



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

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

Date: April 27, 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 08-177227 AD

GENERAL INFORMATION

Applicant: Shawn Karambelas
SK Northwest
1447 NE Sandy
Portland, OR 97232

Owner: J R Zukin Corp
559 San Ysidro Rd
Santa Barbara, Ca 93108

Site Address: 1447 NE SANDY BLVD

Legal Description: BLOCK 308 E 1/2 OF LOT 7&8 EXC PT IN ST LAND & IMPS SEE R213771 (R542000191), MARSHALLS ADD

Tax Account No.: R542000190

State ID No.: 1N1E35DB 01700

Quarter Section: 3032

Neighborhood: Kerns, contact Michael Whitmore at 503-233-0305

District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010

Zoning: EXd (Central Employment with a Design overlay)

Case Type: AD (Adjustment)

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

Proposal:

The applicant requests an Adjustment Review to allow the exterior storage of stacked crates containing recreational vehicles and the exterior storage of accessory equipment such as trailers or dollies. The applicant also requests an Adjustment Review to allow exterior work activities associated with the loading and unloading of recreational vehicles to occur at this site. Exterior storage and exterior work activities are not allowed in the EX zone; however these

activities may be requested through an Adjustment Review. The applicant proposes to remove all crates from the site except for a single-row of crates located along the west wall of the building. This row would contain no more than 28 crates – 7 columns with a total of 4 crates per column. In approximately 1-year, the applicant plans to relocate the business to a location along the Willamette River in Portland at which time exterior storage and exterior work activities would cease on this site. Construction drawings for this project are currently being drafted. The applicant requests two Adjustments to allow a single-row of stacked crates and accessory equipment to remain on site as well as to allow exterior work activities associated with the business to continue.

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 7,739 square foot site is composed of two tax lots. It is located at the intersection of NE Davis Street and NE Sandy Boulevard. The western tax lot is paved. The exterior storage of crates and exterior work activities primarily occur on this tax lot. There are currently six rows of stacked crates on the site, or approximately 150-170 crates, in addition to a moving van, a commercial truck and several carts and trailers. The eastern tax lot is developed with a single-story commercial building associated with the business.

A landscaped area of public right-of-way is located to the east of the site. A two-story motel is located to the immediate west of the site. Two nonconforming vehicle sales lots which provide exterior display of cars and trucks are located on Sandy Boulevard further west of the site. A single-story retail building is located to the northeast of the site across NE Davis Street. An unimproved restricted vehicular access way for Buckman Park is located across the street to the north of the site. Two low-density apartment buildings are located to the northwest of the site. A single-story office or commercial building is located across NE Sandy Boulevard to the southeast of the site.

Zoning: The site is zoned EXd (Central Employment with a Design overlay). The 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. Exterior storage of materials and exterior work activities are not allowed in the EX zone but these activities may be requested through an Adjustment Review. 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 must meet the Community Design Standards or receive approval through Design Review. This project may meet Community Design Standards in lieu of Design Review; however, the standards do not address landscaping or other issues related to exterior storage or work activities and therefore the “d” overlay is not applicable.

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 **March 24, 2009**. The following Bureaus have responded:

- The Bureau of Environmental Services responded with information on sanitary services, stormwater management and water resources. The response includes no objections to the proposal and provides information on future building permit application requirements (Exhibit E-1).
- The Water Bureau responded with information on water service for the site. The response

states no objections to the proposal (Exhibit E-2).

- The Site Development and Life Safety Sections of BDS, the Development Review Section of the Bureau of Transportation as well as the Fire and Parks Bureaus responded with no concerns (Exhibit E-3).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 24, 2009. One written response has been received from a notified property owners in response to the proposal. The response came from a property owner who owns property to the northwest of the site. The letter states opposition to the proposal and that the “exterior storage of some 20 crates” is unsightly (Exhibit F-1).

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.

