



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

FROM CONCEPT TO CONSTRUCTION

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Date: September 6, 2012
To: Interested Person
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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, with conditions of approval. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 12-154498 DZ AD – DYNALECTRIC CONTAINERS & EXTERIOR STORAGE

GENERAL INFORMATION

Applicant: Steven Pfeiffer / Perkins Coie, LLP
1120 NW Couch St., 10th Floor / Portland, OR 97209

Lessee: Peter Schwarzenberger / Dynalectric Company
5711 SW Hood Ave / Portland, OR 97239

Property Owner: Fullman Family LLC / Attn.: Gerald Fullman
7899 SW Edgewater Dr / Wilsonville, OR 97070

Site Address: 5711 and 5805 SW HOOD AVE

Legal Description: BLOCK 6 E 50' OF LOT 1, GREENS ADD; BLOCK 6 W 50' OF LOT 1, GREENS ADD; BLOCK 6 N 30.5' OF LOT 2, GREENS ADD; BLOCK 6 S 19.5' OF LOT 2 LOT 3-6 N 42' OF LOT 7, GREENS ADD; BLOCK 6 LOT 12&13, GREENS ADD; BLOCK 6 LOT 14, GREENS ADD; BLOCK 6 LOT 16, GREENS ADD

Tax Account No.: R342100890, R342100910, R342100930, R342100990, R342101150, R342101190, R342101230

State ID No.: 1S1E15CA 05100, 1S1E15CA 05000, 1S1E15CA 04900, 1S1E15CA 04800, 1S1E15CA 04400, 1S1E15CA 04300, 1S1E15CA 04100 3629

Quarter Section: 3629

Neighborhood: South Portland NA., contact Jim Davis at 503-248-9820.

Business District: South Portland Business Assoc, Kevin Countryman at 503-750-2984.

District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.

Zoning: **CSd** (Storefront Commercial base zone with Design overlay zone), **Macadam Plan District**

Case Type: **DZ AD** (Design Review with Adjustment)

Procedure: **Type II**, an administrative decision that can be appealed to the Design Commission.

PROPOSAL: The Dynalectric Company operates out of a large site made up of seven distinct taxlots, together totaling over 57,000 square feet of land. Two main buildings on the site

contain the operation, and the remainder of the site includes several surface parking areas. The site is located abutting and south of SW Flower Street, with frontage on both SW Hood and Kelly Avenues. As an electrical contractor, the site is classified as an Industrial Service use, which is a Conditional Use in the CS zone.

The site is currently under enforcement for Zoning Violations (11-169918 CC) for exterior storage and work activities in the CS zone, and for establishment of an Industrial Service Use without the required Conditional Use Review. Exterior storage is not allowed in the CS zone without an Adjustment (33.130.245.C.1), and exterior work activities are prohibited in the commercial zones except for car washes and sales of motor vehicle fuels (33.130.245.D). The applicant has documented that the use was legally established in 1961 under M3 zoning, and has legally continued in Industrial Service Uses since that time without a lapse of three years, giving Dynalectric automatic conditional use status (33.815.030, 33.815.050). Any changes to the use going forward must meet the conditional use regulations.

At this time, the applicant seeks approval to legalize five existing metal shipping container units for storage of materials and supplies, all kept in an existing parking area just west of the main building at 5805 SW Hood Avenue, in a mid-block surface parking area facing SW Kelly Avenue. The five containers would be painted a similar color to each other, with swinging access doors oriented westwards, facing SW Kelly Avenue. The five containers together would total approximately 1,440 square feet of new floor area. Also, the applicant proposes to legalize approximately 500 square feet of exterior storage area within the same parking area, including four distinct areas immediately adjacent to the containers, one area abutting the building behind the containers, and one area at the far southwest corner of the parking area, abutting SW Kelly Avenue. The applicant has proposed the installation of one additional tree and new shrubs in the landscaped strip between this parking area and SW Kelly Avenue, to help screen the containers and exterior storage.

The new containers, because they contain less than 1,500 square feet of floor area, are allowed without a Conditional Use Review (33.815.040.B.1.c). However, the Design overlay zone on the site does require exterior alterations to receive approval through the Design Review process (33.420.041.B). Also, the proposed exterior storage area outside the containers requires approval through the Adjustment process. Therefore, in order to approve the five proposed storage containers and adjacent exterior storage areas, the applicant has requested this concurrent Design Review and Adjustment.

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are:

- The *Macadam Corridor Design Guidelines*; and
- **33.805.040.A-F**, Adjustment Approval Criteria.

ANALYSIS

Site and Vicinity: The site consists of seven adjacent taxlots in the John's Landing area, totaling approximately 1.3 acres in size. The property has frontage on SW Flower Street to the north, SW Kelly Avenue on the west, and SW Hood Avenue on the east. There is an existing two-story brick office building at the northeast corner of the site, abutting the intersection of SW Flower Street and Hood Avenue. Further south on the site, adjacent to the easterly/SW Hood Avenue frontage, there is a large single-story concrete warehouse building, with loading bay access doors on both sides of the structure. The remainder of the site is developed with surface parking lots, with the exception of one 5,000 square foot parcel abutting SW Kelly Avenue, under CM base zoning, which is unimproved, unpaved, and covered in grass. There is some existing landscaping in one of the parking lots at the northwest corner of the site adjacent to the brick office building, but otherwise on-site landscaping is minimal or non-existent. A chain link fence with slat inserts is located along the SW Kelly Avenue frontage of the site abutting the exterior storage area in question, which is mid-block facing SW Kelly Avenue. A

narrow landscaped strip between the parking lot and vacant/CM lot and SW Kelly has some older, sparse landscaping abutting the sidewalk including a few juniper bushes and a pine tree.

