

Development Services

From Concept to Construction

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APPEAL SUMMARY

Status: Items 1a, 1b and 2: Decision Rendered. Items 3, 4: Not an Appeal Issue.

Appeal ID: 20219

Project Address: 3917 N Mississippi Ave

Hearing Date: 4/10/19

Appellant Name: Marissa Brown

Case No.: B-017

Appellant Phone: 503-235-9400

Appeal Type: Building

Plans Examiner/Inspector: Peter Drake

Project Type: commercial

Stories: 2 **Occupancy:** B **Construction Type:** VB

Building/Business Name:

Fire Sprinklers: Yes - throughout

Appeal Involves: Alteration of an existing structure, Addition to an existing structure, occ Change from Mercantile to Business

LUR or Permit Application No.:

Plan Submitted Option: pdf [File 1] [File 2] [File 3] [File 4] [File 5] [File 6]

Proposed use: Office / Executive Lounge

APPEAL INFORMATION SHEET

Appeal item 1

Code Section

Table 503 Allowable Building Heights and Areas; Section 504.2 Automatic sprinkler system increase; 1004.5 Outdoor areas; Table 1021.2(2) Stories with one exit or access to one exit for other occupancies; 1104.4: Accessible route – Multilevel building

Requires

Per Table 503 and Section 504.2: Group B Type VB Construction allows 3 Stories with Automatic Sprinkler System Increase. 2019 OSSC (based on 2018 IBC 503.1.4) will allow Occupied roofs in addition to the allowable number of stories, confirming an occupied roof is not a story.

1004.5 Outdoor areas

Yards, patios, courts and similar outdoor areas accessible to and usable by the building occupants shall be provided with means of egress as required by this chapter. The occupant load of such outdoor areas shall be assigned by the building official in accordance with the anticipated use. Where outdoor areas are to be used by persons in addition to the occupants of the building, and the path of egress travel from the outdoor areas passes through the building, means of egress requirements for the building shall be based on the sum of the occupant loads of the building plus the outdoor areas.

Per Table 1021.2(2) Stories with one exit or access to one exit for other occupancies:

Second story B Occupancy is allowed a maximum of 29 Occupants and a maximum 100 feet Exit Access Travel Distance. Third story and above is Not Permitted.

1104.4: Accessible route – Multilevel buildings and facilities Exception 1. In private buildings or facilities that are less than three stories and that have less than 3,000 square feet per story, an accessible route shall not be required to connect stories.

2018 IBC 503.1.4 Occupied Roofs. A roof level or portion thereof shall be permitted to be used as an occupied roof provided the occupancy of the roof is an occupancy that is permitted by Table 504.4 for the story immediately below the roof. The area of the occupied roofs shall not be included in the building area as regulated by Section 506.

Exceptions:

The occupancy located on an occupied roof shall not be limited to the occupancies allowed on the story immediately below the roof where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 and occupant notification in accordance with Section 907.5 is provided in the area of the occupied roof.

Proposed Design

The Tenant Improvement design proposes a change of use from Mercantile to Business, a new occupied roof deck at the roof of the existing 2-story building, and a new Exterior Exit Stairway connecting the roof to the 2nd Floor. This exit does not require reentry into the building and exits directly on grade with a clear path of travel to the N. Michigan Ave. Alley.

The existing building (Shell Permit 17-103928-CO) is Type VB construction, 2 stories of proposed future tenant Mercantile Use and is equipped throughout with an automatic sprinkler system.

Additionally:

- Two means of egress are provided from the 2nd Story, one an interior unenclosed Exit Access Stairway which exits through the main entrance to N Mississippi right of way, and the other an Exterior Exit Stairway which discharges to the N. Michigan Ave. Alley.
- The proposed 300 square foot occupied roof deck provides a small occupiable area less than 1/3 of the area of the 2nd floor, with 1 means of egress from roof to 2nd Story where two means of egress are available. The roof deck area is part of a secure access building, would not have public access, and typical usage will be by authorized tenants of the building. This space will be used with tables and chairs, not for concentrated assembly, and has an occupant load of 20 Occupants.
- The proposed change of use reduces 2nd Floor Occupant Load from 15 to 9. One means of egress is allowed from 2nd floor for up to 29 Occupants per 1021.2.
- The proposed change of use reduces the Total Occupancy for the building from 70 with M Use to 62 with B Use, including the added 20 Occupants at the roof.
- For stories with one exit, maximum exit access travel distance is 100' for B Occupancy per 1021.2; the exit access travel distance from furthest point on Occupied Roof to the Exit (Exterior Exit Stairway) is 27'-8". The total travel distance from the furthest point on Occupied Roof via the Exterior Exit Stairway to the N Michigan Alley public way is approx. 139'.
- For stories with two exits, maximum exit access travel distance with sprinkler system is 300 feet for B Occupancy; the travel distance via the interior unenclosed Exit Access Stairway from furthest point on Occupied Roof to the N Mississippi Ave public way is approx. 221'.
- We propose installing a wall mounted notification system, an Indoor/Outdoor selectable-output horn strobe product with alert system intended for full building notification. This system will alert all occupants of fire in the building and provide roof deck occupants notification of emergency when there might not have been awareness otherwise.
- The existing roof deck will be structurally strengthened for the occupied roof loads.
- Proposed gate at bottom of exterior exit stairway is to be equipped with panic hardware and remained unlocked from the egress side at all times.
- No elevator is required or provided in the Shell Permit. No elevator is proposed in the Tenant Improvement design.

Reason for alternative We request an appeal allowing an extension of the Exterior Exit Stairway to the roof, to be used as a single means of egress from the roof, and to provide a 300 square foot private roof deck for the tenant.

