



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

Dan Ryan, Commissioner
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Date: January 13, 2021
To: Interested Person
From: Staci Monroe, Land Use Services
503-865-6516 / staci.monroe@portlandoregon.gov

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 21-056055 DZM
FENCE & GATE

GENERAL INFORMATION

Applicant: Ken Rowe | Ajax Consulting Services LLC
21 Worthen Rd, Lexington, MA 02421

Owners: Golden Bears Owner LLC
4747 Bethesda Ave Ste 1100 | Bethesda, MD 20814

Kristin Calhoun | Regional Arts and Cultural Council (RACC)
411 NW Park Avenue, Suite 101 | Portland, OR 97209

Site Address: 515 SW CLAY STREET

Legal Description: BLOCK 165 LOT 1-4 LOT 6-8, PORTLAND
Tax Account No.: R667716850
State ID No.: 1S1E03BC 02800
Quarter Section: 3129
Neighborhood: Portland Downtown, contact Wendy Rahm at wvrahm@aol.com
Business District: Downtown Retail Council, contact at lfrisch@portlandalliance.com
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.
Plan District: Central City - Downtown
Other Designations: none
Zoning: CXd – Central Commercial zone with a Design overlay
Case Type: DZM – Design Review with a Modification
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:
The applicant requests Design Review for a fence along the SW 6th Avenue frontage of the Hotels Zags at 515 SW Clay Street in the Downtown subdistrict of Central City. The 8'-8" tall fence will be comprised of steel framing and horizontal Ipe wood slats that would match the

existing fence along this frontage to the south. The fence and gate would enclose the courtyard and landscaping that exists along 6th Avenue.

Design Review is required because the proposal does not meet the exemptions of Section 33.420.045.

The following Modification is also requested:

- Fences (Section 33.130.270) – Fences within 10’ of a street lot line are limited to 8’-0” in height. The proposed fence is 8’-8” tall and located approximately 4’-4” from the street lot line along SW 6th Avenue.

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:

- Central City Fundamental Design Guidelines
- Section 33.825.040-Modifications Through Design Review

ANALYSIS

Site and Vicinity: The site is located on the block bounded by SW 5th Avenue, Clay Street, 6th Avenue, and Columbia Street in Downtown Portland. The existing six-story building was constructed in 1962, measures 83,378 square feet in size, and has a hotel use. The structure is designed in the early Modern style, with expressed concrete floor plates, infill window bays, and concrete stair towers at the ends of its modified “L” shaped floor plate. The building surrounds an ample courtyard that opens to the south and west. The block also contains a 3,475-square-foot two-story office building with a ground-floor retail space, constructed in 1937. The surrounding area contains offices, restaurants, retail shops, condominiums and apartments, Portland State University buildings, a high school, churches, governmental buildings, and arts & culture venues. The South Park Blocks are located two blocks to the west. The southern end of the Tom McCall Waterfront Park is located five blocks to the east.

Zoning: The Central Commercial (CX) zone 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. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive streetscape.

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 Central City Plan District implements the Central City 2035 Plan. The regulations address the unique role the Central City plays as the region’s premier center for jobs, health and human services, tourism, entertainment and urban living. The regulations encourage a high-density urban area with a broad mix of commercial, residential, industrial and institutional uses, and foster transit-supportive development, pedestrian and bicycle-friendly streets, a vibrant public realm and a healthy urban river. The site is within the Downtown Subdistrict of this plan district.

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

- DZ 122-84: Design Review for a new boiler.

