



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

Dan Saltzman, Commissioner
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Date: August 6, 2015
To: Interested Person
From: David Besley, 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 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 15-191568 AD

GENERAL INFORMATION

Applicant: Jim Wright / Axis Design Group
11104 SE Stark St / Portland OR 97216

Owner: Ron Boyer / Courtesy Ford Lincoln
1313 NE 122nd Ave / Portland, OR 97230

Site Address: 1313 NE 122ND AVE

Legal Description: LOT 5 TL 1300, HAZELWOOD
Tax Account No.: R370301510
State ID No.: 1N2E34AA 01300
Quarter Section: 2942
Neighborhood: Hazelwood, contact Arlene Kimura at 503-252-9429
Business District: Gateway Area Business Association, contact Fred Sanchez at 503-256-3910
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550
Zoning: CG (General Commercial)
Case Type: AD (Adjustment Review)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant proposes to deconstruct an existing awning/covered parking area on the north side of the existing car dealership building, and to construct an enclosed addition in the same approximate location. The enclosed addition is proposed to be used as a new car delivery room and it would add approximately 10 feet of street-facing façade to the north. The Portland Zoning Code requires that at least 50 percent of the length of the ground level street-facing façade of the building be within the maximum street setback (33.130.215.C.2.c.1) which is 10 feet in this zone; however, less than 50 percent of the street-facing façade of the existing

building is within the maximum 10-foot setback. Because the addition increases the amount of street-facing façade outside this required 10-foot maximum setback, approval through an Adjustment review is necessary. The applicant requests one adjustment to allow the proposed addition to be 80 feet from the street property line.

Relevant Approval Criteria:

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

ANALYSIS

Site and Vicinity: The 127,685 square-foot site has frontage along NE 122nd Avenue to the east, NE Halsey Street to the north, and NE 119th to the west. The relatively flat site is developed with a car dealership. It is located on a busy commercial corridor (NE 122nd Avenue) adjacent to a gas station and other automotive-related commercial uses.

Zoning: The General Commercial zone is intended to allow auto-accommodating commercial development, including a full range of retail and service businesses. Development standards are intended to allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

Land Use History: City records indicate there are many prior land use reviews for this site, mainly when the property was within the jurisdiction of Multnomah County including:

- approval for a market in 1978 (MCF 78-09-12);
- a design review to allow the display of autos for sale in 1980 (MCF 80-05-07 DR);
- an exception to the landscaping buffer width on the south side to 15 feet with conditions in 1980 (MCF 33-80 E);
- approval to pave a truck sales and storage area in 1980 (MCF 45-80 PRE);
- a design review to allow a Hyundai auto dealership in 1985 (MCF 85-11-03 DR); and
- two zone changes from urban medium density residential to urban extensive commercial in 1986 (MCF 2-86 PR & MCF F-6-86 ZC).

Subsequently, there have been two City land use reviews including:

- a Design Review with Modifications in 1987 that approved additional parking with the condition that seven trees remain and additional planting be added to the site (MDZ 025-87); and
- an Adjustment in 2001 to increase the maximum sign height limit from 25 feet to 37 feet for a free-standing sign (LU 01-007809 AD) which was denied.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 9, 2015**. The following Bureaus have responded with the following information:

- The Water Bureau responded with no concerns and provided information on water service (Exhibit E-1).
- The Life Safety Section of BDS responded with Building Code information (Exhibit E-2).

The following Bureaus have responded with no concerns:

- The Bureau of Environmental Services
- The Fire Bureau
- The Site Development Section of BDS
- The Bureau of Transportation

Neighborhood Review: Two written responses were received. One was from the Hazelwood Neighborhood Association, which responded with no issues (Exhibit F-1). The second (Exhibit F-2) was from neighbors who live to the southwest of the site. Three concerns were expressed:

1. There has been no landscaping upkeep on 119th Avenue, and there are dead trees, leaves, litter, and an unmaintained fence which has lost most of its wooden slats;

2. Many cars in the back lot are left running for long periods of time, which results in fumes that force these neighbors to close their windows; and
3. There is late night noise and music.