33.805.040 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 two Adjustments to allow a limited amount of exterior storage and associated exterior work activities to take place on this site. The purpose of the exterior display, storage and work activities regulations is listed below:

Purpose 33.140.245 Exterior Display, Storage, and Work Activities

The exterior development standards of this section are intended to assure that exterior display, storage and work activities:

- *Will be consistent with the desired character of the zone;*
- *Will not be a detriment to the overall appearance of an employment or industrial area;*
- *Will not have adverse impacts on adjacent properties, especially those zoned residential;*
and
- *Will not have an adverse impact on the environment.*

Based on the narrative provided by the applicant as well as a land use review approved in October 2008 (LU 06-171821 GW), the applicant plans to relocate the business to a Portland location on the Willamette River. According to the applicant, “the new project is currently in the construction documents stage with Civil and Structural underway” and “we would be fully moved out of the Sandy Blvd location April 2010”. This information is important when considering whether the requested Adjustment will equally or better meet the purpose of the regulation because it indicates that the exterior storage and work activities may be eliminated altogether in the next year or so.

The desired character of the EX zone is to allow mixed uses and industrial type development in areas in the center of the City. The exterior storage of crates and associated exterior work activities are not entirely inconsistent with this purpose as exterior storage is allowed in all

other employment and industrial zones in Portland and exterior work activities are allowed in all industrial zones. However, this site and all others along this stretch of NE Sandy Boulevard are also zoned with a Design overlay. The “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. In this situation, the current development in this vicinity is not especially architecturally distinct therefore it can be assumed that the “d” overlay is intended to enhance the future development in the area due to its proximity to the central city. Based on this assumption, allowing limited exterior storage or work activities to continue in the short-term can be viewed as compatible with the “d” overlay whereas allowing these activities in the longer-term would be inconsistent with the purpose of the overlay.

The current number and arrangement of crates on the site is a detriment to the appearance of the area. The approximately 150-170 crates in 6 rows stacked 4 high overwhelm the site and cause it to appear more similar to a storage facility than a functioning business. The site doesn't possess any landscaping or screening to block views of the crates from the street and although the exterior display of vehicles is common in this area, the exterior storage of crates does not provide for a similar level of visual interest as the display of vehicles. Exterior work activities at this site include loading and unloading of crates when delivered to/from other locations or in and out of customers' vehicles. Overall, these activities do not adversely impact the appearance of the area especially considering that exterior display and the outdoor sale of vehicles occur at other nearby sites. However, too much exterior work activity could result in unacceptable level impacts such as noise and disruption for nearby sites. Limiting the amount and duration of exterior storage on the site should appropriately limit the amount of exterior work activities and associated impacts.

Based on the information above, the current amount of exterior storage and associated work activities at the site is unacceptable in terms of appearance and the intensity of related exterior activities. However, the applicant has proposed to remove all the crates from the site except for a single row which would contain no more than 28 crates – 7 columns stacked with a total of 4 crates per column. The applicant provided a photo from Googlemaps which shows this configuration – a single row of crates stacked neatly against the west wall of the commercial building. The crates appear no taller than the building wall and are only about three feet in depth which helps to limit the visual prominence of the crates on the site. Although the crates are not especially attractive, the reduced number results in an appearance of the site which is not dominated by exterior storage. Furthermore, the applicant has received land use approval for a new building on the banks of the Willamette River and plans to relocate the business at this site to that location once the building is constructed. Based on this information, approval of the applicant's proposal can equally meet the purpose of the regulations provided conditions of approval are included which specify the maximum number of crates which may be stored on the site, the location where exterior storage may occur and the duration of time which exterior storage and exterior work activities are allowed. To further ensure that impacts are limited it is also necessary to specify the type of exterior work activities which can occur on the site.

With the following conditions of approval, this criterion is met. No more than 28 crates may be stored on the site at any one time. The crates must be stacked along the west wall of the commercial building as shown on the attached site plan. Crates may not be stored in any other location on the site. Accessory equipment such as a forklift, trailers and dollies associated with SK Northwest may also be stored on site. Exterior work activities are limited to the loading, unloading and moving of crates or recreational vehicles/equipment on the site. No exterior vehicle or mechanical repair may occur. Exterior display is not approved as part of this review. Exterior storage and exterior work activities must cease within 18 months of the date of this decision or the applicant must receive approval through an Adjustment Review.