The surrounding area is very mixed in character, but generally commercial and light industrial uses can be found nearby to the north and east of the site, while residential uses predominate in the blocks to the south and west. The site surrounds a single-family home at the frontage along SW Kelly Avenue, and the remainder of the block to the south includes a single-story industrial use in a renovated building, a former fire station that has been converted to a triplex, and a single-story school. Across SW Kelly Avenue to the west are a collection of condominium rowhomes and several detached single-family residences, including a recently constructed home.

At the time of the site visit, the majority of the westerly parking lot in question in this review was being used for the exterior storage of various materials, including fiberglass ladders, enclosed metal cabinets, a disconnected generator, and other related equipment. Five separate shipping storage containers have been placed in the westerly parking lot along SW Kelly Avenue, with storage materials being placed up against and near the containers.

All abutting streets are improved with paved two-way roadways, on-street parking, curbing and public sidewalks.

Zoning: The Storefront Commercial (CS) base zone covers all but one 5,000 square-foot parcel of the site. The CS zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone allows a full range of retail, service and business uses with a local and regional market area. Industrial uses are allowed but limited in size to avoid adverse effects different in kind or amount than commercial uses, and to ensure that they do not dominate the character of the commercial area. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk, especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

At this site, because an Industrial Service use was established in the past under earlier (M3, Manufacturing) zoning, and because Industrial Service uses have been maintained over time, the use has automatic conditional use status. A Conditional Use Review would be necessary for expansions of floor area over 1,500 square feet, but the area of the storage container buildings as proposed in this application amounts to only 1,440 square feet. The CS zone does not allow exterior storage for any use, necessitating the requested Adjustment Review to allow exterior storage at the site, which has not been legally permitted in the past at the property.

The Design overlay zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. Design Review ensures that infill development and significant changes to existing buildings in a design district will be compatible with the neighborhood and enhance the area.

The Macadam plan district implements the Macadam Corridor Study. The plan district contains a set of regulations designed to preserve and promote the unique character of the Macadam area. In addition to special development standards for the district, the regulations restrict auto-oriented uses and development, limit signs, allow for future light rail, and provide view corridors to the Willamette River.

A grassy, unimproved parcel of 5,000 square feet is located on the site along SW Kelly Avenue, immediately south of the only single-family home on this particular block. This parcel is under the Mixed Commercial-Residential (CM) base zoning, and does not include the Design overlay zone or Macadam plan district designations. The CM zone promotes development that combines commercial and housing uses on a single site. Development is intended to consist primarily of businesses on the ground floor with housing on upper stories. Development in the

CM zone is intended to be pedestrian-oriented with buildings close to and oriented to the sidewalk, especially at corners.

Land Use History: City records indicate several prior land use reviews for this site. These include the following:

- *VZ 11-61* – Variance to increase the size of the warehouse/industrial building on the southern portion of the site from 10,000 to 15,000 square feet;
- *PC 4975* – Variance to increase the maximum building coverage on the southerly portion of the site to 20,000 square feet;
- *DZ 55-86* – Design Review for the red brick office building at the northeast corner of the site;
- *DZ 3-88* – Design Review for a surface parking lot immediately west of the red brick office building; and
- *LUR 95-00247 DZ* – Design Review for the addition of a new second floor window at the red brick office building.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **July 3, 2012**. The following Bureaus have responded with comments:

The *Bureau of Environmental Services* (BES) has reviewed the proposal and offered informational comments as well as concerns about some of the exterior materials being stored in the yard. The BES cannot recommend approval of the adjustment to allow exterior storage since adequate stormwater management is currently not being met for the existing bulk materials storage area. The BES requests that the applicant meet Chapter 4.10 of the Stormwater Management Manual and contact BES for site inspection prior to approval of the Adjustment. In correspondence about the proposed exterior materials being stored on the site, the applicant indicated (Exhibit A.3) that the materials will include scrap metal and wooden pallets that are recycled, ladders, larger job tool boxes, and possibly larger spools of wire and other equipment. The BES reviewed this list and responded that Section 4.10 (Solid Bulk Material Storage and Processing) of the City’s Stormwater Management Manual (SWMM) indicates that exterior storage of scrap metal and wooden pallets is considered Low Risk according to 4.10.2 of the 2008 SWMM. The pollution controls required for the storage of these materials that will be required are pavement of the area, protection from stormwater run-on and run-off (berm, concrete curbing), and a structural cover. No specific concerns were identified with regards to the storage of ladders or the enclosed job tool boxes. Other BES comments note that the project has sanitary sewer service available, that it is unclear how stormwater is being managed from the existing structures and paved areas, though the City plumbing records not locations of various catchbasins and storm connections. BES has no recommended conditions of approval, but cannot support the request to allow exterior storage of scrap metal and recycled wooden pallets. Exhibit E.1 contains staff contact and additional information.

The *Water Bureau* has reviewed the proposal and offered informational comments about water service, but no concerns or recommendations related to the requested Design or Adjustment Reviews. There are currently two different water service connections to the site. Exhibit E.2 contains staff contact and additional information.

The *Fire Bureau* has reviewed the proposal and offered standard informational comments, but no objections or concerns regarding the requested Design or Adjustment Reviews. A separate building permit is required for this proposal, and all applicable Fire Code requirements will apply at the building permit review stage. If the requirements of the Fire Code cannot be met, an appeal providing for an alternate path is an option to pursue for the applicant. More information is available at the Fire Bureau web page, and the applicant may contact the Fire Marshall with any specific questions. Exhibit E.3 contains staff contact information.

