



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: October 1, 2008
To: Interested Person
From: Abigail Fowle, Land Use Services
503-823-0624 / FowleA@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 08-155160 DZ
NEW ROOFTOP MECHANICAL AT 1140 NW EVERETT ST**

GENERAL INFORMATION

Applicant: Everett Street Llc, Owner
510 NW 23rd Ave #A
Portland, OR 97210

Jason Wegrzyniak, Applicant/Contact 503-793-7056
Hunter-Davisson, Inc
1800 SE Pershing St
Portland, OR 97202

Site Address: 1140 NW EVERETT ST

Legal Description: LOT 5-8 BLOCK 79, COUCHS ADD
Tax Account No.: R180207300
State ID No.: 1N1E33DA 03000
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
Case Type: DZ, Design Review
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant seeks Design Review approval for three new rooftop mechanical units on a one-story building in the River District. The new units are needed for a new restaurant and bar in the building and will include two exhaust fans and one supply air unit. The new mechanical equipment will be centrally located on the roof and towards the rear of the building.

Exterior alterations to a building in a Design Overlay Zone require Design Review.

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:

- 33.825 Design Review
- River District Design Guidelines
- Central City Fundamental Design Guidelines

ANALYSIS

Site and Vicinity: The building is 19,982 square feet in size and occupies a half block site bounded by NW 11th Avenue, NW Everett Street, and NW 12th Avenue. The single-story building was constructed in 1926 and contains street level retail spaces.

Portland's Transportation System Plan classifies NW 11th, NW 12th, and NW Everett as Traffic Access, Transit Access Streets. NW 11th is also designated as a Central City Transit Pedestrian Street. NW Everett is classified as a City Walkway. All of the streets that abut the site are designated as Local Service Bikeways and the entire site is located within the Northwest Triangle Pedestrian District. TriMet provides bus service via line 17 on NW Everett Street. The Portland Streetcar runs along NW 10th and NW 11th Avenues.

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 land use reviews for this site include the following:

- **DZ 8-86:** Approval of Design Review for storefront improvements.
- **LUR 96-00409 DZ:** Approval of Design Review for exterior alterations.
- **LUR 98-00823 DZ:** Approval of Design Review for alterations to a corner tenant space, including signs, lighting, and new paint.
- **LU 08-147194 DZ:** Approval of Design Review for design review to alter a storefront opening by replacing three fixed window units with operable ones and install a 42" high guardrail constructed of metal and outside the glass.

Agency Review: A *Notice of Proposal in Your Neighborhood* was mailed on September 2, 2008, 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.

“It is recommended the applicant visit the Development Services Center to research the current Occupancy Classification and Building Code requirements associated with a possible change of occupancy, including but not limited to: seismic upgrades and system development fees. When a permit is required to change the use of a building or space to a different occupancy classification, the building and/or portions thereof that are affected by the change of occupancy may be required to comply with current building code requirements for the proposed new use or occupancy.

The exhaust fan termination must be at least 10 feet from the adjacent property line and openings into the building.

Guardrails 42 inches high shall be installed where roof-mounted equipment requiring service is located within 10 feet of the roof edge.

A separate Mechanical Permit is required for the work proposed.”
Please see Exhibit E.1 for additional details.

Neighborhood Review: A *Notice of Proposal in Your Neighborhood* was mailed on September 2, 2008. No written comments in response to the proposal have been received from the neighborhood association or notified property owners.

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 and River District Guidelines.

River District Design Guidelines and Central City Fundamental Design Guidelines

The River District is planned to become a place that is remarkable within the region. The area is intended to grow rich with special and diverse qualities that are, or will become characteristic of Portland. Further, the River District will accommodate a significant portion of the region’s population growth. The plan calls for the creation of a new community of dense neighborhoods, housing a resident population of over 15,000 people, and providing jobs, services, and recreation to this population and others. This area is intended to emphasize the joy of the river, connections to it, and create a sense of community. The goals frame the urban design direction for Central City and River District development.

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.

River District Design Goals

1. Extend the river into the community to develop a functional and symbolic relationship with the Willamette River.
2. Create a community of distinct neighborhoods that accommodates a significant part of the region's residential growth.
3. Enhance the District's character and livability by fostering attractive design and activities that give comfort, convenience, safety and pleasure to all its residents and visitors.
4. Strengthen connections within River District, and to adjacent areas.

