



City of Portland
Bureau of Development Services
Land Use Services Division

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Portland, Oregon 97201
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Date: December 17, 2008
To: Interested Person
From: Noelle Elliott, Land Use Services
503-823-7812 / Noelle.Elliott@ci.portland.or.us

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-129573 DZ – MECHANICAL UNITS ON THE MARK SPENCER HOTEL

GENERAL INFORMATION

Applicant: Peter A Nathan, Listed Owner
2455 NW Marshall St
Portland, OR 97210

Representative: Eric Van Orden, Portland Mechanical Contractors Inc, 503-969-8059
2000 SE Hanna Harvester Dr
Milwaukie, OR 97222

Site Address: 409 SW 11th Ave

Legal Description: LOT 1&2 BLOCK 255, PORTLAND
Tax Account No.: R667728250
State ID No.: 1N1E33DD 02000
Quarter Section: 3028

Neighborhood: Downtown Cmty Assoc., contact Jennifer Geske at 503-750-9843.
Business District: Downtown Retail Council, contact Portland Business Alliance at 503-224-8684.

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Plan District: Central City - West End
Zoning: RXd: Central Residential zone with a design overlay

Case Type: DZ: Design Review
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant seeks design review approval to install fourteen new mechanical units on the roof of the Mark Spencer Hotel building. The units include thirteen new condensing units and one exhaust fan. The new units will replace existing individual air conditioning units that are located on the east and north building façade within the window bays, facing SW 11th Ave and

SW Stark St, respectively. The existing units will be removed from the windows. In addition, fourteen existing exhaust fans that are dispersed across the roof will be removed. The height of the roof parapet ranges from 3'-0" to 3'-6", with a taller pediment-shaped portion at the southeastern edge facing SW 11th Ave.

The new condensing units each measure 6'-3" tall, 2'-9" deep, and vary in width from 4'-2" to 6'-6 ½". The new units will be grouped in the southwest corner of the roof, and located a minimum of 12'-9" to the outer edge of the south-facing parapet, and 4'-8" from the outer edge of the west-facing parapet. They will be located 61'-0" south of the northern parapet (facing SW Stark St), and 4'-0" south of an existing roof penthouse that measures 8'-6" tall. The new units will be aligned with the eastern edge of the penthouse. The units are to be placed approximately 71'-0" from the western edge of the parapet facing SW 11th Ave. A new exhaust fan measuring 3'-10" wide and 2'-10" tall will be placed alongside the condensing units.

Note: Since the proposal notice was mailed, a screen structure has been added to the proposal that will screen the new mechanical units from views from the existing roof deck. The new screen measures approximately 39'-0" long and 7'-7" tall, and will be clad in a vertical seam metal panel painted to match the existing penthouse.

Because the proposal is in a district with design guidelines and exterior alterations are proposed, Design Review is required.

Relevant Approval Criteria:

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

- Chapter 33.825 Design Review
- Central City Fundamental Design Guidelines

ANALYSIS

Site and Vicinity: The quarter-block site sits on the block bound by SW Stark and Washington Streets and SW 11th and 12th Avenues, and is within the Central City's West End neighborhood. The West End is viewed as having exceptional assets including important cultural and religious institutions, community services, unique retail and entertainment areas, and attractive residential areas. The site is developed with a 52,682 square-foot building that was constructed in 1908. The building was originally known as the Nortonia Hotel, but today the building houses the Mark Spencer Hotel. The block on which the building sits includes the Historic Landmark Telegram Building to the south, the Washington Plaza to the west and a small two-story quarter-block structure to the northwest. The building fronts SW 11th Street, a Community Main Street, Local Service Bikeway, and Central City Transit/ Pedestrian Street, and SW Stark Street, a Local Service Bikeway. The block is within the Downtown Pedestrian District.

Zoning: The Central Residential (RX) zone is a high-density, multi-dwelling zone that allows the highest density of dwelling units of the residential zones. The maximum size of buildings and intensity of use are regulated by floor area ratio limits and other site development standards. The major types of new housing development will be medium- and high-rise apartments and condominiums, often with allowed retail, institutional, or other service-oriented uses.

