



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

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

Date: October 27, 2014
To: Interested Person
From: Mark Walhood, City Planner
 503-823-7806 / mark.walhood@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A REVISED PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, 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 14-196123 AD

GENERAL INFORMATION

Applicant: Judson Moore / Works Partnership Architecture
 524 E Burnside St Ste 320 / Portland OR 97214

Property Owner: 134 NE 6th Avenue LLC
 116 NE 6th Ave #400 / Portland OR 97232

Site Address: 160 NE 6TH AVE

Legal Description: BLOCK 148 LOT 1, EAST PORTLAND
Tax Account No.: R226509440
State ID No.: 1N1E35CB 04400
Quarter Section: 3031
Neighborhood: Kerns, contact Steve Russell at 503-784-8785.
Business District: Central Eastside Industrial Council, contact Peter Fry at 503-274-2744.
District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.
Zoning: **IG1** (General Industrial 1 base zone), **Central City plan district**
Case Type: **AD** (Adjustment Review)
Procedure: **Type II**, an administrative decision with appeal to the Adjustment Committee.

REVISED Proposal: During the public comment period for this case, both city staff and neighbors objected to the proposal to completely eliminate loading on the property, and asked the applicant to reconsider their request. In response, the applicant agreed to reconfigure the first floor parking area to accommodate a single, smaller loading space. The original proposal had 8 parking spaces and no on-site loading, but the revised proposal includes 7 parking spaces and a smaller, van-sized loading space meeting the 'B' loading stall dimensions. The revised proposal being considered in this decision substitutes a small 'B' space for the larger 'A' space normally required.

The applicant has proposed the development of a speculative mixed-use retail and industrial building in the Central Eastside. The building includes a small retail space and enclosed

garage for 7 cars on the ground floor, with open plan industrial spaces four upper floors. The site is a 5,000 square-foot parcel on the southwest corner of the intersection of NE Davis Street and NE 6th Avenue, which the proposed building would cover completely. The building includes approximately 24,400 square feet of floor area.

Zoning Code regulations require a single 'A' loading space for the building, as it contains between 20,000 and 50,000 square feet of non-residential uses (33.266.310.C.2.b). 'A' loading spaces are required to be 35 feet long, 10 feet wide, and have a vertical clearance of 13 feet. As revised, the building has one small 'B' loading space on site measuring 18 feet long, 9 feet wide, and with a vertical clearance of 10 feet. Therefore, the applicant has requested an Adjustment to reduce the size of the required loading space from an 'A' stall (35 by 10 feet with 13 feet clearance) to a 'B' stall (18 by 9 feet with 10 feet clearance).

RELEVANT APPROVAL CRITERIA: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found at **33.805.040, Adjustment Approval Criteria**.

ANALYSIS

Site and Vicinity: The site is a 5,000 square-foot lot at the southeast corner of the intersection of SE 6th Avenue and Davis Street. Currently developed with a gravel surface parking lot, the site is without permanent structures or improvements. The surrounding development is eclectic and includes surface parking lots, single- and multi-story industrial buildings, Victorian-era housing, smaller retail and office buildings, and newer multi-story mixed-use and residential structures. The site frontage is improved with paved concrete sidewalks, and includes large curb cuts on both streets. A planting strip with three street trees is found along NE Davis Street, as well as a single tree along NE 6th Street.

Zoning: The IG1 zone is one of three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides area for most industrial uses to locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. The IG1 designation tends to be applied in older, closer-in industrial districts that are mostly developed.

The Central City plan district provides an additional layer of use regulations and development standards that address circumstances unique to the Central City area. These regulations implement provisions of various plans that have been adopted over the years for the area, including the Downtown Plan, the Central City Plan, and the Central City Transportation Management Plan.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **September 8, 2014**. The following Bureaus have responded with comments:

The *Development Review Section of Portland Transportation (PBOT)* has reviewed the proposal and responded in support of the revised proposal to substitute a smaller 'B' loading space for the required larger 'A' loading space. A full excerpt of the relevant findings made in support of the Adjustment request is included later in this report. In addition to the Adjustment findings, this response also notes that all Title 17 requirements for frontage improvements have already been identified during the building permit process for 14-176360 CO (Exhibit E.1).

