



City of Portland
Bureau of Development Services
Land Use Services Division

1900 SW Fourth Ave. Suite 5000
Portland, Oregon 97201
Telephone: 503-823-7300
TDD: 503-823-6868
FAX: 503-823-5630
www.portlandonline.com/bds

Date: July 28, 2008
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 08-133526 AD

GENERAL INFORMATION

Applicant: Peter Finley Fry
2153 SW Main St, #105
Portland OR 97205

Property Owner: Daniel Deutsch
Left Bank LLC
125 NE Killingsworth St #300
Portland, OR 97211

Site Address: 222-240 N BROADWAY ST

Legal Description: BLOCK 3 LOT 1-3 EXC PT IN ST LOTS 4-8, ELIZABETH IRVINGS ADD

Tax Account No.: R244900530

State ID No.: 1N1E27DC 01700

Quarter Section: 2830

Neighborhood: Lloyd District Community, contact William Ruff at 503-221-1121

Business District: Lloyd District Community Association, contact Nancy Chapin at 503-774-2832

Plan District: Central City - Lloyd District

Zoning: CXd (Central Commercial with a Design overlay)

Case Type: AD (Adjustment)

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

Proposal:

The applicant is proposing significant renovations to the existing building at this site. Submitted plans show that approximately 30,000 square feet of the building is proposed to be utilized for Manufacturing and Production uses with the remainder of the building utilized for Retail Sales and Service and Office uses. The Manufacturing and Production space is planned to be divided into individual spaces ranging from 500 to 1,000 square feet which will be occupied by small businesses producing art, apparel, fixtures or other products that are typically distributed over the internet. The size of Retail Sales and Service and Office uses are

not restricted in the CX zone; however, Manufacturing and Production uses are limited in size to 10,000 square feet of floor area. The applicant proposes one Adjustment to increase the maximum allowed floor area designated to Manufacturing and Production uses from 10,000 square feet to 30,000 square feet.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of 33.805.040 A-F, Adjustments.

ANALYSIS

Site and Vicinity: The site is a trapezoidal parcel bounded by N. Broadway, N. Weidler, N. Wheeler and N. Vancouver. The eastern portion of the site includes a paved loading and parking area of approximately 10,000 square feet, at the intersection of N. Vancouver and Broadway. A three- and four-story warehouse structure is located directly south of the loading and parking area, at the corner of N. Vancouver and Weidler. On the triangular western portion of the site, a three-story red brick warehouse structure faces N. Broadway and N. Wheeler. In the recent past, the structure has been used as a self-service storage facility, without at-grade retail or other active uses. In February 2008, a Design Review approved modifications to the building which include: new storefront and building entry alterations, including aluminum and clear glass windows, doors, sidelights, transoms, and multi-light roll-up garage doors as well as five new rooftop equipment units.

The site is directly north of the Rose Quarter and Memorial Coliseum development, to the south across NE Weidler. Other nearby developments include commercial office buildings, hotels, motels, apartment buildings, and the administrative headquarters building for the Portland Public Schools. All surrounding streets are improved with paved roadways, curbing, and concrete public sidewalks. There are no existing street trees in any of the public sidewalks surrounding the site.

Zoning: The Central Commercial (CX) base 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 an emphasis on a safe and attractive streetscape.

The "d" or Design overlay zone promotes the conservation, enhancement, and continued vitality of areas of the city with special scenic, cultural, or architectural value. As no exterior alterations are proposed as part of this land use review, the "d" overlay does not apply.

The site is also located in the Central City plan district and the Lloyd District subdistrict. The Central City plan district implements the Central City plan and other plans applicable to the Central City area. No regulations relating to the Central City plan district or Lloyd District subdistrict apply to this land use review.

Land Use History: City records indicate there are prior land use reviews for this site which include:

- *DZ 60-88* - Approved 1988 design review for a 60 square-foot fascia sign for the Red Lion Hotel on the north-facing wall of 'building B' at the site;
- *LUR 97-00847 DZ* - Withdrawn design review proposal for new fascia signs at the site; and
- *LUR 97-01207 DZ* - Withdrawn design review proposal for new fascia signs at the site; and
- *LUR 07-158366 DZ* - Approval of design review for the three adjacent warehouse buildings on the full block at 222-240 N Broadway, including: new storefront and building entry alterations and five new rooftop equipment units.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **June 27, 2008**. The following Bureaus have responded:

- The Site Development Section of BDS responded with no objections to the requested Adjustment and advised that a detailed site plan will be required at the time of future development or redevelopment of the site. The response also includes information about stormwater disposal and treatment and states that if the project triggers nonconforming upgrades to any existing vehicle areas, those areas must be redesigned to conform to the requirements of the Stormwater Management Manual (Exhibit E-1).
- The Bureau of Environmental Services responded with no objections to the requested Adjustment. The response states that further development of the property would be subject to the Bureau of Environmental Services’ standards and requirements during the building plan review process. The response also provides information on sanitary services, stormwater management and water resources (Exhibit E-2).
- The Life Safety Section of BDS responded that based on the information provided, there appears to be no conflicts between the proposal and applicable building codes for the purpose of obtaining land use review approval (Exhibit E-3).
- The Development Review Section of Portland Transportation as well as the Fire, Water and Parks Bureaus all responded with no concerns (Exhibit E-4).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 27, 2008. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Title 33.805.10 Purpose of Adjustments

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city’s diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the code’s regulations would preclude all use of the site. Adjustment reviews provide flexibility for unusual situations and to allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.40 Adjustment Approval Criteria

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

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

Findings: The applicant requests one Adjustment to increase the maximum allowed floor area for Manufacturing and Production uses from 10,000 square feet to 30,000 square feet. Manufacturing and Production uses fall within the Industrial Categories of the Portland Zoning Code. The purpose of the Industrial size limitation is listed below:

Purpose 33.130.100 Limited Uses – Industrial size limitation

Individual uses are limited to 10,000 square feet of floor area exclusive of parking area. These types of uses are limited in size to assure that they will not dominate the commercial area and to limit their potential impacts on residential and commercial uses.

As noted above, the purpose for limiting the size of manufacturing and production uses in the CX zone is to limit impacts on nearby residential and commercial uses. Potential impacts include noise, odor, vibration, glare and fumes. As proposed, the manufacturing and production area of this project will be divided into small spaces ranging from approximately

500 to 1,000 square feet. Smaller manufacturing spaces have less potential for impacts because these spaces do not have sufficient area for large-scale machinery which is one of the primary causes of the potential impacts listed above. In addition, smaller spaces also will not require the same frequency and intensity of deliveries of raw, secondary or partially-completed materials. Furthermore, the types of manufacturing and production uses which would occupy these smaller spaces are more crafts-oriented rather than the type of mass-production, industrial uses which could occupy a large industrial space. In order to ensure that manufacturing and production spaces and uses remain smaller in scale, this land use review includes a condition of approval that no single manufacturing and production space or use may exceed the 10,000 square foot limitation in the CX zone. It is also important to note that about half of the building will be occupied by retail sales and service or office uses. This mix of uses will help to diminish the overall association of the building with manufacturing and production. In addition, a large portion of the requested manufacturing and production space will be located on the basement and subbasement level which further reduces its prominence within the overall project.

An industrial building, such as a warehouse or prefabricated building, in this location could result in visual impacts for the surrounding residential and commercial areas because these buildings often don't have the same types of design aesthetics. In this case however, the building already exists and alterations were recently reviewed and approved through a Design Review. The overall appearance of the building is one which blends in well with the surrounding area and the internal function as partially occupied by manufacturing and production spaces should not be readily perceptible to those who view the exterior of the building.

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 has frontage on four streets: N Broadway Street, N Weidler Street, N Vancouver Avenue and N Wheeler Street with the parking area accessed from N Broadway and/or N Vancouver. In this location the Transportation Element classifies N Broadway and N Weidler as Major Transit Streets and Major Transit Priority Streets. N Vancouver is classified as a Traffic Access Street and a Transit Access Street. N Broadway, N Weidler and N Vancouver are classified as City Bikeways; N Wheeler is classified as a Local Service Bikeway. The site is located in the Eliot Pedestrian District and the adjacent streets are classified as City Walkways. N Broadway and N Weidler are classified as Major Truck Streets while N Vancouver and N Wheeler are classified as Local Service Truck Streets in this location. All adjacent streets are classified as Major Emergency Response Streets. N Broadway and N Weidler are classified as Regional Main Streets and N Vancouver and N Wheeler are classified as Local Streets in this location. The PDOT reviewer examined the proposal for conformance with the adjacent street designations and replied to the Adjustment request with no concerns. The desired character of the area is one which provides commercial development within Portland's most urban and intense areas. The proposed project will add a large amount of retail or office space at a site which did not function previously in this manner. As noted above under Criterion A, the manufacturing and production space is well integrated into the overall project and will not dominate the commercial area. Based on this information, this criterion is met.

