



City of Portland
Bureau of Development Services
Land Use Services Division

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Portland, Oregon 97201
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Date: September 24, 2008
To: Interested Person
From: Shawn Wood, Land Use Services
503-823-6962 / woods@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 08-144698 DZ

GENERAL INFORMATION

Applicant: Ruth Fisher (Owner)
P O Box 4188
Portland, OR 97208-4188

Ken Overton (Mechanical Contractor)
Jacobs Heating & AC
4474 SE Milwaukie Blvd
Portland, OR 97202

Site Address: **237 NW 14TH AVE**

Legal Description: N 1/2 OF LOT 4 BLOCK 96 LOT 5&8 BLOCK 96 48% NONTAXABLE, COUCHS ADD

Tax Account No.: R180208780
State ID No.: 1N1E33DA 03700
Quarter Section: 3028
Neighborhood: Pearl District, contact Patricia Gardner at 503-228-3273.
Business District: Pearl District Business Association, contact Adele Nofield at 503-223-0070.

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Plan District: Central City - River District
Zoning: EXd - Central Employment with Design Overlay Zone
Case Type: DZ - Design Review
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant requests Design Review approval for two air-conditioning units to be installed on the rooftop of an existing two-story retail building. The units will be located side-by-side along the south building edge. Both units will be 2'-7" tall x 3'-2" wide x 1'-2" deep.

Because the proposal is for rooftop mechanical units in the design overlay zone, Design Review is required.

Relevant Approval Criteria:

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

- 33.825 Design Review
- *Central City Fundamental Design Guidelines*

ANALYSIS

Zoning: The Central Employment (EX) zone allows mixed uses and is intended for areas in the center of the City that have predominantly industrial-type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area.

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:

LUR 01-00038 DZ	Design Review approval for exterior alterations.
02-121341 DZM	Design Review approval for exterior alterations and a modification to ground floor window requirement.
06-106123 DZ	Design Review approval for new gates.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **August 28, 2008**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division

The Life Safety (Building Code) Section of BDS had the following comments. See Exhibit E.1 for additional details.

GENERAL LIFE SAFETY COMMENTS

The following comments are intended to provide the applicant with preliminary Building Codes information that could affect the Land Use Review and/or future Building Permit reviews. The comments may not identify all conflicts between the Land Use proposal and the Building Codes. A complete Life Safety plan review will be provided at the time of Building Permit submittal. The comments are based on The Oregon Structural Specialty Code, The Oregon Mechanical Specialty Code, or The Oregon Residential Specialty Code.

Item # Comment

- 1 Based on the information provided, there appears to be no conflicts between the proposal and applicable building codes for the purpose of obtaining an LU approval.
- 2 A separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances. More information

regarding building code requirements can be obtained by visiting the Bureau of Development Services Development Services Center -1900 SW 4th Ave, 1st floor, between the hours of 7:30 AM and 3:00 PM Monday through Friday and also 5:00 PM to 7:30 PM Thursday evening (no appointment necessary.) Building Code information is also available online at: <http://www.portlandonline.com/bds/>, or by calling (503) 823-1456.

- 3 A separate Mechanical Permit is required for the work proposed. OMSC 106.1
- 4 Guardrails 42 inches high shall be installed where roof-mounted equipment requiring service is located within 10 feet of the roof edge. OMSC 304.10
- 5 If any piece of Equipment exceeds 400 pounds, or multiple units are installed in close enough proximity to each other that create the equivalent in combination weight of a concentrated load, engineering is then required to verify that the existing roof structure is capable of withstanding the additional load(s). The Engineer must be licensed in the State of Oregon.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on August 28, 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 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. 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: The proposal includes the installation of two new condensing units on the building's roof. The proposed units will be approximately 33" tall, 13" deep and 36" wide. The units are setback approximately 50 feet from the building's street facing walls and will not be visible from the sidewalk. The location of the proposed units allows the building's internal needs to be met, without impacting the adjacent pedestrian environment. *Therefore, these guidelines are met.*

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

Findings: The proposed units are constructed of long-lasting, durable materials that are consistent with this high-quality building. The unit cabinets will be pre-painted with a corrosion resistant baked enamel finish. In addition, the units will be placed in an orderly manner alongside existing mechanical units on the building's roof, maintaining an organized mechanical area. *Therefore, these guidelines are 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 will not impact the architectural integrity of the building. The proposed units will be placed well away from the street edges of the building; thus, the units will not be visible from adjacent streets and will not detract from the visual quality of the building's façade. In addition, the units will be well integrated with the existing mechanical units at the building roof area. *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.

