

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: www.portlandoregon.gov/auditor/hearings



DECISION OF THE HEARINGS OFFICER IN UNCONTESTED CASE

File No.: LU 12-163955 ZC (HO 4120022)

Applicant: Eric Shoemaker
Trask Inc.
1001 SE Water, Suite 120
Portland, OR 97214

Applicant's Representative: Peter F. Fry
Planning Consultant
2153 SW Main Street #105
Portland, OR 97205

Owners: Mary L. Korek and Lucas Bitar Ltd. Ptrshp.
9828 E Burnside Street #200
Portland, OR 97216-2363

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Staff Representative: Sheila Frugoli

Site Address: 321 NE Davis Street

Legal Description: BLOCK 74 LOT 3&4 TL 1000, EAST PORTLAND

Tax Account No.: R226504870

State ID No.: 1N1E34DA 01000

Quarter Section: 3030

Neighborhood: Kerns

Business District: Central Eastside Industrial Council

District Coalition: Southeast Uplift

Plan District: Central City - Central Eastside

Zoning: IG1, General Industrial 1 with a Comprehensive Plan designation of EXd, Central Employment zone with the d, Design overlay zone

Land Use Review: Type III, ZC, Zone Change

BDS Staff Recommendation to Hearings Officer: Approval

Public Hearing: The hearing was opened at 1:29 p.m. on October 8, 2012, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 1:45 p.m. The record was closed at that time. The applicant waived applicant's rights granted by ORS 197.763 (6)(e), if any, to an additional 7 day time period to submit written rebuttal into the record.

Testified at the Hearing:

Sheila Frugoli, BDS Staff Representative, 1900 SW 4th Avenue, Suite 5000, Portland, OR
Peter Finley Fry, 2153 SW Main Street, Room 105, Portland, OR 97205

Proposal: The applicant is requesting to change the current zoning from IG1, General Industrial 1 to EXd, Central Employment zone with the Design overlay zone, consistent with the Comprehensive Plan Map designation of Central Employment. The site is 8,481 square feet and is located at the northeast corner of NE Davis and NE 3rd Avenue. The applicant is not proposing a change of use or redevelopment as part of this review.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are: **33.855.050.A, B, and D., Approval Criteria for Base Zone Changes.**

Hearings Officer Decision: It is the decision of the Hearings Officer to adopt and incorporate into this decision the facts, findings, and conclusions of BDS in their Staff Report and Recommendation to the Hearings Officer dated September 28, 2012, and to issue the following approval:

Approval of a Zoning Map Amendment from the IG1, General Industrial 1 zone to EXd, Central Employment zone with the d, Design Overlay zone.

Basis for the Decision: BDS Staff Report in LU 12-163955 ZC (HO 4120022), Exhibits A.1 through H.5, and the hearing testimony from those listed above.



Gregory J. Frank, Hearings Officer

10/10/12

Date

Application Determined Complete:	August 20, 2012
Report to Hearings Officer:	September 28, 2012
Decision Mailed:	October 11, 2012
Last Date to Appeal:	4:30 p.m., October 25, 2012
Effective Date (if no appeal):	October 26, 2012 Decision may be recorded on this date.

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.

Appeal of the decision. The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Who can appeal: You may appeal the decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/applicant. Appeals must be filed within 14 days of the decision. **Appeals must be filed within 14 days of the decision. An appeal fee of \$5,000.00 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000).**

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chairperson or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

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.

- 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 approval. 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. Response to Approval Criteria
 - 2. Supplemental Parking Analysis, Prepared by Group Mackenzie, September 13, 2012
 - 3. Revised Transportation Impact Analysis, by Group Mackenzie, August 9, 2012
 - 4. Transportation Impact Analysis, by Group Mackenzie, July 19, 2012
- B. Zoning Map
 - 1. Existing Zoning
 - 2. Proposed Zoning
- C. Plans and Drawings
 - 1. Site and Utility Plan – Existing Development, Submitted August 10, 2012
 - 2. Site Plan
- D. Notification information
 - 1. Request for response
 - 2. Posting letter sent to applicant
 - 3. Notice to be posted
 - 4. Applicant's statement certifying posting
 - 5. Mailing list
 - 6. Mailed notice
- E. Agency Responses
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Police Bureau
 - 6. Site Development Review Section of Bureau of Development Services
 - 7. TRACS Print-Out Documenting "No Concerns" from Life Safety Plan Review Section of BDS and Bureau of Parks, Forestry Division
- F. Letters: NONE
- G. Other
 - 1. Original LUR Application
 - 2. Incomplete Application Letter from Staff to Applicant
 - 3. Pre-Application Conference Memo
- H. Received in the Hearings Office
 - 1. Notice of Public Hearing - Frugoli, Sheila
 - 2. Staff Report - Frugoli, Sheila (**attached**)
 - 3. 9/27/12 letter, Christopher M. Clemow to Fabio de Freitas (revised 10/3/12) - Fry, Peter Finley
 - a. Types of Parking/Total Available Parking - Fry, Peter Finley
 - 4. PowerPoint presentation printout - Frugoli, Sheila
 - 5. Record Closing Information - Hearings Office



