



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

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**Date:** September 23, 2009  
**To:** Interested Person  
**From:** Staci Monroe, Land Use Services  
503-823-7870 / [Staci.Monroe@ci.portland.or.us](mailto:Staci.Monroe@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 09-151124 DZ – DESIGN REVIEW FOR NEW ROOFTOP UNIT**

#### **GENERAL INFORMATION**

**Applicant:** Soneed LLC (owner)  
334 NW 11th Ave  
Portland, OR 97209

**Representative:** Brad Manchester (contractor), 503-239-4600  
American Heating  
1339 SE Gideon Street  
Portland OR 97202

**Site Address:** 1044 NW 9TH AVENUE

**Legal Description:** LOT 2, STATION PLACE  
**Tax Account No.:** R793100100  
**State ID No.:** 1N1E34BB 01302  
**Quarter Section:** 2929  
**Neighborhood:** Pearl District, contact Patricia Gardner at 503-228-3273.  
**Business District:** Pearl District Business Association, contact Adele Nofield at 503-223-0070.  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.  
**Plan District:** Central City - River District  
**Zoning:** EXd – Central Employment Zone with a 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 for a new paint booth exhaust system atop the new building at 1044 NW 9<sup>th</sup> Avenue. The rooftop mechanical consists of the following:

- Evaporative cooler 34"(w) x 34"(l) x 36"(h);
- Duct furnace 24"(w) x 50"(l) x 52"(h); and

- Exhaust Fan 15”(w) x 22”(l) x 37”(h).

The equipment will be located on the southeastern portion of the roof adjacent to some existing mechanical units.

Because the site is located within a Design (d) Overlay and in the Central City Plan District, exterior building alterations require Design Review.

**Relevant Approval Criteria:**

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

- Central city Fundamental Design Guidelines
- River District Design Guidelines

## ANALYSIS

**Site and Vicinity:** The level site is presently vacant and sits along the northern edge of the Station Place Residential Tower. North of the site, the railroad tracks intersect with NW Front Avenue and south of the site there are large surface parking lots associated with the United States Post Office, also located south of the site. To the southeast is Union Station, a functioning train station and national historic landmark. The railroad development directly east includes railroad platforms. Further east is the Food Innovation Center and a vacant site that is considering an office tower and another parking garage [One Waterfront Place.] Beyond are the Greenway Trail and the Willamette River. The Pearl District continues west of the site. The lots immediately to the west are currently developed as a high-density mixed-use area.

**Zoning:** The Central Employment zone (EX) implements the Central Employment map designation of the Comprehensive Plan. The zone allows mixed-uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial, business, and service uses which need a central location. Residential uses are also allowed. The development standards are intended to allow new development which is similar in character to existing development.

The Design Overlay Zone [d] promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

- LUR 01-007680 SU MS (reference file # 01-00281): Subdivision and Central City Master Plan request. This case approved, with conditions, the creation of an eight-lot subdivision to construct a senior housing building, full service grocery store, parking garage, surface parking, and commercial space.
- LUR 01-007804 PR (reference file # 01-00406): Approval of a parking garage including 130 Residential Parking spaces for the senior housing development, 75 Growth Parking spaces for the grocery store, 97 Growth Parking spaces for a future phase project on the vacant Lot 5 (north), 60 Preservation Parking spaces for Union Station, and 73 Visitor Parking spaces to replace short-term parking lost by the NW 6<sup>th</sup> Avenue extension; and a surface parking lot to include 65 Growth Parking spaces for the grocery store and the future development on Lot 5. Conditions were that the building be designed so that exiting drivers will see pedestrians at all garage exits, that an audio-visual warning system be installed at each exit to warn pedestrians about exiting vehicles, and that a traffic study be submitted analyzing the driveway intersection design and operation.
- LUR 01-007922 HDZ (reference file # 01-00525): Approval of a new metal roof tiles to replace the entire Union Station Annex roof and to remove the three existing boiler flues and the north cupola.

- LUR 01-008173 DZM (reference file # 01-00776): Approval of a 14-story affordable senior housing structure, a tall one-story commercial building and a 5 level parking garage. Plaza areas will be developed at the intersections of NW 6<sup>th</sup> and Marshall and NW 6<sup>th</sup> and Lovejoy Court. A surface parking area for 65 vehicles is planned for the area under the Lovejoy ramp, along NW 6<sup>th</sup> Avenue.
- LU 04-037436 DZ: Approval of design review approval for revisions to a previously approved design review, LUR 01-00776 DZ.
- LU 06-149639 DA: Design Advice Request for Ziba Headquarters.
- LU 07-146049 DZM AD: Approval of a new three story, 46'-3" tall, 69,500 SF mixed-use building for Ziba's World Headquarters.
- LU 08-119910 DZ: Approval for minor changes to the approved building design including exterior materials, trash enclosure, and window treatment.
- LU 09140963 DZ: Approval for an extension of a previously approved rooftop terrace.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **August 27, 2009**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau (Exhibit E-1)
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division
- Plan Review Section of BDS (Exhibit E-2)

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on August 27, 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 and River District Guidelines.

