



City of Portland

Bureau of Development Services

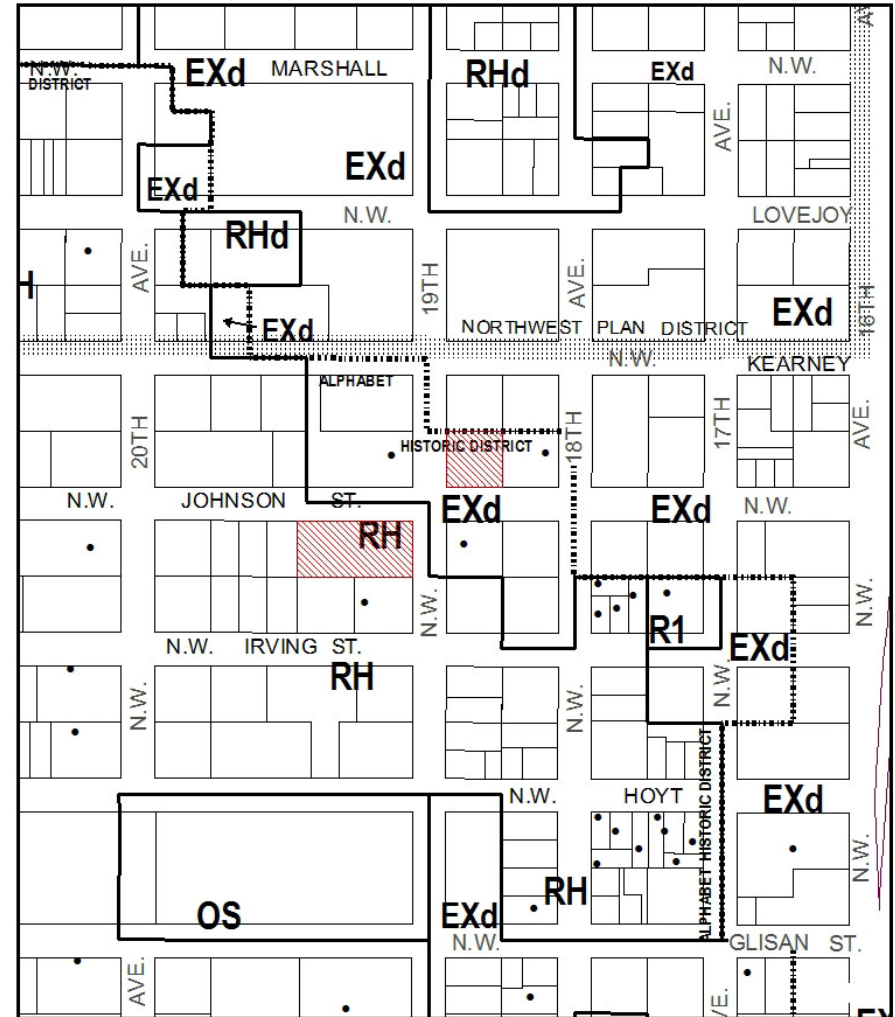
Staff Presentation to City Council

LU 12-106944 HDZM – Appeal
New Construction, NW 19th and Johnson
Alphabet Historic District

July 18, 2012

Zoning and Approval Criteria

- RH: Residential High Density, and EXd: Central Employment, with Historic Resource Protection and Design Overlays
- *Community Design Guidelines and Alphabet Historic District Addendum*
- 33.846.070 – Modifications Considered in Historic Design Review