Central City Plan Design Goals

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.

A6. Reuse/Rehabilitate/Restore Buildings. Where practical, reuse, rehabilitate, and restore buildings and/or building elements.

Findings: The new mechanical units are necessary additions for the new restaurant that will occupy one of the retail spaces in the existing building. This new equipment will allow for the continued successful re-use of the existing structure. *This guideline is therefore met.*

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 three new rooftop mechanical units are located on the center of the roof and towards the rear of the building. Therefore, the units will be a significant distance from all roof edges and will not be visible from the surrounding streets. As a result, the pedestrian environment will not be negatively impacted by this alteration. *This guideline is therefore met.*

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

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.

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 C2, C3 and C11: The new mechanical equipment will be located at the center of the roof top, near the rear of the building, and thus away from the roof edges. The units range from 36" to 42" tall and are smaller than existing equipment in the vicinity. Because the new units have been carefully placed and sized, the proposal respects the building's architectural integrity, maintains the structure's quality and sense of permanence, and protects surrounding views. *These guidelines are therefore 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 new rooftop mechanical units proposed on an existing building in the River District have been carefully located and sized, protecting the architectural integrity of the building and the surrounding pedestrian environment. The proposal meets the applicable design guidelines and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of two new exhaust fans and one new supply air unit on the rooftop of an existing building, per the approved plans, Exhibits C.1 through C.4, signed and dated September 29, 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.4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-155160 DZ. No field changes allowed."

Decision rendered by:  on September 29, 2008.

By authority of the Director of the Bureau of Development Services

Decision mailed: October 1, 2008

Staff Planner: Abigail Fowle

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 14, 2008, and was determined to be complete on **August 28, 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 August 14, 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 15, 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 16, 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:

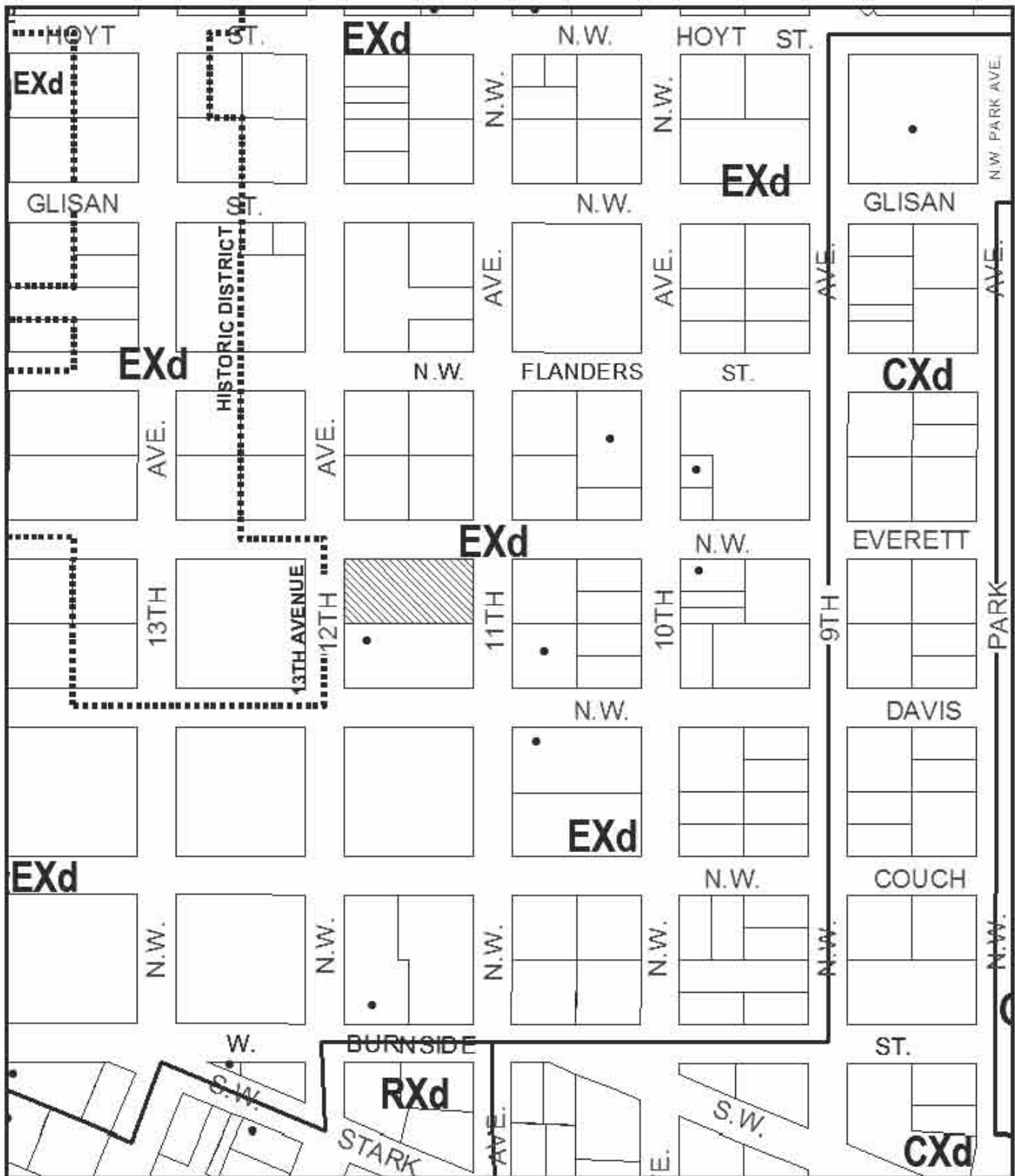
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan, Roof Plan, Reflected Ceiling Plan (attached)
 - 2. Enlarged Plans
 - 3. Building/HVAC Section (attached)
 - 4. Mechanical Cutsheets
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section, BDS
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Aerial Photos

