



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: November 5, 2008
To: Interested Person
From: Chris Beaney, 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 denied a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-106477 DZ, GATEWAY OFFICE BUILDING

GENERAL INFORMATION

Applicant: Bob Schatz, Allusa Architecture 503-235-8585
2118 SE Division St
Portland, OR 97202

Lincoln Lofts LLC
2118 SE Division St
Portland, OR 97202

Site Address: 123 SE 97TH AVE

Legal Description: TL 600 0.29 ACRES, SECTION 33 1N 2E
Tax Account No.: R942334670
State ID No.: 1N2E33DC 00600
Quarter Section: 3040

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.
Plan District: Gateway

Zoning: EXd, Central Employment with design overlay
Case Type: DZ, Design Review

Procedure: Type II, an administrative decision with appeal to the Design Commission.

Proposal:

The applicant proposes construction of a new 18,000 square foot 4-story office building. The building will be located near the intersection of SE 97th and Ankeny. A 10-space surface parking lot will be adjacent to the building while an open breezeway will face SE 97th Street

that will allow through passage to the parking area. Construction materials proposed are flat seam and corrugated metal siding, and slate tile siding. A 48 square foot sign is proposed for the south and west elevations as well.

Because the proposal is for new development within a Design Overlay, Design Review is required.

Relevant Approval Criteria:

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

- Gateway Regional Center Design Guidelines
- 33.526 Gateway Plan District

ANALYSIS

Site and Vicinity: The 12,500 square-foot site is located in the 102nd/Burnside Subarea of the Gateway Plan District. The site is bounded to the east by SE 97th Avenue, I-205 lies to the west of the site, and East Burnside street is approximately 350 feet to the north of the site. The site is flat, and is adjacent to the I-205 Freeway. A pattern of dispersed development exists, with a mixture of uses, including single family residential, office, retail and light manufacturing uses nearby. There are no sidewalks along the applicant's frontage.

Gateway is envisioned to redevelop into a highly-urbanized, pedestrian-oriented center, with an overall built size and scale second only to Portland's Central City. Portland's *Transportation System Plan* classifies SE 97th Avenue as a Local Service Bikeway and the site is within the Gateway Pedestrian District. The MAX lighttrail alignment is to the north of the site at E. Burnside Street.

Zoning: The Central Employment (EX) zone allows mixed-uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area.

The design (d) overlay zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **July 16, 2008**. The following Bureaus have responded with no issues or concerns:

- Portland Water Bureau

The Bureau of Environmental Services responded with the following comment:

"BES cannot recommend approval of the proposal, as it is currently unclear how stormwater runoff from the site will be managed. Please see below for further information.

Sanitary Services

1. There is an existing City-owned 8" PVC sanitary sewer in SE 97th Avenue (BES project #4417) that is available to serve the sanitary disposal needs of the proposed development. Based on the as-built plans for project 4417, a 6" sanitary lateral was

constructed to the property line, though it is not clear from City records at this time whether finalized permits were obtained to connect the existing development on the site to the sewer.

Note that new connections to City-owned sewers must follow the BES "Rules of Connection" and meet the standards of the City of Portland's Sewer and Drainage Facilities Design Manual. The Design Manual is on the internet at www.portlandonline.com/bes/, and contains the "Rules of Connection" in Appendix H.

Stormwater Management

General Information/ Requirements: The stormwater runoff generated from the proposed development must meet the requirements of the City of Portland's Stormwater Management Manual (SWMM) that is current at the time of building plan review. *The SWMM has been revised and a new version was officially adopted August 1, 2008. Use of the 2008 SWMM will be optional for new permit applications submitted between August 1, 2008 and September 30, 2008. Starting October 1, 2008, the 2008 SWMM will be required for all new permit applications.* The 2004 and 2008 versions of the SWMM can be found online at www.portlandonline.com/bes/. Follow the links to *Publications*, then *Stormwater Management Manual*.

The 2008 SWMM requires all development projects to comply with the SWMM's Infiltration and Discharge requirements, summarized in the Stormwater Hierarchy (Exhibit 1-2). Projects that develop or redevelop more than 500 square feet of impervious surface are required to comply with the Flow Control and Pollution Reduction requirements. Generally, the Stormwater Hierarchy requires vegetated facilities to manage stormwater runoff from development sites. Where *complete* on-site infiltration via a vegetated surface facility (Category 1) is not feasible, surface infiltration facilities must be used to the maximum degree feasible with overflow to a subsurface infiltration facility (Category 2). Categories 3 and 4 allow off-site discharge of stormwater, after vegetated facilities have been used to meet Flow Control and Pollution Reduction requirements. The Site Development Section of BDS must approve infiltration on private property. BES must approve infiltration in the public right-of-way and off-site stormwater discharge points.

Additional SWMM requirements not summarized above – as well as information specific to the submitted proposal – are included below.

1. There is no City-owned storm-only sewer available to this property. There is one City-owned underground injection control (UIC) system in the vicinity of the subject site: in SE Ankeny Street, approximately 130 feet east of the intersection with SE 97th Avenue, is a UIC consisting of two inlets, one sedimentation manhole, and one infiltration sump.
2. BES has not received information regarding how stormwater runoff from proposed new impervious area will be managed per SWMM requirements. If this project will be under the 2008 SWMM (see above discussion), the Presumptive Approach must be used for sizing stormwater facilities, and infiltration testing must be conducted for on-site and right-of-way stormwater facilities. This information should be included in a stormwater report submitted by the applicant for review by BES and BDS Site Development – see Section 2.2.2 of the 2008 SWMM for information about the Presumptive Approach, and Appendix D.4 for guidance on specific information that should be included in the stormwater report. **If the method, size, and location of required stormwater facilities impact the current proposal, BES recommends the applicant submit the full stormwater report as part of this review. At a minimum, if BDS determines that stormwater management will not have a bearing on the Design Review, BES requires that the applicant submit as part of this review a revised site plan showing proposed method of stormwater management, and a landscaping plan showing that both Title 33 landscaping requirements and BES stormwater management requirements can be met.**
3. If public street improvements are required by the Office of Transportation (PDOT), public drainage improvements per the standards of the SWMM and Sewer Design Manual may be required. If street improvements are required, the SWMM's Stormwater

Hierarchy must be followed for drainage from the new impervious area. Per the Hierarchy, a surface infiltration facility is required as the first option (Category 1). Infiltration testing in or near the right-of-way may be required in order to determine if infiltration is feasible and, if so, the design infiltration rate. If street waivers are required by PDOT, storm sewer waivers will also be required.

