



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

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Date: July 13, 2020
To: Interested Person
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. 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 20-134467 AD

GENERAL INFORMATION

Applicant: Agustin Enriquez
GBD Architects
1120 NW Couch St, Suite 300
Portland, OR 97209

Owner: Second & Ash Operations LLC
733 SW Oak St
Portland, OR 97205

Site Address: Immediately West of 201 SE 3rd Ave

Legal Description: BLOCK 5 LOT 1&4 LOT 2&3 EXC E 43', FRUSHES SQUARE ADD
Tax Account No.: R299100640
State ID No.: 1N1E34DD 02700
Quarter Section: 3030

Neighborhood: Buckman, contact Richard Johnson at buckmanlandusepx@gmail.com

Business District: Central Eastside Industrial Council, contact ceic@ceic.cc.
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010 x313.

Plan District: Central City - Central Eastside
Zoning: IG1 – General Industrial 1

Case Type: AD – Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to construct an 83,045-sf building with approximately 59,000-square feet of industrial office, 5,000 square feet of traditional office, some ground floor retail

and structured parking in the basement. Loading space requirements are found in Portland Zoning Code Section 33.266.310.C. Buildings with more than 50,000-square feet in uses other than Household Living are required to have two on-site Standard A loading spaces, with each space being 35-feet long, 10-feet wide, and having a clearance of 13-feet (33.266.310.C.2.c). The applicant is seeking to waive one Standard A loading space and use loading spaces located in the right-of-way. The applicant is also seeking to reduce the size of the second required on-site Standard A loading space to the size of a Standard B loading space (18-feet long, 9-feet wide, and a clearance of 10-feet). Reduction of the size of the loading space would effectively be replacing one required Standard A loading space for a Standard B. Because the applicant is requesting to reduce the required loading spaces on site from two to one and replace that Standard A on-site loading space with a Standard B space, two Adjustments are required.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Portland Zoning Code Section 33.805.040 Adjustment Review Approval Criteria A through F.

Because the site is located in the Central City plan district, which has unacknowledged land use regulations, this proposal must also comply with applicable Statewide Planning Goals. The Statewide Planning Goals may be viewed at http://www.oregon.gov/LCD/pages/goals.aspx#Statewide_Planning_Goals.

ANALYSIS

Site and Vicinity: The subject site lies in the Central Eastside Subdistrict of the Central City Plan District at the southeast corner of the intersection of SE Ash and SE 2nd. The site consists of a surface parking lot and no other structures. Directly to the west is the “Produce Row,” which includes the main New Seasons kitchen for producing food stuffs for their retail store delis. Directly to the east is a wine warehouse. It is unknown what types of businesses are to the north and south but the vast majority of properties in the vicinity contain warehouse type of uses or manufacturing and production uses that support the industrial east side moniker. Freight traffic is significant in the area. Two blocks to the east is the Martin Luther King Jr. Blvd/Grand Avenue couplet and E Burnside and its iconic bridge and bridgehead is two blocks to the north.

Zoning:

General Industrial 1: 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. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial areas. More specifically, the General Industrial 1 zone (IG1) generally has smaller lots and a grid block pattern. Areas mapped with the IG1 zone are mostly developed, with sites having high building coverages and buildings which are usually close to the street. IG1 areas tend to be the City's older industrial areas.

Central City Plan District: The Central City plan district implements the Central City Plan and other plans applicable to the Central City area. These other plans include the Downtown Plan, the River District Plan, the University District Plan, and the Central City Transportation Management Plan. The Central City plan district implements portions of these plans by adding code provisions that address special circumstances existing in the Central City area.

Central Eastside Subdistrict of the Central City Plan District: The regulations of this subsection are intended to broaden the mix of employment uses in the Central Eastside Industrial District in a manner that increases the vitality of the district without negatively impacting the viability of industrial uses and development. The additional uses allowed by the regulations are uses that build on the economic strengths, locational advantages and urban character of the Central Eastside.

Land Use History: City records indicate there are no prior land use reviews for this site. There are no known land use decisions for the subject site.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **April 29, 2020**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.1);
- Life Safety (Exhibit E.3); and
- Site Development Review Section of BDS, Fire Bureau and Water Bureau (Exhibit E.4).

The Portland Bureau of Transportation Engineering and Development Review section (PBOT) provided a response (Exhibit E.2) evaluating the applicant’s Loading Demand Study and providing technical analysis on the applicant’s proposal. The analysis is included in the findings for Criterion A of the Adjustment approval criteria below.

Neighborhood Review: One written comment was received in response to the Notice of Proposal:

- May 1, 2020 email from Joe Padulo. The comment did not provide support or opposition to the proposal but rather inquired about potential impacts on his nearby business and appeal options if necessary (Exhibit F.1).

