



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

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**Date:** August 13, 2009  
**To:** Interested Person  
**From:** Noelle Elliott, Land Use Services  
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## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 09-122492 DZM RENOVATION AT 914 NE BROADWAY STREET**

#### **GENERAL INFORMATION**

**Applicant:** Daniel M. Kim  
Red Bull Development  
12984 SW Pine View Street  
Tigard, OR 97224

Umi Sushi, LLC (owner)  
14454 NW Alta Lane  
Portland, OR 97229

**Site Address:** 914 NE Broadway Boulevard

**Legal Description:** EXC PT IN ST LOT 1 BLOCK 222, HOLLADAYS ADD  
**Tax Account No.:** R396215710  
**State ID No.:** 1N1E26CD 12200  
**Quarter Section:** 2831  
**Neighborhood:** Lloyd District Community, contact William Ruff at 503-221-1121  
**Business District:** Lloyd District Community Association, contact Nancy Chapin at 503-774-2832

**Plan District:** Central City – Lloyd District  
**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 modifications to the existing building at 914 NE Broadway Boulevard (currently the Umi Sushi restaurant), including re-cladding the front and side walls of the building with stone veneer, removing an existing deck roof to create an open deck area on the building's west side, and installing a roof parapet wall along the west elevation. Additional elements of the proposal include rebuilding the roof and sides of a portion of the existing storage area on the west façade, placing a wooden screen around the open deck

area, infilling a window along the west wall with a doorway for access to the deck area, and building a new detached, enclosed structure to screen garbage and recycling collection. Two modifications are requested to zoning code standards prompted by the partial removal of roof and walls that originally enclosed the western portion of the building to create the open deck seating area.

Modification Requests:

1. Maximum Building Setback (Section 33.130.215 C and Table 130-3). Because NE Broadway Boulevard is a transit street and the site is located within a Pedestrian District, the full length of the building is required to be no more than 10 feet from the street lot line along NE Broadway Boulevard. This standard applies to buildings that are enclosed on all sides. The proposed open deck area will not be enclosed and therefore cannot be considered part of the building. However, there is a portion of the primary structure (used primarily as a storage area) that is located behind the deck area and that is outside of the 10-foot maximum setback. A modification to this standard is therefore required.
2. Required Building Lines (33.510.215 and Map 510-6). Along NE Broadway Boulevard, buildings must extend to the street lot line for at least 75 percent of the lot line or to within 12 feet of the street lot line for 75 percent of the lot line with the expanded space dedicated to active uses. Removing the enclosed deck to create an open deck area has reduced the amount of the building located near the street lot line and moved the building further out of conformance with this standard. A modification to the required building lines standard is therefore 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 include the following:

- 33.825 Design Review
- Central City Fundamental Design Guidelines
- Special Design Guidelines for the Design Zone of the Lloyd District

## ANALYSIS

**Site and Vicinity:** The 4,000 square foot site is located in the Lloyd District of the Central City Plan District at the corner of NE Broadway Boulevard and NE 9<sup>th</sup> Avenue. The site is occupied by the Umi Sushi restaurant (formerly Sushi Mania). The surrounding area is generally characterized by commercial, retail, and restaurant uses along NE Broadway and NE Weidler. While most of the area around the site is zoned for commercial uses, the area north of the site is zoned for high-density and medium-density multi-dwelling development.

Portland's Transportation System Plan classifies NE Broadway Boulevard as a Major City Traffic Street, a Major Transit Priority Street, and a Regional Main Street. NE 9<sup>th</sup> Avenue is a Traffic Access Street. Both streets are designated as City Bikeways and City Walkways and the site is within the Lloyd District Pedestrian District.

**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.

The Design (d) overlay zone promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior

modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.

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

VZ 243-60: Approval of a variance request for a 25' x 10' illuminated poster panel.

VZ 247-68: Approval of a variance request to relocate a 25' x 10' illuminated poster panel.

CU 045-76: Approval of a conditional use request to extend the period of time for the removal of all above and below grade facilities associated with an unused service station.