The *Life Safety Section of the Bureau of Development Services* has reviewed the proposal and offered standard informational comments, but no objections or recommendations specific to the

requested Design and Adjustment Reviews. A separate building permit is required for the placement of storage containers as proposed, and the containers must meet all applicable building codes and ordinances including the Bureau's Code Guide IBC/3/#1. A complete Life Safety review will occur during the building permit process, and these comments may not identify all potential conflicts between the land use proposal and the building codes. Exhibit E.4 contains staff contact and additional information.

The following agencies have responded to the proposal with no comments or concerns:

- The *Development Review Section of Portland Transportation* (Exhibit E.5);
- The *Urban Forestry Division of Portland Parks and Recreation* (Exhibit E.6); and
- The *Site Development Section of the Bureau of Development Services* (Exhibit E.7).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 3, 2012. A total of three written responses have been received from notified property owners in response to the proposal. The first letter requests that the proposal not be approved without a full review of the on-site parking problems for this site. Concerns are raised that employee parking for Dynalectric is an ongoing problem in the neighborhood, with on-street parking spaces near the homes along SW Kelly Avenue used by employees. This letter raises objection to the statement in the mailed notice that the use was legally established on the site in 1961, noting that the original development had a parking lot abutting SW Kelly Avenue, and that this parking area was not used for exterior storage, which is a change in how the site has been used historically.

A second letter also expresses concern about the proposed exterior storage and containers on the site, noting that this is a more recent use of the Kelly-facing parking lot. The second letter goes on to elaborate several specific objections to the Adjustment in the context of the approval criteria, expressing concern about the acquisition of the CM-zoned lot, enclosure of the SW Kelly Avenue parking lot and CM-zoned lot with an 'unsightly chain link fence with woven plastic strips', as well as the storage containers. Concerns are also raised in this letter that there are noisy exterior work activities occurring in the yard in addition to the exterior storage, including the use of other equipment to 'saw, hammer, etc.'. Concerns are raised about parking impacts, specifically that employees arrive as early as 5:30am and park along SW Kelly Street. In summary, this letter objects to approval of the Adjustment in spite of the proposed painting and landscape mitigation, as the 'appearance, noise and various uses which appear in violation of the Zoning Codes will not be mitigated by these changes'.

A third letter expresses concern about the heavy use of the parking/storage lot along SW Kelly Avenue, and that the 'streets are full of what appears to be temporary parking for workers who arrive, fill the streets, then leave to go somewhere off-site and work'. The letter says that the 'storage of ugly containers, and the filling of city streets with off-site labor parking is unattractive, unsightly, and I'd prefer they park elsewhere and store the industrial containers somewhere else'. At the very least, the letter states, the employees could park elsewhere and substantially more screening and landscaping should be provided.

Staff Note: With regards to both on- and off-street parking, there is no direct trigger in this Design Review and Adjustment case to address parking impacts. The CS base zone at the site does not require any parking, so all the parking on the site is above and beyond any Zoning Code requirements at this time. In the event that the site triggers a Conditional Use Review in the future, for example if more than 1,500 square feet of floor area is added to the use, then the Conditional Use approval criteria do address the adequacy of on- and off-street parking to serve the use.

The CM-zoned lot has no legal nonconforming rights for either exterior storage or parking, and the applicant has mostly removed the items that were being stored on this lot in the past. Any future expansion onto this lot would also trigger a Conditional Use Review, as it would constitute a gain of site area.

Issues with regards to the appearance of the storage area and containers, the screening provided by recently-installed slatted chain link fence along SW Kelly Avenue, and landscaping along the SW Kelly Avenue site frontage will be discussed in further detail later in this report. As noted below, conditions of approval will be imposed to relocate and better screen a limited variety of materials in the outside storage area, and to improve the appearance and visual screening of the SW Kelly parking/storage yard as viewed from residential area to the west. The issue of exterior work activities will remain a potential enforcement issue for the applicant going forward, as this is also not allowed in the CS zone and no Adjustment to allow such activities has been requested.

ZONING CODE APPROVAL CRITERIA

33.825.010 Purpose of Design Reviews

Design Review ensures:

- That development conserves and enhances the recognized special design values of a site or area;
- The conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district;
- That certain types of infill development will be compatible with the neighborhood and enhance the area; and
- High design quality of public and private projects.

33.825.055 Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

It is important to emphasize that design review goes beyond minimal design standards and is viewed as an opportunity for applicants to propose new and innovative designs. The design guidelines are not intended to be inflexible requirements. Their mission is to aid project designers in understanding the principal expectations of the city concerning urban design.

The review body conducting design review may waive individual guidelines for specific projects should they find that one or more fundamental design guidelines is not applicable to the circumstances of the particular project being reviewed.

Macadam Corridor Design Goals and Guidelines

The following goals are specific to the Macadam Corridor Design Zone.

- Create and improve connections, both physical and visual, between the river, Greenway Trail, Willamette Park and the residential community west of Macadam.
- Encourage opportunities for public use and enjoyment of the waterfront.
- Promote a quality of development in this scenic entry corridor to the Downtown that complements Macadam's landscape treatment.
- Require excellence in design for projects within the Corridor, particularly by assuring that new development contributes to the formation of a rich and diverse mixture of uses and styles in scale with each other.
- Add to the scenic qualities of the river and the Greenway Trail.
- Promote compatibility of new development with the river, surrounding uses, and the neighborhood.

Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.

Macadam Corridor Design Guidelines

1. Visual Connections. Create public views to the river, Greenway Trail and Willamette Park from Macadam Avenue and other public parks and rights-of-way west of Macadam as well as

views from the river and the Greenway to the west. Promote physical and visual contact between the river and the area west of Macadam Avenue.

- Orient buildings, which front Macadam Avenue to preserve views of the river, Willamette Park and the Greenway.
- Integrate the east and west sides of Macadam Avenue by creating views of the river which align with streets on the east side of Macadam.
- Take particular advantage of opportunities to create and protect views, which align with Southwest Texas, Florida, Pendleton, Idaho, Nebraska, Dakota and Hamilton Streets.
- Rooftops of buildings should be carefully designed to enhance views.
- Plant on-site trees, which will grow to a sufficient height to soften new development and screen parking areas while selecting species and planting locations, which enhance view corridors to the river.

Findings: The portion of the Dynalectric property under consideration is a mid-block location on a north-south right-of-way, and an existing building blocks direct views to the east from the project area. The closest mapped view corridor in the Macadam plan district is an east-west view corridor in SW Pendleton Street, which is located at the next right-of-way to the south. *Therefore, this guideline does not apply.*

2. Physical Connections. Create a common sense of unity that ties both sides of Macadam together with each other, the river to the east and the residential area to the west. Create public walkways that physically connect the Macadam Avenue right-of-way with Willamette Park, the Greenway Trail and the Willamette River.

- Orient structures and parking areas to facilitate access for pedestrians between adjacent uses.
- Extend street tree planting west of Macadam.
- Reinforce connections for pedestrians between the Willamette River Greenway and Macadam Avenue.
- Provide safe, comfortable places where people can slow, sit and relax. Locate these places adjacent to sidewalks, walkways and the Greenway Trail.
- Provide sidewalks and pathways, through larger developments with landscaping which screens or separates these from parking and motor vehicle maneuvering areas.
- Provide walkways, which link parking areas to district-wide access systems for pedestrians.

Findings: The adjacent public sidewalk in SW Kelly Avenue is improved, and runs in a north-south direction. No new public walkways have been required by Portland Transportation, and no new on-site private walkways are proposed on or through the site. *Therefore, this guideline does not apply.*

3. The Water's Edge. Enhance the scenic qualities of the river and sites that abut the riverbank to contribute to an attractive and enjoyable Greenway Trail.

- Identify natural areas of the Willamette riverbank and preserve the natural qualities of these areas.
- Screen parking, loading and vehicular movement areas from the Greenway with rich landscape plantings.
- Locate buildings to protect access to sunlight on the Greenway Trail.

Findings: The site is not adjacent to the river of the Greenway Trail. *Therefore, this guideline does not apply.*

4. The Boulevard. Coordinate with and enhance Macadam's boulevard treatment and contribute to the attractiveness of this entrance to the city.

- Consider using awnings or other weather protection, street furniture, plazas, sculpture courts or other amenities for pedestrians to reinforce the boulevard design of Macadam.
- Abut pedestrian pathways with buildings or landscaping. Buffer with landscape screens, parking lots and structures, which are not oriented to pedestrians.

- Use landscaping to reinforce the boulevard character of Macadam and to provide visual connections with private property adjacent to Macadam.
- Trees interspersed with low-growing vegetation or grass should visually predominate over impervious surfaces.
- Provide frequent views from Macadam into interior ground level spaces of projects located along the Avenue.

Findings: The site is not adjacent to Macadam Avenue, which is located one block to the east of the site. *Therefore, this guideline does not apply.*

5. Sub-Area Context. Enhance a site's character through designs that are compatible with features of their surroundings and contribute to the development of an attractive character in the vicinity of the project site. Pay particular attention to cases where the adjacent use is different from that which a project will house.

- Locate buildings to avoid excessive shadow on public open spaces, especially Willamette Park and the Greenway Trail.
- Isolated or independent buildings and open spaces should provide design solutions of merit, which consciously set a precedent for neighboring future developments.
- Buildings and open spaces should establish complementary relationships in terms of color, texture, scale of architectural elements, and proportions with neighboring developments.
- Provide sensitive transitions between new development and adjacent residential areas.

Findings: There are no potential impacts with regards to casting shadow on public open spaces, and both Willamette Park and the Greenway Trail are several hundred feet away from the site to the east, on the opposite side of SW Macadam Boulevard. The proposed storage containers, however, are considered to be buildings under the Zoning Code, and therefore this guideline seeks a compatible design for the containers, with the intention of creating an attractive character in the vicinity. There is also a difference in the use between the proposed industrial exterior storage and containers (buildings), and the adjacent residences across SW Kelly Street to the west, as well as to the adjacent single-family home immediately to the north.

In recent years, the area in question shifted from being exclusively a vehicle parking area. A chain link fence with slatted inserts was installed along the SW Kelly Street lot line, and the former parking area beyond has been used for exterior storage materials. No additional landscaping or visual screening was applied on the street side of the fence, and the nature of the existing fence provides poor screening for the storage/parking area. There is existing landscaping between portions of the fence and the sidewalk in SW Kelly Avenue, but this consists of low juniper shrubs that rise about 2-3 feet above the sidewalk, and a spindly pine tree that has interesting contorted limbs but little visual screening properties. The industrial appearance and high visual porosity of the fence, the two gated driveways that are both able to open and allow direct views of industrial equipment storage from adjacent homes, and the lack of adequate visual screening between the fence and the lot line/sidewalk create an awkward transition between the industrial use on the site and the adjacent homes.

