



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

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Date: July 10, 2009
To: Interested Person
From: Dave Skilton, Land Use Services (503-823-0660)
dave.skilton@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 09-132758 DZ - PENTHOUSE SIDING AND WINDOWS

GENERAL INFORMATION

Applicant: Alan Proffitt, Property Manager
Multnomah County Facility & Property Management
401 N Dixon Street
Portland, OR 97227

Representative: Lisa Goslow, Architect (503-206-3184)
Carleton Hart Architecture
322 NW 8th Avenue
Portland, OR 97209

Site Address: 408 SW 5th Avenue

Legal Description: LOT 7&8 BLOCK 64 SEE SUB ACCOUNT, PORTLAND
Tax Account No.: R667707530
State ID No.: 1N1E34CD 07000
Quarter Section: 3029

Neighborhood: Portland Downtown, contact Jennifer Geske at 503-750-9843.
Business District: Downtown Retail Council, contact Lisa Frisch at 503-552-6740.
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 is seeking Design Review approval for a proposal to replace existing deteriorated wood siding and windows on a penthouse structure, and for replacement of two similar existing rooftop mechanical units with a single, comparable unit. The proposed penthouse siding material is standing seam metal applied as vertical panels and the windows are aluminum framed fixed glass units. The project will occur in conjunction with re-roofing of the building. Design Review is required because the site is within the Central City Plan District and has a Design overlay zoning and the proposal includes exterior alterations to the building.

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
- Central City Fundamental Design Guidelines

ANALYSIS

Site and Vicinity: The site is fully developed with an eight story building constructed in 1923. Although probably eligible, the property is not designated as historic. The area of downtown where the building is located is predominantly developed with buildings of a similar scale and age.

Adjoining SW 5th Avenue is the southbound transit mall corridor which, with the opening of the MAX green line in September 2009 will include light rail in addition to frequent bus service on multiple routes. The entire downtown area is designated as a pedestrian zone.

Zoning: The Central Commercial (CX) zone 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. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive streetscape.

The Design Overlay (d) zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The Design Overlay Zone also promotes quality high-density development adjacent to transit facilities. 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 or compliance with the Community Design Standards. In addition, design review or compliance with the Community Design Standards 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:

- LU 96, 013330 DZ, approving installation of rooftop mechanical equipment.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **June 15, 2009**. The following Bureaus have responded with no issues or concerns:

- Life Safety Review Section of the Bureau of Development Services
- Water Bureau

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 15, 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.

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.

Findings: Because the proposed alterations are to rooftop features that do not contribute greatly to architectural character of the building, its appearance will not be significantly changed. There are no additions proposed. *This guideline is therefore met.*

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: The metal siding and windows proposed for an existing penthouse are durable, visually recessive, materials and when installed as proposed in conjunction with the re-roofing, they will provide a high quality weather envelope. The proposed mechanical equipment replacement represents a net reduction in rooftop units and will occupy a location currently used for the same purpose. There will be no significant change to the skyline. *This guideline is 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

With the exception of a single mechanical unit replacing two others, the proposal is for improvements to the weather envelope of the building. New siding and windows on the penthouse, installed in conjunction with reroofing should eliminate leaking.

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.

ADMINISTRATIVE DECISION

Approval of Design Review in the Central City Planning District for exterior alterations, including:

- replacement of existing penthouse siding with new, vertically-oriented, standing seam, metal panels;
- replacement of existing windows with fixed-glass, aluminum framed windows, in the same openings; and
- removal of one existing rooftop cooling tower, and replacement of second tower with a smaller unit, 12'-4" tall by 8'-6" wide, by 9'-0" deep, in the same location.

Approval under the Central City Fundamental Design Guidelines, per Exhibits C-1 through C-8, signed and July 6, 2009, subject to the following condition:

- 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-8. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-132758 DZ. No field changes allowed."

Staff Planner: Dave Skilton

Decision rendered by: Dave Skilton on July 6, 2009.

By authority of the Director of the Bureau of Development Services

Decision mailed: July 10, 2009

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 8, 2009, and was determined to be complete on **June 11, 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 June 8, 2009.

