

# City of Portland, Oregon Bureau of Development Services Land Use Services

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**To:** February 11, 2009

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 08-182403 DZ – NEW AWNINGS ON THE DANTE'S BUILDING

#### GENERAL INFORMATION

**Applicant:** Jim Atwood, J.A. Atwood Investments

33 SW 3rd Avenue

Portland, OR 97204-2703

Paul Park, Glitz, LLC Dba Dante's

1 SW 3<sup>rd</sup> Avenue Portland, OR 97204

Frank Faillace, Glitz, LLC Dba Dante's, 503-227-1127

1 SW 3rd Avenue Portland, OR 97204

**Site Address:** 314-316 W Burnside Street

**Legal Description:** EXC PT IN STS N 1/2 OF E 1/2 OF BLOCK 30 LAND & IMPS ALSO

SEE -2371, COUCHS ADD

**Tax Account No.:** R180202370 **State ID No.:** N1E34CD 00900

Quarter Section: 3029

**Neighborhood:** Downtown Cmty Assoc., contact Jennifer Geske at 503-750-9843. **District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

**Plan District:** Central City - Downtown

**Zoning:** CXd – Central Commercial 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 exterior improvements to the existing building housing Dante's Café and Cocktail Lounge located at 1 SW 3<sup>rd</sup> Avenue. The proposed improvements consist of:

- Replacing an existing shed-style fabric awning located over the main entry, with a new arched fabric awning (facing W. Burnside Street) that extends 6'-6" over the sidewalk; and
- Installing barrel vaulted fabric awnings over two windows on the north façade (facing W. Burnside Street) that extend 5'-0" over the sidewalk.

Because the proposal is to a building within a design overlay zone, 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

### Site and Vicinity:

**ANALYSIS** 

The site is a 4,717 square foot lot developed with an older multi-story building located at the corner of W Burnside Street and SW 3rd Avenue. The site is located in the Downtown Sub-District of the Central City Plan District. A 7,498 square foot mixed-use structure fills the site, and is bordered by surface parking lots on its west and south facades. The building was built in 1905, and comprises a single floor of multi-tenant commercial storefront, with a two-story residential wing wrapping the western third of the building's commercial ground floor. The building was designed in a traditional storefront commercial style, with expressed pilasters, a significant ground floor cornice, storefront bays, and a diagonal corner entrance, among other commercial entrances on the ground floor. While the building has been significantly altered over the years, the architectural order of the storefront bays, many of the window and door openings, and the brick cladding and brick detailing remain. Existing signage, in the form of three billboards on the roof, and a number of wall mounted signs, further help to define the appearance of the building. An existing shed-style awning is located over the entrance of the primary ground floor commercial tenant, positioned in the center of the building facing W Burnside Street.

The neighboring vicinity is comprised of a mixture of building types from various eras, with retail, office and institutional uses along much of the ground floor of W Burnside Street. This portion of downtown is know for its concentration of nightclubs and bars within the Central City. The block is bounded by W Burnside Street to the north, SW Ankeny Street to the south, SW 3rd Avenue to the east, and SW 4th Avenue to the west. The site is well served by public transit, with a stop for the MAX lightrail located three blocks to the east, and frequent bus service along SW 3rd Avenue, SW 4th Avenue and W Burnside Street. W Burnside Street is identified in the Portland Transportation Plan as a Major City Traffic Street, Major Transit Priority Street, a Regional Main Street, an Enhanced Pedestrian Street, a City Walkway, and a Local Service Bikeway. SW 3rd Avenue is designated a Traffic Access Street, and a City Bikeway. SW 4th Avenue is designated a Community Main Street, an Enhanced Pedestrian Street, a City Walkway, a Traffic Access Street and a Local Service Bikeway. SW Ankeny Street is identified as an Enhanced Pedestrian Street, a City Walkway, and a Local Service Bikeway. The site is further identified as being within the Downtown Pedestrian District.

#### Zoning:

The <u>CX zone</u> is intended to provide for commercial development within Portland's most urban and intense areas. A broad range of uses is allowed to reflect Portland's role as a commercial, cultural and governmental center. Development is intended to be very intense with high building coverage, large buildings, and buildings placed close together.

The <u>Central City Plan District</u> implements the Central City Plan and other plans applicable to the Central City area. The district implements portions of these plans by adding code provisions which address special circumstances existing in the Central City area.

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

- LU 68-028879 (Ref file #: VZ 055-68): Approval of a sign
- LU 78-006357 (Ref file #: HL 68-78): Approval for a tax status and façade alterations
- LU 83-004707 (Ref file #: DZ 38-83): Approval of a storefront remodel
- LU 85-004455 (Ref file #: DZ 174-85): Approval of a storefront remodel and signage
- LU 88-004659 (Ref file #: DZ 32-88): Approval of a wall mural
- LU 00-006855 (Ref file #: LUR 00-00300 DZ): Approval for the installation of cellular equipment

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **January 16, 2009**. The following Bureaus have responded with no issues or concerns:

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

The <u>Water Bureau</u> responded with the following comment: "The Water Bureau has no objections to the proposed exterior improvements." *Please see Exhibit E-1 for additional details*.