ZONING

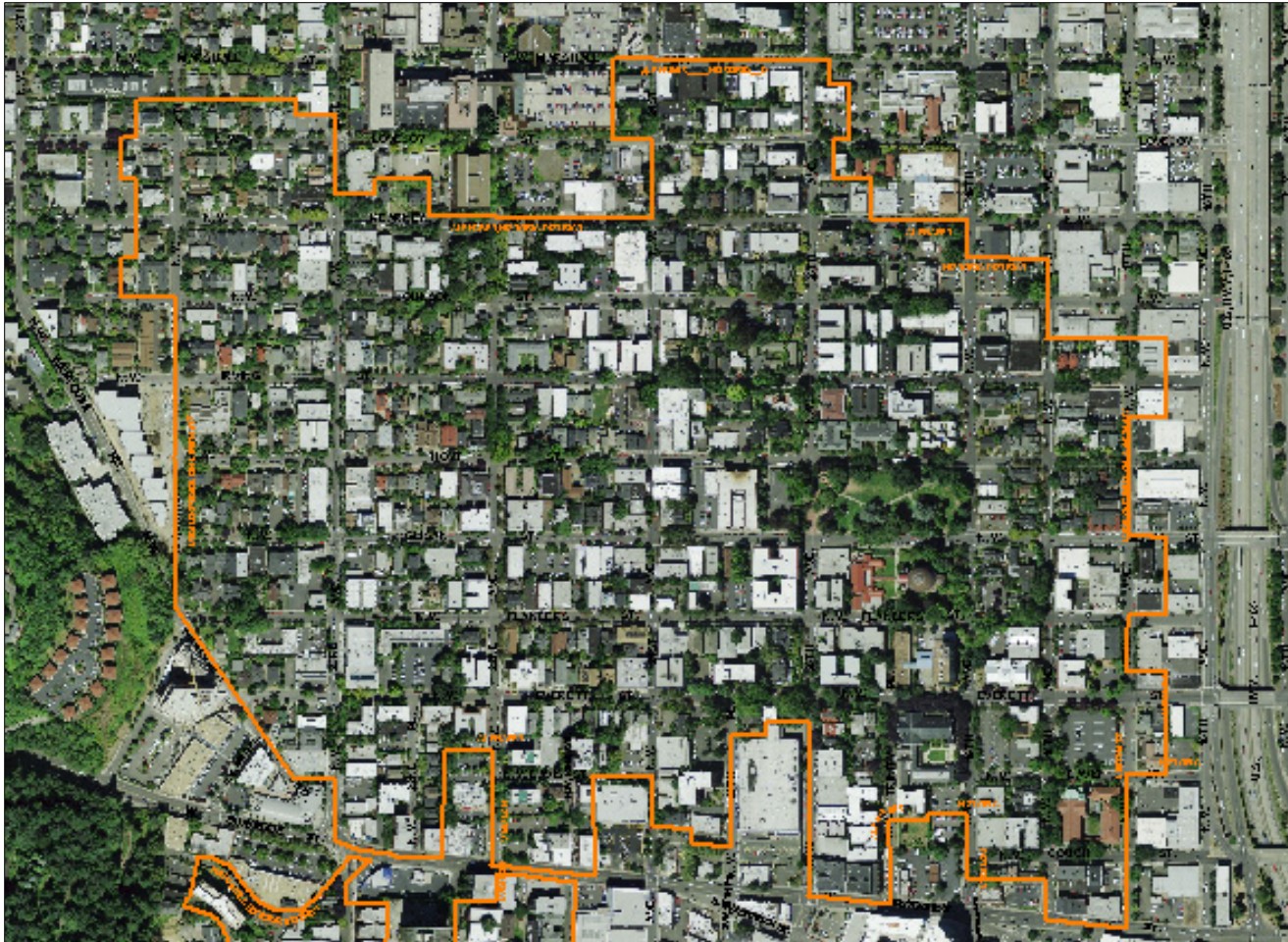
Site
 Historic Landmark

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

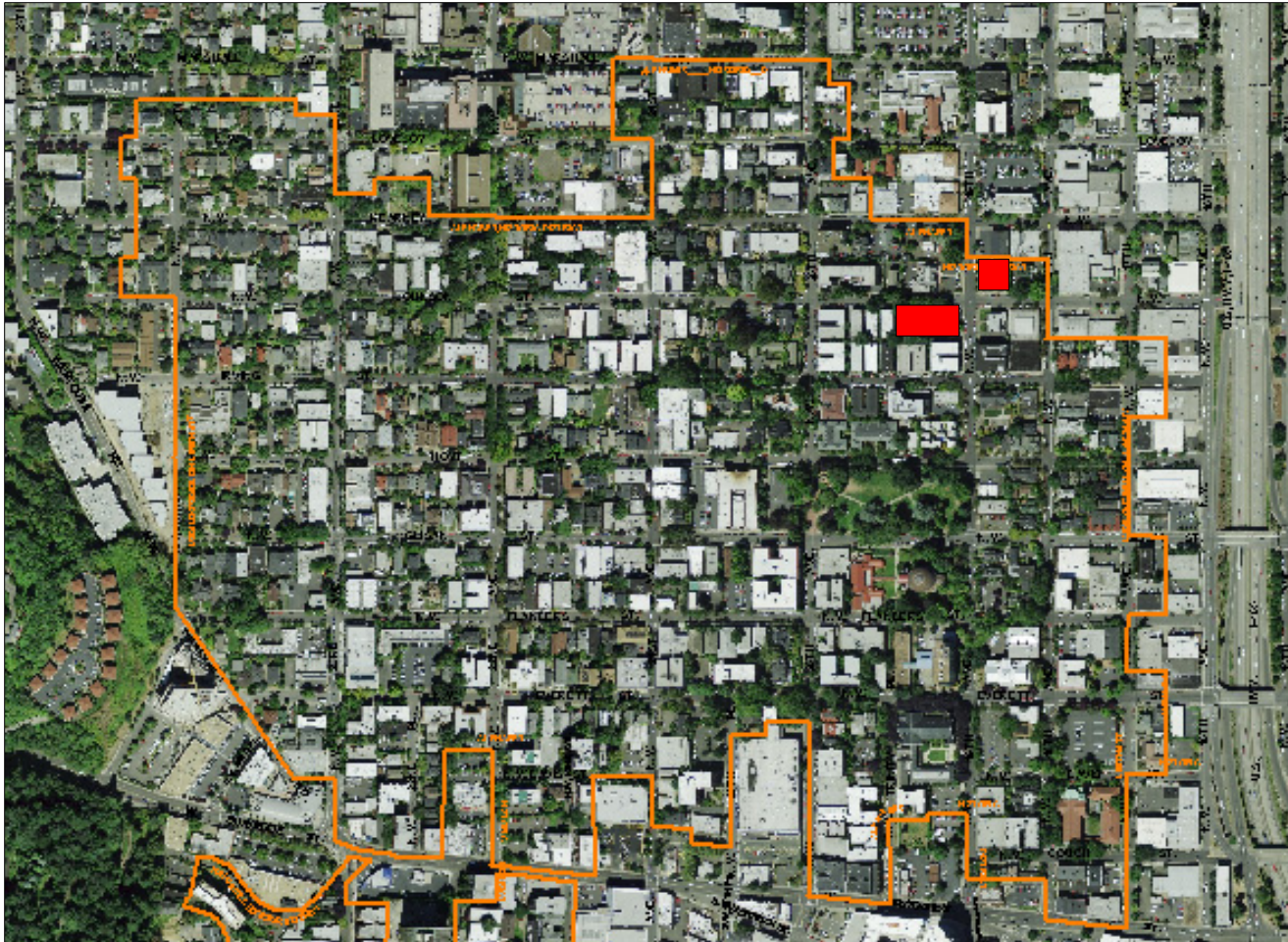
File No. EA 11-169183 DAR
 1/4 Section 2928
 Scale 1 inch = 200 feet
 State_Id 1N1E33AC 9700
 Exhibit B (Sep 16, 2011)

NORTH ↑

Aerial of Alphabet Historic District



Sites within Alphabet Historic District



Project Land Use History

A Pre-application Conference was held on August 9, 2011

Two Design Advice meetings were held with the Historic Landmarks Commission: October 10 and November 14, 2011

Formal proposal submitted January 24, 2012 and deemed complete on March 5, 2012

Two public hearings with the Historic Landmarks Commission: April 23, 2012 and May 14, 2012

Substantial changes were agreed to during the hearing process

The proposal was approved May 14, 2012 and the Notice of Decision was mailed on May 24, 2012

The approval was appealed by NWDA on June 7, 2012

Proposal Approved

Two new apartment buildings:

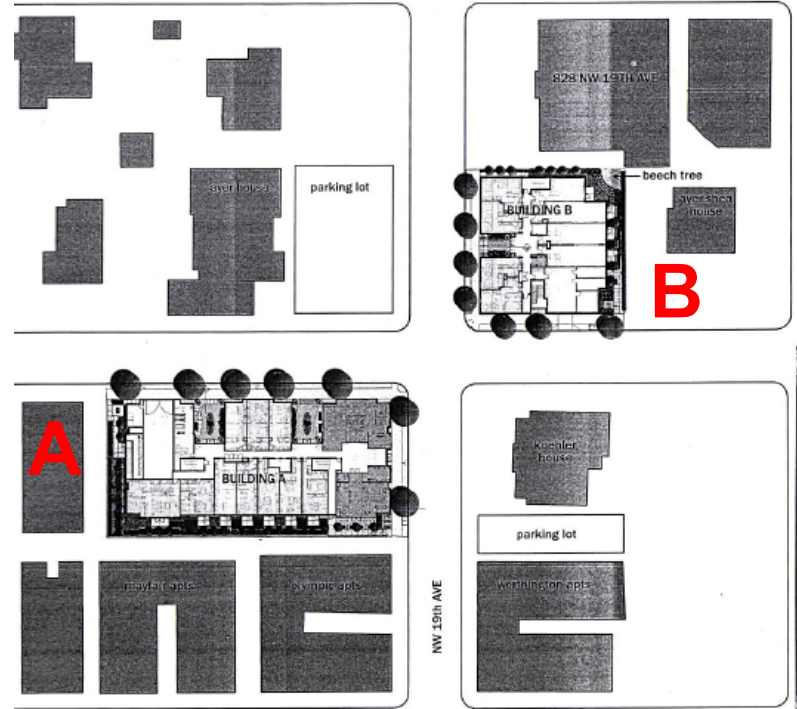
Building A –

5 floors, 86 dwelling units, and 66 below-grade parking stalls;

and

Building B –

5 floors and 48 dwelling units.



Approved
City of Portland - Bureau of Development Services
Date: 5-17-19
Illustration: David Walker

A



B



Appeal Summary

The decision of approval by the PHLC has been appealed by John Bradley, Chair of the Northwest District Association for the following:

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.

Aerial of Site Vicinity

The Four Trees in Question



From Northeast



From Northwest



From East



From West and Below



BDS Staff Response to Appeal

33.10.030 When the Zoning Code applies

B. Clarification for rights-of-way. Land within private rights-of-way, including rail rights-of-way and utility rights-of-way, is regulated by Title 33. Land within public rights-of-way is regulated by Title 17, Public Improvements, and not by Title 33, except in the following situations where both Titles apply:

1. Rights-of-way in the greenway, environmental, and scenic resource overlay zones, including the creation of new rights-of-way and the expansion or vacation of existing rights-of-way;
2. The act of creating or dedicating public rights-of-way through a land division;
3. Development within design districts when specified in Chapter 33.420, Design Overlay Zone;
4. Structures that project from private property over rights-of way, such as oriel windows; and
5. Proposals for park-and-ride facilities for mass transit.

BDS Staff Response to Appeal

33.445.320 Development & Alterations in Historic Districts

A. When Historic Design Review is required in a Historic District. Unless exempted by Section 33.445.320.B, below, the following proposals in a Historic District are subject to Historic Design Review:

1. Exterior alteration of a primary structure;
2. Building a new structure;
3. Exterior signs;
4. Nonstandard improvements in the public right-of-way, such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping, that have not received prior approval of the City Engineer;
5. Proposals using one of the provisions of the a, Alternative Design Density Overlay Zone, specified in Sections 33.405.040 through .080; and
6. Proposals in the Albina Community plan district using the provisions of Section 33.505.220, Parking Requirement Reduction, or Section 33.505.230, Attached Residential Infill on Vacant Lots in R5-Zoned Areas.

BDS Staff Response to Appeal

Community Design Guidelines & Historic Alphabet District Addendum

The approval criteria cannot be applied to matters that are not subject to review.

As demonstrated, removal of street trees is not subject to Historic Design Review.

This can perhaps be clarified further by noting that an application to cut down the trees submitted independently of this development proposal would be processed under the jurisdiction of the Urban Forestry Commission and the Bureau of Transportation, not the Historic Landmarks Commission.

