



February 13, 2021

Bureau of Development Services
City of Portland
1900 SW Fourth Avenue
Portland, OR 97201
bds@portlandoregon.gov

Dear Bureau of Development Services:

I am submitting this complaint about the duplex under construction at 1510 NE Fremont Street on behalf of the Land Use & Transportation Committee of the Sabin Community Association. That property is located in the Irvington Historic District. It is also within the boundaries of both the Sabin Community Association and the Irvington Neighborhood Association.

On January 13, 2020, a developer was granted permission by the Landmarks Commission to build a new duplex on that property. (*See Decision, enclosed.*) The approval stated that it was “per Exhibits C.1-C.16, signed, stamped, and dated January 13, 2020,” and Condition O was “No field changes allowed.” (*See Decision, at 10-11.*) The approval decision therefore required the project to comply with the following requirements:

- The developer was required to use (1) aluminum-clad wood windows that were (2) from Marvin’s Ultimate G-2 line. On pages 6 and 7 of the Landmarks Commission decision, the Commission expressly noted that “[t]he proposed materials include Marvin Ultimate G2 aluminum-clad windows . . . At the first hearing, the Commission supported the proposed Marvin window due to its historic proportions, and detailing, despite the aluminum clad exterior material. . . . [T]he materials are high-quality and compatible in application and detailing with the surrounding historic district.” *See Decision, at 6-7.* Confirming the requirement to use Marvin Ultimate G-2 clad wood windows, Exhibit C.3 to the Decision, which was signed and stamped “Approved” by BDS on January 13, 2020, specifies the windows will be “Marvin Ultimate G-2’ Clad Wood Window.”
- The windows were required to have 3 ¼ inch tall upper and lower rails. *See Ex. C-3 to the Decision.*
- The lower sashes were required to be recessed 4 inches from the exterior trim. *See Ex. C-3 to the Decision.*

As noted above, Condition O of the approval was “No field changes allowed.” Decision, at 11. Thus, the developer was not free to make field substitutions deviating from these requirements.

The developer now appears to have violated the approval requirements in at least¹ four ways:

- The windows are not Marvin Ultimate G-2 windows. Instead, they appear to be Milgard windows.
- The windows are not clad wood windows. Instead, they appear to be vinyl windows.
- The window rails do not appear to be 3 ¼ inches tall. Instead, they appear to be approximately 2 inches tall.
- The lower sashes do not appear to be recessed 4 inches from the wood trim. Instead, they appear to be recessed approximately half that distance.

The developer appears to have engaged in a bait-and-switch with the City and neighbors by promising a high-quality wood window with proportions and installation compatible with the surrounding historic district in order to gain permission to build the duplex, and then later substituting a cheaper product with a noticeably different appearance and aesthetics. The Sabin Community Association’s Land Use & Transportation Committee protests this blatant disregard for the considerable resources, time, and energy that the neighborhood associations and City staff invest in land use and historic review applications.

These violations of the approval requirement should be corrected immediately, before the construction progresses any further and they become more expensive to cure.

Please feel free to contact me at (503) 964-8417 or at rach.c.lee@gmail.com should you have any questions about this complaint.

