

**IN THE CITY COUNCIL OF THE
CITY OF
PORTLAND OREGON**

As Amended

2/23/11 p.6

**IN THE MATTER OF AN APPLICATION
BY 4310 Building LLC FOR A
Design Review at 4310 SW Macadam**

LU 10-145100 DZM

FINDINGS AND CONCLUSIONS

**ADOPTED BY THE CITY COUNCIL ON
February 23, 2011**

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BY 4310 Building LLC FOR A
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FINDINGS AND CONCLUSIONS

The findings and conclusions of the City Council in this matter are set forth below.

I. GENERAL INFORMATION

Applicant: 4310 Building LLC (Listed Owner)
101 N Tryon Street
Charlotte, NC 28246-0100

Representatives: Keith Skille, GBD Architects - 503-224-9656
1120 NW Couch, Suite 300
Portland, OR 97209

Rodney Grinberg, Lindquist Development Company - 503-227-8275
PO Box 42135
Portland, OR 97242

Carrie Richter, Garvey Schubert Barer – 503-228-3939
121 SW Morrison Street, 11th Floor
Portland, OR 97204

Appellant: Jim Davis, South Portland Neighborhood Assoc. – 503-248-9820
2337 SW 6th Avenue
Portland, OR 97201

Site Address: 4310 SW MACADAM AVENUE
Legal Description: TL 500 1.24 ACRES, SECTION 10 1S 1E
Tax Account No.: R991100800
State ID No.: 1S1E10CD 00500
Quarter Section: 3429

Neighborhood: South Portland Neighborhood Association., contact Jim Davis at
503-248-9820.

Business District: South Portland Business Association, contact Brian Alfano at 503-
288-5661.

District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-
4592.

Plan District: Central City - South Waterfront

Zoning: CXd, Central Commercial with Design Overlay

Case Type: DZM, Design Review with Modifications

Procedure: Type III, with a public hearing before the Design Commission. The decision of the Design Commission can be appealed to City Council.

II. INTRODUCTION AND PROCEDURAL HISTORY

Project summary: The applicant seeks design review approval on a proposal for an addition to an existing building. The addition will be a three-story building connected to the existing four-story office building. The addition will consist of a single, 18,300 SF office floor over two 23,000 SF parking levels and include a partial 8,000 SF level of below-grade parking. The parking structure will accommodate 101 cars. The existing building and the addition will be the same height. The main entrance will be located at the northeast corner of the existing building, fronting SW Bancroft. The area between the building and future SW Moody will be mostly vehicle area and will be fenced.

The initial land use application indicated the project would include two primary uses - Office and Retail Sales and Service. In the appeal proceedings City Council concluded the project would be for three primary uses - Office, Retail Sales and Service and a Detention Facility (as discussed below in Section III "Analysis", "Zoning" sub-section).

The proposal for review indicates a Phase 1 (or Initial Development) and a Phase 2 (or Future Development). The reason for two Phases is due to the fact that a portion of SW Moody will be extended through this site; future SW Moody will include Streetcar. The timing of the street extension is not known, but construction is anticipated to begin within 5-8 years. This site will therefore front SW Moody along its entire east property line in the near future. Section 33.510.030 of the Zoning Code requires Central City Plan District regulations to be applied based on the future location of the street as shown in the adopted Street Plan.

Modification requests:

1. **Ground Floor Windows.** 33.510.220 and 33.130.230. This project is considered a "Major Remodel". The building (existing and proposed) must therefore comply with the Ground Floor Window regulations at all four elevations. Regulation: 50% of the wall length and 25% of the ground floor wall area must be qualifying window features. The north, south and east elevations do not meet this standard.
2. **Transit Street Main Entrance.** 33.130.242. Regulation: The main entrance must be within 25' of a transit street. The main entrance to the building, which faces SW Bancroft, is further than 25' from this transit street.
3. **Location of Vehicle Areas.** Table 266-3. Regulation: Vehicle area is only allowed between the building and one local service transit street. Vehicle area is proposed between the building and future SW Moody, a designated major transit priority street (which is not considered a local service transit street).
4. **Required Building Line.** 33.510.215. This project is considered a "Major Remodel". The building (existing and proposed) must therefore comply with this regulation at future SW Moody. Regulation: The building must extend to the street lot line or be within 12' of the street lot line for 75% of the lot line. The SW Moody elevation does not meet this standard.
5. **Ground Floor Active Use.** 33.510.225. This project is considered a "Major Remodel". The building (existing and proposed) must therefore comply with this regulation at future SW Moody. Regulation: Buildings must be designed and constructed to accommodate active uses for 50% of the street-facing ground floor wall. Furthermore, in South Waterfront specifically, vehicle areas are not allowed in the portions of a building that are required to meet this standard. In Phase 1,

vehicle area is proposed for a majority of the ground floor facing SW Moody. In Phase 2, the 50% requirement is met, but the commercial retail space to be constructed in Phase 2 does not meet the 25' depth requirement.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are the Central City Fundamental Design Guidelines, the South Waterfront Design Guidelines, and the Modification criteria listed in 33.825.040.

Procedural History:

- The first Design Commission hearing was held on October 7, 2010. The Staff Report for that hearing did not recommend approval (Exhibit G.6). On October 7, 2010 the Commission generally concurred with the Staff Report issues, a summary of their comments can be found in Exhibit G. 13. The Design Commission continued the hearing to November 4, 2010.
- The second Design Commission hearing was held on November 4, 2010. There was not a staff report for this hearing. On November 4, 2010 the Commission requested additional changes to the gatehouse design, the vehicle and pedestrian canopy designs, the size/configuration of the entry plaza, and a clarification of the finishes and glass of the entry elements. The applicant agreed to make these changes and return on November 18, 2010 and staff agreed to provide a revised Staff Report evaluating these changes.
- At the November 18, 2010 Design Commission hearing the Design Commission adopted the Revised Staff Report and Recommendation with Conditions (Exhibit G.20) and approved the revised design and design modifications with conditions of approval.
- The Design Commission's decision was appealed by the South Portland Neighborhood Association (SPNA) on December 17, 2010 (Exhibit I.1). In its appeal, the SPNA raised issues concerning the proper use classification to be assigned to the proposed facility under the zoning code.
- The first City Council hearing on SPNA's appeal was held on January 19, 2011. At that hearing the applicant requested the City open the record, "for the limited purpose of considering information and evidence related to the proposed use issue." (Exhibit I.25) City Council agreed and allowed new evidence on the use issue to be submitted until 5PM on January 26, 2011. All parties were able to respond to the new evidence submitted during the previous 7 day period until 5 PM on February 2, 2011. The applicant's final argument was due on or before February 7, 2011.
- City Council reconvened on February 16, 2011 to deliberate and make a tentative decision. The Council's tentative decision granted in part and denied in part SPNA's appeal and concluded the proposed project contains 3 primary uses: Office, Retail Sales and Service, and a Detention Facility (as discussed below in Section III "Analysis", "Zoning" sub-section). With the intent of ensuring Phase 2 will occur, the tentative decision supported revisions to Design Commission's Conditions of Approval B and C. And, finally, the tentative decision added a new Condition of Approval that required, per Code, a Type III Conditional Use and Central City Parking Review for the Detention Facility use.
- City Council adopted a final decision with new findings on February 23, 2011.

III. ANALYSIS

Site and Vicinity: The site is located in the South Waterfront District of Portland's Central City. The site is a particularly unusual geometry bounded to the W by SW Macadam Avenue, to the N by SW Bancroft Street, to the E by a private tax lot with an existing rail line heading south to Lake Oswego, and to the S by a neighboring tax lot owned by ODOT. As it is currently configured, the site is a trapezoidal of 52,963 square

feet - 335' long north to south, and 177' wide west to east. At the eastern side of the site, SW Moody currently dead ends at SW Bancroft. As part of this project, a 20' dedication through this site will accommodate a new street re-alignment of SW Moody to continue the urban grid, including Streetcar, and ultimately connect a street system through South Waterfront to the Macadam neighborhood directly to the south.

The site sits at the south end of the relatively new South Waterfront Design District and is immediately north of the Macadam Plan Design District – two distinctly different contexts. The predominant building typology in the new South Waterfront developments includes tall, relatively thin towers sitting on full or partial block plinths. Toward the southern edge of South Waterfront (as South Waterfront transitions into the Macadam Design District) buildings are older, more established industrial buildings where the heights are more commonly one and two stories.

The property immediately south of this site was a designated accessway in the original 2003 PBOT South Waterfront District Street Plan. With the revisions to the South Portal design sometime between 2003 and 2007, PBOT moved the accessway south to SW Hamilton Street. The Zoning Code has yet to be updated to reflect this new accessway location and thus still indicates an accessway in its original location – immediately south of this site.

The existing building was constructed in 1982 and was the Bank of America North Operations Center. The bank vault was included in the ground floor, created with 18" thick concrete walls. The area for processing people awaiting a hearing before an administrative hearings officer will be in this ground floor space. Floors 2-4 of the existing building will be renovated to class A office space. The exterior of the existing building is composed of the first synthetic plaster skin building in Portland and is also noted for its semi circular brick clad exterior stairwells.

Following are the adjacent street designations:

- Macadam Avenue is classified as a Major City Traffic Street, Major Transit Priority Street, City Walkway, Major Truck Street and Major Emergency Response Route in the City's Transportation System Plan. Macadam Avenue is a state highway located within City right-of-way.
- SW Bancroft Street is classified as a local service street in the City's TSP.
- SW Moody Avenue is classified as a Traffic Access Street, Major Transit Priority Street, City Bikeway, Central City Transit/Pedestrian Street and Major Emergency Response Street in the City's TSP.

Zoning: The site is zoned **CXd**, Central Commercial with design overlay.

The Central Commercial (CX) zone is intended to provide for commercial development within Portland's most urban and intense areas. A broad range of uses is allowed to reflect Portland's role as a commercial, cultural and governmental center. Development is intended to be very intense with high building coverage, large buildings, and buildings placed close together.

The design (d) overlay zone promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development are subject to design review.

The initial land use application indicated the project would contain two primary uses – (1) Office and (2) Retail Sales and Service. Office and Retail Sales and Service are primary uses allowed outright in the CX zone per Table 130-1. Chapter 33.910 defines an Accessory Use as, "a use or activity which is a subordinate part of a primary use and

which is clearly incidental to a primary use on a site.” The processing area and supporting areas proposed for a portion of the project was considered accessory to the primary Office use, as described by city staff in the Staff Reports (Exhibits G.6 and G.20) and Exhibit I.22.

On appeal, the SPNA argued the proposed project in its entirety is properly characterized as a detention facility that requires conditional use review and contended the Design Commission erred by characterizing the project as consisting of only Office and Retail Sales and Service uses. At the conclusion of the appeal proceedings, the City Council concluded the proposed project will contain three primary uses – Office, Retail Sales and Service, and a Detention Facility. Council determined the processing center, including the holding cells, is not incidental to the Office use because it is a central part of the work being administered by the tenant, which includes managing detainees in custody. Therefore, the Council found the detainee processing center portion of the project should be assigned a primary use category and concluded the “Detention Facility” use category is the best fit. Since a detention facility is a Conditional Use in the CX zone per Table 130-1, the City Council added a Condition of Approval (D), which requires the necessary Type III Conditional Use Review for the proposed Detention Facility portion of the project.