The design (d) overlay zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area

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

- 02-103133 DZ: Design Review approval of a new main entrance canopy, railings and exterior uplighting for the Mark Spencer Hotel;
- 02-139206 HDZM AD: Historic Design Review approval for the renovation of the Telegram Building to provide retail/restaurant occupancy on the ground floor, office space on the second, third and new fourth floor penthouse and two levels of basement parking to accommodate the building employees as well as parking for the adjacent Mark Spencer Hotel.
- 02-139580 PR: Central City Parking Review approval for 51 parking stalls in a 2-level underground basement below the existing Telegram Building.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed on **July 14, 2008**. The following Bureaus have responded with no issues or concerns:

- Portland Fire & Rescue;
- Portland Water Bureau;
- Bureau of Environmental Services;
- Urban Forestry Division of Portland Parks & Recreation;
- Bureau of Transportation Engineering & Development Review;
- Site Development Section of the Bureau of Development Services;

The Life Safety (Building Code) Section of the Bureau of Development Services responded with the following comment: “The structure is enrolled in the Facilities Permits Program (FPP). Please contact the assigned Facilities plans examiner/building inspector for building code requirements. FPP main telephone number (503) 823-5521.” *Please see Exhibit E.1 for additional details.*

Neighborhood Review: A “Notice of Proposal in Your Neighborhood” was mailed on **July 14, 2008**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Chapter 33.825 Design Review

Section 33.825.010 Purpose of Design Review

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

Section 33.825.055 Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

Findings: The site is designated with design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site’s location, the applicable design guidelines are the Central City Fundamental Design Guidelines.

Central City Fundamental Design Guidelines

These guidelines provide the constitutional framework for all design review areas in the Central City.

The Central City Fundamental Design Guidelines and the River District Design Guidelines focus on four general categories. **(A) Portland Personality**, addresses design issues and elements that reinforce and enhance Portland’s character. **(B) Pedestrian Emphasis**, addresses design issues

and elements that contribute to a successful pedestrian environment. **(C) Project Design**, addresses specific building characteristics and their relationships to the public environment. **(D) Special Areas**, provides design guidelines for the four special areas of the Central City.

Central City Plan Design Goals

This set of goals are those developed to guide development throughout the Central City. They apply within the River District as well as to the other seven Central City policy areas. The nine goals for design review within the Central City are as follows:

1. Encourage urban design excellence in the Central City;
2. Integrate urban design and preservation of our heritage into the development process;
3. Enhance the character of the Central City's districts;
4. Promote the development of diversity and areas of special character within the Central City;
5. Establish an urban design relationship between the Central City's districts and the Central City as a whole;
6. Provide for a pleasant, rich and diverse pedestrian experience for pedestrians;
7. Provide for the humanization of the Central City through promotion of the arts;
8. Assist in creating a 24-hour Central City which is safe, humane and prosperous;
9. Ensure that new development is at a human scale and that it relates to the scale and desired character of its setting and the Central City as a whole.

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

B2. Protect the Pedestrian. Protect the pedestrian environment from vehicular movement. Develop integrated identification, sign, and sidewalk-oriented night-lighting systems that offer safety, interest, and diversity to the pedestrian. Incorporate building equipment, mechanical exhaust routing systems, and/or service areas in a manner that does not detract from the pedestrian environment.

Findings: Due to the proposed scale and placement of the rooftop mechanical units, and the removal of existing units from the building's street-facing facades, the proposal protects and improves the character of the pedestrian environment at the street.

- The mechanical units are grouped at the southwest corner of the roof, a minimum of 12'-9" from the outer edge of the south-facing parapet and 4'-8" from the outer edge of the west-facing parapet, occupying a mid-block location. In addition, the units are substantially set back from both street facing building façades, a minimum of 71'-0" from the east-facing parapet (SW 11th Avenue) and 61'-0" from the north-facing parapet (SW Stark Street).
- The proposed condensing units each measure 6'-3" tall, 2'-9" deep, and vary in width from 4'-2" to 6'-6 ½". The units are aligned with an existing penthouse.
- The new mechanical units allow existing individual air conditioning units, installed within the window bays at the north and east building façades, to be removed.
- The new screen structure, located along the eastern edge of the mechanical units, further screens views of the units from both building users at the roof deck, and from the street.

By placing the mechanical equipment on the roof, the pedestrian zone is protected. In addition, their rooftop location, which is significantly set back from street-facing building edges, allows the building's internal needs to be met without detracting from the pedestrian environment. *Therefore, this guideline is met.*

C2. Promote Quality and Permanence in Development. Use design principles and building materials that promote quality and permanence.