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

Findings: No negative impacts are expected to result from this proposal. The condition of approval which limits the size of individual manufacturing and production uses to 10,000 square feet ensures that large scale, mass production operations which typically would result in greater impacts cannot occupy the space. Furthermore the integration of the project with retail sales and service or office uses allows the project to maintain a more commercial

appearance and function than if the site were solely occupied by small manufacturing and production uses. 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
- 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 resources and resource value as is practical.

Findings: Only one adjustment is requested, the site does not contain any identified scenic or historic resources and the site is not located in an environmental zone; therefore, these criterion are not applicable.

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.

Staff note: Nonconforming upgrades (33.258.070.D.2) have been triggered as part of this project and will be reviewed as part of an associated building permit.

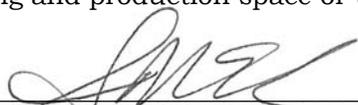
CONCLUSIONS

The applicant proposes one Adjustment associated with plans to renovate the existing buildings on this site for use as retail, office and small-scale manufacturing and production spaces. As noted in this report, the proposal is able to meet the Adjustment approval criteria with approval granted based on the relatively small sizes of manufacturing and production spaces within the project and the overall mix of uses proposed for the project. With approval requiring that the permit drawings note Conditions A and B below, the request meets the applicable criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.130.100.B.5 to increase the maximum allowed manufacturing and production floor area included with this project from 10,000 square feet to 30,000 square feet of manufacturing, per the approved site plans, Exhibits C-1 through C-2, signed and dated July 24, 2008, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) 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 08-133526 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. No single manufacturing and production space or use may exceed the 10,000 square feet in floor area.

Decision rendered by:  **on July 24, 2008**
By authority of the Director of the Bureau of Development Services

Decision mailed: July 28, 2008

Staff Planner: 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 June 2, 2008, and was determined to be complete on June 24, 2008.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on June 2, 2008.

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.

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 August 11, 2008** 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 **August 12, 2008 – (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;

