



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

Carmen Rubio, Commissioner
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Date: March 15, 2023
To: Interested Person
From: Benjamin Nielsen, Land Use Services
503-865-6519 / Benjamin.Nielsen@portlandoregon.gov

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 23-000845 HR WINDOW REPLACEMENTS AND INFILL ON LANDMARK DELSCHNEIDER BUILDING

GENERAL INFORMATION

Applicants: Brian Emerick & Anne Marie Kuban, Emerick Architects
321 SW 4th Ave #200, Portland, OR 97204
annemarie@emerick-architects.com, (503) 235-9400

Party of Interest: John Russell, Russell Fellows Properties, LLC
200 SW Market St, Suite 1720, Portland, OR 97201

Owner: John Gallo
PO Box 51253, Eugene, OR 97405

Site Address: 71 SW OAK ST

Legal Description: BLOCK 26 E 25' OF LOT 5&6, PORTLAND
Tax Account No.: R667703950
State ID No.: 1N1E34DC 03100
Quarter Section: 3029 & 3030

Neighborhood: Portland Downtown, contact Marian DeBardelaben at debardelabenmarian@gmail.com & Old Town Community Association, contact Jonathan Cohen at treasure@pdxoldtown.org or Mary-Rain O'Meara at secretary@pdxoldtown.org

Business District: Downtown Retail Council, contact at info@portlandalliance.com & Old Town Community Association, contact at chair@PDXoldtown.org

District Coalition: Neighbors West/Northwest, contact Darlene Urban Garrett at darlene@nwnw.org

Plan District: Central City - Old Town/Chinatown
Other Designations: Historic Landmark; Contributing Resource in the Skidmore/Old Town Historic District

Zoning: CXd – Central Commercial with Design and Historic Resource Protection Overlays

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 applicants request Historic Resource Review approval for proposed exterior alterations to the east elevation of the Delschneider Building, a historic landmark and contributing resource in the Skidmore/Old Town Historic District of the Central City Plan District. Proposed exterior alterations include infilling six (6) existing window openings with new masonry wall, infilling one (1) existing door opening with new masonry wall, partially infilling one (1) window opening with a new masonry wall and a new fiberglass window, and replacing aluminum windows in four (4) existing openings with new fire-rated steel windows.

Historic Resource Review is required for non-exempt exterior alterations to historic landmarks.

Relevant Approval Criteria:

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

- Central City Fundamental Design Guidelines
- Skidmore/Old Town Historic District Design Guidelines
- Portland Zoning Code Section 33.846.060.G, Other historic approval criteria

ANALYSIS

Site and Vicinity: The Delschneider Building is located in the Skidmore/Old Town Historic District on the south side of the block bounded by SW Pine Street to the north, SW Naito Parkway to the east, SW Oak Street to the south, and SW 1st Avenue to the west. The building is located between the Freimann Restaurant Building to the west, and the Hallock & McMillan Building to the east. The Delschneider Building, which was listed as a Portland Historic Landmark in 1969, was constructed in 1859 in the Italianate style, originally as a factory and later as a warehouse, office, and residence. Originally, the building had two floors and a third floor was added in 1876. According to the Skidmore/Old Town Historic District National Register nomination, the building is the second oldest existing building in the district.

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 Design overlay zone is applied to this zone.

The Design overlay zone ensures that Portland is both a city designed for people and a city in harmony with nature. The Design overlay zone supports the city's evolution within current and emerging centers of civic life. The overlay promotes design excellence in the built environment through the application of additional design standards and design guidelines that:

- Build on context by enhancing the distinctive physical, natural, historic and cultural qualities of the location while accommodating growth and change;

- Contribute to a public realm that encourages social interaction and fosters inclusivity in people's daily experience; and
- Promotes quality and long-term resilience in the face of changing demographics, climate and economy.

The historic resource overlay zone protects historic resources that have been identified as significant to the history of the city and region. The regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting education and enjoyment for those living in and visiting the region. The regulations foster awareness, memory, and pride among the region's current and future residents in their city and its diverse architecture, culture, and history. Historic preservation recognizes social and cultural history, retains significant architecture, promotes economic and environmental health, and stewards important resources for the use, education, and enjoyment of future generations.

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 Old Town/Chinatown Subdistrict of this plan district.

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

- VZ 158-74 – Variance approval to reduce the minimum lot area, increase the lot coverage, and to reduce the east and west side yards and the north rear yard to convert a warehouse into office and apartment units.
- HL 20-76 – Approval of renovation for office and dwellings.
- LUR 92-00844 DZ – Design Review approval for the addition of windows.
- LU 08-144000 HDZ – Historic Design Review approval of seven rows of solar panels on the penthouse roof.
- LU 16-248308 HR – Historic Resource Review approval for exterior alterations to the west and east elevations of the building.
- LU 22-115256 HR – Historic Resource Review approval to add a new custom wood window to the east elevation.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **February 2, 2023**. The following Bureaus have responded with no issues or concerns about the proposal:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Site Development Review Section of BDS

The Fire Bureau responded with comments noting that all applicable Fire Code requirements shall apply at the time of permit review and development. Please see Exhibit E.1 for additional details.