In Exhibit A.4 (a June 2, 2010 memo from the project’s representative) it was asserted that the proposed processing center is a Basic Utility use and the remainder of the building is Office use. And, in Exhibit I.47 (the applicant’s final argument) the applicant contends if the processing center and its associated uses is not determined to be accessory to an Office use, it has a separate primary use of “Basic Utility” because it is a “public safety facility”. 33.920.400 defines Basic Utilities, “**are infrastructure** services which need to be located in or near the area where the service is provided. Basic Utility uses generally do not have regular employees at the site. Services may be public or privately provided. All public safety facilities are Basic Utilities.” Public safety facilities are defined in 33.910 as, “A facility necessary to respond to an immediate hazard to the public health and safety, and that is owned, leased, or operated by the City of Portland. Public safety facilities include fire and police stations, flood control facilities, water towers and pump stations needed for emergency service, and emergency communication broadcast facilities.” Accessory uses, “may include parking; control, monitoring, data or transmission equipment; and holding cells within a police station.” Examples include, “water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; Small Scale Energy Production, water quality and flow control facilities; water conveyance systems; water harvesting and re-use conveyance systems and pump stations; stormwater facilities and conveyance systems; telephone exchanges; mass transit stops or turn arounds, light rail stations, suspended cable transportation systems, transit centers; and public safety facilities, including fire and police stations, and emergency communication broadcast facilities.” The proposed use was determined not to fit the use definitions outlined above for the following reasons: there is no indication that the detainee processing center and its supporting uses would *need* to be located in the South Waterfront neighborhood, the detainee processing center (and its supporting uses) has regular employees at the site, and it is not a public safety facility because it is not owned, leased, or operated by the City of Portland.

A staff memo from January 17, 2011 (Exhibit I.22) acknowledges the processing center and its associated areas did not fit squarely into any of the three potentially relevant use categories considered (Office, Basic Utility, and Detention Facility) under the zoning coder. According to PCC 33.920.030, “uses are assigned to the category whose description most closely describes the nature of the primary use.” The use of the

phrase “most closely” indicates that it is not necessary for an applicant’s proposed use to fit perfectly into any of the categories that are enumerated within the Code.

33.920.520 defines Detention Facilities as including: “facilities for the judicially required detention or incarceration of people. Inmates and detainees are under 24 hour supervision by peace officers, except when on an approved leave.” Examples include “prisons, jails, probation centers, and juvenile detention homes.” The City Council concludes the characteristics of the definition and examples given are illustrative and are not intended to restrict the uses that can be characterized as a “detention facility” to only those uses that are an exact fit. The characteristics and examples describe the typical features, purpose, elements or aspects of a use that lead it to be characterized as a detention facility.

The applicant’s evidence addresses the “judicially required” characteristic of the definition in Exhibits A.3, A.4, I.26, I.44 and I.47 and contends the detention in this case is civil and administrative in nature. The zoning code doesn’t define the term “judicially required” and Council does not adopt a narrow interpretation of this phrase. According to Webster’s Online Dictionary, the word judicial refers among other meanings to “the administration of justice”. Given that the proposed facility is charged by the federal government with enforcing US Immigration laws, the activity of detaining and processing individuals alleged to have violated immigration laws is an activity required for the administration of justice.

The applicant asserts in Exhibits A.4, I.26, I.44, I.47 that because the facility is not operated 24 hours, 7 days a week it therefore does not comply with the phrase “24 hour supervision” of the Detention Facility definition. Although the facility will not hold people for more than 12 hours, the detainees at the proposed facility will be supervised at all times they are detained. This is certainly compatible with the purpose of the clause – i.e. lacking freedom at all times while present at the facility. Additionally, probation centers (as in the Detention Facility reviewed as a Conditional Use at 2205 NE Columbia Blvd. and noted in Exhibit I.42) are typically not 24-hour operations but are listed as an example in the Detention Facility definition. That is, probation centers are typically open during normal weekday business hours and individuals visit the centers to check in with their probation officers. They are not under 24-hour supervision. The proposed processing area portion of this project is like a probation center, which is a detention facility under the code, in that it is not a 24-hour operation and does not provide 24-hour supervision. It is also like a prison or jail in that the individuals held at the processing center are under detention (i.e., they are not free to come and go) for violating or allegedly violating the law—in this case United States immigration laws. In both respects, the processing area is most similar to a detention facility and best fits this use category.

The applicant argues the list of examples included in the Detention Facility definition is limiting and if the Code meant to also include “similar uses” it would have utilized the term “similar” (Exhibit I.47). However, City Council finds the definition of Detention Facility includes a list of examples (prison, jails, probation centers and juvenile detention homes) that is meant to be illustrative and not limiting. The intentional use of the word “includes” in the code indicates that the types of facilities listed are intended to describe representative types of facilities that fit the “detention facility” use category, but they are not the only types of facilities that can be considered detention facilities. Similarly, the word “example” connotes a sample or typical type of use, but does not exclude uses that are not specifically listed in the code.

Finally, the list of examples includes facilities that do not follow all of the characteristics of the definition, as noted in the probation center example above. The Council finds the

proposed processing area portion of the facility is a Detention Facility because it most closely matches the characteristics of that use category in that individuals held there are detained for the purpose of administering justice (the United States immigration laws) and are supervised at all times while they are detained.. Since a detention facility is only permitted in the CX zone as a conditional use, the Council has imposed a condition of approval (Condition D) requiring conditional use review for the processing area portion of the project if the applicant continues to include this use as part of the overall project.

Land Use History: City records indicate that prior land use reviews since 1999 include:

- EA 10-127599 was a pre-application conference (PC) for this project. The conference was held on May 11, 2010.
- EA 10-144322 DA was a Design Advice Request (DAR) for this project. A hearing was held on July 1, 2010. Summary notes are found in Exhibit G.4
- LUR 01-00667 GW, DZ approved the following: Relocating three existing painted metal exit doors and adding one new similar door. Two of the doors are located on the east side of the existing building, and the other two doors are located on the south side of the building. Replacing existing English Ivy with a native species of groundcover (Kinnickinnick) at the northwestern corner of the site. Adding 7 new 5'-0" wide and 16'-0" long planting "islands" at the east edge of the parking lot. The curbed "islands" are to be located every 22 feet (on center), each with a flowering pear tree and groundcover (Kinnickinnick). Locating a new generator, of maximum dimensions 6'-0" tall, 11'-4" long, and 3'-6" wide, at the west edge of the site, along the Macadam Avenue frontage. The metal generator is to sit on a new concrete pad set 3 feet below the height of the Macadam right-of-way. The westernmost edge of the slab is to be no closer than 9 feet from the west property line. Adding a new 4- to 6-foot high hedge to screen views of the generator from Macadam. A new 48" high fence on top of a 24" retaining wall (or a 72" high fence with no wall, on the east side of the enclosure) is to be erected around the generator pad. The new fence is to match the existing fence.
- LUR 01-00280 DZM approved, with conditions, the following: Approval of a proposal to construct a new trash enclosure as well as a new recycling storage enclosure on the east edge of the site, in an existing parking lot. The two structures are each to be built of masonry with a painted stucco finish, with a pitched roof, a door, and exterior light fixtures. A Modification through Design Review is approved to allow the two structures to not meet ground floor window standards either where they face the rail corridor right-of-way or where they face SW Bancroft Street. At the northwest corner of the existing building, three condensing units are to be located on a concrete pad against the building. Each unit is to be no more than 3 feet tall, and the pad is to be screened with plantings.

IV. ZONING CODE APPROVAL CRITERIA AND FINDINGS

DESIGN REVIEW

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 a design (d) overlay zone, therefore the proposal requires Design Review approval. Because of the site's location, the applicable design guidelines are the Central City Fundamental Design Guidelines and the South Waterfront Design Guidelines.

Central City Plan Design Goals

1. Encourage urban design excellence in the Central City;
2. Integrate urban design and preservation of our heritage into the development process;
3. Enhance the character of the Central City's districts;
4. Promote the development of diversity and areas of special character within the Central City;
5. Establish an urban design relationship between the Central City's districts and the Central City as a whole;
6. Provide for a pleasant, rich and diverse pedestrian experience for pedestrians;
7. Provide for the humanization of the Central City through promotion of the arts;
8. Assist in creating a 24-hour Central City which is safe, humane and prosperous;
9. Ensure that new development is at a human scale and that it relates to the scale and desired character of its setting and the Central City as a whole.

South Waterfront Design Goals

The South Waterfront Design Guidelines and the Greenway Design Guidelines for the South Waterfront supplement the Central City Fundamental Design Guidelines. These two sets of guidelines add layers of specificity to the fundamentals, addressing design issues unique to South Waterfront and its greenway. The South Waterfront Design Guidelines apply to all development proposals in South Waterfront within the design overlay zone, identified on zoning maps with the lowercase letter "d". These guidelines primarily focus on the design characteristics of buildings in the area, including those along Macadam Avenue, at the western edge, to those facing the greenway and river. The Greenway Design Guidelines for the South Waterfront apply to development within the greenway overlay zone, identified on zoning maps with a lowercase "g". These design guidelines focus on the area roughly between the facades of buildings facing the river and the water's edge.

South Waterfront Design Guidelines and Central City Fundamental Design Guidelines

The Central City Fundamental Design and the South Waterfront Design Guidelines and the Greenway Design Guidelines for South Waterfront focus on four general categories.

(A) Portland Personality, addresses design issues and elements that reinforce and enhance Portland's character. **(B) Pedestrian Emphasis**, addresses design issues and elements that contribute to a successful pedestrian environment. **(C) Project Design**, addresses specific building characteristics and their relationships to the public environment. **(D) Special Areas**, provides design guidelines for the four special areas of the Central City.

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

A1 Integrate the River

Findings for A1: 4310 SW Macadam is located along SW Macadam Avenue and SW Bancroft Avenue, two blocks west of the Willamette River. The river is integrated into this project as part of both the site development and the building architecture. Currently, there is no pedestrian access from the sidewalk along SW Macadam to the sidewalk along SW Bancroft. This project will establish a connection such that a pedestrian walking along SW Macadam will have a safe route to the river's edge. The main entry lobby is located directly adjacent to this new pedestrian sidewalk providing visitors and employees direct access along SW Bancroft. New office space on the third floor of the addition is set back from the south and east faces of the building providing for views of the Willamette River through generous vision glazing. Similarly the exit stair is clad entirely of glass along the east face of the building providing for both natural light and views towards the Willamette River.

This guideline is met.