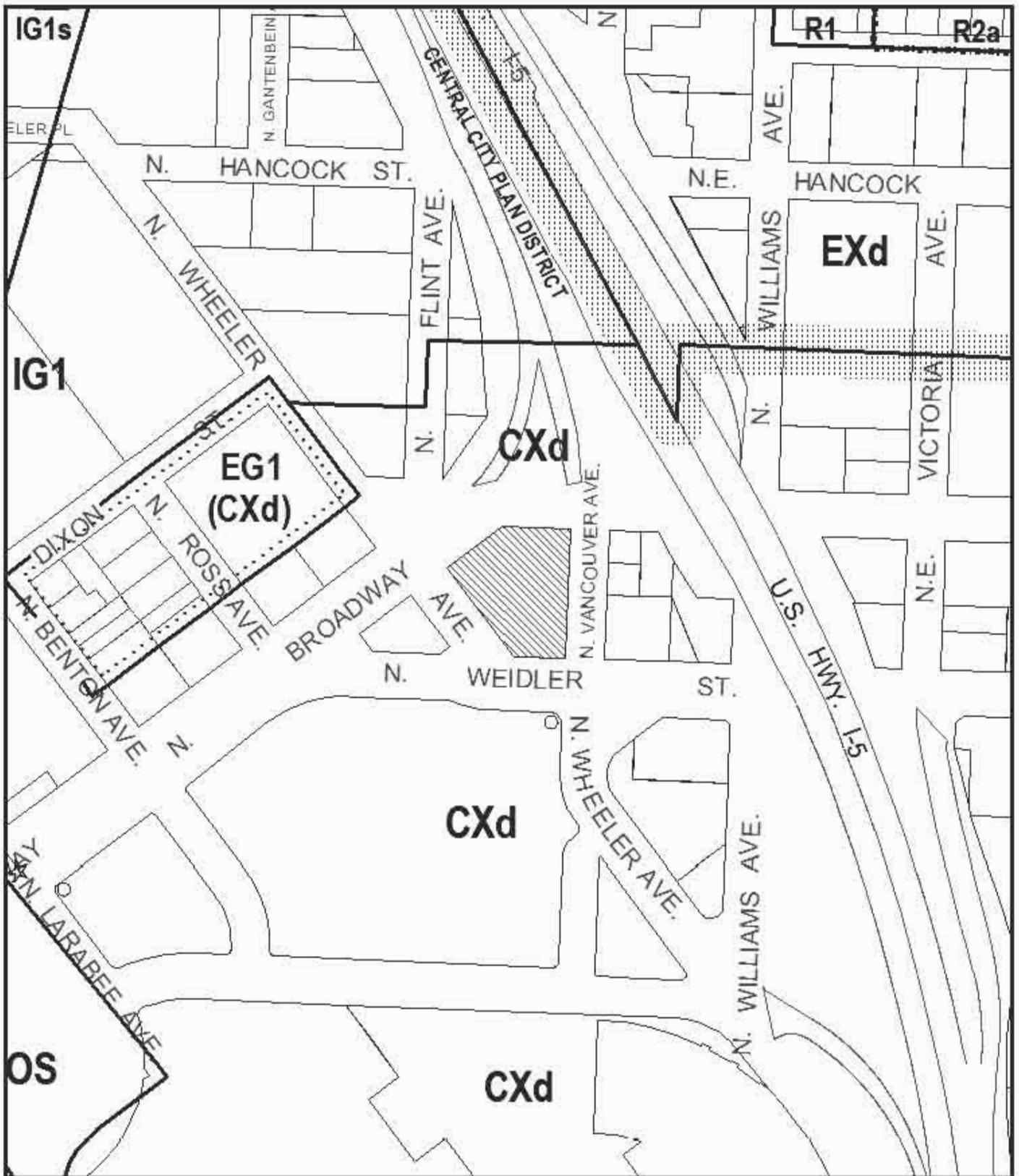
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
 - 1. Incomplete letter from Matt Wickstrom to Peter Finley Fry dated June 16, 2008
 - 2. Supplemental submittal received June 18, 2008
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Basement/First Floor Plan (attached)
 - 2. Floor Plans (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Site Development Review Section of BDS
 - 2. Bureau of Environmental Services
 - 3. Life Safety Section of BDS
 - 4. Summary Sheet of Bureau Responses
- F. Correspondence: None received
- 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



NORTH

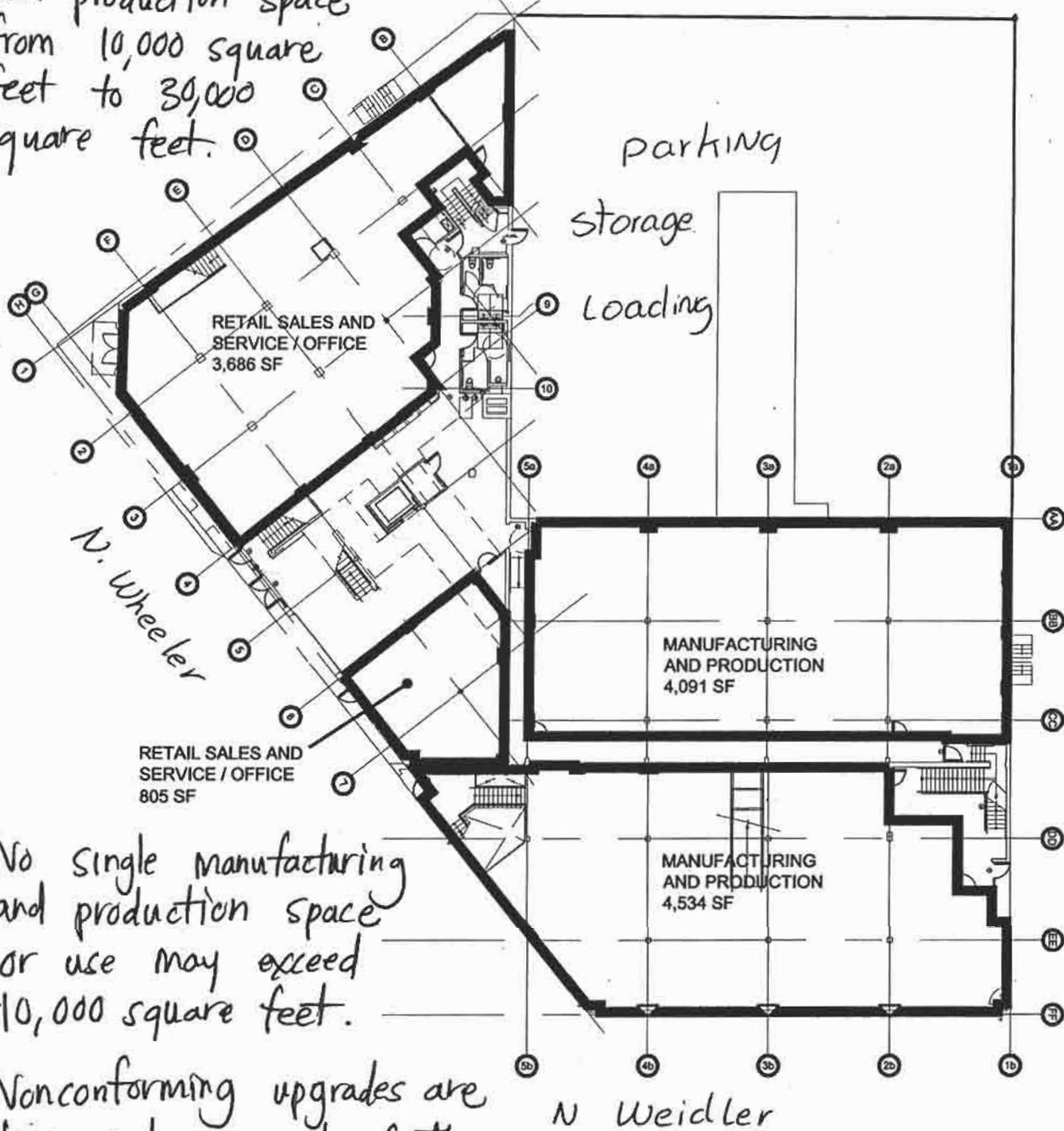
This site lies within the:
CENTRAL CITY PLAN DISTRICT