#### **River District Design Guidelines and Central City Fundamental Design Guidelines**

The River District is a remarkable place within the region. The area is rich with special and diverse qualities that are characteristic of Portland. Further, the River District accommodates a significant portion of the region's population growth. This area emphasizes the joy of the river, connections to it, and creates a strong sense of community. The goals frame the urban design direction for Central City and River District development.

The Central City Fundamental Design Guidelines and the River District Design Guidelines focus on four general categories. (A) Portland Personality, addresses design issues and

elements that reinforce and enhance Portland’s character. (B) Pedestrian Emphasis, addresses design issues and elements that contribute to a successful pedestrian environment. (C) Project Design, addresses specific building characteristics and their relationships to the public environment. (D) Special Areas, provides design guidelines for the four special areas of the Central City.

### **River District Design Goals**

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

### **Central City Plan Design Goals**

1. Encourage urban design excellence in the Central City;
2. Integrate urban design and preservation of our heritage into the development process;
3. Enhance the character of the Central City’s districts;
4. Promote the development of diversity and areas of special character within the Central City;
5. Establish an urban design relationship between the Central City’s districts and the Central City as a whole;
6. Provide for a pleasant, rich and diverse pedestrian experience for pedestrians;
7. Provide for the humanization of the Central City through promotion of the arts;
8. Assist in creating a 24-hour Central City which is safe, humane and prosperous;
9. Ensure that new development is at a human scale and that it relates to the scale and desired character of its setting and the Central City as a whole.

*Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.*

**B2. Protect the Pedestrian.** Protect the pedestrian environment from vehicular movement. Develop integrated identification, sign, and sidewalk-oriented night-lighting systems that offer safety, interest, and diversity to the pedestrian. Incorporate building equipment, mechanical exhaust routing systems, and/or service areas in a manner that does not detract from the pedestrian environment.

**Findings:** The rooftop unit will be set back 184’-0” from NW 9<sup>th</sup> Avenue and 52’-0” from NW Marshall Street. This increased setback coupled with the low profile of the exhaust system (tallest part is 4’-3” above roof) will reduce visibility from the two adjacent streets and therefore not detract from the pedestrian environment. *This guideline is therefore met.*

**C3. Respect Architectural Integrity.** Respect the original character of an existing building when modifying its exterior. Develop vertical and horizontal additions that are compatible with the existing building, to enhance the overall proposal’s architectural integrity.

**Findings:** The low profile of the exhaust system and the location near the southeast portion of the roof, 52’-0” from the nearest street-facing façade, will limit the visibility of the rooftop unit along the primary building facades thus maintaining the architectural integrity of this modern structure. *This guideline is therefore met.*

**C5. Design for Coherency.** Integrate the different building and design elements including, but not limited to, construction materials, roofs, entrances, as well as window, door, sign, and lighting systems, to achieve a coherent composition.

**C11. Integrate Roofs and Use Rooftops.** Integrate roof function, shape, surface materials,

and colors with the building's overall design concept. Size and place rooftop mechanical equipment, penthouses, other components, and related screening elements to enhance views of the Central City's skyline, as well as views from other buildings or vantage points. Develop rooftop terraces, gardens, and associated landscaped areas to be effective stormwater management tools.

**Findings:** The exhaust system has been designed to be integrated with the roof by using low profile units setback from the building edges and clustering them with other rooftop features. The three units that make-up the exhaust system are 3'-0", 3'-1" and 4'-4" tall. The 1'-6" round ducting that connects these units will be installed horizontally and parallel with the roof. The large setback from the building edges (184' from the west, 52' from the north, 63' from the east, and 30' from the south) limits their visibility from the streets and along the building facades. The unit will be placed next to the stair enclosure and several other small exhaust fans. This clustering results in an organized pattern of the rooftop elements similar to the other two enclosures on this rooftop. *These guidelines are therefore met.*

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

The design review process exists to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The proposed rooftop units do not impact the pedestrian environment or architectural integrity of building and result in a coherent rooftop composition. The proposal meets the applicable design guidelines and therefore warrants approval.

## ADMINISTRATIVE DECISION

Approval of a Design Review for the following three rooftop units in the Central City Plan District (River Subdistrict):

- Evaporative cooler 34"(w) x 34"(l) x 36"(h);
- Duct furnace 24"(w) x 50"(l) x 52"(h); and
- Exhaust Fan 15"(w) x 22"(l) x 37"(h).

Approval per the approved site plans, Exhibits C-1 through C-6, signed and dated 9/21/09, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.6. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-151124 DZ. No field changes allowed."

