

## City of Portland, Oregon

### **Bureau of Development Services**

#### **Land Use Services**

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

**Date:** October 11, 2013 **To:** Interested Person

**From:** Kate Marcello, 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 the version located on the BDS website, via this link: <a href="http://www.portlandonline.com/bds/index.cfm?c=46429">http://www.portlandonline.com/bds/index.cfm?c=46429</a>. Click on the district coalition and then scroll to the relevant neighborhood and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

# CASE FILE NUMBER: LU 13-193404 DZ New Mechanical Unit on Rooftop of Union Way GENERAL INFORMATION

**Applicant:** Jonathan Heppner, Lever Architecture | (503) 928-6045

239 NW 13th Avenue, Suite 303 | Portland, OR 97212

Owner: The Alley LLC (Contact: Jonathan Ledesma) | (503) 922-0056

413 SW 13th Ave #300 | Portland, OR 97205-2305

**Site Address:** 1025 SW Stark Street

Legal Description: BLOCK 87 TL 2400 LAND & IMPS SEE R651727 (R667709151) FOR

AIRSPACE, PORTLAND

**Tax Account No.:** R667709150, R667709150

**State ID No.:** 1N1E34CC 02400, 1N1E34CC 02400, 1N1E34CC 02400

Quarter Section: 3029

**Neighborhood:** Portland Downtown; contact Jennifer Geske at 503-750-9843 **District Coalition:** Neighbors West/Northwest; contact Mark Sieber at 503-823-4212

**Plan District:** Central City Plan District; West End Subdistrict

**Zoning:** Central Commercial (CX) base zone; Design (d) overlay zone

Case Type: Design Review (DZ)

**Procedure:** Type II (an administrative decision, with appeal to the Design

Commission)

**PROPOSAL:** The applicant requests Design Review approval for a new mechanical unit to be installed on the rooftop of Union Way, which is a recently completed project comprised of several microretail spaces. The new mechanical unit will be approximately 6'-2" long x 3'-8" wide x 2'-10" tall. (The 2'-10" height includes the mounting curb.) The unit will be located near the mid-point of the rooftop.

Because the proposal is for non-exempt exterior alterations to an existing building on a site with design overlay zoning in the Central City Plan District, Design Review is required prior to the issuance of permits.

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the

approval criteria of Title 33 (Portland Zoning Code). The relevant criteria are the *Central City Fundamental Design Guidelines*.

#### ANALYSIS

I. Site and Vicinity: The site is located on the irregularly shaped block bounded by W Burnside Street/SW Oak Street to the north, SW 10<sup>th</sup> Avenue to the east, SW Stark Street to the south, and SW 11<sup>th</sup> Avenue to the west. The site is a through-lot occupied by two buildings. The building that fronts W Burnside Street/SW Oak Street is 4,435 square feet in size and the building that fronts SW Stark Street is 5,992 square feet in size. Both buildings were constructed around 1920. Both buildings are one story tall and feature brick veneer. Over the years, significant changes have been made to both buildings, such as the removal of the original storefronts and cladding in the storefront bays, and the addition of elements such as canopies and light fixtures.

Other buildings on the block include the Tobin Building at the northwest corner, which contains ground-floor retail and a ballroom and office space at the second floor; a four-story building at the southwest corner, which contains a ground-floor restaurant/nightclub and the Joyce Hotel (hostel-style temporary lodging) at the upper floors; a multi-screen movie theater with associated restaurant and bar at the southeast corner; and a one-story retail building with a surface parking lot at the northeast corner.

The surrounding area contains a mixture of retail shops, bars, nightclubs, restaurants, condominiums, and offices. In recent years, there has been a wave of building and storefront rehabilitation in the immediately surrounding area. Many new uses such as the Ace Hotel (formerly the Clyde Hotel), Living Room Theaters, Kenny & Zuke's delicatessen, and the Crystal Hotel have attracted attention from Portland residents and tourists alike. The Pearl District lies just north of the site, across W Burnside Street.