| | |
|-------------|-------------------|
| File No. | LU 08-133526 AD |
| 1/4 Section | 2830 |
| Scale | 1 inch = 200 feet |
| State_Id | 1N1E27DC 1700 |
| Exhibit | B (Jun 04, 2008) |

LU 08-133526 AD

Approval to increase maximum floor area of manufacturing and production space from 10,000 square feet to 30,000 square feet.

N. Broadway

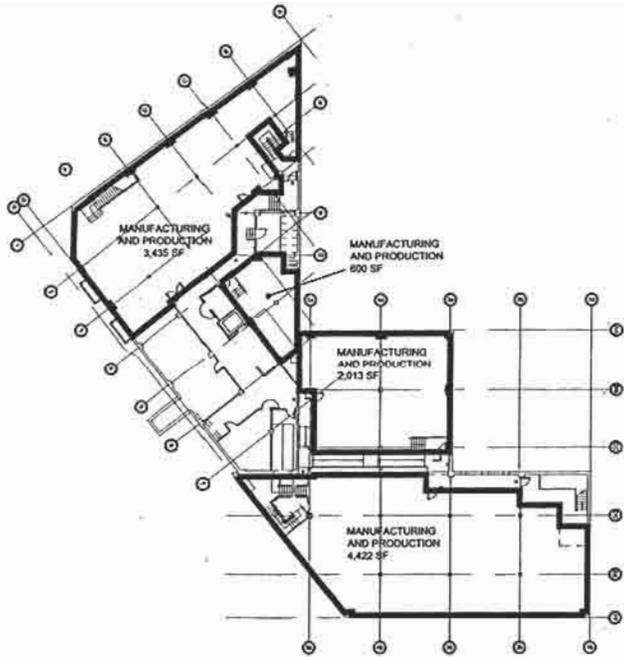


No single manufacturing and production space or use may exceed 10,000 square feet.

Nonconforming upgrades are triggered as part of this project.