The Code allows 29 Occupants at the 2nd Story with a single means of egress. The TI design proposes 9 Occupants at the 2nd Floor and 20 Occupants at the Roof, for a total of 29 Occupants and provides two means of egress from the 2nd story. The proposed Exterior Exit Stairway that will connect the Roof to the 2nd Floor exits directly on grade with a clear path of travel to a public way. Roof Occupants are not required to reenter and pass through the building, though there is an option to enter and continue to the second exit via the Exit Access Stairway.

The Shell Permit does not include an Elevator as an accessible route. Because this is proposed to be a private 2-story Business with a 300 square foot Occupied Roof that is not considered a story per 2018 IBC 503.1.4 (2019 OSSC), and because adding an elevator to a leased space is not feasible, we propose that the building not be required to have an accessible route to connect the stories and the occupied roof.

We believe the cumulative effect of the protective measures identified in the Proposed Design meets the intent of the code, and therefore request approval of the proposed occupied roof design. Please reference Appeal ID 16575, Hearing Date 3/7/18: Roof Deck is allowed to egress through a mezzanine level.

Appeal item 2

Code Section	1004.5 Outdoor areas; 2018 IBC 503.1.4 Occupied roofs (to be included in 2019 OSSC)
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Requires	<p>1004.5 Outdoor areas</p> <p>Yards, patios, courts and similar outdoor areas accessible to and usable by the building occupants shall be provided with means of egress as required by this chapter. The occupant load of such outdoor areas shall be assigned by the building official in accordance with the anticipated use. Where outdoor areas are to be used by persons in addition to the occupants of the building, and the path of egress travel from the outdoor areas passes through the building, means of egress requirements for the building shall be based on the sum of the occupant loads of the building plus the outdoor areas.</p>
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2018 IBC 503.1.4 Occupied Roofs. A roof level or portion thereof shall be permitted to be used as an occupied roof provided the occupancy of the roof is an occupancy that is permitted by Table 504.4 for the story immediately below the roof. The area of the occupied roofs shall not be included in the building area as regulated by Section 506.

Exceptions:

The occupancy located on an occupied roof shall not be limited to the occupancies allowed on the story immediately below the roof where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 and occupant notification in accordance with Section 907.5 is provided in the area of the occupied roof.

Proposed Design	<p>If Appeal Item #1 is not allowable, we propose an alternate location for the occupied roof. This Tenant Improvement design proposes a change of use from Mercantile to Business, a new occupied roof deck at the 2nd Floor level, and an extension of the second floor to access the occupied roof.</p> <p>The existing building (Shell Permit 17-103928-CO) is Type VB construction, 2 stories of proposed future tenant Mercantile Use and is equipped throughout with an automatic sprinkler system. Additionally:</p> <ul style="list-style-type: none">• Two means of egress are provided from the 2nd Story, one an interior unenclosed Exit Access Stairway which exits through the main entrance to N Mississippi right of way, and the other an Exterior Exit Stairway which discharges to the N. Michigan Ave. Alley.• The proposed 279 square foot occupied roof deck provides a small occupiable area less than 1/3
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of the area of the 2nd floor. The roof deck area is part of a secure access building, would not have public access, and typical usage will be by authorized tenants of the building. This space will be used with tables and chairs, not for concentrated assembly, and has an occupant load of 19 Occupants.

- The proposed change of use reduces the 2nd Floor Occupant Load from 15 to 9. The added floor area to provide access to the roof deck results in an Occupant load of 11. The total occupant load for the second floor is 30 Occupants and two means of egress are provided.
- The proposed change of use reduces the Total Occupancy for the building from 70 with M Use to 63 with B Use, including the added 19 Occupants at the roof.
- Maximum Common Path of Egress Travel allowed is 100' at B Occupancy per 1014.3; Common Path of Egress Travel at 2nd Floor is 70'-4".
- For stories with two exits, maximum exit access travel distance with sprinkler system is 300 feet for B Occupancy; the travel distance via the interior unenclosed Exit Access Stairway from furthest point on Occupied Roof to the N Mississippi Ave public way is approx. 162'.
- We propose installing a wall mounted notification system, an Indoor/Outdoor selectable-output horn strobe product with alert system intended for full building notification. This system will alert all occupants of fire in the building and provide roof deck occupants notification of emergency when there might not have been awareness otherwise.
- The existing roof deck will be structurally strengthened for the occupied roof loads.

Reason for alternative The Code allows 29 Occupants at the 2nd Story with a single means of egress. The TI design proposes 11 Occupants at the 2nd Floor and 19 Occupants at the 2nd Floor Roof, for a total of 30 Occupants and provides two means of egress. Roof Occupants exit through the fully sprinklered building on a common path of egress travel that does not exceed the maximum allowed distance. Additionally, a notification system per 2018 IBC 503.1.4 Exception 1 (2019 OSSC) is to be included even though Exception 1 does not apply (both occupancies of Roof and Floor below are B).

We believe the cumulative effect of the protective measures identified in the Proposed Design meets Code, and therefore request approval of the proposed occupied roof design. Please reference Appeal ID 16575, Hearing Date 3/7/18: Roof Deck is allowed to egress through a mezzanine level.

Appeal item 3

Code Section City of Portland Fire Code Section 307.

Requires PFC 307.1 requires that a person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with Sections 307.1.1 through 307.5.

307.4.3 Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet of a structure or combustible material.

Proposed Design A gas burning appliance (fire table or fire pit) is proposed to be installed on an occupied roof deck (see proposed Appeal Item #1) in a Tenant Improvement design for a private business to be used solely by the authorized tenants. The fixed (non-portable) gas burning appliance is to be CSA certified or UL listed and installed per the manufacturer's recommendations. The building is equipped throughout with an automatic sprinkler system to NFPA13 and is Type VB construction with Class C roof.