DZ 020-90: Approval for the installation of an entrance awning.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed on June 10, 2009. The following Bureaus have responded with no issues or concerns:

- Parks Bureau
- Fire Bureau
- Water Bureau
- Urban Forestry

The Site Development Section of BDS responded with the following comments (please see Exhibit E-1 for additional details):

“Site Development has not received sufficient information to determine if the proposal will conform to requirements for stormwater services. In order to meet these requirements, this may necessitate changes to the site plan, which could have a bearing on the pending land use review...The plans provided for the Design Review do not show where stormwater from the existing structure is disposed or where stormwater for the proposed structure will be disposed. Based on June 16, 2009 site visit, and a June 15, 2009 email from a neighboring property owner (forwarded to Site Development by the staff planner), several of the downspouts on the building have been routed to extensions that discharge stormwater directly to the ground, or to paved areas of the site. Stormwater for the existing and proposed development must be directed to an approved disposal location(s).”

The Bureau of Environmental Services responded with the following comments (please see Exhibit E-2 for additional details):

Summary of Response: “BES has no objection to the proposed design review. Onsite stormwater infiltration facilities or rain drain connection to the combination line in 9<sup>th</sup> is required at time of building permit.”

The Bureau of Transportation responded with no objections to the proposal provided that no encroachments are made into the public right-of-way.

The Life-Safety Plans Examiner responded with the following comments: “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-3 for additional details):

**Neighborhood Review:** A “Notice of Proposal in Your Neighborhood” was mailed on June 10, 2009. Two written responses were received from neighbors and the neighborhood association.

- Frank Schmitz, a notified property owner at 1626 NE 9<sup>th</sup> Avenue (the lot immediately south of the site) responded on June 15, 2009 expressing concerns regarding the adequacy of proposed stormwater facilities, and the potential for property damage from inadequate stormwater disposal. *Exhibit F.1 provides additional details.*
- Dean Gisvold, Chair of ICA land use committee responded on June 30, 2009 expressing concerns regarding the applicant’s process with the land use review, building codes, and permitting, but supporting the two requested modifications to zoning code standards. The

committee is concerned that the work was completed prior to review, and without following proper building construction standards. He noted that the committee appreciates the eating area that is visually open to the sidewalk, but located on private property.

*Staff Note:* This information was communicated to the applicant and the Bureau of Environmental Services (BES). The applicant has worked with BES to rectify the adjacent neighbor's concerns.

## **ZONING CODE APPROVAL CRITERIA**

### **1. Design Review**

#### **Chapter 33.825, Design Review**

##### **Section 33.825.010 Purpose**

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 district guidelines.

**Findings:** The site is designated with Design (d) overlay zoning; 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 the Lloyd District Special Design Guidelines.

#### **Special Design Guidelines for the Design Zone of the Lloyd District of the Central City Plan and Central City Fundamental Design Guidelines**

The Lloyd District is a unique multi-dimensional neighborhood in the Central City, with special features and assets found nowhere else in Oregon.

With the recent completion of the Oregon Convention Center, the District now serves as the "front door for Oregon and our city." The District as a whole is emerging as a special area in the state and the region, and the way it is developed will determine its comfort and continued use.

The purpose of design review is to carry out the urban design vision for the District by emphasizing unique district assets in a manner that is respectful, creative, supportive, and compatible with all its areas. Although the District is a complex urban environment, it can become a cohesive whole with the use of these design principles.

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.

#### **Lloyd District Design Goals**

The following goals and objectives define the urban design vision for new development and other improvements in the Lloyd District

- Encourage the special distinction and identity of the Lloyd District;
- Integrate the sub-areas of the District for a visual and functional coherence of the whole; and
- Improve the safety, convenience, pleasure, and comfort of pedestrians.

### **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. Central City and Lloyd District Guidelines are addressed concurrently.*

**A4. Use Unifying Elements.** Integrate unifying elements and/or develop new features that help unify and connect individual buildings and different areas.

**A5. Enhance, Embellish, and Identify Areas.** Enhance an area by reflecting the local character within the right-of-way. Embellish an area by integrating elements in new development that build on the area's character. Identify an area's special features or qualities by integrating them into new development.

**A5-1. Develop Identifying Features.** Encourage the inclusion of features in the design of projects that give projects identity and a sense of place or significance within the District.

**Findings for A4, A5, and A5-1:** The site is located in the Lloyd District of the Central City Plan District at the corner of NE Broadway Street and NE 9<sup>th</sup> Avenue. The immediate area is defined primarily by retail, restaurant, and commercial uses along NE Broadway. The buildings within the corridor exhibit a variety of architectural styles, making it difficult to identify common design themes. The existing structure on the site, with its simple rectilinear design, is fairly typical of many of the buildings found along NE Broadway. The proposed exterior improvements are consistent with the general appearance of other commercial and retail buildings found within the district.