The *Urban Forestry Division of Portland Parks and Recreation* has reviewed the proposal and responded with standard comments regarding street trees. Street trees will be required for the project as determined by the City Forester during the permit review process. Existing street trees are to be protected and preserved, or mitigation for the loss of tree canopy will be required. Because the authority to impose Title 20.40 (street tree) regulations applies regardless of the decision in this Adjustment application, the Urban Forestry Division of

Portland Parks and Recreation has no objection to the requested Adjustment. Exhibit E.2 contains staff contact and additional information.

The *Water Bureau* has reviewed the proposal and offered comments regarding water services for the new building, but no comments or objections regarding the requested Adjustment to loading. The project must receive a Water Bureau review for appropriately-sized water services and meters during the building permit process, with all applicable costs being the responsibility of the applicant. Exhibit E.3 contains staff contact and additional information.

The *Life Safety Section of the Bureau of Development Services* has reviewed the proposal and provided comments regarding Building Codes and accessible parking, but no objections or recommendations regarding the requested loading Adjustment. Exhibit E.4 contains staff contact and additional information.

The following bureaus have responded without comment or concern (Exhibits E.5 & E.6)

- The *Bureau of Environmental Services*;
- The *Fire Bureau*; and
- The *Site Development Section of the Bureau of Development Services*.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on September 8, 2014. A total of two written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. One neighborhood resident objects to the requested full waiver of the required loading space due to transportation safety concerns in terms of bicycle traffic past the site, arguing that the Couch-Burnside couplet created hazardous biking conditions on Couch which leads cyclists to use NE Davis Street as an alternative route. The concern is that the inevitable on-street loading that would result would create hazardous conditions for all modes of traffic. A second letter from the owner and President of the property immediately to the east objects to the waiver of loading because of potential impacts to their site and operations, as well as related to additional street parking pressure in the neighborhood. A repeated concern in this letter is that loading or parking needs associated with the new building will occur on the adjacent private property without permission. Finally, this second letter expresses concerns about temporary construction-related impacts.

Staff Note: Transportation-related concerns are evaluated by Portland Transportation staff, and relevant transportation issues regarding the requested loading Adjustment, as revised, will be considered in the findings below. There is no minimum parking required for the site given the Central City location, and therefore sufficiency of on- or off-street parking is not under consideration. Temporary construction-related concerns are also not the subject of this land use review. Nevertheless, the applicant has been encouraged to work with the adjacent property owner and address their various concerns.

ZONING CODE APPROVAL CRITERIA

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. have been met.

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

Findings: The purpose of the loading standards is found in Code Section 33.266.310.A and is stated as follows:

“A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of the loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or

other transportation functions of the abutting right-of-way". The relevant portions of the aforementioned purpose statement in italics are addressed below.

Based on information from the applicant, in relation to site context, the total occupied usable floor area in uses is less than 20,000 square feet and there is an existing on-street loading zone near the site. More specifically the building will be divided into much smaller tenant occupancies ranging from 500 to 3500 square feet. The nature of the occupancies is creative work space, with tenants that have small office and manufacturing operations requiring computer equipment, conference space, and light manufacturing production equipment such as laser cutters and 3-d printers. The demand for parts and production stock is routinely small deliveries carried out by local couriers in cars and vans, and national delivery services such as Fed-Ex or UPS with similar vehicle types. The anticipated tenant uses and spatial requirements will result in delivery demand by vehicle types fitting the Standard B dimensional clearances.

Given the tenant space needs and the types of uses (users) expected to occupy the new building, it is feasible that loading needs will be satisfied with the smaller "Standard B" loading space. The applicant's revised on-site parking/loading space maneuvering area is sufficient to accommodate the parking and loading functions of the anticipated users, including employees. It is PBOT's understanding that the proposed parking spaces will be for employees of the proposed building and not for visitors. Accordingly, the parking spaces will be occupied by familiar users and thereby, minimizing potential impacts with the abutting public right-of-way. Therefore, 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: At this location, the City's Transportation System Plan (TSP) classifies NE Davis and NE 6th Ave as Local Service streets for all modes; however, the TSP acknowledges that the site is within a freight district.

The TSP states that, "Local Service Traffic streets are intended to distribute local traffic and provide access to local residences or commercial uses. Local Service Transit streets should give preference to access for individual properties and to the specific needs of property owners and residents along the street. These streets may carry school buses. Local Service Bike streets should not have a side effect of creating, accommodating or encouraging automobile through-traffic. Local Service Walkways are usually located in residential, commercial or industrial areas on Local Service Traffic streets. Local Service Design streets are multimodal, but are not intended for trucks (other than local deliveries) in residential areas. Their design includes many connections with other streets, sidewalk and on-street parking. The site's frontage is improved with curb and sidewalk which support pedestrian activity throughout the broader neighborhood. NE Davis and NE 6th Ave are consistent with the purposes and designs mentioned above. The street grid system in the area surrounding this site provides a transportation system that serves all modes.