Additional Information

1. BES sewage system connection fees are assessed at the time of building plans review and change every fiscal year beginning July 1st. For additional information on these fees, please call Development Assistance at 503-823-7761.
2. The Oregon Department of Environmental Quality (DEQ) regulates underground injection control (UIC) facilities (e.g. drywells, soakage trenches) to protect groundwater. If such a facility is proposed for on-site stormwater management, it may require DEQ registration. The applicant is responsible for registering UICs with DEQ, as appropriate. To learn more about DEQ's UIC regulations, please visit their website (www.deq.state.or.us/wq/uic/uic.htm) or contact the DEQ UIC program at 503-229-5945. The applicant may also refer to the SWMM for general UIC information.
3. Clean River Rewards, Portland's stormwater discount program, offers discounts up to 100% of the City's on-site stormwater management charge to ratepayers who manage stormwater runoff on their property. The discount is calculated on a sliding scale for how much and how well properties manage stormwater on-site. Ratepayers must register their property and describe how stormwater is being managed to qualify. BES offers workshops to ratepayers who want to learn more about stormwater management and the program. See www.cleanriverrewards.com for more information.
4. Sewers in this area are prone to grease blockages; therefore, the City highly encourages the use of grease management devices. In the future, this area will be required to manage the grease appropriately, and retrofitting may be required at that time. Grease management devices will help reduce the extra strength sewer charges this facility may incur in the near future as well. Additionally, by reducing the amount of food wastes, grease and solids that are rinsed down the drain, this facility's potential to cause an obstruction in the main sewer line will be reduced, temporary closure and loss of business avoided, and unnecessary repair costs incurred by the facility also avoided.
5. If certain uses are proposed for this site, the project must comply with the City's Extra Strength Sewerage Charge (ESSC) Program. This may include a sampling manhole or 6" plumbing clean-out on the waste line. Facilities with high strength waste can include (but are not limited to) food processors, hotels, supermarkets, commercial kitchens, breweries, bakeries, restaurants, or any facility that may contain those operations. The sampling location must be downstream of any treatment devices and are placed in the sanitary waste line at a location that accounts for all discharge flows. The location of the clean-out needs to be out of the way of traffic or standard operations of the facility, and in a space that measures 3' W X 3' L X 3' H. If this does not suit your development, alternatives can be discussed.
6. If a water feature such as a fountain is proposed, certain requirements may apply. In general, if the fountain water is treated (i.e. chlorinated), the wastewater must discharge to the sanitary waste line. If the source of the feed water to the fountain is rainwater or groundwater then a submeter is required to measure the discharge of water that enters the City sanitary sewer system for billing purposes.

The Site Development Section of the Bureau of Development Services responded with the following comment:

"Site Development cannot support the requested land use review at this time, due to insufficient information. The following issues must be addressed and may necessitate changes to the proposal, which could have a bearing on the land use review:

Sanitary sewer: City records indicate a permit to relocate a cesspool on the site was obtained in 1972 (Permit 21260); however, the permit was not approved through a final inspection. In addition, a permit (Permit 920542) was issued for a connection to the public sanitary system in 1992; however, that permit was not approved through a final inspection either.

Since the existing development is to be removed, the applicant must obtain and have finalized a permit for capping the existing sanitary sewer connection. In addition, the existing cesspool (and any existing drywells or subsurface drainage systems) must be decommissioned in conjunction with the demolition permit(s) for the buildings, or under a separate decommissioning permit.

Stormwater treatment and disposal: Development on the site must provide stormwater management in accordance with the *Stormwater Management Manual* (SWMM). To review the SWMM, please visit the *Bureau of Environmental Services* (BES) web site at <http://www.portlandonline.com/bes>. The 2008 revision to the SWMM will be available soon.

Onsite infiltration is feasible at this location. *Site Development* has not received sufficient information to determine how the new development (4-story building, parking, and other impervious surfaces) will comply with the requirements of the SWMM. The use of impermeable liners or water-tight flow-through planter boxes for stormwater facilities adjacent to property lines or nearby structures may be incompatible with landscape requirements in areas where trees and/or high screen shrubs are required.

If treated stormwater is proposed to be discharged to on-site drywells or soakage trenches, then Underground Injection Controls (UIC) registration with Oregon Department of Environmental Quality (DEQ) may be required, in addition to City requirements; please refer to the attached UIC Fact Sheet.

Questions regarding these requirements may be directed to Mike Ebeling, (503) 823-7247.

In order for *Site Development* to evaluate this proposal, the applicant must provide a detailed site utility plan, including a landscape plan that incorporates vegetated surface facilities for stormwater treatment, prior to issuance of the land use decision. The plan must address the existing and proposed sanitary systems and connections and the existing and proposed stormwater management systems."

Please see Exhibit E.2 for additional details.

The Urban Forestry Division of Portland Parks & Recreation responded in TRACS with the following comment: "street trees will be required."

The Bureau of Transportation Engineering & Development Review responded with the following comment:

"Portland Transportation/Development Review 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.