Sincerely,

Rachel Lee
Chair, Sabin Land Use & Transportation Committee

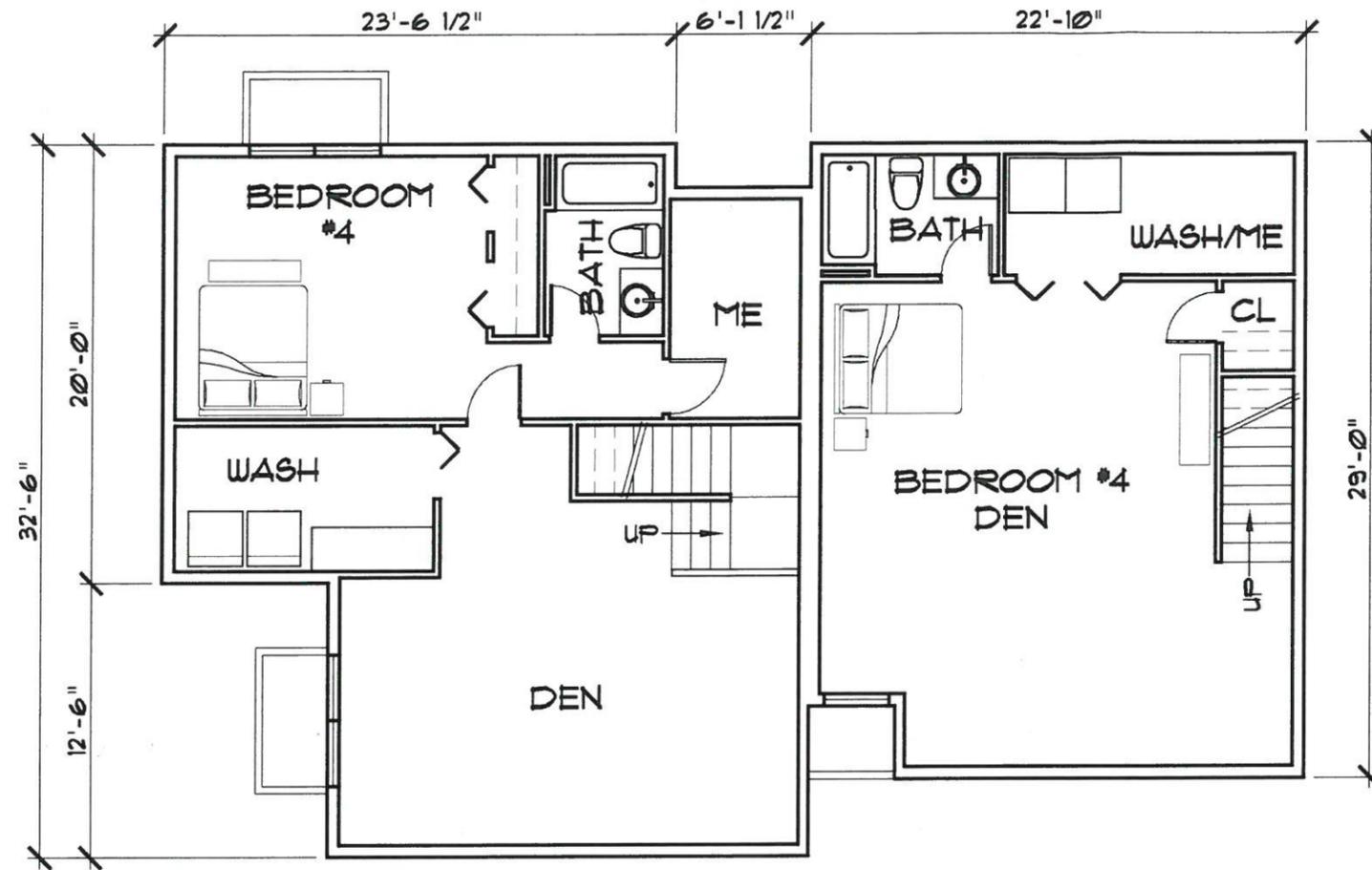
Enclosures

cc via email: Sabin Community Association Board
Sabin Land Use & Transportation Committee
Dean Gisvold

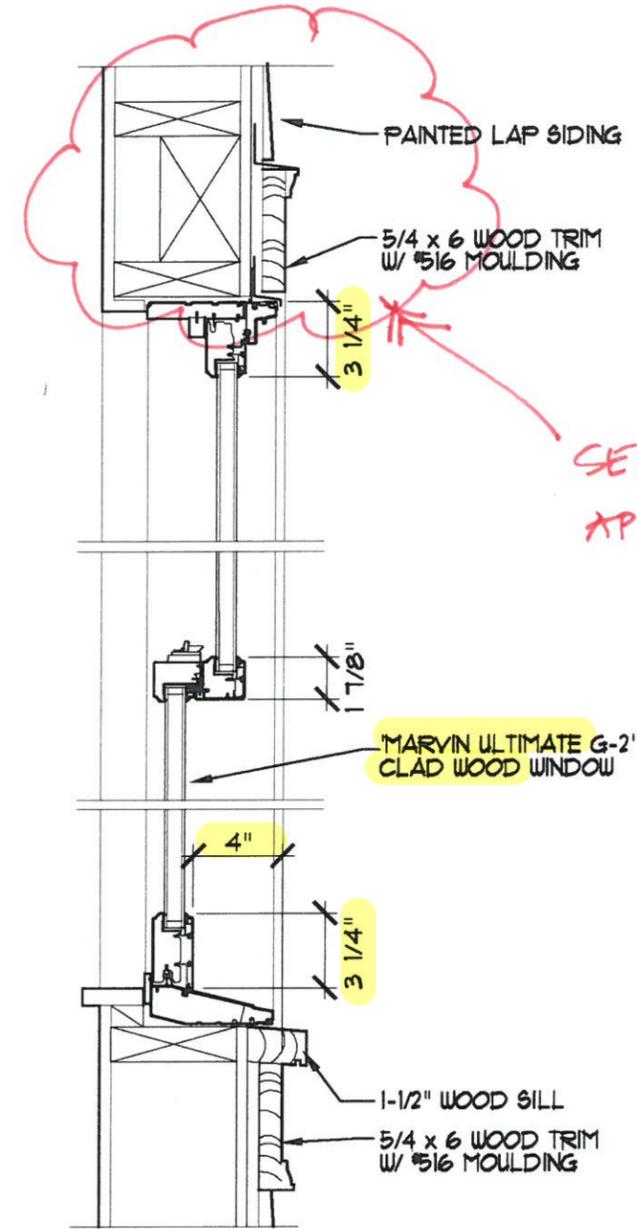
¹ It is possible that additional violations would be revealed by an inspection.