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



This site lies within the:
CENTRAL CITY PLAN DISTRICT

File No.	LU 08-155160 DZ
1/4 Section	3028
Scale	1 inch = 200 feet
State_Id	1N1E33DA 3000
Exhibit	B (Aug 18, 2008)

HUNTER-DAVISSON, INC.

Heating Air Conditioning Refrigeration Controls
Contractors Engineers
1800 SE Pershing St.
PORTLAND, OREGON 97202
(503) 234-0477
FAX (503) 236-1625



JOB: Bella Gioia

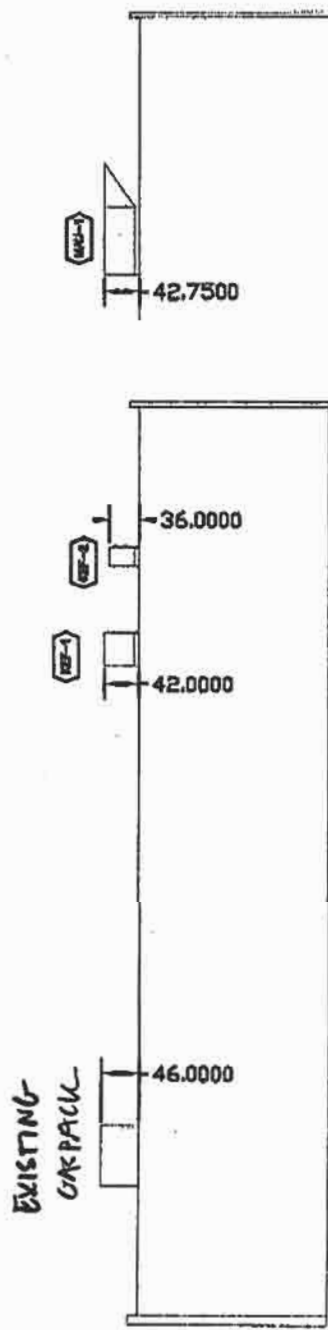
SHEET NO: 1 OF 1

SCALE: NOT TO SCALE

CALCULATED BY DBB DATE 8/22/08

CHECKED BY WCF DATE 8/22/08

Approved
City of Portland
Bureau of Development Services
Planner August T. R.
Date 9/29/08
* This approval applies only to the
reviews performed and is subject to
revisions and changes of plans.



BUILDING
HVAC SECTION

N.T.S.

DM-C.3
LA 08-15560 DZ