ZONING CODE APPROVAL CRITERIA

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.

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

Finding: The applicant is requesting an Adjustment to the on-site loading space standards in Portland Zoning Code Section 33.266.310.C. As designed, the proposed building requires two on-site Standard A Loading Spaces. As noted earlier, the applicant is requesting to reduce the number of required loading spaces on-site from two to one and then replace the remaining Standard A loading space with a Standard B space. The applicant provided a Site Loading Supply and Demand Analysis authored by Kittleson & Associates in their submitted materials (Exhibit A.2) documenting the anticipated loading space demands of the new building. PBOT reviewed the study and provided the following evaluation and conclusions (Exhibit E.2):

“RESPONSE

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.

ADJUSTMENT APPROVAL CRITERIA

The requested Adjustments are transportation-related and PBOT provides the following analysis thereto:

The primary applicable approval criterion related to the requested Adjustments that needs to be addressed by the applicant is noted in Code Section 33.805.040.A, and is stated as follows:

“Granting the Adjustment will equally or better meet the purpose of the regulation to be modified”.

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

“A minimum number of loading spaces area required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure 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”.

Findings: A Loading Demand Study (LDS) dated September 26, 2019, was prepared by Kittelson and Associates, Inc. This analysis is approved by PBOT Traffic Engineering. The analysis that was prepared includes documentation to support the Adjustments for the reduction of the number of required on-site loading spaces from two standard A loading spaces to zero and to allow one on-site Standard B sized space. The proposal also includes the desire to utilize any of the numerous on-street truck loading zones (TLZ) in proximity of the site. The primary information in the LDS includes:

- The submitted LDS references previously performed analyses prepared for a similar development proposal (which was supported by PBOT).
- Standard video surveillance of on-site/on-street loading activities at comparable building sites were collected.
- Observations/trends were identified to support expected loading activities from the proposed building.
- Importantly, observations did not include multiple Standard A loading activities occurring simultaneously – suggesting little need for two on-site Standard A spaces.
- Majority of deliveries were made by vehicles of a length that could be accommodated within a Standard B sized on-site loading space.
- Additional video surveillance was performed near the site to determine usage of multiple/existing truck loading zones.
- Data obtained shows that there is capacity for large truck deliveries to the site via the existing TLZs around the site except during the hours between 1:00-3:00 pm.

Based on the submitted LDS which includes industry-accepted methodologies, data collection, analyses and assumptions that PBOT accepts, PBOT is supportive of the request to allow one on-site Standard B space and the utilization of any of the existing on-street TLZs for any additional site-generated loading needs. A loading management plan to not allow large-truck deliveries to the new building between the hours of 1 and 3 pm on weekdays, shall be submitted and approved by PBOT with the Building Permit. All other large deliveries and long duration deliveries shall be permitted through a Temporary Street Use Permit (<https://www.portland.gov/transportation/permitting/temporary-street-use-permitting-tsup>).

The applicant is advised that any TLZ that is proposed to be utilized to serve the new building is not an exclusive use zone for the proposed project. This is a curb zone available for anyone to use for loading activities, including users unassociated with the proposed project. This will need to be accounted for in the required Loading Management Plan. Further, the applicant should be aware of the possibility that the City may remove any TLZ in relation to future public right-of-way needs as authorized under City Code Section 17.24.005. The need for the proposed TLZ to serve the partial loading demands for the proposed project may not be taken into consideration of the potential future removal of the TLZ.

Should any of the TLZs proposed to be utilized for the loading activities for the proposed project be repurposed by the City, the applicant must revise the Loading Management Plan consistent with the terms of this Adjustment request and to the satisfaction of PBOT.

RECOMMENDATION

PBOT has no objections to the requested Adjustments to allow one on-site Standard B loading space and the use of any of the nearby on-street truck loading zones to serve the new building's loading demand, subject to the following conditions of approval:

1. *In relation with the expected Building Permit for the new building, a Loading Management Plan must be submitted and approved by PBOT. Said Loading Management Plan must include measures to not allow large-truck deliveries to the new building between the hours of 1 and 3 pm on weekdays. All other large deliveries and long duration deliveries shall be permitted through a Temporary Street Use Permit (<https://www.portland.gov/transportation/permitting/temporary-street-use-permitting-tsup>).*
2. *Should any of the TLZs proposed to be utilized for the loading activities for the new building be repurposed by the City, the applicant must revise the Loading Management Plan consistent with the terms of this Adjustment request and to the satisfaction of PBOT.*

Based on the analysis and PBOT's support, staff finds that with the stated conditions of approval the proposal equally meets the purpose of the loading space standard.

Criterion met.