- 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 at the intersection of NE Sandy Boulevard and NE Davis Street. In this location NE Sandy Boulevard is classified in the Transportation Element as a Major City Traffic Street, a Major Transit Priority Street, a City Bikeway, a City Walkway, a Minor Truck Street, a Major Emergency Response Street and a Regional Main Street. NE Davis Street is categorized as a local street for all classifications. The response from the Development Review Section of the Bureau of Transportation did not indicate any conflicts between the proposal and the above street classifications. Furthermore, approval of the requested Adjustments will allow the loading, unloading and moving of crates on-site which keeps this type of activity out of the public right-of-way. The findings above under Criterion A address the consistency of the proposal with the desired character of the area. These findings states that limiting the amount of exterior storage and setting a deadline for when exterior storage and exterior work activities must cease do not result in a proposal which is inconsistent with the desired character of the area, especially with the long-term development of the area. 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: Two Adjustments are requested as part of this land use review – one Adjustment to allow exterior storage and one Adjustment to allow exterior work activities. The activities related to both Adjustments are inter-related and do not conflict with the overall purpose of the zone as described above under Zoning and Criterion A. This criterion is met.

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

Findings: Impacts resulting from the Adjustment request are adequately mitigated. Mitigation is accomplished by requiring that the majority of the crates currently located on-site to be moved and by requiring the 28 crates which are allowed to remain to be stacked adjacent to the west wall of the building in order to create a neat and orderly appearance. Mitigation is also accomplished by limiting exterior work activities to the loading and unloading of crates and recreational vehicles as to ensure that no exterior vehicle or mechanical repair occurs. Finally mitigation is accomplished by setting an 18-month deadline for which exterior storage and exterior work activities must cease on the site, unless approved through an Adjustment Review. Based on this information, 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 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.

CONCLUSIONS


The applicant requests two Adjustments to allow limited exterior storage of crates and accessory equipment on site and to allow exterior work activities associated with the business to continue. As noted in this report, the proposal is able to meet the Adjustment approval criteria with approval granted based on a reduced amount of exterior storage allowed on site and a limitation on the duration which exterior storage and work activities may occur on site without approval through another Adjustment Review. With approval requiring that the exterior storage and work activities which occur on the site comply with the attached site plan, the request meets the applicable criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of two Adjustments to 33.140.245 to allow the exterior storage and exterior work activities on the site, per the approved site plans, Exhibit C-1, signed and dated April 22, 2009, subject to the following conditions:

- A. No more than 28 crates may be stored on the site at any one time. The crates must be stacked along the west wall of the commercial building as shown on the attached site plan. Crates may not be stored in any other location on the site. Accessory equipment such as a forklift, trailers and dollies associated with SK Northwest may also be stored on site.
- B. Exterior work activities are limited to the loading, unloading and moving of crates or recreational vehicles/equipment on the site.
- C. No exterior vehicle or mechanical repair may occur without approval through an Adjustment Review.
- D. Exterior display is not approved as part of this Land Use Review.
- E. Exterior storage and exterior work activities must cease within 18 months of the date of this decision or the applicant must receive approval to extend or eliminate this deadline through an Adjustment Review.

Staff Planner: Matt Wickstrom

Decision rendered by:  **on April 23, 2009**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 27, 2009

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 November 12, 2008, and was determined to be complete on March 19, 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 November 12, 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. Unless further extended by the applicant, **the 120 days will expire on: July 17, 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 May 11, 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 **May 12, 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.

