



City of Portland, Oregon
Bureau of Development Services
Land Use Services

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Portland, Oregon 97201
503-823-7300
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TTY 503-823-6868
www.portlandonline.com/bds

Date: July 1, 2009
To: Interested Person
From: Matt Wickstrom, Land Use Services
503-823-7840 / wickstromm@ci.portland.or.us

**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 reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 09-101582 AD

GENERAL INFORMATION

Representative: Nahum Goodenow
SERA Architects
338 NW 5th Ave
Portland, OR 97209

Applicant: Jon Bradford
Doug Bean And Associates, Inc.
1211 SW 5th Ave Suite 1220
Portland, OR 97204

Owner: Nicolai Building LLC
PO Box 9356
Portland, OR 97207

Site Address: 2181 NW NICOLAI ST

Legal Description: TL 1100 1.08 ACRES, SECTION 28 1 N 1 E
Tax Account No.: R941280770
State ID No.: 1N1E28BD 01100
Quarter Section: 2727

Neighborhood: Northwest Industrial, contact Pamela Ake at 503-228-2335
Business District: Northwest Industrial, contact Pamela Ake at 503-228-2335
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212

Plan District: Guilds Lake Industrial Sanctuary
Zoning: IH, Heavy Industrial

Case Type: AD, Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant is proposing to remodel the existing 4-story building which will contain manufacturing, storage and office spaces. The basement level will be converted into a 44-space parking area to serve employees. The existing surface lot will continue to provide approximately 20 vehicle parking spaces as well as loading spaces.

The applicant is requesting three Adjustments to applicable Zoning Code development standards. The proposed new basement parking area will not comply with aisle requirements. The applicant is requesting to reduce the width of the one-way aisle from 20 feet to 14 feet. The applicant is proposing wider parking spaces to facilitate safe maneuvering into the spaces. Because the applicant is making significant improvements to the building, the Zoning Code requires that certain site upgrades be made. The applicant is requesting Adjustments to the following two required upgrades to the existing parking area: (1) waive the required five foot setback and landscape screening along the perimeter of the parking area and (2) waive the required interior parking lot landscaping.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The criteria are 33.805.040.A-F, Adjustment Review.

ANALYSIS

Site and Vicinity: The approximately 1 acre site is located on NW Nicolai Street nearby where Highway 30 turns and becomes NW Yeon Street. The site is developed with a 4-story brick building with a basement. There are approximately 19 on-site surface parking spaces located to the southwest of the building.

Zoning: The IH zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where all kinds of industries may locate including those not desirable in other zones due to their objectionable impacts or appearance. The site is also located in the Guild's Lake Industrial Sanctuary Plan District. The intent of this plan district is to foster the preservation and growth of this premier industrial area adjacent to Portland's central city.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **January 23, 2009**. The following Bureaus have responded:

- The Fire and Parks Bureaus responded with no concerns (Exhibit E-1).
- The Water Bureau responded with information on water service. The response notes no objections to the proposal (Exhibit E-2).
- The Life Safety Section of BDS responded that a building permit is required for the work proposed (Exhibit E-3).
- The Development Review Section of the Bureau of Transportation reviewed the proposal for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services. The response states no objections to the proposal (Exhibit E-4).
- The Bureau of Environmental Services responded with information on sanitary services, stormwater management and water resources. The response states no objection to the Adjustment request to reduce the width of the one-way aisle from 20 feet to 14 feet. Concerning the Adjustments to waive the landscaping requirements for the surface parking lot, the response states that the applicant has provided enough information to show that the project will be able to meet stormwater management requirements at the time of building permit review (Exhibit E-5).
- The Site Development Section of BDS responded that if BES approves the proposed method of stormwater management, then Site Development will have no objection to the proposed

Adjustments (Exhibit E-6).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on January 23, 2009. One written response has been received from a notified property owner in response to the proposal.