- DZ 61-85: Design Review approval to repaint the building and install new signage and awnings.
- LU 07-111311 DZ: Design Review approval to re-locate a driveway, construct a new driveway, remove a landscape wall, construct a new landscape wall, and re-configure parking stalls.
- LU 07-150908 DZM: Design Review approval for alterations to the building and parking lot, to convert to Hotel Modera.
- LU 08-118345 DZ: Design Review approval for new wall-mounted signage on the south, east, and west façades. Each sign is composed of approximately 3”-thick high-density polyurethane dimensional letters, with two floodlight fixtures equipped with barn doors; floodlights are mounted on canopies below each sign
- LU 08-177252 DZ: Approval of new rooftop mechanical equipment and a wood screen enclosure.
- LU 09-105708 DZ: Approval of new antennas and associated RF equipment on the rooftop penthouse and within screened rooftop enclosures.
- LU 19-192433 DZ: Approval of replacement signs at same size and location as previous signage.
- LU 19-249016 DZM – Approval of a Design Review with a Modifications for new signage.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **June 25, 2021**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau (see Exhibit E.1)
- Site Development Section of BDS
- Life Safety Plan Review Section of BDS (see Exhibit E.2)
- Bureau of Transportation Engineering

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 25, 2021. Two written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal (Exhibits F1 and F2).

1. Downtown Neighborhood Association, 7/7/21, stating concerns with proposal.
2. Downtown Neighborhood Association, 7/20/21, re-stating concerns with proposal.

Staff Response – Staff worked with the applicant to address concerns regarding the opacity and location of the fence. The fence will now be setback behind the landscaping and two art sculptures and be open work in design to allow view into and out of the courtyard. See details in the findings below.

ZONING CODE APPROVAL CRITERIA

(1) Design Review - Chapter 33.825

Section 33.825.010 Purpose of Design Review

Design review implements the Design overlay zone, strengthening these areas as places designed for people. Design review supports development that builds on context, contributes to the public realm, and provides high quality and resilient buildings and public spaces.

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 Fundamental Design Guidelines

These guidelines provide the constitutional framework for all design review areas in the Central City. The Central City Fundamental 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.

Central City Plan Design Goals

This set of goals are those developed to guide development throughout the Central City. They apply within all of the Central City policy areas. The nine goals for design review within the Central City 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 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.

A8. Contribute to a Vibrant Streetscape. Integrate building setbacks with adjacent sidewalks to increase the space for potential public use. Develop visual and physical connections into buildings' active interior spaces from adjacent sidewalks. Use architectural elements such as atriums, grand entries and large ground-level windows to reveal important interior spaces and activities.

B5. Make Plazas, Parks and Open Space Successful. Orient building elements such as main entries, lobbies, windows, and balconies to face public parks, plazas, and open spaces. Where provided, integrate water features and/or public art to enhance the public open space. Develop locally oriented pocket parks that incorporate amenities for nearby patrons.

B7. Integrate Barrier-Free Design. Integrate access systems for all people with the building's overall design concept.

C1. Enhance View Opportunities. Orient windows, entrances, balconies and other building elements to surrounding points of interest and activity. Size and place new buildings to protect existing views and view corridors. Develop building façades that create visual connections to adjacent public spaces.

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.

C6. Develop Transitions between Buildings and Public Spaces. Develop transitions between private development and public open space. Use site design features such as movement zones, landscape element, gathering places, and seating opportunities to develop transition areas where private development directly abuts a dedicated public open space.

Findings for A8, B5, B7, C1, C2, C3, C5 and C6: The proposal meets these guidelines as follows:

- The fence and gate design (horizontal Ipe slats with 5” spacing between alternating slats and steel columns) will match design of the existing fence along the southern part of the 6th Avenue frontage. The fence and gate will also tie in the vertical wall and horizontal soffit structure similarly as the existing fence. The design and integration provide coherency among these site elements.
- The hard wood (Ipe) and steel are both durable materials that maintain their quality finish over time as evident from the existing fence of the same materials.
- The open work design of the fence and gate will continue to allow views into the courtyard from the sidewalk and vice-versa maintaining a strong connection between the public and private spaces.
- So as not to detract from the two public art sculptures that exist within the planter in front of the fence, the two sculptures will be relocated slightly west and south of the existing locations. This will allow more space between the fence and the sculptures and ensure the heavy vertical posts do not occur directly behind the sculptures. Staff from the Regional Arts and Cultural Council (RACC) have been an ongoing part of these discussions and concur with the relocation of the sculptures. To ensure the relocation is done in manner that will protect the sculptures, the applicant has worked with RACC on a plan to safely relocate the pieces, which is outlined in a letter from RACC in Exhibit C2. A condition of approval has been added that requires these steps to followed during construction.
- The setback location of the fence from the sidewalk (approximately 4’-4”) allows the landscaping behind the sidewalk to soften the transition to the fence and private property, and the art to continue to be part of the public realm experience.
- The gate operation and setback location from the sidewalk will maintain barrier-free access to the site.