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

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER

CASE FILE: LU 12-163955 ZC
PC # 12-120139
REVIEW BY: Hearings Officer
WHEN: Monday, October 8, 2012 at 1:30 PM
WHERE: 1900 SW Fourth Ave., Suite 3000
Portland, OR 97201

RECEIVED
SEP 28 2012
HEARINGS OFFICE

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this proposal.

BUREAU OF DEVELOPMENT SERVICES STAFF: SHEILA FRUGOLI / SHEILA.FRUGOLI@PORTLANDOREGON.GOV

GENERAL INFORMATION

Representative: Peter F. Fry, Planning Consultant
2153 SW Main St #105 / Portland OR 97205

Applicant: Eric Shoemaker / Trask Inc.
1001 SE Water, Ste 120 / Portland, OR 97214

Owners: Mary L Korek & Lucas Bitar Ltd Ptrshp
9828 E Burnside St #200 / Portland, OR 97216-2363

Site Address: 321 NE DAVIS ST

Legal Description: BLOCK 74 LOT 3&4 TL 1000, EAST PORTLAND
Tax Account No.: R226504870
State ID No.: 1N1E34DA 01000
Quarter Section: 3030

Neighborhood: Kerns, contact Steve Russell at 503-784-8785.
Business District: Central Eastside Industrial Council, contact Peter Fry at 503-274-1415.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.

Plan District: Central City - Central Eastside
Zoning: IG1, General Industrial 1 with a Comprehensive Plan designation of EXd,
Central Employment zone with the d, Design overlay zone

Case Type: ZC, Zone Change
Procedure: Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

Proposal: The applicant is requesting to change the current zoning from IG1, General Industrial 1 to EXd, Central Employment zone with the Design overlay zone, consistent with the Comprehensive Plan

Map designation of Central Employment. The site is 8,481 square feet and is located at the northeast corner of NE Davis and NE 3rd Avenue. The applicant is not proposing a change of use or redevelopment as part of this review.

Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are: **33.855.050.A, B. and D., Approval Criteria for Base Zone Changes**

ANALYSIS

Site and Vicinity: The site is a 8,481 square foot lot with a 7,181 square foot one-story building. The building appears to contain a warehouse and accessory office use. Immediately west of the site is public right-of-way. It appears the right-of-way is currently being used for construction material storage. To the east is a multi-story warehouse building. To the south, across NE Davis is a large vacant lot. The lot is one of numerous lots that are owned by the City of Portland and known as the "Burnside Bridgehead Project". The City-owned site contains the existing 5-story Convention Plaza office building and accessory parking areas located on the south and west side of the building.

To the north, the site abuts I-5 and I-84 freeway ramps and other Oregon Department of Transportation and City of Portland right-of-way. There are larger industrial wholesale uses and other industrial uses located west and south of the site. And to the east, a variety of uses, including a residential apartment building, warehouse, office, and retail uses front NE Martin Luther King Blvd.

Existing Zoning: The site lies within the IG1, General Industrial 1 zone. The General Industrial zones are two of three zones that implement the Industrial Sanctuary map designation of the City's Comprehensive Plan. The zones provide areas where most industrial uses may locate while other uses are restricted to prevent potential conflicts and to preserve land for industry. The development standards for the industrial zones are intended to allow new development that is similar in character to the existing area. The IG1 zoning is applied to the City's older industrial areas where lots are smaller and the lots follow a grid block pattern. The buildings cover most of the sites and the buildings are located close to the streets.

