

City of Portland, Oregon

Bureau of Development Services

Land Use Services

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FROM CONCEPT TO CONSTRUCTION

FINAL FINDINGS AND DECISION BY THE HISTORIC LANDMARKS COMMISSION RENDERED ON MAY 13, 2013

CASE FILE NUMBER: LU 12-215057 HDZ – IRVINGTON ROW (EA 12-146409 PC)

BDS Land Use Services:
 Dave Skilton
 503-823-0660

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 503-823-0660

GENERAL INFORMATION

Applicant:	Guy Bryant 503-309-3461 / GPB Construction Inc. 6027 SE Main Street / Portland, OR 97215
Site Address:	1730 NE Schuyler Street
Legal Description:	BLOCK 12 LOT 9 W 1/2 OF LOT 10, JOHN IRVINGS 1ST ADD
Tax Account No.:	R430303540
State ID No.:	1N1E26DC 05500
Quarter Section:	2832
Neighborhood:	Irvington, contact Dean Gisvold at 503-284-3885.
Business District:	NE Broadway Business Assoc, Murray Koodish at info@nebroadway.com.
District Coalition:	NE Coalition of Neighborhoods, Shoshana Cohen at 503-388-5004.
Plan District:	Albina Community
Other Designations:	Vacant property in the Irvington Historic District, which was listed in the National Register of Historic Places on October 22, 2010.
Zoning:	R1a, Multi Dwelling Residental 1000, with Historic Resource Protection and Alternative Design Density Overlay zoning.
Case Type:	HDZ, Historic Design Review
Procedure:	Type III, with a public hearing before the Historic Landmarks
1 1006uule.	Commission. The decision of the Historic Landmarks Commission can
	be appealed to City Council.

Proposal: The applicant is seeking Historic Design Review approval for five new attached dwelling units with garages on a vacant site at the intersection of NE 17th Avenue and NE Schuyler Street, in the Irvington Historic District. The exterior materials include:

- Columbia River basalt stone retaining wall;
- cedar board fencing;
- painted steel garage doors;
- 1x4, 1x6, and 1x10 painted cedar lap siding with metal corners;
- architectural composition asphalt roof shingles;
- wood and glass entry and balcony access doors; and
- Milgard Montecito vinyl casement and single hung windows

Historic Design Review is required because the proposal is for non-exempt new construction in a historic district.

Approval Criteria:

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

• 33.846.060 G. Other Approval Criteria

ANALYSIS

Site and Vicinity: The subject site is a vacant lot, 100' x 75' occupying the southeasterly corner of the intersection of NE 17th Avenue and NE Schuyler Street in the Irvington Historic District.

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 at rear corners and accessed by a variety of driveway types on mid-block sites, and facing side streets on corner lots. Garages that were added within the historic period, were sometimes built at the sidewalk and/or out of architectural character with the house.

Historic multi-dwelling development is also a significant typology in the Irvington Historic District, largely concentrated in the corridor bracketed by NE Broadway and the mid-block between NE Tillamook and NE Thompson Streets. As with the development of the entire district, these buildings responded to the availability of streetcar transportation. Those closest to NE Broadway did not tend to provide onsite parking, but courtyard type complexes further north occasionally did, often displaying a full-facade array of garage doors on the secondary street face. Stylistically, the historic apartment buildings in Irvington tend to represent the same design modes that were popular for single dwelling structures during the period of historic significance.

Another residential building type, far less common than single-family houses and apartment buildings, is a purpose built duplex, triplex, or fourplex that falls between the two more common types in terms of appearance. These may feature multiple private entries or mimic a large house with a single entry door, and they are generally more elaborated than the larger apartment buildings. However, all the multi-dwelling examples tend toward a less elaborate expression of any given mode than the individual house. Stucco is the predominant finish material for multi-dwelling structures, but contributing examples clad with brick and board siding, and combinations also exist. A significant amount of post-historic apartment redevelopment occurred within the same general area outside the period of significance. Examples from the mid-to-late 20th Century often have large parking lots at street lot lines. These paved areas are often without any buffering or internal planting.