The TSP states that, "freight districts are intended to provide safe and convenient truck mobility and access in industrial and employment areas serving high levels of truck traffic and to accommodate the needs of intermodal freight movement. Freight districts should support industrial and employment land uses that rely on multimodal freight movement. Freight district streets also provide local truck access and circulation to industrial and employment land uses. Freight district streets should be designed to facilitate the movement of all truck types and over-dimensional loads, as practicable".

This proposal meets criterion B, because the use of on-site loading areas exceeds the typical use of freight district street classification and characteristics of developments in

the IG1 zone. The development is a zero lot line building on a 5,000 square foot lot in the Central Eastside Sub-district of the Central City. Full building coverages are practical in this area, in part, because of the Freight District street classification which allows use of the r.o.w. to support the loading activities required for these uses. An anticipated mix of retail sales and service and industrial usable area is proposed for the new building with accessory support spaces. With both street frontages of the building classified as freight district streets, the character and functionality of the streets as freight transit corridors and loading zones will be utilized by the building users, supporting the character of the zone. The on-street loading zone across the street from the site is large enough to support multiple modes of freight transportation. Inclusion of the Standard B on-site loading space provides additional loading capabilities for smaller, more frequently used vehicle types.

PBOT can support the request to provide one “Standard B” size on-site loading space (instead of the required “Standard A” space). Given the limited amount of loading activity that will be associated with the expected users of the new building, PBOT staff does not expect that the lack of “Standard A” loading space will result in a negative effect on the traffic safety or other transportation functions of the abutting right-of-way. Further, the proposal will be consistent with the (TSP) classifications of the adjacent streets. Therefore, 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 has been requested. Therefore, this criterion does not apply.

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

Findings: There are neither scenic nor historic resources designated on the site. Therefore, this criterion does not apply.

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

Findings: As noted above in findings for criteria A and B, the requested Adjustment to replace the larger ‘A’ loading space with a smaller ‘B’ space is not anticipated to have significant negative impacts on the functionality of the adjacent streets or transportation system. Therefore, 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 in an environmental zone. Therefore, this criterion does not apply.

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

With the revised proposal to substitute a smaller ‘B’ loading space on-site instead of the larger ‘A’ loading space, the proposal adequately manages expected loading impacts on the

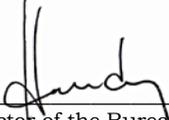
surrounding public street system, as indicated with supportive findings on the request from Portland Transportation. As the relevant approval criteria can be satisfied, the proposal must be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to reduce the size of the required loading space (33.266.310.D) for a new 1/8 block speculative mixed-use industrial building at 160 NE 6th Avenue from an 'A' stall (35 by 10 feet with 13 feet clearance) to a 'B' stall (18 by 9 feet with 10 feet clearance). This approval is granted based on the approved revised drawing set, Exhibits C.1 through C.3, all signed and dated October 22, 2014, and subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 14-196123 AD."

Staff Planner: Mark Walhood

Decision rendered by:  **on October 22, 2014.**
By authority of the Director of the Bureau of Development Services

Decision mailed: October 27, 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 August 8, 2014, and was determined to be complete on **September 4, 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 August 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 January 1, 2015.**

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 November 10th, 2014** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th 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 **November 12th, 2014 – (the next business day following the last day to appeal, please note November 11th is Veteran’s Day Holiday)**.
- 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; **OR**
- **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:

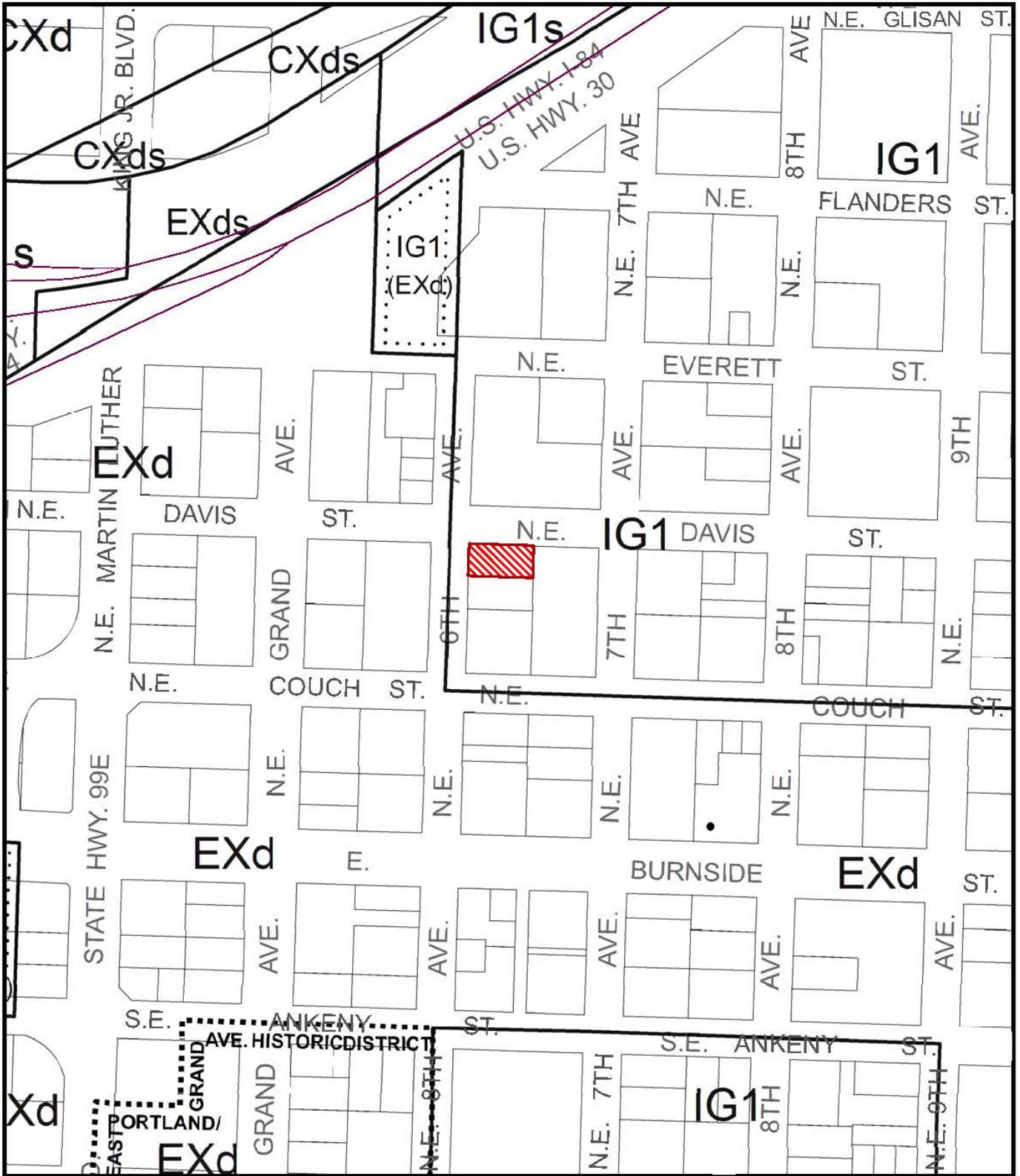
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
 1. Original narrative application and plans
 2. First revised narrative and conceptual plans, rec'd. 10/14 @ 9:32am
 3. Second/final revised narrative, rec'd. 10/14 @ 6:19pm
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site Plan (attached)
 2. Interior Floor/Garage/Loading Plan (attached)
 3. Large, 11" x 17" Site Plan
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Development Review Section of Portland Transportation
 2. Urban Forestry Division of Portland Parks and Recreation
 3. Water Bureau
 4. Life Safety Section of the Bureau of Development Services
 5. Site Development Section of the Bureau of Development Services, Fire Bureau
 6. Bureau of Environmental Services
- F. Correspondence:
 1. E-mail with objections from Mark Sutton, rec'd. 9/10/14, no mailing address provided for decision mailing, no reply received to staff request for mailing address sent via e-mail 9/30/14
 2. E-mail comment letter with objections from Mark Twietmeyer, URS Electronics, rec'd. 9/25/14
- G. Other:
 1. Original LU Application Form and Receipt
 2. Staff e-mail to applicant identifying concerns and options on how to proceed, sent 10/1/14