Proposed Zoning: The site has a Comprehensive Plan Map designation of Central Employment (EXd). 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. The plan district applies regulations such as height and floor area ratio (FAR) maximums, that supersede the base zone and overlay zone requirements. The Central City Plan District maps show this site is within a 65 foot height limit and a maximum FAR (floor area to site area ratio) of 9 to 1. Special parking regulations are also applied in this plan district.

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

Agency Review: A "Request for Response" was mailed **August 24, 2012**. The following Bureaus have responded with no issues or concerns:

- Bureau of Parks-Forestry Division (Exhibit E.7)
- Life Safety Plan Review Section of BDS (Exhibit E.7)
- Site Development Section of BDS (Exhibit E.6)
- Fire Bureau (Exhibit E.4)

The **Portland Bureau of Transportation (PBOT)** responded with extensive comments. The comments are discussed in detail below, in response to approval criteria 33.855.050.B.2.c. See Exhibit E.2.

The **Bureau of Environmental Services (BES)** responded with the following comments:

BES has no objection to the requested zone map amendment from IG1 to EXd. Note that the proposed development will be subject to BES standards and requirements during any permit review process.

SANITARY SERVICE

Existing Sanitary Infrastructure:

- There is a 72-inch monolithic concrete sanitary-only sewer through the center of NE Davis (BES Project # 21836).
- There is a 102-inch monolithic concrete sanitary-only sewer near the north curb of NE Davis (BES Project # 3756).
- There is a 24-inch VSP public combined sewer on the south side on NE Davis (BES project # 0039).
- According to 1920 and 1961 City of Portland plumbing and connection records, the structure at 321 NE Davis is connected to the 24-inch combination main approximately 24 and 48 feet east of the east line of NE 3rd, respectively. These records can be found at www.portlandonline.com/bds/plumbing_permits/.
- The 24-inch combined sewer system currently surcharges under certain conditions. BES will allow sanitary connections, but future stormwater connections may be restricted. See the *Stormwater Management* section, below, for a discussion of the impact this may have on any future development's stormwater management plan.
- The applicant is proposing a zoning change from General Industrial 1 (IG1) to Central Employment (EX). These zoning designations use the same design standards and design flows within the BES Sewer and Drainage Facilities Design Manual.

There is adequate sanitary service for the proposed zone based on current design standards.

STORMWATER MANAGEMENT

- There is no public storm-only sewer available to this property.
- According to the plumbing records, stormwater from the existing building is directed to the combination main in NE Davis.
- According to the provided Site Utility Plan stormwater is directed to the 24-inch main in Davis and to the ground at the north side of the building.
- Since the structure is almost built to the property lines, there is no development or redevelopment proposed, and there is no change anticipated in the amount or rate of stormwater runoff due to the proposed zone change, BES can conclude that there is adequate *storm service for the lot and structure under the proposed zone*.
- All development and redevelopment proposals will be subject to the requirements of the City of Portland Stormwater Management Manual (SWMM). Development projects are evaluated using the criteria described in Section 1.3. The Stormwater Hierarchy guides the applicant in determining where stormwater runoff should be conveyed (i.e. infiltrated on-site or discharged off-site). Future development may be required to infiltration stormwater on-site, if feasible.
- The applicant should evaluate the existing stormwater discharge point on the north side of the structure. It is unclear if SWMM setbacks (SWMM Exhibit 2-1) are being met and due to

the slope to the north of the building the applicant should consider slope stability. (Exhibit E.1)

The **Water Bureau** responded with the following comment:

The Water Bureau has no concerns regarding the requested Zone Change for the property located at 321 NE Davis St.

- There is an existing 5/8" metered service (Serial #20142658, Account #2982060200) which supplies this location with water from the existing 8" DI water main in NE Davis St.
- The estimated static water pressure range for this location is 72 psi to 91 psi at the existing service elevation 60 ft. (Exhibit E.3)

The **Police Bureau** responded with the following comment:

It was determined that the Police Bureau is not able to provide concerns or recommendations about the impact on service, overall workload, and security/safety for this proposal as the applicant is not proposing a change or redevelopment of the site at this time. (Exhibit E.5)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on September 18, 2012. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Zoning Map Amendment

33.855.050 Approval Criteria for Base Zone Changes

An amendment to the base zone designation on the Official Zoning Maps will be approved (either quasi-judicial or legislative) if the review body finds that the applicant has shown that all of the following approval criteria are met:

- A. Compliance with the Comprehensive Plan Map.** The zone change is to a corresponding zone of the Comprehensive Plan Map.
 1. When the Comprehensive Plan Map designation has more than one corresponding zone, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.

