

DeCoursey, Jillian

From: Krawczuk, Dana L. <dana.krawczuk@stoel.com>
Sent: Thursday, March 01, 2018 4:01 PM
To: Heron, Tim; Ballew, Cassie
Cc: Jake Walker (jwalker@leoncapitalgroup.com); Bryan Barry (bbarry@leoncapitalgroup.com)
Subject: Applicant's testimony and evidence, second open record period LU 17-144195 DZ
Attachments: 3-1-2018 Ltr to Portland Design Commission re Applicant's Response.pdf; Exhibit 1 to March 1, 2018 Letter to Portland Design Commission.pdf; Exhibit 2 to March 1, 2018 Letter to Portland Design Commission.pdf; Exhibit 3 to March 1, 2018 Letter to Portland Design Commission.pdf

Attached please find my letter and 3 supporting exhibits.

Additional testimony from Leon will be submitted before 5 pm today.

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March 1, 2018

VIA EMAIL

Portland Design Commission
1900 SW Fourth Avenue, Suite 5000
Portland, OR 97201

**Re: Applicant's Response to First Open Record Period
LU 17-144195 DZ -- 3415 SE 62nd Avenue
SE Powell Boulevard Self-Service Storage**

Dear Commissioners:

This testimony and evidence is submitted on behalf of the applicant, Leon Capital Group, in the approved but appealed above referenced self-storage facility. These materials are limited to responding to the testimony and evidence submitted between the public hearing on February 1, 2018 and close of the first open record period on February 15, 2018, and provides a summary respond to some of the reoccurring themes identified during the first record period. Leon Capital Group, Inc. separately responds to the specific points raised by each letter submitted during the record period, and then lists and responds to the conditions that were suggested. Other testimony and evidence submitted in support of the project include Lancaster Engineering's response to transportation issues and updated renderings that accurately depict the proposed landscaping.

1. Compatibility (Massing, Height and Materials)

The analysis of materials and massing are based upon self-storage design guidelines A (building and roof design), B (building materials) and C (street facades). Guidelines A and B both consider compatibility, so a clear understanding of what is appropriate in a compatibility analysis is a critically important foundation for applying the guidelines. Leon's September 28, 2017 testimony and evidence provided a compatibility analysis, which we update here to respond to recent testimony. See Exhibit 1.

The compatibility analysis requires (1) understanding what "compatible" means; (2) identifying what it is the proposal is required to be compared to in order to determine compatibility; and (3) comparing the identified elements in the compatibility analysis in order to reach a conclusion. We go through each step for Guideline A and B.

A. Guidelines

Design Guideline A provides:

A. Building and roof design. The building and roof are designed to be compatible with surrounding development, especially nearby residential uses. Considerations include design elements that break up long, monotonous building or roof lines and elements that are compatible with the desired character of the zone.

(Emphasis added)

Design Guideline B provides:

B. Building materials. The materials used for buildings, roofs, fences and other structures are compatible with the desired character of the zone and are visually pleasing, especially near residential uses.

(1) Compatible

Compatible is not defined in the code. Therefore, the word has its ordinary dictionary meaning. PCC 33.910.010. As noted in Northwest Self Storage's testimony (H-32), "compatible" is defined as:

capable of existing together in harmony; compatible theories; compatible people

<https://www.merriam-webster.com/dictionary/compatible>, access February 28, 2018.

Compatible does not mean identical or mimicking in style. Building and roof designs can be different, while also being harmonious.

(2) Comparison for Determining Compatibility -- "Surrounding development, especially nearby residential uses."

Guideline A requires a comparison of the proposal with existing surrounding development; e.g., the buildings and roofs that currently exist within the surrounding area. Guideline B relates to whether the materials are compatible with the desired character of the zone. Therefore, the "surrounding development" must be defined. How far the "surrounding development" extends from the proposal is not defined in the City's code, and the purpose statements in PCC chapter 284 do not require a particular surrounding development, other than that nearby residential uses

are specifically referenced. In this case, what should be considered as the surrounding development is influenced by the text of Guidelines A and B, the purposes statements in the Self-Service Storage chapter of the zoning code (Chapter 284), zoning designations and their desired character, and the dictionary definition of “surrounding.”¹ For the reasons explained below, the “surrounding area” extends beyond just the abutting four homes.²

Guidelines A and B references nearby residential uses, so those should be included in the “surrounding area.” The purpose statements in PCC 33.284.010, 33.284.030.A, and 33.284.040.A, are all focused on C and EX zones. The SE Powell Boulevard corridor east and west of the site is a patchwork of zoning that includes CG, R1 and R5 zoned properties. The ½ block wide, ½ mile long corridor, from to SE 56th Avenue to SE 67th Avenue, is an approximate ¼ mile extension west and east of the site, and captures several CG zoned properties. See Attachment 1 to our 9/28/17 testimony. Because this area encloses the proposed development on all sides and includes the identified zoning, it should be the area of “surrounding development” that is analyzed as part of Guideline A.

(3) Comparing the identified elements in the compatibility analysis and compatibility conclusion

The existing development in the surrounding area is a mix of residential and commercial buildings consisting of a variety of architectural styles and materials. Attachment 2 to our 9/28/17 testimony and Exhibit 2 include photographs of exemplary surrounding development.

Surrounding Development

The south side of SE Powell is predominately single family development, which is typically separated from SE Powell Boulevard by frontage roads and/or a continuous cement block wall

¹ The definition of “surround” includes:

- a. to enclose on all sides (the crowd *surrounded* her); to enclose so as to cut off communication or retreat
- b. to form or be a member of the entourage of (flatterers who *surround* the king)
- c. to constitute part of the environment of (*surrounded by poverty*)
- d. to extend around the margin or edge of (a wall *surrounds* the old city)

Merriam-Webster.com. Merriam-Webster, n.d. 22 Sep. 2017.017.

<https://www.merriam-webster.com/dictionary/surround>

² Although LUBA has affirmed a more narrowly defined “surrounding area” for design review compatibility that included only two immediately adjoining buildings and two buildings across the street from the proposal, the code and context in this case support a more inclusive “surrounding area.” *Leathers Oil Co. v. City of Newberg*, 63 Or LUBA 176 (2011).

that may or may not be covered in vines. For example, a long single color cement block wall extends from SE 62nd Avenue to SE 64th Avenue and again from SE 65th Avenue to SE 66th Avenue on the south side of SE Powell Boulevard, and appears it may be intended to mitigate sound from Powell. Single family homes are of primarily wood construction, and multifamily buildings are primarily comprised of wood and/or stucco material, and are either oriented toward SE Powell Boulevard or a side street. The surrounding commercial development is a mix of ages, construction type and materials. Buildings include two story stucco buildings (some with brick) near SE 57th and SE 65th/SE 66th, and single story buildings with a variety of materials, including wood, some brick elements, brick façades, some stone accents and concrete block. The commercial buildings are box shaped with square corners and similar plane breaks than the proposed storage facility.

Surrounding Rooflines

While building forms in the surrounding area are diverse, there is considerable roof line consistency. The predominate roofline for commercial buildings and multifamily buildings is a flat roof. Similarly, the predominant roofline for single family homes is hipped or gabled roofs. No testimony has been offered that the existing commercial rooflines are incompatible with one another or nearby residential development. Instead, the two uses and typical building forms and rooflines, commercial and residential, differ but are harmonious. The diversity of form and roofline contributes to visual interest, and creates an overall compatible development pattern.

Desired Character of the Zone

The property is zoned General Commercial (CG), and the desired character of the zone is expressed in PCC 33.130.030.G., which provides:

G. General Commercial zone. The General Commercial (CG) zone is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. The zone allows a full range of retail and service businesses with a local or regional market. Industrial uses are allowed but are limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. Development is expected to be generally auto-accommodating, except where the site is adjacent to a transit street or in a Pedestrian District. The zone's development standards promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves.

(Emphasis added)

Precedents of Compatible Self-Storage Facilities

Evaluating self-storage facilities that were recently approved through design review provides context for applying the compatibility analysis. Attached at Exhibit 3 are site plans, elevations and images of the surrounding area for two recently approved facilities, LU 17-135754 (NE 67th and NE Halsey) and LU 16-239933 (SE 82nd and SE Brooklyn). It is noteworthy that the SE 82nd is owned by Northwest Self Storage, who owns a different facility near Leon's proposal, and has testified in objection to Leon's proposed design.

Like Leon's proposal, both of these projects are along commercial corridors with nearby residential uses, with development in the surrounding area including a mix of building types and materials, with predominately flat roofed commercial buildings and gabled or hipped roof residential buildings. The projects are 44 and 45 feet tall, neither includes brick (materials include CMU block and metal panel skin), both have flat roofs, and both have metal roll up doors. These projects were subject to PCC 33.284 and design review, so were considered by the City to be compatible with development the surrounding area, especially nearby residential uses.

Compatibility Conclusion

As compared to the existing surrounding development and the recently approved self-storage facilities, the proposal has higher quality and more durable materials, and a more cohesive architectural style. The building plane is broken up by several design elements, including ground floor glazing and storefront system, two story glazing, a generous canopy, fine-grained texture created by the brick veneer, vertical pilaster and the effective use of a darker color as an accent against the building's light body (e.g., dark second story brick veneer, flat metal panel, roof and vertical element caps, lighting and storefront system).

Setbacks and Plane Breaks

The building's setback from northern property line, in accordance with the buffer overlay zone, and generous landscaping contributes to compatibility. There is no buffer overlay on the west side of the property, and an additional setback or plane break is not needed to achieve compatibility. As shown in renderings, the landscaping obscures the view of the western elevation, a plane break on the rear half of the western façade would not be particularly visible from SE Powell. Little would be gained by setting a portion of the building back, but the change has a significant impact on a project that has been in the process for a prolonged period of time, and was approved by staff. The applicant's proposed pilasters, materials and landscaping are a more balanced approach for ensuring compatibility.