This guideline seeks to enhance the character of existing sites through design features that are compatible with their surroundings, to create an attractive environment in the vicinity, and to establish complementary relationships with adjacent developments. The proposed container storage buildings are intensely industrial in appearance, and not typically found in commercial or residential areas. To help the containers blend in with the surrounding area, especially the nearby homes, and to help the containers disappear into the background as much as possible, a condition of approval will require that the containers be painted a light, neutral, color to match the adjacent building wall. To address the unsightly chain link fence that provides poor visual screening for the storage area and an industrial appearance, a condition of approval will require that fencing along the SW Kelly Street edge of the site be modified to consist of a fully sight-

obscuring wooden fence. To provide visual screening of the parking/storage area, this fence should be 8'-0" tall along the CS-zoned portion of the SW Kelly frontage, while 6'-0" tall is more appropriate on the CM-zoned portion of the Kelly frontage, which only screens a vacant lot, and where more distant oblique views of the yard are possible.

Finally, to help improve the appearance of the SW Kelly Avenue frontage on the sidewalk side of the gate, and to reduce potential visual impacts to adjacent homes while the site is in use, a condition of approval will require that the southernmost driveway onto SW Kelly Avenue be closed, and that a 5'-0" deep area landscaped to the L2 standard be established between the new fence and the SW Kelly Avenue lot line. L2 landscaping is otherwise required between a surface parking area and the lot line in this situation. To soften and improve this landscaping, and to better integrate with the smaller-scaled and diverse landscape plantings found nearby on residential and other sites, a condition of approval will require that the plant materials in the landscaped areas be provided with trees, at least 3 different shrub species, and at least 3 different groundcover plant species. Requiring a mix of planting materials will hopefully avoid a sterile, industrial appearance to the new landscaping along the Kelly sidewalk.

With the above noted conditions of approval, the condition along the SW Kelly Avenue edge of the site can be vastly improved, become better integrated with the adjacent homes, and provide a more effective visual screen between the industrial storage uses in the site interior and the adjacent neighborhood. *Therefore, with the noted conditions of approval, this guideline can be met.*

6. Signs. Keep signage consistent with and supportive of Macadam Avenue's role as a scenic boulevard while using signs to connect the activities housed by a project to the boulevard.

- The cumulative effect of signage should not create confusion for the motorist, visual clutter, or adverse visual impacts on the neighborhood.
- Signs along Macadam should not be directed to motorists on Interstate 5.
- The design scale, color and illumination of signs should be consistent with the features of adjacent buildings and activities.

Findings: No signs are proposed with the current application. *Therefore, this guideline does not apply.*

7. Johns Landing Masterplan. Comply with the provisions of the Johns Landing masterplan¹.

Findings: The Johns Landing masterplan does not identify any specific uses, circulation paths, or other master plan objectives for this block. The block immediately to the east is the nearest site within the masterplan which identifies desired future uses. *Therefore, this guideline does not apply.*

8. Future Light Rail Transit. Preserve the potential for a two-direction, light rail facility within the Macadam Corridor Design Zone as illustrated. Until the LRT facility is constructed, the required setback area may be used for parking and landscaping requirements.

Findings: The site is not adjacent to the future light rail transit corridor, which lies east of SW Macadam Boulevard. *Therefore, this guideline does not apply.*

33.805.010 Purpose (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.

¹ The masterplan may be amended through review by the Planning Commission.

Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing 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. 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 for the exterior storage limitation in the CS zone is to ensure that such storage:

- *“Will be consistent with the desired character of the zone;*
- *Will not be a detriment to the overall appearance of a commercial area;*
- *Will not have adverse impacts on adjacent properties, especially those zoned residential; and*
- *Will not have an adverse impact on the environment.” (33.130.245.A)*

The desired character of the CS zone is to preserve and enhance older commercial areas that have a storefront character. The zone allows a full range of retail, service, and business uses with a local and regional market area. Industrial uses are allowed but are limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The desired character includes areas that are predominantly built-up, with buildings close to and oriented to the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.

The proposed exterior storage areas is proposed for a CS-zoned site that has an Industrial Service use with automatic conditional use status. The specific proposal in this case is to allow exterior storage in a former surface parking lot, outside of any building, and on an automobile- and truck-oriented portion of the site. Exposed storage yards are not typically found in older commercial areas with a storefront character, and the appearance of uncovered, exterior materials storage is not a development form that integrates well with the pedestrian-friendly, storefront character as called for in the characteristics statement for the zone. The existing slatted chain link fence that screens the parking/storage area from the street has very poor sight-obscuring properties, and can easily be seen through from the sidewalk, street, and adjacent properties. Some older landscaping is provided in places along the SW Kelly Avenue frontage, but the low juniper bushes and lone pine tree do not provide an effective visual screen of the proposed storage area.

Residents and property owners of nearby housing have written in with objections about the appearance of the exterior storage, with two letters in particular expressing concern about the visual appearance and unsightliness of the fencing and minimal landscaping along the SW Kelly frontage. The proposal as presented by the applicant does indicate one new tree and a row of shrubs along the SW Kelly sidewalk, but no detailed landscaping plan showing plant size or species has been provided, so the visual and screening qualities of the applicant's proposed landscaping mitigation are unclear.