As conditioned, these guidelines have been met.

(2) Modifications – Chapter 33.825

33.825.040 Modifications That Will Better Meet Design Review Requirements:

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. These modifications are done as part of design review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- A. Better meets design guidelines.** The resulting development will better meet the applicable design guidelines; and
- B. Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

Modification – To allow the proposed fence to be 8’-8” tall and located approximately 4’-4” from the street lot line along SW 6th Avenue.

Purpose Statement: The fence regulations promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences near streets are kept low in order to allow visibility into and out of the site and to ensure visibility for motorists.

Standard: Per Section 33.130.270, fences within 10' of a street lot line are limited to 8'-0" in height.

- A. Better meets design guidelines.** *The resulting development will better meet the applicable design guidelines; and*

Findings: The modification to increase the height of the fence by 8" allows the fence to better meet guidelines C3 - Respect Architectural Integrity and C5 - Design for Coherency. The extra 8" inches in height allows the fence to tie into the structure above. The existing fence to the south along the 6th Avenue frontage is also integrated into the structure. This approach provides coherency among these site elements and respects the architectural integrity of the building.

- B. Purpose of the standard.** *On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

Findings: The fence regulations limit fences to 8' in height in the first 10' of the street lot line so long as they are open work in design. The intent of this standard is to allow private properties to be secure while not negatively impacting the public experience with tall, solid walls along the sidewalk. The proposed fence is only 8" taller than the code requirement. This extra 8" allows the fence to tie into the structure above to eliminate a gap while also providing more structural support. The open work design of the fence and setback location ensures the property owner can secure the premises without negatively impacting the pedestrian and public's experience along the 6th Avenue street frontage.

Therefore, this Modification merits approval.

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 meets the applicable design guidelines and modification criteria therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of a Design Review for a fence and gate along SW 6th Avenue frontage.

Approval of the following Modification:

- Fences (Section 33.130.270) – Fences within 10' of a street lot line are limited to 8'-0" in height. The proposed fence is 8'-8" tall and located approximately 4'-4" from the street lot line along SW 6th Avenue.

Per the approved site plans, Exhibits C-1 through C-2, signed and dated 1/11/21, 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 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 21-056055 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. The applicant shall follow the steps to relocate to the public art sculptures outlined in the letter from RACC dated 1/9/21 (Exhibit C2).
- D. No field changes allowed.

Staff Planner: Staci Monroe



Decision rendered by: _____ **on 1/11/21**
By authority of the Director of the Bureau of Development Services

Decision mailed: 1/13/21

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 June 10, 2021, and was determined to be complete on June 22, 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 June 10, 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 requested that the 120-day review period be extended by 160 days as stated with Exhibits A5-A15. Unless further extended by the applicant, **the 120 days will expire on 3/29/22.**

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 1/27/21. 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 after **1/27/21** 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:

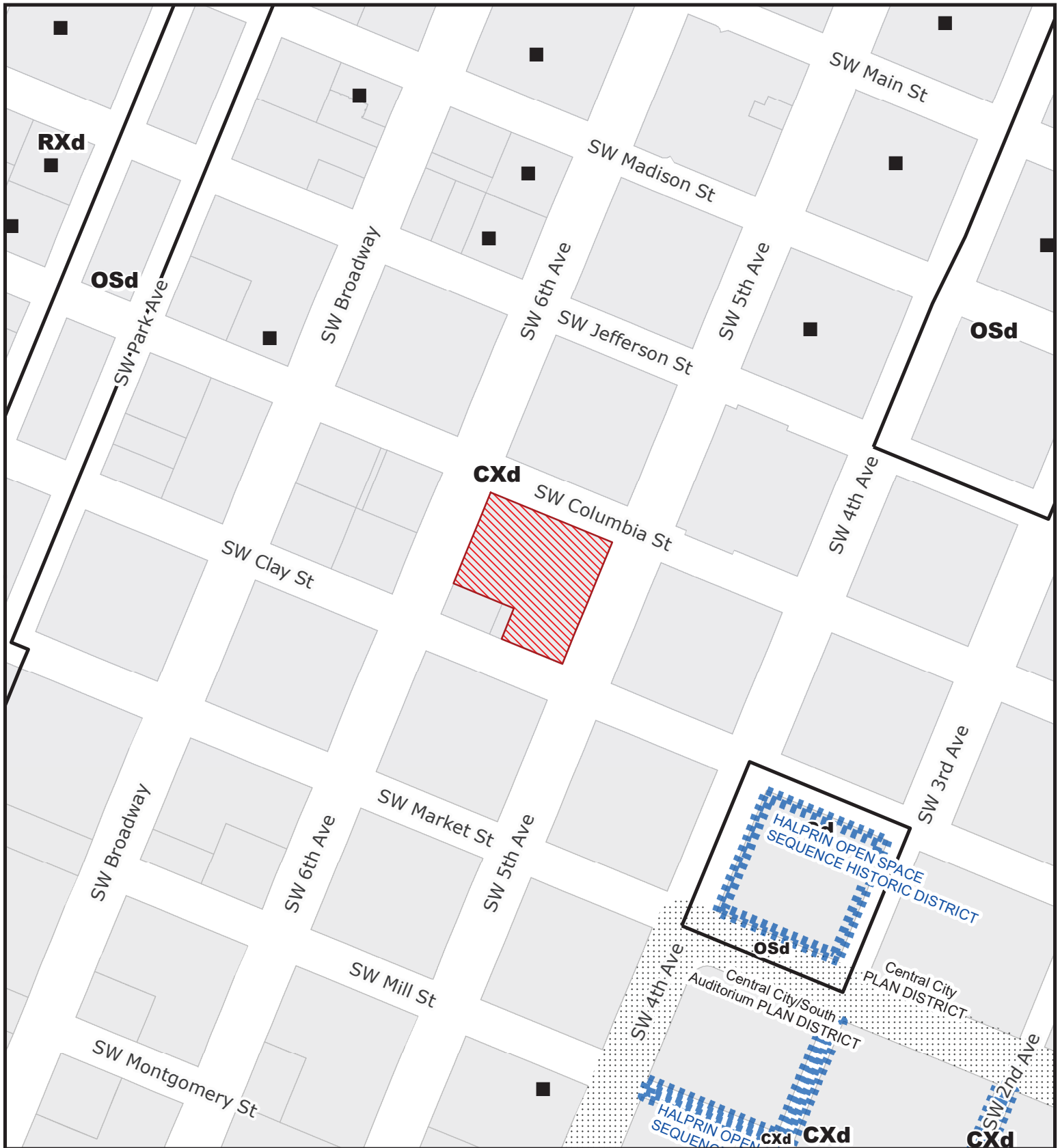
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Original drawings & structural calcs
 2. Revised drawings
 3. Revised drawings & structural calcs
 4. Fence rendering with recessed gate
 5. 1st signed extension form
 6. 2nd signed extension form
 7. 3rd signed extension form
 8. 4th signed extension form
 9. 5th signed extension form
 10. 6th signed extension form
 11. Structural calcs
 12. 7th signed extension form
 13. 8th signed extension form
 14. 9th signed extension form
 15. 10th signed extension form
 16. Revised drawings & structural calcs
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan & fence, gate details (attached)
 2. Public Art Sculpture Relocation details
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Fire Bureau
 2. Life Safety Plan Review Section of BDS
- F. Correspondence:
 1. Downtown Neighborhood Association, 7/7/21, stating concerns with proposal.
 2. Downtown Neighborhood Association, 7/20/21, re-stating concerns with proposal.
- G. Other:
 1. Original LU 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