**Staff Planner: Staci Monroe**



**Decision rendered by:** \_\_\_\_\_ **on September 21, 2009**

By authority of the Director of the Bureau of Development Services

**Decision mailed: September 23, 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 August 14, 2009, and was determined to be complete on August 24, 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 August 14, 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 October 7, 2009** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on Mondays, 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, 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 **October 8, 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
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Roof Plan
  - 3. Building Elevation
  - 4. Evaporative Cooler Cut Sheet
  - 5. Exhaust Fan Cut Sheet
  - 6. Duct Furnace Cut Sheet
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Fire Bureau
  - 2. Plan Review Section of BDS
- 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).**





\*Approved\*

City of Portland - Bureau of Development Services

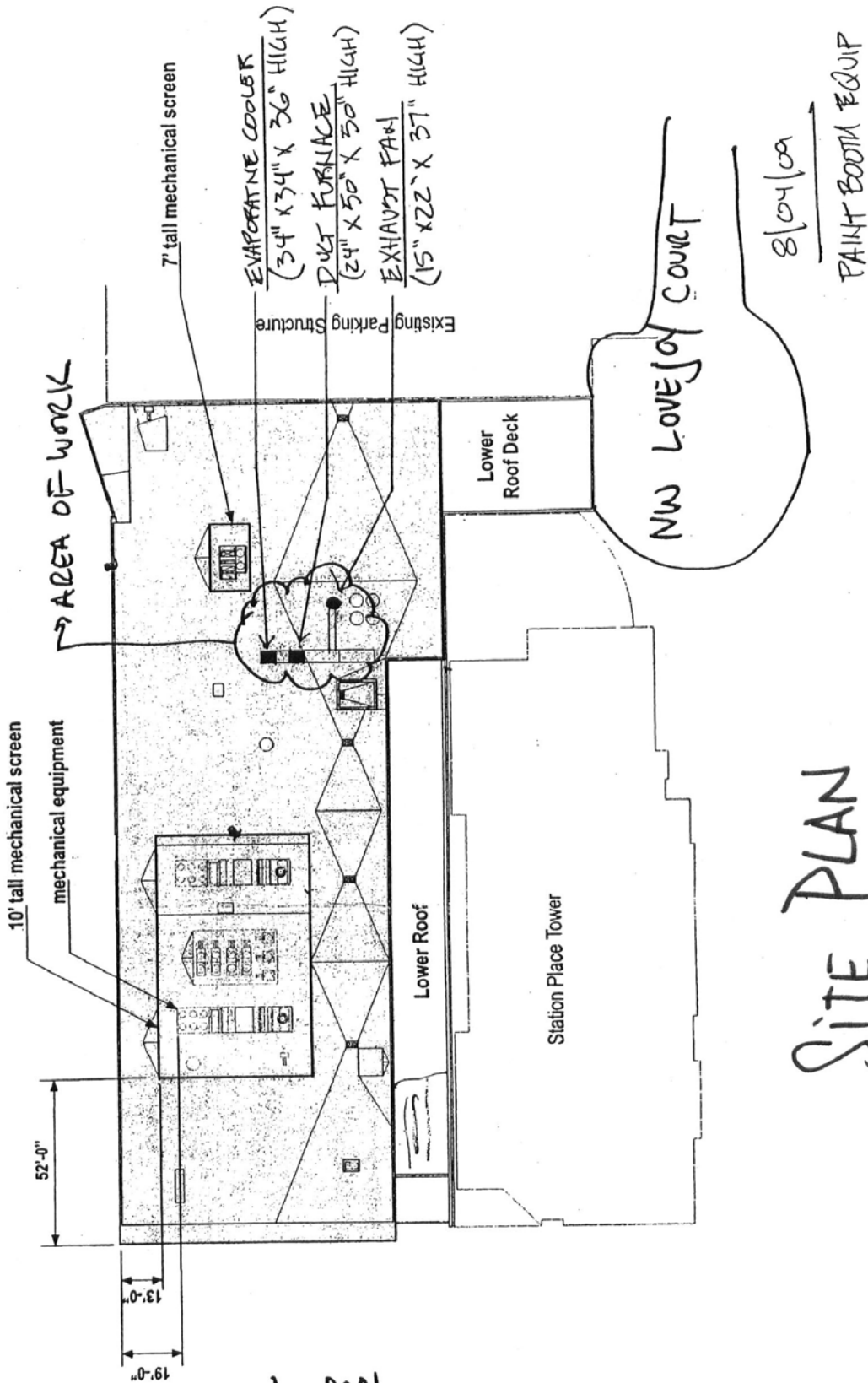
Date 9/21/09

Planner

Gulon

\* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

NW MARSHALL



4th MN

SITE PLAN

NTS

09.15112402  
EX.C-1