

**122 Anderson Street
Proposed Intermodal Facility for truck staging to load Nova Star Ferry
Level II Site Plan Review
#2014-112**

REPORT OF FINDINGS

August 15, 2014

I. INTRODUCTION

Douglas Cardente of Anderson Street Realty LLC has requested a Level II Site Plan review for the proposed change of use of this 2.7 acre open site to an intermodal facility for the staging of up to 30 trucks (tractor trailers) prior to loading onto the Nova Star Ferry at Ocean Gateway. The submitted proposal does not include any site improvements, as environmental improvements, including stormwater management, had already been carried out in association with another use that did not go forward. The site is zoned ILb where the proposed use is a permitted use. The proposed use would utilize an enclosed area of about 52,000 sq ft at the rear of the site, on the area that was subject to VRAP remediation in 2008 because the previous use was a scrap yard.

The proposed use is being reviewed under the Site Plan Standards of the Portland Land Use Code (Chapter 14), as a Level II Site Plan (Administrative Review by the Planning Authority). The applicant has not requested any waivers, but the Traffic Engineering reviewer has identified the need for waivers in respect of the sidewalk provision and spacing of the driveways on the site (an existing condition) and supports the granting of the waivers subject to the conditions of site plan approval.

II. EXISTING CONDITIONS

The site has three buildings along the frontage with Anderson Street (two on the applicant's property and one on abutting land) and the site was previously used for metal recycling (scrap yard). There are two existing curb cuts, both of which accommodate two way vehicle movements. The northernmost curb cut is angled to Anderson Street to facilitate large truck movements, and the site layout remains as it has been for many years.

Of the existing buildings, one is owned by the Muslim Community Center; the surrounding land and other two (tenanted) buildings are owned by the applicant who manages the entire site. They generally operate as follows (information from the applicant):

- A. Tandem Coffee (manufacturing and retail tenant) is open from early morning to mid-afternoon. Their customers use the smaller two-way drive shared with the community center or walk in via a segregated path direct from Anderson Street.
- B. The Muslim Community Center (corner of Fox) has varying operating times which mostly start in the mid-afternoon. It is located the furthest from the truck drive access and uses a different driveway; it is also separated by a "jersey barrier" to provide vehicle movement safety.
- C. Bunker Brewery (manufacturing and public tours, tenant) is in the building set back on the site and brews beer during the day. It holds occasional late afternoon/early evening "tastings" which are accessed by a "bus" which uses the truck access. Daytime parking is in the shared area between it and Tandem Coffee.

III. APPLICANTS PROPOSAL

The proposals are illustrated in the Site Plan, Document Submissions, and Truck Route to Ocean Gateway (see Applicant's submittals July, 2014). The proposed change of use is to allow up to 30 tractor trailers (including refrigerator trucks) to enter the site during the late afternoon to wait for loading onto the Nova Star ferry docked at the Ocean Gateway facility on Commercial Street. All of the trucks would leave the site between about 8:15pm and 9:00pm to go to Commercial Street Ocean Gateway and load onto the Ferry. The "season" is between April and October. The proposal specifies that trucks arrive throughout the day, and then would depart one vehicle every two minutes, with no trucks arriving during that "loading" period and none would enter or leave during the night.

The trucks would enter via the northernmost drive and wait in an area that is surrounded by a security chain link fence and is lit by 5 existing large CMP pole lights which face away from the residential area toward the back of other commercial

buildings. All vehicles with refrigeration equipment will line up at the furthest point from any residential zone (approximately 300'+ as shown on the submitted Site Plan). The access gate would be open at all times as currently is the case, so fire and security access would be available at all times.

IV. PUBLIC NOTICING AND COMMENTS

A total of 136 notices were sent to property owners within 500 feet of the site and to those on the "Interested parties" list. The Planning Division has received letters of concern from eight (8) neighbors (including the Muslim Community Center on the site) and one letter of support. These findings and Section VII below address comments received.