The roof deck is a tenant-controlled amenity as part of that tenant's lease in a secure access building, and typical usage will be by authorized tenants of the building. It will be used for employees during office hours and potentially for gatherings of employee and authorized guests after hours. The Fire table will sit above a non-combustible pedestal paver system. The only combustible, unprotected materials within 10' of the fire pit will be furniture and landscaping. Landscaping planters will be fixed in place. Furniture will be moveable. See attached plan 1/3.1 for location of open flame devices. See attached PFC Design Guide for Gas Burning Appliances on Roofs or Decks dated 07/18/2017. All requirements of the Design Guide will be met with exception of 10' distance to combustible construction as the Shell building is Type VB, fully sprinklered.

The proposal includes the following precautions and safeguards:

- Type VB Shell is wood structure equipped throughout with automatic sprinkler system, and all surrounding exterior building finishes are to be non-combustible – at walls, parapets, guardrails – including metal and Portland cement plaster.
- A non-combustible paver/pedestal deck will be elevated from the Class C roof and the fire table will be secured to a platform of concrete or stone pavers that are interlocked and not moveable.
- A layer of non-combustible protection board material will be installed on top of roofing membrane below full expanse of deck as an additional precaution.
- Any proposed landscape planters are fixed.
- The gas burning appliance will be permanently secured in place to prevent tipping.
- Lighting will be provided at this location to ensure ease of access to shut-off and extinguisher.
- A metal mesh screen, or equivalent protection that is at least as tall as the maximum flame height, will be fixed in place around the fire pit to prevent combustibles from contacting or being ignited by the flames.

The remaining PFC Design Guide requirements will be provided for including:

- The gas burning appliance will be CSA certified or UL listed and installed per the manufacturer's recommendations.
- Gas will be internally piped to the appliance. No fuel tank or fuel storage will be provided.
- A timer will be connected to the valve of the gas burning appliance allowing gas to flow to the appliance for periods of up to 60 minutes. The timer will activate the appliance.
- A portable fire extinguisher will be located on the roof level and installed within 75 feet of travel distance of the gas burning appliance at the exterior exit stair landing.
- An automatic fuel shutoff valve will be connected to the fire alarm system that will interrupt the flow of gas when the fire alarm is activated anywhere in the building.
- A manual emergency shutoff valve with signage will be located within a minimum of 10 feet and a maximum of 50 feet from the gas burning appliance.

Additionally, the following provisions are proposed at the roof deck per Appeal Item #1:

- Area of roof deck is limited to 300 square feet with an Occupant Load of 20 persons.
- Access to the roof deck is limited to building tenant (business occupancy) and their non-paying authorized guests.
- A manual fire alarm pull station and notification device are to be installed on the roof deck.
- Proposed gate at bottom of exterior exit stairway is to be equipped with panic hardware and remained unlocked from the egress side at all times.
- Illuminated exit signs are located at the exit at the level of occupied roof.
- Egress illumination is provided throughout the roof deck and egress paths.

Reason for alternative The alternate is required in order to provide an enjoyable and safe amenity for the business tenant, and to make the occupied roof usable in colder weather and early evenings. The amenity of a real fire is safeguarded by the above-listed prescriptive path that has previously been developed and approved on other occupied roofs projects in the City of Portland. We are

requesting confirmation that a fixed gas-burning appliance (fire pit or fire table) can be installed on the occupied roof deck of a fully sprinklered building of Construction Type VB.

Appeal item 4

Code Section

City of Portland Fire Code Section 307.

Requires

PFC 307.1 requires that a person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with Sections 307.1.1 through 307.5.

307.4.3 Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet of a structure or combustible material.

Proposed Design

If Appeal Items #1 & #3 are not allowable, a gas burning appliance (fire table or fire pit) is proposed to be installed on an occupied roof deck at 2nd Floor (see proposed Appeal Item #2) in a Tenant Improvement design for a private business to be used solely by the authorized tenants. The fixed (non-portable) gas burning appliance is to be CSA certified or UL listed and installed per the manufacturer's recommendations. The building is equipped throughout with an automatic sprinkler system to NFPA13 and is Type VB construction with Class C roof.

The roof deck is a tenant-controlled amenity as part of that tenant's lease in a secure access building, and typical usage will be by authorized tenants of the building. It will be used for employees during office hours and potentially for gatherings of employee and authorized guests after hours. The Fire table will sit above a non-combustible pedestal paver system. The only combustible, unprotected materials within 10' of the fire pit will be furniture and landscaping. Landscaping planters will be fixed in place. Furniture will be moveable. See attached plan 2/3.1 for location of open flame devices. See attached PFC Design Guide for Gas Burning Appliances on Roofs or Decks dated 07/18/2017. All requirements of the Design Guide will be met with exception of 10' distance to combustible construction as the Shell building is Type VB, fully sprinklered.

The proposal includes the following precautions and safeguards:

- Type VB Shell is wood structure equipped throughout with automatic sprinkler system, and all surrounding exterior building finishes are to be non-combustible – at walls, parapets, guardrails – including metal and Portland cement plaster.
- A non-combustible paver/pedestal deck will be elevated from the Class C roof and the fire table will be secured to a platform of concrete or stone pavers that are interlocked and not moveable.
- A layer of non-combustible protection board material will be installed on top of roofing membrane below full expanse of deck as an additional precaution.
- Any proposed landscape planters are fixed.
- The gas burning appliance will be permanently secured in place to prevent tipping.
- Lighting will be provided at this location to ensure ease of access to shut-off and extinguisher.
- A metal mesh screen, or equivalent protection that is at least as tall as the maximum flame height, will be fixed in place around the fire pit to prevent combustibles from contacting or being ignited by the flames.