Zoning: The R1 zone is a medium density multi-dwelling zone. It allows approximately 43 units per acre. Density may be as high as 65 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the R2 zone. The major type of new housing development will be multi-dwelling structures (condominiums and apartments), duplexes, townhouses, and rowhouses. Generally, R1 zoning will be applied near Neighborhood Collector and District Collector streets, and local streets adjacent to commercial areas and transit streets.

The Historic Resource Protection Overlay zone 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.

The purpose of the Alternative Design Density Overlay Zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

Land Use History: City records indicate that prior land use reviews include:

- LU 07-182808 HDZ, approving a three story, five-unit multi-dwelling structure with five on-site parking spaces.
- LU 12-150927 LDS, related to the current case and approving a Preliminary Plan for a five-lot subdivision, with easements for shared access and utilities.

Public Notice: A "Notice of Proposal in Your Neighborhood" was mailed March 15, 2013.

Agency Review: None of the notified Bureaus has responded with significant issue or concerns:

Neighborhood Review: No written responses have been received to date from either the Neighborhood Association or notified property owners in response to the proposal.

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.

Note: A question was raised by the applicant concerning the applicability of Criterion 33.846.060 G 10 because, unlike 33.846.060 G 8, it does not specifically reference "new construction". However, the provision does specifically refer to "exterior alteration" which among other things is defined in the Zoning Code as "changes to other structures on the site <u>or the development of new structures</u>." Criterion 33.846.060 G10 is therefore applicable.

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: Because the proposal in this case is for new construction on a vacant lot, it is clear that the term "property" found throughout the approval criteria refers to the Irvington Historic District, as opposed to the site. The subject site included a structure until as recently as 2005, so the open condition of the lot is not a historically significant condition within the district. Returning a building to this location can, in fact, be thought of as reinstating a semblance of the built-up historic spatial character at the intersection of NE 17th and Schuyler. *This criterion is not applicable*.

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.

Findings: The Irvington Historic District includes more than 2,800 primary structures, so redevelopment of the subject vacant site will have only a negligible effect on the neighborhood's overall physical historic record, as referenced in the first sentence of the approval criterion. Instead the focus in this case is on the second sentence and the ability to distinguish the proposed new structure as a product of its own time.

Several aspects of the proposal will contribute to its recognizable modernity. Perhaps the most salient of these factors are the presence of multiple entrances on the main facade, and the provision of garages and significant paved vehicular maneuvering area at the rear. Although these conditions exist in a few historic examples, they are atypical in the district. Balancing the need to distinguish the building as a product of the present against the need for it to be compatible with and subordinate to the actual historic resources is the essence of the design problem when adding new elements in a historic district. This issue is further explored in the findings for items 8 and 10, below. *This criterion is met.*

3. Historic changes. Most properties change over time. Those changes that have acquired historic significance will be preserved.

4. Historic features. Generally, deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement, the new feature will match the old in design, color, texture, and other visual qualities and, where practical, in materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence.

5. Historic materials. Historic materials will be protected. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used.

Findings for 3, 4, and 5: These approval criteria focus on treatment of intact historic fabric, which is absent on the site. *These criteria are not applicable.*

6. Archaeological resources. Significant archaeological resources affected by a proposal will be protected and preserved to the extent practical. When such resources are disturbed, mitigation measures will be undertaken.

Findings: The soil on the subject site has been intensively disturbed, first in the initial terracing of the lot, then in the construction of the original building and its basement, and finally in the removal of the structure. As a result, significant archaeological resources are extremely unlikely to be encountered. *This criterion is not applicable.*

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.

9. Preserve the form and integrity of historic resources. New additions and adjacent or related new construction will be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic resource and its environment would be unimpaired.

Findings for 7 and 9: The proposed new construction will be recognizably of its time, as discussed in 2, above. Although it will be within the context of the historic district, and therefore related, it will not be near or attached to any other built resource. Its removal in the future would simply restore the existing vacant lot condition. *This criterion is 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 initial hearing the Commission requested that the applicant return to a continued hearing with revised drawings addressing eight specific items. Among other things, the applicant has responded by providing two alternative elevations for the west and the mirrored north/south faces of the proposed building. Because one of these alternatives is basically a reiteration of the original proposal, which the Commission rejected, the following findings refer only to the revised proposal as represented by the versions of pages A5.1 and A5.3 on which the drawing names are subtitled as 'B' Version.

