



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: August 7, 2008
To: Interested Person
From: Dave Skilton, Land Use Services
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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 08-141422 HDZ - ROOFTOP MECHANICAL EQUIPMENT

GENERAL INFORMATION

Applicant: The Singer Family LLC, Owner
416 NW Hermosa Boulevard
Portland, OR 97210-3314

Representative: Patricia Gardner, Architect (503-228-3273)
Stan Chesshir Architect
415 NW 11th Avenue
Portland, OR 97209

Site Address: 801-817 NW 23rd Avenue

Legal Description: EXC WLY 54.86' LOT 3&4 BLOCK 3, KINGS 2ND ADD
Tax Account No.: R452300460
State ID No.: 1N1E33BC 09200
Quarter Section: 2927

Neighborhood: Northwest District, contact John Bradley at 503-227-7484.
Business District: Nob Hill, contact Peggy Anderson at 503-417-8960.
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: Northwest
Other Designations: Contributing Resource, Alphabet Historic District

Zoning: CS, Storefront Commercial

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

Proposal:

Applicant seeks Historic Design Review for a proposal to replace three existing rooftop mechanical units with larger units in the same locations. Historic Design Review is required because the property is within the Alphabet Historic District, listed in the National Register of Historic Places on November 16, 2000.

Relevant Approval Criteria:

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

- 33.846.060 Historic Design Review
- Community Design Guidelines
- Historic Alphabet District: Community Design Guidelines Addendum

ANALYSIS

Site and Vicinity: The subject property, originally known as the Menashe, Ezra & Benveniste Building, is a contributing resource in the Alphabet Historic District. It is a classic single story, corner, storefront commercial structure located on NW 23rd Avenue, one of the two busy retail streets that traverse the district north to south (the other is NW 21st Avenue). Divided into regular tenant bays that are designed to be used singly or in combinations, the building displays modest Mediterranean Style characteristics typical of its time of construction, 1927.

The Alphabet Historic District, recognized by listing in the National Register of Historic Places in 2000, encompasses an entire neighborhood. It is significant for associations with both individuals and historic trends, and also for its architectural expressions. The district includes a broad mix of building types, ranging from single-family residences to quarter-block apartment buildings to one and two story commercial structures to substantial religious institutions. The period of significance is also quite broad, 1880 to 1940, meaning that a significant range of stylistic approaches, from Italianate to Art Deco, is represented. Overall district cohesiveness is supported by a regular pattern of tree-lined streets and a consistent mid-range scale of buildings punctuated by an occasional larger structure.

Zoning: The Storefront Commercial (CS) zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. Industrial uses are allowed but are limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

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

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **July 9, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Site Development Section of BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 9, 2008. One written response has been received from a notified property owner in response to the proposal. On July 11, 2008 David Kabat wrote to express concerns about the potential noise generated by the new rooftop units. Mr. Kabat points out that many residences in the area just

to the west have bedroom windows that face the installation area, and that noise from the existing units was problematic prior to their modification with insulation. He asks that the new units be treated similarly and that they be no noisier than those currently in place.

Staff Response: Staff conveyed these concerns to the architect and determined that the proposal is to wrap the condenser motors of the new units with sound-reducing insulation blankets similar to those used as mitigation in the current installation. In addition, the new units have been determined to meet the sound transmission standard that would apply to them if the building actually abutted the residential zone, which it does not. Staff is confident that the new installation will be as quiet or quieter than the existing condition. However, noise is not specifically addressed in the applicable approval criteria for this case, and it is regulated through a complaint-driven process. The Noise Complaint Hotline telephone number is 503-823-7350.

ZONING CODE APPROVAL CRITERIA

Chapter 33.846, Historic Reviews

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 located within the Alphabet Historic District. Therefore the proposal requires Historic Design Review approval. The applicable design guidelines are the Community Design Guidelines and the Historic Alphabet District Community Design Guidelines Addendum [33.846.060 E.1.c]

Historic Alphabet District - Community Design Guidelines Addendum

These guidelines were adopted on September 5, 2000 and were developed to work with the Community Design Guidelines to provide a set of guidelines specific to the district.

Community Design Guidelines

These guidelines provide the constitutional framework for all design review areas outside the Central City that are not covered by their own specific area design guidelines. The Community Design Guidelines focus on three general categories: **(P) Portland Personality**, which establishes Portland's urban design framework; **(E) Pedestrian Emphasis**, which states that Portland is a city for people as well as cars and other transportation systems; and **(D) Project Design**, which assures that each development is sensitive to both Portland's urban design framework and the users of the city.

Staff has considered all guidelines and has addressed only those considered applicable to this proposal. Historic Alphabet District Guidelines and Community Design Guidelines are addressed concurrently.

Historic Alphabet District Approval Criteria

3. 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. New development will seek to incorporate design themes characteristic of similar buildings in the Historic Alphabet District.

Findings: While slightly larger than the units being replaced, the heating/cooling units proposed for installation on the roof will have no more visual impact than the existing ones because they are to be installed in an orderly manner in the same location. *This Criterion is therefore met.*

Community Design Guidelines

P2. Historic and Conservation Districts. Enhance the identity of historic and conservation districts by incorporating site and building design features that reinforce the area's historic significance. Near historic and conservation districts, use such features to reinforce and complement the historic areas.

