



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

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Date: July 21, 2011
To: Interested Person
From: Sheila Frugoli, Land Use Services
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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 11-124522 AD

GENERAL INFORMATION

Applicant: Tom Dormandy
Eastside Imports, Inc
621 SE 7th Ave
Portland OR 97214

Owners: Harper and Jacqueline Poling
P O Box 63
Aurora, OR 97002

Site Address: 621 SE 7TH AVE

Legal Description: BLOCK 140 N 37.5' OF LOT 7 LOT 8 LAND & IMPS SEE R150234 (R226508761), EAST PORTLAND

Tax Account No.: R226508760

State ID No.: 1S1E02BB 03000

Quarter Section: 3131

Neighborhood: Buckman, contact Susan Lindsay at 503-725-8257.

Business District: Central Eastside Industrial Council, contact Juliana Lukasik at 503-287-5886.

District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.

Plan District: Central City - Central Eastside

Zoning: EXd, Central Employment zone and Design Review overlay zone

Case Type: AD, Adjustment Review

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

Proposal: The applicant is requesting an Adjustment to allow exterior display and storage of vehicles. The current business—Eastside Imports wishes to legally operate a wholesale vehicle sales business at the site. The property is currently under code enforcement (11-117690 CC).

Exterior display, storage and work activities are not allowed in the EX zone. If approved, the Adjustment will waive this restriction.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that Section 33.805.040.A-F, Adjustment Approval Criteria have been met.

ANALYSIS

Site and Vicinity: The 8,750 square foot site contains a one-story, 3,800 square foot building. The building is separated from SE Washington with a large paved area. Numerous autos are displayed or stored in the paved area. Commercial and industrial uses surround this site. Adjacent to the site, on to the west, is a warehouse distribution use. To the south is a fuel (gasoline) station. Directly north, across SE Washington is a large parking lot. There are other auto sales lots in the immediate area. The adjacent streets are designated local service streets, improved with sidewalks and curbs.

Zoning: The Central Employment zone implements the Central Employment designation of the Comprehensive Plan. The zone allows a full range of uses. It is generally applied in areas in the center of the City that have a variety of uses, including industrial and residential uses. The “d” Design Review overlay zone is applied with the EX zone. The site is located within the Central City Plan District.

Land Use History: City records indicate there is prior land use history for this site, as follows:

- **VZ 093-86:** Approved variance to waive required perimeter and interior parking lot landscaping.
- **LUR 96-00446 DZ:** Approved exterior changes to the existing building.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **June 13, 2011**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.4)
- Bureau of Transportation Engineering (Exhibit E.4)
- Water Bureau (Exhibit E.3)
- Fire Bureau (Exhibit E. 4)
- Site Development Section of BDS (Exhibit E.4)
- Bureau of Parks-Forestry Division (Exhibit E.4)

The **Life Safety Plans Review Section of BDS** notes that a Building Permit is required if striping on the paved surface is added (Exhibit E.1)

The **Fire Bureau** notes that a Building Permit is required. (Exhibit E.2)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 13, 2011. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

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., below, have been met.

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

Findings: The purpose of the setback and landscaping requirement for exterior display, storage and work activities in the Employment and Industrial zones, per Zoning Code Section 33.140.245.A, is as follows:

33.130.245. A Purpose. *The 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.*

The first bulleted purpose of the regulation refers to the desired character of the zone. Section 33.140.030.B describes the characteristics of the EX zone as follows:

This zone implements the Central Employment map designation of the Comprehensive Plan. The zone allows mixed-uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area. The development standards are intended to allow new development which is similar in character to existing development.

The exterior display and storage of operable automobiles on a portion of this relatively small site that has been historically used for vehicle parking will not change or adversely impact the overall appearance and desired character of the area. There is a large parking lot, with no landscaping or screening directly north of the site. There are numerous nearby car sales lots with similar features. Because on-site parking is not required in the EX zone, the use of the paved area for display, rather than parking does not conflict with other zoning code requirements. The applicant is not proposing changes to the site or adjacent right-of-way.

For these reasons, the proposal satisfies this criterion.

- 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: As stated above, the site is located within the EX zone. The adjacent streets, SE 7th Avenue and SE Washington Street are both local service streets. Portland Transportation (PDOT) has no concerns about the proposal. The adjacent streets are adequate to support the site and the associated exterior display area and therefore will have no adverse impacts on adjacent streets.

The adopted Central City Plan (adopted March 1988) stated, under Policy 20- Central Eastside that the area was intended to be preserved for industrial sanctuary. However, mixed-use development should be allowed in areas already committed to nonindustrial development. This was one of those areas and therefore was zoned EX. The applicant intends to recondition and process only operable vehicles that will be sold. As stated under criterion A, exterior auto sales and display does not conflict with the character 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: Only one adjustment is being requested, therefore this criterion is not applicable.

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

Findings: The site does not contain a city-designated scenic or historic resource, therefore this criterion is not applicable.

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

Findings: There are no discernable impacts that would result from granting the requested Adjustment. This criterion is met.

