



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

FROM CONCEPT TO CONSTRUCTION

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Date: January 18, 2013
To: Interested Person
From: Staci Monroe, Land Use Services
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**NOTICE OF FINAL FINDINGS, CONCLUSIONS AND DECISION
OF THE CITY OF PORTLAND REVIEW BODY
ON AN APPEALED ADMINISTRATIVE DECISION
(Type II Process)**

CASE FILE: LU 12-117519 HDZ LOCATION: 3123 NE 24th Avenue

The administrative decision for this case, published on August 23, 2012 was appealed to the Historic Landmarks Commission by the Irvington Community Association.

The Historic Landmarks Commission upheld the appeal and modified the administrative decision of approval. The original analysis, findings and conclusion have been revised by the Historic Landmarks Commission. This decision is available on line:

<http://www.portlandonline.com/bds/index.cfm?c=46429&>

GENERAL INFORMATION

Applicant/owner: Tom Johnston, 503-281-5777 / St. Mary Magdalene Catholic
The Madeleine Parish / 3123 NE 24th Ave / Portland, OR 97212

Appellant: Jim Barta, 503-327-6448 / Irvington Community Association
2317 NE 12th Avenue / Portland, OR 97212

Site Address: 3123 NE 24TH AVENUE

Legal Description: BLOCK 2 LOT 1-20, IRVINGTON
Tax Account No.: R420400210
State ID No.: 1N1E26AA 15500
Quarter Section: 2732
Neighborhood: Alameda, contact Jim Brown at 503-284-6455. Irvington, contact Dean
Gisvold at 503-284-3885.

Business District: North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.
District Coalition: NE Coalition of Neighborhoods, Shosana Cohen at 503-388-5004.
Other Designations: Irvington Historic District
Zoning: R5 – Single Dwelling Residential 5000 zone
Case Type: HDZ – Historic Design Review
Procedure: Type II, an administrative decision with appeal to the Landmarks
Commission.

Revised Applicant Proposal:

The applicant installed 15 exterior wall-mounted lights on the west facade of the St. Mary Magdalene Catholic School in the Irvington Historic District. Exterior alterations to a building within a Historic District requires Historic Design Review. The 15 light fixtures were installed without the benefit of a Historic Design Review. Per Exhibit H-11, the applicant now requests

Historic Design Review approval for the following proposal (which complies with BDS staff's original Decision of Approval):

- Remove light fixture #3 and all connecting conduit above the entry;
- Remove light fixture #10 and all connecting conduit on the projecting 2nd floor bay;
- Add visors to all remaining light fixtures to focus the light downward;
- Attach all of the conduit to the top of the fixtures (rather than the sides) for a flusher conduit installation up against the cornice; and
- Paint all the conduit, light fixtures and visors to match the respective building surface.

Original Applicant Proposal:

The applicant seeks Historic Design Review approval for exterior wall-mounted lights installed on the west facade of the St. Mary Magdalene Catholic School in the Irvington Historic District. The 15 light fixtures, which were installed without the benefit of a historic design review, are to address safety concerns of those utilizing and accessing the building. The metal lights are mounted to the wall with exposed metal conduit running the length of the of west wall.

Original BDS Staff Decision of Approval (which was subsequently appealed by the Irvington Neighborhood Association):

Staff approved 13 of the 15 installed lights with the following conditions of approval:

- *Remove light fixture #3 and all connecting conduit above the entry;*
- *Remove light fixture #10 and all connecting conduit on the projecting 2nd floor bay;*
- *Add visors to all remaining light fixtures to focus the light downward;*
- *Attach all of the conduit to the top of the fixtures (rather than the sides) for a flusher conduit installation up against the cornice; and*
- *Paint all the conduit, light fixtures and visors to match the respective building surface.*

Relevant Approval Criteria:

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

- Other Approval Criteria - Section 33.846.060.G

ANALYSIS

Site and Vicinity: The St. Mary Magdalene Catholic Church and Madeleine Parish and School occupy the entirety of Block 2 and portions of Block 1 and 3 in the Irvington Subdivision, totaling 189,700 square feet in area. The site lies between NE 23rd and NE 24th with NE Siskiyou and NE Klickitat traversing the property east to west. The site includes a church, school, outdoor recreational field and parish office. The school, where the lights are proposed, is located along the western half of Block 2 fronting NE 23rd. The two-story school building was originally constructed in 1927 in the Gothic Revival style with a stucco finish. A newer, single-story addition has occurred on the northern end of the school. The light fixtures are located just above the 1st level along both new and original school building facades.