821 NW FLANDERS ST, #210
 PORTLAND, OREGON 97209
 503/679-3047
 tjarchitect@qwestoffice.net



1 BASEMENT FLOOR PLAN
 SCALE: 1/8" = 1'-0"



SEE CONDITION OF APPROVAL J.

2 WINDOW DETAIL
 SCALE: 1-1/2" = 1'-0"

Approved
 City of Portland - Bureau of Development Services
 Planner HM Date 1-13-20
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

LU 19-207837 HRM

LU 19-207837 HR	
CASE # EA 18-279927	
Date:	AUGUST 1, 2019
Revisions:	
1	OCTOBER 1, 2019
2	OCTOBER 25, 2019
3	DECEMBER 12, 2019
Project Number:	2017-05
C-8	OF 15

C.3



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Ted Wheeler, Mayor
Rebecca Esau, Director
Phone: (503) 823-7300
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www.portlandoregon.gov/bds

FINAL FINDINGS AND DECISION BY THE LANDMARKS COMMISSION RENDERED ON January 13, 2020

CASE FILE NUMBER: LU 19-207837 HRM
PC # 18-279927
New Duplex in Irvington

BUREAU OF DEVELOPMENT SERVICES STAFF: Hannah Bryant 503-823-5353 / Hannah.Bryant@portlandoregon.gov

The Historic Landmarks Commission has **approved** a proposal in your neighborhood. This document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

GENERAL INFORMATION

Applicant: Thomas Johnson | Thomas Johnson Architect
821 NW Flanders St, Suite 210
Portland, OR 97209
(503) 679-3047

Owner: Robert Ambes
PO Box 12601
Portland, OR 97212-0601

Site Address: NE 15th & NE Fremont (SE Corner)

Legal Description: BLOCK 17 LOT 9, DIXON PL
Tax Account No.: R210502476
State ID No.: 1N1E26AB 07501
Quarter Section: 2732
Neighborhood: Irvington, contact Dean Gisvold at deang@mcewengisvold.com, Sabin Community Assoc., contact Rachel Lee at sabin@necoalition.org.
Business District: Soul District Business Association, contact at info@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Laura Becker at 503-388-6088.
Plan District: None
Other Designations: Vacant non-contributing lot in the Irvington Historic District
Zoning: R5, Residential 5,000 + Historic Resource Protection Overlay
Case Type: HRM, Historic Resource Review with Modifications
Procedure: Type III, with a public hearing before the Landmarks Commission. The decision of the Landmarks Commission can be appealed to City Council.

Proposal:

The applicant requests Type III Historic Resource Review approval for a proposed two-story duplex on a 5,000 square foot corner lot in the Irvington Historic District. A two-car garage with a roof deck is proposed at the south end of the site. The driveway and garages are proposed to be accessed from NE 15th. Proposed materials include wood lap siding, aluminum clad windows, wood trim and wood garage doors.

Modification requests [PZC 33.110.220.C.1.a and Table 110-3]:

1. Decrease the east side setback in order to allow eaves to project 18” into the setback, instead of the 12” (20% of the five-foot setback) allowed by code.

Historic Resource Review is required for non-exempt development in the Irvington Historic District.

