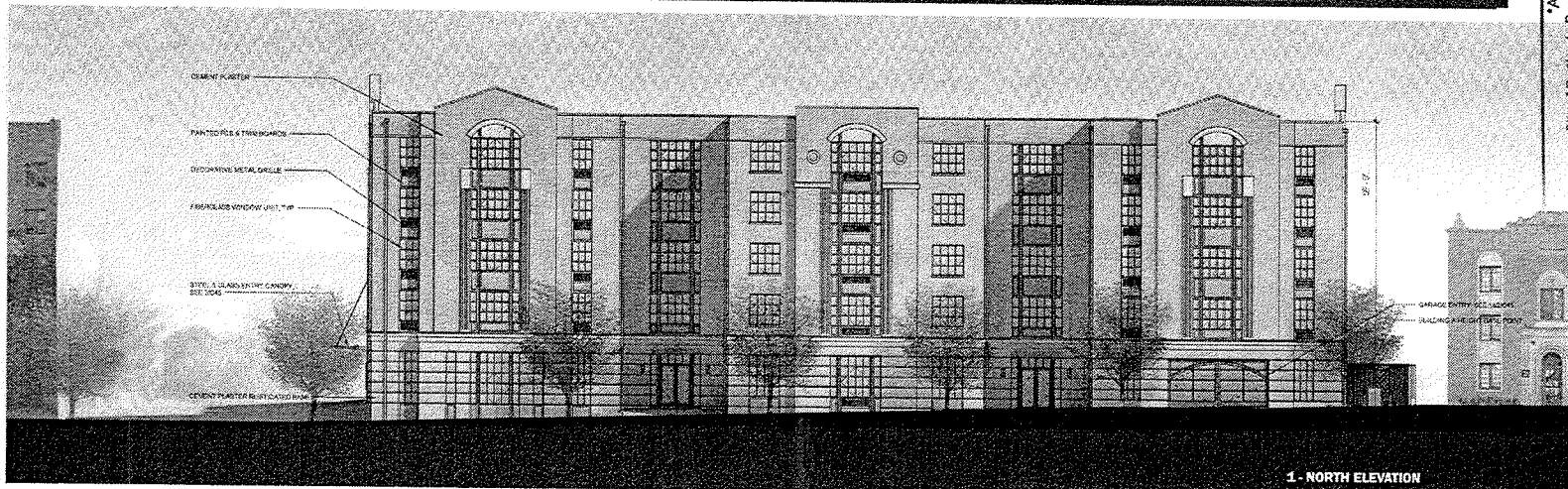
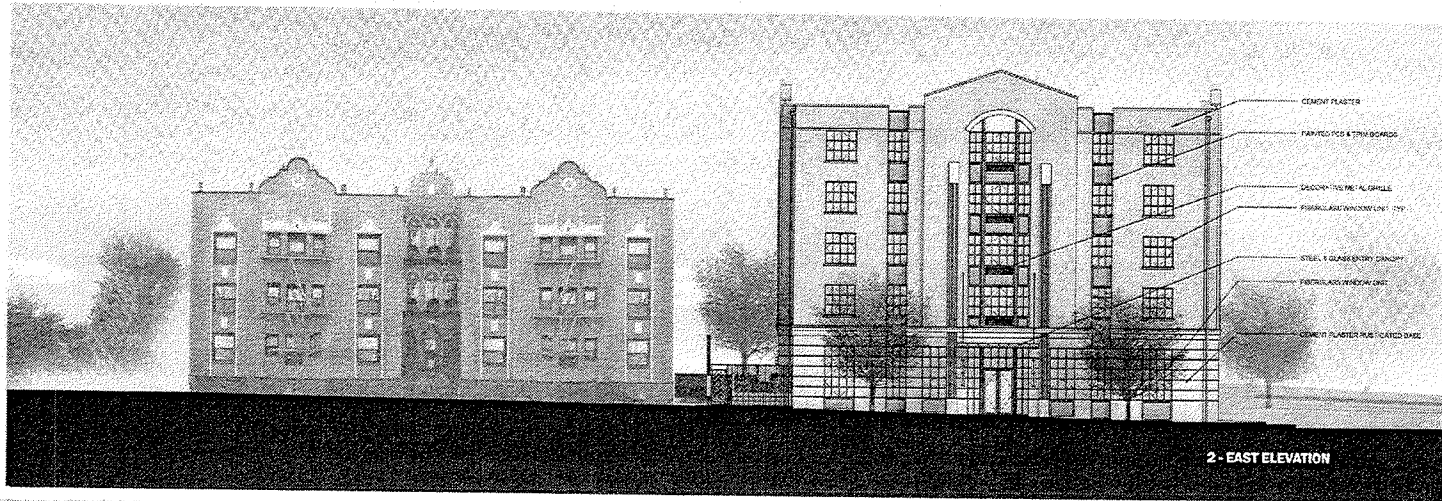
\*Approved\*  
 City of Portland - Bureau of Development Services  
 Planner: *David Hill* Date: *5.17.11*  
 This approval applies only to the review requested and is subject to conditions of approval. Additional zoning requirements may apply.