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



ZONING



Site

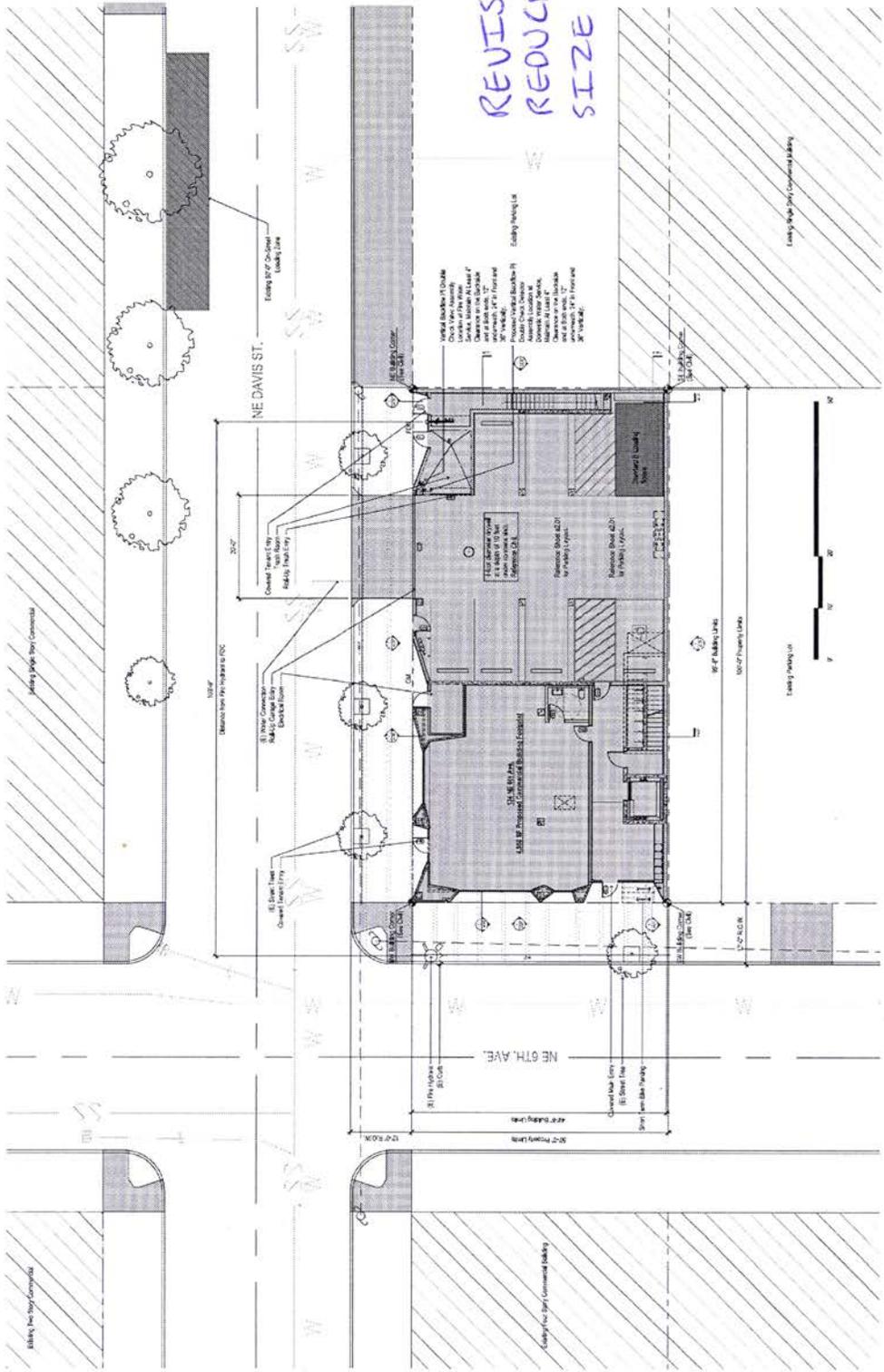


Historic Landmark



This site lies within the:
CENTRAL CITY PLAN DISTRICT
CENTRAL EASTSIDE

File No.	LU 14-196123 AD
1/4 Section	3031
Scale	1 inch = 200 feet
State_Id	1N1E35CB 4400
Exhibit	B (Aug 12, 2014)