Staff Response: The residents of the property (Exhibit F-2) did not express concerns about this Adjustment proposal, but had unrelated concerns. The neighbors may call Code Compliance at (503) 823-CODE (2633) or contact them online at <http://www.portlandoregon.gov/bds/42240> to inquire if any of these concerns are code violations.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

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

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

Findings: The applicant has requested an Adjustment to build an addition that increases the amount of street-facing façade beyond the required maximum 10-foot setback requirement; the addition is proposed to be 80 feet from the street property line. The relevant purpose statement and associated findings are found below:

33.130.215 Setbacks

Purpose: *The required building setbacks promote streetscapes that are consistent with the desired character of the different commercial zones. The CN1, CM, CS, and CX setbacks promote buildings close to the sidewalk to reinforce a pedestrian orientation and built-up streetscape. The setback requirements for areas that abut residential zones promote commercial development that will maintain light, air, and the potential for privacy for adjacent residential zones. The setback requirements along transit streets and in Pedestrian Districts create an environment that is inviting to pedestrians and transit users.*

The proposal to deconstruct an existing awning/covered parking area on the north side of the existing building and to construct an enclosed addition in the same approximate location and the same approximate size will not result in any additional impacts on light, air, or privacy for adjacent residential zones. Adjacent residential zones are to the south and west, and this addition is proposed to be built on the northeastern corner of the structure; therefore, the addition is physically and geographically separated from the adjacent residential zones. The addition will add approximately 10 feet of street-facing façade to the north, which is considered minimal and, at nearly 80 feet from the front property line, this addition does not feel like part of the front façade. Approximately 85 feet of the existing street-facing façade will be within 10' of the transit street (NE 122nd). The addition will therefore not detract from the inviting pedestrian entrance.

For all the reasons discussed above, 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: As noted above, the site is located on a busy commercial corridor (NE 122nd Avenue) adjacent to other automotive-related commercial uses. PBOT has indicated no concerns that the proposal is consistent with the classification of adjacent streets. The Portland Zoning Code defines *Desired Character* as “the preferred and envisioned character (usually of an area) based on the purpose statement or character statement of

the base zone, overlay zone, or plan district. It also includes the preferred and envisioned character based on any adopted area plans or design guidelines for an area.” In this instance, *Desired Character* is defined by the character statement of the CG zone, the Outer Southeast Community Plan, and the Hazelwood Neighborhood Plan.

The General Commercial character statement notes that this zone is intended to allow auto-accommodating commercial development, including a full range of retail and service businesses. The site is used as a car dealership, which qualifies as auto-accommodating commercial development. The Outer Southeast Community Plan includes a vision to increase commercial activity and encourage expansion and revitalization of existing businesses. Similarly, the Hazelwood Neighborhood Plan notes that it is a significant goal of the plan to maintain and increase the economic viability of the Hazelwood area. The proposed car delivery room addition will likely improve the economic viability of the car dealership.

This proposal is therefore consistent with the Desired Character of the area.

This criterion is met.

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

Findings: Only one Adjustment is being requested; therefore, this criterion is not applicable.

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

Findings: There are no city-designated scenic or historic resources at this site; therefore, this criterion is not applicable.

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

Findings: There are no discernible impacts that would result from granting the requested adjustments for which mitigation would be required. The increased setback is consistent with the development pattern in the vicinity.

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: No environmental zoning is applied to the site; 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 applicant has requested an Adjustment to increase the amount of street-facing façade 80 feet from the front property line where the required maximum setback is 10 feet in order to build a new car delivery room addition. Increased maximum setbacks are consistent with the

development pattern in this area. The proposal meets the applicable approval criteria and should therefore be approved.

ADMINISTRATIVE DECISION

Approval of an adjustment to increase the maximum front street-facing façade setback (33.130.215.C.2.c.1) from 10 feet to approximately 80 feet for a 1,178 square foot single story addition per the approved site plans, Exhibits C-1 through C-2, signed and dated August 3, 2015, subject to the following conditions:

- 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 through C-2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 15-191568 AD."

Staff Planner: David Besley



Decision rendered by: _____ **on August 3, 2015.**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 6, 2015

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on June 24, 2015, and was determined to be complete on **July 6, 2015.**

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on June 24, 2015.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: October 22, 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 August 20, 2015** 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 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 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 **August 21, 2015**.
- 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:

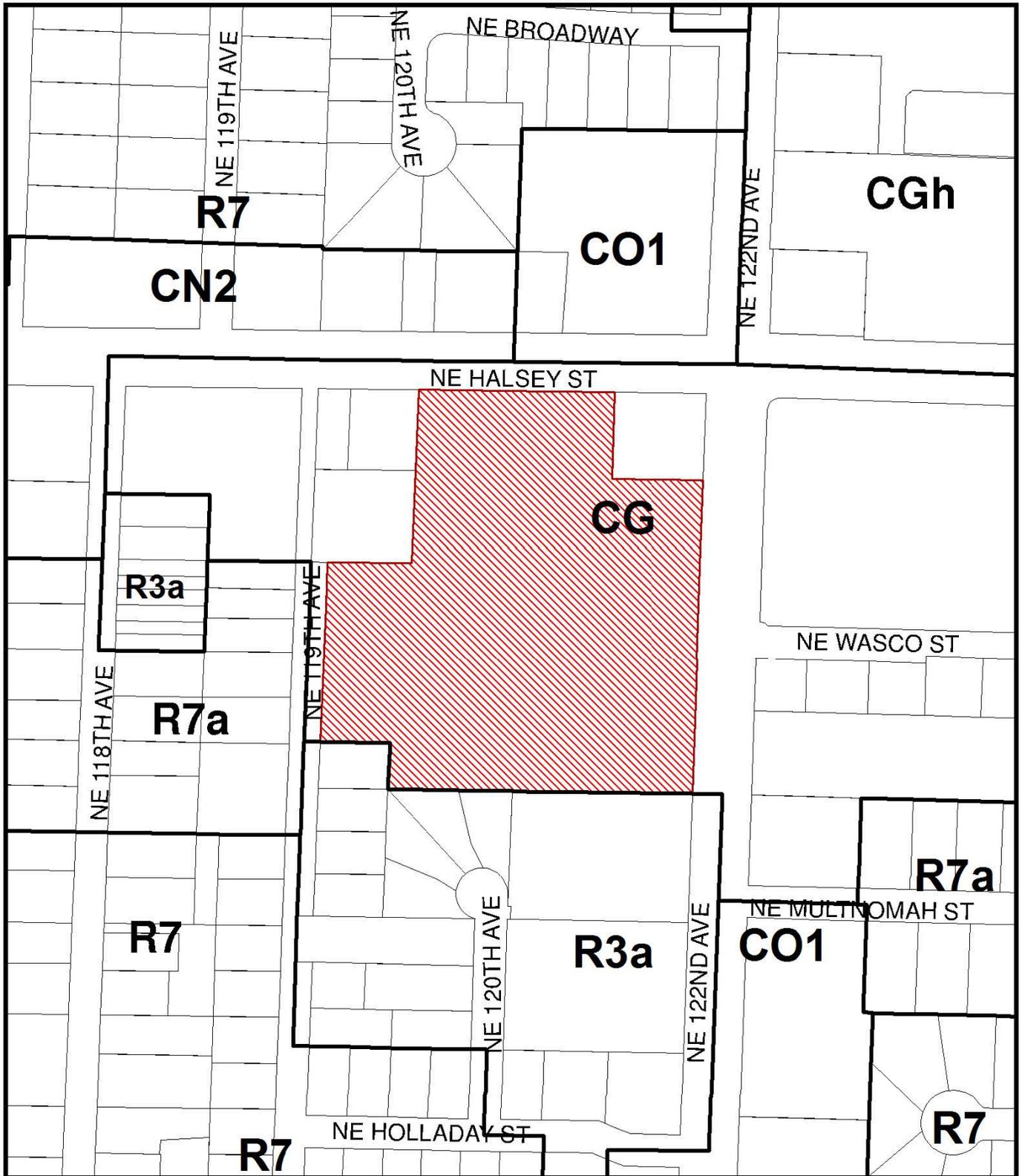
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Elevation Drawings (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Life Safety Section of BDS
- F. Correspondence:
 - 1. Hazelwood Neighborhood Association, July 30, 2015, E-Mail stating no concerns
 - 2. Debra Gourneau, July 30, 2015, Letter expressing concerns
- G. Other:
 - 1. Original LU Application Form and Receipt

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

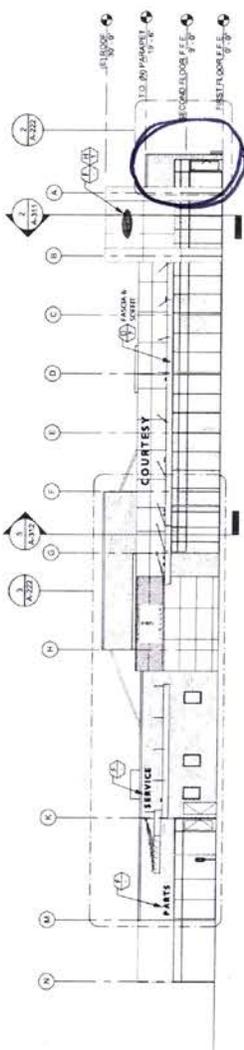


File No. LU 15-191568 AD
 1/4 Section 2942
 Scale 1 inch = 200 feet
 State Id 1N2E34AA 01300
 Exhibit B (Jun 26, 2015)

