

City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

Date: November 7, 2013 **To:** Interested Person

From: Sheila Frugoli, Land Use Services

503-823-7817 / Sheila.Frugoli@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **denied** a proposal in your neighborhood. The reasons for the decision are included in the version located on the BDS website http://www.portlandonline.com/bds/index.cfm?c=46429. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 13-205785 AD GENERAL INFORMATION

Applicants/Owners: Melissa Johnson, Corporate Assistant / O'Reilly Automotive Stores Inc

233 S Patterson Ave / Springfield, MO 65802

Holly Weinberg, Representative / O'Reilly Automotive Stores Inc

233 S Patterson Ave / Springfield, MO 65802

Representative: Kevin Hallwyler, Sign Contractor / Security Signs

2424 SE Holgate Blvd / Portland, OR 97202

Site Address: 5155 N LOMBARD ST

Legal Description: BLOCK I LOT 1 EXC PT IN ST LOT 2 EXC PT IN ST SLY 25' OF LOT 3

EXC PT IN ST & EXC PT IN ALLEY, PORTSMOUTH VILLA EXTD

Tax Account No.: R670702590, R670702590, R670702590

State ID No.: 1N1E08CB 11600, 1N1E08CB 11600, 1N1E08CB 11600

Quarter Section: 2225

Neighborhood: Portsmouth, contact Erica Timm at 503-310-8108.

District Coalition: North Portland Neighborhood Serv, Mary Jaron Kelley at 503-823-

4099.

Zoning: CS, Storefront Commercial zone **Case Type:** AD, Sign Adjustment Review

Procedure: Type II, an administrative decision with appeal to the Adjustment

Committee.

PROPOSAL:

The applicant is requesting a Sign Adjustment for a new O'Reilly Auto Parts store at N Lombard and N Hodge streets. For the subject retail use, the Sign Code allows a total of approximately 82 square feet of sign area for wall mounted signs. The applicant is requesting an Adjustment to allow an additional 41.24 square feet of wall sign, to be installed on the west elevation. Sign permits have been issued for this site for two 41.25 square foot wall signs. The site has signs installed on the south and east building elevations near the entrance to the store. Also, a permit has been issued for a 99.84 square foot free-standing (pole) sign. The pole sign has been installed near the east property line.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 32.38.030 C.1 and C.2, Sign Adjustments.

ANALYSIS

Site and Vicinity: The subject site is approximately 9,800 square feet in size and is located on the northeast corner of N Lombard Street and N. Hodge Avenue. The site contains a newly constructed, approximately 6,000 square foot commercial (retail) building that is located adjacent to the street property lines. The entrance to the business, an auto parts retail store, is angled at the northeast corner of the building. Because the entrance is at an angle, it partially faces both N. Lombard Street and the accessory parking area that serves the business. The entrance has two prominent wall signs; each sign is 41 square feet. The signs are oriented south to N. Lombard and east, to the parking area. There is an approximate 100 square foot free-standing sign adjacent to the south property line, near the curb cut off Lombard to the parking area. The freestanding sign faces east and west.

In the immediate vicinity of the site, N. Lombard is lined with commercial businesses and residential uses. Many of the commercial buildings reflect a "storefront" character, with the building located near the street lot line. Most of the commercial uses have wall signs near the business entrance. A few nearby commercial sites have a freestanding sign with relatively small wall signs.

Zoning: The site is zoned CS, Storefront Commercial. The Storefront Commercial zone is intended to preserve and enhance older commercial areas that have a storefront character, which is predominantly built-up, with buildings close to and oriented to the sidewalk, especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged. The zone allows retail, office and residential uses.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **October 7, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.4)
- Bureau of Transportation (Exhibit E.4)
- Water Bureau (Exhibit E.1)
- Fire Bureau (Exhibit E.4)
- Site Development Section of BDS (Exhibit E.2)
- Life Safety Plan Review Section of BDS (Exhibit E.3)
- Bureau of Parks-Forestry Division (Exhibit E.4)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on October 7, 2013. One written response has been received. A letter of opposition from Erica Timm, Chair of the Portsmouth Neighborhood Association included the following points:

- The proposed sign will significantly increase and lead to street level sign clutter.
- The building's signage is already adversely dominating the visual image of the area.
- While driving down Lombard, this building is already very difficult to miss, so any additional signage is already adversely dominating the visual image of the area.
- The closest free standing sign (across the block on the northwest side of Lombard-Hodge corner, advertising three businesses) is about half the size at 58 square feet.
- The sign is inconsistent with the objectives of the 2004 St Johns/Lombard Plan.