The new deck is physically connected to the west building wall of the restaurant and extends to within 2 feet of the front property line. The use of natural wood for the deck trellis and slatted patio screen complements the stone veneer that has been added to the north and west sides of the building. Installation of flat parapets on several building walls helps to establish consistency in roof lines. The new detached storage building has a flat roof and is constructed with horizontal wood lap siding to match that used on the existing building. Some of the restaurants and cafes along NE Broadway have added outdoor sidewalk tables and benches, which helps to create a more active, vibrant streetscape. The addition of an open deck that extends

to near the front property line, and is visible to passing pedestrians, has a similar effect in activating the sidewalk environment. *These guidelines are therefore met.*

**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.

**Findings:** The proposed changes constitute improvements to the site's pedestrian character with the addition of an outdoor seating facility adjacent to the right-of-way, thereby helping connect the activity of the restaurant with the neighborhood. The north wall of the original covered patio was constructed to within approximately 2 feet of the north property line and was separated from the pedestrian right-of-way along NE Broadway by a narrow landscape strip planted with tall arbor vitae shrubs. The windowless north façade of the covered deck and adjacent landscape screening had the effect of creating a barrier that separated pedestrians from the interior spaces and activities on the site. As with the original deck, the new deck extends to within 2 feet of the north property line. With the removal of the arbor vitae in front of the deck, and with the increased transparency of the walls or screens of the seating area, active uses of the site are more visible to pedestrians and contributes to a more vibrant streetscape. *This guideline is therefore met.*

**B1. Reinforce and Enhance the Pedestrian System.** Maintain a convenient access route for pedestrian travel where a public right-of-way exists or has existed. Develop and define the different zones of a sidewalk: building frontage zone, street furniture zone, movement zone, and the curb. Develop pedestrian access routes to supplement the public right-of-way system through superblocks or other large blocks.

**B1-3. Design Projects to Attract Pedestrians to the Broadway/Weidler Corridor.** Incorporate design features in new projects or building renovation which attract pedestrians and encourage their safe and enjoyable movement throughout the Broadway/Weidler Corridor and which support the corridor as a neighborhood retail area.

**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 for B1, B1-3, and B2:** The proposed exterior improvements do not restrict or reduce opportunities for pedestrian travel within the public right-of-way along NE Broadway Boulevard or along NE 9<sup>th</sup> Avenue, since no encroachments within the right of way are proposed. No additional vehicular access to the site is proposed; vehicular entry is maintained from NE 9<sup>th</sup> Avenue. Pedestrian access to the restaurant has not changed. The proposed exterior improvements are intended to make the site more attractive, and in doing so, enhance the experience of pedestrians within the NE Broadway corridor. *These guidelines are therefore met.*

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

**C10-1. Use Masonry Materials.** Except for window glazing, use masonry types of materials as the predominant exterior material for building walls. Use modular stone or masonry materials on the building base or first floor of buildings whenever possible.

**C10-2. Design Exterior Building Walls that are Transparent in Glazed Areas and**

**Sculptural in Surface.** Design exterior building walls that are transparent or translucent in the glazed areas and which are textural, sculptural and articulated in surface character.

**C10-3. Use Light Colors.** The use of light color values is preferred for the predominant exterior building materials. Darker value materials should be used to accent or articulate the design.

**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.

**C3-1. Design to Enhance Existing Themes in the Broadway/Weidler Corridor.** Use special design features which reinforce architectural themes and elements within the Broadway/Weidler Corridor. Look to buildings from throughout the corridor for architectural precedent.

**C4. Complement the Context of Existing Buildings.** Complement the context of existing buildings by using and adding to the local design vocabulary.