The remaining PFC Design Guide requirements will be provided for including:

- The gas burning appliance will be CSA certified or UL listed and installed per the manufacturer's recommendations.
- Gas will be internally piped to the appliance. No fuel tank or fuel storage will be provided.
- A timer will be connected to the valve of the gas burning appliance allowing gas to flow to the

appliance for periods of up to 60 minutes. The timer will activate the appliance.

- A portable fire extinguisher will be located on the roof level and installed within 75 feet of travel distance of the gas burning appliance at the landing inside of door to roof.
- An automatic fuel shutoff valve will be connected to the fire alarm system that will interrupt the flow of gas when the fire alarm is activated anywhere in the building.
- A manual emergency shutoff valve with signage will be located within a minimum of 10 feet and a maximum of 50 feet from the gas burning appliance.

Additionally, the following provisions are proposed at the roof deck per Appeal Item #2:

- Area of roof deck is limited to 279 square feet with an Occupant Load of 19 persons.
- Access to the roof deck is limited to building tenant (business occupancy) and their non-paying authorized guests.
- A manual fire alarm pull station and notification device are to be installed on the roof deck.
- Illuminated exit signs are located at the exit at the level of occupied roof.
- Egress illumination is provided throughout the roof deck and egress paths.

Reason for alternative The alternate is required in order to provide an enjoyable and safe amenity for the business tenant, and to make the occupied roof usable in colder weather and early evenings. The amenity of a real fire is safeguarded by the above-listed prescriptive path that has previously been developed and approved on other occupied roofs projects in the City of Portland. We are requesting confirmation that a fixed gas-burning appliance (fire pit or fire table) can be installed on the occupied roof deck of a fully sprinklered building of Construction Type VB.

APPEAL DECISION

1a. Omission of accessible route to occupied roof: Granted as proposed.

1b. Single exit from 3rd level deck: Denied. Proposal does not provide equivalent Life Safety protection.

2. Second floor roof deck egress: Granted as proposed.

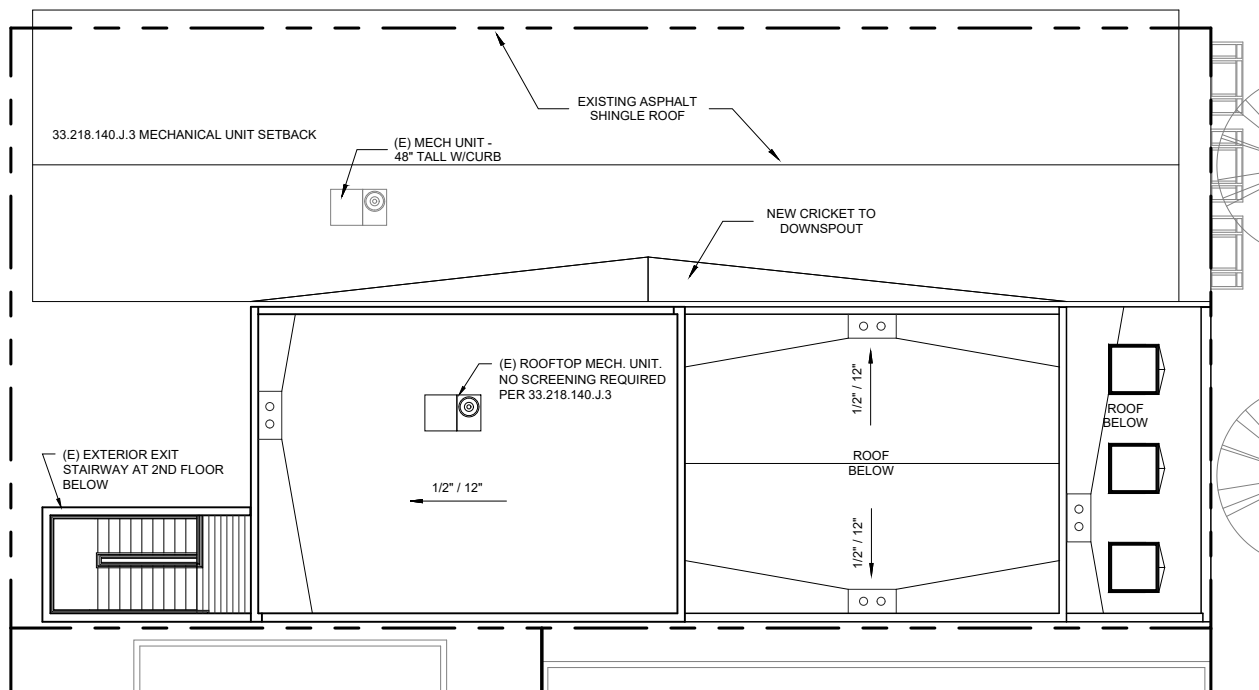
3. Gas fire pit on roof deck: Not an appeal issue. The most recent revision of the Design Guidelines for Gas Burning Fire Pits and Tables on Roofs or Decks has omitted the requirement for non-combustible construction.

4. Alternate location of gas fire pit at 2nd floor roof deck: Not an appeal issue. The most recent revision of the Design Guidelines for Gas Burning Fire Pits and Tables on Roofs or Decks has omitted the requirement for non-combustible construction.

Appellant may contact John Butler (503 823-7339) with questions.

For the item granted, the Administrative Appeal Board finds that the information submitted by the appellant demonstrates that the approved modifications or alternate methods are consistent with the intent of the code; do not lessen health, safety, accessibility, life, fire safety or structural requirements; and that special conditions unique to this project make strict application of those code sections impractical.

Pursuant to City Code Chapter 24.10, you may appeal this decision to the Building Code Board of Appeal within 180 calendar days of the date this decision is published. For information on the appeals process and costs, including forms, appeal fee, payment methods and fee waivers, go to www.portlandoregon.gov/bds/appealsinfo, call (503) 823-7300 or come in to the Development Services Center.