The site is located within the Gateway Pedestrian District. The master street plan for Gateway does not call for any through streets at this site's location. Standard frontage improvements must be provided including the required dedications to provide adequate right-of-way width. The applicant may choose between a curb with a 2.5-ft step out area and stormwater planter box, or an 8-ft wide swale. The planter box with step out will require 1.5-ft less dedication. The improvements and dedications will be a condition of

building permit approval. PDOT has no objection to the proposed design on private property. SE 97th is designated a Local Service Street for all modes. It is currently a 50-ft wide right-of-way improved with center strip paving only.

The frontage improvements must be completed under a separate street job permit to City standards per the requirements of the City Engineer. A bond and contract ensuring the improvements will be completed will be a condition of building permit approval.

Required Street Improvements to SE 9th Avenue

Option 1: Dedicate 7-ft and construct a curb 16-ft from the right-of-way centerline, 2.5-ft step out area, 4-ft wide planter box with raised 6-inch high curb around the box, 6-ft sidewalk, 1.5-ft frontage zone between the back of the sidewalk and property line, street trees and street lighting as needed.

Option 2: : Dedicate 5.5-ft and construct a curb 16-ft from the right-of-way centerline, 6-inch curb, 8-ft wide public stormwater swale, 6-ft sidewalk, 1.5-ft frontage zone between the back of the sidewalk and property line, street trees and street lighting as needed.

Both of the above designs can be found on the BES website for swales and planters where on-street parking is provided.

Transportation System Development Charges (Chapter 17.15)

System Development Charges (SDCs) may be assessed for this development. The applicant can receive an estimate of the SDC amount prior to submission of building permits by contacting Rich Eisenhauer at 503-823-7080.

Driveways and Curb Cuts (Section 17.28)

Curb cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of building permits.

RECOMMENDATION

No objection to approval subject to the dedications and public street improvements outlined in this report. The options for street improvements require slightly different amounts of street dedication. The approved site plan should reflect the required dedication.”

Please see Exhibit E.5 for additional details.

Neighborhood Review: A “Notice of Proposal in Your Neighborhood” was mailed on **July 16, 2008**. A total of three written responses have been received from either the Neighborhood Association (Hazelwood) or notified property owners in response to the proposal.

- A response was received on July 30, 2008 from William Bitar, owner of the 99 East building (Exhibit F.1). Mr. Bitar is supportive of the proposal and believes that the building would be “a wonderful addition” to the district.
- A response was received on July 31, 2008 from Fred Sanchez, Secretary of the Gateway Area Business Association (Exhibit F.2). The Business Association is supportive of the proposal and believes that the building will make “a beautiful addition to Gateway.”
- A response was received on August 5, 2008 from Arlene Kimura, President/Chair of the Hazelwood Neighborhood Association Land Use Committee (Exhibit F.3). The Neighborhood Association commends the developer, but feels that the building should be oriented to the street in terms of its main entrance and signage. In addition, the response questions the parking at the doorway.

Staff Response: Upon reviewing the Gateway Plan District Chapter PZC 33.526.340, Parking, location requirements indicate parking not allowed between the primary structure and any street. The proposed parking is located along the side of the building, and not between the

building and the street, therefore, the proposed parking location meets this code section. Additional comments related to the approval criteria are below in the findings.

ZONING CODE APPROVAL CRITERIA

Chapter 33.825 Design Review

Section 33.825.010 Purpose of Design Review

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

Section 33.825.055 Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

Findings: The site is designated with design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site's location, the applicable design guidelines are the Gateway Regional Center Design Guidelines.

Gateway Regional Center Design Guidelines

The Gateway Regional Center is the City of Portland's only designated regional center. The area is envisioned to redevelop into a highly urbanized, pedestrian-oriented center, with an overall built size and scale second only to Portland's Central City.

The purpose of design review is to carry out the urban design vision for the District by emphasizing unique district assets in a manner that is respectful, creative, supportive, and compatible with all its areas. Although the District is a complex urban environment, it can become a cohesive whole with the use of these design principles.

Gateway Regional Center Design Goals

Ten goals for design review in the Gateway Regional Center have been established to enhance the area's design quality, support its livability, and guide its transition to a pedestrian-oriented, active, urban regional center. They are:

1. Encourage urban design excellence.
2. Ensure that new development is at a human scale and that it relates to the scale and desired character of its setting and the Gateway Regional Center as a whole.
3. Provide for a pleasant, rich, and diverse experience for pedestrians.
4. Assist in creating a regional center that emphasizes a mix of active uses and experiences and is safe, lively, and prosperous.
5. Provide for the humanization of the Gateway Regional Center through the promotion of parks, plazas, open spaces, public art, and trees.
6. Integrate and honor the diversity and history of Gateway.
7. Integrate sustainable principles into the development process.
8. Encourage the development of a distinctive character for subdistricts within the regional center, and link them.
9. Encourage and incorporate transit orientation and usage.
10. Enhance the physical and visual linkages between the Gateway Regional Center and adjacent neighborhoods.

Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.

A Pedestrian Emphasis

- A1. Strengthen Relationships Between Buildings and the Street.** Integrate building setback areas with adjacent streets.

Findings: The proposed building would be constructed close to the front property line, consistent with the desired goal of creating a strong urban edge along the sidewalk. A 3' wide canopy engages the sidewalk level. Individual retail spaces face the street as well. A central breezeway marks entry into the building's internal spaces, serving as an informal lobby. These aspects of the proposal contribute to strengthen the relationship between the building and the street. **Therefore, this guideline is met.**

- A2. Enhance Visual and Physical Connections.** Enhance visual and physical connections between buildings and adjacent sidewalks. Orient semi-public building spaces to the sidewalk and street.

Findings: The proposal includes elements on the ground floor such as multiple entries and transparency to individual office spaces adjacent to the sidewalk that are conducive to visual and physical connections to the street.

A central breezeway is proposed along the sidewalk to allow entry into the semi-private interior space at the ground floor. The feature's functionality is diminished, however, by lack of refinement as a portal to the semi-public space within the building. The breezeway entry point, graphically read on the elevation, lacks resolution, and is without sufficient detail or enhancement to provide clear physical connection between the building and the sidewalk.