**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, C10-1, C10-2, C10-3, C3, C3-1, C4, and C5:** The materials to be used in the exterior improvements on the site are common to commercial construction. The north and west sides of the building are re clad with a stone veneer that is light in color. This contributes to a sense of solidity and permanence to the one-story building, and is consistent with district guidelines that support the use of stone and masonry as primary cladding materials. The light-colored stone veneer visually complements the color of the natural wood used for the slat siding and trellised roof of the deck. Other exterior improvements are consistent in design and materials with the character of the existing building: new parapets located on the east and west facades match the existing parapet on the front façade and establish consistency in the roof lines; and the horizontal wood lap siding is used on the new detached storage building that matches the lap siding found on the existing building. *These guidelines are therefore met.*

**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.

**C9. Develop Flexible Sidewalk-Level Spaces.** Develop flexible spaces at the sidewalk-level of buildings to accommodate a variety of active uses.

**Findings for C8 and C9:** The new seating area located adjacent to the sidewalk at NE Broadway Street represents an active public space with flexibility expressed in open slat "windows" that can be opened or closed depending on the degree of transparency desired. The existing building is single story and comprised of slab-on-grade construction with stucco-finish masonry walls. Horizontal wood lap siding has been added to the building and a natural stone veneer has recently been added to the front (north) and side (west) façades. New parapets on the east and west faces of the building increase the height of those walls by 3 feet. The trellis that covers the deck extends to the top of the west building wall. No changes are proposed to the windows along the front façade of the building. The improvements made to the outdoor eating area on the west side of the primary building creates a new flexible

sidewalk-level space that provides a new level of pedestrian interaction between the building and the street. *These guidelines are therefore met.*

## **2. Modifications**

### **33.825.040 Modifications That Will Better Meet Design Review Requirements:**

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. These modifications are done as part of design review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

#### **A. Better meets design guidelines.**

The resulting development will better meet the applicable design guidelines.

#### **B. Purpose of the standard.**

On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

The following modifications are requested:

1. Maximum Building Setback (Section 33.130.215 C and Table 130-3). Because NE Broadway Boulevard is a transit street and the site is located within a Pedestrian District, the full length of the building is required to be no more than 10 feet from the street lot line along NE Broadway Boulevard. This standard applies to buildings that are enclosed on all sides. The proposed open deck area will not be enclosed and therefore cannot be considered part of the building. However, there is a portion of the building that extends behind the deck that is approximately 23 feet from the front property line and that is outside of the 10-foot maximum setback. A modification to this standard is therefore required.

***Purpose.** The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial zones. The CN1, CM, CS, and CX setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial development that will maintain light, air, and the potential for privacy adjacent for adjacent residential zones. The setback requirements along transit streets and in Pedestrian Districts create an environment that is inviting to pedestrians and transit users.*

**Findings:** The new deck occupies roughly the same area as the original deck and extends to within 2 feet of the front property line. Because the new deck is not fully enclosed on all of its sides, it cannot be considered part of the building by the strict definition of the zoning code. The removal of the walls and roof of the existing deck has had the effect of placing the southwest portion of the building outside of the maximum setback of 10 feet; it is approximately 23 feet from the front property line. However, even though the entire length of the building is not within the maximum setback, the open deck functions in a manner that is consistent with the purpose of the setback standard. The new deck, which extends for 16 feet along the front property line, is clearly identifiable as a built structure that is located within the maximum setback, and reinforces a pedestrian orientation to the site. The deck also provides an urban edge to the street that provides views into active space. The deck has wood slat screening on its north and west sides, with the east and south sides abutting the solid walls of the primary structure. Whereas the previous enclosed deck was large, windowless, and effectively discouraged interaction between pedestrians and active uses on the site, the new activity of the deck is visible to

pedestrians walking along NE Broadway, thereby helping to create a more active, pedestrian-oriented streetscape.

*Therefore, as the proposal is consistent with the purpose of setback standards and better meets Design Guidelines A8 (Contributing to a Vibrant Streetscape) and B1 (Reinforcing and Enhancing the Pedestrian System), this modification warrants approval.*

**2. Required Building Lines (33.510.215 and Map 510-6).** Along NE Broadway Boulevard, buildings must extend to the street lot line for at least 75 percent of the lot line or to within 12 feet of the street lot line for 75 percent of the lot line with the expanded space dedicated to active uses. Removing the enclosed deck to create an open deck area has reduced the amount of the building located at the street lot line and moved the building further out of conformance with this standard. A modification to the required building lines standard is therefore required.