Findings: The material composition of the proposed units, along with their careful placement on roof, promotes the quality and permanence of the existing building.

- The new units are aligned with an existing 8'-6"-tall penthouse and installed in the southwest corner of the roof, a mid-block location, set back from all building edges.
- The units are of durable construction, made of pre-coated galvanized sheet metal with a baked enamel finish.
- The proposal allows for the removal of window air conditioning units at the north and east building façades, as well as fourteen existing exhaust fans that are dispersed across the roof surface.
- The new screen structure is constructed of durable metal materials that support its long-lasting presence on the building. In addition, the new screen supports the use of the roof as active space for building users by improving the aesthetics of the rooftop environment.

Thus, the proposal offers a carefully considered and well-integrated HVAC solution, which promotes the quality and permanence of this 1908 building. *Therefore, this guideline is met.*

C3. Respect Architectural Integrity. Respect the original character of an existing building when modifying its exterior. Develop vertical and horizontal additions that are compatible with the existing building, to enhance the overall proposal's architectural integrity.

C5. Design for Coherency. Integrate the different building and design elements including, but not limited to, construction materials, roofs, entrances, as well as window, door, sign, and lighting systems, to achieve a coherent composition.

C11. Integrate Roofs and Use Rooftops. Integrate roof function, shape, surface materials, and colors with the building's overall design concept. Size and place rooftop mechanical equipment, penthouses, other components, and related screening elements to enhance views of the Central City's skyline, as well as views from other buildings or vantage points. Develop rooftop terraces, gardens, and associated landscaped areas to be effective stormwater management tools.

Findings for C3, C5 and C11: The proposal introduces an HVAC solution to the rooftop of the existing building that respects the original character of the building.

- The proposal includes the replacement of existing window air conditioning units and roof-mounted exhaust fans, with thirteen roof-mounted condensing units and one exhaust fan, allowing for a more traditional façade treatment, and a more orderly and coherent rooftop design.
- The units are significantly set back from the building's street-facing roof edges: a minimum of 71' from the eastern edge of the parapet (SW 11th Ave) and 61' from the northern parapet (SW Stark Street), and therefore, do not impact the views of the building from the street.
- The proposed units are appropriately proportioned for the scale of the building, with the new units each measuring 6'-3" tall, 2'-9" deep, and varying in width from 4'-2" to 6'-6 ½". In addition, the units are aligned along the northern edge of an existing penthouse that is 8'-6" tall, which help to screen the units from views from a northern vantagepoint.
- The units are aligned in four orderly rows, creating an organized and uncluttered rooftop, which allows views of the city's skyline to be protected.
- The new screen structure limits views of the new mechanical units from the street and neighboring buildings, and helps to improve the appearance of the rooftop environment. By hiding the new equipment from the existing roof deck, greater activation of the roof deck is encouraged.

Therefore, these guidelines 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 design review process exists to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The proposal meets the applicable design guidelines and therefore warrants approval. The proposal represents a vast improvement to the aesthetics of the building, helping to improve the street-facing facades and reinforce the historic character of the building. In a similar manner, the removal of existing vents on the roof improves the aesthetic character of the rooftop environment, allowing for future usage as a larger roof deck/garden space. The location of the new units and a screen structure at the southwestern corner of the building, in a mid-block location, minimizes their visual presence by helping to screen visibility from neighboring buildings and the street.

ADMINISTRATIVE DECISION

Approval of the removal of existing mechanical units from the street-facing facades, removal of vents from the roof, the addition of thirteen new condensing units and one exhaust fan, each measuring 6'-3" tall, 2'-9" deep, and varying in width from 4'-2" to 6'-6 1/2", and a new screen measuring approximately 39'-0" long and 7'-7" tall, per the approved site plans, Exhibits C-1 through C-6, signed and dated December 15, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required drawings and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.6. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-129573 DZ. No field changes allowed."

Decision rendered by:  **on December 15, 2008**
By authority of the Director of the Bureau of Development Services

Decision mailed: December 17, 2008

Staff Planner: Noelle Elliott

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 May 15, 2008, and was determined to be complete on **July 8, 2008**.

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 May 15, 2008.

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.3

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. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this

information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project 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.