The respective facades of the building represent an unbalanced hierarchical response that prioritizes the parking area's importance over the street front of the site. The increased amount of materials and visual interest afforded the southern façade may be more appropriate to the "front" of the building, facing the street, providing an opportunity to better engage the building along the sidewalk. Should a more proportional expression of architectural exuberance be incorporated at the street front, this guideline could be met. **However as the building is currently designed this guideline is not yet met.**

B Development Design

- B1. Convey Design Quality and Building Permanence.** Use design principles and building materials that convey quality and permanence.
- B2. Integrate Ground-Level Building Elements.** Integrate the different ground-level building elements with the building's architecture.

Findings: The proposal includes slate tile, corrugated metal, and 24 gauge metal panels. The materials are enlisted to help define particular volumes and depths.

Corrugated metal is used as a primary cladding material for the building, from ground level to the cornice. A wall assembly detail provided by the applicant includes the corrugated metal siding/metal flashing/plywood sheathing layers. Based on the detail provided, there is potential along the ground level for damage, as there are air gaps within the box beam that are susceptible to denting. Should a higher gauge metal panel and/or more durable exterior materials such as brick or cast concrete be employed, this guideline could be met.

The ground level of the building facing the sidewalk features a canopy, which echoes projecting features delineating floors on the upper levels. As the depth of the canopy is three feet, inadequate coverage is afforded pedestrians at the sidewalk. Building materials at the ground level are undifferentiated from upper levels; this represents a missed opportunity since integration of more durable materials at the ground level could potentially add richness, quality, durability, and vitality to the pedestrian environment. **Therefore, these guidelines are not met.**

- B3. Design for Coherency.** Integrate the different parts of a building to achieve a coherent design.

Findings: Respective elevations appear to lack coherency, especially the southern elevation, which includes the large circular element unique only to this facade. In addition, the extensive use of the slate tile on the southern elevation is not present on other elevations. A well-defined base is also lacking in the design of the building. This guideline could be achieved by using similar materials amongst the facades, using a common system of building forms, reducing the number of window proportions, and expressing the ground floor retail function through a different material or articulation, to name a few. **Therefore, this guideline is not met.**

- B5. Integrate Roofs, Rooftop Lighting, and Signs.** Integrate rooftop components, functions and related screening elements with the building's architecture. Integrate exterior lighting, signs and any related structural equipment at or near the roof with the building's architecture. Orient lighting to highlight the building's architecture.

Findings: Uplighting will be incorporated to highlight the architecture along all frontages. The applicant proposes a recessed, internally-lit 48 square foot sign cabinet towards the top of the uppermost south and west cornices. The sign's placement interrupts the continuous cornice line, diminishing the integrity of the top of the building.

While the uplight fixtures are orderly in their placement on the facades, the lighting elements could be more fully integrated and/or screened within the projecting bands, better meeting the intent of integration of lighting within the façade composition.

The signage can be better integrated; perhaps within the pedestrian realm as sign blades below the canopies for example. However, as currently designed, this guideline is not met. **Therefore, this guideline is not met.**

C Context Enhancement

- C3. Support Open Spaces with New Development.** Develop buildings that are oriented to adjacent open spaces.

Findings: The urban design concept map for the Gateway Regional Center indicates potential park/open space and an enhanced pedestrian/bike path along the western edge of the site. Site design of the development does not indicate any features acknowledging the potential for the future open space.

Potentially, the applicant could extend the walkways running along the north and south frontages from the sidewalk to the future trail, with integrated bike parking, or seating along the building edge. Openings and/or canopies along the western frontage could support future interaction along the edge, with potential for informal seating for users on the ground floor. **Therefore, this guideline is not met.**

C4. Develop Complementary Parking Areas. Develop, orient and screen parking area to complement adjacent buildings and the pedestrian environment.

Findings: Parking is proposed alongside the southern portion of the site adjacent to the sidewalk with landscaping and bike parking incorporated into the buffer per code requirements. Design of the parking area does not include a built edge such as trelliswork, seating, or low walls to acknowledge the desired screening and urban edge along the sidewalk. In addition, an integrated on-site stormwater treatment along the sidewalk edge could potentially provide necessary screening and/or visual element that would mitigate for the expanse of paving proposed by the applicant.

As a grand architectural gesture faces the parking lot, unequal treatment is given to the parking edge, heightening its importance over the pedestrian realm. Where a more subdued response is warranted towards the parking area, the applicant chooses a richer material palette and architectural feature that is counter to creating a more complimentary relationship between the parking and building. As a majority of the development within the Gateway Plan District was built post World War II, and reflects a suburban pattern relationship of car to building, the applicant's proposal does not break from the auto-oriented tradition which is discouraged. Added richness to the front façade, additional building articulation, and pedestrian amenities along the front façade could potentially address this guideline. In addition, siting parking at the rear of the lot are potential solutions that would enable meeting this guideline. **Therefore, this guideline is not met.**

C7. Strengthens the Regional Center's Western Edge. Contribute to the creation of a variable edge facing the I-205 freeway, by varying the footprint and façade plane of new development.

Findings: There are modest gestures towards the western edge that the applicant has proposed, including a walkway along the western side of the building edge, and landscaping. Suggestions found within the Gateway Design Guidelines document include responses such as undulating the building edge, and incorporating active uses which acknowledge future recreational uses of the open space adjacent to the freeway. **Therefore, this guideline is not met.**

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

As the desired design goal for the Gateway Regional Center and Design District is creation of highly urbanized pedestrian-oriented spaces, the proposal lacks desired response to applicable design guidelines, in particular A1, Strengthen Relationships Between Buildings and the Street, B3, Design for Coherency, and C4, Develop Complementary Parking Areas.