**Purpose.** *Required building lines are intended to enhance the urban quality of the Central City Plan District.*

**Findings:** While the proposed renovation of the existing building improves the building's appearance and supports the pedestrian environment with visible activity along the sidewalk, officially the renovation has the effect of making the development less conformant with aspects of the zoning code that speak to the site's urban qualities. The removal of the roof and solid sides to the existing "deck" portion of the building effectively lessens the portion of the building that fronts NE Broadway Boulevard, as the deck with slat sides and an open roof does not meet the zoning code definition of "building". Thus the site has officially lost building frontage on NE Broadway Boulevard. With the removal of the existing enclosed deck, the building extends along the 100-foot front property line for approximately 37 feet. The new outdoor deck extends for an additional 16 feet along the front property line on the building's west side. The remaining portion of the site along the front property line is comprised of a narrow landscape strip and parking area. Although the new outdoor deck cannot be considered a "building," it is a clearly identifiable structure near the front property line that helps to maintain the sense of a built urban environment. The removal of the deck's solid walls and their replacement with slatted walls provides for views into the eating area and arguably better enhance the urban quality of the area by bringing visible activity to a previously shuttered location. The original covered deck was windowless and essentially created a barrier between pedestrians and active uses on the site. The renovated deck's more open design allows for greater visibility of active uses on the site. In this way, it contributes to a more active, urban setting, and thereby better meets the purpose of the standard, as well as the applicable Design Guidelines B1, Reinforce and Enhance the Pedestrian System, and B1-3. Design Projects to Attract Pedestrians to the Broadway/Weidler Corridor.

*Therefore, as the proposal is consistent with the purpose of the Required Building Lines standards and better meets Design Guidelines B1 and B1-3, the modification warrants approval.*

## **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 renovation

of the building reflects a significant aesthetic improvement to the site with an active outdoor seating area adjacent to the sidewalk, and new roof parapets that help to screen existing mechanical equipment on the roof. The slatted wood walls of the seating area provide an urban edge to the patio deck while allowing for direct visibility between the activity of the sidewalk and that of the restaurant. The new roof of the storage facility located behind the seating area reflects the primary building's flat parapet roof design, thereby promoting a cohesive design aesthetic that is in keeping with the commercial character of the Plan District. Improvements have also been made to the treatment and disposal of stormwater on site, bringing the site into greater conformance with the City's policies. The proposal meets the applicable design guidelines and therefore warrants approval.

## ADMINISTRATIVE DECISION

Approval of a renovation to the commercial property located in the Lloyd Sub-District of the Central City Plan District.

### Approval of the following development:

1. Re-clad the front and side walls of the building with stone veneer;
2. Remove the existing roof and solid walls to a "deck" to create an open deck area on the building's west side incorporating slatted wood walls;
3. Install a roof parapet wall along the west and east elevations;
4. Rebuild the roof and sides of a portion of the existing storage area on the west façade;
5. Infill a window along the west wall with a doorway for access to the deck area; and
6. Build a new detached, covered and enclosed structure to screen garbage and recycling collection.

### Approval of the following two Modifications:

1. Maximum Building Setback (Section 33.130.215 C and Table 130-3)
2. Required Building Lines (33.510.215 and Map 510-6)

Per the approved drawings, Exhibits C-1 through C-3 signed and dated August 10, 2009, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required 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 09-122492 DZM. No field changes allowed."

**Staff Planner: Noelle Elliott**



**Decision rendered by:** \_\_\_\_\_ **on August 10, 2009**

By authority of the Director of the Bureau of Development Services

**Decision mailed: August 13, 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 April 20, 2009, and was determined to be complete on **June 4, 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 April 20, 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 requested that the 120-day review period be extended with a letter requesting that the case be put on hold until further information was submitted. Exhibit A.3 provides further information.

**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 August 27, 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](http://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 **August 28, 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:

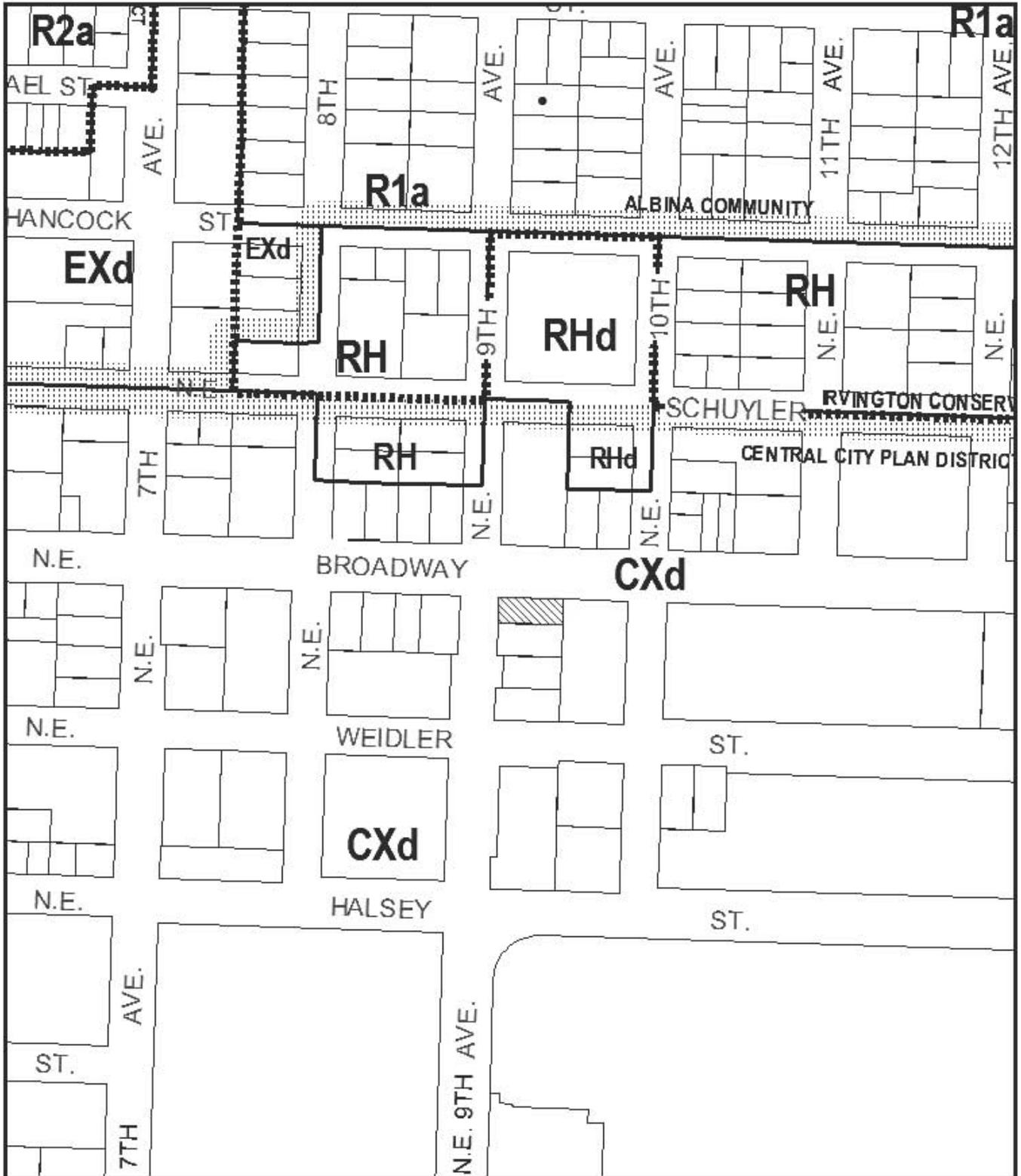
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Statement and Drawings
  - 2. Additional Information
  - 3. Letter requesting the application be put on hold until further information submitted.
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Roof Plan, North Elevation (facing NE Broadway), West Elevation (facing NE 9<sup>th</sup> Ave)  
Garbage Enclosure Elevation (attached)
  - 3. Existing Conditions Plan, Partial Building Section
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Site Development Review Section of BDS
  - 2. Bureau of Environmental Services
  - 3. Life-Safety Plans Examiner of BDS
- F. Correspondence:
  - 1. Frank Schmitz responded on June 15, 2009 expressing concerns regarding the adequacy of proposed stormwater facilities.
  - 2. Dean Gisvold, Chair of ICA land use committee responded on June 30, 2009 expressing concerns regarding the applicant's process with the land use review, building codes, and permitting, but supporting the two requested modifications to zoning code standards.
- 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



This site lies within the:  
CENTRAL CITY PLAN DISTRICT

File No.	LU 09-122492 DZ
1/4 Section	2831
Scale	1 inch = 200 feet
State_Id	1N1E26CD 12200
Exhibit	B (Apr 22, 2009)