A2 Emphasize Portland Themes**A4 Use Unifying Elements****A4-1 Integrate Ecological Concepts in Site and Development Design****A4-2 Integrate Stormwater Management Systems in Development****A5 Enhance, Embellish and Identify Areas****A5-1 Consider South Waterfront's History and Special Qualities****A9 Strengthen Gateways****B5 Make Plazas, Parks and Open Space Successful****D2 South Waterfront**

Findings for A2, A4, A4-1, A4-2, A5, A5-1, A9, B5, D2: The site sits at the south end of the relatively new South Waterfront Design District and is immediately north of the Macadam Plan Design District – two distinctly different contexts. The predominant building typology in the new South Waterfront developments includes tall, relatively thin towers. Toward the southern edge of South Waterfront (as South Waterfront transitions into the Macadam Design District) buildings are older, more established industrial buildings where the heights are more commonly one and two stories. The proposed development adds a three story addition to a four story building providing a higher density to the district, while also transitioning the district with a gentle step down as it approaches lower building heights at the district's perimeter and along the Macadam corridor.

This project is designed to meet LEED Silver Certification. Many of the strategies employed will be visibly integrated into the design of the building such as treatment of stormwater on-site, two areas of eco-roof on the building addition, and some substantial roof overhangs shading the windows of the building. Some of the less visible strategies employed are high energy efficiency, use of environmentally responsible building materials, and resource conservation.

The proposed development will allow for future connections. The land between the site and the adjacent property to the East also will receive improvements. As part of this project, a 20' dedication to the City of Portland will provide the future opportunity to connect the South Waterfront Neighborhood with the Macadam Design District to the south. A future, district standard SW Moody Street will be implemented to provide access for Streetcar, vehicles, bikes, and pedestrians. District standards for streets and sidewalks will be followed to blend this development into the overall South Waterfront aesthetic.

The proposed development will also connect a broken pedestrian circulation system. Currently, a substandard pedestrian sidewalk along SW Macadam does not connect to SW Bancroft. This project will establish that connection and provide a PBOT approved sidewalk along SW Macadam and SW Bancroft. The Phase 2 site design significantly improves the SW Bancroft portal with City-standard sidewalk, a secondary connection that meanders through a planting area of natives, and an expression of stormwater traveling through water pools from SW Macadam to SW Moody culminating in a kinetic water feature at the corner of SW Bancroft and SW Moody.

The South Waterfront neighborhood has developed many unifying elements that distinguish it from other neighborhoods throughout the city. Among them are visibly treating stormwater on-site, providing eco-roofs, having extensive plantings, and providing pleasing textures and materials at pedestrian entry plazas and walkways. This project will incorporate many of these features including treating some stormwater on-site, providing two visible eco-roof areas on the addition, continuing the street vocabulary of SW Moody through the site, and utilizing a variety of paving textures at the entrance to the site.

A large part of the project's success in meeting these guidelines is evident in the Phase 2 landscape development, which includes the pedestrian amenities of the stormwater expression from SW Macadam to SW Moody – a reflection of the natural environment within the city limits. Not only does the Phase 2 design respond directly to these guidelines, it also is necessary to mitigate the deficiencies of the existing building's ground level (i.e. lack of active street presence) typically found in Portland's urban streetscape. Phase 2 is expected to occur in conjunction with street construction of SW Moody and street reconfiguration of SW Bancroft and, with a Condition of Approval will requiring Phase 2 construction, satisfies these guidelines. City Council, at the January 19, 2011 hearing, requested revisions to the wording of the Conditions of Approval to ensure that Phase 2 becomes a reality soon after the time of the street construction at SW Bancroft and SW Moody. As revised, Conditions of Approval B and C will do several things to implement Phase 2 – the land to be vacated for the SW Bancroft realignment will be accepted by the applicant and soon thereafter be constructed as shown in the approved C Exhibits, and a Development Agreement will be necessary to implement the SW Moody frontage improvements (noted in the approved plans as "Future Development" and including the proposed conversion of parking to ground level retail at the East Elevation and the kinetic water feature at the intersection of SW Moody and Bancroft).

With Conditions of Approval requiring the implementation of Phase 2, these guidelines are met.

A3 Respect the Portland Block Structure

Findings for A3: The property line of this project is particularly unusual in both size and shape. As it is currently configured, the site is a trapezoidal of 52,963 square feet - 335' long north to south, and 177' wide west to east. At the eastern side of the site, SW Moody currently dead ends at SW Bancroft. As part of this project, a 20' dedication through this site will accommodate a new street re-alignment of SW Moody to continue the urban grid and ultimately connect a street system through South Waterfront to the neighborhood directly to the south.

This guideline is met.

A6 Reuse / Rehabilitate / Restore Buildings

Findings for A6: As part of this development, a four story existing office building will be renovated and improved to a Class A quality office building. The building addition differentiates new from old.

This guideline is met.

A7 Establish and Maintain a Sense of Urban Enclosure**A8 Contribute to a Vibrant Streetscape****B1-1 Facilitate Transit Connections****C4 Complement the Context of Existing Buildings****C7 Design Corners that Build Active Intersections**

Findings for A7, A8, B1-1, C4, C7: The site sits at the south end of the relatively new South Waterfront Design District and is immediately north of the Macadam Plan Design District – two distinctly different contexts. Generally, South Waterfront is primarily composed of tall, slender glass towers on plinths (though a few recent mid-rise, more solid buildings have been built also at the south end of the district). And, generally, Macadam is an older district with mid- to low-rise buildings in a more suburban setting. The proposed building materials are of a high quality, which is consistent with the desired character of South Waterfront. In the immediate vicinity of the site, the neighboring blocks are composed of one and two story industrial buildings that are expected to be redeveloped in the future. The existing building is a four-story office building, more typical of the older Macadam Design District identity. As a building addition it is appropriately more compatible with the existing building, but complements the future urban fabric with a three story addition to replace existing surface parking.

The addition improves the Macadam frontage greatly with an active building wall at the street edge for the entire street frontage. The addition improves the Bancroft frontage with a prominent entry an extensive landscaping, a marked improvement over the existing building's ground level. At the end of Phase 2 the project will also provide active ground level uses at SW Moody, which is more in line with the expected pedestrian-oriented future of South Waterfront.

Over the course of review the SW Moody Phase 2 edge treatment was significantly improved. What began as a metal picket fence along the streetcar turned into a contributory street wall that includes a mixture of shrubs, ground cover, trees, seating opportunities, lighting, and L-shaped piers with fencing to fill in the gaps. The rich layering of elements will contribute to the site's transit alignment, enliven the public sidewalk, and reduce the emphasis on the vehicle area beyond the street wall. The street wall is enhanced with the gatehouse near the corner and the kinetic water feature at the corner.

Phase 2 does include a SW Moody entry into a small retail space. However, the absence of a main building entry facing the future Moody Avenue Streetcar alignment is even more reason for the street edge to become successful and enlivening. Guideline B1-1 references the Moody-Bond spine as the, "primary mobility route... (with) service potentially to Lake Oswego. Design decisions, such as orienting main building entrances to streets served by transit, can significantly enhance the accessibility of those facilities and potentially increase ridership." Though locating the main building entrance at SW Bancroft is acceptable, the district's focus is on Moody and pedestrian activity is therefore expected at Moody – thus the street edge has become welcoming

and supportive of passers-by. And, an on-site connection from Moody to the Bancroft main building entry was incorporated in the redesign.

A large part of the project's success in meeting these guidelines is evident in the Phase 2 landscape development, retail component and Moody street wall. Not only does the Phase 2 design respond directly to these guidelines, it also is necessary to mitigate the deficiencies of the existing building's ground level (i.e. lack of active street presence) typically found in Portland's urban streetscape. Phase 2 is expected to occur in conjunction with street construction of SW Moody and street reconfiguration of SW Bancroft and, with a Condition of Approval requiring Phase 2 construction, these *guidelines are met*.

B1 Reinforce and Enhance Pedestrian System

Findings for B1: At the SW Macadam and SW Bancroft intersection, there is currently no pedestrian connectivity. This project provides a new pedestrian sidewalk to connect both sidewalks as part of Phase 1 and Phase 2. Mature trees exist along the Bancroft frontage and the sidewalk system in both Phases will incorporate them into the landscape design.

Currently, SW Moody dead ends at SW Bancroft. This project dedicates 20' of property along the eastern edge of the site to continue the street grid from South Waterfront south into the Macadam Design District.

This guideline is met.

B1-2 Enhance Accessway Transitions

C4-1 Develop Complementary Structured Parking

Findings for B1-2, C4-1: The property immediately south of this site was a designated accessway in the original 2003 PBOT South Waterfront District Street Plan. With the revisions to the South Portal design sometime between 2003 and 2007, PBOT moved the accessway south to SW Hamilton Street. The Zoning Code has yet to be updated to reflect this new accessway location and thus still indicates an accessway in its original location – immediately south of this site. With the construction of SW Moody, the grades to the south and east of the building are expected to change; the building's relationship to the ground at the south elevation will be significantly altered, as noted in the submitted south elevation.

At the South elevation, the building is built to the property line and is clad with the same high-quality brick used throughout the addition to conceal the parking. The concrete foundation wall will be exposed until such time that SW Moody is constructed and the grades are raised. Because this area is no longer a designated accessway in PBOT's plans, it is possible that a building will be built immediately south of the proposed building. However there are several unknowns with regard to the timing/possibility of an adjacent building, including multiple ownerships of the lots to the south. ODOT owns the adjacent 30'-wide parcel that runs the length of this site. ODOT has been contacted for information on any future plans for this parcel – at the time of this Staff Report, BDS has not received a response. For these reasons, it is likely that the south elevation of this addition is exposed for a long time. Though building to the property line requires a solid four-hour wall, the proposed South elevation includes some openings filled with woven wire mesh to break up the mass of the originally proposed blank wall. The 3rd floor steps back from the ground level and the stair tower at the southeast corner is fully glazed for added interest at this elevation.

Small windows at the south elevation, near the southwest corner, were also added to provide light into the fitness center and glazing at the south elevation.

The existing office building's parking needs are served on site with surface parking. The new building addition will occupy this area. To provide 101 vehicular parking stalls, a half level of underground parking and two levels of above grade parking are included in the building addition. At the West elevation, facing SW Macadam, an active use space with clear glass storefront (a fitness center) completely conceals the parking garage within. At the East elevation, along the future SW Moody alignment, a combination of a tightly woven metal mesh, brick, metal panel and glazing conceal the vehicles from view while also allowing a portion of the garage to be passively ventilated. The amount of woven wire mesh is greatly reduced with Phase 2, most importantly, at the ground level where it would have the most negative impact on the pedestrian realm. The applicant has confirmed that the Phase 2 development of retail will not result in the need for more openings in the garage to counteract the change – Phase 2 garage mechanical needs will be addressed without revising the elevations. The interior garage lighting will be appropriately screened.

Part of the project's success in meeting these guidelines is evident in the Phase 2 ground level retail development. Phase 2 is expected to occur in conjunction with street construction of SW Moody and street reconfiguration of SW Bancroft, and, with Conditions of Approval requiring the implementation of Phase 2, these guidelines are met.

B2 Protect the Pedestrian

B2-1 Incorporate Outdoor Lighting that Responds to Different Uses

C12 Integrate Exterior Lighting

Findings for B2, B2-1, C12: The main building entry is midblock at SW Bancroft Street. Both vehicles and pedestrians access the building in the same general area. To reduce vehicular speed, enhance a pedestrian's sense of safety and identify the area, a special paving pattern is employed and a planter separates the 2 spaces.

To reduce noise and visual clutter, all mechanical equipment for the project will be located on the building roofs screened from view.