The base of the building does not fully engage the pedestrian realm, and lacks a richness and response that are conducive to such vitality. The building's disparate elements, from windows, to materials, to articulation lack a fluidity and coherence which would be conducive to creation of a landmark, as the proposed site is important and would signal arrival. The parking area's siting and lack of features to mitigate for its location do not convey a break from the past.

ADMINISTRATIVE DECISION

Denial of an 18,000 square foot 4-story office building and adjacent 10-space surface parking lot.

Decision rendered by:  **on October 31, 2008**

By authority of the Director of the Bureau of Development Services

Decision mailed: November 5, 2008

Staff Planner: Chris Beanes

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 February 1, 2008, and was determined to be complete on **July 9, 2008**.

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 February 1, 2008.

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 waived the 120-day review period, as stated with Exhibit G.4.

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 Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on November 19, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 contact the receptionist at 503-823-7967 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 Design Commission 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 Design Commission 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 20, 2008 – (the day following the last day to appeal)**.
- 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

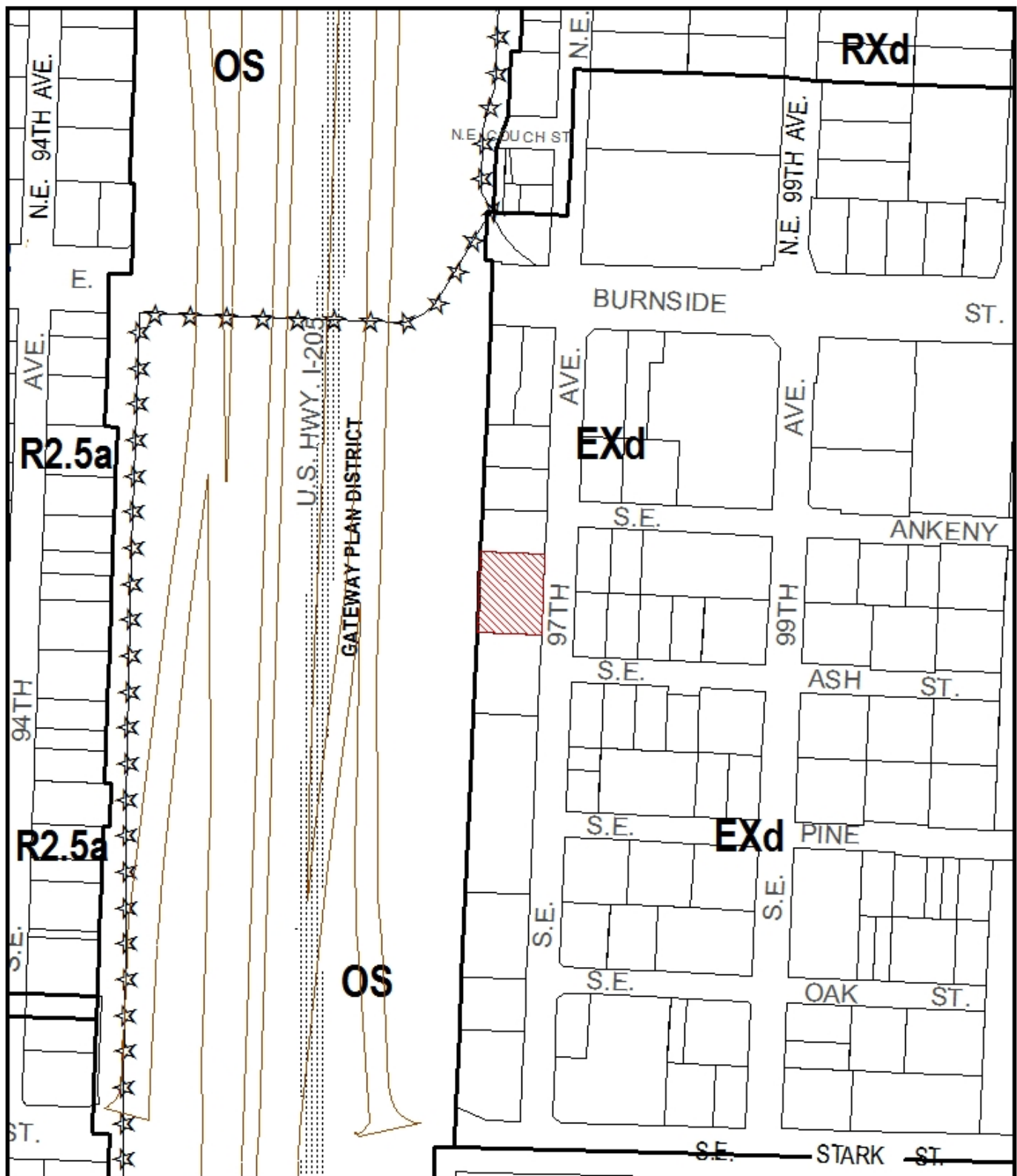
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. 1. Applicant's Statement
- 2. Statutory Bargain and Sale Deed, recorded 6/26/08, showing separate ownerships between subject lot and lots to south (re: nonconforming upgrade issue).
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. East Elevation (attached)
 - 3. West Elevation (attached)
 - 4. North Elevation (attached)
 - 5. South Elevation (attached)
 - 6. Details (attached)
 - 7. Perspective (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. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. William F. Bitar, July 24, 2008, Favorable response to proposal, in particular needed revitalization and urban design.
 - 2. Fred Sanchez, July 31, 2008, Favorable response to proposal, in particular the design and caliber of development.
 - 3. Arlene Kimura, August 5, 2008, particular issues with the design response.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter
 - 4. 120-day waiver letter