Driveway

The driveway location does not detract from compatibility. The only portion of the driveway that is across from residentially zoned property is the apron of the driveway. The garage opening is oriented towards a commercial use.

2. SE Powell Façade and Incubator Space

The SE Powell façade is well articulated and is activated by the incubator space. A second door into the incubator space is not possible due to the slope of the grade. Design review is limited to the evaluating the exterior of the building. Internal programming or bathroom placement is outside of the purview of design review, so it is not appropriate to impose a condition related to the incubator space's access to bathrooms.

3. Safety and Security

Fencing has been added so that the entire perimeter is secure.

Decorative metal is being proposed to secure the opening into the parking area above the four-foot-tall brick planter. The applicant proposes a door at the street lot line of the garage, which will remain open during operational hours but be closed during hours the facility is not in operation.. Should a tenant unintentionally not make it out of the facility before the door closing at the end of operational hours, the tenant will have a code or access mechanism to open the door for exit. Additionally, an emergency egress plan will be implemented for the facility. Vagrants, transients or animals will not be able to remain in the facility during the hours that a manager is not on site and "camp out." While a manager may not be present after hours, the security of the facility will monitor all areas and will be equipped with motion sensors that if tripped will notify the authorities and manager of the facility. Access to facilities after hours of the manager being physically present on site is an industry standard and someone with the management company is available at all times.

Because the garage door will remain open during operational hours, there are no issues with queuing.

4. Traffic Concerns Generally

Design review is intended to evaluate the aesthetics of a building, not its transportation impacts or compliance with PBOT's technical standards. The extent of the Design Commission's evaluation of vehicle areas is limited to placement within the development, materials and appearance. Therefore, Design Commission's review of the location of a driveway should focus

upon the impact the placement has on a project's ability to meet design guidelines, not whether PBOT may allow a different location.

Although irrelevant, testimony and evidence has been submitted related to a number of traffic related issues. We respond to those issues generally through Lancaster Engineer's submittal. As explained in Lancaster's report, the required sight distance is 390 feet (not 500 feet) which appears clear in the submitted photographs, and the crash history demonstrates that the intersection is safe.

5. Placement of Vehicle Entry/Exist

Testimony has encouraged that a driveway be located on SE Powell or if on SE 62nd, that it be located further south (closer to SE 62nd). Either move would sacrifice the design of the project, and would not meet guidelines. A driveway on Powell would interrupt the street façade and convert glazing and active space to a vehicle area. Shifting the driveway south would reduce the glazing on the corner, which is currently prominent with ample glazing and active space. As noted above, the garage opening is aligned with a commercially zoned parcel; only the apron is across from residentially zoned land.

6. Truck Turnaround Area

The internal functionality of the truck turnaround is not directly related to the design guidelines. The truck turnaround area complies with all development standards and guidelines. However, the anticipated infrequent use of the truck turnaround area was explained during the appeal hearing in order to respond statements about the use of the turnaround area which are different from Leon's experience and the design of the project. In that same spirit, Leon offers additional clarification to the concerns raised about how the truck turnaround area will function, which demonstrates that the internal circulation will be able to accommodate trucks and the exterior turn-around area will be used only in extenuating circumstances.

7. Procedural Issues

Northwest Self Storage's testimony suggests that there may be procedural irregularities associated with the notice listing only PCC 33.284.050 as the applicable approval criteria, and that compliance with other standards may need to be determined in a subsequent process.

As a threshold matter, there has been no allegation that the procedure has substantially prejudiced any participant. The public notice and comment period was protracted, a public hearing was held, the record was left open, and participants have fully participated. The submitted testimony is thorough, robust and raises/responds to a variety of criteria. Given this

Portland Design Commission
March 1, 2018
Page 8

extended and detailed public process, any issue about applicable criteria, including those beyond PCC 33.284.050 could and should have been raised during the local proceeding.

Typically, design review is limited to determining compliance with discretionary approval criteria. Subsequent to design review approval, BDS confirms compliance with the objective development standards during the plan check portion of building permit review. This subsequent process is not a land use decision, and when the use is permitted (as in this case), then it is not a statutory permit. Therefore, notice or opportunity for comment is provided. In this proceeding, criteria other than PCC 33.284.050 are addressed because issues with other criteria were raised by participants.

Very truly yours,



Dana L. Krawczuk

Exhibits:

1. September 28, 2017 testimony
2. Additional Examples of Surrounding Development
3. Recent Self-Storage Facilities Approved Through Design Review

cc: Cassie Ballew, BDS
Tim Heron, BDS
Jake Walker, Leon Capital Group
Bryan Barry, Leon Capital Group



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September 28, 2017

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VIA EMAIL

Cassie Ballew
City of Portland
Bureau of Development Services
1900 SW 4th Avenue, Suite 5000
Portland, OR 97201

Re: Land Use Review LU 17-144195 DZ - 6025 SE Powel Boulevard Storage Facility

Dear Cassie:

We represent Leon Capital Group, the applicant in the above referenced case. Please include this letter in the record.

We appreciate the City's collaboration over the past five months on this project. The changes Leon has made to the project based upon City and neighborhood feedback have improved the appearance of the project, but have also significantly increased the cost and/or reduced functionality. For example,

1. Extended glazing on 62nd street side.
2. Added brick to the entire street facing facades.
3. Changed building material from split faced cmu to ground faced cmu (which is more expensive).
4. Added vertical masonry elements to the front and back of the building.
5. At an early meeting with the neighborhood association, they requested that the look of Leon's building be consistent with the industrial feel of their neighborhood. One of the ways Leon achieved this was by providing the simulated divided lites on the storefront glazing.
6. At the same meeting the neighbor to the immediate north requested that Leon install a wood fence along the property line.

7. The same neighbor felt that building as was too close to the property line. Leon reduced the square footage of the building and cut back the building edge from the property line on the north side of the project. This was a significant reduction in building area.
8. At the request of the City, Leon internalized the parking so that it was not visible from 62nd street. This was a significant additional cost to the project.

Despite these design changes, the City has further recommended conditions of approval requiring second floor glazing and a prescribed amount of active space. As detailed below, the City's requests are not authorized by the code, are unnecessary and are an unconstitutional exaction, so we request that the City approve the self storage project without the following conditions:

1. Additional Glazing. An additional bay of windows shall be added to the second story of the SE Powell Boulevard façade, directly above the proposed ground floor windows within the three center bays. The new second story window addition shall match the color, type and size of the storefront system at the ground floor and at the corner.
2. Office/Community Space. The area behind the proposed ground floor glazing as indicated on Exhibits XX-XX shall have a minimum depth of 20'-0" and shall not include back-of-house functions such as storage, mechanical, and shelving, and the glazing immediately adjacent to these areas shall remain clear and transparent.

1. Additional Glazing

The project is subject to objective ground floor window standards, which the SE Powell Boulevard façade exceeds. 61% of the length and area of the ground floor façade is glazed, although the code only requires 50% and 25%, respectively. Additional glazing is provided at the corner on the second story so that the predominate corner is emphasized.

The project is not subject to criteria that require windows above the ground floor, such as PCC 33.510.221. Nevertheless, the proposed condition requests glazing in excess of the ground floor window standard, and requests glazing on the second story over the central three bays, which are glazed on the ground level. The stated basis is the additional glazing is needed to meet guidelines A and C, which relate to minimizing long monotonous facades, as well as creating a varied and interesting façade along the street.

PCC 33.284.050.A and C provide:

A. Building and roof design. The building and roof are designed to be compatible with surrounding development, especially nearby residential uses. Considerations include design elements that break up long, monotonous building or roof lines and elements that are compatible with the desired character of the zone.

* * *

C. Street facades. The design and layout of the street side of the site provides a varied and interesting facade. Considerations include the use of setbacks, building placement, roof design, variations in building walls, fencing, other structural elements, and landscaping.

While these criteria are discretionary, they do articulate what may be considered, and neither criterion suggests glazing as a means to meet the design objective. Instead, glazing is addressed in the ground floor window standard, which has been exceeded.

A. Criterion A – Building and roof design

Criterion A requires the building and roof to design to be “compatible with surrounding development, especially nearby residential uses.” This criterion is not aspirational. Meaning, the standard requires a comparison of the proposal with existing surrounding development; design changes based upon a vague sense of a desired vision for an area are not authorized by the criterion. While design elements that may be considered include elements that are compatible with the desired character of the zone, compatibility with the desired character of the zone is not what the criterion requires. Further, “compatible” does not mean identical or mimicking in style. Instead, a comparative analysis of whether the proposal and existing development are harmonious is required.¹

For the reasons explained below, the proposed design is compatible with surrounding development. Additional glazing is not needed, and is not consistent with the design elements considered by Criterion A. When requesting the additional glazing, the City has not identified the “surrounding development,” compared the proposed façade to surrounding development, or

¹ Compatible is not defined in the code. Therefore, the word has its ordinary dictionary meaning. PCC 33.910.010. The definition of “compatible” includes:

1. capable of existing together in harmony; compatible theories; compatible people.

Merriam-Webster.com. Merriam-Webster, n.d. Sun. 22 Sep. 2017 (https://www.merriam-webster.com/dictionary/compatible?utm_campaign=sd&utm_medium=serp&utm_source=jsonld), provides,

explained why second story glazing on the SE Powell in excess of the ground floor window standards is the only means for achieving compatibility.