V. CITY INITIATIVES AFFECTING THIS NEIGHBORHOOD

- **Relationship to Anderson Street Neighborhood Byway Project**

The project review has been coordinated with the City's Anderson Street Neighborhood Byway Project. The Project includes sidewalks, other permanent pedestrian improvements and utility upgrades along the frontage of this site and in the vicinity (including the intersection of Fox Street and Anderson Street), and is anticipated to commence in September 2014. The staff reviewers are familiar with the detail of this project and have reviewed the proposals with it in mind. Since its likely that the project would not be completed prior to the commencement of the proposed truck staging operation, staff have suggested conditions to maximize safety during the interim period.

The applicant would need to advise the operator of the anticipated construction activity so that drivers and dispatch managers make appropriate arrangements.

- **The ILb Zone**

It is recognized that this proposal has raised concerns about the impacts and suitability of the intermodal use in the ILb zone, which is defined for industrial uses that are compatible with adjacent residential uses. A review of the ILb zone uses and performance standards by the City is pending. The City will seek to evaluate economically viable uses for the zone, and for brownfield sites such as 122 Anderson Street, that reflect the changing nature of the area.

VI. SITE PLAN REVIEW (Ordinance text is in *bold italics*)

(a) *Transportation Standards*

1. Impact on Surrounding Street Systems:

The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways; and the incremental volume of traffic will not create or aggravate any significant hazard to safety at or to and including intersections in any direction where traffic could be expected to be impacted; and will not cause traffic congestion on any street which reduces the level of service below Level "D" as described in the 1985 Highway Capacity Manual published by the Transportation Research Board of the National Research Council, a copy of which manual is on file with the public works authority, or substantially increase congestion on any street which is already at a level of service below Level "D";

Staff Findings:

Both staff and neighbors have raised concerns regarding the proposed truck route and its associated impacts because it passes through the intersection of Fox and Anderson Streets, which is currently a four way stop intersection with no pedestrian accommodations. This intersection is scheduled to be upgraded by the City, to include pedestrian accommodations, starting this fall (see V above).

A number of issues were investigated by staff with additional information from the applicant and based on many visits to the Anderson Street area over the past 6 months by the Traffic Engineering Reviewer Tom Errico. The visits were initially related to the need for observation as input into design work on the Anderson Street Neighborhood Byway Project that will include pedestrian improvements along these streets. More recently Mr Errico has visited the site multiple times, and met with the applicant once on site, to review the proposed truck staging use in the context of the surrounding street system and the existing users of the site. The following is a summary of the key issues investigated by staff regarding this standard:

- **Scope for an alternative route:**

Two potential alternative routes were explored, but both are not considered to be workable at this time. One is for trucks to travel from Franklin along Marginal Way to Cove to Anderson and turn right into the site (and left out). The movements required for this route are problematic given the geometry of the drive with Anderson Street- ie the original access was designed to be angled to Anderson to facilitate access and egress by large vehicles, and the left turn is almost impossible and would block both lanes of the street in the vicinity of a residential development. An option raised by residents is to arrange a license or easement with owners of abutting property facing Cove Street so that a direct drive link could be made from the rear of the site. The applicant has indicated that he has no rights nor prospect of rights to cross the abutter property.

Both of these options would need to overcome the fact that at Franklin the left turn from Marginal Way onto Franklin does not have a protected signal phase and any change to the signals would need to be negotiated with MDOT who would be concerned about impacts to the I295 ramps.

Staff consider the proposed routing is reasonable given the constraints on other options, but recommend associated conditions of approval (based on the attached e-mail from Tom Errico dated 8.4.2014, amended 8.11.2014):