The Bureau of Environmental Services regulates the exterior storage of materials per the pollution control portion (Section 4.10) of the City's Stormwater Management Manual (SWMM). They have responded with concerns about the exterior storage of scrap metal and recycled shipping pallets, which require a separate structural cover

pollution runoff controls (berms, curbing) in order to control potential adverse impacts on the environment. In follow-up discussion between BDS staff and BES staff, the BES staff agreed that exterior storage of the fiberglass ladders and enclosed metal job boxes would not pose a problem with regards to the SWMM pollution control regulations, and could be allowed. In order to address this concern, a condition of approval will require that exterior materials storage be limited to the fiberglass ladders and enclosed metal job boxes. With this condition of approval, the regulatory intent with regards to adverse environmental impacts can be addressed.

With regards to the desired built-up, pedestrian-oriented, and commercial storefront character of the zone, the impacts to the overall commercial area, and potential adverse impacts on adjacent residential properties, conditions of approval are necessary before exterior storage can be allowed. In order to reduce the visual impact of the exterior storage areas, a condition of approval will require that all storage areas be contained to the east or south side of the container buildings, helping to obscure them for direct view when the driveway gate is open, as well as from the upper stories of adjacent homes across SW Kelly Street. Additional conditions of approval seek to improve the screening and aesthetic properties of the area along the sidewalk in SW Kelly Avenue, to create a more pedestrian-friendly environment and better integrate with the predominant commercial versus industrial character of the area. These conditions will require closure of the southerly two driveways onto SW Kelly Avenue, installation of 8'-0" (CS zone portion) or 6'-0" (CM zone portion) tall solid wooden fencing along the street lot line, with new 5'-0" deep landscaping to the L2 standard between the fence and the street lot line. Finally, to improve the appearance and attractiveness of the landscaping for nearby properties and pedestrian passersby, the landscaping condition will require at least three different species of shrubs and groundcover materials. This condition will encourage, but not require, professional design for the fencing and landscaping, and the use of native plant species from the Portland Plant List.

With the above noted conditions of approval, the request to allow 500 square feet of exterior storage can at least equally meet the intent of the exterior storage regulations in the CS zone, and this criterion can be 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: As discussed above under findings for criterion A, and with the same noted conditions of approval, the proposal will be consistent with the desired character of the area. Portland Transportation has reviewed the proposal for conformance with street classifications and has offered no concerns regarding the Adjustment. *Therefore, with the conditions of approval referenced above and explained in detail under findings for criterion A, this criterion can be 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 requested. *This criterion is not applicable.*

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

Findings: City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large 'Historic Landmark' dot, and by historic

and conservation districts. There are no such resources present on the site. *Therefore, this criterion is not applicable.*

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

Findings: There are no discernible 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 site is not within an environmental zone. *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.

As an automatic conditional use, the use and development on the site are subject to Conditional Use regulations in Chapter 33.815 of the Zoning Code. Expansions or reductions in site area, expansions of floor area over 1,500 square feet, and other changes to the site may trigger a Conditional Use Review.

Exterior work activities are prohibited in the CS and CM zones, and no storage, parking, or structures have been permitted on the CM-zoned portion of the site, which shall remain vacant and unimproved until any necessary building, zoning, and/or land use reviews as necessary have been obtained.

CONCLUSIONS

The applicant has proposed to legally establish the placement of five storage container buildings on the site, as well as areas of exterior materials and equipment storage. The approval criteria for both the necessary Design and Adjustment Reviews seek to integrate development at the site with the surrounding area, enhance the visual character of the property, create a pedestrian-oriented environment, and mitigate impacts to nearby sites developed with other uses, especially residential uses. The proposal is able to meet the applicable criteria and guidelines with several conditions of approval requiring new fencing and landscaping along the street, closure of one driveway, painting of the storage container buildings, and restrictions on the location where exterior materials may be stored. In addition, to address potential environmental pollution concerns, a condition of approval will limit the types of materials stored outdoors to those which are unlikely to cause any pollution issues. With the conditions of approval noted in the decision language below, the request is able to meet the relevant criteria and guidelines and should be approved.

ADMINISTRATIVE DECISION

Approval of Design Review for the installation of five new storage containers on the Dynalectric site in the Macadam Plan District, totaling 1,440 square feet of floor area;

Approval of an Adjustment to allow 500 square feet of exterior storage area on the CS-zoned Dynalectric parking/storage yard abutting SW Kelly Avenue.

Both the above approvals are granted based on the approved and staff-modified site plan, Exhibit C.1, signed and dated August 31, 2012. The Design Review approval above is also

subject to conditions of approval A through E, below. The Adjustment approval above is also subject to conditions of approval A, and C through G, below:

- A. As part of the building permit application submittal, the following development-related conditions (B through G) 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 12-154498 DZ AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. All visible exterior portions of the five storage containers must be painted a neutral, matte, off-white color to match the adjacent building wall on the Dynalectric building to the east.
- C. The southerly of the two gated driveways onto SW Kelly Avenue shall be closed, and a curb cut permit shall be obtained to remove the driveway approach and restore a curbed sidewalk.
- D. The existing slatted chain link fence abutting SW Kelly Avenue shall be removed and be replaced by a 100% sight-obscuring wooden fence and driveway gate. The new fencing and driveway gate must be 8'-0" tall along the 100' of frontage on the CS-zoned portion of the site adjacent to the parking/storage area, and 6'-0" tall along the 50' of frontage on the CM-zoned portion. The fence shall be completed with a flush, finished wood appearance on the street side, with fence posts and horizontal members contained on the interior side of the fence.
- E. The 150'-0" length of property frontage along SW Kelly Avenue shall be provided with new perimeter landscaping immediately adjacent to the SW Kelly lot line, at least 5'-0" deep, and installed at least to the L2 standard of Chapter 33.248. Landscaping shall be provided in the area formerly occupied by the southerly driveway to be removed per condition C, above. All landscaping must be maintained over time. In addition to trees, the applicant shall provide at least three different shrub species, and at least three different groundcover materials in the landscaped area. The applicant is encouraged, but not required, to seek professional design assistance for the fencing and landscaping per this condition, and to consider using native plants from the Portland Plant List.
- F. Exterior storage areas shall be limited to a maximum of 500 square feet, and must be confined to either the south or east side of the containers, as opposed to the locations shown on the submitted site plan.
- G. Exterior storage materials are limited to fiberglass ladders and enclosed metal job boxes only. Storage of fuels, solvents, recycled wooden pallets, scrap metal, and other items are not allowed.