Relevant Approval Criteria:

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

33.846.060.G, Other Approval Criteria

*33.846.070 Modifications Considered
During Historic Resource Review*

ANALYSIS

Site and Vicinity: The site is a 5,000 square foot lot at the southeast corner of the intersection of NE 15th and NE Fremont. The site is within the overlapping boundaries of both the Irvington Historic District and the Sabin Neighborhood Association. It is currently a vacant lot, with large, mature trees at the corner closest to the street intersection. At this location, NE 15th is classified by the Transportation System Plan (TSP) as a Neighborhood Collector for traffic, Major Transit Priority Street, City Walkway, City Bikeway, Community Corridor, Major Emergency Response Street, and a Local Service Street for freight. NE Fremont at this location is classified as a Neighborhood Collector, City Walkway, Community Corridor, a Major Emergency Response Street, and a Local Service Street.

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.

Irvington Historic District Platted in the late Nineteenth Century as the first addition to Portland that employed restrictive covenants, the Irvington area developed intensely with a mix of middle-class housing types and sizes during the first two decades of the Twentieth Century. 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. These patterns help to lend the neighborhood the distinctive and homogeneous historic character.

Land Use History: City records indicate no prior land use reviews for this site.

Agency Review: A “Notice of proposal in Your Neighborhood” was mailed **October 17, 2019**. The following Bureaus have responded with no issue or concerns:

- Bureau of Environmental Services (exhibit E.1)
- Fire Bureau
- Site Development Section of BDS (exhibit E.4)
- Urban Forestry (exhibit E.5)
- Water Bureau (exhibit E.6)

The Portland Bureau of Transportation responded with the following comment: At time of building permit the plans shall demonstrate a low retaining wall, between 24-30 inches in height, located at the northwest corner of the driveway mirroring that constructed on the north side of the pedestrian entrance for the southern unit, and an open metal railing (if a fence is proposed) on the north side of the driveway. Please see Exhibit E-2 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **October 17, 2019**.

Three written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

- Gisvold, Dean – Irvington Community Association. November 6, 2019. The ICA sent a long memo outlining concerns and comments, as exhibited in F.1. Concerns include the entry, trim details, garage height and proportions and the gasket element between units.
- Lee, Rachel – Sabin Neighborhood Association. November 7, 2019. The Sabin Neighborhood Association has concerns about the location of the driveway and associated safety issues.
- McGrath, Teresa. October 22, 2019. A neighbor opposes the duplex due to its height and the loss of the large trees at the intersection.

PROCEDURAL HISTORY

The applicant requested a voluntary Design Advice Request (DAR). A DAR meeting was held on June 24, 2019. Summary notes from that DAR are in Exhibit G.2. The land use application was submitted on August 9, 2019. An Incomplete Letter was mailed on October 19, 2019. It was deemed complete by the applicant on October 8, 2019, with a written statement that no further revisions would be made (Exhibit A.4).

A hearing date was set for November 18, 2019 - 41 days after the applicant deemed the submittal complete. Staff provided written comments with concerns about approvability and recommendations on October 18, 2019 (Exhibit G.4). The applicant reiterated that no additional revisions would be made in response to Staff comments (Exhibit A.5). Due to a lack of details and concerns about contextual response, the staff report for the November 18, 2019 hearing recommended denial. At the November 18, 2019 hearing, the applicant requested to

continue the hearing to January 13, 2020. On that date, the application was approved with Conditions.

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 within the Irvington Historic District and the proposal is for non-exempt treatment. Therefore, Historic Resource 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

- 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 for 6: While some excavation is proposed to allow for a new driveway and street-level garage, as well as finished basements and egress windows, the chance of a significant archaeological discovery is unlikely since the work is proposed on a parcel that has previously had a driveway and below grade plumbing infrastructure. To address this approval criteria, Condition of Approval E states that if significant archaeological resources are discovered during excavation, work shall be stopped, and the State Archaeologist will be notified.

With Condition of Approval E that if significant archaeological resources are discovered during excavation, work shall be stopped and the State Archeologist notified, this criterion is met.

- 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 7: The proposed two-house massing, window material, 18” deep eaves all serve to differentiate this new development from existing surrounding historic resources. However, the narrow wood lap siding, window punch, wood trim, gable rooflines and proposed large tree plantings all serve to ensure that the proposal will blend into the fabric of the neighborhood. Anyone looking closely will be able to differentiate the new materials and construction techniques, larger window proportions and window styles as signs of contemporary construction.