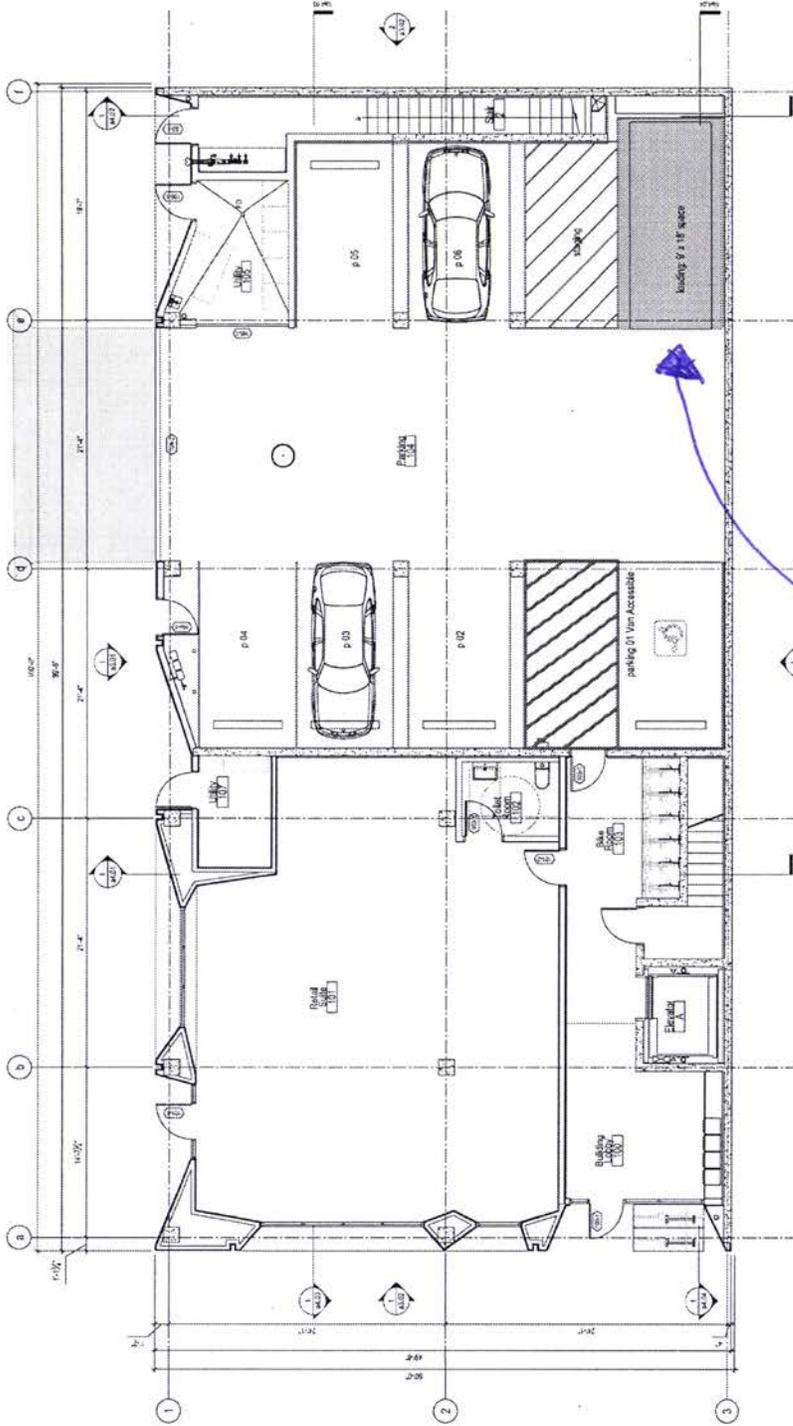
REVISUO PROPOSAL:
 REDUCE LOADING STALL
 SIZE FROM 'A' (35'x10'x13')
 TO 'B' (18'x9'x10')



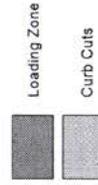
Approved
 City of Portland - Bureau of Development Services
 Planner **MARK WALHOOD** Date **OCT. 22, 2014**
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

6th and Davis
 134 NE 6th Ave | PM 14-176360

Proposed Site Plan g0.11



STANDARD 'B' LOADING STALL (9'x18' w/ 10' clearance)



* Approved*
 City of Portland - Bureau of Development Services
 Planner MARK WALHOO Date OCT. 22, 2014
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

6th and Davis
 134 NE 6th Ave | PM 14-176360

Ground Floor Plan a2.01