



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

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Date: September 29, 2021
To: Interested Person
From: Megan Sita Walker, 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 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 21-069800 DZ – FAÇADE VENTS & ART

GENERAL INFORMATION

Applicant: Emily Hays | Hacker
555 SE Mlk Jr Blvd, Ste 500
Portland, OR 97214
(503) 972-5340

Owner: Division 28 LLC
Po Box 492268
Los Angeles, CA 90049-8268

Owner's Representative: Leslie Louis | Urban Development Partners
116 NE 6th Ave., Ste 400
Portland, OR 97232

Site Address: 2871 SE DIVISION ST
Legal Description: BLOCK 1 LOT 4, SELDON PL; BLOCK 1 LOT 4-6 S 1/2 OF LOT 6, SELDON PL; BLOCK 1 N 1/2 OF LOT 6, SELDON PL
Tax Account No.: R752200090, R752200110, R752200150
State ID No.: 1S1E01CC 04400, 1S1E01CC 04500, 1S1E01CC 04600
Quarter Section: 3233

Neighborhood: Richmond, contact Heather Flint Chatto at richmond.pdx.lutc@gmail.com
Business District: Division-Clinton Business Association, contact at info@divisionclinton.com
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010 x313

Plan District: Division Street
Zoning: CM2 (MU-U)d - Commercial/ Mixed-Use 2 with the Design Overlay
Case Type: DZ – Design Review

Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant is seeking Design Review approval for alterations to a previously approved building, currently under construction (LU 19-242381 DZM). The proposal includes seven (7) new fireplace vents on levels 2 and 3 of the west, south, and north elevations. The proposed vents are approximately 15” wide and 14” high. On the west elevation, vents are located below unit windows and will be painted to match the surrounding fiber cement panels. A similar condition occurs at the north elevation where one (1) vent penetrates ceraclad panels, and on the east elevation of a recess along the south elevation where two (2) vents penetrate the terra cotta cladding. To limit the visibility, four (4) of the seven (7) vents proposed are located within building recesses at balconies.

The proposal also includes the installation of a cast bronze art piece with up lighting proposed near the main entrance, in the entry court along SE Division. The sculpture is comprised of 1” x 3” stock of cast bronze and is 7’-7” at its widest and 7’ tall from finish grade. The steel base support of the structure is concealed within a previously approved above-grade planter.

Design review is required as the proposal includes non-exempt exterior alterations within a Design Overlay zone.

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:

- *Community Design Guidelines*

ANALYSIS

Site and Vicinity: The project site is a 15,000 lot with approximately 150 feet of south facing frontage along SE Division Street, at the northeast corner of SE Division and SE 28th Pl. The site is located on SE Division within the Richmond Neighborhood boundary, and a block away from the Hosford-Abernethy Neighborhood District (HAND) association. The physical character of SE Division Street has changed tremendously over time, beginning with the more pedestrian oriented street-car era commercial street of the turn of the century. Division hosts a diverse array of retail, housing, and industrial uses. The site is located within The Division Green Street/Main Street Project study area, a collaborative effort between the City of Portland and the community to improve the livability and economic vitality of the SE Division Street corridor. Focusing on the area between SE 11th and SE Goth, the plan contains goals, objectives, and implementation strategies to create a pedestrian friendly commercial district that reflects and reinforces community values, including a focus on sustainable and "green" development. The Plan calls for medium density infill development that is pedestrian oriented and serves as a positive contribution to neighborhood context. SE Division is also classified as a Neighborhood Corridor in the Urban Design Framework. Neighborhood Corridors are smaller and more common than civic corridors, featuring smaller buildings, good bus service and active intersections. New development along neighborhood corridors is typically adjacent to the main street and does not extend out multiple blocks from the main artery. Portland’s Transportation System Plan classifies SE Division as a City Walkway, Major Transit Priority Street, City Bikeway, and a Neighborhood Collector Street. SE 28th Place is classified as a City Bikeway.

Zoning: The Commercial/Mixed Use 2 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 “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development are subject to design review. 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.

The Division Street Plan District promotes development that fosters a pedestrian- and transit-oriented main street. The plan district provisions ensure that development:

- Activates Division Street corners and enhances the pedestrian environment; and
- Is constructed with high quality materials in combinations that are visually interesting.