- The St. Johns/Lombard Plan states that this area is to be a full main street, which means it aims to have "built-up areas that feature urban commercial buildings, with retail and housing, and a high quality pedestrian environment."
- The additional signage is inconsistent with the St. Johns/Lombard Plan, as the additional large signage is catering to automobile traffic, and not enhancing the pedestrian-friendly and community activity envisioned for this space. (Exhibit F.1)

ZONING CODE APPROVAL CRITERIA

33.38.030.A Adjustment Review - Purpose

Sign adjustments are intended to allow flexibility to the sign regulations while still fulfilling the purpose of the regulations. The specific approval criteria allow signs that enhance the overall character of an area or allow for mitigation of unusual site conditions.

32.38.030.C Adjustment Review

Sign adjustments will be approved if the review body finds that the applicant has shown that the criteria of Paragraph C.1., below are met.

- 1. Area enhancement. The applicant must meet criteria C.1.a & b. and either C.1.c. or d.
 - a. The adjustment for the proposed sign will not significantly increase or lead to street level sign clutter, to signs adversely dominating the visual image of the area, or to a sign that will be inconsistent with the objectives of a specific plan district or design district; and

Findings: As noted in the proposal description, the applicant wishes to install an additional wall signs on the west facing wall, at the corner of the building at N. Hodge and Lombard. The applicant has obtained sign permits for the new building. The permitted three signs essentially utilize the full allowance for the total amount of allowed signage. The new signs have been installed on the site. The proposed wall signs, combined, will be approximately 124 square feet in area. This area is larger than the allowed 82 square feet, which is based upon the length of the primary building wall that faces the street (N. Lombard). The site has an approximate 100 square foot freestanding sign mounted on a 14 foot tall pole at the southeastern edge of the site. The freestanding sign is oriented to the east and west, visible by pedestrian and vehicle traffic on N. Lombard. The freestanding sign is allowed in addition to the wall signs.

As stated above the site is within the CS, Storefront Commercial zone. It is not within a plan district or design district. The CS zone implements development standards that are pedestrian-oriented. The site is located within the Portsmouth Neighborhood Association boundary. The subject site is within the boundary of the Portsmouth Neighborhood Plan (adopted June 26, 2002) and the St. Johns/Lombard Plan (adopted May 26, 2004). In a letter submitted in response to this proposal the chair of the neighborhood association cites provisions of the adopted St. Johns/Lombard Plan. The plan includes a "vision statement" for the Lombard corridor. For the portion of the corridor between N. Fiske and Van Houten, the plan includes the following:

The area between Fiske and Van Houten is conceptualized as a location for pedestrian-friendly retail activity and housing. This area is the heart of the Lombard main street, a place where neighbors shop and socialize.

Some commercial buildings, such as the building directly across the street, on the west side of N. Hodge require multiple signs because they have multiple tenant spaces. In that situation, the signs do not create clutter as they identify each respective business. However, the proposed 41 square foot wall sign that is approximately 70 feet from the store entrance will result in s a significant increase in signage area, creating visual

clutter. The three other signs are highly visible to pedestrians and motorists and provide more than adequate identification that guides customers to the business. They are sized to the maximum allowed in the CS zone and are prominent at the driveway approach (curb cut) on N. Lombard and at the store's entrance.

For the reasons stated above, this approval criterion is not met.

b. The sign will not create a traffic or safety hazard; and

Findings: The proposed wall sign will be illuminated with low-level LED lighting and located above glazing, near the parapet of the roof. It will be over 12 feet above the sidewalk. Given this, it is not expected to cause traffic or other safety hazards. This criterion is met.

- c. The adjustment will allow a unique sign of exceptional design or style that will enhance the area or that will be a visible landmark; or
- d. The adjustment will allow a sign that is more consistent with the architecture and development of the site.