EXTERIOR FINISH SCHEDULE

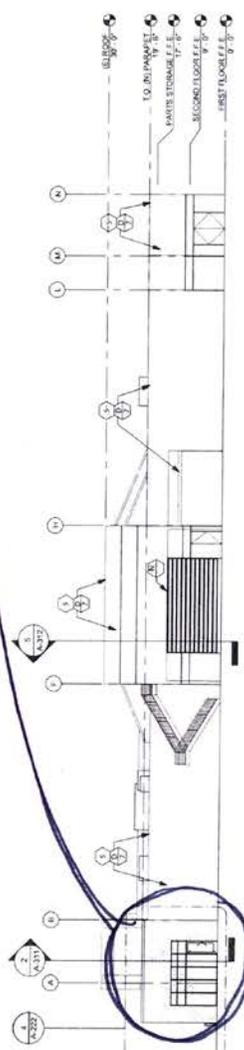
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- EXTERIOR ELEVATION KEY NOTES**
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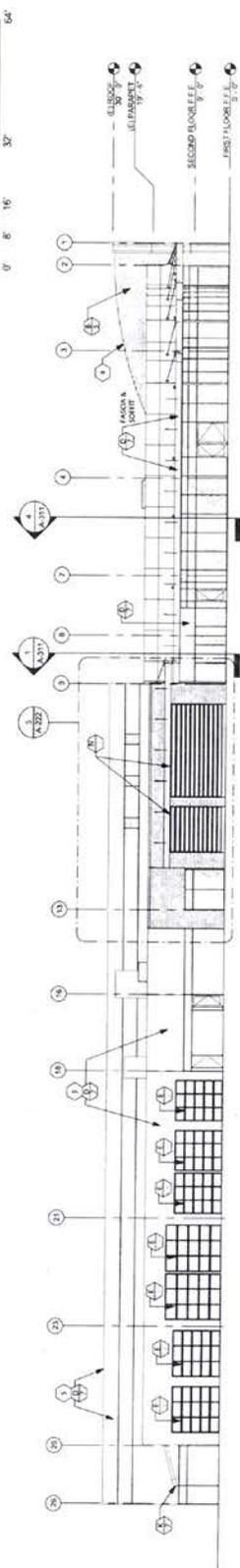


4 EAST ELEVATION

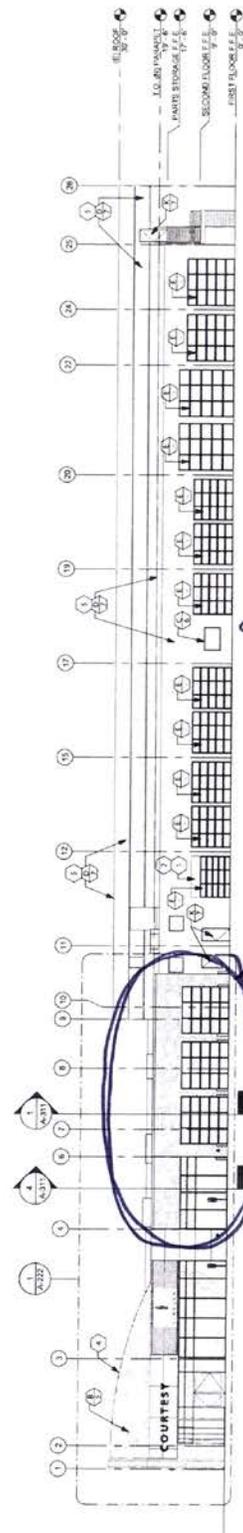
Proposed Addition



3 WEST ELEVATION



2 SOUTH ELEVATION



1 NORTH ELEVATION

Proposed Addition

CASE NO. 15-191568 AD
 EXHIBIT C-2

Approved
 City of Portland - Bureau of Development Services
 Planner **DAVID BESLEY** Date **8.3.15**
 * This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.