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 July 24, 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 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 **July 27, 2009 – (the first business 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:

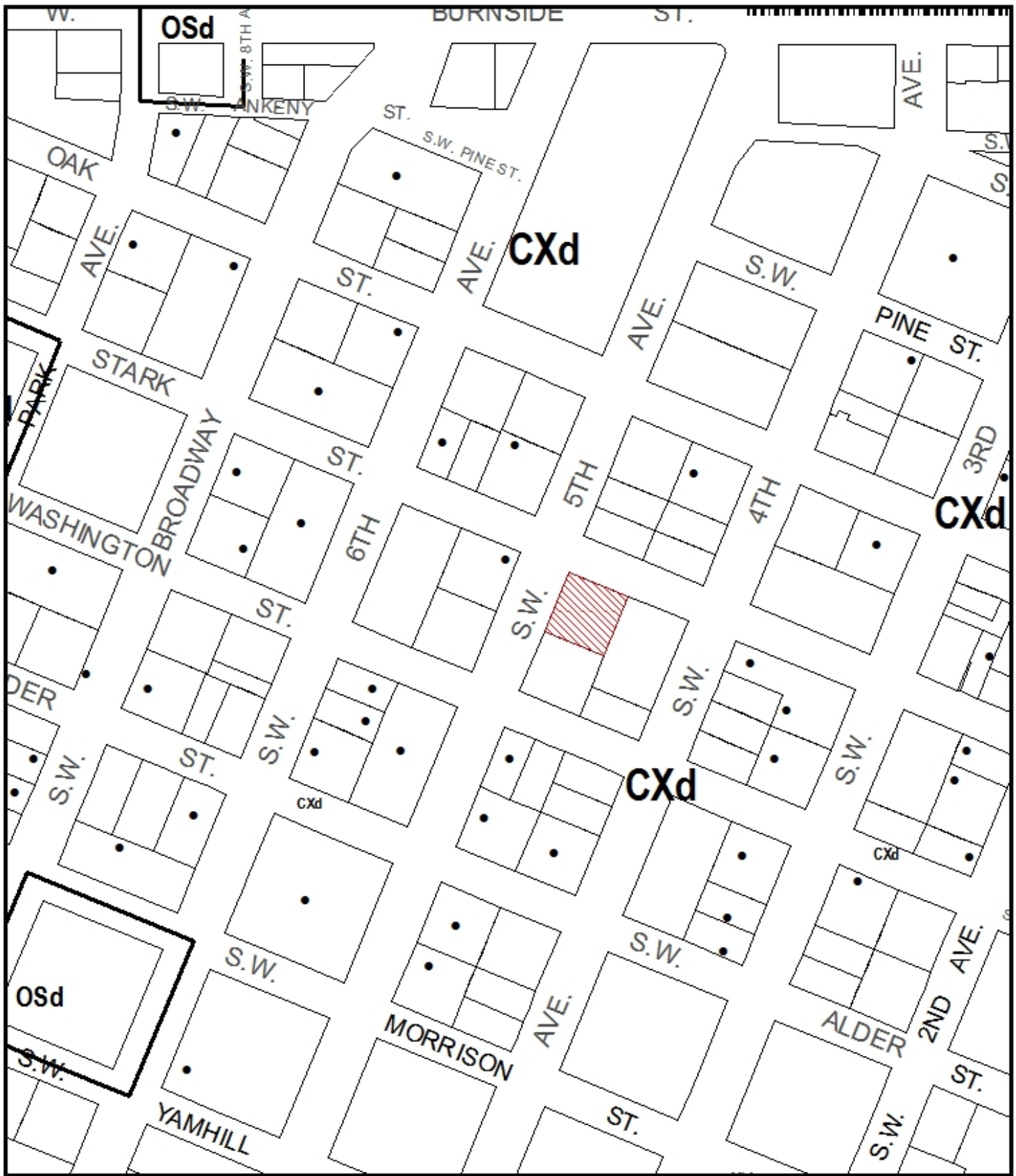
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED


- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Cover Sheet
 - 2. Demolition Plan
 - 3. Roof Plan and Penthouse Elevation (attached)
 - 4. Architectural Details
 - 5. Architectural Details
 - 6. Architectural Details
 - 7. Architectural Details
 - 8. Cooling Tower Details
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Review Section of the Bureau of Development Services
 - 2. Water 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 503-823-7300 (TTY 503-823-6868).



ZONING

 Site

 Historic Landmark



This site lies within the:
CENTRAL CITY PLAN DISTRICT

File No.	<u>LU 09-132758 DZ</u>
1/4 Section	<u>3029</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N1E34CD 7000</u>
Exhibit	<u>B</u> (Jun 09,2009)