- ▶ The trucks departing the site to go to the Ocean Gateway facility shall use the route from the site to Anderson Street to Fox Street to Franklin Street to Commercial Street;
- ▶ That the intermodal transportation facility trucks shall access the site only via the northern-most drive access, and that trucks entering or exiting the site over a delivery day time period (trucks arriving in advance of ship departure during the day and leaving the site to get to the ship) shall be limited to 15 trucks during 2014 operations. The applicant/operator shall be required to submit to the Planning Authority, on a monthly basis, a written record of the number of trucks using the site each day. Following the results of the monitoring study outlined in Condition iv., the number of trucks may be increased to a maximum number of 30 trucks either entering or exiting the site over a 24-hour period. Otherwise the maximum will remain 15 trucks at any one time;
- ▶ That the applicant shall fund a traffic and pedestrian monitoring study (maximum cost \$1500) to be conducted by the Planning Authority. The monitoring study shall be conducted within two weeks after operations begin and at a later date in the 2014 season. The monitoring study will ensure the conditions of this approval are being met and identify any issues that may need resolution. It should be noted that the monitoring study shall include all roadways / intersections between 122 Anderson Street and the Ocean Gateway site. If the monitoring study identifies safety concerns, the applicant shall be fully responsible for implementation of mitigation measures. It is anticipated that possible mitigation measures may include, but are not limited to, additional warning signs and pavement marking, traffic signal modifications at intersections along Franklin Street, truck arrival/departure management by personnel at the site, and route adjustments;

- **Nature of the impact on the intersection, particularly pedestrian safety, and scope for mitigation:**

Staff share the concern of local residents that pedestrians crossing at the Anderson Street/Fox Street intersection currently face a challenge and this is one of the reasons for the proposed improvement project that will result in additional sidewalks and permanent crossings (see section V above). The City's project includes significant utility improvements and is scheduled to start in 2014, with completion dependent upon weather and utility work; final completion may be in 2015. The proposed Intermodal Facility presents additional potential safety concerns, and the Traffic Engineering reviewer has recommended that temporary crosswalks and stop bars be added to the intersection before the truck use commences. Staff have included the following conditions of approval as based on the attached comments from Tom Errico:

- ▶ The applicant shall implement temporary pedestrian enhancements to the Anderson Street/Fox Street intersection to be implemented in advance of the commencement of the truck staging operation. These improvements shall include the following and be carried out in accordance with City standards:
 - A crosswalk shall be painted on the westerly Fox Street approach. The crosswalk shall be aligned with the apex on the southwest corner of the intersection and the Coffee By Design Driveway on the northwest corner (half of the crosswalk would be in the driveway).
 - A crosswalk shall be painted on the easterly Fox Street approach. The crosswalk shall be aligned with each corner apex.
 - STOP bars shall be re-painted on the eastbound Fox Street approach and the southbound Anderson Street approach.

It should be noted that the permanent improvements at this intersection are expected to be under construction beginning later this summer; if the temporary pedestrian enhancements are impacted by the construction activity, they will be reinstated per city requirements by the utility or city contractors until the permanent pedestrian measures are installed;

- **Control of the number and time of vehicles passing through the intersection:**

Staff note that the proposed 30 tractor trailer vehicles translate into the equivalent of 60 passenger-cars for the purpose of traffic assessment. The Traffic Engineering Reviewer did not consider that a traffic study was necessary as the impact of exiting traffic occurs during off-peak traffic hours and entering traffic is spread over several hours.

There is also a constraint on the capacity of these streets for the exiting trucks because of the timing of the left turn signal at Fox/Franklin, where it is anticipated that only one truck would be able to leave Fox Street per cycle. The timing at this signal is linked to the Marginal Way signal and is subject to MDOT control because of the potential impact on the I295 ramps and associated queuing.

In view of these factors, the Traffic Engineering Reviewer has recommended that the number of trucks be limited to 15 initially, with a possible increase to 30 depending on the outcome of a recommended monitoring study. An associated requirement is that the trucks departure rate be controlled so that no more than one truck per minute leaves the site within the identified times of the day, and that this would also be reviewed for next year in the context of the monitoring study findings; conditions of approval have been included as based on the recommendations in the attached e-mail from Tom Errico dated 8.4.2014:

- ▶ The applicant or operator shall implement, from the commencement of truck staging operations, a departure management plan that limits the truck departure rate to a maximum frequency of one truck per minute, to take place between the hours of 7:00pm and 9:30pm. The westbound Fox Street signal phase at Franklin Street will not likely be able to process more than one truck and therefore is currently a limiting factor. The departure management plan may be adjusted in agreement with the Planning Authority based on the monitoring study, which will review this departure rate and recommend adjustments, as necessary;
- ▶ That between the hours of 10pm and 7am no trucks shall access or leave the site, and any new lighting shall be turned off during these hours. Refrigerator trucks shall only utilize the site between 7am and 10pm, shall be parked as far as possible from Anderson Street and meet the sound standards of the ILb zone. All other trucks shall turn off their engines when on the site to minimize fumes;

- **Condition of Anderson Street:**

There will be substantial utility and roadway work in Anderson Street associated with sewer, gas, and sidewalk improvements. The roadway will be repaired following these projects.

