



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

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**Date:** January 20, 2010  
**To:** Interested Person  
**From:** Kara Fioravanti, Land Use Services  
503-823-5892 / [kfioravanti@ci.portland.or.us](mailto:kfioravanti@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 09-175113 DZ NEW ROOFTOP EQUIPMENT ON 24-HOUR FITNESS**

#### **GENERAL INFORMATION**

**Applicant:** Oregon-Ddp LLC, Listed Owner  
PO Box 50025/ Pasadena, CA 91115-0025  
  
Marshall Stewman, Stated Owner  
24-Hour Fitness  
5100 Beltline Road/ Dallas, TX 75254

**Representative:** Rhys Konrad, Group Mackenzie  
PO Box 14310/ Portland, OR 97045

**Site Address:** 1210 NW JOHNSON STREET  
**Legal Description:** LOT 1-8 BLOCK 125, COUCHS ADD  
**Tax Account No.:** R180211210 **State ID #:** 1N1E33AD 01700 **Quarter Section:** 2928  
**Neighborhood:** Pearl District, contact Patricia Gardner at 503-228-3273.  
**Business District:** Pearl District Business Assoc., contact Adele Nofield at 503-223-0070.  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.  
**Plan District:** Central City - River District  
**Zoning:** EXd, Central Employment with design overlay  
**Case Type:** DZ, Design Review  
**Procedure:** Type II, administrative decision with appeal to the Design Commission.

**PROPOSAL:** The applicant seeks design review approval to install a condensing unit on top of the existing building. The proposed unit, as installed, is less than 4' in height.

**RELEVANT APPROVAL CRITERIA:** In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are: Central City Fundamental Design Guidelines, River District Design Guidelines.

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. This application was submitted on December 4, 2009 and determined to be complete on December 18, 2009.

## ANALYSIS

**Site and Vicinity:** The site is located in the River sub District of the Central City Plan District. The site comprises the full, 40,000 square foot block bound by NW Johnson Street, NW Irving Street, NW 12<sup>th</sup> Avenue, and NW 13<sup>th</sup> Avenue. Currently, a health club exists in a converted warehouse on the east half of the site. A surface parking lot exists on the southwest corner of the site. The proposal will be located on the building at the northwest corner of the site, which was converted to additional health club area in 2004.

**Zoning:** The zone implements the Central Employment map designation [EX] 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 and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area. The development standards are intended to allow new development which is similar in character to existing development.

The Design overlay zone (d) designation also ensures that exterior alterations to existing development conserve and enhance the identified historic, scenic, architectural, and cultural values of each design district: in this case, the River District.

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

- **ZC 4684** approved a zone change for the site and its surrounding neighborhood.
- **LUR 92-00687 DZ** approved [with conditions A-O] the conversion of the existing buildings to an exercise club, indoor parking lot, and quarter-block outdoor parking lot. The decision required compliance with the conditions to be graphically indicated on the permit plans.
- **LUR 97-00993 DZ** approved two new painted building wall signs with indirect incandescent light fixtures. The areas approved for the sign were 153 square feet and 81 square feet.
- **LU 03-153323 DZ** approved design review for exterior alterations, which included:
  - Infilling an existing drive-in opening with new clear glass storefront on the north side of the building to allow natural light and views into the poolroom.
  - Adding a new emergency egress door on the west side of the building.
  - Infilling an existing opening on the south side of the building with new clear glass storefront that will allow views into the basketball court.
  - Constructing the 12<sup>th</sup> Avenue block frontage to City standards.
 Approval was granted per the approved Exhibits C-1 through C-7, signed and dated September 23, 2003, subject to the following conditions [A.-E.]:
  - A. The existing hollow metal door at the north elevation will remain or a similar fixed metal panel will be inserted into the existing opening.
  - B. The material, color, and finish of the proposed egress door at the west elevation will match the existing egress door at the south elevation.
  - C. The material, color, and finish of the proposed storefront at the south elevation will match the existing punched window openings on the north and south elevations.
  - D. The material, divided-lite proportions, color, and finish of the proposed window at the north elevation will match the existing overhead door at the north elevation.
  - E. No field changes allowed.
- **LU 03-178692 DZM** approved a sign proposal for 2 wall signs. The approval was as follows:

Approval of design review to install 3 new 54.27 square foot wall signs on the existing building. The north, east and west elevations will receive one sign near the top of the parapet. The proposed signs include 3"-deep letters/logos affixed to three 3"-deep aluminum angled perforated face panels that are not internally illuminated. The aluminum panels sit upon 4"-deep exposed raceways. The letters will utilize halo illumination technology – light will not be able to shine through the letters, rather light will glow behind the letters. The circular logo will be internally illuminated. The signs will have the capability of being dimmed. As part of this approved proposal, the existing painted “24-Hour Fitness” wall signs will be removed and the two existing murals on the east elevation will remain.