Platted in the late Nineteenth Century, today's Irvington Historic District represents the first additions to Portland that employed restrictive covenants from the outset. These included the exclusion of most non-residential uses from the interior of the neighborhood, and where non-residential uses were allowed, such as the fire station and the telephone exchange, the buildings were purposely disguised to appear more residential in character. Other deed restrictions excluded minority groups, established uniform front setbacks, and required minimum expenditure on new buildings. The area developed generally from southwest to northeast and its growth was greatly influenced by the installation of streetcar lines that introduced an easy commuting option to downtown.

The contributing resources in Irvington range in design character from expressions of the late Victorian Era styles, especially Queen Anne, through the many Period Revival modes of the early decades of the Twentieth Century, to a few early modernist examples. There is also a wide diversity in the sizes of lots and houses. In terms of the streetscape, the numbered north-south avenues in Irvington vary dramatically in width, and they mostly form rather long block faces which the houses generally face. The named east-west street block faces are more consistent in length, almost all being traditional 200' Portland blocks. All are lined with mature street trees. Original development in many cases included garages or other accessory structures, typically facing side streets on corner lots and accessed by a variety of driveway types on mid-block sites. Garages that were added after original construction, but still within the historic period, were sometimes built at the sidewalk and/or out of architectural character with the house.

Zoning: The Residential 5,000 (R5) single-dwelling zone is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. Minimum lot size is 3,000 square feet, with minimum width and depth dimensions of 36 and 50 feet, respectively. Minimum densities are based on lot size and street configuration. Maximum densities are 1 lot per 5,000 square feet of site area.

The Historic Resource Protection overlay is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks and protects certain historic resources in the region and preserves significant parts of the region's heritage. The 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 the following prior land use reviews for this site:

- CU 017-68: A 1968 Conditional Use approval for a play area for a school-church complex with landscape screening and a waiver to permit the enclosing fence, if a chain-link type, to be 6 ft. high.
- CU 033-84: A 1984 Conditional Use approval for a parish hall on the existing church site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **March 29, 2012**.

The following Bureaus provided a response with no issues identified:

- Water Bureau (Exhibit E-1)

The following Bureaus did not respond with any concerns:

- Bureau of Environmental Services
- Fire Bureau
- Plan Review Section of BDS
- Site Development Section of BDS
- Bureau of Transportation Engineering
- Bureau of Parks-Forestry Division

Neighborhood Review prior to November 26, 2012 Appeal Hearing: A Notice of Proposal in Your Neighborhood was mailed on March 29, 2012. Two written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

- Christine Hammock (property owner), April 18, 2012, concerns with the visual impacts from the lights, incompatible design with the building, necessity of lighting in general, among other items (Exhibit F-1).

- Dean Gisvold (Irvington Neighborhood Association Land Use Committee Chair), April 19, 2012, concerns with the impact on the character of the Historic District (Exhibit F-2).

APPEAL PROCEDURE

The BDS staff Decision of approval, issued on August 23, 2012, allowed 13 of the 15 exterior light fixtures to remain with additional measures to reduce their appearance. The Irvington Neighborhood Association appealed the BDS staff Decision of approval. At the Type II appeal hearing, which was held on November 26, 2012, the Landmarks Commission (PHLC) continued this item to allow the applicant and appellant additional time to discuss alternatives to the lighting installed on the west façade of the St. Mary Magdalene Catholic School (aka The Madeleine School).

Per the PHLC's suggestion, the applicant and appellant met on December 13th; however, per the applicant, they were unable to reach an agreement. As summarized in the applicant's latest response, dated December 19, 2012 (Exhibit H-11), the applicant now proposes to comply with BDS staff's original Decision of approval.