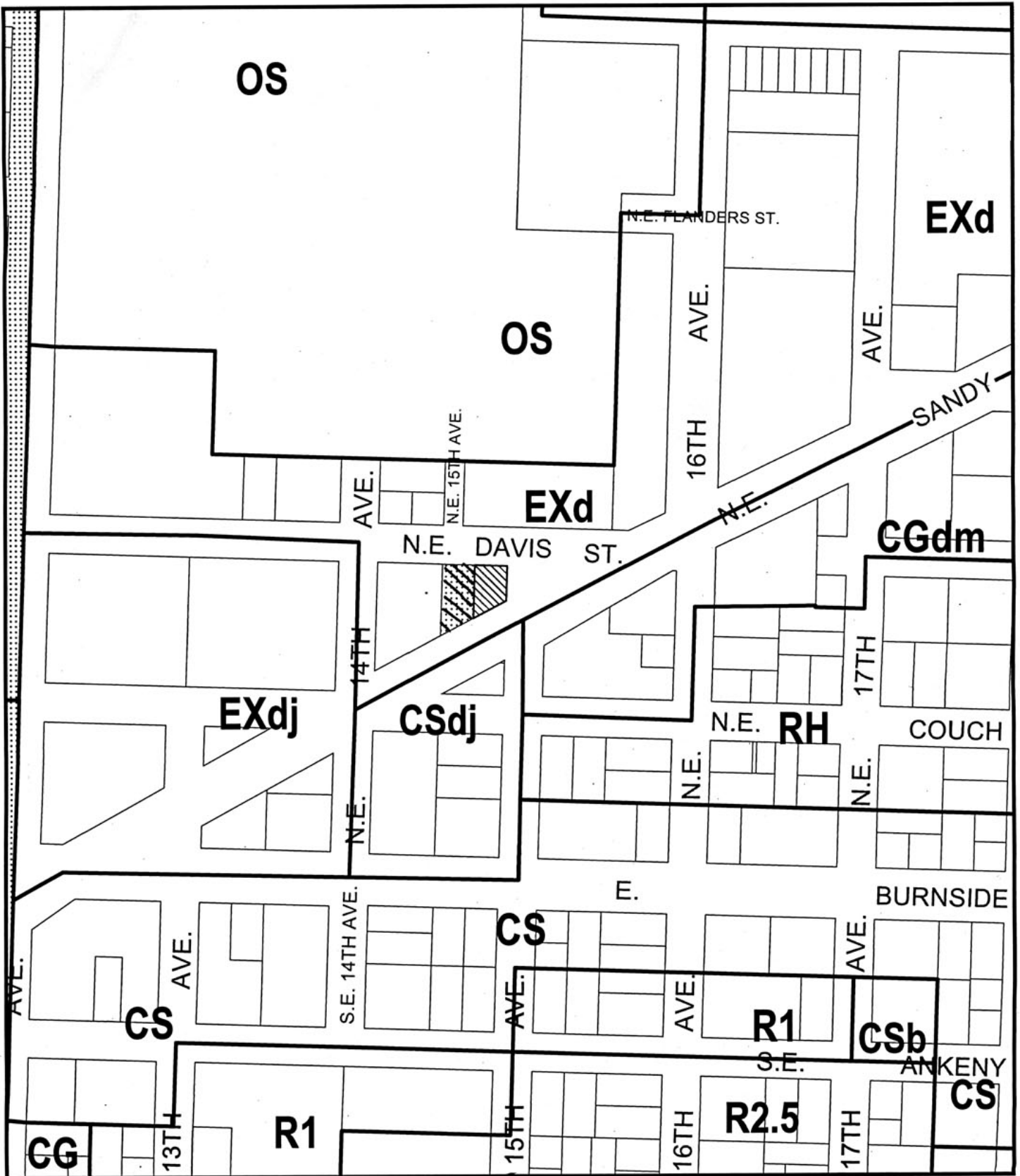
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Statement
 1. Incomplete letter from Matt Wickstrom to Shawn Karambelas dated November 28, 2008
 2. Supplemental Submittal dated February 18, 2009
 3. Supplemental Submittal dated March 18, 2009
- B. Zoning Map (attached)
- C. Plans/Drawings: 1. Site Plan (attached)
- D. Notification information: 1. Mailing list. 2. Mailed notice

- E. Agency Responses: 1. Bureau of Environmental Services. 2. Water Bureau. 3. Summary of Agency Responses
- F. Correspondence: 1. Richard Dehen, April 1, 2009, opposition to Adjustment request
- 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 503-823-7300 (TTY 503-823-6868).