Therefore, 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:

District Context

The site's location is currently one of the most significant, busy intersections in Irvington, serving as a northern gateway into the neighborhood. Both NE 15th Avenue and NE Fremont Street are transit streets, and some of the most trafficked streets in the neighborhood. However, there is no land use history or evidence of previous development on this vacant lot. At this gateway location, at the northern boundary of the Irvington Historic District, it is critical that the architecture of the new development is compatible with its historic district context.

This parcel is located in a small area of overlap between both the Irvington Historic District and the Sabin Neighborhood. The surrounding residential context is primarily modest 1 - 1 ½ story single family homes on lots that average 5,000 square feet. This parcel is one of 9 non-contributing resources (out of 56 total parcels) in the three-block radius between NE 14th and NE 16th, south of NE Fremont and north of NE Klickitat. In this zone, duplexes are allowed on corners, provided they meet some design standards intended to help maintain the single-family massing, setbacks and architectural patterns of the zone. The historic multi-dwelling buildings in Irvington are primarily at its south end, closer to NE Broadway, and not in this northern edge of the district.

Gasket

The proposed duplex is intended to look like two separate homes. The front doors face different streets. The masses each have separate, perpendicular gable roof forms. A recessed, flat-roofed gasket element is intended to minimize the appearance of a connection between the two masses. The gasket is recessed from the primary west wall and lacks windows or other ornamentation that would draw attention to it. To prevent attracting attention to a faux gasket condition on the east elevation, Condition of Approval F states that the east elevation recess shall be removed to match exhibit C.14 from the October 25, 2019 submittal.

North Façade Bay

The two duplexes share a common design language. Both have 10:12 gable rooflines, with 18" eaves, and are clad in a mix of 3.5" and 5.5" wood lap siding. The northern unit is proposed to have a two-story projecting bay with a flat roof. Unlike the rest of the building, the bay is proposed to have vertical corner trim, including as a frame around the lap siding between floor levels. The proposal does not include a dimension for the projection of the bay element, but it appears to be projecting from the front façade by approximately 18". The projection serves to add visual texture to the north façade and to reduce the perceived scale of that façade but needs additional refinement to ensure consistent design with the rest of the building. To strengthen the coherency of the bay and to utilize the same design elements proposed for the rest of the house, Condition of Approval G states that the north bay shall match Option 2, Bay with Siding, as shown on exhibit C.15. This configuration shall supersede the bay as shown on the north elevation. The exhibit approved through the Condition has a similar corner condition to

the rest of the house, while the originally proposed condition introduces a corner trim element that does not exist anywhere else on the proposed building.

Garage

Prior to the first hearing, the Irvington Community Association noted concerns with the tall proportions of the southern garage – exacerbated by the exposed metal railing on top - as well as the disproportionate amount of blank wall above the north garage bay. The garage height has been reduced since the first hearing, and with Condition of Approval C, that the roof deck and exterior railings shall be wood, the garage will better reflect the small, utilitarian style of garages and carriage houses in this district.

The driveway entrance should also reflect typical conditions in scale and width. Existing drawings continue to show a wider driveway entrance than the Portland Bureau of Transportation typically approves for residential conditions. Therefore, the Portland Bureau of Transportation requests the addition of Condition of Approval M, that the proposed driveway on NE 15th Avenue shall have a maximum width of nine feet. Any wider driveway shall require an approved driveway design exception review, to be approved prior to the issuance of a building permit.

Windows

In this historic district, street facing facades are typically very balanced, with a consistent header height and consistent window size and style. Condition of Approval L states that the second-floor window type shall be double hung, as shown on exhibit 13.A. The double hung windows on the upper stories will better relate to the typical window style on surrounding historic resources, and will match the proposed ground floor windows on this building.

Entrances

Front entrances in this district are typically designed to be of grand proportions. It is common for wide stairs to lead from the street to covered front porches that span the full width of the house, and a wide entrance flanked by side lights. The spatial constraints of fitting this duplex and garages on a standard 5,000 square foot lot preclude adding large front porches to both units. To do so would dramatically reduce the front setback of each unit and would diverge from the massing pattern that is typical of this area. To achieve a sense of openness and generous proportions, the recessed entries are open on two sides, with a single column at the front corner. The north entrance has both a transom and sidelight, while the west entrance has only a transom. Both are highlighted by wall-mounted lights to illuminate their individual stairs to the street. Inconsistencies in the drawings submitted include multiple configurations for the entrance to the south unit. Therefore, Condition of Approval N states that the south entrance shall be revised to reflect a porch post at the entry, as shown on site plan C.1.