ZONING



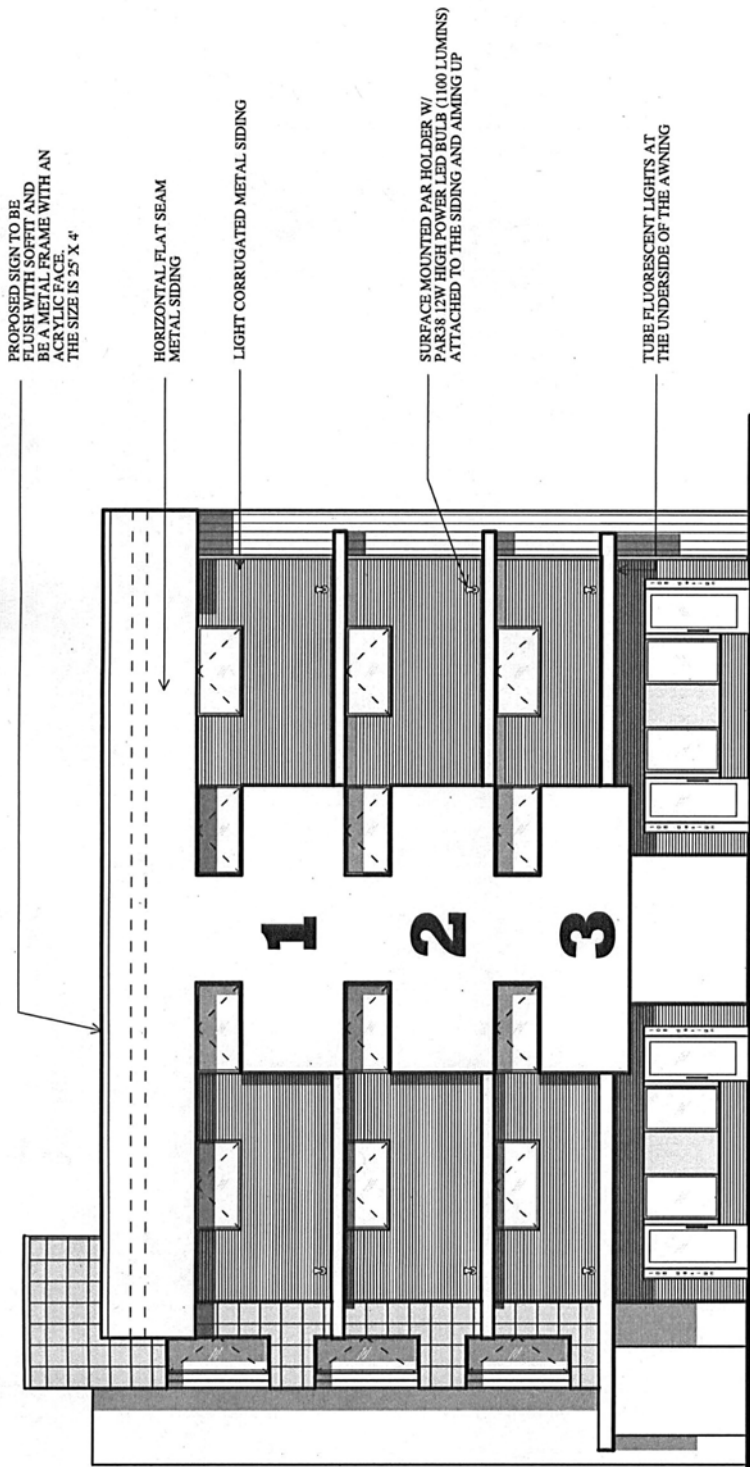
Site



NORTH

This site lies within the:
GATEWAY PLAN DISTRICT

File No. LU 08-106477 DZ
1/4 Section 3040
Scale 1 inch = 200 feet
State_Id 1N2E33DC 600
Exhibit B (Jul 14, 2008)