1 FOR REFERENCE - EXISTING ROOF PLAN

SCALE: 1/16" = 1'-0"

N

TENANT IMPROVEMENT

3917 N MISSISSIPPI

PORTLAND, OR 97227

NOT FOR CONSTRUCTION

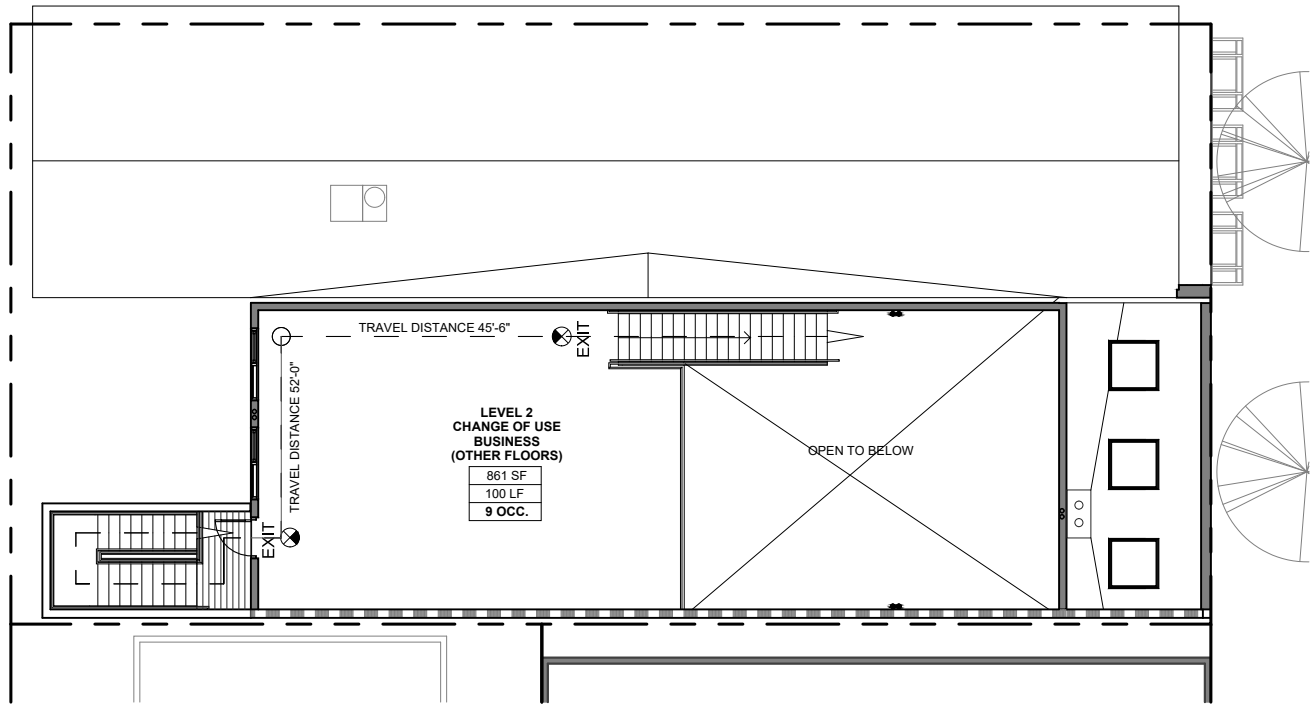


JOB #: 1904

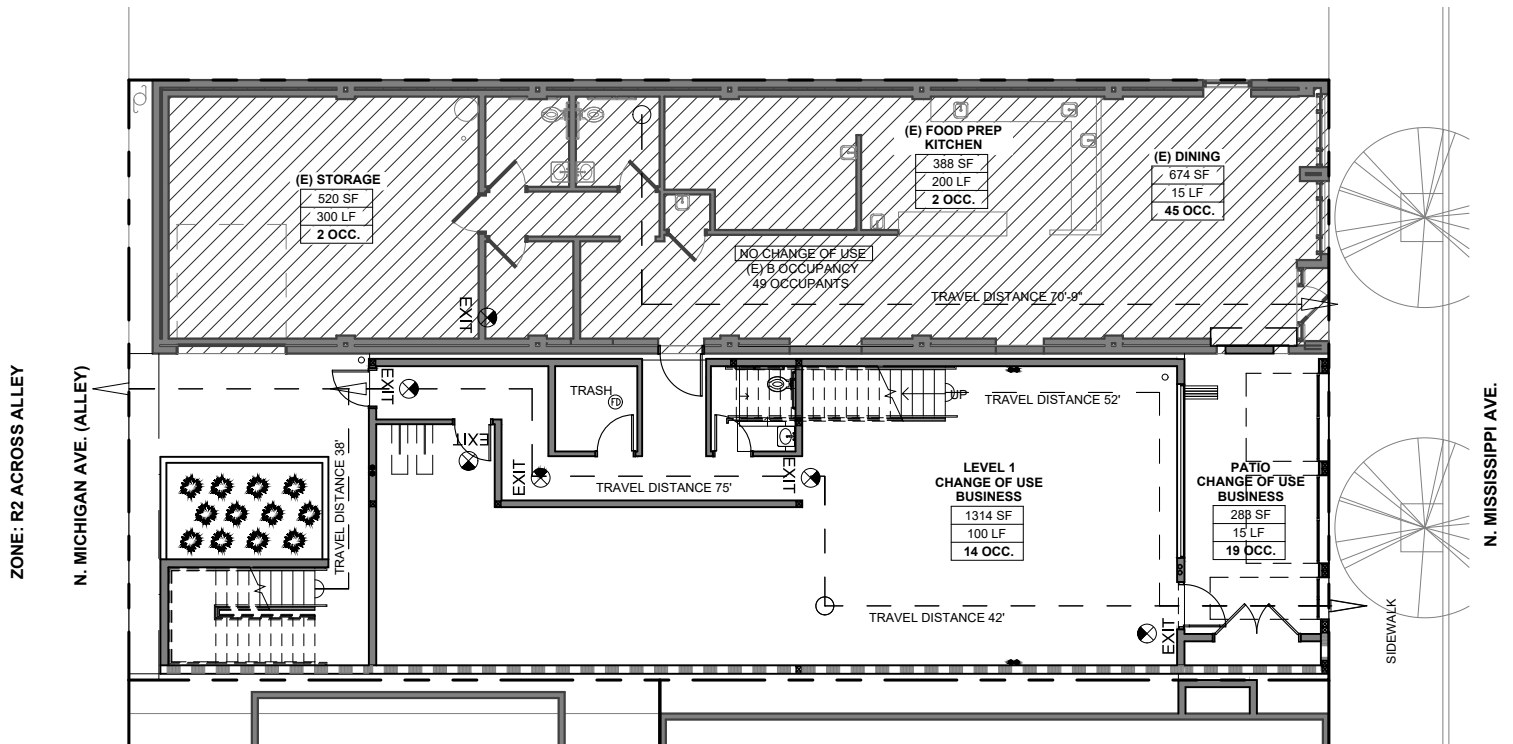
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EXISTING PLANS

