



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
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Date: March 13, 2014
To: Interested Person
From: Sylvia Cate, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in 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 14-102570 AD

GENERAL INFORMATION

Applicant: Dave Gildersleeve / Design Structures LLC
8401 NE Halsey St #205 / Portland OR 97220

Owner: FedEx Ground Package
1000 FedEx Dr / Moon Township, PA 15108

Site Address: 6447 N CUTTER CIR

Legal Description: BLOCK 7 LOT 2, 1951 COMMISSIONERS ADD
Tax Account No.: R605604700, R605604700, R605604700
State ID No.: 1N1E17A 01000, 1N1E17A 01000, 1N1E17A 01000
Quarter Section: 2426
Neighborhood: Overlook NA, contact Kent Hoddick at 503-286-9803.
Business District: Swan Island, contact Sarah Angell at 503-745-6523.
District Coalition: North Portland Neighborhood Serv, Mary Jaron Kelley at 503-823-4099.

Zoning: IG2: General Industrial 2
Case Type: AD: Adjustment
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to redevelop the site with a new 212,015 square foot warehouse/distribution facility. The zoning code regulates the number of parking spaces for specified development; the applicant is requesting an Adjustment to 33.266.115.B. which allows a total of 112 parking spaces. The Zoning Code classifies parcel distribution facilities as Warehouse and Freight Distribution Uses. The parking maximum assumes a relatively low number of employees working in large industrial buildings. The code allowance is six parking spaces for the first 3,000 square feet of floor area, and 1 parking space per 2,500 square for the remaining floor area of the building. When the facility is not well served by transit, with 20-minute peak hour service, the allowed maximum is 125 percent of the numeric amount.

The applicant requests approval to exceed the maximum allowed on-site parking from 112 to 487 parking spaces. The proposed facility will replace the existing onsite FedEx facility and will operate 24/7 for Ground and Home delivery services.

The requested parking spaces will host 439 auto parking for employees and contract workers plus 48 spaces for package delivery vans. The new facility will also require onsite surface parking for tractors, dolly storage, semi-truck tractors and trailers. Employee shifts overlap, so that there is an increase in parking demand during shift changes. Additionally, during the last quarter of the year [October-December] the peak season employee base increases approximately 40%, increasing the parking demand during these months and in particular during shift changes that overlap.

Relevant Approval Criteria:

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

- 33.805.040.A.-F.

ANALYSIS

Site and Vicinity: The 22.3 acre Fed Ex site is currently developed with a package sorting and distribution building, a vehicle service facility, truck parking and employee parking areas. The facility fronts N. Cutter Circle and N. Leverman Street. The site is located within the Swan Island industrial area, which is comprised predominately of trucking and warehouse facilities and industrial flex-space buildings.

Zoning: The FedEx facility is located in a General Industrial 2 zone, as described below:

- General Industrial 2 Zone. The General Industrial zones implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zones provide areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve for industry. The IG2 areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverage and buildings that are usually set back from the street.

Land Use History: City records indicate there are two prior land use reviews:

- Case # 5-89 VZ which approved a variance in 1989 to the landscaping requirements.
- LU 08-172985 AD approved an Adjustment to exceed the maximum allowed parking on site. This approval has expired.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **January 31, 2014**.

The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Bureau of Parks-Forestry Division.

The Bureau of Environmental Services responded with no objection to the proposal, but recommends a condition of approval regarding stormwater management.

The Bureau of Transportation Engineering responded with no objection to the proposal, but recommends a condition of approval regarding preparing a Transportation Demand Management Plan.

Neighborhood Review: One written response has been received from the Neighborhood Association in response to the proposal. The Overlook Neighborhood Association is supportive of the request and welcomes FedEx Ground Package back to the neighborhood. The letter also requests that the City request that FedEx work with the Swan Island Transportation

Management Association to create a transportation management plan for the new facility. The ONA also requests that FedEx provide their employees with a transit subsidy to encourage the use of public transportation to the site.