Since no alternatives were agreed upon at the December 13th meeting, BDS staff prepared this Revised Decision that reflects the majority opinion of the PHLC from November 26th, which was to remove all of the lights from the contributing portion of the school and retain the fixtures on the more recent addition at the north end (non-contributing portion) with visors to reduce the glare.

ZONING CODE APPROVAL CRITERIA

Chapter 33.846.060 - Historic Design Review

Purpose of Historic Design Review

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

Historic Design Review Approval Criteria

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

Findings: The site is within the Irvington Historic District and the proposal is for non-exempt treatment. Therefore Historic Design Review approval is required. The approval criteria are those listed in *33.846.060 G – Other Approval Criteria*.

Staff has considered all guidelines and addressed only those applicable to this proposal.

33.846.060 G - Other Approval Criteria

1. Historic character. The historic character of the property will be retained and preserved. Removal of historic materials or alteration of features and spaces that contribute to the property's historic significance will be avoided.

Findings: It should be noted at the outset that the Madeline School, including the non-contributing north addition, is subject to this review because it lies within the Irvington Historic District, not as an individually designated historic landmark. The review considers the impacts of exterior alterations both in terms of their effect on the building itself and on the context of the historic district.

The applicant is requesting to maintain 13 of the original 15 light fixtures. Based on the majority of the Landmark Commission comments provided at the appeal hearing on November 26, 2012, only the 5 light fixtures on the non-contributing portion of the

structure are appropriate to retain and preserve the historic character of the property. Moreover, removing the 10 lights on the contributing portion of the structure maintains the historic significance of the property.

The 5 light fixtures and associated conduit to remain have been installed on the wall just below the parapet, as well as on the parapet, of the non-contributing portion of the building. These locations are logical on this single story structure. The style of the fixtures are simple and complement the straight-forward design of the newer addition. The following conditions of approval are imposed to better integrate the fixtures:

- Adding simple, metal visors to focus the illumination downward; and
- Painting the fixtures, visors, and conduit to match the respective building surface.

On balance, the arrangement of light fixtures only on the non-contributing portion of the building and imposed conditions create an installation that is sensible and will not adversely affect the character of the property or the historic district. *As conditioned, this criterion is met.*

2. Record of its time. The historic resource will remain a physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings will be avoided.

7. Differentiate new from old. New additions, exterior alterations, or related new construction will not destroy historic materials that characterize a property. New work will be differentiated from the old.

Findings for 2 and 7: Although the applicant is requesting to maintain all but 2 of the original 15 light fixtures, the majority of the Landmarks Commission concluded only retaining the 5 light fixtures on the non-contributing portion of the structure is appropriate for the resource to remain a physical record of its time.

The light fixtures and associated conduit are clearly modern elements, and as such, will not create a false sense of historic development. The 5 fixtures and conduit are affixed directly to the stucco wall and metal parapet of the non-contributing portion of the building, neither of which are historic materials.

The approval includes a condition of approval to patch and repair the stucco on the contributing portion of the building for the 10 fixtures and conduit that are to be removed. Fortunately, stucco is relatively simple to repair. Given the small penetrations in the wall for the fixtures and conduit, and the elevated locations, the repaired stucco will not be detectable. *As conditioned, these criteria are met.*

8. Architectural compatibility. New additions, exterior alterations, or related new construction will be compatible with the resource's massing, size, scale, and architectural features. When retrofitting buildings or sites to improve accessibility for persons with disabilities, design solutions will not compromise the architectural integrity of the historic resource.

10. Hierarchy of compatibility. Exterior alterations and additions will be designed to be compatible primarily with the original resource, secondarily with adjacent properties, and finally, if located within a Historic or Conservation District, with the rest of the district. Where practical, compatibility will be pursued on all three levels.

Findings for 8 and 10: At the appeal hearing, the majority of the Landmarks Commission concluded only the 5 light fixtures on the non-contributing portion of the structure are appropriate to maintain architectural compatibility with the building, the surrounding properties and the historic district.