Approval criteria 8 and 10 anticipate new construction in historic contexts that balances the compatibility of a new design with its historic context against recognizable distinctiveness. New buildings in historic districts perform best when they blend in as a supportive yet subtly different background to the actual historic resources. Neither elegance nor refinement is precluded by this approach. The compatibility of the revised proposal rests on three interacting characteristics: elaboration similar to historic buildings of similar typology within the district; cohesiveness and traditional ordering; and a limited palette of materials and assemblies. In combination these aspects of the proposal combine to create a design compatible with, distinct from, and subordinate to its historic surroundings.

The building typology which the proposal appears to emulate, that of a historic smaller scale multi-dwelling structure, is appropriate because the subject site lies within the three block deep swath along the southern edge of the district where the historic examples of this building type are concentrated. These examples tend to combine traditional proportions and fenestration patterns with a limited number of window types and materials. The revised proposal, while including some diversity of elements like windows, dormers, and railing treatments, does present a cohesive background of building wall to support the exceptions.

The proposed design also reasonably respects the traditional spatial ordering which predominates in the historic residential buildings of the Irvington Historic District. There is an appropriate emphasis on the central entry on the west facade. The Commission found that with further differentiation of the wall surfaces above the sloped 2x6 transition board at the eave line, in the form of siding with a 4.25 inch reveal without a secondary 2x4 transition board at the window sill level, the north and south facing wall bays achieve a similar compatibility because, while they are prominent and break the eave line they are separated from the main entry by a corner and a relatively uniform field of building wall, openings, and projections.

Finally, the revised palette of materials and assemblies includes good quality vinyl windows detailed in a manner that mimics but does not exactly duplicate a traditional wood window installation. Although windows of this sort have been rejected by the Historic Landmarks Commission in the past, the immediate context, the proposed installation details, and the fact that the material will hold paint make these windows approvable in this particular case

The earlier design laid down a solid base upon which an approvable solution could be developed, and the revised proposal, specifically as represented by the 'B' Version alternatives of sheets A5.1 and A5.3, have provided a design that staff believes meets the approval criteria.

With a condition of approval that the wall surfaces above the 2x6 sloped transition boards at the main roof eave lines on the projecting bays on the north and south facades shall be clad entirely in 1x6 cedar siding with a 4.25 inch reveal, and that no secondary 2x4 sloped transition board shall be installed at the window sill level, 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 in historic districts do not compromise their ability to

convey historic significance. The 'B' version of this proposal meets the applicable Historic Design Review criteria and therefore warrants approval.

HISTORIC LANDMARKS COMMISSION DECISION

It is the decision of the Historic Landmarks Commission to approve Historic Design Review for construction of five new attached dwellings, with garages and vehicle maneuvering area at the rear, in the Irvington Historic District.

Approval is per Exhibits C-1 through C-20, signed, stamped, and dated May 16, 2013, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (A E) 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 12-215057 HDZ. 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 wall surfaces above the 2x6 sloped transition boards at the main roof eave line on the projecting bays on the north and south facades shall be clad entirely in 1x6 cedar siding with a 4.25 inch reveal, and no secondary 2x4 sloped transition board shall be installed at the window sill level.

______ Bv:

Carrie Richter, Historic Landmarks Commission Chair

Application Filed: Decision Filed: May 14, 2013 Decision Rendered: May 13, 2013 Decision Mailed: May 20, 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 December 13, 2012, and was determined to be complete on February 25, 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 December 13, 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 did not waive or extend the 120-day review period.

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. This report is the final decision of the Historic Landmarks Commission with input from other City and public agencies.

Conditions of Approval. This approval 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.