With regard to transportation, Portland's Transportation System Plan W Burnside Street is a designated Major City Traffic Street, Major Transit Priority Street, and Local Service Bikeway. In terms of street design, W Burnside Street is a designated Regional Main Street. SW Stark Street is classified as a Traffic Access Street and Local Service Bikeway. In 2009, one of the auto lanes on this portion of SW Stark Street was removed to accommodate a relatively wide bicycle lane. The site is located in the Downtown Pedestrian District. The southbound Portland Streetcar runs along SW 11th Avenue, and TriMet bus route #20 runs along W Burnside Street.

#### II. Zoning

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

**Overlay Zone:** The <u>Design (d) overlay zone</u> 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.

- **III.** Land Use History: City records indicate the following prior land use reviews:
  - <u>LUR 00-00520 DZ</u>:

Design Review approval, with conditions, for storefront alterations and a rooftop addition.

#### • LUR 01-00339 DZ:

Design Review approval for storefront alterations, new canopy, two new rooftop penthouses, and new rooftop terrace.

LU 02-110226 DZ:

Design Review approval for two recessed entries with light fixtures and metal-and-glass wall system, one new entry canopy with signage, and new storefront system.

■ LU 06-124460 DZ:

Design Review approval for new glass canopies and rooftop terrace.

• LU 12-172099 DZ:

Design Review approval for new storefront system with concrete base, recessed entries with concrete surfacing, and entry canopies with halo lighting.

• LU 13-108833 DZ:

Design Review approval for lighting revisions to LU 12-172099 DZ; approval for one relocated rooftop mechanical unit and five new rooftop mechanical units.

- **IV. Agency Review:** A *Notice of Proposal in Your Neighborhood* was mailed on January 31, 2013. No City bureaus responded with comments or objections to the proposal.
- **V. Neighborhood Review:** A *Notice of Proposal in Your Neighborhood* was mailed on January 31, 2013. No written comments in response to the proposal have been received from the neighborhood association (Portland Downtown Neighborhood Association) or notified property owners.

#### **ZONING CODE APPROVAL CRITERIA**

#### Chapter 33.825: Design Review

#### Section 33.825.010: Purpose of Design Review

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

#### Section 33.825.055: Design Review Approval Criteria

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

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

#### Central City Plan Design Goals

This set of goals has been developed to guide development throughout the Central City. The goals apply within the eight Central City sub-districts, or policy areas. The nine goals for design review within the Central City and its sub-districts 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 that is safe, humane and prosperous; and
- 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 for B2:** The proposed mechanical unit will be located on the rooftop, far from the two street-facing roof edges. Because of the unit's substantial setbacks, there will be no adverse impact on the surrounding pedestrian environment. *Therefore this quideline is met.* 

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

Use design principles and building materials that promote quality and permanence.

#### C3. Respect Architectural Integrity.

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

#### C5. Design for Coherency.

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

**Findings for C2, C3, C5:** The proposed mechanical unit is integrated with the building by virtue of its considerable setback from both street-facing roof edges, small size in proportion to the overall rooftop, and approximate alignment with adjacent mechanical units. The mechanical unit will not be easily viewable from adjacent sidewalks, allowing the building to remain a coherent architectural composition. *Therefore these guidelines are met.* 

#### C11. Integrate Roofs and Use Rooftops.

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

**Findings for C11:** The proposed mechanical unit is a minor addition to the rooftop, as follows:

- The mechanical unit will be located near the mid-point of the rooftop, far from the two street-facing roof edges. Thus it will not be easily viewable from nearby sidewalks.
- Very few taller surrounding buildings are oriented in such a way that ample views of the rooftop are possible.
- The new mechanical unit is located adjacent to existing mechanical units, vents, and ducting. The new unit, which is rectangular, is approximately aligned with two adjacent rectangular units.
- The new unit, which is about 22.6 square feet in area, is a comparatively small addition to the approximately 10,901-square-foot rooftop.