The 5 light fixtures achieve compatibility with the non-contributing portion of the school building with the imposed conditions of approval. The visors will help prevent over-illumination of the building. The design of the modern fixtures and visors will complement the simple rectilinear style of the recent addition. The material and colored finishes will match the addition's exterior. These measures will also help to better integrate the lights resulting in more minor building elements and therefore, on balance, are compatible with the building, the surrounding properties and the historic district. *As conditioned, these criteria are 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 purpose of the Historic Design Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. The light fixtures and conduit to remain on the non-contributing portion of the building will blend in with the building and will not negatively impact the character of the historic district. This proposal meets the applicable Historic Design Review criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

The appellants prevailed, and the decision was modified.

Grant the appeal and modify the administrative decision of approval as follows:

- Remove light fixtures 1 through 10 and all associated conduit on the contributing portion of the building; and
- Retain light fixtures 11 through 15 and all associated conduit on the non-contributing portion of the building.

Subject to the following Conditions, per the approved site plan (Exhibit H-13):

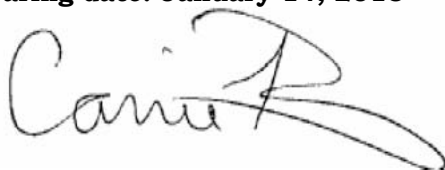
1. Obtain an electrical permit to alter the electrical connection to the light fixtures to remain;
2. Patch and repair stucco where fixtures and conduit are removed and paint to match the respective building surface.
3. Add metal visors that match the simple design of the lights to fixtures 11 through 15; and
4. Paint light fixtures 11 through 15, visors and associated conduit to match the respective building surface.

Staff Planner: Staci Monroe

Date Decision: January 14, 2013

First Hearing Date: November 26, 2012

**These findings and conclusions were adopted by the Historic Landmarks Commission on:
Second Hearing date: January 14, 2013**



By: _____
Historic Landmarks Commission
Carrie Richter

Date Final Decision Effective/Mailed: January 18, 2013
120th day date: Extension to March 6, 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 March 2, 2012, and was determined to be complete on **March 26, 2012**.

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 March 2, 2012.

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 requested that the 120-day review period be extended 225 days and expires on March 6, 2013 (see Exhibits G-3 and H-10).

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, 550 Capitol Street NE, Salem, OR 97310. [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. An electrical 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:

- An electrical 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. An electrical permit must be obtained before carrying out this project. At the time they apply for a permit, permittees must demonstrate compliance with:

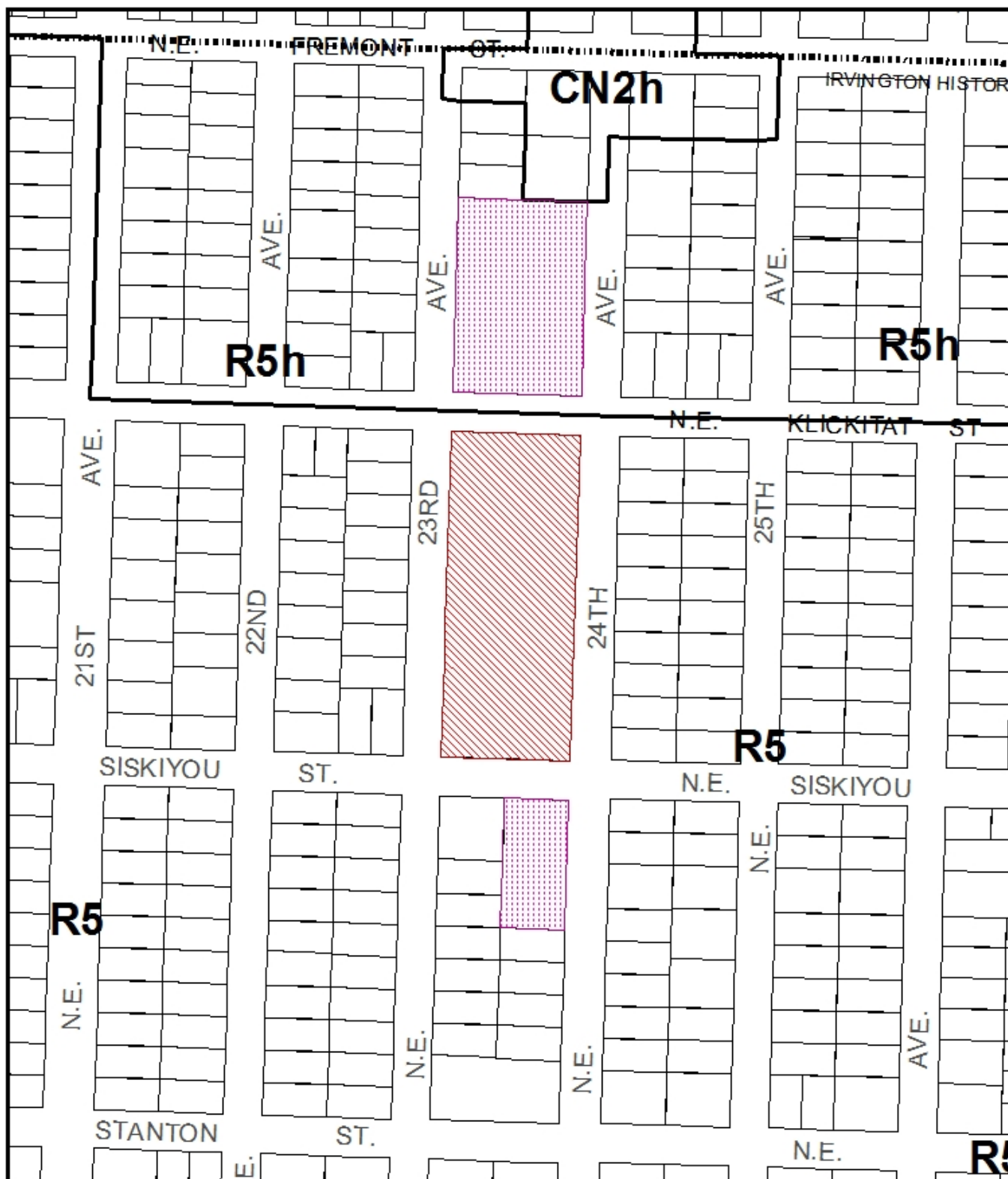
- All conditions imposed here.
- All applicable development standards, unless specifically exempted as part of this land use review.
- All requirements of the building code.
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Electrical Contractor' Bid
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan
 - 2. Fixture & Building Photos
 - 3. Visor & Nighttime Photo
 - 4. Visor Detail
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
- F. Correspondence:
 - 1. Christine Hammock (property owner), April 18, 2012, concerns with the visual impacts from the lights, incompatible design with the building, necessity of lighting, among other items.
 - 2. Dean Gisvold (Irvington Neighborhood Association Land Use Committee Chair), April 19, 2012, concerns with the impact on the character of the Historic District.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. 120-day Extension Requests (3 sheets)
 - 4. Incomplete Letter
 - 5. Staff Site Photos
- H. Appeal:
 - 1. Appeal Submittal
 - 2. Appealed Decision
 - 3. Notice of Appeal
 - 4. NOA Mailing list
 - 5. Erik Hovmiller letter received October 3, 2012
 - 6. Dean Gisvold letter submitted November 26, 2012
 - 7. 1st Commission Packet Memo dated September 25, 2012
 - 8. 2nd Commission Packet Memo dated November 14, 2012
 - 9. Copy of Staff Presentation for November 26, 2012 hearing
(Received After Hearing)
 - 10. 120-day Extension Request
 - 11. Applicant's Response letter dated December 19, 2012
 - 12. Appellant's Response email dated December 13, 2012
 - 13. Revised Site Plan (attached)
 - 14. 3rd Commission Packet Memo dated January 4, 2013
 - 15. Copy of Staff Presentation for January 14, 2013 hearing