B. If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Finding: The subject site is zoned IG1, an industrial zone. The subject site is adjacent to two public rights-of-way. To the north is SE Ash St. and to the west is SE 2nd Ave. With access to the parking area the proposed loading space is located in coming from SE Ash St., the focus of consistency with street classifications is on SE Ash.

Under Portland's Transportation System Plan, SE Ash has the following classifications:

- Transit: Local Service Street;
- Traffic: Local Service Street;
- Bicycle: Local Service Bikeway;
- Pedestrian: Local Service Walkway; and
- Freight: Local Service Street.

SE Ash has the lowest classifications for each street type. The classification and objectives the proposal must be consistent with as described by the City's Comprehensive Plan are as follows:

- Transit Classification: Local Service Street – Provide transit street services to nearby residents and adjacent commercial areas.
- Traffic Street: Local Service Street – Distribute local traffic and provide access to local residences or commercial uses.
- Bikeway: Local Service Bikeway – Service local circulation needs for bicyclists and provide access to adjacent properties.
- Pedestrianway: Local Service Walkway – Serve local circulation needs for pedestrians and provide safe and convenient access to local destinations, including safe routes to school.
- Local Service Truck Street in a Freight District: Provide local truck access and circulation to industrial and employment land uses and provide local truck access and circulation only.

As noted above, SE Ash St. is the lowest classification level for each type of street. The function of each of those classifications is to ensure local traffic can move in a safe and convenient manner. The waiving of one loading space and reduced size of the second loading space is only relevant to the street classification in that delivery vehicles that can't fit in the loading space would need to unload in the right-of-way.

The applicant's Loading Supply and Demand analysis (Exhibit A) evaluated three other nearby buildings with similar uses and of a similar size. The study demonstrated the similar buildings averaged 2 daily on-site loading activities with the spaces occupied approximately 30 minutes a day. The study also found that there was an average of 6 on-street loading activities per weekday and a 70-minute average occupation time frame. According to the analysis, there are four loading zones within the right-of-way within 200 feet of the site with two of them in the immediate vicinity on SE 2nd and SE 3rd. The study found, and PBOT concurred, that the proposed building will produce a low volume of delivery traffic and that traffic will consist substantially of smaller delivery vehicles that would fit in the Standard B on-site loading space.

PBOT supports the proposal (Exhibit E.X2) and staff finds that the described low volume of delivery traffic and smaller delivery vehicles will not adversely impact the local service classifications for SE Ash St. due to the low volume, access to the Standard B on-site loading space, and presence of 4 off-site loading spaces within 200-feet of the site. Pedestrians, bikes, and local traffic will still have consistent and adequate use of SE Ash St. No transit service is available on SE Ash St. and therefore transit will service not be impacted.

Staff finds the proposal is consistent with the classification of adjacent streets.

This criterion also requires that the proposal is consistent with the desired character of the area. Desired character is a defined term in 33.910:

'Desired Character. 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.'

The subject property is zoned General Industrial (IG1). The purpose statement of the IG1 zone is included in Zoning Code Section 33.140.030.C.1 and reads as follows:

'IG1 areas generally have smaller lots and a grid block pattern. The area is mostly developed, with sites having high building coverages and buildings which are usually close to the street. IG1 areas tend to be the City's older industrial areas.'

The purpose statement of base zone does not relate to the proposal to waive one Standard A Loading Space and modify the size of the second loading space.

The subject property is within the Central City Plan District. The purpose of the Central City Plan District is found in 33.510.010:

"The Central City plan district implements the Central City Plan and other plans applicable to the Central City area. These other plans include the Downtown Plan, the River District Plan, the University District Plan, and the Central City Transportation Management Plan. The Central City plan district implements portions of these plans by adding code provisions that address special circumstances existing in the Central City area."

As noted in the purpose statement above, the Central City plan district implements all the plan areas and documents for the Central City area, including the central eastside. There are no code sections or related policies/goals relevant to loading spaces.

Based on the above, staff finds the proposal is consistent with the Desired Character of the area.

Criterion 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

Finding: Two Adjustments are requested relating to the number and size of required loading spaces. The Adjustments do not impact height, bulk, size or other physical characteristics of the proposed building. Staff found in the finding for criterion A above that the proposal equally meets the purpose of the standard being adjusted and in the finding for criterion B that the proposal is consistent with the purpose of the IG1 zone. As such, staff finds the proposal meets this approval criterion.

Criterion met.

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

Finding: Scenic resources are identified on the zoning map with an ‘s’ designation. The site does not have a scenic overlay on the zoning map. Historic resources are identified as being in a historic district, conservation district, or individual properties may be identified as part of the Historic Resource Inventory (HRI). The subject site is not in an historic or conservation district and is not listed on the HRI list.

Criterion met.