Staff Comment: PBOT acknowledges the correspondence that has been submitted into the record in response to the proposed land use request. A letter submitted by the Overlook Neighborhood Association included comments that are supportive of the use on the subject site but also includes remarks that express concerns over expected (by OKNA) additional “cars and traffic”. The OKNA has requested that the City include conditions of approval (in support of the Adjustment) to require FedEx to create a transportation management plan in conjunction with the Swan Island Transportation Management Association and, to require FedEx to provide transit subsidies to their employees to encourage use of public transportation options.

ZONING CODE APPROVAL CRITERIA

Adjustments

33.805.010 Purpose

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the 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 to provide certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met. Adjustments to the ground floor window requirements of this Title must also meet the additional requirements stated in the ground floor window sections in the base zones.

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

Findings: The purpose of the development standard requested for an Adjustment to maximum parking ratios is found at Section 33.266.115.A of the Zoning Code, which states:

Limiting the number of spaces allowed promotes efficient use of land, enhances urban form, encourages use of alternative modes of transportation, provides for better pedestrian movement, and protects air and water quality.

The maximum ratios in this section vary with the use the parking is accessory to and with the location of the use. These maximums will accommodate most auto trips to a site based on typical peak parking demand for each use. Areas that are zoned for more intense development or are easily reached by alternative modes of transportation have lower maximums than areas where less intense development is anticipated or where transit service is less frequent. In particular, higher maximums are appropriate in areas that are more than a ¼ mile walk from a frequently served bus stop or more than a ½ mile walk from a frequently served Transit Station.

The applicant requests approval to exceed the maximum allowed on-site parking from 112 to 487 parking spaces. The proposed facility will replace the existing onsite FedEx facility and will operate 24/7 for Ground and Home delivery services.

According to the use classification chapter of the Zoning Code, the large hub building is classified as a Warehouse and Freight Movement Use. The allowed parking is based on assumptions that a large warehouse building will generally have a lower employee count for the square footage of the building. This assumption, however, does not correspond with the 24/7 nature of a parcel delivery facility.

This facility requires a relatively large number of employees per shift, to load and unload semi-trucks, process package movement and to facilitate the delivery of packages to their final destination. The applicants have submitted documentation of numbers of employees that are necessary for full time functionality: 43 full time employees and approximately 151 contract workers as an operational base line, with an anticipated 40% increase in workers during the peak annual holiday season (October through December). The parking is intended to serve the anticipated number of employees and seasonal fluctuations that occur throughout the year, as well as overlapping demands during shift changes.

The applicant notes that the new facility will require a total of 487 vehicle parking spaces which will provide 439 auto parking spaces for employees and contract workers plus 48 Home Delivery vans. The new facility will also require onsite surface parking for tractors, dolly storage, semi-truck tractors and trailers and parking for Home Delivery vans inside the building. These parking areas are not included in the overall vehicle parking spaces because these items will not be parked in required parking spaces, and in general are in a storage or loading and unloading mode dependent on operations at the package facility.

The Swan Island Industrial area consists of large paved areas, large warehouse-like buildings, and other industrial flex-type buildings. Large surface parking lots do not detract from the urban form of the immediate industrial area, and in general are necessary to support large industrial uses. The specific operations of the FedEx facility, as noted earlier, does not conform to the more typical operations of a warehouse that requires far fewer employees and does not accept and distribute goods on a daily basis.

The phenomenon of higher fuel costs and an awareness of carbon impacts will continue to create economic and social incentives for employees and businesses to use alternative forms of transportation. Although the #85 bus does not provide peak-hour service nor does it run on the weekends, the bus still offers a viable alternative to many Swan Island workers. The availability of on-site vehicle parking at this facility will not create a disincentive for using alternative modes of transportation. The Portland Bureau of Transportation responded to the requested Adjustment, and noted the following:

While encouraging alternative modes of travel, including carpooling, bicycling and walking, should always be promoted in relation to new development, realizing said options for commuting to the subject site is challenging considering the context of the Swan Island area, as compared to the very different predominantly single-family residential neighborhood(s) that are situated above Swan Island. Nonetheless, PBOT will impose a condition of approval to require the submittal of a Transportation Demand Management Plan (TDMP) prior to the issuance of a Building Permit for the project.

As part of the redevelopment of the building on site, the applicant will be installing perimeter and interior landscaping and utilizing the new landscaping as part of the stormwater management on site. The air and water quality benefits of the new landscaped area will serve to reduce the carbon impact of the additional parking spaces.