Appealing this decision. This decision may be appealed to the Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on December 31, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. 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 the Design Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

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 the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Design Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

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 **January 2, 2009 – (the first workday following the last day to appeal).**
- 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

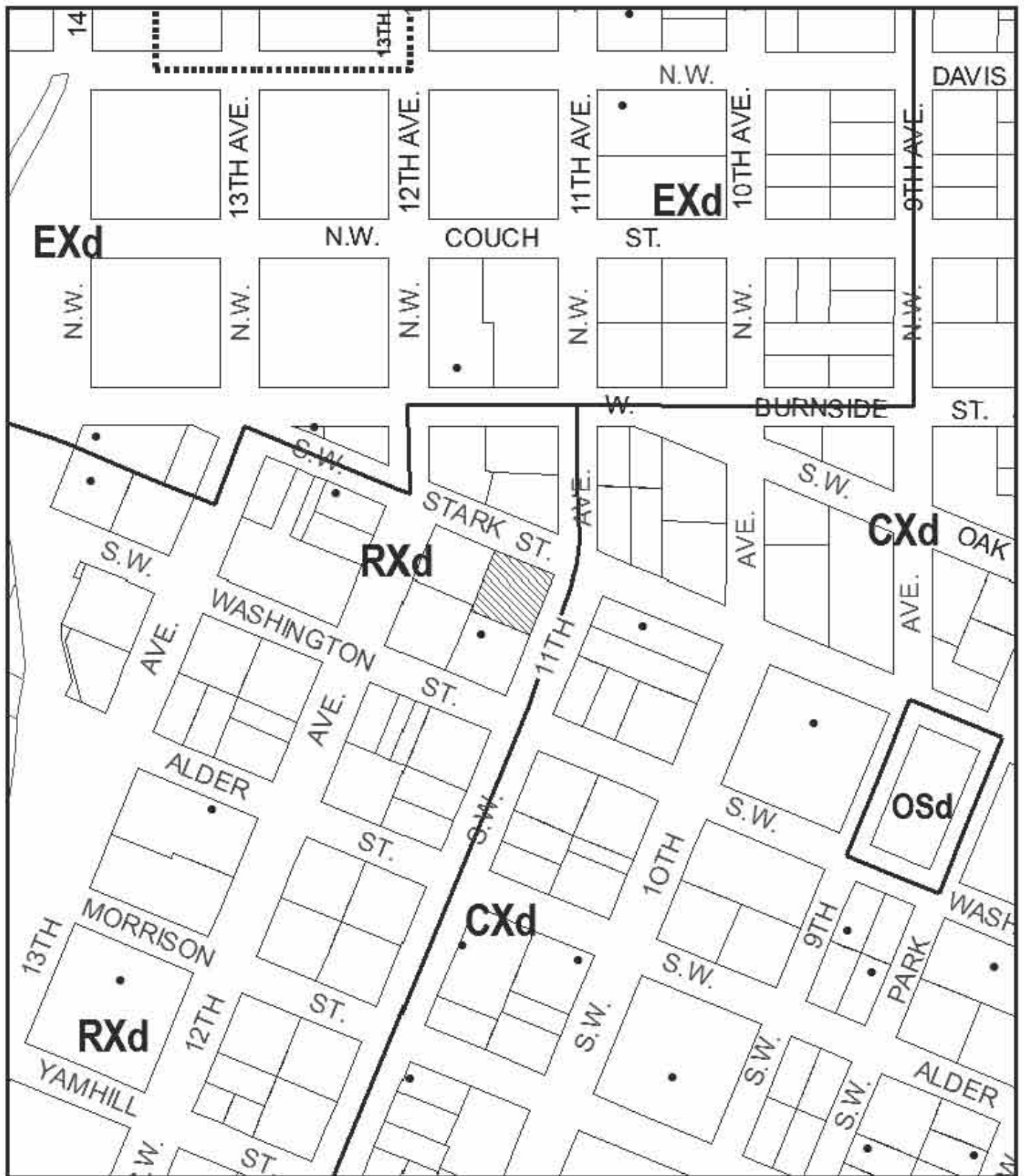
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- 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. Statement and Drawings
 - 2. Additional Information
 - 3. 120-Day Waiver
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan/Roof Plan (attached)
 - 2. Demolition Roof Plan
 - 4. North Elevation (facing Stark St), East Elevation (facing SW 11th Ave) (attached)
 - 5. Roof-mounted Mechanical Unit - Manufacturer's Cutsheet
 - 6. Screen Elevation (attached)
 - 7. Metal Panel - Manufacturer's Cutsheet
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life-Safety Plans Examiner of BDS
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research