Each unit has secondary doors, including patio doors, a back door on the north unit, and a second story roof deck door on the south unit. To ensure compatibility with the surrounding district, Condition of Approval I states that all doors, sidelites and transoms on the south, west and north facades shall be wood, and any muntin bars shall be wood exterior simulated divided lites with internal spacers; all doors shall be swing doors.

Materials + Details

The proposed materials include Marvin Ultimate G2 aluminum clad windows with wood trim, wood garage doors, wood lap siding with 4” and 6” reveals, and metal railings. Basement level window wells are proposed on three facades. At the first hearing, the

Commission supported the proposed Marvin window due to its historic proportions and detailing, despite the aluminum clad exterior material.

With Condition of Approval C, that the roof deck and exterior railings are wood, and Condition of Approval I, that all doors, sidelites and transoms on the south, west, and north facades shall be wood, with wood muntins and internal spacers, the materials are high-quality and compatible in application and detailing with the surrounding historic district.

Trim

5 ½ inch wood trim is proposed around all windows and doors. Additionally, a narrow wood 'belly band' is proposed above the second story windows on some facades of both units. This 2x8 horizontal band is level with the top casing of the second-story windows. Analysis of photos of all properties in the district reveals that when a horizontal element is applied above the second story on a gable façade, it is typically more ornate, such as a dentil shelf or layered trim elements, and is utilized in conjunction with brackets, cornice trim above windows, attic level windows and front porches to add rich detailing. To enhance compatibility and to utilize this element in a manner more consistent with the historic homes in this district, Condition of Approval J states that the horizontal band on both west and street facing gable ends shall be a minimum of 8" tall, and shall be located with the bottom edge of the horizontal belly band at the same level as the top of the vertical wall plane, where it abuts the bottom of the gable. Second floor windows shall be disengaged from the trim band and shall have a projecting top trim pieces as shown on exhibit C.3. This will improve the proportions and reduce the perceived distance between the second-story and attic-story windows.

Eaves

In this district, eaves are often very deep. Two- and three-story homes in Irvington may have eaves up to three feet deep, with decorative exposed rafter tails. For a building of this height and scale, deep eaves are appropriate and help to enhance the compatibility of this new development with its historic neighbors. The proposed eaves are 18" deep and are the shallowest eaves appropriate for a building of this scale in this Historic District. Since eave depth is not dimensioned on the elevations, and is only shown on a single building section, Condition of Approval D states that all eaves on gable roofs shall be a minimum of 18" deep, measured horizontally from wall to eave edge.

Trees

The site is currently a vacant lot, notable for its tall trees at the northwest corner, close to the intersection of NE 15th and NE Fremont. Numerous neighbors have called and written letters to express support for retaining these mature trees. While retention of the existing trees is not possible, the applicant has proposed planting numerous large canopy trees that will eventually replace the existing tree canopy while providing a more diverse, seasonally interesting palette. Condition of Approval K states that a large canopy tree, with a minimum mature height and width of 30' shall be planted at the northwest corner of the site.

With Condition of Approval C that the roof deck and exterior railings shall be wood;

Condition of Approval D that all eaves on gable roofs shall be a minimum of 18" deep measured horizontally from wall to eave edge;

Condition of Approval F that the east elevation recess shall be removed to match exhibit C.14 from the October 25, 2019 submittal;

Condition of Approval G that the north bay shall match Option 2, Bay with Siding, as shown in exhibit C.15. This configuration shall supersede the bay as shown on the north elevation;

Condition of Approval I that all doors, sidelites and transoms on the south, west, and north facades shall be wood, with wood exterior muntins and internal spacers; all doors shall be swing doors;

Condition of Approval J that the horizontal band on both west and street facing gable ends shall be a minimum of 8" tall, and shall be located with the bottom edge of the horizontal belly band at the same level as the top of the vertical wall plane, where it abuts the bottom of the gable; second floor windows shall be disengaged from the trim band and shall have a projecting top trim pieces as shown on exhibit C.3;

Condition of Approval K that a large canopy tree, with a minimum mature height and width of 30' shall be planted at the northwest corner of the site;

Condition of Approval L that second floor window types shall be double hung as shown on exhibit 13.A;

Condition of Approval M that the proposed driveway on NE 15th Avenue shall have a maximum width of nine feet. Any wider driveway shall require an approved driveway design exception review, to be approved prior to the issuance of a building permit, and

Condition of Approval N that the south entrance shall be revised to reflect a porch post at the entry, as shown on site plan C.1., these criteria are met.