Before compatibility can be evaluated, the "surrounding development" must be identified. How far the "surrounding development" extends from the proposal is not defined in the City's code, and the purpose statements in PCC chapter 284 do not require a particular surrounding development. Here, what should be considered as the surrounding development is influenced by purposes statements in the Self-Service Storage chapter of the zoning code (Chapter 284), zoning designations, and the dictionary definition of "surrounding."²

The purpose statements in PCC 33.284.010, 33.284.030.A, and 33.284.040.A, are all focused on C and EX zones. The SE Powell Boulevard corridor east and west of the site is a patchwork of zoning that includes CG, R1 and R5 zoned properties. The ½ block wide, ½ mile long corridor, from to SE 56th Avenue to SE 67th Avenue, is an approximate ¼ mile extension west and east of the site, and captures several CG zoned properties. See Attachment 1. Because this area encloses the proposed development on all sides and includes the identified zoning, it should be the area of "surrounding development" that is analyzed as part of Criterion A.³

The existing surrounding development in this area is a mix of residential and commercial buildings consisting of a variety of architectural styles and materials. Attachment 2 includes photographs of exemplary surrounding development. The south side of SE Powell is predominately single family development, which is typically separated from SE Powell Boulevard by frontage roads and/or a continuous cement block wall that may or may not be covered in vines. For example, a long single color cement block wall extends from SE 62nd Avenue to SE 64th Avenue and again from SE 65th Avenue to SE 66th Avenue on the south side of SE Powell Boulevard, and appears it may be intended to mitigate sound from Powell. Single family homes are of primarily wood construction, and multifamily buildings are primarily comprised of wood and/or stucco material, and are either oriented toward SE Powell Boulevard

² The definition of "surround" includes:

- a. to enclose on all sides (the crowd *surrounded* her); to enclose so as to cut off communication or retreat
- b. to form or be a member of the entourage of (flatterers who *surround* the king)
- c. to constitute part of the environment of (*surrounded by poverty*)
- d. to extend around the margin or edge of (a wall *surrounds* the old city)

Merriam-Webster.com. Merriam-Webster, n.d. 22 Sep. 2017017. <https://www.merriam-webster.com/dictionary/surround>

³³ An even more narrowly defined "surrounding area" for design review compatibility that included only two immediately adjoining buildings and two buildings across the street from the proposal has been affirmed by LUBA. *Leathers Oil Co. v. City of Newberg*, 63 Or LUBA 176 (2011).

or a side street. The surrounding commercial development is a mix of ages, construction type and materials. Buildings include two story stucco buildings (some with brick) near SE 57th and SE 65th/SE 66th, and single story buildings with a variety of materials, including wood, some brick elements, brick façades, some stone accents and concrete block.

The project is compatible with the surrounding development without the second story glazing. The building plane is broken up by several design elements, including ground floor glazing and storefront system, two story glazing at the corner, a generous canopy, fine-grained texture created by the brick veneer, vertical pilaster and the effective use of a darker color as an accent against the building's light body (e.g., dark second story brick veneer, flat metal panel, roof and vertical element caps, lighting and storefront system).

As compared to the existing surrounding development, the proposal has higher quality and more durable materials, and a more cohesive architectural style. Although the project is superior to surrounding development, it is compatible because it incorporates some of the better design elements, such as brick materials, a predominate corner, and use of natural colors. Second story windows are not required in order for the proposal to be compatible with surrounding development. Moreover, second story glazing would interfere with the operational needs of the self-storage use, which is an allowed use.

B. Criterion C – Street façade

Criterion C requires the street side of the site to have a varied and interesting façade, through design and layout. Like criterion A, criterion C lists elements that can be considered when determining compliance, and glazing is not included. Instead, glazing is addressed in the ground floor window standard, which has been exceeded.

The project's building design features are detailed above (brick, canopies, use of color etc.) and depicted on elevations. Additional second story glazing is not required in order to create a varied and interesting façade along SE Powell Boulevard.

2. Office/Community Space

By way of background, at an early meeting with the neighborhood association, representatives requested that Leon provide them with a community space on the project's ground level that they could use to hold public meetings. In an effort to be a good neighbor, Leon was open to providing a community space within the project. During subsequent meetings with the City, Leon was told that the neighbors would rather see that space be "incubator" office space.

While Leon was agreeable to voluntarily providing a community space on this project, the City has no authority to require ground level office and/or community space as a part of the proposal.

Cassie Ballew
September 28, 2017
Page 6

The request to fundamentally change the nature of the proposed business has financial consequences to the developer, including operational costs and a diminished ability to finance and ultimately sell the project. The request to convert a portion of the building to a particular use has no nexus to the proposal and the financial impact is not proportional to the project's impact, so the request is prohibited as an unconstitutional exaction.

The proposed self-storage use is allowed outright, and the fact that it is a "low activity level use" that "does not add to the vitality of a commercial area" is expressly recognized in the code. PCC 33.284.010. As noted in the purpose statement of the development standards in PCC 33.284.030.A the impact of this "extremely low activity level" use and the related detraction "from the vitality and desired interaction among commercial uses in the area" is addressed by the objective development standards in PCC 33.284.030, all of which are met by the proposed development.

Design review of self-storage buildings, and the related design guidelines, in PCC 22.384.040 and .050 relate exclusively to the exterior design of the building. None of the criteria in PCC 33.284 authorize the City to demand a particular use on the ground level of a self-storage facility. By comparison, other locations in the City do have mandatory ground floor active use standards, as articulated in PCC 33.510.225, but those standards do not apply to this use or site. Nevertheless, the City has proposed regulating the interior of the proposal, by specifying that for a minimum depth of 20'-0" behind the ground floor glazed area cannot be used for storage functions, despite the fact that the proposed uses is self-storage. Leon Capital estimates that sacrificing this area of otherwise net rentable space will result in lost revenue of approximately \$31,595 annually. Moreover, self-storage facilities of the class proposed in this application typically obtain institutional financing, and her frequently purchased and held by institutional REITs. Both have strict operational and management standards, and introducing a mix of uses into an asset type that is typically single purpose storage, reduces the value of the project to investors and buyers.

Because of the economic impact to the owner caused by the City's proposed condition to convert a portion of the ground floor to a different use, it is a monetary exaction that is subject to the "essential nexus" and "rough proportionality" requirements. *Koontz v. St. Johns River Water Management District*, 570 US 2588, 133 SCt 2586, 186 LEd2d 697 (2013), *Nollan v. California Coastal Commission*, 483 US 825, 107 SCt 3141, 97 LEd2d 677 (1987); *Dolan v. City of Tigard*, 512 US 374, 114 SCt 2309, 129 LEd2d 304 (1994). Specifically, in order to impose a condition requiring a monetary exaction, the City must demonstrate through adopted individualized findings that: (1) there was an essential nexus between the mitigation measures and the government's interest; and (2) the scope of the mitigation measures was roughly proportional to the projected impact of the development. *Id.* and *McClure v. City of Springfield*, 175 Or App 425, 433-34, 28 P2d 1222 (2001).

Cassie Ballew
September 28, 2017
Page 7

There is no essential nexus between the condition requiring active use on the ground floor and the proposed self-storage building because self-storage is allowed outright, and the code acknowledges that it is a low activity use. That potential impact is mitigated by the development standards in PC 33.284.040, all of which the proposal satisfies, so there is no unmitigated impact which justifies a condition requiring active use. Moreover, the City has provided no analysis of the proportionality of the cost of converting a portion of the project to a different use, which the owner estimates to be \$31,595 annually, plus further diminished value to investors and potential purchasers. Without a demonstration of an essential nexus and rough proportionality, any condition to convert a portion of the proposed self-storage building to a different use is unconstitutional.

Conclusion

Leon has made several revisions to the project in response to City and neighborhood requests. The proposed project is better overall. The requested conditions go too far, and are in excess of regulatory limits on what the City is able to request as revisions to the proposed use. Accordingly, we request that the City approve the proposed self-storage building without conditions of approval 1 and 2.

Very truly yours,



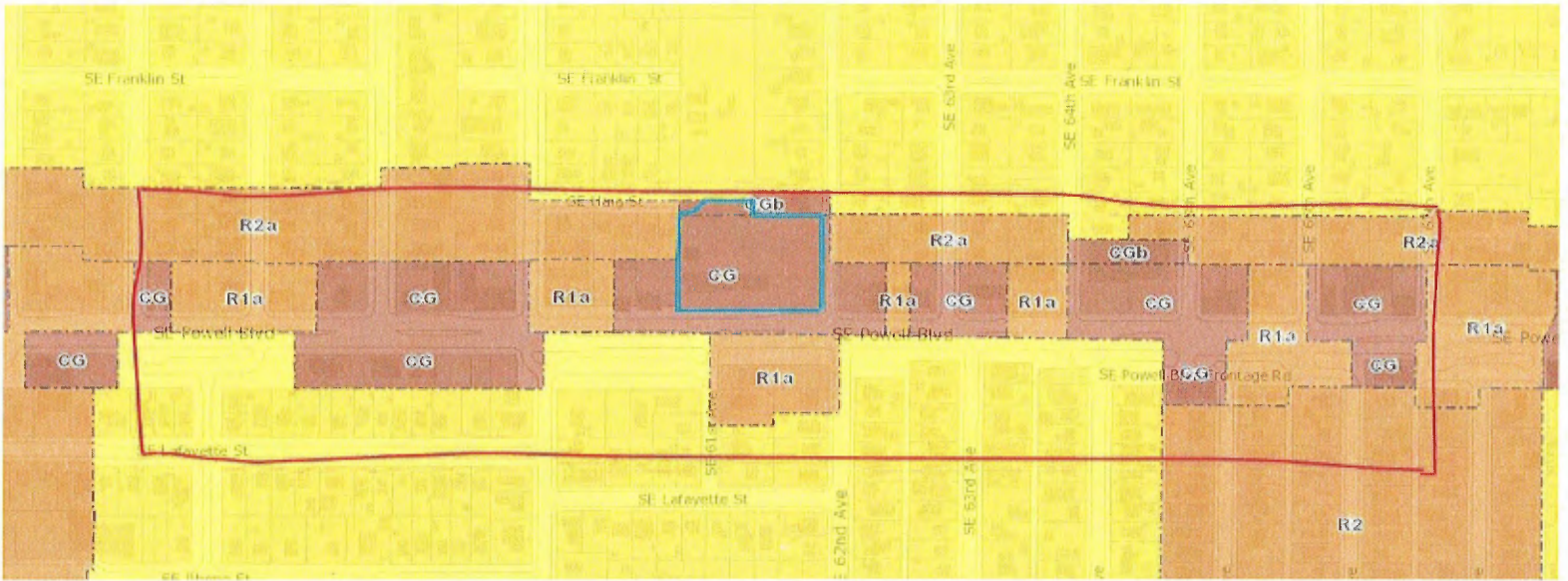
Dana L. Krawczuk

DLK:sv

Cc: Bryan Barry
Jake Walker

Attachment 1 Surrounding Area
Attachment 2 Photographs of Surrounding Development