Findings: The proposed new mechanical equipment is roughly similar to the old in size and location. It is not readily visible from the street level and hence has no adverse effect on the historic character of the area. *This Guideline is therefore met.*


CONCLUSIONS

This replacement of existing rooftop heating/ventilating/air-conditioning units is based on a goal of greater energy efficiency. Measures to mitigate the sound produced by the units are included in respect of nearby residences. The equipment will be installed in the same orderly manner and locations as the existing units, and it will not be visible from the street. The proposal is approved

ADMINISTRATIVE DECISION

Approval of replacement mechanical equipment per the approved site plans, Exhibits C-1 through C-4, signed and dated August 4, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C-1 through C-4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-141422 HDZ. No field changes allowed."

Decision rendered by:  **on August 4, 2008.**

By authority of the Director of the Bureau of Development Services

Decision mailed: August 7, 2008

Staff Planner: Dave Skilton

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 June 27, 2008, and was determined to be complete on **July 2, 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 June 27, 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 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. 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 Historic Landmarks Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on August 20, 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 Landmarks 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 Historic Landmarks 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 **August 21, 2008 – (the day 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.

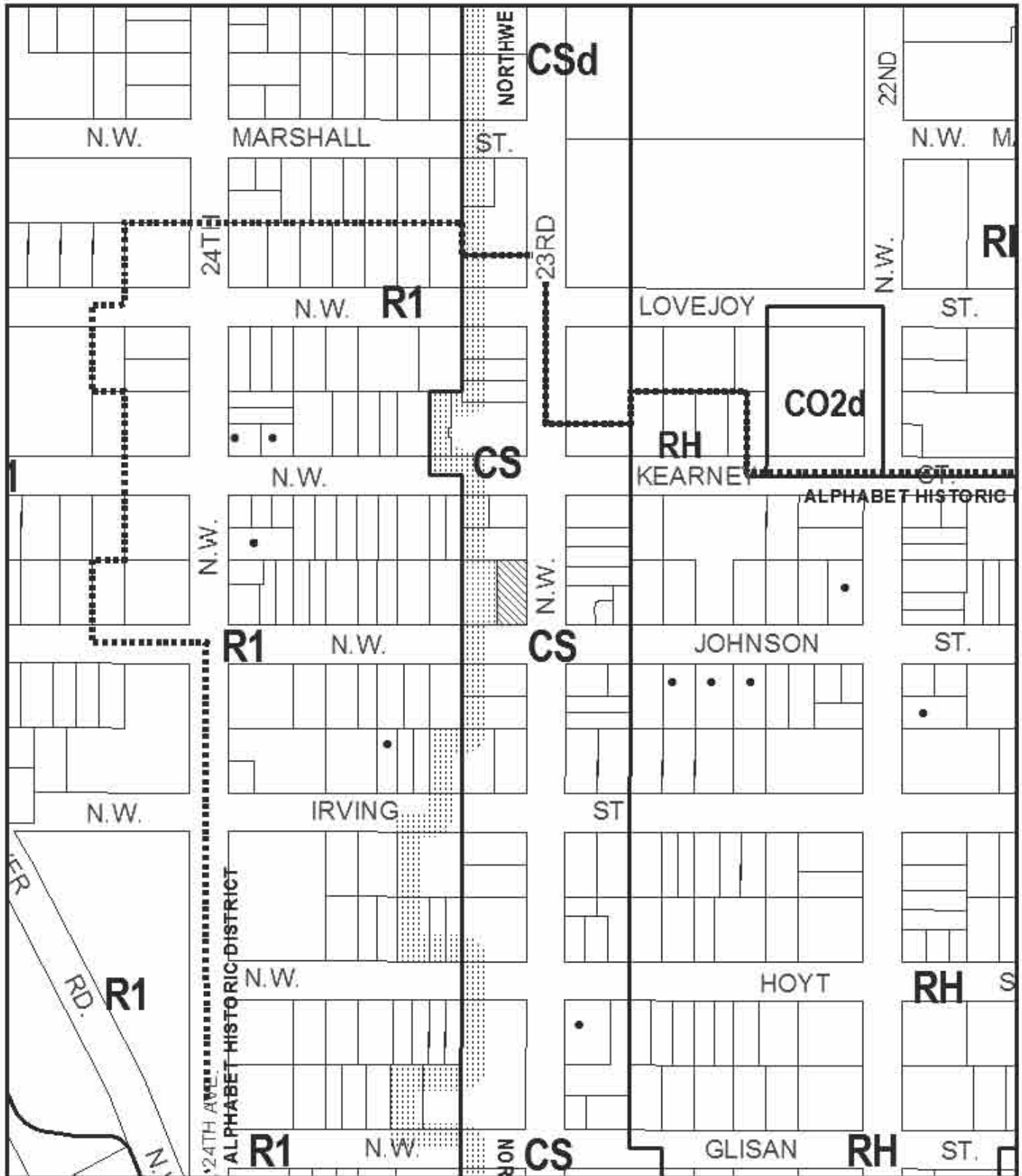
EXHIBITS

NOT ATTACHED UNLESS INDICATED


- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:

1. Site Plan
 2. Elevations and Roof Plan (attached)
 3. Sections with Sight Lines Study
 4. Equipment Manufacturer's Details
- D. Notification information:
1. Mailing list
 2. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
- F. Correspondence:
1. David Kabat, July 11, 2008, expressing concerns about noise from new units.
- G. Other:
1. Original LU Application
 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING

-  Site
-  Also Owned
-  Historic Landmark

This site lies within the:
ALPHABET HISTORIC DISTRICT
NORTHWEST PLAN DISTRICT



File No.	<u>LU 08-141422 HDZ</u>
1/4 Section	<u>2927</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E33BC 9200</u>
Exhibit	<u>B (Jun 30,2008)</u>