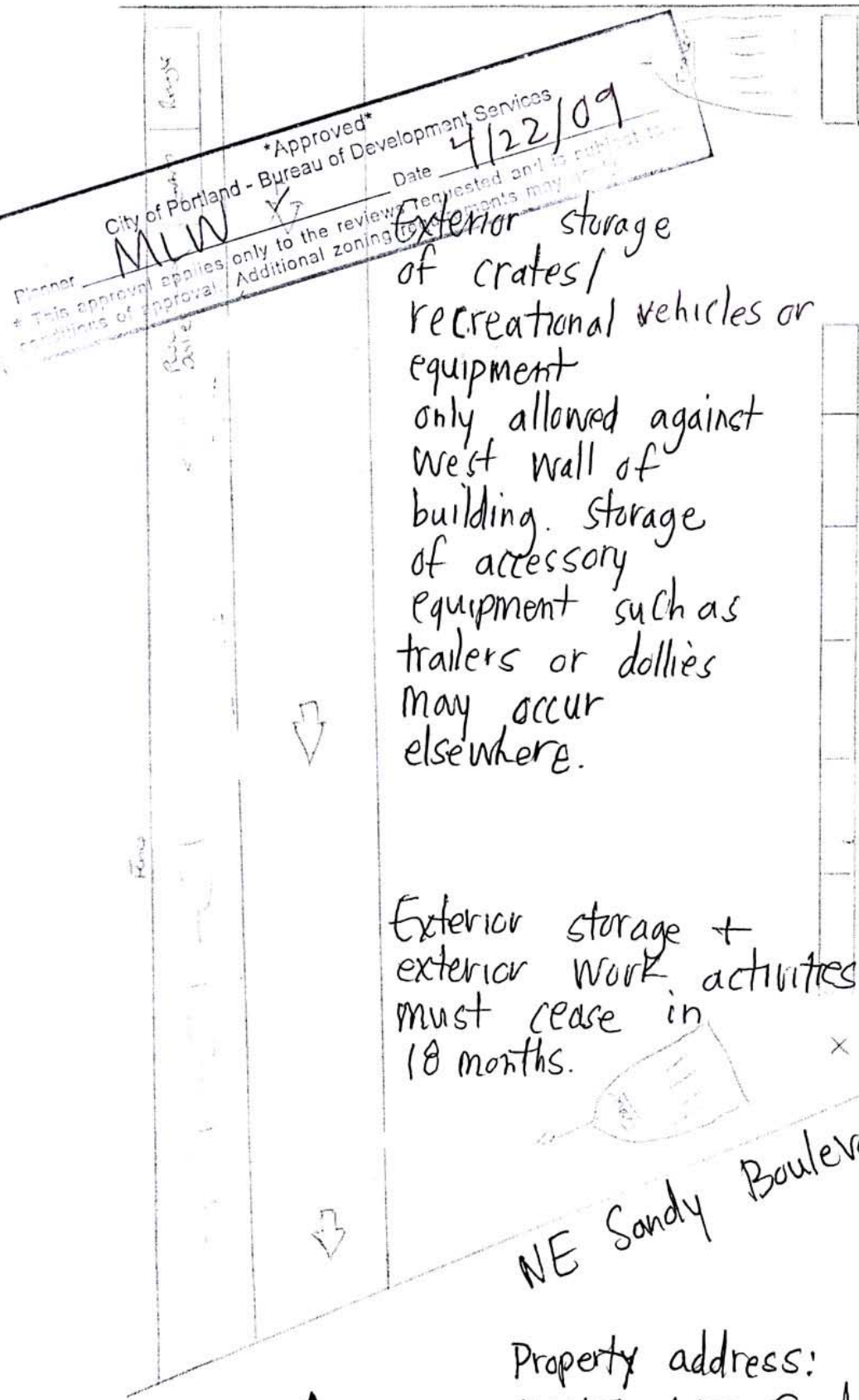
ZONING

-  Site
-  Also Owned



File No. LU 08-177227 AD
 1/4 Section 3032
 Scale 1 inch = 200 feet
 State_id 1N1E35DB 1700
 Exhibit B (Nov 13, 2008)

NE Davis Street



City of Portland - Bureau of Development Services
 Approved
 Date 4/22/09
 Planner MLW
 # This approval applies only to the review requested and is subject to conditions of approval. Additional zoning requirements may apply.

Exterior storage of crates/recreational vehicles or equipment only allowed against west wall of building. Storage of accessory equipment such as trailers or dollies may occur elsewhere.

Adjustment approval to allow the exterior storage of up to 28 crates stacked in a single row adjacent to the existing building at this site.

Wall of commercial building

Exterior storage + exterior work activities must cease in 18 months.

Adjustment approval to also allow exterior work activities associated with recreational vehicle business + storage of accessory equipment

Property address:
 1447 NE Sandy

N ↑