Lighting is limited to the perimeter where it will provide pedestrian safety and to important entry points. The light fixtures are integrated with the building in their design and finishes.

These guidelines are met.

B3 Bridge Pedestrian Obstacles

Findings for B3: With the completion of this project, a site that currently has a substandard sidewalk width varying from 7' - 9' on SW Macadam and a partial sidewalk along SW Bancroft, will have a complete, standard sidewalk system along three frontages (its fourth frontage abuts an ODOT owned tax lot). At the SW Macadam and SW Bancroft intersection, there is currently no pedestrian connectivity. This project provides a new pedestrian sidewalk to connect both sidewalks and enhances the existing sidewalk along SW Macadam. Currently, SW Moody dead ends at SW Bancroft. This project dedicates 20' of property along the eastern edge of the site to continue the street grid from South Waterfront south into the adjacent Neighborhood.

This guideline is met.

B6 Develop Weather Protection

Findings for B6: The primary pedestrian access to 4310 SW Macadam will be from the north from SW Bancroft. A generous entry canopy provides weather protection at the building entrance. The Phase 2 retail will include an overhang at the storefront entry. New street trees at all streets and existing trees that will remain at the northwest corner of the site will provide shade at the pedestrian realm.

This guideline is met.

B7 Integrate Barrier-Free Design

Findings for B7: The project will provide barrier free design. The site contains significant cross slope from the western edge along SW Macadam to the eastern edge of the site. In the north-south direction, the site generally slopes from a low at the north edge up to the south. At the building entry, a well integrated gentle slope rises from the pedestrian access along SW Bancroft to the main building entry. In Phase 2, a pedestrian path from SW Moody to the main entrance will also be barrier free.

This guideline is met.

C1 Enhance View Opportunities

Findings for C1: The site has ample view opportunities - to the immediate north is the new development of South Waterfront with downtown Portland in the background, to the east and south is the Willamette River, and to the west is the heavily vegetated West Hills. The new building addition is oriented to provide for dynamic views. The office space of the addition is elevated to the third level and provides un-interrupted views through a heavily glazed exterior skin to the west, south, and east. The south facade in particular is pulled away from the neighboring property line +10' to provide for a maximum amount of glazing. The rooftop is generally organized, without equipment clutter, and includes eco-roof areas for improved views of the rooftop from above.

This guideline is met.

C2 Promote Quality and Permanence in Development

Findings for C2: The existing building will be renovated to primarily Class A office space standards. The addition is constructed of primarily glass, metal and brick to promote a sense of permanence and to provide a timeless appearance. The metal panel system is sturdy, the metal mesh of the parking garage and vehicle entry is well-detailed, the glass is vision glass and the brick is a high-quality material. The materials have been presented, and ensure quality and permanence. The design was refined through the Design Review process to provide coherency among the various elements of the building and site. As a LEED certified building, the building envelopment and mechanical systems will be highly energy efficient.

This guideline is met.

C3 Respect Architectural Integrity
C5 Design for Coherency

Findings for C3, C5: The project is composed of two buildings: an existing building constructed in 1982 and a new building addition. The existing building is four stories in height and is constructed of panelized synthetic stucco with long ribbon windows at

each office floor level. To provide for a consistent and coherent design aesthetic, the new building addition has a simple and refined building palette of glass, metal, and brick. Colors used in new construction will be light in tone and appear subdued.

The new addition connects to the existing building with an elevator and stair lobby along SW Macadam. Floor levels between the two match to provide for a seamless transition between the two buildings on the inside. On the exterior, the mass of the building addition slowly steps down heading south along SW Macadam to provide a primarily horizontal appearance.

The new building entry attaches to the existing building facing SW Bancroft. It is constructed of the same brick, metal and glass as the addition. Together with the proposed vehicle entry/canopy/gatehouse and security fencing, it is a critical experiential element for people arriving at this large complex or those passing by. The Design Review process has significantly improved this important space. It is now highly integrated and has successfully clarified the hierarchy of the spaces. The need for a Phase 1 third vehicle lane is eliminated, the gatehouse was moved to the corner of the site, the emphasis is on the people entry which is integrated with the breezeway, the vehicle entry is improved in its use of materials and its design, and the canopy elements and varying heights were rationalized and simplified.

These guidelines are met.

C8 Differentiate the Sidewalk-Level of Buildings

C9 Develop Flexible Sidewalk Level Spaces

Findings for C8, C9: At grade along SW Macadam, the exterior of the addition is composed primarily of vision glazing with a brick base. Furthermore, the level above is set back approximately 10' from the building edge providing a clear visual distinction between the pedestrian level and the rest of the building. The interior space facing Macadam will initially be used as a fitness center, a space that could be easily altered for other active uses, meeting the desire for flexibility.

Along the future SW Moody alignment, the building has two Phases for its ground level design. Phase 1 is the initial development before the SW Moody grade is raised – it can be considered a “placeholder.” As a “placeholder” it does not meet these guidelines because the floor plans depict parking at street level (a use not supported by these guidelines). Phase 2 is where the project actually meets these guidelines because it removes ground level parking at the east elevation and replaces it with a flexible ground level commercial space. However, for the following reasons it is reasonable to postpone compliance with these guidelines until Phase 2: (1) the Phase 1 first floor is the Phase 2 basement and the Phase 1 second floor is the Phase 2 first floor, (2) A majority of the Phase 1 building edge is set back approximately 20' from the property line, (3) the east elevation during Phase 1 does not face a public sidewalk and (4) it is acknowledged by the City that the street grades will change in conjunction with the SW Moody extension project. The ground level exterior of the east elevation is clad with a tightly woven metal mesh (Phase 1), storefront (Phase 2), brick, and a curtain wall of metal and glass at the corner egress stair. Like the building facade along SW Macadam, the majority of the addition is built to the perimeter of the sidewalk (Phase 2), and at the third level, the building similarly steps back. Not only does the Phase 2 design respond directly to these guidelines, it also is necessary to mitigate the deficiencies of the proposed large expanse of surface vehicle area, which is a situation not typically found in Portland's urban streetscape. Phase 2 is expected to occur in conjunction with street construction of SW Moody and street reconfiguration of SW Bancroft and, *with Conditions of Approval requiring the implementation of Phase 2, these guidelines are met.*

C11 Integrate Roofs and Use Rooftops

Findings for C11: The existing building has a well designed, centrally located mechanical penthouse. The mechanical equipment and elevator core are screened within its walls. The renovation and expansion of this project will continue to utilize this space and screen mechanical equipment within its walls. The building addition has numerous elements that contribute to a well integrated roof design. Along SW Macadam a new elevator core tower is designed to provide a strong vertical element to the project. Contrasting to the strong vertical quality of the elevator tower, there are three equally strong horizontal rooflines with a step back at the third level to provide for a rich and varied building form. The mechanical equipment necessary for the addition is located directly to the east of the new elevator tower. As stated in the application its, "skin and massing are consistent with the architecture of the rest of the building and provide a well integrated means of concealing mechanical equipment".

This guideline is met.

C13 Integrate Signs**C13-1 Coordinate District Signs**

Findings for C13, C13-1: Signs are not proposed with this application. Future signs, greater than 32 SF, in area would be subject to further Design Review.

These guidelines are not applicable at this time.

MODIFICATION REVIEW
33.825.040 Modifications That Will Better Meet Design Review Requirements:

The review body may consider modification of site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the design review process. These modifications are done as part of design review and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the adjustment process. Modifications that are denied through design review may be requested as an adjustment through the adjustment process. The review body will approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

- A. **Better meets design guidelines.** The resulting development will better meet the applicable design guidelines; and
- B. **Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

The applicant is requesting a total of 5 modifications:

MODIFICATION NUMBER 1: GROUND FLOOR WINDOWS

33.130.230 and 33.510.220. Standard: This project is considered a "Major Remodel". The building (existing and proposed) must therefore comply with this regulation at all 4 elevations. All exterior walls on the ground level that face a street lot line, sidewalk, or other public right-of-way must have windows at least 50 percent of the length and 25 percent of the ground level wall area.

Modification Request: The south elevation does not meet this standard at 0% length and 0% area. The north elevation, facing SW Bancroft, does not meet this standard at 20% length and 16% area. The east elevation, facing SW Moody, does not meet the standard with Phase 1, but will meet it with Phase 2. (SW Macadam meets the standard.)

Purpose of the Standard: In the C zones, blank walls on the ground level of buildings are limited in order to:

- *Provide a pleasant, rich, and diverse pedestrian experience by connecting activities occurring within a structure to adjacent sidewalk areas;*
- *Encourage continuity of retail and service uses;*
- *Encourage surveillance opportunities by restricting fortress-like facades at street level; and*
- *Avoid a monotonous pedestrian environment.*

Findings: The modification requested seeks a phased approval for the ground floor window requirements along SW Moody Avenue and SW Bancroft Street. For these 2 frontages, the phased approach takes the site's topography into account with respect to the location of the finished grade.

- **SW Bancroft:** For the portion of the building located in the northwest corner of the site at Macadam and Bancroft the site topography creates a condition where the building's ground level is below grade. However, new windows that will bring additional natural light and enhance the building's connectivity to the South Waterfront's pedestrian character will be added to the Bancroft Elevation at the building's main entrance, where the finished floor of the ground level matches adjacent grade (consistent with surveillance opportunities and connecting activities occurring within a structure to adjacent sidewalks). New ground level windows elsewhere on this elevation are not proposed, but existing windows at upper floors will continue to provide surveillance and safety. Phase 1 includes some improved landscaping within a new planter between the building and SW Bancroft to alleviate the mass of the existing blank wall, but Phase 2 is when the proposal appropriately mitigates the lack of ground level windows. The generous woodland garden area will emphasize South Waterfront's developing network of parks and gardens and provide additional richness and diversity to the District's current south portal entry (consistent with a rich and diverse pedestrian experience and better meeting Guidelines A1, A4, A5, B5). The deep landscaped area will comfortably separate pedestrians from the building wall and, will enhance the pedestrian realm with interactive open space, seating areas and expressed stormwater (consistent with a rich and diverse pedestrian experience and better meeting guidelines A4, A4-1, A4-2).
- **The SW Moody:** This building elevation will be significantly altered with Phase 2 (when the Moody extension south to SW Hamilton Court is made as part of the South Portal project). The proposal anticipates future ground floor active use by creating a double height volume inside the parking garage that can be modified in the future to meet this standard and the design guidelines. Initially, the proposal seeks the installation of woven wire mesh screens to conceal the structured parking at levels 1 and 2. When Moody is extended and raised 12 feet, the existing ground level parking will largely be below grade. With Phase 2, when this future public street development occurs, the initial woven mesh will be replaced with new aluminum storefronts, the garage slab will be raised to meet the new grades, and necessary interior alternations will be completed to create the active use area. Permitting the future introduction of ground floor windows along SW Moody when the street is extended and the final grades are established is reasonable and

supports the viability of a small retail space in this location. Phase 2 is consistent with the purpose statement of the standard because it will meet the standard.