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: The proposal is not within an environmental zone, therefore this criterion is 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

Based upon the findings of this report, each applicable approval criterion is met.

ADMINISTRATIVE DECISION

Approval of an Adjustment to allow exterior display and storage (33.140.245.B) of operable automobiles within an existing paved area that is located in front of the building, per the approved site plan, Exhibits C.1, signed and dated July 19, 2011.

Staff Planner: Sheila Frugoli

Decision rendered by:  **on July 19, 2011**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 21, 2011

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 March 29, 2011, and was determined to be complete on **June 9, 2011**.

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 March 29, 2011.

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 4, 2011** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the 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 5, 2011 – (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
 1. Written information and photos
 2. Additional information, submitted June 8, 2011
- B. Zoning Map (attached)

C. Plans/Drawings:

1. Site Plan – Proposed (attached)
2. Site Plan – Existing
3. Floor Plan – Existing
4. Exterior Building Elevation – Existing
5. Photos of Nearby Development/Uses

D. Notification information:

1. Mailing list
2. Mailed notice

E. Agency Responses:

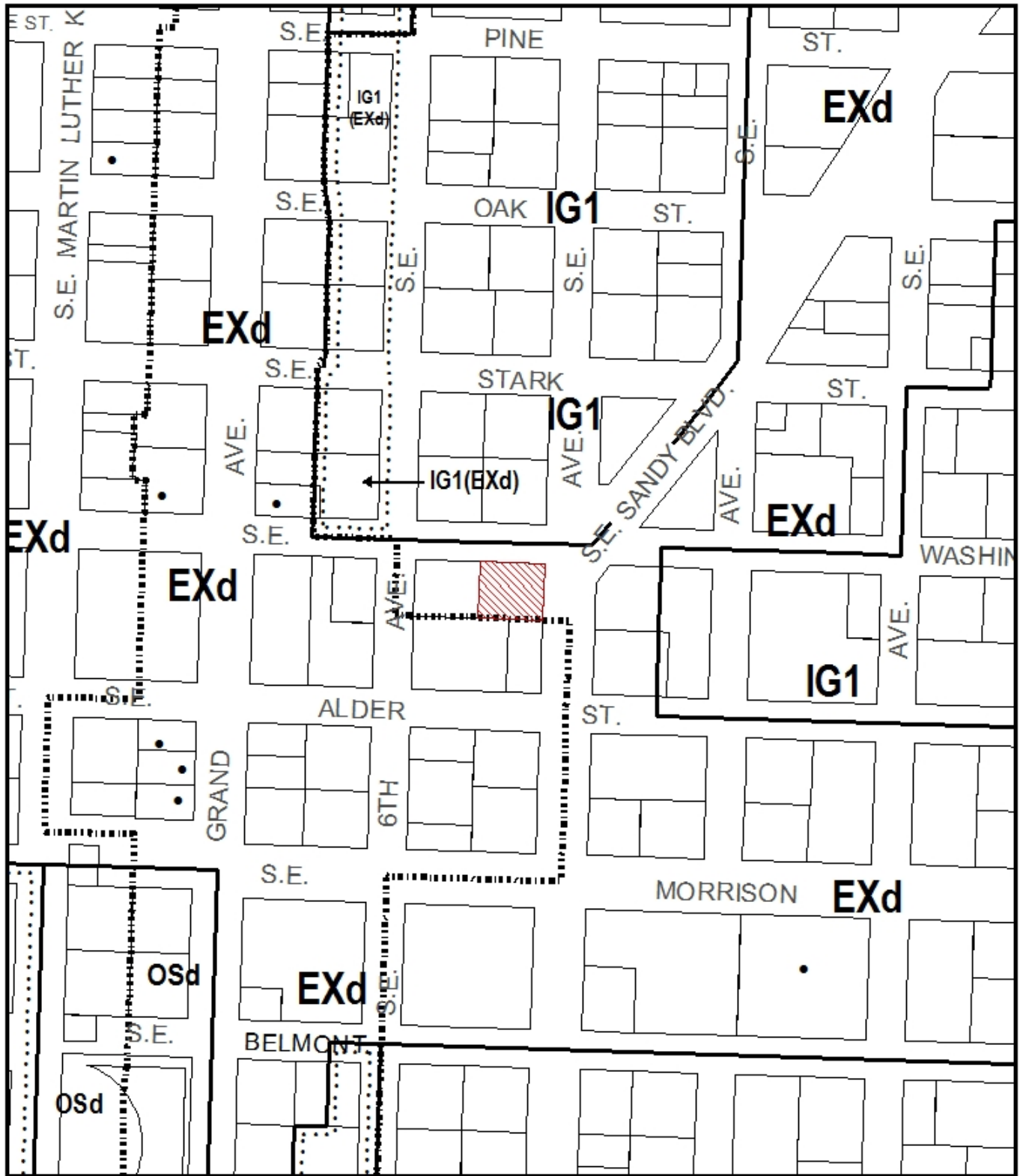
1. Life Safety Plan Review Section of BDS
2. Fire Bureau
3. Water Bureau
4. TRACS Print-out, “no concerns” identified by the following City Bureaus: Environmental Services, Transportation, Site Development Review Section of BDS and Bureau of Parks, Forestry Division