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

Finding: Loading space supply and demand are transportation related evaluation factors with transportation related impacts. PBOT staff evaluated the proposal for adverse impacts to the nearby transportation system due to waiving an on-site loading space and reducing the size of the second loading space and determined that with conditions of approval identified in Approval Criterion A, above, there would be no adverse impacts.

Criterion 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.

Finding: There are no identified environmental zones on the subject site. As such, the proposed Adjustment will have no detrimental impacts on protected resources.

Criterion met.

Oregon Statewide Planning Goals

Goal 1: Citizen Involvement

Goal 1 calls for “the opportunity for citizens to be involved in all phases of the planning process.” It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a Committee for Citizen Involvement (CCI) to monitor and encourage public participation in planning.

Findings: The City of Portland maintains an extensive citizen involvement program which complies with all relevant aspects of Goal 1, including specific requirements in Zoning Code

Chapter 33.730 for public notice of land use review applications that seek public comment on proposals. There are opportunities for the public to testify at a local hearing on land use proposals for Type III land use review applications, and for Type II and Type IIX land use decisions if appealed. For this application, a written seeking comments on the proposal was mailed to property-owners and tenants within 150 feet of the site, and to recognized organizations in which the site is located and recognized organizations within 400 of the site. There is also an opportunity to appeal the administrative decision at a local hearing.

The public notice requirements for this application have been and will continue to be met, and nothing about this proposal affects the City's ongoing compliance with Goal 1. Therefore, the proposal is consistent with this goal.

Goal 2: Land Use Planning

Goal 2 outlines the basic procedures of Oregon's statewide planning program. It states that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.

Findings: Compliance with Goal 2 is achieved, in part, through the City's comprehensive planning process and land use regulations. For quasi-judicial proposals, Goal 2 requires that the decision be supported by an adequate factual base, which means it must be supported by substantial evidence in the record. As discussed earlier in the findings that respond to the relevant approval criteria contained in the Portland Zoning Code, the proposal, with conditions of approval, complies with the applicable regulations, as supported by substantial evidence in the record. As a result, the proposal meets Goal 2.

Goal 3: Agricultural Lands

Goal 3 defines "agricultural lands," and requires counties to inventory such lands and to "preserve and maintain" them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.

Goal 4: Forest Lands

This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

Findings for Goals 3 and 4: In 1991, as part of Ordinance No. 164517, the City of Portland took an exception to the agriculture and forestry goals in the manner authorized by state law and Goal 2. Since this review does not change any of the facts or analyses upon which the exception was based, the exception is still valid and Goal 3 and Goal 4 do not apply.

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources

Goal 5 relates to the protection of natural and cultural resources. It establishes a process for inventorying the quality, quantity, and location of 12 categories of natural resources. Additionally, Goal 5 encourages but does not require local governments to maintain inventories of historic resources, open spaces, and scenic views and sites.

Findings: The City complies with Goal 5 by identifying and protecting natural, scenic, and historic resources in the City's Zoning Map and Zoning Code. Natural and scenic resources are identified by the Environmental Protection ("p"), Environmental Conservation ("c"), and Scenic ("s") overlay zones on the Zoning Map. The Zoning Code imposes special restrictions on development activities within these overlay zones. Historic resources are identified on the Zoning Map either with landmark designations for individual sites or as Historic Districts or Conservation Districts. This site is not within any environmental or scenic

overlay zones and is not part of any designated historic resource. Therefore, Goal 5 is not applicable.

Goal 6: Air, Water and Land Resources Quality

Goal 6 requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

Findings: Compliance with Goal 6 is achieved through the implementation of development regulations such as the City's Stormwater Management Manual at the time of building permit review, and through the City's continued compliance with Oregon Department of Environmental Quality (DEQ) requirements for cities. The Bureau of Environmental Services reviewed the proposal for conformance with sanitary sewer and stormwater management requirements and expressed no objections to approval of the application, as mentioned earlier in this report. Staff finds the proposal is consistent with Goal 6.

Goal 7: Areas Subject to Natural Disasters and Hazards

Goal 7 requires that jurisdictions adopt development restrictions or safeguards to protect people and property from natural hazards. Under Goal 7, natural hazards include floods, landslides, earthquakes, tsunamis, coastal erosion, and wildfires. Goal 7 requires that local governments adopt inventories, policies, and implementing measures to reduce risks from natural hazards to people and property.

Findings: The City complies with Goal 7 by mapping natural hazard areas such as floodplains and potential landslide areas, which can be found in the City's MapWorks geographic information system. The City imposes additional requirements for development in those areas through a variety of regulations in the Zoning Code, such as through special plan districts or land division regulations. The subject site is not within any mapped floodplain or landslide hazard area, so Goal 7 does not apply.

Goal 8: Recreation Needs

Goal 8 calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expediting siting of destination resorts.