Therefore this quideline is 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 proposed rooftop mechanical unit is a relatively minor addition to the overall building. The building will remain a cohesive architectural composition. The proposal meets the applicable design guidelines and therefore warrants approval.

#### ADMINISTRATIVE DECISION

Approval of one new mechanical unit, approximately 6'-2" long x 3'-8" wide x 2'-10" tall (the height includes the mounting curb), located on the rooftop of the Union Way building at 1025 SW Stark Street, in the West End Subdistrict of the Central City Plan District.

Approval per the approved plans and drawings, Exhibits C-1 through C-3, signed and dated October 8, 2013, subject to the following condition:

A. As part of the building permit application submittal, each of the four required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C-1 through C-3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 13-193404 DZ. No field changes allowed."

Staff Planner: Kate Marcello

Decision rendered by: on October 8, 2013

By authority of the Director of the Bureau of Development Services

Decision mailed: October 11, 2013

**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 16, 2013, and was determined to be complete on September 3, 2013.

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 16, 2013.

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. Unless extended by the applicant, **the 120 days will expire on: January 2, 2014.** 

#### 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 25, 2013** 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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.

**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 775 Summer St NE, Suite 330, Salem, OR 97301-1283, 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 28, 2013.
- 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/Narrative
- B. Zoning Map (attached)
- C. Plans and Drawings:
  - 1. Site/Roof Plan (attached)
  - 2. Roof and First Floor HVAC Plan
  - 3. Manufacturer's Cutsheet/Information for New Mechanical Unit
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Response: None received.
- F. Correspondence: None received.
- G. Other
  - 1. Original Land Use Review Application

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** 



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Historic Landmark



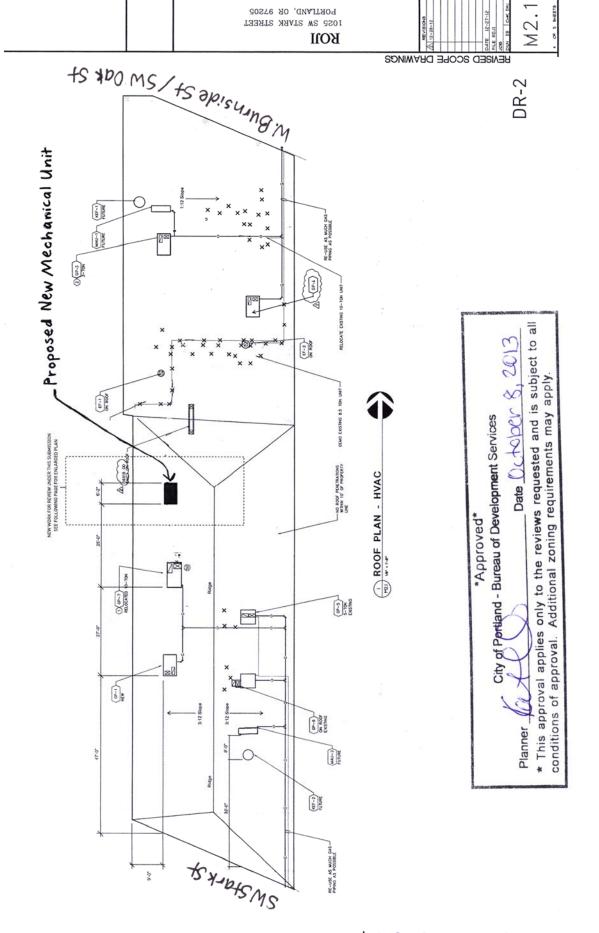
This site lies within the: CENTRAL CITY PLAN DISTRICT DOWNTOWN - WEST END File No. <u>LU 13-193404 DZ</u>

1/4 Section <u>3029</u>

Scale <u>1 inch = 200 feet</u>

State\_ld \_\_1N1E34CC 2400

Exhibit B (Aug 22,2013)



LU 13-193404 DZ Exhibit C-1