



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: September 16, 2019
To: Interested Person
From: Hillary Adam, Land Use Services
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NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition 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 19-193326 HR – ROOFTOP MECHANICAL

GENERAL INFORMATION

Applicant: Seth Moran | MFA - Michael Flowers Architect
107 SE Washington St #227 | Portland, OR 97214

Owner Representative: Leslie Louis | UD+P - Urban Development & Partners
116 NE 6th Ave, Suite 400 | Portland, OR 97232

Owner: Flanders PDX LLC Et Al
116 NE 6th Ave #400 | Portland, OR 97232-2904

Site Address: 404 NW 23RD AVE

Legal Description: BLOCK 2 W 1/2 OF S 100' OF LOT 12 S 50' OF LOT 13, LOT 14, MEADS ADD

Tax Account No.: R556500150

State ID No.: 1N1E33CB 00500

Quarter Section: 3027

Neighborhood: Northwest District, contact John Bradley at 503-313-7574.
Business District: Nob Hill, contact Nob Hill at nobhillportland@gmail.com.
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: Northwest

Other Designations: Non-contributing resource in the Alphabet Historic District

Zoning: CM2(MU-U) m – Commercail/Mixed-Use 2 with Centers Main Street overlay and Historic Resource Protection overlay

Case Type: HR – Historic Resource Review

Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposes new mechanical equipment on a non-contributing resource in the Alphabet Historic District, to include:

- Two new fans (5' and 5'-8" high) on the west side of the roof, with two new ducts extending north along the roof and down the north façade near the existing access ladder; and
- Five new large compressors (6' high) and three new small compressors (2' high) on the east side of the roof.

Historic Resource Review is required because the proposal is for non-exempt exterior alterations in a historic district.

Relevant Approval Criteria:

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

- Community Design Guidelines
- Historic Alphabet District: Community Design Guidelines Addendum

ANALYSIS

Site and Vicinity: The subject property is a non-contributing resource constructed in 1987 and located at the corner of NW 23rd Avenue and NW Flanders Street. The building is four stories and contains retail space at the ground level and mezzanine with residential units above. It is clad with stucco and features aluminum windows and storefront. At the east side of the property is a 25-space surface parking lot. North of the site is the newly constructed 3-story Restoration Hardware building and south, across NW Flanders is the 2-story Williams-Sonoma building. A popular retail corridor, NW 23rd Avenue, contains a mix of contributing and non-contributing resources of varying scales and ages as well as uses. East of the parking lot on the subject property is a multi-dwelling development contained within a converted contributing resource and a later 1-story addition to the site.

The Alphabet Historic District is an area of Portland significant for its concentration of intact late 19th and early 20th Century, mostly middle class, housing stock and small-scale commercial buildings. Of special note are the many mid-sized apartment and institutional buildings. Many of these are in the various Period Revival styles, e.g. Tudor, Spanish Colonial, Byzantine, Jacobean, etc. and this is especially the case in the immediate vicinity of the proposed new development. The area is characterized by a grid of narrower, more tree-lined, east-west residential streets, named alphabetically after prominent Portlanders of the day, which are crossed by generally more robust north-south avenues. Two of these, NW 21st Avenue and NW 23rd Avenue are low-scale business corridors featuring a mix of purpose-built commercial structures and converted houses.

Zoning: The Commercial/Mixed Use 2 (CM2) zone is a medium-scale zone intended for sites in a variety of centers, along corridors, and in other mixed use areas that have frequent transit service. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to four stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas.

The Centers Main Street "m" overlay zone encourages a mix of commercial, residential and employment uses on the key main streets within town centers and neighborhood centers identified in the Comprehensive Plan. The regulations are intended to encourage a continuous area of shops and services, create a safe and pleasant pedestrian environment, minimize conflicts between vehicles and pedestrians, support hubs of community activity, and foster a dense, urban environment with development intensities that are supportive of transit.

The Northwest Plan District implements the Northwest District Plan, providing for an urban level of mixed-use development including commercial, office, housing, and employment. Objectives of the plan district include strengthening the area's role as a commercial and residential center. The regulations of this chapter: promote housing and mixed-use development; address the area's parking scarcity while discouraging auto-oriented developments; enhance the pedestrian experience; encourage a mixed-use environment, with transit supportive levels of development and a concentration of commercial uses, along main streets and the streetcar alignment; and minimize conflicts between the mixed-uses of the plan district and the industrial uses of the adjacent Guild's Lake Industrial Sanctuary.

The Historic Resource Protection overlay is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks and protects certain historic resources in the region and preserves significant parts of the region's heritage. The regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region. The regulations foster pride among the region's citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties.