Findings: The City maintains compliance with Goal 8 through its comprehensive planning process, which includes long-range planning for parks and recreational facilities. Staff finds the current proposal will not affect existing or proposed parks or recreation facilities in any way that is not anticipated by the zoning for the site, or by the parks and recreation system development charges that are assessed at time of building permit. Furthermore, nothing about the proposal will undermine planning for future facilities. Therefore, the proposal is consistent with Goal 8.

Goal 9: Economy of the State

Goal 9 calls for diversification and improvement of the economy. Goal 9 requires communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

Findings: Land needs for a variety of industrial and commercial uses are identified in the adopted and acknowledged Economic Opportunity Analysis (EOA) (Ordinance 187831). The EOA analyzed adequate growth capacity for a diverse range of employment uses by distinguishing several geographies and conducting a buildable land inventory and capacity analysis in each. In response to the EOA, the City adopted policies and regulations to ensure an adequate supply of sites of suitable size, type, location and service levels in compliance with Goal 9. The City must consider the EOA and Buildable Lands Inventory when updating the City's Zoning Map and Zoning Code. Because this proposal does not change the supply of industrial or commercial land in the City, the proposal is consistent with Goal 9.

Goal 10: Housing

Goal 10 requires local governments to plan for and accommodate needed housing types. The Goal also requires cities to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

Findings: The City complies with Goal 10 through its adopted and acknowledged inventory of buildable residential land (Ordinance 187831), which demonstrates that the City has zoned and designated an adequate supply of housing. For needed housing, the Zoning Code includes clear and objective standards. Since this proposal is not related to housing or to land zoned for residential use, Goal 10 is not applicable.

Goal 11: Public Facilities and Services

Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.

Findings: The City of Portland maintains an adopted and acknowledged public facilities plan to comply with Goal 11. See Citywide Systems Plan adopted by Ordinance 187831. The public facilities plan is implemented by the City's public services bureaus, and these bureaus review development applications for adequacy of public services. Where existing public services are not adequate for a proposed development, the applicant is required to extend public services at their own expense in a way that conforms to the public facilities plan. In this case, the City's public services bureaus found that existing public services are adequate to serve the proposal, as discussed earlier in this report.

Goal 12: Transportation

Goal 12 seeks to provide and encourage "safe, convenient and economic transportation system." Among other things, Goal 12 requires that transportation plans consider all modes of transportation and be based on inventory of transportation needs.

Findings: The City of Portland maintains a Transportation System Plan (TSP) to comply with Goal 12, adopted by Ordinances 187832, 188177 and 188957. The City's TSP aims to "make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs." The extent to which a proposal affects the City's transportation system and the goals of the TSP is evaluated by PBOT. As discussed earlier in this report, PBOT evaluated this proposal and found that with two required conditions of approval the proposal will not adversely impact the transportation system.

Goal 13: Energy

Goal 13 seeks to conserve energy and declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

Findings: With respect to energy use from transportation, as identified above in response to Goal 12, the City maintains a TSP that aims to "make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs." This is intended to promote energy conservation related to transportation. Additionally, at the time of building permit review and inspection, the City will also implement energy efficiency requirements for the building itself, as required by the current building code. For these reasons, staff finds the proposal is consistent with Goal 13.

Goal 14: Urbanization

This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary"

(UGB) to “identify and separate urbanizable land from rural land.” It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.

Findings: In the Portland region, most of the functions required by Goal 14 are administered by the Metro regional government rather than by individual cities. The desired development pattern for the region is articulated in Metro’s Regional 2040 Growth Concept, which emphasizes denser development in designated centers and corridors. The Regional 2040 Growth Concept is carried out by Metro’s Urban Growth Management Functional Plan, and the City of Portland is required to conform its zoning regulations to this functional plan. This land use review proposal does not change the UGB surrounding the Portland region and does not affect the Portland Zoning Code’s compliance with Metro’s Urban Growth Management Functional Plan. Therefore, Goal 14 is not applicable.

Goal 15: Willamette Greenway

Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

Findings: The City of Portland complies with Goal 15 by applying Greenway overlay zones which impose special requirements on development activities near the Willamette River. The subject site for this review is not within a Greenway overlay zone near the Willamette River, so Goal 15 does not apply.

Goal 16: Estuarine Resources

This goal requires local governments to classify Oregon’s 22 major estuaries in four categories: natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those “management units.”

Goal 17: Coastal Shorelands

This goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for “water-dependent” or “water-related” uses.

Goal 18: Beaches and Dunes

Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes, but allows some other types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

Goal 19: Ocean Resources

Goal 19 aims “to conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf.” It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19’s main requirements are for state agencies rather than cities and counties.

Findings: Since Portland is not within Oregon’s coastal zone, Goals 16-19 do 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.