33.846.070 Modifications Considered During Historic Resource Review

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the historic resource review process. These modifications are done as part of historic resource review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through historic resource review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- A. **Better meets historic resource review approval criteria.** The resulting development will better meet the approval criteria for historic resource review than would a design that meets the standard being modified; and
- B. **Purpose of the standard.**
 - 1. The resulting development will meet the purpose of the standard being modified; or
 - 2. The preservation of the character of the historic resource is more important than meeting the purpose of the standard for which a modification has been requested.

Modification #1: Setbacks (PZC 33.110.220.C.1.a and Table 110-3) - Decrease the east side setback to allow eaves to project 18" into the setback, instead of the 12" (20% of the five-foot setback) allowed by code.

Purpose Statement: The setback regulations for buildings and garage entrances serve several purposes:

- They maintain light, air, separation for fire protection, and access for firefighting;
- They reflect the general building scale and placement of houses in the city's neighborhoods;
- They promote a reasonable physical relationship between residences;
- They promote options for privacy for neighboring properties;
- They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
- They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.

Standard: 33.10.220.C.1.a and Table 110-3. Eaves of a building may extend into a required building setback up to 20 percent of the depth of the setback. However, the feature must be at least three feet from a lot line.

A. *Better meets historic resource review approval criteria.* The resulting development will better meet the approval criteria for historic resource review than would a design that meets the standard being modified; and

Findings: The modification to decrease the side setback to allow a deeper eaves allows the eaves to be more compatible with the character defining deep eaves of surrounding historic resources while also maintaining compatible street setbacks on both street frontages of this corner lot. To meet the code standard, the proposal would have to either reduce the eave depth to 12" or shift the footprint of the house 6" to the west, which would reduce the building's setback from NE 15th Avenue. Either of these options would decrease the proposal's compatibility with the surrounding historic district.

Therefore, the Modification better meets approval criterion 8 – Architectural Compatibility, and merits approval to enhance the compatibility with the district.

B. *Purpose of the standard.* The resulting development will meet the purpose of the standard being modified or the preservation of the character of the historic resource is more important than meeting the purpose of the standard for which a modification has been requested.

Findings: Setbacks are intended to maintain light and separation between buildings, while also reflecting the general building scale and placement of houses in the city's neighborhoods. The proposal to increase the eave depth in the east side setback by 6" does not reduce the perceived space between structures and will not impact the adjacent property's access to light. It does better meet the approval criteria and reflects the general building placement of houses by maximizing the setback from the street frontages.

Therefore, this Modification merits approval.

CONCLUSIONS

The purpose of the Historic Resource 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 proposal to add two new dwelling units to a vacant non-contributing parcel will provide additional needed housing without displacement or demolition

of existing structures. This proposal meets the applicable Historic Resource Review criteria and Modification criterion, and therefore warrants approval.

LANDMARKS COMMISSION DECISION

It is the decision of the Landmarks Commission to approve Historic Design Review for a two-story duplex on a 5,000 square foot corner lot in the Irvington Historic District with a two-car garage accessed from NE 15th Avenue.

Approval of the following Modification requests:

1. Decrease the east side setback to 3'-6" to allow eaves to project 18" into the 5' standard setback [PZC 33.110.220.C.1.a and Table 110-3].

Approvals per Exhibits C.1-C-16, signed, stamped, and dated January 13, 2020, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through O) 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 19-207837 HR". All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. Deck and exterior stair railings shall be wood.
- D. All eaves on gable roofs shall be a minimum of 18" deep, measured horizontally from wall to eave edge.
- E. If significant archaeological resources are discovered during excavation, work shall be stopped, and the State Archaeologist will be notified.
- F. The east elevation recess shall be removed to match exhibit C.9 from the October 25, 2019 submittal.
- G. The north bay shall match Option 2, Bay with Siding (exhibit C.15). This configuration shall supersede the bay as shown on the north elevation.
- H. Not Used.
- I. All doors, sidelites and transoms on the south, west and north facades shall be wood, and any muntin bars shall be wood exterior simulated divided lites with internal spacers. All doors shall be swing doors.
- J. The horizontal band on both west and north street facing gable ends shall be a minimum of 8" tall, and shall be located with the bottom edge of the horizontal belly band at the same level as the top of the vertical wall plane, where it abuts the bottom of the gable. Second floor windows shall be disengaged from the trim band and shall have a projecting top trim piece as shown on exhibit C.3.