LEFTBANK ADAPTIVE RE-USE

BASEMENT / FIRST FLOOR



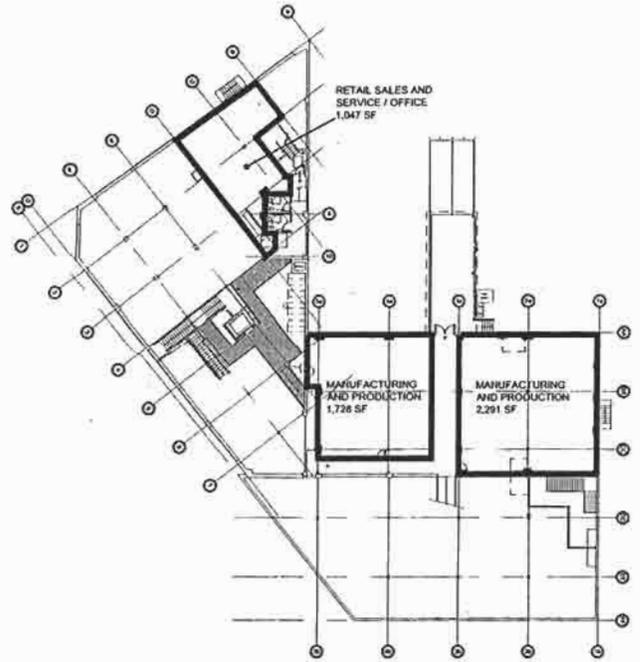
LEFTBANK ADAPTIVE RE-USE

di loreto ARCHITECTURE, llc

5.13.08

SUB-BASEMENT / BASEMENT

SCALE: 1" = 30'-0"



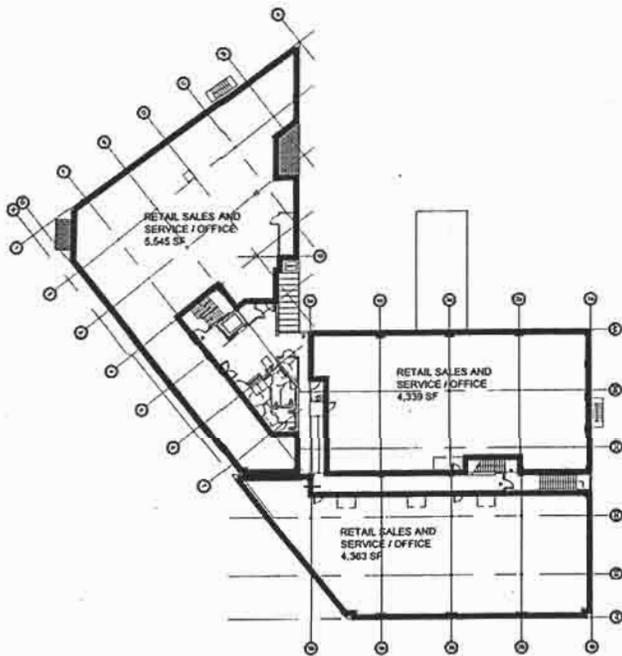
LEFTBANK ADAPTIVE RE-USE

di loreto ARCHITECTURE, llc

5.13.08

FIRST FLOOR / MEZZANINE

SCALE: 1" = 30'-0"



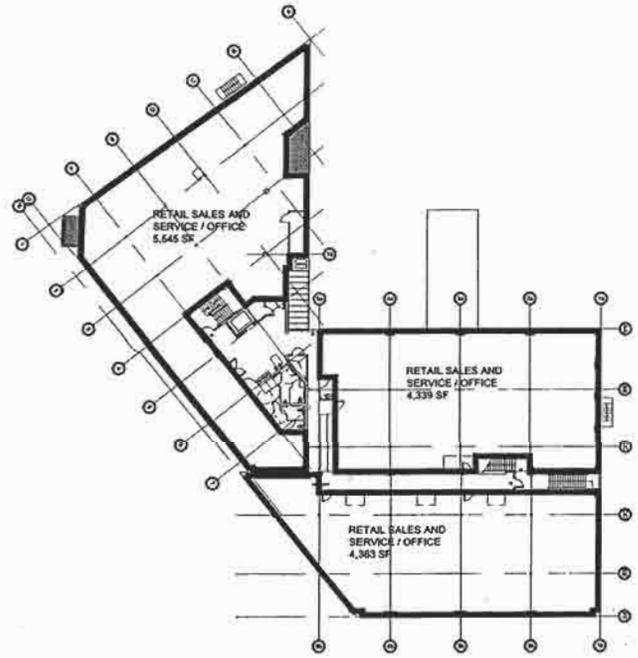
LEFTBANK ADAPTIVE RE-USE

di loreto ARCHITECTURE, llc

5.13.08

SECOND FLOOR

SCALE: 1" = 30'-0"



LEFTBANK ADAPTIVE RE-USE

di loreto ARCHITECTURE, llc

5.13.08

THIRD FLOOR

SCALE: 1" = 30'-0"