NW 19TH & JOHNSON  
 DIVISION OF COMMUNITY DEVELOPMENT  
 1212 N.W. 19TH ST.

BUILDING A

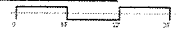


A - ELEVATIONS C34



NW 29TH & JOHNSON  
 DESIGN REVIEW APPLICATION # 11111111111111111111  
 2012 APR 14

**BUILDING A**



A - ELEVATIONS C33

"Approved"  
 City of Portland - Bureau of Development Services  
 Date 5/17/12  
 Designer *[Signature]*  
 This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.



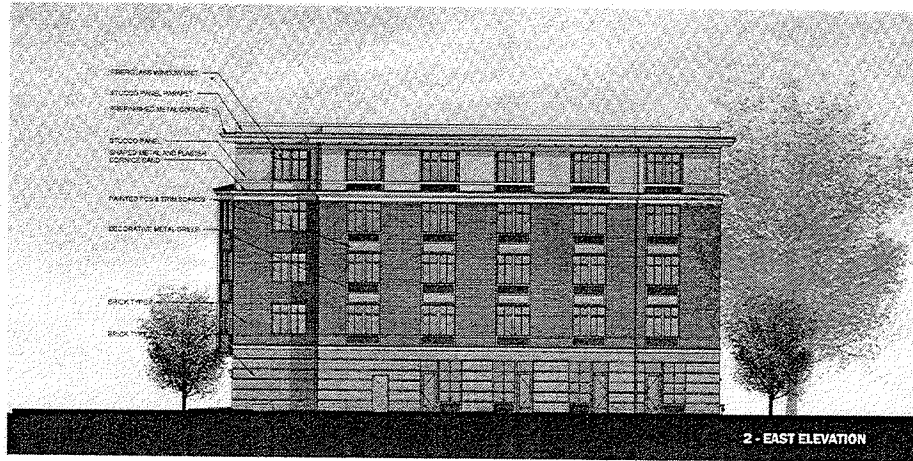


City of Portland - Bureau of Development Services  
 Date: 5.17.12  
 This approval applies only to the reviews requested and is subject to the conditions of approval. Additional zoning requirements may apply.

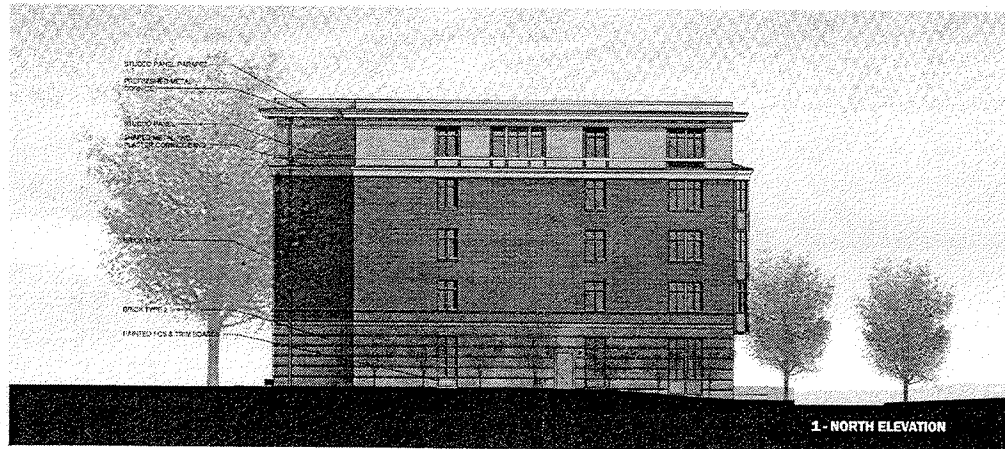
NW 19TH & JOHNSON  
 1000 NW 19TH AVE, PORTLAND, OR 97209  
 503.281.1111

**BUILDING B**





2 - EAST ELEVATION



1 - NORTH ELEVATION

NW 19TH & JOHNSON  
 DESIGN REVIEW APPLICATION - 19121 NW 19TH AVE  
 TOLSON, WA

BUILDING B

Approved  
 City of Portland - Bureau of Development Services  
 Planner: *Sharon Heule* Date: *5.17.17*  
 This approval applies only to the reviews requested and is subject to  
 conditions of approval. Additional zoning requirements may apply.