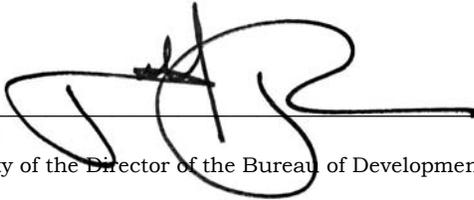
CONCLUSIONS

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 proposed units create an ordered appearance when viewed from above and will not be visible from the pedestrian environment. The proposal meets the applicable design guidelines and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of 2 new condensing units on the roof of the subject building, per the approved plans, Exhibits C-1 through C-2, signed and dated September 22, 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-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-144698 DZ. No field changes allowed."

Decision rendered by:  on (September 22, 2008)

By authority of the Director of the Bureau of Development Services

Decision mailed: September 24, 2008

Staff Planner: Shawn Wood

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 July 10, 2008, and was determined to be complete on August 22, 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 July 10, 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 Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on October 8, 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 **October 9, 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:

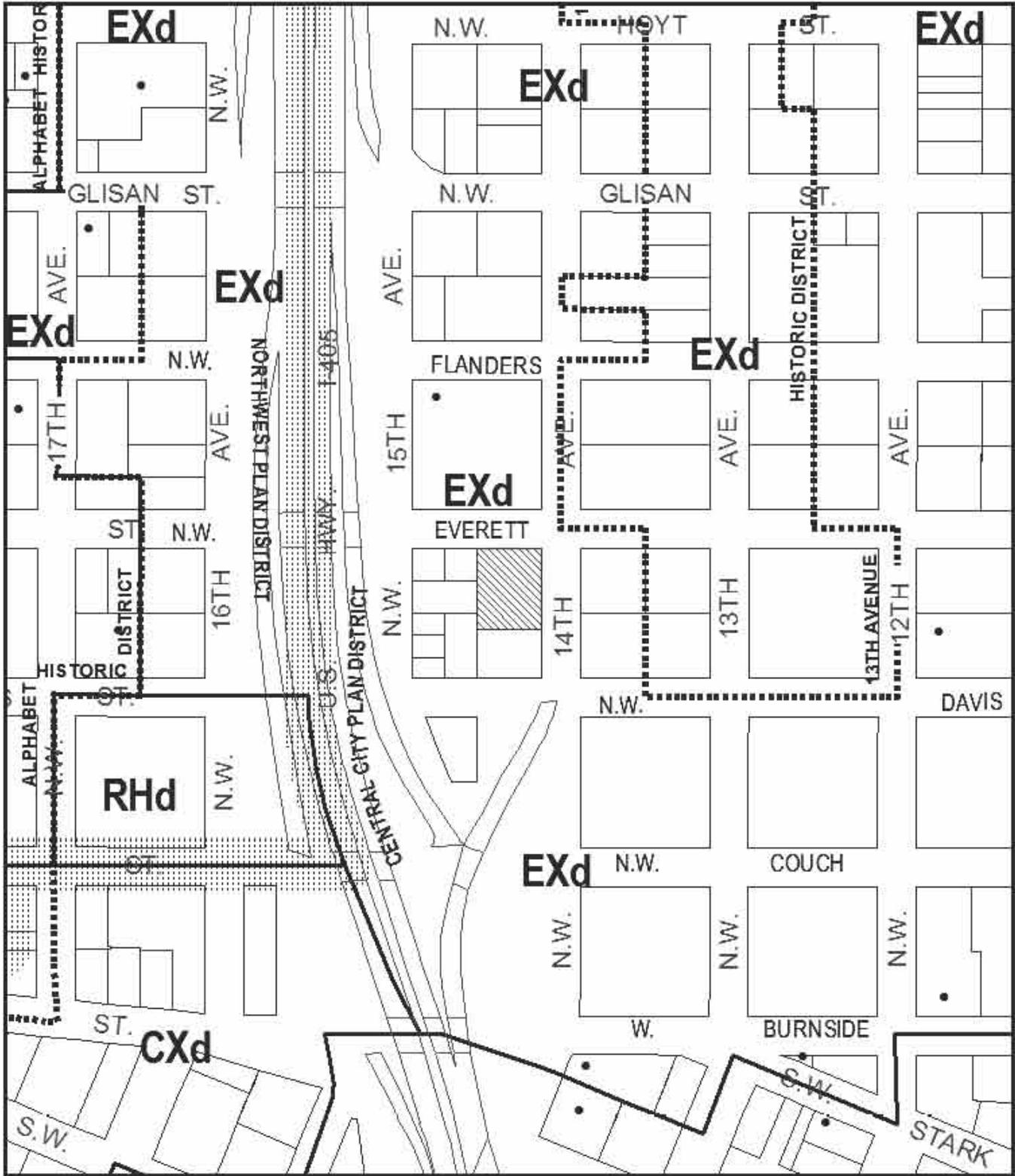
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Mechanical Unit Cutsheets
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety (Building Code) Section of BDS
- F. Correspondence:
 - None received
- 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



