



## COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

# Notice of Decision

## Historic Review of Substitute Materials

HI-12-21

September 7, 2021

Type of Application:	Historic Review of Substitute Materials, specific to replacement of 34 windows (PVC vinyl for wood) on a historic contributing church building.
Review Body:	Landmarks Commission (Type III review)
Property Owner/Applicant:	Baptist Church of Albany/Willamette Community Church, Scott Miller 420 Third Avenue SE, Albany, OR 97321
Address/Location:	420 Third Avenue SE, Albany, OR 97321
Map/Tax Lot:	Linn County Tax Assessor's Map No. 11S-03W-06CD; Tax Lot 9300
Zoning:	Hackleman Monteith (HM) Zone District, Hackleman National Historic Overlay District

On September 1, 2021, the Albany Landmarks Commission **DENIED** the application as described above. The commission based its decision upon the review criteria listed in the Albany Development Code (ADC) and their deliberations of September 1, 2021. The supporting documentation relied upon by the commission in making this decision is available for review at City Hall, 333 Broadalbin Street SW, Albany, OR 97321. For more information, please contact Nikki Cross, project planner, at 541-791-0176 or [Nikki.Cross@cityofalbany.net](mailto:Nikki.Cross@cityofalbany.net).

The decision may be appealed to the city council if a person with standing files notice of appeal and the appeal fee no later than 10 days from the date the City mails the notice of decision.

*signature on file*

Landmarks Commission Chair

**Appeal Deadline: Before 5:00 p.m. on September 17, 2021**

**Appeal Filing Fee: \$953.00**

## Procedure for Appeal

Below are relevant provisions from Article 1, Sections 1.420 – 1.470 of the ADC describing the appeal procedure. The timely and complete filing of the notice of appeal and payment of the appeal fee are required for an appeal. The required timeframes for filing an appeal are specified under each review type. The Community Development Director cannot accept a notice of appeal that does not comply with this section. The Director's determination that an appellant has failed to comply with this section is final.

1.420 Requirements of Notice of Appeal. A Notice of Appeal of a decision to the Planning Commission, Landmarks Commission or City Council shall contain:

- (1) Identification of the decision sought to be reviewed, including the date of the decision.

- (2) A statement of the interest of the person seeking review and that they were a party to the initial proceedings.
- (3) The specific policy or criteria relied upon for review.
- (4) If de novo review is requested or required, a statement summarizing the new evidence that will be offered and the criteria to which it will relate.
- (5) Decisions appealed to circuit court or LUBA must follow those body's appeal procedures and criteria.

1.430 Notice of a Planning Commission, Landmarks Commission or City Council Appeal Hearing.

- (1) Written Notice. Notice of a Planning Commission, Landmarks Commission or City Council appeal hearing must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing at least 10 days prior to the hearing.
- (2) Posted Notice. A development site that is the subject of a Planning Commission, Landmarks Commission or City Council appeal hearing shall be posted unless otherwise noted in this Code. Posted notice is deemed given on the day the sign is first posted. The applicant shall be responsible for providing a sign frame for the notice and also for posting the notice at the correct time and location. The actual notice to be posted on the sign shall be provided by the City. The posting shall meet the following requirements:
  - (a) The notice shall be at least 2 feet by 3 feet.
  - (b) The notice shall be posted in a location visible from a traveled public road or street abutting the property. (If no public street abuts the property, the notice shall be placed so as to be generally visible to the public.)
  - (c) The notice shall be posted for at least seven consecutive days before any public hearing on the matter.
  - (d) If the subject property is a corner lot, then two signs are required in locations defined in (b) above.
  - (e) At least five days before any hearing (or decision made by the Director), an affidavit of posting shall be filed with the Director.
  - (f) If the subject property is not properly posted as set forth in this section, the Director may postpone the hearing until such provisions are met.
  - (g) The posted notice shall display the nature of the application and a telephone number for more information. The posted notice shall also include a photocopy of the original mailed notice sent to affected property owners.

1.440 Scope of Review. The reviewing body shall determine the scope of review on appeal to be one of the following:

- (1) Restricted to the record made on the decision being appealed.
- (2) Limited to such issues as the reviewing body determines necessary for a proper resolution of the matter.
- (3) A de novo hearing on the merits.
- (4) Decisions appealed to circuit court or LUBA will be subject to those body's review policies and procedures.

1.450 Hearings. Appeal hearings are quasi-judicial hearings and shall be conducted in accordance with the procedures in ADC 1.510 through 1.590.

- (1) Review on the Record. Unless otherwise required by law, the reviewing body may hear the entire matter on the record.

- (a) When the reviewing body requests a review on the record, the record shall include:
    - i. A factual report prepared by the Director.
    - ii. All exhibits, materials, pleadings, memoranda, stipulations, and motions submitted by any party and received or considered in reaching the decision under review.
    - iii. The minutes of the hearing.
  - (b) The reviewing body may make its decision based only upon the record.
- (1) De Novo Hearing. The reviewing body may hear the entire matter through a de novo hearing. “De novo hearing” shall mean a hearing by the review body as if the request had not been previously heard and as if no decision had been rendered, except that all testimony, evidence, and other material from the record of the previous consideration may be included in the record of the review.
- 1.460 Review Body Decision. Upon review, the reviewing body may affirm, remand, reverse, or modify in whole or in part a determination or requirement of the decision that is under review. When the reviewing body modifies or reverses a decision of the previous review body, the reviewing body shall set forth its findings and state its reasons for taking the action. When the reviewing body elects to remand the matter back to the previous review body for such further consideration as the reviewing body deems necessary, it may include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such error.
- 1.470 Withdrawing an Appeal.
- (1) At any time before the close of an appeal hearing, any appellant may withdraw the appeal. The appellant must provide written notice of the withdrawal prior to 5:00 p.m. the day of the hearing, or orally at the hearing.
  - (2) If the withdrawal is made before public notice of the hearing is sent, the City will refund the appeal fee.
  - (3) Where multiple people or parties sign and file a single Notice of Appeal, all parties to the original filing must consent to the withdrawal of the appeal.
  - (4) A withdrawn appeal cannot be refiled by any party subject to the original appeal.
  - (5) If all appeals are withdrawn, the Director must issue a Notice of Appeal Withdrawal to the applicant, the appellant, and the parties who received a Notice of Final Decision.