The response came from the owner of an adjacent building and states objections to the proposal because it would impact a rail easement which crosses the site. The letter provides a description of previous correspondence and action regarding the respondent's intent to ensure that the easement remains in place.

Staff response: Following negotiations between the two property owners, the applicant provided recorded documentation showing that the easement issue has been resolved.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant requests three Adjustments. The first Adjustment request is to waive the landscaped setback requirement for the perimeter of the existing surface parking area. The second Adjustment request is to waive the interior parking area landscaping requirement for the existing surface parking area. Incidentally, the applicant plans to retain the existing configuration of the surface parking area. The third Adjustment request is to reduce the width of the one-way aisle width within the new basement parking area from 20 feet to 14 feet. The purpose of the development standards related to each requested Adjustment and the findings pertaining to each request are found below.

1. Parking lot landscaping standards – perimeter landscaping: The intent for the parking lot perimeter landscaping, as stated in Section 33.266.130.A of the Zoning Code, is as follows:

The parking area layout standards are intended to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas, and provide for convenient entry and exit of vehicles. The setback and landscaping standards:

- *Improve and soften the appearance of parking areas;*
- *Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones;*
- *Direct traffic in parking areas;*
- *Shade and cool parking areas;*
- *Reduce the amount and rate of stormwater runoff from vehicle areas;*
- *Reduce pollution and temperature of stormwater runoff from vehicle areas;*
and
- *Decrease airborne and waterborne pollution.*

The existing surface parking area is efficiently laid out, the aisle widths and parking space depths meet the minimum requirements of the Portland Zoning Code and the entry and exit are easily recognized. Based on this information,

safe circulation is currently provided and reducing the width of the aisles or the depth of the parking spaces below the minimum requirement of the Zoning Code in order to add landscaping, could compromise the safety of the parking area. Waiving the perimeter landscaped setback requirements does inhibit stormwater management; however, BES reviewed the proposal and concluded that stormwater management requirements could be met through an alternative to the required landscaped setbacks. This alternative approach provides support for the off-site management of stormwater in order to satisfy the requirements of the Stormwater Management Manual. The parking area has an industrial-appearance which based on its location and considering the historic nature of the building is appropriate and provides aesthetic qualities despite the lack of perimeter landscaping. A masonry wall is located along the NW Nicolai frontage of the site. The wall helps to screen views of the parking area from the street. The parking area is also sunken below street-grade which helps to further screen and soften its appearance. The layout of the parking area is straightforward and traffic is appropriately directed. Surrounding buildings provide some shading of the parking area which will help to cool it and reduce the temperature of stormwater runoff. The sunken location of the parking area below the grade of the adjacent street may also help cool the parking area. Based on this information, this criterion is met.

2. Parking lot landscaping standards – interior landscaping: The intent for the parking lot interior landscaping, as stated in Section 33.266.130.A of the Zoning Code, is as follows:

The parking area layout standards are intended to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas, and provide for convenient entry and exit of vehicles. The setback and landscaping standards:

- *Improve and soften the appearance of parking areas;*
- *Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones;*
- *Direct traffic in parking areas;*
- *Shade and cool parking areas;*
- *Reduce the amount and rate of stormwater runoff from vehicle areas;*
- *Reduce pollution and temperature of stormwater runoff from vehicle areas; and*
- *Decrease airborne and waterborne pollution.*

The applicant is requesting an Adjustment to also waive the interior parking lot landscaping standard on the existing surface parking lot. The proposal equally meets the purpose of the regulations for many of the same reasons as described above. The parking area and the historic brick building provide an industrial appearance which promotes positive aesthetic qualities even without landscaping. BES has reviewed the proposal and supports an alternative means of satisfying stormwater management requirements. The parking area is laid out in a simple manner so traffic is appropriately directed and the surrounding buildings will help to shade and cool the parking area. Based on this information, this criterion is met.

3. Parking Area Layout: The intent of the standard, as stated in Section 33.266.130.A of the Zoning Code, is as follows:

The parking layout standards are intended to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas, and provide for convenient entry and exit of vehicles.