ZONING

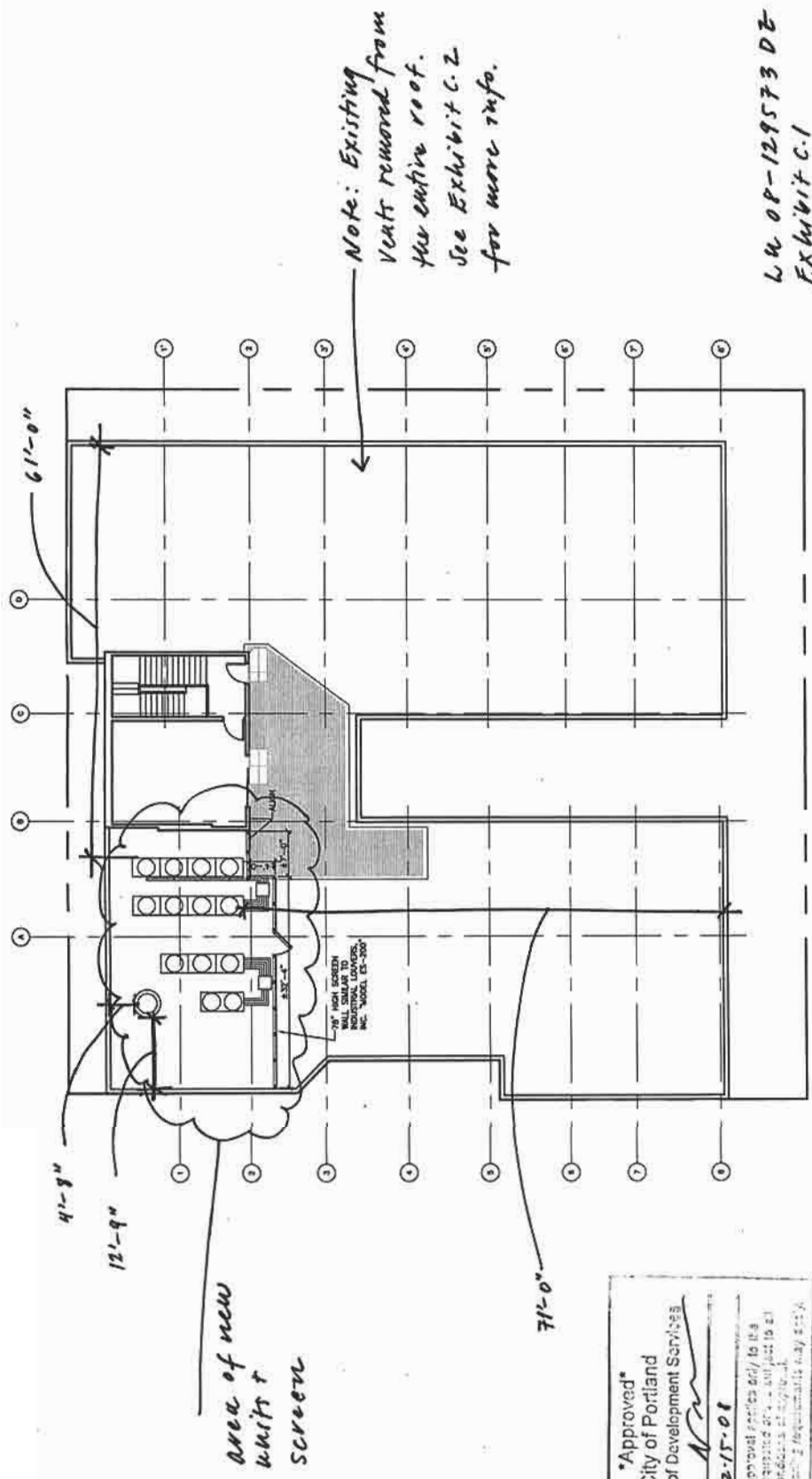
 Site

 Historic Landmark



This site lies within the:
CENTRAL CITY PLAN DISTRICT

File No.	LU 08-129573 DZ
1/4 Section	3028
Scale	1 inch = 200 feet
State_Id	1N1E33DD 2000
Exhibit	B (May 20, 2008)



LW 08-129573 DE
Exhibit C.1

Approved
City of Portland
Bureau of Development Services
Planner *[Signature]*
Date 12-15-08