As stated in the bullet points above, with the implementation of Phase 2, the criteria are met at SW Bancroft and SW Moody. Therefore a Condition of Approval will require Phase 2 to happen in conjunction with the SW Moody street construction and the SW Bancroft street reconfiguration.

The modification requested seeks approval for a south elevation that does not provide windows within the ground floor window zone.

- The property immediately south of this site was a designated accessway in the original 2003 PBOT South Waterfront District Street Plan. With the revisions to the South Portal design sometime between 2003 and 2007, PBOT moved the accessway south to SW Hamilton Street. The Zoning Code has yet to be updated to reflect this new accessway location and thus still indicates an accessway in its original location – immediately south of this site. This Zoning code accessway designation is what requires ground floor windows at the south elevation. With the construction of SW Moody, the grades to the south and east of the building are expected to change; the building's relationship to the ground at the south elevation will be significantly altered, as noted in the submitted south elevation. At the South elevation, the building is built to the property line and is clad with the same high-quality brick used throughout the addition to conceal the parking. The concrete foundation wall will be exposed until such time that SW Moody is constructed and the grades are raised. Because this area is no longer a designated accessway in PBOT's plans, it is possible that a building will be built immediately south of the proposed building. However there are several unknowns with regard to the timing/possibility of an adjacent building, including multiple ownerships of the lots to the south; ODOT owns the adjacent 30'-wide parcel that runs the length of this site. For these reasons, it is likely that the south elevation of this addition is exposed for a long time. Though building to the property line requires a solid four-hour wall, the proposed South elevation includes some openings filled with woven wire mesh to break up the mass of the originally proposed blank wall. The 3rd floor steps back from the ground level and the stair tower at the southeast corner is fully glazed for added interest at this elevation. Small windows at the south elevation, near the southwest corner, were also added to provide light into the fitness center and glazing at the south elevation. On balance, this elevation provides an architectural response that is compositionally interesting as an interim exposed elevation and therefore better meets Guidelines C2 and C5. The quality of materials, thoughtful design of the pieces on the south façade, and windows at the 3rd floor and in the SW stairwell for surveillance opportunities are all reasons why this proposal is consistent with the purpose statement.

With Conditions of Approval requiring the implementation of Phase 2, these guidelines are met.

MODIFICATION NUMBER 2: TRANSIT STREET MAIN ENTRANCE

33.130.242. Standard: All sites with at least one frontage on a transit street, and where any of the floor area on the site is in nonresidential use shall have at least one main entrance located within 25 feet of the transit street, allow pedestrians to enter and exit the building, and face the transit street.

Modification Request: The main entrance is, at most, approx. 29 feet from SW Bancroft, a designated Transit Access Street.

Purpose of the Standard: Locating the main entrance to a use on a transit street provides convenient pedestrian access between the use and public sidewalks and transit facilities, and so promotes walking and the use of transit.

Findings: SW Bancroft currently functions as the southern entry portal to the South Waterfront district. Its designation as a Transit Access Street reflects the role of transit as part of South Waterfront continuing evolution from an industrial to a mixed-use neighborhood. When the 4310 Building was originally developed in the early 1980s the district was much more car-centric in nature. The location of the original main entrance - on the south building elevation facing an on-grade surface parking lot - opposite Bancroft Street was a response to a district devoid of the transit opportunities now available to the site today. The proposed addition and renovation of the building seeks to create a new building entrance that is responsive to South Waterfront's changing character. The new entrance faces Bancroft Street. Pedestrians will enter the building through a new large glass and brick clad enclosure. A building entry canopy that is integrated into the vestibule massing will provide pedestrians protection from the elements while generously extending out toward Bancroft Street from the glass entry doors. The design of the entry has markedly improved through the Design Review process so that it is now a contributory element to the public realm. The architecture of the entry canopy and vestibule is well-integrated, and the entry plaza in front is generous and pleasing - it is wide, paved with quality material and provides area for bike parking. To further pedestrian access between the use and transit facilities, the site layout was revised to provide a straight connection from SW Moody to the main entrance. For these reasons, the proposal is consistent with the purpose of the standard. And, for these reasons the proposal also better meets design guidelines B2 and B1-1.

The criteria of are met.

MODIFICATION NUMBER 3: VEHICLE USE AREAS

33.266.130.C.1 and Table 266-3. Standard: Vehicle area is only allowed between the building and one local service transit street.

Modification Request: Vehicle area is proposed between the building and future SW Moody, a designated major transit priority street (which is not considered a local service transit street). SW Bancroft is a local service transit street and already includes vehicle area between it and the building.

Purpose of the Standard: The development standards promote vehicle areas which are safe and attractive for motorists and pedestrians. Vehicle area locations are restricted in some zones to promote the desired character of those zones. Together with the transit street building setback standards in the base zone chapters, the vehicle area restrictions for sites on transit streets and in Pedestrian Districts:

- *Provide a pedestrian access that is protected from auto traffic; and*
- *Create an environment that is inviting to pedestrians and transit users.*

Findings: Over the course of review the SW Moody Phase 2 edge treatment was significantly improved. Phase 2 will install a small retail space facing the street, with its own entry. It will include a kinetic water feature at the corner of SW Moody and Bancroft. And, what began as a metal picket fence along the streetcar turned into a contributory street wall that includes a mixture of shrubs, ground cover, trees, seating opportunities, lighting, and L-shaped piers with fencing to fill in the gaps. The rich layering of elements will contribute to the site's transit alignment, enliven the public sidewalk, and reduce the emphasis on the vehicle area beyond the street wall. The

street wall is enhanced with the gatehouse near the corner and the kinetic water feature at the corner. The vehicle area is visually improved with quality materials for its surface both within the fenced area and at the vehicle entry.

The project better meeting guidelines A7, A8, B1 and being consistent with the purpose statement is evident in the Phase 2 landscape development, SW Moody retail component and Moody street wall. It is reasonable for the project to meet this standard at Phase 2 because the grades will change so significantly between Phase 1 and Phase 2. Thus Conditions of Approval will require Phase 2 to happen in conjunction with the SW Moody street construction and the SW Bancroft street reconfiguration.

With Conditions of Approval requiring the implementation of Phase 2, the criteria are met.

MODIFICATION NUMBER 4: REQUIRED BUILDING LINES

33.510.215 and Map 510-6. Standard: This project is considered a "Major Remodel". The building (existing and proposed) must therefore comply with this regulation at future SW Moody. The building must extend to the street lot line or be within 12' of the street lot line for 75% of the lot line. Exterior walls of buildings designed to meet the requirements must be at least 15' high.

Modification Request: The building wall facing SW Moody, from the southeast corner of the building to the northeast corner of the building, does not meet this standard.

Purpose of the Standard: Required building lines are intended to enhance the urban quality of the Central City plan district.

Findings: Over the course of review the SW Moody Phase 2 edge treatment was significantly improved. Phase 2 will install a small retail space facing the street, with its own entry. It will include a kinetic water feature at the corner of SW Moody and Bancroft. And, what began as a metal picket fence along the streetcar turned into a contributory street wall that includes a mixture of shrubs, ground cover, trees, seating opportunities, lighting, and L-shaped piers with fencing to fill in the gaps. The rich layering of elements will contribute to the site's transit alignment, enliven the public sidewalk, and reduce the emphasis on the vehicle area beyond the street wall. The street wall is enhanced with the gatehouse near the corner and the kinetic water feature at the corner. The vehicle area is visually improved with quality materials for its surface both within the fenced area and at the vehicle entry.

The project better meeting guidelines A7, A8, B1 and being consistent with the purpose statement is evident in the Phase 2 landscape development, SW Moody retail component and Moody street wall. It is reasonable for the project to meet this standard at Phase 2 because the grades will change so significantly between Phase 1 and Phase 2. Thus Conditions of Approval will require Phase 2 to happen in conjunction with the SW Moody street construction and the SW Bancroft street reconfiguration.

With these Conditions of Approval requiring the implementation of Phase 2, the criteria are met.

MODIFICATION NUMBER 5: GROUND FLOOR ACTIVE USE

33.510.225 and Map 510-7 Standard: This project is considered a "Major Remodel". The building (existing and proposed) must therefore comply with this regulation at future SW Moody. The building must be designed and constructed to accommodate active uses for 50% of the street-facing ground floor wall at SW Moody. The distance

from the finished floor to the bottom of the structure above must be at least 12', the area must be at least 25' deep, the area must meet the Accessibility Chapter of the Oregon Structural Specialty Code, the street-facing facade must include windows and doors or be structurally designed so doors and windows can be added when the space is converted. Furthermore, in South Waterfront specifically, vehicle areas are not allowed in the portions of a building that are required to meet this standard.

Modification Request: In Phase 1, vehicle area is proposed for a majority of the ground floor facing SW Moody. In Phase 2, the 50% requirement is met, but the commercial retail space to be constructed in Phase 2 does not meet the 25' depth requirement.

Purpose of the Standard: The ground floor active use standards are intended to reinforce the continuity of pedestrian-active ground-level building uses. The standards are also to help maintain a healthy urban district through the interrelationship of ground floor building occupancy and street level accessible public uses and activities. Active uses include but are not limited to: lobbies, retail, residential, commercial, and office. The South Waterfront Subdistrict is intended to be a multi-modal, mixed-use, pedestrian-oriented neighborhood. Developments are anticipated to include larger site areas than in other parts of the Central City where ground floor active uses are applied. These larger sites afford greater flexibility in the planning and design of ground-level uses. Also, due to the larger block size, the potential impact of less-active uses, such as structured parking, along expanses of street-facing facades is greater. Disallowing parking in ground floor active use areas lessens this impact. It also encourages either the provision of active building uses at the time of initial construction or a quicker transition from less-active to more active uses. This provision will encourage and maintain a pedestrian-oriented street environment of exceptional quality that is safe, active with uses, and comfortable for residents, visitors, and others moving through the subdistrict.

Findings: This modification seeks to allow Phase 1 to include ground floor parking areas in the building addition along Moody Avenue at the time of initial development, with provision that the space can be converted to Active Use when Moody Avenue is developed in the future, as part of Phase 2. Also, as part of Phase 1, the ground floor of the existing building will be remodeled to replace a series of roll-up garage doors with a new building lobby, further activating that portion of the East elevation closest to Bancroft Street. Currently the site fronts the Willamette Shore Trolley rail line. There is no developed right-of-way and pedestrian sidewalk along this side of the site to support any ground floor retail use. Preliminary engineering plans for the extension of SW Moody south to SW Hamilton Court call for the street elevation to be raised approximately 16 feet from its current elevation at SW Bancroft to the new elevation at Hamilton Court. The new street profile will render what is now an at-grade ground level a below grade basement. The phased proposal better meets design guideline C9 by allowing the building to adapt to a changing street profile at the time the street is developed and pedestrian traffic present to support ground level retail uses.

With Conditions of Approval that requires Phase 2, the purpose of the standard is exceeded because the standard only establishes the ability for active uses, this condition requires the active uses to be put in place when there is an adjacent public sidewalk.

Allowing a modification to the required depth of the SW Moody active use area is not an ideal situation for retail, however it establishes a balance for providing ground floor active uses at both street faces (fitness center at Macadam and retail at Moody) of a constrained parking garage (better meeting design guideline C4-1). Regardless, the proposal for a Phase 2 SW Moody retail space is consistent with the purpose statement. A small-scale retail space could potentially create an opportunity to bring greater

diversity of retailers to the South Waterfront Subdistrict (better meeting design guideline C9).