For Zoning Code in effect
August 1, 2020 - July 31, 2021

CENTRAL CITY PLAN DISTRICT
DOWNTOWN SUB DISTRICT



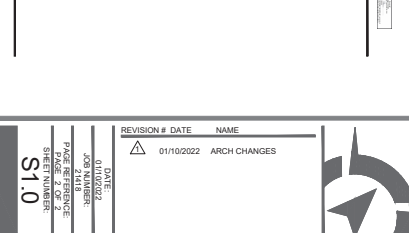
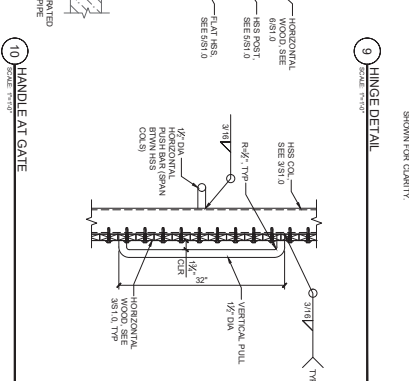
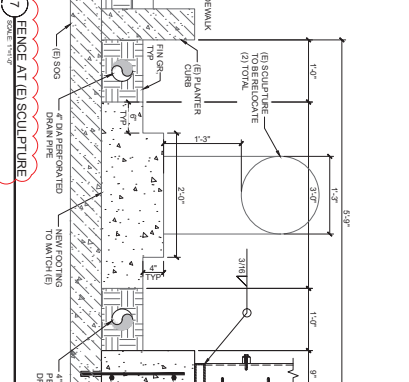
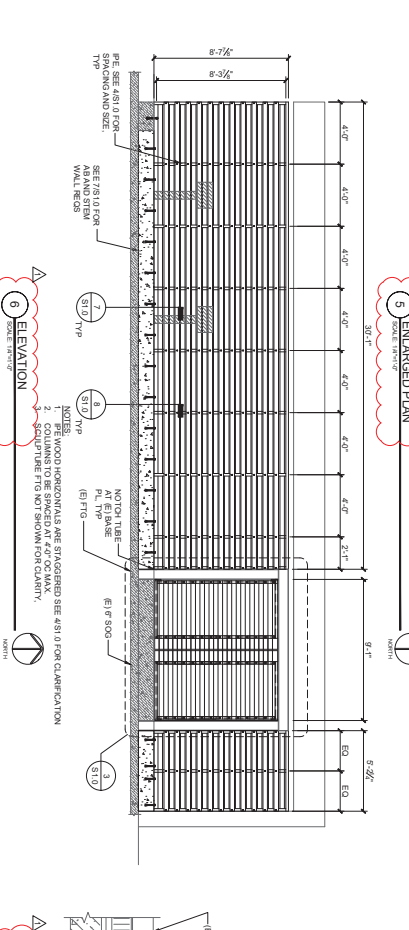
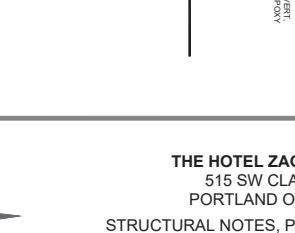
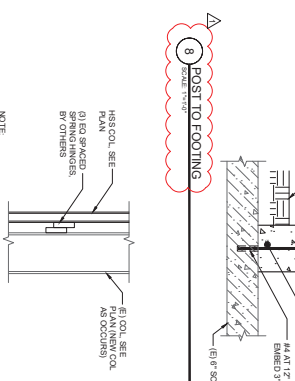
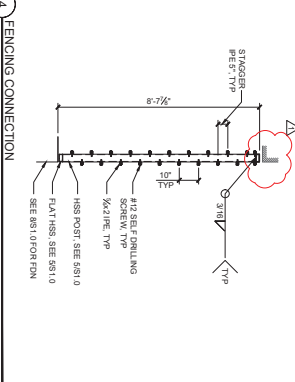
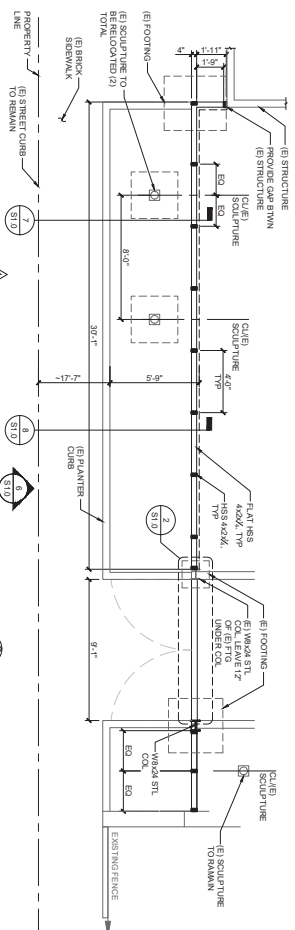
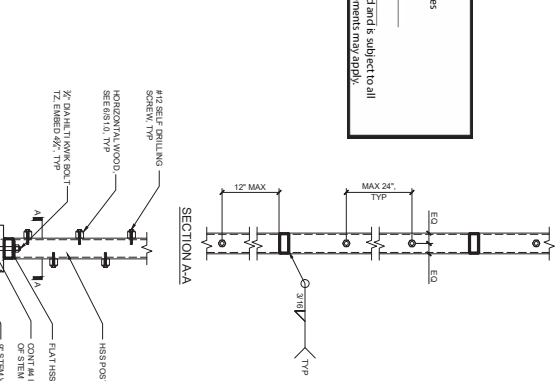
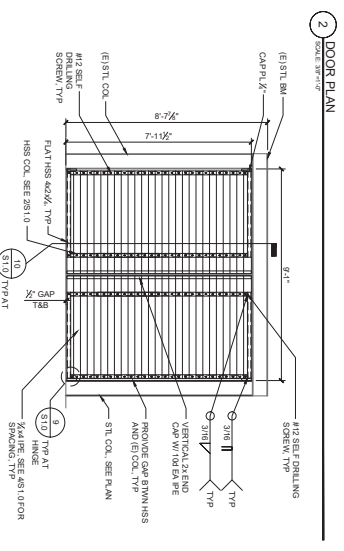
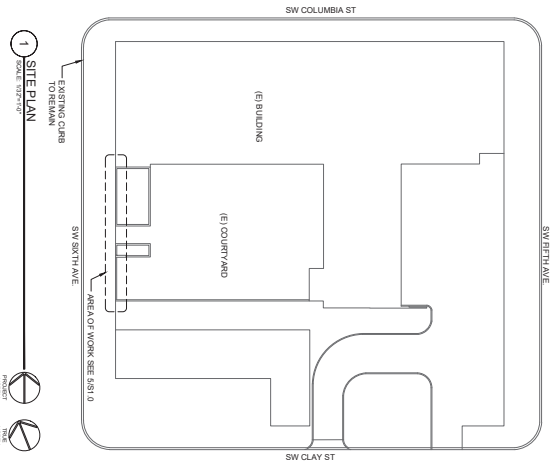
Site



Historic Landmark

File No.	LU 21 - 056055 DZ
1/4 Section	3129
Scale	1 inch = 200 feet
State ID	1S1E03BC 2800
Exhibit	B Jun 10, 2021

Approved
 City of Portland
 Bureau of Development Services
 Planner: [Signature]
 Date: 01-11-2022
 *This approval applies only to the review requested and is subject to all conditions of approval. Additional zoning requirements may apply.



NOTES:
 1. RE WOOD HORIZONTALS ARE SPACERS SEE AS110 FOR CLARIFICATION
 2. SCULPTURE FITS NOT SHOWN FOR CLARITY

REVISION # DATE NAME
 01/10/2022 ARCH CHANGES

THE HOTEL ZAGS FENCE
 515 SW CLAY ST,
 PORTLAND OR 97201
 STRUCTURAL NOTES, PLAN AND DETAILS

WAPPING ENGINEERING
 info@wappingeng.com
 601 N. Main Street, #400
 Vancouver, WA 98660
 Tel: (360) 545-8888

REVISION # DATE NAME
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 515 SW CLAY ST,
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