* This approval pertains only to the review requested and is subject to all conditions of approval.
Additional zoning requirements may apply.



waterleaf

419 SW 11th Ave Suite 200
Portland, Oregon 97205
Phone: 503/228-7571
Fax: 503/273-8891



architecture, interiors & planning

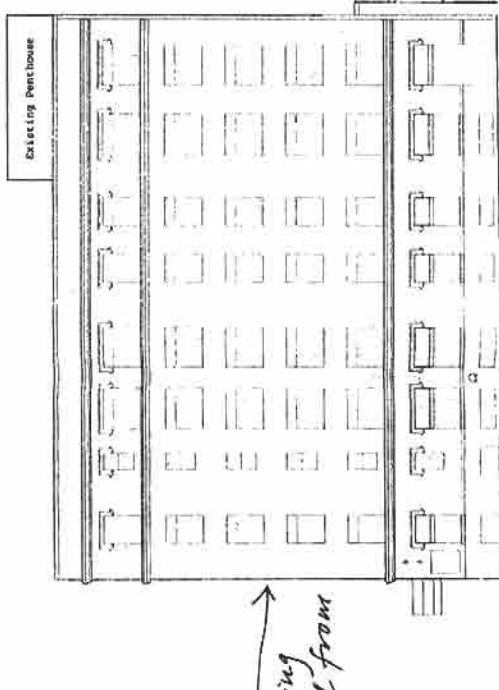
mark spencer hotel

roof plan
december 11, 2008
scale: 1/16"=1'-0"

LW 08-129573 DE
Exhibit C.1

Approved*
 City of Portland
 Bureau of Development Services
 Planner: *[Signature]*
 Date: 8.13.08
 * This approval applies only to the
 conditions of approval.
 Additional zoning requirements may apply.

Air conditioning
 unit removed from
 window bays
 on both
 facades



① ELEVATION PLAN NORTH FACE
 SCALE: 1/8" = 1'-0"
 (Facing Stark St)

Area of work



① ELEVATION PLAN EAST FACE
 SCALE: 1/8" = 1'-0"
 (Facing SW 11th Ave)

PMC
 MECHANICAL, LLC
 11442 Duane Ave, Portland, Oregon

The Mark Spencer Hotel
 409 Southwest Eleventh Avenue
 Portland, Oregon 97205

Elevation Plan North Face

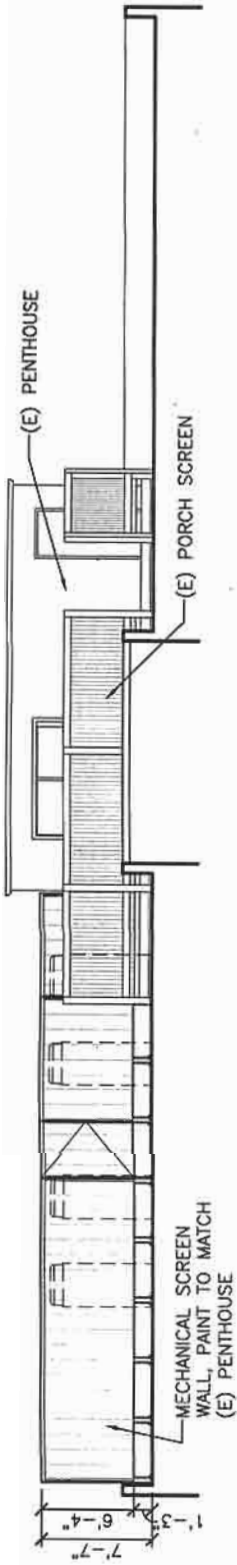
REVISIONS & DESCRIPTION

DATE: 07 JULY 08
 SCALE: 1/8" = 1'-0"

SHEET NUMBER

M1.8A

LW 08-129573 02
 Exhibit C.3



Approved
 City of Portland
 Bureau of Development Services
 Planner *[Signature]*
 Date 12-15-08
* This approval expires only if the
 review (including all) is subject to a
 final decision by the City of Portland
 Department of Development Services

LU 08-129573 DZ
 Exhibit C.5

waterleaf

419 SW 11th Ave Suite 200
 Portland, Oregon 97205
 Phone: 503/228-7571
 Fax: 503/273-8891



architecture, interiors & planning

mark spencer hotel

screen elevation

december 11, 2008

scale: 1/8"=1'-0"

LU 08-129573 DZ
 Exhibit C.5