Findings: The Comprehensive Plan Map designation for Central Employment has one implementing zone, EX, Central Employment. This zone is always applied with the d, Design Overlay Zone. Because there is only one zone for this designation, this criterion is not applicable.

2. Where R zoned lands have a C, E, or I designation with a Buffer overlay, the zone change will only be approved if it is for the expansion of a use from abutting nonresidential land. Zone changes for new uses that are not expansions are prohibited.

Findings: The site is not zoned residential. Therefore, this criterion does not apply.

3. When the zone change request is from a higher-density residential zone to a lower-density residential zone, or from the CM zone to the CS zone, then the approval criterion in 33.810.050 A.2 must be met.

Findings: The request does not involve residential zones or the CM or CS zones. Therefore, this criterion does not apply.

B. Adequate public services.

1. Adequacy of services applies only to the specific zone change site.
2. Adequacy of services is determined based on performance standards established by the service bureaus. The burden of proof is on the applicant to provide the necessary analysis. Factors to consider include the projected service demands of the site, the ability of the existing and proposed public services to accommodate those demand numbers, and the characteristics of the site and development proposal, if any.
 - a. Public services for water supply, and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete.

Findings: The Subject Property is 8,481 square feet in area. The site is located in the Central City Plan District and has a height limit of 65 feet and a Floor Area Ratio (FAR) limit of 1 to 9. Given the height limit, the anticipated maximum building-out of the site would be a 40,500 square foot Office building (per the applicant's Traffic Impact Analysis (Exhibit A.3)). This application does not propose redevelopment of the site and does not identify future use of the site. Therefore, the City's service agencies considered the allowed uses and full build out that would be allowed.

As described on pages 2 and 3 of this report, the Fire Bureau and Water Bureau have noted no concerns or objections. The Police Bureau staff responded that they could not provide specific recommendations or identify specific concerns given that no new development/redevelopment is proposed at this time. Given that the three bureaus did not raise concerns about their capability to serve the site, staff finds that this criterion is met.

- b. Proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services. Performance standards must be applied to the specific site design. Limitations on development level, mitigation measures or discharge restrictions may be necessary in order to assure these services are adequate.

Findings: As described on page 3, BES has determined that the existing sanitary and stormwater management systems are adequate to support the proposed zone change. This criterion is met.

- c. Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the date the Transportation System Plan was adopted. Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate.

Findings: The Portland Bureau of Transportation finds this criterion is met, as follows:

Portland Bureau of Transportation/Development Review (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

STREET CLASSIFICATION

At this location, NE Davis St is classified as a Local Service street for all transportation modes in the City's Transportation System Plan.

ZONE MAP AMENDMENT

The applicant submitted a professionally prepared Transportation Impact Study (TIS) to address the transportation-related approval criteria associated with this Zone Change request. This TIS includes intersection operation analysis for the plan year 2027, which is 20 years from the date the City of Portland's Transportation System Plan (TSP) was adopted (April 2007).

Based on review of the applicable standards and direction from the PBOT, the analysis study area includes the following intersections, which are both signalized:

- NE Martin Luther King, Jr. Boulevard (MLK Jr Blvd)/NE Davis St
- NE Grand Ave/NE Davis St

Analysis was conducted for the following scenarios during the weekday PM peak hour:

- 2027 Pre-Development
- 2027 Post -Development with Current IG1 zone trip generation
- 2027 Post -Development with Proposed EXd zone trip generation

2027 Pre-Development traffic volumes are the sum of existing traffic volumes and background traffic growth. These volumes represent the subject development site remaining vacant. Potential site development under current and proposed zoning is addressed below.

The most intense development allowed under the current IG1 zone is assumed to be General Light Industrial (Land Use Code 110) in the Institute of Transportation Engineers (ITE) Trip Generation Manual, 8th Edition. The most intense development allowed under the proposed EXd zone is assumed to be General Office Building (Land Use Code 710) in the ITE Trip Generation Manual.