Findings: The proposed wall sign is not unique or of exceptional design or style. It would not enhance the character of the new building and/or the surrounding area. As explained under criterion C.1.a, a relatively large wall sign that is over 70 feet from the store entrance is not necessary. There are three signs that are highly visible near the entrance onto the site and into the building. In this circumstance, there are no unique design, style or site features that warrant the need to exceed the maximum sign area limit.

It should be noted that the Sign Code allows multiple wall signs. The applicant could replace the permitted south and east facing wall signs with smaller wall signs. For example, three wall signs each approximately 27 square feet, would be allowed on the west, south and east facades of the building. For sites with no freestanding sign, additional sign area is allowed. Up to 1.5 square feet of area, per primary building wall area is allowed. Hence, if the applicants removed the freestanding sign, the 42 square foot west facing sign would be allowed.

For the reasons stated above, this criterion is not met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

As reflected in the findings above, the proposal does not satisfy approval criterion 32.38.030.C.1.a, c. and d. Therefore, the request must be denied.

ADMINISTRATIVE DECISION

Denial.

Staff Planner: Sheila Frugoli

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| Decision rendered by: | on November 4, | 2013 |
|-----------------------|---|------|
| By a | authority of the Director of the Bureau of Development Services | |

Decision mailed: November 7, 2013

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on September 17, 2013, and was determined to be complete on October 2, 2013.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on September 17, 2013.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on November 21, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged**. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all

information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, OR 97301-1283, or phone 1-503-373-1265 for further information.

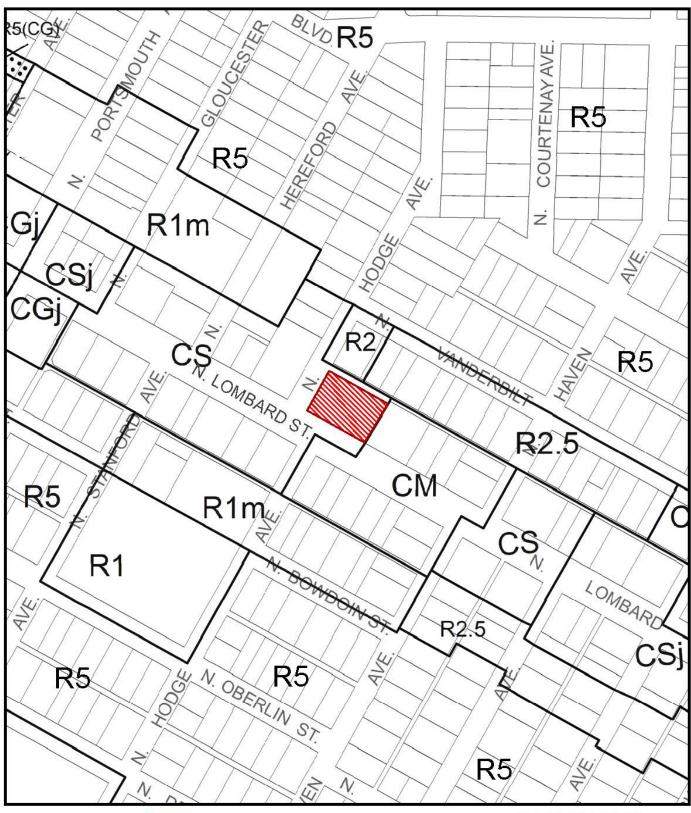
Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Exterior Building Elevations w/ Wall Signs (attached)
 - 3. Sign Details
 - 4. Photos of New Building, Under Construction
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Water Bureau
 - 2. Site Development Review Section of BDS
 - 3. Life Safety Plan Review Section of BDS
 - 4. TRACS Print-out showing "no concerns" from Bureau of Environmental Services, Bureau of Transportation, Fire Bureau and Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Erica Timm, Portsmouth Neighborhood Association, October 28, 2013, letter of opposition to proposal.
- G. 1. Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



File No. LU 13-205785 AD

1/4 Section 2225

Scale 1 inch = 200 feet

State_Id 1N1E08CB 11600

Exhibit B (Sep 20,2013)





GENERAL NOTES:

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13-205785 AD