Attachment 1 Surrounding Development Map



Attachment 2 – Surrounding Development



2 story building at SE 57th.



2 story building at SE 58th.



2 story multi-family at SE 66th.



2 story Shamrock Apts. at SE 58th.



SE 65th.

Commercial block construction at



story residential.

Concrete wall on south side and 2



Multi-family at SE 67th.



Multi-family at SE 68th.



Seafood Company at SE 65th.



SE 57th.

South side of Powell block wall at



SE 57th.

South side of Powell block wall at



at SE 56th.

South side of Powell concrete wall



South side of Powell concrete wall

at SE 67th.

Additional Examples of Surrounding Development



67th Buildings



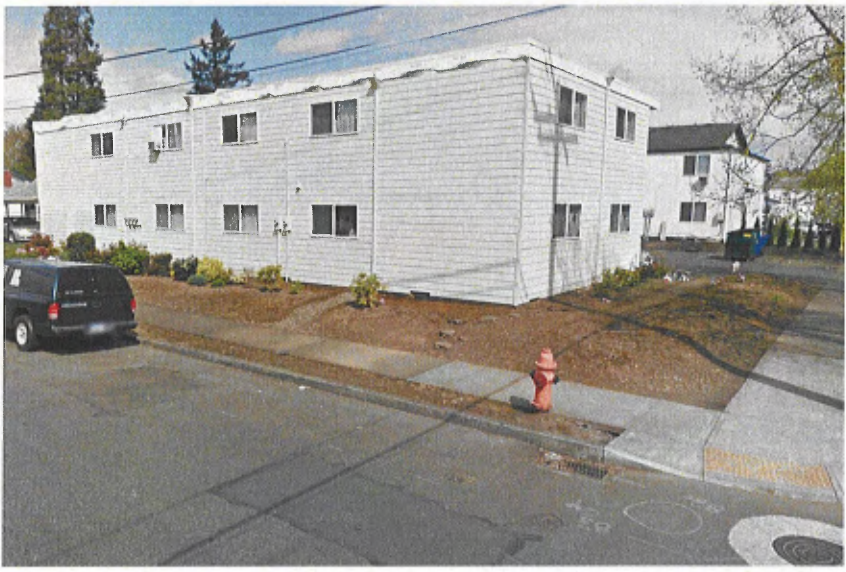
Alpine Glass



Hardwood floor company



Lodge bar and grill on 66th



Multifamily at 67th



Phix comic fest



Powell Commercial



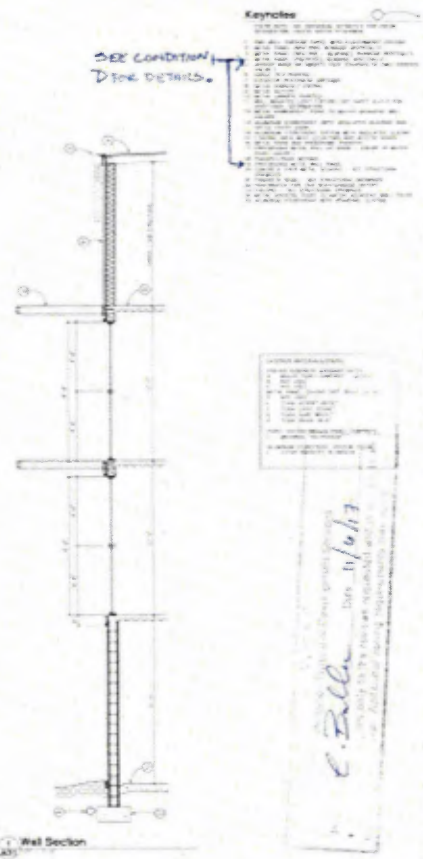
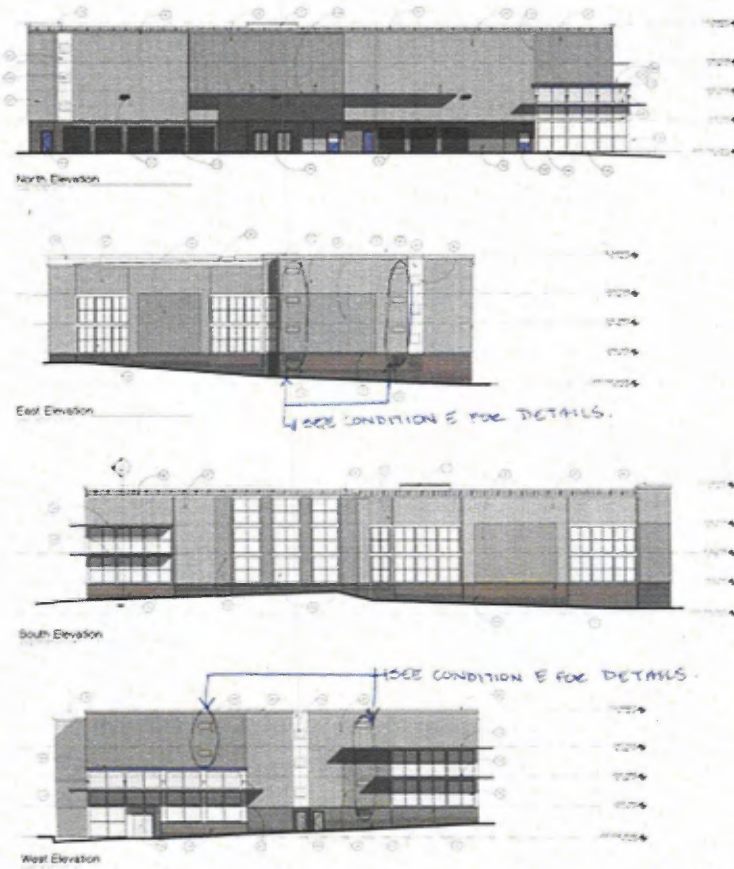
State Farm on Powell



Steakadelphia

Recent Self-Storage Facilities Approved Through Design Review

67th and Halsey Approved Design Review Elevations



Keynotes

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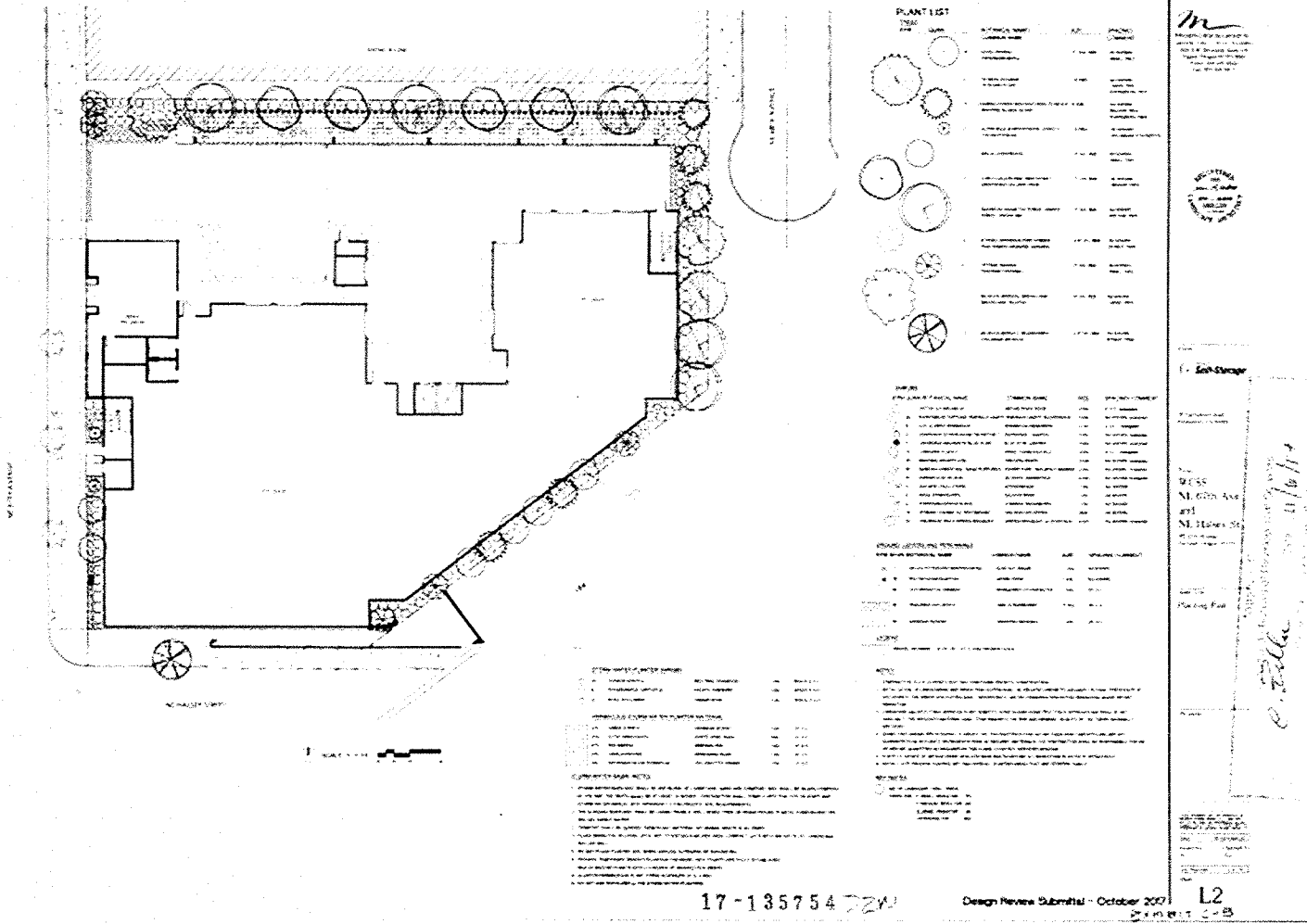
City of Seattle
Department of Planning and Development
Design Review Submittal