With Conditions of Approval requiring the implementation of Phase 2, the criteria are 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.

V. CONCLUSIONS

A South Waterfront project that adds square footage to an existing surface parking lot, adds Office space to South Waterfront, improves the street frontages at SW Macadam and SW Bancroft, sets in motion the extension of SW Moody and realignment of SW Bancroft and regrading of the property to the south is supported by the goals of the relevant Design Guidelines.

The project has responded to some of the criticisms from the Design Advice Request (Exhibit G.4). The project has also responded to comments made at Type III hearings, with specific attention paid to the overall experience of the SW Moody and Bancroft frontages.

A large part of this project's success in Design Review is with the implementation of Phase 2 at SW Moody and at SW Bancroft. Though, some Commissioner comments strongly encouraged as much of Phase 2 to happen at the initial development for efficiency in construction and an improved project on Day 1. The applicant is encouraged to continue exploring the possibility of constructing as much of the Phase 2 development on the adjacent property as possible, without negatively impacting the operation of the trolley.

The appellant urged the City Council to consider this project as a Detention Facility. The challenge in this land use case regarding use was the fact that the processing area does not clearly fall within one use category of the Zoning Code. The Design Commission decision approved the project as including two primary uses – (1) Office and (2) Retail Sales and Service, with the Office use having multiple accessory uses including a processing center. That use consideration assumed, among other things, the processing center was incidental to the Office Use. Council determined the tenant, Department of Homeland's Security Immigration and Customs Enforcement, must have the proposed processing facility in order to do its work and, as a result, the processing area portion of the project is a primary use. Council determined that the processing area and its associated uses is a primary use (Detention Facility) because its features more closely match the code's examples and characteristics of the detention facility use category. A detention facility is a Conditional Use in the CX zone (see Table 130-1 of the zoning code) and requires a Type III Conditional Use before it can be constructed. City Council added a new Condition of Approval (Condition of Approval D) to require the necessary Type III Conditional Use Review.

City Council also revised Design Commission's Conditions of Approval B and C with the primary goal of ensuring Phase 2 will occur soon after the street construction/realignment of SW Moody and SW Bancroft. Minor revisions were made to add intentional responsibility, which is clarified in all BDS land use review decisions, including the Design Commission's Final Decision on this case, as follows:

“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.” Minor revisions were also made to the processes by which Phase 2 improvements will happen – a Development Agreement for SW Moody, and acceptance of the vacated SW Bancroft land during the street vacation process.

VI. DECISION

It is the decision of Council to grant in part and deny in part the appeal of the South Portland Neighborhood Association. The City Council affirmed the Design Commission’s decision as to design issues, and modified the Design Commission’s decision by revising Design Commission’s Conditions of Approval B and C and designating a third primary use (Detention Facility), which requires conditional use review, with a new Condition of Approval (D). As a result of this Council decision, the following is approved:

Approval for the proposal, which includes an addition to the existing building, in the South Waterfront sub-district of the Central City Plan District. The addition will be a three-story building connected to the existing four-story office building. The main entrance will be located at the northeast corner of the existing building, fronting SW Bancroft. The area between the building and future SW Moody will be mostly vehicle area and will be fenced.

Approval for a Phase 1 (or Initial Development) and a Phase 2 (or Future Development). The reason for two Phases is due to the fact that SW Moody, with streetcar, will be extended through this site and SW Bancroft will be reconfigured with the construction of the South Portal project.

Approval for the following five Modifications:

1. **Ground Floor Windows.** 33.510.220 and 33.130.230. Approval is granted for the north, south and east elevations to not comply with the length and/or area requirements of this standard.
2. **Transit Street Main Entrance.** 33.130.242. Approval is granted for the main entrance to be further than 25’ from SW Bancroft.
3. **Location of Vehicle Areas.** Table 266-3. Approval is granted to allow vehicle area between the building and future SW Moody.
4. **Required Building Line.** 33.510.215. Approval is granted to allow the east building wall to be further than 12’ for 75% of the lot line from future SW Moody.
5. **Ground Floor Active Use.** 33.510.225. Approval is granted to allow parking at the east elevation ground floor in Phase 1, resulting in less than 50% of the east elevation ground floor in active use. Approval is granted to allow a ground floor active use area to be less than 25’ deep at the east elevation in Phase 2.

Approval with the following Conditions of Approval:

- A. As part of the building permit application submittal, the following development-related conditions (A – E) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled “ZONING COMPLIANCE PAGE- Case File LU 10-145100 DZM. All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled “REQUIRED.”

- B. The applicant shall enter into a development agreement that will require property owner or designee to complete the proposed on-site SW Moody Avenue frontage improvements (noted in the approved plans as "Future Development" and including the proposed conversion of parking to ground level retail at the East Elevation and the kinetic water feature at the intersection of SW Moody and Bancroft) within 120 days of substantial completion of the adjacent half-street public right-of-way improvements. The development agreement must be executed and recorded prior to issuance of Phase I building permit.
- C. At such time as the City Council approves the street vacation of the SW Bancroft Street frontage adjacent to the subject site, the applicant will accept the vacated area and construct the proposed on-site SW Bancroft Street frontage improvements (noted in the approved plans as "Future Development") within 6 months of Council approval of the street vacation.
- D. If the building approved by this land use approval (LU 10-145100 DZM) includes a primary use subject to a Type III Conditional Use review per Table 130-1 (Detention Facility), the applicant may obtain and BDS may issue building permits only for the portion of the building addition, building renovation, and sitework that includes the primary uses allowed by right (Office and Retail Uses) once this land use decision is final. The applicant may not obtain and BDS will not issue building permits for a Detention Facility with supporting office use and associated parking until a final City decision is made on the required Type III Conditional Use and Central City Parking Reviews.
- E. No field changes allowed.

VII. APPEAL INFORMATION

Appeals to the Land Use Board of Appeals (LUBA)

This is the City's final decision on this matter. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date of the decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period or this land use review. You may call LUBA at 1 (503) 373-1265 for further information on filing an appeal.

EXHIBITS – NOT ATTACHED UNLESS INDICATED

- A. Applicant's submittals:
 - 1. Original drawings and narrative
 - 2. Supplemental Design Review materials, 6-30-10
 - 3. 5-11-10 memo re: proposed use
 - 4. 6-2-10 memo re: proposed use
 - 5. Stormwater Management Report, 9-14-10
 - 6. Drawings submitted for the 9-28-10 Staff Report
 - 7. Drawings submitted in response to the 9-28-10 Staff Report, presented at the 10-7-10 hearing
 - 8. Drawings submitted in response to the 10-7-10 hearing, presented at the 11-4-10 hearing
 - 9. Drawings submitted in response to the 11-4-10 hearing, presented at the 11-18-10 hearing
- B. Zoning Map (attached)

C. Approved Plans & Drawings

(IMPORTANT NOTE: If any drawing has a discrepancy with any other drawing the higher numbered drawing prevails. The first set of drawings, C.7.-C.49, was updated with a second set of drawings, C.69.-C.94. The third set of drawings, C.96.-C.98., updates both previous sets.)

1.-6. Not Used

7. Existing Context Map

8. Evening View to the NE

9. View to the East

10. Site Plan Phase 1

11. Site Plan Phase 2

12. Planting Plan Phase 1

13. Materials Plan Phase 1

14. Materials Plan Phase 2

15. Stormwater Pools Section Phase 2

16. Kinetic Water Feature Section Phase 2

17. Lower Level Floor Plan

18. Ground Level Floor Plan

19. 2nd Level Floor Plan

20. 3rd Level Floor Plan

21. 4th Level Floor Plan

22. Roof Level Floor Plan

23. N and S Elevations

24. W Elevation

25. E Elevation Phase 1

26. E Elevation Phase 2

27. Building Materials

28. Cross Sections

29. Section

30. Skin Composite 01

31. Skin Composite 02

32. Skin Composite 03

33. Skin Composite 04

34. Skin Composite 05

35. Skin Composite 06

36. Skin Composite 07

37. Skin Composite 08

38. Security Fence and Gates

39. Lower Level Garage Lighting Plan

40. 2nd level Garage Lighting Plan

41. Garage Lighting Section 01

42. Garage Lighting Section 02

43. Garage Lighting Section 03

44. Site Lighting Plan

45. Mechanical Penthouse at new addition

46. Perspective Sketch at Pedestrian Entry Phase 2

47. Perspective Sketch at SW Bancroft and SW Moody Phase 2

48. Perspective Sketch at SW Moody Phase 2

49. Detail Sketch at SW Moody fence Phase 2

50.-67. Not Used

68. Summary of Revisions shown in C. 69. - C. 94.

69. Site Plan Phase 1

70. Site Plan Phase 2

71. Landscape Planting Plan Phase 1

72. Landscape Materials Plan Phase 1 (attached)

73. Landscape Materials Plan Phase 2 (attached)
74. Stormwater Pools Section Phase 2
75. Stormwater Pools Section Phase 2
76. Kinetic Water Feature Section Phase 2
77. Enlarged Ground Floor Plan Phases 1 and 2
78. Enlarged Ground Floor Plan Phase 2
79. Wall Sections
80. Wall Sections
81. Wall Section
82. Wall Sections
83. Wall Sections
84. Aerial Perspective Phase 1
85. Aerial Perspective Phase 2
86. Perspective at Pedestrian Entry Phase 1
87. Perspective at Pedestrian Entry Phase 2
88. Perspective at Vehicular Entry Phase 1
89. Perspective at Vehicular Entry Phase 2
90. Perspective at SW Moody and SW Bancroft Phase 1
91. Perspective at SW Moody and SW Bancroft Phase 2
92. Perspective at SW Moody Phase 1
93. Perspective at SW Moody Phase 2 (attached)
94. Detail Perspective at SW Moody Fence Phase 2
95. Summary of Revisions shown in C. 96.- C.98.
96. Enlarged Ground Floor Plan Phase 1
97. Perspective at Pedestrian Entry Phase 1
98. Perspective at Vehicular Entry Phase 1
- D. Notification information:
 1. Request for response
 2. 1st Posting letter sent to applicant, 9-2-10 hearing
 3. 1st Notice to be posted, 9-2-10 hearing
 4. 1st Applicant's statement certifying posting, 9-2-10 hearing
 5. 2nd Posting letter sent to applicant, 9-23-10 hearing
 6. 2nd Notice to be posted, 9-23-10 hearing
 7. 2nd Applicant's statement certifying posting, 9-23-10 hearing
 8. 3rd Posting letter sent to applicant, 10-7-10 hearing
 9. 3rd Notice to be posted, 10-7-10 hearing
 10. 3rd Applicant's statement certifying posting, 10-7-10 hearing
 11. Mailing list, 10-7-10 hearing
 12. Mailed notice, 10-7-10 hearing
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. BDS Life Safety
 6. BDS Site Development
- F. Letters:
 1. Jim Davis, 8-18-10
 2. Portland Pedestrian Advisory Committee, 9-22-10
 3. AIA, 10-30-10
 4. Jim Davis, submitted at the 10-7-10 hearing
 5. William Danneman, submitted at the 11-18-10 hearing
- G. Other:
 1. Original LUR Application
 2. Site History Research