DATE: 04-05-19



2 APPEAL #1 - 2ND FLOOR PLAN - PROPOSED CHANGE OF USE
SCALE: 1/16" = 1'-0"



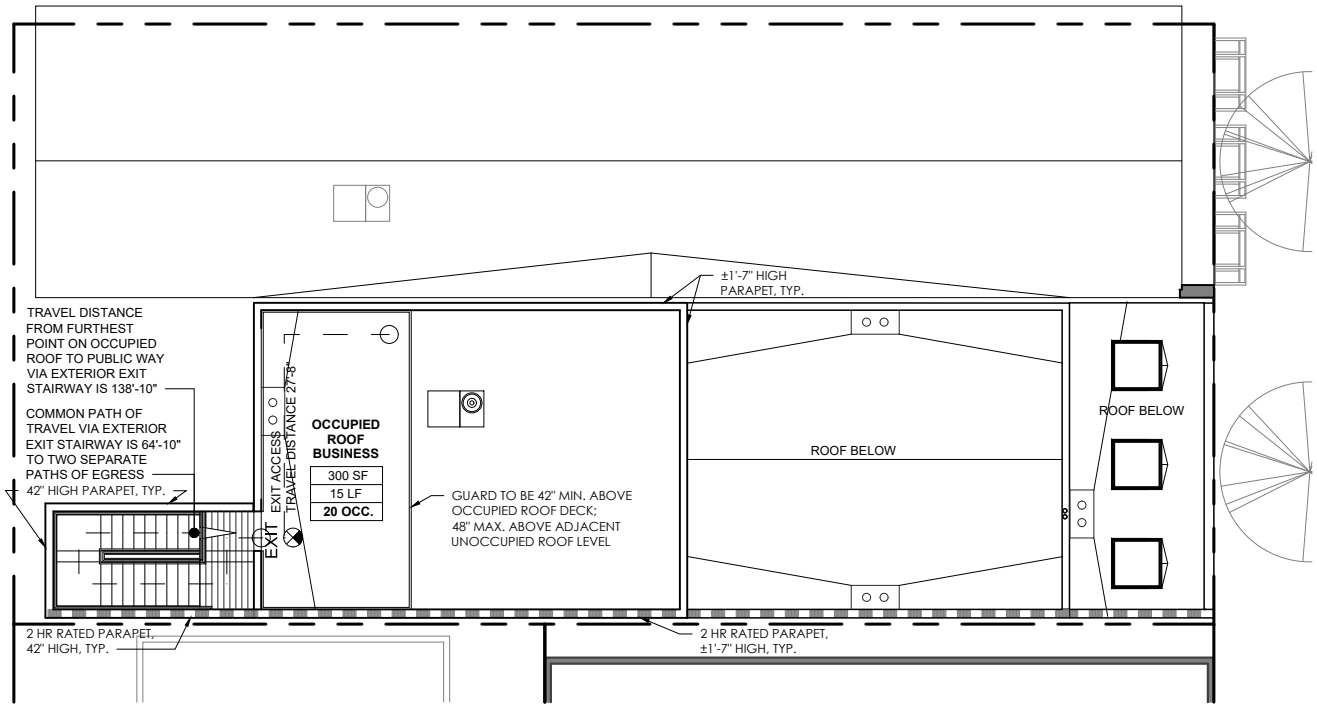
1 APPEAL #1 AND #2 - 1ST FLOOR PLAN - PROPOSED CHANGE OF USE
SCALE: 1/16" = 1'-0"