Project: 17-135754
Address: 67th Ave and Halsey St
Date: 11/6/17
Signature: C. Ball

17-135754 DZM

Design Review Submittal - October 2017 ART EXHIBIT C-15

67th and Halsey Approved Design Review Site Plan



PLANT LIST

Tree	Quantity	Notes
1. 12" DBH Redwood	10	Plant in 10' x 10' grid
2. 12" DBH Douglas Fir	10	Plant in 10' x 10' grid
3. 12" DBH Western Red Cedar	10	Plant in 10' x 10' grid
4. 12" DBH Noble Fir	10	Plant in 10' x 10' grid
5. 12" DBH Portulaca	10	Plant in 10' x 10' grid
6. 12" DBH Juniper	10	Plant in 10' x 10' grid
7. 12" DBH Yew	10	Plant in 10' x 10' grid
8. 12" DBH Cypress	10	Plant in 10' x 10' grid
9. 12" DBH Hemlock	10	Plant in 10' x 10' grid
10. 12" DBH Spruce	10	Plant in 10' x 10' grid

PERMITS

Permit	Agency	Fee	Notes
1. Building	City of Seattle	\$1,000	Includes plan check
2. Electrical	City of Seattle	\$500	Includes plan check
3. Mechanical	City of Seattle	\$500	Includes plan check
4. Fire	City of Seattle	\$500	Includes plan check
5. Sign	City of Seattle	\$500	Includes plan check
6. Street	City of Seattle	\$500	Includes plan check
7. Traffic	City of Seattle	\$500	Includes plan check
8. Public Works	City of Seattle	\$500	Includes plan check
9. Planning	City of Seattle	\$500	Includes plan check
10. Other	City of Seattle	\$500	Includes plan check

GENERAL NOTES

1. All work shall be in accordance with the City of Seattle Department of Public Works Standard Specifications for Street and Traffic Control.
2. All work shall be in accordance with the City of Seattle Department of Public Works Standard Specifications for Electrical, Mechanical, and Fire.
3. All work shall be in accordance with the City of Seattle Department of Public Works Standard Specifications for Sign.
4. All work shall be in accordance with the City of Seattle Department of Public Works Standard Specifications for Street.
5. All work shall be in accordance with the City of Seattle Department of Public Works Standard Specifications for Traffic.
6. All work shall be in accordance with the City of Seattle Department of Public Works Standard Specifications for Public Works.
7. All work shall be in accordance with the City of Seattle Department of Public Works Standard Specifications for Planning.
8. All work shall be in accordance with the City of Seattle Department of Public Works Standard Specifications for Other.

17-135754 DZ

Design Review Submittal - October 2007

M
M...
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Exhibit

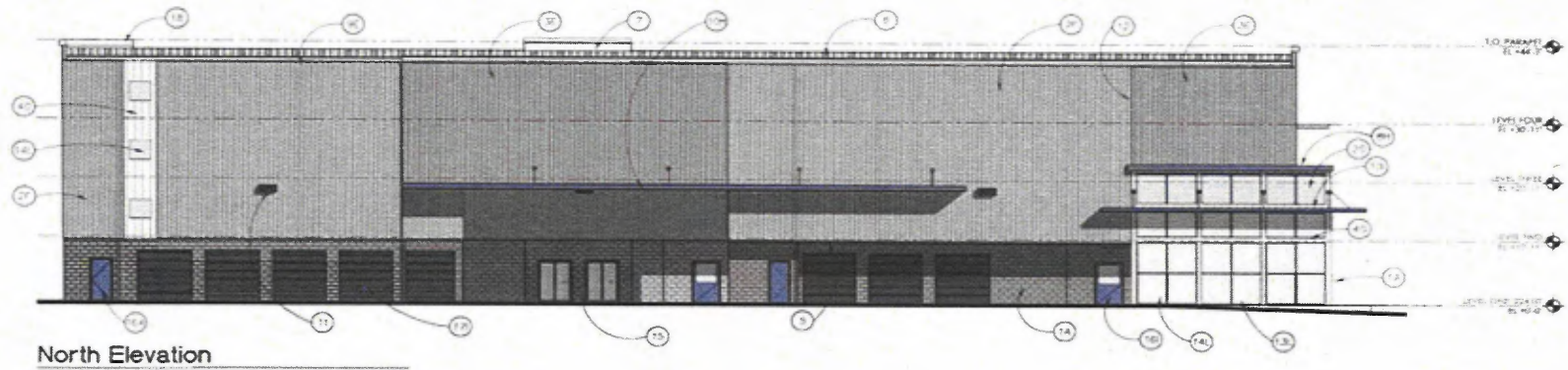
67th Ave
Halsey St

Parking Fee

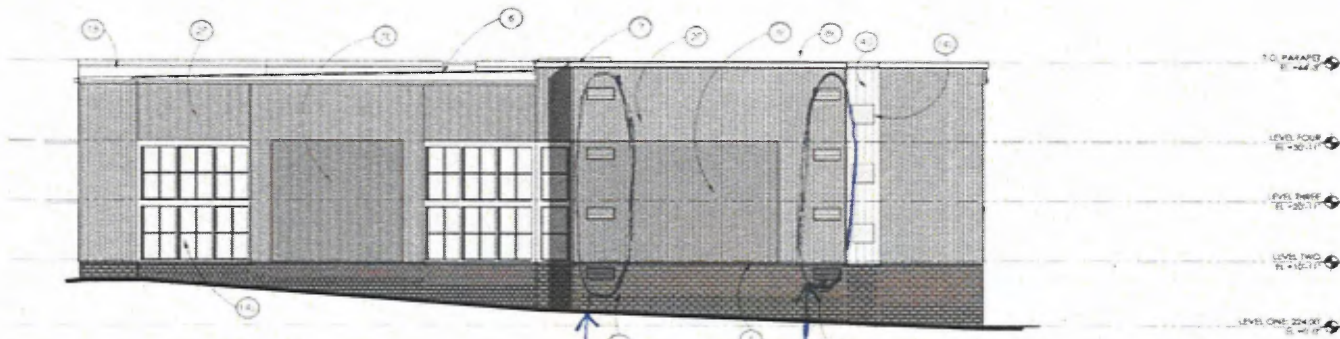
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67th and Halsey, North and East Elevations