**GENERAL EXPLANATION OF CITY COUNCIL APPEAL HEARING PROCESS FOR  
EVIDENTIARY/DE NOVO APPEALS**

**1. SUBMISSION OF TESTIMONY**

- a. Testimony may be submitted in writing to the Council Clerk, 1221 SW Fourth Avenue, Room 140, Portland, Oregon 97204. Written comments must be received by the time of the hearing and should include the case file number.
- b. Testimony may be submitted orally (see below).

**2. HEARINGS PROCESS**

- a. The order of appearance and time allotments is generally as follows:

Staff Report	10 minutes
Appellant	10 minutes
Supporters of Appellant	3 minutes each
Principal Opponent of the Appeal	15 minutes
Other Opponents of the Appeal	3 minutes each
Appellant Rebuttal	5 minutes
Council Discussion	

- b. The applicant has the burden of proof to show that each and every element of the approval criteria can be satisfied. If the applicant is opposing the Hearings Officer's recommendation, the applicant may also argue the criteria are being incorrectly interpreted, the wrong approval criteria are being applied or additional approval criteria should be applied.
- c. In order to prevail, the opponents of the application must persuade the City Council to find that the applicant has not carried the burden of proof to show that the evidence submitted in support of the application demonstrates that each and every element of the approval criteria is satisfied. The opponents may wish to argue the criteria are being incorrectly applied, the wrong criteria are being applied or additional approval criteria should be applied.
- d. The failure to address an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals (LUBA) on that issue.

**3. OTHER INFORMATION**

- a. Prior to the hearing, the case file and the Review Body decision are available for review, by appointment, at the Bureau of Development Services, 1900 SW 4<sup>th</sup> Avenue, Portland, OR 97201. Call 503-823-7617 to make an appoint to review the file.

**If you have a disability and need accommodations, please call 823-4085 (TDD: 823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.**



# City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 • 503-823-7526 • www.portlandonline.com/bds



## Type III Decision Appeal Form

LU Number: 12-106944 HDZM

### FOR INTAKE, STAFF USE ONLY

Date/Time Received 6/7/12 @ 2:47pm

Action Attached

Received By Kim Freeman

Fee Amount \$5,000

Appeal Deadline Date 6/7/12 @ 4:30pm

[N] Fee Waived

Entered in Appeal Log

Bill #

Notice to Auditor

[M] Unincorporated MC

Notice to Dev. Review

**APPLICANT: Complete all sections below that apply to the proposal. Please print legibly.**

**The appeal must be filed by the deadline listed in the Decision**

#### Development Site

Address or Location N.W. 19th and Johnson Streets

Date June 7, 2012

Land Use Number LU 12-106944 HDZM

Appellant's Name The Community Association of Northwest Portland, Inc. AKA  
The Northwest District Association or NWDA

Street Address c/o Neighbors West Northwest, 2257 NW Raleigh St.

City Portland

State OR

Zip Code 97212

Day Phone (503) 823-4212

FAX

email mark@nwnw.org

Appellant's Interest in the case (applicant, neighbor, etc.) Neighborhood association

**Appellant's Statement** Please describe how the proposal meets or does not meet approval criteria, or how the City erred procedurally. The statement must address specific approval criteria or procedures and include the appropriate code citation(s).

See attached.

Appellant's Signature [Signature] John Bradley, Chair, NWDA

To file this appeal, take the following to the Development Services Center Planning Committee

- This completed appeal form
- A copy of the Type III Decision being appealed
- An appeal fee as follows:
  - Appeal fee as stated in the Decision, payable to City of Portland
  - Fee waiver for ONI Recognized Organizations approved
  - Fee waiver for low income individual approved (attach letter from Director)
  - Fee waiver for Unincorporated Multnomah County recognized organizations is signed and attached

The Portland City Council will hold a hearing on this appeal. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

The appeal must be filed by the deadline listed in the Decision. To ensure the appeal is received within this deadline, the appeal should be filed in the Development Services Center at 1900 SW 4th Ave, 1st Floor, Suite 1500, Portland, Oregon, between 8:00 a.m. and 3:00 p.m. on Tuesday through Friday. On Mondays, and between 3:00 - 4:30 p.m. on Tuesday through Friday, the form(s) must be submitted at the Reception Desk on the 5th Floor.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

**EXHIBIT TO  
TYPE III DECISION APPEAL FORM  
NW 19<sup>TH</sup> AVENUE AND JOHNSON STREET  
LU 12-106944 HDZM**

The Historic Landmarks Commission (the "HLC"), acting in consideration of the advice of City staff, erroneously construed PCC 33.445.230, and possibly other code sections, in such a way as to exclude from consideration certain street trees at the site (four mature elms). The HLC also failed to consider the contribution made by the street trees to the fabric and context of the district as characterized in the Community Design Guidelines and the Historic Alphabet District Community Design Guidelines Addendum in making their findings and arriving at their final decision. PCC 33.856.060, 33.420.010 and 33.420.045 A.