The <u>Life-Safety Plans Examiner for BDS</u> responded with the following comment: "A separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances." *Please see Exhibit E-2 for additional details*.

The <u>Fire Bureau</u> responded with the following comment: "The applicant is required to contact the Fire Marshal's Permit Office at 503-823-3712 to determine if a permit for these proposed canopies is required." *Please see Exhibit E-3 for additional details.* 

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on January 16, 2009. 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.

- **A4.** Use Unifying Elements. Integrate unifying elements and/or develop new features that help unify and connect individual buildings and different areas.
- **A6.** Reuse/Rehabilitate/Restore Buildings. Where practical, reuse, rehabilitate, and restore buildings and/or building elements.
- **C4.** Complement the Context of Existing Buildings. Complement the context of existing buildings by using and adding to the local design vocabulary.

**Findings for A4, A6, and C4:** The addition of three new ground floor awnings to the primary street-facing façade of the mixed-use building reflects an investment in the appearance and continued economic vitality of the older building. The new awnings reflect characteristics of awnings within the Central City, which helps the subject building to express a consistent design vocabulary with the architecture of the neighborhood. The fabric material, relative placement within the facade, and general form of the proposed awnings reflect aspects of many existing awnings in Downtown. Their placement within what was historically the "transom zone" of the ground floor storefront façade, respects the historic architectural order of the building. The awnings are placed below the building cornice and within the

storefront bay, allowing for a clear expression of the building's historic structure, and providing for visual continuity with other examples of historic commercial buildings located in Portland. By investing in the appearance of the façade in a manner that is sensitive to the building's underlying historic structure, the new awnings help facilitate the continued care and utilization of the older building, thereby reinforcing Portland's historic architecture coherency. *These guidelines are therefore met.* 

- **A7. Establish and Maintain a Sense of Urban Enclosure.** Define public rights-of-way by creating and maintaining a sense of urban enclosure.
- **A8. Contribute to a Vibrant Streetscape.** Integrate building setbacks with adjacent sidewalks to increase the space for potential public use. Develop visual and physical connections into buildings' active interior spaces from adjacent sidewalks. Use architectural elements such as atriums, grand entries and large ground-level windows to reveal important interior spaces and activities.
- **B4.** Provide Stopping and Viewing Places. Provide safe, comfortable places where people can stop, view, socialize and rest. Ensure that these places do not conflict with other sidewalk uses.
- **B6. Develop Weather Protection.** Develop integrated weather protection systems at the sidewalk-level of buildings to mitigate the effects of rain, wind, glare, shadow, reflection, and sunlight on the pedestrian environment.

Findings for A7, A8, B4 and B6: The three new ground floor awnings added to the front façade of the mixed-use building highlight the building's interactive relationship with the sidewalk environment, providing for covered outdoor seating areas, shelter for those entering and exiting the building, and covered areas for people to gather along busy W Burnside Street. While the primary wall of the building presents an uninterrupted plane alongside the sidewalk, the new awnings contribute places to stop alongside the façade, and a sense of rhythm to the sidewalk that would otherwise offer little respite. The addition of awnings helps to reinforce the sense of urban enclosure along the sidewalk by extending the presence of the building a significant distance over the right-of-way, 5'-0" over the windows and 6'-6" over the building's primary commercial entrance. The location of the new awnings over the windows and entrance helps to highlight these building openings, thereby knitting the activity within the interior of the building with the pedestrian activity at the sidewalk. Furthermore, the new awnings lend a visual pause and rhythm to the sidewalk on the south side of W Burnside Street that is primarily characterized by solid walls, surface parking lots, and fast moving traffic. These quidelines are 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.
- **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.

**Findings for C2, C3, and C5:** The three new awnings installed on the W Burnside Street façade of the multi-tenant building are designed with sensitivity to the

architectural order and character of the older brick building, and reflect a visual order in their form (how the shape of the awnings over the windows relates to the shape of the awning over the main entrance). Furthermore, the new awnings are constructed of durable materials, a sturdy fabric cover and metal frame. The new awnings reflect the design of the building through their position within the existing storefront bays and below the cornice line. This allows the cornice area to be reserved for signage, of which there are numerous existing wall mounted signs taking advantage of this portion of the building. In addition, the location of the awnings within the window bays further reinforces the building's structural order and historic character by providing for visibility of the pilasters. The new awnings express two complementary forms; The two awnings over the windows are arched in the east-west direction, while the awning over the entrance is arched in the northsouth direction with a similar slope. By maintaining a consistently angled slope between the two styles, a perception of visual consistency is reinforced across the façade. The greater depth of the awning over the primary entrance, along with its change in orientation, reinforces the location of the entry door by providing a subtle visual hierarchy to the façade. These guidelines are therefore met.

- **C6. Develop Transitions between Buildings and Public Spaces.** Develop transitions between private development and public open space. Use site design features such as movement zones, landscape element, gathering places, and seating opportunities to develop transition areas where private development directly abuts a dedicated public open space.
- **C8. Differentiate the Sidewalk-Level of Buildings.** Differentiate the sidewalk level of the building from the middle and top by using elements including, but not limited to, different exterior materials, awnings, signs, and large windows.