Zone Designation	Land Use (ITE Land Use Code)	SF	Weekday PM Peak Hour		
			Enter	Exit	Total
Proposed – EXd	General Office Building (710)	42.5K	11	52	63
Current – IG1	General Light Industrial (110)	17.0K	2	14	16
Total Trip Generation Increase			9	38	47
<i>Non-Motorized Vehicle Reduction (32%)</i>			<i>(3)</i>	<i>(12)</i>	<i>(15)</i>
Net Motor Vehicle Trip Generation Increase			6	26	32

For analysis purposes, 2027 trip modes are split in accordance with those used in the January 2006 Burnside Bridgehead Development Rezone Transportation Impact Analysis: 20% transit, 12% bicycle/pedestrian, and 68% motorized. These splits are deemed reasonable based on the surrounding urban environment and proximity to major transit routes (Burnside St, Grand Ave/MLK Jr Blvd and the Portland Streetcar extension (set to launch the weekend of Sept 22, 2012. PBOT is supportive of this approach.

Based on ITE data, development in the proposed EXd zone designation is anticipated to generate an additional 32 PM peak hour trips over the current IG1 zone designation.

Intersection capacity calculations were conducted using methodologies presented in the Transportation Research

Board *2000 Highway Capacity Manual* (HCM). Trafficware Synchro software, Version 8, which implements HCM methodologies, was used to prepare the level-of-service (LOS) calculations. The two study area intersections are under the City of Portland jurisdiction and requirements state, "for signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection" (ARB-TRN-10.27. 1.1).

Operation analysis was performed for the weekday PM peak hour at the study area intersections for the following scenarios:

- 2027 Pre-Development
- 2027 Post -Development with Current IG1 zone trip generation
- 2027 Post -Development with Proposed EXd zone trip generation

Intersection	INTERSECTION OPERATIONS (LOS)		
	2027 Pre-Development	2027 Post- Development Current IG1 Zone	Proposed EXd Zone
MLK Blvd/Davis St	B	B	B
Grand Ave/Davis St	B	B	B

As shown above, the applicant's TIS concludes that the study area intersections are anticipated to operate under acceptable City performance measures in all scenarios .

Parking Analysis

The submitted TIS also included a parking analysis in relation to the adequacy of transportation services, which goes above and beyond the standard information that PBOT considers in reviewing requested Zone Changes in conformance to the Comprehensive Plan designation. PBOT compliments the applicant and his traffic consultant for providing the following analysis, which should be considered as additional information only.

On-site parking is not required in the EXd zone, and City policy limits parking supply as a way of promoting multi-modal transportation for office uses in the central city. To evaluate the adequacy of available on-street parking, a parking survey was conducted on two different weekdays during periods of time when on-street parking through-out the area is in high demand. The survey identified the types and total number of available on-street parking spaces within a survey area around the site. In establishing the parking survey area the following assumptions were made by the applicant's traffic consultant, which PBOT staff supports:

- Employees and visitors will not typically walk farther than 3 blocks between their parked vehicle and their origin/destination.
- Employees and visitors will not park north of Interstate-84 due to the walking distance between the site and available on-street parking spaces in that area.
- Employees and visitors will not park west of NE 3rd Ave due to the absence of public connections between the site and available on-street parking spaces in that area.

Based on field data, there are approximately 193 on-street parking spaces in the survey area. Parking utilization was observed at 9:30 AM, 12:00 PM, and 3:00 PM on June 12, 2012 and at 3:00 PM on June 13, 2012. The most number of vehicles observed parking within the survey area were 148 and the least number of vehicles observed occupying on-street parking spaces were 120. Based on observations, there is available on-street parking within the parking survey area during the various times of the day during which parking demand is high.

For analysis purposes, a parking demand rate of 1.2 spaces per 1,000 SF of building area was assumed for 2027 conditions based on the rate used in the January 2006 Burnside Bridgehead Development Rezone Transportation Impact Analysis. At a rate of 1.2 spaces per 1,000 SF, a 42,500 SF office building will generate demand for 51 additional parking spaces. Based on the number of parking spaces available within the survey area during peak parking demand times, the potential site demand for 51 additional parking spaces will exceed the available on-street parking provided during several time periods by a maximum of 6 spaces.

The applicant provided additional information to address the projected shortfall in on-street parking noted above. The

subject site and parking study area are considered to be within the Central Eastside Parking Management (CEID) Plan district. The CEID Plan, which was adopted by City Council in June of this year, is focused on solving recognized parking problems within the district by implementing a variety of strategies. The applicant's additionally supplied information identified several measures that will be incorporated by the City to improve parking in the district and suggested a number of total additional parking spaces that might be realized throughout the subject parking study area and overall CEID Plan district. This information was reviewed by PBOT staff and was found to be somewhat exaggerated, however, the programs that are, and will be implemented with the CEID Plan, will certainly result in creating/re-creating a sufficient number of parking spaces to make up the previously identified deficiency (6 spaces) in on-street parking demand associated with the proposed Zone Change. Again, this analysis is provided as additional information only, but the applicant has further demonstrated that the subject adequacy of services approval criterion will be satisfied.