131/340/MAYOR/AMY RUIZ

YVONNE POELWIJK  
1900 SW 4<sup>TH</sup> AVE, STE 5000  
PORTLAND, OR 97204

HILDA & BILL WELCH  
2705 NW PETTYGROVE ST  
PORTLAND, OR 97210

NWDA PLANNING COMMITTEE  
BILL C M WELCH  
2705 NW PETTYGROVE ST  
PORTLAND, OR 97210

RON WALTERS  
2057 NW OVERTON ST  
PORTLAND, OR 97209

JOE KELLER  
1921 NW HOYT ST  
PORTLAND, OR 97209-1225

MYRIAM ALAUX  
1921 NW HOYT ST  
PORTLAND, OR 97209

JAMES R. LOWENSTEIN  
1930 NW IRVING ST #404  
PORTLAND, OR 97209

HELEN A. WALLACE  
1930 NW IRVING ST #302  
PORTLAND, OR 97209

SHARON GENASCI  
2217 NW JOHNSON  
PORTLAND, OR 97210

BARRY SUTTON  
PO BOX 1853  
PORTLAND, OR 97207

GAIL R. SHIBLEY  
1930 NW IRVING ST #602  
PORTLAND, OR 97209

KATHLEEN L TR HUMPHREY  
1929 NW HOYT ST  
PORTLAND, OR 97209-1226

NW DISTRICT ASSOC  
JOHN BRADLEY  
2350 NW JOHNSON  
PORTLAND, OR 97210

DAN VOLKER  
2205 NW JOHNSON  
PORTLAND, OR 97210

KEVIN KENAGA  
3425 NW SAVIER ST  
PORTLAND, OR 97210

JIM W. VOGELE  
707 NW 19<sup>TH</sup> AVE #105  
PORTLAND, OR 97209

JOHNSON ST INVESTORS II  
500 E BROADWAY #110  
VANCOUVER, WA 98660

MILL CREEK RESIDENTIAL TRUST  
SAM RODRIGUEZ  
220 NW 2<sup>ND</sup> AVE SUITE 900  
PORTLAND, OR 97209

SERA ARCHITECTS  
KURT SCHULTZ  
338 NW 5<sup>TH</sup> AVE  
PORTLAND, OR 97209

AIA URBAN DESIGN COMMITTEE  
SAUNDRA STEVENS  
403 NW 11<sup>TH</sup>  
PORTLAND, OR 97209

OREGON DIV SUPERINTENDENT  
1313 WEST 11<sup>TH</sup> ST  
VANCOUVER, WA 98660

COMCAST  
JAMIE STENCIL  
9605 SW NIMBUS  
BEAVERTON, OR 97008

METRO  
MARLON WARREN  
600 NE GRAND AVE  
PORTLAND, OR 97232

NW DISTRICT ASSOC  
MARK SEIBER  
2257 NW RALEIGH ST  
PORTLAND, OR 97210

NOB HILL BUSINESS ASSOC  
PATRICIA FIELDER  
25 NW 23<sup>RD</sup> PL  
#6 - PMB 217  
PORTLAND, OR 97210

PEARL DIST BA  
ADELE NOFIELD  
1022 NW MARSHALL #500  
PORTLAND, OR 97209

PEARL DIST BA  
PAT GARDNER  
1116 NW JOHNSON ST  
PORTLAND, OR 97209

PORTLAND SCHOOL DIST #1  
DOUGLAS CAPPS  
501 N DIXON  
PORTLAND, OR 97227

PORTLAND SCHOOL DIST #1  
MR. KERRY HAMPTON  
501 N DIXON  
PORTLAND, OR 97227

HISTORIC PRESERVATION OFFICE  
725 SUMMER NE #C  
SALEM, OR 97301

WILLAMETTE PED COALITION  
C/O DOUG KLOTZ  
2630 SE 43<sup>RD</sup>  
PORTLAND, OR 97206

PORTLAND TERMINAL RR  
3500 NW YEON AVE  
PORTLAND, OR 97210

TEAM OREGONIAN  
1320 SW BROADWAY  
PORTLAND, OR 97201

B299/R7000/PLANNING  
LIZA MICKLE

JOHN BRADLEY  
NW DISTRICT ASSOC  
2257 NW RALEIGH ST  
PORTLAND, OR 97212

B129/PDC

LU 12-106944 HZDM  
DATE MAILED: 6/15/2012  
37 MAILING LABELS