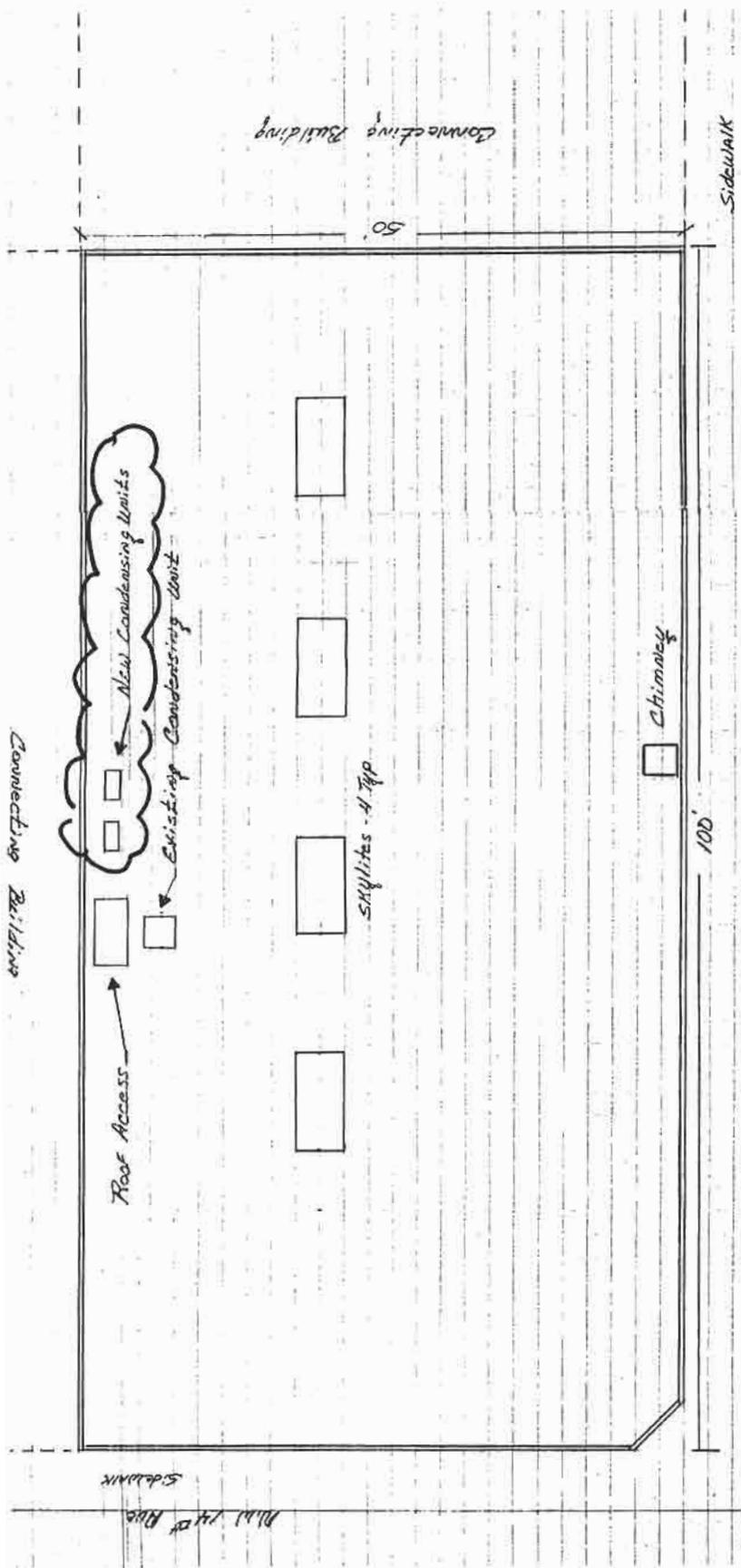
Historic Landmark



NORTH

This site lies within the:
CENTRAL CITY PLAN DISTRICT

File No.	LU 08-144698 DZ
1/4 Section	3028
Scale	1 inch = 200 feet
State Id	1N1E33DA 3700
Exhibit	B (Aug 14, 2008)



Scale, 1/8" = 1'-0"

Sidewalk
New Everett St

LM 08-144698 D2

City of Portland - Bureau of Development Services
 Approved*
 Planner Shelley Date 9.22.08
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

EXHIBIT C.1