Appeal of this decision. This decision is final unless appealed to City Council, who will hold a public hearing. <u>Appeals must be filed by 4:30 pm on June 3, 2013</u> at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on Monday, appeals must be submitted to the receptionist at the front desk on the fifth floor. Information and assistance in filing an appeal is available from the Bureau of Development Services in the Development Services Center or the staff planner on this case. You may review the file on this case by appointment at, 1900 SW Fourth Avenue, Suite 5000, Portland, Oregon 97201.

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 City Council is final; any further appeal is to the Oregon Land Use Board of Appeals (LUBA).

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 City Council on that issue. Also, if you do not raise an issue with enough specificity to give City Council an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Who can appeal: You may appeal the decision only if you have written a letter which was received before the close of the record at the hearing or if you testified at the hearing, or if you are the property owner or applicant. Appeals must be filed within 14 days of the decision. **An appeal fee of \$5,000.00 will be charged.**

Neighborhood associations may qualify for a waiver of the appeal fee. Additional information on how to file and the deadline for filing an appeal will be included with the decision. Assistance in filing the appeal and information on fee waivers are available from the Bureau of Development Services in the Development Services Center, 1900 SW Fourth Ave., First Floor. Fee waivers for neighborhood associations require a vote of the authorized body of your association. Please see appeal form for additional information.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- Unless appealed, The final decision may be recorded on or after **June 4**, **2013**.
- A building or zoning permit will be issued only after the final decision is recorded.

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

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. 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 County 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. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

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

Dave Skilton May 16, 2013

EXHIBITS – NOT ATTACHED UNLESS INDICATED

- A. Applicant's Materials
 - 1. Letter Certifying Neighborhood Contact
 - 2. Narrative
 - 3. Drawing Index and Site Context Photos
 - 4. Site Plan
 - 5. Utility Plan
 - 6. First Floor Plan
 - 7. Second Floor Plan
 - 8. Third Floor Plan
 - 9. Roof plan
 - 10. West Elevation
 - 11. East Elevation
 - 12. North Elevation South Elevation mirrored
 - 13. Building Sections
 - 14. Details
 - 15. Details
 - 16. Window information
 - 17. Door Information

- 18. Garage Door Information
- 19. Light Fixture information
- 20. Perspective Rendering from Northwest
- 21. Perspective Rendering from Northeast
- B. Zoning Map (attached)
- C. Plan & Drawings
 - 1. Drawing Index and Site Context Photos
 - 2. Site Plan (attached)
 - 3. Utility Plan
 - 4. First Floor Plan
 - 5. Second Floor Plan
 - 6. Third Floor Plan
 - 7. Roof plan
 - 8. West Elevation 'B' Version (attached)
 - 9. Original West Elevation (not approved)
 - 10. East Elevation (attached)
 - 11. North Elevation South Elevation Mirrored 'B' Version (attached)
 - 12. Original North Elevation South Elevation Mirrored (not approved)
 - 13. Building Sections
 - 14. Details
 - 15. Details
 - 16. Window information
 - 17. Door Information
 - 18. Garage Door Information
 - 19. Light Fixture information
 - 20. Balcony Details
- D. Notification information:
 - 1. Request for response
 - 2. Posting letter sent to applicant
 - 3. Notice to be posted
 - 4. Applicant's statement certifying posting
 - 5. Mailed notice
 - 6. Mailing list
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation
 - 3. Fire Bureau
 - 4. Bureau of Development Services Site Development
 - 5. Bureau of Development Services Life Safety
 - 6. Bureau of Parks Urban Forestry
- F. Letters: none
- G. Other
 - 1. Original LUR Application
- H. Received at hearing:
 - 1. Staff Report March 29, 2013
 - 2. Staff Memo to Commission April 2, 2013
 - 3. Staff Presentation April 8, 2013
 - 4. Staff Report Revised April 8, 2013
 - 5. Testimony of Irvington Community Association
 - 6. Testimony of James Heuer
 - 7. Staff Memo to Applicant April 10, 2013
 - 8. Applicant Memo to Commission (no date)
 - 9. Staff Memo to Commission May 6, 2013
 - 10. Revised Staff Presentation May 13, 2013
 - 11. Revised Staff Report May 8, 2013

12. E-Mail from Irvington Community Association May 13, 2013

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).