3. Request for extension to 120-day to hold hearing on 9-2-10
4. DAR summary from 7-1-10 hearing
5. Request for extension to 120-day – total of 60 day extension
6. Original Staff Report, dated 9-28-10, presented at the 10-7-10 hearing
7. Staff presentation at the 10-7-10 hearing
8. Graphic summary of the requested Modifications presented at the 10-7-10 hearing
9. Staff notes from the 10-7-10 hearing
10. Cover letter for drawings included in Exhibit A.7 – summarizes design changes made in response to the original Staff Report
11. Draft drawings from 10-19-10 meeting
12. 11-1-10 transmittal for revised drawings that were presented at the 11-4-10 hearing
13. Staff memo to Commission, dated 11-1-10, summary of project for the 11-4-10 hearing
14. Summary of the requested Modifications presented at the 11-4-10 hearing
15. Suggested Conditions of Approval presented at the 11-4-10 hearing
16. Staff notes from the 11-4-10 hearing
17. Applicant's request for extension of 120-day waiver from 10-7-10 to 11-4-10
18. Applicant's request for extension of 120-day waiver from 11-4-10 to 11-18-10
19. 11-10-10 transmittal for revised drawings that will be presented at the 11-18-10 hearing
20. Staff Report, dated 11-12-10, presented at the 11-18-10 hearing

H. *not used*

I. **Appeal**

1. Appeal Submittal
2. Appealed Decision
3. Notice of Appeal Hearing
4. NOA Mailing List
5. City Council Appeal Packet List

(Received before Hearing)

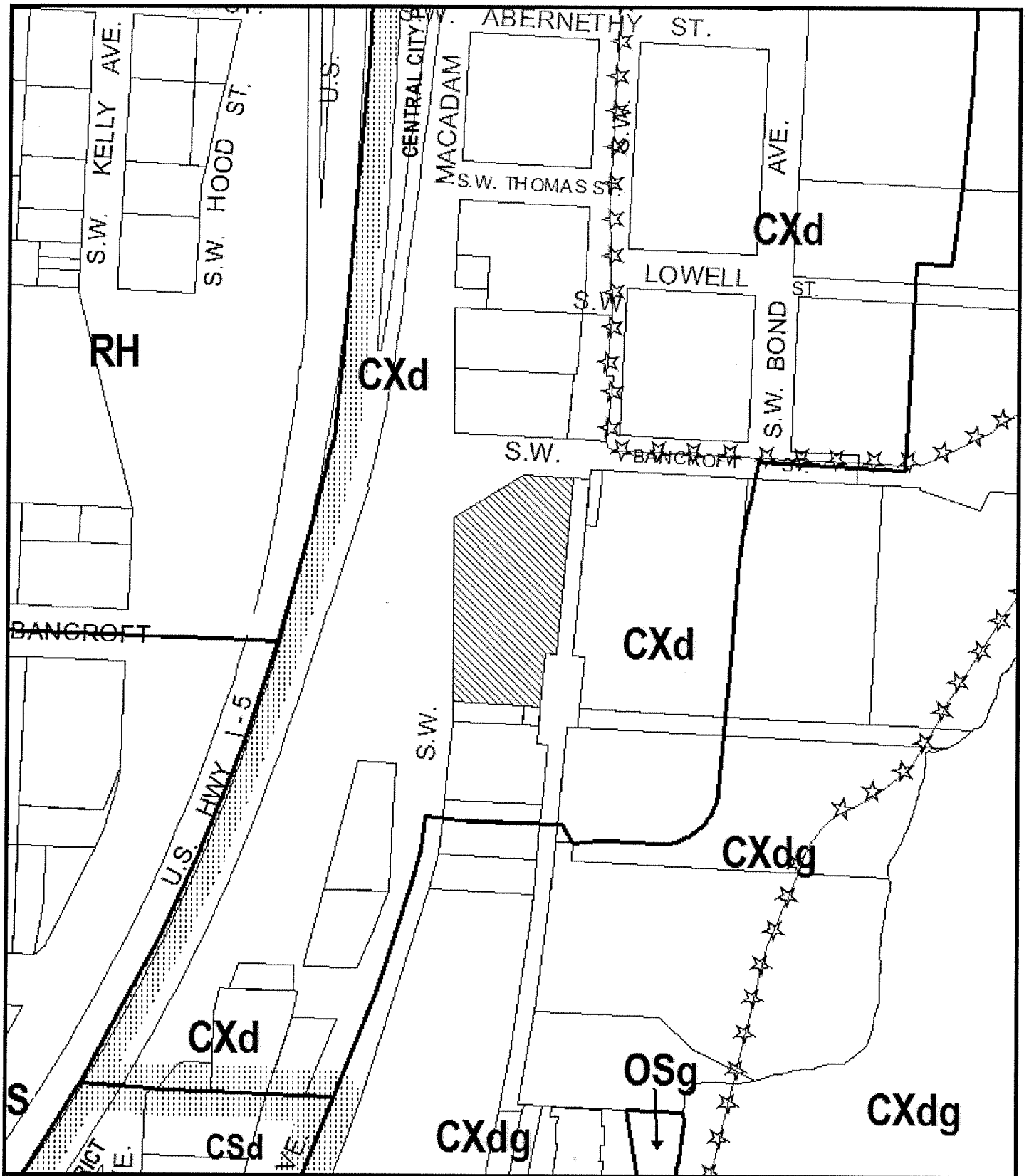
6. So Portland NA, Wm Danneman letter, 1-18-11
7. Helen Kelly letter, 1-18-11
8. Lewis H and J Seager email, 1-18-11
9. Linda M Wood email, 1-18-11
10. Adam Wagner email, 1-18-11
11. Scott Kelly email, 1-18-11
12. Krista Rodriguez email, 1-18-11
13. Leroy Barker email, 1-18-11
14. Laura Bracke email, 1-18-11
15. Michele Guilbault email, 1-18-11
16. Barry Hirsch email dated 1-8-11
17. Kristen Corwin email, 1-18-11
18. Barbara Bulliar email, 1-18-11
19. Wonmi Woo email, 1-18-11
20. Krista Rodriguez letter
21. K Fioravanti memo to Council Assistants, 1-6-11
22. K Fioravanti memo to Council, 1-17-11

(Received at 1-19-11 Hearing)

23. Power Point Presentation
24. Scott Matson written testimony
25. Garvey Schuber Barer request to re-open the record
26. Garvey Schuber Barer letter

(Received before 2-16-11 Hearing)

27. So Portland NA, Ken Love, 1-25-11
28. Andrea Bocci, 1-26-11
29. Nancy Fenner, 1-26-11
30. Mary Gray, 1-26-11
31. Morgan Zhang, 1-26-11
32. Susan M Iggulden, 1-26-11
33. Stephen M Lieb, 1-16-11
34. Ellen Lieb, 1-26-11
35. John Ross Bldg Residents, 1-26-11
36. Susan Lee, 1-26-11
37. Jim Farzan, 1-26-11
38. J Luke, P Fenner, P Walker, M Walker written testimony
39. Perry and Kristie Walker memo, 1-26-11
40. Laura Bracke email, 1-26-11
41. Jim Davis written testimony, 1-25-11
42. K Fioravanti memo to Council, 1-26-11
43. Jessica Parks email, 1-26-11
44. John Junkin, Garvey Schubert Barer letter, 1-26-11
45. John Junkin, Garvey Schubert Barer letter, 2-2-11
46. K Fioravanti memo to Council, 2-2-11
47. John Junkin, Garvey Schubert Barer letter, 2-7-11
48. K Fioravanti memo to Council, 2-10-11



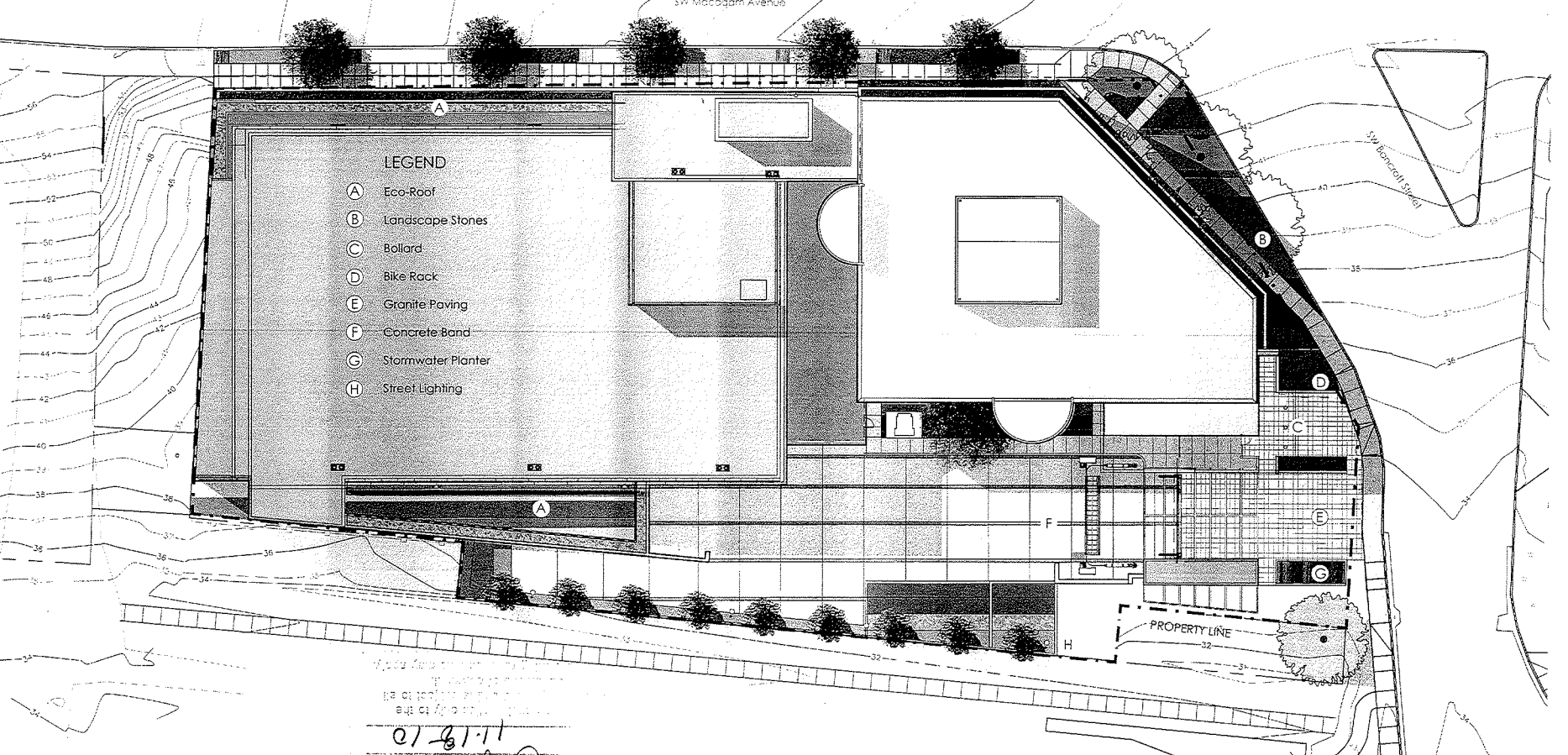
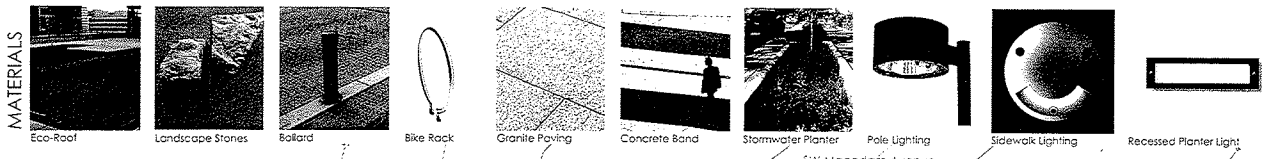
ZONING

