



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

Dan Saltzman, Commissioner
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Date: April 12, 2016
To: Interested Person
From: Hillary Adam, Land Use Services
503-823-3581 / Hillary.Adam@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 16-113374 DZ – NEW AC UNITS

GENERAL INFORMATION

Applicant: Philip Smits / Pioneer Gas Furnace
2636 NE Sandy Blvd / Portland, OR 97232

Owner : 9800 Ash St LLC,
8338 SE Mill St / Portland, OR 97216

Teran Wilson / Scissortail Farms, LLC
9800 SE Ash St / Portland, OR 97216

Site Address: 9800 SE ASH ST

Legal Description: BLOCK 9 LOT 5&6 EXC PT IN ST, PRUNEDALE ADD
Tax Account No.: R680301980
State ID No.: 1N2E33DD 09800
Quarter Section: 3040
Neighborhood: Hazelwood, contact Arlene Kimura at 503-252-9429.
Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-3910.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.
Plan District: Gateway
Zoning: EXd – Central Employment with Design overlay
Case Type: DZ – Design Review
Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant proposes to the installation of four new 5-ton air conditioning units in the side yard (east) of the property and to gain approval for three existing air conditioning units in the same area. The existing and proposed units are located behind a fence.

Design review is required because the proposal is for non-exempt mechanical equipment in the Gateway Plan District.

Relevant Approval Criteria:

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

- Gateway Regional Center Design Guidelines

ANALYSIS

Site and Vicinity: The subject property is located in the Gateway Plan District, approximately 300 feet east of the I-205 right-of-way. The existing building is a two-story commercial structure with residential character, constructed in 2007. Adjacent uses include single-story residential properties and vacant parcels with 1- and 2-story commercial buildings, including relatively industrial uses, within one to two blocks. SE 99th Avenue is a Transit Access Street.

Zoning: The Central Employment (EX) zone allows mixed uses and is intended for areas in the center of the City that have predominantly industrial-type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area.

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 Gateway Plan District regulations encourage the development of an urban level of housing, employment, open space, public facilities, and pedestrian amenities that will strengthen the role of Gateway as a regional center. The regulations also ensure that future development will provide for greater connectivity of streets throughout the plan district. This development will implement the Gateway Regional Policy of the Outer Southeast Community Plan. Together, the use and development regulations of the Gateway plan district: promote compatibility between private and public investments through building design and site layout standards; promote new development and expansions of existing development that create attractive and convenient facilities for pedestrians and transit patrons to visit, live, work, and shop; ensure that new development moves the large sites in the plan district closer to the open space and connectivity goals of the Gateway Regional Center; create a clear distinction and attractive transitions between properties within the regional center and the more suburban neighborhood outside; and provide opportunities for more intense mixed-use development around the light rail stations.

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

- LU 06-138296 DZ – Design Review approval for a new 2-story commercial building, including Modifications to parking area setbacks and ground floor windows.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **March 15, 2016**. The following Bureaus have responded with no issues or concerns:

- Life Safety Division of BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 15, 2016. 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 33.825 Design Review

Section 33.825.010 Purpose of Design Review

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

Section 33.825.055 Design Review Approval Criteria

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

Findings: The site is designated with design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site's location, the applicable design guidelines are the Gateway Regional Center Design Guidelines.

Gateway Regional Center Design Guidelines

The Gateway Regional Center is the City of Portland's only designated regional center. The area is envisioned to redevelop into a highly urbanized, pedestrian-oriented center, with an overall built size and scale second only to Portland's Central City.

The purpose of design review is to carry out the urban design vision for the District by emphasizing unique district assets in a manner that is respectful, creative, supportive, and compatible with all its areas. Although the District is a complex urban environment, it can become a cohesive whole with the use of these design principles.

Gateway Regional Center Design Goals

Ten goals for design review in the Gateway Regional Center have been established to enhance the area's design quality, support its livability, and guide its transition to a pedestrian-oriented, active, urban regional center. They are:

1. Encourage urban design excellence.
2. Ensure that new development is at a human scale and that it relates to the scale and desired character of its setting and the Gateway Regional Center as a whole.
3. Provide for a pleasant, rich, and diverse experience for pedestrians.
4. Assist in creating a regional center that emphasizes a mix of active uses and experiences and is safe, lively, and prosperous.
5. Provide for the humanization of the Gateway Regional Center through the promotion of parks, plazas, open spaces, public art, and trees.
6. Integrate and honor the diversity and history of Gateway.
7. Integrate sustainable principles into the development process.
8. Encourage the development of a distinctive character for subdistricts within the regional center, and link them.
9. Encourage and incorporate transit orientation and usage.
10. Enhance the physical and visual linkages between the Gateway Regional Center and adjacent neighborhoods.