PBOT has advised that pertinent Title 17 requirements must be met at the time of building permit.

CONCLUSIONS

The applicant has demonstrated that waiving one of the required Standard A loading spaces and reducing the size of the second required Standard A loading space to meet the Standard B loading space standards equally meets the purpose of the Loading Space development standards found in Zoning Code Section 33.266.310.A; is consistent with the adjacent street classifications; is consistent with the desired character of the area, and have no impact on scenic or historic resources. The proposal is also found to be consistent with the relevant Statewide Planning Goals.

ADMINISTRATIVE DECISION

Approval of an Adjustment to waive one of the two required on-site Standard A loading spaces (33.266.310.C.2.c) and to reduce the size of the second required on-site Standard A loading space to the size of a Standard B loading space (33.266.310.D.1 and 2), per the approved site plan, Exhibits C.1 and C.2, 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 and C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 20-134467 AD. No field changes allowed."
- B. In relation with the expected building permit for the new building, a Loading Management Plan must be submitted and approved by PBOT. Said Loading Management Plan must include measures to not allow large-truck deliveries to the new building between the hours of 1 and 3 pm on weekdays. All other large deliveries and long duration deliveries shall be permitted through a Temporary Street Use Permit (<https://www.portland.gov/transportation/permitting/temporary-street-use-permitting-tsup>).
- C. Should any of the Truck Loading Zones located in the public right-of-way proposed to be utilized for the loading activities for the new building be repurposed by the City, the applicant must revise the Loading Management Plan consistent with the terms of this Adjustment request and to the satisfaction of PBOT.

Staff Planner: Don Kienholz

Decision rendered by:  **on July 7, 2020**
By authority of the Director of the Bureau of Development Services

Decision mailed: July 13, 2020

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 April 6, 2020, and was determined to be complete on April 27, 2020.

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 April 6, 2020.

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 extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended 30-days (Exhibit A.8). Unless further extended by the applicant, **the 120 days will expire on: September 24, 2020.**

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, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received by 4:30 PM on **July 27, 2020. Towards promoting social distancing during the COVID-19 pandemic, the completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations for the appeal of Type II and Ix decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that due to COVID-19 and limited accessibility to paper files, only digital copies of material in the file are available for viewing. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <https://www.portlandoregon.gov/citycode/28197>.

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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **July 27, 2020** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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.

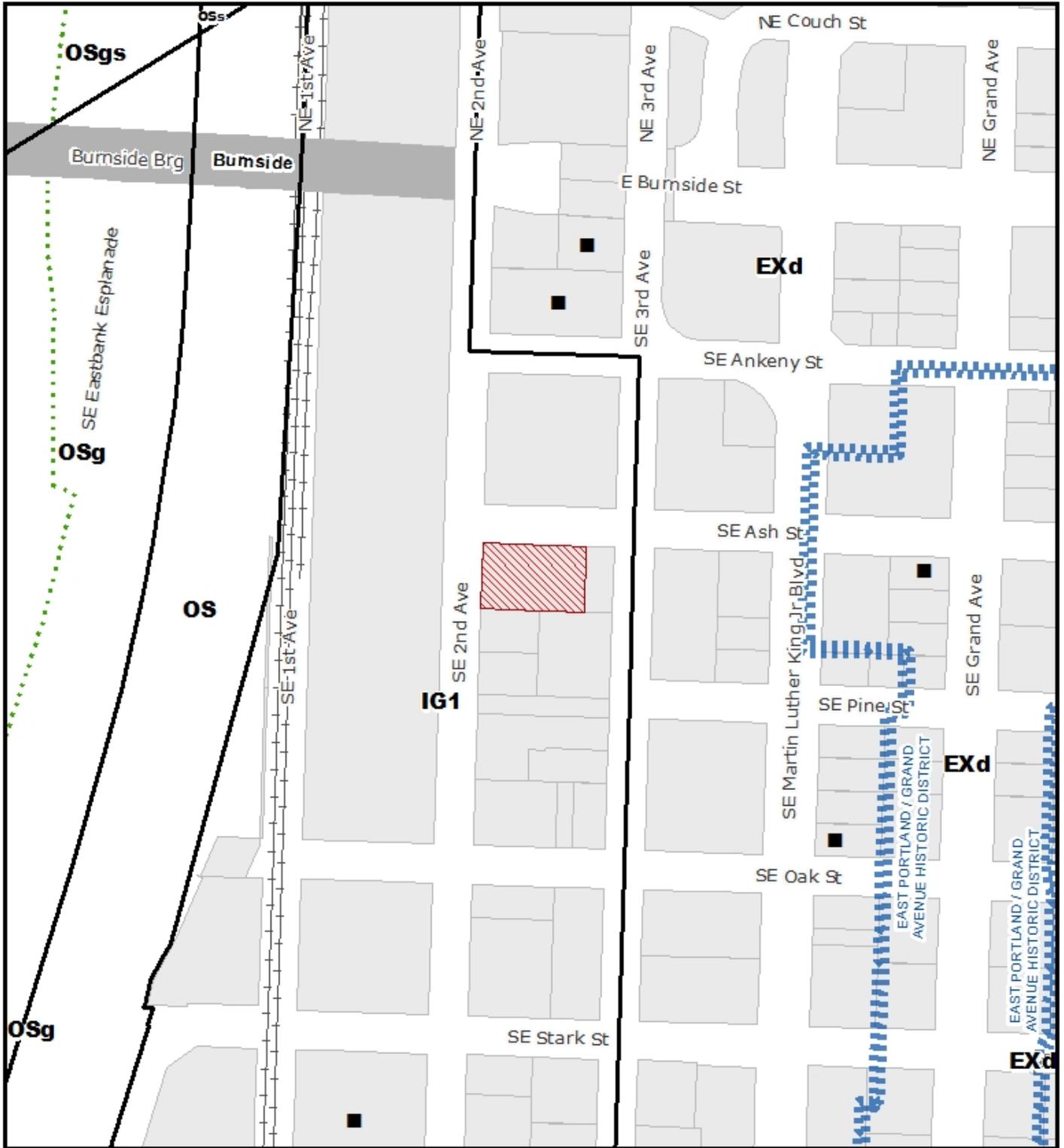
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Materials
 1. Written Narrative
 2. Site Loading Demand and Supply Analysis
 3. Full Plan Set including Site and Floor Plans
 4. Early Assistance Meeting Summary
 5. April 22, 2020 Updated Narrative
 6. April 22, 2020 Updated Site and Floor Plans
 7. Approved PBOT Scoping Form
 8. 30-day Extension to the Statutory 120-Day Clock
- B. Zoning Map (Attached)
- C. Plans/Drawings:
 1. Site Plan (Attached)
 2. Parking and Loading Space 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
 3. Life Safety
 4. Site Development Review Section of BDS, Fire Bureau and Water Bureau
- F. Correspondence:
1. May 1, 2020 email from Joe Padulo
- G. Other:
1. Original LU Application
 2. Copy of Receipt of Fee Payment
 3. April 17, 2020 Incomplete Letter