 Site



This site lies within the:
 CENTRAL CITY PLAN DISTRICT

File No.	LU 10-145100 DZ
1/4 Section	3429
Scale	1 inch = 200 feet
State_Id	1S1E10CD 500
Exhibit	B (Jun 15, 2010)

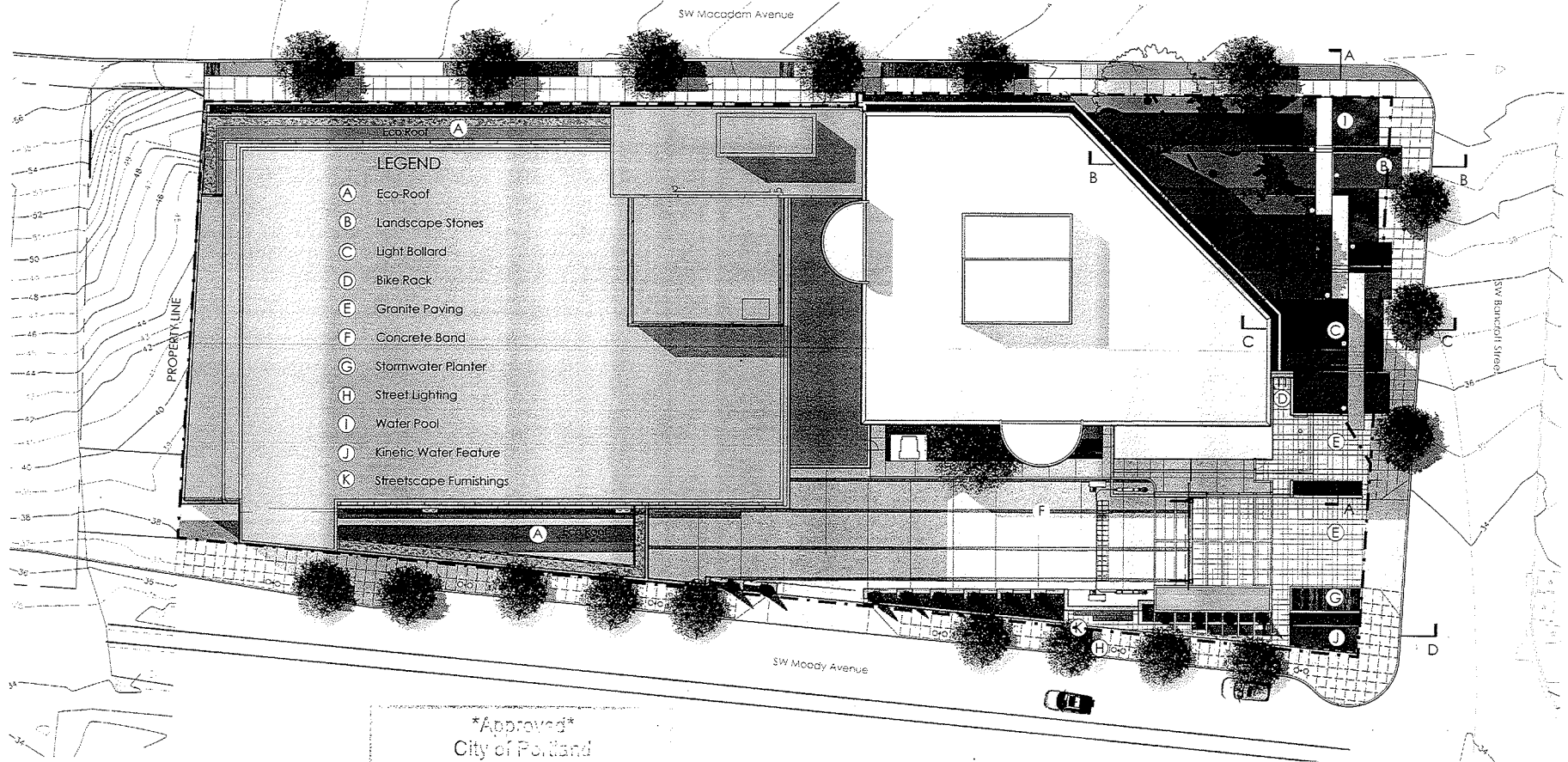
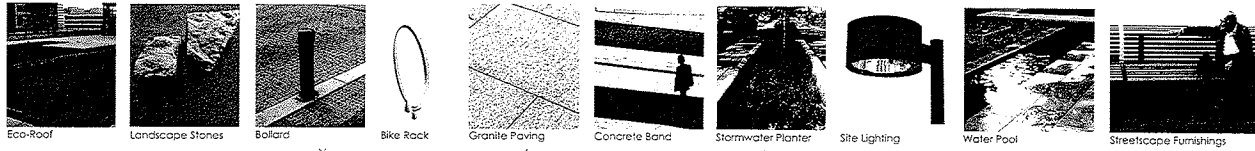


01-81-11
[Signature]
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LANDSCAPE MATERIALS PLAN - INITIAL DEVELOPMENT
1/32" = 1'-0"



MATERIALS



Approved
 City of Portland
 Bureau of Development Services
 Planner [Signature]
 Date 11/8/10

LANDSCAPE MATERIALS PLAN - FUTURE DEVELOPMENT

1/32" = 1'-0"

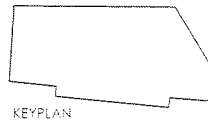
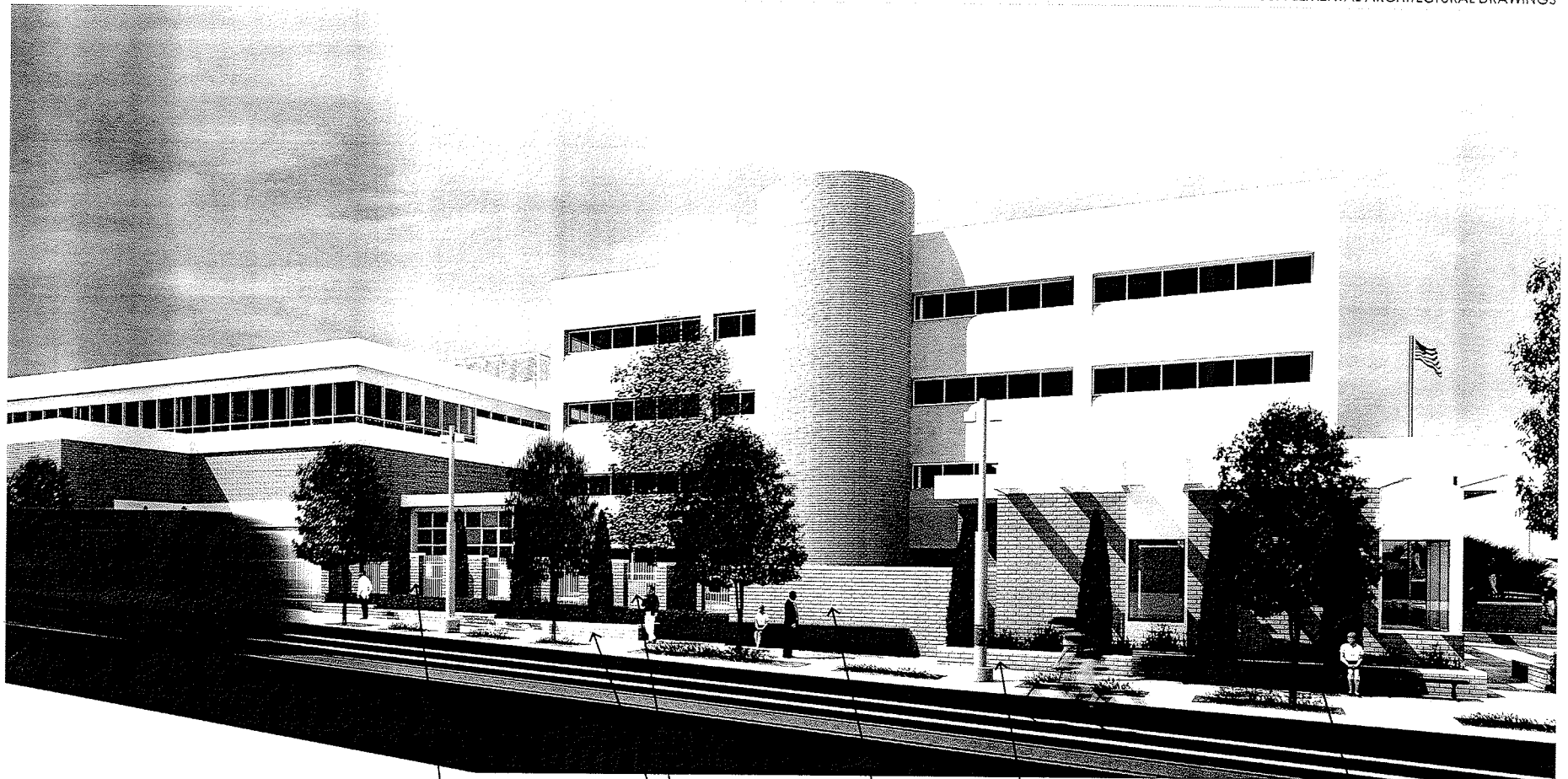


4310 SW MACADAM, PORTLAND, OREGON

DESIGN REVIEW APPLICATION

C. 73

10-145100



KEYPLAN

"L" SHAPED 8'-0" TALL BRICK WALL

6'-0" TALL AMERISTAR IMPASSE METAL FENCE PTD. WHITE

8'-0" TALL BRICK SCREEN WALL

BRICK FACED CONCRETE PLANTER W/ L2 LANDSCAPING

WOOD BENCH AT STONE PAVING SEATING AREA W/ L2 LANDSCAPING BEYOND

BRICK FACED CONCRETE PLANTER W/ L2 LANDSCAPING

/approved
City of Portland
Bureau of Development & Planning
Planner *[Signature]*
Date *11.18.10*

PERSPECTIVE ARCHITECTURE
FUTURE DEVELOPMENT
CU 10-145100 DZM
DESIGN REVIEW APPLICATION *Eh C. 93*

4310 SW MACADAM, PORTLAND, OREGON