The applicant is requesting an Adjustment to reduce the width of the aisle to access the proposed basement parking area from 20 feet to 14 feet. Section 33.266.130 F.2 identifies minimum required parking space and aisle dimensions via Table 266-4. For parking spaces which are angled at 90 degrees from the driving aisle, a one-way aisle is required to be 20 feet in width. In order to accommodate the expected vehicle turning radiuses and circulation, the applicant is proposing parking spaces which range from 16 feet to 17 feet 4 inches in depth and which are between 13 feet 5 inches and 14 feet 10 inches in width. The Zoning Code requires parking spaces to be a minimum of 16 feet in depth and 8 feet 6 inches in width. The proposal to reduce the aisle width was reviewed by Transportation. The response from Transportation states that “the applicant submitted turning templates to demonstrate that passenger vehicles can adequately circulate through the garage and into the proposed parking spaces. The wider parking spaces appear to accommodate the turning movements of a passenger car into the spaces from the proposed 14-foot wide drive aisles”. Based on this information, the proposal to reduce the aisle width meets the intent of the standard which is to promote safe circulation. Furthermore, the basement parking garage is proposed to be used by regular employees only and not customers. The theory is that as employees routinely maneuver vehicles within the parking area, they become more knowledgeable about its dimensions and layout whereas opening the parking garage to customers could invite too many first time users of the parking area. In order to ensure that the building plans adequately reflect this information, two conditions of approval are necessary. The first condition of approval states that no parking space within the basement garage may be less than 13 feet 5 inches in width. The second condition of approval states that the basement parking garage is for employee use only, a sign must be posted outside the entrance to the basement parking garage which visibly identifies the parking garage as for use by employees only. As the parking area is located within the basement of an existing building and not a surface parking lot, the stormwater management related requirements of the Zoning Code do not apply. Entry and exit locations also meet requirements. Based on this information, this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The site is located in a Heavy Industrial (IH) zone. This project is located on a 47,040 square foot site with frontage on NW Nicolai Street and NW Sherlock Avenue. The Transportation Element classifies NW Nicolai Street as a Neighborhood Collector, a Local Service Transit Street, a City Bikeway, a City Walkway, a Local Service Truck Street, a Major Emergency Response Street and an Urban Road. NW Sherlock Avenue is categorized as a local street for all classifications. The Development Review Section of the Bureau of Transportation reviewed the proposal for conformance with adopted street designations and stated no concerns. The proposal also does not conflict with the industrial intent of the IH zone and the Guild’s Lake Industrial Sanctuary. The industrial appearance of the surface parking area will be maintained and the conversion of the basement to parking area will provide parking area for employees despite the smaller aisle dimensions. This criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Three adjustments are requested. Individually and collectively, the requested adjustments will achieve a project that remains consistent with the overall purpose of the zone. This criterion is met for the requested three adjustments.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: The impacts of the Adjustments to waive the perimeter and interior parking lot landscaping requirements will not result in any negative impacts as the appearance of the parking area will remain the same and BES requirements are met. The impacts of the requested Adjustment to aisle width in the basement parking garage is adequately mitigated through the condition of approval that all parking spaces must be at least 13 feet 5 inches in width and must be designated as for employee use only. This criterion is met.

D. City-designated scenic resources and historic resources are preserved; and

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: No City-designated scenic or historic resources are located on the site and it is not located within an environmental overlay zone, therefore these criteria do not apply.

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 applicant proposes three Adjustments associated with plans to renovate the existing building at this site. Two of the Adjustments request to waive perimeter and interior parking lot landscaping requirements for the existing surface parking lot and the third Adjustment requests to reduce drive aisle widths within the new basement parking garage. As noted in this report, the proposal is able to meet the Adjustment approval criteria with approval granted based on the industrial appearance of the surface parking area, the BES response which supports the Adjustment requests to waive the landscaping requirements, the wider parking stalls within the basement parking garage and the use of the garage by employees only. With approval requiring that the permit drawings substantially conform with the site plan and basement floor plan attached, the request meets the applicable criteria and should be approved.