2. Access and Circulation:

a. Site Access and Circulation.

- (i) *The development shall provide safe and reasonable access and internal circulation for the entire site for all users of the site and shall comply with the standards set forth in Sections 1 of the Technical Manual.*
- (ii) *Points of access and egress shall be located to avoid conflicts with existing turning movements and traffic flows.*
- (ii) *Where drive up features such as gasoline pumps, vacuum cleaners and menu/order boards are permitted, they shall not extend nearer than twenty five (25) feet to the street line. The site must have stacking capacity for vehicles waiting to use these service features without impeding on-site vehicular circulation or creating hazards to vehicular circulation on adjoining streets.*

Staff Findings: The trucks accessing the site to wait to load onto the Nova Star Ferry are proposed to use an identified access and egress point (the northerly drive), which staff consider is adequate subject to improvements in the surface, with added signage as outlined by Mr Errico (attached). Staff have also considered the spacing of existing access drives and support a waiver for the existing spacing, subject to the site plan conditions of approval.

Both the neighbors and staff have raised a concern about the internal circulation of the site as the drive proposed for the Nova Star trucks is also used by some of the vehicles serving Tandem Coffee and Bunker Brewing. A number of issues were investigated by staff :

- **Scale of existing internal traffic flows and pedestrian activity in the vicinity of the Nova Star Truck access/egress drive:**
Staff note that the bulk of the existing vehicle movements within the site are during the day when the proposed use would involve intermittent arrival of the trucks. Staff observed a relatively small number of vehicles and pedestrians associated with the existing uses in the vicinity of the drive access proposed to be used by the Nova Star trucks, noting that the Muslim Community Center activities are not immediately abutting the drive access and the nearer buildings generally have the same users each day. At the time of the proposed truck departure the existing uses are generally not in operation. It is understood that some evening events/ “tastings” are likely to take place near the truck staging site, but in the evening there will be a queue of trucks waiting to leave at one minute intervals, and this would be evident to other users.
- **Management of vehicle/pedestrian circulation necessitated by Nova Star truck use of the site:**
Staff consider that the proposed truck use is anticipated to be compatible with the other vehicle and pedestrian access facilities (the other drive and path to Tandem Coffee), although it is recognized that existing users may be affected. Given the condition restricting the number of trucks to 15 in this season, staff recommend that this issue be part of the monitoring study so that any need for internal vehicle/pedestrian control measures would be determined by the outcome of the study; this approach is reflected in the following conditions of approval:
 - ▶ That the monitoring study identified in Condition iv. shall include the driveway access/egress conditions for both site driveways. Currently, Tandem Coffee and Bunker Brewery use both driveways and this will continue in the future. If deemed necessary from the monitoring study, on-site circulation and access provisions will need to be formally regulated and controlled. An outcome of the monitoring study could be that the northerly driveway (with the truck scale) be used for trucks and employees only and the southerly driveway be used for Tandem Coffee and Bunker Brewery customers and the Community Center. Changes may require both regulatory and wayfinding signage and the applicant would be required to propose how to physically separate the two driveways, internally, so that vehicles are controlled;
 - ▶ That the applicant shall advise the lessees on the site and the Maine Muslim Community Center in advance of the start date for the proposed truck staging operation, and provide details of the likely truck activity and a contact person if there are any problems on the site;

b. Loading and Servicing.