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

- LU 86-029900 (ref. file: VZ 089-86) – Variance approval to reduce the north side yard from 7' to 6';
- LU 11-187522 – Historic Design Review approval for new skylights; and
- LU 19-193115 HR – Pending Historic Resource Review for storefront and site alterations.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **August 7, 2019**. The following Bureaus have responded with no issues or concerns about the proposal:

- Life Safety Division of BDS
- Site Development Section of BDS
- Fire Bureau

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **August 7, 2019**. 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 33.846.060 - Historic Resource Review

Purpose of Historic Resource Review

Historic Resource Review ensures the conservation and enhancement of the special characteristics of historic resources.

Historic Resource Review Approval Criteria

Requests for Historic Resource Review will be approved if the review body finds the applicant has shown that all of the approval criteria have been met.

Findings: The site is located within the Alphabet Historic District and the proposal is for a non-exempt treatment. Therefore Historic Resource Review approval is required. The approval criteria are the *Community Design Guidelines* and the *Historic Alphabet District Community Design Guidelines Addendum*.

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

Historic Alphabet District - Community Design Guidelines Addendum

1. **Historic Changes.** Most properties change over time; those changes that have

acquired historic significance will be preserved.

2. Differentiate New from Old. New additions, exterior alterations, or related new construction will retain historic materials that characterize a property to the extent practicable. Replacement materials should be reasonable facsimiles of the historic materials they replace. The design of new construction will be compatible with the historic qualities of the district as identified in the Historic Context Statement.

3. Hierarchy of Compatibility. Exterior alterations and additions will be designed to be compatible primarily with the original resource, secondarily with adjacent properties, and finally, if located within a historic or conservation district, with the rest of the District. Where practical, compatibility will be pursued on all three levels. New development will seek to incorporate design themes characteristic of similar buildings in the Historic Alphabet District.

Findings for 1, 2, and 3: The proposal is for new mechanical equipment on the roof of a non-contributing resource which has no historic material or merit. The proposed mechanical units will be located toward the center of the roof, away from the parapet edges and thus hidden from view. Two ducts are proposed to extend from two fans and travel north along the roof and down the north façade. These ducts will be minimally visible from the street level due to this building's slight recess from the north property line and the adjacent building's upper level recesses from the street lot line. However, street trees will help to obscure views of this utilitarian equipment. In addition, staff has added a condition of approval that these ducts be painted to match the adjacent wall in order to minimize their appearance.

With the condition of approval that the two ducts on the north façade be painted to match the adjacent wall, these guidelines are met.

Community Design Guidelines

P1. Plan Area Character. Enhance the sense of place and identity by incorporating site and building design features that respond to the area's desired characteristics and traditions.

P2. Historic and Conservation Districts. Enhance the identity of historic and conservation districts by incorporating site and building design features that reinforce the area's historic significance. Near historic and conservation districts, use such features to reinforce and complement the historic areas.

Findings for P1 and P2: As is noted above, the proposal is for rooftop mechanical equipment on a non-contributing resource. The proposed work will be largely hidden from view and will neither enhance nor detract from the historic character of the district. *These guidelines are met.*

E1. The Pedestrian Network. Create an efficient, pleasant, and safe network of sidewalks and paths for pedestrians that link destination points and nearby residential areas while visually and physically buffering pedestrians from vehicle areas.

Findings: The proposed mechanical equipment is located at the roof, away from the pedestrian realm, thereby buffering pedestrians from any negative impacts of this equipment. *This guideline is met.*

D6. Architectural Integrity. Respect the original character of buildings when making modifications that affect the exterior. Make additions compatible in scale, color, details, material proportion, and character with the existing building.

D7. Blending into the Neighborhood. Reduce the impact of new development on established neighborhoods by incorporating elements of nearby, quality buildings such as building details, massing, proportions, and materials.

D8. Interest, Quality, and Composition. All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.

Findings for D6, D7, and D8: The proposed mechanical equipment is located at the roof, away from public view, resulting in minimal impact on the building itself. The units will be positioned toward the center of the roof to ensure they will not be visible from the street view. Staff has also added a condition of approval that the proposed ducts on the north façade shall be painted to match the adjacent wall in order to minimize their appearance.

With the condition of approval that the two ducts on the north façade be painted to match the adjacent wall, 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 requirements of Title 11 can be met, and 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 proposal for new rooftop mechanical equipment is modest and minimally visible from public view and will not detract from the character of the historic district. The purpose of the Historic Resource Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. This proposal meets the applicable Historic Resource Review criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of new mechanical equipment on a non-contributing resource in the Alphabet Historic District, to include:

- Two new fans (5' and 5'-8" high) on the west side of the roof, with two new ducts extending north along the roof and down the north façade near the existing access ladder; and
- Five new large compressors (6' high) and three new small compressors (2' high) on the east side of the roof.

This approval is per the approved roof plan and elevations, Exhibits C-1, signed and dated September 9, 2019, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through D) must be noted on each of the four required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE- Case File LU 19-193326 HR." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (<https://www.portlandoregon.gov/bds/article/623658>) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. No field changes allowed.
- D. The two ducts on the north façade shall be painted to match the adjacent wall.