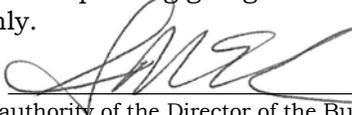
ADMINISTRATIVE DECISION

Approval of Adjustments to 33.266.130.G and 33.266.130.F to: (1) waive the perimeter parking area landscaping requirements for the surface parking area; (2) waive the interior parking area landscaping requirements for the surface parking area; and (3) reduce the minimum aisle width within the basement parking garage from 20 feet to 14 feet, per the approved site plan, Exhibits C.1 and C.2 signed and dated June 25, 2009, subject to the following conditions:

A. As part of the building permit application submittal, the following development-related conditions (B through C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 09-101582 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

B. No parking space within the basement garage may be less than 13 feet 5 inches in width.

- C. The basement parking garage is for employee use only, a sign must be posted outside the entrance to the basement parking garage which visibly identifies the parking garage as for use by employees only.

Decision rendered by:  **on June 26, 2009**
By authority of the Director of the Bureau of Development Services

Decision mailed: July 1, 2009

Staff Planners: Sheila Frugoli and Matt Wickstrom

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 9, 2009, and was determined to be complete on January 21, 2009.

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 9, 2009.

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 90 days until August 19, 2009.

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 Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on July 15, 2009** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth 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. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition,

an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 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 Adjustment Committee 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 Adjustment Committee 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 **July 16, 2009 – (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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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:

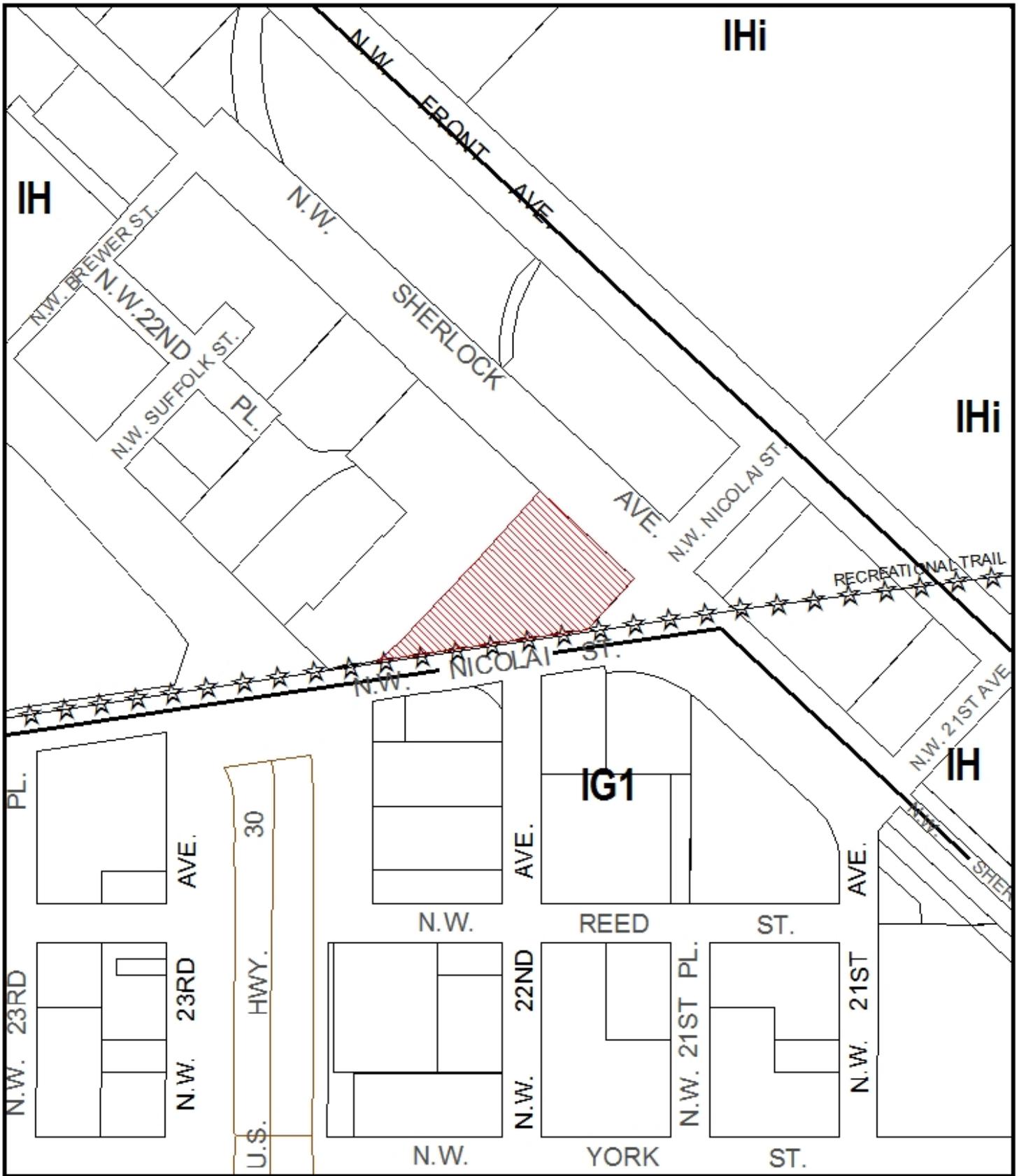
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
 - 1. Request for Extension of 120-Day Review Period
 - 2. Supplemental submittal received June 18, 2009
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Basement Parking Garage Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Summary Sheet of Agency Responses
 - 2. Water Bureau
 - 3. Life Safety Section of BDS
 - 4. Development Review Section of Portland Transportation
 - 5. Bureau of Environmental Services
 - 6. Site Development Review Section of BDS
- F. Correspondence: 1 letter
 - 1. Diane M. Humke, February 7, 2009, opposition to Adjustments due to easement
- G. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING

 Site

File No. LU 09-101582 AD

1/4 Section 2727

Scale 1 inch = 200 feet

State Id 1N1E28BD 1100

Exhibit B (Jan 14, 2009)



NORTH

This site lies within the:
GUILD'S LAKE INDUSTRIAL SANCTUARY PLAN DISTRICT

Approval of Adjustment request
 to Waive perimeter & interior
~~surface~~ parking lot landscaping
 requirements for existing
 surface parking lot.



Approved
 City of Portland - Bureau of Development Services
 Planner: MLW Date: 6/26/09
 This approval is only to the reviews requested and is not to be construed as approval. Additional zoning requirements may apply.

① SITE PLAN
 1" = 50'-0"

NICOLAI BUSINESS CENTER



8 JAN 2009

SK02



ARCHITECTURAL
 INTERIOR DESIGN
 217 NW 42nd Street
 Portland, OR 97215
 503.227.1111
 SERA.COM

PRELIMINARY
 NOT FOR CONSTRUCTION

NICOLA BUSINESS CENTER

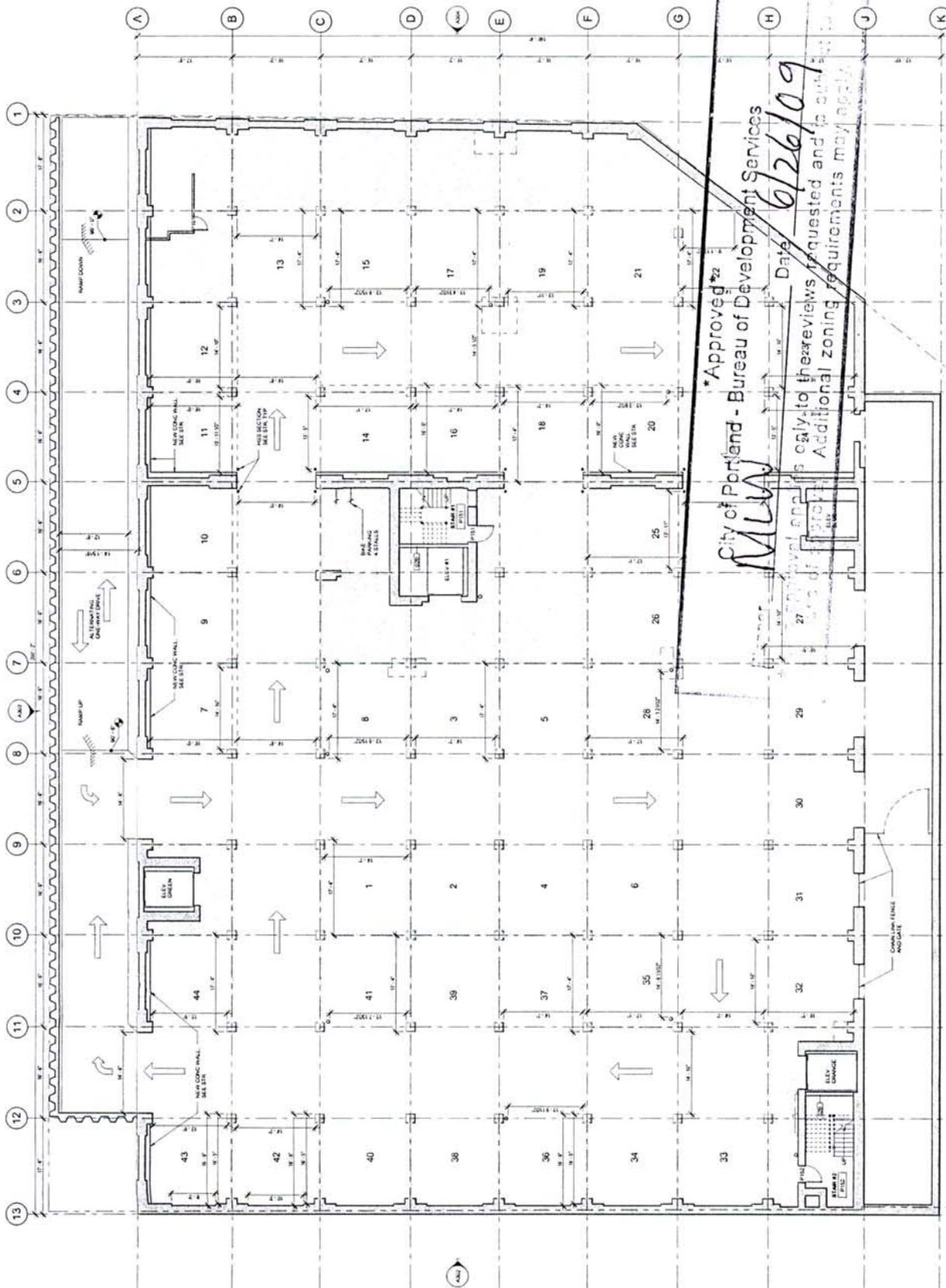
Nicola Biggs LLC
 217 NW 42nd Street
 Portland, OR 97215

CONSTRUCTION DOCUMENTS

DATE: 07/26/2006
 PROJECT: 031412

Basement
 Parking Layout

X100



Approved by
 City of Portland - Bureau of Development Services
 Date: 6/26/09
 MLW
 This approval is only to the reviews requested and is subject to additional zoning requirements that may apply.

FLOOR PLAN - BASEMENT LEVEL 1
 1/8" = 1'-0"

Approval of Adjustment request to
 reduce basement parking garage drive
 aisle widths from 20 feet to
 14 feet.