For all of the above reasons, and with the condition of approval, this criterion is met.

B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The site is located in a General Industrial (IG2) zone. It has frontage on N. Cutter Circle and N. Leverman Street. The entire site is located in a designated Freight District. The streets are classified in the Transportation Element of the Comprehensive Plan as local service streets. Portland Office of Transportation, Engineering and Development reviewed the proposal for conformance with adopted transportation policies, Title 17, and Title 33 approval criteria, as well as conformance with street designations. The Transportation Engineering staff found no concerns with the requested adjustment.

The Zoning Code defines the term “desired character” as being based on the purpose statement of the base zone, and the preferred and envisioned character included in adopted area plans (Section 33.910.030). The purpose and characteristics of the IG2 zone are described as follows:

The employment and industrial zones are for areas of the City that are reserved for industrial uses and for areas that have a mix of uses with a strong industrial orientation...The regulations promote areas which consist of uses and developments which will support the economic viability of the specific zoning district and of the City. The regulations protect the health, safety and welfare of the public, address area character, and address environmental concerns.

The General Industrial zones are two of the three zones that implement the Industrial Sanctuary map designation of the 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.

IG2 areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street.

The Adjustment request is consistent with the desired character of the area, as it will be supportive of new industrial development in this area. The requested 487 parking spaces are intended to meet anticipated parking demands and provide spaces for the transition during shift change. The on-site parking will reduce traffic conflicts (employees and customers cueing in the roadway looking for spaces) and will reduce on-street parking demands. This criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one adjustment is requested. Therefore, this criterion does not apply.

- 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 dot. 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: The FedEx distribution facility operates differently from a typical warehouse use, and given the 24/7 operations and the services provided at the facility necessitates additional parking beyond what is normally anticipated for a warehouse. The existing paving will require re-striping as well as some reconfiguration to install required perimeter and interior landscaping. As mitigation for the increased number of parking spaces, the Bureau of Environmental Services requests a Condition of Approval that the stormwater management for the parking lot meet the current Storm Water Management Manual

(SWMM) requirements at time of permit. The additional landscaping installed throughout the impervious parking areas can be incorporated into the stormwater management system as part of the SWMM requirements. With this condition, 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, which is designated on the zoning map by either a “c” or “p” overlay. Therefore, this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The requested 487 parking spaces are intended to meet anticipated parking demands and provide spaces for the transition during shift change. The on-site parking will reduce traffic conflicts (employees and customers cueing in the roadway looking for spaces) and will reduce on-street parking demands. As part of the redevelopment of the site and reconfiguration of the parking lot, additional perimeter and interior landscaping will be added. The air and water quality benefits of the new landscaped area will serve to reduce the carbon impact of the additional parking spaces.

The applicant has demonstrated that the applicable Adjustment approval criteria have been met, and therefore the request should be approved.

ADMINISTRATIVE DECISION

Approval of:

- Adjustment to increase the number of parking spaces on site from the maximum allowed 112 to 487 spaces, per the approved site plans, Exhibits C-1, signed and dated March 10, 2014, subject to the following conditions:
- A. As part of the building permit application submittal, the following development-related conditions (B & C) 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 14-102570 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At time of building permit review, the applicant must satisfy the requirements of the Storm Water Management Manual for management of stormwater from the parking lot.
- C. Prior to the issuance of a Building Permit for the proposed project, the applicant shall submit (to PBOT staff) a Transportation Demand Management Plan containing measures to reduce the number of single-occupancy vehicle trips to the site.

Staff Planner: Sylvia Cate



Decision rendered by: _____ **on March 10, 2014**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 13, 2014

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 January 8, 2014, and was determined to be complete on January 30, 2014.

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 January 8, 2014.