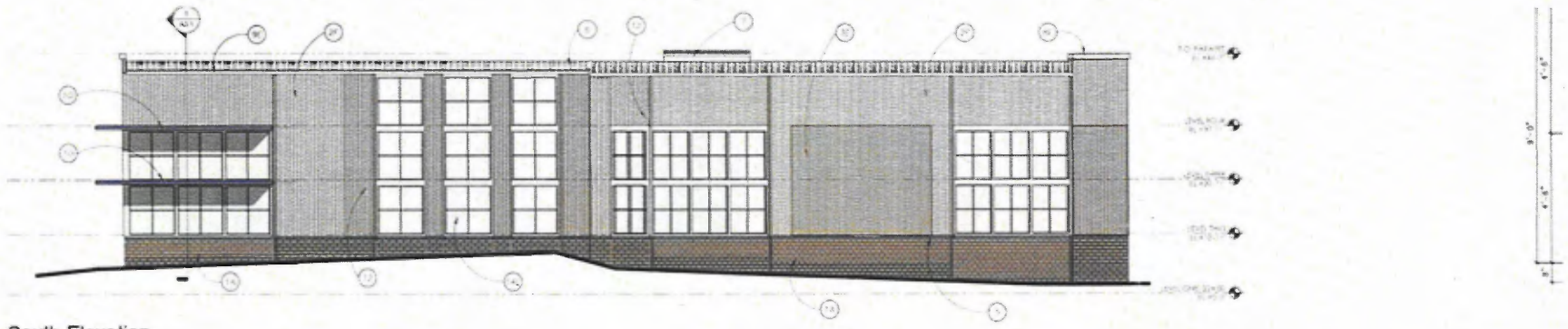
North Elevation



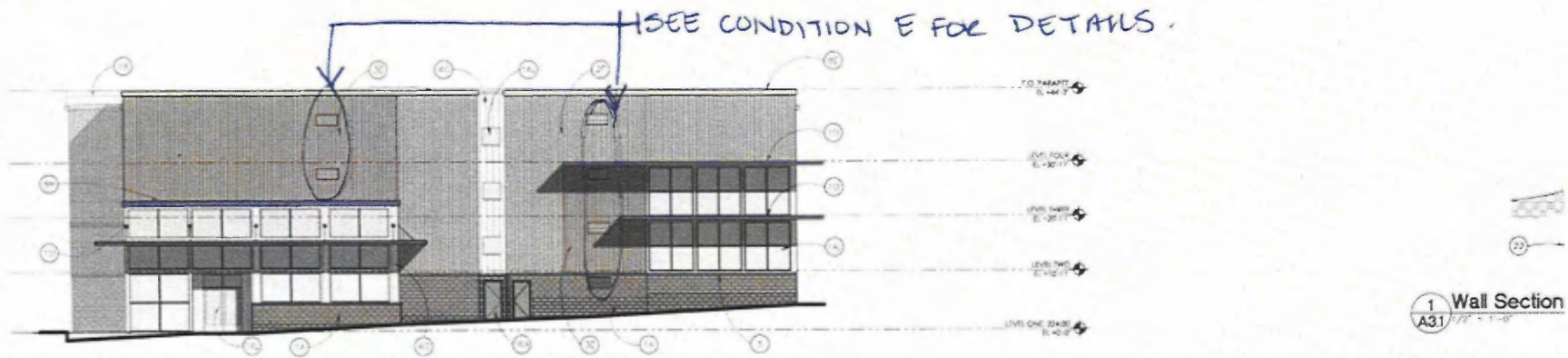
East Elevation

SEE CONDITION E FOR DETAILS.

67th and Halsey, South and West Elevations



South Elevation



West Elevation

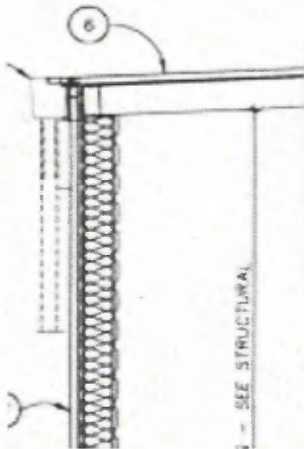
17-135754 DZM

Keynotes

COLOR NOTE: SEE INDIVIDUAL KEYNOTES FOR COLOR DESIGNATION, UNLESS NOTED OTHERWISE

1. CMU WALL (GROUND FACE), WITH ELASTOMERIC COATING
2. METAL PANEL (BOX RIB), RUNNING VERTICALLY
3. METAL PANEL (BOX RIB - REVERSE), RUNNING VERTICALLY
4. METAL PANEL (PRESTIGE), RUNNING VERTICALLY
5. ACCENT BAND ON SMOOTH FACE COURSES OF CMU, PAINTED, COLOR 1
6. SINGLE PLY ROOFING
7. ELEVATOR PENTHOUSE (BEYOND)
8. METAL CORNICE/ COPING
9. METAL CUTTER
10. METAL CANOPY, PAINTED
11. WALL MOUNTED LIGHT FIXTURE, SEE SHEET ELC1.0 FOR ADDITIONAL INFORMATION
12. METAL DOWNSPOUT, PAINT TO MATCH ADJACENT WALL COLORS
13. ALUMINUM STOREFRONT (WITH INSULATED GLAZING) AND OFFICE ENTRY DOOR
14. ALUMINUM STOREFRONT SYSTEM WITH INSULATED GLAZING
15. LOADING AREA WITH ELEVATORS AND ACCESS DOORS
16. METAL DOOR AND DOORFRAME, PAINTED
17. PREFINISHED METAL ROLL-UP DOOR - COLOR TO MATCH PAINT COLOR 1
18. PARAPET/ROOF BEYOND
19. PREFINISHED METAL WALL PANEL
20. CONCRETE OVER METAL DECKING - SEE STRUCTURAL DRAWINGS
21. CONCRETE SLAB - SEE STRUCTURAL DRAWINGS
22. PERFORATED PIPE PER GEOTECHNICAL REPORT
23. FOOTING - SEE STRUCTURAL DRAWINGS
24. METAL LOUVERS, PAINT TO MATCH ADJACENT WALL COLOR
25. ALUMINUM STOREFRONT WITH SPANDREL GLAZING

SEE CONDITION D FOR DETAILS.

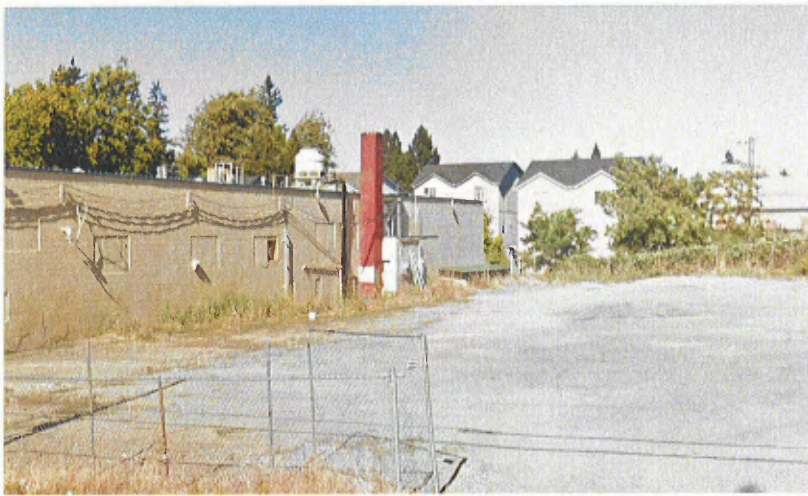


M
MILDREN DESIGN GROUP, P.C.
 ARCHITECTURE • SPACE PLANNING
 7650 S.W. Beveland, Suite 120
 Tigard, Oregon 97223-6692
 Voice: 503-244-0552
 Fax: 503-244-0417