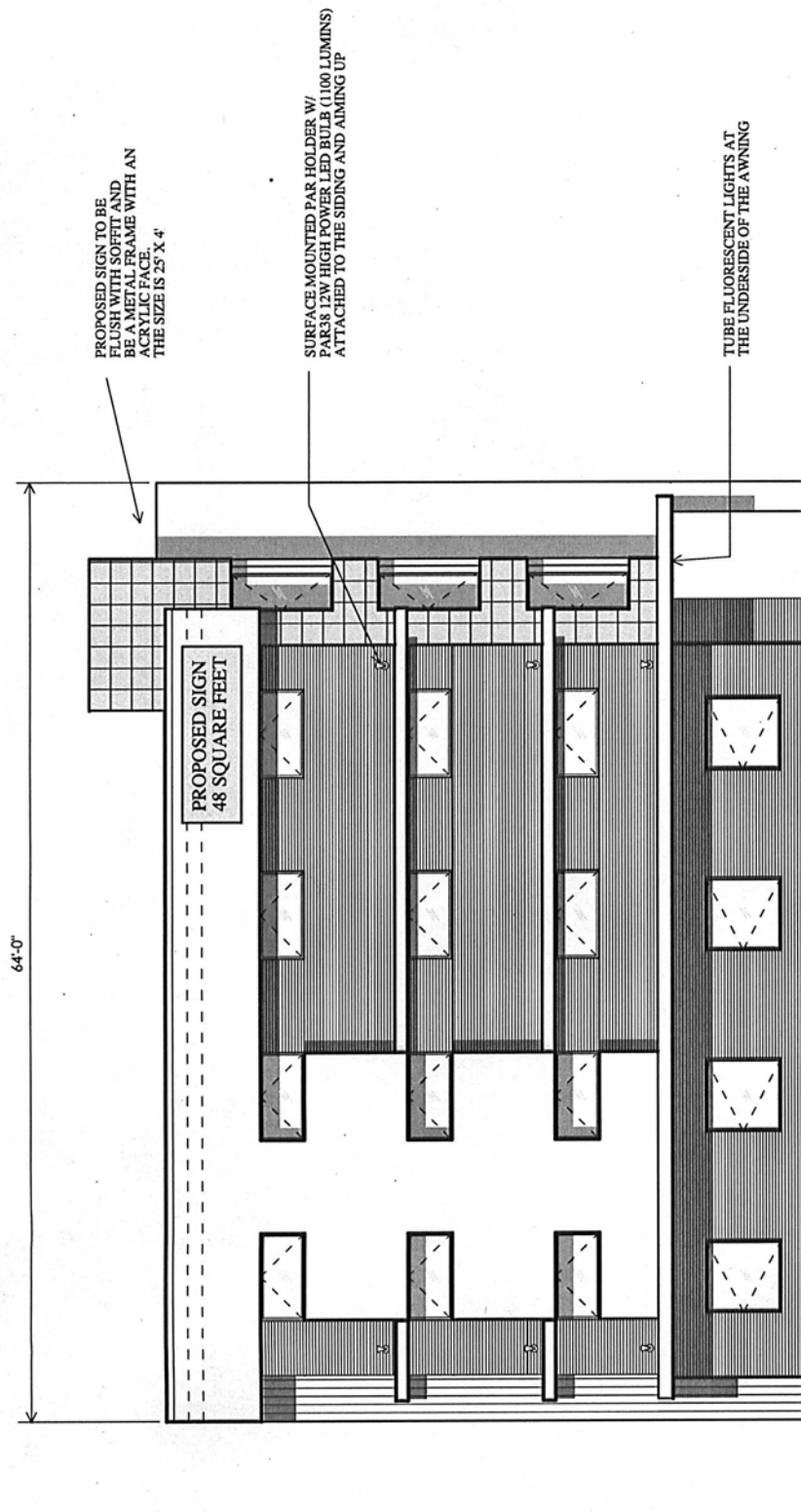


B. EAST ELEVATION

FLUORESCENT LIGHTING FIXTURES TO BE LITHONIA DM SERIES FLUORESCENT LIGHTS
WALL SCONCE TO BE SURFACE MOUNTED PAR HOLDER W/ PAR38 12W HIGH POWER LED BULB (1100 LUMENS)

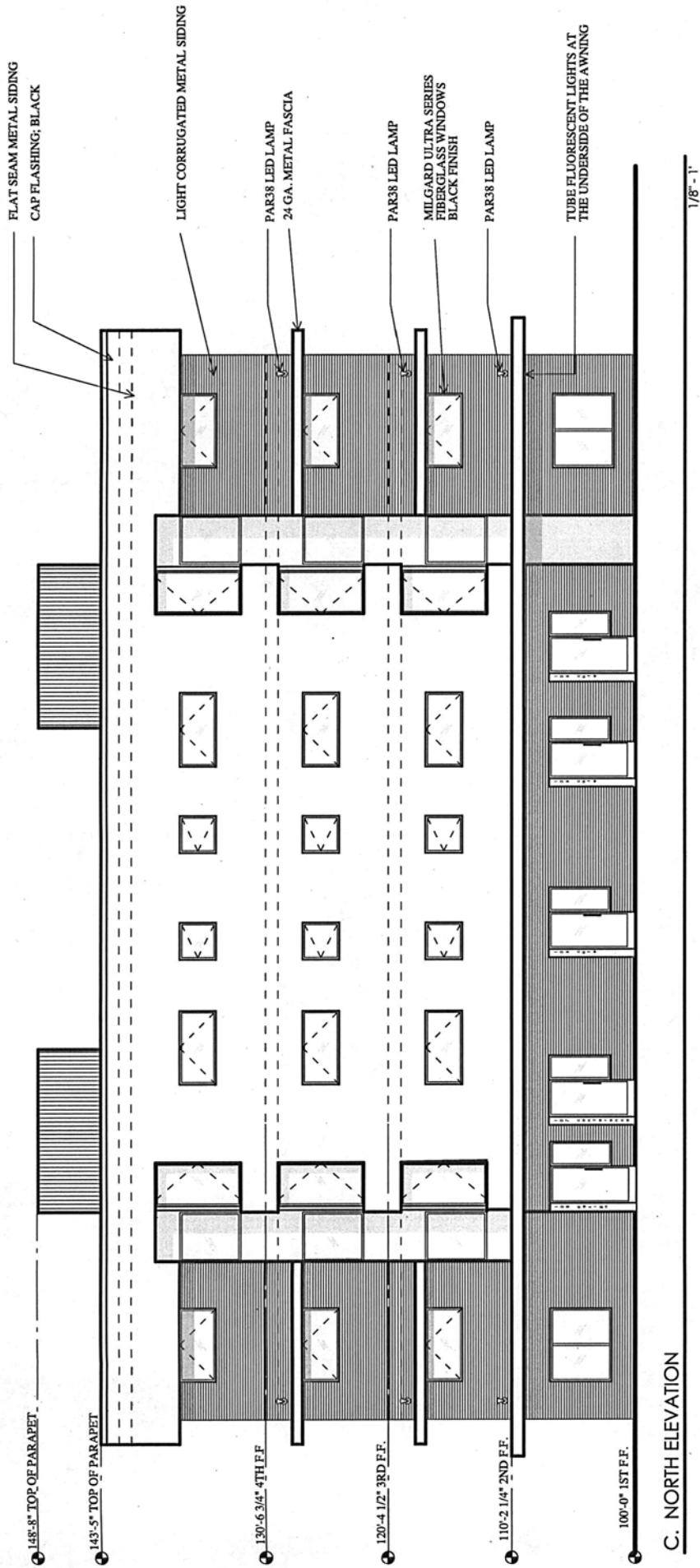
1/8" = 1'