Approval of a modification request, as follows: Title 32 [Table 32.32-2] allows 1.5 square feet of sign area per 1 foot of “Primary Building Wall”. The south half of the west elevation, which is 100 lineal feet, is defined as the building’s “Primary Building Wall”. As such, the building is allowed 150 square feet of sign area. With execution of this approved proposal, the resulting sign area for the building will be 462.81 square feet [300 square feet for the two existing murals and 162.81 square feet for the three proposed signs].

Approval was subject to the following conditions:

- B. The area containing the letters can only include halo illumination [i.e. the letters will be an opaque material so light cannot emit from the faces or sides – light will only glow behind the letters].
- C. Off-site impacts are addressed in the Zoning Code for nonresidential uses in all zones that cause off-site impacts on uses in the R, C, and OS zones. Though the neighboring sites are in an EX zone, the signs cannot cause off-site impacts [per 33.262.050, 262.080 and 262.090] on neighboring residential uses.
- D. The signs will align with the windows below as indicated in Exhibits C.2 and C.4.
- E. Conduits and any other associated sign hardware must be contained within the raceways. Conduits must connect directly back into the building from the raceway. Conduits cannot be exposed anywhere on the building.
- F. No field changes allowed.

- **LU 04-009682 DZ** approved a rooftop mechanical proposal. The approval was as follows: Approval of design review to remove 3 existing rooftop units and install 4 new rooftop units. The proposed units will be located on the building that sits at the northwest quadrant of the block. All units are 5' or less above the building parapet. The units will be painted to match the roof color.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed December 18, 2009. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Development Services, Life Safety
- Fire Bureau
- Site Development Section of BDS
- Bureau of Transportation Engineering
- Water Bureau

The Bureau of Parks-Forestry Division responded with the following comment: “Protect existing street trees.”

The Bureau of Environmental Services responded with the following comment: (Exhibit E.1)

*BES has no objections to the proposed rooftop condensing unit. Please review the Future Building Permit Requirements section below which describes design requirements that may apply to your project at the building permit stage. The following comments have been provided for information purposes and mainly relate to building permit review.*

**Sanitary Services**

1. There are existing public combination sewers located in both NW Johnson Street and NW Irving Street.
2. There is an existing public sanitary sewer in NW 12th Avenue.

**Stormwater Management & Water Resources**

Stormwater runoff generated from the proposed development must meet the requirements of the City of Portland's Stormwater Management Manual current at the time of building plan review. For all projects, the Stormwater Hierarchy must be addressed. The applicant may contact BES with any questions or for additional information. The current 2008 Stormwater Management Manual can be found at: <http://www.portlandonline.com/bes/> under Publications and then go to Manuals.

1. There is an existing public storm-only sewer located in NW Johnson Street.

**Conditions of Approval**

BES has no recommended conditions of approval.

**Future Building Permit Requirements**

1. Cooling Towers/Boilers (Title 17 Chapters 34 & 39): Cooling towers with a recirculating system and industrial boilers require occasional or regular water discharge (blowdown). If this type of equipment will be installed or upgraded as part of this development project, then at the time of building permit application the building plans must show the blowdown water discharging to a sanitary waste line.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on December 18, 2009. One written response (Exhibit F.1) and telephone calls were received about this proposal. All concerns raised related to additional noise from this proposed unit. This design review process, per the applicable approval criteria, is primarily limited to visual impacts of projects. Noise is not an outright issue to address. However, information was shared by the applicant regarding the expectations for noise from this unit. This unit is quieter than any of the existing equipment on this building. That means if this unit is running with any other unit on the building, there wouldn't be an observable increase in noise. If it were running on its own, it would be quieter than any noise coming from the building today. Additionally, this unit is associated with a room that does not include windows and doors, which reduces the need for the unit to run. Finally (at this point) the room is only intended to be used for classes, which means it is not open all the time and most likely will not be open during very late hours or very early hours of the day.

The Zoning Code addresses "Off-Site Impacts" in Chapter 33.262. However, this Chapter does not apply in this situation because the Zoning is EX. (33.262.020: Nonresidential uses in all zones which cause off-site impacts on uses in the R, C, and OS zones are required to meet the standards of this chapter.) However, Title 18 of the City Codes does address noise requirements. In addition, the Department of Environmental Quality has regulations which apply to firms adjacent to or near noise sensitive uses such as dwellings, religious institutions, schools, and hospitals.