F. Correspondence: None

G. Other:

1. Original LU Application
2. Site History Research
3. Letter to Applicant – Incomplete Application
4. Notice of Zoning Violation Letter

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



Site



Historic Landmark

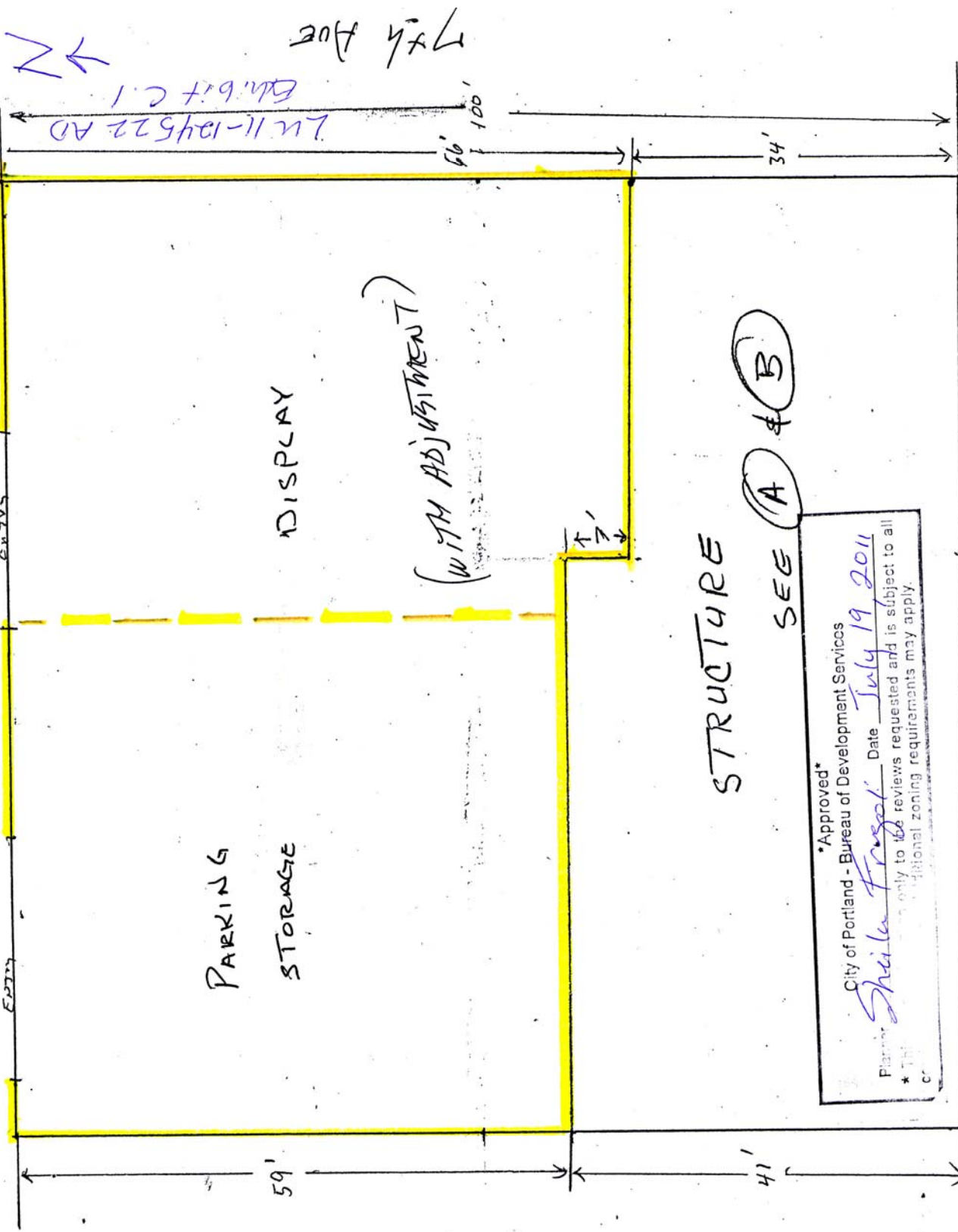


NORTH

This site lies within the:
CENTRAL CITY PLAN DISTRICT

File No.	LU 11-124522 AD
1/4 Section	3131
Scale	1 inch = 200 feet
State_Id	1S1E02BB 3000
Exhibit	B (Apr 05,2011)

WASHINGTON ST



7th Ave
N

LC 11-124522 AD
Est. 6/12/11

PARKING

STORAGE

DISPLAY

(WITH ADJUSTMENT)

STRUCTURE

SEG A & B

Approved
 City of Portland - Bureau of Development Services
 Planner: Shirley Fiegel Date: July 19 2011
 only to the reviews requested and is subject to all
 additional zoning requirements may apply.
 c*