LU08-106477DZ
Exhibit C.2

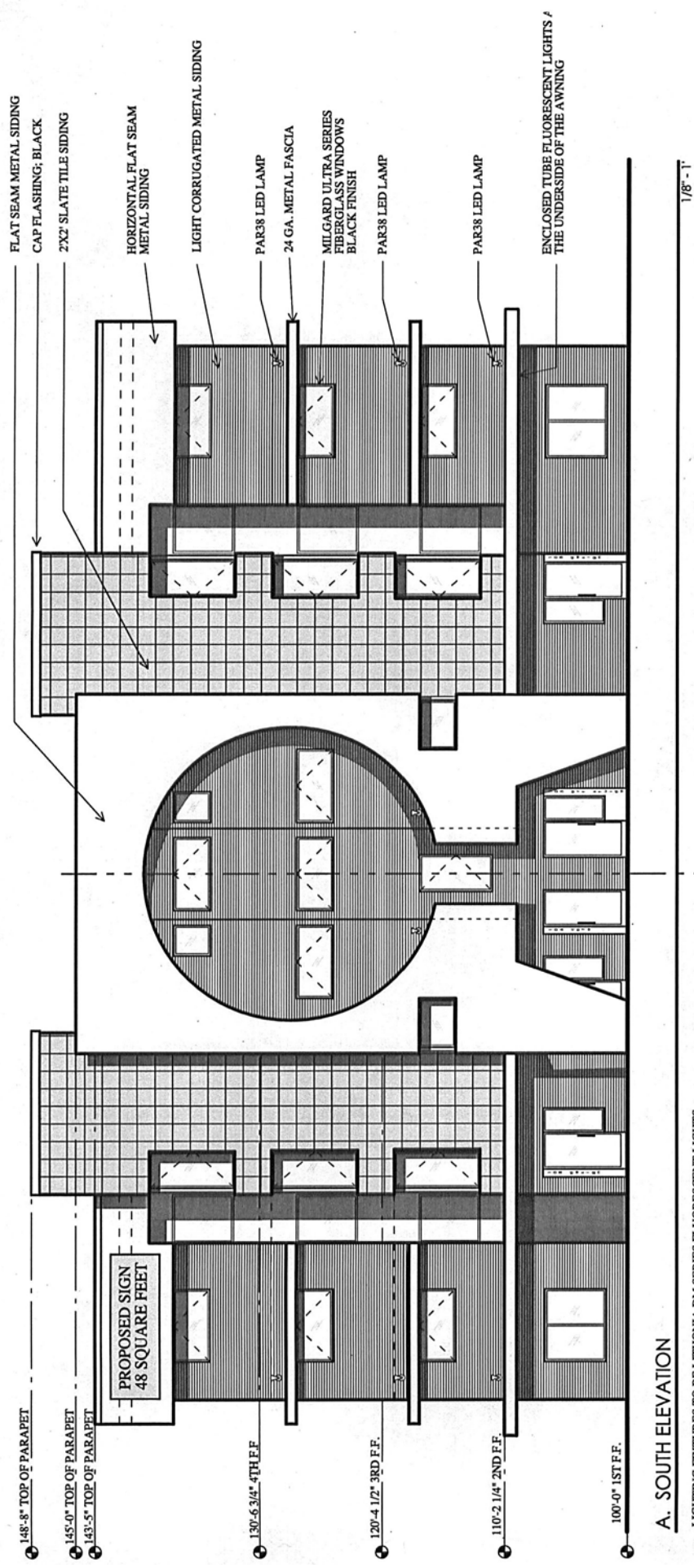


1/8" = 1'

LU08-106477DZ
Exhibit C.3

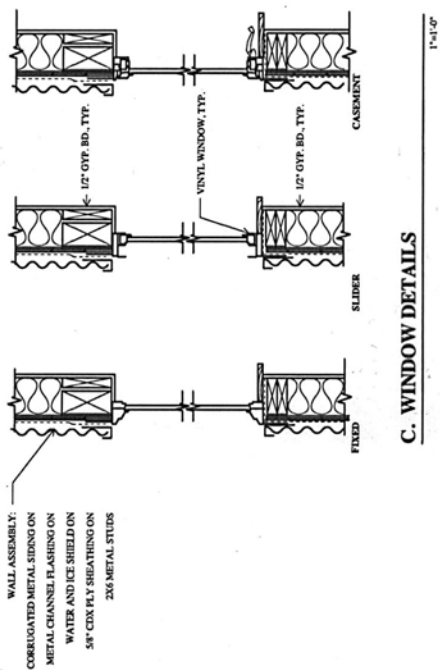


LU 08-106477D2
Exhibit C.4

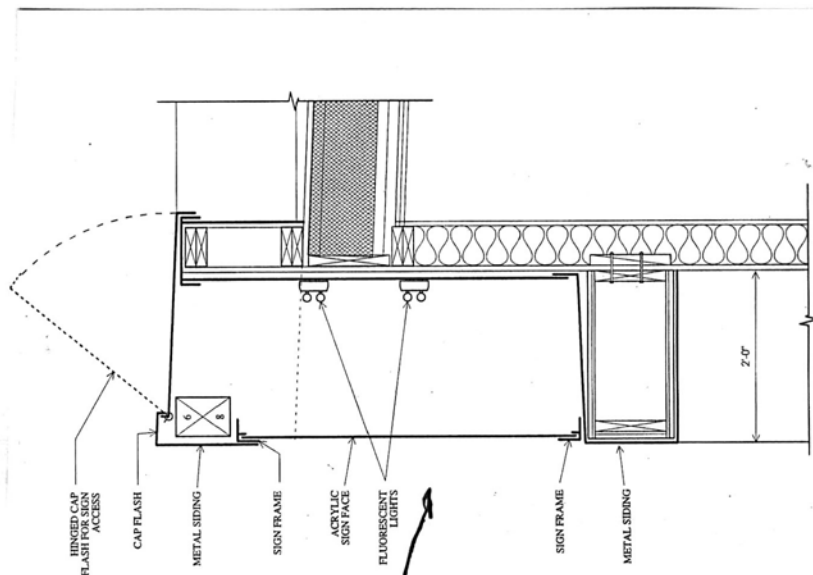


LU08-106477DZ
Exhibit C-5

6. TRASH ENCLOSURE



C. WINDOW DETAILS



Sign Cabinet
detail
section

LV08-106477DZ
Exhibit C-6



LV08-106477DZ
Exhibit C7