TENANT IMPROVEMENT
3917 N MISSISSIPPI
PORTLAND, OR 97227
NOT FOR CONSTRUCTION

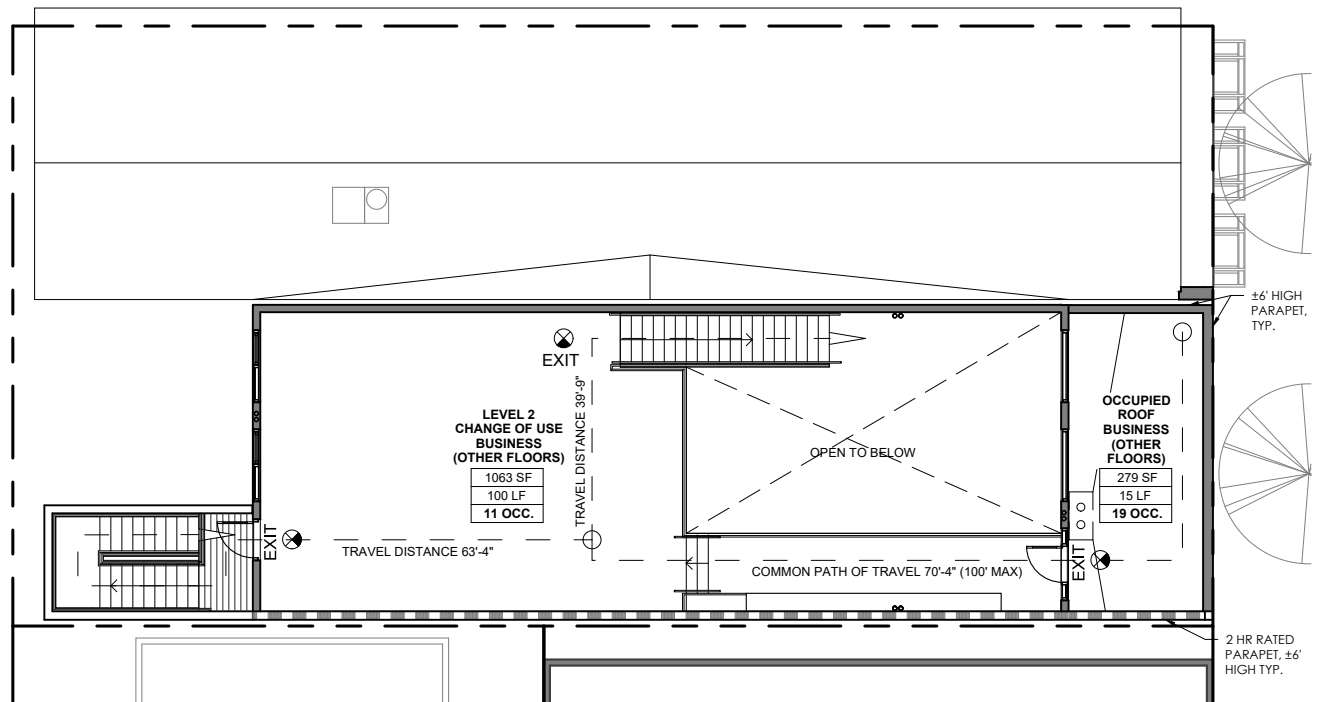
EMERICK ARCHITECTS

JOB #: 1904

1.1
CHANGE OF USE
DATE: 04-05-19



2 APPEAL #1 - PROPOSED OCCUPIED ROOF ABOVE 2ND FLOOR
SCALE: 1/16" = 1'-0"



1 APPEAL #2 - PROPOSED OCCUPIED ROOF AT 2ND FLOOR
SCALE: 1/16" = 1'-0"

TENANT IMPROVEMENT

3917 N MISSISSIPPI

PORTLAND, OR 97227

NOT FOR CONSTRUCTION

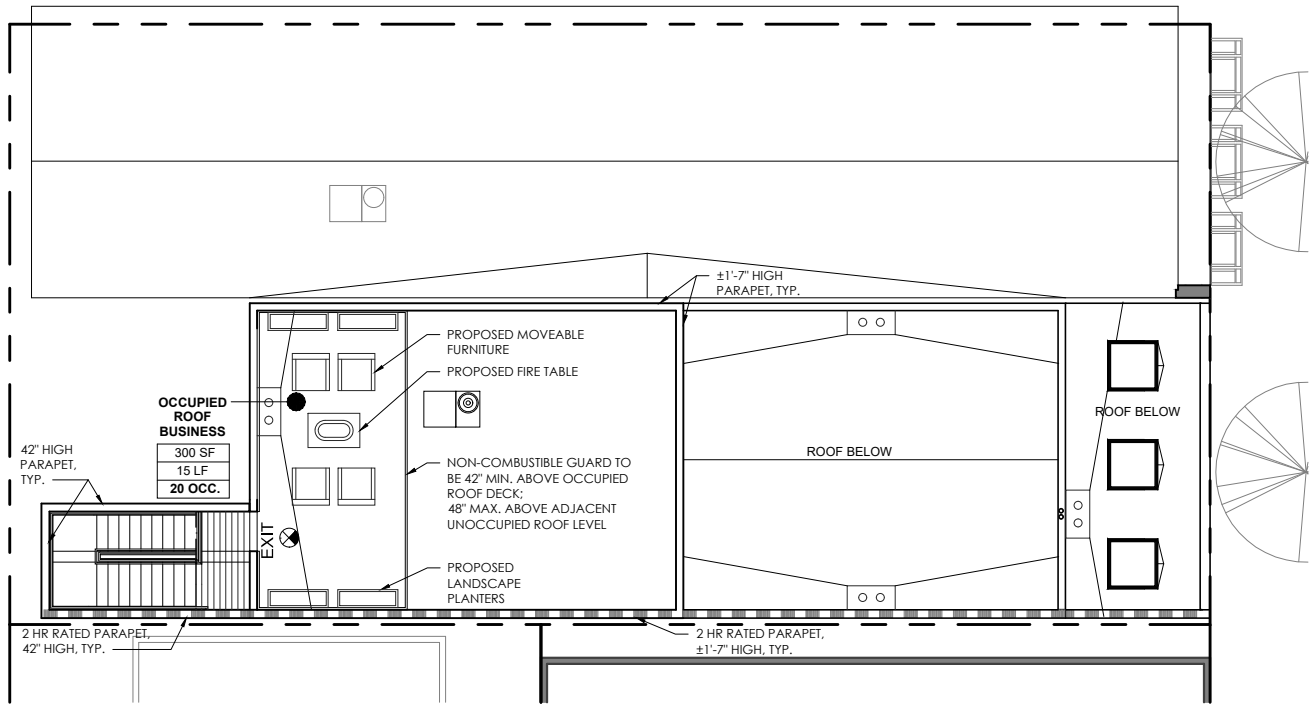
EMERICK ARCHITECTS

JOB #: 1904

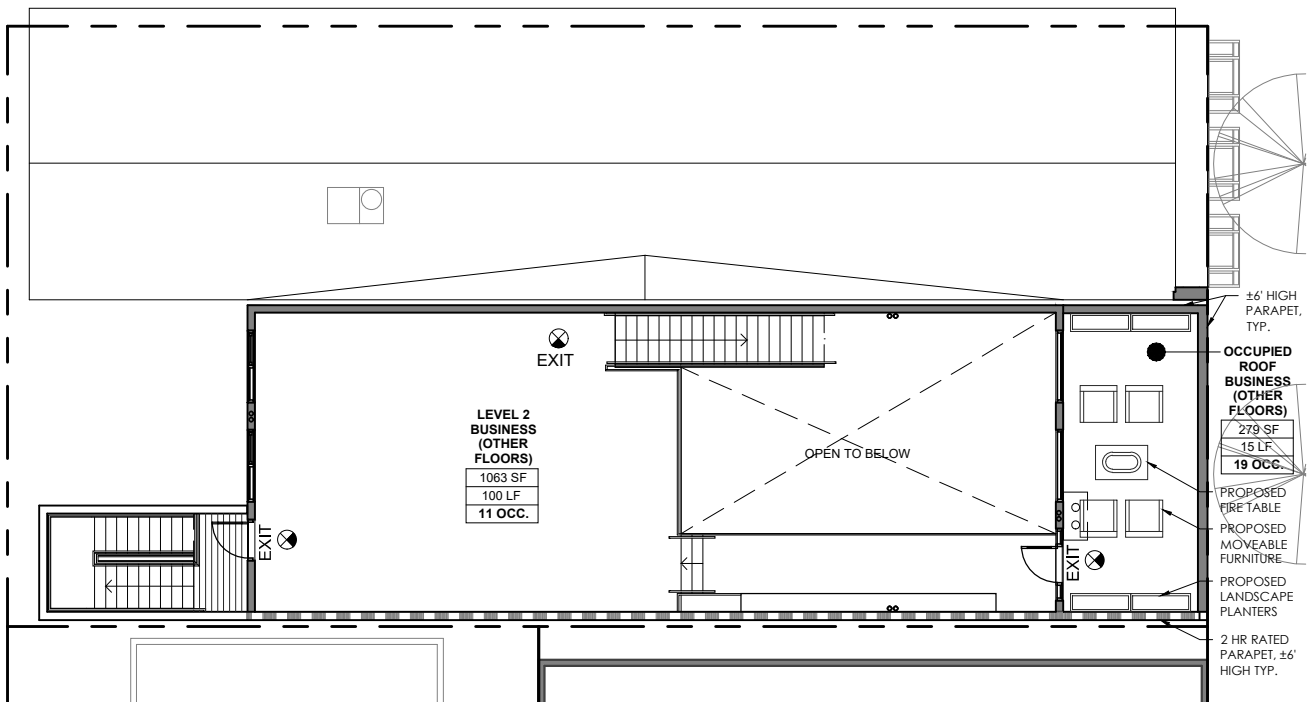
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APPEAL #1 & #2

DATE: 04-05-19



2 APPEAL #3 - PROPOSED FIRE TABLE/FIRE PIT AT OCCUPIED ROOF (REFER TO APPEAL #1)
SCALE: 1/16" = 1'-0"



1 APPEAL #4 - PROPOSED FIRE TABLE/FIRE PIT AT OCCUPIED ROOF (REFER TO APPEAL #2)
SCALE: 1/16" = 1'-0"

TENANT IMPROVEMENT

3917 N MISSISSIPPI

PORTLAND, OR 97227

NOT FOR CONSTRUCTION

EMERICK ARCHITECTS

JOB #: 1904

1.3
APPEAL #3 & #4
DATE: 04-05-19



PORTLAND FIRE & RESCUE



Dan Saltzman, Commissioner
Mike Myers, Fire Chief
Nate Takara, Fire Marshal
Prevention Division
1300 SE Gideon Street
Portland, OR 97202
(503) 823-3770
Fax (503) 823-3969

Design Guidelines

Gas Burning Fire Pits and Tables on Roofs or Decks

This guideline does not apply to open-flame cooking devices which are regulated under PFC Section 308.1.4

Applicable Code Section(s): PFC Section 307.1

Code Requires: PFC 307.1 requires that a person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with Sections 307.1.1 through 307.5.

- The gas burning appliance is CSA certified or UL listed and installed per the manufacturer's recommendations.
- The appliance will be secured to the non-combustible roof or deck structure to prevent tipping.
- Gas will be internally piped to the appliance. No fuel tank or fuel storage will be provided.
- A timer will be installed to activate the appliance.
- A timer will be connected to the valve of the gas burning appliance allowing gas to flow to the appliance for periods of up to 60 minutes.
- A portable fire extinguisher will be located on the same level and installed within 75 feet of travel distance of the gas burning appliance.
- An automatic fuel shutoff valve will be connected to the fire alarm system that will interrupt the flow of gas when the fire alarm is activated anywhere in the building.
- A manual emergency shutoff valve with signage will be located within a minimum of 10 feet and a maximum of 50 feet from the gas burning appliance.
- The gas burning appliance will be located more than 10 feet from any combustibles or combustible construction.
- **Note:** A barbeque is not required to be connected to an automatic fuel shut off valve. If an applicant chooses to connect the barbeque to an automatic fuel shut off valve, manual action will be required to restore the flow of gas to the barbeque once tripped by the fire alarm system.