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

↑ NORTH

CENTRAL CITY PLAN DISTRICT
CENTRAL EASTSIDE SUB DISTRICT

-  Site
-  Historic Landmark
-  Bridge
-  Recreational Trails

File No.	LU 20 - 134467 AD
1/4 Section	3030
Scale	1 inch = 200 feet
State ID	1N1E34DD 2700
Exhibit	B Apr 20, 2020

2ND AVENUE

REVANT OPTICS

NICKY USA

PARKING (E)

3RD AVENUE

ELEC POLE

MANHOLE

ELEC POLE

CENTERLINE OF STREET

CENTERLINE OF STREET

SEASH STREET

(E) STORM SEWER
MANHOLE

(E) STORM SEWER
31.5'

(E) FIRE HYDRANT

32.0'

143'-6-1/2"

34.0'

STANDARD A LOADING STALL
10'-0" X 25'-0"

35'-0"

38.0'

38.0'

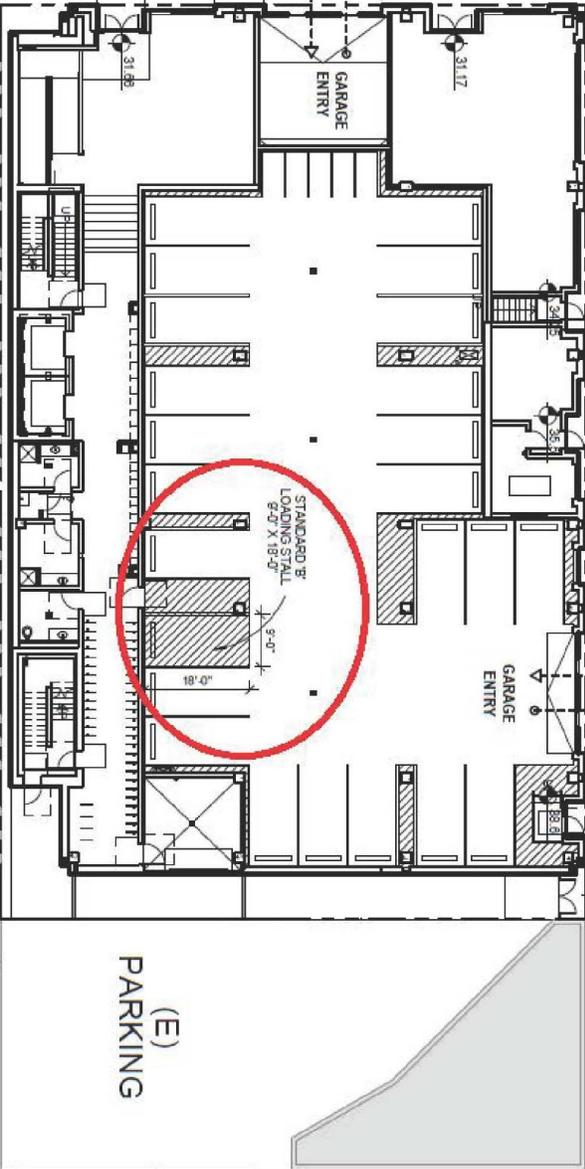
38.0'