The Life Safety Review Section of BDS responded with no objections to approval and with general life safety comments. Please see Exhibit E.2 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **February 2, 2023**. 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, Historic Reviews

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 Skidmore/Old Town Historic District. Therefore the proposal requires Historic Resource Review approval. The relevant approval criteria are the Skidmore/Old Town Historic District Design Guidelines and the Central City Fundamental Design Guidelines. The site is also a designated Historic Landmark; therefore, the proposal requires Historic Resource Review approval. The relevant The approval criteria are those listed in 33.846.060 G – *Other Historic Approval Criteria*.

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

33.846.060 G - Other Historic Approval Criteria

1. Historic character. The historic character of the landmark or contributing resource will be retained and preserved. Removal of historic materials or alteration of features and spaces that contribute to the historic significance of the landmark or contributing resource will be avoided.

Findings: The building's primary historic features on the south elevation will be retained and left unaltered. The extent of the proposed exterior alterations is limited to the east elevation, which functions as a zero lot line side wall and is mostly not visible from the street or other nearby developments. There is no architectural detailing on this wall, so the proposed infill of some windows and simple replacement windows in other openings on this elevation is consistent with the character of this façade and the greater historic patterning of buildings in the district. Thus, the building's historic character will be retained and preserved.

Therefore, this criterion is met.

2. Record of its time. The landmark or contributing resource will remain a physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings will be avoided.

Findings: Proposed replacement windows and infill of other existing windows on the building's east sidewall elevation will not alter the physical record of the building's time, place, or use. The proposed replacement windows are neither conjectural features nor are they architectural elements from other buildings, and their simple design does not serve to create a false sense of historic development.

Therefore, this criterion is met.

3. Historic changes. Most resources change over time. Those changes that have acquired historic significance will be preserved.

Findings: The eastern elevation of the landmark Delschneider Building has done through many changes over the building's lifetime, though none have acquired historic significance.

Therefore, this criterion is met.

4. Historic features. Generally, deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement, the new feature will match the historic feature in design, color, texture, and other visual qualities and, where practical, in materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence.

5. Historic materials. Historic materials will be protected. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used.

7. Differentiate new from old. New additions, exterior alterations, or related new construction will not destroy historic materials that characterize a landmark or contributing resource. New work may be differentiated from the old if the differentiation does not diminish the character, features, materials, form, or integrity of the landmark or contributing resource and, if in a Historic District, the district as a whole.

Findings for 4, 5, & 7: The existing windows that are proposed for removal are not historic features. Replacement windows are generally similar in style to the existing windows being replaced, rather than emulating the historic window patterning and style of the front (south) façade. This helps to differentiate these new windows from the old, historic materials that define the landmark building. No historic materials will be damaged, and no chemical or physical treatments are proposed that could cause ancillary damage.

Therefore, these criteria are met.

6. Archaeological resources. Significant archaeological resources affected by a proposal will be protected and preserved to the extent practical. When such resources are disturbed, mitigation measures will be undertaken.

Findings: There no known archaeological resources located within the building's elevation, and no ground disturbance is proposed. Consequently, no archaeological resources will be affected by the proposal, and no mitigation measures are necessary.

Therefore, this criterion is met.

8. Architectural compatibility. New additions, exterior alterations, or new construction will be compatible with the massing, size, scale, and architectural features of the landmark or contributing resource and, if in a district, the district as a whole. When retrofitting to improve accessibility for persons with disabilities or accommodate seismic improvements, design solutions will not compromise the architectural integrity of the landmark or contributing resource.

9. Preserve the form and integrity of historic resources. New additions, exterior alterations, or new construction will be undertaken in such a manner that if removed in the future, the essential form and integrity of the landmark or contributing resource and, if in a district, the district as a whole would be unimpaired.

10. Hierarchy of compatibility. New additions, exterior alterations, or new construction will be designed to be compatible primarily with the landmark or contributing resource and, if located within a district, secondarily with contributing resources within 200 feet and, finally, with the rest of the district. Where practical, compatibility in districts will be pursued on all three levels.

Findings for 8, 9, & 10: Much of the proposed exterior alterations work is located at the north end of the landmark building's east elevation. Another large portion is located towards the middle. Both portions of the building's façade are completely obscured by other development adjacent to the landmark structure, and replacing windows in some existing openings and infilling other portions here will not affect the integrity or form of the historic structure. Proposed replacement windows are simply-

detailed and scaled to fit within existing openings on the building's side wall, maintaining architectural and historic compatibility with the landmark structure.

Therefore, these criteria are met.