The recently amended Transportation Planning Rule (effective January 1, 2012) generally requires a local government to determine whether certain regulatory amendments will "significantly affect an existing or planned transportation facility." The land use actions that trigger compliance with this requirement are amendments to a functional plan, comprehensive plan, or a land use regulation (including a zoning map amendment). (OAR 660-012-0060(1)) If the local government finds an amendment has a significant effect, it must take one or more specifically identified steps to address and remedy this conflict (OAR 660-012-0060(2)).

The amended TPR includes an exception to this general requirement for a zoning map amendment where the proposed new zoning is consistent with: (1) the comprehensive plan map designation for the site; and (2) the local Transportation System Plan. If both conditions are satisfied, the local government may find that the amendment "does not affect an existing or planned transportation facility." (OAR 660-012-0060(9)). In this case, the proposed EX(d) zoning is consistent with Comprehensive Plan Map designation for the site and the local Transportation System Plan. Accordingly, the above referenced approval criterion is satisfied. (Exhibit E.2)

3. Services to a site that is requesting rezoning to IR Institutional Residential, will be considered adequate if the development proposed is mitigated through an approved impact mitigation plan or conditional use master plan for the institution.

Findings: The request does not include rezoning to the IR zone. This criterion does not apply.

- C. When the requested zone is IR, Institutional Residential.** In addition to the criteria listed in subsections A. and B. of this Section, a site being rezoned to IR, Institutional Residential must be under the control of an institution that is a participant in an approved impact mitigation plan or conditional use master plan that includes the site. A site will be considered under an institution's control when it is owned by the institution or when the institution holds a lease for use of the site that covers the next 20 years or more.

Findings: As stated above, 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

The applicant is requesting a zoning map amendment to change the existing zoning of IG1, General Industrial 1 to EXd, Central Employment zone with the d, Design Review Overlay.

The proposed zoning is in conformance with the City's Comprehensive Plan designation of (EXd) for this area. No concerns or objections were noted by the service bureaus and no conditions of approval are recommended by the service agencies. This request meets all of the applicable approval criteria and therefore should be approved.

TENTATIVE STAFF RECOMMENDATION

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

Approval of a Zoning Map Amendment from the IG1, General Industrial 1 zone to EXd, Central Employment zone with the d, Design Overlay zone.

Procedural Information. The application for this land use review was submitted on July 19, 2012, and was determined to be complete on **August 20, 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 July 19, 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 December 18, 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 recommendation 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.

This report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case. This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of

the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at www.portlandonline.com. On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

Appeal of the decision. The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Who can appeal: You may appeal the decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/applicant. Appeals must be filed within 14 days of the decision. **Appeals must be filed within 14 days of the decision. An appeal fee of \$5,000.00 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000).**

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

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.

- 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 approval. 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.