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

A Pedestrian Emphasis

A3. Integrate Building Mechanical Equipment and Service Areas. Incorporate building mechanical equipment and/or service areas in a manner that does not detract from the pedestrian environment.

Findings: The proposal is for four new exterior air conditioning units to be located in the side yard as well as to gain approval of three existing units in the same area. While permits suggest that the existing units may have been approved at the time of the building's construction, staff cannot locate a drawing confirming this. As such, the existing units were included in this application to resolve that discrepancy. The applicant proposes to locate the new units in the side yard where the existing units are located, which is screened by a solid 6'-0" fence on the street-facing side as well as a 6'-0" solid fence along the immediately adjacent property line. The proposed units will not be visible from either the street or adjacent properties. Staff notes that the new and existing units will need to meet chapter 33.262 Off-Site Impacts. *This guideline is met.*

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

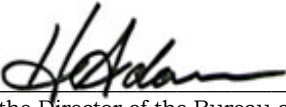
The design review process exists to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The proposal meets the applicable design guidelines and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of the installation of four new 5-ton air conditioning units in the side yard (east) of the property and approval for three existing air conditioning units in the same area to remain. This approval is per the approved site plans, Exhibits C-1, signed and dated April 7, 2016, subject to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibit C-1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 16-113374 DZ. No field changes allowed."

Staff Planner: Hillary Adam

Decision rendered by:  **on April 7, 2016**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 12, 2016

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 29, 2016, and was determined to be complete on March 10, 2016.

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 29, 2016.

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: July 8, 2016.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 26, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Design Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, 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 must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **April 27, 2016 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

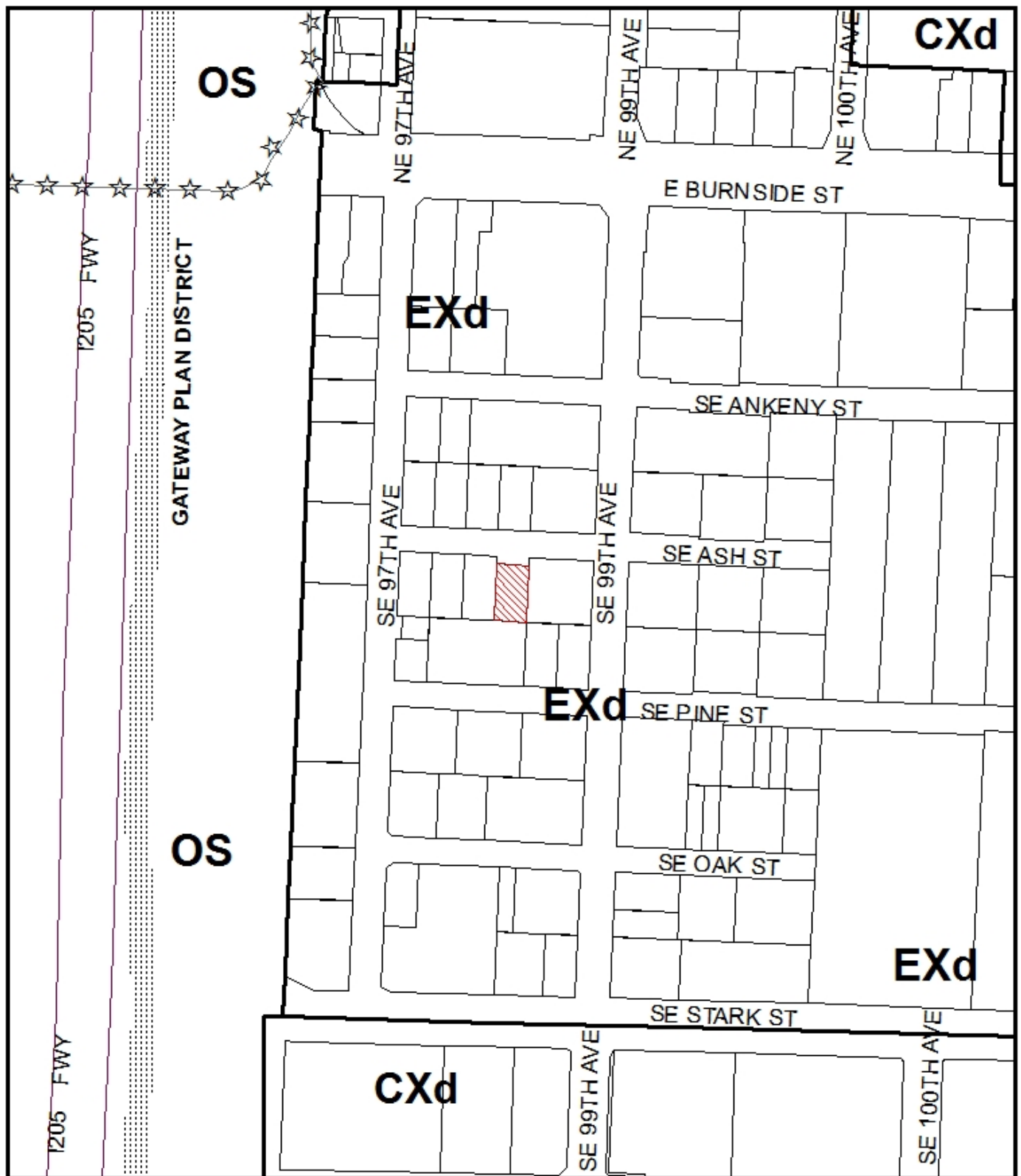
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- | | |
|--|--|
| <ul style="list-style-type: none"> A. Applicant's Statement <ul style="list-style-type: none"> 1. Original Submittal 2. Copy of LU 06-138296 DZM Decision B. Zoning Map (attached) C. Plans/Drawings: <ul style="list-style-type: none"> 1. Site Plan (attached) | <ul style="list-style-type: none"> D. Notification information: <ul style="list-style-type: none"> 1. Mailing list 2. Mailed notice E. Agency Responses: none F. Correspondence: none G. Other: <ul style="list-style-type: none"> 1. Original LU Application |
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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