- (i) *All developments served by delivery or other service vehicles shall provide a clear route and travel way geometric design that permits safe turning and backing for the maximum vehicle length that would service the development and does not impede site access, vehicle circulation, pedestrian movements or parking.*

Staff Findings: The proposed access route is angled from Anderson Street and this allows safe tractor trailer access into the drive. At present the drive does not meet the City standards and a condition of site plan approval has been included (based on the Traffic Engineers recommendations) to require upgrading:

- ▶ The applicant shall be responsible for providing a fully paved driveway of a minimum width of 22 feet wide from the right-of-way boundary extending into the site for 50 feet, prior to the commencement of the truck staging operation. A plan of this improvement shall be provided for review and approval prior to installation. The remainder of the site shall be maintained with a surface that does not allow the creation of dust. In addition, the applicant shall install truck entering warning signs at the site driveway that are compliant with the Manual on Uniform Traffic Control Devices, Federal Highway Administration. Final details of signs shall be reviewed and approved by the Planning Authority;

Once vehicles reach the rear part of the site there is over an acre of land available for the maneuvering of truck vehicles within the area identified for truck staging, which allows sufficient area for internal circulation and queuing movements.

c. Sidewalks.

- (i) *All proposed developments shall provide sidewalks along all frontages in accordance with Sections 14-498 and 14-499 of the City Code, installed to City specifications as described in Section 1 of the Technical Manual. An applicant may request a waiver from curb and sidewalk installation requirements if they meet applicable waiver criteria listed in Section 14-506 (b) of the City Code.*
- (ii) *Where sidewalks already exist but are in substandard condition, they shall be repaired or replaced in conformance with Chapter 25 of the City Code and Section 1 of the Technical Manual.*
- (ii) *Continuous internal walkways shall be provided between existing or planned public sidewalks adjacent to the site, transit stops and street crossings and primary building entrances on the site.*

Staff Findings: A sidewalk along this frontage is part of the already designed and funded Anderson Street Neighborhood Byway Project and there have been detailed discussions with the applicant regarding the coordination of any drive improvements with the proposed sidewalk area. There is an existing sidewalk on the other side of the road and the ordinance criteria have been met.

The three other users of this site have pedestrian and vehicle access via the southernmost drive and there is a segregated pedestrian walkway to Tandem Coffee direct from Anderson Street. Staff consider that the proposed truck use does not impact the other pedestrian access facilities and that the pedestrian patterns be included in the monitoring study that would cover the off-site issues discussed above.

3. Public Transit Access:

Staff Findings: A public transit facility is not required under the Site Plan Ordinance.

4. Parking:

Staff Findings: The proposed Intermodal Facility is not a parking lot and there is no building or use associated with the proposals that requires vehicle or bicycle parking.

5. *Transportation Demand Management (TDM):*

Staff Findings: The proposed Intermodal Facility does not include any floor area and is not subject to TDM requirements.

(b) *Environmental Quality Standards*

Staff Findings: These standards relate to landscaping and stormwater management. Stormwater management measures were installed when the VRAP site was the subject of a site plan for mitigation of the stormwater impacts. The frontage of the site has existing trees, which will be enhanced (street trees) as part of the Anderson Neighborhood Byway project.

(c) *Public Infrastructure and Community Safety Standards*

Staff Findings: The proposals have addressed these standards as follows:

- ***Consistency with City Master Plans***

The proposed access makes use of an existing driveway, and the widening of this driveway for the truck use does not impact the design and installation of the proposed Anderson Street Byway Project along this frontage.

- ***Public Safety (Crime Prevention through Environmental Design) and Fire Prevention***

The proposed area for the trucks to wait is enclosed with chain link fencing at the rear of the site so access is limited and there is lighting for the autumn and spring seasons when the truck departure will be after dark. The site is not gated to maintain emergency access, and the fire hydrant is less than 500 feet from the main part of the site.

- ***Availability and Adequate Capacity of Public Utilities***

The proposals do not include or require any new utilities, and the current utilities are sufficient.

(d) *Site Design Standards*

Staff Findings: These standards generally relate to proposals that involve buildings except for the following:

- ***Exterior Lighting***

The applicant does not propose to modify the existing lighting, which is industrial in nature and directed away from the street towards the open area and other industrial users. Adequate lighting is accepted as necessary as the trucks will be maneuvering on site until 9:00pm in October. A condition of approval requires that any new lighting be turned off after 10:00pm.