Planner's Name: Sheila Frugoli

Date: September 28, 2012

EXHIBITS

NOT ATTACHED UNLESS INDICATED

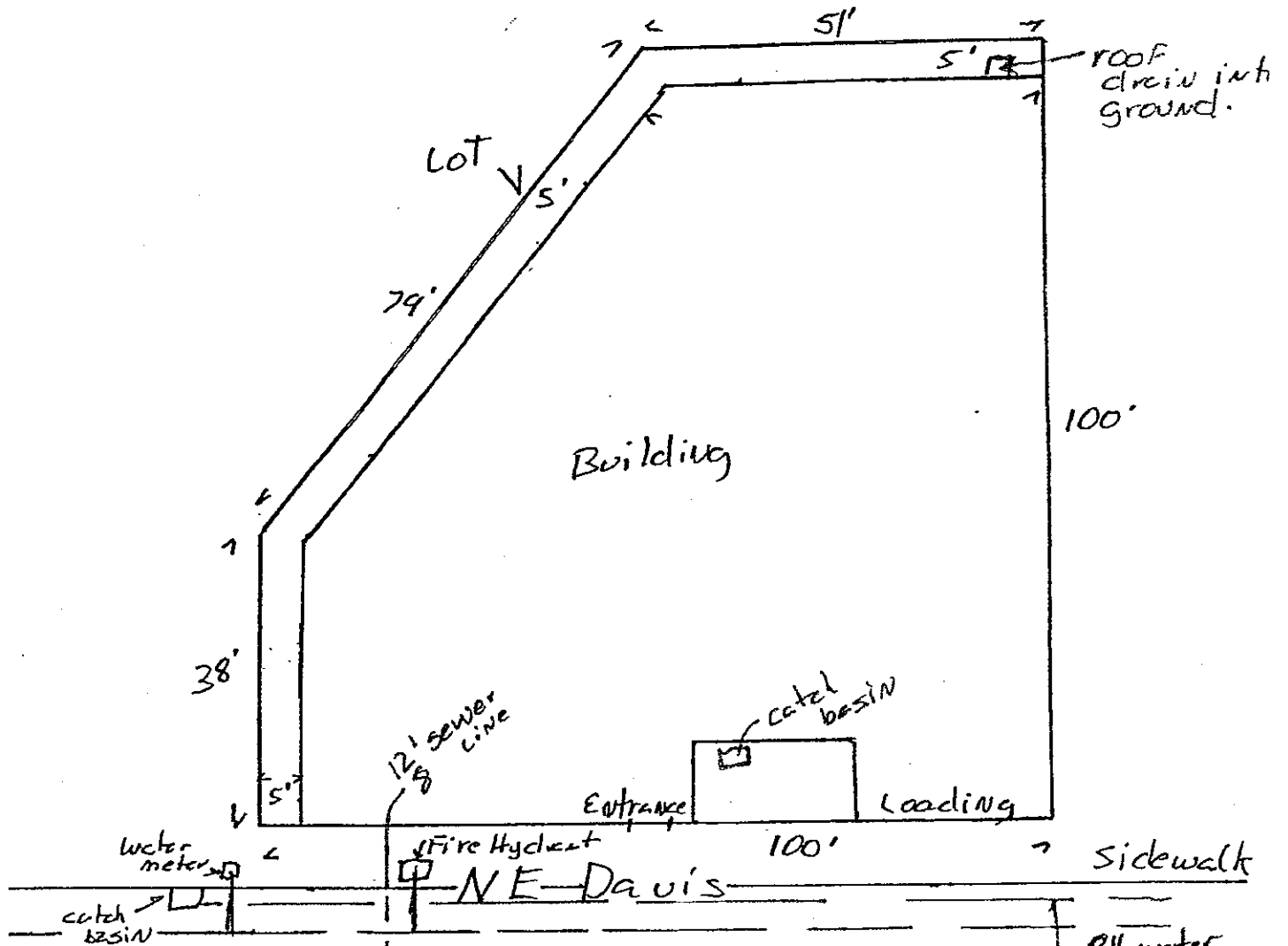
- A. Applicant's Statement:
 - 1. Response to Approval Criteria
 - 2. Supplemental Parking Analysis, Prepared by Group Mackenzie, September 13, 2012
 - 3. Revised Transportation Impact Analysis, by Group Mackenzie, August 9, 2012
 - 4. Transportation Impact Analysis, by Group Mackenzie, July 19, 2012
- B. Zoning Map (attached):
 - 1. Existing Zoning
 - 2. Proposed Zoning
- C. Plans & Drawings:
 - 1. Site and Utility Plan – Existing Development, Submitted August 10, 2012 (attached)
 - 2. Site Plan
- D. Notification information:
 - 1. Request for response
 - 2. Posting letter sent to applicant
 - 3. Notice to be posted
 - 4. Applicant's statement certifying posting
 - 5. Mailing list
 - 6. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Police Bureau
 - 6. Site Development Review Section of Bureau of Development Services
 - 7. TRACS Print-Out Documenting "No Concerns" from Life Safety Plan Review Section of BDS and Bureau of Parks, Forestry Division
- F. Letters: NONE
- G. Other:
 - 1. Original LUR Application
 - 2. Incomplete Application Letter from Staff to Applicant

3. Pre-Application Conference Memo

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).

Site UTILITY Plan

The utilities were physically located the week of August 8th, 2012.



property: .19 acres
8,481 sq ft

building: 7,181 sq ft

Scale 1:20

8" water
storm water
↑
N

321
315 NE Davis
IN 1E34DA 1000

24" sewer line

Exhibit C.1

LU12-1639552C