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: May 8, 2014.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on March 27, 2014** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **March 28, 2014**.
- 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

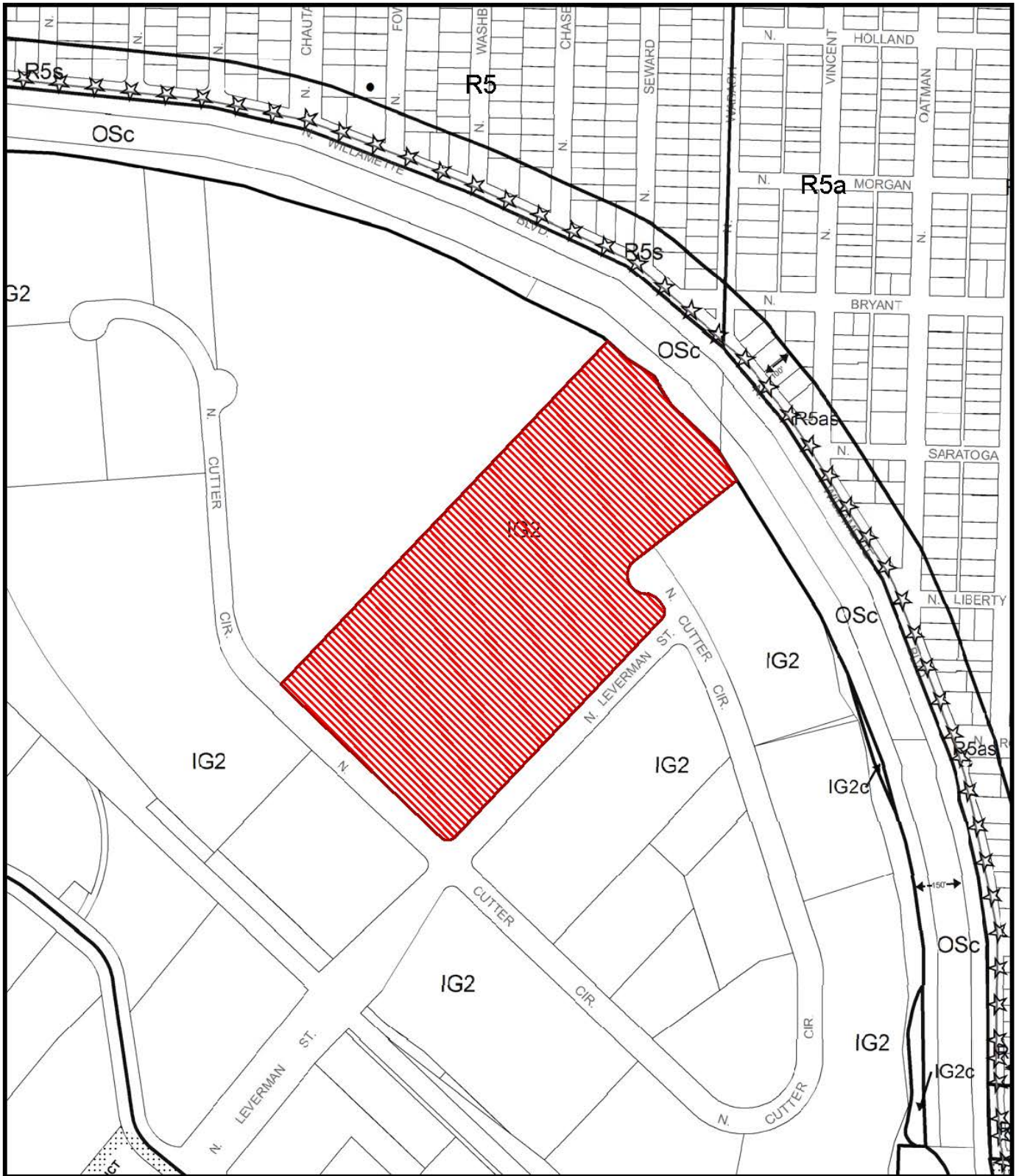
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review (Revised)
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Overlook Neighborhood Association, February 18, 2014, Support with a request that the applicant work with the Swan Island Transportation Management Association
- G. Other:
 - 1. Original LU Application