Site



Recreational Trails



NORTH

This site lies within the:
GATEWAY PLAN DISTRICT

File No. LU 16-113374 DZ

1/4 Section 3040

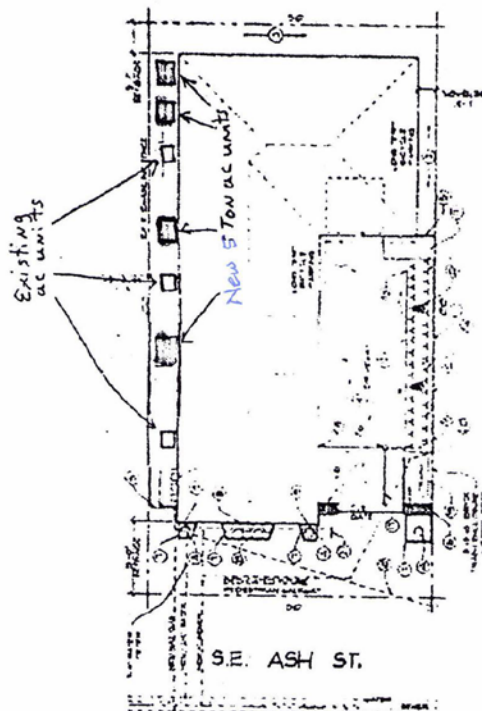
Scale 1 inch = 200 feet

State_Id 1N2E33DD 9800

Exhibit B (Feb 03, 2016)

- NOTES:**
1. NEW 5 TON AC UNIT - SEE PLAN FOR LOCATION
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Site Plan with outdoor air conditioners after new install



PHONE 503 249 5000
FAX 503 249 8260
CITY 173181
2636 N/E Sandy Blvd.
Portland, Or. 97232

Pioneer Gas Furnace
WE'RE THE ONES!

PROJECT LOCATION
TAXLOT: INTERLUD 09800
3803 SE ASH ST
PORTLAND, OREGON
MULTI-UNIT COUNTY
ZONE: EX GATEWAY PLAN DIST
LOT SIZE: 50' X 100'

Approved:
City of Portland
Bureau of Development Services
Planner [Signature]
Date 4/7/14

* This approval applies only to the
reviews requested and is subject to all
conditions of approval.
This approval does not constitute a guarantee of any kind.

LU 16-113374 D2

C-1