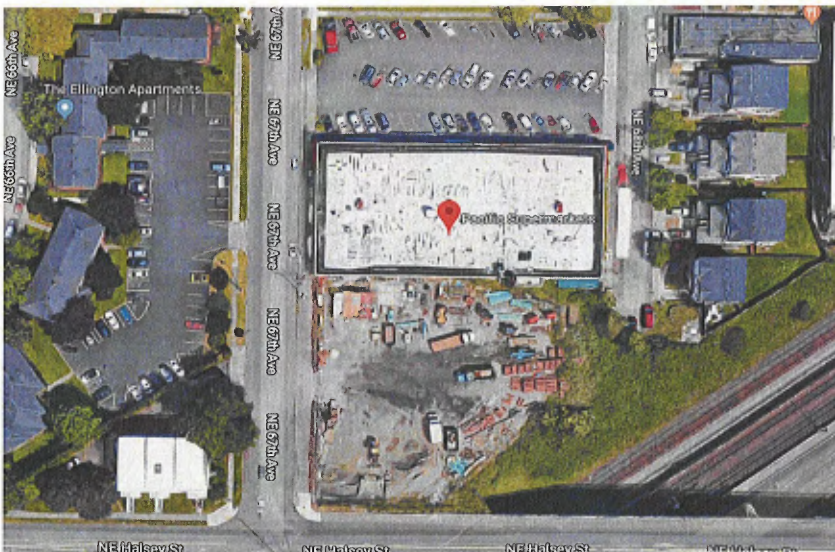




67th and Halsey adjacent residential hip roof

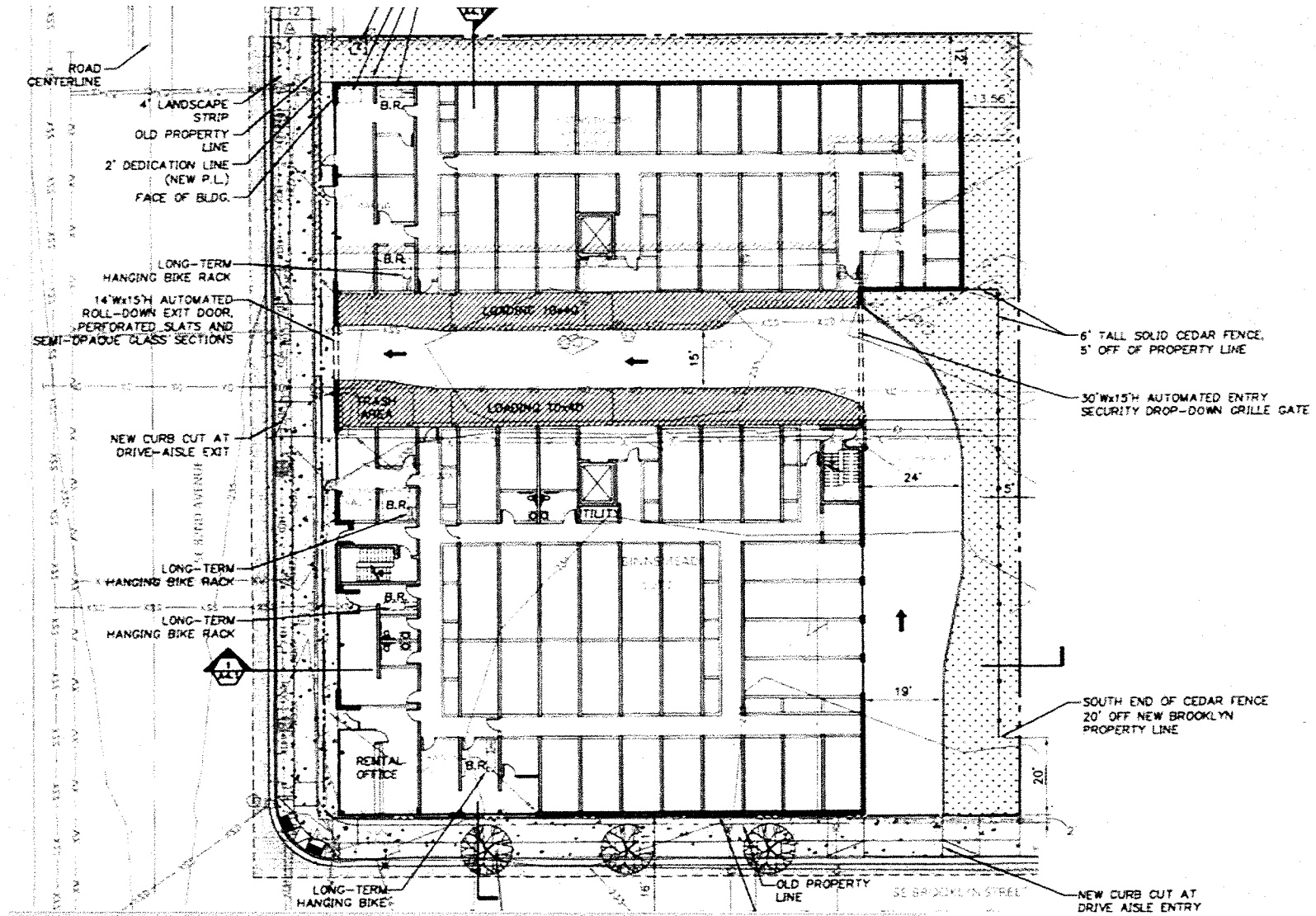


67th and Halsey adjacent residential hip roof 2

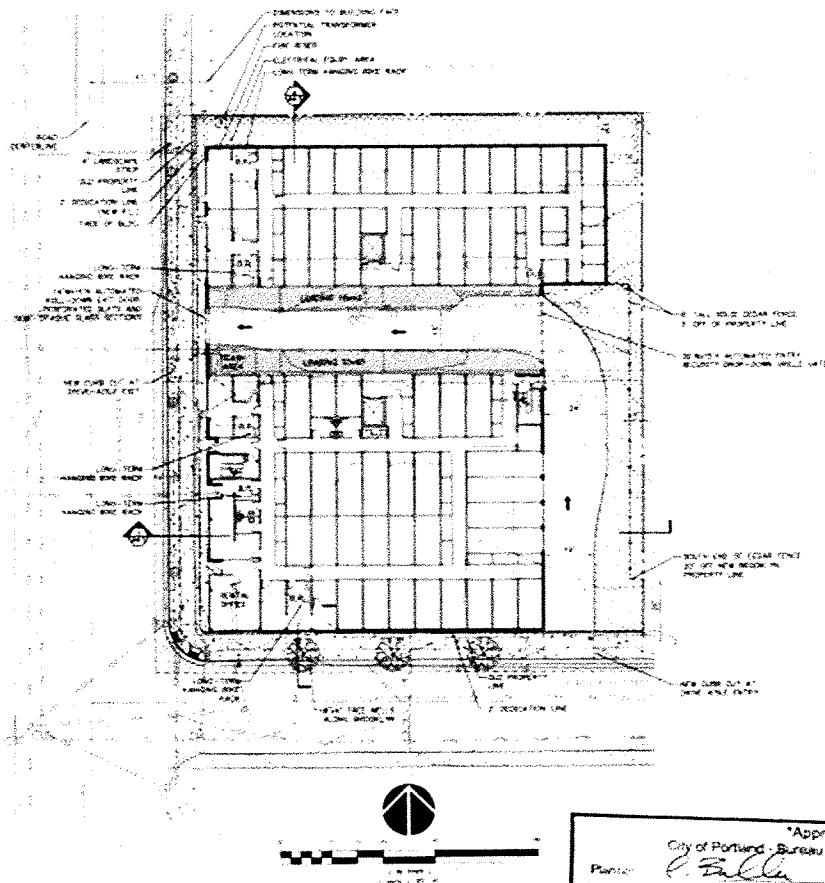


67th and Halsey Aerial

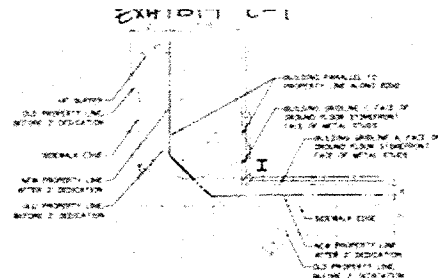
82nd and Brooklyn Approved Designed Review Plan Close Up



82nd and Brooklyn Approved Design Review Site Plan



"Approved"
 City of Portland - Bureau of Development Services
 Planner: E. Baller Date: 4.10.17
 This plan applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.



ENLARGED PLAN AT SITE CORNER

LEGEND

- TOURIST SIDEWALK
- LANDSCAPE PLANTER
- ROADWAY CENTERLINE
- CURB

1" = 10' (SEE ALSO 1" = 10' SHOWN, 1/4" = 10' SHOWN, 1/8" = 10' SHOWN)

SITE AND BUILDING DATA

SITE	
SITE AREA (NEW PROPERTY LINE, AFTER DEDICATION)	14,756 SF
LANDSCAPE REQUIREMENT (SIDE OF SITE AREA)	5,214 SF
LANDSCAPE TOTAL AREA (ACTUAL)	5,236 SF
PARKING	
EXIST. PARKING	
NEWLY MOUNTED (ONCE, LOGAR TYPE)	5,500 SF
(1) PAVER AT INTERIOR OF 1A, ACTIVE USE SPACE	
5 TOTAL EXIST. SPOTS	
BUILDING	
TOTAL GROSS BUILDING SQUARE FOOTAGE	89,988 SF
TOTAL STORAGE UNITS (283 TOTAL UNITS)	56,775 SF
FIRST FLOOR GROSS	
STORAGE UNITS (1ST FLOOR)	25,920 SF
OFFICE AREA	12,575 SF
OFFICE AREA	4,465 SF
ACTIVE USE SPACES (1ST FLOOR)	2,712 SF
RENTAL OFFICE	368 SF
MEZZANINE LEVEL GROSS	
STORAGE UNITS (1ST MEZZ)	12,208 SF
	8,408 SF
SECOND FLOOR GROSS	
STORAGE UNITS (2ND FLOOR)	25,620 SF
	18,900 SF
THIRD FLOOR GROSS	
STORAGE UNITS (3RD FLOOR)	25,920 SF
	18,900 SF

REVISED MARCH 7, 2017
 DESIGN REVIEW SUBMITTAL: SEPTEMBER 8, 2016

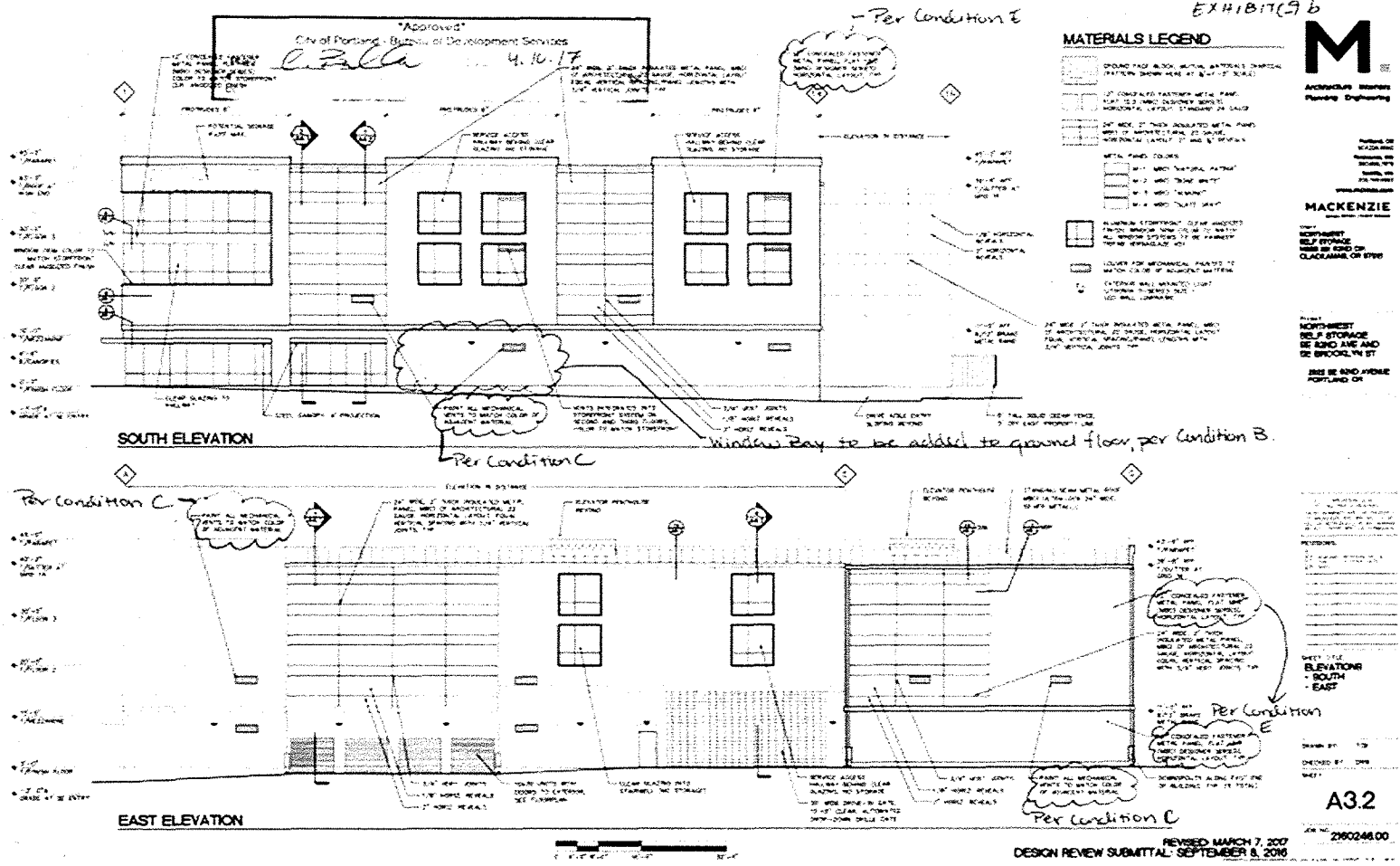
M.
 Architecture + Interior
 Planning + Engineering
 Portland, OR
 503.249.8880
 P.O. BOX 1600
 SEASIDE, OR 97138
 2017 100
 www.mackenzie.com
MACKENZIE.
 2017 100 2017