Findings for C6 and C8: The three new ground floor awnings added to the West Burnside Street façade of the mixed-use building help to define the sidewalk-level of the commercial portion of the building by extending the influence of the building's commercial uses to the sidewalk, and encouraging people to meet and gather within their shelter. Their extension helps to create a transitional zone between the interior of the building and the street environment along West Burnside Street. This particular portion of the street lacks many of the pedestrian amenities associated with other parts of the city, such as canopies or awnings, planters, benches, and recessed entries. The new awnings help to mediate between the busy traffic of West Burnside Street and the atmosphere of the nightclub, allowing patrons to eat and congregate in protected areas along the sidewalk, and pedestrians to more easily gather and observe the commercial activity. In addition, the new awnings reinforce the building's strong cornice line by being positioned directly below it, thereby strengthening the clarity of the building's commercial ground floor and the historic character of the building. These quidelines 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 proposal meets the applicable design guidelines and therefore warrants approval. The proposed awnings

represent a welcome addition to the mixed-use building by helping to reinforce the commercial character of the ground floor and the location of the main entrance. The awnings provide a transitional zone between the building interior and the sidewalk environment, with covered areas for patrons to eat, gather and enter the building. This helps to soften and humanize a portion of W Burnside Street that is lacking in pedestrian amenities or significant architectural transparency and interaction along the sidewalk. The placement and proportion of the new awnings respects the architectural order of the older building, and thus visually relates to the character of historic commercial architecture located throughout Portland.

#### ADMINISTRATIVE DECISION

Approval of three new awnings on the north façade of the building per the approved drawings, Exhibits C-1 through C-3, signed and dated February 9, 2009, subject to the following conditions:

A. As part of the building permit application submittal, each of the 4 drawings and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-182403 DZ. No field changes allowed."

Decision rendered by:

on February 9, 2009

By authority of the Director of the Bureau of Development Services

Decision mailed: February 11, 2009

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 December 9, 2008, and was determined to be complete on **January 12, 2009.** 

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 December 9, 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 February 25, 2009 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 <a href="https://www.portlandonline.com">www.portlandonline.com</a>.

**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 February 26, 2009 (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:

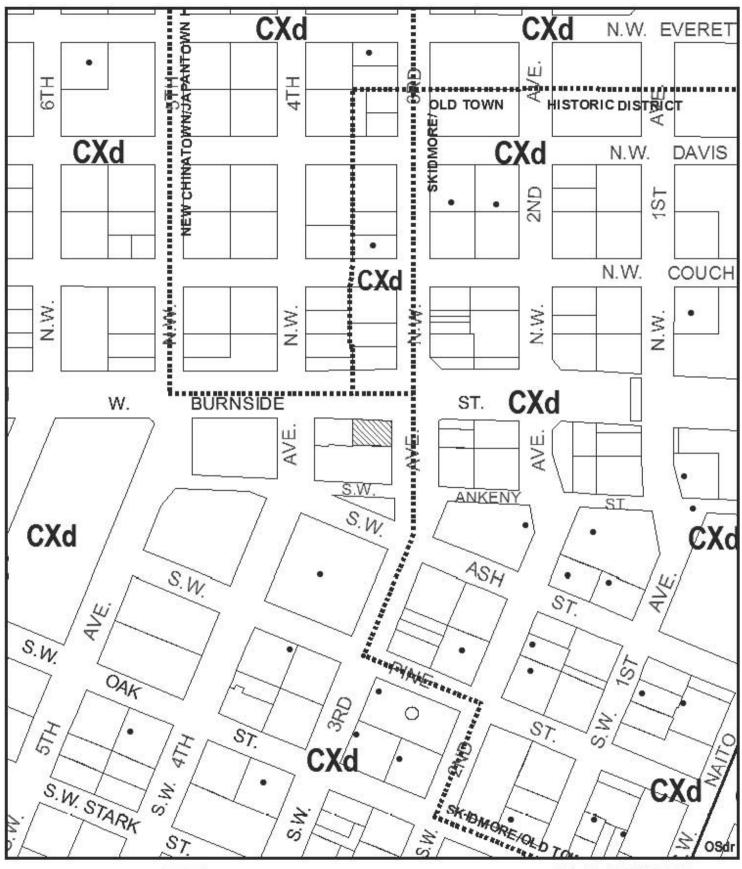
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

#### **EXHIBITS**

#### NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Statement and Drawings
  - 2. Additional Information
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan
  - 2. Ground Floor Plan (attached)
  - 3. North Elevation (facing W Burnside Street), East Elevation (facing SW 3<sup>rd</sup> Avenue), Awning Sections (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Water Bureau
  - 2. Life-Safety Plans Examiner of BDS
  - 3. Fire Bureau
- F. Correspondence: None
- 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



Historic Landmark



This site lies within the: CENTRAL CITY PLAN DISTRICT File No. LU 08-182403 DZ

1/4 Section 3029

Scale 1 inch = 200 feet

State\_Id 1N1E34CD 900

Exhibit B (Dec 12,2008)