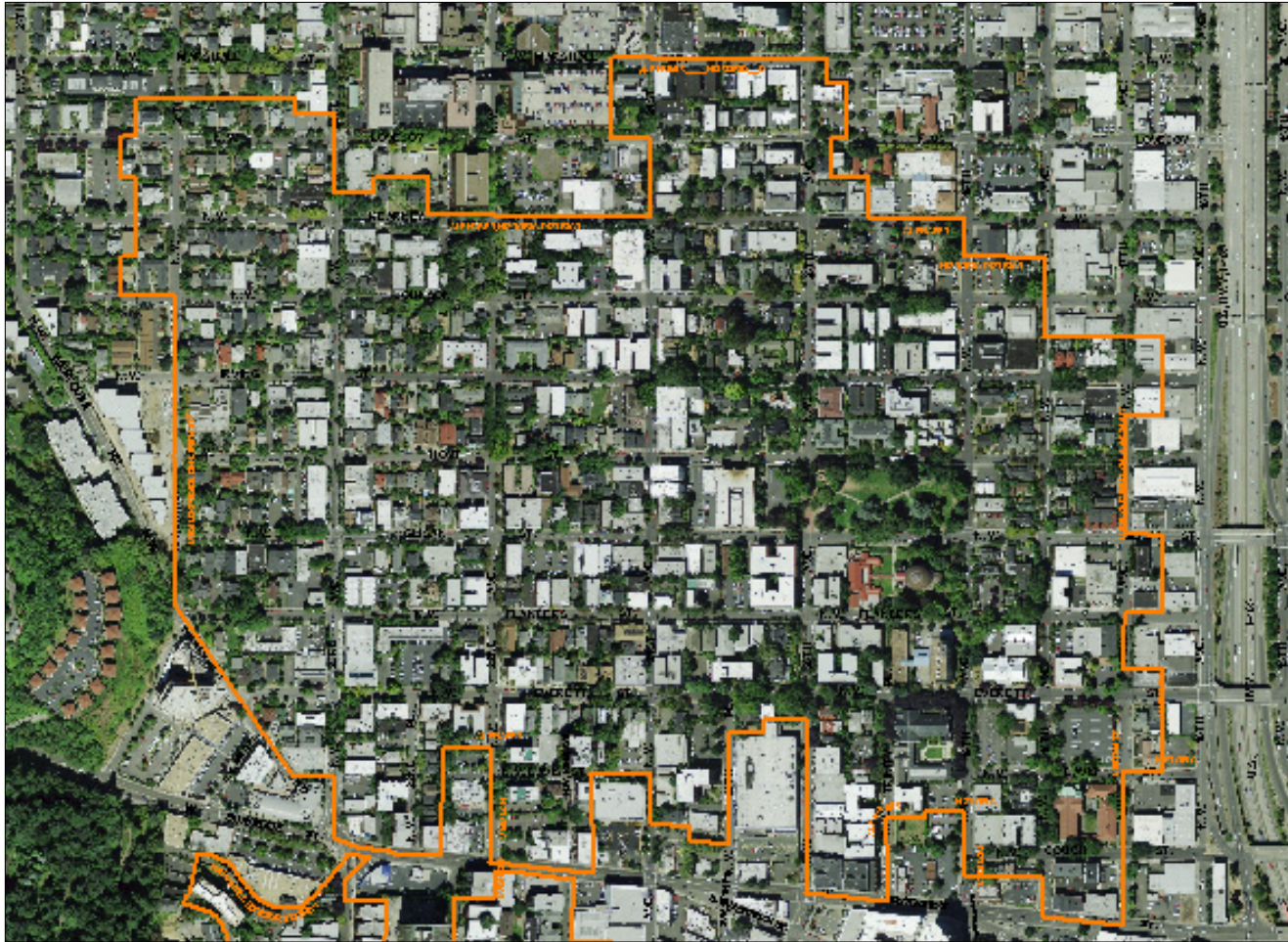
Options for Development of this Site

- A) Require the street trees to be preserved, and deny demolition of the non-contributing building on the site because the work would impact the roots and kill the trees. This could be viewed as a taking by the owner.
- B) Require the street trees to be preserved, but allow the lot to be re-developed. This would result in the trees becoming hazardous due to the extensive loss of roots and crown, and it would also cause them to die.
- C) Allow removal of the street trees and the re-development of the site, and require appropriate mitigation from the developer. This is the only practical solution for this site, and it mirrors the considered decision of the Historic Landmarks Commission.

Conclusions

City Council has the following options:

- **Deny the Appeal** and uphold the Portland Historic Landmarks Commission Approval. Project would be approved as-is.
Per recommendation of the City Attorney, Council should only make a tentative decision, to allow Council to include a response to the code interpretation concerns, a future final decision date to be determined.
- **Uphold the Appeal**, and require additional findings to be included in the Portland Historic Landmarks Commission Approval. This would require a return for adoption at a second hearing.
- **Request design changes** and/or additional Conditions of Approval. Staff may need to revise findings and return for adoption at a second hearing. Project would be approved with changes.



End of Staff Presentation