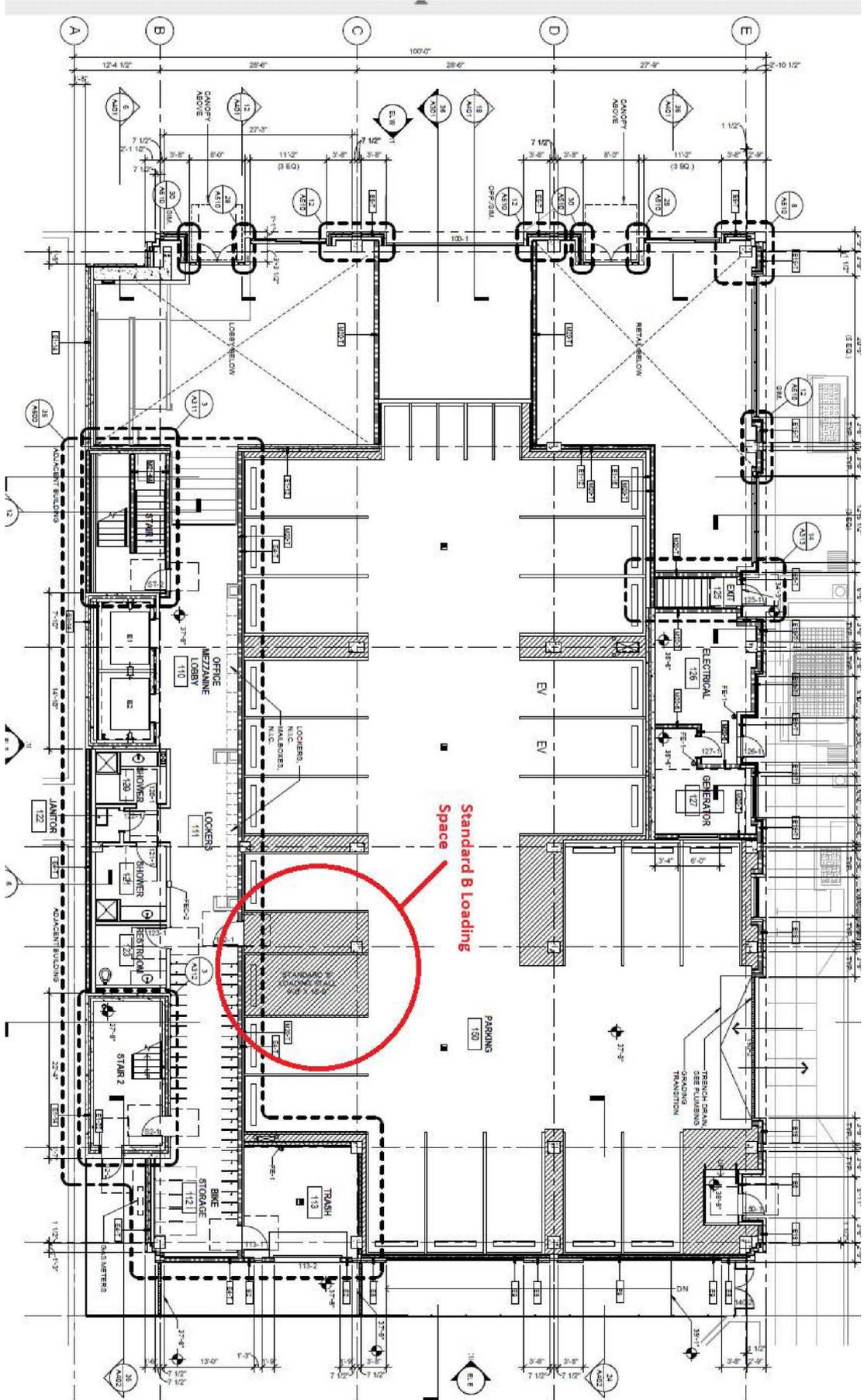
ELEC POLE

40.0'

(E) FIRE HYDRANT

41.3'





Standard B Loading Space