Land Use History: City records indicate the following land use reviews for this site:

- EA 19-166258 PC – For a Pre-Application Conference held on June 11, 2019 regarding the development proposed in LU 19-242381 DZM.
- EA 19-186030 DA – For a Design Advice Request meeting with the Design Commission held on August 15, 2019 regarding the development proposed in LU 19-242381 DZM.
- LU 19-242381 DZM – Design Commission approval of a Type III Design Review with modifications for a new 4-story mixed-use apartment building with ten (10) units and structured below-grade parking (approximately 14 stalls and 1 loading space).

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **August 23, 2021**. The following Bureaus have responded with no issues or concerns:

1. Life safety Division of BDS (See Exhibit E-1)
2. Site Development Section of BDS (See Exhibit E-2)
3. Fire Bureau (See Exhibit E-3)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on August 23, 2021. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

DESIGN REVIEW (33.825)

33.825.010 Purpose

Design Review ensures:

- That development conserves and enhances the recognized special design values of a site or area;
- The conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district;
- That certain types of infill development will be compatible with the neighborhood and enhance the area; and
- High design quality of public and private projects.

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.

It is important to emphasize that design review goes beyond minimal design standards and is viewed as an opportunity for applicants to propose new and innovative designs. The design guidelines are not intended to be inflexible requirements. Their mission is to aid project designers in understanding the principal expectations of the city concerning urban design.

The review body conducting design review may waive individual guidelines for specific projects should they find that one or more fundamental design guidelines is not applicable to the circumstances of the particular project being reviewed.

The review body may also address aspects of a project design which are not covered in the guidelines where the review body finds that such action is necessary to better achieve the goals and objectives of design review in the Central City.

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 Community Design Guidelines.

Community Design Guidelines

The Community Design Guidelines consist of a set of guidelines for design and historic design cases in community planning areas outside of the Central City. These guidelines address the unique and special characteristics of the community plan area and the historic and conservation districts. The Community Design Guidelines focus on three general categories: **(P) Portland Personality**, which establishes Portland’s urban design framework; **(E) Pedestrian Emphasis**, which states that Portland is a city for people as well as cars and other movement systems; and **(D) Project Design**, which assures that each development is sensitive to both Portland’s urban design framework and the users of the city.

Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project. Additionally, findings have been organized under three tenets, “Context”, “Public Realm”, and “Quality and Permanence”.

Context

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.

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.

Findings for P1 and D7: The site is located on SE Division, within the Richmond Neighborhood near its border with the HAND neighborhood within the Division Green Street Project area. Focused on the stretch of SE Division between SE 11th and SE Cesar E. Chavez Boulevard, the plan contains goals, objectives, and implementation strategies to create a pedestrian friendly commercial district that reflects and reinforces community values.

The plan specifically identified public art as a critical element for promoting a strong sense of place. Recently, a multi-disciplinary team, including two local artists, developed the concept for “This All Happened More or Less,” a public art installation featuring 14 bronze sculptures celebrating the everyday people who live and work in the community. Installations that are adjacent to the site are located at SE Division and SE 26th and SE 30th.

The proposed hummingbird sculpture contributes to a vibrant and pedestrian-oriented streetscape, integrates seamlessly with the public realm, and continues the area’s established pattern of high quality, accessible art in a semi-public space.

These guidelines are therefore met.

Public Realm

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.

E2. Stopping Places. New large-scale projects should provide comfortable places along pedestrian circulation routes where people may stop, visit, meet, and rest.

E3. The Sidewalk Level of Buildings. Create a sense of enclosure and visual interest to buildings along sidewalks and pedestrian areas by incorporating small scale building design features, creating effective gathering places, and differentiating street level facades.

D1. Outdoor Areas. When sites are not fully built on, place buildings to create sizable, usable outdoor areas. Design these areas to be accessible, pleasant, and safe. Connect outdoor areas to the circulation system used by pedestrians.

D2. Main Entrances. Make the main entrances to houses and buildings prominent, interesting, pedestrian accessible, and transit-oriented.

D3. Landscape Features. Enhance site and building design through appropriate placement, scale, and variety of landscape features.