Central City Fundamental Design Guidelines and Skidmore/Old Town Historic District Design Guidelines

The Skidmore/Old Town Historic District is a unique asset to Portland and has been recognized nationally by its placement on the National Register of Historic Places. In addition, the Skidmore/Old Town Historic District has been identified as a National Landmark, of which there is only one other in Portland, Pioneer Courthouse. There are certain procedures and regulations the City has adopted for the protection and enhancement of the Skidmore/Old Town Historic District.

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

Central City Plan Design Goals

This set of goals are those developed to guide development throughout the Central City. They apply within the River District as well as to the other seven 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.

Skidmore/Old Town Historic District Design Guidelines

General Guidelines

A4. Select Historically Compatible, High Quality Materials with Finishes and Colors that are Appropriate to the District.

Findings: The proposed replacement windows are high quality windows with simple sash designs that are appropriate in terms of detailing and finish for their location on the otherwise unadorned and undetailed side wall. The proposed fiberglass windows will be the only windows that will be visible to the public from the street, and these may be easily painted to the appropriate colors to integrate with the existing building. Proposed steel, fire-rated windows are replacing existing aluminum windows on the rest of the elevation and will not be visible to the public.

Therefore, this guideline is met.

Guidelines for Alterations

B1. Respect the Building's Historic Period, Style, Materials, and Details in the Design of Alterations.

Findings: The extent of the proposed exterior alterations is limited to the east elevation, which functions as a zero lot line side wall and is mostly not visible from the street or other nearby developments. There is no architectural detailing on this wall, so the proposed infill of some windows and simple replacement windows in other openings on this elevation is consistent with the character of this façade and the greater historic patterning of buildings in the district. The building's primary historic features on the south elevation will be retained and left unaltered.

Therefore, this guideline is met.

B2. Preserve and Repair Historic Exterior Materials and Distinctive Details. Maintain the Vertical Lines of Columns and Piers, the Horizontal Definition of Spandrels and Cornices, and Other Primary Structural Elements.

Findings: None of the landmark building's distinctive details or characterizing historic materials will be damaged, removed, or replaced in this proposal; these elements are all located on the building's south elevation, as opposed to the east elevation, which is a featureless side wall.

Therefore, this guideline is met.

B3. Respect the Shape, Size, Placement, Rhythm, and Trim of the Historic Openings in the Building.

Findings: Although the east elevation is not a critical one in defining the landmark building's historic character, the existing size, shape, placement, and rhythm of the east elevation's openings will be retained. (It is unclear if these are even historic openings.) Areas of this façade that will be infilled are hidden from public view and not character defining.

Therefore, this guideline is met.

Central City Fundamental Design Guidelines

A6. Reuse/Rehabilitate/Restore Buildings. Where practical, reuse, rehabilitate, and restore buildings and/or building elements.

Findings: The proposed window infill and replacement windows in existing openings on the east elevation of the building serves to improve and maintain the building for continued use and tenancy for the future.

Therefore, this guideline is met.

C2. Promote Quality and Permanence in Development. Use design principles and building materials that promote quality and permanence.

Findings: Proposed windows are high quality window systems that are detailed appropriately for placement in the existing bearing masonry wall of the building's east façade.

Therefore, this guideline is met.

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.

C4. Complement the Context of Existing Buildings. Complement the context of existing

buildings by using and adding to the local design vocabulary.

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 C3, C4, & C5: The extent of the proposed exterior alterations is limited to the east elevation, which functions as a zero lot line side wall and is mostly not visible from the street or other nearby developments. There is no architectural detailing on this wall, so the proposed infill of some windows and simple replacement windows in other openings on this elevation is consistent with the character of this façade and the greater historic patterning of buildings in the district.

Therefore, 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

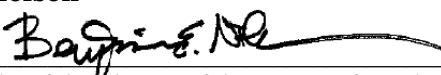
The purpose of the Historic Resource Review process is to ensure that additions, new construction, and exterior alterations to historic resources do not compromise their ability to convey historic significance. This proposal meets the applicable Historic Resource Review criteria and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of exterior alterations to the building's east elevation, including infill of six (6) existing window openings with new masonry wall, infill of one (1) existing door opening with new masonry wall, partial infill of one (1) window opening with a new masonry wall and a new fiberglass window, and replacement of aluminum windows in four (4) existing openings with new fire-rated steel windows. Approval per the approved site plans, Exhibits C.1 through C.3, signed and dated 03/13/2023, 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 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 23-000845 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.

Staff Planner: Benjamin Nielsen

Decision rendered by:  **on March 13, 2023.**

By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) March 15, 2023.

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 January 4, 2023, and was determined to be complete on January 27, 2023.

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 January 4, 2023.

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: May 27, 2023.**

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 **March 15, 2023**, 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 Submittals
 - 1. Drawing Set
 - 2. Narrative
 - 3. Checklist
 - 4. Revised Drawing Set
 - 5. Revised Narrative
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Plan, Elevation, Photos (attached)
 - 3. Details and Specifications
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Fire Bureau
- F. Correspondence:
No correspondence was received.
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Application Letter
 - 3. Revised LU Application
 - 4. Email Correspondence

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).