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

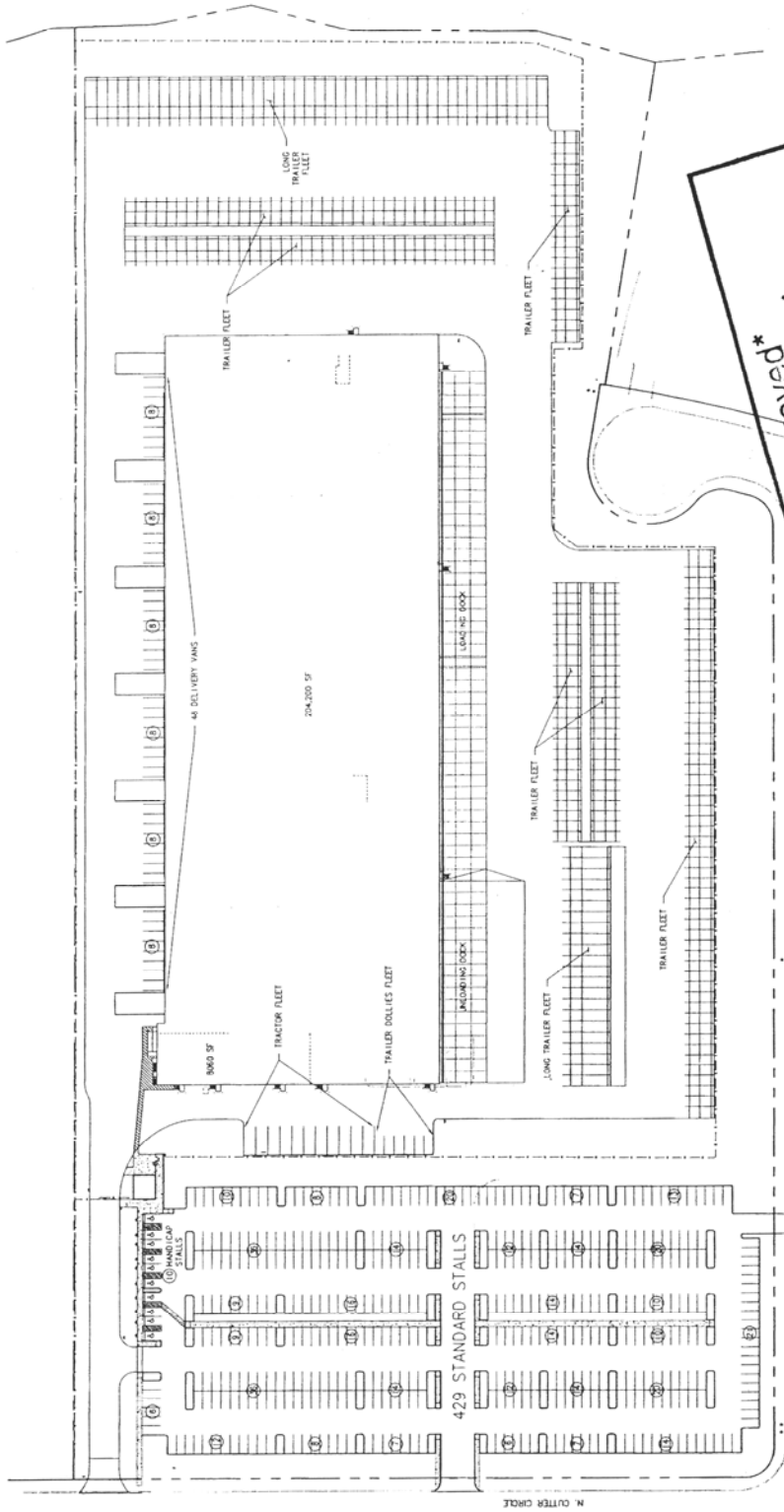


File No. LU 14-102570 AD
 1/4 Section 2326,2327,2426
 Scale 1 inch = 400 feet
 State_Id 1N1E17A 1000
 Exhibit B (Jan 13,2014)

Scannell Properties
 WAREHOUSE/DISTRIBUTION CENTER
 6447 N. CUTTER CIR, PORTLAND, OR 97217
 PROPOSED PARKING PLAN

orak
 Planning & Design
 17034 S. PARKWAY, R.I.
 PROJECT NO. 000009366
 SHEET NO. EX02

| NO. | DATE | BY | REVISION COMMENTS |
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*** Approved ***
 Bureau of Development Services
 City of Portland
 Planner 3-10-2014
 Date 3-10-2014
 * This approval applies only to the review requested and is subject to all conditions of approval. Additional requirements may apply.

N. LEVERMAN STREET



EXHIBIT C-1