Findings for E1, E2, E3, E4, E5, D1, and D3: The proposal addresses the above-mentioned guidelines in the following ways:

- The building is designed to be pedestrian-oriented and incorporates design elements that contribute to a vibrant streetscape (such as a highly active ground floor supported by a variety of pedestrian-oriented outdoor areas, highly glazed storefronts, detailing and materials that greatly increase the visual interest of the facades, and upper-level terraces facing SE Division that activate the facade above ground level and bring additional energy to the street).
- The proposed alterations do not detract from these strong pedestrian-oriented elements of the building. Specifically, the hummingbird sculpture with lighting is placed at a termination point at the ground floor, highlighting the stepped façade. This new human-scaled element contributes to the sense of enclosure created by the unique building massing by providing a focal point between the gathering spaces at the outdoor restaurant patio and the residential entrance. The proposed fireplace vents are minimal, integrated, and thoughtfully detailed as to not detract from the pedestrian realm.

These guidelines are therefore met.

D5. Crime Prevention. Use site design and building orientation to reduce the likelihood of crime through the design and placement of windows, entries, active ground level uses, and outdoor areas.

Findings: The design of the building creates outdoor spaces at the lobby, retail, and restaurant entries that are designed as a continuation of the sidewalk and adjacent to large expanses of storefront glazing to encourage activation. The placement of the hummingbird sculpture further defines the use of the adjacent ground level and supports activity to reduce the likelihood of crime.

This guideline is therefore met.

Quality and Resilience

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.

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 and D8: The proposal addresses the above-mentioned guidelines in the following ways:

- The addition of the hummingbird sculpture near the base of the building does not directly modify the exterior. However, the muted tone, durable material, and detailed construction are highly compatible with the quality and character of the overall

building. The scale of the sculpture is further compatible with the height of the ground floor, respecting the original character of the approved building, site, and surrounding mixed commercial and residential neighborhood.

- The addition of fireplace vents will not impact on the overall composition of the building. Where vents are visible from the pedestrian realm on the west elevation, they are designed and detailed to limit impact on cladding materials and to visually recede into the well detailed façade. The vents are set within the window recess and painted to match the panel below the window. All other vent locations are partially concealed by their placement in building returns or otherwise located away from the public view. The overall design continues to be durable and timeless, utilizing simple, high quality materials that relate together as a cohesive composition.

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 proposal as designed meets the approval criteria, and therefore warrants approval.

ADMINISTRATIVE DECISION

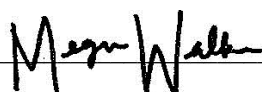
Approval of exterior alterations to a recently approved building (LU 19-242381 DZM) located in the Division Street Plan District to include the following:

Approved per Exhibits C-1 through C-17, signed and dated September 27, 2021, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 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 21-069800 DZ." 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.

Staff Planner: Megan Sita Walker

Decision rendered by: _____



on September 27, 2021

By authority of the Director of the Bureau of Development Services

Decision mailed: September 29, 2021

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 23, 2021, and was determined to be complete on August 18, 2021.

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 23, 2021.

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: December 16, 2021.**

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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on October 13, 2021. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

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, Oregon 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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded on or after **October 14, 2021** 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 of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Original Drawing Packet & Narrative
 - 2. Revised Drawing Packet, September 7, 2021
 - 3. Revised Drawing Packet & Narrative, September 15, 2021
- B. Zoning Map
- C. Plan & Drawings:
 - 1. Site Plan (attached)
 - 2. Level 2 Floor Plan
 - 3. Level 3 Floor Plan
 - 4. East Elevation (attached)
 - 5. West Elevation (attached)
 - 6. North Elevation (attached)
 - 7. South Elevation (attached)
 - 8. Details – Vents
 - 9. Enlarged Elevations – Vents at Terra Cotta
 - 10. Enlarged Plan View – Vents at Terra Cotta
 - 11. Enlarged Elevations – Vents at Terra Cotta
 - 12. Detail – Vent at Fiber Cement Panel
 - 13. Detail – Vent at Ceraclad
 - 14. Detail – Vent at Terra Cotta
 - 15. Sculpture – Plan & Elevation
 - 16. Specification – Lighting
 - 17. Sculpture – Base Detail
- D. Notification information:
 - 1. Mailed notice
 - 2. Mailing list
- E. Agency Responses:
 - 1. Life safety Division of BDS
 - 2. Site Development Section of BDS
 - 3. Fire Bureau
- F. Correspondence: none
- G. Other
 - 1. Original LUR Application
 - 2. Email correspondence between staff and the applicant

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).