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
-  Also Owned



This site lies within the:
IRVINGTON HISTORIC DISTRICT

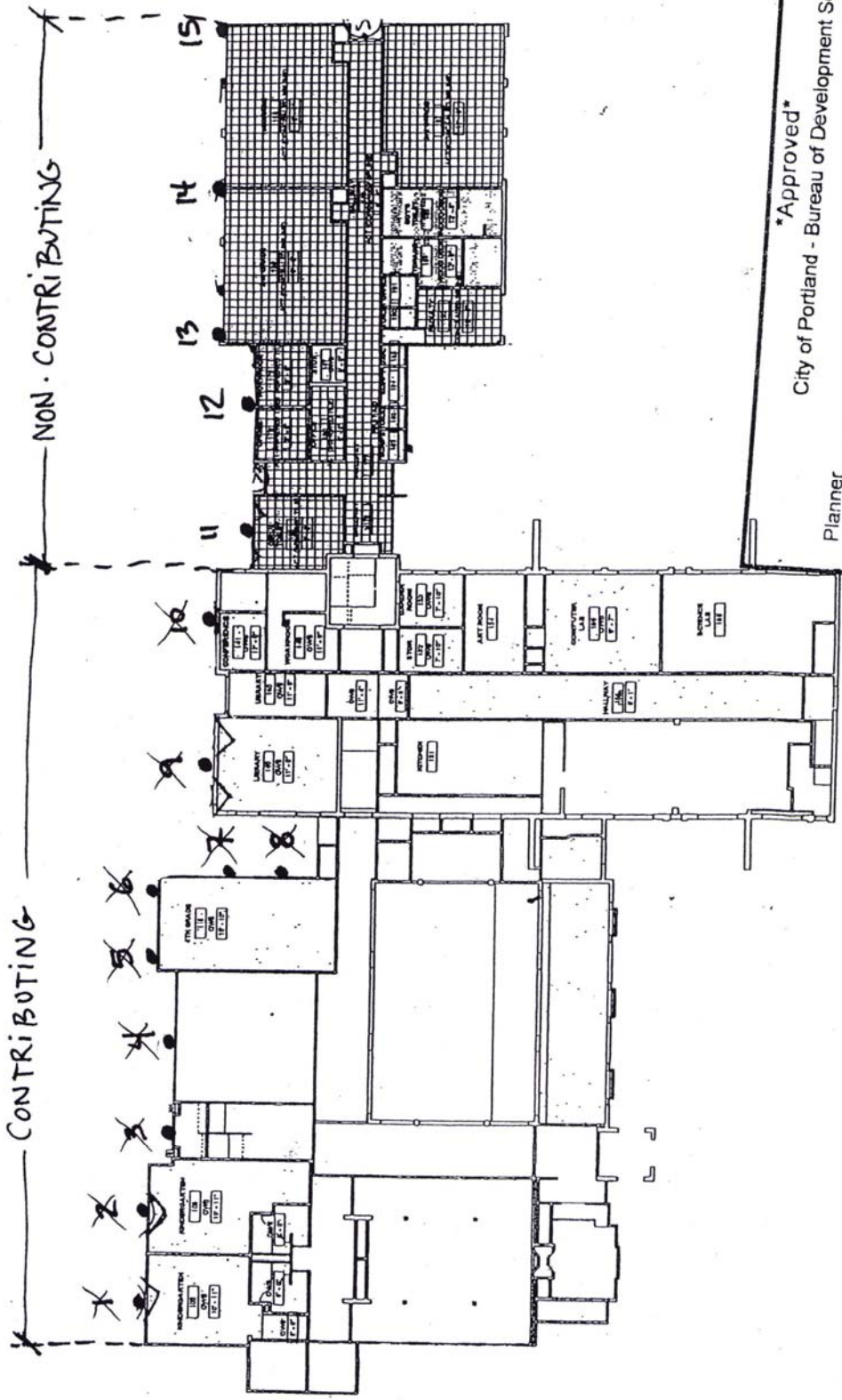
File No. LU 12-117519 HDZ
 1/4 Section 2732
 Scale 1 inch = 200 feet
 State_Id 1N1E26AA 15500
 Exhibit B (Mar 06, 2012)

FIXTURES 1-10 TO BE REMOVED

FIXTURES 11-15 TO REMAIN

CONTRIBUTING

NON-CONTRIBUTING



NE KLICKITAT STREET

NE 24th AVENUE

LU 12-117519 HDZ
EZ 11-12

Approved _____ Date _____
 City of Portland - Bureau of Development Services
 Planner _____

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

SITE PLAN
NTS