**ZONING CODE APPROVAL CRITERIA****Chapter 33.825 Design Review****Section 33.825.010 Purpose of Design Review**

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

**Section 33.825.055 Design Review Approval Criteria**

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

**Findings:** The site is designated with design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site's location, the applicable design guidelines are the Central City Fundamental Design Guidelines and River District Guidelines.

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

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

The Central City Fundamental Design Guidelines and the River District Design Guidelines focus on four general categories. **(A) Portland Personality**, addresses design issues and elements that reinforce and enhance Portland's character. **(B) Pedestrian Emphasis**, addresses design issues and elements that contribute to a successful pedestrian environment. **(C) Project Design**, addresses specific building characteristics and their relationships to the public environment. **(D) Special Areas**, provides design guidelines for the four special areas of the Central City.

**River District Design Goals**

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

**Central City Plan Design Goals**

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

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

**B2. Protect the Pedestrian.**

**C2. Promote Quality and Permanence in Development.**

**C5. Design for Coherency.**

**C11. Integrate Roofs and Use Rooftops.**

**Findings:** The existing structure is 25 feet in height. The proposal is for one additional condensing unit to be located on the roof, away from the pedestrian realm. It will be smaller than existing units. Though the existing building does not have a parapet, the unit is setback a reasonable amount (due to its overall height) to minimize views from adjacent sidewalks. The proposed rooftop unit is organized with existing units to consolidate overall mechanical location and minimize visual clutter for those looking down upon the roof. These guidelines are 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 approval criteria are met.

**ADMINISTRATIVE DECISION**

Approval of design review to install a condensing unit on top of the existing building. The proposed unit, as installed, is less than 4' in height. Approval per the approved plans, Exhibits C-1 through C-3, signed and dated January 15, 2010, 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-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-175113 DZ. No field changes allowed."

**Staff Planner: Kara Fioravanti**

**Decision rendered by:**  **on January 15, 2010**

By authority of the Director of the Bureau of Development Services

**Decision mailed: January 20, 2010**

**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 3, 2009, and was determined to be complete on December 18, 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 3, 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 February 3, 2010** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and 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 **February 4, 2010 – (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.

**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. Building Section (attached)
  3. Cut Sheet of proposed unit
- D. Notification information:
  1. Mailing list
  2. Mailed notice
- E. Agency Responses:
  1. Bureau of Environmental Services
- F. Correspondence:
  1. Dimitman, 1-7-10, opposed
- 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. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



# ZONING



Site



Historic Landmark



This site lies within the:  
CENTRAL CITY PLAN DISTRICT

File No. LU 09-175113 DZ

1/4 Section 2928

Scale 1 inch = 200 feet

State\_Id 1N1E33AD 1700

Exhibit B (Dec 08,2009)

\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner *[Signature]*  
 Date 1-15-10

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

*BHC.1*

LU09-175113



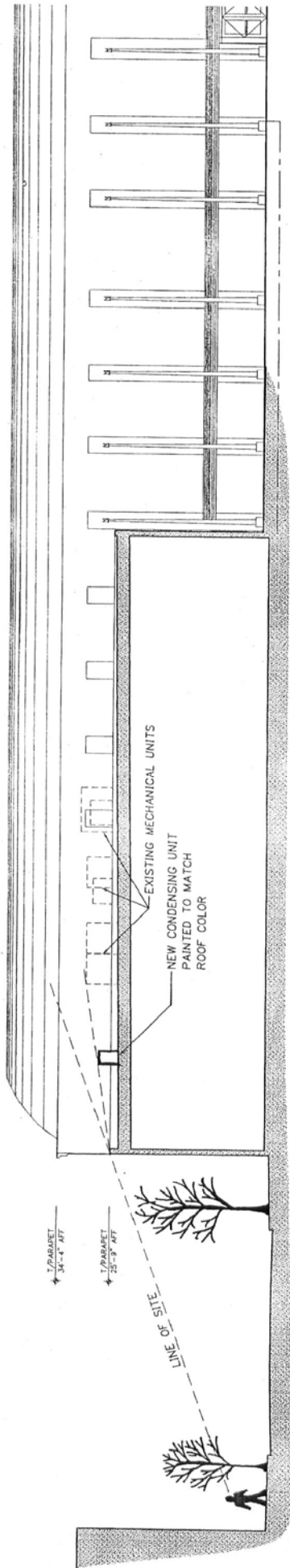
NW JOHNSON STREET

NW 12TH AVE

NW IRVING STREET

NW 13TH AVE

SITE ROOF PLAN  
 1:40



NW JOHNSON

**A** BUILDING SECTION  
 A41 1/16"=1'-0"

\*Approved\*  
 City of Portland  
 Bureau of Development Services  
 Planner DS  
 Date 1-15-10

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

LU09-175113

EXHC.2