- K. A large canopy tree, with a minimum mature height and width of 30' shall be planted at the northwest corner of the site.
- L. Second floor window type shall be double hung as shown on exhibit 13.A.
- M. The proposed driveway on NE 15th Avenue shall have a maximum width of nine feet. Any wider driveway shall require an approved driveway design exception review, to be approved prior to the issuance of a building permit.
- N. The south elevation view on sheet C.15 shall be revised to reflect a porch post at the entry, as shown on site plan C.1.
- O. **No field changes allowed.**

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By: 
 Kristin Minor, Landmarks Commission Chair

Application Filed: August 9, 2019
 Decision Filed: January 14, 2020

Decision Rendered: January 13, 2020
 Decision Mailed: January 30, 2020

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 August 9, 2019, and was determined to be complete on October 8, 2019.

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 August 9, 2019.

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.2. Unless further extended by the applicant, **the 120 days will expire on: October 7, 2020**

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 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. Appeals must be filed by 4:30 pm on February 13, 2020 at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. 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. Please call the file review line at 503-823-7617 for an appointment.

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).

Upon submission of their application, the applicant for this land use review chose to waive the 120-day time frame in which the City must render a decision. This additional time allows for any appeal of this proposal to be held as an evidentiary hearing, one in which new evidence can be submitted to City Council.

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 \$5000.00 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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded on or after February 14, 2020 by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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.

Hannah Bryant
January 27, 2020

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).

EXHIBITS – NOT ATTACHED UNLESS INDICATED

- A. Applicant's Submittals
 1. Original Submittal
 2. 120-Day Waiver
 3. Response to Incomplete Submittal October 25, 2019
 4. Email from Applicant noting no additional changes will be made
 5. Not Used
 6. Alternative drawings
 7. Revised Submittal, December 12, 2019
 8. Email from Applicant, November 15, 2019
 9. Email from Applicant, November 18, 2019
 10. Vents, Mechanical and Renderings
 11. Revised Submittal, October 1, 2019
 12. Email from Applicant, October 25, 2019
 13. Stormwater Management Plan
- B. Zoning Map (attached)
- C. Plans & Drawings
 1. Site Plan (attached)
 2. Zoning Data Plan
 3. Basement Plan + Window Detail
 4. Ground Floor Plan
 5. Second Floor Plan
 6. Roof Plan
 7. North Elevation
 8. West Elevation
 9. East Elevation
 10. South Elevation + Porch Detail + Building Section
 11. Landscape Plan
 12. Planting Plan (two sheets)
 13. Irrigation Plan
 14. Cutsheets (five pages)
 15. Bay with Siding (as required by Condition of Approval G)
 16. East Elevation from October 25, 2019 submittal (required by Condition of Approval F.)

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 Engineering and Development Review
3. Site Development Review Section of BDS
4. Urban Forestry
5. Water Bureau

F. Letters

1. Gisvold, Dean – Irvington Community Association. November 6, 2019. The ICA sent a long memo outlining concerns and comments, as exhibited in F.1. Concerns include the entry, trim details, garage height and proportions and the gasket element between units.
2. Lee, Rachel – Sabin Neighborhood Association. November 7, 2019. The Sabin Neighborhood Association has concerns about the location of the driveway and associated safety issues.
3. McGrath, Teresa. October 22, 2019. A neighbor opposes the duplex due to its height and the loss of the large trees at the intersection.

G. Other

1. Original LUR Application
2. DAR Summary Notes
3. Incomplete Letter, October 19, 2019
4. Staff Email outlining outstanding issues

H. First Hearing

1. Staff Report
2. Staff Memo
3. Staff Presentation
4. Applicant Presentation
5. Testimony Sign Up Sheet

Second Hearing

6. Staff Report
7. Staff Memo
8. Staff Presentation