Staff Planner: Hillary Adam

Decision rendered by:  **on September 9, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed: September 16, 2019

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 July 16, 2019 and was determined to be complete on August 6, 2019.

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 July 16, 2019.

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 further extended by the applicant, **the 120 days will expire on: December 4, 2019.**

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.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further 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.

Recording the final decision.

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **September 17, 2019** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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:

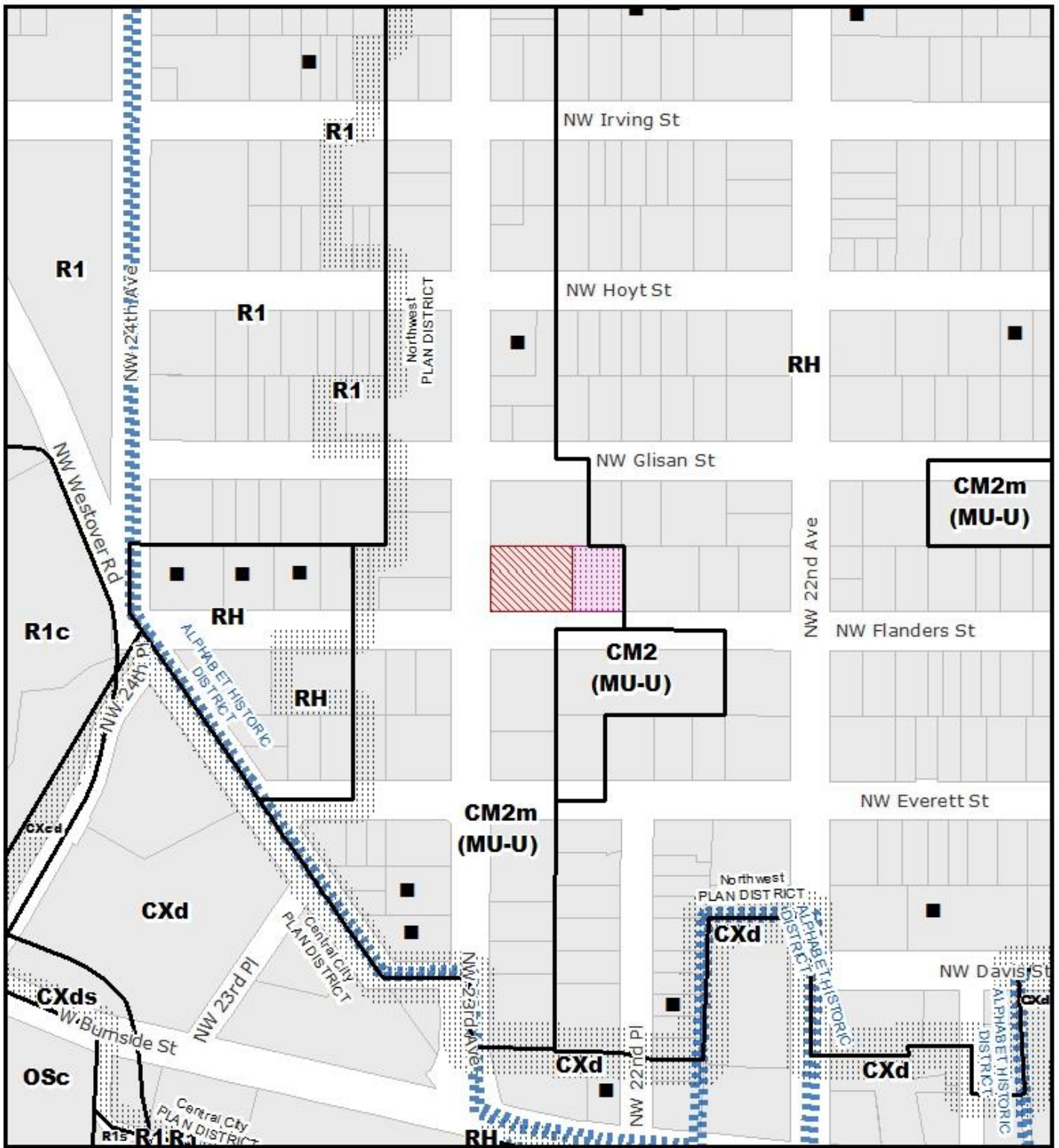
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Roof Plan and Elevation
 - 2. Roof Plan and Elevation, reduced size
 - 3. Revised Roof Plan and Elevation, dated August 6, 2019
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Roof Plan and Elevation (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Division of BDS
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter, dated August 5, 2019

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  NORTH

THIS SITE LIES WITHIN THE:
 NORTHWEST PLAN DISTRICT
 ALPHABET HISTORIC DISTRICT

-  Site
-  Also Owned Parcels
-  Historic Landmark

File No.	LU 19-193326 HR
1/4 Section	3027
Scale	1 inch = 200 feet
State ID	1N1E33CB 500
Exhibit	B Jul 22, 2019