- ***Noise and Vibration***

The trucks that will be waiting at the site would include refrigerator trucks (“reefers”) and the applicant has indicated that these would be parked on the interior of the site away from Anderson Street (see Site Plan) and would be required to meet the sound standards of the ILb zone which limit the dBA levels at the property line to 60dBA during the day until 10pm. A condition of approval explicitly specifies that refrigerator trucks shall only utilize the site between 7am and 10pm.

Normally all of the trucks waiting to load onto the Nova Star ferry would be off the site before the zoning requirements of a maximum of 50 dBA apply (10pm). The potential for noise impacts is further reduced by the condition that requires that trucks do not enter or leave the site between the hours of 10pm and 7am, and that all trucks except reefers turn off their engines when on the site to minimize noise and fumes in the area.

- ***Signage and Wayfinding***

No new signage or wayfinding is proposed except for pedestrian and vehicle safety.

- ***Zoning-Related Design Standards***

There are no design standards for development in the ILB zone. However, the ILb Zone ordinance includes a set of Performance Standards that would apply to this site and be enforced by the Zoning Administrator.

VII. COMMENTS REGARDING POINTS RAISED IN PUBLIC COMMENTS NOT COVERED BY THE FINDINGS ABOVE IN RELATION TO SITE PLAN STANDARDS:

Sound from loading and unloading of trucks and from travel over the scale

There are noise restrictions in the ILb zone that must be adhered to, as described in the following extract:

14-236 (a) 3

Maximum permissible sound levels: The maximum permissible sound level of any continuous, regular or frequent source of sound produced by an activity shall be as follows:

- a. **Sixty (60) dBA between the hours of 7:00 a.m. and 10:00 p.m.**
- b. **Fifty (50) dBA between the hours of 10:00 p.m. and 7:00 a.m., as measured at or within the boundaries of any residential zone.**

In addition to the sound level standards established above, all uses located within this zone shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones.

Notices

The Portland Land Use ordinances require notification to property owners, which in this case includes the Maine Muslim Community Center who have sent comments on the proposal. The Planning Division also notifies an extensive interested parties listing, including most neighborhood organizations. Tandem Coffee and Bunker Brewery have been contacted by Planning staff, and Jonathan Culley of Redfern is aware of the project. Copies of the approval letter will be sent to all those who have contacted us and to the tenants of the site.

Review process

An administrative review is coordinated by the Planning Division staff with specialist reviews undertaken by representatives of the different City departments as they relate to the Site Plan standards. This particular project has also been discussed with Directors of Planning and Urban Development, Director of Public Services, the Waterfront Coordinator and the City Manager to ensure that all interests have been taken into account. The ordinance includes a provision regarding appeals of an administrative decision, and this has been included in the Approval letter for information.

Relationship to Comprehensive Plan

Other than a review of the consistency with the zoning, the Site Plan review standards do not include a requirement for an individual assessment of projects for consistency with the comprehensive plan. It should be noted that the ILb zone, and this proposal, are consistent with the comprehensive plan, which specifically refers to intermodal facilities as appropriate in low impact industrial areas that are located near residential uses.

Enforcement

A number of neighbors have expressed a concern about the scale of the “intermodal transportation facility” becoming much larger, with more than the allowed number of trucks or different hours/patterns of arrival and departure. The approval includes conditions that this operator, or any subsequent user, would have to comply with unless an amended plan is submitted, reviewed, and approved in the future.

The applicant/operator must advise the Planning Authority of the numbers of trucks using the site and this will be monitored in relation to the allowed number. The Planning Division would be responsible for ensuring the physical site works and required off-site work has been completed to our satisfaction and that the monitoring arrangements are pursued. Other issues that potentially could arise once the truck staging begins operation, such as trucks parking on the street or excessive noise, would be addressed by the City’s Parking and Inspections Divisions in the same way as other sites and streets in the City. A list of contact names and their contact details will be circulated with the approval letter to those who have contacted the Planning Division and the users of the site.