Staff Planner: Mark Walhood

Decision rendered by:  **on August 31, 2012.**

By authority of the Director of the Bureau of Development Services

Decision mailed: September 6, 2012

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 12, 2012, and was determined to be complete on **June 28, 2012.**

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 12, 2012.

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 October 26, 2012.**

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 Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on September 20, 2012** 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 Design Commission 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 Design Commission 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 **September 21, 2012**.
- 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.

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 Statements
 1. Application narrative for Design Review and Adjustments
 2. Original application information for LU 11-201669 NU, including nonconforming use Documentation
 3. Supplemental information about exterior materials being stored on the site, received August 9, 2012
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Large/scalable site plan

D. Notification information:

1. Mailing list
2. Mailed notice

E. Agency Responses:

1. Bureau of Environmental Services
2. Water Bureau
3. Fire Bureau
4. Life Safety Section of the Bureau of Development Services
5. Development Review Section of Portland Transportation
6. Urban Forestry Division of Portland Parks and Recreation
7. Site Development Section of the Bureau of Development Services

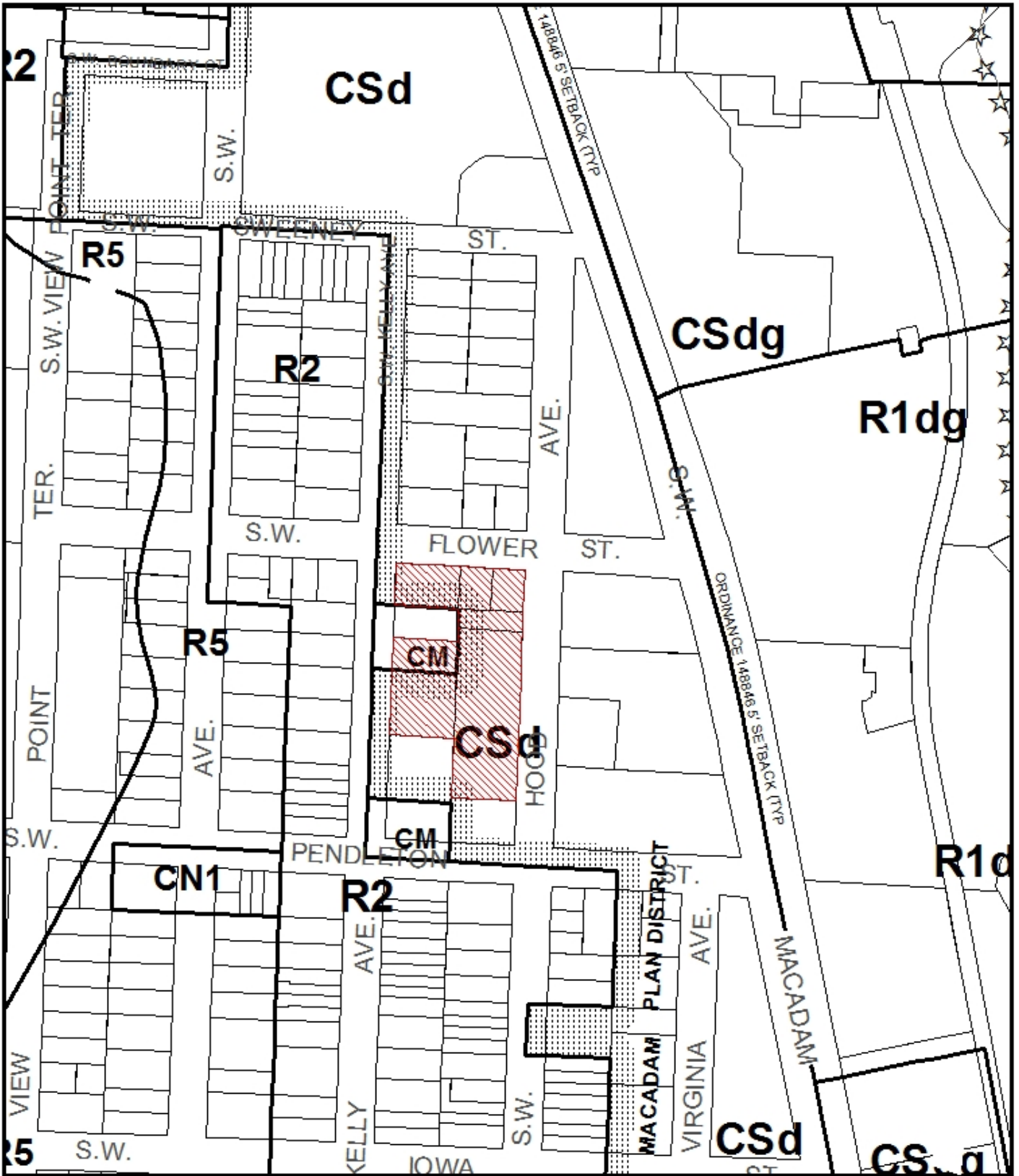
F. Correspondence:

1. Letter with concerns from Howard Gile, received July 19, 2012
2. Letter with concerns from Korleen Kraft, received July 23, 2012
3. E-mail with concerns from Bill Wagoner, received July 24, 2012

G. Other:

1. Original LU Application Form

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



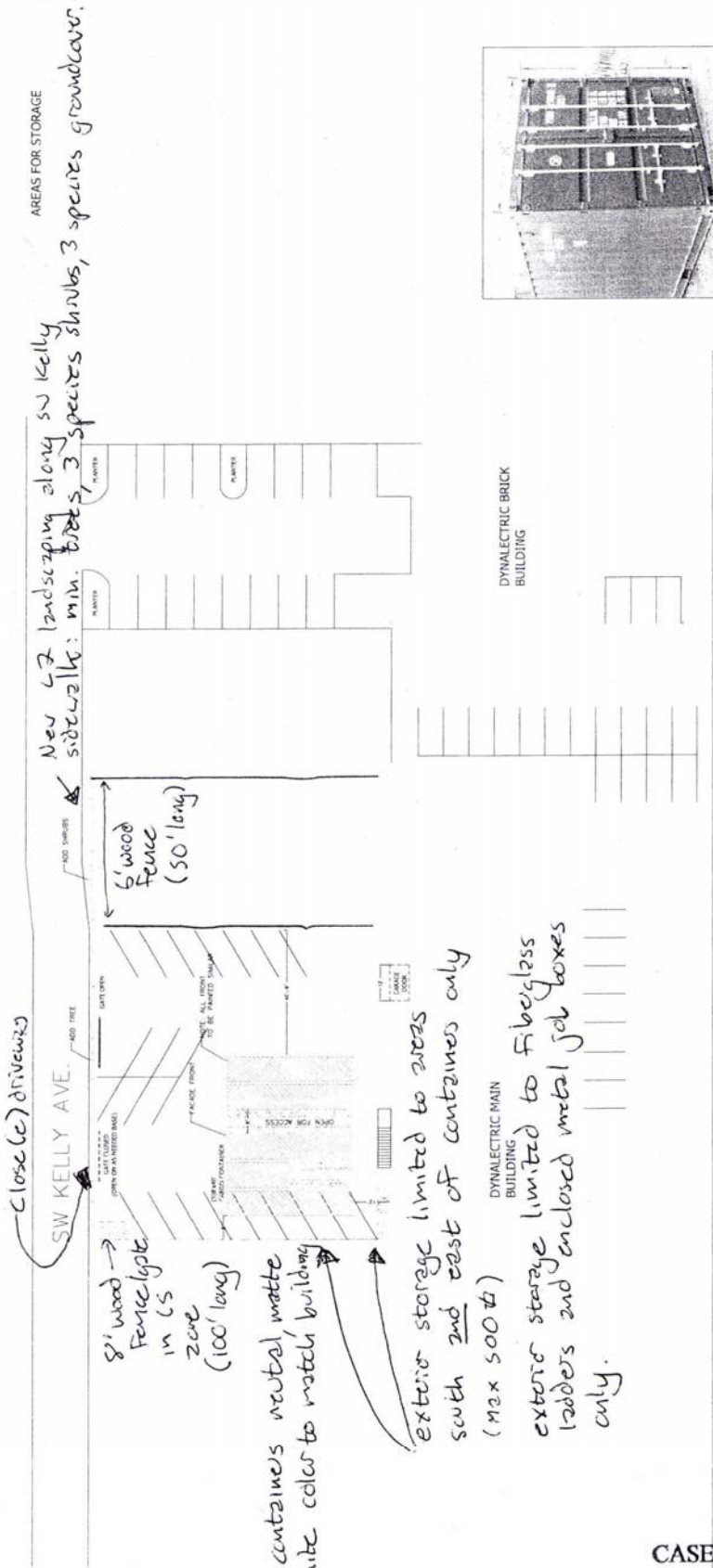
File No.	LU 12-154498 DZ,AD
1/4 Section	3629
Scale	1 inch = 200 feet
State_Id	1S1E15CA 4800
Exhibit	B (Jun 29,2012)

DYNALECTRIC COMPANY
LOT 4400
177 SW HOOD AVENUE
PORTLAND, OREGON 97201
503.281.1211

Dynallectic
111 SW HOOD AVENUE
PORTLAND, OREGON
97201 224-7114
ELECTRICAL CONTRACTORS
(503) 281-1211

Prepared by: 12/21/2011
Date: 11/21/11
11/21/11
V. CHA
E. STODOL
DYNALLECTRIC COMPANY
SITE PLAN

A
1.0



Handwritten note: New (2) landscaping along SW Kelly sidewalk: min. trees, 3 species shrubs, 3 species groundcover.

Handwritten note: 8' wood Fence lgpt. in (5 zone (100' long)

Handwritten note: paint containers neutral, matte off-white color to match building

Handwritten note: exterior storage limited to areas south and east of containers only (max 500 sq ft)

Handwritten note: exterior storage limited to fiberglass ladders and enclosed metal job boxes only.

Approved
City of Portland - Bureau of Development Services
 Planner: MARK WARTHOD Date: AUG. 31, 2012
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

CASE NO. W 12-154498 02 AD
EXHIBIT C.1