NORTHWEST
 SELF STORAGE
 82 AND AVE AND
 SE BROOKLYN ST
 2ND FL 82ND AVENUE
 PORTLAND, OR

**ARCHITECTURAL
 SITE PLAN**

A10
 280246.00

82nd and Brooklyn East and South Elevations



82nd and Brooklyn North and West Elevations

"Approved"
 City of Portland - Bureau of Development Services
 For: *C. Fuller* Date: **9.10.17**

EXHIBIT C-9a

MATERIALS LEGEND

[Symbol]	24" INSULATED METAL PANEL (IMF) WITH MATERIALS DRAWING WATER BARRIER AT 24" TO SLOPE
[Symbol]	12" CONDENSED FASTENER METAL PANEL, 1 1/2" UNCO BENDING SEAMS, HORIZONTAL LAYOUT, STANDARD OF CARE
[Symbol]	24" INSULATED METAL PANEL, 1 1/2" UNCO BENDING SEAMS, HORIZONTAL LAYOUT, 2" UNCO BENDING SEAMS, HORIZONTAL LAYOUT, 2" UNCO BENDING SEAMS
[Symbol]	METAL PANEL JOISTS
[Symbol]	6" x 2" UNCO BENDING SEAMS
[Symbol]	8" x 4" UNCO BENDING SEAMS
[Symbol]	ALUMINUM STORMDOOR, CLEAR ANODIZED, FROM WINDOW TO WINDOW, ALL WINDOWS SETTING TO BE RAISED FROM WINDOW TO WINDOW
[Symbol]	SCREEN FOR WINDOW, PAINTED TO MATCH COLOR OF WINDOW MATERIAL
[Symbol]	EXTERIOR WALL MOUNTED LIGHT, 12" DIA. LIGHT, 12" DIA. LIGHT

M
 Architecture Interiors
 Planning Engineering

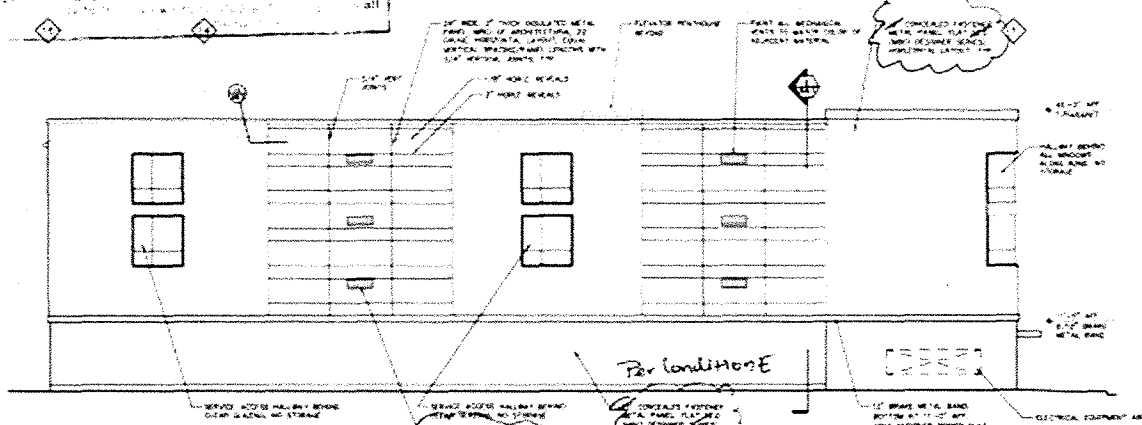
ARCHITECT
 MACKENZIE

300 NE 82ND AVENUE
 PORTLAND, OR 97213
 TEL: 503.281.1111
 WWW.MACKENZIE.COM

OWNER
 NORTHWEST SELF STORAGE
 2500 NE 82ND AVE AND
 SE BROOKLYN ST

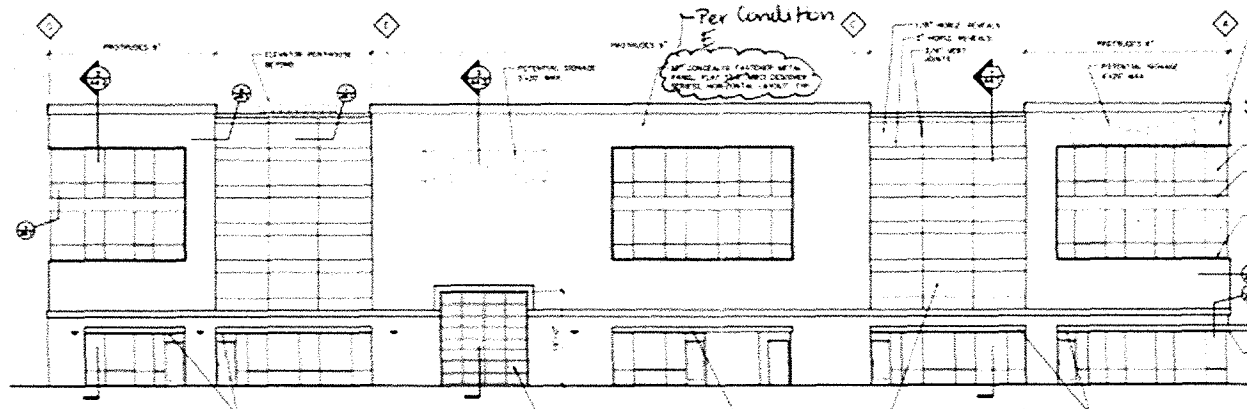
SCALE
 3/8" = 1'-0" ARCHITECTURE
 1/4" = 1'-0" MECHANICAL
 1/8" = 1'-0" ELECTRICAL

- 42'-0" FINISHED 1ST FLOOR
- 42'-0" FINISHED 2ND FLOOR
- 42'-0" FINISHED 3RD FLOOR
- 42'-0" FINISHED 4TH FLOOR
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- 42'-0" FINISHED 20TH FLOOR



NORTH ELEVATION

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- 42'-0" FINISHED 18TH FLOOR
- 42'-0" FINISHED 19TH FLOOR
- 42'-0" FINISHED 20TH FLOOR



WEST ELEVATION

MACKENZIE

ARCHITECTURE INTERIORS
 PLANNING ENGINEERING

ARCHITECT
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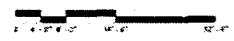
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SCALE
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 1/8" = 1'-0" ELECTRICAL

DRAWN BY: *TCB*
 CHECKED BY: *OPB*
 DATE: 9/10/17

A31



REVISED MARCH 7, 2017
 DESIGN REVIEW SUBMITTAL: SEPTEMBER 8, 2016

C A T I D U L T W

MATERIALS LEGEND



GROUND FACE BLOCK, MUTUAL MATERIALS CHARCOAL (PATTERN SHOWN HERE AT 1/8"=1'-0" SCALE)



12" CONCEALED FASTENER METAL PANEL FLAT 12.0 (MBCI DESIGNER SERIES), HORIZONTAL LAYOUT, STANDARD 24 GAUGE



24" WIDE 2" THICK INSULATED METAL PANEL, MBCI OF ARCHITECTURAL 22 GAUGE, HORIZONTAL LAYOUT, 2" AND 1/8" REVEALS

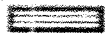
METAL PANEL COLORS:



- M-1: MBCI "NATURAL PATINA"
- M-2: MBCI "BONE WHITE"
- M-3: MBCI "ALMOND"
- M-4: MBCI "SLATE GRAY"



ALUMINUM STOREFRONT, CLEAR ANODIZED FINISH, WINDOW TRIM COLOR TO MATCH, ALL WINDOW SYSTEMS TO BE KAWNEER TRIFAB VERSAGLAZE 451



LOUVER FOR MECHANICAL, PAINTED TO MATCH COLOR OF ADJACENT MATERIAL

E.L.



EXTERIOR WALL MOUNTED LIGHT, LITHONIA D-SERIES SIZE 1, LED WALL LUMINAIRE



Architecture · Interiors
Planning · Engineering

Portland, OR
503.224.9560

Vancouver, WA
360.695.7879

Seattle, WA
206.749.9993

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DESIGN DRIVEN · CLIENT FOCUSED

Client
**NORTHWEST
SELF STORAGE
14856 SE 82ND DR
CLACKAMAS, OR 97015**

Project
**NORTHWEST
SELF STORAGE
SE 82ND AVE AND
SE BROOKLYN ST**



82nd and Brooklyn Adjacent
Commercial with Flat Roof



82nd and Brooklyn Adjacent
Residential Hip Roof



82nd and Brooklyn Adjacent
Residential Hip Roof 2



82nd and Brooklyn Aerial